UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 102d CONGRESS
FIRST SESSION

VOLUME 137—PART 5

MARCH 13, 1991 TO MARCH 21, 1991

(PAGES 5915 TO 7426)

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PROCEEDINGS AND DEBATES OF THE 102d CONGRESS, FIRST SESSION

SENATE—*Wednesday, March 13, 1991*

(Legislative day of Wednesday, February 6, 1991)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. Today's prayer will be offered by guest chaplain, the Reverend Clifford Paul Bruffey, chaplain, Gallaudet University, Washington, DC, with voice interpretation by the Reverend George Natonick, chaplain, Gallaudet University, Washington, DC.

Reverend Bruffey, please.

PRAYER

The Reverend Clifford Paul Bruffey, chaplain, Gallaudet University, Campus Ministry Department, 800 Florida Avenue NE., Washington, DC, offered the following prayer, which was interpreted into the English language by the Reverend George Natonick, chaplain, Gallaudet University:

God, You who created the heavens and the Earth, You who upholds all things by the word of Your power, we thank You for giving us this access into Your presence through faith and prayer.

May You also grant to these men and women assembled here a vision of Your will, so that it may be done on Earth as in Heaven. The writer of Proverbs wrote: "Where there is no vision, the people perish" (29:18).

And grant to them the wisdom and the courage to continue as the leader in this world for peace and freedom, so that by example, they can show other nations how we can live in peace, even as the Prophet Isaiah wrote: "and they shall beat their swords into plowshares, and their spears into pruninghooks: Nation shall not lift up sword against nation, neither shall they learn war any more" (2:4).

For these blessings and guidance, I beseech You in the name of my Lord and Savior, Jesus Christ. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. Under the previous order, the time of the two leaders is reserved.

The Chair recognizes the majority leader.

PRAYER OF REVEREND BRUFFEY

Mr. MITCHELL. Mr. President, and Members of the Senate, on behalf of all of the Members of the Senate, I welcome Reverend Bruffey and thank him for the moving prayer.

I note for the record that this is, to my knowledge, the second occasion on which the prayer has been delivered in sign language, and we welcome all of those who are here to mark the observance of this event.

My colleague, Senator KASTEN, will be making a more detailed statement and submitting a detailed statement to the RECORD on behalf of Senator HARKIN. Both of them are active in the legislation known as the "Americans With Disabilities Act" enacted last year, and both of them have had a keen interest in promoting the usage of sign as a means of full communication of the events which occur in the Senate.

Mr. President, I thank my colleagues, and again I thank Reverend Bruffey and Reverend Natonick for their presence this morning.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the order, there will now be a period for the transaction of morning business with Senators permitted to speak therein.

The Senator from Wisconsin, [Mr. KASTEN], is recognized.

WELCOMING REV. CLIFFORD PAUL BRUFFEY

Mr. KASTEN. Mr. President, it is a great honor for me to welcome Rev. Clifford Paul Bruffey and Rev. George Natonick from Gallaudet University who have led us in this morning's prayer.

Today marks only the second time in the history that the proceedings of the U.S. Senate have been opened by a deaf chaplain, and it also reminds us that we are now celebrating Deaf Awareness Week, and it reminds all of us how important it is.

I want to thank Reverend Bruffey for his truly eloquent prayer. It is a welcome reminder that we in the Chamber ought to strive for peace and freedom worldwide. This is an interest shared by the hearing-impaired Americans and all other men and women all across this country, and indeed the world over.

When we reflect on our common interest in peace and freedom, we go a long way toward bringing down the barriers of distrust and discrimination that still exist for many disabled people in this country.

Let us continue to strive to accomplish these goals. If we do this, we will not only build a better world—we will come closer to each other, and this would be a terrific result for all of us.

Mr. President, I also would like to recognize the many students, especially those from Wisconsin, that are in the gallery here today from Gallaudet University.

The PRESIDENT pro tempore. The chair calls to the attention of the Senator that under the Senate rules a Senator may not recognize the people in the galleries.

Mr. KASTEN. So to Reverend Bruffey and Reverend Natonick, let me say once again, on behalf of the whole Chamber: Welcome to the Senate, and thank you for that inspiring prayer.

ORDER OF PROCEDURE

The PRESIDENT pro tempore. Under the previous order, the first hour of morning business is under the control of the minority leader; and the time from 10 o'clock until 11 o'clock is under the control of the majority leader.

• This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

DEAF AWARENESS WEEK

Mr. HARKIN. Mr. President, I am pleased to join in the celebration of National Deaf Awareness Week. I want to give special thanks to Rev. Clifford Bruffey and Rev. George Natonick from Gallaudet University for giving this morning's opening prayer.

From the inauguration of the first deaf president at Gallaudet University, to the passage of landmark legislation prohibiting discrimination on the basis of disability, the past 3 years have been a time of great accomplishments, renewed hope, increased rights, and opportunities for deaf and hearing-impaired Americans.

No one can forget the events of March 1988, when the students and faculty at Gallaudet University protested the decision to bypass two qualified deaf candidates for president and choose a hearing candidate. Their demonstration captured the hearts of the Nation and their victory was cheered by hearing and nonhearing Americans alike.

As chairman of the Senate Subcommittee on Disability Policy, I have been proud to work with deaf citizens in passing legislation to provide them with the tools and opportunities they need to chart their own futures.

July 26, 1990, was one of the proudest days of my political career, when more than 2,000 Americans joined in celebration of the enactment of the Americans With Disabilities Act, the ADA. On that day, we sent the message to the Nation that individuals with disabilities are entitled to be treated with dignity and respect and that they can, and will be judged as individuals on the basis of their abilities, not on the basis of ignorance, irrational fears, or patronizing attitudes.

The ADA is without exaggeration the most critical legislation affecting people with disabilities ever considered by Congress. It will provide access to jobs, services provided by State and local governments, public accommodations, transportation, and telecommunications. However, a very important issue was not covered in the ADA—broader access to television.

Today, television has become a pervasive and integral vehicle for sharing information in American society. It is not only an entertainment medium. Television provides a vital link to the world, providing news, emergency, and educational programming. Unfortunately, many Americans with hearing loss are denied full and equal access to the critical source of information. The promise of full integration into the mainstream of society will not become a reality for the deaf and hard of hearing community until equal access to the television is assured.

The Television Decoder Circuitry Act, now law, addresses this situation by requiring that by 1993, all televisions with screens 13 inches or larger have built-in decoder circuitry to display closed-captioned television transmissions.

Mr. President, last month, the House of Representatives began close-captioning its floor proceedings, gavel to gavel. While the Senate has passed legislation calling for its floor proceedings to be close-captioned, unfortunately it has yet to take this critical action. I am hopeful that in the very near future, the Senate's proceedings will be accessible to all Americans.

Again, I want to thank Reverends Bruffey and Natonick for sharing their gift of communication with us. I also want to thank Senators MITCHELL, DOLE, and KASTEN for making this session of morning business accessible to the 22 million Americans with hearing impairments.

ORDER OF PROCEDURE

The PRESIDENT pro tempore. Has the Senator from Wisconsin asked unanimous consent that he be given control of the time on behalf of the minority leader?

Mr. KASTEN. Mr. President, I ask unanimous consent that I be given control of the time of the minority leader this morning.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KASTEN. I yield such time as he may desire to the Senator from California.

The PRESIDENT pro tempore. The Senator from California [Mr. SEYMOUR] is recognized.

MISS CAROL BURNETT

Mr. SEYMOUR. Mr. President, I rise today to pay tribute to a woman who through her gift for comedy and commitment to entertainment has proven herself to be one of our national treasures.

Thirty-five years ago, this legendary star of stage, screen, and television began pursuing a career in show business armed with an uncanny cometic sense and a professional persistence of vision that was then and remains uniquely hers.

Mr. President, I speak of Miss Carol Burnett.

Through the generous loan of a wealthy stranger, Miss Burnett was given the opportunity to move to New York where she channeled her talent into the many avenues of success she has achieved today.

When the stranger made her the loan, Miss Burnett was abided by two conditions—never to reveal her benefactor's name, and if she did become successful, to help others. To this day she has relentlessly pursued her commitment to that pledge.

Toward helping others, Carol Burnett has established scholarships at Emerson College in Boston and at UCLA where she has been named a Franklin D. Murphy Associate and is a member of the board of trustees.

Miss Burnett created "The Carol Burnett Musical Theater Competition," among UCLA Theater Arts students to encourage the study and practice of musical comedy in the theater; and has also established two $100,000 scholarships for the study of journalism ethics at the University of Hawaii School of Journalism and at the University of California-Berkeley's Graduate School of Journalism.

Outside the entertainment industry, Miss Burnett is well known for her work as an active member of the board of directors and major contributor to the Heredity Disease Foundation—one of the Nation's foremost facilities in investigating the causes and cures for such deadly heredity diseases as Huntington's pancreatic cancer and hemophilia—as well as her work for the March of Dimes Foundation.

Carol's remarkable achievements have come about because 35 years ago, she made a pledge to a wealthy stranger that she would help others. Thirty-five years later, she continues to aspire to that goal.

It is an honor to join in the celebration today of her 35th anniversary in show business, and a pleasure for me to have this opportunity to extend my personal congratulations to her. She richly deserves to have her very own day declared.

I applaud her for her devotion to inspiring young entertainers and furthering the efforts of education in broadcasting, and I challenge others to take an example from her generosity to humanitarian efforts.

Through the laughter she inspires with her brilliance as a comedian, through her expertise as a dramatic actress and with her musical ability, she has brought laughter and joy to the lives of countless people all over the world.

It is my most sincere hope, as she gathers today in Los Angeles with friends, family and those who honor her, that she knows we wish her many more years of health, happiness, and friendship and that we feel truly blessed by her presence among us. God bless.

Mr. KASTEN addressed the Chair.

The PRESIDENT pro tempore. The Senator from Wisconsin is recognized.

PROGROWTH AGENDA

Mr. KASTEN. Mr. President, I am especially pleased to address the Senate today because we have such an important national victory to celebrate. In the Persian Gulf war, the American people demonstrated that we are still capable of greatness.

In fact, it has already become something of a Washington cliche to assert that we have to start showing as much leadership in our domestic policy as we showed in the gulf.

What I am here to say is that we must do this—we can do it and we will do it. I do not believe this just because I am optimistic—I believe we can be successful because we have done it before.

In the 1980's, the combination of progrowth incentives for families and small businesses and a renewed confidence in Presidential leadership did in fact revitalize our economy.

We created over 20 million new jobs.

We ended the double-digit inflation that was placing the basic needs of life beyond the means of many American families.

We brought down the interest rates that were stifling homeownership, discouraging investment and closing plants all over America.

Most important of all, we reduced the burden of spiraling income taxes on American families.

Our tax-cutting policies sparked the longest peacetime expansion in our history. Today, however, a whole new framework of tax and regulatory burdens has brought a temporary halt to America's growth miracle.

In his speech last week, President Bush proclaimed that "Our first priority is to get the economy rolling again." We Republicans have a specific agenda to get America moving again.

Our incentive-based policies—when enacted—will create more jobs, more family income, more wealth, and more opportunity than any government make-work program or mandate.

The centerpiece of this progrowth agenda is a cut in the capital gains tax.

This issue has been demagogued as being a tax cut for the wealthy. Let me set the record straight: Those of us who support a capital gains cut freely admit that it will benefit those who invest in America's economic future. It is about time for the other side to admit that it will also greatly benefit everyone else.

Here is how capital gains work. If you buy a home in Wausau, WI, for $60,000 and it appreciates in value to $100,000—the $40,000 profit is called a capital gain.

Over half of the people in this country at some point in their lives realize a capital gain when they sell their homes, land or farms; cash in their retirement nest egg; or sell their shares in a friend's small business.

When you take a capital gain, the Federal Government takes away a 28-percent share. If you include the effect of inflation in pushing up the price of your investment, the Feds take away even more of your gain—in some cases leaving you poorer than when you started!

In many respects, the capital gains tax is an unfair tax. It hurts all Americans. Let me read an excerpt of a letter I received from Henry and Marcella Herrerd from Wausaukee, WI:

> There is another very important aspect that needs to be emphasized too. It's this. Too many in the press and also in Congress have labeled this tax a means to soak the rich—always implying the very rich. They miss the mark completely, ignoring what the capital gains tax does to middle income people and especially people who have saved and invested all their lives in order to assure their own security and independence.

America was built on the idea that today's poor can be tomorrow's rich. But our high capital gains tax actually punishes the kinds of activities—saving, investing, and risk taking—that promote upward mobility in our society.

Let me cite an example: Suppose two mid-level managers of IBM or General Motors decide that they want to go out and start their own small business. If the business is successful, it will create new jobs for the unemployed, generate new revenues for the Government, and perhaps lead to the next great technological innovation—the kind that will expand our economy and raise our standard of living.

Good economics, good politics and just plain common sense says we ought to encourage—and reward—these would-be entrepreneurs.

But our high capital gains tax is a Berlin Wall to economic success. The rich stay rich, and the poor and middle income are denied the tools to become rich.

Because the Government takes away almost one-third of the profits off the top, these would-be entrepreneurs will have a hard time attracting investors.

Besides, who in their right mind is going to invest in a risky venture when they can invest in safe bets like CD's or Government bonds—and pay the same rate of tax?

This is just crazy economic policy. Most of our allies and international competitors know it. That is why most of them—like South Korea, Hong Kong, and Germany—do not tax capital gains at all.

Imagine that! A former Communist state—East Germany—by becoming part of West Germany—will have a more progrowth tax system than we have here in the United States of America.

In order to be competitive, we must cut our capital gains tax—and we must cut it significantly. That is why I am reintroducing legislation along with Senators MACK, SHELBY, and others to cut the capital gains tax to 15 percent and index it for inflation.

According to economist Allen Sinai, our bill—over a 5-year period—will increase real GNP by 2.8 percent, create 2.5 million new jobs, and generate somewhere between $30 and $40 billion in extra tax revenue.

This is not voodoo economics—it is based on fact. To anyone familiar with the economic history of the late 1970's and 1980's, Dr. Sinai's prediction about Federal revenue should not be at all surprising.

Look at the record. In 1978, the maximum capital gains tax rate was almost 50 percent—and revenues were $9.1 billion. After the 1978 and 1981 tax cuts that reduced the rate to 20 percent, revenues rose to $24.5 billion by 1985.

That is $9.1 to $24.5 billion—by cutting the tax.

The economic record is clear: Capital gains cuts promote economic growth and create new jobs. Those who—who for obvious reasons—are not really willing to contest this ground shift the argument to the political question of fairness. What they are really talking about is class warfare.

Should America be a country in which opportunity is denied to some people so that others can have more equal shares of a smaller pie? Or should we, rather, seek primarily to increase the size of the pie—so that everybody can get a taste?

Our President, George Bush, has put forth a plan to expand the size of the pie and create more wealth through capital gains tax cuts, enterprise zones, family savings accounts, and R&D tax incentives.

And Republicans in Congress are promoting additional progrowth, pro-family initiatives such as Senator COATS' bill to increase the personal exemption for families, Senator LOTT's bill to give our seniors more freedom to work, Senator ROTH's bill to expand IRA's and the Wallop-DeLay bill to boost job creation through tax cuts.

And we should not forget about educational choice. In our public schools—and I was really shocked to hear this—less than 42 cents of every education dollar ends up in the classroom.

For a country that aspires to world leadership, this is unconscionable. Let us quit empowering that greedy bureaucracy—and start empowering parents.

Let us give choice a chance.

By investing in children—the architects of America's future growth—educational reform is one of the most important progrowth measures of all.

Mr. President, it is said that another progrowth initiative—Senator DANIEL P. MOYNIHAN's payroll tax cut—is being poisoned by the fairness issue.

Once again, the proenvy crowd, wants to sock it to the rich by increasing the wage cap subject to the tax up to $125,000—or eliminating the cap altogether.

Not only would this move kill the progrowth stimulus of the tax cut, it would perpetuate the charade of using Social Security to mask the size of the Federal budget deficit. And by breaking the link between what people pay into Social Security and what they get out in benefits, it would turn Social Security into the world's largest welfare program.

Social Security is not an income redistribution program, it is a retirement program. Raising the wage base is, indeed, messing with Social Security.

I think the sentiment of the American people is on our side of this question. That is why I think that his pseudofairness issue will be ignored by the electorate.

We want to build this country into the best possible place it can be. The brave young men and women in the Persian Gulf have shown their dedication to America—and the American dream—by putting their lives on the line in defense of our national values and ideals.

Did they fight for an America of envy, of class warfare, of social and economic stagnation, of more and more people dividing a smaller and smaller economic pie? Of course not—they are cherishing the hope that when they return to America, they and their families will have more opportunity for advancement, rather than less.

America is not about taking what is already there—it is about giving of yourself and creating something new and valuable. It is about being rewarded for work, for effort and for achievement.

That is what we believe. And that is what our domestic agenda would do.

Remember last weekend? All Americans watched our troops start to come home. We praised them for a job well done. Now, they will need jobs. And that means all of us—together—have a job of our own to do.

I have no doubt that our President's best efforts in promoting a progrowth agenda will give America another terrific success to be proud of.

Mr. President, I yield what time he may require to the Senator from Idaho [Mr. SYMMS].

The PRESIDENT pro tempore. The Senator from Idaho [Mr. SYMMS] is recognized.

Mr. SYMMS. Mr. President, I thank the Senator from Wisconsin for yielding the time, and I thank the President pro tempore.

CAPITAL GAINS TAXATION

Mr. SYMMS. Mr. President, the subject of the morning, the capital gains taxation rate, I think is a most important subject, and one that I compliment my friend from Wisconsin for bringing to the floor this morning.

Some people seem to believe that there is a conflict between tax fairness and tax proposals to encourage economic growth. In my opinion, that is not correct. The conflict is between income redistribution and economic growth, not between fairness and economic growth.

I think people, for example, would agree with this, that taxing capital gains due to inflation is unfair; in other words, to tax someone because they purchased a fixed asset, a home, in most cases and because of inflation, the home appreciates in value. Then, when they sell the home, they are taxed on the increased value of the asset—not that it increased in value; I should say in the increased price due to price inflation.

Just to give you an insight into this, Mr. President, about 64 percent of Americans own their own homes; another 20 percent own some form of investment, whether through IRA's, individual retirement accounts, 401(k) plans, or what have you. The vast majority of our population is currently subject to a tax on inflationary gains. That is an enormous amount of unfairness.

This is not just a matter of a little unfairness spread widely. It is easy for a taxpayer who holds an asset for a few years to actually end up paying an effective tax rate of 100 percent. Mr. President, I believe even the hardest liners in the Iron Curtain countries, probably Joe Stalin himself, would have a hard time justifying that.

So my point is that if we do have to have capital gains taxes, which I personally philosophically think is a mistake—I think it slows down jobs; it slows down economic growth; and that we would have a better opportunity for more people at the low end of the economic ladder if we just got rid of the capital gains tax, but be that as it may, if we have to have one, which the body politics in this country is saying that we do, then I think we should at least all agree that we only have to pay the tax on real value gained, and the way to avoid taxes on inflationary capital gains is to index them for inflation. With this one step, we could dramatically improve the fairness of our tax system.

Indexing capital gains is also a powerful tool for encouraging economic growth. By excluding the part of a capital gain that is the result of changes in the price level, indexing reduces the effective capital gains tax so that no taxpayer will have to pay more than the statutory rate.

As anyone who has ever bought or sold an investment will tell you, and I think that probably covers everyone who ever served in this body, the prospect of a capital gain has a lot to do with why the asset is purchased. A high effective capital gains tax reduces the willingness to buy assets. In other words, it creates a tremendous disincentive on savings and investment, and savings and investment is what provides jobs, and that is the way you give people at the low end of the economic ladder that great chance that we talk about in America, so they can crawl up that ladder and have a share of the economic pie.

If the economic pie is to grow, if our economy is going to generate good jobs and growing real incomes, we have no choice—we have to save; we have to invest. And the only way to get there from here is to reduce the barriers to saving and investment. Just simply reduce the barriers. And we could do this if we did not do anything else to the capital gains tax except index the capital gains tax.

We would be making one giant step forward toward a more fair Tax Code for the working American people, who work and save and invest and buy a home. It would help all of those people. Those are all of our constituents. Those are the backbone of America.

There are a lot of other things that we can do to encourage saving and investment. We can bring back the IRA to where it was prior to the 1986 tax reform. We can improve the capital cost recovery system. We can make the R&D tax credit permanent. But I want to say again: One of the best ways to get the barriers down is to just simply index the capital gains tax.

There is another way of looking at the need for indexing capital gains. Everyone would agree that insurance is an important part of our society and our life. Most people buy life insurance and automobile insurance. Most employers provide medical insurance; most businesses are faced with having to buy liability insurance. In short, we buy a lot of insurance in this country.

Recognizing its social value, Congress has encouraged most forms of insurance with special tax treatment. There is one form of insurance, however, which is critical to our future and which for reasons that defy logic, the Congress has chosen to deny. This, of course, is insurance against being taxed on inflationary capital gains.

It is absolutely immoral to tax people on Government-caused inflation: As an asset increases in price but does not increase in value, and then the person sells the asset, they have to pay a tax to the Government. It is absolutely inexplicable to me how anybody can say that is a moral, fair system.

Congress has recognized the importance of inflation tax insurance in other areas. Prior to 1981, a worker could suffer a loss in take-home pay because, even though the worker's pretax wages would keep pace with inflation thanks to cost-of-living adjustments, the tax bite grew even faster because the tax bracket and key deductions were not indexed for inflation.

Thankfully, Congress overcame the tradition in 1981, and changed the law to that income tax brackets, personal exemptions, and the standard deduction would be indexed for inflation. This was a great step toward a more honest and fair tax system.

Now that the American people have had that experience with bracket indexing, I would not advise buying stock in the political career of anyone so foolish to tamper with bracket or exemption indexing.

It would simply be very, very unpopular with the voters who now understand that, if they get a pay raise, they do not get moved up necessarily into a higher bracket if the pay raise only meets the cost-of-living adjustment, because the pay raise is actually a cost-of-living adjustment not a pay raise based on their own performance.

But there still remains the tax on the phantom capital gains. Congress needs to fix this problem. Congress needs to ensure the taxpayers against paying tax on inflationary gains. We must in this Congress pass, at a minimum, Mr. President, capital gains tax indexing.

I thank the Senator from Wisconsin for the time and I yield the floor.

CAPITAL GAINS TAX RATE REDUCTION

Mr. HATCH. Mr. President, I rise today to express my support for the Economic Growth and Venture Capital Act of 1991.

Mr. President, this Nation is witnessing a tremendous debate over the issue of whether our Tax Code should differentiate between ordinary income and capital gains income. The capital gains debate seems to be focused on three key points of disagreement: Fairness, economic benefit, and revenue effect. I would like to address each of these points.

Mr. President, some of my colleagues on the other side of the aisle have strongly stated that a cut in the capital gains tax rate would unfairly benefit this Nation's wealthiest taxpayers at the expense of middle- and lower-income taxpayers. They point to studies that purportedly demonstrate that more than 90 percent of the benefits of a capital gains tax reduction will be claimed by taxpayers with income of more than $100,000 per year. Many of the statements I have heard that are based on such studies are downright misleading. The income figures used in these studies are comprised of the entire income of the taxpayer, including the capital gains.

Let me give you an example. An elderly couple living in Cache Valley, UT, has been farming on land they have owned for 40 years. The land was purchased for $50,000 in 1950. Because of health problems, they have decided to sell the farm and retire to St. George, a city in the State with a warmer climate. They sell the farm for $250,000. This couple has never reported more than $35,000 of gross income on their tax returns. But in the year of the sale, they report more than $200,000 of gross income. Are these people among the very wealthiest income earners of our Nation? Of course not. But opponents of the capital gains tax cut say that this family is extremely wealthy. This one-time capital gain represents the effects of inflation and the urbanization of our country. It is totally misleading to classify this couple as being in the upper income brackets simply because, for this one year only, they sold their major asset.

A far more accurate study of the distribution of capital gains benefits would include only recurring, ordinary, income. One study using such methodology shows that 74 percent of taxpayers with capital gains have ordinary income of under $50,000, and that 49 percent of taxpayers with capital gains have ordinary income of under $30,000. Does this sound as though only the wealthy are able to take advantage of a capital gains tax reduction? It is the average American taxpayer who is, to a large degree, paying taxes on capital gains. I will repeat, Mr. President: Studies that indicate that a reduction in the capital gains rate will only benefit high income taxpayers are misleading.

I ask my colleagues who believe that a capital gains tax rate reduction is not fair this question: Is it fair to tax the effects of inflation? The capital gains tax is an additional tax on the rewards of saving and investing. The investor of a capital asset has paid tax once on the income used to purchase the asset. The gains accruing to a capital asset represent the reward to the investor and the effects of inflation. It is not fair to treat these gains the same as income earned through salaries or wages.

A second point of contention on this issue, Mr. President, is that of economic benefit. Opponents of the capital gains rate reduction do not believe that such a reduction will result in an economic benefit to the Nation commensurate to the loss of revenue. In all candor, the facts show otherwise. Investing in capital assets is a form of saving. Capital gains are the rewards investors receive for the risks of their investment. Taxing those capital gains creates a bias against saving and toward consumption. This, of course, discourages saving and encourages consumption. Most economists agree that one of our Nation's greatest needs is to encourage a higher savings rate. One way to do this is to reduce the capital gains tax.

Increasing the Nation's saving rate reduces the cost of capital. This leads to a greater amount of capital available for the formation of new ventures. New ventures lead to new jobs, and new jobs generate new revenues.

Another way the reduction in the capital gains tax rate will benefit the economy is by reducing the lock-in effect created by the capital gains tax. Because investors must only pay the tax on capital gains when they sell their assets, the capital gains tax creates a disincentive to sell. Assets that would otherwise be exchanged more freely are locked in because the owner does not wish to pay the tax. This discourages investors from moving their investments into other ventures that may offer a higher return and contribute more to the Nation's gross national product. The higher the capital gains tax, the greater the disincentive.

Mr. President, it is no secret that our major trading partners tax capital gains more lightly than we do. These nations generally enjoy a significantly higher savings rate than does the United States. By reducing the disincentive to saving, these nations find that capital is more readily available. I ask my colleagues, are we not being shortsighted by encouraging consumption rather than saving?

The crux of the debate about capital gains, Mr. President, is the long-term revenue effect of lowering the rate. Opponents of lowering the rate contend that the proposal loses revenue over the long run. They cite studies that back up this contention. However, history indicates otherwise. After the capital gains rate cuts of both 1979 and 1982, the Treasury received large increases in revenue from capital gains transactions. The Joint Committee on Taxation estimated that President Bush's capital gains reduction proposal would produce a revenue loss in the 1989 to 1994 period. This estimate, however, does not take all relevant factors into consideration. The methodology employed in estimating the revenue effects of a lower capital gains tax only considers the unlocking effect produced when investors are induced to sell their assets because of a lower tax.

There are at least two other factors that would increase revenue to the Government, yet are not considered in the joint committee's study. One is referred to by economists as the valuation effect. Because all capital assets obtain their value from the income they generate, the valuation effect, increases the value of all capital assets when the tax rate is reduced. This is only common sense, Mr. President. By decreasing the tax rate, the cash flow to the investor is increased. Increasing the cash flow from an asset is going to increase that asset's value, which in turn, increases the sales price and the amount of capital gains that is realized.

The second effect which will increase revenue from a capital gains rate reduction is the base broadening that would occur as a result of the increase in economic activity that comes from more accessible and cheaper capital. This economic activity will lead to more jobs, and more jobs will lead to higher revenues. Mr. President, a reduction in the capital gains tax rate makes good economic sense for our Nation. It benefits all of us, not just the rich. It promotes fairness; it enhances our economic well-being; and it will increase revenue in both the short and long term.

Sustained economic growth is a key to our fiscal problems, Mr. President. I see the capital gains rate reduction as a solid step in the direction of sustaining our economic growth. At the same time, this proposal promotes fairness to taxpayers. I strongly urge my colleagues to support this legislation.

CAPITAL GAINS

Mr. WALLOP. Mr. President, we are taking a few minutes this morning to discuss one of the two major domestic issues which must be debated and resolved by this Congress. The first issue is the development of a comprehensive Energy Security Program. Last month, I introduced the National Energy Security Act to stimulate debate on our national energy strategy. We have begun comprehensive hearings on energy policy in the Senate Energy and Natural Resources Committee. Drafting of a committee bill will begin later this spring.

Our second domestic project involves the promotion of economic growth. Over the past 10 years, the United States has enjoyed one of the longest periods of economic prosperity in our history. We lead the world in new job creation, we revitalized our manufacturing sector, and aggressively pursued our interests in a world economy. Late last year, our economy experienced a temporary pause. A major factor was the outlandish budget agreement which decided the best solution for America was a tax increase.

The result was predictable. We have experienced economic slowdown. The same week I introduced the National Energy Security Act, I also introduced a package of tax reforms, the Economic Growth Act, to spur a new burst of economic expansion. My proposal has four distinct pieces which together will expand capital formation and increase the real wealth of every working American. The Economic Growth Act provides a revised IRA to allow funding for home purchases and educational expenses. It provides an improved method for expensing the costs of business expansion. Third, my proposal would reduce the payroll tax. Last, the bill lowers the tax on capital gains.

Back in the early 1960's Jack Kennedy asked Congress to reduce capital gains taxes. This action was a major reason for our incredible economic growth during the sixties. In 1978, Cliff Hansen, a Senator from Wyoming, joined with Bill Steiger, a Congressman from Wisconsin, to propose another reduction in the capital gains tax. Their successful initiative stimulated new capital formation and investment after almost a decade of stagflation. It also lead to the Reagan tax cuts in 1981 which provided a sensible tax policy for economic growth in the 1980's.

But, our task is not finished. The world is becoming an international marketplace, with competition on a global basis. We will succeed in this market only if we have the capital and confidence of an entrepreneurial spirit. We cannot legislate success, but we can promote a Federal climate which provides some of the tools for success. Lowering the tax burden on capital should be one of our tools. Without capital formation, we will be left by the sidelines in the new global economy.

Today, my colleague from Wisconsin, Senator KASTEN, is introducing a bill which responds to the capital formation issue. I support his proposal to lower capital gains. It is part of the Economic Growth Act. I would hope that we could enact this entire package of tax relief, but a reduction in capital gains taxes would be a strong beginning. We know what is necessary for energy security and for economic growth. Now is the time for Congress to act.

DR. BOYD MARTIN

Mr. SYMMS. Mr. President, I rise today to bring to my colleagues' attention a great Idahoan who has taught me a lot about how important it is to strive for peace and freedom. Boyd Martin turned 80 years old on Sunday, March 3, 1991. In honor of his birthday, I would like to share with my colleagues today some of the achievements of Dr. Martin.

Boyd Martin gave 35 years of service to the University of Idaho as a professor of political science, the dean of the College of Letters and Science, and the William H. Borah Distinguished Professor of Political Science. He was selected to be placed in the University of Idaho's Alumni Hall of Fame in 1976. His accomplishments inside and outside of the classroom are remembered by thousands of UI alumni, including this student of horticulture turned U.S. Senator.

President Harry S. Truman appointed Dr. Martin to be an observer at the first U.N. Conference. It was this conference which drafted the U.N. Charter. Boyd has also been a friend and advisor to many Idaho political leaders, including Senator Frank Church and Senator Jim McClure.

Dr. Martin has dedicated his life to fostering world peace. He has laid the foundation for the practical study of peace at the University of Idaho and supported the development of public school curriculum related to peace study issues. His efforts for global peace, spanning 50 years, can be considered a lifetime achievement that many world leaders fail to pursue. For example, Saddam Hussein is one leader who chose to lead his people into conflict and war, instead of finding peaceful means to achieve his objectives.

Because world peace is such an elusive goal, Boyd knew from the beginning of his career that resources will be needed long after he and his students are gone. With this in mind, he set out to put a little money aside each year for his dream—an institute dedicated to the study of peace and the discovery of alternatives to conflict.

What started out as an $800 savings account has grown to become a multimillion-dollar endowment that is now called the Martin Institute for Peace Studies and Conflict Resolution. This is truly an impressive achievement and I salute him for it.

President Bush is hopeful that a new world peace will result from the war in the Persian Gulf. If he is right, the philosophy and knowledge of people like Dr. Boyd Martin will become vitally important in that new world. The Martin Institute for Peace Studies and Conflict Resolution will be exactly the kind of institution we will need to train young Americans to be the peacemakers of tomorrow without giving up on American ideals of freedom, liberty, and free enterprise.

Happy birthday, Mr. Martin. You have served and continue to serve the great State of Idaho and the United States of America and, for that matter the world, with enormous distinction.

CONGRATULATIONS TO JACK K. LEMLEY

Mr. SYMMS. Mr. President, I draw my colleagues' attention to the accomplishments of a great American, Mr. Jack K. Lemley. As a boy growing up in Idaho, Jack Lemley had dreams of someday building dams on the nearby Columbia River. Jack has not only fulfilled that dream, but has gone far beyond it. In 1989, Jack was chosen to head up construction of the underground tunnel connecting Britain and France. This tunnel, referred to as the Chunnel, is likely to go down in history as one of the world's greatest civil engineering accomplishments. Jack Lemley restored unanimity to the various construction crews, streamlined the building process and created a sense of pride among the workers. In recognition of Jack Lemley's leadership, Engineering News-Record chose him as its 1991 Man of the Year. I congratulate my longtime friend and fellow Idahoan, Jack Lemley, for his hand in creating what is bound to become one of the engineering wonders of the world and ask unanimous consent that Engineering News-Record's article on Mr. Lemley be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Engineering News-Record, Feb. 25, 1991]

MAN OF THE YEAR: JACK K. LEMLEY

(By Peter Green, with Peter Reina)

When he was a student, Jack Lemley drove bulldozers during vacations, plowed the roads of Coeur d'Alene, Idaho, and aspired to the romance of building dams on the Columbia River. Within a few years he did build a dam on the Columbia and went on to construct a variety of large civil engineering projects. Now he is building the project that engineers have dreamed of for over a century—the underground link between Britain and France.

Lemley's résumé reads as if he had consciously prepared to run construction on the Channel Tunnel. When he was appointed in May 1989 to the summit of heavy construction, he had 28 years of international project and executive management under his belt with Morrison-Knudson Co. Inc. and Guy F. Atkinson Co.

For outstanding leadership in successfully reorganizing the troubled Channel project, ENR's editors have named Jack K. Lemley Construction's Man of the Year for 1991.

UNIFIED LEAD

The 56-year-old Lemley is chief executive of Transmanche-Link (TML), the Anglo-French company holding a turnkey contract to build an operating rail link between the two countries. By the time he hands over the completed system in 1993, the owner, Eurotunnel, will be paying an estimated $100 million a month in interest. Lateness cannot easily be contemplated.

Lemley was TML's first CEO. Previously, it was led by two persons and, according to senior managers, the company lacked central direction (ENR 12/10/90 p. 30). TML Chairman Philippe Essig says Lemley's authority gave the organization the discipline it needed.

The contractor, a joint venture of a French and a British consortium each comprising five construction companies, is constructing a service tunnel and two rail tunnels extending 31 miles. The construction and procurement cost is currently estimated at $9 billion, the overall cost at $12 billion.

Even the most basic tasks are daunting on such a gargantuan job. Lemley's first move was to establish an organization that would unify a work force of 9,000 deployed on two sides of the Channel engaged in compartmentalized tasks: Designing and constructing tunnels and designing and building a railroad system. Simultaneously, he had to immerse himself in ongoing and often rancorous negotiations with the client.

He made a highly visible start by moving TML headquarters from suburban London to the site of the English terminal at Folkestone to improve relations between the transportation organization and the site team.

COST CONTROLS

Lemley also made a fast start on reining in runaway costs. Rising costs in the fixed price part of the contract were causing consternation in Eurotunnel and its lending institutions, so Lemley and TML executives negotiated with Eurotunnel to reshape the contract. However, their attempts failed to transfer some items from fixed-price to target-cost. Many months later the two parties fashioned an agreement to amend the balance of risk, which satisfied the financiers.

In turnkey contracts, design changes affect construction costs. "Control was successful in France because French contractors are experienced with turnkey, but it was harder to achieve in the U.K.," says Lemley.

He dramatically overhauled project accounting on every level. And he made the people doing the work personally responsible for keeping to their budgets. Lemley downplays the impact, claiming, "It wasn't an extraordinary achievement and there are still significant things to be done."

UNANIMITY

Nearly two years after he took command, the consensus is that he's made significant improvements to the management of the organization and hence the productivity of the project. When he joined the project, its financial underpinnings were strained, tunnelers on either side of the Channel were separated by 16 miles of chalk, and they wondered if they would ever meet. When they holed through last December, Lemley's leadership was affirmed.

In the process, Lemley bolstered staff morale, which was low because of a poor image in the press, says John King, former tunnel director.

TML executives agree that Lemley is the Great Motivator. Essig says "he can push people to do their best." Klaas van der Lee, TML managing director of construction, credits him with overcoming a myriad of problems and succeeding in firing up the team. David Brown, technical advisor to the board, says, "Lemley gave his people confidence to discuss problems with him. Gave them responsibility and said 'get on with it.'"

TML Administration Director John Noulton agrees that Lemley's strength is motivating people. But he sees a trace of the younger Lemley who "exercises a great deal of discipline maintaining a broad overview because he would really like to put on a hardhat and go out and do the work himself."

Although widely praised, Lemley is not surrounded by sycophants. "He leads by example, but has a tendency to not realize the limitations of some of the people working for him," says John Hester, a former MK engineer who is now TML's tunnel director.

Andrew Fisher, a New York City lawyer who has remained close to Lemley since participating in litigation in the 1970s, says: "If he's got a fault, it's that he gets surprised at times that not everyone is Jack Lemley—that not everyone cares as much, not everyone is as capable as focused or as disciplined as he is."

BOARDROOM FIGHTER

Lemley also has a reputation for being a tough negotiator, a skill now being fully extended during contractual discussions with Eurotunnel.

These discussions can be dramatic, according to participants, since Sir Alastair Morton, Eurotunnel's CEO, is widely known to be abrasive and Lemley can be quick-tempered.

As an adversary, Eurotunnel's project CEO, John Neerhout, regards Lemley's negotiating style as "intransigent." This attitude, Neerhout claims, "is why we have yet to resolve a claim."

A more pointed, although anonymous, observer says, "I think the noise content of the contractual stuff would be diminished to a pleasanter level if Jack wasn't there."

But even Lemley's critics respect his ability to run the project. Morton who says, "We quite often shouted at each other," also admits, "There is no doubt that Eurotunnel, including [Chairman] André Bénard and myself, have found Jack to be someone we can work with. He is a professional."

UNHEALED LOSS

Lemley learned how to play a bad hand when he managed a joint venture for Atkinson subsidiary Walsh Construction Co., which was constructing New York City's 13.5-mile Third Water Tunnel.

Between 1972 and 1975 he participated in some fierce negotiations with the city that to his disappointment eventually ended in protracted litigation. Andrew Fisher, a partner in Fisher & Fisher, one of the law firms representing the consortium in claims against the city, says Lemley worked hard to reach an early settlement. Unfortunately, he says, after Lemley left the project the negotiations continued with other people and, for numerous reasons, the settlement was eroded by a substantial amount.

Looking back on that dispute, Lemley reflects that the uncompleted project "tears away at our industry's credibility with the public." Also, he points out, only one of the six contractors in that consortium is still in heavy construction. "That means a large element of capacity of the industry has been lost. And the city lost too."

But Lemley didn't lose a pioneering resolution process that he spearheaded a few years later. The 1985 Tennessee-Tombigbee Waterway contract dispute over unexpected site conditions was settled through a "mini-trial" between a joint venture and the Corps of Engineers.

Lemley, who was a senior vice president at MK, says the mini-trial was instant and successful arbitration. After four days of mini-trial and discussion, "we only needed two hours to reach final agreement." The parties agreed to a $17-million settlement (ENR 11/21/85 p. 12).

MK's counsel, George D. Ruttinger of Crowell and Morning, Washington, D.C., attributes his client's success in the mini-trial to Lemley's perspicacity. "Structured settlements were new to the industry and he was creative enough to see the advantages of the procedure. In practice sessions he asked skeptical, critical questions that helped us refine our presentation. During the mini-trial he asked the Corps questions that helped everybody's understanding of the case, and in some instances revealed the Corps' weaknesses."

SHORT STAY

Two years after the Tenn-Tom mini-trial Lemley left MK. He had completed 10 years in senior positions and resigned because there wasn't room at the top. "MK is managed by two guys who are 50 years old," he said in 1987. Ironically, one year later MK's new chairman, William Agee, cleaned house and the two 50-year-olds resigned."

From Boise, Lemley moved through geographic and cultural zones to become president and CEO of Blount Construction Group in Montgomery, Ala. The ill-starred venture lasted eight months, because, says Lemley, "the company's chairman, Winton Blount, and I didn't have a meeting of the minds."

A source close to the events says Blount opposed Lemley's intent to set up a heavy civil engineering division. The company is primarily a builder.

HOME AGAIN

Jack Lemley left the Deep South and returned to Boise where his wife, Pamela Lemley, established a consulting business, Lemley & Associates, Inc. (LAI). Lemley and Robert S. Thorn, a long-time buddy whom he first met in Saudi Arabia, worked for LAI. Thorn had also worked for MK and is now a group control director at TML's tunnel site.

LAI provides services such as acquisition analyses for investors wanting to invest in small companies in construction and material supplies. And drawing on Lemley's experience it provides support for construction clients involved with litigation and arbitration.

The firm represents Caithness Resources Inc., New York City, in a 250-Mw geothermal power development in China Lake, Calif. "We look after the interests of our client's investors from engineering and construction through operations," says Lemley.

When Lemley joined TML, he retained one consulting assignment: He sits on an advisory panel for Universities Research Association Inc., Dallas, which has the contract from the Dept. of Energy to design and procure the $8.24-billion Superconducting Supercollider in Texas.

Before Lemley left Boise for Britain, Pamela Lemley appointed Bates C. Burnell as the first president of LAI. Burnell had retired as chairman of MK International, and when Lemley finally returns to the Idaho consulting firm, Burnell, the former deputy chief of the Corps of Engineers, laughingly says he looks forward to retiring for the third time.

Lemley, however, doesn't look forward to doing it even once. "I'm never going to retire" he says. He is by any standard a workaholic, admitting to working an average of 350 hours a month and 450 hours when he's really busy.

The last time he took a real vacation, he says, was his honeymoon six years ago. With such long hours, he has no time for activities such as tennis or golf but intermittently tries to keep to a jogging schedule.

Burnell says that when Lemley visited Boise for a Christmas break he spent half the days in the LAI office "picking up fax mail from around the world."

Call Lemley's home town and the city hall operator answers "Coeur d'Alene, all-American city." Lemley fits right in. He started off as an all-American boy playing football, basketball and track and showing early signs of a later career by managing two of the teams.

The high school yearbook predicted he would become mayor of the city. Ray Stone, current mayor and Lemley's American government studies teacher, says, "he would have been a good mayor if he had stayed around long enough. But he was a little too conservative for my mind."

Lemley was liberal in his higher education. He didn't follow the traditional construction route by starting his career with a civil engineering degree. He began that course at the University of Idaho but switched to architecture along with many courses in philosophy. Architecture, he says, "is useful for conceptualizing." It also helped him design and build two of his homes and design construction camps and maintenance shops.

His first job was with Atkinson, where he stayed a total of 17 years, including two years building the Mica Dam on the Columbia River in British Columbia. In 1977, he moved back to Idaho as a vice president at MK.

SAILAWAY PLAN

Lemley doesn't carry his flamboyance outside disputatious meetings with clients or legendary closed door blow-ups with staff. In day-to-day business he appears to be relaxed, almost laid-back. Eurotunnel's Morton accurately summarizes that "his general style is cool and calm and thoughtful."

He philosophizes about the construction industry, and for a non-academic he has published a lot of technical papers—26 of them when he stopped listing them in 1986. Lemley enjoys addressing professional societies and industry associations because he likes to share his personal experiences in construction management and negotiations.

Apart from the expected membership in the Moles and Beavers, he belongs to 10 other American and international heavy construction groups and is a former president of the International Tunnelling Association.

These job-related activities and business trips have taken him around the globe. When he fulfills a wish to visit the Soviet Union, Lemley will have visited 66 countries during the past 15 years.

There could be another kind of travel in the future because his assertion, "I don't ever want to retire," may have been made tongue in cheek. He admits to a dream to buy a large sailboat and "sail off for a month or two at a time." Just long enough, no doubt, to become restless and return to Boise to read the fax mail.

Mr. KASTEN. Mr. President, the time that was allotted to me, I think, has almost expired, is that correct?

The PRESIDENT pro tempore. The minority leader still has about 28 minutes, and the Senator from Wisconsin is presently the designee of the minority leader.

Mr. KASTEN. Mr. President, I see the distinguished Senator from South Carolina on the floor. I believe he wants to speak not on economic issues but about the crime bill. I yield to him what time he may wish.

The PRESIDENT pro tempore. Would the Senator begin placing a time limit on his yielding time?

Mr. KASTEN. I yield to the Senator the remaining time of the Republican leader.

The PRESIDENT pro tempore. The Senator from South Carolina is recognized for the remaining 28 minutes of the Republican leader's time.

Mr. THURMOND. I thank the Chair.

(The remarks of Mr. THURMOND, Mr. SEYMOUR, Mr. NICKLES, Mr. SPECTER, and Mr. SIMPSON, pertaining to the introduction of S. 635 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

ORDER OF PROCEDURE

The PRESIDENT pro tempore. Under the order, the time until 11 o'clock is under the control of the majority leader.

Without objection, the Senator from West Virginia [Mr. ROCKEFELLER] will be recognized as the designee of the majority leader.

Mr. ROCKEFELLER. I thank the Chair, the former majority leader of the Senate.

Mr. President, I rise today in an effort to turn the Nation's spotlight on actions taken by major pharmaceutical drug companies that should disturb every Member of this body. Unless we call attention to these developments, and stop them dead in their tracks, these companies threaten to cost the Department of Veterans Affairs many millions of dollars—precious funding that the VA can ill afford to lose and that should be protected to meet the needs of America's veterans.

It has been reported recently that several major drug companies are attempting to renegotiate longstanding discount rates with the VA. In other words, the companies want to secure higher profits at the expense of taxpayers and the veterans who rely on prescription drugs through the VA. It seems that drug companies are doing this in reaction to last year's congressional action that required the industry to offer larger discounts to States for drug purchases under Medicaid, the health program for low-income and other needy citizens.

At the masterful initiative of Senator PRYOR, Congress incorporated a set of provisions requiring the Medicaid drug discounts in the omnibus budget reconciliation package enacted into law in November of last year. As a result, the law now requires drug companies to offer States a 12.5-percent discount or the best price for Medicaid drug purchases.

As a member of the Finance Committee, I was proud to support Senator PRYOR's effort and fight for its passage during the conference committee meetings on the reconciliation bill. I am totally committed to continuing to work with him and all of our colleagues in order to make sure we secure the savings in Medicaid—which means savings for States, the Federal Government, and taxpayers—that compelled us to put this initiative into law in the first place. This is one of the many ways we can and should curb spiraling health care costs that burden Government as well as the private sector.

The congressional intent of this legislation was to encourage expansion of the drug discount program to other programs where the Federal Government makes large purchases of these products. Our efforts were also designed to give States and the Federal Government needed relief from spiraling drug prices associated with our responsibility for Medicaid beneficiaries.

I am simply appalled to learn that major drug companies are reversing their longstanding discount contracts with the VA in response to the new requirements for Medicaid discounts. This strikes me as the beginning of a troubling and ill-advised trend on the part of the industry that I would call profit-shifting. In my view, companies are trying to compensate for the curb in their Medicaid-related profits by increasing prices for a different Federal Government purchaser, in this case, the VA.

It is sad to see companies—especially when we just sent our people to fight for world security and peace—place their priority on maintaining high profit margins at the expense of our veterans and soldiers.

It seems to me that drug companies are punishing the VA by withdrawing traditional discounts. As a member of the Senate Veterans' Affairs Committee, I can assure you that the VA budget for medical care is already stretched beyond its limit. Every additional dollar that must be used to cover higher costs for drugs will come out of other vital investments in health care services.

President Bush has proposed almost a $1 billion increase for VA health care. Such an increase is good news, but my colleagues should know that this proposed increase falls short of the Department's request for health care spending and its needs.

Funding shortfalls for the VA health care system is the source of serious and very real problems for our Nation's veterans, whose proud ranks will now grow with the return of the Operation Desert Storm troops. VA hospitals are being forced to make do with old medical equipment because there is no money for newer machines. Tragically, veterans often must wait, sometimes for months, for the treatment and care they need. I am sure that every one of my colleagues has been hearing from more and more veterans in their States about delays at the VA hospitals and facilities due to insufficient funds. I certainly do.

The VA needs to invest in the purchase of new medical equipment. The VA needs to invest in recruiting doctors and nurses to staff its hospitals. The VA needs to invest in medical research.

The VA should not have to pay higher prices for prescription drugs to compensate private drug manufacturers for lost profits from new Federal laws requiring Medicaid discounts. Frankly, it looks to me like drug companies are perfectly capable of absorbing these modest curbs on the very hefty profits they report year in and year out.

Drug companies will invest millions of dollars in advertising to generate good will and shape public opinion. That is part of business. But I believe it would also be good business to continue longstanding contracts to large, Federal customers that serve America's veterans, the poor, and elderly.

I urge our drug manufacturers to continue their discount program for the VA and DOD. I believe such action will provide more good will and public support than any television commercial or print ad.

I am deeply disappointed in the action taken by some drug manufacturers. I want to publicly urge every CEO and board chairman of every drug company that deals with the VA to carefully consider the grievous impact of reneging on discounts that the VA has received and depended upon. It is time to nip this one in the bud.

At a time when our country is saluting the brave men and women who served in Operation Desert Storm, it truly seems inappropriate and ill-advised for major drug manufacturers to reduce the discounts for the VA by one nickel.

Mr. President, I hope that drug manufacturers will reconsider their actions and will continue to provide discounts to all of their major customers—the VA, DOD, other Federal agencies, and Medicaid prescription drug purchasers.

I look forward to hearing from the drug industry on this vital subject in the very near future.

Mr. President, I yield the floor. I thank the Chair.

Mr. KERRY addressed the Chair.

The PRESIDENT pro tempore. How much time does the Senator from West Virginia as the designee of the majority leader yield to the Senator from Massachusetts [Mr. KERRY]?

Mr. ROCKEFELLER. How much time does he need?

Mr. KERRY. Mr. President, are we offering, under morning business, with the previous——

The PRESIDENT pro tempore. The Senate is in morning business. But the time from 11 o'clock, under the previous order, is under the control of the majority leader.

Mr. ROCKEFELLER is the current designee of the majority leader.

Mr. ROCKEFELLER. I understand the time runs out at 11 o'clock.

The PRESIDENT pro tempore. The Senator is correct.

Mr. ROCKEFELLER. I yield 20 minutes to the Senator from Massachusetts.

The PRESIDENT pro tempore. The Senator from Massachusetts is recognized for 20 minutes.

PERSIAN GULF POLITICS

Mr. KERRY. Mr. President, I thank the distinguished President pro tempore.

Mr. President, the January 12 vote on the Persian Gulf has been very much at issue in recent days. Some have come to the floor and spoken out publicly; others have spoken out through various media outlets, publicly attacking those who continue or who voted to continue the sanctions.

What answer there has been to these charges thus far has come almost exclusively from either independent columnists or from Democrats who voted with the President. I did not vote with the President, but I want to answer for myself those charges as one who voted to continue sanctions.

However, before addressing that issue, I want to reiterate how proud I am over the exceptional performance of our Armed Forces in this conflict.

Mr. President, I am proud of the vote I cast. I am proud of the fact that that was my judgment at that point in time. I do not believe I was wrong in the judgment I made.

There are those trying to say somehow that Democrats should be admitting they were wrong. I believed at the time it was the right choice. I still believe, given the circumstances of the time, it was the right choice for that time.

But the fact is, Mr. President, we will never know if it was wrong. I saw today in the Washington Post, which is one of the reasons I was prompted to come to the floor, an article in which a Member of the House of Representatives somehow is suggesting the Democrats who voted to continue sanctions should come out and readily admit they were wrong.

There is not a right and a wrong here. There was a correctness in the President's judgment about timing. But that does not mean there was an incorrectness in the judgment other people made about timing.

As many said at that point in time, the regret is that we will never know the answer as to whether or not there might have been some other alternative to war for achieving the outcome upon which we all agreed. We will never have that answer, Mr. President.

I am as proud as any person in this country of what our troops accomplished in the Persian Gulf. As a veteran of Vietnam, I am delighted people are able to stand up and say that syndrome has been responded to; effectively it has been put to rest.

Nothing gives me more pride or more emotion than to watch these homecomings of victorious troops, homecomings which members of my generation who fought in Vietnam were never afforded and never had the pleasure of experiencing.

So there is a satisfaction and pride in seeing that today. There is a pleasure in having seen our military operate with such efficiency and such capable leadership. That is what we ought to be sharing in America today—not a rancorous, divisive debate that somehow pits people against each other.

So, Mr. President, maybe the situation is a little bit like what TRB—who opened his column in the New Republic—said this week when he referred to a situation where someone's mother comes to him, who lives exclusively on Social Security, and she says to you, "I am going to invest my entire Social Security check in the lottery." You say, "No, I do not think that is a very good idea." Most people would say it is not a very good idea. But she does it and she wins the lottery.

It would be a gargantuan task to persuade her after the fact that it was not a good idea. That is precisely where we are today with respect to the judgments about the gulf.

The tragedy is that an ugly, divisive tactic has emerged in recent days that casts a shadow on the victory we all ought to be celebrating. Some individuals who represent a strategy that has seldom taken the high road in American politics in recent years have been busy sewing the seeds of a decidedly—or what I think at any rate is a decidedly—unpatriotic and inappropriately partisan approach to postwar politics.

Sadly, some threaten to do in the aftermath of the war what Democrats pointedly refrained from doing during the conduct of the war, or prior to the conduct of the war.

We have heard a lot of talk of, "Well, we are going to get them," or "They will pay for their votes," as though they were somehow against the final outcome; somehow opposed to the goal of liberating Kuwait.

Already fundraising letters, to which colleagues of mine who have come to the floor previously have referred, are being circulated by the Senate Campaign Committee trying to divide Americans over the issue of who should claim credit for the victory.

There is not always respect for truth in politics, and so I suppose we should not feign surprise that this latest approach shows little regard for the truth.

But the simple fact is this strategy ignores the simple truth that from the moment Saddam Hussein invaded Kuwait—from the moment the first shot was fired, and from the moment the bombs were dropped during the war itself—there was a remarkable unity in this country.

Mr. President, this is a debate in which I would much prefer we were not engaged, and it is not because I do not feel comfortable with the arguments; I do. It is because it is ugly. It is a debate which appeals to the most base of instincts and, in a sense, demeans the remarkable accomplishment of America—the accomplishment, I might add, of Democrat and Republican alike. This is not a time for partisanship. It is a time for unity and celebration. This is not a debate which is representative of where the energy of the Congress or of the country ought to be going.

But others began this debate, and too much has been written and said, without response. Thus far, it has been a debate really almost without engagement, at least by those who voted to continue sanctions. The result is that there is a certain historical revisionism that is going on. I think that kind of revisionism is dangerous, unfair, and I think it is very important that history not be rewritten in this situation.

Again and again and again in the debate, it was made clear that the vote of the U.S. Senate and the House on the authorization of immediate use of force on January 12 was not a vote as to whether or not force should be used. It was not a vote which represented a division in the Congress over any goal whatsoever in the gulf. In fact, there were very few differences in Congress over the goals.

It was not a vote about whether or not we should go to war at all. After all, Mr. President, as many people have pointed out, we were already at war, because we had imposed the most severe economic sanctions against any country in history, and we have voted to enforce those sanctions with the use of force, if necessary.

That vote on January 12 was about one thing only, one thing only. It was about when—when—you take the final option available to administer the coup de grace. I emphasize coup de grace, because no one in the U.S. Senate doubted the outcome. There was no policy division whatsoever in the United States about whether or not we would win. There was only one issue: Whether or not we have arrived at that special moment where the action requested by the President was absolutely the only option left for achieving our common goals.

There was a legitimate and conscience-driven difference of opinion as to whether or not tactics—not goals, but tactics—were being appropriately decided upon.

Mr. President, the revisionism should not ignore the fact that there were many on the other side of the aisle who were distinctly uncomfortable with the box in which they had been put, who truly questioned whether or not that moment had not arrived. As a result, they decided they could not support their President. It was not a vote where they said: We do not think any of these terrible things will happen; we do not think the war is going to be serious; we think it is going to end in 3 days. No; they based their decision on the belief that it was critical to back the President, because he had a policy, and this was the moment.

Part of the tactical difference—and I emphasize tactical—involved weighing risks. We have heard some Senators quoted for their predictions on the floor of some of the things that can happen in war, and they have been quoted derisively by colleagues, because these things did not happen, Mr. President.

Well, I think it was fair and intelligent to weigh those risks. I think the American voters sent us here to weigh those risks. A review of the statements of support for the President's position shows no one suggesting that those things might not happen, or predicting they would not happen, or basing their vote on the fact that they thought they would not happen. It simply shows that some were more willing, at that particular moment in time, to accept some of those risks than others.

It is interesting to note, regarding the risks, that General Schwarzkopf stated after the war, "It was miraculous that there weren't more casualties." Well, I think it is fair to differ over whether policy should depend on the expectancy of miracles for its success.

Mr. President, regrettably, some are trying to rewrite history when they suggest that somehow the vote on early use of force meant our country was not united about Iraqi aggression, and more particularly, that it meant somehow Democrats have a different view in this country about defense, or about the interests of our Nation.

The fact is that within 24 hours of the original aggression by Iraq against Kuwait, both Houses voted unanimously to condemn it. It is worth recalling the reality of that condemnation. On August 2, 1990, the U.S. Senate voted on Resolution 318, which was introduced by Senator PELL, Senator HELMS, and others—nine Democrats and six Republicans—that presented the President with united support for the concept that he take all necessary steps to stop Saddam Hussein and force Iraq out of Kuwait. I repeat, "force Iraq out of Kuwait." The Senate resolution passed unanimously, and it passed before the President of the United States had even spelled out his full policy on this issue.

Mr. President, that resolution, which I will not repeat in full right now, encompassed the freezing of Iraqi assets and the boldest set of sanctions that we have seen. But, most important, it also embraced charter article 42 of the Charter of the United Nations, and in section E stating:

> If such measures prove inadequate to secure Iraq's withdrawal from Kuwait, additional multilateral actions under article 42 of the United Nations charter involving air, sea, and land forces, as may be needed to maintain or restore international peace and security in the region.

That is what the Congress ought to authorize. I voted for that resolution, Mr. President. You voted for that resolution. Every Member of the U.S. Senate voted for that resolution. It passed unanimously, and it explicitly urged the President to take military action, if necessary.

We voted to support the President, as did Members of the House, because we all understood what was at stake. When we returned from a recess, Mr. President, we continued that support. And our fall session closed on October 2 with another bipartisan resolution on the gulf crisis introduced by Senator MITCHELL and Senator DOLE. And that resolution commended the President for all of his accomplishments to date, and specifically expressed our approval of the administration's efforts to achieve international solidarity under the umbrella of the United Nations.

I ask people to stop and think for a minute. If the Congress has unanimously embraced a policy that advocates the use of force, if it is the only option left, and the goal adopted by the Congress is the liberation of Kuwait, as it was, no one in their right mind is going to stop short of accomplishing that goal, because no one wants a repeat of Vietnam.

There was implicit in the position of the U.S. Congress an understanding that we might come to the point of using force. And there was equally explicit the adoption of a policy by the Congress that was not going to fail. That meant whether it was January 12, or whether at some point in the future, that ultimate day of reckoning was on the table for every Member who had supported that original policy.

The critical fact is that we supported the U.N. resolutions on the use of force, and the fact is that we laid out and supported a policy that Kuwait would be liberated.

I understand the reality of how defensive to some it may seem to raise these issues in the aftermath of this remarkable success, and I accept that in coming to the floor. I do so because what is important, Mr. President, is that history not be rewritten and that the record be clear, no matter how hard it is to be heard; no matter how much the rush of victory somehow erases reality here.

I think it is important that we state it. From the moment Congress decided the issue—and this is perhaps the most important part of what I would like to say—from the moment the vote in the U.S. Congress took place on the issue of timing, there was almost unanimous agreement in this country expressed by the U.S. Congress. There was almost complete unanimity that we had to stay united, support the troops, and that the debate had ended. We witnessed a democratic process in voting our consciences before we went to war. Once that issue was settled we rallied around the President, around his policy. We did so, because we were determined that there should not be another Vietnam. Again and again during debate, Senators, voting to continue sanctions, warned Saddam Hussein that he should take no comfort from those who voted to delay or to have the sanctions continue. Again and again people said one way or another, Saddam Hussein will leave Kuwait. Iraq, we said, must understand that we will give the President the full support that he requires to wage war if it is authorized.

I am proud to say, Mr. President, that, after the vote, Democrats and Republicans, even those who voted to press on with the sanctions, immediately rallied around country and troops and gave full support to our military effort. No one was going to make the mistake of having sent troops to a distant part of the world and of having had hostilities commence, of now deserting those troops.

But more than that, more than that, when early suggestions were raised as to engaging in a lull in bombing only days after the war began, of a ceasefire, Democrats almost unanimously said no. We argued that would endanger the troops, and it will only give Saddam Hussein time. He knows how and where to surrender. When peaceful demonstrations across the country sought supportive statements for their efforts, the vast majority of Democrats stood with the troops and behind our policy and refused to give those statements. When the Soviet Union made its peace proposal, when Saddam Hussein pretended to accept their terms, and when the ground war began, the vast majority of Democrats agreed with each of the President's decisions and his reactions to each of those events and backed our policy to the fullest.

To the chagrin and even the damnation of some antiwar activists, Democrats maintained unity and steadfastly backed our effort. I even became the target of antiwar protesters in my Boston office, which was taken over by them because I was standing with the President. Picket lines were set up against Democrats and Republicans who were supporting the war. I believe, Mr. President, that it is appropriate to remind everyone that Democrats helped present the Nation a unified front at war.

The Republicans are fond of quoting General Schwarzkopf these days. He is a new and very well-warranted American hero. They would do well to remember what General Schwarzkopf said about when to use force in this situation. The general stated, after we had put the sanctions in place and before the vote to authorize force took place: "If the alternative to dying is sitting out in the desert Sun for another summer, then that is not a bad alternative." Or later when General Schwarzkopf said, "I really don't think there is ever going to come a time when time is on the side of Iraq, as long as the sanctions are in effect, so long as the U.N. coalition is in effect." Finally, his comment when pressed about pursuing the military option: "Right now we have enough people saying 'OK, enough of this business, let's get on with it.' Golly, sanctions have only been in effect a couple months * * * and we are now starting to see evidence that the sanctions are pinching. So why should we say 'OK, we gave them 2 months and they didn't work. Let's get on with it and kill a whole bunch of people.' That's crazy, that's crazy."

Those were the words of Gen. Norman Schwarzkopf, who, together with our allies, led us to this extraordinary victory.

George Bush and the Nation would be far better served and we would all be far better off in victory if the GOP hatchet men do not assume a partisanship which was markedly and happily absent during the conduct of the war itself. If we want to rewrite history and pretend that Democrats somehow did not support the goals or were not in favor of liberating Kuwait, then there is a lot of real history that could be revisited, like who lost Kuwait in the first place or how we got to be in the predicament we were in. That is precisely what Richard Cohen, in the article in the Washington Post, raised today.

Mr. President, I ask unanimous consent for an additional 5 minutes.

The PRESIDENT pro tempore. Without objection, the Senator is recognized for 5 additional minutes.

Mr. KERRY. Mr. President, I do not think we need all that finger-pointing. There is obviously a lot more of it that could be engaged in whether it is in the examination of the statements of a U.S. ambassador who helped to mislead Saddam Hussein, or visits of various Members of Congress that may have misled him or any other aspects of our policy in recent years, including the effort in the Senate impose sanctions, against Iraq—that effort, stemming from Saddam's use of gas against the Kurds, was opposed vigorously by the administration and some in this holy questions which can lead to legitimate. There are a host, it seems to me, of finger-pointing.

If the National Republican Senate Campaign Committee chooses to target Democrats as "appeasers," the Democratic Party could in turn note that Republican policies not only helped arm Iraq but also licensed dual-use technologies and promoting sales of American high-technology goods to Baghdad that never should have been sent to Saddam.

If the political strategists over on the other side want to try to use the gulf as a wedge issue to challenge the patriotism of those who wanted to give sanctions more time to degrade Iraq's economic and military strength before going to war, the consultants on our side of the aisle can start sending out messages to remind the American public that two Republican Presidents prevented the Congress from imposing economic sanctions against Iraq as a result of its use of chemical weapons against the Kurds.

If the House minority whip wants to try to force Democrats out of office by saying they were helping Saddam, the Democratic Congressional Campaign Committee can take out advertising in his district to remind voters that American soldiers died this year to force Saddam Hussein out of Kuwait as a result of mistakes.

Personally, I hope we will not be driven to having that kind of further ugly and rancorous debate here.

This is a moment not to ask "who lost Kuwait?" or "who freed Kuwait?" and to answer the question with some partisan creed. It is a moment when we would be better in saying, "we all helped free Kuwait, we stood united against Saddam Hussein, and as a nation we were victorious. We had disagreements over tactics, but never goals. From the beginning, we undertook policies that insured that Iraq would eventually be forced out of Kuwait."

The President decided to move quickly, and while war is usually a situation for which the phrase, "situation normal, all fudged up," was invented, in this war, our generals, our technology, and our soldiers all performed amazingly, wonderfully, well.

The point is this country has a different agenda in victory. Almost every American understands that agenda. It is an agenda to try to win the peace, which in many ways will be far more difficult than winning the war. That is going to require bipartisanship. That is going to require cooperative efforts in the U.S. Senate and the House, in order to forge a consensus and pick our way through a minefield of policy issues far worse than the mine fields that were in the sands of Saudi Arabia and in Kuwait.

It seems to me, Mr. President, that we ought to recognize also the other critical elements of the American agenda. Our soldiers are going to return to a country with a rising rate of unemployment. They are going to return to cities—Chicago, Boston, New York, Washington, and others—where parts of those cities look like Kuwait, where parts of those cities see people living in tin shacks or sleeping on grates. There is enough of an agenda to rebuild an education system or transportation system, for a lot of other issues in this country that we do not need to engage in divisive tactics over the one thing that we were perhaps most united on in recent memory. It seems to me that we would do well to remember that none of those soldiers lost their life for a Republican or lost their life for a Democrat, or lost their life for any partisan purpose at all. They lost their life for common goals to which every single one of us are committed, and there is not a soldier who I think would be happy with the notion that their leaders are engaged in a partisan bickering that detracts from the glory of victory and the accomplishment which they have achieved on behalf of all of us.

So, Mr. President, having won the war, we now have to act to insure that we win the peace, both in the Middle East and at home. Can anyone doubt that our country faces deep problems that we are making far too little progress in solving? Do we know of nothing better to do here than make political attacks on one another, rather than to try to work together to find solutions to our very real problems?

I know this Nation needs more.

I know this Nation deserves better.

If we lose this peace, after such a victory, we will lose an opportunity as a nation to rebuild its economy and provide for the future that may not come again.

I yield.

The PRESIDENT pro tempore. The time until the hour of 11 o'clock a.m. is under the control of the majority leader.

Without objection, the Senator from Delaware is recognized as the designee of the majority leader.

How much time does he yield himself?

Mr. BIDEN. I would like to have 12 minutes, Mr. President.

The PRESIDENT pro tempore. The Senator from Delaware is recognized for 12 minutes.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that I may have 10 minutes following that.

The PRESIDENT pro tempore. Without objection, the Senator from South Carolina will be recognized following the statement of the Senator from Delaware for not to exceed 10 minutes.

WINDOW OF OPPORTUNITY FOR MIDDLE EAST ARMS CONTROL

Mr. BIDEN. Mr. President, today Secretary Baker nears the end of a historic trip to the Middle East where he sought to lay a foundation stone for a new world order in the region. Some may think that constructing a secure and lasting peace in the Middle East will be as swift and easy as General Schwarzkopf's flawless military campagin.

But even America's battlefield triumph will not empower us to impose our will on the Middle East. However, we can surely provide a great deal of leadership to encourage needed change. American leadership was fundamental in forming the coalition that saved the oil-rich states from the scourge of Saddam Hussein. That same leadership should now catalyze a new world order in this volatile region. In an earlier speech to this body I discussed an issue critical to this new order in the Middle East and that is addressing the disparity of wealth in the region. I called for the creation of an Arab development bank, similar to regional development institutions in Latin America, Asia, Africa, and Europe, that would be responsible for coordinating the investment of the region's vast oil wealth in the poorer nations of the Middle East.

Such a bank should be financed and operated by the Arab States. Unlike the other regional banks an American financial contribution is neither desirable nor necessary, but we should not shrink from encouraging the Gulf States whose wealth we have just protected to accept greater responsibility for promoting prosperity among their Arab brethren.

Secretary Baker endorsed this concept before the Foreign Relations Committee and he is apparently pursuing it in his discussions with Saudi and Egyptian leaders.

Today I would like to address another major issue that Secretary Baker discussed prior to his trip—arms control—where American leadership is not only important but, I might suggest, Mr. President, is absolutely indispensable, where American leadership has been lacking in the past but apparently is likely to be brought forward now.

Stopping the proliferation of weapons of mass destruction to the Middle East and controlling the spread of advanced conventional weapons, is an essential ingredient for any lasting and stable peace in the region. The vast accumulation of armaments by the nations of the region in recent decades has bought neither security nor stability.

Defining the goals of arms control is relatively easy. Actually achieving those goals is of course far more difficult, but like an addict attempting to kick the habit, the first step for arms control in the Middle East is recognizing the problem.

Two weeks ago, President Bush took that first step, when he expressed the hope that out of this war will come "less proliferation of all different types of weapons, not just unconventional weapons."

And Secretary Baker recently told the Foreign Relations Committee that:

> The time has come to try to change the destructive pattern of military competition and proliferation in this region and to reduce the arms flows into an area that is already overmilitarized.

But reports from Secretary Baker's trip suggest that we are already retreating from these bold declarations, for fear that such an effort may be unrealistic. These reports are disturbing and seem to represent a marked shift in the administration's priorities for the region.

Indeed, earlier this week a top National Security Council official said we should "not be overambitious" in seeking Middle East arms control and that "defense cooperation will provide far more security than arms control" in the Middle East; that is, more arms to the region will provide more security.

But we are now in a very unique position to affect the postwar order in the Middle East, and we must set our sights high.

Yet, our signals have become muddled. One day we promote the idea of Middle East arms control, the next day we step back. One day we promote a postwar order based on security with fewer weapons, and the next day the State Department notifies Congress of its intent to sell 46 F-16's to Egypt, with billions more in arms sales in the pipeline for other Middle East countries.

A persuasive case in favor of the sale to Egypt can no doubt be made. Egypt is a solid ally and a critical member of the gulf coalition. This sale is merely an ongoing modernization, and so on, and so on, and so on.

But an equally persuasive case can be made against this sale at this time. The message it will send—both to other supplier nations and to nations in the region—will be this: the Middle East arms bazaar is once again open and ready for business.

Instead, the Congress and the administration must now begin to work together to develop a coherent arms control agenda for the Middle East. Such an agenda must address both the supply side and the demand side of the arms control equation.

On the supply side, a comprehensive effort must be made by the nations who have long supplied arms to the Middle East to prevent the spread of weapons of mass destruction, and control the proliferation of advanced conventional weapons.

On the demand side, we must work to promote regional arms control arrangements that limit the size of conventional arsenals, the acquisition of weapons of mass destruction, and the operational deployments of conventional armies.

Mr. President, in the coming days and weeks I will be working with my colleagues on the Foreign Relations Committee to develop legislation that will provide a framework for American policy on arms control in the Middle East. I am hopeful that this effort will garner bipartisan support.

Today, I would like to spell out the critical elements that should be included in this ambitious agenda.

The first step is to organize those supplier nations, particularly the Soviet Union, Germany, France, Great Britain, China, and Brazil, into a suppliers cartel. The goal of this cartel would be to prevent Middle Eastern countries from obtaining the technologies needed to build or deploy offensive ballistic missiles, chemical weapons, biological weapons, and nuclear weapons, all of which, I might remind the public and our colleagues were sold to the region prior to this war.

Individually, each of these supplier nations should be encouraged to adopt as a matter of national policy the limitations and controls contained in the missile technology control regime and the new proliferation controls the administration and Congress are now working out.

This supplier's cartel must also control the proliferation of advanced conventional arms. A conference should be convened, in which these nations agree on a new system to share information about arms sales to the Middle East, to use the missile technology control regime as a model for certain conventional weapons, and to consider further steps to place strict controls on arms sales to the Middle East.

The list of German, French, and other European firms who sold Iraq its deadly arsenal is long. In his meeting this week with President Mitterand of France, President Bush must place high on his agenda the goal of securing commitments that French firms will never again be the merchants of death for weapons of mass destruction in the Middle East. Similar commitments must be secured from Germany as soon as possible.

I just want to remind my colleagues that there was speech after speech for the past 6 months here on the floor about what the Germans sold and what the French sold and how they put our men and our women in serious jeopardy and how it must not happen again. Now is the chance, Mr. President, to see that it does not happen again.

On Friday, when Secretary Baker meets with President Gorbachev, he must begin working with the Soviet leadership, whose cooperation will determine whether arms control in the Middle East has any chance of success.

Finally, President Bush must realize that even this effort will be of limited value unless the Chinese can be convinced to stop their sales of ballistic missiles and advanced conventional weapons to the Middle East.

Tragically, the leadership in Beijing has reportedly adopted a policy to pursue arms sales, including technology needed for weapons of mass destruction, in the Middle East and other regions. They claim their hard currency needs are too important economically to be scaled back.

Just yesterday a top administration official met with the Chinese to express our concern about their arms export policies. If the Chinese policy is not changed, we must be prepared to strike back economically ourselves, perhaps by withholding most-favored-nation trade status from Beijing.

Given our successful leadership in the war against Iraq, the United States has enormous political and moral leverage to use in this effort. Our goal should be to apply every political, military, and economic tool at our disposal to see that the supplier's arms cartel works as well at stopping proliferation in the Middle East in the 1990's as the OPEC oil cartel did in driving up the price of oil for the West in the 1970's.

An agreement among the Soviet Union, China, France, Great Britain, and the United States would, by itself, slow the hemorrhage of weapons to the region. The addition of other supplier countries would stem the flow to a slow trickle.

Meanwhile, we must work on the demand side with equal vigilance. We should start by convincing these countries that arms control can serve their security interests. This will also require cooperation among the major industrial powers. Together, we have enormous leverage in the region. Future arms sales, foreign assistance, even eligibility for loans from international financial institutions, could all be linked, directly or indirectly, to willingness of nations in the region to pursue regional arms control efforts.

Regarding weapons of mass destruction, Egypt, Israel, and many other Arab states have given support to proposals designed to ban nuclear, chemical, and biological weapons from the region. This effort should receive priority attention. Pending future agreement to outlaw such weapons in the region, countries should be encouraged to become party to existing international conventions, like the biological weapons convention and the nonproliferation treaty, or soon to be completed agreements, like the Chemical Weapons Convention.

The gulf war may also have helped demonstrate that chemical weapons are of limited value. Known as the poor man's atomic bomb, these weapons proved to be of little value to Saddam, and perhaps other nations will realize that the benefit they bring is small, while the moral outrage they engender is great.

Nor should we rule out the possibility of a formal agreement limiting conventional arms, along the lines of the CFE Treaty signed last year in Paris. The relevant agencies in the U.S. Government should be working to see what techniques we have applied in the CFE Treaty, and the INF Treaty, that can be usefully applied to the region.

Finally, we should encourage agreement on confidence building measures. For example, all countries could agree to provide advance notification through third parties of military exercises. Another possibility is to extend the open skies regime being negotiated among European countries to the Middle East.

The arms control agenda that I have briefly outlined here today is admittedly ambitious. As a long-time proponent of arms control between the United States and the Soviet Union, I am honest enough to recognize that progress will be slow and incremental. I anticipate strong resistance on many fronts, particularly among the nations of the region who believe that security lies in the continued acquisition of arms.

But if we are to construct a stable Middle East peace in the aftermath of the gulf war, we must recognize—as the Bush administration insisted throughout the gulf crisis—that the status quo ante cannot be restored. We cannot go back to business as usual.

This point of departure applies to the lack of democracy in the region. It applies to the inequitable distribution of wealth. And it applies to the proliferation of arms in the region.

The skeptics are already saying that arms control in the Middle East is just too difficult, that a coalition of supplier and recipient nations committed to this effort could never be forged. But just last fall, many thought the United States could never weld together the coalition against Iraq. So let's not underestimate ourselves now.

The window of opportunity for Middle East arms control is now open. Before it begins to shut, we must apply the same diplomatic skill and ingenuity to arms control that we brought to reversing Saddam's aggression against

Kuwait, lest some future dictator, armed with Western technology, again unleash the dogs of war in the cauldron we call the Middle East.

The PRESIDENT pro tempore. Under the previous order the Senator from South Carolina [Mr. HOLLINGS] is recognized for 10 minutes.

Mr. HOLLINGS. I thank the Chair.

(The remarks of Mr. HOLLINGS pertaining to the introduction of S. 636 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

(The remarks of Mr. HOLLINGS pertaining to the submission of Senate Resolution 78 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

EXTENSION OF MORNING BUSINESS

Mr. HOLLINGS. Mr. President, on behalf of the majority leader, I ask unanimous consent that the period for morning business be extended not beyond 11:30 a.m., with Senators permitted to speak therein.

The PRESIDING OFFICER (Mr. ROBB). Without objection, it is so ordered.

The Senator from South Carolina is recognized.

Mr. THURMOND. I thank the Chair.

(The remarks of Mr. THURMOND pertaining to the submission of Senate Resolution 78 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mrs. KASSEBAUM. I thank the Chair.

(The remarks of Mrs. KASSEBAUM pertaining to the introduction of S. 641 and S. 645 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mrs. KASSEBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COATS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Indiana is recognized.

EXTENSION OF MORNING BUSINESS

Mr. COATS. Mr. President, I ask unanimous consent that I be allowed to proceed for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered. The period for morning business is extended an additional 5 minutes.

The Senator from Indiana is recognized.

Mr. COATS. I thank the Chair.

(The remarks of Mr. COATS pertaining to the introduction of S. 642 and S. 643 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. COATS. Mr. President, I thank you for the time and I yield any that I might have remaining.

RETIREMENT OF ADM. HUNTINGTON HARDISTY, USN

Mr. NUNN. Mr. President, on March 1, 1991, Admiral Huntington Hardisty retired after a long, distinguished career of service to the U.S. Navy and this Nation. Admiral Hardisty's last assignment was as commander in chief of the U.S. Pacific Command, which is headquartered at Camp H.M. Smith in Hawaii. I would like to offer Admiral Hardisty my congratulations and thanks on the occasion of his retirement.

As the senior U.S. military commander in the Pacific and Indian Ocean areas, Admiral Hardisty was in charge of the largest unified command. The U.S. Pacific Command extends over 50 percent of the Earth's surface from the west coast of the United States to the east coast of Africa, from the Arctic to the Antarctic.

In both this important position and in his previous assignments, Admiral Hardisty was very helpful to me and the other members and staff of the Armed Services Committee. He was always forthright and insightful in presenting his views, whether in public hearings or in private meetings. I am deeply grateful for his assistance.

Mr. President, I ask unanimous consent that a service biography of Admiral Hardisty appear at the conclusion of my remarks. I wish Admiral Hardisty and his family the best of luck, sincere thanks from a grateful nation, and best wishes for every success in their future endeavors.

ADMIRAL HUNTINGTON HARDISTY, COMMANDER IN CHIEF, U.S. PACIFIC COMMAND

Admiral Huntington Hardisty, a native of Atlanta, Georgia, was commissioned an ensign on June 6, 1952, following his graduation from the U.S. Naval Academy, Annapolis, Maryland. Admiral Hardisty earned a master of science degree in international relations from Harvard University, Cambridge, Massachusetts, in 1964.

Designated a naval aviator in 1953, Admiral Hardisty's early Navy tours include duty as a Naval Aviator with Fighter Squadrons 12, 22, 101 and 102; Special Weapons Project Test Pilot, Naval Air Special Weapons Facility, Kirtland Air Force Base, Albuquerque, New Mexico; Aircraft Handling Officer, U.S.S. *America* (CVA 66); Commanding Officer, Fighter Squadron 32; Air Operations Officer, Carrier Strike Force, 7th Fleet; and Special Plans and Air Operations Officer for Southeast Asia in the Office of the Chief of Naval Operations (CNO), Plans, Policy and Operations, Washington, D.C. In August 1961, at White Sands Missile Range, New Mexico, while flying an F4B Phantom II, he set a world three kilometer low-level speed record which was unsurpassed for 16 years.

In 1971, Admiral Hardisty was assigned as the Commander, Attack Carrier Air Wing 11. Returning to Washington, D.C. in 1972, he served as the Executive Assistant to the Director, Navy Program Planning. Admiral Hardisty assumed command of the U.S.S. *Savannah* (AOR 4) in 1973, and command of U.S.S. *Oriskany* (CVA 34) in 1974.

Admiral Hardisty was Dean of Academics at the Naval War College, Newport, Rhode Island, when he was selected for flag rank in February 1977, and ordered to assume duties as acting President of the War College. He next assumed command of the U.S. Facility at Subic Bay, Republic of the Philippines, serving also as the Commander in Chief Pacific Representative. He attended the CNO Senior Officer Ship Material Readiness Course in Idaho Falls, Idaho, prior to assuming duties as Commander, Carrier Group 7, in 1980.

In July 1981, Admiral Hardisty became Commander, Carrier Group 5/Carrier Strike Force 7 Fleet, followed by assignment in July 1982, as the Deputy Chief of Staff for Plans and Operations, U.S. Pacific Fleet [CINCPACFLT]. He became Assistant Deputy Chief of Naval Operations, Plans, Policy and Operations, in 1983.

In 1984, Admiral Hardisty was assigned as the Director for Operations, Office of the Joint Chiefs of Staff. He became the Deputy and Chief of Staff, CINCPACFLT, in 1986, and the Vice Chief of Naval Operations, Washington, D.C., in 1987. He assumed his present position in September 1988.

Admiral Hardisty's awards and decorations include the Defense Distinguished Service Medal, Navy Distinguished Service Medal with gold star, Silver Star Medal, Legion of Merit with Combat "V" and four gold stars, Distinguished Flying Cross with one gold star, Meritorious Service Medal, Air Medal with two gold stars, Navy Commendation Medal with Combat "V" and two gold stars, Philippine Legion of Honor and various campaign medals.

Admiral Hardisty is married to the former Sally Mae Ives of St. Petersburg, Florida. They have two sons: John and Robert.

The PRESIDING OFFICER. All time has expired.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The period for morning business is now closed.

Mr. DOLE. Mr. President, has leader time been reserved?

The PRESIDING OFFICER. The Chair recognizes the Republican leader, Senator DOLE. The leader time has been reserved. The Republican leader is recognized at this time.

Mr. DOLE. I thank the Chair.

(The remarks of Mr. DOLE pertaining to the introduction of S. 635 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

COMMUNITY COLLEGES, S. 463

Mr. DOLE. Mr. President, I am a cosponsor of Senator HATFIELD'S legislation to create an Assistant Secretary position within the Department of Education for our Nation's community colleges. I am supporting this bill because community colleges are a vital component of higher education in Kansas and across the Nation.

There are 19 community colleges currently operating across my home State of Kansas, serving nearly 70,000 full-time and part-time students. Nearly 25 percent of all Kansas high school students go on to enroll in community colleges upon graduation, taking advantage of a wide range of educational opportunities, including vocational and technical training, job retraining, and credits for later application toward 4-year institutions.

As the workplace continues to adapt to new technology, we need more people than ever who are proficient in their technical and vocational skills. Kansas community colleges are responding to the challenge, offering over 80 different vocational and technical programs. These programs include degrees in traditional fields such as agriculture, health care, and marketing and business, as well as nontraditional areas like entrepreneurship, aviation technology, and robotics. Community colleges also offer important adult basic education and general education programs to ensure that all Kansans are equipped with the minimum skills necessary to succeed in society.

In addition to their educational missions, community colleges play a vital role in the economic development of Kansas communities, especially in the less-populated, rural areas of the State. In Kansas, community colleges are often actively involved in attracting new businesses to their communities. Additionally, community colleges work closely with area businesses, providing job retraining programs for employees and offering important informational resources for small business. All of these efforts will help Kansas face the inevitable changes which come with our ever-expanding economy.

I am supporting Senator HATFIELD's legislation to help ensure that community colleges get the recognition they deserve, both as educational institutions and as community leaders. As we look ahead to the consideration of the Higher Education Act reauthorization, I hope all of my colleagues will remember the important contributions made by our Nation's community colleges.

"FIRST IN SAFETY" WINNERS

Mr. HELMS. Mr. President, in 1981, the American Textile Manufacturers Institute initiated an enormously constructive program called First in Safety. This was a part of an industry-wide effort to promote and recognize safety in the work place.

On March 6, Mr. Dan Scott of Mount Vernon Mills, Inc., and chairman of ATMI's Safety and Health Program Subcommittee, announced the award winners. In recognizing the winners, Mr. Scott said,

> Safety is a top priority in textile companies, thanks to the efforts of numerous people in our industry. These awards give us a chance to recognize some of the leading companies in this area for a job well done.

Mr. President, as I expected, North Carolina was well represented among the winners. Six companies, two in my State, won first-place awards for outstanding performance in employee safety and health:

American Thread Co., Charlotte, NC.
Artee Industries, Inc., Shelby, NC.
Cheraw Yarn Mills, Inc., Cheraw, SC.
Milliken & Company, Spartanburg, SC.
Southern Phenix Textiles, Union City, GA.
Thomaston Mills, Inc., Thomaston, GA.

Mr. President, six other companies won awards for the most improved performance in employee safety and health:

Hamrick Mills, Gaffney, SC.
Mount Vernon Mills, Inc., Greenville, SC.
Trio Manufacturing Co. Forsyth, GA.
Dixie Yarns, Inc., Chattanooga, TN.
Dyersburg Fabrics, Inc., Dyersburg, TN.
Brentex Mills, Inc., Brenham, TX.

Mr. President, there were six companies earning awards for zero lost-time accidents and illnesses:

Artee Industries, Inc., Shelby, NC.
Arkwright Mills, Spartanburg, SC.
Cheraw Yarn Mills, Inc., Cheraw, SC.
The Kent Manufacturing Co., Pickens, SC.
Musgrove Mills, Gaffney, SC.
Thomaston Mills, Inc., Thomaston, GA.

Mr. President, I am very proud of these companies and their employees. Their commitment to safety in the workplace and excellence in the marketplace is a tribute to all Americans. I know all Senators will join in congratulating these fine men and women.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

A GREAT ACHIEVEMENT OF CONGRESSMAN BILL NICHOLS

Mr. HEFLIN. Mr. President, I rise today to pay tribute to the late Congressman Bill Nichols from Sylacauga, AL, and one of his greatest legacies. Half-way through the huge arms build-up during the 1980's, Congressman Nichols championed a measure which was in large part responsible for the success which our allied forces achieved in Operation Desert Storm.

Congressman Bill Nichols and Senator Barry Goldwater sponsored the Goldwater-Nichols military reform bill which returned the power to our troop commanders in the field. In my judgment, it was this innovation which allowed our operations to proceed smoothly without the delay of extensive communications with Washington during the heat of battle.

Bill Nichols' greatest legacy will be the thousands of lives this reform bill saved in the Middle East. I ask unanimous consent that an article by Bob Ingram describing Bill's efforts be included in the RECORD.

There being no objection, the article ordered to be printed in the RECORD, as follows:

[From the Abbeville (AL) Herald, Jan. 31, 1991]

THE ALABAMA SCENE AS SEEN BY BOB INGRAM

MONTGOMERY.—He didn't live to see it, but the good sense and the determination of the late Congressman Bill Nichols of Sylacauga is paying huge dividends . . . and saving lives . . in Operation Desert Storm.

In fact, the Wall Street Journal said in a recent issue that Nichols "can be counted as one of the early heroes of the war against Iraq."

What is it that Nichols did to earn him such high praise? In the mid-1980's, almost single-handedly, Nichols successfully pushed through Congress what is now known as the Goldwater-Nichols Military Reform bill. Senator Barry Goldwater of Arizona sponsored the measure in the upper chamber.

The legislation took the power of actually waging a war away from the Pentagon in Washington and gave it to a single, united commander in the field. In Operation Desert Storm, that commander is Army General Norman Schwarzkopf.

Something else it did was to put an end to the bitter rivalry between the services during the time of war. In Vietnam often times the ground forces knew nothing of the bombing plans of the Air Force. There was no coordination. Also in Vietnam, getting a shipment of equipment from the U.S. often meant commanders had to file three separate orders—the Army handled rail transport, the Air Force handled air transport and the Navy handled sea transport.

Under Goldwater-Nichols, some 500,000 men and their equipment was moved to the Persian Gulf in five months. That would have been an impossible task prior to the new law.

What motivated Nichols to take on the entire military establishment and pass this law? For one thing, he knew something about combat. He lost a leg and part of his lung as an Army officer fighting in Germany in World War II. For another, he had been incensed at the conduct of the invasion of tiny little Granada where rivalry between Army, Navy, Air Force and Marines was at its worst.

But what most incensed Nichols was the terrorist bombing of the barracks in Lebanon that resulted in the death of 239 marines. By coincidence, Nichols had visited that barracks only two weeks earlier and had expressed concern about security precautions. After the fact he learned that disaster could be attributed partly to the fact that there were overlapping and confusing lines of command about who was responsible for the security of that facility.

From that day forward, Nichols was not to be denied. Many military leaders bitterly opposed the legislation. One high-ranking officer said Nichols was attempting to destroy the military of the United States, another called him "un-American."

Nichols refused to be deterred, but sadly he is not alive today to receive the plaudits he deserves. Operation Desert Storm has been a model of cooperation between the various services. Even General Schwarzkopf has said the military reform legislation has resulted in a "superb integrated performance" in the war.

TRIBUTE TO JUDGE JOHN HARRIS

Mr. HEFLIN. Mr. President, recently, Judge John Harris, of Montgomery, AL, passed away after a most distinguished career as an attorney and appellate judge. He served as a member of the Alabama Court of Criminal Appeals for many years, including some as the chief judge.

When I served as chief justice of the Alabama Supreme Court, the entire appellate courts made an all out effort to clear the docket of cases that had been backlogged for quite a while. There were some cases that had been on the docket for as long as 6 years. There was no one more diligent than Judge John Harris. He worked night and day, Saturdays and Sundays, and he was one of the first to have all of his cases written and decided. He was a great inspiration to all of the appellate judges in the judicial building which at that time housed the Supreme Court of Alabama, the Alabama Court of Civil Appeals, and the Alabama Court of Criminal Appeals.

While he had great energy, his most lasting contribution to the jurisprudence of Alabama will be his well-reseasoned, scholarly opinions.

There is in Montgomery, AL, a weekly newspaper known as the Montgomery Independent, which each week publishes a column by a marvelous writer by the name of Joe Azbell. Joe knows people as well as any journalist that I have ever known. He loves people and people love him. He loves to spin a good yarn. The readers of the Montgomery Independent look forward to reading his weekly columns which are generally about people and what they are doing. In his February 7, 1991 column, which was written a short time after Judge John Harris died, he included a review of Judge Harris' life. I quote from that column:

JOHN HARRIS, ADVOCATE

When the late John Harris was two, he contracted polio. His father knew George Washington Carver and went to him to ask for help in treatment of his polio-stricken son.

Tiny John Harris was accepted for experimental treatment by Dr. Carver at Tuskegee Institute. They bathed his legs in peanut oil and used other peanut treatment to massage the crippled legs.

When he was a grown man. Harris attributed much of the strength in his legs to "the miracles of George Washington Carver."

Yes, John was diagnosed as crippled. But he never allowed his legs to slow him down.

He played tennis, baseball, and accomplished many other athletic feats. Those who knew him forgot his limp. He kept up with the best.

One of the best was John Blue Hill, the greatest criminal lawyer in the recent history of Montgomery. But Harris was right up there with him.

They were together on every case. You didn't know where Hill left off and Harris picked up. They were tigers in the courtroom, fine attorneys in cross examination and even stronger in jury summations.

The firm Hill, Hill, Whiting, Harris and Rives, was called Hill, Hill, Lightning and Thunder. If Hill was the Lightning, Harris was the Thunder.

You could see Harris climbing those stairs to the dusty old offices on Washington Street every morning. He went up two steps at the time and shuffled down the same way. You could watch Hill and Harris as they went in the Courthouse with coattails flying. Hill walked fast and talked fast but Harris kept up.

George Wallace was a great admirer of both Hill and Harris. He named Harris as his legal advisor and later to a judgeship on the criminal appeals court. You always knew—and other lawyers did, too—that if Harris issued a decision on a matter, it was right. He knew the law.

To his credit, people forgot he was a polio victim. It was never mentioned. I had a thousand conversations with him and his only reference to his childhood illness was his praise of George Washington Carver.

Here was a man with a great heart and brain. He worked 14 to 18 hours a day every day except Sunday. Even on Sundays, he and the Hills, John Blue, Wiley Jr., Richard Rives and others would meet at the office and go over cases.

I can see him now at the old rolltop desk in his office, surrounded by dusty law books stacked high, deeply engrossed in preparation of a case. He always carried three or four law books with him to court. He would lug the books up the steep stairs of the rickety original Courthouse to the Circuit Court and there involve himself in one of the law books right up until court began.

The slapping sound of hands clapped together became a part of John Blue Hill's courtroom delivery. Harris snapped his fingers loudly or popped his hands together to make a point.

Circuit Judge Eugene Carter and Circuit Judge Walter B. Jones heard most of their cases. Carter tells many stories of Harris and Hill in his courtroom. Maury Smith, Montgomery attorney, became friends with both Hill and Harris in those days and later would associate Hill in his cases.

Few people were aware that Hill and Harris were both avid hunting and fishing buddies. They loved the outdoors and early in the morning they would go fishing as the sun was coming up. Friends wondered when they slept.

John Harris was married to his wife, Ethel, for 50-plus years. They had three sons, the late George Harris, John Harris and Thomas Harris, who organized Merchants Capitol Corp.

Lawyers often commented on the beautiful briefs written by Harris. Many famous lawyers came to him to ask his opinion on certain points of law.

He was aggressively Southern, an Alabamian to the core, and he stood up for his beliefs. But he wanted no man mistreated. He defended many poor devils and found a way to set them free. Some of the cases he handled were those that other lawyers turned down. He was always a plaintiff's lawyer in civil matters and a defense lawyer in criminal matters.

When his old friend, John Blue Hill died, John Harris said that it was like a part of him had died. They were like brothers, drinking coffee at 10 a.m. and at 3 p.m. every day at Chris'. For exercise, they would literally run from the Washington Street offices to Chris' on Dexter and then scoot back again.

Harris came from a great era of lawyers, people like Marion Rushton, T.B. Hill, Richard Rives, A.F. Whiting, both partners, Joe T. Pilcher Jr., a brief partner who became a Selma millionaire, Wiley Hill Jr., the Juvenile Court judge, another partner, Wiley Hill Jr., James Carter, Temple Siebels, Jack Crenshaw, Dave Crosland, Billy Thetford, Robert Steiner, Sam Rice Baker, John Kohn, and scores of others who made all-day courtrooms visits to watch cases and the men who argued them.

Those colorful lawyers and characters whom Harris knew are unmatched in today's courtrooms. How could you invent people like Lew Sanderson, John Tilley, Albert Pickett, the kind-hearted J. Render Thomas Jr., Joe Levin, Warren Reese Jr., Judge Alex Marks, D. Eugene Loe, the always dignified and gentle R.S. Hill, Vaughan Hill Robison, Joe Goodwyn, John Goodwyn, Richard Ball and so many others? They were in a special class, originals and life real.

The same could be said of the newspaper people of that day, people like Cash Stanley, Grover C. Hall Jr. and Sr., the R.F. Hudsons, Sr. and Jr., J. Fred Thornton, William J. Mahoney, Atticus Mullin, Hartwell Hatton, and the list goes on.

John Harris left his vivid mark and will be remembered as a brave, good, talented lawyer, family man and community leader who was faithful to his friends.

HONORING SEYMOUR GITENSTEIN

Mr. HEFLIN. Mr. President, I rise today to pay tribute to Mr. Seymour Gitenstein of Florala, AL, who has long been one of Alabama's premier businessmen and philanthropists. Until 1988, Mr. Gitenstein directed the operations of the Franklin Ferguson Co. Since that time, he has remained active in the community through the commitment of both time and resources.

Mr. Gitenstein has supported numerous charitable causes in Alabama, Florida, and around the country. In the early 1960's, he and his wife established the Anna and Seymour Gitenstein Foundation to contribute to various charities and community projects in Florala. Through the years, they supported worthy causes from the construction of the Florala Memorial Hospital to scholarships for Florala High School graduates.

Many of Mr. Gitenstein's recent contributions have been directed toward research contributing to a cure for Alzheimer's disease. Mrs. Anna

Gitenstein's 11-year bout against Alzheimer's disease contributed to the foundation's steadfast support for Alzheimer's research. Mrs. Gitenstein died in February 1988 with no cure for Alzheimer's having yet been discovered.

Seymour Gitenstein has for over 8 years given vital support to these research efforts at the University of Alabama at Birmingham. In addition, he has supported efforts at such diverse institutions as the University of West Florida, Florida, Texas, Emory, Harvard, and Duke. The Gitenstein's contributions were recognized when the Anna Green Gitenstein Memorial Laboratory was dedicated at the Mailman Research Center. In addition, Harvard University has named a library in Mrs. Gitenstein's honor.

The Gitenstein's contributions have not been limited to medical research. Their activities cut across the spectrum of musical, artistic, civic, and educational activities in their area. Both of them were natives of New York City and were talented pianists. Their musical interest spurred their contributions to the arts on the local level as well as to institutions like the Andalusia Ballet, the Pensacola Symphony Orchestra and the University of West Florida Music Department.

Mr. President, few people have shown the type of civic-minded and public-spirited benevolence as has Seymour Gitenstein. His efforts and those of the Anna and Seymour Gitenstein Foundation have made vital research toward a cure for Alzheimer's disease possible. He is to be commended for his devotion to this cause and to his community. In my judgment, Seymour Gitenstein sets an excellent example for all of us to follow. He has always been ready to return to the community that which he received and much more. I commend Mr. Gitenstein and thank him for his contributions.

I ask unanimous consent that the attached articles be published in the CONGRESSIONAL RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Florala News, Jan. 3, 1991]

GITENSTEIN PLAQUE PRESENTED AT UAB

Since January, 1982, Seymour Gitenstein has generously supported Alzheimer's disease research at the University of Alabama at Birmingham. Mr. Gitenstein recently visited the UAB campus and and got a first-hand look at the work he has helped support through personal gifts and the Anna and Seymour Gitenstein Foundation.

During Gitenstein's visit, a plaque was unveiled at the Alzheimer's Disease Center, noting the gifts given in the memory of his wife, Anna Green Gitenstein.

Mrs. Gitenstein died in February, 1988, about 10 years after she was diagnosed with Alzheimer's disease.

Gitenstein's visit to the campus included lunch with Vice President Kenneth J. Roozen (University Affairs), Dean James A. Pittman (School of Medicine) and Chairman John N. Whitaker and Professor James H. Halsey (Neurology). Also, Research Associate Professor Georg Deutsch and Research Assistant I Robbie Brock (Neurology) gave a laboratory tour, and Halsey made a presentation about work done in the lab.

Gitenstein lives in Florala and long has had in interest in philanthropy. He and his wife formed their foundation in 1963 and provided funding for the betterment of the Florala community. They helped with the construction and support of Florala Memorial Hospital and also contributed to scholarships and a variety of musical projects.

With the onset of his wife's illness, Gitenstein became increasingly interested in contributing toward Alzheimer's disease research. He has given not only to UAB, but also to Harvard, Duke, Emory and the University of West Florida. Harvard named a library in honor of Mrs. Gitenstein.

Gitenstein was born in New York City in 1915, and his family moved to Florida in 1932. At 17, he began what was to be a 56-year career overseeing the manufacturing operations of Franklin Ferguson Co., a textile business begun by his Father.

[From the Florala News, Sept. 13, 1990]

THROUGH RESEARCH HER BATTLE CONTINUES

Anna Green Gitenstein was never a patient at McLean Hospital. But when she and her husband, Seymour Gitenstein, discovered in 1977 that she had Alzheimer's disease—an incurable, degenerative disease of the brain—they were determined to change the outlook for future generations of Alzheimer's sufferers.

Through the Anna and Seymour Gitenstein Foundation, they began to fund Alzheimer's disease research programs at the Universities of Florida, Alabama, and Texas. Their association with McLean began in 1982 in response to a request for support by hospital researchers. To date, the Gitenstein Foundation has contributed more than $75,000 for Alzheimer's research at McLean.

"When the Gitensteins began to support our work, funds for Alzheimer's research were almost nonexistent," says Ralph Nixon, M.D., Ph.D. "These private funds gave us the flexibility to hire students during the summers and to carry out many pilot experiments that formed the basis for our research today. They gave us the opportunity to establish credibility for these new, riskier areas of investigation, enabling this work to later receive funding by the National Institutes of Health."

Mrs. Gitenstein died on February 22, 1988, 11 years after her diagnosis. Throughout her illness, she remained at home in Florala, cared for by her husband and, eventually, an around-the-clock nurse.

"Despite the increased severity of his wife's illness, Mr. Gitenstein never seemed discouraged from seeking a new avenue that might halt or reverse the progress of the disease," says Dr. Nixon. "His efforts provided the inspiration and encouragement we needed to maintain the high degree of momentum in our research."

In recognition of their support, Dr. Nixon proposed naming one of the laboratories for molecular neuroscience and aging research in the Mailman Research Center in Mrs. Gitenstein's honor. The Anna Green Gitenstein Memorial Laboratory was dedicated on May 24.

"I'm very happy to see this memorial established for my wife," says Mr. Gitenstein. "I take great pride in the progress Dr. Nixon and his colleagues are making in advancing the understanding of this debilitating disease."

The Anna and Seymour Gitsenstein Foundation was established in 1960 to fund the development of the Florala Memorial Hospital. In addition to supporting Alzheimer's research, the foundation contributes to diabetes research, provides educational scholarships to high school to graduates in Florala, and supports schools, and institutes of higher learning, the Pensacola Symphony Orchestra, the University of West Florida Music Department, and the Andalusia Ballet Association.

SEYMOUR GITENSTEIN AND THE ANNA AND SEYMOUR GITENSTEIN FOUNDATION

Whereas, Mr. Seymour Gitenstein of Florala, Alabama, has for many years generously supported the research efforts of The University of Alabama at Birmingham; and

Whereas, Mr. Gitenstein was born in New York City in 1915, the son of Israel and Rose Bralower Gitenstein; and

Whereas, he moved in 1932 to Florala, where, at the age of 17, he began what was to become a 56-year career overseeing the manufacturing operations of Franklin Ferguson Company, a textile business begun by his father; and

Whereas, in 1943 he married Anna Green, the eldest daughter of Samuel and Pauline Green of New York; and

Whereas, well known for their commitment to improving the well-being of their fellow citizens, Mr. and Mrs. Gitenstein became active in the civic, educational, and cultural affairs of Florala, giving generously of their time and resources in supporting a number of worthwhile causes and projects; and

Whereas, to further their humanitarian efforts, Mr. and Mrs. Gitenstein in 1963 founded the Anna and Seymour Gitenstein Foundation, which provided funding for the construction of the Florala Memorial Hospital and continues to provide funding for projects related to medical research, music, and scholarships; and

Whereas, both gifted pianists, Mr. and Mrs. Gitenstein were particularly interested in promoting the arts and, through the foundation, they provided enrichment in education and the arts, a hallmark of their relentless drive for the betterment of the Florala community; and

Whereas, the Gitensteins also supported medical research at a number of institutions, including especially The University of Alabama at Birmingham; and

Whereas, in addition to preparing students for future contributions to society through education, UAB is actively involved in adding to the existing body of knowledge in a wide range of disciplines through research; and

Whereas, as a measure of the caliber of those research efforts, UAB ranks among the nation's top public universities in the amount of competitive federal research support it receives; and

Whereas, this excellent research capability is enlarged and enhanced through the generosity of individuals like the Gitensteins who have always shared a concern for the health and well-being of others; and

Whereas, Mr. Gitenstein, through both personal gifts and gifts from the Anna and Seymour Gitenstein Foundation, has generously and consistently supported Alzheimer's disease research at UAB for many years, as did Mrs. Gitenstein until her untimely death in February of 1988; and

Whereas, these gifts, totaling in excess of $90,000, have funded intensive research into the causes and treatment of Alzheimer's disease, furnishing valuable insight into this largely unknown area of medical science; and

Whereas, this Board, and the UAB administration, wish to appropriately express their deep gratitude and sincere appreciation to Mr. Gitenstein for his outstanding support, and to further state that it is the generosity of public-spirited citizens such as Mr. Gitenstein which has helped medical science develop new treatments to aid those suffering from sickness and disease: Now, therefore, be it

Resolved by The Board of Trustees of The University of Alabama, That it hereby accepts with gratitude the generous gifts of Mr. Seymour Gitenstein and the Anna and Seymour Gitenstein Foundation, and that it herewith expresses its deep appreciation for Mr. Gitenstein's continuing interest in, and support of, research programs at The University of Alabama at Birmingham: Be it further

Resolved, That this resolution be spread upon the permanent minutes of this Board, and that copies be sent to Mr. Gitenstein; to his children, Mr. Mark Gitenstein, Dr. R. Barbara Gitenstein, and Mrs. Susan Jean Gitenstein Assadi; to his grandchildren, Rebecca, Benjamin and Sarah Gitenstein, Pauline and Samuel Hart, and Hannah Assadi; to Dr. James H. Halsey, Jr., Professor of Neurology at UAB; to Dr. John N. Whitaker, Professor and Chairman of the UAB Department of Neurology; and to other appropriate officials of The University of Alabama at Birmingham.

(The foregoing was adopted unanimously by The Board of Trustees of The University of Alabama at its meeting, September 28, 1990.)

OUTSTANDING AND EXTENDED SERVICE OF JUDGE TRUMAN M. HOBBS

Mr. HEFLIN. Mr. President, I am delighted to rise today to pay tribute to a man who stands out because of his individual efforts on behalf of others and because of his outstanding and extended public service. Truman M. Hobbs is truly a unique individual.

For more than a decade he has served as a U.S. district judge with honor and distinction. Mr. President, upon the occasion of his retirement from the bench and ascension to senior status, I would like to take this opportunity to acknowledge Truman Hobbs' many contributions, and thank him for a job well done.

The son of Representative Sam Hobbs, a former Alabama Congressman who served the State of Alabama with great integrity and dignity for many years, Truman was born and reared in Selma, AL, in 1921. He graduated with honors from the University of North Carolina, where he was president of the student body and a member of Phi Beta Kappa. He served his country bravely in the Second World War, decorated with both the Navy-Marine Corps Medal and the Bronze Star. He graduated from Yale Law School, later serving as a law clerk for Justice Hugo Black on the U.S. Supreme Court. Married to the former Joyce Cummings, they have been blessed with outstanding children and wonderful grandchildren. The entire Hobbs family have a long and established tradition of selfless community service.

Truman received many awards as an attorney. Including being selected a fellow with both the American College of Trial Lawyers and the International Academy of Trial Lawyers. Truman has also been recognized by his peers as an outstanding member of the bar, in that he was elected president of the Alabama Trial Lawyers Association, the Montgomery Bar Association, and the Alabama Bar Association.

In 1980, Truman Hobbs was appointed by the President to the position of U.S. district judge for the Middle District of Alabama. Here, because of his intellect and demeanor, Judge Truman Hobbs has become one of the great jurist of our time.

In his second year on the bench, Judge Hobbs was faced with the fairly common dilemma of possibly barring a cause of action because of its failure to meet the statute of limitations. Heeding the advice of the late Justice Jackson, in that "wisdom should not be rejected because it comes late," Judge Hobbs found that, clearly "the statute of limitations has its place in law when one suffers an injury, and realizes how the injury was caused." *Overstreet* v. *United States*, 528 F. Supp. 838, 844 (1981). Yet, if a doctor misleads the patient and is less than forthcoming regarding mistakes made in surgery, as was the case in Overstreet, then the court has an obligation to interpret the statute of limitations accordingly, allowing the patient the opportunity of fair and equitable relief.

Obviously, in Judge Hobbs the Federal bench has been blessed with his intellectually realistic approach to the law, resulting in many thoughtful, well-rounded decisions.

Mr. President, another example of Judge Hobbs' extraordinary contributions can be found in a decison handed down just last summer. In *Scott* v. *Omaha Life Insurance Company*, 749 F. Supp. 1089 (1990), Judge Hobbs insists that insurance companies have a duty to treat their customers with fairness when they are facing a lapse in their policy. Although the issue in Scott looks rather simple, Judge Hobbs recognized the potential of possible abuse and the absolute necessity of a practice of good faith and fair dealing on the part of the large insurance companies.

As Truman Hobbs retires from the Federal bench and assumes senior status, I find myself filled with the mixed emotions of sorrow, gratitude, and pride. Sad in knowing that his wisdom will be greatly missed. Thankful for the tremendous job that he has done. And proud, in that my friend's many years of service have made both Alabama and the whole Nation a better place to live.

ESSAY BY MISS LORI CHANCE

Mr. HEFLIN. Mr. President, now that Saddam Hussein has agreed to the conditions and has withdrawn his troops from Kuwait, I would like to share with my colleagues, the thoughts of one of my constituents on the brink of our war with Iraq.

Miss Lori Leigh Chance is a sixth grader from Gadsden, AL, who was kind enough to share her essay, "The Great Saudi Arabian Fall Out," with me. Lori is extremely perceptive for an 11-year-old and her thoughts bear repeating here.

Mr. President, I ask unanimous consent that an essay by Miss Lori Chance be included in the RECORD.

Thank you, Mr. President.

There being no objection, the essay was ordered to be printed in the RECORD, as follows:

"THE GREAT SAUDI ARABIAN FALL OUT"

On August 2, 1990, my eleventh birthday, a great event took place that will change the world and many people's lives. President of Iraq, Saddam Hussein, sent his troops into the country of Kuwait and took over the government. Nobody thought much of it at first until he threatened to invade Saudi Arabia. Then we all started getting serious about the matter, even me!

President Bush began to send troops to Saudi Arabia. Other countries began to do the same. That is when it began to get serious and the "fall out" started. Dads and moms had to "fall out" of their homes and a lot of boys and girls didn't know if they would ever see their parents again or not. At Thanksgiving, President Bush visited our soldiers to encourage them and to tell them to be prepared to "fall out" for Desert Shield. During this time moms and dads missed their children's first Christmas, dads missed their children being born, moms had to leave several month old babies, parents missed first ballgames, dance recitals and sixteenth birthdays. Families fallen apart, all because Saddam Hussein will not back down.

Soon the possible "fall out" of Saudi Arabia could happen, war! If that happens, our world will never be the same. It's hard to understand all that is happening, but I hope that all humans will be shielded from the "fall out" of death in the desert of Saudi Arabia.

TRIBUTE TO SENATOR JOHN SHERMAN COOPER

Mr. THURMOND. Mr. President, I would like to take this opportunity to pay tribute to the Honorable John Sherman Cooper of Kentucky, who passed away last month. An outstanding individual and devoted public servant, Senator Cooper will be sorely missed by his many friends and admirers—especially this Senator from South Carolina.

Senator Cooper has often been referred to as one of the most respected Republican leaders of his time. His every endeavor was marked by the highest degree of excellence and integrity, and he was held in the highest esteem by his colleagues and all those who came in contact with him.

Senator Cooper was a trusted adviser and confidant of every President since World War II, and played a major role in the reshaping of the world order after that conflict. A Kentucky judge, World War II veteran, delegate to the United Nations, Ambassador to India and East Germany, appointee to the Commission that investigated President Kennedy's assassination, U.S. Senator and Washington lawyer, he was widely admired on both sides of the aisle. I was proud to call him my friend and colleague.

My wife Nancy joins me in extending our deepest sympathy to the entire Cooper family.

Mr. President, I ask unanimous consent that the following articles regarding Senator Cooper be included in the RECORD at the close of these remarks.

[From the Washington Post, Feb. 23, 1991]

INFLUENTIAL SENATOR, DIPLOMAT JOHN SHERMAN COOPER DIES

(By Richard Harwood)

John Sherman Cooper, one of the most respected Republican political leaders of his time and a man who served both his state, Kentucky, and his country as a diplomat and U.S. senator, died of cardiac arrest Feb. 21 at his home in Washington. He was 89.

His life, an editorial writer once observed, was marked by an "integrity and decency" that won the trust and admiration of every president since World War II. President Harry S Truman made him a delegate to the United Nations. He was a roving ambassador for Secretary of State Dean Acheson, an ambassador to India under Dwight D. Eisenhower, and a friend and confidante of John F. Kennedy. Lyndon B. Johnson appointed him to the Warren Commission for the investigation of Kennedy's assassination. Gerald Ford appointed him ambassador to East Germany.

Kentucky, preponderantly a Democratic state, sent him to the U.S. Senate five times. He established himself there as a credible and influential leader of the liberal minority in his party. A Kentucky journalist wrote of him that he "talks like a Democrat, votes like an independent and runs on the Republican ticket."

In truth, he was as nonpartisan as it is possible to be in the American political system. He looked after local interests—the tobacco farmers, for example—but his principal interest was foreign affairs. He took progressive positions on civil rights, was one of the first to repudiate the tactics of Sen. Joseph R. McCarthy (R-Wis.) in the 1950s, and by 1960 had compiled such a record that he was selected by Washington journalists as the outstanding Republican in the Senate.

During the late 1960s and until his retirement from the Senate in 1972, he spent much of his time speaking against the deepening American involvement in Vietnam and in devising legislation to curb the warmaking powers of the president and to secure the withdrawal of American forces from Indochina.

His father was a wealthy land owner and entrepreneur. He graduated from Yale University and attended Harvard University law school. At Yale, he was a varsity athlete and a member of the aristocratic Skull and Bones Society.

In the early 1920s, his father died, by then virtually bankrupt and deeply in debt. The future senator dropped out of Harvard, returned home and worked, and borrowed money to pay his father's debts and to send his six brothers and sisters to college. It took him 25 years to get out of debt. "It didn't look like there was any end to it," he later recalled.

Like his father, Sen. Cooper was active in local politics and served for several years as a Pulaski County judge. One of his favorite stories involved a return visit to the Pulaski County courthouse in the late 1950s. He was then in the Senate and famous in the county and in Kentucky. An old man in a wheelchair spotted him and asked his daughter in a quavering voice, "Who is that, Sally?" "Why, Daddy," she replied, "you know him. That's Judge Cooper." The old man looked again and said, "Failin', ain't he?"

Sen. Cooper was admitted to the Kentucky Bar in 1928, and served in the state House of Representatives from 1928 to 1930. He was a judge in Pulaski County for the next eight years. He ran unsuccessfully for governor in 1941.

The following year, with the United States engaged in World War II, he enlisted in the Army as a private at the age of 41. He won a commission and went to Europe with the 3rd Army of Gen. George S. Patton Jr. After the war he was a military governor officer and was instrumental in revising the judicial system of Bavaria. His decorations included the Bronze Star.

While in Euope, Sen. Cooper met and married an Army nurse and he brought her home to Somerset, Ky. The marriage didn't last. He was divorced in 1949.

In 1955, he married Lorraine Rowan Shevlin, a prominent Georgetown hostess. Political opponents in Kentucky tried to make an issue of the marriage to a woman with "airs." But she took part in all of Sen. Cooper's campaigns, dressed in fine frocks and carried a parasol, and proved to be a political asset. She died in 1985.

Sen. Cooper first won election to the Senate in November 1946 to fill the vacancy caused by the resignation of Albert B. "Happy" Chandler, who resigned to become commissioner of baseball. Sen. Cooper was defeated for election for a full term in 1948.

For the next four years Sen. Cooper was a delegate to the United Nations. In November 1952, he again won election to the Senate, this time to fill the two years remaining in the term of Sen. Virgil M. Chapman, who had died in office. In 1954, he was again defeated for reelection.

From March 1955 to August 1956, Sen. Cooper was ambassador to India, the world's largest democracy and a leader in the Third World. One measure of the importance and complexity of that position is the distinction not only of Sen. Cooper but of some who have succeeded him, including John Kenneth Galbraith, Chester Bowles, former senator Kenneth Keating (R-N.Y), and Daniel Patrick Moynihan (D), the current senior senator from New York.

After India, Sen. Cooper returned to Kentucky and in 1956 he won election to the Senate a third time. This was to fill the four years remaining in the term of Sen. Alben W. Barkley, Truman's vice president, who died in office.

Sen. Cooper was reelected in 1960 and 1966, growing in stature both in Kentucky and the nation. He served on the Foreign Relations Committee, among others.

In March 1973, he became counsel to the Washington law firm of Covington & Burling. He left the firm in September 1974 to take up another difficult public post, that of ambassador to East Germany.

In December 1976, he returned to Covington & Burling, where he specialized in problems dealing with regulatory and international law.

As his Senate retirement neared in 1972, Sen. Cooper was honored in his home state with many speeches, resolutions and letters of commendation. A Republican legislator struck the common theme:

"John Sherman Cooper is the only man I have known who has traveled the spectrum of social and political life and left only dignity, honor and respect wherever he walked."

Sen. Cooper responded with words of Abraham Lincoln:

"Thanks to all. To the great Republic; for the principles it lives by and keeps alive; for man's vast future. Thanks to all!"

Survivors include a brother, Richard, of Somerset, Ky.

[From the Washington Post, Feb. 23, 1991]

JOHN SHERMAN COOPER

John Sherman Cooper of Kentucky belonged to the generation of politicians who after World War II built an international order based on American leadership. He was one of the people who turned this country toward the decision—one of the most consequential in its history—to share responsibility for what happened in the world beyond its borders. That wasn't done easily or painlessly.

On leaving military service he was elected from Kentucky to the Senate in 1946 for the last two years of an unexpired term. Prewar isolationism was deeply rooted in the Republican Party, and most of its elders were appalled at the idea of stationing troops abroad permanently, or using taxpayers' money for foreign aid or committing the United States to defending European countries. Sen. Cooper was in the minority, and he was defeated when he ran for a full term. He spent a couple of years in the American delegation to the new United Nations, and in 1952, the year of President Eisenhower's great victory, he was elected to the Senate for, again, two years of an unexpired term.

The party's nomination of Dwight D. Eisenhower rather than Robert A. Taft had been a severe setback for the isolationist cause, but by no means a final defeat. As Sen. Cooper returned to Washington, it was pressing a constitutional amendment—the Bricker amendment, after the Ohio Republican who sponsored it—designed to eviscerate the president's power to make binding treaties. It was fueled by widespread fears that the treaties embodying the country's new commitments were going to supersede large areas of American domestic law and subject the country to all manner of supranational authority. If enacted, it would have made an active foreign policy impossible. It was finally beaten in the Senate by a margin of one vote. More than two-thirds of the Republican senators voted for it and against Eisenhower. Although he was running for reelection, Sen. Cooper held fast with the president and voted against. He was defeated again that fall.

He went to India as ambassador, then returned to Kentucky in 1956, to run yet again for the Senate, where he remained for 16 years. This became the period in which the national consensus for internationalism, which he had done much to build, fractured on the issue of Vietnam. Sen. Cooper himself took a leading part in the legislative effort to curb the president's power—in this case, the war-making power—and to compel the retirement of American forces from Indochina.

He lived a long life—long enough to see a Republican president, with the support of his party and Congress, send a massive military force halfway around the world to defend a friendly country and challenge a dictator who had invaded and annexed a small neighbor. On Thursday, at the age of 89, Sen. Cooper, a wise and moderate man, died at his home here.

AIRLINE BANKRUPTCY PASSENGER PROTECTION ACT

Mr. DOLE. Mr. President, I am joining my distinguished Kansas colleague NANCY KASSEBAUM as an original cosponsor of the Airline Bankruptcy Passenger Protection Act. This much needed legislation is designed to be a safety net for air travelers who are in the unfortunate position of holding airline tickets at the time an airline declares bankruptcy. I was proud to cosponsor this legislation in the 101st Congress and believe that the remedy this bill provides is long overdue. Many of my Kansas constituents were left holding the bag when Braniff Airlines went bankrupt. The same thing has happened when other air carriers have declared bankruptcy and suspended flights. Airline passengers are the last in line with little or no recourse in this situation.

This bill, which I hope will be swiftly enacted by my colleagues, directs the Secretary of Transportation to issue an order authorizing airlines to develop a contingency plan to provide alternative air transportation for airline ticket holders in the event the airline declares bankruptcy. Should the plan be unacceptable to the Secretary, the Department may issue regulations establishing a suitable plan.

Mr. President, this legislation is a commonsense approach to the problems that have been encountered by thousands of airline travelers who have found themselves stuck and out of luck because a carrier is unable to continue operation. As creditors, airline ticket holders deserve some protection and this legislation will provide it.

THE EVER-GROWING STRATEGIC OFFENSIVE THREAT REQUIRES THE DEVELOPMENT OF U.S. STRATEGIC DEFENSES

Mr. HELMS. Mr. President, according to official, unclassified Defense Department sources, the Soviet Union is deploying four new types of intercontinental ballistic missiles, two of which are mobile. The Soviet are also deploying two new type submarine-launched ballistic missiles, and three new type intercontinental bombers.

These 9 new Soviet strategic offensive weapons systems are augmenting an already dangerous Soviet strategic offensive capability about which the American people know little or nothing.

Mr. President, we need to revisit the wise counsel of CIA Director Webster, who testified to the Senate on February 27, 1991: "The Soviets are in the midst of an important program to modernize their strategic weapons which will substantially improve their strategic capabilities."

The situation is all the more perilous when one considers that the Soviets are also developing up to five even newer types of strategic ballistic missiles, many of which will be deployed during the next decade.

All of which raises an obvious and inescapable question: What has the United States been doing in strategic defense or offense? Not only do we have absolutely no defenses against Soviet ballistic missiles; we are unilaterally disarming our own strategic offensive deterrent force. According to the new fiscal year 1992 Annual Defense Report to the President and the Congress, Defense Secretary Cheney plans the following U.S. unilateral disarmament:

Closing down the MX intercontinental ballistic missile [ICBM] production line, America's only ICBM production line;

Dismantling 75 operational Minuteman II ICBM silos and missiles;

Accelerating the dismantling of 176 operational Poseidon C-3 submarine-launched ballistic missiles [SLBM's] and the 11 Poseidon submarines which carry them; and

Reducing and stretching out the already long-delayed funding for developing the American rail-mobile MX and road-mobile Midgetman ICBM systems.

Mr. President, these are simply acts of U.S. unilateral disarmament, and I am obliged to oppose them.

The Soviets already have about 6,500 ICBM warheads on line, capable of attacking the 1,500 U.S. hardened strategic targets. This is almost a 5-to-1 ratio against America's security, and in favor of the Soviets. The Soviets are also continuously increasing their number of ICBM warheads, as they continue the deployment of their four new type ICBM's, three of which carry highly fractionated multiple warheads. In this situation, Mr. President, the United States needs to be able to develop and test strategic defenses against Soviet ballistic missiles. This is exactly what Senator WARNER'S initiative will do.

That is why I strongly support, and am a cosponsor of, Senator WARNER'S initiative.

A TRIBUTE TO EIGHT INDIANA SERVICEMEN

Mr. COATS. Mr. President, it is with deep sadness that I rise today to pay final tribute to the eight brave men from Indiana who lost their lives while serving their country in the Persian Gulf: Army CWO Michael F. Anderson, formerly of Antioch; Marine Lance Cpl. Brian L. Lane of Bedford; Army Spec. James R. Miller of Fort Wayne; Army Pfc. Mark A. Miller of Cannelton; Army Pfc. Jeffrey D. Reel of Vincennes; Navy Mess Mgmt. Spec. Jeffrey A. Settimi of Hamilton; Army Cpl. Brian K. Simpson of Lawrence, and Army Pfc. David Wieczorek of Merrillville.

There is no greater sacrifice a person can make for their country than to give their life in defense of those values that their country embodies. The courageous men listed above, understood and faithfully believed in our American ideals of freedom from tyranny and liberty for all people. When asked to help bring these precious gifts to a people overrun by the war machine of a brutal dictator, like true patriots they honored their commitment to country, and America is forever grateful for their heroic service.

Although they are now gone, these men will never be forgotten by their families, friends, communities, and country. They will always be remembered by us all, and forever held in the highest regard for their sacrifices. My deepest sympathies go out to all of the loved ones that they have left behind, and I pray for those families and friends who bear the greatest, most tragic loss of all.

At this time, Mr. President, I ask unanimous consent that the following article be printed in the RECORD to serve as a lasting reminder to us all of the great sacrifices and lasting contributions that these men have made to their country.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PERSIAN GULF CRISIS COST THE LIVES OF 8 WITH LINKS TO INDIANA

Seven other military men with ties to Indiana joined Lance Cpl. Brian Lane in making the ultimate sacrifice for their country in the Persian Gulf.

Here are their stories:

Michael Frederick Anderson, 36, formerly of Antioch, had told his family he would be proud to die for his country.

On Feb. 21, he did.

Anderson, a chief warrant officer in the Army's 160th Special Operations Aviation Regiment, was killed in a helicopter crash during a medical evacuation mission in Saudi Arabia.

He had been living in Clarksville, Tenn., with his wife, Anne Slye Anderson, and three children: Eric, 12; Megan, 8; and Kyle, 9 months.

"When it came time to go to the Middle East, he went gladly." Anne Anderson said.

James R. Miller, 20, an Army corporal from Fort Wayne, never met his youngest son.

The baby—Matthew James Miller—was born on Feb. 21, a week before his father hopped out of a supply truck and stepped on a land mine in Kuwait. He died about six hours after the cease-fire was declared.

Miller was a supply specialist and died taking supplies to front-line troops in the 7th Army Corps. He is survived by his wife, Susan Shoaf Miller; his oldest son, Marcus Paul Miller, 2; and young Matthew.

Said lifelong friend Chad Voglewede. "He was afraid for his life and afraid he might not see his family. But I know he wasn't afraid to go over there and serve his country."

Jeffrey David Reel, 21, of Vincennes, a private first-class in the 35th Armored Division, was due to leave the Army in March.

On Feb. 20, he was killed on maneuvers in Saudi Arabia when a truck in which he was riding overturned.

He had called his parents, David and Diana Reel, about 16 hours before the accident to tell them he was fine. "I was lucky I got to talk to him before it happened," his father said.

Friends and neighbors filled every pew of the Indiana Presbyterian Church in Vincennes for Reel's funeral last week.

"Jeff would not want you to sit here grieving," the Rev. James T. Wheller told the mourners. "He wanted to be where he was."

Mark A. Miller got a hero's farewell from his small southern Indiana hometown of Cannelton during funeral services Thursday.

The 20-year-old private was killed in Saudi Arabia on Feb. 25 when his vehicle apparently hit a mine.

"There is no greater honor than to be able to lay down your life for a fellow human being," Army Chaplain Lorance Schoenberg told the crowd of mourners.

After the burial, family friend Jack Gaynor mused about what it meant: "For someone from Cannelton to die right at the tail end of this thing, it makes you wonder. . . . Why did it have to happen?"

Jeffrey Settimi, 25, of Hamilton died before Operation Desert Shield became a storm.

He was one of 21 sailors with the USS Saratoga who died off the coast of Israel when a ferry carrying them back from shore leave capsized.

"He was a very special, very significant young man. Your presence here shows that," pastor J. Mark Klinepeter told mourners at Settimi's funeral in First Missonary Church at Fort Wayne on Dec. 30.

"It mattered that he lived. He touched our lives," Klinepeter said.

Settimi left behind his parents, Anthony and Sheila Settimi of Hamilton.

Brian K. Simpson, 22, Lawrence, died Feb. 25 when the remnants of an Iraqi Scud missile hit his barracks near the allied air base in Dhahran Saudi Arabia.

The Army specialist had dreamed of becoming a musician and finding fame. His mother Christine Davenport Jensen, said he found it instead, in his untimely death. "He is famous. I mean, just about everybody knows him now."

Simpson was newly married and working as a forklift operator when he was called to active duty from reserve status and was sent overseas.

"He really didn't want to go, but of course he couldn't turn down his obligation," said stepfather James Jensen.

David Wieczorek, 21, an Army private first class and a native of Merrillville, died in southern Iraq on March 1 after he stepped on an allied cluster bomb while running to his Bradley Fighting Vehicle.

Friends in Gentry, Ark—where he and his family moved after several years in Merrillville—recalled Wieczorek as a fun loving young man who was a pleasure to be with.

"He just kind of worked his way into our lives," said Jim Twiggs, who hired Wieczorek as a teen-ager to work at his grocery store. "He was the kind of kid you just wanted to put your arm around and say, 'Glad to know you.'"

TRIBUTE TO COL. DAVID EBERLY

Mr. COATS. Mr. President, I rise today to pay special tribute to Col. David Eberly, an Indiana resident and one of our brave American prisoners of war [POW's] released last week from captivity in Iraq.

It was during the first week of allied sorties into hostile territory that Colonel Eberly was reported missing when the F-15E he was flying failed to return from a night mission over Iraq. A few days later, the world watched with grave concern as Colonel Eberly and other allied POW's were shown on television, some badly beaten and clearly coerced into delivering false statements by their Iraqi captors. We listened with horror as Iraq threatened to use these POW's as human shields to protect various installations, and we were outraged by such gross violations of the Geneva Conventions.

Colonel Eberly was held captive for 44 painful days, and the suffering he bore during that time was equally agonizing for his family and friends left behind. For those loved ones, the weeks without knowledge of his whereabouts were filled with constant anxiety and fear for his safety. They, along with millions of other Americans, placed hope in God and prayed often for the health and quick return of the American POW's.

Last week, those prayers were answered when the news so anxiously awaited was finally announced—the American POW's, including Colonel Eberly, had been released and would soon be on their way home again. I can only imagine the sense of relief and joy that Colonel Eberly, his family, and close friends must have felt when he was released from captivity and returned to an emotional homecoming yesterday at Andrews Air Force Base.

Mr. President, Colonel Eberly is a true American hero. He gave America his distinguished service during a most difficult time, and he sacrificed his freedom in defense of our Nation's goals and ideals. It is clear to everyone that, as Colonel Eberly himself told the cheering crowd yesterday at Andrews, the sense of duty and country of the American POW's has been beyond reproach.

On behalf of his home State of Indiana, I express to Colonel Eberly the utmost pride and respect for his unfailing courage and bravery, and I join with his family and friends in welcoming him back home to America.

TRIBUTE TO LOUIS O. KELSO

Mr. COATS. Mr. President, I rise today in honor of the late Louis O. Kelso. Mr. Kelso was a man of strong beliefs and convictions who spent much of his life as an advocate of employee stock ownership. I am fortunate to have had the distinct honor of working with Mr. Kelso on legislative initiatives advancing the concept of an employee stock ownership plan [ESOP]. It was truly a pleasure to experience from the insight and expertise of one so committed to promoting company ownership for the workers of our Nation.

Mr. Kelso proposed and refined his theory of worker-capitalists in several publications, including "The Capitalist Manifesto," "The New Capitalists: A Proposal to Free Economic Growth from the Slavery of Savings," and "Democracy and Economic Power: Extending the ESOP Revolution Through Binary Economics," which was the product of collaboration with his wife Patricia Hetter. As the founder of Kelso & Co. and the Kelso Institute for Economic Research, Louis Kelso actively advanced his concept of democratizing access to capital credit.

Perhaps the greatest legacy Mr. Kelso has left behind is the implementation of ESOP's in hundreds of companies across the United States, including Avis, Exxon, and Atlantic Richfield. His bold initiative has even been utilized within the Soviet Union and the changing nations of Eastern Europe. Although workers all over the world have lost an enthusiastic and inventive proponent, it is my hope that his convictions are carried on through the thousands of individuals who have benefited from employee stock ownership.

Mr. President, I believe the accomplishments of Louis O. Kelso are a testament to the values upon which our country was founded—fairness, opportunity, and enterprise. We all mourn the loss of his leadership and friendship.

TRIBUTE TO THE LATE JOHN A. McCONE

Mr. NUNN. Mr. President, I would like to pay tribute to a distinguished American, John A. McCone, who died recently at this home in Pebble Beach, CA, at the age of 89.

John McCone was one of a remarkable group of wise, dedicated individuals who guided our Nation during the difficult years immediately following World War II. He is perhaps best known for his leadership of the Central Intelligence Agency, from 1961 to 1965. Current CIA Director William Webster put it well when he said that John McCone made "an enormous contribution" to U.S. security during a long career in Government marked by "excellence, integrity and selfless devotion to duty."

I would like to pay particular tribute to John McCone's less well known but no less significant contribution to shaping America's postwar national defense posture. In 1947, John McCone was appointed by President Truman to the Air Policy Commission, which recommended strengthening the Nation's Air Force in 1950. He was named Special Deputy to the Secretary of Defense in 1948 and became Under Secretary of the Air Force in 1950. And from 1958 to 1961, he served as Chairman of the Atomic Energy Commission under President Eisenhower.

John McCone was born in San Francisco in 1902. He graduated from the University of California at Berkeley in 1922 with a bachelor's degree in engineering, magna cum laude. He began his career as a riveter in southern California. By age 26 he was construction manager. He then rose through inceasingly responsible positions to become an executive vice president and director.

In 1937, John McCone and a partner formed their own engineering firm, the Bechtel-McCone Corp. In 1939, he helped form the Seattle-Tacoma Shipbuilding Corp., which constructed merchant ships. During World War II, John McCone headed the California Shipbuilding Corp., which operated the second largest emergency shipyard in the country. And through the Bechtel-McCone Corp., he also oversaw a plant in Alabama that fitted B-24 and B-29 bombers for combat.

After he retired from service in the Federal Government in 1965, John McCone agreed later that same year to head a State of California commission formed to investigate the riots that devastated the Watts section of Los Angeles. The commission produced a widely acclaimed report analyzing the causes of the riots and calling for a dramatically new approach to the problems of the city's black community.

Mr. President, I had the privilege of getting to know John McCone in his later years. His body was frail, but his mind was keen. Even though he spent most of his time on the west coast, he followed events in Washington and in the world with keen interest. He had great insight into current national security, intelligence, and foreign policy issues and offered perceptive and sound advise.

I have spent hours with him discussing current challenges and hearing him recount past challenges in which he was intimately involved, including his direct experience in the early days of building a defense for Western Europe.

Mr. President, John McCone will be missed by our Nation and by his many friends. He was a giant of American foreign policy and American vision.

Throughout his brilliant career, John McCone represented the best in the American tradition of private citizen service to the Nation. His example provides a milestone in that tradition and will serve to inspire generations to come.

COORDINATING SERVICES FOR THE DISADVANTAGED FAMILIES AND YOUTH OF OUR NATION

Mr. KENNEDY. Mr. President, yesterday, Senator BRADLEY and I introduced the Link-Up for Learning Demonstration Grant Act. The bill will provide coordinated educational and social support services for at-risk youth at their schools. We have developed many programs over the years, but we have not enhanced their accessibility. One-stop shopping for necessary supportive, comprehensive services is vital. Some successful models already exist on a small scale. One such project, described in a recent New York times article, provides housing, educational and child care services to homeless women and children at one site. I urge my colleagues to educate themselves on this issue of coordinating services for the disadvantaged families and youth of our Nation.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A KIND PLACE

(By Anna Quindlen)

When I was in Moscow I was mesmerized by shopping. One store for bread, another for vegetables, a third for meat. And three lines: the line to order, the line to pay, the line to pick up purchases. It was a system so inefficient that I could not believe the women around me were not enraged. Instead everyone shrugged, the Russian shrug that means: "Always has been. Always will be."

In our country, this is how we handle the delivery of social services to the poor. Wake up in the shelter. Take a train to the welfare office. Wait an hour. Learn that they have lost your paperwork. Take a bus to the hospital for a clinic visit. Wait another hour. Pick up your kids at school. Take the bus to apply for space in a housing project. Take the kids on the train back to the shelter.

Always has been. Always will be.

Nope. Lightning has struck in this city, just across a shiny gunmetal stretch of harbor from the Statue of Liberty, and it is called the York Street Project. A building that houses homeless women and their children for up to 18 months. A high school for female dropouts. And a child care center that started out with 18 kids and is now up to 52. All together, in one place, with counseling and lots of help. So simple, so obvious, that it makes you wonder why it's not done everywhere.

"Condos for Christ," the older kids call the whole complex, because the nuns run it in one of those upwardly mobile areas where every factory building is now full of lofts, and because it is beautifully renovated and cleaner than most of our homes. The good sisters have not bought into the notion that poor people deserve the crummiest of accommodations. And it shows. Ask the women here what they've learned and they all say the same: self-respect.

Twenty-one families live in the part of the project called St. Joseph's Home. Some were burnt out of their apartments. Some left because of abusive men. Some got evicted. Many of the children arrive with no language. Now they talk. "He was sort of closed up," one mother says of her son. "Now he's telling me things I didn't know." This is what happens. One little boy came home from a day trip and told his mother he'd been on a hayride. "What's a hayride?" she asked.

In one of the school corridors there is a plaque. "We pardon in the degree that we love'—Martin Luther King Jr." We do not love these people. "Those people," they become in conversation. We blame them for their poverty, and so we find no fault with the systems that serve them, systems we pay for, systems that have contempt for their own consumers and so inevitably fail.

It seems so simple when you see it done correctly. A woman who has a safe place to leave her kids can finish high school. A woman who has a safe place to live knows there is something better than the streets. There's a verse from Ephesians on a plaque by the front desk—"Be Ye Kind." This is a kind place.

It's not always easy. The first year the nuns started out with 25 women in the school, and ended up with five. Housing and child care problems were two reasons why, and that realization led to the transitional housing and the child care center. The high school has had 21 graduates, and will have 13 more in June. Eighty percent are going on to more education.

It costs $1.8 million a year to run this place, which is no money at all, unless you don't have it. There was a grant from H.U.D. and seed money from the Sisters of St. Joseph of Peace, who own the buildings. Both run out soon. Fortunately, nuns work cheap. If they were getting what their degrees and years of experience warrant, it would be much more expensive. But they're doing the work they signed on to do, saving souls.

"The dignity of the person," Sister Ann Taylor, the director, says of her management philosophy.

This all reminds me of public housing three decades ago, the grim monoliths that made tenants feel as if they were living in an ant farm and that looked; not coincidentally, like prisons. We learned our lesson, and now we build public housing on a human scale that does not imply that its tenants are inconsequential Lilliputians.

But the systems that serve the poor, the welfare offices, the hospitals, the shelters, are still great gray systems, big and reductive. It is time again to learn our lesson. In this small corner of the world, they've started the revolution without us. In a landscape of public policy failure, success. I'll be going back again, just to reassure myself that it can be done.

PRIME MINISTER THATCHER ON TARGET—AS USUAL

Mr. HELMS. Mr. President, last Friday, I had the privilege of attending a luncheon in honor of the former Prime Minister of Great Britain, Mrs. Margaret Thatcher. The luncheon was sponsored by five prominent institutions on the landscape of American conservatism—the Heritage Foundation, the American Enterprise Institute, the Hoover Institution, the Manhattan Institute, and National Review.

Having just received the Medal of Freedom from the hands of the President of the United States, Mrs. Thatcher proceeded to demonstrate why she became one of the greatest leaders of the free world in our time. She spoke at great length and in great detail about the conditions of leadership, and the role of Great Britain and the United States in fulfilling the obligations of leadership.

In her remarks, she distilled the essence of her experience in the highest political office of her country. It contains a great deal of wisdom for the ages.

Mr. President, I therefore ask unanimous consent that the official text of Mrs. Thatcher's remarks be printed in the RECORD at the conclusion of my remarks.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

FREEDOM AND THE FUTURE

(By the Rt. Hon. Margaret Thatcher OM, FRS, MP)

Mr. Chairman, Ladies and Gentlemen, it's a very great pleasure to be here today, to be invited to address this distinguished audience, and in particular to be the guest of the five prominent conservative organisations which, though normally fierce rivals in the struggle for influence, philosophy and funds, have come together to be our joint host. An astounding event, Mr. Chairman, it is, perhaps, what inspired President Bush's vision of a "new world order."

We have before us today the opportunities created by two great victories: President Reagan's victory over communism in the Cold War, and President Bush's victory over aggression in the Gulf.

Both those victories were hard won. They required courage, the vision to see what was possible when others could not, and the persistence to fight through to a full and final conclusion.

Very few leaders possess that combination of qualities. But in the Gulf War, President Bush showed leadership of the very highest order.

He built a grand coalition of twenty-eight allies; he assembled overwhelming force from around the world; he gave full backing to a brilliant military concept which produced one of the greatest feats of arms with the fewest casualties in history; and he helped lay the foundations of future stability in the region. He can truly say, as Pitt said in 1804: "amid the wreck and misery of nations, it is our just exaltation that we have continued superior to all that ambition or that despotism could effect; and our still higher exaltation ought to be that we provide not only for our own safety but hold out a prospect for nations now bending under the iron yoke of tyranny of what the exertions of a free people can effect."

But that victory was not won solely in the last six months. It was the culmination of a decade's achievement—

The military build up of the 1980s,

The recovery of America's and the West's self confidence,

The technological advance that created the Patriot missile and the Apache attack helicopter, and

The revival of our economies that made these miracles possible.

Someone once said that "the past is another country—they do things differently there". It is difficult today to conjure up the despairing and defeatist atmosphere of the post-Vietnam '70s. But in those days the West was on the decline and on the defensive.

Our defences were neglected. The Soviet Union steadily reinforced its military superiority.

Our allies felt abandoned. They felt they could no longer rely on a hedonistic West. We coined the cynical joke: "lose a country, gain a restaurant".

In the battle of ideas, we had all but ceased to aim at furthering freedom and had settled for containing communism.

This political weakness only mirrored deeper weaknesses in our societies. Every such crisis is ultimately a crisis of the spirit. We knew we had lost time, lost nerve and lost ground.

THE '80S—A NEW DIRECTION

So, as the '80s began, we in the United States and Britain, set out in a new direction.

We wrestled with the challenge of reviving our economies.

We rebuilt our shattered defences.

We faced up to the threat of a Soviet Empire at the peak of its military might, made still more dangerous by knowledge of its own economic weakness and social fragility.

We made it clear that arms control would proceed on the basis of genuine equality of weaponry between East and West—or not at all. The Soviet Union built up its SS-20s. We deployed Cruise and Pershing missiles. The result—the first ever agreement to reduce nuclear weapons.

When the Soviet Union said that Germany could only be united if it left NATO, President Bush and I stayed firm. The result—a reunified Germany fully within NATO.

At home we liberated enterprise and cut taxes, producing higher living standards, more jobs and the spread of ownership.

Capitalism made our peoples prosperous at home and enabled us to feed the hungry abroad. Socialism, by contrast, proved the road to poverty and serfdom.

THE TRUTH REVEALED

As Eastern Europe emerges from the darkness, the truth is now fully known, and told even by communists:

Behind statistics boasting of bumper crops, food rotted;

As economic growth rates soared on paper, people queued for hours to buy goods that a Western supermarket couldn't even give away;

As five year plan followed five year plan, command economies turned out products that no one wanted to buy, and created an environment in which no one wanted to live.

But the world was strangely reluctant to observe these facts.

A World Bank report praised the Romanian economy for achieving high rates of growth from the early '50s on. A perceptive economist whose name is not unknown to you, Alan Walters, calculated backwards from the current Romanian living standards to show that if these figures had been accurate, the Romanian people would have all been dead in 1950.

Since then, Mr. Chairman, the life has drained out of communism entirely. And with it the heart went out of socialism.

Make no mistake. These communist regimes were not some unfortunate aberration, some historical deviation from a socialist ideal. They were the ultimate expression, unconstrained by democratic and electoral pressures, of what socialism is all about:

State ownership at the expense of private property;

Government control at the expense of individual enterprise;

The pursuit of equality at the expense of opportunity for all. In short, the state was everything and the individual nothing.

Mr. Chairman, I freely acknowledge that socialists and statists often begin by finding injustices and wanting to remove them. But they go on to the notion that only state ownership and state regulation can solve such problems. You can only believe that by ignoring the lessons of history, the lessons of politics and the lessons of economics. After the experience of this century and the testimony of Eastern Europe, intellectual irresponsibility on this scale is also moral irresponsibility.

We knew that communism was spiritually bankrupt—and we said so. We knew that the Stalinist system would always produce misery and tyranny, but could never produce prosperity—and we said so.

We knew that the "captive nations" under communism wanted and deserved to be free—and we said so. We even dared use the phrase "captive nations".

And the more we told the truth, the more we restored our own peoples' self confidence and the hopes of those still living under tyranny.

In the decade of the '80s, Western values were placed in the crucible and they emerged with greater purity and strength.

Mr. Chairman, so much of the credit goes to President Reagan. Of him it can be said, as Canning said of Pitt, that he was the "pilot that weathered the storm".

The world owes him an enormous debt and it saddens me that there are some who refuse to acknowledge his achievements.

For the whole world changed;

The Cold War was won without a shot being fired; Eastern Europe regained its freedom; its peoples elected democratic governments and they announced their intention to leave the Warsaw Pact;

The Berlin Wall came down and Germany was reunified within NATO; she and Japan, the vanquished nations in the Second World War, prospered mightly and ironically became the the creditors in the new world of peace.

A weakened Soviet Union was compelled by the West's economic and military competition to reform itself; a new more realistic and clear sighted leadership came to the top;

Glasnost was launched, *Perestroika* was started and we saw the beginnings of democratic politics;

As the Soviet Union abandoned its revolutionary role in the world, the United Nations became a more effective forum for active diplomacy;

And the United States once again became the preeminent power in the world.

Mr. Chairman, these are great and for the most part beneficial changes. They have been confirmed by the progress of the Gulf War in which America has led, Britain and France have helped militarily, together with many Arab nations, Germany and Japan have contributed financially, the United Nations has given its blessing, and the Soviet Union while pursuing her own diplomatic course at times, never quite departed from the U.N. resolutions she had originally supported.

Mr. Chairman, a new world means new problems and the need for new approaches.

How do we deal with the crisis in the Soviet Union? How do we reshape NATO in the post-Cold War world? How do we preserve and strengthen the economic foundations of the Western Alliance? How do we defend Western interests elsewhere and extend stability beyond the West in the aftermath of the Gulf War? In my view, we shall tackle all of these problems more effectively, as we won the Gulf War, by the tested policy of Western unity based on the firm U.S. leadership of sovereign nations in alliance.

NATIONHOOD AND EAST-WEST

But not every change in recent months has been for the better.

In the Soviet Union there is accumulating evidence that progress towards reform has been slowed, possibly halted. Dark forces of reaction are on the rise. At such a time, it is vital that all those committed to reform should not falter. No doubt some reformers never expected reform to extend to multiparty democracy and a free economy. "But no man can fix the boundaries of the march of a nation". And divisions among reformers now would only hand victory to the hard liners, whom I at least refuse to call conservatives. The Soviet people have not gone so far to have the prize of freedom and genuine democracy wrested from their grasp.

But the task of reforming and liberalising the Soviet Union is a far more difficult one than any of us had supposed a few years ago.

How do you persuade people brainwashed by egalitarian propaganda that inequalities are the side-effect of rising prosperity for all? How do you tell them that higher living standards can only be attained at the short term price of higher unemployment? And how do you do any of this while the demoted bureaucrats, the discredited politicians and all those who flourished under totalitarian mediocrity are out to undermine everything you do?

I am often asked: can we still do business with Mr. Gorbachev?

Mr. Chairman, we should not underestimate the future reforming zeal of a man who allowed Eastern Europe to grasp its freedom; who has begun the withdrawal of Soviet troops; accepted arms reduction for the first time; and cut support for communist insurgencies across the world. We have to go on doing business with him. In the same way, he has to do business with the democratic reformers if he is to succeed.

The pessimists among you will perhaps reply that the Soviet leader embarked on reform so as not to be left behind by the military build up and economic progress of the West in the '80s. I am the last person—or maybe the second to last person—to deny that these played a major role in Mr. Gorbachev's calculations. We had an economy driven by information technology: he had an economy fuelled by vodka!

And the very realism that prompted these reforms will persuade him to step up liberalisation, if he can, when the present slowing of *perestroika* pushes the Soviet economy further into crisis, as it must.

Perhaps, it does not really matter whether the optimists or the pessimists are right. Because optimism and pessimism dictate the same policy. If Mr. Gorbachev remains a reformer at heart, as I believe, he will privately welcome Western pressure for reform and employ it against the hard liners. If he himself has succumbed to the hard liners, as others believe, the West's pressure will push him too in the direction of reform.

So what kind of reform should we be seeking for these people who have rejected a false ideology but have not yet learnt the ways of freedom?

It is fashionable in some circles to argue for credits for the Soviet Union. But to give large credits to fill shops will not help to build the necessary structures of liberty; they would be dissipated quickly leaving an increasing burden of debt.

Any assistance to the Soviet Union must, therefore, be granted only in response to practical economic reforms. Helping the present structures will only keep reform at bay.

We must instead encourage the dispersal of power from Moscow to the republics. Five Soviet republics are now negotiating for such a dispersal of power—let us hope those negotiations succeed.

Second, we have to stress to the Soviets just how essential private property is to freedom. History teaches that human rights will not long survive without property rights; nor will prosperity be achieved without them.

Nor is freedom secure without independent courts and a rule of law. Here we have experience and knowledge totally denied to people who have grown up in a totalitarian system. Perhaps we should consider extending the Know-How funds for the Soviet Union so that lawyers can go towards developing an independent judiciary—a precondition of freedom.

We must also draw the Soviet Union closer to the institutions of the international trading and payments system. Associating the Soviet Economy more closely with these will, over time, help to transform that economy internally. Their rules will help promote sound money, competition and genuine trade. No economy will prosper if it is strangled by regulations and bureaucrats.

So let us say to Mr. Gorbachev that he can count on our help when he makes reforms. But the reverse of this is that any evidence of a return to repression must prompt from the West a swift and effective response. The constant raising of human rights cases in the Soviet Union over many years, especially since the Helsinki accords, did undoubtedly have an effect—we must remember that lesson and act upon it.

In particular, we cannot overlook or condone the disgraceful abuses of those rights which we have seen in the Baltic States. These States were seized by the Soviet Union not by law but by fraud and violence. That seizure has never been regarded as legal by the West. We fully support the right of the Baltic States to determine their own future. We must make it clear to the Soviet Union that it is not a question of whether they will be free—but only of when they will be free. And they *will* be free.

HOW DO WE RESHAPE NATO?

There are signs that the Soviet Union is failing to fulfil either the letter or the spirit of the terms of the treaty for reduction of conventional forces in Europe, signed in Paris. And there are signs of pressure by the Soviet military to reassert its position.

Moreover, the reemergence of tension and uncertainty on Europe's eastern border ought to remind NATO's continental European members both that international dangers can rarely be predicted and that sustained commitment is necessary to deal with them.

We must never forget that it is NATO--because it is strong defence—which underpins that peace with freedom and justice which we in the West enjoy and now have the opportunity to extend to others.

NATO has been uniquely successful in maintaining liberty. It is not just a military alliance, but an alliance in defence of a way of life. NATO must not be discarded.

It is in the interests of Europe that the United States should continue to play that dominant role in NATO to which we have become accustomed. Indeed, as was demonstrated in the Gulf, for all the assistance which Britain and other powers gave, only one nation really has the power to defend freedom and security in the world today. That is and will for the foreseeable future remain the United States.

The pursuit of a new defence role for the countries of Europe is much discussed. It is certainly true that, within NATO, the European countries should make a greater contribution.

The European countries must also be prepared to take a more active military role in response to events outside NATO's present area. Germany's interpretation of its constitution has so far prevented it making such a military contribution. But a full commitment to the defence of international freedom and stability requires risking life as well as treasure.

NATO has been a great success. We should be wary of creating new institutions to replace or complement its unique and indispensable role. Perhaps the most extraordinary suggestion yet to come out of Brussels is that the disunity and half-heartedness of most European nations during he Gulf crisis demonstrate the need for a united European foreign and defence policy. A new structure, even if it were necessary, can never be a substitute for will. Any arrangements which denied Britain and France sovereign control of their foreign and military commitments, especially determining these vital questions by a majority vote, would almost certainly have excluded Anglo-French forces from the Gulf—or at least long delayed their arrival and limited their number. In those grim early days after Iraq's invasion, America would have been left to stand alone. And it is far from certain that, even if after prolonged deliberations, the European Community would have contributed military assistance. The methods of compromise which underpin such decisions would almost certainly have left Europe on the side lines.

For many years, successive American Governments believed that progress towards a United States of Europe would relieve America of the burden of defending freedom. That hope, alas, turned out to be greatly exaggerated. Moreover, this kind of geo-political grand strategy should be regarded with the greatest skepticism. If a European superstate were to be forged, it would almost certainly develop interests and attitudes at variance with those of America. We would thereby move from a stable international order with the United States in the lead to a more dangerous world of new competing power blocs. This would be in no one's interest, least of all America's—and certainly not of Europe.

So NATO must remain the principal defence organization of the West: instead of seeking to supplant it, we should aim to adapt and extend it to meet the challenges of the post-Cold War World.

ENLARGING NATO'S ROLE

Our first step should be to enlarge its political role. This great trans-Atlantic partnership should not confine itself to matters of defence but should extend its discussions into other political and economic areas. This would be of benefit on both sides of the Atlantic.

Second, those Eastern European countries which have left the Warsaw Pact should be given a new, special status in NATO—something short of full membership but well beyond mere observer status. Perhaps France has pointed the way in this respect. Such a new status could be an added source of stability in a traditionally unstable area and reassure these countries in troubled times. Even in periods of warmer relations, you can have a chilly spell.

Third, I believe that NATO's role should be extended to threats which are out-of-area. When I addressed the NATO Council at Turnberry, Scotland, last June, I warned that, "there is no guarantee that threats to our security will stop at some imaginary line. . . . With the spread of sophisticated weapons and of military technology to areas like the Middle East, potential threats to NATO territory may originate more from outside Euorope".

Within two months Saddam Hussein had invaded Kuwait. Fortunately, although there was no coordinated NATO response, several NATO nations acted vigorously to ensure that aggression did not pay.

Saddam Hussein has been defeated.

But Iraq is not alone in acquiring the technology and power to turn regional conflict into global crisis. Defence Secretary Richard Cheney has reminded us that: "by the year 2000, more than two dozen developing nations will have ballistic missiles, fifteen of those countries will have the scientific skills to make their own, and half of them either have or are near to getting nuclear capability as well. Thirty countries will have chemical weapons and ten will be able to deploy biological weapons".

This means that the NATO countries under America's leadership must be in a position to deter aggression by these countries and, if it occurs, to make a swift and devastating response.

Strong defence will continue to be necessary—and costly. For technology does not stand still. It was the Coalition's technological superiority which, with the courage of our fighting men, enabled us to defeat the world's fourth largest army after just four days of ground war. For myself, I believe, we must keep up the rate of technological advance which gave us the Patriot missile and which is giving us SDI.

All too often after wars, democracies rush to cut back defence and increase domestic public spending. The end of the Cold War led to a similar reaction. It is time to consider whether the plans to reduce spending on defence should be revised. Resolve is not enough, you must have the military capability too.

Perhaps, the single most important point to be made today is that the only real peace dividend is, quite simply, peace. Our generation has enjoyed it because of the investment of billions of dollars and pounds of defence.

FREE TRADE

So the first way to ensure that freedom prevails is to defend it—principally through NATO.

But no less important is the second means—the maintenance of world prosperity, founded upon an open system of free trade. And if there are risks to our security, the risks today to the open trading system are just as great.

Let us remember that the West's post-War prosperity could never have been achieved without the orderly framework of free trade provided by the GATT. Our response to the Stock Market Crash of 1929 was rising protectionism which transformed it into a catastrophic economic depression, slashing world trade in manufactured goods by some 40 percent—and all but undermining the credibility of capitalism itself. By contrast, our response to the world recession of the early 1980s was to resist protectionist pressures. Free enterprise and open trade duly swept us into years of unparalleled prosperity.

Yet the temptation to erect or retain tariff and other barriers is understandable. Managing trade through a network of bilateral agreements and tariff barriers has superficial political attractions. But in the long term, it would make home industries less efficient; consumers pay more for less choice; and condemn the Third World to lower living standards by denying them markets.

It would serve no purpose for me now to attribute blame for the failure, so far, of the Uruguay Round of the GATT. We might both be embarrassed by the degree of our agreement. Anyway, I have had a thing or two to say about this at European Councils.

Of course, people are impatient after four years of negotiations in the GATT. However, if there is evidence of a real and urgent commitment to reach a settlement and more time is needed, it should be given. Some of the best agreements have been reached after the clock has stopped.

It would be a tragedy if the GATT talks were to fail because the U.S., the Cairns Group and the European Community could not reach an agreement on cutting farm subsidies. We cannot expect the Third World to agree to what the West wants—protecting intellectual property rights and liberalising services—when we deprive them of their main export market, agricultural commodities, and hence of the funds to improve and diversify their economies.

The stakes are high. If GATT should fail, we would gradually drift into a world of three powerful, protectionist trade blocs—based on America, Europe and Japan—engaged in mutually destructive trade wars. That would not only threaten world prosperity but it could also damage the common sympathy vital to defence ties across the Atlantic. We should be moving in precisely the opposite direction. Europe and North America, staying within GATT rules, should move steadily to cut tariffs and other trade barriers between them. In the short term, special provision would have to be made for the more difficult problems like agriculture; and over the decades, we would create a free trade area in embryo across the Atlantic. It would be the greatest concentration of wealth and skills in history, encompassing 58 percent of the world's GNP, and it would be a force for free trade rather than a restraint upon it. The very size and prosperity of the group would give it enormous influence in setting liberal rules for open world trade. The inclusion of America would reassure the fears, however unjustified, of some European countries about German economic dominance. And, above all, it would provide the economic underpinning for NATO and its out-of-area role. It is a visionary prospect but we need a distant star to steer by.

EUROPE

The European Community's response to the challenges and opportunities of free trade will be crucial.

Europe is now at the crossroads. Amid the apparently technical arguments on monetary union, institutional change and social dimension, a struggle is underway for Europe's future.

Ony recently, perhaps, has America begun to recognise that it too has a stake in the outcome. A democratic Europe of nation states could be a force for liberty, enterprise and open trade. But, if creating a United States of Europe overrides these goals, the new Europe will be one of subsidy and protection.

The European Community does indeed have a political mission. It is to anchor new and vulnerable democracies more securely to freedom to the West. This is what happened after the end of authoritarian rule in Spain, Portugal and Greece. So the offer of full Community membership must be open to the countries of Eastern and Central Europe just as soon as democracy and the free market have taken root. In the meantime, we must strengthen links of trade, investment and culture.

The false political mission which some would set for the European Community is to turn it into an inward looking and protectionist United States of Europe. A Europe in which individual nations each with its own living democracy would be subordinated within an artificial federal structure which is inevitably bureaucratic. A community lacking a common language can have no public opinion to which the bureaucrats are accountable.

Americans and Europeans alike sometimes forget how unique the United States of America is. No other nation has been created so swiftly and successfully. No other nation has been built upon an idea—the idea of liberty. No other nation has so successfully combined people of different races and nations within a single culture. Both the founding fathers of the United States and successive waves of immigrants to your country were determined to create a new identity. Whether in flight from persecution or from poverty, the huddled masses have, with few exceptions, welcomed American values, the American way of life and American opportunities. And America herself has bound them to her with powerful bonds of patriotism and pride.

The European nations are not and can never be like this. They are the product of history and not of philosophy. You can construct a nation on an idea; but you cannot reconstruct a nation on the basis of one.

It is in this light that we should consider the attempt which is being made to create a European Superstate. That aspiration has many origins—some noble, some cynical, some just naive. But, in any case, utopian aspirations never made for a stable polity. Political institutions cannot be imposed if they are to endure. They have to evolve and they have to command the affection, loyalty and respect of populations living under them.

The kind of Europe which all of us—on both sides of the Atlantic, and not least, in the countries of Central and Eastern Europe so recently emerged from the thrall of communism—must see is no less visionary and far more practical than the alternative. Our kind of Europe, of sovereign states proud of their national identity, enjoying the prosperity which free enterprise brings, a force for open trade, democracy and liberty, would look outward to the world where freedom must be defended and extended. And when we look westward, we see not threatening rivals but staunch friends with common purposes. That's my vision of a European future.

THE MIDDLE EAST AND THE UNITED NATIONS

Whether it is in Europe or the wider world, we have to know clearly what we should expect from international institutions. The Gulf War posed a sudden, dramatic challenge to the international community. Indeed, "the Gulf" was hardly on our agenda until the sudden invasion of Kuwait on 2nd August last year. Yet, since then, the Gulf has dominated all else.

The war is now over and we are working to build a secure and lasting peace. It is precisely the right time both to look again at the issues which have so long divided the peoples of the Middle East and to take stock of the future role of the United Nations.

It is not for others to come up with precise formulas for solving the problems of the Middle East—an area fought over more than any other part of the world. Agreement will only come from painstaking and persistent negotiation between the peoples involved. An international conference could play a part in this—not to arbitrate but its members could provide advice on the preparation of an agenda, the development of proposals, the framing of security arrangements and the course of diplomacy.

I believe that six items among others should be on our agenda for peace in the Middle East:

First, the Gulf must be protected as an international seaway. Our navies will have to stay there and those from the European countries must take a bigger and more prominent share of the duty.

Second, military equipment and supplies may need to be prepositioned in the area, both to deter further aggression and to enable the rapid deployment of Western troops should that deterrent fail.

Third, arrangements must be made to safeguard the security of Kuwait. For who will be prepared to invest the enormous sums required to rebuild Kuwait, unless security is properly guaranteed? I believe a United Nations force would be right for this purpose. It must be firm and strong due to past history and recent events.

Fourth, there is the question of biological, chemical and nuclear weapons. We must be satisfied by observation that Iraq's have been destroyed. We should have sanctions against supplying them with equipment that could be used for that purpose. And Iraq's territory must be open to rigorous inspection to ensure that production has not begun again.

Fifth, countries which engage in aggressive war cannot expect to be allowed freely and quickly to build up for their military strength. We must take steps to ensure that the advanced weapons of war are withheld from Iraq, which has, twice in ten years, invaded the territory of neighbouring Islamic states.

Finally, there is the Palestinian question, so long encased in suspicion and hostility. It can only be tackled by direct negotiation with the representatives of the Palestinian people and Israel. But those leaders who supported Saddam Hussein do not come to seek equity with clean hands. One favourable development is that the Soviet Union is now playing a very different role than in the past. So some of the fears that a Palestinian state—even though part of a Confederation with Jordan—would be prey to communist subversion, have receded. But we can well understand Israel's concern for secure borders and indeed the concern of all states in the area for a system of regional security.

The United Nations was tested by the crisis in the Gulf. And it came through it with an enhanced reputation. The permanent members of the U.N. Security Council worked together for the first time since 1945 to defeat aggression—and not for one resolution but for twelve.

But the U.N. resolutions had to be enforced by the actions and commitment of individual countries—both America and her NATO allies and the other Arab countries of the region which saw their interests threatened by Saddam Hussein's aggression. This combination of international authority by the United Nations and enforcement by the United States and other sovereign countries may well prove to be the best model for future contingencies.

FREEDOM AND THE FUTURE

Mr. Chairman, there can be no better time or place to consider the future of our nations than here—at the heart of the free world. The role of practical statesmen in any age is to create or adapt political structures for prosperity and peace. Today, I have suggested how this may now be done—in NATO, in the GATT, in the Soviet Union, in Europe and in the United Nations.

But true statesmanship in a free country must be measured by more than that. It requires an unswerving commitment to make the sovereignty of justice prevail. It requires an ability to inspire others with the rightness of a cause. It requires strong arms and great hearts.

We look to America for these things. And we do not look in vain.

After victory in the Cold War and in the Gulf, we face a still nobler, still more challenging task—to advance the reign of freedom and free enterprise throughout the world. It is now, more than ever, America's destiny, supported by her faithful friends—and no friends are truer than her friends in Britain—to press ahead with that endeavour.

In the words of President Abraham Lincoln: "Let us strive on to finish the work we are in."

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,188th day that Terry Anderson has been held captive in Lebanon.

HONORING JACK LIETHEN

Mr. KASTEN. Mr. President, at a time when all of us are bursting with pride at the accomplishments of our brave soldiers in the Persian Gulf, we ought to take a moment to thank some of those who served by staying at home.

I have in mind in particular the terrific job that has been done in Wisconsin by the seven National Guard family assistance centers. The men and women at these seven facilities are on hand to help soldiers' families with some of the most trying problems of daily life—legal difficulties, late paychecks, trying to get health benefits.

Most important of all—when a loved one is far away and in danger—these men and women are there to listen. They have fielded nearly 10,000 calls since the war effort began.

I rise today to pay my respect to one person who I am told has been a real star in this whole effort—Col. Jack Liethen. He has made a huge difference in the lives of some of these families—so to him and all his colleagues at the family assistance centers of Wisconsin, I ask my colleagues to join me in sending our heartfelt thanks.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. I ask unanimous consent to speak as if in morning business for 5 minutes.

The PRESIDING OFFICER (Mr. KERREY). Without objection, it is so ordered.

The Senator from Illinois is recognized.

Mr. SIMON. I thank the Chair.

(The remarks of Mr. SIMON pertaining to the introduction of S. 644 are located in today's RECORD under "Statements to Introduced Bills and Joint Resolutions.")

Mr. SIMON. Mr. President, I question the presence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—S. 578

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate proceeds to the consideration of S. 578, the Persian Gulf benefits supplemental authorization bill, it be for debate only until the majority leader, after consultation with the Republican leader, vitiates this restriction.

Mr. President, before the Chair acts on this request, I am authorized by the minority staff to state that this has been cleared by the Republican leader and the Republican side, and it has been cleared on our side as well.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, pursuant to authority granted to me in a prior unanimous-consent agreement, I will momentarily ask the Senate to proceed to the consideration of S. 578.

For the information of Senators, the situation at that time will be as follows: I have had several meetings with Senator DOLE over the past few days and the bipartisan leadership and the White House have now reached agreement on a comprehensive package of benefits for the Persian Gulf troops and their families. The package would provide $500 million in benefits to those who served and veterans.

It was my hope to proceed to the consideration of this agreed-upon package immediately and to get it enacted into law. Unfortunately, there is one amendment which one Senator wishes to offer that is unrelated to the benefits package that could lead to a lengthy debate on that subject, as well as trigger a host of other amendments on both sides, both related to and unrelated to the benefits package. Therefore, consideration of that amendment could endanger the prompt passage of this authorization bill, the benefits package, and the two supplemental appropriations bills that are likely to follow.

It remains my hope and intention that we can complete action on the authorization bill and the two supplemental appropriations bills which will follow and have those signed into law prior to the Easter recess. The Easter recess will begin at the close of business next week, so we are talking about a little more than 1 working week to accomplish this. That will be very difficult to do.

If this amendment is offered, that means it probably will not be possible to meet that time schedule, as the authorization bill, both for the Operation Desert Storm and the Persian Gulf benefits bill, will undoubtedly then take several days with many amendments. Since the Senate will not be in session on this Friday, with a large delegation of Senators traveling to the Persian Gulf, that means that we simply would not be able to meet the timetable that I have outlined as our intention and hope.

We are trying to work this matter out. Senator DOLE and I have made a great deal of progress until now in getting agreement on the benefits package and in trying to establish a framework within which we can get all three of these measures approved and enacted into law prior to the Easter recess; but we have not quite gotten there yet.

DEPARTMENT OF DEFENSE DESERT STORM SUPPLEMENTAL AUTHORIZATION AND MILITARY PERSONNEL BENEFITS ACT

Mr. MITCHELL. Mr. President, so as to permit the debate to begin on the legislation, it being my understanding that several Senators wish to address this subject while we continue to attempt to reach agreement on this other unrelated amendment, I now ask unanimous consent that the Senate proceed to the consideration of S. 578, the Persian Gulf benefits supplemental authorization bill.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 578) to authorize supplemental appropriations for fiscal year 1991 for the Department of Defense for Operation Desert Storm, to provide military personnel benefits for persons serving during Operation Desert Storm, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the majority leader?

There being no objection, the Senate proceeded to consider the bill.

Mr. MITCHELL. Mr. President, I just want to repeat and emphasize that I hope we can work this out. If we cannot and the amendment is offered, it means that many other amendments will be offered. It is likely then that the benefits to our troops will not be available immediately but could be delayed for a substantial period of time, that the funds needed to cover the military for military costs of Operation Desert Storm will be delayed, and the funds needed for the administration of unemployment benefits and other domestic emergency needs would not be immediately forthcoming. So I hope we can get this done.

We have made very good progress so far. We have had a series of good and constructive meetings with Senator DOLE and other interested Senators. Many Senators, I might say, have been forthcoming. Senators have compromised and have been willing to back off from including their provisions in the bill, have been willing to agree not to offer amendments. We have made good progress with a great deal of cooperation all the way around. I hope that will continue and that we will be able to meet the ambitious timetable which I have just described.

Mr. President, I understand that the distinguished chairman of the Armed Services Committee, the manager of the bill, is present, and that the ranking member will be here shortly.

I now yield the floor, and the Senate will proceed for the purposes of debate only on the pending measure.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. LIEBERMAN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I am pleased that the Senate now has before it S. 578, the Department of Defense Desert Storm Supplemental Authorization and Military Personnel Benefits Act for fiscal year 1991.

This bill provides the authorization required by law for additional funds during fiscal year 1991 to pay for the costs of the Persian Gulf war; gives the Defense Department increased flexibility to manage military personnel levels in the aftermath of the war; authorizes certain benefits for the military men and women involved in the war; and establishes certain reporting requirements for the Department of Defense to keep Congress informed of the cost of the war and to provide Congress with an after-action report on the conduct of the war.

Our entire Nation is very proud of the magnificent performance of all the military services and all of our men and women in uniform throughout Operation Desert Shield and Operation Desert Storm.

We are proud of President Bush's skillful leadership, particularly his leadership in the different job of holding together a very fragile alliance. President Bush, Secretary Baker, Secretary Cheney, and Brent Scowcroft, and I am sure others, deserve a great deal of credit in holding that fragile alliance together at critical times.

We are also proud of our senior military commanders, including General Powell, General Schwarzkopf, and our other top military commanders.

We are all proud of our defense industry and their engineers and workers who designed and built the weapons we used so effectively in the Persian Gulf war.

I said many times over the past months that Congress will provide the necessary resources our dedicated men and women in uniform need to conduct the Persian Gulf war successfully and to return home to the heroes' welcome they certainly deserve.

This bill does exactly that. I want to emphasize this bill deals only with the incremental costs of Operation Desert Shield and Desert Storm. The committee was strict in ensuring this is a clean bill in this regard, without a lot of other extraneous matters. I hope other Senators will respect that approach and not offer amendments that deal with issues outside the scope of paying for this war and also the benefits for the men and women.

I would like to take just a few moments to highlight for my colleagues the major provisions of the committee bill. The Persian Gulf conflict has involved the largest deployment of United States military forces since the Vietnam war. President Bush exercised his authority under section 673 and 673b of title 10 of the United States Code to order over 225,000 members of the National Guard and Reserve to active duty to support this deployment.

Our Guard and Reserve personnel deserve a great deal of credit for a tremendous job. Over 541,000 U.S. Active and Reserve personnel were deployed in the Persian Gulf region as a part of Operation Desert Storm.

The final costs of the conflict, including the costs of redeploying forces, remains to be determined. In recognition of the unusual and unanticipated nature of expenditures associated with Operation Desert Storm, the budget summit agreement last year provided that the incremental costs associated with Operation Desert Shield and Desert Storm are considered emergency expenditures outside the deficit reduction enforcement procedures in the budget agreement arrived at last fall.

The administration has requested authority to use funds from the defense cooperation account that have been contributed by foreign countries to begin paying the costs of the war. In addition, the Department has requested establishment of a Desert Shield working capital account to be used in the event foreign contributions are not available when expenditures must be made.

The committee has approved each of these requests with appropriate controls on expenditures to ensure the funds are derived from foreign contributions to the maximum extent possible and that such funds are used only for the incremental costs of the Operation Desert Shield/Desert Storm.

In 1990 Congress established the defense cooperation account to provide a mechanism for receiving and spending contributions for national defense purposes, including contributions from foreign countries. The law requires both an authorization and appropriation prior to obligation of funds from the defense cooperation account. All foreign contributions for the Persian Gulf conflict are placed in this account.

According to the administration, commitments from our allies now total $53.5 billion in cash and in-kind contributions. And the Defense Department Comptroller indicates that we have received $17.8 billion in payments as of March 8, 1991.

The bill recommended by the committee would establish a mechanism to ensure foreign contributions rather than U.S. tax dollars are used to pay for the costs of the war to the maximum extent possible. This bill authorizes appropriations of funds contained in the defense cooperation account to pay for the incremental costs of Operation Desert Shield and Operation Desert Storm.

The bill also authorizes $15 billion in U.S. taxpayers' money to establish a Desert Storm working capital account. The administration testified such an account is necessary to ensure funds will be available to meet urgent needs in the event there are insufficient funds in the defense cooperation account during the period between the making of the pledges and the actual receipt of payments by our foreign allies.

The committee bill provides funds from the defense cooperation account may be transferred by the Secretary of Defense to fiscal year 1991 authorizations otherwise available to the Department. If there are insufficient funds in the defense cooperation account, funds from the working capital account may be transferred to such authorizations.

The bill makes it clear that the $15 billion in the working capital account may be used only to the extent foreign contributions in the defense cooperation account are not available to pay for the incremental costs of Operation Desert Shield/Desert Storm.

If funds are used from the $15 billion working capital account—which is U.S. taxpayers' money—that account must be promptly replenished from contributions to the defense cooperation account, which represents the allied contribution.

After all the incremental costs of Operation Desert Shield and Desert Storm are paid, any balances remaining in the working capital account, the taxpayer account, would be returned to the U.S. Treasury.

The committee bill also authorizes transfers between fiscal year 1991 operation and maintenance and military personnel accounts to pay for the incremental costs of Operation Desert Shield and Desert Storm.

The Defense Department has identified several hundred million in costs for the National Guard and Reserve personnel who have been activated for this operation, which should be transferred from Reserve military personnel accounts to active miltiary personnel and O&M accounts.

The committee bill also includes important safeguards to maintain appropriate congressional oversight of the use of the funds in the defense cooperation account and the Desert Storm working capital account to pay for the costs of the Persian Gulf conflict. The transfer authority in the bill can be used only after the Secretary of Defense provides the Congress with a notification and after that notification a period of 7 days elapses.

The notification from the Department must include, first, a certification that the amounts proposed to be transferred will be used only to fund the incremental costs of Operation Desert Shield/Desert Storm; second, a list of the amounts to be transferred and the accounts to which the transfer will be made; third, a description of the programs, projects, and activities to which the funds are proposed to be transferred.

If the transfer is from the working capital account, the notification must also explain why foreign contributions have not provided sufficient funds to permit transfers from the defense cooperation account.

On a monthly basis, the Comptroller of the Department of Defense will provide an accounting of transfers in a report to the Congress and to the General Accounting Office, who will be giving oversight also.

These notification, certification, and reporting requirements ensure that Congress will continue to oversee the expenditure of funds to pay for the costs of the Persian Gulf war in the months ahead.

The committee bill also includes authority requested by the Defense Department to waive certain military personnel end strength and grade ceilings for fiscal year 1991 because of the unusual requirements resulting from Operation Desert Shield and Operation Desert Storm. These waivers are necessary to minimize personnel turbulence and involuntary separations as the military services drawdown their strength as projected in their budget in the aftermath of the Persian Gulf war.

Since the start of this operation, the military services have had to retain certain military members on active duty and also increase the number of new recruits. As a result, the military services will not be able to meet the end strengths prescribed for fiscal year 1991, agreed to in the National Defense Authorization Act for fiscal year 1991.

The military services also must have temporary relief from certain statutory grade ceilings for officers as well as enlisted grades to allow the military services to prudently manage the personnel inventory during the drawdown in the Persian Gulf.

The fiscal year 1991 Defense Authorization Act and the fiscal year 1992–93 defense budget call for a gradual decrease in the active duty personnel strengths of the military services over the next 5 years from the 1990 level of 2.1 to 1.6 million by 1995. That is the law on the books now.

The committee stressed, in last year's report, a gradual approach so the services could phase down with a minimum of turbulence and an absolute minimum of involuntary releases. The committee will be reviewing this 5-year strength plan in the coming months as we consider the fiscal year 1992–93 Defense authorization bill.

I want to emphasize to my colleagues at this time, however, that the waivers in this supplemental bill will result in increased personnel costs in fiscal year 1991 and in fiscal year 1992. A higher personnel level in fiscal year 1991, for example, means the military services will begin the next fiscal year, 1992 fiscal year, at a higher strength than assumed in the budget request that the President made for 1992.

This is only one area where the incremental costs of the Persian Gulf war will spill over into fiscal 1992 and require defense spending in excess of the level assumed in the budget summit agreement.

The committee has included a provision in this section that will make it clear that increases in end strengths resulting from Operation Desert Storm waivers represent incremental costs associated with Operation Desert Storm for funding purposes. This provision would authorize the use of funds from the defense cooperation account to pay for these incremental costs.

Turning to the military personnel benefits, which are so important and so meaningful to our young men and women who are in the Persian Gulf and those who have already returned home, the committee bill incorporates several measures that have been reported to the Senate.

These include: S. 237, a bill which I introduced with Senator WARNER and others, which would increase the monthly rate of hostile fire or imminent danger pay for military personnel from $110 a month to $150 a month. That would be retroactive to August 1, 1990. This hostile fire pay was last increased in 1985, and the increase in this provision would match inflation over the last 6 years.

This is a very important benefit to a lot of people. They have given up some of their benefits when they moved from their active duty posts over to the Persian Gulf. In spite of going to a danger zone, they have lost money because their families lose a portion of the subsistence allowance.

It is awfully hard to explain to a military family why a military member should go off to war while his or her family takes a pay cut. We hope this form of increase will help compensate those who have, in effect, lost family income because of going to war for our Nation.

The next provision which is incorporated in this bill is S. 204, introduced by Senator GLENN, which would authorize the Secretaries of the military departments to recall military personnel to active duty, in connection with Operation Desert Storm, in the highest grade held satisfactorily while on previous active duty.

The next provision is S. 331, a measure previously reported by the committee, which would ensure that survivors of military members are entitled to the payment for unused accrued leave if the member dies on active duty. I think everyone would agree with the equity of that provision.

S. 221, another measure previously reported by the committee, would exempt military members who are in a missing status from the $10,000 annual cap on the amount that individuals may save under the savings plan implemented by the Department of Defense for military personnel deployed in the Persian Gulf in Operation Desert Storm.

Mr. President, in addition to these measures previously reported by the committee, the committee bill incorporates other measures, in some cases, with amendments:

S. 334, introduced by Senator KENNEDY and others, which would authorize $20 million for the Secretary of Defense to provide child care assistance to military personnel serving on active duty and would authorize 60 days of transitional medical benefits from the Defense Department upon separation for reservists called to active duty for Operation Desert Shield/Desert Storm, and for certain active duty personnel involuntarily retained on active duty;

S. 281, introduced by Senator KENNEDY and others, which would authorize $30 million for the Secretary of Defense to provide for education and family support services to families of military personnel serving on active duty;

S. 384, introduced by Senator MCCAIN and others, which would delay the effective date of the reduction in CHAMPUS mental health benefits required by section 703 of the National Defense Authorization Act for fiscal year 1991 from February 15, 1991 to February 15, 1992;

A provision which would authorize Reserve component medical personnel activated for Operation Desert Storm to receive the same special and incentive pays as their active-duty counterparts;

Finally, a provision which would increase the death gratuity from $3,000 to $6,000 for survivors of military members who died as a result of service during the period of Operation Desert Shield/Desert Storm.

Mr. President, the committee believes that the benefits provided in this bill are fully justified in recognition of the unique circumstances that confronted our men and women in uniform and their families in Operation Desert Shield/Desert Storm. The fiscal year 1991 cost of these benefits is approximately $267 million. These costs are clearly incremental costs of the Persian Gulf war. We tried to confine our benefits to the incremental benefits relating to the war.

There will be a leadership amendment, as has already been mentioned by the Senator from Maine [Mr. MITCHELL], which will bring in the package negotiated by Senator GLENN and others, from other committees that we have no jurisdiction over. It is my understanding that this package will be presented as an agreed-upon amendment by the leadership to this bill. We will have all of it folded into this bill, if that amendment is accepted.

Mr. President, we also have two important reporting requirements relating to the Persian Gulf war. The first reporting requirement includes for ensuring that there will be a complete accounting of all expenditures and sources of funding related to Operation Desert Shield/Desert Storm. This provision requires the Office of Management and Budget to submit monthly reports on the costs of U.S. military operations connected with the Persian Gulf war, and on allied contributions to offset the costs of U.S. military operations. This provision also requires reports on related burdensharing not directly involving the United States. The Secretary of State and the Secretary of Treasury will be required to report on participation in the military coalition, as well as on economic aid to front-line states, refugee assistance, and financial support for military efforts of other allied nations.

This provision was passed as a separate bill by the House of Representatives, which is designated H.R. 586, and it was referred to our Armed Services Committee. We have amended the House reporting requirements slightly and reported it as part of this supplemental authorization bill, and also as a separate bill.

The second reporting requirement calls for a comprehensive assessment of the conduct of the war by the Defense Department. Operation Desert Storm is the most significant military activity involving the Armed Forces of the United States since the war in Vietnam. The lessons learned from the strategy, the tactics, the logistics miracle—in my view—which was performed, the personnel policies, and other aspects of the conflict will have a major impact on the decisions in this and future years about our national defense posture.

The committee bill includes a provision that requires the Department of Defense to make an assessment, after the cessation of hostilities, on the conduct and "lessons learned" in Operation Desert Shield and Desert Storm. "The Future Year Defense Plan" presented by the administration reflects a 5-year build-down that will significantly reduce the defense establishment.

It is absolutely essential that we carefully assess the lessons learned in Operation Desert Storm so we structure that in a manner that enables the United States, when a build-down is completed, to have the capability to defend our interests all over the world. This will be, indeed, an important lesson. We will all learn from it.

We are not expecting the Department of Defense to report the total lessons learned immediately. We hope to work with them over a period of a number of months in getting this information, and we hope to have an interim report. The time required for the interim report is a 90-day period.

Mr. President, this is what we call a clean supplemental authorization bill at this moment as we speak. And I hope it will remain so during the course of the next day or so that it takes to consider it. If it becomes a bill that has other amendments on it and is no longer a clean bill, then we are going to have any number of amendments. There are a lot of these amendments that I will support.

I know the Senator from Virginia has worked on an amendment that he may be presenting. Under some circumstances, I think I could work with him and maybe work out something I could support on that amendment.

But on this bill, if one amendment comes in, everybody we have talked to about keeping their amendments off is going to come over to the floor. They are going to present their amendments, and here we go; we are going to be on this a long time. I hope that our colleagues will understand, no matter how worthy their amendment is and no matter how clean and pure in their mind their amendment is, if they put it on this bill, this bill will no longer be a Desert Shield/Desert Storm bill; it will become a major defense bill and the doors will be open. When the doors are open on the Senate floor, the company and the amendments stream in. So I hope our colleagues will be disciplined and understand that this is an urgent bill, that this is to pay for costs that have already been incurred. It is a bill that will greatly assist our military men and women who have served this Nation so well, and their families back home who have served this Nation so well.

I want to close, Mr. President, by again emphasizing something I have said for a number of days since I returned from the Persian Gulf with my good friend from Virginia, Senator WARNER, Senator STEVENS, and Senator INOUYE. There is no way to express to the American people how important their support was in sustaining the morale of our military forces and in letting them know that the Nation was united behind them, letting them know that the debate was over in this country and that everybody was on one side, and that we were all supporting them and doing everything we could back here to make sure they had the resources.

The Nation has participated in this war. I think the Senator from Virginia would agree with me; every tent we went into, no matter how fragile, in the middle of that sand out there had little pictures and letters on the walls, a lot of them from third and fourth graders who had written the troops out there and signed their names and sent their love. When you would see these battle-hardened men and women out there is the field looking up at that third and fourth grade picture or portrait or message expressing support, it was really a clear message to me, and I think to the others who were on that trip, that the support back home makes a huge difference in the performance of the men and women in the field. So all of our country should be proud of that very visible and very tangible and very meaningful support that was so evident when we were in the field and, of course, evident back home.

I yield to the Senator from Virginia for whatever comments he would like to make on this bill. I thank the Senator from Virginia for his splendid cooperation and for his work on this legislation, which has been a truly bipartisan effort.

Mr. President, I yield the floor.

Mr. WARNER. Mr. President, I certainly want to pick up on the distinguished chairman's last observation about how, when we were in the gulf region, we were struck, particularly those of us who saw service in World War II and Korea, by how the pinup of the Persian Gulf was in sharp contract to the pinup of earlier conflicts. It was the letters, the posters devised by the young people of this country in an outpouring of their understanding of this conflict and the purposes for which their older brothers and sisters were engaged in taking risks to preserve freedom.

I appreciate the chairman's sentiment on that because there were four main parts to this conflict: The leadership, which I will address momentarily; The men and women who saluted and followed the orders; the logistic chain; the allies; and then I think maybe as a fifth there was the home front, hometown, the village green, U.S.A. that turned out in a manner unlike any in my lifetime since the closing days of World War II.

Mr. President, in addressing the pending legislation, I wish to compliment the chairman, the staff, majority and minority, of the Senate Armed Services Committee. This is a Senate Armed Services Committee bill. Let us not lose sight of the fact we had the prime responsibility. There came a time when we recognized, and the leadership of the Senate recognized, the importance of embracing other pieces of legislation which, although not directly, indirectly impacted on the benefits, as we now term it, for the men and women who served in the gulf and, indeed, those back here at home in many instances.

I commend the majority leader, the Republican leader, Senators GLENN and MCCAIN, for working together against odds which at times appeared to me to be insurmountable, given the volume of the legislation and the uniqueness, I will use that word, of some of the ideas that came forward. But we have seen miracles performed around here and, indeed, this was a miracle, too, to put this in one package in our bill, the Committee on the Armed Services, and make it a part of the other important technical legislative components which the chairman has adequately addressed.

I see no benefit to the Senate for me to review the very fair and objective analysis of those other technical parts of the bill over which our committee had the principal jurisdiction. I do not foresee in the course of such debate as we may have on this piece of legislation any differences with regard to those elements and components as addressed by the chairman.

I would like to return, however, and parallel my remarks with those of the chairman in regard to this conflict. It was extraordinary in the annals of military history, all military history, not just United States but worldwide military history. We had in place at this time leadership which I have termed almost providential: A President who had experienced combat, who understood how to lead men and women in times of combat; we had general officers, we had flag officers of the U.S. Navy and the Marine Corps and of the Air Force who had extraordinary professional capability and training, and they had under their immediate supervision the most extraordinary grouping of men and women in the history of our Nation, everyone being a volunteer. It was the All Volunteer Force. It was their first major test.

Yesterday afternoon, I received a call from an individual for whom I have unlimited admiration. It was my privilege to serve with him from 1969 through 1972 in the Department of Defense, Melvin Laird, then Secretary of Defense. We reminisced about the origins of the All Volunteer Force and how at that time President Richard Nixon, together with Secretary of Defense Laird, and the two Chairmen of the Joint Chiefs of Staff, really worked on this. They took the risk, in the face of unprecedented turmoil here on the home front toward a military action, of shifting to the All Volunteer Force. Indeed, it was a risk; there was no precedent in the history of our country for having an All Volunteer Force. The war was continuing to be waged. The transition was made. The concept worked. The concept worked because this country has as its greatest asset the men and women of the Armed Forces, the young men and women who are willing to come forward and volunteer and the officers and noncoms who were to work with this ever evolving and changing group of young people. And on the home front, I hope many of our colleagues have experienced as I was privileged—I underline privileged—to experience the first homecoming from the gulf of Virginians who had gone forth. In this instance it was at Langley, a historic air base in our country in Virginia, the First Tactical Air Wing, which Senator NUNN and I and Senator STEVENS and Senator INOUYE had visited only weeks before in the gulf. As the planes were taking off during our meeting with the airmen, around the clock performing missions, little did we know at that time, although it was predicted, forewarned that we would begin the ground element—it is often called the ground war; that is a misnomer—of the major conflict, the air element having performed brilliantly for some weeks, we would be back home greeting the very people we met in the gulf.

We learned a great deal from those people, men and women of all ranks visited. But I experienced at Langley an outpouring of love and affection, of respect, of admiration, of confidence of the American people for those individuals. I just hope our President and this Congress, working in partnership, can capture the momentum, the can-do spirit generated by the troops largely in the gulf, and, indeed, the home front supporting them, capture that spirit and translate it into solutions that we need here at home for some of our major problems.

The joint session of Congress to which our President was invited and delivered a brilliant address to the Nation I think laid the foundation.

I went through the halls of this Senate in the past few days I felt a vibration and a feeling in this Senate that we can achieve those objectives.

I met this morning with the chairman of a committee on which I serve relating to transportation, and he wants to meet the President's deadline of 100 days within which to enact legislation as it relates to transportation. He is sitting down individually with each of the members of his committee now charting out our respective responsibilities and ascertaining the parameters in which we desire to work on that legislation.

The distinguished Presiding Officer is a member of that committee. I am sure he will be consulted, as I was this morning, by the chairman.

Mr. President, my distinguished chairman and good friend has made reference to the desire to have a clean bill. That is the hope of all managers. It is seldom realized here.

The leadership, preceding the remarks of the Chairman, indicated that there was a amendment which could in turn evoke considerable debate, possibly other amendments and without naming the Senator. I am happy to say that I am that Senator who has the amendment.

I will address briefly the purpose of the amendment, the content of the amendment, and then at a later time—I see other Senators anxious to address the bill—I perhaps will have further opportunity. I have always worked in cooperation with the leadership of this body. Indeed it is through compromise that we achieve our major goals. I recognize, as does the chairman and others, the urgency of this legislation. But I also recognize, Mr. President, the importance of the amendment that I will submit to this body in due course. I recognize that importance.

Mr. President, we talk about lessons learned in the gulf. One of the most dramatic recollections I have of this historic period is the degree to which the American people here at home studied in detail not only through observing on television but by carefully reading the newspapers and other journals which in turn very accurately and in a responsible way provided them an education with respect to our military, and the weapons being used.

We sat in astonishment and saw the videotape from certain of our weapons systems transmitted by satellite down to the village greens of our country, and there on our television sets we witnessed the excellence of our weapons, starting with the ability of the men and women of the Armed Forces who had been trained properly as an all-volunteer force, who had been given—that is, provided—these weapons by a determined succession of Presidents and a determined Congress; the best equipment that could be afforded the men and women of the Armed Forces of any nation in the world. They operated them. They knew how to do it. They astonished not only America but the whole world.

The chairman has acknowledged our gratitude, and acknowledged the fact that this conflict may well have dragged on interminably, may well have resulted in the loss of many, many additional lives, had it not been for the genius of the minds in this country, in the industrial base, in the management base, in the production base; finally to the operators of the weapons to produce this technology.

We, this Nation, gravely and deeply mourn the loss of 120-plus Americans. As I said, I was there on a Thursday when they came home, and on the following Friday I sat in the pews of the religious shrines—of this country, in my State, or in the open green in front of a high school—to quietly join with family and friends as we mourned the loss of two brave Virginians, volunteers each, who proudly went forth. And they will not be returning.

My mind went back on the night the chairman and I, and our two colleagues, visited in Israel. It was about 9 o'clock at night. We had flown from the gulf to Israel to meet with the Defense Minister to show our support and our respect for the courage of the people of Israel in the face of a terrorist weapon. The Scud missile was not a military weapon. It was simply a terrorist weapon inflicted upon an innocent, virtually helpless people—the Scud attacks indiscriminately.

While we were seated there with the Defense Minister, the air raid sirens went off. There was calm in the room. The Minister and his principal military staff knew exactly what to do.

Coincidentally, the television was turned on which then, as best it can, through the government, informed the people, in this instance, Tel Aviv, of the details of the pending attack, with instructions as to how to use a gas mask. Each of us were issued a gas mask. The Defense Minister showed us how to a fix the various parts. It was all very calm. It was all very collected.

He then looked at his watch, and he said it would be a matter, I think, of 6 to 7 minutes in which we would determine whether or not a defense system would interdict this missile or whether it would impact some helpless area.

We heard very clearly a loud, thunderous type of clap, and then there was a period of time in which to ascertain whether it was a missile or a successful interdiction? It turned out to be a successful interdiction.

Our meeting resumed. We finished our business, and spent the night in a largely deserted community, Tel Aviv; largely deserted in terms of any tourists or visitors—citizens, yes, but not too many visitors with hotels virtually empty.

The next morning our delegation went out and visited the Patriot site commanded by Americans and Israelis which had successfully interdicted that missile. We learned that the trajectory was such that it would likely have fallen in the proximity of the Defense Ministry.

We then visited another site in Tel Aviv where some week or so before a Scud had landed and caused great devastation, not only in terms of human suffering but of housing and other structures. We were met by the mayor and some of the neighbors. You should have seen their faces. They indeed understood the seriousness of this problem. They said they were rebuilding. The signs of rebuilding had already commenced. But they had courage and determination that really inspired all of us.

That brings me to the point of this amendment. Through the leadership that the United States has shown working in conjunction with primarily 27 other military partners in the coalition in the gulf, we will not see in the foreseeable future another requirement to send the men and women of the United States abroad. But I, as one Senator, want to assure them and their families that, if a subsequent deployment comes, the genius of the United States of America, the same genius that configured the Patriot, the same military genius that looked at the tactics by which through air interdiction to suppress and destroy the launch sites of the Scud missiles, the combination of those two defenses, I want to make sure that we have provided in every way, technologically, to protect the safety of our forward deployed troops, to protect the safety of civilian populations which may be associated with any future battle area.

Mr. President, it is the testimony of the Director of the Central Intelligence Agency, and many others, that by the year 2000, there will be some 20 or more nations either with the capability to manufacture or the capability to acquire missile technology in the open market. Mr. President, I want to be able to give the assurance to any future generations of Americans that have to go in harm's way that at least we have unleashed the genius here at home to do the best we can to just do two things: To fully perform the research and development and tests of our technology to determine whether or not we can devise a better system in preparedness of operation to interdict the incoming missile, such as the crude, terrorist, basically World War II technology Scud, and other such systems that are springing up all over the world as part of the arsenals.

I just want that assurance, so that if I ever have to again go to an assembly of a family grieving for a loss, I can say to them that we are doing everything to prevent that type of loss in this country.

Consequently, I think it is timely that we, as a Congress, both the Senate and the House, express to our President, who is endeavoring now to negotiate some type of solution to the ABM Treaty, and to express to Americans, and to express to our allies that we, the Congress, are supportive, and we urge the President in the next 2 years to sit down with the Soviet Union and determine if there are not reasonable adjustments to the ABM Treaty that can be achieved to unleash this genius that created the smart weapons that could, from 14,000 feet, go down through a stove pipe of no greater diameter than 18 inches; if that same genius cannot begin to devise protective systems, utilizing whatever elements necessary, including those in space, to protect our troops, to protect our allies, to protect innocent civilians.

Hopefully, the day will not come, but perhaps even to protect some areas of the homeland of the United States which could, conceivably, with future generations of ballistic missiles, be subject to threat and attack. That seems to me to be a not unreasonable request and a timely one.

While it is fresh in the minds of the Congress, while it is fresh in the minds of Americans, let us get on with determining whether or not we can. That is all I ask, Mr. President. I am not suggesting that we begin to mass produce them. I am not suggesting that we begin to deploy them. My suggestion is very clear. Just unleash American technology to determine can we do it, how successful would it be, and then a President, then a Congress—undoubtedly a future Congress—can decide the question of deployment.

But now is the time, Mr. President, and I call on Americans across this country to communicate with their Members of Congress, and I think they will share with me their views that it is timely to do this.

This is a 1972 treaty. Coincidentally, I think I am the only Member of the Congress of the United States who was present in Moscow at the time. I was Secretary of the Navy, and I was there in connection with the incidents at sea agreement, which I was privileged to execute on behalf of my country the day before. But that was an entirely different threat to the environment in 1972. It was an entirely different technological base in expertise in our country and other nations. I am not so sure that the men who sat down, the negotiations at that time, could envision a scenario such as the world has witnessed here in the past few months.

I hope that America would respond to the need for this type of encouragement and offer the support for our President that it gave to the men and women of the Armed Forces throughout this conflict. I hope that America would spend the same amount of time studying how we might solve this problem at some future date, and studying the need for allowing our people to go forward and seek—that is all this is—the facts to show that we can solve the problem. And a President and a future Congress will then make the decision, presumably after working it out with the Soviet Union, that we will protect our men and women of the Armed Forces when they go forth.

Mr. President, I gave adequate notice of my intention to bring forth this amendment at the conclusion of our hearings with Secretary Cheney. I expressed dissatisfaction, and I was going to address it at the first opportunity, that was an open session hearing.

I raised an adaptation of the amendment that I will later submit today during the course of the deliberation of this very bill in the Senate Armed Services Committee. So it has been fully explained to my colleagues on the committee. I have now had the opportunity to explain it to the Senate as a whole.

I have worked with the President and his senior staff for a considerable period of time, and I now have a letter signed by the President's National Security Adviser, dated today, which reads as follows:

> DEAR SENATOR WARNER: As the Gulf War has made clear, the proliferation of ballistic missile technology and weapons of mass destruction already can threaten our allies and our forces deployed overseas. In the coming years, the United States itself will face the growing threat of ballistic missile attack. Building on the progress already achieved by the SDI program, we must do everything possible to ensure that, in the first instance, we can defend ourselves against such unauthorized or accidental launches of ballistic missiles.
>
> Accordingly, the administration strongly supports your sense of the Congress resolution on missile defenses. I believe it will send an unmistakable signal of our determination to proceed with ballistic missile defenses that enhance our national security.
>
> Sincerely,
>
> BRENT SCOWCROFT.

Mr. President, I ask unanimous consent to print in the RECORD a copy of the sense of the Congress on ballistic missile defense amendment, which I intend to offer at an appropriate time subsequently.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WARNER SENSE OF CONGRESS ON BALLISTIC MISSILE DEFENSES

(a) FINDINGS.—Congress makes the following findings:

The growing proliferation of ballistic missile technology and weapons of mass destruction clearly represent an increasing threat to our forces overseas, as witnessed in the Persian Gulf war.

According to the Director of Central Intelligence, William Webster, by the end of the century 15 to 20 developing countries will be capable of producing ballistic missile capabilities; at least six developing countries will have ballistic missiles with ranges over 2,000 miles, of which, at least three of them may develop missiles with ranges of over 3,400 miles that, in some cases, could threaten the United States.

The devastation and loss of life from ballistic missile attacks was evident in the SCUD attacks against Saudia Arabia and Israel.

The concern of widespread ballistic missile proliferation is compounded by growing ethnic unrest and political instabilities in the Soviet Union which could increase the possibilities of unauthorized or accidental use of ballistic missiles.

The SDI program has made remarkable progress in the research of technologies aimed at defending against ballistic missiles.

While the demise of the Warsaw Pact represents a major favorable change in the U.S.-Soviet relationship, the Soviet Union nonetheless remains, at the present time, the only country that has the nuclear and ballistic missile capability to threaten the United States.

Despite its enormous economic difficulties, the Soviet Union is continuing its relentless strategic offensive and defensive modernization program within the currently defined numerical START limits.

The ABM of 1972 was negotiated under a significantly different world situation and state of technology than the United States faces today.

Article 5 of the ABM Treaty of 1972 prohibits the development, testing, and deployment of those ABM systems or components described in Article 2, which are sea-based, air-based, space-based, or mobile land-based.

Continuing restrictions on the development and testing of ABM systems unduly restricts effective demonstration of ballistic missile defense technology and unnecessarily complicates ABM experiments, which results in added risk to the program schedule and increased cost to taxpayers.

(b) SENSE OF CONGRESS—It is the sense of the Congress that—

(1) The United States, its forces, its friends and allies face a growing threat from ballistic missile strikes.

(2) It is in the national interest of the United States to protect the United States, its friends and allies and U.S. forces overseas from ballistic missile strikes.

(3) It is in the national interest of the United States to be permitted to develop and test ballistic missile defense systems and components, without restriction as to mode or environment, and therefore the Administration should negotiate and sign with the Soviet Union, within two years or less, an agreement which would clearly remove any limitations on the United States having effective defenses against ballistic missiles.

(4) During the period described in clause (3), in expectation that such an agreement will be signed, the Secretary of Defense should undertake preparations for the development and testing of systems and components designed to defend the United States and its armed forces, wherever deployed, from ballistic missiles even though some of the actual development and testing may not be permitted by the ABM Treaty of 1972.

(5) If such an agreement is not reached within the period described in clause (3), the President should make immediately a determination as to whether continuing U.S. adherence to the terms of the ABM Treaty of 1972 is in the U.S. national interest, and should immediately thereafter advise Congress of such a determination.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, before I get to the business at hand, I want to recognize once again the magnificent performance of our Armed Forces, and those of the allied coalition, in Operation Desert Storm. Their professionalism and fighting spirit has been inspirational. Although the loss of a single life is tragic, we can be thankful that we had so few casualties and our forces are coming home in glory.

The victory in the Persian Gulf was due in part to great leadership, in part to the outstanding men and women of our Volunteer Forces, and in part to the superior equipment and technology that this Nation's citizens have funded over the past 10 years.

The victory over Saddam Hussein was not, however, without cost. The Desert Storm Supplemental Authorization Act we are considering today is to authorize the funding for this victory. There may be some differences with the administration, but there is no doubt that Congress should provide the funds necessary to maintain our military effectiveness.

I strongly support the personnel provisions in this legislation. After a flawless performance on the battlefield, it would be tragic to force out thousands of service men and women immediately after their return from the battlefield. We should all remember that our fighting forces are composed of volunteers who view the military as a career. They are not the draftees of World War II who were eager to resume their civilian lives.

Congress has the responsibility to provide the funding for the ammunition, supplies, and equipment expended in the battle. I also believe we have the responsibility to provide the necessary oversight to ensure these funds are spent in an appropriate manner. The legislation crafted by the Armed Services Committee gives the Defense Department the flexibility to provide for our forces; it also provides the appropriate congressional oversight through the notification and wait procedure.

The victory in the Persian Gulf was won through the blood and sweat of the men and women from the allied nations who fought the battles. There are, however, many nations who will benefit from the victory and I urge these nations to contribute to the cause.

To date, approximately $54 billion has been pledged toward the war effort. However, only about $16 billion has been received. Although I am confident that the remaining pledges will eventually be met, I hope those nations who have not met their pledge will not test the patience of our citizens or that of the Congress.

Mr. President, the battle in the Persian Gulf lasted only 100 hours; I hope that the debate over the supplemental request will not last much longer. I urge my colleagues to act expeditiously on this request and give our men and women in uniform the same support in peace that we provided throughout the crisis.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Chair recognizes the Senator from Hawaii [Mr. AKAKA].

Mr. AKAKA. Mr. President, before I begin, I want to echo the words of the distinguished chairman of the Armed Services Committee, Senator NUNN, in praising the efforts of Senators WARNER, STEVENS, and INOUYE in supporting the war effort. But we should also recognize Senator NUNN's leadership in the war effort as well. No one has supported America's military to a greater extent than he.

Mr. President, with the indulgence of my colleagues, I would like to make a few, general comments in support of the pending Desert Storm package.

Having destroyed a numerically superior force and the furtive dreams of a dictator, our Armed Forces are finally returning to long-awaited homecomings and the arms of a grateful nation. Now it is time for Congress to address the direct financial costs of this war as well as the less measurable, but more painful, costs inflicted on our military men and women and their families.

S. 578 authorizes supplemental appropriations for fiscal year 1991 to cover part of the estimated $60 to $68 billion costs of Operations Desert Shield and Desert Storm. According to OMB, over $54 billion has been pledged by allied countries, of which less than $18 billion has been received. S. 578 establishes a $15 billion Desert Shield working capital account to pay for the costs of the war not covered by these foreign contributions.

I am pleased that measures to address the domestic impact of the war on military personnel and their families have also been included in S. 578. Provisions for education and family support services for families of active-duty personnel and transitional medical and mental health benefits for military personnel are just a few of the assistance measures that are included in the omnibus bill.

Mr. President, I would also like to point out that S. 386 legislation recently considered and approved by the Committee on Veterans' Affairs and specifically affecting veterans of the gulf war, is included as a separate title in this Persian Gulf package. As a member of the committee, I was pleased to work closely with Chairman CRANSTON and other panel members in developing this title.

In essence, the veterans provisions would extend to gulf veterans eligibility for a variety of VA programs and entitlements, including pensions, medical care for certain mental health conditions, drugs and medicines for disabled or needly veterans, readjustment counseling, funeral and burial payments, home loan guaranties, and reemployment rights. Our legislation would also establish a toll-free hotline for information concerning readjustment and mental health services available to veterans and their families.

I am especially pleased by the provision to extend readjustment counseling service [RCS] benefits to veterans of Beirut, Grenada, Libya, Panama, and now the Persian Gulf. In spite of VA's meager fiscal 1992 budget request for RCS and related programs, I hope that this initiative will encourage VA to accept fully the vital role that vet centers play in bringing our veterans all the way home, especially those hundreds of thousands who suffer from PTSD but remain untreated. My only disappointment is that we were unable to obtain agreement to extend these same benefits to World War I, World War II, and Korean-era veterans as well.

I am also very enthusiastic about the provisions requiring employers to make efforts to requalify or retrain returning servicemembers for jobs they were forced to vacate because of the gulf conflict, and also to make reasonable accommodations for returning disabled veterans. If our Nation embarks on a course of military action that uproots thousands of men and women from their ordinary working lives and places them in harm's way, the least we can do is to ensure that their jobs are waiting for them when they return, particularly those who have sacrificed health and limb in our behalf.

In closing, Mr. President, I urge my colleagues to support this important measure. Our Government has no higher duty than to care for those who served our country in wartime. The men and women of our Armed Forces are to be commended for their heroic efforts in bringing the gulf conflict to a quick and decisive end. Their brave efforts and unselfish sacrifices will be honored as long as the world values the ideals of liberty and common justice.

SUPPORT OF THE DEPARTMENT OF DEFENSE SUPPLEMENTAL AUTHORIZATION FOR OPERATION DESERT STORM

Mr. AKAKA. Mr. President, I rise today in support of S. 578, the Department of Defense supplemental authorization for Operation Desert Storm.

The men and women of the Armed Forces have done a tremendous job, and are finally returning to long-awaited homecomings across this Nation. Now it is time for Congress to address the cost of this conflict, not only the direct financial support America must provide, but the cost this conflict has inflicted on the service members and their families.

The bill before us today addresses both responsibilities. S. 578 authorizes supplemental appropriations for fiscal year 1991 to cover the costs of Operation Desert Shield and Desert Storm. The bill allows the Department of Defense to spend foreign contributions from the defense cooperation account. According to the Office of Management and Budget, over $54 billion have been committed by allied countries, of which less than $18 billion in cash and in kind contributions has been received. The Congressional Research Service estimates that the total cost of the war could run from $60 to $68 billion.

As such, a $15 billion Desert Shield working capital account would be established to pay for the costs of the war, provided that foreign contributions are not available through the defense cooperation account. Before any of these funds can be used, the Defense Department must notify Congress of the amount to be transferred, the accounts and programs to which the transfer will be made, and a certification that these funds will only be used for the incremental costs of Operation Desert Shield and Desert Storm. Any transfer from the working capital account must also provide an additional explanation as to why foreign contributions are not sufficient to permit transfer from the defense cooperation account.

S. 578 also waives the statutory ceilings on active duty and reserve end strengths and on officer and enlisted grades for fiscal year 1991. This waiver will help to minimize the traumatic impact and involuntary separations expected as result of the extensive reductions being proposed for the active and reserve personnel.

Mr. President, we have all read newspaper articles across this country that focused on the effects the war had back here in the States—military families left without adequate financial support, military dependents being left behind with friends or even alone because their single parent or both parents were serving in the gulf, and reservists being called to duty leaving families to face the often difficult and painful transition.

S. 578 is an attempt to rectify some of the problems that have surfaced in light of the Persian Gulf conflict. It is not a perfect solution, but it is a start toward addressing the changing needs of today's military force.

As a cosponsor of many support bills, I am pleased to see that a number of these measures have been incorporated into S. 578. Several bills previously adopted by the Committee on Armed Services, including the increase of hostile fire or imminent danger pay for military personnel, retroactive to August 1, 1990, and the recall of military personnel to active duty in the highest grade satisfactorily held while on previous active duty, were integrated into the present legislation.

The makeup of our active duty and reserve forces have changed tremendously since 1969. The majority of our services are no longer comprised primarily of young males—more than half of the active-duty male personnel are over 25 years old, and a significant percentage of these are single parents or have spouses also serving in the Armed Forces.

I am, therefore, heartened to see that additional measures addressing the problems here at home have also been included in S. 578. Provisions to provide child care assistance to military personnel serving on active duty—$30 million to provide education and family support services to families of military personnel serving on active duty; 60 days of transitional medical benefits for reservists and certain active duty personnel; and delay in the reduction of CHAMPUS mental health benefits—are just a few of the additional assistance bills being consolidated into S. 578.

I voted against the use of force, I voted my conscience, but my vote against the use of force was not in any way a slight against the distinguished men and women serving in our Armed Forces. Some may use my vote against me, but I want our military members to know that my deepest respect and gratitude go out to these fine people.

The men and women of our Armed Forces are to be commended for their heroic efforts in ensuring the success of this conflict. I join the people of this Nation and many around the world who are grateful for the dedication and commitment they exhibited in this time of need. Their brave efforts and unselfish sacrifice to ensure freedom in the world will forever be honored through time.

Mr. President, I yield the floor.

SUPPORT OF VETERANS PROVISIONS IN THE PERSIAN GULF LEGISLATION

Mr. AKAKA. Mr. President, I rise in strong support of the veterans provisions included in S. 578, the Department of Defense Desert Storm Supplemental Authorization Act, which was developed by the Committee on Veterans' Affairs under the leadership of Chairman CRANSTON.

Mr. President, the veterans title, with a few modifications, is identical to S. 386, the Persian Gulf War Veterans Assistance Act of 1991, which was reported out by the committee on February 7. The veterans portion of the pending measure includes all of the provisions contained in S. 386 extending certain VA benefits to Persian Gulf servicemembers, including eligibility for VA pensions; medical care for certain mental health conditions; drugs and medicines for disabled or needy veterans; readjustment counseling; funeral and burial payments; home loan guaranties; and, reemployment rights.

In addition, the measure authorizes funds to establish a toll-free information and referal system to provide information concerning the availability of mental health treatment and counseling for posttraumatic stress disorder [PTSD] and other war-related stress problems.

Mr. President, Senator CRANSTON sets forth the details of the veterans title's many sections in his explanatory floor statement; further details may be found in the committee's report accompanying S. 386. However, I would like to touch on two issues that are of particular interest to me.

First, I am especially pleased by the initiative to expand eligibility for readjustment counseling service [RCS] benefits to veterans of all armed conflicts that occurred after 1975, including Beirut, Grenada, Libya, Panama, and now the Persian Gulf. I have long supported extending readjustment counseling benefits to veterans of all eras, given the universal nature of war and the demands it places on the human psyche; I previously joined a number of my colleagues on the committee in sponsoring legislation to extend them to World War I, World War II, and Korean war veterans—legislation which, I might add, has been passed by the Senate on several occasions. Although I am disappointed that our continued support for extending RCS benefits to pre-Vietnam conflicts is not reflected in this bill, I am pleased that the administration is at least behind us on the matter of post-Vietnam conflicts. In spite of VA's meager fiscal 1992 budget request for RCS and related programs, I hope that this represents a change of heart on VA's part to accept fully the vital role that vet centers play in bringing our veterans all the way home, especially those hundrds of thousands who are afflicted with PTSD but remain untreated.

Second, I am also very enthusiastic about the provisions in this bill relating to veterans' reemployment rights. One section of the veterans title requires employers to make efforts to requalify or retrain a returning Persian Gulf servicemember who, because of his or her absence due to active-duty service, can no longer perform the duties of his or her previous position. Another section mandates that employers make "reasonable accommodations" for disabled servicemembers returning to their jobs, through retraining, physical reconfiguration of workplaces, restructuring of jobs, or other action.

If our Nation embarks on a course of military action that uproots thousands of men and women from their jobs, families, and homes, and places them in harm's way, the least we can do is ensure that their jobs are waiting for them when they return. It is incumbent on us to do everything possible to return them to a semblance of their former lives, especially those who have sacrificed health and limb in our behalf.

Mr. President, I urge my colleagues to support this important package of Persian Gulf war veterans benefits. Our Government has no higher duty than to care for those who served our county honorably in foreign wars.

I yield my time.

The PRESIDING OFFICER (Mr. ADAMS). Who seeks recognition?

The Senator from New Hampshire.

Mr. SMITH. Mr. President, today, as we deliberate emergency supplemental appropriations for Operations Desert Shield and Desert Storm, Kuwait is once again a free nation. Saddam Hussein's brutal aggression has been repelled, the legitimate government of Kuwait restored, and the rule of law upheld. Through America's leadership, the international community has entered a new era of unprecedented vigilance and cooperation.

It is often said that "victory has a hundred fathers, and defeat is an orphan." There can be no doubt that Saddam Hussein is now an orphan. His arrogant, self-destructive imperialism has isolated the Iraqi Government, and wrought untold devastation on the innocent people of Iraq and Kuwait. Saddam's defeat is clear, complete, and unequivocal. Now, in the wake of Desert Storm, we see the Iraqi people mobilizing against Saddam's tyranny, seeking reform and freedom from a decade of war and repression. Our hopes are with them.

Through President Bush's courage and vision, the United States has affirmed the rule of law, and set the parameters for a new world order. Supported by a cast of some 540,000 American heroes, the Commander in Chief presided over a diplomatic and military campaign of monumental proportion and success. It is a victory for the United Nations, the allied coalition, and most of all, the cause of freedom.

Mr. President, there is much we can learn from the Persian Gulf crisis. Indeed, analysts and historians will likely scrutinize the evolution for years to come. Nonetheless, amidst the plethora of issues, one simple fact emerges: Desert Storm succeeded because the military was permitted to prosecute the war quickly and decisively. By allowing the Defense Department to effectively employ its myriad of assets, President Bush ensured swift victory with minimal casualties. Indeed, at a time when success is measured first and foremost in terms of human life, the contribution of Ronald Reagan, George Bush, and certain Members of this body, in fighting for the F-117 Stealth fighter, the Patriot system, the Tomahawk cruise missile, and other critical defense systems, is simply incalculable.

In Operation Desert Storm, the Defense Department safeguarded our trust with honor and distinction. In reviewing the supplemental budget request, I find that the Department has put forward a similar good faith effort to address incremental Persian Gulf costs. The request does not purport to estimate definitively the overall costs of war and the redeployment of U.S. forces. Rather, the plan itemizes immediate and known operational requirements, and establishes a mechanism for spending foreign contributions, in order to offset U.S. costs most effectively.

The bill reported by the Senate Armed Services Committee provides the necessary funding and transfer authorizations requested by the administration. Importantly, the committee bill requires the Secretary of Defense to provide formal certification and transfer notification of all expenditures to ensure appropriate congressional oversight. Further, the bill directs that foreign contributions from the defense cooperation account be obligated before any taxpayer funds may be utilized.

Mr. President, I urge my colleagues against micromanaging the bill before us. To date, Operations Desert Shield and Desert Storm have served as a model of efficiency and cooperation. By loosening the burdensome reins of Government, the President and Congress allowed the Defense Department to prosecute the war rapidly and effectively. We should not meddle with the proven formula for success. By all accounts, the administration has undertaken a serious and comprehensive effort to identify and itemize incremental Persian Gulf costs. There is no evidence to suggest otherwise. Let us show equal restraint by acting responsibly and expeditiously on this important legislation.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator has yielded the floor.

Who seeks recognition?

PRIVILEGE OF THE FLOOR

Mr. DIXON. Mr. President, I ask unanimous consent that a congressional fellow on my staff, Mr. Jim Rohacik, be granted floor privileges during the Senate's consideration of S. 578, a bill to authorize supplemental appropriations to the Department of Defense for Operation Desert Storm and military personnel benefits.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

Mr. DIXON. Mr. President, we now begin consideration of the authorization for supplemental appropriations for Operation Desert Storm. First, however, I want to offer my congratulations to the President and to all the men and women in the military who served in support of Operation Desert Shield/Desert Storm. Their unwavering sense of duty and honor fosters the great pride we take in our Nation's Armed Forces.

In support of our military, the Department of Defense is seeking $15 billion to create a Desert Shield working capital account. Last year the Armed Services Committee recommended, and the Congress approved, the defense cooperation account—specifically to handle foreign contributions to Operation Desert Shield/Desert Storm.

And I congratulate the distinguished chairman of our committee, Senator SAM NUNN of Georgia, who did such a fine job both in connection with that legislation and this legislation.

Together these two accounts will be used by the Department of Defense to finance the costs of this war.

Understandably, the Department of Defense does not know what the total costs of the war will be. But DOD has identified approximately $40 billion in costs thus far. These cost-breakdowns are as follows: $21.4 billion is for the cost of maintaining U.S. troops in the gulf from October 1 through March 1, without combat; $2.9 billion for the cost of certain procurement programs to support the war; $7 billion for the "orderly postcombat phasedown"; and $5.2 billion for the return of personnel and equipment. But these costs do not include as yet any provisions for the conduct of combat operations. I was pleased, Mr. President, to see that the supplemental includes over a billion dollars for level-of-effort, dumb munitions—a category of special interest to me and several of my colleagues.

Mr. President, if I may say at that point, as the Chair knows, and our distinguished chairman of the committee who is here on the floor, I chair the Subcommittee on Readiness, Sustainability and Support, which is jurisdictional on the question of these munitions.

I point out to my colleagues that this particular account has been steadily declining at a more rapid rate than defense authorizations and appropriations generally. That account, for instance, 10 years ago was more than twice what that account is in this Department of Defense authorization bill this year.

I think that is a critical item. I said so many times in my subcommittee and in the Committee on Armed Services committee meetings and, with the support of the chairman of the Armed Services Committee, at meetings of the subcommittees of the Armed Services Committee, that I think we ought to be more concerned about these ammunition accounts.

And for future experiences like Desert Storm, I suggest, to my colleagues and to the country, that while it is not a very sophisticated, esoteric, or exciting subject matter, ammunition is terribly important, and we ought to make sure we have the very best available—which is another subject matter entirely—and an adequate amount of all times, to meet our readiness and our sustainability requirements.

I am concerned that certain parties of our allies have not paid their fair share into the defense cooperation account. I would encourage the administration to pressure these countries to pay their complete pledges before too much time elapses. Pledge cards are not worth much until the checks arrive and are safety deposited in the account.

I think the American people will not look kindly on those nations who do not pay their fair share, and I know this Senator will definitely not look kindly on those nations who do not meet their obligations to the United States of America.

Mr. President, I think our colleagues and the chairman of our committee who is here, who has worked over the years so diligently, so devotedly, to this cause.

I yield the floor.

Mr. NUNN. Mr. President, I thank my colleague from Illinois for his leadership on our committee. He is one our most valuable Members. He does a tremendous job and is always particularly concerned about military personnel, who are such an important part of the bill. I thank him for his kind comments.

Mr. DIXON. I thank the chairman.

THE 48TH BRIGADE OF THE GEORGIA NATIONAL GUARD

Mr. NUNN. Mr. President, last Friday I had the great honor and privilege and, indeed, emotional experience to be in Georgia to welcome home members of the 24th Infantry Division, which is stationed at Fort Stewart, GA. All Georgians and all Americans are justifiably proud of the 24th. They were among the first Army soldiers sent to Saudi Arabia in August and September of last year. They were among the most active when allied ground forces swept like a desert wind across Kuwait and Iraq to defeat the Iraqi army.

The entire Nation is proud of the magnificent performance of all of our military services and all of our men and women in uniform who served in the Persian Gulf during Operation Desert Shield and Desert Storm. We should give each and every one of them a hero's welcome home in the coming weeks and months, and I am sure that our Nation will.

We must also remember the dedicated service of those military members who worked so hard in other regions of the world and here in the United States to make Operation Desert Storm such a success.

And we also should not neglect those members of the military services who are doing their part in defending our Nation in other parts of the world. The thousands of United States military forces in Europe continue to provide an important deterrent force that has been a mainstay of Western security for 40 years. These forces have played a tremendous role in protecting Western Europe while we waited for the long anticipated and much welcomed changes to take place in the Soviet Union and Eastern Europe.

Mr. President, I want to pay special tribute to another Georgia unit that fits into the category of those who have served extremely well. This unit was not deployed to Saudi Arabia, but their dedicated efforts over the past 5 months certainly deserve our recognition and our praise. I am referring to the 48th Brigade of the Georgia National Guard.

The 48th Brigade is affiliated with the 24th Division. It is what the Army calls a roundout brigade. The 24th Division has two active brigades and relies on the 48th Brigade to provide the third brigade to bring the 24th up to full strength. This was a concept the Army developed in the mid-1970's to create three new active divisions within their existing manpower levels. The concept called for the roundout brigade to have the same manning and equipment and to train with their active-duty counterparts as much as possible.

The 48th Brigade was not called up at the same time the Army deployed the 24th Division. Instead, the Army sent the 24th Division to Saudi Arabia last August, and assigned the 197th active duty Brigade from Fort Benning, GA, to the 24th to ensure that the 24th Division had three maneuver brigades. This was due to the fact that the 48th Brigade's deployment time always envisioned additional training after mobilization but prior to deployment.

In November, the Secretary of Defense did decide to mobilize the 48th Brigade for full-time training to become ready to be deployed to Saudi Arabia if that became necessary. The 48th Brigade was sent to the Army's National Training Center in the desert of California for 2 months of the toughest, most demanding training the Army can dish out. The conditions at the National Training Center at Fort Irwin, CA, are every bit as difficult and demanding as the conditions in Saudi Arabia. While there, the members of the 48th underwent round-the-clock training at all levels.

During the last 2 weeks of February, the 48th undertook the biggest challenge of all. It undertook a training rotation at the National Training Center. This is a sophisticated, simulated combat against the best "opposing forces" in the world. The National Training Center has a dedicated group of Army soldiers that train and operate as a Soviet brigade. The Army is proud to say this so-called opposition force is one of the best, if not the best, brigade in the world.

They train and work together in actual field exercises over 200 days a year. No unit in the Army gets that kind of training and experience, and the 48th Brigade had to fight this opposition force in what constitutes the ultimate final exam for an Army brigade.

The 48th passed that final exam with flying colors. Gen. Edwin Burba, the commander of U.S. Forces Command—the commander responsible for providing trained U.S. forces to General Schwarzkopf—testified before the Armed Services Committee last week that the 48th Brigade was ready to go to war if needed. He said he would have no hesitation in recommending the 48th Brigade join the other active brigades in Saudi Arabia for combat, if needed.

I do not know if my colleagues fully appreciate the magnitude of that achievement. I certainly did not myself until I spent several days at the National Training Center visiting the 48th Brigade and observing their training. In a brief period of 2 months, the 48th Brigade built on the considerable skills and capabilities they already possessed. They became a first-line fighting unit, fully capable of joining their active-duty counterparts in the complex challenges of modern land warfare.

I am convinced, Mr. President, that the ability to mobilize Reserve units and given them that level of proficiency contributes a great deal to the deterrent capability of our military forces. It says to friends and foes alike that the United States is prepared to respond to a very broad range of contingencies.

There has been a good deal of controversy concerning the 48th and other roundout brigades in the National Guard. There have been a good many articles written in the news media. Some argued that these brigades were not up to the rigors of modern combat, and the Army could not count on them.

I believe that is totally wrong. There is no question the 48th needed additional training when it was mobilized. But that was always part of their mobilization plan. This was not a new revelation to the Army, nor was it to me.

I spent 2 days with the 48th Brigade in January at the National Training Center. I met with over 70 individuals of the 48th Brigade, and had many private discussions. Not one of those individuals told me the brigade was ready for combat when it was called up. They did not disagree with the decision to train further before they actually were sent to combat. They expressed confidence that would be ready when their training was completed, and they were ready. As General Burba told us the other day, they passed their test at the

National Training Center with flying colors.

I believe this is one the key lessons to be learned from Desert Storm. We can count on our roundout brigades to be able to meet the challenge. We must be realistic, however, and we must not assign roundout units those missions which require deployment with almost no notice, such as the 82d Airborne Division, the Marine Alert Brigade, or an Air Force alert squadron.

But we also must need to ensure the roundout brigades are called early enough so they can undergo the training necessary to reach required proficiency levels. If they had been called up at the beginning of this conflict in August, they would have been ready to go in time to actually participate in the ground phase of the warfare.

I now hear some argue that it was a mistake to call up the 48th Brigade at all. The 48th Brigade, in my opinion, was called up because the Nation needed them, and when they were called up, no one could predict how long the war would last. They were ready when they were called to go to training, and when they finished their training, they were ready if required to go to war. We are all grateful that the war ended so quickly with so few casualties, considering the magnitude of the effort.

But that does not diminish the important contribution of the 48th and the other roundout brigades to operation Desert Storm and to the security of out Nation.

When they completed their training at the National Training Center, the 48th was ready to go to the Persian Gulf region if they were called and needed. Members of the brigade endured the separation from families and friends, and they underwent the rigors of training in one of the most hostile environments that one can imagine, very similar to the conditions that existed in Saudi Arabia. Their contribution was an important factor in our Persian Gulf victory. They will continue to contribute to deterrence and to our national security.

So, Mr. President, as Americans cheer the return of soldier from Saudi Arabia, the members of the 48th Brigade and the other roundout brigades deserve our cheers as well. They, too, served their country. The welcoming home celebrations across America are part of a larger celebration to thank all of our men and women who shoulder the burden of military service.

The 48th faced a tough challenge. They proved they were up to the task, and they deserve our sincere thanks.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, at this time, I would like to take a few minutes to read to the Senate the proposed amendment I have with regard to the ABM issues.

Mr. President, it is entitled, "Warner Sense of Congress on Ballistic Missile Defenses." The first part is the findings.

WARNER SENSE OF CONGRESS ON BALLISTIC MISSILE DEFENSES

(a) FINDINGS.—Congress makes the following findings:

The growing proliferation of ballistic missile technology and weapons of mass destruction clearly represent an increasing threat to our forces overseas, as witnessed in the Persian Gulf War.

According to the Director of Central Intelligence, William Webster, by the end of the century 15 to 20 developing countries will be capable of producing ballistic missile capabilities; at least six developing countries will have ballistic missiles with ranges over 2,000 miles, of which, at least three of them may develop missiles with ranges of over 3,400 miles that, in some cases, could threaten the United States.

The devastation and loss of life from ballistic missile attacks was evident in the SCUD attacks against Saudi Arabia and Israel.

The concern of widespread ballistic missile proliferation is compounded by growing ethnic unrest and political instabilities in the Soviet Union which could increase the possibilities of unauthorized or accidental use of ballistic missiles.

The SDI program has made remarkable progress in the research of technologies aimed at defending against ballistic missiles.

While the demise of the Warsaw Pact represents a major favorable change in the U.S.-Soviet relationship, the Soviet Union nonetheless remains, at the present time, the only country that has the nuclear and ballistic missile capability to threaten the United States.

Despite its enormous economic difficulties, the Soviet Union is continuing its relentless strategic offensive and defensive modernization program within the currently defined numerical START limits.

The ABM Treaty of 1972 was negotiated under a significantly different world situation and state of technology than the United States faces today.

Article 5 of the ABM Treaty of 1972 prohibits the development, testing, and deployment of those ABM systems or components described in Article 2, which are sea-based, air-based, space-based, or mobile land-based.

Continuing restrictions on the development and testing of ABM systems unduly restricts effective demonstration of ballistic missile defense technology and unnecessarily complicates ABM experiments, which results in added risk to the program schedule and increased cost to taxpayers.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) The United States, its forces, its friends and allies face a growing threat from ballistic missile strikes.

(2) It is in the national interest of the United States to protect the United States, its friends and allies and U.S. forces overseas from ballistic missile strikes.

(3) It is in the national interest of the United States to be permitted to develop and test ballistic missile defense systems and components, without restriction as to mode or environment, and therefore the Administration should negotiate and sign with the Soviet Union, within two years or less, an agreement which would clearly remove any limitations on the United States having effective defenses against ballistic missiles.

(4) During the period described in clause (3), in expectation that such an agreement will be signed, the Secretary of Defense should undertake preparations for the development and testing of systems and components designed to defend the United States and its armed forces, wherever deployed, from ballistic missiles even though some of the actual development and testing may not be permitted by the ABM Treaty of 1972.

(5) If such an agreement is not reached within the period described in clause (3), the President should make immediately a determination as to whether continuing U.S. adherence to the terms of the ABM Treaty of 1972 is in the U.S. national interest, and should immediately thereafter advise Congress of such a determination.

Mr. WARNER. Mr. President, again, it was my trip to the gulf region and my experience—I am not suggesting in any dramatic way that we felt we were under threat of injury—but my experience, having witnessed firsthand others who had been subjected for a very long period to the threat of Scud attacks, it was that night that my mind was cemented that this U.S. Senator would stand up and face his colleagues and face this Nation and ask that we address this issue which has been debated in this Chamber time and time again. Now is the time, while it is fresh in the minds of Americans, to involve them in this decision process.

All too often we hold unto ourselves, as we say within the beltway, certain issues saying, well, the general public, it is too complicated for them to understand that. After all, this is a treaty and with the Senate advise and consent clause in the Constitution, we have special prerogative there. The President executes it on behalf of the United States. We say to the general public, trust us.

Well, I am saying at this time you have trusted us now nearly 20 years with this treaty, a treaty devised at a time when we could not have envisioned this problem we are witnessing today. We could not have envisioned the proliferation of these weapons systems. This war may have had quite a different turn had it been the judgment of the Israeli Government with the support of the Israeli people that they could no longer withstand the continuing threat of those Scud attacks and thereby deployed their forces actively in this conflict in the gulf.

How that would have affected our Arab members in that coalition, we can only speculate. How that might have affected the enemy, Saddam Hussein, in his judgment to use or not use chemical weapons, biological weapons, we cannot predict. It is almost as if the hand of providence reached down and guided world leaders and instilled in the people of Israel a strength and determination not unlike they showed in the historic battle of Masada where their will to survive was indelibly imprinted on the history of mankind.

Those are great chapters in the history of our country. We witnessed a great chapter in the history of the State of Israel, the Government of Israel and, indeed, the people of Israel during this conflict.

I wish to acknowledge that other Members of this Chamber laid the foundation for this action on which at some point today or tomorrow I will address the Senate formally with this amendment. I cannot name them. They are many. But one is no longer with us; the people of this country elected him Vice President of the United States.

Senator QUAYLE was always in the forefront of this issue. Were he here today, I dare say he would be the principal sponsor of this amendment. I have had the opportunity to consult with him on a regular basis through the course of the development of this amendment and received very valuable guidance from him. Indeed, Senator QUAYLE, the records of the Armed Services Committee reflect, when he was a member, was very active in seeing that adequate funds were provided for the modifications to the Patriot system, the very modifications which enabled that system, together with our air componets, those of the allies and the U.S. Department of Air Force, to participate in the suppression of this Scud threat.

So, Mr. President, I humbly acknowledge many Members of this body and, indeed, many close and valued advisers on the outside have provided the foundation for the action which I hope the Senate will take favorably on this amendment very soon.

I thank the Chair and I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I have conferred with the managers who advise a few minutes of morning business would not be out of order at this point. So I ask unanimous consent that I be permitted to speak for 5 minutes as if in morning business.

The PRESIDING OFFICER. Is there objection? The Chair hears no objection and the Senator is recognized for 5 minutes to speak as though in morning business. The Senator from Pennsylvania.

Mr. SPECTER. I thank the Chair.

(The remarks of Mr. SPECTER pertaining to the introduction of S. 648 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

INTERNATIONAL CRIMINAL COURT

Mr. SPECTER. Mr. President, later today I expect a vote to occur on the pending sense-of-the-Senate resolution to establish an international criminal court to try war criminals. This had been the subject of extended discussion last week, but a vote was deferred until a point in this week following the first-ordered vote.

At this juncture I would like to call my colleagues' attention to continuing news reports which substantiate the need for this international criminal court. I refer to an article in today's New York Times captioned "American War Prisoners Abused by Iraqi Captors, Pentagon Says," and I will read only a portion.

> A senior Pentagon official said today that Iraq had physically abused American prisoners of war, subjected some of them to psychological torment and threatened the lives of the others during interrogation sessions.
>
> One Iraqi interrogator put a gun to an American prisoner's head and pulled the trigger to terrorize his captive, the official said. The gun was empty, but only the interrogator knew that. Other prisoners were beaten with rubber hoses and others received two-handed head slaps that were extremely painful and could break eardrums, the official said.

The article continues, Mr. President, to detail other factual matters showing an evidentiary base for war crimes, and I would suggest that such continuing evidence, in conjunction with an already mounting list of evidence about war crimes against Kuwaitis, war crimes against prisoners of war, against civilians taken into custody, against civilian populations in Tel Aviv, for example, where 39 Scud missile attacks were directed, where there was absolutely no military purpose, form a very conclusive basis for proceeding with a very strong Senate vote on a resolution to establish an international criminal court to try war criminals.

Mr. President, I further refer to an article in today's Washington Post captioned "Beatings and Torture by Kuwaiti Interrogators Alleged." And I will read only a very small portion.

> Their accounts were the first confirmation of reported Kuwaiti reprisals against some Palestinians and other non-Kuwaitis thought to have supported the Iraqis and suggested that a climate of revenge has settled over Kuwait in the wake of the nearly seven-month Iraqi occupation.

Mr. President, this is obviously a form of self-help and a vigilantism in the absence of any government in Kuwait to prosecute the guilty. Here again there is a strong showing of the need for an international criminal court which will take jurisdiction over war crimes against the citizens of Kuwait so that it is not necessary for the Kuwaitis to take the law into their own hands and to have these acts of violence and these acts of vigilantism.

Mr. President, I ask unanimous consent that the full text of the New York Times article captioned "American War Prisoners Abused by Iraqi Captors, Pentagon Says," and the full text of the article in today's Washington Post captioned "Beating and Torture by Kuwaiti Interrogators Alleged," be made a part of the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 13, 1991]

BEATINGS AND TORTURE BY KUWAITI INTERROGATORS ALLEGED

(By Nora Boustany)

SAFWAN, IRAQ, March 12.—An ashenfaced Aziz Mulai lay shivering and wheezing, unconscious on a stretcher with a head injury as American paramedics fussed over him at this smog-shrouded border post strewn with the detritus of war.

His face and nose were crusted with bluish blood. Bruised arms rested limply on his abdomen. Deep red rings showed on his wrists.

The 28-year-old Moroccan truck driver was among hundreds of detainees left by Kuwaiti soldiers at this border post just inside southern Iraq, according to U.S. military police here. Other freed detainees here said the man was beaten and tortured by Kuwaiti soldiers at a makeshift prison in Kuwait City during interrogations of persons suspected of collaborating with Iraqi occupation forces.

Three men who said they were among the most recent arrivals of hundreds of such prisoners expelled by Kuwaiti troops spoke today of torture and beatings at a Kuwaiti detention center in a school at Farwaniyah, a district north of Kuwait International Airport outside Kuwait City.

Their accounts were the first confirmation of reported Kuwaiti reprisals against some Palestinians and other non-Kuwaitis thought to have supported the Iraqis and suggested that a climate of revenge has settled over Kuwait in the wake of the nearly seven-month Iraqi occupation.

The three—Abdel Qader Bu Khadem, 31, of Algeria; Ismail Adam Othman, 28, of Sudan, and Palestinian Ahmed Mahmoud, 20—said the Kuwaiti soldiers urged them to confess that they had looted, informed Iraqi soldiers of the whereabouts of Kuwaiti soldiers, or collaborated with Iraqi troops who vandalized Kuwait and rounded up thousands of suspected Kuwaiti resistance fighters. The Palestinian said he was interrogated "with questions like, 'What did you steal from Kuwait, with whom did you collaborate, whom did you tell on from the Kuwaiti army?'" All three denied that they had collaborated.

An American military policeman, who declined to be identified, said busloads of 20 to 30 men have been brought to the Iraqi border three or four times a day for the last four or five days, suggesting that hundreds of such prisoners have been deported from Kuwait and dropped inside Iraq's southern borders.

The MP said they were brought by "Kuwaiti vigilantes, the army." Pressed to specify whether they were escorted by regular Kuwaiti troops, he shrugged and said: "They have weapons, they have the uniform, and they have the patches."

Asked if the prisoners had been beaten, he replied, "They were in prison, yeah, they show it." He spoke of one prisoner with "marks on his hands. The ropes were too tight on his wrist." He added that another soldier in his unit had seen the Kuwaitis "hit the men with a pole as they left the bus."

Each of the three men interviewed gave detailed accounts of how they were captured, struck with canes and thick cables and given electric shocks in what they called a torture chamber on the second floor of the school.

Their feet were bare and blackened with dirt, their faces gaunt and haggard, and their soiled clothes loose-fitting. Appearing dazed from their ordeal, the young men still wore blindfolds as bandanas around their foreheads.

The Palestinian, Mahmoud, gave this account of his experience:

"I was beaten every morning for breakfast. Both shoulders, my feet and my face. One soldier would lift my head up by my hair, the other would slap me with his boot across the face. My face had become a football for them.

"In the afternoon, they would come with cables and keep hitting me until they broke. My hands were always behind my back. They gave me bread to eat every two or three days. I would put it between my knees and bend my head to eat.

"The [Kuwaiti] soldiers would give me some water and pour the rest on my feet. We said nothing, we kept our mouths shut. When the investigation and interrogation were over, there was no charge against us. We had not stolen, we never told on anyone."

Bu Khadem, the Algerian, who said he worked as a driver in Kuwait for a year, said there were 109 men in the hall where he was kept. He said he survived on a glass of water a day, and a meal of rice every two or three days, leftovers from the Kuwaiti soldiers. The prisoners slept on the floor and had no blankets, he said, mostly with their hands tied behind their backs, occasionally unfastened so they could eat.

He described a room where prisoners were beaten and tortured as "full of hair and blood" and singled out a Kuwaiti by the name of "Massoud." He said the prisoners had nicknamed another Kuwaiti "Wahsh," Arabic for savage, because he was a "torture specialist."

Bu Khadem said he was detained Feb. 26, a day after allied troops liberated Kuwait. He said other prisoners were Palestinians, Sudanese, some Algerians, stateless Bedouins, Iraqis, Jordanians, a few Yemenis and a Somali.

All three men claimed that women were held in another room, and that three of them, a Sudanese, a Palestinian and an Iraqi woman, accused of complicity with the Iraqi occupation, were being tortured. The three men expressed concern for a Jordanian passport holder, Salah Ali Daoudi, who they said was being tortured Monday when they were put on a bus and driven here. "When they find out he is Palestinian, they will feast on him," Bu Khadem said. "When soldiers walk into the room, they ask, 'Any Palestinians here?' If someone dares say yes, they immediately start beating him."

Mahmoud, Othman and Bu Khadem said Kuwaiti soldiers hit them with assault rifles and pistols, using both ends of the weapons, wooden rods and cables, on their shoulder blades, arms and faces. Bu Khadem said that when they took him away Monday, he believed they were going to kill him.

The detention center was run by a captain, a lieutenant and lower-ranking soldiers, he added. The only non-Kuwaiti visitor was "an American doctor in military uniform, who came to check up on critical cases. We knew him as Abu Willy," Bu Khadem said, as Othman, the Sudanese, concurred. "When he came, those with serious wounds were hidden under a large conference table. He would come at night every two or three days," the Algerian said, adjusting a yellow blindfold away from his eyebrows.

Othman said he went into shock from his beatings and claimed that his hands were strung sideways to receive electric shock, which was "turned on and off." The Sudanese, who worked in Kuwait as driver, shepherd and handyman at a farm owned by a Kuwaiti, said that when he had nothing to confess, the soldier interrogating him "placed a hot wire on his penis" until he blacked out.

Othman also showed a purple scar on the palm of his right hand, saying a soldier had put out his cigarette in his hand.

Othman said he had complained to the American doctor about the beatings. "When he left, the director of the prison came. They threatened us and the beating increased. Even those who had received injections to relieve their pain were beaten again," he added. Othman claimed he saw a Sudanese friend, whom he identified as Mustafa, die from being beaten. Mustafa, he said, had lived in Kuwait for 15 years and was accused of working for Iraqi intelligence. Othman said another Sudanese and a Palestinian also died in the detention center.

The wrists of the Palestinian, a car mechanic, were red and swollen. He said they had been tied behind his back throughout his one week in detention. Mahmoud said he had been born in Kuwait and that he had been arrested by Iraqi soldiers and taken to prison in Basra, because he would not turn in his Kuwaiti papers for a general "Arab status document" offered by the Iraqis. He said he spent five months in the Basra prison until anti-government rebels burst into it earlier this month and freed all the inmates. "I started back to Kuwait to find my parents," the young man said, when Kuwaiti soldiers detained him about 10 miles from here and took him to the school.

Algeria, Sudan and the Palestine Liberation Organization refused to condemn Iraqi President Saddam Hussein's invasion of Kuwait and refrained from joining a U.S.-led international coalition arrayed against Iraq.

On Thursday, Crown Prince and Prime Minister Saad Abdullah Sabbah denied reports of mistreatment of Palestinians in Kuwait. "It is being alleged that Palestinians have been subjected and are being subjected to torture by the Kuwaitis," he told reporters. "I would like to make clear and put on the record, I deny all such rumors and I urge you not to believe what is being rumored in this direction."

[From the New York Times, Mar. 13, 1991]

AMERICAN WAR PRISONERS ABUSED BY IRAQI CAPTORS, PENTAGON SAYS

(By Patrick E. Tyler)

WASHINGTON, March 12.—A senior Pentagon official said today that Iraq had physically abused American prisoners of war, subjected some of them to psychological torment, and threatened the lives of others during interrogation sessions.

One Iraqi interrogator put a gun to an American prisoner's head and pulled the trigger to terrorize his captive, the official said. The gun was empty, but only the interrogator knew that. Other prisoners were beaten with rubber hoses and others received two-handed head slaps that were extremely painful and could break eardrums, the official said.

This information emerged from the first debriefings of prisoners who arrived in Washington over the weekend for medical and psychological evaluations at Washington area military hospitals.

EVIDENCE OF WAR CRIMES

At a Pentagon briefing today, the Pentagon spokesman, Pete Williams, said, "The U.S. prisoners of war were certainly mistreated in the process of their interrogations." He added, "We are obviously taking full account" of such abuse.

A Pentagon official later said the evidence of prisoner abuse would be added to information the Pentagon had been gathering on accusations of war crimes by Iraq since it invaded Kuwait on Aug. 2. That information will be turned over to the State Department, the official said, for determination on how to act on it.

Mr. Williams indicated that the Government had not decided how to proceed on prosecuting any war crimes. "What action will be taken is a decision that will be made by other Government agencies," he said, "but we continue, as a D.O.D. matter, to gather evidence of potential abuses and violations of law that would merit possible war crime action."

The Pentagon official said the debriefing of Lieut. Jeffrey Norton Zaun, 28 years old, of Cherry Hill, N.J., had indicated that he had been under duress when he had appeared on Iraqi television on Jan. 28 and criticized the allied assault on Iraqi forces. Lieutenant Zaun himself inflicted some of the wounds visible on his face in an effort to deter the Iraqis from putting him on television for a propaganda display in which he read a statement written by his captors, the official said, confirming a report broadcast on Monday night by CBS News.

21 AMERICANS STILL MISSING

Some of the returned prisoners of war may speak publicly about their ordeal at a news conference later this week. Mr. Williams discouraged reporters from speaking to 21 former prisoners who had been greeted on Sunday at Andrews Air Force base by Defense Secretary Dick Cheney and Gen. Colin L. Powell, the Chairman of the Joint Chiefs of Staff.

Iraq has released 25 Americans who had been listed as prisoners of war or missing in action. The Pentagon today said 21 Americans remained unaccounted for. Of the 21 still missing in action, 14 went down on an Air Force AC–130 gunship on Jan. 31, before the ground war started. United States Navy divers are trying to recover their remains off the coast of Kuwait, where the wreckage of the plane has been discovered, military officials said.

Today, the number of Americans killed in action during the offensive campaign rose to 123 when the Red Cross notified United States officials that the Iraqis had turned over the remains of a Navy flier. He was identified as Lieut. William T. Costen, 27, of St. Louis, whose A–6 strike aircraft was shot down on Jan. 18 over Iraq. In addition to the 123 who died on the battlefield, 2 other military personnel died from wounds received in combat. Another 83 died in noncombat deaths during the offensive.

The total American death toll for the six-months operations in the Persian Gulf was 316, with 108 accidental deaths occurring before the offensive began on Jan. 17.

A senior Pentagon official said the remaining 7 of the 21 missing-in-action cases involved aircraft losses in which search efforts were still under way. "We know what the incidents are—why they are all missing," the official said. "It's just a matter of finding all of the crash sites. We haven't found all of

> them, but we're flying and searching every day." An Air Force spokesman said the Air Force was trying to locate the crash site on an F-15E and an A-10.
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> The senior Pentagon official said the United States Central Command, whose forces are coordinating the searches, was getting "pretty good" cooperation from the Iraqi military, which also has been absorbed, with widespread rebellion in its country.
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> The Red Cross informed United States officials that Iraq was prepared to turn over the remains of 14 allied servicemen, but only 1 of them, Lieutenant Costen, has been identified as an American. Lieutenant Costen's A-6 squadron was aboard the aircraft carrier Ranger in the Persian Gulf.
>
> A plane chartered by the Red Cross flew to Baghdad on Tuesday to pick up the remains but returned empty, according to an Associated Press dispatch quoting military officials in Riyadh. The plane was scheduled to return to Baghdad on Wednesday.
>
> The Pentagon also announced today that Capt. David M. Spellacy, 28, of Columbus, Ohio, had been killed in action when his OV-10 observation plane had been shot down over Iraq by antiaircraft fire on Feb. 25.
>
> Another airman, Lieut. Comdr. Michael S. Speicher of the Navy, remains listed as missing in action even though Pentagon officials publicly said he had been killed when his plane had been shot down on the first day of the air war. This reflects the Pentagon's practice of listing military personnel as missing until their remains are recovered.

Mr. SPECTER. I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I rise to support this bill and to say that I am particularly pleased that title IV of this bill is based on legislation that Senator GRASSLEY and I sponsored, S. 270, that would require monthly reports on the pledges and contributions made by other countries to Operation Desert Shield.

This is an important provision and deserves to be highlighted.

This is a great time for Americans. We all feel enormous pride about our victory in Operation Desert Storm, and we all share the deepest admiration and respect and thanks for the men and women of our Armed Forces. They are a special people who made an exceptional sacrifice. We can never say thank you quite enough.

This is an American victory. Yet, while it was American soldiers who did most of the fighting, their victory is also a victory for the entire allied coalition and the whole world.

Mercifully, the war was short, but the costs nevertheless were significant. Fortunately in human terms though relatively few casualties resulted, we have lost the lives of some of our loved ones. In economic terms we spent billions of our taxpayers' dollars. These were necessary sacrifices. Americans accept that.

But Americans also want coalition members to pay their share. It is time for our allies as they say to ante up to make good on their pledges, to put the cash on the barrel head.

Mr. President, many other countries had a stake in this war far exceeding that of the United States. The very survival of the oil rich Arab States was on the line, and the economies of Japan and many other oil-dependent countries were also at stake.

Mr. President, we in the Congress have responsibility to ensure that American taxpayers are not exploited unfairly by other nations that will benefit enormously from Saddam's defeat. That is why before the world focuses its attention elsewhere the United States should collect on all outstanding pledges.

I am not encouraged thus far by the level of cooperation we have seen from our allies. Too many of them are still dragging their feet—long on talk, short on cash. According to a recent administration report, pledges totaled $54.5 billion. Yet only 31 percent of those pledges, $16.9 billion have in fact been received.

I think it is an outrage. As a former businessman, Mr. President, I can tell you that few businesses would accept that kind of a collection rate for very long. In fact, few businesses could even survive a 31-percent collection rate for a long time.

Mr. President, our allies should make good on their obligation. We ought to hold their feet to the fire and do so unceasingly until all these bills are paid.

I am concerned that, as Operation Desert Storm is overtaken on the front pages by other events, our attention to these obligations may also be overtaken. The provision that Senator GRASSLEY and I sponsored, and which is now included in this package, would help prevent that.

Our proposal would require monthly reports on our allies Desert Storm contributions—both the amounts pledged and the amounts actually received. The legislation also calls for monthly reports on the costs of Operation Desert Storm.

This should not be controversial, Mr. President. Not long ago, a similar bill was passed by the House of Representatives by an overwhelming vote of 393 to 1.

The American taxpayer should not have to pick up the bill for Japan, Germany, Saudia Arabia, and other coalition members. The American people deserve—demand—to be treated fairly. This provision will keep the Congress and the American people informed, and keep the heat on our coalition partners who have not yet paid their debts.

Thank you, and I yield the floor.

Mr. KASTEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. KASTEN. Mr. President, we are celebrating today a truly historic military victory by the U.S. Armed Forces. It is important for our national future that we understand the sources of our success.

In the 1980's, many people severely criticized the Reagan-Weinberger restructuring of our national defense. They looked at the costs—and assuredly, the costs were high—but they turned a blind eye to the benefits. Some even suggested we should call the Pentagon the Department of Procurement instead of the Department of Defense.

How wrong they were, and how thankful our returning soldiers can be today that these views did not prevail. Because of the preparations we made throughout the last decade, America was ready for this war.

And because our soldiers were ready, they turned "the mother of all battles" into the "mother of all U.S. victories."

So I am especially glad that we should be spending some time today on a discussion of the causes of our victory.

President Bush has been modest. He said this victory belonged to the troops. That's true, but it's not the whole story.

We ought to remember the role of George Bush throughout the 1980's in defending those Reagan policies. In the 1980's, he was in the background, working to enact the military reforms that were necessary to make America strong again. He did this not because he believed in something called defense, but because he believed in what we were defending.

That is how his strong beliefs helped lay the groundwork for the stunning military success of the Persian Gulf war.

So when we talk about defense spending, let's remember what exactly we are defending. Against tyranny, we're defending liberty. Against naked aggression, we are defending the peace. And against the brutal bullying of petty dictators, we are defending the little guy.

In short, what we are defending is our national character. We are defending our right to be known—worldwide—as the good guys.

I'm not saying we are the world's policeman. No country has ever been strong enough to right all wrongs, and defend all innocent victims.

But the bottom line is this: If we can make a difference for the better, we ought to. That's the American spirit.

And thanks to our wise choices in the 1980's, that American spirit of courage and self-sacrifice is today being celebrated with tears of joy in Kuwait City.

Mr. President, I ask unanimous consent to proceed as if in morning business for the purpose of introducing a bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KASTEN. I thank the Chair.

(The remarks of Mr. KASTEN pertaining to the introduction of S. 640 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. CHAFEE. Mr. President, I see the distinguished Senator from Louisiana on the floor, and he is going to present a piece of legislation of which he and I are the principal sponsors. Since he has the bill, I would be glad to defer to the Senator from Louisiana. Then I would seek recognition when he has concluded.

Mr. BREAUX. Mr. President, I ask unanimous consent that I may be allowed to proceed as in morning business.

The PRESIDING OFFICER. Is there objection?

Mr. ADAMS. Reserving the right to object, and I shall not.

Approximately how long does the Senator expect to speak?

Mr. BREAUX. Mr. President, I suggest we can do it probably in 10 minutes, maximum.

Mr. CHAFEE. Mr. President, I would like to follow immediately, if I might. I might be as much as 6 to 8 minutes, maximum.

The PRESIDING OFFICER. Is the Chair correctly informed that the Senator seeks unanimous consent to speak as in morning business and that, thereafter, the Senator from Rhode Island be recognized next for a period of 6 minutes?

Mr. BREAUX. That would be my request.

The PRESIDING OFFICER. Is there objection?

Hearing no objection, it is so ordered. The Senator from Louisiana is recognized.

Mr. BREAUX. I thank the Chair.

(The remarks of Mr. BREAUX and Mr. CHAFEE pertaining to the introduction of S. 649 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER (Mr. BRYAN). The Chair recognizes the Senator from Iowa [Mr. GRASSLEY].

Mr. GRASSLEY. Mr. President, I would like at this point to indicate my support for a specific section of the bill that is now before the Senate, which section deals with a payment for the cost of the Persian Gulf war. Title IV would require regular reports to this body and the other body of expenditures made to carry out Operation Desert Shield and Desert Storm. It would also require reports on contributions made by foreign governments to the United States and to other allied nations significantly affected by the Persian Gulf conflict.

I commend the Armed Services Committee, and particularly its chairman, for its thoroughness and diligence in crafting this title of the supplemental bill, particularly those additions that relate to reporting on cost to foreign governments.

On January 24, I introduced, along with several of my colleagues, S. 270, a bill to require such reports to Congress by the Office of Management and Budget.

In particular, I commend the efforts of my friend and colleague from New Jersey, Senator LAUTENBERG; he was an original cosponsor of this bill.

The companion legislation in the other body, passed there nearly unanimously on February 21, and was referred to the Senate Armed Services Committee. Title IV of this bill before us contains all of the provisions.

Mr. NUNN. Mr. President, will Senator yield?.

Mr. GRASSLEY. Yes

Mr. NUNN. I thank the Senator for his reporting requirement bill that he put in. I can assure him his bill was a part of what we considered in our committee. Out of that and the House bill is where we formulated our proposal in this bill. We thank the Senator for his proposal and his initiative.

Mr. GRASSLEY. Mr. President, I, too, in turn then, thank the Senator from Georgia for that recognition. But once again I emphasize there was a very important addition made to this by that committee, and I thank the chairman for that addition.

Mr. NUNN. The same remarks would apply to Senator LAUTENBERG who aslo was part of the bill.

Mr. GRASSLEY. Yes, very much so.

Title IV of the bill before us contains all the provisions originally in S. 270 as well as many more. Title IV not only addressed U.S. costs and contributions made to the United States, but it also addresses costs to other coalition members and contributions made to all foreign countries and organizations associated with this conflict.

Again, I commend, as I have before, the committee on the title of this bill, and I thank my colleagues and in particular Senator LAUTENBERG for their support and hard work.

Mr. President, what made the provisions of this title a good idea in January, when I first introduced S. 270, still makes a good idea today in March. In January, I remarked that it was "a cost accounting bill, a burdensharing bill, and a good government bill." In each of these regards, the language contained in the bill before us strengthens the language and the intent of S. 270.

Notwithstanding the cessation of hostilities, Congress still needs current information on what the war cost us and will continue to cost us. We still need information on how forthcoming our allies have been and will be in fulfilling pledges to cover United States and allied expenses. We need it to assist in our evaluation of other supplemental appropriations requests. This bill will do that. And we need it to help evaluate future military and foreign assistance requests.

Mr. President, this is where the rubber meets the road and the taxpayers of this country want to know who will ante up and who will not.

During January and February of this year, I communicated with the White House and OMB on this issue. I am satisfied with the job the administration has done so far in soliciting contributions. While the contributions have been slow to come in, I am cautiously optimistic that the money will come in. Both the Congress and the public will ensure that it comes in. And the administration will as well. The administration fully supports the provisions of this title, and I know we can expect their full cooperation in complying with the reporting requirements.

Finally, Mr. President, it has been somewhat disquieting to me and many others in this body in recent days to follow the debate in the Japanese Diet concerning approval of Japan's $9 billion pledge to the war effort. Some there in that country, in that Parliamentary body have said that, since the war ended much sooner than expected, perhaps the full amount of the pledge is no longer needed. Others, in that body have said that a substantial portion of the pledge should be used for the rebuilding of the affected countries, and should not be used to pay for the costs of the war. I expect that when all is said and done, Mr. President, that the United States will have received the entire pledged amount from Japan. An angry American consumer can be a formidable foe, and Congress will not pass up an opportunity to provide our constituents with a full accounting—on the public record, of the costs of the war, and of whose assistance we received to pay them.

Thank you, Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. ADAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. ADAMS. Mr. President, I rise today in support of Chairman NUNN'S bill and the amendment that is, I understand, going to be offered by the leadership at a later time. With this legislation, the Congress and the entire Nation will do more than just praise our troops, which they certainly deserve, for their actions in the Persian Gulf. But we will ensure that they return not only to a hero's welcome, but that they will receive the assistance necessary so that upon returning from the gulf they can return to their lives and their families.

Last Thursday, we, as Members of Congress, along with the entire Nation, joined in commending the 500,000 American troops and their Commander in Chief for their determination and valor in the war against Iraq. Today, we are backing our rhetorical support for the courage and the valor of our troops with real action by approving a package of assistance for our men and women who served in the Persian Gulf, and also for their families.

I am particularly proud to have served on the task force of Senators responsible for making recommendations on certain personnel benefits for our men and women in the armed services who served in the gulf.

I want to thank the majority leader, Senator MITCHELL, for appointing me to this very special and important task force, and I want to recognize Senator GLENN, the chairman of this group, and Senator NUNN, the chairman of the Armed Services Committee, for their hard work and leadership in preparing this package and helping to bring it to the floor today.

Nearly 3 weeks ago, the Senate Persian Gulf Military Personnel and Family Benefits Task Force forwarded more than 30 proposals to the White House and to the Office of Management and Budget for cost estimates. These proposals of the task force after being approved by the relevant committees and reviewed by the White House, are before us today, and deserve our immediate attention and our full support. And our troops, many of whom were sent overseas on short notice and with very little time to prepare themselves or their families for their ordeal, deserve every one of these benefits.

Just as our troops should be recognized and supported, so too should their families, whom I believe are the unsung heroes of this war. After all, it was the families—the wives, the children, and in many cases the husbands—who waited at home, making do with limited resources, while praying each day for the safe return of their loved ones from the gulf.

For these reasons, Mr. President, it is our duty and our responsibility to uphold our end of the bargain and provide the essential and necessary benefits for our troops and their families. I am proud to be a cosponsor of S. 578, the Department of Defense supplemental authorization for Operation Desert Storm, which provides benefits for military personnel.

I also join the majority leader as a cosponsor of the leadership amendment authorizing veterans' benefits and providing other assistance for reservists and military personnel who served in the Persian Gulf.

I just want to take a brief moment to commend the more than 6,000 men and women from my home State of Washington who served so bravely in the Persian Gulf. My message to them, and to the hundreds of thousands of other Americans who served with them, is that the war may be over, but they have not been forgotten. They have answered our prayers with their swift and safe return. Now is the time for us to respond to their needs and their requests for assistance to help them in their return to their families, their communities, and their lives.

The first proposal I intend to discuss concerns that section of the benefits package which provides counseling, child care, and other assistance for children whose parents were deployed in the gulf.

I promoted the move for additional funding for this program after talking with school administrators in my State, who currently lack the resources to combat the increased stress and anxiety felt by children whose mothers and fathers were deployed during Operation Desert Storm.

My recommendations were incorporated into that part of the benefits package advanced by Senator KENNEDY and the Labor and Human Resources Committee. This section provides $30 million in funding for school-based and other family support services for active duty families. This provision also extends continued coverage under group health plans for families of personnel serving on active duty. Family support and continuing education opportunities will help ease the burden on children and families of those deployed in the gulf.

Also part of the Labor Committee recommendations is $20 million for the Secretary of Defense to provide child care assistance to military personnel deployed in Operation Desert Storm. I am pleased that this provision has been incorporated into the benefits package considered today. Adequate child care is a concern to most American families, and personnel serving overseas should not have to worry about whether their children are receiving adequate care. Transitional medical benefits will also be provided by the Defense Department for reservists called to active duty—this is important because many of them had their benefits lapse while they were on active duty—and for certain active-duty personnel involuntarily retained on active duty, upon separation from Operation Desert Shield/Desert Storm.

The Armed Services Committee approved a provision to delay reductions in military mental health benefits approved last year. Now, as the troops begin to return from battle, and as they and their families begin the struggle to reenter society and come to terms with their disrupted lives, is not the time to delay these benefits.

This package also exempts military personnel who are missing in action from the $10,000 annual ceiling on the amount that may be saved under the Defense Department's plan for military personnel deployed in the gulf. It authorizes the Pentagon to recall military personnel to active duty for Operation Desert Storm in the highest grades they held while on previous active duty. And, it temporarily increases the ceiling on the amount of death gratuity pay from $3,000 to $6,000 during Operation Desert Storm and requires that this amount be paid to all survivors of military personnel, regardless of their grade.

To ensure adequate compensation for their life-threatening service, Senator NUNN and others introduced a provision to increase the monthly rate of hostile fire or imminent danger pay for military personnel from $110 to $150 per month, retroactive to August 1, 1990. Our troops, whose valor under fire was clearly documented, deserve this increase.

Mr. President, nearly a generation ago, a great deal should have been done for our veterans who had served in Vietnam that was not done. We are not going to allow that to happen again.

There are two other bills which were recommended by our task force in support of service personnel and their families. They will appear before the Senate as part of the leadership amendment. The first would defer student loan requirements for personnel serving in the gulf and recommends that colleges and universities refund or credit tuition payments to personnel whose education was interrupted by their service. The second would update the Veterans Reemployment Right Act, which protects reservists returning to civilian life at the end of their active duty service. The act would be expanded to cover permanent employees, requiring employers to provide reasonable retraining and make reasonable accommodations for those disabled by their service.

The benefits advanced in this legislation are timely, reasonable, and well-deserved. The service of our military personnel of the field to battle and the support of their families at home was exemplary. I, and other members of the task force who have worked for the expedited consideration of these measures, applaud each and every one of these brave people. Passage of this package will enable the troops, and their families, to receive the financial and emotional support they all deserve so they will know they are not only receiving the cheers and the plaudits of the people of the United States as they return, but the practical benefits of being able to return to a full and wholesome life in this Nation they have so bravely defended.

The PRESIDING OFFICER. The Senator from Maryland [Ms. MIKULSKI].

Ms. MIKULSKI. Mr. President, I rise in support of the legislation and ask unanimous consent that my name be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, I, too, serve as a member of the military family task force that designed a good part of the package that is before the Senate today to express our appreciation to the U.S. military for the dazzling job they did in Desert Storm. I know, like all Americans, we saw what they did on the battlefield on which they functioned with heroism and competence. At the same time, we heard from their families who backed them up in the fullest way that they could, so our troops could be unencumbered from fear about family responsibilities, and yet, at the same time, we heard what the families are facing.

I know, like all Americans, we have felt a new sense of pride in what we can do in this country when we are focused on a clear objective. And I know all Americans are relieved that our troops are coming home, not only victorious, but with our casualties contained. It is, indeed, an extraordinary time.

I chair the Senate subcommittee in appropriations that funds the veterans benefit package, and I can assure all my colleagues that the Veterans' Subcommittee will do all it can to meet the responsibilities that are being set forth not only in the urgent supplemental but what we will be doing in the veterans legislation later on. This is, indeed, a very excellent package. My colleagues have spoken to what it means to both the military who served in the gulf and to their families.

I would like to bring legislation to the attention of the Senate that I hoped would be included in the urgent supplemental. This legislation would have provided full Federal pay for Federal employees who are either military reservists or National Guard who served in the gulf. However, I do know this legislation is meant to be urgent and it is meant to be supplemental, therefore I will constrain myself until such time as this bill can be considered independently. But I really encourage the U.S. Senate to think about this inclusion, either as an independent bill or later on when we do a more comprehensive veterans appreciation legislative framework.

I believe the need for this legislation is clear. The U.S. Government should be a model employer. Throughout this country there were many State and local governments and private sector employers who stepped up and supplemented the military reservist and guard pay as if their military personnel were earning their full pay back home. This was absolutely what I call a good-guy bonus.

I believe the need for this legislation is clear because Federal employees serving on weekends in the military Reserve and in the National Guard did make financial commitments related to mortgage and tuition on the expectation that they would have a certain salary level. The war interrupted those plans. Now they are back home seeing not only the warmth of yellow ribbons but the cold chill of unpaid bills.

Recognizing the hardship that many military reservists and guards may face, as I said, many State and local governments and private employers are making up the difference between the Reserve pay and the Regular salary. I believe the Federal Government should do no less.

I am aware that this package currently before the U.S. Senate has a section permitting Federal employees to donate annual leave to a leave pool to be available to Federal employees who did serve in the gulf. This is an idea by the Senator from Tennessee [Mr. SASSER]. This is a terrific idea. I absolutely support it. But I am concerned it may not work as well for Federal employees as simply letting them have the money already in the budget for their salaries. I am concerned there will not be enough available for every Federal employee who served in the gulf.

Some might say, well, Senator MIKULSKI, how much will this cost? I received an estimate from CBO, the Congressional Budget Office, which states that my bill will result in no additional cost to the Federal Government because the money has already been appropriated for these salaries.

I do not intend to offer this amendment on the floor today, but I have asked the Governmental Affairs Committee to hold a hearing on this legislation. I understand the House may be acting on similar legislation in the future. I will continue to work for enactment of my idea, but I think the ideas pending before the Senate in this urgent supplemental are really quite good. The Marines have a saying, "semper fi," always faithful. And may the American people be as faithful to their military as the military has been faithful to the American people.

Mr. President, I ask unanimous consent that a cost estimate of my bill, S. 605, from the Congressional Budget Office be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 12, 1991.

Hon. BARBARA MIKULSKI,
U.S. Senate,
Washington, DC.

DEAR SENATOR: In response to your request, the Congressional Budget Office has reviewed S. 605, authorizing a special pay to a federal employee serving on active duty as a member of the reserves during the Persian Gulf conflict, as introduced and referred to the House Committee on Governmental Affairs on March 7, 1991.

This amendment would require Executive agenices to pay the differential between military and civilian pay for federal employees who were activated in connection with Operations Dessert Shield and Desert Storm when civilian pay exceeds military pay. This amendment would result in no additional costs. The differential would be paid by each agency out of previously appropriated funds that would have normally beeen used to pay the individual.

Section 202 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1995. Because this bill would not affect direct spending or receipts, it is not subject to those procedures.

If you would like further details on this estimate, we will be pleased to provide them. The CBO staff contact is Lisa Siegel, who can be reached at (202) 226-2840.

Sincerely,

ROBERT D. REISCHAUER,
Director.

The PRESIDING OFFICER. The Senator from Massachusetts [Mr. KENNEDY] is recognized.

Mr. KENNEDY. Mr. President, I rise to support the Desert Shield authorization.

One of the most important parts of this bill is the package of benefits for Desert Storm veterans and their families.

I commend those involved in assembling this package. Senator GLENN chaired a task force of Democratic Senators to make recommendations on needed benefits for Desert Shield personnel. On the other side of the aisle, Senator MCCAIN chaired a similar task force. Both task forces and their respective chairmen deserve credit for their work in assessing the various proposals.

Under the leadership of Senators MITCHELL and DOLE, the proposals of the two task forces were melded into a package of benefits that I believe are fair and compassionate to our troops, while being fiscally responsible.

I want to draw particular attention to the parts of the benefit package that affect military families.

After the parades are over and the yellow ribbons have come down, military families affected by the gulf conflict will try to return to their normal lives. The benefits contained in this legislation will ease that transition in four concrete ways.

First, the package would bolster the counseling and mental health services available to military families.

It contains $30 million for enhanced family support services, including additional school-based counseling for military children. It also provides funds for family counseling and crisis intervention, as well as assistance with employment, housing, transportation and other needed services.

The package also delays cuts made last year in the mental health benefits offered in the military health care system. This is no time to cut these benefits. Military families should have access to appropriate mental health care during the critical readjustment period following the war.

We saw the ravages of war on families during Vietnam. We know that separation and reintegration is difficult for everyone. And, we must do all we can to help these families cope.

A study by the Veterans' Administration vividly demonstrates the need even years later. One in three Vietnam veterans has suffered from drug or alcohol dependency; 40 percent have been divorced; and nearly half have committed at least one violent act during the past year.

All of these problems relate to posttraumatic stress disorder. Many of the shattered families could have been saved by a modest investment in counseling and other mental services.

If we believe in keeping families together, we must reach out and provide the necessary support now. Otherwise, we will pay the price for years to come. We can and should seek to prevent senseless tragedies.

Second, the package provides important protections to returning reservists and their families.

As a result of Desert Shield, the country called up over 200,000 reservists from civilian careers to answer their country's call to arms. Since its origins, this Nation has relied on citizen soldiers to defend its freedom and respond to aggression abroad. We expect a great deal from these men and women and we were not disappointed.

We owe them a debt of gratitude, and we also have an obligation to ensure that they and their families are protected from further disruption of their lives to the greatest extent possible.

Toward this end, the legislation reforms the Veterans' Reemployment Rights Act, which guarantees returning veterans reinstatement at their old job. This act needs to be brought into the 1990's. The bill before the Senate does this by extending its protections to disabled workers and by requiring reasonable retraining.

Another vital protection for Reserve families is adequate health coverage during the transition back to civilian life. For that reason, the legislation would provide 30 days coverage in the military health care system to deactivated reservists who have no private health insurance.

Reservists who have defended their country abroad should have their security protected at home. At the very least, this means making sure that the jobs they left behind will be waiting for them when they return. And, where there is no job for them, they should have some health coverage in their first days back.

Third, the bill would provide $20 million to supplement military child care services. Current facilities, which were already overburdened, cannot meet the increased demand caused by the deployment of over 500,000 troops to the gulf and the callup of over 200,000 Reserves.

Prior to the Iraqi invasion of Kuwait, there were over 44,000 children on waiting lists at military child care centers. The funding in this bill would seek to ensure that this child care crunch is not worsened as a result of Desert Shield.

Obviously, where there are two members of a family—a father and mother—at home, they can often provide adequate supervision for a child. But when one of the parents is sent over to the gulf with a Reserve unit, then there is going to be an additional burden in terms of providing for that child. This is a very modest program to help provide some coverage for those particular families.

Fourth, the bill would protect service men and women who interrupted their educations to fight in the gulf. It states the sense of Congress that military personnel who left school in midterm should receive either a tuition refund or academic credit.

In many instances, these young reservists were called up with 3 or 4 days notice. Many of them were taken out of schools and colleges in the middle of a term. We want to make sure that either they are going to be eligible for the credit they have already paid for or that they are going to have their tuition refunded so that they can continue their education in an appropriate way.

Many wartime hardships are unavoidable. But we must make every effort to reduce the burdens on military families.

The provisions in this bill address the many practical concerns facing our troops and their families as they return from the gulf.

Our forces performed superbly throughout the entire Persian Gulf conflict.

Now as they return to their homes and communities across the country, we have an obligation to ensure that they and their families have adequate support services, essential health benefits and clear reemployment rights.

To do any less would be to break faith with our troops, our heritage and our country.

Mr. President, I urge my colleagues to adopt this legislation.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. GRAHAM. Mr. President, I ask unanimous consent to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

FLORIDA GOV. LEROY COLLINS

Mr. GRAHAM. Mr. President, I join my colleagues in mourning the loss of Florida Gov. LeRoy Collins, an American whose courage, wisdom and leadership inspired our Nation.

After long illness, Governor Collins died of cancer at the age of 82 yesterday at his home in Tallahassee.

We offer our sympathy to his family members, who showed great strength during his illness.

LeRoy Collins served the public during times of critical change in this century.

He was tested by extraordinary events, and indeed became an extraordinary leader.

Mr. President, the legacies of Governor Collins are many. He was a fighter for justice.

He enhanced education, including the establishment of our community college system in Florida, writing our State's basic school-finance law, as a member of the State legislature, and expanding the quality and size of our State university system.

He was an attorney, with a keen legal mind.

He was an outstanding father, husband, and grandparent.

But of all his legacies, perhaps the legacy that inspires us most was LeRoy Collins' special gift of appealing to the best in people.

Since the beginning of time, when people organized themselves into societies on this Earth, political leaders have faced choices about how to lead.

Some have sought to appeal to the lesser qualities of mankind: fear, ignorance and bigotry.

LeRoy Collins rejected the politics of hate, and appealed to our sense of fairness, civic pride, and compassion.

LeRoy Collins served with distinction in the Florida Legislature and later as Governor of Florida during the middle of this century when our Nation was deciding whether black and white Americans would live together, or continue to be segregated.

We were deciding whether to cling to the past, or embrace a better future.

LeRoy Collins was Governor of Florida from 1955 to 1961. In 1964, President Johnson named LeRoy Collins to lead the Community Relations Service, an agency that helped enforce the landmark Civil Rights Act of that year.

During his governorship, Governor Collins held fast to a simple principle: that the people of this country could live in peace together and that the walls that separated us in the past must come down.

His words, spoken in 1960, will live on:

> Great leadership never comes in the quiet and sweetness of early morning when all things seem good and clean with newness and promise.
>
> Rather, it comes as the shadows lengthen on dark and stormy days—days ruled by wrong.
>
> For without wrong, there is no urge to do right. Without sickness, there is no will to search for cures. Without oppression, there is no longing for liberation. Great leadership does not come to the people; it comes from the people.

Governor Collins' leadership was neither expedient nor necessarily popular.

He neither shouted his own position, nor shunned his opponents.

His strength was a quiet voice of reason and justice.

He was a profile in courage who paid a political price.

Had he taken another course, he might have served in this Chamber. He lost his bid for the Senate in 1968, but never lost his convictions.

Some four decades later, as we mark his passing, there will be many tributes to this great leader.

One of the most fitting tributes occurred yesterday in the Florida Legislature.

Mr. President, to provide a bit of historical context.

When my father served in the Florida Legislature with his friend LeRoy Collins, there were no black legisators.

Today, the legislature reflects the rich diversity of our State. The president of the Senate is a woman. Black and Hispanic legislators hold key positions.

Yesterday, when Floridians learned that Governor Collins had died, members of the legislature—black and white—offered tributes to this man who had served as a bridge from Florida's past to its future.

Among the many accolades was the praise of a black lawmaker from Miami, the Honorable Darryl Reaves:

> This man (LeRoy Collins) said, "I'm going to do the right thing." He took the heat, but stood in the face of all of it. We as a state and a nation are better off for that.

Mr. President, we are approaching the end of a great century in our history as a nation.

As we enter the 21st century, historians will chronicle the vast changes of the era we are about to complete.

We landed a man on the Moon, and returned him safely. We've conquered many diseases, and live longer.

We have confronted and defeated tyranny.

We have transformed from an agrarian society to a complex urban, high technology society.

But of all the changes we have undergone in the 20th century, perhaps none is as vast as elimination of racial segregation.

In a figurative sense, it was our Berlin Wall that divided our people.

Many people chiseled and chipped at that wall until it came down.

Those who did include prophets and paupers, orators and the ordinary.

Among them was a leader from Florida, a humble man of unusual strength: Gov. LeRoy Collins.

Like all great teachers, LeRoy Collins taught by example.

As he called on others to live in dignity, he personified dignity.

As he called on others to respect justice, he personified a sense of fairness.

As he called on others to change, he showed that he, too, could change.

The Apostle Paul, in his letter to the Roman church said: "Do not be conformed to this world, but be transformed by the renewal of your mind." (Romans 12:2.)

LeRoy Collins was not conformed by this world, but rather transformed our world.

For that, we offer our humble thanks, our prayers to the Collins family and our commitment to live up to his high ideals.

We as a State and a nation are better off for that.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CONRAD). Without objection, it is so ordered.

DEPARTMENT OF DEFENSE DESERT STORM SUPPLEMENTAL AUTHORIZATION AND MILITARY PERSONNEL BENEFITS ACT

The Senate continued with the consideration of the bill.

MILITARY PERSONNEL AND VETERANS BENEFITS LEGISLATION

Mr. CRANSTON. Mr. President, I rise today to express my support for title III of this legislation, authorizing benefits for members of the Armed Forces who served during Operation Desert Storm, and for the military personnel and veterans benefits amendment before us.

These provisions are an appropriate tribute to the fine men and women who served our Nation so proudly in the Persian Gulf. Many of those called for duty came from our Ready Reserves and National Guard. These individuals dropped what they were doing and left behind loved ones to defend our interests abroad. It is only appropriate that our military men and women not be penalized for their service and that they be provided benefits that are commensurate with benefits provided members of our armed services who have served in previous conflicts.

This comprehensive and timely package contained in S. 578 and in the leadership amendment before us reflects the work of the Persian Gulf Benefits Task Force of which I am a member. The task force worked hard to respond to the personnel issues which have arisen since August 2, 1990. I believe the provisions we are considering today are necessary and fair.

Many of these provisions update existing benefits, some of which have not been examined or updated since Vietnam. In others, we are extending benefits to the activated Reserves and National Guard members who may not be eligible for many of the benefits they so richly deserve.

The all-volunteer military has created a fighting force unlike those of previous eras. For the first time we have seen many women in combat zones. And, the men and women of our Armed Forces are not the young inductees of Vietnam. The Armed Forces of the 1990's are older and more mature, often with greater family obligations. These are soldiers and sailors who have made a conscious commitment to public service, often attracted to the military's education benefits and career opportunities, but always ready to serve.

Above all, the call to service is a call for sacrifice, and the sacrifice of the military member is not made alone. As we have seen so vividly in the television images of the first military personnel returning to the welcoming arms of their families, this is a sacrifice shared by the entire military family. Thus, I am pleased that we are delaying the effective date of the reduction in CHAMPUS mental health benefits until February 15, 1992, in recognition of the stress experienced by the military family left behind. And, of particular importance, we are providing funding for vital family assistance programs, including school-based programs and child care.

The programs related to public education are of great importance to my State of California. In this bill, we provide much-needed support for school-based programs that meet the needs of children and families impacted by Operation Desert Storm. These school districts have been unstinting in their efforts to provide special services, including counseling, to students and their parents suffering the psychological stress of the war. These are key humanitarian services and these districts need all the assistance they can provide.

Above all, we have worked to ensure that the veterans of this conflict who will be relieved from active duty have appropriate benefits and protections as they make the transition into civilian life.

VETERANS PROGRAMS

Mr. President, as chairman of the Committee on Veterans' Affairs, I urge my colleagues to give their unanimous approval to provisions of the pending measure that are derived from S. 386, the proposed Persian Gulf War Veterans' Assistance Act of 1991 as reported by the committee on February 26 and as incorporated in the leadership amendment, together with certain additional provisions that I urged be included.

Mr. President, the provisions of S. 386 before the Senate today include provisions derived from S. 336 as introduced by the Senator from Massachusetts

[Mr. KENNEDY] on January 31, 1991, and S. 386 as introduced for me by the Senator from Arizona [Mr. DECONCINI], who is the ranking Democratic member of the committee, on February 6, 1991. These bills are described in detail in the committee's report accompanying this measure (S. Rept. 102-16).

RESPONSIBILITIES TO VETERANS

Mr. President, this measure reflects the Senate's deep concern that the Nation full honor its obligations to the brave men and women in uniform who so brilliantly and effectively fought in and supported Operation Desert Storm. We are mindful of the tragedy that has struck the families and loved ones of the more than 150 servicemembers who died in the Persian Gulf area since August 8, 1990, and share the great anxiety for the 9 who are still missing in action. However, we are also extremely grateful that the American casualties were so many fewer than had been expected.

At the same time, we must remember that the success of this effort was the result of the dedication and personal sacrifices made by many hundreds of thousands of military personnel in the gulf area and elsewhere. It was also the result of the willingness of our service men and women in the Middle East to put their lives on the line for their country.

It is now our responsibility to ensure that we express in meaningful, tangible, and appropriate ways to those who served our Nation so well our gratitude and commitment to carrying out our responsibilities to them.

As chairman of the Veterans' Affairs Committee, I believe those responsibilities include ensuring that the system of laws, benefits, and services for veterans and their families is able to provide quality, timely, and responsive services. Helping to ensure this entails a wide range of efforts.

First, it meant putting in place the fiscal year 1992 COLA in VA service-connected disability compensation. After the effort to enact that legislation in S. 2100 last year was stalled as a result of the agent orange controversy, Congress acted swiftly this year to enact the COLA in Public Law 102-3, which was signed into law on February 6, 1991.

Second, this meant the legislation updating of the Soldiers' and Sailors' Civil Relief Act of 1940 and veterans reemployment rights law that, in H.R. 555/S. 330, the Senate and House passed in final form on February 21, and February 27, respectively, and is currently awaiting the President's signature.

Third, it means efforts to provide adequate funding for VA health-care services and benefits administration and Department of Labor-funded employment services. The support and appreciation being shown by the American people to those who served our Nation so brilliantly in the execution of Operation Desert Shield and Operation Desert Storm reflect the importance and priority that should be attached to programs for all of our Nation's veterans. Two truths must be recognized in the budget and appropriations process: First, the American people demand that the benefits and services for Persian Gulf War veterans must be responsive and timely and of high quality; second, major additions to the administration's budget for veterans' programs are absolutely essential in order for VA and the Department of Labor to be able to respond in this fashion.

I would also stress that it would be neither practical nor equitable to establish a higher quality of services for Persian Gulf veterans. Other veterans have served with great valor and made great sacrifices; they all deserve the necessary improvements that our efforts must make possible in veterans' programs.

For fiscal year 1991, I strongly support the $58 million supplemental included in H.R. 1218 (H. Rep. 102-9) by the House of Representatives for VA health care and benefits administration. In my view this is a first installment on providing more realistic, adequate funding levels for VA programs in fiscal year 1992.

I also urge the Senate Appropriations Committee to provide $4 million for DOL's Veterans Employment and Training Service in order to enable it to fulfill its responsibility to separating military personnel under the Transition Assistance Program, as mandated by the National Defense Authorization Act of 1991.

Fourth, meeting our obligation to Persian Gulf and other veterans means continuing major legislative efforts necessary for the provision of quality services. In this regard, Congress has cleared for the President's signature H.R. 180, a bill to make improvements in veterans' education and employment programs. One of the most significant provisions of that bill for Persian Gulf-period veterans would provide them with eligibility for veterans readjustment appointments in Federal service. In addition, the House and Senate Veterans' Affairs Committees have reached agreement on VA health-care personnel legislation that will update VA's program of physicians' and dentists' special pay in order to help VA deal with its current serious difficulties in recruiting and retaining doctors. That measure will also make significant improvements in VA labor-management relations with respect to its health-care workers. I will soon be introducing the final House-Senate compromise on this legislation and am hopeful of swift action in both bodies to enact this badly needed measure.

Fifth, we need to enact a COLA in Montgomery GI bill benefits. This program was enacted in 1984. As there has been no COLA enacted since that time, the value of these benefits has now been eroded by over 6 years of inflation. This is the GI bill program that will be used by most Persian Gulf veterans. I am today introducing a bill to increase those benefits by about 40 percent, to counter the effects of inflation.

Finally, Mr. President, we must quickly act on the measure before the Senate today.

In all these endeavors, we must act promptly so that the benefit of our action is available as these individuals return to civilian life.

VETERANS' PROVISIONS DERIVED FROM S. 386 AS REPORTED

Mr. President, this measure contains provisions which would extend to veterans of service during the Persian Gulf conflict the same eligibility for benefits and services as are available to the veterans of other periods of war; improve laws related to the reemployment rights of reservists called to active duty; and enable VA to employ retired Federal health-care specialists on a temporary basis as needed due to staff losses to the Reserves.

Specifically, Mr. President, the leadership amendment includes provisions of S. 386 as reported that would:

First, add to defined periods of war for title 38 purposes the Persian Gulf war, which would be defined as the period beginning August 2, 1990, the date that Iraq invaded the country of Kuwait. The period would end on a date to be determined by Presidential proclamation or by law.

Second, provide that service during the Persian Gulf period satisfies the service requirements for eligibility for the VA pension program—a needs-based benefit for wartime veterans who have non-service-connected disabilities rated totally disabling and the needy survivors of wartime veterans.

Third, make applicable to Persian Gulf period veterans the presumption for VA medical care purposes, that an active psychosis occurring within 2 years after a veteran's discharge or release from active military service that included service during a period of war is service connected.

Fourth, provide Persian Gulf period veterans with the same eligibility for medicines from VA that veterans of other periods of war have when they are receiving additional VA service-connected disability compensation, or increased VA non-service-connected disability pension, by reason of being permanently housebound or in need of regular aid and attendance.

Fifth, extend entitlement to VA readjustment counseling through VA vet centers to post-Vietnam-era veterans who served on active duty in areas in which, as determined by the Secretary of Veterans Affairs in consultation with the Secretary of Defense, members of the Armed Forces are subjected to danger from armed conflicts comparable to the dangers of combat with enemy armed forces during a period of war.

Sixth, provide that, notwithstanding the requirement that claims for reimbursement for burial payments from VA be filed within 2 years after the burial of the veteran, a claim for reimbursement for burial payments in the case of a veteran of the Persian Gulf period who died before the date of the enactment of the committee bill may be filed within 2 years after that date.

Seventh, provide for VA's Veterans' Advisory Committee on Education to include a representative of Persian Gulf period veterans.

Eighth, provide eligibility for VA housing loan benefits to veterans who served on active duty at any time during the Persian Gulf conflict and whose total service was for 90 days or more—which is the same period required for veterans of other war periods—provided that those veterans meet the minimum active-duty service requirements in section 3103A of title 38.

Ninth, require employers to take affirmative steps to provide necessary retraining for persons being reinstated to employment under the Veterans Reemployment Rights [VRR] law, codified in chapter 43 of title 38.

Tenth, require employers to make reasonable accommodations for disabled persons being reinstated under VRR laws.

Eleventh, authorize the Secretary of Veterans Affairs to employ retired Federal health-care specialists without their retirement annuities being reduced. In the legislation before us today, the Secretary's authority for waiving reductions in annuities would be for the period of the Persian Gulf conflict and not more than 1 year after the date of the termination of that period. The authority would be available for the purpose of enabling VA to replace temporarily reservists who were employed in VA health-care positions when called to active duty. For the purposes of this provision, the term "health-care specialist" would mean a physician, dentist, podiatrist, optometrist, nurse, physician assistant, expanded-function dental auxiliary, medical technician, or other medical support personnel.

ADDITION OF PERSIAN GULF WAR TO DEFINITION OF PERIOD OF WAR

Mr. President, under current law, section 101(11) of title 38, the term "period of war" is defined as the Spanish-American War, the Mexican border period, World War I, World War II, the Korean conflict, the Vietnam era, and the period beginning on the date of any future declaration of war by the Congress and ending on the date prescribed by Presidential proclamation or a concurrent resolution of the Congress. The definition of period of war does not constitute a declaration of war on the part of the Congress. It is used to determine eligibility for certain VA programs which I will describe below.

The leadership amendment would add the Persian Gulf war to the defined periods of war for title 38 purposes. The Persian Gulf war would be defined as the period beginning on August 2, 1990—the date that Iraq invaded the country of Kuwait—and ending on a date to be determined by Presidential proclamation or law.

ELIGIBILITY FOR VA PENSION

Mr. President, chapter 15 of title 38 provides for a monthly VA pension for veterans with limited income who served at least 90 days on active duty—or were discharged from service earlier because of a service-connected disability—part of which occurred during a period of war who are permanently and totally disabled from non-service-connected causes. Surviving spouses and dependent children of deceased veterans with wartime service are eligible for pension based on need if they meet the applicable income standards.

The leadership amendment would extend to veterans with service during the Persian Gulf period, and the surviving spouses and children of such veterans, the same eligibility for benefits under the VA pension program as is provided with respect to other wartime veterans.

PRESUMPTION RELATING TO PSYCHOSIS

Under section 602 of title 38, an active psychosis developed by any veteran of World War II, the Korean conflict, or the Vietnam era within 2 years after discharge is deemed to be a service-connected condition for the purposes of entitlement to VA health care. The leadership ammendment would make this presumption applicable to veterans of the Persian Gulf period.

ELIGIBILITY FOR MEDICINES

Mr. President, under section 612(h) of title 38, veterans who are receiving additional VA service-connected disability compensation, or increased VA non-service-connected disability pension, by reason of being permanently housebound or in need of regular aid and attendance, are entitled to receive from VA drugs and medicines that are prescribed by a licensed physician for the treatment of the veteran. Under this provision, VA also is required to continue furnishing drugs and medicines to such a veteran whose pension payments have been discontinued solely because the veteran's annual income exceeds the applicable income standard so long as the veteran's annual income does not exceed that maximum by more than $1,000.

The leadereship amendment would add veterans of the Persian Gulf period to the list of veterans of periods of war who are covered by this provision.

EXPANSION OF READJUSTMENT COUNSELING ELIGIBILITY

Under current law, section 612A(a) of title 38, entitlement for readjustment counseling services—which are furnished in VA vet centers—is limited to Vietnam-era veterans. There are vet centers, 197 community-based centers, located in all 50 States, Puerto Rico, and the Virgin Islands.

Mr. President, a provision of the leadership amendment that is identical to section 4(c) of S. 386 as introduced, which in turn was derived from section 202 of S. 127 as introduced on January 14, would expand entitlement to readjustment counseling to include veterans who served on active duty after May 7, 1975, in areas in which U.S. personnel were subjected to danger from armed conflict comparable to that occurring in battle with an enemy during a period of war. This provision is similar to legislation reported by the Veterans' Affairs Committee in the last two Congresses—section 605 of S. 2011 as reported on August 1, 1988, section 202 of S. 13 as reported on September 13, 1989, and section 202 of S. 2100 as reported on July 19, 1990. The administration also transmitted draft legislation for the same purpose in a January 29, 1991, letter from Secretary Derwinski. That measure was introduced on February 19, 1991, as S. 424.

As I noted a moment ago, over the past 3 years, the committee has favorably reported proposals that I authored to expand readjustment counseling services to veterans who have served since the end of the Vietnam era in combat situations and to veterans of earlier wars. This legislation would also have provided eligibility to combat theater veterans of World War I, World War II, or the Korean conflict and veterans of service in any other area during a period in which hostilities occurred which subjected Armed Forces personnel to danger comparable to that which Armed Forces personnel have been subjected during combat with an enemy during a period of war.

Mr. President, I am pleased that the administration, through its support for expanded entitlement, has recognized both the need among combat veterans for readjustment counseling and the value of the services provided at vet centers.

Situations in which our Armed Forces are exposed to combat situations short of declared war—such as existed in Beirut, Grenada, in connection with our actions against Libya, or in connection with the Persian Gulf conflict—can produce the need among those involved in them for readjustment counseling to help deal with the psychological aftermath of their combat-related experiences. It is particularly important in light of the current understanding—as noted in VA's testimony at the committee's July 14, 1988, oversight hearing on issues related to post-traumatic stress disorder [PTSD]—that early intervention be available to ameliorate the severity and persistence of PTSD symptoms. This expansion of entitlement to vet center services for Persian Gulf veterans is one way to provide for early intervention.

BURIAL AND FUNERAL EXPENSES

Section 902 of title 38 authorizes VA to pay up to $300 for the funeral and burial expenses of (a) veterans who were receiving compensation or pension when they died, and (b) wartime veterans who had wartime service or were discharged for injuries incurred in the line of duty if there is no next of kin claiming the body and there are insufficient resources to cover the burial and funeral expenses. Pursuant to section 904 of title 38, a claim for such expenses must be filed with a 2-year period following the death of a veteran.

Because of VA's authority to pay burial and funeral expenses depends, in some situations, on the deceased veteran's status as a "veteran of any war" and, until the date of enactment of this legislation, the Persian Gulf conflict will not be designated a period of war, the leadership amendment would provide that applications for burial and funeral expenses for veterans of the Persian Gulf period who died prior to the date of enactment of this measure could be filed within the 2-year period following the date of enactment.

MEMBERSHIP OF EDUCATIONAL BENEFITS ADVISORY COMMITTEE

Section 1792 of title 38 provides for a Veterans' Advisory Committee on Education to advise the Secretary with regard to the administration of the educational assistance programs in chapters 30, 32, and 35 of that title. The committee is composed of persons who are eminent in the fields of education, labor, and management; representatives of institutions and establishments furnishing education to eligible veterans or persons enrolled in the above-mentioned educational assistance programs; and veterans representative of World War II, the Korean conflict era, the post-Korean conflict era, the Vietnam era, and the post-Vietnam era. The leadership amendment would extend membership on the Veterans' Advisory Committee on Education to veterans representative of the Persian Gulf period.

LOAN-GUARANTY ENTITLEMENT

Section 1803(a)(2) of title 38 establishes eligibility criteria for entitlement to VA home-loan guaranty benefits. Eligible persons include (a) veterans who served on active duty at any time during World War II, the Korean conflict, or the Vietnam era and whose total service was for 90 days or more; (b) veterans discharged or released for a service-connected disability; (c) any other veteran who either served after July 25, 1947, for more than 180 days; and (d) active-duty personnel who have served on active duty for more than 180 days and continues on active duty without a break in service.

Section 3103A of title 38 imposes additional eligibility requirements for all VA benefits, including home-loan guaranty entitlement. Generally, veterans who enlist in the Armed Forces after September 7, 1980, or otherwise enter on active duty after October 16, 1981, must complete at least 24 months of continuous active duty or their full tour of active duty, whichever is less.

The leadership amendment would expand eligibility for home-loan guaranty entitlement to veterans who served at least 90 days of active duty during the Persian Gulf period, provided the veteran also meets the qualifications under section 3103A of title 38. The effect of this provision would be to reduce from 180 days of active duty to 90 days the minimum-service requirements for Persian Gulf period veterans who are reservists and serve full active-duty tours of less than 180 days.

Section 3103A of title 38 provides that an eligible person being discharged serve the shorter of 24 months of continuous active duty or "the full period for which such person was called or ordered to active duty." It is our intent and understanding, based on discussions with VA, that a reservist whose unit is returned to inactive status early under appropriate orders be considered to have served "the full period for which such person was called" even though he or she did not actually remain on active duty for the number of days stated in his or her activation orders.

Mr. President, the brave men and women who served during the Persian Gulf period deserve all of the benefits and services that this grateful Nation has extended to the veterans of other wars. Our committee believes that defining the Persian Gulf war period for the purposes of the above-mentioned title 38 purposes is an essential part of recognizing the sacrifices made by these veterans.

VETERANS' REEMPLOYMENT RIGHTS AMENDMENTS

Mr. President, under the veterans' reemployment rights law, as codified in chapter 43 of title 38, persons who leave civilian jobs in order to enter active-duty service in the Armed Forces, voluntarily or involuntarily, generally are entitled to return to the same civilian jobs after being discharged from active duty under honorable conditions if those jobs are "other than temporary" and application for reemployment is made with the preservice employer within 90 days after separation from active duty. The VRR law applies to persons who are inducted into the Armed Forces, to persons who volunteer directly for active duty, and to reservists who are called to active duty.

Current law requires an employer to restore an eligible person who is still qualified to perform the duties of the position to his or her previous position or to a position of like status and pay and with the amount of time spent in the service credited for purposes of seniority. If the returning servicemember is not qualified to perform the duties of his or her previous position due to a disability sustained during active-duty service, but is qualified to perform any other position, the employer is required to offer that person a position which most closely approximates the previous seniority, status, and pay, consistent with the circumstances of the individual's case.

A provision of the leadership amendment derived from section 2 of S. 336 would require an employer to make reasonable efforts to requalify a returning servicemember who is no longer able to perform the duties of his or her previous position. This provision would ensure that servicemembers who, by reason of absence while serving on active duty, missed opportunities to acquire new skills necessary to meet the changing requirements of their previous jobs would be given a reasonable amount of time and assistance by their employers in order to become requalified. This provision would take effect with respect to individuals who entered active duty after July 31, 1990.

The leadership amendment also contains a provision, derived from section 3 of S. 336, which would amend chapter 43 of title 38 to add a new section 2027, entitled "Qualification for employment position." This new section would make the law relating to reemployment of disabled veterans consistent with the Americans With Disabilities Act of 1990, Public Law 101–336, by requiring employers to make reasonable accommodations for them when necessary. Section 101(9) of the ADA defines "reasonable accommodation" to include making existing facilities used by employees readily accessible to and usable by individuals with disabilities; job restructuring, part-time or modified work schedules, reassignment to a vacant position; acquisition or modification of equipment or devices; appropriate adjustment or modifications of examinations, training materials or policies; the provision of qualified readers or interpreters; and other similar accommodations.

Under this new section, a returning servicemember would be considered qualified for an employment position if he or she can perform the essential functions of that position with reasonable accommodation. The term "reasonable accommodation" would be defined by reference to section 101(9) of the ADA. This provision also would take effect with respect to individuals who entered active duty after August 1, 1990.

REEMPLOYMENT OF RETIREES

Mr. President, in a leadership amendment provision derived from section 10 of S. 386 as reported, VA would be authorized to employ on a temporary basis retired Federal health care specialists without a reduction in their Federal retirement annuities. Thus, this provision would give the Secretary of Veterans Affairs limited authority to waive sections 8344 and 8468 of title 5, which require reductions in annuity payments to reemployed retirees. Waivers would be authorized only to the extent that the Secretary of Veterans Affairs determines that they are necessary for VA to recruit health care personnel who are needed due to staff lost to the Reserves. As a result of earlier committee and congressional action, VA already has such authority—in section 4107(i) of title 38—with respect to hiring physicians and nurses who have retired from military service.

The provision in the leadership amendment would extend to VA an authority granted to the Office of Personnel Management in the Federal Employees Pay Comparability Act of 1990 (Public Law 101-509). Section 108 of that act amended sections 8344 and 8468 of title 5 so as to permit the Director of OPM, at the request of the head of an executive branch agency, to waive the provisions pertaining to the reduction of retirement annuities for reemployed retirees on a case-by-case basis in emergency situations involving a direct threat to life or property or other unusual circumstances.

The leadership amendment would allow the Secretary to waive section 8344 or 8468 of title 5 without first obtaining the approval of the Director of OPM, but limit such authority to a time period relating to the Persian Gulf conflict. The authority provided by this provision would enable VA to rehire retirees in a timely fashion and thus more readily fill positions vacated by activated reservists and supplement staff in medical centers which may experience an increase in the number of patients admitted. The ability to replace health care staff on an expedited basis is essential for VA to fulfill its responsibility to provide quality health care to veterans of previous wars.

Any such waiver would take effect upon receipt by the Director of OPM of a written notice from the Secretary of Veterans Affairs and may extend during the Persian Gulf conflict and for not more than 1 year after the termination of that period.

In recent months, VA's persistent difficulties in the recruitment and retention of health care specialists have been exacerbated by two unrelated situations—activation of reservists and changes in the Federal civilian employees' retirement system. As of February 7, 1991, 2,174 reservists employed by VA had been called to active duty, including 222 physicians and 893 nurses. The callup of reservists has caused many VA medical centers to lose highly skilled health care specialists whom they may have difficulty replacing, such as anesthesiologists and critical care nurses.

In addition, suspension of the alternative form of annuity program pursuant to the Omnibus Budget Reconciliation Act of 1990 forced employees to retire by November 30, 1990, if they wished to receive their contribution to the Federal Employees' Retirement System in the form of a lump-sum payment. As a result of the suspension of the lump-sum option, 1,182 VA employees retired in November 1990, a dramatic increase from the monthly average of 500 during the previous decade. These VA retirees, already well-versed in VA procedures, could provide an excellent pool of personnel from which VA could pull support during this crisis.

Mr. President, the cost of reemploying retirees without their suffering a reduction in their pensions would result in no direct cost to VA. In fact, our committee expects that VA would use this authority only in those situations in which it would provide a cost-effective means for filling vacant positions.

ADDITIONAL PROVISIONS

Additional veterans' provisions contained in the leadership amendment, which I had planned to develop and propose in a committee modification to S. 386 as reported, include provisions which would:

First, increase MGIB education entitlement for reservists from $140 per month to $290 per month for each month an activated reservist served on active duty in connection with the Persian Gulf war.

Second, extend the delimiting date for reservists' education entitlement by the length of their periods of active duty, and provide that reservists are not to be considered to have been separated from the Selected Reserve for education benefit purposes by reason of their active duty service.

Third, restore educational assistance entitlement for participants in programs under chapters 30 (active duty MGIB), 32 (VEAP), and 35 (dependents and survivors educational benefits) of title 38 and chapter 106 of title 10 (reservists MGIB), who had received payment of a monthly allowance in connection with their pursuit of a course but who were called to active duty—or, in the case of an active-duty servicemember—were assigned duties during the Persian Gulf war that caused a failure to complete the course.

The leadership amendment would also: First, provide for an 8.3-percent cost-of-living increase in Montgomery GI bill educational assistance benefits for active-duty servicemembers and for reservists who were activated in connection with the Persian Gulf conflict; and second, increase the monthly payroll deduction from $100 to $110 during the first 12 months of their service for active-duty servicemembers who participate in the MGIB Program.

INCREASED MONTGOMERY GI BILL BENEFITS FOR ACTIVATED RESERVISTS

Mr. President, the provision to increase the MGIB benefit for certain reservists is one that I developed in cooperation with the distinguished Senator from Illinois [Mr. SIMON], who introduced S. 337.

Reservists currently are entitled to $140 monthly in education benefits under the MGIB program established in chapter 106 of title 10. These reservists, who left their civilian lives and careers to support and serve alongside active duty servicemembers in the Persian Gulf, will have an education benefit that is less than half of the benefit provided to their fellow soldiers who participate in the MGIB educational assistance program for active duty servicemembers.

This measure would provide educational equity for reservists who served on active duty during the Persian Gulf war by increasing their education benefit under the chapter 106 program to $290 for each month that they served on active duty during this period. I believe that reservists who are asked to make the same sacrifices as other servicemembers during a period of war deserve a comparable educational benefit. The difference between the amount to be paid to reservists and the active duty entitlement under chapter 30 recognizes that these reservists, unlike chapter 30 participants, were not required to make a payroll contribution to the educational assistance program.

DELIMITING DATE FOR RESERVISTS' EDUCATION ENTITLEMENT

Mr. President, the provision to extend the delimiting date for reservists' educational entitlement under chapter 106 of title 10 by the length of their period of active duty is derived from S. 490 as introduced by the Senator from Oklahoma [Mr. BOREN]. Current statutory requirements allow reservists to use their education benefits during the 10-year period following their attaining eligibility or until they are separated from the Selected Reserve, whichever occurs first. This provision would ensure that, as a practical matter, reservists do not have any less time in which to use their benefits by reason of their active duty service in connection with the Persian Gulf war. It also would provide that they are not considered to have been separated from the Selected Reserve for education benefit purposes.

RESTORATION OF EDUCATIONAL ASSISTANCE ENTITLEMENT

Mr. President, many active duty servicemembers and reservists had to leave school in order to serve in the Persian Gulf or in support of military operations there. A second provision derived from S. 490 would restore educational assistance to participants in programs for active-duty servicemembers, dependents and survivors, and reservists who had received payment of educational benefits, but were unable to complete their courses as a result of a change in their duties, or their activation, in connection with the Persian Gulf war. Servicemembers who were called from the classroom to serve on active duty would have their entitlement restored so that upon returning they could resume their educational pursuit with the full entitlement that they had before their activation.

INCREASE IN MONTGOMERY GI BILL BENEFITS

Mr. President, most active-duty servicemembers and reservists who participated in Operation Desert Storm are entitled to educational benefits under the Montgomery GI bill. There has been no COLA in the MGIB rates since the program was enacted in 1984. The cost of education at 4-year public colleges has increased by 43.2 percent over the last 6 years and overall inflation as measured by the Consumer Price Index has been roughly 36.5 percent.

Yesterday I introduced legislation, S. 633, to provide a benefit increase of approximately 40 percent.

Those who have kept our Nation strong and who served in the Persian Gulf certainly deserve to have a GI bill rate increase of this magnitude so that their benefits are not so seriously eroded by inflation. To help address the diminished purchasing power of MGIB benefits, the leadership amendment would, effective August 1, 1991, increase the MGIB benefit for active duty from $300 to $325 a month for full-time pursuit for those serving on active duty for three years or more and from $250 to $271 for full-time pursuit for those who serve 2 years on active duty and four years in the reserves. Although these rates do not bring the 1984 educational assistance benefit to the level in current dollars that was originally intended by Congress, it is a start, and it is in some way serves as recognition of this Nation's gratitude for sacrifices made during the Persian Gulf war.

In keeping with increases in military pay rates for the lower enlisted grades since 1984, this measure would also increase the monthly payroll deduction for chapter 30 participants—made during the first 12 months of their service—from $100 to $110, effective October 1, 1991. This 10-percent increase is less than half the rate at which basic pay has increased since 1984.

A comparable benefit increase would be provided in the rate for GI bill benefits under chapter 106 of title 10 for reservists who were called to active duty during the Persian Gulf war. This legislation would increase the monthly rate from $140 to $152 for full-time study under chapter 106. This COLA for those reservists who served on active duty at this special time of need is another way of saying to them that we value what they did and hope that this increase in their educational assistance can make this a more meaningful benefit for them.

CONCLUSION

Mr. President, it is important to our dedicated men and women in uniform, many of whom were civilians before recently being activated as reservists, that we show our support and that we provide them with benefits equal to those provided service personnel in other periods of war and appropriate to the circumstances of the Persian Gulf conflict. Thus, I urge the Senate to give its unanimous approval to this legislation.

Mr. President, I wish to thank, for their leadership and cooperation in developing the veterans provisions in this measure, the majority leader, Mr. MITCHELL, the Republican leader, Mr. DOLE, the ranking minority member of the Committee on Veterans' Affairs, Mr. SPECTER, and Senators BOREN, DECONCINI, KENNEDY, and SIMON, as well as all other members of the Veterans' Affairs Committee, Mr. ROCKEFELLER, Mr. GRAHAM, Mr. AKAKA, Mr. SIMPSON, Mr. MURKOWSKI, Mr. THURMOND, and Mr. JEFFORDS.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask may I proceed out of order.

The PRESIDING OFFICER. Without objection, it is so ordered.

CIVIL RIGHTS—SEARCHING FOR A NEW ADVERTISING PITCH

Mr. DOLE. Mr. President, the beltway civil rights lobby is looking for a new advertising pitch. The so-called civil rights bill—with its racial quotas and lawyer's provisions—is just not selling with the American people.

Fearing a nosedive in public credibility, the civil rights marketing gurus have hastily devised a new consumer outreach strategy.

The strategy is to change the focus of the quota debate by giving the quota bill a fancy new name.

It is no longer the Civil Rights Act of 1991. It is now the Civil Rights and Women's Equity in Employment Act of 1991.

It is no longer a racial spoils and quota bill. It is a bill for persons with disabilities, for working people, and yes, for our Nation's women.

Or so they say.

Mr. President, the American people will not be fooled by this Madison Avenue gimmick. It is the same product, same design, same bill, same quotas.

A quick change in the label changes nothing but the ad copy.

And it does nothing to address the very real problems facing black America today—joblessness, crime, and access to quality schools.

Mr. President, the fact that the civil rights lobby has made H.R. 1 its top priority suggests that they are running out of good ideas, that they have slipped from the moral high ground to which they once had an indisputable claim.

Hiring quotas and lawyer's fees may make some people happy.

But they are a pariah to the overwhelming majority of Americans.

And they are no substitute for good education, safe streets, and equal opportunity.

An article appearing in today's Washington Post—written by the liberal columnist William Raspberry—makes these very points.

I urge all my colleagues to read this article, which reaffirms that President Bush's civil rights bill offers the fair and responsible approach to solving the very real problems of racial discrimination and sexual harassment.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHY CIVIL RIGHTS ISN'T SELLING: TOO MANY PEOPLE JUST DON'T BELIEVE IN THIS BILL

(By William Raspberry)

The American civil rights leadership reminds me of the American automobile industry: hoping for a return to the days when its products had worldwide appeal, playing with nameplates and psychological gambits, willing to do almost anything to restore consumer interest. Anything, that is, except the one thing that might work: a better line of products.

The Civil Rights Act of 1991, whose passage the civil rights establishment has declared as its No. 1 goal for the year, illustrates the point.

It is a slightly reworked (not to say improved) version of last year's model, vetoed by President Bush, who insisted it was a "quota bill." This year's effort to enact it—over another veto if necessary—has begun with a change of the nameplate. It is no longer a bill for blacks, designed to restore civil rights law to what it was before a series of Supreme Court decisions made it harder to sue for discrimination. It is now a bill for the disabled, for working people and, oh yes, of course, for women.

It is all those things, in fact. But the point is that instead of trying to show that the legislation is important to interests Americans care about, or working to make it more acceptable to business leaders who really do fear it could lead to racial quotas, the civil rights establishment is trying to sell the bill by changing the ad copy.

The tactic would be questionable enough if the bill were perfect. It isn't. And if the Leadership Conference on Civil Rights will forgive me, in the context of the problems confronting black America, it may not be all that important.

Yes, that 1989 series of court decisions made it harder for minorities to win class-action discrimination suits and called set-aside contracting programs into question. And yes, it would be helpful to go back to where we were before those decisions—not to quotas but to fairer access to opportunity. The Civil Rights Act of 1991 ought to be enacted.

But are the rules governing "disparate impact" suits and minority set-asides of such overriding importance that they should constitute the No. 1 priority of our leaders? I don't think so. The problems most critically affecting black America are the joblessness and despair of our young people, the academic indifference of our children, the dissolution of our families, the destruction (by crime and drug trafficking) of our neighborhoods, the economic marginality of our people. And the Civil Rights Act of '91 won't do a blessed thing about these problems.

Worse, it threatens to divide America along racial lines, when—in my view, at least—white America stands ready to support racial programs and policies it believes to be fair.

An unpublicized survey commissioned by the Leadership Conference on Civil Rights, a coalition of civil rights, labor, women's and disabled organizations, makes the point. White Americans, that survey revealed, see the black leadership as no longer concerned with fairness but only with group advantage. These whites—including such key swing-vote groups as blue-collar workers, lower-income youthful voters and the economically insecure—do not see themselves as racists, or as opponents of equal opportunity and fundamental fairness. What they oppose are efforts to provide preferential benefits for minorities, which they see as the main commodity of the civil rights leadership.

They aren't buying. How could we expect them to buy a product we have spent 400 years trying to have recalled: race-based advantage enshrined in the law?

The black consensus is that white resistance to the agenda of the civil rights leadership is nothing more than latter-day racism, a new mean-spiritedness that is 180 degrees away from the attitudes that helped to produce earlier civil rights legislation. My own view is not that white people have changed but that black people's goals have been transformed. We still say we want to be judged by the "content of our character," but our agenda is based on the color of our skin.

Well, suppose we came up with another product line based on the ideals we hold in common: equal opportunity, equitably enforced; programs designed to heal the crippling effects of past discrimination; hiring and promotion and college placement based on individual achievement and potential, sensitively evaluated; policies to enhance the academic and career prospects of young people who have had too little opportunity.

Suppose we ended production of the old model, which, designed to appeal to white guilt, no longer is selling and replaced it with a new model whose chief marketing points would be its orientation toward solutions (as opposed to blame-assignment) and its unambiguous fairness.

I, for one, think it would sell. I think it would do more for those most in need of society's help. And I think that America would be a better place because of it.

Mr. DOLE. I reserve the remainder of any leader time and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I ask unanimous consent to be added as a cosponsor to the bill introduced by Senator BREAUX to repeal the luxury tax on boats.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanious consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mr. SHELBY). Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I ask unanimous consent that I may proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE TOUGH CHOICES

Mr. SIMPSON. Mr. President, there is no one better than the Republican leader in expressing a view accurately and with superb precision. His article in today's Wall Street Journal is a vivid example of the clarity he inevitably brings to any issue here.

In this remarkable arena, we earn our pay and our jobs by making the tough choices. We are wholly accountable for every single vote that we cast. Those of us who supported the President in the resolution authorizing use of force were certainly often reminded of that political fact of life several times during the course of that very thoughtful and energetic debate. It was one of the finest, on both sides of the aisle, that I have participated in in my time in the U.S. Senate.

But to assert that some shield of political immunity be now provided to legislators when they make bad choices is entirely ludicrous. I can assure you, without any question or mental reservation or evasion whatsoever, that the 52 Members of us in this body, Democrat and Republican alike, who supported the President would not have been granted some general political amnesty had the war gone wrong or gone sour and not have been concluded in such a highly successful manner.

So throughout the course of our legislative careers—and I have legislated in the State legislature and many of my colleagues have done that also—we expect to be and we are fully accountable to the electorate for every single one of our votes. There is no such thing as a free ride around here, nor should there ever be. We vote and take our lumps or the plaudits. That is the way it works. It is a unique system. It is called accountability, and it is the tap root of democracy.

Mr. President, I ask unanimous consent that the splendid article by Senator DOLE in today's Wall Street Journal be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BY BOB DOLE

As a proud America welcomes home its Desert Storm heroes, it is sobering to remember that a shift of only three votes in the Senate nine weeks ago could have turned this smashing victory into a catastrophe.

Despite all the new talk these days about "unity," we should not forget that the Senate, after being AWOL for more than two crucial months, backed the president by a timid 52-to-47 vote. Put three of those winning votes with the 45 Democrats (and two Republicans) who voted against Operation Desert Storm, and suddenly you have the Senate forcing the president to blink as he goes face-to-face with Saddam Hussein.

As Saddam found out, President Bush didn't blink. Neither did the American people nor Colin Powell, Dick Cheney, Norm Schwarzkopf, and the world's finest fighting men and women. Faced with the toughest decisions of his life—and our time—President Bush made the right calls. And thank God he did.

We now know—categorically—that sanctions were a losing game, despite the passionate claims of the opposition. We now know that sanctions would have been a gift-wrapped timeout for Saddam Hussein; a morale-busting stand-down for a half million American troops sweating it out in the desert; and a free pass for Saddam Hussein to resupply his war machine, dig his troops in deeper, and take full advantage of increasingly leaky international sanctions.

ONLY THREE VOTES

We now know that sanctions would have meant another six months, a year, two years for Baghdad to develop chemical, biological and nuclear weapons; another holiday for Saddam's henchmen, behind closed doors in Kuwait, to intensify their grisly reign of terror; another reprieve to shelter hundreds of Scud missiles aimed at Israeli and Arab civilians.

Let's face it. Desert Storm's defeat in the U.S. Senate would have been one of history's most serious blows against a president in a crisis—remember, only three Senate votes stood between the stunning success of Operation Desert Storm and allied disaster.

Hard to believe now, but two months ago, on the Senate floor, here's what some of my distinguished colleagues on the other side of the aisle said about the President's tough stance against the invasion of Kuwait:

"President Bush appears to be on the verge of making a terrible mistake that will have tragic consequences for the whole world."

"The administration is making a great mistake."

"War would be a tragic mistake."

"We are on a disastrous course."

"The rush to combat now . . . is . . . tragically shortsighted."

"The President . . . has moved in the wrong direction."

"We are going to make such a tremendous blunder."

"The President is marching this country toward a senseless and unnecessary war."

"The President is wrong to have threatened Iraq with war."

"The President should retreat "back to the defensive positions of the period up to Nov. 8th."

"I suggest that it is a special arrogance that assumes that we can somehow bring peace" to the Persian Gulf region.

American forces could well be "bogged down by sandstorms and a determined enemy."

"I believe it would be better policy for the United States to cease from threatening war if Saddam Hussein does not withdraw from Kuwait."

One Democratic senator went so far as to say that "we should stay the course . . ., not lurch to war under the illusion that it will be cheap, short, heroic or conclusive." Another declared "about the only certainty is that we are not going to be hailed as heroes or liberators in many corners of the Arab world."

Never before have so many been so wrong about so much.

And never before have so many been so defensive about one vote, which is all the more reason that a re-reading of the debate is in order:

"The essence of democracy is accountability."

"Not a single one of us can escape the judgment of history which will be rendered upon the actions we take today. . . . We cannot escape history."

"Future generations will sit in judgment of our success or our failure."

Those aren't my words—those are the words of prominent Democrats on the floor of the Senate, some of the same senators who are now doing all they can to duck accountability for their votes against Operation Desert Storm.

When it came to what many described as the most important vote of their careers, 45 Senate Democrats voted against the President, against launching Operation Desert Storm. I respect each and every one who voted that way. It was a tough call. I don't question the patriotism of a single member.

But you can't have it both ways. When the chips are down, you have to take a stand—your constituents expect no less. Those of us who supported the president certainly understood the possible consequences of our votes.

Believe me, I have had a few of my votes called into question in re-election campaigns, but I have never had the luxury of singling out votes as "off-limits," as many Democrats are now demanding.

It's sad how some politicians, even as the first war heroes are coming home, are trying desperately to push our national celebration off the front pages, raining on the parade before it even starts.

A TOUGH CHALLENGE

No one should ever talk about the vote authorizing force, we are told. Instead, we must talk about their liberal "domestic agenda," complete with doom and gloom forecasts, laundry lists of big-ticket federal programs and new taxes.

In his dramatic address to Congress last week, President Bush tossed the domestic issue right back at Congress with a tough challenge of his own: If we can win the land war in 100 hours, surely Congress can stop talking and enact meaningful legislation in 100 days.

Many pundits are predicting that 1992 will be the next test of accountability, that "essence of democracy." Our votes on the domestic agenda will no doubt be part of that test. Like it or not, so will our votes for, or against, Desert Storm.

Looking back at the Senate debate, I see at least one Democrat agrees: "If we are wrong and the American people want to go to war, then in the election of 1992 I assume those people who feel my vote was wrong will vote against me."

Mr. FOWLER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KOHL). Without objection, it is so ordered.

DEPARTMENT OF DEFENSE DESERT STORM SUPPLEMENTAL AUTHORIZATION AND MILITARY PERSONNEL BENEFITS ACT

The Senate continued with the consideration of the bill.

Mr. WELLSTONE. Mr. President, I fully support—and indeed have worked to help put together—the legislation for military personnel benefits. This benefits package justly recognizes the contributions of the men and women who served so honorably in the Persian Gulf and recognizes the hardships of the families—the wives, the husbands and the children—of our service personnel.

I was proud to work as a member of the task force which helped shape this bill. I thank Senator GLENN for his leadership on the task force and the leadership of both parties which forged the leadership agreement.

This bill provides for a wide range of benefits for the troops, including increased hostile fire or imminent danger pay, transitional medical coverage and clarification of employment rights. The bill also provides for a range of benefits for the families of the troops, including child care assistance and education and family support services.

I am pleased that these essential veterans and personnel benefits will be funded out of Department of Defense accounts to pay for incremental costs of Operation Desert Shield.

I hope we can welcome the troops home in another way, too, by focusing our energies and our commitment to moving forward on the home front to address urgent domestic issues—to health care, to education, to energy policy, to the economy. There would be no better reward for the troops coming home than to show them and their fellow citizens that we are committed to a better, fairer America.

VITIATING RESTRICTION ON OFFERING OF AMENDMENTS

Mr. MITCHELL. Mr. President, the Republican leader and I have discussed this bill, and pursuant to the agreement entered earlier, I vitiate the restriction on the offering of amendments.

The PRESIDING OFFICER. The majority leader has that right.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, for the information of Senators, we have just completed a series of meetings involving the Republican leader, myself, the distinguished managers of the bill, the chairman and ranking member of the Armed Services Committee, and several other Senators who have an interest in this bill. I believe and I hope that we are now in a position to move promptly on this bill.

There will be no rollcall votes this evening.

The Senator from Virginia will shortly seek recognition for the purpose of offering an amendment thereafter the Senator from Georgia will seek recognition to offer a substitute amendment. Those amendments will be debated thoroughly this evening. That will be the business of the Senate this evening. It is an important issue, one which warrants full and careful discussion, as I know will occur with these two Senators involved.

Then that will be the pending business tomorrow morning. We will then return and I hope then, following further discussion with the managers and with the Republican leader, to be in a position to announce further action on the bill at that time tomorrow morning.

Mr. DOLE. If the Senator will yield, the majority leader is correct. I would encourage my colleagues on this side, tomorrow morning, unless they just feel compelled to offer an amendment, they not offer the amendment.

There have been a number of Members on both sides working on the benefit package for weeks, probably a couple of months. It has been bipartisan, totally open, with plenty of opportunities, and we have tried to put together a responsible package. I think we have that now. I hope we can complete action on it fairly quickly. I will be cooperating with the majority leader in that effort.

Mr. MITCHELL. Mr. President, I thank the distinguished Republican leader and the managers, Senator NUNN and Senator WARNER.

This has been one of those situations in which there have been extended private discussions which I think, indeed I am confident, will result in more prompt disposition of the legislation than would otherwise have been the case. That at least is my hope.

I am very grateful to all Senators who participate in this.

I repeat for the information of Senators there will be no rollcall votes this evening. However, we do expect rollcall votes tomorrow, and we hope to dispose of this bill in the near future.

Again, I thank my colleagues and I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Virginia.

Mr. WARNER. I thank the distinguished majority leader and Republican leader. Indeed, they have counseled with the chairman of the Armed Services Committee, myself, and others. I think by the proposed action which I will initiate shortly we can keep this bill and the momentum going through the early evening hours.

I would propose now to forward my amendment to the desk for immediate consideration and then yield the floor for the distinguished chairman of the Armed Services Committee to send up his amendment in the second degree in the nature of a substitute. If then I can regain the recognition of the Chair, I would propose for a brief period to outline the purposes of my amendment. Since I have had a considerable period today to do that, I would then engage in a colloquy with my chairman.

AMENDMENT NO. 30

(Purpose: To express the sense of Congress regarding the development and testing of ballistic missile defense systems)

Mr. WARNER. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 30.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At an appropriate place in the bill, insert the following new section:

(a) FINDINGS.—Congress makes the following findings:

The growing proliferation of ballistic missile technology and weapons of mass destruction clearly represent an increasing threat to our forces overseas, as witnessed in the Persian Gulf war.

According to the Director of Central Intelligence, William Webster, by the end of the century 15 to 20 developing countries will be capable of producing ballistic missile capabilities; at least six developing countries will have ballistic missiles with ranges over 2,000 miles, of which, at least three of them may develop missiles with ranges of over 3,400 miles that, in some cases, could threaten the United States.

The devastation and loss of life from ballistic missile attacks was evident in the Scud attacks against Saudi Arabia and Israel.

The concern of widespread ballistic missile proliferation is compounded by growing ethnic unrest and political instabilities in the Soviet Union which could increase the possibilities of unauthorized or accidental use of ballistic missiles.

The SDI program has made remarkable progress in the research of technologies aimed at defending against ballistic missiles.

While the demise of the Warsaw Pact represents a major favorable change in the United States-Soviet relationship, the Soviet Union nonetheless remains, at the present time, the only country that has the nuclear and ballistic missile capability to threaten the United States.

Despite its enormous economic difficulties, the Soviet Union is continuing its relentless strategic offensive and defensive modernization program within the currently defined numerical START limits.

The ABM Treaty of 1972 was negotiated under a significantly different world situation and state of technology than the United States faces today.

Article 5 of the ABM Treaty of 1972 prohibits the development, testing, and deployment of those ABM systems or components described in Article 2, which are sea-based, air-based, space-based, or mobile land-based.

Continuing restrictions on the development and testing of ABM systems unduly restricts effective demonstration of ballistic missile defense technology and unnecessarily complicates ABM experiments, which results in added risk to the program schedule and increased cost to taxpayers.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) The United States, its forces, its friends and allies face a growing threat from ballistic missile strikes.

(2) It is in the national interest of the United States to protect the United States, its friends and allies and United States forces overseas from ballistic missile strikes.

(3) It is in the national interest of the United States to be permitted to develop and test ballistic missile defense systems and components, without restriction as to mode or environment, and therefore the Administration should negotiate and sign with the Soviet Union, within two years or less, an agreement which would clearly remove any limitations on the United States having effective defenses against ballistic missiles.

(4) During the period described in clause (3), in expectation that such an agreement will be signed, the Secretary of Defense should undertake preparations for the development and testing of systems and components designed to defend the United States and its armed forces, wherever deployed, from ballistic missiles even though some of the actual development and testing may not be permitted by the ABM Treaty of 1972.

(5) If such an agreement is not reached within the period described in clause (3), the President should make immediately a determination as to whether continuing United States adherence to the terms of the ABM Treaty of 1972 is in the United States national interest, and should immediately thereafter advise Congress of such a determination.

AMENDMENT NO. 31 TO AMENDMENT NO. 30

(Purpose: To provide for enhanced research, development, test, and evaluation relating to ballistic missile defense)

Mr. NUNN. Mr. President, I send an amendment to the desk in the nature of a substitute and ask that it be reported.

The PRESIDING OFFICER. The clerk will report the amendment.

Mr. NUNN. Mr. President, this amendment is on behalf of myself, Senator HEFLIN, Senator SHELBY, Senator DIXON, and Senator BINGAMAN.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for himself, Mr. HEFLIN, Mr. SHELBY, Mr. DIXON, and Mr. BINGAMAN, proposes an amendment numbered 31 to amendment No. 30.

Mr. WARNER. Mr. President, I ask unanimous consent on behalf of the chairman and myself to dispense with reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the pending amendment, strike out all after "(a)" and insert in lieu thereof the following:

PROCUREMENT OF NEW PATRIOT MISSILES.—Of the amounts authorized to be appropriated to the Army for procurement of missiles for fiscal year 1991, $224,000,000 shall be available for the procurement of Patriot missiles and Patriot fire units. Such amount is in addition to amounts otherwise made available for the procurement of such items for fiscal year 1991 by this Act or any other Act.

(b) ACCELERATION OF RESEARCH AND DEVELOPMENT FOR NEAR-TERM ANTI-BALLISTIC MISSILE DEFENSES.—Of the amounts authorized to be appropriated to the Department of Defense for the Strategic Defense Initiative for fiscal year 1991, $487,000,000 shall be available for ground-based sensors and interceptors designed for early deployment to protect the United States against attack by strategic ballistic missiles, as follows:

(1) For E2I (project 2203), $95,000,000.

(2) For exoatmospheric interceptor GBI-X (project 2202), $142,000,000.

(3) For ground-based radar (project 2104), $150,000,000.

(4) For ground surveillance and tracking systems (project 2103), $100,000,000.

(c) ADMINISTRATIVE ADJUSTMENT OF INITIAL FY91 SDI ALLOCATIONS.—(1) The Secretary of Defense shall adjust—

(A) the initial FY91 SDI allocation for each Strategic Defense Initiative program, project, or activity referred to in subsection (b) in accordance with such subsection; and

(B) subject to paragraph (3), the initial FY91 SDI allocation for the other Strategic Defense Initiative programs, projects, and activities as necessary to ensure that the total amount allocated among the Strategic Defense Initiative programs, projects, and activities for fiscal year 1991 after such adjustments are made does not exceed the total amount of the initial FY91 SDI allocations for all Strategic Defense Initiative programs, projects, and activities.

(2) In making adjustments under paragraph (1)(B), the Secretary shall ensure that each adjustment to a program, project, or activity is proportional to that program, project, or activity's share of the total amount to be adjusted.

(3) In making adjustments under this subsection, the Secretary shall not adjust—

(A) any initial FY91 SDI allocation of $20,000,000 or less; or

(B) the initial FY91 SDI allocation for any program, project, or activity listed under the heading "Theater and ATBM Defenses" in the FY91 SDI allocation report. (4) In this subsection:

(A) The term "initial FY91 SDI allocation", with respect to a program, project, or activity of the Strategic Defense Initiative, means the amount of the funds appropriated for the Strategic Defense Initiative for fiscal year 1991 that has been allocated to such program, project, or activity, as contained in the FY91 SDI allocation report.

(B) The term "FY91 SDI allocation report" means the report, dated February 4, 1991, that was submitted by the Under Secretary of Defense to the congressional defense committees pursuant to section 221(c)(4) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1513).

Mr. WARNER. Mr. President, once again I address the Senate with respect to the amendment now pending, an amendment which I discussed this morning, an amendment which in my judgment is timely for the reason that we have now, as some of us have learned, publicly learned from the Director of the Central Intelligence Agency, that by the year 2000 there will be some 20 nations that will possess ballistic missiles with ranges of several hundred miles to perhaps as much as 3,500 miles; that the warheads in these missiles could be quite diverse; that they could contain, indeed, not only high explosives but chemical and biological warheads, all of which leads me to believe, in the light of experiences in the gulf, that America should now reexamine its position under the ABM Treaty of 1972, a treaty for which I was privileged to be in Moscow with the President of the United States at that time in my capacity as Secretary of the Navy, having completed the Incidents at Sea Agreement, an executive agreement, which I executed on behalf of the United States the day before the ABM Treaty was executed. We should reexamine our position under that treaty, and we should do it by the constitutional process of having the President of the United States continue—I underline "continue" because there have been negotiations in progress for some several years now—to negotiate revisions of the ABM Treaty to allow the United States to unleash its full industrial and technical capability to determine—and I underline the word "determine"—through a full range of testing, a full range of development, whether or not we as a Nation, perhaps in conjunction with comparable work by our allies, can construct a cost effective system to interdict the potential, as I have described before, proliferation of ballistic missiles.

Mr. President, the ABM Treaty has many very valuable sections. There is a section which enables the President to do just as I have described. There is a section with respect to deployment. I am not suggesting we try to renegotiate in this first timeframe of 2 years an ironclad decision with respect to deployment. My amendment is a very narrow one. It puts the Congress of the United States in the format of a sense-of-the-Congress on record as endorsing basically what the President is now undertaking. But the Soviet Union will know there is a joinder of minds, a joinder of action comparable to what we saw in the Persian Gulf where the Congress did give the President the authority he desired to take such steps as to fulfill the objectives of the 12 U.N. resolutions.

We should join with our President now and support his constitutional right to try to renegotiate certain provisions of this treaty.

The amendment is explicit in terms of what we set out by way of findings. Essentially I have stated findings in my opening remarks. But the first one I think establishes the tenor of the amendment: The growing proliferation of ballistic missile technology and weapons of mass destruction clearly represent an increasing threat to our forces overseas as witnessed in the Persian Gulf.

All of us had the full opportunity, through extraordinary real-time reporting by our media—indeed, media from all over the world—to see the consequences of the Scud attacks and the threats associated therewith, of how the fragile coalition of nations comprising 28 countries, with military forces, military forces which had combined to solve problems of joint command and the like, combined to succeed in enforcing the 12 U.N. resolutions.

The State of Israel showed great courage and determination to remain in a posture of not having to send its military forces, a right they had as a sovereign nation, to engage Iraq, a nation which rained upon them the Scud weapon, a weapon we do not categorize as a weapon of military value, but it is a terrorist weapon. It was used indiscriminately against innocent, helpless civilians, the people of Israel. They suffered death; they suffered injury; they suffered destruction; but they maintained throughout a steadfast courage and determination that shall be ever remembered. They did not intercede militarily.

We saw the Scud attacks on our own and allied forces in Saudi Arabia. We witnessed a tragic loss of American lives as a direct consequence of our inability to effectively interdict a Scud missile.

So I say to my colleagues, the time has come. The time has come when we should unleash our industrial strength, unleash America's scientists, to determine only if we can, in the coming years, devise an effective defense. Then a subsequent President, perhaps—I do not know whether the research could be concluded within the stipulated term of the next President of the United States and a subsequent Congress—could make the determination as to whether or not this system, which has a proven and cost-effective value, should be deployed.

I mentioned personal experiences I had over the past few days, sharing the joy of returning veterans, and equally sharing the burden of sorrow, associated with the tragic loss of over 120 Americans who will not come home, at two services.

Do we want to send future generations, or indeed this same generation of Americans, once again beyond our borders? And who among us wants to look into the faces of those young men and women as they embark? Who wants to look into the faces of their parents and loved ones here at home? Who wants to look into the faces of our fellow citizens and say we, the United States of America, are restraining our own intellectual, scientific, and industrial capability, restraining them by virtue of treaties some nearly 20 years old, restraining them from devoting the full resources of our Nation to protecting them from attacks that we witnessed in the Persian Gulf?

This Senator does not want to be a party to that, and it is for that reason that I want now to have our President receive the endorsement of the Congress of the United States to go forward and continue, but continue now with our joining him, albeit a sense-of-the-Senate resolution, joining him in saying to the Soviet Union: The time has come to go back and reexamine the wisdom of the negotiators, who negotiated, and subsequently the treaty being executed by the President—revisit that.

We could not have envisioned then this proliferation of the ballistic missile. We could not have envisioned then the capability. I am confident that America has the capability to devise a system that can adequately protect Americans. But I do not want to restrain it, restrain it in a way that is going to cost the American taxpayer more money.

Oh, there will be arguments to the effect, well, we can do it all within the ABM Treaty. Let me say, those arguments are predicated on much more time being expended, so much time that we may not be able to protect, should we have the misfortune, the next embarking troops; so much more time that it will cost the American taxpayers many added dollars.

So I say, Mr. President, only let us go and negotiate and see what we can do. What is the harm, Mr. President, in allowing our President of the United States to pursue his constitutional responsibility and seek a renegotiation as provided within the framework of the 1972 treaty?

I yield the floor.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Georgia.

Mr. NUNN. Mr. President, I agree with much of what the Senator from Virginia has said and what he is shooting for. I would submit in brief context that his amendment is shooting at the wrong target, however, because the real problem in any kind of near-term defense is not the ABM Treaty or the impact of the ABM Treaty on testing or development.

None other than the President's own National Security Adviser, General Scowcroft, made that very plain in the report he offered with the Aspen strategy group in 1987. I will quote from that in a moment.

The problem is the way the SDI organization [SDIO] in the Bush administration is allocating the money that we are giving them every year to spend. They are putting the money on long-term Brilliant Pebbles research, and they are cutting back drastically on near-term systems that are much more available for the next 5 to 10 years.

So if we are serious about wanting what the President said in his State of the Union we want, and he did say very clearly that he is shifting the directions of this program—we do not know all the details yet, but the President said, quoting him in his State of the Union:

> Looking forward, I have directed that the SDI program be refocused on providing protection from limited ballistic missile strikes, wherever their source.

Now, that is what the President said. But his SDIO is cutting the very programs that are designed to do what he wants. So there is a disconnect between what the President is saying and what his own administration is doing.

Maybe the people in the SDI office have not caught up yet with what the President of the United States wants, but I think the President has made a move in the right direction. It is a direction I have been recommending for some time.

We talk about the Scud missiles in the Middle East. The Senator from Virginia and I were together when an attack came, as he related earlier in the day. We were in the Defense Ministry when the Scud missile was launched, and we had about a 5-minute warning in the middle of a conversation with the Israeli Defense Minister. We heard the Patriot go up. We heard the intercept.

We found out the next day that the Defense Ministry was indeed the target. So we ourselves had some pretty interesting experiences there. We understand very well what the citizens of Israel have gone through.

We have great feeling for that, and also what the citizens in some of the Saudi Arabian cities have gone through.

The problem is SDI is not putting the money in these systems. People are getting the wrong idea. That Patriot missile, which we watched perform, is not perfect. It had some problems. We have a lot of improvements that can be made in the Patriot. I think the experience is going to make that a much better system.

But there is a mistaken impression around that it is part of SDI. Patriot has nothing to do with SDI. The reason we have the Patriot now is because it was not in the SDI; the Army did it. This was purely U.S. Army. It was not part of SDI.

There is no clearer record anywhere than that; there is no dispute on that. If the Patriot missile had been part of SDI, I am sure by now that money would have gone to the Brilliant Pebbles Program, which is going to come, if it comes at all, way down the line. I am not against Brilliant Pebbles. It has a worthy research purpose. But it is long distance away. It is way off.

If we had been waiting on SDI to come up with a system, we would have no defenses in the Middle East. We have been putting money in ballistic missile defense for many years—before President Reagan ever made his speech. But if we had waited on SDI, we would have had no defense in the gulf.

Thank goodness, the U.S. Army was not wrapped up philosophically in some kind of esoteric mission and decided they were going to get the job done, and therefore we had the Patriot missile.

A lot of people in Congress had a lot to do with it. Our appropriators pushed the new PAC-2 attachment to the Patriot missile which gave it the antimissile capability. The Patriot was originally designed by the Army to shoot down aircraft, not missiles.

The Appropriations Committee pushed this, and we joined them in that effort. The Senator from New Hampshire [Mr. RUDMAN] was one of the real leaders there. He took the lead in pushing that technology which enabled us to have that capability.

Mr. President, the Senator from Virginia and I may, before this 3- or 4-month period is over, after we have gone through our deliberations and have held hearings and heard from the SDIO—the Office of Strategic Defense Initiative Organization—we may be able to join together, I hope, in building some bridges over the gap between what is now being said about the goals of SDI and what is actually happening with the SDI money.

I join him in many of his comments about the necessity for moving forward, particularly against third-country threats; particularly against the possibility of an accidental launch; particularly against the possibility of an unauthorized launch.

But that is not what SDI has been all about up until now. SDI had been charged with the responsibility of being able to knock down 50 percent of a Soviet SS-18 attack, which would be a massive attack—not a limited attack. If we had stayed with that kind of program—and the President has now indicated we will not—we would have been talking about putting literally billions and billions and billions of dollars in; waiting years and years and years and years.

The SDI office now says that the earliest we can have the new limited protection program ready is by 1999 or the year 2000. That assumes all sorts of money pouring in, which is probably beyond even the administration's budget that they will be submitting, let alone what is likely to pass here in Congress.

The SDI office is not talking about the same thing the President is talking about, and I think one of the things that can be most meaningful is if the President will explain to the SDI office that he really wants something that works, and he wants it during the next 5 to 10 years. If he does that, we may well get a shift in direction, and maybe the goals and aspirations of the President of the United States, and I think those of a number of us in the Congress, will be carried out in the SDI Program. But that is not what is being done now.

Mr. President, I think, frankly, with hearings and some time to work on it, that we can make some bridges with the amendment of the Senator from Virginia. I could not speak for anybody else, because there are a lot of strong feelings on this subject on both sides of the aisle, and both sides have people on different sides of this issue; but, as far as we are concerned, I think we can work out a lot of this langugage. I do not think we are going to be able to do it in the context of this emergency bill, which is designed for Operation Desert Storm and Desert Shield. It is my hope that when the Senator gets on the plane tomorrow afternoon and leads the delegation to Kuwait, he will be able to get off the plane, speak on behalf of all of us on the committee and say to the troops over there that we have passed your Desert Storm/Desert Shield emergency bill, and it has a number of benefits.

What I would like to do is take action in the next 24 hours that would allow the Senator from Virginia and the Senator from Kentucky, Senator FORD, to walk off that plane and make some announcements to the troops. I think it will give them a big morale boost. If we have to deal with this amendment, as the Senator from Virginia knows well, we are talking about a long debate and not just because of this amendment taking time. I think there are probably 20 or 30 people on our side who would like to talk about this amendment and at least 5 or 10 on the Republican side of the aisle. So you are talking about speeches all day tomorrow and probably all day Friday and Saturday, too. Beyond that, even if we were to dispose of this amendment very promptly, even, say if we could dispose of it and vote up or down one way or the other, or on the substitute, sometime tomorrow, what this amendment does is unwind the agreement that we have been seeking. It is not an agreement that has been made, but one we have been seeking, to keep this a clean bill. If we open it up, we are going to have at least 20 or 30 other amendments. A lot of Senators have refrained from bringing up their amendments at the urging of the majority leader, because they want to see this bill go through. But, also, a lot are sitting around in their offices, and their staffs are just waiting for one amendment to come in that has nothing to do with the emergency situation and the funding and the benefits, and have that one amendment come in, and when that comes in, they are going to pounce on it, and we will have amendments that will occupy us for the next couple of weeks, probably.

This is a serious amendment. It deserves serious review. I know the Senator from Virginia has already told us he was going to bring this up. He brought up a much more far-reaching amendment in the committee, and he has worked, I am sure, with the White House in scaling this one back. He has made some rather considerable improvements in it, because the original amendment was deliberated in committee and would have, in effect, directed by law the President to disregard the treaty that we entered into. It would have been a directive from the Congress to the President of the United States to basically abrogate a treaty. This amendment does not do that. This amendment is not that far reaching.

There are a lot of questions relating to this amendment. The amendment declares: "It is in the national interest of the United States to be permitted to develop and test ballistic missile defense systems and components, without restriction as to mode or environment." That is what the amendment says. That is perhaps correct, if you look at it unilaterally. The problem is, whatever you do in this treaty is a two-way street. So that raises the question as to whether it is in the national interest of the United States for the Soviet Union to be permitted to develop and test ballistic missile defense systems and components without restrictions as to mode or environment. I do not know the answer to that question. I think it will take a lot of hearings to answer that question. It is a two-way street, not a one-way street.

The amendment urges the President to negotiate an agreement with the Soviet Union within 2 years, which would "Clearly remove any limitations on the United States having effective defenses against ballistic missiles."

If that really means what it says, that means you have to get rid of the deployment restrictions in the ABM Treaty, too. The Senator says he is not intending to do that. If you do not eliminate the restrictions on deployment, you are not going to have any missile defense against large-scale attacks. So I do not know what the amendment means. The question arises, what does it mean? Does it imply we are to get rid of any restriction on deployment also? That is a serious question that deserves a lot of consideration.

The amendment declares, "Continuing restrictions on the development and testing of ABM systems unduly restricts effective demonstration of ballistic missile defense technology." This amendment basically declares that the ABM Treaty unduly restricts effective demonstration of ballistic missile defense technology.

I will stipulate with the Senator that, at some point, it will do that. At some point, the ABM Treaty will do that, depending which system we try to go for. It is certainly likely they will want to do it, unless something changes. But if that is the case in the near term—and all of the Senator's remarks indicate he is worried about the near term—then why did General Scowcroft, who is President Bush's National Security Adviser, agree in 1988 that: "Adhering to the ABM Treaty in its traditional form"—we are not in this broad versus narrow; he is talking about the narrow definition—"would not seriously hamper a sensible research and development program for another decade." He goes on to say: "We would forfeit very little in technical terms by remaining in compliance with the treaty and thereby continuing to reap its contributions to our security."

The President's National Security Adviser, in 1988, is saying that in the next 10 years it will not have any impact. I am not sure I would go quite as far as 10 years. It may have an impact before then. All of our testimony is that this treaty is not impacting the planned program at this juncture and will not for at least 2 or 3 more years. General Scowcroft, in 1988, said 10 years. It may not be that long, but at least not for the foreseeable future.

Mr. WARNER. If I could ask a question for clarification. Was General Scowcroft National Security Adviser in 1988?

Mr. NUNN. No. He is now.

Mr. WARNER. I feel that the Senator was projecting that.

Mr. NUNN. The general was a retired general in 1988, a private citizen.

Mr. WARNER. He was associated then with Dr. Kissinger in international consultation. So it may be a situation where what we do today we can undo tomorrow.

Mr. NUNN. He may have indeed changed his mind. I do not know. That study was cochaired by Bill Perry, who most of us would stipulate knows more about R&D and complicated technology than anybody I have seen come through the Department of Defense. There are a lot of people who feel this way and a lot of people on the other side. Certainly, the Senator is correct, and he makes his point well. General Scowcroft was not then the National Security Adviser. Those were the days when he could let his mind flow unimpeded by any philosophical hang-ups.

At that stage he was able to make completely objective observations. Now he does have more restrictions, and I agree with the Senator on that.

Mr. WARNER. Mr. President, before the Senator proceeds, I have the current General Scowcroft statement with respect to this, dated March 1991. I will momentarily provide it.

Mr. NUNN. Has that cleared the Office of Management and Budget and the other procedures it has to go through?

Mr. WARNER. Unfortunately it is a private letter addressed to the Senator from Virginia. I shall read it momentarily.

Mr. NUNN. I thank the Senator.

Mr. President, the amendment cites the Soviets' relentless modernization of its strategic offensive capabilities and that is certainly a trend that concerns us all. It is a puzzle to me how a country with as many serious economic problems as they have can conduct what is indeed an amazing strategic nuclear program. While their military on the ground is having all sorts of problems and being cut back, their strategic nuclear programs are not being cut back.

I hope that will change, but so far the Senator is right it has not. It worried all of us. However notwithstanding this trend, President Bush announced in the State of the Union message last month that he was refocusing SDI away from defending against a large-scale Soviet strategic attack in favor of protecting against "limited ballistic missile strikes whatever their source."

Will this new limited protection system require a wholesale abrogation of all ABM Treaty restrictions on development and testing, as recommended by the amendment? Or might we not be able to develop, test and even deploy an effective limited protection system within the current limits of the treaty or, if required, with some far more modest amendments than recommended here?

These questions have not been answered because the President has not made it clear for the benefit of the American public. They are saying how does all this effect me? The phase 1 system we were planning before, if it worked out just like everybody was saying, and if we did have a ballistic missile attack against the United States, the good news is it would knock down, if it works and everything goes according to plan, some 50 percent of the Soviet's SS–18's.

That means the good news is that about half of the 3,080 warheads would be knocked down. The bad news is about 1,500 of those would hit this country. So we were talking about something that was not going to be like the television advertisement where you had an umbrella over your house. One thousand five hundred nuclear warheads hitting on the United States would devastate this country beyond recognition.

Now, of course, I would add the hope it would add to deterrence, and by adding to deterrence we never would have the attack in the first place. But there are a lot of things that add to deterrence. We are not talking about a shield over America. We are talking about something that adds to the deterrent capability of our country to prevent an attack ever taking place in the first place, because even if the current plans, the current system before the President's State of the Union speech, even if it worked perfectly under an attack we were still going to have a country that would not be recognizable because we would have had a devastated country in that respect.

So, that is the scope of what we are talking about. What we are really trying to decide here, and I hope we can come to some conclusions on this that are logical in next 6 or 8 months, we are trying to decide whether it is better to devote our resources to near-term technology that can protect us against limited attack that are much more likely to occur from third countries or from some accidental or unauthorized launch, or whether on the other hand we are going to go for this very exotic system that will take a long, long time, a lot of money to develop and when we get through developing it, at least in first stages, we are still not going to have anything like a comprehensive defense. We are going to have airplanes and every other kind of missiles that will be able to get through unless we go forward with air defenses. That is a whole other subject that we have not started to explore seriously.

Mr. President, I think I have said enough about the Warner amendment, except to say I would like to work with him in trying to answer these questions because there undoubtly are some answers here. As we work through the committee hearings this year, I hope that we can build some bridges between those of us who want to do something on a more limited nature as the President has indicated he is moving toward, and those who are favoring the continuation of a program which is going to take a long, long time at best.

Mr. President, I would like to briefly explain my substitute amendment which I hope our colleagues will support. The first thing I would observe is that the substitute amendment, the Nunn amendment cosponsored by Senator SHELBY, Senator HEFLIN, Senator BINGAMAN, and Senator DIXON, authorizes $224 million in 1991 funds appropriated for army missile procurement to be available for the procurement of additional Patriot missiles and Patriot fire units. This $224 million is in addition to whatever sums are already available in the committee-reported bill from Patriot procurement. During our hearing on the Desert Storm supplemental, the Defense Department indicated that it planned to spend $100 million of the sums made available in the bill to buy 158 Patriot missiles. The $224 million in additional funding in my amendment would procure additional Patriot missiles and additional fire units.

The lessons from Desert Storm are clear. First, military crisis requiring substantial combat forces can come up with very little warning;

No. 2, regional powers already possess short-range ballistic missile which can pose immediate threats to our forces that are deploying in response to future crises;

No. 3, the reinforcement strategy that worked so well in the gulf involved a mix of fast airlift and fast sealift and propositioning of military forces;

No. 4, the airlift operation was disrupted in the early days of Desert Shield as we attempted to rush Patriot missiles to Saudi Arabia in an emergency situation.

It is clear, therefore, that in future crises we will want to establish a Patriot security shield over our early deployment forces. The most efficient way to do that is to deploy Patriot battalion aboard prepositioned ships. Those ships are out there, they are near the scene of any kind of contingency, but in all likelihood the Patriot missiles would be stationed back here.

We currently have three squadrons of maritime prepositioned ships. Those are known as MPS ships. My concept would entail putting three Patriot batteries, which is half a batallion, on each ship. This is sufficient to provide a protective screen for the offload operation and two area airfields to support the airlift operation.

There should be no difficulty in storing Patriot batteries and missiles afloat. The MPS ships currently store six short-range air defense Hawk launchers per squadron, and Patriot units were engineered to endure a broader range of difficult environmental conditions than were the Hawk units.

This concept would call for a total of nine batteries.

One Patriot battery costs $105 million each. Thus, my substitute amendment will allow the procurement of the first two Patriot batteries to apply against this kind of concept.

Second, the Nunn amendment accelerates the development of antiballistic missile programs that could be available in the near term as a deployment option to protect the United States against accidental, unauthorized, or third nation launches of ballistic missiles. The substitute amendment restores the funding authorized in the current fiscal year for four such programs to the fiscal year 1991 level originally requested by the SDIO.

The so-called E-squared-I; the ground-based interceptor program that is called GBI; the ground-based radar program, or GBR; and the ground-based surveillance and tracking system, known as GSTS. These four programs are increased by a total of $218 million in fiscal year 1991.

To offset the increase that this amendment calls for, the director of the SDI would be directed to make a proportionate across-the-board cut in other fiscal year 1991 SDI programs, projects and activities. That would amount to a 9-percent reduction in all other SDI accounts except the four ground-based programs I just mentioned, plus those that come under the heading of theater and ATBM defenses and those that the SDIO has indicated will be funded at less than $20 million in fiscal year 1991.

Mr. President, no one has worked harder on the ATBM issue—antiballistic missile defenses—than the Senator from Virginia. I hope he will join me in this effort, because it would protect the very kind of systems that he has been pushing so hard.

This amendment does not change or increase the total amount of funds spent by SDI in fiscal year 1991. It will, however, reallocate the $218 million in previously approved fiscal year 1991 SDI funding to permit acceleration of those programs that offer the best and most immediate near-term prospect of affording this Nation limited protection against the very ballistic missile threat from third countries that the Senator from Virginia has described, and that he led the way on last year even before Operation Desert Storm.

Mr. President, in closing let me say that I recognize, indeed all of us recognize, that the ABM Treaty limits our ABM options both in terms of development and testing and in terms of deployment. After all, that was the principal idea behind the treaty. We wanted to avoid the Soviet Union getting defenses, the United States getting defenses and having a spiral of offensive weapons in response to that. The more defenses you have in certain environments, the more offensive the other side has, and you get on this upward spiral of offense, defense, offense, defense. That was the spiral we tried to stay off. The ABM Treaty has kept us off of that spiral.

Now we are in a different environment. We have a different kind of Soviet Government. We hope that they will continue to be different, although that remains a serious question. The ABM Treaty does not mandate total ban on such key defenses. With this in mind I have said on many occasions that I strongly support a rigorous exploration of deployment options for a limited missile defense against accidental, unauthorized or third-nation launches.

I have also said on those occasions I am fully prepared to support, and indeed would encourage, modest amendments. I think that is all that would be required to the ABM Treaty, modest amendments to maximize the effectiveness of such a defense.

Such amendments could, in my view, include relaxing numerical limits in the treaty on the number of permitted ABM interceptors or the number of permitted ABM interceptor sites, and also most importantly, could allow the utilization of much more capable sensors in space.

So I am not one of those who are dedicated to absolutely no changes in the ABM Treaty. There may have to be updated amendments and I certainly hope that we will be able to negotiate something with the Soviet Union that would permit that.

This is the negotiating strategy, I believe our defense and space delegation should be pursuing in the Geneva talks. That is how I believe we ought to go about revising the ABM Treaty to permit us, if necessary, to provide a credible and effective limited protective system for the United States, as the President has called for.

I believe the Soviet Union may well share our interest in defending against a regional missile threat. If however that negotiation effort is rebuffed by the Soviet Union and our supreme national interests so require, the United States can always formally withdraw from the treaty, as provided in the treaty itself, after observing the required 6-month notification period.

Mr. President, I urge that the substitute amendment be supported by our colleagues. I assume that we will not have a vote tonight on this amendment, but when the appropriate time comes I will urge its support.

At this point, Mr. President, I yield the floor.

Mr. PELL. Mr. President, I strongly support the substitute amendment offered by my colleague, the Senator from Georgia [Mr. NUNN]. The amendment gives proper support to tactical defenses without doing violence to the centerpiece of modern arms control, the 1972 Antiballistic Missile Treaty.

We are all thankful that the Patriot missile system worked so well in Saudi Arabia and Israel in defending against the Scud B missile. It is important that we give the necessary support to the Patriot system and its further development as well as tactical defenses in general. The Nunn amendment does that. Equally importantly, the Nunn amendment avoids two very serious mistakes the most fervid supporters of the strategic defense initiative would have us make. First, some would have us mistake the success of Patriot for a triumph for SDI. They are not the same. Patriot is the result not of war in the strategic defenses, but rather result of clever hard work in refining and improving air defenses. If we understand this, we will understand the foolishness of the second and potentially quite serious mistake, damaging or destroying the AMB Treaty in the misbegotten belief that a solution for strategic defenses is at hand.

Mr. President, I have supported a strong SDI research program. Unfortunately, too many are prepared to leap too fast toward testing and deployment. This constitutes endangerment of the ABM Treaty. Some of the latest notions, such as Brilliant Pebbles or Brilliant Eyes may well in the end prove not so much brilliant as clever or perhaps too clever—so that what they offer may be nothing more than chimera. We should not rush to adopt such concepts until we have done the most rational and careful study. And we should be quite careful to avoid trashing the ABM Treaty in support of some dash into the unknown.

Within the bounds, it is possible to test a great deal so long as the system and components are not ABM capable and not in the ABM mode. If we pursue that approach, we can learn a great deal without jeopardy to the treaty.

Mr. President, we must ask ourselves, what would be the response of the Soviets to an American SDI Program which violated the terms of the ABM Treaty? Because the Soviets would not be able to compete in high technologies, it would likely respond with what it knows best—more offensive weapons. The very large SS-18 missiles can accommodate many more than the 10 reentry vehicles that they would be allowed under START. An easy response for the Soviets would be to do just that, proliferate warheads on large missiles, thus increasing their offensive forces, and increasing the jeopardy to us.

I ask my colleagues to look into the technical differences between strategic and tactical missiles, as well as the technical difference between point defenses and area defenses. Mr. President the Patriot did its job in the gulf. But, in all truth, if the Iraqi Scud missile had had nuclear weapons on them, the Patriot would have failed. Patriot stopped most but not all Scud warheads. If they had been nuclear or chemical warheads, the damage done would have been infinitely graver.

Accordingly, we should be proud of American technology, but aware of the importance of steadily improved defenses. The Nunn amendment puts the emphasis where it is needed—on enhancing tactical systems to defend ourselves and our friends and allies.

Mr. WARNER. Mr. President, I would like to have a brief period to rebut my distinguished friend and colleague. I observe the presence of our fellow committee member from Michigan, and I will be happy to not prolong my comments to allow him a timely participation.

First, I ask unanimous consent that a letter addressed to the Senator from Virginia from the National Security Adviser, Mr. Scowcroft, dated March 11, 1991, be printed in the RECORD at this point, together with testimony from the February 21 appearance of Gen. Colin Powell before the Senate Armed Services Committee.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, March 11, 1991.

Hon. JOHN WARNER,
Ranking Republican, Armed Services Committee,
U.S. Senate, Washington, DC.

DEAR SENATOR WARNER: The President very much appreciates your support for SDI. As you know, he highlighted the importance of SDI in his State of the Union Address. He did so because ballistic missile defenses can be vital to our security and deserve strong bipartisan support.

With the budget the President has submitted to Congress, the SDI program has been reoriented to address the changed military and political world we now face and will face into the 21st century.

Recent events plainly highlight the growing threat posed by ballistic missile proliferation. Today it threatens directly U.S. forces abroad and U.S. allies. Moreover, we cannot be complacent about the threat to the United States. The decisions we take today will affect American security well into the next decade.

Based on these developments, as well as the dangers posed by accidential or unauthorized ballistic missile launches, the President directed that SDI pursue on a priority basis a Global Defense Against Limited Strikes (GPALS). Such a defense would protect the United States, our allies, and forces abroad from limited ballistic missile strikes anywhere in the world. This system would be smaller and cheaper than our original plans for SDI. It should also address some of the concerns expressed during last year's Senate debate on SDI.

Our superbly trained and magnificently equipped troops in the Persian Gulf are proving every day the value of American technological know-how. No one in Israel or Saudi Arabia doubts the value of ballistic missile defenses. But as well as Patriot has performed, it represents only a fraction of our capability. Moreover, we may well face more sophisticated threats than the SCUD. As the President said, in the 1990's strategic defenses make more sense than ever before.

President Bush values your support for SDI and is glad to know he can continue to count on it as Congress debates the SDI budget.

Sincerely,

BRENT SCOWCROFT.

The CHAIRMAN. Thank you, Senator Glenn. I have one final question, General Powell. The President announced in his State of Union speech that he had directed "the SDI program be refocused on providing protection from limited ballistic missile strikes, whenever their source." I welcome that. I think that is the right focus, and Senator Warner has mentioned that already.

Have the joint chiefs defined what constitutes a limited attack at this stage?

General POWELL. We are still examining that. We, of course as you know, Senator, had a phase 1 requirement on the books. And within that phase 1 requirement, which was a more comprehensive regime to protect the United States—within that phase 1 requirement, we recognize that it might be possible to get limited protection and protection against regional theater ballistic missile threats on the way to the phase 1 requirement.

But we have not yet abandoned that original phase 1 requirement, and at the moment, we do not see anything inconsistent in terms of laying out a requirements document between the phase 1 requirement and what the refocused SDI program will look like. But it is something we have under review.

The CHAIRMAN. But there will be priorities within that, though?

General POWELL. Yes.

The CHAIRMAN. You are clearly putting this limit up front.

General POWELL. This becomes the President's priority and our priority. We have also asked the various CINC's to come in with their requirements for protection against regional ballistic missile threats, so we will be working a new requirements document associated with that.

I am still one of the old SDI folks around from the old days, and I still believe that there is some merit in trying to refocus the whole argument from an offensive based system of deterrence to a more defensively based system of deterrence. But we have discussed this many times over the years, Senator.

The CHAIRMAN. That is clearly moved back a notch in terms of priority, though, now?

General POWELL. Yes, sir.

The CHAIRMAN. Senator Warner, do you have any other questions?

Senator WARNER. No. Thank you very much. Thank you, General. We are very proud of you.

The CHAIRMAN. Thank you, General Powell.

[Whereupon, at 12:30 p.m., the committee meeting was adjourned.]

Mr. WARNER. Mr. President, both of these documents in my judgment clearly support the actions recommended by the Senator from Virginia in his amendment, namely that both of these senior military advisers to the President feel that the time has come that we have to move forward. It is right there in unequivocal language.

But I am perplexed at the nature of the amendment that is the substitute for the one of the Senator from Virginia. I am heartened however that my dear friend has left open the door, because we have in our 12 years together resolved many problems. This may be one that we may resolve and tomorrow morning we will take a fresh look, because the Senator from Virginia in consultation with the Senate leadership, the majority leader and the Republican leader, has not indicated that he is at this time withdrawing his intention to go forward full bore on this amendment commencing early tomorrow morning when now by UC it is the pending business.

But the amendment to add additional money for the Patriot program, the Senator from Virginia happened to have raised that in the committee hearings that we held on this very bill. We decided that time we had to keep a clean bill. Of course, that amendment would fall into the same category.

But nothing in the proposed amendment addresses the heart and substance of what I am endeavoring to achieve and that is to simply put the Congress of the United States on record that, Mr. President, for 5 years we have been negotiating with the Soviet Union. Five years without any significant breakthroughs. Is it not time that the Congress join, as we did in the gulf operation? That is all I am saying.

I am not saying exactly how the negotiations should come out. It would be my hope and expectation as recited in the amendment that such negotiations would take the shackles off of us right now and unleash American technology. But it simply says, "Mr. President, you have a constitutional right to negotiate. You are negotiating. You have been doing it for 5 years and now another branch of our Government joins with you to get this job done." Why? Because we cannot in good conscience stand and watch our people be helplessly killed and slaughtered as they were in the gulf while sleeping, while sleeping. That is all.

That seems to me to be a not unreasonable thing to ask this body to go on record. Our troops may have, we pray, God forbid, to go forward tomorrow in connection with another military operation.

While we were having our debate this afternoon, we had three of the CINC's, Commanders in Chief, including the Commander in Chief of the Pacific region, in before our committee. I had the opportunity to go over and talk with them. We discussed places like North Korea. We discussed the whole threat situation in the Pacific Rim.

Where next? Where next could our troops confront the same sort of threat they faced in the gulf region? North Korea today is one of the biggest commercial salespersons, if a nation is a person, of the Scud missile. "Buy here" the sign says in North Korea. "We will sell. Buy here. We will send you what you need." These missiles are proliferating on the markets all over the world.

Then I say to my good friend, why not let America do what other nations are now doing in their exploratory research? France has no treaty that is binding on them. The United Kingdom has no treaty. The Federal Republic of Germany has no treaty. And I could recite other nations. Indeed, Israel has no treaty comparable to the ABM. Are they quietly doing nothing? I am not at liberty to give all those answers but I ask my colleagues on their own initiatives to search out those answers.

When our troops go forward and are deployed and serve with perhaps again British forces and French forces, perhaps there will come a time when the Federal Republic of Germany will permit some of their forces to go into regions and provide security. Are they to have the protection of some systems that they may have developed? And we are going to deprive our service persons of that protection because of an agreement with the Soviet Union? Are we absolutely certain that the Soviet Union, as we speak, a nation not with an unblemished record of treaty violations—I go back to the Krasnoyarsk radar system—how do we know they are not conducting some research?

Well, we put a lot of emphasis on the ABM Treaty. Yes, it allows us to have a ground-based system to protect the capital of the United States, protect the executive branch and the Congress. I want to protect all of America, if that in fact is necessary.

Perhaps we can have a system that has certain mobility that we can move around. We need not have one everywhere. But the mobility, the mobility is prevented under the ABM Treaty. Logic is what I am asking this body to focus on. Logic. Other nations can do it. We have seen the devastation of these weapons. I think it is time we went up into space and at least did the testing to determine if we can devise something up there to aid the ground systems.

You know, in these Scud attacks, the Patriot system was able to function primarily because we got early warning. Where did we get it? We got it from space. We had the equipment up there that could give the Patriot crews, give others, the time needed to prepare for that attack. And we thank the Dear Lord, and we thank certain people here in the United States who had the foresight to revise that system so it would perform to prevent even greater loss of life and damage.

Yes, but space was an active component, so to speak, curiously enough, within the framework of the ABM Treaty because it was not giving the trajectory of the missile. It was just giving the timing basically. And that curiously falls within the permissible sections. But without that space, without that early warning, it is questionable of what value the Patriot system or one more modified may have had.

So all I am asking is to put this body on record to support our President in an effort he has had under way for 5 years. That is it in very simple form. It does not involve shifting a lot of money, scattering around the SDI Program, adjusting it, trashing the SDI program; criticizing. No, no, no. Let us get to the point. Are we with the President or are we not with the President? It is a very simple question.

Mr. President, I ask unanimous consent to have the ABM Treaty printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WARNER. Mr. President, I hope we can create a record today that can be of value to the American public when they sit down and study this issue on their own, and they are going to do that. This Senator is going to be unrelenting in trying to encourage the American public to study this question on their own. No longer is this Senator going to permit this issue to be held closely, right here, as we say, inside the Beltway. I will not permit these fundamental decisions that affect our young men and women as they deploy in military forces just to be decided by a handful of individuals. I invite all America to undertake a study of this program, decide for themselves, and hopefully communicate with their elected representatives.

EXHIBIT 1

TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE LIMITATION OF ANTI-BALLISTIC MISSILES SYSTEMS

Signed at Moscow May 26, 1972, ratification advised by U.S. Senate August 3, 1972, ratified by U.S. President September 30, 1972, proclaimed by U.S. President October 3, 1972, instruments of ratification exchanged October 3, 1972, entered into force October 3, 1972.

The United States of America and the Union of Soviet Socialist Republics, hereinafter referred to as the Parties,

Proceeding from the premise that nuclear war would have devastating consequences for all mankind,

Considering that effective measures to limit anti-ballistic missile systems would be a substantial factor in curbing the race in strategic offensive arms and would lead to a decrease in the risk of outbreak of war involving nuclear weapons,

Proceeding from the premise that the limitation of anti-ballistic missile systems, as well as certain agreed measures with respect to the limitation of strategic offensive arms, would contribute to the creation of more favorable conditions for further negotiations on limiting strategic arms,

Mindful of their obligations under Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons,

Declaring their intention to achieve at the earliest possible date the cessation of the nuclear arms race and to take effective measures toward reductions in strategic arms, nuclear disarmanent, and general and complete disarmament,

Desiring to contribute to the relaxation of international tension and the strengthening of trust between States,

Have agreed as follows:

ARTICLE I

1. Each party undertakes to limit anti-ballistic missile (ABM) systems and to adopt other mesaures in accordance with the provisions of this Treaty.

2. Each Party undertakes not to deploy ABM systems for a defense of the territory of its country and not to provide a base for such a defense, and not to deploy ABM systems for defense of an individual region except as provided for in Article III of this Treaty.

ARTICLE II

1. For the purpose of this Treaty an ABM system is a system to counter strategic ballistic missiles or their elements in flight trajectory, currently consisting of:

(a) ABM interceptor missiles, which are interceptor missiles constructed and deployed for an ABM role, or of a type tested in an ABM mode:

(b) ABM launchers, which are launchers constructed and deployed for launching ABM interceptor missiles; and

(c) ABM radars, which are radars constructed and deployed for an ABM role, or of a type tested in an ABM mode.

2. The ABM system components listed in paragraph 1 of this Article include those which are:

(a) Operational;

(b) Under construction;

(c) Undergoing testing;

(d) Undergoing overhaul, repair or conversion; or

(e) Mothballed.

ARTICLE III

Each Party undertakes not to deploy ABM systems or their components except that:

(a) within one ABM system deployment area having a radius of one hundred and fifty kilometers and centered on the Party's national capital, a Party may deploy: (1) no more than one hundred ABM launchers and no more than one hundrd ABM interceptor missiles at launch sites, and (2) ABM radars within no more than six ABM radar complexes, the area of each complex being circular and having a diameter of no more than three kilometers; and

(b) within one ABM system deployment area having a radius of one hundred and fifty kilometers and containing ICBM silo launchers, a Party may deploy: (1) no more than one hundred ABM launchers and no more than one hundred ABM interceptor missiles at launch sites, (2) two large phased-array ABM radars comparable in potential to corresponding ABM radars operational or under construction on the date of signature of the Treaty in an ABM system deployment area containing ICBM silo launchers, and (3) no more than eighteen ABM radars each having a potential less than the potential of the smaller of the above-mentioned two large phased-array ABM radars.

ARTICLE IV

The limitations provided for in Article III shall not apply to ABM systems or their components used for development or testing, and located within current or additionally agreed test ranges. Each party may have no more than a total of fifteen ABM launchers at test ranges.

ARTICLE V

1. Each Party undertakes not to develop, test, or deploy ABM systems or components which are sea-based, air-based, space-based, or mobile land-based.

2. Each Party undertakes not to develop, test, or deploy ABM launchers for launching more than one ABM interceptor missile at a time from each launcher, not to modify deployed launchers to provide them with such a capability, not to develop, test, or deploy automatic or semi-automatic or other similar systems for rapid reload of ABM launchers.

ARTICLE VI

To enhance assurance of the effectiveness of the limitations on ABM systems and their components provided by the Treaty, each Party undertakes:

(a) not to give missiles, launchers, or radars, other than ABM interceptor missiles, ABM launchers, or ABM radars, capabilities to counter strategic ballistic missiles or their elements in flight trajectory and not to test them in an ABM mode; and

(b) not to deploy in the future radars for early warning of strategic ballistic missile attack except at locations along the periphery of its national territory and oriented outward.

ARTICLE VII

Subject to the provisions of this Treaty, modernization and replacement of ABM systems or their components may be carried out.

ARTICLE VIII

ABM systems or their components in excess of the numbers or outside the areas specified in this Treaty, as well as ABM systems or their components prohibited by this Treaty, shall be destroyed or dismantled under agreed procedures within the shortest possible agreed period of time.

ARTICLE IX

To assure the viability and effectiveness of this Treaty, each Party undertakes not to transfer to other States, and not to deploy outside its national territory, ABM systems or their components limited by this Treaty.

ARTICLE X

Each Party undertakes not to assume any international obligations which would conflict with this Treaty.

ARTICLE XI

The Parties undertake to continue active negotiations for limitations on strategic offensive arms.

ARTICLE XII

1. For the purpose of providing assurance of compliance with the provisions of this Treaty, each Party shall use national technical means of verification at its disposal in a manner consistent with generally recognized principles of international law.

2. Each Party undertakes not to interfere with the national technical means of verification of the other Party operating in accordance with paragraph 1 of this Article.

3. Each Party undertakes not to use deliberate concealment measures which impede verification by national technical means of compliance with the provisions of this Treaty. This obligation shall not require changes in current construction, assembly, conversion, or overhaul practices.

ARTICLE XIII

1. To promote the objectives and implementation of the provisions of this Treaty, the Parties shall establish promptly a Standing Consultative Commission, within the framework of which they will:

(a) consider questions concerning compliance with the obligations assumed and related situations which may be considered ambiguous;

(b) provide on a voluntary basis such information as either Party considers necessary to assure confidence in compliance with the obligations assumed;

(c) consider questions involving unintended interference with national technical means of verification;

(d) consider possible changes in the strategic situation which have a bearing on the provisions of this Treaty;

(e) agree upon procedures and dates for destruction or dismantling of ABM systems or their components in cases provided for by the provisions of this Treaty;

(f) consider, as appropriate, possible proposals for further increasing the viability of this Treaty; including proposals for amendments in accordance with the provisions of this Treaty;

(g) consider, as appropriate, proposals for further measures aimed at limiting strategic arms.

2. The Parties through consultation shall establish, and may amend as appropriate, Regulations for the Standing Consultative Commission governing procedures, composition and other relevant matters.

ARTICLE XIV

1. Each Party may propose amendments to this Treaty. Agreed amendments shall enter into force in accordance with the procedures governing the entry into force of this Treaty.

2. Five years after entry into force of this Treaty, and at five-year intervals thereafter, the Parties shall together conduct a review of this Treaty.

ARTICLE XV

1. This Treaty shall be of unlimited duration.

2. Each Party shall, in exercising its national sovereignty, have the right to withdraw from this Treaty if it decides that extraordinary events related to the subject matter of this Treaty have jeopardized its supreme interests. It shall give notice of its decision to the other Party six months prior to withdrawal from the Treaty. Such notice shall include a statement of the extraordinary events the notifying Party regards as having jeopardized its supreme interests.

ARTICLE XVI

1. This Treaty shall be subject to ratification in accordance with the constitutional procedures of each Party. The Treaty shall enter into force on the day of the exchange of instruments of ratification.

2. This Treaty shall be registered pursuant to Article 102 of the Charter of the United Nations.

Done at Moscow on May 26, 1972, in two copies, each in the English and Russian languages, both texts being equally authentic.

For the United States of America,
RICHARD NIXON,
President of the United States of America.

For the Union of Soviet Socialist Republics,
L. I. BREZHNEV,
General Secretary of the Central Committee of the CPSU.

AGREED STATEMENTS, COMMON UNDERSTANDINGS, AND UNILATERAL STATEMENTS REGARDING THE TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE UNION OF SOVIET SOCIALIST REPUBLICS ON THE LIMITATION OF ANTI-BALLISTIC MISSILES

1. AGREED STATEMENTS

The document set forth below was agreed upon and initialed by the Heads of the Delegations on May 26, 1972 (letter designations added);

Agreed statements regarding the treaty between the United States of America and the Union of Soviet Socialist Republics on the limitation of anti-ballistic missile systems

[A]

The Parties understand that, in addition to the ABM radars which may be deployed in accordance with subparagraph (a) of Article III of the Treaty, those non-phased-array ABM radars operational on the date of signature of the Treaty within the ABM system deployment area for defense of the national capital may be retained.

[B]

The Parties understand that the potential (the product of mean emitted power in watts and antenna area in square meters) of the smaller of the two large phased-array ABM radars referred to in subparagraph (b) of Article III of the Treaty is considered for purposes of the Treaty to be three million.

[C]

The Parties understand that the center of the ABM system deployment area centered on the national capital and the center of the ABM system deployment area containing ICBM silo launchers for each Party shall be separated by no less than thirteen hundred kilometers.

[D]

In order to ensure fulfillment of the obligation not to deploy ABM systems and their components except as provided in Article III of the Treaty, the Parties agree that in the event ABM systems based on other physical principles and including components capable of substituting for ABM interceptor missiles, ABM launchers, or ABM radars are created in the future, specific limitations on such systems and their components would be subject to discussion in accordance with Article III and agreement in accordance with Article XIV of the Treaty.

[E]

The Parties understand that Article V of the Treaty includes obligations not to develop, test or deploy ABM interceptor missiles for the delivery by each ABM interceptor missile of more than one independently guided warhead.

[F]

The Parties agree not to deploy phased-array radars having a potential (the product of mean emitted power in watts and antenna area in square meters) exceeding three million, except as provided for in Article III, IV and VI of the Treaty, or except for the purposes of tracking objects in outer space or for use as national technical means of verification.

[G]

The Parties understand that Article IX of the Treaty includes the obligation of the US and the USSR not to provide to other States technical descriptions or blue prints specially worked out for the construction of ABM systems and their components limited by the Treaty.

2. COMMON UNDERSTANDINGS

Common understanding of the Parties on the following matters was reached during the negotiations:

A. Location of ICBM Defenses

The U.S. Delegation made the following statement on May 26, 1972:

"Article III of the ABM Treaty provides for each side one ABM system deployment area centered on its national capital and one ABM system deployment area containing ICBM silo launchers: (The two sides have registered agreement on the following statement: 'The Parties understand that the center of the ABM system deployment area centered on the national capital and the center of the ABM system deployment area containing ICBM silo launchers for each Party shall be separated by no less than thirteen hundred kilometers.' In this connection, the U.S. side notes that its ABM system deployment area for defense of ICBM silo launchers, located west of the Mississippi River, will be centered in the Grand Forks ICBM silo launcher deployment area. (See Agreed Statement [C].)"

B. ABM Test Ranges

The U.S. Delegation made the following statement on April 26, 1972:

"Article IV of the ABM Treaty provides that 'the limitations provided for in Article III shall not apply to ABM systems or their components used for development or testing, and located within current or additionally agreed test ranges.' We believe it would be useful to assure that there is no misunderstanding as to current ABM test ranges. It is our understanding that ABM test ranges encompass the area within which ABM components are located for test purposes. The current U.S. ABM test ranges are at White Sands, New Mexico, and at Kwajalein Atoll, and the current Soviet ABM test range is near Sary Shagan in Kazakhstan. We consider that non-phased array radars of types used for range safety or instrumentation purposes may be located outside of ABM test ranges. We interpret the reference in Article IV to additionally agreed test ranges to mean that ABM components will not be located at any other test ranges withour prior agreement between our Governments that there will be such additional ABM test ranges."

On May 5, 1972, the Soviet Delegation stated that there was a common understanding on what ABM test ranges were, that the use of the types of non-ABM radars for range safety or instrumentation was not limited under the Treaty, that the reference in Article IV to "additionally agreed" test ranges was sufficiently clear, and that national means permitted identifying current test ranges.

C. Mobile ABM Systems

On January 29, 1972, the U.S. Delegation made the following statement:

"Article V(1) of the Joint Draft Text of the ABM Treaty includes an undertaking not to develop, test, or deploy mobile land-based ABM systems and their components. On May 5, 1971, the U.S. side indicated that, in its view, a prohibition on deployment of mobile ABM systems and components would rule out the deployment of ABM launchers and radars which were not permanent fixed types. At that time, we asked for the Soviet view of this interpretation. Does the Soviet side agree with the U.S. side's interpretation put forward on May 5, 1971?"

On April 13, 1972, the Soviet Delegation said there is a general common understanding on this matter.

D. Standing Consultative Commission

Ambassador Smith made the following statement on May 22, 1972:

"The United States proposes that the sides agree that, with regard to initial implementation of the ABM Treaty's Article XIII on the Standing Consultative Commission (SCC) and of the consultation Articles to the Interim Agreement on offensive arms and the Accidents Agreement,[1] agreement establishing the SCC will be worked out early in the follow-on SALT negotiations; until that is completed, the following arrangements will prevail: when SALT is in session, any consultation desired by either side under these Articles can be carried out by the two SALT Delegations; when SALT is not in session, ad hoc arrangements for any desired consultations under these Articles may be made through diplomatic channels."

Minister Semenov replied that, on an ad referendum basis, he could agree that the

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[1] See Article 7 of Agreement to Reduce the Risk of Outbreak of Nuclear War Between the United States of America and the Union of the Soviet Socialist Republics, signed Sept. 30, 1971.

U.S. statement corresponded to the Soviet understanding.

E. Standstill

On May 6, 1972, Minister Semenov made the following statement:

"In an effort to accommodate the wishes of the U.S. side, the Soviet Delegation is prepared to proceed on the basis that the two sides will in fact observe the obligations of both the Interim Agreement and the ABM Treaty beginning from the date of signature of these two documents."

In reply, the U.S. Delegation made the following statement on May 20, 1972:

"The U.S. agrees in principle with the Soviet statement made on May 6 concerning observance of obligations beginning from date of signature but we would like to make clear our understanding that this means that, pending ratification and acceptance, neither side would take any action prohibited by the agreements after they had entered into force. This understanding would continue to apply in the absence of notification by either signatory of its intention not to proceed with ratification or approval."

The Soviet Delegation indicated agreement with the U.S. statement.

3. UNILATERAL STATEMENTS

The following noteworthy unilateral statements were made during the negotiations by the United States Delegation:

A. Withdrawal from the ABM Treaty

On May 9, 1972, Ambassador Smith made the following statement:

"The U.S. Delegation has stressed the importance the U.S. Government attaches to achieving agreement on more complete limitations on strategic offensive arms, following agreement on an ABM Treaty and on an Interim Agreement on certain measures with respect to the limitation of strategic offensive arms. The U.S. Delegation believes that an objective of the follow-on negotiations should be to constrain and reduce on a long-term basis threats to the survivability of our respective strategic retaliatory forces. The USSR Delegation has also indicated that the objectives of SALT would remain unfulfilled without the achievement of an agreement providing for more complete limitations on strategic offensive arms. Both sides recognize that the initial agreements would be steps toward the achievement of more complete limitations on strategic arms. If an agreement providing for more complete strategic offensive arms limitations were not achieved within five years, U.S. supreme interests could be jeopardized. Should that occur, it would constitute a basis for withdrawal from the ABM Treaty. The U.S. does not wish to see such a situation occur, nor do we believe that the USSR does. It is because we wish to prevent such a situation that we emphasize the importance the U.S. Government attaches to achievement of more complete limitations on strategic offensive arms. The U.S. Executive will inform the Congress, in connection with Congressional consideration of the ABM Treaty and the Interim Agreement, of this statement of the U.S. position."

B. Tested in ABM Mode

On April 7, 1972, the U.S. Delegation made the following statement:

"Article II of the Joint Text Draft uses the term tested in an ABM mode, in defining ABM components, and Article VI includes certain obligations concerning such testing. We believe that the sides should have a common understanding of this phrase. First, we would note that the testing provisions of the ABM Treaty are intended to apply to testing which occurs after the date of signature of the Treaty, and not to any testing which may have occurred in the past. Next, we would amplify the remarks we have made on this subject during the previous Helsinki phase by setting forth the objectives which govern the U.S. view on the subject, namely, while prohibiting testing of non-ABM components for ABM purposes: not to prevent testing of ABM components, and not to prevent testing of non-ABM components for non-ABM purposes. * * *"

Mr. DOLE. Mr. President, I rise in support of the amendment being offered by the ranking Republican on the Senate Armed Services Committee. It is a forward-looking amendment which takes into account our experiences in the recent war in the gulf.

During the Persian Gulf war we could see on the nightly news what it means to be vulnerable to ballistic missile attacks—and, what it means to be protected from ballistic missile attacks, 42 Scud missiles were launched by the Iraqis and 41 were intercepted. Who knows how many more lives would have been lost, how many more casualties there would have been or how much more damage would have occurred if the United States had not deployed the Patriot in defense of our troops and our allies.

Without a doubt, one of the key lessons to be learned from the Persian Gulf war is that there is a need to protect the United States, our military forces and our allies from the very real and growing threat of ballistic missiles. What we have also learned is that U.S. technology is up to the task of meeting that threat.

In a letter I received recently from National Security Adviser Brent Scowcroft, he made the following point regarding the threat of ballistic missiles proliferation:

> We cannot be complacent about the threat to the United States. The decisions we take today will affect American security well into the next decade.

The Scowcroft letter continues:

> No one in Israel or Saudi Arabia doubts the value of ballistic missile defenses. But as well as the Patriot has performed, it represents only a fraction of our capability. Moreover, we may well face more sophisticated threats than the Scud. As the President said, in the 1990's strategic defenses make more sense than ever before.

Indeed, in testimony before the Congress, CIA Director William Webster informed us that by the end of the century, between 15 and 20 developing countries will possess a ballistic missile capability, and that at least six developing countries will have ballistic missiles with a range sufficient to threaten the United States.

Mr. President, this amendment puts the Senate on record in support of defending America, its military forces and its allies. It recognizes that the world has changed—that the threat of proliferation in the developing world is growing. It also takes note of the great progress that has been made in the SDI Program—in the research of technologies aimed at defending against ballistic missiles.

Mr. President, this amendment supports the ongoing negotiations with the Soviets in Geneva and states that the administration should conclude an agreement which would remove any limitations on the United States having effective defenses against ballistic missiles. If such an agreement is not reached, within 2 years, the President should make a determination on whether or not U.S. adherence to the ABM Treaty is in the national interest—and should inform the Congress of his decision.

Mr. President, this amendment is a first step in responding to the changing world around us. Over the last 30 years the threats to our national security have evolved and our technological capabilities to meet those threats have also evolved.

Mr. President, now is the time to commit to the pursuit of ballistic missile defenses. As the National Security Adviser said, now is not the time to be complacent. If America and its military forces are to be protected tomorrow, we need to commit today. This amendment puts the Senate on record in support of such a commitment and I urge that it be adopted.

The PRESIDING OFFICER. The Chair recognizes the Senator from Michigan.

Mr. LEVIN. Mr. President, first, let me ask unanimous consent that I be added as a cosponsor to the Nunn substitute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I rise in opposition to the Warner amendment.

We must be clear about what Senator WARNER is proposing in his amendment. He is not advocating a broad interpretation of the ABM Treaty over a narrow one.

His amendment would put the Senate on record as saying that ABM Treaty compliance by us is no longer in our national interest.

To come to this conclusion, you need only review the restrictions of the ABM Treaty and compare them to the language of the Warner amendment.

Article 5 of the ABM Treaty states that "Each party undertakes not to develop, test, or deploy ABM systems or components that are sea based, air based, space based, or mobile land based." Article 6 of the treaty states that the parties agree not to give non-ABM interceptor missiles, launchers, or radars "capabilities to counter strategic ballistic missiles or their elements in flight trajectory, and not to test them in an ABM mode."

The Warner amendment specifically reverses these restrictions. It states, it is the finding of the Congress that "Continuing restrictions on the development and testing of ABM systems unduly restricts effective demonstration of ballistic missile defense technology and unnecessarily compliances ABM experiments."

It further states that it is the sense of the Congress that "the Secretary of Defense should undertake preparations for the development and testing of systems and components designed to defend the United States and its Armed Forces, wherever deployed, from ballistic missiles even though some of the actual development and testing may not be permitted by the ABM Treaty of 1972.

At this time we are engaged in negotiations with the Soviets on a deep reduction in offensive strategic nuclear systems. Such a treaty could enhance our national interests and is supported by the Joint Chiefs of Staff. The President and his Cabinet believe this treaty is in our national interest and that is why they are pursuing it. These negotiations are being pursued with the belief that the ABM Treaty will still be in force at least as long as the last summit agreement assured adherence.

Even President Reagan, a strong believer in SDI, has gone on record noting the importance of the ABM Treaty in the START process. At the end of the December 1987 United States-Soviet summit in Washington, a joint United States-Soviet statement was issued that started:

> Taking into account the preparation of the Treaty on Strategic Offensive Arms, the leaders of the two countries * * * instructed their delegations in Geneva to work out an agreement that would commit the sides to observe the ABM Treaty, as signed in 1972 * * * and not to withdraw from the ABM Treaty, for a specified period of time.

Another testament to the vital importance of the ABM Treaty is found in the 1984 report of the President's Commission on Strategic Forces. The Commission, headed by Gen. Brent Scowcroft, stated:

> One of the most successful arms control agreements is the Anti-Ballistic Missile Treaty of 1972 * * * the strategic implications of ballistic missile defense and the criticality of the ABM Treaty to further arms control agreements dictates extreme caution in proceeding to engineering development in this sensitive area.

It seems inconsistent that General Scowcroft would not support the Warner amendment given his past statements.

During hearings before the Senate and House in 1985, former State Department Legal Adviser, Abraham Sofaer, the father of the broad ABM Treaty interpretation, stated, "The ABM Treaty is an important part of our strategic arms control structure." So, even those that sought to broaden the interpretation recognized the value of the treaty.

If this amendment is approved by the Senate, I doubt that the current START negotiations could continue. Surely the Soviets might reconsider their participation, and the United States almost certainly might also.

This amendment also could cause upheaval in the Soviet Union.

Many administration officials believe that it is in our interests for the Soviets to reform their economy and become more democratic. I know that many of my colleagues in the Senate believe the same thing. But, do we really believe that Gorbachev, who already has had to make concessions to military hardliners, could survive if the cornerstone of strategic arms control—the ABM Treaty—was unilaterally abrogated by the United States, as the Warner amendment puts Senate on report. Do we believe that if Gorbachev was forced to step down as the Soviet leader under these circumstances, that this would bolster democracy and the forces for reform in the Soviet Union? Could economic reform in the Soviet Union survive the stress of another round of the offensive and defensive arms race?

We should also be clear about what we are abandoning this treaty for. It is not being abandoned for a defense that would protect the population of the United States from a massive Soviet ballistic missile attack—the purpose originally stated by President Reagan when he introduced the strategic defense initiative. That mission no longer is feasible—or even claimed.

Instead, the treaty would be scrapped in order for us to implement the new strategic defense rationale of global protection against limited strikes [GPALS].

To quote from a recent Strategic Defense Initiative Organization [SDIO] document,

> With GPALS, we are talking about protection against limited strikes, rather than deterrence of a massive attack. This mission is in contrast to the prior mission, which was to destroy a percentage, on the order of half, of a mass raid involving several thousand RVs launched out of the Soviet Union toward the United States.

GPALS would accomplish its mission through a combination of land-based and spaced-based weapons.

The simple fact is that the administration and SDIO are attempting to seize upon the success of the Patriot missile system in intercepting and destroying Iraqi Scud missiles in the Persian Gulf. They have come up with a plan—GPALS—that limits the goals of the system to intercepting 100 to 200 warheads instead of thousands and that focuses on protecting against accidental or unauthorized launches, launches of a small number of ballistic missiles from hostile Third World nations, and defending our forward deployed forces and allies.

The Patriot missile system worked very well in the Middle East. This system was very successful in intercepting the conventionally armed Scuds that Iraq fired at Saudi Arabia and Israel. The Patriot intercepts helped to neutralize Saddam Hussein's terror missiles and also thwarted his attempts to draw Israel into the battle. Both of these circumstances helped to accelerate our victory against the Iraqi Army.

The Patriot system is ABM Treaty compliant.

However, a spaced-based ABM system using Brilliant Pebbles would not have been successful in intercepting the Scud missiles launched by Iraq and this system would not be effective in defending United States forward deployed forces against those short-range missiles that primarily threatened them. Former SDIO Director, Gen. George Monahan, has testified that Brilliant Pebbles would orbit at roughly 450 kilometers. The short range missiles typically reach altitudes of only 160–120 kilometers.

Also, these short-range missiles usually have a boost phase of less than 100 seconds. Brilliant Pebbles take 50–100 seconds to detect and assess a launch, and fire a space-based rocket to intercept the missile. Also, the Pebble would be looking down at the missile where it would be silhouetted against the warm Earth not the cold of space. This could make discrimination very difficult. The current Director of SDIO, Henry Cooper, stated recently that "midcourse discrimination * * * has been the problem for many years."

Finally, the limited number of Brilliant Pebbles proposed as part of GPALS system makes it unlikely that this system could handle multiple short range missile launches, even if it could detect the target and arrive in time to intercept it.

Mr. President, we should remember that the United States has moved toward the goal of a thin ABM system in the past, when we pursued the Safeguard system. In March 1969, President Nixon cited the need to protect the American people against a small nuclear attack—the threat posed by China—and the possibility of an accidental attack. We built one Safeguard site at Grand Forks, ND, in 1975, and it was compliant with the ABM Treaty restrictions. We should also remember that this system was activated for only a very short period of time.

However, if the President and the majority of Congress believe that defenses are necessary in the future we could also ensure that they are also compliant with the ABM Treaty.

Senator WARNER's amendment suggests that we unleash American technology on the ballistic missile threat. We should recognize that we have already committed over $20 billion in the last 8 years precisely for this purpose. The question is not technology it is security. The ABM Treaty is in our national security interests.

Mr. President, let me commend my friend from Virginia for not pursuing his original version. The amendment which had originally been contemplated by my friend from Virginia would have not just put the Senate on record as opposing further adherence to the further ABM Treaty, as the current sense-of-the-Congress resolution does, but it also would have forced the termination of the ABM Treaty, in the language itself.

This sense-of-the-Congress resolution no longer does that, at least. It still does violence to the treaty by putting us on record as opposing continuing adherence to it, but it does not do the same direct violence to the treaty which the former amendment of the Senator from Virginia would have accomplished.

I want to at least recognize that and commend him for moving at least part way back from that very disastrous brink. I wish he had pulled back a couple of more steps from where he is because I think part of this resolution, at least, makes a useful contribution to where we should be headed. Part of it, I must say, I very strongly oppose because it goes way beyond what the Senator from Virginia has said it does, which is simply support the President.

Under the terms of this sense-of-the-Congress resolution, after the 2-year period is over, the President then would make a determination as to whether or not continuing U.S. adherence to the ABM Treaty is in the national interest. It gives the President that option. It does not force the President now to determine whether our adherence to the ABM Treaty is in our interest. The President nowhere says, in the Scowcroft letter or otherwise, that adherence to the ABM Treaty is not in the national interest.

The President is trying to negotiate some changes in that treaty, mutual changes with the Soviet Union, consistent with the START negotiations that he is also undertaking on a separate track. But the President does not commit himself anywhere that I know of to withdrawing from the ABM Treaty in the event the ongoing negotiations are not successful.

The President has not decided that adherence to the ABM Treaty is not in our national interest in the event we cannot negotiate amendments to it. The President has left himself that determination for a later date.

The former President, President Reagan, left himself that determination for a later date in the summit statement which was jointly issued with President Gorbachev in 1987. That discretion is left for the President, as it should be.

But we do not have that discretion under the Senator's sense-of-the-Congress resolution. This puts us on record as saying that adherence to the ABM Treaty is not in our national interest. It does so by its own language. It says that:

> The President should remove any limitations on the United States having effective defenses against ballistic missiles.

That is what the direction is. And, by the wording of the Senator from Virginia, I think it is very clear that the purpose of this is that adherence to this treaty is no longer in our interest, and this resolution effectively says that.

Why should we be going on record as saying that adherence to the ABM Treaty is not in the national interest when the President, by the terms of this resolution, is allowed the flexibility, after the 2 years is over, to determine whether adherence to the ABM Treaty is in our interest or not?

Let us just read about the flexibility again, in section 5, that it gives to the President.

> If such agreement is not reached within the period described in clause 3—

Which is a 2-year period or less—

> the President should make immediately a determination as to whether continuing U.S. adherence to the terms of the ABM Treaty of 1972 is in the U.S. national interest.

That gives the President the flexibility which the President wants and that is why General Scowcroft is happy to support this sense-of-the-Congress resolution. It leaves them all the flexibility they now have, but puts us on record as saying adherence to this treaty is not in the national interest before the period of negotiations has expired.

So, when my good friend from Virginia says, "Let us join the President, let us join the President, that is all that is involved here; are we with the President or are we not with the President?" I am afraid that what is really involved here is whether or not we want to go on record as saying that adherence to the ABM Treaty is not in the national interest and to say that now but leaving the President the flexibility to make that determination whether or not continuing compliance with the ABM Treaty is in the national interest 2 years from now.

So the issue is not whether or not we are with the President, whether or not the President should negotiate changes in the ABM Treaty. The issue is whether we make a declaration prior to those negotiations that continuing adherence to the ABM Treaty is not in the national interest when there is no such restriction on the President, nor has the President so expressed himself—wisely—anywhere that I know of. That is the issue here.

We are not just simply saying to the President: Go out and negotiate. We are saying continuing adherence to this treaty is not in our interest if this amendment is adopted. And, for heaven's sake, we cannot and should not as a body that ratified that treaty make that kind of a decision, prematurely, in advance of negotiations to modify that treaty and at a time when the President himself has not reached that conclusion.

Back in 1987 there was a summit. It was a summit between our President and President Gorbachev. There was a joint statement which was issued following that summit. That joint statement read as follows:

> Taking into account the preparation of the treaty on strategic offensive arms—

That is the START treaty—

> the leaders of the two countries also instructed their delegations in Geneva to work out an agreement that would commit the sides to observe the ABM Treaty as signed in 1972 while conducting their research, development and testing as required, which are permitted by the ABM Treaty, and not to withdraw from that ABM Treaty for a specified period of time.

That is the first sentence. This is a very high level document. This is the President of the United States and the President of the Soviet Union saying to their negotiator, "Negotiate an agreement not to withdraw from the ABM Treaty for a specified period of time."

The next sentence reads:

> Intensive discussions of strategic stability shall begin not later than 3 years before the end of the specified period, after which, in the event the sides have not agreed otherwise, each side will be free to decide its course of action.

In other words, we adhere to the ABM Treaty and at least 3 years prior to the specified period of adherence, to the end of the specified period of adherence, we will begin these talks on strategic stability. In other words, again, we are committed to adhere to the ABM Treaty for a period of at least 3 years because the talks on strategic stability have to begin at least 3 years prior to the end of the specified period. So the specified period, by definition, must be at least 3 years long. Of course, it was contemplated it would be significantly longer than that. Nonetheless, for the purposes of this debate, at a minimum, this period is a 3-year period.

Later on in this agreed-upon mutual statement it said that:

> Such an agreement must have the same legal status as the START treaty, the ABM Treaty, and other similarly legally binding agreements. This agreement will be recorded in a mutually satisfactory manner; therefore, they direct their delegations to address these issues on a priority basis. The side shall discuss ways to ensure predictability in the development of the U.S.-Soviet strategic relation under conditions of strategic stability to reduce the risk of nuclear war.

That is the entire statement between the two Presidents, the two nations.

"Ensure predictability in the development of U.S.-Soviet strategic relations." How can we possibly have predictability in the development of United States strategic relations with the Soviet Union if President Reagan agrees with President Gorbachev that when our negotiators work out an agreement we will adhere to the ABM

Treaty for a minimum of 3 years? That is the agreement between the two of them. And then the U.S. Senate comes along and says it is the sense of the Congress that 2 years is enough and then we are no longer going to adhere to it.

How do you have stability in a relationship when there is that kind of a high-level agreement following a summit of adherence to a treaty for a minimum of 3 years and then comes the sense-of-the-Congress resolution that says within 2 years or less we want an agreement to clearly remove any limitations on the United States having effective defenses against ballistic missiles and that it is in the national interest that be achieved?

The ABM Treaty and the START Treaty are related. Maybe we do not like it that way. Maybe we would like them to be unrelated and delinked, but they are linked. They are linked in this summit statement.

The first words in this summit statement are "Taking into account the preparation of the START Treaty." Those are the first words. Then it goes on to say that the leaders commit themselves to observe the ABM Treaty for a specified period of time which clearly is a minimum of 3 years.

They are linked in this document and they are linked by the Soviets. But the Soviets have told us over and over again, and all the documents support this, that if they are going to face significant numbers of ballistic defenses, they are not going to commit themselves to reduce their offensive numbers because they may, indeed, want to increase the number of offensive weapons.

It is that relationship between offense and defense, as Senator NUNN has pointed out, and the fact that if a country is going to face defenses, that it may want to increase its offenses rather than cut them, particularly if it itself does not have a defense.

It is that relationship between offense and defense that spirals that arms race in defensive weaponry, which Senator NUNN made reference to, and the fact if you face defenses you may want to increase your offenses. It is that connection which caused President Nixon to say, "The ABM Treaty stopped what inevitably would have become a defensive arms race with untold billions of dollars being spent on each side for more and more ABM coverage."

It is that relationship, that linkage, which caused our former Director of the Central Intelligence Agency, under President Nixon and Ford, Bill Colby, to say:

> The only way to defend our country against nuclear war is to prevent it from happening. The ABM Treaty has played a major role in the success of that policy of prevention by dampening the arms race and providing the conditions necessary for progress on limiting offensive forces. It is a watershed document. It has done more to reduce the threat of nuclear war than any other single agreement.

Mr. President, I yield the floor.

Mr. SHELBY. Mr. President, I rise in support of the substitute amendment offered by the chairman of the Armed Services Committee. I have joined my colleague as a cosponsor because I believe that the passage of this amendment will lead to the development of defenses that can offer limited protection against limited strikes from theater or ballistic missiles.

The amendment is divided into two parts. The first is an authorization of an additional $224 million to procure Patriot missiles and fire units in fiscal year 1991. The second part restores funding for certain ground-based systems to requested fiscal year 1991 levels.

Mr. President, I do not believe that anyone associated with this substitute amendment wants this fight. This action was forced upon us through the amendment offered by the Senator from Virginia. The underlying amendment goes far beyond any previous debate of the Antiballistic Missile Treaty that has occurred in this body since the Senate gave consent in 1972.

We, in Congress, have been debating the virtues and vices of the ABM Treaty well before the inception of the strategic defense initiative. However, it was the speech given by President Reagan 8 years ago that heated-up this debate. We have talked about a narrow versus broad interpretation of the treaty. We have discussed the virtue of modifications to the treaty. We have denounced Soviet violations of the ABM Treaty. We have discussed testing under the constraints of the treaty.

We have talked about deployment decisions and how these decisions effect the treaty. Year after year we have asked those testifying on behalf of the SDI request if they intend to conduct any tests. The answer has always been no.

I must say at this point that I agree with the premise that it is necessary to seek modifications to the ABM Treaty. I felt this way before the Scud missile attacks on United States forces in Saudi Arabia and Israel. I am also concerned about ballistic missile proliferation. However, I do not believe that the continuing restrictions on the development and testing of ABM systems unduly restricts the SDI Program as it is presently defined.

During his February 12 press conference, Ambassador Henry Cooper, Director of the Strategic Defense Organization stated:

> Realistically speaking, if we stick to the schedules that I have talked about here, where we want to reach a deployment phase by the end of this decade, then by the middle of the decade, we will be talking about full-scale development decisions and by that point we'll be up against congressional constraints regarding the treaty in a pretty direct way.

Ambassador Cooper believes that it will be 1995 or 1996 before any SDI experiments are conducted that will violate the ABM Treaty. Therefore, I do not see the need to negotiate and sign an agreement with the Soviet Union, within 2 years, that removes all limitations on defenses against ballistic missiles.

On the other hand, the substitute amendment offers the Senate the chance to move more quickly toward the deployment of defenses against ballistic missiles. The Patriot is our only defense, of any kind, against ballistic missiles. We must continue to support this program. The amendment offered by the chairman of the Armed Services Committee would add $224 million to this program.

At the same time, we have to recognize that the Patriot provides only a limited defense against ballistic missiles. Therefore, we have included in this amendment the redirection of fiscal year 1991 SDI dollars to four ground-based programs: GBI, E2I, GBR, and GSTS, thus funding these programs at fiscal year 1991 requested level of $487 million. The source of these funds will be an across-the-board decrement of all other SDI programs of more than $20 million, with the exception of theater missile defenses, which remain fully funded.

SDIO currently estimates a deployment decision for E2I and GBI at roughly equal to that of brilliant pebbles and brilliant eyes. Additional funding will allow for deployment of these more mature, ground-based systems earlier in this decade. Full funding of theater missile defense will keep systems such as the patriot upgrade, Erint, Arrow and Thaad on course.

Mr. President, I believe the Nunn substitute to be the best method by which we can support defenses against ballistic missiles. It is a means by which we can improve what is currently deployed and provide additional funding for ground-based systems so that they can proceed with their deployment and thus enhance our national security.

I urge the adoption of the Nunn amendment.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Hampshire.

Mr. SMITH. I thank the Chair.

Mr. President, I rise in strong support of the amendment offered by the Senator from Virginia [Mr. WARNER]. This is a long overdue debate. I commend the distinguished ranking member of the Armed Services Committee for this timely and frankly, well conceived amendment.

Mr. President, we are all familiar with the 1972 Antiballistic Missile Treaty and its 1974 protocol, which prohibit nationwide defenses against strategic ballistic missiles in the Soviet Union and the United States. Under the agreed framework, ABM deployment is limited to one system around the National Capital or, alternatively, at a single ICBM site. The term ABM system is defined to include any system to counter strategic ballistic missiles or their elements in flight trajectory.

Unfortunately, however, we are all too familiar with a continuing pattern of Soviet noncompliance with key provisions of the ABM Treaty. For instance, the Krasnoyarsk large phased-array radar, which the Soviet's claim is intended for space tracking and national technical means, clearly is designed for ballistic missile detection and ABM battle management. Furthermore, the radar is not directed outward as specified by the ABM Treaty but, rather, looks toward the Soviet Union's northeast border some 4,600 kilometers away. Although the Soviet's have finally acknowledged that the radar violates the ABM Treaty, they are delinquent in their commitment to dismantle it.

Moreover, there is compelling evidence that the Soviet Union has engaged in additional violations, such as the development and testing of components required for a mobile ABM system; the concurrent operation of air defense components and ABM components; and the development of modern air defense systems that have ABM capabilities.

My purpose in raising these issues is not to justify United States abrogation of the ABM Treaty but, rather, to illustrate an alarming and continuous pattern of Soviet noncompliance with virtually every arms control agreement it has signed. Indeed, the recent discovery of INF-banned SS–23 missiles and launchers in Bulgaria, Czechoslovakia, and Germany, along with Soviet refusal to permit United States imaging of Soviet missile canisters on three occasions, provide a sobering illustration of how the Soviet's view their legal obligations and political commitments.

Mr. President, I have no doubt that President Nixon's arms control negotiators believed an ABM Treaty would enhance superpower stability and prevent an expensive and dangerous missile/anti-missile arms race. However, it is equally clear that many of the assumptions upon which the ABM Treaty was based are no longer valid. For instance, the treaty was premised on a fundamental linkage between offensive and defensive forces, whereby ABM limitations would lead to subsequent reductions in strategic offensive weapons. However, the truth is that deep reductions in strategic offensive forces did not occur in the wake of the ABM Treaty.

Furthermore, treaty supporters assured that ABM limitations would reduce threats to the survivability of retaliatory forces. To the contrary, the Soviet Union continued to aggressively modernize and deploy large numbers of "heavy" ICBM's, such as the SS–18, which combine enhanced accuracy and yield to increase the vulnerability of U.S. retaliatory forces.

Finally, in 1972, it was assumed that missile defense technologies were neither survivable nor cost-effective and, thus, insufficient to deter aggression. However, recent technological advances within the SDI Program clearly demonstrate that the United States has within its grasp the capability to deploy a capable, cost-effective missile defense system.

The success of the Patriot system in Operation Desert Storm forcefully legitimizes the case for strategic missile defenses as well. Indeed, the world watched transfixed as Iraqi Scud missiles hurled toward Israel and Saudi Arabia, only to be successfully engaged by U.S. Patriot missile batteries, except on one very tragic occasion. The outstanding maiden combat performance of the Patriot PAC–2 missile vividly demonstrates that anti-ballistic missile technology offers a highly effective, desirable defense for military and civilian assets.

In his State of the Union Address, President Bush directed that the SDI program be refocused toward protection against limited ballistic missile strikes, whatever their source. This new framework, called global protection against limited strikes, would provide a more affordable, yet highly capable, layered missile defense. Importantly, the limited defense concept reserves our option to expand ABM capabilities should future developments warrant.

Mr. President, the time has come for the United States to reconsider its participation in the ABM Treaty. Despite dramatic changes in the international security environment, the Soviet Union continues to aggressively modernize and enhance its strategic offensive forces, while selectively disregarding key provisions of the existing ABM Treaty. The nearly complete START treaty may limit the number of warheads and launchers, but not the quality or effectiveness of Soviet Nuclear Forces. We may not know what Soviet intentions are, but we certainly know their capabilities.

Furthermore, the simultaneous global proliferation of ballistic missile technology and weapons of mass destruction poses a clear and present danger to U.S. security interests. Currently, it is estimated that some 18 to 20 nations possess ballistic missile capability. Moreover, countries are increasingly developing an indigenous production capability which is virtually immune from export controls. By the year 2000, the number of countries with deployable ballistic missile systems could reach as many as 24.

The United States has within its reach the technology to provide global protection—not only to protect the continental United States, but protection of the entire United States as well as our forces overseas, our friends and allies—against limited strikes. The Warner amendment would simply discourage further technological hamstringing, and express the sense of Congress that the Secretary of Defense should undertake preparations for the development and testing of promising ABM systems and components, in anticipation of a United States-Soviet agreement to nullify the ABM Treaty. These nonnuclear defensive technologies would afford similar, yet substantially enhanced, protection to that which our Patriots provided in Israel and Saudi Arabia.

As elected Representatives of the American people, we have a moral as well as a military obligation to ensure the defense and security of our Nation and our forces whereever they are. How can we, in good conscience, deny our citizens the same protection which we so readily provided to our friends and allies in the Middle East. The answer is: we cannot.

Mr. President, irrespective of the Warsaw bloc dissolution, the Soviet Union remains internally unstable, and the sole nation capable of destroying the United States. Do we really know who will control the vast Soviet nuclear arsenal in the future? Will it be Mikhail Gorbachev, Boris Yeltsin, or perhaps a reversion to hardline communism and the KGB?

If this uncertainty is not compelling enough, Saddam Hussein personally delivered a wakeup call through his ballistic missile terrorism against Israel, Saudi Arabia and American troops. The continuing proliferation of sensitive missile technologies and weapons of mass destruction presents an immediate and formidable challenge to our security interests. Today, we must ask ourselves: Is a deterrent posture based on mutual assured destruction suitable to the evolving Third World missile threat, and the tyrannical fanaticism of Saddam Hussein and Muammar Qadhafi?

Mr. President, the ABM Treaty has outlived its usefulness. Changes in the strategic and regional security environments have fundamentally altered the defense calculus upon which the treaty was based. Now is the time for the United States to move forward and establish a more stable deterrent posture which integrates both strategic offensive and defensive forces. The Warner amendment initiates this long overdue transition.

I commend the distinguished Senator from Virginia for his amendment, and I urge my colleagues to adopt it.

Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL COSPONSOR

Mr. NUNN. Mr. President, I ask unanimous consent Senator KENNEDY be listed as cosponsor of my substitute amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. NUNN. Mr. President, I ask unanimous consent there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

HAVA NAGILA

Mr. MOYNIHAN. Mr. President, Cantor Sheldon Feinberg of Malverne has brought to my attention that this year marks the 80th anniversary of the beloved popular Hebrew song, "Hava Nagila."

Millions of people of all faiths around the world have enjoyed this beautiful and lively tune without realizing that it was first composed in Jerusalem in 1911 by a talented 12-year-old boy, Moshe Nathanson.

Moshe Nathanson moved to New York City as a teenager where he graduated with honors from the Juilliard School of Music in New York and spent 60 productive and devoted years as a teacher, cantor, composer, and concert artist.

"Hava Nagila" has brought such joy to so many people in this country and around the world that we would do well to acknowledge this significant anniversary. Harry Belafonte probably said it best when he declared,

> It is possible during the lifetime of a musical artist to find many songs that will touch the hearts of people in many different places in the world. It is most unique to find one song that will do that to all people.

"Hava Nagila," Mr. President, is just such a song.

Mr. President, I wish that my remarks commemorate the special anniversary of this most joyous tune.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 4:55 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 45. Concurrent resolution permitting the use of the rotunda of the Capitol for ceremonies as part of the commemoration of the days of remembrance of victims of the holocaust.

MEASURES REFERRED

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 45. Concurrent resolution permitting the use of the rotunda of the Capitol for ceremonies as part of the commemoration of the days of remembrance of victims of the holocaust; to the Committee on Rules and Administration.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services, without amendment:

S. 647. An original bill to require the Director of the Office of Management and Budget to submit to Congress reports on the costs incurred by the United States in connection with the Persian Gulf conflict and the foreign contributions made to offset such costs, and to require the Secretary of State and the Secretary of the Treasury to submit to Congress reports on the contributions of foreign countries in response to the Persian Gulf crisis.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Andrew Lamar Alexander, Jr., of Tennessee, to be Secretary of Education;

Marye Anne Fox, of Texas, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 1996; and

The following named persons to be Members of the National Advisory Council on Educational Research and Improvement for the terms indicated:

Eugene L. Madeira, of Pennsylvania, for the remainder of the term expiring September 30, 1991, vice Donald M. Clark.

A. Pierre Guillermin, of Virginia, for a term expiring September 30, 1993, vice Robert Lee McElrath, term expired.

June Scobee Rodgers, of Arizona, for a term expiring September 30, 1993, vice Carol Pendas Whitten, term expired.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nomines' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SYMMS (for himself, Mr. SMITH, and Mr. CRAIG):

S. 634. A bill to amend chapter 44, title 18, United States Code, to provide clarification of limitations on controls of firearms, and to prohibit the use of Federal funds to political subdivisions which implement certain gun control ordinances; to the Committee on the Judiciary.

By Mr. THURMOND (for himself, Mr. DOLE, Mr. SIMPSON, Mr. HATCH, Mr. SPECTER, Mr. D'AMATO, Mr. STEVENS, Mr. LUGAR, Mr. HELMS, Mr. DOMENICI, Mr. COCHRAN, Mr. COATS, Mr. GARN, Mr. KASTEN, Mr. WARNER, Mr. SYMMS, Mr. NICKLES, Mr. MACK, Mr. LOTT, Mr. WALLOP, Mr. MCCAIN, Mr. MCCONNELL, Mr. GORTON, Mr. SMITH, Mr. BROWN, Mr. CRAIG, and Mr. SEYMOUR):

S. 635. A bill to restore an enforceable Federal death penalty, to curb the abuse of habeas corpus, to reform the exclusionary rule, to combat criminal violence involving firearms, to protect witnesses and other participants in the criminal justice system from violence and intimidation, to address the problem of gangs and serious juvenile offenders, to combat terrorism, to combat sexual violence and child abuse, to provide for drug testing of offenders in the criminal justice process, to secure the right of victims and defendants to equal justice without regard to race or color, to enhance the rights of crime victims, and for other purposes; to the Committee on the Judiciary.

By Mr. HOLLINGS:

S. 636. A bill to authorize the President to resume negotiations in the Uruguay Round and to negotiate an agreement with the Governments of Canada and Mexico; to the Committee on Finance.

By Mr. LIEBERMAN:

S. 637. A bill to establish the Industrial Development for Eastern Europe Foundation; to the Committee on Foreign Relations.

By Mr. FOWLER:

S. 638. A bill to authorize the Secretary of the Interior to accept a donation of land for addition to the Ocmulgee National Monument in the State of Georgia; to the Committee on Energy and Natural Resources.

S. 639. A bill to direct the Secretary of the Interior to prepare a national historic landmark theme study on African-American history; to the Committee on Energy and Natural Resources.

By Mr. KASTEN (for himself, Mr. ROCKEFELLER, Mr. DANFORTH, Mr. LIEBERMAN, Mr. GORTON, Mr. RIEGLE, Mr. PRESSLER, Mr. PELL, Mr. MCCAIN, Mr. GLENN, Mr. LOTT, Mr. SANFORD, Mr. BURNS, Mrs. KASSEBAUM, Mr. DOLE, Mr. HELMS, Mr. LUGAR, Mr.

COATS, Mr. CHAFEE, Mr. NICKLES, Mr. HATCH, Mr. BOND, Mr. SYMMS, Mr. WALLOP, Mr. MACK, Mr. GRASSLEY, Mr. HEINZ, Mr. GARN, Mr. CRAIG, Mr. MCCONNELL, and Mr. BOREN):

S. 640. A bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mrs. KASSEBAUM:

S. 641. A bill entitled the "Improved Rural and Short-Line Railroad Service Act."; to the Committee on Commerce, Science, and Transportation.

By Mr. COATS (for himself, and Mr. HELMS):

S. 642. A bill to amend the Internal Revenue Code of 1986 to increase the personal exemption for dependents of a taxpayer; to the Committee on Finance.

S. 643. A bill to amend the Internal Revenue Code of 1986 to increase the personal exemption for dependent children of a taxpayer who are 6 years old or younger; to the Committee on Finance.

By Mr. SIMON (for himself, Mr. BRADLEY, and Mr. HARKIN):

S. 644. A bill to amend the Budget Enforcement Act of 1990 to allow offsetting transfers among discretionary spending categories; to the Committee on the Budget and the Committee on Government Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that is one committee reports, the other committee have 30 days to report or be discharged.

By Mrs. KASSEBAUM (for herself, Mr. BOND, Mr. BURNS, Mr. CHAFEE, Mr. COATS, Mr. CRAIG, Mr. DANFORTH, Mr. DOLE, Mr. EXON, Mr. GARN, Mr. GORTON, Mr. GRASSLEY, Mr. HEINZ, Mr. KASTEN, Mr. KERRY, Mr. MCCAIN, Mr. MURKOWSKI, Mr. NICKLES, Mr. PELL, Mr. RUDMAN, Mr. SIMPSON, Mr. SMITH, Mr. SYMMS, Mr. WALLOP, and Mr. HATCH):

S. 645. A bill to regulate interstate commerce by providing for uniform standards of liability for harm arising out of general aviation accidents; to the Committee on Commerce, Science, and Transportation.

By Mr. DECONCINI (for himself, Mr. THURMOND, Mr. HOLLINGS, Mr. WIRTH, Mr. SPECTER, Mr. GRAHAM, Mr. MACK, Mr. ROBB, Mr. WARNER, Mr. MCCAIN, Mr. SARBANES, Mr. GORE, Mr. SASSER, Ms. MIKULSKI, and Mr. BROWN):

S. 646. A bill to amend title 28, United States Code, to authorize the appointment of additional bankruptcy judges; to the Committee on the Judiciary.

By Mr. NUNN, from the Committee on Armed Services:

S. 647. An original bill to require the Director of the Office of Management and Budget to submit to Congress reports on the costs incurred by the United States in connection with the Persian Gulf conflict and the foreign contributions made to offset such costs, and to require the Secretary of State and the Secretary of the Treasury to submit to Congress reports on the contributions of foreign countries in response to the Persian Gulf crisis; placed on the calendar.

By Mr. SPECTER:

S. 648. A bill to assist States in crime control, law enforcement efforts and prisoner education projects, and for other purposes; to the Committee on the Judiciary.

By Mr. BREAUX (for himself, Mr. CHAFEE, and Mr. PELL):

S. 649. A bill to amend the Internal Revenue Code of 1986 to repeal the luxury tax on boats; to the Committee on Finance.

By Mr. DASCHLE (for himself, Mr. BOREN, Mr. BREAUX, Mr. BUMPERS, Mr. BURDICK, Mr. BURNS, Mr. COCHRAN, Mr. CONRAD, Mr. CRAIG, Mr. DIXON, Mr. GRASSLEY, Mr. HELMS, Mr. JOHNSTON, Mr. LOTT, Mr. PRYOR, Mr. STEVENS, and Mr. SYMMS):

S. 650. A bill to amend the Trade Act of 1974 to strengthen the United States' ability to respond to foreign trade practices that threaten United States commerce; to the Committee on Finance.

By Mr. GARN:

S. 651. A bill to improve the administration of the Federal Deposit Insurance Corporation, and to make technical amendments to the Federal Deposit Insurance Act, the Federal Home Loan Bank Act, and the National Bank Act; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. KOHL:

S. 652. A bill to protect the privacy of telephone users by amending section 3121 of title 18, United States Code; to the Committee on Commerce, Science, and Transportation.

By Mr. HEFLIN (for himself, Mr. HATCH, Mr. THURMOND, Mr. DECONCINI, Mr. SIMPSON, Mr. GRASSLEY, Mr. D'AMATO, Mr. SHELBY, Mr. COCHRAN, Mr. EXON, Mr. GORTON, and Mr. REID):

S. 653. A bill to prohibit injunctive relief, or an award of costs, including attorney's fees, against a judicial officer for action taken in a judicial capacity; to the Committee on the Judiciary.

By Mr. DECONCINI (for himself, Mr. HATCH, Mr. KOHL, Mr. LAUTENBERG, Mr. SPECTER, and Mr. GRASSLEY):

S. 654. A bill to amend title 35, United States Code, with respect to patents on certain processes; to the Committee on the Judiciary.

By Mr. WALLOP:

S. 655. A bill to establish the National Park System Visitor Facilities Trust Fund; to the Committee on Energy and Natural Resources.

By Mr. KASTEN (for himself, Mr. MACK, Mr. SHELBY, Mr. SYMMS, Mr. HELMS, Mr. LOTT, Mr. COATS, Mr. GORTON, Mr. WALLOP, Mr. MCCAIN, Mr. BROWN, Mr. HATCH, Mr. BURNS, Mr. GARN, Mr. GRAMM, Mr. D'AMATO, and Mr. THURMOND):

S. 656. A bill to amend the Internal Revenue Code of 1986 to provide for a maximum long-term capital gains rate of 15 percent and indexing of certain capital gains, and for other purposes; to the Committee on Finance.

By Mr. LEAHY (for himself and Mr. METZENBAUM):

S. 657. A bill to amend the Child Nutrition Act of 1966 to provide for more competitive pricing of infant formula for the special supplemental food program for women, infants, and children [WIC], and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GRAHAM:

S. 658. A bill to provide law enforcement scholarships and recruitment incentives; to the Committee on the Judiciary.

By Mr. GRAHAM (for himself, Mr. DECONCINI, and Mr. AKAKA):

S. 659. A bill to suspend temporarily certain bars to the furnishing of veterans benefits to certain former spouses of veterans and to suspend temporarily a bar to the recognition of certain married children of veterans for veterans benefits purposes; to the Committee on Veterans Affairs.

By Mr. SIMON (for himself and Mr. DIXON):

S. 660. A bill to amend title 28, United States Code, to authorize the appointment of an additional bankruptcy judge for the Southern District of Illinois; to the Committee on the Judiciary.

By Mr. HEFLIN:

S.J. Res. 93. Joint resolution to designate the period of September 13, 1991, through September 19, 1991, as "National Ballroom Dance Week"; to the Committee on the Judiciary.

By Mr. BROWN (for himself, Mr. COCHRAN, Mr. AKAKA, and Mr. SASSER):

S.J. Res. 94. Joint resolution relative to Iraq; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HOLLINGS (for himself, Mr. BYRD, Mr. FORD, Mr. CONRAD, Mr. HELMS, Mr. THURMOND, Mr. INOUYE, Mr. HEFLIN, Mr. SANFORD, Mr. AKAKA, Mr. WELLSTONE, Mr. SHELBY, Mr. SASSER, Mr. JOHNSTON, and Mr. BURDICK):

S. Res. 78. Resolution to disapprove the request of the President for extension of the fast-track procedures under the Omnibus Trade and Competitiveness Act of 1988 and the Trade Act of 1974; to the Committee on Finance.

By Mr. PRYOR (for himself and Mr. HEINZ):

S. Res. 79. Resolution authorizing printing additional copies of Senate report titled "Developments in Aging: 1990"; to the Committee on Rules and Administration.

By Mr. NUNN (for Mr. MITCHELL (for himself and Mr. DOLE)):

S. Res. 80. Resolution to authorize testimony by a Senate employee in the case of Tennessee v. Hutchinson, No. 9100652MMACI (General Sessions Court of Knox County) and related cases; considered and agreed to.

By Mr. BRADLEY (for himself, Mr. BIDEN, Mr. HATCH, Mr. RIEGLE, and Mr. LEVIN):

S. Res. 81. Resolution commending the Baltic States for their efforts to regain independence and urging measures to support such efforts; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SYMMS (for himself, Mr. SMITH, and Mr. CRAIG):

S. 634. A bill to amend chapter 44, title 18, United States Code, to provide clarification of limitations on controls of firearms, and to prohibit the use of Federal funds to political subdivisions which implement certain gun control ordinances; to the Committee on the Judiciary.

GUN CONTROL

Mr. SYMMS. Mr. President, we have heard a lot of talk over the past few years about the importance of preserving and expanding constitutional rights.

Various Federal courts have found constitutional rights ranging from the right to an abortion to the right to burn the American flag, even though neither abortion nor combustion are remotely suggested by anything in the Constitution. Proponents of these expansions have talked sanctimoniously about the overwhelming necessity of preserving these rights, even at great social cost, because of the necessity of preserving the Constitution.

Ironically, many of these same individuals are prepared to readily discard explicit constitutional guarantees which are not consistent with their particular point of view.

No constitutional guarantee has been more whittled away by this hypocrisy than the second amendment.

The language of the second amendment is simple: "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."

This language is more sweeping on its face than the first amendment, which explicitly deals only with what Congress may or may not do. Furthermore, although the second amendment contains a purpose, it has no explicit conditions.

Yet, the same judges and constitutional scholars who have pulled panoplies of constitutional rights out of their ears seem perfectly willing to ignore those embarrassing provisions of the Constitution—including this one—which fail to conform to their world view.

One of the most serious blows to the second amendment—although certainly not the only one—occurred in June 1981, when the city of Morton Grove, IL, enacted an outright ban on the civilian ownership of handguns.

Morton Grove implemented its gun ban with much pomp and circumstance, but, not surprisingly, it resulted in no decrease in the local crime rate. To the contrary, Morton Grove continued to experience an increase in violent crime, while Kinnesaw, GA, which, at the same time, moved to mandate gun ownership, saw its violent crime rate decline.

This could hardly have been a surprise to anyone, even the naive city councilmen of Morton Grove.

Those locations in the United States which most heavily regulate guns—Washington, New York, Boston, and so on—are also, not coincidentally, the murder and crime capitals of the country.

Under ordinary circumstances, a State or locality should have the right to implement the policies of its choice, even if those policies lead to the gratuitous suffering of its citizens.

However, as some of our liberal colleagues have regularly pointed out on the floor of this body, it is the responsibility of the Federal Government to be a guarantor of the people's rights under the Constitution—and particularly under the provisions of the Bill of Rights.

Accordingly, today I am introducing a bill which would prevent any municipality that has enacted a gun ban comparable to the Morton Grove law from receiving Federal law enforcement assistance. The intention is to send a strong message to municipalities contemplating tampering with the Bill of Rights and to deter them from enacting such statist and unconstitutional ordinances.

Mr. President, if the intent of the Morton Grove law is to keep dangerous weapons out of the hands of lawbreakers, it is important to keep one thing in mind: The reason lawbreakers are called "lawbreakers" is because they break the law. There is a substantial probability, therefore, that passing another law is going to have little effect on them.

As a matter of fact, some studies show that over 80 percent of criminals who use firearms in the commission of crimes of violence acquired those firearms unlawfully. If this is the case, the only effect of a statute such as Morton Grove's will be to leave a disarmed innocent citizenry at the mercy of armed lawbreakers.

Gun control attacks a serious problem from the wrong angle. Today 60 million Americans own 200 million firearms, including approximately 60 million handguns. Yet, less than four-tenths of 1 percent of those handguns will be used to commit crimes. Over 99.6 percent of all handguns in America are used legally.

Rather than punish those who use firearms in the commission of a crime, Morton Grove would punish law-abiding citizens. Whatever the intent behind an ordinance of this ilk, it is simply counterproductive. We must punish the criminals, not the innocent.

Mr. President, the second amendment—all 27 words of it—is clear.

I am offering this bill—as I have in the past—because we in Congress need to take a stand in support of the right of gun owners, and all people who cherish freedom. It is the job of the federal government to use its legal and financial resources to serve as a guarantor of the provisions of the Constitution—and particularly the Bill of Rights. To do otherwise would be to lend our complicity to actions which threaten individual liberty and undermine the Constitution we are sworn to defend.

Mr. President, this legislation has the support of the National Rifle Association, Gun Owners of America, and the Citizens Committee for the Right to Keep and Bear Arms. I ask unanimous consent that a letter from the National Rifle Association in support of this legislation, and the text of the legislation be inserted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 634

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 927 of title 18, United States Code, is amended by—

(1) inserting "(a)" before "No provision"; and

(2) inserting at the end thereof the following:

"(b) Notwithstanding any other provision of law, any political subdivision of a state which enacts a law, regulation, or ordinance which prohibits the ownership or possession of firearms or ammunition or any specific type of firearm or ammunition, unless such law, regulation, or ordinance is specifically enacted by Federal law or the law of the State in which the political subdivision is located, shall be ineligible to—

"(1) use Federal detention facilities;

"(2) receive training from or enter into contracts with the Federal Bureau of Investigation;

"(3) receive assistance from or participate in programs of the Office of Justice Programs; or

"(4) have access to the Department of Treasury records or training programs."

NATIONAL RIFLE ASSOCIATION OF AMERICA, INSTITUTE FOR LEGISLATIVE ACTION,
Washington, DC, February 15, 1989.

Hon. STEVE SYMMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR SYMMS: On behalf of the National Rifle Association of America, representing millions of law-abiding firearm owners, collectors, sportsmen, competitors and those who take pride in our Constitutional right to keep and bear arms, it is my distinct honor to take this opportunity to announce the NRA's strong support for your legislation, S. 45.

S. 45 would not only provide clarification of limitations on controls of firearms, but also would prohibit the use of Federal funds to political subdivisions which implement certain gun control ordinances.

As you so well know, any political subdivision which enacts firearms ordinances, regulations and laws which prohibit the ownership or possession of firearms or ammunition, contrary to Federal or State laws, deprives their citizens of liberty without due process, while at the same time, negates their rights under the Second, Ninth and Fourteenth Amendments to our Constitution.

It is refreshing to have legislators, such as yourself, who focus their Congressional initiatives on the reality of our current laws and crime in this nation, versus those who are misinformed, misguided and seek to ban firearms and/or ammunition and do not care to address our nation's severe crime problems.

Should, I or the NRA be of assistance to you, on this or any other matter, please do not hesitate to contact me (828-6359) or Mary Jolly of my staff (828-6357).

Sincerely,

JAMES JAY BAKER,
Director, Federal Affairs Division.

By Mr. THURMOND (for himself, Mr. DOLE, Mr. SIMPSON, Mr. HATCH, Mr. SPECTER, Mr. D'AMATO, Mr. STEVENS, Mr. LUGAR, Mr. HELMS, Mr. DOMENICI, Mr. COCHRAN, Mr. COATS, Mr. GARN, Mr. KASTEN, Mr.

WARNER, Mr. SYMMS, Mr. NICKLES, Mr. MACK, Mr. LOTT, Mr. WALLOP, Mr. MCCAIN, Mr. MCCONNELL, Mr. GORTON, Mr. SMITH, Mr. BROWN, Mr. CRAIG, and Mr. SEYMOUR):

S. 635. A bill to restore an enforceable Federal death penalty, to curb the abuse of habeas corpus, to reform the exclusionary rule, to combat criminal violence involving firearms, to protect witnesses and other participants in the criminal justice system from violence and intimidation, to address the problem of gangs and serious juvenile offenders, to combat terrorism, to combat sexual violence and child abuse, to provide for drug testing of offenders in the criminal justice process, to secure the right of victims and defendants to equal justice without regard to race or color, to enhance the rights of crime victims, and for other purposes; to the Committee on the Judiciary.

COMPREHENSIVE VIOLENT CRIME CONTROL ACT OF 1991

Mr. THURMOND. Mr. President, today, I rise to introduce, along with Senator DOLE and 25 additional cosponsors, President Bush's sweeping antiviolent crime bill. This major criminal law reform measure represents the product of the administration's unprecedented 1991 crime summit under the direction of Attorney General Thornburgh. The Comprehensive Violent Crime Control Act of 1991 is vitally important legislation designed to combat the growing problem of violent crime.

On Monday, President Bush was joined by our Nation's State attorneys general, representatives from law enforcement, and Members of Congress in unveiling this urgently needed legislation. The President called upon Congress to pass this measure within the next 100 days. I believe this is a reasonable request. Without question, if the U.S. Armed Forces can win a ground war against Iraq in less than 100 hours, Congress can within 100 days provide the President and the States with the weapons needed to mount an all-out assault on crime.

Earlier this month, I was pleased to attend as Attorney General Thornburgh hosted an unprecedented national summit on law enforcement responses to violent crime. He brought together representatives from law enforcement, victims groups, community action organizations, State and local prosecutors, judges, and Members of Congress. The summit focused upon what Attorney General Thornburgh called the first civil right of every American—the right to be free from fear in our homes, on our streets, and in our communities. This legislation is the product of this conference and represents what Americans truly demand of Congress in order to address violent crime.

Without question, we are in the midst of a violent crime epidemic in our country. With world peace once again within our grasp, it is ironic that Americans do not feel safe within their own communities. Just open the city section of any urban newspaper and read about the brutality. Americans are increasingly falling victim to the depraved acts of vicious murderers, rapists, and others. I find this totally unacceptable.

Every 24 minutes, a person is murdered in the United States. Every 6 minutes, a woman is raped. Someone is robbed every 55 seconds and someone is assaulted every 33 seconds. It is no wonder that our wives and daughters are afraid to walk the streets at night out of fear that they will be the next statistic.

Mr. President, the types of violent crimes committed are mind boggling. According to the Department of Justice, of the almost 19,000 murders reported in 1989, almost 3,500 were stabbing deaths, 366 were strangulations, over 100 were asphyxiated, and over 240 victims were burned to death. Almost 12,000 were the result of shootings. Drownings, poison, blunt objects, and other weapons accounted for the rest. During the same year, there were an estimated 94,504 forcible rapes committed in the United States. Clearly, there are inherently vicious criminals in our cities and towns who must be stopped. Congress must do its part to help the administration and our State and local governments capture and appropriately punish these violent offenders.

Mr. President, title 1 of this legislation is similar to S. 147, the Federal Death Penalty Act of 1991, which I introduced on the first day of this Congress. This title restores an enforceable Federal death penalty by establishing constitutional procedures for the implementation of a death sentence. It authorizes the death penalty for, among other things, murder, espionage, treason, murder for hire, and certain attempts to assassinate the President.

Included as title 2 of this legislation is new language to reform current habeas corpus procedures which will minimize Federal judicial interference with State criminal convictions and deal with common abuses typical of habeas prisoner petitions. In 1990, State prisoners filed almost 11,000 petitions for Federal habeas corpus review. This bill responds to the problem by combining the basic Powell Committee recommendations for death penalty litigation with the most important features of a habeas corpus reform proposal which I introduced as S. 148. Finality of litigation and the elimination of the habeas abuse which currently surrounds State death penalty convictions is critical.

Mr. President, the urgent need for habeas corpus was summed up very well by Jack Collins, regional director of Citizens for Law and Order, on the final day of the Attorney General's crime summit. Collins, whose 19-year-old daughter was brutally murdered almost 6 years ago and whose murderer still sits on death row, said that:

> No single legislative initiative is more vital than habeas corpus reform. Nothing will afford the criminal justice system more force, more credibility, and more integrity, than putting an end to the interminable succession of appeals.

A particular case which exemplifies the need for habeas reform is the case of Rusty Woomer. Woomer brutally murdered four people in my home State of South Carolina in 1979. He robbed and killed a 67-year-old friend of mine—John Turner. He murdered a mentally retarded woman and her brother-in-law. He kidnaped and raped two young women, murdering one and permanently disfiguring the other after shooting her in the face. He was convicted of murder and was recently executed. However, it took over 11 years of litigation and numerous Federal habeas appeals before this vicious killer would pay his due. In fact, his case went to the Supreme Court of the United States four different times despite the fact that he did not dispute his guilt. This is outrageous. It is imperative that we consider real habeas reform which respects the findings of State courts when there has been a full and fair review of the issues.

Additionally, this package includes as title 3 a codification of the good faith exception to the exclusionary rule that has been recognized by the Supreme Court. All too often in violent crime and drug cases, evidence is excluded at trial simply because the law enforcement officer innocently violated search and seizure rules. This provision codifies and expands upon a Supreme Court decision by simply providing that when a law enforcement officer acts in good faith compliance with the fourth amendment, any evidence obtained therefrom will be admissible as evidence in a criminal trial. This is appropriate because criminals should not go free on technicalities. The provision also includes an exception to the exclusionary rule for firearms seized by Federal law enforcement officers in prosecutions for serious crimes.

Mr. President, the bill also proposes increased penalties for serious gun offenses. It is imperative that we make substantial prison time a certainty for the drug traffickers and other criminals who prey upon the innocent in our society and use firearms to commit their brutal crimes.

This omnibus measure also includes titles which expand victims' rights and respond to sexual violence and child abuse. It also creates a nationwide program of drug testing for Federal offenders on postconviction release. Finally, this bill responds to the threat of terrorism by including measures which ensure the effective removal of terrorist aliens and strengthen our efforts against maritime and airline terrorism.

In summary, the fight to win the war on vicious crimes will not be easy. Yet, one just has to witness the pain, cruelty, and suffering which violent crime offenders have caused this Nation to know that we must enact a comprehensive death penalty, enhance the penalties for those who use firearms to commit crimes, and reform the criminal procedures which cause so much delay and injustice within our criminal justice system. The American people demand action and they demand it now. We should act swiftly to pass this important legislation, not a watered down version which expands the rights of criminals at the expense of the law abiding. We must have real reform.

In closing, the countdown has begun. President Bush has asked Congress to act upon this measure within 100 days, starting yesterday. Today is day No. 3. The innocent, law-abiding citizens of this Nation deserve tough, effective anticrime legislation to ensure that those who commit violent crime face forceful punishment. It should be noted that a partisan effort to push through the Senate a liberal bill which expands criminals' rights will not suffice.

For this reason, I urge my colleagues to take swift action upon this legislation. There is no doubt that this bill encompasses the real reform America wants and so greatly deserves.

Mr. President, I ask unanimous consent that the full text of this bill, along with a section-by-section analysis, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 635

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS

(a) SHORT TITLE.—This Act may be cited as the "Comprehensive Violent Crime Control Act of 1991".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—DEATH PENALTY

Sec. 101. Short title.
Sec. 102. Death Penalty Procedures.
Sec. 103. Conforming Amendment Relating to Destruction of Aircraft or Aircraft Facilities.
Sec. 104. Conforming Amendment Relating to Espionage.
Sec. 105. Conforming Amendment Relating to Transporting Explosives.
Sec. 106. Conforming Amendment Relating to Malicious Destruction of Federal Property by Explosives.
Sec. 107. Conforming Amendment Relating to Malicious Destruction of Interstate Property by Explosives.
Sec. 108. Conforming Amendment Relating to Murder.
Sec. 109. Conforming Amendment Relating to Killing Official Guests or Internationally Protected Persons.
Sec. 110. Murder by Federal Prisoner.
Sec. 111. Conforming Amendment Relating to Kidnapping.
Sec. 112. Conforming Amendment Relating to Hostage Taking.
Sec. 113. Conforming Amendment Relating to Mailability of Injurious Articles.
Sec. 114. Conforming Amendment Relating to Presidential Assassination.
Sec. 115. Conforming Amendment Relating to Murder for Hire.
Sec. 116. Conforming Amendment Relating to Violent Crimes in Aid of Racketeering.
Sec. 117. Conforming Amendment Relating to Wrecking Trains.
Sec. 118. Conforming Amendment Relating to Bank Robbery.
Sec. 119. Conforming Amendment Relating to Terrorist Acts.
Sec. 120. Conforming Amendment Relating to Aircraft Hijacking.
Sec. 121. Conforming Amendment to Controlled Substances Act.
Sec. 122. Conforming Amendment Relating to Genocide.
Sec. 123. Inapplicability to Uniform Code of Military Justice.

TITLE II—HABEAS CORPUS

SUBTITLE A—GENERAL HABEAS CORPUS REFORM

Sec. 201. Short Title for Subtitle A.
Sec. 202. Period of Limitation.
Sec. 203. Appeal.
Sec. 204. Amendment to Rules of Appellate Procedure.
Sec. 205. Section 2254 Amendments.
Sec. 206. Section 2255 Amendments.

SUBTITLE B—DEATH PENALTY LITIGATION PROCEDURES

Sec. 210. Short Title for Subtitle B.
Sec. 211. Death Penalty Litigation Procedures.

TITLE III—EXCLUSIONARY RULE

Sec. 301. Admissibility of Certain Evidence.

TITLE IV—FIREARMS

Subtitle A—Firearms and Related Amendments

Sec. 401. Enhanced Penalty for Use of Semiautomatic Firearm During a Crime of Violence or Drug Trafficking Offense.
Sec. 402. Possession of a Firearm or an Explosive During the Commission of a Felony.
Sec. 403. Conforming Amendment Providing Increased Penalty for Second Offense of Using an Explosive to Commit a Felony.
Sec. 404. Clarification of Definition of Conviction.
Sec. 405. Permitting Consideration of Pretrial Detention for Certain Firearms and Explosives Offenses.
Sec. 406. Smuggling Firearms in Aid of Drug Trafficking.
Sec. 407. Theft of Firearms and Explosives.
Sec. 408. Conforming Amendment Providing Mandatory Revocation of Supervised Release for Possession of a Firearm.
Sec. 409. Increased Penalty for Knowingly False, Material Statement in Connection with the Acquisition of a Firearm from a Licensed Dealer.
Sec. 410. Statute of Limitations for Certain Gangster Weapon Offenses.
Sec. 411. Possession of Explosives by Felons and Others.
Sec. 412. Summary Destruction of Explosives Subject to Forfeiture.
Sec. 413. Summary Forfeiture of Unregistered National Firearms Act Weapons.
Sec. 414. Disposition of Forfeited Firearms.
Sec. 415. Elimination of Outmoded Language Relating to Parole.
Sec. 416. Possession of Stolen Firearms.
Sec. 417. Using a Firearm in the Commission of Counterfeiting or Forgery.
Sec. 418. Mandatory Penalty for Firearms Possession by Violent Felons and Serious Drug Offenders.
Sec. 419. Reporting of Multiple Firearms Sales.
Sec. 420. Possession of Stolen Firearms and Explosives.
Sec. 421. Receipt of Firearms by nonresidents.
Sec. 422. Firearms and Explosives Conspiracy.
Sec. 423. Theft of Firearms or Explosives from Licensee.
Sec. 424. Disposing of Explosives to Prohibited Persons.

SUBTITLE B—PROHIBITED GUN CLIPS AND MAGAZINES

Sec. 431. Findings.
Sec. 432. Certain Ammunition Clips and Magazines Defined as Firearms.
Sec. 433. Definition of Ammunition Feeding Device.
Sec. 434. Prohibitions Applicable to Ammunition Feeding Devices.
Sec. 435. Identification Markings for Ammunition Feeding Devices.
Sec. 436. Criminal Penalties.
Sec. 437. Noninterruption of Business for Persons in the Business of Importing or Manufacturing Ammunition Feeding Devices.

TITLE V—OBSTRUCTION OF JUSTICE

Sec. 501. Protection of Court Officers and Jurors.
Sec. 502. Prohibition of Retaliatory Killings of Witnesses, Victims, and Informants.
Sec. 503. Protection of State or Local Law Enforcement Officers Providing Assistance to Federal Law Enforcement Officers.

TITLE VI—GANGS AND JUVENILE OFFENDERS

Sec. 601. Amendments Concerning Records of Crimes Committed by Juveniles.
Sec. 602. Adult Prosecution of Serious Juvenile Offenders.
Sec. 603. Serious Drug Offenses by Juveniles as Armed Career Criminal Act Predicates.
Sec. 604. Increased Penalty for Travel Act Crimes Involving Violence.
Sec. 605. Increased Penalty for Conspiracy to Commit Murder for Hire.

TITLE VII—TERRORISM

SUBTITLE A—AVIATION TERRORISM

Sec. 701. Implementation of the 1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation.
Sec. 702. Amendment to Federal Aviation Act.

SUBTITLE B—MARITIME TERRORISM

Sec. 711. Short Title for Subtitle B.
Sec. 712. Findings.

Sec. 713. Statement of Purpose.
Sec. 714. Offenses of Violence Against Maritime Navigation or Fixed Platforms.
Sec. 715. Clerical Amendments.
Sec. 716. Effective Dates.
Sec. 717. Territorial Sea Extending to Twelve Miles Included in Special Maritime and Territorial Jurisdiction.
Sec. 718. Assimilated Crimes in Extended Territorial Sea.
Sec. 719. Jurisdiction Over Crimes Against United States Nationals on Certain Foreign Ships.

SUBTITLE C—TERRORIST ALIEN REMOVAL

Sec. 721. Short Title for Subtitle C.
Sec. 722. Findings.
Sec. 723. Terrorist Activities Defined.
Sec. 724. Procedures for Removal of Alien Terrorists.
Sec. 725. Conforming Amendments.
Sec. 726. Effective Date.

SUBTITLE D—TERRORISM OFFENSES AND SANCTIONS

Sec. 731. Torture.
Sec. 732. Use of Weapons of Mass Destruction.
Sec. 733. Homicides and Attempted Homicides Involving Firearms in Federal Facilities.
Sec. 734. Providing Material Support to Terrorists.
Sec. 735. Addition of Terrorist Offenses to the RICO Statute.
Sec. 736. Forfeiture for Terrorist and Other Violent Acts.
Sec. 737. Enhanced Penalties for Certain Offenses.
Sec. 738. Sentencing Guidelines Increase for Terrorist Crimes.

SUBTITLE E—ANTITERRORISM ENFORCEMENT PROVISIONS.

Sec. 741. Aliens Cooperating in Terrorist or Other Investigations.
Sec. 742. Amendment to the Alien Enemy Act.
Sec. 743. Counterintelligence Access to Telephone Records.
Sec. 744. Counterintelligence Access to Credit Records.
Sec. 745. Authorization for Interceptions of Communications.
Sec. 746. Participation of Foreign and State Government Personnel in Interceptions of Communications.
Sec. 747. Disclosure of Intercepted Communications to Foreign Law Enforcement Agencies.
Sec. 748. Extension of the Statute of Limitations for Certain Terrorism Offenses.

TITLE VIII—SEXUAL VIOLENCE AND CHILD ABUSE

Sec. 801. Admissibility of Evidence of Similar Crimes in Sexual Assault and Child Molestation Cases.
Sec. 802. Drug Distribution to Pregnant Women.
Sec. 803. Definition of Sexual Act for Victims Below 16.
Sec. 804. Increased Penalties for Recidivist Sex Offenders.
Sec. 805. Restitution for Victims of Sex Offenses.
Sec. 806. HIV Testing and Penalty Enhancement in Sexual Abuse Cases.
Sec. 807. Payment of Cost of HIV Testing for Victim.

TITLE IX—DRUG TESTING

Sec. 901. Drug Testing of Federal Offenders on Post-Conviction Release.
Sec. 902. Drug Testing in State Criminal Justice Systems as a Condition of Receipt of Justice Drug Grants.

TITLE X—EQUAL JUSTICE ACT

Sec. 1001. Short Title.
Sec. 1002. Prohibition of Racially Discriminatory Policies Concerning Capital Punishment or Other Penalties.
Sec. 1003. General Safeguards Against Racial Prejudice or Bias in the Tribunal.
Sec. 1004. Federal Capital Cases.
Sec. 1005. Funding Objective.
Sec. 1006. Extension of Protection of Civil Rights Statutes.

TITLE XI—VICTIMS' RIGHTS

Sec. 1101. Restitution Amendments.
Sec. 1102. Victim's Right of Allocution in Sentencing.

TITLE I—DEATH PENALTY

SEC. 101. SHORT TITLE.

This title may be cited as the "Capital Punishment Procedures Act of 1991."

SEC. 102. DEATH PENALTY PROCEDURES.

Title 18 of the United States Code is amended—

(a) by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH PENALTY PROCEDURES

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.
"3598. Appointment of counsel.
"3599. Collateral Attack on Judgment Imposing Sentence of Death.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(a) an offense described in section 794 or section 2381 of this title;

"(b) an offense described in section 1751(c) of this title if the offense, as determined beyond a reasonable doubt at a hearing under section 3593, constitutes an attempt to murder the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President;

"(c) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under the conditions described in subsection (b) of that section;

"(d) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under that section, where the defendant is a principal administrator, organizer or leader of such an enterprise, and the defendant, in order to obstruct the investigation or prosecution of the enterprise or an offense involved in the enterprise, attempts to kill or knowingly directs, advises, authorizes, or assists another to attempt to kill any public officer, juror, witness, or member of the family or household of such a person;

"(e) an offense constituting a felony violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.), where the defendant, acting with a state of mind described in subsection (f), engages in such a violation, and the death of another person results in the course of the violation or from the use of the controlled substance involved in the violation; or

"(f) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at a hearing under section 3593, caused the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or caused the death of a person through the intentional infliction of serious bodily injury;

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified: Provided, That no person may be sentenced to death who was less than eighteen years of age at the time of the offense.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is justified for any offense, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any, exist:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) DURESS.—The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant's participation in the offense, which was committed by another, was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

The jury, or if there is no jury, the court, shall consider whether any other aspect of the defendant's background, character or record or any other circumstance of the offense that the defendant may proffer as a mitigating factor exists.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(a), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) PREVIOUS ESPIONAGE OR TREASON CONVICTION.—The defendant has previously been convicted of another offense involving espionage or treason for which a sentence of life imprisonment or death was authorized by statute.

"(2) RISK OF SUBSTANTIAL DANGER TO NATIONAL SECURITY.—In the commission of the offense the defendant knowingly created a grave risk to the national security.

"(3) RISK OF DEATH TO ANOTHER.—In the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (b) or (f), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) CONDUCT OCCURRED DURING COMMISSION OF SPECIFIED CRIMES.—The conduct resulting in death occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 32 (destruction of aircraft or aircraft facilities), section 33 (destruction of motor vehicles or motor vehicle facilities), section 36 (violence at international airports), section 351 (violence against Members of Congress, Cabinet officers, or Supreme Court Justices), section 751 (prisoners in custody of institution or officer), section 794 (gather or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property by explosives), section 844(i) (destruction of property affecting interstate commerce by explosives), section 1116 (killing or attempted killing of diplomats), section 1118 (prisoners serving life term), section 1201 (kidnapping), section 1203 (hostage taking), section 1751 (violence against the President or Presidential staff), section 1992 (wrecking trains), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2332 (terrorist acts abroad against United States nationals), section 2339 (use of weapons of mass destruction), or section 2381 (treason) of this title, section 1826 of Title 28 (persons in custody as recalcitrant witnesses or hospitalized following insanity acquittal), or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i) or (n) (aircraft piracy)).

"(2) INVOLVEMENT OF FIREARM OR PREVIOUS CONVICTION OF VIOLENT FELONY INVOLVING FIREARM.—The defendant—

"(A) during and in relation to the commission of the offense or in escaping or attempting to escape apprehension used or possessed a firearm as defined in section 921 of this title; or

"(B) has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than one year, involving the use or attempted or threatened use of a firearm, as defined in section 921 of this title, against another person.

"(3) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(4) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(5) GRAVE RISK OF DEATH TO ADDITIONAL PERSONS.—The defendant, in the commission of the offense or in escaping or attempting to escape apprehension, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(6) HEINOUS, CRUEL, OR DEPRAVED MANNER OF COMMISSION.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"(7) PROCUREMENT OF OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(8) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, or anything of pecuniary value.

"(9) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(10) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(11) TYPE OF VICTIM.—The defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice President-elect, the Vice President-designate, or, if there was no Vice President, the officer next in order of succession to the office of the President of the United States, or any person acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if that official was in the United States on official business; or

"(D) a Federal public servant who was outside of the United States or who was a Federal judge, a Federal law enforcement officer, an employee (including a volunteer or contract employee) of a Federal prison, or an official of the Federal Bureau of Prisons—

"(i) while such public servant was engaged in the performance of his official duties;

"(ii) because of the performance of such public servant's official duties; or

"(iii) because of such public servant's status as a public servant.

For purposes of this paragraph, the terms 'President-elect' and 'Vice President-elect' mean such persons as are the apparent successful candidates for the offices of President and Vice President, respectively, as ascertained from the results of the general elections held to determine the electors of President and Vice President in accordance with title 3, United States Code, sections 1 and 2; a 'Federal law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense; 'Federal prison' means a Federal correctional, detention, or penal facility, Federal community treatment center, or Federal halfway house, or any such prison operated under contract with the Federal government; and 'Federal judge' means any judicial officer of the United States, and includes a justice of the Supreme Court and a United States magistrate judge. The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(d) AGGRAVATING FACTORS FOR DRUG OFFENSE DEATH PENALTY.—In determining whether a sentence of death is justified for an offense described in section 3591(c)-(e), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist—

"(1) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(2) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substance Act (21 U.S.C. 802)) of the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(3) PREVIOUS SERIOUS DRUG FELONY CONVICTION.—The defendant has previously been convicted of another Federal or State offense involving the manufacture, distribution, importation, or possession of a controlled substance (as defined in section 102 of the Controlled Substance Act (21 U.S.C. 802)) for which a sentence of five or more years of imprisonment was authorized by statute.

"(4) USE OF FIREARM.—In committing the offense, or in furtherance of a continuing criminal enterprise of which the offense was a part, the defendant used a firearm or knowingly directed, advised, authorized, or assisted another to use a firearm, as defined in section 921 of this title, to threaten, intimidate, assault, or injure a person.

"(5) DISTRIBUTION TO PERSONS UNDER TWENTY-ONE.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 418 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(6) DISTRIBUTION NEAR SCHOOLS.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 419 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(7) USING MINORS IN TRAFFICKING.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 420 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(8) LETHAL ADULTERANT.—The offense involved the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), mixed with a potentially lethal adulterant, and the defendant was aware of the presence of the adulterant. The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—Whenever the Government intends to seek the death penalty for an offense described in section 3591, the attorney for the government, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, shall sign and file with the court, and serve on the defendant, a notice that the Government in the event of conviction will seek the sentence of death. The notice shall set forth the aggravating factor or factors enumerated in section 3592, and any other aggravating factor not specifically enumerated in section 3592, that the Government, if the defendant is convicted, will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—When the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. Prior to such a hearing, no presentence report shall be prepared by the United States Probation Service, notwithstanding the provisions of the Federal Rules of Criminal Procedure. The hearings shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under the section is necessary; or

"(3) before the court alone, upon motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—At the hearing, information may be presented as to—

"(1) any matter relating to any mitigating factor listed in section 3592 and any other mitigating factor; and

"(2) any matter relating to any aggravating factor listed in section 3592 for which notice has been provided under subsection (a) and (if information is presented relating to such a listed factor) any other aggravating factor for which notice has been so provided.

The information presented may include the trial transcript and exhibits. Any other information relevant to such mitigating or aggravating factors may be presented by either the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The attorney for the government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of an aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the evidence.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH

"(1) an offense described in section 3591(a), an aggravating factor required to be considered under section 3592(b) is found to exist;

"(2) an offense described in section 3591(b) or (f), an aggravating factor required to be considered under section 3592(c) is found to exist; or

"(3) an offense described in section 3591(c)-(e), an aggravating factor required to be considered under section 3592(d) is found to exist; the jury, or if there is no jury, the court, shall then consider whether the aggravating factor or factors found to exist under subsection (d) outweigh any mitigating factor or factors. The jury, or if there is no jury, the court shall recommend a sentence of death if it unanimously finds at least one aggravating factor and no mitigating factor or if it finds one or more aggravating factors which outweigh any mitigating factors. In any other case, it shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not be influenced by prejudice or bias relating to the race, color, religion, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religion, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that prejudice or bias relating to the race, color, religion, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religion, national origin, or sex of the defendant or any victim may be.

"§ 3594. Imposition of a sentence of death

"Upon the recommendation under section 3593(e) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without the possibility of release.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal of the sentence must be filed within the time specified for the filing of a notice of appeal of the judgment of conviction. An appeal of the sentence under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor;

"(B) the evidence and information support the special findings of the existence of an aggravating factor or factors; and

"(C) the proceedings did not involve any other prejudicial error requiring reversal of the sentence that was properly preserved for and raised on appeal;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593 or for imposition of another authorized sentence as appropriate.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"(a) IN GENERAL.—A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the manner prescribed by such law.

"(b) SPECIAL BARS TO EXECUTION.—A sentence of death shall not be carried out upon a person who lacks the mental capacity to understand the death penalty and why it was imposed on that person, or upon a woman while she is pregnant.

"(c) EMPLOYEES MAY DECLINE TO PARTICIPATE.—No employee of any State department of corrections, the Federal Bureau of Prisons, or the United States Marshals Service, and no employee providing services to that department, bureau, or service under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"§ 3597. Use of State facilities

"A United States Marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"§ 3598. Appointment of counsel

"(a) Representation of Indigent Defendants.—Notwithstanding any other provision of law, this section shall govern the appointment of counsel for any defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, for an offense against the United States, where the defendant is or becomes financially unable to obtain adequate representation. Such a defendant shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in section 3599(b) of this title has occurred.

"(b) Representation Before Finality of Judgment.—A defendant within the scope of this section shall have counsel appointed for trial representation as provided in section 3005 of this title. At least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel.

"(c) Representation After Finality of Judgment.—When a judgment imposing a sentence of death has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the government shall promptly notify the district court that imposed the sentence. Within 10 days of receipt of such notice, the district court shall proceed to make a determination whether the defendant is eligible under this section for appointment of counsel for subsequent proceedings. On the basis of the determination, the court shall issue an order: (1) appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel; (2) finding, after a hearing if necessary, that the defendant rejected appointment of counsel and made the decision with an understanding of its legal consequences; or (3) denying the appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation. Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(d) Standards for Competence of Counsel.—In relation to a defendant who is entitled to appointment of counsel under this section, at least one counsel appointed for trial representation must have been admitted to the bar for at least five years and have at least three years of experience in the trial of felony cases in the federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least five years and have at least three years of experience in the litigation of felony cases in the federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(e) Applicability of Criminal Justice Act.—Except as otherwise provided in this section, the provisions of section 3006A of this title shall apply to appointments under this section.

"(f) Claims of Ineffectiveness of Counsel.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28, United States Code, in a capital case shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"§ 3599. Collateral Attack on Judgment Imposing Sentence of Death

"(a) Time for Making Section 2255 Motion.—In a case in which a sentence of death has been imposed, and the judgment has become final as described in section 3598(c) of this title, a motion in the case under section 2255 of title 28, United States Code, must be filed within 90 days of the issuance of the order relating to appointment of counsel under section 3598(c) of this title. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. A motion described in this section shall have priority over all non-capital matters in the district court, and in the court of appeals on review of the district court's decision.

"(b) Stay of Execution.—The execution of a sentence of death shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28, United States Code. The stay shall run continuously following imposition of the sentence, and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28, United States Code, within the time specified in subsection (a), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court; or

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, United States Code, the motion under that section is denied and (A) the time for filing a petition for certiorari has expired and no petition has been filed; (B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or (C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of his decision, the defendant waives the right to file a motion under section 2255 of title 28, United States Code.

"(c) Finality of the Decision on Review.—If one of the conditions specified in subsection (b) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim was (A) the result of governmental action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed."; and

"(b) in the chapter analysis of part II, by adding the following new item after the item relating to chapter 227:

"228. Death penalty procedures .... 3591".

SEC. 103. CONFORMING AMENDMENT RELATING TO DESTRUCTION OF AIRCRAFT OR AIRCRAFT FACILITIES.

Section 34 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the section.

SEC. 104. CONFORMING AMENDMENT RELATING TO ESPIONAGE.

Section 794(a) of title 18 of the United States Code is amended by changing the period at the end of the section to a comma and by adding immediately thereafter the words "except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds beyond a reasonable doubt at a hearing under section 3593 of this title that the offense directly concerned nuclear weaponry, military spacecraft and satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; sources or methods of intelligence or counterintelligence operations; or any other major weapons system or major element of defense strategy.".

SEC. 105. CONFORMING AMENDMENT RELATING TO TRANSPORTING EXPLOSIVES.

Section 844(d) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

SEC. 106. CONFORMING AMENDMENT RELATING TO MALICIOUS DESTRUCTION OF FEDERAL PROPERTY BY EXPLOSIVES.

Section 844(f) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

SEC. 107. CONFORMING AMENDMENT RELATING TO MALICIOUS DESTRUCTION OF INTERSTATE PROPERTY BY EXPLOSIVES.

Section 844(i) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

SEC. 108. CONFORMING AMENDMENT RELATING TO MURDER.

The second paragraph of section 1111(b) of title 18 of the United States Code is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment of life;"

SEC. 109. CONFORMING AMENDMENT RELATING TO KILLING OFFICIAL GUESTS OR INTERNATIONALLY PROTECTED PERSONS.

Section 1116(a) of title 18 of the United States Code is amended by striking the words "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

SEC. 110. MURDER BY FEDERAL PRISONER.

Chapter 51 of title 18 of the United States Code is amended—

(a) by adding at the end thereof the following:

§ 1118. Murder by a Federal prisoner

"(a) Whoever, while confined in a Federal prison under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possiblity of release.

"(b) For purposes of this section—

"(1) 'Federal prison' means any Federal correctional, detention, or penal facility, Federal community treatment center, or Federal halfway house, or any such prison operated under contract with the Federal Government;

"(2) 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death."; and

(b) by amending the section analysis to add:

"1118. Murder by a Federal prisoner.".

SEC. 111. CONFORMING AMENDMENT RELATING TO KIDNAPPING.

Section 1201 of title 18 of the United States Code is amended by inserting after the words "or for life" in subsection (a) the words "and, if the death of any person results, shall be punished by death or life imprisonment".

SEC. 112. CONFORMING AMENDMENT RELATING TO HOSTAGE TAKING.

Section 1203 of title 18 of the United States Code is amended by inserting after the words "or for life" in subsection (a) the words "and, if the death of any person results, shall be punished by death or life imprisonment".

SEC. 113. CONFORMING AMENDMENT RELATING TO MAILABILITY OF INJURIOUS ARTICLES.

The last paragraph of section 1716 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the paragraph.

SEC. 114. CONFORMING AMENDMENT RELATING TO PRESIDENTIAL ASSASSINATION.

Subsection (c) of section 1751 of title 18 of the United States Code is amended to read as follows:

"(c) Whoever attempts to murder or kidnap any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if the conduct constitutes an attempt to murder the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

SEC. 115. CONFORMING AMENDMENT RELATING TO MURDER FOR HIRE.

Subsection (a) of section 1958 of title 18 of the United States Code is amended by deleting the words "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting in lieu thereof "and if death results, shall be punished by death or life imprisonment, or shall be fined in accordance with this title, or both".

SEC. 116. CONFORMING AMENDMENT RELATING TO VIOLENT CRIMES IN AID OF RACKETEERING ACTIVITY.

Paragraph (1) of subsection (a) of section 1959 of title 18 of the United States Code is amended to read as follows: "for murder, by death or life imprisonment, or a fine in accordance with this title, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine in accordance with this title, or both";

SEC. 117. CONFORMING AMENDMENT RELATING TO WRECKING TRAINS.

The second to the last paragraph of section 1992 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the section.

SEC. 118. CONFORMING AMENDMENT RELATING TO BANK ROBBERY.

Section 2113(e) of title 18 of the United States Code is amended by striking the words "or punished by death if the verdict of the jury shall so direct" and inserting in lieu thereof "or if death results shall be punished by death or life imprisonment".

SEC. 119. CONFORMING AMENDMENT RELATING TO TERRORIST ACTS.

Section 2332(a)(1) of title 18 of the United States Code is amended to read as follows:

"(1)(A) if the killing is murder as defined in section 1111(a) of this title, be fined under this title, punished by death or imprisonment for any term of years or for life, or both;".

SEC. 120. CONFORMING AMENDMENT RELATING TO AIRCRAFT HIJACKING.

Section 903 of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1473), is amended by striking subsection (c).

SEC. 121. CONFORMING AMENDMENT TO CONTROLLED SUBSTANCES ACT.

Section 408 of the Controlled Substances Act is amended by striking subsections (g)–(r).

SEC. 122. CONFORMING AMENDMENT RELATING TO GENOCIDE.

Section 1091(b)(1) of title 18 of the United States Code is amended by striking "a fine of not more than $1,000,000 and imprisonment for life;" and inserting in lieu thereof "by death or imprisonment for life, or a fine of not more than $1,000,000, or both;".

SEC. 123. INAPPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18 of the United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801 et seq.).

TITLE II—HABEAS CORPUS REFORM

Subtitle A—General Habeas Corpus Reform

SEC. 201. SHORT TITLE FOR SUBTITLE A.

This subtitle may be cited as the "Habeas Corpus Reform Act of 1991".

SEC. 202. PERIOD OF LIMITATION.

Section 2244 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of the following times:

"(1) the time at which State remedies are exhausted;

"(2) the time at which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, where the applicant was prevented from filing by such State action;

"(3) the time at which the Federal right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

SEC. 203. APPEAL.

Section 2253 of title 28, United States Code, is amended to read as follows:

"§ 2253. Appeal

"In a habeas corpus proceeding or a proceeding under section 2255 of this title before a circuit or district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit where the proceeding is had.

"There shall be no right of appeal from such an order in a proceeding to test the validity of a warrant to remove, to another district or place for commitment or trial, a person charged with a criminal offense against the United States, or to test the validity of his detention pending removal proceedings.

"An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, or from the final order in a proceeding under section 2255 of this title, unless a circuit justice or judge issues a certificate of probable cause.".

SEC. 204. AMENDMENT TO RULES OF APPELLATE PROCEDURE.

Federal Rule of Appellate Procedure 22 is amended to read as follows:

"RULE 22.

"Habeas Corpus and §2255 Proceedings

"(a) Application for an Original Writ of Habeas Corpus. An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application will ordinarily be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge is not favored; the proper remedy is by appeal to the court of appeals from the order of the district court denying the writ.

"(b) Necessity of Certificate of Probable Cause for Appeal. In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, and in a motion proceeding pursuant to section 2255 of title 28, United States Code, an appeal by the applicant or movant may not proceed unless a circuit judge issues a certificate of probable cause. If a request for a certificate of probable cause is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or the government or its representative, a certificate of probable cause is not required.".

SEC. 205. SECTION 2254 AMENDMENTS.

Section 2254 of title 28, United States Code, is amended by redesignating subsections "(e)" and "(f)" as subsections "(f)" and "(g)", respectively, and is further amended—

(1) by amending subsection (b) to read as follows:

"(b) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State, or that there is either an absence of available State corrective process or the existence of circumstances rendering such process ineffective to protect the rights of the applicant. An application may be denied on the merits notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.";

(2) be redesignating subsection "(d)" as subsection "(e)", and amending it to read as follows:

"(e) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a full and fair determination of a factual issue made in the case by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting this presumption by clear and convincing evidence.";

(3) by adding a new subsection (d) reading as follows:

"(d) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that has been fully and fairly adjudicated in State proceedings."; and

(4) by adding a new subsection (h) reading as follows:

"(h) In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a petitioner who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by the provisions of section 3006A of title 18, United States Code.".

SEC. 206. SECTION 2255 AMENDMENTS.

Section 2255 of title 28, United States Code, is amended by deleting the second paragraph and the penultimate paragraph thereof, and by adding at the end thereof the following new paragraphs:

"A two-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of the following times:

"(1) the time at which the judgment of conviction becomes final;

"(2) the time at which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, where the movant was prevented from making a motion by such governmental action;

"(3) the time at which the right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

"In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a movant who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by the provisions of section 3006A of title 18, United States Code."

Subtitle B—Death Penalty Litigation Procedures

SEC. 210. SHORT TITLE FOR SUBTITLE B.

This subtitle may be cited as the "Death Penalty Litigation Procedures Act of 1991."

SEC. 211. DEATH PENALTY LITIGATION PROCEDURES.

Title 28, United States Code, is amended by inserting the following new chapter immediately following chapter 153:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES.

"Sec.
"2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.
"2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.
"2258. Filing of habeas corpus petition; time requirements; tolling rules.
"2259. Evidentiary hearings; scope of Federal review; district court adjudication.
"2260. Certificate of probable cause inapplicable.
"2261. Application to state unitary review procedures.
"2262. Limitation periods for determining petitions.
"2263. Rule of construction.

SEC. 2256. PRISONERS IN STATE CUSTODY SUBJECT TO CAPITAL SENTENCE; APPOINTMENT OF COUNSEL; REQUIREMENT OF RULE OF COURT OR STATUTE; PROCEDURES FOR APPOINTMENT.

"(a) This chapter shall apply to cases arising under section 2254 brought by prisoners in state custody who are subject to a capital sentence. It shall apply only if the provisions of subsections (b) and (c) are satisfied.

"(b) This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation and payment of reasonable litigation expenses of competent counsel in state post-conviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State or have otherwise become final for state law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(c) Any mechanism for the appointment, compensation and reimbursement of counsel as provided in subsection (b) must offer counsel to all state prisoners under capital sentence and must provide for the entry of an order by a court of record: (1) appointing one or more counsel to represent the prisoner upon a finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer; (2) finding, after a hearing if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences; or (3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

"(d) No counsel appointed pursuant to subsections (b) and (c) to represent a state prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(e) The ineffectiveness or incompetence of counsel during state or federal collateral post-conviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under section 2254 or this chapter. This limitation shall not preclude the appointment of different counsel, on the court's own motion or at the request of the prisoner, at any phase of state or federal post-conviction proceedings on the basis of the ineffectiveness or imcompetence of counsel in such proceedings.

"SEC. 2257. MANDATORY STAYS OF EXECUTION; DURATION; LIMITS ON STAYS OF EXECUTION; SUCCESSIVE PETITIONS.

"(a) Upon the entry in the appropriate state court of record of an order under section 2256(c), a warrant or order setting an execution date for a state prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed under section 2254. The application must recite that the State has invoked the post-conviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) A stay of execution granted pursuant to subsection (a) shall expire if:

"(1) a state prisoner fails to file a habeas corpus petition under section 2254 within the time required in section 2258, or fails to make a timely application for court of appeals review following the denial of such a petition by a district court; or

"(2) upon completion of district court and court of appeals review under section 2254 the petition for relief is denied and (A) the time for filing a petition for certiorari has expired and no petition has been filed; (B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or (C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, in the presence of counsel and after having been advised of the consequences of his decision, a state prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254.

"(c) If one of the conditions in subsection (b) has occurred, no federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless:

"(1) the basis for the stay and request for relief is a claim not previously presented in the state or federal courts;

"(2) the failure to raise the claim is (A) the result of state action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for state or federal post-conviction review; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"SEC. 2258. FILING OF HABEAS CORPUS PETITION: TIME REQUIREMENTS: TOLLING RULES

"Any petition for habeas corpus relief under section 2254 must be filed in the appropriate district court within 180 days from the filing in the appropriate state court of record of an order under section 2256(c). The time requirements established by this section shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a state prisoner files the petition to secure review by the Supreme Court of the affirmance of a capital sentence on direct review by the court of last resort of the state or other final state court decision on direct review;

"(2) during any period in which a state prisoner under capital sentence has a properly filed request for post-conviction review pending before a state court of competent jurisdiction; if all state filing rules are met in a timely manner, this period shall run continuously from the date that the state prisoner initially files for post-conviction review until final disposition of the case by the highest court of the State, but the time requirements established by this section are not tolled during the pendency of a petition for certiorari before the Supreme Court except as provided in paragraph (1); and

"(3) during an additional period not to exceed 60 days, if (A) a motion for an extension of time is filed in the federal district court that would have proper jurisdiction over the case upon the filing of a habeas corpus petition under section 2254; and (B) a showing of good cause is made for the failure to file the habeas corpus petition within the time period established by this section.

"SEC. 2259. EVIDENTIARY HEARINGS; SCOPE OF FEDERAL REVIEW: DISTRICT COURT ADJUDICATION.

"(a) Whenever a state prisoner under a capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall:

"(1) determine the sufficiency of the record for habeas corpus review based on the claims actually presented and litigated in the state courts except when the prisoner can show that the failure to raise or develop a claim in the state courts is (A) the result of state action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for state post-conviction review; and

"(2) conduct any requested evidentiary hearing necessary to complete the record for habeas corpus review.

"(b) Upon the development of a complete evidentiary record, the district court shall rule on the claims that are properly before it, but the court shall not grant relief from a judgment of conviction or sentence on the basis of any claim that was fully and fairly adjudicated in state proceedings.

"SEC. 2260. CERTIFICATE OF PROBABLE CAUSE INAPPLICABLE.

"The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to the provisions of this chapter except when a second or successive petition is filed.

"SEC. 2261. APPLICATION TO STATE UNITARY REVIEW PROCEDURES.

"(a) For purposes of this section, a unitary review" procedure means a state procedure that authorizes a person under sentence of death to raise, in the course of direct review of the judgment, such claims as could be raised on collateral attack. The provisions of this chapter shall apply, as provided in this section, in relation to a state unitary review procedure if the State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation and payment of reasonable litigation expenses of competent counsel in the unitary review proceedings, including expenses relating to the litigation of collateral claims in the proceedings. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(b) A unitary review procedure, to qualify under this section, must include an offer of counsel following trial for the purpose of representation on unitary review, and entry of an order, as provided in section 2256(c), concerning appointment of counsel or waiver or denial of appointment of counsel for that purpose. No counsel appointed to represent the prisoner in the unitary review proceedings shall have previously represented the prisoner at trial in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(c) The provisions of sections 2257, 2258, 2259, 2260, and 2262 shall apply in relation to cases involving a sentence of death from any State having a unitary review procedure that qualifies under this section. References to state "post-conviction review" and "direct review" in those sections shall be understood as referring to unitary review under the state procedure. The references in sections 2257(a) and 2258 to "an order under section 2256(c)" shall be understood as referring to the post-trial order under subsection (b) concerning representation in the unitary review proceedings, but if a transcript of the trial proceedings in unavailable at the time of the filing of such an order in the appropriate state court, then the start of the 180 day limitation period under section 2258 shall be deferred until a transcript is made available to the prisoner or his counsel.

"SEC. 2262. LIMITATION PERIODS FOR DETERMINING PETITIONS.

"(a) The adjudication of any petition under section 2254 of title 28, United States Code, that is subject to this chapter, and the adjudication of any motion under section 2255 of title 28, United States Code, by a person under sentence of death, shall be given priority by the district court and by the court of appeals over all non-capital matters. The adjudication of such a petition or motion shall be subject to the following time limitations:

"(1) The district court shall determine such a petition or motion within 180 days of the filing of the petition or motion.

"(2) The court of appeals shall determine an appeal relating to such a petition or motion within 180 days of the filing of the record in the court of appeals. If the court of appeals grants en banc consideration, the en banc court shall determine the appeal within 180 days of the decision to grant such consideration.

"(b) The time limitations under subsection (a) shall apply to an inital petition or motion, and to any second or successive petition or motion. The same limitations shall also apply to the re-determination of a petition or motion or related appeal following a remand by the court of appeals or the Supreme Court for further proceedings, and in such a case the limitation period shall run from the date of the remand.

"(c) The time limitations under this section shall not be construed to entitle a petitioner or movant to a stay of execution, to which the petitioner or movant would otherwise not be entitled, for the purpose of litigating any petition, motion, or appeal.

"(d) The failure of a court to meet or comply with the time limitations under this section shall not be a ground for granting relief from a judgment of conviction or sentence. The state or government may enforce the time limitations under this section by applying to the court of appeals or the Supreme Court for a writ of mandamus.

"SEC. 2263. RULE OF CONSTRUCTION.

"The provisions of this chapter shall be construed to promote the expeditious conduct and conclusion of state and federal court review in capital cases.".

TITLE III—EXCLUSIONARY RULE

SEC. 301. ADMISSIBILITY OF CERTAIN EVIDENCE.

(a) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended by adding at the end the following:

"§ 3509. Admissibility of evidence obtained by search or seizure

"(a) EVIDENCE OBTAINED BY OBJECTIVELY REASONABLE SEARCH OR SEIZURE.—

"(1) FEDERAL PROCEEDINGS.—Evidence which is obtained as a result of a search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the fourth amendment to the Constitution of the United States, if the search or seizure was carried out in circumstances justifying an objectively reasonable belief that it was in conformity with the fourth amendment. The fact that evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of the existence of such circumstances.

"(2) STATE PROCEEDINGS.—The law of the United States does not require the exclusion of evidence in a proceeding in any court under circumstances in which the evidence would be admissible in a proceeding in a court of the United States pursuant to paragraph (1) of this subsection.

"(b) FIREARMS SEIZED AS EVIDENCE BY FEDERAL LAW ENFORCEMENT OFFICERS.—

"(1) ADMISSIBILITY OF EVIDENCE.—In addition to the limitations on the exclusion of evidence set forth in subsections (a) and (c) of this section, a firearm obtained as a result of a search or seizure shall not be excluded as evidence in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the fourth amendment to the Constitution of the United States, if the search or seizure was carried out by a Federal law enforcement officer, and the firearm will be used as evidence against a defendant who—

"(A) is being prosecuted for a crime of violence or a serious drug offense; or

"(B) is ineligible to possess such firearm pursuant to section 922(g) of this title.

"(2) RULES FOR CONDUCT AND SANCTIONS.—The Attorney General shall promulgate rules and regulations relating to compliance by law enforcement officers of the Department of Justice with the fourth amendment to the Constitution. Such rules and regulations shall include specifications concerning—

"(A) the training of such officers in the law of search and seizure;

"(B) procedures and standards of conduct to be observed in carrying out searches and seizures;

"(C) procedures for reporting and investigating incidents involving possible violations of legal or administrative requirements relating to searches and seizures;

"(D) sanctions to be imposed when such violations are determined to have occurred; and

"(E) standards and procedures for settling claims for damages by victims of unlawful searches or seizures that are presented under section 2675 of title 28, United States Code.

"(3) RULES FOR CONDUCT AND SANCTIONS BY OTHER DEPARTMENTS AND AGENCIES.—The head of any other department or agency, following consultation with the Attorney General, may promulgate rules and regulations relating to compliance with the fourth amendment by law enforcement officers of such department or agency. Such rules and regulations shall meet the specifications set forth in paragraph (2) of this subsection.

"(4) REVIEW BOARDS.—The Attorney General, and any other head of a department or agency that promulgates rules and regulations pursuant to paragraph (3) of this subsection, shall establish a review board to consider all allegations of violations of the fourth amendment by law enforcement officers of the department or agency, and to recommend or impose appropriate sanctions in cases where violations are determined to have occurred. A review board so constituted may also be charged with recommending the settlement of claims for damages by victims of unlawful searches and seizures that are presented under section 2675 of title 28, United States Code.

"(5) REPORTS TO CONGRESS.—The Attorney General, and any other head of a department or agency that promulgates rules and regulations pursuant to paragraph (3) of this subsection, shall report annually to Congress concerning—

"(A) allegations received by the review board established under paragraph (4) of this subsection, and claims presented under section 2675 of title 28, United States Code, that relate to search or seizure violations by law enforcement officers of the department or agency;

"(B) the actions taken on such allegations and claims; and

"(C) the bases for such actions.

"(6) DEFINITIONS.—As used in this subsection, the term—

"(A) 'firearm' has the meaning given such term in section 921(a)(3) of this title and also includes ammunition for such firearm;

"(B) 'law enforcement officer' has the meaning given such term in section 408(e)(2) of the Controlled Substances Act (21 U.S.C. 848(e)(2));

"(C) 'crime of violence' has the meaning given such term in section 924(c)(3) of this title; and

"(D) 'serious drug offense' has the meaning given such term in section 924(e)(2)(A) of this title.

"(7) EFFECTIVE DATE.—Paragraph (1) of this subsection shall take effect with respect to searches and seizures conducted by law enforcement officers of a department or agency following the promulgation of the regulations required under paragraph (2) or (3) of this subsection and the establishment of a review board pursuant to paragraph (4) of this subsection.

"(c) EVIDENCE NOT EXCLUDABLE BY STATUTE OR RULE.—Evidence shall not be excluded in a proceeding in a court of the United States on the ground that it was obtained in violation of a statute, an administrative rule or regulation, or a rule of procedure unless exclusion is expressly authorized by statute or by a rule prescribed by the Supreme Court pursuant to statutory authority.

"(d) RULE OF CONSTRUCTION.—This section shall not be construed to require or authorize the exclusion of evidence in any proceeding.".

"(b) CLERICAL AMENDMENT.—The table to sections at the beginning of chapter 223 of title 18, United States Code, is amended by adding at the end the following:

"3509. Admissibility of evidence obtained by search or seizure."

TITLE IV—FIREARMS

Subtitle A—Firearms and Related Amendments

SEC. 401. ENHANCED PENALTY FOR USE OF SEMIAUTOMATIC FIREARM DURING A CRIME OF VIOLENCE OR DRUG TRAFFICKING OFFENSE.

(a) Section 924(c) of title 18, United States Code, is amended by inserting ", or semiautomatic firearm," after "short barreled shotgun".

(b) Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(26) the term 'semiautomatic firearm' means any repeating firearm which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.".

SEC. 402. POSSESSION OF A FIREARM OR AN EXPLOSIVE DURING THE COMMISSION OF A FELONY.

(a) Section 924(c) of title 18, United States Code, is amended by striking "uses or carriers a firearm" and inserting in lieu thereof "uses, carries, or otherwise possesses a firearm", and by striking "used or carried" and inserting in lieu thereof "used, carried, or possessed".

(b) Section 844(h) of title 18, United States Code, is amended by striking "carries an explosive during" and inserting in lieu thereof "uses, carries, or otherwise possesses an explosive during", and by striking "used or carried" and inserting in lieu thereof "used, carried or possessed".

SEC. 403. CONFORMING AMENDMENT PROVIDING INCREASED PENALTY FOR SECOND OFFENSE OF USING AN EXPLOSIVE TO COMMIT A FELONY.

Section 844(h) of title 18, United States Code, is amended by striking out "ten years" and inserting in lieu thereof "twenty years".

SEC. 404. CLARIFICATION OF DEFINITION OF CONVICTION.

Section 921(a)(20) of title 18, United States Code, is amended by adding at the end the following: "Notwithstanding the previous sentence, if the conviction was for a violent felony involving the threatened or actual use of a firearm or explosive or was for a serious drug offense, as defined in section 924(e) of this title, the person shall be considered convicted for purposes of this chapter irrespective of any pardon, setting aside, expunction or restoration of civil rights."

SEC. 405. PERMITTING CONSIDERATION OF PRETRIAL DETENTION FOR CERTAIN FIREARMS AND EXPLOSIVES OFFENSES.

Section 3142(f)(1) of title 18, United States Code, is amended by—

(1) striking "or" before subparagraph (D);

(2) redesignating subparagraph (D) as subparagraph (E); and

(3) inserting a new subparagraph (D) as follows:

"(D) an offense under 18 U.S.C. 844(a) that is a violation of 18 U.S.C. 842 (d), (h), or (i), or an offense under 18 U.S.C. 924(a) that is a violation of 18 U.S.C. 922 (d), (g), (h), (i), (j) or (o), or an offense under section 844(d), or 924 (b), (g), (h), or (i) (as added by this Act) of this title; or".

SEC. 406. SMUGGLING FIREARMS IN AID OF DRUG TRAFFICKING.

Section 924 of title 18, United States Code, is amended by adding at the end thereof the following:

"(i) Whoever, with the intent to engage in or to promote conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3);

smuggles or knowingly brings into the United States a firearm, or attempts to so, shall be imprisoned for not more than ten years, fined under this title, or both.".

SEC. 407. THEFT OF FIREARMS AND EXPLOSIVES.

(a) Section 924 of title 18, United States Code, is amended by adding at the end the following:

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than two or more than ten years, and may be fined under this title.".

(b) Section 844 of title 18, United States Code, is amended by adding at the end the following:

"(k) Whoever steals any explosive materials which are moving as, or are a part of, or which have moved in, interstate or foreign commerce shall be imprisoned for not less than two or more than ten years, and may be fined under this title.".

SEC. 408. CONFORMING AMENDMENT PROVIDING MANDATORY REVOCATION OF SUPERVISED RELEASE FOR POSSESSION OF A FIREARM.

Section 3583 of title 18, United States Code is amended by adding at the end thereof the following new subsection:

"(h) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 409. INCREASED PENALTY FOR KNOWINGLY FALSE, MATERIAL STATEMENT IN CONNECTION WITH THE ACQUISITION OF A FIREARM FROM A LICENSED DEALER.

Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (a)(1)(B), by striking out "(a)(6),"; and

(2) in subsection (a)(2), by inserting "(a)(6)," after "subsections".

SEC. 410. STATUTE OF LIMITATIONS FOR CERTAIN GANGSTER WEAPON OFFENSES.

Section 6531 of the Internal Revenue Code of 1986 (26 U.S.C. 6531, relating to periods of limitation of criminal prosecutions) is amended by striking "except that the period of limitation shall be 6 years" and inserting in lieu thereof "except that the period of limitation shall be 5 years for offenses described in section 5861 (relating to firearms) and the period of limitation shall be 6 years".

SEC. 411. POSSESSION OF EXPLOSIVES BY FELONS AND OTHERS.

Section 842(i) of title 18, United States Code, is amended by inserting "or possess" after "to receive".

SEC. 412. SUMMARY DESTRUCTION OF EXPLOSIVES SUBJECT TO FORFEITURE.

Section 844(c) of title 18, United States Code, is amended by redesignating subsection (c) as subsection (c)(1) and by adding paragraphs (2) and (3) as follows:

"(2) Notwithstanding the provisions of paragraph (1), in the case of the seizure of any explosive materials for any offense for which the materials would be subject to forfeiture where it is impracticable or unsafe to remove the materials to a place of storage, or where it is unsafe to store them, the seizing officer is authorized to destroy the explosive materials forthwith. Any destruction under this paragraph shall be in the presence of at least one credible witness. The seizing officer shall make a report of the seizure and take samples as the Secretary may by regulation prescribe.

"(3) Within 60 days after any destruction made pursuant to paragraph (2), the owner of, including any person having an interest in, the property so destroyed may make application to the Secretary for reimbursement of the value of the property. If the claimant establishes to the satisfaction of the Secretary that—

(A) the property has not been used or involved in a violation of law; or

(B) any unlawful involvement or use of the property was without the claimant's knowledge, consent, or willful blindness,

the Secretary shall make an allowance to the claimant not exceeding the value of the property destroyed.".

SEC. 413. SUMMARY FORFEITURE OF UNREGISTERED NATIONAL FIREARMS ACT WEAPONS.

Section 5872 of title 26, United States Code, is amended by redesignating subsection (a) as subsection (a)(1) and by adding paragraphs (2) and (3) to read as follows:

"(2) UNREGISTERED NATIONAL FIREARMS ACT WEAPONS.—Notwithstanding the provisions of paragraph (1), the provisions of sections 7323 and 7325 shall not apply to any firearm which is not registered in the National Firearms Registration and Transfer Record pursuant to section 5841. No property rights shall exist in any such unregistered firearm and it shall be summarily forfeited to the United States.

"(3) RIGHTS OF INNOCENT OWNERS.—Within one year after the summary forfeiture made pursuant to paragraph (2) the owner of, including any person having an interest in, the property seized may make application to the Secretary for reimbursement of the value of such property. If the claimant establishes to the satisfaction of the Secretary that—

(A) such property has not been involved or used in a violation of law; or

(B) any unlawful involvement or use of such property had been without the claimant's consent, knowledge, or willful blindness,

the Secretary shall make an allowance to such claimant not exceeding the value of the property so forfeited.".

SEC. 414. DISPOSITION OF FORFEITED FIREARMS.

Subsection 5872(b) of title 26, United States Code, is amended to read as follows:

"(d) DISPOSAL.—In the case of the forfeiture of any firearm, where there is no remission or mitigation of forfeiture thereof—

"(1) The Secretary may retain the firearm for official use of the Department of the Treasury or, if not so retained, offer to transfer the weapon without charge to any other executive department or independent establishment of the Government for official use by it and, if the offer is accepted, so transfer the firearm;

"(2) If the firearm is not disposed of pursuant to paragraph (1), is a firearm other than a machinegun or a firearm forfeited for a violation of this chapter, is a firearm that in the opinion of the Secretary is not so defective that its disposition pursuant to this paragraph would create an unreasonable risk of a malfunction likely to result in death or bodily injury, and is a firearm which (in the judgment of the Secretary, taking into consideration evidence of present value and evidence that like firearms are not available except as collector's items, or that the value of like firearms available in ordinary commercial channels is substantially less) derives a substantial part of its monetary value from the fact that it is novel, rare, or because of its association with some historical figure, period, or event the Secretary may sell such firearms, after public notice, at public sale to a dealer licensed under the provisions of chapter 44 of title 18, United States Code.

"(3) If the firearm has not been disposed of pursuant to paragraph (1) or (2), the Secretary shall transfer the firearm to the Administrator of General Services, General Services Administration, who shall destroy or provide for the destruction of such firearm; and

"(4) No decision or action of the Secretary pursuant to this subsection shall be subject to judicial review.".

SEC. 415. ELIMINATION OF OUTMODED LANGUAGE RELATING TO PAROLE.

(a) Section 924(e)(1) of title 18, United States Code, is amended by striking ", and such person shall not be eligible for parole with respect to the sentence imposed under this subsection".

(b) Section 924(c)(1) of title 18, United States Code, is amended by striking "No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein.".

SEC. 416. POSSESSION OF STOLEN FIREARMS.

Section 922(j) of title 18, United States Code, is amended by inserting "possess," before "receive,".

SEC. 417. USING A FIREARM IN THE COMMISSION OF COUNTERFEITING OR FORGERY.

Section 924(c)(1) of title 18, United States Code, is amended by inserting "or during and in relation to any felony punishable under chapter 25 (relating to counterfeiting and forgery) of this title" after "for which he may be prosecuted in a court of the United States,".

SEC. 418. MANDATORY PENALTY FOR FIREARMS POSSESSION BY VIOLENT FELONS AND SERIOUS DRUG OFFENDERS.

Section 924(a)(2) of title 18, United States Code, is amended by inserting a comma before "or both" and by inserting before the period at the end thereof the following: ", and if the violation is a violation of subsection (g)(1) of section 922 by a person who has a previous conviction for a violent felony or a serious drug offense as defined in subsection (e)(2) of this section, a sentence imposed under this paragraph shall include a term of imprisonment of not less than five years.".

SEC. 419. REPORTING OF MULTIPLE FIREARMS SALES.

Subsection 923(g)(D)(3) of title 18, United States Code, is amended—

(1) by deleting the phrase "five consecutive business days" and inserting in lieu thereof "thirty consecutive days"; and

(2) by adding a new sentence at the end thereof as follows: "Each licensee shall forward a copy of the report to the chief law enforcement officer of the place of residence of the unlicensed person not later than the close of business on the day that the multiple sale or disposition occurs.".

SEC. 420. POSSESSION OF STOLEN FIREARMS AND EXPLOSIVES.

(a) FIREARMS.—Section 922(j) of title 18, United States Code, is amended by inserting "possess," before "conceal";

(b) EXPLOSIVES.—Section 842(h) of title 18, United States Code, is amended by inserting "possess," before "conceal";

SEC. 421. RECEIPT OF FIREARMS BY NONRESIDENTS.

Section 922(a) of title 18, United States Code, is amended—

(1) in paragraph (7) by striking "and" at the end thereof;

(2) in paragraph (8) by striking the period at the end thereof and inserting "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(9) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, who does not reside in any State to receive any firearm.".

SEC. 422. FIREARMS AND EXPLOSIVES CONSPIRACY.

(a) FIREARMS.—Section 924 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(j) Whoever conspires to commit any offense defined in this chapter shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy."

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(l) Whoever conspires to commit any offense defined in this chapter shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy."

SEC. 423. THEFT OF FIREARMS OR EXPLOSIVES FROM LICENSEE.

(a) FIREARMS.—Section 924 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(k) Whoever steals any firearm from a licensed importer, licensed manufacturer, licensed dealer or licensed collector shall be fined in accordance with this title, imprisoned not more than ten years, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(m) Whoever steals any explosive from a licensed importer, licensed manufacturer, licensed dealer or from any permittee shall be fined in accordance with this title, imprisoned not more than ten years, or both.".

SEC. 424. DISPOSING OF EXPLOSIVES TO PROHIBITED PERSONS.

Section 842(d) of title 18, United States Code, is amended by striking "licensee" and inserting in lieu thereof "person".

Subtitle B—Prohibited Gun Clips and Magazines

SEC. 431. FINDINGS.

The Congress finds that—

(1) Offenses involving firearms equipped with magazines, belts, drums, feed strips, and other similar devices that enable such firearms to fire more than fifteen rounds without reloading, and particularly drug offenses, with their attendant loss of life and

the generation of illegal profits, affect interstate and foreign commerce; and

(2) Such devices are themselves sold in interstate and foreign commerce, and are moved in commerce for the purpose of use in violent crimes.

SEC. 432. CERTAIN AMMUNITION CLIPS AND MAGAZINES DEFINED AS FIREARMS.

Section 921(a)(3) of title 18, United States Code, is amended by striking out "or" before "(D)", and by striking out the period after the word "device" and inserting in lieu thereof "; or (E) any ammunition feeding device.".

SEC. 433. DEFINITION OF AMMUNITION FEEDING DEVICE.

Section 921(a) of title 18, United States Code, is amended by adding a new paragraph at the end thereof as follows:

"(27) The term "ammunition feeding device" means a detachable magazine, belt, drum, feed strip, or similar device which as a capacity of, or which can be readily restored or converted to accept, more than 15 rounds of ammunition. The term also includes any combination of parts from which such a device can be assembled. Notwithstanding the foregoing, such term shall not include any attached tubular device designed to accept and capable of operating with only .22 rim-fire caliber ammunition."

SEC. 434. PROHIBITIONS APPLICABLE TO AMMUNITION FEEDING DEVICES.

Section 922 of title 18, United States Code, is amended by adding new subsection (t), (u), and (v), as follows:

"(t) It shall be unlawful for any person to import, manufacture, transport, ship, transfer, receive, or possess an ammunition feeding device, except that this subsection shall not apply to—

"(1) any importation or manufacture of such a device for sale or distribution by a licensed importer or licensed manufacturer to the United States or any department or agency thereof or to any State or any department, agency, or political subdivision thereof;

"(2) any possession, shipment, transportation of or transfer (in accordance with the provisions of subsections (u) and (v)) of such a device that was lawfully possessed before this subsection takes effect; or

"(3) any manufacture of such a device for the purpose of exportation.

"(u) The Secretary shall maintain a central registry of all ammunition feeding devices transferred after the effective date of this subsection which, after such transfer, are not in the possession or under the control of the United States, or any department or agency thereof or any department, agency, or political subdivision thereof. This registry shall be known as the National Ammunition Feeding Device Registry. The registry shall include—

"(1) identification of the device;

"(2) date of registration;

"(3) identification and address of the person entitled to possess the device; and

"(4) such other information as may be required by regulations promulgated by the Secretary.

"(v) Each transferor of an ammunition feeding device that was lawfully possessed before the effective date of subsection (t) shall (except in the case of a transfer to the United States, or any department or agency thereof or any State or any department, agency, or political subdivision thereof) register the device to the transferee in accordance with regulations promulgated by the Secretary. Any information or evidence required to be provided in the course of such registration by a natural person shall be subject to the use-restriction provisions of section 5848 of title 26, United States Code. The transferor shall, contemporaneously with the registration of the device, pay a fee of $25 to the Secretary. A transferee of an ammunition feeding device required to be registered as required by this subsection shall retain proof of such registration which shall be made available to the Secretary upon request.".

SEC. 435. IDENTIFICATION MARKINGS FOR AMMUNITION FEEDING DEVICES.

Section 923(i) of title 18, United States Code, is amended by adding at the end thereof a new sentence as follows: "An ammunition feeding device shall be identified by a serial number and such other identification as the Secretary may by regulations prescribe.".

SEC. 436. CRIMINAL PENALTIES.

Subsection 924(a)(2) of title 18, United States Code, is amended by striking out "or (o)" and inserting in lieu thereof "(o), or (t)".

SEC. 437. NONINTERRUPTION OF BUSINESS FOR PERSONS IN THE BUSINESS OF IMPORTING OR MANUFACTURING AMMUNITION FEEDING DEVICES.

Any person engaging in the business of manufacturing or importing ammunition feeding devices requiring a license under the provisions of chapter 44 of title 18, United States Code, who was engaged in such business on the date of enactment of this Act, and who files an application for a license under the provisions of section 923 of title 18, United States Code, within 30 days after the date of enactment, may continue such business pending final action on the application. All provisions of chapter 44 of title 18, United States Code, shall apply to such applicant in the same manner and to the same extent as if the applicant were a holder of a license under chapter 44.

TITLE V—OBSTRUCTION OF JUSTICE

SEC. 501. PROTECTION OF COURT OFFICERS AND JURORS.

Section 1503 of title 18, United States Code, is amended—

(1) by designating the current text as subsection (a);

(2) by striking the words "fined not more than $5,000 or imprisoned not more than five years, or both." and inserting in lieu thereof "punished as provided in subsection (b)."';

(3) by adding at the end thereof a new subsection (b) as follows:

"(b) The punishment for an offense under this section is—

"(1) in the case of a killing, the punishment provided in sections 1111 and 1112 of this title;

"(2) in the case of an attempted killing, or a case in which the offense was committed against a petit juror and in which a class A or B felony was charged, imprisonment for not more than twenty years; and

"(3) in any other case, imprisonment for not more than ten years."; and

"(4) in subsection (a), as designated by this section, by striking "commissioner" each place it appears and inserting in lieu thereof "magistrate judge".

SEC. 502. PROHIBITION OF RETALIATORY KILLINGS OF WITNESSES, VICTIMS AND INFORMANTS.

Section 1513 of title 18, United States Code, is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(2) by inserting a new subsection (a) as follows:

"(a)(1) Whoever kills or attempts to kill another person with intent to retaliate against any person for—

"(A) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

"(B) any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole or release pending judicial proceedings given by a person to a law enforcement officer;

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under this subsection is—

"(A) in the case of a killing, the punishment provided in sections 1111 and 1112 of this title; and

"(B) in the case of an attempt, imprisonment for not more than twenty years."

SEC. 503. PROTECTION OF STATE OR LOCAL LAW ENFORCEMENT OFFICERS PROVIDING ASSISTANCE TO FEDERAL LAW ENFORCEMENT OFFICERS.

Section 1114 of title 18, United States Code, is amended by inserting ", or any state or local law enforcement officer while assisting, or on account of his or her assistance of, any federal officer or employee covered by this section in the performance of duties," before "shall be punished".

TITLE VI—GANGS AND JUVENILE OFFENDERS

SEC. 601. AMENDMENTS CONCERNING RECORDS OF CRIMES COMMITTED BY JUVENILES.

(a) Section 5038 of title 18, United States Code, is amended by striking subsections (d) and (f), redesignating subsection (e) as subsection (d), and adding at the end thereof new subsections (e) and (f) as follows:

"(e) Whenever a juvenile has been found guilty of committing an act which if committed by an adult would be an offense described in clause (3) of the first paragraph of section 5032 of this title, the juvenile shall be fingerprinted and photographed, and the fingerprints and photograph shall be sent to the Federal Bureau of Investigation, Identification Division. The court shall also transmit to the Federal Bureau of Investigation, Identification Division, the information concerning the adjudication, including name, date of adjudication, court, offenses, and sentence, along with the notation that the matter was a juvenile adjudication. The fingerprints, photograph, and other records and information relating to a juvenile described in this subsection, or to a juvenile who is prosecuted as an adult, shall be made available in the manner applicable to adult defendants.

"(f) In addition to any other authorization under this section for the reporting, retention, disclosure or availability of records or information, if the law of the state in which a federal juvenile delinquency proceeding takes place permits or requires the reporting, retention, disclosure or availability of records or information relating to a juvenile or to a juvenile delinquency proceeding or adjudication in certain circumstances, then such reporting, retention, disclosure or availability is permitted under this section whenever the same circumstances exist.".

(b) Section 3607 of Title 18, United States Code, is repealed, and the corresponding reference in the section analysis for chapter 229 of Title 18 is deleted.

(c) Section 401(b)(4) of the Controlled Substances Act (21 U.S.C. 841(b)(4)) is amended by striking the words "and section 3607 of Title 18".

SEC. 602. ADULT PROSECUTION OF SERIOUS JUVENILE OFFENDERS.

Section 5032 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by striking "an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1003, 1005, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, 960(b) (1), (2), (3))," and inserting in lieu thereof "an offense (or a conspiracy or attempt to commit an offense) described in section 401, or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841, 844, or 846), section 1002(a), 1003, 1005, 1009, 1010(b) (1), (2), or (3), of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, 960(b) (1), (2), or (3), or 963),"; and

(B) by striking "922(p)" and inserting in lieu thereof "924 (b), (g), or (h)";

(2) in the fourth undesignated paragraph—

(A) by striking "an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1005, or 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959)" and inserting in lieu thereof "an offense (or a conspiracy or attempt to commit an offense) described in section 401, or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841, 844 or 846), section 1002(a), 1005, 1009, 1010(b) (1), (2), or (3), of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959, 960(b) (1), (2), or (3), or 963), or section 924 (b), (g), or (h) of this title,"; and

(B) by striking "subsection (b)(1) (A), (B), or (C), (d), or (e) of section 401 of the Controlled Substances Act, or section 1002(a), 1003, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b) (1), (2), (3))" and inserting in lieu thereof "or an offense (or conspiracy or attempt to commit an offense) described in section 401(b)(1) (A), (B), or (C), (d), or (e), or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841(b)(1), (A), (B), or (C), (d), or (e), 844 or 846) or section 1002(a), 1003, 1009, 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b) (1), (2), or (3), or 963)"; and

(3) in the fifth undesignated paragraph by adding at the end the following: "In considering the nature of the offense, as required by this paragraph, the court shall consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use or distribution of controlled substances or firearms. Such a factor, if found to exist, shall weigh heavily in favor of a transfer to adult status, but the absence of this factor shall not preclude such a transfer.".

SEC. 603. SERIOUS DRUG OFFENSES BY JUVENILES AS ARMED CAREER CRIMINAL ACT PREDICATES.

Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) by striking "or" at the end of clause (i);

(2) by striking "and" at the end of clause (ii) and inserting in lieu thereof "or"; and

(3) by adding at the end the following:

"(iii) any act of juvenile delinquency that if committed by an adult would be a serious drug offense described in this paragraph; and".

SEC. 604. INCREASED PENALTY FOR TRAVEL ACT CRIMES INVOLVING VIOLENCE.

Section 1952(a) of title 18, United States Code, is amended by striking "and thereafter performs or attempts to perform any of the acts specified in subparagraphs (1), (2), and (3), shall be fined not more than $10,000 or imprisoned for not more than five years, or both" and inserting in lieu thereof "and thereafter performs or attempts to perform (A) any of the acts specified in subparagraphs (1) and (3) shall be fined under this title or imprisoned for not more than five years, or both, or (B) any of the acts specified in subparagraph (2) shall be fined under this title or imprisoned for not more than twenty years, or both, and if death results shall be imprisoned for any term of years or for life.".

SEC. 605. INCREASED PENALTY FOR CONSPIRACY TO COMMIT MURDER FOR HIRE.

Section 1958(a) of title 18, United States Code, is amended by inserting "or who conspires to do so" before "shall be fined" the first place it appears.

TITLE VII—TERRORISM

Subtitle A—Aviation Terrorism

SEC. 701. IMPLEMENTATION OF THE 1988 PROTOCOL FOR THE SUPPRESSION OF UNLAWFUL ACTS OF VIOLENCE AT AIRPORTS SERVING INTERNATIONAL CIVIL AVIATION.

(a) OFFENSE.—Chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 36. Violence at international airports

"(a) Whoever unlawfully and intentionally, using any device, substance or weapon—

"(1) performs an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious injury or death; or

"(2) destroys or seriously damages the facilities of an airport serving international civil aviation or a civil aircraft not in service located thereon or disrupts the services of the airport;

if such an act endangers or is likely to endanger safety at that airport, or attempts to do such an act, shall be fined under this title or imprisoned not more than twenty years, or both; and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) There is jurisdiction over the prohibited activity in subsection (a) if (1) the prohibited activity takes place in the United States or (2) the prohibited activity takes place outside of the United States and the offender is later found in the United States.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following:

"36. Violence at international airports.".

(c) EFFECTIVE DATE.—This section shall take effect on the later of—

(1) the date of the enactment of this subtitle; or

(2) the date the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971, has come into force and the United States has become a party to the Protocol.

SEC. 702. AMENDMENT TO FEDERAL AVIATION ACT.

Section 902(n) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(n)) is amended by—

(1) striking out paragraph (3); and

(2) renumbering paragraph (4) as paragraph (3).

Subtitle B—Maritime Terrorism

SEC. 711. SHORT TITLE FOR SUBTITLE B.

This subtitle may be cited as the "Act for the Prevention and Punishment of Violence Against Maritime Navigation and Fixed Platforms".

SEC. 712. FINDINGS.

The Congress finds that—

(1) the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation requires each contracting State to establish its jurisdiction over certain offenses affecting the safety of maritime navigation;

(2) the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, which accompanies the aforementioned Convention, requires that each contracting State to the Protocol establish its jurisdiction over certain offenses affecting the safety of fixed platforms;

(3) such offenses place innocent lives and property in jeopardy, endanger national security, affect domestic tranquility, gravely affect interstate and foreign commerce, and are offenses against the law of nations;

(4) on December 27, 1988, the President of the United States issued Proclamation 5928 proclaiming that the territorial sea of the United States henceforth extended to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

(5) on November 5, 1989, the Senate gave its advice and consent to ratification of the Convention and its Protocol.

SEC. 713. STATEMENT OF PURPOSE.

The purpose of this Act is to—

(1) implement fully the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation and the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf;

(2) clarify federal criminal jurisdiction over the territorial sea of the United States; and

(3) establish federal criminal jurisdiction over certain acts committed by or against a national of the United States while upon a foreign vessel during a voyage having a scheduled departure from or arrival in the United States.

SEC. 714. OFFENSES OF VIOLENCE AGAINST MARITIME NAVIGATION OR FIXED PLATFORMS.

Chapter 111 of title 18, United States Code, is amended by adding at the end thereof the following new sections:

"§ 2280. Violence against maritime navigation

"(a) Whoever unlawfully and intentionally—

"(1) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation;

"(2) performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship;

"(3) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship;

"(4) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship;

"(5) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if such act is likely to endanger the safe navigation of a ship;

"(6) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safe navigation of a ship;

"(7) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in paragraphs (1) to (6); or

"(8) attempts to do any act prohibited under paragraphs (1)-(7);

shall be fined under this title or imprisoned not more than twenty years, or both; and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) Whoever threatens to do any act prohibited under paragraphs (2), (3) or (5) of subsection (a), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safe navigation of the ship in question, shall be fined under this title or imprisoned not more than five years, or both.

"(c) There is jurisdiction over the prohibited activity in subsections (a) and (b)—

"(1) in the case of a covered ship, if—

"(A) such activity is committed—

"(i) against or on board a ship flying the flag of the United States at the time the prohibited activity is committed;

"(ii) in the United States; or

"(iii) by a national of the United States or by a stateless person whose habitual residence is in the United States;

"(B) during the commission of such activity, a national of the United States is seized, threatened, injured or killed; or

"(C) the offender is later found in the United States after such activity is committed;

"(2) in the case of a ship navigating or scheduled to navigate solely within the territorial sea or internal waters of a country other than the United States, if the offender is later found in the United States after such activity is committed; and

"(3) in the case of any vessel, if such activity is committed in an attempt to compel the United States to do or abstain from doing any act.

"(d) the master of a covered ship flying the flag of the United States who has reasonable grounds to believe that he has on board his ship any person who has committed an offense under Article 3 of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation may deliver such person to the authorities of a State Party to that Convention. Before delivering such person to the authorities of another country, the master shall notify in an appropriate manner the Attorney General of the United States of the alleged offense and await instructions from the Attorney General as to what action he should take. When delivering the person to a country which is a State Party to the Convention, the master shall, whenever practicable, and if possible before entering the territorial sea of such country, notify the authorities of such country of his intention to deliver such person and the reasons therefor. If the master delivers such person, he shall furnish the authorities of such country with the evidence in the master's possession that pertains to the alleged offense.

"(e) as used in this section, the term—

"(1) 'ship' means a vessel of any type whatsover not permanently attached to the sea-bed, including dynamically supported craft, submersibles or any other floating craft; *Provided*, the term does not include a warship, a ship owned or operated by a government when being used as a naval auxiliary or for customs or police purposes, or a ship which has been withdrawn from navigation or laid up;

"(2) 'covered ship' means a ship that is navigating or is scheduled to navigate into, through or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country's territorial sea with an adjacent country;

"(3) 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(4) 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) 'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands and all territories and possessions of the United States.

"§ 2281. Violence against maritime fixed platforms

"(a) Whoever unlawfully and intentionally—

"(1) seizes or exercises control over a fixed platform by force or threat thereof or any other form of intimidation;

"(2) performs an act of violence against a person on board a fixed platform if that act is likely to endanger its safety;

"(3) destroys a fixed platform or causes damage to it which is likely to endanger its safety;

"(4) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance which is likely to destroy that fixed platform or likely to endanger its safety;

"(5) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in paragraphs (1) to (4); or

"(6) attempts to do anything prohibited under paragraphs (1)-(5);

shall be fined under this title or imprisoned not more than twenty years, or both; and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) Whoever threatens to do anything prohibited under paragraphs (2) or (3) of subsection (a), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safety of the fixed platform, shall be fined under this title or imprisoned not more than five years, or both.

"(c) There is jurisdiction over the prohibited activity in subsections (a) and (b) if—

"(1) such activity is committed against or on board a fixed platform—

"(A) that is located on the continental shelf of the United States;

"(B) that is located on the continental shelf of another country, by a national of the United States or by a stateless person whose habitual residence is in the United States; or

"(C) in an attempt to compel the United States to do or abstain from doing any act;

"(2) during the commission of such activity against or on board a fixed platform located on a continental shelf, a national of the United States is seized, threatened, injured or killed; or

"(3) such activity is committed against or on board a fixed platform located outside the United States and beyond the continental shelf of the United States and the offender is later found in the United States.

"(d) As used in this section, the term—

"(1) 'continental shelf' means the sea-bed and subsoil of the submarine areas that extend beyond a country's territorial sea to the limits provided by customary international law as reflected in Article 76 of the 1982 Convention on the Law of the Sea;

"(2) 'fixed platform' means an artificial island, installation or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes;

"(3) 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a) (22));

"(4) 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) 'United States', when used in geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands and all territories and possessions of the United States.".

SEC. 715. CLERICAL AMENDMENTS.

The analysis for chapter 111 of title 18, United States Code, is amended by adding at the end thereof the following:

"2280. Violence against maritime navigation.
"2281. Violence against maritime fixed platforms."

SEC. 716. EFFECTIVE DATES.

Section 714 of this Act shall take effect on the later of—

(1) the date of the enactment of this Act; or

(2)(A) in the case of section 2280 of title 18, United States Code, the date the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation has come into force and the United States has become a party to that Convention; and

(B) in the case of section 2281 of title 18, United States Code, the date the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf has come into force and the United States has become a party to that Protocol.

SEC. 717. TERRITORIAL SEA EXTENDING TO TWELVE MILES INCLUDED IN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.

The Congress hereby declares that all the territorial sea of the United States, as defined by Presidential Proclamation 5928 of December 27, 1988, is part of the United States, subject to its sovereignty, and, for purposes of federal criminal jurisdiction, is within the special maritime and territorial jurisdiction of the United States wherever that term is used in title 18, United States Code.

SEC. 718. ASSIMILATED CRIMES IN EXTENDED TERRITORIAL SEA.

Section 13 of title 18, United States Code (relating to the adoption of State laws for areas within Federal jurisdiction), is amended by inserting after "title" in subsection (a) the phrase "or on, above, or below any portion of the territorial sea of the United States not within the territory of any State, Territory, Possession, or District", and by inserting the following new subsection (c) at the end thereof:

"(c) Whenever any waters of the territorial sea of the United States lie outside the territory of any State, Territory, Possession, or District, such waters (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) shall be deemed for purposes of subsection (a) to lie within the area of that State, Territory, Possession, or District it would lie within if the boundaries of such State, Territory, Possession, or District were extended seaward to the outer limit of the territorial sea of the United States.".

SEC. 719. JURISDICTION OVER CRIMES AGAINST UNITED STATES NATIONALS ON CERTAIN FOREIGN SHIPS.

Section 7 of title 18, United States Code (relating to the special maritime and territorial jurisdiction of the United States), is amended by inserting at the end thereof the following new paragraph:

"(8) Any foreign vessel during a voyage having a scheduled departure from or arrival in the United States with respect to an offense committed by or against a national of the United States.".

Subtitle C—Terrorist Alien Removal

SECTION 721. SHORT TITLE FOR SUBTITLE C.

This subtitle may be cited as the "Terrorist Alien Removal Act of 1991".

SEC. 722. FINDINGS.

The Congress finds the following:

(1) Terrorist groups have been able to create significant infrastructures and cells in the United States among persons who are in the United States either temporarily, as students or in other capacities, or as permanent resident aliens.

(2) International terrorist groups that sponsor these infrastructures were responsible for—

(A) conspiring to bomb the Turkish Honorary Consulate in Philadelphia, Pennsylvania in 1982;

(B) bombing of a Pan Am airline flight enroute to Honolulu in 1982;

(C) hijacking of a Royal Jordanian airliner in Beirut, Lebanon with two U.S. nationals on board in 1985;

(D) hijacking TWA Flight 847 during which a United States Navy diver was murdered in 1985;

(E) hijacking Egypt Air Flight 648 during which three Americans were killed in 1985;

(F) murder of four members of the U.S. Marine Corps in El Salvador in 1985;

(G) murdering an American citizen aboard the Achille Lauro cruise liner in 1985;

(H) hijacking Pan Am Flight 73 in Karachi, Pakistan, in which 44 Americans were held hostage and two were killed in 1986;

(I) conspiring to bomb an Air India aircraft in New York City in 1986;

(J) attempting to bomb the Air Canada cargo facility at the Los Angeles International Airport in 1986;

(K) murder of the U.S. Naval attache in Athens, Greece, in 1988;

(L) terrorist attack on the Greek cruise ship "City of Poros" in 1988;

(M) bombing of Pan Am flight 103 resulting in 279 deaths in 1988;

(N) murder of U.S. Marine Corps officers assigned to the U.N. Truce Supervisory Organization in Lebanon, in 1989;

(O) murder of U.S. Army officer in Manila in 1984; and

(P) numerous bombings and murders in Northern Ireland over the past decade.

(3) Certain governments and organizations have directed their assets in the United States to take measures in preparation for the commission of terrorist acts in this country.

(4) Present immigration laws have not been used to any significant degree by law enforcement officials to deport alien terrorists because compliance with these laws with respect to such aliens would compromise classified intelligence sources and information. Moreover, appellate procedures routinely afforded aliens following a deportation hearing frequently extend over several years resulting in an inability to effect the expeditious removal of aliens engaging in terrorist activity.

(5) Present immigration laws are inadequate to protect the national security of the United States from terrorist attacks by certain aliens. Therefore, new procedures are needed to remove alien terrorists from the United States and thus reduce the threat that such aliens pose to the national security and other vital interests of the United States.

SEC. 723. TERRORIST ACTIVITIES DEFINED.

For purposes of this Act, the terms "terrorist activity" and "engage in terrorist activity" shall be defined as provided in Section 601(a) of Public Law 101-649.

SEC. 724. PROCEDURES FOR REMOVAL OF ALIEN TERRORISTS.

The Immigration and Nationality Act is amended—

(1) by adding at the end of the table of contents the following:

"TITLE V—REMOVAL OF ALIEN TERRORISTS

"Sec. 501. Applicability.
"Sec. 502. Special removal hearing.
"Sec. 503. Designation of judges.
"Sec. 504. Miscellaneous provisions"; and

(2) by adding at the end the following new title:

"TITLE V—REMOVAL OF ALIEN TERRORISTS

"APPLICABILITY

"SEC. 501. (a) The provisions of this title may be followed in the discretion of the Department of Justice whenever the Department of Justice has information that an alien described in paragraph 4(B) of section 241(a), as amended, is subject to deportation because of such section.

"(b) Whenever an official of the Department of Justice files, under section 502, an application with the court established under section 503 for authorization to seek removal pursuant to the provisions of this title, the alien's rights regarding removal and expulsion shall be governed solely by the provisions of this title. Except as they are specifically referenced, on other provisions of the Immigration and Nationality Act shall be applicable. An alien subject to removal under these provisions shall have no right of discovery of information derived from electronic surveillance authorized under the Foreign Intelligence Surveillance Act or otherwise for national security purposes, nor shall such alien have the right to seek suppression of evidence derived in this manner. Further, the government is authorized to use, in the removal proceedings, the fruits of electronic surveillance authorized under the Foreign Intelligence Surveillance Act without regard to subsection 106(c), (e), (f), (g), and (h) of that Act.

"(c) This title is enacted in response to findings of Congress that aliens described in paragraph 4(B) of section 241(a), as amended, represent a unique threat to the security of the United States. It is the intention of Congress that such aliens be promptly removed from the United States following—

"(1) a judicial determination of probable cause to believe that such person is such an alien; and

"(2) a judicial determination pursuant to the provisions of this title that an alien is removable on the grounds that he is an alien described in paragraph 4(B) of section 241(a), as amended;

and that such aliens not be given a deportation hearing and are ineligible for any discretionary relief from deportation and for relief under section 243(h).

"SPECIAL REMOVAL HEARING

"SEC. 502. (a) Whenever removal of an alien is sought pursuant to the provisions of this title, a written application upon oath or affirmation shall be submitted in camera and ex parte to the court established under section 503 for an order authorizing such a procedure. Each application shall require the approval of the Attorney General or the Deputy Attorney General based upon his finding that it satisfies the criteria and requirement of such application as set forth in this title. Each application shall include—

"(1) the identity of the Department of Justice attorney making the application;

"(2) the approval of the Attorney General or the Deputy Attorney General for the making of the application;

"(3) the identity of the alien for whom authorization for the special removal procedure is sought; and

"(4) a statement of the facts and circumstances relied on by the Department of Justice to establish that—

"(A) an alien as described in paragraph 4(B) of section 241(a), as amended, is physically present in the United States; and

"(B) with respect to such alien, adherence to the provisions of title II regarding the deportation of aliens would pose a risk to the national security of the United States, adversely affect foreign relations, reveal an investigative technique important to efficient law enforcement, or disclose a confidential source of information.

"(b) The application shall be filed under seal with the court established under section 503. The Attorney General may take into custody any alien with respect to whom such an application has been filed and, notwithstanding any other provision of law, may retain such an alien in custody in accordance with the procedures authorized by this title.

"(c) In accordance with the rules of the court established under section 503, the judge shall consider the application and may consider other information presented under oath or affirmation at an in camera and ex parte hearing on the application. A verbatim record shall be maintained of such a hearing. The application and any other evidence shall be considered by a single judge of that court who shall enter an ex parte order as requested if he finds, on the basis of the facts submitted in the application and any other information provided by the Department of Justice at the in camera and ex parte hearing, there is probable cause to believe that—

"(1) the alien who is the subject of the application has been correctly identified and is an alien as described in paragraph 4(fB) of section 241(a), as amended; and

"(2) adherence to the provisions of title II regarding the deportation of the identified alien would pose a risk to the national security of the United States, adversely affect foreign relations, reveal an investigative technique important to efficient law enforcement, or disclose a confidential source of information.

"(d)(1) In any case in which the application for the order is denied, the judge shall prepare a written statement of his reasons for the denial and the Department of Justice may seek a review of the denial by the court of appeals for the Federal Circuit by notice of appeal which must be filed within 20 days. In such a case the entire record of the proceeding shall be transmitted to the court of appeals under seal and the Court of Appeals shall hear the matter ex parte.

"(2) If the Department of Justice does not seek review, the alien shall be released from custody, unless such alien may be arrested and taken into custody pursuant to title II as an alien subject to deportation, in which case such alien shall be treated in accordance with the provisions of this Act concerning the deportation of aliens.

"(3) If the application for the order is denied because the judge has not found probable cause to believe that the alien who is the subject of the application has been correctly identified or is an alien as described in paragraph 4(B) of section 241(a), as amended, and the Department of Justice seeks review, the alien shall be released from custody unless such alien may be arrested and taken into custody pursuant to title II as an alien subject to deportation, in which case such alien shall be treated in accordance with the provisions of this Act concerning the deportation of aliens simultaneously with the application of this title.

"(4) If the application for the order is denied because, although the judge found probable cause to believe that the alien who is the subject of the application has been correctly identified and is an alien as described in paragraph 4(B) of section 241(a), as amended, the judge has found that there is not probable cause to believe that adherence to the provisions of title II regarding the deportation of the identified alien would pose a risk to the national security of the United States, adversely affect foreign relations, reveal an investigative technique important to efficient law enforcement, or disclose a confidential source of information, the judge shall release the alien from custody subject to the least restrictive condition or combination of conditions of release described in section 3142 (b) and (c)(1)(B) (i) through (xiv) of title 18, United States Code, that will reasonably assure the appearance of the alien at any future proceeding pursuant to this title and will not endanger the safety of any other person or the community; but if the judge finds no such condition or combination of conditions the alien shall remain in custody until the completion of any appeal authorized by this title. The provisions of section 3145 through 3148 of title 18, United States Code, pertaining to review and appeal of a release or detention order, penalties for failure to appear, penalties for an offense committed while on release, and sanctions for violation of a release condition shall apply to an alien to whom the previous sentence applies and—

"(A) for purposes of section 3145 of such title an appeal shall be taken to the Court of Appeals for the Federal Circuit; and

"(B) for purposes of section 3146 of such title the alien shall be considered released in connection with a charge of an offense punishable by life imprisonment.

"(e)(1) In any case in which the application for the order authorizing the special procedures of this title is approved, the judge who granted the order shall consider separately each item of evidence the Department of Justice proposes to introduce in camera and ex parte at the special removal hearing. The judge shall authorize the introduction in camera and ex parte of any item of evidence for which the judge determines that the introduction other than in camera and ex parte would pose a risk to the national security of the United States, adversely affect foreign relations, reveal an investigative technique important to efficient law enforcement, or disclose a confidential source of information. With respect to any evidence which the judge authorizes to be introduced in camera and ex parte, the judge shall cause to be prepared and shall sign, and the Department of Justice shall cause to be delivered to the alien, either—

"(A) a written summary which shall be sufficient to inform the alien of the general nature of the evidence that he is an alien as described in paragraph 4(B) of section 241(a), as amended, and to permit the alien to marshal the facts and prepare a defense, but which shall not pose a risk to national security, adversely affect foreign relations, reveal an investigative technique important to efficient law enforcement, or disclose a confidential source of information; or

"(B) if necessary to prevent serious harm to the national security or death or serious bodily injury to any person, a statement informing the alien that no such summary is possible.

"(2) The Department of Justice may take an interlocutory appeal to the United States Court of Appeals for the Federal Circuit of any determination by the judge pursuant to paragraph (1)—

"(A) concerning whether an item of evidence may be introduced in camera and ex parte;

"(B) concerning the contents of any summary of evidence to be introduced in camera and ex parte prepared pursuant to paragraph (1)(A); or

"(C) concerning whether a summary of evidence to be introduced in camera and ex parte is possible pursuant to paragraph (1)(B).

In any interlocutory appeal taken pursuant to this paragraph, the entire record, including any proposed order of the judge or summary of evidence, shall be transmitted to the court of appeals under seal and the matter shall be heard ex parte. The court of appeals shall consider the appeal as expeditiously as possible.

"(f) In any case in which the application for the order is approved, the special removal hearing authorized by this section shall be conducted for the purpose of determining if the alien to whom the order pertains should be removed from the United States on the grounds that he is an alien as described in paragraph 4(B) of section 241(a), as amended. In accordance with subsection (e), the alien shall be given reasonable notice of the nature of the charges against him. The alien shall be given notice, reasonable under all the circumstances, of the time and place at which the hearing will be held. The hearing shall be held as expeditiously as possible.

"(g) The special removal hearing shall be held before the same judge who granted the order pursuant to subsection (e) unless that judge is deemed unavailable due to illness or disability by the chief judge of the court established pursuant to section 503, or has died, in which case the chief judge shall assign another judge to conduct the special removal hearing. A decision by the chief judge pursuant to the preceding sentence shall not be subject to review by either the alien or the Department of Justice.

"(h) The special removal hearing shall be open to the public. The alien shall have a right to be present at such hearing and to be represented by counsel. Any alien financially unable to obtain counsel shall be entitled to have counsel assigned to represent him. Such counsel shall be appointed by the judge pursuant to the plan for furnishing representation for any person financially unable to obtain adequate representation for the district in which the hearing is conducted, as provided for in section 3006A of title 18, United States Code. All provisions of that section shall apply and, for purposes of determining the maximum amount of compensation, the matter shall be treated as if a felony was charged. The alien may be called as a witness by the Department of Justice. The alien shall have a right to introduce evidence on his own behalf. Except as provided in subsection (j), the alien shall have a reasonable opportunity to examine the evidence against him and to cross-examine any witness. A verbatim record of the proceedings and of all testimony and evidence offered or produced at such a hearing shall be kept. The decision of the judge shall be based only on the evidence introduced at the hearing, including evidence introduced under subsection (j).

"(i) At any time prior to the conclusion of the special removal hearing, either the alien or the Department of Justice may request the judge to issue a subpoena for the presence of a named witness (which subpoena may also command the person to whom it is directed to produce books, papers, documents, or other objects designated therein) upon a satisfactory showing that the presence of the witness is necessary for the determination of any material matter. Such a request may be made ex parte except that the judge shall inform the Department of Justice of any request for a subpoena by the alien for a witness or material if compliance with such a subpoena would reveal evidence or the source of evidence which has been introduced, or which the Department of Justice has received permission to introduce, in camera and ex parte pursuant to subsection (j), and the Department of Justice shall be given a reasonable opportunity to oppose the issuance of such a subpoena. If an application for a subpoena by the alien also makes a showing that the alien is financially unable to pay for the attendance of a witness so requested, the court may order the costs incurred by the process and the fees of the witness so subpoenaed to be paid for from funds appropriated for the enforcement of title II. A subpoena under this subsection may be served anywhere in the United States. A witness subpoenaed under this subsection shall receive the same fees and expenses as a witness subpoenaed in connection with a civil proceeding in a court of the United States. Nothing in this subsection is intended to allow an alien to have access to classified information.

"(j) Evidence which has either been summarized pursuant to subsection (e)(1)(A) or for which no summary has been deemed possible pursuant to subsection (e)(1)(B) shall be introduced (either in writing or through testimony) in camera and ex parte and neither the alien nor the public shall be informed of such evidence or its sources other than through reference to the summary provided pursuant to subsection (e)(1)(A) or to the explanation that no summary could be provided pursuant to subsection (e)(1)(B). Notwithstanding the previous sentence, the Department of Justice may, in its discretion, elect to introduce such evidence in open session.

"(k) Evidence introduced at the special removal hearing, either in open session or in camera and ex parte, may, in the discretion of the Department of Justice, include all or part of the information presented under subsection (a) through (c) used to obtain the order for the hearing under this section.

"(1) Following the receipt of evidence, the attorneys for the Department of Justice and for the alien shall be given fair opportunity to present argument as to whether the evidence is sufficient to justify the removal of the alien. The attorney for the Department of Justice shall open the argument. The attorney for the alien shall be permitted to reply. The attorney for the Department of Justice shall then be permitted to reply in rebuttal. The judge may allow any part of the argument that refers to evidence received in camera and ex parte to be heard in camera and ex parte.

"(m) The Department of Justice has the burden of showing by clear and convincing evidence that the alien is subject to removal because he is an alien as described in paragraph 4(B) of subsection 241(a) of this Act (8 U.S.C. 1251(a)(4)(B)), as amended. If the judge finds that the Department of Justice has met this burden, the judge shall order the alien removed.

"(n)(1) At the time of rendering a decision as to whether the alien shall be removed, the judge shall prepare a written order containing a statement of facts found and conclusions of law. Any portion of the order that would reveal the substance or source of information received in camera and ex parte pursuant to subsection (j) shall not be made available to the alien or the public.

"(2) The decision of the judge may be appealed by either the alien or the Department of Justice to the Court of Appeals for the Federal Circuit by notice of appeal which must be filed within 20 days, during which time such order shall not be executed. In any case appealed pursuant to this subsection, the entire record shall be transmitted to the Court of Appeals and information received pursuant to subsection (j), and any portion of the judge's order that would reveal the substance or source of such information shall be transmitted under seal. The Court of Appeals shall consider the case as expeditiously as possible.

"(3) In an appeal to the Court of Appeals pursuant to either subsections (d) or (e) of this section, the Court of Appeals shall review questions of law de novo, but a prior finding on any question of fact shall not be set aside unless such findings was clearly erroneous.

"(o) If the judge decides pursuant to subsection (n) that the alien should not be removed, the alien shall be released from custody unless such alien may be arrested and taken into custody pursuant to title II of this Act as an alien subject to deportation, in which case, for purposes of detention, such alien may be treated in accordance with the provisions of this Act concerning the deportation of aliens.

"(p) Following a decision by the Court of Appeals pursuant to either subsection (d) or (n), either the alien or the Department of Justice may petition the Supreme Court for a writ of certiorari. In any such case, any information transmitted to the Court of Appeals under seal shall, if such information is also submitted to the Supreme Court, be transmitted under seal. Any order of removal shall not be stayed pending disposition of a writ of certiorari except as provided by the Court of Appeals or a Justice of the Supreme Court.

"DESIGNATION OF JUDGES

"SEC. 503. (a) The Chief Justice of the United States shall publicly designate five district court judges from five of the United States judicial circuits who shall constitute a court which shall have jurisdiction to conduct all matters and proceedings authorized by section 502. The Chief Justice shall publicly designate one of the judges so appointed as the chief judge. The chief judge shall promulgate rules to facilitate the functioning of the court and shall be responsible for assigning the consideration of cases to the various judges.

"(b) Proceedings under section 502 shall be conducted as expeditiously as possible. The Chief Justice, in consultation with the Attorney General and other appropriate federal officials, shall, consistent with the objectives of this title, provide for the maintenance of appropriate security measures for applications for ex parte orders to conduct the special removal hearings authorized by section 502, the orders themselves, and evidence received in camera and ex parte, and for such other actions as are necessary to protect information concerning matters before the court from harming the national security of the United States, adversely affecting foreign relations, revealing investigative techniques, or disclosing confidential sources of information.

"(c) Each judge designated under this section shall serve for a term of five years and shall be eligible for redesignation, except that the four associate judges first designated under subsection (a) shall be designated for terms of from one to four years so that the term of one judge shall expire each year.

"MISCELLANEOUS PROVISIONS

"SEC. 504. (a)(1) Following a determination pursuant to this title that an alien shall be removed, and after the conclusion of any judicial review thereof, the Attorney General may retain the alien in custody or, if the alien was released pursuant to subsection 502(o), may return the alien to custody, and shall cause the alien to be transported to any country which the alien shall designate provided the Attorney General determines based on consultation with the Secretary of State that transportation to such country would not impair the obligation of the United States under any treaty (including a treaty pertaining to extradition) or otherwise adversely affect the foreign policy of the United States.

"(2) If the alien refuses to choose a country to which he wishes to be transported, or if the Attorney General determines pursuant to paragraph (1) that removal of the alien to the country so selected would impair a treaty obligation or adversely affect United States foreign policy, the Attorney General shall cause the alien to be transported to any country willing to receive such alien.

"(3) Before an alien is transported out of the United States pursuant to paragraph (1) or (2) or pursuant to an order of exclusion because such a lien is excludable under paragraph 212(a)(3)(B) of this Act (8 U.S.C. 1182(a)(3)(B)), as amended, he shall be photographed and fingerprinted, and shall be advised of the provisions of subsection 276(b) of this Act (8 U.S.C. 1326(b)).

"(4) If no country is willing to receive such an alien, the Attorney General may, notwithstanding any other provision of law, retain the alien in custody. The Attorney General shall make periodic efforts to reach agreement with other countries to accept such alien and at least every six months shall provide to the alien a written report on his efforts. Any alien in custody prusuant to this subsection shall be released from custody solely at the discretion of the Attorney General and subject to such conditions as the Attorney General shall deem appropriate. The determinations and actions of the Attorney General pursuant to this subsection shall not be subject to judicial review, including application for a writ of habeas corpus, except for a claim by the alien that continued detention violates his rights under the Constitution. Jurisdiction over any such challenge shall lie exclusively in the Court of Appeals for the Federal Circuit.

"(b)(1) Notwithstanding the provisions of subsection (a), the Attorney General may hold in abeyance the removal of an alien who has been ordered removed pursuant to this title to allow the trial of such alien on any federal or State criminal charge and the service of any sentence of confinement resulting from such a trial.

"(2) Pending the commencement of any service of a sentence of confinement by an alien described in paragraph (1), such an alien shall remain in the custody of the Attorney General, unless the Attorney General determines that temporary release of the alien to the custody of State authorities for confinement in a State facility is appropriate and would not endanger national security or public safety.

"(3) Following the completion of a sentence of confinement by an alien described in paragraph (1) or following the completion of State criminal proceedings which do not result in a sentence of confinement of an alien released to the custody of State authorities pursuant to paragraph (2), such an alien shall be returned to the custody of the Attorney General who shall proceed to carry out the provisions of subsection (a) concerning removal of the alien.

"(c) For purposes of section 751 and 752 of title 18, United States Code, an alien in the custody of the Attorney General pursuant to this title shall be subject to the penalties provided by those sections in relation to a person committed to the custody of the Attorney General by virtue of an arrest on a charge of felony.

"(d)(1) An alien in the custody of the Attorney General pursuant to this title shall be given reasonable opportunity to communicate with and receive visits from members of his family, and to contact, retain, and communicate with an attorney.

"(2) An alien in the custody of the Attorney General pursuant to this title shall have the right to contact an appropriate diplomatic or consular official of the alien's country of citizenship or nationality or of any country providing representation services therefor. The Attorney General shall notify the appropriate embassy, mission, or consular office of the alien's detention.

SEC. 725. CONFORMING AMENDMENTS.

The Immigration and Nationality Act is amended as follows—

(1) Subsection 106(b) (8 U.S.C. 1105a(b)) is amended by adding at the end thereof the following sentence: "Jurisdiction to review an order entered pursuant to the provisions of section 235(c) of this Act concerning an alien excludable under paragraph 3(B) of subsection 212(a) (8 U.S.C. 1182(a)), as amended, shall rest exclusively in the United States Court of Appeals for the Federal Circuit.".

(2) Section 276(b) (8 U.S.C. 1326(b)) is amended by deleting the word "or" at the end of subparagraph (b)(1), by replacing the period at the end of subparagraph (b)(2) with a semicolon followed by the word "or", and by adding at the end of paragraph (b) the fol-

lowing subparagraph: "(3) who has been excluded from the United States pursuant to subsection 235(c) of this Act (8 U.S.C. 1225(c)) because such alien was excludable under paragraph 3(B) of subsection 212(a) thereof (8 U.S.C. 1182(a)(3)(B)), as amended, or who has been removed from the United States pursuant to the provisions of title V of the Immigration and Nationality Act, and who thereafter, without the permission of the Attorney General, enters the United States or attempts to do so shall be fined under title 18, United States Code, and imprisoned for a period of ten years which sentence shall not run concurrently with any other sentence."

(3) Section 106(a) (8 U.S.C. 1105a(a)) is amended by striking from the end of subparagraph 8 the semicolon and the word "and" and inserting a period in lieu thereof, and by striking subparagraph 9.

SEC. 726. EFFECTIVE DATE.

The provisions of this Act shall be effective upon enactment, and shall apply to all aliens without regard to the date of entry or attempted entry into the United States.

Subtitle D—Terrorism Offenses and Sanctions

SEC. 731. TORTURE.

(a) IN GENERAL.—Part I of Title 18, United States Code, is amended by inserting after chapter 113A the following new chapter:

"CHAPTER 113B—TORTURE

"Sec.
2340. Definitions.
2340A. Torture.
2340B. Exclusive remedies.

"§ 2340. Definitions

"As used in this chapter—

"(1) 'torture' means an act committed by a person acting under color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control.

"(2) 'severe mental pain or suffering' means the prolonged mental harm caused by or resulting from: (a) the intentional infliction or threatened infliction of severe physical pain or suffering; (b) the administration or application, or threatened administration or application, of mind altering substances or other procedures calculated to disrupt profoundly the senses or the personality; (c) the threat of imminent death; or (d) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind altering substances or other procedures calculated to disrupt profoundly the senses or personality.

"(3) 'United States' includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 101(38) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1301(38)).

"§ 2340A. Torture

"(a) Whoever outside the United States commits or attempts to commit torture shall be fined under this title or imprisoned not more than 20 years, or both; and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) There is jurisdiction over the prohibited activity in subsection (a) if: (1) the alleged offender is a national of the United States; or (2) the alleged offender is present in the United States, irrespective of the nationality of the victim or the alleged offender.

"§ 2340B. Exclusive remedies

"Nothing in this chapter shall be construed as precluding the application of State or local laws on the same subject, nor shall anything in this chapter be construed as creating any substantive or procedural right enforceable by law by any party in any civil proceeding.".

(B) CLERICAL AMENDMENT.—

The table of chapters for part I of title 18, United States Code, is amended by inserting after the item for chapter 113B the following new item:

"113B. Torture .... 2340".

SEC. 732. WEAPONS OF MASS DESTRUCTION.

(a) FINDINGS.—The Congress finds that the use and threatened use of weapons of mass destruction, as defined in the statute enacted by subsection (b) of this section, gravely harm the national security and foreign relations interests of the United States, seriously affect interstate and foreign commerce, and disturb the domestic tranquility of the United States.

(b) OFFENSE.—Chapter 113A of title 18, United States Code, is amended by adding the following new section:

"§ 2339. Use of Weapons of Mass Destruction

"(a) Whoever uses, or attempts or conspires to use, a weapon of mass destruction—

"(1) against a national of the United States while such national is outside of the United States;

"(2) against any person within the United States; or

"(3) against any property that is owned, leased or used by the United States or by any department or agency of the United States, whether the property is within or outside of the United States;

shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisoned for any term of years or for life.

"(b) For purposes of this section—

"(1) 'national of the United States' has the meaning given in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(2) 'weapon of mass destruction' means—

"(a) any destructive device as defined in section 921 of this title;

"(b) poison gas;

"(c) any weapon involving a disease organism; or

"(d) any weapon that is designed to release radiation or radioactivity at a level dangerous to human life."

"(c) CLERICAL AMENDMENT.—The analysis for chapter 113A of title 18, United States Code, is amended by adding the following:

"2339. Use of Weapons of Mass Destruction.".

SEC. 733. HOMICIDES AND ATTEMPTED HOMICIDES INVOLVING FIREARMS IN FEDERAL FACILITIES.

Section 930 of title 18, United States Code, is amended by—

(a) redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g) respectively;

(b) in subsection (a), deleting "(c)" and inserting in lieu thereof "(d)"; and

(c) inserting after subsection (b) the following:

"(c) Whoever kills or attempts to kill any person in the course of a violation of subsection (a) or (b), or in the course of an attack on a Federal facility involving the use of a firearm or other dangerous weapon, shall—

"(1) in the case of a killing constituting murder as defined in section 1111(a) of this title, be punished by death or imprisoned for any term of years or for life; and

"(2) in the case of any other killing or an attempted killing, be subject to the penalties provided for engaging in such conduct within the special maritime and territorial jurisdiction of the United States under sections 1112 and 1113 of this title.".

SEC. 734. PROVIDING MATERIAL SUPPORT TO TERRORISTS.

(a) OFFENSE.—Chapter 113A of title 18, United States Code, is amended by adding the following new section:

"§ 2339A. Providing material support to terrorists

"Whoever, within the United States, provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used to facilitate a violation of section 32, 36, 351, 844(f) or (1), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, or 2339 of this title, or section 902(i) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1472(i)), or to facilitate the concealment or an escape from the commission of any of the foregoing, shall be fined under this title, imprisoned not more than ten years, or both. For purposes of this section, material support or resources shall include, but not be limited to, currency or other financial securities, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 113A of title 18, United States Code, is amended by adding the following:

"§ 2339A. Providing material support to terrorists".

SEC. 735. ADDITION OF TERRORIST OFFENSES TO THE RICO STATUTE.

(a) Section 1961(1)(B) of title 18 of the United States Code is amended by:

(1) inserting after "Section" the following: "32 (relating to the destruction of aircraft), section 36 (relating to violence at international airports), section";

(2) inserting after "section 224 (relating to sports bribery);" the following: "section 351 (relating to Congressional or Cabinet officer assassination),";

(3) inserting after "section 664 (relating to embezzlement from pension and welfare funds)," the following: "section 844 (f) or (i) (relating to destruction by explosives of government property or property affecting interstate or foreign commerce),;

(4) inserting after "section 1084 (relating to the transmission of gambling information)," the following: "section 1111 (relating to murder), section 1114 (relating to murder of United States law enforcement officials), section 1116 (relating to murder of foreign officials, official guests, or internationally protected persons), section 1203 (relating to hostage taking),";

(5) inserting after "section 1344 (relating to financial institution fraud)," the following: "section 1361 (relating to willful injury of government property), section 1363 (relating to destruction of property within the special maritime and territorial jurisdiction),";

(6) inserting after "section 1513 (relating to retaliating against a witness, victim, or an informant)," the following: "section 1751 (relating to Presidential assassination),";

(7) inserting after "section 1958 (relating to use of interstate commerce facilities in the commission of murder-for-hire)," the following: "section 2280 (relating to violence against maritime navigation), section 2281 (relating to violence against maritime fixed platforms),"; and

(8) inserting after "2320 (relating to trafficking in certain motor vehicles or motor vehicle parts)," the following: "section 2332 (relating to terrorist acts abroad against United States nationals), section 2339 (relating to use of weapons of mass destruction),".

(b) Section 1961(1) of title 18 of the United States Code is amended by striking "or" before "(E)", and inserting at the end thereof the following: "or (F) section 902(i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1472(i) or (n));".

(c) Section 1961(5) of title 18 of the United States Code is amended by adding at the end thereof the following sentence: "The term shall not be construed to require the presence of any pecuniary purpose when the acts of racketeering involve only crimes of violence."

SEC. 736. FORFEITURE FOR TERRORIST AND OTHER VIOLENT ACTS.

(a) IN GENERAL.—Chapter 46 of title 18, United States Code, is amended by adding after section 982 the following new sections:

"§ 983. Civil forfeiture of property used to commit violent acts.

"(a) The following property shall be subject to civil forfeiture by the United States;

"(1) Any property used or intended for use to commit or facilitate the commission of a violent act; and

"(2) Any property constituting or derived from the gross profits or other proceeds obtained from a violent act.

No interest of an owner in property shall be forfeited under paragraphs (1) or (2) by reason of any act or omission established by that owner to have been committed or omitted without the knowledge, consent or willful blindness of that owner.

"(b) All provisions of the customs law relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this section, insofar as applicable and not inconsistent with the provisions of this section, except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General, except to the extent that such duties arise from seizures and forfeitures effected by any customs officer.

"(c) As used in this section the term "violent act" means—

"(1) any felony offense under the following chapters of this title: chapter 2 (relating to aircraft and motor vehicles); chapter 5 (relating to arson); chapter 7 (relating to assault); chapter 12 (relating to civil disorders); chapter 18 (relating to congressional, cabinet, and supreme court assassination, kidnaping, and assault); chapter 35 (relating to escape and rescue); chapter 40 (relating to importation, manufacture, distribution and storage of explosive materials; chapter 41 (relating to extortion and threats); chapter 44 (relating to firearms); chapter 51 (relating to homicide); chapter 55 (relating to kidnaping); chapter 65 (relating to malicious mischief); chapter 81 (relating to piracy and privateering); chapter 84 (relating to Presidential and Presidential staff assassination, kidnaping, and assault); chapter 95 (relating to racketeering); chapter 97 (relating to railroads); chapter 102 (relating to riots); chapter 103 (relating to robbery and burglary); chapter 105 (relating to sabotage); chapter 111 (relating to shipping); chapter 113A (relating to terrorism); or chapter 113B (relating to torture);

"(2) any felony offense under the following sections of this title: section 831 (relating to prohibited transactions involving nuclear materials); section 956 (relating to conspiracy to injure property of foreign government); or section 1153 (relating to offenses committed within Indian country);

"(3) any felony offense under: section 2284 of title 42 of the United States Code (relating to the sabotage of nuclear facilities); sections 901 (i), (j), (k), (l), (m), or (n) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472 (i), (j), (k), (l), (m) or (n)); section 11(c)(2) of the Natural Gas Pipeline Safety Act (49 U.S.C. App. 1679a(c)(2)); or section 208(c)(2) of the Hazardous Liquid Pipeline Safety Act (49 U.S.C. App. 2007(c)(2));

"(4) any other United States offense punishable by imprisonment for more than one year involving murder, robbery, kidnaping, extortion, or malicious destruction of property; or

"(5) a conspiracy or attempt to commit any of the foregoing offenses.

"(d) The filing of an indictment of information alleging a violation of an offense constituting a violent act which is also related to a civil forfeiture proceeding under this section shall, upon motion of the United States and for good cause shown, stay the civil forfeiture proceeding.

"§ 984. Criminal forfeiture of property used to commit violent acts

"(a) Any person convicted of a violent act as defined in section 983(c) of this title shall forfeit to the United States, irrespective of any provision of State law, such person's interest in—

"(1) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as the result of such violent act; and

"(2) any of the person's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violent act.

"(b) The provisions of subsections (b), (c), and (e)–(p) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853 (b), (c), and (e)–(p)) shall apply to—

"(1) property subject to forfeiture under subsection (a);

"(2) any seizure or disposition of such property; and

"(3) any judicial proceeding in relation to such property.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 46 of title 18, United States Code, is amended by adding at the end thereof, as amended, the following:

"983. Civil forfeiture of property used to commit violent acts.

"984. Criminal forfeiture of property used to commit violent acts.".

SEC. 737. ENHANCED PENALTIES FOR CERTAIN OFFENSES

(a) Section 1705(b) of Title 50, United States Code, is amended by replacing "$50,000" with "$1,000,000";

(b) Section 1705(a) of Title 50, United States Code, is amended by replacing "$10,000" with "$1,000,000".

(c) Section 1541 of Title 18, United States Code, is amended by replacing "$500" with "$250,000" and by replacing "one year" with "five years".

(d) Sections 1542, 1543, 1544 and 1546 of Title 18, United States Code, are each amended by replacing "$2,000" with "$250,000" and by replacing "five years" with "ten years".

(e) Section 1545 of Title 18, United States Code, is amended by replacing "$2,000" with "$250,000" and by replacing "three years" with "ten years".

SEC. 738. SENTENCING GUIDELINES INCREASE FOR TERRORIST CRIMES.

The United States Sentencing Commission is directed to amend its sentencing guidelines to provide an increase of not less than three levels in the base offense level for any felony, whether committed within or outside the United States, that involves or is intended to promote international terrorism, unless such involvement or intent is itself an element of the crime.

Subtitle E—Antiterrorism Enforcement Provisions

SEC. 741. ALIENS COOPERATING IN TERRORIST OR OTHER INVESTIGATIONS.

(a) IN GENERAL.—Notwithstanding any other provision of law, whenever the Attorney General, or his designee, determines that the entry of a particular alien into the United States for permanent residence or other status, or where an alien is already present in the United States, the award of permanent residence or other status, is in the interest of national security, essential to the furtherance of the national intelligence mission, important to the United States public safety, or necessary to protect the life of an individual who has provided cooperation to federal law enforcement, such alien and his immediate family shall be given entry into the United States and/or awarded permanent residence or other status. Where the decision to grant such entry or award of permanent residence or other status is based on furtherance of the national intelligence mission, the Attorney General shall consult with the Director of the Central Intelligence Agency concerning the decision.

(b) LIMIT ON NUMBER OF ALIENS.—The number of aliens and members of their immediate families entering the United States under the authority of this section shall in no case exceed two hundred persons in any one fiscal year. The decision to grant or deny permanent resident or other status under this section is at the discretion of the Attorney General and shall not be subject to judicial review.

SEC. 742. AMENDMENT TO THE ALIEN ENEMY ACT.

Section 21 of title 50, United States Code, is amended by inserting "(a)" before "Whenever," and by adding the following new subsection:

"(b) Whenever the President invokes the authority contained in subsection (a) as to aliens of a hostile nation or government and further determines that the United States may also be subject to actual, attempted, or threatened predatory incursions by aliens of other nations, whether or not acting in concert with the hostile nation, the President is authorized, by his proclamation thereof, to include within the terms of subsection (a) and sections 22, 23, and 24, any and all other aliens within the United States, or any subcategories or subclasses of such aliens, by nationality or otherwise, as the President may so designate.".

SEC. 743. COUNTERINTELLIGENCE ACCESS TO TELEPHONE RECORDS.

Section 2709 of title 18 of the United States Code is amended by—

(1) striking out subsections (b) and (c); and

(2) inserting the following new subsections (b) and (c):

"(b) REQUIRED CERTIFICATION.—The Director of the Federal Bureau of Investigation (or an individual within the Federal Bureau of Investigation designated for this purpose by the Director) may:

"(1) request any such information and records if the Director (or the Director's designee) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(A) the information sought is relevant to an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that the person or entity about whom information is sought is a foreign power or an agent of a foreign power as defined in Section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801); and

"(2) request subscriber information regarding a person or entity if the Director (or the Director's designee) certifies in writing to the wire or electronic communications service provider to which the request is made that—

"(A) the information sought is relevant to an authorized foreign counterintelligence investigation; and

"(B) that information available to the FBI indicates there is reason to believe that communication facilities registered in the name of the person or entity have been used, through the services of such provider, in communication with a foreign power or an agent of a foreign power as defined in Section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

"(c) PENALTY FOR DISCLOSURE.—No wire or electronic communication service provider, or officer, employee, or agent thereof, shall disclose to any person that the Federal Bureau of Investigation has sought or obtained access to information under this section. A knowing violation of this section is punishable as a class A misdemeanor.".

SEC. 744. COUNTERINTELLIGENCE ACCESS TO CREDIT RECORDS.

Section 1681(f) of Title 15, United States Code, is amended by inserting "(1)" before the existing paragraph thereof, and by adding the following provisions:

"(2) Notwithstanding the provisions of section 1681(b) of this title, a consumer reporting agency shall furnish a consumer report to the Federal Bureau of Investigation (FBI) when presented with a request for a consumer report made pursuant to this subsection by the FBI provided that the Director of the FBI, or his designee, certifies in writing to the consumer reporting agency that such records are sought for counterintelligence purposes and that there exists specific and articulable facts giving reason to believe the person to whom the requested consumer report relates is an agent of a foreign power as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

"(3) Notwithstanding the provisions of section 1681(b) of this title, a consumer reporting agency shall furnish identifying information respecting any consumer limited to name, address, former addresses, places of employment or former places of employment, to a representative of the FBI when presented with a written request signed by the Director of the FBI, or his designee, stating that the information is sought in connection with an authorized foreign counterintelligence investigation.

"(4) No consumer reporting agency, officer, employee, or agent of such institution, shall disclose to any person that the FBI has sought or obtained a consumer report, or identifying information respecting any consumer. A knowing violation of this section is punishable as a class A misdemeanor.".

SEC. 745. AUTHORIZATION FOR INTERCEPTIONS OF COMMUNICATIONS.

(a) Section 2516(1)(k) of title 18, United States Code, is amended by adding before the ";" the following: ", or of 50 U.S.C. section 1701 et seq. (relating to the International Emergency Economic Power Act); 50 U.S.C. App. 2410 (relating to the Export Administration Act); or 50 U.S.C. App. 5 (relating to the Trading with the Enermy Act)".

(b) Section 2516(1) of title 18, United States Code, is further amended by redesignating subparagraph (o) as subparagraph (p) and adding a new subparagraph (o) as follows:

"(o) any violation of section 956 or section 960 of title 18, United States Code (relating to certain actions against foreign nations);".

(c) Section 2516(1)(c) of title 18, United States Code, is amended by inserting before "or section 1992 (relating to wrecking trains)" the following: "Section 2332 (relating to terrorist acts abroad), section 2339 (relating to weapons of mass destruction), section 36 (relating to violence at airports),".

SEC. 746. PARTICIPATION OF FOREIGN AND STATE GOVERNMENT PERSONNEL IN INTERCEPTIONS OF COMMUNICATIONS.

Section 2518(5) of title 18, United States Code, is amended by inserting "(including personnel of a foreign government or of a State or subdivision of a State)" after "Government personnel".

SEC. 747. DISCLOSURE OF INTERCEPTED COMMUNICATIONS TO FOREIGN LAW ENFORCEMENT AGENCIES

Section 2510(7) of title 18, United States Code, is amended by inserting before the semicolon "and additionally, for purposes of section 2517(1)–(2), any person authorized to perform investigative, law enforcement, or prosecutorial functions by a foreign government".

SEC. 748. EXTENSION OF THE STATUTE OF LIMITATIONS FOR CERTAIN TERRORISM OFFENSES.

(a) Chapter 213 of title 18, United States Code, is amended by inserting a new section 3286 as follows:

"§ 3286. Extension of statute of limitations for certain terrorism offenses.

Notwithstanding the provisions of section 3282, no person shall be prosecuted, tried, or punished for any offense involving a violation of section 32 (aircraft destruction), section 36 (airport violence), section 112 (assaults upon diplomats), section 351 (crimes against Congressmen or Cabinet officers), section 1116 (crimes against diplomats), section 1203 (hostage taking), section 1361 (willful injury to government property), section 1751 (crimes against the President), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2332 (terrorist acts abroad against United States nationals), section 2339 (use of weapons of mass destruction), or section 2340A (torture) of this title or section 902(i), (j), (k), (l), or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1472(i), (j), (k), (l), or (n)), unless the indictment is found or the information is instituted within ten years next after such offense shall have been committed.".

(b) The table of sections for chapter 213 is amended by inserting below the item for "§ 3285. Criminal contempt." the following: "3286. Extension of statute of limitations for certain terrorism offenses.".

Title VIII—Sexual Violence and Child Abuse

SEC. 801. ADMISSIBILITY OF EVIDENCE OF SIMILAR CRIMES IN SEXUAL ASSAULT AND CHILD MOLESTATION CASES.

The Federal Rules of Evidence are amended by adding after Rule 412 the following new rules:

"Rule 413. Evidence of Similar Crimes in Sexual Assault Cases

"(a) In a criminal case in which the defendant is accused of an offense of sexual assault, evidence of the defendant's commission of another offense or offenses of sexual assault is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) In a case in which the government intends to offer evidence under this Rule, the attorney for the government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This Rule shall not be construed to limit the admission or consideration of evidence under any other Rule.

"(d) For purposes of this Rule and Rule 415, "offense of sexual assault" means a crime under Federal law or the law of a State that involved—

"(1) any conduct proscribed by chapter 109A of Title 18, United States Code;

"(2) contact, without consent, between any part of the defendant's body or any object and the genitals or anus of another person;

"(3) contact, without consent, between the genitals or anus of the defendant and any part of another person's body;

"(4) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on another person; or

"(5) an attempt or conspiracy to engage in conduct described in paragraphs (1)–(4).

"Rule 414. Evidence of Similar Crimes in Child Molestation Cases

"(a) In a criminal case in which the defendant is accused of an offense of child molestation, evidence of the defendant's commission of another offense or offenses of child molestation is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) In a case in which the government intends to offer evidence under this Rule, the attorney for the government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other Rule.

"(d) For purposes of this Rule and Rule 415, "child" means a person below the age of fourteen, and "offense of child molestation" means a crime under Federal law or the law of a State that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code, that was commited in relation to a child;

"(2) any conduct proscribed by chapter 110 of title 18, United States Code;

"(3) contact between any part of the defendant's body or an object and the genitals or anus of a child;

"(4) contact between the genitals or anus of the defendant and any part of the body of a child;

"(5) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on a child; or

"(6) an attempt or conspiracy to engage in conduct described in paragraphs (1)–(5).

"Rule 415. Evidence of Similar Acts in Civil Cases Concerning Sexual Assault or Child Molestation

"(a) In a civil case in which a claim for damages or other relief is predicated on a party's alleged commission of conduct constituting an offense of sexual assault or child molestation, evidence of that party's commission of another offense or offenses of sexual assault or child molestation is admissible and may be considered as provided in Rule 413 and Rule 414 of these Rules.

"(b) A party who intends to offer evidence under this Rule shall disclose the evidence to the party against whom it will be offered, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This Rule shall not be construed to limit the admission or consideration of evidence under any other Rule.".

SEC. 802. DRUG DISTRIBUTION TO PREGNANT WOMEN.

Section 418 of the Controlled Substances Act is amended by inserting ", or to a woman while she is pregnant," after "to a person under twenty-one years of age" in subsection (a) and subsection (b).

SEC. 803. DEFINITION OF SEXUAL ACT FOR VICTIMS BELOW 16.

Paragraph (2) of section 2245 of title 18, United States Code, is amended—

(1) in subparagraph (B) by striking "or" after the semicolon;

(2) in subparagraph (C) by striking "; and" and inserting in lieu thereof "; or"; and

(3) by inserting a new subparagraph (D) as follows:

"(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;".

SEC. 804. INCREASED PENALTIES FOR RECIDIVIST SEX OFFENDERS.

(a) Section 2245 of title 18, United States Code, is redesignated section 2246.

(b) Chapter 109A of title 18, United States Code, is amended by inserting the following new section after section 2244: "§2245. Penalties for subsequent offenses.

"Any person who violates a provision of this chapter after a prior conviction under a provision of this chapter or the law of a State (as defined in section 513 of this title) for conduct proscribed by this chapter has become final is punishable by a term of imprisonment up to twice that otherwise authorized.".

(c) The table of sections for chapter 109A of title 18, United States Code, is amended by—

(1) striking "2245" and inserting in lieu thereof "2246"; and

(2) inserting the following after the item relating to section 2244:

"2245. Penalties for subsequent offenses.".

SEC. 805. RESTITUTION FOR VICTIMS OF SEX OFFENSES.

Section 3663(b)(2) of title 18, United States Code, is amended by inserting "or an offense under chapter 109A or chapter 110 of this title" after "an offense resulting in bodily injury to a victim".

SEC. 806. HIV TESTING AND PENALTY ENHANCEMENT IN SEXUAL ABUSE CASES.

(a) Chapter 109A of Title 18, United States Code, is amended by inserting at the end thereof the following new section:

§2247. Testing for Human Immunodeficiency Virus; Disclosure of Test Results to Victim; Effect on Penalty

"(a) TESTING AT TIME OF PRE-TRIAL RELEASE DETERMINATION.—In a case in which a person is charged with an offense under this chapter, a judicial officer issuing an order pursuant to section 3142(a) of this title shall include in the order a requirement that a test for the human immunodeficiency virus be performed upon the person, and that follow-up tests for the virus be performed six months and twelve months following the date of the initial test, unless the judicial officer determines that the conduct of the person created no risk of transmission of the virus to the victim, and so states in the order. The order shall direct that the initial test be performed within 24 hours, or as soon thereafter as feasible. The person shall not be released from custody until the test is performed.

"(b) TESTING AT LATER TIME.—If a person charged with an offense under this chapter was not tested for the human immunodeficiency virus pursuant to subsection (a), the court may at a later time direct that such a test be performed upon the person, and that follow-up tests be performed six months and twelve months following the date of the intial test, if it appears to the court that the conduct of the person may have risked transmission of the virus to the victim. A testing requirement under this subsection may be imposed at any time while the charge is pending, or following conviction at any time prior to the person's completion of service of the sentence.

"(c) TERMINATION OF TESTING REQUIREMENT.—A requirement of follow-up testing imposed under this section shall be canceled if any test is positive for the virus or the person obtains an acquittal on, or dismissal of, all charges under this chapter.

"(d) DISCLOSURE OF TEST RESULTS.—The results of any test for the human immunodeficiency virus performed pursuant to an order under this section shall be provided to the judicial officer or court. The judicial officer or court shall ensure that the results are disclosed to the victim (or to the victim's parent or legal guardian, as appropriate), the attorney for the government, and the person tested.

"(e) EFFECT ON PENALTY.—The United States Sentencing Commission shall amend existing guidelines for sentences for offenses under this chapter to enhance the sentence if the offender knew or had reason to know that he was infected with the human immunodeficiency virus, except where the offender did not engage or attempt to engage in conduct creating a risk of transmission of the virus to the victim."

(b) CLERICAL AMENDMENT.—The section a analysis for chapter 109A of title 18, United States Code, is amended by inserting at the end thereof the following new item:

"2247. Testing for Human Immunodeficiency Virus; Disclosure of Test Results to Victim; Effect on Penalty".

SEC. 807. PAYMENT OF COST OF HIV TESTING FOR VICTIM.

Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 is amended by inserting before the period at the end thereof the following: ", and the cost of up to two tests of the victim for the human immunodeficiency virus during the twelve months following the assault".

Title IX—Drug Testing

SEC. 901. DRUG TESTING OF FEDERAL OFFENDERS ON POST-CONVICTION RELEASE

(a) DRUG TESTING PROGRAM.—(1) Chapter 229 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§3608. Drug testing of defendants on post-conviction release.

"The Director of the Administrative Office of the United States Courts shall, as soon as is practicable after the effective date of this section, establish a program of drug testing of criminal defendants on post-conviction release. In each district where it is feasible to do so, the chief probation officer shall arrange for the drug testing of defendants on post-conviction release pursuant to a conviction for a felony or other offense described in section 3563(a)(4) of this title.".

(2) The section analysis for chapter 229 of title 18, United States Code, is amended by adding at the end thereof the following: "3608. Drug testing of defendants on post-conviction release."

(b) DRUG TESTING CONDITION.—

(1) Section 3563(a) of title 18, United States Code, is amended—

(A) in paragraph (2), by striking out "and";

(B) in paragraph (3), by striking out the period and inserting in lieu thereof "; and"; and

(C) by adding a new paragraph (4), as follows: "(4) for a felony, an offense involving a firearm as defined in section 921 of this title, a drug or narcotic offense as defined in section 404(c) of the Controlled Substances Act (21 U.S.C. 844(c)), or a crime of violence as defined in section 16 of this title, that the defendant refrain from any unlawful use of a controlled substance and submit to periodic drug tests (as determined by the court) for use of a controlled substance. This latter condition may be suspended or ameliorated upon request of the Director of the Administrative Office of the United States Courts, or the Director's designee. No action may be taken against a defendant on the basis of a drug test administered pursuant to this paragraph or sections 3583(d) or 4209(a) of this title, unless the drug test confirmation is a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Court after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy, except that a defendant who tests positive may be detained pending confirmation of the test result as provided in this paragraph.".

(2) Section 3583(d) of title 18, United States Code, is amended by inserting after the first sentence the following: "For a defendant convicted of a felony or other offense described in section 3563(a)(4) of this title, the court shall also order, as an explicit condition of supervised release, that the defendant refrain from any unlawful use of a controlled substance and submit to periodic drug tests (as determined by the court) for use of a controlled substance. This latter condition may be suspended or ameliorated as provided in section 3563(a)(4) of this title.".

(3) Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "If the parolee has been convictd of a felony or other offense described in section 3563(a)(4) of this title, the Commission shall also impose as a condition of parole that the parolee refrain from any

unlawful use of a controlled substance and submit to periodic drug tests (as determined by the Commission) for use of a controlled substance. This latter condition may be suspended or ameliorated as provided in section 3563(a)(4) of this title."

(c) REVOCATION OF RELEASE.—(1) Section 3565(a) of title 18, United States Code, is amended by inserting in the final sentence after "3563(a)(3)," the following: "or unlawfully uses a controlled substance or refuses to cooperate in drug testing, thereby violating the condition imposed by section 3563(a)(4),".

(2) Section 3583(g) of title 18, United States Code, is amended by inserting after "substance" the following: "or unlawfully uses a controleld substance or refuses to cooperate in drug testing imposed as a condition of supervised release,".

(3) Section 4214(f) of title 18, United States Code, is amended by inserting after "substance" the following: ", or who unlawfully uses a controlled substance or refuses to cooperate in drug testing imposed as a condition of parole,".

SEC. 902. DRUG TESTING IN STATE CRIMINAL JUSTICE SYSTEMS AS A CONDITION OF RECEIPT OF JUSTICE DRUG GRANTS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end of part E (42 U.S.C. 3750-3766b) the following:

"Drug Testing Programs

"SEC. 523. (a) PROGRAM REQUIRED.—It is a condition of eligibility for funding under this part that a State formulate and implement a drug testing program for targeted classes of persons subject to charges, confinement, or supervision in the criminal justice systems of the State. Such a program must meet criteria specified in regulations promulgated by the Attorney General under subsection (b) of this section. Notwithstanding the above, no state shall be required to expend an amount for drug testing pursuant to this section in excess of 10% of the minimum amount which that state is eligible to receive under this part.

"(b) REGULATIONS.—The Attorney General shall promulgate regulations to implement this section, which shall incorporate scientific and technical standards determined by the Secretary of Health and Human Services to ensure reliability and accuracy of drug test results. The regulations shall include such other guidelines for drug testing programs in State criminal justice systems as the Attorney General determines are appropriate, and shall include provisions by which a State may apply to the Attorney General for a waiver of the requirements imposed by this section, on grounds that compliance would impose excessive financial or other burdens on such State or would otherwise be impractical or contrary to State policy.

"(c) EFFECTIVE DATE.—This section shall take effect with respect to any State at a time specified by the Attorney General, but no earlier than the promulgation of the regulations required under subsection (b).".

Title X—Equal Justice Act

SEC. 1001. SHORT TITLE.—

This title may be cited as the "Equal Justice Act."

SEC. 1002. PROHIBITION OF RACIALLY DISCRIMINATORY POLICIES CONCERNING CAPITAL PUNISHMENT OR OTHER PENALTIES.

(a) The penalty of death and all other penalties shall be administered by the United States and by every State without regard to the race or color of the defendant or victim. Neither the United States nor any State shall prescribe any racial quota or statistical test for the imposition or execution of the death penalty or any other penalty.

(b) For purposes of this title—

(1) the action of the United States or of a State includes the action of any legislative, judicial, executive, administrative, or other agency or instrumentality of the United States or a State, or of any political subdivision of the United States or a State;

(2) "State" has the meaning given in section 541 of title 18, United States Code; and

(3) "racial quota or statistical test" includes any law, rule, presumption, goal, standard for establishing a prima facie case, or mandatory or permissive inference that—

(A) requires or authorizes the imposition or execution of the death penalty or another penalty so as to achieve a specified racial proportion relating to offenders, convicts, defendants, arrestees, or victims; or

(B) requires or authorizes the invalidation of, or bars the execution of, sentences of death or other penalties based on the failure of a jurisdiction to achieve a specified racial proportion relating to offenders, convicts, defendants, arrestees, or victims in the imposition or execution of such sentences or penalties.

SEC. 1003. GENERAL SAFEGUARDS AGAINST RACIAL PREJUDICE OR BIAS IN THE TRIBUNAL.

In a criminal trial in a court of the United States, or of any State—

(1) on motion of the defense attorney or prosecutor, the risk of racial prejudice or bias shall be examined on voir dire if there is a substantial likelihood in the circumstances of the case that such prejudice or bias will affect the jury either against or in favor of the defendant;

(2) on motion of the defense attorney or prosecutor, a change of venue shall be granted if an impartial jury cannot be obtained in the original venue because of racial prejudice or bias; and

(3) neither the prosecutor nor the defense attorney shall make any appeal to racial prejudice or bias in statements before the jury.

SEC. 1004. FEDERAL CAPITAL CASES.

(a) JURY INSTRUCTIONS AND CERTIFICATION.—In a prosecution for an offense against the United States in which a sentence of death is sought, and in which the capital sentencing determination is to be made by a jury, the judge shall instruct the jury that it is not to be influenced by prejudice or bias relating to the race or color of the defendant or victim in considering whether a sentence of death is justified, and that the jury is not to recommend the imposition of a sentence of death unless it has concluded that it would recommend the same sentence for such a crime regardless of the race or color of the defendant or victim. Upon the return of a recommendation of a sentence of death, the jury shall also return a certificate, signed by each juror, that the juror's individual decision was not affected by prejudice or bias relating to the race or color of the defendant or victim, and that the individual juror would have made the same recommendation regardless of the race or color of the defendant or victim.

(b) RACIALLY MOTIVATED KILLINGS.—In a prosecution for an offense against the United States for which a sentence of death is authorized, the fact that the killing of the victim was motivated by racial prejudice or bias shall be deemed an aggravating factor whose existence permits consideration of the death penalty, in addition to any other aggravating factors that may be specified by law as permitting consideration of the death penalty.

(c) KILLINGS IN VIOLATION OF CIVIL RIGHTS STATUTES.—Sections 241, 242, and 245(b) of title 18, United States Code, are each amended by deleting "shall be subject to imprisonment for any term of years or for life" and inserting in lieu thereof "shall be punished by death or imprisonment for any term of years or for life."

SEC. 1005. FUNDING OBJECTIVE.

Section 501 of Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751) is amended by striking "and" following the semicolon in paragraph (20), striking the period at the end of paragraph (21) and inserting in lieu thereof "; and", and adding at the end thereof the following new paragraph:

"(22) providing, in all appropriate cases, particularly collateral and other post-conviction proceedings, adequate resources and expertise to ensure that the death penalty is expeditiously carried out.".

SEC. 1006. EXTENSION OF PROTECTION OF CIVIL RIGHTS STATUTES.

(a) Section 241 of title 18, United States Code, is amended by deleting "inhabitant of" and inserting in lieu thereof "person in".

(b) Section 242 of title 18, United States Code, is amended by deleting "inhabitant of" and inserting in lieu thereof "person in", and by deleting "such inhabitant" and inserting in lieu thereof "such person".

Title XI—Victims' Rights

SEC. 1101. RESTITUTION AMENDMENTS.

(a) EXPANSION OF RESTITUTION.—Section 3663(b) of title 18, United States Code, is amended by striking "and" following the semicolon in paragraph (3), redesignating paragraph (4) as paragraph (5), and adding after paragraph (3) the following:

"(4) in any case, reimburse the victim for necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and".

(b) SUSPENSION OF FEDERAL BENEFITS.—Subsections (g) and (h) of section 3663 of title 18, United States Code, are redesignated as subsections (h) and (i), respectively, and a new subsection (g) is inserted as follows:

"(g)(1) If the defendant is delinquent in making restitution in accordance with any schedule of payments established under subsection (f)(1) of this section, or any requirement of immediate payment under subsection (f)(3) of this section, the court may, after a hearing, suspend the defendant's eligibility for all Federal benefits until such time as the defendant demonstrates to the court good-faith efforts to return to such schedule.

"(2) For purposes of this subsection—

"(A) the term 'Federal benefits'—

"(i) means any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; and

"(ii) does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility; and

"(B) the term 'veterans benefit' means all benefits provided to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Forces of the United States.".

SEC. 1102. VICTIM'S RIGHT OF ALLOCUTION IN SENTENCING.

Rule 32 of the Federal Rules of Criminal Procedure is amended by—

(1) striking "and" following the semicolon in subdivision (a)(1)(B);

(2) striking the period at the end of subdivision (a)(1)(C) and inserting in lieu thereof "; and";

(3) inserting after subdivision (a)(1)(C) the following: "(D) if sentence is to be imposed for a crime of violence or sexual abuse, address the victim personally if the victim is present at the sentencing hearing and determine if the victim wishes to make a statement and to present any information in relation to the sentence.";

(4) in the second to last sentence of subdivision (a)(1), striking "equivalent opportunity" and inserting in lieu thereof "opportunity equivalent to that of the defendant's counsel";

(5) in the last sentence of subdivision (a)(1) inserting "the victim," before ", or the attorney for the Government."; and

(6) adding at the end the following:

"(f) Definitions. For purposes of this Rule—

(1) "victim" means any individual against whom an offense for which a sentence is to be imposed has been committed, but the right of allocution under subdivision (a)(1)(D) may be exercised instead by—

"(A) a parent or legal guardian in case the victim is below the age of eighteen years or incompetent; or

"(B) one or more family members or relatives designated by the court in case the victim is deceased or incapacitated;

if such person or persons are present at the sentencing hearing, regardless of whether the victim is present; and

"(2) 'crime of violence or sexual abuse' means a crime that involved the use or attempted or threatened use of physical force against the person or property of another, or a crime under chapter 109A of title 18, United States Code.".

COMPREHENSIVE VIOLENT CRIME CONTROL ACT OF 1991 SECTION-BY-SECTION ANALYSIS

Analysis of Titles:

I. Death Penalty.
II. Habeas Corpus.
III. Exclusionary Rule.
IV. Firearms.
V. Obstruction of Justice.
VI. Gangs and Juvenile Offenders.
VII. Terrorism.
VIII. Sexual Violence and Child Abuse.
IX. Drug Testing.
X. Equal Justice Act.
XI. Victims' Rights.

INTRODUCTION

This bill, the "Comprehensive Violent Crime Control Act of 1991," incorporates President Bush's legislative proposal for the 102d Congress to combat violent crime.

Several of the titles in the bill address the same subjects as the violent crime proposal transmitted to Congress by the President in the 101st Congress. The topics that were addressed in the earlier proposal, as well as this one, include the federal death penalty, general habeas corpus reform, exclusionary rule reform, firearms violence, and drug testing of offenders.

The proposal has, however, been substantially modified and expanded. Some of the changes involve incorporation of important provisions and concepts drawn from the crime bills passed by the Senate (S. 1970) and the House of Representatives (H.R. 5269) in the 101st Congress, or from the Administration's National Drug Control Strategy Implementation Act proposals. Others involve entirely new ideas or proposals. The areas of most extensive addition or modification include special habeas corpus procedures for death penalty litigation, alternatives to the exclusionary rule, obstruction of justice, gangs and juvenile offenders, terrorism, sexual violence and child abuse, equal justice, and victims' rights.

The remainder of this analysis summarizes and explains the various provisions of the proposal.

I. DEATH PENALTY

This title would restore an enforceable death penalty for the most heinous federal offenses. It is identical in most respects to the federal death penalty proposal passed by the House of Representatives in the 101st Congress as title II of H.R. 5269. It is also similar in coverage of offenses and procedures to the death penalty proposals passed by the Senate in the 101st Congress (titles I and XIV of S. 1970).

Various provisions of the United States Code now authorize the death penalty for crimes of homicide, treason, and espionage. Most of these provisions, however, are or may be unenforceable because they do not incorporate legislated standards and procedures that reflect the Supreme Court's current capital punishment decisions. This title, like the death penalty proposals of earlier Congresses, is designed to remedy this deficit in relation to existing capital crimes, and to create additional death penalty authorizations for a number of highly aggravated federal crimes.

Sec. 102. Death penalty procedures

This section adds a new chapter 228 to title 18 of the United States Code, consisting of sections 3591 through 3599, and makes necessary technical and conforming amendments. These sections identify the types of crimes for which the death penalty may be imposed and set forth the standards and procedures for imposing and carrying out the death penalty.

Section 3591 (Sentence of Death)

This section sets out the offenses for which the death penalty may be imposed if, after consideration of the mitigating and aggravating factors applicable to the case in a post-verdict hearing (described in subsequent sections), it is determined that the imposition of death is justified. The offenses are treason, espionage, certain types of homicides, certain highly aggravated drug crimes, and attempts to kill the President that result in bodily injury to the President or come dangerously close to causing the President's death.

The subsections relating to the proposed drug offender death penalty (3591 (c)-(e)) and general homicidal offenses (3591(f)) merit more detailed discussion. In the 101st Congress, the drug offender death penalty authorization in 3591 (c)-(e) was passed by the Senate (in title XIV of S. 1970) and, with some modification, by the House of Representatives (in title II of H.R. 5269). The general definition of capital murder in 3591(f) is essentially a simplified version of the corresponding provisions in the 101st Congress bills.

Section 3591(c). The first category of drug offenders who would be potentially eligible for capital punishment—described in proposed 18 U.S.C. 3591(c)—are offenders who are currently subject to a mandatory term of life imprisonment under 21 U.S.C. 848(b). This is the highest category of major traffickers recognized under federal law.

In essence, the offenders potentially subject to capital punishment under proposed section 3591(c) consist of principal organizers, administrators, and leaders of drug enterprises including at least five subordinates where transactions involving enormous quantities of drugs are involved (e.g., 30 kilograms of heroin, 150 kilograms of cocaine) or the enterprise has annual revenues of at least $10 million.

The inclusion of the very largest traffickers in the class of persons potentially eligible for the death penalty, as proposed in section 3591(c), is a response to the human and social devastation that is threatened and actually caused by their activities. In the past, Congress has prescribed the death penalty for treason, *see* 18 U.S.C. 2381, nuclear and other forms of espionage, *see* 10 U.S.C. 906a, and aircraft piracy, *see* Act of September 5, 1961, 75 Stat. 466 (1961). The proposal reflects a recognition that the current scourge of drug abuse and of drug-related crime and violence represents a comparable threat to the security and well-being of the public, and that the use of the ultimate sanction should be available in this context.

Section 3591(d). The second category of offenders who would be potentially eligible for capital punishment—described in proposed 18 U.S.C. 3591(d)—consists of a somewhat more broadly defined class of drug kingpins who attempt to obstruct the investigation or prosecution of their activities by attemping to kill persons involved in the criminal justice process, or knowingly directing, advising, authorizing, or assisting another to attempt to kill such a person. To fall within the death-eligible class, the defendant would have to be a principal organizer, administrator, or leader of a continuing criminal enterprise (CCE) as defined in 21 U.S.C. 848, but would not necessarily have to satisfy the specific criteria for mandatory life imprisonment under section 848(b).

Including a more broadly defined class of major traffickers—but limited to those who engage in actual attempted murders to obstruct justice—is justified by the flagrant and growing problem of extreme violence against witnesses in drug cases, as well as the increasing threat and reality of violence directed against criminal justice professionals. A CCE violator under 21 U.S.C. 848 will face, in any event, a very long term of imprisonment (20 years to life) if he is convicted, and he may feel that there is relatively little to lose by attempting to silence a witness or kill other participants in the process. The extension of the death penalty to attempted murders, in this limited context, even where death does not actually result, would send a strong message concerning the system's resolve to deal forcefully and effectively with this problem.

The applicability of proposed section 3591(d), as noted above, would be conditioned on an attempted murder by a drug kingpin to obstruct justice, committed against any public officer—such as a police officer, judge, or prosector—juror, or witness, or a member of the family or household of such a person. Family members (i.e., parents, spouses, children and siblings) and members of the households of such persons are included because of their exposure to victimization as targets of efforts at intimidation or reprisal by drug offenders.

Section 3591(e). The third category of potentially death-eligible drug offenders—described in proposed 18 U.S.C. 3591(e)—fills a gap in existing law. The Anti-Drug Abuse Act of 1988 enacted provisions authorizing capital punishment for certain intentional drug-related killings, *see* 21 U.S.C. 848(e), but did not cover unintentional killings resulting from aggravated recklessness, such as killings of innocent bystanders during a shoot-out among traffickers, or the death of users resulting from the knowing distribution of bad drugs.

Proposed section 3591(e) would fill this gap by authorizing the death penalty where the defendant, acting with the state of mind required for capital murder under proposed section 3591(f), engages in a federal drug felony (not necessarily a continuing criminal enterprise offense), and a person dies in the course of the offense or from the use of drugs involved in the offense.

Section 3591(f). Subsection (f) defines the general category of homicidal offenses for which the death penalty may be imposed ("capital murders"). The definition is similar in substantive coverage to the corresponding definitions in the death penalty proposals passed by the Senate and the House of Representatives in the 101st Congress (title I of S. 1970 and title II of H.R. 5269), but it provides a simpler and clearer formulation.

Under the definition, a homicide would constitute capital murder if the death penalty was statutorily authorized for the offense, and death was caused intentionally, knowingly, or through recklessness manifesting extreme indifference to human life. The Supreme Court, in *Tison* v. *Arizona*, 481 U.S. 137 (1987), held that the death penalty may constitutionally be imposed for killings resulting from highly reckless conduct, as well as intentional killings. The specific formulation used in proposed section 3591(f) is similar to formulations found in the murder provisions of the Model Penal Code (MPC §210.2) and various state codes. *See e.g.*, Ala. Code §13A-6-2(a)(1)-(2); N.D. Cent. Code §12.1-16-01(1)(a)-(b).

The definition in subsection (f) also covers cases in which death results from the intentional infliction of serious injury. This is substantially the same as a clause in the definition of capital murder in the general death penalty proposal passed by the Senate in the 101st Congress (proposed 18 U.S.C. 3591(c)(2) in title I of S. 1970). There is also support in state law for inclusion of this category of homicides in capital murders. *See* Ill. Ann. Stat., ch. 38, §9-1; N.J. Stat. Ann §2C:11-3.

Section 3592 (Factors to be Considered in Determining Whether a Sentence of Death is Justified)

This section sets forth the statutory mitigating and aggravating factors to be considered by the jury or judge in determining whether a sentence of death is justified upon conviction of a crime for which the sentence is authorized. The section also allows, consistent with Supreme Court decisions, for the consideration of other aggravating or mitigating factors, not listed in the section, which might affect such a determination. *See Skipper* v. *South Carolina*, 476 U.S. 1 (1986); *Lockett* v. *Ohio*, 438 U.S. 586 (1978); *Barclay* v. *Florida*, 463 U.S. 939 (1983); *Zant* v. *Stephens*, 462 U.S. 862 (1983).

Subsection (a) sets forth three mitigating factors which must be considered. They are (1) that the defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of the law was significantly impaired, although not so impaired as to constitute a defense to the charge; (2) that the defendant was under unusual and substantial duress although not such as to constitute a defense; and (3) that the defendant was an accomplice whose participation in the offense was relatively minor. Subsection (a) further states that the jury or judge shall also consider any other aspect of the defendant's background, character, record, or the circumstances of the offense that the defendant may offer in mitigation. While the Supreme Court has held that no limitation may be placed on the defendant's introducing evidence of mitigating factors, some linkage must be established between the evidence offered in mitigation and the defendant's persona or the offense. For example, the catch all provision in subsection (a) is not intended to allow such evidence as that on the night of the murder in New York City, unusually heavy rain had fallen in Los Angeles.

Subsection (b) sets forth the aggravating factors for treason and espionage. They are that the defendant had previously been convicted of an offense involving espionage or treason for which a sentence of life imprisonment or death was authorized by statute, that the defendant knowingly created a grave risk to the national security, and that the defendant knowingly created a grave risk of death to another person.

Subsection (c) sets forth the aggravating factors for the homicide offenses and for the attempted murder of the President.

(1) that the conduct resulting in death occurred during the commission, attempted commission, or the immediate flight from the commission, of one of several exceptionally dangerous crimes;

(2) that the defendant used or carried a firearm during and in relation to the offense—an aggravating factor that would typically be established by the defendant using the gun to shoot the victim but which would also be established if the defendant armed himself with a firearm for possible use during the offense but killed the victim in some manner other than shooting—or had previously been convicted of a felony involving the use, attempted use, or threatened use of a firearm against another person;

(3) that the defendant had previously been convicted of another federal or State offense resulting in death for which life imprisonment or death was authorized;

(4) that the defendant had previously been convicted of two or more federal or State offenses, committed on different occasions, each involving the infliction or attempted infliction of serious bodily injury or the distribution of a controlled substance and each punishable by imprisonment for more than one year;

(5) that the defendant in the commission of the offense knowingly created a grave risk of death to one or more persons in addition to the victim;

(6) that the defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse of the victim;

(7) that the defendant procured the commission of the offense by paying or promising to pay anything of pecuniary value;

(8) that the defendant committed the offense as consideration for receiving or in the expectation of receiving something of pecuniary value;

(9) that the defendant committed the offense after substantial planning and premeditation;

(10) that the victim was particularly vulnerable due to old age, youth, or infirmity; and

(11) that the defendant committed the offense against certain specified public officials.

The aggravating factors in subsection (c) are the same as the corresponding provisions in title II of H.R. 5269 as passed by the House of Representatives, subject to two changes that are designed to make the capital sentencing option more consistently available in cases involving terrorist murders: Factor (1), which permits consideration of the death penalty where the lethal conduct occurs in the course of specified offenses, has been augmented to include a more comprehensive list of crimes that threaten massive loss of life or are otherwise likely to be committed by terrorists. Factor (11), which permits consideration of the death penalty for murders of certain federal public servants, has been augmented to include killings in which the victim is outside of the country, for the protection of diplomatic and military personnel and other federal public servants whose duties take them abroad.

It should be noted that subsections (b) and (c) do not define the offenses for which the death penalty is authorized. That authorization is in the penalty provision for each individual capital offense. Rather, subsections (b) and (c) specify the aggravated instances in which the commission of a capital offense will permit a jury to consider whether the death penalty should be imposed, and would often be applied in capital sentencing determinations for offenses whose defining statutes already contain general capital punishment authorizations.

In particular, subsection (b) would be applied in relation to the existing capital crimes of espionage (18 U.S.C. 794) and treason (18 U.S.C. 2381). Subsection (c) would be applicable in relation to various existing statutes that authorize capital punishment in cases where death results, including 18 U.S.C. 32, 34 (destruction of aircraft and aircraft facilities), 33, 34 (destruction of motor vehicles and motor vehicle facilities), 115 (retaliation against families of federal officials), 351 (violence against Members of Congress and Cabinet officers), 844 (d), (f), (i) (explosives offenses), 1111 (murder in special maritime and territorial jurisdiction), 1114 (murder of federal judges and officers), 1512 (witness tampering), 1716 (mailing dangerous articles), 1751 (violence against the President and Presidential staff), 1992 (wrecking trains), 2113 (bank robbery), 21 U.S.C. 848(e) (certain drug-related killings), and 49 U.S.C. App. 1473 (aircraft piracy).

However, eight (non-drug) offenses in current law, which are not now subject to the death penalty, are changed to capital offenses by the conforming amendments in this title. They are:

(1) the murders of certain foreign officials under 18 U.S.C. 1116;

(2) kidnaping where a death results under 18 U.S.C. 1201;

(3) murder for hire under 18 U.S.C. 1958;

(4) murder in aid of racketeering under 18 U.S.C. 1959;

(5) murder during a hostage taking in violation of 18 U.S.C. 1203;

(6) terrorist murders of American nationals abroad in violation of 18 U.S.C. 2332;

(7) attempted assassination of the President in violation of 18 U.S.C. 1751; and

(8) murder in furtherance of genocide in violation of 18 U.S.C. 1091(a)(1).

In addition, the title creates a new federal capital offense of murder committed by a federal prison inmate serving a life sentence (proposed 18 U.S.C. 1118). Subsection (c) would be applied in capital sentencing determinations under these new authorizations, as well as to the existing capital punishment authorizations for homicidal offenses listed above.

Other titles of this bill also provide new death penalty authorizations to which the aggravating factors of subsection (c) would apply. Title V, relating to obstruction of justice, adds death penalty authorizations for murders in violation of 18 U.S.C. 1503 (injuring jurors or court officers) and 1513 (retaliation against witnesses). Title VII, relating to terrorism, creates several new offenses for which capital punishment will be authorized in cases where death results—proposed 18 U.S.C. 36 (violence at international airports), 930(c) (killings in firearms attacks on federal facilities), 2280 (violence against maritime navigation), 2281 (violence against maritime fixed platforms), 2339 (uses of weapons of mass destruction), and 2340A (torture). Title X, relating to equal justice, adds death penalty authorizations to the principal criminal provisions of the federal civil rights statutes, 18 U.S.C. 241, 242, and 245, for violations with fatal consequences.

Subsection (d) of proposed section 3592 would be applied in relation to the proposed "drug offender" death penalty under the bill. It is a special list of aggravating factors to be considered by the jury in deciding whether the death penalty should be imposed on offenders in the three "drug offender" categories in proposed 18 U.S.C. 3591 (c)-(e). These factors are tailored to the conditions of drug trafficking and identify features of a defendant's conduct or background that provide particularly strong evidence of dangerousness, incorrigibility, or indifference to human life. The jury would have to find at least one of these additional factors to impose a death sentence:

Paragraphs (1)-(2) of subsection (d) set our general criminal record aggravating factors. These are prior conviction of a homicide punishable by life imprisonment, and prior conviction of at least two violent or drug felonies.

The factor in paragraph (3) of subsection (d) is prior conviction of a drug offense punishable by five or more years of imprisonment. This is nearly the same as one of the aggravating factors in the Anti-Drug Abuse Act death penalty provisions (21 U.S.C. 848(n)(10)).

The factor in paragraph (4) of subsection (d) is using or knowingly directing, advising, authorizing, or assisting another to use a firearm to threaten, intimidate, assault, or injure a person in committing the drug offense, or in furtherance of a continuing criminal enterprise (as defined in 21 U.S.C. 848) of which the offense was a part. Mere possession of a firearm in connection with drug activities would not be covered; the defendant would actually have to engage in or sanction the hostile use of a firearm against a person.

The factors in paragraphs (5)-(7) of subsection (d) involve a violation in committing the drug offense, or in furtherance of a continuing criminal enterprise, of the provisions that define aggravated offenses where trafficking is carried out in a manner that exploits or jeopardizes young people. This includes distribution to persons under twenty-one, distribution near schools, and using minors in trafficking. The 1988 Anti-Drug Abuse Act death penalty provisions similarly have an aggravating factor (21 U.S.C. 848(n)(11)) for distribution to persons under twenty-one in violation of 21 U.S.C. 845. The factor would apply where the defendant directly committed such an offense, or would be liable as an accomplice in such an offense under the normal standards of 18 U.S.C. 2 (by aiding, abetting, counseling, commanding, inducing, procuring, or willfully causing the commission of the offense).

Factor (8) of subsection (d) covers cases where the offense involves importing, manufacturing, or distributing drugs that are mixed with a potentially lethal adulterant, and the defendant is aware of the presence of the adulterant. This is designed to reach situations in which the manufacturer or distributor cuts drugs with another toxic substance, such as household detergent.

Section 3593 (Special Hearing to Determine Whether a Sentence of Death is Justified)

This section sets out the procedure for a special hearing to determine whether a sentence of death is justified. At the conclusion of the hearing the jury (except in those unusual cases where the sentencing hearing is before the judge alone) will return a binding recommendation as to whether the sentence of death is justified. If the jury returns a recommendation of the death penalty as opposed to some lesser punishment, the court must impose a sentence of death.

Section 3593(a) provides that if the attorney for the government believes that the circumstances of one of the offenses for which the death penalty is authorized (the offenses set out in section 3591) justify the imposition of the death penalty, he or she must file with the court and serve on the defendant a notice of the conclusion and set forth the aggravating factors (including any not statutorily enumerated) the government proposes to show at the hearing. The notice must be filed and served on the defendant a reasonable time before trial or the accepting of a guilty plea or at such time thereafter as the court may permit upon a showing of good cause. The provision is intended to give adequate notice to the defendant so he can prepare for the post-conviction sentencing hearing and to ensure an appropriate *voir dire* that comports with applicable Supreme Court cases.

The subsection specifies that aggravating factors for which notice is provided may include factors concerning the effect of the offense on the victim and the victim's family. The effect on the victim may include the suffering of the victim in the course of the killing or during a period of time between the infliction of injury and resulting death, and the victim's loss of the opportunity to continue his characteristic activities and enjoyments and to realize his plans and aspirations because of the extinction of his life by the defendant. The effect on the victim's family may include emotional anguish and distress, and economic hardship. Since the defense is generally free to bring out sympathetic features of the defendant and his background, permitting the government to show the harm caused by the offense in relation to the victim and his family is necessary to provide the jury with a balanced picture of the relevant facts for purposes of the capital sentencing determination.

This point was recognized in the general death penalty proposal passed by the Senate in the 101st Congress, which provided for the introduction of a "victim impact statement" in capital sentencing hearings (proposed 18 U.S.C. 3593(g) in title I of S. 1970). However, the Senate provision was not fully integrated into the general system for proving and finding aggravating factors under the proposal. Proposed subsection (a) in this proposal avoids this problem by providing that notice of factors concerning the effect of the offense on the victim and his family may be given in the same manner as notice of other aggravating factors. If such notice was given, information supporting a "victim impact" factor could be introduced at the sentencing hearing as with other factors.

Section 3593(b) provides that if the attorney for the government has filed the notice required by subsection (a) and if the defendant is found quilty, a sentencing hearing shall be conducted by the judge who presided at trial or accepted the quilty plea or by another judge if the first one is unavailable. No presentence report is to be prepared in such a case inasmuch as the issue at the hearing is the existence of aggravating or mitigating factors and the justifiability of imposing a death sentence, and the issue is to be determined on the basis of the information presented at the hearing. The hearing is to be conducted before the jury that determined the defendant's guilt, except that a jury may be impaneled for the purpose of the sentencing hearing in a case in which the defendant was convicted on a trial to the court or on a plea guilty, in a case in which the original jury was discharged for good cause, or in a case where reconsideration of the sentence is necessary. This subsection also provides that the defendant may move that the sentencing hearing be conducted before the court alone but that the attorney for the government must concur. In the absence of this concurence by the government, the sentencing hearing is before a jury.

Section 3593(c) deals with proof of the aggravating and mitigating factors. Any information relevant to the sentence may be presented. Information concerning any mitigating factors or factors, both those listed in section 3592 and those not so listed, may be introduced. Evidence of at least one aggravating factor listed in section 3592 must be introduced. As explained, the government must give the defendant notice of which aggravating factors it will seek to establish. If evidence of a statutory aggravating factor is introduced, the government may also introduce evidence of any other aggravating factor, again providing the government has given notice as to the nature of such a nonstatutory factor.

The information may include trial transcripts and exhibits or relevant parts thereof. Other evidence relevant to any mitigating or previously identified aggravating factors may be presented regardless of its admissibility under the rules of evidence, except that the court may exclude information if its probative value is outweighed by the danger of its creating unfair prejudice, confusing the issues, or misleading the jury. The burden of establishing an aggravating factor is on the government and the standard of proof for such a factor is beyond a reasonable doubt. The defendant has the burden of establishing any mitigating factor but this burden is satisfied if the defendant proves such a factor by a preponderance of the evidence.

Section 3593(d) deals with the return of special findings required in the sentencing hearing. It provides that the jury, or if there is no jury, the court, must consider all the information received at the sentencing hearing. The jury, or if there is no jury, the court, must return a special finding identifying each aggravating factor (both statutory and nonstatutory) which it has found. Once again, it can only find the existence of an aggravating factor for which notice was provided. The finding with respect to an aggravating factor must be unanimous. If no aggravating factor is found, the death penalty cannot be imposed and the court must impose some other sentence authorized by statute.

With respect to mitigating factors, subsection (d) reflects the holding of the Supreme Court in *Mills* v. *Maryland*, 486 U.S. 367 (1988), that individual jurors may not be precluded from considering mitigating evidence regardless of the number of jurors who agree on a particular factor. Consequently, subsection (d) provides that a finding with respect to a mitigating factor may be made by one or more members of the jury.

As used throughout section 3593, the term "mitigating factor" is meant to include all mitigating evidence which the sentencer must consider before returning a sentence of death to comport with such cases as *Eddings* v. *Oklahoma*, 455 U.S. 104 (1982). Nevertheless, the jury may only consider evidence presented at trial or at the sentencing hearing. It may not speculate on the existence of some factor completely unsupported by any evidence. *See California* v. *Brown*, 479 U.S. 538 (1987). Any member of the jury who is persuaded by a preponderance of the evidence—the standard set out in subsection (c)—that a particular mitigating factor exists may consider such a factor established. That juror (even if he or she is the only one who believes the evidence and has concluded that such a factor has been established) may then weigh that evidence against any aggravating factors which have been found unanimously beyond a reasonable doubt—again, the requirement of subsection (c)—in deciding, under subsection (e), whether to return a binding recommendation for a sentence of death.

Section 3593(e) provides that if one or more of the statutorily required aggravating factors is found to exist (a constitutional requirement under *Zant* v. *Stephens* and *Barclay* v. *Florida*, *supra*) the jury, or the court if there is no jury, must then consider whether the aggravating factor or factors which it has found outweigh the mitigating factor or factors. It is the intent of this subsection that the jurors be instructed that they are to weigh and balance the aggravating factor or factors found against any mitigating evidence. As discussed above, findings of aggravating factors would require a formal determination of the whole jury, but the individual members of the jury would make their own determinations concerning the existence of mitigating factors.

If each juror found no mitigating factors or found that any mitigating factors were outweighed by the aggravating factor or factors, then the jury would be required to make a binding recommendation to impose the death penalty. This reflects the judgment that the death penalty is presumptively the appropriate penalty for the crimes described in section 3591 under the aggravated circumstances described in section 3592, and that the death penalty should be imposed in such cases unless the aggravating factors are balanced or outweighed by mitigating circumstances. The Supreme Court upheld rules requiring that the death penalty be imposed under these conditions in *Blystone* v. *Pennsylvania*, 110 S.Ct. 1078 (1990), and *Boyde* v. *California*, 110 S.Ct. 1190 (1990). This approach promotes equal justice and avoids the potential for arbitrariness that would exist under an approach that gave the jury or court less guidance in imposing the death penalty.

Subsection (e) also requires an instruction to the jury that it is not to be influenced in its decision whether to recommend the death penalty by sympathy, sentiment, passion, prejudice, or any other arbitrary factor, and should make such a recommendation as the information warrants. This is substantially the same as the instruction upheld by the Supreme Court in *Saffle* v. *Parks*, 110 S.Ct. 1257 (1990). *See also California* v. *Brown*, 479 U.S. 538 (1987) (approving similar instruction). The requirement of such an instruction serves to promote equal justice by emphasizing that capital sentencing decisions are not to be influenced by legally inadmissible considerations or personal whim or caprice. Rather, what is called for is a reasoned factual and moral assessment by the jury based on the evidence presented at the trial and sentencing hearing and its conclusions concerning the existence and relative weight of pertinent aggravating and mitigating factors.

Section 3593(f) is designed as a special precaution against discrimination by the jury on the basis of the defendant's or the victim's race, color, national origin, religion or gender. It provides that in a sentencing hearing in which the death penalty is sought, the jury shall be specifically instructed that it must not be influenced by prejudice or bias relating to these factors and that the jury is not to make its binding recommendation for a sentence of death unless it would recommend such a sentence no matter what the race, color, national origin, religion or sex of the defendant or any victim. Moreover, the jury must return to the court a certificate signed by each juror stating that such prejudice or bias was not involved in his or her individual decision, and that he or she would have made the same binding recommendation as to the sentence no matter what these particular characteristics of the defendant or victim might be.

Section 3594 (Imposition of a Sentence of Death)

This section provides that if the jury recommends a sentence of death, the court must sentence the defendant to death. If the court, rather than the jury, is the fact finder at the sentencing hearing, section 3594 requires the court to follow its own recommendation and impose the death penalty. If, however, the jury, or if there is no jury, the court, does not recommend the sentence of death, the court shall impose any sentence other than death authorized by law.

This section also provides that notwithstanding any other provision of law, life imprisonment without possibility of release is an authorized sentence for a conviction of an offense punishable by death if the maximum term of imprisonment for such an offense is life.

Section 3595 (Review of a Sentence of Death)

This section sets out the rules applicable to appeals from the imposition of the death sentence. *Subsection (a)* provides that a sentence of death shall be subject to review by the court of appeals upon an appeal of the sentence by the defendant. Notice of appeal of the sentence must be filed within the time specified for filing an appeal of the judgment of conviction and the court may consolidate the appeal of the sentence and the appeal of the conviction. The review of a case in which the death sentence has been imposed must be given priority over all other cases.

Section 3595(b) provides that the court of appeals must consider the entire record including the evidence submitted at trial, the information submitted during the sentencing hearing, the procedures employed at the sentencing hearing, and the special findings returned at the sentencing hearing as to the existence of the aggravating factors.

Section 3595(c) requires the court of appeals to uphold the sentence of death if it was not imposed under the influence of passion, prejudice, or any other arbitrary factor, the evidence and information support the special findings of aggravating factors, and the proceedings did not otherwise involve prejudicial error requiring reversal of the sentence that was properly preserved for and raised on appeal. The death sentence could be upheld even if an aggravating factor were invalidated on appeal, provided at least one valid statutory aggravating factor remained. *See Zant* v. *Stephens*, *supra*. Proportionality review with other death cases would not be a part of the review process. *Pulley* v. *Harris*, 465 U.S. 37 (1984). If the sentence was not upheld, the court of appeals would remand the case for reconsideration under section 3593 or for imposition of another authorized sentence, as appropriate. The court of appeals must state in writing the reasons for its disposition of an appeal of a sentence of death.

Section 3596 (Implementation of a Sentence of Death)

This section is concerned with the implementation of a sentence of death. *Section 3596(a)* provides that a person sentenced to death shall be committed to the custody of the Attorney General pending completion of the appeal and review process. When the sentence is to be implemented, custody of the person would be given to a United States Marshal who would then supervise the implementation of the penalty in accordance with the law of the State in which the sentence is imposed. If that State has no dealth penalty, the court would designate another State which does have such a penalty and the execution would be carried out in the manner prescribed in that State. This subsection generally reinstates a portion of the provisions of former section 3566 of title 18 which was repealed as of November 1, 1987, by P.L. 98-473.

Section 3596(b) states that a sentence of death shall not be carried out upon a person who lacks the mental capacity to understand the death penalty and why it was imposed, or upon a woman who is pregnant. The latter limitation is to spare the unborn. Following the conclusion of the pregnancy, the sentence of death would be implemented. The former limitation is intended to implement the bar on execution of a person who is mentally incompetent but who was sane at the time of the offense and who was competent to stand trial. See *Ford* v. *Wainwright*, 477 U.S. 399 (1986). This limitation, too, would normally only postpone the implementation of the sentence of death. See *Ford* v. *Wainwright*, concurring opinion of Justice Powell, 477 U.S. at 425 and footnote 5: "The only question raised is not *whether* but *when* his execution may take place. [Emphasis in original.] [I]f petitioner is cured of his disease, the State is free to execute him."

Section 3597 (Use of State Facilities)

This section reinstates other parts of former section 3566 not contained in subsection 3596(a) by authorizing the United States Marshal charged with implementing the sentence of death to use State facilities and to pay the costs thereof.

Sections 3598 and 3599 (Appointment of Counsel and Collateral Attack)

Sections 3598 and 3599 would adopt improved procedures for federal death penalty litigation based on the recommendations of the Ad Hoc Committee of the Judicial Conference on Federal Habeas Corpus in Capital Cases (the "Powell Committee"), as set out in that Committee's report of August 23, 1989. Both the Senate and the House of Representatives passed these provisions in the

101st Congress (proposed 18 U.S.C. 3598–99 in title XIV of S. 1970 and title II of H.R. 5269).

Following the Powell Committee's recommendations, a balanced approach would be adopted under which the defendant's right to appointment of counsel would be extended, but improved safeguards against dilatory tactics and repetitive litigation would also be enacted. The defendant would be afforded counsel meeting specified standards of competence from the commencement of trial proceedings until the conclusion of the litigation of an initial motion for collateral relief under 28 U.S.C. 2255. The defendant would, however, normally be limited to a single section 2255 motion, and the motion would have to be filed within a specified time period. Following the final rejection of such a motion by the courts, further litigation would be limited to extraordinary cases in which the defendant raises a claim that undermines confidence concerning his factual guilt of the offense for which the death penalty was imposed. The specific provisions are as follows:

Section 3598

Subsection (a) of proposed section 3598 would create a right to appointed counsel for indigent federal capital defendants, running from the commencement of trial proceedings until the conclusion of the litigation of an initial motion for collateral relief under 28 U.S.C. 2255, or the failure of the defendant to file or pursue such a motion in a timely manner.

Subsection (b) provides for appointment of counsel at trial in conformity with 18 U.S.C. 3005, an existing statute that entitles a federal capital defendant, on request, to two lawyers at trial. At least one lawyer so appointed would continue to represent the defendant in direct review proceedings, unless replaced by the court with other qualified counsel.

Subsection (c) governs appointment of counsel for collateral proceedings. After the judgment has become final through the conclusion of direct review or a failure of the defendant to seek direct review in a timely manner, the government would so notify the sentencing court. The court would then proceed within 10 days to determine whether the defendant is eligible for appointment of counsel, and on the basis of that determination would issue an order appointing counsel, or denying appointment of counsel because the defendant was not indigent or refused appointment of counsel. Following the approach of the Powell Committee recommendations, counsel appointed for collateral proceedings would be different from the counsel who represented the defendant at earlier stages, absent a contrary request by the defendant and counsel. This would serve to provide a lawyer capable of taking a fresh and dispassionate look at the issues in the case, including possible errors by counsel in prior proceedings. *See* Powell Committee Report at 10, 12–13.

Subsection (d) sets standards of competence for appointment of counsel under the section. The basic requirement would be five years' admission to the bar and three years of felony litigation experience in the federal courts. This standard is based on the appointment of counsel standard of the death penalty provisions of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 848(q)(5)–(6)). Also following the Anti-Drug Abuse Act provisions (21 U.S.C. 848(q)(7)), the court, for good cause, could appoint other counsel under the section whose background, knowledge, or experience qualified him to handle such cases, although he did not meet the specific experience requirements set out in the statute. Utilization of this authority in appropriate cases would help ensure that the class of qualified counsel available to defendants would not be unduly limited, and that delay would not occur in litigation because of the unavailability of qualified counsel to represent capital defendants. For example, it might be found that extensive criminal litigation experience in state cases, or completion of a training or certification program for capital litigation, would be an adequate substitute or partial substitute for these specific experience requirements.

Subsection (e) provides that the provisions of the Criminal Justice Act (18 U.S.C. 3006A) would apply to appointments under this section except as otherwise provided in the section. Section 3006A sets general standards and procedures for appointment and reimbursement of counsel, including due allowance for waiving normal compensation limits in cases of unusual difficulty or complexity. The proviso in this paragraph to the applicability of the Criminal Justice Act—"[e]xcept as otherwise provided in this section"—recognizes that the standards of the section are in some important respects more favorable to defendants than the general section 3006A standards. For example, appointment of counsel for indigents in collateral proceedings is discretionary under section 3006A, but would be mandatory in an initial section 2255 motion under this section.

Subsection (f) provides that the entitlement to counsel for collateral proceedings under this section would not create any novel right to attack capital sentences on grounds of alleged ineffectiveness of counsel at that stage. This is parallel to proposed 28 U.S.C. 2256(e) in the Powell Committee proposal. *See* Powell Committee Report at 10, 13.

Section 3599

Proposed 18 U.S.C. 3599 would be a new section governing collateral litigation—i.e., litigation of motions by federal defendants pursuant to 28 U.S.C. 2255—in capital cases.

Subsection (a) of proposed section 3599 would require that an initial section 2255 motion be filed within 90 days of the issuance of the order under proposed section 3598 relating to appointment of counsel for collateral proceedings. The court, for good cause, could extend the time for filing for up to 60 days. A motion under the section would be given priority over all non-capital matters in the district court and the court of appeals.

Superficially, the time provided for filing a motion under subsection (a) is shorter than the general two-year time limit for section 2255 motions proposed in subtitle A of title II of this bill, and the general 180 day time limit on a state prisoner's application for federal habeas corpus review under the Powell Committee recommendations for state cases. However, the reforms proposed in subtitle A of title II are designed for the general class of federal prisoners who may seek collateral relief, including prisoners who do not have counsel, and need to find their own way in filing section 2255 motions. They accordingly provide a very long time period for that purpose. In contrast, under the instant proposal, federal defendants under sentence of death will always have legal representation for purposes of collateral (section 2255) litigation, and the time allowed is properly limited to the time required for an experienced attorney to prepare and file a section 2255 motion. The 90 day time period proposed under subsection (a), subject to a possible 60 day extension if needed, is ample for that purpose.

Similarly, the time rule under subsection (a) cannot be compared directly to the 180 day time limit for federal habeas applications by state prisoners under the Powell Committee procedures, because the 180 day Powell Committee limit encompasses *two* periods: both the time required for counsel to file an initial application for collateral relief in the state courts, and the time later required for filing a federal habeas corpus application following the conclusion of state collateral litigation. *See* Powell Committee Report at 6, 18–21. When this difference is taken into account, the time allowed for filing by federal prisoners under subsection (a) is comparable in practical terms to the time allowed for state prisoner filing under the Powell Committee procedures.

Subsection (b) of proposed section 3599 provides essentially that execution is automatically stayed until the conclusion of litigation of an initial section 2255 motion, if such a motion is filed and pursued in conformity with the applicable time rules. This is parallel to the mandatory stay of execution provisions of the Powell Committee procedures for state cases. *See* Powell Committee Report at 13–14, 15–17.

Subsection (c) of proposed section 3599 governs further litigation following the conclusion of litigation of an initial section 2255 motion, or failure to pursue such a motion in a timely manner. Beyond this point, no court would have the authority to stay the execution or grant relief, except in an extraordinary case involving a claim based on facts which would undermine confidence in the defendant's guilt of the offense for which the death penalty was imposed, where the claim was not raised in earlier proceedings and the failure to raise the claim was the result of (a) governmental action in violation of federal law, (b) Supreme Court recognition of a new right that is retroactively applicable, or (c) based on a factual predicate that could not have been discovered in time for earlier proceedings through reasonable diligence. This is parallel to proposed 28 U.S.C. 2257(c) in the Powell Committee recommendations. *See* Powell Committee Report at 14–15, 17–18.

Sec. 103. Conforming amendment relating to destruction of aircraft or aircraft facilities

Section 103 of the bill applies the procedures of the new chapter 228 concerning the death penalty to violations of chapter 2 of title 18 dealing with the destruction of or damage to aircraft and motor vehicles where death results. The death penalty is authorized for such violations under current law but the penalty is unavailable due to the lack of necessary procedural provisions.

Sec. 104. Conforming amendment relating to espionage

Section 104 prescribes the scope of the availability of the death penalty for espionage. In accordance with the view reflected in prior bills that the death penalty is both constitutional and appropriate for this offense, the penalty is retained as a possible punishment for peacetime espionage where it concerns certain major military matters, such as nuclear weapons or satellites which directly affect national defense. The death penalty, of course, remains applicable under 18 U.S.C. 794(b) to any instance of wartime espionage.

Secs. 105–107. Conforming amendments dealing with explosives

Sections 105, 106, and 107 apply the sentencing procedures of the new chapter 228 to three serious explosives offenses where death results. These sections, all of which deal with deliberate property destruction by explosives or the transportation of explosives in interstate commerce for the purpose of injuring persons or property, currently provide for the death penalty, but the penalty is unenforceable due to the lack of necessary procedures.

Sec. 108. Conforming amendment relating to murder

Section 108 applies the new death penalty procedures to the offense of first degree murder committed in the special maritime and territorial jurisdiction, a crime for which the death penalty is authorized (but unavailable as a practical matter because of the lack of procedures) under current law.

Sec. 109. Conforming amendment relating to killing official guests or internationally protected persons

Section 109 amends 18 U.S.C. 1116(a) to provide for the death penalty for murders of foreign officials, official guests of the United States, and internationally protected persons.

Sec. 110. Murder by Federal prisoner

Section 110 adds a new section 1118 to title 18 to provide that a person serving a life sentence in a federal prison who murders another person will be punished by death or by life imprisonment without the possibility of release.

Sec. 111. Death penalty relating to kidnapping

Section 111 amends the federal kidnaping statute, 18 U.S.C. 1201, to provide for the imposition of the death penalty, under the sentencing procedures of chapter 228, if death results from the kidnaping.

Sec. 112. Death penalty relating to hostage taking

Section 112 provides for the death penalty under 18 U.S.C. 1203 (enacted in 1984) if death occurs in the course of a hostage-taking, either within the United States or, if the victim is a United States national, outside the United States, such as occurred in the incident a few years ago involving the cruise ship Achille Lauro.

Sec. 113. Conforming amendment relating to mailability of injurious articles

Section 113 applies the new sentencing provisions to section 1716, dealing with the mailing of injurious articles where death results. This effectuates the presently unenforceable death penalty provision for this section.

Sec. 114. Conforming amendment relating to presidential assassination

Section 114 of the bill would provide for the death penalty for an attempt to kill the President if the attempt results in bodily injury to the President or otherwise comes dangerously close to killing the President. The procedures of the new chapter 228 would be applicable to such an offense.

Secs. 115–116. Conforming amendmens relating to murder for hire and to violent crimes in aid of racketeering

Sections 115 and 116 provide for the death penalty under two related offenses enacted in 1984 and renumbered in 1988 proscribing murders for hire and killings in aid of racketeering activity (18 U.S.C. 1958 and 1959).

Sec. 117. Conforming amendment relating to wrecking trains

Section 117 applies the new sentencing provisions of chapter 228 to violations of 18 U.S.C. 1992 involving the wrecking of trains where death results. This effectuates the presently unenforceable death penalty provision for this offense.

Sec. 118. Conforming amendment relating to bank robbery

Section 118 restricts the application of the death penalty in cases of bank robbery and incidental crimes in violation of section 2113 of title 18 to cases where death results, and provides for life imprisonment as an alternative penalty in such cases.

Sec. 119. Conforming amendment relating to terrorist acts

Section 119 amends 18 U.S.C. 2332 to provide for the death penalty for terrorist murders of United States nationals outside of the United States.

Sec. 120. Conforming amendment relating to aircraft hijacking

Section 120 applies the procedurs of chapter 228 to aircraft piracy where death results from the commission or attempted commission of the offense by repealing the capital punishment procedures in the Federal Aviation Act of 1958 (49 U.S.C. App. 1473(c)) while retaining the death penalty for such piracy where death results.

Sec. 121. Conforming Amendment to Controlled Substances Act

Section 121 similarly applies the procedures of chapter 228 to drug-related killings for which the death penalty is authorized under the Controlled Substances Act (21 U.S.C. 848 (e)).

Sec. 122. Conforming amendment relating to genocide

Section 122 amends 18 U.S.C. 1091(b)(1) to authorize the death penalty for killing a person in furtherance of the commission of genocide.

Sec. 123. Inapplicability to uniform code of military justice

Under 10 U.S.C. 836, pretrial, trial and post-trial procedures for cases arising under the Uniform Code of Military Justice are promulgated by the President. Section 123 is included in this title to make it clear that the capital punishment procedures of the new chapter 228 do not apply to prosecutions under the Uniform Code of Military Justice, since the President has prescribed separate death penalty procedures for use in trials by courts-martial.

II. HABEAS CORPUS

Title II contains provisions to curb the abuse of habeas corpus by state and federal prisoners. Subtitle A proposes general habeas corpus reforms, which are largely identical to the reform proposal passed by the Senate in the 98th Congress by a vote of 67 to 9 (S. 1763), and to title VI of the President's violent crime bill of the 101st Congress.

Subtitle B proposes reforms addressed to the particularly acute problems of delay and abuse in capital cases. It combines the basic "Powell Committee" proposal for death penalty litigation, as passed by the House of Representatives in the 101st Congress (title XIII of H.R. 5269), with the most important features of the habeas reform proposals passed by the Senate in the 101st Congress (title II of S. 1970) and the 98th Congress (S. 1763). Specifically, it adds to the Powell Committee proposal definite time rules for concluding the litigation of habeas petitions in capital cases, and a rule of deference to the results of "full and fair" state court adjudications of a petitioner's claims.

A. General Habeas Corpus Reform

Section 202

Section 202 of the bill would add a new subsection to section 2244 of title 28, United States Code. Proposed section 2244(d) would establish a one year time limit on applications for federal habeas corpus, normally commencing at the time State remedies are exhausted. The notion of exhaustion of state remedies, which provides the normal starting point for the limitation period, is explained in S. Rep. No. 226, 98th Cong., 1st Sess. 17 (1983) (Committee Report on Senate-passed habeas reform bill). This rule would provide State defendants with ample time to seek federal review following the conclusion of State proceedings, but would avoid the acute difficulties of proof that currently arise when federal habeas corpus is sought by a prisoner years or decades after the State trial.

The proposed limitation rule may be compared to various existing time limits on seeking review or re-opening of criminal judgments in the federal courts, such as the normal ten day limit on appeals by federal defendants under Fed. R. App. P. 4(b); the normal ninety day limit on a State defendant's application for direct review in the Supreme Court under Sup. Ct. R. 13; and the two year limit on motions for new trials based on newly discovered evidence under Fed. R. Crim. P. 33. Proposed section 2244(d) further provides for deferral of the start of the limitation period in appropriate cases, such as assertion of newly recognized rights or newly discovered claims.

Unlike general habeas reform proposals in earlier Congresses, this section does not attempt to codify the rules governing the raising of claims in federal habeas corpus proceedings that were not properly raised before the state courts ("excuse of procedural defaults"). Provisions addressing this issue were included in the earliest versions of this proposal in the 97th and 98th Congresses because of the many uncertainties that existed at the time concerning the standards for excusing procedural defaults. However, most of the outstanding questions in this area have been resolved by subsequent Supreme Court decisions. *See generally Murray v. Carrier*, 477 U.S. 478 (1986).

Sec. 203. Appeal

Section 203 of the bill would amend section 2253 of title 28, United States Code, so as to vest in the judges of the courts of appeals exclusive authority to issue certificates of probable cause for appeal in habeas corpus proceedings. It would also create an identical certificate requirement for appeals by federal prisoners in collateral relief proceedings pursuant to section 2255 of title 28, United States Code. This would implement recommendations of Judge Henry Friendly. See Friendly, *Is Innocence Irrelevant? Collateral Attack on Criminal Judgments*, 38 U. Chi. L. Rev. 142, 144 n.9 (1970). The reform would correct inefficiencies of the current system under which an appellate court is obliged to hear an appeal on a district court's certification, though it may believe that the certificate was improvidently granted, and under which a prisoner is afforded duplicative opportunities to persuade first a district judge and then an appellate judge that an appeal is warranted.

Sec. 204. Amendment to Rules of Appellate Procedure

Section 204 of the bill would amend Fed. R. App. P. 22 to conform it to the amendments of section 203.

Sec. 205. Section 2254 Amendments

Section 205 of the bill would make various changes in section 2254 of title 28, United States Code. *Section 205(1)* would amend current section 2254(b) to clarify that a habeas corpus petition can be denied on the merits notwithstanding the petitioner's failure to exhaust state remedies. This would implement a recommendation of Professor David Shapiro. *See* Shapiro, *Federal Habeas Corpus: A Study in Massachusetts*, 87 Harv. L. Rev. 321, 358–59 (1973). It would avoid the waste of State and federal resources that presently results when a prisoner presenting a hopeless petition is sent back to the State courts to exhaust State remedies.

Section 205(3) of the bill would add a new subsection (d) to section 2254. Proposed subsection (d) would accord deference to the result of full and fair State adjudications. This may be compared to the standard of review stated by the Supreme Court in the case of *Ex Parte Hawk*, 321 U.S. 114, 118 (1944), prior to the unexplained substitution of the current rules of mandatory readjudication by the decision in *Brown* v. *Allen*, 344 U.S. 443 (1953). The background and rationale for establishing a more limited standard of review are discussed in the Committee Report accompanying the Senate-passed habeas reform bill of the 98th Congress (S. 1763), *see* S. Rep. No. 226, 98th Cong., 1st Sess. (1983), and in *Federal Habeas Corpus Review of State Judgments*, 22 U. Mich. J.L. Ref. 901 (1989).

Section 205(2) of the bill would simplify current section 2254(d), which is verbose, confusing, and obscure; redesignate it as section 2254(e); and bring its formulation into conformity with that of proposed new section 2254(d). This provision would be of minor practical significance, coming into play only when the general standard governing deference to State determinations in proposed new section 2254(d) was found by the habeas court to be unsatisfied.

Section 205(4) of the bill would codify the traditional principles governing the appointment of counsel for indigents in federal habeas corpus proceedings. Appointment of counsel in proceedings under section 2254 of title 28, United States Code, and in any subsequent proceedings on review, would be in the discretion of the court, except as provided by rules promulgated by the Supreme Court. The general rule that appointment of counsel is discretionary would apply regardless of the nature of the offense for which the petitioner was convicted or the sentence imposed. The proviso relating to the Supreme Court's rule-making authority recognizes that the Court may create exceptions to the general principle of discretionary appointment for collateral proceedings and require appointment of counsel in some situations. *See, e.g.*, Rule 8(c) of the Rules Governing Section 2254 Cases in the United States District Courts.

Sec. 206. Section 2255 Amendments

Section 206 of the bill would amend section 2255 of title 28, United States Code. It would carry out reforms in the collateral remedy for federal prisoners comparable to the rules proposed in section 202 of the bill governing time limitation in habeas corpus proceedings, and would codify the traditional principles governing appointment of counsel in section 2255 proceedings in a manner parallel to the provision for habeas corpus proceedings in section 205(4) of the bill.

B. Death Penalty Litigation Procedures

Subtitle B would implement the recommendations of the Ad Hoc Committee of the Judicial Conference on Federal Habeas Corpus in Capital Cases (the "Powell Committee") for improved litigation procedures for state capital cases. The proposal was initially set out in that Committee's report of August 23, 1989.

The formulation of the Powell Committee proposal in this subtitle is largely identical to that passed by the House of Representatives as title XIII of H.R. 5269 in the 101st Congress. However, it also incorporates the essential idea of the Senate-passed habeas reform proposal of that Congress (title II of S. 1970) by adding a set of time rules for concluding the litigation of federal habeas petitions before district courts and courts of appeals in capital cases in qualifying states. Moreover, it explicitly incorporates the most important reform of the general habeas reform bills—such as S. 1763 passed by the Senate in the 98th Congress—by providing for deference on federal habeas review to "full and fair" state adjudications in capital cases in such states.

In essence, the "Powell Committee" provisions in this subtitle—a proposed new chapter in the Judicial Code (title 28) comprising sections 2256–63—would afford states the option of establishing effective systems for providing indigent defendants under sentence of death with competent representation in state collateral proceedings. If a state chose to establish such a system, stronger rules of finality would apply in subsequent federal review. The defendant would normally be limited to a single federal habeas corpus petition, which would have to be filed within a specified time period. Following the affirmation on appeal of the district court's denial of such a petition, and affirmation of the judgment or denial of certiorari by the Supreme Court, further federal review would be barred except on grounds that undermine confidence concerning the defendant's factual guilt of the capital offense for which the sentence had been imposed.

Section 2256

Proposed 28 U.S.C. 2256 sets out the basic scope of the chapter and the rules relating to appointment of counsel. It is substantially the same as the Powell Committee's formulation of proposed section 2256. *See* Powell Committee Report at 9–13.

Subsection (a) provides that the chapter governs federal habeas corpus review in capital cases from states that meet the section's appointment-of-counsel standards.

Subsection (b) provides that the procedures of the chapter apply where a state, by rule or statute, requires appointment and compensation of counsel to represent defendants under sentence of death in state collateral proceedings, and articulates standards of competence for such counsel. Appointment of competent counsel for indigents is, of course, constitutionally required at the primary stages of litigation—the trial and initial appeal. The section 2256 standards would go beyond the constitutional standard, *see Murray v. Giarratano*, 109 S. Ct. 2765 (1989), in requiring the state to make arrangements for provision of competent counsel to represent indigent capital defendants in state collateral proceedings as well.

Consistent with the principles of federalism, no state would be forced to adopt these non-constitutional standards. Further, each state would be able to make its own decision whether any costs involved in adhering to the section 2256 standards are offset by the benefits of increased finality in the later stages of capital punishment litigation. The latitude afforded to the states in defining specific standards of counsel competence is also desirable in a new procedure of this type, and would enable all states to learn from experience concerning the most effective means of ensuring competent representation through the exploration of different approaches. At a minimum, the immediate benefits to defendants would include the requirement that states electing these procedures actually appoint counsel for collateral proceedings, and these states focus on an articulate standards of competence for such appointments.

Subsection (c) provides that the appointment mechanism must include entry of an order appointing counsel on a finding that the defendant is indigent, or denying counsel because the defendant is not indigent or refuses counsel.

Subsection (d) provides that the counsel appointed for collateral proceedings must be different from the counsel representing the defendant at trial and on direct appeal, unless the defendant and counsel request continued representation. The Powell Committee explained that this approach would be responsive to problems of attorney "burn out" in capital cases, and would provide a lawyer capable of taking a fresh and dispassionate look at the case, including possible inadequacies in representation at earlier stages. *See* Powell Committee Report at 12–13.

Subsection (e) provides that ineffectiveness or incompetence of counsel in collateral proceedings would not be grounds for relief in a federal habeas corpus proceeding. This ensures that the expanded entitlement to appointed counsel would not be construed to create a novel ground for challenging capital sentences. However, this limitation would not restrict a court's authority to replace counsel who is not performing adequately. *See* Powell Committee Report at 13.

Section 2257

Proposed 28 U.S.C. 2257 governs stays of execution and successive habeas corpus petitions. It is substantially the same as the corresponding provision in the Powell Committee's formulation. *See* Powell Committee Report at 13–18.

Subsections (a)–(b) provide for a stay of execution while judicial remedies are being pursued in a timely manner. The stay would expire after the defendant's federal habeas corpus petition had been denied by the lower federal courts and the Supreme Court had affirmed the denial of relief or denied certiorari. The automatic stay provision would avoid the need for repetitive, wasteful, and hurried litigation over successive applications for stays as a case moves through the various stages of state and federal review. The pressure of impending execution dates would no longer be needed to spur action by the defense in light of the strengthened time limitation and finality rules included in the proposal. *See* Powell Committee Report at 2–3, 5, 15–16.

Subsection (c) is a critical feature of the proposal as a response to the current problems of delay and repetitive litigation in capital cases. Once an initial federal habeas corpus petition had been denied, and the Supreme Court had affirmed the denial of relief or denied review, additional federal review would generally be foreclosed. Exceptions to this restriction would be limited to extraordinary cases in which specified grounds of justification are established for the failure to raise a claim at an earlier point and the facts underlying the claim, if proven, would undermine the court's confidence in the accuracy of the determination of the defendant's factual guilt of the offense for which the death penalty was imposed. The admissible grounds of justification for an earlier failure to raise such a claim—state action in violation of federal law, Supreme Court recognition of a new retroactive right, and a factual predicate not discoverable at an earlier point through reasonable diligence—reflect current caselaw standards governing the excuse of "procedural defaults" in federal habeas corpus proceedings. *See Murray v. Carrier*, 477 U.S. 478, 488 (1986).

The limitation of proposed subsection (c) is of basic importance in curbing the nearly endless litigation and relitigation that now occurs in successive habeas corpus petitions concerning alleged defects in capital sentences imposed on defendants whose status as murderers is not in doubt. Even with the section 2257(c) limitation, the standards of the Powell Committee's proposal remain highly generous in affording abundant opportunities for raising claims and multiple layers of review. Beyond trial and direct review, the defendant would typically be accorded a second run through the state trial court and appellate hierarchy in state collateral proceedings—with the assistance of counsel—followed by review by the federal courts at the trial and appellate levels in federal habeas corpus proceedings, with a final opportunity to seek Supreme Court review at the end of the process. If still more review proceedings are to be made available following this process, they should be confined to the compelling case of a defendant who raises grounds that cast serious doubt on his factual guilt. *See* Powell Committee Report at 17–18.

Section 2258

Proposed 28 U.S.C. 2258 provides that a federal habeas corpus petition generally must be filed within 180 days of appointment of counsel for state collateral proceedings. As the Powell Committee noted, the basic 180 day period "ensures adequate time for the development and presentation of claims," and is far longer than other time rules for seeking review of judgments in the state and federal systems. *See* Powell Committee Report at 6.

Under subsections (a) and (b), the time would run in the period between the appointment of counsel and the filing of the initial application for state collateral relief, and in the period following the final denial of collateral relief at the state level. It would generally be tolled while applications for review were pending and state filing rules were being met in a timely manner. However, it would not be tolled during the pendency of an application for review to the Supreme Court at the conclusion of state collateral proceedings. As the Powell Committee pointed out, the defendant would in any event have opportunities to seek Supreme Court review at the conclusion of state direct review, and following federal habeas corpus proceedings in the lower federal courts. Suspending the time rule to provide still another opportunity for seeking such review immediately after state collateral proceedings would only occasion pointless delay and repetitive applications. *See* Powell Committee Report at 20.

Under subsection (c), the time for seeking federal habeas corpus could be extended for up to 60 days for good cause.

Superficially, the basic 180 day limitation period is more restrictive than the one-year time limit for habeas corpus applications in the general habeas corpus reform proposal of subtitle A of this title. However, the general one-year period is designed for the whole class of potential habeas corpus petitioners, including petitioners who may not have had the assistance of counsel at the later stages of state proceedings. In contrast, the limitation period of proposed section 2258 would only apply to defendants who have had the assistance of counsel in developing and presenting their claims at every significant stage of the state process. Moreover, the incentives for delay—and the public interest in guarding against unjustified delay—are greatest in capital punishment litigation, because the continuation of litigation normally does not interrupt a term of imprisonment, but it does prevent the carrying out of a sentence of death imposed on a defendant. In this context, there is no legitimate basis for permitting lengthy delay in seeking review, and the basic 180 day period proposed by the Powell Committee is clearly not unduly restrictive.

Section 2259

Proposed 28 U.S.C. 2259 concerns the range of claims that can be raised in habeas corpus proceedings under the proposed procedures, and the taking of additional evidence in such proceedings. It is largely identical to the corresponding provision in the Powell Committee's original formulation. *See* Powell Committee Report at 21–23.

Under this section, review would be limited to claims that had actually been presented and litigated in the state courts—a requirement comparable to the normal requirement of exhaustion of state remedies for habeas corpus review, *see* 28 U.S.C. section 2254(b)—and to claims that had not been raised at the state level where specified grounds of justification for the failure to raise them can be established. The grounds specified for excusing a failure to raise claims in the state courts—state action in violation of federal law, Supreme Court recognition of a new retroactive right, and claims whose factual predicate was not earlier discoverable through reasonable diligence—are essentially the same as the grounds specified in proposed section 2257(c)(2), and reflect existing caselaw standards. *See Murray* v. *Carrier*, 477 U.S. 478, 488 (1986). The district court would conduct any hearing needed to complete the record for review, and rule on the claims that were properly before it.

The court would not be authorized, however, to overturn a capital conviction or sentence on the basis of a claim that the state courts had rejected following a full and fair adjudication. In practical terms, this means that review of a previously adjudicated claim would normally be limited to verifying that the state adjudication of the claim was full and fair. This avoids the pointless relitigation in federal habeas proceedings of claims that have already been fairly considered and decided by the state courts.

As noted above, the same principle of deference to full and fair state adjudications appears in the general habeas reform proposal in subtitle A of this title. Enactment of this principle as part of the general habeas reform proposal would make it uniformly applicable in both capital and non-capital cases. Reiteration of this principle in the special procedures for death penalty litigation ensures that this important reform will not be omitted for capital cases in qualifying states if the proposal of this subtitle is separately enacted.

Section 2260

This section, which would waive the normal requirement that a habeas-corpus petitioner obtain a certificate of probable cause to appeal a district court's denial of relief, is identical to the corresponding Powell Committee provision. *See* Powell Committee Report at 23.

Section 2261

Proposed 28 U.S.C. 2261 was passed by the House of Representatives as part of title XIII of H.R. 5269 in the 101st Congress, but did not appear in the Powell Committee's original formulation. It would extend the potential application of the proposed procedures to states having "unitary review" systems for capital cases.

In general, the purpose of collateral remedies is not to give defendants a second round on claims that were raised, or could have been raised, at trial or on direct review. Rather, they provide a means for raising claims that could not have been raised at earlier stages. Given the normal limitation of the scope of appellate review to claims of error appearing in the trial record, some other means is needed for raising claims of off-the-record error or misconduct.

A separate system of collateral remedies is not, however, the only means by which a state may choose to deal with this problem in capital cases. It can combine the normal functions of direct review and collateral attack in a "unitary review" procedure. Under this type of procedure, the defense is authorized to raise "off the record" claims—as well as the normal claims cognizable on appeal—at the initial stage of review beyond the trial, where the failure to raise such a claim at trial is adequately justified. California, for example, has adopted a unitary review procedure for capital cases by rule of its supreme court. Under the California procedure, collateral claims can be raised in the course of direct review by concurrently filing a petition for habeas corpus in the state supreme court during its consideration of the direct appeal in the case. Counsel is appointed and compensated for litigating such collateral claims during the direct review process, as well as the normal claims cognizable on appeal.

The omission of coverage of unitary review procedures in the Powell Committee proposal is a defect in that proposal. It would discourage state adoption of the unitary review approach, despite potential advantages in efficiency and expeditiousness, and despite the fact that this approach serves as well as collateral review to provide the defendant with a fair and comprehensive adjudication of his claims at the state level. It would also arbitrarily deny states that have opted for the unitary review approach the benefits of the proposal's strengthened finality rules.

Proposed section 2261 would correct this omission by extending the application of the chapter to states with adequate unitary review procedures in capital cases.

Subsection (a) defines a "unitary review" procedure as a procedure that authorizes raising, in the course of direct review, such claims as could be raised in collateral proceedings under the law of the state. The chapter would apply to such a procedure if it included appointment of counsel meeting articulated standards of competence for representation on unitary review, including representation in connection with the litigation of collateral claims in that context.

Under subsection (b), a qualifying unitary review procedure would have to include appointment of counsel for indigents following trial for purposes of unitary review. Parallel to the rule of proposed section 2256(d) that would normally require appointment of new counsel for collateral proceedings, new counsel would have to be appointed at the start of the unitary review process, absent a request for continuation of the trial representation by defendant and counsel.

Under subsection (c), the strengthened time limitation and finality rules of the chapter would apply to capital cases from states that have unitary review procedures meeting these standards. The starting point of the 180 day time limit for applying for federal habeas corpus would be deferred until a trial transcript was available to counsel or the defendant, to ensure that the time would not be running during a period when counsel was unable to pursue unitary review because of the unavailability of a transcript.

Section 2262

Proposed 28 U.S.C. 2262 is a new provision that incorporates the main feature of the habeas corpus title of the Senate-passed crime bill of the 101st Congress (title II of S. 1970)—definite time rules for determining federal habeas petitions. The general Powell Committee procedures of this subtitle provide effective safeguards against the delay and obstruction of capital punishment through repetitive habeas corpus filing by limiting second and successive petitions. The time limitation approach of the Senate bill provides complementary safeguards against delay at all stages of the process, including the adjudication of an initial habeas petition. In conjunction, these elements provide a comprehensive response to the problem of unjustified delay in death penalty litigation.

Proposed section 2262 would apply to federal habeas review of capital cases from states that had opted-in to the Powell Committee procedures by broadening the right of indigent capital defendants to appointment of competent counsel in state proceedings. The section would also apply to collateral litigation (section 2255 motion litigation) in federal capital cases. Both the Senate and House crime bills of the 101st Congress included procedures modeled on the Powell Committee recommendations for federal capital cases (proposed 18 U.S.C. 3598-99 in S. 1970 title XIV and H.R. 5269 title II). The same provisions are included in title I of this bill. Supplementing these procedures with more definite time rules for concluding collateral litigation has the same value in federal capital cases as in state capital cases.

The first sentence of subsection (a) of proposed 28 U.S.C. 2262 provides that the adjudication of habeas petitions in capital cases by the district courts and courts of appeals is to have priority over all non-capital matters. Capital cases present a uniquely compelling need for prompt adjudication and determination, because the sentence actually cannot be carried out while litigation continues.

Both the Senate and the House of Representatives recognized the force of this point in their respective crime bills in the 101st Congress. Both bills provided that appeals in federal capital cases "shall have priority over all other cases" in the federal courts of appeals. (Proposed 18 U.S.C. 3595(a) in S. 1970 title I and title XIV, and in H.R. 5269 title II.) Both bills provided that collateral motions by federal capital defendants "shall have priority over all non-capital matters in the district court, and in the court of appeals on review of the district court's decision." (Proposed 18 U.S.C. 3599(a) in S. 1970 title XIV and H.R. 5269 title II.) The first sentence of subsection (a) states a comparable general principle for collateral review of capital cases (both state and federal) in the federal courts.

The remainder of subsection (a) sets definite time limits for determining habeas petitions and related appeals—180 days for the district court and 180 days for the court of appeals (with an additional 180 days if the court of appeals grants rehearing en banc). These periods are longer than those proposed in S. 1970 title II (110 days for the district court and 90 days for the court of appeals—proposed 28 U.S.C. 2268 in S. 1970). This change reflects the advice of state death penalty litigators that the proposed 180 day periods more realistically reflect the time that is reasonably required for the litigation and determination of federal habeas petitions in capital cases. The proposed periods will ensure that both the state and defendants will have adequate time to develop and present their cases, while also providing effective protection against the lengthy unjustified delay that now often occurs.

The general time period for the court of appeals under subsection (a) would run from the filing of the record—rather than from the filing of the notice of appeal, as proposed in S. 1970—since some unavoidable delay may be entailed in preparing the record and transmitting it to the court of appeals, and the normal briefing schedule in a court of appeals runs from the filing of the record. Proposed section 2262 does not carry forward a provision of S. 1970 requiring the Supreme Court to act on a petition for certiorari within 90 days, because experience does not show that significant unjustified delay occurs in capital cases at the level of the Supreme Court.

Subsection (b) of proposed 28 U.S.C. 2262 clarifies that the time limitation rules apply to both initial and successive petitions. The same point appeared in proposed 28 U.S.C. 2264(c)(3) in S. 1970 title II. Subsection (b) also clarifies that the same time rules apply to the re-determination of a petition or related appeal following a remand by a higher court for further proceedings.

Subsection (c) clarifies that the time rules of the section do not broaden the grounds for granting stays of execution. Under the general procedures of this subtitle, an automatic stay of execution would be in effect through the litigation of an initial federal habeas petition, but the automatic stay would expire at the conclusion of that litigation. (Proposed 28 U.S.C. 2257). The time rules under this section, which would apply to both initial and successive petitions, are solely intended to control delay in the litigation and decision of petitions, and set outer limits on the determination of petitions and related appeals for that prupose. They are not intended to create any right or presumption in favor of granting a stay for the consideration of a petition which would not otherwise be available to the petitioner.

The first sentence of subsection (d) responds to a concern expressed by Senator Graham in the course of the floor debate on S. 1970 that the proposed time limit rules might be construed as authorizing or requiring a court to grant the relief requested by the petitioner—overturning the conviction or sentence—if a petition is not determined within these limits. Cong. Rec. S 6815-16 (May 23, 1990); Cong. Rec S9513 (July 11, 1990). Subsection (d) clarifies that overturning the conviction or sentence is not a permitted sanction for non-compliance with the time rules of the section.

The second sentence of subsection (d) responds to the broader concern reflected in Senator Graham's remarks that S. 1970 title II did not explicity identify a sanction or mechanism for enforcing its time requirements. Subsection (d) clarifies that these requirements could be enforced by applying to a higher court for a writ of mandamus—that is, a compulsory order directing compliance with the section. The procedures for seeking mandamus are set out in Fed. R. App. 21 and Sup. Ct. R. 20.

Section 2263

The final section of proposed chapter 154 provides that the chapter is to be construed to bring about the expeditious conduct and conclusion of state and federal review in capital cases.

III. EXCLUSIONARY RULE

This title would (1) generally bar the exclusion in federal proceedings of evidence obtained in circumstances justifying an objectively reasonable belief that a search or seizure was in conformity with the Fourth Amendment, (2) clarify that federal law does not require the exclusion of evidence obtained in such circumstances in state proceedings, (3) make the exclusionary rule inapplicable to seizures by federal officers of firearms which are to be used as evidence against dangerous offenders where alternative safeguards against Fourth Amendment violations are provided involving administrative and legislative oversight and compensation of victims of unlawful searches and seizures, and (4) clarify that evidence cannot be excluded in federal proceedings on the basis of non-constitutional violations unless such exclusion is expressly authorized by law.

One of the principal reforms proposed in the title—an objective reasonableness standard for the admission of evidence—was also passed by the House of Representatives as section 2204 of H.R. 5269 of the 101st Congress. Similar exclusionary rule reform legislation was passed by the Senate as S. 1764 in the 98th Congress and by the House of Representatives as section 673 of H.R. 5484 in the 99th Congress. In common parlance, this title, like the earlier exclusionary rule reform proposals passed by the House and the Senate, establishes a general "good faith" exception to the exclusionary rule.

However, the title goes beyond earlier proposals in proposing alternatives to the exclusionary rule—involving administrative and legislative oversight of search and seizure activities of federal officers and compensation of victims of improper searches and seizures—and in making the exclusionary rule wholly inapplicable to certain types of seizures once such alternative safeguards against Fourth Amendment violations are in place. The specific provisions of the title are as follows:

The title would add a new section 3509 to the federal criminal code. *Subsection (a)(1)* of proposed section 3509 provides that evidence shall not be excluded in any federal proceeding on the ground that a search or seizure was in violation of the Fourth Amendment if the search or seizure was carried out in circumstances justifying an objectively reasonable belief that it was in conformity with the Fourth Amendment. This would apply the underlying principle of *United States v. Leon*, 468 U.S. 897 (1984), so as to bar the exclusion of evidence obtained in such circumstances in cases involving warrantless searches, as well as in cases involving searches pursuant to a warrant. The *Leon* decision specifically barred the suppression of evidence obtained in conformity with a warrant in circumstances justifying an objectively reasonable belief in the warrant's validity, noting that excluding evidence where an officer's conduct is objectively reasonable "will not further the ends of the exclusionary rule in any appreciable way; for it is painfully apparent that . . . the officer is acting as a reasonable officer would and should act in similar circumstances. Excluding the evidence can in no way affect his future conduct unless it is to make him less willing to do his duty." *Leon*, 468 U.S. at 920.

This principle has already been applied for several years by the federal courts in the Fifth and Eleventh Circuits in deciding on the admissibility of evidence obtained through searches and seizures in both warrant and non-warrant cases. *See United States* v. *Williams*, 622 F.2D 830 (5th Cir. 1980). The standard of objective reasonableness is also uniformly applied in determining an officer's exposure to civil liability based on an allegedly unlawful search or seizure. *See Anderson* v. *Creighton*, 483 U.S. 635 (1987).

Subsection (a)(1) of proposed section 3509 perpetuates as a special case the specific holding of *United States v. Leon, supra*, that evidence is not subject to suppression if obtained in objectively reasonable reliance on a warrant. It also provides specifically that the fact that evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of the existence of circumstances justifying an objectively reasonable belief that a search or seizure was in conformity with the Fourth Amendment. This reflects the fact that "[i]n the ordinary case, an officer cannot be expected to question the magistrate's probable-cause determination or his judgment that the form of the warrant is technically sufficient." *Leon*, 468 U.S. at 921. Thus, the fact that evidence was obtained in conformity with a warrant would be adequate to establish objective reasonableness in the absence of rebuttal by the defendant. *See generally Leon*, 468 U.S. at 922-23.

Subsection (a)(2) of proposed section 3509 provides that the law of the United States does not require the exclusion of evidence in any court under circumstances in which it would be admissible in a federal court under subsection (a)(1). This makes it clear that federal law does not require the state courts to exclude evidence obtained in circumstances justifying an objectively reasonable belief that the officer's conduct was consistent with the constitutional strictures on searches and seizures. Each state is free to make its own determination concerning the admissibility of evidence in such circumstances.

Subsection (b)(1) of proposed section 3509 would bar the suppression of firearms seized by federal officers where the firearms are to be used in a federal prosecution for a crime of violence or serious drug offense, or a federal prosecution of an offender who is disqualified from firearms possession because of a prior felony conviction or other grounds enumerated in 18 U.S.C. 922(g).

Under current law, the Supreme Court has recognized a number of exceptions to the exclusionary rule which are not limited to the objective reasonableness ("good faith") situation, including holding that the exclusionary rule is wholly inapplicable in grand jury and deportation proceedings and generally inapplicable in habeas corpus proceedings, *see United States v. Calandra*, 414 U.S. 338 (1974); *INS v. Lopez-Mendoza*, 468 U.S. 1032 (1984); *Stone v. Powell*, 428 U.S. 465 (1976), and that evidence inadmissible at trial in the government's case in chief under the exclusionary rule may nevertheless be used for impeachment, *see Walder v. United States*, 347 U.S. 62 (1954). Subsection (b)(1) would establish a new exception of this type for searches and seizures in the indicated category. This exception is justified by the exceptional danger posed to the public by violent offenders, serious drug offenders, and legally disqualified persons who use or possess firearms, the compelling public interest in bringing such offenders to justice, and the frequently critical need for use of a seized firearm and related evidence to obtain a conviction.

The applicability of the exception created by subsection (b)(1), however, would be contingent on the establishment of alternatives to the exclusionary rule as provided in the remainder of subsection (b). This approach to exclusionary rule reform is constitutionally permissible and fully consistent with that suggested by the decisions of the Supreme Court. The Court has frequently emphasized that the exclusionary rule is a "judicially created remedy designed to safeguard Fourth Amendment rights generally through its deterrent effect, rather than a personal constitutional right of the party aggrieved." *See, e.g., United States v. Leon*, 468 U.S. 897, 906 (1984). The Court has further suggested that the need for the exclusionary rule is dependent on "the absence of a more efficacious sanction." *See, e.g., Franks v. Delaware*, 438 U.S. 154, 171 (1978).

These principles were reflected in the holding of the Court in *INS v. Lopez-Mendoza*, 468 U.S. 1032 (1984), in which the Court held that the exclusionary rule is wholly inapplicable in deportation proceedings. In reaching this result, the Court attached particular weight to the fact that the Immigration and Naturalization Service has a system of administrative oversight for preventing search and seizure violations by its officers. *See id.* at 1044–1045. The Court in *INS v. Lopez-Mendoza* also observed that "[t]here comes a point at which courts, consistent with their duty to administer the law, cannot continue to create barriers to law enforcement in the pursuit of a supervisory role that is properly the duty of the Executive and Legislative Branches." (*Id.* at 1050.) The alternative safeguards set out in proposed section 3509(b) provide a "more efficacious sanction" the involves the direct exercise of this proper "supervisory role" by the Executive and Legislative Branches, thereby obviating the need for the exclusionary rule.

Subsection (b)(2) directs the Attorney General to promulgate rules and regulation to ensure compliance with the Fourth Amendment by officers of the Department of Justice. Under subparagraphs (A)–(D), the rules would have to specify standards for training of officers in the law of search and seizure, standards and procedures for carrying out searches and seizures, procedures for reporting and investigating violations, and the sanctions to be imposed for violations.

Under subparagraph (E), standards and procedures would also be required for settling claims under the Federal Tort Claims Act (FTCA) based on searches and seizures. In 1974, Congress amended the FTCA so as to provide a comprehensive tort remedy against the United States for unlawful searches and seizures. The Committee Report to that amendment explained (1974 U.S. Code Cong. & Admin. News 2791):

The Committee amendment . . . would add a proviso at the end of the intentional torts exception to the Federal Tort Claims Act (28 U.S.C. 2680(h)). The effect of this provision is to deprive the Federal Government of the defense of sovereign immunity in cases in which Federal law enforcement agents, acting within the scope of their employment, or under color of Federal law, commit any of the following torts: assault, battery, false imprisonment, false arrest, malicious prosecution, or abuse of process. . . .

The Committee realizes that under the Federal Tort Claims Act, Government tort liability for intentional conduct is unclear. For example certain intentional torts such as trespass and invasion of privacy are not always excluded from Federal Tort Claims Act coverage. Obviously, it is the intent of the Committee that these borderline cases under the present law, such as trespass and invasion of privacy, would be viewed as clearly within the scope of the Federal Tort Claims Act, if the amendment is adopted.

The whole matter was brought to the attention of the Committee in the context of the Collinsville raids, where the law enforcement abuses involved Fourth Amendment constitutional torts. Therefore, the Committee amendment would submit the Government to liability whenever its agents act under color of law so as to injure the public through search and seizures that are conducted without warrants or with warrants issued without probable cause.

Under 28 U.S.C. 2675, FTCA claims must first be presented to the responsible department or agency for settlement, prior to the institution of litigation. Under the standards and procedures required by proposed subsection (b) (2) (E), it is contemplated that persons subjected to unlawful searches and seizures will normally be given the compensation to which they are legally entitled as part of the administrative process, thereby sparing them the expense, delay, and other burdens of going to court. The proposed system accordingly offers basic advantages over the exclusionary rule in affording redress to persons wronged by Fourth Amendment violations, as well as more effective means of preventing and punishing such violations.

Subsection (b)(3) affords other federal departments and agencies the same option of establishing alternative administrative systems for preventing and redressing fourth amendment violations. As with the Department of Justice, the inapplicability of the exclusionary rule in relation to the specified class of firearms seizures by another agency's officers would be contingent on the agency's establishment of such an alternative system.

Subsection (b)(4) requires the Department of Justice, and other agencies that adopt alternatives to the exclusionary rule, to establish a review board to consider all claimed violations of the Fourth Amendment by the department or agency's officers, and to impose or recommend appropriate disciplinary action when a violation is determined to have occurred. The review board could also be charged with responsibility for considering FTCA claims for damages based on searches and seizures. This ensures a locus of responsibility and accountability in each qualifying agency for securing compliance with the law of search and seizure by the agency's officers, and an impartial forum for determining violations that is free of potentially conflicting operational responsibilities.

Subsection (b)(5) requires annual reports to Congress by the Attorney General or other responsible agency head concerning all allegations of search and seizure violations, the action taken on such allegations, and the basis for the action. This requirement provides an important element of external oversight, and ensures that the alternative oversight mechanisms will not be only a "self-policing" system for federal agencies. In light of this requirement, the alternative systems will operate "in the open," subject to Congressional and public scrutiny.

Subsection (b)(6) sets out definitions for terms used in subsection (b).

Subsection (b)(7) provides that the inapplicability of the exclusionary rule to certain firearms seizures by an agency's officers, as provided in paragraph (1), will take effect when the alternative oversight system required by subsection (b) has been established.

Subsection (c) of proposed section 3509 would bar the exclusion of evidence in federal proceedings on the basis of nonconstitutional violations, except as expressly authorized by statute or by a rule promulgated by the Supreme Court pursuant to statutory authority. Given the high price of the exclusionary rule to the truth-finding process, and the fact that the rule is not even applied in relation to all constitutional violations in light of the *Leon* decision and other Supreme Court decisions, it is desirable to codify explicitly the principle that evidence may not be excluded on the basis of non-constitutional violations in the absence of statutory for doing so. This restriction on the exclusion of evidence is already implicit in the broader rule of Federal Rule of Evidence 402, which provides that "[a]ll relevant evidence is admissible, except as otherwise provided by the Constitution of the United States, by Act of Congress, by these rules, or by other rules prescribed by the Supreme Court pursuant to statutory authority." Subsection (c) would clarify the import of the principle of Rule 402 in relation to evidence obtained in violation of non-constitutional provisions.

The value of such clarification is illustrated by the case of *United States v. Caceres*, 440 U.S. 741 (1979), in which a defendant accused of bringing an IRS agent attempted to secure the exclusion of evidence of his guilt on the ground that procedures specified in IRS regulations had not been complied with in obtaining the evidence. Under the plain terms of Rule 402, this argument should have been rejected summarily as an effort to secure the exclusion of relevent evidence in circumstances in which exclusion was not provided for by "the Constitution . . . by Act of Congress, by [the] rules [of evidence], or by other rules prescribed by the Supreme Court pursuant to statutory authority." The Supreme Court did reject the defendant's effort to create an exclusionary rule for violations of IRS regulations, but declined to address the government's argument that this result was required by Rule 402. *See* 440 U.S. at 755 & n. 22.

While the Supreme Court reached a result consistent with Rule 402 for independent reasons in the *Caceres* decision, it failed to produce any directive to the inferior courts to comply with the terms of that rule. Efforts by defendants to secure the exclusion of relevant and probative evidence of their guilt on the basis of alleged violations of non-constitutional provisions have accordingly continued to be a source of litigation in the lower courts. Subsection (c) would foreclose such litigation in the absence of a decision by Congress or by the Supreme Court pursuant to its statutory rulemaking authority to authorize the use of the exclusionary sanction and would ensure consistent compliance with the principle of Rule 402 in this context in future judicial decisions.

Subsection (d) of proposed section 3509 states that the section shall not be construed to require or authorize the exclusion of evidence in any proceeding. This makes it clear that the section is not to be construed as reflecting legislative approval of the exclusion of evidence as a sanction for official misconduct in any circumstances, and that the section's rules which explicitly bar the exclusion of evidence in certain circumstances should not be understood as implying that the exclusion of evidence is appropriate or permissible in other circumstances.

As noted above, the Supreme Court has recognized a number of important exceptions to the application of the exclusionary rule which are not confined to the "objective reasonableness" situation, including holding that the exclusionary rule is wholly inapplicable in grand jury and deportation proceedings and generally inapplicable in habeas corpus proceedings, and that evidence inadmissible at trial in the government's case in chief under the exclusionary rule may nevertheless be used for impeachment. In light of subsection (d), there would be no basis for arguing that these broader limitations of the exclusionary rule should be restricted or reconsidered in light of proposed section 3509, or that it would be inappropriate for the courts to create other broader limitations on the exclusionary rule in the future. Indeed, in light of the alternative safeguards against Fourth Amendment violations proposed in subsection (b), it would be both appropriate and desirable for the courts to consider whether the continued application of the exclusionary rule is necessary in other contexts.

IV. FIREARMS

Title IV contains provisions relating to control of the criminal use of firearms. Subtitle A contains a variety of amendments and new provisions in furtherance of this objective. Subtitle B proposes a general ban on gun clips and magazines that enable a firearm to fire more than 15 rounds without reloading.

A. Firearms and Related Amendments

Section 401

This section would double the current mandatory penalty in 18 U.S.C. 924(c) for persons convicted of using a semiautomatic firearm during and in relation to a felony crime of violence or drug trafficking offense from five to ten years in prison. (The mandatory penalty is thirty years in the case of a destructive device, machinegun or silenced weapon). The proposal builds upon the similar amendment made in §1101 of the Crime Control Act of 1990 (S. 3266) for short-barreled shotguns and rifles. The vastly increased danger to innocent victims occasioned by the use of semiautomatic firearms in the course of violent or drug crimes, as illustrated by several recent incidents, warrants this enhanced penalty. The amendment also provides a definition of the term "semiautomatic firearm" for insertion in 18 U.S.C. 921.

Section 402

This section is designed to broaden the prohibitions in 18 U.S.C. 924(c) and 844(h) to reach persons who have a firearm or explosive available during the commission of certain crimes, even if the firearm is not carried or used. Currently, section 924(c) punishes by a mandatory five-year prison sentence the carrying or use of a firearm during and in relation to the commission of a drug or violent felony. The court in *United States* v. *Feliz-Cordero*, 859 F.2d 250 (2d Cir. 1988), held that this statute does not cover a situation in which a loaded firearm was found in the dresser drawer of an apartment which the defendant utilized in connection with his drug dealings. Compare *United States* v. *Torres*, 901 F.2d 205, 217–18 (2d Cir. 1990). The court noted that "carries" has been interpreted to encompass a case in which the defendant has a firearm "within reach", while "uses" has been construed to extend to a situation in which the defendant planned to use the firearm if a suitable contingency arose or to make his escape; but the court concluded that neither verb was broad enough to proscribe the constructive possession by a defendant of a firearm which is kept available generally in aid of or in relation to the commission of a drug trafficking or violent crime.

The proposed amendment, adding the phrase "or otherwise possesses" to the statute, is designed to reverse the result in *Feliz-Cordero*, and to cover any circumstance in which, for example, a drug trafficker has available a firearm during and in relation to his illegal drug activities. As under the existing provision, the government will still be required to establish a relationship or connection between the drug or violent offense and the defendant's possession of the firearm (e.g., it would not include a gun kept exclusively in a club locker and used only for sporting purposes at the club), but the relationship or connection may be more attenuated than under current law and may apply to a firearm that is possessed by the defendant for potential employment in his illegal activities, even though it is not physically on his person or within reach and even though it is not proved to have been used or planned to be used during the offense.

The possession of firearms by persons who commit serious drug or violent crimes creates a sufficient danger of increased violence and harm so as to justify this extension. This section would make a conforming amendment to the parallel statute, 18 U.S.C. 844(h), which punishes the carrying of an explosive during the commission of any federal felony.

Section 403

Section 6460 of the Anti-Drug Abuse Act of 1988 increased the penalty under 18 U.S.C. 924(c) for a second offense of using a firearm to commit a federal violent or drug felony to twenty years' imprisonment, but failed to make a corresponding change to 18 U.S.C. 844(h), which prohibits the use of an explosive to commit a federal felony. This proposed amendment would effect a conforming increase to twenty years in the penalty for a second offense under section 844(h).

Section 404

Under current law, any conviction for a crime punishable by imprisonment for a term exceeding one year which has been expunged, set aside, or pardoned or with respect to which the convicted person has had civil rights restored is not considered disabling for purposes of firearms possession unless such expunction, setting aside, pardon, or restoration expressly provides otherwise.

However, the procedures for pardons, expunctions, set-asides and restorations among the various States are far from uniform. Such proceedings do not erase the legal existence of prior convictions nor remove all State disabilities imposed on felons. Neither do they uniformly involve a considered judgment whether the individual deserves the pardon, expunction, set aside or restoration of civil rights. In fact, in some States civil rights are restored automatically, merely as a result of a person's completion of his sentence, thereby permitting dangerous felons immediately to purchase a firearm upon their release.

In order to strike a better balance that takes into account the federal interest in preserving public safety, the proposed amendment would provide a uniform standard to determine whether a person is under federal firearms disabilities for certain categories of offenses, i.e., violent felonies involving the threatened or actual use of a firearm or explosive, and serious drug offenses. This approach has a statutory precedent which was contained in 18 U.S.C. App. 1203 prior to its repeal.

The amendment would provide that, with respect to the above-referenced categories of serious offenses, the person would be considered convicted under the federal firearms chapter irrespective of any pardon, expunction or restoration of civil rights. Offenders in these categories would have to apply to federal authorities to have their firearms rights restored. In such instances, as appropriate, a background investigation would be conducted and relief from federal firearms disabilities would be granted if it was determined that the applicant would not be likely to act in a manner dangerous to public safety and that the granting relief would not be contrary to the public interest. This scheme would better protect the public from convicted felons whose receipt and possession of firearms pose a special danger.

Section 405

This section amends subsection 3142(f)(1) of title 18 to create eligibility for pretrial detention in certain cases involving firearms and explosives. Currently, subsection 3142(f)(1) allows the government to seek a pretrial detention hearing on the ground of the defendant's dangerousness in cases involving crimes of violence, offenses punishable by death or life imprisonment, serious drug felonies, and any other felony case in which the defendant is a person who has already been convicted of two or more crimes in the preceding three categories. The constitutionality of preventive detention was upheld by the Supreme Court in *United States* v. *Salerno*, 481 U.S. 739 (1987).

This section would allow the government to seek a pretrial detention hearing in cases in which the defendant is charged with a violation of 18 U.S.C. 842(d) (distribution of explosives by felons and other prohibited persons); 842(h) (knowingly trafficking in stolen explosives); 842(i) (shipping or receiving of explosives by felons and other prohibited persons); 844(d) (transporting explosives with knowledge they will be used to kill or injure a person or damage property); 922(d) (sale of firearms to felons and other prohibited persons); 922(g) (possession or receipt of firearms by felons and other prohibited persons); 922(i) (transporting or shipping stolen firearms); 922(j) (trafficking in stolen firearms); 922(o) (unauthorized possession of a machine gun); 924(b) (transportation of a firearm knowing it will be used to commit a felony); 924(g) (traveling interstate to acquire a firearm with intent to commit a drug offense or crime of violence); 924(h) (transferring a firearm knowing it will be used to commit a drug or violent felony); or 924(i) (as added by this Act) (smuggling a firearm with intent to promote a drug offense or crime of violence). All of these crimes are of a type likely to be committed by dangerous individuals such as terrorists or career criminals even though the offenses may not themselves meet the definition of a crime of violence. Consequently, the government should be allowed to seek pretrial detention in these cases.

It should be emphasized, however, that the revision of subsection 3142(f)(1) does not require pretrial detention for anyone charged with a violation of one of the listed offenses. It merely means that the government is given an opportunity to show that no conditions of release will reasonably assure the appearance of the person for trial and the safety of the community or of a specific person.

Section 406

This section (which passed the Senate last year in §302 of S. 1970) would create a new offense carrying severe penalties for smuggling firearms into the United States for the purpose of promoting drug trafficking or violence. At present, 18 U.S.C. 922(l) makes it a five-year offense to import certain firearms into the United States; and 18 U.S.C. 924(h) makes it a ten-year felony to travel interstate or from a foreign country to purchase a firearm with intent to engage in conduct constituting a federal or State drug offense or a crime of violence. The instant proposal is patterned after section 924(h) and would create an offense, similarly punishable by up to ten years' imprisonment, for smuggling or bringing into the United States (or attempting to do so) any firearm with intent to violate or promote conduct in violation of federal or state drug laws or to commit a crime of violence. Clearly, there is no reason to treat traveling to acquire a firearm for illegal drug trafficking purposes any differently from importing or smuggling a firearm into the United States for the same purpose. The proposed offense would thus rectify an anomaly in current firearms statutes.

Section 407

This section (which passed the Senate last year in §302 of S. 1970) would create new offenses, punishable by a mandatory minimum two-year prison term, for stealing a firearm or explosive materials. Currently, 18 U.S.C. 844(h) and 922(i) and (j) punish the transportation, receipt, or disposition of firearms known to have been stolen; and 18 U.S.C. 659 similarly punishes the theft of any goods, including firearms or explosive materials, from an interstate or foreign shipment. There is, however, at present no offense specifically directed at the theft of firearms or explosives.

The proposed offense would close that gap by creating crimes of stealing a firearm or explosive materials that are moving as, are part of, or which have moved in, interstate or foreign commerce. It is intended that the term "steals" be interpreted, as elsewhere in the federal criminal code, to include any type of criminal taking accompanied by an intent to deprive the owner of the rights and benefits of ownership. E.g., *United States* v. *Turley*, 352 U.S. 407 (1957). A firearm which had at any time moved in interstate or foreign commerce would be subject to the prohibition in this section. See *Barrett* v. *United States*, 423 U.S. 212 (1976).

Section 408

This section (which passed the Senate as §303 of S. 1970 last year) makes a conforming amendment to the supervised release statute, 18 U.S.C. 3583. Section 6214 of the Anti-Drug Abuse Act of 1988 provided for the mandatory revocation of probation for a defendant found, after a hearing pursuant to the Federal Rules of Criminal Procedure, to be in actual possession of a firearm at any time prior to the expiration or termination of the probation term. Under section 6214, the court was authorized to impose any other sentence that was available under "subchapter A" (that is, primarily a fine or imprisonment; see 18 U.S.C. 3551) at the time of the initial sentence. Section 6214, however, neglected to make a comparable amendment to section 3583 of title 18, dealing with supervised release. (Compare section 7303 of the Anti-Drug Abuse Act of 1988, which provided similarly for mandatory revocation for possession of controlled substances, and which applied to probation and supervised release, as well as parole.) This amendment effects the conforming change. In contrast to probation, however, Congress has enacted, in 18 U.S.C. 3583(e)(3), a limitation on the number of years of imprisonment that a person violating a condition of supervised release, and who was convicted of a Class B, C, or D felony, may be required to serve. This amendment incorporates those limitations.

In contrast to section 7303 of the Anti-Drug Abuse Act, it is not deemed necessary to extend the provisions here to persons on parole, since the number of persons who would be beginning a term of parole after the date of enactment and for whom a no-firearms possession condition would be appropriate—given that parole is only available for defendants whose offenses were completed before November 1, 1987—will be very small.

It should be noted that this amendment, like that in section 6214 of the Anti-Drug Abuse Act, does not require that the court impose as a condition of supervised release that the defendant not possess a firearm; it thus is applicable only where the court has chosen to impose that condition and the condition is violated. Section 7303 of the Anti-Drug Abuse Act, by contrast properly made it a mandatory condition of release that a defendant not possess controlled substances. Since with respect to firearms there may be instances, for example in misdemeanor cases, or in felony cases where the defendant is seeking to have his firearms disability removed, where the court may wish not to restrict the defendant from possessing firearms as a condition of supervised release, the condition is left discretionary.

Section 409

This section would raise the maximum penalty for making a knowingly false, material statement to a licensee in connection with the acquisition of a firearm. Presently, such false statements are made unlawful by 18 U.S.C. 922(a)(6) and are punishable under 18 U.S.C. 924(a)(1)(B) by up to five years' imprisonment. Under the proposed amendment, offenses under section 922(a)(6) would be grouped with more serious offenses punishable under 18 U.S.C. 924(a)(2) by up to ten years in prison. The importance of keeping firearms out of the hands of persons disentitled to possess them makes it appropriate to increase the penalty for violations by which licensed dealers, importers, and collectors are knowingly deceived into selling a firearm to an improper purchaser.

Section 410

This section (which passed the Senate as §3734 of S. 1970 last year) would extend the statute of limitations for offenses involving firearms such as machineguns, sawed off shotguns, and various explosive devices from three to five years. Title II of the Gun Control Act of 1968 requires that such weapons be registered with the Secretary of the Treasury. When they are transferred, Title II requires the payment of a transfer tax prior to the transfer and registration of the weapon to its new owner. 18 U.S.C. 922(o) sets out a further limitation with respect to machineguns by prohibiting the transfer of these weapons except those lawfully possessed and registered when that subsection took effect on May 19, 1986. Since Title II of the 1968 Act is part of the Internal Revenue Code, the usual IRC statute of limitations period of three years applies.

This amendment recognizes that offenses involving Title II weapons such as possession of an unregistered weapon or obliterating a serial number are criminal offenses involving considerable danger to public safety as contrasted with the regulatory type of violations that predominate under the IRC. It should be noted that the IRC already provides for a six-year statute of limitations for several tax fraud offenses. This amendment applies a five-year statute of limitations, the same time period as applies to noncapital offenses under title 18 pursuant to 18 U.S.C. 3282.

While many Title II cases involve violations of 26 U.S.C. 586(d), possession of an unregistered weapon, and are established without the need for an extensive investigation that would require a statute of limitations longer than three years, this is not always the case. For example, the Bureau of Alcohol, Tobacco and Firearms has investigated cases of making false entries in records required to be kept by the Title, a violation of 26 U.S.C. 5861(1), where it appeard a person licensed to manufacture and sell machineguns had altered business records to show machineguns manufactured before May 19, 1986 (and hence eligible for sale) when actually the weapons listed in such records were manufactured after that critical date.

Section 411

This section (which passed the Senate last year as §3735 of S. 1970) plugs a loophole in current law by proscribing the possession of explosives by convicted felons and other persons. 18 U.S.C. 842(i) makes it an offense for persons under certain disabilities such as convicted felons and persons who have been committed to mental institutions to ship or transport explosives in interstate or foreign commerce or to receive an explosive which has been transported or shipped in interstate or foreign commerce. Unlike its counterpart in the Gun Control Act (18 U.S.C. 922(g)), however, subsection 842(i) does not proscribe the possession of explosives by a convicted felon or person under another statutory disability. There are occasions when it is harder to prove a receipt offense than a simple possession offense. For example, to prove a receipt offense, it is necessary for purposes of establishing venue to show that the defendant received the explosives in the district in which he is charged with the offense. This may not be possible in certain situations, such as where a search of the defendant's home reveals commercially manufactured explosives made in another State or district. The lack of a possession offense comparable to that for firearms may allow certain dangerous persons who have no business having access to explosives to escape punishment in situations where it is likely they intend to use the material for criminal purposes.

Section 412

This section (which passed the Senate last year as §3736 of S. 1970) would amend chapter 40 of title 18 of the United States Code to allow for the summary destruction of explosives used in violation of that chapter. Chapter 40 sets out a series of prohibitions concerning explosives that in many respects are parallel to the firearms provisions in chapter 44. For example, dealers in explosives must obtain a license and may not distribute explosives to persons under certain disabilities, such as convicted felons. The malicious damage or destruction of several categories of property by explosives is also made a federal crime by this chapter. Under 18 U.S.C. 844(c), any explosive materials used or intended for use in violation of chapter 40 or of any other federal criminal law are subject to seizure and forfeiture. That subsection provides that provisions of the Internal Revenue Code that apply to the forfeiture of Title II firearms—such as machineguns—shall extend to forfeitures under chapter 40. The firearms forfeiture provision, 26 U.S.C. 5872(a), states that the forfeiture provisions of the Internal Revenue Code are applicable. That reference makes applicable the provisions of 26 U.S.C. 7323 and 7325 which provide for judicial and administrative forfeiture, respectively.

Section 7325 provides for administrative forfeiture of property valued at $100,000 or less. While virtually all seized explosives would fall into this category, the section requires an appraisal by three different appraisers, and the giving of notice of the proposed forfeiture by newspaper before the forfeiture can be concluded. The section would even appear to require the sale or at least the offering for sale of the explosives. In any event, the statute requires that the explosives be stored from the time of seizure until the forfeiture proceedings are completed. This is often unsafe and very frequently impractical. In actual practice, the Bureau of Alcohol, Tobacco and Firearms is often able to obtain a court order authorizing the immediate destruction of seized explosives especially if they have been homemade or have deteriorated to such a state as to be unsafe or of no commercial value. That may often be the case, for example, where a person planning to make letter or pipe bombs has a quantity of explosives stored in his home—in itself a violation of 18 U.S.C. 842(j), even if the intended use were lawful—and they have become unstable. There is, however, no statutory authority to support the granting of such an order and BATF may, at some point, encounter a judge who refuses to authorize the explosives' destruction.

This section would eliminate that problem by providing for the immediate destruction of explosive materials which have been seized for forfeiture because they were used in or involved in a violation of law and it is impracticable or unsafe to remove or store the articles. Provision is made, in proposed 18 U.S.C. 844(c)(3), for the owner or interested party (such as a lien holder) to submit a claim for the value of the explosives destroyed and to receive reimbursement if the person can provide proof that they were not used or intended for use in violation of law, or that any unlawful involvement or use was without the knowledge of the person. A similar provision is contained in section 5609 of the Internal Revenue Code for the immediate destruction of illegal alcohol distilling equipment when it is impracticable to remove such equipment for storage.

Section 413

This section would eliminate the need for what are useless but costly forfeiture proceedings for unregistered weapons that are popular with drug dealers and other criminals and have been seized by law enforcement authorities. 26 U.S.C. 5841 requires that gangster weapons such as machineguns, sawed-off shotguns, silencers and homemade destructive devices like mail bombs be registered in the National Firearms Registration and Transfer Record. Firearms of this type which have not been registered are subject to seizure and forfeiture but, pursuant to 26 U.S.C. 5872(a), the forfeiture provisions of the Internal Revenue Code are made applicable. Specifically, 26 U.S.C. 7323 and 7325 provide for judicial and administrative forfeiture, respectively. Section 7325 provides for administrative forfeiture of property valued at $100,000 or less. While virtually any seized weapons would fall into this category, the section requires an appraisal by three different appraisers, the giving of notice of the seizure and proposed forfeiture by newspaper advertisement, and a three week delay before the forfeiture can be concluded.

These are expensive and unnecessary provisions inasmuch as the Supreme Court held in *United States* v. *Freed*, 401 U.S. 601 (1971), that unregistered firearms cannot be possessed or legally registered by the person from whom seized. Moreover, 26 U.S.C. 5872(b) already provides that in the case of a forfeiture of a firearm for a violation of the National Firearms Act the weapon is not to be sold to the public. Rather, the weapon must be destroyed, sold to State law enforcement authorities, or retained by federal authorities. Accordingly, the money spent on appraisal fees and advertising, and the delay, serve no useful purpose where unregistered firearms are concerned since the person from whom an unregistered weapon was seized cannot lawfully regain possession of it and other private persons are also precluded from obtaining it.

To remedy this situation, the section would provide that the forfeiture provisions in sections 7323 and 7325 of title 26, United States Code, shall not apply to unregistered firearms and that such firearms shall be summarily forfeited to the United States. A similar procedure for the summary forfeiture of controlled substances which cannot be legally possessed by anyone is contained in 21 U.S.C. 881(f). Summarily forfeited firearms which might have some value for law enforcement agencies could be transferred to an appropriate State or Federal agency pursuant to 26 U.S.C. 5872(b), which would not be altered by this section.

In the rare event that a firearm was seized and summarily forfeited and it was subsequently determined that the weapon was not within the purview of the National Firearms Act, the provisions of proposed §5872(a)(3) would allow the owner or person interested in the seized firearm—a lien holder, for example—to submit a claim for the value of the firearm. Such a person would have to establish that the firearm was not involved or used in a violation of law, or that any unlawful involvement or use had been without the owner's knowledge or consent.

Section 414

This proposal is designed to insure that certain forfeited firearms, if useful or valuable, are not needlessly destroyed. Rather, under the proposal, the forfeited firearm would be offered, first, to a federal agency without cost; and, finally, if the firearm were novel, rare, or historically significant, as determined by the Secretary of the Treasury, offered for sale to a licensed firearms dealer. Only if neither of these alternatives caused the firearm to be accepted or sold would it be destroyed.

Section 415

This proposed amendment is purely technical and deletes outmoded language in 18 U.S.C. 924(e) and 924(c)(1) that states that the minimum mandatory sentences there provided for armed career criminals and other firearms offenders shall be served without eligibility for parole. This admonition is no longer necessary, since parole was abolished for all federal offenses committed after November 1, 1987, by the Sentencing Reform Act of 1984. A similar amendment was effected to 18 U.S.C. 924(a) by section 2203 of the Crime Control Act of 1990.

Section 416

This proposal would amend 18 U.S.C. 922(j) to make a conforming change to add possession offenses. Presently, section 922(j) makes it a felony to receive, conceal, or dispose of a stolen firearm that has moved in interstate commerce, knowing it to have been stolen. But the section does not cover possession. Since receipt involves the act of transferring a firearm to the offender, the government is faced with the difficult and sometimes impossible task of proving when an individual found in possession of a stolen firearm that has moved in interstate commerce actually recieved it.

In the Crime Control Act of 1990 (S2202), the companion offense in 18 U.S.C. 922(k), which proscribes offenses involving firearms which have moved in interstate commerce and whose serial numbers have been obliterated, was amended to reach not only crimes of receipt but also crimes of possession. This proposal would make the same salutary change to section 922(j).

Sec. 417

This section amends 18 U.S.C. 924(c) to make it an offense to use or carry a firearm during and in relation to the felony counterfeiting and related offenses set out in chapter 25 of title 18. (If section 402 of this bill is enacted, section 417 would cover possessing a firearm during and in relation to the felonies in chapter 25 as well as using or carrying such a weapon.) Prior to 1984, it was an offense under section 924(c) to use or carry a firearm unlawfully during the commission of any federal felony.

As a result of amendments in 1984 and 1986, section 924(c) now is limited to using or carrying a firearm during and in relation to a federal drug trafficking felony or any federal felony crime of violence.

Some serious felonies, however, do not meet the definition of "crime of violence"—because they do not have as an element the use, attempted use, or threatened use of physical force against the person or property of another, and cannot be described as necessarily involving a substantial risk that physical force against the person or property of another may be used in their commission—yet are frequently committed by persons with firearms. The counterfeiting and other offenses in chapter 25 of title 18 are in this category. Counterfeiting of currency and other things such as securities typically requires a sophisticated printing operation which often is protected by armed guards. Moreover, the passing of large quantities of counterfeit money—for example, the exchange of $1,000,000 in fake bills by one criminal group for $100,000 in genuine currency from another gang—is frequently carried out by persons carrying firearms. Counterfeiting investigations often require the use of undercover operatives and the presence of firearms makes this work more dangerous.

Moreover, other felonies in chapter 25, such as altering or removing motor vehicle identification numbers, are typical of "chop shop" operations in which armed persons are frequently involved. Finally, although some of the felonies in chapter 25 involve forgery of various types of government documents which may or may not be typically committed by armed persons, the new offense under 924(c), like current law, is limited to situations where the firearm was used or carried "during and in relation to" the offense. In a situation where a person forged a single government document and happened to be carrying a pistol at the time, the weapon would not be carried "in relation to" the offense. On the other hand, an illicit printing plant producing thousands of counterfeit government documents such as bonds issued by various banking agencies (a violation of 18 U.S.C. 493) or military passes allowing access to top secret military bases (a violation of 18 U.S.C. 499) may be guarded by armed persons and the new offense would appropriately apply in such cases. As with the current provisions in subsection 924(c), the new offense is limited to using or carrying a firearm during and in relation to only felonies, not misdemeanors.

Sec. 418

This section provides a mandatory five-year prison term for possession of firearms by felons who are disqualified from firearms possession in light of 18 U.S.C. 922(g)(1) and who have a previous conviction of a violent felony or serious drug offense. This is comparable to the mandatory five-year term now provided under 18 U.S.C. 924(c) for using or carrying a firearm in relation to a violent crime or drug trafficking crime.

Under the Armed Career Criminal provisions, 18 U.S.C. 924(e), firearms possession by a person with at least three violent felony or serious drug offense convictions is punishable by a mandatory term of imprisonment of fifteen years. However, there is no mandatory term requirement for such possession by dangerous offenders who do not meet the three-conviction standard of section 924(e). The amendment of this section would provide a more adequate system of mandatory penalties by requiring a five-year term for firearms possession by an offender whose record includes at least one violent felony or serious drug offense conviction.

Sec. 419

Under current law, 18 U.S.C. 923 (g)(1)(D)(3), licensed firearms dealers, collectors, manufacturers, and importers are required to report multiple sales or dispositions of handguns to unlicensed persons to the Bureau of Alcohol, Tobacco and Firearm (BATF). Specifically, the provision requires licensees to notify BATF every time the same person buys two or more pistols or revolvers (or one pistol and one revolver) within five consecutive business days. The report is to be submitted not later than the close of business on the day the multiple disposition occurs. There is no requirement that the firearms licensee provide this information to the chief law enforcement officer of the place of residence of the purchaser, although under the first paragraph of 18 U.S.C. 923(g)(1)(D), BATF may make available information contained in records required to be kept pursuant to chapter 44 of title 18—such as the records of multiple sales—to Federal, State, or local law enforcement officers when such officers so request.

This section makes the reporting of multiple sales more helpful to local law enforcement officers. Initially, it changes the multiple sale reporting requirement so that it would apply in cases in which a person bought two or more handguns in a thirty day period. The present five day period is easily circumvented. For example, a person could buy a handgun every 6th business day beginning on March 1, 1991 and ending on April 1, 1991 and end up with seven weapons in that 32 day period without implicating the reporting requirements. Such a pattern of sales might attract the attention of BATF when it conducted its next regular annual inspection of the dealer's books as authorized by 18 U.S.C. 923(g)(1)(B)(ii)—particularly if the weapons were not typically used for sporting purposes—and the information would likely be shared with law enforcement authorities of the purchaser's place of residence if they suspected the multiple sale and requested it. But local authorities might not have reason to suspect a highly suspicious multiple sale and by the time they became aware it would often be too late to prevent the weapons from being resold to criminals or used in crimes. Extending the multiple sales period to thirty days makes it more difficult for "straw" purchasers of handguns for illegal resale to operate undetected.

Second, the section adds a requirement that the firearms licensee send a copy of the report of multiple sales to the chief law enforcement officer of the place of residence of the purchaser. The copy must be sent by the close of business on the day the multiple sale is completed, the same time period in which the report must be submitted to BATF under current law. This will ensure that local authorities are aware of the multiple sale and can take action as soon as possible in cases where it appears that the multiple sale is likely to lead to improper redistribution of the weapons or their use in criminal activity. The amendment imposes only a very slight burden on firearms licensees. In essence, they are merely required to send a copy of the report of the multiple sale to a local police department at the same time they mail the original report to BATF. The appropriate local police department is easily determined since the purchaser's address msut be indicated on the form required to be completed by all firearms purchasers.

Sec. 420

Current law prohibits such acts as receiving, concealing, storing, selling, or disposing of stolen firearms or explosives, knowing or having reasonable cause to believe that they are stolen. The amendments in this section extend the list of prohibited activities in relation to stolen firearms and explosives to include possession.

Sec. 421

This amendment addresses the law enforcement problem posed by persons such as aliens who are legally in the United States, but who do not reside in any State, and who acquire firearms from Federal firearms licensees by utilizing an intermediary. Having acquired firearms in this country, such aliens often smuggle the weapons out of the country. It is generally unlawful for any person to transfer a firearm to any other person who does not reside in the State in which the transferor resides. However, the alien's receipt of a firearm from a licensee or through an intermediary does not violate any specific provision of current law.

The amendment would not prohibit an alien lawfully conducting a firearms business in the United States from receiving firearms in the conduct of such business. Moreover, the amendment does not affect those aliens who legally import or bring firearms into the United States for legitimate purposes and would not preclude the lawful acquisition of firearms by aliens who have established residency in a State.

Sec. 422

The amendments in this section would provide that the penalty for conspiring to violate Federal firearms or explosives laws would be the same as the substantive offense. They are similar to 21 U.S.C. 846 relating to conspiracies to violate the Federal drug laws.

Sec. 423

The amendments in this section, would make it a federal offense, punishable by up to ten years of imprisonment, to steal a firearm or explosive materials from a Federal firearms licensee or a Federal explosive licensee or permittee.

Sec. 424

The amendments in this section would make it unlawful for any person, not only licensees, to sell or otherwise dispose of explosive materials to felons or other prohibited persons. This amendment would conform 18 U.S.C. 842(d) to a similar provision on firearms, 18 U.S.C. 422(d).

B. Prohibited Gun Clips and Magazines

Subtitle B of title IV is designed to place severe restrictions on certain ammunition clips and other ammunition feeding devices that are frequently used with "assault weapons" to enable them to fire a large number of rounds without reloading. A detailed discussion of the policy considerations supporting this proposal appears in Statement of Assistant Attorney General Edward S.G. Dennis, Jr., Concerning the Firearms and Drug-Testing Provisions in H.R. 2709 before the House Judiciary Subcommittee on Crime (March 6, 1990).

Sec. 431. Findings

Section 431 contains congressional findings that the trafficking in and use of magazines, ammunition belts, and other feeding devices that enable a firearm to fire more than fifteen rounds without reloading affect interstate and foreign commerce. Moreover, there is a finding that these devices are sold in interstate and foreign commerce, and are moved in commerce for the purpose of use in violent crimes. Such findings establish a federal jurisdictional nexus under the Interstate Commerce Clause which in turn justifies proscribing certain acts concerning such feeding devices without a showing that the device involved in a case was, or had been, a part of interstate commerce. See *Perez* v. *United States*, 402 U.S. 146 (1971).

Secs. 432–33. Certain ammunition clips and magazines defined as firearms and definition of ammunition feeding device

Section 433 defines the term "ammunition feeding device" and inserts that definition in subsection 921(a) of title 18, the part of chapter 44 that sets out definitions pertaining to firearms and firearms offenses in that chapter. Such a device is defined as a detachable magazine, belt, drum, feed strip, or similar device which has a capacity of, or which can be readily converted or restored to hold more than 15 rounds of ammunition, other than any attached tubular device designed to accept and capable of operating with only .22 rim-fire caliber ammunition. It would also include any combination of parts from which such a device can be assembled.

Section 432, in turn, defines "ammunition feeding device" as a firearm. The term "firearm" already includes such things as mufflers and silencers which, like large-capacity ammunition feeding devices, are not necessary for the actual operation of a firearm. Defining ammunition feeding devices as firearms is necessary to enforce the provisions of this title. It will require manufacturers and importers to keep records, allow government inspection of these records to ensure that these devices are not being illegally imported or sold, and generally make applicable the present inspection and enforcement mechanisms that exist for firearms.

Sec. 434. Prohibitions applicable to ammunition feeding devices

Section 434 sets out criminal prohibitions that apply to ammunition feeding devices and also important exceptions to those prohibitions. The section sets out a new subsection 922(t) in title 18 which makes it an offense to import, manufacture, transport, ship, transfer, receive, or possess such an ammunition feeding device. Pursuant to section 436 of the bill, the punishment for such an offense is up to ten years' imprisonment and a felony level fine. Section 434, however, provides for three exceptions. First, it is not an offense for a licensed importer or manufacturer to make or import an ammunition feeding device for sale or distribution to an entity of the federal government or of a State or local government. Second, it is not an offense for a licensee to manufacture such devices for the purpose of exportation.

Third, it is not an offense to possess, transport, or ship an ammunition feeding device which was possessed on the effective date of the new subsection, or to transfer such a device which was possessed on that date provided the conditions of new subsections 922 (u) and (v) are met.

Subsections 922 (u) and (v), which are also set out in section 434 of this bill, establish a registration scheme for these devices which is akin to that already in place for such firearms as machineguns—frequently called "Title II firearms" in reference to Title II of the Gun Control Act of 1968. See 26 U.S.C. 5801, et seq., especially section 5841 which establishes the registration system. The registration for ammunition feeding devices is much more limited than that for Title II firearms, however, in that only firearms transferred need be registered. A person lawfully in possession of such a device on the effective date of the bill would not have to register it and may retain it in his possession, or even transport or ship the device in interstate commerce, for example in the course of moving to another state.

If, on the other hand, the person in possession of the device on the effective date of the act wishes to transfer it to another person or entity—other than a governmental entity—he must register it to the transferee in acordance with regulations to be promulgated by the Secretary of the Treasury. It is expected that the Secretary will issue regulations, like those applicable to machineguns, requiring proof that the transferee is not under a firearms disability before the device can be registered. It should be noted that an ammunition feeding device once registered to the transferee could be sequentially transferred provided it was registered to each new transferee. This too is like the current law with respect to machineguns.

In addition to the requirement that only ammunition feeding devices transferred must be registered, the registration scheme for these devices differs from that for Title II weapons in other respects. The first is the cost. Registration of ammunition feeding devices will require a payment of a $25.00 fee as compared to a $200.00 tax on machinegun registrations. Second, the more limited registration scheme eliminates the need for a provision like that in 26 U.S.C. 5848 stating that no information contained in the registry of ammunition feeding devices or derived from the registration process may be used as evidence against a person in a criminal proceeding "with respect to a violation of law occurring prior to or concurrently with the filing of the application or registration."

Such a provision is necessary with respect to the machinegun provision where possession of an unregistered machinegun is itself an offense, only registered weapons may be transferred, and to comply with the registration provision for the purpose of transfer a person would in effect admit that he had not previously registered it. See *United States* v. *Freed*, 401 U.S. 601, 605–607 (1971). With respect to an ammunition feeding device, there is no requirement that persons in possession of such a device register it.

Sec. 435. Identification markings for ammunition feeding devices

This section provides that all ammunition feeding devices must be identified with a serial number and such other identification as the Secretary may prescribe by regulation. Such other information would typically include the manufacturer's name and address. Although ammunition feeding devices are included within the definition of the term "firearm" and although a firearm has to be identified by a serial number, the serial number requirement under current law is that it be placed on the frame or receiver. 18 U.S.C. 923(i). Since this specific placing requirement is meaningless with respect to ammunition feeding devices, this section imposes the requirement on ammunition feeding devices directly for clarity.

Sec. 436. Criminal penalties

This section sets out the criminal penalty for a violation of new subsection 922(t) and has been discussed in connection with section 434 of this subtitle.

Sec. 437. Noninterruption of business for persons in the business of importing or manufacturing ammunition feeding devices

Section 437 permits persons already in the business of manufacturing or importing ammunition feeding devices to continue to do so while their applications for licenses are pending. Since such devices are included in the definition of a firearm, manufacturers and importers will be required to obtain licenses to continue to engage in these activities. Section 437 provides that they may continue to engage in these businesses pending their licensing application provided they make application for a license within 30 days of the enactment of this bill.

V. OBSTRUCTION OF JUSTICE

Sec. 501

This section (which passed the House of Representatives in similar form in the 101st Congress as §1201 of H.R. 5269) would establish appropriately higher penalties for obstruction of justice offenses against court officers and jurors by amending 18 U.S.C. 1503. Currently, 18 U.S.C. 1503 prohibits a range of conduct that tends to interfere with the administration of justice, including corrupting, threatening, injuring, or retaliating against "any grand or petit juror" and any "officer in or of any court of the United States." The maximum penalty for the offense defined by 18 U.S.C. 1503 is five years of imprisonment, regardless of the seriousness of the crime and the extent of resulting harm. Thus, for example, a criminal who engaged in a retaliatory murder of a juror who had voted to convict him would be exposed to no more than five years of imprisonment pursuant to this statute.

More adequate penalties appear in the statutes that define the comparable offenses of tampering with or retaliating against witnesses, victims, and informants, 18 U.S.C. 1512 (tampering) and 18 U.S.C. 1513 (retaliation). Under both of these statutes, conduct like that prohibited by 18 U.S.C. 1503 is punishable by up to ten years of imprisonment when directed against a witness. 18 U.S.C. 1512 further authorizes imprisonment for up to twenty years in the case of an attempted killing, and incorporates by reference the penalties for murder and manslaughter under 18 U.S.C. 1111 and 18 U.S.C. 1112 for cases where death results.

The proposed amendment would conform the penalties available under 18 U.S.C. 1503 to those available for obstruction of justice offenses against witnesses, thereby providing an adequate system of sanctions for comparable offenses against jurors, judges, and other judicial officers and officers serving in courts. The basic offense would be punishable by up to ten years of imprisonment, with up to twenty years of imprisonment in the case of an attempting killing, and punishment as provided in the murder and manslaughter statutes in cases where death results.

The amendment would also provide a twenty-year maximum penalty for cases in which the offense was committed against a petit juror in connection with a charged Class A or B felony, i.e., a felony that carries a maximum punishment of twenty-five years' imprisonment or more, or the death penalty. 18 U.S.C. 3559. The purpose of this proposal is to reduce the attractiveness of jury tampering, by establishing an increased penalty when the underlying charge sought to be affected by the offense is itself a more serious crime. Currently, since 18 U.S.C. 1503 provides only a maximum of five years' imprisonment, there is little deterrent for a defendant facing a potential sentence of life imprisonment or twenty-five or more years not to try to influence a petit juror in the case. A similarly graduated penalty scheme is currently found in 18 U.S.C. 3146, which punishes the willful failure to appear for trial.

The final proposed amendment in this section is technical. It replaces the old term "United States commissioner" in 18 U.S.C. 1503 with the correct title "United States magistrate judge".

Sec. 502.

This section (which passed the House of Representatives last year as §1202 of H.R. 5269) would amend 18 U.S.C. 1513 to provide appropriately higher penalties for retaliatory killings and attempted killings of witnesses, victims, and informants. Currently, the companion statute, 18 U.S.C. 1512, prohibits efforts to obstruct justice by tampering or interfering with witnesses, victims, and informants, including killing, attempting to kill, and using physical force against such persons. Under section 1512, a killing is punishable by the penalties prescribed for murder and manslaughter in 18 U.S.C. 1111 and 1112—including death or life imprisonment in cases of first degree murder—while an attempted killing is punishable by up to twenty years in prison. The offense of using physical force, short of attempted murder, is punishable by a maximum of ten years' imprisonment.

18 U.S.C. 1513 makes it a ten-year felony to engage in violent retaliatory acts against the same classes of protected persons as section 1512. For no discernible reason, however, section 1513, unlike its counterpart section 1512, contains no specific prohibition or enhanced penalties for the aggravated offenses of killing or attempting to kill a witness, victim, or informant with the same retaliatory intent. The proposed amendments would close this gap by adding to section 1513 an offense of retaliatory killing or attempted killing of witnesses, victims, and informants, carrying the same penalties as the corresponding provision in 18 U.S.C. 1512(a).

Sec. 503.

This proposal extends to State and local law enforcement officers who are assisting federal officers or employees in the performance of official duties the protection of 18 U.S.C. 1114 and related statutes which make it a crime to murder, kidnap, or assault federal officials enumerated in section 1114. *See* 18 U.S.C. 111 (assault) and 1201 (kidnapping). In doing so, the proposal codifies a consistent body of appellate case law, which has held existing section 1114 applicable to State and local officers assisting federal employees in a variety of law enforcement contexts. *See* e.g., *United States* v. *Torres*, 862 F.2d 1025 (3d Cir. 1988); *United States* v. *Williamson*, 482 F.2d 508 (5th Cir. 1973); *United States* v. *Reed*, 413 F.2d 338 (10th Cir. 1969), cert. denied, 397 U.S. 954 (1970); *United States* v. *Heliczer*, 373 F.2d 241 (2d Cir.), cert. denied, 388 U.S. 917 (1967); *United States* v. *Chunn*, 347 F.2d 717 (7th Cir. 1965). Although no contrary authority apparently exists, affording express statutory coverage to assisting State and local law enforcement officials is useful in avoiding the need for future litigation. It also would overcome any argument to the contrary (as to persons assisting the Drug Enforcement Administration) based on the somewhat ambiguous provisions of 21 U.S.C. 878(b).

Many federal law enforcement efforts depend for their success upon the assistance of State and local law enforcement personnel, whose safety is often jeopardized as a result of the assistance they render to federal officers. Accordingly, it is appropriate that the protection of section 1114 be extended to State and local law enforcement officials who assist in the performance of federal functions.

VI. GANGS AND JUVENILE OFFENDERS

Sec. 601

The amendments in this section are part of the implementation of an element of the President's violent crime program, which calls on the states to "maintain records and report on all serious crimes committed by juveniles who frequently continue their criminal careers, into adulthood, but often escape early identification as repeat offenders and recidivists because their juvenile records are not reported." White House Fact Sheet of May 15, 1989, at 6. The same point was endorsed by the Attorney General's Task Force on Violent Crime in 1981, Final Report at 82–83, which stated that states should be encouraged to make available criminal history information for juveniles be entered into the FBI criminal records system.

Empirical data confirms that the unavailability of juvenile criminal records is in fact a serious concern in connection with violent and firearms offenses. For example, the Bureau of Justice Statistics has estimated that 54 percent of armed robbers in state prisons in 1986 had previously been sentenced to probation or incarceration as a juvenile, and that 15 percent had a prior juvenile, but no adult, sentence. This problem would be alleviated by generally providing for the inclusion of juvenile records for serious crimes in the FBI records system, and by making corresponding changes in the rules for reporting offenses by juveniles who are federally prosecuted.

To implement this reform, the Department of Justice is proposing an amendment to 28 CFR §20.32, which generally defines the offenses that will be accepted in the FBI records system. Paragraph (a) of the rule states that information is to be included concerning "serious and/or significant offenses." Subsection (b) states that nonserious offenses are excluded, such as drunkenness, vagrancy, disturbing the peace, curfew violations, loitering, false fire alarm, non-specific charges of suspicion or investigation, and traffic infractions. However, the second sentence of paragraph (b) states a blanket exclusion of offenses committed by juveniles, unless the juvenile was tried as an adult. The proposed amendment would delete this sentence, and would make a conforming change in paragraph (a), to make it clear that both "adult and juvenile" offenses, if serious, are to be included in the system. This would permit the FBI to receive and retain records relating to serious offenses of state juvenile offenders.

The statutory amendments in this section propose complementary changes in the provisions regarding the records of federally prosecuted juveniles. The first amendment—in subsection (a)—would change 18 U.S.C. §5038, which generally governs the permissible uses of juvenile records and the circumstances in which they are to be retained. The basic change from current law is that records would routinely be retained and made available where a juvenile is convicted of a serious violent crime or drug crime described in clause (3) of the first paragraph of 18 U.S.C. §5032. In contrast, the current statute limits the retention and availability of such records through the FBI records system to cases involving a second conviction of the juvenile. The amendment accordingly rejects the view of the current law that a juvenile offender is entitled to "one free bite," even if the initial "bite" is a serious violent crime or drug crime, before information is preserved concerning his offenses for later law enforcement and judicial use. The retention of records would be authorized in any case of conviciton for an offense described in clause (3) of the first paragraph of section 5032, regardless of whether the actual exercise of federal jurisdiction in the case was premised on that clause or on another provision of section 5032.

The amendment also adds a subsection to 18 U.S.C. §5038 authorizing reporting, retention, disclosure and availability of juvenile records pursuant to the law of the state in which a federal juvenile proceeding takes place, if the state law is more permissive as to such matters than the general standards of §5038. This would generally ensure that federal law will not accord less weight than the law of the state in which the offense occurred to the public's interest in security against crime, and would also eliminate the possibility that a federal prosecutor might be inhibited from exercising federal jurisdiction in a case appropriate for federal prosecution because state law provides more effectively for retention and availability of records concerning the offender.

The second amendment—in subsection (b)—repeals a statue, 18 U.S.C. 3607, that authorizes pre-judgment probation for certain drug offenders, and requires expungement of records for such an offender if he was under the age of 21 at the time of the offense. This amendment is also in furtherance of the section's general objective of ensuring retention of accurate and complete criminal records, regardless of the age of the offender.

In its specific provisions, 18 U.S.C. 3607 now authorizes pre-judgment probation for an offense under 21 U.S.C. 844 for offenders without prior drug crime convictions; 21 U.S.C. 844 generally defines the offense of unlawful possession of contolled substances, punishable by up to a year of imprisonment. If a defendant is accorded the special probationary treatment authorized by the statute, only a nonpublic record is retained of the disposition, and that record can only be used for the purpose of determining in a later proceeding whether the defendant is a first time offender for purposes of §3607. The effect of the mandatory expungement for offenders under 21 is that all references relating to the arrest, proceedings, and disposition are removed from normal official records. Section 3607 further provides that the expungement order has the effect of restoring the defendant in contemplation of law to the status he occupied before his arrest or prosecution, and that the defendant is not subject to liability for subsequently failing to recite or acknowledge the occurrence of the arrest or prosecution in any context.

This provision implicitly presupposes that drug possession offenses under 21 U.S.C. 844

may properly have less serious consequences for the offender than other offenses carrying comparable penalties, or that knowledge of such offenses is somehow of less importance for the criminal justice system than knowledge of other prior crimes. However, the statute's implicit policy of leniency toward drug offenders through concealment of records is contrary to the concept of user accountability for such offenders, and gives short shrift to the enormous human and social costs of drug abuse. Moreover, in light of the uniquely potent role of drug abuse as a contributing factor in other criminality, knowledge of a defendant's complete record of drug offenses is at least as important as knowledge of other types of crime for law enforcement, judicial, and correctional purposes.

Section 3607's expungement requirement for offenders under 21 compounds its costs without any offsetting justification. If the offender is a juvenile, he would enjoy in any event the benefits of the special protections of 18 U.S.C. 5038 relating to juvenile records, on the same basis as other juvenile offenders. Conversely, if the offender is an adult, he should be treated in the same way as adults who commit other types of crimes. Neither considerations relating to the offender's interests nor considerations relating to society's interests provide a valid basis for according a specially favored status to defendants who commit offenses covered by §3607, or justify a special policy of concealment for the records of such offenses. The statute, as proposed in the second amendment, should simply be repealed.

The final subsection of this section, (c), is a conforming amendment that deletes a cross-reference to 18 U.S.C. 3607 in the Controlled Substance Act.

Sec. 602

This section combines several amendments that were passed by the Senate last year in S. 1970. The amendments broaden the option of adult prosecution for serious juvenile offenders and gang leaders.

One feature of the amendments (which passed the Senate last year as §3724 of S. 1970) would add certain "crack" cocaine and drug conspiracy and attempt offenses committed by juveniles to the list of crimes set forth in 18 U.S.C. 5032 authorizing prosecution as an adult if the Attorney General certifies that there is a "substantial federal interest in the case" that justifies adult prosecution. Currently, substantive drug offenses in 21 U.S.C. 841 (and other statutes) are predicates for such action, but attempts and conspiracies to commit such offenses are not. As some United States Attorneys have noted, this is an anomaly that should be corrected. Unfortunately, many juveniles today are members of gangs of conspirators involved in drug trafficking, and their roles may range from relatively fringe activities to leadership of the conspiracy itself. When the offense is sufficiently serious, prosecutors should have the option of proceeding against a juvenile drug conspirator as an adult, just as they now have that option with respect to a substantive drug crime; and the same holds true for attempts.

Likewise, in view of the seriousness of such offenses, it is appropriate to add to the list of predicate offenses authorizing adult prosecution those involving possession of a mixture or substance containing in excess of five grams of cocaine or "crack". (See 21 U.S.C. 844.)

A second feature of the amendments in this section, which is taken from §2201 (b) and (c) of S. 1970 as passed by the Senate last year, is designed primarily to add three serious firearms offenses to the list of enumerated drug and violent felonies in 18 U.S.C. 5032 for which a prosecutor or a court may determine that a juvenile alleged to have committed such an offense should be prosecuted as an adult. The three firearms offenses that would be added to section 5032 each carries a maximum prison term of ten years and essentially involve acts of receiving or transferring a firearm, or traveling interstate to acquire a firearm, knowing or intending that it will be used to commit a felony.

The deletion of the reference to 18 U.S.C. 922(p) by this section corrects a technical error in section 6457 of the Anti-Drug Abuse of 1988, which had intended the reference to be to a guns-in-the-schoolyard offense. That offense, however, was not enacted in 1988, and by virtue of another bill section 922(p) now refers to the manufacture or possession of an undetectable firearm, for which inclusion in section 5032 was never intended.

A third feature of the amendments in this section, which passed the Senate as part of §2201(d) of S. 1970 last year, is designed to clarify that a juvenile's leadership role in an offense is a highly pertinent factor in a court's decision whether or not to transfer the juvenile for trial as an adult. Currently, the applicable paragraph of 18 U.S.C. 5032, which sets forth the relevant factors for consideration, only directs the court to weigh the "nature of the offense". While this may implicitly include the issue of the extent of the juvenile's role, the proposed amendment clarifies this point while also indicating as a matter of policy that an affirmative finding that a juvenile has played a major role in a controlled substance or firearms offense shall count heavily in favor of a determination to try the juvenile as an adult.

Sec. 603

The Anti-Drug Abuse Act of 1988 (section 6451) added, as a new predicater offense category to the Armed Career Criminal statute, acts of juvenile delinquency that, if committed by an adult, would constitute a crime of violence. In view of the increasing involvement of youthful offenders with serious drug offenses, and the known association of drug crimes with violence, it is appropriate also to enlarge the scope of the Armed Career Criminal Act to include acts of juvenile delinquency that, if committed by an adult, would meet the Act's definition of a "serious drug offense," i.e., those drug felonies that carry a maximum prison term of ten years or more. An amendment including certain serious drug crimes by juveniles as Armed Career Criminal Act predicate offenses was passed by the Senate last year as §2202 of S. 1970.

Sec. 604

The Travel Act was passed in 1961 as part of a series of statutes intended to deal more effectively with organized crime. It punishes any person who travels interstate with intent to (1) distribute the proceeds of any unlawful activity, (2) commit any crime of violence to further any unlawful activity, or (3) otherwise promote or facilitate the promotion of any unlawful activity, and who thereafter performs or attempts to perform any of the intended acts specified above. The statute defines "unlawful activity" to include those generic categories of offenses that are frequently associated with organized crime, namely gambling, controlled substances, prostitution, extortion, arson, bribery, and money laundering.

The Act carries a maximum penalty of five years' incarceration. While this is adequate with respect to violations involving acts of distributing the proceeds of or otherwise promoting unlawful activity, it is not sufficient with respect to acts involving the commission or attempted commission of a crime of violence in furtherance of unlawful activity. The United States Sentencing Commission recently examined about a hundred cases under the Travel Act and came to the same conclusion. The Commission found that close to 30% of all defendants received maximum five-year sentences under the applicable Travel Act guideline, and that more than 70% of that group would, under the guidelines, have received a sentence greater than five years, if this had been allowed by the statute.

In these circumstances, the Commission determined that "the sentencing outcomes required by the guidelines have been frustrated by the low statutory maximum penalty." The Commission in a report to Congress thus recommended, consistent with the instant proposal, that the maximum penalty for Travel Act violations be raised to twenty years when the conduct involves a crime of violence, and up to life imprisonment if death results.

This maximum penalty increases will enable the achievement, through the operation of the sentencing guidelines, of an appropriate and fair sentencing result when, for example, an individual is charged with a violation of the Travel Act involving the commission or attempted commission or murder, kidnapping, or serious assault for which the guidelines prescribe a sentence of greater than five years. In short, there is no reason why a defendant who commits a serious crime of violence under the Travel Act should be punished substantially less severely than one who engaged in the same conduct under another federal statute with a different jurisdictional base. The proposed amendment insures that henceforth Travel Act offenses involving crimes of violence may be properly punished.

Sec. 605

This amendment, included in S. 1970 as passed by the Senate in the 101st Congress (§3709), would increase the penalty under 18 U.S.C. 1958 for conspiring to commit murder for hire. This offense frequently involves "contracts" put out by participants in organized crime activities.

Presently, section 1958 contains no penalty for a conspiracy. The section provides a ten-year maximum penalty for traveling in interstate or foreign commerce with intent to commit murder for hire, and includes increases in the maximum penalty if personal injury or death results from the offense. A conspiracy to violate section 1958 is, however, punishable only under 18 U.S.C. 371, the general conspiracy statute, which carries a maximum of five years' imprisonment.

This penalty level is insufficient to vindicate the seriousness of this offense. Recently, for example, a male-female couple were convicted in Indiana of a scheme to hire a "hit" man to murder the wife of one and the husband of the other; fortunately, the scheme was reported to the FBI which was able to arrest the conspirators after they had paid an undercover agent, posing as a "hit" man, $2,000 to perform the killings.

Under the statement, section 1958 would itself include a penalty for conspiracies to violate the section. The maximum penalty would be set at the ten-year level, the same as for the offense of traveling interstate with intent to commit murder for hire.

VII. TERRORISM

A. Aviation Terrorism

Sec. 701

Subsection (a) of this section adds a new section 36 to chapter 2 (relating to Aircraft and Motor Vehicles) of title 18, United States Code, which deals with violence at international airports.

Subsection (a) of proposed 18 U.S.C. 36 establishes the offense required by paragraph 1 of Article II of the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation. The provision makes it an offense for a person unlawfully and intentionally, using any device, substance or weapon, (1) to perform an act of violence against another person at an international airport serving civil aviation or (2) to destroy or seriously damage the facilities of an international airport serving civil aviation or aircraft not in service located thereon, or to disrupt service at such an airport. Consistent with the requirement of the Protocol, the prohibited act must endanger or be likely to endanger safety at an airport serving international civil aviation. Upon conviction, a person would be subject to a fine under 18 U.S.C. 3571 and/or imprisonment of not more than twenty years. If death results from the prohibited conduct, the offender could be punished by death or imprisoned for any term of years or for life.

Proposed 18 U.S.C. 36(b) provides for federal jurisdiction over the prohibited activity (1) when it takes place within the United States or (2) when the prohibited activity takes place outside of the United States and the offender is later found in the United States. The latter jurisdictional basis is required by Article III of the Protocol in order to comply with the mandate of the Protocol that Party States prosecute or extradite for prosecution offenders found in their jurisdiction. The former jurisdictional basis ensures clear federal jurisdiction over any terrorist attack at an international airport serving civil aviation within the United States.

State and local governments would retain their existing jurisdiction over violence at airports. This provision supplements and does not supplant state and local authority. In regard to terrorist attacks at foreign airports in which American nationals are killed or seriously injured, the provisions of 18 U.S.C. 2332 remain applicable. "Finding" the perpetrators within the United States is not a prerequisite for jurisdiction under 18 U.S.C. 2332.

Subsections (b) and (c) of section 701 concern a technical conforming amendment and the effective date of the section.

Sec. 702

This section repeals section 902(n)(3) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(n)(3)) and renumbers section 902(n)(4) as section 902(n)(3). The paragraph to be repealed currently reads: "This subsection shall only be applicable if the place of takeoff or the place of actual landing of the aircraft on board which the offense, as defined in paragraph (2) of this subsection, is committed is situated outside the territory of the State of registration of that aircraft."

Section 902(n), which criminalizes aircraft piracy committed outside the special aircraft jurisdiction of the United States, was enacted as part of the Antihijacking Act of 1974 (section 103(b) of Public Law 93-366), to implement to Hague Convention for the Suppression of Unlawful Seizure of Aircraft. Section 902(n)(3) was intended to reflect paragraph 3 of Article 3 of the Convention, which states that the Convention normally applies "only if the place of take-off or the place of actual landing of the aircraft on which the offense is committed is situated outside the territory of the State of registration of that aircraft." However, the authors of the legislation overlooked the obligation of paragraph 5 of Article 3 of the Convention when the alleged aircraft hijacker is found in the territory of a State Party other than the State of registration of the hijacked aircraft.

For example, under the Hague Convention the hijacking of an Air India flight that never left India is not initially covered by the Convention. (Article 3, paragraph 3.) However, the subsequent flight of the alleged offender from India to another State Party triggers treaty obligations, under the "notwithstanding paragraph 3" language of paragraph 5 of Article 3. Paragraph 5 makes the obligation of Article 7, to either prosecute or extradite an alleged offender found in a party's territory, applicable to a hijacker of a purely domestic air flight who flees to another State: "Notwithstanding paragraphs 3 and 4 of this Article, Articles 6, 7, 8 and 10 shall apply whatever the place of take-off or the place of actual landing of the aircraft, if the offender or the alleged offender is found in the territory of a State other than the State of registration of that aircraft."

While the meaning of paragraph 5 of Article 3 may not have been perfectly understood at the time the Hague Convention was adopted, subsequent international conventions have made the concept crystal clear. It is now appropriate to correct our prior minor misunderstanding of our international obligation under the Hague Convention.

B. MARITIME TERRORISM

Secs. 711–13

These sections contain the short title, findings, and statement of purpose for the Act proposed in this subtitle.

The Act will implement the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation and the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf.

The Senate gave its advice and consent to ratification of the Convention and Protocol on November 5, 1989. The Administration has stated its intention to deposit the instrument of ratification after this domestic legislation is enacted. When the Administration deposits the instrument of ratification, it will declare, pursuant to Article 16(2) of the Convention, that the United States does not consider itself bound to submit to the compulsory jurisdiction of the International Court of Justice in respect of disputes arising under the convention, consistent with the understanding of the Senate Foreign Relations Committee contained in the report accompanying Treaty Doc. 101-1. *See* S. Exec. Rept. 18, 101st Cong. 1st Sess. at p. 3 (November 19, 1989).

Sec. 714

This section would add two new sections to chapter 111 (relating to shipping) of title 18, United States Code. The new sections supplement existing provisions of federal law and do not supplant them. The first, proposed section 2280, covers violence against maritime navigation. The second, proposed section 2281, deals with violence against maritime fixed platforms.

Section 2280(a) sets forth the various offenses required by the first paragraph of Article 3 of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation. Section 2280(a)(8) (the attempt provision) effectuates the requirement of paragraph 2(a) of Article 3 of the Convention. (Paragraph 2(b) of Article 3 of the Convention is implemented by existing 18 U.S.C. (complicity) and 371 (conspiracy)). Each of the prohibited acts basically tracks the Convention's language and is self-explanatory. Section 2280(a)(6) (relating to communication of false information) uses the "knowledge" formulation adopted by Congress in 18 U.S.C. 32(a)(6) and fully complies with the Convention's requirements. The penalty level complies with Article 5 of the Convention and is comparable to that contained in 18 U.S.C. 32 (destruction of aircraft or aircraft facilities).

Section 2280(b) (relating to threats) implements paragraph 2(c) of Article 3 of the Convention. Section 2280(b) follows the penalty level and the formulation utilized by Congress in recently enacted 18 U.S.C. 32(c) and 49 U.S.C. App. 1472(m)(2) (i.e., "with an apparent determination and will to carry the threat into execution"). The words "threatened act" are used to clearly show that it is the act which, if it were performed, must endanger the safe navigation of the ship. The threat by itself does not have to endanger the safe navigation of the ship.

Section 2280(c) specifies the circumstances when federal jurisdiction exists over the prohibited acts of section 2280(a). Paragraph (1) of subsection (c) relates to circumstances involving a "covered" ship. Paragraph (2) of subsection (c) relates to circumstances involving a "noncovered" ship, which is required by paragraph 2 of Article 4 of the Convention (i.e., the offender has fled the territory of the country where the prohibited act occurred upon or against a ship not initially protected by the Convention and the offender is now present in the United States).

The term "covered ship," which is based upon paragraph 1 of Article 4 of the Convention, basically means a ship that is operating or scheduled to operate outside the territorial "waters" (i.e., the territorial sea and/or internal waters) of any particular country. Hence, it covers all ships that go, have come, or are scheduled to go upon the the high seas as well as ships that leave, are scheduled to leave, or have arrived from outside the territorial waters of any particular country. The term applies primarily to ships engaged in international shipping, although, if a ship is engaged only in commerce between points in the same country, the term also encompasses that ship if the ships travels at some time during its voyage upon the high seas. A ship is not covered under the Convention if it has remained or is scheduled to stay within the territorial waters of a single country and if, in fact, it so stays. However, if it departs the territorial waters of a single country or is scheduled to so depart, it is covered under the Convention.

The clauses of paragraph (1) of subsection (c) establish jurisdiction in the situations *mandated* by paragraph 1 of Article 6 of the Convention, i.e., clauses (c)(1)(A) (i), (ii) and (iii) (relating to nationals of the United States)) and two optional situations *permitted* by paragraph 2 of Article 6 of the Convention (i.e., clauses (c)(1)(A)(iii)) (as to a stateless person whose habitual residence is in the United States), and (c)(1)(B)). In addition, subparagraph (C) of paragraph (1) of subsection (c) implements the *mandatory* requirement in paragraph 4 of Article 6 of the Convention to cover the situation where the offender is subsequently present in the United States after having committed a prohibited act on or against a covered ship over which conduct the United States was provided no direct mandatory or optional jurisdictional basis pursuant to paragraphs 1 or 2 of Article 6 of the Convention at the time of the offense. This provision is necessary to comply with the basic "prosecute or extradite" requirement of the Convention.

Paragraph (2) of subsection (c) establishes the jurisdiction required by paragraph 2 of Article 4 of the Convention to cover the situation when a prohibited act is committed against a ship *not* covered by the Convention (i.e., a ship engaged in commerce within a single country) but the perpetrator has fled and is now present in the United States.

Paragraph (3) of subsection (c) has been drafted to cover all prohibited activity against or upon any vessel committed in an attempt to compel the United States to do or abstain from doing an act. The Convention, in paragraph 2 of Article 6, permits coverage when the extortionate demand against a State involves a "covered ship." The limitation to covered ships is not desirable when the United States itself is the target of the extortion. Expanding coverage to any vessel is clearly justified under the protective principle of extraterritoriality under customary international law. Hence, extortionate demands directed against the United States involving a vessel are covered whether they occur within the United States (including its territorial sea), on the high seas, or within the territorial seas or international waters of a foreign nation. Moreover, section 2280(c)(3) uses the term "vessel" to cover all vessels and not just ships as defined in section 2280(e)(1). Thus, governmental ships are covered by section 2280(c)(3).

Section 2280(d) carries out the requirement of Article 8 of the Convention that the United States impose certain obligations upon the masters of covered ships flying the flag of the United States when delivering an offender and evidence to another State Party. Subsection (d) also directs the master to notify the Attorney General before delivering a person believed to have committed an offense under the Convention. The notification, which is not mandated by the Convention, is necessary to allow the United States the opportunity to obtain custody of the alleged offender, if practicable, before delivery to another country. It should be noted that the obligations of Article 8 of the Convention cover offenses committed not only on the master's ship but upon any ship protected by the Convention. Hence, it also covers fugitives who have committed prior offenses prohibited by the Convention and who are presently on the master's ship.

Section 2280(e) contains the definitions of "ship," "covered ship," "territorial sea of the United States," "national of the United States," and "United States." The latter two are standard definitions. *See, e.g.*, 18 U.S.C. 1203(c) and 3077(4). Under Article 1 of the Convention, a ship is defined as "a vessel of any type whatsoever not permanently attached to the seabed, including dynamically supported craft, submersibles, or any other floating craft." However, paragraph 1 of Article 2 of the Convention makes the Convention inapplicable to (1) a warship, (2) a ship owned or operated by a State when being used as a naval auxiliary or for customs or police purposes, or (3) a ship which has been withdrawn from navigation or laid up. Thus, like the international convention pertaining to aircraft, the Convention concerns ships of a "civilian" nature, and does not apply to United States naval vessels, United States customs vessels, or any other law enforcement vessel operated by United States authorities. Likewise, a vessel which is not currently in an operational mode is not covered by the definition.

The term "covered ship" describes a ship engaged or scheduled to engage in travel that will take it out (or has taken it) onto the high seas or into the territorial waters of a "different country." The focus is on international voyages, cargo as well as passenger. No commercial nexus, however, is required, and, oceangoing pleasure craft are protected.

The definition of territorial sea of the United States follows the terminology of Presidential Proclamation 5928 of December 27, 1988, which expanded the territorial sea of the United States, for international purposes, to twelve nautical miles from the baselines of the United States determined in accordance with international law.

Section 2281, dealing with violence against maritime fixed platforms, fully implements the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf. The Protocol is primarily directed at off-shore fixed platforms located outside the territorial waters of any country. Section 2281 utilizes all the mandatory and optional jurisdictional bases required or permitted by the Protocol. In addition, section 2281 covers any situation involving a fixed platform anywhere when the prohibited activity is performed in an attempt to compel the United States to do or abstain from doing any act.

Section 2281(a) sets forth the various offenses required by paragraph 1 of Article 2 of the Protocol. Section 2281(a)(6) (the attempt provision) effectuates the requirement of paragraph 2(a) of Artilce 2 of the Protocol. (Paragraph 2(b) of Article 2 of the Protocol is implemented by existing 18 U.S.C. 2 (complicity) and 371 (conspiracy)). The penalties are consistent with Article 5 of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation which is made applicable to the Protocol by paragraph 1 of Article 1 of the Protocol. The prohibited acts basically track the Protocol language and are self-explanatory.

Section 2281(b) (relating to threats) implements paragraph 2(c) of Article 2 of the Protocol. Section 2281(b), which is comparable to the threat provision contained in section 2280(b), follows the penalty level and the formulation utilized by Congress in recently enacted 18 U.S.C. 32(c) and 49 U.S.C. App. 1472(m)(2) (i.e., "with an apparent determination and will to carry the threat into execution"). The words "threatened act" are used to clearly show that it is the act which, if it were performed, must endanger the safety of the fixed platform. The threat by itself does not have to endanger the safety of the fixed platform.

Section 2281(c) specifies the circumstances when federal jurisdiction exists over the prohibited acts of section 2281(a). Paragraph (1) of section 2281(c) establishes jurisdiction in those situations *mandated* by paragraph 1 of Article 3 of the Protocol (i.e., subparagraphs (A) and (B) (relating to nationals of the United States)) and the optional bases *permitted* by paragraph 2(a) (relating to stateless persons whose habitual residence is in the United States) and paragraph (2)(c) of Article 3 of the Protocol. Subparagraph (C) of paragraph (1) of subsection (c), moreover, goes beyond the optional measure in the Protocol as it encompasses any prohibited activity committed in an attempt to compel the United States to do or abstain from doing any act involving a fixed platform anywhere in the world, and not just a platform located upon a continental shelf. This expanded coverage, clearly justifiable under the protective principle of extraterritoriality under customary international law, is desirable whenever the United States is itself the target of the extortion.

Paragraph (2) of subsection (c) establishes the optional jurisdiction bases *permitted* by paragraph 2(b) of Article 3 of the Protocol. Paragraph (3) of subsection (c) implements the *mandatory* requirement in paragraph 4 of Article 3 of the Protocol. This covers the situation where the offender is subsequently present in the United States after having committed a prohibited act on or against a fixed platform located on the continental shelf of another country over which conduct the United States had *no* direct mandatory or optional jurisdictional basis under paragraphs 1 or 2 Article 3 of the Protocol. Paragraph (3) of subsection (c) also implements the *mandatory* requirement contained in paragraph 2 of Article 1 of the Protocol. This covers the situation where the offender is present in the United States after having committed a prohibited act on or against a fixed platform located *within* the internal waters or territorial sea of another country. Such "internal" platforms are not subject to the Protocol unless the offender flees the jurisdiction of the country in which the platform is located.

Section 2281(d) contains the definitions of "continental shelf," "fixed platform," "national of the United States," "territorial sea of the United States," and "United States." The latter three definitions are the same as those used in section 280(e), *supra*. "Fixed platform'" is defined exactly as it is found in paragraph 3 of Article 1 of the Protocol. The platform must be permanently attached and must be for economic purposes. The definition of "continental shelf" incorporates by reference the definition of that term under Article 76 of the 1982 Convention on the Law of the Sea. While the United States is not a signatory to the Law of the Sea Convention, Article 76, nevertheless, reflects the customary international law definition of continental shelf.

Secs. 715–16

These sections contain provisions related to section 714 concerning clerical matters and effective dates.

Section 715 amends the analysis for chapter 111 of title 18, United States Code.

Section 716 establishes the effective date for the legislation depending upon certain contingencies.

Sec. 717

This section affirms the action taken by the President on December 27, 1988 in expanding the territorial sea of the United States from three to twelve nautical miles. Moreover, it clearly places the territorial sea, for federal criminal jurisdiction purposes, within the special maritime and territorial jurisdiction of the United States as that term is used in title 18, United States Code. This affirmance is necessary to ensure criminal coverage over foreign ships located within the expanded portion of the territorial sea.

While existing legislation covered foreign ships within the old territorial sea, the Supreme Court has held that the legislation was not intended to reach crimes committed by an alien upon an alien on a foreign vessel under the *de jure* or *de facto* control of the foreign nation on the high seas outside the territorial sea of the United States. *See United States v. Holmes*, 18 U.S. (5 Wheat.) 411 (1820); *United States v. Palmer*, 16 U.S. (3 Wheat.) 281, 288 (1818). The provision in the Presidential Proclamation stating that "Nothing in this Proclamation (a) extends or otherwise alters existing Federal Law or any jurisdiction, rights, legal interests, or obligations derived therefrom" raises a question concerning federal criminal jurisdiction over foreign ships in the expanded portion of the territorial sea.

Section 717 removes any ambiguity and establishes clear jurisdiction commensurate without assertion of sovereignty. Moreover, this provision ensures that all fixed platforms located within the expanded portion of the territorial sea are also within the special maritime and territorial jurisdiction of the United States. Clear criminal coverage over such platforms is essential because new section 2281 of title 18, United States Code, would only cover off-shore platforms located outside the territorial sea of the United States. Section 717 is intended to apply to federal criminal jurisdiction generally, but is not intended to affect any other laws pertaining to the expanded portion of the territorial sea.

Sec. 718

This section incorporates the appropriate state law for purposes of the federal assimilated crimes statute, 18 U.S.C. 13, in regard to the expanded portion of the territorial sea. Because state boundaries generally only extend three statutory (or geographical) miles into the ocean, portions of the expanded territorial sea of the United States are not within any state. Hence, large areas of the expanded territorial sea of the United States are not within any particular state or territory. Accordingly, criminal acts such as prostitution, gambling, drunkeness, etc., would not be prohibited under federal law unless some state law was adopted. The method used here, assimilating the law of the nearest state, is very similar to what Congress did in regard to artificial islands and fixed structures under the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)(2)(A)). The provision clearly covers crimes committed on, below, and above that portion of the territorial sea of the United States that is not located within the territory of any state, territory, possession or district.

Sec. 719

This section establishes a new jurisdictional basis in section 7 of title 18, United States Code, relating to the definition of the special maritime and territorial jurisdiction of the United States. 18 U.S.C. 7 allows for federal jurisdiction over certain important common crimes, e.g., murder, theft, sexual abuse. Section 719 extends federal criminal jurisdiction to any foreign vessel during a voyage having a scheduled departure from or arrival in the United States with respect to an offense committed by or against a national of the United States.

The Department of Justice has experienced a continuing legal problem concerning federal jurisdiction over certain crimes committed by or against United States nationals on foreign cruise ships operating from the United States. The country whose flag the foreign ship is flying often shows little interest in prosecuting. If the foreign ship is not within United States waters at the time of the offense, it is not always clear whether federal criminal jurisdiction exists. While cogent legal arguments can be made, and have on occasions been made successfully, it is desirable to have a clear statutory basis of jurisdiction. The provision provides jurisdiction even when the scheduled cruise enters the waters of a foreign nation. Of course, the jurisdiction only reaches conduct committed by or against a national of the United States. International law recognizes the right of a nation to apply its laws extraterritorially in such cases.

C. Terrorist Alien Removal

This subtitle, the "Terrorist Alien Removal Act of 1991," provides effective means for removing from the United States aliens involved in terrorist activities.

In recent years, the Department of Justice has obtained considerable evidence of involvement in terrorism by aliens in the United States. Both legal aliens, such as lawful permanent residents and aliens here on student visas, and illegal aliens are known to have aided and to have received instructions regarding terrorist acts from various international terrorist groups. While many of these aliens would be subject to deportation proceedings under the Immigration and Nationality Act (INA), these proceedings are unsatisfactory in cases involving sensitive information. Specifically, these procedures do not prevent disclosure of sensitive information where such disclosure would harm national security, adversely affect foreign relations, or reveal investigative techniques or confidential sources. Consequently, the proposed Terrorist Alien Removal Act sets out a new title in the INA devoted exclusively to the removal of aliens involved in terrorist activities.

The new title would create a special court, patterned after the special court created under the Foreign Intelligence Surveillance Act (50 U.S.C. 1801 et seq.). When the Department of Justice believes that it has identified an alien in the United States who has engaged in terrorist activity, and that to afford such an alien a deportation hearing would reveal information that would harm national security or foreign relations or compromise important investigative techniques or confidential sources, it could seek an *ex parte* order from the court. The order would authorize a formal hearing, called a special removal hearing, before the same court, at which the Department of Justice would seek to prove by clear and convincing evidence that the alien had in fact engaged in terrorist activity. At the hearing, certain evidence could be presented *in camera* and not revealed to the alien or the public, although its general nature would be summarized and revealed if that could be accomplished without seriously harming national security or jeopardizing human life.

Enactment of this Act would provide a valuable new tool with which to combat aliens who would use the United States as a base from which to launch terrorist attacks either on U.S. citizens or on persons in other countries. It is a carefully measured response to the menace posed by alien terrorists and fully comports with all constitutional requirements applicable to aliens.

Sec. 722

This section sets our findings that aliens are committing terrorist acts in the United States and against United States citizens and interests and that the existing provisions of the Immigration and Nationality Act (INA) providing for the deportation of criminal aliens are inadequate to deal with this threat. The findings explain that these inadequacies arise primarily because the INA, particularly in the requirements pertaining to deportation hearings, requires disclosure of confidential information and investigative techniques that aid the terrorists themselves, terrorist organizations, and the foreign governments which support them.

The findings are important in explaining congressional intent and purpose. As noted above, the proposed Act creates an entirely new type of hearing to determine whether aliens believed to be terrorists should be removed from the United States. At such a "special removal hearing", the government would be permitted to introduce *in camera* and *ex parte* evidence that the alien has engaged in terrorist activity. Such hearings would be held before Article III judges, and the *in camera* evidence would be information that, if provided to the alien or otherwise made public, would pose a risk to national security, adversely affect foreign relations, reveal investigative techniques important to efficient law enforcement, or disclose confidential sources of information. Such an extraordinary type of hearing would be invoked only in a very small percentage of deportation cases, and would be applicable only in those cases in which an Article III judge has found probable cause to believe that the aliens in question are involved in terrorist acts. In appropriate cases, special removal, hearings would be held in lieu of an administrative deportation hearing before an official of the Executive Office for Immigration Review. Although the bill provides the alien many rights equal to—and in some respects greater than—those enjoyed by aliens in ordinary deportation proceedings, the rights specified for aliens subject to a special removal hearing are deemed exclusive of any rights otherwise afforded under the INA.

It is within the power of Congress to provide for a special adjudicatory proceeding and to specify the procedural rights of aliens involved in terrorist acts. The Supreme Court has noted that "control over matters of immigration is a sovereign prerogative, largely within the control of the Executive and the Legislature. . . . The role of the judiciary is limited to determining whether the procedures meet the essential standard of fairness under the Due Process Clause and does not extend to imposing procedures that merely displace congressional choices of policy." *Landon v. Plasencia*, 459 U.S. 21, 34–35 (1982). Moreover, Congress can specify what type of process is due different classes of aliens. "[A] host of constitutional and statutory provisions rest on the premise that a legitimate distinction between citizens and aliens may justify attributes and benefits for one class not accorded to the other; and the class of aliens itself is a heterogeneous multitude of persons with a wide-ranging variety of ties to this country." *Mathews* v. *Diaz*, 426 U.S. 67, 78–79 (1976). Because the Due Process Clause does not require "that all aliens must be placed in a single homogeneous legal classification" (*id.*), Congress can provide separate processes and procedures for determining whether to remove alien terrorists.

Sec. 723

This section incorporates as the definition of the terms "terrorist activity" and "engage in terrorist activity" the corresponding definitions provided by section 601(a) of the recently enacted Immigration Act of 1990, Public Law 101-649.

Sec. 724

This section adds a new title V of the Immigration and Nationality Act to provide a special process for removing alien terrorists when compliance with normal deportation procedures might adversely affect important interests of the United States. However, the new title V is not the only way of expelling alien terrorists from the United States. In addition to proceedings under the new special removal provisions, aliens falling within 8 U.S.C. 1251(a)(4)(B) alternatively could be deported following a regular deportation hearing. Moreover, like all other aliens, alien terrorists remain subject to possible expulsion of any of the remaining deportation grounds specified in section 241 of the Act (8 U.S.C. 1251). For example, alien terrorists who violate the criminal laws of the United States remain subject to "ordinary" deportation proceedings on charges under INA section 241(a)(2). The special removal provisions augment, without in any way narrowing, the prosecutorial options in cases of alien terrorists.

The new title V consists of four new sections of the INA, sections 501–504 (8 U.S.C. 1601–1604). Briefly, the title provides for creation of a special court comprised of Article III judges, patterned after the special court created under the Foreign Intelligence Surveillance Act (50 U.S.C. 1801 *et seq.*). When the Department of Justice believes it has identified an alien terrorist, that is, an alien who falls within 8 U.S.C. 1251(a)(4)(B), and determines that to disclose the evidence of that fact to the alien or the public would compromise national security, foreign policy, investigatory techniques, or confidential sources of information, the Department may seek an order from the special court. The order would authorize the Department to present its evidence, or some part of its evidence, that the alien is a terrorist *in camera* and *ex parte* at a special removal hearing. The judge could then direct the alien and his counsel and all spectators to leave the courtroom during the presentation of the evidence covered by the order, or alternatively could elect to receive the evidence in chambers with only the reporter, the counsel for the government, and the witness present. Only the general nature of such evidence, without identifying particulars, would be revealed to the alien, his counsel, and the public.

If, at the conclusion of the hearing, the judge finds that the government has established by clear and convincing evidence that the alien has engaged in terrorist activity, the judge would order the alien removed from the United States. The alien could appeal the decision to the Court of Appeals for the Federal Circuit, and ultimately could petition for a write of certiorari to the Supreme Court.

Use of information that is not made available to the alien for reasons of national security is a well-established concept in the existing provisions of the INA and immigration regulations. For example, section 235(c) provides for an expedited exclusion process for aliens excludable under 8 U.S.C. 1182(a)(3) (providing for the exclusion, *inter alia*, of alien spies, saboteurs, and terrorists), and states in relevant part: "If the Attorney General is satisfied that the alien is excludable under [paragraph 212(a) (3)] on the basis of information of a confidential nature, the disclosure of which the Attorney General, in his discretion, and after consultation with the appropriate security agencies of the Government, concludes would be prejudicial to the public interest, safety, or security, he may in his discretion order such alien to be excluded and deported without any inquiry or further inquiry by [an immigration judge]."

Thus, where it is necessary to protect sensitive information, existing law authorizes the Attorney General to conduct exclusion proceedings outside the ordinary immigration court procedures and to rely on confidential information in ordering the exclusion of alien terrorists.

In the deportation context, 8 C.F.R. 242.17 (1990) provides that in determining whether to grant descretionary relief to an otherwise deportable alien, the immigration judge "may consider and base his decision on information not contained in the record and not made available for inspection by the [alien], provided the Commissioner has determined that such information is relevant and is classified under Executive Order No. 12356 (47 FR 14874, April 6, 1982) as requiring protection from unauthorized disclosure in the interest of national security."

The constitutionality of this provision has been upheld. *Suciu v. INS*, 755 F.2d 127 (8th Cir. 1985). The alien in that case had been in the United States for sixteen years and had become deportable for overstaying his student visa, a deportation ground ordinarily susceptable to discretionary relief. Nevertheless, the court held that it was proper to deny the alien discretionary relief without disclosing to him the reasons for the denial. *Suciu* following the Supreme Court's holding sustaining the constitutionality of a similar predecessor regulation in *Jay v. Boyd*, 351 U.S. 345 (1956).

Sec. 501 (Applicability)

Section 501 sets forth the applicability of the new title. *Section 501(a)* states that the title may, but need not, be employed by the department of Justice whenever it has information that an alien is subject to deportation because he is an alien described in 8 U.S.C. 1251(a)(4)(B), that is, that he has engaged in terrorist activity.

Section 501(b) provides that whenever an official of the Department of Justice determines to seek the explusion of an alien terrorist under the special removal provisions only the provisions of the new title need be followed. This ensures that such an alien will not be deemed to have any additional rights under the other provisions of the Immigration and Nationality Act. Except when specifically referenced in the special removal provisions, the remainder of the INA would be inapplicable. For example, under the special removal provisions an alien who has entered the United States (and thus is not susceptible to exclusion proceedings) need not be given a deportation hearing under section 242 of the Act, 8 U.S.C. 12252, and will not have available the rights generally afforded aliens in deportation preceedings (*e.g.*, the opportunity for an alien out of status to correct his status).

Section 501(c) states that Congress has enacted the title upon finding that alien terrorists represent a unique threat to the security and interests of the United States. Consequently, the subsection states Congress' specific intent that the Attorney General be authorized to remove such aliens without resort to a traditional deportation hearing, following an *ex parte* judicial determination of probable cause to believe they have engaged in terrorist activity and a further judicial determination, following a modified adversarial hearing, that the Department of Justice has established by clear and convincing evidence that the aliens in fact have engaged in terrorist activity.

Section 501(c) is designed to make clear that singling out alien terrorists for a special type of hearing rather than according them ordinary deportation hearings is a careful and deliberate policy choice by a political branch of government. This policy choice is grounded upon the legislative determination that alien terrorists seriously threaten the security and interests of the United States and that the existing process for adjudicating and effecting alien removal is inadequate to meet this threat. In accordance with settled Supreme Court precedent, such a choice is well within the authority of the political branches of government to control our relationship with and response to aliens.

For example, in *Mathews v. Diaz*, *supra*, the Court held that Congress could constitutionally provide that only some aliens were entitled to Medicare benefits. The Court held that it was "unquestionably reasonable for Congress to make an alien's eligibility depend on both the character and duration of his residence," and noted that the Court was "especially reluctant to question the exercise of congressional judgment" in matters of alien regulation. 426 U.S. at 83, 84; *see Fiallo v. Bell*, 430 U.S. 787, 793 (1977) (describing the regulation of aliens as a political matter "largely immune from judicial control"). The specific findings and reference to the intent in adopting the new provisions of title V make clear the policy judgment that alien terrorists should be treated as a separate class of aliens and that this choice should not be disturbed by the courts.

Sec. 502 (Special Removal Hearing)

Section 502 sets out the procedure for the special removal hearing. *Section 502(a)* provides that whenever the Department of Justice determines to use the special removal process it must submit a written application to the special court (established pursuant to section 503) for an order authorizing such procedure. Each application must indicate that the Attorney General or Deputy Attorney General has apoproved its submission and must include the identity of the department attorney making the application, the identity of the alien against whom removal proceedings are sought, and a statement of the facts and circumstances relied upon by the Department of Justice as justifying the belief that the subject is an alien terrorist and that following normal deportation procedures would "pose a risk to the national security of the United States, adversely affect foreign relations, reveal an investigative technique important to efficient law enforcement, or disclose a confidential source of information."

Section 502(b) provides that applications for special removal proceedings shall be filed under seal with the special court established pursuant to section 503. At or after the time the application is filed, the Attorney General may take the subject alien into custody. The Attorney General's authority to retain the alien in custody is governed by the provisions of new title V which, as explained below, provide in certain circumstances for the release of the alien.

Although title V does not require the Attorney General to take the alien subjects of special removal applications into custody, it is expected that most such aliens will be apprehended and confined. The Attorney General's decision whether to take such aliens into custody will not be subject to judicial review. Subsequent provisions (section 504(a)) authorize the Attorney General to retain custody of alien terrorists who have been ordered removed until such aliens can be physically delivered outside our borders.

Section 502(c) provides that special removal applications shall be considered by a single Article III judge in accordance with section 503. In each case, the judge shall hold an *ex parte* hearing to receive and consider the written information provided with the application and such other evidence, whether documentary or testimonial in form, as the Department of Justice may proffer. The judge shall grant an *ex parte* order authorizing the special removal hearing as provided under title V if the judge finds that, on the basis of the information and evidence presented, there is probable cause to believe that the subject of the application is an alien who falls within the definition of alien terrorist and that adherence to the ordinary deportation procedures would impair national security, adversely affect foreign relations, reveal an important investigatory technique, or disclose a confidential source of information.

Section 502(d)(1) provides that in any case in which a special removal application is denied, the Department of Justice within twenty days may appeal the denial to the Court of Appeals for the Federal Circuit. In the event of a timely appeal, a confined alien may be retained in custody. When the Department of Justice appeals from the denial of a special removal application, the record of proceedings will be transmitted to the Court of Appeals under seal and the court will hear the appeal *ex parte*. Subsequent provisions (section 502(p)) authorize the Department of Justice to petition the Supreme Court for a writ of certiorari from an adverse appellate judgment.

Section 502(d)(2) provides that if the Department of Justice does not seek appellate review of the denial of a special removal application, the subject alien must be released from custody unless, as a deportable alien, the alien may be arrested and taken into custody pursuant to title II of the Immigration and Nationality Act. Thus, for example, when the judge finds that the special procedures of title V are unwarranted but the alien is subject to deportation as an overstay or for violation of status, the alien might be retained in custody but such detention would be pursuant to and governed by the provisions of title II.

Subsection 502(d)(3) provides that if a special removal application is denied because the judge finds no probable cause that the alien has engaged in terrorist activities, the alien must be released from custody during the pendency of an appeal by the government. However, section 502(d)(3) is similar to section 502(d)(2) in that it provides for the possibility of continued detention in the case of aliens who otherwise are subject to deportation under title II of the Act.

Section 502(d)(4) applies to cases in which the judge finds probable cause that the subject of a special removal application has been correctly identified as an alien terrorist, but fails to find probable cause that use of the special procedures are necessary for reasons of national security, foreign relations, or the protection of law enforcement techniques or confidential sources of information, and the Department of Justice determines to appeal. A finding that the alien has engaged in terrorist activity—a ground for deportation that would support confinement under title II of the Act—justifies retaining the alien in custody. Nevertheless, section 502(d)(4) provides that the judge must determine the question of custody based upon an assessment of the risk of flight and the danger to the community or individuals should the alien be released. The judge shall release the alien subject to the least restrictive condition(s) that will reasonably assure the alien's appearance at future proceedings, should the government prevail on its appeal, and will not endanger the community or individual members thereof. The possible release conditions are those authorized under the Bail Reform Act of 1984, 18 U.S.C. 3142 (b) and (c), and range from release on personal recognizance to release on execution of a bail bond or release limited to certain places or periods of time. As with the referenced provisions of the Bail Reform Act, the judge may deny release altogether upon determining that no condition(s) of release would assure the alien's future appearance and community safety.

Section 502(e)(1) provides that in cases in which the special removal application is approved, the judge must then consider separately each piece of evidence that the Department of Justice proposes to introduce *in camera* at the special removal hearing. The judge shall authorize the *in camera* introduction of any item of evidence which, if introduced in open court or in ordinary deportation proceedings, "would pose a risk to the national security of the United States, adversely affect foreign relations, reveal an investigative technique important to efficient law enforcement, or disclose a confidential source of information." The same standard applies both to justify the convening of a special removal hearing and to support the *in camera* introduction of specific items of evidence because a central purpose of the special procedures is to allow the secure use of sensitive, confidential information.

Section 502(e)(1) also provides that with respect to any evidence authorized to be introduced *in camera*, the judge must consider how the alien subject to the proceedings is to be advised regarding such evidence. *Section 502(e)(1)(A)* provides that the judge shall sign and the Department of Justice shall provide to the alien a summary of the *in camera* evidence that the government plans to introduce at the special removal hearing. The summary is to be sufficient to inform the alien of the general nature of the evidence that he has engaged in terrorist activity, "and to permit the alien to marshal the facts and prepare a defense," but the summary "shall not pose a risk to the national security, adversely affect foreign relations, reveal an investigative technique important to efficient law enforcement, or disclose a confidential source." In considering the summary to be provided to the alien of the government's proffered evidence, it is intended that the judge balance the alien's interest in having an opportunity to hear and respond to the case against him against the government's extraordinarily strong interest in protecting the national security, foreign relations, important investigative techniques, and confidential sources of information.

Section 502(e)(1)(B) deals with the extraordinary situation in which the alien cannot safely be provided with any summary of the government's *in camera* evidence. It provides that "if necessary to prevent serious harm to the national security or death or serious bodily injury to any person," the notice to the alien may consist of a statement that, pursuant to such provisions, no summary of the evidence will be provided.

Subparagraphs (A) and (B) of section 502(e)(1) must be considered in conjunction with each other. For example, if the Department of Justice has evidence from a confidential source that the alien has been involved in a plot to sabotage Dulles Airport, the summary under (e)(1)(A) might characterize the evidence without identifying the source. If even alluding to the sabotage plot would threaten disclosure of the source, the provisions of (e)(1)(B) might apply. Similarly, if even a cursory description of the government's *in camera* evidence would threaten serious harm to national security or threaten death or serious bodily injury, (e)(1)(B) would apply and the alien would be told that no summary of the government's proffer regarding his involvement in terrorism was possible.

It is anticipated that section 502(e)(1)(B) will only rarely be used and that usually it will be possible to provide the alien with notice of at least the general nature of the circumstances giving rise to the removal proceedings. However, it is not intended that (e)(1)(B) be avoided because it might be possible by other means to reduce the risk threatened by providing the alien with a summary of the *in camera* evidence. For example, if any summary of the evidence threatens the death of an informant, the judge should direct that no summary need be provided. The judge in such a case should not order a summary on the grounds that the informant might be provided with guards or other protection against the threatened harm.

Section 502(e)(2) provides that, in certain situations, the Department of Justice may take an interlocutory appeal to the Court of Appeals for the Federal Circuit from the judge's rulings regarding the *in camera* admission and summarization of particular items of evidence. Interlocutory appeal is authorized if the judge rules that a piece of evidence may not be introduced *in camera;* if the Department disagrees with the judge regarding the wording of an evidence summary (that is, if the Department believes that the summary will compromise national security, foreign relations, investigatory techniques, or a confidential source); or if the judge rules that a summary must be provided and the Department contends that any summary would threaten national security or result in death or serious bodily injury. Because the alien is to remain in custody during such an appeal, the Court of Appeals must hear the matter as expeditiously as possible. When the Department appeals, the entire record must be transmitted to the Court of Appeals under seal and the court shall hear the matter *ex parte*.

Section 502(f) provides that in any case in which the Department's application is approved, the court shall order a special removal hearing for the purpose of determining whether the alien in question has engaged in terrorist activity. Subsection (f) provides that "[i]n accordance with subsection (e), the alien shall be given reasonable notice of the nature of the charges against him." This cross-reference is intended to make clear that subsection (f) is not to be construed as requiring that information be given to the alien about the nature of the charges if such information would reveal the matters that are to be introduced *in camera*. The special removal hearing must be held as expeditiously as possible.

Section 502(g) provides that the special removal hearing shall be held before the same judge who approved the Department of Justice's application therefor unless the judge becomes unavailable due to illness or disability.

Section 502(h) sets out the rights to be afforded to the alien at the special removal hearing. The hearing shall be open to the public, the alien shall have the right to be represented by counsel (at government expense if he cannot afford representation), and to introduce evidence in his own behalf. Except as provided in section 502(j) regarding presentation of evidence *in camera*, the alien also shall have a reasonable opportunity to examine the evidence against him and to cross-examine adverse witnesses. As in the case of administrative proceedings under the INA and civil proceedings generally, the alien may be called as a witness by the Department of Justice. A verbatim record of the proceedings and of all evidence and testimony shall be kept.

Section 502(i) provides that either the alien or the government may request the issuance of a subpoena for witnesses and documents. A subpoena request may be made *ex parte*, except that the judge must inform the Department of Justice where the subpoena sought by the alien threatens disclosure of evidence or the source of evidence which the Department of Justice has introduced or proffered for introduction *in camera*. In such cases, the Department of Justice shall be given a reasonable opportunity to oppose the issuance of a subpoena and, if necessary to protect the confidentiality of the evidence or its source, the judge may, in his discretion, hear such opposition *in camera*. A subpoena under section 502(i) may be served anywhere in the United States. Where the alien shows an inability to pay for the appearance of a necessary witness, the court may order the costs of the subpoena and witness fee to be paid by the government from funds appropriated for the enforcement of title II of the INA. Section 502(i) states that it is not intended to allow the alien access to classified information.

Section 502(j) provides that any evidence which has been summarized pursuant to section 502(e)(1)(A) or for which no summary is possible as provided in section 502(e)(1)(B) may be introduced into the record, in documentary or testimonial form, *in camera*. While the alien and members of the public would be aware that evidence was being submitted *in camera*, neither the alien nor the public would be informed of the nature of the evidence except as set out in section 502(e). For example, if the Department of Justice sought to present *in camera* evidence through live testimony, the courtroom could be cleared of the alien, his counsel, and the public while the testimony is presented. Alternatively, the court might hear the testimony in chambers attended by only the reporter, the government's counsel, and the witness. In the case of documentary evidence, sealed documents could be presented to the court without examination by the alien or his counsel (or access by the public).

While the Department of Justice does not have to present evidence *in camera*, even if it previously has received authorization to do so, it is contemplated that ordinarily much of the government's evidence (or at least the crucial portions thereof) will be presented in this fashion rather than in open court. The right to present evidence *in camera* was determined in the *ex parte* proceedings before the court pursuant to subsections (a) through (c) of section 502.

Section 502(k) provides that evidence introduced in open session or *in camera* may include all or part of the information that was presented at the earlier *ex parte* proceedings. If the evidence is to be introduced *in camera*, the attorney for the Department of Justice could refer the judge to such evidence in the transcript of the *ex parte* hearing and ask that it be considered as evidence at the removal hearing itself. The Department might present evidence in open court rather than *in camera* as a result of changed circumstances, for example, where the informant whose life was at risk had died before the hearing or if the Department believes that a public presentation of the evidence might have a deterrent effect on other terrorists. In any event, once the Department of Justice has received authorization to present evidence *in camera*, its decision whether to do so is purely discretionary and is not subject to review at the time of the special removal hearing.

Section 502(l) provides that following the introduction of evidence, the attorney for the Department of Justice and the attorney for the alien shall be given fair opportunity to present argument as to whether the evidence is sufficient to justify the alien's removal. At the judge's discretion, *in camera* argument by the Department of Justice attorney may be heard regarding evidence received *in camera*.

Section 502(m) provides that the Department of Justice has the burden of showing that the evidence is sufficient. This burden is not satisfied unless the Department establishes by clear and convincing evidence—the standard of proof applicable in a deportation hearing—that the alien has engaged in terrorist activity. If the judge finds that the Department has met that burden, the judge must order the alien removed. In cases in which the alien has been shown to have engaged in terrorist activity, the judge has no authority to decide that removal would be unfair or is otherwise unwarranted.

Section 502(n)(1) provides that the judge must render his decision as to the alien's removal in the form of a written order. The order must state the facts found and the conclusions of law reached, but shall not reveal the substance of any evidence received *in camera*.

Section 502(n)(2) provides that either the alien or the Department of Justice may appeal the judge's decision to the Court of Appeals for the Federal Circuit. Any such appeal must be filed within twenty days, and during this period the order shall not be executed. Information received *in camera* at the special removal hearing shall be transmitted to the Court of Appeals under seal. The Court of Appeals must hear the appeal as expeditiously as possible.

Section 502(n)(3) sets out the standard of review for proceedings in the Court of Appeals. Questions of law are to be reviewed *de novo*, but findings of fact may not be overturned unless clearly erroneous. This is the usual standard in civil cases.

Section 502(o) provides that in cases in which the judge decides that the alien should not be removed, the alien must be released from custody. There is an exception for aliens who may be arrested and taken into custody pursuant to title II of the INA as aliens subject to deportation. For such aliens, the issues of release and/or circumstances of contained detention would be governed by the pertinent provisions of the INA.

Section 502(p) provides that following a decision by the Court of Appeals, either the alien or the government may seek a writ of certiorari in the Supreme Court. In such cases, information submitted to the Court of Appeals under seal shall, if transmitted to the Supreme Court, remain under seal.

Sec. 503 (Designation of Judges)

Section 503 establishes the special court to consider terrorist removal cases under section 502, patterned on the special court created under the Foreign Intelligence Surveillance Act, 50 U.S.C. 1801 *et seq. Section 503(a)* provides that the court will consist of five federal district court judges chosen by the Chief Justice of the United States from five different judicial circuits. One of these judges shall be designated as the chief or presiding judge. The presiding judge shall promulgate rules for the functioning of the special court. The presiding judge also shall be responsible for assigning cases to the various judges. *Section 503(c)* provides that judges shall be appointed to the special court for terms of five years, except for the initial appointments the terms of which shall vary from one to five years so that one new judge will be appointed each year. Judges may be reappointed to the special court.

Section 503(b) provides that all proceedings under section 502 are to be held as expeditiously as possible. Section 503(b) also provides that the Chief Justice, in consultation with the Attorney General and other appropriate officials, shall provide for the maintenance of appropriate security measures to protect the *ex parte* special removal applications, the orders entered in response to such applications, and the evidence received *in camera* sufficient to prevent disclosures which could compromise national security, foreign relations, investigative techniques, or confidential sources.

Sec. 504 (Miscellaneous Provisions)

Section 504 contains the title's miscellaneous provisions. *Section 504(a)* provides that following a final determination that the alien terrorist should be removed (that is, after the special removal hearing and completion of any appellate review), the Attorney General may retain the alien in custody (or if the alien was released, apprehend and place the alien in custody) until he can be removed from the United States. The alien is provided the right to choose the country to which he will be removed, subject to the Attorney General's authority to designate another country if the alien's choice would impair a United States treaty obligation (such as an obligation under an extradition treaty) or would adversely affect the foreign policy of the United States. If the alien does not choose a country or if he chooses a country deemed unacceptable, the Attorney General must make efforts to find a country that will take the alien. The alien may, at the Attorney General's discretion, be kept in custody until an appropriate country can be found, and the Attorney General shall provide the alien with a written report regarding such efforts at least once every six months. The Attorney General's determinations and actions regarding execution of the removal order are not subject to direct or collateral judicial review, except for a claim that continued detention violates the alien's constitutional rights. The alien terrorist shall be photographed and fingerprinted and advised of the special penalty provisions for unlawful return before he is removed from the United States.

Section 504(b) provides that, notwithstanding section 504(a), the Attorney General may defer the actual removal of the alien terrorist to allow the alien to face trial on any State or federal criminal charges (whether or not related to his terrorist activity) and, if convicted, to serve a sentence of confinement. Section 504(b)(2) provides that pending the service of a State or federal sentence of confinement, the alien terrorist is to remain in the Attorney General's custody unless the Attorney General determines that the alien can be released to the custody of State authorities for pretrial confinement in a State facility without endangering national security or public safety. It is intended that where the alien terrorist could possibly secure pretrial release, the Attorney General shall not release the alien to a State for pretrial confinement. Section 503(b)(3) provides that if an alien terrorist released to State authorities is subsequently to be released from state custody because of an acquittal in the collateral trial, completion of the alien's sentence of confinement, or otherwise, the alien shall immediately be returned to the custody of the Attorney General who shall then proceed to effect the alien's removal from the United States.

Section 504(c) provides that for purposes of sections 751 and 752 of title 18 (punishing escape from confinement and aiding such an escape), an alien in the Attorney General's custody pursuant to this new title—whether awaiting or after completion of a special removal hearing—shall be treated as if in custody by virtue of a felony arrest. Accordingly, escape by or aiding the escape of an alien terrorist will be punishable by imprisonment for up to five years.

Section 504(d) Provides that an alien in the Attorney General's custody pursuant to this new title—whether awaiting or after completion of a special removal hearing—shall be given reasonable opportunity to receive visits from relatives and friends and to consult with his attorney. Determination of what is "reasonable" usually will follow the ordinary rules of the facility in which the alien is confined.

Section 504(d) also provides that when an alien is confined pursuant to this new title he shall have the right to contact appropriate diplomatic or consular officers of his country of citizenship or nationality. Moreover, even if the alien makes no such request, subsection (d) directs the Attorney General to notify the appropriate embassy of the alien's detention.

Sec. 725

This section of the bill sets out conforming amendments. First, section 106 of the INA, 8 U.S.C. 1105a, is amended to provide that appeals from orders entered pursuant to section 235(c) of the Act (pertaining to summary exclusion proceedings for alien spies, saboteurs, and terrorists) shall be to the Court of Appeals for the Federal Circuit. Thus, in cases involving alien terrorists the same court of appeals shall hear both exclusion and deportation appeals and will develop unique expertise concerning such cases.

Second, section 276 of the INA, 8 U.S.C. 1326, is amendment to add increased penalties for an alien entering or attempting to enter the United States without permission after removal under the new title or exclusion under section 235(c) for terrorist activity. For aliens unlawfully re-entering or attempting to re-enter the United States, the section presently provides for a fine pursuant to title 18 and/or imprisonment for up to two years (five years when the alien has been convicted of a felony in the United States, or 15 years when convicted of an "aggravated felony"); the bill increases to a mandatory ten years the term of imprisonment for re-entering alien terrorists.

Finally, section 106 of the INA, 8 U.S.C. 1105a, is amended to strike subsection (a)(9) regarding habeas corpus review of deportation orders. Originally enacted in 1961 to make clear that the exclusive provision for review of final deportation orders through petition to the courts of appeals was not intended to extinguish traditional writs of habeas corpus in cases of wrongful detention, the subsection has been the source of confusion and duplicative litigation in the courts. Congress never intended that habeas corpus proceedings be an alternative to the process of petitioning the courts of appeals for review of deportation orders. Elimination of subsection (a)(9) will make clear that any review of the merits of a deportation order or the denial of relief from deportation is available only through petition for review in the courts of appeals, while leaving unchanged the traditional writ of habeas corpus to examine challenges to detention arising from asserted errors of constitutional proportions.

Sec. 726

This section provides that the new provisions are effective upon enactment and "apply to all aliens without regard to the date of entry or attempted entry into the United States." Aliens may not avoid the special removal process on the grounds that either their involvement in terrorist activity or their entry into the United States occurred before enactment of the new title. Upon enactment, the new title will be available to the Attorney General for removal of any and all alien terrorists.

D. Terrorism Offenses and Sanctions

Sec. 731. Torture

This section contains the necessary legislation to implement the United Nations Convention Against Torture and Other Cruel Inhumane or Degrading Treatment or Punishment. The Senate gave its advice and consent to the Convention on October 27, 1990, after making several reservations, understandings and declarations. The United States will not become a party to the Convention until the necessary implementing legislation is enacted. The legislation creates a new chapter 113B (Torture) in title 18, United States Code. The new chapter is composed of three sections. Section 2340 contains the definitions for "torture," "severe mental pain or suffering," and "United States." The definition of torture emanates directly from article 1 of the Convention. The definition for "severe mental pain or suffering" incorporates the understanding made by the Senate concerning this term. The term "United States" is defined to encompass the requirements of paragraph (1)(a) of article 5 of the Convention.

Section 2340A creates the federal offense of torture committed outside the United States and establishes appropriate penalties taking into account the grave nature of the offense. The penalty provision contains a death penalty when death results from the prohibited conduct. The section applies only to acts of torture committed outside the United States. Since "United States" is defined to include any registered United States aircraft or ship, the provision is not applicable to these particular conveyances when they are outside of the geographical territory of the United States. These places would, as would acts of torture committed within the United States, be covered by existing applicable federal and state statutes. Under section 2340A(b)(1) there is federal jurisdiction when a national of the United States commits an act of torture overseas (*i.e.*, outside the territorial jurisdiction of the United States as defined in section 2340(3)). This jurisdiction is mandated by paragraph 1(b) of article 5 of the Convention. There is also federal jurisdiction under section 2340A(b) when an offender who committed an act of torture outside the United States is subsequently found in the United States. Federal jurisdiction is necessary in this instance in order to comply with paragraph 2 of article 5 of the Convention should the United States decide not to extradite the perpetrator under paragraph 1 of article 7 of the Convention.

Section 2340B makes it clear that the new federal provision on torture is intended to supplement existing state law and not to supplant it. Consistent with the Senate's understanding pertaining to article 14 of the Convention, the legislation does not create any private right of action for acts of torture committed outside the territory of the United States.

Sec. 732. Use of Weapons of Mass Destruction

This section creates a new offense for the use or attempted use of weapons of mass destruction within the United States, or against a national of the United States or property of the United States anywhere. The death penalty is authorized if death results.

Weapons of mass destruction are defined to include destructive devices, poison gas, weapons involving disease organisms, and weapons releasing radiation or radioactivity at a level dangerous to human life. "Destructive devices" has the meaning given in 18 U.S.C. 921(a)(4), and generally includes bombs, grenades, rockets and missiles, mines, and artillery.

Sec. 733. Homicides and Attempted Homicides Involving Firearms in Federal Facilities

This section adds a provision to 18 U.S.C. 930 to proscribe and punish killings and attempted killings occurring in the course of attacks within or against federal facilities that involve firearms or other dangerous weapons. The death penalty is authorized if death results.

Sec. 734. Providing Material Support for Terrorists

This section creates a new offense of providing material support or resources, or concealing the nature, location, source or ownership of material support or resources, for various terrorist-related offenses.

As a result of international pressures against states which provide support to international terrorists, some terrorist groups have been seeking other means of financing and support, such as raising funds from sympathizers or establishing front companies. The offense created by this section is intended to prevent such activities and other activities in support of the specified offenses, and also to encourage other nations to take similar steps to curb the flow of financial assets to terrorists.

Sec. 735. Addition of Terrorist Offenses to the RICO Statute

Section 735 adds to the Racketeer Influenced and Corrupt Organizations (RICO) statute certain federal violent crimes relating to murder and destruction of property. These are the offenses most often committed by terrorists. While most murders committed within the United States are encompassed as predicate acts for the RICO statute by section 1961(1)(A) of title 18, United States Code, in that they may be a murder under state law, RICO does not presently reach most terrorist acts directed against United States interests overseas. Hence, this section adds to RICO the most likely extraterritorial violations of federal law whose commission by terrorists can be anticipated.

While prosecution of terrorists is always a difficult task, the availability of RICO as a prosecutive tool may be appropriate in a few rare situations where the enterprise used to commit the terrorist activity has sufficient assets which can be forfeited under the RICO statute. Subsection (c) amends the definition of "pattern of racketeering activity" so that it does not require a pecuniary purpose when all of the predicate offenses are crimes of violence. This construction is necessary because often terrorist groups commit their crimes for political reasons not always involving financial gain for themselves or their members. A few federal cases, *e.g. U.S.* v. *Ivic*, 700 F.2d 51 (2d Cir. 1983) and *U.S.* v. *Bagaric*, 706 F.2d 42 (2d Cir. 1983), have suggested the necessity of some mercenary motive for a RICO enterprise. This provision eliminates any such requirement for those enterprises engaging in a pattern of purely violent crimes. The term "crime of violence" is defined in 18 U.S.C. § 16.

Sec. 736. Forfeiture for Terrorist and Other Violent Acts

This section makes changes to chapter 46 of title 18, United States Code. It creates the following two new sections: (1) section 983 which deals with civil forfeiture of property used to commit violent acts; and (2) section 984 which deals with criminal forfeiture of property used to commit violent acts.

Section 983 is especially broad as it covers property "used or intended for use to commit *or facilitate the commission of* a violent act." It excludes property of an innocent owner and adopts the custom laws relating to forfeiture. Section 984 creates a criminal forfeiture for those convicted of violent acts. It adopts the criminal forfeiture procedures of the Comprehensive Drug Abuse Prevention and Control Act of 1970. Criminal forfeiture is provided to facilitate economy of judicial resources as both the conviction and forfeiture can be conducted in one proceeding.

Sec. 737. Enhanced Penalties for Certain Offense

This section provides enhanced penalties for a number of offenses to help combat terrorism. The offenses for which penalties are increased include violations of the International Emergency Economic Powers Act, and the misuse of passport and travel documents provisions.

Sec. 738. Sentencing Guidelines Increase for Terrorist Crimes

This section directs the Sentencing Commission to increase the penalties for offenses that involve or are intended to promote international terrorism.

E. Antiterrorism Enforcement Provisions

Sec. 741. Aliens Cooperating in Terrorist or Other Investigations

This section authorizes the Attorney General to grant permanent resident status for aliens in the interest of national security or for alien witnesses who cooperate in the prosecution of international terrorism and other cases. This amendment is needed to address the serious problem that the Department of Justice has been experiencing in inducing foreign witnesses to testify at federal trials against international terrorists and drug traffickers. Without the ability to remain in the United States, alien witnesses frequently refuse to cooperate with U.S. prosecutors because upon return to their homelands they are exposed to retaliation for such cooperation. Section 741 authorizes the Attorney General to grant permanent resident status for cooperating alien witnesses and their immediate families, with the number of aliens granted such status limited to 200 in any one year.

Sec. 742. Amendment to the Alien Enemy Act

Section 21 of the Alien Enemy Act, 50 U.S.C. 21, gives the President broad authority over the detention and removal from the United States of aliens from a country at war with the United States or from a country that has threatened an incursion into United States territory. The current Persian Gulf crisis demonstrates that the United States can also be subjected to serious threats of terrorist attacks from citizens of other countries. The Alien Enemy Act, however, does not now clearly extend to aliens from these other countries. This amendment makes clear that the provisions of the Alien Enemy Act may be invoked against citizens of other nations who threaten predatory incursions against the United States as well as against citizens of the hostile nation.

Sec. 743. Counterintelligence Access to Telephone Records

This section would permit the FBI to obtain subscriber information from a communications service provider upon certification of the Director, FBI (or his designee) to the service provider that the facility was utilized to contact a foreign power or an agent of a foreign power as defined by section 101 of the Foreign Intelligence Surveillance Act of 1978.

Sec. 744. Counterintelligence Access to Credit Records

This section would provide the FBI with new authority to request consumer reports and identifying information from consumer reporting agencies on persons who are subjects of foreign counterintelligence investigations, without having such reports being made known to the subject. It is similar to the authority contained in section 314 of the Right to Financial Privacy Act of 1979, giving the FBI authority to access financial records covered by that statute for foreign counterintelligence purposes. The Director, FBI would have to certify that the report relates to an agent of a foreign power or is otherwise necessary in connection with an authorized foreign counterintelligence investigation.

The existing statute authorizes consumer reporting agencies to provide consumer reports only with the written consent of the consumer, or to persons who intend to use the information for a variety of specified purposes (e.g., for employment, in connection with a credit transaction). In other words, while use in a foreign counterintelligence investigation is not a specified use, the uses that are specified are quite broad, suggesting a rather marginal guarantee of privacy. The proposed amendment would prohibit disclosure to the consumer (which otherwise is required) of the fact that the request was made or information obtained.

Sec. 745. Authorization for Interceptions of Communications

This section adds additional crimes to the list of Title III predicate offenses for interception of wire, oral and electronic communications. The offenses added include violations of the International Emergency Economic Powers Act, the Export Administration Act, the Trading with the Enemy Act, the Neutrality Act, and a number of other anti-terrorism provisions.

Sec. 746. Participation of Foreign and State Government Personnel in Interceptions of Communications

This section would amend 18 U.S.C. 2815(5) to make clear that foreign and state government personnel, if acting under federal supervision, may help in conducting court-authorized interception. The current language in the statute permits such assistance by "Government personnel," but it is doubtful whether this covers foreign and state government personnel as opposed to federal employees.

There is often great utility in permitting foreign and state government personnel to assist in monitoring a wiretap, such as in joint investigations involving terrorist or other offenses in which the particular, language skills of such personnel are necessary. Currently, federal agencies such as the FBI may employ such personnel through the cumbersome device of cross-designating them as federal agents. See *United States.* v. *Bynum*, 763 F.2d 477 (1st Cir. 1985). The paperwork involved in such methods is burdensome and costly, with no corresponding benefit to privacy or other interests served by the statutes. It would be far more efficient, and consistent with the purpose of the 1986 amendment adding "Government personnel" to 18 U.S.C. 2815(5), if that provision expressly authorized foreign or state government personnel, acting under the supervision of a federal officer, to participate in the conduct of a Title III interception. Section 746 would effect this result.

Sec. 747. Disclosure of Intercepted Communications to Foreign Law Enforcement Agencies

There has been a dramatic increase in recent years in the amount of international law enforcement interaction, necessitated by an increasingly sophisticated and active international criminal element. This has created a need for authority to disclose information obtained through electronic surveillance to foreign law enforcement agencies, in order to address effectively international criminal activity, including international terrorism.

This section accordingly augments the definition of "investigative or law enforcement officer" in 18 U.S.C. 2510(7), for purposes of 18 U.S.C. 2517(1)-(2), so as to include foreign law enforcement officers. This would permit disclosure of intercepted communications to, and use of intercepted communications by, such officers in furtherance and the performance of their duties as provided in 18 U.S.C. 2517(1)-(2).

Sec. 748. Extension of Statute of Limitations for Certain Terrorism Offenses

This section extends the statute of limitations to ten years for certain offenses that are likely to be committed by terrorists overseas. Because of the difficulty in gaining sufficient evidence to prosecute overseas offenses, the extension of the statute of limitations is necessary to better ensure that international terrorists will be brought to justice. Of course, if the offense included within any of the listed statutes is a capital offense, no statute of limitations exists (18 U.S.C. 3281).

VIII. SEXUAL VIOLENCE AND CHILD ABUSE

Sec. 801. Admissibility of Evidence of Similar Crimes in Sexual Assault and Child Molestation Cases

In cases where the defendant is accused of committing an offense of sexual assault or child molestation, courts in the United States have traditionally favored the broad admission at trial of evidence of the defendant's prior commission of similar crimes. The contemporary edition of Wigmore's treatise describes this tendency as follows (IA Wigmore's *Evidence* §62.2 (Tillers rev. 1983)):

"[T]here is a strong tendency in prosecutions for sex offenses to admit evidence of the accused's sexual proclivities. Do such decisions show that the general rule against the use of propensity evidence against an accused is not honored in sex offense prosecutions? We think so.

"[S]ome states and courts have forthrightly and expressly recogniz[ed] a "lustful disposition" or sexual proclivity exception to the general rule barring the use of character evidence against an accused. . . . [J]urisdictions that do not expressly recognize a lustful disposition exception may effectively recognize such an exception by expansively interpreting in prosecutions for sex offenses various well-established exceptions to the character evidence rule. The exception for common scheme or design is frequently used, but other exceptions are also used."

More succinctly, the Supreme Court of Wyoming observed in *Elliot* v. *State*, 600 P. 2d 1044, 1047-48 (1979):

"[I]n recent years a preponderance of the courts have sustained the admissibility of the testimony of third persons as to prior or subsequent similar crimes, wrongs or acts in cases involving sexual offenses. . . . [I]n cases involving sexual assaults, such as incest, and statutory rape with family members as the victims, the courts in recent years have almost uniformly admitted such testimony."

The willingness of the courts to admit similar crimes evidence in prosecutions for serious sex crimes is of great importance to effective prosecution in this area, and hence to the public's security against dangerous sex offenders. In a rape prosecution, for example, disclosure of the fact that the defendant has previously committed other rapes is frequently critical to the jury's informed assessment of the credibility of a claim by the defense that the victim consented and that the defendant is being falsely accused.

The importance of admitting this type of evidence is still greater in child molestation cases. Such cases regularly present the need to rely on the testimony of child victim-witnesses whose credibility can readily be attacked in the absence of substantial corroboration. In such cases, the public interest in admitting all significant evidence that will illumine the credibility of the charge and any denial by the defense is truly compelling.

Notwithstanding the salutary tendency of the courts to admit evidence of other offenses by the defendant in such cases, the current state of the law in this area is not satisfactory. The approach of the courts has been characterized by considerable uncertainty and inconsistency. Not all courts have recognized the area of sex offense prosecutions as one requiring special standards or treatment, and those which have adopted admission rules on varying scope and rationale.

Moreover, even where the courts have traditionally favored admission of "similar crimes evidence" in sex offense prosecutions, the continuation of this approach has been jeopardized by recent developments. These developments include the widespread adoption by the states of codified rules of evidence modeled on the Federal Rules of Evidence, which make no special allowance for admitting similar crimes evidence in sex offense cases. They also include the limitation of evidence of other sexual activity by the *victim* under "rape victim shield laws," which has given rise to an argument that it would be unfair or inappropriate to be more permissive in admitting evidence of the commission of other sex crimes by the defendant.

Section 801 of title VIII would amend the Federal Rules of Evidence to ensure an appropriate scope of admission for evidence of similar crimes by defendants accused of serious sex crimes. The section adds three new Rules (proposed Rules 413, 414, and 415), which state general rules of admissibility for such evidence. The proposed new rules would apply directly in federal cases, and would have broader significance as a potential model for state reforms.

The remainder of this explanation of section 801 is set out in several parts. Part A briefly discusses the meaning and operation of the proposed new rules of evidence. Part B sets out the background of these rules in terms of the historical development and contemporary formulation of the rules of evidence, and explains why legislation addressing this issue is particularly critical at this point in time. Part C discusses the adequacy of the formulation of the proposed rules to meet concerns about the possibility of undue prejudice or other unfairness to defendants, and sets out affirmative considerations supporting the rules. Part D responds to the argument that "rape victim shield laws," which limit admission of evidence of other acts by the victim, entail a like restriction on admission of similar crimes evidence in relation to the defendant. Part E responds to other objections that might be raised to the proposal.

A. The Proposed Rules

Proposed Rule 413 relates to criminal prosecutions for sexual assault. Paragraph (a) provides that evidence of the defendant's commission of other sexual assaults is admissible in such cases. If such evidence were admitted under the Rule, it could be considered for its bearing on any matter to which it is relevant. For example, it could be considered as evidence that the defendant has the motivation or disposition to commit sexual assaults, and a lack of effective inhibitions against acting on such impulses, and as evidence bearing on the probability or improbability that the defendant was falsely implicated in the offense of which he is presently accused. These grounds of relevance are more fully discussed in part C infra.

Paragraph (b) of proposed Rule 413 generally requires pre-trial disclosure of evidence to be offered under the Rule. This is designed to provide the defendant with notice of the evidence that will be offered, and a fair opportunity to develop a response. The Rule sets a normal minimum period of 15 days notice, but the court could allow notice at a later time for good cause, such as later discovery of evidence admissible under the rule. In such a case, it would, of course, be within the court's authority to grant a continuance if the defense needed additional time for preparation.

Paragraph (c) makes clear that proposed Rule 413 is not meant to be the exclusive avenue for introducing evidence of other crimes by the defendant in sexual assault prosecutions, and that the admission and consideration of such evidence under other rules will not be limited or impaired. For example, evidence that could be offered under proposed Rule 413 will often be independently admissible for certain purposes under Rule 609 (impeachment) or Rule 404(b) (evidence of matters other than "character").

Paragraph (d) defines the term "offense of sexual assault." The definition would apply both in determining whether a currently charged federal offense is an offense of sexual assault for purposes of the Rule, and in determining whether an uncharged offense qualifies as an offense of sexual assault for purposes of admitting evidence of its commission under the Rule. The definition covers federal and state offenses involving the types of conduct prohibited by the chapter of the criminal code relating to sexual abuse (chapter 109A of title 18, U.S. Code) in light of subparagraph (1), and other federal and state offenses that satisfy the general criteria set out in subparagraphs (2)–(5).

Rule 414 concerns criminal prosecutions for child molestation. Its provisions are parallel to those of the sexual assault rule (Rule 413), and should be understood in the same sense, except that the relevant class of offenses is child molestations rather than sexual assaults. The definition of child molestation offenses set out in paragraph (d) of this Rule differs from the corresponding definition of sexual assault offenses in Rule 413 in that (1) it provides that the offense must be committed in relation to a child, defined as a person below the age of fourteen, (2) it includes the child exploitation offenses of chapter 110 of the criminal code within the relevant category, and (3) it does not condition coverage of offenses on a lack of consent by the child-victim.

Rule 415 applies the same rules to civil actions in which a claim for damages or other relief is predicated on the defendant's alleged commission of an offense of sexual assault or child molestation. Evidence of the defendant's commission of other offenses of the same type would be admissible, and could be considered for its bearing on any matter to which it is relevant.

B. Background in the Law of Evidence

The common law has traditionally limited the admission of evidence of a defendant's commission of offenses other than the particular crime for which he is on trial. This limitation, however, has never been absolute. The Supreme Court has summarized the general position of the common law on this issue as follows:

"Alongside the general principle that prior offenses are inadmissible, despite their relevance to guilt . . . the common law developed broad, vaguely defined exceptions—such as proof of intent, identify, malice, motive, and plan—whose application is left largely to the discretion of the trial judge. . . . In short, the common law, like our decision in [*Spencer* v. *Texas*], implicitly recognized that any unfairness resulting from admitting prior convictions was more often than not balanced by its probative value and permitted the prosecution to introduce such evidence without demanding any particularly strong justification. (*Marshall* v. *Lonberger*, 459 U.S. 422, 438–39 n.6 (1983))."

The Federal Rules of Evidence—which went into effect in 1975—follow the general pattern of traditional evidence rules, in that they reflect a general presumption against admitting evidence of uncharged offenses, but recognize various exceptions to this principle. One exception is set out in Rule 609. Rule 609 incorporates a restricted version of the traditional rule admitting, for purposes of impeachment, evidence of a witness's prior conviction for felonies or crimes involving dishonesty or false statement. The other major provision under which evidence of uncharged offenses may be admitted is Rule 404(b). That rule provides that such evidence is not admissible for the purpose of proving the "character" of the accused, but that it may be admitted as proof concerning any non-character issue:

(b) Other crimes, wrongs, or acts. Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.

Rule 404(b), however, makes no special allowance for admission of evidence of other "crimes, wrongs, or acts" in sex offense prosecutions. There was perhaps little reason for the framers of the Federal Rules of Evidence to focus on this issue, since sex offense prosecutions were not, at the time, a significant category of federal criminal jurisdiction.

This omission has been widely reproduced in codified state rules of evidence, whose formulation has been strongly influenced by the Federal Rules. The practical effect of this development is that the authority of the courts to admit evidence of uncharged offenses in prosecutions for sexual assaults and child molestations has been clouded, even in states that have traditionally favored a broad approach to admission in this area.

The actual responses of the courts to this development have varied. For example, in *State v. McKay*, 787 P.2d 479 (Or. 1990), in which the defendant was accused of molesting his stepdaughter, the court admitted evidence of prior acts of molestation by the defendant against the girl. The court reached this result by stipulating that evidence of a predisposition to commit sex crimes against the victim of the charged offense was not evidence of "character" for purposes of the state's version of Rule 404(b), although it apparently would have regarded evidence of a general disposition to commit sex crimes as impermissible "character" evidence.

In *Elliot v. State*, 600 P. 2d 1044 (1979), the Supreme Court of Wyoming reached a broader result supporting admission, despite a state rule that was essentially the same as Federal Rule 404(b). This was also a prosecution for child molestation. Evidence was admitted that the defendant had attempted to molest the older sister of the victim of the charged offense on a number of previous occasions. The court reconciled this result with Rule 404(b) by indicating that proof of prior acts of molestation would generally be admissible as evidence of "motive"—one of the traditional "exception" categories that is explicitly mentioned in Rule 404(b). *Id.* at 1048–49.

In contrast, in *Getz v. State*, 538 A.2d 726 (1988), the Supreme Court of Delaware overturned the defendant's conviction for raping his 11 year old daughter because evidence that he had also molested her on other occasions was admitted. The court stated that "a lustful disposition or sexual propensity exception to [Rule] 404(b)'s general prohibitions . . . is almost universally recognized in cases involving proof of prior incestuous relations between the defendant and the complaining victim," but that "courts which have rejected this blanket exception have noted that in the absence of a materiality nexus such propensity evidence is difficult to reconcile with the restrictive language of [Rule] 404(b)." The court went on to hold that the disputed evidence in the case was impermissible evidence of character and could not be admitted under the state's Rule 404(b).

The foregoing decisions illustrate the increased jeopardy that the current formulation of the Federal Rules of Evidence has created for effective prosecution in sex offense cases. While the law in this area has never been a model of clarity and consistency, the widespread adoption of codified state rules based on the Federal Rules has aggravated its shortcomings. In jurisdictions that have such codified rules, the courts are no longer free to recognize straightforwardly the need for rules of admission tailored to the distinctive characteristics of sex offense cases or other distinctive categories of crimes. Important evidence of guilt may consequently be excluded in such cases.

Where the courts do admit such evidence, it may require a forced effort to work around the language and standard interpretation of codified rules that restrict admission, or may depend on unpredictable decisions by individual trial judges to allow admission under other "exception" categories. The establishment of clear, general rules of admission, as set out in proposed Rules 413–415, would resolve these problems under current law in federal proceedings, and would provide a model for comparable reforms in state rules of evidence.

C. Evidence of Motivation and Probability

Rules restricting the admission of evidence of uncharged misconduct by the defendant have traditionally been justified on two main grounds:

First, there is the concern over lack of fair notice to the defendant, if evidence of "bad acts" with which he has not formally been charged could freely be offered at trial. In the absence of limitations on such evidence, it has been argued, "a defendant could be confronted at trial with evidence implicating him in an unpredictable range of prior acts of misconduct extending over the whole course of his life, and would be denied a fair opportunity to prepare a defense to the accusations he would face at trial." *The Admission of Criminal Histories at Trial*, 22 U. Mich. J.L. Ref. 707, 728 (1989).

Second, there is the concern that evidence of other offenses or misconduct by the defendant is likely to be prejudicial or distracting, and that the potential for prejudice and distraction outweighs its probative value. Statements of this concern are sometimes accompanied by assertions that such evidence is of little probative value, merely being an indication of the defendant's "character." In light of the potential such evidence holds for prejudicing the defendant, it is argued, the general authority of the trial judge to exclude evidence that is unduly prejudicial or distracting (F.R.E. 403) is inadequate, and categorical rules of exclusion must be adopted for such evidence.

The first concern—relating to fair notice—can readily be answered in connection with proposed Rules 413–15. The Rules do not authorize an open-ended enquiry into all the "bad acts" the defendant may have committed in the course of his life, but only admit evidence of other serious criminal acts which are of the same type as the offense with which the defendant is formally charged. More importantly, the Rules specifically require prior disclosure to the defendant of the evidence that will be offered against him.

The second general concern about evidence of uncharged acts—a risk of prejudice or distraction that generally outweighs its probative value—is also adequately addressed by the limitations on the admission of evidence under the proposed rules. The rules do not admit evidence that merely indicates that the defendant is generally of "bad character," or even that he has a general disposition to engage in crime. Rather, to be admissible, the evidence must relate to other crimes by the defendant that are of the same type—sexual assault or child molestation—as the crime with which he is formally charged.

In general, the probative value of such evidence is strong, and is not outweighed by any overriding risk of prejudice. The relevance of such evidence will normally be apparent on at least two grounds—as evidence that the defendant has the motivation or disposition to commit such offenses, and as evidence of the improbability that the defendant has been falsely or mistakenly accused of the crime.

Evidence of Motivation. One of the traditional "exception" categories that hass been explicitly carried forward in F.R.E. 404(b) is admission of evidence of "other crimes, wrongs, or acts" to establish "motive." For example, in a prosecution for embezzlement, evidence may be admitted of other acts by the defendant which indicate that he was in financial straits, to show that he would have had a motive or committing a crime that offered monetary gain. Or in a prosecution for a hate crime—such as a lynching or assault with apparent racial motivation—evidence may be admitted of other acts by the defendant that manifest a general animosity towards the victim's racial group for the purpose of establishing motive.

The admissibility of evidence of similar crimes under the proposed new rules is analogous to the current "motive" exception, and is justifiable on similar grounds. The proposed sexual assault rule (Rule 413), as noted above, does not indiscriminately admit evidence of other bad things the defendant may have done, but only evidence of his commission of other criminal sexual assaults. In other words, the evidence must be of such a character as to indicate that the defendant has the unusual combination of aggressive and sexual impulses that motivates the commission of such crimes, and a lack of effective inhibitions against acting on such impulses.

Where there is evidence that the defendant has such impulses—and has acted on them in the past—a charge of sexual assault has far greater plausibility than if there were no evidence of such a disposition on the part of the defendant. *See generally The Admission of Criminal Histories at Trial*, 22 U. Mich. J.L. Ref. 707, 725–26 (1989). This seems to be the main point underlying the judicial decisions that have straightforwardly admitted evidence of similar crimes in sex offense cases as evidence of the defendant's "lustful disposition."

The case for admission on these grounds is equally strong, if not stronger, in child molestation cases. Evidence of other acts of molestation indicates that the defendant has a type of desire or impulse—a sexual or sadosexual interest in children—that simply does not exist in ordinary people. In such cases, the evidence is generally relevant as proof of "motive" in common sense terms, and admission could normally be sustained even under the current Rules on a sufficiently broad reading of the "motive" exception category. *See Elliott v. State*, 600 P.2d 1044, 1048–49 (Wyo. 1979).

Evidence of Improbability. Existing exceptions to the general presumption against admitting evidence of uncharged offenses are sometimes justified on grounds of probability (in Wigmore's terminology, the "doctrine of chances"). For example, one of the "exception" categories mentioned in F.R.E. 404(b) is for proof of "intent." Under this exception, evidence of similar crimes may be admitted to rebut a defense that the defendant engaged in allegedly criminal conduct accidentally, or otherwise lacked the state of mind required for its commission. The rationale commonly given for this exception is the probative value such evidence has on account of the inherent improbability that a person will innocently or inadvertently engage in similar, potentially criminal conduct on a number of different occasions. *See* Imwinkelried, *Uncharged Misconduct Evidence* § 5.05 (1984).

Probabilistic reasoning of this type is not limited to proof of the mental element of the offense, but may also be used to support the admission of evidence establishing the defendant's commission of the charged criminal conduct:

"[For example, suppose] that the defendant is charged with arson. The defendant claims that the fire was accidental. The cases routinely permit the prosecutor to show other acts of arson by the defendant and even nonarson fires at premises owned by the defendant. In these cases, the courts invoke the doctrine of chances. The courts reason that as the number of incidents increases, the objective probability of accident decreases. Simply stated, it is highly unlikely that a single person would be victimized by so many similar accidental fires in a short period of time. The coincidence defies common sense and is too peculiar. (Imwinkelried, *Uncharged Misconduct Evidence* § 4.01 (1984))."

Turning to the case of sex offense prosecutions, similar considerations of probability provide support for a general rule of admission for similar crimes evidence. It is inherently improbable that a person whose prior acts show that he is in fact a rapist or child molester would have the bad luck to be later hit with a false accusation of committing the same type of crime, or that a person would fortuitously be subject to multiple false accusations by a number of different victims. These points may be seen more clearly by considering the major elements of a sex offense prosecution.

In general, to obtain a conviction for a sexual assault, the government must prove that (1) the alleged sexual conduct actually took place, (2) the victim did not consent, (3) the defendant was the person who engaged in the conduct, and (4) the defendant acted with the culpable state of mind required for the commission of the offense. The elements in a child molestation case are similar, except that proof of non-consent by the victim is normally not required.

With respect to the third and fourth elements—the defendant's identity as the perpetrator and satisfaction of the mental element—similar crimes evidence will often be admissible even under a codified rule modeled on F.R.E. 404(b). Proof of "identity", and proof of "intent" or "knowledge," are explicitly mentioned as examples of permissible "non-character" uses of such evidence in the Rule.

In comparison, admission of such evidence on the first and second issues—the occurrence of the alleged act and the victim's lack of consent—is more problematic under a codified rule of this type. However, on these issues as well, similar crimes evidence is likely to have a high degree of probative value on grounds of probability.

For example, consider a case in which the defense attacks the victim's assertion that she did not consent, or represents that the whole incident was made up by the victim. Suppose further that there is practically conclusive evidence that the defendant has in fact committed one or more sexual assaults on other occasions, such as a prior conviction of the defendant on a charge of rape. In the presence of such evidence, the defense's claim of consent, or claim that the whole incident did not occur, would usually amount to a contention that the victim fabricated a false charge of rape against a person who just happened to be a rapist. The improbability of such a coincidence gives similar crimes evidence a high degree of probative value, and supports its admission, in such a case.

As a second example, consider a case like that described above, but with similar crimes evidence of a less conclusive character. For example, suppose the evidence is the testimony of another woman that the defendant raped her on a different occasion, though the defendant has not been prosecuted for that offense. In such a case, the defendant's alleged commission of rape on the earlier occasion, as well as his guilt of the presently charged offense, would be open to question.

Nevertheless, the "doctrine of chances" legitimately applies to such a case as well. If the defense concedes that the earlier rape occurred, then the case is essentially the same as the preceding one. If the defense disputes both the charged offense and the uncharged offense, this amounts to a claim that not just one but two women have made false charges of rape against the defendant. Here as well, the improbability of multiple false charges gives similar crimes evidence of high degree of probative value.

The force of the argument from improbability may be reduced if there is reason to believe that the formal charge and the accusation of an uncharged offense were not generated independently of each other. For example, where the identity of the offender is an issue, it may appear that a witness' identification of the defendant as the man who raped her could have been influenced by knowledge that the victim of the charged offense had previously identified the same man as her assailant.

In such a case, however, the defense would be free to bring out the possible connection of the charges, and the jury would consider that factor in assessing the significance of the evidence. Similar crimes evidence under the proposed rules is no different in this respect from other forms of regularly admissible evidence, whose normal probative force may also be reduced by special factors in some cases. In relation to evidence admissible under the proposed rules, as with other forms of evidence, the general standards of the Rules of Evidence and the processes of adversarial presentation and testing of evidence can properly be relied on to provide a fair picture of the relevant facts as the basis for the jury's decision.

D. The Import of Rape Victim Shield Laws

Within the past twenty years, virtually all American jurisdictions have adopted "rape victim shield laws," which limit enquiry in rape trials into the past sexual history of the victim. The shield laws have overturned earlier evidentiary rules and doctrines which tended to be highly permissive in allowing exploration of the victim's prior sexual activity in rape cases.

The pertinent provision in federal law is F.R.E. 412, which generally bars the admission in federal sexual abuse prosecutions of evidence of the victim's past sexual behavior. The Rule recognizes exceptions to this general presumption of non-admissibility for cases where admission of such evidence is constitutionally required or other specified circumstances give it an unusually high degree of relevance.

The argument has been made that the elimination of broad rules of admission for other acts of the victim in rape cases makes it improper to continue or adopt broad rules of admission for uncharged acts of the accused. If the victim is not to be taxed with evidence of unrelated conduct on her part, the argument goes, why should the defendant be taxed with evidence of other things he has done, which also have no direct relationship to the charged offense?

This argument, however, is not well-founded. The rules of evidence do not generally aim at a superficial neutrality between rules of admission affecting the victim and the defendant. Rather, the formulation of such rules must depend on a rational consideration of the relevant policies. The sound policies that underlie the rape victim shield laws provide no support for comparable restrictions in relation to the conduct of the defendant. The differences between the two contexts include the following:

First, there is a basic difference in the probative value of the evidence that is subject to exclusion under such rules. In the ordinary case, enquiry by the defense into the past sexual behavior of the victim in a rape case will show at most that she has engaged in some sexual activity prior to or outside of marriage—a circumstance that does not distinguish her from most of the rest of the population, and that normally has little probative value on the question whether she consented to the sexual acts involved in the charged offense. In contrast, evidence showing that the defendant has committed rapes on other occasions places him in a small class of depraved criminals, and is likely to be highly probative in relation to the pending charge. The difference in typical probative alone is sufficient to refute facile equations between evidence of other sexual behavior by the victim and evidence of other violent sex crimes by the defendant.

Second, the rape victim shield laws serve the important purpose of encouraging victims to report rapes and cooperate in prosecution by not requiring them to undergo public exposure of their personal sexual histories as a consequence of doing so. Rules limiting disclosure at trial of the defendant's commission of other rapes do not further any comparable public purpose, because the defendant's cooperation is not required to carry out the prosecution.

Third, the victim shield laws serve the important purpose of safeguarding the privacy of rape victims. The unrelated sexual activity of the victim is generally no one's business but her own, and should not be exposed in the absence of compelling justification. In contrast, violent sex crimes are not private acts, and the defendant can claim no legitimate interest in suppressing evidence that he has engaged in such acts when it is relevant to the determination of a later criminal charge.

E. Other Issues

This final part of this explanation of section 801 addresses two further objections to the proposed rules—the objection that the prosecutor should be barred from introducing evidence of uncharged offenses in order to require him to formally charge all the offenses he wishes to prove at trial, and the objection that fairness to the defendant or other policies require that some time limit be imposed on the uncharged offenses that could be admitted under the proposed rules.

The decision whether to charge an offense. With respect to the first objection, it should be noted that the prosecutor has practical incentives to charge fully, regardless of any compulsion arising from the rules restricting evidence of uncharged misconduct. Charging a larger number of counts tends to reduce the risk that the defendant will be entirely acquitted if the jury is not persuaded concerning a particular charge or charges. Moreover, charging more counts creates the possibility of conviction on a larger number of counts, and conviction on a larger number of counts tends to result in a higher penalty. Under the federal sentencing guidelines, for example, uncharged offenses may be given some weight in sentencing, but the largest determinants of the sentence are normally the offenses for which the defendant is convicted and his record of prior convictions.

Moreover, even if it were thought that additional incentives or requirements were needed to ensure fuller charging of available offenses, a general presumption against admitting evidence of uncharged offenses would be an unsound means of promoting this objective. In many cases it is impossible, or undesirable for entirely legitimate reasons, to charge certain offenses, but admitting evidence of such offenses is valid and important for their bearing on a charged offense.

For example, the uncharged offenses may have taken place in a different jurisdiction. This would occur in a state prosecution of a rapist or child molester whose earlier known crimes were committed in a different state.

It would also occur in a federal prosecution of a rapist or molester whose earlier offenses were committed within the jurisdiction of a state or states, but outside of federal jurisdiction. In such a case, it is legally impossible for the prosecutor to charge the earlier offenses; if they are to be disclosed in the prosecution, it must be through uncharged misconduct evidence.

A second example is situations in which there is insufficient evidence or other practical difficulties in prosecuting all of the defendant's prior offenses as separate counts, but the evidence regarding the earlier offenses is legitimately relevant to proof of the charged offense.

A common fact-pattern of this type involves fathers or stepfathers who are accused of molesting their daughters. The formally charged offenses in such a case may be limited to a particular act of molestation or a limited number of acts that happened to come to the attention of an adult witness (such as the defendant's wife). However, the victim will often testify in such a case that the molestation had been going on for a long time. A sister or sisters of the victim of the charged offense may also testify that the father had molested them as well over an extended period of time.

Charging all the prior offenses in such a case may be neither feasible nor desirable. The acts of molestation may number in the hundreds; the victim may be unable to recall most of them with any specificity; and the evidence supporting them individually would only be the uncorroborated testimony of a child victim-witness. Nevertheless, evidence that the charged offense was part of a broader pattern of molestation may be important to put the charge in perspective, and most courts have admitted such testimony by the victim. *See, e.g., State v. Graham*, 641 S.W. 2d 102, 104–05 (Mo. 1982). As *Getz v. State*, 538 A.2d 726 (Del 1988), illustrates, however, a court may regard such admission as problematic or simply prohibited under the restrictive standards of Rule 404(b).

Time limitation. Proposed Rules 413–15 do not place any particular time limit on the unchanged offenses that may be offered in evidence. The view underlying this formulation is that a lapse of time from the uncharged offense may properly be considered by the jury for any bearing it may have on the evidence's probative value, but that there is no justification for categorically excluding offenses that occurred before some arbitrarily specified temporal limit.

There is no magic line in time beyond which similar crimes evidence generally ceases to be relevant to the determination of a pending charge. This point is reflected in the current formulation of Rule 404(b), which does not specify any particular limit for admitting "non-character" evidence under the various categories it enumerates.

While there does not appear to be any precedent supporting a definite time limit on similar crimes evidence, some judicial decisions have given weight to the question of temporal proximity in a more flexible manner in deciding on the admission of such evidence in sex offense prosecutions. However, the rationales for this approach in such cases do not necessarily apply in connection with the proposed new rules. The admission of such evidence in past decisions has usually depended on ad hoc applications of other "exception" categories, such as proof of "a common scheme or plan," which comes with their own built-in limitations. If admission is thought to depend on a showing that the charged offense and uncharged offenses were part of a single on-going plan to engage in a series of sexual assaults, then too large a temporal spread among the offenses may weigh against such a finding. The theories of relevance underlying the proposed rules, however, do not depend on such a determination.

Concerns over fair notice to the defendant might also be thought to support a restrictive approach to admitting evidence of older offenses, on the view that there is a greater risk of unfair surprise if the defendant is initially confronted at trial with evidence of events that are far removed in time from the charged offense. Under the proposed rules, however, this concern is adequately met by the requirement of prior disclosure to the defendant of the evidence that will be offered.

Under the current rule admitting prior convictions for purposes of impeachment, as formulated in F.R.E. 609, prior convictions are presumptively inadmissible if they fall beyond a ten-year time period. However, the traditional version of the impeachment rule automatically admitted evidence of prior felony and *crimen falsi* convictions without limitation of time, on the view that temporal proximity (or the lack of it) should go to probative value rather than admissibility. The validity of the codified federal rule's contrary approach is open to question. *See generally The Admission of Criminal Histories at Trial*, 22 U. Mich. J.L. Ref. 707, 769 (1989).

Moreover, the impeachment rule has sometimes been criticized on the ground that it theoretically admits prior convictions only for the limited purpose of impeachment, but that the jury may realistically consider this information as affirmative evidence of guilt once it is admitted. The suspicion that evidence admitted pursuant to the rule may be misused for purposes that are not legally authorized may partially explain the view that additional restrictions on the range of admissible convictions should be imposed, including the presumptive time limit that now appears in Rule 609.

No similar considerations support a time limit on admission under proposed Rules 413–15. The basic scope of the proposed rules is narrower than the impeachment rule in that their application is confined to sexual assault and child molestation cases, and only evidence of crimes of the same type as the charged offense may be shown. Within this clearly defined range, the normal probative value of similar crimes evidence is sufficiently great to support a general rule of admission, and consideration of such evidence for its bearing on any matter to which it is relevant. In contrast to the impeachment rule, there is no risk that evidence admitted under the proposed new rules will be considered for a prohibited purpose, since the rules do not limit the purposes for which such evidence may be considered.

Sec. 802. Drug Distribution To Pregnant Women

21 U.S.C. 845 prescribes enhanced penalties for the distribution of controlled substances to persons below the age of twenty-one. Section 802 amends 21 U.S.C. 845 to make the same enhanced penalties apply to the distribution of controlled substances to pregnant women.

Conduct covered by this amendment frequently involves exploitation by the drug dealer of the pregnant mother's drug dependency or addiction to facilitate conduct on her part that carries a grave risk to her child of pre-natal injury and permanent impairment following birth. Such conduct by a trafficker in controlled substances is among the most serious forms of drug-related child abuse and plainly merits the enhanced penalties provided by 21 U.S.C. 845.

Sec. 803. Definition of Sexual Act for Victims Below 16

Section 803 amends the definitional section for federal sexual abuse offenses to provide greater protection for victims below the age of 16. Recently, the maximum penalty for engaging in a sexual act with a minor between the ages of 12 and 16 (by a person at least 4 years older than the victim) was raised from fives to fifteen years' imprisonment (§322 of the Crime Control Act of 1990). Both the original Senate-passed and House-passed versions of this legislation—§2425 of S. 1970 and §2919 of H.R. 5269—also contained amendments addressing deficiencies in the definition of the term "sexual act" in relation to victims below the age of 16. However, the enacted bill did not contain these amendments, presumably because of other differences in the sections in which they appeared.

Section 803 is the same as the corresponding amendments to the definition of "sexual act" in S. 1970 and H.R. 5269. It would extend the definition of "sexual act" to include intentional touching, not through the clothing, of the genitals of a person who is less than 16 years of age, provided the intent element common to the other touching offenses is present. This form of molestation can be as detrimental to a young teenager or child as the conduct currently covered by the term sexual act.

The current definitions of sexual act and sexual contact also involve a gender-based imbalance that effectively tends to give more lenient treatment to cases in which the victim is a boy. Under the current definitions, sexual touching that involves even a slight degree of penetration of a genital or anal opening constitutes a sexual act, rather than just a sexual contact, and the former is punished more severely than the latter under the existing statutory scheme. Since penetration is more likely with female than male victims, such conduct would more likely constitute sexual acts when committed with females than with males.

The amendment corrects this gender-based imbalance by treating all direct genital touching of children under the age of 16, with intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person as sexual acts, regardless of whether penetration has occurred. Moreover, it eliminates the difficulties of proving penetration for many sexual abuse offenses against children—both boys and girls—in which there are typically no adult witnesses.

Sec. 804. Increased penalties for Recidivist Sex Offenders

Section 804 amends the penalties applicable under the sexual abuse chapter (chapter 109A) of title 18 of the United States Code by proividing that second or subsequent offenses are punishable by a term of imprisonment of up to twice that otherwise authorized. The prior conviction may be either a violation of the chapter or a violation of state law involving a type of conduct proscribed by chapter 109A. This amendment, which was passed by the Senate in S. 1970 (§2425), is designed to correct the inadequacy of current penalties with respect to recidivist sex offenders.

Sec. 805. Restitution for Victims of Sex Offenses

Section 3663(b)(2) of title 18 currently authorizes restitution covering medical and therapeutic costs and lost income in cases involving "bodily injury" to a victim. However, the sex crimes defined in chapters 109A and 110 of title 18 do not necessarily involve physical damage to the body of the victim. For example, there may not be such physical damage where rape against an adult victim is committed through the threat of force, but without the actual use of force, or where a child molestation or exploitation offense is committed without physically injurious violence.

This section amends 18 U.S.C. 3663(b)(2) to make it clear that restitution is authorized in all federal sex offense cases, whether or not the offense involved "bodily injury" on a narrow interpretation of that phrase.

Sec. 806. HIV Testing and Penalty Enhancement in Sexual Abuse Cases

The trauma of victims of sex crimes may be greatly magnified by the fear of contracting AIDS as a result of the attack. Section 1804 of the Crime Control Act of 1990 created a funding incentive for the states to require HIV testing of sex offenders and disclosure of the test results to the victim. There is, however, no comparable requirement or authorization for federal sex offense cases.

The provisions proposed in this section remedy this omission by requiring HIV testing in federal cases involving a risk of HIV transmission. They also include related provisions requiring enhanced penalties for federal sex offenders who risk HIV infection of their victims.

The section would add a new section (proposed §2247) to the chapter of Title 18 of the United States Code that defines the federal crimes of sexual abuse (chapter 109A). Subsection (a) of proposed §2247 would require HIV testing of a person charged with an offense under chapter 109A, at the time of the pre-trial release determination for the person, unless the judicial officer determines that the person's conduct created no risk of transmission of the virus to the victim. The test would be conducted within 24 hours or as soon thereafter as feasible, and in any event before the person is released. Two follow-up tests would also be required (six and twelve months following the initial test) for persons testing negative. Under subsection (d), the results of the HIV test would be disclosed to the person tested, to the attorney for the government, and—most important—to the victim or the victim's parent or guardian.

In some instances testing may not be ordered pursuant to proposed 18 U.S.C. 2247(a) because the information available at the time of the pre-trial release determination indicated that the person's conduct created no risk of HIV transmission, but in light of information developed at a later time it may subsequently appear to the court that the person's conduct may have risked transmission of the virus to the victim. Subsection (b) of proposed 18 U.S.C. 2247 accordingly authorizes the court to order testing at a later time if testing did not occur at the time of the pre-trial release determination.

Subsection (c) of proposed 18 U.S.C. 2247 provides that a requirement of follow-up HIV testing is cancelled if the person tests positive—in which case further testing would be superfluous—or if the person is acquitted or all charges under chapter 109A are dismissed.

Subsection (e) of proposed 18 U.S.C. 2247 directs the Sentencing Commission to provide enhanced penalties for offenders who know or have reason to know that they are HIV-positive and who engage or attempt to engage in criminal conduct that creates a risk of transmission of the virus to the victim. This requirement reflects the higher degree of moral reprehensibility and depravity involved in the commission of a crime when it risks transmission of a lethal illness to the victim, and the exceptional dangerousness of sex offenders who create such a risk to the victims of their crimes. In such cases, increased penalties are warranted for incapacitative, deterrent, and retributive purposes.

Sec. 807. Payment of Cost of HIV Testing for Victim

Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990, enacted as part of the Crime Control Act of 1990, currently provides that a federal government agency investigating a sexual assault shall pay the costs of a physical examination of the victim, if the examination is necessary or useful for investigative purposes. This section extends this provision to require payment for up to two HIV tests for the victim in the twelve months following the sexual assault.

IX. DRUG TESTING

Sec. 901

This section would create a nationwide program of drug testing for federal offenders on post-conviction release.

A testing program of this sort is plainly warranted for offenders who are to be released into the community in light of the likelihood that such persons will revert to criminality if they become involved with drugs, and the need for a meaningful means of detecting released offenders who possess and use drugs in light of provisions of current law that mandate revocation of release for such offenders. A drug testing requirement for federal offenders on post-conviction release was passed by the Senate as title XXV of S. 1970 in the 101st Congress. A detailed explanation of the policy considerations supporting the proposal of this section appears in Statement of Assistant Attorney General Edward S.G. Dennis, Jr., concerning the Firearms and Drug-Testing Provisions in H.R. 2709 before the House Judiciary Subcommittee on Crime (March 6, 1990).

Subsection (a) of section 901 adds a new section to the criminal code (proposed 18 U.S.C. 3608) requiring a drug-testing program for federal offenders on post-conviction release. Since the capacity to implement this program depends on the availability of appropriate personnel and/or contractors necessary to ensure quality control, this section allows a degree of flexibility and grants the Administrative Office of the United States Courts the latitude necessary to phase-in the program in stages as soon as practicable and feasible.

Subsection (b) amends existing statutes to provide that defendants placed on parole, probation or post-imprisonment supervised release will be subject to a mandatory condition that they refrain from illegal use of drugs and submit to drug tests. The class of defendants subject to this mandatory condition would include felons and misdemeanant firearms, drug, and violent offenders. The testing requirements could be suspended or ameliorated upon request of the Director of the Administrative Office or his designee.

Under the amendments of subsection (b), release could not be revoked for failure of a drug test unless the test was confirmed using gas chromatography/mass spectrometry techniques or other tests determined to be of equivalent reliability. However, in light of the high risk that a released offender who has been using drugs will become a fugitive if allowed to go after failing a preliminary test, detention of such a person would be allowed pending the results of a confirmation test.

Subsection (c) contains amendments which make revocation of release mandatory if an offender unlawfully uses drugs or refuses to cooperate in required drug testing. Current law mandates revocation of release if an offender possesses illegal drugs. *See* 18 U.S.C. 3565(a), 3583(g), 4214(f). Since use entails possession, mandatory revocation of release for unlawful use of drugs is already implicit in existing statutory requirements. The further requirement of revocation of release for noncooperation in drug testing ensures that an offender will not be able to gain any advantage by refusing to cooperate.

Sec. 902

This section generally conditions eligibility for federal justice assistance funding on a state's adoption of a drug-testing program for targeted classes of persons subject to charges, confinement, or supervision in the state's criminal justice system.

X. EQUAL JUSTICE ACT

This title, the "Equal Justice Act," provides effective safeguards against racial discrimination and racial bias in the administration of capital punishment and other penalties. It includes provisons that:

Require administration of the death penalty and other penalties without regard to the race of the defendant or victim, and prohibit racial quotas and other statistical tests for imposing the death penalty or other penalties (section 1002);

Guard against racial prejudice or bias through provisions for enquiry on voir dire concerning potential racial bias by jurors, change of venue to avoid racial bias, and prohibition of appeals to racial bias in statements before the jury (section 1003);

Require in federal cases jury instructions and certifications guarding against consideration of race in capital sentencing decisions, and make the capital sentencing option consistently available for racially motivated murders in violation of the federal civil rights law (section 1004); and

Make provision of adequate resources to expeditiously carry out the death penalty in all appropriate cases an objective of federal justice assistance funding (section 1005).

The proposed Equal Justice Act provides a valid alternative to the so-called "Racial Justice Act" proposals that were advanced in the 101st Congress. While the "Racial Justice Act" legislation has been introduced in various formulations, all versions would have had the practical effect of abolishing the death penalty in the United States, or of requiring racially discriminatory charging and sentencing practices in capital cases to achieve the numercial proportions deemed proper by the "Racial Justice Act." The "Racial Justice Act" proposal was soundly defeated in the Senate in both the 100th and 101st Congresses, but it was passed by the House of Representatives on a closely divided vote as part of H.R. 5269 in the 101st Congress.

The main argument offered by proponents of the "Racial Justice Act" proposal is that empirical studies show that the death penalty is less frequently imposed in murder cases involving black victims. The somewhat bizarre remedy offered by the "Racial Justice Act" proposal for this statistical disparity is invalidation of capital sentences. In effect, this would redress alleged statistical "discrimination" against a class of murder victims through increased leniency towards their killers, as well as all other capital murderers.

Proponents of the "Racial Justice Act" have also sometimes suggested that there is widespread racial discrimination against black defendants in the administration of capital punishment. This claim is advanced with less force, however, since there is little reliable empirical study that even arguably suggests that black defendants are discriminated against in this context, and a number of studies indicate that white murder defendants are more likely to be sentenced to death than black murder defendants.

Both in relation to victims and defendants, the factual premises of the "Racial Justice Act" proposal are not well-founded. Rather, the weight of reliable empirical study indicates that racially neutral factors overwhelmingly account for apparent disparities relating to the race of the victim or the offender. Moreover, numerous safeguards against racial discrimination exist under current law, and these safeguards provide effective protection against the influence of racial considerations or other invidious factors in capital charging and sentencing decisions. These points have been fully set forth and explained in testimony by the Department of Justice. *See* Statement of Assistant Attorney General Edward S.G. Dennis, Jr., Concerning the Death Penalty before the House Judiciary Subcommittee on Civil and Constitutional Rights (May 3, 1990).

Nevertheless, there is a legitimate case for legislation in this area, as proposed in the Equal Justice Act. Proponents of the "Racial Justice Act," and other opponents of the death penalty, have mounted a vigorous campaign in recent years which is designed to create the impression that pervasive, unjustified racial disparities exist in capital punishment, and that existing legal standards and remedies are inadequate to deal with the alleged problem. Scurrilous charges of this type create a serious risk of undermining public confidence in the fairness and integrity of the criminal justice system. Moreover, the vote approving the "Racial Justice Act" proposal in the House of Representatives suggests that this disinformation campaign may also have misled some Members of Congress. Legislation that articulates clear rules and policies against racial discrimination in this area, and that sets out available remedies and safeguards against such abuse, is desirable to correct these misapprehensions.

Another reason for legislation is the threat to the objective of equal justice that has been created by the "Racial Justice Act" proposal itself. By fostering race-conscious charging and sentencing practices, the "Racial Justice Act" proposal jeopardizes over a century of progress in eliminating race as a relevant consideration in criminal justice decisions. If that proposal, with its death-by-the-numbers system of quota justice for capital cases, were adopted either by the federal government or through enactments in particular states, other proposals would predictably follow to impose similar requirements of racial proportionality for penalties other than the death penalty.

The threat posed by the "Racial Justice Act" concept to the cause of equal rights, and to the overall operation of the nation's criminal justice systems, calls for a strong declaration of national policy that race is not an admissible consideration in decisions to seek or impose criminal penalties. The provisions of the Equal Justice Act embody and declare this policy.

Moreover, while there is no reason to believe that the existing remedies and safeguards against racial discrimination are generally inadequate, legitimate reforms can be identified that will further enhance the protection against racial bias.

The current standards have largely been developed by the courts through decisions that guard against invidious or biased conduct by jurors, judges, and prosecutors that may operate to the detriment of the defendant. In comparison, the rules constraining efforts by the defense to gain an advantage by exploiting racial bias may be less completely developed or less clearly articulated. The Equal Justice Act remedies this situation by stating evenhanded rules that guard against racial bias regardless of whether it would operate to the advantage of the defense or of the prosecution.

Sec. 1002. Prohibition of Racially Discriminatory Policies Concerning Capital Punishment or Other Penalties

Subsection (a) of section 1002 mandates neutrality with regard to race in policies and practices that affect capital punishment or other penalties. This codifies the constitutional principle of individualized justice, which bars treating race as a relevant factor in charging and sentencing decisions. *See McCleskey* v. *Kemp*, 481 U.S. 279 (1987); *Wayte* v. *United States*, 470 U.S. 598, 608 (1985).

Subsection (a) also explicitly prohibits racial quotas and other statistical tests for imposing the death penalty or other penalties. This is a necessary corollary of the general requirement of non-discriminatory, individualized justice. It rejects the underlying premise of the so-called "Racial Justice Act" that penalties should presumptively be imposed so as to achieve specified racial proportions, and explicitly prohibits the racial statistical tests that are the central feature of all versions of the "Racial Justice Act" proposal.

Subsection (b) contains definitions which clarify the scope and meaning of subsection (a). Paragraphs (1) and (2) of subsection (b) make it clear that subsection (a)'s prohibition of race-conscious policies and practices applies to all American jurisdictions, and constrains the actions of all agencies and instrumentalities of federal, state, and local government. Paragraph (3) defines the concept of prohibited racial quotas and statistical tests to include all standards that require or authorize the imposition of penalites so as to achieve specified racial proportions, or that require or authorize the invalidation of penalties if specified racial proportions are not achieved.

Sec. 1003. General Safeguards Against Racial Prejudice of Bias in the Tribunal

Section 1003 sets out a number of rules and remedies that guard against racial prejudice or bias which may affect the imposition of capital punishment or other penalties.

Paragraph (1) addresses examination on voir dire of potential racial bias by jurors. In part, this provision codifies existing caselaw which requires such examination, at the request of the defense, if "under all of the circumstances presented there [is] a constitutionally significant likelihood that, absent questioning about racial prejudice, the jurors would not be [impartial]." *Turner v. Murray*, 476 U.S. 28, 33 (1986); *Ristaino v. Ross*, 424 U.S. 589, 596 (1976).

Paragraph (2) addresses the remedy of change of venue. In most cases, risks of prejudice by jurors can be adequately guarded against through such means as examination on voir dire, excusing biased jurors for cause, and instructions of the court to the jury not to be influenced by invidious considerations. In cases of extreme, pervasive bias in a locality, however, these normal mechanisms may be inadequate, and a change of venue may be necessary to produce a constitutionally sustainable judgment. *See Irvin v. Dowd*, 366 U.S. 717 (1961). Paragraph (2) accordingly requires a change of venue if a party shows that an impartial jury cannot be obtained in the absence of such a change because of racial prejudice or bias.

Paragraph (3) prohibits appeals to racial prejudice or bias before the jury. Prejudicial remarks by a prosecutor may make a resulting conviction or sentence constitutionally invalid, and this point applies with particular force where such remarks are in derogation of a specific constitutional right. *See Donnelly v. DeChristoforo*, 416 U.S. 637, 643 (1974). Appeals to racial prejudice violate the specific constitutional right of equal protection, and paragraph (3) explicitly condemns such statements. If prejudicial statements in violation of paragraph (3) were made in a proceeding, it would be the duty of the trial judge to take appropriate corrective action requested by the adverse party, such as instructions to the jury counteracting the statements, or, if necessary, declaring a mistrial.

Judicial decisions concerning the rules and remedies addressed in section 1003 have usually involved alleged prejudice or misconduct that would operate to the detriment of the defendant. However, the objective of equal justice may also be thwarted by racial bias in favor of the defendant or against the victim, or by defense misconduct that reduces the likelihood of a warranted conviction or penalty.

The formulation of section 1003 fully reflects this point, and applies evenhandedly to the defense and the prosecution. Hence, paragraph (1) requires examination of juror bias on motion of the prosecutor, as well as on motion of the defense. This provision could, for example, be invoked by the prosecutor if there were grounds for concern that a warranted death penalty might not be imposed because of bias against the racial group of the victim. Similarly, paragraph (2) allows the prosecutor as well as the defense attorney to move for a change of venue on grounds of racial bias, and paragraph (3) prohibits appeals to racial prejudice by both the defense attorney and prosecutor. These provisions are responsive to the allegations by proponents of the "Racial Justice Act" that the death penalty is not imposed with sufficient frequency in cases involving black victims because of racial prejudice or bias.

Sec. 1004. Federal Capital Cases

Section 1004 states a number of special rules and standards for federal capital cases.

Subsection (a) requires instructions to the jury that prejudice or bias relating to the race of the defendant or victim must not affect a capital sentencing determination, and certification by all the jurors when a capital sentence is imposed that they complied with this instruction. This provision is substantially the same as instruction and certification requirements, as they relate to race, which were included in death penalty legislation passed by the Senate and the House of Representatives in the 101st Congress (titles I and XIV of S. 1970 and title II of H.R. 5269), and which appear in title I of this bill.

Both the Senate-passed and House-passed death penalty legislation in the 101st Congress, like title I of this bill, complied with current Supreme Court decisions governing capital punishment by limiting consideration of the death penalty to cases in which one or more aggravating factors from a specified statutory list are found to exist. The two existing federal statutes that contain detailed death penalty procedures—21 U.S.C. 848 (e)-(r) (drug-related murders) and 49 U.S.C. App. 1473(c) (fatal aircraft hijackings)—similarly condition consideration of the death penalty on the existence of specified statutory aggravating factors.

Subsection (b) of section 1004 provides that the fact that the killing of the victim was motivated by racial prejudice or bias is to be treated as an additional statutory aggravating factor whose existence permits consideration of the death penalty. This effectively extends the list of statutory aggravating factors in existing statutes to include racial motivation, and ensures that racial motivation will be counted as such a factor under any federal death penalty legislation that may be enacted in the future.

Subsection (c) authorizes the death penalty for violations of 18 U.S.C. 241, 242, and 245 that result in death. These are the principal criminal provisions of the federal civil rights laws. Each of these provisions currently authorizes imprisonment for any term of years or for life in cases in which death results. However, they do not authorize capital punishment in any case, although racially motivated killings that plainly may warrant consideration of the death penalty are often covered by these provisions. *See, e.g., United States* v. *Price*, 383 U.S. 787 (1966); *United States* v. *Guest*, 383 U.S. 745 (1966).

In conjunction with subsection (b), subsecton (c) will ensure that the capital sentencing option is consistently available for racially motivated murders in violation of the federal civil rights laws. In addition to the intrinsic importance of authorizing the death penalty for the most heinous civil rights offenses, these provisions provide an additional element in the Act's response to the purported concern of proponents of the "Racial Justice Act" that the death penalty is not imposed with sufficient frequency for crimes against black victims.

Sec. 1005. Funding Objective

Subsection 1005 makes it an objective of federal justice assistance funding to ensure that adequate resources and expertise are available to expeditiously carry out the death penalty in all appropriate cases. The proposed funding objective will help ensure that efforts to carry out the death penalty will not be impeded by resource constraints, thereby promoting the equal protection of all victims and potential victims from lethal criminal violence, regardless of race through the use of the death penalty.

The proposed funding objective particularly emphasizes the provision of support to state agencies that seek to uphold and secure the execution of death sentences through litigation in habeas corpus and other collateral or post-conviction proceedings. This is responsive to an imbalance in litigation resources that has resulted from one-sided federal support of defendants' efforts to overturn capital sentences at these stages of litigation.

As President Bush observed in his signing statement on November 29, 1990, on the Comprehensive Crime Control Act of 1990, "in Public Law 101-515, the Congress appropriated substantial funds for 'Death Penalty Resource Centers.' Because S. 3266 does not include the reform of the *habeas corpus* system that I proposed, these Federal funds will inevitably be used in part to foster repetitive attacks on State court judgements and to delay unjustly the implementation of State sentences." The National Association of Attorneys General (NAAG), in a resolution adopted at its meeting of December 4-7, 1990, also noted the problems occasioned by this one-sided approach to federal funding in habeas litigation. In many cases, a State attorney general on a limited budget faces a large law firm operating *pro bona* and a federally funded capital resource center in federal habeas litigation. The NAAG resolution urges the Federal Government to provide the governmental unit which represents the state in such litigation the same amount of federal funds provided to the capital resource center in that state." The amendment proposed in section 1005 will further this objective by allowing Bureau of Justice Assistance grants to be used for this purpose.

Sec. 1006. Extension of Protection of Civil Rights Statutes

In *United States* v. *Maravilla*, 907 F.2d 216 (1st Cir. 1990), the court overturned the convictions of two customs agents for killing an alien who was briefly present in the United States. The rationale was that such a person did not qualify as an "inhabitant" for purposes of 18 U.S.C. 242. This section amends 18 U.S.C. 241 and 242 to ensure protection of all persons within the United States by these important provisions of the federal civil rights laws, regardless of whether they are "inhabitants."

XI. VICTIMS' RIGHTS

Sec. 1101. Restitution Amendments

This section makes two amendments to the restitution statute, 18 U.S.C. 3663. First, it makes the offender liable for child care, transportation, and other costs to the victim that result from participation in the investigation or prosecution of the offense or attendance at proceedings in the case.

Second, it authorizes a judge to suspend the offender's eligibility for Federal benefits if the offender is delinquent in paying restitution. This provides an additional incentive for prompt payment of restitution obligations. This provision has a precedent in section 5301 of the Anti-Drug Abuse Act of 1988, Pub. L. No. 100-690, which provides for denial of Federal benefits to persons convicted of certain drug offenses.

Sec. 1102. Victim's Right of Allocation in Sentencing

Defendants in criminal cases have traditionally been accorded an opportunity to address the court prior to imposition of the sentence. This practice is codified in Fed. R. Crim. P. 32(a)(1)(C), which directs the sentencing judge to "address the defendant personally and determine if the defendant wishes to make a statement and to present any information in mitigation of the sentence."

Section 1102 would amend Rule 32 to extend to the victim as well the right to address the court concerning the sentence, in cases involving violent crimes and crimes of sexual abuse. This right would normally be exercised directly by the victim—defined as any individual against whom the offense was committed—but it could be exercised instead by a parent or guardian if the victim was a minor or incompetent, or by one or more family members or relatives designated by the court if the victim was deceased or incapacitated.

CLOCK STARTS ON CRIME BILL

Mr. DOLE. Mr. President, on January 12, President Bush asked Congress for the authority to do what had to be done to stop an international criminal from terrorizing a nation and a region.

The world is for the better because we granted that authority.

Monday, President Bush asked Congress to give our law enforcement officials the authority to do what has to be done to stop America's criminals from terrorizing our streets and neighborhoods.

And America will be for the better if we grant this authority, as well.

With the transmission of the Comprehensive Violent Crime Control Act of 1991, the clock has now been set into motion. The American people now wait to see if Congress can meet the President's challenge and approve this legislation within 100 days.

Unfortunately for law abiding Americans, Congress seems more concerned with coming up with 100 excuses on why we can't meet that deadline. Already, Members of the other body are quibbling over when the 100 day clock started to run. Did it start Monday, when the President transmitted the proposal? Does it start when the bill is actually introduced? "Are those calendar days, or legislative days?" asked a House Judiciary Committee staffer.

And while Congress fiddles, America burns. By the time 100 days roll around, Mr. President, another 6,000 Americans will be murdered. Another 37,000 women will be raped. And another 460,000 will be the victims of aggravated assaults.

The President's Comprehensive Violent Crime Control Act seeks to drastically reduce these numbers by following four basic principles.

The first principle is that a primary purpose of government is to protect citizens and their property. Americans deserve to live in a society in which they are safe and feel secure.

Second, those who commit violent criminal offenses must be held accountable for their actions.

Third, our criminal justice system should seek the swift and certain apprehension, prosecution, and incarceration of those who break the law.

And finally, if we are to win the war against criminals, then Federal, State, and local law enforcement officials must work together.

Through a number of important and much-needed proposals, the President's package meets these principles.

It reforms the habeas corpus process, which criminals have used to delay their punishment, while sticking taxpayers with the bill.

It reforms the exclusionary rule that has allowed obviously guilty criminals to go free, and that has turned our justice system into a crapshoot.

It creates a workable Federal death penalty—a penalty demanded by the overwhelming majority of Americans.

It creates mandatory 10 year prison terms for drug traffickers or violent felons who use a semiautomatic firearm.

It includes stiffer sentences for gang activities, for sex crimes, and for selling drugs to pregnant woman.

These are just some of the weapons contained in the President's crime fighting package, weapons needed if we are to win the battle against violent criminals and drug dealers, weapons needed if we are to make our streets and our neighborhoods safe again.

As President Bush said, our soldiers won the gulf war in 100 hours. Surely, 100 days is more than enough time to take this much-needed step in the war against crime.

Mr. SEYMOUR. Mr. President, I am especially pleased to join my distinguished colleagues as an original cosponsor of the President's comprehensive violent crime control legislation.

Last week, President Bush laid down a challenge to the Congress. He told us and the Nation that if we could win the ground war in Iraq in 100 hours, then surely the Congress can pass legislation to combat violent crime in 100 days. That 100-day clock starts running today with the introduction of this bill.

While this legislation covers a wide range of measures to crack down on criminals and improve our judicial system, I want to focus on two areas that I believe should be highlighted. The first is the way in which the President's bill deals with the modern-day merchants of death—the drug lords who are poisoning our society. They are part and parcel of an international criminal enterprise that kills thousands of Americans each year, and drives many thousands more into a cycle of suffering, degradation, and dependency. And as despicable as their actions are, our outrage is only compounded when their victims are children or pregnant women.

The first section of the President's package deals directly with these drug lords in a clear and unambiguous way: If an individual is found guilty of selling or providing controlled substances that result in the death of another person, then the punishment is death. The time has come for the drug lords to understand that Americans will no longer tolerate their destructive business, and that the justice system in our country will mete out punishment which is commensurate with the devastation that they sell.

The second point that I want to focus on is the way that the President's package deals with the crimes of sexual violence and child abuse. The trauma that these acts of violence have is severe, and the scars are often long to heal.

The defects in the Federal rules of evidence only compound this problem. As it stands now, an accused offender in Federal sexual assault or child molestation cases is able to avoid having the facts of prior crimes being introduced as evidence. The President's package will modify the rules of evidence, so that if a defendant has committed these acts in the past, those acts can be considered as evidence in court. It will also prevent defense attorneys from eliciting testimony that is intended to only further embarrass or humiliate the victim.

The President's package goes a long way toward helping the victims of crime help themselves, while it sends a clear and unambiguous message that life will get tougher for those who perpetrate these acts.

That 100-day clock is now running. For the good of the country, let us get to work to get this bill approved.

Mr. NICKLES. Mr. President, I wish to compliment Senator THURMOND for his leadership on this bill and on many others. I think he has shown dedication, commitment, and conviction, which maybe is unequaled in this body, for his perseverance on this very important issue of combating crime.

There is no question that combating crime is one of the serious challenges that we have before our country. Our Nation's streets are dangerous. It is not safe in many places across the country. People are nervous. In many places people are scared, they are frightened. The streets are no longer safe.

It is incumbent upon us to do all we can to protect our citizens. That is one of the real functions of government, both State government and Federal Government. Our Federal Government has a role. It is important for us to enact this legislation that Senator THURMOND has introduced and of which I am happy to be a cosponsor.

When we look at crime we look at statistics, but crime is more than just statistics. It is actions. It is people violating other people. In many cases it is murder or homicide, where people are actually taking the lives of other people.

I rejoice in the success of our operation in the Persian Gulf and I compliment our leaders and the men and women who served so nobly in the Persian Gulf. My heart goes out to those families of the 200-plus American citizens who lost their lives in the Persian Gulf. But in comparison, there are more people who lost their lives in Washington, DC, through homicides from August 2d to the conclusion of the Persian Gulf war than lost their lives in the hostilities in the Persian Gulf war.

That is a sobering statistic. Actually four times as many people were murdered in New York and in Los Angeles. In New York City and Los Angeles, four times as many people were murdered as lost their lives in the Persian Gulf over that same period of time.

Last week, when we picked up the paper and read where two youngsters in Virginia Beach, one 6 and one 9, were both killed—they had their throats slashed—it makes our hearts go out to those families and makes us think we have to do more.

I was proud of the legislation that passed the Senate last year. I thought it was a good piece of work. Again, I compliment Senator THURMOND and Senator BIDEN and others who worked to fashion a good, bipartisan piece of legislation. But I was very disappointed when that bill came out of conference. Many of the very important provisions in that bill were dropped.

In that bill we had restoring the death penalty. We do not have the Federal death penalty right now for some of the most egregious of crimes, including crimes committed by people who murder drug enforcement officials. There is no Federal death penalty for them. Most States have it, but we do not have it as a Federal crime. We need to restore it. The legislation we passed last year in the Senate would have done that, but unfortunately it was dropped in conference. We need to pick that up again and I hope we will.

Senator THURMOND mentioned again the need for habeas corpus reform, and there is no question that we desperately need habeas corpus reform as many criminals abuse the system; they work the system; they manipulate the system. They are able to continue their appeals process, not only for a year or two, but in some cases for decades. So we desperately need reform. I compliment Senator THURMOND for the excellent work he has put together, along with the administration, for habeas corpus reform.

Also proposed is a significant change or modification in the exclusionary rule, one that would will allow for good faith exception to the exclusionary rule and would render the exclusionary rule inapplicable to seizures by Federal officers of firearms to be used as evidence against dangerous offenders. Mr. President, there is no reason why we would not allow that evidence in. I hate to think we have been allowing criminals to go free because some evidence that was obtained in good faith is not allowed to be used in trials.

Also, this legislation established minimum mandatory sentences for persons using certain firearms while committing crimes. Again, I think that is excellent legislation; legislation that needs to be enacted.

I hope we will go even further when it comes to victims' rights. Legislation that passed the Senate last year also had mandatory restitution for victims. I think it is vitally important to include that. Last year it passed unanimously through the Senate and I am proud to have Senator THURMOND as a cosponsor of legislation which I have introduced again this year to provide for mandatory restitution for victims. So the criminals have to pay. They may inflict large damages, they may not be able to pay it all off, but at least those victims would be entitled to receive some compensation for their injuries, and they would not be able to waive that due to bankruptcy or other matters. I think it vitally important we do this. We included it last year. I think it is vitally important we have that as part of our package this year.

Again I compliment the Senator from South Carolina for his leadership. I hope and pray we will be successful in passing this legislation in the very near future.

Mr. SPECTER. Mr. President, I am pleased to join my distinguished colleague from South Carolina, Senator THURMOND, and others in being original cosponsors of the President's crime package. I congratulate the President for his initiative in this regard.

I was unable to be present at the White House on Monday when this initiative was announced because of some commitments in Pennsylvania. Through the advantages of C-SPAN, however, I saw the presentation later in the day. I commend Vice President QUAYLE, as well, who was at the President's side, and the Attorney General, Dick Thornburgh, who participated in this important legislation.

Mr. President, in cosponsoring this bill, I state at the outset that there are some aspects of it that I am not in agreement with, and I believe there will have to be some modifications. But the basic thrust of this legislation, I think, is a big step forward as a package and it is an important starting point for activity in the 102d Congress.

I endorse the President's call for action within 100 days, and I conferred briefly yesterday with the distinguished chairman of the Judiciary Committee, Senator BIDEN, who commented that the expectation is present that we can complete consideration of this bill within that time.

Mr. President, the provision of the death penalty, I submit is very important as a deterrent against violent crime. I served two terms as the district attorney of Philadelphia and during that time saw very substantial evidence that the death penalty is an effective deterrent. I saw many specific cases where individuals were deterred from carrying weapons on robberies and burglaries because of their fear of the death penalty. There is a substantial body of evidence that the death penalty is, in fact, a deterrent.

I respect those who disagree with capital punishment on grounds of conscience, but my judgment is that it is an effective tool for law enforcement. It is anomalous, Mr. President, that we do not have the death penalty in the Federal system, except for the 1988 Federal legislation on drug kingpins and for the Uniform Code of Military Justice, because in 1972, the Supreme Court of the United States declared the death penalty unconstitutional unless it met certain rigorous procedural standards. The Congress has never brought back the death penalty, although some 37 States have enacted the death penalty. I believe it is time we moved in this important area.

With respect to carrying out the death penalty, Mr. President, I believe that the criminal justice system falls down badly on the long delays, some as long as 17 years, and the average about 8 years, as these cases wind their way through the Federal procedure known as habeas corpus. It is my view, Mr. President, that it is necessary to tighten up that procedural timeframe in the interest of having a meaningful deterrent.

Where you have the death penalty on the books in 37 States, and where you have some cases taking as long as 17 years, and where you have 2,500 inmates on death row where the death penalty is not carried out, it is, simply stated, an absurdity. It is unfair to society's legitimate interest, and I suggest it is also unfair in a very material sense to 2,500 inmates who are on death row, not knowing what their fate will be.

Mr. President, I will seek in committee to make certain modifications to the President's bill because I think the time standards ought to be more rigorous. It is my suggestion, after having had considerable experience in State court proceedings, that there should be only one appeal in the State court which would comprehend all of the issues involved, including the competency of counsel, which can be determined posttrial but before the State supreme court adjudication. That would eliminate the multiple State court habeas corpus proceedings which sometimes take years.

Then the Federal court should have jurisdiction immediately after the first conclusion by the State supreme court in the relevant jurisdiction. I submit there should be a tight timetable when the Federal court habeas corpus petition must be filed, with a limitation of time on consideration of the habeas petition by the district court of 120 days; similarly, for consideration by the court of appeals and by the Supreme Court. This procedure was embodied in legislation, an amendment which this Senator introduced in the 101st Congress, which passed the Senate. So I think those significant changes ought to be made.

Mr. President, this crime package is only a part of an overall attack on the problem of crime. There are many other vital aspects; for example, realistic rehabilitation.

During my tenure as chairman of the District of Columbia Appropriations Subcommittee, certain programs were initiated on job training and education and certain basic skills. There are now underway these initiatives in the Department of Education and the Department of Prisons so that we can deal with realistic rehabilitation of prisoners.

It is no surprise when a functional illiterate leaves jail without a trade or skill that that individual returns to a life of crime. That is why I believe and have maintained for the better part of three decades that the criminal justice system has to deal with such realistic rehabilitation for juveniles, first offenders, second offenders, and it is necessary as a preliminary to exacting mandatory sentences, up to life, for career criminals.

This Senator authored the armed career criminal bill of 1984 which calls for a mandatory sentence of 15 years to life when a three-time felon is caught in possession of a firearm. I believe that a mandatory sentence along that line is sensible when you deal with career criminals, habitual offenders, because of their threat to society where we know that such offenders commit as many as 700 crimes a year and where this has been tested in the more than 40 States in the United State that have enacted laws on habitual offenders.

It would be my suggestion that we have to be careful on other mandatory sentences to make sure that they are not overly stringent. We have had experience now with statutes dealing with uniformity in sentencing, and the experience in the Federal courts suggests, Mr. President, that we need some reevaluation of that particular line.

There is one aspect of the pending bill on which I think important to note my disagreement or at least reservations: the expansion of the good faith exception to the exclusionary rule. I state that for this reason, Mr. President.

Mr. President, we currently have an exception on good faith from the Supreme Court decision in the Leon case. I believe that the crafting of the exclusionary rule by the courts has been the preferable course.

I was assistant district attorney in Philadelphia when Mapp versus Ohio came down in June 1961 and it revolutionized State criminal practice by imposing on the States the exclusion of evidence obtained as a result of an unreasonable search and seizure. In the intervening 30 years, Mr. President, I submit that law enforcement has learned to live with the exclusionary rule with the modifications adopted by the courts, including the good faith exception based on written search warrants. But I believe that it is preferable to rely upon the courts, as the courts craft these good faith exceptions, and as the courts craft what constitutes probable cause, which has a substantial amount of flexibility. Reliance on the courts is a preferable course to seeking a legislative alternative.

When this issue has been presented in the past, it has been excluded from consideration because quite a number of Senators on the Republican side of the aisle with experience in this field, including myself, those with considerable law enforcement experience, have expressed reservation on this issue. Mr.

President, as is the case on all these matters, I believe we ought to have hearings; we ought to consider all of these issues; we ought to approach them listening to the experience of people in all aspects of the law.

This is a good bill. I am pleased to cosponsor it. I urge its speedy consideration by our Judiciary Committee and the full Senate.

Mr. SIMPSON. Mr. President, I commend Senator STROM THURMOND for his unceasing labor in this area. I do not know anyone more appropriately tied to the issue of criminal law and these issues of crime and justice than the greatly respected former chairman of the Judiciary Committee, our most senior member of the Senate. He has done a magnificent job once again in sponsoring a piece of legislation that I believe we can all support.

I want to briefly express support and appreciation for the President's leadership in presenting Congress with a comprehensive crime proposal. We are really faced with a very unique situation. Nearly every part of the President's proposal either adopts or builds upon an element of the crime bill which the Senate passed so overwhelmingly last summer.

We had an excellent debate in this Chamber. There were a couple of contentious issues. I think we visited the issue of assault rifles three times. Those provisions were preserved in the bill by one vote. But it was a good bill. I was right here on this floor and watched Senator THURMOND and Senator BIDEN work in a very fine bipartisan effort. The Senate gave the Nation a very good bill.

As my colleagues know, the House of Representatives did not act as swiftly as we did on a crime bill, and that resulted in a very hastily convened conference committee. In fact, we were all a little startled as to how late it came. Then there were many sleepless nights of hard work in trying to craft a compromise bill, but it was a hopelessly disjointed conference committee activity.

I was honored to have been appointed to that committee, but I have to tell you the cards were stacked on that one. In my 12 years in the Senate, working on bills that had passed, obviously by both Houses, I have never been in a conference where the conferees in one body rejected everything that their own body had done. That is exactly what happened.

It looked like murderers' row of the old New York Yankees back in 1927 or 1929. Every single one of the House Democrats was opposed to the death penalty, to any habeas corpus reform, to any exclusionary rule reform. They took the conference in hand, and they rejected their own body's will, if you will.

I have never seen that before, and I hope we do not see it ever again, because the real substance of that bill, approved by the House of Representatives and stripped by the Democrat House conferees, was, of course, the Federal death penalty, habeas corpus reform, and the exclusionary rule codification—all of it was stripped out. Some of those subjects were too politically charged to be dealt with in an election year, obviously. Some who voted in support of certain provisions actually expressed disapproval of those in committee, a most confusing exercise to observe.

As a result, Mr. President, the Senate is again faced with the task of getting those subjects back as a priority in the 102d Congress. So I am very pleased to join my colleagues in expressing support for the leadership of our fine President and our ranking members on the Judiciary Committee.

The legislation introduced establishes a constitutional death penalty and incorporates the best of our various proposals with much needed habeas corpus reform. Habeas corpus is a particular issue about which I feel very strongly. It does little good to say we are tough on criminals if we let the worst of them abuse the system, as they have thus far.

The President's proposal codifies the good faith exception to the exclusionary rule. This is something the various law enforcement agencies have asked us to do for some time. There are also new initiatives many of our colleagues have been working on for some time as well, along with our chairman, Senator BIDEN. We will be visiting issues of drug testing, sexual violence, and child abuse, terrorism, outlaw gangs, and juvenile offenders, obstruction of justice, and equal justice.

There is much work to be done in crafting a crime bill that has real teeth. The President has shown the same courageous leadership on this issue that he has shown on international issues these past difficult months.

I am pleased to voice my support and gratitude for the leadership shown by our President and by Senator STROM THURMOND and by Senator BIDEN on his important issue.

I thank the Chair.

By Mr. HOLLINGS:

S. 636. A bill to authorize the President to resume negotiations in the Uruguay round and to negotiate an agreement with the Governments of Canada and Mexico; to the Committee on Finance.

RESUMPTION OF NEGOTIATIONS IN THE URUGUAY ROUND

Mr. HOLLINGS. Mr. President, I send to the desk a bill for proper referral to authorize the President to resume negotiations in the Uruguay round, and to negotiate an agreement with the Governments of Canada and Mexico. That is a clear-cut bill to continue with negotiations in the Uruguay round, because that is what we are doing now and to begin negotiations with Mexico.

But then I send also to the desk for proper referral on behalf of myself and the distinguished Presiding Officer, former majority leader, Mr. BYRD of West Virginia, Senator THURMOND, and others—13 cosponsors—Senate Resolution 78, a resolution to disapprove the request of the President for extension of the fast-track procedures under the Omnibus Trade and Competitiveness Act of 1988.

I readily agree that the administration is the proper entity to conduct these negotiations. But the responsibility of this body cannot be abdicated. The Constitution cannot be amended by this fast-track nonsense.

The truth of the matter is that under article I, section 8 of the Constitution, the Congress, not the President, not the courts, but the Congress of the United States shall control foreign commerce and international trade. That is a primary responsibility under the Constitution.

Negotiating for us, obviously, is our executive branch. But what they want now is not merely to negotiate but to put a gun at our head and say take it or leave it. That has to stop.

We tried that take it or leave it approach and we have been left too often, by previous GATT negotiators.

I also ask unanimous consent, Mr. President, at this point that an article in the Wall Street Journal of this morning entitled "Exports Won't Pull United States Out of Recession," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

EXPORTS WON'T PULL UNITED STATES OUT OF RECESSION—FOREIGN DEMAND PROVES INADEQUATE TO OFFSET DROP ON DOMESTIC SIDE

(By David Wessel)

WASHINGTON.—Exports aren't enough.

For all the well-deserved attention that U.S. exports are getting these days, they weren't enough to keep the U.S. from sliding into recession and they won't be enough to pull it out.

Even in industries most successful at the export game, foreign demand is proving inadequate to offset the downturn in demand at home. In fact, production actually declined last year in six of the 10 most export-intensive manufacturing and mining industries, according to an analysis done for The Wall Street Journal by DRI/McGraw Hill Inc., a Lexington Mass., consulting company.

"Why wasn't the recession worse? Exports. Exports. Exports," says DRI economist Vivian Singer. "But it wasn't enough to compensate. It doesn't matter if an industry is export-intensive or not. It depends largely how its domestic market is doing."

Exports are one of the few bright spots in the U.S. economy these days. Growth in exports accounted for nearly all of last year's meager increase in the U.S. gross national product, the value of all goods and services produced.

MANUFACTURED GOODS

Federal Reserve Chairman Alan Greenspan, testifying recently before a congressional committee, said that exports actually provided "little impetus to manufacturing" in the months before the recession began last summer. But since September, foreign demand has been growing again, and exports "have cushioned the steep declines that have occurred as production has responded unusually promptly to the weakness in the domestic economy," he said. The decline of the dollar on world currency markets over the past six months should help keep exports growing by making U.S. goods cheaper for foreigners.

The outlook for exports remains rosy, but growth in exports of manufactured goods can't match the torrid pace of the past several years. In a recent survey, 68% of the directors of the National Association of Manufacturers said exports will increase "more slowly than in recent years." Only 26% said exports will continue to grow "rapidly."

Exports of goods and services accounted for only 13% of the nation's $5.5 trillion GNP. In a small country such as the Netherlands, where exports account for about half of all production, they can make or break a recession. "The opposite is true for most American industries because their domestic market is so overwhelming large," says Walter Joelson, chief economist at General Electric Co.

"Take our major appliances," Mr. Joelson says. "Exports are very significant in total dollar volume, but in terms of the total major appliance business that we have, exports are maybe 5% or 6%." GE's appliance business reported world-wide revenue of $5.7 billion last year.

Few industries are as dependent on exports as the construction- and mining-equipment business. DRI figures that more than 30% of its production was exported in the last half of the 1980s and predicts that exports will account for 40% of its output this year. The industry's exports, adjusted for price changes, grew by 13.5% last year, DRI estimates.

Yet the industry's total output fell by 1.8%, DRI says. Why? Demand for construction equipment dried up as the real estate recession spread across the country.

CONSTRUCTION EQUIPMENT

For some big makers of construction equipment, even the export business turned out to be a bit disappointing last year. Caterpillar Inc., for instance, says it shipped 3 percent fewer machines world wide in 1990 than the year before. Not only did shipments to U.S. customers fall, but, to a lesser degree, shipments abroad fell, too, the company says.

Economic woes in Brazil and recessions in the United Kingdom, Canada and some other important foreign markets are to blame. After taking price increases into account, Catepillar's sales in the U.S. fell 2 percent, while sales abroad grew 6 percent.

At Ingersoll-Rand Co., foreign sales grew enough in the second half of last year to offset the decline in the machinery maker's domestic sales, but Vice President Thomas McBride says that probably won't continue in the first half of 1991.

Foreign sales don't necessarily mean U.S. exports. Mr. McBride cautions, Ingersoll's foreign business has been growing but it also has been moving manufacturing offshore. Exports accounted for about 15 percent of Ingersoll's business last year, down from 22 percent a decade ago.

According to DRI, output of the computer industry, adjusted to remove price changes, grew 14.1 percent faster than any of the other 58 industries analyzed. Exports were a major factor. "Keep in mind that the industry will see far less of an increase in total dollar sales" Ms. Singer of DRI notes. As officially measured, prices for computers fall considerably every year when adjusted for the increased power of the machines; as a result, economists figure the industry's physical output of computing power grew more than its reported sales.

Tobacco companies, increasingly looking abroad to compensate for the waning appeal of cigarettes in the U.S., also managed to increase exports sufficiently to offset a decrease in domestic demand.

EXPORTS AREN'T ENOUGH—HOW THE 10 MOST SUCCESSFUL MANUFACTURING AND MINING EXPORTERS FARED

[In percent]

Industry	Exports as percent of output, 1985–89 average	Export growth, 1990[1]	Output growth, 1990[1]
Computers, office equipment	32.5	17.4	14.1
Iron ore mining	31.2	1.2	−1.1
Construction mining equipment	30.2	13.5	−1.8
Aircraft, parts	28.2	12.4	3.9
Electronic components	24.0	11.5	−.4
Special industrial machinery	23.7	12.3	.8
Engines and turbines	20.7	7.9	−.8
Leather tanning, finishing	18.1	7.0	−8.3
Miscellaneous electrical equipment	17.7	8.5	−.4
Tobacco products	15.4	9.3	.9

[1] Dollar volume adjusted for price changes.

Source: DRI/McGraw Hill Inc.

Mr. HOLLINGS. Highlighting, then, Mr. President, I emphasize once again not just our responsibility but reality. The reality is that when Keynes went to Bretton Woods, he did not go there as a laissez faire economist. He went looking for government-controlled development of the economy. History will prove that that is the reality with respect to all of our trading competition.

So, as much as we would wish—as we did back in the late forties—to set the example of free trade and do away with the tariffs and the barriers and the restrictions and the protections, and what have you, as much as we desired that, it has developed otherwise. Realistically, then, we must get in step, now, and let market forces operate. And the fundamental, primary influence in the market is government itself: the Japanese with their MITI, and Taiwan, Korea, Europe and the world around. The EEC now is organizing for next year, not for free trade but to engage in this trade war.

We have gone from the cold war to the gulf war and we are back now to the real war of economic security. In that war look at how we have been losing the battle. Over the past several years now, 100 percent of the black and white televisions, and radios, now, are manufactured outside of the United States. Thirty percent of the automobile industry is foreign, 80 percent of the motorcycles, 90 percent of the cameras, 60 percent of apparel, 60 percent of machine tool, 67 percent of ferro alloys.

I put those in my statement, but I hasten to remind my colleagues, with the gulf war, we have had to be nice to the Japanese because if they do not give us the chips we do not get any Patriot missiles, no Tomahawk missiles. Our national security is dependent. The distinguished Chair fought that. I fought it.

I received the first SDI award and I fought the false interpretation of the ABM Treaty on this floor. But now that we are finally getting a recognition of technology, let us begin the front line of that battle, which is in the trade war itself.

The distinguished U.S. Trade Representative our ambassador, Carla Hills, says the Uruguay round will mean $5 trillion to world trade and a $1 trillion advantage to the United States. She is going around the Hill selling that idea, but, Mr. President, if we look at the study of the Economic Strategy Institute, rather than a trillion dollar advantage, it will add $14 billion to the trade deficit.

That is what really bothers this Senator.

We had 37, rather than 13, cosponsors last year. The Carla Hills bazaar opens and she goes around to my colleagues and says I will take care of you if you get off that resolution. They all say I have nothing to lose, I will get off the bill and can vote against it later. That, of course, explains it. There is no diminution in support for pursuing our responsibility here, but we have been put in a position of wheeling and dealing, trying to protect various interests.

The argument that if they do not get fast track, they cannot get an agreement, is totally false. We did not get fast track and we got SALT I. This Senator was on the floor when we voted on it, and I voted against SALT I. Later, the negotiators told me I was correct. I was the only Senator to vote against it, but we got it.

We did not approve SALT II or ratify it here, but they said that would be the end of the world. The Soviets went right ahead and agreed to the INF Treaty. We agreed to the ABM Treaty. People live in the real world.

If this agreement, Mr. President, is such an outstanding agreement, rather than the 30-day gun at our head, take it or leave it, it will be adopted and passed in 30 minutes. They say it is wonderful; we are going to burst forward with a trillion dollars more in trade, $5 trillion to the world economy; GATT is a wonderful thing. It controls less than 7 percent of world commerce, and we will show the statistics when we get into the debate. The real trade is carried on by Multifiber Arrangement, by bilateral agreements, and persons act as they do in the market to their economic interests.

Those who would bash Japan, should bash Washington instead. In Japan, it works. If I were the Emperor in the next 10 seconds, I would do it the exact same way. They win, win, win, win. They have taken over the world's production. There is nothing wrong with it as long as they say, "We have a special relationship." I would say "We have a special relationship now if you made it to my economic interests."

That is the market. They are all talking about market forces, free market. Let those market forces operate.

Let us look at the trade agreement from the Uruguay round if and when we get it. They have been negotiating 4 years and they want us to take 30 days here, the body with the responsibility to regulate foreign commerce. They have been working on it for 4 years. Thirty days or else. None of that. I think we have grown and matured. We have not filibustered a trade agreement in the history of the Senate. We have agreed to them when other agreements have been turned down such as SALT II.

Mr. President, over the past 7 weeks, all of us have been preoccupied by events in the Persian Gulf. The swift and decisive victory of the allied forces has now granted us the luxury to focus on another confrontation that looms just over the horizon—a conflict whose battlefield is the international marketplace and whose warriors are the millions of working men and women of this country—the backbone of our manufacturing base. It is time that the Senate turn its attention to the economic struggle that is already eating away at our standard of living and now threatens our very national security.

If you want to discover why real disposable income is now below 1973 levels, all one has to do is look at what has befallen this Nation's position in the international marketplace. The high wage manufacturing jobs that made it possible for millions of Americans to realize the American dream have been gradually shipped overseas. With the assistance of the Marshall Plan and government-directed development policies, the nations of Europe and Asia rebuilt their economies. Now they are girding for the competition in the 21st century—not by freeing markets but by banding together to fight for market share through EC92.

Since the end of World War II, we have been on a mission to convert the rest of the world into laissez faire clones of our economic system. Practicing free trade, we set the example by opening our markets at all costs. In order to ensure that the world accepted our vision of free trade we supported GATT and tried to conform the regulation of trade to suit our ideological preferences. But the GATT only benefited foreign countries with Government led export strategies and American multinationals who moved their manufacturing operations offshore and then sought to import to the United States their dumped and low wage products.

Under the auspices of the GATT, trade disputes were cooled by invocations and incantations of "special relationships." In the 40-plus years of its existence, six rounds of the GATT have been negotiated, all of which were supposed to exponentially expand world trade. Instead, under the GATT we have watched as our position as the dominant economic power has eroded. Under the auspices of the GATT, manufacturing industry after manufacturing industry in the United States has gone out of business. Our benevolent policy of GATT sponsored free trade at all costs, a policy that ignored the predatory practices of our trading partners and exacted a terrible toll on our economy.

For the past 4 years, this administration and its predecessor have been on a mission to sell the Congress and the world on the merits of a successful completion of the GATT Uruguay round. We are told time and again that a successful completion of the Uruguay round would result in a 4- or 5-trillion-dollar expansion of world trade. However, a detailed study released by the Economic Strategy Institute shows how this administration and previous administrations have absurdly overstated the benefits to world trade that would result from such an agreement.

Overestimating, overstating, and overselling the benefits of GATT agreements is a time-honored tradition at the office of the U.S. Trade Representative. For example, in 1979, the USTR estimated that a successful completion of the Tokyo round would benefit U.S. consumers by as much as $10.6 billion per year. In the end, the Michigan Model of World Production and Trade estimated that the total net benefit to the economy from the Tokyo round was only $700 million—$700 million in a $5-trillion economy. The Tokyo round certainly did not benefit our balance of trade. In 1979, when it was completed our trade deficit stood at $15 billion and now it hovers around $100 billion.

Last December Mrs. Hills went to Brussels ready to negotiate away still more of our manufacturing base. In order to get another GATT agreement, she was willing to sacrifice 1.4 million jobs in the textile and apparel industry by agreeing to an end to the textile import program. To appease the demands of our trading partners, the USTR would be willing to weaken our antidumping code, the only real protection American manufacturers have against unfair trade practices.

Mr. President, a funny thing happened on the way to an agreement in Brussels. Our negotiators discovered that the Europeans and the Japanese were not willing to sacrifice substantial sectors of their economies for the sake of ideological purity. They have been too successful in international trade competition to now adopt policies that brought the U.S. triple-digit trade deficits. After 4 years, the Brussels Ministerial ended in failure because the rest of the world does not accept our concept of free trade. They are not willing to let the magic of the marketplace determine their destiny. Instead, they understand that it is affirmative government policies that create a nation's comparative advantage.

Last month, the administration declared that there was light at the end of the tunnel because the Europeans merely acquiesced to a statement by GATT Director-General Dunkel declaring a willingness to discuss, again, after 4 years of negotiations, reforming EC farm policy. As a result of this "breakthrough" the President has come to this body now and requested that Congress abdicate its constitutional authority and grant an extension of fast-track treatment for legislation implementing bilateral and multilateral trade agreements.

Mr. President, "fast-track" was written into the Trade Act of 1974. The proponents of fast-track argued that our trading partners in the GATT would not negotiate with us in the Tokyo round if Congress were again allowed to exercise its right to amend or disapprove parts of the agreement. By agreeing to fast-track, Congress took itself out of the trade war. When a trade agreement is concluded, fast-track operates like a gun to our head—no amendments, no reservations, take 30 days and vote up or down.

Mr. President, all we are asking for is time to examine a trade agreement—its merits, its deficiencies. If an agreement were really going to have $4 trillion expansionary effect on world trade, then you wouldn't need 30 days. You could pass it in 30 minutes.

After spending billions of dollars and risking our lives to protect our trading partners from totalitarian aggression, the least our trading partners can do is to show similar respect for our constitutional form of government. If we disapprove the extension of fast track, the world as we know it will not come to an end. What may end, however, is our deluded faith in the GATT's ability to protect American jobs. If the Uruguay round fails, American business will not shut down, but if it succeeds, I can tell you that certain industries will. The fact of the matter is that since GATT covers only 5 to 7 percent of world commerce, business will not come to a screeching halt. Instead we will carry on and maybe we will wake up and discover how our competition really operates. Our competitors understand that it is government that creates their comparative advantage—David Ricardo wrote that land, labor, capital and natural resources determined comparative advantage—but in today's international competition it is government guidance that determines comparative advantage—it is not the field and the streams, it is MITI in Japan and their equivalents in Korea, Hong Kong and EC92 that make market forces operate.

In addition to an extension for the Uruguay Round, the President has also requested fast-track treatment for a free trade agreement with Mexico. Again, Mr. President, we are told that an agreement cannot be negotiated without fast-track treatment assured in advance.

Mr. President, do the Mexicans really have a choice? Since its revolution, Mexico has pursued a statist economic policy, keeping its borders closed and nationalizing its major industries. Thanks to oil wealth generated by the price explosion in the seventies, the Mexicans went on a borrowing binge, loading themselves up with close to $100 billion of commercial debt. When oil prices collapsed, so did the statist Mexican economy. I applaud the efforts of President Salinas to liberalize the political and economic system—he is selling off the government-owned enterprises such as the phone monopoly and the government-controlled banking system. But the political and economic differences that divide our two nations are wider than the Rio Grande.

Mr. President, politically the Mexicans have never had a free and fair election—one party has ruled that country for 50 years. Economically, any agreement with Mexico must address the vast differences in wages, environmental standards, and worker protections.

The average wage in Mexico is about $1 an hour. The average Mexican work week is 48 hours. Of course they have nothing comparable to OSHA or EPA or Social Security or workers compensation. If we are worried about illegal immigration now, if an FTA is negotiated, we will witness a reverse migration as American-based multinational corporations stream across the border to take advantage of low wages and this absence of regulation south of the border. Let's be done with the myth that these are patriotic American companies. Their allegiance is not to the red, white and blue, it's to the green, the almighty dollar.

The idea that an FTA would provide a vast new market for American exports is even more optimistic than USTR's estimates of the benefits from the Uruguay round. How is a nation with a per capita GNP 10 percent of ours going to buy American exports?

Mr. President, the fact of the matter is that the Mexican economy is being crushed by an onerous debt burden and its own inefficiencies. They need an agreement more than we do. They need our capital, our technology, and with 40 percent of their export earnings going to finance their debt burden, they need our market. The benefits to our own economy are marginal. If this body reasserts its constitutional authority, the Mexicans will not walk out of the negotiations, because frankly, they have nowhere else to go.

I want President Salinas to succeed and I want to promote stability in Mexico, but I do not want to pay for it with American jobs. So, today I am introducing legislation that directs the President to negotiate with the Mexican and Canadian governments to reach a comprehensive package to address all the serious concerns that have been raised. In addition, the legislation authorizes the President to resume negotiations in the Uruguay round.

I urge my colleagues to support Senate Resolution 78 which disapproves fast track extension for 2 years. I also would welcome their support of my legislation directing the President to negotiate a comprehensive North American Free Trade Agreement and to resume negotiations in the Uruguay round.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 636

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that the President has resumed negotiations in the uruguay Round and has indicated his intention to negotiate a North America free trade agreement with the Governments of Canada and Mexico.

SEC. 2. URUGUAY ROUND NEGOTIATIONS.

The President is authorized to resume negotiations in the Uruguay Round and shall seek to obtain the following objectives:

(1) DISPUTE SETTLEMENT.—The principal negotiating objectives of the United States with respect to dispute settlement are—

(A) to provide for more effective and expeditious dispute settlement mechanisms and procedures; and

(B) to ensure that such mechanisms within the GATT and GATT agreements provide for more effective and expeditious resolution of disputes and enable better enforcement of United States rights.

(2) IMPROVEMENT OF THE GATT AND MULTILATERAL TRADE NEGOTIAION AGREEMENTS.—The principal negotiating objectives of the United States regarding the improvement of GATT and multilateral trade negotiation agreements are—

(A) to enhance the status of the GATT;

(B) to improve the operation and extend the coverage of the GATT and such agreements and arrangements to products, sectors, and conditions of trade not adequately covered; and

(C) to expand country participation in particular agreements or arrangements, where appropriate.

(3) TRANSPARENCY.—The principal negotiating objective of the United States regarding transparency is to obtain broader application of the principle of transparency and clarification of the costs and benefits of trade policy actions through the observance of open and equitable procedures in trade matters by Contracting Parties to the GATT.

(4) DEVELOPING COUNTRIES.—The principal negotiating objectives of the United States regarding developing countries are—

(A) to ensure that developing countries promote economic development by assuming the fullest possible measure of responsibility for achieving and maintaining an open international trading system by providing reciprocal benefits and assuming equivalent obligations with respect to their import and export practices; and

(B) to establish procedures for reducing nonreciprocal trade benefits for the more advanced developing countries.

(5) CURRENT ACCOUNT SURPLUSES.—The prinicipal negotiating objective of the United States regarding current account surpluses is to develop rules to address large and persistent global current account imbalances of countries, including imbalances which threaten the stability of the international trading system, by imposing greater responsibility on such countries to undertake policy changes aimed at restoring current account equilibrium, including expedited implementation of trade agreements where feasible and appropriate.

(6) TRADE AND MONETARY COORDINATION.—The principal negotiating objective of the United States regarding trade and monetary coordination is to develop mechanisms to assure greater coordination, consistency, and cooperation between international trade and monetary systems and institutions.

(7) AGRICULTURE.—The principal negotiating objectives of the United States with respect to agriculture are to achieve, on an expedited basis to the maximum extent feasible, more open and fair conditions of trade in agricultural commodities by—

(A) developing, strengthening, and clarifying rules for agricultural trade, including disciplines on restrictive or trade-distorting import and export practices;

(B) increasing United States agricultural exports by eliminating barriers to trade (including transparent and nontransparent barriers) and reducing or eliminating the subsidization of agricultural production consistent with the United States policy of agricultural stabilization in cyclical and unpredictable markets;

(C) creating a free and more open world agricultural trading system by resolving questions pertaining to export and other trade-distorting subsidies, market pricing and market access and eliminating and reducing substantially other specific constraints to fair trade and more open market access. such as tariffs, quotas, and other nontariff practices, including unjustified phytosanitary and sanitary restrictions; and

(D) seeking agreements by which the major agricultural exporting nations agree to pursue policies to reduce excessive production of agricultural commodities during periods of oversupply, with due regard for the fact that the United States already undertakes such policies, and without recourse to arbitrary schemes to divide market shares among major exporting countries.

(8) UNFAIR TRADE PRACTICES.—The principal negotiating objectives of the United States with respect to unfair trade practices are—

(A) to improve the provisions of the GATT and nontariff measure agreements in order to define, deter, discourage the persistent use of, and otherwise discipline unfair trade practices having adverse trade effects, including forms of subsidy and dumping and other practices not adequately covered such as resource input subsidies, diversionary dumping, dumped or subsidized inputs, and export targetting practices;

(B) to obtain the application of similar rules to the treatment of primary and nonprimary products in the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the GATT (relating to subsidies and countervailing measures); and

(C) to obtain the enforcement of GATT rules against—

(i) state trading enterprises, and

(ii) the acts, practices, or policies of any foreign government which, as a practical matter, unreasonably require that—

(I) substantial direct investment in the foreign country be made,

(II) intellectual property be licensed to the foreign country or to any firm of the foreign country, or

(III) other collateral concessions be made, as a condition for the importation of any product or service of the United States into the foreign country or as a condition for carrying on business in the foreign country.

(9) TRADE IN SERVICES.—

(A) The principal negotiating objectives of the United States regarding trade in services are—

(i) to reduce or to eliminate barriers to, or other distortions of, international trade in services, including barriers that deny national treatment and restrictions on establishment and operation in such markets; and

(ii) to develop internationally agreed rules, including dispute settlement procedures, which—

(I) are consistent with the commercial policies of the United States, and

(II) will reduce or eliminate such barriers or distortions, and help ensure fair, equitable opportunities for foreign markets.

(B) In pursuing the negotiating objectives described in subparagraph (A), Unitd States negotiators shall take into account legitimate United States domestic objectives including, but not limited to, the protection of legitimate health or safety, essential security, environmental, consumer or employment opportunity interests and the law and regulations related thereto.

(10) INTELLECTUAL PROPERTY.—The principal negotiating objectives of the United States regarding intellectual property are—

(A) to seek the enactment and effective enforcement by foreign countries of laws which—

(i) recognize and adequately protect intellectual property, including copyrights, patents, trademarks, semiconductor chip layout designs, and trade secrets, and

(ii) provide protection against unfair competition,

(B) to establish the GATT obligations—

(i) to implement adequate substantive standards based on—

(I) the standards in existing international agreements that provide adequate protection, and

(II) the standards in national laws if international agreement standards are inadequate or do not exist,

(ii) to establish effective procedures to enforce, both internally and at the border, the standards implemented under clause (i), and

(iii) to implement effective dispute settlement procedures that improve on existing GATT procedures;

(C) to recognize that the inclusion in the GATT of—

(i) adequate and effective substantive norms and standards for the protection and enforcement of intellectual property rights, and

(ii) dispute settlement provisions and enforcement procedures,

is without prejudice to other complementary initiatives undertaken in other international organizations; and

(D) to supplement and strengthen standards for protection and enforcement in existing international intellectual property conventions administered by other international organizations, including their expansion to cover new and emerging technologies and elimination of discrimination or unreasonable exceptions or preconditions to protection.

(11) FOREIGN DIRECT INVESTMENT.—

(A) The principal negotiating objectives of the United States regarding foreign direct investment are—

(i) to reduce or to eliminate artificial or trade-distorting barriers to foreign direct investment, to expand the principle of national treatment, and to reduce unreasonable barriers to establishment; and

(ii) to develop internationally agreed rules, including dispute settlement procedures, which—

(I) will help ensure a free flow of foreign direct investment, and

(II) will reduce or eliminate the trade distortive effects of certain trade-related investment measures.

(B) In pursuing the negotiating objectives described in subparagraph (A), United States negotiators shall take into account legitimate United States domestic objectives including, but not limited to, the protection of legitimate health or safety, essential security, environmental, consumer or employment opportunity interests and the law and regulations related thereto.

(12) SAFEGUARDS.—The principal negotiating objectives of the United States regarding safeguards are—

(A) to improve and expand rules and procedures covering safeguard measures;

(B) to ensure that safeguard measures are—

(i) transparent,

(ii) temporary,

(iii) degressive, and

(iv) subject to review and termination when no longer necessary to remedy injury and to facilitate adjustment; and

(C) to require notification of, and to monitor the use by, GATT Contracting Parties of import relief actions for their domestic industries.

(13) SPECIFIC BARRIERS.—The principal negotiating objective of the United States regarding specific barriers is to obtain competitive opportunities for United States exports in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports to United States markets, including the reduction or elimination of specific tariff and nontariff trade barriers, particularly—

(A) measures identified in the annual report prepared under section 181 of the Trade Act of 1974 (19 U.S.C. 2241); and

(B) foreign tariffs and nontariff barriers on competitive United States exports when like or similar products enter the United States at low rates of duty or are duty-free, and other tariff disparties that impede access to particular export markets.

(14) WORKER RIGHTS.—The principal negotiating objectives of the United States regarding worker rights are—

(A) to promote respect for worker rights;

(B) to secure a review of the relationship of worker rights to GATT articles, objectives, and related instruments with a view to ensuring that the benefits of the trading system are available to all workers; and

(C) to adopt, as a principle of the GATT, that the denial of worker rights should not be a means for a country or its industries to gain competitive advantage in international trade.

(15) ACCESS TO HIGH TECHNOLOGY.—

(A) The principal negotiating objective of the United States regarding access to high technology is to obtain the elimination or reduction of foreign barriers to, and acts, policies, or practices by foreign governments which limit, equitable access by United States persons to foreign-developed technology, including barriers, acts, policies, or practices which have the effect of—

(i) restricting the participation of United States persons in government-supported research and development projects;

(ii) denying equitable access by United States persons to government-held patents;

(iii) requiring the approval or agreement of government entities, or imposing other forms of government interventions, as a condition for the granting of licenses to United States persons by foreign persons (except for approval or agreement which may be necessary for national security purposes to control the export of critical military technology); and

(iv) otherwise denying equitable access by United States persons to foreign-developed technology or contributing to the inequitable flow of technology between the United States and its trading partners.

(B) In pursuing the negotiating objective described in subparagraph (A), the United States negotiators shall take into account United States Government policies in licensing or otherwise making available to foreign persons technology and other information developed by United States laboratories.

(16) BORDER TAXES.—The principal negotiating objective of the United States regarding border taxes is to obtain a revision of the GATT with respect to the treatment of border adjustments for internal taxes to redress the disadvantage to countries relying primarily for revenue on direct taxes rather than indirect taxes.

SEC. 3. NEGOTIATIONS WITH CANADA AND MEXICO.

The President is authorized to negotiate with the Governments of Canada and Mexico an agreement. The agreement shall include—

(1) trade provisions requiring the reduction of tariffs and nontariff barriers;

(2) provisions on environmental standards, enforcement, and compliance;

(3) provisions on worker rights and workplace safety;

(4) provisions on health and safety standards; and

(5) any other provisions the President deems necessary.

By Mr. LIEBERMAN:

S. 637. A bill to establish the Industrial Development for Eastern Europe Foundation; to the Committee on Foreign Relations.

INDUSTRIAL DEVELOPMENT FOR EASTERN EUROPE FOUNDATION ACT

• Mr. LIEBERMAN. Mr. President, today I am reintroducing legislation to create the Industrial Development for Eastern Europe [IDEE] Foundation. IDEE is modeled after the highly successful Binational Industrial Research and Development [BIRD] Foundation, which was established in 1977 to develop a cooperative relationship between American and Israeli high-technology industries. BIRD has an income of approximately $10 million a year, most of which comes from its $110 million endowment. With its income, it shares the expense—50-50—with an Israeli-American venture trying to develop and commercialize a nondefense technical product or process.

In the last decade, BIRD has supported over 250 joint ventures, and over 100 of these ventures led to sales of about $1.5 billion. BIRD's success is due to a number of factors, not the least of which is the advanced state of Israeli research and development.

While it will not be easy to duplicate the success of the BIRD Foundation, I nonetheless, believe that the concept is applicable to Central and Eastern Europe. In a new study I requested the Congressional Research Service to conduct, entitled "Eastern European and Soviet Science and Technology: Capabilities and Needs," Bill Boesman, the study's author, writes that Eastern European science and technology capabilities have been largely ignored but they could play an increasingly important role leading to greater East-West cooperation on science and technology issues.

The OECD held a conference March 4–6 in conjuction with the Austrian Government in Vienna and Bratislava on science and technology in Eastern Europe. The results of the conference should be of use of American firms wanting to establish an economic beachhead in Central and Eastern Europe. Through the OECD's new and highly successful Center for European Economies in Transition, which I was honored to help to establish and which focuses on economic transformation in Central and Eastern Europe, and through the creation of the IDEE Foundation, we can aid with the development of Central and Eastern European science and technology and its commercial applicability.

The creation of this IDEE Foundation would come at a good time, since export controls on the transfer of technology to Central and Eastern Europe are being updated to reflect the changed relationship between the United States and other NATO nations and Japan and the nations of that region. The fine work done recently by the Senate Banking Committee on the Export Control Act reauthorization recently is an excellent example of this.

While we have much to focus on with the reconstruction and realignment of the Persian Gulf in the aftermath of the war, we must not ignore the nations of Central and Eastern Europe. But for over four decades we promised the people of Central and Eastern Europe that we would help them in their struggle to free themslves of the yoke of communism. They have succeeded beyond our expectations, but we are not living up to our end of the bargain. We must, therefore, live up to our end of the bargain and, as Churchill said, "* * * pass with relief from the tossing sea of Cause and Theory to the firm ground of Result and Fact," and help the nations of Eastern Europe with their struggle to build democracy and a free market system.

We are understandably concerned about our domestic economic problems. There is little money to spare in our budget. That is why a cost-effective program like the IDEE Foundation is such a useful approach for channeling our aid efforts conditioned on the commitment by these nations to fundamental economic reform and elective democracy.

IDEE, like BIRD, would receive its operating expenses from the interest on its endowment, as well as any royalties it may receive from successful projects. Contributions to IDEE would be made by all member nations, not just the United States.

An initial contribution of $28 million from the United States would be complemented by a contribution of $25 million each from Central and Eastern European nations wishing to be members. The three Central and Eastern European nations best able to take advantage of IDEE initially are Hungary, Poland, and Czechoslovakia. Their contributions to the foundation would be made over a period of time and could be made in local currency. Contributions could also be made in lieu of the repayment of debt owed by these governments to the United States. Much of this debt may need to be written off anyway, so we should funnel the repayment that does occur to worthwhile projects like the IDEE Foundation.

IDEE would be governed by a board which would control its activities. The board would consist of representatives from the U.S. State Department, Treasury, Department of Commerce, and their counterparts from the other member nations. An executive director, appointed by the board, would be in charge of the day-to-day activities of IDEE. In addition, an advisory council consisting of representatives from private industry would help the board and the executive director and his or her staff evaluate projects and make recommendations on investment opportunities.

I have suggested that IDEE be headquartered in a neutral location close to the three Central and Eastern European nations that will be members of IDEE. It is important that IDEE be located in the region in order to have a hands-on working relationship with the private sector of its member nations.

IDEE will only need a one-time appropriation since its projects will be funded from the interest on its endowment and from royalties. While the primary purpose of IDEE is to foster the growth of high-technology industry in the nations of Central and Eastern Europe, there are clear advantages for American firms willing to become involved with Central and Eastern European entrepreneurs, engineers, and scientists. American investors will be able to share in any profits and innovations developed through joint ventures.

It is important that as we continue to look for more cost-effective ways to aid the nations of Central and Eastern Europe, that we make every effort to develop programs that will be of some benefit to American businesses. The best way to receive continued support for funding for such programs is by making certain that the American business community will accrue some benefit from these programs. IDEE embodies the principle of helping both American businesses while at the same time helping the private sector of its Central and Eastern European member nations.

Finally, it is my hope that IDEE will develop a close, mutually beneficial relationship with BIRD, facilitating closer contact between the Israeli private sector, the private sector of those Central and Eastern European nations belonging to IDEE, and the American business community. A close relationship between these nations is to everyone's advantage. Since BIRD has been a tremendous success, it would be very useful to have the board and staff of IDEE work closely with the BIRD staff to make certain that IDEE is equally successful.

I am attaching a copy of the legislation, as well as a bill summary to be included in the RECORD along with my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 637

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Industrial Development for Eastern Europe Foundation Act".

SEC. 2. ESTABLISHMENT AND PURPOSES OF THE FOUNDATION.

(a) ESTABLISHMENT.—There is hereby established the Industrial Development for Eastern Europe Foundation (hereafter in this Act referred to as the "Foundation"), which shall be governed by the Board of Governors established under section 4. It is the sense of the Congress that the President should negotiate with the governments of foreign nations for participation by such nations, consistent with section 4, in carrying out the activities of the Foundation.

(b) PURPOSES.—The purposes of the Foundation are—

(1) to promote and support joint, nondefense, industrial research and development activities of mutual benefit to the nations involved with the Foundation and its activities;

(2) to develop nondefense high technology industry in these nations, particularly through joint and cooperative projects between firms in participating nations;

(3) to aid with the modernization of the economies of these nations by helping them to create a more sophisticated manufacturing base; and

(4) to help these nations to become economically viable by providing benefits to

their industrial sector particularly through joint projects.

SEC. 3. FUNCTIONS AND POWERS OF THE FOUNDATION.

(a) The Foundation shall support and promote the purposes stated in section 2(b) and research and development activities which—

(1) involve all applied science activities in the process through which an innovation becomes a commercial product; and

(2) assist with product engineering and manufacturing start up.

(b) The Foundation shall work closely with, and to the extent practicable coordinate its activities with, the OECD and the European Bank for Economic Recovery and Development, drawing on the expertise of those institutions in achieving its purposes.

(c) The Foundation shall be a legal entity and shall have all the powers necessary to carry out its objective, including the power to—

(1) promote and support, by funding or otherwise, joint industrial research and development projects (hereafter in this Act referred to as "projects"), in accordance with subsection (d);

(2) make loans and grants;

(3) enter into contracts;

(4) provide services;

(5) acquire, hold, administer, and dispose of real and personal property;

(6) receive, hold, and disburse funds, and open bank accounts;

(7) accept contributions of property, funds, and services; and

(8) employ personnel.

(d)(1) Projects shall be undertaken and otherwise supported through direct investment and joint ventures in order to develop the more advanced technology sectors of the economies of Foundation member nations.

(2) All technology and products developed as a result of the work of the Foundation may be freely transferable among the nations participating in a project.

(3) More than one member nation of the Foundation must participate in a project.

(4) All projects undertaken must be in compliance with the export control laws of the United States.

(e) Nothing in this Act may be construed to prejudice other arrangements for scientific cooperation between the United States and other member states of the Foundation.

SEC. 4. BOARD OF GOVERNORS.

(a) A Board of Governors (hereafter in this Act referred to as the "Board"), shall be the governing body of the Foundation and shall be responsible for determining the Foundation's program, including the fields of cooperative research which will be supported by the Foundation, and the Foundation's financial and managerial policies.

(b) The Board shall consist of—

(1) the Secretary of State or his designee;

(2) the Secretary of Commerce or his designee;

(3) the Secretary of the Treasury or his designee; and

(4) a representative from the Foreign Ministry, Ministry of Finance, Ministry of Trade and Industry, and the national science foundation or its equivalent from the governments of Poland, Hungary, and Czechoslovakia.

(c) Subject to the provisions of this Act, the Board shall have the authority to—

(1) adopt bylaws and rules of procedure;

(2) establish regulations defining the policies, organization, and procedures of the Foundation;

(3) appoint an Executive Director;

(4) approve the annual budget and research program of the Foundation indicating, among other things, the research and development fields to which priority is to be given;

(5) accept contributions of property, funds, and services;

(6) establish the principal office of the Foundation in a neutral location;

(7) approve project and other expenditures by the Foundation and agreements pertaining to projects to be funded by the Foundation; and

(8) exercise and delegate any other power of the Foundation not otherwise assigned by this Act.

(d) Each other East European country shall be eligible for membership in the Foundation whenever the Board determines that such country has made sufficient progress toward marketization and democratization and is not in violation of section 502B of the Foreign Assistance Act of 1961.

(e) The chairman of the Board shall be a United States national and shall serve for a one-year term. The chairmanship shall rotate among the three Board members who are United States nationals.

(f) The Board shall meet at least twice a year, but meetings of the Board may be held at such times and places as the Board may from time to time determine.

(g) The Board shall act by a vote of at least two-thirds of its entire membership.

(h) Members of the Board shall serve without compensation from the Foundation, but the Board shall authorize the payment by the Foundation of the necessary expenses of any members in attending Board meetings and in performing other official duties for the Foundation. Acceptance of such payments by Board members of the Foundation for this purpose shall not be deemed in violation of Ethics in Government Act for the purposes of carrying out this section.

(i) The Board shall provide for annual audits by independent auditors of the accounts of the Foundation. The reports of such audits, which shall be submitted to all member governments, shall contain certification as the accounts of the Foundation and evaluate the Foundation's internal control and auditing system.

SEC. 5. ADVISORY COUNCIL.

(a) An Advisory Council (hereafter in this Act referred to as the "Council"), shall act in an advisory capacity to the Board and the staff of the Foundation. The Council shall—

(1) help the Board and the Foundation staff evaluate projects; and

(2) make proposals as to which sectors of member nation economies offer the best opportunity for a favorable return on an investment.

(b) Recommendations made by the Council to the Board and the staff of the Foundation shall not be binding.

(c) The Council shall consist of three members from the business and finance community from each nation belonging to the Foundation. In the case of the United States, the President shall appoint the members.

(d) The chairmanship of the Council shall change on a yearly basis, rotating among the members of the panel and alternating among member countries.

(e) The Council shall meet at least twice a year. To the extent practical, it shall meet at the same time and place as the Board.

(f) Members of the Council shall serve without compensation from the Foundation, but the Board shall authorize the payment by the Foundation of necessary expenses of any members of the Council attending Council meetings and in performing other official duties for the Foundation.

SEC. 6. STRUCTURE OF THE FOUNDATION.

(a)(1) The Foundation shall be administered by an Executive Secretariat. The Executive Secretariat shall be headed by an Executive Director, who is a United States citizen, and his staff, which shall—

(A) act as a liaison to the Board; and

(B) coordinate the activities of the Executive Secretariat and the Board.

(2) There shall be three Deputy Directors one each for Poland, Hungary, and Czechoslovakia who shall evaluate projects from each nation, making recommendations to the Board and the Executive Secretariat as to whether or not the Foundation shall support the project; and

(3) Additional Deputy Directors shall be created as more nations join the Foundation.

(b)(1) The Executive Director shall be the chief executive officer of the Foundation. He shall be responsible for the operations and staff of the Foundation, and act in accordance with the policies, directives, and delegation of the Board.

(2) The Executive Director shall employ, oversee, and dismiss the members of the professional administrative staff subject to the approval of the Board.

(3) The Executive Director shall, among other things—

(A) evaluate proposals for projects submitted to the Foundation and prepare and submit recommendations and draft agreements concerning project proposals to the Board for its approval;

(B) prepare and submit to the Board for its approval an annual budget and research program, including long-range plans for use of the Foundation's resources;

(C) prepare and submit to the Board for its approval an annual report, including an audited financial statement, on the activities of the Foundation; and

(D) implement decisions of the Board.

(4) Any power of the Executive Director under this Act or delegated to him by the Board may be delegated by him to other officers of the Foundation, except as otherwise prescribed by the Board.

(5) The Executive Director may obtain assistance from outside professionals and experts for the purposes of evaluating proposals and auditing and monitoring projects sponsored by the Foundation. These professionals and experts may be given compensation by the Foundation for services rendered, as approved by the Board.

(6) The Executive Director shall be permitted to organize various activities, such as consultant visits, information exchanges, and similar activities, to facilitate the achievement of the Foundation's objective. The Executive Director shall be given a budget approved by the Board to undertake these activities.

(7) The Executive Director shall maintain an appropriate system of internal control, including books and records which reflect the transactions of the Foundation and show the current financial condition of the Foundation. Such system shall include adequate internal financial and operational audits. The books, records, and internal audit reports shall be available for review by authorized representatives of governments involved with the Foundation.

SEC. 7. OPERATIONS OF THE FOUNDATION.

(a) The Foundation's operations shall consist mainly of the selection, approval, and monitoring of projects funded in whole or in part by the Foundation. All proposals for such projects shall be submitted through the

Executive Director to the Board for approval.

(b) Each proposal considered by the Board shall—

(1) be submitted by Foundation member entities;

(2) demonstrate the technical and economic feasibility of the project;

(3) contain evidence that the applicant is capable of carrying out the project, either alone or through the partial subcontracting to universities, industrial research institutes, or other qualified entities; and

(4) indicate that the applicant will contribute, from its own financial resources or resources available to it, some portion of the financial resources required to carry out the project.

(c) Each proposed project considered by the Board shall—

(1) propose a tangible, direct benefit for the national economies of Foundation member nations, such as an increase in exports, value added or new markets;

(2) be of interest to Foundation member nations' industry;

(3) be of general interest to an entire industrial field;

(4) directly or indirectly contribute to additional development of products, processes, or markets; and

(5) have tangible benefits for nations involved with a project.

(d) For purposes of subsection (c)(5), a project having a tangible benefit is one that—

(1) is submitted by one or more Foundation member firms or a joint venture between a United States firm and a member nation firm;

(2) will require expenditures for goods and services in nations involved with the project; and

(3) meets any other criteria established by the Board.

SEC. 8. FINANCING OF THE FOUNDATION.

(a) The original endowment of the Foundation shall consist of an initial contribution of $28,000,000 by the United States. In order to be a member nation of the Foundation (other than the United States), each participating nation shall be required to contribute to the Foundation the equivalent of $25,000,000 during a 12-month period.

(b) Payments may be made to the Foundation by member nations in lieu of repayment of debt to the United States Government. The terms and conditions of this repayment shall be determined by the President, and payment may be made in convertible local currency.

(c) There are authorized to be appropriated $28,000,000 for fiscal year 1992 for the purpose of making the United States contribution to the Foundation under subsection (a). Funds appropriated pursuant to the preceding sentence are authorized to remain available until expended.

(d) An endowment of $25,000,000 shall be deposited in an account or accounts in a bank or banks agreed to by Foundation member nations, and shall earn interest at prevailing market or LIBOR rates.

(e) Income shall be deposited in the bank until used.

(f) Of the amount authorized to be appropriated by subsection (c), $3,000,000 shall be used for initial administrative expenses.

(g) Investment and other income of the Foundation shall remain available for the operation of the Foundation and for carrying out its activities.

SUMMARY OF THE INDUSTRIAL DEVELOPMENT FOR EASTERN EUROPE FOUNDATION ACT

Section 1: Short title.

Section 2: Establishment and Purposes of the Foundation.

The foundation will develop nondefense high tech industry in the nations of Eastern Europe that belong to the foundation.

Section 3: Functions and Powers of the Foundation.

The foundation will make loans and grants, as well as accept contributions in order to be able to carry out its function of funding joint ventures between its member nations, working with the OECD and the new European Bank for Reconstruction and Development to the extent practicable.

Section 4: Board of Governors.

The foundation will be governed by a Board of Governors consisting of representatives from the United States Department of State, Treasury, and Commerce and their equivalents from other member nation governments. In addition to setting policy guidelines, the board will also approve all joint venture projects.

Section 5: Advisory Council.

The Advisory Council will be made up of three members of the private sector from the business and finance community from each of its member nations. It will help the board with its evaluation of projects and joint venture opportunities.

Section 6: Structure of the Foundation.

The Foundation will be run by an Executive Director, who shall establish an Executive Secretariat that will be responsible for the day to day running of the foundation.

Section 7: Operations of the Foundation.

The principle function of the foundation shall be to select, approve, and monitor projects funded by the foundation.

Section 8: Financing of the foundation.

The foundation will be funded of an initial appropriation of $25 million from the United States and contributions of $25 million from each other member nation, to be paid over time. These contributions can be made in local currency and in lieu of repayment of debt owed to the United States government.●

By Mr. FOWLER:

S. 639. A bill to direct the Secretary of the Interior to prepare a national historic landmark theme study on African-American history; to the Committee on Energy and Natural Resources.

AFRICAN-AMERICAN HISTORY LANDMARK THEME STUDY ACT

● Mr. FOWLER. Mr. President, today I would like to introduce a bill to identify national landmarks significant to African-American history. This legislation was recently introduced in the House of Representatives by my distinguished colleague and friend, Representative JOHN LEWIS of the Fifth District of Georgia.

In 1935, the Historic Sites Act established the National Historic Landmarks Program to help identify and officially commemorate sites of national importance. Since its introduction, the program has designated more than 2,000 sites as national historic landmarks. However, few of these landmarks are related to African-American history. It is my hope that the African-American History Landmark Theme Study Act will allow us to focus more attention on an important part of our national history that has been largely overlooked.

The African-American History Landmark Theme Study Act directs the Secretary of the Interior to conduct a study identifying sites of national importance in African-American history. Based on the findings of this study, the Secretary will nominate as national historic landmarks districts, sites, buildings, structures, and landscapes that illustrate or commemorate African-American history. The study will also include a list of areas proposed as national historic landmarks that would be suitable additions to the National Park System.

The bill establishes an Advisory Board consisting of scholars of African-American history and historic preservationists who will act as consultants to the study. The Secretary is also instructed to enter into a cooperative agreement with one or more scholarly and public historic organizations knowledgeable in African-American history to prepare the theme study. Three years after the enactment of the bill, the Secretary will transmit the theme study to Congress for approval.

Mr. President, the purpose of this bill is to provide a tangible reminder for all Americans of the accomplishments and history of African-Americans. Far too often we have either ignored their achievements or relegated them to the appendix of some forgotten history text. While the National Historic Landmarks Program has been very successful in identifying sites of historical significance, it has also fallen short in the area of recognizing the importance of landmarks key to the history and experiences of African-Americans.

No one can deny the vital role African-Americans have played in American history. Their triumphs and their sorrows have closely paralleled our Nation's growth into the land of opportunity and equality promised by our Founding Fathers. It is not only just but long overdue that we diligently commemorate their past.●

By Mr. KASTEN (for himself, Mr. ROCKEFELLER, Mr. DANFORTH, Mr. LIEBERMAN, Mr. GORTON, Mr. RIEGLE, Mr. PRESSLER, Mr. PELL, Mr. MCCAIN, Mr. GLENN, Mr. LOTT, Mr. SANFORD, Mr. BURNS, Mrs. KASSEBAUM, Mr. DOLE, Mr. HELMS, Mr. LUGAR, Mr. COATS, Mr. CHAFEE, Mr. NICKLES, Mr. HATCH, Mr. BOND, Mr. SYMMS, Mr. WALLOP, Mr. MACK, Mr. GRASSLEY, Mr. HEINZ, Mr. GARN, Mr. CRAIG, Mr. MCCONNELL, and Mr. BOREN):

S. 640. A bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes; to the Committee on Commerce, Science, and Transportation.

PRODUCT LIABILITY FAIRNESS ACT

Mr. KASTEN. Mr. President, I am pleased to introduce today the Product Liability Fairness Act, which embodies the text of S. 1400 from the 101st Congress. This legislation is the same as that which was reported by the Senate Commerce Committee by a vote of 13 to 7, had a hearing before the Senate Judiciary Committee, and unfortunately was not acted upon before the last Congress adjourned.

I am joined by 30 of my colleagues, from both sides of the aisle, who have cosponsored this bill because they recognize the need for the reasonable, moderate reform of our product liability rules.

The effort to enact product liability reform has been one which the Senate Commerce Committee has considered since 1981. We bring before the Senate a measure that is balanced, does not deprive injured victims of any causes of action, does not contain any limits, or caps, on damages, and has the cosponsorship of almost one-third of the Senate.

President Bush and his administration are strongly in support of this measure. The President called for product liability reform in his State of the Union Address last year. His Competitiveness Council, headed by Vice President QUAYLE, continues to make this issue its No. 1 priority. All of this is reflective of the concerns that large and small businesses alike have with our current system.

Our product liability reform measure is justified on several grounds. We have a system that is slow in compensating victims who deserve compensation, costly to all parties, and unpredictable due to the State by State patchwork that we have today. Above all, we seek a system based on fairness.

Provisions of our bill would address the costs imposed on all parties by the current system. The transaction costs see the lawyers of both the plaintiff and the defendants taking in as much, or more, than the injured parties. Recent data collected by the National Machine Tool Builders Association indicates that in cases involving their members in 1989, only 17 percent of the moneys paid out went to claimants.

However, it is important to note that our legislation would not reduce the costs by restricting the rights of persons to sue for damages, or by instituting caps on the amounts that could be recovered. There were understandable objections made by the organized consumer interests to these provisions in prior bills. Thus, this bill may not lower insurance rates or premiums the way former bills would have.

Rather, thanks to the establishment of some uniformity on certain matters, both parties should be able to better assess the nature of their cases, and even possibly take advantage of the expedited settlements or alternative dispute resolution systems in the bill. The uniformity we seek will make the assessment of risk easier, and thus help to stabilize the insurance market.

It is important to note that we have a national problem that deserves a moderate, Federal approach. Though the current rules have developed through the judicial activism of the various State courts, the time has come for Congress to recognize the burdens our current system is imposing on interstate commerce, U.S. competitiveness, and American innovation.

Let me briefly describe the major provisions of our product liability package which will reduce unnecessary legal costs, provide incentives for the manufacture of safe products, and provide more fairness to all concerned:

This measure establishes procedures designed to expedite the settlement of product liability cases. The rules are based on rule 68 of the Federal Rules of Civil Procedure. This will help reduce the burgeoning and unnecessary legal costs that hamper the current system.

We encourage the States to make greater use of alternative dispute resolution procedures, to also help reduce the legal costs.

The product seller provision also addresses the unnecessary legal costs of the system. Today product sellers are brought into almost every case, and yet liability is imposed on them in less than 5 percent of the cases. Under our bill, sellers are only to be held liable for their own negligence, for failing to provide warnings from the manufacturer, for breaching an express warranty, or when the manufacturer is unavailable.

Legal costs are also saved by the provision dealing with the interaction between the product liability system and the workers compensation system. We have taken steps to help keep these two systems separate, and avoid the excessive and unnecessary lawsuits between manufacturers and employers.

Another priority is creating incentives for safety. Our joint and several liability provision maintains joint and several liability for economic damages. We only eliminate joint and several liability for noneconomic damages such as pain and suffering. Thus, plaintiffs can recover their full economic losses from any defendant, but defendants would only be responsible for those portions of the noneconomic damages—such as pain and suffering—which they caused.

Our package also encourages safety by barring the claims of individuals who are the cause of their own injuries because they were intoxicated or under the influence of illicit drugs.

The cause of fairness is advanced by the extremely proplaintiff statute of limitations. The time begins to run upon the claimant's discovery of the harm and the cause of that harm. This is a more proplaintiff standard than most current State standards now in existence.

Fairness is also provided for in our statute of repose, which sets an outer time limit for liability at 25 years for capital goods, where the injury is covered by workers compensation.

Fairness is also the thrust of the punitive damages provision. We recognize the quasi-criminal aspect of these damages, which are intended to be awarded in egregious cases, not every case. Therefore we establish a national standard for their imposition and the burden of proof required. Thus, these damages are to be awarded where the claimant establishes by "clear and convincing" evidence that the harm evidenced a "conscious, flagrant indifference to the safety of those persons who may be harmed by the product." We have a burden of proof that falls between the normal civil standard of "preponderance of the evidence" and the criminal standard of "beyond a reasonable doubt." The punitive aspect of the cases may be heard separately from the case in chief if the defendant so elects.

No one wants manufacturers to introduce unsafe products or keep them in the marketplace. However, it would be equally abhorrent if the uncertainties of our product liability system were to prevent new, useful, and safer products from being brought to market. The cost to society of innovations never pursued, or improvements never made, is not obvious at first blush—but it is nevertheless a cost that hurts American consumers, manufacturers, and workers.

There has been some research indicating that the rapid expansion of product liability law, which the courts were pursuing in the past, has slowed somewhat. The courts themselves may be moving the judge-made law away from the situation where even reasonable manufacturers are held liable.

Professor Henderson, of Cornell Law School, who has been conducting this research, cautions:

> However, to conclude that this trend will resolve all of the serious inequities and legal conundrums that still exist would be a misuse of the data collected in the study. . . . The better, more efficient way to address some of the profound problems product liability law has caused our legal system and society is through thoughtful, sparing and modest legislation at the Federal level. . . . S. 1400 is a worthwhile attempt at some of the needed reforms.

It is our job to make this attempt a reality with this legislation in the 102d Congress.

Another point was made in our hearings last year—that this is neither a proplaintiff, nor a prodefendant bill. And just because it is balanced between the rights of the parties, not favoring the plaintiffs, does not make our amendment anticonsumer. The most anticonsumer effects which I have seen arise from the costs, inefficiencies and inequities of our present system.

The proponents of fair product liability reform recognize that this bill is not a panacea for all of the problems that have plagued our product liability system. It is, however, a sound, reasoned, and balanced piece of legislation that deserves to be enacted into law.

There are those who seem to want to impugn our motives in pursuing product liability reform. They assert that the basis for this legislation has changed over the years. In fact, what I have sought since 1981 are rules to assure product safety, to establish uniformity because of the interstate nature of the problem, and to reduce the costs borne by all Americans, not just manufacturers or sellers of products. There have been immediate concerns dealing with insurance, litigation and competitiveness all growing out of a search for fairness.

Some witnesses before the Commerce Committee suggested that competitiveness was the new buzzword to justify reform. Anyone who researches or recalls the debates of some 10 years ago would also find the testimony of such parties as the American Textile Machinery Association and the National Machine Tool Builders Association concerned not only about their domestic situation, but also explaining their loss of international competitiveness as a result of American product liability laws that we have yet to reform.

We cannot have product liability insurance costs that are 20 to 50 times those of our competitors and remain viable. Product liability reform is not the only answer to our competitive predicament, but it is certainly one important element that we can address.

I am pleased that legislation identical to this bill garnered more cosponsors than any of our previous efforts, passed the Commerce Committee by a substantial 13 to 7 margin, and after one hearing in the Judiciary Committee, was returned to the Senate calendar. I believe the majority of the Senate agrees with the 31 of us who are cosponsors of this bill that it is time to enact this reasoned and moderate product liability reform measure. I will work for early Senate passage, and to have this measure sent to the House before August.

Mr. President, I ask unanimous consent that a copy of the Product Liability Fairness Act and a summary of the bill be printed in the RECORD immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 640

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE I—SHORT TITLE

SEC. 101. This Act may be cited as the "Product Liability Fairness Act".

DEFINITIONS

SEC. 102. As used in this Act, the term—

(1) "claimant" means any person who brings a civil action pursuant to this Act, and any person on whose behalf such an action is brought; if such an action is brought through or on behalf of an estate, the term includes the claimant's decedent, or if it is brought through or on behalf of a minor or incompetent, the term includes the claimant's parent or guardian;

(2) "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established; the level of proof required to satisfy such standard is more than that required under preponderance of the evidence, but less than that required for proof beyond a reasonable doubt;

(3) "collateral benefits" means all benefits and advantages received or entitled to be received (regardless of any right any other person has or is entitled to assert for recoupment through subrogation, trust agreement, lien, or otherwise) by any claimant harmed by a product or by any other person as reimbursement of loss because of harm to person or property payable or required to be paid to the claimant, under—

(A) any Federal law or the laws of any State (other than through a claim for breach of an obligation or duty); or

(B) any life, health, or accident insurance or plan, wage or salary continuation plan, or disability income or replacement service insurance, or any benefit received or to be received as a result of participation in any prepaid medical plan or health maintenance organization;

(4) "commerce" means trade, traffic, commerce, or transportation (A) between a place in a State and any place outside of that State; or (B) which affects trade, traffic, commerce, or transportation described in clause (A);

(5) "commercial loss" means economic injury, whether direct, incidental, or consequential, including property damage and damage to the product itself;

(6) "economic loss" means any pecuniary loss resulting from harm which is allowed under State law;

(7) "exercise of reasonable care" means conduct of a person of ordinary prudence and intelligence using the attention, precaution, and judgment that society expects of its members for the protection of their own interests and the interests of others;

(8) "harm" means any harm recognized under the law of the State in which the civil action is maintained, other than loss or damage caused to a product itself, or commercial loss;

(9) "manufacturer" means (A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who designs or formulates the product (or component part of the product) or has engaged another person to design or formulate the product (or component part of the product); (B) a product seller with respect to all aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes, or constructs and designs or formulates, or has engaged another person to design or formulate, an aspect of a product (or component part of a product) made by another; or (C) any product seller not described in clause (B) which holds itself out as a manufacturer to the user of a product;

(10) "noneconomic loss" means loss caused by a product other than economic loss or commercial loss;

(11) "person" means any individual, corporation, company, association, firm partnership, society, joint stock company, or any other entity (including any governmental entity);

(12) "preponderance of the evidence" is that measure or degree of proof which, by the weight, credit, and value of the aggregate evidence on either side, establishes that it is more probable than not that a fact occurred or did not occur;

(13) "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state (A) which is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient; (B) which is produced for introduction into trade or commerce; (C) which has intrinsic economic value; and (D) which is intended for sale or lease to persons for commercial or personal use; the term does not include human tissue, blood and blood products, or organs unless specifically recognized as a product pursuant to State law;

(14) "product seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce, or who installs, repairs, or maintains the harm-causing aspect of a product; the term does not include—

(A) a seller or lessor of real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; and

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor; and

(15) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Common-

wealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, or any political subdivision thereof.

PREEMPTION

SEC. 103. (a) This Act governs any civil action brought against a manufacturer or product seller, on any theory, for harm caused by a product. A civil action brought against a manufacturer or product seller for loss or damage to a product itself or for commercial loss is not subject to this Act and shall be governed by applicable commercial, or contract law.

(b) This Act supersedes any State law regarding recovery for harm caused by a product only to the extent that this Act establishes a rule of law applicable to any such recovery. Any issue arising under this Act that is not governed by any such rule of law shall be governed by applicable State or Federal law.

(c) Nothing in this Act shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) supersede any Federal law, except the Federal Employees Compensation Act and the Longshoremen's and Harbor Workers' Compensation Act;

(3) waive or affect any defense of sovereign immunity asserted by the United States;

(4) affect the applicability of any provision of chapter 97 of title 28, United States Code;

(5) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation;

(6) supersede the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum; or

(7) supersede any statutory or common law, including an action to abate a nuisance, that authorizes a State or person to institute an action for civil damages or civil penalties, cleanup costs, injunctions, restitution, cost recovery, punitive damages, or any other form of relief resulting from contamination or pollution of the environment, or the threat of such contamination or pollution.

(d) As used in this section, "environment" has the meaning given to such term in section 101(8) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(8)).

(e) This Act shall be construed and applied after consideration of its legislative history to promote uniformity of law in the various jurisdictions.

JURISDICTION OF FEDERAL COURTS

SEC. 104. The district courts of the United States shall not have jurisdiction over any civil action pursuant to this Act, based on section 1331 or 1337 of title 28, United States Code.

EFFECTIVE DATE

SEC. 105. (a) This Act shall take effect on the date of its enactment and shall apply to all civil actions pursuant to this Act commenced on or after such date, including any action in which the harm or the conduct which caused the harm occurred before the effective date of this Act.

(b) If any provision of this Act would shorten the period during which a manufacturer or product seller would otherwise be exposed to liability, the claimant may, notwithstanding the otherwise applicable time period, bring any civil action pursuant to this Act within one year after the effective date of this Act.

TITLE II—EXPEDITED PRODUCT LIABILITY SETTLEMENTS

SEC. 201. (a) Any claimant may bring a civil action for damages against a person for harm caused by a product pursuant to applicable State law, except to the extent such law is superseded by this title.

(b) Any claimant may, in addition to any claim for relief made in accordance with State law, include in such claimant's complaint an offer of settlement for a specific dollar amount.

(c) The defendant may make an offer of settlement for a specific dollar amount within sixty days after service of the claimant's complaint or within the time permitted pursuant to State law for a responsive pleading, whichever is longer, except that if such pleading includes a motion to dismiss in accordance with applicable law, the defendant may tender such relief to the claimant within ten days after the court's determination regarding such motion.

(d) In any case in which an offer of settlement is made pursuant to subsection (b) or (c) of this section, the court may, upon motion made prior to the expiration of the applicable period for response, enter an order extending such period. Any such order shall contain a schedule for discovery of evidence material to the issue of the appropriate amount of relief, and shall not extend such period for more than sixty days. Any such motion shall be accompanied by a supporting affidavit of the moving party setting forth the reasons why such extension is necessary to promote the interests of justice and stating that the information likely to be discovered is material, and is not, after reasonable inquiry, otherwise available to the moving party.

(e) If the defendant, as offeree, does not accept the offer of settlement made by a claimant in accordance with subsection (b) of this section within the time permitted pursuant to State law for a responsive pleading or, if such pleading includes a motion to dismiss in accordance with applicable law, within thirty days after the court's determination regarding such motion, and a verdict is entered in such action equal to or greater than the specific dollar amount of such offer of settlement, the court shall enter judgment against the defendant and shall include in such judgment an amount for the claimant's reasonable attorney's fees and costs. Such fees shall be offset against any fees owed by the claimant to the claimant's attorney by reason of the verdict.

(f) If the claimant, as offeree, does not accept the offer of settlement made by a defendant in accordance with subsection (c) of this section within thirty days after the date on which offer is made and a verdict is entered in such action equal to or less than the specific dollar amount of such offer of settlement, the court shall reduce the amount of the verdict in such action by an amount equal to the reasonable attorney's fees and costs owed by the defendant to the defendant's attorney by reason of the verdict, except that the amount of such reduction shall not exceed that portion of the verdict which is allocable to noneconomic loss and economic loss for which the claimant has received or will receive collateral benefits.

(g) For purposes of this section, attorney's fees shall be calculated on the basis of an hourly rate which should not exceed that which is considered acceptable in the community in which the attorney practices, considering the attorney's qualifications and experience and the complexity of the case.

ALTERNATIVE DISPUTE RESOLUTION PROCEDURES

SEC. 202. (a) In lieu of or in addition to making an offer of settlement under section 201 of this title, a claimant or defendant may, within the time permitted for the making of such an offer under section 201 of this title, offer to proceed pursuant to any voluntary alternative dispute resolution procedure established or recognized under the law of the State in which the civil action for damages for harm caused by a product is brought or under the rules of the court in which such action is maintained.

(b) If the offeree refuses to proceed pursuant to such alternative dispute resolution procedure and the court determines that such refusal was unreasonable or not in good faith, the court shall assess reasonable attorney's fees and costs against the offeree.

(c) For the purposes of this section, there shall be created a rebuttable presumption that a refusal by an offeree to proceed pursuant to such alternative dispute resolution procedure was unreasonable or not in good faith, if a verdict is rendered in favor of the offeror.

TITLE III—CIVIL ACTIONS

SEC. 301. A person seeking to recover for harm caused by a product may bring a civil action against the product's manufacturer or product seller pursuant to applicable State or Federal law, except to the extent such law is superseded by this Act.

UNIFORM STANDARDS OF PRODUCT SELLER LIABILITY

SEC. 302. (a) Notwithstanding the provisions of section 301 of this title, in any civil action for harm caused by a product, a product seller other than a manufacturer is liable to a claimant, only if the claimant establishes by a preponderance of the evidence that—

(1)(A) the individual product unit which allegedly caused the harm complained of was sold by the defendant; (B) the product seller failed to exercise reasonable care with respect to the product; and (C) such failure to exercise reasonable care was a proximate cause of the claimant's harm; or

(2)(A) the product seller made an express warranty, independent of any express warranty made by a manufacturer as to the same product; (B) the product failed to conform to the warranty; and (C) the failure of the product to conform to the warranty caused the claimant's harm.

(b)(1) In determining whether a product seller is subject to liability under subsection (a)(1) of this section, the trier of fact may consider the effect of the conduct of the product seller with respect to the construction, inspection, or condition of the product, and any failure of the product seller to pass on adequate warnings or instructions from the product's manufacturer about the dangers and proper use of the product.

(2) A product seller shall not be liable in a civil action subject to this title based upon an alleged failure to provide warnings or instructions unless the claimant establishes that, when the product left the possession and control of the product seller, the product seller failed—

(A) to provide to the person to whom the product seller relinquished possession and control of the product any pamphlets, booklets, labels, inserts, or other written warnings or instructions received while the product was in the product seller's possession and control; or

(B) to make reasonable efforts to provide users with those warnings and instructions which it received after the product left its possession and control.

(3) A product seller shall not be liable in a civil action subject to this title except for breach of express warranty where there was no reasonable opportunity to inspect the product is a manner which would or should, in the exercises of reasonable care, have revealed the aspect of the product which allegedly caused the claimant's harm.

(c) A product seller shall be treated as the manufacturer of a product and shall be liable for harm to the claimant caused by a product as if it were the manufacturer of the product if—

(1) the manufacturer is not subject to service of process under the law of any State in which the action might have been brought; or

(2) the court determines that the claimant would be unable to enforce a judgment against the manufacturer.

UNIFORM STANDARDS FOR AWARD OF PUNITIVE DAMAGES

SEC. 303. (a) Punitive damages may, if otherwise permitted by applicable law, be awarded in any civil action subject to this title to any claimant who establishes by clear and continuing evidence that the harm suffered was the result of conduct manifesting a manufacturer's or product seller's conscious, flagrant indifference to the safety of those persons who might be harmed by a product. A failure to exercise reasonable care in choosing among alternative product designs, formulations, instructions, or warnings is not of itself such conduct. Except as provided in subsection (b) of this section, punitive damages may not be awarded in the absence of a compensatory award.

(b) In any civil action in which the alleged harm to the claimant is death and the applicable State law provides, or has been construed to provide, for damages only punitive in nature, a defendant may be liable for any such damages regardless of whether a claim is asserted under this section. The recovery of any such damages shall not bar a claim under this section.

(c)(1) Punitive damages shall not be awarded pursuant to this section against a manufacturer or product seller of a drug (as defined in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)) or medical device (as defined under section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)) which caused the claimant's harm where—

(A) such drug or device was subject to premarket approval by the Food and Drug Administration with respect to the safety of the formulation or performance of the aspect of such drug or device which caused the claimant's harm or the adequacy of the packaging or labeling of such drug or device, and such drug was approved by the Food and Drug Administration; or

(B) the drug is generally recognized as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable regulations, including packaging and labeling regulations.

The provisions of this paragraph shall not apply (i) in any case in which the defendant withheld from or misrepresented to the Food and Drug Administration or any other agency or official of the Federal Government information that is material and relevant to the performance of such drug or device, or (ii) in any case in which the defendant made an illegal payment to an official of the Food and Drug Administration for the purpose of securing approval of such drug or device.

(2) Punitive damages shall not be awarded pursuant to this section against a manufacturer of an aircraft which caused the claimant's harm where—

(A) such aircraft was subject to pre-market certification by the Federal Aviation Administration with respect to the safety of the design or performance of the aspect of such aircraft which caused the claimant's harm or the adequacy of the warnings regarding the operation or maintenance of such aircraft;

(B) the aircraft was certified by the Federal Aviation Administration under the Federal Aviation Act of 1958 (49 App. U.S.C. 1301 et seq.); and

(C) the manufacturer of the aircraft complied, after delivery of the aircraft to a user, with Federal Aviation Administration requirements and obligations with respect to continuing airworthiness, including the requirement to provide maintenance and service information related to airworthiness whether or not such information is used by the Federal Aviation Administration in the preparation of mandatory maintenance, inspection, or repair directives.

The provisions of this paragraph shall not apply in any case in which the defendant withheld from or misrepresented to the Federal Aviation Administration information that is material and relevant to the performance or the maintenance or operation of such aircraft.

(d) At the request of the manufacturer or product seller, the trier of fact shall consider in a separate proceeding (1) whether punitive damages are to be awarded and the amount of such award, or (2) the amount of punitive damages following a determination of punitive liability. If a separate proceeding is requested, evidence relevant only to the claim of punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether compensatory damages are to be awarded.

(e) In determining the amount of punitive damages, the trier of fact shall consider all relevant evidence, including—

(1) the financial condition of the manufacturer or product seller;

(2) the severity of the harm caused by the conduct of the manufacturer or product seller;

(3) the duration of the conduct or any concealment of it by the manufacturer or product seller;

(4) the profitability of the conduct to the manufacturer or product seller;

(5) the number of products sold by the manufacturer or product seller of the kind causing the harm complained of by the claimant;

(6) awards of punitive or exemplary damages to persons similarly situated to the claimant;

(7) prospective awards of compensatory damages to persons similarly situated to the claimant;

(8) any criminal penalties imposed on the manufacturer or product seller as a result of the conduct complained of by the claimant; and

(9) the amount of any civil fines assessed against the defendant as a result of the conduct complained of by the claimant.

UNIFORM TIME LIMITATIONS ON LIABILITY

SEC. 304. (a) Any civil action subject to this title shall be barred unless the complaint is filed within two years of the time the claimant discovered or, in the exercise of reasonable care, should have discovered the harm and its cause, except that any such action of a person under legal disability may be filed within two years after the disability ceases. If the commencement of such an action is stayed or enjoined, the running of the statute of limitations under this section shall be suspended for the period of the stay or injunction.

(b)(1) Any civil action subject to this title shall be barred if a product which is a capital good is alleged to have caused harm which is not a toxic harm unless the complaint is served and filed within twenty-five years after the time of delivery of the product. This subsection shall apply only if the court determines that the claimant has received or would be eligible to receive compensation under any State or Federal workers' compensation law for harm caused by the product.

(2) A motor vehicle, vessel, aircraft, or railroad used primarily to transport passengers for hire shall not be subject to the provisions of this subsection.

(3) As used in this section, the term—

(A) "time of delivery" means the time when a product is delivered to its first purchaser or lessee who was not involved in the business of manufacturing or selling such product or using it as a component part of another product to be sold;

(B) "capital good" means any product, or any component of any such product, which is of a character subject to allowance for depreciation under the Internal Revenue Code of 1986, and which was—

(A) used in a trade or business;

(B) held for the production of income; or

(C) sold or donated to a governmental or private entity for the production of goods, for training, for demonstration, or for other similar purposes; and

(C) "toxic harm" means harm which is functional impairment, illness, or death of a human being resulting from exposure to an object, substance, mixture, raw material, or physical agent of particular chemical composition.

(c) Nothing in this section shall affect the right of any person who is subject to liability for harm under this Act to seek and obtain contribution or indemnity from any other person who is responsible for such harm.

UNIFORM STANDARDS FOR OFFSET OF WORKERS' COMPENSATION BENEFITS

SEC. 305. (a) In any civil action subject to this title in which damages are sought for harm for which the person injured is or would have been entitled to receive compensation under any State or Federal workers' compensation law, any damages awarded shall be reduced by the sum of the amount paid as workers' compensation benefits for such harm and the present value of all workers' compensation benefits to which the employee is or would be entitled for such harm. The determination of workers' compensation benefits by the trier of fact in a civil action subject to this title shall have no binding effect on and shall not be used as evidence in any other proceeding.

(b) A claimant in a civil action subject to this title who is or may be eligible to receive compensation under any State or Federal workers' compensation law must provide written notice of the filing of the civil action to the claimant's employer within 30 days of the filing. The written notice shall include information regarding the date and court in which the civil action was filed, the names and addresses of all plaintiffs and defendants appearing on the complaint, the court docket number if available, and a copy of the complaint which was filed in the civil action.

A copy of such written notice shall be filed with the court and served upon all parties to the action. A claimant's failure to comply with the requirements of this subsection shall suspend the deadlines for filing responsive pleadings and commencing discovery in the civil action, until the claimant complies with the requirements of this subsection.

(c) In any civil action subject to this title in which damages are sought for harm for which the person injured is entitled to receive compensation under any State or Federal workers' compensation law, the action shall, on application of the claimant made at claimant's sole discretion, be stayed until such time as the full amount payable as workers' compensation benefits has been finally determined under such workers' compensation law.

(d)(1) Except as provided in paragraph (2) of this subsection, unless the manufacturer or product seller has expressly agreed to indemnify or held an employer harmless for harm to an employee caused by a product, neither the employer nor the workers' compensation insurance carrier of the employer shall have a right of subrogation, contribution, or implied indemnity against the manufacturer or product seller or a lien against the claimant's recovery from the manufacturer or product seller if the harm is one for which a civil action for harm caused by a product may be brought pursuant to this Act.

(2) Paragraph (1) of this subsection shall not apply if the employer or the workers' compensation insurer of the employer establishes, and the trier of fact determines, that the claimant's harm was not in any way caused by the fault of the claimant's employer or coemployees. In order to establish this fact an employer or the workers' compensation insurer of the employer may intervene in a civil action filed by an employee at any time after the filing of a complaint. In the event that the civil action is resolved prior to obtaining a verdict by the trier of fact, any resolution of the action by settlement or other means shall afford the employer or the workers' compensation insurer of the employer an opportunity to participate and to assert a right of subrogation, contribution, or implied indemnity of the claimant's harm was not in any way caused by the fault of the claimant's employer or coemployees.

(e)(1) Except as provided in subsection (f), in any civil action subject to this title in which damages are sought for harm for which the person injured is or would have been entitled to receive compensation under any State or Federal workers' compensation law, no third-party tortfeasor may maintain any action for implied indemnity or contribution against the employer, any coemployee, or the exclusive representative of the person who was injured.

(2) Nothing in this Act shall be construed to affect any provision of a State or Federal workers' compensation law which prohibits a person who is or would have been entitled to receive compensation under any such law, or any other person whose claim is or would have been derivative from such a claim, from recovering for harm caused by a product in any action other than a workers' compensation claim against a present or former employer or workers' compensation insurer of the employer, any coemployee, or the exclusive representative of the person who was injured. Any action other than such a workers' compensation claim shall be prohibited, except that nothing in this Act shall be construed to affect any State or Federal workers' compensation law which permits recovery based on a claim of an intentional tort by the employer or coemployee, where the claimant's harm was caused by such an intentional tort.

(f) Subsection (e) shall not apply and applicable State law shall control if the employer or the workers' compensation insurer of the employer, in a civil action subject to this title, asserts or attempts to assert, because of subsection (d), a right of subrogation, contribution, or implied indemnity against the manufacturer or product seller or a lien against the claimant's recovery from the manufacturer or product seller.

SEVERAL LIABILITY FOR NONECONOMIC DAMAGES

SEC. 306. (a) In any product liability action, the liability of each defendant for noneconomic damages shall be several only and shall not be joint. Each defendant shall be liable only for the amount of noneconomic damages allocated to such defendant in direct proportion to such defendant's percentage of responsibility as determined under subsection (b) of this section. A separate judgment shall be rendered against such defendant for that amount.

(b) For purposes of this section, the trier of fact shall determine the proportion of responsibility of each party for the claimant's harm.

(c) As used in this section, the term—

(1) "noneconomic damages" means subjective, nonmonetary losses including, but not limited to, pain, suffering, inconvenience, mental suffering, emotional distress, loss of society and companionship, loss of consortium, injury to reputation and humiliation; the term does not include objectively verifiable monetary losses including, but not limited to, medical expenses, loss of earnings, burial costs, loss of use of property, costs of repair or replacement, costs of obtaining substitute domestic services, rehabilitation and training expenses, loss of employment, or loss of business or employment opportunities; and

(2) "product liability action" includes any action involving a claim, third-party claim, cross-claim, counterclaim, or contribution claim in a civil action in which a manufacturer or product seller is found liable for harm caused by a product.

DEFENSES INVOLVING INTOXICATING ALCOHOL OR DRUGS

SEC. 307. (a) In any civil action subject to this Act in which all defendants are manufacturers or product sellers, it shall be a complete defense to such action that the claimant was intoxicated or was under the influence of intoxicating alcohol or any drug and that as a result of such intoxication or the influence of the alcohol or drug the claimant was more than 50 percent responsible for the accident or event which resulted in such claimant's harm.

(b) In any civil action subject to this Act in which not all defendants are manufacturers or product sellers and the trier of fact determines that no liability exists against those defendants who are not manufacturers or product sellers, the court shall enter a judgment notwithstanding the verdict in favor of any defendant which is a manufacturer or product seller if it is proved that the claimant was intoxicated or was under the influence of intoxicating alcohol or any drug and that as a result of such intoxication or the influence of the alcohol or drug the claimant was more than 50 percent responsible for the accident or event which resulted in such claimant's harm.

(c)(1) For purposes of this section, the determination of whether a person was intoxicated or was under the influence of intoxicating alcohol or any drug shall be made pursuant to applicable State law.

(2) As used in this section, the term "drug" means any non-over-the-counter drug which has not been prescribed by a physician for use by the claimant.

SUMMARY OF THE PRODUCT LIABILITY FAIRNESS ACT

Expedited Settlements. Either party may make a settlement offer. If the plaintiff refuses the defendant's offer, the plaintiff will pay the defendant's legal fees and costs if the judgment is for an amount less than the offer. If the defendant refuses the plaintiff's offer, the defendant will pay the plaintiff's legal fees and costs if the judgment is for an amount greater than the offer. Discovery is allowed, and there is no mandatory arbitration. This is based on Rule 68 of the Federal Rules of Civil Procedure.

Alternative Dispute Resolution (ADR). Either party may offer to participate in an approved ADR procedure. If the court determines that a party's refusal to participate is unreasonable or not in good faith, that party will pay the opponent's legal fees and costs. If a party refuses to participate and the court enters a favorable verdict for the offeror, the refusal to participate will be presumed to be unreasonable and not in good faith. This presumption may be rebutted.

Product Sellers. Product sellers will be liable only for their own negligence or for failure to comply with an express warranty. They will be liable for a manufacturer's errors if that manufacturer cannot be brought into court or is unable to pay a judgment.

Punitive Damages. In order to recover punitive damages, a plaintiff must prove conscious, flagrant indifference to the safety of those who might be harmed. This must be proved by clear and convincing evidence. It is a defense against the awarding of punitive damages if the FDA or FAA has given premarket approval or certification. The defense does not apply if the manufacturer submitted false or imcomplete data to the FDA or FAA, or made an illegal payment to an FDA official. The defendant may request that the trial be bifurcated so that the punitive damages phase is separate from the proceedings on compensatory damages.

Alcohol and Drugs. Defendant has an absolute defense if plaintiff was under the influence of intoxicating alcohol or drugs and that condition was more than 50 percent responsible for plaintiff's injuries.

Joint and Several Liability. The bill abolishes joint and several liability with respect to noneconomic damages, such as pain and suffering.

Statutes of Limitation. The general statute of limitations is two years, which begins to run upon the claimant's discovery or when the claimant reasonably should have discovered the harm and cause. The statute of repose for capital goods is 25 years.

Workers' Compensation Offset. Eliminates employer's right to recapture benefits from employees. A product liability award will be reduced by the amount of workers' compensation benefits. Manufacturers may not sue an employer to contribute to an award. The employer loses this protection if he sues to recapture workers' compensation benefits. The employee is supposed to notify his employer if he sues a manufacturer. The employer has the right to enter into the product liability suit or into settlement negotiations to prove that it was not at fault and deserves reimbursement for the benefits it paid its employee.

Mr. ROCKEFELLER. Mr. President, today I am joining my colleagues in introducing the Product Liability Competitiveness Act of 1991. I believe this legislation deserves the attention of all of our colleagues, and their close consideration of its purpose. The changes we propose are designed to serve the best interests of all Americans, and to strengthen our capacity to compete in the highly challenging international arena.

This bill will replace some of the confusion and uncertainty in our State laws by establishing clear, stable, and uniform rules on a few key issues that arise in product liability cases. It is identical to the bill passed by the Senate Commerce Committee in the 101st Congress.

My commitment to product liability reform grows out of my abiding concern about the ability of our Nation to retain its world leadership position. For this country to successfully compete with other nations and to maintain our standard of living, we have a long list of improvements to undertake. We need to reduce our budget and trade deficits; increase our savings rate; improve education, particularly in math and science; invest more in research and development; and somehow shift our investment goals from the short-term only to include the long-term as well.

Product liability reform—while not usually thought of in connection with global competitiveness—should also be an important part of this list. In my view, a uniform Federal product liability law must be pursued as an integral part of our country's effort to achieve economic competitiveness in the world marketplace.

We are paying a high price in the global marketplace for the confusing patchwork of constantly changing product liability laws that currently exist. Our product liability laws are stifling innovation and robbing American industry of its ability to compete. Let me provide some examples.

Last year the Senate Commerce Committee heard testimony from a prominent researcher in neurophysiology at the University of Texas, Dr. Malcolm Skolnick. He provided the example of a computer controlled medication pump, invented as a way to deliver a certain drug to heart patients. Dr. Skolnick told the committee that this pump would probably never be manufactured because the small manufacturer, to whom this technology was licensed, cannot afford to take the risk.

Dr. Skolnick's overall remarks about our product liability system were very instructive. He said. "The view of the tort liability system on the part of business and academia * * * is that it is illogical. It does things that are inconsistent, that do not make sense. It turns science on its head."

In some cases, according to Dr. Skolnick, the product liability system has left scientists and physicians in a catch-22 situation. He cited a blood clotting agent, which in some very rare instances—one-half percent of the patients treated—can cause a stroke. So, if doctors do use these agents, both the doctors and the manufacturer can get sued in product liability. However, if they do not use this product, the doctor can be sued for malpractice!

Product liability costs and the threat of litigation have forced many manufacturers to withdraw useful products from the market and to cancel the research and development of new, innovative and, at times, life-saving products. For instance, Lederle Laboratory remains the sole U.S. manufacturer of the DPT vaccine and Merck & Co. the only producer of the combined measles, mumps, and rubella vaccine. All others have left the field because of the threat of product liability lawsuits.

Faced with increasing and unacceptable liability costs, some American manufacturers are abandoning product lines altogether, closing facilities, laying off workers, and opening their markets to foreign manufacturers. When Puritan Bennett—one of the leading U.S. manufacturers of hospital equipment—stopped making anesthesia machines, two foreign-owned manufacturers were the only competitors in a market once dominated by a half-dozen companies.

There are no absolute protections against foreign competitors. However, there are steps that we can take as elected officials, and as a nation, to stop the export of American jobs and to ensure a level playing field and a climate that lends itself to innovation.

The Product Liability Competitiveness Act of 1991 is one of the steps we can and should take. This bill will replace some of this very costly confusion, with a single set of clear, well-balanced national product liability rules.

This bill is fair. It does not create arbitrary barriers to recovery by injured persons. Yet it does try to give manufacturers and product sellers some guidelines as to their potential liability when a person is hurt by a product. Adopting these guidelines in a Federal statute will remove a great deal of the uncertainty that exists in the current system of state product liability laws. This, in turn, will help reduce unnecessary legal costs and load delays. The proposal will also help spur innovation by moving toward a product liability system that places full sanctions against wrongful conduct of manufacturers, but does so in a fair and balanced manner.

I am proud to be a part of this bipartisan effort. Several of my colleagues, including Senators DANFORTH and KASTEN, have worked diligently on this bill for the past decade. Over the years, this bill has been dramatically improved. The anticonsumer provisions of the past—caps on damages and limits on attorneys' fees—are no longer a part of the legislation.

I urge the Senate Commerce Committee, on which I sit, to move this bill to markup quickly. I urge my colleagues to study this legislation. I think the skeptics or newcomers to the bill will be surprised—and they should be impressed—to see how fair, balanced, and responsible our proposal is.

In several ways, this bill expands the rights of injured persons. For example, this measure expands an injured person's right to sue by providing a discovery statute of limitations. This rule preserves a person's right to sue until he or she actually knows that a harm has been suffered—for example lung cancer—and the cause of that harm—for example asbestos. It avoids the traps of several States' statutes of limitations that cut off a person's right to sue before he or she knows they are injured. Additionally, a number of provisions in the bill, such as the expedited settlement provision, are directed at speeding up trials and reducing legal costs.

In sum, I firmly believe that there is a need to place basic product liability rules in a statute, there is ample justification for Federal action, and that the rules contained in this bill are fair.

As a nation, we must respond to the enormous economic and social challenges of this decade and the next century. This legislation is one of the crucial steps that we must take immediately as part of that response; 1991 should be the year that Congress passes a product liability reform bill.

Mr. DANFORTH. Mr. President, I am pleased to be an original cosponsor of the Product Liability Fairness Act. This bill is identical to S. 1400 as reported by the Commerce Committee during the last Congress. I commend Senator KASTEN for his leadership on this issue.

Product liability reform is essential. It is essential if we are to speed the awarding of compensation to the victims of product-related injuries and if American manufacturers are to maintain their competitive position in world markets.

The victims of defective products deserve to be compensated fairly and quickly. The present system, with its transaction costs and unpredictability, does not treat victims fairly. A 1986 study by the Rand Institute for Civil Justice reveals the wasteful inefficiency of the system. In 1985, the U.S. tort system spent between $16 billion and $19 billion in legal expenses, to delivery only $14 billion to $16 billion in net compensation to plaintiffs. Plaintiffs received only 46 percent of the total expenditure. A more recent study concludes that the costs of the tort system are even higher. A 1989 study by the Tillinghast Division of Tower Perrin indicates that the total cost of the tort system in 1987 was $117 billion. Despite escalating costs, claimants still receive less than half of the total expenditures of the tort system. A study by the Committee for Economic Development over the same time period reveals that claimants receive only 40 cents in compensation for every dollar spent on product liability insurance. Only one group benefits from the excessive transaction costs of the current system—lawyers. This system is unacceptable.

The tort system often requires plaintiffs to wait years to recover for their injuries. This is a particular concern for the most seriously injured victims, who are often in desperate financial straits. A 1989 GAO study concludes that products cases which go to trial take 2½ years to proceed from filing to verdict, and even longer for compensation to be awarded. Another study found that in cases involving the most severe injuries, those in which payment exceeded $100,000, nearly 22 percent of claimants waited more than 5 years for payment. Only 2 percent were paid less than one year after reporting their injury, and it took more than 3 years for about 63 percent to be paid.

Not only does the present system generate excessive costs and delays, it does not compensate injured victims in proportion to their losses. Numerous studies have found that the tort system grossly overpays those with small losses, while underpaying the most seriously injured. One study found that injured plaintiffs with losses between $1 and $1,000 received, on the average, 859 percent of their losses, while those with losses of over $1 million received, on the average, 15 percent of their losses. That figure does not include the share that goes to the lawyers. Severely injured claimants fare poorly in litigation because they cannot afford to wait years to be compensated. Therefore, in order to pay medical expenses and other costs, they often are forced to accept settlements for far less than the cost of their injuries. Other studies have shown that people with lower incomes and lower educational levels recover far less than their middle- and upper-class counterparts because they have less access to lawyers and cannot afford to wait as long to recover.

The system is inherently uncertain and unpredictable. It may be characterized accurately as a lottery. As Prof. Jeffrey O'Connell of the University of Virginia Law School told the Committee:

> If you are badly injured in our society by a product and you go to the highly skilled lawyer * * * in all honesty [the lawyer] cannot tell you what you will be paid, when you will be paid, or indeed if you will be paid.

This uncertainty is a problem both for defendants and plaintiffs. Defendants need greater certainty as to the scope of their liability. Plaintiffs need swift and certain recoveries which fully compensate them for their losses.

Injured victims are not alone in bearing the excessive costs of the product liability system. It is a burden on American businesses competing overseas. A study for the Department of Commerce found that domestic manufacturers have product liability insurance costs 20 to 50 times higher than those of their foreign competitors.

Higher prices are just one aspect of our competitiveness problem. The product liability system discourages innovation by U.S. firms. A 1988 Conference Board survey of 2,000 CEO's found that nearly half of all manufacturers, large and small, had decided to discontinue existing product lines, and 39 percent had decided not to introduce new product lines as a result of fear of potential liability.

The impact of product liability costs on innovation is particularly pronounced among smaller U.S. companies. A recent American Medical Association report found that product liability is slowing the development of new medical technologies. Research and development by small companies is vital to further improvements in biotechnology, but these companies are not marketing new products due to an inability to obtain affordable product liability insurance.

The product liability system is a deterrent beyond these decisions not to market innovative products. The Commerce Committee received testimony last year that the current system also has resulted in a substantial decrease in industry funding for research essential to development of new products. Dr. Malcolm Skolnick, a professor of biophysics at the University of Texas, who also is a lawyer, told the committee that, as a result of the product liability system:

> Scientific inquiry is stifled. Ideas in areas where litigation has occurred will not receive support for exploration and development. Producers fearful of possible suit will discourage additional investigation which might discover additional knowledge which can be used against them in future claims.

This leaves America with an economy that does not feature the best products that technology has to offer.

This bill encourages the settlement of lawsuits without litigation based on rule 68 of the Federal Rules of Civil Procedure. This provision encourages both parties in litigation to accept reasonable settlement offers. This will help victims to receive compensation for their losses quickly and without incurring substantial legal fees—fees which can reduce their compensation by more than 40 percent in the current system.

This bill also modifies the rule of joint and several liability with respect to noneconomic damages. This provision limits a defendant's liability to his or her percentage of fault for damages. In addition, the standard of proof for the awarding of punitive damages will be changed to a clear and convincing evidence test based on the recommendation of the American Bar Association. The bill provides for a separate proceeding on punitive damages, reflecting the fact that they are a quasicriminal type of penalty. The bill also encourages individuals to take responsibility for their own conduct. It prohibits a claimant from prevailing in product liability litigation the claimant was intoxicated or under the influence of illegal drugs and that condition was more than 50-percent responsible for the harm suffered.

Mr. President, the current system does not allocate responsibility for injuries equitably. The current system is a lottery. A severely injured plaintiff is required to take a chance on the lottery in order to be compensated. Too often, it is the victim who loses when this unpredictable system produces an unfair result. This legislation proposes improvements to encourage quick settlements that allocate responsibility equitably. Moreover, by reducing transaction costs, this legislation should improve our manufacturers' competitiveness in world markets. It is these excessive costs that burden manufacturers and discourage the development of innovative new products.

Mr. President, now is the time to enact a Federal product liability law. Since the 96th Congress, the Commerce Committee has reported 5 product liability bills and held 20 days of hearings. Opponents of reform will urge more hearings and study. The time to act is now. This bill reflects years of study and refinement. It is a moderate bill which promotes uniformity and fairness. I urge my colleagues to support this legislation.

Mr. GORTON. Mr. President, today Senator KASTEN has introduced the Product Liability Fairness Act. This bill is identical to S. 1400, which was reported favorably by the Commerce Committee on May 22, 1990. I am pleased to cosponsor this legislation, and I am confident that a majority of the Members of the Senate favor its passage.

The Consumer Subcommittee has compiled an extensive record which indicates clearly that our product liability laws are unpredictable, and that claimants are often undercompensated after lengthy litigation. It is readily apparent that the current system is overly cumbersome, wasteful, and inefficient as a means of compensating injured persons. Its transactional costs are outrageously high.

Beginning with the 96th Congress, the Commerce Committee has considered a wide variety of legislation directed at reforming the product liability system. These bills took many approaches, including alternatives to the traditional tort system, expedited settlement procedures, and alternative dispute resolution. Some of the bills also attempted to reverse the trend in State courts to adopt strict liability by establishing fault-based standards and defenses. All of these approaches were legitimate efforts to make the system fairer. None, however, gained sufficient support to be enacted into law.

The Product Liability Fairness Act is the result of all the previous bills, hearings, and of extensive consultations with legal experts. It is a moderate bill that does not restrict a claimant's right to recover for his or her injuries, and it solves the problems caused by the unpredictable patchwork of inconsistent State product liability laws by proposing a uniform statute. The bill calls for limited preemption of State law in key areas that will result in enhanced uniformity while maintaining the State's basic prerogatives to create their own tort law. Mr. President, the individual provisions of the bill are not extreme measures designed to favor one party over the other in litigation. Rather, they derive from the mainstream of State tort laws and seek balanced and fair results.

An example of the type of change proposed in the bill is the provision on punitive damages. Some legal experts have questioned the awarding of punitive damages, which are a quasicriminal penalty. Unlike compensatory damages, punitive damages are intended to punish defendants, not to compensate injured persons for their losses.

The bill provides that a claimant must prove that his injury was caused by the defendant's conscious, flagrant indifference to the safety of those persons who might be harmed by a product by clear and convincing evidence in order to be entitled to punitive damages. Also, a defendant can request a separate proceeding on punitive damages and only during this phase of the proceedings will evidence admissible to determine punitive liability be admitted. This provision is derived from studies and recommendations by the American Bar Association and the American College of Trial Lawyers. Twenty-two States have adopted the clear and convincing standard of proof and another has enacted the even higher standard of proof beyond a reasonable doubt. The State of Washington does not allow punitive damages to be awarded in products cases. The bill does not preempt State law to allow plaintiffs to recover punitive damages in Washington. Rather, it creates a uniform system for the awarding of punitive damages in those States that do allow such awards.

With regard to joint and several liability, the bill also creates a uniform standard that is derived from an emerging trend in State law. The bill provides that a claimant may recover all of his economic damages, such as medical expenses or lost wages, from any defendant. But, a claimant may recover noneconomic damages, such as pain and suffering, from an individual defendant only in proportion to that defendant's fault. This is the California rule, which voters in that State adopted in a 1986 referendum. Twenty-three States have adopted this rule. The bill does not affect the 11 other States that have abolished joint and several liability altogether.

Mr. President, this bill proposes reasonable steps to solve a national problem. A reasonable statute that promotes uniformity and predictability in the law will benefit both consumers and manufacturers. I commend Senator KASTEN for his outstanding work on this bill, and I urge my colleagues to cosponsor and support it.

Mr. LUGAR. Mr. President, I rise today in support of Senator KASTEN's products liability reform proposal. As our Nation attempts to lead the world into the next century, American business is hobbled by an extremely costly, chaotic, and counterproductive body of products liability law. There is an urgent need for Federal product liability legislation to bring certainty to the law and to stabilize the serious burden on interstate and international competition.

Widespread variations in product liability from State to State create unpredictability and confusion for manufacturers. In my home State of Indiana, for example, only about 17 percent of the products manufactured in Indiana are consumed within the State. The overwhelming majority of the products manufactured in Indiana must be designed, made, and marketed in ways that comply with 50 uncoordinated sets of product liability rules. This requirement, in many instances, contributes nothing but cost to the final product.

The most serious side effect of this jumbled approach to product liability regulation is the injection of greater uncertainty into the business environment. As a former small business person I understand the heavy cost uncertainty can have on a commercial operation. Whether it be increased risk of a new product line or increased interest rates for expansion of an existing line, the possibility of product liability litigation followed by damages made more costly by the prospect of punitive damages acts to stifle American innovation. It is this innovation which is critical to preserving America's eroding position in domestic and international markets.

The purpose of this bill is not to make products less safe and somehow less costly. Indeed, in some States this new approach will stiffen existing product liability laws. The real purpose of this legislation is to create a single nationwide standard for product safety. I am hopeful that this measure will receive a fair and thorough hearing during this session of Congress, and will be passed and signed into law.

Mr. CHAFEE. Mr. President, I want to take this opportunity to commend the distinguished Senator from Wisconsin for the work he has done on product liability. He has been here now for close to 12 years, and throughout that time he has been a staunch advocate of product liability reforms.

I am joining today with him to reintroduce the Product Liability Reform Act. It is my hope that this legislation will bring some much-needed uniformity to the product liability system, for the benefit of consumers and the well-being of our national economy.

As my colleagues are aware, this subject is not new. Over the past 10 years product liability reform has been the focus of heated debate in the Congress, and we have considered—but never enacted—a variety of comprehensive liability reform measures.

Why the fuss? Simply put, it is because we have seen an explosion in the number of product liability cases in the past decade, and this increase has imposed heavy costs—both financial and social—on both American consumers and the overall U.S. economy. These costs must be addressed if the United States is to maintain the high quality of life of its citizens and the international competitiveness of its business sector.

Let's look at the current situation with regard to product liability. In the past decade or so, the number of State court filings have been estimated to have increased by twofold to fivefold; at the same time, the number of Federal product liability lawsuits filed has jumped sharply—by one count, a tenfold increase in the last 15 years. As a result, companies are spending a significant amount of time, money, and resources on defending against lawsuits. Furthermore, as the number of tort actions has increased, the cost of insurance likewise has gone up.

The time and money committed to lawsuits—or even the possibility thereof—and insurance have several serious negative ramifications for all involved. For the manufacturers, much-needed time and money is being spent on legal actions and insurance, rather than on the research and development of new products and product improvements. In some cases, manufacturers are pulling their products from the shelves altogether.

In turn, the companies' actions impact heavily on consumers. First, the prices that consumers pay for a product often can include a substantial safety tax that goes toward covering the manufacturer's litigation costs; a large part of these costs is not for payment of legitimate claims, but rather for transaction costs. Second, it is clear that as companies forego new production, American jobs are lost.

In my view, however, even more important than the significant financial costs incurred are the costs in terms of American innovation and creativity. When American creativity is stifled or paralyzed by corporate caution, important new products aren't developed, and our society loses in two ways: competitively and socially.

In terms of American competitiveness, the lack of a uniform product liability standard translates into widespread uncertainty among businesses. Such uncertainty prevents companies from making long-range business plans, and breeds excessive corporate timidity with regard to new initiatives. In turn, this allows foreign competitors a price and an innovation advantage in both U.S. and foreign markets. For the Nation's economy, the end result is less manufacturing, less productivity, less innovation, and less long-term stability.

There are several examples of innovative American products that have been abandoned due to liability risks. Monsanto Co. dropped the planned production of a potential asbestos substitute. Dyneet Corp. stopped production of a helicopter clutch as a result of prohibitive insurance rates. As a result of legal costs incorporated into the product price, some products have become unable to compete with foreign brands. For example, insurance has added $75,000 to the cost of every new plane made by Piper Aircraft; indeed, product liability costs now exceed the total cost of manufacturing of some small aircraft.

I cannot emphasize enough, however, the particularly high social cost of unpredictable liability laws. When companies withdraw or raise the price of socially desirable products from the marketplace because of high legal and insurance costs, we as a society lose an opportunity to improve the quality of our lives. The loss is particularly severe in cases where the product in question is manufactured by very few—or only one—company.

One well-known, oft-cited example is that of pediatric vaccines. In 1987, Lederle Laboratories, the sole manufacturer of diptheria, pertussis, and tetanus [DPT] vaccines, raised its price per dose from $2.80 to $11.40 to pay for the legal costs associated with DPT. That is nearly a fourfold increase in price. Only two other companies produce diptheria vaccines, and if Lederle were to discontinue DPT vaccines altogether, children would suffer dramatically. Likewise, there is only one producer of the measles vaccine, and that company has stated that the product remains on the market only because of the company's sense of social responsibility.

Other worthwhile and important products are being developed only to be sold or discontinued when it becomes clear that the liability costs could be overwhelming. These products include infant and child car seats; family planning devices; sports safety equipment; and medical equipment.

In sum then, given the financial, competitive, and social costs of an unpredictable product liability system, I believe that some reform should take place. The difficulty lies, however, in determining how we can ensure that consumers are protected from corporate negligence and victims are fairly compensated for their injuries, while innocent manufacturers are prevented from being hit by frivolous or unwarranted lawsuits. In other words, we need to keep a deterrent value alive, but we have to curb some of the misuses—or outright abuses—in the system that are costing all of us dearly.

The bill that we are introducing today I believe will take us a step in the right direction. Under the measure, a Federal uniform product liability standard would be established. In addition, the bill provides for expedited settlements and alternative dispute resolution procedures. the bill also clarifies who is responsible for product harm and when that responsibility begins and ends.

I recognize that there will be a great deal of discussion about this bill, and I welcome it. I am hopeful that by the end of this Congress, we will see substantive product liability reform legislation enacted.

I, again, would like to thank my colleague from Wisconsin for his hard work and tenacity on this issue.

He has run up against plenty of stone walls, and I want to express my appreciation to him for his consistency. I intend to do what I can and work with him on this matter.

Mr. KASTEN. I thank the Senator.

Mr. MACK. Mr. President, I am pleased to reintroduce, along with my colleagues Senator KASTEN and Senator SHELBY, our bill which would lower the tax rate on capital gains.

Should this legislation become law, it would easily represent the most significant economic achievement of the 102d Congress. You might then be surprised when I say that I have a concern about the bill. My concern is, however, that it may not go far enough.

The Economic Growth and Venture Capital Act nearly cuts the tax rate on capital gains in half for most individuals and businesses. This is unquestionably a significant reduction. Independent research has estimated that this alone would unleash economic activity to raise GNP by 2.8 percent, add 2.5 million new jobs, and increase Federal revenues by $30 to $40 billion over 5 years.

But there is a powerful argument to be made that capital gains should not be subject to any tax at all. In recent months, Alan Greenspan, who is the Chairman of the Board of Governors of the Federal Reserve System and one of the most respected economists in the United States, has said that he is in favor of eliminating the tax on capital gains altogether. I think he may be right.

It is unfortunate, although perhaps necessary, to tax any economic activity at all. But there are certainly some activities that are much worse to tax than others. And the creation of capital is certainly one of those activities for which the consequences of taxing are awful.

Ted Forstmann explained this eloquently in the Wall Street Journal on December 13, 1990, when he said:

> The capital gains tax is not a tax on wealth. It is a tax on one's ability to improve one's lot by creating wealth. Taxing capital gains does not much affect the wealthy, who have their capital gains behind them, and are principally concerned with maintaining their wealth. Its real impact is to suppress the initiative of Americans who are not yet wealthy, but have the talent and drive to create wealth, and thus benefit the economy.

A fundamental rule of economic behavior is that whenever you tax something, you get less of it. We are now taxing the creation of wealth at a rate that is higher than at any time in the past decade. I am confident that had this legislation been in effect a year ago, we would not be in a recession today.

Even though the legislation we are proposing today cannot turn back the clock, it is the best antirecession medicine we can take.

I have heard the following metaphor which, I think, describes the importance of a capital gains tax cut in graphic terms: Our body economic, is today battered and bruised by the recession, with even perhaps some broken bones. We are trying to heal those wounds, with such medical aids as unemployment benefits and expanded credit. But that medical help can only go so far since there remains a plastic bag over the head of the body economic—and that plastic bag is a capital gains tax. Only when we remove that plastic bag will we be able to fully resuscitate the economy. Until then, all of our other efforts will have only limited success.

Mr. President, I have with me two recent studies whose conclusions are relevant to the Economic Growth and Venture Capital Act. I ask unanimous consent that the Executive Summaries of these two studies be printed in the RECORD.

The first study, "Tax Fairness: Myths and Reality," sponsored by the National Center for Policy Analysis, addresses an argument that opponents of tax cuts have made in recent years.

The study specifically analyzes the Reagan tax cuts of the 1980's and which income groups would be affected by these tax cuts. The NCPA's conclusion is that the tax cuts benefited Americans of every income level, and their analysis is filled with documentation to demonstrate this.

Remember that today's critics of a capital gains tax cut are largely those who opposed the Reagan tax cuts on the basis that those tax cuts would benefit the rich at the expense of the poor. The lesson to be learned is that they were wrong on income tax cuts, and they are wrong now on capital gains tax cuts.

The second study is sponsored by the Institute for Policy Innovation, and its topic is, "How Tax Policy Compounded the S&L Crisis." It analyzes some of the negative consequences of certain tax changes we have made in recent years, particularly the increase in the capital gains tax rate in 1986.

The IPI study emphasized that the increase in the capital gains tax rate significantly reduced the stock of wealth in the United States. Most of that wealth is in real estate. As a consequence, the increase in the capital gains rate reduced the value of commercial real estate in the United States by 9 percent and also lowered the value of owner-occupied housing by about $125 billion.

Mr. President, I also ask unanimous consent that a recent Washington Times article by Warren Brookes on this issue be placed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Center for Tax Policy Studies, National Center for Policy Analysis, March 1991]

TAX FAIRNESS: MYTHS AND REALITY

By Aldona Robbins and Gary Robbins

EXECUTIVE SUMMARY

During 1990, Americans were bombarded by reports that the U.S. tax system had become increasingly unfair. The critics seized upon two or three facts about the income tax system, repackaged those facts in misleading ways in dozens of "studies," and skillfully marketed the "findings" to the national news media.

Myth: During the 1980s, the rich got richer and the poor got poorer.

Over the past decade, the real per capita income of Americans grew by 21.2 percent. Every income class posted a substantial increase in real aftertax income.

Myth: The top 10 percent of income earners gained from the Reagan tax cuts, while the bottom 90 percent lost.

Total taxes as a percent of gross national product today are slightly higher than they were in 1980. The nation's total tax burden, therefore, did not go down—in large part because of Social Security (FICA) payroll tax increases that took effect in the 1980s but were legislated during the Carter Administration. The Reagan income tax cuts, however, lowered the personal income tax burden for every income class.

Myth: The Reagan tax cuts were a give-away to the rich.

The tax rate on the highest income earners was reduced sharply during the 1980s in order to encourage wealthy taxpayers to earn more income and pay more taxes. The experiment was a spectacular success. The tax cuts benefitted the non-rich, as wealthy taxpayers increased their total tax payments and their share of tax payments. For example, the share of income tax payments made by the top 1 percent of taxpayers grew from 18 percent in 1981 to more than 27 percent in 1988.

Myth: Reagan tax reform was unfair to low-income families.

For the vast majority of Americans, the greatest benefit from Reagan tax reform is not that tax payments are lower but that taxes are lower than they would otherwise have been. For example:

A family earning $10,000 a year would pay 134 percent more in income taxes if the Carter Administration's tax policies were in effect today.

Including the increases in Social Security taxes, this family would pay 42 percent more in total taxes if the 1980 tax law were in effect.

The very lowest-income taxpayers realized an additional gain. As many as four million low-income taxpayers no longer pay income taxes. The personal exemption was doubled from $1,000 in 1980 to $2,000 by 1989, and the standard deduction was increased by over 50 percent for most taxpayers.

Myth: The income tax system became less progressive during the 1980s.

The U.S. tax system became more progressive, not less so.

Between 1979 and 1988, the share of income taxes paid by the top 5 percent of income earners rose from 37.6 percent to 45.9 percent.

Between 1981 and 1988, the share of Social Security payroll taxes paid by the top 5 percent of income earners rose from 10.9 percent to 12.3 percent.

By contrast, the bottom half of income earners now pay only 5.5 percent of federal income taxes and only 17 percent of Social Security payroll taxes.

Myth: During the 1980s, income of the wealthy grew faster than that of any other group.

No one really knows if this statement is true. It is certainly true of income subject to taxes. But there is no hard evidence that the total income of the wealthy grew faster than that of other taxpayers. We do not know how much of the growth in taxable income was due to a shift from nontaxable to taxable income and how much to the fact that the wealthy worked harder or invested more to produce more income.

Myth: The rich pay a smaller percent of their income in taxes today than they did in 1980, although most taxpayers a higher percent.

No one knows exactly what the "income" of the rich was in 1980. Official records show only income subject to the income tax. Taxpayers were not required to report income from tax-exempt securities or other forms of tax-sheltered income. Because of Reagan tax reform, much more of the income of the wealthy today is taxable and much less sheltered. By any reasonable estimate of total income in 1980 and 1990, taxes as a percent of income have gone up, not down, for the wealthiest taxpayers.

Myth: The tax system can be made more progressive by raising the tax rates paid by the rich.

For most of the history of the income tax, the opposite has been true. That is, whenever the highest tax rate has been increased, the total tax payments and share tax payments made by the rich have gone down. Whenever the highest tax rate has been lowered, the share of taxes paid by the rich has gone up. The experience of the 1980s replicated this historical relationship.

[From the Institute for Policy Innovation, February 1991]

HOW TAX POLICY COMPOUNDED THE S&L CRISIS

(By Aldona and Gary Robbins)

EXECUTIVE SUMMARY

Federal tax policy must be included in the list of factors that contributed to the savings and loan crisis. In particular, retroactive changes contained in the 1986 Tax Reform Act lowered real estate values, thereby weakening many institutions which had invested in real estate and adding to the cost of the savings and loan bailout.

Overall, the 1986 tax reform reduced the value of commercial real estate by 17 percent.

The value of home ownership fell by over 9 percent.

$35.6 billion of the estimated $150 billion S&L bailout cost is attributable to the 1986 tax changes.

Tax policy affects revenues to the government, income to economic actors, and the stock of wealth. Governmental assessments of the impact of tax changes focus almost exclusively on revenues. Revenues depend upon income produced by individuals and businesses. For example, social security payroll tax revenues are determined by wages and salaries. Wages, interest, dividends, and profits are flows of income over time which result from continuing productive activities.

Although not recognized in government projections, tax policy affects these income flows through its impact on U.S. economic activity. Higher tax rates lead to lower incomes by discouraging work and saving; lower tax rates lead to higher incomes by encouraging work and saving.

Tax policy also affects the stock of wealth, a fact totally ignored during consideration of the 1986 Tax Reform Act. To the extent that this oversight has contributed to fluctuations in the real estate market, recent tax legislation worsened, not improved, the savings and loan problem and its subsequent costs to taxpayers.

The capital gains changes in the 1986 Act reduced the value of commercial real estate by 9 percent.

Rental costs have gone up by 17.5 percent due to tax reform's impact on commercial real estate.

Changes in capital gains tax treatment, in combination with lower marginal rates, decreased the value of an owner-occupied home worth more than $150,000 by between 5 and 6.5 percent.

The capital gains changes in the 1986 Act lowered the value of owner-occupied housing by about $125 billion.

Provisions in the 1986 Act affecting real estate fall into two main categories. First, repeal of the 60-percent exclusion rate on capital gains raised the tax on real estate projects thereby lowering their asset values. Because about 80 percent of capital gains on real estate is due solely to inflation, the increase in capital gains taxes exposed both commercial real estate investors and homeowners to a significant inflationary tax.

The second broad category of tax provisions affecting real estate values involves deferral of tax deductions. Changes such as the extension of passive loss limitation to real estate and the at-risk loss limitation provision can cause investors to defer the deduction of normal business expenses associated with operating a real estate project. Deferral would be all right if the deferred deductions were indexed for inflation and interest. Because they are not, these changes in the 1986 Act also reduced the value of both commercial real estate and owner-occupied real estate.

Approximately $21 billion of the $35.6 billion in S&L bailout costs due to tax changes are attributable to capital gains and passive loss.

Current estimates place the cost of the S&L bailout in the neighborhood of $150 billion, excluding government borrowing costs. The actual cost of the S&L bailout to taxpayers will depend upon: (1) how many savings and loans fail, and (2) the market value of assets held by the Resolution Trust Corporation (RTC)—the agency set up to deal with the S&L problem. Anything that lowers (raises) the value of real estate property or mortgage quality will reduce (increase) what the RTC can receive for these assets, thereby increasing (decreasing) the cost of the bailout to taxpayers.

A number of tax policy changes that could be undertaken to meliorate the cost of the S&L bailout include:

Lower the tax on capital gains through either a reduction in the rate or through indexing for inflation. In addition to beneficial effects on S&L assets values, a reduction in capital gains taxes would enhance the prospects for higher growth in general.

Repeal ineffectual tax provisions such as passive loss and at-risk limitations. The effect of these provisions is to rearrange investment portfolios, not eliminate the perceived tax abuse. Society loses, however, because of higher transaction costs associated with portfolio changes.

End the asymmetric treatment of taxpayer gains and losses. In an attempt to speed up delivery of tax receipts, the government has passed laws which force the taxpayer to pay tax on income not yet received.

Analyze the impact of taxes on the stocks of U.S. wealth as well as the income flows. Had this been done during debate over tax reform, losses from the S&L bailout could have been reduced.

Such tax policy changes would increase real estate investment incentives, promote economic growth, and raise revenue for the government.

[From the Washington Times, Mar. 7, 1991]

CURING THE BANKING CRISIS AND RECESSION

(By Warren Brookes)

Sen. Phil Gramm, Texas Republican, wants President Bush to open a "second front" on domestic policy.

Here's a good place to start: Go on national television and tell how Congress could end the U.S. banking crisis and the recession fast, just by cutting the capital-gains tax rate to 15 percent.

Such a move alone would restore $500 billion to commercial and residential property values, instantly strengthen the capital positions of all banks and thrifts, end the credit crunch and slash the budget deficit by tens of billions of dollars.

Why don't we do this? Because the Democrats have turned ideology into "idiotology," willing to shoot the nation in the foot for the sake of preventing the wealthy from getting wealthier, even if that would make everyone else better off, too.

There is not a single mainstream economist who does not believe that such a cut would stimulate economic growth and new jobs. Even Alan Sinai, a liberal economist with First Boston Corp., testified to Congress last June that this cut would create at least half a million additional jobs per year and raise total federal tax revenues by $30 billion to $40 billion over five years.

Beyond that, not only does this tax cut more than pay for itself in direct feedback of revenues (raising federal revenues from $7 billion to $11 billion over five years), but it will directly reduce the cost of the savings-and-loan bailout by $21 billion, by raising the liquidation value of its real estate assets.

That is the essential message of a new study by Washington economists Gary and Aldona Robbins for the Institute for Policy Innovation. It shows that the 1986 Tax Reform Act (which raised capital gains rates by 40 percent) cut the values of commercial real estate by 17 percent and home values by 9.2 percent.

Together, these losses add up to more than $1 trillion in total current asset values in the economy as a whole. That accounts for most of the U.S. financial sector problems. The Robbinses say the capital-gains tax increase alone cost current home-owners at least $125 billion in housing values. Since 1986, the value of commercial real estate investment trusts also plunged 60 percent.

As the Robbinses argue: "since 1983, the value of failed S&L real estate assets has fallen by $28 billion. These assets now or will belong to the Resolution Trust Corp.—the agency set up to deal with the S&L problem."

The reason for this is that real estate is the most tax-sensitive commodity there is. Every dollar that must be paid in taxes on a property is a dollar that cannot be paid either as mortgage payments or rental income. Since a property's total market value is directly related to those payments or imputed rental income, any tax increase slashes value.

"Since 86 percent of S&L assets are mortgages and mortgage-backed securities, tax policies which reduce real estate values will logically diminish the value of S&L assets" and contribute directly to the disappearance of savings-and-loan capital.

In 1986, Congress raised the top tax rate on capital gains to 28 percent, limited losses on "passive" investments, curtailed depreciation schedules on commercial real estate, repealed the 10-year amortization of construction-period costs and taxes, tightened the alternative minimum tax rules, changed and tightened the rules on real estate tax shelters and real estate investment trusts, and made a number of changes in real estate accounting rules.

It also cut the top marginal tax rates, dramatically reducing the value of the income-tax deduction on home-mortgage interest payments. While both the rate reductions and loophole closings were desirable to eliminate distortions in the economy, their powerful 8 percent impact on cutting commercial real estate values was more than doubled by the rise in capital gains.

The Robbinses conclude that altogether the effect of Tax Reform on the Resolution Trust Corp.-owned properties is some $35.6 billion, of which $21 billion is attributable to capital gains and to passive loss restrictions. (See Table.)

On Jan. 23, Federal Reserve Chairman Alan Greenspan was asked by Sen. Connie Mack, Florida Republican, "If we lowered the capital gains tax rate, what impact would it have on the value of assets, the value of real estate?"

Mr. Greenspan replied: "I think it's fairly evident that to the extent the capital-gains tax is lowered, you will get potentially higher property values . . . There's no question in my mind that a capital-gains tax cut would be helpful with respect to the issue of property values and economic growth."

In short, a capital-gains tax cut would by itself go a long way to restoring the nation's financial system, even as it reduced the deficit by $32 billion over five years. Those who oppose it are doing so strictly out of "idiotology," not "fairness."

Impact of 1986 Tax Reform on Costs of the S&L Bailout

RTC Commercial Properties	$23.7 billion
RTC Commercial Mortgages	5.9 billion
RTC Home Mortgages	6.0 billion
Total	35.6 billion
Capital gains portion	21.0 billion
Reduction in Commercial Real Estate Values	17.0 percent
Reduction in Residential Values	9.2 percent

Source: "How Tax Policy Compounded the S&L Crisis" Institute For Policy Innovation, 109, 2:91.

By Mrs. KASSEBAUM:

S. 641. A bill entitled the Improved Rural and Short-Line Railroad Service Act; to the Committee on Commerce, Science, and Transportation.

IMPROVED RURAL AND SHORT-LINE RAILROAD SERVICE ACT

Mrs. KASSEBAUM. Mr. President, I rise today to introduce legislation to address the abandonment of railroad lines across rural America.

Today, many rural communities across the country are in danger of losing their rail service. If this happens, the implications will be far reaching. Farmers and small shippers will be most directly affected by the abandonments, but they will not be alone. Rail workers and their families, schools, and local retail businesses will all suffer. Real estate values will drop, and rural highways will deteriorate all the more rapidly. In short, the very existence of a rural communty may be threatened by the loss of rail service.

We must fight for our rural communities. Rail service must be preserved to the greatest extent possible. For this reason, I am introducing legislation to encourage railroads to market their lines to companies interested in continuing rail service before simply abandoning the track to the salvage companies. The acquiring companies, which are usually small and very service-oriented, can often solicit enough new business to make these lines profitable. Because rural rail service is so important, we need to give those companies interested in continuing this service every opportunity to do so.

I know firsthand what can happen if a railroad company dedicates itself to selling its unprofitable lines to dedicated, more aggressive companies. It is impressive. In the State of Kansas the Atchison, Topeka, and Santa Fe Railway Co. has been working for several months to market over 900 miles of track that it had proposed for abandonment. Santa Fe has hired a marketing specialist who has contacted short-line operators and local communities in an attempt to transfer these lines to companies interested in continuing rail service. The results have been very positive. Hundreds of miles have already been sold and rail service has been preserved for many of our rural communities.

Santa Fe's actions to date are exemplary and should serve as a model for other railroads. It is my sincere hope that the legislation I am introducing will encourage such behavior and will facilitate the transfer rather than the abandonment of rural rail lines. The railroad is the lifeline of many rural communities, and we cannot allow this lifeline to be cut off.

By Mr. COATS (for himself and Mr. HELMS):

S. 642. A bill to amend the Internal Revenue Code of 1986 to increase the personal exemption for dependents of a taxpayer; to the Committee on Finance.

S. 643. A bill to amend the Internal Revenue Code of 1986 to increase the personal exemption for dependent children of a taxpayer who are 6 years old or younger; to the Committee on Finance.

PERSONAL EXEMPTIONS FOR DEPENDENTS

Mr. COATS. Mr. President, today we are discussing some important proposals to reawaken America's slumbering economy and put us back on the path to growth—ideas rooted in the free market lessons on the 1980's.

Unfortunately, in the budget package of last year, those lessons were roundly ignored. Taxes are an enemy of growth. And less growth, inevitably, means less revenue and higher deficits. Somehow our budget agreement managed to get these basic facts wrong at every turn. Its budget cuts were illusions. Its taxes greased our economic slide. The slowdown we face has added new debt. And it is average Americans who have suffered.

Congress, it seems, has abandoned proven policies for the tired and discredited strategies of the past. But I believe some of the proposals before we today go a long way toward reversing the rush to recession we've seen—particularly the proposal by my colleague from Wisconsin to reduce the capital gains tax, with special consideration for lower- and middle-income taxpayers.

If I can take a moment, however, I want to focus a portion of this discussion on the unique needs of families. The American Tax Code is a national symbol of the way our Government treats families and their challenges. And that national symbol is a national disgrace.

Over the last several decades, America has undergone a dramatic shift in the distribution of its tax burden—but not in the direction you'd expect. Massive new tax requirements have been placed directly on families with children. In a heartless paradox we have taken resources from the people who can least afford to part with them.

This change was not intentional. But it is no less destructive for being thoughtless. Since the early part of this century when the personal exemption was first enacted, it has only recently—within the past several years—been indexed for inflation. And over those decades, inflation has eaten deeply into the margin of economic security which families once enjoyed—destroying 80 perecent of the personal exemption's worth.

In 1917 the personal exemption stood at the equivalent of $10,000 in 1990 dollars. Its value dropped in the following years, with America facing the Great Depression and the Second World War. But when those challenges were met, the original value of the exemption was never restored. And in the decades which followed, the value of the personal exemption has steadily and dramatically declined—eroded by inflation and neglect.

I played a role in doubling the personal exemption to nearly $2,000 in 1985 and 1986 during the development of the Tax Reform Act. That was an important reform, coming at a critical time. But it was only a partial step. It did not satisfy the level of need. It did not satisfy the precedent of history. That change was not the end of a process, but the beginning. And the time had come for a second step as bold as the first.

Raising a child and keeping a household is a more expensive proposition than it has ever been before. The accelerating costs of health care and education have left many families with basic needs they cannot meet. The Family Economics Review recently placed the costs of raising a child in a low-income family at somewhere between $4,000 and $5,000 per year per child.

Those problems are not caused primarily by decreasing income. Many American families now have two wage earners instead of one—sometimes out of intention, often out of necessity. In spite of this trend, many still cannot afford decent housing or adequate health care—the range of daily needs for families with children.

I strongly believe that a central cause of these difficulties is the weight of increased, unfair, and counterproductive taxation of American families. And, to be more specific, the problem has been magnified by a dramatic decline in the value of the personal exemption over the years.

For example, in 1950 when the median family income stood at $3,319, the personal exemption was $600 per year. An average family of four with no other exemptions could deduct about 72 percent of its income from taxation.

In 1989, however, when the average family income totaled $34,213 per year, Americans were allowed a $2,000 personal exemption. Despite the increase enacted in the Tax Reform Act, an average family of four with no other deductions can now exempt only 24 percent of their income from taxation.

To offset the same percentage of family income today as in 1950, the personal exemption would have to be set at about $6,184.

This inequity hurts all taxpayers, but it hurts families with children more than any other group. And it places a special burden on America's poor—particularly racial and ethnic groups which often face the greatest economic challenges. Today about 50 percent of American families have children under 18 years of age. Yet more than 60 percent of black families, and more than 70 percent of Hispanic families, have children over 18.

Our Tax Code has pressed down on families an unfair weight of taxation. It has tied their hands in a time when we must depend on families to meet needs of their own. And, for this reason, I have introduced legislation, S. 152, to increase the personal exemption to $4,000 and to index that figure for inflation. This will not bring the exemption up to its historical value, but it will bring tax relief to families. And it will be available to all families, whether or not they itemize or can afford tax shelters.

This, in my view, is the ideal. But my commitment is to meet a need, not just to pass a particular bill. I will support any legislation which allows families with children to keep more of their own money. And so I will also be introducing two other measures. The first will increase the personal exemption to $4,000 for dependents alone. The second will increase the personal exemption to $4,000 for children aged 6 and under. While these approaches are less comprehensive, they would provide immediate help to families that need it most—families with young children, families on tight budgets with pressing needs.

These are not proposals to create new government handouts. They do not address difficult needs with a new Federal program. Rather, my proposals would simply allow families to keep more of the money they earn. Money they desperately need. Money that is now unfairly taken.

Now that we are confronted with a troubled economy, a higher number of American families are grappling with the reality of financial hardship. As a result, I expect we will see a number of proposals for new or expanded entitlement programs. But good questions have been raised over the effectiveness of this approach. Often our best intentions are frustrated by excessive administrative costs, waste and unintended consequences. But by putting money directly back into the hands of the American family, we can provide them the power to make their own choices. We can reduce their economic burdens so families can better play their vital social role—giving them the means to educate and care for their children without ineffective or intrusive Federal programs.

If we were to double the personal exemption for everyone, families would feel their burden lightened immediately. A family of four which makes $20,000 a year after subtracting the standard deduction would cut their Federal tax obligation from $1,774 to less than $600. Middle income families would also benefit. A family of five earning $40,000 per year after the standard deduction is taken would see their Federal taxes fall from about $5,500 to about $2,500.

For too many decades, the Federal Government has been blind to the practical, pressing economic needs of American families. We have a tax structure that responds to every special interest under the sun. Yet no one stalks these halls to speak for the family. No demand is made for its just treatment. And, as a result, the family has suffered in our Tax Code.

It is a problem rooted in the neglect of decades. But the bottom line is simple. American families are seeing a greater portion of their paychecks sent to Washington and seeing precious little in return. The personal exemption has steadily lost its value. It has not kept up with the rate of inflation and it does not fairly reflect today's costs of raising a child.

So as we take a look at the various economic reform proposals that have been placed on the table, I urge my colleagues to lend their support to one change that will provide direct assistance to the family. It is not a handout. It is a matter of simple justice.

I urge my colleagues to cosponsor S. 152 and yield back the balance of my time.

By Mr. SIMON (for himself, Mr. BRADLEY, and Mr. HARKIN):

S. 644. A bill to amend the Budget Enforcement Act of 1990 to allow offsetting transfers among discretionary spending categories; referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

BUDGET ENFORCEMENT ACT

Mr. SIMON. Mr. President, I am introducing in behalf of Senator BRADLEY and myself a very simple amendment to the Budget Enforcement Act of 1990.

It would do something that this Senate passed in the closing days of the last session. It would change the budget agreement so that it would take a simple majority to transfer funds from the defense function, for example, to discretionary nondefense.

Right now, we are in a ridiculous and unprecedented situation. Let us say we wanted to take $500 million from star wars and put it over to Head Start, where we are now reaching only 20 percent of the young people who need that help. Right now, it would take 60 votes of this body to do that. The amendment that Senator BRADLEY and I have introduced would bring that back down to a simple majority, to 50 votes.

The Senate, on that last long night, adopted an amendment. I offered to modify the budget agreement to do that. I am told the signal came from the White House that if my amendment was adopted in conference, the President was going to veto the bill.

I hope, on reflection, we go back to a point where a majority can get something like this done.

We are freezing defense expenditures at the cold war level. We have just gone through the experience of using our arms effectively in the Middle East. But it is interesting that most of these exotic things that we have been spending money on we could not use over there. Patriot missile production was started in 1979. We have been, I think, for 10 years arguing over the B-1 bomber. How many B-1 bombers did we use in the Middle East? Not a single B-1 bomber. It just was not practical.

So we want a strong defense. We want one that is highly mobile. But to freeze in fiscal year 1992 $296 billion for defense; to freeze in fiscal year 1993 $293 billion for defense I do not think makes sense. After World War II, we cut defense expenditures 90 percent in 3 years. Everyone acknowledges that is one of the reasons for the great growth in our economy.

I am not suggesting we do anything like that today, but I do want to maintain the flexibility so that this body can shift from one function to another. This does not change the pay-as-you-go provision. It does not add 1 penny to the deficit. It simply says if we want to transfer funds from that defense function to the discretionary nondefense function, we ought to be able to do that with a majority of votes in this body.

That is what the amendment does. It is not complicated. It is a very simple amendment. My hope is that the Senate will take the same stand it did on the last night of the last session. I hope, on reflection, the House and the President will agree that this is the approach we ought to be taking.

We have huge domestic needs. We have been able to muster unbelievable resources to meet a threat in the Middle East. I want to devote some resources in this country to meet the threat of a poor-quality education for too many people. I want to devote some resources to see that we provide adequate health care for all of our citizens. I do not want to freeze in the kind of defense spending that we see in the Budget Enforcement Act of 1990.

• Mr. BRADLEY. Mr. President, I rise to join my colleague from Illinois [Mr. SIMON] in introducing legislation that will enable us to bring the Federal budget in line with our national priorities over the next 5 years. Last year's hastily assembled budget deal locked in budget choices for 5 years. I do not believe those long-term choices were well thought out; I do not believe they reflect the appropriate priorities for American families; and I do not believe they give us the flexibility to respond to domestic and international crises as they emerge.

This bill would permit Congress to shift funds among various Federal spending categories, which will allow us to realize future savings from defense spending and address pressing domestic needs. Last year's law, in the name of budget reform, placed separate caps on defense spending, foreign aid, and domestic discretionary spending for the next 3 years. Shifting funds from one of these broad categories to another will require a 60-vote supermajority. And even when 60 Senators agree on the shift, the law still subjects all the programs in the increased category to an across-the-board cut.

What does this mean in practice? It means that it is virtually impossible to terminate funding for a wasteful program like the B-1 Bomber and use part of the savings for underfunded programs that work, such as Head Start, WIC, Maternal and Child Health Grants, and other investments in children. It does not mean that we will have more budget discipline. What incentives is there to search out and realize savings in any one area if there is no way to use any of those savings for other priorities?

This legislation solves this problem with two modifications to the Budget Act. First, it permits Congress to exceed the budget cap in any category if and only if the increase is offset by a reduction in another category. Congress may make such a transfer by simple majority vote. Second, there will be no across-the-board reductions if offsets are provided. This bill does not change the overall spending blueprint in current law. Overall discretionary spending cannot change. But we will be able to make the choices that we were elected to make.

Mr. President, last week President Bush asked a joint session of Congress to "move forward aggressively on the domestic front." The American people are also asking us to deal with the health care crisis, the recession, drugs, crime, the infrastructure, and other challenges here at home. They believe that we can give priority to these crises without raising taxes, by finding savings elsewhere in the budget. They are right. But we need a system that lets us make those transfers when we find them. The bill that my colleague, Mr. SIMON, and I are introducing today will open the door for us to move forward on the real priorities for America's families.●

By Mrs. KASSEBAUM (for herself, Mr. BOND, Mr. BURNS Mr. CHAFEE, Mr. COATS, Mr. CRAIG, Mr. DANFORTH, Mr. DOLE, Mr. EXON, Mr. GARN, Mr. GORTON, Mr. GRASSLEY, Mr. HEINZ, Mr. KASTEN, Mr. KERRY, Mr. MCCAIN, Mr. MURKOWSKI, Mr. NICKLES, Mr. PELL, Mr. RUDMAN, Mr. SIMPSON, Mr. SMITH, Mr. SYMMS, Mr. WALLOP, and Mr. HATCH):

S. 645. A bill to regulate interstate commerce by providing for uniform standards of liability for harm arising out of general aviation accidents; to the Committee on Commerce, Science, and Transportation.

GENERAL AVIATION ACCIDENT LIABILITY STANDARDS ACT

Mrs. KASSEBAUM. Mr. President, I rise today to offer a bill that is vital for the survival of the general aviation industry. Close examination of the problems plaguing the general aviation industry is critical if we are going to help this industry survive. In the past 11 years, we have witnessed a dramatic decline in the sales of general aviation planes. In 1990 fewer than 1,200 general aviation planes were sold. Compared to the 17,000 sold in 1979, that is a decrease of over 90 percent. In the process, we have lost thousands of high-technology manufacturing jobs.

During the same period, liability costs for the industry have soared from $24 million to well over $200 million annually. This nearly tenfold increase in liability costs is not due to an increase in accidents—the accident rate has improved steadily. It is due solely to the size of damage awards and the expanding number of situations in which manufacturers are held responsible for damages from general aviation accidents. In short, with general aviation accident rates going down while liability costs are soaring, we need to ask serious questions about the standards to which aircraft manufacturers are held under our current tort system. We also need to find constructive answers, such as the General Aviation Accident Liability Standards Act.

The problem, Mr. President, is that there is no uniform standard which applies to liability cases for this industry. The result is inconsistent court judgments from State to State and, in turn, instability and unpredictability in the industry.

This point was recently illustrated by Russ Meyer, president of Cessna Aircraft which is based in Wichita, KS. Cessna is the second largest general aviation aircraft manufacturer in the United States and, until 1986, also the world's leading producer of piston-powered airplanes. Cessna stopped producing piston aircraft in 1986, in large part due to the liability crisis. Russ Meyer has said that Cessna would approve plans to resume production of single-engine aircraft within 24 hours of congressional action to address the product liability system.

The need for a uniform Federal product liability standard is clear. A Federal standard will correct the legal inconsistencies which exist for this otherwise fully federally regulated industry. The Federal Government regulates the industry from design to production; the air traffic control system is federally operated and regulated. The Federal interest and presence in aviation is all pervasive except in one area—litigation is conducted under individual and widely varying State laws. Federal product liability standards, a cornerstone of this legislation, would provide uniformity and predictability.

When a manufacturer sells an aircraft, the new owner is responsible for the inspection, maintenance, and upkeep of that aircraft. As long as a manufacturer provides the required warnings and information, he should not be held liable for an accident that results from the owner's failure to perform these responsibilities. This, Mr. President, is not the manufacturer's responsibility.

To address this, this bill establishes a 20-year statute of repose for aircraft and replacement parts—which begins anew each time a system or a part is replaced. In this way, we are not allowing anyone who is at fault to get off the hook, but we are ensuring that manufacturers are held responsible only for those wrongs they have committed, and no more. It is worth noting that the European Community is far ahead of the United States in reforming its product liability standards, including the institution of a 10-year statute of repose. This is half the 20-year statute proposed in this bill.

The bill also retains both strict liability and joint and several liability between the manufacturers of all subsystems and component parts, and it enacts comparative responsibility among other parties.

I believe it is important to point out what the bill does not do. It does not cap damages in any way. It does not cap or limit attorneys' fees. It does not waive the responsibility to supply warnings against dangers regardless of the age of the product. It does not limit warranties given by the manufacturer. Nor does it limit a person's right to sue.

As the sponsor of the General Aviation Accident Liability Standards Act, I am pleased to be joined by a bipartisan group of 24 Senators in support of this measure. This bill also has the support of both manufacturers and users of general aviation, a combination that is unique for a product liability reform bill. In addition, the administration continues to support this legislation as it has in years past.

As you know, Mr. President, the issue of aviation liability reform is not a new one. While we continue to debate the issue here in Congress, rapid changes have been taking place in the global marketplace.

When the European Community consolidates its markets in 1992, our domestic industries will face new challenges in the trade arena. With 1992 just around the corner, we cannot afford to overlook the realities of the problems for our general aviation industry if the Congress does not act expeditiously on this bill. With sales down among major manufacturers, our foreign trading partners are readying their planes for export to our country.

Wichita, KS, is currently known as the Air Capital of the World, largely because of the prowess of the three major general aviation manufacturers based there. A change in this status would not only hurt the industry in Kansas but would also further weaken our domestic industry.

General aviation is a major part of our national air transportation system and is today facing a crisis of unprecedented proportions which is related to the tort system. While rising product liability costs are not the only factor contributing to the decline of the industry, they are certainly among the most significant. I urge my colleagues to support this legislation.

Mr. MCCAIN. Mr. President, I would like to express my deep appreciation to my distinguished colleague from Kansas for her efforts. I am pleased to once again offer my strong and enthusiastic support for this legislation.

Quite frankly Mr. President, I cannot believe that we are standing here again discussing this issue. This is the fourth Congress in a row in which my colleague from Kansas has introduced this measure. Passage of this bill is not only of tremendous importance to our aviation industry, it is vital to our country as a whole. Although it is focused on one sector—general aviation, it has broad implications.

Aviation is now our most prominent mode of transportation. It is to the 20th century what railroads were to the 19th century. As we move toward the year 2000, aviation will only assume greater prominence as we struggle to compete in the global marketplace.

Here in this country, we are fortunate to have a rich and proud tradition in the field of aviation. Our "firsts" are many: the Wright Brothers, the first transoceanic flight, the first jet aircraft. These all belong to the United States. Yet we are losing our edge.

This decline was vividly illustrated in a hearing on another issue that took place before the Aviation Subcommittee several years ago. One of the witnesses was Col. Frank Borman, former Air Force pilot, former astronaut, and former president of Eastern Airlines. At the end of the hearing, Mr. Borman wanted to make an additional point to the committee. After leaving Eastern, he had gone back to New Mexico to relax and return to flying small aircraft for enjoyment. He was both stunned and angry to discover that there are no young people around airports any more learning to fly. No one jumping in and bumming a ride, no one learning how to fly as generations of Americans have done since Kitty Hawk.

Mr. President, I must ask why? The sad answer is: They simply cannot afford to. This unfortuante situation is going to have an increasingly serious impact on the industry. Demand for pilots will continue to expand. Unless we encourage general aviation and make learning to fly affordable again for our young men and women, we are going to face a crisis in pilots.

Colonel Borman rightly laid the blame for the problem on product liability costs. The industry can no longer afford to produce the type of planes so many Americans used to learn to fly in. Product liability costs have escalated almost 900 percent in the last decade, devastating the industry, despite a steadily improving safety record. Consequently, we now make fewer aircraft in 1 year than we did per month in the 1970's. Especially hard hit have been single engine piston powered craft. Deliveries have declined over 40 percent just in the past year.

Furthermore, aviation has been one of the few industries where we still maintain a positive balance of trade. How much longer will this last if the general aviation industry continues to decline? From 1989 to 1990, exports of general aviation aircraft declined 20 percent, from 566 to 442. In the late 1970's, we exported nearly 4,000 units a year. The astronomically high costs of U.S. product liability insurance makes our small aircraft uncompetitive abroad. And you can be sure that where our manufacturers are being forced out of the field by product liability costs, foreign competitors are filling the void.

We must have reasonable standards. This legislation does not cap damages. It does not impose restrictions on attorneys' fees. It does not limit or waive responsibility to provide warnings on known dangers or defects, regardless of the age of the product. It does not affect the rights of persons injured on the ground or other, more general areas of product liability law. It simply establishes uniform Federal standards liability.

Mr. President, we need to act on this legislation if the United States is to maintain its leadership role in the aviation industry. The Department of Justice, the Department of Transportation, and the Department of Commerce have all expressed their support for the bill. I urge my colleagues to likewise show their support, and I again salute my friend from Kansas for all her hard work on this issue.

Mr. SIMPSON. Mr. President, I am and always have been a cosponsor of this bill, and I strongly support it. As a general rule, I would usually oppose Federal legislation that may preempt matters that are traditionally and properly left to State law remedies. I see this bill as one of those rare and necessary exceptions to that general rule.

As the Judiciary Committee learned during hearings last year, liability costs to the general aviation industry have literally skyrocketed in the past few years. This is in spite of equally significant positive leaps in overall safety records. However, as the issue is presented today, there are almost as many differing standards of potential liability as there are States in our Nation. Yet of all the forms of transportation, this industry stands virtually unprotected against the whims of ever-changing State product liability laws. I think that this situation has become so extreme that it necessitates national standards.

We must also remember that this particular form of transportation has possibly the best safety record in our country. There have been fewer deaths and injuries in this industry than any other.

It is also important to note that this is not a bill which places caps on damages or otherwise prevents a deserving plaintiff from recovering for his or her injuries in the event of an accident or tragedy. This bill simply apportions liability for damages according to a defendant's degree of fault. This is most equitable and fair. Liability is apportioned according to a defendant's degree of involvement in the manufacture, design, maintenance, sale, and operation of the product. All parties are potentially liable in proportion to their participation in the cause of injuries.

This legislation is most reasonable and fair. Our general aviation industry is a valued and important part of American history and culture. This industry has demonstrated its responsibility and awareness of safety and its commitment to safety, in terms of both financial commitment and research, is unparalleled.

With all of this in mind, it is fair to ask why this bill has been so controversial in past years. The hearings in the Judiciary Committee last year made that very clear. By far, the real significant opposition to this legislation is coming from one source: the American Trial Lawyers' Association. For all of the fine efforts exerted by this fine association, it still has members who are less motivated by the principles of the vast majority of its members than by greed. That is what gives rise to opposition to this bill, Mr. President—greed, and little else.

Well, I do not believe that should stand in the way of good legislating. It is time for the full Senate to address this bill and to vote on this session. Let's address this problem in the manner and with the attention that it deserves. And I certainly again commend my intrepid and courageous friend and colleague, Senator NANCY KASSEBAUM, for her sincere efforts in this regard. I so admire her perseverance.

Mr. CHAFEE. Mr. President, I am pleased to join today with my colleague from Kansas in reintroducing the General Aviation Accident Liability Standards Act, a bill to establish Federal standards of liability for injury or property damage resulting from a general aviation accident. This bill is identical to last year's S. 640, as reported favorably on a voice vote by the Commerce Committee.

Our legislation addresses one of the most significant factors that have brought about the decline of the general aviation industry: increased product liability exposure and its cost to aircraft manufacturers. Today, manufacturers are spending considerable time and resources on defending lawsuits—Piper Aircraft estimates that they spend $250,000 per month just on defense costs—instead of developing or perfecting technology. Despite the fact that the number of fatal accidents in general aviation has plummeted to 1.49 per 100,000 flight hour flown, the amount of money spent on paid claims and out-of-pocket defense expenses has skyrocketed from about $24 million in 1977 to roughly $209 million in 1985. Let me repeat that particular fact: Fatal accidents in general aviation have gone down and stayed down, yet claim and defense costs have shot up.

That helfty cost burden has a heavy impact on the health of the general aviation industry—and the thousands of jobs in that sector. Sales of domestic aircraft have dropped sharply since the peak years in the late 1970's. As the Commerce Committee noted in its 1989 committee report: "This decline has affected virtually every manufacturer and is reflected in sales of all types of aircraft." Cessna Aircraft, Piper Aircraft, and Beech Aircraft are scaling back or halting production of some aircraft, and that has caused employment to drop precipitously—by 65 percent over the past decade. I am sure that the ripple effect of such a drastic industry downswing on the economies of the industry's home communities is all too clear to my colleagues.

Neither is the effect of high liability costs evident only within the industry. These costs ultimately are borne by the consumer, and by our national economy. Today, product liability costs, averaging $70,000 per new aircraft in 1985, have become the largest single factor in the price of a new single engine airplane. Further, while 1981 general aviation exports contributed an annual multimillion dollar surplus to our Nation's balance of trade, in the past 10 years the U.S. general aviation industry has suffered significant trade deficits. That contributes to our national trade deficit, a source of much concern.

The bill we are introducing today is meant to provide for some uniformity, and thus some certainty, in the areas of liability exposure for the general aviation industry. It is narrowly tailored to general aviation, and would apply only to aircraft that carry fewer than 20 passengers and are not engaged in regularly scheduled passenger service.

Under this measure, three important changes in liability law would be made. First, the act would create one set of Federal standards governing accident liability in the general aviation industry, and limit the availability of punitive damages to those situations where the manufacturer's conduct was proven to manifest conscious, flagrant indifference to safety. Today, the variation in state liability laws presents general aviation manufacturers with a wide range of liability standards, and the unpredictability and uncertainty caused by the variation contribute to overall instability in the industry. With the adoption of a uniform standard, manufacturers will be better able to do longterm business planning, and spend more resources on the research and development of new, safe aircraft.

Second, the measure would adopt the rule of comparative responsibility for lawsuits resulting from a general aviation accident. Comparative responsibility would ensure that the parties to the lawsuit each bear responsibility for their proportionate share of the damages.

Third, a 20-year statute of response, to start on the date of delivery, would be established in manufacturer liability. General aviation manufacturers currently remain liable for an aircraft regardless of its age and whether or not it has been subject to modifications beyond the control of the manufacturer.

These changes are essential to the future of the general aviation industry in the United States. Without them, we will continue to see a decline in the general aviation industry—and equally important, a decline in jobs and trade. We need to give manufacturers some relief, in the shape of one uniform standard, from the confusing patchwork of state liability laws if we are to help stabilize the industry and promote its competitiveness both at home and abroad. At the same time, we must ensure that the rights of those suffer injury in general aviation accidents are protected. In my view, this bill is a step toward that end, and I urge my colleagues to support it.

By Mr. DECONCINI (for himself, Mr. THURMOND, Mr. HOLLINGS, Mr. WIRTH, Mr. SPECTER, Mr. GRAHAM, Mr. MACK, Mr. ROBB, Mr. WARNER, Mr. MCCAIN, Mr. SARBANES, Mr. GORE, Mr. SASSER, Ms. MIKULSKI, and Mr. BROWN):

S. 646. A bill to amend title 28, United States Code, to authorize the appointment of additional bankruptcy judges; to the Committee on the Judiciary.

APPOINTMENT OF ADDITIONAL BANKRUPTCY JUDGES

Mr. DECONCINI. Mr. President, today I am introducing legislation which will authorize the appointment of 14 additional bankruptcy judges for placement in districts recommended by the Judicial Conference. The U.S. Bankruptcy Court is suffering from significant increases in bankruptcy filings and the need for these new judges is clear.

During fiscal year 1990, there was a 14.2-percent increase in the number of bankruptcy filings nationwide for a total of almost 750,000 filings. There were 993,000 bankruptcy cases pending, a 12.8-percent increase and the per judge annual caseload increased from 1,427 to 2,337 in 1989. Between 1981 and 1985, the total number of bankruptcy filings nearly doubled. In light of the downturn in the GNP and the general business climate, bankruptcy filings are expected to continue to rise.

My home State of Arizona has been extremely hard hit by the increasing number of bankruptcy filings. This is due, in large part, to the falling real estate market and failing financial institutions. In 1990, Arizona saw a 12.1- percent increase in the number of bankruptcy cases filed—18,252 new bankruptcy cases were received compared to 16,278 cases filed in 1989. And, for the year ending June 30, 1990, Arizona ranked first in the number of chapter 11 filings per judge. Each of Arizona's five judges has 216 new chapter 11 cases, compared to the national average of 67 cases per judge. In overall filings, Arizona has 3,544 cases per judge while the national average is 2,493. These statistics rank Arizona ninth in the Nation.

1990 also brought a number of extremely large chapter 11 cases to Arizona.

For example, last May, the Circle K Corp. and its 23 related subsidiaries, of almost 5,000 stores, filed for bankruptcy protection under chapter 11 in Phoenix. This bankruptcy case involves close to $2 billion in assets and $1.6 billion in liabilities. Arizona's five judges have had to find time for very complex cases in addition to handling over three times the national average of chapter 11 filings. This large increase in their workload warrants the creation of two new judgeships in Arizona.

There are currently 291 authorized bankruptcy judges. They serve in 94 judicial districts which includes the 50 States, the District of Columbia, and Puerto Rico. Districts receiving authorization for new bankruptcy judges by this bill include middle and southern Florida, Arizona, Colorado, northern Georgia, eastern Maryland, eastern Pennsylvania, middle Tennessee, South Carolina, eastern Virginia, and Puerto Rico. In reviewing the justifications for the other districts receiving new judges under this legislation, I have found their needs to be equally compelling. I urge my colleagues to act quickly on this legislation to ensure that the demand for bankruptcy judges is adequately met.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD following this statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 646

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONAL BANKRUPTCY JUDGES.

Section 152(a)(2) of title 28, United States Code, is amended—

(1) in the item relating to the district of Arizona by striking out "5" and inserting in lieu thereof "7";

(2) in the item relating to the district of Colorado by striking out "5" and inserting in lieu thereof "6";

(3) in the item relating to the middle district of Florida by striking out "4" and inserting in lieu thereof "6";

(4) in the item relating to the southern district of Florida by striking out "3" and inserting in lieu thereof "4";

(5) in the item relating to the northern district of Georgia by striking out "6" and inserting in lieu thereof "8";

(6) in the item relating to the district of Maryland and striking out "3" and inserting in lieu thereof "4";

(7) in the item relating to the eastern district of Pennsylvania by striking out "3" and inserting in lieu thereof "4";

(8) in the item relating to the district of Puerto Rico by striking out "2" and inserting in lieu thereof "3";

(9) in the item relating to the district of South Carolina by striking out "2" and inserting in lieu thereof "3";

"(10) in the item relating to the middle district of Tennessee by striking out "2" and inserting in lieu thereof "3"; and

"(11) in the item relating to the eastern district of Virginia by striking out "4" and inserting in lieu thereof "5".

Mr. THURMOND. Mr. President, I rise today along with Senator DECONCINI to introduce legislation that will authorize the creation of 14 new bankruptcy judgeships. These judgeships are vitally necessary to reduce the heavy caseload currently existing in many States today.

The rising number of bankruptcy filings across the country has created a heavy burden on existing bankruptcy judges. In some States a bankruptcy judge has over 2,000 filings on his docket every year. In addition, a portion of these filings are complex chapter 11 cases, which are often very time consuming.

Several States and Puerto Rico have a strong justification for the creation of new judgeships to reduce the burden on existing judges. This legislation will authorize 14 judgeships; three for Florida, two for Arizona, two for Georgia, and one each for Colorado, Maryland, Pennsylvania, Puerto Rico, Tennessee, South Carolina, and Virginia.

Mr. President, each district has clearly demonstrated its need for these judgeships. The Administrative Office of the U.S. Courts has formally recommended these judgeships. I believe that this bill will greatly assist the efficiency of the bankruptcy system and will ensure a more balanced caseload for bankruptcy judges. I urge my colleagues to support this legislation.

By Mr. SPECTER:

S. 648. A bill to assist States in crime control, law enforcement efforts, and prisoner education projects, and for other purposes; to the Committee on the Judiciary.

CRIME CONTROL ACT

Mr. SPECTER. Mr. President, today I am introducing a bill to provide Federal assistance and incentives to States to encourage them to implement prisoner education projects and to provide treatment rather than expensive imprisonment for drug-addicted nonviolent offenders.

DRUG COURT PROGRAM

The bill authorizes a novel program by which States and cities who wish to will be able to obtain Federal funds in order to establish demonstration projects for the creation of drug divisions within State and local criminal courts. These drug divisions are designed to skim off first-time nonviolent offenders who test positive for drugs from the general criminal population in State criminal court systems and put them through a program of court-supervised drug treatment and rehabilitation. In this way, we can both aid first-time drug offenders and keep them from becoming career criminals and provide localities with funds to stem the serious backlogs in their criminal courts caused largely by the drug crimewave. In the long term, this solution to the drug plague promises to be much less expensive than incarcerating these nonviolent offenders.

State and local courts are increasingly overwhelmed with greater and greater numbers of drug-related offenders. For example, in Philadelphia, the number of criminal cases filed there have more than doubled in the last 10 years, growing from 7,138 in 1979 to an estimated 16,474 in 1989, according to a study commissioned by the Philadelphia Bar Association entitled "Clearing the Road to Justice" and issued on March 26, 1990. Although the number of cases disposed of each year has also risen, this increase has resulted in a backlog of at least 12,516 by the end of 1989. The study found that the primary reason for this huge backlog were drug cases. Drug felonies constituted 25 percent of all cases disposed of in 1989 and 33 percent of the cases filed in Common Pleas Court in 1989, up from one-fifth of the dispositions in 1988. Moreover, when drug-related crimes are factored in; that is, crimes like robberies committed to obtain cash for drugs, this percentage skyrockets to 75 percent of all cases on the docket. Given this backlog, the administration of justice for all crimes suffers. Without the certainty of swift and sure punishment, our criminal laws will lose their deterrent effect.

These drug cases represent a serious challenge to the court systems in more than just numbers. Many drug-related crimes are committed by first-time offenders. Early intervention and drug treatment could potentially end the horrible cycle of recidivism. Thus, the Philadelphia study concluded that a separate drug court division could both speed the processing of drug-related cases—as well as freeing up the rest of the court system to focus on violent crimes—and provide mandatory drug screening programs to target first-time drug-dependent nonviolent offenders and offer them treatment.

I believe that this novel proposal by the Philadelphia study which is contained in this bill will assist not only Philadelphia, but many other localities whose court systems are collapsing under the weight of drug cases. At the same time, the program will offer hope in the form of treatment to first-time drug-dependent nonviolent offenders to stem the tide of recidivism.

STATE FUNDING AND INCENTIVES FOR PRISON EDUCATION

Mr. President, we must also implement realistic rehabilitation programs for first-time and for some repeat offenders. It can come as no surprise when an inmate with no trade or literacy skills returns to a life of crime after release from jail. Because rehabilitation is essential to reducing the rate of recidivism, I introduced legislation in the 97th, 98th, 99th, 100th and 101st Congress—S. 1690, S. 59, S.1190, S. 413, and S. 181 and 746, respectively—to encourage States to provide certain prisoners with a marketable job skill and with basic literacy skills. In so doing, we can help to break a vicious cycle of crime and punishment that traps many individuals.

As former chairman of the Appropriations Subcommittee on the District of Columbia, I worked to help establish a model rehabilitation program for District inmates which received over $40 million between fiscal year 1984 and fiscal year 1986. Still in its initial phase, it is proving successful. A January 1989 study conducted by the National Institute of Corrections reported a significant improvement in the quality of education and vocational programs, and improvement in their administrative structure as well, and a followup study in June 1990 confirmed those findings.

Such programs have enormous potential to provide former inmates with job opportunities. A related benefit is that inmates who participate in these programs are more likely to avoid reincarceration than those who do not. On September 22, 1988, in testimony before the Senate Subcommittee on the District of Columbia, then-director of the D.C. Department of Corrections, Hallem H. Williams, reported that as of August 31, 1988, 73 percent of participating former inmates remained in the community, as compared with 52 percent of those who did not participate. We must take advantage of what has been learned in the District's programs and work to replicate them nationally.

The Crime Control Act of 1990, passed in the last Congress, authorized funds for increased education for Federal prisoners. Now is the time to aid State prison systems.

Toward that end, this bill provides both new Federal funding and new incentives to States. The bill provides $5 million to the Bureau of Prison's National Institute of Corrections [NIC] for grants to States to expand and develop education and vocational training programs in State correctional institutions. Based on past success of Federal funding for State correctional institutions for prisoner education, in particular a fiscal year 1984 appropriation of $2.5 million to the NIC for State prisoner education projects which I introduced in Congress, I believe that this $5 million appropriation will have meaningful results. The March 10, 1989 preliminary results of a study issued by the Institute for Economic and Policy Studies [IEPS] concluded that the 1984 appropriation has had a significant long-term impact on the institutions and systems involved in the project. Eighty-seven percent of the NIC grantees who completed and returned the final survey have continued their projects and 62 percent of those grantees have developed programs and/or products that have become an integral part of the educational programs in their institution or system.

The bill also requires that, in order to receive Federal antidrug moneys, States will have to certify that they are making a good faith effort to ensure that prisoners released after a term of imprisonment of 2 years or more and who desire such educational opportunities have had training in reading, writing, and a basic job skill.

The composition of our State prison population reflects a disproportionate number of individuals who do not possess basic education and job skills, a situation which ultimately contributes to prisoners being released and committing more crimes because they do not have the necessary skills to compete effectively in our society. In 1986, approximately 75 percent of the more than 500,000 adult inmates was severely educationally deficient. Studies indicate that in the same year, only 40 percent of the inmate population, as compared with 85 percent of the U.S. population as a whole, had completed high school. The percentage of true illiterates in correctional facilities—persons who cannot read at all—has been estimated at 10 to 15 percent. The NIC reported in 1987 that it is probably a conservative estimate that at least 75 percent of the prison population is in need of academic, vocational, and life skills education. Yet, only 25 to 30 percent of the inmate population is reported to be enrolled in education, full or part time.

Mr. President, these provisions will provide support and encouragement to States to break this cycle of recidivism among our criminals.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 648

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Crime Control Act of 1991."

TITLE I—DRUG COURT PROGRAMS FOR STATES

SEC. 101. GRANT FOR THE ESTABLISHMENT OF DRUG COURT DIVISIONS.

(a) In General.—The Attorney General in consultation with the Secretary of Health and Human Services, is authorized to make grants to States and local governments for the purpose of establishing narcotics divisions with their judicial systems with exclusive jurisdiction over cases in which the most serious charge involves narcotics.

(b) Functions of Drug Division.—Each narcotics division funded under subsection (a) shall include—

(1) an independent administrator;

(2) a mixed case scheduling system, specific caseflow management standards, with a continual circulation of judges from other parts of the judicial system, and an individual judge calendar system;

(3) mandatory, on-site, drug treatment;

(4) screening of every arrestee to determine drug-dependency;

(5) mandatory treatment for—

(A) consenting first time drug-dependent, nonviolent offenders;

(B) nonviolent offenders who are charged with crimes not subjecting them to mandatory sentences;

(C) treatable drug-dependent probationers;

(D) Drug-dependent defendants on bail; and

(E) all treatable drug-dependent convicts sentences to prison; and

(6) a program that employs alternative sentencing methods, including electronic monitoring, home detention, community service, intensive supervision probation, and random drug testing, for appropriate defendants.

(c) Sufficient Funding.—Each drug division funded under section (a) shall receive sufficient funds for—

(1) implementation and operation of rehabilitation and drug-treatment programs;

(2) implementation and operation of alternative sentencing programs; and

(3) enhanced data processing and court reporting systems.

(d) State and Local Government Applications.—To request an application under this section, the chief executive officer of a State or local government shall submit an application within 60 days after the Attorney General has promulgated regulations under this section, and for each subsequent year, within 60 days after the date that appropriations for this part are enacted, in such form as the Attorney General may require.

(e) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

TITLE II—LITERACY AND MARKETABLE JOB SKILLS TRAINING FOR INMATES IN STATE PRISONS

SEC. 201. GRANTS FOR TRANING IN LITERACY AND MARKETABLE JOB SKILLS FOR INMATES IN STATE PRISONS.

There are hereby authorized to be appropriated $5,000,000 to the National Institute of Corrections of the Federal Bureau of Prisons to make grants to States for educational programs for criminal offenders in State correctional institutions, including—

(1) academic programs for—

(A) basic education with special emphasis on reading, writing, vocabulary, and arithmetic; and

(B) secondary school credit programs;

(2) vocational training programs;

(3) training for teaching personnel specializing in corrections education; and

(4) guidance and counseling programs.

The Institute shall set aside a portion of this appropriation for a grant to track, document, and evaluate the overall correctional education initiative.

SEC. 202. CONDITION ON ELIGIBILITY OF STATES TO RECEIVE FEDERAL ANTI-DRUG FUNDS.

(a) In General.—Notwithstanding any other law, beginning on the date that is 1 year after the date of enactment of this Act, a State shall not be eligible to receive any grant, contract, award, or other assistance paid for with Federal anti-drug funds unless it meets the requirements of subsection (b).

(b) Program Requirements.—(1) Subject to paragraph (2), a State meets the requirements of this subsection if the prison authority of the State provides to all prisoners who need and desire it—

(A) training in a marketable job skill and basic literacy; and

(B) treatment and rehabilitation for drug addiction.

(2) A State is not required to provide training or treatment to—

(A) a prisoner for whom a reasonable good faith effort has been made to provide training or treatment, even though the result has been less than fully satisfactory;

(B) a prisoner who refuses training or treatment; or

(C) a particular prisoner for whom, in the judgment of the State prison authority concurred in by the Attorney General and Secretary of Health and Human Services, the provision of training or treatment would be unreasonably costly.

(3) Paragraph (2)(C) shall not be construed to allow a State to be exempted generally from the requirements of this subsection on the ground that compliance would be unreasonably costly.

(c) Certification.—A State that desires to establish eligibility to receive the Federal assistance described in subsection (a) shall certify to the Attorney General and the Secretary of Health and Human Services that it meets the requirements of subsection (b), or if the State cannot make such a certification, may apply to the Attorney General and the Secretary of Health and Human Services to be granted probationary status under subsection (d).

(d) Probationary Status.—(1) If, on application by a State for probationary status, the Attorney General and the Secretary of Health and Human Services determine that a State has made a good faith effort to meet the requirements of subsection (b), they may grant the State probationary status for 1 year, during which time the State shall be eligible for the Federal assistance described in subsection (a).

(2) No State shall be eligible for probationary status under paragraph (1) for more than 2 years.

(e) Regulations.—(1) Not later than 180 days after the date of enactment of this Act, the Director of the Office of Treatment Improvement and the Director of the National Institute of Corrections, shall, after consultation with the Correctional Literacy and Vocational Skills Advisory Council, promulgate regulations to carry out this Act.

(2) The regulations promulgated pursuant to paragraph (1) shall include—

(A) a definition of the term "marketable job skill and basic literacy" and a means of determining whether a State meets the requirements of subsection (b)(1)(A); and

(B) a definition of the term "treatment and rehabilitation for drug addiction" and a means of determining whether a State meets the requirements of subsection (b)(1)(B).

(f) Advisory Council.—(1) There is established the Correctional Literacy and Vocational Skills Advisory Council (referred to as the "Council").

(2) The Council shall be composed of—

(A) the Director of the National Institute of Corrections, who shall serve as its chairman;

(B) the Assistant Secretary of Education for Vocational and Adult Education;

(C) the Assistant Secretary of Labor for Employment Training and Administration; and

(D) representatives of the American Correctional Association, the American Jail Association, the Association of State and Federal Directors of Correctional Education, and the Correctional Education Association.

(3) It shall be the duty of the Council to advise the National Institute of Corrections in formulating the regulations described in subsection (e)(2)(A).

(g) Advisory Committee.—(1) There is established the Correctional Drug Treatment Advisory Committee (referred to as the "Committee").

(2) The Committee shall be composed of—

(A) the Director of the Office of Treatment Improvement, who shall serve as chairman;

(B) the Director of the National Institute of Drug Abuse;

(C) the Director of the National Institute of Corrections; and

(D) representatives of the American Correctional Association, the American Jail Association, and the National Association of State Alcohol and Drug Abuse Directors.

(b) It shall be the duty of the Committee to advise the Office of Treatment Improvement in formulating the regulations described in subsection (e)(2)(B).

(h) NO CAUSE OF ACTION.—Nothing in this Act shall be construed to create any cause of action, defense, or claim of right of any other kind in favor of a State prisoner.

TITLE III—PRISON CONSTRUCTION

SEC. 301. PRISON CONSTRUCTION.

There is hereby authorized to be appropriated $250,000,000 for fiscal year 1992 to the Federal Bureau of Prisons, Federal Prison System, Buildings and Facilities, in additional funds for construction of additional Federal correctional institutions, expansion projects of existing facilities, and modernization and repair projects at existing facilities.

By Mr. BREAUX (for himself, Mr. CHAFEE, and Mr. PELL):

S. 649. A bill to amend the Internal Revenue Code of 1986 to repeal the luxury tax on boats; to the Committee on Finance.

REPEAL OF LUXURY TAX ON BOATS

Mr. BREAUX. Mr. President, every now and then the Congress, in our efforts to try to do good, sometimes engages in legislative activity that, on hindsight, proves to be a mistake. I think in last year's Budget Committee, in our tax-writing efforts, one of the areas in which I think there were good intentions ended up now, on hindsight, being a mistake that needs to be rectified, and, hopefully, we will have an opportunity to do it in this Congress.

What I am speaking about is the so-called luxury tax, which was aimed at a certain number of activities in this country. It was the sense of the Congress at that time that it necessitated a tax for the purpose of generating revenues, and also for the purpose of bringing about some tax equity and tax fairness in the code.

Mr. President, I am now interested in some of the early reports. The early reports are now in. In one of the areas, it looks like we have made a serious mistake that we need to rectify.

A New York Times article in early January, when the tax was beginning, pointed out that the new luxury tax may cost more than it can bring in. If there was ever a mistake, it would be that the Congress, in trying to generate revenues, embarks upon a program that will cost us more to implement than it brings in. The results of this type of activity could result in the fact that we are costing the American taxpayers more by this new tax that is on other books than, indeed, we would be costing them if it, in fact, were not on the books. In other words, this new tax could actually be a revenue loser.

So, Mr. President, today I am introducing, along with my colleague from the State of Rhode Island, legislation which will, hopefully, bring about a rectification of this situation.

Last Congress, we voted to impose the 10-percent excise tax on boats valued over $100,000. We thought we were doing the right thing. It was at that time called the luxury tax. Yet, at that time, no one expected that the impact of the action of that tax would have such a devastating impact on the marine manufacturing industry.

An article also in another paper, the Los Angeles Times, points out, "The new luxury tax on boats may cost the rich some money, but it costs workers their jobs."

I think this is another unintended consequence of the boat excise tax.

Mr. President, there are apparently 450 boat builders in the United States, and it happens that 103 of them are in my home State of Louisiana. The recreational marine industry employs between 350,000 and 400,000 Americans, and a private estimate indicates that up to 8,000 jobs would be lost due to the exise tax.

The tax itself is only expected to generate $3 million in the entire year of 1991. On balance, $3 million in revenues is hardly worth the cost of so many jobs—8,000—in the industry. This is one of the few net exporting industries in the United States. Therefore, I am pleased to offer legislation, along with my good friend, the Senator from Rhode Island, to try to rectify this mistake, as I see it, by repealing this luxury tax on boats.

Also, I point out that in the New York Times article there was a statement that said, "Congress has wound up producing a tax that will cost more to administer, collect, and comply with than it will bring in in revenues, probably by order of magnitude."

That statement is from a partner in one of the big accounting firms and a former acting general counsel of the Internal Revenue Service. In addition, the Commissioner of Internal Revenue said that he had no estimate yet of the cost of collecting the new taxes, but he agreed that it was an important question whether the revenues we are collecting are worth the burden, not just a cost, but a burden on the taxpayer as well.

If you look at some of the information that is provided, of course, by the National Marine Manufacturers Association, obviously, the association that represents the manufacturers, who have studied it, of course, very intently, show that in their factsheet, a boat excise tax is likely to have a net tax yield—when you consider the amount of jobs lost, the amount of less sales of boats due to the tax and other ways that this tax affects the economy, they are estimating a net tax yield of somewhere between zero and $8 million.

Well, Mr. President, the legislation that we are introducing this afternoon will begin, I hope, a set of hearings where we will be able to look at this question in depth and bring about a conclusion that I and my colleague, Senator CHAFEE, share that, indeed, when the Congress recognizes that something we did was not in keeping with the goal and is in fact producing the opposite result, the best thing that the Congress, and particularly this body, can do is to rectify that mistake.

This legislation would, in fact, rectify that mistake and also be a very positive impact on the industry that needs our help, not our penalties, because it is indeed one of the industries that is a net exporter in this country.

So, Mr. President, today I will be filing this legislation and, hopefully, our committee will be able to proceed with it in an expeditious fashion.

I yield the floor.

Mr. CHAFEE. Mr. President, every so often the Congress of the United States does something that does not make much sense. If we stumbled into such a situation with nobody calling attention to it, that is not very good. But, if we plunge into one of these situations after the alarm has been sounded, then I really think it reflects adversely on the Congress. Such was the case with this luxury tax.

Less than 6 months ago, in conjunction with the big tax measure that we passed last fall, the Revenue Reconciliation Act of 1990, we passed a so-called luxury tax. What did it do? Well, let us take what it did, particularly in connection with boats. It said that anybody who bought a boat that cost over $100,000 would have to pay a 10-percent tax on the amount over $100,000. This was meant to soak the rich.

Well, it was a terribly unfair tax, Mr. President. It did not say anything about somebody who bought a $250,000 second home in Vail, CO. That is not a luxury under this new excise tax. If somebody buys a boat, a boat made in Rhode Island or Louisiana, that is a luxury.

What was the effect of this, Mr. President? At the time those of us who represented States that had large boatbuilding industries sounded the alarm and said this is foolish and unfair, and it is not going to produce the revenue, therefore we should not do it.

But, nonetheless, it came through as a small part of the great big revenue reconciliation package of 1990 that we passed last fall. I am pleased today to join with my distinguished friend and colleague from Louisiana in presenting legislation to repeal that foolish tax.

Let me just tell you a little bit about what that tax did to my State. I come from a small State, a million people. We build more yacht hulls, more sailing boat hulls, than any State in the Nation. A little State like ourselves builds more sail boat hulls than California, for example. So it is a major industry for us, and it is an important industry in a whole series of ways.

Not only do we have those who work for the boat-building companies, but their spinoffs; another company makes the rope that we use, another company makes the winches; we have sail makers in our State. All of them make up a very sizable industry oriented around the boat-building business.

One of the important facts to remember about the boat-building business is it is a very important industry for those who newly come to our country, who do not have the skills that might qualify them to build computers, those who can least afford to be laid off work in our boat-building industry and in the laying up of the fiberglass on the molds that are there.

Now, we soon recognized this was bad business for the Nation and bad business for the employees, because the boat-building business was already having trouble.

The boat-building business is obviously sensitive to the times, that is, to the economy. When the economy goes down, somebody does not buy a boat. That is one of the first things they do not buy. So when you have an adverse economy, which we are experiencing—and nobody, Republican, Democrat, or independent can ignore that—and you saddle on top of that a 10-percent tax for the products made by so many Rhode Islanders, the effect is disaster.

I have here a letter written to me at the time, in November, by Mr. David Walters, the owner of David Walters Yachts, and he states the following:

> Like all Americans, we in the yacht-building industry want to see the deficit reduced. Unfortunately, this luxury tax is revenue negative or at best revenue neutral.

In other words, you are going to lose money on it. Now, how do you lose money when you have a tax? You lose money because the tax kills off the jobs of those wage earners who would be paying taxes to the Federal Government on their salaries and wages. So what you pick up, supposedly, on the luxury tax, the 10 percent above $100,000, you lose because scores of employees are laid off and their income taxes are foregone to the Nation.

In addition, Mr. Walters pointed out it will put thousands of additional boat employees out of work; have an adverse impact on blue collar and immigrant workers; and is discriminatory. Why choose boats or yachts and not choose second homes? The effect would be disastrous. Indeed the point in fact is that just recently David Walters closed his yard, closed it up, as a result of lack of business caused by the luxury tax. So he predicted it and it came true.

I would like to put in the RECORD the letter from Mr. Walters, written to me in November 1988; clippings from the Providence Journal indicating that Pearson Yachts, a major boat builder in my State, just filed for bankruptcy, and I quote from the article:

> Pearson's problems come at a time when many regional boatbuilders are reeling because of the sluggish economy and a new 10-percent Federal luxury tax on recreational boats selling for more than $100,000. The tax took effect in January 1991.

Also an article from the New York Times dated January 22, 1991, "New Luxury Tax May Cost More Than It Can Bring In."

Finally, a letter to the editor written to the Los Angeles Times on January 6, 1991, by a boatbuilder citing the facts from the National Marine Manufacturers Association where they cite more than 8,000 layoffs and numerous boat manufacturers are going out of business as a result of this tax.

Mr. President, I further would like to point out in my State, as I mentioned before, Pearson Yachts filed for bankruptcy; David Walters Yachts closed; Bristol Yachts filed for bankruptcy; Shannon Boats laid off 60 employees and lost $800,000 in business; and Johnson's Boat Yard has filed for bankruptcy.

This tax is a disaster and I do hope the efforts the distinguished junior Senator from Louisiana and I are making to repeal this unfair tax are successful.

Mr. President, I am pleased to join my colleague and friend from Louisiana, Senator BREAUX, in the introduction of legislation that is vitally important to the boat-building industry in my State and throughout this country. Our bill would repeal the excise tax on the purchase price of boats in excess of $100,000 that was imposed by the Revenue Reconciliation Act of 1990.

This new tax as enacted was part of the effort in last year's deficit reduction bill to "soak the rich." Unfortunately, this is not a tax on the people that buy these boats, it is a tax on the boat-building industry that was already losing sales. Ultimately, this tax will be paid by the Americans who lose their jobs as a result of slower sales for boats built in the United States.

When the budget summit negotiations began last May, I was hopeful that the negotiators would have been able to reach an agreement that reduced the deficit without overburdening any one segment of the economy. Unfortunately, when the summit ended and the Congress had made its changes, the bill included this new excise tax that has had a negative impact on the boat-building industry of dramatic proportions.

Some Members of this body might ask why I did not vote against last year's bill, if I was so strongly opposed to this excise tax. My answer would be: I voted for that bill because I believed then, as I do today, that the budget deficit is the No. 1 problem facing this great country and the international competitiveness of our businesses and manufacturers.

One of the main goals of last year's bill was to increase the progressivity of the Tax Code by increasing the taxes paid by the wealthiest Americans. That goal was accomplished by increasing the income tax rates for the wealthiest taxpayers, which should have obviated the need for this excise tax. Instead, the excise tax remained in the bill.

Today, less than 6 months after this bill was approved by the Congress and signed into law by the President, the boat-building industry in Rhode Island is being devastated by this excise tax. I have received numerous letters from small, independent boatyards in Rhode Island whose business has declined to almost nothing since the excise tax was first discussed last summer.

Let me give you a few examples:

The Rhode Island Marine Trade Association, which has more than 200 member companies, estimates that more than 1,000 Rhode Islanders have lost their jobs during the past 12 months.

On November 16, 1990, I received a letter from David Walters, owner of David Walters Yachts, Ltd., in Portsmouth, RI, the builder of Cambria Yachts, a builder of 40- to 50-foot sailboats that sold for as much as $600,000. This letter discussed the impact he could already see that this excise tax has had on the boat-building industry throughout the United States. Unfortunately, Mr. Walters has now had to close his small boatyard and lay off 20 employees.

On February 25, 1991, the owner of Pearson Yachts in Bristol, RI, filed for chapter 11 bankruptcy protection to try and restructure his business and avoid closing the boat yard completely. His boat yard had been in the business of building boats up to 53 feet; now they have reduced the maximum length to 30 feet. The majority of their sales had come from power boats costing as much as $160,000, for which sales have completely dried up after the excise tax.

Mr. President, I ask unanimous consent to print in the RECORD the material to which I have referred.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DAVID WALTERS YACHTS, INC.,
Portsmouth, RI, November 8, 1990.

Hon. John Chafee,
Longworth House Office Building,
Washington, DC.

DEAR SENATOR CHAFEE: John Rotenberg, Tom McLaughlin and I appreciated your time at the Union Oyster House and also appreciate your concern and offer to hold a hearing about the condition and disastrous adverse impact the new 10% luxury tax has on the boating industry in the United States.

Like all Americans, we in the yacht building industry want to see the deficit reduced. Unfortunately, this luxury tax is revenue negative or at best revenue neutral, and will put thousands of additional boat employees out of work.

We request a hearing that will document the following:

Revenue Negative or at Best Revenue Neutral.—The program is revenue negative or at best revenue neutral because there will be little or no new sales of yachts in the next 12 months. Without sales, jobs will be lost. Lost payroll tax revenue will result from large, widespread layoffs.

No New Sales.—The added 10% tax has made it virtually impossible to close a yacht sale this fall and in both my opinion and others in the industry there will be very few sales for nine to twelve months. Eighty percent of our annual sales are made between September and November. Without exception, all buyers are deferring their decision to purchase a new boat because of the new tax. For seven consecutive years, my company had enjoyed a 25% annual growth rate in sales. Last year we built $2,600,000 of new boats. At this time all our building employees are laid off and the company is trying to finalize a few new orders to keep the company going.

Lost Jobs.—The N.M.M.A., National Marine Manufacturers Association estimates that there will be an additional 8,000 manufacturing jobs lost in the boat industry nationally as a direct result the new luxury tax. New England boat builders were already fighting for survival before the new luxury tax. Dunn and Bradstreet reported this week that bankruptcies have increased 195% over last year in New England. A survey of seven of the larger boat building companies around the Fall River, MA area shows that 1673 jobs have been lost and only 417 remain. Three of the seven companies have already gone bankrupt and the others are fighting for survival. All the remaining companies are now faced with the prospect of little or no sales because the "price sensitive" boat buyer will not pay an additional 10% tax on top of state taxes that average 7%.

Ripple Effect.—In addition to the layoff of 40 employees at my company which has resulted in $1,000,000 in lost payroll and payroll taxes, there are over 300 of our suppliers that will also be affected. In addition to the 8000 manufacturing jobs lost, as mentioned above, there will also be thousands of additional jobs lost to companies that supply to the manufacturers.

Price Sensitive.—High priced yacht buyers are very sensitive to price increases and will look for alternatives if the total cost increases too much. Just as the yacht buying public were about to begin purchasing again, (the recession in yacht buying led the recession a year ago) the consumer for a new boat is faced with an additional 10 percent price increase/tax. I am sure few industries, even in good-times, could withstand such an increase. What would most consumers do if someone told them a car, vacation house, or other luxury items had just gone up in price by 10 percent. Probably wait, or purchase an alternative? RESULT: No sales, no tax revenue.

Consumers True Cost of Luxury Tax.—The actual cost of the luxury tax to the consumer is much higher than 10 percent because it is paid with after tax dollars. This makes the purchase of a yacht even less attractive.

Reduced Imports.—American boat builders produce quality products that have kept American consumer dollars in this country. Cambrias, which are built by my company, are one of the finest yachts built in the world today and for the last seven years have been a successful alternative to high-quality imports. One of our recent owners, actor, Christopher Reeve (Superman), formerly owned a Swan 40, built in Finland. We sold him a new Cambria 46 two years ago and allowed American dollars to stay on our shores. Over 40 percent of our $10,000,000 production has resulted in American dollars staying in this country.

Adverse Impact on Blue Collar and Immigrant Workers.—The group that can least afford lost income resulting from layoffs will be most affected by lost boat sales. The blue collar and immigrant workers comprise the major source of labor to build boats. The wealthy will simply defer their purchases and not feel any adverse effect from the new tax law.

Discriminatory.—Most yacht buyers use their boats as a second home on the weekends. Vacation and second homes are not included in the new tax law. What is the difference between a vacation home in the mountains and a vacation home on the water?

Lost Investments.—Like other boat builders in New England, I have my life investment and hard work in my company. My family's investment created over 40 jobs which produced eight years of payroll taxes. The investment, payroll taxes and jobs are gone if the buyers do not start purchasing new boats.

Summary.—

(A) The luxury tax is revenue negative or at best revenue neutral. Reduced payroll taxes and less new tax collected will result because there will be no new sales.

(B) Over 8000 additional manufacturing jobs will be lost.

(C) The luxury tax is discriminatory. Most yachts are used as second homes which are not taxed under the new law.

(D) Blue collar and immigrant workers will be most affected—not the wealthy.

(E) Buyers will defer yacht purchases or look for less expensive imported alternatives.

(F) The final result of the new luxury tax is that there will be no additional net gain in tax revenue.

(G) My 23 years of very successful building and sales experience and the benefit of a superior product will not be enough to keep my company going with the negative sales environment resulting from America's poor economy and particularly the additional 10 percent luxury tax.

On behalf of New England boat builders, I request a hearing as soon a possible to avoid the adverse impact of the tax which has virtually stopped boat sales and will bankrupt most of New England's small boat building companies this year.

We need your help and respectfully request a senate and congressional hearing before the appropriate committee.

Best regards,

DAVID WALTERS.

[From the New York Times Jan. 22, 1991]

NEW LUXURY TAX MAY COST MORE THAN IT CAN BRING IN

(By Philip Shabecoff)

WASHINGTON, January 21.—The luxury tax that Congress adopted in its closed-door budget sessions last year may cost retailers and the Internal Revenue Service more to collect than the revenues it brings in, some tax experts and business leaders contend.

The excise tax on high-priced automobiles, aircraft, pleasure boats, jewelry and furs went into effect on Jan. 1 and is now expected by Congress to bring in slightly under $1.5 billion in the next five years.

Budget negotiators in Congress originally forecast revenues of $9 billion from the tax. But during their debate they dropped several items that would be taxed, including electronic equipment, drastically lowering the anticipated revenues. Electronics was dropped after several legislators argued that equipment like computers were not really a luxury.

Other items disappeared in the political give and take of the negotiations, including some types of aircraft made in Kansas, the home state of the Senate minority leader, Bob Dole. The negotiators knew the tax revenues would be sharply curtailed but the final package reflected what was politically achievable.

"Congress has wound up producing a tax that will cost more to administer, collect and comply with than it will bring in in revenues, probably by orders of magnitude," said Peter K. Scott, a partner in the big accounting firm of Coopers & Lybrand and a former acting general counsel of the I.R.S.

Fred T. Goldberg Jr., the Commissioner of Internal Revenue, said he had no estimate yet of the cost of collecting the new taxes. But he agreed that it was an "important question" whether "the revenues we are collecting are worth the burden—not just our costs but the burden on the taxpayer as well."

New taxes are almost always confusing and require a break-in period as taxpayers learn their responsibilities and the I.R.S. prepares regulations and a collection apparatus.

The luxury tax is likely to prove more difficult than most taxes to put into effect. It was drafted hastily in virtual secrecy. That meant there was no research about its impact and no chance for early comment by the public, accountants or tax lawyers who might have pointed out flawed assumptions or other pitfalls. Tax legislation is ordinarily prepared during an extended legislative process that involves public hearings and intense analysis.

Mr. Scott noted that while the Internal Revenue Service was given a new kind of tax to administer—there has been no excise tax on luxury items since the 1960's—the service got no more money or staff to help collect it.

The tax places a 10 percent levy on the retail price of five luxury goods, when the price exceeds a specified threshold. For autos it is $30,000. So when a consumer buys a car that cost $33,000, the tax is 10 percent on $3,000, or $300. For private aircraft the threshold is $250,000, for pleasure boats $100,000, and for jewelry and furs $10,000.

BURDEN FOR RETAILERS SEEN

Mr. Goldberg said the I.R.S. was trying to make it as easy as possible for retailers to comply with the luxury tax. But some tax analysts and industry officials say the tax will not only create a great deal of uncertainty for retailers, but will also cost them money in time, extra paperwork and perhaps lost business.

If a customer is buying a car with a base price of $28,000, for example, and then buys $5,000 worth of options like stereo equipment and leather seats, he must pay the $300 excise tax on a $33,000 car. If the options are not bought with the car but within six months at the same dealer, the excise tax must still be paid.

But, as the tax legislation is worded, the customer could go to a different dealer for the options and not have to pay the tax, said Alan Wilbur, spokesman for the National Automobile Dealers Association. "Something like that could drive people away from the dealership where they bought their car," he said.

Most analysts said the tax on autos, planes and boats, for which licenses are required, would be relatively easy to collect compared with the tax on jewelry and furs, which leave no legally mandated paper trail.

AN EARRING PUZZLE

Edward S. Cohen, a former Under Secretary of the Treasury, raised the issue of a pair of diamond earrings that cost $20,000, thereby requiring a tax of $1,000. What if, Mr. Cohen asked in an article for the publication Tax Notes, two male movie stars who liked to wear an earring in one ear only, each bought one of the earrings for $10,000? Would there then be no tax due?

Michael Roman, chairman of Jewelers of America Inc., a trade group for 13,000 retail jewelers, noted that if an heirloom piece of jewelry worth $20,000 that may have been in a family for generations were brought in for a new $1,000 setting, taxes would have to be paid under the new law on the value of a $21,000 piece of jewelery.

"It is outrageous," Mr. Roman said in a telephone interview. "Congress was highly discriminatory in what they classified as a luxury."

But most of the criticism of the new tax is not about possible unfairness but about the likelihood that it will require a great deal of cost and effort for relatively little revenue.

"A POLITICAL STATEMENT"

"This was a painless way to make a political statement in a process conducted behind closed doors," said Pamela J. Pecarcich, a partner in Coopers & Lybrand.

Ronald A. Pearlman, who recently resigned as chief of staff of the Joint Committee on Taxation of Congress to become a partner at the law firm of Covington & Burling, said of the new tax: "It is quite conceivable that it will cost us more in compliance than it brings in in revenue. Only the I.R.S. will know that."

Commissioner Goldberg of the I.R.S. said it would take some time and experience with the tax to determine the cost of collecting it.

Representative Byron L. Dorgan, Democrat of North Dakota, a member of the House Ways and Means Committee who participated in the budget negotiations, reluctantly defended the tax:

"It is safe to say nobody likes any tax any more. We all know that. But we had to construct some revenues and one item on a long list was a luxury tax."

Mr. Dorgan conceded that the closed budget process did not permit a study of the consequences of any revenue-raising plan. The luxury tax, like most other elements of the package, "was plugged in the middle of the process without hearings," he said. "We do not have much information on what the compliance costs will be."

[From the Los Angeles Times, Jan. 6, 1991]

NEW LUXURY TAX ON BOATS MAY COST THE RICH SOME MONEY, BUT IT COSTS WORKERS THEIR JOBS

(By Joe Meglen)

I have been in the boat business since 1972. The luxury tax in general is unfair but grossly so as it pertains to boats, "Costly Cars Sell; Yachts Just Bob at Dock" (Dec. 12). My industry is in the process of being crushed by this tax. It translates into lost jobs for thousands of workers if something is not done quickly.

The luxury tax on new boats is a cruel hoax played on the public at the expense of those who work in the industry. The U.S. boat industry and the 600,000 workers employed directly in manufacturing were served up as sacrificial lambs to appease those who insisted on "soaking the rich" during the federal budget negotiations.

The truth is that the Treasury Department has acknowledged that the 10% luxury tax on boats will not produce tax revenue to help solve the budget crisis. The luxury tax revenue will not even cover income tax revenue lost as a result of unemployed workers and bankrupt manufacturers.

The reasoning seems to be that the rich can afford it and an extra 10% tax isn't going to stop "fat cats" from indulging themselves.

Since the luxury tax went into effect for newly ordered boats, nobody has bought a new boat on which the tax would apply! The National Marine Manufacturers' Assn., the trade group that tracks such things, hasn't found a single sale in the entire country. However, the NMMA has been able to document more than 100,000 layoffs (those are blue-collar workers—not fat cats) and numerous boat manufacturers going out of business.

A great number of people who buy boats are not rich; they plan to live on the boat in lieu of a house. A significant number who buy boats that cost more than $100,000 do live on board. Should they be penalized for such a lifestyle?

Why is a new boat a luxury but a used boat is not? Why is a new boat that costs more than $100,000 a luxury when a $500,000 vacation home in Aspen is not?

The fact is that all excise taxes are regressive by nature. The politicians tell us they are soaking the rich, but it is the average worker who suffers the most. Don't be fooled by all the political posturing. The real fat cats are in Washington piloting a ship that's sinking as the direct result of their 20-year spending binge.

The luxury tax on boats should be repealed. Our government representatives should balance the budget by cutting their spending, not by increasing our taxes.

PEARSON YACHTS FILES FOR CHAPTER 11—PORTSMOUTH FIRM SAYS RESTRUCTURING VITAL FOR SURVIVAL

(By Peyton Fleming)

PORTSMOUTH.—A dramatic drop in cruising-boat sales has forced Pearson Yachts Corp., the world's oldest builder of Fiberglas boats, to file for bankruptcy protection.

"It is our intent to remain in business long-term, but to do so we must go through some restructuring and refinancing," J. Gordon Clayton, Pearson's president, said yesterday.

The three-decade-old firm, which also builds smaller boats such as Sunfish, Lasers and O'Days; filed for Chapter 11 protection from its creditors on Feb. 25 in U.S. Bankruptcy Court in Providence.

Court papers list assets of $5.6 million and total liabilities of $8.6 million. Of that, $4.7 million is secured debt.

Clayton said the filing was necessary if the privately held company is to remain in business. "Pearson needs some clearcut relief from some of its creditors," he said, without elaborating.

Clayton declined to discuss sales figures or how much money the company is losing.

He said all of Pearson's product lines are struggling, but none more so than its larger cruising boats, which sell for as much as $160,000. "From 18 to 20 months ago, sales are down between 70 and 80 percent," he said of the product line, which accounts for more than half of the company's sales.

Pearson's work force has fallen to under 100 from 500 in the mid-1980s when boat sales were booming.

What little activity the company has seen has been overseas, particularly in Japan. "Since August, the American public just quit buying because of the recession and the war," Clayton said.

The company has responded to the slowdown by reducing the size of its sailboats—the maximum length is now 30 feet compared with 53 feet a few years ago. It also has pared down its inventory. "We've pretty well cleaned them out, but we took a beating on it," Clayton said.

He said the bankruptcy petition would have come earlier if the company hadn't expanded into the small-boat business. Pearson acquired the Laser and O'Day sailboat lines in 1988. It had purchased the producer of Sunfish sailboats a year earlier.

Clayton said small-boat sales have been "holding relatively level, although they are down slightly."

Pearson's problems come at a time when many regional boatbuilders are reeling because of the sluggish economy and a new 10 percent federal "luxury" tax on recreational boats selling for more than $100,000. The tax took effect Jan. 1.

"That's taken an industry that was in a severe recession and put it in a deep depression," said Ken Kubic, legislative chairman of the Rhode Island Marine Trade Association, which has more than 200 members.

"It's like walking off the edge of a cliff," added Bill Shaw, Pearson's chief boat designer who retired last month after 26 years. "This has been by far the most acute and devastating impact I've seen on the business."

In the last 12 months, Kubic estimates more than 1,000 boatbuilders have lost their jobs in Rhode Island. Among those is David Walters, who closed his Portsmouth boatbuilding company, Cambria Yachts, last fall. Twenty workers lost their jobs there.

"We were shut down as a result of the luxury tax," said Walters, who built 40- to 50-foot sailboats that sold for as much as $600,000. "We're in a real depression."

Mr. PELL. Mr. President, I am pleased to join as an original cosponsor of legislation introduced by the distinguished Senator from Louisiana [Mr. BREAUX] to repeal the luxury excise tax on the cost of boats in excess of $100,000.

The State of Rhode Island is one of the Nation's largest producers of recreational boats. The State has a concentration of companies that produce yachts and boats in the so-called luxury class of more than $100,000. The 10 percent excise luxury tax is having a devastating effect on the industry, on the workers in the industry in Rhode Island, and the tax is adding significantly to the depressed State of the Rhode Island economy.

Mr. President, the luxury tax was enacted as part of the Federal budget deficit reduction agreement last year. I opposed the tax at that time. In truth, the so-called luxury tax was a symbolic gesture, intended as an offset to increases in the excise taxes on cigarettes, beer and gasoline that would bear most heavily on middle- and low-income Americans. In actual practice, however, the luxury tax on boats is no burden to the wealthy. They have the choice, which they have exercised, to avoid the tax by spending money on almost anything else—vacations abroad, for example—on which there is no excise tax.

The real burden of the luxury tax on boats has been borne by the workers in the boating industry who have lost their jobs because of declining sales. There are in fact very strong indications that the luxury tax on boats will produce no net revenue for the Treasury—that the costs of collection will far exceed the meager revenues the tax produces.

It was for these reasons I opposed the luxury tax when it was proposed last year. And it is for these reasons that I join today in proposing that it be repealed.

By Mr. DASCHLE (for himself, Mr. BOREN, Mr. BREAUX, Mr. BUMPERS, Mr. BURDICK, Mr. BURNS, Mr. COCHRAN, Mr. CONRAD, Mr. CRAIG, Mr. DIXON, Mr. GRASSLEY, Mr. HELMS, Mr. JOHNSTON, Mr. LOTT, Mr. PRYOR, Mr. STEVENS, and Mr. SYMMS):

S. 650. A bill to amend the Trade Act of 1974 to strengthen the U.S. ability to respond to foreign trade practices that threaten U.S. commerce; to the Committee on Finance.

DEALING WITH UNFAIR TRADE PRACTICES

Mr. DASCHLE. Mr. President, I am introducing legislation today to clarify section 301 of the Trade Act of 1974. Section 301 empowers the U.S. Trade Representative to investigate, negotiate and, if necessary, retaliate against any unjustifiable, unreasonable or discriminatory act, policy of practice of a foreign government that unfairly burdens or restricts U.S. commerce.

The bill I am introducing today clarifies that USTR may take appropriate action under section 301 when an act, policy or practice threatens to burden or restrict U.S. commerce. When such a threat is reasonably foreseeable, USTR should respond in a timely manner.

Our other major trade laws—countervailing duty, antidumping and sections 201 and 406—all contain the "threat of injury" language. The objective is to prevent the damage from occurring. Bringing section 301 in line with these other laws, would give USTR more flexibility and leverage to resolve trade disputes before American companies, industries, or producers are injured.

Section 301 is more than a mechanism to gain market access. The law can be used against any foreign government act, policy, or practice that violates international trade agreements, or which is found to be unjustifiable, unreasonable, or discriminatory and which burdens or restricts U.S. commerce. It has been used to address many unfair trade practices including subsidies. Cases have been initiated under section 301 to investigate European community subsidies on pasta exports and canned fruit production.

One of the reasons I am proposing this clarification is to address a situation that has raised concerns among many people in my State and around the country. The Canadian Provincial Government of Saskatchewan has approved plans to enter a joint venture with a Canadian company to construct a world-scale nitrogen fertilizer plant. The provincial government is providing significant equity and is guaranteeing commercial debt that will account for most of the plant's cost. Industry analysts and U.S. producers have concluded that this heavily subsidized plant will cause serious injury to the U.S. market.

This case is a problem for American fertilizer consumers, as well as U.S fertilizer producers. If one Canadian company, through the aid of government subsidies, gains control of the market and drives out the American competition, then the Canadian company will be free to raise prices. Farmers who are shareholders in their farmer-owned cooperatives lose out twice, as investors in an enterprise injured by this action, and as consumers forced to pay higher prices to a monopoly supplier.

Because of the severe impact unfair trade has on producers as well as consumers, it is important for all U.S. trade policy channels to be available to resolve unfair trade disputes as early as possible. The statute does not make clear that USTR may pursue a section 301 action against the provincial subsidy before the market disruption has occurred. The countervailing duty and antidumping laws are of little help because they require evidence of sales or irrevocable offers to sell in America. By then, in cases such as the Canadian fertilizer plant, the damage is done. It is much easier to try to revolve the problem before subsidized products flood the U.S. market. I believe the U.S. Government has the flexibility to deal with such a situation under current law, but to clarify the point, and to ensure that American producers can obtain help from our Government when they need it, I am introducing this legislation today.

I am joined by 16 Senators who are cosponsoring the bill: Senators BOREN, BREAUX, BUMPERS, BURDICK, BURNS, COCHRAN, CONRAD, CRAIG, DIXON, GRASSLEY, HELMS, JOHNSTON, LOTT, PRYOR, STEVENS, and SYMMS.

I ask unanimous consent to include in the RECORD the text of the bill, a list of groups supporting the bill, and the text of letters in support of the bill.

There being no objection, the bill wsa ordered to be printed in the RECORD, as follows:

S. 650

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACTIONS BY THE UNITED STATES TRADE REPRESENTATIVE.

(a) MANDATORY ACTION.—Section 301(a)(1)(B)(ii) of the Trade Act of 1974 (19 U.S.C. 2411(a)(1)(B)(ii)) is amended by inserting "(or threatens to burden or restrict)" after "restricts".

(b) DISCRETIONARY ACTION.—Section 301(b) of such Act (19 U.S.C. 2411(b)(1)) is amended by inserting "(or threatens to burden or restrict)" after "restricts".

(c) DEFINITIONS. Section 301(d) of such Act (19 U.S.C. 2411(d)) is amended—

(1) by redesignating paragraphs (6), (7), (8), and (9) as paragraphs (7), (8), (9) and (10), respectively, and

(2) by inserting after paragraph (5) the following paragraph:

"(6) An act, policy, or practice that threatens to burden or restrict United States commerce is an act, policy, or practice that does not currently burden or restrict United States commerce, but, if not corrected, is reasonably expected to burden or restrict United States commerce."

ASSOCIATIONS IN SUPPORT OF A CLARIFYING AMENDMENT TO SECTION 301 OF THE TRADE ACT OF 1974

National Association of Wheat Growers.
National Council of Farmer Cooperatives.
Independent Petroleum Association of America.
National Cattlemen's Association.
National Farmers Union.
Rice Millers' Association.
National Pork Producers Council.
Ad Hoc Committee of Domestic Nitrogen Producers.
American Mining Congress.

NATIONAL ASSOCIATION
OF WHEAT GROWERS,
Washington, DC, March 11, 1991.

Hon. TOM DASCHLE,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR DASCHLE: The National Association of Wheat Growers wishes to express its support for you in your effort to clarify Section 301 of the 1974 Trade Act. We believe your amendment is necessary because it will direct the USTR to investigate and respond when a foreign government's act, policy or practice threatens to burden or restrict U.S. commerce.

Under current law, U.S. wheat producers are not fully protected against the threat of injury by the unfair trading practices of competing nations. In particular, we are concerned about the administered pricing policies of wheat into the U.S. market by the Canadian Wheat Board. We strongly suspect the Canadian wheat is entering the U.S. at prices well below the U.S. market. Without access to the price information, however, we are unable to determine injury to the domestic producers. Your bill would enable us to receive special consideration from the Administration for our situation and might result in discouraging Canadian exports from entering the U.S. at the expense of American farmers.

In light of the Canadian example, we support your efforts to clarify Section 301.

Sincerely,

RON RIVINIUS,
President.

NATIONAL FARMERS UNION,
March 12, 1991.

Hon. THOMAS A. DASCHLE,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR DASCHLE: The National Farmers Union wants to commend you for authoring an amendment clarifying Section 301 of the 1974 Trade Act that would give a clear direction to the U.S. Trade Representative's Office that it has authority to investigate and respond when a foreign government's actions, policies or practices threaten to burden or restrict U.S. commerce.

The amendment you are offering will be vital to a variety of U.S. industries who need the assistance of the U.S. government when they are facing threats from foreign government actions.

The Farmers Union hopes your amendment will be of aid in particular to a problem facing U.S. agricultural supply cooperatives which supply their members and others with nitrogen products. As you are aware, the government of Saskatchewan, Canada is providing significant aid in the construction of a major fertilizer plant in that Canadian province and that industry analysts have concluded the plant could cause significant damage to the U.S. fertilizer industry.

Given the financing aid and the reported marketing arrangements for sale of products from the plant in the U.S., our farmer owned supply cooperatives could suffer significant damage unless the U.S. government becomes involved in a positive way in this issue.

Once again, we want to thank you for your efforts on this issue and stand ready to help you in any way possible to secure passage of your amendment.

Sincerely,

LELAND SWENSON,
President, National Farmers Union.

NATIONAL COUNCIL OF
FARMER COOPERATIVES,
March 8, 1991.

Hon. THOMAS A. DASCHLE,
Senate Hart Building,
Washington, DC.

DEAR SENATOR DASCHLE: On behalf of the National Council of Farmer Cooperatives, I would like to take this opportunity to express our support for your proposed legislation aimed at clarifying Section 301 of the 1974 Trade Act.

The National Council of Farmer Cooperatives is a nationwide trade association representing nearly 100 major regional marketing of supply cooperatives, 32 State Councils and the banks of the cooperative Farm Credit System. Our members, in turn, represent nearly 5,000 local cooperatives with a combined membership of nearly 2 million individual farmers.

It is our understanding that your proposed legislation would amend Section 301 to provide USTR with the authority to investigate and respond when a foreign government's act, policy, or practice threatens to burden or restrict U.S. commerce.

We believe such expanded authority is essential in order to allow USTR to take such action as may be necessary and appropriate to prevent or minimize injury to U.S. industry as a result of such practices. Currently, any such review or investigation is generally limited until there is evidence of actual injury. This is like waiting to call the fire department after the house has already burned down instead of when there is indication of smoke.

For this reason, we strongly support this needed legislation and urge its enactment.

Sincerely,

WAYNE A. BOUTWELL,
President.

AMERICAN MINING CONGRESS,
Washington, DC, March 12, 1991.

Hon. THOMAS A. DASCHLE,
U.S. Senate,
Washington, DC.

DEAR SENATOR DASCHLE: The American Mining Congress is pleased to endorse your proposed legislation aimed at clarifying Section 301 of the 1974 Trade Act.

AMC is an industry association that encompasses (1) producers of most of America's metals, coal and industrial and agricultural minerals; (2) manufacturers of mining and mineral processing machinery, equipment and supplies; and (3) engineering and consulting firms and financial institutions that serve the mining industry.

The legislation you have proposed would amend Section 301 to provide the United States Trade Representative with the authority to investigate and respond when an act, policy, or practice of a foreign government threatens to burden or restrict United States commerce. We believe that the USTR should be permitted to take appropriate action when necessary to prevent or minimize injury to U.S. industry resulting from such practices.

The American Mining Congress strongly supports this legislation and urges its prompt enactment.

Sincerely,

JOHN A. KNEBEL,
President.

Mr. COCHRAN. Mr. President, I support the amendment to clarify section 301 of the 1974 Trade Act, which allows the United States to retaliate against any action, policy, or practice of a foreign government that unfairly burdens or restricts U.S. commerce. Since its adoption by Congress in 1974, section 301 has proved useful in the battle against unfair trade practices. In most cases, the threat of retaliation under section 301 has been effective in resolving trade disputes through negotiation.

There is an open question, however, regarding the timing for the use of section 301. Should U.S. companies be forced to wait until a foreign government's act, policy, or practice has had its negative impact before section 301 is invoked? Should jobs and sales be lost in the meantime?

The answer should be clear. Section 301 should be an option whenever an act, policy, or practice even threatens to burden or restrict our industries unfairly. The U.S. Trade Representative should be able to respond under section 301 before disruption takes place. I believe this was the original intent of Congress.

Adopting the clarification will bring section 301 into line with other major trade items, such as countervailing duty, antidumping, sections 201 and 406, all of which incorporate the threat of injury language. It is far better to act promptly to prevent an unfair practice than to wait until an industry suffers needless injury.

In my State of Mississippi we have two large fertilizer companies. Both companies are tough competitors using world-class technology, directly and indirectly providing thousands of jobs in Mississippi. They have proven their efficiency by competing successfully against large foreign firms for years. These companies and their workers are now threatened, however, by actions in Canada.

The provincial government of Saskatchewan is undertaking a joint-venture project with a Canadian company to build a world-scale nitrogen fertilizer plant costing some $435 million. The Province has given $64 million in equity and is guaranteeing an additional $305 million debt for construction costs. The Canadian company, which has made a 15-percent investment of $65 million, has been granted a 50-percent interest in the plant and exclusive marketing rights.

Industry analysts have concluded that the plant will significantly oversupply the nitrogen fertilizer market and drive down prices. If Saskatchewan proceeds with this project, unsubsidized U.S. producers in Mississippi and elsewhere will suffer injury and possible shutdown while the provincial government subsidizes its plant.

I am concerned that the U.S. Trade Representative may be reluctant to use section 301 in this case because no market disruption has yet occurred. I do not think it makes sense to delay action until people lose jobs and plants close. I urge the Senate to adopt this amendment so there can be no doubt that Congress intends section 301 to be used even before U.S. commerce is actually damaged by unfair acts, policies, or practices of our trading partners.

By Mr. GARN:

S. 651. A bill to improve the administration of the Federal Deposit Insurance Corporation, and to make technical amendments to the Federal Deposit Insurance Act, the Federal Home Loan Bank Act, and the National Bank Act; to the Committee on Banking, Housing, and Urban Affairs.

FEDERAL DEPOSIT INSURANCE IMPROVEMENTS ACT

• Mr. GARN. Mr. President, today I am introducing legislation to amend the Federal Deposit Insurance Act in order to improve the operations of the FDIC and the Resolution Trust Corporation. This legislation is very similar to S. 2827 which I introduced last year, except that it contains certain modifications to take into account testimony that we heard during Banking Committee hearings on that bill, as well as other comments received during the year. This bill will save the FDIC and RTC considerable sums of money, will make it easier for the FDIC to suspend deposit insurance for unsafe institutions, and authorize the Comptroller of the Currency to place a national bank into receivership if it is in an unsafe or undercapitalized condition. It also contains other provisions of critical importance to our Federal banking regulators and to insured institutions. I ask unanimous consent that the text of the legislation be printed in the RECORD. I plan to insert in the RECORD a complete section-by-section description of this bill in the near future.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 651

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Federal Deposit Insurance Improvements Act of 1991".

(b) TABLE OF CONTENTS.—

TITLE I—AMENDMENTS TO FEDERAL BANKING ACTS

SUBTITLE A—IMPROVEMENTS

Sec. 101. Short title; table of contents.
Sec. 102. Terms of office.
Sec. 103. Conversions.
Sec. 104. Temporary suspension of deposit insurance.
Sec. 105. Priority of claims.
Sec. 106. Repealer.
Sec. 107. Disclosure of uninsured status.
Sec. 108. Asset disposition amendments.
Sec. 109. Penalties.
Sec. 110. Appointment of receiver.

SUBTITLE B—ASSET CONSERVATION AND DEPOSIT INSURANCE PROTECTION

Sec. 151. Short title.
Sec. 152. Amendment to the Federal Deposit Insurance Act.

SUBTITLE C—AMENDMENTS TO PUBLIC LAW 96-510.

Sec. 171. Conforming amendments.

TITLE II—CLARIFYING AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT

Sec. 201. FSLIC resolution fund.
Sec. 202. Branching.
Sec. 203. Removal.

TITLE III—TECHNICAL AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT

Sec. 301. Technical amendments.

TITLE I—AMENDMENTS TO FEDERAL BANKING ACTS

Subtitle A—Improvements

SEC. 101. SHORT TITLE.

This subtitle may be cited as the "Federal Banking Agency Improvements Act of 1991".

SEC. 102. TERMS OF OFFICE.

Section 2(c) of the Federal Deposit Insurance Act (12 U.S.C. 1812(c)) is amended to read as follows:

"(c) TERMS.—

"(1) APPOINTED MEMBERS.—Each appointed member shall be appointed for a term of 6 years.

"(2) INTERIM APPOINTMENTS.—Any member appointed to fill a vacancy occurring 2 or more years before the expiration of the term for which such member's predecessor was appointed shall be appointed only for the remainder of such term. Any member appointed to fill a vacancy occurring within 2 years of the expiration of the term for which such member's predecessor was appointed shall be appointed for a new term of 6 years.

"(3) CONTINUATION OF SERVICE.—The Chairperson, Vice Chairperson, and each appointed member may continue to serve after the expiration of the term of office to which such member was appointed until a successor has been appointed and qualified. This provision applies notwithstanding the date on which such member was initially appointed.".

SEC. 103. CONVERSIONS.

Section 5(d)(2)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)(2)(C)) is amended to read as follows:

"(C) APPROVAL DURING MORATORIUM.—The Corporation may approve a conversion transaction at any time if—

"(i) the conversion transaction affects an insubstantial portion, as determined by the Corporation, of the total deposits of each depository institution acquired as part of such conversion transaction;

"(ii) the conversion occurs in connection with the acquisition of a Savings Association Insurance Fund member in default or in danger of default, and the Corporation determines that the estimated financial benefits to the Savings Association Insurance Fund or Resolution Trust Corporation equal or exceed the Corporation's estimate of the loss of assessment income to such insurance fund over the remaining balance of the 5-year period referred to in subparagraph (A), and the Resolution Trust Corporation concurs in the Corporation's determination; or

"(iii) the conversion occurs in connection with the acquisition of a Bank Insurance Fund member in default or in danger of default and the Corporation determines that the estimated financial benefits to the Bank Insurance Fund equal or exceed the Corporation's estimate of loss of assessment income to the insurance fund over the remaining balance of the 5-year period referred to in subparagraph (A).".

SEC. 104. TEMPORARY SUSPENSION OF DEPOSIT INSURANCE.

Section 8(a)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)(8)) is amended—

(1) by amending subparagraph (A) to read as follows:

"(A) IN GENERAL.—If, the Board of Directors, after consultation with the appropriate Federal banking agency, finds that an insured depository institution (other than a savings association to which subparagraph (B) applies) has no tangible capital under the capital guidelines or regulations of the appropriate Federal banking agency, the Corporation may issue a temporary order suspending deposit insurance on all deposits received by the institution."; and

(2) by amending subparagraph (C) to read as follows:

"(C) EFFECTIVE PERIOD OF TEMPORARY ORDER.—Any order issued under subparagraph (A) shall become effective not earlier than 10 days from the date of service upon the institution and, unless set aside, limited, or suspended by a court in a proceeding authorized hereunder, shall remain effective until an order of the Board under paragraph (3) becomes final or until the Corporation otherwise dismisses or sets aside the order.".

SEC. 105. PRIORITY OF CLAIMS.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following:

"(s) PRIORITY OF CERTAIN CLAIMS.—In any proceeding relating to a claim acquired under this section or section 13 against an insured depository institution's director, officer, employee, agent, attorney, accountant, appraiser, or any other person employed by or providing services to an insured depository institution, any suit, claim, or cause of action brought by the Corporation shall have priority over any other suit, claim, or cause of action asserted by depositors, creditors, or shareholders of the depository institution, except for claims of Federal agencies brought pursuant to section 6321 of the Internal Revenue Code of 1986 or section 3713 of title 31, United States Code. This priority shall apply to both the prosecution of any claim and to the execution of any subsequent judgments resulting from such action.".

SEC. 106. REPEALER.

Section 18(m) of the Federal Deposit Insurance Act (12 U.S.C. 1828(m)) is amended by striking paragraph (5).

SEC. 107. DISCLOSURE OF UNINSURED STATUS.

Section 28(h) of the Federal Deposit Insurance Act (12 U.S.C. 1828(h)) is amended to read as follows:

"(h) DISCLOSURES BY UNINSURED DEPOSITORY INSTITUTIONS.—

"(1) IN GENERAL.—Any depository institution the deposits of which are not insured by the Corporation shall disclose clearly and conspicuously in periodic statements of account and in all advertising that the institution's deposits are not 'federally insured'.

"(2) MANNER AND CONTENT.—The Corporation may, by regulation or order prescribe the manner and content of the disclosures required by paragraph (1).

"(3) ENFORCEMENT.—Compliance with the requirements of this subsection, and any regulation prescribed or order issued under this subsection, shall be enforced under section 8 in the same manner and to the same extent as if the depository institution were an insured State nonmember bank.".

SEC. 108. ASSET DISPOSITION AMENDMENTS.

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended—

(1) in subsection (b), by amending paragraph (12) to read as follows:

"(12) REGULATIONS, POLICIES, AND PROCEDURES.—

"(A) IN GENERAL.—Subject to the review of the Oversight Board, the Corporation shall adopt the rules, regulations, standards, policies, procedures, guidelines, and statements necessary to implement the strategic plan established by the Oversight Board under subsection (a)(14). The Corporation may issue such rules, regulations, standards, policies, procedures, guidelines, and statements as the Corporation considers necessary or appropriate to carry out this section.

"(B) REVIEW, ETC.—Such rules, regulations, standards, policies, procedures, guidelines, and statements—

"(i) shall be provided by the Corporation to the Oversight Board promptly or prior to publication or announcement to the extent practicable;

"(ii) shall be subject to the review of the Oversight Board as provided in subsection (a)(6)(C); and

"(iii) shall be promulgated pursuant to subchapter II of chapter 5 of title 5, United States Code.

"(C) PREPARATION AND MAINTENANCE OF RECORDS RELATING TO SOLICITATION AND ACCEPTANCE OF OFFERS.—The Corporation shall—

"(i) document decisions made in the solicitation and selection process and the reasons for the decisions; and

"(ii) maintain such documentation in the offices of the Corporation, as well as any other documentation relating to the solicitation and selection process.

"(D) REAL ESTATE ASSET DIVISION.—The Corporation shall establish a Real Estate Asset Division to assist and advise the Corporation with respect to the management, sale, or other disposition of real property assets of institutions described in paragraph (3)(A). The Real Estate Asset Division shall have such duties as the Corporation establishes, including the publication of an inventory of real property assets of institutions subject to the jurisdiction of the Corporation. Such inventory shall be published before January 1, 1990 and updated semiannually thereafter and shall identify properties with natural, cultural, recreational, or scientific values of special significance.

"(E) SUPPORT STAFF.—The Corporation shall maintain an executive-level position and dedicated staff to assist and advise the Corporation and other agencies in pursuing cases, civil claims, and administrative enforcement actions against institution-affiliated parties of insured depository institutions under the jurisdiction of the Corporation. These personnel shall have such duties as the Corporation establishes, including the duty to compile and publish a report of the Congress on the coordinated pursuit of claims by all Federal financial institution regulatory agencies, including the Department of Justice and the Securities and Exchange Commission. The report shall be published before December 31, 1990 and updated semiannually after such date.";

(2) in subsection (c), by amending paragraph (6)(A) to read as follows:

"(A) PURCHASE LOAN.—The Corporation may provide a loan at market interest rates to the purchaser of eligible residential property for all or a portion of the purchase price, which loan shall be secured by a first or second mortgage on the property. The Corporation may provide such a loan at below market interest rates to the extent necessary to facilitate an expedited sale of eligible residential property and permit—

"(i) a lower-income family to purchase an eligible single family property under paragraph (2); or

"(ii) a public agency or nonprofit organization to comply with the lower-income occupancy requirements applicable to the purchase of an eligible residential property under paragraph (2) or (3). The Corporation shall provide such loan in a form which would permit its sale or transfer to a subsequent holder."; and

(3) in subsection (c), by amending paragraph (9) to read as follows:

"(9) DEFINITIONS.—For purposes of this subsection—

"(A) ADJUSTED INCOME.—The term 'adjusted income' has the same meaning as such term has under section 3 of the United States Housing Act of 1937.

"(B) CLEARINGHOUSES.—The term 'clearinghouses' means—

"(i) the State housing finance agency for the State in which an eligible residential property is located,

"(ii) the Office of Community Investment (or other comparable division) within the Federal Housing Finance Board, and

"(iii) any national nonprofit organizations (including any nonprofit entity established by the corporation established under title IX of the Housing and Community Development Act of 1968) that the Corporation determines has the capacity to act as a clearinghouse for information.

"(C) CORPORATION.—The term 'Corporation' means the Resolution Trust Corporation either in its corporate capacity or as receiver, but does not include the Corporation in its capacity as an operating conservator.

"(D) ELIGIBLE MULTIFAMILY HOUSING PROPERTY.—The term 'eligible multifamily housing property' means a property consisting of more than 4 dwelling units—

"(i) to which the Corporation acquires title; and

"(ii) that has an appraised value that does not exceed the applicable dollar amount set forth in section 221(d)(3)(ii) of the National Housing Act for elevator-type structures (without regard to any increase of such amount for high-cost areas).

"(E) ELIGIBLE RESIDENTIAL PROPERTY.—The term 'eligible residential property' includes eligible single family properties and eligible multifamily housing properties.

"(F) ELIGIBLE SINGLE FAMILY PROPERTY.—The term 'eligible single family property' means a 1- to 4-family residence (including a manufactured home)—

"(i) to which the Corporation acquires title; and

"(ii) that has an appraised value that does not exceed the applicable dollar amount set forth in the first sentence of section 203(b)(2) of the National Housing Act (without regard to any increase of such amount for high-cost areas).

"(G) LOWER-INCOME FAMILIES.—The term 'lower-income families' means families and individuals whose incomes do not exceed 80 percent of the median income of the area involved, as determined by the Secretary, with adjustment for family size.

"(H) NONPROFIT ORGANIZATION.—The term 'nonprofit organization' means a private organization (including a limited equity cooperative)—

"(i) no part of the net earnings of which inures to the benefit of any member, shareholder, founder, contributor, or individual; and

"(ii) that is approved by the Corporation as to financial responsibility.

"(I) PUBLIC AGENCY.—The term 'public agency'—

"(i) means any Federal, State, local, or other governmental entity; and

"(ii) includes any public housing agency.

"(J) QUALIFYING HOUSEHOLD.—The term 'qualifying household' means a household (i) who intends to occupy eligible single family property as a principle residence; and (ii) whose adjusted income does not exceed 115 percent of the median income for the area, as determined by the Secretary, with adjustment for family size.

"(K) QUALIFYING MULTIFAMILY PURCHASER.—The term 'qualifying multifamily purchaser' means (i) a public agency, (ii) a nonprofit organization, or (iii) a for-profit entity which makes a commitment (for itself or any related entity) to satisfy the lower-income occupancy requirements specified under paragraph (3)(E) for any eligible multifamily property for which an offer to purchase is made during or after the periods specified under paragraph (3).

"(L) RURAL AREA.—The term 'rural area' has the meaning given such term in section 520 of the Housing Act of 1949.

"(M) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

"(N) STATE HOUSING FINANCE AGENCY.—The term 'State housing finance agency' means the public agency, authority, corporation, or other instrumentality of a State that has the authority to provide residential mortgage loan financing throughout such State.

"(O) VERY LOW-INCOME FAMILIES.—The term 'very low-income families' means families and individuals whose incomes do not exceed 50 percent of the median income of the area involved, as determined by the Secretary, with adjustment for family size.".

SEC. 109. PENALTIES.

Section 8(j) of the Federal Deposit Insurance Act (12 U.S.C. 1818(j)) is amended to read as follows:

"(j) Whoever, being subject to an order in effect under subsection (e) or (g), without the prior written approval of the appropriate Federal financial institutions regulatory agency, knowingly participates, directly or indirectly, in any manner (including by engaging in an activity specifically prohibited in such an order or in subsection (e)(6)) in the conduct of the affairs of—

"(1) any insured depository institution;

"(2) any institution treated as an insured bank under subsection (b)(3) or (b)(4), or as a savings association under subsection (b)(8);

"(3) any insured credit union (as defined in section 101(7) of the Federal Credit Union Act);

"(4) any institution chartered under the Farm Credit Act of 1971;

"(5) any appropriate Federal depository institution regulatory agency;

"(6) the Federal Housing Finance Board and any Federal Home Loan Bank; or

"(7) the Resolution Trust Corporation,

shall be fined not more than $1,000,000, imprisoned for not more than 5 years, or both.".

SEC. 110. APPOINTMENT OF RECEIVER.

Section 1 of the Act of June 30, 1876 (12 U.S.C. 191) is amended to read as follows:

"SECTION 1. APPOINTMENT OF RECEIVER.

"The Comptroller of the Currency may, without notice or prior hearing, appoint a receiver to take possession and control of a national bank (as defined in the Bank Conservation Act) whenever the Comptroller determines that one or more of the following circumstances exists:

"(1) the bank is not likely to be able to meet the demands of its depositors or pay its obligations in the normal course of business;

"(2) the bank is in an unsafe or unsound condition to transact business, including having substantially insufficient capital or otherwise;

"(3) the bank has incurred or is likely to incur losses that will deplete all or substantially all of its capital and there is no reasonable prospect for the bank's capital to be replenished without Federal assistance;

"(4) There is a violation or violations of laws, rules, or regulations, or there exists any unsafe or unsound practice or condition that is likely—

"(A) to cause insolvency or substantial dissipation of assets or earnings, or

"(B) to weaken the bank's condition or otherwise seriously prejudice the interests of its depositors; or

"(5) the bank has been dissolved, or its rights, privileges, and franchise have been declared forfeited, as prescribed in section 5239 of the Revised Statutes.".

Subtitle B—Asset Conservation and Deposit Insurance Protection

SEC. 151. SHORT TITLE.

This subtitle may be cited as the "Asset Conservation and Deposit Insurance Protection Act of 1991".

SEC. 152. AMENDMENT TO THE FEDERAL DEPOSIT INSURANCE ACT.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 36. ASSET CONSERVATION.

"(a) LIABILITY LIMITATIONS.—

"(1) INSURED DEPOSITORY INSTITUTIONS.—The liability of an insured depository institution under any Federal law imposing strict liability for the release or threatened release of a hazardous substance at or from property—

"(A) acquired through foreclosure;

"(B) held in a fiduciary capacity;

"(C) held by a lessor pursuant to the terms of an extension of credit; or

"(D) subject to financial control or financial oversight pursuant to the terms of an extension of credit, shall be limited to the actual benefit conferred on such institution by a removal, remedial, or other response action undertaken by another party.

"(2) Mortgage Lenders.—The liability of a mortgage lender under Federal law imposing strict liability for the release or threatened release of a hazardous substance at or from property—

"(A) acquired through foreclosure; or

"(B) subject to financial control or financial oversight pursuant to the terms of an extension of credit,

shall be limited to the actual benefit conferred on such institution by a removal, remedial, or other response action undertaken by another party.

"(3) Unexercised Capacity To Influence.—Notwithstanding paragraphs (1) and (2), an insured depository institution or mortgage lender shall not be liable under any Federal law described in paragraph (1) or (2) based solely on the fact that the institution or lender has the unexercised capacity to influence operations at or on property in which it has a security interest.

"(b) Actual Benefit.—For purposes of this section, the actual benefit conferred on an institution or company by a removal, remedial or other response action shall not exceed the fair market value of the property following such action.

"(c) Exclusion.—The limitation on liability provided under subsection (a) shall not apply to—

"(1) any person that has caused or contributed to the release of a hazardous substance that forms the basis for liability described in subsection (a);

"(2) any person that, following the acquisition of property through foreclosure or the termination of a lease agreement, failed to take reasonable steps to prevent the continued release of a hazardous substance that forms the basis for liability described in subsection (a), if such release is discovered by such person prior to or after that acquisition or termination of the lease; or

"(3) any person that actively directs or conducts operations that result in the release of a hazardous substance that forms the basis for liability described in subsection (a).

"(d) Governmental Entities.—

"(1) Banking and lending agencies.—A Federal banking or lending agency shall not be liable under any law imposing strict liability for the release or threatened release of a hazardous substance from property acquired—

"(A) in connection with the exercise of receivership or conservatorship authority or the liquidation or winding up of the affairs of an insured depository institution, including any of its subsidiaries;

"(B) in connection with the provision of loans, discounts, advances, or other financial assistance; or

"(C) in connection with property received in any civil or criminal proceeding, or administrative enforcement action, whether by settlement or order.

"(2) Limitation.—The immunity provided by paragraph (1) shall not apply to any entity that has caused or contributed to the release of a hazardous substance that forms the basis for a liability described in paragraph (1).

"(3) Subsequent purchaser.—The immunity provided by paragraph (1) shall extend to the first subsequent purchaser of property described in such paragraph from a Federal banking or lending agency, unless such purchaser—

"(A) would otherwise be liable or potentially liable for all or part of the costs of the removal, remedial, or other response action due to a prior relationship with the property;

"(B) is or was affiliated with or related to a party described in (A); or

"(C) fails to take reasonable steps to prevent the continued release of a hazardous substance that gives rise to a removal, remedial, or other response action, if such release is discovered by such purchaser prior to or after such purchase.

"(4) Limited liability for emergency response actions.—

"(A) In general.—Except as provided in subparagraph (B), a Federal banking or lending agency shall not be liable for costs or damages in connection with actions taken in response to an emergency created by the release or threatened release of a hazardous substance from a property described in paragraph (1). Such response actions shall not be considered to have caused or contributed to damages resulting from such release or threatened release.

"(B) Gross negligence standard.—This paragraph does not preclude liability for costs or damages resulting from the gross negligence or intentional misconduct by a Federal banking or lending agency in responding to an emergency created by the release or threatened release of a hazardous substance in connection with a property described in paragraph (1).

"(C) Definition.—For the purpose of this paragraph, the term 'gross negligence' means reckless, willful, or wanton misconduct.

"(e) Lien Exemption.—Any property transferred pursuant to subsection (d) or held by a Federal banking or lending agency shall not be subject to any lien for costs or damages associated with the release or threatened release of a hazardous substance known to exist at the time of the transfer.

"(f) Exemption From Covenants To Remediate.—A Federal banking or lending agency shall be exempt from any law requiring such agency to grant covenants warranting that remedial action has been, or will in the future be, taken with respect to property acquired in the manner described in subsection (d)(1).

"(g) Due Diligence.—

"(1) Depository institutions.—The appropriate Federal financial institutions regulatory agencies shall, after consulting with the Administrator of the Environmental Protection Agency, promulgate regulations that require insured depository institutions to develop and implement adequate procedures to evaluate actual and potential environmental risks that may arise from or at property prior to making an extension of credit secured by such property. The regulations may provide for different types of environmental assessments in order to account for different levels of risk that may be posed by different classes of collateral.

"(2) Mortgage lenders.—The Secretary of Housing and Urban Development shall, after consultation with the Administrator of the Environmental Protection Agency, promulgate regulations to assure that mortgage lenders develop and implement procedures to evaluate actual and potential environmental risks that may arise from or at property prior to making an extension of credit secured by such property. The regulations may provide for different types of environmental assessments in order to take into account the level of risk that may be posed by particular classes of collateral.

"(3) Final regulations.—Final regulations required to be promulgated pursuant to paragraph (1) shall be issued within 180 days after the date of enactment of this section.

"(h) Definitions.—For the purposes of this section:

"(1) The term 'property acquired through foreclosure' means property acquired from a nonaffiliated party by an insured depository institution or mortgage lender—

"(A) through purchase at sales under judgment or decree, power of sales, or from a trustee, deed in lieu of foreclosure, or similar conveyance, or through repossession, if such property was security for an extension of credit previously contracted;

"(B) through conveyance pursuant to an extension of credit previously contracted; or

"(C) through any other formal or informal manner by which the insured depository institution or mortgage lender temporarily acquires, for subsequent disposition, possession of collateral in order to protect its security interest.

Property is not acquired through foreclosure if it is property held for investment purposes, or if the insured depository institution or mortgage lender does not seek to sell or otherwise divest such property at the earliest practical time, taking into account market conditions and regulatory requirements.

"(2) The term 'mortgage lender' means a company (other than an insured depository institution) that—

"(A) is regularly engaged in the business of making extensions of credit secured, in whole or in part, by real property to nonaffiliated parties, and

"(B) complies with the environmental assessment requirements imposed under subsection (g), after final regulations under that subsection become effective.

The term 'mortgage lender' also includes the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation if such Association or Corporation complies with regulations promulgated by the Secretary of Housing and Urban Development to assure that environmental risks are considered by lenders prior to the acquisition of mortgage obligations or interests therein from such lenders.

"(3) The term 'fiduciary capacity' means acting for the benefit of a nonaffiliated person as a trustee, executor, administrator, custodian, guardian of estates, receiver, conservator, committee of estates of lunatics, or any similar capacity.

"(4) The term 'extension of credit' includes lease transactions that are functionally equivalent to a secured loan and that are authorized by and comply with regulations issued by the appropriate Federal banking agency or State banking authority.

"(5) The term 'insured depository institution' has the same meaning as in section 3(c), and shall also include—

"(A) a federally insured credit union;

"(B) a leasing company that is an affiliate of an insured depository institution; and

"(C) a farm credit bank or association chartered under the Farm Credit Act of 1971, as amended.

"(6) The term 'Federal banking or lending agency' means the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, the Board of Governors of the Federal Reserve System, a Federal Reserve Bank, a Federal Home Loan Bank, the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration Board, the Farm Credit Administration, the Farm Credit System Insurance Corporation, and the Small Business Administration, in any of their capacities, and their agents.

"(7) The term 'appropriate Federal financial institutions regulatory agency' has the same meaning given such term in section 8(e), except that it does not include the Secretary of the Treasury or the Oversight Board.

"(8) The term 'release' has the meaning given such term in section 101(22) of Public Law 96-510, and also includes the use, storage, disposal, treatment, generation, or transportation of a hazardous substance.

"(9) The term 'hazardous substance' includes any substance or material that is subject to regulation or response under Federal or State environmental laws or regulations.

"(i) Savings Clause.—Nothing in this section shall affect the rights or immunities or other defenses that are available under other applicable law to any person subject to the provisions of this section.".

(b) Effective Date.—The amendment made by subsection (a) shall become effective upon the date of enactment of this subtitle, except that it shall not affect any administrative or judicial claims that have been formally filed as of such date.

Subtitle C—Amendments to Public Law 96-510

SEC. 171. AMENDMENTS.

(a) Definitions.—Section 101 of Public Law 96-510 is amended—

(1) in paragraph (20), by striking subparagraph (D); and

(2) in paragraph (35)(A)(ii), by inserting "State or Federal" before "government".

(b) Federal Banking or Lending Agency Liability.—Section 107(d)(2) of Public Law 96-510 is amended by inserting "or Federal banking or lending agency (as defined in section 36 of the Federal Deposit Insurance Act)" after "local government", each time it appears.

TITLE II—CLARIFYING AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT

SEC. 201. FSLIC RESOLUTION FUND.

Section 11A(a) of the Federal Deposit Insurance Act (12 U.S.C. 1821a(a)) is amended to read as follows:

"SEC. 11A. FSLIC RESOLUTION FUND.

"(a) Established.—

"(1) In general.—There is established a separate fund to be designated as the FSLIC Resolution Fund which shall be managed by the Corporation and separately maintained and not commingled.

"(2) Transfer of FSLIC Assets and Liabilities.—

"(A) In general.—Except as provided in section 21A of the Federal Home Loan Bank Act, all assets and liabilities of the Federal Savings and Loan Insurance Corporation on the date before the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 shall be transferred to the FSLIC Resolution Fund.

"(B) Additional claims on assets.—The FSLIC Resolution Fund shall pay to the Savings Association Insurance Fund such amounts as are needed for administrative and supervisory expenses from the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 through September 30, 1991.

"(3) Separate holding.—Assets and liabilities transferred to the FSLIC Resolution Fund shall be the assets and liabilities of the Fund and not of the Corporation and shall not be consolidated with the assets and liabilities of the Bank Insurance Fund, or the Corporation for accounting, reporting, or any other purpose.

"(4) Use of FDIC powers.—As of August 10, 1989, the Corporation shall have all of the powers and rights to carry out its duties with respect to the assets and liabilities of the FSLIC Resolution Fund as the Corporation otherwise has under this Act.

"(5) Corporation as receiver.—As of August 10, 1989, the Corporation shall succeed the Federal Savings and Loan Insurance Corporation as conservator or receiver with respect to any institution for which the Federal Savings and Loan Insurance Corporation was appointed conservator or receiver on or before December 31, 1988. When acting as such conservator or receiver, the Corporation shall have all of the powers and rights as the Corporation has as conservator or receiver under this Act".

SEC. 202. BRANCHING.

Section 13(k)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1823(k)(4)) is amended to read as follows:

"(4) Branching provisions.—

"(A) In general.—If a merger, consolidation, transfer, or acquisition under this subsection involves a savings association eligible for assistance and a bank or bank holding company, the resulting entity may retain and operate any existing branch or branches or any other existing facilities. If the savings association continues to exist as a separate entity, it may establish and operate new branches to the same extent as any savings association that is not affiliated with a bank holding company and the home office of which is located in the same State.

"(B) Restrictions.—

"(i) In general.—Notwithstanding subparagraph (A), if—

"(I) a savings association described in such subparagraph does not have its home office in the State of the bank holding company bank subsidiary, and

"(II) such association does not qualify as a domestic building and loan association under section 7701(a)(19) of the Internal Revenue Code of 1986, or does not meet the asset composition test imposed by subparagraph (C) of that section on institutions seeking so to qualify,

such savings association shall be subject to the conditions upon which a bank may retain, operate, and establish branches in the State in which the Savings Association Insurance Fund member is located.

"(ii) Transition period.—The Corporation, for good cause shown, may allow a savings association up to 2 years to comply with the requirements of clause (i).".

SEC. 203. REMOVAL.

Section 21A(*l*) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(*l*)) is amended to read as follows:

"(*l*) Power To Remove; Jurisdiction.—

"(1) In general.—Notwithstanding any other provision of law, any civil action, suit, or proceeding to which the Corporation, in any capacity, is a party shall be deemed to arise under the law of the United States, and the United States district courts shall have original jurisdiction over such action, suit, or proceeding. The Corporation, in any capacity, shall be an agency of the United States for the purpose of section 1345 of title 28, without regard to whether the Corporation commences the action.

"(2) Corporation as party.—The Corporation shall be substituted as a party in any civil action, suit, or proceeding to which its predecessor in interest was a party with respect to institutions which are subject to the management agreement dated February 7, 1989, among the Federal Savings and Loan Insurance Corporation, the Federal Home Loan Bank Board and the Federal Deposit Insurance Corporation. The Corporation shall be deemed substituted in any action, suit, or proceeding for a party upon the filing of a copy of the order appointing the Corporation as conservator or receiver for that party or the filing of such other pleading informing the court that the Corporation has been appointed as conservator or receiver for such party.

"(3) Removal and remand.—The Corporation may, without bond or security, remove any action, suit, or proceeding from a State court to the appropriate United States District Court, including the United States District Court for the District of Columbia. The removal of any action, suit, or proceeding shall be instituted (A) not later than 90 days after the date the Corporation is substituted as a party, or (B) not later than 30 days after service on the Corporation, if the Corporation is named as a party. The Corporation may appeal any order of remand entered by a United States District Court.".

TITLE III—TECHNICAL AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT

SEC. 301. TECHNICAL AMENDMENTS.

(a) Federal Deposit Insurance Act Amendments.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(1) in section 3(q)(2)(E), by striking "Depository Institutions Supervisory Act" and inserting "Financial Institutions Supervisory Act of 1966";

(2) in section 5(d)(3)(B), by striking "shall" in clauses (ii) and (iii);

(3) in section 5(e)(4), by striking the designations "(i)" and "(ii)" and inserting the designations "(A)" and "(B)", respectively;

(4) in section 7(a)(8), by striking "the the" and inserting "the";

(5) in section 7(*l*)(7), by striking "the value of";

(6) in section 7(m)(5)(A), by striking "institution" the second time it appears;

(7) in the third sentence of section 8(a)(7), by striking "the period" the first time it appears;

(8) in paragraphs (3) and (4) of section 8(b), by striking "subsection (u)" and inserting "subsections (u) and (v);"

(9) in section 8(b)(6)(F), by inserting "appropriate" before "banking";

(10) in section 8(c)(2), by striking "injuction" and inserting "injunction";

(11) in section 8(g)(1), by striking "party," the first time it appears and inserting "party";

(12) in section 8(g)(2), by striking "depository institution" each time it appears and inserting "bank".

(13) in section 8(o), by striking "board of directors" each time it appears and inserting "Board of Directors";

(14) in section 8(r)(2), by striking "therof" and inserting "thereof";

(15) in section 10, by redesignating subsection (e) as subsection (d);

(16) in section 11(a)(2), by striking the designation "(b)" and inserting the designation "(B)";

(17) in section 11(c)(6)(B), by striking "Owner's" and inserting "Owners' ";

(18) in section 11(d)(2)(B)(iii), by striking "is" and inserting "are";

(19) in section 11(d)(8)(B)(ii), by inserting "provide" after "disallowed,";

(20) in section 11(d)(16)(B)(iv), by striking "dispositions" and inserting "disposition";

(21) in section 11(e)(12)(B), by striking "directors or officers" and inserting "directors' or officers' ";

(22) in section 11(i)(3)(A), by striking "or" the last time it appears and inserting "of";

(23) in section 11(q)(1), by striking "decided" in the second sentence and inserting "held";

(24) in section 13(f)(6)(A), by striking "has in default" and inserting "is in default";

(25) in section 13(i), by redesignating paragraphs (11) and (13) as paragraphs (10) and (11), respectively;

(26) in section 18(k)(4)(C)(ii), by striking "Board" and inserting "Corporation";

(27) in section 30(e)(1)(A), by striking "venders" and inserting "vendors";

(28) in section 31(b)(1), by striking "Board of Directors" and inserting "board of directors"; and

(29) in section 34(a)(1)(A)(iii), by striking "and" and inserting "or".

(b) TITLE 28 AMENDMENT.—Section 1657 of title 28, United States Code is amended by inserting "section 11, 12, or 13 of the Federal Deposit Insurance Act or" after "the consideration of any action brought under".●

By Mr. KOHL:

S. 652. A bill to protect the privacy of telephone users by amending section 3121 of title 18, United States Code; to the Committee on Commerce, Science, and Transportation.

TELEPHONE PRIVACY ACT

Mr. KOHL. Mr. President, a new technology is sweeping the country and changing the way that we use the telephone. It is known as Caller ID, and it lets someone see the number of the person who is calling before picking up the receiver. Caller ID is already being offered in New Jersey, Maryland, Virginia, and the District of Columbia, and it will soon be in place in a number of other jurisdictions, including California. In these areas, customers can buy the service by purchasing a device for between $50 and $100, and paying their phone companies a few dollars each month. Indeed, this technology is developing so rapidly that some telephone companies soon expect to offer services that display not only the number from which a call is placed, but also the name of the calling party.

In my mind, Caller ID is a welcome development. It can help us screen our calls and ultimately enhance our privacy. In fact, when Caller ID arrives in Milwaukee, I plan to be one of the first to subscribe to it.

But in what form should it spread? Should there be forced Caller ID, in which a phone company requires our phone numbers to be displayed every time we make a call—even if we have an unlisted number? Or should there be voluntary Caller ID, in which consumers continue to decide when it's appropriate to give out their numbers? Since a call recipient can easily obtain the caller's address with his or her phone number, mandatory disclosure means revealing where you live—whether or not you want the other person to know.

Forced Caller ID violates our fundamental right to privacy because there are a variety of situations where callers need and deserve to keep their phone numbers to themselves. Don't we have the right to call a crisis hotline, or a Senator's office, or even the IRS to ask for help without saying who we are? And why should the phone company compel us to identify ourselves when we call a business for information? That business could use Caller ID to make unsolicited sales pitches to the consumer, even though he or she had called anonymously. If the hotline or the business wants my number, fine. I can decide whether to give it out. But that decision may be too important, too personal or even too embarassing for a phone company to make. Put another way, such disclosure doesn't even seem logical: after all, if a stranger came up to you on the street and asked you for your home phone number, would you give it to him? Of course not.

There are even times when forced Caller ID is dangerous. Prosecutors often call witnesses at night from home. Surely they should not be compelled to reveal where they live. Undercover officers sometimes call drug dealers from precincts to arrange buys. If a target recognizes where the call came from, it could scuttle the bust—or, worse, result in the death of an agent. Battered women often take refuge with friends but call home to check on things. They should not be compelled to tell their abusing husbands where they're staying. Troubled persons may call crisis hotlines to avoid doing harm to themselves or others. We ought not undermine the effectiveness of these hotlines because callers are afraid of revealing who they are. We know of other dangerous situations, but the point is this: phone companies can't determine when it's safe to reveal our numbers and addresses. There are just too many circumstances and too many variables that the phone companies cannot foresee.

The answer is to allow consumers to retain their freedom of choice. Let them dial a few digits on the phone when they want to make private calls. With this per-call blocking option, people can display their numbers when calling friends and family—and they can keep their numbers confidential when they need to do so. The recipients of calls will always see the word "private" flash on the Caller ID box. Then, they can choose to ignore the calls, screen them with a tape machine, or simply answer the phone.

A growing number of telephone companies have recognized the importance protecting the caller's right to privacy. But in order to ensure that all telephone customers retain this crucial freedom of choice, I am today introducing the Telephone Privacy Act of 1991. MIKE SYNAR and DON EDWARDS are introducing a companion bill in the House later this afternoon.

My measure is simple, effective and straightforward. It would require phone companies that offer Caller ID to give callers the option of blocking the display of their telephone numbers or any other individually identifying information without charge. However, calls to 9-1-1 services would not be blocked, so that police and medical emergency units could continue to pinpoint the location of those in need. In this way, the bill would balance the privacy interests of both callers and recipients.

This proposal makes sense for several important reasons. First, we now have the ability to stop harassing phone callers without in any way undermining the privacy of law-abiding citizens. Under the new technologies that will be available with Caller ID, obscene phone call victims can use Call Trace, Call Return, and Call Block to hunt down or foil their assailants. For example, Call Trace lets the victim of a harassing phone call automatically send the number of the harasser to the authorities after hanging up—merely by dialing a three-digit code. And Call Block—which is different than blocking—allows the victim to punch a few buttons and forever stop any more calls from getting through from the number that last called.

Though a few telephone companies are trying to promote Caller ID as the most effective way to reduce obscene phone calls, this approach is ultimately deceptive. Simply put, these new technologies work even if a caller withholds his number—in other words, even if the caller uses blocking. So it turns out that we have the ability to protect victims and privacy at the same time.

Second, before we go any further with Caller ID, we've got to make sure that it's legal. Last summer, a Pennsylvania court of appeals ruled that Caller ID violates that State's constitution and its wiretap statute—which is almost identical to the Federal version. The case is currently before the Pennsylvania Supreme Court. Moreover, some experts have argued that Caller ID may be an illegal "trap and trace device" under the Electronic Communications Privacy Act [ECPA]. My proposal would resolve the ambiguities in our Federal wiretap statutes, ensure the legality of Caller ID and establish a uniform, national privacy policy in this area.

Finally, there is one more reason to pass this legislation. Blocking already exists for the wealthy. A new 900 service allows people to make private calls for a few dollars a minute. That's wrong. Blocking is a matter of fairness as well as privacy: I believe phone companies should make blocking available to everyone—both rich and poor.

The widespread support for this proposal underscores its commonsense approach. All around the country—in the District of Columbia, California, Nevada, Arizona, Delaware, and other areas—telephone companies are opting for blocking, or State PUC's are requiring it. And here in Washington—in part due to the hearing held last year in Patrick Leahy's Judiciary Subcommittee on Technology and the Law—a consensus is developing that Caller ID with blocking strikes the proper balance between telephone callers and recipients alike. That's a powerful rationale, Mr. President, and that's why I believe my bill will soon become law.

I ask unanimous consent that the text of the Telephone Privacy Act of 1991 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 652

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telephone Privacy Act of 1991".

SEC. 2. PURPOSE.

The purpose of this Act is to protect the right to privacy of telephone users by enabling them to limit the dissemination of their telephone numbers to persons of their choosing.

SEC. 3. AMENDMENTS TO TITLE 18.

Section 3121 of title 18, United States Code, is amended—

(1) In subsection (b) by—

(A) striking "or" after the semicolon at the end of paragraph (2);

(B) striking paragraph (3);

(C) adding after paragraph (2) the following:

"(3) if the nongovernmental recipient of wire or electronic communication consents and its provider enables any originator to block receipt of any individually identifying information about the originator, without charge, except that the provider is not required to enable an originator to block receipt of the individually identifying information on the emergency assistance telephone line of a State or municipal police or fire department, or on a 911 emergency line; or

"(4) on the emergency assistance telephone line of a State or municipal police or fire department, or on a 911 emergency line.";

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (b) the following new subsection:

"(c) CIVIL ACTION.—Any user of wire or electronic communication service aggrieved by a provider's failure to enable an originator to block receipt of the individually identifying information without charge under subsection (b)(3) may recover from the provider in accordance with section 2707 of this title.".

By Mr. HEFLIN (for himself, Mr. HATCH, Mr. THURMOND, Mr. DECONCINI, Mr. SIMPSON, Mr. GRASSLEY, Mr. D'AMATO, Mr. SHELBY, Mr. COCHRAN, Mr. EXON, Mr. GORTON, and Mr. REID):

S. 653. A bill to prohibit injunctive relief, or an award of costs, including attorney's fees, against a judicial officer for action taken in a judicial capacity; to the Committee on the Judiciary.

JUDICIAL IMMUNITY

• Mr. HEFLIN. Mr. President, today I am reintroducing legislation to reverse the 1984 Supreme Court decision in *Pulliam* v. *Allen* (466 U.S. 522 (1984)). In Pulliam, a sharply divided (5-4) Court held that the doctrine of judicial immunity neither prevents injunctive relief in Federal civil rights actions challenging decisions of a State judge, nor bars attorney fee awards against the judge. In essence, Pulliam disregards four centuries of unbroken precedent and destroys an ancient doctrine that is the bedrock of the Anglo-American system of justice.

Understandably, this decision has caused a tremendous amount of concern among our Nation's judicial officers. Indeed, at the time Pulliam was handed down, the conference of Chief Justices said of the decision: "no development in recent times has aroused greater concern on the part of state judges." If anything, that concern is greater today. Judges fear that this decision will have a chilling effect on judicial independence in both State and Federal courts, and I agree with them.

The ability of a judge to decide a case, without fear, is of paramount importance to judicial effectiveness. It is a cornerstone of our judicial system. Harassing litigation brought by disappointed parties against judicial officers can only result in the increasing timidity of judges, along with a tendency to avoid close and controversial decisions whenever possible. Consequently, the threat of a potential suit alone is enough to substantially impair the exercise of independence by judges.

In addition to the chilling effect of Pulliam of judicial independence, my colleagues in the judicial branch are concerned that this decision will create a new class of Federal litigation against State decisions. State court plaintiffs are placed, in effect, in a position of appealing to the Federal courts to enjoin State court action when they should be in State courts appealing through the State judicial system. This encroachment on the doctrine of federalism destroys comity between the two separate but equal judicial systems. State judges cannot act effectively if their decisions, no matter how closely they are made in keeping with State law, are subject to immediate challenge in the Federal courts.

Mr. President, the Court in Pulliam challenged us to remedy this situation by stating, "that it is for Congress, not this Court, to determine whether and to what extent to abrogate the judiciary's common-law immunity." Congress must accept this challenge.

An identical bill passed the Judiciary Committee last Congress, and it is my hope that the full Senate will get the opportunity to debate this bill in the 102d Congress. I look forward to working with my colleagues on this legislation, and ask for their support. I request that a copy of the bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 653

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 722 of the Revised Statutes (42 U.S.C. 1988) is amended by inserting before the period at the end thereof ", except that in action brought against a judicial officer for an act or omission committed in such officer's judicial capacity—

"(1) such officer shall not be liable for costs, including attorney's fees, unless such action was clearly in excess of such officer's jurisdiction; and

"(2) injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable".

SEC. 2. Section 1979 of the Revised Statutes (42 U.S.C. 1983) is amended by adding before the period at the end of the first sentence: ", except that in action brought against a judicial officer for an act or omission committed in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable".

SEC. 3. Notwithstanding any other provisions of law, no judicial officer shall be held liable for any costs, including attorney's fees, in any proceeding brought against such judicial officer for an act or omission taken in a judicial capacity.•

By Mr. DECONCINI (for himself, Mr. HATCH, Mr. KOHL, Mr. LAUTENBERG, Mr. SPECTER, and Mr. GRASSLEY):

S. 654. A bill to amend title 35, United States Code, with respect to patents on certain processes; to the Committee on the Judiciary.

BIOTECHNOLOGY PATENT PROTECTION ACT OF 1991

Mr. DECONCINI. Mr. President, the President's Council on Competitiveness, which is chaired by Vice President QUAYLE, recently released a report on the administration's national biotechnology policy. The report stresses the importance of the biotechnology industry, which is projected to grow from a $2 billion domestic industry to $5 billion by the year 2000. The report states that,

> Some of the most promising advances will be in new drugs and gene therapies to treat previously incurable diseases. In the next decade biotechnology also will produce healthier foods, safer pesticides, additional energy resources, and innovative environmental clean-up techniques.

The Council recommends several steps to promote advancement in biotechnology. One of the most crucial measures is protecting the intellectual property rights of American biotechnology inventors. It is with that in mind, Mr. President, that I am introducing today with my colleagues, Senators HATCH, KOHL, LAUTENBERG, SPECTER, and GRASSLEY, the Biotechnology Patent Protection Act of 1991. This bill corrects the inadequacies in our patent laws that limit the patentability in the biotechnology field. It will ensure that U.S. biotechnology inventors will continue to lead the world in commercializing their ingenuity.

In its simplest terms, biotechnology is the study and application of genetic engineering techniques, sometimes referred to as recombinant DNA technology. Sections of DNA called genes contain chemical instructions that guide the cell's machinery in constructing proteins. Proteins give living things their unique characteristics. Through biotechnology drug research, scientists can discover beneficial substances that naturally occur in the body and duplicate these rare substances with gene-splicing techniques resulting in useful and commercial quantities. The end result is a whole new generation of lifesaving products.

Unlike some other industries, the biotechnology industry is highly dependent on patent protection. But the ability to obtain this protection has been inversely related to its need. Without process patent protection, not only does investment dwindle but U.S. biotechnology firms remain vulnerable to the unauthorized use of their patents abroad. The detrimental result of this practice was outlined last year by the Commissioner of the Patent and Trademark Office, Harry Manbeck, in testimony before the House Subcommittee on Courts, Intellectual Property and the Administration of Justice:

> They [inventors] cannot prevent importation of a product made abroad by a process which uses a material patented in the United States, unless they have patent protection for the process. Although not unique, the field of biotechnology is particularly susceptible to this problem. Take the not uncommon example of an inventor who develops a "host cell" through genetic engineering. Such a cell can be used in a biotechnological process to produce a protein which may or may not be patentable. The inventor may obtain a patent for the host cell. However, the steps of the biotechnological process may be, and typically are conventional part from the use of that patentable host cell and under current law, may or may not be patentable.
>
> Under present U.S. patent law, the holder of a patent of the host cell would be able to preclude another from using that cell *in the United States* to make the protein. However, without patent protection for the process, the inventor has no effective remedy against someone who takes the patented host cell to another country, uses it to produce the protein, and imports the protein back into the United States. Thus, our law currently provides an unfair advantage to unauthorized users abroad of technology patented in the United States.

Last year I introduced the Biotechnology Patent Protection Act of 1990, which addressed this very problem. The bill had clear objectives: correct the inadequacy in the Patent Code for biogenetic inventions; prevent the importation of infringing biotechnology products. Over the course of the past year, Representative BOUCHER and I have consulted with the Patent Office, the patent community and representatives from the biotechnology industry to refine this bill to achieve the objectives of the earlier legislation in a more limited fashion. The revised bill, which we are introducing today, adopts the language of H.R. 5664 from last Congress.

This legislation amends the Patent Code by overruling the Federal circuit decision in in re Durden. Durden involved the asserted patentability of a process for producing a novel and nonobvious compound from a novel and nonobvious starting material using a known chemical reaction. The patent applicant in Durden admitted that the nature and conduct of the chemical reaction as it related to the change made in the molecules was known for other, analogous, starting materials to make other corresponding products. The Federal circuit held that a process of using a patentable starting compound to make a patentable final compound was not patentable. The court indicated that the patentability of each process must be evaluated on a case-by-case basis. More recent Federal Circuit decisions have not resolved this problem. Exacerbating the Durden decision has been its inconsistent application by the Patent Office, leaving patent applicants uncertain whether they can obtain process patents of this nature.

The Biotechnology Protection Act of 1991 resolves the Durden dilemma by providing a proper criteria for recombinant processes. The bill provides that a process of making or using a product will not be considered nonobvious if the starting material or resulting product is novel. As Commissioner Manbeck testified in the House last year, this bill will "eliminate any need to resolve whether a particular process was one of making or of using a specific patentable machine, manufacture or composition of matter."

By overruling Durden, this act provides a solution to another deficiency in our law that has created an obstacle for the U.S. biotechnology industry. As mentioned by Commissioner Manbeck, current law permits an infringer to take a patented biogenetic host cell offshore to produce an end product and ship back into the United States. This legislation closes the loophole in our Patent Code that permits this form of infringement. It provides no more than what is already granted by the European and Japanese Patent Offices.

An important but ancillary benefit of this legislation is that it will reduce the search and examination burden before the Patent Office in biotechnology patent applications. Over the years, the Patent Office has been greatly criticized for its patent pendency period. As examined in a recent GAO report, this problem has been acute in the area of biotechnology. Reducing pendency for biotechnology patents will bring stability to this area.

This legislation is the answer to the Durden problem that has stymied the growth of our biotechnology industry. If Durden continues, so too will the Patent Office's inconsistent application of that case to biotechnology applications. The Federal circuit has passed up opportunities to resolve the Durden dilemma. It is time to end the uncertainty and litigation and provide the biotechnology industry the benefits afforded by the DeConcini-Hatch Process Patent Act of 1988.

The biotechnology industry is a vital industry to the future of America. The industry not only generates billions of dollars for the U.S. economy, but more importantly it offers potential solutions to seemingly hopeless problems. Currently, biotechnology researchers are searching for new energy sources, cures for cancer and AIDS, and new foods and food products just to name a few. Recognizing the impact this field has on our economic growth, President Bush has designated biotechnology research as a funding priority in his budget. The budget notes how the recent breakthroughs in the biotechnology field "offer unprecedented opportunities for improving the Nation's productivity, health, and well-being."

American scientists invented biotechnology and the United States continues to lead in the industry; however, without this legislation, many inventors and companies will shy away from investing their time and money into products that can be stolen from them once they reach the market. This legislation will increase the incentive to invest in biotechnology research resulting in commercial development by correcting the inadequacies in our patent laws and ending foreign infringement.

Mr. President, this legislation moves the U.S. biotechnology industry in the right direction—forward. The time has arrived to end the uncertainty in this area of the law that has hampered the essential progress of this dynamic scientific area; an area that is driven by U.S. firms who are constantly seeking to improve their products and transform their discoveries into commercial products.

Time and time again we hear of a U.S. industry losing its global lead to another country that is willing to provide that industry with the tools to succeed. Time and time again, we have been forced to look back in retrospect lamenting what little needed to be done to maintain U.S. dominance in a particular high-technology industry. This bill is an essential tool to ensure the continued success of the U.S. biotechnology industry. If we act now on this legislation, we will never have to lose the U.S. lead in biotechnology.

We expect wide support from the patent community on this legislation because it provides them with what they constantly request from Congress—greater protection for intellectual property. They more than anyone believe that the Patent Code should serve as an incentive, not an impediment, to the commercialization of biotechnology research.

In light of the input we have received since I first introduced S. 2326 last Congress and the urgent need for the protection this bill provides, we plan to move quickly on this legislation in this Congress. With the hope of resolving any concerns with the particular language of the bill, I have sent a letter to Commissioner Manbeck, today, requesting comments on a proposed amendment that would resolve some concerns raised by the Industrial Biotechnology Association.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 654

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Biotechnology Patent Protection Act of 1991".

SEC. 2. PATENTABILITY OF CERTAIN PROCESSES.

Section 103 of title 35, United States Code, is amended by adding at the end the following new paragraph:

"When a process of making or using a machine, manufacture, or composition of matter is sought to be patented in the same application as such machine, manufacture, or composition of matter, such process shall not be considered as obvious under this section if such machine, manufacture, or composition of matter is novel under section 102 and nonobvious under this section. If the patentability of such process depends upon such machine, manufacture, or composition of matter, then a single patent shall issue on the application.".

SEC. 3. EFFECTIVE DATE.

The amendment made by section 2 shall apply to all United States patents granted on or after the date of the enactment of this Act and to all applications for United States patents pending on or filed after such date of enactment, including any application for the reissuance of a patent.

Mr. HATCH. Mr. President, today I am pleased to cosponsor the Biotechnology Patent Protection Act of 1991 with my colleague, Senator DECONCINI.

This legislation is the result of a great deal of work by numerous Members of Congress over the past 2 years. The Vice President's Council on Competitiveness is also to be commended for its activity in this area. In a report issued recently, the Council said:

> The uncertainties in intellectual property rights for innovations in the biotechnology area continue to hamper the industry. Changes in U.S. law have been suggested as a way of improving patent protection. Legislation has been introduced to overturn a court case (In re Durden) that suggests that use of a novel starting material in combination with a known chemical process is not eligible for a process patent. The application of Durden in the biotechnology area could deny protection to innovations that only can be protected through process patents. If Durden were overturned, patenting these processes would permit the patent holder to exclude the importation into this country of a product produced by using a patented biotechnological material.
>
> The Administration should support passage of legislation to provide necessary process patent protection for products, such as those in the biotechnology area, that can be protected only through process patents.

The key elements of this legislation are the protection of major scientific breakthroughs involved in the methods of making and using new products. The best examples of the types of processes that will benefit from this legislation are those that arise in the biotechnology industry.

As noted by the Council on Competitiveness, for a variety of reasons, the patent position of the biotechnology industry is not as strong as that available to traditional pharmaceuticals. This means that under current law it is possible for a major innovation, such as creation of the first commercially effective process for making a recombinant human therapeutic, to be without adequate patent protection. In some instances there may be no product patent protection available for the end product, no process protection for the method of making the product, and no ability to prevent foreign manufacture of the end product using the patented intermediate or host cell. In biotechnology, the use of an intermediate—most frequently a host cell or organism—is the modern equivalent of creating a miniature factory for the production of a product. Thus, the inability to prevent the transportation of a patented host cell offshore and the subsequent importation of an end product is a serious defect in our current patent system. Our bill addresses this problem directly by extending process patent protection to cover the inventor's process of making the product. Such process patents may be enforced under current law to stop importation of a product made by a patented process. Thus, this bill will give inventors the full promise of the process patent amendments Senator DECONCINI and I authored in the 1988 omnibus trade bill.

The other important reason that this bill makes sense is that it will produce an international patent norm that no longer leaves our inventors at a competitive disadvantage. Under current law, it is possible for innovators to face unfair foreign competition from parties who would be barred from using a patented host cell in the United States. This legislation will correct that anomaly by granting process patent protection. In my view, this approach is preferable to attempting the creation of a new set of remedies for the making, using, or selling of products of host cells. This bill removes a court-created barrier resulting from an anomalous interpretation of the patent laws. Removal of this barrier will result in: First, process patent allowance; and second, application of existing process patent laws to enforce the newly allowed process patents to stop the importation into the United States of products made outside the United States by the patented process.

By Mr. WALLOP:

S. 655. A bill to establish the National Park System Visitor Facilities Trust Fund; to the Committee on Energy and Natural Resources.

NATIONAL PARK SYSTEM VISITOR FACILITIES TRUST FUND

• Mr. WALLOP. Mr. President, I am pleased to introduce today legislation which will amend the National Park System Visitor Facilities Fund Act—Public Law 97-433.

The National Park System Visitor Facilities Fund Act of January 8, 1983, established a fund in the Treasury into which were credited all fees received by the Government from private concessioners in the National Park System. These funds were then available for appropriation back to the National Park Service for reconstruction and improvement of facilities used to provide food, lodging, and other services to park visitors. The 1983 act provided that improvement projects were to be accomplished by the National Park Foundation with grants from the fund. A total of $54 million was credited to the fund, of which $28 million was appropriated for improvement projects.

Authorities contained in the 1983 act expired on September 30, 1989. Concession fees thereafter were covered into the Treasury as miscellaneous receipts, and $26 million, which represents the unappropriated balance of the fund, was transferred to miscellaneous receipts at that time.

This legislation would reestablish the fund and require that it be programmed, expended, and accounted for directly by the Secretary of the Interior, rather than by the National Park Foundation as was the 1983 fund.

The need for a predictable source of funds to improve and maintain the commercial service facilities in the parks is greater now than in 1983. Nationwide there are 540 concession operations in 130 units of the National Park System. These parks account for 78 percent of total annual visitation to the System. Park visitors spend a significant portion of their time in concession facilities and they must be modern and safe. I estimate that the cost of reconditioning all concession facilities, both Government-owned and concessioner-owned, is about $200 million.

I believe enactment of the enclosed bill will help to assure the millions of park visitors safe and modern facilities for food, lodging, and other services.•

By Mr. KASTEN (for himself, Mr. MACK, Mr. SHELBY, Mr. SYMMS, Mr. HELMS, Mr. LOTT, Mr. COATS, Mr. GORTON, Mr. WALLOP, Mr. MCCAIN, Mr. BROWN, Mr. HATCH, Mr. BURNS, Mr. GARN, Mr. GRAMM, Mr. D'AMATO, and Mr. THURMOND):

S. 656. A bill to amend the Internal Revenue Code of 1986 to provide for a maximum long-term capital gains rate of 15 percent and indexing of certain capital assets, and for other purposes; to the Committee on Finance.

ECONOMIC GROWTH AND VENTURE CAPITAL ACT

• Mr. KASTEN. Mr. President, today I am introducing the Economic Growth and Venture Capital Act of 1991. I am pleased to say that Senators MACK, SHELBY, SYMMS, HELMS, LOTT, COATS, GORTON, WALLOP, MCCAIN, BROWN, HATCH, BURNS, GARN, GRAMM, and D'AMATO join me as cosponsors. This measure would reduce the cost of capital in general—and of venture capital in particular—by establishing a maximum 15-percent capital gains tax rate on the sale of all capital assets by all taxpayers, both individuals and corporations. The bill would cut the capital gains tax for low- and middle-income taxpayers to 7.5 percent. This measure would also provide for capital gains indexing in order to prevent the unfair taxation of inflationary gains.

The Economic Growth and Venture Capital Act of 1991 is a simple, fair, broad-based and fiscally responsible capital gains tax cut designed to maximize economic growth.

This proposal is simple in that it avoids the complicated holding periods, carve-outs, and limited coverage of other measures that have been introduced. It is a fair proposal because it reduces the tax penalty on saving and investment and eliminates the taxation of phantom gains caused by inflation.

By providing broad-based coverage for all capital assets, and all taxpayers, it would maximize the mobility and efficiency of capital.

The most important benefit of this proposal is that it would create jobs and promote economic growth. In fact, last year, the respected economist Dr. Allen Sinai, with the Boston Company Economic Advisors, Inc., estimated that over 6 years a 15-percent capital gains tax would increase real GNP by over 2 percent, create 2.5 million new jobs, and generate $30-$40 billion in new Federal revenue.

It is my hope that this year we can finally enact this pro-growth proposal to create jobs and boost economic growth.

I ask unanimous consent that the full text of the bill be printed in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 656

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Economic Growth and Venture Capital Act of 1991".

SEC. 2. REDUCTION IN INDIVIDUAL CAPITAL GAINS RATE.

(a) GENERAL RULE.—Subsection (h) of section 1 of the Internal Revenue Code of 1986 (relating to maximum capital gains rate) is amended to read as follows:

"(h) MAXIMUM CAPITAL GAINS RATE.—

"(1) IN GENERAL.—If a taxpayer has a net capital gain for any taxable year, then the tax imposed by this section shall not exceed the sum of—

"(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the taxable income reduced by the net capital gain, plus

"(B) a tax equal to the sum of—

"(i) 7.5 percent of so much of the net capital gain as does not exceed—

"(I) the maximum amount of taxable income to which the 15-percent rate applies under the table applicable to the taxpayer, reduced by

"(II) the taxable income to which subparagraph (A) applies, plus

"(ii) 15 percent of the net capital gain in excess of the net capital gain to which clause (i) applies.

"(2) TRANSITIONAL RULE.—In the case of a taxable year which includes March 7, 1991, the amount of the net capital gain for purposes of paragraph (1) shall not exceed the net capital gain determined by only taking into account gains and losses properly taken into account for the portion of the taxable year after such date."

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 170(e) of such Code is amended by striking "the amount of gain" in the material following subparagraph (B)(ii) and inserting "13/28 (19/34 in the case of a corporation) of the amount of gain".

(2)(A) The second sentence of section 7518(g)(6)(A) of such Code is amended by striking "28 percent (34 percent in the case of a corporation)" and inserting "15 percent".

(B) The second sentence of section 607(h)(6)(A) of the Merchant Marine Act, 1936, is amended by striking "28 percent (34 percent in the case of a corporation)" and inserting "15 percent".

SEC. 3. REDUCTION IN CORPORATE CAPITAL GAINS RATE.

(a) GENERAL RULE.—Section 1201 of the Internal Revenue Code of 1986 (relating to alternative tax for corporations) is amended by redesignating subsection (b) as subsection (c), and by striking subsection (a) and inserting the following:

"(a) GENERAL RULE.—If for any taxable year a corporation has a net capital gain, then, in lieu of the tax imposed by section 11, 511, or 831(a) (whichever applies), there is hereby imposed a tax (if such tax is less than the tax imposed by such section) which shall consist of the sum of—

"(1) a tax computed on the taxable income reduced by the net capital gain, at the same rates and in the same manner as if this subsection had not been enacted, plus

"(2) a tax of 15 percent of the net capital gain.

"(b) TRANSITIONAL RULE.—In the case of a taxable year which includes March 7, 1991, the amount of the net capital gain for purposes of subsection (a) shall not exceed the net capital gain determined by only taking into account gains and losses properly taken into account for the portion of the taxable year after such date."

(b) TECHNICAL AMENDMENTS.—

(1) Clause (iii) of section 852(b)(3)(D) of such Code is amended by striking "66 percent" and inserting "85 percent".

(2) Paragraphs (1) and (2) of section 1445(e) of such Code are each amended by striking "34 percent" and inserting "15 percent".

SEC. 4. REDUCTION OF MINIMUM TAX RATE ON CAPITAL GAINS.

Subparagraph (A) of section 55(b)(1) of the Internal Revenue Code of 1986 (relating to tentative minimum tax) is amended to read as follows:

"(A) the sum of—

"(i) 15 percent of the lesser of—

"(I) the net capital gain (determined with the adjustments provided in this part and (to the extent applicable) the limitations of sections 1(h)(2) and 1201(b)), or

"(II) so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount, plus

"(ii) 20 percent (24 percent in the case of a taxpayer other than a corporation) of the amount (if any) by which the excess referred to in clause (i)(II) exceeds the net capital gain (as so determined), reduced by".

SEC. 5. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

(a) IN GENERAL.—Part II of subchapter O of chapter 1 of the Internal Revenue Code of 1986 (relating to basis rules of general application) is amended by inserting after section 1021 the following new section:

"SEC. 1022. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

"(a) GENERAL RULE.—

"(1) INDEXED BASIS SUBSTITUTED FOR ADJUSTED BASIS.—Except as provided in paragraph (2), if an indexed asset which has been held for more than 1 year is sold or otherwise disposed of, for purposes of this title the indexed basis of the asset shall be substituted for its adjusted basis.

"(2) EXCEPTION FOR DEPRECIATION, ETC.—The deduction for depreciation, depletion, and amortization shall be determined without regard to the application of paragraph (1) to the taxpayer or any other person.

"(b) INDEXED ASSET.—

"(1) IN GENERAL.—For purposes of this section, the term 'indexed asset' means—

"(A) stock in a corporation, and

"(B) tangible property (or any interest therein), which is a capital asset of property used in the trade or business (as defined in section 1231(b)).

"(2) CERTAIN PROPERTY EXCLUDED.—For purposes of this section, the term 'indexed asset' does not include—

"(A) CREDITOR'S INTEREST.—Any interest in property which is in the nature of a creditor's interest.

"(B) OPTIONS.—Any option or other right to acquire an interest in property.

"(C) NET LEASE PROPERTY.—In the case of a lessor, net lease property (within the meaning of subsection (h)(1)).

"(D) CERTAIN PREFERRED STOCK.—Stock which is fixed and preferred as to dividends and does not participate in corporate growth to any significant extent.

"(E) STOCK IN CERTAIN CORPORATIONS.—Stock in—

"(i) an S corporation (within the meaning of section 1361),

"(ii) a personal holding company (as defined in section 542), and

"(iii) a foreign corporation.

"(3) EXCEPTION FOR STOCK IN FOREIGN CORPORATION WHICH IS REGULARLY TRADED ON NATIONAL OR REGIONAL EXCHANGE.—Clause (iii) of paragraph (2)(E) shall not apply to stock in a foreign corporation the stock of which is listed on the New York Stock Exchange, the American Stock Exchange, or any domestic regional exchange for which quotations are published on a regular basis other than—

"(A) stock of a foreign investment company (within the meaning of section 1246(b)), and

"(B) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2).

"(c) INDEXED BASIS.—For purposes of this section—

"(1) INDEXED BASIS.—The indexed basis for any asset is—

"(A) the adjusted basis of the asset, multiplied by

"(B) the applicable inflation ratio.

"(2) APPLICABLE INFLATION RATIO.—The applicable inflation ratio for any asset is the percentage arrived at by dividing—

"(A) the gross national product deflator for the calendar quarter in which the disposition takes place, by

"(B) the gross national product deflator for the calendar quarter in which the asset was acquired by the taxpayer (or, if later, the calendar quarter ending December 31, 1990). The applicable inflation ratio shall not be taken into account unless it is greater than 1. The applicable inflation ratio for any asset shall be rounded to the nearest one-tenth of 1 percent.

"(3) GROSS NATIONAL PRODUCT DEFLATOR.—The gross national product deflator for any calendar quarter is the implicit price deflator for the gross national product for such quarter (as shown in the first revision thereof).

"(4) SECRETARY TO PUBLISH TABLES.—The Secretary shall publish tables specifying the applicable inflation ratios for each calendar quarter.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) TREATMENT AS SEPARATE ASSET.—In the case of any asset, the following shall be treated as a separate asset:

"(A) a substantial improvement to property,

"(B) in the case of stock of a corporation, a substantial contribution to capital, and

"(C) any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

"(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—

"(A) IN GENERAL.—The applicable inflation ratio shall be appropriately reduced for calendar months at any time during which the asset was not an indexed asset.

"(B) CERTAIN SHORT SALES.—For purposes of applying subparagraph (A), an asset shall be treated as not an indexed asset for any short sale period during which the taxpayer or the taxpayer's spouse sells short property substantially identical to the asset. For purposes of the preceding sentence, the short sale period begins on the day after the substantially identical property is sold and ends on the closing date for the sale.

"(3) TREATMENT OF CERTAIN DISTRIBUTIONS.—A distribution with respect to stock in a corporation which is not a dividend shall be treated as a disposition.

"(4) SECTION CANNOT INCREASE ORDINARY LOSS.—To the extent that (but for this paragraph) this section would create or increase a net ordinary loss to which section 1231(a)(2) applies or an ordinary loss to which any other provision of this title applies, such provision shall not apply. The taxpayer shall be treated as having a long-term capital loss in an amount equal to the amount of the ordinary loss to which the preceding sentence applies.

"(5) ACQUISITION DATE WHERE THERE HAS BEEN PRIOR APPLICATION OF SUBSECTION (a)(1) WITH RESPECT TO THE TAXPAYER.—If there has been a prior application of subsection (a)(1) to an asset while such asset was held by the taxpayer, the date of acquisition of such asset by the taxpayer shall be treated as not earlier than the date of the most recent such prior application.

"(6) COLLAPSIBLE CORPORATIONS.—The application of section 341(a) (relating to collapsible corporations) shall be determined without regard to this section.

"(e) CERTAIN CONDUIT ENTITIES.—

"(1) REGULATED INVESTMENT COMPANIES; REAL ESTATE INVESTMENT TRUSTS; COMMON TRUST FUNDS.—

"(A) IN GENERAL.—Stock in a qualified investment entity shall be an indexed asset for any calendar month in the same ratio as the fair market value of the assets held by such entity at the close of such month which are indexed assets bears to the fair market value of all assets of such entity at the close of such month.

"(B) RATIO OF 90 PERCENT OR MORE.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 90 percent or more, such ratio for such month shall be 100 percent.

"(C) RATIO OF 10 PERCENT OR LESS.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 10 percent or less, such ratio for such month shall be zero.

"(D) VALUATION OF ASSETS IN CASE OF REAL ESTATE INVESTMENT TRUSTS.—Nothing in this paragraph shall require a real estate investment trust to value its assets more frequently than once each 36 months (except where such trust ceases to exist). The ratio under subparagraph (A) for any calendar month for which there is no valuation shall be the trustee's good faith judgment as to such valuation.

"(E) QUALIFIED INVESTMENT ENTITY.—For purposes of this paragraph, the term 'qualified investment entity' means—

"(i) a regulated investment company (within the meaning of section 851),

"(ii) a real estate investment trust (within the meaning of section 856), and

"(iii) a common trust fund (within the meaning of section 584).

"(2) PARTNERSHIPS.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners.

"(3) SUBCHAPTER S CORPORATIONS.—In the case of an electing small business corporation, the adjustment under subsection (a) at the corporate level shall be passed through to the shareholders.

"(f) DISPOSITIONS BETWEEN RELATED PERSONS.—

"(1) IN GENERAL.—This section shall not apply to any sale or other disposition of property between related persons except to the extent that the basis of such property in the hands of the transferee is a substituted basis.

"(2) RELATED PERSONS DEFINED.—For purposes of this section, the term 'related persons' means—

"(A) persons bearing a relationship set forth in section 267(b), and

"(B) persons treated as single employer under subsection (b) or (c) of section 414.

"(g) TRANSFERS TO INCREASE INDEXING ADJUSTMENT OR DEPRECIATION ALLOWANCE.—If any person transfers cash, debt, or any other property to another person and the principal purpose of such transfer is—

"(1) to secure or increase an adjustment under subsection (a), or

"(2) to increase (by reason of an adjustment under subsection (a)) a deduction for depreciation, depletion, or amortization, the Secretary may disallow part or all of such adjustment or increase.

"(h) DEFINITIONS.—For purposes of this section—

"(1) NET LEASE PROPERTY DEFINED.—The term 'net lease property' means leased real property where—

"(A) the term of the lease (taking into account options to renew) was 50 percent or more of the useful life of the property, and

"(B) for the period of the lease, the sum of the deductions with respect to such property which are allowable to the lessor solely by reason of section 162 (other than rents and reimbursed amounts with respect to such property) is 15 percent or less of the rental income produced by such property.

"(2) STOCK INCLUDES INTEREST IN COMMON TRUST FUND.—The term 'stock in a corporation' includes any interest in a common trust fund (as defined in section 584(a)).

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of such chapter 1 of such Code is amended by inserting after the item relating to section 1021 the following new item:

"Sec. 1022. Indexing of certain assets for purposes of determining gain or loss."

(c) ADJUSTMENT TO APPLY FOR PURPOSES OF DETERMINING EARNINGS AND PROFITS.—Subsection (f) of section 312 of such Code (relating to effect on earnings and profits of gain or loss and of receipt of tax-free distributions) is amended by adding at the end thereof the following new paragraph:

"(3) EFFECT ON EARNINGS AND PROFITS OF INDEXED BASIS.—

For substitution of indexed basis for adjusted basis in the case of the disposition of certain assets after December 31, 1990, see section 1022(a)(1)."

SEC. 6. INDEXING OF LIMITATION ON CAPITAL LOSSES OF INDIVIDUALS.

Section 1211 of the Internal Revenue Code of 1986 (relating to limitation on capital losses) is amended by adding at the end thereof the following new subsection:

"(c) INDEXATION OF LIMITATION ON NONCORPORATE TAXPAYERS.—

"(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1990, the $3,000 and $1,500 amounts under subsection (b)(1) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the applicable inflation adjustment for the calendar year in which the taxable year begins."

"(2) APPLICABLE INFLATION ADJUSTMENT.—For purposes of paragraph (1), the applicable inflation adjustment for any calendar year is the percentage (if any) by which—

"(A) the gross national product deflator for the last calendar quarter of the preceding calendar year, exceeds

"(B) the gross national product deflator for the last calendar quarter of 1990.

For purposes of this paragraph, the term 'gross national product deflator' has the meaning given such term by section 1022(c)(3).''

SEC. 7. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall apply to sales or exchanges occurring after March 7, 1991, in taxable years ending after such date.

(b) INDEXING OF LOSS LIMITATION.—The amendments made by section 6 of this Act shall apply to taxable years beginning after December 31, 1990.●

● Mr. MACK. Mr. President, I am pleased to reintroduce, along with my colleagues Senator KASTEN and Senator SHELBY, our bill which would lower the tax rate on capital gains.

Should this legislation become law, it would easily represent the most significant economic achievement of the 102d Congress. You might then be surprised when I say that I have a concern about the bill, my concern is, however, that it may not go far enough.

The Economic Growth and Venture Capital Act nearly cuts the tax rate on capital gains in half for most individuals and businesses. This is unquestionably a significant reduction. Independent research has estimated that this alone would unleash economic activity to raise GNP by 2.8 percent, add 2.5 million new jobs, and increase Federal revenues by $30 to $40 billion over 5 years.

But there is a powerful argument to be made that capital gains should not be subject to any tax at all. In recent months, Alan Greenspan, who is the Chairman of the Board of Governors of the Federal Reserve System and one of the most respected economists in the United States, has said that he is in favor of eliminating the tax on capital gains altogether. I think he may be right.

It is unfortunate, although perhaps necessary, to tax any economic activity at all. But there are certainly some activities that are much worse to tax than others. And the creation of capital is certainly one of those activities for which the consequences of taxing are awful.

Ted Forstmann explained this eloquently in the Wall Street Journal on December 13, 1990, when he said:

> The capital gains tax is not a tax on wealth. It is a tax on one's ability to improve one's lot by creating wealth. Taxing capital gains does not much affect the wealthy, who have their capital gains behind them, and are principally concerned with maintaining their wealth. Its real impact is to suppress the initiative of Americans who are not yet wealthy, but have the talent and drive to create wealth, and thus benefit the economy.

A fundamental rule of economic behavior is that whenever you tax something, you get less of it. We are now taxing the creation of wealth at a rate that is higher than at any time in the past decade. I am confident that had this legislation been in effect a year ago, we would not be in a recession today.

Even though the legislation we are proposing today cannot turn back the clock, it is the best antirecession medicine we can take.

I have heard the following metaphor which, I think, describes the importance of a capital gains tax cut in graphic terms: Our "body economic", is today battered and bruised by the recession, with even perhaps some broken bones. We are trying to heal those wounds, with such medical aids as unemployment benefits and expanded credit. But that medical help can only go so far since there remains a plastic bag over the head of the body economic—and that plastic bag is a capital gains tax. Only when we remove that plastic bag will we be able to fully resuscitate the economy. Until then, all of our other efforts will have only limited success.

Mr. President, I have with me two recent studies whose conclusions are relevant to the Economic Growth and Venture Capital Act. I ask that the executive summaries of these two studies be printed in the RECORD.

The first study, "Tax Fairness: Myths and Reality", sponsored by the National Center for Policy Analysis, addresses an argument that opponents of tax cuts have made in recent years.

The study specifically analyzes the Reagan tax cuts of the 1980's and which income groups would be affected by these tax cuts. The NCPA's conclusion is that the tax cuts benefited Americans of every income level, and their analysis is filled with documentation to demonstrate this.

Remember that today's critics of a capital gains tax cut are largely those who opposed the Reagan tax cuts on the basis that those tax cuts would benefit the rich at the expense of the poor. The lesson to be learned is that they were wrong on income tax cuts, and they're wrong now on capital gains tax cuts.

The second study is sponsored by the Institute for Policy Innovation, and its topic is, "How Tax Policy Compounded the S&L Crisis." It analyzes some of the negative consequences of certain tax changes we have made in recent years, particularly the increase in the capital gains tax rate in 1986.

The IPI study emphasized that the increase in the capital gains tax rate significantly reduced the stock of wealth in the United States. Most of that wealth is in real estate. As a consequence, the increase in the capital gains rate reduced the value of commercial real estate in the United States by 9 percent and also lowered the value of owner-occupied housing by about $125 billion.

Mr. President, I also ask that a recent Washington Times article by Warren Brookes on this issue be placed in the RECORD.

The material follows:

[Center for Tax Policy Studies, National Center for Policy Analysis, March 1991]

TAX FAIRNESS: MYTHS AND REALITY

(By Aldona Robbins and Gary Robbins)

EXECUTIVE SUMMARY

During 1990, Americans were bombarded by reports that the U.S. tax system had become increasingly unfair. The critics seized upon two or three facts about the income tax system, repackaged those facts in misleading ways in dozens of "studies," and skillfully marketed the "findings" to the national news media.

Myth: During the 1980s, the rich got richer and the poor got poorer.

Over the past decade, the real per capita income of Americans grew by 21.2 percent. Every income class posted a substantial increase in real aftertax income.

Myth: The top 10 percent of income earners gained from the Reagan tax cuts, while the bottom 90 percent lost.

Total taxes as a percent of gross national product today are slightly higher than they were in 1980. The nation's total tax burden, therefore, did not go down—in large part because of Social Security (FICA) payroll tax increases that took effect in the 1980s but were legislated during the Carter Administration. The Reagan income tax cuts, however, lowered the personal income tax burden for every income class.

Myth: The Reagan tax cuts were a giveaway to the rich.

The tax rate on the highest income earners was reduced sharply during the 1980s in order to encourage wealthy taxpayers to earn more income and pay more taxes. The experiment was a spectacular success. The tax cuts benefitted the non-rich, as wealthy taxpayers increased their total tax payments and their share of tax payments. For example, the share of income tax payments made by the top 1 percent of taxpayers grew from 18 percent in 1981 to more than 27 percent in 1988.

Myth: Reagan tax reform was unfair to low-income families.

For the vast majority of Americans, the greatest benefit from Reagan tax reform is not that tax payments are lower but that taxes are lower than they would otherwise have been. For example:

A family earning $10,000 a year would pay 134 percent more in income taxes if the Carter Administration's tax policies were in effect today.

Including the increases in Social Security taxes, this family would pay 42 percent more in total taxes if the 1980 tax law were in effect.

The very lowest-income taxpayers realized an additional gain. As many as four million low-income taxpayers no longer pay income taxes. The personal exemption was doubled from $1,000 in 1980 to $2,000 by 1989, and the standard deduction was increased by over 50 percent for most taxpayers.

Myth: The income tax system became less progressive during the 1980s.

The U.S. tax system became more progressive, not less so.

Between 1979 and 1988, the share of income taxes paid by the top 5 percent of income earners rose from 37.6 percent to 45.9 percent.

Between 1981 and 1988, the share of Social Security payroll taxes paid by the top 5 percent of income earners rose from 10.9 percent to 12.3 percent.

By contrast, the bottom half of income earners now pay only 5.5 percent of federal income taxes and only 17 percent of Social Security payroll taxes.

Myth: During the 1980s, income of the wealthy grew faster than that of any other group.

No one really knows if this statement is true. It is certainly true of income subject to taxes. But there is no hard evidence that the total income of the wealthy grew faster than that of other taxpayers. We do not know how much of the growth in taxable income was due to a shift from nontaxable to taxable income and how much to the fact that the wealthy worked harder or invested more to produce more income.

Myth: The rich pay a smaller percent of their income in taxes today than they did in 1980, although most taxpayers pay a higher percent.

No one knows exactly what the "income" of the rich was in 1980. Official records show only income subject to the income tax. Taxpayers were not required to report income from tax-exempt securities or other forms of tax-sheltered income. Because of Reagan tax reform, much more of the income of the wealthy today is taxable and much less sheltered. By any reasonable estimate of total income in 1980 and 1990, taxes as a percent of income have gone up, not down, for the wealthiest taxpayers.

Myth: The tax system can be made more progressive by raising the tax rates paid by the rich.

For most of the history of the income tax, the opposite has been true. That is, whenever the highest tax rate has been increased, the total tax payments and share tax payments made by the rich have gone down. Whenever the highest tax rate has been lowered, the share of taxes paid by the rich has gone up. The experience of the 1980s replicated this historical relationship.

[From the Institute for Policy Innovation, February 1991]

HOW TAX POLICY COMPOUNDED THE S&L CRISIS

(By Aldona and Gary Robbins)

EXECUTIVE SUMMARY

Federal tax policy must be included in the list of factors that contributed to the savings and loan crisis. In particular, retroactive changes contained in the 1986 Tax Reform Act lowered real estate values, thereby weakening many institutions which had invested in real estate and adding to the cost of the savings and loan bailout.

Overall, the 1986 tax reform reduced the value of commercial real estate by 17 percent.

The value of home ownership fell by over 9 percent.

$35.6 billion of the estimated $150 billion S&L bailout cost is attributable to the 1986 tax changes.

Tax policy affects revenues to the government, income to economic factors, and the stock of wealth. Governmental assessments of the impact of tax changes focus almost exclusively on revenues. Revenues depend upon income produced by individuals and businesses. For example, social security payroll tax revenues are determined by wages and salaries. Wages, interest, dividends, and profits are flows of income over time which result from continuing productive activities.

Although not recognized in government projections, tax policy affects these income flows through its impact on U.S. economic activity. Higher tax rates lead to lower incomes by discouraging work and saving; lower tax rates lead to higher incomes by encouraging work and saving.

Tax policy also affects the stock of wealth, a fact totally ignored during consideration of the 1986 Tax Reform Act. To the extent that this oversight has contributed to fluctuations in the real estate market, recent tax legislation worsened, not improved, the savings and loan problem and its subsequent costs to taxpayers.

The capital gains changes in the 1986 Act reduced the value of commercial real estate by 9 percent.

Rental costs have gone up by 17.5 percent due to tax reform's impact on commercial real estate.

Changes in capital gains tax treatment, in combination with lower marginal rates, decreased the value of an owner-occupied home worth more than $150,000 by between 5 and 6.5 percent.

The capital gains changes in the 1986 Act lowered the value of owner-occupied housing by about $125 billion.

Provisions in the 1986 Act affecting real estate fall into two main categories. First, repeal of the 60-percent exclusion rate on capital gains raised the tax on real estate projects thereby lowering their asset values. Because about 80 percent of capital gains on real estate is due solely to inflation, the increase in capital gains taxes exposed both commercial real estate investors and homeowners to a significant inflationary tax.

The second broad category of tax provisions affecting real estate values involves deferral of tax deductions. Changes such as the extension of passive loss limitation to real estate and the at-risk loss limitation provision can cause investors to defer the deduction of normal business expenses associated with operating a real estate project. Deferral would be all right if the deferred deductions were indexed for inflation and interest. Because they are not, these changes in the 1986 Act also reduced the value of both commercial real estate and owner-occupied real estate.

Approximately $21 billion of the $35.6 billion in S&L bailout costs due to tax changes are attributable to capital gains and passive loss.

Current estimates place the cost of the S&L bailout in the neighborhood of $150 billion, excluding government borrowing costs. The actual cost of the S&L bailout to taxpayers will depend upon: (1) how many savings and loans fail, and (2) the market value of assets held by the Resolution Trust Corporation (RTC)—the agency set up to deal with the S&L problem. Anything that lowers (raises) the value of real estate property or mortgage quality will reduce (increase) what the RTC can receive for these assets, thereby increasing (decreasing) the cost of the bailout to taxpayers.

A number of tax policy changes that could be undertaken to meliorate the cost of the S&L bailout include:

Lower the tax on capital gains through either a reduction in the rate or through indexing for inflation. In addition to beneficial effects on S&L asset values, a reduction in capital gains taxes would enhance the prospects for higher growth in general.

Repeal ineffectual tax provisions such as passive loss and at-risk limitations. The effect of these provisions is to rearrange investment portfolios, not eliminate the perceived tax abuse. Society loses, however, because of higher transaction costs associated with portfolio changes.

End the asymmetric treatment of taxpayer gains and losses. In an attempt to speed up delivery of tax receipts, the government has passed laws which force the taxpayer to pay tax on income not yet received.

Analyze the impact of taxes on the stocks of U.S. wealth as well as the income flows. Had this been done during debate over tax reform, losses from the S&L bailout could have been reduced.

Such tax policy changes would increase real estate investment incentives, promote economic growth, and raise revenue for the government.

[From the Washington Times, Mar. 7, 1991]

CURING THE BANKING CRISIS AND RECESSION

(By Warren Brookes)

Sen. Phil Gramm, Texas Republican, wants President Bush to open a "second front" on domestic policy.

Here's a good place to start: Go on national television and tell how Congress could end the U.S. banking crisis and the recession fast, just by cutting the capital-gains tax rate to 15 percent.

Such a move alone would restore $500 billion to commercial and residential property values, instantly strengthen the capital positions of all banks and thrifts, end the credit crunch and slash the budget deficit by tens of billions of dollars.

Why don't we do this? Because the Democrats have turned ideology into "idiotology," willing to shoot the nation in the foot for the sake of preventing the wealthy from getting wealthier, even if that would make everyone else better off, too.

There is not a single mainstream economist who does not believe that such a cut would stimulate economic growth and new jobs. Even Alan Sinai, a liberal economist with First Boston Corp., testified to Congress last June that this cut would create at least half a million additional jobs per year and raise total federal tax revenues by $30 billion to $40 billion over five years.

Beyond that, not only does this tax cut more than pay for itself in direct feedback of revenues (raising federal revenues from $7 billion to $11 billion over five years), but it will directly reduce the cost of the savings-and-loan bailout by $21 billion, by raising the liquidation value of its real estate assets.

That is the essential message of a new study by Washington economists Gary and Aldona Robbins for the Institute for Policy Innovation. It shows that the 1986 Tax Reform Act (which raised capital gains rates by 40 percent) cut the values of commercial real estate by 17 percent and home values by 9.2 percent.

Together, these losses add up to more than $1 trillion in total current asset values in the economy as a whole. That accounts for most of the U.S. financial sector problems. The Robbinses say the capital-gains tax increase alone cost current homeowners at least $125 billion in housing values. Since 1986, the value of commercial real estate investment trusts also plunged 60 percent.

As the Robbinses argue: "since 1983, the value of failed S&L real estate assets has fallen by $28 billion. These assets now or will belong to the Resolution Trust Corp.—the agency set up to deal with the S&L problem."

The reason for this is that real estate is the most tax-sensitive commodity there is. Every dollar that must be paid in taxes on a property is a dollar that cannot be paid either as mortgage payments or rental income. Since a property's total market value is directly related to those payments or imputed rental income, any tax increase slashes value.

"Since 86 percent of S&L assets are mortgages and mortgage-backed securities, tax policies which reduce real estate values will logically diminish the value of S&L assets" and contribute directly to the disappearance of savings-and-loan capital.

In 1986, Congress raised the top tax rate on capital gains to 28 percent, limited losses on "passive" investments, curtailed depreciation schedules on commercial real estate, repealed the 10-year amortization of construction-period costs and taxes, tightened the alternative minimum tax rules, changed and tightened the rules on real estate tax shelters and real estate investment trusts, and made a number of changes in real estate accounting rules.

It also cut the top marginal tax rates, dramatically reducing the value of the income-tax deduction on home-mortgage interest payments. While both the rate reductions and loophole closings were desirable to eliminate distortions in the economy, their powerful 8 percent impact on cutting commercial real estate values was more than doubled by the rise in capital gains.

The Robbinses conclude that altogether the effect of Tax Reform on the Resolution Trust Corp.-owned properties is some $35.6 billion, of which $21 billion is attributable to capital gains and to passive loss restrictions. (See Table.)

On Jan. 23, Federal Reserve Chairman Alan Greenspan was asked by Sen. Connie Mack, Florida Republican, "If we lowered the capital gains tax rate, what impact would it have on the value of assets, the value of real estate?"

Mr. Greenspan replied: "I think it's fairly evident that to the extent the capital-gains tax is lowered, you will get potentially higher property values . . . There's no question in my mind that a capital-gains tax cut would be helpful with respect to the issue of property values and economic growth."

In short, a capital-gains tax cut would by itself go a long way to restoring the nation's financial system, even as it reduced the deficit by $32 billion over five years. Those who oppose it are doing so strictly out of "idiotology," not "fairness."

Impact of 1986 Tax Reform on Costs of the S&L Bailout

RTC Commercial Properties	$23.7 billion
RTC Commercial Mortgages	5.9 billion
RTC Home Mortgages	6.0 billion
Total	35.6 billion
Capital gains portion	21.0 billion
Reduction in Commercial Real Estate Values	17.0 percent
Reduction in Residential Values	9.2 percent

Source: "How Tax Policy Compounded the S&L Crisis" Institute For Policy Innovation, 109, 2:91.●

By Mr. LEAHY (for himself and Mr. METZENBAUM):

S. 657. A bill to amend the Child Nutrition Act of 1966 to provide for more competitive pricing of infant formula for the special Supplemental Food Program for Women, Infants, and Children [WIC], and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

WIC INFANT FEEDING INITIATIVE ACT

Mr. LEAHY. Mr. President, hungry infants and their mothers are more important than corporate profits.

Questionable business practices by giant drug companies are keeping an estimated 270,000 hungry women and children from getting the food they need. These practices are costing taxpayers as much as $168 million each year.

The program that is suffering is WIC, the Supplemental Food Program for Women, Infants and Children. Created in 1972, it is universally acclaimed as one of our Nation's most successful nutrition programs.

WIC serves children at some of the most critical times of their lives. It feeds mothers when they are pregnant or breastfeeding. And it feeds children during their important, early development years.

WIC is a proven success story. A 1990 USDA study showed that for every WIC dollar spent on a pregnant woman, between $2.84 and $3.90 was saved in infant Medicaid during the first 60 days after birth. And, according to the Surgeon General, the average medical cost of a low birthweight baby can exceed $39,000. The average cost of the WIC package is $30 a month.

At retail stores, WIC participants exchange special vouchers for infant formula. The recipients pay nothing; the State reimburses the store for the full retail cost of the formula. The infant formula manufacturers then rebate a portion of the retail price to the State.

To help States get higher rebates from formula companies, Congress enacted competitive bidding legislation in 1987 and 1989. By 1991, the average rebate climbed to $1.36 per can.

USDA estimates that these laws have generated $600 million in rebates, allowing WIC to serve 950,000 additional recipients at no extra cost.

Three large companies—Ross Laboratories, Mead Johnson, and Wyeth Laboratories—produce 96 percent of infant formula consumed in the United States. In March 1990, Mead Johnson publicly announced that it would submit bids of only $0.75 for all rebates. During the next 8 months, Mead submitted $0.75 rebate bids to 12 different States. In several States, Ross and Wyeth followed Mead's lead.

When one company bids a rebate of $0.75 and soon after another bids $0.757, as Mead and Ross did in Wisconsin in March 1990, it does not take a genius to see how this could frustrate competitive bidding.

Clearly the companies can do better. After being sharply criticized at hearings last year chaired by Senator METZENBAUM and after the Federal Trade Commission began an antitrust investigation, the bids increased. In Florida and California, the rebates after inflation adjustment are $1.72 and $1.88, respectively.

I commend Senator METZENBAUM for his leadership in this area and for agreeing to hold a joint hearing with me tomorrow on this subject.

Today I am introducing legislation together with Senator METZENBAUM to ensure that infant formula companies pay States the highest rebates that are competitively possible. The bill will:

Encourage competition by requiring infant formula companies to bid in seven large regions, instead of 50 States.

Promote high volume discounts and prevent pharmaceutical companies from taking advantage of smaller States.

Penalize pharmaceutical companies that coordinate pricing practices by revealing bids before they are announced by USDA.

Mr. President, I ask that more detailed information concerning the legislation be printed in the RECORD.

There being no objection, the information was ordered to be printed in the RECORD, as follows:

BACKGROUND ON THE "WIC INFANT FEEDING INITIATIVE OF 1991"

Created by Congress in 1972, WIC (the Supplemental Food Program for Women, Infants and Children) reduces infant mortality, low birthweight, and improves infant health by providing low-income recipients with specially designed packages of foods such as milk, cheese, infant formula, cereals, juice, eggs, beans, and peanut butter. Administered by the Department of Agriculture, WIC provides cash grants to states to implement the program.

At retail stores, WIC participants exchange special vouchers for infant formula. The recipients pay nothing; the state reimburses the store for the full retail cost of the formula. The infant formula manufacturers then rebate a portion of the retail price to the state.

In 1987, legislation passed by Congress allowed states to obtain higher rebates from infant formula companies through competitive bidding procedures. Because less than half the states participated, a 1989 law made the competitive bidding procedure mandatory for all states. By 1991, the average rebate climbed to $1.36 per can. USDA estimates that the two provisions have generated $600 million in rebates, allowing WIC to serve 950,000 additional recipients at no extra cost.

Three companies produce 96 percent of infant formula consumed in the U.S.—Ross Laboratories (a division of Abbott Laboratories; approximately 52 percent of the U.S. market), Mead Johnson Nutritionals (a division of Bristol-Myers-Squibb; approximately 34 percent) and Wyeth-Ayerst (a division of American Home Products; approximately 9 percent). In March 1990, Mead sent letters to several states, disclosing it would submit rebate bids of only $0.75 per can when the bids were later due. During the next eight months, Mead submitted $0.75 competitive rebate bids to 12 different states.

Ross and Wyeth followed Mead's lead. The companies submitted the following rebate bids, all of which are 20 to 45 percent lower than the average rebate of $1.36 per can:

State	Date	Mead Johnson	Ross Labs	Wyeth
Wisconsin	March 3, 1990	$0.75	$0.757	$1.10
Montana	April 4, 1990	.75	.75	.69
Oklahoma	do	.75	.80	.775
Kentucky	do	.75	.88	.805

Recent bidding in two large states has shown that rebates can be substantially higher than $1.36 a can, perhaps as high as

$1.75. In Florida and California, the rebates after inflation adjustment are $1.72 and $1.88, respectively.

OVERVIEW OF THE "WIC INFANT FEEDING INITIATIVE OF 1991"

To guarantee the most children possible are served by WIC at the least expense to the program, Senator Leahy has introduced the "WIC Infant Feeding Initiative of 1991", which will:

Encourage Competition: The country would be divided into seven regions, each of which would be a separate market. The infant formula companies would bid directly to USDA for an exclusive contract with these regions. Because each region is a large and lucrative market, only available to the highest bidder, the bill will increase competition between infant formula companies, ensuring that states are paid high rebates.

Promote High Volume Discounts: Experience shows that rebate bids are highest in states with more WIC participants. By establishing seven regions nationwide (blocks of seven to 10 states, instead of 50 separate state purchasers) to solicit bids, high volume discounts are encouraged. Also, pharmaceutical companies are prevented from taking advantage of smaller states.

Set Penalties for Pharmaceutical Companies: Any pharmaceutical company that coordinates pricing practices by revealing bids before they are announced by the Department of Agriculture will be banned from the WIC program for up to two years. (These penalties are in addition to to any antitrust penalties.)

PROJECTED SAVINGS OF THE "WIC INFANT FEEDING INITIATIVE OF 1991"

The Senate Agriculture Committee estimates that under this legislation, states could recover $168,500,000 in additional rebates, enough to put an additional 270,000 eligible women and children on the program at no taxpayer expense.

Mr. METZENBAUM. Mr. President, infant formula is an important component of the special Supplemental Food Program for Women, Infants and Children [WIC]. In fact, sales to State-supervised WIC programs account for one-third of infant formula sales in the United States. Food provided to women and children through the WIC program has resulted in lower infant mortality rates, fewer premature births, higher birth weights, and lower health care costs in the long run for low-income families. In short, WIC programs produce healthy mothers and healthy babies.

Congress has shown its commitment to the WIC program by increasing WIC funding throughout the 1980's. However, these additional moneys, in large part, went to cover higher food costs. Today, WIC serves less than half of the women and children who are eligible to receive nutritional supplements of milk, cereal, cheese and formula. We have to do better.

One way States have tried to reduce costs is to initiate competitive bidding for infant formula supplied to the WIC Program. Although the formula manufacturers at first refused to even bid on these contracts, the States have had great success in obtaining significant rebates off the retail price paid for infant formula.

Unfortunately, two things have worked against the States to limit the overall cost savings. First, wholesale prices for infant formula have risen steadily for years. This increases the net price to the State even if rebate levels remain high. In May 1990 the Subcommittee on Antitrust, Monopolies and Business Rights, which I chair, conducted a hearing to look at pricing by infant formula companies. At this hearing, witnesses testified that formula prices increased more than 150 percent during the 1980's, far outstripping inflation and the Consumer Price Index for food. More importantly, prices for milk—one main component of infant formula—increased only 16 percent over that same time period. This raised questions that the three major formula companies, which control over 90 percent of sales, have coordinated prices in a parallel manner in violation of the antitrust laws.

Second, one formula company sought to undermine competitive bidding by announcing in advance that it would offer only 75 cents in its future bids. This pricing announcement has greatly influenced the level of rebates offered by the companies, and has once again resulted in higher net formula prices to the States.

This legislation is designed to mitigate these inflationary pressures on formula prices. The bill does three essential things. First, infant formula companies that, in advance, reveal rebates contained in sealed bids, or make statements regarding rebates with the purpose of influencing the bids submitted by others, are barred from bidding on WIC contracts for 2 years. Second, the bill permits the States to consider bids for specific formula products as a means of helping new companies which do not make a full line of products break into the market. Third, the bill requires States to enter into joint regional bidding. This is likely to benefit all States by increasing rebate levels and reducing overhead costs.

Congress cannot sit by and watch more and more WIC dollars pad the profits of the huge drug companies that make infant formula. This legislation is an important step toward reducing costs and serving many more needy women and children.

By Mr. GRAHAM (for himself, Mr. DECONCINI, and Mr. AKAKA):

S. 659. A bill to suspend temporarily certain bars to the furnishing of veterans benefits to certain former spouses of veterans and to suspend temporarily a bar to the recognition of certain married children of veterans for veterans benefits purposes; to the Committee on Veterans' Affairs.

TEMPORARY SUSPENSION OF BARS TO CERTAIN VETERANS BENEFITS

• Mr. GRAHAM. Mr. President, Senators AKAKA, DECONCINI, and I are introducing legislation today to correct an unfair policy that was enacted as part of the Omnibus Budget Reconcilation Act of 1991.

Prior to this change in the law, if a surviving spouse of a veteran who died from a service-connected condition or the needy surviving spouse of a wartime veteran who died from nonservice connected causes remarried, the spouse no longer qualified for dependency and indemnity compensation or VA needs-based pension. However, the spouse did become eligible again when the remarriage became void, annulled, or terminated by death or divorce. The same law applied to a veteran's child.

The Omnibus Budget Reconciliation Act repealed the reinstatement of benefits for remarried surviving spouses or children who had lost a second spouse effective November 1, 1990.

Mr. President, without getting into the overall appropriateness of this policy change, what we are worried about first and foremost is the effective date of the policy change.

Although this law did not effect those currently receiving benefits, the law did deny benefits to any one who would have become eligible this year without any advance notice being given of such a change.

Our concern, Mr. President, is that we have made a major change in law that effects the income security of veterans' survivors without proper notification to these individuals.

One Floridian wrote me that, when she contemplated remarriage after the passing of her first husband, she was reassured by the VA that her benefits could be restored should something happen to her second husband. Her second husband's insurance plan has no survivor benefits. He is now age 65. This women is worried about her future in the event of her husband's death. Her retirement plans have been based on the reinstatement of DIC eligibility.

Now, with no notice whatsoever, Congress has taken those benefits away.

Another individual spent the better part of last year tending to her ailing husband, not keeping up with Congress' debate on the Federal budget. When he passed away in December, she went to the VA to have her benefits reinstated and was shocked to learn that she no longer qualified.

Her husband did not have a survivor's insurance plan either. Now she is struggling to pay doctor's bills and figure how she will take care of her own expenses.

Mr. President, we understand the importance of reducing the Federal deficit. As a member of the Senate Veterans' Affairs Committee which authored this proposal, I regret not having spoken up sooner on the negative consequences of this action. All of the cuts made by Congress in reconciliation were painful, but this cut has an immediate and deep effect on individual Americans which I do not think we properly anticipated.

Individuals were planning on these funds to ensure economic security in their retirement. This provision means the loss of as much as $1,000 per month for some individuals.

The legislation we are introducing today would change the effective date of the denial of reinstatement of DIC payments from November 1, 1990 to November 1, 1991. The legislation also requires the VA to take appropriate steps to notify the public of this change in the law so that individuals can make the necessary arrangements for their future financial security.

For example, there will be an open season from October 1991 to September 1992 for enrollment in the survivor benefit plan. Some individuals that originally opted out of this plan may determine that participation is now desirable.

Mr. President, I ask unanimous consent that a copy of the legislation follow my remarks in the RECORD and that a letter from the National Military Family Association supporting this measure also be included.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 659

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY SUSPENSION OF BENEFITS BARS.

(a) SUSPENSION OF BAR TO BENEFITS.—Notwithstanding the amendments made by section 8004(a)(1) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508; 104 Stat. 1388-876), a person who, except for such amendments, would not be barred from being furnished benefits referred to in subsection (d)(2) or (d)(3) of section 103 of title 38, United States Code, as those subsections were in effect on October 31, 1990, shall not be barred from being furnished such benefits in the case of a claim referred to in subsection (c).

(b) SUSPENSION OF BAR TO RECOGNITION FOR BENEFITS PURPOSES.—Notwithstanding the amendments made by section 8004(a)(2) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508; 104 Stat. 1388-876), the recognition of a person for benefits purposes referred to in paragraph (2) of section 103(e) of title 38, United States Code, as such paragraph was in effect on October 31, 1990, shall not be barred in the case of a claim referred to in subsection (c) if the recognition of such person for such purposes would not be barred pursuant to such section 103(e) except for such amendments.

(c) APPLICABILITY OF SUSPENSION OF BARS.—Subsections (a) and (b) shall apply with respect to claims for benefits filed with the Secretary of Veterans Affairs after October 31, 1990, and before November 1, 1991.

(d) NOTIFICATION OF SUSPENSION OF BARS.—The Secretary of Veterans Affairs shall take appropriate steps to notify persons eligible for benefits, or for an adjustment of benefits, by reason of the enactment of this Act.

(e) REIMPOSITION OF BARS.—(1) A person permitted to be furnished a benefit by reason of the enactment of this Act may not be furnished such benefit for months beginning on or after the date that is 180 days after the date on which the award of such benefit takes effect.

(2) Effective on the first day of the first month beginning on the date 180 days after the effective date of the recognition of a person for benefit purposes by reason of the enactment of subsection (b), the recognition of such person for such purposes shall terminate and the award or computation of benefits on the basis of that recognition shall be redetermined consistent with the termination of such recognition.

NATIONAL MILITARY
FAMILY ASSOCIATION,
Alexandria, VA, March 11, 1991.

Hon. BOB GRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAHAM: The National Military Family Association requests your assistance in our endeavor to protect widows whose husbands have died in the service of their country. The change made by the 101st Congress to Section 103 of Title 38 U.S.C. (Veterans Benefits) has severely restricted the options for some military widows and totally disfranchised others. Dependency and Indemnity Compensation (DIC) benefits will be denied to those requesting reinstatement because of the termination of a subsequent marriage. The reinstatement of benefits will be denied if the claim was filed after October 31, 1990, regardless of the date of termination of the subsequent marriage.

DIC widows who have not entered a second marriage, may find that they dare not. Many of these widows opted to work part time in order to provide as stable a home life as possible for their fatherless children. Their decision was predicated on not having to provide a pension for themselves. They were assured that even if a second marriage failed, they would always have their DIC. Some of these women may today be remarrying without the knowledge that they will forever lose their DIC benefits. Has the Department of Veterans Affairs notified all these widows of the change in the law?

Those already in a second marriage have made financial decisions based on the law that allowed reinstatement of their DIC benefits if their second marriage ended. Those who married other military men have made decisions to take a reduced amount of the Survivor Benefit Plan annuity, based on the assumption that DIC benefits would be restored. That election may not currently be changed. DIC widows in a second marriage when the couple is in their 60s and 70s would find the purchase of life insurance to compensate for the loss of DIC prohibitively expensive. Home mortgages have been assumed, prenuptial agreements and other financial commitments made, all based on the law that allowed reinstatement of DIC benefits. Many of these widows will join the ranks of the health care uninsured with their unexpected loss of CHAMPVA eligibility. Even those who have family members willing and able to pay their insurance premiums, may find themselves uninsurable because of pre-existing conditions. Since there has been no attempt to publicize the change in the law, the majority of these widows will only discover the devastating effects of the change when they apply for reinstatement after the death of their spouse or a divorce. The information will come at a time when they can do nothing about it. A new group of military widows living in poverty?

The National Military Family Association believes that it is patently unfair to change the benefits for existing DIC widows. The reinstatement right was not a vague promise, it was the law. To totally disfranchise those already in second marriages is unconscionable.

The change to Title 38 was made without public hearings and apparently only for budgetary reasons. NMFA believes that such a drastic change in the law should be carefully reviewed. At the very least, those who elected to remarry based on the protection in the law, should be grandfathered. Not one of these widows should be entering into the process of divorce or remarriage without full knowledge regarding the loss of DIC benefits. Yet, this is happening every day because the change in the law has not been publicized. DIC widows who have remarried other military personnel and declined participation in the Survivor Benefit Plan (SBP) based on their DIC reinstatement eligibility, will have a once in a life time opportunity to join SBP, because of an open enrollment period starting in April of 1992. Will these widows even be aware that they are at risk and need to participate in SBP?

Thank you for considering our position on this issue.

Sincerely,

SUSAN W. BUSHEY,
President.•

By Mr. SIMON (for himself and Mr. DIXON):

S. 660. A bill to amend title 28, United States Code, to authorize the appointment of an additional bankruptcy judge for the Southern District of Illinois; to the Committee on the Judiciary.

ADDITIONAL BANKRUPTCY JUDGE FOR THE SOUTHERN DISTRICT OF ILLINOIS

• Mr. SIMON. Mr. President, I rise today to introduce legislation to authorize an additional bankruptcy judgeship in the Southern District of Illinois.

In recent years the number of filings in bankruptcy courts across the Nation have escalated sharply. The Southern District of Illinois is certainly no exception. In fact, the number of filings in this district, which has just one bankruptcy judge—Judge Kenneth J. Meyers—has almost tripled over the last 10 years.

Just yesterday the U.S. Judicial Conference approved a new standard for evaluating requests for additional bankruptcy judgeships. Under this new standard, the Judicial Conference will examine a variety of factors related to the court's workload and determine the average weighted case hours worked by the judges in the district.

According to the Administrative Office of the U.S. Courts, the average weighted case hours per judge in the U.S. bankruptcy courts is 1,254 hours. Under this standard, the Judicial Conference believes that the creation of an additional bankruptcy judgeship may be authorized when the average weighted case hours in a district exceeds 1,500 hours per judge.

Currently there is only one bankruptcy court in the Southern District of Illinois. The judge for that district holds court in four locations in southern Illinois—East St. Louis, Alton, Mt. Vernon, and Effingham. The sole bankruptcy judge in the southern district, Judge Kenneth J. Meyers, has 1,655 weighted case hours—well over the national average and in excess of the 1,500 weighted hours that warrant the creation of an additional bankruptcy judgeship.

Mr. President, there is no sign that the upward trend of bankruptcy case filings in the southern district will abate. The weighted case hours, coupled with the amount of travel involved in the district, create a critical need for an additional bankruptcy judge for the citizens of southern Illinois.

I urge my colleagues' prompt and favorable consideration of this legislation.●

● Mr. DIXON. Mr. President, I rise today, with my distinguished colleague and warm friend, PAUL SIMON, to introduce legislation creating an additional bankruptcy judgeship for the Southern District of Illinois.

Justice is best served when the system is able to deal effectively and efficiently with the cases before it. The Southern District of Illinois, unfortunately, is overwhelmed with cases, and is therefore, not able to serve the people effectively or efficiently. The problem is not with the judge and staff of the southern district. They are doing Yeoman's service. The problem, simply put, is another judge is needed to handle the ever growing caseload.

Mr. President, the Southern District of Illinois encompasses 38 counties, constituting over 15,000 square miles. It is larger than the States of Massachusetts, Connecticut, Rhode Island and Delaware combined. Yet, there is only one judge for this sprawling area.

Judge Kenneth Meyers, the sole bankruptcy judge in the district, hears cases in East St. Louis, Alton, Mt. Vernon, and Effingham, IL. He is constantly on the road. While he sometimes gets a hand from two retired judges, their continued service is by no means assured.

One of the criteria for an additional bankruptcy judgeship is the caseload in a district. According to the Administrative Office of the U.S. Courts, the average weighted caseload hours per bankruptcy judge in the United States is 1,254 hours. The tentative standard for the authorization of an additional position is 1,500 weighted hours per bankruptcy judge. The Southern District of Illinois had a total of 1,655 weighted hours in 1990, clearly above and beyond the tentative standard.

The current heavy caseload is not an aberration, Mr. President. The caseload in the district has grown consistently over the last 10 years, while there remains only one judge. In 1981, over 1,400 bankruptcy petitions were filed in the southern district. In 1990, the number of petitions had ballooned to over 3,800. There may be no other one-judge district in the country with a higher number of filings.

Further, the Southern District of Illinois has a higher total caseload than 13 of the 29 bankruptcy court districts with two judges. Mr. President, the time for redress of this problem is now.

There is a process for judges to follow in order to request an additional judgeship. A number of factors other than weighted case hours are considered by the Administrative Office of the U.S. Courts, which ultimately makes recommendations for additional judgeships. The southern district is pursuing a favorable recommendation from the administrative office for an additional bankruptcy judgeship.

However, it may be fall before the next recommendations are made for additional judgeships. The evidence in favor of an additional bankruptcy judgeship for the Southern District of Illinois is clear and convincing.

The burden of Judge Meyers must be alleviated. The band-aid solutions employed to date will not solve the problem. An additional judgeship is needed in short order for justice to be served, and served well.

I urge my colleagues' favorable consideration of this legislation at the earliest opportunity.●

By Mr. HEFLIN:

S.J. Res. 93. Joint resolution to designate the period of September 13, 1991, through September 19, 1991, as "National Ballroom Dance Week"; to the Committee on the Judiciary.

NATIONAL BALLROOM DANCE WEEK

● Mr. HEFLIN. Mr. President, today I rise to introduce a joint resolution to designate this week of September 13 to September 19, 1991, as "National Ballroom Dance Week."

The origin of dance dates back to primitive man as he made dancing the expression of emotion. Recorded history shows us that there was no civilization that did not know of dancing. Egyptians, Hebrews, Assyrians, Hindus, Romans, and Greeks all danced. The Greeks held dancing in high esteem, and from there the Romans continued the development of dancing. The Roman fancies introduced the world to a new age of leisure and irresponsibility through their celebrations of dance.

"Le Bal Des Ardents" was one of the first great, recorded celebrations which occurred in the late 14th century. From this time point on, numerous grand ball celebrations continued the gayety of dance: The Grande Fete D'Amour at Versailles, the Jubilee Masquerade at Ranclagh, and the Sultan's Ball at Constantinople to name a few.

Today people continue to dance and mainly for one reason: enjoyment. Social dancing is one of the main forms of interaction in our society. From the early Basse, Paranes, and Quadrille dances, today's society has the Swing, Fox-Trot, Cha-Cha, and the ever beautiful Waltz.

Ballroom dancing has been around in various forms since early civilization and it has been a crucial factor in the development of mankind. Numerous groups have increased the interest in the Tango, the Lindy, and the Rumba in the past few years, and I believe it is important to commemorate this grand form of dance with its own special week of recognition.

Mr. President, I ask my fellow Senators to join their fun-loving constituents of the big band era and those of more current times that cherish the frivolity of ballroom dancing in sponsoring National Ballroom Dance Week.●

ADDITIONAL COSPONSORS

S. 10

At the request of Mr. DOLE, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 10, a bill to amend title II of the Social Security Act to phase out the earnings test over a 5-year period for individuals who have attained retirement age, and for other purposes.

S. 88

At the request of Mr. DURENBERGER, the names of the Senator from South Carolina [Mr. HOLLINGS] and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of S. 88, a bill to amend the Internal Revenue Code of 1986 to make permanent the deduction for health insurance costs for self-employed individuals.

S. 89

At the request of Mr. DURENBERGER, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 89, a bill to amend the Internal Revenue Code of 1986 to permanently increase the deductible health insurance costs for self-employed individuals.

S. 153

At the request of Mr. COATS, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 153, a bill to authorize States to regulate certain solid waste.

S. 160

At the request of Mr. MCCAIN, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 160, a bill to extend the period of unemployment compensation for individuals involuntarily separated from the Armed Forces.

S. 205

At the request of Mr. GLENN, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 205, a bill to amend title 5, United States Code, to equalize the treatment of members of the Armed Forces of the United States and former employees of the Federal Government for purposes of eligibility for payment of unemployment compensation for Federal service.

S. 223

At the request of Mr. MCCONNELL, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 223, a bill to amend the National School Lunch Act to extend eligibility for reimbursement for meal supplements for children in afterschool care, and for other purposes.

S. 224

At the request of Mr. MCCONNELL, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 224, a bill to amend the National School Lunch Act to modify the criteria for determining whether a private organization providing nonresidential day care services is considered an institution under the child care food program, and for other purposes.

S. 242

At the request of Mr. GLENN, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 242, a bill to amend the Ethics in Government Act of 1978 to modify the rule prohibiting the receipt of honoraria by certain Government employees, and for other purposes.

S. 250

At the request of Mr. FORD, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 250, a bill to establish national voter registration procedures for Federal elections, and for other purposes.

S. 280

At the request of Mr. DOLE, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 280, a bill to provide for the inclusion of foreign deposits in the deposit insurance assessment base, to permit inclusion of non-deposit liabilities in the deposit insurance assessment base, to require the FDIC to implement a risk-based deposit insurance premium structure, to establish guidelines for early regulatory intervention in the financial decline of banks, and to permit regulatory restrictions on brokered deposits.

S. 284

At the request of Mr. LIEBERMAN, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 284, a bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of payments under life insurance contracts for terminally ill individuals.

S. 310

At the request of Mr. PELL, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 310, a bill to provide for full statutory wage adjustments for prevailing rate employees, and for other purposes.

S. 349

At the request of Mr. BUMPERS, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of S. 349, a bill to amend the Fair Labor Standards Act of 1938 to clarify the application of such Act, and for other purposes.

S. 384

At the request of Mr. MCCAIN, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 384, a bill to delay the effective date of reductions in the CHAMPUS mental health benefit, and for other purposes.

S. 396

At the request of Mr. WIRTH, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 396, a bill to amend the Solid Waste Disposal Act to require producers and importers of tires to recycle a certain percentage of scrap tires each year, to require the Administrator of the Environmental Protection Agency to establish a recycling credit system for carrying out such recycling requirement, to establish a management and tracking system for such tires, and for other purposes.

S. 403

At the request of Mr. WALLOP, the names of the Senator from Maine [Mr. COHEN], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of S. 403, a bill to clarify the intent of Congress with respect to establishment and collection of certain fees and charges.

S. 457

At the request of Mr. DODD, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 457, a bill to provide for a National Board for Professional Teaching Standards.

S. 470

At the request of Mr. KOHL, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 470, a bill to amend the Agricultural Act of 1949 to repeal the reduction in the milk price support for calendar year 1992.

S. 493

At the request of Mr. KENNEDY, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 493, a bill to amend the Public Health Service Act to improve the health of pregnant women, infants and children through the provision of comprehensive primary and preventive care, and for other purposes.

S. 511

At the request of Mr. DODD, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 511, a bill to establish programs to improve foreign instruction and to amend the Higher Education Act of 1965 in order to promote equal access to opportunities to study abroad, and for other purposes.

S. 544

At the request of Mr. HEFLIN, the names of the Senator from Idaho [Mr. CRAIG], the Senator from South Carolina [Mr. THURMOND], the Senator from Georgia [Mr. NUNN], the Senator from Arkansas [Mr. PRYOR], the Senator from Idaho [Mr. SYMMS], the Senator from Texas [Mr. BENTSEN], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 544, a bill to amend the Food, Agriculture, Conservation and Trade Act of 1990 to provide protection to animal research facilities from illegal acts, and for other purposes.

S. 565

At the request of Mr. WARNER, the names of the Senator from Utah [Mr. GARN], the Senator from Idaho [Mr. CRAIG], the Senator from Oregon [Mr. PACKWOOD], the Senator from California [Mr. SEYMOUR], the Senator from Texas [Mr. GRAMM], the Senator from Mississippi [Mr. COCHRAN], the Senator from Connecticut [Mr. DODD], the Senator from Michigan [Mr. RIEGLE], the Senator from Oklahoma [Mr. BOREN], the Senator from Illinois [Mr. SIMON], the Senator from Maryland [Mr. SARBANES], the Senator from Rhode Island [Mr. PELL], the Senator from New York [Mr. D'AMATO], the Senator from Wyoming [Mr. SIMPSON], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Washington [Mr. GORTON], the Senator from Tennessee [Mr. SASSER], the Senator from Florida [Mr. GRAHAM], the Senator from New York [Mr. MOYNIHAN], the Senator from North Carolina [Mr. SANFORD], the Senator from South Dakota [Mr. PRESSLER], the Senator from Missouri [Mr. BOND], the Senator from New Mexico [Mr. DOMENICI], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Delaware [Mr. ROTH], the Senator from Washington [Mr. ADAMS], the Senator from Arizona [Mr. DECONCINI], the Senator from Virginia [Mr. ROBB], the Senator from California [Mr. CRANSTON], and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 565, a bill to authorize the President to award a gold medal on behalf of the Congress to Gen. Colin L. Powell, and to provide for the production of bronze duplicates of such medal for sale to the public.

S. 567

At the request of Mr. SANFORD, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 567, a bill to amend title II of the Social Security Act to provide for a gradual period of transition (under a new alternative formula with respect to such transition) to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 as such changes apply to workers born in years after 1916 and before 1927 (and related beneficiaries) and to provide for increases in such workers' benefits accordingly, and for other purposes.

S. 575

At the request of Mr. LAUTENBERG, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 575, a bill entitled "Radon Testing for Safe Schools Act."

SENATE JOINT RESOLUTION 69

At the request of Mr. RIEGLE, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of Senate Joint Resolution 69, a joint resolution to designate the week commencing May 5, 1991, through May 11, 1991, as "National Correctional Officers Week."

SENATE RESOLUTION 53

At the request of Mr. MITCHELL, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of Senate Resolution 53, a resolution expressing the sense of the Senate that the United States should take a leadership position in calling for worldwide carbon dioxide emissions reductions at the first meeting of the Intergovernmental Negotiating Committee on a Framework Convention on Climate Change to be held in Washington, DC, on February 4–14, 1991.

SENATE RESOLUTION 72

At the request of Mr. KASTEN, the names of the Senator from Arizona [Mr. MCCAIN], the Senator from Maine [Mr. COHEN], the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of Senate Resolution 72, a resolution to express the sense of the Senate that American small businesses should be involved in rebuilding Kuwait.

SENATE RESOLUTION 76

At the request of Mr. SPECTER, the names of the Senator from Indiana [Mr. COATS], the Senator from Illinois [Mr. DIXON], the Senator from Nebraska [Mr. KERREY], the Senator from Hawaii [Mr. AKAKA], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Arizona [Mr. DECONCINI], and the Senator from Idaho [Mr. CRAIG] were added as cosponsors of Senate Resolution 76, a resolution to encourage the President of the United States to confer with the sovereign state of Kuwait, countries of the coalition or the United Nations to establish an International Criminal Court or an International Military Tribunal to try and punish all individuals, including President Saddam Hussein, involved in the planning or execution of crimes against peace, war crimes, and crimes against humanity as defined under international law.

SENATE RESOLUTION 77

At the request of Mr. D'AMATO, the names of the Senator from New Jersey [Mr. BRADLEY], the Senator from Utah [Mr. GARN], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of Senate Resolution 77, a resolution concerning mass transit programs.

SENATE RESOLUTION 78—DISAPPROVING THE REQUEST OF THE PRESIDENT FOR EXTENSION OF FAST TRACK PROCEDURES UNDER THE OMNIBUS TRADE AND COMPETITIVENESS ACT AND THE TRADE ACT

Mr. HOLLINGS (for himself, Mr. BYRD, Mr. FORD, Mr. CONRAD, Mr. HELMS, Mr. THURMOND, Mr. INOUYE, Mr. HEFLIN, Mr. SANFORD, Mr. AKAKA, Mr. WELLSTONE, Mr. SHELBY, Mr. SASSER, Mr. JOHNSTON, and Mr. BURDICK) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 78

Resolved, That the Senate disapproves the request of the President for the extension, under section 1103(b)(1)(B)(i) of the Omnibus Trade and Competitiveness Act of 1988, of the provisions of section 151 of the Trade Act of 1974 to any implementing bill submitted with respect to any trade agreement entered into under section 1102 (b) or (c) of such Act after May 31, 1991, because sufficient tangible progress has not been made in trade negotiations.

• Mr. SANFORD. Mr. President, I am pleased to be a cosponsor of the resolution offered by the gentleman from South Carolina which calls for the disapproval of fast track procedures under the Omnibus Trade and competitiveness Act of 1988 and the Trade Act of 1974.

First, I want to thank my colleague, the gentleman from South Carolina, for his leadershp on this issue and for raising it at this time. Senator HOLLINGS and I share many common interests and without a doubt the stability and well-being of textile and apparel workers in our respective States is foremost among them.

North Carolina is the largest fiber, textile and apparel State in the country with over 350,000 workers. We are proud of our record, proud of this industry and determined to ensure that any trade policy that is adopted recognizes and treats fairly this essential segment of our economy.

The textile industry has always played an important role in basic manufacturing in the United States. With 2.2 million workers and an annual payroll of $25 billion, the U.S. textile and apparel industry has more employees than our steel and auto industries combined, and serves as the largest manufacturing employer of women and minorities. It is unfortunate that this vital and important industry has been suffering. With the end of the 1980's, orders for domestic textiles are at their lowest level in several years, employment is down and plants have closed. In North Carolina alone 391 plants have closed and over 47,000 employees have been let go in the last decade.

My colleagues have heard me speak of my grave concern for these textile and apparel workers on many occasions. The industry attributes much of its decline to the unrestricted flow of imported textiles, apparel, and footwear into the United States. Indeed, imports have captured huge portions of both the apparel and footwear markets in the United States. Since 1980, imports have virtually doubled their claims on this country's market. In 1980, imports already accounted for 28 percent of the market, but they now account for 59 percent of the market. That number represents an alarming statistic. Equally disturbing is the fact that the United States now imports 2.3 billion more in textiles and apparel than we export. Imports continue to surge while the domestic market remains stable at a 1-percent growth level. As a result, U.S. profits are down by 71 percent. We cannot let this invasion of foreign textiles continue, as the textile industry is vital to the American economy. The American people cannot afford to lose an industry that contributes $46 billion annually to the U.S. gross national product. And, the people of North Carolina cannot continue to suffer the loss of textile plants and workers as they have.

It is with these concerns in mind that I approach the request for fast track approval. I do not dispute efforts to improve the economic outlook for all Americans. I, too, am distressed that our proud country has moved, in only a short period of time, from a creditor to a debtor nation, from a net exporter to an importer, and from a stockpiler of trade surpluses to an accumulator or deficits. But let us not rush head-long into action, any action before we have had the opportunity to ensure that what we do works to the benefit of the country and not to its ultimate detriment—that what we do helps our workers and manufacturing and does not hurt them, that the road to recovery is not only paved with good intentions but realized actual benefits. I support the resolution of my colleague because I am not convinced at this juncture that fast track approval is necessary. I want to reserve my judgment, to keep an open mind about this process toward achieving these trade agreements and whether on balance what is achieved through negotiations is ultimately toward the good.

We have as recently as last Friday been asked by the President to extend fast track procedures for the implementation of international trade agreements for a period of 2 years. While the extension would apply to any bill implementing trade negotiations, this request particularly focuses on the Uruguay round of the GATT negotiations. At stake in these multilateral negotiations may well be the continued viability of an entire industry. I am very concerned about the plight of the textile industry in this country. Agreement in principle on a phaseout of the multifiber arrangement and integration of textiles into the GATT system of liberal trade rules could aggravate an already volatile and fragile situation doing serious disservice to an entire industry.

Fast track procedures are also specifically spoken of with regard to a free trade agreement with Mexico and Canada, and the pursuit of trade objectives of the enterprise for the Americas initiative. The Mexico Free Trade Agreement, like GATT, raises many sensitive issues. Differentials in labor standards and wages between our two countries are a major concern. Implementation and enforcement of environmental standards may also confer competitive disadvantages to American business. It is true that improving the standard of living in Mexico is needed in order to improve that country's purchasing power. Ultimately a rise in the Mexican standard of living is in America's interest. The question is whether fast track is the appropriate mechanism to provide the greatest benefit to our industry and our wage earners.

The fast track procedure would require the Congress to vote up or down on legislation submitted by the President to implement the agreement without amendment. I am supporting the resolution to deny fast track. Critics may argue that the fast track procedures are designed to give our trading partners some confidence that what is negotiated will stand up once the negotiators leave the table. That may be true. But, why must we be asked to accord a more preferred status to a trade agreement than is allowed under an arms control treaty? In that latter instance the Congress may exercise its authority to offer reservations, among other things. Is there not enough confidence in the Congress to act responsibly with a trade agreement?

Voting against fast track procedures is not a vote against foreign trade negotiations. It is not a vote against free trade. Moreover, it is not a vote that will blow up the GATT negotiations, or derail the opportunity to discuss a trade agreement with Mexico, or cause harm to the enterprise for the Americas initiative. To the contrary, it is a vote that recognizes how much has been lost already in the interests of foreign trade. Before we stand to lose anymore let us just take time to consider what it is we are doing. Let us not agree merely to say we have agreed.

I strongly urge my colleagues to join me in support of the Hollings resolution to disapprove fast track procedures under the Omnibus Trade and Competitiveness Act of 1988 and the Trade Act of 1974.●

Mr. THURMOND. Mr. President, I rise today to join with Senator HOLLINGS and others in submitting a resolution which will deny the extension of the fast track procedures for congressional consideration of trade agreements which was recently requested by the administration.

Mr. President, since 1986, the previous and current administration has been negotiating the Uruguay round of the General Agreements on Tariffs and Trade, known as GATT. The negotiators have worked to improve trade rules that had been implemented in the seven previous GATT rounds. The major areas of negotiations have focused on agricultural trade, services and trade related to foreign investment, as well as protection of intellectual property rights. In 1988, Congress most recently approved fast track procedures which prevent Congress from amending trade agreements submitted for approval. The current authority for fast track procedures expires on May 31, 1991, and the administration has requested a 2-year extension. Approval of this extension is granted unless either body of Congress passes a resolution denying fast track procedures.

Mr. President, while the current trade negotiations may be helpful to some of the industries of this country, they will be devastating to the domestic textile industry. It is estimated that over the 10-year phaseout period of the multifiber arrangements, as proposed in the GATT talks, the domestic textile and apparel industry could lose as many as 1.4 million jobs. Further, the industry could lose two-thirds of its production capacity. Some sectors of the textile industry would also be opened to unrestricted imports immediately, so they would not have the phase out period to adjust to the agreement.

Mr. President, during the last 10 years—and these figures are important, and I wish my colleagues would please read them—the national textile and appeal industry has lost approximately 400,000 jobs. Further, 332 textile plants were closed, with 174 of these plants located in South Carolina. According to the U.S. Department of Labor, South Carolina lost 2,600 textile jobs during 1989. In the last year, South Carolina lost 5,400 jobs in the textile industry and 4,000 jobs in the apparel industry. From 1980 to 1990, South Carolina lost 42,643 jobs in the textile and related industries. The work force in South Carolina for the textile and apparel industry has decreased almost 10 percent since 1980. All of these lost jobs and disruptions have occurred with our current trade laws and policy. The proposed changes included in GATT will have an even more detrimental effect on this most important industry.

The textile industry is essential to the economy and the national security of this Nation. This industry is second only to steel in its importance to our National Security. Our domestic textile industry is not at the capacity it should be to produce the goods needed for such a large scale operation as we recently experienced in the Persian Gulf. During this operation, some sectors of the domestic textile industry were working several shifts just to produce the necessary items. This industry can ill afford to provide the same service if more workers are fired and textile mills are closed.

Mr. President, we cannot allow ourselves to become dependent upon foreign countries for the basic requirements of our Armed Forces. While most people think of uniforms and footwear as textile industry products used by the military, many other essential products are produced by this industry. The textile industry supplies the military with tents, canvas, ammunition powder bags, parachutes, and many other items.

Mr. President, the textile industry has continued to suffer from increased imports because the American industry is not competing with foreign countries on an equal basis. If they did, then the U.S. textile and apparel industry could compete with that of any other nation. However, the domestic textile industry cannot be expected to compete or should it have to, with foreign industries that are heavily subsidized by their governments.

The current position of the United States in the GATT negotiations is harmful to the domestic textile and apparel industry. In the report submitted to Congress asking for the extension of fast track procedures, it states that the U.S. position with regard to textiles will, among other things, help ensure an orderly increase in imports. Any agreement that could force 1.3 million people to become unemployed and an industry to lose two-thirds of its production capacity is not an orderly increase.

Mr. President, imports have already caused much damage to the domestic textile and apparel industry. We cannot allow this industry to be further harmed by the current GATT proposals. The legislation we are introducing today will not prevent consideration of the GATT agreement. It will simply take the agreement off the fast track procedures so that provisions with regard to individual industries may be considered separately rather than as one package.

Mr. President, I urge my colleagues to give this measure their careful consideration and to join in working for its swift enactment.

SENATE RESOLUTION 79—AUTHORIZING PRINTING OF THE REPORT ENTITLED "DEVELOPMENTS IN AGING, 1990"

Mr. PRYOR submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 79

Resolved, That there shall be printed for the use of the Special Committee on Aging the maximum number of copies of volumes 1 and 2 of its annual report to the Senate, entitled "Developments in Aging: 1990", which may be printed at a cost not to exceed $1,200.

SENATE RESOLUTION 80—AUTHORIZING TESTIMONY BY A SENATE EMPLOYEE

Mr. NUNN (for Mr. MITCHELL, for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 80

Whereas in the case of *Tennessee* v. *Ralph Hutchinson*, No. 9100652MMACI, and related cases, pending in the General Sessions Court of Knox County in the State of Tennessee, Keith Hill, an employee in Senator Gore's Knoxville office, has been subpoenaed by the state of Tennessee to testify at trial;

Whereas by the privileges of the Senate of the United States and rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas when it appears that testimony by a Senate employee may be needed in any court for the promotion of justice, the Senate will act to promote the ends of justice in a manner consistent with the provileges and rights of the Senate: Now, therefore be it

Resolved, That Keith Hill, and any other employee in Senator Gore's office who may be asked, is authorized to testify in the case of *Tennessee* v. *Hutchinson*, and related cases, except concerning matters for which a privilege should be asserted.

SENATE RESOLUTION 81—COMMENDING THE BALTIC STATES FOR THEIR EFFORTS TO REGAIN INDEPENDENCE

Mr. BRADLEY (for himself, Mr. BIDEN, Mr. HATCH, Mr. RIEGLE, and Mr. LEVIN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 81

Whereas the United States has never recognized the illegal annexation of the Baltic states of Estonia, Latvia, and Lithuania by the Soviet Union as a result of the 1939 Pact between Hitler and Stalin;

Whereas the Baltic states have recently completed plebiscites to determine the extent of public support for their independence, and such plebiscites were conducted freely and fairly according to observers who monitored the voting;

Whereas the overwhelming majority of people in each Baltic state expressed support for independence;

Whereas support and eventual recognition of legitimate governments would be consistent with the long-standing United States policy of not recognizing the forcible annexation of Estonia, Latvia, and Lithuania in 1940; and

Whereas the United States can take useful steps toward recognition by establishing United States Government offices in the Baltic states to facilitate diplomatic relations, technical assistance, cultural exchanges, and other mutually beneficial programs: Now, therefore, be it

Resolved, That the Senate—

(1) commends the governments and peoples of the Baltic states on their use of democratic processes to regain their independence; and

(2) urges the President, if so requested by the government of any Baltic state, to establish offices in that state to facilitate diplomatic relations, technical assistance, cultural exchanges, and other mutually beneficial programs.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

• Mr. BRADLEY. Mr. President, already several times this year this body has turned its attention away from our men and women winning the war against Iraqi aggression and responded to the unfolding crisis in the Baltic States. Clearly, those who planned and executed the violent repression in Lithuania and Latvia hoped that we would be too preoccupied to oppose them or that we would be too inhibited by the Soviet Union's qualified support for the coalition. Instead, we pointed out that the principles which the President invoked in defending Kuwait apply as well to the Baltics. There too, we saw small nations invaded and occupied by their larger, repressive neighbors.

I introduced the first resolution late on the night of January 11, 1991, condemning the Soviet action which had just begun. Together we also adopted a second resolution calling for a review of our economic assistance to the Soviet Union in light of the occupation. In addition, many of my colleagues made very strong and eloquent statements about the situation here on the floor of the Senate.

The Senate's actions had an important impact on the situation. Many of us have met with representatives of the Baltic States and Russian and Soviet democrats over the last year. All the ones I have talked to have told me that our resolutions, our attention to the problem, our efforts to find tools in American foreign policy, have slowed the Soviet repression. Conservative forces in the Soviet Union, I have heard from many sides, are not restrained by domestic voices of reason, democracy, and morality. They do however, look abroad, and gauge the limits of what they can do by the reaction of democratic bodies with the will and power to counter their moves, like the U.S. Senate.

The time has come to put substance behind our words. Over the years we heard from Baltic leaders who have told us about the need for self-determination and the desire of the people for democracy and independence. Now, after free and fairly conducted plebiscites in all three Baltic States, we have heard from the Baltic people. In each country, an overwhelming majority voted for independence, and support for independence and self-determination came from every ethnic group.

In Lithuania, 76 percent of the eligible voters participated and 90 percent of those voted for independence;

In Latvia, 88 percent of eligible voters participated and 74 percent of those voted for independence; and

In Estonia, 83 percent of eligible voters participated and 74 percent of those voted for independence.

We now have the opportunity to give substance to the longstanding policy of not recognizing the annexation of these nations by the Soviet Union and to show our support for the expressed will of the Baltic people for independence.

This resolution calls on the President to establish offices in the Baltic States to facilitate technical assistance, to help educational exchange programs, and other mutually beneficial programs. This step is diplomatically important because it sends the Soviet Union the message that the Baltic States have the rights and protections which should be accorded to all countries.

It is substantively important as well. The United States is working to encourage democratic and market institutions in the Baltic States and the Soviet Union. We can best do that by having offices in the Baltic States. Those offices can help arrange educational exchanges so that our students can study in the Baltics, and young women and men from the Baltics can come here and study our system and way of life and share their experiences in their homeland. Offices that can be conduits for the many private initiatives like the ones that are already flowing to the new democracies in central Europe. The State Department has already begun to take steps in this direction by working through private voluntary organizations to direct donated medical assistance to the Baltic States, as well as the Ukraine.

While calling on the President to take these useful steps, this resolution also recognizes the constraints that are imposed by the continuing Soviet occupation. Full recognition is not possible as long as the Baltic States don't control their borders, don't have the authority to grant visas and are still in the process of self-determination.

While the Baltic States enjoy a special status under international law, we should not forget that other republics of the Soviet Union are also struggling to redefine their relationship with the Soviet Union.

Georgia deserves special mention because it was the first Soviet Republic to suffer brutal military repression in recent years. Tanks, gas, and sharpened shoves were used to break up a peaceful protest in the central square of Tbilisi on April 9, 1989. The bloodshed and deaths were even greater than in the Baltics, and Georgia's quest for freedom and independence has been thwarted by the same sorts of lies, covert activities, economic pressures, and other coercive techniques that the Soviets have used against the Baltics independence movements. For instance, the Soviets have been interethnic strife, including inciting armed opposition to the Georgian Governments by Ossetian separatists in the north and Abkhozian nationalists in the west.

A democratically elected government in Tbilisi has been striving to keep these centrally instigated tensions and provocations from escalating into much more violent and bloody conflict. It has scheduled a plebiscite of its own on independence on March 31, and we will be paying close attention to how it is conducted and its results.

Mr. President, I urge all my colleagues to join me in urging the President to take this step in the Baltics. It is important not only as an expression of our intent to see the process of democratization, reform and self-determination continue in the Baltic States and the Soviet Union, they will serve as a marker for other legislation that deals with Eastern Europe and the emerging democracies of Europe that I hope my colleagues on the Foreign Relations Committee will be working to complete this year. I have been a strong supporter of aid for countries that are struggling with the difficult transition to democracy. I continue to support measures which target countries that have made the commitment to democracy for U.S. assistance. There is no better investment than an investment in democracy.●

AMENDMENTS SUBMITTED

DEPARTMENT OF DEFENSE DESERT STORM SUPPLEMENTAL AUTHORIZATION AND MILITARY PERSONNEL BENEFITS ACT

WARNER AMENDMENT NO. 30

Mr. WARNER proposed an amendment to the bill (S. 578) to authorize supplemental appropriations for fiscal year 1991 for the Department of Defense for Operation Desert Storm, to provide military personnel benefits for persons serving during Operation Desert Storm, and for other purposes, as follows:

At an appropriate place in the bill, insert the following new section:

(a) FINDINGS.—Congress makes the following findings:

The growing proliferation of ballistic missile technology and weapons of mass destruction clearly represent an increasing threat to our forces overseas, as witnessed in the Persian Gulf war.

According to the Director of Central Intelligence, William Webster, by the end of the century 15 to 20 developing countries will be capable of producing ballistic missile capabilities; at least six developing countries will have ballistic missiles with ranges over 2,000 miles, of which, at least three of them may develop missiles with ranges of over 3,400 miles that, in some cases, could threaten the United States.

The devastation and loss of life from ballistic missile attacks was evident in the Scud attacks against Saudi Arabia and Israel.

The concern of widespread ballistic missile proliferation is compounded by growing ethnic unrest and political instabilities in the Soviet Union which could increase the possibilities of unauthorized or accidental use of ballistic missiles.

The SDI Program has made remarkable progress in the research of technologies aimed at defending against ballistic missiles.

While the demise of the Warsaw Pact represents a major favorable change in the United States-Soviet relationship, the Soviet Union nonetheless remains, at the present time, the only country that has the nuclear and ballistic missile capability to threaten the United States.

Despite its enormous economic difficulties, the Soviet Union is continuing its relentless strategic offensive and defensive modernization program within the currently defined numerical START limits.

The ABM Treaty of 1972 was negotiated under a significantly different world situation and state of technology than the United States faces today.

Article 5 of the ABM Treaty of 1972 prohibits the development, testing, and deployment of those ABM systems or components described in article 2, which are sea-based, air-based, space-based, or mobile land-based.

Continuing restrictions on the development and testing of ABM systems unduly restricts effective demonstration of ballistic missile defense technology and unnecessarily complicates ABM experiments, which results in added risk to the program schedule and increased cost to taxpayers.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) The United States, its forces, its friends and allies face a growing threat from ballistic missile strikes.

(2) It is in the national interest of the United States to protect the United States, its friends and allies and United States forces overseas from ballistic missile strikes.

(3) It is in the national interest of the United States to be permitted to develop and test ballistic missile defense systems and components, without restriction as to mode or environment, and therefore the administration should negotiate and sign with the Soviet Union, within two years or less, an agreement which would clearly remove any limitations on the United States having effective defenses against ballistic missiles.

(4) During the period described in clause (3), in expectation that such an agreement will be signed, the Secretary of Defense should undertake preparations for the development and testing of systems and components designed to defend the United States and its armed forces, wherever deployed, from ballistic missiles even though some of the actual development and testing may not be permitted by the ABM Treaty of 1972.

(5) If such an agreement is not reached within the period described in clause (3), the President should make immediately a determination as to whether continuing United States adherence to the terms of the ABM Treaty of 1972 is in the United States national interest, and should immediately thereafter advise Congress of such a determination.

NUNN (AND OTHERS) AMENDMENT NO. 31

Mr. NUNN (for himself, Mr. HEFLIN, Mr. SHELBY, Mr. DIXON, Mr. BINGAMAN, Mr. LEVIN, and Mr. KENNEDY) proposed an amendment to amendment No. 30 proposed by Mr. WARNER to the bill S. 578, supra, as follows:

In the pending amendment, strike out all after "(a)" and insert in lieu thereof the following:

PROCUREMENT OF NEW PATRIOT MISSILES.—Of the amounts authorized to be appropriated to the Army for procurement of missiles for fiscal year 1991, $224,000,000 shall be available for the procurement of Patriot missiles and Patriot fire units. Such amount is in addition to amounts otherwise made available for the procurement of such items for fiscal year 1991 by this Act or any other Act.

(b) ACCELERATION OF RESEARCH AND DEVELOPMENT FOR NEAR-TERM ANTI-BALLISTIC MISSILE DEFENSES.—Of the amounts authorized to be appropriated to the Department of Defense for the Strategic Defense Initiative for fiscal year 1991, $487,000,000 shall be available for ground-based sensors and interceptors designed for early deployment to protect the United States against attack by strategic ballistic missiles, as follows:

(1) For E2I (project 2203), $95,000,000.

(2) For exoatmospheric interceptor GBI-X (project 2202), $142,000,000.

(3) For ground-based radar (project 2104), $150,000,000.

(4) For ground surveillance and tracking systems (project 2103), $100,000,000.

(c) ADMINISTRATIVE ADJUSTMENT OF INITIAL FY91 SDI ALLOCATIONS.—(1) The Secretary of Defense shall adjust—

(A) the initial FY91 SDI allocation for each Strategic Defense Initiative program, project, or activity referred to in subsection (b) in accordance with such subsection; and

(B) subject to paragraph (3), the initial FY91 SDI allocation for the other Strategic Defense Initiative programs, projects, and activities as necessary to ensure that the total amount allocated among the Strategic Defense Initiative programs, projects, and activities for fiscal year 1991 after such adjustments are made does not exceed the total amount of the initial FY91 SDI allocations for all Strategic Defense Initiative programs, projects, and activities.

(2) In making adjustments under paragraph (1)(B), the Secretary shall ensure that each adjustment to a program, project, or activity is proportional to that program, project, or activity's share of the total amount to be adjusted.

(3) In making adjustments under this subsection, the Secretary shall not adjust—

(A) any initial FY91 SDI allocation of $20,000,000 or less; or

(B) the initial FY91 SDI allocation for any program, project, or activity listed under the heading "Theater and ATBM Defenses" in the FY91 SDI allocation report.

(4) In this subsection:

(A) The term "initial FY91 SDI allocation", with respect to a program, project, or activity of the Strategic Defense Initiative, means the amount of the funds appropriated for the Strategic Defense Initiative for fiscal year 1991 that has been allocated to such program, project, or activity, as contained in the FY91 SDI allocation report.

(B) The term "FY91 SDI allocation report" means the report, dated February 4, 1991, that was submitted by the Under Secretary of Defense to the congressional defense committees pursuant to section 221(c)(4) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1513).

NOTICES OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee will hold a full committee hearing on Wednesday, March 20, 1991, on the Small Business Administration's Small Business Investment Companies [SBIC] Program. The focus of the hearing will be the status of proposed and new regulations for the SBIC Program as well as the overall posture of the program. The hearing will take place in room 428A of the Russell Senate Office Building and will commence at 9:30 a.m. For further information, please call John Ball, staff director of the Small Business Committee at 224-5175.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON SECURITIES

Mr. NUNN. Mr. President, I ask unanimous consent that the Securities Subcommittee of the Committee on Banking, Housing and Urban Affairs be allowed to meet during the session of the Senate Wednesday, March 13, 1991, at 9:30 a.m. to conduct a hearing on State and local governments under stress and the role of the capital markets.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. NUNN. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, March 13, 1991, at 9:30 a.m., to receive testimony on the following congressional election campaign finance reform proposals: S. 3, S. 6, S. 7, S. 53, S. 91, S. 128, S. 143, S. 294, and Senate Resolution 70. Witnesses include Senator PACKWOOD, Senator DOMENICI, Senator NICKLES, Mr. John McGinnis of the U.S. Department of Justice, and Mr. Norman Ornstein of the American Enterprise Institute.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SURFACE TRANSPORTATION

Mr. NUNN. Mr. President, I ask unanimous consent that the Subcommittee on Surface Transportation, of the Committee on Commerce, Science and Transportation, be authorized to meet during the session of the Senate on March 13, 1991, at 2 p.m. on reauthorization of the Motor Carrier Safety Assistance Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. NUNN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, March 13, at 10 a.m. to hold a hearing on post war issues in the Middle East.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. NUNN. Mr. President, I ask unanimous consent that the Special Committee on Aging, be authorized to meet during the session of the Senate on Wednesday, March 13, 1991, at 10 a.m. to hold a hearing to examine the effectiveness of the evaluation program for health maintenance organization [HMO's] treating Medicare recipients.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. NUNN. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Wednesday, March 13, beginning at 10 a.m., to conduct a hearing to examine and evaluate global warming and other environmental consequences of energy strategies.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY

Mr. NUNN. Mr. President, I ask unanimous consent that the Subcommittee on International Economic Policy, Trade, Oceans and Environment of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, March 13, at 2:30 p.m. to hold an overview of U.S. foreign assistance hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. NUNN. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on March 13, 1991, beginning at 9:30 a.m., in room 485, Russell Senate Office Building, to adopt the committee rules.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. NUNN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet on March 13, 1991 at 2:30 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. NUNN. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, March 13, 1991, at 9:30 a.m., for an executive session on pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. NUNN. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Wednesday, March 13, 1991, at 9:30 a.m., on the subject: The National Association of Attorneys General Heating Fuels Report.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. NUNN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, March 13, 1991, at 2 p.m. in open session to receive testimony from the unified commands oriented to regional defense concerns on their military strategy and operational requirements, and the fiscal years 1992–93 defense authorization request and fiscal years 1992–97 future year defense plan.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. NUNN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, March 13, 1991, at 2:30 p.m., to hold a hearing on the nomination of Richard W. Goldberg, to be a judge of the U.S. Court of International Trade, Oliver W. Wanger, to be a U.S. district judge for the eastern district of California and Robin J. Cauthron, to be a U.S. district judge for the western district of Oklahoma.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

LIBRARIES FIGHT ILLITERACY

• Mr. ROCKEFELLER. Mr. President, I am proud to join my distinguished colleague from Maryland, Senator SARBANES, in fighting to protect Federal funding for our libraries, and the Library Literacy Grant Program in particular. I am cosponsoring his bill, S. 420, because I believe that we should be strongly promoting the Library Literacy Grant Program, not eliminating it as the administration's budget suggests.

One of the six education goals for the year 2000 approved by the President, is: "Every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship."

This is a vital goal, but to achieve it we will need to make a serious commitment to strengthen literacy programs at all levels. Libraries are an essential part of our communities, and they play a vital role in promoting education and serve as natural centers for activities to combat illiteracy.

West Virginia is fortunate to have a strong network of libraries, headed by Mr. Frederic Glazer, director of the West Virginia Library Commission. Under his extraordinary leadership, our library system has established strong links with our State literacy council to lead the fight against illiteracy.

I am very proud of the work done in West Virginia libraries to combat adult literacy and would like to tell my colleagues about just one of my State's successful initiatives that was made possible, in part, by the Federal Library Literacy Grant Program.

Read my Lipps [Library Literacy Project for Parents] is an extraordinary program designed to break the cycle of illiteracy by focusing on the family, specifically, the parent and child unit. The project increases the parent's motivation by emphasizing that parents who learn to read better can help their children. Parents are taught how to read to their children and encouraged to do so on a daily basis. They are provided with books and materials so they can read to their child as they work to improve their own skills. Tutors work closely with parents to help select appropriate books, including previewing the books to help parents with pronunciation and difficult words. Children are included in this program, participating in language activities while their parents are in tutoring sessions.

The Read my Lipps Program has been initiated in Monroe County, a very rural mountainous area in my State. Forty-three percent of the households have annual incomes of less than $10,000, and 40 percent of the adults age 18 and over have not graduated from high school. The people of Monroe County truly need the Read my Lipps Program, and in its first year, the program already has wonderful success stories. Two of the students in the project have developed their reading skills well enough to be accepted into a nurse's aide program and are in GED preparation. One student obtained her driver's license by passing a written examination instead of an oral test. Another student is preparing to take his commercial driver's license test. When this student started the program several months ago, he did not know all of his letters. Now he can read many of the words and sentences in the Commercial Driver's License Manual. All of these stories are remarkable achievements, made possible in part by strong Federal support for libraries.

Libraries are cornerstones in our communities that promote education and literacy for both children and adults. I am greatly disturbed that the President's budget proposal dramatically cuts back on Federal support of libraries. I believe this is a mistake, and I am committed to pushing for full funding for our library programs.•

FIRST PRESBYTERIAN CHURCH OF NEWARK (OLD FIRST CHURCH) CELEBRATES 325TH ANNIVERSARY

• Mr. LAUTENBERG. Mr. President, I rise to pay tribute to the First Presbyterian Church of Newark, NJ, also known as Old First Church, celebrating its 325th anniversary this year.

Founded in 1666, Old First has been designated as "Newark's First Bicentennial Landmark", and an "Official New Jersey American Revolution Site." I would like to bring to my colleagues' attention some of the history of this New Jersey institution.

In 1666, Robert Treat led settlers from Connecticut attempting to establish a Puritan theocracy. He led them to lands granted by Governor Carteret and purchased from the Hackensack Indians. Thus began Newark, and its name honors its first minister, Abraham Pierson, who came from Newark-on-Trent, England.

Pierson was pastor of Old First for 23 years, and became the first president of Yale. Under Nathaniel Bowers, 1709–16, the second "meeting house" was built about 1715. Col. Josiah Ogden's effort to save his wheat on the Sabbath caused division during Josiah Webb's tenure, 1719–36, and Trinity Episcopal Church was founded in 1735 as a result.

Under Aaron Burr, whose son was Vice President and dueled with Alexander Hamilton, David Brainerd was ordained "missionary to the aborigines" and the church's rule in temporal affairs ended. Burr founded the College of New Jersey but continued as minister, and in 1756, he and the college moved to Princeton.

In 1753, the King of England granted the church its charter, and John Brainerd, brother of David, was minister from 1755 to 59. In 1775, under Alexander MacWhorter, work began on a larger church. However, this was halted by British troops following the retreating armies of Washington. The minister's books, papers, and church records were stolen or destroyed and Dr. MacWhorter fled Newark for his life. He became a chaplain, and sat with his friend George Washington when the decision was made to cross the Delaware.

In 1791, the post-war population of Newark was barely 1,200, yet the present building was completed at that time. Edward D. Griffin, 1801–09, became pastor of MacWhorter's death, and later was president of Williams College in Massachusetts.

Jonathan F. Stearns supported Lincoln during the Civil War and helped to organize Bloomfield Seminary and wrote a history of First Church. W.J. Dawson, 1912–25, added a new dimension to the church through his love of culture and music. A tradition of great music was established which continues today. William Foulkes, 1926–41, pioneered a worldwide radio ministry, and Dr. Lloyd E. Foster saw the fourth parish house and chapel completed in 1952. Under Dr. Conrad H. Massa, 1961–66, the sancturary was refurbished, and R. Lloyd George Schell became the 21st pastor of Old First following the tenure of Dr. George L. Knight.

Over the years the ministry of Old First has attracted preachers, missionaries, educators, and dedicated lay people. These committed individuals have worked hard to help establish schools, colleges, hospitals, clinics, churches, chapels, and missions.

Mr. President, I am pleased to honor Old First Church and to pay tribute to its rich history. As it celebrates its 325th anniversary, I extend heartiest congratulations to the congregation and my warmest wishes for a bright future and continued success as a dynamic force in the community of Newark.

May First Presbyterian Church of Newark continue to flourish for many more years to come.•

A TRIBUTE TO THE GEORGIA WILDLIFE FEDERATION FOR ITS SERVICE TO THE STATE OF GEORGIA

• Mr. FOWLER. Mr. President, I rise today to honor the Georgia Wildlife Federation for its most unique educational endeavor since it was founded in my home State in 1936.

The project of which I'm speaking has captured the interest of thousands of students across Georgia and, already, many have become conservation-minded and have learned how they can contribute to the preservation of natural resources.

The Georgia Wildlife Federation has published the poster "A Wish for the World" that includes 11 illustrations chosen from thousands of entries in an art contest the federation held last autumn.

These illustrations accurately depict conservation issues that, among others, include scenes of endangered animals, ozone depletion, and recycling. On the back of the poster, detailed information touching on each of the 11 conservational themes represented on the poster is provided, making it a colorful and attractive educational tool.

I am impressed by the insight and maturity of the children whose entries are included in the poster. Their drawings left me with an impression that the next generation understands that the continued depletion of our natural resources is untenable and that we must keep developing and implementing sound stewardship policies.

Historically, the Georgia Wildlife Federation has emphasized the importance of educating young people about environmental issues, giving tomorrow's leaders an understanding of their role in protecting natural resources. Through this project, the federation has once again played this all-important role in Georgia.

The level of environmental awareness shown by these students tells me that, surely, we have come a long way in educating our young people in the last few decades. Credit for that rests with the parents, instructors, and organizations that teach our children to respect and preserve our environment.

I applaud this recent effort as a most ingenious one and salute the federation for its tireless efforts in Georgia. Specifically, I would like to commend Jerry McCollum, executive vice president of the Georgia Wildlife Federation, for his recognition of the importance of meaningful educational projects in building strong environmental awareness in our children, by far the most precious of our natural resources.•

RESOLUTION TRUST CORPORATION FUNDING ACT OF 1991

• Mr. AKAKA. Mr. President, last week the Senate passed the Resolution Trust Corporation Funding Act of 1991 by a vote of 69-30. At issue was the Government's request to provide an additional $30 billion to cover losses in failed savings and loans through September 30, 1991.

I wish to explain my votes, which reflect my belief that Congress has two primary responsibilities regarding the savings and loan bailout: protect depositors and protect taxapayers. The two interests are not mutually exclusive. To protect depositors—I voted to provide the RTC with $15 billion to continue the bailout process. To protect taxpayers—I voted to reduce the bailout's cost through needed reforms to RTC operations and its financing method.

With this in mind, I voted against final passage of S. 419 because there was nothing in the measure for taxpayers. We have ample evidence that the RTC is conducting its business in a way that is increasing taxpayer costs. There were no provisions to ensure that the RTC would conduct the bailout in a more responsible or efficient manner. I could not vote for a bill where the interests of taxpayers were so completely ignored.

It is disheartening that taxpayer moneys are even needed to finance the savings and loan bailout in the first place.

In my view, the savings and loans failed in many parts of this country because they were improperly regulated and strayed too far from their original purpose of providing home mortgages. Savings and loan executives entered, often times with the encouragement of Federal regulators, into risky areas of business in which they had no expertise. At the same time, the Reagan administration cut the number of examiners—thereby increasing the Government's risk with respect to insured deposits. My views are supported by the fact that Hawaii's savings and loans are healthy because they have stayed close to home and close to their original purpose.

Equally disturbing is the way those taxpayer funds are being spent.

I 1989, I voted against providing the initial $50 billion to bail out the savings and loan industry. I did so because $30 billion of those funds were placed "off-budget" at the Bush administration's request. As a result, the taxpayers' cost was going to be more than it had to be.

Since that time, the RTC has conducted its business in a way that has also increased the taxpayers' cost more than necessary.

In a September 1990 report, the House Committee on Banking, Finance and Urban Affairs indicated that the RTC almost always pays off uninsured deposits. It was estimated that as much as $7.8 billion of uninsured deposits had been paid out by the RTC in resolving only a portion of the thrifts under its control.

A recent General Accounting Office report criticized the RTC for developing inadequate contracting procedures. It was reported that the lack of contract oversight has caused the RTC to pay its contractors in full even when there is only partial or poor performance. And, when one considers that the RTC estimates spending between $15 billion and $20 billion for contract services over the next 4 years, inadequate procedures cannot be tolerated.

According to the GAO report, over 50 percent of the assets acquired by the RTC have not been sold. As of December, 1990, the RTC had an inventory of assets valued at $144 billion. Speedier sale of these assets would reduce asset management costs and provide additional funds to cover losses—thereby saving taxpayers money.

I could not vote for an additional $30 billion for the RTC when such gross mismanagement is occurring and when opportunities for improvement have not been sought.

I supported amendments that would have allowed the resolution of failed thrifts to have proceeded and would have sent a strong signal that bureaucratic inefficiency would not be tolerated.

I supported an amendment introduced by Senators TOM HARKIN and HERB KOHL that would have reduced the appropriation for the RTC from $30 billion to $15 billion. The measure would have also required the President to accompany any additional RTC funding request with proposals for a pay-as-you-go approach to the financing of the RTC to minimize the bailout costs to middle- and low-income families.

I also supported an amendment offered by Senator BOB KERREY to restructure the RTC by replacing the two oversight boards by a single independent board of governors.

I also supported an amendment introduced by Senator BOB GRAHAM that would have provided $15 billion to the RTC for the continued resolution of failed institutions and provided another $15 billion on a dollar-for-dollar basis as the RTC disposes of its current assets.

None of these proposals were adopted by the Senate. But without at least these changes and in light of the RTC's current inadequate performance, I could not support $30 billion in additional funds.

The administration claims that an additional $50 billion will be needed for the RTC in fiscal year 1992. By the time we are called upon to provide these funds, I hope that the RTC improves its performance and that the administration and Congress have reasserted their responsibility to protect the interests of taxpayers.•

MARIETTA E. SPENCER RECEIVES MORRIS HURSH AWARD

• Mr. DURENBERGER. Mr. President, I rise today to applaude a Minnesotan who has demonstrated leadership in the field of human service. Today, the Minnesota Social Service association is presenting Marietta E. Spencer with the prestigious Morris Hursh award. I congratulate her and thank her for being a fine example of the spirit of caring for which Minnesota is known, and ask that the text of the citation be entered into the RECORD.

The citation follows:

This year's Morris Hursh Award is proudly presented to Mrs. Marietta Spencer. She was originally nominated for the Distinguished Service Award for Individual Service and Initiative, but after reviewing her extensive qualifications, she was unanimously declared a worthy recipient of this award.

Marietta has exemplified unusual leadership statewide, nationally and internationally by helping to develop post-legal adoption services for those individuals who are adopted adults, birth parents who have selected adoption as the best plan for themselves and their children, and adoptive families past the point of legal adoption.

She has contributed theoretical definitions for this service area, has formulated modes of service delivery, has been involved in effective legal advocacy, community organization and the production of educational materials in the training of other professionals in the adoption field and in related human service areas.

Through her efforts, Children's Home Society of Minnesota had the first post-legal adoption department in the United States.

Marietta has put together and sponsored the first three national conferences on post-legal adoption services held in America. Each of these conferences was well attended and highly evaluated by those attending.

Marietta has done research in her field of endeavor and has encouraged others in their research efforts as well. Since 1953, she has published more than 20 articles and brochures on adopted-related matters. She is recognized throughout the country as an excellent workshop leader and keynote speaker through her participation in hundreds of programs, both in the United States and internationally.

She is a strong advocate for members of the adoption triad through her work on legislative matters and meeting with a wide variety of community groups.

Her expertise includes medical social work, case work and group work. She has incorporated insights from the fields of human genetics and anthropology in her service approach.

She founded an administratively separate post-legal adoption service department and served on the Children's Home Society's administrative team.

Marietta has been very active in vast amounts of client service. In fact, she has served more than 12,000 clients in workshops, and hundreds in family and individual counseling situations.

Over the past several years she has participated in several community and board activities. She is active on the Legislative Task Force headed by Roger Toogood concerning child welfare legislation in the State of Minnesota. She served for five years on the Child Welfare League of America's Committee of Standards on Adoption and Post-Adoption Services. She served for five years on the Governor's Commission on Aging, on the health committee, and served as the chairwoman of the Mental Health Subcommittee. She served on the board of the Minnesota Epilepsy League for 12 years. She served for six years on the board of the Minnesota Human Genetics League; and two years with the Minnesota Asthma and Allergy Chapter. Marrietta also served as a dicussant for a main speaker at the INTER-RACE (International Institute for Inter-Racial Interaction); second anniversary consultation lecturer; and led a panel of adopted persons and adoptive parents.

It is clearly evident to those who have had the opportunity to work with Marietta Spencer that she has made a significant impact on the clients she has worked with directly, as well as those she has worked with in a broader way through the development of high standards and services to members of the adoption triad. She is highly deserving of the Morris Hursch Award.•

JURISDICTION AND RULES OF THE SELECT COMMITTEE ON INDIAN AFFAIRS

• Mr. INOUYE. Mr. President, on behalf of the members of the Select Committee on Indian Affairs, I am submitting to the Senate the "Jurisdiction and Rules of the Select Committee on Indian Affairs," adopted by the committee on Wednesday, March 13, 1991.

The rules follow:

JURISDICTION AND RULES OF THE SELECT COMMITTEE ON INDIAN AFFAIRS

(Excerpts from S. Res. 4, the Committee System Reorganization Amendments of 1977, As Amended and Revised To Reflect Membership in the 102nd Congress)

Select Committee on Indian Affairs, to which select committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to Indian affairs:

SEC. 105. (a)(1) There is established a Select Committee on Indian Affairs (hereafter in this section referred to as the "select committee") which shall consist of sixteen members, nine to be appointed by the President of the Senate, upon recommendation of the majority leader, from among members of the majority party and seven to be appointed by the President of the Senate, upon recommendation of the Minority leader, from among the members of the minority party. The select committee shall select a chairman from among its members.

(2) A majority of the members of the committee shall constitute a quorum thereof for the transaction of business, except that the select committee may fix a lesser number as a quorum for the purpose of taking testimony. The select committee shall adopt rules of procedure not inconsistent with this section and the rules of the Senate governing standing committees of the Senate.

(3) Vacancies in the membership of the select committee shall not affect the authority of the remaining members to execute the functions of the select committee.

(4) For purposes of para. 6 of rule XXV of the Standing Rules of the Senate, service of a Senator as a member or chairman of the select committee shall not be taken into account.

(b)(1) All proposed legislation, messages, petitions, memorials, and other matters relating to Indian affairs shall be referred to the select committee.

(2) It shall be the duty of the select committee to conduct a study of any and all matters pertaining to problems and opportunities of Indians, including but not limited to Indian land management and trust responsibilities, Indian education, health, special services, and loan programs, and Indian claims against the United States.

(3) The select committee shall from time to time report to the Senate, by bill or otherwise, on matters within its jurisdiction.

(c)(1) For the purposes of this resolution, the select committee is authorized, in its discretion, (A) to make investigations into any matter within its jurisdiction, (B) to make expenditures from the contingent fund of the Senate, (C) to employ personnel, (D) to hold hearings, (E) to sit and act at any time or place during the sessions, recesses, and adjourned periods of the Senate, (F) to require, by subpoena or otherwise, the attendance of witnesses and the production of correspondence, books, papers, and documents, (G) to take depositions and other testimony, (H) to procure the services of individual consultants or organizations thereof, in accordance with the provisions of sec. 202(i) of the Legislative Reorganization Act of 1946, and (I) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(2) The chairman of the select committee or any member thereof may administer oaths to witnesses.

(3) Subpoenas authorized by the select committee may be issued over the signature of the chairman, or any member of the select committee designated by the chairman, and may be served by any person designated by the chairman or any member signing the subpoena.

(NOTE.—On June 4, 1984, in the 98th Congress, the Senate adopted S. Res. 127 to establish the Select Committee on Indian Affairs as a permanent committee of the Senate.)

RULES OF THE SELECT COMMITTEE ON INDIAN AFFAIRS

COMMITTEE RULES

Rule 1. The standing Rules of the Senate, Senate Resolution 4, and the provisions of the Legislative Reorganization Act of 1946, as amended by the Legislative Reorganization Act of 1970, to the extent the provisions of such Acts are applicable to the Select Committee on Indian Affairs and supplemented by these rules, are adopted as the rules of the committee.

MEETINGS OF THE COMMITTEE

Rule 2. The committee shall meet on the Wednesdays and Fridays of each month while the Congress is in session for the purpose of conducting business, unless, for the convenience of Members, the Chairman shall set some other day for a meeting. Additional meetings may be called by the Chairman as he may deem necessary.

OPEN HEARINGS AND MEETINGS

Rule 3. Hearings and business meetings of the committee shall be open to the public except when the committee by majority vote orders a closed hearing or meeting.

HEARING PROCEDURE

Rule 4(a). Public notice shall be given of the date, place, and subject matter of any hearing to be held by the committee at least one week in advance of such hearing unless the Chairman of the committee determines that the hearing is noncontroversial or that special circumstances require expedited procedures and a majority of the committee involved concurs. In no case shall a hearing be conducted with less than 24 hours notice.

(b) Each witness who is to appear before the committee shall file with the committee, at least 24 hours in advance of the hearing, a written statement of his or her testimony in as many copies as the Chairman of the committee prescribes.

(c) Each Member shall be limited to five (5) minutes in the questioning of any witness until such time as all members who so desire have had an opportunity to question the witness unless the committee shall decide otherwise.

(d) The Chairman and Vice Chairman of the ranking Majority and Minority Members present at the hearing may each appoint one committee staff member to question each witness. Such staff member may question the witness only after all Members present have completed their questioning of the witness or at such other time as the Chairman or Vice Chairman the ranking Majority and Minority Members present may agree.

BUSINESS MEETING AGENDA

Rule 5(a). A legislative measure or subject shall be included in the agenda of the next following business meeting of the committee if a written request for such inclusion has been filed with the Chairman of the committee at least one week prior to such meeting. Nothing in this rule shall be construed to limit the authority of the Chairman of the committee to include legislative measures or subjects on the committee agenda in the absence of such request.

(b) The agenda for any business meeting of the committee shall be provided to each Member and made available to the public at least two days prior to such meeting, and no new items may be added after the agenda is published except by the approval of a majority of the Members of the committee. The Clerk shall promptly notify absent Members of any action taken by the committee on matters not included in the published agenda.

QUORUMS

Rule 6(a). Except as provided in subsections (b) and (c), nine Members shall constitute a quorum for the conduct of business of the committee.

(b) A measure may be ordered reported from the committee unless by a motion made in proper order by a Member followed by the polling of the Members in the absence of a quorum at a regular or special meeting.

(c) One Member shall constitute a quorum for the purpose of conducting a hearing or taking testimony on any measure before the committee.

VOTING

Rule 7(a). A rollcall of the Members shall be taken upon the request of any Member.

(b) Proxy voting shall be permitted on all matters, except that proxies may not be counted for the purpose of determining the presence of a quorum. Unless further limited, a proxy shall be exercised only on the date for which it is given and upon the items published in the agenda for that date.

SWORN TESTIMONY AND FINANCIAL STATEMENTS

Rule 8. Witnesses in committee hearings may be required to give testimony under oath whenever the Chairman or Ranking Minority Member of the committee deems such to be necessary. At any hearing to confirm a Presidential nomination, the testimony of the nominee, and at the request of any Members, any other witness shall be under oath. Every nominee shall submit a financial statement, on forms to be perfected by the committee, which shall be sworn to by the nominee as to its completeness and accuracy. All such statements shall be made public by the committee unless the committee, in executive session, determines that special circumstances require a full or partial exception to this rule. Members of the committee are urged to make public a complete disclosure of their financial interests on forms to be perfected by the committee in the manner required in the case of Presidential nominees.

CONFIDENTIAL TESTIMONY

Rule 9. No confidential testimony taken by or confidential material presented to the committee or any report of the proceedings of a closed committee hearing or business meeting shall be made public in whole or in part by way of summary, unless authorized by a majority of the Members of the committee at a business meeting called for the purpose of making such a determination.

DEFAMATORY STATEMENTS

Rule 10. Any person whose name is mentioned or who is specifically identified in, or who believes that testimony or other evidence presented at, an open committee hearing tends to defame him or otherwise adversely affect his reputation may file with the committee for its consideration and action a sworn statement of fact relevant to such testimony or evidence.

BROADCASTING OF HEARINGS OR MEETINGS

Rule 11. Any meeting or hearing by the committee which is open to the public may be covered in whole or in part by televison broadcast, radio broadcast, or still photography. Photographers and reporters using mechanical recording, filming, or broadcasting devices shall position their equipment so as not to interfere with the sight vision, and hearing of Members and staff on the dais or with the orderly process of meeting or hearing.

AMENDING THE RULES

Rule 12. These rules may be amended only by a vote of a majority of all the Members of the committee in a business meeting of the committee: *Provided*, That no vote may be taken on any proposed amendment unless such amendment is reproduced in full in the committee agenda for such meeting at least two days in advance of such meeting.•

MINNESOTA SOCIAL SERVICE ASSOCIATION PRESENTS AWARDS

• Mr. DURENBERGER. Mr. President. I rise at this time to salute four Minnesotans who have distinguished themselves as compassionate, loving servants of their fellow human beings. Today, the Minnesota Social Service Association, a nearly 100-year-old organization dedicated to social justice and equal opportunity, is honoring Ruth Johnson, Janet Oachs, and Richard and JoNell Rutten for their priceless contributions to their communities. I join in the thanks and applause for these fine Minnesotans and ask that the text of their citations be entered into the RECORD:

The citations follow:

DISTINGUISHED SERVICE AWARD FOR VOLUNTEER SERVICE

RUTH JOHNSON

Ruth Johnson is well known throughout Aitkin County as she has been a life-long resident and as she has dedicated many years to volunteering her services to seniors, youth and community programs.

Ruth has been an RSVP volunteer since 1988. Her duties have included being an RSVP Advisory Committee member, a senior office site manager and a senior citizens' office secretary.

In 1989, she contributed the highest number of volunteer hours in the program—over 600 hours! Ruth has volunteered her time in the Tax Assistance Program, Medicare/Medicaid Assistance Program, 4-H; and volunteered as a guardian, as a Social Services Advisory Committee member and as a driver. In fact, as a volunteer driver in 1989, she drove more than 2,100 miles transporting seniors and handicapped persons to medical appointments and children to foster care homes and facilities.

Ruth is an outstanding volunteer, a wonderful advocate for volunteerism, a great asset to Aitkin County.

DISTINGUISHED SERVICE AWARD FOR ADULT FOSTER CARE

JANET OACHS

Janet Oachs has been a foster care provider for Carlton County for 12 years. She started as a child foster care provider, but now provides care for adults with developmental disabilities.

In order to provide the best care possible, Janet has attended various seminars to refine and develop her skills. Some topics include self esteem and grief support. She has become certified in CPR and administering medications. She also has learned how to bathe and transfer individuals.

Janet encourages her clients to be as independent as possible. She does this by focusing on their abilities rather than on their disabilities. In one case, Janet provided intensive foster care services for a young, mildly developmentally delayed mother and her children. Social workers involved with the case feel that this mother and her children have a chance to function as a family due to Janet's dedication.

Janet is a wonderful advocate for her clients, making sure they receive services appropriate for them. She has displayed a deep commitment to foster care. Because of this, she has made a great difference in the lives of each person who has walked through the doors of her home.

DISTINGUISHED SERVICE AWARD FOR CHILD FOSTER CARE RICHARD AND JONELL RUTTEN

Richard and JoNell Rutten have shared their lives with a variety of children since being licensed by Sherburne County in 1984. They have had 22 respite placements, as well as 16 on-going placements.

The Ruttens have provided excellent care to children with emotional, behavioral and physical handicaps. Training, experience, involvement in a foster parents program support group, patience, realistic expectations, respect for the children and their natural parents and good rapport with community professionals have made this possible.

Richard and JoNell have shown their dedication time and time again by the effort they put into working with each child. They approach the children with open arms and provide a loving and stable home environment in which the children may grow. The Ruttens demonstrate to the children that they are value members of the family.

On December 22, 1990, an article appeared in the West Sherburne Tribune about the Ruttens and one of their foster children, Ben. He had been placed with them when he was only three days old. At 3 months of age it was determined that Ben was mentally handicapped. It was predicted that he would probably live a year, but he outlived those predictions as a result of care and a lot of personal attention. On January 13, 1991, Ben passed away after a long hospital stay. The Ruttens are grateful for the life that he had as he taught them about love, understanding and the meaning of life. Richard and JoNell are fine examples to foster parents throughout the State. No amount of money or appreciation can equal the chance of a better life that they have provided their foster children.•

THE 1991 NATIONAL PUBLIC SERVICE AWARD WINNERS

• Mr. PRYOR. Mr. President. I am pleased to announce the winners of the 1991 National Public Service Awards. This prestigious award, cosponsored by the National Academy of Public Administration and the American Society for Public Administration, recognizes the outstanding efforts of government managers throughout the United States. Four years ago I was privileged to be appointed to the selection committee for the award. This committee is chaired by Elmer B. Staats, the distinguished former Comptroller General of the United States. Others on this committee include, Anthony S. Fauci, Melvin Laird, Alice Rivlin, Elspeth Rostow, and Paul Volcker.

There are too few opportunities to recognize excellence in the public service of our Nation and I am pleased that these two organizations have undertaken to do so. Therefore, I ask that the announcement of the winners, including brief biographical statements on each one, be included in the RECORD.

The material follows:

NAPA, ASPA ANNOUNCE 1991 WINNERS NATIONAL PUBLIC SERVICE AWARDS

The National Academy of Public Administration (NAPA) and the American Society for Public Administration (ASPA) are pleased to announce the winners of the 1991 National Public Service Awards. Up to five awards are presented annually to public service practitioners in recognition of outstanding public management at all levels of government—local, state, federal and international.

The 1991 National Public Service Award winners, each of whom have made outstanding contributions on a sustained basis, are:

Alvin L. Brooks, Director, Human Relations Department, City of Kansas City, Missouri;

Frank C. Conahan, Assistant Comptroller General for National Security and International Affairs, U.S. General Accounting Office;

Diana Lam, Superintendent, Chelsea Public Schools, Chelsea, Massachusetts;

Robert H. "Tex" McClain, Jr., Former Undersecretary for Administration, Massachusetts Executive Office of Administration and Finance, Commonwealth of Massachusetts;

Michael J. Murphy, Deputy Commissioner, U.S. Internal Revenue Service.

Biographical statements of the 1991 winners appear below.

The Academy and ASAP have established the National Public Service Award Program to:

Pay tribute to public service practitioners whose careers exhibit the highest standard of excellence, dedication, and accomplishment;

Provide recognition for outstanding individuals; and

Underscore the need to have creative and highly skilled individuals as managers of complex and demanding government functions.

The awards will be presented on March 25, 1991 at the ASPA National Conference in Washington, DC.

The National Academy is chartered by Congress to provide independent advice and counsel of the highest professional standards on the organization and operations of government at all levels. Its elected membership consists of more than 400 distinguished individuals of all political parties—Cabinet members and governor, members of Congress and mayors, prominent business executives who have served in government, professional government managers, and scholars specializing in public affairs and administration.

ASPA is a national association of some 16,000 members dedicated to advancing excellence in public service and promoting its dignity and worth. Through its networks and local chapters, national special focus sections, individual members, and other supporters, ASAP supports recognition of public service achievements and enhances the professional and educational development of its membership.

Beginning his public service career as a police officer in 1954, Alvin L. Brooks' management skills immediately became apparent through his ability to ease tensions and quell disputes between rival street gangs. Ten years later, Brooks went to work for the Kansas City (MO) School District, and as Director of Public Information for Title I schools, he focused much of his energy on improving the quality of education for students from poorer neighborhoods.

In 1981, Brooks demonstrated his innovative approach to his position by creating a novel mediation program. By coordinating volunteer mediators to resolve domestic, juvenile, and employment disputes, Brooks has saved the city thousands of dollars and many precious hours of municipal court time.

The Ad Hoc Group Against Crime, formed in the late 70s is perhaps Brooks' most significant contribution to the field. Created in response to a rash of unsolved murders in 1977, Brooks was able to use the group to reopen all the cases and solve many of them. Today, the Ad Hoc Group is at the forefront of a community-based effort to combat escalating crime and violence in Kansas City, thanks in large part, to Brooks tireless support and ability to secure a full time staff and $200,000 in annual funding.

In his current position of Director of Human Relations for Kansas City, Brooks continues to act as a catalyst for positive change by building dialogue and consensus among diverse groups.

Frank C. Conahan's service to the U.S. General Accounting Office (GAO) began in 1955. He worked for the newly-created International Division in 1963, and was named Director of the European Branch in 1974. In 1981, he became Director of the International Division, and subsequently was appointed as Director of the newly-created National Security and International Affairs Division. In 1986, he was named as an Assistant Comptroller General.

Under Conahan's direction, GAO has expanded its scope of work to include increasingly strategic and comprehensive issues. Such work is ultimately more valuable to Congress, the executive branch, and the public.

Among his accomplishments have been the development of several in a series of "transition reports." These 1988 reports identified critical program management issues facing the new administration and contributed significantly to the new administration's policy making efforts.

However, his most significant contributions have been in the area of defense. Conahan consistently has sought new methods of improving the efficiency of defense programs which have been presented in 45 personal congressional testimonies. Here he brought a fresh perspective to old problems. For example, Conahan's division insightfully identified and documented crucial defense budgeting problems. He has also streamlined GAO's process of auditing and evaluating defense contractor's pricing. Under his leadership, GAO's defense and international affairs work has resulted in dollar savings and other accomplishments totaling over $40 billion.

Conahan's contributions include work within GAO's internal structure as well as it's external dealings with the public. As a member of its Executive Resources Board, he was vital to GAO's recent refocusing of its organizational approach to defense and international work.

Diana Lam brings to her public service a profound understanding of the tremendous needs in her urban community. She is superintendent of a school system with a 52-percent drop-out rate and a 25-percent percent teenage pregnancy rate. Seventy percent of the students speak English only as a second language. Challenged before she started, the Boston University appointee became Chelsea (MA) superintendent under considerable objection from local school officials after the university took command of the troubled system.

Lam oversaw the complete restructuring of the system's high school, introduced a year-round, full day Early Learning Center, opened a Parent Information and Support Center, and worked to bring curriculum objectives to the elementary school level.

She has inspired pride and confidence in a normally frustrating and thankless environment by initiating such projects as a Teacher's Advisory Board, a monthly newsletter written by and for teachers, and monthly teacher coffees.

Lam has also commissioned the United States' first survey of urban parents in an effort to understand more clearly their concerns. She tries to respond to those concerns with School Talk/Charlas en la Escuela, a local cable television show which she hosts.

It is her ability to perceive and unlock the unlimited potential and hope within the children and the teachers of the Chelsea system that has earned her the title of Massachusetts Superintendent of the Year after one year on the job.

Robert H. "Tex" McClain's 37-year career with the Commonwealth of Massachusetts has been characterized by "fidelity to the highest standards of public service." So wrote former Massachusetts governor Michael Dukakis in his recommendation to the NPSA selection committee.

In 1965, McClain was given command of a pioneer position designed to ensure that the principles of good public administration and the intricacies of sound fiscal management would be reflected in the statutes enacted by the legislature. Breaking new administrative ground, McClain's management skills and his ability to work with legislators of both parties has created a better informed legislature independent enough to take on more responsible courses of action.

In 14 years as Undersecretary of Administration and Finance, McClain consistently demonstrated not only his management ability, but his expertise in almost every area of state government administration and legislation.

McClain's example and commitment to the public service enabled him to continuously recruit men and women who share his dedication into state government. He also devoted much of his energies to the encouragement and development of those already there.

Since becoming deputy commissioner, Michael J. Murphy has guided the Internal Revenue Service (IRS) through key organizational issues that will determine how the IRS performs its functions for decades to come and how taxpayers view the fairness and integrity of the federal tax system.

Murphy's tireless advocacy of the IRS' need to modernize has placed the IRS' Tax Modernization System (TMS)—a multi-billion dollar effort spanning the next 10 years—high on the President's Management Objectives priority list.

Much of Murphy's time is spent overseeing the TMS effort, ensuring the plan will be carried out in a manageable and realistic manner.

His efforts to institutionalize the quality improvement process of the agency manifests itself in the highly successful IRS/National Treasury Employees Union Joint Quality Improvement Process Agreement, a landmark management/labor agreement.

Taking a cue from the private sector, Murphy created the Office of Assistant to the Commissioner to ensure that quality improvement becomes a working function of the organization.●

AID TO ISRAEL

● Mr. FOWLER. Mr. President, the easy part is over. Our victory over Saddam Hussein was made possible because of the bravery of our soldiers and the unity of our people. Desert Storm will set a new example for textbook warfare.

However, we must do more than simply rejoice at our success. We are now entering the next stage in our Middle East efforts: that of shaping the peace. As a part of this process, the United States is willing to assist the countries which supported our cause in the war against Saddam Hussein.

There are many nations which deserve, and will receive, our assistance and praise for active participation in the Allied effort: Egypt, Turkey, and Saudi Arabia to name a few. However, there is one nation which had a profound impact on the war simply by holding back and not becoming involved in the fighting.

Saddam made every attempt to divide the United States-led coalition, including firing over three dozen Scud missiles at Israel's civilian population. No one who witnessed the courageous restraint shown by the Israelis in the face of these attacks can honestly question whether Israel needs our help today.

This tiny nation broke its longstanding, firm tradition of retaliation in order to help the allied cause. At the same time its military was on high alert throughout the entire Persian Gulf crisis. The Israeli Government faced increased costs due to its enhanced state of war readiness. An example is the Government pulling up reserves to full-time duty. Thus, the economy was burdened by a sudden exodus of workers to the Armed Forces.

It is for these reasons that I fully support the $650 million in assistance for Israel contained in the House-passed supplemental appropriations bill. Without Israel's policy of restraint, it is very likely that the situation in the Middle East would be much more complex and difficult than it is today.

With this in mind, I call on all of America's friends in the Middle East to bring the courage they showed in the face of Saddam's attacks to the search for peace. All the States in the region must work in good faith for political solutions to end the generations of strife in the region. We in Congress will continue to work toward this goal in the hope that there will soon be a lasting peace in the Middle East.●

NOMINATION OF ROCKWELL A. SCHNABEL TO BE DEPUTY SECRETARY OF COMMERCE

● Mr. HOLLINGS. Mr. President, last evening the Senate confirmed Rockwell A. Schnabel as the next Deputy Secretary of Commerce.

I am pleased that this nominee has been confirmed expeditiously. The position of Deputy Secretary of Commerce is an important one, and has been vacant for some months now. With a Deputy Secretary in place, the Secretary of Commerce will be better able to conduct the important affairs of the Department.

Earlier this week, the Commerce Committee held a hearing on this nomination, which I chaired myself. Mr. Schnabel and I reviewed the many important issues before the Department, including trade, technology, and oceans, to name a few. Mr. Schnabel previously held another senior Commerce Department post, that of Under Secretary for Travel and Tourism, and he has served ably in that post. I know that, with his background, he will tackle these other important issues.

I look forward to working with Secretary Mosbacher and now confirmed Deputy Secretary Schnabel as we work to improve the competitiveness of the United States in the global marketplace.●

A TRIBUTE TO BAILEY, AND PARK COUNTY, CO

● Mr. WIRTH. Mr. President, I would like to take this opportunity to pay tribute to the people of Park County, CO.

I happen to think every city and community in Colorado is worth congressional tribute, but I am compelled to speak briefly about Park County and the town of Bailey, CO, because of what many Park County residents feel was a negative and derogatory depiction of their community in the NBC television program, "The Chase."

Without going into a description of the television show or its creative merits, I think it is fair to say that many Bailey and Park County residents were offended by the suggestion that their community is a sleepy community "out of touch with the 20th century." Park County residents who live along the U.S. Highway 285 corridor resent the program's fictionalized description of their lifestyle as unsophisticated and out of date.

I can only say that, judging from the growth this part of Colorado has experienced in recent years, thousands of Americans from all parts of the country are itching to move to Park County.

And it is no wonder. This community is settled along the scenic Highway 285 corridor and enjoys proximity to the Lost Creek Wilderness Area, one of Colorado's most spectacular locations.

Although Park County and Bailey residents enjoy a unique rustic pioneer heritage, no one who has ever been to this part of Colorado would ever say that the community's social, economic and educational life is 40 years behind the times. Rather, it is a growing area in a location that blends the best of both an urban and a rural environment. Only the most blatant and absurd fiction would create a contrary image.

The people of Bailey have taken the insult in their stride. With the assurance that comes from knowing they are raising their families in one of Colorado's most beautiful locations, they certainly do not need my assistance in setting the record straight. But as a Coloradan, I could not help but take a stab at it—and ask that a copy of an editorial which recently ran in the High Timber Times be inserted in the RECORD.

The article follows:

[From the High Timber Times, Feb. 14, 1991]

"HICKSVILLE" CRIES FOUL

NBC's television movie "The Chase," aired last Sunday night on KCNC Channel 4, was bad to begin with.

But it stepped from just plain bad to awful with its portrayal not only of Bailey and its residents but also of Denver area people and law enforcement officers.

Bailey area residents are justified in being offended, if not outraged, by their portrayal in this dog of a drama.

Even if we allowed the producers some dramatic license in their geography, like putting a Bailey sign in front of Morrison's famous red rocks and pretending that Morrison is Bailey, we find the producers of this awful movie overstepped the bounds of good taste in their seemingly intentional slurs against Bailey.

It wasn't necessary. But given the quality of the overall piece, it wasn't too surprising. It was painful to watch. It's sad that such an exciting true life drama wasn't portrayed more accurately. We believe the viewing public, whether or not they knew their geography, would have much preferred a factual story. All characters in the movie, whether hero, villain or ordinary citizen were shallow, boring and corny—hicks if you will.

Truth is stranger than fiction, and in this case, infinitely more interesting and in much better taste. "The Chase" was the epitome of Hollywood sleaze minus the porn. It was not just an insult to Bailey residents, but to all Denverites and all Coloradans. In fact, it was an insult to all television viewers. We sincerely hope this one never makes the rerun circuit.

A request for an apology from NBC and KCNC is not unreasonable. In the meantime, your opinions are valuable and we encourage you to voice them. Maybe it will help put a stop to such trash on television.●

WYOMING: LEADING IN AGRICULTURE

● Mr. WALLOP. Mr. President, I am proud to note that we have in Washington, DC, this week from my State of Wyoming, 19 young men and women who are involved with the Wyoming Leadership Education and Development Program [LEAD]. This program was established in 1984 through funding from the W.K. Kellogg Foundation and the Wyoming Agricultural Extension Service to develop agricultural leadership.

LEAD is designed to broaden young agriculturalists' perceptions of State, national, and global issues through study and State, and national and international seminars. This 2-year program offers study tours to national and international areas with focus on Government, economics, communications, social and cultural understanding.

Participants in the Wyoming Leadership Education and Development program come from every sector of agriculture and every part of Wyoming. Participants must be employed in agriculture or an ag-related occupation. The decrease in the percentage of agricultural producers in Wyoming has placed greater demands on our agricultural leaders. The Wyoming LEAD Program will help create a competent and highly motivated cadre of agricultural leaders able to speak forcefully and articulately for agriculture and Wyoming communities.

I am proud to have these fine men and women here for their national seminar. They are impressive spokesmen for an important industry, and they make a vast difference in our State.•

RETIREMENT OF EDWARD M. HALLENBECK

• Mr. DECONCINI. Mr. President, on February 23, 1991, Edward M. Hallenbeck retired after 29 years of Government service. As the Regional Director of the Bureau of Reclamation for the Lower Colorado Region, Ed was headquartered in Boulder City, NV. With the indulgence of my colleagues I would like to take this opportunity to recognize the achievements of this outstanding public servant.

In 1963, 4 years after graduating from South Dakota State University with a B.S. degree in electrical engineering, Ed began his Reclamation career by working as an electrical engineer in Huron, SD. In 1966, he moved to the Boulder City regional office where in 1968 he was named chief of the Power Operations and Maintenance Branch. In 1969, he moved to Phoenix as assistant manager of the Parker-Davis project and was promoted to manager of the project in 1971. Mr. Hallenbeck was appointed to head the Bureau of Reclamation's Arizona Projects Office in 1980. In this position he had the responsibility for planning and constructing the central Arizona project, or CAP, the largest single water resource project ever authorized by Congress. In February 1986, he was named Regional Director of Reclamation's Lower Colorado Region.

Among the many awards and honors that Ed has received are the National Water Resources Association Distinguished Service Award and the Meritorious Service Award of the Department of the Interior.

Edward Hallenbeck's accomplishments have resulted in efficient operation of the Lower Colorado River System, enhanced delivery of power and water for public use, and an improved image of the Bureau of Reclamation. Ed has been a terrific resource for me and my staff and a tremendous public servant for our country. His expertise and dedication have been particularly helpful for Arizona and I am sure that I speak for the rest of the delegation when I say that he will be missed.

I ask that this body join me in conveying this country's gratitude for Ed's devotion and exemplary service to the United States of America.•

COSPONSORS OF S. 593, THE VISUAL POLLUTION CONTROL ACT OF 1991

• Mr. CHAFEE. Mr. President, on March 7 I introduced the Visual Pollution Control Act of 1991. In my statement on this bill, I listed the 10 original cosponsors of S. 593. Unfortunately, because of a typographical error, one of these original cosponsors, Senator BENTSEN, was not printed on the bill.

My colleague from Texas, Senator BENTSEN, has been an advocate of reforming the Federal billboard law, and has provided important leadership in this area which is much appreciated. I regret that his name was not printed on the bill. Senator BENTSEN's contribution to this legislation has been extremely valuable, and it is important for people to know that he is an original cosponsor of S. 593.•

IRENE CONLAN

• Mr. DECONCINI. Mr. President, in light of the overwhelming solid waste disposal problem currently facing our country, I thought it appropriate to bring to the attention of my colleagues the efforts of Irene Conlan of Scottsdale, AZ.

Irene, while working for the Arizona Department of Health Services, witnessed the disposal of hundreds of laser printer cartridges into trash bins. She was aware that the cartridges were costing the State of Arizona tens of thousands of dollars annually, and furthermore, she knew that these nonbiodegradable units were being dumped into Arizona landfills.

Irene was unable to accept such a squandering of resources and energy and decided to actively combat this wastefulness. When she left her position with the Department of Health Services, Irene learned how to recycle laser printer toner cartridges and proceeded to set up a remanufacturing laboratory in her garage. Today, 2 years later, her company, Cartridge Technology Network, Inc. [CTN], has 20 manufacturing centers, with Western and Eastern regional headquarters.

Although Irene is pleased with the rapid growth of her company, she is equally proud of the more than 40 tons of nonbiodegradable waste that CTN has kept out of Arizona landfills alone.

At a time when our country faces enormous environmental challenges, Irene is a fine example of what a conscientious citizen can do to confront these obstacles. I ask that all of my colleagues join me in applauding Irene's noble and ambitious undertaking and in wishing her continued success in the future.•

CBO BUDGET ESTIMATE FOR THE NIOBRARA SCENIC RIVER DESIGNATION ACT OF 1991

•Mr. JOHNSTON. Mr. President, on March 7, the Committee on Energy and Natural Resources filed the report to accompany S. 248, the Niobrara Scenic River Designation Act of 1991.

At the time this report was filed, the Congressional Budget Office has not submitted its budget estimate regarding this measure. The committee has since received this communication from the Congressional Budget Office, and I ask that it be printed in the RECORD.

The budget estimate follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 12, 1991.
Hon. J. BENNETT JOHNSTON, Jr.,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 248, the Niobrara Scenic River Designation Act of 1991, as ordered reported by the Senate Committee on Energy and Natural Resources on February 27, 1991. CBO estimates that enactment of S. 248 would result in additional management and study costs totaling about $750,000 over the next five years, assuming appropriation of the necessary amounts. Additional costs are likely to be incurred after 1993 for land acquisition, facility construction, and operation of the new river areas; however, we are unable to estimate these costs at this time. Enactment of S. 248 would not affect the budgets of state or local governments.

S. 248 would designate 70 miles of the Niobrara River in Nebraska as a scenic river and would grant recreational river status to another 25 miles of that river and to a 39-mile segment of the Missouri River. An additional 6-mile segment of the Niobrara would be studied for possible inclusion in the Wild and Scenic River system. The Department of the Interior (DOI) would be directed to establish a Niobrara Scenic River Advisory Council and a recreational river advisory group for the Missouri River. These groups would provide advise to DOI on the management of the rivers. The bill would also require DOI to prepare two studies: one on the feasibility of creating a national recreation area adjacent to the recreational segment of the Niobrara River, and another on the feasibility of establishing the Niobrara-Buffalo Prairie National Park. Finally, S. 248 would authorize the appropriation of whatever sums are necessary to carry out these activities.

Based on information from the National Park Service, CBO estimates that enactment of S. 248 would result in costs of about $350,000 for planning and $400,000 for the studies authorized in the bill. These costs would be incurred over a three-year period. Support of the advisory commissions is expected to cost about $20,000 annually.

Enactment of S. 248 would also result in certain other costs, including land acquisition, facility construction, and ongoing river operations. The NPS is unable to provide us with the information necessary to estimate these costs until after it completes management planning activities, probably in 1994.

This bill does not affect direct spending or receipts and therefore would not affect pay-as-you-go scoring.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Theresa Gullo, who can be reached at 226-2860.

Sincerely,

ROBERT D. REISCHAUER,
Director.●

MOTOR CARRIER SAFETY ASSISTANCE PROGRAM REAUTHORIZATION ACT

● Mr. DANFORTH. Mr. President, over the past decade, Congress has passed a variety of laws to ensure the safe operation of heavy trucks and buses on our Nation's highways. I am pleased to join several colleagues on yet another bill to improve highway transportation safety.

Let me take a moment to summarize these efforts over the last decade. The congressional effort on motor carrier safety started in 1982 when we created the Motor Carrier Safety Assistance Program, which is known as MCSAP. This program provides funds to States to do roadside safety inspections of commercial drivers and vehicles and safety audits at the terminals of motor carriers. MCSAP has far exceeded even the high expectations of those of us who created it. In fiscal year 1990, MCSAP funded 1.6 million roadside inspections and 9,863 safety audits. In the State of Missouri alone, MCSAP funded 61,360 roadside inspections and 496 safety audits. Those safety inspections and audits have removed thousands of unsafe vehicles and drivers from the road.

Five years ago, the President signed into law the Commercial Motor Vehicle Safety Act of 1986. That legislation prohibits drivers from spreading their bad driving records over numerous licenses. It also eliminates the 20-State practice of giving a commercial license to applicants who may have taken a driving test in nothing more than a subcompact car.

Three years ago, I sponsored the Truck and Bus Safety and Regulatory Reform Act of 1988—a bill that became law as an amendment to the Omnibus Drug Initiative Act of 1988. This legislation eliminated a loophole allowing heavy trucks and buses to operate within vast urban commercial zones without obeying critical Federal safety regulations. The act also required a Department of Transportation [DOT] rulemaking on driver compliance with the hours-of-service regulations, which help to prevent driver fatigue.

Last year, we passed the Motor Carrier Safety Act of 1990. This legislation prohibited any trucking firm that receives a DOT unsatisfactory safety rating from hauling hazardous materials. It also prohibited bus companies with unsatisfactory safety ratings from transporting passengers. In addition, it required DOT to establish a program to ensure that commercial vehicles which fail roadside safety inspections do not return to the highway without fixing safety problems.

Although these and other laws represent great progress, we have a long way to go. Medium and heavy truck and bus accidents account for almost 6,000 deaths in this country annually. Eighty percent of those killed were not truck drivers, but rather occupants of passenger cars. Each year, motor carrier accidents also account for about 160,000 injuries. Many of these accidents not only involve loss of life and injuries, but also the loss of countless millions of dollars in the form of traffic delays and cleanup expenses.

In September of last year, for example, a collision between two trucks on I-70 in St. Charles, MO, set off an explosion that killed one driver and closed this vital highway for 6 hours.

We must continue our efforts to prevent such tragedies. The majority of motor carriers and commercial drivers take their safety responsibilities seriously. The bill we are introducing, the Motor Carrier Safety Assistance Program Reauthorization Act of 1991, focuses on the few operators who disregard safety.

Improved highway safety is not a partisan issue. I would like to thank Senator EXON, chairman of the Surface Transportation Subcommittee, for taking the lead. In addition, I want to commend Senator KASTEN, the ranking member of the subcommittee for his support.

Anticipating MCSAP's reauthorization, the Commerce Committee commissioned an extensive study of the program by the Congressional Research Service [CRS]. CRS found that MCSAP enjoys broad support from the administration, the States, and the trucking industry for its reduction of commercial vehicle crashes that cost lives and cause injuries and property losses. CRS also found, however, that MCSAP could be strengthened significantly if it increased its efforts on driver-related causes of commercial vehicle crashes.

CRS found that driver-related factors, such as reckless driving behavior, drug and alcohol use, fatigue, and lack of adequate training, are the principal causes of commercial vehicle accidents. Similarly, a 1988 Office of Technology Assessment [OTA] study that found that human error is the cause of over 60 percent of motor carrier accidents. In addition, a Federal Highway Administration-sponsored study found that 95 percent of preventable accidents are related to driver factors.

Presently, MCSAP does very little driver oriented enforcement. To determine whether a driver is fatigued, MCSAP inspectors examine the logbooks in which drivers record their hours. Inspectors also do cursory checks to determine if drivers have a medical certificate and a license. MCSAP does not, however, address commercial driver errors resulting from reckless driving behavior, such as excessive speeding, improper lane changes, and tailgating. In addition, MCSAP plays only a limited role in drug interdiction and drugged and drunk driving enforcement. Moreover, MCSAP inspectors are not prepared or equipped to take on the task of roadside checks on the status of drivers' CDL's. This bill expands MCSAP's mission to include these factors in the future.

Drugs are everywhere in today's society. The trucking industry is no exception. For example, in January 1988, the Office of the California Attorney General released the results of a 6-month sting operation in which 130 people were arrested for selling cocaine, speed, and other drugs to truckdrivers at truckstops. Undercover officers reported that the drug trade was so active, in many instances, that by the time they could reach a drug pusher advertising drugs over his CB radio, the sale was already completed. Such drug sales at truckstops and over CB radios are common.

Drug use by truck and bus drivers is not a victimless crime. In May of 1988, a truck driver rammed more than two dozen vehicles on an L.A. freeway, but miraculously caused only minor injuries. Police found drug paraphenalia, a partly smoked marijuana cigarette, and other narcotics in his cab. In October of 1988, near Fort Hancock, TX, a truck driver forced several motorists off the highway, killing a woman. After shooting a police officer, he tried to run the officer down with his tractor trailer. The police on the scene said the driver was on drugs. There was a similar tragedy in December of 1988. The driver of a tractor trailer rig went on an 80-mile long rampage down Interstate 10 and through rush hour traffic in San Antonio. During this rampage, the huge truck crashed into more than 20 other vehicles and seriously injured 2 people. When the driver was arrested, he did not seem to know that he had done anything wrong. Police later found cocaine in the cab of the truck and filed drug charges against the driver.

We must stop these tragedies. Since truck stops are the most common places for drug sales to commercial drivers, our bill doubles the penalty level for persons convicted of distributing drugs within 1,000 feet of a truck stop. This provision is modeled after a provision in the Omnibus Drug Initiative Act of 1988, which establishes drug-free zones around our Nation's schools. Drug-free school zones protect our children from drug dealers by doubling penalties for pushers who sell drugs near schools or playgrounds. By establishing similar zones around our Nation's truck stops, we can reduce the supply of drugs to truck drivers. This provision has already passed the Senate as part of the Motor Carrier Safety Act of 1990. I hope that it will become law this year.

This legislation contains a number of other provisions that will enable trucks and buses to operate more safely. Our bill requires DOT to conduct a rulemaking on whether brake performance improvements, such as antilock braking systems and better brake compatibility, are needed. In March 1987, DOT completed a congressionally ordered study, which determined that poor brake performance contributed to one-third of all truck accidents. Since that time, both the National Transportation Safety Board and OTA have concluded truck safety studies that find brake performance a leading factor in truck accidents.

In the mid-1970's DOT wrote a rule requiring antilock brakes which were primitive in design. Because these brakes had mechanical problems, the DOT rule was struck down by the courts. Over the past decade, a new generation of successful antilock brakes has emerged. These brakes are widely used in Europe and will be required on all European Economic Community registered commercial vehicles this fall. Moreover, there is already a large stopping distance differential between cars and large trucks and buses, which is being exacerbated because many cars are being equipped with antilock brakes. With these technology advances in antilock brakes and the documented safety problem posed by current truck braking systems, the time has come for a DOT rulemaking on whether to require brake performance improvements.

Finally, this measure requires DOT to establish penalties for those who continue to operate trucks and buses placed out of service for safety infractions, and to develop guidelines for ensuring that State intrastate motor carrier rules are consistent with Federal interstate motor carrier safety regulations.

I urge all my colleagues to support this important truck and bus safety legislation.•

HONORING JASON YUAN

• Mr. KASTEN. Mr. President, I rise today to honor a very good friend who recently received an important promotion.

For 11 years, Jason Yuan has been the chief congressional liaison for the Republic of China. He has nurtured the steady improvement of United States-Taiwanese relations, and has been a truly indispensable diplomatic resource.

The Republic of Taiwan has seen fit to recognize Mr. Yuan's years of achievement with a significant promotion. Mr. Yuan will soon be serving as Assistant Secretary of State in charge of North American Affairs in the Republic of China's Ministry of Foreign Affairs.

I hope all my colleagues will join me in congratulating Mr. Yuan. We will all miss him.•

MODIFICATIONS TO SENATE RESOLUTION 76

Mr. BROWN. Mr. President, on March 7, 1991, when amendment No. 27 to S. 419 was sent to the desk as a freestanding resolution (S. Res. 76) certain modifications that had been agreed to upon request by Senator PELL were inadvertently not included. Therefore, I ask unanimous consent that Senate Resolution 76 be modified and reflect the following changes which are sent to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF A. LAMAR ALEXANDER

Mr. NUNN. Mr. President, as if in executive session, I ask unanimous consent that when the Senate proceeds to the nomination of A. Lamar Alexander, to be Secretary of Education, there be 2 hours of debate equally divided between the chairman and ranking member of the Committee on Labor and Human Resources or their designees; that at the conclusion or yielding back of time, the Senate proceed without any intervening action to vote on the nomination; that the motion to reconsider be tabled; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I ask unanimous consent it be in order to request the yeas and nays at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I ask for the yeas and nays on the nomination.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

THE CALENDAR

Mr. NUNN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration en bloc of Calendar Nos. 23, 24, 29, and 35; that the bills be deemed read a third time and passed; that the resolutions be agreed to; that the motions to reconsider the passage of these items be laid upon the table en bloc; and that the preamble, where appropriate, be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I further ask unanimous consent that any statement relating to these calendar items appear at the appropriate place in the RECORD and that the consideration of these items appear individually in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The measures agreed to and deemed read a third time and passed are as follows:

ALBERT EINSTEIN CONGRESSIONAL FELLOWSHIP PROGRAM

The concurrent resolution (S. Con. Res. 11) to establish an Albert Einstein Congressional Fellowship Program, was considered, and agreed to.

The preamble was agreed to.

The concurrent resolution, and the preamble, are as follows:

S. CON. RES. 11

Whereas a need exists to facilitate understanding, communication, and cooperation between Congress and the science education community;

Whereas the science education community includes a cadre of nationally recognized outstanding secondary school science and mathematics teachers; and

Whereas secondary school science and mathematics teachers can provide insight into education programs that work effectively. Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. FELLOWSHIP PROGRAM.

(a) IN GENERAL.—The Speaker of the House of Representatives and the President pro tempore of the Senate are authorized to enter into an agreement with the Triangle Coalition for Science and Technology Education to establish an Albert Einstein Congressional Fellowship Program (referred to in this concurrent resolution as the "fellowship program"), which provides for each fiscal year, beginning with fiscal year 1991, two fellowships within the House of Representatives (referred to in this concurrent resolution as the "House fellowships") and two fellowships within the Senate (referred to in this concurrent resolution as the "Senate fellowships").

(b) RESPONSIBILITIES.—The Speaker of the House of Representatives and the President pro tempore of the Senate may enter into the agreement described in subsection (a), and fund fellowships as specified in section 4(a), only if the Triangle Coalition for Science and Technology Education—

(1) undertakes the application responsibilities referred to in section 2(a);

(2) participates in the evaluation referred to in section 3; and

(3) provides the funding for administration and evaluation costs referred to in section 4(b).

SEC. 2. SELECTION PROCESS.

(a) APPLICATION.—The Triangle Coalition for Science and Technology Education shall—

(1) publicize the fellowship program;

(2) develop and administer an application process; and

(3) conduct an initial screening of applicants for the fellowship program.

(b) SELECTION.—

(1) HOUSE FELLOWSHIPS.—The Speaker and the Minority Leader of the House of Representatives, in consultation with the chairmen and ranking minority party members of the Committee on Education and Labor of the House of Representatives and the Committee on Science, Space, and Technology of the House of Representatives, shall each select one of the recipients of the House fellowships.

(2) SENATE FELLOWSHIPS.—The President pro tempore and the Minority Leader of the Senate, in consultation with the chairmen and ranking minority party members of the Committee on Labor and Human Resources of the Senate and the Committee on Commerce, Science, and Transportation of the Senate, shall each select one of the recipients of the Senate fellowships.

(c) PLACEMENT OF FELLOWSHIPS.—

(1) HOUSE FELLOWSHIPS.—The Speaker of the House of Representatives, in consultation with the Members referred to in subsection (b)(1), may place one fellowship recipient on the staff of the Committee on Education and Labor of the House of Representatives, and one recipient on the staff of the Committee on Science, Space, and Technology of the House of Representatives. Either or both of these recipients may instead serve on the personal staff of a member of the House of Representatives.

(2) SENATE FELLOWSHIPS.—The President pro tempore of the Senate, in consultation with the Members referred to in subsection (b)(2), may place one fellowship recipient on the staff of the Committee on Labor and Human Resources, and one recipient on the staff of the Committee on Commerce, Science, and Transportation. Either or both of these recipients may instead serve on the personal staff of a member of the Senate.

(d) ELIGIBLE RECIPIENTS.—Recipients shall be selected from a pool of nationally recognized outstanding secondary school science and mathematics teachers. The pool shall include teachers who have received Presidential Awards for Excellence in Science and Mathematics Teaching, as established by section 117(a) of the National Science Foundation Authorization Act of 1988 (42 U.S.C. 1881b), or other similar recognition of skills, experience, and ability as science or mathematics teachers.

(c) COMPENSATION.—

(1) HOUSE FELLOWSHIPS.—The Speaker of the House of Representatives shall fix the compensation of each recipient of a House fellowship.

(2) SENATE FELLOWSHIPS.—The President pro tempore of the Senate shall fix the compensation of each recipient of a Senate fellowship.

(f) LENGTH OF TERM.—Each fellowship recipient shall serve for a period of up to 1 year.

SEC. 3. EVALUATION.

The Chairman of each committee referred to in section 2(b) and the Executive Director of the Triangle Coalition for Science and Technology Education shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate, as appropriate, an annual report evaluating the fellowship program, and shall make recommendations concerning the continuation of the program.

SEC. 4. FUNDING.

(a) FELLOWSHIPS.—

(1) HOUSE FELLOWSHIPS.—For fiscal years 1991 and 1992, the funds necessary to provide any House fellowships shall be paid from the contingent fund of the House of Representatives, but not to exceed a total of $40,000 in fiscal year 1991 and $42,500 in fiscal year 1992 for the House fellowships.

(2) SENATE FELLOWSHIPS.—For fiscal years 1991 and 1992, the funds necessary to provide any Senate fellowships shall be paid from the contingent fund of the Senate, but not to exceed a total of $40,000 in fiscal year 1991 and $42,500 in fiscal year 1992 for the Senate fellowships.

(b) ADMINISTRATION AND EVALUATION.—The Triangle Coalition for Science and Technology Education shall provide the funds necessary for the administration of the fellowship program and for the evaluation referred to in section 3.

PRINTING OF A COLLECTION OF THE RULES OF THE COMMITTEES OF THE SENATE

The resolution (S. Res. 58) to authorize the printing of a collection of the committees of the Senate, was considered and agreed to, as follows:

S. RES. 58

Resolved, That a collection of the rules of the committees of the Senate, together with related materials, be printed as a Senate document, and that there be printed 600 additional copies of such document for the use of the Committee on Rules and Administration.

FOREIGN RELATIONS PERSIAN GULF CONFLICT EMERGENCY SUPPLEMENTAL AUTHORIZATION ACT, FISCAL YEAR 1991

The bill (H.R. 1176) to provide authorizations for supplemental appropriations for fiscal year 1991 for the Department of State and the Agency for International Development for certain emergency costs associated with the Persian Gulf conflict, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

EMERGENCY SUPPLEMENTAL ASSISTANCE FOR ISRAEL ACT OF 1991

The bill (H.R. 1284) to authorize emergency supplemental assistance for Israel for additional costs incurred as a result of the Persian Gulf conflict, was considered, ordered to a third reading, read the third time, and passed.

CLARIFICATION OF EMERGENCY DESIGNATION

Mr. DOMENICI. Mr. President, in the interest of expediting the authorizing process and protecting the 1990 Budget Enforcement Act, I would like to engage in a brief exchange with the chairman and ranking Republican member of the Foreign Relations Committee.

Mr. PELL. I understand the concern of the Senator from New Mexico, and I believe that we can reach an accommodation.

Mr. HELMS. I, too, am concerned that we make clear that the language in this bill in no way seeks to alter, amend or interpret the 1990 Budget Enforcement Act.

Mr. PELL. The factual situation in this case is that on March 7, the President asked the Congress for a dire emergency supplemental appropriation for fiscal year 1991. In his letter to the Speaker of the House of Representatives, the President stated that "Pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, I am hereby designating this supplemental request, in the amount specified, as an emergency requirement." The bill before the Senate would authorize the appropriation requested by the President and would have the Congress join the President in designating this specific authorization of an appropriation as meeting an emergency requirement. Nothing more or less is intended, and I ask unanimous consent that the correspondence from the President to which I referred be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, March 7, 1991.

The Speaker of the House of Representatives.

SIR: I ask Congress to consider a request for a dire emergency supplemental appropriation for FY 1991 in the amount of $650,000,000 for International Security Assistance. Pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, I am hereby designating this supplemental request, in the amount specified, as an emergency requirement.

The details of this request are set forth in the enclosed letter from the Director of the Office of Management and Budget. I concur with his comments and observations.

Sincerely yours,
GEORGE BUSH.

Mr. DOMENICI. Would the managers of the bill agree that the language in this bill stating that the funds authorized be "designated emergency requirements pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985" is intended solely to indicate congressional concurrence with the emergency designation communicated to the Congress in the President's letter of March 7?

Mr. PELL. With regard to this specific authorization, the Senator is correct. However, the sequence of congressional and Presidential designation of an emergency is not at issue here. Indeed, Members of Congress were the first to urge emergency aid for Israel to offset part of the cost that the State of Israel incurred during the recent war in the Persian Gulf.

Mr. HELMS. I concur.

SUPPLEMENTAL STATE DEPARTMENT AND AID AUTHORIZATION

Mr. PELL. Mr. President, I appreciate the cooperation of the majority leader in scheduling so quickly the two supplemental authorization bills the companions of which the Committee on Foreign Relations ordered reported on Thursday, March 7. Action on these bills today will provide the necessary authorization for appropriations to be considered this week in the Senate Appropriations Committee.

Both of the bills are related to Operations Desert Shield and Desert Storm. The first provides $19.3 million in additional authorization to cover emergency costs incurred by the Department of State and the Agency for International Development. The second authorizes $650 million in additional assistance to Israel to compensate that country for losses suffered in connection with the Persian Gulf conflict. Both bills authorize in full the requests made by the administration, and I urge my colleagues to support both bills.

THE EMERGENCY ISRAEL AID PROPOSAL

Mr. HELMS. Mr. President, I have always opposed foreign aid, and I am obliged to vote "no" on the Israel aid package. The American people simply do not understand why billions of their hard-earned money has been transferred to other countries with so little to show for it.

At the same time, there are indeed situations when it seems that foreign aid would solve a problem, or help an ally. Israel is one of these hard cases. It is particularly a hard case right now, when Israel has not only suffered direct blows, but has had a high level of military expense in calling up its reserves and keeping its troops on 24-hour alert for an extended period of time. Moreover, Israel's cooperation with the strategy and tactics of General Schwarzkopf and the coalition forces has demonstrated Israel's deep commitment to partnership with the United States.

But in the long run, Israel must realize the United States foreign aid is a two-edged sword. United States aid has become a line-item in the Israeli budget. Every dollar we give makes it more and more difficult for Israel to normalize its economy. Every dollar we give is a link in an iron chain that makes Israel so dependent upon the whims of the United States State Department that Israel's independence of action, its very freedom to pursue its most vital long-term interests is threatened.

Even now, it is clear that the policy being proposed for peace in the region is a policy that Israel has long identified as a threat to its survival. Nothing has changed since the gulf war to suggest that the surrender of actual territories for alleged peace will guarantee Israel's survival.

Indeed, the gulf war demonstrates the opposite. Saddam Hussein imposed his own kind of peace on Kuwait on August 2. Yet the United States believed, up to and including August 1, that Kuwait was secure.

Israel had enough difficulty defending itself against missiles launched from a distance of 200 miles. Can you imagine the problem if the missiles had been launched from the mountaintops of a PLO state 10 or 15 miles from Tel Aviv?

Moreover, the recent subjugation of the Christian community in Lebanon, and the installation of a Syrian-controlled puppet government, with the acquiescence of the United States State Department, is an example that Israel must examine with care.

Finally, Israel has already given up 90 percent of the territories that it occupied during the 6-day war, and substantially complied with U.N. Resolution 242, yet it has had little experience of peace.

The massive levels of United States foreign aid that Israel has accepted in the past, and is seeking at the present moment, could well create an unhealthy leverage against Israel in the forthcoming talks, and make it difficult, or impossible, for Israel to choose freely about its future.

I am under no illusion that the present bill will fail. And even if it does, the appropriation committees have already declared their willingness to provide the funds without an authorization. Nevertheless, as a friend of Israel, I vote "no" because I believe that a no-vote is in the best interests of Israel in the long run.

MEASURES INDEFINITELY POSTPONED

Mr. NUNN. Mr. President, I ask unanimous consent that Calendar Nos. 31 and 32 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZING TESTIMONY OF EMPLOYEE OF THE SENATE

Mr. NUNN. Mr President, on behalf of the majority leader, and the distinguished Republican leader, Mr. DOLE, I send to the desk a resolution on authorization of testimony by a Senate employee and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 80) to authorize testimony by a Senate employee in the case of Tennessee vs. Hutchinson, No. 9100652MMACI (General Sessions Court of Knox County) and related cases.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Mr. President, on January 14, 1991, a number of demonstrators were arrested at Senator GORE's Knoxville, TN, office after they refused to leave when the office was closed at the end of the day. The State of Tennessee has brought trespass charges against these individuals.

Keith Hill, Senator GORE's field representative in his Knoxville office, has been subpoenaed by the State of Tennessee to testify at the trials for trespass. The following resolution would authorize him, and any other employee in Senator GORE's office who may be asked, to testify, except concerning matters for which a privilege should be asserted.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 80) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 80

Whereas, in the case of Tennessee v. Ralph Hutchinson, No. 9100652MMACI, and related cases, pending in the General Sessions Court of Knox County in the State of Tennessee, Keith Hill, an employee in Senator Gore's Knoxville office, has been subpoened by the state of Tennessee to testify at trial;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that testimony by a Senate employee may be needed in any court for the promotion of justice, the Senate will act to promote the ends of justice in a manner consistent with the privileges and rights of the Senate: Now, therefore be it

Resolved, That Keith Hill, and any other employee in Senator Gore's office who may be asked, is authorized to testify in the case of Tennessee v. Hutchinson, and related cases, except concerning matters for which a privilege should be asserted.

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mr. SMITH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDERS FOR TOMORROW

Mr. NUNN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:45 a.m., March 14; that following the prayer, the Journal of the proceedings be approved to date; that the time for the leaders be reserved for their use later in the day; that there then be a period for morning business not to extend beyond 10:15

a.m., with Senators permitted to speak therein; that the time between 9:45 and 10 o'clock be under the control of the Republican leader or his designee, and from 10 a.m. until 10:15 a.m. Senators be permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 9:45 A.M.

Mr. NUNN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in recess under the previous order until 9:45 a.m., Thursday, March 14, 1991.

There being no objection, the Senate, at 7:35 p.m., recessed until Thursday, March 14, 1991, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate March 13, 1991:

U.S. INTERNATIONAL TRADE COMMISSION

JAMES A. NUZUM, OF VIRGINIA, TO BE A MEMBER OF THE U.S. INTERNATIONAL TRADE COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JUNE 16, 1996, VICE RONALD A. CASS, RESIGNED.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

RAOUL LORD CARROLL, OF THE DISTRICT OF COLUMBIA, TO BE PRESIDENT, GOVERNMENT NATIONAL MORTGAGE ASSOCIATION, VICE ARTHUR J. HILL, RESIGNED.

HOUSE OF REPRESENTATIVES—*Wednesday, March 13, 1991*

The House met at 11 a.m. and was called to order by the Speaker pro tempore [Mr. GEPHARDT].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 13, 1991.

I hereby designate the Honorable RICHARD A. GEPHARDT to act as Speaker pro tempore.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

With all the needs of the world before us, O God, we pray that the hopes for peace will be realized and new understanding will benefit all people. At this special time when the focus of many is on building for security and confidence between those who have been at enmity, we pray for us and for every person the gift of wisdom and the spirit of respect. And with Your blessing O God, may we use our energy and best efforts to seek the way of peace and reconciliation for this is Your will for us. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. SCHIFF. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SCHIFF. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 292, nays 98, not voting 41, as follows:

[Roll No. 43]

YEAS—292

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bacchus
Barnard
Barrett
Bateman
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Callahan
Campbell (CO)
Cardin
Carper
Carr
Clement
Clinger
Coleman (TX)
Collins (IL)
Combest
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Dreier
Duncan
Durbin
Dwyer
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Foglietta
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gaydos
Gejdenson
Gephardt
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Gradison
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hertel
Hoagland
Hobson
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McEwen
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Morrison
Murtha
Myers
Nagle
Natcher
Neal (MA)
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Packard
Pallone
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ravenel
Ray
Reed
Richardson
Riggs
Rinaldo
Ritter
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sangmeister
Sarpalius
Scheuer
Schiff
Schulze
Schumer
Serrano
Sharp
Shaw
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (TX)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (GA)
Thornton
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walsh
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Wylie
Yates
Yatron
Young (FL)
Zeliff

NAYS—98

Allard
Armey
Baker
Ballenger
Bentley
Bilirakis
Bliley
Boehlert
Boehner
Bunning
Burton
Camp
Campbell (CA)
Chandler
Clay
Coble
Coleman (MO)
Coughlin
Dannemeyer
DeLay
Dickinson
Doolittle
Edwards (OK)
Gallegly
Gallo
Gekas
Gilchrest
Goodling
Goss
Grandy
Hancock
Hastert
Hefley
Henry
Herger
Holloway
Hopkins
Hyde
Inhofe
Jacobs
James
Kolbe
Kyl
Lagomarsino
Leach
Lewis (CA)
Lewis (FL)
Lightfoot
Lowery (CA)
Machtley
Martin
McCandless
McCollum
McCrery
McDade
McMillan (NC)
Michel
Miller (WA)
Molinari
Moorhead
Morella
Murphy
Nussle
Oxley
Paxon
Porter
Quillen
Ramstad
Regula
Rhodes
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schroeder
Sensenbrenner
Shays
Sikorski
Slaughter (VA)
Smith (OR)
Solomon
Stearns
Stump
Sundquist
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Wolf
Young (AK)
Zimmer

NOT VOTING—41

Applegate
Archer
Barton
Chapman
Collins (MI)
Cox (CA)
Crane
Dellums
Dornan (CA)
Dymally
Early
Fields
Flake
Ford (MI)
Geren
Gray
Hammerschmidt
Hefner
Hochbrueckner
Hunter
Ireland
Jefferson
Kasich
Kennedy
Levine (CA)
Marlenee
Mfume
Miller (OH)
Moran
Mrazek
Neal (NC)
Orton
Pursell
Sanders
Savage
Sawyer
Torres
Udall
Washington
Waters
Wilson

☐ 1126

Mr. PAXON changed his vote from "yea" to nay."

Mr. YATRON changed his vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

PERSONAL EXPLANATION

Mr. TORRES. Mr. Speaker, I was unavoidably absent on official business during rollcall votes. Had I been present on the House floor I would have cast my vote as follows:

Roll No. 43, yea on agreeing to the Chair's approval of the Journal.

PERSONAL EXPLANATION

Mr. MORAN. Mr. Speaker, during rollcall vote No. 43 of the Journal I was unavoidably detained. Had I been present I would have voted "yea."

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. GEPHARDT). The Chair recognizes the gentleman from New Mexico [Mr. SCHIFF] to lead the House in the Pledge of Allegiance.

Mr. SCHIFF led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

> S. Con. Res. 21. Concurrent resolution commending the people of Mongolia on their first multiparty elections.

The message also announced, that, pursuant to Public Law 94-304, as amended by Public 99-7, the Chair on behalf of the Vice President, appoints Mr. CRAIG, to the Commission on Security and Cooperation in Europe, vice Mr. McClure.

MORE AND BETTER JOBS FOR AMERICAN WORKERS

(Mr. ROEMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROEMER. Mr. Speaker, last Friday, the people of the Third District of Indiana received some bad news. Allied Products Corp. announced that after 26 years of business, it would be closing down its South Bend stamping division.

Over 500 people in South Bend—working men and women with children and mortgages and bills to pay—need their jobs with Allied Products.

When the Studebaker Co. collapsed in 1964, Allied Products started the South Bend stamping division, a plant that assembles stamp metal parts such as hoods, dash boards, seats, and quarter panels for Ford, General Motors, and Chrysler automobiles.

This is an operation that's all American—they've never gotten a foreign job in the South Bend plant. It is a plant that's been in business for 26 years and has been profitable for every single one of those 26 years.

But, the owners say, poor economic conditions and competition from foreign automakers are forcing the South Bend stamping division to close.

This is the third severe blow to the Third District in recent memory, as the closing of Whitehall Laboratories in Elkhart, IN and the Uniroyal plant in Mishawaka have also dealt severe blows to workers in the area.

Mr. Speaker, I am sad to say that these developments are not unique to my congressional district. In fact, over 187,400 men and women in Indiana were unemployed in January of this year. And all indications are that January's 6.7 percent unemployment rate in Indiana is on the rise.

The overwhelming majority of my colleagues in this body have or will soon have to face a group of workers—workers like those at Allied, Whitehall, and Uniroyal whose jobs have moved across the border or overseas.

With a trade deficit of over $101 billion in 1990 alone, and with the closing of plants across the Nation like those in northern Indiana, I urge Congress to take a look at creating new jobs, retraining our work force to employ new technologies.

By providing retraining for our workers and better educational opportunities, American workers will have a better chance to compete in the world market, and most of all, they will be able to earn an honest and decent living.

□ 1130

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 759

Mrs. LLOYD. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 759.

The SPEAKER pro tempore (Mr. DONNELLY). Is there objection to the request of the gentlewoman from Tennessee?

There was no objection.

POLITICAL COURAGE AND THE RTC VOTE

(Mr. WYLIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYLIE. Mr. Speaker, last night we witnessed a sad moment in the history of the Congress. The other body acted responsibly and passed a bill to allow the RTC to continue closing dead S&L's and pay off depositors. When confronted with the same vote, the House turned down an opportunity to get the issue behind us for the good of the country. I do not relish the idea of going home and telling my constituents that we cannot pass a bill to save the depositors money.

This process started out with two agonizing markups in the House Banking Committee. Banking Committee Democrats originally tried to pass a bill that would have turned the funding bill into a social welfare bill. We need to get back to the real issue of funding the RTC.

Our constituents sent us here to make the tough votes. The tough vote last night was to stand behind the depositors in federally insured institutions. A great majority of the House Republicans cast the tough vote last night. It is too bad we could not get a majority of the Democrats.

We need to pass a bill which will insure the savings of insured depositors and get the issue behind us so we can move on to other issues of more importance.

DIRE CONSEQUENCES OF FREE TRADE AGREEMENT WITH MEXICO

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, the unemployment rate in the United States is inching up. Millions of Americans are out of work and millions more are forced to work part-time, even though they want full-time jobs.

In the coming weeks, this Congress will decide whether or not to roll over and give the Bush administration the go-ahead on negotiating a free trade agreement with Mexico. To date, the administration has refused to include provisions in the negotiations to safeguard American workers.

My Ninth District in Ohio, where unemployment is now over 7 percent, is heavily dependent on the automotive industry. If the administration negotiates a United States-Mexico Free Trade Agreement without due consideration to its impact on workers in this country, thousands of additional jobs will move to Mexico where corporations pay workers as little as 60 cents an hour.

Mr. Speaker, the implications of approving a Free Trade Agreement with Mexico can have dire consequences on the hard-working men and women of this Nation. If there is one thing this Congress can do in the upcoming session to save American jobs, it is to insist that the administration directly address how such an agreement will keep U.S. workers employed at good wages in the United States in the years ahead.

MORE MONEY WASTED

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, as this sign indicates, as of this morning the Congress has wasted $104 million on funding the Resolution Trust Corporation because the Democratic leadership cannot find the votes on their side to help us.

Now, last night 3 out of 4 Republicans voted to do the correct thing, the honorable thing, and pay for the deposit insurance which we have committed the Government to pay for. It is depositors whose money is at stake. If we wait until next week, this number will rise to $160 million in pure waste, $160 million thrown away of the taxpayers' money purely to pay interest because the Congress has not done its job.

So I urge the Democratic leadership, to bring up a clean Resolution Trust Corporation bill later on today. Let us go ahead and pass it and get it signed. I believe we can get a bill downtown and the President will sign it and we will save literally $50 million or $60 million simply by acting today in a bipartisan manner and passing the bill.

WINNING THE BATTLE AGAINST RECESSION

(Ms. DeLAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DeLAURO. Mr. Speaker, our country just defeated Saddam Hussein's war machine in the Persian Gulf with over 500,000 American troops.

That is about the same number of additional people who have become unemployed in the past month according to the latest labor department statistics.

Our troops fought bravely to bring opportunity and freedom to a foreign country and a foreign people. It was an obligation we as a government and America as a country accepted and shared.

Mr. Speaker, when we finish bringing out 500,000 troops home on July 4th this year, I hope we can insure that they come home to a country that offers them the kind of opportunities they will need to lead productive lives.

There are over 8.2 million Americans out of work today—Americans who are ready to work hard and share the burden of our Nation's obligations.

But with this number increasing every day, we cannot afford to stand by idly waiting for our economic problems to solve themselves. We need to channel the kind of energy and leadership our Government exerted in winning the gulf war toward winning the battle against the recession.

We need to stop the unemployment lines. We need to do this because as a nation we are ultimately measured by how we care for our people at home.

We need to draw a line in the sand now and commit ourselves to take whatever measures necessary to stop the rising unemployment rate before it is too late.

Mr. Speaker, I believe that the American people—in the wake of our gulf victory—are looking at government with a renewed sense of encouragement. We proved that working together, government can have a positive impact. Let us capitalize on that renewed faith in our ability and resolve to offer the leadership necessary to stop the unemployment problem and offer the American people the prosperous and healthy nation they deserve.

TRIBUTE TO HELEN SEWELL

(Mr. HENRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous material.)

Mr. HENRY. Mr. Speaker, I wish to call to the attention of this body to the fact that one of our most loved House employees received a well-deserved recognition in the Washington Times this past Monday, March 11. This individual has been an employee of the House of Representatives for longer than the distinguished chairman of the Committee on Appropriations, Mr. WHITTEN, has served in this body. Almost 10 years ago, this friend to us all received the John McCormack Award for exceptional service as a Congressional employee.

This individual's 56 years of faithful service to the Congress has earned her the friendship of Presidents, the ear of members of the cabinet, and the loyalty of hundreds upon hundreds of Members of Congress.

My comments, of course, are directed toward recognition of Mrs. Helen Sewell, the snack bar manager in the Republican lounge. Helen, it is wonderful to see you acknowledged for your faithful and constant service as you recently were in the Washington Times article. When sessions run late into the night, your good counsel keeps us in good humor, and contributes to the civility of this institution. You've won your way into our hearts, and helped keep this institution human when the going gets rough.

I know you join me, Mr. Speaker, in once again acknowledging the contributions of Helen Sewell to the well-being of this institution, and I ask the liberty to attach to these remarks a copy of the article in the Washington Times by way of tribute to our friend.

[From the Washington Times March 11, 1991]

DOME SWEET DOME—A KNACK FOR GOP SNACKS SINCE 1934

(By Mark Vane)

Three years ago, a Capitol security guard stuck his head into the House Republican cloakroom and said, "Helen, come with me."

At first, the prim and proper Helen Sewell was suspicious. Reluctantly, she followed the guard downstairs to the Rotunda, where she was approached by a woman.

"Helen," the woman said, "President Bush wants to have a picture taken with you."

Helen Sewell is not a congress-woman, a powerful lobbyist or a rich donor. She is a snack bar manager.

For more than 56 years, she has served sandwiches and coffee to some of the most powerful people in the world.

"I've been so close to them, they've been like family," Mrs. Sewell, 74, said of the hundreds of House members who regularly stopped by her cramped snack stand in the cloakroom.

Whenever Gerald Ford is at the Capitol, she said, he stops by to say hello. She respects the former president, a "dynamic person" who "worked hard and late into the evening." She even takes some of the credit for his becoming president.

"He ate a lot of my cottage cheese with Worcestershire sauce," Mrs. Sewell said, "That's what got him to the White House."

The current White House occupant remembers her, too. Mrs. Sewell knows every time Mr. Bush is on the Hill he will stop by.

"He's terrific," she said.

Her feelings are not the same for everyone, however.

Another former representative and president, Richard Nixon, is just all right."

Some presidents don't rank at all. Ronald Reagan, to Mrs. Sewell's disappointment, never came to visit.

As for recent House members, Housing and Urban Development Secretary Jack Kemp is one of her favorites.

In a note a few years ago, Mr. Kemp wrote on behalf of Congress that Mrs. Sewell "lights up our lives." He also sponsored a resolution of respect to her husband, who died in 1985.

"Kemp is gone now," Mrs. Sewell said, "but he'll be back to see me."

Secretary of Defense Richard Cheney still stops by or sends messages, Mrs. Sewell said, continuing the friendship he started when he was in the House.

Mrs. Sewell's father, Benjamin Franklin Jones, came to the Capitol in 1913 from Lovejoy, Ill., recruited by his congressman to check members' coats and hats. In time, he began to sell candy, fruit and gum to them. Eventually, Mrs. Sewell said, he was given space in the cloakroom to sell coffee and doughnuts, then added sandwiches and other lunch items.

Thinking a woman's touch would be nice, Mr. Jones had his daughter, then a junior high school student, join him in the cloakroom. When her father died in 1934, she took over the stand.

Her father's funeral was held at night so members of Congress could come. And they did, in droves, she said.

Later, when Mrs. Sewell's daughter, Jamille, was born, nurses asked her if she was famous. She received so many flowers from the Hill that the nurses gave them away.

Not much has changed at Mrs. Sewell's stand over the years.

"My father said the men liked heavy sandwiches," she said, and she has kept them that way. "Now, the women like heavy sandwiches, too."

In 1982, Mrs. Sewell received the John McCormack Award for exceptional service as a congressional employee, only the second Republican nominated winner to receive the 20-year-old citation. Besides a House resolution congratulating her, she received more than 100 letters from representatives.

William Pitts, an administrative assistant for Minority Leader Robert Michel, wrote: "You've been like a mom to me."

He is not the only one Mrs. Sewell looks after. Many congressional spouses have called to ask that she not serve ice cream or other sweets to their husbands or wives—or cigarettes. When they come and ask her for the contraband, she said she tells them no.

"I fuss at them just like my husband," Mrs. Sewell boasts.

THE NEED FOR JOBS

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, last week the Labor Department announced that the unemployment rate for February had reached 6.5 percent, up from 6.2 percent in January. The ranks of jobless Americans has swelled to 8.2 million people, up 450,000 from January.

In that same week, Mr. Speaker, the President stood before this body and indicated that he was now going to turn his attention to a domestic agenda. Yesterday, his spokesperson indicated that the backbone of the President's new domestic order will be his old strategy, the veto.

Has a veto ever put food in a hungry child's mouth? Has it ever paid the rent or the mortgage payment? Has it ever provided needed medical assistance for someone who is sick?

Mr. Speaker, the people of this country do not need vetoes. They need jobs. They need the President's attention to develop an economy which produces jobs and opportunity for millions of Americans.

The President expresses his concern for those in need in our country. His concern is one thing, but it is no substitute for a positive program of action.

Americans need jobs. They need jobs now.

CONGRESSIONAL CALL TO CONSCIENCE

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, for 15 years the Union of Councils for Soviet Jews has sponsored the Call to Conscience on behalf of Soviet Jews, a vigil. I am most happy to serve as one of three cochairs for the 102d Congress.

Yes Mr. Speaker, I know, hundreds of thousands of Soviet Jews, some 232,659 emigrated in 1990 alone—who sought permission have been allowed to emigrate. Yes, I know record numbers of Soviet Jews are now settling in Israel and the United States. Yes, we have seen encouraging changes in emigration numbers over the last couple of years. But, my friends, now more than ever, we must not let our vigilance slip. These are crucial days for the Soviet Union. The unfettered right to emigrate is anything but a settled matter.

Mr. Speaker, I would point out to my colleagues that we continue to receive reports of those who are arbitrarily denied the right to emigrate or even travel because of an alleged possession of "state secrets." An applicant has no judicial review rights on the requirement of a financial waiver from family—parents and former spouses. Too often waivers are denied not because of legitimate outstanding obligations but due to KGB incitement and coercion.

Mr. Speaker, of particular concern perhaps most ominously, we are receiving reliable reports that antisemitism is on the rise in many parts of the U.S.S.R. There has been a dramatic rise in ugly anti-Jewish propaganda in both the official media and the popular press apparently much of it KGB inspired. The offensive written sentiments are too often reinforced by violence and physical incidents against the Jewish population. This simply cannot be tolerated.

Mr. Speaker, the fundamental problem facing Soviet Jews and other Soviet citizens wishing to emigrate is the fact that this basic human right is not encapsulated in law. For over 2 years we have heard Soviet official promises that the pending emigration reform law would be approved. The citizens of the Soviet Union are still waiting. We are still waiting.

Mr. Speaker, we seek your support—and voice—in this call to conscience vigil. The vigil involves weekly statements by House and Senate Members. As cochairs we will help coordinate the project. We ask for your willingness to maintain this vigil for the sake of those in the Soviet Union who seek the legitimate right to emigrate freely.

□ 1140

UNEMPLOYMENT AND THE RECESSION

(Mr. NAGLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NAGLE. Mr. Speaker, most people think of February as the month of "red hearts." But for more than 450,000 Americans, February 1991 will be remembered as the month of "pink slips."

That's the number of Americans who lost their jobs last month as the recession deepened.

Unemployment now stands at its highest level in nearly 4 years. Today, there are more than 8.1 million Americans who are out of work, and another 6.1 million working part time who want to work full time.

Just this past Friday, the Secretary of Commerce predicted there will be no turn around in March or even in April.

In other words, the economic burden on working Americans will get worse before it gets better, as long as we stay the present course.

Mr. Speaker, working Americans pay most of the bills in this country.

Working Americans make most of the consumer purchases which drive our national economy.

And it was the sons and daughters of working Americans who fought, and died, and won in Operation Desert Storm.

They deserve an economy which works and an economy in which they can find work.

It's not enough to just hunker down and hope we can wait this thing out, which seems to be the approach the administration appears to be taking.

I urge the President to join with the Congress in facing up to the tremendous challenges we now face here at home. We owe the brave men and women who are now marching home from the Persian Gulf nothing less.

1980'S: GROWTH AND PROSPERITY

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, last week two U.S. Senators released a report demonstrating that the 1980's was a time of growth and rising prosperity for all income levels, not just the wealthy.

Last week Senators PHIL GRAMM and PETE DOMENICI released a report showing that both the wealthy and poor became richer during the 1980's. This was a result of record-setting economic expansion and solid job growth during that period.

Among the highlights of this report are:

Between 1983 and 1989, family income for the poorest 20 percent of Americans rose by 11.8 percent—a rate higher than for the majority of wage earners—and roughly equal to the rise experienced by the wealthiest 20 percent of the population.

The number of persons living in poverty declined by 2.3 million between 1982 and 1989.

The report also states that between 1982 and 1989, many low-income earners became middle-income earners and many middle-income earners became upper-income earners.

This study is based on statistics from the Congressional Budget Office and the Departments of Labor and Commerce.

As we work through the decade of the nineties and into a new century, we must remember that a growing economy in which individual Americans work and provide for themselves and their families is the best way to fight poverty.

We need to take the economic lessons of the 1980's of less taxes and more freedom into the decade of the nineties.

SAVINGS AND LOAN CRISIS: MOST SERIOUS INDIVIDUAL ECONOMIC PROBLEM FACING THE UNITED STATES

(Mr. SCHIFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHIFF. Mr. Speaker, the savings-and-loan crisis may well be the most serious individual economic problem facing the United States of America since the Great Depression.

For many reasons it may also be the most unpopular issue to be dealt with by the Congress since the Great Depression. But it is unfortunate that yesterday we failed to pass legislation addressing this problem.

Mr. Speaker, the savings-and-loan crisis will not go away by ignoring it; it is only going to get worse.

Mr. Speaker, I urge the leadership to bring back to the House floor legislation dealing with this urgent problem as soon as possible.

CAPPING GROWTH OF FEDERAL LAND HOLDINGS IN PUBLIC LANDS STATES

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, today I am introducing legislation which will limit the ability of the Federal Government to acquire additional property in States that currently have 25 percent or more of their acreage owned by the U.S. Government.

The Federal Government continues to acquire substantial portions of land in many Western States. Roughly 50 percent of my home State of Wyoming is federally owned, and the figure continues to increase. I believe we must begin to take action to force the Federal Government to balance its acquisition of property in public lands States and develop a more reasonable and careful approach to Federal land acquisition.

My bill would require the Federal Government to dispose of land of equal value when it acquires more than 100 acres of property in public lands States. This would effectively put a cap on continued growth of Federal land holdings in States that have enormous pieces of land already controlled by the Government.

Mr. Speaker, the citizens of Wyoming and people throughout the West are tired of the continued encroachment by the Federal Government in their States. This legislation would curb that growth and bring a no-net-gain approach to Federal land acquisition policy in the public lands States.

PRESIDENT BUSH HAS ONE OF THE HIGHEST DISAPPROVAL RATINGS FOR DOMESTIC AFFAIRS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the President said he will now govern by veto. His performance rating and polling ratings for Desert Storm are over 90 percent. Republican strategists said Democrats will be too afraid to oppose him.

The same polls, however, say that only 25 percent of the Americans like the way he is handling the economy; only 26 percent like the way he is dealing with education; only 27 percent like the way he is dealing with the environment; only 29 percent like the way he is dealing with the savings and loans; and only 34 percent like the way he is dealing with health care.

In fact, ladies and gentlemen, over 55 percent of all Americans polled disapprove of the President's handling of domestic affairs.

The President has one of the highest disapproval ratings for domestic affairs in all American history.

So, before Democrats start taking to the bridges and sustaining those vetoes, keep that in mind; the American people do not want to veto, they want some overrides from the Democratic Party.

THE FARM AND FORESTRY ENERGY CONSERVATION ACT

(Mr. CAMP asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CAMP. Mr. Speaker, I am introducing legislation today to confront two pressing problems facing our Nation: Energy policy and environmental protection. My legislation, the Farm and Forestry Energy Conservation Act of 1991, is based on a model program that has been tested successfully for 3 years in my home State, Michigan. The Michigan Energy Conservation Program has helped more than 20,000 farmers since its inception in January 1988. During that time, Michigan farmers saved more than $25 million in energy and agrichemicals. For every dollar invested in the program, more than $2 in energy has been saved.

This legislation is based on the concept of teamwork, with local soil and water conservation districts and other agriculture-related agencies working together to conserve energy through integrated pest management, fertilizer management, livestock management, reduced tillage practices, irrigation management, wood utilization, horticultural facilities and forestry management. The intent of the program is to help farmers, ranchers and the forestry industry conserve energy while also protecting the soil, ground water, surface water and other natural resources from unnecessary exposure to agrichemicals.

One of many examples of the success of the Michigan Agriculture Energy Model involved Eaton County, Michigan, where a fertility program reduced costs for 121 farmers by more than $130,000. Much of this savings resulted from taking advantage of a phosphorus buildup in the soil from years of past application. Soil and water conservation districts around the State used funding from the program for soil tests to determine nitrogen, phosphorus and potassium levels. As a result, fertilizer inputs were reduced by more than 16,000 tons, and farmers have saved a total of $5.4 million in fertilizer. Integrated pest management programs have reduced pesticide application by an estimated 1,900 tons and saved farmers approximately $3.4 million.

It's time to turn the energy and environmental successes in Michigan into national successes. This program would provide grants to individuals or institutions for energy-efficiency projects in agricultural or forestry applications. It also calls for the establishment of agricultural experiment stations to demonstrate energy-saving practices, the use of extension services to disseminate informational and educational materials, and the use of the Soil Conservation Service to provide technical and material assistance to program participants.

Mr. Speaker, we all know that we need a National Energy Strategy and that we have to start conserving our energy. This legislation would produce a nationwide energy savings in the energy-intensive agriculture industry. I urge my colleagues to support it and to take a big step toward efficient energy use.

☐ 1150

A COMMUNITY FULL OF LOVE

(Mr. SARPALIUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SARPALIUS. Mr. Speaker, this past weekend I went home to my district, to the small town of Stinnett, TX, population of only 2,200 people, to observe a disaster that had struck that community. A fire had started on March 5, a grass fire, and winds quickly spread to the community, and what I saw was I saw 28 blocks that had been destroyed by some degree of this fire. Twenty homes burned totally to the ground. I saw 8,000 acres of grassland destroyed. I saw 51 other homes and businesses that had been damaged by smoke.

Mr. Speaker, I talked to a man who was fighting to try to keep his home from being engulfed in flames with a garden hose. When the fire truck finally arrived, he saw that his home was gone, and he turned to the fireman and said, "Let's go try to save someone else's home."

After seeing a community that was damaged and blackened by fire, I then went to the high school and sat in an auditorium that was packed with the community to see there the funeral of James Dale Hawthorne who gave his life in the last 2 hours in the battle of Kuwait. I saw a community that was full of sorrow, but a community that was full of love. I saw a community that had not turned to the government for handouts, but turned to each other with open arms. I saw a community that was an example for all communities around this country.

RTC SHOULD NOT BE BURDENED WITH SOCIAL POLICY MANDATES

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, in 1929 the American people lost confidence and trust in our financial institutions. Congress then went to the American people and said, "Trust us; we're from the Government," and we created the Federal Deposit Insurance Corporation to guarantee that trust.

Fifty years later, Mr. Speaker, largely because of failed public policy and failed public policymakers, it became necessary to resolve that trust, and we created the Resolution Trust Corporation. It is not necessarily the best creation; it came out of a congressional committee. But its assigned task is to resolve that trust, close failed thrifts, take the assets and sell the assets. We, in creating the institutional structure of this organization, giving it its mandate, overburdened it with mandates of social policy, and it has not been as effective as it should have been and as we would have hoped it could be.

Now it is time to give additional funding to this agency to carry out its assigned purpose. This is no time to further burden this agency with additional social policy mandates. It is crippling the agency's ability to do what must be done, and I suggest that Congress ask the leadership to take the Senate bill from the desk, pass it and get this necessary job done now.

HOW TO SAVE $120 BILLION IN FUTURE-YEAR INTEREST PAYMENTS

(Mr. SLATTERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SLATTERY. Mr. Speaker, yesterday 186 Members of this body voted for the Kennedy-Slattery pay-as-you-go amendment for the RTC reauthorization. I appreciate their votes, and, as I said yesterday, we must honor the commitments that we have made to our depositors in this country, and we will do that. If we pay, however, the cost of the RTC bailout for fiscal year 1992, we will save our children and grandchildren $120 billion in future-year interest payments.

Now let me state that a different way. If we borrow all of this money, what we are in effect doing is asking our children and grandchildren to pay $120 billion in new taxes that they would not otherwise have to pay if we paid our bills.

That is wrong, Mr. Speaker, and I say to my colleagues from this side of the aisle, "When you hear talk about tax increases, what you're not hearing is the truth, and that is that the hidden tax increase will be on our children and grandchildren, $120 billion of taxes on our kids and grandkids."

Mr. Speaker, those that voted against pay as you go are voting for a $120 billion tax increase on our children and grandchildren. It is wrong.

THE ADOLESCENT PREGNANCY PREVENTION AND PARENTHOOD ACT

(Mrs. JOHNSON of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JOHNSON of Connecticut. My colleagues, please join the gentleman from New York [Mr. TOWNS] and a bipartisan group of Members who are looking to address one of the major first causes of family poverty in America, poverty among women and children.

Mr. Speaker, half of all single-parent households are poor, and, if a parent is a teenager, the poverty rate rises to 80 percent. One out of three parents under 22 are poor.

In other words, having a child while being a child very likely will mean poverty and hopelessness.

Adolescent childbearing is one of the leading causes of welfare dependency in the United States. Teen mothers comprise 61 percent of all women receiving welfare. Of women under age 30 receiving AFDC, 71 percent had their first child as a teenager. It has been estimated that, including AFDC payments, food stamps and Medicaid benefits, the United States spent over $21 billion in 1989 assisting families begun with a birth to a teenager.

Mr. Speaker, it is not hyperbole to say that teen pregnancy is the cause of most of the poverty and hopelessness afflicting too many of our young families today. The United States leads all Western countries in teen pregnancy.

Please join us in sponsoring the Mickey Leland Adolescent Pregnancy Prevention and Parenthood Act and in passing it this year. Indeed it is the least we can do for our children who are becoming parents in poverty at a rate that boggles the mind and breaks the heart.

"V" FOR "VICTORY" OF FAMILY MEDICAL LEAVE

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, apparently the President thinks "V" for "victory" means "V" for "veto," and I do not think the American people are going to agree.

I say to my colleagues, when you look at this victorious war from which he's gaining so much popularity, one of the things that people were ashamed about in the war is that for the first time we had a war that was taking parents away from their children, parents away from their children as young as 2 weeks old, and people were saying, "Wait a minute. We don't have to go that far."

Mr. Speaker, we now have family medical leave back, back on a fast track, in this Congress. It was one of the President's veto victims of last year. Let us hope that he looks at his crime proposals and everything else and understands what pediatricians and everyone across this country have said: The best way to fight crime, the best way to deal with all sorts of unrest in this country, is let families get rooted at the very beginning. Let bonding go on and allow families that very important medical leave to get established.

I say, please, Mr. President, don't see this as something to veto this time. I think the American people would be very disappointed.

CLEAN COAL TECHNOLOGY AND INTERNATIONAL COMPETITIVENESS

(Mr. OXLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OXLEY. Mr. Speaker, the United States has been called the Saudi Arabia of coal. We now possess approximately 470 billion tons of minable coal reserves—the largest in the free world. This, coupled with our progress in clean coal technology, can give us a lead in the 21st century energy arena.

First, though, Congress must continue to support exploration in this area. Foreign countries, in which the government and industry have a more cooperative partnership, are aggressively assuming leadership in the development and commercialization of improved clean coal technology in anticipation of a rapidly evolving worldwide market. If the United States loses its technological lead, it will have a severe impact on domestic suppliers and force the domestic utility industry to depend on these foreign countries.

Haven't we submitted to the dominance of the Middle East for long enough? The United States can dominate the 21st century energy field. Congress must take affirmative steps to promote the growth of new energy fields, such as clean coal technology. Without the continued support of this body, we will find ourselves trailing again on the international energy scene.

Our coal resources will help us gain energy independence and become the ledaers of a new energy standard.

□ 1200

EXPORT CONTROLS MUST BE TIGHTENED

(Mr. PICKETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKETT. Mr. Speaker, as we look at lessons learned from the Iraq war, at the top of the list should be how someone like Saddam Hussein was so easily able to buy high technology weapons and equipment from the United States and other Western nations.

With a proven record for being a troublemaker and terrorizing people for years, not to mention his totally amoral and reprehensible willingness to use weapons of mass destruction, he seemed to have no trouble whatever in buying on the world market anything he needed to expand his military arsenal and establish the infrastructure for nuclear, biological, and chemical warfare.

Even this country approved the sale of billions of dollars' worth of weapons and technology to Iraq, including such items as helicopters, computers, militarily useful machinery and sophisticated electronics.

What happened to our intelligence apparatus? Surely they could predict the likely use of this equipment and technology. What happened to export restrictions?

The Commerce Department is under tremendous pressure to apply the Export Administration Act in a way that balances our Nation's legitimate security needs with the need for export markets. Our Nation must be competitive. But we can be competitive without being stupid. Before arming another Iraq, we would do well to fix our own export control laws and insist that other industrial nations do the same.

A PATTERN OF POLITICAL EXPEDIENCY BY A MAJORITY OF THE MAJORITY

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, how long is this House going to abandon the interests of the American people in favor of playing politics?

Daily the actions of a majority of the majority in this House become more irresponsible. Just a few weeks ago a majority of the majority refused to stand with the President in taking necessary military action in the Persian Gulf. Now their main worry seems to be that they may be held accountable for that vote.

Last night a majority of the majority refused to stand with the President to protect depositors in the Nation's savings and loans. Imagine, a majority of the majority voted not to let an elderly couple get their money out of a failed S&L. The only thing a majority of the majority would vote for yesterday was a tax increase, a tax increase that would throw even more Americans out of their jobs.

Today a majority of the majority may well be prepared to vote to abandon their commitment to last year's budget agreement worked out with the President.

Mr. Speaker, consistent irresponsibility is not just a series of mistakes; it is a pattern of political expediency which is becoming nauseating.

NEW TECHNOLOGY PAVES WAY FOR RECYCLING OF PLASTIC BOTTLES

(Mrs. PATTERSON asked and was given permission to address the House for 1 minute and to revise and extend her remarks and to include extraneous matter.)

Mrs. PATTERSON. Mr. Speaker, like most Americans I am concerned about our country's growing solid waste crisis. As State and local governments attempt to meet the challenge of discovering new ways to manage solid waste, I would like to share with my colleagues some good news about an innovative waste management technique from Spartanburg, SC.

Recently, two major soft drink firms announced plans to sell their products in recycled plastic bottles. These two companies spent considerable time, effort, and money in developing the processes by which recycled plastic, until now prohibited from any direct contact with food, may be used safely.

Hoechst Celanese and Coca-Cola have developed a process which breaks down post-consumer plastic bottles into their original chemical components, then reconstructs the purified resin for use in making new soft drink containers. I am proud to say that the Hoechst Celanese plant responsible for developing this new technology is located in my district.

This represents a significant breakthrough in plastics recycling and brings the plastic bottle into the "closed loop" recycling fold with other containers. With approval by the Food and Drug Administration [FDA], old plastic soft drink bottles will be recycled into new plastic soft drink bottles, using the process developed by both companies.

I commend the people of Hoechst Celanese and Coca-Cola for taking positive strides to confront the solid waste crisis head on by displaying leadership through innovative technology.

I would like to submit an article from the Spartanburg Herald-Journal which describes this new innovation.

RECYCLING TEAM—COKE, HOECHST OFFER REFILLS ON BOTTLING

(By Betsy Teter)

When recylcled plastic Coca-Cola bottles begin appearing on store shelves next year, a small group of Spartanburg workers will be able to take pride in their contribution to cleaning up the environment.

The material for those trend-setting bottles will make a stop in Spartanburg at the huge Hoechst Celanese complex. For the last five months, Hoechst and Coca-Cola have been conducting experiments to turn old bottles into new.

"We consider it a real breakthrough," said Jim Allen, Hoechst spokesman.

Both Coca-Cola and PepsiCo. announced Tuesday that they plan to introduce bottles made with recycled plastic next year. PepsiCo's partner is Goodyear Tire and Rubber Co.

Until now, plastic bottles have been convertible into polyester carpeting, conforters and patio furniture—but not into new bottles. Now, Coca-Cola and Hoechst will collect the old bottles and take them through a three-step process to make them suitable for refilling.

The first step will occur at a Hoechst plant in Wilimington, N.C., where the old bottles will be chopped up, returned to raw material and purified to remove any toxic residue.

The raw material will be sent to Spartanburg and converted into pellets of fresh resin. Those pellets will be shipped to a plastic molding company that will manufacture the bottles.

The bottles will carry a small logo indicating they are made from recycled material.

"It's interesting that you can reverse the chemistry, recover the raw materials, purify them and send those to Spartanburg to be made into new resin," Allen said.

The Hoechst Celanese plant in Spartanburg has a small plastic resin manufacturing department, in addtion to its huge fiber operation. No new employees will be needed to staff the Coca-Cola project, he said.

Coca-Cola hopes the new technology will help increase the 28 percent recycling rate in the plastic soft drink bottle industry.

"There has been an extensive testing process," Allen said, adding that Hoechst had been experimenting with it in Germany for some time. "The consumer has to be assured the bottle is safe."

In some cases, Hoechst placed hazardous liquids in the bottles before breaking them down to make new ones. "We ran it through the process and no traces were found," he said.

Allen said Hoechst has an agreement to work with Coca-Cola during test marketing. No decision, however, has been made about a long-term relationship between the two.

A TRIBUTE TO THE LATE BRIAN LEE LANE, A MARINE HERO

(Mr. McCLOSKEY asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. McCLOSKEY. Mr. Speaker, last Friday the community of Bedford, IN, and hundreds of friends and admirers bade farewell to 20-year-old Brian Lee Lane, a marine hero who was killed in one of the last major battles of the war.

Brian fell February 27 as his unit bravely fought to free the Kuwait International Airport from Iraqi forces. He loved to hunt, fish, and camp with his father. He liked working with his hands and carrying out projects in industrial arts classes.

Brian was assigned to the 1st Marine Division's 3d Battalion, 7th Marines, an infantry unit. He left high school in 1988 when he was 17 to enlist in the Marine Corps. While in the Marine Corps he worked on his high school GED. He loved the Marine Corps. Everybody who knew Brian knew that he was ready to lay his life down for his country. As his father said, he was tough and he wanted a challenge, "To know him was to love him."

His father, Michael Lane, remembers that Brian was always for the underdog. "He couldn't stand to see a big guy pick on a little guy. He was always ready to help another person."

Brian's mother is Mrs. Beverly Oliver of Pinhook, Lawrence County, IN.

Brian will always be fondly remembered by those he loved and those who loved him. He will be a hero forever.

JAPANESE ON OFFENSIVE FOR AMERICA'S GOLF COURSES

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute, and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, it appears we can get people's attention to economic problems by mentioning the sport of golf. Last night, I stayed here to call attention to the American people that the United States Open will be played at Pebble Beach, which is now Japanese owned. A national treasure, Pebble Beach, now a public golf course, may no longer be available to Americans if the Japanese charge a $750,000 membership to Japanese members.

The Pebble Beach sale packaged four golf courses together, and gives the Japanese prize facilities and land for high-priced homes. The intended use is for Japanese golfers and tourists, not the American public—unless they are very rich.

One hundred and sixty courses have been acquired by Japanese companies or Japanese-backed groups. Total Japanese investment in golf courses was $1 billion in 1990.

It is estimated by the year 2000 the Japanese will own 1,000 American golf courses—and I would guess only the best ones. American golfers should carefully check the sales of these courses, including Pebble Beach, to see if they are subject to any Federal regulations, particularly if there is S&L money in the sale.

Golf friction now exists between the United States and Japan.

Instead of crying fore golfers can cry bonsai. Will we have to plant a flag with the Rising Sun on each green?

NEW HOPE FOR DEMOCRACY IN SERBIA

(Mr. MOODY asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. MOODY. Mr. Speaker, at long last, democratic forces are asserting themselves in Serbia, Yugoslavia.

Massive street demonstrations in Belgrade have revealed growing dissatisfaction with the repressive, autocratic rule of Slobodan Milosovic and his Communist directorate. The crowds have been demanding an end to Belgrade government control over TV and press, the dismissal of the Secretary of Interior, who controls the political police.

After facing violent crackdown by the Milosovic regime, the demonstrators have had their initial demands met. In light of Serbia's historic tradition of democracy we hope that this new prodemocracy movement will grow.

The current demonstrations follow earlier laudable democratic changes in Croatia and Slovenia. These two republics have made it plan that they will not remain in a nation where Serbian control remains autocratic and Communist-dominated.

□ 1210

Therefore, these recent developments in Serbia could well signal a new era of badly needed political reform and hope for the entire country.

Only when all six Yugoslav Republics have made internal reforms to be truly democratic can the country of Yugoslavia survive. This must include not only a free press but also free courts and especially tolerance and protection of minority populations in each republic. Only then will all citizens feel secure, and only then will ethnic conflicts subside.

From having lived there, I know that the wonderful people of Yugoslavia—Croatians, the Serbs, the Slovenians, and others—deserve a full measure of democracy after 45 years of Communist-style central control and autocratic government.

The new demands for democracy in Serbia augers well for all six republics.

TIMELY ACTION ON RESOLUTION TRUST CORPORATION FUNDING

(Mr. BAKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAKER. Mr. Speaker, it is apparent that many Members of Congress subscribe to a very simple economic theory: If you wish to make a small fortune you must first start with a large one.

As the owner of the world's largest real estate corporation, the Resolution Trust Corporation, we own 45,000 pieces of real estate, the single largest asset the American taxpayer has, in the hope that we can pay off the failed savings and loan industry costs.

It is apparent we must move forward quickly as each day of deliberations costs the American taxpayer $8 million. It is clear we must move forward with funding in a reasonable manner. The existing body of law, over 1,000 pages governing the actions of the Resolution Trust Corporation in FIRREA is far more than sufficient regulation of the expenditure of these funds.

We must act. We must act timely and we must act for the sake of the American taxpayer.

UNEMPLOYMENT COMPENSATION REFORM

(Mr. LEVIN of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN of Michigan. Mr. Speaker, here is the state of the unemployment comp system in this country. If you are laid off through no fault of your own, most often you are not covered at all. If you are covered, you often wait in line or wait weeks for your first check. And if you receive a check, you often exhaust benefits after 26 weeks and have to go on welfare.

Michigan just triggered on to the extended benefit program. It took close to 10-percent unemployment to do so.

The unemployment compensation system is a safety net with more holes than twine, and this is for the working people of America.

Congressmen DOWNEY, PEASE, and I introduced yesterday a bill that would reform the weekly benefit structure, provide States the money they need for administration, and link unemployment compensation with job search and training, a long overdue reform. The time to act is right now.

INTRODUCTION OF WESTERN HEMISPHERE ENERGY POLICY ACT

(Mr. TALLON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TALLON. Mr. Speaker, Desert Storm appears to have now ended, but many difficult tasks still lie ahead of us.

The volatility in the Middle East and its inability to maintain a peaceful coexistence makes it absolutely necessary that we create a viable Western Hemisphere energy policy.

The Western Hemisphere is completely self-sufficient in terms of resources. We have proven oil, gas, coal, and hydroelectric reserves, as well as solar, wind, nuclear, and geothermal possibilities. We can create a plan that maximizes the resources of this hemisphere and frees us from the tangle of the Middle East.

This hemispheric energy policy is well within our grasp—all that has been lacking is the political will.

Yesterday I introduced the Western Hemisphere energy policy resolution. This resolution calls on the President to work with the nations of the Western Hemisphere and create a framework by which the resources of our hemisphere may be identified, conserved, and traded.

This Western Hemisphere energy policy would have several benefits. It would at long last end the debt burden of Latin America. It would open a door to unprecendented prosperity in these nations. New markets would open to the United States, and the Western Hemisphere energy policy would also provide us with a counterweight to the European Economic Community.

For the nations of our hemisphere, we could usher in a new era of peace, economic security, and growth. I know that many of my colleagues share my interests in this matter, and I urge you all to cosponsor the Western Hemispere Energy Policy Act.

PROVIDING FOR CONSIDERATION OF H.R. 1175, NATIONAL DEFENSE SUPPLEMENTAL AUTHORIZATION ACT FOR FISCAL YEAR 1991

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 111 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 111

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1175) to authorize supplemental appropriations for fiscal year 1991 in connection with operations in and around the Persian Gulf presently known as Operation Desert Shield/Storm, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill are hereby waived. After general debate, which shall be confined to the bill and the amendments made in order by this resolution and which shall not exceed sixty minutes, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Armed Services now printed in the bill, as modified by the amendments printed in part one of the report of the Committee on Rules accompanying this resolution, as an original bill for the purpose of amendment under the five-minute rule, said substitute, as modified, shall be considered as having been read, and all points of order against said substitute, as modified, are hereby waived. No amendment to said substitute, as modified, shall be in order except the amendments printed in part two of the report of the Committee on Rules. Said amendments shall be considered in the order and manner specified in the report and shall be considered as having been read. Said amendments shall be debatable for the period specified in the report, equally divided and controlled by the proponent and a Member opposed thereto. Said amendments shall not be subject to amendment, except that the chairman or ranking minority member of the Committee on Armed Services, or their designees, may offer pro forma amendments for the purpose of debate. All points of order against the amendments printed in the report are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. DONNELLY). The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON] pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 111 provides for consideration of the National Defense Supplemental Authorization Act of 1991. The rule provides one hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee Armed Services.

The rule makes in order as an original bill for purposes of amendment the text of the committee-reported substitute, as modified by the amendments printed in part one of the report to accompany the rule.

The modifications, Mr. Speaker, consist of a change, first and foremost, in the emergency designations. Under the new language, the military pay and veterans' benefits provisions are designated as "emergency" by Congress but they will become effective only if the President also designates all spending provisions as emergency. Funds used in fiscal years 1991 and 1992 for title II—military pay—provisions are limited to transfers from the Defense Cooperation Account or Persian Gulf Account.

Mr. Speaker, as a consequence of the new emergency language, CBO has changed its estimate. Section 3 of the bill is modified to reflect the new CBO cost estimate. The other changes simply clarify that language in sections 103 and 404 are authorizations, not appropriations.

The rule waives all points of order against consideration of the bill and against the substitute as modified. The rule makes in order only the amendments printed in part 2 of the report.

There are seven part 2 amendments: One, the Panetta/Gradison amendment to strike the new emergency designation and substitute "sense of Congress" language that Congress should enact separate legislation in this session to offset costs for direct spending provisions in the bill. Two, the Michel amendment reaffirming that this act is in accordance with the Budget Enforcement Act. There are three amendments dealing with Kuwaiti reconstruction contracts, to be offered by Representatives BONIOR, TRAFICANT, and WASHINGTON.

The sixth amendment is by Mr. BRYANT; it would withhold DOD payments to foreign government workers if their country hasn't paid up what it pledged to contribute to the war effort. The seventh amendment is by Representative MCCLOSKEY and it would lift the requirement to reduce personnel, under section 905 of last year's DOD authorization, at installations that actually increased their workload as a result of Operation Desert Storm.

Mr. Speaker, the rule waives all points of order against all amendments printed in the report. All part two amendments will be considered in the order and manner specified in the report and will not be subject to amendment.

Each of the part two amendments is debatable for 10 minutes equally divided and controlled, except that the chairman and ranking minority member of Armed Services, or their designees, may offer pro forma amendments to extend debate.

Let me be clear, Mr. ASPIN or Mr. DICKINSON, or each of their designees, may each offer a pro forma amendment on each amendment to provide for a full and fair debate. That provides for a maximum of four pro forma amendments to extend debate for an additional 20 minutes. If all four Members offered pro forma amendments on an amendment, there would be one half hour of debate time in the amendment.

Finally, Mr. Speaker, the rule provides one motion to recommit with or without instructions.

Mr. Speaker, H.R. 1175 is an important bill, authorizing supplemental appropriations, providing a much deserved increase in certain military pay related to Operation Desert Storm and new veterans' benefits. The rule is fair and I urge its adoption.

□ 1220

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I hope I am the gentleman's friend 15 minutes from now, too.

Mr. Speaker, if ever there was an example of all the ways in which the Democrat majority in this House can wantonly and arbitrarily abuse the exercise of power, this rule is it.

Mr. Speaker, Thomas Jefferson, the founder of your party, must be rolling over in his grave right now because this rule is a radical departure from that uniform rule of proceedings which he considered to be so essential for the conduct of this House and in which we have historically conducted ourselves over all of these years up until just recently.

Mr. Speaker, let me just briefly trace for you the bizarre procedural path that has brought this rule and this bill that it makes in order to the floor. The Desert Storm authorization bill was ordered reported from the Committee on Armed Services last Wednesday and was orginally scheduled for Rules that same day and then the floor on Thursday. Now, fortunately, that juggernaut was slowed down somewhat.

The report itself was actually filed last Thursday. Although the GPO copy of the report and the reported bill was not available until when? Yesterday afternoon.

Last Thursay night just as Members were about to leave town for the weekend, the Rules Committee chairman, my good friend, the gentleman from Massachusetts [Mr. MOAKLEY], informed the House that all amendments to this bill must be submitted by Monday at 5 p.m. In other words, Mr. Speaker, amendments were due the day before most Members were scheduled to even come back to this august body.

Notwithstanding this absurd deadline, some 23 amendments were submitted by 10 Members by the 5 p.m. Monday deadline. I do not even know how they got them in, but they did. However, another six amendments were submitted after the deadline, including four that had no designated sponsor and, instead, were marked by a triple X in the place of a name. To this day, this minute, right now, we have no idea who submitted those amendments.

I just asked my good friend, the gentleman from Mississippi [Mr. MONTGOMERY], and he had no idea who triple X is, still anonymous.

Let me just point out now that 5 of the 6 amendments submitted after the deadline are among the 11 made in order by the Committee on Rules, and that the 4 marked triple X are actually not going to be considered on this floor. They are self-executing into the bill upon the adoption of this rule. Boy, what a democratic body this is.

Put another way, Mr. Speaker, Members had almost a 50-50 chance of making the cut if they did not meet the Committee on Rules deadline, that is, if they were a Democrat. And better than that, Mr. Speaker, they had a 33-percent chance if they did not attach their name to it at all. I mean, welcome to Alice in Wonderland, Mr. Speaker.

Mr. Speaker, of the 29 amendments submitted to the Committee on Rules, 15 were by Democrats and 14 by Republicans. Of the 11 made in order by this rule, 10 are by Democrats and only 1 by a Republican. Never let it be said of the Committee on Rules, Mr. Speaker, that it believes in imposing a strict quota system based on party composition in the House when it comes to making amendments in order.

Mr. Speaker, the only rule of thumb that the majority leadership seems to go by around here is to squash the opposition under its thumb whenever it so is disposed. In other words, let us be fair 9 times but to heck with the 10th, and on and on and on and on.

Well, we are fed up with it. Mr. Speaker, let me give the Members a quick rundown of this rule for the multibillion-dollar Desert Storm authorization bill.

We will have just 1 hour of general debate, and we will waive all points of order against this bill, including the Balanced Budget Act of 1985, including the Deficit Control Act passed last year that so many Members sent out press releases about, thumped their chests and said, "We are going to be fiscally responsible." I mean, how ridiculous can you be?

To add to all of this absurdity, the rule self-executes into the committee substitute four amendments for which no one has yet claimed authorship, as I mentioned before. No one testified before the Committee on Rules. Nobody even came to us to tell us who they were or what they were offering. No one on the Committee on Rules or its staff could explain it to anyone's satisfaction or understanding. Well, welcome, Mr. Speaker, to the greatest deliberative body in the land.

Mr. Speaker, the main amendment being self-executed by this rule replaces two sections of the bill which deal with the budgetary treatment of military personnel and veterans, something I have been invoved with for 13 years in this House, including as a member of the Committee on Veterans' Affairs. I have been involved with this for 40 years since the day I got out of the Marine Corps. That amendment gives all the provisions of those two titles an emergency requirement designation by this Congress for the purpose of exempting them for the budget agreements.

Mr. Speaker, it goes on to say that the provisions cannot take effect or be funded until the President of the United States designates them as an emergency in a single designation. In other words, take it all or nothing.

Mr. Speaker, due to some amateurish and sloppy drafting, there is some disagreement over whether the President may pick and choose among the discretionary items, since that portion of the amendment says, and read it over there, "any provisions."

Whereas, the portion dealing with the direct spending says each provision shall be designated, Mr. Speaker, the interpretation we got from the majority staff was that it was all or nothing at all, mandatory and discretionary, active personnel and veterans, everything or nothing.

Another question I asked, Mr. Speaker, which no one could answer up in the Committee on Rules, was if the President does not designate any of the provisions as emergencies, whether the language would still constitute an authorization for later appropriations purposes. Or would we have to jump through two more hoops? Again, the slopiest drafting that I have seen in 13 years in this House.

But the most important point about this whole debate is that the Democrats are already finding ways to pervert last year's budget agreement which authorized the President, by agreement with you and I, Republicans and Democrats, to designate what matters are an emergency, with the concurrence of the Congress and not the other way around.

Moreover, this throws the pay-as-you-go concept totally out the window. That system, again, as I said, was adopted by this body following all of the press releases saying, "We are fiscally responsible."

Mr. Speaker, I submitted two alternative amendments to the emergency designation for the veterans title, one to offset the costs with Defense Cooperation Account receipts. The gentleman from California [Mr. DELLUMS] and the gentleman from Ohio [Mr. KASICH] offered that language in the original bill. I do not know what happened to that in the original bill—it disappeared like everything else. The other amendment would be to make the benefits subject to future appropriations, offsetting the new cost from non-VA portions of the VA, HUD, independent agencies appropriation bills.

□ 1230

In other words, if we took out of all of the HUD and independent agencies, a half of 1 percent of their appropriation, we would have raised more than $200 million a year. We would have stayed on budget and we would not have continued to bust the Deficit Control Act.

Mr. Speaker, I agreed to offer only the latter amendment when we were about to mark up the rule, but I was told the majority would only let me offer the former amendment. In other words, they are dictating to me what amendment I am going to offer. When I attempted to make my preferred amendment in order, under this rule, I was beaten back on a party line vote. It was a party line vote I say to the gentleman from Massachusetts [Mr. MOAKLEY]. I have not witnessed such an outrage since the majority attempted to dictate what portions of the Republican substitute could be offered during a 1981 reconciliation rule debate. Does the gentleman remember that? That was a disgrace.

Mr. Speaker, the majority, at least, did not shut out its own chairman of the Committee on Budget on that process, and he happens to agree with me. Your Democratic chairman of the Budget Committee agreed with me, and the Republicans on this side of the aisle agreed with me. It will be in order for him to offer a substitute for the fiscally irresponsible amendment that has been self-executed into this bill, though his is only a sense of Congress amendment. That is too bad. It is only the sense of Congress.

There we go again. We want to be fiscally responsible, but we do not write it into law. We just say it will be a sense of Congress. Mr. Speaker, while our ranking Republican member on the Committee on Budget is a cosponsor of that Panetta amendment, he was not even allowed to offer even one of the 10 individual amendments he submitted. Instead, as I mentioned before, we have just one Republican amendment made in order under the rule, and that is the Michel amendment, expressing the sense of Congress that the veterans' benefits be funded in accordance with the terms of the budget agreement.

Mr. Speaker, of the seven amendments which may be offered separately under this rule, my colleagues will be delighted to learn that each is subject to just 10 minutes of debate, 5 minutes on each side. When we divide those 70 minutes of debate by the $30 billion-plus that this bill will cost over 5 years, it comes down to close to half a billion dollars a minute. Is anyone listening out there, taxpayers? A half a billion dollars a minute. Welcome again to the world's greatest deliberative body, Mr. Speaker.

Mr. Speaker, in addition to the Panetta and Michel amendments made in order by this rule, five other amendments share the privilege of 10 minutes of debate each. Listen to the names and see what side of the aisle they sit on: TRAFICANT, Democrat; BONIOR, Democrat; MCCLOSKEY, Democrat; BRYANT, Democrat; all Democrats, and not one Republican.

Mr. Speaker, this rule permits one motion to recommit with or without instructions. I suppose we should be thankful for small favors, but frankly by the time we get around to the end of the process, it will be a little like sending in the Welcome Wagon after they have burned down somebody's house.

Mr. Speaker, just in case I have not made myself clear, this bill could be summed up in four words: It is an abomination. As a member of the Committee on Rules, I realize that the circumstances and pressures that this committee works under on a daily basis; they are tough. However, Mr. Speaker, that is no reason for this committee to make things worse for itself. We have to be fair. This rule certainly is not fair.

Mr. Speaker, I urge defeat of this rule so that we can take the whole mess back to the Committee on Rules and can structure a fair rule that represents the people of this country. We have 160-plus Republicans, and they are not even a part of this at all. In the Senate, right now, Democrats and Republicans, are sitting down working together with the White House. The House did not do that. The House cut out the gentleman from Arizona [Mr. STUMP] the ranking Republican of the Committee on Veterans' Affairs. The Commitee on Rule did not even take him into consideration, nor did they, the Republican leadership. The Committee deserves the criticism it is getting on this floor today. Do not think they will get away with it, because we have a long way to adjournment. I rest my case.

Mr. MOAKLEY. Mr. Speaker, my friend, the gentleman from New York [Mr. SOLOMON] failed to tell Members that of the 14 Republican amendments that were submitted to the Committee on Rules, 10 of them were withdrawn before they came to a vote. Out of the four that left remaining, two of them were made in order. That is just a small thing that we can overlook.

The gentleman from New York [Mr. SOLOMON] wanted to put the increase to the veterans, not be an entitlement that we have a yearly appropriation, so these veterans would have been treated in a lesser way than our veterans are currently being treated. The gentleman from Mississippi [Mr. MONTGOMERY], who I think is a champion of the veterans of the House of Representatives, said that was the wrong way to do it, that it would not show the proper respect. I would have to agree with my friend, the gentleman from Mississippi [Mr. MONTGOMERY].

Now, no Member refused the gentleman from New York [Mr. SOLOMON] the right to put in any amendments, or offer any amendment. He can offer any amendment he wants. He chose not to offer some amendment. He chose to offer another one.

The Rules Committee is 9 to 4 Democrat over Republican. I think that is a fact of life that even the gentleman from New York [Mr. SOLOMON] has to recognize. We have certain priorities that we have to go with. I think it was a fair hearing. We discussed all the amendments as much as we could, and this is what we came up with.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from New York.

Mr. SOLOMON. Where is my amendment? If the gentleman says I could have had my amendment, where is it? The gentleman denied me the right to offer it.

Mr. MOAKLEY. The gentleman can offer any amendment that he desires.

Mr. SOLOMON. I ask unanimous consent then, to have it made in order that the gentleman denied it.

Mr. MOAKLEY. The gentleman said upstairs that he was not going to put in his amendment.

Mr. SOLOMON. I am talking about amendment No. 6 that the gentleman denied me. Go ahead, I am sorry to interrupt you.

Mr. MOAKLEY. Mr. Speaker, the gentleman from New York [Mr. SOLOMON] did withdraw one of his amendments.

As far as giving the membership time, Wednesday I took the floor to tell the Members that they had until Monday to put the amendments into the RECORD. All Members know that we have staff around here that can help put amendments in. The Member does not have to be here Wednesday, Thursday, Friday, Saturday, Sunday, and Monday to physically put the amendments in. They can be put in in other ways. I do not think that that is a fair excuse.

I think it is a very important bill. We have heard from all political philosphies on it, and it is not easy to come up with a bill that will please all Members. I am not pleased with a lot of things that I have to vote on when we package some of these matters. However, this is the bill.

I wanted to let Members know, Mr. Speaker, that we did not willy-nilly throw out amendments. Out of the 14 Republican amendments that were submitted, 10 of them were withdrawn. Therefore, we did not have a chance to vote on them.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Could the gentleman identify for Members who is the sponsor of the amendments that were submitted without a name?

I say to the gentleman that there has been a real concern around here about this kind of activity taking place. For instance, in the Committee on Ways and Means where, all of a sudden, projects are put in, but no Member's name is attached. A number of major newspapers have written articles saying that we should at least be held accountable for this.

Mr. MOAKLEY. I think the gentleman is referring to the amendments labled XXX. To the best of my knowledge, these were agreements made between the Committee on Armed Services and the Committee on Appropriations.

Mr. WALKER. If the gentleman will continue to yield, who is the cosponsor of the amendments? Who can we hold accountable for them?

Mr. MOAKLEY. This is an agreement between the two committees, and submitted to our committee with that understanding.

Mr. WALKER. But that kind of amendment cannot be offered on the House floor.

Mr. MOAKLEY. That is why they were self-executed in the bill.

Mr. WALKER. If the gentleman would yield further, my point is that the gentleman is putting self-executing amendments in that no Member is being accountable for. We cannot offer amendments on the floor and say they are simply coming from nowhere, but that the House will consider them. Yet, that seems to be the process here. Who is responsible?

Mr. MOAKLEY. The gentleman from Mississippi [Mr. WHITTEN] and the gentleman from Wisconsin [Mr. ASPIN] have offered those amendments.

Mr. WALKER. So the amendments are written amendments, is that correct?

Mr. SOLOMON. If the gentleman will yield, would they please come to the floor so we can talk to them?

The SPEAKER pro tempore (Mr. DONNELLY). The gentleman from Massachusetts [Mr. MOAKLEY] controls the time.

Mr. WALKER. If the gentleman will continue to yield, in other words, for the purpose of the RECORD, these are Whitten amendments, is that correct?

Mr. MOAKLEY. No, Aspin and Whitten amendments.

Mr. WALKER. But again, they cannot have cosponsored amendments; are these Aspin amendments or are these Whitten amendments?

Mr. MOAKLEY. Mr. ASPIN would have offered all the amendments.

Mr. WALKER. They are Aspin amendments. I thank the gentleman.

□ 1240

Mr. SOLOMON. Mr. Speaker, I thank the gentleman also. At least we have uncovered a mystery. At least we know who sponsored the XXX amendments.

I would read something to the gentleman. When he says that I was allowed my amendment, listen to this from your printed minutes of our meeting yesterday.

> Mr. SOLOMON. I would so move that the amendment be made in order to the rule.
>
> The CHAIRMAN. The question comes on the gentleman's motion from New York. All in favor say aye, opposed no. The noes appear to have it, on a party line vote.

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Massachsuetts.

Mr. MOAKLEY. Mr. Speaker, I think the gentleman just pointed out graphically that his amendment did come up for a vote and was voted down. I mean, that is the democratic way.

Mr. SOLOMON. In the Rules Committee, not on the floor of this House.

Mr. MOAKLEY. But that is still the democratic way to do things.

Mr. SOLOMON. If the gentleman does not mind my saying so, I almost have to gag on the gag rule.

Mr. Speaker, I yield 4 minutes to the gentleman from Ohio [Mr. MCEWEN].

Mr. MCEWEN. Mr. Speaker, unless there be some misunderstanding here, the gentleman from New York said, "I was denied the right to make my amendment."

And the chairman stood up and said, "Oh, no, you weren't denied the right to make your amendment."

So the gentleman from New York says, "Then why can't I do it?"

And he says, "Well, because we took a vote, and since the Democrats outnumber you 2 to 1, we voted you down."

And then he says, "That is the Democrat way to do it."

Mr. Speaker, that is the Democrat way to do it, and that is the point. The point is that there are Americans here and we are discussing an issue that affects all Americans, and just because the Democrats do not want the Republicans to offer an amendment does not make it virtuous. There are some ideas that happen to be nonpartisan.

We thought that supporting veterans was one of them. The gentleman from New York who has been handling this rule has been the ranking member of the Veterans' Affairs Committee. I was privileged to serve on their committee for a decade. We support our veterans.

Now, what has happened here is that the gentleman on the other side of the aisle have not been supportive of the effort in the Middle East. The American people do not feel that way, and the entire world does not feel that way, but the majority of this side of the aisle have felt that way. They now find themselves in a bind. They do not know quite what to do, because the majority leader of the other body said when they took the vote on January 12, he turned across the aisle and pointed to the Republicans and he said, "Rest assured that when this vote is taken, that we will hold you accountable at the polls for the vote you are taking today."

That was January 12, just a couple months ago.

Lo and behold, the world has turned upside down and what he thought was going to be a popular vote has turned out to be a very unpopular vote, that no longer is tyranny and rape and murder popular, but freedom and democracy and independence is popular, and since the President and the United States and the coalition stand for those issues, the American people are supporting those who supported the effort in Desert Storm.

Now, that leaves these folks out on a limb. What do they do? They do not know quite what to do because they signed on a piece of paper that they are not going to spend more money than they had coming in. Then how do you get around that box?

So they have been toying with it and they came up with a brilliant conclusion. They said, "Here is what we will do. We will give more money to all veterans, recognizing that in all these celebrations, all veterans are going to show up, not just the Desert Storm folks, and they are going to be asking us why is it that in time of need, in a time when freedom and independence was being challenged, why is it when America was standing firm and all the Communist world and all the Arab world and the entire United Nations was standing with the United States, why were you bashing the United States, and why were you not supporting the effort?

That is going to be very frustrating. So we need to change the agenda. How do we change the agenda? The same way liberals always try to change the agenda, pick up some money and throw some money at the idea.

So they said, "Let's grab some money real quick before we go home here for Memorial Day and let's say we are going to give it to all veterans."

"Well, how are we going to do that? We signed an agreement just 4 or 5 months ago with the President saying that we wouldn't spend money that we didn't have."

So they looked around. Where are they going to get it?

So they said, "You know this pot over here that the allies are going to put money into, the Japanese are going to put money in there, the French are going to put some money in there and the Germans are going to put money in there. Why don't we take money out of there and give it to our veterans?"

Well, they said, "That's not going to sell real well, but let's give it a whirl."

They said, "What we need to do is get the President on board."

So they came up with a rule and a bill that says this. It says what we are going to do is we are going to give money to all veterans. That way we will cover our base. We will claim that it is a veterans appreciation package—argue with that. Now, there is a good theme for you, a veterans appreciation package.

Where will we get the money? Well, we will get the money out of the contribution from the Japanese. Well, that is going to offend them a good bit, because they were giving it for another cause, but no, we are busy buying votes at the moment. So leave us alone. We are going to take the money out of there and we are going to give it to the veterans.

Now, "The President ain't going to buy that. Aha. We've got the President. We've got him all squared away."

The SPEAKER pro tempore (Mr. DONNELLY). The time of the gentleman from Ohio has expired.

Mr. SOLOMON. Mr. Speaker, I yield 4 additional minutes to the gentleman from Ohio.

Mr. McEWEN. Mr. Speaker, I would point out additionally, so here we are. We are taking the money out of the defense pocket and we are giving it to the veterans; but you know, the President is not going to buy that. So we will do it this way. We will say that the President has to declare an emergency, and if he does not declare an emergency, which means he gets in this pot with us, then the veterans will not get the money. Best of all worlds.

Here we have the bill before us. They vote to give money to veterans, which came from the Japanese, and the President is not going to sign the bill to give it to them, so it is his fault. They can then go home and say, "I voted to give $200 million a year in new benefits to all veterans, but the President will not declare an emergency, so you are not getting it." That is the basis that is before us.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. McEWEN. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I hate to say it, but as far as I am concerned, this is petty politics. Here is the bill, and here is the language that is being written in by this rule today. What it says is that in this Desert Storm package, the President can sign the bill. It becomes law, but then it says that in a single designation the President must say that every single item in this $30 billion spending package is a dire emergency, or nothing becomes law.

Do you know what that means? That means that Congress is blackmailing the President. We know that no President could sign this bill. Therefore, he has to say that nothing is an emergency in order to protect the rest of the bill.

Do you know what it means? It means that House Democrats are trying to bring down the President's 90 percent popularity with the American people. Bring it down so that Democrats may have a chance in the elections coming in 1992.

It is a hell of a way to do business with the veterans of this Nation.

Mr. McEWEN. Mr. Speaker, I thank the gentleman. The gentleman points out that this is a nasty, nasty thing to do. This is an effort to be able to go home and say, "I voted to give money to the veterans and the President is holding it up."

Notwithstanding the fact that we have some 435 Members in this body, only 7 have been blessed in this rule with the privilege of offering amendments.

While it is true that only 29 amendments were submitted, it is no surprise when you consider that we were only advised late last Thursday that you had to turn in all your amendments by Monday at 5 p.m. and most people were out of town during that time.

What does the rule provide in terms of debate on this multi-billion dollar bill? Well, it has allowed 1 hour of general debate and just 10 minutes on each of the seven amendments made in order.

Why such a vicious rule on such an important and supposedly nonpartisan bilil? Could it be that there is a cadre of sore losers on the majority side that are seeking revenge in petty ways for their loss on the use of force vote last January?

I hope that is not the case, but I fail to find any other logical explanation for such a blatant abuse of power as we have by the majority in this instance.

Mr. Speaker, I find that kind of petty politics not only pathetic, but spiteful of the brave men and women who fought and died in Operation Desert Storm.

This rule dares to play politics with those gallant deeds by a self-executing provision that says, "Mr. President, either declare these activities and retired benefits an emergency and off-budget, or they do not get them."

That flies directly in the face of last year's budget agreement that gave the President emergency designation powers with the concurrence of the Congress. Not the other way around. This rule turns pay as you go on its head.

Mr. Speaker, let us vote down the rule and demand a more sensible and less political approach to the serious business of funding our legitimate needs in the wake of Desert Storm. Let us call a halt to this nasty little game of veto politics by showing that we are capable of acting as responsibly and skillfully as those who fought to defend our system of government.

Mr. SOLOMON. Mr. Speaker, I reserve the balance of my time, and hope that we can get some more of these triple X amendments in the debate so we can find out what is in this rule.

Mr. MOAKLEY. Mr. Speaker, as far as the time allotted on each side, I stated that with the approval of the majority and minority leader and the chairman the time can be extended. In fact, in the hearing I asked the gentleman from New York [Mr. SOLOMON] if he wanted to make it a half an hour, and he said, no, as long as the provision was in there that it could be extended by the chairman and the ranking minority leader, that was good enough for him.

Mr. SOLOMON. Mr. Speaker, the gentleman is quite fair at times.

Mr. MOAKLEY. Mr. Speaker, I yield 7 minutes to the gentleman from Michigan [Mr. BONIOR] the chief deputy whip.

Mr. BONIOR. Mr. Speaker, I thank my colleague for yielding me this time.

Mr. Speaker, I regret that the debate has become so contentious and that the issue of the war and its relationship to our veterans who fought in the war has become the subject of this debate.

□ 1250

I say that because despite how each and every one of us cast our vote on that historic January day, I think it was made clear by the majority leader, certainly by myself and by others, that no matter how we voted that day we were going to stand together as a nation once we went to war and that we would not make the same mistake that we regretfully made during the Vietnam era by not being able to understand the war and the warrior and by not compensating those who fought for us so gallantly and who sacrificed so much and whose families sacrificed so much, from receiving just benefits, just appreciation from a grateful nation.

Quite frankly, I thought that we as a Congress and as a country did very well in the last 2 months in adhering to that basic sense of unity, of purpose, which I think the American people have appreciated on our part and we have appreciated on theirs, and, hopefully, we can continue to move forward and deal with this other part of the war—and believe me, it is a part of the war—the needs of our young men and women who fought.

Now let me say also that we are talking here about 500,000 young men and women who gave of their time and their service and sacrifice, and in many instances life and limb for their country. We are talking about their widows, their widowers, their orphans. I would suggest to my colleagues that if you peruse closely the bill that the Committee on Veterans' Affairs has put together under the able leadership of the gentleman from Mississippi [Mr. MONTGOMERY], you will find that what he has done is not only just but it is measured and it deals with the needs of those who are coming back from this experience in the Persian Gulf.

He has tailored a bill which I think is an expression of appreciation for those who have gone away, who have given of their time and have given of, in many instances, life and limb in support of this country.

And $200 million is not too much to ask in benefits for the windows and the orphans, for death benefits, disability benefits, and benefits for education so those young men and women, and not-so-young men and women when they come back to a recession economy, can find the avenues to make a living for themselves and for their families. That is what this bill does.

I can tell you as a Member of Congress who came here in 1976 and formed the Vietnam Veterans in Congress and who worked on Vietnam veterans legislation, this is far less than what we did for them proportionally.

There are other parts to this veterans program that will come along; extending unemployment compensation being worked on in the Committee on Ways and Means; and other benefits that are justified and that will be before us. But this is the basis.

The gentleman from Mississippi and his colleagues deserve the recognition of the rest of this body for taking under consideration the restraints we have fiscally and for putting together, for meshing together the needs of those returning veterans.

Now let me say on the budget issue, because I think it is an important issue, that I believe that indeed, I believe, Mr. Speaker, indeed that the needs of the veterans are coequal, a part of the war effort. They should be kept together, they should not be separated.

I also believe, and firmly believe, that the money in the Defense Corporation Account, the DCA, should, must, can be used to take care of some of these needs. Now, you can argue what part of that account is domestic, what is foreign, and what can be applied to the needs of our veterans. But the fact of the matter is that you cannot separate, you cannot separate the activity of those who served us and that war.

I would further submit to my colleagues that if we can spend $650 million in support for the State of Israel, each and everyone of you, almost voting unanimously for that on that side of the aisle, as an emergency, then you can stand up for the veterans of this country in approving what the gentleman from Mississippi has done, and his committee.

So, Mr. Speaker, I would at this point recommend to my colleagues that we vote for this rule. It is fair. In the ensuing days, perhaps hours, we will reach an agreement, we will reach an agreement with the Senate on how best to deal with this issue with respect to the exact accounts from which it will be paid, and I am sure the President, together with us, working together in this bipartisan unity that we have forged here during this war, can meet the needs of those who fought it for us.

Mr. SOLOMON. Mr. Speaker, I yield 4 minutes to the gentleman from Arizona [Mr. RHODES].

Mr. McEWEN. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Ohio.

Mr. McEWEN. I thank the gentleman for yielding.

Mr. Speaker, the previous speaker made a rather significant error that I hoped to be able to correct with him. That is, suggesting that this bill was considered by the Committee on Veterans' Affairs. This bill was not only not considered by the Committee on Veterans' Affairs, not a single hearing, it was not—it did not see the light of day, no one was involved, the Committee on Veterans' Affairs never saw the bill.

So, therefore, this is not a product of the Committee on Veterans' Affairs.

I would like to have corrected that on his time as opposed to doing this. That kind of bipartisan cooperation would have been helpful.

Mr. RHODES. I thank the gentleman for that clarification.

Mr. Speaker, I want to tell my colleagues the story of three mortal sins and one little amendment, one of the little amendments that is not made in order under this rule.

Of the 500,000-some soldiers, sailors, men, and women who participated in Operation Desert Storm, some 270,000 were reservists or National Guardsmen, people who were called up from their ordinary businesses, from their jobs, who willingly went into the service. And as we all know, they suffered financial hardship.

Those stories are well known. I do not have to recount them.

Many of these people, while they were employed and before being called up, began to set aside some of their own money, and I want to emphasize their own money, for their future retirement in what is known as an individual retirement account.

Early this year one of my staff people came to me and asked if it would not be a good idea if we introduced legislation which would allow the national guardsmen and reservists to draw upon their individual retirement accounts to help them through this financial hardship caused by their being called up to active duty in service to their country.

So we drew up a bill that would allow them to draw up their IRA's for a limited period of time and without penalty.

I introduced that bill. I did not advertise it very much. I think I sent around one Dear Colleague. I got 65 cosponsors very quickly, 40 Republicans, 25 Democrats.

When today's bill came up, I thought it would be a good idea to try to offer my bill as an amendment to this bill so that we could move the relief of the individual retirement accounts through the House along with this legislation. It is certainly germane to this legislation. This legislation is intended to help people who have endured financial hardship because of their service to the country.

Certainly my bill, what I hoped would have been my amendment, would have been a large step in that direction.

I offered that amendment to the Committee on Rules yesterday. You will notice it is not in order.

Did I forget to mention something? Oh, yes, the Joint Committee on Taxation reviewed this bill, and they came back and they said there would be no cost to the U.S. Treasury as a result of enactment of this IRA relief measure; no cost to the United States.

So, what are the three sins?

Sin No. 1, I went to the Rules Committee to offer a Republican-sponsored amendment.

Sin No. 2, no cost. Sin No. 3, it helps people or allows people to use their own resources to help them out in times of financial trouble brought upon them because they chose to serve their country.

Let me just emphasize sin No. 2, because I think it is the one that really blew me out of the water: It does not cost anything.

You do not do anything in this Congress that does not cost anything, and that is really what shut me up.

Mr. DREIER of California. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from California.

Mr. DREIER of California. I thank the gentleman for yielding.

Mr. Speaker, that is a very good point to raise, because when this measure came up before us in the Committee on Rules, the question was asked by the distinguished ranking member of the chairman of the committee as to why this amendment could not be brought up. And I remember that the chairman of the committee said the Ways and Means Committee was concerned about the jurisdictional problem here. But if, as my friend from Arizona has said, it is not going to cost a dime, there seems to be no concern about loss of revenues to the Treasury. So why would that be an issue here?

□1300

Mr. RHODES. Mr. Speaker, perhaps the Committee on Ways and Means does not know how to deal with things that do not cost the Treasury anything.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in response to the last speaker at the microphone, the gentleman from Arizona [Mr. RHODES], I would like to read from a letter dated March 12, 1991, addressed to me, and also the gentleman from New York [Mr. SOLOMON], the ranking minority Member, has a copy of this letter. It says:

COMMITTEE ON WAYS AND MEANS,
Washington, DC, March 12, 1991.
Hon. JOHN J. MOAKLEY,
Chairman, Committee on Rules,
Washington, DC.

DEAR MR. CHAIRMAN: It is my understanding that Congressman John Rhodes has proposed that an amendment be made in order to H.R. 1175, the National Defense Supplemental Authorization Act which would permit Operation Desert Storm reservists to make penalty free withdrawals from their Individual Retirement Accounts (IRA's).

This amendment, if made in order, creates numerous difficulties including, but not limited to, its effect on the budget deficit and the possibility of an automatic sequestration beginning October 1, 1991, which would result in reductions in certain Federal programs, especially Medicare.

In light of these concerns, I respectively request that the amendment not be made in order.

Thank you for your consideration in this matter.

Sincerely,
DAN ROSTENKOWSKI,
Chairman.

Mr. Speaker, there are many amendments we hear on the floor which sound great, but I say, when you receive a letter from the Chairman of the Ways and Means Committee that has to deal with the taxing and the IRA's, and nobody from Ways and Means came before the committee to testify in favor, I think we must listen to the Chairman of Ways and Means. Otherwise we could be receiving amendments from all kinds of people without going to the proper committees to be sure that they're fiscally sound.

Mr. SOLOMON. Mr. Speaker, I think it is appropriate at this time that we start talking about who is concerned about a deficit, and I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER], who might want to discuss a little CBO estimate here.

Mr. WALKER. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON] for yielding because I am very fascinated by a couple of documents I have here: The report from the Committee on Armed Services and then the report of the Committee on Rules that seemed to have varying CBO estimates talking about fiscal responsibility.

Am I correct that in this report from the Committee on Rules that the CBO estimates that this bill costs zero in 1991, zero in 1992, zero in 1993, zero in 1994, and zero in 1995? Is that correct? Is that what the Committee on Rules has as a CBO estimate?

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, this is a little confusing. I will just say that if we look at the committee report on page 28, it says that the 1991 cost is $24 billion, the 1992 cost, $5 billion, and it goes on descending. But then comes a CBO report here, and I have the last page of that report which shows in the years 1991 through 1995 a zero cost.

Mr. WALKER. Yes, I have got that same thing here, and the gentleman from Massachusetts [Mr. MOAKLEY] submitted this, and it says CBO says that this whole thing is going to cost zero, but then I have this Committee on Armed Services report that says from the same CBO that this bill is going to cost $24 billion in 1991 despite the fact that the Committee on Rules says zero. In 1992 it is going to cost $5 billion, but the Committee on Rules says zero. It is going to cost $1 billion in 1993, but the Committee on Rules says zero. It is going to cost half a billion dollars in 1994, and the Committee on Rules says zero.

Now I am wondering about the fiscal responsibility here. How did we change from almost $30 billion, or more than $30 billion, between March 7, when this report was issued, and March 12, when this report was issued? Did the liberal lackeys up at the CBO all of a sudden just decide to change the estimate on us?

As my colleagues know, this is the same CBO that we are supposed to turn over lock, stock, and barrel the enforcement of the Budget Act. Can the gentleman explain to me how we managed to go from $30 billion to zero in a matter of 5 days? If we can figure this out, we can solve the budget deficit like that. I mean all we have to do is just figure out how we do that in 5 days. It is a wonderful——

Mr. SOLOMON. If the gentleman will continue to yield, the only explanation I can find is that "Triple X" must have had a magic wand. But now I think we know why on the opening day of this session the Democratic majority changed the rules of the House so that we would score under CBO instead of OMB.

Mr. WALKER. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON].

The bottom line is here, that if "Triple X" was able to do that, we need to get that guy elected. I mean we need to have more than having him show up with amendments. We need to get him elected. I mean here is a miracle worker. In 5 days we save $30 billion, and no one knows how it was done.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have a letter sent to the Honorable LES ASPIN, the Honorable WILLIAM DICKINSON, myself, the Honorable GERRY SOLOMON, the Honorable SONNY MONTGOMERY, and the Honorable BOB STUMP, which gives an explanation of what the gentlemen were just talking about.

The pay-as-you-go considerations, section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, sets up a pay-as-you-go procedure for legislation affecting direct spending or receipts through 1995. The benchmark against which changes in direct spending or receipts are measured is the baseline described in section 257 of the 1985 law, as amended. Section 503(b) of the bill provides the provisions of title II, other than sections 211 and 212 in title III contained direct spending shall not take effect unless the President designates that provision as an emergency requirement under section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985. Therefore direct spending from most provisions would not be subject to the pay-as-you-go procedures.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from New York.

Mr. SOLOMON. I say to the gentleman from Massachusetts [Mr. MOAKLEY], "I do have the greatest respect for you, JOE, as you know, but by the self-executing rule that we have and the magic wand that triple X waved, that is why on the last page of the report you just read from CBO it lists the cost as zero in 1991, zero in 1992, and so on throughout the 5 years."

Mr. MOAKLEY. That was because of the emergency designation.

Mr. SOLOMON. Yes.

Mr. WALKER. Declare everything an emergency, and spend the money.

Mr. MOAKLEY. I mean, if the President wants to take things off the budget, then there is no cost. It is that simple. Just ignore it. It goes away.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, do I see some Members seeking recognition of the Democrat side?

Mr. MOAKLEY. Mr. Speaker, the gentleman from Pennsylvania [Mr. MURPHY] is going to sum up on our side.

Mr. SOLOMON. Then, Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. DONNELLY). The gentleman from New York [Mr. SOLOMON] is recognized for 1 minute and 30 seconds.

Mr. SOLOMON. Mr. Speaker, the gentleman from Pennsylvania [Mr. MURPHY] is a former marine, and I can think of no better person to sum up.

Mr. Speaker, let me just say this: We are going to ask for a no vote on this rule because it is a gag rule that gags Members on both sides of this aisle. It is one of the most unfair rules that I have ever seen since coming to this body, 2 years after the gentleman from Pennsylvania [Mr. MURPHY] who is going to sum up for the other side.

I hope that we are going to be able to defeat the rule and go back and bring a decent rule, a fair rule, to this House so that all Members, like the gentleman from Arizona [Mr. RHODES], can be heard on their amendments, on both sides of the aisle.

I understand that during the debate on the bill itself there will be some negotiations going on in which, finally, the Republican ranking member of the Committee on Veterans' Affairs is going to be taken into the confidence of the Democrats so that we might work out some kind of negotiated change which might allow us all to vote for this piece of legislation and at least go to the Senate in conference. But I would ask now for a no vote on this rule from every Member of the House.

Mr. Speaker, I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. MURPHY].

Mr. MURPHY. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. MOAKLEY], the chairman of the Committee on Rules, and I rise in support of the rule that he has crafted.

Mr. Speaker, as I listened to the debate, I was amazed and at times appalled to hear my fellow veterans and colleagues opposing this rule so vociferously.

□ 1310

Particularly, the reasons that they gave were that there was some obfuscation about the cost, and the fact that we will put the President on the spot to declare those costs an emergency, and also that they were pleading the cause of Japan and some of our other erstwhile allies who did not participate in Desert Shield or Desert Storm but who have decided to assist us financially.

Let us come right down to basics. We were all here in January or February of this year when the very same gentlemen who are opposing the benefits for a new classification of veterans of America's foreign wars supported Desert Shield and supported Desert Storm, and finally they got their way. The majority of this Congress decided to give to the President the right to declare an emergency and enter into that conflict. Now we are merely asking the right of the President to declare the benefits for America's veterans who are serving in the Mideast of the right to full veterans' entitlements and benefits. It is the same thing. We heard no argument about the budget when $40 billion to $70 billion of this country's tax dollars were committed to Desert Storm, and this Congress supported the President's efforts in that regard. And we are proud of what happened and what is happening there now.

My son is in a tent in Saudi Arabia, and I have not heard from him since he got there. I speak for him and I speak for the other 400,000 young Americans, men and women who are serving in the Persian Gulf, who are serving the interests of this country that our President felt so keenly about that he sent them there. We are now only asking that we elevate those young men and women who are serving in the Middle East to full entitlement of veterans' benefits. And now today we talk about only one-fiftieth of the cost of that military operation. It is only one-fiftieth of the cost that we are asking for the veterans of this country to participate in.

Mr. Speaker, I urge my colleagues who are listening in their offices and here on the floor to support this rule, because what was good in January and December to spend money for a war, is good in March to compensate America's young people who served in that war.

The SPEAKER pro tempore (Mr. DONNELLY). The gentleman from New York [Mr. SOLOMON] has yielded back the balance of his time.

Mr. MOAKLEY. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 247, nays 171, not voting 13, as follows:

[Roll No. 44]

YEAS—247

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Berman
Bevill
Bilbray
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Cardin
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Gray
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Horn
Hoyer
Huckaby
Hughes
Hutto
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ray
Reed
Richardson
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Staggers
Stallings
Stark
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Vento
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yates
Yatron

NAYS—171

Allard
Applegate
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Campbell (CO)
Carper
Chandler
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hubbard
Hunter
Hyde
Inhofe
Ireland
James
Johnson (CT)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McDade

McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (WA)
Molinari
Moorhead
Morella
Morrison
Myers
Neal (NC)
Nichols
Nussle
Olin
Oxley
Packard
Paxon
Penny
Petri
Porter
Pursell
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Slaughter (VA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Valentine
Visclosky
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—13

Archer
Conyers
Flake
Hammerschmidt
Hochbrueckner
Levine (CA)
Miller (OH)
Mrazek
Quillen
Spratt
Udall
Vander Jagt
Wilson

□ 1333

The Clerk announced the following pair:

On this vote:

Mr. Flake for, with Mr. Quillen against.

Mr. HANSEN and Mr. GUARINI changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR EXPENSES OF INVESTIGATIONS AND STUDIES BY STANDING AND SELECT COMMITTEES IN THE FIRST SESSION OF THE 102D CONGRESS

Mr. GAYDOS, from Committee on House Administration, submitted a privileged report (Rept. No. 102–18) on the resolution (H. Res. 92) providing amounts from the contingent fund of the House for the expenses of investigations and studies by standing and select committees of the House in the first session of the 102d Congress, which was referred to the House Calendar and ordered to be printed.

NATIONAL DEFENSE SUPPLEMENTAL AUTHORIZATION ACT FOR FISCAL YEAR 1991

The SPEAKER pro tempore (Mr. DONNELLY)., Pursuant to House Resolution 111 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1175.

□ 1335

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1175) to authorize supplemental appropriations for fiscal year 1991 in connection with operations in and around the Persian Gulf presently known as Operation Desert Shield/Storm, and for other purposes, with Mr. ROSTENKOWSKI in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Wisconsin [Mr. ASPIN] will be recognized for 30 minutes, and the gentleman from Alabama [Mr. DICKINSON] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. ASPIN].

Mr. ASPIN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the bill before us today is the Persian Gulf supplemental authorization. The bill has four parts.

First, it creates a mechanism for funding recent military operations in the Persian Gulf.

Second, it includes a number of important military personnel benefits for the brave men and women who deployed to the Persian Gulf.

Third, it includes a veterans benefit package.

Fourth, it includes authorization of supplemental appropriations for the Department of Energy.

Others will speak in more detail about the personnel and veterans benefits and the DOE authorization contained the bill. I will take a few minutes to review the mechanism for funding the cost of the war.

Title I contains the core of the committee's Desert Shield supplemental authorization recommendation. It consists of the following major provisions:

First, it provides access to the allied gift account.

Second, it establishes a working capital account and authorizes the appropriation of $15 billion as a bridge loan.

Third, it establishes an oversight process that will ensure that we are able to monitor how the funds are spent.

I want to point out that the committee was guided by two basic principles.

First, the committee is committed to the idea that only the incremental costs of the operation in the Persian Gulf should be authorized through the supplemental.

Second, the committee believes strongly that the defense cooperation account should be the source of first resort for the payment of legitimate incremental costs.

The defense cooperation account was established last year to provide for the receipt and use of contributions made by individuals, foreign governments, and international organizations in support of national defense programs. The law requires both an authorization and an appropriation prior to obligation of funds from this allied gift account. Before adjourning in late October, we authorized and appropriated $1 billion from the gift account for DOD to use in support of operations in the Persian Gulf.

Commitments from our allies now total $53.5 billion. We have received $16.9 billion in payments—including both cash contributions and in-kind material support—through the end of February. As part of the core supplemental, the committee recommends authorization of appropriation of current and future balances in the defense cooperation account, as requested by the President.

In addition, the committee recommends the establishment of a Persian Gulf working capital account and recommends the authorization of a supplemental appropriation of $15 billion as an advance from the Treasury, pending the receipt of foreign cash contributions. This bridge loan would be available for the payment of incremental costs only to the extent that funds are not available in the defense cooperation account. When funds are transferred from the Persian Gulf working capital account to specific DOD appropriations accounts, the committee recommends that the working capital account be replenished by allied contributions, whenever a positive balance exists in the defense cooperation account. Any balances remaining in the working capital account after all obligations are paid would be returned to the Treasury.

This unique approach is necessary because the administration has been unable to tell us definitively just how much will be needed and for which programs or activities. At the time the President submitted his supplemental request, the Department of Defense had only a notional estimate of how much the war with Iraq would ultimately cost. Today, the estimates we have been given are not much better. We needed to develop a mechanism that responded to the administration's request to authorize a Persian Gulf supplemental and, at the same time, preserved our ability to conduct oversight.

The bill requires a 7-day notification-and-wait period before funds could be transferred from either the defense cooperation account or the Persian Gulf working capital account. We would require the administration to submit a detailed report that would include:

First, a certification by the Secretary of Defense that funds would be used only for incremental costs;

Second, the amount and a detailed description of the accounts and programs to which the funds are being transferred; and

Third, an explanation of why allied contributions are not available, if funds from the working capital account are used.

The committee would insist that the Department of Defense adhere to regularly established and long standing procedures to obtain congressional approval of the actual transfers being made. This process involves the four congressional defense committees. For our part, DOD can expect that we would consider all transfer requests within 7 days. Furthermore, we would not insist on the traditional paperwork used by DOD to report such transfers.

Our approach differs from the approach taken by the Appropriations Committee. Arguably, our approach entails a greater degree of oversight by relying on a long standing and well-understood process. In this way, all transfers opposed by the administration will be scrutinized.

Because the administration cannot currently estimate the cost of the war with Iraq, we believe that it is inappropriate for us to authorize appropriations at an account level in amounts not to exceed some estimated ceiling. Such an approach would limit our ability to monitor how funds are actually being spent. Furthermore, it would prevent us from having a say so with respect to which costs are deemed to be incremental costs. Our approach allows us to be responsive to the administration's request for prompt action on the supplemental and, at the same time, to conduct responsible oversight.

In concluding my review of the core supplemental recommendation, I want to point out that the committee recommendation includes the text of the bill we adopted on February 21, H.R. 586, the so-called Schumer-Panetta bill, which would require regular reports from the administration on Persian Gulf burden sharing.

Mr. Chairman, I rise in support of H.R. 1175, to authorize supplemental appropriations for fiscal year 1991 in connection with operations in and around the Persian Gulf, presently known as Operation Desert Shield/Storm, and for other purposes.

TITLE I

Title I of H.R. 1175 would authorize, during fiscal year 1991, the appropriation of balances out of the defense cooperation—gift—account—the account into which gifts from out allies and from many individuals have been deposited. Title I also includes an authorization of $15 billion to a Persian Gulf working capital account for the Department to use in the event funds are not in the gift account at the exact moment an expenditure must be made, or there are insufficient funds in the gift account to pay all of the incremental costs associated with the Persian Gulf operations.

The bill then authorizes transfers of sums from the Defense cooperation account, and if no funds are available, from the working capital account, to the appropriation accounts from which the Department of Defense would expend them. And, it requires the Department of Defense to provide 7 days notice to Congress before making any such transfer, so that we have an opportunity to review each proposed expenditure through our regular review process and determine if it is in fact a valid incremental cost of the Desert Shield/Desert Storm operations.

Title I also incorporates by reference the provisions of H.R. 586 as passed by the House. H.R. 586 requires monthly reports from administration to Congress on the defense-related incremental costs to the United States of the Persian Gulf operations, and on allied support of the multinational coalition.

TITLE II

Title II of the bill includes a number of personnel-related matters, including a provision that would allow the Secretary of Defense flexibility to exceed the Active and Reserve end-strength ceilings and ceilings on senior NCO's for fiscal year 1991, in order to meet the operational requirements caused by Iraq's invasion of Kuwait. It also provides for: An increase in imminent danger pay from $110 a month to $150 a month; an increase in the family separation allowance; authorization of basic allowance for quarters for certain reservists without dependents; authorization of medical special pays for reservists and recalled retirees; increasing the death gratuity from $3,000 to $6,000; providing transitional medical care for reservists following active duty service; and prohibiting the activation or reassignment of mothers and sole custody fathers of children under the age of 6 months. Mrs. BYRON, chairman of the Personnel Subcommittee, will go into more detail on the specifics of that portion of the bill.

TITLE III

Title III of H.R. 1175 includes a number of measures to improve veterans educational and health benefits, and creates a VA direct home loan entitlement for National Guard and Reserve members denied a home loan because of prior service or the possibility of future service in the Persian Gulf. SONNY MONTGOMERY, chairman of the Veterans' Affairs Committee will be giving you more detail on that part of the bill.

TITLE IV

Title IV of the bill provides an authorization of supplemental appropriations in the amount of $623 million to the Department of Energy. Title IV also includes a provision directing the Secretary of Energy to establish a program to relocate within 10 years plutonium processing operations now performed at Rocky Flats, CO.

TITLE V

Finally, title V includes a provision making a technical correction to the land conveyance language adopted in last year's National Defense Authorization Act; a sense-of-the-Congress endorsing national, State, and local grassroots efforts to support our service men and women who participated in Operation Desert Storm and their families here at home; a provision stating that the military benefits package in title II and the veteran's benefit package in title III do not take effect unless the President agrees with the congressional determination that the direct spending and any appropriations made pursuant to titles II and III are emergency requirements for purposes of the Balanced Budget and Emergency Deficit Control Act; and that the personnel provisions in title II will be funded in fiscal year 1991 and 1992 out of the defense cooperation account or the Persian Gulf working capital account. The remaining provisions of title V are technical in nature.

□ 1340

Mr. Chairman, I reserve the balance of my time.

Mr. DICKINSON. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I will reserve some time later for my formal statement.

Let me say that the chairman of the full committee and I see eye to eye on the bill. We would hate to see this just make a Christmas tree for people to add things onto it that really were not directly related to Desert Storm-Desert Shield, things that were not really considered an emergency. That is what many of the amendments that will be offered today will do.

For that reason, I think you will find the chairman and I both, while we might agree with what they intend to do, we think that they are probably not appropriate at this time on this particular vehicle. That being the case, there will be some time where we will reluctantly, or where I will reluctantly, vote against some of the amendments. I think that the provisions can best be accommodated on another vehicle and not this one for Desert Shield emergency.

Mr. Chairman, I yield 6 minutes to the distinguished gentleman from Ohio [Mr. GRADISON].

Mr. GRADISON. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in opposition to several provisions of this bill that set a terrible precedent for the future of the budget agreement enacted just a few months ago. That agreement required sacrifices from almost every committee, as well as the American taxpayers to achieve $482 billion in deficit reduction over the next 5 years—but it will not be worth the paper it is printed on if we do not stick to the terms of the agreement. This bill breaches those terms.

Section 3 of H.R. 1175 directs that the bill be scored by the Office of Management and Budget [OMB] using a cost estimate prepared by the Congressional

Budget Office. This is in clear violation of the budget agreement, which assigned responsibility for scoring all direct spending bills to OMB.

Yesterday, the administration issued a policy statement on this bill indicating the President would veto it if it contains the directed scoring provision. I oppose directed scoring in this and all bills and will continue to do so whenever such provisions are under consideration by the House.

Just last week, the House passed a supplemental appropriations bill containing several billion dollars' worth of spending that was conveniently designated emergency expenses so as not to be subject to the budget agreement's discretionary spending caps. It was the first time the emergency clauses of the budget agreement were tested. I opposed the bill because I was concerned it designated nonemergency expenses as emergency spending and set a bad precedent by doing so.

My worst fear was that every turn in the legislative process would present us with an emergency of the week. My fear seems to be coming true.

Title III of the bill would designate changes in long-term veterans benefits and military compensation as emergencies. I do not oppose the benefits themselves. Indeed, I am enormously grateful to those who served in the gulf war.

I do, however, object to classifying these benefits as emergencies just to get around paying for them. After all, the taxpayers are going to pay for them for years to come, whether we account for them responsibly or not. If Congress wants to enact these benefits, it should and can find a legitimate way to fund them in accordance with the budget agreement. They should not be paid for by issuing more public debt.

The bill would pay for title II military personnel benefits by taking funds from the defense cooperation account or the Persian Gulf regional defense fund. This is another bad financing idea. The notion of making allied and coalition governments pay for these benefits is enticing, but these are certainly not the kinds of expenses our allies thought they would be paying for when they pledged their financial support for Operation Desert Shield.

As someone who would like to make sure all allied commitments are honored, I do not think it is wise to divert these funds to new entitlements not directly associated with the prosecution of the war. Allied nations who finance their DCA contributions by raising taxes, cutting domestic spending, or taking on new debt may understandably slow or withhold their pledge payments if the United States uses the funds for non-Desert Shield-Desert Storm purposes.

Finally, I oppose what I see as the line-item pocket veto implications of this bill. Titles II and III would be effective only if the President designates all spending provisions as an emergency for purposes of avoiding pay-as-you-go and discretionary spending caps. The President would have 5 days from enactment of the bill to designate these titles as emergency, but Congress would not have any opportunity to override his decision.

Mr. Chairman, I am unwilling to surrender my constitutional prerogatives to override the President's decision—nor should any Member of this House—just to disguise these benefits as emergency spending and avoid paying for them.

This bill is deeply flawed and I urge my colleagues to reject it.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. GRADISON. I am happy to yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Chairman, if I understood the thrust of the gentleman's remarks, is he saying that it is possible that some of these nations, like Japan, that have made financial pledges might look to see what Congress has done, and subsequently determine that the Congress is in fact siphoning off some of the money from the gift account to nondefense purposes. These could not be legitimately considered emergency or Desert Shield related and thereby these nations may cut back on their own commitments. Does the gentleman think any nation could possibly do that?

Mr. GRADISON. I worry about things like that. I think that is kind of what I am paid to worry about in my position on the Committee on Banking, Finance and Urban Affairs.

□ 1350

I may be seeing a problem that is not there. However, what I find particularly troublesome about the bill is that it combines items which are clearly Desert Storm-Desert Shield, no argument about it, with items which are not. It is that mixing of these items which I find troublesome.

Mr. DICKINSON. Mr. Chairman, I thank the gentleman for being rather perceptive and I am looking forward to working with him. I am inclined to agree with him on this matter.

Mr. GRADISON. I thank the gentleman for his generosity in making so much time available.

Mr. ASPIN. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. WELDON].

Mr. WELDON. Mr. Chairman, there is an issue which I would like to address as we mark up the first major defense funding bill this year. I would like to engage the chairman in a colloquy for this purpose.

Mr. ASPIN. I would be happy to.

Mr. WELDON. As the gentleman knows, the Department has proposed rescinding $200 million in V-22 procurement funds from fiscal year 1989 which conferees specifically directed DOD to spend for four production representative aircraft. They have also proposed a transfer of fiscal year 1991 V-22 procurement funds to the research and development account. The Department is freezing V-22 production funds, and preventing a decision on V-22 production at the end of this year in clear defiance of the fiscal year 1991 conference agreement.

Last week, the House adopted language in the Desert Storm supplemental which directs the obligation of V-22 procurement dollars. Given the Department's actions to date, the committee also extended the fiscal year 1989 funds that are due to expire at the end of this fiscal year.

I understand that the leadership has asked us to present a clean authorization for the defense-related costs of Operation Desert Storm. However, the House needs to understand that if we do not address this issue soon, the Department will continue to withold V-22 production funds this year.

Mr. DOWNEY. Will the gentleman yield?

Mr. WELDON. I would be happy to yield.

Mr. DOWNEY. I would like to echo my friend's concerns on the V-22 and briefly describe a similar situation where we apparently are seeing bad faith on the part of the Department with regard to upholding the integrity of the authorization act.

I am referring to the F-14 remanufacture program. My colleagues will recall that approximately $780 million was authorized and $780 million was appropriated for fiscal year 1991 to remanufacture 12 F-14D aircraft, without controversy. The intent of Congress regarding this Navy-requested program was outlined clearly in last year's authorization and appropriations conference reports. The President approved those spending bills.

Earlier this year, however, the Department of Defense unilaterally decided not to spend this money for its intended purpose. The Department has yet to provide Congress with a reprogramming or rescission request for, or any notification of, another use of those funds.

Mr. Chairman, the Pentagon's actions establish a serious precedent. We need to know if the Department no longer intends to honor report language. If this is the case, Congress will act to put all essential language in the bills themselves.

The HAC recently directed that the F-14 remanufacture funding be spent. The Armed Services Committee must weigh in as well. I request the chairman's assistance in getting this message through to the Department of Defense and reversing the termination of the F-14 remanufacture program.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from Alabama.

Mr. DICKINSON. I want to put a plug in for this.

Mr. WELDON. If the appropriate language is in the bill, I will support the gentleman.

Mr. FOGLIETTA. Mr. Chairman, will the gentleman yield?

Mr. WELDON. I yield to the gentleman from Pennsylvania [Mr. FOGLIETTA].

Mr. FOGLIETTA. Mr. Chairman, let me echo the comments of my colleagues and also express my strong support for the V-22. I have been very interested in a third program that is now caught up in the same kind of questionable tactics as the V-22 and the F-14. My colleagues will recall that we authorized and the appropriators appropriated, funding to begin the Service Life Extension Program on the U.S.S. *Kennedy* last year. The SLEP is a cost-effective program that creates virtually new aircraft carriers at about one-fourth the cost of new construction.

Although Congress has consistently supported the SLEP and approved it as part of the overall compromise in last year's conference on the DOD bill, we're now back to square one on this program. This is because the Secretary of Defense included the SLEP funding on his rescission list, which goes against the language passed by Congress and signed into law by the President.

Mr. Chairman, all parties must agree to compromise during the course of a conference. But it seems to me that once compromises are made and agreements are reached, it's incumbent on all sides to show good faith to carry out those agreements. We seem to be in a position where every issue decided 1 year gets reopened the next year. That is no way to do business.

It is my understanding that the HAC included language intended to direct the expenditure of SLEP funds, but I agree with my colleagues that the Armed Services Committee needs to be heard on these issues and principles as well. We should communicate to DOD in the strongest terms that they should obligate these moneys as soon as possible.

Mr. ASPIN. Let me say to my colleagues: your points are well taken and I assure you that the committee has no intention of allowing DOD to ignore these or any future conference agreements. We shouldn't be in the position of relitigating every major conference issue every year. The Congress voted in favor of the V-22, the F-14D remanufacture and the SLEP programs last year and a deal should be a deal.

I intend to make every effort to establish some ground rules with the Department of Defense on this very point and will take the issues you raised as precise examples of how not to do business. In addition, let me assure my colleagues that I will continue to support throughout the year efforts to correct these kinds of process issues.

Mr. WELDON. Mr. Chairman, thank you. I appreciate your efforts to resolve this urgent matter, and hope that we will have the Department's cooperation on it. In the absence of such cooperation, I will be seeking the chairman's support for setting specific timetables for expenditure of V-22 funds and other programs that the Department continues to oppose in defiance of the conference agreement and the law of the land.

Mr. ASPIN. Let me say again that you have my full support for resolving this issue and ensuring compliance with the DOD conference agreement.

Mr. Chairman, I reserve the balance of my time.

Mr. DICKINSON. Mr. Chairman, I yield 3 minutes to the very distinguished gentleman from Washington [Mr. CHANDLER]. Perhaps he will talk about the B-2.

Mr. CHANDLER. Mr. Chairman, 1 week ago I introduced a resolution in support of Operation Homefront, a national grassroots effort to support our troops in the Persian Gulf and their families here at home.

I wish to thank the gentlemen from Michigan, Mr. BROOMFIELD, and from Alabama, Mr. DICKINSON, for cosponsoring my resolution, and the gentleman from Missouri, Mr. SKELTON, for offering my resolution as an amendment to the Desert Storm emergency authorization in the Armed Services Committee.

We have all been touched by the pictures and words of the service men and women who have returned home to their families and loved ones during the past week. The same volunteer organizations that sprang up all across the country to coordinate support rallies, letter-writing campaigns, and red-white-and-blue ribbon brigades, are busy organizing the heroes welcome due each and every one of these brave men and women in our armed services.

As more and more of our troops return home daily, we must not forget the service men and women who remain in Kuwait to finish the hard work of restoring and rebuilding this devastated nation. Operation Homefront, for its part, will continue efforts to support our troops in the Persian Gulf, and their families, until they are all safely home.

Mr. Chairman, Operation Homefront is not a Federal program and requires no Federal funding. This legislation simply and appropriately recognizes and further encourages its grassroots efforts in support of our troops deployed to the Persian Gulf and their families. I encourage my colleagues to join me in support of this legislation, and in particular, in support of Operation Homefront.

□ 1400

Mr. ASPIN. Mr. Chairman, I yield 4 minutes to the gentlewoman from Maryland [Mrs. BYRON].

Mrs. BYRON. Mr. Chairman, let me say as the chairman of the Subcommittee on Military Personnel and Compensation, I want to take a few minutes to describe the bill that is before us contained in the military personnel benefits package contained in title II.

Basically there are two parts. The first part is the DOD's request for relief from the fiscal year 1991 end strength levels which we put in last year's authorization bill. With the buildup for the Persian Gulf war, it is easy to see that DOD will not be able to draw down that force to make the end strengths from last year, so we have granted the Secretary of Defense permission to exceed those end strengths because of Operations Desert Shield and Desert Storm.

The second part of that package is a personnel benefit package related to Operations Desert Shield and Desert Storm. Many Members had proposals to add to that package. I can remember colleague after colleague on the floor with a wonderful idea to enhance our young men and women that we have sent a half a world away.

The difficulty that we have had is to make sure that this package is only those issues Desert Storm and Desert Shield in nature and not to help our troops in issues that we had looked at previously.

We need to make sure that those families back here in the States are taken care of. I will not go into detail about each provision, but I would like to mention a few of the more important items.

We all remember when we were hearing from constituents whose wives were left home with their children and their husband's paycheck was not as much as it should have been. The basic subsistence allowance had been gone of $177. In its place was a family separation pay at that time of $60. We have increased that to $75 per month.

In its place was a certain-place-pay of about $15. We have increased that to $25 across the board.

The imminent danger pay which did not kick in until the Secretary designated Operation Desert Shield as an imminent danger area in the amount of $110, has been increased to $150 per month.

We have seen many of our medical personnel covered. We have authorized 2 months of medical care for reservists and their families that have been called up.

We have looked at the stop-loss active duty personnel and their families to be covered by 2 months of medical care. If they have no health insurance from their private employers, they should be covered for that 2-month period.

We have a health care special pay package which authorizes special pay for the Active Reserve health care providers who are not doctors or dentists, who already get this pay.

The benefits in this package take effect at the beginning of the war, which was January 16.

The total fiscal year 1991 outlays cost of the personnel benefits package is $335 million. Since we have tailored this package as closely as possible to the personnel serving in the Persian Gulf conflict, most of those costs will go away as we draw our forces down over the next few months. We have already seen that begin. In fact, I think we will continue to pull out much faster than the Congressional Budget Office had assumed.

What a delight we had last weekend when we saw so many of our troops returning home to their loved ones.

The President made it clear in his speech to the joint session last week that he intended to bring the troops home as quickly as possible. Hopefully all of them will be returned by July 4, so the fiscal year 1991 costs should be less than the estimate.

We all noticed last Sunday the 21 POW's as they stepped off their plane at Andrews. We have extended savings programs for those POW's.

We saw with great pride and distinction Col. Dave Eberly as the top officer in that group give the response for those people who had been kept in captivity. It is only right that we recognize those POW's.

Title II clearly is a benefit package for the troops who have been sweating it out in the sands of Saudi Arabia, fighting and dying on behalf of freedom in a far distant land.

I believe the committee has done its best to preserve the integrity of the two-step emergency spending process included in the budget agreement. We feel very strongly that this legislative package is indeed emergency spending and section 503 declares it to be so. Section 503 also preserves the flexibility of the President to make his own decision on the emergency nature of the package.

I believe we have acted responsibly in the interest of both the servicemember and the taxpayer in the decisions made on this personnel benefits package.

Mr. DICKINSON. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. Mr. Chairman, I thank the distinguished gentleman from Alabama for yielding me this time.

Mr. Chairman and my colleagues, I speak to you with some very mixed emotions about the legislation that is before us. Essentially I would say that I like what is in it. I am certainly not displeased at the enhancement of benefits for our people in the uniformed services. I think they are in order and imminently well-deserved, nor am I opposed to reviewing and elevating the package of benefits available to this country's veterans to whom we owe so much.

My concern is the process by which we are doing this, and with that I take very, very strong exceptions.

The basic purposes of the legislation before us are to authorize expenditures directly associated with the prosecution of Operation Desert Shield/Storm, something obviously we must do.

To add to that without the proper analysis, without the fullest of hearings and consultations a package of personnel benefits and veterans benefits is not the wisest way to do what it is we are all interested in doing.

The personnel benefits, as I have indicated, I am supportive of. I think if anything they avoid some of the excesses that might be described almost as a piling on, if you look at some of the proposals that have been circulated in terms of how to benefit our people in uniform who served in Operation Desert Shield; things, "as generous," if I may put that in quotes, as suggestions that every reservist called to active duty should get from the public Treasury a sum up to $40,000 as an offset against any possible loss of income that was lost as a result of having been called into active duty as a Reservist.

So it is not an extravagant package and I would not want anyone to feel that it is; however, we started off with legislation, knowing little if anything as to how it would be scored, and how it would be dealt with under the Budget Deficit Reduction Act of 1990. We know virtually less today than we did when we started.

Now, the bill as it came from the committee had provisions in it that the sums for these benefits would not be funded unless it was from the Special Foreign Assistance Act. That provision is essentially, as I take it, going to be removed by amendments already made by the rule that came to the floor or by other amendments which will be pending.

How much better it would have been for the leadership of this House and for the appropriate committees to have gotten together along with consultation with the Budget Committee and put together a package such as this that could be laid before the House with certainty as to how it was going to be funded, what its implications were in terms of the Budget Deficit Reduction Act.

It bothers me more than a little that depending on how the course of amendments voted upon later today will go, we may by virtue of expending money for these benefits in this bill both for veterans and for the uniformed services end up requiring a reduction in existing benefits paid to military personnel and to veterans. I do not think that is really what the will and the desire of the House is to do, and yet that may end up being exactly what we do.

In the reconciliation bill last October, we mandated upon the Veterans' Administration a reduction of $3.6 billion in expenditures over a 5-year period. It requires reductions in a number of veterans' benefit programs that are very, very Draconian and we should try to seek ways to avoid it. How tragic it would be if by enhancing veterans' benefits in this bill we make those reductions in expenditures even more Draconian and even create other reductions. We have simply got to face up to the consequences of the Budget Deficit Reduction Act as passed and we ought to knowingly do this offbudget or we ought to do it onbudget, knowing exactly where we are headed in terms of how these programs will be funded.

Mr. ASPIN. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. SCHEUER].

□ 1410

Mr. SCHEUER. Mr. Chairman, I rise in support of H.R. 1175 and the Desert Storm veteran's benefits package it incorporates. I would like to salute Chairman MONTGOMERY for his wisdom and tireless commitment to ensuring that the veterans of this Nation receive what they so courageously earned.

Mr. Chairman, I am one of the over 18 million veterans who has taken advantage of the GI bills. When I came out of the service after World War II, the GI bill paid my tuition, fees, bought my books, and supplies, and provided a subsistence allowance. In that day they paid enough for me to attend Columbia University Law School.

Should our commitment to our veterans be any less today than it was then?

Surely, not.

The veterans of the Persian Gulf war have performed their duty to this Nation and they have done it in spectacular fashion.

Victory in the gulf came from superior leadership, clarity of purpose, superb planning, and most importantly faultless execution by highly competent, highly skilled soldiers.

Gone are the days when a soldier needed to know little more than how to pull a trigger. Today he must be able to use lasers, computers, and all sorts of high-technology wizardry.

Yet many of these soldiers are the non-college-bound youth that would have fallen between the cracks of society had they not joined the military.

In 1987, Adm. James D. Watkins, newly retired Chief of Operations for the U.S. Navy, testified in a series of hearings before the Joint Economic Committee, entitled, "Competitiveness in the American Workforce." He described the Navy's success at producing a force where the whole was greater than the sum of its parts by integrating into military life, a network of social services to combat illiteracy, halt drug and alcohol abuse, and serve other health and education needs. Given the gulf war's proof of success in turning out quality people, we should seek the counsel of the architects of that success and ask Admiral Watkins, now Secretary of Energy, and the Secretary of Defense, to sit down with the Secretary of Education, and the Secretary of Labor, and the Secretary of Veterans Affairs and answer the following two questions:

How do we apply the lessons that can be drawn from the military's ability to prepare, to educate and to train our youth, to the rest of society, especially the 9 million of the Nation's 33 million youth aged 16 to 24 who do not have the needed skills to meet employer requirements for entry-level positions?

How do we ensure that those veterans who are so highly trained to perform military duties, receive the same quality of preparation to perform in the civilian world?

Clearly, we owe it to them.

When this Nation asks the men and women of America to be all that they can be, we offer then not just the chance to fight and die for their country, but an opportunity for self-advancement.

For many, that means a chance to learn a skill, or to earn enough money to go to college. It means that they will leave the military with more than the pride and satisfaction of serving their country. It means leaving the military with a bright and exciting future.

That bright and exciting future is the commitment this Nation has made to our veterans, a commitment this Nation must keep.

I urge my colleagues to adopt this important package of legislation.

Mr. DICKINSON. Mr. Chairman, I yield 4 minutes to the gentleman from New York [Mr. SOLOMON], the ranking member of the Committee on Rules.

Mr. SOLOMON. I thank the gentleman for yielding this time.

If I might just have a colloquy with the chairman of the committee on Armed Services: During the Committee on Rules consideration on the self-executing amendment that knocks out title III, we tried to determine whether or not the bill, if the President signs it into law with the XXX amendment, and I think it was No. 25, that if the President did not make a single designation that everything in the bill was an emergency, where would that leave the bill? Would it then be an authorization bill that would have to be followed by an appropriate appropriations bill funding it? Or would it be moot?

Mr. ASPIN. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Wisconsin, the chairman of the Committee on Armed Services.

Mr. ASPIN. I thank the gentleman for yielding.

Mr. Chairman, as I understand it, the trigger applies to the personnel package and to the veterans package. So the rest of the bill would go into law if the President signs it, regardless of his determination on the emergency nature of the other provisions.

Mr. SOLOMON. OK. The language was clear.

Mr. MONTGOMERY. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Mississippi [Mr. MONTGOMERY], the chairman of the Committee on Veterans' Affairs.

Mr. MONTGOMERY. I thank the gentleman for yielding.

Actually, also if the President wants to veto this legislation or if the President says it is not an emergency, then the whole bill will go down. He could not pick and choose.

Mr. SOLOMON. That is my question. The chairman of the Committee on Armed Services answered the first part, and I do understand; it is clear from reading the bill that the first part would become law even if he did not make a single designation for the personnel and veterans benefits.

My question is that if he then signed the bill into law but failed to make that designation, would the remainder of the bill, titles II and III, stand as an authorization bill subject to later appropriations? Or would that then be a dead bill and would not be freestanding as an authorization?

Mr. ASPIN. Mr. Chairman, I would yield to somebody from the Committee on Rules, which made it in order. But my understanding is that if he does not determine that there is an emergency expenditure, then nothing happens, that those two sections, those two titles—II and III, and they are separate designations—that if he designates neither, then neither would go into effect.

Mr. SOLOMON. Well, during the debate in the Committee on Rules, the rules staff could not answer the question as to whether or not it would remain, whether or not the personnel and veterans portions of the bill would remain as signed into law as an authorization bill, which then could be subject to an appropriation. In other words, if the President signs the bill and then fails to designate, would the Appropriations Committee come in to the process later?

The CHAIRMAN (Mr. DOWNEY). The time of the gentleman from New York has expired.

Mr. DICKINSON. Mr. Chairman, I think this is a very important point that should be resolved, and I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON].

Mr. ASPIN. Mr. Chairman, I understand the question. Subject to some further verification or correction, my understanding is that if he does not designate anything as an emergency, therefore it is not an authorization. It is a dead letter. He would not designate it, and therefore it would not be authorized and the expenditures would not take place.

Mr. DICKINSON. If the gentleman would yield to me, if I may get in on this, to make sure we all understand it, section 1 needs no determination.

Mr. ASPIN. That is correct.

Mr. DICKINSON. It is self-fulfilling and funded.

Mr. ASPIN. That is correct.

Mr. DICKINSON. There are two other provisions on which he must make a designation or a finding on each—if on either or none he makes no such determination, then we have authorized it, but are they subject to subsequent appropriation or are they just a nullity?

Mr. ASPIN. If the gentleman would yield, I think it is a nullity, I think it is done, it does not take place; it is neither authorized nor appropriated, it is all over.

Mr. DICKINSON. I have no problem with it. I just thought it was important that we ascertain the facts so that when we go to vote we will know.

Mr. SOLOMON. If I may just conclude by saying that I understand why the gentleman from Wisconsin prefaced his answer by saying "I think." If sometime during the debate we could get some kind of clarification, it is going to be important down the road. Some appropriators tell me they think this is an authorizing bill and that all they have to do is appropriate 3 or 4 weeks or months later and we would not have to have an authorization bill. We need to clarify that. I am not trying to put the gentleman from Wisconsin on the spot; I just want the clarification.

Mr. DICKINSON. If the gentleman would yield back to me, you see, if it requires a subsequent appropriation, if it is considered an authorization, then you bump up against the budget problem again.

Mr. SOLOMON. That is my point.

Mr. DICKINSON. So if it is a nullity, then we have to come back with an authorization.

Mr. ASPIN. I am just telling the gentleman that it is our understanding, and I think I speak for the gentleman from Mississippi, the gentlewoman from Maryland [Mrs. BYRON], the staffs of the House Armed Services Committee, and the Veterans' Affairs Committee, that if the President does not assign this an emergency, it is null and void. It is not an authorization sitting there waiting for an appropriation.

It is null and void.

But we will get back to you if that turns out to be incorrect.

Mr. SOLOMON. I appreciate the gentleman's clarification.

Mr. DICKINSON. Mr. Chairman, I reserve the balance of my time.

Mr. ASPIN. Mr. Chairman, I yield 4 minutes to the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. I thank the Chairman for yielding.

Mr. Chairman, Mr. SCHEUER has said it very well today that the educational benefits have worked so well. Secretary Cheney said this morning it was not the weapons systems that won the Persian Gulf war, it was the personnel we had, the quality of the personnel. They were quick learners.

We have over 100 Members of Congress who introduced different types of appreciation packages.

Some say this package today is too small, it is not enough. But we figured we had to be reasonable because of the budget crunch.

H.R. 1175, as amended, would designate the crisis in the Persian Gulf as the Persian Gulf war for VA benefit purposes. The war period would begin on August 2, 1990, and end on the date designated by Presidential proclamantion or by law. Establishing this wartime period would entitle all personnel serving during the period to benefits and services granted to those who served in previous wars.

Section 302 of the bill would reform the DIC Program to provide a new rate structure comprised of four basic rates based on the age of the deceased veteran at time of death, rather than the veteran's rank while on active duty. The new program would provide higher rates of benefits for the economic loss suffered by the surviving spouse of a younger veteran, while providing a reasonable rate for surviving spouses of older veterans.

No current recipient's benefits would be decreased under this proposal. Beneficiaries already on the rolls would be afforded the higher of their current benefit rate or the new rate. The highest rate of $750 per month would be paid to the surviving spouse of a veteran who died at age 35 or less, and the lower rate of $600 would be paid to the surviving spouse of a veteran who died at age 65 or older.

This section of the bill would also increase, over a 3-year period, the additional amounts of DIC that are paid to the surviving spouse for children of these veterans. Currently, an additional $68 per month is paid for each child. This amount would be raised in fiscal year 1992 to $100, in fiscal year 1993 to $150, and in fiscal year 1994 to $200. This again recognizes the fact that families with young children suffer the greatest hardship.

Mr. Chairman, section 303 of the bill includes provisions to achieve health care benefits equity for gulf war veterans, as well as fill a gap we discovered in VA's planning for Operations Desert Shield and Desert Storm.

The VA was prepared to make up to 25,000 beds available to care for military casualties within 30 days of the start of fighting. In that role, existing law requires that VA provide priority only to service-connected veterans. As a result, taking on that many casualties would have meant displacing many nonservice-connected veterans from VA hospitals. It would also have meant denying category A veterans—those entitled to hospital care—access to the VA.

When Congress created a role for VA to serve as backup to the military in wartime, it had not established the mandate that VA provide hospital care to category A veterans. This bill would ensure that if VA were called on again in the future to play a critical war-support role, veterans who cannot be treated by VA could be certain of receiving care at VA expense in community facilities. As important as it is that VA be available to assist the military in time of war, we must keep faith with veterans of previous wars.

Section 304 of the bill includes provisions related to education benefits for our Armed Forces personnel.

Mr. Chairman, many of the young men and women serving during the Persian Gulf war cited the opportunity to earn education assistance, while serving their country, as their primary reason for enlisting in the military. Enacted in 1984, no increase in GI bill benefits has been provided since that time, and the value of the program as a adjustment benefit has seriously eroded. I believe the veterans of Desert Storm have more than earned an adequate education benefit. Accordingly, the basic GI bill-active duty benefit would be increased from $300 per month to $400 per month and the GI bill-Selected Reserve benefit from $140 per month to $200 per month. The increase should be higher. According to a recent report prepared by the Congressional Research Service, it should be at least $700 per month.

It should be pointed out that the active duty GI bill has been a cost-effective program. Since 1984, $1.2 billion has reverted to the Treasury as a result of the $1,200 pay reduction required of GI bill participants. Between July 1, 1985, and 1991, less than $450 million has been paid out in benefits. Additionally, our country has avoided paying the millions of dollars in interest that would have been required had we had to borrow that $1.2 billion.

Other provisions of the bill would expand entitlement to GI bill benefits to members of the Selected Reserve activated because of Desert Storm, and would restore lost entitlement and extend the delimiting date for individuals who had to drop out of school because of military service related to the war.

Finally, Mr. Chairman, the bill would liberalize the loan guaranty benefits for members of the National Guard and Reserve called to active duty, requiring only 90 days of service rather than 180 days.

Historically, wartime veterans have been eligible for loan guaranty benefits if they served at least 90 days. With the advent of the All-Volunteer Force, eligibility requirements now require service of more than 180 days.

Section 308 of the bill would provide VA guaranteed loan eligibility for service in the Persian Gulf war after service of at least 90 days, similar to other wartime veterans.

Section 309 creates VA direct home loan entitlement for reservists and National Guard members who are unable to obtain a home loan because of the possibility they may be ordered to active duty in connection with or preparation for any war or other action involving the use of military force. The committee is aware of a limited number of instances in which lenders have been reluctant to make loans to eligible reservists because of their commitment to the Armed Forces.

Mr. Chairman, in recent days we have witnessed some of the most moving scenes in our Nation's history.

Our returning servicemen and service women have stepped on to familiar tarmacs and become engulfed by loving families. We've seen fathers greet their newborns for the first time. We've seen children leap into their parents arms, overjoyed to see them and touch them again. We've watched the wounded and the former prisoners of war, bearing the wounds of battle, limp or be carried from aircraft. One of the most moving portraits was of a young man saluting from a stretcher as a military band played the Star Spangled Banner.

Most moving to me was seeing the newspaper articles and television reports about the individuals who died in Desert Storm. The families of several of these young heroes said their son or daughter was attracted to the military service because of the availability of the GI bill.

These men and women not only did the job that was asked of them, they did it effectively and with great pride and compassion. Now, we must not fail to do our job. And that is the purpose of this appreciation package.

If they can face the anxieties and sacrifice, the fear and the hardship, the uncertainty and the unknown—if they can face disability and death for us, then the very least we can and should do is afford them the opportunity to live good lives under the banner they defended.

Welcome home means more than just a cheer, a handshake, or a parade. It means tangible benefits and services.

When a Persian Gulf veteran, or any veteran for that matter, asks his country for help in purchasing a home, getting an education, obtaining a job, or taking care of his family, we must be there. We must not hesitate. They certainly didn't hesitate when we asked them to leave their families and jobs and homes to step into harm's way. This is a modest response to that service.

Mr. Chairman, I urge my colleagues to vote for this important legislation.

□ 1420

Mr. DICKINSON. Mr. Chairman, I wanted to give recognition and a lot of accolades to the gentleman from Ohio [Mr. KASICH], but he does not want to speak at this time, so I yield 2 minutes to the gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Chairman, I am in strong support of the package of veterans benefits in this bill. We cannot ask our military service people to do a dangerous mission for us and not recognize the value of their contribution—as will be done by this legislation.

By the same token, it does little good for the veterans of our country to vote them benefits on one hand and then submit them a bill for it on the other. That is what would happen if we had to pay for these benefits with a tax increase.

As a result, this package must be paid for within the budget agreement, not added on. We can make room for this rather modest package in the budget.

While that is not the way this bill is written, its the way it should come out after conference with the Senate.

Mr. ASPIN. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. MCCLOSKEY].

Mr. MCCLOSKEY. Mr. Chairman, I rise in strong support for H.R. 1175, the Desert Storm authorization bill.

Later today I have an amendment regarding mandatory defense acquisition workforce personnel end strength cuts.

The amendment to alleviate mandatory cuts for installations with substantially increased Desert Storm workloads has the full support of Chairman ASPIN and numerous Members of both sides of the aisle.

I wish to especially thank Chairman BEVERLY BYRON for her assistance in including two provisions of special importance to me.

The first is section 250 which provides sense of Congress language on morale telephone calls. This language is based on H.R. 789 which I introduced earlier this year, to give our personnel in the Persian Gulf up to 10 minutes of free phone calls monthly.

Due to budgetary and logistics concerns, the committee did not wish to mandate this benefit at this time. Chairwoman BYRON did provide for strong sense-of-Congress language that the Secretary of Defense should enter contracts to provide 10 minutes of free phone calls and seek foreign contributions to pay for such phone calls.

As many of my colleagues may know, Saudi Arabia is assessing a 73-cent-per-minute surcharge on all phone calls originating from Saudi Arabia. This charge is assessed despite the fact that no Saudi telephone equipment or services are utilized and that there is no interference with domestic Saudi telecommunications.

Since early February, I have been working with the Saudi Arabian Embassy to remove this surcharge. Yesterday, I was informed that the Saudi Ambassador, Prince Bandar, has recommended that this surcharge be removed and made retroactive to January 1.

Today, I sent a letter, which was cosigned by Chairman DANTE FASCELL and Chairman LEE HAMILTON, to King Fahd, requesting that he expedite removal of this surcharge and that it be made retroactive for the entire period of the deployment. Although the embassy has indicated that the degree of retroactivity will have to be addressed I have been informed that this charge should be removed within 10 days.

The other provision to which I am indebted to Chairwoman BYRON is included as report language. This provisions compliments legislation, the Desert Shield and Desert Storm Military Personnel Student Financial Aid Fairness Act, which I introduced last week and which was scheduled to be considered on the floor today. It is my understanding that this will now be considered next week.

My bill will ensure that Desert Shield and Desert Storm personnel who participate in the Federal student loan and Pell grant programs do not suffer financially due to their military service.

Since August, thousands of students from across the country have been abruptly removed from college and sent to the Persian Gulf. In my home town of Bloomington, IN, there are over 40 students who have been sent to the Persian Gulf. Because they are no longer technically in school, if they have student loans, they may be required to begin paying the loans back.

In addition, this measure assures students that their future eligibility for Federal student assistance, particularly Pell grants which are based on need, is not reduced due to service to our Nation.

The Armed Services Committee does not have jurisdiction over this matter and I am indebted to my good friend, Chairman BILL FORD of the Education and Labor Committee, for expeditious consideration of this legislation. However the report to H.R. 1175 does indicate that the Armed Services Committee recognizes the immediacy of this problem and concurs with the need to address this problem.

I wish to thank Chairman ASPIN, Chairwoman BYRON, and my colleagues on the House Armed Services Committee for their cooperation on this matter.

Mr. ASPIN. Mr. Chairman, I yield 1 minute to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Chairman, I rise to comment on two aspects of the supplemental authorization bill.

BURDENSHARING

The committee report contains some important language relating to burdensharing for the conflict in the Persian Gulf, which I want to underscore.

When Iraq invaded Kuwait in early August, Iraq committed a crime against international law and world security. Despite the fact that the threat to the international order was far greater than to American national interests, the United States sent half a million troops halfway around the globe to force Iraq to leave Kuwait. Our immediate deployment stopped Iraq from invading Saudi Arabia.

Great Britain, France, Saudi Arabia, Syria, Egypt, and refugees from Kuwait got into position quickly and provided valuable military aid. Other nations sent military forces as well. Over the course of the autumn, Saudi Arabia, Kuwait, the United Arab Emirates, Japan, Germany, and Korea came forward with cash and in kind assistance, now totaling $15 billion. These countries have pledged another $38 billion.

The U.S. deployment brought with it three types of costs. First, there are the added or incremental costs, which the administration has estimated will run between $58 billion and $108 billion. If all allied pledges are paid, they will cover between 49 percent and 91 percent of these incremental costs.

Second, there are the total U.S. budget costs. The General Accounting Office says that more than $100 billion of the $290 billion fiscal year 1991 defense budget will be spent directly on Operation Desert Shield/Storm. Other agencies of government, particularly State and Treasury, have devoted major portions of their annual budgets to this crisis as well. The whole government paid higher fuel costs. And, we will have a large bill for replacement of used up weapons and for veterans benefits for years ahead. Adding these costs to the incremental costs produces total U.S. budget costs of at least $158 billion, but probably double that amount. Allied pledges aleady made would, therefore, cover between 16 percent and 33 percent of our total budget costs.

Third, there is the human cost. We were lucky to have suffered only 300 fatalities in the deployment. Still, each of these lost lives is too great to value. The mobilization disrupted careers, separated families, and inconvenienced millions of Americans. Except for the front line States, no other country paid the human price borne by the American people.

The question is: Was the burden fairly shared in the war with Iraq? If you look at the history of burdensharing, this war was the best performance ever. More nations did more to help in the multinational effort than ever before.

Yet, if you look at the entire episode, the fact remains that the United States moved in alone to stop the Iraqi advance, flew 85 percent of the combat missions, contributed 70 percent of the ground forces which entered Kuwait or Iraq, and paid the lion's share of the cost. We, therefore, have every right to seek far greater help from our allies, like Germany, Japan, and Korea, who have already pledged money and, also, from countries like Singapore, China, the Soviet Union, and India which have done virtually nothing to help.

As important as paying for this war is assuring that the United States does not have to remain the world's policeman. We moved in first because we were the only nation able to do so. The United States should now work with other responsible nations to create a multinational rapid deployment force which can move quickly and decisively to stop aggression. We must move toward this goal to assure that the United States does not continue to have to do it alone. While the American people are rightly proud of their success in this war, when they are asked about being the world's policeman, they continue to answer "Take this badge off of me; I don't want it anymore."

ROCKY FLATS

The reported bill takes two steps backward by funding and endorsing restart of plutonium operations at Rocky Flats and one step forward by stating firmly in legislation that DOE must move these operations out of the Denver area in 10 years. The Department of Energy [DOE] requested $283 million to expedite restart of plutonium processing operations at Rocky Flats; such operations have been halted for nearly a year and a half.

I oppose any supplemental for Rocky Flats for three reasons:

First, we should not restart the plant. Rocky Flats is a sorry mess. There are pounds of plutonium in the ducts, which the Department of Energy [DOE] hasn't figured out how to move. The machinery is old and unsafe. Many of the buildings are firetraps. There is a new contractor, EG&G, which is changing many of the operating procedures; indeed not all of the new procedures have been written. And, the staff has not yet been adequately trained on these new procedures. It is not safe to restart Rocky Flats now or anytime in the next few years, regardless of how much money we throw at it.

Second, we should be forcing DOE to move the plutonium processing activity out of a metropolitan area promptly. The recently released reconfiguration study documented the need to move Rocky Flats. But the final version deleted any reference to a date. If DOE restarts Rocky Flats, any urgency to move will be eliminated. Our first priority should be to move the plutonium processing function out of Rocky Flats, which section 404 of the bill makes clear.

Third, national security will not be harmed if Rocky Flats is not restarted. Rocky Flats produces plutonium pits which serve as the triggers for nuclear weapons. These pits don't wear out. We have plenty of nukes which have to be retired, some because of arms control agreements, others because they are obsolete. It would be a simple matter to design new warheads to use old pits. In that way, we could recycle pits, save the taxpayer money, and not restart a terribly dangerous plant. I suppose this is too simple for DOE.

The workers at Rocky Flats are a highly skilled and hard working group. We need them kept on the payroll and trained to decontaminate and decommission the plant. Environmental restoration at Rocky Flats will involve new science and new technology. The talented Rocky Flats work force are who should do that.

I suspect that, even with this money, Rocky Flats will never restart because it is such a mess. I hope that DOE will recognize that we are dead serious about moving Rocky Flats out of Denver promptly. By inserting section 404 in this bill, we are saying that the relocation of Rocky Flats is separate from and a higher priority than the reconfiguration of the rest of the complex. Therefore, plans to relocate Rocky Flats need not be delayed to await the programatic environmental impact statement for the entire reconfiguration.

Mr. ASPIN. Mr. Chairman, for the purposes of a colloquy, I yield such time as he may consume to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Chairman, will the gentleman please explain what the committee has done concerning the disposition of Iraqi weapons captured by the United States military and United States-supplied Kuwaiti weapons taken by the Iraqis?

Mr. ASPIN. Mr. Chairman, if the gentleman will yield, report language in this bill directs the Department of Defense to provide, by June 1, an accounting of all Iraqi weapons captured by the United States military as a result of Operation Desert Storm. Furthermore, the report requires the Department to provide an accounting of all American weapons sold to Kuwait that were captured by the Iraqis at the time of the August 2d invasion.

I want to commend the gentleman from Florida [Mr. SMITH] for his contribution to this portion of the bill.

Mr. SMITH of Florida. I thank the distinguished Chair and the Armed Services Committee for his remarks and I congratulate him for his efforts to bring this legislation to the floor in such a timely fashion. In the absence of a full accounting of captured Iraqi weaponry, it would be difficult, if not impossible, for Congress to exercise its article I constitutional powers in making "rules concerning captures on land and water." This report language is only the first step in what, I hope, will become a comprehensive review of American arms export policy to the Middle East. Such a review will be facilitated if we have the type of information the Department of Defense is obligated to deliver to us pursuant to this bill.

Mr. ASPIN. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, today as part of the Desert Storm defense authorization the House will reconsider H.R. 586, legislation passed by vote of 393 to 1 earlier this session. This bill requires monthly reports from the administration on the costs of the war in the Persian Gulf and the extent to which these costs are offset by contributions from our allies.

As the American people learn what happened in Japan this week, they are going to be extremely angry—and rightfully so. We have all heard a lot of talk about Japan's $9 billion pledge to the United States. Well, that pledge was finally dispersed this week, but it wasn't what we expected.

To put the record straight, the pledge the Diet approved last week was for $8.6, not $9 billion—$400 million U.S. taxpayers will now have to provide.

The story gets worse. The $8.6 billion is not going to the United States Treasury, but to the Gulf Cooperation Council, an organization which Japan belongs to but the United States does not. Prime Minister Kaifu claims that the American Congress must have misunderstood him—Japan never intended to give their contribution directly to the United States. Well, let me tell you something. Congress did not misunderstand anything—we were misled.

And now, the punch line. The Gulf Cooperation Council is going to give this money to a number of countries, not just the United States—the United Kingdom, France, and even Bangladesh have asked for a piece of the pie.

The Cooperation Council says that the United States will get some, though not all, of Japan's contribution. Unfortunately, the Council will not tell us how much we will get, nor will they rule out the possibility that some funds will go to reconstruct Kuwait.

Ladies and gentlemen, what we have here is a classic sleight-of-hand; now you see a pledge, and now you do not. This situation is completely unacceptable to the American people.

The legislation we are considering today is an important step toward bringing this deception to an end. It will set out, in very clear terms, the bottom line on burdensharing—how much money we have received from our allies. Not the amount Japan and other nations have promised, but the truth—how much money we have in the bank.

Burdensharing is a vital strategic concern of the United States. Our Nation's security cannot stand on a foundation of military strength alone. We must also protect our ability to compete in the expanding global markets of the world economy. America cannot allow its allies to stick us with the bill for our common defense while they put all of their funds into the creation of good jobs and increased wealth. It is time our allies lived up to their commitment.

□ 1430

Mr. DICKINSON. Mr. Chairman, I misspoke a moment ago. I thought there would be only one more speaker on this side, but we have finally persuaded the gentleman from Ohio [Mr. KASICH] to take some time, so I yield 2 minutes to the gentleman from Ohio.

Mr. KASICH. Mr. Chairman, I appreciate the very distinguished gentleman from Alabama yielding this time to me.

Let me just say that coming out of the committee we had a pay-as-you-go mechanism to fund the veterans' benefits, which I strongly support. I not only support a pay-as-you-go system, but I also strongly support the veterans' benefits. The gentleman from Mississippi [Mr. MONTGOMERY] has had a million accolades from everyone, and once again I want to join that chorus of Members who want to praise the gentleman for doing what he has done for veterans all across the country.

The one weakness in the proposal is, of course, that we do not know how it is going to be paid. I come down on the side of those who believe our allies ought to help us pay for it. I believe it ought to come out of the working capital account. I offered an amendment in committee to do that. The amendment was accepted. It was approved almost unanimously, and somewhere along the route from what happened in committee to where it gets on the floor, there was an explosion that blew out of place the mechanism that pays for this program.

I do not quite understand how that happened, but I understand that nobody is admitting that they were a part of these negotiations, because they were conducted in some back room somewhere. The bottom line is that the Senate has a bill that says the defense cooperation account ought to be used to help pay for this. We in the committee had that provision as well. The appropriators apparently did not like that because they said we were appropriating on an authorization bill. I guess that is a parliamentary action that is not permitted in this House, but the concept is good. I think of that defense cooperative account, if there is $40 billion in that account, $1 billion of that $40 billion ought to go to help pay for the veterans' benefits.

So as we go to the conference committee, I hope we will keep in mind, in the spirit of what the gentleman from Massachusetts [Mr. KENNEDY] tried to do yesterday with the gentleman from Kansas [Mr. SLATTERY] on a pay-as-you-go basis, that we can develop a real system that is pay-as-you-go, that we do not move this off budget, and that we forget about those agreements so we can put together what is a very good package of veterans' benefits and figure out a way to pay for them on a pay-as-you-go basis.

Mr. Chairman, I think that makes the most sense in terms of how we can guarantee the security of veterans' benefits in the long run.

Mr. MONTGOMERY. Mr. Chairman, will the gentleman yield?

Mr. KASICH. I yield to the gentleman from Mississippi

Mr. MONTGOMERY. Mr. Chairman, we like the Kasich-Dellums amendment. It got dropped somewhere in the Rules Committee, and then we thought we had it worked out with the Budget Committee on an amendment today that would put it over in that special fund. But we could not get it all together. The gentleman is right in what he is trying to do, though.

Mr. ASPIN. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. Chairman, I am here today to support the rule for the purpose of providing benefits to Operation Desert Shield/Desert Storm veterans. The fact is, the Department of Veterans Affairs is hurting. Any budget increase that we have managed to get through Congress over the past year or two has been totally consumed by inflation, wage increases, and/or sequestration. The fact is, veterans programs don't keep pace with the rates of increases that we see in the National Science Foundation or in NASA.

So consequently the VA cannot hold on to it doctors and nurses so hospital wards remain closed and veterans are told to wait months before they receive chemotherapy and elective surgeries. The fact is, the VA has outdated equipment that does not fully serve the need of the veterans. The hard truth is that programs like NSF and NASA have stronger lobbyists than our veterans programs. Because the VA is so hamstrung, I think it is totally justifiable that the costs of Desert Storm/Desert Shield include the costs of added educational, housing, and health care benefits that would not have occurred unless we went to war in the Persian Gulf.

Our Desert Storm/Desert Shield veterans deserve more than parades, they need and deserve this compensation but it should not be given at the expense of other veterans. I urge my colleagues to support the rule.

Mr. ASPIN. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. EDWARDS].

Mr. EDWARDS of Texas. Mr. Chairman, our soldiers in the Persian Gulf have given us a legacy of victory and courage. Today, we will decide what legacy Congress will leave for them.

What will be of the lives of our young men and women who were often wrenched from their homes, jobs, schools, and families to risk all in a far-off desert?

Let history note that we did the right thing by these young people. Let us not be remembered as a body which applauded our troops in war and turned our backs on them in peace. Let us consider how we can help those who risked life to readjust their lives. Let us remember the terror we sensed watching—in the comfort of our homes and offices—as missiles aimed at our troops ripped through their sleepless nights.

Mr. Chairman, is it more important to define the word "emergency" narrowly than to support our veterans? I think not.

Our veterans' hospitals are a living testament that the human cost, the real cost, of war does not end with the signing of a ceasefire.

After fighting for us in the Persian Gulf, is it fair to ask our soldiers to now bear the burden of our budget? I think not.

I can think of no more shocking way for a grateful nation to respond to the needs of returning soldiers, sailors, and airmen.

Mr. Chairman, our soldiers fought bravely for us. Today, we should fight for them. Let us stand up for our veterans.

Is it fair to ask older veterans to pay for this war? Haven't they sacrificed enough already, with reduced benefits?

Should we say: "Let those World War II, Korean and Vietnam veterans take another hit, if you want our young Persian Gulf soldiers to get a meaningful GI bill benefit?"

That is what opponents of this compromise have said.

Mr. ASPIN. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Chairman, many units of State and local governments, as well as private companies, stepped forward early to guarantee that their activated employees would have income protection for the period they served in Operation Desert Storm. The Federal Government should do no less. Our Federal employees have served us well. They should not return as veterans to a home with a mountain of bills because of a difference in pay between their military compensation and their civil service pay.

Yesterday the Director of CBO advised us that legislation which I have introduced would add no additional cost to the Federal Government because Federal agencies have kept these spots open anticipating the return of the veterans. I hope that we can pass this legislation or perhaps consider it, and I hope the gentleman from the

Committee on Veterans' Affairs during the conference committee on this bill will take it up. I also hope that the Postal Service will follow our lead for the many thousands of postal employees who served us well during Operation Desert Storm.

Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. ASPIN. Mr. Chairman, I yield 1 minute to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, I rise today in strong support of the Operation Desert Shield/Desert Storm Supplemental Authorization Act. I want to thank the chairman of the Subcommittee on Military Personnel and Compensation, BEVERLY BYRON, and her staff for including in this bill a provision that reflects one more important area of review that we can draw upon in the future as we study Operation Desert Shield/Storm.

We have the opportunity to review which weapons performed well and which ones did not live up to specifications. We will review this remarkable military operation's strategies step by step. And we will study how well our full-time military merged with our Reserve units.

Part of the bill we are debating today will also require the Department of Defense to review the family policies of all branches of the Armed Forces.

In recent months, as our military service men and women were deployed to the Persian Gulf, it became clear that while the vast majority of servicemembers were more than ready and able to answer their Nation's call to service, for some members with dependent children, rapid deployment was a hardship.

We saw mothers separated from newborns, and some mothers and fathers leaving children in less than satisfactory situations. I know the military has done an outstanding job in seeing that difficult cases were handled as well as possible under difficult time constraints. However, what we need to review now is how well these family policies worked and how to make them even better.

The Department of Defense would be required under this provision to examine current family policies for consistency among branches of the service and for responsiveness to family needs given the older, married profile of today's military. In addition, the Department of Defense would be required to submit a report to Congress that analyzes both the effects of the gulf war deployments on military families and assess how well the existing policies worked.

This legislation does not dictate policy, but does ask that the Department of Defense take a good, hard look at existing policies. The military already has in place a decent family care policy, but the recent conflict in the gulf points out that there are ways in which it can and must be improved. When going to war, mothers and fathers should not have the added burden of worrying about the safety and security of the children they are leaving behind.

Mr. DICKINSON. Mr. Chairman, I yield 2 minutes to the very distinguished gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I am pleased to rise to lend my strong support to the Desert Storm emergency authorization, and I would like to take this opportunity to commend the gentleman from Wisconsin [Mr. ASPIN] and the gentleman from Alabama [Mr. DICKINSON] for their dedication and efforts on behalf of our military personnel and national interest.

This measure authorizes and clarifies the appropriations for Operation Desert Storm. Currently, our Nation has pledged $15 billion, and our allies have pledged $52.5 billion to cover the incremental costs of the war against Iraq.

However, equally important is the unequivocal support embodied by this legislation for our 415,000 brave men and women of our Armed Forces who were involved in the Persian Gulf crisis.

What has been most impressive to all of us is the courageous manner and excellent competence of our brave men and women fulfilling their responsibilities in our Armed Forces. Clearly, our Armed Forces are the cream of the crop. Our men and women represent the best trained force that our Nation has seen. Our hearts swell with pride when we see how impeccable and effective their performance has been. Now it is the Congress' turn to show our appreciation and dedication to our men and women.

This legislation would increase the monthly Montgomery GI bill benefit from $300 per month to $400 per month for those enlisting for 3 years or longer and from $250 per month to $300 per month for 2 years enlistees. Further, the legislation increases the service-related death benefit to between $600 to $750.

As we support this measure, our thoughts and prayers have been and will continue to be with our brave men and women of our Armed Forces serving our Nation in the Persian Gulf, dedicated to bringing freedom to the people of Kuwait.

Mr. ASPIN. Mr. Chairman, I yield 1 minute to the gentlewoman from Tennessee [Mrs. LLOYD].

Mrs. LLOYD. Mr. Chairman, I rise today in support of H.R. 1175, the national defense supplemental authorization bill for fiscal year 1991. This legislation authorizes critical funding needed to cover the incremental costs associated with Operation Desert Storm.

As a member of the House Armed Services Committee, I have spent the greater part of the last decade working with my colleagues to provide the United States with a military capable of meeting and defeating any threat. I have consistently believed that people are the cornerstone of America's defense strategy. Without highly motivated, well trained, and professional soldiers, all other elements of defense strategy would collapse.

The gulf war demonstrated that the United States has fielded some of the best military equipment in the World. While it will be some time before definitive conclusions can be reached about the lessons of the gulf war, there is already a consensus that the technological superiority of American weapons systems played a crucial role in the victory over Iraq. Americans watched with awe as F-15E fighter pilots dropped laser guided bombs with pinpoint accuracy on Iraqi targets and as Patriot missiles time and again knocked Scud missiles out of the skies over Saudi Arabia and Israel.

The impressive display of technological prowess prompted some pundits to label the gulf war a Nintendo war. But, Mr. Chairman, these weapons systems did not perform because someone put a quarter in them. Their success is attributable to the skill of the people using them. It takes months to train the soldiers of a Patriot missile battery to intercept a Scud missile. It takes years to perfect the art of flying an F-15E. Success requires exceptional dedication and professionalism, the people who make America's high-technology arsenal work are among the best and the brightest. They have to be. And Mr. Chairman, each time a Scud was destroyed, each time an M1-A1 tank destroyed a T-72 tank, and each time U.S. pilots flew a sortie, America's best and brightest risked their lives. The sacrifice, determination, and bravery of America's Armed Forces, in short our people, were the indispensable component of our success in the gulf.

The United States and its allies owe the brave men and women of the All Volunteer Force their unending gratitude and support for their tremendous performance during the gulf war. H.R. 1175 provides our military personnel with the benefits they have earned and deserve. This legislation provides moderate increases in special pays that take care of families, upgrades benefits for families who lost a loved-one in the gulf, and provides additional benefits to our military personnel and veterans. And, Mr. Chairman, compensating the men and women who brought us victory in the gulf is a legitimate cost of the war.

My distinguished colleague and chairwoman from Maryland, is to be commended for her efforts in putting together this package. The distinguished gentleman from Mississippi should also be recognized for his tireless efforts on behalf of America's Guard and Reserve Forces and veterans.

Mr. Chairman, a military does not function without well trained, highly capable people. Today, we can pass legislation which acknowledges the vital contribution made by the brave men and women serving in the gulf to our victory. They faithfully and selflessly fulfilled their responsibilities and served their country in the gulf. Now it is time for the country to faithfully fulfill its responsibility to them.

Mr. Chairman, I urge my colleagues to adopt this legislation and provide for our military personnel.

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Mr. ASPIN. Mr. Chairman, I yield such time as he may consume to the gentleman from Georgia [Mr. DARDEN].

Mr. DARDEN. Mr. Chairman, I rise in strong support of this legislation. This bill is essential because it provides those benefits that our military men and women have earned since last August.

It may be helpful to think about what has gone on since Iraq invaded Kuwait. Not only did we deploy over 500,000 troops half way around the world in a very short period of time and win a dramatic victory over what was the world's fourth largest military power. The President also for the first time in history used the so-called partial mobilization authority to activate over 200,000 reservists.

These are unique events in our Nation's military history. Because they are unique, first time occurrences, they have taught us a number of lessons. In the equipment area, for example, we learned tanks need better air filters to handle sand. This bill makes the changes that are needed to fix the gliches in the military personnel system we have learned about and takes care of the people that have made our glorious victory possible. This bill recognizes that our men and women are literally putting their lives on the line for the good of this country and authorizes a very modest $40 per month increase in imminent danger pay. This bill recognizes that funeral expenses for the families of those killed in the Persian Gulf—and we are all grateful that there are so few—have increased since 1963, and authorizes an increase in the death gratuity for the first time since that time. This bill recognizes that there have been difficulties in deploying the mothers of newborn children and changes policy to prohibit such deployments until the child is at least 6 months old. In short, the benefits in this bill are emergency benefits that are made necessary by the Persian Gulf war.

Mr. Chairman, it is often said that people are our most precious resource. Nowhere is that more true than in our military. Without the men and women of today's All Volunteer Force, our great victory in the Persian Gulf war would not have been possible. Now it is time to pay the personnel cost of the war and to take care of our most precious resource. We can do so by passing this bill, and urge my colleagues to support it.

Mr. DICKINSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, by now most everyone knows what is in this bill so I do not feel compelled to recite my views of it title by title. I've supported Chairman ASPIN and the Armed Services Committee's level-headed approach to Operation Desert Shield/Storm since last August and I support H.R. 1175, as amended by the rule.

I believe this bill strikes an appropriate balance between allowing the Department of Defense the flexibility necessary to finance Operation Desert Shield/Storm and Congress' oversight responsibilities. It is an important balance and one that I will work to preserve in conference with the Senate, as well as in the inevitable discussions that lie ahead with our appropriators who have taken a different approach to financing the Persian Gulf operation.

We are all part of an operation that is likely to be considered one of the most politically and militarily successful applications of force in contemporary history. The central role that President Bush and the United States played in resolving this crisis presents unlimited possibilities for the enhancement of U.S. influence in the Middle East peace process. Compared to the magnitude of the political changes in the region that could occur in the months ahead, the massive military campaign we and our allies just completed will seem almost inconsequential. The President and our allies in the region will need Congress' participation and Congress' support if the potential for a more stable Middle East is to ever be realized.

Unfortunately, our consideration of H.R. 1175 has been, and continues to be, marred by the politics of what should and should not be considered an emergency expense and thus, funded off-budget. Had it not been for the lengthy debate during the committee's markup of H.R. 1175 over how to pay for the title 3 veteran's benefits, the entire markup would only have lasted a few minutes. Now, to the extent that any of the seven amendments made in order in part 2 of the rule are contentious, I believe it will be primarily because of the pay-as-you-go issue. These are important issues that deserve to be debated. In the end, I hope a bipartisan compromise is reached so that this Congress and this President can move forward into the next phase of this crisis. I believe that the world is now watching us with renewed interest and renewed respect and therefore, that we need to present as unified a posture as possible.

We all need to vote our conscience on the upcoming amendments because there are honest disagreements over real issues. In the end, however, I urge my colleagues to see clear to move this important bipartisan legislation forward. Let's not unravel the productive bipartisan spirit that has characterized Congress' approach to this war since the initiation of hostilities almost 2 months ago.

Mr. Chairman, I yield back the balance of my time.

Mr. ASPIN. Mr. Chairman, I yield such time as he may consume to the gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Chairman, I thank the committee chairman for the chance to speak in support of this bill, particularly as it pertains to military pay and veteran's benefits. I would like especially to acknowledge the contributions of the chairmen of the Armed Services and Veterans' Affairs Committees. Without their efforts, these pay and benefits provisions would not have been included.

They know full well that the heaviest costs of this war—of all wars—are borne by the men and women who actually serve in the Armed Forces. We in this House salute the soldiers, sailors, airmen, and marines of Operation Desert Storm. We rejoice in their safe return. And we mourn for those who will not return.

Yes, Mr. Chairman, we are unstinting—as we should be—in our tribute to these young men and women. But yellow ribbon is 9 cents a yard in the House stationary store. Now it's time for something more. It's time to help:

Help in rebuilding lives.

Help in reintegrating into civilian life.

Help in obtaining adequate health care.

Help in taking advantage of educational opportunities.

Help in buying a home.

Help with the nitty-gritty everyday tasks of maintaining a family under the challenging conditions of military service.

A March 6 editorial in the Honolulu Star-Bulletin put the case succinctly:

> Health care, education and housing assistance are among the programs that should be high priority for the nation's leaders as they join in cheering the successes and welcoming the return of military people from the Persian Gulf. Translating those victory cheers in to opportunities and better conditions for those who have served and their families is a challenge that ought to be advanced quickly in Congress. . . .

The help proposed in this bill is a first step in that direction. It signifies our readiness to offer the kind of appreciation extended to veterans of other wars. Veterans of Desert Shield and Desert Storm deserve no less.

Mr. HOYER. Mr. Chairman, I rise in support of the personnel benefits package for the men and women of Operation Desert Shield contained in title II of H.R. 1175. I am disturbed that we are quick to judge the hardware of war as emergency, but balk when it comes to responding to the needs of people. If we learned anything from this war, it is that people ultimately make the difference between success and failure. In my view, this initiative to provide a little more security to the families that remained behind is just as important to the war effort as putting the right weapon in the hands of the soldier in the field. Any field commander will tell you that a committed and motivated force is the critical factor leading to success in battle. I would submit that responding to the needs of people is as much a legitimate reponse to the emergency nature of this war as paying for the bombs, bullets and fuel consumed. It is a cost of war that we must honor.

I would like to congratulate the gentlelady from Maryland for putting together a comprehensive collection of provisions that addresses many of the issues that caused so much concern as Operation Desert Shield unfolded. There are several moderate increases to pay and allowances to assist the brave families here at home. There are a number of initiatives that respond to the many newly identified problems emerging from the first large-scale callup of Reserve Forces since implementation of the All Volunteer Force. With this bill we ensure that the families of those that have fallen are well cared for, and that the returning POW's receive the best of treatment. The bill also gives the Department of Defense clear guidance on congressional interest in a new direction for policy on military mothers and children.

Mr. Chairman, this bill responds to the issues that have caused the most concern during the war. These are the solutions that I, and I am sure many of my colleagues, have announced would be pursued. For example, a constituent of mine serving in the gulf was ineligible for arabic language proficiency pay because the demands of the war required that he and his colleagues go directly from the classroom to Saudi Arabia without being certified. When I learned that Mrs. BYRON had included a provision that would solve the problem, I informed him that the Congress understood the issue and was in the process of resolving it.

Mr. Chairman, I wonder how many other Members had similar experiences. I would submit that we must now follow through on those issues that we promised would be fixed. I ask my colleagues to support the Persian Gulf Conflict Military Personnel Policy Act, title II of H.R. 1175.

Mr. LANCASTER. I rise in strong support of H.R. 1175 and against the Panetta amendment. This bill is a piece of emergency legislation that helps to pay for the human cost of the Persian Gulf war. We've already paid for the bombs and bullets we've used to subdue Saddam Hussein. Now it's our turn to pay for the people who made our stunning victory possible.

This benefit package is tailored to our military operations in the Persian Gulf and is designed to meet the needs of our active duty and Reserve service members and their families, all of whom played such a vital role in our victory. Let me point out, for example, that the vast majority of the special pay and allowance increases are available only to individuals who are serving in the Persian Gulf in connection with Operation Desert Shield and Desert Storm. The increases for imminent danger pay, the family separation allowance, and foreign duty pay all start from January 16 of this year—the day the fighting started. These are war related benefits. Other benefits, such as providing transitional commissary and exchange privileges, requiring a benefits explanation for Reserve members upon demobilization, delaying the effective date of changes to CHAMPUS regulations for the dependents of those in the Persian Gulf, and expanding the savings program for POW's and MIA's have little or no cost. These kinds of benefits are important in maintaining the morale of the troops and the perception that we in Congress are willing to follow through on the rhetoric that we support our military personnel.

Mr. Chairman, the military personnel benefits contained in this bill are an emergency cost of Operation Desert Shield and Desert Storm. We should not begrudge our service men and women the benefits that they have so clearly earned and that merely recognize their sacrifices and their stellar performance. I strongly urge my colleagues to support this bill and to oppose the Panetta amendment.

Mr. GEPHARDT. Mr. Chairman, I rise in support of the National Defense Supplemental Authorization Act today for two simple reasons: It allows the Federal Government to allocate foreign contributions for the costs associated with Operation Desert Storm; and more importantly, it provides the men and women who fought in Operation Desert Storm with the well-deserved and much-needed assistance to put their lives back on track again.

This House has spoken many times over in support of our troops in the Persian Gulf—now comes the time to welcome them home. Homecomings can be short-lived and the pomp and circumstance of airport rallies, parades, and yellow ribbons can fade as quickly as public attention can fade. Our brave soldiers deserve more.

The assistance to military personnel and veterans in this package is a good first step toward making sure that our troops will not come home only to find out they must resume their lives at a substantial disadvantage from when they left.

So it is with much gratitude that I acknowledge the fine work of LES ASPIN, SONNY MONTGOMERY, and BEVERLY BYRON today. They went through much deliberation in order to bring a solid, meaningful benefits package before the membership.

I recognize that many Members have concerns over the waiver of the Budget Enforcement Act, but the majority of this body considers the relief for our fighting men and women to be a matter of the utmost importance and expedience. And with the President's concurrence, we hope to soon have this new program authority in place.

I should caution my colleagues, however, that this practice of expediting legislation through emergency channels will not become common practice. The decision to utilize this option did not come lightly. Only because of the extraordinary circumstances surrounding Operation Desert Storm and the risk and sacrifice that we asked of our country's military personnel did this House warrant that decision.

In the future, I intend to press strenuously for the collection of foreign contributions from our allies to cover the still mounting incremental costs of the gulf operation. With this legislation, we will have both the ability to understand what those contributions are, as well as allocate them to cover those expenses.

Mr. GLICKMAN. Mr. Chairman, I rise in support of H.R. 1175 which authorizes the administration's request for $15 billion for the costs of Operation Desert Storm and $340 million in nuclear waste clean-up. In addition it authorizes the use of $1 billion in foreign contributions to pay for benefits to military personnel and veterans.

America and American soldiers bore a disproportionately large financial and military burden defending Saudi Arabia and liberating Kuwait. It is only fair that those countries that benefited from our involvement but who risked very little themselves, should contribute to the well-being and future benefits of those who risked their lives and the families of those that paid with their lives in order to preserve world peace.

The United States does not have an exemplary record when it comes to taking care of its veterans. In the past, veterans have had to fight additional battles at home to receive the benefits they were promised and were entitled to for the sacrifices they made for their country. This bill lays the groundwork now for taking care of the people who are coming home from the Middle East every day so they will not have to fight the benefit battles of past veterans.

Title II increases the imminent danger pay to $150 a month and the family separation pay to $75 a month. It provides transitional health care to those on active duty who will be returning to civilian employment and grants basic housing allowances to certain reservists. Title III restructures payments to surviving spouses and dependents of those killed during Operation Desert Shield and increases educational assistance benefits for reservists called to active duty in the Persian Gulf.

I believe H.R. 1175 is an appropriate vehicle to thank and care for those women and men who have served this country so well and so valiantly.

Mr. STAGGERS. Mr. Chairman, I thought it highly appropriate that Mr. MONTGOMERY's veterans' appreciation package is incorporated into H.R. 1175, the National Defense Supplemental Authorization Act for fiscal year 1991.

Finally, after all of the controversy surrounding our Vietnam veterans, America has learned a lesson and our newly returning veterans are not going to be cast aside or treated like second-class citizens. Their Government stands ready to acknowledge that the cost of the war does not end on the day the last bullet is fired. I found it totally appropriate that these veterans benefits were to be considered off budget.

The administration simply has not provided adequate funding for veterans programs for many years nor have the Budget or Appropriation Committees. Instead, it seemed that our budget negotiators were asking us to balance the budget at our veterans' expense. This, therefore seemed an ideal opportunity to do right by our veterans.

It is my understanding that the Budget Committee has recommended this veterans appreciation package to be taken off budget but has suggested that some of the cuts mandated in last year's reconciliation bill be extended to pay for it. In essence, Vietnam and other veterans are once again being asked to sacrifice by asking them to bear the cost of benefits for this new generation of veterans.

I hear the administration is threatening to veto this bill. It is all very well and good to give our veterans a big welcome home and to say thank you through a parade. But, can we continue to ask our Nation's sons to give their all, their lives and limbs and then turn around and use the drug war motto "Just Say No" to them. I do not think this demonstrates the respect of the American public or our allies who supported our efforts in the Persian Gulf.

Mr. HUTTO. Mr. Chairman, this supplemental package represents a full-faith effort on the part of the committee to provide the Department of Defense with the necessary funding mechanisms to meet the expenses associated with this conflict and fully realize the potential of the obligations of our allies in paying for this campaign.

This body and the American people are proud of the sacrifice and accomplishments of our forces in the field. The American people deserve a great deal of credit for our Nation's success. Through this committee and their Congress, they have consistently recognized the need for a force fully prepared to meet any threat to our national security.

While our high-technology weapons proved highly successful, the fundamentals are what came through in this conflict in terms of training, logistics, personal equipment, and subsistence. The Readiness Subcommittee has worked hard to fund these items over the years, and we are proud to have made a contribution to the result. In fact, operation and maintenance is 60 percent of the estimated expenditures of this supplemental. These expenditures over the years represent a reciprocal commitment on the part of the American people for the bravery and sacrifices of our forces.

Mr. BUSTAMANTE. Mr. Chairman, I rise in strong support of H.R. 1175.

This bill proposes to provide personnel benefits for our troops who served so well in Operation Desert Storm and to provide the Defense Department with end strength flexibility for this fiscal year.

This legislation is not only important—it is timely. It provides essential benefits for our military personnel and corrects problems in the law that have become evident because of the Persian Gulf war.

My home of San Antonio, TX, has a large number of military personnel. When the President ordered Operation Desert Shield, I—as did many of my colleagues—heard from constituents about the hardships and problems the deployment caused our military men and women and their families. This bill partially addresses these problems. It is designed to help people—to help pay for the human cost of the victory—and to in some way pay back our men and women for the many sacrifices they have made in the name of preserving freedom in distant and dangerous regions of the world.

Let me cite one example. Last year, the Armed Services Committee increased deductibles for CHAMPUS, the military's civilian medical system, because of medical cost overruns. But we recognized that Desert Shield has meant that more families will have to use CHAMPUS now because so many of our military doctors are deployed. It just doesn't make sense to increase those deductibles now and cause a hardship to our military families at the very time when their loved ones are overseas fighting for this country. This bill wisely delays that increase in CHAMPUS deductibles until the next fiscal year for the dependents of active duty personnel who serve in the Persian Gulf.

Other benefits are just as important, such as prohibiting the deployment of mothers and sole-custody fathers of newborn babies less than 6 months old, or extending the savings program for POW's and MIA's.

Another important distinction that this bill makes is that it recognizes that our military services are comprised of more than individual soldiers and sailors. It recognizes the family dimension of those who serve our military and that we are obligated to provide assistance not only to the individual service man and woman but to their families as well.

Overall, this is a package of emergency provisions that this country needs to show our military men and women and their families that we really do care about them and that we are willing to put our money where our mouth is. This is no Christmas tree bill. Chairwoman BYRON and the Military Personnel Subcommittee staff worked hard to keep this bill down to modest proportions. I think they succeeded admirably. And I strongly encourage my colleagues to support their work and to vote favorably for this bill.

Thank you, Mr. Chairman.

Mr. SKAGGS. Mr. Speaker, I would like to comment on the provisions in this bill regarding the Rocky Flats plant, which is located in the district I represent.

First, I want to commend the Armed Services Committee and the gentleman from South Carolina [Mr. SPRATT] for the section in this bill requiring the Department of Energy [DOE] to put together a comprehensive plan for relocating Rocky Flats, and for requiring relocation to be accomplished within 10 years. I think almost everyone agrees that it no longer makes sense to have plutonium production and reprocessing operations going on in a major metropolitan area, especially in facilities that are 30 to 40 years old, that no longer meet modern safety standards, and that from a technological standpoint are largely obsolete. This measure puts relocation on an appropriately expedited track.

I also want to commend the committee for insisting that this plan consider the human dimension of relocating Rocky Flats. Unlike DOE's recent reconfiguration study, which advocated moving Rocky Flats but didn't mention the word "worker" once, the committee clearly understands that we ought to deal respectfully with those who have dedicated their working lives to the plant's national security mission. A large number of workers will be needed for cleanup and decommissioning work, and the earlier we start the planning and retraining for this, the better current workers can be integrated into that new work.

I also support the bill's funding of DOE's request for additional cleanup and waste management moneys. While it's vital we watch this spending carefully to make sure it is spent wisely, it's long past time to clean up the nuclear waste legacy left by these weapons plants.

However, I am very concerned about the authority in the bill to spend $283 million for resumption activities at Rocky Flats. Let's face it, the inclusion of fiscal year 1992 money in this supplemental is essentially a matter of budgetary convenience—feigned appeals to the contrary notwithstanding. What's driving this is an expedient and opportunistic effort to avoid the problems created next year by the cap on defense spending under last year's budget agreement.

Simply acquiescing to the full amount requested by the administration could commit us to a course of action at Rocky Flats and elsewhere that will cost the taxpayer many hundreds of millions of dollars. Under DOE's current plans, huge sums could be squandered on facilities at Rocky Flats that DOE's own studies confirm may never be needed or used. For example, DOE's February, 1991 reconfiguration study admits that buildings 771 and 776 at Rocky Flats may never need to be reopened—because defense needs have changed, because the buildings may be too worn out or obsolete, or because the work could be performed elsewhere. It's quite possible this may also hold true for all or parts of buildings 371 and 779.

During the February 1, 1991, meeting of the Secretary's Advisory Committee on Nuclear Facility Safety, that committee's members also questioned the need to pump so much money into Rocky Flats restart when other options exist. One member stated:

> There is conceivably a much better alternative to spending another half billion or $800 million to keep a facility that is not likely to be as safe as several others that already exist and are operational.

Despite this, DOE currently plans to spend tens of millions of dollars to restart operations at buildings 771 and 776 alone. Obviously, Congress should address this potentially costly contradiction—and that's why I've been insisting, and the House has agreed, on a more limited amount in the fiscal year 1991 supplemental appropriations bill, to prevent DOE from investing millions of dollars to regain production capability in facilities whose continued need has not been clearly demonstrated.

The more limited amount included in the appropriations bill reserves Congress some say in setting policy for the future of Rocky Flats and the nuclear weapons complex; to reserve some say for Congress on basic decisions about defense, health and safety, and environmental needs. That's a fundamental congressional responsibility.

We should take a moment to remind ourselves of the consequences when Congress previously failed to provide adequate oversight of the nuclear weapons complex in the past. The bequest to the Nation from DOE and its predecessor agencies in managing Rocky Flats and other sites is a $150 billion cleanup bill. The awful legacy of most of the last 40 years—when Congress deferred too readily when the words "national security" were incanted, and a curtain of secrecy descended to conceal rampant mismanagement—is a set of facilities that were run into the ground and largely shut down for safety failings. Back then, Congress defaulted too quickly in its responsibility. Now, we're paying the bills. We should learn from these multibillion dollar mistakes, not repeat them.

Even under the current leadership of the very able Secretary of Energy, Admiral James D. Watkins, who has made real improvements in operations at the Department, Congress still has a vital responsibility to oversee and provide guidance on these programs. There are broad policy issues Congress must address—such as how big a nuclear weapons arsenal and how large a nuclear weapons production complex are needed to deter a rapidly changing Soviet Union. And since the Department continues to suffer from bad management in particular areas, it's vital that Congress review large spending requests very closely.

This spending request for Rocky Flats should be no exception. Hourly and salaried workers at the plant have told me extremely troubling stories of waste associated with restart efforts to date. Last winter and spring, millions of dollars were probably wasted on poor quality safety and training programs and on operations procedures that simply didn't work. Today, millions more are at risk because DOE has yet to issue new safety standards on which any worthwhile new procedures and training should be based.

Part of the reason for this waste is that DOE has sometimes tried to rush the contractor to resume operations as quickly as possible, without ample regard for health and safety considerations. This was the case last spring, when DOE insisted the entire plant could be fixed and running within months of the initial suspension. By summer, DOE realized its mistake, called off the rush, and then rebuked the contractor for its poor quality control systems.

Today, DOE again appears to be impatient and has asked its contractor at Rocky Flats for an aggressive and fast-track restart program. The contractor has complied, but again, real questions about health and safety are being stifled in the rush. Concerns about safety boiled over at a public meeting later last month when union representatives accused DOE of running roughshod over worker safety concerns. One worker summed up DOE's attitude toward workers as "shut up or get out," and strongly criticized DOE for ignoring worker safety concerns. Clearly, for both safety and cost reasons, Congress has a real responsibility to oversee this program.

Mrs. LLOYD. Mr. Chairman, I rise in strong support of H.R. 1175, to authorize supplemental fiscal year 1991 funds, as requested by the administration, for Defense Department expenditures to cover costs of Operation Desert Storm.

I am very pleased that when the supplemental authorization came before the Armed Services Committee, portions of legislation known as the Persian Gulf veterans benefits package were incorporated into the bill. This comprehensive measure, introduced by my distinguished friend and colleague Hon. SONNY MONTGOMERY, chairman of the Veterans' Affairs Committee, provides a wide range of readjustment benefits for Persian Gulf war veterans.

This legislation is yet another fine example of Chairman MONTGOMERY's tireless efforts to see that the needs of all our Nation's veterans are met. I commend him for his leadership. It is truly an outstanding package which I believe will go a long way toward meeting the diverse needs of the men and women serving in the Persian Gulf region and now, thankfully, anticipating their return home. I'd also like to recognize Chairman BYRON, of the Armed Services Subcommittee on military personnel and compensation, for her invaluable contributions to this legislation as well.

With the Persian Gulf war over, the reintegration into civilian life for veterans is at the forefront of our concerns. Many of my own constituents, from the Third Congressional District of Tennessee, made tremendous personal sacrifices to answer their Nation's call to service. The readjustment benefits provided by this package, and the numerous changes in military personnel benefits, are the least we can do in recognition of the bravery and valor of our service men and women who participated in Operation Desert Storm.

Among its provisions, the Persian Gulf veterans benefits package would increase veterans' education, health and housing benefits as well as retarget survivors' compensation to provide greater protection for younger families. The package would also raise combat and family-separation pay, increase death gratuity payments and provide transitional medical coverage for reservists after they leave active service in Operation Desert Storm.

As our thoughts turn to the homecoming of our beloved service men and women, it is entirely fitting and appropriate that this comprehensive legislation be enacted. No country could possibly ask more of its Armed Forces than was given by each man and woman serving in Operation Desert Storm. This legislation gives thanks to our Persian Gulf war veterans in a gracious and meaningful way.

I would like to especially thank Chairman MONTGOMERY for the inclusion of language in this package extending to Persian Gulf veterans needed counseling for post-traumatic stress disorder or other psychological problems associated with service.

The chairman's bill authorizes the VA to furnish readjustment counseling in any VA facility to veterans who served on active duty in a theater of combat operations after August 2, 1990.

It also requires the VA and DOD to report to Congress regarding the needs of Persian Gulf veterans for posttraumatic stress disorder treatment, and the Department's capabilities and plans for providing those needed treatment programs.

This requirement calls upon the Secretary of Defense and the Secretary of Veterans Affairs each submit to the Congress two reports containing an assessment of the need for rehabilitative services for members of the Armed Forces participating in the Persian Gulf war who experience posttraumatic stress disorder.

The reports shall describe the available programs and resources to meet those needs, the specific plans of that Secretary for treatment—particularly with respect to any specific needs of members of Reserve components, an assessment of needs for additional resources necessary to carry out such plans, and a description of plans to coordinate treatment services for posttraumatic stress disorder with the other Department.

The first report by each of the Secretaries shall be submitted not later than 90 days after the date of enactment of this act, and the second report by each of the Secretaries shall be submitted a year later.

This report language is the substance of a bill I introduced, H.R. 644, at the onset of the Persian Gulf conflict, to ensure that our Nation is prepared to offer our Armed Forces personnel who have participated in Operation Desert Storm the best possible treatment available for trauma should they seek such assistance. Forty-nine of my esteemed colleagues have joined me as cosponsors of H.R. 644 and I'd like to take this opportunity to thank them for their support in this effort as well.

There is no doubt that that the Persian Gulf war took its toll on the emotional well-being of many Americans. As we know so well, this Nation still suffers the consequences of our failure to anticipate the mental health needs of Americans during the Vietnam war. I believe we have learned from that experience and I hope that through this legislation we can assure that veterans of Operation Desert Storm are treated as sensitively and compasionately as possible.

I am confident that the enactment of this measure will send a strong signal to all our veterans that their care is among our Nation's strongest concerns and that everything possible will be done to help them make a swift and successful recovery from any trauma which may be experienced as a result of their service.

The American Psychiatric Association, a respected medical specialty society representing over 37,000 psychiatrists nationwide, has strongly endorsed H.R. 644. Their remarks immediately follow this statement.

I urge my colleagues to join with me in strongly supporting this language and the entire Persian Gulf veterans benefits package contained in H.R. 1175. This is important and timely legislation which deserves to be adopted with all possible speed.

AMERICAN PSYCHIATRIC ASSOCIATION,
Washington, DC, February 27, 1991.

Hon. MARILYN LLOYD,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE LLOYD: The American Psychiatric Association, a medical specialty society representing over 37,000 psychiatrists nationwide, commends you for your insightful leadership on behalf of veterans suffering from Post-Traumatic Stress Disorder.

Your legislation, H.R. 644, will enable the Secretaries of the Department of Defense and the Department of Veterans' Affairs and Congress to begin to address the substantial current and future needs of our veterans who suffer from PTSD. While the APA appreciates Secretary Edward Derwinski's efforts to significantly improve the quality of health care for our nation's veterans, the APA has suggested that the President's budget for PTSD be increased by at least $7.5 million. This recommendation does not include the effects of Desert Storm, which are difficult to measure at this point; however, it is fair to say that the current program is underfunded to meet the needs of our current veteran population.

According to the National Vietnam Veterans Readjustment Study (NVVRS), 90% of the estimated 480,000 veterans with current

PTSD and 80% of the estimated 963,000 veterans with life-time PTSD, have never used VA mental health resources. This information clearly indicates that further work must be done to ascertain the extent of unmet clinical need for veterans who suffer from psychiatric sequelae to war-zone stress.

While the APA recognizes the severe national budget constraints, now is not the time to be holding back on providing adequate and critically needed funding for PTSD. The VA needs to be able to provide comprehensive psychiatric services to those veterans who suffer from service-connected illness including schizophrenia, posttraumatic stress disorder, alcohol and substance abuse disorders and depression. Further erosion of current services is inevitable, without the necessary steps outlined in your legislative proposal which will heighten awareness of the unmet needs.

The American Psychiatric Association supports H.R. 644 and applauds you for your concern for the well-being of our nations veterans. They deserve the best quality health care available.

Sincerely,

MELVIN SABSHIN, M.D.,
Medical Director.

Mr. DE LUGO. Mr. Chairman, I rise to voice my strong support for this legislation, H.R. 1175. This bill increases significantly many important benefits for veterans of the Persian Gulf war as well as all veterans of the U.S. Armed Forces who, through both war and peace, have given so much to insure the protection of our country.

I wish to commend the gentleman from Mississippi, [Mr. MONTGOMERY] for the far-reaching bill he introduced which has become an integral part of the final legislation the Members are considering today.

Some 500 Virgin Islands men and women were a part of victorious Operation Desert Storm. In fact, a Virgin Islander and one of my constituents, Lance Cpl. Kareem A. Henneman of the 1st Marine Division, appears on the front cover of this week's editions of Time magazine as allied forces liberated Kuwait City on February 27.

Virgin Islanders are justly proud of the contributions they have made and continue to make to our Nation's military. They have proven time and again that when called upon to serve, they respond.

Now, Mr. Chairman, it is our turn to respond. We must insure that our veterans are treated justly. We must provide them the benefits they deserve, just as they have helped provide us the freedoms we enjoy.

Mr. Chairman, I urge my colleagues to vote in support of this legislation, for the men and women in the Virgin Islands and for our veterans all across this great Nation.

Ms. PELOSI. Mr. Chairman, I rise in support of the military personnel and veterans provisions of H.R. 1175, the Desert Storm authorization bill. I commend Congresswoman BEVERLY BYRON, chair of the Armed Services Subcommittee on Military Personnel and Compensation, and Congressman SONNY MONTGOMERY, chairman of the Veterans' Affairs Committee, for their work on this important legislation.

The 500,000 men and women who served in the Persian Gulf war are returning home to make the difficult transition from life during war to life during peace. Just as we supported them on the battlefield, we must support the veterans of Operation Desert Storm and their families as they cope with the difficulties of finding housing, decent medical care, and education.

H.R. 1175 fulfills Congress' commitment to Persian Gulf veterans. The bill increases family separation pay, provides transitional health care, grants basic housing allowances, and extends commissary and exchange privileges for military personnel and reservists. In addition, H.R. 1175 raises survivor pay and expands education benefits for all veterans.

By providing assistance and benefits to our troops and veterans, this measure expresses Congress' commitment for the troops of the Persian Gulf war. I urge my colleagues to support the military compensation and veterans benefits provisions of H.R. 1175.

Mr. HOUGHTON. Mr. Chairman, I rise in opposition to this bill, H.R. 1175. I object to the bill for one reason. It abuses the emergency spending provisions of the 1990 Budget Enforcement Act. And sticking to the act is a trust we have with the American people. It's that simple. Break it and you break the trust, and frankly that's not what I'm down here to do.

I support paying the debt we owe to our veterans, particularly those who performed so brilliantly in the Persian Gulf. Clearly, I do. I am a veteran of World War II. But that's not the point. I have never voted against a veterans' bill. And I don't intend to. But this is not the way to solve a veterans' problem. There are other means. There are no lack of opportunities in the budget to accomplish what we want here. But by playing word games and busting the only document that will get us out of the financial mess we're in is not the approach to take.

The budget agreement forces us to do something that American families have to do every day—make choices. If a particular program deserves to be funded, as these do, then we have to pay for them. Not by issuing more public debt, but by putting other programs aside, or by raising revenues.

To wrap up, we finished up months of difficult negotiations by passing a budget agreement. It wasn't perfect, but it was the best we could do at the time. Already, we have gone to the floor of the House and violated that agreement. Now, how can we ask our young men and women to go around the world to stand up for what is right if we cannot stand here in the well of the House and do the same?

Mr. ASPIN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. DOWNEY). Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on Armed Services, now printed in the reported bill, as modified by the amendments printed in part one of House Report 102-17, shall be considered as an original bill for the purpose of amendment and is considered as read.

The text of the committee amendment in the nature of a substitute, as modified, is as follows:

H.R. 1175

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Defense Supplemental Authorization Act for Fiscal Year 1991".

SEC. 2. DEFINITIONS.

For the purposes of this Act:

(1) The term "Operation Desert Storm" means operations of United States Armed Forces conducted as a consequence of the invasion of Kuwait by Iraq (including operations known as Operation Desert Shield and Operation Desert Storm).

(2) The term "congressional defense committees" has the meaning given that term in section 3 of Public Law 101-510.

SEC. 3. COST ESTIMATE.

The applicable cost estimate of this Act for all purposes of sections 252 and 253 of the Balanced Budget and Emergency Deficit Control Act of 1985 shall be as follows:

(1) For fiscal year 1991, increase in outlays of $0.

(2) For fiscal year 1992, increase in outlays of $0.

(3) For fiscal year 1993, increase in outlays of $0.

(4) For fiscal year 1994, increase in outlays of $0.

(5) For fiscal year 1995, increase in outlays of $0.

SEC. 4. CONSTRUCTION WITH PUBLIC LAW 101-510.

Any authorization of appropriations, or authorization of the transfer of authorizations of appropriations, made by this Act is in addition the authorization of appropriations or the authority to make transfers provided in the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510).

TITLE I—AUTHORIZATION OF FISCAL YEAR 1991 SUPPLEMENTAL APPROPRIATIONS FOR OPERATION DESERT STORM.

SEC. 101. FUNDS IN THE DEFENSE COOPERATION ACCOUNT.

(a) AUTHORIZATION OF APPROPRIATION.—During fiscal year 1991, there is authorized to be appropriated to the Deparment of Defense current and future balances in the Defense Cooperation Account established under section 2608 of title 10, United States Code.

(b) USE OF FUNDS.—Amounts appropriated pursuant to subsection (a) may be used only for—

(1) incremental costs associated with Operation Desert Storm in accordance with section 103; and

(2) replenishment of the working capital account created under section 102.

SEC. 102. PERSIAN GULF WORKING CAPITAL ACCOUNT.

(a) ESTABLISHMENT OF ACCOUNT.—There is established in the Treasury of the United States a working capital account for the Department of Defense to be known as the "Persian Gulf Working Capital Account".

(b) AUTHORIZATION OF APPROPRIATIONS.—During fiscal year 1991, there is authorized to be appropriated to the Persian Gulf Working Capital Account the sum of $15,000,000,000.

(c) USE OF FUNDS.—Funds appropriated pursuant to subsection (b) shall be available only for transfer under section 103 for the incremental costs associated with Operation Desert Storm. Such funds may be used for that purpose only to the extent that funds are not available in the Defense Cooperation Account for transfer for such incremental costs.

(d) REPLENISHMENT OF ACCOUNT.—Amounts transferred from the Persian Gulf Working Cap-

ital Account shall be replenished from funds available in the Defense Cooperation Account to the extent that funds are available in the Defense Cooperation Account. Whenever the balance in the working capital account is less than the amount appropriated to that account pursuant to this section, the Secretary shall transfer from the Defense Cooperation Accout such funds as become available to the account to replenish the working capital account before making any transfer of such funds under section 103.

(e) REVERSION OF BALANCE UPON TERMINATION OF ACCOUNT.—Any balance in the Persian Gulf Working Capital Account at the time of the termination of the account shall revert to the general fund of the Treasury.

SEC. 103. TRANSFERS TO REGULAR DEPARTMENT OF DEFENSE ACCOUNTS.

(a) TRANSFER AUTHORITY.—Amounts appropriated from the Defense Cooperation Account pursuant to section 101 and amounts appropriated to the Persian Gulf Working Capital Account pursuant to section 102 are authorized to be appropriated by transfer to appropriation accounts of the Department of Defense to meet incremental costs associated with Operation Desert Storm.

(b) MERGER WITH ACCOUNTS TO WHICH TRANSFERRED.—Any amount so transferred shall be merged with, and shall be available for the same time period and the same purpose as, the account to which transferred.

SEC. 104. ADDITIONAL TRANSFER AUTHORITY.

The transfer authority provided in section 1401 of Public Law 101–510 is hereby increased by the amount of such transfers as the Secretary of Defense makes pursuant to law (other than Public Law 101–511) to make adjustments among fiscal year 1991 Military Personnel accounts and Operations and Maintenance accounts due to incremental costs associated with Operation Desert Storm.

SEC. 105. NOTICE TO CONGRESS OF TRANSFERS.

(a) NOTICE-AND-WAIT.—A transfer may not be made under section 103 or section 104 until the seventh day after the congressional defense committees receive a report with respect to that transfer under subsection (b).

(b) CONTENT OF REPORT.—A report under subsection (a) shall include the following:

(1) A certification by the Secretary of Defense that the amount or amounts proposed to be transferred will be used only for incremental costs assóciated with Operation Desert Storm that are incurred during fiscal year 1991.

(2) A statement of each account to which the transfer is proposed to be made and the amount proposed to be transferred to such account.

(3) A description of the programs, projects, and activities for which funds proposed to be transferred are proposed to be used.

(4) In the case of a transfer from the working capital account established under section 102, an explanation of the reasons why funds are not available in the Defense Cooperation Account for such transfer.

SEC. 106. MONTHLY REPORTS ON TRANSFERS.

Not later than seven days after the end of each month of fiscal years 1991 and 1992, the Secretary of Defense shall submit to the congressional defense committees a detailed report on the cumulative total amount of the transfers made under the authority of this title through the end of that month.

SEC. 107. MONTHLY REPORTS ON COSTS AND FOREIGN CONTRIBUTIONS.

The provisions of H.R. 586 of the 102d Congress, as passed the House of Representatives on February 21, 1991, are hereby enacted into law.

SEC. 108. DEFINITION.

For purposes of this title, the term "incremental costs associated with Operation Desert Storm" means costs referred to in section 251(b)(2)(D)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b))(2)(D)(ii)).

TITLE II—MILITARY PERSONNEL AND COMPENSATION MATTERS

SEC. 201. SHORT TITLE.

This title may be cited as the "Persian Gulf Conflict Military Personnel Policy Act of 1991".

SEC. 202. PERSIAN GULF CONFLICT DEFINED.

For purposes of this title, the term "Persian Gulf conflict" means United States military activities (including military activities conducted under the name Operation Desert Shield and Operation Desert Storm) conducted during the period beginning on August 2, 1990, and ending on the date thereafter prescribed by Presidential proclamation or by law as a consequence of the invasion of Kuwait by military forces of the Government of Iraq.

PART A—MILITARY PERSONNEL AUTHORIZATIONS

SEC. 211. INCREASED END STRENGTH FLEXIBILITY FOR FISCAL YEAR 1991.

(a) AUTHORITY.—The Secretary of Defense may, subject to subsection (b), increase the military personnel end strengths authorized for fiscal year 1991 by sections 401, 411, and 412 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510) in such manner as the Secretary determines necessary to meet the operational requirements of operations in and around the Persian Gulf carried out in response to the invasion of Kuwait by Iraq (including operations known as Operation Desert Shield and Operation Desert Storm).

(b) FINDING AND CERTIFICATION.—The Secretary may only exercise the authority provided in subsection (a) if the Secretary—

(1) determines—

(A) in the case of an increase in the end strengths prescribed by section 401 or 412 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510), that the operational requirements of operations described in subsection (a) require an increase in end strengths for members of the Armed Forces serving on active duty (in the case of an increase in the end strengths prescribed by section 401) or in support of the Reserves (in the case of an increase in the end strengths prescribed by section 412) in excess of the increase authorized by section 115(c)(1) of title 10, United States Code; or

(B) in the case of an increase in the end strengths prescribed by section 411 of such Act, that the operational requirements of operations described in subsection (a) require such an increase; and

(2) certifies in writing to the Committees on Armed Services of the Senate and House of Representatives that the exercise of the authority provided by subsection (a) is necessary to meet the operational requirements of operations described in that subsection.

(c) REPEAL.—Section 1117 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1637) is repealed.

SEC. 212. RELIEF FROM STRENGTH CEILINGS APPLICABLE TO SENIOR ENLISTED GRADES.

During the Persian Gulf conflict, the President may suspend the operation of section 517 of title 10, United States Code. So long as the Persian Gulf conflict continues, any such suspension may be extended by the President. Any such suspension shall, if not sooner ended or extended, end on the last day of the two-year period beginning on the date on which the suspension (or the last extension thereof) takes effect or on the last day of the one-year period beginning on the date of the termination of the war or national emergency, whichever occurs first. With respect to the end of any such suspension, the preceding sentence supersedes the provisions of title II of the National Emergencies Act (50 U.S.C. 1621–1622) which provide that powers or authorities exercised by reason of a national emergency shall cease to be exercised after the date of the termination of the emergency.

PART B—PAY AND ALLOWANCES

SEC. 221. REPEAL OF WARTIME AND NATIONAL EMERGENCY PROHIBITIONS ON THE PAYMENT OF CERTAIN PAY AND ALLOWANCES.

(a) IMMINENT DANGER PAY.—Section 310(a) of title 37, United States Code, is amended by striking out "Except in time of war declared by Congress, and under" and inserting in lieu thereof "Under".

(b) FAMILY SEPARATION ALLOWANCE.—Section 427(b)(1) of title 37, United States Code, is amended by striking out "Except in time of war or of national emergency hereafter declared by Congress, and in" and inserting in lieu thereof "In".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of January 16, 1991.

SEC. 222. INCREASE IN IMMINENT DANGER PAY.

(a) INCREASE.—Section 310(a) of title 37, United States Code (as amended by section 221), is further amended by striking out "lowest rate for hazardous duty incentive pay specified in section 301(c)(1) of this title" and inserting in lieu thereof "rate of $150".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as of January 16, 1991.

SEC. 223. INCREASE IN FAMILY SEPARATION ALLOWANCE AND EXPANSION OF ELIGIBILITY REQUIREMENTS.

(a) INCREASE IN AMOUNT.—Section 427(b)(1) of title 37, United States Code (as amended by section 221), is further amended by striking out "$60" and inserting in lieu thereof "$75".

(b) EXTENSION OF ALLOWANCE TO MILITARY COUPLES WITHOUT DEPENDENTS.—Section 421 of such title is amended—

(1) by striking out "A member" and inserting in lieu thereof the following: "(a) INCREASED ALLOWANCE PROHIBITED.—Except as provided in subsection (b), a member"; and

(2) by adding at the end the following new subsection:

"(b) EXCEPTION FOR FAMILY SEPARATION PAY.—If a husband and wife are both members of a uniformed service and have no other dependents, subsection (a) shall not apply for the purpose of determining the entitlement of only one of those members to a monthly allowance under section 427(b) of this title.".

(c) CLERICAL AMENDMENTS.—Section 427 of such title is further amended—

(1) by inserting "ALLOWANCE BASED ON BASIC ALLOWANCE OF QUARTERS.—" after "(a)"; and

(2) by inserting "ADDITIONAL SEPARATION ALLOWANCE.—" after "(b)".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as of January 16, 1991.

SEC. 224. BASIC ALLOWANCE FOR QUARTERS FOR CERTAIN MEMBERS OF RESERVE COMPONENTS WITHOUT DEPENDENTS.

(a) IN GENERAL.—A member of a reserve component of the uniformed services without dependents who is called or ordered to active duty in connection with the Persian Gulf conflict may not be denied under subsection (c) of section 403 of title 37, United States Code, a basic allowance for quarters under that section if, because of the call or order, the member is unable to continue to occupy a residence—

(1) which is maintained as the primary residence of the member at the time of the call or order; and

(2) which is owned by the member or for which the member is responsible for rental payments.

(b) EFFECTIVE DATE.—This section shall take effect as of August 2, 1990.

SEC. 225. USE OF HOME OF RECORD FOR DETERMINATION OF VARIABLE HOUSING ALLOWANCE FOR RESERVISTS.

In the case of a member of a reserve component of the uniformed services who is called or ordered to active duty in connection with the Persian Gulf conflict, the home of record of the member shall be used for the purpose of determining any variable housing allowance under section 403a of title 37, United States Code, to which the member is entitled.

SEC. 226. MEDICAL, DENTAL, AND NONPHYSICIAN SPECIAL PAYS FOR RESERVE, RECALLED, OR RETAINED HEALTH CARE OFFICERS.

(a) ELIGIBLE FOR SPECIAL PAY.—A health care officer described in subsection (b) shall be eligible for special pay under section 302, 302a, 302b, 302c, 302e, or 303 of title 37, United States Code (whichever applies), notwithstanding any requirement in those sections that—

(1) the call or order of the officer to active duty be for a period of not less than one year; or

(2) the officer execute a written agreement to remain on active duty for a period of not less than one year.

(b) HEALTH CARE OFFICERS DESCRIBED.—A health care officer referred to in subsection (a) is an officer of the Armed Forces who is otherwise eligible for special pay under section 302, 302a, 302b, 302c, 302e, or 303 of title 37, United States Code, and who—

(1) is a reserve officer on active duty under a call or order to active duty for a period of less than one year in connection with the Persian Gulf conflict;

(2) is involuntarily retained on active duty under section 673c of title 10, United States Code, or is recalled to active duty under section 688 of that title, in connection with the Persian Gulf conflict; or

(3) voluntarily agrees to remain on active duty for a period of less than one year in connection with the Persian Gulf conflict.

(c) MONTHLY PAYMENTS.—Payment of special pay pursuant to this section may be made on a monthly basis. If the service on active duty of an officer referred to in subsection (a) or (b) is terminated before the end of the period for which a payment is made under that subsection to the officer, the officer is entitled to special pay under section 302, 302a, 302b, 302c, 302e, or 303 of title 37, United States Code (whichever applies), only for the portion of that period that the officer actually served on active duty. The officer shall refund any amount received in excess of the amount that corresponds to the period of active duty of the officer.

(d) SPECIAL RULE FOR RESERVE MEDICAL OFFICER.—While a reserve medical officer receives a special pay under section 302 of title 37, United States Code, by operation of subsection (a), the officer shall not be entitled to special pay under subsection (h) of that section.

(e) EFFECTIVE DATE.—This section shall take effect as of November 5, 1990.

SEC. 227. WAIVER OF EXCEPTION TO BOARD CERTIFICATION REQUIREMENTS.

(a) WAIVER REQUIRED.—The Secretary of Defense shall waive board certification requirements specified in sections 302(a)(5), 302b(a)(5), 302c(c)(3), 302c(d)(4) of title 37, United States Code, in the case of a member of the Armed Forces who—

(1) is a medical or dental officer or a nonphysician health care provider;

(2) has completed required residency training; and

(3) is determined by the Secretary to be unable to schedule or complete a certification or recertification process because of a duty assignment in connection with the Persian Gulf conflict.

(b) TERMINATION.—A waiver provided under this section shall terminate 180 days after the later of—

(1) the end of the Persian Gulf conflict; and

(2) the end of the member's duty assignment in connection with the Persian Gulf conflict.

(c) EFFECTIVE DATE.—This section shall take effect as of November 5, 1990.

SEC. 228. FOREIGN LANGUAGE PROFICIENCY PAY.

(a) SPECIAL PAY AUTHORIZED.—Subsection (a)(2) of section 316 of title 37, United States Code, shall not apply to prohibit the payment of foreign language proficiency pay under that section to a member of the Armed Forces on active duty who is assigned to duty in connection with the Persian Gulf conflict and who is otherwise eligible for special pay under that section.

(b) EFFECTIVE DATE.—This section shall take effect as of August 2, 1990.

SEC. 229. FOREIGN DUTY PAY.

(a) AMOUNT OF SPECIAL PAY.—In lieu of the monthly rates of special pay specified under section 305(a) of title 37, United States Code, an enlisted member of a uniformed service who serves on active duty in a combat zone in connection with the Persian Gulf conflict during any part of a month is entitled to special pay under that section equal to $25 for that month.

(b) EXCEPTION FOR MEMBERS RECEIVING CAREER SEA PAY.—Subsection (a) shall not apply in the case of a member of a uniformed service entitled to special pay under section 305a of title 37, United States Code.

(c) COMBAT ZONE DEFINED.—For purposes of this section, the term "combat zone" means an area designated by the President as a combat zone under section 112 of the Internal Revenue Code of 1986 (26 U.S.C. 112).

(d) EFFECTIVE DATE.—This section shall take effect as of January 16, 1991.

PART C—DECEASED AND MISSING MEMBERS

SEC. 231. INCREASE IN AMOUNT OF DEATH GRATUITY.

(a) IN GENERAL.—Subsection (a) of section 1478 of title 10, United States Code, is amended by striking out "equal to six months' pay" and all that follows through the period in the first sentence and inserting in lieu thereof "$6,000.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as of August 2, 1990.

SEC. 232. REMOVAL OF LIMITATION ON THE ACCRUAL OF SAVINGS OF MEMBERS IN A MISSING STATUS.

(a) ADDITION OF PERSIAN GULF CONFLICT.—Subsection (b) of section 1035 of title 10, United States Code, is amended—

(1) by inserting before the period in the second sentence the following: "or during the Persian Gulf conflict"; and

(2) in the last sentence, by striking out "the date designated" and all that follows through the period and inserting in lieu thereof the following: "May 7, 1975, and the Persian Gulf conflict begins on January 16, 1991, and ends on the date thereafter prescribed by Presidential proclamation or by law.".

(b) MISSING STATUS DEFINED.—Such section is further amended by adding at the end the following new subsection:

"(f) In this section, the term 'missing status' has the meaning given such term in section 551(2) of title 37.".

(c) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in subsection (b), by striking out ", as defined in section 551(2) of title 37,"; and

(2) in subsection (e), by striking out "(as defined in section 551(2) of title 37)".

PART D—OTHER PERSONNEL MATTERS

SEC. 241. LIMITATION ON THE SEPARATION OF CERTAIN MEMBERS FROM THEIR INFANT CHILDREN.

(a) PROHIBITION.—(1) Chapter 41 of title 10, United States Code, is amended by inserting after section 717 the following new section:

"§718. Members with infant children: limitation on duty and assignments

"(a) FEMALE MEMBERS NOT ON ACTIVE DUTY.—A female member of a reserve component who is not on active duty and who has a child under the age of six months may not be called or ordered to active duty (other than for training) without her consent.

"(b) FEMALE MEMBERS ON ACTIVE DUTY.—A female member of the armed forces on active duty who has a child under the age of six months may not be assigned, without her consent, to duty the location or circumstances of which make it necessary for the child to reside at another location.

"(c) MALE MEMBERS WHO ARE SINGLE PARENTS.—Subsections (a) and (b) shall apply in the case of a male member of the armed forces who has sole custody of a child under the age of six months.

"(d) CHILD DEFINED.—In this section, the term 'child' includes an adopted child or an illegitimate child if the member admits in writing to the parentage of the child.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 717 the following new item:

"718. Members with infant children: limitation on duty and assignments.".

(b) APPLICATION TO PRESENT DEPLOYMENTS.—To the extent possible and consistent with military requirements, the Secretary of Defense shall apply section 718 of title 10, United States Code, as added by subsection (a), in the case of a member of the Armed Forces called or ordered to active duty before the date of the enactment of this Act or assigned to a duty location before that date.

SEC. 242. GRADE IN WHICH RETIRED OFFICERS ARE ORDERED TO ACTIVE DUTY.

(a) GRADE UPON RELEASE FROM ACTIVE DUTY.—Section 688 of title 10, United States Code, is amended—

(1) by redesignating subsection (b) as paragraph (2); and

(2) by inserting after subsection (a) the following:

"(b)(1) A retired member ordered to active duty under this section who serves on active duty pursuant to such order in a grade that is higher than his retired grade is entitled, upon his release from that duty, to be advanced on the retired list to the highest grade in which he served on active duty satisfactorily, as determined by the Secretary of the military department concerned, for not less than three years, if that grade is higher than his retired grade. The three years service in grade shall be computed by combining all periods of active duty served in that grade. The President may waive the three-year requirement in individual cases involving extreme hardship or exceptional or unusual circumstances. The authority of the President under the preceding sentence may not be delegated.".

(b) GRADE IN WHICH RECALLED.—Subsection (d) of such section is amended by striking out "in his retired grade" and inserting in lieu thereof "in the higher of his retired grade or the highest grade in which he served on active duty satisfactorily, as determined by the Secretary of the military department concerned".

SEC. 243. DELAY IN THE INCREASE OF ANNUAL DEDUCTIBLES UNDER CHAMPUS.

The annual deductibles specified in subsection (b) of section 1079 of title 10, United States Code *(as in effect on November 4, 1990), shall apply until October 1, 1991, in the case of health care provided under that section to the dependents of a member of the uniformed services who serves or served on active duty in the Persian Gulf theater of operations in connection with the Persian Gulf conflict.*

SEC. 244. TRANSITIONAL HEALTH CARE.

(a) Health Care Provided.—A member of the Armed Forces described in subsection (b), and the dependents of the member, shall be entitled to receive health care described in subsection (c) upon the release of the member from active duty in connection with the Persian Gulf conflict until the earlier of—

(1) 60 days after the date of the release of the member from active duty; or

(2) the date on which the member and the dependents of the member are covered by a health plan sponsored by an employer.

(b) Eligible Member Described.—A member of the Armed Forces referred to in subsection (a) is a member who—

(1) is a member of a reserve component of the Armed Forces and is called or ordered to active duty under chapter 39 of title 10, United States Code, in connection with the Persian Gulf conflict;

(2) is involuntarily retained on active duty under section 673c of title 10, United States Code, in connection with the Persian Gulf conflict; or

(3) voluntarily agrees to remain on active duty for a period of less than one year in connection with the Persian Gulf conflict.

(c) Health Care Described.—The health care referred to in subsection (a) is—

(1) medical and dental care under section 1076 of title 10, United States Code, in the same manner as a dependent described in subsection (a)(2) of that section; and

(2) health benefits contracted under the authority of section 1079(a) of that title and subject to the same rates and conditions as apply to persons covered under that section.

(d) Dependent Defined.—For purposes of this section, the term "dependent" has the meaning given that term in section 1072(2) of title 10, United States Code.

SEC. 245. TRANSITIONAL COMMISSARY AND EXCHANGE BENEFITS.

The Secretary of Defense shall prescribe regulations to allow a member of a reserve component of the Armed Forces who is called or ordered to active duty under chapter 39 of title 10, United States Code, in connection with the Persian Gulf conflict to use commissary and exchange stores during the 180-day period beginning on the date of the release of the member from active duty. The use of commissary and exchange stores pursuant to this section shall be authorized in the same manner and to the same extent as authorized for a member of the Armed Forces on active duty.

SEC. 246. BENEFITS EXPLANATIONS FOR RESERVE MEMBERS UPON DEMOBILIZATION.

The Secretary of Defense shall ensure that the Secretaries of the military departments, in carrying out section 1142 of title 10, United States Code, provide particular attention to the needs of members of reserve components who were called or ordered to active duty for service in connection with the Persian Gulf conflict and who are released from active duty upon the completion of the period of service required pursuant to such call or order. To assist in providing preseparation counseling under that section, the Secretary of Veterans Affairs shall detail personnel of the Department of Veterans Affairs for service at each principal site at which such members will be released from active duty.

SEC. 247. EXTENSION OF CERTAIN PERSIAN GULF CONFLICT PROVISIONS.

Title XI of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1634 et seq.) is amended as follows:

(1) The following sections are amended by striking out "Operation Desert Shield" each place it appears and inserting in lieu thereof "the Persian Gulf conflict": sections 1111(b)(1), 1114, and 1115.

(2) Section 1111 is further amended—

(A) by striking out "for fiscal year 1990 and during fiscal year 1991" in subsection (b)(1);

(B) by inserting "or for fiscal year 1992" in subsection (b)(2) after "fiscal year 1991"; and

(C) by striking out subsection (c).

(3) Sections 1114(a) and 1115(a) are amended by striking out "during fiscal year 1990 or 1991".

SEC. 248. STUDY OF DEPARTMENT OF DEFENSE POLICIES RELATING TO DEPLOYMENT OF MILITARY SERVICEMEMBERS WITH DEPENDENTS OR SERVICEMEMBERS FROM FAMILIES WITH MORE THAN ONE SERVICEMEMBER.

(a) Study.—The Secretary of Defense shall carry out a study of the policies of the Department of Defense relating—

(1) to activation of units and members of reserve components for active duty (other than for training); and

(2) to deployments overseas of members of the Armed Forces (whether from active or reserve components),

as those policies affect the family responsibilities and interests of members of the Armed Forces who have minor children or who are from families with more than one member in the Armed Forces.

(b) Matters To Be Considered.—The study under subsection (a) shall examine the family policies of the military departments for consistency among the Armed Forces and shall consider whether these policies adequately address the needs of Reserve component personnel. The study shall also assess the responsiveness of current policies to the needs of the all-volunteer Force as it is presently constituted, as reflected by its demographic profile.

(c) Report.—Not later than March 31, 1992, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the results of the study under subsection (a). The report shall include an analysis of the effect of deployments made as part of military operations during the Persian Gulf conflict on members of the Armed Forces referred to in that subsection, including the following (which shall be shown separately by service and for active-component and reserve-component personnel):

(1) The number of single parent military personnel who were deployed and the number of children of those parents.

(2) The number of members of the Armed Forces who are married to another member of the Armed Forces and who were both deployed, and the number of children of those members.

(3) The number of members of the Armed Forces deployed (or given orders to deploy) who requested exceptions to existing policies respecting family members, categorized by the reasons given for the requests and the dispositions of the requests.

(4) A description of any differences in any of the military departments in policies applicable to active component members and reserve component members and any problems that arose from those differences.

(5) A statement of the incidence of use of military family assistance programs by persons other than parents who provided care for dependent children while parents in the Armed Forces were deployed.

(6) A discussion of the effectiveness of military family assistance programs during the Persian Gulf conflict deployments.

(7) A discussion of the applicability of existing policies with respect to members of the Armed Forces who have dependents other than minor children, including dependent parents and dependent disabled adult children.

(8) A discussion of proposed and actual changes by the Department of Defense in family assistance programs and assignment policies.

SEC. 249. SENSE OF CONGRESS REGARDING THE PROVISION OF MEDICAL CARE BY GERMANY TO DEPENDENTS OF MEMBERS LIVING IN GERMANY.

It is the sense of Congress that the President should request the Government of Germany to provide without reimbursement medical care to persons living in Germany who are dependents of members of the Armed Forces in order to replace military medical personnel and equipment deployed to the Persian Gulf region in connection with the Persian Gulf conflict.

SEC. 250. MORALE TELEPHONE CALLS.

(a) Findings.—Congress finds the following:

(1) The Federal Government has traditionally provided free mailing privileges for members of the Armed Forces serving in combat zones.

(2) Technological advances that allow for almost instantaneous worldwide communications make telephone calls an equal partner to mail as a means for members of the Armed Forces to communicate with persons outside of the combat zone.

(3) The ability to make telephone calls to loved ones and family members greatly contributes to the high morale among members of the Armed Forces serving in the Persian Gulf region.

(b) Sense of the Congress.—It is the sense of Congress that the Secretary of Defense—

(1) should enter into contracts with private telephone companies or establish alternative telephone arrangements to provide at least 10 minutes of free telephone calls a month for each member of the Armed Forces serving in a combat zone; and

(2) should seek funds from foreign countries to pay for the cost of providing such free telephone calls in connection with the Persian Gulf conflict.

TITLE III—VETERANS' BENEFITS AND PROGRAMS

SEC. 301. INCLUSION OF PERSIAN GULF WAR WITHIN DEFINITION OF "PERIOD OF WAR" FOR PURPOSES OF VETERANS BENEFITS.

(a) In General.—Section 101 of title 38, United States Code, is amended—

(1) in paragraph (11), by inserting "the Persian Gulf War," after "the Vietnam era,"; and

(2) by adding at the end the following new paragraph:

"(33) The term 'Persian Gulf War' means the period beginning on August 2, 1990, and ending on the date thereafter prescribed by Presidential proclamation or by law.".

(b) Pension.—(1) Section 501 of such title is amended—

(A) by inserting "the Persian Gulf War," in paragraph (4) after "the Vietnam era,"; and

(B) by adding at the end the following:

"(5) The term 'Persian Gulf War' means the period beginning on August 2, 1990, and ending on the date thereafter prescribed by Presidential proclamation or by law.".

(2) Section 541(f)(1) of such title is amended—

(A) by striking out "or" before "(D)"; and

(B) by inserting before the semicolon at the end the following: ", or (E) January 1, 2001, in the case of a surviving spouse of a Persian Gulf War veteran".

(c) Effective Date.—The amendments made by this section shall take effect as of August 2, 1990.

SEC. 302. DEPENDENCY AND INDEMNITY COMPENSATION.

(a) Surviving Spouse Benefits Based on Age.—(1) Section 411(a) of title 38, United States

Code, is amended by striking out the matter preceding the table and inserting in lieu thereof the following:

"(a)(1) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the age of the veteran at the time of the veteran's death, at monthly rates set forth in the following table:

"Age of veteran at time of death	**Monthly rate**
Under 35	$750
35–49	700
50–64	650
65 and over	600

"(2) In the case of dependency and indemnity compensation paid to a surviving spouse that is predicated upon the death of a veteran on or before the last day of the month in which the Persian Gulf War ends (as prescribed by Presidential proclamation or by law) the monthly rate of such compensation shall be the amount, based on the pay grade of such veteran, set forth in the following table, if the amount is greater than the amount determined with respect to that veteran under paragraph (1) of this subsection:".

(2) The amendment made by paragraph (1) shall take effect on October 1, 1991.

(b) ADDITIONAL DIC FOR CHILDREN.—Effective on October 1, 1991, section 411(b) of such title is amended by striking out "$68 for each such child" and inserting in lieu thereof "$100 for each such child during fiscal year 1992, $150 for each such child during fiscal year 1993, and $200 for each such child thereafter".

SEC. 303. HEALTH BENEFITS.

(a) AUTHORITY TO OBTAIN STANDBY INPATIENT SERVICES.—Section 5011A(b)(2)(B) of title 38, United States Code, is amended—

(1) by redesignating clauses (i) and (ii) as clauses (ii) and (iii); and

(2) by inserting before clause (ii), as so redesignated, the following:

"(i) is described in section 610(a)(1) of this title;".

(b) COUNSELING.—(1) Section 612B of such title is amended to read as follows:

"§612B. Counseling for former prisoners of war and for veterans of combat theaters of operations

"The Secretary may furnish counseling services in any facility of the Department—

"(1) to any veteran who is a former prisoner of war to assist the veteran in overcoming the psychological effects of the veteran's detention or internment as a prisoner of war; and

"(2) to any veteran who while in the active military, naval, or air service served in a theater of combat operations (as defined by the Secretary of Defense) after August 2, 1990, during a period during which hostilities occurred in that theater to assist the veteran in overcoming any psychological problems of the veteran associated with such service.".

(2) The item relating to such section in the table of sections at the beginning of such chapter is amended to read as follows:

"612B. Counseling for former prisoners of war and for veterans of combat theaters of operations.".

(c) PERIOD OF SERVICE FOR DENTAL BENEFITS.—Section 612(b) of such title is amended by inserting "or, in the case of a veteran who served on active duty during the Persian Gulf War, 90 days" after "180 days" in paragraphs (1)(B)(ii) and (2).

(d) PRESUMPTION RELATING TO PSYCHOSIS.—Section 602 of such title is amended—

(1) by striking out "or the Vietnam era" and inserting in lieu thereof "the Vietnam era, or the Persian Gulf War";

(2) by striking out "or" after "Korean conflict,"; and

(3) by inserting "or before the end of the two-year period beginning on the last day of the Persian Gulf War, in the case of a veteran of the Persian Gulf War," after "Vietnam era veteran,".

(e) COVERAGE OF CERTAIN PRESCRIPTION DRUG BENEFITS.—Section 612(h) of such title is amended by striking out "the Mexican border period" and all that follows through "Vietnam era" and inserting in lieu thereof "a period of war".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect as of August 2, 1990.

(g) REPORTS BY SECRETARY OF DEFENSE AND SECRETARY OF VETERANS AFFAIRS CONCERNING SERVICES TO TREAT POST-TRAUMATIC STRESS DISORDER.—(1) The Secretary of Defense and Secretary of Veterans Affairs shall each submit to Congress two reports containing, with respect to their respective Departments, the following:

(A) An assessment of the need for rehabilitative services for members of the Armed Forces participating in the Persian Gulf conflict who experience post-traumatic stress disorder.

(B) A description of the available programs and resources to meet those needs.

(C) The specific plans of that Secretary for treatment of post-traumatic stress disorder, particularly with respect to any specific needs of members of reserve components.

(D) An assessment of needs for additional resources necessary in order to carry out such plans.

(E) A description of plans to coordinate treatment services for post-traumatic stress disorder with the other Department.

(2) The first report by each of the Secretaries shall be submitted not later than 90 days after the date of the enactment of this Act, and the second report by each of the Secretaries shall be submitted a year later.

SEC. 304. INCREASE IN THE AMOUNT OF MONTGOMERY GI BILL EDUCATIONAL ASSISTANCE PAYMENTS.

(a) AMOUNT OF BENEFIT PAYMENTS UNDER CHAPTER 30.—Section 1415 of title 38, United States Code, is amended—

(1) in subsection (a)(1), by striking out "$300" and inserting in lieu thereof "$400"; and

(2) in subsection (b)(1), by striking out "$250" and inserting in lieu thereof "$300".

(b) AMOUNT OF BENEFIT PAYMENTS UNDER SELECTED RESERVE PROGRAM.—(1) Section 2131(b) of title 10, United States Code, is amended—

(A) in paragraph (1), by striking out "$140" and inserting in lieu thereof "$200";

(B) in paragraph (2), by striking out "$105" and inserting in lieu thereof "$150"; and

(C) in paragraph (3), by striking out "$70" and inserting in lieu thereof "$100".

(2) Section 2131(f)(2) of such title is amended by striking out "$140" and inserting in lieu thereof "$200".

(3) Section 2131(g)(3) of such title is amended by striking out "$140" and inserting in lieu thereof "$200".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective with respect to payments of educational assistance payments made on or after October 1, 1991.

SEC. 305. ELIGIBILITY AND OTHER EDUCATIONAL BENEFITS UNDER SELECTED RESERVE PROGRAM.

(a) ELIGIBILITY.—Section 2132(a) of title 10, United States Code, is amended—

(1) by inserting "or" after the semicolon at the end of paragraph (2); and

(2) by inserting after paragraph (2) the following new paragraph:

"(3)(A) was called or ordered, as a member of the Selected Reserve of the Ready Reserve of the armed forces, to active duty in connection with the Persian Gulf War and was released from such active duty upon the completion of the period of service required pursuant to such call or order; and

"(B) has completed the requirements of the secondary school diploma (or an equivalency certificate);".

(b) Conforming Amendments.—Section 2131(a) of such title is amended—

(1) by striking out "(a) To" and inserting in lieu thereof "(a)(1) To"; and

(2) by adding at the end the following new paragraph:

"(2)(A) The Secretary of each military department and the Secretary of Transportation, with respect to the Coast Guard when it is not operating as a service in the Navy, shall provide educational assistance to members of the Selected Reserve of the Ready Reserve of the armed forces under the jurisdiction of the Secretary concerned who were called or ordered to active duty in connection with the Persian Gulf War and who were released from active duty upon the completion of the period of service required pursuant to such call or order.

"(B) For purposes of this chapter, the term 'Persian Gulf War' means the period beginning on August 2, 1990, and ending on the date thereafter prescribed by Presidential proclamation or by law.".

SEC. 306. RESTORATION OF VETERANS EDUCATIONAL ASSISTANCE.

(a) CHAPTER 30 PROGRAM.—Section 1413 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(f)(1) Notwithstanding any other provision of this chapter or chapter 36 of this title, any payment of an educational assistance allowance described in paragraph (2) of this subsection shall not—

"(A) be charged against the entitlement of any individual under this chapter; or

"(B) be counted toward the aggregate period for which section 1795 of this title limits an individual's receipt of assistance.

"(2) The payment of the educational assistance allowance referred to in paragraph (1) of this subsection is the payment of such an allowance to an individual for pursuit of a course or courses under this chapter with respect to the period described in paragraph (3) of this subsection if the Secretary finds that the individual—

"(A) in the case of a member of the Selected Reserve, had to discontinue such course pursuit as a result of being called or ordered, in connection with the Persian Gulf War, to serve on active duty; or

"(B) in the case of a person serving on active duty, had to discontinue such course pursuit as a result of being ordered, in connection with such War, to a new duty location or assignment or to perform an increased amount of work; and

"(C) failed to receive credit or training time toward completion of the individual's approved educational, professional, or vocational objective as a result of having to discontinue, as described in subparagraph (A) or (B) of this paragraph, his or her course pursuit.

"(3) The period of course pursuit referred to in paragraph (2) of this subsection is the period beginning on the effective date of the award of an educational assistance allowance under this chapter to the individual for the period of enrollment during which the individual discontinued course pursuit as described in paragraph (2) of this subsection and ending on the date of such discontinuance; except that in no case may such period exceed the portion of the period of enrollment with respect to which the individual failed to receive credit or training time, as determined under paragraph (2)(C) of this subsection.".

(b) CHAPTER 32 PROGRAM.—(1) Section 1631(a) of such title is amended by adding at the end the following new paragraph:

"(5)(A) Notwithstanding any other provision of this chapter or chapter 36 of this title, any payment of an educational assistance allowance described in subparagraph (B) of this paragraph—

"(i) shall not be charged against the entitlement of any eligible veteran under this chapter; and

"(ii) shall not be counted toward the aggregate period for which section 1795 of this title limits an individual's receipt of assistance.

"(B) The payment of an educational assistance allowance referred to in subparagraph (A) of this paragraph is any payment of a monthly benefit under this chapter to an eligible veteran for pursuit of a course or courses under this chapter during the period described in subparagraph (C) of this subsection if the Secretary finds that the eligible veteran—

"(i) in the case of a member of the Selected Reserve, had to discontinue such course pursuit as a result of being called or ordered, in connection with the Persian Gulf War, to serve on active duty; or

"(ii) in the case of a person serving on active duty, had to discontinue such course pursuit as a result of being ordered, in connection with such War, to a new duty location or assignment or to perform an increased amount of work; and

"(iii) failed to receive credit or training time toward completion of the individual's approved educational, professional, or vocational objective as a result of having to discontinue, as described in clause (i) or (ii) of this subparagraph, his or her course pursuit.

"(C) The period of course pursuit referred to in subparagraph (B) of this paragraph is the period beginning on the effective date of the award of an educational assistance allowance under this chapter to the veteran for the period of enrollment during which the veteran discontinued course pursuit as described in subparagraph (B) of this paragraph and ending on the date of such discontinuance; except that in no case may such period exceed the portion of the period of enrollment with respect to which the individual failed to receive credit or training time, as determined under subparagraph (B)(iii) of this paragraph.

"(D) The amount in the fund for each eligible veteran who received a payment of an educational assistance allowance described in subparagraph (B) of this paragraph shall be restored to the amount that would have been in the fund for the veteran if the payment had not been made. For purposes of carrying out the previous sentence, the Secretary of Defense shall deposit into the fund, on behalf of each such veteran, an amount equal to the entire amount of the payment made to the veteran.

"(E) The formula provided in paragraph (2) of this subsection shall be implemented as if—

"(i) the payment made to the fund by the Secretary of Defense under subparagraph (D) of this paragraph; and

"(ii) any payment described in subparagraph (B) of this paragraph that was paid out of the fund,

had not been made or paid.".

(2) Section 1631(a)(2) of such title is amended by inserting "in paragraph (5)(E) of this subsection and" after "Except as provided".

(c) CHAPTER 35 PROGRAM.—Section 1711(a) of such title is amended—

(1) by striking out "Each" and inserting in lieu thereof "(1) Each"; and

(2) by adding at the end the following new paragraph:

"(2)(A) Notwithstanding any other provision of this chapter or chapter 36 of this title, any payment of an educational assistance allowance described in subparagraph (B) of this paragraph shall not—

"(i) be charged against the entitlement of any individual under this chapter; or

"(ii) be counted toward the aggregate period for which section 1795 of this title limits an individual's receipt of assistance.

"(B) The payment of the educational assistance allowance referred to in subparagraph (A) of this paragraph is the payment of such an allowance to an individual for pursuit of a course or courses under this chapter with respect to the period described in subparagraph (C) of this paragraph if the Secretary finds that the individual—

"(i) had to discontinue such course pursuit as a result of being called or ordered, in connection with the Persian Gulf War, to serve on active duty; and

"(ii) failed to receive credit or training time toward completion of the individual's approved educational, professional, or vocational objective as a result of having to discontinue, as described in clause (i) of this subparagraph, his or her course pursuit.

"(C) The period of course pursuit referred to in subparagraph (B) of this paragraph is the period beginning on the effective date of the award of an educational assistance allowance under this chapter to the individual for the period of enrollment during which the individual discontinued course pursuit as described in subparagraph (B) of this paragraph and ending on the date of such discontinuance; except that in no case may such period exceed the portion of the period of enrollment with respect to which the individual failed to receive credit or training time, as determined under subparagraph (B)(ii) of this paragraph.".

(d) SELECTED RESERVE PROGRAM.—Section 2131(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3)(A) Notwithstanding any other provision of this chapter or chapter 36 of title 38, any payment of an educational assistance allowance described in subparagraph (B) of this paragraph shall not—

"(i) be charged against the entitlement of any individual under this chapter; or

"(ii) be counted toward the aggregate period for which section 1795 of title 38 limits an individual's receipt of assistance.

"(B) The payment of the educational assistance allowance referred to in subparagraph (A) of this paragraph is the payment of such an allowance to the individual for pursuit of a course or courses under this chapter with respect to the period described in subparagraph (C) of this paragraph if the Secretary of Veterans Affairs finds that the individual—

"(i) had to discontinue such course pursuit as a result of being called or ordered, in connection with the Persian Gulf War, to serve on active duty; and

"(ii) failed to receive credit or training time toward completion of the individual's approved educational, professional, or vocational objective as a result of having to discontinue, as described in clause (i) of this subparagraph, his or her course pursuit.

"(C) The period of course pursuit referred to in subparagraph (B) of this paragraph is the period beginning on the effective date of the award of an educational assistance allowance under this chapter to the individual for the period of enrollment during which the individual discontinued course pursuit as described in subparagraph (B) of this paragraph and ending on the date of such discontinuance; except that in no case may such period exceed the portion of the period of enrollment with respect to which the individual failed to receive credit or training time, as determined under subparagraph (B)(ii) of this paragraph.".

SEC. 307. EXTENSION OF DELIMITING DATE.

Section 2133(b) of title 10, United States Code, is amended by adding at the end the following:

"(4) Any period of service on active duty served by a person called or ordered to such active duty in connection with the Persian Gulf War shall not be considered, for purposes of subsection (a), to be—

"(A) a part of the 10-year period referred to in clause (1) of such subsection; or

"(B) a separation from the Selected Reserve referred to in clause (2) of such subsection.".

SEC. 308. ENTITLEMENT FOR GUARANTEED LOANS.

Section 1802(a)(2)(A) of title 38, United States Code, is amended—

(1) by striking out "or" before "the Vietnam"; and

(2) by inserting ", or the Persian Gulf War" after " the Vietnam era".

SEC. 309. DIRECT LOAN BENEFITS.

(a) IN GENERAL.—Section 1811 of title 38, United States Code, is amended by adding at the end the following:

"(l) The Secretary may, without regard to the provisions of subsections (a), (b), (c), and (d), make or enter into a commitment to make a loan, for any purpose for which loans are made under section 1810 or 1812, to any member of any reserve component—

"(1) who meets the credit requirements applicable under section 1810 or 1812 and who is unable to obtain a loan from a private lender at an interest rate not in excess of the rate authorized for guaranteed home loans or manufactured home loans under this chapter, as the case may be, because of the possibility of such member being called or ordered to active duty in connection with, or in preparation for, any war or other action involving, or potentially involving, the use of military force; or

"(2) who was called or ordered to active duty for service in connection with, or in preparation for, any war or other action involving, or potentially involving, the use of military force and was released from such active duty after serving at least 90 days and who—

"(A) applies for such loan (i) within one year from the date on which the individual was released from such active duty, or (ii) within one year from the date on which the veteran is released from hospitalization incident to such service, whichever is later;

"(B) is unable to obtain a loan from a private lender at an interest rate not in excess of the rate authorized for guaranteed home loans or manufactured home loans under this chapter, as the case may be; and

"(C) at the time such loan is made, meets the credit requirements applicable under section 1810 or 1812, as the case may be.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as of August 2, 1990.

TITLE IV—AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS FOR DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS FOR FISCAL YEAR 1991

SEC. 401. AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS FOR OPERATING EXPENSES.

In addition to the amounts authorized to be appropriated for fiscal year 1991 by section 3101 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1824), there is hereby authorized to be appropriated for fiscal year 1991 for operating expenses incurred in carrying out national security programs (including scientific research and development in support of the Armed Forces, strategic and critical materials necessary for the common defense, and military applications of nuclear energy and related management and support activities) for weapons activities production and surveillance, $283,000,000.

SEC. 402. AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS FOR ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.

In addition to the amounts authorized to be appropriated for fiscal year 1991 by section 3103 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1827), there is hereby authorized to be appropriated for fiscal year 1991 for carrying out the environmental restoration and waste management programs necessary for national security programs as follows:

(1) For operating expenses:

(A) For environmental restoration, $100,000,000.

(B) For waste operations, $74,300,000.

(C) For waste research and development, $30,000,000.

(2) For plant projects:

Project 91-D-172, high-level waste tank farm replacement, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $30,000,000.

Project 90-D-178, retrieval containment building, Idaho National Engineering Laboratory, Idaho Falls, Idaho, $19,500,000.

Project 89-D-142, reactor effluent cooling water thermal mitigation, Savannah River, South Carolina, $17,600,000.

Project Project 89-D-172, Hanford environmental compliance, Richland, Washington, $27,700,000.

Project 89-D-174, replacement high-level waste evaporator, Savannah River, South Carolina, $14,000,000.

Project 83-D-148, nonradioactive hazardous waste management, Savannah River, South Carolina, $10,000,000.

Project 77-13-f, waste isolation pilot project, Delaware Basin, southeast New Mexico, $16,900,000.

SEC. 403. APPLICABILITY OF RECURRING GENERAL PROVISIONS.

The provisions contained in part B of title XXXI of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1829) shall apply to this title in the same manner as such provisions apply to title XXXI of such Act.

SEC. 404. RELOCATION OF ROCKY FLATS PLANT OPERATIONS.

(a) RELOCATION PROGRAM.—From funds authorized and appropriated for production and surveillance for fiscal year 1991, the Secretary of Energy shall develop a program to relocate, within 10 years after the date of the enactment of this Act, operations performed at the Rocky Flats Plant in Golden, Colorado, to a replacement facility (or facilities) on a site (or sites) where public health and safety can be assured.

(b) REPORT.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Energy shall submit to Congress a report describing the program developed under subsection (a), a plan to implement such program, and the activities to be undertaken during fiscal year 1991 pursuant to the plan.

TITLE V—GENERAL PROVISIONS

SEC. 501. LAND CONVEYANCE, FORT A.P. HILL MILITARY RESERVATION, VIRGINIA.

(a) CONVEYANCE AUTHORIZED.—Not later than one year after the date of the enactment of this Act, subject to subsections (b) through (g), the Secretary of the Army shall convey, without consideration, to Caroline County, Virginia, or the Commonwealth of Virginia (hereinafter in this section referred to as the "Commonwealth"), as appropriate, all right, title, and interest of the United States in and to a parcel of land located at Fort A.P. Hill, Virginia, and consisting of approximately 150 acres.

(b) IDENTIFICATION OF PROPERTY.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary shall, after consultation with appropriate representatives of Caroline County, Virginia, and the Commonwealth, identify the exact size and location of the parcel of land to be conveyed pursuant to this section. The Secretary shall, to the maximum extent practicable, identify a parcel of land that—

(A) has soil and topographical conditions suitable for the construction of a low- to mid-rise institutional correctional facility, including recreation, parking, and other necessary support facilities; and

(B) is situated within reasonably close proximity to an existing sewer system.

(2) The cost of any new or expanded sewer system or utilities shall not be the responsibility of the Department of Defense or Caroline County.

(c) CONVEYANCE OF PROPERTY.—(1) Except as provided in paragraph (2), the parcel of land conveyed pursuant to this section shall be conveyed to the Commonwealth and shall be subject to the conditions and limitations on its use as provided in Chapter 3, Article 3.1 of Title 53.1, Code of Virginia.

(2) The Secretary shall convey the parcel of land to Caroline County, Virginia, instead of the Commonwealth, if, within one year after the date of the enactment of this Act, the Secretary receives the written agreement of the participating political subdivisions of the Commonwealth named in paragraph (3) to take, under the laws of the Commonwealth, the following actions:

(A) Establish a governmental entity to construct and operate on such parcel of land a regional correctional facility.

(B) Ensure that such governmental entity constructs and operates such facility.

(3)(A) In order for the agreement referred to in paragraph (2) to be effective, it shall be agreed to by Caroline County, Virginia, and at least three of the following political subdivisions of the Commonwealth:

(i) Arlington County.

(ii) Fairfax County.

(iii) Prince William County.

(iv) Stafford County.

(v) The City of Alexandria.

(B) Subparagraph (A) shall not be construed to prohibit any political subdivision not named in such subparagraph to participate in the written agreement referred to in paragraph (2).

(d) USE OF PROPERTY; REVERSION.—(1)(A) A conveyance of land to Caroline County, Virginia, pursuant to this section shall be subject to the conditions that—

(i) construction of a regional correctional facility pursuant to the agreement referred to in subsection (c)(2) commence not later than 24 months after the date of the enactment of this Act;

(ii) such construction be completed and the operation of such facility commence not later than five years after such date; and

(iii) such parcel of land be used only for the construction and operation of such facility.

(B) If the parcel of land conveyed pursuant to this section is conveyed to Caroline County, Virginia, and the entity established pursuant to the agreement referred to in subsection (c)(2) fails to construct and operate a regional correctional facility in accordance with the conditions set out in subparagraph (A), all right, title, and interest in and to such parcel of land (together with the improvements thereon) shall revert to the United States.

(C) In the event of a reversion under subparagraph (B), the Secretary shall promptly convey all right, title, and interest of the United States in the parcel of land referred to in such subparagraph to the Commonwealth, subject to the applicable provisions of paragraph (2) and subsections (e) through (g).

(2)(A) A conveyance of a parcel of land to the Commonwealth pursuant to this section, shall be subject to the conditions that—

(i) an entity be established under the laws of the Commonwealth for the construction and operation of a regional correctional facility on such parcel of land;

(ii) construction of such facility on such parcel of land be completed and the operation of such facility commence not later than seven years after the date of enactment of this Act;

(iii) such parcel of land be used only for the purpose of construction and operation of such facility;

(iv) Arlington County, Fairfax County, the City of Alexandria, Prince William County, Stafford County, and Caroline County, Virginia, be offered the opportunity for meaningful participation in such entity; and

(v) no fee be charged by the Commonwealth for the conveyance to, lease by, or use of such parcel of land by such entity.

(B) If the parcel of land to be conveyed pursuant to this section is conveyed to the Commonwealth and the conditions referred to in subparagraph (A) are not complied with (as determined by the Secretary), all right, title, and interest in and to such land (together with the improvements thereon) shall revert to the United States and the United States shall have the right of immediate entry thereon.

(e) PROHIBITION ON HOUSING CERTAIN PRISONERS.—Except when agreed to in writing by an appropriate representative of Caroline County, Virginia, the regional correctional facility constructed and operated in accordance with this section—

(1) shall have a maximum capacity of not more than 2,400 inmates; and

(2) may not be used to house Federal prisoners or prisoners convicted by, sentenced by, or awaiting trial in the courts of the District of Columbia.

(f) TIME LIMITATION.—The period of any litigation relating to the conveyance or improvement of land under this section shall not be included in a determination of the period for conveyance or improvement, or for the reverter of or right of re-entry onto such land.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance pursuant to this section as the Secretary, in his sole discretion, shall determine appropriate to protect the interests of the United States.

(h) REPEAL.—Section 2839 of the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101-510; 104 Stat 1801) is repealed.

SEC. 502. GRASSROOTS EFFORTS TO SUPPORT OUR TROOPS.

(a) FINDINGS.—The Congress finds the following:

(1) Over 400,000 American servicemen and women risked their lives in defending the interests and principles of the United States in the Persian Gulf region.

(2) These American servicemen and women performed with remarkable success against Iraq and its military-industrial complex.

(3) All Americans should take great pride in the manner in which our brave servicemen and women represented our Nation in the Persian Gulf region.

(4) All Americans eagerly await the safe return of our courageous sons and daughters who served in the Persian Gulf region.

(b) GRASSROOTS SUPPORT.—The Congress—

(1) supports and endorses national, State, and local grassroots efforts to support our servicemen and women who participated in Operation Desert Storm, and their families here at home;

(2) encourages Federal, State, and local governments and private businesses and industry to

organize task forces intended to provide support for the families of servicemen and women deployed in the Persian Gulf region and to organize celebrations for the servicemen and women upon their arrival home; and

(3) encourages those grassroots government, business, and industry efforts to include Vietnam Veteran organizations in all activities conducted for the benefit of the troops returning home from Operation Desert Storm.

SEC. 503. BUDGET TREATMENT.

(a) TREATMENT OF CERTAIN PROVISIONS AS EMERGENCY REQUIREMENT.—Each direct spending provision of title II and title III is hereby designated as an "emergency requirement" for purposes of section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985. Any appropriation made pursuant to any provision of title II or title III that is not a direct spending provision or an incremental cost associated with Operation Desert Storm is hereby designated as an "emergency requirement" for purposes of section 251(b)(2)(D)(i) of such Act.

(b) CONTINGENT EFFECTIVENESS.—The provisions of title II (other than sections 211 and 212) and title III shall not take effect unless the President (in a single designation)—

(1) designates each direct spending provisions of title II and title III as an "emergency requirement" for purposes of section 252(e) of that Act; and

(2) designates any appropriations made pursuant to any provision of title II and title III that is not a direct spending provision or an incremental cost associated with Operation Desert Storm as an "emergency requirement" for purposes of section 251(b)(2)(D)(i) of such Act.

(c) AVAILABILITY OF FUNDS.—No funds may be expended during fiscal year 1991 or fiscal year 1992 pursuant to the provisions of title II (including the amendments made by those provisions) other than funds transferred from the Defense Cooperation Account or the Persian Gulf Working Capital Account pursuant to an appropriations Act.

The CHAIRMAN pro tempore. No amendment to said substitute, as modified, shall be in order except those amendments printed in part 2 of House Report 102–17. Said amendments shall be considered in the order and manner specified in said report, shall be considered as having been read, and shall not be subject to amendment. The chairman and ranking minority member of the Committee on Armed Services, or their designees, may offer pro forma amendments for the purpose of debate.

It is now in order to consider amendment No. 1 printed in part 2 of House Report 102–17.

AMENDMENT OFFERED BY MR. PANETTA

Mr. PANETTA. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. PANETTA: Strike out section 503 (as added pursuant to the resolution providing for consideration of the bill) and insert in lieu thereof the following:

SEC. 503. SENSE OF CONGRESS CONCERNING DIRECT SPENDING PROVISIONS.

It is the sense of Congress that separate legislation should be enacted during the first session of the One Hundred Second Congress to provide a means (through increased receipts, reduced spending under other Federal programs, or a combination thereof) to offset the increase in Federal spending in each of fiscal years 1991 through 1995 as a result of the provisions in this Act that are direct spending provisions.

The CHAIRMAN pro tempore. Pursuant to the rule, the gentleman from California [Mr. PANETTA] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Chairman, I am opposed to the amendment.

The CHAIRMAN pro tempore. The gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 5 minutes.

The Chair recognizes the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, first of all let me express my appreciation to the chairman of both the Committee on Armed Services and the Committee on Veterans' Affairs and the ranking members. They have been very cooperative in trying to assist us in the budget process, and we appreciate that cooperation. The issue here is not the benefits that are provided. We would concur that these are benefits that need to be looked at and need to be provided for our veterans. But the issue is whether or not we want to use emergency language to avoid paying for the bill. That is the issue.

The characterization of all of these new benefits as an emergency we feel abuses the emergency provisions under the budget agreement. The reality is that a good portion of these benefits have been debated for the last 3 years, particularly with regard to the GI benefit increases. It does not relate specifically to the Persian Gulf. There are indeed some areas that could be argued that relate to the Persian Gulf, but to label all of these under the emergency declaration, creates a real problem in terms of our our ability to continue to enforce the budget agreement.

The point is, if we believe that these benefits are important, let us pay for them. That is the key. The issue is if we do not, what the bill essentially says is that the President, not until the bill gets to the President, not until the President has looked at these benefits, if the President does not agree they are an emergency, none of this goes into effect.

Do we really want to provide a false promise to the veterans who are coming back from the Persian Gulf, to the veterans who are here, that somehow we are going to provide benefits that are not going to happen because the administration is opposed to the position that somehow all of this is an emergency? It is the wrong thing to do. I recognize the urgency of looking at issues related to veterans. I share that urgency. But I also have a responsibility to the budget agreement to ensure that we maintain firm discipline here with regard to the bills that come before this House. If we allow this kind of boilerplate language to be put into veterans bills, there is no reason why it cannot be put into every other bill that comes to the floor.

It is for those reasons, for veterans, for budget discipline, that we need to enact this amendment.

Mr. MONTGOMERY. Mr. Chairman, everyone is for veterans around here, but they do not want to fund the program. I do not understand it.

Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. EDWARDS] in opposition to the amendment.

Mr. EDWARDS of Texas. Mr. Chairman, our soldiers in the Persian Gulf have given us a legacy of victory and courage. Today we will decide what legacy Congress will leave for them. Let us not be remembered as the body which applauded our troops in war, and turned our back on them in peace.

Mr. Chairman, is it more important to define the word "emergency" narrowly than to support our veterans? I think not. Our veterans' hospitals are a living testament that the human cost, the real cost, of war, does not end with the signing of a cease-fire agreement.

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Is it fair to ask our veterans to pay for this war or have they not sacrificed already enough?

Mr. Chairman, our veterans have fought bravely and courageously for us in the Persian Gulf. Now today is the time for us to stand up for them.

Mr. PANETTA. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. GRADISON], the ranking member of the Budget Committee.

Mr. GRADISON. Mr. Chairman, I thank the gentleman for yielding me this time.

I join my colleague and chairman in offering this amendment. I do not believe it is appropriate to designate increased military personnel compensation and expanded veterans benefits as emergency expenses for the sole purpose of avoiding accountability under the budget agreement.

Our amendment would allow these benefits to remain on the books, but it would strike the emergency designation and require that we find some way to pay for them.

The budget agreement did not prohibit entitlement programs from increasing but it does make us more accountable with the public's money.

The amendment to H.R. 1175 contained in the rule made enactment of titles II and III contingent on the President specifically designating those provisions as emergency spending for purposes of the budget agreement. If he does not designate them as such within 5 days of signing the bill, they fail to take effect. By putting the burden of enactment on the President, we surrender our congressional prerogative to override the President's decision.

We should not promise what will not be delivered. The President will not designate these benefits as an emergency.

There is only one sure way that these new benefits will be paid, and that is to vote for the Panetta-Gradison amendment.

Mr. MONTGOMERY. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Chairman, I rise in opposition to the Panetta amendment. I am deeply troubled by the implications of this amendment.

I come to the well from a different perspective than most of my colleagues in the House. I opposed going to war in the Persian Gulf before and after it began. I did so because I believed the objectives could have been achieved by other means. However, no matter what one's view on the war, everyone knew there would be significant financial costs associated with our involvement.

Congress undertook a moral obligation to care for the men and women who risked their lives in Operation Desert Storm. We must fulfill that obligation. There is no choice.

Today we are making a $15 billion installment on the cost of the war. The amendment before us would try to trim that cost in a tragically inhumane way. I ask my colleagues—by what logic is funding for new Patriot missiles an emergency and funds for veterans' survivors pay not?

The American people will not understand this set of priorities. The House must not stand for them either. Both military hardware costs and human costs were anticipated. Both should be treated the same. I urge my colleagues to vote no on the Panetta amendment.

Mr. MONTGOMERY. Mr. Chairman, I yield such time as he may consume to the gentleman from Georgia [Mr. JENKINS].

Mr. JENKINS. Mr. Chairman, I rise in opposition to the amendment and in support of the veterans' package offered by Chairman MONTGOMERY.

Over the past 10 years, the Veterans' Committee and the Congress have been very cooperative with efforts of this administration and the previous administration to bring the deficit down.

We've resisted well-intended legislation that would increase the cost of veterans' programs. We have told veterans, "Wait a year or two until we get this deficit down."

We have dutifully reported legislation to cut veterans' benefits, while saying that we will fund the most essential things. And while we've been doing this, and waiting patiently in line, we have seen literally hundreds of ideas and emergency needs arise and receive funding. Just last week, the administration said that $650 million was needed as an emergency package for Israel.

Well, veterans are tired of being treated this way. When the current budget agreement was being drafted last August, we were preparing to defend Saudi Arabia. The budget agreement said that the cost of defending Saudi Arabia, and eventually the entire cost of the Persian Gulf war, was off budget, like an emergency.

The cost of funding veterans' benefits programs is a cost of that war, whether we call it an emergency or by some other name. However, this package does not authorize funds for all of the veterans' benefits that will be provided to these veterans in the future. We will ask for and fight for these funds every year, like we do for the veterans of Vietnam, Korea, and World War II.

What this legislation says is that we appreciate the patriotism, the bravery, the dedication, and the success that our Armed Forces have achieved. We believe that these veterans, like veterans of earlier wars, deserve a fair benefit while attending school. Their survivors deserve a fair level of compensation from a Government that is grateful for their service and their sacrifice.

It is important to remember that for every warrior in the front lines, we need five or more support members. Whether those servicemembers served in the Persian Gulf, in Egypt, or stateside far from their homes, they deserve the increased benefits provided by this legislation.

Veterans deserve more than a parade. This package is the least we can do for them.

Mr. MONTGOMERY. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Maryland [Mrs. BYRON], whose title II of the bill is affected by this amendment offered by the gentleman from California [Mr. PANETTA].

Mrs. BYRON. Mr. Chairman, title II of the bill is the benefits package for the men and women who won the stunning victory that has brought so much pride to America. It is, without a doubt, a cost of war that should be designated as an emergency cost.

The personnel benefits included in the bill have been distilled from the many initiatives introduced since the beginning of Operation Desert Shield. At the time they were introduced, I am confident that each of the sponsors believed their bill to be an important and urgent response to the crisis. There is no question that Operation Desert Shield was a national emergency, and any effort to properly care for the people that responded to the crisis must, therefore, be considered an emergency action.

We examined every piece of legislation, and identified those that seemed to respond to the needs of the people directly involved with the Operation Desert Shield mission while meeting budget guidelines. There are several provisions that provide moderate increases to special pays designed to take care of the families that had been the cause of so much concern from the beginning of Operation Desert Shield. We address a number of problems identified for the first time during Operation Desert Shield that specifically troubled our reservists during this, the largest callup of Reserve Forces since the Korean war. We have upgraded benefits for the families of those that have fallen, and ensured that our returning POW's receive the best of treatment.

In sum, this bill captures the needs of the military that we discovered during the Operation Desert Shield experience. Section 503 of the bill ensures that these wartime emergency benefits will be funded outside the budget agreement from the defense cooperation account set up by our allies. In addition, section 503 preserves the two step emergency designation process of the budget agreement and further ensures that these emergency benefits will not trigger sequestration in the nondefense accounts.

Mr. Chairman, I am asking my colleagues to support the men and women that brought us success on the battlefield. What field commander will contend that bullets, bombs, or fuel were more important to the war effort than the morale of the men and women that served? It is obvious to this Member that the welfare of service members and their families is an essential component of high morale and, therefore, an important factor leading to effective individual performance in combat.

Let there be no doubt that the troops in the field were fully aware of the many initiatives introduced in the Congress to enhance their quality of life and that of their families. I, and I am sure many of my colleagues, reassured constituent service members and their families that their particular complaint was justified and would be addressed. They fought the war believing that we in the Congress knew what should be done and were proceeding with legislation to provide it. Now that victory is ours, we need to live up to that commitment and provide the benefit package that meant so much to our people and, in a very real way, our combat capability.

Mr. MONTGOMERY. Mr. Chairman, I yield 1½ minutes to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Chairman, I rise this afternoon in opposition to the amendment of the gentleman from California [Mr. PANETTA].

Mr. Chairman, this bill takes care of the soldiers, the sailors, the marines, the airmen who served so valiantly in the Persian Gulf. If there is one lesson that we have learned as a nation, it is that we get what we pay for. If we want a quality military that is capable of going in and defeating the fourth largest army in the world in less than 2 months, we get it, as this Congress did over a period of 10 years, by paying for it, by quality people, by readiness and training and by sophisticated and high-technology weaponry.

We know from the television that this country spent a lot on its so-called smart weapons or high-technology weaponry. Now is the time for us to repay all of those people who used those weapons to make our dramatic victory possible, and now we owe them this debt of gratitude.

All these benefits are every bit as much a direct cost of war as were the bullets, the tanks, the sophisticated hardware. If there is a difference, it is that the people are really the guts and the heart and the soul of our military might, and if anything we should take care of them before we concern ourselves with the equipment and weaponry.

On balance, Mr. Chairman, the people are so terribly important. It is necessary in this bill whose emergency provisions are the direct result of the Persian Gulf war. This bill does what it is most important to do, to take care of the patriotic young people who served our country so well and so ably and so courageously.

Mr. PANETTA. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Illinois [Mr. ROSTENKOWSKI], chairman of the Committee on Ways and Means.

Mr. ROSTENKOWSKI. Mr. Chairman, I rise today in support of the Panetta-Gradison amendment and to express concern about designating the military pay and veterans provisions of H.R. 1175, the National Defense Supplemental Authorization Act for Fiscal Year 1991, as emergency legislation.

I want to warn my colleagues of the danger of overworking the emergency authority provided in last year's budget agreement. We in the Congress need to think very carefully—along with the President and his administration—about what constitutes an actual emergency such that it would be appropriate to waive the pay-as-you-go funding requirements. If we are not careful and reasonable in our characterization, the emergency designation will quickly become a synonym for any politically attractive or politically difficult initiative. In this case, the truth is that this legislation is important but, in my opinion, not a national emergency.

Don't misunderstand me. I fully support these expanded benefits for our servicemen. They have served their country with honor and deserve our thanks. But, like all other new mandatory spending, these new benefits should be subject to the pay-as-you-go discipline established in last year's budget agreement.

In addition, I would point out to my colleagues that failure to pay for these new expenditures will produce painful consequences later this year. Yesterday, we faced the same budgetary issues when we debated the Gonzalez amendment: If we do not offset new mandatory spending now or by the time we adjourn, several programs, including Medicare, will be automatically sequestered in the fall.

I am fully committed to paying for any spending or revenue initiative that my committee or the leadership decides is appropriate. However, I expect other committees to abide by the pay-as-you-go requirements as well. That's responsible governing. The alternative of spending money on politically attractive, but unfinanced initiatives, ignores the disastrous consequences for Medicare and other essential programs that will result from sequestration this fall.

The CHAIRMAN pro tempore (Mr. DOWNEY). There is 1 minute remaining on each side.

Mr. MONTGOMERY. Mr. Chairman, under the rule, I have the privilege of closing debate, is that correct?

The CHAIRMAN pro tempore. The gentleman is correct.

Mr. PANETTA. Mr. Chairman, I yield 15 seconds to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Chairman, I rise with great respect for my chairman, Mr. MONTGOMERY.

These are laudable goals in improving military and veterans benefits, and certainly deserved.

Why sully the laudable goals with dishonest financing? These are not emergency expenditures, but long-term obligations.

Certainly the allies are paying for much of the immediate costs of war. However, these incremental costs are ours alone. These are not Saudi, British, French, or certainly not Japanese soldiers who are receiving GI bill education benefits.

Don't misunderstand or misinterpret last year's budget agreement. We can find ways within the budget to honestly pay for these benefits.

Our soldiers made a major sacrifice, yet we as a nation sacrificed little. It's time for the rest of us to own up to the ongoing costs of this war, by paying for these veteran's benefits.

Mr. PANETTA. Mr. Chairman, I yield the balance of my time to the gentleman from Oklahoma [Mr. SYNAR].

The CHAIRMAN pro tempore. The gentleman from Oklahoma [Mr. SYNAR] is recognized for 45 seconds.

Mr. SYNAR. Mr. Chairman, this debate is not about supporting veterans and our military personnel. In attempting to show that support, however, we are carving up the Constitution. All of us want to do what is right, but the ultimate impact of this legislation may do more harm than good. The Constitution provided that Congress was to pass legislation. After approval, legislation was to be sent to the President for approval or veto. The Constitution does not provide for conditional approval or partial approval by the President.

Whether or not we agree that the funds requested should be designated emergency or not emergency, is only one aspect of the debate. More importantly, Congress again appears willing to trade away its constitutional powers. The legislation would give the President the option to decide whether or not he agrees with Congress' designation of certain titles of a bill. This will not be done with a traditional up or down veto. If the President decides he does not agree, the bill does not have to be vetoed, he can sign the bill by changing one part to his liking.

Under the budget process changes, if the President believes an executive agency requires emergency funds, those should be requested by the President and made a part of the legislative debate. To permit this choices made after the conclusion of the legislative process turns the process upside down.

I did not approve of the budget process reforms last Congress. My opposition was based on the belief that Congress was altering the balance of power between the branches of Government. The proposal today confirms that belief. In order to satisfy an arbitrary portion of the budget process we assign the label "emergency" which is supposed to relieve all concerns over funding. Then we permit the President to act not only as President but as legislator, a role not envisioned by the Constitution.

It is easy to be caught up in an emotional debate and fail to evaluate the long term implications. Members have a constitutional responsibility though to consider these types of legislative proposals more carefully. Many are failing in that responsibility.

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Mr. MONTGOMERY. Mr. Chairman, I yield such time as he may consume to the gentleman from Georgia [Mr. ROWLAND].

Mr. ROWLAND. Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from California [Mr. PANETTA] and the gentleman from Ohio [Mr. GRADISON]. I do so because they would have us believe that veterans' benefits are not a part of the cost of war. I submit they are wrong. Dead wrong. I submit that taking care of our veterans is as important as a Patriot missile. I submit that giving these veterans an opportunity to own a home or further their education is as important as an Abrams tank. I submit that if we are going to commit them to battle, we ought to take care of them afterward.

We are quick to send them to war, and we generally give them the equipment they need, but then we want to quibble about how we are going to pay for benefits they earned. That should bother each of us. That should bother each American.

The chairman and ranking minority member of the Budget Committee would suggest that we can pay for this package by taking money from the pockets of current veterans or other Federal beneficiaries such as Medicare recipients. They want this after ordering us to take more than $3 billion from veterans programs last year.

I can guarantee you that if you try to tax veterans of past wars to pay for benefits for veterans of this war, you are going to have a rebellion on your hands.

I'm not going to have Vietnam veterans or Korea veterans or World War II veterans or World War I veterans or any veteran give up their medical care, their pensions, the compensation for their war wounds, their education programs, or their opportunities to own a home just because Dick Darman and the budget submitters have cut a deal that says veterans' benefits should not be considered a cost of war.

Mr. MONTGOMERY. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, let me note here that the President of the United States still has the authority to veto this bill, or declare that titles II an III are not an emergency. That is the way it is drawn up now. I do not know where this misinformation is coming from.

We have taken off budget the dire emergency supplemental. We have taken off budget the money to Israel, and we will take off budget the bailout of the S&L's. So I do not have any apologies for asking that title III, the veterans' proposal, be taken off budget.

The Committee on the Budget has been pretty hard on the Committee on Veterans' Affairs. Last year they directed us to find $3.5 billion in savings over the next 5 years. We cut veterans' programs to the bone. Now, I am tired of it. I am tired of them coming in here and telling us to do this and that.

This amendment ought to be defeated. It hurts the veterans. Let us stand up for the veterans.

God bless America.

Mr. DERRICK. Mr. Chairman, we are all immensely proud of our brave soldiers, sailors, and airmen who, together with their coalition comrades, made mincemeat of the enemy's forces and drove Saddam Hussein from Kuwait. I believe it is the duty of every Member of this House, and every American, to make sure our returning service men and women know they have our full support and our sincerest thanks for the fine job they did in the gulf.

But, Mr. Chairman, in our eagerness to show our gratitude, we must not forget our responsibility to the troops, and to the nation they fought to defend, to keep our economy sound. I am certain that none of our returning heroes would want the President, or this Congress, to cast aside last year's Budget Enforcement Act and shower them with benefits financed with billions of dollars of additional debt. Yet that is what this bill purposes to do.

I urge every Member to support the Panetta-Gradison amendment. There is simply no justification for calling these benefits Desert Shield emergencies if none of the money will be spent until next year, or if most of them will go to every member of the armed services, whether he served in the gulf or not. I wish we could afford to do it, but we just can't.

The purpose of the budget agreement's pay-as-you-go requirements and ceilings on discretionary spending was to require this Congress to make difficult choices, and this should be one of them. If we want to increase veterans' spending, and we all do, then we ought to find some offsetting cuts or revenues somewhere else to pay for it. That is the only way we will ever get out of the hole we are in now—it is just that simple.

In closing, Mr. Chairman, I would suggest if we don't get off this deficit-spending treadmill we will wreck our economy, and Saddam Hussein will eventually have the last laugh. Let's not do that to our troops. Vote for fiscal discipline by supporting the Panetta-Gradison amendment.

The CHAIRMAN pro tempore (Mr. DOWNEY). The question is on the amendment offered by the gentleman from California [Mr. PANETTA].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. PANETTA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 175, noes 248, not voting 8, as follows:

[Roll No. 45]

AYES—175

Allard
Anderson
Andrews (NJ)
Andrews (TX)
Archer
Armey
Ballenger
Barrett
Barton
Beilenson
Bereuter
Berman
Bliley
Boehner
Broomfield
Burton
Camp
Campbell (CA)
Cardin
Carper
Chandler
Clinger
Coble
Conyers
Cooper
Coughlin
Cox (CA)
Cox (IL)
Coyne
Crane
Dannemeyer
DeLay
Dellums
Derrick
Doolittle
Dreier
Duncan
Early
Edwards (OK)
Fawell
Fish
Flake
Franks (CT)
Gallo
Gekas
Gibbons
Gilchrest
Gillmor
Gingrich
Goodling
Gordon
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hoagland
Hobson
Houghton
Hoyer
Hughes
Hunter
Hyde
Ireland
Jacobs
Johnson (CT)
Johnston
Kasich
Kennelly
Klug
Kolbe
Kopetski
Kostmayer
Kyl
LaRocco
Leach
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Luken
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McMillan (NC)
Meyers
Michel
Miller (CA)
Miller (WA)
Moorhead
Moran
Morella
Morrison
Nussle
Olin
Orton
Owens (UT)
Oxley
Packard
Panetta
Paxon
Payne (VA)
Pease
Pelosi
Penny
Porter
Pursell
Ramstad
Ravenel
Ray
Rhodes
Ridge
Riggs
Roberts
Rohrabacher
Ros-Lehtinen
Rostenkowski
Roukema
Russo
Sabo
Santorum
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skaggs
Skeen
Slattery
Slaughter (VA)
Smith (OR)
Smith (TX)
Solomon
Stallings
Stark
Stearns
Stenholm
Studds
Stump
Sundquist
Swett
Swift
Synar
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torricelli
Upton
Valentine
Vander Jagt
Visclosky
Vucanovich
Walker
Weber
Weldon
Wolf
Wolpe
Wylie
Yates
Young (FL)
Zeliff
Zimmer

NOES—248

Abercrombie
Ackerman
Alexander
Andrews (ME)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Baker
Barnard
Bateman
Bennett
Bentley
Bevill
Bilbray
Bilirakis
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bunning
Bustamante
Byron
Callahan
Campbell (CO)
Carr
Chapman
Clay
Clement
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Costello
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Dornan (CA)
Downey
Durbin
Dwyer
Dymally
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fields
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallegly
Gaydos
Gejdenson
Gephardt
Geren
Gilman
Glickman
Gonzalez
Goss
Gray
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Holloway
Hopkins
Horn
Horton
Hubbard
Huckaby
Hutto
Inhofe
James
Jenkins
Johnson (SD)
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kildee
Kleczka
Kolter
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (GA)
Lipinski
Lloyd
Long
Lowery (CA)
Lowey (NY)
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
McCloskey
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Oakar
Oberstar
Obey
Ortiz
Owens (NY)
Pallone
Parker
Patterson
Payne (NJ)
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Poshard
Price
Quillen
Rahall
Rangel
Reed
Regula
Richardson
Rinaldo
Ritter
Roe
Roemer
Rogers
Rose
Roth
Rowland
Roybal
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skelton
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spence
Staggers
Stokes
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Towns
Traficant
Traxler
Unsoeld
Vento
Volkmer
Walsh
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wyden
Yatron
Young (AK)

NOT VOTING—8

Hammerschmidt
Hochbrueckner
Jefferson
Levine (CA)
Miller (OH)
Spratt
Udall
Wilson

☐ 1522

Messrs. REED, SAWYER, SCHAEFER, KLECZKA, JOHNSON of South Dakota, CUNNINGHAM, SERRANO, DORNAN of California, EMERSON, VOLKMER, PALLONE, DWYER of New Jersey, TAYLOR of Mississippi, PAYNE of New Jersey, MFUME, LOWERY of California, and WISE changed their vote from "aye" to "no."

Mrs. JOHNSON of Connecticut, Messrs. YATES, BROOMFIELD, RAMSTAD, COYNE, and LEWIS of Florida changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. DOWNEY). It is now in order to consider amendment No. 2, printed in part 2 of House Report 102–17.

AMENDMENT OFFERED BY MR. MICHEL

Mr. MICHEL. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MICHEL: At the end of the bill add the following new section:

SEC. . BUDGET ENFORCEMENT

To guarantee that the assistance for veterans authorized by Title III of this Act is provided in a manner consistent with the fiscal requirements of the Budget Enforcement Act, nothwithstanding any other provision of this Act, this Act (including the amendments made by this Act) shall be implemented for all proposes relating to Federal budget procedures in accordance with the procedures and requirements enacted in the Budget Enforcement Act of 1990 (title XIII of Public Law 101–508).

The CHAIRMAN pro tempore. Pursuant to the rule, the gentleman from Illinois [Mr. MICHEL] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Chairman, I am opposed to the amendment. I would like to have the 5 minutes.

The CHAIRMAN pro tempore. The gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 5 minutes in opposition to the amendment.

The Chair recognizes the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Chairman, my amendment would make the National Defense Supplemental Authorization Act conform with the provisions of last year's budget agreement.

Now, on a plaque on the Veterans' Affairs Department Building in Washington appear the words, taken from President Abraham Lincoln's Second Inaugural Address:

> To care for him who shall have borne the battle and for his widow and orphan.

□ 1530

The question before us today is not if we care but how we care. In my view, turning our backs on the budget agreement of 1990 is not the appropriate means to show how we care for our veterans.

We cannot come here today and tell the American people, especially veterans, this bill is a risk-free, painless, no-cost Government spending program.

I guess as the man said who saw a giraffe for the first time, "There ain't no such animal."

Tax dollars are going to be involved in this program. They should be subject to the provisions of the budget agreement.

Veterans are citizens and taxpayers, As such, they expect us to live up to our word. We in the House gave our word last year that new spending programs would have to conform to the budget agreement requirements. We knew the political and economic consequences that were involved.

Are we going to run away from that commitment today because it has become hard to live with? If the American troops of Operation Desert Storm had taken that attitude, Saddam Hussein would have won the war.

Remember Lincoln's words about "their widows and orphans." Those words remind us true care for the veteran extends to the future he or she envisions.

But how could we put forth one hand to the veteran today while using the other to place new financial burdens on the backs of his children tomorrow?

I will not bore you with the details of the CBO cost estimate language, OMB's scorekeeping and all the rest. That is what is known as an inside baseball argument, too esoteric for laymen to grasp, too boring for the media to report and too demanding for Congress to adopt.

Those who made Operation Desert Storm a success had the courage to honor their commitments. The question before us today is do those of us in the House have the same kind of courage or will we break and run, forgetting our commitments and surrender to political pressure?

I urge Members to support the amendment that I have just offered and reserve the balance of my time.

Mr. MONTGOMERY. Mr. Chairman, I yield myself 1 minute.

Let me say that this amendment virtually does what the last amendment does, it hurts veterans. If you voted against the last amendment, you should vote against this amendment. Not only does this amendment hurt veterans, it goes one step further; it changes the House rule on whether the House uses CBO or OMB scoring on the fiscal impact of legislation.

Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. WAXMAN], in opposition to the amendment.

Mr. WAXMAN. Mr. Chairman, I thank the gentleman for yielding to me in order to oppose this amendment.

The gentleman from Mississippi is the preeminent spokesman on behalf of veterans in this institution. He has clearly stated this does not affect whether veterans get their benefits or not under this legislation. Let me tell you what this Michel amendment does. It is a partisan amendment. It is going right to the heart of what the Democrats were able to do when we asserted that this institution will have the scoring for budget items by the Congressional Budget Office, not by the Office of Management and Budget. That fight has more to do with other issues beyond this one. It has nothing whatever to do with whether the veterans are going to get their benefits.

The Congressional Budget Office is a nonpartisan organization that will give us the straight facts as to what something is going to cost or what the budget impact will be.

The Office of Management and Budget represents the administration. So it is not surprising that the minority leader on behalf of the Republicans is trying to overturn the rule of the House that says that the Congressional Budget Office will be our scorekeeper on any budget impact.

I recommend strongly that we defeat the Michel amendment, stay with the rules of the House, pass this bill which will assure the veterans get their benefits and keep us from being drawn into a partisan effort to turn over scorekeeping on budget issues to the administration rather than the CBO.

So I join the gentleman from Mississippi [Mr. MONTGOMERY] in urging a "no" vote on the Michel amendment.

Mr. MONTGOMERY. Mr. Chairman, I believe I have the privilege of closing after the gentleman from Illinois [Mr. MICHEL] finishes debate. First, I yield 1 minute to the gentleman from Hawaii [Mr. ABERCROMBIE] in opposition to the amendment.

Mr. ABERCROMBIE. I thank the gentleman for yielding.

Mr. Chairman, when the troops were first sent into the Persian Gulf, no one cited the 1990 Omnibus Budget Reconciliation Act. When the troops were increased, nobody cited the Budget Reconciliation Act, when arguments were made on this floor about whether or not we should be going into the Persian Gulf with more troops and into offensive action, no one cited the Budget Reconciliation Act. Only when the costs of the war came home, after the flag-waving is over by some people, do we get into a position where people are citing the Budget Reconciliation Act.

Only when it comes time to pay up and pay off, when people are concerned back here in this country, does that come up.

I want to tell you, everybody in this room, that yellow ribbon is 9 cents a yard in the House stationery store and that is where this amendment should be going.

Vote "no" and vote for America and its veterans.

Mr. MICHEL. Mr. Chairman, I would just make the observation that when we had the budget agreement, we had provision made for incremental costs at that time.

Mr. Chairman, I yield 2 minutes to my distinguished friend from Ohio [Mr. GRADISON], the balance of our time.

Mr. GRADISON. Mr. Chairman, I had hoped to offer an amendment which would strike section 3 from the bill. Unfortunately, the rule did not make this amendment in order. However, Mr. MICHEL's amendment, which requires the bill conform to the Budget Enforcement Act, would achieve essentially the same objective.

This bill reneges on last year's budget agreement by including a CBO cost estimate in the text of the bill, thereby directing OMB on how to score the bill. Under the Budget Enforcement Act, OMB was designated as the official paygo scorekeeper for the purposes of triggering a sequester if the net of all tax and entitlement legislation enacted during a session increase the deficit. In January, House Democrats unilaterally abrogated the agreement by ramming through a rule change requiring that CBO estimates be inserted into the text of committee-reported bills. They have been waiting to insert this rule on a popular bill.

There are many reasons why responsible Members should oppose the directed scoring provision in this bill. I shall mention but a few:

It is clearly unnecessary. CBO is already required to estimate the costs of all reported bills which increase direct spending. Additionally, a mechanism already exists to reconcile CBO and OMB technical differences.

It threatens to unravel the tenuous consensus for the budget agreement enacted last year. All sides made substantial concessions to arrive at an agreement. A violation of any one provision is likely to lead to an unraveling of the entire budget agreement.

It virtually guarantees the bill will be blocked in the Senate or vetoed by the President. Senator DOMENICI, ranking Republican on the Senate Budget Committee, has pledged to raise a point of order against any bill containing a CBO cost estimate. President Bush has also stated that he will veto any bill which contains directed scoring.

Most importantly, it sanctions the strategy of those who would use the Desert Shield authorization bill as cover to renege on the budget agreement.

Mr. MONTGOMERY. Mr. Chairman, I yield 30 seconds to the gentleman from Pennsylvania [Mr. MURPHY].

Mr. MURPHY. I thank the chairman for yielding.

Mr. Chairman, I rise in opposition to this amendment and would like to reiterate what the gentleman from Hawaii said.

In January, when the majority of this House and a majority of Congress decided that they would give the President the authority to declare war, to enter into hostilities, the other side, no one questioned; the entire Congress did not question where the money was coming from. We did not talk about budget reconciliation. We were willing to spend $40 billion to $70 billion on the conduct of a war.

Now we find the Members who were in favor of declaring that war, in favor of entering that war, now reneging on the cost of paying our veterans who went and fought that war.

☐ 1540

Mr. MONTGOMERY. Mr. Chairman, I have great respect for the gentleman from Illinois [Mr. MICHEL], but he is wrong in this amendment. I certainly hope the House will vote down this amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. DOWNEY). The question is on the amendment offered by the gentleman from Illinois [Mr. MICHEL].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. MICHEL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 165, noes 260, not voting 6, as follows:

[Roll No. 46]

AYES—165

Allard
Andrews (NJ)
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Chandler
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Cox (IL)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Derrick
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hamilton
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Hopkins
Horton
Houghton
Hunter
Hyde
Inhofe
Ireland
James
Johnson (CT)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (WA)
Molinari
Moorhead
Morella
Morrison
Neal (NC)
Nichols
Nussle
Orton
Oxley
Packard
Pallone
Paxon
Pease
Petri
Porter
Pursell
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Slaughter (VA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Valentine
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (FL)
Zeliff
Zimmer

NOES—260

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Berman
Bevill
Bilbray
Bilirakis
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Gray
Guarini
Hall (OH)
Hall (TX)
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Holloway
Horn
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Marlenee
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Quillen
Rahall
Rangel
Ray
Reed
Richardson
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Vento
Visclosky
Volkmer
Washington
Waters
Waxman

Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Young (AK)

NOT VOTING—6

Dymally
Hammerschmidt
Levine (CA)
Miller (OH)
Spratt
Udall

□ 1604

Messrs. LAUGHLIN, GEPHARDT, and COOPER changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1600

AMENDMENT OFFERED BY MR. BONIOR

The CHAIRMAN pro tempore (Mr. DOWNEY). It is now in order to consider amendment No. 3 printed in part 2 of House Report 102–17.

Mr. BONIOR. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BONIOR: At the end of the bill, add the following new section:

SEC. . KUWAIT RECONSTRUCTION.

(a) FINDINGS.—The Congress finds that—

(1) the allied forces, under the leadership of the United States, have won a decisive victory against Iraq in the Persian Gulf conflict;

(2) much of Kuwait's infrastructure (including oil facilities, bridges, and highways) has been destroyed;

(3) the principal test of a nation's commitment to the Persian Gulf conflict was its willingness to provide military forces; and

(4) the Government of Kuwait has stated that it plans to award reconstruction contracts to business firms from countries that committed military force to the Persian Gulf conflict.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Army Corps of Engineers, in recommending contractors to the Government of Kuwait for contracts for the reconstruction of Kuwait, should recommend that such contracts—

(1) be awarded on a first priority basis to United States firms that will use a work force consisting primarily of American citizens in carrying out the contract; and

(2) if not awarded to United States firms, be awarded only to firms from allied nations that committed military forces to the Persian Gulf conflict.

(c) PROGRESS REPORTS.—(1) The President shall submit to Congress a report every three months showing, as of the submission of the report, the country of origin of all business firms awarded Kuwait reconstruction contracts by the Corps of Engineers and the country of origin of all business firms awarded subcontracts under such contracts. The President shall include in each such report the same information with regard to all business firms awarded Kuwait reconstruction contracts by the Government of Kuwait and all business firms that are subcontractors under those contracts. The President shall request the Government of Kuwait to provide to the United States, on an ongoing basis, information with respect to the country of origin of business firms to which it awards reconstruction contracts, the country of origin of firms awarded subcontracts under those contracts, and the information with respect to those contracts and subcontracts described in paragraph (2).

(2) Information in reports under paragraph (1) shall be shown by the number of firms from each such country and by the dollar volume of contracts and subcontracts awarded to firms from each such country. Each such report shall also show, with respect to contracts and subcontracts awarded to United States firms, the number and percentage of persons employed (or expected to be employed) under the contract or subcontract who are United States citizens.

(3) The first report under paragraph (1) shall be submitted not later than one month after the date of the enactment of this Act.

The CHAIRMAN pro tempore. Pursuant to the rule, the gentleman from Michigan [Mr. BONIOR] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes. Is there some Member opposed to the amendment offered by the gentleman from Michigan [Mr. BONIOR]?

Mr. DICKINSON. Mr. Chairman, I will be glad to oppose it.

The CHAIRMAN pro tempore. The gentleman from Alabama [Mr. DICKINSON] is recognized for 5 minutes in opposition to the amendment.

The Chair recognizes the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I do not expect, frankly, to have much debate on this issue, because I think there is general agreement on it. But I think it has to be said that the principal test of a nation's commitment to the Persian Gulf conflict was the willingness to provide military forces. The American people sacrificed in this war. We put lives on the line. Therefore, I think it is quite appropriate and fair that the Nation who contributed the most to Kuwait's defense be the one to receive the greatest benefits of its reconstruction.

By now I think we all know that the devastation in Kuwait has been immense. Some estimates say it will cost at least $100 billion in infrastructure costs over the next 5 years to rebuild Kuwait.

Mr. Chairman, the amendment that I offer expresses the sense of Congress that contracts for the reconstruction of Kuwait be awarded, first, to the United States firms, using an American work force, and, second, only to firms from allied nations that committed troops to the Persian Gulf conflict.

The amendment requires a quarterly report from the President describing the country of origin of all business firms awarded Kuwaiti construction contracts. The President must also report on the number and percentage of U.S. citizens in the work force of American firms that are awarded such contracts.

Mr. Chairman, this amendment complements, and I want to commend the committee for this, the report language already in the bill that encourages the contracting of small businesses and disadvantaged businesses in the reconstruction of Kuwait. So far, as many Members know, the American firms to receive the contracts have been the very largest. We need to spread the wealth out to others who are competent and capable and willing to do the work.

Mr. Chairman, let me take time to compliment and join hands with my friend, the gentleman from Texas [Mr. WASHINGTON,] who after I am finished will offer an amendment requiring the President to take steps to ensure that the veterans of Desert Storm be given preference in jobs to rebuild Kuwait. This is exactly what we should be doing. It is time to start taking care of our own people, and I want to commend the gentleman from Texas [Mr. WASHINGTON] for participating with this amendment to improve this bill.

Mr. ASPIN. Mr. Chairman, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Wisconsin.

Mr. ASPIN. Mr. Chairman, I would like to say that we appreciate the amendment that the gentleman from Michigan [Mr. BONIOR] has offered. I have no objection to the amendment. I urge its adoption and would be willing to accept the amendment. We have no objection to it on our side.

Mr. DICKINSON. Mr. Chairman, I am certainly not going to call for a rollcall vote, but the very distinguished gentlewoman from Maryland [Mrs. BENTLEY] would like to speak on it. So I yield 2 minutes to the gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. Mr. Chairman, I thank the distinguished gentleman from Alabama for yielding the time.

Mr. Chairman, the Bonior amendment addresses a key issue: Those who bore the burden of helping liberate Kuwait, should share in the benefit of rebuilding that war-torn nation.

This amendment echoes the sentiments of a sense-of-Congress I introduced on January 3. I believe it is critical for us to support it. We, of course, helped our friends in Kuwait without the expectation of a reward. Helping them was morally and geopolitically correct.

When America sent its sons and daughters, husbands and wives to the Persian Gulf to defend Saudi Arabia and liberate Kuwait, America attached no conditions—unlike Japan and Germany, who made no military commitment, but did offer financial aid with strings attached for the benefit of their industrial base.

We need to let all of our allies, especially Japan, know that the United States excepts its friends to remember who their friends are—and that the generosity of the United States is not limitless.

Those who shoulder the burden should expect to share the reward.

Support the Bonior amendment.

I am pleased to join Ambassador Al-Sabah and an official delegation to make the first freedom flight into the State of Kuwait this Friday where we will be able to view firsthand the devastation heaped upon this small nation.

□ 1610

Mr. DICKINSON. Mr. Chairman, having the amendment explained to me, I withdraw my objection to it.

Mr. BONIOR. Mr. Chairman, I thank the gentleman for his anticipated support, and I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. DOWNEY). The question is on the amendment offered by the gentleman from Michigan [Mr. BONIOR].

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 4 printed in part 2 of House Report 101-17.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. TRAFICANT: At the end of the bill, add the following new section:

SEC. . SENSE OF THE CONGRESS.

It is the sense of the Congress that any American firm that receives contracts pursuant to this Act employ American citizens to carry out such contract.

The CHAIRMAN pro tempore. Pursuant to the rule, the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

Mr. ASPIN. Mr. Chairman, I will be designated as the Member in opposition.

The CHAIRMAN pro tempore. The gentleman from Wisconsin [Mr. ASPIN] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Bonior amendment declared a sense of Congress that Congress would like to see as many contracts given to U.S. firms as possible because of our effort in the gulf. In addition to that, there is certain reporting language and mechanisms within the bill. I think the bill is good.

The Traficant amendment just goes a little step further. It says that in addition to giving the contract to the American firms and companies, it is the sense of the Congress that these American firms and companies who are getting the work give some of that work, wherever possible, to American workers. The reason for this is that there was an article in the Washington Post that has now been widely circulated that many of the American companies who are getting some of these contracts are in fact not prepared, let me say that again, not prepared in many cases to hire American workers. They are looking to hire cheap foreign labor over in the region.

We cannot tie anybody's hands, and the Traficant amendment does not do that. But it urges those American companies who are getting those contracts to wherever possible try to hire American workers.

When it was time to die it was OK for American troops to be there in the desert, perhaps even giving their lives. Now that it is time to rebuild those particular countries, now I say it is time for American workers who have basically financed an awful lot of this effort, and our troops who have basically liberated Kuwait, to also not be forgotten in that particular aspect as well.

Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. APPLEGATE], chairman of a subcommittee of the Committee on Veterans' Affairs.

Mr. APPLEGATE. Mr. Chairman, I thank the gentleman for yielding the time and just want to rise in support of the Traficant amendment. I agree with what the gentleman is saying with regard to the Bonior amendment and to his own amendment.

Why is it that America spends and sacrifices and then always ends up on the short end? I think the Traficant amendment is right and I think it is just.

I am not so sure that if this thing does pass and we have a sense of Congress that the Bechtel Corp., which is already established over there, is going to come back and hire anybody from the United States. Chances are they are going to hire that cheap labor over in the Middle East so as to get the job done and make more bucks. But America and Americans have earned it. We have spent billions of dollars in American taxpayers' money and we have wasted 250 young men and women since August 2.

My colleague, Mr. TRAFICANT, and I are neighbors in eastern Ohio, and we know what it is to see the loss of jobs continually and having them exported outside of the United States. We have a deep recession in our area, in case anybody wants to know, and we are losing a lot of dollars. I think it is about time that we get some of those bucks back. We are losing it on trade and everything else, and this is a form of trade.

It seems to me since Japan and Europe have benefited the most out of this war, that America now should get a little bit of the chunk of the benefit. I say give American workers a break and allow them to be able to fill those jobs. Tell Bechtel to come back and hire Americans so that they too can join in some of the fruits of whatever victory that we came out of this with.

Mr. TRAFICANT. Mr. Chairman, I would just like to state that I think it is a reasonable amendment. The Bonior amendment made sense. American firms should get the lion's share. The President said not to worry, we will get the lion's share.

But I say to the Members here in the House, if American firms get the lion's share, but do all of the hiring in the Middle East, that is not too good for St. Louis, MO, or Cleveland, or Chicago, or Youngstown, and I think a reasonable safeguard for Congress is to at least let these companies know not to forget the American working people.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore. The gentleman from Ohio has 30 seconds remaining.

Mr. ASPIN. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I am in support of the gentleman's amendment. But I do believe the gentleman was mistaken in the statement that we have wasted 250 lives. I do not believe we wasted them.

Mr. TRAFICANT. If the gentleman will yield, I do not think I make that statement. I think that was some mistake associated with it.

Mr. CUNNINGHAM. Yes, sir, it was.

Mr. ASPIN. Mr. Chairman, let me say on this side of the aisle we agree with the gentleman in the well, the gentleman from Ohio [Mr. TRAFICANT]. We are willing to accept the amendment and we urge adoption of the amendment.

Mr. DICKINSON. Mr. Chairman, if the gentleman will yield, we have no problem with the amendment on this side.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 5 printed in part 2 of House Report 102-17.

AMENDMENT OFFERED BY MR. WASHINGTON

Mr. WASHINGTON. Mr. Chairman, I offer an amendment made in order under the rule.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. WASHINGTON: Add the following new section at the end of the bill:

SEC. . The President shall, through the Army Corps of Engineers, the Secretary of State, the Secretary of Commerce, and other appropriate Federal officers, take steps to assure that, to the maximum extent practicable, all contracts—

(1) that are entered into for the construction, reconstruction, or other restoration of

highways, roads, buildings, and other facilities (including petroleum production and refining facilities) in Kuwait (including contracts for the restoration of the environment); and

(2) that involved, in any manner directly or indirectly, the assistance (monetary or otherwise) of the United States,

contain a preference for the employment of veterans, as defined in section 101(2) of title 38, United States Code, who served on active duty as part of the Operation Desert Storm.

The CHAIRMAN pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. WASHINGTON] will be recognized for 5 minutes, and the gentleman from Wisconsin [Mr. ASPIN] will be recognized for 5 minutes in opposition.

The Chair recognizes the gentleman from Texas [Mr. WASHINGTON].

□ 1620

AMENDMENT, AS MODIFIED, OFFERED BY MR. WASHINGTON

Mr. WASHINGTON. Mr. Chairman, I ask unanimous consent that the pending amendment be considered in a modified form.

Mr. SOLOMON. Mr. Chairman, I reserve the right to object.

The CHAIRMAN pro tempore (Mr. DOWNEY). The Clerk will report the amendment, as modified.

The Clerk read as follows:

Amendment, as modified, offered by Mr. WASHINGTON: At the end of the bill, add the following new section:

SEC. 504. SENSE OF CONGRESS CONCERNING ASSISTANCE TO UNITED STATES SMALL BUSINESSES SEEKING TO BECOME INVOLVED IN THE REBUILDING OF KUWAIT.

(a) FINDINGS.—The Congress makes the following findings:

(1) The men and women of the Armed Forces together with allied forces have successfully liberated Kuwait and the independence and sovereignty of Kuwait have been fully restored.

(2) Much damage has been done to the infrastructure, environment, and industrial capacity of Kuwait and reconstruction of Kuwait's economy is desperately needed.

(3) Small businesses have always been the backbone of a prosperous United States economy.

(4) 57 percent of the United States workforce, totaling more than 67,000,000 individuals, are employed by businesses with fewer than 500 employees and these small businesses account for 50 percent of the goods and services produced by all United States businesses.

(5) Small and minority businesses are playing an increasingly important role in promoting a positive trade balance between the United States and its international trading partners.

(6) Small and minority businesses have expressed an interest in helping in the rebuilding and reconstruction of Kuwait, but face inherent difficulties in competing in foreign markets and in obtaining a share of procurement contracts from foreign governments, particularly procurement contracts which are awarded in distant parts of the world.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the President, the Administrator of the Small Business Administration, the Secretary of Commerce, the Secretary of Defense, the Secretary of State, the Export-Import Bank, and the Overseas Private Investment Corporation should cooperate in providing assistance to United States small businesses seeking to become involved in the rebuilding of Kuwait;

(2) the Administrator of the Small Business Administration should conduct a public information campaign using its local and national offices to advise United States small and minority businesses about becoming involved in the rebuilding of Kuwait;

(3) United States companies that have been awarded contracts pertaining to the rebuilding of Kuwait should whenever possible seek to subcontract with United States small and minority businesses; and

(4) all businesses that have been awarded contracts pertaining to the rebuilding of Kuwait should seek to hire where approppriate veterans of the Armed Forces.

Mr. WASHINGTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment, as modified, be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. SOLOMON. Mr. Chairman, reserving the right to object. Mr. Chairman, I have all the respect in the world for the gentleman who asks for this unanimous-consent request. My objection is not over any issue of merit whatsoever.

My objection is over the way that the Republicans were treated in the Committee on Rules, whereby 10 Democrat amendments, including the gentleman's, which I supported in the committee, were allowed, and no Republican amendments were allowed other than one by the Republican leaders.

We Republicans have a very innocuous amendment, miniscule in costs, which simply says that all returning reservists who have IRA accounts, individual retirement accounts, shall be able to benefit from the exemption of any 10-percent penalty on those IRA's should they meet a hardship and have to withdraw those funds early.

All I am asking is that we have a gentleman's agreement that the unanimous-consent by the gentleman from Arizona [Mr. RHODES] will be allowed to go through and that he will be allowed to offer his very simple amendment. That would cut the ratio down from 10 Democrat amendments to 2 simple Republican amendments.

Mr. Chairman, I would now continue to reserve the right to object.

Mr. ASPIN. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. Further reserving the right to object, I am happy to yield to the gentleman from Wisconsin, the chairman.

Mr. ASPIN. Mr. Chairman, let me respond to the gentleman from New York on the issue of the amendments.

I understand the gentleman's point there. In the attempt to make the amendment modification that the gentleman from Texas here is offering, we tried to work the deal that the gentleman is suggesting and try and get a unanimous consent all around that the Republican side be able to offer their amendment. I think that we ran into problems. The gentleman already has had a discussion with the gentleman from Massachusetts [Mr. MOAKLEY] and the gentleman from Illinois [Mr. ROSTENKOWSKI] on the issue, and we cannot get that unanimous consent.

So I guess where we are in there, and let me suggest to the gentleman from Texas, that if he would withdraw his unanimous-consent, that unfortunately, we will not be able to deal with the amendment that the gentleman from Texas, in the way that he wanted to, but I think we can perhaps deal with it in conference, but I think we cannot get to where the gentleman from New York wants to get.

The CHAIRMAN pro tempore. Does the gentleman from New York insist upon his reservation of objections?

Mr. SOLOMON. Mr. Chairman, continuing my reservation of objection, I would say just say again that I have all the respect for the gentleman. I support his modification. We are not arguing the merits. I will not withdraw my objection. Not only that, this is not just the beginning. This will carry on this week, next week, and the week after. The point is going to be made that there has to be fairness in this House.

I object, Mr. Chairman.

The CHAIRMAN pro tempore. Objection is heard. The unanimous-consent request is denied.

Mr. WASHINGTON. Mr. Chairman, in that event, I withdraw the unanimous-consent request.

The CHAIRMAN. The Chair would advise the gentleman that it has already been objected to.

Mr. WASHINGTON. Mr. Chairman, May I continue with the original amendment?

The CHAIRMAN pro tempore. The gentleman is recognized for 5 minutes in support of the original amendment.

Mr. WASHINGTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I understand the objection of the gentleman from New York did not really concern my amendment. It was on something totally different. I would like to thank the gentleman from New York as well as the chairman, the gentleman from Massachusetts [Mr. MOAKLEY], and the members of the Committee on Rules for making my amendment in order under the rule, and also I would like to thank the chairman, the gentleman from Mississippi [Mr. MONTGOMERY], and the chairman, the gentleman from Wisconsin [Mr. ASPIN], and the ranking member, the gentleman from Alabama [Mr. DICKINSON], and the staffs of both committees as well as my colleague, the gentleman from Michigan [Mr.

BONIOR], for the kind remarks he made a few minutes ago.

Mr. Chairman, this amendment is very straightforward. It would add a new section at the end of H.R. 1175 which directs the President to take steps to ensure that all contracts for the reconstruction of Kuwait, to the extent practicable, include a preference for the employment of veterans of Operation Desert Shield.

A vote on the adoption of my amendment is an opportunity to provide concrete assistance for returning veterans who wish to go back to Kuwait and be employed by Bechtel and Brown & Root and some of the companies from my area. I think it is a wonderful opportunity for those who may not otherwise be employed to have an opportunity to be fully employed.

Mr. Chairman, I reserve the balance of my time.

Mr. ASPIN. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. SISISKY].

Mr. SISISKY. Mr. Chairman, I would like to enter into a colloquy with the gentleman from Wisconsin.

Mr. Chairman, I support the proposed Washington modification. This modification would have incorporated a resolution sponsored by the gentleman from Ohio [Mr. ECKART] and myself. That measure, House Concurrent Resolution 95, would have expanded employment preference to all veterans, those from Desert Storm and, of course, our forgotten Vietnam veterans. It also extends preferences to our small and minority businesses, a preference that is currently addressed by the committee's report.

Mr. Chairman, this is clearly a good public policy, and I urge the chairman to revisit these issues in conference.

Mr. ASPIN. Mr. Chairman, will the gentleman yield?

Mr. SISISKY. I am happy to yield to the gentleman from Wisconsin.

Mr. ASPIN. Mr. Chairman, let me ask the gentleman from Texas [Mr. WASHINGTON] if he agrees that, in fact, the kind of thing that they were suggesting, that the gentleman from Virginia [Mr. SISISKY] and the gentleman from Ohio [Mr. ECKART] and the members of the Small Business Committee, the House Concurrent Resolution 95, is that consistent with the changes in the amendment that the gentleman was trying to offer here until we ran into the buzz saw?

Mr. WASHINGTON. Mr. Chairman, will the gentleman yield?

Mr. SISISKY. I am happy to yield to the gentleman from Texas.

Mr. WASHINGTON. Mr. Chairman, it is consistent with that. It was an opportunity for the House to not only allow that but it picked up the veterans of, not only veterans of this encounter, but all previous veterans, and I yielded to them because I thought that that was a more excellent idea and more encompassing and broad, and that is why I accepted the opportunity to offer that as a substitute for mine.

Mr. ASPIN. Mr. Chairman, if the gentleman will yield further, let me try and suggest something here, that we vote for the Washington amendment that is before us here with the understanding that what we will try and do in conference is to do the Eckart-Sisisky amendment coming out of the conference.

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. SISISKY. I am happy to yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, I would just like to say to both of the gentlemen, I cannot tell them how upset we are on this side of the aisle at the treatment we had. I know that it is a serious problem that you are dealing with here. It probably ought to be done on the floor of this House, if the House wants to work its will.

Mr. Chairman, if the gentleman wants to reoffer his unanimous-consent request, I will not object to it at this time, but I would just hope that the rest of the House is listening for the future.

Mr. ASPIN. Mr. Chairman, I thank the gentleman from New York. I think as to the gentleman from New York, we know how strongly he feels about that, and to give the gentleman from Texas a chance to do that, I think the gentleman has won a lot of appreciation on our side of the aisle.

Mr. Chairman, I want to tell the gentleman that I think what you have done, sir, is a class act.

Mr. Chairman, will the gentleman from Texas reoffer his unanimous-consent request to offer the amendment, as modified?

AMENDMENT, AS MODIFIED, OFFERED BY MR. WASHINGTON

Mr. WASHINGTON. Mr. Chairman, I ask unanimous consent to offer an amendment, as modified.

The CHAIRMAN pro tempore. The Clerk will report the amendment, as modified.

The Clerk read as follows:

Amendment, as modified, offered by Mr. WASHINGTON: At the end of the bill, add the following new section:

SEC. 504. SENSE OF CONGRESS CONCERNING ASSISTANCE TO UNITED STATES SMALL BUSINESSES SEEKING TO BECOME INVOLVED IN THE REBUILDING OF KUWAIT.

(a) FINDINGS.—The Congress makes the following findings:

(1) The men and women of the Armed Forces together with allied forces have successfully liberated Kuwait and the independence and sovereignty of Kuwait have been fully restored.

(2) Much damage has been done to the infrastructure, environment, and industrial capacity of Kuwait and reconstruction of Kuwait's economy is desperately needed.

(3) Small businesses have always been the backbone of a prosperous United States economy.

(4) 57 percent of the United States workforce, totaling more than 67,000,000 individuals, are employed by businesses with fewer than 500 employees and these small businesses account for 50 percent of the goods and services produced by all United States businesses.

(5) Small and minority businesses are playing an increasingly important role in promoting a positive trade balance between the United States and its international trading partners.

(6) Small and minority businesses have expressed an interest in helping in the rebuilding and reconstruction of Kuwait, but face inherent difficulties in competing in foreign markets and in obtaining a share of procurement contracts from foreign governments, particularly procurement contracts which are awarded in distant parts of the world.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the President, the Administrator of the Small Business Administration, the Secretary of Commerce, the Secretary of Defense, the Secretary of State, the Export-Import Bank, and the Overseas Private Investment Corporation should cooperate in providing assistance to United States small businesses seeking to become involved in the rebuilding of Kuwait;

(2) the Administrator of the Small Business Administration should conduct a public information campaign using its local and national offices to advise United States small and minority businesses about becoming involved in the rebuilding of Kuwait;

(3) United States companies that have been awarded contracts pertaining to the rebuilding of Kuwait should whenever possible seek to subcontract with United States small and minority businesses; and

(4) all businesses that have been awarded contracts pertaining to the rebuilding of Kuwait should seek to hire, where appropriate, veterans of the Armed Forces.

Mr. WASHINGTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment, as modified, be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN pro tempore. Is there objection to the amendment, as modified?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from Texas [Mr. WASHINGTON] has 4 minutes remaining.

Mr. WASHINGTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank the gentleman from New York for kindly acceding to the request so that this amendment can be considered. I understand his objection was not to the substance of the amendment to begin with.

Mr. Chairman and Members, what does that mean? This amendment embodies House Concurrent Resolution 95 which enjoyed very diverse bipartisan support and would express the sense of the Congress that contracts for the rebuilding of Kuwait include preferences for all veterans of Armed Forces including those from the Vietnam war as well as small business and minority and disadvantaged businesses.

Mr. COLLINS of Illinois, Mr. Chairman, although the war in the gulf is over, the fight against racial discrimination is entering a new arena.

Now that the time has come to begin the multibillion dollar rebuilding of Kuwait with the United States being asked by the Kuwaitis to play a major role, we must ensure that all United States firms are treated fairly. An equal opportunity to participate in this prosperous effort must be extended to all companies, without artificial or discriminatory boundaries being drawn between one and the next.

Yet, there are some indications that minority-owned businesses are not being included in the process. The Kuwaiti Government and the United States Department of Commerce are putting together a trip for certain large corporations and Members of Congress to lay the groundwork for the comprehensive effort. Apparently, there are no black nor Hispanic Members of Congress nor any minority business representatives slated to be on the trip. There is concern that the result will be a failure of minority-owned businesses to be included in any of the rebuilding contracts or subcontracts. The Kuwaiti Ambassador to the United States has agreed to discuss this matter with the Congressional Black Caucus during April. But even that offer has only minimal value as many of the plans are being drawn up during March.

In an operation as lucrative as the rebuilding of a country, there will be no excuse for minority-owned firms receiving anything less than a fair share of the contract awards. It is important that action be initiated now to take advantage of these opportunities, or else it will be too late.

If Kuwait wants America's help, it must understand that, along with certain benefits and privileges come certain responsibilities. In dealing with the United States, one must know that racial prejudice will not be tolerated. Fair, open competition, without special advantages and preferences for a select cadre of favored companies, is imperative. We must insist—and even demand—that the Kuwaiti Government conform to this vital American principle, especially when contracting with our country.

We gave them back their country. The least they can do is give us their respect for our democratic way of life and way of doing business.

Mr. Chairman, I strongly urge the Kuwaiti Government to reconsider the manner and impact of their contract-letting procedures and attitudes. A dose of discrimination could quickly poison the current well of good will.

The CHAIRMAN pro tempore. All time has expired.

The question is on the amendment, as modified, offered by the gentleman from Texas [Mr. WASHINGTON].

The amendment, as modified, was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 6 printed in part 2 of House Report 102-17.

For what purpose does the gentleman from Texas [Mr. BRYANT] rise?

□ 1630

AMENDMENT OFFERED BY MR. BRYANT

Mr. BRYANT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BRYANT of Texas: At the end of title I (page 7, after line 14), insert the following new section:

SEC. 109. WITHHOLDING OF PAYMENTS TO INDIRECT-HIRE CIVILIAN PERSONNEL ON NONPAYING PLEDGING NATIONS.

(a) GENERAL RULE.—Effective as of the end of the six-month period beginning on the date of the enactment of this Act, the Secretary of Defense shall withhold payments to any nonpaying pledging nation that would otherwise be paid as reimbursements for expenses of indirect-hire civilian personnel of the Department of Defense in that nation.

(b) NONPAYING PLEDGING NATION DEFINED.—For purposes of this section, the term "nonpaying pledging nation" means a foreign nation that has pledged to the United States in defraying the incremental costs of Operation Desert Shield and which has not paid to the United States the full amount so pledged.

(c) RELEASE OF WITHHELD AMOUNTS.—When a nation affected by subsection (a) has paid to the United States the full amount pledged, the Secretary of Defense shall release the amounts withheld from payment pursuant to subsection (a).

The CHAIRMAN. Pursuant to the rule, the gentleman from Texas [Mr. BRYANT] will be recognized for 5 minutes, and a Member in opposition will be recognized for 5 minutes.

Mr. DICKINSON. Mr. Chairman, I am in opposition to the amendment.

The CHAIRMAN. The gentleman from Alabama [Mr. DICKINSON] is reognized for 5 minutes in opposition to the amendment.

The Chair now recognizes the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. Mr. Chairman, America has once again gone far across the sea and invested enormous amounts of money, spent an enormous amount of money, and given up precious lives for the benefit of another country, an action for which America is proud, and also an action for which Americans expect to see our allies participate in paying for.

I think we are all waiting to see if the allies will pay their fair share of this enormously expensive and risky undertaking. The allies pledged to contribute $53.5 billion to offset American costs of the operations in the gulf for calendar years 1990 and 1991. To this point, they have actually paid only $14.9 billion; $12.2 billion was paid in cash, and $2.7 billion in in-kind contributions, or only 28 percent of their commitments.

There are, I think, realistic hopes that they will pay their contributions in full. I am proposing an amendment which would put our allies on notice that they must meet their pledges within 6 months, and if they do not pay their pledges, then we will not pay to those nonpaying nations the $2 billion in reimbursements which we now send to them for their government workers, which are called indirect-hire personnel that now work in our military installations abroad.

Mr. Chairman, indirect-hire personnel are the 76,000 indirect personnel employees of foreign governments that work to defend their nation in our military facilities, and today, 45 years after World War II, incredibly we still send about $2 billion a year overseas to reimburse these countries for the use of these employees of theirs, which are there to defend their country, not ours.

Last year, I worked closely with the chairman of the Committee on Armed Services, the gentleman from Wisconsin [Mr. ASPIN] and this House passed an amendment that would phase out that subsidy over the next 3 years. Unfortunately, that amendment was dropped in the conference committee. I submit to Members that this is an opportunity for Members to utilize that, I think, unrealistic and outmoded payment, as an incentive to see that those nations that agreed to help pay costs of the Desert Storm will do so within the next 6 months. If they do not, under the terms of this amendment, they would not receive their portion of the $2 billion reimbursement from the American taxpayers.

I submit to Members that it would be unfair to the American taxpayers to ask them to continue to subsidize foreign government workers who right now should be paid by their own government, regardless of Desert Storm pledges, anyway. However, it would be an outrage for the American taxpayers to pay these foreign government employees when those governments have not fulfilled their pledges to the United States with regard to Desert Storm.

Mr. Chairman, I reserve the balance of my time.

Mr. DICKINSON. Mr. Chairman, I think most of these amendments are probably a good idea, and I have no problem with them with the exception of this. I think it is probably the worst of those that are offered.

If I understand the thrust of this amendment, those nations who are making pledges to reimburse the United States for our expenditures in the Persian Gulf, this amendment prohibits the United States from reimbursing those countries from hiring their nationals, unless they live up to that pledge. The pledges have been freely given, and now are we going to put a reverse spin on it, and say, "OK, you freely made a pledge. If you don't live up to it we will penalize you. We will not allow you to hire your nationals."

The gentleman speaks of the American taxpayer paying these people. This is a pass-through from the gifts of the pledges the third-party countries are putting up, as I understand it. So when the gentleman says the United States taxpayers, we are also talking about money that other countries including Japan, Korea, Turkey, and others have given into this pot of money.

Mr. BRYANT. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Texas, and wonder if I did misunderstand it.

Mr. BRYANT. Mr. Chairman, there is no prohibition on the United States hiring any person, but the present practice of reimbursing foreign governments in a sum that now is equivalent to $2 billion a year for the costs they incur in hiring their own employees, which they then loaned to our military facilities which are there to defend them, not the United States, would be phased out under the amendment. This passed last year. That amendment was dropped out of the Committee on Armed Forces bill in conference.

What I am saying today, is if they do not pay their pledges to Desert Storm within 6 months, we will not pay that reimbursement. It is a very small thing, but surely it would be outrageous for the United States to continue to reimburse them and subsidize them at a time, if it turns out they do not make good on their pledges.

Mr. DICKINSON. If I may reclaim my time, I do not want to prolong this. I do not want to stretch it out. I do not even want to deal with it.

I am reading from the explanation that was given to me by my staff that the amendment would not allow reimbursements for foreign employees at U.S. bases unless the nation involved lives up to the amount pledged in support of Operation Desert Storm. In other words, they have made a free-wheel offer, and now we say, "OK, if you don't live up to your offer, then we cannot reimburse you to hire your national employees on U.S. bases." I think it would be counterproductive if that explanation is right.

Mr. BRYANT. If the gentleman will continue to yield, I would just refer the gentleman to the bill itself. It simply says that the Secretary of Defense, under that circumstance, should withhold payments to any nonpaying pledging nation. It does not prohibit the United States from hiring any person we want to hire, but we will not give money to the country.

Mr. ASPIN. If the gentleman will yield, let me try and explain something here that I think we are missing in the explanation. We can see if I am right about this, and I ask the gentleman from Texas [Mr. BRYANT] if this is the right explanation.

As I understand the amendment, what happens is that when these foreign nationals are hired, they are hired by the host country, and then they are assigned to do work in connection with the U.S. forces there. At some point we then reimburse the host country for their hiring of the local foreign nationals, so that the Government of Japan hires these people to work for the United States, and then we turn around and reimburse. What the gentleman's amendment says is that if they have not paid up on their pledge, we will not pay the reimbursement, which seems to me to go right to the heart of the problem which is that the government is not paying up on the pledges.

Mr. DICKINSON. I understand. So Japan has paid $1.4 billion plus to date; they have pledged $9 billion more. Now, what the gentleman wants to do is to say that Japan made a bad mistake. We are going to penalize Japan if they do not get the United States the whole $9 billion within 6 months. I really think we are not being very smart in this.

The CHAIRMAN. The gentleman's time has expired. The gentleman from Texas [Mr. BRYANT] has 2 minutes remaining.

Mr. BRYANT. Mr. Chairman, the explanation of the gentleman from Wisconsin [Mr. ASPIN] was correct.

Mr. ASPIN. Mr. Chairman, if the gentleman will yield, I think the gentleman's amendment here is something that we ought to pass. Clearly, if Japan is way short of their $9 billion, we are not going to be able to make it up with this technique, but if it is close, we could make it up.

In any case, it offers an incentive, and I think the House would be wise to vote for this amendment.

Mr. BRYANT. Mr. Chairman, I would simply conclude by observing that Japan says they will pay in 6 months, and if there is concern in this House about Japan, we are asking them to do what they said they will do.

However, we are way beyond the time in this Congress in which we should have asked a long time ago, our friends abroad, our allies, to begin paying their fair share of the common defense. This reimbursement we make is totally unjustifiable, anyway, and we should have eliminated it last year when the House passed a gradual elimination of it, but we lost that in conference.

My amendment says if our allies do not pony up with their pledges, we will not mail a check for the reimbursement. That is reasonable. I think it is fair. I think it is time we made a little bit of a strong statement with regard to burdensharing. I urge the Members to adopt the amendment.

☐ 1640

The CHAIRMAN pro tempore (Mr. DOWNEY). The question is on the amendment offered by the gentleman from Texas [Mr. BRYANT].

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 7, printed in part 2 of House Report 102-17.

AMENDMENT OFFERED BY MR. MCCLOSKEY

Mr. McCLOSKEY. Mr. Chairman, I offer —an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. McCLOSKEY: At the end of the bill, add the following new section:

SEC. . RELIEF FROM REQUIREMENTS FOR REDUCTION IN CIVILIAN PERSONNEL DURING FISCAL YEAR 1991

(a) WAIVER.—In implementing the reductions in the defense acquisition workforce required by section 905 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1621), the reductions allocated to a Department of Defense installation or facility before the date of the enactment of this Act with respect to fiscal year 1991 shall not apply if that installation or facility experiences an increase in workload during fiscal year 1991 (compared to its workload during fiscal year 1990) of 4 percent or more as a direct result of activities undertaken in support of Operation Desert Storm.

(b) FUNDING.—No funds may be expended during fiscal year 1991 for any incremental cost to the Department of Defense attributable to subsection (a) other than funds transferred from the Defense Cooperation Account or the Persian Gulf Working Capital Account pursuant to an appropriations Act.

The CHAIRMAN pro tempore. Pursuant to this rule, the gentleman from Indiana [Mr. McCLOSKEY] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

Mr. ASPIN. Mr. Chairman, I ask for the 5 minutes.

The CHAIRMAN pro tempore. The gentleman from Wisconsin [Mr. ASPIN] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Indiana [Mr. McCLOSKEY].

Mr. McCLOSKEY. Mr. Chairman, my amendment is very simple and has the strong support of Chairman ASPIN and numerous Members on both sides of the aisle.

It is a temporary response to substantial workload increases being realized at defense acquisition work force DOD civilian installations because of the contributions they have been making and are making and, quite frankly, will continue to make through Operations Desert Storm and Desert Shield.

Essentially, the amendment says that if there will be or has been a 4-percent increase in workload because of Operations Desert Storm and Desert Shield, there will not be a previously mandated 4 percent in the work force.

This amendment seeks to give the Department of Defense flexibility to have the work force to meet work demands resulting from the war.

Last year, section 905 of the authorization bill which came out of the Senate rather arbitrarily mandated reductions of 4 percent per year for 5 years in acquisition work force end strength levels. This amendment will lift this personnel reduction provision only for fiscal year 1991. That is only for this year and the 5-year period for installations which have experienced the forced increase in workload because of Desert Storm.

It also provides for flexibility in that it would not prevent the Department of Defense from cutting back on work force and personnel strengths where there have been drops in workload or where they so decide.

So this is a narrowly focused amendment which only affects installations which have contributed substantially in support of Operations Desert Storm and Operation Desert Shield and will have to continue to do so.

I might note that on the funding side no funds may be expended other than funds transferred from the defense cooperation account and the working capital gulf account.

Section 905 defined acquisition work force as broad categories within specific military commands.

So I note that beside being important to the ongoing security of our Nation, Mr. Chairman, it also affects the civilian economies in many, many districts and States.

Members should know that we have received many phone calls in my office that if they have installations involving the Army Information System Command, the Army Materiel Command, the Office of Naval Research, Naval Research Engineering Command, Naval Air Systems Command, Navy Sea Systems Command, Naval Space and Warfare Systems Command, Air Force Logistics Command, Air Force Systems Command, Air Force Communications Command, Defense Logistics Agency, and others, that this amendment would be a positive benefit and provide for greater work force flexibility and workload in their areas.

Mr. Chairman, I reserve the balance of my time.

Mr. ASPIN. Mr. Chairman, we have taken a look at this amendment offered by the gentleman from Indiana and find it to be a very good solution to what is a unique problem here.

When the Defense authorization bill was adopted last year, it was not envisioned that many of the DOD facilities affected by the 4-percent per year personnel reduction mandated by section 905 would at this time be faced with the prospect of having to deal with a significant surge in workload.

The gentleman's amendment proposes to build a measure of flexibility into the current law. This amendment would enable the Department to deal with the unforeseen consequences of the Persian Gulf operation, while at the same time preserving the integrity of the mandated reduction in the acquisition work force contained in last year's authorization bill.

Mr. Chairman, we accept the gentleman's amendment and urge the adoption of the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Indiana [Mr. McCLOSKEY].

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there any further amendments? If not, the question is on the committee amendment in the nature of a substitute, as modified, as amended.

The committee amendment in the nature of a substitute, as modified, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. TRAXLER] having assumed the chair, Mr. DOWNEY, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under the consideration the bill (H.R. 1175) to authorize supplemental appropriations for fiscal year 1991 in connection with operations in and around the Persian Gulf presently known as Operation Desert Shield/Storm, and for other purposes, pursuant to House Resolution 111, reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole?

If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. COX OF CALIFORNIA

Mr. COX of California. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. COX of California. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. COX of California moves to recommit the bill, H.R. 1175 to the Committee on Armed Services with instructions to report the same back to the House forthwith with the following amendment:

At the end of the bill, add the following new section:

SEC. 504. SENSE OF CONGRESS CONCERNING BALLISTIC MISSILE DEFENSES.

(a) FINDINGS.—The Congress makes the following findings:

(1) Ballistic missiles were used against United States and allied forces deployed in the Persian Gulf.

(2) Twenty-eight American soldiers were killed by a SCUD ballistic missile in Operation Desert Storm.

(3) Patriot missiles successfully defended against other SCUD ballistic missiles indiscriminately fired at the civilian populations of Israel and Saudi Arabia, proving that ballistic missile defenses can work.

(4) The proliferation of ballistic missile capabilities is ongoing, with an estimated 24 nations expected to have such capability by the end of the decade.

(5) The Soviet Union, according to the Director of Central Intelligence, is engaged in a strategic modernization program which "will substantially improve their strategic capabilities".

(6) Recent trends in the Soviet Union away from democratization and toward increased power exercised by the military and KGB, evidenced in the military crackdown in the Baltics, give rise to concerns about future Soviet intentions.

(7) There currently exist no defenses against ballistic missiles of all ranges for the American people.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the American people deserve to be protected from ballistic missiles of all ranges fired from anywhere on Earth;

(2) the protection of the American people from ballistic missiles of all ranges fired from anywhere on Earth must be a national imperative and congressional priority; and

(3) the Administration should negotiate an agreement with the Soviet Union which would allow the research, development, testing, and deployment of defenses against ballistic missiles of all ranges fired from anywhere on Earth.

Mr. DICKINSON (during the reading). Mr. Chairman, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

Mr. SOLOMON. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard. The Clerk will continue to read.

The Clerk concluded the reading of the motion to recommit.

The SPEAKER pro tempore. The gentleman from California [Mr. COX] is recognized for 5 minutes.

Mr. COX of California. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Speaker, the point of this motion to recommit is simply to put the Congress on record as the sense of Congress that it is time that we recognize the importance of ballistic missile defenses.

□ 1550

I do not think most of us would disagree with that proposition.

We tried to construct this in a way that would be acceptable to all Members of this body. The findings, essentially, point out the fact, remind us all of the fact that Scud missiles for the first time killed Americans. Twenty-eight Americans lost their lives because we did not have a ballistic missile defense that could work to prevent that attack. Scud missiles, however, were destroyed by the Patriot missile in every other case in which it was launched.

The American people deserve to be protected against ballistic missile attack, as well as people living abroad or American forces deployed abroad.

So, because we know that this is a national imperative, because the American people have now seen for the first time on C-SPAN the kind of destruction which exists if you do not have a ballistic missile defense and they have also seen how such defenses can in fact work, I think they are going to rightfully demand of us that we provide the ways and means of achieving the development and testing and eventually deployment of the system that would protect the American people.

Now, in the sense of Congress, we express that it is the sense that the American people deserve to be protected. I think that is something we would all agree with, that the protection should be a national imperative, a congressional priority. That ought to be our responsibility.

Finally, we ask the administration to negotiate an agreement with the Soviet Union which would allow the research, development, testing, and deployment of defenses against these ballistic missile defenses.

We are engaged in defense and space talks with the Soviets right now. Right now they will not agree to a treaty with the United States. We are simply suggesting that the administration—we are suggesting to the administration that the administration should continue those negotiations with the Soviet Union.

This, I think, Mr. Speaker, is something on which all Members of this body can agree, and I think that it is an important statement for us to make because if there is any lesson that we have learned from Desert Storm, it is that it is time to get on with the business of providing protection to our people from ballistic missile attack.

Mr. COX of California. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, I want to commend the gentleman from Arizona [Mr. KYL] for bringing up this mere sense-of-Congress resolution. It just makes a statement, and it does so within the context of the fact that we have no ballistic missile defenses at all in this country.

In the light of what we have seen on television night after night in the Middle East, Scud missiles coming in and Patriots shooting them down, it would seem that we in this country ought to avail ourselves of research, development, and, indeed, deployment of antiballistic missile defenses.

The beauty of this motion to recommit is it does not call for a rejection or repudiation of the ABM Treaty. It simply says, "Hey, we have no defense for ballistic missiles. We ought to have a defense for ballistic missiles, and we should negotiate an agreement with the Soviet Union that would allow research, development, testing, and development of defenses against ballistic missiles of all ranges fired from anywhere on Earth." That protects us from being blindsided from some Qadhafi or some ayatollah or some Saddam Hussein; it protects the entire country.

It is foolish, Mr. Speaker, and it is counterproductive not to at least consider negotiating with the Soviet Union on this modification of the ABM Treaty so that we might avail ourselves of this defense.

So I would hope this, of all things, does not get politicized and that it gets the full support from a gentleman whose judgment I respect on matters of defense, the chairman of the committee, the gentleman from Wisconsin [Mr. ASPIN].

The SPEAKER pro tempore (Mr. TRAXLER). Is the gentleman from Wisconsin opposed to the motion?

Mr. ASPIN. I am, yes, Mr. Speaker.

The SPEAKER pro tempore. The gentleman is recognized for 5 minutes.

Mr. ASPIN. Mr. Speaker, I rise in opposition to the motion. Let me just say that what the two gentlemen who have just spoken, the gentleman from Illinois and the gentleman from Arizona, have just talked a little bit about is a very, very important issue that we are going to have to reexamine, and that is the role of the United States concerned with ballistic missile defenses, how much we spend on it, SDI, and other things.

Clearly, the issue of the success of the Patriot is going to add to a renewed debate this year on the whole topic.

Basically, for us to deal with it here at this time is not the right point. We are going to have a chance when the Defense authorization bill comes to the floor, and the Speaker says bring the bill to the floor before the Memorial Day recess. We will have ample time to have a chance to discuss these issues and to discuss these positions then.

So I would urge that we do not clutter up the supplemental with issues that will clearly be debated at greater length and at greater opportunity for all of us when the authorization bill comes up in a couple of months.

Mr. Speaker, I would urge rejection of this motion and passage of the bill without it.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken, and the Speaker pro tempore announced that the noes appeared to have it.

Mr. COX of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 145, nays 281, not voting 5, as follows:

[Roll No. 47]

YEAS—145

Allard
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bereuter
Bilirakis
Bliley
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Chandler
Coble
Coleman (MO)
Combest
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Derrick
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hayes (LA)
Hefley
Herger
Hobson
Holloway
Hopkins
Houghton
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Johnson (CT)
Kasich
Kolbe
Kyl
Lagomarsino
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Michel
Miller (WA)
Molinari
Moorhead
Morrison
Myers
Nichols
Nussle
Oxley
Packard
Paxon
Porter
Pursell
Quillen
Ramstad
Ravenel
Rhodes
Rinaldo
Ritter
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shuster
Skeen
Slaughter (VA)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stump
Sundquist
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Valentine
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zimmer

NAYS—281

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Bentley
Berman
Bevill
Bilbray
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Clinger
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)

Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gonzalez
Gordon
Gray
Green
Guarini
Hall (OH)
Hamilton
Harris
Hatcher
Hayes (IL)
Hefner
Henry
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Hughes
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martinez

Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morella
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ray
Reed
Regula
Richardson
Ridge
Riggs
Roberts
Roe
Roemer
Rose
Rostenkowski

Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Zeliff

NOT VOTING—5

Glickman
Hammerschmidt

Levine (CA)
Miller (OH)

Udall

☐ 1717

Messrs. SAXTON, HUCKABY, BILIRAKIS, HOLLOWAY, and RINALDO changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

☐ 1720

ANNOUNCEMENT BY THE MAJORITY LEADER

Mr. GEPHARDT. Mr. Speaker, I would like to inform Members, so they can plan their schedules accordingly, that it is our intention to go to the Committee on Rules at 5:30 and ask for a rule to bring up the bill on the RTC yet this evening. It will take a half-hour or 45 minutes in the Committee on Rules. It will take an hour of debate on the rule, and then probably an hour of debate on the bill itself. So we are talking about 7:30, 8 o'clock, or 9 o'clock before that bill is before us. I just wanted Members to know what the plan is for this evening.

Mr. Speaker, as Members know, this is an important piece of legislation, and time is important.

The SPEAKER pro tempore (Mr. TRAXLER). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ASPIN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 398, noes 25, not voting 8, as follows:

[Roll No. 48]

AYES—398

Abercrombie
Ackerman
Alexander
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Barnard
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)

Collins (MI)
Combest
Condit
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson

Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Gonzalez
Goodling
Gordon
Goss
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee

Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak

Oakar
Oberstar
Obey
Olin
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Serrano
Sharp

Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Traficant
Traxler
Unsoeld
Upton
Vander Jagt
Vento
Volkmer
Vucanovich
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—25

Ballenger
Beilenson
Boehner
Conyers
Cox (CA)
DeLay
Dellums
Gradison
Grandy

Hancock
Henry
Houghton
Klug
McCrery
Michel
Nussle
Penny
Sensenbrenner

Stenholm
Stump
Thomas (CA)
Towns
Valentine
Visclosky
Walker

NOT VOTING—8

Bonior
Glickman
Hammerschmidt

Kleczka
Levine (CA)
Miller (OH)

Murtha
Udall

☐ 1729

So the bill was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to authorize supplemental appropriations for fiscal year 1991 for military activities of the Department of Defense and for defense activities of the Department of Energy, to improve military personnel benefits and veterans benefits, particularly for members of the Armed Forces who served in Operation Desert Storm, and for other purposes.".

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. KLECZKA. Mr. Speaker, during rollcall vote No. 48 on H.R. 1175 I was unavoidably detained. Had I been present I would have voted "aye."

GENERAL LEAVE

Mrs. BYRON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 1175, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

□ 1730

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 1175, NATIONAL DEFENSE SUPPLEMENTAL AUTHORIZATION ACT FOR FISCAL YEAR 1991

Mrs. BYRON. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 1175, as amended, the Clerk be authorized to make such clerical and technical corrections, including corrections in the title and section numbers and cross-references, as may be necessary.

The SPEAKER pro tempore (Mr. TRAXLER). Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO HAVE UNTIL 5 P.M. FRIDAY, MARCH 15, 1991, TO FILE REPORT ON H.R. 805, RESTORING EFFECTIVENESS OF EXPORT ENHANCEMENT PROGRAM

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture may have until 5 p.m. Friday, March 15, 1991, to file the report on H.R. 805, to restore the effectiveness of the Export Enhancement Program.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

TRIBUTE TO THE LATE LEROY COLLINS

(Mr. BENNETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BENNETT. Mr. Speaker, one of the finest men in public life in the State of Florida and throughout our entire Nation died today, Gov. Leroy Collins, who was also Secretary of Commerce some years past.

He was a very charming, very able, very dedicated citizen, a man who meant a lot to the State of Florida. He epitomized all of the finest dreams and the finest hopes that Florida had. He was a public official that nobody found anything wrong with, idealistic, vigorous, thoroughly a great leader.

So I know all Members who knew him when he was here in Washington, and people that knew him back home in the State of Florida, and all of the men and women who knew him in his lifetime join with me to wish his beloved widow, Mary Call, our best, and his children, and we hope that his idealism will be an inspiration to generations yet unborn.

FREEDOM OF INFORMATION PUBLIC ACCESS IMPROVEMENTS ACT

(Mr. KLECZKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and include extraneous matter.)

Mr. KLECZKA. Mr. Speaker, promoting a democratic and open government requires effective public access to Government information. This principle is embodied in the Freedom of Information Act [FOIA], which was enacted in 1966.

This law has performed an important public service to weed out wasteful spending, protect consumers, and call attention to abuses of Government authority.

One example is the case of 10 defense contractors which billed taxpayers for more than $2 million for their lobbying efforts. The Defense Department released this information to Common Cause, the group which requested it under the act.

Today, I am reintroducing FOIA reform legislation to increase and improve public access to Government information.

The need for this legislation is clear: Since modern methods of information storage utilize computer data bases rather than paper, the absence of a standard for electronically filed information can undermine the intent of FOIA.

The bill clears up this gray area by explicitly including computer and electronic records under the FOIA provisions, in the same manner as documents printed on paper.

It also closes restrictive loopholes concerning delays, unfair fees, and confusing regulations which have discouraged potential FOIA requesters.

This reform measure strenthens and clarifies the Freedom of Information Act and ensures a balance between national security concerns and the peoples' right to know. I ask my colleagues to support this legislation.

Mr. Speaker, I would now like to describe the bill's provisions in more detail. This legislation, which is identical to FOIA reform legislation I introduced in the 101st Congress (H.R. 2773), includes clarification of the FOIA status of computer and other electronic records.

Up until now, there has been no uniform governmentwide policy on information found on computer disks, tapes, or other electronic media. As a result of this lack of standards, Government agencies have responded to these requests with a great degree of latitude, with some agencies rejecting them outright while others provide them in full.

Thus, this legislation breaks new ground in what I call FOIA's new electronic frontier by redefining Government records to include "computerized, digitized, and electronic information" and by defining a records search to include "a reasonable amount of computer programming necessary to identify records." As a result, Government agencies would be directed to treat FOIA requests for records stored in computers and on other electronic media like those printed on paper.

The Freedom of Information Act was a landmark in the struggle for a more open government. Over the past 25 years, the public has benefited from FOIA in countless ways, including exposures of wasteful Government spending, consumer and employee health risks, and abuses of power by the Central Intelligence Agency and the Federal Bureau of Investigation. The majority of FOIA requests, though less speculative, have enabled journalists, scholars, and others to build a solid public accounting of the Government's activities.

Now that FOIA has been in force for a quarter century, it seems only appropriate that we evaluate the law's effectiveness, and devise changes which will make it work better. Overall, I believe that FOIA has fulfilled many of the public information goals Congress intended when it first approved this legislation. However, certain problems of substance and procedure have appeared.

Most troubling is the fact that many agencies use vaguely worded exemptions in the law to shield data which deserves to be released. The previous administration was particularly adept at misusing exemptions; these loopholes must be corrected before they can be further abused.

Regarding procedure, we have seen serious problems in delays, unfair fees, and confusing and inconsistent regulations for FOIA requests. While many agencies make a good-faith effort to meet the statutory 10-day deadline, most cases take considerably longer. Fee waivers are not always granted to requesters who deserve them, and, on occasion, billing practices have been used to intimidate those seeking information. Finally, inconsistent FOIA practices among the various agencies have created an unnecessary amount of confusion about the law, and no doubt many potential requesters are discouraged from using the law at all.

The bill I am introducing addresses problems with the current law in a number of ways:

Electronic records: The bill requires that electronic records be treated identically to paper records for FOIA purposes by explicitly defining Government records to include "computerized, digitized, and electronic information, regardless of the medium by which it is stored" and by defining a records search to include "a reasonable amount of computer programming necessary to identify records."

Exemptions: The bill revises exemptions to FOIA for national security, internal personnel, and financial institution records. The national security exemption would be revised to express a balance between the security need to protect information and the public need to disclose it. The internal personnel exemption would be eliminated, except for law enforcement manuals that may allow criminals to elude justice. The financial institution exemption would be sharply tightened to protect only the release of information that would directly injure the financial stability of such an institution.

Standardization of openness in the FOIA process: The bill requires that agencies maintain logs of FOIA requests and responses, organize their recordkeeping systems to promote easy and inexpensive access, and make public any special queueing procedures in processing requests. Also, the bill vests FOIA oversight powers within the Archivist of the United States. This position is the one most likely to provide independent and impartial supervision.

Time delays: The bill establishes a system of financial penalties against agencies failing to comply with legal deadlines, and broadens disciplinary sanctions against employees who deliberately obstruct requests. In addition, the bill would require expedited access procedures when circumstances demand urgent disclosures.

Fee waivers: The legislation makes it easier for requesters to qualify for reduced fees by clarifying fee waiver language enacted into law as a part of the 1986 omnibus anti-drug bill. It also broadens the categories of those eligible for the reduced fees to include individuals and nonprofit organizations.

The Freedom of Information Public Access Improvements Act is a thoughtful proposal which includes valuable insight from hearings conducted by the Committee on Government Operations, a panel on which I serve. The bill also enjoys the original cosponsorship of my colleague, Congressman BOB WISE, the chairman of the Subcommittee on Information. I hope my colleagues will join us in supporting FOIA reform.

TIME TO BECOME OIL SMART

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. McDERMOTT. Mr. Speaker, today I would like to call attention to a unique program in my district in Seattle. Last month, the Bullitt Foundation and a coalition of Northwest leaders announced the creation of "Oil Smart," an innovative program designed to promote conservation of world oil resources.

On five Wednesdays in February and March, people are asked to choose an energy-efficient means of transportation to and from the workplace—to walk, bicycle, take the bus, carpool or vanpool, work at home, or telecommute. The point of the program is not to eliminate the automobile, but to eliminate the wasteful use of energy and petroleum products.

Harriet Bullitt, founder and chair of the foundation's environmental committee, describes the program as:

> A new beginning for citizens everywhere to be "oil smart" by adopting simple yet effective oil and its impacts on the environment, public health, the Nation's trade imbalance and our quality of life.

The first Oil Smart Wednesday on February 27 encouraged public participation in conservation practices. The second one, on March 6, included Employer Awards for oil smart practices. Today the focus is on on health and environmental benefits of being oil smart. Next week will emphasize special education and school-related activities, And on March 27, Metro will provide a "ride free day" on King County buses in the Seattle area.

Mr. Speaker, I would like to commend Ms. Bullitt and her colleagues for developing this program. Our dependence on oil contributes to destruction of our environment, jeopardizes our national security, increases our trade deficit, adversely affects the public health, and, as anyone in my district knows, creates unbearable traffic congestion. If we are ever to break our addiction to oil, and particularly to foreign oil, we must begin by changing our own habits here at home and becoming oil smart.

Mr. Speaker, under leave to include extraneous matter, I include a recent article by Ms. Bullitt in the Seattle Post-Intelligencer that describes several important steps we could take to improve our energy efficiency and our energy IQ.

[From the Seattle Post-Intelligencer, Mar. 5, 1991]

'SMART' HABITS CAN REDUCE OUR DEPENDENCY ON OIL

(By Harriet Stimson Bullitt)

"Oil smart" is for everyone. It's for feeling good as you find ways to be fuel efficient. It's not for guilt trips; it's against waste, not cars. It's a way to think positively, to put belief into action and to make a constructive personal statement.

When the Bullitt Foundation proposed the "oil smart" program to conserve our finite oil resources, never did we imagine the widespread response.

The request was triggered inpart by the war in the Persian Gulf. While young Americans were sent to risk their lives, thousands at home took to the streets, able only to express frustration with candles and flags.

But there are tangible things we can do. Chiefly, we can reduce our wasteful dependency on oil, which has been growing alarmingly despite three profound warnings of the consequent hazards to our national security and economy: the oil boycott in 1973; the revolution in Iran in 1978; and the Persian Gulf war.

We consume so much oil and use it so recklessly that much can be done to reduce waste. For example, Germany and Japan use energy far more efficiently, producing twice as much economic output per unit of energy as we do.

In less than three weeks from our call for an Oil Smart Wednesday, civic and business groups, spear-headed by Mayor Norm Rice, County Executive Tim Hill, City Councilman George Benson, Sally Narodick, chairwoman of Greater Seattle Chamber of Commerce, Washington Environmental Council President Darlene Madenwald and others, not only urged an oil smart day—where citizens are called on to leave the single occupancy vehicles (SOVs) at home—but expanded the call to an additional month of Wednesdays. They are seizing the occasion to gather support for new and ongoing programs of petroleum conservation, focused especially on transportation.

Seattleites are known for taking pride in a clean and healthful city and for being in the forefront of conservation issues. But the influx of population, and the dispersal of jobs and housing, is overwhelming our ability to keep up. Congestion is getting worse. Fumes rising from gridlocked cars suck away lifegiving air.

During smog alerts, our hospitals fill with so many respiratory patients that Swedish Hospital has an aggressive campaign for its employees to reduce car commuter traffic.

There is, alas, not enough national leadership calling for conservation. Even so, a sense of realism, personal commitment and civic pride can be a powerful force for change. Northwesterners are capable of taking purposeful steps toward oil conservation at their own initiative, before the environment, the economy and our national security are degraded further.

What does "oil smart" consist of? It simply means to wake up to everyday oil and gas use, and make it go farther. Give Metro or car pooling a try. Travel with a friend instead of alone. Get healthful exercise by walking or jogging, rather than driving, to and from work.

"Oil smart" means that if employers offer free parking to employees, then incentives should encourage more efficent commuting; preferential parking for car pools, subsidized bus passes, support of telecommuting, and a shower room and lockers for those who can walk or cycle. (An employer in Davis, Calif., even offered employees free bicycles as an encouragement to try that healthful form of commuting. He reported that morale improved and he saved money by reducing his parking needs.)

Everyone has a different life situation, but being oil smart isn't meant to be a hardship. Everyone, even truck and taxi drivers, can practice conversation: properly inflate tires, keep fuel filters clean, moderate acceleration, do less stop-and-go driving. With less unnecessary congestion, those who have to drive can move faster, at an even pace, which causes less pollution.

In places where traffic has gotten completely out of hand, draconian measures are being used. In Mexico City drivers are prohibited by law from driving one day each week; they must exhibit a sticker declaring that day. In Singapore, cars are not allowed downtown during rush hours. In Los Angeles County stringent air pollution and efficiency standards are being enacted. We don't need to wait for Seattle to get that bad; we can do better by ourselves.

The turtle symbolizes "oil smart." In India teachings, the turtle is the oldest symbol for planet Earth. A mother symbol, it represents protection by its shell. The turtle teaches that bigger, stronger, faster are not as good as a pace that assures completion. In the fabled race with the hare, the turtle succeeded in doing what no one thought it could, one step at a time.

Habits, like using oil as if the well were bottomeless forever, may not change quickly, but they can adapt to need. Many believe that Americans, so wedded to the powerful, single-occupancy gas guzzlers, will never change. But think of the dramatic changes that Americans have made in the recent past; smaller family size, more recycling, less smoking, use of seat belts, lower consumption of fatty meats. Northwesterners can and do change.

Let's all join together. Reduce waste; be "oil smart"; believe in the turtle.

INTRODUCTION OF CIVIL RIGHTS AMENDMENTS ACT OF 1991

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter).

Mr. WEISS. Mr. Speaker, one of the most fundamental responsibilities of any democratic government is safeguarding the liberties of its citizens. By historically denying civil rights protections to gay men and lesbians, our Government shamefully has neglected that responsibility to an estimated 25 million Americans. To this day, there exist no Federal laws and no legal recourse to protect this minority when they encounter discrimination based on their private lifestyle or their public comportment. We can tolerate this inequity no longer.

Today, I have the privilege, along with 78 of our colleagues, of introducing legislation to prohibit discrimination on the basis of affectional or sexual orientation in employment, housing, public accommodations, public facilities, and federally assisted opportunities.

Why is such legislation needed? Quite simply, because gay men and lesbians face hostility and prejudice every day based on their admitted or perceived sexual orientation. The Lambda Legal Defense and Education Fund, which monitors these cases and represents victims of discrimination, logged over 1,200 calls and letters from individuals who had been subjected to some form of prejudice in over 30 categories of discrimination.

The most pervasive discrimination perhaps exists in the work setting. Employment discrimination occurs in many forms: Not being hired, being fired, not receiving job promotions, poor job evaluations, and recommendations, and verbal and physical abuse from coworkers and supervisors. In one such incident, a gay male postal worker in Detroit was subjected to verbal abuse and physical assault by his coworkers for over 1 year because of his gay lifestyle. His complaints to management fell on deaf ears and when he filed a report to the Equal Employment Opportunity Commission, the case summarily was dropped because sexual orientation is not protected by title VII.

In addition, just last month, Cracker Barrel Restaurants, a major chain of family style eateries, fired at least three gay employees after announcing a corporate policy to ban workers whose sexual preferences fail to demonstrate normal heterosexual values. The new policy stated the company's desire to uphold traditional American values as justification for terminating gay employees. What about the traditional American values of fairness and equality? What about the democratic principles of liberty and the constitutional right to privacy? The only tradition which this policy perpetuates is the poison of discrimination. With the absence of Federal laws and the absence of local laws in Tennessee to protect these employees, they were powerless. Cracker Barrel eventually withdrew the policy after tremendous public outcry. In addition to the pain and suffering which this discrimination inflicts on the individuals, it robs our country of the talents and productivity of millions of its citizens.

There is a clear trend around the country to prohibit such discrimination. A Gallup poll conducted last year demonstrated that 70 percent of all Americans support opportunities for gay men and lesbians. Also, more than 80 State and local jurisdictions prohibit similar discrimination, including a dozen that added such laws last year—such as Syracuse, Pittsburgh, Flint, Kansas City, and Denver. These cities join Massachusetts and Wisconsin, and cities like Chicago, New York, and Baltimore in adopting these laws.

Many groups and organizations also have long stood for civil rights protection for gays and lesbians. These include most major unions, health, civil rights, government, church, women's, and other professional organizations. In addition, last December, the General Motors Corp. became the most recent major corporation to add sexual orientation to its fair employment policy.

This legislation would not provide any special privileges nor make any value judgement about homosexuality. Rather, it is designed to ensure gay men and lesbians their unalienable rights as American citizens.

Discrimination in any form, against any class of people, should be abhorrent to any civilized society. I urge my colleagues to join this effort to guarantee full and equal protection to gay men and lesbians, and thank those Members listed below, who have already signed as cosponsors for the 102d Congress.

LIST OF COSPONSORS

Henry Waxman, Christopher Shays, Chet Atkins, Sidney Yates, Nancy Pelosi, Howard Berman, James Moody, Pat Schroeder, Jim McDermott, and William Lehman.

Robert Matsui, Don Edwards, Morris Udall, Edward Roybal, Bill Green, Barney Frank, George Miller, Bob Mrazek, Charles Rangel, and Ronald Dellums.

Sam Gejdenson, Gerry Studds, Cardiss Collins, Mel Levine, Jolene Unsoeld, Charles Schumer, William Clay, John Lewis, Constance Morella, and Barbara Boxer.

Peter Kostmayer, Julian Dixon, Craig Washington, Fortney "Pete" Stark, Joseph P. Kennedy II, Charles Hayes, Tony Beilenson, Alan Wheat, Lane Evans, and Peter DeFazio.

Tom Foglietta, Les AuCoin, Edolphus Towns, Major Owens, John Conyers, Ben Cardin, Vic Fazio, Kweisi Mfume, Gary Ackerman, and Harold Ford.

James Scheuer, Eleanor Holmes-Norton, Mervyn Dymally, Elliot Engel, Steny Hoyer, Nita Lowey, Jose Serrano, George Brown, Patsy Mink, and Barbara Kennelly.

Neil Abercrombie, Matthew Martinez, Maxine Waters, John Miller, Martin Sabo, Thomas Andrews, Tom Campbell, William Coyne, Robert Torricelli, and Rosa DeLauro.

Louis Stokes, Barbara-Rose Collins, Louise Slaughter, Gerry Sikorski, Stephen Solarz, Edward Markey, Donald Payne, and Edward Feighan.

H.R. 1430

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights Amendments Act of 1989".

SEC. 2. AMENDMENTS TO CIVIL RIGHTS ACT OF 1964.

(a) PUBLIC ACCOMMODATIONS.—(1) Section 201(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000a(a)) is amended by striking "religion," and inserting "religion, affectional or sexual orientation,".

(2) Section 202 of such Act (42 U.S.C. 2000a-1) is amended by striking "religion," and inserting "religion, affectional or sexual orientation,".

(b) PUBLIC FACILITIES.—Section 301(a) of such Act (42 U.S.C. 2000b(a)) is amended by striking "religion," and inserting "religion, affectional or sexual orientation,".

(c) FEDERALLY ASSISTED PROGRAMS.—Section 601 of such Act (42 U.S.C. 2000d) is amended by striking "color," and inserting "color, affectional or sexual orientation,".

(d) EQUAL EMPLOYMENT OPPORTUNITIES.—(1) Sections 703(a), 703(b), 703(c), 703(d), 703(e), 703(h), 703(j), 704(b), 706(g), and 717(a) of such Act (42 U.S.C. 2000e-2(a), 2000e-2(b), 2000e-2(c), 2000e-2(d), 2000e-2(e), 2000e-2(h), 2000e-2(j), 2000e-3(b), 2000e-5(g), and 2000e-16(a)) are amended by striking "sex," each place it appears and inserting "sex, affectional or sexual orientation,".

(2) Section 717(c) of such Act (42 U.S.C. 2000e-16(c)) is amended by striking "sex" and inserting "sex, affectional or sexual orientation,".

(3) Section 703(h) of such Act (42 U.S.C. 2000e-2(h)) is amended by striking "sex" the first place it appears and inserting "sex, affectional or sexual orientation,".

(4) The heading of section 703 of such Act is amended by striking "SEX," and inserting "SEX, AFFECTIONAL OR SEXUAL ORIENTATION,".

(e) INTERVENTION BY ATTORNEY GENERAL IN CIVIL RIGHTS CASES.—Section 902 of such Act (42 U.S.C. 2000h-2) is amended by striking "sex" and inserting "sex, affectional or sexual orientation,".

(f) DEFINITION; RULES OF INTERPRETATION.—Title XI of such Act (42 U.S.C. 2000h et seq.) is amended by adding at the end the following new section:

"AFFECTIONAL OR SEXUAL ORIENTATION

"SEC. 1107. (a) DEFINITION.—For purposes of titles II, III, VI, VII, and IX of this Act, the term 'affectional or sexual orientation' means male or female homosexuality, heterosexuality, and bisexuality by orientation or practice, by and between consenting adults.

"(b) RULES OF INTERPRETATION.—(1) Nothing in this Act shall be construed to permit or require—

"(A) that a finding of discrimination on the basis of affectional or sexual orientation be based on any statistical differences in the incidence of persons of a particular affectional or sexual orientation in the general population as opposed to the incidence of such persons in the activity concerned; or

"(B) the use of any quota as a remedy for discrimination on the basis of affectional or sexual orientation.

"(2) Nothing in this Act shall be construed to require any person to disclose a personal affectional or sexual orientation.".

SEC. 3. AMENDMENTS TO FAIR HOUSING ACT.

(a) HOUSING SALE AND RENTAL, RESIDENTIAL REAL ESTATE-RELATED TRANSACTIONS, AND BROKERAGE SERVICES.—(1) Section 804 of the Civil Rights Act of 1968 (42 U.S.C. 3604) is amended by striking "religion," each place it appears and inserting "religion, affectional or sexual orientation (as such term is defined in section 802(p)),".

(2) Section 805 of such Act (42 U.S.C. 3605) is amended by striking "religion," each place it appears and inserting "religion, affectional or sexual orientation (as such term is defined in section 802(p)),".

(3) Section 806 of such Act (42 U.S.C. 3606) is amended by striking "religion," and inserting "religion, affectional or sexual orientation (as such term is defined in section 802(p)),".

(b) PREVENTION OF INTIMIDATION.—Section 901 of the Civil Rights Act of 1968 (42 U.S.C. 3631) is amended by striking "religion," each place it appears and inserting "religion, affectional or sexual orientation (as such term is defined in section 802(p)),".

(c) DEFINITION.—Section 802 of the Civil Rights Act of 1968 (42 U.S.C. 3602) is amended by adding at the end the following new subsection:

"(p) 'Affectional or sexual orientation' means male or female homosexuality, heterosexuality, and bisexuality by orientation or practice, by and between consenting adults.".

(d) RULES OF INTERPRETATION.—(1) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.) is amended by adding at the end the following new section:

"RULES OF INTERPRETATION REGARDING AFFECTIONAL OR SEXUAL ORIENTATION

"SEC. 821. (a) FINDINGS OF DISCRIMINATION; QUOTAS.—Nothing in this Act shall be construed to permit or require—

"(1) that a finding of discrimination on the basis of affectional or sexual orientation be based on any statistical differences in the incidence of persons of a particular affectional or sexual orientation in the general population as opposed to the incidence of such persons in the activity concerned; or

"(2) the use of any quota as a remedy for discrimination on the basis of affectional or sexual orientation.

"(b) PROTECTION OF PRIVACY RIGHTS.—Nothing in this Act shall be construed to require any person to disclose a personal affectional or sexual orientation.".

(2) Title IX of such Act (42 U.S.C. 3631 et seq.) is amended by adding at the end the following new section:

"APPLICATION OF RULES OF INTERPRETATION

"SEC. 902. The provisions of this title are subject to the rules of interpretation described in section 821 of this Act.".

HONORING GAMMA PHI—75TH ANNIVERSARY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. COYNE] is recognized for 5 minutes.

Mr. COYNE. Mr. Speaker, the weekend of March 16 marks to the 75th anniversary of the Gamma Phi fraternity of Duquesne University, in Pittsburgh, PA.

The Gammas hold the distinction of being the first fraternity established at Duquesne. They are also the oldest continuing local Greek organization in the Nation. Over their long history, the Gamma Phi fraternity, and Duquesne University, have produced many graduates who have distinguished themselves in the arts, business, education, law, and pharmacy. These include the late Chief Justice of the Pennsylvania Supreme Court, Henry X. O'Brien, Judge Joseph Ridge of Allegheny County, Merle Gilliand, former chairman of the Pittsburgh National Corp., Rev. Henry J. McAnulty, former president of Duquesne University, and renowned actor, Tom Atkins.

Over its history, the brothers of Gamma Phi have supported numerous philanthropic activities, most notably, the Muscular Dystrophy Association. The fraternity has been actively involved in many campus events such as carnival, intramural sports, student government, the campus newspaper, the yearbook, and the annual dance marathon. Gamma alumni have also worked diligently in fundraising activities on behalf of Duquesne University, continuing to serve in this important capacity.

Our best wishes go out to the brothers of Gamma Phi on their 75th anniversary. May they continue to be an active part of the Duquesne University family for many years to come.

REQUIRING ACCOUNTABILITY FROM THE RESOLUTION TRUST CORPORATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. ANDREWS] is recognized for 5 minutes.

Mr. ANDREWS of New Jersey. Mr. Speaker, across my district tonight there are people suffering from both the long-term and short-term recession that has hit this country. There are construction workers in my district who have no work. There are small business people in my district who cannot borrow money, and there are employers throughout my district who cannot do the kinds of things that they want to do and that we want to see them do.

Part of the reason for that is our continuing crisis in the banking field in general and the thrift field in particular. Tonight, once again we are going to be asked, Mr. Speaker, in this House to hand over more public money to the RTC in an attempt to solve this problem.

Mr. Speaker, I have absolutely no doubt about the good faith and intentions of all of the amendments that have been put forth in this debate thus far. But I have opposed each of these amendments and I intend to oppose those offered tonight, from what I understand of them, not because of a lack of good intentions, but a lack of good results. I have to ask whether the amendments that have been put forth really solve the problem or simply repeat the error that has caused the problem in the first place.

Mr. Speaker, we have the crisis in the savings and loan industry today because we have engaged systematically in a series of reckless and irresponsible public subsidies with the taxpayers' money without asking anything in return. For years the FSLIC system in this country said it is perfectly OK for reckless investors to take risks with other people's money and if they succeed, they make the profit, but if they fail, the rest of us pay.

I would argue, Mr. Speaker, that the reason we have the S&L crisis is we have recklessly given public subsidies and asked nothing in return for the public good. The so-called solutions that we have been presented with repeat that same error. They seek massive public subsidies, ultimately to be paid for by massive tax increases, massive subsidies to an unresponsive and unproductive new bureaucracy, the RTC.

There has been one proposal put forth thus far that I think merits close attention from the Members of this House. It has been put forward by my freshman colleague, the gentleman from Florida [Mr. BACCHUS]. Mr. BACCHUS's idea is very simple. It is that we should stop treating the RTC like a Government bureaucracy and start treating it like an entrepreneurial institution, and go to the RTC with this very simple proposition: When you perform, we will produce. When you begin to move and expedite the sale of assets back into the productive economy of this country, then we will come forward with the public money, but not until you have produced.

I believe that we can ask the RTC to form all the new committees that we want. We can ask the RTC to write all of the reports that we want. We can continue to treat the RTC like another large public bureaucracy and what we will get will be more failure, more public spending, and ultimately more taxes for the working men and women of America. Or we can take the approach that Mr. BACCHUS has recommended and which I support, which would say to the RTC we will begin to treat you like a business. Produce, marshal the assets, evaluate the assets, sell the assets, and for every dollar of asset sales that you produce you will resolve $1 of public funds.

Let us demand accountability from the RTC, and let us make sure that we do not repeat the sins of the past that brought us into this situation that we are in today.

□ 1740

Mr. Speaker, I would urge my colleagues to consider letting the Baucus amendment get to this floor so we can debate it and discuss it and begin to approach this problem in a new way that brings relief to our economy and justice to the American taxpayers.

LET US NOT FORGET ESTONIA, LATVIA, AND LITHUANIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. HOYER] is recognized for 5 minutes.

Mr. HOYER. Mr. Speaker, we have seen some amazing things happen on the international scene of late.

All Americans are proud of their Armed Forces and the men and women who secured such an effective and complete victory in the Persian Gulf, but we should also remember as we cheer that victory that other battles for freedom are going on around the world.

Another important step in the battle for freedom occurred in the Baltic States on March 3. Latvia and Estonia joined their neighbor, Lithuania, in unprecedented fair and free plebiscites which resulted in overwhelming votes in favor of independence.

Mr. Speaker, let me demonstrate the extent of their support. In Latvia, 87 percent of the electorate voted. Would that we in the United States, in my own State of Maryland, in California, in Florida, or in other States around the Nation, could say that 87 percent of our people took the opportunity to vote. Of that 87 percent, more than 73 percent voted for independence. Now, this ought to be considered in light of the fact that 36 percent of the population of Latvia is of Russian extraction, and only 52 percent is ethnic Latvian, so it is clear that at least one-half of the so-called Russian-speaking population of Latvia voted for independence. Of course, when I say voted for independence, please recall that it is the position of the United States and, indeed, the position of the Latvian Government, the Lithuanian Government, and Estonian Government that they are already de jure independent sovereign states, albeit occupied states.

In Lithuania, 82 percent of the electorate turned out and supported independence by almost 78 percent.

The results of these three plebiscites are a dramatic confirmation, Mr. Speaker, of the opinions we on the Helsinki Commission, heard when we visited Estonia, Latvia, and Lithuania 3 weeks ago. When we traveled to the Baltics, we met with the Presidents of each Republic, and we met with the freely, democratically elected parliamentarians of those three states. They universally reflected the opinion of their people that they strove for, aspired for, and, yes, indeed, would fight for their freedom.

These Baltic Republics have proclaimed loud and clear their wish for independence.

Mr. Speaker, the Helsinki Commission participated as observers in the Latvian and Estonian plebiscites of which I have just spoken, and will also have observers present during the all-Soviet referendum on the retention of the Union scheduled for March 17.

Mr. Speaker, as we focus on the Persian Gulf, tragedies occurred in Lithuania and in Latvia. Lives of innocent, unarmed citizens, were taken simply because they were standing for democracy and for freedom and for independence.

It is appropriate that we recognized the great victory in the Persian Gulf, that we stopped aggression, that we took a bold step for the legal process in the international community, that we took a step to preclude larger neighbors from intimidating their smaller neighbors.

Mr. Speaker, let us in the days ahead focus on the peoples of the Baltic States, three small states, incorporated into the Soviet Union as the result of a deal between Hitler and Stalin in that infamous Molotov-Ribbentrop pact.

For the last 40 years, the United States has not recognized their incorporation into the Soviet Union. To this day, the Baltic States continue to stand for freedom.

Let us in the executive department and the legislative department and all the citizens of the United States who have been the beacon for democracy and freedom throughout the world, let us make sure that we do not forget these three small democratic nations who aspire, as our Founding Fathers did, to breathe free.

JAPAN'S CONTRIBUTION TO THE GULF WAR EFFORT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. KLECZKA] is recognized for 5 minutes.

Mr. KLECZKA. Mr. Speaker, with the memories of the Persian Gulf war still fresh in the hearts and minds of this great country, America welcomes home our brave and victorious military personnel and grieves for those men and women who lost their lives or were injured in the desert fighting. During this time of reflection, we must consider the issue of our noncombatant allies' financial contributions to the war effort.

Last Wednesday, one of those allies, Japan, took a step in the right direction when parliament approved Prime Minister Toshiki Kaifu's pledge to contribute $9 billion to help cover the costs of the war. Japan should be commended for belatedly honoring their pledge and acknowledging their debt to our Nation. I hope this is the beginning of a new era in which Japan accepts responsibility for a role in international affairs commensurate with its economic might.

The Japanese Constitution, which bars Japan from Military deployment overseas, insulates both the Japanese people and their commerce from the financial and human costs of war, and allows Japan to refrain from supporting multilateral peacekeeping efforts with troops.

Japan's retreat from world affairs was clear in the gulf war. Despite relying on the Persian Gulf region for 50 percent of their oil, it played only a minor role in the allied war effort. If the people of Japan were disinterested in a conflict bearing directly on their vital national interests, which the gulf war certainly did, how involved will the Japanese be in future conflicts with less direct impact on their country? Will Japan stay in its shell when the next threat to world peace develops?

One lesson we can gain from the gulf war is Japan's continuing misconception of the United States as the world's police force, always willing to assume the entire economic and military hardship during international crises. With our budget deficit and growing economic problems, the United States can no longer resolve world problems alone. We have to work with other members of the United Nations for peace and international justice. The time has come for Japan to share the burdens of maintaining world peace with us and other industrialized nations.

WE WERE ELECTED TO SERVE AMERICA, NOT KUWAIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. SAVAGE] is recognized for 5 minutes.

Mr. SAVAGE. Mr. Speaker, I wish to say something about H.R. 1175 that we just adopted, because it was the first legislation regarding Desert Storm that I have supported, and I supported it because it provides benefits for veterans and soliders in that campaign, but also because of the amendment proposed by my dear colleague, the gentleman from Texas [Mr. WASHINGTON], that was added to the bill on this floor.

Mr. Speaker, that amendment was the first to urge this Government, as well as American prime contractors in the rebuilding of Kuwait, urging them to encourage and permit the fair participation of African-American and other minority-owned businesses in that rebuilding.

It is a shame that we have to pass a law to force this administration and American companies to do what is right. When 22 percent of the troops there were African-Americans, it is a shame to have to ask this administration, while it waves its flag about democracy and justice, it is a shame to have to pass a law to make it deal fairly with African-American businesses.

Also, may I add that it was a disgrace that if the reports are accurate that Kuwait, the representatives of Kuwait are saying that they are giving preference to those who supported America going to war against Iraq. Well, since 18 out of the 26 members of the Congressional Black Caucus here voted against that, it means that while black troops helped save Kuwait in disproportionate numbers to our share of this population, the same country that we were willing to risk our lives to try to save so disrespects us, that it would dare say that if we do not support America's war against Iraq, that we would not have preference with regard to dealing with the rebuilding of Kuwait. That is an undue interference, an undue effort to influence, to intimidate the duly elected Members of this body.

Mr. Speaker, we did not get elected by Kuwaitis, and we do not serve them. We are Americans first, and it was in our hearts and our beliefs that it was in the best interests of those we represent that America not be militarily involved in the Middle East, and for a government who we saved that could not save itself to say that it feels as though it might punish us for that is what made it necessary for the Washington amendment to be attached to H.R. 1175.

I hope that those in the other body will think of this when they deal with this same subject, and that the joint conferees will include the gentleman from Texas [Mr. WASHINGTON] out of special regard and thanks for his sensitivity to this problem, because I believe what he did was in the best interests, perhaps not of Kuwait, but certainly of America, all Americans of all colors and all genders.

□ 1750

DEBATE TIME ALLOTMENT

The SPEAKER pro tempore. (Mr. ABERCROMBIE). Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes.

Mr. OWENS of New York. Mr. Speaker, yesterday we had before members legislation that was related to the Resolution Trust Corporation. We had a proposal which would have provided for an outlay of $30 billion, b-i-l-l-i-o-n. That is $30 billion in cash that would have triggered a process by which another $47 billion would be borrowed. So we were talking about a $77 billion proposition.

Yesterday morning during the 1-minute sessions, I appealed to the leadership of the House to at least allow for an 8-hour debate on this nearly $80 billion bill. That would be an average of $10 billion per hour, instead of the 4 hours that was allotted. Of course, my cries went unheeded. When I appealed to the managers of the bill on the floor for time to speak, they could not give it to me. I do not criticize them at all because so little time to debate was allowed, that even members of the committee did not have time for ample discussion and expression of their views. I am sympathetic with the managers. They had to first allow members of the Committee an opportunity to speak. That was not possible.

It is very unfortunate that for a bill which is as important as anything we will consider this year, a commitment of another $77 billion to an enterprise which is producing nothing, is merely paying back what has already been stolen and plundered, that we did not have more time to debate. We set a very important precedent during the debate on the gulf war. I want to congratulate the leadership at that time, because the leadership extended the debate on the gulf war in a manner which allowed every Member that wanted to speak on that very important item, that important set of resolutions, to have at least 5 minutes to speak. Every single Member who wanted to speak had that opportunity.

I do not see why it is not possible on all occasions, when there are important items before the House, items considered important enough by the Members to provide for an opportunity for every Member to speak. I think it is undemocratic the way we insist on the limiting of a debate, especially on very important issues. I hope that it would not be necessary, always, for me to come to the floor, as what I call a refugee, a refugee from the undemocratic processes of the House, and speak after the session is over, in special orders, because I could not get time on the floor to speak. I would much rather speak during the debate. I would hope that other Members, also, would have an opportunity to speak on these very vital issues.

The Resolution Trust Corporation, related to the bailout of the savings and loan association has a tremendous impact on everything we do here. Our budget is the most important concern of the Federal Government. The budget touches the life of every American. The taxes to pay for the bailout of the savings and loan association touches the life of every American. Every taxpayer will have to pay more taxes. The estimates range from $2,500 to $4,000, that is an estimate that was set forth a year ago. I do not know what the estimate is now. The estimate for the total bill for the savings and loan bailout by the most conservative estimates is $500 billion. Stanford University has a study which says that when we add all the interest in and spread it all out, including administrative costs, and spread it over 30 years, we are talking about more than a trillion dollar expense. What could be more important at this moment in our legislative calendar than the Resolution Trust Corporation, which is now providing a new infusion of cash for the resolution for the bailout of the savings and loan associations? What could be more important?

We do not have a clogged agenda, a clogged legislative calendar. We are not that busy. Why could we not set aside a period of time which would allow every Member to express himself on this very important issue? Why do we have to rush? Today we are about to experience another attempt to stampede the Congress into passing a band-aid relief for this very important fiscal draining enterprise. We are about to have come to the floor a request to move expeditiously, and in 1 hour of debate, decide what we could not decide yesterday in 4 hours.

I think that this is cowardice on the part of the Congress, really, to confront this monster, cowardice by our refusal to confront what literally takes food out of the mouths of babies, what threatens any progress in terms of the redevelopment and the reinvestment of the infrastructure of the country because it drains away money that could be used for that, what threatens any Federal involvement in education to a significant degree. A significant involvement means that it has to be some money, not just jawboning and rhetoric. Such a large monster is threatening so much dear to everyone, should not be allowed to exist without an appropriate review and discussion. I think it is very unfortunate that we take that route.

I want to commend the committee, the chairman of the committee, the gentleman from Texas [Mr. GONZALEZ]. I want to commend him, first of all, for the fact that he has consistently stood up to the efforts to completely move this in a mysterious backroom fashion. Last session there was an attempt to sort of slide it through and take care of it without any discussion at all, and then there have been efforts to sort of establish an open-ended funding mechanism for the bailout of the savings and loan associations so they could just drain money away and never have any discussions of what is going on, what are the shortcomings of the program, and how are we going to prevent similar kinds of things from happening. It is very important that we discuss what is happening in this process, and how we are going to prevent similar kinds of catastrophes, similar kinds of swindles, similar kinds of corruption, a similar kind of criminality taking place in other institutions that are guaranteed with the taxpayers' money.

The commercial banks are in serious trouble. We do not have to be a genius to understand the implications of what we read from day to day. They say that they can take care of the problem. They said that about the savings and loan association for many years, even as the crisis was obvious to everyone. There were people who insisted on covering it up. The failure of the Bank of New England ought to tell Members quite a bit, and if the Continental Bank of Illinois, when it failed several years ago, and required a $4 billion bailout by the Federal Government, that was a commercial bank. That did not tell Members much.

Certainly the Bank of New England's failure ought to tell Members something. The Bank of New England, we went to the point where we clearly admitted for the first time that everybody's money is the business of the Federal Government, no matter how big the deposits are. Mr. Seidman and company and his Board of Directors decided that all depositors should be guaranteed. So, American taxpayer out there, what we are looking at is not a compact which is limited. We have a compact with our banks in the United States of America. The banks are not private enterprises. The banks operate in partnership with the taxpayers. We have been told that they are private enterprises when they are making their private decisions about profits. Of course, it is a private enterprise, and they insist on making all those decisions in private. No sharing with the public. However, when the profits are gone and losses take place, we suddenly discover that the responsibility for our banks is really with the taxpayers. The responsibility lies with the taxpayers for our banks. So in view of that, every opportunity to allow the public to view what is going on and to discuss with them the broad implications of what is happening with our savings and loans should be taken, not squelched, not on a time frame that has collapsed, but a time frame that is expanded.

The Resolution Trust Corporation requires this kind of maximum debate. As I said before, the committee of jurisdiction under the gentleman from Texas [Mr. GONZALEZ] has certainly spent a long time deliberating on the bill.

☐ 1800

They are to be congratulated for it. Unfortunately, they came to us with three different versions of the bill, three different proposals to amend their own bill, which meant the deliberations among themselves had not taken place long enough. Deliberations of another kind need to be taking place so that we can at least have a concrete recommendation before us, or again we should have had more time to take a look at what was before us yesterday.

Certainly we should not vote, allow ourselves to be stampeded today into voting on anything after 1 hour of debate, or a very short debate.

As I said before, nothing else is more important. What else is there before this Congress that is more important than this item?

Depositors must be paid. A lot of noise is being made that we are losing money every day because depositors must be paid and we have to borrow the money. Yes, depositors must be paid and depositors will be paid. They are being paid. Depositors are being paid.

We have a contract with people who deposit money in accounts for $100,000 or less. That does not mean each individual is limited to $100,000. Individuals could open many different accounts, and that is the case.

There are many individuals we have a compact with who have more than $100,000 and we have to deal with the taxpayers directly with that. We will meet that obligation.

We need to discuss what is happening, however, because beyond that compact with the depositors who have $100,000 or less, we understand that at least $10 billion has been paid out by the Resolution Trust Corporation; $10 billion has been paid out to the depositors who have accounts for more than $100,000, who really legally under the law were not qualified to be bailed out by the taxpayers.

Mr. KANJORSKI. Mr. Speaker, will the gentleman yield?

Mr. OWENS of New York. Yes, I am happy to yield to the gentleman from Pennsylvania.

Mr. KANJORSKI. First of all, Mr. Speaker, I want to compliment the gentleman. I happen to agree with his thesis. The one thing this House needs on the S&L disaster is debate. The American people do not understand what happened, what is the problem now and what is the problem in the future.

The only way we can cast light to the American people as to what the difficult problems are within the administration and this Congress in handling this complex problem is to have adequate time for debate, so I think the gentleman makes a very worthy point.

I just want to take some time to analyze with the Members who may not be present in the Chamber today what is going to be transpiring in the next short term. As I understand the rules, there will be a request from the Rules Committee to adopt a rule, to allow an hour of debate for the passage of the funding authorization for the RTC.

There are certain significant votes that will be taken. Unfortunately, the first vote, as I understand it, will be a vote to consider the question of the motion for the passage of the rule itself. In order to do that, under the rules because it is within the 24-hour period of the Rules Committee meeting, that will require a two-thirds vote of the House to suspend the rules to be allowed to move on and consider the rule; the problem being that we will not have debate on that question, and that is the important real issue here, because once the rules are allowed to be waived and the rule to be considered, then the rule will be debated for an hour, but it will only require at that point a majority vote, which clearly the leadership on this side of the aisle and on that side of the aisle, on our side of the committee and on their side of the committee and in the administration, apparently have all gotten together and agreed this is something they can get a sufficient number of votes on without a lot of debate and a lot of consideration.

So I would urge the gentleman to realize this and certainly stay on the floor with this, but to alert the Membership of the Congress that may be watching this now that the most significant vote will be to be present and to vote no on the question of consideration of the rule, because that is really our only chance of defeating the consideration of the rule, the consideration of the legislation today and the passage of this legislation, some $30 billion that will be considered within only an hour of debate today, two or three hours in the past, and as the gentleman well pointed out in his delivery, those of us who were opposed to this and wanted additional debate were not even allowed time on this floor in general debate, a moment of time, in opposition to this bill when it appeared on this floor yesterday.

So Mr. Speaker, I commend the gentleman and I thank him very much for yielding to me.

Mr. OWENS of New York. Mr. Speaker, I thank the gentleman for his remarks.

I agree, of course, 100 percent, and I hope that the Members wil assert themselves in the interest of the American people and not deliver the two-thirds vote necessary to allow this bill to go forward with only 1 hour of debate.

There are Members among us and people in the press, politically sophisticated people, who say that the savings and loan bailout, the Resolution Trust Corporation and everything related to this mess is so complicated that the American people are thoroughly bored with it. They cannot understand it and they do not want to hear about it.

My answer to that is that the American people are never bored with anything their leaders take the time to explain. If the leaders would assert themselves and explain exactly what is at stake here, I am sure you would get a positive response from the American people in terms of expressing their concern and understanding what is at stake.

The people will lose the most, of course, in these patterns of off-budget borrowings, the delay of the day of reckoning will be on our children and our grandchildren.

You know, we cannot continue to push everything into the Federal debt. We cannot continue to allow the interest on the debt to continue to rise. It will cramp the possibilities and the flexibility of future budgets and hem in our children and grandchildren a great deal; but also immediately there are pressures on this House on the budgetmaking process at all times by the fact that we have taken on this new and huge obligation of bailing out the savings and loan industry, an industry which produces nothing.

I was very critical and many of us were critical of waste in the Department of Defense. We could point to concrete places where the Department of Defense was wasting money. We remember the famous Sergeant York gun, where defense advocates of the Sergeant York gun, congressional advocates of the Sergeant York gun kept pushing it forward, until finally they admitted that the Sergeant York gun would not work. At that point we dumped the Sergeant York gun, but at least when you decided that the Sergeant York gun would not work, you had a pile of metal, piles of metal that could be melted down and they could be converted to something else.

In the case of the Savings and Loan Association bailout, you have nothing. There is nothing that we are receiving for the tremendous amounts of money that we are pouring down the hole to take care of what has already been plundered and taken away.

Now, you say we must meet our obligations. Of course, we must meet our obligations. As a Nation we must meet our obligations.

The question is, do we have to have every taxpayer in America at every income level, those who were not at the party, did not enjoy the feast, were not involved in the deals, the corruption, the criminality, all of the things that came together to lead to the savings and loan debacle, all those people should not be required to pay.

There are alternatives, and we ought to have an opportunity to at least lay those alternatives before the American people and let them through the public opinion process have some input into what is going on and communicate that to their leaders here in Congress.

Mr. WEISS. Mr. Speaker, will the gentleman yield?

Mr. OWENS of New York. I yield to the gentleman from New York.

Mr. WEISS. Mr. Speaker, I very much appreciate my distinguished friend yielding to me, and I want to express my appreciation to the gentleman for taking this special order at this time. It is extremely timely.

As we all know, the Rules Committee is meeting even as we speak in order to come up with a new rule so that we can immediately discuss on this floor the Resolution Trust Corporation legislation.

Exactly what that rule will be, none is absolutely certain at this point, but we have heard some very serious rumblings and rumors as to what it will contain. Apparently what it will be is the simple give-them-the-$30-billion proposal that the gentleman from Ohio [Mr. WYLIE] had proposed at the behest of the administration, with very limited amendments incorporated in there.

One of the prime concerns that I have had and a number of my colleagues in this body, not only on the committee but in the body at large have had, is the plight of tenants who find themselves in the position of being in buildings which have been foreclosed by the Resolution Trust Corporation, and because they are in those buildings the Resolution Trust Corporation, not that it has enough problems trying to settle up those buildings, has undertaken to evict tenants who they do not think are paying sufficiently high enough rent.

Outrageous. These are people who have lease protections, who have protections under state and city law in many instances. They are in court right now in New York City in one building where there are nine tenants so affected. There is a building in my district which they are scheduled to go after next. There are some 900 units just in the city of New York, and the irony is that most of these buildings and most of these units that the Resolution Trust Corporation has in foreclosure are really lower and middle income properties and, of course, they are occupied by low- and middle-income people.

□ 1810

What they think they are achieving by throwing people out on the street in a situation where there is a tremendously tight housing market—no housing is available—I just cannot understand. Nor should people believe that this is only a big-city problem. On the basis of the Resolution Trust Corporation's position, which is that they have the right in any multifamily unit to go in and evaluate whether in fact the rents, the return in a particular unit, are sufficiently high and they can start kicking people out of their apartments around the country.

Now, I just do not understand how we can sit still for that kind of behavior and not put a stop to it. And yet, the gentleman from Ohio [Mr. WYLIE], who has not liked rent regulations for a long, long time—I have been on the floor here year in and year out and heard him whenever a housing bill came along or anything approximating a piece of legislation where he could throw in an amendment which would wipe out local rent controls or State rent controls—has suddenly gotten a bonanza. Never in his wildest dreams did he think that he could get a very substantial piece of what he wanted in wiping out rent protections. Yet he is going to get it if in fact the rule is going to come out as we anticipate it and it is voted up.

Mr. OWENS of New York. Is the gentleman saying that tenants who had nothing to do with the collapse of these savings and loan associations are now going to be penalized because the Resolution Trust Corporation is in a hurry to rectify a situation that was created by the people on the boards and executives in the banks making decisions in the banks?

Mr. WEISS. The irony is not only are those tenants the taxpayers who are paying the bill for the S&L bailout to begin with, they are the people who in fact are going to get kicked out for no good reason because by the time the legal fees—and it is being challenged in

New York by the State of New York and by some of the tenants—by the time they get through with those legal fees, it will cost them more than what they think they are going to get by way of a return.

CBO has estimated that the whole tenant protection provision is maybe a million dollars' worth. This will cost them $4.5 million just on the units that we know about currently.

It can be an open-ended pit of expenses. And, yes, tenants who had nothing to do with creating the problem are in fact in the position of getting kicked out.

Mr. OWENS of New York. So the Resolution Trust Corporation is in a position to override State and local laws in order to do this?

Mr. WEISS. Unless we build into this legislation a prohibition against their being able to do so.

Mr. OWENS of New York. At present, the Resolution Trust Corporation is able to override State and local laws?

Mr. WEISS. They take that position. They are in court right now. They are being challenged by the State against it. But if in fact we do not provide the protection ourselves, I think that that provides some guidelines to the courts as to how exactly this should go. So it seems to me that we have an obligation to provide that protection to indicate to the Resolution Trust Corporation that, "You were not put into business to override valid private leases and to override State and local legislation."

I do not understand why the Committee on Rules would not incorporate that into the Wylie bill. But apparently it is not going to be done. If it is not, I certainly cannot vote for that rule and, I assume, a lot of my colleagues will not be able to also.

Mr. OWENS of New York. I thank the gentleman for his participation.

The question the gentleman is asking is why cannot Congress guarantee that innocent tenants are not penalized for the criminality, the corruption, the failure, the incompetence, whatever the circumstances were, which led to the collapse of the savings and loan associations? The question is one of a hundred questions that could be asked.

Why can't Congress take action to guarantee that innocent people who are going to eventually be the taxpayers who foot the bill for this are not also going to have to suffer as a result of the haste of the Resolution Trust Corporation or the totalitarian mentality or the totalitarian approach of the Resolution Trust Corporation? Why should they be allowed, as a result of their being created, to bail out a situation that most American did not create, why should they be allowed to run over the rights of American citizens or even inconvenience them, whether they have rights or not? Why should they be allowed to subject innocent people to unnecessary inconvenience and suffering?

That is one of the many questions that could be asked.

I go back to the question I was asking before: Why are they bailing out depositors who have more than $100,000 and do not qualify under the law for the protection of the taxpayers? Why are American taxpayers paying back the money guaranteeing the deposits of people who have more than $100,000 on deposit? Why have they declared that some banks are too big to fail? Why have they declared that some depositors are too big not to be paid? Where is the authority for this? Where in the law is the authority? In the law, where does it say that we as taxpayers guarantee the money for the first $100,000? And why does not somebody enforce that law? Why is the law not being enforced? That is just one of many questions that ought to be asked.

One amendment that I think should have been offered is an amendment which would have prohibited any professional employee of a failed thrift from being employed by the Resolution Trust Corporation. We have some of the same people who helped to create this problem working in the savings and loan associations, who made bad decisions or crooked decisions who are now in the decisionmaking positions in the Resolution Trust Corporation.

Why can't we prohibit such people from being employed? We are not talking about clerks or typists; we are talking about decisionmakers in the Resolution Trust Corporation being employed there. The Resolution Trust Corporation has become a major industry in some States.

Those States which were most negligent, those States which had the State regulation of the S&L's and allowed the greatest amount of leeway, allowed the greatest amount of lack of regulation, those States would have the largest number of failed savings and loan associations and are now benefiting most from the American taxpayers' money being funneled back through the Resolution Trust Corporation into those States. And some of the same lawyers, accountants, loan officers, vice presidents, presidents, board members and so on, are now profiting from their own mistakes, their own corruption, the situation which they created and handed to us.

These are the people who approved the bad loans. They made the risky investment adventures, they bought the company Jaguars, yachts, gold bathroom fixtures, and expensive artworks which graced their offices, and sometimes they put it in their homes. All of these people who are guilty of these abuses should be prohibited from working any place within the Resolution Trust Corporation.

Why can't we discuss this? Why can't we have an answer as to why this prohibition cannot be placed on the Resolution Trust Corporation by the Congress?

Another resolution that ought to be discussed is why can't the Resolution Trust Corporation and the FDIC live up to the requirements that I think were in the original legislation that they make public any agreements that are reached between the Resolution Trust Corporation and the financial institutions about the resolution of a failed savings and loan association?

The details of that agreement are supposed to be made public. If they are making it public, they are doing it very slowly. You cannot get the information. Even Members of Congress are not able to get information about what deals have been made utilizing taxpayers' money in the case of these deals being made by the Resolution Trust Corporation.

We need some kind of control which would require that these agreements be reached and, if they are not, they must be made public within 30 days.

We have the absurd situation now where nobody in authority really knows except the people who are at the table making the deals.

Why can't we have realty put into the Community Reinvestment Act? The Community Reinvestment Act is a joke. As it is presently constituted, that is. In poor areas throughout the country there have been ongoing problems of redlining by local financial institutions, not only savings and loan institutions but also commercial institutions.

For years and years, people in neighborhoods like the ones I represent in my congressional district have been told that we cannot have banks and other financial institutions investing in those neighborhoods because they were high-risk areas. They were high risk, and bank officers have to act in a prudent manner, they have to protect the interests of their depositors; yet the invested in shopping malls, in risky real estate ventures, in resorts, all kinds of things that later collapsed. Where was all the prudent management? If you are going to take risks with shopping malls, why can't you take risks with housing for low-income and middle-income people also?

So community reinvestment has been a joke. Very little has gone back into the local communities.

There is no teeth at all in the legislation. Banks thumb their nose at it. They do not take it seriously.

What would happen if you had a requirement that every bank had to apply for its status under the Federal Deposit Insurance Corporation once every 10 years? What if they had to apply for the insurance every 10 years and qualify for it? They would lose their insurance guarantee. Taxpayers would not guarantee their deposits if they do not meet all the requirements of the Community Reinvestment Act.

□ 1820

What if once every 10 years we reviewed their performance? What if once every 10 years we remind them that they really are not private institutions, that they are in partnership with the public? What if we could cut down some of the arrogance of banks and make them understand that if the taxpayers' guarantee of insurance were taken away, they would go out of business?

Any bank that says, "I am strictly private, I don't want any part of this socialism, I don't want any part of these guarantees, I want to go strictly private," that bank would find itself out of business in a few months because no depositors with any sense would place their money in a bank that did not have the Federal guarantees when there are other banks around that do have the Federal guarantees.

Mr. Speaker, our banks take this for granted, yet in West Germany, one of our major competitors, the Govenment of West Germany does not guarantee a single penny of depositors' money in the bank. The Government is not involved at all in guaranteeing. In Japan and Great Britain, they do guarantee deposits, but a much smaller amount is guaranteed.

We can remember, of course, when we started that $10,000 was guaranteed. Then later, $40,000, and recently it went to $100,000 of guarantees.

I do not object to the guarantee policy. I think it might be a good policy for our country, but we must insist that the public, the taxpayers who have a stake in this, must also be recognized in policy making.

Banks should have more requirements placed on them and penalties that would result if they do not respond to the Community Reinvestment Act and place investments in the communities which they serve, the community where the general banking operation takes place.

Many banks in New York want to say, "Well, we pulled all of our branches out of the poor neighborhoods. All of our branches are downtown. We have no more obligations to the poor neighborhoods anymore." And yet most of the people in the poorer neighborhoods work downtown, they cash their checks in the banks, they have deposits in the banks downtown. So, the community of concern here is not just one little neighborhood here and there in New York City, but the totality of New York City. Every bank has an interest and should have an obligation in making certain that investments are maintained in those communities.

Why do we not have some kind of requirements that banks have representation on their boards from the public? As my colleagues know, they could not exist in this country without the public participation. The taxpayers' money bolsters the banking system, so there should be some form of public representation on the board of every bank. That might be a public official who is placed on the board. It might be that from their depositors they do a lottery system and rotate and somehow always have some depositors on the board. There are a number of ways to get representation from the public of depositors, the people who have a stake in what banks do.

Most of all, Mr. Speaker, we should make sure we stress that fact that this calamity, this debacle, this monumental swindle that is taking place, has opened the eyes of the American people to the fact that banks are not private businesses. Banks are not totally private enterprises. Banks operate in partnership with the American people. Banks operate in partnership with the taxpayers.

Mr. Speaker, I think everybody, every constitutent out there, every taxpayer, ought to ask the question: "Why can't Congress do things a little differently and recognize the situation that's been presented to them? Why can't Congress move to have a thorough review of the situation? Any why can't Congress move creatively with more invention and more innovation to put the kinds of requirements of controls on our banking system that would safeguard the money of the taxpayers?"

Mr. Speaker, the taxpayers must foot the looses. We are responsible for the losses. We should be responsible for decisionmaking which minimizes those losses. I do not see why Congress should back away from this responsibility. I think that responsibility is upon us in a matter of minutes. That responsibility is upon us. We should not go forward. We should not allow ourselves to be stamped into a 1-hour debate on a $77 billion appropriation which is continuing a proposition which ultimately would cost the American taxpayers at least $500 billion, and by some estimates as much as $1 trillion.

We should not rush into judgment. We should not rush to give our approval for this kind of debacle. We should stop and consider it. We owe it to the American people. We owe it to every taxpayer out there.

PROVIDING FOR CONSIDERATION OF S. 419, RESOLUTION TRUST CORPORATION FUNDING ACT OF 1991

Mr. DERRICK, from the Committee on Rules, reported the following privileged resolution (H. Res. 112, Rept. No. 102–19), which was referred to the House Calendar and ordered to be printed:

H. RES. 112

Resolved, upon adoption of this resolution it shall be in order to consider a motion, to be offered by Representative Gonzalez of Texas, to take from the Speaker's table the bill (S. 419) to amend the Federal Home Loan Bank Act to enable the Resolution Trust Corporation to meet its obligations to depositors and others by the least expensive means, and to strike all after the enacting clause of S. 419 and to insert in lieu thereof the provisions contained in the report of the Committee on Rules accompanying this resolution. Said motion shall be debatable for not to exceed one hour, equally divided and controlled by the proponents and opponents of the motion. The previous question shall be considered as ordered on the motion to final adoption. If the motion is agreed to, the previous question shall be considered as ordered on the bill to final passage without intervening motion except one motion to commit. Upon passage of the bill, it shall be in order to move to insist on the House amendment to S. 419 and to request a conference with the Senate. If the original motion is not agreed to, no further disposition of S. 419 shall be in order except pursuant to a subsequent order of the House. All points of order against the bill and its consideration and the motion to amend made in order by this resolution are hereby waived.

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 112 and ask for its immediate consideration.

The SPEAKER. The Clerk will report the resolution.

The Clerk read the resolution.

The SPEAKER. The question is, Will the House now consider House Resolution 112?

The question was taken.

Mr. KANJORSKI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 327, nays 78, not voting 26, as follows:

[Roll No. 49]

YEAS—327

Alexander
Allard
Andrews (TX)
Anthony
Archer
Armey
Aspin
Atkins
AuCoin
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Cardin
Carper
Chandler
Chapman
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Combest
Condit
Cooper
Coyne
Cramer
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeLauro
DeLay
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dornan (CA)
Downey
Dreier
Durbin
Dwyer
Edwards (CA)
Edwards (TX)

Emerson
English
Erdreich
Espy
Fascell
Fawell
Fazio
Feighan
Fields
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Gingrich
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harris
Hastert
Hayes (LA)
Hefner
Herger
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Kasich
Kennelly
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)

Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Markey
Martin
Matsui
Mavroules
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Michel
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Oakar
Oberstar
Olin
Ortiz
Orton
Owens (UT)
Oxley
Pallone
Panetta
Parker
Patterson
Paxon
Payne (VA)
Pease
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Price
Pursell
Rahall
Ramstad
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Riggs
Rinaldo
Ritter
Roberts

Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rostenkowski
Roth
Roukema
Rowland
Sabo
Sangmeister
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schulze
Schumer
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Studds
Stump
Sundquist
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torricelli
Traficant
Traxler
Unsoeld
Upton
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waxman
Weber
Wheat
Whitten
Wise
Wolf
Wyden
Wylie
Yatron
Young (FL)
Zeliff
Zimmer

NAYS—78

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Annunzio
Applegate
Bacchus
Boxer
Carr

Clay
Collins (IL)
Collins (MI)
Conyers
Costello
Cox (IL)
Crane
DeFazio
Dellums
Duncan

Eckart
Engel
Evans
Flake
Foglietta
Ford (MI)
Ford (TN)
Gaydos
Hayes (IL)
Hefley

Henry
Hertel
Hughes
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kildee
Kolter
Luken
Machtley
Manton
Marlenee
McCloskey
McGrath

Mfume
Moody
Nussle
Obey
Owens (NY)
Packard
Payne (NJ)
Penny
Petri
Poshard
Rangel
Ridge
Roybal
Russo
Sanders
Savage

Sawyer
Scheuer
Schroeder
Sensenbrenner
Serrano
Stokes
Tallon
Torres
Towns
Valentine
Waters
Weiss
Williams
Wolpe
Yates
Young (AK)

NOT VOTING—26

Bentley
Campbell (CO)
Coughlin
Cox (CA)
Dorgan (ND)
Dymally
Early
Edwards (OK)
Fish

Gillmor
Glickman
Hammerschmidt
Hatcher
Huckaby
Jefferson
Levine (CA)
Martinez
Miller (OH)

Myers
Pelosi
Quillen
Rose
Udall
Washington
Weldon
Wilson

☐ 1851

Messrs. KILDEE, FOGLIETTA, McCLOSKEY, STOKES, TOWNS, CARR, MOODY, Ms. KAPTUR, and Mr. SAWYER changed their vote from "yea" to "nay."

Mr. HOPKINS and Mr. SMITH of New Jersey changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the House agreed to consider House Resolution 112.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. FROST). The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume.

Mr. Speaker, this resolution makes in order a motion to be offered by Mr. GONZALEZ to take the Senate bill, S. 419, from the Speaker's table, strike all after the enacting clause, and insert the provisions printed in the report to accompany the rule.

The resolution provides 1 hour of debate on the motion, equally divided and controlled by the proponents and opponents. It further provides one motion to commit if the Gonzalez motion is agreed to.

Finally, the resolution makes in order a motion to insist on the House amendment and request a conference. The rule waives all points of order against the bill, against its consideration, and against the motion to amend.

The rule provides that if the original motion is defeated, there can be no further disposition of S. 419, except by subsequent order of the House.

Mr. Speaker, this is a vitally important bill. It provides the funding needed to continue the work of the resolution trust corporation and to make some needed improvements in the operations and reporting requirements of the corporation.

The bill incorporates a bipartisan agreement by the chairman and ranking minority member of the Banking Committee. It includes a provision providing $30 billion in funding to cover thrift losses in fiscal 1991; expands the RTC eligible property program to include properties held in conservatorships; permits the sale of eligible properties to qualified purchasers without regard to a minimum sales price; requires RTC to follow a number of specified management reform goals; and requires RTC to undertake a regular review of its organizational contracting structure and to standardize its contracting procedures.

Mr. Speaker, this rule permits the House to complete its business quickly, and fairly. I urge adoption of the resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this rule and want to congratulate the chairman, the gentleman from Texas [Mr. GONZALEZ], the gentleman from Ohio [Mr. WYLIE], and the administration for developing this extraordinary compromise to ensure that the RTC has enough funds to continue disposing of insolvent savings and loan institutions.

This agreement proves once again that we in the House can come together under difficult circumstances to protect the national interest. Both sides had to give up something to achieve this compromise, but in the end it shows that we are committed to ending this potential hemorrhage of $8 million a day.

The compromise funding bill contains essential management reforms to ensure that the RTC is responsive and accountable to the taxpayers. It expands affordable housing. It expresses the desire virtually of everyone in this Chamber that minority contractors have fair and equal access to all RTC contracts.

Again, this is an excellent agreement. Everyone did not get everything, but under the circumstances, it is the very best that we can do.

Mr. Speaker, I urge support for the rule and for the Gonzalez motion to substitute S. 419 for the text of the bipartisan substitute.

Mr. Speaker, I reserve the balance of my time.

PARLIAMENTARY INQUIRY

Mr. MFUME. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. MURTHA). The gentleman will state his parliamentary inquiry.

Mr. MFUME. Mr. Speaker, would the Chair advise this Member as to what the process will be for those Members desiring to speak in opposition to the rule?

The SPEAKER pro tempore. The gentleman will have to be yielded time by the managers of the rule.

Mr. MFUME. So then there is no time set aside equally divided for opposition?

Mr. DERRICK. Mr. Speaker, I will be delighted to yield to the gentleman.

Mr. MFUME. Mr. Speaker, I appreciate the gentleman's yielding, but I want to say that I am not the only Member to speak in opposition or desiring to speak in opposition.

Mr. DERRICK. If those who wish to speak will ask me, I will yield to them.

Mr. MFUME. The gentleman has answered the question. He says that he will be more than happy to yield to the opposition, and I would withdraw my parliamentary inquiry.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I am going to vote for the rule so the House can vote on it. I am going to vote against the bill for the same reasons I voted against it all along. No one can tell me what the liability still is, and we have computers that should be able to spit out what the liability is to the depositors around this country.

Second of all, I do not think anybody can tell us what this Resolution Trust Corporation has really done so far, so I have seen no resolution. I do not know why the Congress should be trusting them.

If I can get some attention, I would like to say this: My area has been hit real hard. Here is one of the concerns I have about this whole mess. One of the first things I did when I was elected is I wanted to find out what our local banks were doing and savings and loans with our community relative to what the national banking average was.

Mr. Speaker, here is what I found out. For every dollar deposited in a national average bank or savings and loan, 29 cents was invested in safe, secure Government instruments. In my community, it was 39 cents. So the investment portfolio was much more conservative.

The second thing was that for every dollar deposited in a national average bank or savings and loan, 24 cents was pumped back into commercial loan activity. In my community, it was 11 cents, ladies and gentlemen.

So I want you to understand this: In these other communities, the other communities made loans relatively loose. They recirculated cash. Those other communities had the benefit of money coming from their local banks, their local savings and loans, and in my community there was no money for any loans, nothing being recirculated. My people enjoyed no circulation of capital and no growth.

Now, here is where we are: Texas and California basically shipped the money around, invested the money. Now my people have had no growth, and we have got to pay for it. I say the people that did the dancing should pay for the band.

There is one other thing that bothers me, Mr. Speaker. After all of this mess, give me bankers doing more jail time than all the crooks that ripped this thing off.

I am against it. I think this whole organization has shown no resolve. I do not think they are worthy of any trust of the Congress.

Mr. DREIER of California. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DANNEMEYER].

☐ 1900

Mr. DANNEMEYER. Members, we are dealing with a symptom here of monetary instability. What we need to do in this House is to debate the consequences of a step that this Nation began 23 years ago, in 1968, when we separated the link between the dollar and gold, because at that time we let the inflation genie out of the bottle, and the consequences of that step are coming home to roost, day after day, week after week, and month after month.

What we did with that step in 1968 has destroyed the savings and loan industry in this country, because we said to the savings and loan industry, borrow short and lend long. If you loan money 30 years at 6 percent fixed rate, and you have to go into the money markets and get it back at 8½ or 9 in order to repay depositors, you have to have taken out of your place of business, you will go broke. Inflation did that to the savings and loan industry in this country.

If we want first trusteed mortgage rates in America again at 6 percent, if we want the ability of the U.S. Government to sell its debt for 2 or 3 percent rather than an average of 8 percent, what we need to do is recognize that this experiment with a dollar backed by nothing has been interesting, but declare it over, and go forward with reforming the monetary system of the Western World. When we do that, we will also lower the cost of the interest expense of maintaining our national debt.

This year, interest in maintaining our debt is close to $300 billion. If we take 5 percentage points off of the interest expense of maintaining our debt annually, that is $150 billion of interest expense reduction annually. We do not get it all in 1 year, but it takes about 5 years to refinance our debt. That is the option we should be debating.

I intend to vote for this rule, and regrettably for this bill.

Mr. DERRICK. Mr. Speaker, for the purposes of debate only, I yield 3 minutes to the distinguished gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Speaker, I thank the gentleman from South Carolina for yielding me this time. Let me say that I spent some time up in the Committee on Rules as this rule was adopted, and with a great deal of respect, appreciated the efforts of the chairman of the Committee on Rules, the gentleman from Massachusetts [Mr. MOAKLEY] and the ranking minority member, the gentleman from New York [Mr. SOLOMON], both of whom sought to extend themselves to those Members who were in opposition to this, and to try to accommodate as best as possible our differing opinions.

Having said that, let me also call Members' attention back to the fact that yesterday at the close of debate and following debate, I took this well and asked that we seek in some sort of way to compromise our differences on this. There was a genuine effort on behalf of the gentleman from Ohio [Mr. WYLIE] and on behalf of the gentleman from Texas [Mr. GONZALEZ] to do that. I believe they operated in good faith.

This is still a very difficult issue, but for me, the issue of accountability was an overriding concern. So while those two gentlemen on both sides of the aisle worked out, in a gentlemanly fashion, a reasonable compromise that they were comfortable with, for this Member there was still a degree of uncomfortability, and that is why I have come to this well today to express that under the whole subject and headline of this issue of accountability. I am talking specifically as it relates to the opportunities to contract for minorities and for women-owned business people. I argue that after having served over 18 months as a member of the task force on the Resolution Trust Corporation, and recognizing that they have come nowhere near what their goals were to be, and if we allow them to go unchecked, they will never reach those goals. Therefore, to me the issue of accountability is, in fact, holding to the RTC the very basic premise, the very basic need for a sense of fairness.

This whole idea about reports that are in the compromise, raises to me another concern. I indicated yesterday that we have had reports after reports, proposals on the proposals, studies on the studies, and now another plan B for the plan A that failed. If I come with a sense of paranoia about reports, it is because reports have not yielded very much to women in this country and to minority-owned businesses.

Therefore, while the compromise was struck and put together out of a sense of understanding and willingness for both sides to move and to accept a different position, in good faith, on the matter of principle, and with all due respect, I have to oppose this rule, and ultimately will oppose passage of the bill unless somehow later on, we are able to bring about some sense of fairness to those two groups in this vote.

Mr. DREIER of California. Mr. Speaker, I reserve the balance of my time.

Mr. DERRICK. Mr. Speaker, for the purposes of debate only, I yield 2 minutes to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Speaker, I want to express my sincere appreciation to the gentleman for yielding time to me at this point. I, too, appreciate the work that the Committee on Rules has to do, and the compromise they came up with.

I cannot support the rule because it lacks one significant provision; that is, tenant protection. In New York City, there are now 900 apartments which are subject to having their tenants evicted because the Resolution Trust Corporation, without any approval, without any legal authorization, has decided that the thing to do is not to sell the properties but to throw the tenants out. Unconscionable, but unless we put a stop to it, unless we incorporate into this legislation a provision which prohibits them from doing it, then tenants who have legitimate leases, tenants who have State and city legal protection under the local laws will have no protection.

It does not only apply to New York City. We have 900 tenants currently. Nine hundred apartments subject to it, but any place in the country where there is a multifamily unit which is under foreclosure by the Resolution Trust Company, it is subject to the same provision.

It seems to me that contractual rights have been accorded to the wildest perpetrators of fraud by the Resolution Trust Corporation. Yet, when it comes to these contracts, they say, "Tough, buddy. Your crime is that you live in a building under foreclosure." I cannot vote for a rule or a piece of legislation that allows that.

Mr. DREIER of California. Mr. Speaker, one of the greatest aspects of this rule is that it ensures we will not favor the rich over those who are less advantaged.

I reserve the balance of my time.

Mr. DERRICK. Mr. Speaker, for the purposes of debate only, I yield 1 minute to the gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Speaker, I, too, regrettably, rise to oppose the rule because my impression is, unless I can be corrected and I hope that I can, my impression is that the Resolution Trust Corporation still will be able to pay more than the $100,000 insurance, and that means no matter what kind of provisions we put in for poor and working people, they will be paying for people who knew what they were doing when they put more money in than they were insured for. Yet all of those people throughout the country, and it is important for everyone in the Nation to recognize this is happening, that billions of dollars are being paid to people over and above what they were insured for.

I heard over and over again about making a deal and keeping a deal. I have been through this in the State of Hawaii with people who put their money in industrial loan companies. I have put through legislation to see to it that those who were robbed, those who were done in, those who were mistreated, got their money back, but they got their money back only to the amount of the insurance that was to be provided.

Why should the working people who did nothing wrong be forced to pay billions of dollars to those who are able to get the money over and above the amount of insurance to which they are entitled?

Mr. DERRICK. Mr. Speaker, for the purposes of debate only, I yield 2 minutes to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Speaker, I must again reluctantly oppose the rule before the Members. This rule, like the previous rule governing debate earlier, prevents this House from considering the issue of how we can most fairly allocate the costs of the savings and loan bailout.

It needs to be underscored that almost half of the billions and billions of dollars of costs that are involved here are attributable to failures of State-regulated institutions that remained federally insured. Almost 68 percent of the total costs of the State-regulated failures occurred in a single State, because of a massive regulatory failure.

A number of Members, on a bipartisan basis, including the gentleman from Pennsylvania [Mr. KANJORSKI] in the committee have been pressing for consideration of an amendment that would have provided some minimum measure of accountability and equity.

☐ 1910

Who is going to pay for those State regulatory failures? Why should all taxpayers be forced to pay equally?

My own State of Michigan caused only some $53 million of the costs of closing down State-regulated S&L's to date, but will be forced to pay over $900 million in cleanup costs under the current plan. Texas, however, caused over $22 billion in damages, but will be only asked to pay $1 billion of the cleanup costs.

And Michigan is not the only victim. Citizens of Massachusetts, New York, Louisiana, South Carolina, Missouri, and New Mexico, will be hit just as hard for a problem they did nothing to create.

Mr. Speaker, we have a right to debate the policy issue here. That is all that was being requested. A rule that prevents that kind of debate prevents consideration of one of the central policy issues that ought to be before us.

We all understand the necessity of trying to provide the money that is required here, but can we not insist that there be some debate on how those costs should be more fairly allocated.

I urge a no vote on the rule.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, I thank the gentleman for yielding me this time.

If the rule is carried, I will speak later in strong opposition to the bill; but let me talk a moment about the process.

Mr. Speaker, we are talking about a bill of $30 billion, three-zero billion dollars—as part of the largest single financial fraud in the history of the United States of America. If there has been no one action that has outraged Americans from Maine to California, it has been the S&L fiasco.

Yesterday this body dealt with three separate amendments, and on three separate occasions the Members of this body voted no, no, no, and then the entire bill came before this body and the Members of this body voted no once again.

It would seem to me that maybe we made a statement yesterday. A message was given that we are unhappy about the bills in front of us. Common sense might suggest that given the defeat of three amendments and given the defeat of the entire bill, that once again we would begin serious debate on a $30 billion appropriation, that we come together, that we talk about, as the gentleman from Michigan [Mr. WOLPE] said, who is going to pay for this bill. Is it going to be working people and poor people, which will be the case if it is dumped into the deficit, or will it be those people who have the money and can afford to pay?

Amazingly this evening at 5 o'clock out of nowhere came the word. We are supposed to vote on this thing tonight.

Mr. Speaker, I object. In my State and in most States we do not do business this way. Let us have serious debate. Let us vote no on this rule.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2½ minutes to the gentleman from Pennsylvania [Mr. KANJORSKI].

Mr. KANJORSKI. Mr. Speaker, I would like to join my friend, the gentleman from Vermont, and my friend, the gentleman from Michigan, in calling attention to what this argument is all about.

First of all, we do not even have a copy of this bill and have not been able to get the Senate bill all day, so it is very difficult for a legislator to know what is in it; but that being beside the point, we know the general context of the bill.

The argument that we have here, as these gentlemen have ably said, there are two questions. We are asking the American people to approve the payment of $30 billion of additional debt in this country without asking any conditions from the RTC or this administration as to how they intend to pay for this bill, what they intend to do, or whether they are going to administer the RTC in any better form than they have for the last 18 months.

It is clear to me that if the Banking Committee of the House and the House itself goes along with this rule tonight, it is tantamount to accepting a blank check for the administration.

Now, if we are going to do that, Mr. Speaker, why do we torture ourselves here for $30 billion? In October we already know the administration wants $50 billion more, and next year they probably want $50 billion or $100 billion more. Let us just give them a blank check. Let us go home and have them administer the RTC and the whole program, but God forbid, why do we beat ourselves to death here talking about that we have some input here?

What have we done to oversight and investigation? Practically nothing. What investigation have we made of that agency? Practically nothing.

The American people are crying out and saying, "How are you going to pay for it? Why are you doing this?"

And we, the people's Representatives, sit here and say, "Oh, it's going to cost us $8 million a day. We have got to get on the train today. We will think about it tomorrow."

Well, after we give this administration this $30 billion, there is no tomorrow. The next time we are going to hear from the administration is in September of this year when they put the bill on the table for $50 billion more and they are going to say to us that it is urgent, that we are not going to be able to close those savings and loans, and instead of losing $8 million a day, you are going to be responsible for losing $12 million a day, so you better vote blindly and give us this blank check.

I suggest that if anything proved to me in the 6 years I have been in this House is the most magnificent 4 days we ever spent here was in January when we debated the war. Some of us felt strongly on one side of that issue, some felt strongly on the other. In that magnificent 4-day debate in January, this House explained to the American people the constitutional issues involved, the policy issues involved. Some of us voted with the President, some of us voted against the President. I do not see criticism in this country for that vote on the basis of our vote. What I do see is great accolades for the constitutional system and the foresight of the leadership to take the role in this House and talk to the American people about the greatest issue facing this Congress at this time.

We did it successfully then. Why can we not spend 2 days or 3 days discussing the RTC, the S&L scandal, trying to get our ducks in order?

I assure you, that all the gentleman from Michigan [Mr. WOLPE] and I have been asking for on burdensharing is the opportunity to present that amendment, and if we had that opportunity I have already said that I would support additional funding for the RTC. But why should we be denied that benefit?

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2½ minutes to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, with all due respect to those who would argue that we need to move quickly, and we do, I surely cannot believe that we will not take the time to allow a rule which would permit some very crucial amendments which go to the heart of the equity issues in this bill. We are talking about huge dollars and a huge hit on the American public, and to use the excuse of a rush to not confront those issues is really I think not in the best traditions of this House, and certainly not in the finest traditions we exhibited in recent days.

The gentleman from Michigan [Mr. WOLPE] raises a number of key issues about who pays and what the regional impact would be. Those cannot be ignored. I do not think we can sit here and not deal with those issues. A rule which does not permit debate of those issues and consideration of them is certainly an incomplete rule.

The gentleman from Hawaii [Mr. ABERCROMBIE] mentions the vital issue of, well, should we pay people of over $100,000, even though that is the level of insurance. That is not being dealt with in this rule. That has got to be dealt with.

We have paid many billions of dollars already above the $100,000 insurance level. Are we going to continue doing that and ask the taxpayers to pay for that, when that is not the guarantee, the promise, the compact we had with the depositors? That has got to be debated.

But most importantly for me personally, and I can never support a bill that does not include this amendment, at least for consideration, or a rule, is the pay-as-you-go provision that the Slattery-Kennedy provision put forth the other day.

People raise the bugaboo about this will raise taxes. Well, my friends, not paying as you go raises taxes. It just raises them later and it raises them with compound interest charges on top of them.

The gentleman from Kansas [Mr. SLATTERY] pointed out with hard numbers that you will end up paying $120 billion more as a Nation, as a society, if we shut this off under the future, rather than paying it as we go.

The key point I would like you to remember is this. If you do not raise it in taxes or spending cuts, which is a combination of which obviously is required, then you are taxing people through the monetary system, through higher interest rates. If you go into the market and borrow the $50 billion or whatever billion and keep borrowing for 30 years, you are pushing interest rates up. You are forcing people to pay taxes through the monetary system, just like you would be forcing them to pay through the fiscal system. It is still a tax increase. You cannot pull those resources out of the capital market without pushing up costs on everybody.

Now, a monetary tax increase is more seductive and more appealing because we do not get blamed for it, but a fiscal tax increase is more honest and more direct.

Mr. DERRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, today we are hearing a replay of yesterday's debate. I rise in support of the rule and I rise in support of the rule because I think the process here has been equitable and fair in terms of what happened yesterday. We had our chance on the floor to vote on the pay-as-you-go amendment. That amendment failed.

We had a chance to vote on some of the reforms that the gentleman from Ohio [Mr. WYLIE] had suggested in terms of study and analysis, but that failed.

We had a chance to vote on the Gonzalez amendment, which I of course strongly favored, that dealt with the minority contracting and positive affirmative action, environmental provision, and other provisions, and the Gonzalez amendment failed and finally the bill failed.

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So here we are today. The RTC needs the $30 billion. This is not prospective that the RTC needs this money; we need it right now because we have paid out the insurance. We have got the problem of selling the deposits and need to back them up with shortfall—the difference between the value of the S&L assets and the deposit. Five hundred institutions have come into the Resolution Trust Corporation under the control of the Government and probably another 500 will have to be brought into the RTC in the next 1½ to 2 years. Maybe more than that.

So this money is needed if the RTC is going to continue its work of selling the pieces of the failed S&L's.

The money has been lost and will be lost through September 30. So it is not a matter—the meal has been consumed, it is not a choice since the bill is here today. There is not really a choice in this particular point in time.

I hope that Members recognize that the system has been fair, that it has attempted to deal with the issues. We received 100 or so votes on the Gonzalez amendment yesterday. That wasn't enough to pass the amendment.

The Wylie amendment got 182 votes. That is not enough to pass it. So Chairman GONZALEZ and Mr. WYLIE have come together and put together a compromise. There is much missing from the compromise that I was concerned about, but it has a few provisions. We will be back, and really sooner than we may wish.

I hope we will have the opportunity to rework and reframe and deal with some of the issues regarding the Resolution Trust Corporation that have been raised on the floor and in committee but not adddressed in this measure before the House tonight.

The measure is before us. It is what we are going to be able to come together on at this point. I hope Members understand that. The measure that the Committee on Rules has made this in order. I think it is fair, I think it is sensible, and I hope the Members will vote "yes" on the rule, and "yes" on the final passage of the legislation, and we will come back in the near future to constructively debate these issues again. But tonight we should vote upon what we can agree upon and not precipitate a crisis for the RTC on our fragile economy.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Minnesota [Mr. VENTO] has said it extraordinarily well. He said it is a rehash of yesterday's debate. We have been going through this debate for a long period of time, and I believe the House should now move ahead and pass this rule as expeditiously as possible.

Mr. Speaker, I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. KANJORSKI. Mr. Speaker, may we have a rollcall on that?

The SPEAKER pro tempore. The gentleman was not on his feet at the time the question on adoption was put.

Mr. DREIER of California. Mr. Speaker, regular order.

The SPEAKER pro tempore. For what purpose does the gentleman from Texas rise?

Mr. GONZALEZ. Mr. Speaker, I move to take from the Speaker's table the Senate bill (S. 419) to amend the Federal Home Loan Bank Act to enable the Resolution Trust Corporation to meet its obligations to depositors and others by the least expensive means and strike all after the enacting clause of S. 419 and insert in lieu thereof the provisions contained in House Report 102-19.

The text of the Senate bill, S. 419, is as follows:

S. 419

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Resolution Trust Corporation Funding Act of 1991".

SEC. 2. RESOLUTION TRUST CORPORATION AUTHORIZATION RELATING TO PERMANENT LOSSES.

Section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)) is amended by adding at the end the following:

"(15) ADDITIONAL FUNDING TO COVER LOSSES IN RESOLVING THRIFT INSTITUTIONS.—

"(A) IN GENERAL.—In addition to the sums authorized by paragraph (14), the Secretary of the Treasury shall make available to the Corporation $30,000,000,000 from monies not otherwise appropriated.

"(B) LIMITATION.—No sums appropriated by subparagraph (A) may be obligated after September 30, 1991, except in the case of a resolution transaction with respect to which a bidder has been selected as of such date.".

SEC. 3. REPORTS.

"(a) IN GENERAL.—Section 21A(k) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)) is amended—

(1) in paragraph (1)(A)—

(A) by striking "The" and inserting "Notwithstanding section 9105 of title 31, United States Code, the"; and

(B) by striking everything after "standards" the first place it appears and inserting ". The audited statements shall be transmitted to the Congress by the Oversight Board not later than 180 days after the end of the Corporation's fiscal year to which those statements apply.";

(2) in paragraph (1)(B), by striking ", or by an independent certified public accountant retained to audit the Corporation's financial statement,"; and

(3) by adding at the end the following:

"(8) OPERATING PLANS.—

"(A) IN GENERAL.—Before the beginning of each calendar quarter, the Oversight Board shall submit to the committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a detailed financial operating plan covering the remaining quarters of the Corporation's fiscal year in which that quarter occurs.

"(B) CONTENTS.—At a minimum, a detailed financial operating plan shall include—

"(i) estimates of the aggregate assets of institutions that are projected to be resolved in each quarter,

"(ii) the estimated aggregate cost of resolutions in each quarter,

"(iii) the estimated aggregate asset sales and principal collections in each quarter, and

"(iv) the Corporation's summary pro forma financial statement at the end of each quarter.

"(9) REPORTS ON SEVERELY TROUBLED INSTITUTIONS.—The Director of the Office of Thrift Supervision shall deliver on a quarterly basis to the Oversight Board a list of savings associations for which the Director has determined grounds exist, or are likely to exist in the current fiscal year of the Corporation and in the next following fiscal year of the Corporation, for the appointment of a conservator or receiver under the House Owners' Loan Act. The Oversight Board shall report the aggregate number and assets of such savings associations to Congress within 60 days after the end of each calendar quarter.".

(b) FIRST REQUIRED PLAN.—The first plan described in section 21A(k)(8) of the Federal Home Loan Bank Act, as amended by subsection (a), is due not later than 10 days after the date of enactment of this Act.

(c) TIMELINESS OF REPORTS.—

(1) IN GENERAL.—At any time when an agency is delinquent in providing information to Congress or any of its committees as required by paragraph (1), (4), (5), (6), (8), or (9) of section 21A(k) of the Federal Home Loan Bank Act or by subsection (b) of this section, the President of the Oversight Board, and the head of any agency responsible for such delinquency shall, within 15 days of such delinquency, in testimony before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives—

(A) explain the causes of such delinquency; and

(B) describe what steps are being taken to correct it and prevent its recurrence.

Testimony shall not be required pursuant to the preceding sentence before either Committee if the Chairman and Ranking Member of such Committee agree that such testimony is not necessary. For purposes of this paragraph, the term "head of an agency" means the Chairman of the Resolution Trust Corporation with respect to reports to be filed by such Corporation, the Director of the Office of Thrift Supervision with respect to reports to be filed by such Office, and the Comptroller General with respect to audits to be conducted by the General Accounting Office.

(2) TRANSITION RULE.—Any information described in paragraph (1) of this subsection that is delinquent on the date of enactment of this Act shall be provided to the appropriate committees of Congress not later than 30 days following enactment of this Act. Failure to provide such information as required by this paragraph shall be considered as a delinquency under the provisions of paragraph (1).

(3) ENFORCEMENT.—Any officer, director, or employee of the Oversight Board or agency who is directly responsible for providing a report or information that is more than 15 days delinquent shall not be eligible for any bonus, merit service award, or other similar monetary reward until such delinquency is cured.

SEC. 4. STATUS OF EMPLOYEES.

(a) RESOLUTION TRUST CORPORATION.—Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by adding at the end the following new subsection:

"(q) STATUS OF EMPLOYEES.—

"(1) LIABILITY.—A director, member, officer, or employee of the Corporation or of the Oversight Board has no liability under the Securities Act of 1933 with respect to any claim arising out of or resulting from any act or omission by such person within the scope of such person's employment in connection with any transaction involving the disposition of assets (or any interests in any assets or any obligations backed by any assets) by the Corporation.

"(2) DEFINITION.—For purposes of this subsection, the term 'employee of the Corporation or of the Oversight Board' includes—

"(A) any employee of the Office of the Comptroller of the Currency or of the Office of Thrift Supervision who serves as a deputy or assistant to a member of the Board of Directors of the Corporation; and

"(B) any officer or employee of the Federal Deposit Insurance Corporation who performs services for the Corporation on behalf of the Federal Deposit Insurance Corporation, acting as exclusive manager.

"(3) EFFECT ON OTHER LAW.—This subsection does not affect—

"(A) any other immunities and protections that may be available under applicable law with respect to such transactions; or

"(B) any other right or remedy against the Corporation itself or against the United States under applicable law.".

(b) FEDERAL DEPOSIT INSURANCE CORPORATION.—Section 2 of the Federal Deposit Insurance Act (12 U.S.C. 1812) is amended by adding at the end the following new subsection:

"(f) STATUS OF EMPLOYEES.—

"(1) IN GENERAL.—A director, member, officer, or employee of the Corporation has no liability under the Securities Act of 1933 with respect to any claim arising out of or resulting from any act or omission by such person within the scope of such person's employment in connection with any transaction involving the disposition of assets (or any interests in any assets or any obligations backed by any assets) by the Corporation.

"(2) DEFINITION.—For purposes of this subsection, the term 'employee of the Corporation' includes any employee of the Office of the Comptroller of the Currency or of the Office of Thrift Supervision who serves as a deputy or assistant to a member of the Board of Directors of the Corporation in connection with activities of the Corporation.

"(3) EFFECT ON OTHER LAW.—This subsection does not affect—

"(A) any other immunities and protections that may be available to such person under applicable law with respect to such transactions, or

"(B) any other right or remedy against the Corporation itself or against the United States under applicable law.".

SEC. 5. INCIDENTAL POWERS.

(a) RESOLUTION TRUST CORPORATION.—Section 21A(b)(10)(N) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(10)(N)) is amended by adding at the end thereof the following: "The Resolution Trust Corporation may indemnify the directors, officers and employees of the Corporation on such terms as the Corporation deems proper against any liability under any civil suit pursuant to any statute or pursuant to common law with respect to any claim arising out of or resulting from any act or omission by such person within the scope of such person's employment in connection with any transaction entered into involving the disposition of assets (or any interests in any assets or any obligations backed by any assets) by the Corporation. For purposes of this section, the terms 'officers' and 'employees' include officers and employees of the Federal Deposit Insurance Corporation or of other agencies who perform services for the Corporation on behalf of the Federal Deposit Insurance Corporation, acting as exclusive manager. The indemnification authorized by this provision shall be in addition to and not in lieu of any immunities or other protections that may be available to such person under applicable law, and this provision does not affect any such immunities or other protections.".

(b) OVERSIGHT BOARD.—Section 21A(a)(5)(J) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(5)(J)) shall be amended by adding at the end the following: "The Oversight Board, from funds made available to it by the Corporation, may indemnify the members, officers and employees of the Oversight Board on such terms as the Oversight Board deems proper against any liability under any civil suit pursuant to any statute or pursuant to common law with respect to any claim arising out of or resulting from any act or omission by such person within the scope of such person's employment in connection with any transaction entered into involving the disposition of assets (or any interests in any assets or any obligations backed by any assets) by the Corporation. The indemnification authorized by this provision shall be in addition to and not in lieu of any immunities or other protections that may be available to such person under applicable law, and this provision does not affect any such immunities or other protections.".

SEC. 6. CLARIFICATION OF REVIEW OF PRIOR CASES.

Section 21A of the Federal Home Loan Bank Act is amended by inserting at the end of section 501(b)(11) the following language: "The Corporation, in modifying, renegotiating, or restructuring the insolvent institution cases resolved by the Federal Savings and Loan Insurance Corporation between January 1, 1988, and the date of enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, shall carry out its responsibilities under section 519(a) of Public Law 101-507, and shall, consistent with achieving the greatest overall financial savings to the Federal Government, pursue all legal means by which the Corporation can reduce both the direct outlays and the tax benefits associated with such cases, including, but not limited to, restructuring to eliminate tax free interest payments and renegotiating to capture a larger portion of the tax benefits for the Corporation.".

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. GONZALEZ moves to take from the Speaker's table the Senate bill, S. 419, and to strike all after the enacting clause of S. 419 and to insert in lieu thereof the provisons contained in House Report 102-19, as follows:

SECTION 1. SHORT TITLE

This Act may be cited as the "Resolution Trust Corporation Funding Act of 1991".

SEC. 101. THRIFT RESOLUTION FUNDING PROVISIONS.

(a) REQUESTS FOR ADDITIONAL FUNDING REQUIRED TO CONTAIN ADDITIONAL FINANCIAL INFORMATION.—Section 21A(k)(7) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(7)) is amended to read as follows:

"(7) REQUESTS FOR ADDITIONAL FUNDING.—Any request for legislative action to provide new or additional financial resources for the Corporation shall—

"(A) be submitted in writing to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate; and

"(B) contain a complete and detailed financial plan for spending such resources and any relevant information described in paragraph (5)(D) and (6)(A).".

(b) INTERIM FUNDING.—Section 21A(i) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(i)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and moving the left margin of such subparagraphs (as so redesignated) ems to the right:

(2) in the heading, by striking "BORROWING" and inserting "FUNDING";

(3) by inserting after such heading the following new paragraph designation and heading:

"(1) BORROWING.—"; and

(4) by adding at the end the following new paragraph:

"(2) INTERIM FUNDING.—The Secretary of the Treasury shall provide the sum of $30,000,000,000 to the Corporation to carry out the purposes of this section."

SECTION 2—RTC DISPOSITION OF AFFORDABLE HOUSING

SEC. 201. AMENDMENTS RELATING TO SCOPE OF PROGRAM.

(a) DEFINITION OF CORPORATION.—Section 21A(c)(9)(C) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(9)(C)) is amended by striking the period at the end and inserting ", except that for purposes of subsection (c)(2) only, the term means the Resolution Trust Corporation acting in any capacity.".

(b) SALES TO INSURED DEPOSITORY INSTITUTIONS EXCLUDED FROM PROGRAM.—Section 21A(c)(10) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(10)) is amended to read as follows:

"(10) EXEMPTION FOR CERTAIN TRANSACTIONS WITH INSURED DEPOSITORY INSTITUTIONS.—The provisions of this subsection shall not apply with respect to any eligible residential property after the date the Corporation enters into a contract to sell such property to an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act), including any sale in connection with a transfer of all or substantially all of the assets of a closed savings association (including such property) to an insured depository institution.".

SEC. 202. AMENDMENTS RELATING TO SALE PROCEDURES.

Section 21A(c)(6)(A)(i) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(6)(A)(i)) is amended to read as follows:

"(i) SALE PRICE.—The Corporation may sell eligible single family property to qualifying households, nonprofit organizations, and public agencies without regard to any minimum purchase price.".

SEC. 203. SCOPE OF APPLICATION.

The amendments made by sections 201 and 202 of this Act to section 21A of the Federal Home Loan Bank Act shall be effective only during the period beginning on the date of the enactment of this Act and ending at the end of fiscal year 1991 and such section shall apply after the end of such period as if such amendments had not been made.

SECTION 3. RTC MANAGEMENT REFORMS

SEC. 301. MANAGEMENT ENHANCEMENT GOALS.—(a) Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by adding at the end thereof a new subsection (q), to read as follows:

(q) MANAGEMENT ENHANCEMENT GOALS.—

(1) ACTION TO ACHIEVE SPECIFIC GOALS.—The Corporation, upon the enactment of this subsection, shall take action to assure achievement of the management goals specified in this paragraph, as follows:

"(A) MANAGING CONSERVATORSHIPS.—The Corporation shall standardize procedures with respect to its (i) auditing of conservatorships, (ii) ensuring and monitoring of compliance with Corporation policies and procedures by conservatorship managing agents, and (iii) ensuring and monitoring of conservatorship managing agent performance. These procedures shall be developed and implemented no later than September 30, 1991.

"(B) PACE OF RESOLUTIONS.—The Corporation shall take all reasonable and necessary steps to reduce the length of time institutions remain in conservatorship, with the goal that no institution shall be in conservatorship for more than nine months.

"(C) INFORMATION RESOURCES MANAGEMENT PROGRAM.—The Corporation shall develop and incorporate within its strategic plan for information resources management, (i) a translation of program goals into the communication and computer hardware and software, and staff needed to accomplish those goals, (ii) a systems architecture to ensure that all systems will work together, and (iii) an identification of corporation information and systems needs at all operational levels.

"(D) SECURITIES PORTFOLIO MANAGEMENT SYSTEM.—The Corporation shall develop within its information architecture framework, a centralized system for the management of its portfolio of securities. This system shall be developed and implemented no later than September 30, 1991.

"(E) TRACKING REO.—The Corporation shall develop, within its information architecture, an effective system to track and inventory real-estate-owned assets. This system shall be developed and implemented no later than September 30, 1991.

"(F) ASSET VALUATION.—The Corporation shall develop a process for the quarterly valuation or updating of valuations of the assets it holds in its capacity as receiver (or as a result of such capacity). Such process shall incorporate, to the extent practical, RTC disposition experience. In addition, the necessary information systems shall be developed to track and manage these valuations.

"(G) STANDARIZATION OF DUE DILIGENCE AND MARKET FORMAT.—The Corporation shall develop a program for performing due diligence on one- to four-family mortgages and for marketing such loans on a pooled basis.

"(H) CONTRACTING.—The Corporation, in order to identify the need for any changes in its contracting process which would enhance the independence, integrity, consistency and effectiveness of that process, shall consult on a regular basis with other agencies and organizations that have large scale contracting and procurement systems, and shall review on a regular basis its organizational structure and relationships. The Corporation shall develop and have in widespread use the following:

"(i) A manual setting forth comprehensive policies and procedures;

"(ii) A revised and expanded directive that clearly and definitively describes the roles and responsibilities of all those involved in the contracting process;

"(iii) A revised and expanded directive that sets forth in detail the standard procedures to be followed in evaluating contractor proposals;

"(iv) A set of standardized solicitation and contract documents for use by all Corporation officers; and

"(v) A series of standardized contracting training modules for use by Corporation personnel and private contractors.

"(2) The Corporation shall, no later than September 30, 1991, file with the Committee on Banking, Housing and Urban Affairs of the Senate, and the Committee on Banking, Finance and Urban Affairs of the House, a report on the progress being made toward full compliance by the agency with subsection (q) as well as a timetable for completing those items not yet completed."

SECTION 4. MINORITY CONTRACTING REPORT

Sec. 401 MINORITY AND WOMEN BUSINESS POLICY, OUTREACH AND EQUAL OPPORTUNITY REPORTING REQUIREMENT—Section 21A(k)(5)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(5)(B)) is amended by adding at the end the following new clause:

"(xii) A complete description of all actions taken by the Corporation pursuant to subsections (a), (b), and (c) of section 1216 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 with respect to the employment of and contracting with minorities, women, and businesses owned or controlled by minorities or women and any other activity of the Corporation pursuant to the outreach program of the Corporation for minorities and women. Such description shall specify the steps taken by the Corporation, in its corporate capacity and its capacity as conservator or receiver, to implement the minority and women outreach programs required by section 1216(c) of the Financial Institutions Reform. Recovery, and Enforcement Act of 1989 and shall set forth information and data showing:

(a) the extent to which and means by which contract solicitations have been directed to minorities, women, and businesses owned or controlled by minorities or women by the Corporation and by the FDIC on behalf of the Corporation;

"(b) the extent to which prime contracts and subcontracts have been awarded to minorities, women, and businesses owned or controlled by minorities or women, including data with respect to the number of such contracts, the dollar amounts thereof, and the percentage of Corporation contracting activity represented thereby (including contracting activity by the FDIC on behalf of the Corporation);

"(c) contracting and outreach activity with respect to joint ventures and other business arrangements in which minorities, women, or businesses owned or controlled by minorities or women have a participation or interest;

"(d) the extent to which the Corporation's minority and women contracting outreach programs have been successful in maximizing opportunities through the outreach policies established by the Corporation for participation of minorities, women, and businesses owned or controlled by minorities or women in the Corporation's contracting activities."

The SPEAKER pro tempore. Pursuant to House Resolution 112, the gentleman from Texas [Mr. GONZALEZ] will be recognized for 30 minutes, and a Member opposed to the motion will be recognized for 30 minutes.

Mr. KANJORSKI. Mr. Speaker, I question whether the gentleman from Ohio [Mr. WYLIE] is opposed to the bill.

Mr. WYLIE. If the gentleman will yield, no, Mr. Speaker, I support the bill.

Mr. KANJORSKI. Mr. Speaker, I would ask for the allocation of the time in opposition to the motion.

The SPEAKER pro tempore. Is the gentleman from Pennsylvania [Mr. KANJORSKI] opposed to the bill?

Mr. KANJORSKI. Yes, Mr. Speaker, I am.

The SPEAKER pro tempore. The gentleman from Texas [Mr. GONZALEZ] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. KANJORSKI] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Speaker, at the outset let me state that I wish to yield half of my time to the gentleman from Ohio [Mr. WYLIE].

Mr. Speaker, I yield myself such time as I may consume.

Mr. GONZALEZ. Mr. Speaker, I believe that anybody from the outside, any citizen, and perhaps many Members, would get the impression from what they saw and heard all day yesterday and up to now today would lead them to conclude that we have a choice, that we have options. We do not. We do not have choices. We must fund those elements that are attempting to resolve the huge volume of insolvencies that are coming across our country's threshold.

To fail to do that is to invite disaster such as total loss of confidence and a run on the depository-insured institutions.

We have already registered an erosion in that faith and confidence. I tell you that—of course, every one of us would prefer that we would have choices; but I must tell you, my colleagues, we do not have. Now, what do we have here tonight? We have a compromise in the spirit which has been manifested in the proceedings of the U.S. House of Representatives since the first Congress in 1789.

Under our processes, it is a give and it is a take. No one individual or group is going to get it all. If we had any problems up to now, it is because these processes have been aborted, and we have had those elements who have said, "All or nothing; if I don't get my amendment, I am against everything."

Then we have those who wisely or unwisely committed themselves, perhaps, during the campaigns last year because it is easy, it is the easiest political thing to say, "I damn this S&L scandal. I want everybody to know that I am pledged to being against anything that has to do with the S&L's." Well, that is fine. It is also irresponsible.

We take our oath of office to serve well and faithfully, not conveniently.

So I want to tell you that, thanks to Mr. WYLIE and his reasonableness, which I have found to exist at all times, we have forged a compromise.

Yesterday you already heard that we have three choices. Everybody that had anything to say had ample time to say it.

It was an enlarged duplication of what we had gone through in the committee, exactly, and every single one of the alternatives was voted down.

So that what we have today is what Mr. WYLIE has subtracted from his and what I have subtracted from what we had, and we have reached what I consider to be a fair and acceptable compromise, under the circumstances and exigencies.

Mr. KANJORSKI. Mr. Speaker, will the chairman yield?

Mr. GONZALEZ. Not at this time. I do not intend to speak long. The gentleman is going to have more time than we.

I want to assure those who are interested in these particular issues and are committed that we have the full funding for the $30 billion for the remainder of this fiscal year for the loss funds. To do less would be irresponsible.

Requirements that the Resolution Trust Corporation make a detailed report of how additional funds ought to be expended; we have management reforms that Mr. WYLIE has advanced last night; requirements that the Resolution Trust Corporation provide a report on efforts to include minority- and women-owned firms in awarding contracts. The language, if anybody gets an opportunity to read it, is strong. It is not weak or meaningful language.

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Briefly, it has improvements in the affordable housing program to include housing, and conservatorship and the elimination of some of those factors that are mitigating against a single family ownership. We have deducted the most controversial aspect of the housing provision we had on multiple housing and the like, and we have single family housing, affordable housing. It is acceptable to the administration. It is acceptable to our leadership.

As a matter of fact, Mr. Speaker, we are here because of the wisdom and the sense of responsibility of the leadership on both sides of our party files, and so I urge that we approve this tonight, and go on ahead and give the committee to continue the work it has undertaken in this charge very well. We have had more oversight hearings on just RTC. We have even had a task force chaired by the very, very capable gentleman from Minnesota [Mr. VENTO], constant oversight authorized by the subcommittee, which is of prime importance; the gentleman from Illinois [Mr. ANNUNZIO] as chairman.

So, Mr. Speaker, let us go on ahead about our business, do what we must do.

Mr. Speaker, I reserve the balance of my time.

Mr. KANJORSKI. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois [Mr. ANNUNZIO], the chairman of the Subcommittee on Financial Institutions.

Mr. ANNUNZIO. Mr. Speaker, I am delighted that the Committee on Rules favored the opposition with time. Yesterday we did not have any time. At least today we have got 30 minutes. If we turn around today and give RTC $30 billion, with only a few amendments that have been discussed and agreed upon by only the smallest handful of Members of this body, we will be doing a great disservice to all of the taxpayers of this country.

Last night and today there has been a great deal of finger pointing as to what was to blame for the defeat of the RTC funding. I suggest that the real blame is not with the House Democrats, nor with the House Republicans, or those in the other body. The fault lies with RTC.

I want each and every Member here to understand that we are here to give them 30 billions of dollars because they have not done their job. It is a poorly run,· poorly operated agency that has consistently refused to do the job for which it was established. There is not a Member of this body who has not received complaints from constituents regarding the RTC, and yesterday, during the debate, not a single person took this floor to talk about what a good job that RTC was doing. I do not hear any showers of praise coming from the Members about what a wonderful job that this agency is doing.

Mr. Speaker, those who did discuss RTC performance said things like, "Well, I know the RTC is not doing a good job," or, "The RTC could be doing a better job," but in the next breath the speaker would say, "We should give $30 billion to RTC."

Mr. Speaker, I do not think we should give RTC a dime until it starts doing its job. We can wait. We have the time to liquidate assets, to take over failed thrifts.

There are amendments that have been discussed in the committee to this legislation, matching funds that we would like to have a hearing on and more discussion. In other words, if RTC sells $10,000 in assets, the Government would give them $10,000, and they would have $20,000 as an incentive, a kind of a matching fund goal. We have got so many good amendments that we want to pass on to the RTC so that they can improve these programs, establish these programs and put these programs forth so that we can retain some of this money of the American taxpayers.

The RTC, as all my colleagues know, has over 140 millions of dollars in assets, including more than 40 billions of dollars in cash. Only 12 percent of its assets are in real estate. So, there is little danger that it will dump real estate that can hurt the market.

I am not worried about dumping real estate. I am worried about the dumping that is going to go on to the taxpayers of this country.

This bill will require every taxpayer in the Nation to pay $330 in addition to all of the other taxes they are already paying. If that is what my colleagues want to do, if they want to stick it to the taxpayers who have complained long and hard about the RTC, then go right ahead and do it. I am just trying to do my job as chairman of that subcommittee, to bring the truth and the facts before the American people and especially before my colleagues, who I admire, all of them, and I respect them, from both sides of the aisle.

The RTC has billions of dollars at its disposal. All it has to do is to use them and leave the taxpayers alone.

So, I want to urge, in conclusion, and I want to thank again the Committee on Rules for allowing us time. I want to compliment the gentleman from Ohio [Mr. WYLIE] and the gentleman from Texas [Mr. GONZALEZ] because it has been a good debate, but I also want my colleagues to understand that the taxpayers of this country will long, long remember how we cast our votes here today.

Mr. WYLIE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the distinguished gentleman from Texas [Mr. GONZALEZ], chairman of the House Committee on Banking, Finance and Urban Affairs, made an excellent statement a little while ago, and I want to associate myself with the remarks as to the need for passing this bill this evening. I could not be more grateful to the gentleman for his willingness to be a good soldier and for the reasonableness that he has shown in coming to what I think is a fair and reasonable compromise under the circumstances.

We debated this issue for 8 hours yesterday, ad nauseam almost. Every Member understands the problem and why we should pass this bill tonight. So, I am not going to impose on the Members a whole lot more time, except to say that it is a fair compromise.

Mr. Speaker, we met with the Secretary of the Treasury today, and the President is prepared to sign this bill, if he gets it in this form, and we met with the Speaker, the gentleman from Illinois [Mr. MICHEL], the gentleman from Texas [Mr. GONZALEZ], and all of us agreed for the need to pass this bill.

As has been mentioned, it does provide the $30 billion. It does provide for an affordable housing provision which is the same as the chairman's bill, and affordable housing is near and dear to the chairman's heart, except it does not provide for multifamily housing. It provides for the management reforms which I had in the substitute which I offered yesterday, and, as has been suggested, these are management reforms that have been suggested by the General Accounting Office. It provides rather specific language for minority contracting.

Mr. Speaker, all in all I think we offer our colleagues a package tonight which is a fair package. We do need to provide the money so that the depositors who have put money in our financial institutions will feel safe and secure, and we need to vote this money out tonight to save $8 million a day.

We have a leaky faucet on our hands which must be stopped from leaking.

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Mr. KANJORSKI. Mr. Speaker, I yield 3 minutes to the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Speaker, I hold in my hand the bill that will fund the Resolution Trust Corporation to the tune of $30 billion.

Now, if you are looking at me, you are probably saying, "She does not have anything in her hands. I do not see a bill." You are absolutely correct. It is a phantom bill. I do not know what is in the bill, and you do not know what is in the bill. I hope your hometown newspapers are watching and call you up right now to discuss what you are about to vote for, so that you can tell them you really do not know what you are about to vote for.

Mr. Speaker, let me say this: We are about to fund one of the most mismanaged agencies in the history of government. We are about to pour $30 billion down a rat hole that Members know has not done the job and will not do the job.

Mr. Speaker, Members are going to be left with constituent complaints, and they are going to go out individually and try to explain to their constituents why they are being treated so poorly. Members are going to have to explain why in some States deposits of over $100,000 are paid, and in other States they are not.

Well, if Members are willing to go out and do battle alone, you do that, because you have the opportunity here in this House to come together and force the debate that will give us the oversight and control that we need in order to direct the Resolution Trust Corporation.

Mr. Speaker, I ask Members to vote no. The gentleman from Texas [Mr. GONZALEZ], our chairman, as good as he is and as much as I love him, has said that we have no choice. Members do have a choice. The people sent you here to vote for them, not to be people who are led around by the nose with no choice. If you do not have any choice, you do not need to be here. If you cannot afford to stand up on an issue such as this and vote for the right thing and vote to ensure that people are represented, people who have already been messed over and done in by savings and loans, who caused this problem in the first place, then you need to get out of the business.

Mr. Speaker, I ask for a no vote.

Mr. WYLIE. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland [Mr. MCMILLEN].

Mr. MCMILLEN of Maryland. Mr. Speaker, I thank the gentleman for yielding. I rise in support of the compromise.

Mr. Speaker, the gentleman from Texas [Mr. GONZALEZ] is right: we really do not have a choice in this matter. This is about deposit insurance. Go back and tell your constituents you want to back away from that promise about deposit insurance.

Mr. Speaker, we have to go on and close down brain dead thrifts, and we need this money to pay off the depositors. It is very unfortunate that this debate has deteriorated into a partisan squabble about delays here and delays there. But the real delay occurred at the RTC under the executive branch, when it took them over 1 year to set up a basic contracting-out process, which was mandated by FIRREA.

Sure, the RTC has $150 billion in assets. But it took a year to get the forms printed over there. They are not selling fast enough the assets. That is why we are here tonight, to give them more money.

There is a lesson in that. The GAO has warned us that if we do not begin to focus on the management deficiencies, as this compromise does, we are going to be back here time and time again with more $30 billion payouts.

Mr. Speaker, many Members would like to see a greater social agenda advanced in this bill. So would I. But the best social agenda that we can do tonight would be to save the taxpayers money, to begin to focus on management, and to correct the deficiencies at the RTC.

The RTC, as GAO has warned, is doing a lousy job. If they do a lousy job of selling the $150 billion in assets, we will be back here. We will be back here every year, and there will be less money for housing, less money for education, and less money for the environment.

Mr. Speaker, let us focus on management. Let us pass this bill, and get on with our job as an oversight body.

Mr. KANJORSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. Speaker, I rise today in opposition to the bill. I do so with great regret, because I know of the tremendous hard work that has been put in this bill by the chairman of the Banking Committee, the gentleman from Texas [Mr. GONZALEZ], and the efforts under trying circumstances of the ranking minority on the committee.

The fact is, this is a very tough bill to get passed in this House. I admire the work that both gentlemen have done in trying to attempt to find a fair deal for the people of this country.

Mr. Speaker, the fact is, this bill fails. The bill fails because we are not in fact looking out for the best interests of the taxpayers of America. If we look at what is going on in this tax bill, and make no mistake, this savings and loan bill is a tax bill, when we bail out the RTC we are watching the single largest transfer of wealth from the working people and the poor people of this country to the wealthy of any tax in the history of this country.

Mr. Speaker, let us just face some of the facts. Twenty-eight percent of all the deposits in savings and loans in America are deposits in excess of $100,000. Of the $40 billion that the RTC has spent to date, $40 billion to date, over $10 billion has done nothing more than bail out accounts of greater than $100,000.

The average individual that Members in this body represent, the average family in America has less than $2,600 in their accounts. $2,600. It is the working people and the poor people that did not chase the high interest rates, that these savings and loan thieves were out in this country providing to the super wealthy, who would use brokered depositors to go out and find the highest yielding investments, and use to deposits to make themselves wealthy, those are the individuals that are being let off the hook. Those are the individuals that this country and this body ought to have the willingess to stand up and ask them to help pay this bill.

Mr. Speaker, Members have seen the Justice Department of this country prosecute less than 700 cases out of 21,000 that are currently filed at the Department of Justice. What is going on in this country is absurd, and we ought to stand up and defeat this bill.

Mr. GONZALEZ. Mr. Speaker, I am pleased to yield 2 minutes to the distinguished gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I rise in support of the Resolution Trust Corporation funding. I would like to say that the $30 billion is really to protect those depositors who were insured, who otherwise would not have the protection. I think it is the right thing to do.

Mr. Speaker, this legislation does not contain all of the RTC reform provisions which I believe are still important for Congress to enact, and I would hope we do get to enact them in the future. It does not have the least-cost resolution method provision of the gentleman from Texas [Mr. GONZALEZ]; it does not have the environmentally sensitive properties provision that I thought was important; and, most importantly to me, it does not have the fairness provision toward female and minority contractors.

Yet, Mr. Speaker, this does call for detailed reporting. That report is going to be due in late April. I am hoping we will have a comprehensive hearing on that issue.

The bill, however, does contain much-needed afforable housing provisions. This language will help our Nation's chronic housing shortage while the RTC disposes of its large inventory of assets. This affordable housing provision is very well considered.

Mr. Speaker, in spite of the bill's important omissions, I will support the legislation because the unfortunate stark reality is that the RTC is almost out of the money needed for continuing the thrift resolution process. Delaying this funding bill will only create greater costs and risk reducing the public confidence in our deposit insurance system. These alternatives, which would certainly produce financial chaos, are far more frightening than having to provide another funding bill for the RTC.

Mr. Speaker, I urge Members to support this bill.

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Mr. KANJORSKI. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. BACCHUS].

Mr. BACCHUS. Mr. Speaker, I came here to Congress prepared to do the right thing, to make the hard choices. I am still prepared to do that. I want to do the responsible thing. I am prepared to act responsibly.

I believe the RTC needs more money. I came to that conclusion reluctantly. But I am less than overwhelmed by the job that the RTC is doing in my State.

Members may not realize it, but the RTC is exempt from all Federal procurement laws. The RTC has been in business for nearly 2 years but has not yet produced audited financial statements. If you or I were to go to a bank and ask for a loan, we would be expected to give them audited financial statements.

The RTC is asking for what amounts to $78 billion. That is five times and then some what we spent on the space program, and yet they are unwilling to tell us how they have accounted for what they have done thus far.

I want to do the responsible thing and I am willing to give them more money, but I am unwilling to give them a blank check.

Some have said there is no alternative. There is one. I offered an amendment in committee which has the endorsement of the National Taxpayers Union. It has the support now of many other Members of this body, including the chairman of our Financial Institutions Subcommittee, the gentleman from Illinois [Mr. ANNUNZIO]. It would give the RTC $15 billion now. That is how much they say they need right away to resolve those institutions that are currently in receivership, and it would authorize up to an additional $15 billion more, but on a dollar-per-dollar basis as they sell off assets in the rest of this fiscal year. That is a workable compromise that we can build on in committee, and that is a bipartisan compromise that we can make. That is a responsible way to approach this challenge as a Congress.

Thomas Jefferson looked toward an America that he hoped would offer, in his words, wise and frugal government. Giving a blank check to the RTC tonight is not wise and it is certainly not frugal.

I have met at length with representatives from the RTC. I have examined their papers. Not all of the $150 billion that they have in assets are marketable, but they have acknowledged to me that they currently have $40 billion in liquid marketable assets that could be sold off in a way that would save the taxpayers money. Let us not give them a blank check.

Mr. GONZALEZ. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I appreciate the chairman yielding this time to me.

Ladies and gentlemen, we all could probably figure out a bill that we would rather have than this one, even an RTC that we would rather have than this one. There are many on this side of the aisle who were disappointed that specific provisions did not get in. There are many on this other side of the aisle who are disappointed that specific provisions did get in.

But one thing that we can see clearly throughout the long journey of this bill from committee and now onto the floor is that unless there is a bipartisan agreement this bill will not pass, and pass it must. It must pass because the bottom line is sort of like some other things, it got a bad name, and it's called a bailout. Who are we bailing out? We are bailing out depositors. We are bailing out our average constituents who innocently put their money into institutions and now simply want it back when the institutions fail. They are relying on Uncle Sam's guarantee.

We have all sorts of other agenda items that many of us would like to attach to this train. We tried it. We tried it last night. We tried it in committee, and because this bill is such a slippery bill, and by slippery I mean that Members would love to slide off of it, anything that is added makes the bill go down.

So we have a real choice here, my colleagues. We can pass this bill. It is hardly going to make Members heroes in their districts, and it is hardly going to make them heroes with anybody, but it is the right thing to do. Or we can continue to insist that it can only pass with the provisions that I want, that he wants, that she wants, so we will have 435 provisions and no bill and the depositors will lose.

We all know the right thing to do. It is to vote for this bill. It is a tough vote, but it is why we are here, and it is why we are legislators, and I urge Members to support the bill.

Mr. KANJORSKI. Mr. Speaker, I yield 3 minutes to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, as many of us know, the United States has the lowest voter turnout of any industrialized nation on Earth; 50 percent of the people did not vote in the last Presidential election and 60 percent of the people did not vote in the last congressional election. Listening to this debate here tonight, the only question that comes to my mind is why 40 percent of the people bothered to vote.

The previous speaker talked about two sides of the aisle. I suggest that he was implying that there are basic differences of opinion. I think most Americans do not perceive that. They see one big aisle, and they would like to see people in this body begin to stand up for the working people and the poor people and the elderly people who are getting ripped off outrageously by this S&L bailout.

I do not accept the criticism that some of us are afraid to vote the $30 billion. I am prepared to vote the $30 billion if that is in fact what is needed. But at a time when the wealthiest people of this country have seen a tremendous increase in their income, while at the same time the standard of living of working people and poor people has declined, I will be damned if I will vote for a proposal which will stick it to the middle class and the working people.

The fact of the matter is, despite all of the obfuscation and all of the discussion, if we need $30 billion we can raise the $30 billion quite easily. I would suggest to the Members that all we have to do is to place a 15-percent surcharge on the taxes paid by the wealthiest people on their incomes over $100,000. That brings in $15 billion. Place a 15-percent surtax on the corporate income tax and we have another $15 billion. If we add $15 billion plus $15 billion, it equals $30 billion. We do not have to pass $100 billion or $150 billion in interest if we extend the $30 billion over a 30-year payment as we are now contemplating. We all know what happens when we dump this money onto the deficit. Next year we will come back and cut back more on Medicare, cut back more on education, environmental protection, and all of the desperately needed programs in this country.

In my view, the real debate has not yet begun. I would like to see this rule defeated. I would like to see some serious debate, and I really would like to see if there are two sides to this assembly here and have at least one side stand up and say let us have the wealthy people start paying their fair share of taxes.

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Mr. WYLIE. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, we all recognize we are facing a grim circumstance, but I would suggest that it will be grimmer yet if we precipitate a depression, and not acting in a responsible manner will do precisely that.

The banking system is only as strong as the confidence of the public in it. Government is only respected as long as its word is kept.

We in this body are collectively responsible for one of the worst financial mistakes of the century. Let us not, therefore, follow that mistake by being responsible for one of the worst depressions.

The previous speaker is exactly right in suggesting that the stakes of working people are at issue. You bet they are. If this Congress does not work, working people are not going to have jobs. The elderly are not going to have savings.

We have no choice. Let us face up to the facts and do the right thing at the right time.

Mr. KANJORSKI. Mr. Speaker, I yield 3½ minutes to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Speaker, I thank the gentleman for yielding me this time and to the Members of this body for going through this long and rather difficult debate.

You know, I come from humble beginnings in a small house on the west side of Baltimore, but I think, like many of you, learned some basic lessons at an early age. We were taught as young people to play by the rules, to love our country and to cherish our faith, but most of all, we were taught to be fair and to be honest and to do unto others as you would have them do unto you. So that is the dichotomy I come to this well with and the sort of twisted emotions that I think all of us feel when we are told that we are not responsible.

I was told that in 1987 when they said, "Vote for the first bailout. You have got to be responsible, young man." And I voted for it, no provisions that made me feel good, but I wanted to be responsible, and I was here, like many of you, last year when they said, "You have got to be responsible. Vote for this because it is the right thing to do," and I voted for it, because I wanted to be responsible. And now I am being told today that another $30 billion will make me more responsible, and the $50 billion that we will be requested to pass in October will even make me more responsible.

But let me say this about responsibility and rehashing the truth. Someone said this is a rehash of yesterday's debate. Well, perhaps it is, but perhaps it ought to be as well.

This issue of fairness: Give me a break. Let us be honest. Just say that we have a package here, and it is a compromise, but let us not dress it up and send it downtown and call it affirmative action. There is no affirmative action in this. Let us not dress it up and say it has oversight and enforcement provisions. It does not. Let us not dress it up as if it gets around and skirts the issue of pay as you go. It certainly does not. It is a compromise.

In my estimation, it is not the best compromise, but it is what is before this body.

Let me say something about choice, if I might. Do you know who really does not have a choice? It is not us. It is the middle class of this country. It is the farmers out in the Midwest. It is the students in the colleges around this Nation attempting to matriculate. It is the factory workers in our northern cities. It is hard-working men and women in every State in this great Nation. They do not have a choice. They have to meet their mortgages. They have to send their kids to school. They have to pay taxes or face arrest. They have to take care of rising medical costs, and they have to also endure, rightly or wrongly so, the decisions of this body, enduring our decisions as they endure them.

They look at us and expect also that somehow we will find within us that same thing that they, too, grew up with, this idea and this notion of, "Let us be fair."

The sum of $30 billion without any strings attached? It is not being fair, and I think I am tired of trying to be responsible, billions of dollars after billions of dollars later.

Vote your way on this. I am not going to change your mind tonight. I will vote mine.

But I guarantee you that as long as we sit here and breathe, as we do, we will revisit this issue, and we have to come to grips with these very important questions of fairness.

Mr. GONZALEZ. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, this is not one of the 500 best bills I have ever voted for, but I am going to vote for it.

We tried very hard yesterday, and I was very disappointed. Better legislation got less votes, and so, therefore, it is essential that we compromise. This money has to be spent.

I have listened to various of my colleagues with various different approaches. No one has suggested how we could save a dollar of the money. That is the key point. We have to spend it.

I would say on the saving question, I hope we can call attention to one fact, and that was the mythical $8 million a day this was supposed to cost. I have not found anybody explaining where that was supposed to come from.

I am going to vote for this. We have to pay it. But the people who have been throwing around that $8 million a day ought to understand that the people who gave it to them made it up, and they do not have even the beginning of an explanation.

What this bill does have is some good language on affordable housing. It does not have very much in the affirmative-action area. It does make some improvements in affordable housing.

My view is this is the best we are going to get.

I will say one thing. I was disappointed at what seemed to me to be a distortion of the minority and women's sections in the debate yesterday and an unwillingness to recognize a legitimate need. We lost on that for now, but this bill will be back before us.

This is enough money to take them until the end of September.

To the credit of the gentleman from Ohio, he does have language in here that calls for some statistics on the minority and women's issues. When the bill comes before us again, we will be ready, and if there is a failure on the part of the RTC to take seriously the obligation to treat people fairly and to allow qualified people of all backgrounds to participate, then we will be able to address it. Until then, this is the best we are going to get. To defeat it would mean not a savings of any money, not the mythical $8 million a day loss either, but not a saving.

Ultimately the people who made the deposits have to be paid. I would like to see a more progressive taxation way to pay for this, and that is true about everything we do, and there is no more reason to defeat this bill than the absence of a good progessive tax system was the reason to defeat the appropriation earlier today.

Mr. KANJORSKI. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. ENGEL]

Mr. ENGEL. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I will regrettably be voting against this bill this evening.

Many of our colleagues have come before and have said this is $30 billion, and surely we will be coming back again and again and again for more. This is, in essence, a blank check. This is, in essence, throwing money into a bottomless pit.

The working people of America are the ones left holding the bag. It is wrong.

Yesterday we had 10 hours of debate, and we defeated everything. This evening it is rushed back very, very quickly before we really have a chance to sit down to read the bill, to see what is in it, to see what we are actually doing.

Mr. Speaker, this is too important, I think, to be rushed through at the last minute.

I commend the chairman of the committee, the gentleman from Texas [Mr. GONZALEZ], who tried in his amendment yesterday to get forth some of the very, very important provisions that we in New York feel that we needed.

You know, the New York savings and loan associations were responsible. They were not the savings and loan associations that were in trouble, and we in New York are being asked to pay more than our fair share because we were not responsible for it.

I do not mind doing that, because this is one country and we all have to pull for one another. The problem is that we came, the New York delegation, and said, "You know, we have a problem. People are being evicted in New York City. They are being thrown out of their homes by the RTC just because they happened to live in properties that were foreclosed upon." They pay their rent. They are law-abiding. Now they are told they have to get out because the RTC feels it can sell these apartments for a few more paltry dollars.

This is, again, socking it to middle-class people. We said, "Let us have a provision that says that the RTC cannot supersede State and local tenant-protection laws which were voted upon by the New York State Legislature with much deliberation."

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So what do we have in the final version? We have that provision that would have protected these tenants, stripped out of the bill. I think that is really unconscionable.

If we are going to be asked to do our fair share in a crisis that really was not our making, them people ought to listen to what we are saying, that we need to protect our poor and middle class people.

Again, I will be voting against this bill. I think we are making a very, very big mistake, I think the people, the working people, are being left paying the tab and we will be back again. This is wrong. I must oppose this.

Mr. KANJORSKI. Mr. Speaker, I yield 4 minutes to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Speaker, let me thank the gentleman from Pennsylvania for yielding me this time. Let me also indicate that the chairman of the committee, the gentleman from Texas [Mr. GONZALEZ] worked hard and long in trying to promote a bill which would not only give $30 billion to the RTC but would also revise the system.

We all admit that the Corporation charged with working on the savings and loan problem is not doing the best job possible. Therefore, in the Gonzalez committee print and in the amendment adopted in the committee, we asked for a few things. A few things which are not in the bill we are talking about tonight. One of the Gonzalez amendment or provisions provided that in resolving these failed S&L's, we use the least costly method. Now, who can object to expending taxpayers' dollars in the least costly manner? Well, I will tell Members who. It was the minority party of this body and it was the administration, because they wanted a clean bill.

An amendment I had adopted in the committee went along with the thoughts of the gentleman from Hawaii, and that is the commitment we made to the taxpayers provided for $100,000 insurance and no more. If your home burns down and it is insured for $90,000, the insurance company will not come in and say to the gentleman from California, "We like you so much we will give you $110,000." Baloney. They will try to wiggle the insured person down to $80,000, not $90,000.

The amendment I had prepared and adopted in the committee says no account will be paid in excess of the $100,000. That dirtied the bill. We need a clean bill. The administration and the Republicans objected. That is not before Members.

The Kanjorski-Kleczka amendment provided for burdensharing. It is OK for military partners that we insist on burdensharing, and I think it is fair to others to ask those States with State-chartered institutions which caused massive problems, pay a piece of the resolve. That was adopted overwhelmingly in committee by both sides of the aisle, but that did not provide for a clean bill. That was dropped also.

Now, who in this Chamber, who disagrees with those three points? Why can they not be here? Well, because we want a clean bill. When the next request for $50 billion comes down the pike, do Members think those three items are going to be in that bill? No, because Republicans will have a chart, and the daily loss at that point will not be $8 million, it will be $80 million, and we will have to rush headlong and do what the administration wants, and the people be damned.

Well, minority people and Mr. President, here is the clean bill. Oh, throw a bone here and there, and the people will have to wait for their bill another day. Good luck.

Mr. KANJORSKI. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Speaker, the only reason I am standing here is because I have a conscience. I was sitting in my office listening to this debate, and I know darn well that this bill would not have come back if somebody had not caved in this quick.

I know that the leadership of my own party has cut a deal on this, but I could not sit there and not let it be known that I am opposed to it yesterday, I am opposed to it today, and I do not care what color honey anyone sprays on it or in it, Members have not changed a basic thing that I have opposed to. That is, bailing out the savings and loans, and to give up $30 billion now, and to come back in Spetember and ask for another $50 billion. I could not, as a matter of conscience, support that kind of a piece of legislation, regardless of what kind of sweetening any person puts around it.

I want it clearly understood that I am for affordable housing, but God knows I want housing that poor people can afford to have. Do not put in it where we have multifamily units, and people cannot even afford to buy a beer. Tell people the truth sometimes.

The SPEAKER pro tempore (Mr. MURTHA). The gentleman from Texas [Mr. GONZALEZ] has 2½ minutes remaining, the gentleman from Iowa [Mr. LEACH] has 7½ minutes remaining, and the gentleman from Pennsylvania [Mr. KANJORSKI] has 4½ minutes remaining.

Mr. LEACH. Mr. Speaker, I have no additional requests for time, but I have agreed with the distinguished chairman to offer him several minutes for a colloquy.

Mr. GONZALEZ. Mr. Speaker, I want to thank the gentleman for yielding 2 minutes to me for the purpose of yielding to the distinguished chairman of the Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL] for the purpose of a dialog.

Mr. DINGELL. Mr. Speaker, I understand that the comparable Senate bill, S. 419, contains a provision which would waive all liability under the Securities Act of 1933 for Federal employees who are involved in the RTC sale of assets, including securities.

This immunity already exists for Federal employees who are acting in the scope of employment.

I am concerned about the negative implications that could be based on this provision: That the immunity it grants is somehow broader than current law, when in fact it proposes to simply restate current law for the comfort of the RTC and Mr. Seidman.

My concern is that this provision is either redundant or confusing.

I will include a copy of a letter to me from the Securities and Exchange Commission.

U.S. SECURITIES AND
EXCHANGE COMMISSION,
Washington, DC, March 13, 1991.

Re S. 419, the Resolution Trust Corporation Funding Act of 1991.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, U.S. House of Representatives, Washington, DC.

DEAR CHAIRMAN DINGELL: As you requested in your letter of March 8, 1991, to Speaker Foley, the Commission staff has reviewed, on an expedited basis, provisions in S. 419 that would confer limited immunity from liability under the Securities Act of 1933 on certain government personnel involved in the resolution of failed depository institutions. Based upon the staff's review, and subject to the Commission's understanding of the intent and effect of the legislation (discussed below), the Commission would not object to enactment of these provisions. The reasons for the Commission's conclusion are set forth below.

Section 4 of S. 419, as passed by the Senate on March 7, 1991, would grant employees of the Resolution Trust Corporation ("RTC"), the RTC Oversight Board, and the Federal Deposit Insurance Corporation ("FDIC") immunity from Securities Act liability with respect to certain securities transactions involved in RTC asset dispositions. The proposed legislation would provide that:

"[a] director, member, officer, or employee of the [RTC, RTC Oversight Board, or FDIC] has no liability under the Securities Act of 1933 with respect to any claim arising out of or resulting from any act or omission by such person within the scope of such person's employment in connection with any transaction involving the disposition of assets (or any interests in any assets or any obligations backed by any assets) by the [RTC or FDIC]."

The RTC has requested this amendment out of concern that RTC personnel could be subject to personal liability for negligent misrepresentations or omissions in connection with the sale of asset-backed securities by or on behalf of the RTC.[1]

The Commission is aware of the pressing need to dispose of the RTC's huge inventory of assets acquired through the resolution of failed depository institutions. In response to your request for comments, I directed the commission staff to evaluate on an expedited basis whether the relevant provisions of S. 419 would impair existing investor protections. Based upon that review, we believe that the proposed legislation is consistent with current law and would not deprive investors of the practical benefits of the federal securities laws.

Government employees already have absolute immunity against common law tort claims and most statutory claims under both common law immunity principles and the Federal Employee Liability Reform and Tort Compensation Act of 1988 (28 U.S.C. 2679) for actions taken "within the scope of [their] office or employment."[2] The Senate Banking Committee, in its report on S. 419, states that it believes that current law already provides RTC personnel with immunity from personal liability, and that the proposed legislation clarifies rather than expands existing law.[3] The Commission staff's review of applicable law revealed nothing to contradict this assessment.[4]

In addition, the relevant provisions of S. 419 contain a "scope of employment" limitation. Chairman Seidman has stated that the inclusion of this limitation means that immunity would not extend to malicious or willful misconduct.[5] The Senate report accompanying S. 419 states that "[t]he provisions of this bill do not limit personal liability for criminal actions or other actions outside the scope of employment, such as those taken for private gain." S. Rep. No. 13 at 6–7. Any future legislative history of these provisions should likewise make clear that the legislation does not protect government officers and employees who have engaged in such willful misconduct.[6]

Finally, it should be noted that the bill would not deprive investors of all private remedies for material misstatements or omissions in connection with the sale of securities by the RTC. In addition to any remedies against government employees who commit actual fraud, investors would also have remedies available under both the Securities Act and also the Securities Exchange Act of 1934 against private persons engaged in the sale of RTC assets, including attorneys, auditors, and underwriters. Of course, the Commission expects that the limitations upon relief against government employees under these provisions and other applicable law would be disclosed in any offering materials.

Based upon our analysis and understanding of the legislation, the Commission would not object to enactment of Section 4 of S. 419.

Thank you for giving the Commission this opportunity to comment on S. 419. Please let me know if you require additional information on this matter.

Sincerely,

RICHARD C. BREEDEN,
Chairman.

Mr. Speaker, I yield to my dear friend, the gentleman from Texas [Mr. GONZALEZ] for such comments as he chooses to make.

Mr. GONZALEZ. Mr. Speaker, I share the gentleman's concerns. The House bill, like the committee bill, does not include similar immunity language. No other agency has such immunity, and in fact, Government employees, doing their job, are protected by law under the Federal Tort Claims Act.

In fact, the RTC's own general counsel's office has said such language was not necessary.

Mr. Speaker, I would like to insert for the RECORD a memorandum to the Board of Directors from the RTC's counsel, as well as a copy of a letter to Chairman Seidman from me.

RESOLUTION TRUST CORPORATION,
Washington, DC, December 12, 1990.

Re Personal Liability of Members of the Board of Directors in Connection With Securitization Transactions.

To Board of Directors.

Thru Alfred J.T. Byrne, General Counsel, Douglas H. Jones, Senior Deputy General Counsel, Gerald Jacobs, RTC Special Counsel.

From Michael Jungman, Assistant General Counsel, Securities and Finance, Ira Parker, Assistant General Counsel, Litigation.

For the reasons set forth below, the members of the Board of Directors of the RTC should not be subject to any personal liability in connection with the disposition of assets through securitization transactions.

Common Law Immunity. Under common law, a member of the Board of Directors is protected by absolute immunity when the acts complained of were taken within the outer scope of his or her official duties and involve the exercise of governmental discretion. The decision to dispose of assets through securitization transactions unquestionably falls within the scope of the duties of the Board of Directors of the RTC, and clearly involves the exercise of governmental discretion. Although a doctrine of qualified immunity, rather than absolute immunity, applies in the case of a claim based on a violation of Constitutional rights, we do not believe that any claim for securities fraud would have a Constitutional basis.

Statutory Protections. Under the Federal Employees Liability Reform and Tort Compensation Act of 1988 (the "FELRTCA"), the United States is substituted as the exclusive defendant in any common law tort action or action arising under a state statute for damages against a federal employee whenever the Attorney General or the court determines that the act or omission alleged to have caused the claimant's injuries was within the scope of the employee's office or employment. Thus, in the event the claim is successful, the person injured by governmental action is compensated from the Justice Department's Judgment Fund and not from the personal assets of the federal employee. The Judgment Fund is funded through an open line of credit at the Treasury Department. The language of the FELRTCA is unclear, and has not been judicially construed, as it would apply to claims against Board members based on the federal securities laws. We think there is a strong chance, however, that a court would construe the FELRTCA under the present circumstances to cover claims brought under federal securities statutes.

Corporate Indemnification. Although corporate indemnification should not be an issue in view of the common law and statutory protections available, the members of the Board of Directors should be aware that in 1984 the FDIC adopted a policy of providing corporate indemnification to directors, officers and employees of the FDIC for all liabilities and expenses incurred in connection with any claim of any wrongful act. That policy (a copy of which is attached) expressly defines the term "wrongful act" to include "any actual or alleged error or misstatement or misleading statement" taken by such person in the performance of his or her official capacity. Pursuant to FIRREA, the FDIC's indemnification policy is effective for the RTC unless and until the RTC adopts its own policy on this point.

Defenses. Section 11 of the Securities Act of 1933 provides that a director or other defendant may successfully defend against a securities fraud claim by showing that he or she had, after reasonable investigation, reasonable grounds to believe in the accuracy of the disclosure document. The RTC would follow the same practices employed by private sector issuers of mortgage-backed securities and other asset-backed securities to ensure that that such a defense will be available: (i) appropriate review of the assets being securitized; (ii) preparation of proper disclosure by a highly-qualified securities law firm and receipt of a comfort letter from such firm as to the accuracy of the disclosure materials; (iii) review by such law firm of the nature of the RTC's due diligence procedures in the context of the disclosure being provided; and (iv) use of experts for portions of the disclosure materials that are susceptible to expert opinion.

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[1] See Letter from L. William Seidman, Chairman, RTC, to Congressman Henry B. Gonzalez, Chairman, House Committee on Banking, Finance and Urban Affairs (Feb. 25, 1991), and enclosures.

[2] The Federal Employee Liability Reform and Tort Compensation Act of 1988, by its terms, does not extend protection to a government employee who is the subject of a civil suit "which is brought for a violation of a statute of the United States under which such action against an individual is otherwise authorized." 28 U.S.C. 2679(b)(2)(B). However, it appears that Congress did not mean, by this exclusion, to allow Securities Act claims against federal employees. Cf. H.R. Rep. No. 700, 100th Cong., 2d Sess. 6–7, reprinted in 1988 U.S. Code Cong. & Ad. News 5945, 5950, citing *Safeway Portland E.F.C.U.* v. *FDIC*, 506 F.2d 1213 (9th Cir. 1974) (sovereign immunity not waived as to claims arising under the Securities Act).

[3] See S. Rep. No. 13, 102d Cong., 1st Sess. 6 (1991).

[4] The proposed legislation makes clear that it creates no negative implications with respect to the immunity of other agencies and officials under preexisting law. Thus, there should be no need to add specific exemptions from immunity under the Securities Act for other agencies that engage in the purchase and sale of loans and other assets.

[5] See letter of Chairman Seidman to Congressman Gonzalez, supra.

[6] We believe that the failure of these provisions specifically to refer to fraud means, under general principles of statutory construction, that the legislation cannot properly be construed to immunize egregious misconduct.

In addition, in the case of a private placement transaction, the RTC would obtain from each purchaser of securities an investment letter that stipulates that the purchaser is a sophisticated institutional investor; has had access to all requested information concerning the securities in question; and has made an independent decision to purchase the securities based on the information made available. Such a representation letter provides a high degree of protection for the issuer from any subsequent claim of fraud by the purchaser.

(The law firm of Cleary, Gottlieb, Steen & Hamilton has reviewed this memorandum and concurs in the views stated above. Cleary, Gottlieb, Steen & Hamilton has prepared the disclosure and other documents in connection with the proposed CBO transaction and the proposed shelf registration statement for mortgage-backed securities.)

ATTACHMENT—FDIC STATEMENT OF POLICY AND PLAN FOR THE INDEMNIFICATION OF DIRECTORS, OFFICERS AND EMPLOYEES

The Board of Directors of FDIC has concluded that it is in the FDIC's best interest to indemnify board members, officers, and employees sued for acts arising from the performance of their official duties. Accordingly, it has adopted the indemnification plan set forth below.

1. GENERAL COVERAGE

The FDIC shall indemnify each Person who is or was a Director, Officer or Employee of the FDIC, in its Corporate or Receivership capacities, against any and all liabilitity and expenses that may be incurred in connection with or resulting from any action, claim, suit or proceeding, civil or criminal ("Claim"), for Wrongful Acts, in which the Person may become involved by reason of being or having been a Director, Officer or Employee or by reason of any action taken or not taken in the Person's Official Capacity as a Director, Officer or Employee, whether or not such Person continues to be such at the time the liability or expense is incurred.

The foregoing indemnification is intended to supplement, and not be exclusive of, other rights to which any such Person may be entitled by contract or as a matter of law and shall inure to the benefit of the heirs, estate and Legal Representatives of any such Person.

2. DEFINITIONS

(a) "FDIC" shall mean the Federal Deposit Insurance Corporation.

(b) "Person" shall mean any individual who is or was an Officer, Director or Employee (including Liquidation Graded employees) of the FDIC, whether salaried or not.

(c) "Board of Directors" shall mean the Board of Directors of the FDIC.

(d) "Employee" and "Officer" shall include all Persons carrying out the functions and obligations of the FDIC as set forth in section 9 of the Federal Deposit Insurance Act, as amended (12 U.S.C. §1819). "Employee" shall *not* mean an independent contractor.

(e) "Legal Representatives" shall include any individual or entity appointed to represent the interests of a deceased Person and any individual or entity duly appointed by a court of law to represent the interests of a Person in the event of incompetency, insolvency or bankruptcy.

(f) "Wrongful Act" shall mean any actual or alleged error or misstatement or misleading statement or act or omission or neglect by a Person, in the performance and discharge of the Person's duty, individually or collectively, or any other matter that provides the basis for a Claim and is not excluded by the terms and conditions herein. Wrongful Acts include, but are not limited to, libel, slander, defamation, wrongful entry or eviction, assault, battery, criminal acts alleged in civil suits, and all constitutional torts.

(g) "Expenses" shall include amounts actually and reasonably incurred for: (1) payments in satisfaction of a judgment or in a settlement of a judgment or Claim other than any amount paid or agreed to be paid to the FDIC itself; (2) damages; (3) settlement costs; (4) costs relating to the defense of any Claims and appeals therefrom (excluding all costs incurred by any bureau, department or agency of the government with respect to the defense) including, but not limited to, investigation costs, counsel fees and court costs; (5) costs of attachment or similar bonds (excluding fines or penalties); and (6) other reasonable expenses incurred in and related to the litigation or the proceedings. "Expenses," as herein defined, shall not include any cost, liability or loss the payments of which violates public policy.

(h) "Official Capacity" shall mean all duties and acts carried out within the scope of a Person's responsibilities which were made in good faith and in a manner reasonably believed to be in or not opposed to the best interests of the FDIC. With respect to any criminal action or proceeding, a Person must have had no reasonable cause to believe his/her conduct was unlawful. In the event that a question arises as to whether or not a Person has met the above standards of conduct, the question shall be conclusively determined by either:

(1) the Board of Directors by a majority vote of directors who are not a party to the Claim;

(2) by the written opinion of an Independent Legal Counsel selected by a majority vote of the Budget and Management Committee if such a majority of the Board of Directors is not obtainable or, even if obtainable, where a majority of disinterested directors so directs.

(i) "Independent Legal Counsel" shall not include any attorney or any firm having associated with an attorney who was retained by or who performed services for the FDIC during the two years prior to its selection.

3. EXCLUSIONS

The FDIC will not indemnify any Person in connection with any Claim:

(a) Which, at the time of the Claim, is insured by an existing valid insurance policy or policies, under which payment of Expenses is actually made; except with respect to any excess beyond the amount actually paid;

(b) For which a Person is entitled to and does, in fact, receive indemnity or payment under any valid insurance policy or policies, the terms of which expired prior to the adoption of this indemnification plan, except in respect of any excess beyond the amount actually paid;

(c) Based upon or attributable to a Person gaining in fact any profit or advantage to which the Person was not legally entitled;

(d) Brought about or contributed to by the dishonesty of a Person as determined by a judgment or other final adjudication. If the matter is resolved by settlement rather than by adjudication, the FDIC will not indemnify if it is determined in accordance with section 6(c) hereof that the Claim was brought about or contributed to by the dishonesty of the Person.

(e) For legal fees or expenses of any legal proceeding in which a Person was or could lawfully or properly have been represented by the Department of Justice or by private counsel provided by the Department of Justice: provided, however, that:

(1) this exclusion shall not be applicable if the FDIC receives a written opinion from the Department of Justice stating that such representation would not be lawful or proper; or

(2) if the Department of Justice offers to represent or provide specific private counsel to a Person but the Person requests in writing that the FDIC pay the costs of representation by counsel of the Person's own choice, the FDIC shall consider the request and may advance, on behalf of the Person, the reasonable fees and expenses of the counsel, subject to the provisions herein.

(f) Brought about or contributed to by the international violation of any law, rule, regulation, resolution of the Board of Directors, or court order ("Violation") as determined by a judgment or other final adjudication. If the matter is resolved by settlement, FDIC will not indemnify if it is determined in accordance with section 6(c) that the Claim was brought about or contributed to by an intentional Violation. For the purpose of determining the application of the foregoing exclusion, any fact pertaining to any Person shall not be imputed to any other such Person.

4. COSTS, CHARGES AND EXPENSES

(a) With respect to any Claim as to which a Person has or will seek indemnification hereunder, the Person shall not admit any liability for any Claim or incur any costs, charges or expenses or make any settlement without the FDIC's written consent, which consent shall not be unreasonably withheld.

With respect to any Claim as to which a Person has or will seek indemnification hereunder, FDIC shall be afforded the right, in its sole discretion and at its expense, to control the defense of the Claim, including, without limitation, the right to designate counsel for the Person and to control all negotiations, litigation, arbitration, settlements, compromises and appeals of any such Claim, but only to the extent the control, is consistent with any policy of insurance or indemnification agreement under which the Primary Indemnitor would be liable to the Person in respect of the Claim, provided that the FDIC shall have notified the Person in writing that the Claim is a Claim with respect to which the Person is entitled to indemnity under this Agreement. When it has such control, the FDIC, however, shall not offer to settle any Claim without the express consent of the Person. If, however, the Person should refuse to consent to any settlement recommended by the FDIC and should elect to contest or continue any proceedings in connection with such Claim, then the FDIC's liability will not exceed the amount for which the Claim could have been so settled, plus any amounts incurred in defense of such Claim up to the date of such refusal.

(b) The FDIC will advance on behalf of a Person costs, charges and expenses incurred in connection with any Claim made against a Person, prior to disposition of the Claim, provided always that, in the event it is finally determined that the Person is not entitled to indemnification from the FDIC, the Person will repay to the FDIC, upon demand, all amounts advanced on the Person's behalf pursuant to this provision. As a condition of any such advance, the FDIC may require an undertaking satisfactory to the FDIC by or on behalf of the Person to provide sufficient collateral and repay such amounts unless it is ultimately established that the Person is entitled to receive payment hereunder.

5. NOTICE OF CLAIMS

A Person shall given written notice to the FDIC of any Claim made against the Person and shall give the FDIC such information and cooperation as it may reasonably require. Written notice shall be given, as soon as practicable after a Claim is made, to the Executive Secretary, the Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429. The Executive Secretary shall forward copies of the written notice to the Board of Directors and to the General Counsel. Failure to give written or timely notice shall not affect the availability of indemnification as long as FDIC has not been prejudiced by such failure.

6. GENERAL PROVISIONS

(a) SUBROGATION CLAUSE.—In the event of any payment under this indemnification plan, the FDIC shall be subrogated to the extent of such payment to all related rights of recovery available to the Person, and the Person shall execute all papers required and do everything that may be necessary to secure and preserve such rights, including execution of such documents necessary to enable the FDIC to effectively bring suit in the name of the Person.

(b) ASSIGNMENT CLAUSE.—The interests under this indemnification are not assignable. Except as provided in paragraph 1 of this indemnification (with respect to heirs, estate and Legal Representatives), nothing expressed or referred to in this indemnification is intended or shall be construed to give anyone other than the Person involved any legal or equitable right, remedy or claim under or in connection with this indemnification.

(c) CONSTRUCTION CLAUSE.—Questions of construction or otherwise arising with respect to indemnification under this plan shall be conclusively resolved by the Board of Directors or an Independent Legal Counsel as provided in subparagraphs 2(h)(1) and 2(h)(2).

By direction of the Board of Directors.

Dated at Washington, D.C. this 5th day of November, 1984.

HOYLE L. ROBINSON,
Executive Secretary.

COMMITTEE ON BANKING,
FINANCE AND URBAN AFFAIRS,
Washington, DC, February 5, 1991.

Hon. L. WILLIAM SEIDMAN,
Chairman, Resolution Trust Corporation, Washington, DC.

DEAR CHAIRMAN SEIDMAN: Thank you for your letter of February 1, 1991. As you know, a primary statutory responsibility of the Resolution Trust Corporation is to dispose of assets acquired through the resolution of insolvent savings associations. Moreover, the proceeds of asset sales are the main source of funds to repay the extensive working capital borrowings of the RTC.

You have stated that the RTC Board may not approve any transactions involving sales of financial assets until it receives a statutory guarantee that its directors, officers, and employees are immune from personal liability under the securities laws.

It is my understanding that the risk of personal liability is extremely remote. The RTC's in-house counsel as well as two out of three law firms asked to opine on this issue stated generally that there should not be personal liability because of statutory and common law immunity. Moreover, it is not clear why adequate disclosure could not be made.

In addition, the request for immunity proposed by the RTC is seriously flawed for a variety of reasons. First, it purports to grant blanket immunity, even for malicious and wilful conduct. Second, it creates a negative implication that personal liability is intended for actions other than the disposition of assets. Third, it creates a negative implication that personal liability is intended for officers and directors of government corporations other than the RTC.

I believe a far better approach would be to indemnify directors, officers, and employees of the RTC for liability under the securities laws in connection with asset sales. I understand that the Federal Deposit Insurance Corporation has successfully had such indemnification procedures in place for many years. In accordance with the standard and accepted industry practices, indemnification could be made available from the procedures of asset sales.

I strongly urge you to reexamine the ability of the RTC to indemnify its directors, officers, and employees. I am convinced indemnification will address your personal concerns without causing the public policy and legal problems that would be raised by a statutory grant of immunity.

Sincerely,

HENRY B. GONZALEZ,
Chairman.

Mr. LEACH. Mr. Speaker, I yield back the balance of my time.

Mr. KANJORSKI. Mr. Speaker, I yield 1 minute to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, I would observe this evening, as we are ready to vote, that the President has won this debate. He is basically going to get his $30 billion. He is going to get what I call a clean bill, but this clean bill is fundamentally a very dirty bill for our children and grandchildren. I cannot vote for it because I cannot look my children and future generations in the eye and explain to them why this Congress and this President at this time absolutely refuses to pay for one dime of this mess. I think it is economically destructive. It is morally wrong. However, it is politically easy. I cannot go along with it. I urge my colleagues to vote no.

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Mr. KANJORSKI. Mr. Speaker, I would like to wind up the debate. I know my colleagues have been anxious to get out of here this evening. It has been a rather long night.

Mr. Speaker, we have heard that we have to pass this thing or heaven and hell is going to fall upon us. We have no time left to consider it. This is something that has to be done quickly. We have to give up all our objectives, all our controls, all our accountability, all the things that a legislative body should properly deal with in this country because we are supposedly at the 11th hour.

I could call the attention of my colleagues to last October when our friends in the administration and the leadership on both sides of the aisle returned from the mountain and they told us this is doomsday, the last moment. We have got to agree on this budget agreement or all hell is going to break loose.

There was a majority on the other side and a majority on this side that said, "No, we won't rubberstamp a deal. We are going to work harder."

And even though we were not satisfied after 2 more weeks, there is nobody in this House who cannot agree that the compromise worked out finally on the budget was a much better compromise the second time around than if we had eaten it the first time and accepted it as a final result.

Mr. Speaker, tonight we are not going to have a perfect bill here. As a matter of fact, in my opinion nobody could argue that this is even an acceptable bill. All we are asking, those of us on the committee who have fostered burdensharing, pay-as-you-go accountability, fairness, good administration, housing, and fairness to the country, and then most of all protection of the taxpayers, we have asked for time to offer amendments, time to argue those amendments so not only our colleagues in the House of Representatives can understand, maybe they all understand but I doubt it. I have been on the Banking Committee for 7 years now and I have to confess that I do not understand all these complicated issues; but I will tell you one group of people in this listening audience who do not understand. It is the American taxpayers. They do not understand why the President said just 18 months ago, "Give me $50 billion and never again," and 18 months later here he says, "Give me $30 billion, and I will be back in 9 months for another $50 billion."

And he will not even tell us after October with the next $50 billion whether he needs another $50 or $100 billion.

I do not blame the President. I do not blame my colleagues in the minority, and I do not blame my colleagues in the majority. I think our chairman, our subcommittee chairmen, I think the gentleman from Ohio [Mr. WYLIE], I think the President and the administration have done a tough job. It is not an easy job, but we are asking to perfect a piece of legislation that can bring in additional revenues from the people who are responsible for the loss. We are asking for legislation that can close the holes, the black holes where we are paying out billions of dollars to people who were never insured and should not have been insured, and we are asking for some fairness, oversight, good administration of a Government program, and instead at 20 after 8 in the evening on a Wednesday, the middle of the week, we cannot afford another day or tomorrow for debate. We cannot wait until Friday. We have got to do it today.

Now, I know people have made commitments, and I will not even bring those commitments up, but my God, if the Congress of the United States ever had a responsibility, it would be to participate in reasonable legislation to control this mad truck going down the road.

Mr. Speaker, I ask my colleagues to vote no, come back here in 1 week or 2 weeks, debate these issues, see what these amendments can do, and then give the $30 billion with reasonable protection.

Mr. GONZALEZ. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I rise in support of this measure.

This is a compromise. We tried in committee. We had a lot of great ideas. I voted for some of them with my colleagues who have spoken so eloquently and so passionately tonight about minority affirmative action and action for women. I felt strongly about that.

Many of the other ideas that have been expressed here, I think were worthy. The problem is, we could not get 50 plus 1 percent of the Members of the body to go along with many of those ideas.

The fact is that the law, a 1,000-page law, had a lot of advice in terms of how we are controlling and dealing with the S&L bailout. We are not just laying these extra dollars out without some guidance. In fact, there is considerable guidance, and it is our job in congressional oversight to make certain that those laws are followed the way that it was intended. We are not altogther pleased with that. I think there are some improvements included in this legislation that the gentleman from Texas is asking us to act on and that the gentleman from Ohio [Mr. WYLIE] is asking us to act on. We have been able to come together.

Someone said something today that struck me. They said, "Well, the two sides of the aisle, there are no differences." Well, we had plenty of difference yesterday, but we did not get anything done; so I think what it is going to take tonight is to come together and to act on this legislation.

The dollars have been spent. This is not a question of whether you want to buy the meal or not. We have already consumed it. We do not want to cause a crisis. We do not want to cause a train wreck. That is not the way we should run this Congress or this country.

This body is made up of 435 individuals with a lot of good ideas, and it is time that we take and recognize that we have to come together and compromise to act on legislation in a responsible manner to make this body work and to make our Nation work and to answer the problems that are presented to us, whether we like the problems or not. The right vote on this is an aye vote.

Mr. GONZALEZ. Mr. Speaker, the time has arrived for us to do our duty. I have spoken and urged on this. It just remains for me to say and once again repeat my expression of profound and sincere thanks to the gentleman from Ohio [Mr. WYLIE] and the leadership of both parties who have acted so diligently.

Mr. Speaker, I urge an aye vote on this bill.

Mr. KLECZKA. Mr. Speaker, if Congress is to approve an additional $30 billion in Resolution Trust Corporation funds, certain reforms are essential. No new funds should be appropriated unless the regional inequities of the savings and loan cleanup are addressed.

I yesterday voted against H.R. 3415, the RTC funding bill, because no attempt was made during floor consideration to consider the regional bias which is implicit in the current funding method of the savings and loan cleanup. When the House Banking Committee considered the RTC funding bill, Congressman PAUL KANJORSKI and I offered a burden sharing amendment, which the committee approved by a bipartisan vote of 28–16, which required States which have been home to excessive costs resulting from the failure of their State-chartered thrifts to pay an extra premium to the RTC. Unfortunately, the House was not allowed to consider this fair and sensible funding mechanism. That action contributed yesterday to the defeat of further RTC funding.

Failed Wisconsin State-chartered savings and loans have accounted for approximately one-tenth of 1 percent of the RTC cleanup costs, but Wisconsin taxpayers are being asked to pay 1.8 percent of the bill, or $439 million. While Wisconsin thrifts are not expected to add to RTC costs, Wisconsin taxpayers, if this legislation became law without the amendment Congressman KANJORSKI and I offered in the House Banking Committee, would continue to be required to pick up a disproportionate share of the tab.

Let me explain the background of this amendment. Since the 1930's, the United States has operated what has come to be known as a dual banking system, based on a Federal-State partnership. States were allowed to regulate State-chartered thrifts, and the Federal Government provided deposit insurance.

In the 1980's, several States grossly abused this system, enacting laws allowing speculative investments by savings and loans, including questionable real estate investments, all of which were backed by Federal deposit insurance.

For those States, it was a "heads we win, tails the Federal taxpayer loses" situation. By the end of the decade, following massive failures at State-chartered savings and loans, the bills began to come due. From 1988 through October 1990, $32.8 billion of the savings and loan resolution cleanup costs were directly attributable to insolvent State thrifts. Failed thrifts in Wisconsin accounted for $37 million of that $32.8 billion.

As the cleanup developed, it became clearer that a more accurate description of States which allowed irresponsible thrift regulation might be "heads we win, tails we win again." The billions upon billions of dollars which the Federal Government is now pouring into Southwestern States amounts to a massive regional subsidy. Try as you might, you will not see advertisements for bargain basement apartment houses, condominiums, and shopping centers in Wisconsin. You will, however, see such advertisements in publications in Texas, courtesy of the Resolution Trust Corporation. At this point, we have taxpayers in Wisconsin subsidizing inexpensive housing and infrastructure in States with which we are economically competitive. And now they are being asked to pay more of the bill.

This is simply not fair. Taxpayers in States with strong regulation of financial institutions should not have to pick up the tab for high fliers in States with lax regulation. Since the rule by which we considered the legislation did not allow the House to change the law in this regard, I could not support $30 billion in new funding for the RTC. If some form of regional equity in the cleanup can be achieved, I would look more favorably toward supporting additional RTC funds.

During consideration of RTC funding, several amendments were considered, some of which had merit. I supported the Slattery pay-as-you-go substitute. The substitute provided $20 billion to the RTC immediately, but would have released an additional $10 billion only after the President submitted to Congress a plan which detailed how additional funds would be raised in a pay-as-you-go manner.

By adopting this approach, taxpayers would save at least $120 billion in unnecessary interest costs over the next 30 years. It is simply not fair to pass the costs of the savings and loan debacle on to the next generation. We cannot continue to sweep the costs of this cleanup under the rug.

In addition, I supported the Gonzalez substitute, which tied further RTC funds to overdue reforms.

First, and of greatest immediate interest to the taxpayer, the Gonzalez substitute required the RTC to use the least costly means of resolving insolvent thrifts. Specifically, the RTC would be required to evaluate, at the time a thrift is placed in conservatorship, when a receiver is appointed, or when the RTC decides to offer assistance, all resolution alternatives to determine the least costly approach, taking into account such things as possible lost tax revenue.

Under current RTC procedures, a House Banking Committee staff study found that a faulty evaluation process has resulted in the protection of at least $7.8 billion in uninsured deposits. This is simply unacceptable. During consideration of this legislation in the House Banking Committee, I offered an amendment, which the committee accepted, which specifically prohibited the RTC from taking any action to protect uninsured depositors. While I was disappointed my amendment was not included in the Gonzalez substitute, Banking Committee staff assures me that the least-cost provision included in that substitute will substantially accomplish much of what I set out to do: End the RTC practice of protecting uninsured depositors.

In addition, the Gonzalez substitute improved the RTC affordable housing provisions by allowing nonprofit organizations, public agencies, and low- and moderate-income families to bid on properties now held by thrifts in which the RTC is the conservator, not simply those in receivership, as is now the case. This very sensible reform would have greatly enlarged the pool of eligible affordable properties.

The Gonzalez substitute also included provisions to protect tenants of RTC properties from displacement, and required close consultation with relevant Federal agencies on properties that are environmentally or historically significant.

I opposed the Wylie substitute, which was not considered by the House Banking Committee, and offered little in the way of real reform. This substitute proposed that the RTC make certain management changes, and report to Congress on progress in doing so. It attempted to give the appearance of making changes at the RTC, but actually required little beyond the establishment of timetables and the issuance of reports. Nowhere, for example, did the Wylie substitute address the critical question of RTC actions which protect uninsured depositors. At this point, we do not need reports and timetables from the RTC, we need action on major issues of concern to taxpayers.

Mr. Speaker, when the President came to the Congress in early 1989, with a request for $50 billion to close down insolvent savings and loans, his theme was "Never Again." In less than 2 years, he has asked for an additional $30 billion. By October 1 of this year, I fully expect him to ask for still another $50 billion. Congress should not appropriate such staggering sums unless a more equitable funding system is devised and essential operating reforms are adopted.

At this point, I would like to include in the RECORD a chart, prepared by the Northeast-Midwest Congressional Coalition, which gives a State-by-State breakdown of resolution costs for State-chartered thrifts, and a comparative estimate of what the taxpayers in each State will be paying in cleanup costs.

TABLE I.—THE BLAME AND THE BURDEN 1988–90 RESOLUTION COSTS FOR STATE-CHARTERED THRIFTS

[Dollar amounts in millions]

State/region	The blame		The burden	
	Amount [1]	Percent of United States	Percent of United States [2]	Amount [3]
New England:				
Connecticut	0	0	2.1	$518
Maine	0	0	.4	104
Massachusetts	0	0	3.2	776
New Hampshire	0	0	.5	133
Rhode Island	0	0	.4	107
Vermont	0	0	6.9	1,689
Total	0	0	6.9	1,689
Mid-Atlantic:				
Delaware	0	0	.3	79
Maryland	0	0	2.3	560
New Jersey	$12	0	4.6	1,140
New York	0	0	8.9	2,190
Pennsylvania	674	2.1	4.8	1,188
Total	686	2.1	21.0	5,157
Midwest:				
Illinois	285	0.9	5.3	1,300
Indiana	50	.2	2.0	484
Iowa	140	.4	1.0	235
Michigan	53	.2	3.8	935
Minnesota	11	.0	1.8	432
Ohio	163	.5	4.2	1,023
Wisconsin	37	.1	1.8	439
Total	738	2.2	19.7	4,848
South:				
Alabama	3	0	1.2	297
Arkansas	49	0.1	.7	163
D.C.	0	0	.3	83
Florida	1,944	5.9	5.1	1,263
Georgia	26	.1	2.3	564
Kentucky	0	0	1.1	265
Louisiana	0	0	1.2	306
Mississippi	42	.1	.6	152
North Carolina	34	.1	2.2	542
Oklahoma	78	.2	1.0	247
South Carolina	0	0	1.0	255
Tennessee	35	.1	1.6	401
Texas	22,411	68.3	6.1	1,494
Virginia	122	.4	2.6	630
West Virginia	0	0	.5	121
Total	24,744	75.4	27.6	6,784
West:				
Alaska	0	0	.3	64
Arizona	28	0.1	1.2	303
California	5,841	17.8	13.0	3,193
Colorado	499	1.5	1.3	313
Hawaii	0	0	.4	108
Idaho	0	0	.3	70
Kansas	88	.3	.9	232
Missouri	0	0	1.9	467
Montana	0	0	.2	58
Nebraska	0	0	.5	134
Nevada	0	0	.5	115
New Mexico	0	0	.4	106
North Dakota	0	0	.2	49
Oregon	157	.5	1.0	243
South Dakota	0	0	.2	50
Utah	0	0	.5	113
Washington	24	.1	1.9	467
Wyoming	0	0	.2	39

TABLE I.—THE BLAME AND THE BURDEN 1988–90 RESOLUTION COSTS FOR STATE-CHARTERED THRIFTS—Continued

[Dollar amounts in millions]

State/region	The blame		The burden	
	Amount[1]	Percent of United States	Percent of United States[2]	Amount[3]
Total	6,637	20.2	24.9	6,125
Northeast	686	2.1	27.8	6,845
Midwest	738	2.2	19.7	4,848
Northeast & Midwest	1,424	4.3	47.5	11,693
South	24,744	75.4	27.6	6,784
West	6,637	20.2	24.9	6,125
South and West	31,381	95.7	52.5	12,909
Total	32,805	100.0	100.0	24,604

[1] Estimated present value costs by state of federal actions to resolve state-chartered thrifts form 1988 through October 31, 1990.

[2] State shares of 1989 federal tax burden as determined by the Tax Foundation.

[3] Assumes taxpayer will pay 75 percent of costs resulting from bail-out ($32,805 million × 75 percent = $24,604 million). State share of "burden" determined by multiplying state share of U.S. tax burden by $24,604 million.

Sources: Northeast-Midwest Congressional Coalitioin calculations using Federal Home Loan Bank Board. Resolution Trust Corporation, and Tax Foundation Data.

The SPEAKER pro tempore (Mr. MURTHA). Pursuant to the rule, the previous question is ordered on the motion.

The question is on the motion offered by the gentleman from Texas [Mr. GONZALEZ].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. KANJORSKI. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 213, nays 197, not voting 21, as follows:

[Roll No. 50]

YEAS—213

Anderson
Andrews (TX)
Anthony
Archer
Armey
Aspin
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bereuter
Berman
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Brooks
Broomfield
Brown
Bunning
Burton
Callahan
Campbell (CA)
Cardin
Carper
Chandler
Clinger
Coleman (MO)
Combest
Cooper
Coughlin
Cox (IL)
Coyne
Cunningham
Dannemeyer
Darden
Davis
DeLay
Derrick
Dickinson
Dingell
Doolittle
Dreier
Durbin
Dwyer
Edwards (CA)
Edwards (OK)
Edwards (TX)
Fascell
Fawell
Fazio
Fields
Foglietta
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Gunderson
Hamilton
Hansen
Hastert
Hatcher
Hayes (LA)
Hoagland
Hobson
Holloway
Horton
Houghton
Hoyer
Hunter
Hyde
Ireland
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Kasich
Klug
Kolbe
Kopetski
Kostmayer
Kyl
Lagomarsino
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lightfoot
Livingston
Lowery (CA)
Markey
Martin
McCandless
McCollum
McCrery
McDade
McDermott
McEwen
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Michel
Miller (WA)
Mineta
Moakley
Molinari
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Nichols
Oakar
Oberstar
Olin
Orton
Owens (UT)
Oxley
Panetta
Parker
Paxon
Payne (VA)
Pease
Pelosi
Pickett
Pickle
Porter
Price
Ray
Regula
Rhodes
Ridge
Riggs
Ritter
Roberts
Ros-Lehtinen
Rostenkowski
Roukema
Rowland
Roybal
Sabo
Santorum
Sarpalius
Sawyer
Saxton
Schiff
Schumer
Shaw
Shays
Sisisky
Skaggs
Skeen
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (TX)
Snowe
Solarz
Spratt
Stallings
Stearns
Stenholm
Sundquist
Swett
Swift
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Traxler
Unsoeld
Vander Jagt
Vento
Vucanovich
Walker
Walsh
Waxman
Weber
Wolf
Wylie
Young (AK)
Zeliff
Zimmer

NAYS—197

Abercrombie
Ackerman
Alexander
Allard
Andrews (ME)
Andrews (NJ)
Annunzio
Applegate
Atkins
AuCoin
Bacchus
Bennett
Bevill
Bilbray
Brewster
Browder
Bruce
Bryant
Bustamante
Byron
Camp
Campbell (CO)
Carr
Clay
Clement
Coble
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Cox (CA)
Cramer
Crane
DeFazio
de la Garza
DeLauro
Dellums
Dixon
Donnelly
Dooley
Dorgan (ND)
Dornan (CA)
Downey
Duncan
Eckart
Emerson
Engel
English
Erdreich
Espy
Evans
Flake
Ford (MI)
Ford (TN)
Gaydos
Gejdenson
Gray
Guarini
Hall (OH)
Hall (TX)
Harris
Hayes (IL)
Hefley
Hefner
Henry
Herger
Hertel
Hochbrueckner
Hopkins
Horn
Hubbard
Hughes
Hutto
Inhofe
Jacobs
James
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
LaFalce
Lancaster
Lewis (FL)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Marlenee
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McGrath
McNulty
Mfume
Miller (CA)
Mink
Mollohan
Moody
Mrazek
Murphy
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Nussle
Obey
Ortiz
Owens (NY)
Packard
Pallone
Patterson
Payne (NJ)
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Poshard
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Reed
Richardson
Rinaldo
Roe
Roemer
Rogers
Rohrabacher
Rose
Roth
Russo
Sanders
Sangmeister
Savage
Schaefer
Scheuer
Schroeder
Schulze
Sensenbrenner
Serrano
Shuster
Sikorski
Skelton
Slattery
Slaughter (NY)
Smith (OR)
Solomon
Spence
Staggers
Stark
Stokes
Studds
Stump
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thornton
Torres
Torricelli
Towns
Traficant
Upton
Valentine
Visclosky
Volkmer
Washington
Waters
Weiss
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yates
Yatron
Young (FL)

NOT VOTING—21

Bentley
Boxer
Chapman
Dicks
Dymally
Early
Feighan
Fish
Geren
Glickman
Hammerschmidt
Hancock
Huckaby
Levine (CA)
Martinez
Miller (OH)
Morrison
Sharp
Udall
Weldon
Wilson

□ 2044

Mr. FORD of Tennessee and Mr. MRAZEK changed their vote from "yea" to "nay."

Mr. CAMPBELL of California changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. FEIGHAN. Mr. Speaker, on rollcall No. 50 I was in the Chamber, and I had my voting card in the voting box, although the machine did not record my vote. Had the machine taken the vote, I would have voted no on rollcall 50.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the Senate bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ANNUNZIO. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 192, noes 181, not voting 59, as follows:

[Roll No. 51]

YEAS—192

Anderson
Andrews (TX)
Anthony
Armey
Aspin
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bereuter
Berman
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Brown
Bunning
Bustamante
Campbell (CA)
Cardin
Carper
Chandler
Clinger
Coleman (MO)
Coleman (TX)
Cooper
Coughlin
Cox (IL)
Cunningham
Dannemeyer
Darden
DeLay
Derrick
Dickinson
Dingell
Doolittle
Dreier
Edwards (OK)
Edwards (TX)
Emerson
Fascell
Fawell
Fazio
Fields
Foley
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Gonzalez
Goodling
Goss
Grandy
Green
Hamilton
Hancock
Hastert
Hatcher
Hoagland
Hobson
Holloway
Horton
Houghton
Hoyer
Hunter
Hyde
Ireland
Jenkins
Johnson (CT)
Johnston
Kasich
Klug
Kolbe
Kopetski
Kyl
Lagomarsino
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (CA)
Lightfoot
Livingston
Lowery (CA)
Markey
Martin
McCandless
McCollum
McCrery
McDade
McDermott
McEwen
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Michel
Miller (WA)
Mineta
Moakley
Molinari
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Nichols
Oakar
Oberstar
Orton
Owens (UT)
Oxley
Panetta
Parker
Paxon
Payne (VA)
Pease
Pelosi
Pickett
Porter
Price
Ray
Regula
Rhodes
Ridge
Riggs
Ritter
Roberts
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Sabo
Santorum
Sarpalius
Sawyer
Saxton
Schiff
Schumer
Shaw
Shays
Sisisky
Skaggs
Skeen
Skelton
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (TX)
Snowe
Solarz
Spratt
Stallings
Stenholm
Sundquist
Swett
Swift
Taylor (NC)
Thomas (GA)
Traxler
Unsoeld
Vento
Volkmer
Vucanovich
Walker
Walsh
Waxman
Wylie
Zeliff
Zimmer

NAYS—181

Abercrombie
Ackerman
Alexander
Allard
Andrews (ME)
Andrews (NJ)
Annunzio
Applegate
Atkins
AuCoin
Bacchus
Bennett
Bevill
Bilbray
Brewster
Browder
Bruce
Bryant
Byron
Callahan
Camp
Carr
Chapman
Clay
Clement
Coble
Collins (IL)
Collins (MI)
Conyers
Costello
Cox (CA)
Cramer
Crane
de la Garza
DeFazio
DeLauro
Dellums
Donnelly
Dooley
Dorgan (ND)
Downey
Duncan
Dwyer
Eckart
Engel
Erdreich
Espy
Evans
Feighan
Foglietta
Ford (MI)
Gejdenson
Gray
Guarini
Hall (TX)
Harris
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hochbrueckner
Hopkins
Horn
Hubbard
Hughes
Hutto
Inhofe
James
Jefferson
Johnson (SD)
Jones (GA)
Jones (NC)
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
LaFalce
Lancaster
Lewis (FL)
Lewis (GA)
Lipinski
Lloyd
Long
Luken
Machtley
Marlenee
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McGrath
Mfume
Miller (CA)
Mink
Mollohan
Moody
Mrazek
Murphy
Nagle
Natcher
Neal (MA)
Neal (NC)
Nussle
Obey
Ortiz
Owens (NY)
Packard
Pallone
Patterson
Payne (NJ)
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Poshard
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Reed
Richardson
Rinaldo
Roe
Roemer
Rogers
Rohrabacher
Roth
Russo
Sanders
Sangmeister
Savage
Schaefer
Scheuer
Schroeder
Schulze
Sensenbrenner
Serrano
Shuster
Sikorski
Slattery
Slaughter (NY)
Smith (OR)
Solomon
Spence
Staggers
Stark
Stearns
Stokes
Stump
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thornton
Torres
Torricelli
Towns
Traficant
Upton
Visclosky
Washington
Waters
Weiss
Wheat
Whitten
Wise
Wolpe
Wyden
Yatron
Young (FL)

NOT VOTING—59

Archer
Bentley
Boxer
Brooks
Broomfield
Burton
Campbell (CO)
Combest
Condit
Coyne
Davis
Dicks
Dixon
Dornan (CA)
Durbin
Dymally
Early
Edwards (CA)
English
Fish
Flake
Gaydos
Geren
Glickman
Gordon
Gradison
Gunderson
Hall (OH)
Hammerschmidt
Hansen
Huckaby
Jacobs
Jontz
Kostmayer
Lent
Levine (CA)
Lowey (NY)
Manton
Martinez
McNulty
Miller (OH)
Morrison
Nowak
Olin
Pickle
Sharp
Studds
Thomas (CA)
Thomas (WY)
Udall
Valentine
Vander Jagt
Weber
Weldon
Williams
Wilson
Wolf
Yates
Young (AK)

□ 2100

The Clerk announced the following pairs:

On this vote:

Mr. Geren of Texas for, with Mrs. Boxer against.

Mr. Levine of California for, with Mr. Dymally against.

Mr. SKELTON changed his vote from "nay" to "yea."

So the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Texas?

There was no objection.

PERSONAL EXPLANATION

Mr. DICKS. Mr. Speaker, during rollcall No. 51 on S. 419, I was unavoidably detained. Had I been present I would have voted "aye."

APPOINTMENT OF CONFEREES ON S. 419

Mr. GONZALEZ. Mr. Speaker, pursuant to House Resolution 112, I move to insist on the House amendment to the Senate bill (S. 419) to amend the Federal Home Loan Bank Act to enable the Resolution Trust Corporation to meet its obligations to depositors and others by the least expensive methods, and request a conference with the Senate thereon.

The motion was agreed to.

The SPEAKER. The Chair appoints the following conferees, and without objection, reserves the authority to make additional appointments of conferees and to specify particular portions of the Senate bill and the House amendment as the subjects of the various appointments:

From the Committee on Banking, Finance and Urban Affairs, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

Mr. GONZALEZ, Ms. OAKAR, and Messrs. VENTO, BARNARD, SCHUMER, FRANK of Massachusetts, CARPER, TORRES, WYLIE, LEACH, MCCOLLUM, and Mrs. ROUKEMA and Mr. BEREUTER.

From the Committee on Energy and Commerce, for consideration of section 4 of the Senate bill, and modifications committed to conference:

Messrs. DINGELL, MARKEY, and LENT.

There was no objection.

PERSONAL EXPLANATION

Mr. CONDIT. Mr. Speaker, I was absent for rollcall vote No. 51 because I was misinformed about the schedule for the final consideration of the bill, H.R. 419, providing for additional funding for the Resolution Trust Corporation. Had I been present I would have voted "no".

RULES OF PROCEDURE FOR THE SELECT COMMITTEE ON HUNGER FOR THE 102D CONGRESS

(Mr. HALL of Ohio asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HALL of Ohio. Mr. Speaker, following the reappointment of the Select Committee on Hunger on February 21, 1991, an organizational meeting was held on March 12, 1991. At this meeting, the rules of procedure for the Select Committee on Hunger were adopted by unanimous voice vote.

Under clause 2(a) of rule XI of the Rules of the House of Representatives, committee procedural rules are required to be published in the CONGRESSIONAL RECORD. In compliance with this rule, the rules of the Select Committee on Hunger for the 102d Congress follow:

RULES OF THE SELECT COMMITTEE ON HUNGER

RULE 1. MEETINGS

The regular meetings of the committee shall be held on the third Thursday of each month at 9:30 a.m., except when Congress has adjourned. The chairman is authorized to dispense with a regular meeting or to change the date thereof, and to call and convene additional meetings, when circumstances warrant. A special meeting of the committee may be requested by members of the committee in accordance with the provisions of House Rule XI, 2(c)(2). Every member of the committee, unless prevented by unusual circumstances, shall be provided with a memorandum at least three calendar days (excluding Saturdays, Sundays, and legal holidays) prior to each meeting or hearing explaining (1) the purpose of the meeting or hearing; and (2) the name, titles, background and reasons for appearance of any witness. The minority staff shall be responsible for providing the same information on witnesses whom the minority may request.

RULE 2. QUORUMS

A majority of the members of the committee shall constitute a quorum, except that two members shall constitute a quorum for taking testimony and receiving evidence. Proxies shall not be used to establish a quorum. If the chairman is not present at any meeting of the committee, the ranking member of the majority party on the committee who is present shall preside at that meeting.

RULE 3. COMMITTEE REPORTS

Every committee report shall be approved by a majority vote of the members voting, a quorum being present. Supplemental, minority, or additional views may be filed in accordance with House Rule XI, 2(l)(5). The time allowed for filing such views shall be three calendar days (excluding Saturdays, Sundays, and legal holidays) unless the committee agrees to a different time, but agreement on a shorter time shall require the concurrence of each member seeking to file such views. A proposed report shall not be considered in committee unless the proposed report has been available to the members of the committee for at least three calendar days (excluding Saturdays, Sundays, and legal holidays) prior to the consideration of such proposed report in the committee. If hearings have been held on the matter reported upon, every reasonable effort shall be made to have such hearings available to the members of the committee prior to the consideration of the proposed report in the committee.

RULE 4. PROXY VOTES

A member may vote by proxy on any measure or matter before the committee and on any amendment or motion pertaining thereto. A proxy shall be in writing and be signed by the member granting the proxy; it shall show the date and time of day it was signed and the date for which it is given and the member to whom the proxy is given. Each proxy authorization shall state that the member is absent on official business or is otherwise unable to be present; shall be limited to the date and specific measure or matter to which it applies; and, unless it states otherwise, shall apply to any amendments or motions pertaining to the measure or matter.

RULE 5. ROLLCALLS

A rollcall of the members may be had upon the request of any member.

RULE 6. RECORD OF COMMITTEE ACTIONS

The committee staff shall maintain in the committee offices a complete record of the rollcall votes taken at committee business meetings. The original records, or true copies thereof, as appropriate, shall be available for public inspection whenever the committee offices are open for public business. The staff shall assure that such original records are preserved with no unauthorized alterations, additions, or defacements.

RULE 7. TASK FORCES

The committee may establish such task forces as it deems appropriate. The jurisdiction of such task forces shall be established by the chairman of the committee in consultation with the ranking minority member of the committee. The chairman and ranking minority member of the committee shall serve *ex officio* on each task force.

RULE 8. HEARING DATES AND WITNESSES

The chairman of the committee, after consultation with the ranking minority member of the committee, shall announce the date, place, and subject matter of all hearings at least one week prior to the commencement of any hearings, unless he, after consultation with that member, determines that there is good cause to begin such hearings at an earlier date. Whenever any hearing is conducted by the committee upon any measure or matter, the committee's minority party members shall be entitled, upon request by a majority of them to the chairman of the committee before the completion of the hearing, to call witnesses selected by them to testify with respect to that measure or matter during at least one day of hearing. Witnesses appearing before the committee shall, so far as practicable, submit written statements at least 72 hours in advance of their appearance.

RULE 9. OPEN MEETINGS

Meetings for the transaction of business and hearings of the committee shall be open to the public or closed in accordance with rule XI of the House of Representatives.

RULE 10. FIVE-MINUTE RULE

Insofar as practicable, witnesses shall be permitted to present their oral statements without interruptions, questioning by the committee members taking place afterward. After completing his questioning, the chairman shall recognize the ranking majority and then the ranking minority member, and therafter in recognizing members present, he may give preference to the members on the basis of their arrival at the hearing, taking into consideration the majority and minority ratio of the members actually present. A member desiring to speak or ask a question shall address the chairman and not the witness in order to ensure orderly procedure.

Each member may question the witness for five minutes, the reply of the witness being included in the five-minute period. After all members have had an opportunity to ask questions, the round may begin again under the five-minute rule.

RULE 11. INVESTIGATIVE HEARINGS; PROCEDURES

Investigative hearings shall be conducted according to the procedures in House Rule XI, 2(k). All questions put to witnesses before the committee shall be relevant to the subject matter before the committee for consideration, and the chairman shall rule on the relevance of any questions put to the witness.

RULE 12. COMMITTEE RECORDS

(a) A stenographic record of all testimony shall be kept of public hearings and shall be made available on such conditions as the chairman may prescribe.

(b) The records of the committee at the National Archives and Records Administration shall be made available for public use in accordance with rule XXXVI of the Rules of the House of Representatives. The chairman shall notify the ranking minority member of any decision, pursuant to clause 3(b)(3) or clause 4(b) of the rule, to withhold a record otherwise available, and the matter shall be presented to the committee for a determination on the written request of any member of the committee.

RULE 13. TV, RADIO, AND PHOTOGRAPHS

When approved by a majority vote, an open meeting or hearing of the committee may be covered, in whole or in part, by television broadcast, radio broadcast, and still photography, by any of such methods of coverage, subject to the provision of House Rule XI, 3. In order to enforce the provision of said rule or to maintain an acceptable standard of dignity, propriety, and decorum, the chairman may order such alterations, curtailment or discontinuance of coverage as he determines necessary.

RULE 14. STAFF

The chairman shall have the authority to hire and discharge majority staff and majority-appointed shared staff. The ranking minority member shall have the authority to discharge minority staff and minority-appointed shared staff. The authorization for the creation of new majority and majority-appointed shared staff positions, subject to the committee's budget, shall rest with the chairman, and the ranking minority member shall have the same authority with respect to minority and minority-appointed shared staff.

RULE 15. AUTHORIZATION TO TRAVEL

Travel to be paid from funds set aside for the full committee for any member or any staff member shall be paid only upon the prior authorization of the chairman. Travel may be authorized by the chairman for any member and any staff member in connection with the attendance of hearings conducted by the committee and meetings, conferences, and investigations which involve activities or subject matter under the general jurisdiction of the committee. Before such authorization is given there shall be submitted to the chairman in writing the following:

(1) The purpose of the travel.

(2) The dates during which travel is to be made and the date or dates of the event for which the travel is being made.

(3) The location of the event for which the travel is to be made.

(4) The names of member and staff seeking authorization.

RULE 16. ADDITIONAL DUTIES OF CHAIRMAN

The chairman of the committee shall—

(1) make available to other committees the Select Committee's findings and recommendations resulting from the investigations of the committee as appropriate; and

(2) prepare a budget for the committee and present such budget to the committee for its approval.

RULE 17. AMENDMENTS OF RULES

These rules may be modified, amended, or repealed by a majority vote of the committee at a meeting at which a quorum is present, of at least two legislative days' written notice of the proposed change has been provided each member of the committee prior to the meeting date on which such changes are to be discussed and voted upon.

RULES OF PROCEDURE FOR THE SELECT COMMITTEE ON NARCOTICS ABUSE AND CONTROL FOR THE 102D CONGRESS

(Mr. RANGEL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RANGEL. Mr. Speaker, pursuant to and in accordance with House rule XI, clause 2(a), I submit for publication in the CONGRESSIONAL RECORD a copy of the rules of the Select Committee on Narcotics Abuse and Control for the 102d Congress as approved by the committee at its organizational meeting on February 28, 1991.

RULES OF THE SELECT COMMITTEE ON NARCOTICS ABUSE AND CONTROL

RULE 1. GENERAL

The Rules of the House of Representatives, to the extent they apply, together with the following rules, shall be the rules of the Committee.

RULE 2. MEETINGS

(a) The regular meeting day of the Committee for the conduct of its business shall be on the second Thursday of each month while the Congress is in session.

(b) Additional meetings may be called by the Chairman and a regular meeting of the Committee may be dispensed with when, in the judgment of the Chairman, there is no need therefore.

(c) Special meetings may be convened as provided for by clause 2(c)(2) of Rule XI of the Rules of the House.

(d) At least 3 days (excluding Saturdays, Sundays, and legal public holidays) before each scheduled Committee meeting, each member of the Committee shall be furnished a list of the subjects to be considered or acted upon at such meeting.

RULE 3. HEARINGS

(a) Members of the Committee shall be advised and a public announcement shall be made of the time, date, place, and subject matter of any hearing to be conducted by the Committee at least one week before the commencement of such hearing, unless the Chairman determines that there is good cause to begin such hearing at an earlier date, in which event the Chairman shall advise Committee members and make the public announcement at the earliest possible date. Any announcement made under this paragraph shall be promptly entered into the committee scheduling service of the House Information Systems.

(b) Unless authorized by the Chairman, a witness shall not be permitted to testify or present evidence at a hearing of the Committee, and such testimony or evidence may not be included in the Committee hearing record, unless 50 copies thereof have been delivered to the Committee at least 48 hours prior to such hearing.

(c) A Committee member may question a witness only when recognized by the Chairman for such purpose. In accordance with clause 2(j)(2) of Rule XI of the Rules of the House, each Committee member shall be allowed 5 minutes to question a witness until each member who so desires has had such opportunity. The Chairman shall, insofar as practicable, recognize alternately on the basis of seniority those majority and minority members present at the time the hearing was called to order and others on the basis of their arrival at the hearing. Thereafter, additional time may be extended at the discretion of the Chairman.

(d) At any hearing the minority party members of the Committee shall be entitled, upon request to the Chairman by a majority of them before the completion of the hearing, to call witnesses selected by the minority to testify with respect to the subject matter of such hearing during at least one day of hearing thereon.

(e)(1) The Chairman at an investigative hearing of the Committee shall announce in the opening statement the subject of the investigation.

(2) A copy of the Rules of the Committee and clause 2 of Rule XI of the Rules of the House shall be made available to each witness.

(3) Witnesses at an investigative hearing may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.

(4) The Chairman may punish breaches of order and decorum, and of professional ethics on the part of counsel, by censure and exclusion from the hearing; and the Committee may cite the offender to the House for contempt.

(f) Any witness may obtain a transcript copy of his or her testimony given at a public session or, if given at an executive session, when authorized by a majority of the members voting, a majority being present.

RULE 4. COMMITTEE PROCEDURE

(a)(1) Unless otherwise required or permitted by these rules, one-third of the members of the Committee shall constitute a quorum for the transaction of Committee business. Any Committee member present at a Committee meeting may make a point of order that a quorum is not present, but a quorum shall be deemed present unless a member who is present objects.

(2) Two members shall constitute a quorum for the purposes of taking testimony and receiving evidence.

(b) Meetings for the transaction of business and hearings of the Committee shall be open to the public or closed, in accordance with clauses 2(g)(1), 2(g)(2), or 2(k)(5) of Rule XI of the Rules of the House. No evidence or testimony taken in executive session may be released or used in public session unless authorized by a majority of members voting, a majority being present.

(c) A vote by any member of the Committee with respect to any matter being considered by the Committee may be cast by proxy if the proxy authorization is in writing, asserts that the member is absent on official business or is otherwise unable to be present at the meeting of the Committee, designates the member of the Committee who is to execute the proxy authorization, and is limited to a specific matter and any amendments or motions pertaining thereto (except that a member may authorize a general proxy for motions to recess or adjourn, or for other procedural matters). Each proxy to be effective shall be signed by the member assigning his vote and shall contain the date and time of day that the proxy is signed. No proxy may be counted for the purpose of constituting a quorum.

(d) Every motion made to the Committee and entertained by the Chairman shall be reduced to writing upon the demand of any member, and a copy made available to each member present.

(e) In the absence of the Chairman at any meeting or hearing of the Committee, the ranking member of the majority party on the Committee who is present shall preside at such meeting or hearing.

(f) A complete record of all Committee action, including a record of all votes on any question on which a rollcall vote is demanded, shall be maintained by the Committee. The result of each such rollcall vote shall be available to the public for inspection at the offices of the Committee during normal working hours.

(g) Any member of the Committee may demand and the Chairman shall order a rollcall vote on any matter considered by the Committee.

RULE 5. COMMITTEE REPORTS

(a)(1) Except as provided in paragraph (b), any Committee report shall be approved by a majority of the members voting at a meeting at which a majority is present.

(2) A proposed report shall not be considered in a Committee meeting unless a copy of the proposed report is provided to each member of the Committee at least 5 days (excluding Saturdays, Sundays, and legal public holidays) prior to the meeting.

(b) The Chairman is empowered to obtain the approval of any report in any appropriate manner, including by polling the members of the Committee in writing. In such cases, a copy of the proposed report shall be made available to each Committee member for at least 5 calendar days (excluding Saturdays, Sundays, and legal public holidays) and the approval of a majority of the Committee is required. The Chairman shall promptly notify Committee members in writing of the approval or disapproval of the proposed report.

(c) Supplemental, minority, or additional views may be filed in accordance with clause 2(l)(5) of Rule XI of the Rules of the House. The time allowed for filing such views shall be 3 calendar days (excluding Saturdays, Sundays, and legal public holidays) after approval of a proposed report in a meeting of the Committee or after the Chairman issues a notification of approval pursuant to paragraph (b).

(d) If hearings have been held on the subject matter of the proposed report, every reasonable effort shall be made to have such hearings available to the members of the Committee before seeking approval of the proposed report.

RULE 6. POWERS AND DUTIES OF COMMITTEE

(a) For the purpose of carrying out any of its functions and duties, the Committee is authorized to set and act at such times and places within the United States, including any Commonwealth or possession thereof, or elsewhere, whether the House is in session, has recessed, or has adjourned.

(b)(1) The Committee may require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, documents, and other exhibits and materials, as it deems necessary.

(2) A subpoena may be authorized and issued by the Committee in the conduct of any investigation or series of investigations or activities, only when authorized by a majority of the members voting, a majority being present.

(3) Notwithstanding subparagraph (b)(2) of this rule, a subpoena may be authorized and issued in the conduct of any investigation or series of investigations or activities by the Chairman upon the concurrence of the ranking minority member on the Committee.

(4) Authorized subpoenas shall be signed by the Chairman or by any member designated

by the Committee, and may be served by any person designated by the Chairman or such member.

(c) The Chairman, or any member of the Committee designated from time to time by him, shall report on the meetings, hearings or other activities of the Committee to any other committee of the House which has subject matter jurisdiction therein.

RULE 7. BROADCASTING

(a) Whenever any hearing or meeting conducted by the Committee is open to the public, the Committee may permit such hearing or meeting to be covered, in whole or in part, by television broadcast, radio broadcast, and still photography, or by any of such methods of coverage, under the rules established by paragraph (b) of this rule: Provided, however, that the Chairman shall determine, in his discretion, the number of televisions and still cameras permitted in the hearing or meeting room.

(b)(1) If television or radio coverage of any hearing or meeting of the Committee is to be presented to the public as live coverage, such coverage shall be conducted and presented without commercial sponsorship.

(2) No witness served with a subpoena by the Committee shall be required against his or her will to be photographed at any hearing or meeting or to give evidence or testimony while the broadcasting of such hearing or meeting, by radio, or television, is being conducted. At the request of any such witness who does not wish to be subjected to radio, television, or still photography coverage, all lenses shall be covered and all microphones used for coverage turned off.

(3) The allocation among the television media of the positions of the number of television cameras permitted by the Chairman shall be in accordance with fair and equitable procedures devised by the Executive Committee of the Radio and Television Correspondent's Galleries.

(4) Television cameras shall be placed so as not to obstruct in any way the space between any witness giving evidence or testimony and any member of the Committee, or the visibility of such witness and such members to each other.

(5) Television cameras shall not be placed in positions which obstruct unnecessarily the coverage of the hearing or meeting by other media.

(6) Equipment necessary for coverage by the television and radio media shall not be installed in, or removed from the hearing or meeting room while the Committee is in session.

(7) Floodlights, spotlights, strobelights, and flashguns shall not be used in providing any method of coverage of the hearing or meeting, except that the television media may install additional lighting in the hearing or meeting room, without cost to the Government, in order to raise the ambient lighting level in the hearing or meeting room to the lowest level necessary to provide adequate television coverage of the hearing or meeting at the then current state of the art of television coverage.

(8) In the allocation of the number of still photographers permitted by the Chairman to cover a hearing or meeting, preference shall be given to photographers from Associated Press Photos and United Press International Newspictures. If requests are made by more of the media than will be permitted by the Chairman, for coverage of a hearing or meeting by still photography, that coverage shall be made on the basis of a fair and equitable pool arrangement devised by the Standing Committee of Press Photographers.

(9) Photographers shall not position themselves at any time during the course of the hearing or meeting between the witness table and the members of the Committee.

(10) Photographers shall not place themselves in positions which obstruct unnecessarily the coverage of the hearing or meeting by other media.

(11) Personnel providing coverage by the television and radio media shall be then currently accredited to the Radio and Television Correspondents' Galleries.

(12) Personnel providing coverage by still photography shall be then currently accredited to the Press Photographers' Gallery.

(13) Personnel providing coverage by the television and radio media and by still photography shall conduct themselves and their coverage activities in an orderly and unobtrusive manner.

RULE 8. COMMITTEE RECORDS

The records of the Committee at the National Archives and Records Administration shall be made available for public use in accordance with rule XXXVI of the Rules of the House of Representatives. The Chairman shall notify the Ranking Minority Member of any decision, pursuant to clause 3(b)(3) or clause 4(b) of the rule, to withhold a record otherwise available, and the matter shall be presented to the Committee for a determination on the written request of any member of the Committee.

RULE 9. AMENDMENT OF RULES

The Rules of the Committee may be modified, amended, or repealed, by a majority of the members voting at a meeting at which a majority is present. Written notice of any proposed change shall be provided to each member of the Committee not less than 3 calendar days (excluding Saturdays, Sundays, and legal public holidays) before the meeting date on which such change is to be considered.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HARRIS) to revise and extend their remarks and include extraneous material:)

Mr. HOYER, for 5 minutes, today.

Mr. JONTZ, for 5 minutes, today.

Mr. BACCHUS, for 5 minutes, today and 60 minutes, on March 14.

Mr. OWENS of Utah, for 5 minutes, today.

Mr. COYNE, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. KLECZKA, for 5 minutes, today.

Mr. ALEXANDER, for 60 minutes, on March 18.

Mr. OWENS of New York, for 60 minutes, on March 18, 19, 20, 21, 22, April 9, 10, 11, 12, 15, 16, 17, 18, and 19.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. NUSSLE) and include extraneous matter:)

Mr. CAMPBELL of California.

Mr. PURSELL.

Mr. ROBERTS.

Mr. RINALDO.

Mr. SUNDQUIST.

Mr. GRANDY.

Mr. INHOFE.

Mr. BROOMFIELD.

Mr. SCHULZE.

Mr. MCDADE.

Mr. GINGRICH.

Mr. BEREUTER.

Mr. THOMAS of California.

Mr. CRANE.

Mr. GEKAS.

Mr. MCEWEN in two instances.

Ms. ROS-LEHTINEN.

Mr. KOLBE.

(The following Members (at the request of Mr. HARRIS) and to include extraneous matter:)

Mr. SMITH of Florida.

Mr. LEVINE of California.

Ms. OAKAR.

Mr. TORRICELLI.

Mr. STARK.

Mr. BOUCHER.

Mr. REED.

Ms. SLAUGHTER of New York.

Mr. HALL of Ohio.

Mr. MILLER of California.

Mr. DOWNEY.

ENROLLED BILLS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 180. An act to amend title 38, United States Code, with respect to veterans education and employment programs, and for other purposes;

H.J. Res. 104. Joint resolution to designate March 26, 1991, as "Education Day, U.S.A."; and

H.J. Res. 167. Joint resolution designating June 14, 1991, and June 14, 1992, each as "Baltic Freedom Day."

ADJOURNMENT

Mr. KLECZKA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 6 minutes p.m.) the House adjourned until tomorrow, Thursday, March 14, 1991, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

858. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on coordination of U.S. Government assistance to Central and Eastern Europe; to the Committee on Appropriations.

859. A letter from the Deputy Director, Defense Research and Engineering, Department

of Defense, transmitting notification of seven additional fiscal year 1991 test projects, pursuant to 10 U.S.C. 2350a(g); to the Committee on Armed Services.

860. A letter from the Auditor, District of Columbia, transmitting a copy of a report entitled "Audit of the Northeast Community Development Corporation," pursuant to D.C. Code, section 47-117(d); to the Committee on the District of Columbia.

861. A letter from the Acting Secretary of Education, transmitting a notice of Final Funding Priorities for fiscal year 1991—Rehabilitation Services Administration, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

862. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting two reports: on support for East European Democracy [SEED]—Environmental Conditions in Poland and Hungary; and the annual SEED Program report, pursuant to Public Law 101-179, section 704(c) (103 Stat. 1322); to the Committee on Foreign Affairs.

863. A letter from the Director, U.S. Information Agency, transmitting the final report on USIA-TV's fiscal year 1990 production expenses, pursuant to Public Law 101-246, section 205(a) (104 Stat. 51); to the Committee on Foreign Affairs.

864. A letter from the Secretary of Veterans Affairs, transmitting a report on its activities under the Freedom of Information Act during calendar year 1990, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

865. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend section 914 of title 17, United States Code, regarding interim protection orders; to the Committee on the Judiciary.

866. A letter from the Attorney General, transmitting a copy of the Department's Notice of Proposed Rulemaking to implement title III of the American With Disabilities Act of 1990; jointly, to the Committees on the Judiciary, Energy and Commerce, and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. GAYDOS: Committee on House Administration. House Resolution 92. A resolution providing amounts from the contingent fund of the House for the expenses of investigations and studies by standing and select committees of the House in the first session of the One Hundred Second Congress; with an amendment (Rept. 102-18). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. House Resolution 112. A resolution providing for the consideration of the bill (S. 419) to amend the Federal Home Loan Bank Act to enable the Resolution Trust Corporation to meet its obligations to depositors and others by the least expensive means (Rept. 102-19). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. STAGGERS (for himself, Mr. BEVILL, Mr. BREWSTER, Mr. BURTON of Indiana, Mr. CAMPBELL of Colorado, Mr. DINGELL, Mr. EMERSON, Mr. GEREN of Texas, Mr. HANCOCK, Mr. OWENS of Utah, Mr. MOLLOHAN, Mr. PETERSON of Minnesota, Mr. RAHALL, Mr. RAMSTAD, Mr. THOMAS of Georgia, Mrs. UNSOELD, Mr. VOLKMER, and Mr. WILLIAMS):

H.R. 1412. A bill to amend title 18, United States Code, to provide for the establishment of a national hotline which a Federal firearms licensee may contact to learn if receipt of a handgun by a prospective transferee is prohibited, and to require such a licensee to contact the hotline before the transfer of a handgun to a nonlicensee; to the Committee on the Judiciary.

By Mr. SCHULZE (for himself and Mr. JENKINS):

H.R. 1413. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to eliminate the tax expenditure budget, and for other purposes; to the Committee on Government Operations.

By Mr. ANDREWS of Texas (for himself, Mr. THOMAS of California, Mr. ARCHER, Mr. BUNNING, Mr. MATSUI, Mr. VANDER JAGT, Mr. SUNDQUIST, Mr. PICKLE, Mr. JACOBS, Mr. CHANDLER, Mr. JENKINS, Mr. CRANE, Mr. SHAW, Mr. GRANDY, Mrs. JOHNSON of Connecticut, Mr. ANTHONY, Mr. MOODY, Mr. SCHULZE, Mr. RANGEL, Mr. DOWNEY, Mr. MACHTLEY, Mr. COX of California, Mr. DICKINSON, Mr. LEHMAN of Florida, Mr. JOHNSON of South Dakota, Mr. DERRICK, Mr. SHAYS, Mr. VALENTINE, Mr. LEWIS of California, Mr. WILSON, Mr. SMITH of Iowa, Mr. HORTON, Ms. LONG, Mr. DELAY, Mr. DEFAZIO, Mr. PRICE, Mr. GOSS, Mr. BILIRAKIS, Mr. MCMILLEN of Maryland, Mr. HUNTER, Mr. KOSTMAYER, Mr. ROBERTS, Mr. STAGGERS, Mrs. VUCANOVICH, Mr. COSTELLO, Mr. BATEMAN, Mr. PALLONE, Mr. BAKER, Mr. GEREN of Texas, Mr. LIPINSKI, Mr. WOLPE, Mr. BONIOR, Mr. COMBEST, Mr. COLEMAN of Missouri, Mr. CHAPMAN, Mr. CAMPBELL of Colorado, Mr. HALL of Texas, Mr. HEFNER, Mr. JONTZ, Mr. SKEEN, Mr. BURTON of Indiana, Mr. FASCELL, Mr. BEREUTER, Mr. SMITH of Florida, Mr. POSHARD, Mr. CLINGER, Mr. DWYER of New Jersey, Mr. LAUGHLIN, Mr. PAXON, Mr. QUILLEN, Mr. FEIGHAN, Mr. EMERSON, Mr. DAVIS, Mr. BALLENGER, Mr. KYL, Mr. HATCHER, Mr. STUMP, Mr. HAYES of Louisiana, Mrs. MORELLA, Mr. COLEMAN of Texas, Mr. SMITH of Texas, Mr. HUBBARD, Mr. DUNCAN, Mrs. LLOYD, Mr. BRUCE, Mr. ANNUNZIO, Mr. TAUZIN, Mr. INHOFE, Mr. MCCRERY, Mr. LANCASTER, Mr. GILLMOR, Mr. FRANK of Massachusetts, Mr. BRYANT, Mr. THOMAS of Wyoming, Mr. MILLER of Washington, Mr. SAXTON, Mr. MARTIN, Mr. PETERSON of Minnesota, Mr. COBLE, Mrs. SCHROEDER, Mr. HANSEN, Mr. MRAZEK, Mr. DORNAN of California, Mr. RICHARDSON, Mr. ORTIZ, Mr. CLEMENT, Mr. MURPHY, Mr. BROOKS, Mr. BUSTAMANTE, Mr. ROTH, Mr. KOLTER, Mr. NAGLE, Mr. OLIN, Mr. CARR, Mr. BOUCHER, Mr. HARRIS, Mr. KLECZKA, Mr. MCEWEN, Mrs. BYRON, Ms. KAPTUR, Mr. GALLEGLY, Mr. LUKEN, Mr. MONTGOMERY, Mr. HOBSON, Mr. HOPKINS, Mr. STENHOLM, Mr. WEBER, Mr. ARMEY, Mr. GUNDERSON, Mr. BROWN, Mr. OXLEY, Mr. WELDON, Mr. DREIER of California, Mr. HYDE, Mr. LIVINGSTON, Ms. PELOSI, Mr. ROHRABACHER, Mr. MCNULTY, Mr. PAYNE of Virginia, Mr. SPENCE, Mr. PICKETT, Mr. MANTON, Mr. AUCOIN, Mr. COX of Illinois, Mr. RAVENEL, Mr. MARTINEZ, Mr. GEKAS, Mr. EVANS, Mr. SCHAEFER, Mr. BOEHNER, Mr. HASTERT, Mrs. BOXER, Mr. SERRANO, Mr. HERGER, Mr. BILBRAY, Mr. TALLON, Mr. MCDADE, Mr. SISISKY, Mr. LENT, Mr. LEWIS of Florida, Mr. TORRICELLI, Mr. HOCHBRUECKNER, Mr. CAMPBELL of California, Mr. THOMAS of Georgia, Mr. SCHIFF, Ms. MOLINARI, Mr. GALLO, Mr. PANETTA, Mr. FIELDS, Mr. ACKERMAN, Mr. ERDREICH, Mr. MOLLOHAN, Mr. ASPIN, Mr. SANGMEISTER, Mr. UPTON, Mr. RAY, Mr. SMITH of New Jersey, Mr. MOORHEAD, Mr. ENGEL, Mr. HUCKABY, Mr. ROE, Mr. VISCLOSKY, Mr. LOWERY of California, Mr. SPRATT, Mr. DANNEMEYER, Mr. DURBIN, Mr. JEFFERSON, Mr. FOGLIETTA, Mr. ECKART, Mr. CAMP, Mr. SKAGGS, Mr. PORTER, Mr. ALEXANDER, Mrs. LOWEY of New York, Mr. APPLEGATE, Mr. MYERS of Indiana, Mr. PARKER, Mr. JONES of Georgia, Mr. Gordon, Mr. SLAUGHTER of Virginia, Mr. JOHNSTON of Florida, Mr. RIGGS, Mr. SENSENBRENNER, Mr. CUNNINGHAM, Mr. DOOLITTLE, Mr. TANNER, Mr. STEARNS, Mr. FISH, Mr. FAWELL, Mr. BARTON of Texas, Mr. MCCLOSKEY, Mr. LAGOMARSINO, Mr. SOLOMON, Mr. KLUG, Mr. BOEHLERT, Mr. NEAL of North Carolina, Mr. SARPALIUS, Mrs. COLLINS of Illinois, Mr. ALLARD, Mr. NOWAK, Mr. HALL of Ohio, Mr. LEHMAN of California, Mr. EDWARDS of Texas, Mr. DARDEN, Mr. SMITH of Oregon, Mr. FROST, Mr. GLICKMAN, Mr. HOLLOWAY, Mr. ROWLAND, Mr. WYDEN, and Mr. BARNARD):

H.R. 1414. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain real estate activities under the limitations on losses from passive activities; to the Committee on Ways and Means.

By Mr. BERMAN (for himself and Ms. SNOWE) (both by request):

H.R. 1415. A bill to authorize appropriations for fiscal years 1992 and 1993 for the Department of State, and for other purposes; to the Committee on Foreign Affairs.

By Mr. BLAZ:

H.R. 1416. A bill relating to wage certificates issued to producers in the insular possessions of the United States of watches and watch movements; to the Committee on Ways and Means.

By Mr. BOUCHER (for himself, Mr. MOORHEAD, Mr. DWYER of New Jersey, Mr. COBLE, Ms. KAPTUR, Mr. GALLEGLY, Mr. MILLER of Washington, Mr. DE LUGO, Mr. STENHOLM, Mr. TOWNS, Mrs. MORELLA, Mr. FISH, Mr. CAMPBELL of California, Mr. ANDREWS of Texas, Mr. LAGOMARSINO, Mr. BRUCE, Mr. MCCLOSKEY, Mr. DICKS, Mr. LIPINSKI, Mr. MCCOLLUM, and Mr. JEFFERSON):

H.R. 1417. A bill to amend title 35, United States Code, with respect to patents on certain processes; to the Committee on the Judiciary.

By Mr. CAMP (for himself, Mr. ROBERTS, Mr. MORRISON, Mr. HENRY, Mr. GILCHREST, Mr. VANDER JAGT, Mrs. LLOYD, Mr. GUNDERSON, Mr. PURSELL, Mr. SCHEUER, Mr. UPTON, Mr. DAVIS, and Mr. BROOMFIELD):

H.R. 1418. A bill to encourage energy conservation among farmers, ranchers, forest industry, and utilizers of wood for energy, and for other purposes; to the Committee on Agriculture.

By Mr. DOWNEY (for himself, Mr. RANGEL, Mr. FORD of Tennessee, Mr. GUARINI, and Mr. MATSUI):

H.R. 1419. A bill to amend the Internal Revenue Code of 1986 to clarify the application of section 174, relating to research and experimental expenditures, to publishers of instructional materials; to the Committee on Ways and Means.

By Mr. FRANK of Massachusetts:

H.R. 1420. A bill to exclude from income amounts received under part A of title IV of the Social Security Act for the purposes of determining the amount of benefits to be provided under the Food Stamp Act of 1977 and the United States Housing Act of 1937; jointly, to the Committees on Agriculture and Banking, Finance and Urban Affairs.

By Mr. GALLEGLY (for himself, Mr. STUMP, Mr. GOSS, Mr. LIPINSKI, Mr. WILSON, Mr. IRELAND, Mr. HERGER, Mr. PAXON, Mr. MOORHEAD, Mr. BAKER, Mr. GILMAN, Mr. BUNNING, Mr. OXLEY, Mr. DE LUGO, Mr. CAMPBELL of Colorado, Mr. FAWELL, Mrs. VUCANOVICH, Mr. STENHOLM, Mr. HARRIS, Mrs. PATTERSON, Mr. EMERSON, Mr. TAUZIN, Mr. CHAPMAN, Mr. SOLOMON, Mr. LAGOMARSINO, Mr. HUNTER, Mr. LOWERY of California, Mr. SMITH of Oregon, Mr. INHOFE, Mr. RHODES, Mr. DORNAN of California, and Mr. PAYNE of Virginia):

H.R. 1421. A bill to provide the penalty of death for certain killings of Federal law enforcement officers; to the Committee on the Judiciary.

By Mr. JOHNSTON of Florida:

H.R. 1422. A bill to amend the Federal Food, Drug, and Cosmetic Act to require that physicians who perform silicone gel implants provide certain information to patients; to the Committee on Energy and Commerce.

By Mr. KLECZKA (for himself and Mr. WISE):

H.R. 1423. A bill to amend the Freedom of Information Act to improve public access to Government information, and for other purposes; to the Committee on Government Operations.

By Mrs. MEYERS of Kansas (for herself, Mr. WELDON, Mr. SHAYS, and Mr. WHEAT):

H.R. 1424. A bill to require the Federal, State, and regional enclaves to permit certain emergency response personnel to conduct preincident planning activities, and for other purposes; to the Committee on Government Operations.

By Mr. ROBERTS:

H.R. 1425. A bill to improve rural and short line railroad service; to the Committee on Energy and Commerce.

By Mr. ROSE (for himself, Mr. JONES of North Carolina, Mr. YATES, Mr. HEFNER, Mr. VALENTINE, Mr. FALEOMAVAEGA, Mr. MCMILLAN of North Carolina, Mr. MILLER of California, Mr. DE LUGO, and Mr. QUILLEN):

H.R. 1426. A bill to provide for the recognition of the Lumbee Tribe of Cheraw Indians of North Carolina, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SCHULZE:

H.R. 1427. A bill to amend the Internal Revenue Code of 1986 to phase out the possessions tax credit; to the Committee on Ways and Means.

By Mr. SMITH of Florida (for himself, Mr. ACKERMAN, Mr. BERMAN, Mr. BILBRAY, Mrs. BOXER, Mr. BURTON of Indiana, Mr. DORGAN of North Dakota, Mr. DOWNEY, Mr. FRANK of Massachusetts, Mr. FROST, Mr. GEJDENSON, Mr. GILMAN, Mr. HAMILTON, Mr. HOCHBRUECKNER, Mr. HOYER, Mr. HUGHES, Mr. JOHNSTON of Florida, Mr. KOSTMAYER, Mr. LANTOS, Mr. LEHMAN of Florida, Mr. LEVINE of California, Mr. MCHUGH, Mr. MARKEY, Mr. OBEY, Mr. OWENS of Utah, Mr. PALLONE, Ms. PELOSI, Mr. SCHUMER, Mr. SOLARZ, Mr. SYNAR, Mr. TORRICELLI, Mr. WOLPE, Mr. WYDEN, Mr. YATES, and Mr. YATRON):

H.R. 1428. A bill concerning transfers of Persian Gulf conflict military equipment to other countries; to the Committee on Foreign Affairs.

By Mr. THOMAS of California (for himself, Mr. PARKER, Mr. DORNAN of California, Mrs. JOHNSON of Connecticut, Mr. JEFFERSON, Mr. KOLBE, Mr. ARCHER, Mr. WEBER, Mr. RAHALL, Mr. GALLEGLY, Mr. BOEHNER, Mr. MCGRATH, Mr. CRANE, Mr. MATSUI, and Mr. VANDER JAGT):

H.R. 1429. A bill to amend the Internal Revenue Code of 1986 to provide that the deduction for State and local income and franchise taxes shall not be allocated to foreign source income; to the Committee on Ways and Means.

By Mr. WEISS (for himself, Mr. WAXMAN, Mr. SHAYS, Mr. ATKINS, Mr. YATES, Ms. PELOSI, Mr. BERMAN, Mr. MOODY, Mrs. SCHROEDER, Mr. MCDERMOTT, Mr. LEHMAN of Florida, Mr. MATSUI, Mr. EDWARDS of California, Mr. UDALL, Mr. ROYBAL, Mr. GREEN of New York, Mr. FRANK of Massachusetts, Mr. MILLER of California, Mr. MRAZEK, Mr. RANGEL, Mr. DELLUMS, Mr. GEJDENSON, Mr. STUDDS, Mrs. COLLINS of Illinois, Mr. LEVINE of California, Mrs. UNSOELD, Mr. SCHUMER, Mr. CLAY, Mr. LEWIS of Georgia, Mrs. MORELLA, Mrs. BOXER, Mr. KOSTMAYER, Mr. DIXON, Mr. WASHINGTON, Mr. STARK, Mr. KENNEDY, Mr. HAYES of Illinois, Mr. BEILENSON, Mr. WHEAT, Mr. EVANS, Mr. DEFAZIO, Mr. FOGLIETTA, Mr. AUCOIN, Mr. TOWNS, Mr. OWENS of New York, Mr. CONYERS, Mr. CARDIN, Mr. FAZIO, Mr. MFUME, Mr. ACKERMAN, Mr. FORD of Tennessee, Mr. SCHEUER, Ms. NORTON, Mr. DYMALLY, Mr. ENGEL, Mr. HOYER, Mrs. LOWEY of New York, Mr. SERRANO, Mr. BROWN, Mrs. MINK, Mrs. KENNELLY, Mr. ABERCROMBIE, Mr. MARTINEZ, Ms. WATERS, Mr. MILLER of Washington, Mr. SABO, Mr. ANDREWS of Maine, Mr. CAMPBELL of California, Mr. COYNE, Mr. TORRICELLI, Ms. DELAURO, Mr. STOKES, Ms. COLLINS of Michigan, Ms. SLAUGHTER of New York, Mr. SIKORSKI, Mr. SOLARZ, Mr. MARKEY, Mr. PAYNE of New Jersey, and Mr. FEIGHAN):

H.R. 1430. A bill to amend the Civil Rights Act of 1964 and the Fair Housing Act to prohibit discrimination on the basis of affectional or sexual orientation, and for other purposes; jointly, to the Committees on Education and Labor and the Judiciary.

By Mr. BOEHLERT:

H.R. 1431. A bill to authorize the listing of telephone numbers with the Federal Communications Commission through which unsolicited offers of goods or services or requests for contributions may not be made; to the Committee on Energy and Commerce.

By Mr. CHAPMAN:

H.R. 1432. A bill to amend the Internal Revenue Code of 1986 to allow an exclusion from gross income for the compensation of Federal employees serving in the Persian Gulf combat zone; to the Committee on Ways and Means.

By Mr. ERDREICH:

H.R. 1433. A bill to provide for a study by the Secretary of Health and Human Services to develop recommendations for correcting the disparities in the computation of Social Security benefits (commonly referred to as the "notch problem") which were caused by the enactment (in 1977) of the present formula for computing primary insurance amounts under title II of the Social Security Act; to the Committee on Ways and Means.

By Mrs. KENNELLY:

H.R. 1434. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of interest paid in connection with certain life insurance contracts; to the Committee on Ways and Means.

By Mrs. SCHROEDER:

H.R. 1435. A bill to direct the Secretary of the Army to transfer jurisdiction over the Rocky Mountain Arsenal, CO, to the Secretary of the Interior; jointly, to the Committees on Armed Services and Merchant Marine and Fisheries.

By Mr. SKEEN (for himself and Mr. COLEMAN of Texas):

H.R. 1436. A bill to transfer certain rights-of-way to the Elephant Butte Irrigation District of New Mexico and El Paso County Water Improvement District No. 1 of Texas, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SWIFT:

H.R. 1437. A bill to authorize the Secretary of Agriculture to construct buildings and related facilities on federally owned land in Skagit County, WA for plant materials purposes; to the Committee on Agriculture.

H.R. 1438. A bill to clarify that certain greenhouses and nurseries that suffer damage in connection with a major disaster declared by the President on or after November 26, 1990, are eligible for loans under section 7 of the Small Business Act; to the Committee on Small Business.

By Mr. THOMAS of Wyoming (for himself, Mr. YOUNG of Alaska, Mrs. VUCANOVICH, and Mr. HANSEN):

H.R. 1439. A bill to limit the acquistion by the United States of land located in a State in which 25 percent or more of the land in the State is owned by the United States, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. DREIER of California (for himself and Ms. WATERS):

H.J. Res. 188. Joint resolution designating the month of June 1991 as "Augustus F. Hawkins National Recycling Month"; to the Committee on Post Office and Civil Service.

By Mr. WELDON (for himself, Mr. ANDREWS of New Jersey, Mr. APPLEGATE, Mr. BILBRAY, Mr. BLILEY, Mr. BUNNING, Mrs. BYRON, Mr. CHAPMAN, Mr. CLEMENT, Mr. COSTELLO, Mr. COYNE, Mr. DWYER of New Jersey, Mr. ERDREICH, Mr. FROST, Mr. GALLEGLY, Mr. HARRIS, Mr. HORTON, Mr. HOYER, Mr. HUGHES, Mr. JEFFERSON, Mr. JONES of Georgia, Mr. KASICH, Mr. KLUG, Mr. KOPETSKI, Mr. LAFALCE, Mr. LAGOMARSINO, Mr. LIVINGSTON, Ms. LONG, Mr. MARTIN, Mr. MCNULTY, Mr. MFUME, Mr. MILLER of Washington, Mr. PALLONE, Mr. PAXON, Mr. PETERSON of Minnesota, Mr. POSHARD, Mr. RAHALL, Mr. RAMSTAD, Mr. RAVENEL, Mr. RAY, Mr. ROE, Mr. SOLOMON, Mr. TALLON, Mr. TRAFICANT, Mr. TRAXLER, Mr. VALENTINE, Mr. WALSH, and Mr. WILSON):

H.J. Res. 189. Joint resolution designating October 8, 1991, as "National Firefighters Day"; to the Committee on Post Office and Civil Service.

By Mr. LEWIS of Florida:

H.J. Res. 190. Joint resolution designating the month of February 1992 as "National Sports Products Month"; to the Committee on Post Office and Civil Service.

By Mrs. LOWEY of New York (for herself, Mr. STUDDS, Mr. MANTON, Mr. CARPER, Mr. PALLONE, Mr. HOCHBRUECKNER, Mr. YOUNG of Alaska, Mr. GEJDENSON, Mr. BLAZ, Mr. DOWNEY, Mr. GILMAN, Mr. RAVENEL, and Mr. DELLUMS):

H. Res. 113. Resolution expressing the support of the House of Representatives for the International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers and calling upon the Senate to expeditiously give its advice and consent to ratification of that convention; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. RIDGE introduced a bill (H.R. 1440) to clear certain impediments to the licensing of a vessel for employment in the coastwise trade and fisheries of the United States; to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 23: Mr. MACHTLEY and Mr. MAZZOLI.

H.R. 39: Mr. LIPINSKI, Mr. COX of Illinois, Mr. GUARINI, Mr. PENNY, Mr. DEFAZIO, Mr. NAGLE, Mr. BONIOR, Mr. MORAN, Mr. OLIN, Mr. SERRANO, and Mr. REED.

H.R. 74: Mr. GIBBONS, Mr. LEHMAN of Florida, Mr. STARK, Mr. HENRY, Mr. SHAW, Mr. STEARNS, Ms. KAPTUR, Mr. SENSENBRENNER, and Mr. PETERSON of Minnesota.

H.R. 91: Mr. GUNDERSON.

H.R. 160: Mr. LANCASTER.

H.R. 177: Mr. WEISS, Mr. HUGHES, Mr. STOKES, Mrs. LOWEY of New York, Mr. FISH, and Mr. GILLMOR.

H.R. 178: Mr. WEISS, Mr. HUGHES, and Mr. STOKES.

H.R. 179: Mrs. BYRON, Mr. SCHAEFER, Mr. ROYBAL, and Mr. JACOBS.

H.R. 237: Mr. STARK and Mr. RAMSTAD.

H.R. 258: Mr. EMERSON.

H.R. 275: Mr. SERRANO.

H.R. 281: Mr. TOWNS, Mr. ABERCROMBIE, and Mr. FAZIO.

H.R. 282: Mr. LEWIS of Georgia, Mr. STOKES, Mr. SERRANO, Mr. RANGEL, Mr. ABERCROMBIE, Mr. LIPINSKI, Mr. PAYNE of New Jersey, Mr. ENGEL, and Mr. MFUME.

H.R. 288: Mr. HALL of Ohio, Mr. EMERSON, Mr. DELLUMS, Ms. LONG, Mr. BUSTAMANTE, Mr. STOKES, Mr. SERRANO, Mr. JONTZ, Mr. TOWNS, Mr. MFUME, and Mr. JEFFERSON.

H.R. 290: Mr. WHEAT, Mr. ABERCROMBIE, Mr. EVANS, Ms. KAPTUR, Mr. JEFFERSON, Mr. DWYER of New Jersey, Mr. KILDEE, Mr. TORRES, Ms. SLAUGHTER of New York, Mr. ENGEL, Mr. PAYNE of New Jersey, Mr. FISH, Mrs. UNSOELD, and Mr. SIKORSKI.

H.R. 292: Mr. WHEAT, Mr. ABERCROMBIE, Mr. TORRES, Mr. SANDERS, and Mr. KOSTMAYER.

H.R. 317: Mr. ROEMER.

H.R. 386: Mr. MINETA and Mrs. SCHROEDER.

H.R. 413: Mr. DAVIS, Mr. WHITTEN, Mr. TORRICELLI, Mr. MORRISON, Mr. TRAXLER, Mr. OWENS of Utah, Mr. MCDADE, and Mr. TAYLOR of North Carolina.

H.R. 434: Mr. RANGEL.

H.R. 467: Mr. HUTTO, Mr. GONZALEZ, and Mr. BUSTAMANTE.

H.R. 504: Mr. ARMEY.

H.R. 519: Mr. LIPINSKI and Mr. SANTORUM.

H.R. 544: Mr. BILBRAY, Mr. DYMALLY, Mr. FOGLIETTA, Mr. MARKEY, Mr. MATSUI, Mr. POSHARD, Mr. SAVAGE, and Mr. SCHEUER.

H.R. 565: Mr. DE LUGO, Mr. BENNETT, Mr. BONIOR, Mr. MILLER of California, Mr. NEAL of North Carolina, Mr. RINALDO, Mr. DOWNEY, Mrs. BYRON, Mr. GORDON, Mr. STUDDS, Mrs. LOWEY of New York, Mr. SANTORUM, Mr. HAMMERSCHMIDT, Mr. TAUZIN, and Mr. MOODY.

H.R. 637: Mr. ROE, Mr. APPLEGATE, Mr. SENSENBRENNER, Mr. ANDREWS of Maine, Mr. ANDREWS of New Jersey, Mr. LANCASTER, and Mr. TORRICELLI.

H.R. 642: Mr. KOPETSKI and Mr. JOHNSTON of Florida.

H.R. 647: Mr. EVANS, Mr. POSHARD, and Mr. FROST.

H.R. 673: Mr. BUSTAMANTE, Mr. NEAL of North Carolina, Mr. FALEOMAVAEGA, Mr. EMERSON, Mr. UPTON, Mr. NOWAK, Mrs. LOWEY of New York, Mr. ECKART, Mr. FROST, Mr. KLUG, Mr. TOWNS, Mr. MRAZEK, and Mr. HERTEL.

H.R. 710: Mr. GALLEGLY, Mrs. UNSOELD, Mr. ALEXANDER, and Mr. VANDER JAGT.

H.R. 722: Mr. RICHARDSON.

H.R. 723: Mr. RICHARDSON.

H.R. 755: Mr. DAVIS and Mr. YATRON.

H.R. 773: Mr. DOOLEY.

H.R. 781: Mr. HORTON, Mr. SHUSTER, Mr. LAFALCE, and Mr. WILSON.

H.R. 784: Mr. RITTER, Mr. KANJORSKI, Mr. RICHARDSON, Mr. PERKINS, Mr. INHOFE, Mr. SHUSTER, Mr. LEWIS of Georgia, Mr. DAVIS, Mr. HAMMERSCHMIDT, and Mr. KOPETSKI.

H.R. 786: Mr. SIKORSKI, Mr. REED, and Mr. BORSKI.

H.R. 799: Mr. BATEMAN, Mrs. PATTERSON, Mr. ECKART, Mr. GONZALEZ, and Mr. OWENS of Utah.

H.R. 801: Mr. BATEMAN, Mrs. PATTERSON, Mr. ECKART, Mr. GONZALEZ, and Mr. OWENS of Utah.

H.R. 802: Mr. BATEMAN, Mrs. PATTERSON, Mr. ECKART, Mr. GONZALEZ, and Mr. OWENS of Utah.

H.R. 803: Mr. BATEMAN, Mrs. PATTERSON, Mr. ECKART, Mr. GONZALEZ, and Mr. OWENS of Utah.

H.R. 841: Mr. BRUCE, Mr. CLAY, Mr. DEFAZIO, Mr. JEFFERSON, Mr. MARTINEZ, Mr. ROE, Ms. SNOWE, and Mr. WHEAT.

H.R. 842: Mr. FEIGHAN, Mr. NEAL of North Carolina, and Mr. ERDREICH.

H.R. 846: Mr. ACKERMAN, Mr. MINETA, Mr. SMITH of Florida, Mr. JAMES, Mr. HORTON, Mrs. VUCANOVICH, Mr. KOPETSKI, Mr. ENGLISH, Mr. PERKINS, Mr. BURTON of Indiana, Mr. FROST, and Mr. JEFFERSON.

H.R. 852: Mr. ABERCROMBIE, Mr. PAYNE of New Jersey, Mr. JEFFERSON, and Ms. WATERS.

H.R. 902: Mr. POSHARD, Mr. EDWARDS of Texas, and Mrs. MEYERS of Kansas.

H.R. 945: Mr. HARRIS, Mr. GOODLING, Mr. KOLBE, Mr. RAMSTAD, Ms. KAPTUR, Mr. FISH, Mr. BUSTAMANTE, Mr. HOLLOWAY, and Mr. CALLAHAN.

H.R. 1003: Mr. REGULA.

H.R. 1004: Mr. ZIMMER and Mr. WILSON.

H.R. 1022: Mr. MOODY, Ms. NORTON, Mr. SABO, Mr. EMERSON, Mr. MARTINEZ, Mr. DWYER of New Jersey, Mrs. LLOYD, Mr. LIPINSKI, Mr. LEVINE of California, Mr. BERMAN, Mrs. BOXER, Mr. COSTELLO, Mr. KLUG, Mr. BONIOR, Mr. FOGLIETTA, Mr. LEHMAN of California, and Mr. HORTON.

H.R. 1070: Mr. MORRISON.

H.R. 1077: Mr. INHOFE, Mr. ROBERTS, Mr. RAVENEL, Mr. FAWELL, Mr. BURTON of Indiana, Mr. BALLENGER, Mr. GALLEGLY, Mr. WALKER, Mr. GOODLING, Mr. ZIMMER, Mr. MACHTLEY, and Mr. KLUG.

H.R. 1079: Mr. SWETT, Mr. BLAZ, Mr. WILSON, and Mr. ANTHONY.

H.R. 1088: Ms. SLAUGHTER of New York.

H.R. 1089: Mr. HOLLOWAY.

H.R. 1128: Mrs. UNSOELD.

H.R. 1144: Mr. EMERSON, Mr. FRANKS of Connecticut, Mr. SCHEUER, Mr. RAVENEL, and Mr. CHAPMAN.

H.R. 1163: Mr. INHOFE.

H.R. 1164: Mr. WILSON, Mr. KLUG, and Mr. INHOFE.

H.R. 1177: Mr. CARDIN.

H.R. 1185: Mr. MANTON, Mr. HORTON, Mr. SCHEUER, Mr. MORRISON, Mr. DOOLITTLE, Mr. PAYNE of Virginia, Mr. GILMAN, Mr. WILSON, Mr. HOCHBRUECKNER, Mr. DICKINSON, Mr. CARDIN, and Mr. DANNEMEYER.

H.R. 1188: Mr. ABERCROMBIE, Mr. Richardson, Mr. HAYES of Louisiana, Mr. ROE, Mr. MURPHY, Mr. WILSON, and Mrs. COLLINS of Illinois.

H.R. 1201: Mr. TORRES and Mr. JEFFERSON.

H.R. 1225: Mr. TAUZIN, Mr. HUBBARD, Mr. SHAYS, Mr. HORTON, Mr. CAMPBELL of Colorado, Mr. BREWSTER, Mr. CALLAHAN, Mr. BROOMFIELD, Mr. SKEEN, Mr. BENNETT, Mr. THOMAS of California, Mr. MORRISON, Mr. LAGOMARSINO, Mr. HANSEN, Mr. HAYES of Louisiana, Mr. THOMAS of Wyoming, Mr. ROE, Mr. BLILEY, Mr. GUNDERSON, Mr. POSHARD, Mr. BURTON of Indiana, Mr. RAMSTAD, and Mr. GALLEGLY.

H.R. 1240: Mr. FROST, Mr. MARTINEZ, Mr. STUDDS, and Mr. GONZALEZ.

H.R. 1248: Mr. HENRY, Mr. HATCHER, Mr. KOLTER, Mr. SHAYS, Mr. RITTER, Mr. CAMPBELL of Colorado, Mr. PAYNE of Virginia, Mr. LAFALCE, Mr. LEWIS of California, Mr. DANNEMEYER, Mr. PACKARD, Mr. RAMSTAD, Mr. CAMP, Mr. DREIER of California, Mr. TAUZIN, Mr. ARCHER, Mr. SCHIFF, Mr. WILSON, and Mr. RAY.

H.R. 1250: Mr. COLEMAN of Texas.

H.R. 1285: Mr. FROST and Mr. RANGEL.

H.R. 1293: Mr. MCMILLEN of Maryland, Mr. DYMALLY, and Mr. ROWLAND.

H.R. 1317: Mr. CUNNINGHAM, Mr. APPLEGATE, Mr. HUCKABY, Mr. BUNNING, Mr. VALENTINE, Mr. ECKART, Mr. ATKINS, and Mr. LIGHTFOOT.

H.R. 1319: Mr. GOSS and Mr. IRELAND.

H.R. 1346: Mr. WOLPE and Mr. RAVENEL.

H.R. 1398: Mrs. SCHROEDER and Mr. WEISS.

H.J. Res. 38: Mrs. VUCANOVICH.

H.J. Res. 40: Ms. NORTON.

H.J. Res. 41: Ms. NORTON.

H.J. Res. 56: Mr. EMERSON, Mr. FALEOMAVAEGA, and Mr. SYNAR.

H.J. Res. 66: Mr. BEREUTER.

H.J. Res. 90: Mr. BURTON of Indiana, Mr. MCCOLLUM, Mr. ROEMER, Mr. HAMILTON, Mr. JACOBS, Mr. LANTOS, Mr. EMERSON, Mr. RAHALL, Mr. EVANS, Mr. LAGOMARSINO, Mr. BACCHUS, Mr. SMITH of Florida, Mr. BILBRAY, Mr. MFUME, Mr. SCHEUER, Mr. FAZIO, Mr. KASICH, Mr. BREWSTER, Mr. KILDEE, Mr. MCDERMOTT, and Mr. HEFNER.

H.J. Res. 128: Mr. MFUME, Mr. VALENTINE, and Mr. WEISS.

H.J. Res. 134: Mr. ANDERSON, Mr. CARDIN, Mr. EMERSON, Mr. FOGLIETTA, Mr. LANCASTER, Mr. LIGHTFOOT, Mrs. MEYERS of Kansas, Mrs. MORELLA, Mr. MCGRATH, Mrs. UNSOELD, Mr. WEISS, Mr. YATRON, Mr. ASPIN, Mrs. BENTLEY, Mr. BILIRAKIS, Mr. BUSTAMANTE, Mr. COOPER, Mr. COUGHLIN, Mr. DICKS, Mr. FALEOMAVAEGA, Mr. GALLO, Mr. GEKAS, Mr. HEFNER, Mr. HUGHES, Mr. HYDE, Mr. IRELAND, Mr. JACOBS, Mr. KILDEE, Mr. MCEWEN, Mr. MILLER of Washington, Mr. MONTGOMERY, Mr. MOODY, Mr. MRAZEK, Mr. MURPHY, Mr. NEAL of Massachusetts, Ms. PELOSI, Mr. QUILLEN, Mr. RAHALL, Mr. RITTER, Mr. ROHRABACHER, Mr. SOLOMON, Mr. STAGGERS, Mr. TAYLOR of Mississippi, Mr. WALSH, Mr. WOLPE, and Mr. WYDEN.

H.J. Res. 138: Mrs. BENTLEY, Mr. BERMAN, Mr. BEVILL, Mr. BILBRAY, Mr. BOUCHER, Mrs. BOXER, Mr. BROOKS, Mr. BUSTAMANTE, Mr. CLEMENT, Mr. ECKART, Mr. EMERSON, Mr. FASCELL, Mr. FLAKE, Mr. FOGLIETTA, Mr. FUSTER, Mr. GALLO, Mr. GILCHREST, Mr. GRANDY, Mr. HARRIS, Mr. HAYES of Illinois, Mr. HYDE, Mr. JONES of North Carolina, Mr. JONTZ, Mr. KASICH, Mrs. KENNELLY, Mr. LANCASTER, Mr. LEHMAN of Florida, Mrs. LLOYD, Mr. MCCLOSKEY, Mr. MCCOLLUM, Mr. MCNULTY, Mr. MFUME, Ms. NORTON, Ms. OAKAR, Mr. OBERSTAR, Mr. OWENS of New York, Mr. OWENS of Utah, Mr. PICKETT, Mr. RANGEL, Mr. RAVENEL, Mr. REGULA, Mr. SHAYS, Mr. SMITH of Florida, Mr. SOLOMON, Mr. STAGGERS, Mr. TALLON, Mr. TAUZIN, Mr. TRAXLER, Mrs. UNSOELD, Mr. WOLF, Mr. WYLIE, Mr. YOUNG of Alaska, Mr. ZIMMER.

H.J. Res. 155: Mr. BERMAN, Mr. MCDERMOTT, Mr. ESPY, Mr. DIXON, Mr. LEVINE of California, Mr. SERRANO, Mr. SAVAGE, Mr. CARDIN, Mr. BONIOR, Mr. STOKES, Mr. TOWNS, Mr. FROST, and Mr. LANCASTER.

H.J. Res. 156: Mr. MFUME, Mr. RAMSTAD, Mr. PETERSON of Florida, Mr. CARPER, Mr. SUNDQUIST, Mr. ANTHONY, and Mr. FRANK of Massachusetts.

H.J. Res. 159: Mr. KILDEE, Mr. CONDIT, Mr. DOOLEY, Mr. ANDREWS of Texas, Mr. EDWARDS of California, Mr. CAMPBELL of Colorado, Mr. RAY, Mr. LEVINE of California, Mrs. BOXER, Mr. HAYES of Illinois, Ms. KAPTUR, Mr. SMITH of Florida, Mr. BUSTAMANTE, Ms. NORTON, Ms. LONG, Mr. EVANS, Mr. LAFALCE, Mr. HATCHER, Mr. DWYER of New Jersey, Mr. ENGEL, Mr. HALL of Ohio, Mr. MCNULTY, Mr. MFUME, Mrs. LOWEY of New York, Mr. SHAYS, Mr. BONIOR, Mr. GILMAN, Mr. HENRY, Mr. MARTINEZ, and Mr. WILSON.

H.J. Res. 170: Mr. TOWNS, Mr. MCNULTY, Mr. SUNDQUIST, Mr. OWENS of Utah, Mr. RICHARDSON, Mr. HOCHBRUECKNER, Mr. DERRICK, Mr. TALLON, Mr. ALEXANDER, Mr. WEISS, Mr. KENNEDY, Mr. FIELDS, Mr. PAXON, Mr. KLUG, Mr. DARDEN, Mr. JOHNSON of South Dakota, Mr. MOAKLEY, Mr. MCMILLEN of Maryland, Mr. MONTGOMERY, Mr. LIPINSKI, Mr. INHOFE, Mr. HUNTER, Mr. TANNER, Mr. SKELTON, Ms. KAPTUR, Mr. FALEOMAVAEGA, Mr. WILSON, Mr. NATCHER, Mr. FRANK of Massachusetts, Mr. GILCHREST, Mr. MURPHY, and Mr. LUKEN.

H.J. Res. 171: Mr. BROOKS, Mr. ROE, Mr. WOLPE, Mr. PRICE, Mr. SMITH of New Jersey, Mr. COX of California, Mr. CARDIN, and Mrs. BYRON.

H.J. Res. 180: Mr. FISH, Mr. HAMILTON, Mr. ANDERSON, Mr. ANNUNZIO, Mr. APPLEGATE, Mr. BATEMAN, Mr. BEREUTER, Mr. BEVILL, Mr. BILBRAY, Mr. BILIRAKIS, Mr. BOUCHER, Mr. BUNNING, Mr. CLEMENT, Mr. COLEMAN of Missouri, Mr. ERDREICH, Mr. FASCELL, Mr. FAWELL, Mr. FEIGHAN, Mr. FOGLIETTA, Mr. GRADISON, Mr. GUARINI, Mr. HARRIS, Mr. HORTON, Mr. KOPETSKI, Mr. LENT, Mr. LIPINSKI, Ms. LONG, Mr. MCDADE, Mr. MCDERMOTT, Mr. MCGRATH, Mr. MCNULTY, Mr. MINETA, Mr. OXLEY, Mr. PAXON, Mr. PAYNE of New Jersey, Ms. PELOSI, Mr. POSHARD, Mr. PRICE, Mr. PURSELL, Mr. RANGEL, Mr. RINALDO, Mr. ROHRABACHER, Mr. SCHULZE, Mr. SHUSTER, Ms. SLAUGHTER of New York, Mr. SMITH of Florida, Mr. SPENCE, Mr. STARK, Mr. TRAXLER, Mr. VANDER JAGT, Mr. VOLKMER, Mr. WALKER, Mr. WOLF, and Mr. YATRON.

H. Con. Res. 18: Mr. HOCHBRUECKNER, Mr. REED, Mrs. UNSOELD, Mr. RAVENEL, Mr. POSHARD, and Mrs. LOWEY of New York.

H. Con. Res. 56: Mr. ROE, Mr. CLAY, and Mr. FOGLIETTA.

H. Con. Res. 57: Mr. ZELIFF, Mr. CAMPBELL of Colorado, Mr. BEREUTER, Mr. EMERSON, and Mr. NEAL of North Carolina.

H. Con. Res. 65: Mr. KLECZKA, Mr. TORRICELLI, and Mr. SWETT.

H. Con. Res. 88: Mr. BENNETT, Mr. HOCHBRUECKNER, Mr. MANTON, Mrs. BOXER, Mr. ANNUNZIO, Mr. MCGRATH, Mr. YATES, Mr. LEHMAN of Florida, Mr. HALL of Ohio, Mr. SMITH of Florida, Mr. LEVINE of California, Mr. NEAL of North Carolina, Mr. SCHUMER, Mr. LAFALCE, Mr. BACCHUS, Mr. SANTORUM, Mr. WEISS, Mr. GOSS, Mr. WAXMAN, Mrs. MORELLA, Mr. SAXTON, Mr. LIGHTFOOT, Mr. MRAZEK, Mr. BATEMAN, Mr. CARDIN, Mr. LOWERY of California, Mr. FROST, Mr. MCNULTY, Mr. WEBER, Mr. KYL, Mr. BURTON of Indiana, Mr. GILMAN, Mr. PAXON, Mr. PORTER, Mr. JOHNSTON of Florida, Mr. JEFFERSON, Mr. HALL of Texas, and Mr. BEILENSON.

H. Con. Res. 96: Mr. MCCOLLUM, Mr. CAMP, Mr. MOORHEAD, Mr. SANTORUM, Mr. MACHTLEY, and Mr. WILSON.

H. Res. 83: Mr. MICHEL, Ms. SNOWE, Mr. UPTON, Mr. GOSS, Mr. RIGGS, Mr. BUNNING, Mr. LIVINGSTON, Mr. BURTON of Indiana, Mr. GALLO, Mr. WALKER, Mr. BATEMAN, Mr. HANCOCK, Mr. OXLEY, Mr. KYL, Mr. DANNEMEYER, Mr. SANTORUM, Mr. DREIER of California, Mr. BLILEY, Mr. BROOMFIELD, and Mr. THOMAS of Wyoming.

H. Res. 99: Mr. HANSEN, Mrs. BYRON, Mr. LAFALCE, Mr. CARPER, and Mr. GILCHREST.

H. Res. 108: Mr. COUGHLIN and Mr. MILLER of Washington.

H. Res. 110: Mrs. MEYERS of Kansas and Ms. HORN.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 759: Mrs. LLOYD.

EXTENSIONS OF REMARKS

AN HISTORIC MOMENT IN UNITED STATES-ALBANIAN RELATIONS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. BROOMFIELD. Mr. Speaker, I am pleased to report to you that the President has agreed to reestablish diplomatic relations with Albania on March 15, 1991. I salute the administration for this prudent decision and believe that a U.S. Embassy in Tirana will help to promote the democratization of that country. It is time for America to become actively involved in helping Albania build a democratic future.

America's relationships with Albania have been long and sometimes troubled. Americans of Albanian origin returned to the Balkans in 1912 to assist in establishing the first Albanian Government, and President Wilson aggressively defended Albania's territorial integrity in international councils. In June 1939, however, diplomatic ties between Washington and Tirana were broken. A United States observer mission that was sent to Albania in 1945 was withdrawn the following year.

Although many other nations have diplomatic relations with Albania, the United States Government is one of the few nations in the world that still has no official diplomatic presence in Tirana. After a hiatus of nearly five decades in United States-Albanian diplomatic ties, now is the time to resume a normal diplomatic relationship and show by word and deed that this country cares about Albania.

I understand that the Albanian Foreign Minister, Muhamet Kapllani, will arrive in Washington this week to formalize the official reestablishment of diplomatic ties with a signing ceremony. In addition, the Department of State will receive leaders of the main Albanian opposition party, the Democratic Party.

Many countries in Cental Europe have set sail in the rising tide of democracy. It is time for Albania to join the family of nations that are pursuing democratic political systems. President Ramiz Alia has clearly committed his country to a democratic future. He is seriously attempting reform. The Albanian President recently freed political prisoners from reeducation camps and agreed to hold Albania's first multiparty elections since 1944. The Albanian opposition party, the Democratic Party of Albania, will participate in the elections scheduled for March 31, with runoffs scheduled for April 14. The opposition party has urged our Government to support the reform process.

Today, Albania is experiencing the political and economic problems that a country faces when it makes historic changes in its political system. Some groups in Albania are advocating immediate changes in that society. Others are opposing reforms. The failure of Albanian officials to respect human rights has been a serious problem. The recent wave of desperate refugees fleeing to Italy highlights the terrible conditions in Albania. It is my hope that our Government will be able to provide some form of humanitarian assistance to the Albanian people during these challenging days.

The imminent arrival of United States diplomats in Albania will both support and encourage the process of reform in a country that was once the most closed and paranoid country on this planet. Several U.S. groups will also be there to observe the elections. Albania is facing a true crisis, and more United States engagement—not less—is what is needed to help that country find its way along the road to democracy and play a constructive role in the new Europe.

I again commend President Bush and Secretary of State Baker for their decision to restore full links between the United States and Albania. We all wish the Albanian Government and people well as they turn their backs on communism and face the challenges of crafting a democracy.

THE MENACE OF QUOTA-THINK

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. CRANE. Mr. Speaker, Abraham Lincoln once said, "You cannot help men permanently by doing for them what they could and should do for themselves". Few would argue with this statement and yet, each year the Congress of the United States considers a panoply of legislation that does just that. To date, this year's big winner is the erroneously titled Civil Rights Act of 1991.

Not significantly different from last year's bill that failed upon its return to Congress in an override attempt, this bill would take gigantic steps to encourage equality based on race, sex, and national origin. Under this legislation an employer, in order to guard against the potential costs associated with litigation, might choose to hire someone because that person fits into a particular category rather than fill a position on the basis of abilities and achievement. In other words, if this bill were to become law, individuals would better serve potential employers by submitting a resume that simply states name, sex, and race.

Ludicrous? I think not. In fact, as our Nation continues to be lured further and further into a society of quotas, we will be witness to many inequities. I commend to my colleagues, and the American public alike, an article written by John Leo in the February 25, 1991 issue of U.S. News & World Report. This article demonstrates, through just a few examples, the degree to which the quota attitude has pervaded our Nation to a level that already borders on the absurd.

THE MENACE OF QUOTA-THINK

(By John Leo)

A curious story from a friend who follows New York City politics closely: Three municipal employees, all white males, recently decided not to attend an important committee meeting because their attendance would skew the racial balance in the room. This is the quota mentality, the dominant mind-set these days on racial and sexual matters. Better to skip work than to present an ethnically flawed group profile.

A group of militant female artists, seized by this mentality, is accusing the Metropolitan Museum of Art of being sexist because 95 percent of the paintings in the museum are by males, whereas 85 percent of the nude statues are female. Alas, there is no male-female balance in the history of art, but museums nowadays should presumably fashion one for past eras anyway, a sort of retroactive affirmative action. The best way out would obviously be for the Met to discover several hundred ancient male nude statues, all superbly wrought by hitherto unknown female artists.

By law, all textbooks used in California public schools must apply this sort of retroquota in history, art and science: Contributions of males and females must be presented in equal numbers. For reasons beyond the control of California, perhaps 95 percent of achieving artists and scientists have been male. Most of us regret this exclusion of females. California just erases it and tells its children a high-minded historical whopper.

GULF INEQUITIES

The best current example of the quota mentality in action is the flap over the number of black soldiers in the Persian Gulf war. Blacks account for 12 percent of the American population and over 24 percent of Americans troops. If you are a quota hard-liner, all you must do to demonstrate unfairness is point out that 24 is a distinctly higher number than 12. But why is it unfair? This is a volunteer Army, and the training and benefits the Army offers (along with the risk of getting shot) will obviously appeal more strongly to those on the way up economically and those striving to escape mean streets at home. Some of those arguing now that blacks are being exploited in the gulf action are precisely the people who argued for years that the armed forces should open up more to minorities and become instruments for social equality. Now that this has been done, the objectors have flip-flopped. And if the Army announced tomorrow that it would accept a 12 percent quota of blacks, and no more, wouldn't the objectors flip once again and complain about racial exclusion?

Quota-thinking has become reflexive, even outside the normal parameters of the affirmative-action debate. Operation PUSH's campaign against Nike boils down to the argument that since blacks buy so many sneakers they should proportionately share, as a group, in Nike profits. The same argument has surfaced in Hollywood: Since blacks buy one third of theater tickets, they deserve one third of important industry jobs and control

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

of one third of all movies. (How would this quota principle apply to the basketball industry, which has predominately white ticket buyers and predominately black jobholders?)

Quota-thinking seems to be invading the criminal-justice system as well. The statistical argument that a disproportionate number of blacks suffer the death penalty is a valid one. Many courts have been guilty of a double standard. But the argument has an unstated corollary: that if arrest and conviction rates for blacks are unusually high, that too must be the result of prejudice. This has slipped into casual conversation among some analysts as "the criminalizing" of young black males, as if the higher crime rate is something society imposes and not an obvious result of something criminals do. The same hidden quota can be unearthed behind many of the plans to prosecute parents for the behavior of their children. They are controversial and perhaps unwise plans, but are usually opposed by the American Civil Liberties Union on the ground that poor people are likely to be disproportionately prosecuted. That apparently means that for every poor mother of a violent gang member you arrest you must in fairness pick up a rich gang mother.

In politics, candidates more frankly promise job quotas by sex and race. Dianne Feinstein, in her campaign for governor of California, promised to hire women and minorities in direct proportion to their population in the state. That is approximately what her successful opponent, Pete Wilson, promised when he was mayor of San Diego, and what New York Mayor David Dinkins is promising now. This sounds benign—in a perfect world each job category should have diverse workers—but in effect it sets up a system of group entitlement at the expense of merit. A fraction of Indian blood has become very valuable under quota plans. That may be one of the reasons the number of Americans listing themselves as Native Americans has tripled since 1960. Quotas also mean firing people if their group numbers get too high. By strict quota-thinking, that should happen to blacksnow in Compton, Calif., which is turning from a mostly black to a black and Latino city. Latinos hold fewer than 10 percent of the city jobs and account for 30 percent of the population. Must black jobholders clear out, simply because the town's ethnic mix is changing, or is that something that voting and the give and take of politics can take care of better than quotas?

Enough. Quota-thinking is a social menace. Let's be done with it before it poisons our politics.

TRIBUTE TO VIRGIL UMTHUN

HON. FRED GRANDY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. GRANDY. Mr. Speaker, I rise today to honor and pay tribute to Virgil Umthun, president of Umthun Trucking Co. of Eagle Grove, IA. Today he has been elected president of the Interstate Truckload Carriers Conference, which represents the truckload, common, and contract motor carriers of the United States and is affiliated with the American Trucking Association. It is an extremely important and dynamic organization and has been in existence for more than half a century.

This is another accomplishment achieved by Virgil Umthun in a career that represents a commitment to hard work, discipline, integrity, and family values. Umthun Trucking was founded by Virgil's father, and Virgil with his brother joined in the family business in the 1940's. Today Umthun Trucking Co. has a fleet of over 290 tractor-trailers and employs over 460 people, with several third generation Umthuns working in the family enterprise.

Virgil and his wife of 35 years, Rachel, reside in Eagle Grove and have raised six children. Virgil is active in community organizations such as the Knights of Columbus, the Chamber of Commerce, the Rotary Club, the Jaycees, and the Boy Scouts.

I ask that my colleagues join me in congratulating Virgil Umthun on being elected to lead the Interstate Truckload Carriers Conference. This is yet another accomplishment of a man who is a monument to family and entrepreneurial spirit and determination. Virgil Umthun is a tribute to Eagle Grove, to the trucking industry, and to this Nation.

SOUTH BUFFALO HONORS A RENAISSANCE MAN

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. MANTON. Mr. Speaker, Friday night approximately 2,000 people will attend the First Ward South Buffalo Democratic Club's annual St. Patrick's Day celebration. The festivities will be held at Buffalo's Memorial Auditorium. This year's guest of honor is our distinguished doorkeeper, James T. Molloy, the pride of Buffalo and a fine Irishman as well.

Mr. Speaker, the First Ward South Buffalo Democratic Club has made its St. Patrick's Day celebration one of the premier political events in western New York. Each year the honoree is given a plaque and an emerald green jacket. Previous honorees include Buffalo Mayor James D. Griffin; Gerald Crotty, secretary to Gov. Mario Cuomo, and Bill Polian, general manager of the Buffalo Bills Football Team. Jim Molloy obviously will be joining an elite group on Friday when he dons his green jacket before his many friends, admirers, and supporters.

Mr. Speaker, Jim Molloy was born and raised in South Buffalo, which has a large Irish-American community. His father, Matthew Molloy, was a distinguished member of the Buffalo Fire Department and the International Longshoremen's Association. He also gave Jim his earliest and most important lessons in the art of politics. His mother, Catherine Hayden, still lives in the community and is active in South Buffalo politics to this very day.

Mr. Speaker, Jim Molloy rose quickly through the ranks in the Buffalo political community. Jim was a member of the ILA, and worked on the Buffalo waterfront. Jim also worked aboard the Buffalo Fire Department's fireboat. Today that vessel bears Jim's name and is a local landmark. The money Jim earned as a fireman permitted him to attend Canisius College. After receiving his undergraduate degree, Jim attended St. John's University Law School. While in New York City Jim also did intensive study at Yankee Stadium and learned a great deal about choreography. Upon leaving St. John's, Jim worked in the Erie County district attorney's office. From that vantage point, Jim became, at age 27, the youngest Democratic Party zone chairman in the State of New York.

After securing his political base at home, Jim branched into State and national politics. He came to Washington, DC, in 1968 at the invitation of our former colleague from New York, the late John Rooney. Jim was given a job in the House Finance Office. In 1974, Jim served as a senior adviser in Hugh Carey's successful election to the governorship of New York. In 1975, Jim was elected doorkeeper of the House, a position to which he has been re-elected eight times by the Members of this body. Now Members of the House, Senators, Governors and lobbyists seek Jim's counsel and advice, and Jim handles everyone's problems with great efficiency and little fanfare.

Mr. Speaker, the word is that Jim Molloy has been training for the four days of festivities in South Buffalo surrounding St. Patrick's Day. Apparently Jim is working hard to strengthen the muscles in his elbow and wrist. Every indication is that Jim will be in fine shape by the time he arrives at Buffalo's Memorial Auditorium. I know all of our colleagues join me in congratulating Jim for this well-deserved honor. When each of us is celebrating St. Patrick's Day this weekend I believe we should raise a glass in a toast to Jim Molloy. A better friend and public servant would be hard to find.

THE WAR'S EFFECT ON ARAB-AMERICANS

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mrs. COLLINS of Illinois. Mr. Speaker, one of the many casualties of the war in the Persian Gulf has been the attitude of some Americans toward Americans of Arab ancestry. It is truly an injustice and a crime to discriminate on the lines of any prejudice. But discrimination on the basis of one's looks is among the most offensive.

These are tough times for Arab-Americans. Although they have a solid allegiance to the United States, many of them do have close family relations in the Middle East's Arab countries. Naturally, they have concern for their loved ones there just as for their loved ones here. We must be understanding of their predicament and not assign any greater importance to their concern than that.

Yet, it seems that whenever the United States is involved in a war, it is easy for many Americans to point a finger at an imagined enemy within our own borders. For example, during World War I, there was hysteria fashioned into the denunication of German-Americans as "krauts," and in World War II the animosity against Japanese-Americans became so pronounced that they were rounded up and interned for the duration of the war, a national wound from which we still have not recovered.

Now, some Americans are treating those with Arabic facial features or names as the enemy, as though our neighbors have suddenly become secret agents for Saddam Hussein. Such associations are rooted in ignorance and bigotry and they should not be tolerated in any segment of our society. It is no different than decades ago when, in hard times, many Americans vented their frustrations and venom toward African-Americans, as though decrying and mistreating blacks would mitigate their own squalor. That discrimination is no more acceptable against Arab-Americans today than it was against African-Americans then.

Mr. Speaker, I strongly hope that, before the ugly head of racism rises up in response to the gulf war, our Government and citizens will do everything possible to ensure against that occurrence. Rationality and principles must prevail.

IN RECOGNITION OF S. SGT. TONY APPLEGATE

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. McEWEN. Mr. Speaker, I rise today to recognize a brave young man from Portsmouth, OH, who made the greatest sacrifice that any American can make for his country. Tony Applegate, an army staff sergeant, was killed on February 27 when his M1A1 tank was hit during a tank battle in Southern Iraq. I join the people of Scioto County, along with the State of Ohio, in mourning this loss.

As the scriptures tell us, "Greater love hath no man than this, that a man lay down his life for his friends." Tony Applegate, a young man of 28, a husband and father, made this expression of love for each of us.

Mr. Speaker, the incredible success of the coalition effort against Saddam Hussein needs no further acclaim. The brutality of the Iraqi occupation of Kuwait, and the threat to the civilized world posed by Saddam Hussein, has erased any doubt that this violent dictator had to be stopped. Each and every one of us should be thankful that by standing up to this tyrant now, the loss of life among the coalition forces was minimized to an incredibly small number.

Nevertheless, to the loved ones left behind by those who were lost, Operation Desert Storm was incomprehensibly costly. Henry Applegate and Dolly Bellemy will forever know the cost of Operation Desert Storm—their son did not come home. Lisa Applegate, 4-year old son Tony, Jr., and 17-month old son Trent, sacrificed a husband and father for our freedom. They are heroic in this sacrifice, just as is Tony.

Only in light of such a loss, does the true nature of the service and sacrifices of our troops come to light. Each and every serviceman and woman participating in Operation Desert Storm understood the possible cost. The civilized world was united in opposition to Hitlerian threat posed by Saddam Hussein, and American troops, who have traditionally been the standard-bearer of freedom around the globe, took their place on the frontlines. The American people responded with a show of love and support that has not been seen since World War Two.

These American men and women took the opportunity to display the professionalism, skill and determination that sets them above any other troops on Earth. These soldiers, all volunteers dedicated to their mission, spearheaded the most devastating and effective military campaign in history. The American people have understandably been filled with a deep sense of pride.

No amount of preparation, training, skill or technology can completely remove the underlying fact that in war, soldiers will die. Operation Desert Storm approached the unattainable, but it was not close enough. However, it is a blessing that American troops sacrifice their lives to protect freedom and deter aggression, while oftentimes those they fight die under the boot of oppression.

While all the American troops who helped defeat Saddam Hussein have earned our pride and respect, the few who made the ultimate sacrifice in this noble effort have earned our undying love and thanks. Staff Sergeant Tony Applegate has taken a place among the most honored legion of men in American history, those who have given their lives in the defense of freedom.

Mr. Speaker, I join with my colleagues in expressing our gratitude for the service of Tony Applegate, and in passing along condolences to his family. .

THE IMPROVED RURAL AND SHORT LINE RAILROAD SERVICE ACT

HON. PAT ROBERTS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. ROBERTS. Mr. Speaker, today I am introducing the Improved Rural and Short Line Railroad Service Act, legislation to prevent the further loss of rural railroad lines. This bill is similar to legislation being introduced by Senator NANCY KASSEBAUM.

Over the last decade, rural America has faced the abandonment of nearly 30,000 miles of rail line. In Kansas alone, more than 3,000 miles of line have been lost, and now an additional 800 miles are being considered for abandonment.

Rail lines are essential to rural America. It connects our small towns and farmers to distant markets. Railroads continue to provide an important communication and industrial link between rural and urban regions. When rail service is lost in rural communities, the grain elevator and small businesses soon close, and, in many cases, an entire town is lost.

I am not introducing this legislation to prevent railroad companies from eliminating lines consistently showing financial losses. However, this bill in intended to improve the environment for individuals or parties interested in purchasing lines before they are abandoned.

Many rail lines being considered for abandonment are profitable. However, the interest in wanting to continue to service these lines has been lost. Major carriers have continued to pursue a policy of eliminating branch line service, to refocus their resources on major lines. Opportunities must be allowed entrepreneurs to purchase these soon-to-be abandoned branch lines so service might continue—and in many cases improve—for small towns and elevators.

The small, independently operated lines, commonly known as "short lines," have proved successful throughout rural America. Economists predict that they are the only viable option in maintaining rail service in some regions of the country. But, short lines cannot be created unless major carriers are willing to negotiate rail line sales prior to abandonment. These negotiations have rarely been allowed by major carriers.

This bill requires railroads to make a good faith effort to sell lines being considered for abandonment. It also requires the release of documentation on the historical operation, maintenance, and profitability of these lines. These disclosure provisions are essential in helping to open discussions between large rail companies and prospective short line operators.

Also, when a formal abandonment request is presented to the Interstate Commerce Commission, the bill requires the ICC to consider the historical and economic significance of a line during its evaluation. And, it gives a right of first refusal to purchase the lease of a grain elevator to the operator if the elevator is to be sold by the railroad.

If historical trends continue, rail service throughout rural America will continue to be lost at alarming rates. If enacted, this legislation will assist in changing this devastating trend.

I urge my colleagues to consider cosponsoring my legislation to preserve rail service to rural America.

WAR'S TRAGEDY COMES HOME

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. FRANK of Massachusetts. Mr. Speaker, like almost all Americans, I was extremely grateful when the war in the gulf ended both more quickly and more successfully than many of us had feared. But no war is without cost, and it is essential that as we celebrate the victory, we also pay to tribute to those who suffered to bring it about.

One of those who gave his life for his country in this effort was Sgt. Russell G. Smith, Jr., who was a native of Fall River, MA. To Mr. Smith's mother, Louise Breton, to his wife, and their daughters, I express my very deep sympathy.

Fall River Herald News editorialized on this subject in a way that expresses the feelings of the people of Fall River and indeed of all Americans and I ask that this tribute to Sergeant Smith be printed here.

[From the Fall River Hearld News, Feb. 1991]

WAR'S TRAGEDY COMES HOME

Midnight, the hour of peace, arrived with quiet dignity. The echo of war drums should have been all that was left of the Persian Gulf conflict.

But in counterpoint, the church bells of Fall River tolled a death knell.

We have thanks in our hearts for victory but, in the deep recesses of our souls we hear the mournful military dirge called taps.

Just before the safety of a cease fire arrived, the war stole from us one of its finest gladiators.

While the sun shucked off the inky blanket of night, the peace we prayed for during many dawns became a reality.

Yet, for all of us in Greater Fall River, our yellow ribbon is rimmed in black.

Martyrdom came yesterday to Main Street.

And though it is poised for a party, a city paused to weep.

Army Sgt. 1st Class Russell G. Smith, Jr., 44, became the first city native to pay the supreme sacrifice in the Persian Gulf War. He died when a bomb exploded while his combat engineer unit was attempting to defuse it.

Sgt. Smith's mother, Louise Breton, heard a knock on the door of her Borden West apartment yesterday. When she saw two army officers standing there she knew her son was dead.

Sgt. Smith was married to Patricia (Newton) Smith of Fort Bragg, N.C., and they have seven daughters.

The Herald News celebrates the valor and the life of Sgt. Smith. It joins the family in mourning his death.

And, while we rejoice in the cease fire, Sgt. Smith's death serves as a reminder of the steep price of any war.

We share in the victory, but we bear the burden of its cost.

As the poet John Donne said, "Any man's death diminishes me, because I am involved in Mankind. And therefore never send to know for whom the bell tolls; It tolls for thee."

THE ANTI-DEFAMATION LEAGUE'S 1990 AUDIT OF ANTI-SEMITIC INCIDENTS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, the Anti-Defamation League has been compiling data on anti-Jewish vandalism and harrassment since 1979 in their annual Audit of Anti-Semitic Incidents. According to the report, during 1990 there were 1,685 anti-Semitic incidents reported to the Anti-Defamation League from 40 States and the District of Columbia. The overall total represents an 18-percent increase over the 1,432 such incidents reported during 1989. It is the highest total ever reported in the 12-year history of the audit and it marks the fourth straight year of increasing levels of anti-Semitic acts nationwide.

According to the 1990 audit, of the 1,685 incidents, 927 acts of vandalism, second highest ever in this category, were directed at Jewish institutions, Jewish-owned property and other public locations. The vandalism total for 1990 is 10-percent higher than the 845 reported in 1989.

Included in this category are 38 serious crimes, the same as the record-high total reported in 1989, of arson, bombing and cemetary desecration.

According to the 1990 audit, in the category of harassment, threats and assault, another record total was reported in 1990. There were 758 such incidents in which Jewish individuals and their institutions were menaced by mail or phone threats, verbal abuse and even physical assault. Incidents in this category have jumped by over 29 percent.

Among the other disturbing trends to be discussed in the report are the growing numbers of anti-Semitic incidents occurring on U.S. college campuses, and a resurgence of anti-Semitic incidents seemingly motivated by the events in the Middle East and the Persian Gulf crisis.

On a more positive note, skinhead-related anti-Semitic incidents are down significantly, although still of concern. According to the report, effective law enforcement action at the Federal, State and local levels against violent neo-Nazi skinhead activity has sent a firm and clear message to such gangs that their criminal behavior will not be tolerated.

The Audit reveals that increased efforts by law enforcement authorities to apprehend the perpetrators and strict enforcement of antibias crimes statutes are among the most effective means of countering bias crimes. The report welcomes the passage in 1990 of the Hate Crimes Statistic Act.

I commend the Anti-Defamation League for the outstanding job they did in their Audit of Anti-Semitic Incidents report and for their dedicated commitment of fighting anti-Semitism and promoting human rights. I wish to thank Arthur Titelbaum, Rabbi Irving Lehrman, Leonard Abess, Leonard Abess, Jr., Jerome Homer, Donald Bierman, Hon. Bennett Brummer, Arthur England, and Paul Lehrer for their tremendous dedication to the Florida Regional Board of the Anti-Defamation League.

LEGISLATION TO PHASE OUT THE SECTION 936 "POSSESSIONS TAX CREDIT" PROGRAM

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. SCHULZE. Mr. Speaker, today I am introducing legislation to phase out the section 936 Possessions Tax Credit Program.

As we know, this section of the Internal Revenue Code was devised to promote job creation and economic development in Puerto Rico. In the 1986 Tax Reform Act, Congress modified this provision to expand the benefits to other qualified Caribbean Basin Initiative beneficiary nations to promote vital infrastructural development projects in the poorer countries of the Caribbean Basin.

Unfortunately, Puerto Rico's Government Development Bank still seems reluctant to live up to its commitment to finance projects not located on Puerto Rican soil. The poorer countries of the Caribbean region need loans, and need them badly.

Additionally, to the extent that Puerto Rico's recent decision to abolish English as one of the island's two official languages is part of its overall effort to become more independent of the United States, this legislation will help Puerto Rico achieve that goal.

I urge my colleagues to cosponsor this legislation.

IN RECOGNITION OF S. SGT. JONATHAN KAMM

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. MCEWEN. Mr. Speaker, I rise today to recognize a brave young man from Mason, OH, who made the greatest sacrifice that any American can make for his country. Jonathan Kamm, an Army staff sergeant, was killed when the helicopter he was flying in, which was transporting supplies to the front lines, was shot down by Iraqi forces. I join the entire town of Mason, along with the State of Ohio, in mourning this loss.

As the scriptures tell us, "Greater love hath no man than this, that a man lay down his life for his friends." Jonathan Kamm, a young man of 25, a husband and father, made this expression of love for each of us.

Mr. Speaker, the incredible success of the coalition effort against Saddam Hussein needs no further acclaim. The brutality of the Iraqi occupation of Kuwait, and the threat to the civilized world posed by Saddam Hussein, has erased any doubt that this violent dictator had to be stopped. Each and every one of us should be thankful that by standing up to this tyrant now, the loss of life among the coalition forces was minimized to an incredibly small number.

Nevertheless, to the loved ones left behind by those who were lost, Operation Desert Storm was incomprehensibly costly. Dan and Annette Kamm will forever know the cost of Operation Desert Storm—their son did not come home. Donna Kamm, and her 10-year-old son Jeremy, sacrificed a husband and father for our freedom. They are heroic in this sacrifice, just as is Jonathan.

Only in light of such a loss, does the true nature of the service and sacrifices of our troops come to light. Each and every serviceman and woman participating in Operation Desert Storm understood the possible cost. The civilized world was united in opposition to Hitlerian threat posed by Saddam Hussein, and American troops, who have traditionally been the standard-bearer of freedom around the globe, took their place on the front lines. The American people responded with a show of love and support that has not been seen since World War II.

These American men and women took the opportunity to display the professionalism, skill and determination that sets them above any other troops on earth. These soldiers, all volunteers dedicated to their mission, spearheaded the most devastating and effective military campaign in history. The American people have understandably been filled with a deep sense of pride.

No amount of preparation, training, skill or technology can completely remove the underlying fact that in war, soldiers will die. Operation Desert Storm approached the unattainable, but it was not close enough. However, it is a blessing that American troops sacrifice their lives to protect freedom and deter aggression, while oftentimes those they fight die under the boot of oppression.

While all the American troops who helped defeat Saddam Hussein have earned our pride and respect, the proud few who made the ultimate sacrifice in this noble effort have earned our undying love and thanks. Staff Sgt. Jonathan Kamm has taken a place among the most honored legion of men in American history, those who have given their lives in the defense of freedom.

Mr. Speaker, I join with my colleagues in expressing our gratitude for the service of Jonathan Kamm, and in passing along condolences to his family.

LEGISLATION TO STRENGTHEN OUR EDUCATIONAL SYSTEM

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. DOWNEY. Mr. Speaker, today I am introducing legislation that will strengthen our educational system and international competitiveness by encouraging investment in innovative and creative classroom materials for schoolchildren.

The research and experimental provisions of section 174 were enacted to encourage investment in research and development, allowing taxpayers to currently expense the costs incurred in developing and testing new procedures. The publishers of classroom instructional materials engage in research and experimental activities in the development and testing of such materials. These research and experimental expenditures should be deductible under the research and experimental expenditure provisions of the Internal Revenue Code. However, based on a footnote in the conference report of the Tax Reform Act of 1986, as interpreted by the Treasury Department, the publishers of classroom instructional materials must capitalize their research and development costs under section 263A. These publishers must therefore wait several years before deducting their R&D expenses as part of the cost of selling new classroom materials. This rule does not reflect congressional intent.

More importantly, this discriminatory tax policy will lead to a reduction in the resources committed to the creation of challenging, high-quality, instructional materials needed in the Nation's classrooms. In fact, many publishers have already been forced to cut back in this area. The legislation I am introducing will correct this misinterpretation. Publishers of instructional materials such as textbooks, teachers' manuals, and similar materials will be allowed to expense the costs of developing and testing materials that are designed for instructional use in elementary and secondary school classrooms.

The legislation would confirm that section 174 treatment extends to research and experimentation costs incurred by a taxpayer in the course of his business of publishing qualified instructional materials. The legislation confines eligibility for deductibility under section 174 only to costs that meet the general standard for research and experimental costs under section 174 and are incurred in connection with qualified instructional materials.

Qualified instructional materials are materials designed for use in teaching a particular subject in systematic classroom instruction at the elementary and secondary levels, including secondary-level vocational education, and whose principal purpose is such use. Examples include textbooks, teachers' manuals, workbooks, test and scoring materials, software, and other ancillary materials and instructional aids. Qualified instructional materials would, under the legislation, not be excluded from section 174 eligibility as literary, historical, or similar projects.

Expenditures for qualified instructional materials considered research and experimentation expenditures include costs incurred for first, conducting research and experimentation on learning and teaching; second, applying research, experimentation, and knowledge to the development of such materials; third, preparing specifications for the materials; fourth, preparing preliminary versions of such materials; fifth, reviewing and testing of the preliminary versions; and sixth, making modifications, to assure that the materials meet basic design specification, including design specifications established by educational authorities.

Materials are published for the principal purpose of use in systematic instructional activities only if sales of the materials are predominantly—more than 80 percent—for such use. The fact that a significant part, but less than four-fifths, of the sales of a publication are for use in systematic instructional activities in elementary or secondary classrooms is insufficient to qualify the publication. So-called trade books, that is, those sold predominantly through general bookstores, are not included in this category, even if their sales are predominantly for use in systematic instructional activities, unless they are designed principally for use in a systematic course of elementary or secondary instruction, as evidenced, for example, by the inclusion of textbooks apparatus such as summaries and test questions.

Not included in the definition of qualified instructional materials are materials designed for use at college or postgraduate levels, professional reference materials, or general reference works unless they are specifically designed for, and principally used in, elementary or secondary school classroom instruction. Similarly works of physical or social science, literature, popular fiction, and compilations or collections thereof, as well as how to publications on fields such as automobile mechanics, crafts, cooking, fitness, hobbies, do-it-yourself activities, sports, and home repair, are not considered qualified instructional materials. Therefore, development costs for such works will not qualify under the legislation except in the unusual instance in which they qualify under the specific standards for materials designed for and principally used in, systematic instructional activities at the elementary or secondary level.

Under the bill, section 174 will apply only to costs, such as those listed above, with respect to qualified instructional materials, which meet the general standard for research and experimental expenditures for section 174 purposes. Costs, whether or not charged to editorial costs in a publisher's accounting, for activities such as copy editing, proofreading, and plate preparation, in preparing materials for publication that do not qualify as research and experimental costs will be required to be capitalized. Royalty advances to authors are not research and experimental costs.

Taxpayers may, without the consent of the Secretary, adopt the expense method provided by section 174 with respect to their research and experimental expenditures for qualified instructional materials that are paid or incurred in their first taxable year ending after enactment of the legislation; an election taking effect in subsequent years would require the consent of the Secretary. Taxpayers making the election would adjust their opening inventory in the year of change to take account of any costs for research and experimental expenditures with respect to qualified instructional materials that were previously capitalized as part of the taxpayer's inventory, that is, research and experimental costs incurred with respect to inventory and work in progress in prior years and capitalized under section 263A rules. Such changes in inventory value would be treated in all cases as made at the initiative of the taxpayer and with the consent of the Secretary. The period for taking account of the adjustments under section 481 would be 4 years.

CONGRESS GOES TO HEXAGON

HON. PAT ROBERTS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. ROBERTS. Mr. Speaker, this Wednesday on March 13, the Congress will be going to Hexagon. Naturally given what we do around here and what we do not do, there are a lot of places people may suggest where we should go, but Hexagon is a place all of my colleagues will enjoy and perform a good deed as well.

Hexagon, Inc., was founded 36 years ago, and for the past 35 years has produced an all-original comedy musical and satirical revue, and the proceeds do go to an area charity. This year the proceeds will go to Martha's Table which serves meals to the homeless.

So, my colleagues, I dare say actors all, or at least to some degree, mark March 13 on your calendar and you can see the likes of Congressmen BILL HEFNER and PAT ROBERTS, BEN "of TV fame" JONES, JIM MORAN, CONNIE "song and dance" MORELLA, AND SENATORS LARRY CRAIG and CONRAD BURNS.

Despite my remarks, this is indeed a most worthwhile and enjoyable event. Hexagon has raised over $1.6 dollars for area charities. Congress goes to Hexagon March 13. Mark it down.

REPRESENTATIVE SILVIO CONTE'S LEGACY: A NEW DECADE FOR BRAIN RESEARCH

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. PURSELL. Mr. Speaker, President Bush issued a Proclamation shortly after enactment of Representative Silvio Conte's resolution (Public Law 101–58) declaring the "Decade of the Brain" would begin January 1, 1990. My good friend with whom I served on the Labor-HHS-Education Appropriations Subcommittee, was very proud of the fact that his legislation became the first congressional resolution to endorse a specific area of research since the National Geophysical Year.

Now, after 1 year, we can see this special designation provides opportunities for all of us to consider our roles in this decade in promoting brain research to eliminate a total economic burden on this Nation of $305 billion annually. In that regard, it was gratifying to note that the National Alliance for the Mentally ill [NAMI] last year initiated the publication of "The Decade of the Brain" in response to Representative CONTE'S call for action.

In addition, Mr. Speaker, I am pleased to announce that NAMI's board of directors has just taken official action to create the annual Silvio O. Conte Public Service Award to recognize the Federal official who most faithfully lives up to Silvio Conte's legacy in seeking to improve the lives of persons afflicted with serious mental illness. The first Conte award will be presented at NAMI's special reception for all Members of Congress, in the Rayburn Building foyer (6–8 p.m.), on Monday, April 15.

Moreover, as Silvio Conte envisioned, the "Decade of the Brain" will serve as an important monitor of our progress during the next 10 years in the multidiciplinary efforts of scientists, government leaders, families and consumers in achieving an understanding of the brain functioning in relation to behavior, development, and health. The editorial policy of NAMI's new research quarterly, which is clearly stated in the "Decade of the Brain" resolution, will report on new fields of investigation and inform the Nation as to "the exciting research advances on the brain and of the availability of effective treatment of disorders and disabilities that affect the brain."

This publication, after just two issues, already has scheduled exciting articles from the Nation's top scientists and government officials. I was pleased to note that our leader [Mr. MICHEL], called attention to the monitoring process when he inserted volume 1, issue 1 into the CONGRESSIONAL RECORD on September 13, 1990 (E2819). Now, in connection with my remarks today, concerning the legacy of our late, distinguished colleague from Massachusetts, Mr. Conte, I am pleased to insert the current issue. Incidentally, in the lead article, concerning her remarks presented at the Decade of the Brain Symposium, the First Lady, Barbara Bush, specifically acknowledge Silvio Conte for his efforts concerning this area of research.

Also, Mr. Speaker, I am happy to report that the next issue will feature an overview by Dr. Allan Bromley, Science Advisor to President Bush and National Coordinator for the Decade of the Brain, in his article, "Coordinating the Federal Decade of the Brain Effort." This will be followed by a feature article from Nobel prize winner, James D. Watson, Director of the National Center for Human Genome Research at the National Institutes of Health. These reports, I am sure, will be important to all of the Members and we can look forward to many more informative issues.

I congratulate, for their thoughtful tributes to Silvio Conte, both NAMI families and their Board, which includes as one of their Directors, my very able constituent, Carol Rees of Ann Arbor. She was past president of the AMI of Washtenaw County and the AMI of Michigan, and now one of the key leaders of NAMI, which, in beginning their second decade this year, is growing at a rapid rate. NAMI now has 1,046 affiliates nationally, over 130,000 members, and will continue to be a leader in the effort to eliminate serious mental illness from our society by the year 2000.

At this point, I am pleased to include a portion of volume 1, issue 2 of "The Decade of the Brain":

THE DECADE OF THE BRAIN

BARBARA BUSH PUTS PRIORITY ON "DECADE OF THE BRAIN" AT SYMPOSIUM

Thank you very much Dr. Thier for that warm welcome. Now, before you start to think that I've gotten carried away by a few commencement addresses and honorary degrees, let me hasten to assure you: I did not come here to talk about the brain.

I came to tell you how glad and proud I am that George has signed the Proclamation designating the 1990's as "The Decade of the Brain" . . . and to tell you how much we both applaud and support what this can mean for the greater health and well-being of all Americans. So many of you worked long and hard to make that Proclamation possible—like our very good friend, Representative Silvio Conte—and we salute you all.

This morning at breakfast, I was talking to my houseguests and was saying how I needed to say something funny at the Brain Symposium—that you all would expect me to—but the truth is, it's a very serious subject and a very important one. Actually, if I'd thought a little more about being here today, I might not have had the nerve.

It really is quite awesome to be looking out into the faces of some of the world's finest brain scientists . . . and a few influential policy-makers . . . and to know that you hold the key to understanding and conquering some of the most devastating and costly disorders that afflict Americans—of all ages.

I believe it's safe to say that everyone of us has a friend or a relative who suffers from a disease of the brain. And you and your colleagues have already made such a tremendous difference in the lives of millions who suffer in so many ways—from depression . . . from neurological disorders like Parkingson's disease . . . from drug and alcohol abuse. The strides you've made with other devastating illnesses—like AIDS, Alzheimer's disease, autism—offer real hope that some of us may live to see the last of them and the pain they cause.

But your progress is doing something else vitally important: It's helping to demystify illnesses that have long been stigmatized for much to long. People with schizophrenia . . . epilepsy . . . mental retardation . . . even learning disabilities, are so often ignored, or misunderstood, or even shunned. Consider the uneasy reactions of passers-by to mentally ill homeless people on the streets . . . or the reluctance of communities to have halfway houses in their midst.

But by showing us why and how people become ill, and finding ways to bring symptoms under control so that they can live as well and productively as possible, you're helping all of use to understand, rather than fear . . . to accept and appreciate, rather than avoid.

People with mental illness, and their families are especially vulnerable to stigma. Parents often get the blame when children become mentally ill . . . and adults who develop mental disorders are sometimes thought to have flawed characters, or moral fiber, or will.

By revealing the problems of brain structure and function that play such an enormous role in mental illness, you're helping to free patients and their loved ones from a really wrongful burden of guilt and shame.

It doesn't take a whole lot of thought to figure out how critical brain research is to our futures. We just can't afford to let our children fall prey to developmental disabilities that impair their ability to learn—any more than we can afford to let our young adults succumb to depression or schizophrenia, or our older Americans lose the fullness of their later years to Alzheimer's disease. We can't afford to let our work force and our families be weakened and undermined by drug and alcohol abuse. We can't afford to let AIDS claim people in the prime of life . . . or those whose lives have just begun. The price is human suffering and loss, and it's simply too great.

A BOY'S PATRIOTISM RECOGNIZED

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. SUNDQUIST. Mr. Speaker, sometimes our children see the essence of things more clearly than do adults. They have a way of expressing their concerns and getting right to the point.

One young man in Tennessee has captured the essence of why we fought Saddam Hussein. Eleven-year-old Eric Brown of Fentress County, TN, whose father is a Vietnam veteran and a Farm Bureau insurance agent, wrote about how important it is to support those who fight for our freedom. The Farm Bureau thought enough of young Eric's composition to reprint it in their magazine.

I think his piece deserves a wider audience, and I insert it in its entirety in the CONGRESSIONAL RECORD:

FREEDOM ISN'T FREE

(By Eric Brown)

Many people fought and died for our freedom. Some people should respect our freedom but they don't. The phrase "*Freedom Isn't Free*" means there are people who have to fight for the freedom that is ours. What does the title mean to you? To me it means that the soldiers in Saudi Arabia are leaving their friends and family to win freedom for the small country of Kuwait.

The flag stands for freedom and when you salute the flag you salute the people who died for our freedom. America has been through many wars such as Vietnam, Korea, World War I and World War II.

When you think of freedom do you think of religion, speech, education. That is what I think of. We learned something in Social Studies—the word dictator. When I think of dictator I think of Saddam Hussein. We are fighting for exactly the same thing we did when we fought Hitler. Some people take advantage of our freedom by hurting other people.

America is one of the greatest countries. Why? Because we have something special—a seven letter word known as freedom. We have so many symbols of Freedom. We have a democracy by the people, a bill of rights, and a flag. My dad, Boyd Brown, is a veteran. He fought for freedom in Vietnam. I think that we should support the soldiers in as many ways as possible. We are indeed a very lucky country.

THE TAX EXPENDITURE PROPOSAL ACT OF 1991

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. SCHULZE. Mr. Speaker, I rise today to introduce legislation addressing a subject of vital importance to this House and to our Nation; namely, how effectively does our Government perform its duty to properly measure the economic impact of tax legislation that this House considers and adopts?

It is glaringly obvious that very serious measurement deficiencies exist in the performance of this important duty when on one hand the administration offers capital gains legislation that it claims will produce revenue gains of $12.5 billion and on the other hand the Congress claims the same bill will produce revenue losses of $11.4 billion. How can the OMB and CBO differ by $25 billion on an issue where historical evidence clearly exists?

Such dramatically opposed tax revenue estimates must not be ignored. It is a symptom of severe revenue estimating deficiencies as currently practiced in the budget/taxation formulation process. President Bush, and many others, have lamented this so-called scoring of revenue estimates. The President has taken the unprecedented action of requesting Federal Reserve Chairman Alan Greenspan to head up a commission to resolve this alleged scorekeeping difference.

It is also relevant to point out that there are legislators and knowledgeable commentators who have expressed their strong view that the existing methodology for tax revenue estimation is too shrouded in secrecy and/or grossly deficient that a thorough, critical review of the concepts and methodology of tax revenue estimations is imperative.

Mr. Speaker, I urge my colleagues to examine this problem by reading any or all of several important articles on the subject. They include:

(1) Senator William V. Roth's viewpoint article in Tax Notes—"What's Missing in the Budget Debate? Accurate Information," (10/29/90).

(2) Senator Bob Kasten's article in Tax Foundation's publication: "Let's Bring Glasnost to Revenue Estimates," (2/90).

(3) Tax Notes Editorial Staff member Rob Bennett's articles: "Chipping Away at Revenue Estimating Secrecy," (10/15/90); and, "Pick A Number, Any Number," (1/14/91).

(4) Paul H. Jackson's article in the Newsletter of the Society of Actuaries that addresses the subject of Pensions and Tax Expenditures (3/88).

The clear conclusions of each of these articles, together with President Bush's implicit "vote of no confidence" in the existing system, must be taken seriously. They indicate that each Member of Congress must recognize that revenue estimates presented to us and upon which we must base our votes, are often, as so aptly described, subjective, misleading, incomplete, and incorrect—leading us to enact misguided tax increases or reject much-needed tax cuts!

Revenue scoring deficiencies are merely symptoms of the problem, and not the cause. The cause of the problem is the underlying manner in which all these revenue estimates are made whether by the CBO or OMB. The existing methodology as practiced by the relevant staffs has generally evolved over the years since adoption of the Budget Act of 1974. A particularly illogical and damaging element of this act relates to the tax expenditures portion wherein congressional staffs are expected to estimate alleged revenue losses arising from alleged economic incentives deemed to reduce or eliminate taxation.

In this regard, I commend to each Member of this House a recently completed study by Dr. Norman Ture entitled "Tax Expenditures: A Critical Analysis." Dr. Ture is a highly regarded economist with extensive experience relating to tax expenditures. His expertise is well known and respected by many Members of this House and the administration. Mr. Speaker, at a later date I plan to ask that Dr. Ture's analysis be placed in the RECORD.

It is crystal clear that our Nation's economic well being and its economic freedom is most seriously compromised by our continued adherence to a defunct methodology of tax revenue estimation. Remedial steps must be initiated immediately. Our Nation's economic well being and growth may well depend upon such action.

Mr. Speaker, I am therefore today introducing legislation to remove the tax expenditures provisions from the Budget Act of 1974. This is a needed first step toward thoughtful dialog and remedial action. It is urged that appropriate hearings be held as quickly as possible in order that public and governmental authorities may be requested to testify including, of course, Chairman Greenspan.

Our Nation is currently handcuffed by a fundamental tax revenue estimation disaster—an economic malfeasance that impacts every taxpayer/voter and every business in our Nation both, directly and indirectly. I urge my colleagues to cosponsor the Tax Expenditure Repeal Act of 1991 and support a call for action in correcting the revenue estimation process.

RECOGNIZE THE WOMAN VETERAN

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. GINGRICH. Mr. Speaker, I would like to share with my colleagues an important message from one of Georgia's veteran commanders. Commander Don Lippe reminds us of the vital role that women have played in armed combat throughout the 20th century. I agree that these women veterans deserve recognition which is commensurate with the essential duties they have performed. I would like to share Commander Lippe's message in its entirety:

SPEECH BY COMMANDER DON LIPPE

A situation long overdue is about to become a reality. Resolution 301 was approved by an overwhelming majority of the delegates to the 90th National Convention of the Veterans of Foreign Wars. An appropriate memorial will be erected in Washington, DC to recognize women who served in Vietnam.

When one thinks of wars, the names of Generals Eisenhower, McArthur, and Patton come immediately to mind. Or maybe Congressional Medal of Honor winners, such as Audie Murphy. But what about the women? Among the personnel serving in Vietnam, 7,484 were women, 6,250 of whom were nurses. Eight of these nurses died there. During the war in Vietnam, 135,000 women served in the armed forces.

During World War II, there were 350,000 women in uniform. Five hundred sixty-five WACs [Woman's Army Corps] in the Pacific won combat decorations. More than 200 Army nurses died in combat situations. Seventeen are buried in U.S. cemeteries overseas. Sixteen hundred Army nurses won combat and non-combat decorations, including Distinguished Service Medals, Silver Stars, Bronze Stars and Purple Hearts. Six Army nurses were killed at Anzio when the Germans bombed the beachhead hospital tents. Four Army nurses among the survivors won Silver Stars for bravery. One hundred three Army nurses and 11 Navy nurses were captured when Bataan and Corregidor fell. They remained prisoners of the Japanese for 37 months.

Many of our veterans are alive today because of the care given them by women veterans. It is about time women are given the recognition due them. As a four-time commander of Post 4508 of the Veterans of Foreign Wars, I welcome any eligible woman veteran into our organization. We would like to have women participating in our community activities and our parades and festivities. Our Veterans' Day ceremonies have a part for a woman veteran. We have not had a woman to fill that role in most of our past ceremonies. That is a shame. We need women veterans in our organizational family, just as women are a major part of all families.

JOIN THE CONGRESSIONAL CALL TO CONSCIENCE VIGIL

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. SMITH of Florida. Mr. Speaker, for 15 years, the Congressional Call to Conscience

Vigil for Soviet Jews has provided Members of Congress an opportunity to voice their concern for individuals struggling to emigrate from the Soviet Union. As a co-chairman of the Call to Conscience Vigil for the 102d Congress, I invite Members to join me in continuing this important effort.

Last year, a record number of Soviet Jews received official permission to leave the Soviet Union. Yet, despite these high emigration numbers, numerous individuals and families continued to be denied the freedom to emigrate for a variety of unfounded reasons. Now, with the political and economic future of the Soviet Union in question, the emigration window for Jews and other ethnic minorities may soon close.

In these uncertain times, it is extremely important that Members of Congress continue their strong advocacy and promotion of human rights. I hope that by placing weekly statements in the CONGRESSIONAL RECORD describing individual refusenik cases, the struggle of these courageous people will not be ignored.

I look forward to working with my fellow cochairmen of the Call to Conscience Vigil, the gentleman from Minnesota [Mr. SIKORSKI] and the gentleman from New Jersey [Mr. SMITH], and with many of my other colleagues on this important project. Through our combined efforts, we can help keep the cause of refuseniks high on the political agenda.

PROLIFERATION PROFITEERS: PART 2

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. STARK. Mr. Speaker, today I am placing into the CONGRESSIONAL RECORD the second of 12 case studies on foreign firms which sold nuclear weapons technology to Saddam Hussein.

For too long Western governments have looked the other way, while their companies sold nuclear weapons technology to whomever was willing to pay. We may have stopped Iraq for the time being but Baghdad could resume its efforts and other countries, such as Iran, Libya, and Syria, could follow with programs of their own.

Last month, I introduced the Nuclear Non-Proliferation Enforcement Act (H.R. 830), to help halt the spread of nuclear weapons. The legislation is closely modeled on the missile technology sanctions passed in the Defense bill last fall and is currently co-sponsored by 18 Members of Congress.

We must act now to stop these "proliferation profiteers" now before every small terrorist regime in the world has the ultimate weapon.

TWELVE FOREIGN FIRMS REPORTEDLY ENGAGED IN NUCLEAR WEAPONS-RELATED TRADE WITH IRAQ

FIRM 2: CONSARC ENGINEERING LTD. (UNITED KINGDOM)

Consarc Engineering Ltd. is the Scottish subsidiary of the New Jersey-based United States firm Consarc Corp. The United States stated on August 28, 1990 that the United Kingdom was prepared to allow Consarc Engineering to export smelting equipment to Iraq, including two furnaces, that could aid Iraqi attempts to build a nuclear bomb. At the request of the Pentagon, U.S. Customs detained a similar furnace build by Consarc Corp., before it could be shipped to Iraq. The British firm has denied that its furnaces would be used for Iraq's weapons program, and the British Government was not legally able to restrict the export. In 1987, Consarc Engineering sold to the Soviet Union sensitive missile technology used to make carbon-carbon, a material which can improve the accuracy of nuclear-armed ballistic missiles. In September 1990, the U.S. parent company filed a $65 million suit against Iraq for fraudulently misrepresenting its real intentions regarding the furnaces.

TRIBUTE TO AL FONTANA

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. RINALDO. Mr. Speaker, last Friday evening, Mr. Al Fontana, of Clark, NJ, was honored by the Union County, NJ, AFL-CIO. I had the privilege of being a guest speaker at the testimonial dinner. I would like to share with my colleagues my tribute to this outstanding labor leader.

SPEECH BY HON. MATTHEW J. RINALDO

I want to congratulate Al Fontana for his leadership of the Union County AFL-CIO and for his exceptional contributions to the labor movement and to working people of this county and State.

Anyone who can negotiate contracts, serve as a shop steward, keep on top of state and federal labor legislation, get reelected as a business agent, and do all the other things that Al Fontana has accomplished is an exceptional person.

Just look at what he's done:

He's served as regional director of the Distillery Workers International; Vice President of the State AFL-CIO; Chairman of COPE; President of the Union County AFL-CIO; United Way Board; Catholic Community Services: New Jersey Panel of Arbitrators; business agent for his local union, and former special assistant to the New Jersey Commissioner of Labor.

Al also was vice president of the United Way and active with the Union Country Legal Aid Society, the Heart Fund, March of Dimes, Cancer Fund and a half dozen other charities. He's been active with veterans.

While we're properly cheering for our terrific servicemen and women who did such a great job in the Persian Gulf, let's not forget what veterans like Al Fontana did for our country in World War II.

Al earned five battle stars and a Bronze Star—a real record of courage and heroism.

It's a great tribute to his wonderful wife, Jerry, and their two sons, Glenn and Eugene, that the Fontana family has encouraged Al all these years. They have a husband and a father they can truly be proud of—a person who has participated in a myriad of activities but has always found enough time for his wife and family.

Despite his political contacts and friendship with virtually every VIP in New Jersey, Al's remained accessible and down to earth. He's been my friend for years, and I'm proud to be associated with someone with a heart who really believes in helping his fellow workers.

Al Fontana, and other labor leaders, like many of you in this room; Charlie Marciante, and his father before him have made the American labor movement the most successful and innovative in the world.

More than any other group, organized labor has been responsible for giving Americans the highest standard of living in the world.

Al, you have established a distinguished record of service to the working men and women of Union County. You can be proud of what you have accomplished over the last half century and you deserve to be congratulated on a great career that has helped so many workers and their families to share in the American dream.

Warmest wishes to you and your beautiful wife, Jerry, for the best of everything in the years ahead.

AMERICA MUST PROTECT ITS WATERS FROM THE THREAT OF IMPROPERLY TRAINED AND CERTIFIED MARINERS

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mrs. LOWEY of New York. Mr. Speaker, I rise today to reintroduce a resolution expressing the support of the House for the International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers, the STCW, and calling upon the Senate to expeditiously give its advice and consent to ratification of that Convention.

Mr. Speaker, I first introduce this resolution last October in order to call attention to the need for the United States to resume its leadership role in promoting tough international training and certification standards for personnel aboard merchant vessels, particularly oil tankers. In light of our increasing reliance on imported oil shipped here aboard foreign-flagged vessels, the United States cannot afford to take it on faith that other nations adequately train and certify their oil tanker personnel. With thousands of foreign-flagged oil tankers entering our waters every year, it is vital that the United States participate in efforts to maintain minimum qualifications for mariners responsible for assuring safe passage of these vessels.

Why should the United States ratify the STCW?

Full participation in the treaty would place the United States in a stronger position in attempting to require foreign vessels entering our territorial waters to adhere to tough minimum personnel standards.

United States participation in the Convention would help ensure the entry of American vessels into countries participating in the treaty. Some countries, including Spain and Hong Kong, have threatened to refuse entry to American ships on the grounds that the United States is not a party to the STCW.

By ratifying the treaty, the United States will improve its standing to require other countries to report on their adherence to the STCW.

The International Maritime Organization [IMO] is expected to begin proceedings for renegotiating the STCW, which could have profound ramifications for America's merchant shipping industry and the marine environment. Experience with other treaties indicates that the United States negotiating position can be significantly weakened when it has signed but not ratified the treaty under consideration.

Existing Coast Guard regulations governing vessel crew qualifications already meet or exceed the STCW. The United States only stands to gain from participating in efforts to ensure international adherence to these standards.

The recently-passed Oil Pollution Act contains many important measures, including requirements for double hulls and improved vessel communications equipment, to diminish the chances of an oil disaster. But the world's finest equipment cannot prevent inadequately trained or certified personnel from making mistakes that lead to environmental tragedies.

With America more dependent on foreign oil than ever, it is time for the Senate to act on this treaty so that the United States can more effectively guard its waters from the risk of poorly trained mariners guiding foreign-flagged vessels.

Ratifying the STCW would strengthen the excellent work of the Congress on comprehensive oil spill legislation and send a clear signal to the world that America is serious about protecting its coastal environment. I urge my colleagues to join as cosponsors of my resolution, which wil help us achieve these extremely important goals.

INTRODUCTION OF NATIONAL FIREFIGHTERS DAY

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. WELDON. Mr. Speaker, I rise today to introduce an important measure to honor America's domestic defenders, the American firefighter. The bill will set aside October 8, 1991, as National Firefighters Day.

Three million men and women work in more than 32,000 fire departments across the nation to safeguard the American public from the ravages of fire. Frequently they do it for no other reason than public service, as fully 85 percent of them are volunteers.

These men and women place their lives on the line every day to improve public safety, and that does not always mean putting out fires. These men and women are also the first responders to natural disasters, airplane crashes, and medical emergencies.

Unfortunately, firefighting is an extremely risky profession. Each year, more than 120 of these brave men and women fall in the line of duty. Earlier this month, a major blaze in Philadelphia claimed the lives of three such brave individuals. While there remain unanswered questions about the cause of this tragedy, there can be no doubt that every firefighter deserves the acclaim and respect of Congress.

October 8 will mark the 120th anniversary of the Great Chicago Fire of 1871. It is appropriate to take time on that day to recognize the irreplaceable services performed by firefighters.

Mr. Speaker, the fire service does so much for this Nation and asks so little. I urge my colleagues to join us in honoring these real American Heroes.

BIRTHDAY TRIBUTE TO REV. J. WENDELL MAPSON, SR.—THE WORK HE'S DONE SPEAKS FOR HIM

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. PAYNE of New Jersey. Mr. Speaker, it is indeed a pleasure to wish a man who has contributed so unrelentlessly and unselfishly to God, his community, and his fellow man, a happy birthday. I had that opportunity this past weekend. For many, birthdays come and go—years passing by—not allowing these individuals to stand back and take inventory of the contributions they have made to the world community. Not so with my esteemed constituent, Rev. J. Wendell Mapson, who can stand back, with pride, year after year, and take inventory of the service and work rendered in pursuit of making "thy kingdom come * * * on earth as it is in heaven."

J. Wendell Mapson was born in Bullock County, AL. Being converted and baptized at the early age of 8 years, Reverend Mapson was called to the ministry and was licensed at age 14. Since 1933, he has served as pastor for several congregations around the country. He is presently serving as pastor of the Mt. Calvary Baptist Church in Newark, NJ, where he has been the pastor for 43 years.

The objective of kingdom building here on Earth has been accomplished by Reverend Mapson and the Mt. Calvary Baptist Church through their day care center, apartment complex, and various community-oriented projects. It is also apparent by counting the numerous awards and citations bestowed upon him that Reverend Mapson is, and has been, using the correct road map of life to plot his course.

Mr. Speaker, many of us try to live up to the theme of the spiritual, "Let the Work I've Done Speak for Me." If my colleagues had an opportunity to meet Reverend Mapson personally, I am sure they would agree with my saying, "Reverend Mapson, your work indeed speaks loudly for you, because it is through letting your light shine that others have been saved."

Mr. Speaker, I am sure my colleagues would have wanted to join me as I wished Rev. J. Wendell Mapson a happy birthday.

FEDERAL CROP INSURANCE REFORM

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. BEREUTER. Mr. Speaker, this Member has been an ardent supporter of a strong, viable, and actuarially sound Federal Crop Insurance Program [FCIP]. Over the past several years, the FCIP has not served the taxpayer or the farmer as well as it should. Important reforms were included in the 1990 farm bill that should improve the actuarial soundness of the program and enable it to better meet the needs of farmers. A viable crop insurance program has disproportionately large value to Great Plains States such as Nebraska due to the greater extremes in climate and the greater likelihood of localized droughts as compared to the eastern Corn Belt and Southeastern States.

The March 13, 1991, editorial from the Omaha World Herald indicates that the new Secretary of Agriculture, Ed Madigan, is a strong believer in the FCIP. This Member would like to commend the Secretary for his support of the program and express support for the Secretary's efforts to further improve the FCIP to make it better serve the needs of farmers and taxpayers. This Member submits the following editorial for the RECORD.

FULL MENU FOR FARMERS IS BEST

Edward Madigan, the new secretary of agriculture, is apparently a believer in federal crop insurance. He said he will emphasize that form of protection during his time in office. *Right on, Mr. Secretary.*

Madigan, who spent 16 years on the House Agriculture Committee, was credited by President Bush with playing a leading role in the writing of the last two major farm bills. "Back where he grew up, agriculture is the economy," Bush said at Madigan's swearing-in ceremony Tuesday.

The new secretary has said that a wide range of types of crop insurance, from the most basic coverage to insurance so extensive that it "paid even if all you had to claim was hurt feelings," should be available to farmers. He said that in his district, insurance company employees were trying to sell only the most expensive policies.

When the provided farmers with information on inexpensive basic protection for corn and soybeans, participation doubled, from 40 percent to 80 percent of the farmers eligible for coverage, Madigan said. We hope that Madigan has a chance to make his case for a crop insurance program.

Such a program allows farmers to assess their risks and protect themselves to whatever extent they wish. One farm manager buys extensive coverage; another willing to take his chances would not.

Disaster relief is a different question. The knowledge that Congress might come through with relief after an early freeze, or a late blizzard, or a hailstorm just before harvest, can cause some people to take chances. Disaster aid can easily become a politically motivated give-away program in the hands of Congressmen approaching an election year.

Madigan has the right idea. Give farm managers a wide choice of crop insurance programs, from the most fundamental coverage to the broadest possible protection. Let each individual decide what is best for his or her operation. It is a reasonable system that encourages individual initiative.

THE 1986 TAX REFORM ACT

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. ANDREWS of Texas. Mr. Speaker, Mr. THOMAS of California and I are introducing legislation today that would correct the taxation of rental real estate under the passive loss rules. We are joined by a majority of our colleagues on the House Committee on Ways and Means and over 200 of our colleagues in the House.

Our bill would apply the passive loss rules to people in the real estate business the same as they are applied to people engaged in other lines of business. This legislation is by no means the panacea for all of the troubles currently confronting the Nation's real estate markets. It does represent, however, long overdue tax fairness that would help to place local real estate markets on a more fundamentally sound footing. The legislation also would have an important stabilizing influence on the real estate loan portfolios held by banks and other real estate lenders.

Mr. Speaker, as we are all well aware, the 1986 Tax Reform Act waged a well-intended attack on real estate tax shelters. Ridding the tax system of unproductive tax shelters was a laudable goal—one that I supported and continue to support. However, it is now time to acknowledge that we overreached to the overall detriment of the Nation's real estate markets and the economy. Now is the time to correct our mistake.

Few quarrel with the view that real estate is a major sector of the U.S. economy, and that the level and growth of activity in real estate exert significant influences on production and income throughout the economy. Yet, the current passive loss rules create a tax liability that does not represent the true economics of a diversified real estate business. In short, income from the management, leasing, development, brokerage and construction of real property is classified as active income. At the same time, any loss from rental real estate ownership is automatically deemed to be passive. Because a passive loss may not be deducted against active income, people in the real estate business are taxed on the gross income of their overall real estate business operations, not on their net income.

This is unlike the tax treatment accorded any other type of American business operation where losses are considered to be passive only if they are derived from an activity in which the taxpayer does not materially participate.

These rules are clearly arbitrary and unfair for people engaged in the real estate business. More importantly, they are also heavy contributors to the mess we are now facing in the overall economy.

For example, these rules discourage people from incurring the legitimate costs of holding troubled properties. Why continue to fund the cash-flow shortfall on a troubled property if it is not recognized as a deductible cost of doing business? I am convinced that these rules are making property workouts much more difficult to achieve. This has led to more property being owned by lenders than otherwise would be the case. Property renovations and upgrades also are discouraged by the current rules helping to contribute to the falling values we are witnessing nationwide.

In addition to probably increasing the number of properties that are deeded back to lenders, the current passive loss rules also tend to discourage people from purchasing properties already held by financial institutions, including those owned by the Resolution Trust Corporation. This is because properties owned by lenders, particularly those owned by the RTC, typically require significant costs to make them competitively attractive. Since the rules prohibit a tax deduction for expenses in excess of rents, the rules act as a purchasing disincentive.

To summarize, these tax rules have created an incentive to unload real estate and at the same time have increased the difficulty in finding others willing to hold it. As a result, the nationwide deterioration of real estate markets and values has been exacerbated, the pressure on our Nation's financial institutions has been magnified and the exposure of liability for the Nation's taxpayers has been increased.

We need to correct these problems. But in seeking a sensible solution let me make clear what our legislation is not intended to do.

First, this legislation is not a return to pre-1986 investment incentives for real estate. Our proposal does not reinstate any of the direct real estate tax incentives that existed prior to the 1986 Tax Reform Act. The bill does not propose returning to accelerated depreciation, or altering the at-risk rules or loosening the construction capitalization rules or weakening the individual minimum tax rules.

Further, our legislation is designed to apply only to those people it defines to be in the real estate business. No benefit is provided to doctors or lawyers seeking to invest in real estate for purpose of sheltering their income.

Finally, and perhaps most importantly, our legislation is not designed to encourage new real estate development in the country nor do I believe that it would result, in and of itself, in new development. What primarily drove development in the 1980's were excess credit and generous tax incentives. Our bill would have little or no material impact on either of these.

Here is how our bill would work.

First, an individual would be required to meet a threshold test to establish he or she to be "engaged in the real property business." Then, and only then, would he or she be allowed to prove that they materially participate in their rental real estate activities. The material participation test would be the same test that is now set forth in Treasury Department regulations for individuals in other lines of business.

An individual would be treated as "engaged in the real property business" if he or she spent at least 50 percent of his or her working time in real property operations and spent more than 500 hours during the taxable year in real property operations. This would involve two straightforward definitions. The first is that "real property operations" would mean real property development, redevelopment, construction, conversion, rental, management, leasing, and similar operations. The second is that "working time" would mean any time spent providing services as an employee, sole proprietor, S corporation shareholder, partner in a partnership or beneficiary of a trust or estate.

One other change to the current passive loss rules would apply in the case of a closely held C corporation. Such corporations would be considered "engaged in the real property business" if one of two alternative criteria were met, both of which establish that the shareholders of the corporation are in the real estate business.

This bill will no doubt be judged to have a revenue cost associated with it. While I am quite prepared to work with the real estate industry to seek a commensurate revenue offset, I do feel that some offset should be counted from the beneficial effects that this legislation would have on the costs of the Nation's financial institution problems—it would encourage property owners to hold onto and workout troubled properties rather than deed them back to the lender; it would help to stabilize property values and market across the country; and it would remove the disincentive against purchasing properties held by financial institutions.

I am also delighted to note that this legislation has the united support of the many real estate industry organizations as well as the U.S. Chamber of Commerce. Additionally, as noted in comments on the bill submitted by the American Bar Association, this legislation is consistent with the original thrust of the passive loss rules. That is, to restrict the availability of tax losses from activities unrelated to the taxpayer's primary business. The ABA comments also state that the bill would not result in a reinstatement of real estate tax shelters.

I urge you to join me in support of this important legislation and to work for its enactment. Following is the text of our legislation:

H.R. 1414

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (c) of section 469 of the Internal Revenue Code of 1986 (relating to passive activity losses and credits limited) is amended by adding at the end the following new paragraphs:

"(7) TAXPAYERS ENGAGED IN THE REAL PROPERTY BUSINESS.—In the case of a taxpayer engaged in the real property business, the determination of what constitutes an activity and whether an activity is a passive activity shall be made by treating the taxpayer's rental real property operations, undertakings and activities in the same manner as nonrental trade or business operations, undertakings, and activities.

"(8) INDIVIDUALS ENGAGED IN THE REAL PROPERTY BUSINESS.—For purposes of paragraph (7), an individual is engaged in the real property business if—

"(A) such individual spends at least 50 percent of such individual's working time in real property operations; and

"(B) such individual spends more than 500 hours during the taxable year in real property operations.

"(9) REAL PROPERTY OPERATIONS.—For purposes of paragraph (8), the term 'real property operations' means any real property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing, brokerage, appraisal, and finance operations.

"(10) WORKING TIME.—For purposes of paragraph (8), the term 'working time' means any time spent as an employee, sole proprietor, S corporation shareholder, partner in a partnership, or beneficiary of a trust or estate.

"(11) CLOSELY HELD C CORPORATIONS ENGAGED IN THE REAL PROPERTY BUSINESS.—For purposes of paragraph (7), a closely held C corporation is engaged in the real property business if—

"(A) 1 or more shareholders owning stock representing more than 50 percent (by value) of the outstanding stock of such corporation materially participate in the aggregate real property activities of such corporation; or

"(B) such corporation meets the requirements of section 465(c)(7)(C) (without regard to clause (iv)) with respect to the aggregate real property activities of such corporation."

(b)(1) Paragraph (2) of section 469(c) of such Code is amended to read as follows:

"(2) PASSIVE ACTIVITY INCLUDES CERTAIN RENTAL ACTIVITIES.—Except for rental activities treated in the same manner as nonrental trade or business activities pursuant to paragraph (7), each rental activity is a passive activity without regard to whether or not the taxpayer materially participates in the rental activity."

(2) Paragraph (4) of such section 469(c) is amended to read as follows:

"(4) MATERIAL PARTICIPATION NOT REQUIRED FOR PARAGRAPH (3).—Paragraph (3) shall be applied without regard to whether or not the taxpayer materially participates in the activity."

(c) The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

RECIPIENTS OF THE 1991 BROTHERHOOD CITATION AWARDS

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. GEKAS. Mr. Speaker, I rise today to acknowledge the National Conference of Christians and Jews [NCCJ], and to congratulate this year's recipients of the Brotherhood Citation Awards.

The NCCJ is a national organization dedicated to promoting goodwill and friendship among all men. The Lycoming County chapter fosters this benevolence several ways. First and most importantly is the recognition of persons who, through their "community service, volunteerism, business practices and philanthropy," prove themselves to be upstanding citizens of the community.

The NCCJ also sponsors and funds, via contributions, the Lycoming County Camp Cadet Program. This program, with the help of the Pennsylvania State Police and the Lycoming County Law Enforcement Association, offers children aged 12 to 14 to experience the outdoors and gain a love and appreciation for the environment.

Finally, the NCCJ sponsors the "Dreams Come True" program which grants a last wish to children diagnosed with terminal illnesses.

This year, the NCCJ chose Dr. Creighton J. Hale, president and chief executive officer of Little League Baseball since 1983, and Dr. Charles F. Cipolla, a Williamsport Pennsylvania surgeon, as the 1991 recipients of the Brotherhood Citation Awards. These awards are "presented to two outstanding citizens of our county in recognition of their many years of community service and their commitment to furthering the cause of brotherhood in our county."

Dr. Hale, a pioneer in the development of safety equipment for youth sports, is recognized as playing a vital role in the growth of Little League Baseball. He also founded the Little League challenger division for disabled and unfortunate children, and he enforced a drug and alcohol awareness program. In addition to helping the youth from my district, Dr. Hale served as a presidential appointee to the Reagan administration's White House Conference for a Drug Free America. Besides receiving this honor, Dr. Hale is listed in "American Men of Science," "Who's Who in the East" and "Who's Who in American Education."

Dr. Cipolla has been practicing medicine in Williamsport for 40 years. He will receive the award for "his contributions to the community and his humanitarian efforts in the medical profession." Currently he is a member of the American Board of Surgery and the American College of Surgeons. Dr. Cipolla was president of several institutions: he served two terms at the Northcentral Pennsylvania Chapter of the American Cancer Society, was president of the staff of Divine Providence Hospital, and was president of the Lycoming County Medical Society. Among the awards he has received, Dr. Cipolla was presented the Outstanding Citizen Award by the Shrine Club and Knights of Columbus, and was named December's Care Physician of the Month at Williamsport Hospital.

Mr. Speaker, it is obvious that these gentlemen have displayed extraordinary assistance to the community through their selfless efforts, volunteerism, and constant dedication to the people they serve. They touch the heart, and the soul of every person they meet—young and old alike—and they inspire these people to reach for their goals no matter how arduous the journey may be. Both Dr. Hale and Dr. Cippola are well-deserving of these fine awards which represent brotherhood, cooperation, friendship and justice. I encourage both Dr. Hale and Dr. Cipolla to continue their fine efforts, and to inspire others to follow their lead.

JACKSON'S BREAST DIAGNOSTIC CANCER CLINIC

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, breast cancer is a disease that kills nearly 50,000 women a year and affects one out of 10 in their lifespan. Despite the ghastly death toll this disease claims, facilities and programs dealing with this cancer are often unable to carry the demand for treatment. The Jackson Memorial Hospital has resolved to combat this problem head on with the formation of the Breast Diagnostic Cancer Clinic. This promising project will focus on cancer prevention, early detection and access to diagnosis, areas of increasing concern to the Dade county area and the Nation at large.

In the words of Marlene Rifkin, vice-president for quality assurance at Jackson Memorial Hospital,

> There are three diseases that a woman has to fear: delay, ignorance and confusion. The common thread of them is indigence.

The Breast Diagnostic Clinic is designed to circumvent these problems and provide quick access to early detection and treatment, especially for the economically underprivileged. It is widely acknowledged that reduced waiting times and effective education and early detection are essential for promoting women's health.

The Breast Diagnostic Clinic will ultimately benefit more than Miami area women. The program is designed to expand from breast cancer education, prevention and diagnostic to a general woman's health center emphasizing health maintenance and early detection for other diseases. The project itself is developed to be an exportable model to benefit other communities and may prove to be an important contributor to the advancement of women's health.

The Breast Diagnostic Clinic is presently in the formative stage and is a beneficiary of the leadership provided by the Breast Diagnostic Steering Committee. The steering committee is an enabler for the Jackson Memorial Hospital staff in implementing the breast cancer diagnosis and treatment program. The committee plays an important role in assuring financial support for the program. Stanley Tate and Tanya Dawkins provide expert guidance for the committee as co-chairs. The Jackson Memorial Hospital staff has contributed the leadership of Marlene Rifkin and Alex Stolfi to the clinic's organizational task force. I commend all of these dedicated and professional individuals for their personal commitment to see the Breast Diagnostic Cancer Clinic through to completion.

THANKS FOR A JOB WELL DONE

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. DE LA GARZA. Mr. Speaker, back in 1966 in my first term it was my privilege to come before this body to speak about a new self-help program being launched—Project SER. At that time we knew what our hopes for that program were, but little did we know the resounding success this program would prove to be.

That is why 25 years later I stand here before you to commend SER on its accomplishments. SER programs are providing literacy and job skills training to countless communities and individuals across the Nation. In turn, these participants have become more productive and contributing members of society. And, I should point out SER has done all this while consistently being rated as a cost effective national program by the Department of Labor.

SER's motto is "Cultivating America's Greatest Resource: People." It is exactly that attitude which I feel is the reason for the success of this program. From day one they have always believed where there is a will there is a way. With that in mind I do not think there has ever been any doubt that SER was destined not only to realize, but to exceed its goals.

Mr. Speaker, I would like to take this opportunity to submit once again the statement I made before this House on June 15, 1966 in support of Project SER. I am proud to have been here at its inception as well as to be a part of its silver anniversary. I wholeheartedly believe the next quarter century will prove equally as enriching. I would like to congratulate its leaders for their dedication and their efforts which have contributed greatly to the success that's been achieved. To the Board of Directors and everyone affiliated with SER—Jobs for Progress National, Inc., I want to say thanks for a job well done. May your future be as bright as your past:

[From the Congressional Record, June 15, 1966]

NEW OPPORTUNITIES FOR SPANISH-AMERICANS

Mr. DE LA GARZA. Mr. Speaker. Recently I spoke on the floor of this House concerning the problems of the Spanish speaking people of the Southwest, and one of the recommendations which I made was that a unique approach to job training and placement be undertaken through a program of self-help called SER—service, employment, and redevelopment.

I am happy to inform you today that the Secretary of Labor, W. Willard Wirtz, and Sargent Shriver, Director of the Office of Economic Opportunity, jointly announced the funding of this program.

The 1-year demonstration grant will be administered by Jobs for Progress, Inc., a nonprofit organization jointly sponsored by the League of United Latin American Citizens—LULAC—and the American GI Forum of the United States.

Project SER will explore new approaches to employment, increased earning power and improved living standards for those in the Southwest who face unique problems largely because of cultural differences. The grant will establish a single centralized regional service, which will in turn provide technical assistance for jobs-for-progress centers in the five States, each programing training, placement, and relocation services.

SER will provide prevocational guidance, remedial education, and relocation services for the Spanish-speaking community while assisting States, industry, and the Federal Government in recruitment. A regional skills bank created from the network of jobs-for-progress centers will maintain an inventory of professional, technical, skilled, and semi-skilled persons for employment throughout the five-State region.

Relatively little specialized service, bilingual, and culturally oriented, has been available for the Spanish-Americans, but these centers will draw into manpower; development, and training programs, community action programs, on-the-job training projects and prevocational courses, large numbers of persons not now reached through more conventional approaches.

The job progress centers will put heavy emphasis on communications and recruitment. The Government agencies expect sharply increased utilization by Spanish-Americans of U.S. Employment Service and other facilities through their close cooperation with SER.

The nonprofit Jobs for Progress, Inc., will be governed by a board composed of representatives of LULAC, the GI forum and the Community Services Organization. The regional board will be enlarged by the participation of other local service-oriented groups. The State boards, whose programs will be reviewed by the regional directors before funding, will include representatives of both national groups, local organizations, and the persons served by the projects.

California and Texas will each have four jobs-for-progress centers under SER with one center planned for each of the other three States. The centers will be located in Phoenix, Ariz.; in Los Angeles, Santa Anna, San Diego, and the bay area of California; in Denver, Colo.; at Albuquerque, N. Mex., and in Corpus Christi, El Paso, Houston, and San Antonio, Tex.

The timetable calls for program and staff development during the first 4 months and submission of State proposals in the fifth month of the program.

I hope that this is but a beginning of the spirit of cooperation which is needed between the Spanish-speaking people of the Southwest and their Federal Government. Great things can come from working together in a spirit of harmony, not asking favors, or special treatment, but assuming their responsibilities as citizens, and the Government assuring them of their rights and privileges earned by the assumption of those responsibilities.

I want to thank and congratulate Secretary Wirtz and Sargent Shriver for their aid and understanding.

I want, also, to show my appreciation to President Lyndon B. Johnson, who has always been our friend, for his continued interest in our problems and assure him of our support and cooperation in making our country great and prosperous by showing our responsibility, and if we have problems, exposing them in a mature and sensible manner, worthy of the dignity of our ancestry, for we cannot and must not, in an attempt for recognition, disobey the laws of this country or trample over the rights of others. It is only by patience and understanding that we can help ourselves, and indeed help others, waiting for the day when truly every American can sincerely say, "I am an American and every other American sees and considers me as such, and I in turn see him in the same light."

Thank you.

JOSEPH H. FONTAINE ATTAINS RANK OF EAGLE SCOUT

HON. JOHN REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. REED. Mr. Speaker, I rise today to salute a distinguished young man from Rhode Island who has attained the rank of Eagle Scout in the Boy Scouts of America. He is Joseph H. Fontaine of troop 117 in Warwick, RI, and he is honored this week for his noteworthy achievement.

Not every young American who joins the Boy Scouts earns the prestigious Eagle Scout Award. In fact, only 2.5 percent of all Boy Scouts do. To earn the award, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. He must earn 21 merit badges, 11 of which are required from areas such as citizenship in the community, citizenship in the Nation, citizenship in the world, safety, environmental science, and first aid.

As he progresses through the Boy Scout ranks, a Scout must demonstrate participation in increasingly more responsible service projects. He must also demonstrate leadership skills by holding one or more specific youth leadership positions in his patrol and/or troop. This young man has distinguished himself in accordance with these criteria.

Mr. Speaker, I ask you and my colleagues to join me in saluting Eagle Scout Joseph H. Fontaine. In turn, we must duly recognize the Boy Scouts of America for establishing the Eagle Scout Award and the strenuous criteria its aspirants must meet. This program has through its 80 years honed and enhanced the leadership skills and commitment to public service of many outstanding Americans, two dozen of whom now serve in the House.

It is my sincere belief that Joe Fontaine will continue his public service and in so doing will further distinguish himself and consequently better his community. I am proud that this young man undertook his Scout activity in my congressional district, and I join friends, colleagues, and family who salute him.

IN CELEBRATION OF THE 54TH ANNIVERSARY OF PUERTO RICAN LEADERSHIP

HON. JOSE1 E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. SERRANO. Mr. Speaker, I rise today to celebrate the 54th anniversary of the first Puerto Rican elected to public office in the continental United States.

Mr. Oscar Garcia Rivera, Esq., was elected assemblyman in the State of New York by the 14th District, at that time Harlem, on March 7, 1937.

Born in Mayaguez, PR, November 6, 1900, Oscar Garcia Rivera was raised on a coffee plantation. As a young man, Garcia Rivera demonstrated talent and leadership. He was president of his high school senior class in 1925, and excelled in his studies. After graduation from high school, Garcia came to the mainland and began working part time in a factory in Brooklyn, while he continued to take courses to reach his goal of becoming a lawyer. He applied for a job at the U.S. Postal Service, obtained high recommendations, and was assigned to the post office in City Hall. He quickly became very involved in union issues, and later encouraged the establishment of the Association of Puerto Rican and Hispanic Employees within the U.S. Postal Service.

Garcia Rivera attended law school at St. John's University, and he graduated in 1930. Dedicated and committed to the struggles of pioneer Puerto Ricans and Hispanics in East Harlem, where poverty and discrimination were rampant, Garcia Rivera announced publicly in 1937 that he would seek a seat in the New York State Assembly.

In March of the same year, he made history by becoming the first Puerto Rican elected to public office in the continental United States. He won re-election the following year and continued in this post until 1940.

During the short time that he served in the Assembly, Oscar Garcia Rivera initiated legislation that offered valuable and lasting contributions to his Puerto Rican community, the labor movement, and to the working class. He introduced a bill guaranteeing safeguards against unemployment; this revolutionary piece of legislation was enacted into law in February of 1939. Garcia Rivera defended minimum wage laws, fought for regulated hours of labor, worked to establish tariff agreements, and most importantly, he was committed to protecting the rights of manual laborers and encouraged workers to organize themselves into active unions. He also supported the campaign which established a law which punished lynching throughout the United States.

The legislative career of Oscar Garcia Rivera ended barely 3 years after it began. He returned to Puerto Rico, and died in 1969 in the same town where he was born, Mayaguez.

The anniversary of Oscar Garcia Rivera's election as the first Puerto Rican who attained a public office marks a proud moment in our history. Despite his brief career as assemblyman, Oscar Garcia Rivera became a great leader in his community, creating a role model for young people, and establishing hope for his people that they could achieve their dreams in the United States. His actions transformed the Puerto Rican community, and improved working conditions in the State of New York.

Mr. Speaker, I am proud to share this tribute with you, which marks the beginning of Puerto Rican leadership in New York and the continental United States.

A STERLING TRIBUTE TO RETIRED LT. GEN. BENJAMIN O. DAVIS, JR. BY GEORGE L. KNOX III

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. RANGEL. Mr. Speaker, there are moments in our lives when the human spirit rises to its highest potential to capture the full breadth of our capacity to feel and express emotion. Such a moment occurred on March 7, 1991, here in the Nation's Capital. On that evening, the son of one of this Nation's unsung war heroes stepped before a microphone to enshrine for us the poignantly moving life story and Herculean struggles against racism waged by the highly decorated retired Air Force Lt. Gen. Benjamin O. Davis, Jr. The attendees at the National Association of Black-Owned Broadcasters annual dinner heard George Knox III reference the love and esteem shared by all who served with and for General Davis. But few knew as they witnessed this extraordinary testimonial that this young man's father, George Knox II, had perished in an accident while flying a mission for the U.S. Air Force. His father had served proudly under General Davis' command of the now heralded Tuskegee airmen who have written a chapter of their own in the history of military excellence. George Knox III's words are a memorial to the rich tradition of service by African-Americans to this Nation's Armed Forces and a very special window on an era which we hope has passed.

Mr. Speaker, at a time when patriotism has reached its finest hour, this message is a living yellow ribbon. It captures for us a graphic picture of one man's triumph over injustice and embellishes the history of America through the labors of Gen. Benjamin O. Davis, Jr. I am honored, as the chairman of the Congressional Black Caucus braintrust on veterans affairs, to share this wonderful tribute with you and the people of our Nation.

REMARKS BY GEORGE L. KNOX III

Honor is a powerful word: "On my *honor*" . . . "My word of *honor*" . . . "To love, *honor* and cherish." The "H" word is used when important, soul touching concepts are the subject.

Some of the honor phrases are burned into your mind, phrases like "Duty, *Honor*, Country." The motto of our military academy at West Point, even if it was branded on his back, could not more clearly have defined any man better than it does Benjamin O. Davis, Jr., Lt. General United States Air Force, Retired.

We are here tonight to honor General Davis for a lifetime of achievement—and it has been a life *full* of achievement. In talking about that life, I'd like to begin in the middle and end at the beginning.

Starting with his time as a student at the Air War College, Benjamin Davis's military career was typical—if any general officer's career can be so described.

Tours in Korea during the conflict there and later, Japan, the Philippines—twice—Taiwan, and Germany.

Service at the Pentagon and a last military assignment as Deputy Commander of the U.S. Strike command based in Florida.

After hanging up his uniform in 1970, General Davis went on to become Director of Public Safety in Cleveland and eventually the Assistant Secretary of Transportation for Safety and Consumer Affairs. After his second retirement, General Davis made a significant contribution to the American economy. As a primary advocate for the 55 mile per hour speed limit on our highways, he may be credited with the development of the radar detector industry—I myself own two.

General Davis is the son of an Army Officer who became the first African-American to win a General's star. Benjamin Davis, Jr., an army brat, grew up on and around army garrisons. So, it is not surprising that he decided to enter the family business and go to West Point. That's a simple phrase of toss off—"he decided to go to West Point"—but not an easy task for any person to accomplish, given the rigors of the appointment and application process. For a black man in the 1930's it would seem almost impossible. And, the "establishment" did its best to make it impossible for him. Through his perseverance, he won admission and reported in the summer of 1932.

I have been to West Point many times. Its imposing buildings on a Hudson River bluff, the plain where the Corps of Cadets passes in review, the cadet mess, the Superintendent's offices, the lounges and conference rooms looking like nothing so much as a fortress. . . all hung with flags and banners celebrating glory won with the blood of generations of men, and now women, who have passed its way. It is a place where lifelong habits of discipline are instilled and where the kind of bonding necessary to develop a cadre of army officers takes place.

One would expect it to be a hard place. And, it is. A spirit of mutual support among the cadets helps them both to survive and get the most out of the experience. But, Benjamin Davis was silenced at West Point. "Silencing" at the Point means that except for conversations necessitated by academics or military training, no one talks to you. It is a hard punishment for anyone and is reserved at the Academy for those whose behavior has been reprehensible in the eyes of the Corps, but who have not gone far enough to have been dismissed. And what was Benjamin Davis's transgression? He was black.

Nevertheless, he endured that treatment and graduated near the top of his class of 1936. Such a class ranking means that the newly minted Second Lieutenant can choose his branch of service. General Davis chose the Air Corps because it was his dream to fly—but the Air Corps did not choose him. Why teach a black man to fly, if he could be taught so difficult a task, when there was no unit to which he could subsequently be assigned. He was, instead, shuffled from one duty station to another, all of which were less than those for which he was qualified by training and temperament.

However, in the end Benjamin Davis's dream defereed was not a dream denied. As the winds of World War II began to blow, it became clear that a lot of things were going to change in our country. Those breezes hit the War Department when President Roosevelt instructed it to form a squadron of black pilots. In an institution whose operational attitudes towards blacks were fixed by official army studies concluding that we were too deficient in character, intelligence, and martial spirit even to be foot soldiers among whites, you can imagine how skeptically was viewed an instruction that one of the most technically demanding of military specialists was to be opened to *us*!

The Army had no choice but to comply. General Davis was chosen not only to be in the first class of flying cadets but eventually to command the 99th Pursuit Squadron.

The training situation was difficult. Their base was near Tuskegee Institute, Alabama then, as now, an oasis. But the *desert* was arid. Local attitudes were hostile and the base, officered by whites, was tense. Once again Benjamin Davis prevailed and he, with four others, were the first blacks to win their wings as Army Air Corps pilots.

When sufficient additional pilots has been trained, along with ground personnel to support them, the 99th was sent to North Africa. Its first missions were shaky, to be expected in a unit with no combat veterans. But, it performed well. And, despite a cretinous back channel attempt to declare that the "Tuskegee Experiment" has failed, the accomplishments of General Davis and his men meant that more and more black pilots would be trained, formed into a larger and self-sustaining fighting unit, and sent back into battle.

As commander of the 332nd Fighter Group, General Davis led his men to a fighting record to be envied. While I cannot take all night to celebrate all that they did, one unit accomplishment deserves notice.

One of their often assigned missions was to escort allied bombers who were trying to do to the German war machine what we recently did to Saddam Hussein. The escort's mission was to protect those bombers from attack by the Luftwaffe's best fighters. In all of those escort missions, the 332nd lost not one . . . *not one* . . . bomber to enemy aircraft. However much that achievement means to you now, it meant a pile to those bomber crews.

As far as I am concerned, the men under General Davis's command, and largely due to his command, covered themselves with glory.

After the war, the entire black Air Force moved to Lockbourne Air Base in Columbus, Ohio. There the unit stayed until President Truman's Executive Order desegregated the military and the Tuskegee Airmen went their separate ways.

The roll of those airmen and their support groups rings with names you all know. Coleman Young, Lee Archer—America's only black "ace"—Percy Sutton, the units' intelligence officer . . . it is a long and impressive list. One of the names on that list is George L. Knox.

My father was in the third class of graduates. Through the Lockbourne days, my dad served under Benjamin Davis's command for many years.

May I say directly to you, General Davis, that there is no man for whom my father had greater respect. It was a respect bordering on awe. Hell, it *was* awe! In his frequent reminiscences about you over the years, I could see the value of good and caring leadership to men who, every day, put first their lives and then their self-respect on the line.

You were so formidable a personage that even I remember you from Lockbourne and I was only five years old then. You have meant a lot to my life because like another of my generation here tonight, Pierre Sutton, we learned from our fathers who learned from you.

How much true pleasure, how truly great an honor it is for me now to be asked to present this award to you. I do it for me, but I also do it for my father and in so closing one of my life's loops, I also honor my parent to whom you meant so much.

General Davis, sir! The National Association of Black Owned Broadcasters is proud to present you with its award for Lifetime Achievement.

SECRETARY CHENEY SHOULD CONSIDER OTHER FACTORS BEFORE CLOSING DOMESTIC MILITARY BASES

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. KOLBE. Mr. Speaker, March 15 marks the deadline for Congressional disapproval of the Department of Defense selection criteria for closing and realigning of domestic military installations.

I have frankly been surprised by the lack of Congressional comment on this issue. Let me remind my colleagues that a new list of domestic bases chosen for closure will be released by Secretary Cheney on April 15, and the selection criteria will play a key role in determining which domestic military installations will be closed. I speak as one member who has some concerns about the published criteria.

I do not envy the task Secretary Cheney faces in the next few months. Coming off a great victory in the Persian Gulf over Saddam Hussein, he still has the difficult task of defending both a substantial reduction in military expenditures and a new list of bases targeted for closure. In effect, those soldiers and citizens who can take credit for our Gulf victory may end up being displaced from their jobs.

I might also add that, despite the pain associated with force reductions, I support Secretary Cheney's efforts. For the benefit of our nation's fiscal health, military reductions are a necessity. And with force reductions, base closures must follow.

However, to the extent possible, base closure decisions must be made on objective military considerations, not subjective guesswork, as occurred with the 1988 Base Realignment and Closure Commission. That Commission operated from a highly dubious set of assumptions, and then veiled its work in secrecy. The results—predictably—were questionable.

For example, the Commission recommended that the Information Systems Command based at Ft. Huachuca, AZ, be realigned to Ft. Devens, MA. The Commission believed that the costs of such a move could be recouped within 6 years—thus meeting one of the criteria established for the 1988 Commission. However, a General Accounting Office—GAO—analysis later revealed that the costs associated with the realignment would not be recouped for at least 40 years, and possibly 200.

Although the 6-year cost recovery requirement has been deleted, the 1991 base closure selection criteria closely resemble the same criteria used by the 1988 Commission. The 1991 criteria are as follows:

First, the current and future mission requirements and the impact on operational readiness of the Department of Defense's total force.

Second, the availability and condition of land, facilities and associated airspace at both the existing and potential receiving locations.

Third, the ability to accommodate contingency, mobilization, and future total force requirements at both the existing and potential receiving locations.

Fourth, the cost and manpower implications.

Fifth, the extent and timing of potential costs and savings, including the number of years, beginning with the date of completion of the closure or realignment, for the savings to exceed the costs.

Sixth, the economic impact on communities.

Seventh, the ability of both the existing and potential receiving communities' infrastructure to support forces, missions and personnel.

Eighth, the environmental impact.

Despite the similarity between the 1988 and 1991 criteria, there are key differences between the two processes. The most dramatic difference is that the 1988 Commission was charged with closing bases during static force structure requests. In 1991, the justification for closing bases revolves around the fact that there will be sharp decreases in force structure. But, the 1991 base closure criteria do not make this differentiation.

In 1988, the previous Commission was charged with actually selecting bases for closure from the very beginning. However, this year, Secretary Cheney will develop the initial selections and the new Commission will make recommendations based on that list. But the problem remains the same. Because the 1988 and 1991 criteria are nearly the same, the new Commission will have to apply the same kind of subjective decision-making as did the 1988 Commission.

I say subjective because the 1988 and, thus, the 1991 selection criteria are full of ambiguities.

For example, criterion No. 4 mentions "Cost and manpower implications" But, without a clearer definition of this criteria, the 1991 Commission will be forced to draw its own conclusions about "costs." As the GAO analysis of the 1988 Commission revealed, there is no simple method for determining costs associated with closing military bases. Different commissions—or commissioners—could easily reach different conclusions when using criterion No. 4 to assess the closure or realignment of a particular base.

I mention this particular criterion as an example. None of the other eight criteria provide for more objectivity.

My real hope is that Secretary Cheney himself will expand on these selection criteria when he makes his initial selection for closing and realigning domestic bases on April 15, prior to Commission review.

One suggestion for accomplishing this would be to apply measurable weighted standards for each criterion. I know from the final publication of the base closure selection criteria on February 15, that the Department of Defense does not believe that weighted measures can be developed. I am somewhat skeptical that DOD cannot apply some form of standard measure in order to evaluate the net worth of a military base.

I would further suggest that Secretary Cheney look beyond missions currently assigned to various installations, and instead look at the assets at the installations themselves. For instance, a particular installation which serves as host for a mission that is being phased-out might be particularly suitable to receive other missions. The overall economic advantages and disadvantages of closing an installation must be considered, not simply the economic impact of closing an installation where a particular mission will be phased-out.

Finally, I hope Secretary Cheney will take other factors into consideration that are not mentioned in the criteria. These factors include external factors that argue for or against a particular base, such as weather and climate, access to training ranges and unrestricted flying space, and the potential for accommodating multiple missions. These factors impact on mobility and training, which in turn were essential elements in the defeat of Saddam Hussein.

Let me reemphasize my support for Secretary Cheney and my confidence in his ability to select the appropriate military installations for closure based on our Nation's changing defense posture. However, I wanted to raise these concerns with the selection criteria because I am well aware of how these same criteria proved to be inadequate during the 1988 base closure and realignment process.

I look forward to working with Secretary Cheney through the current base closure process. I hope he will consider these additional factors before releasing the next list of domestic installations slated for closure.

TRIBUTE TO MANUEL DAVILA

HON. CRAIG THOMAS

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. THOMAS of Wyoming. Mr. Speaker, today, all of Wyoming grieves the death of a brave Wyoming son who gave his life for his country. U.S. Army Spec. 4 Manuel Michael Davila was killed in battle February 27, the last day of the war in the Persian Gulf.

Today, March 13, he is laid to rest in his hometown of Gillette. Today, Manuel is home to watch over those who loved him and the country he so faithfully served.

Manuel was a proud soldier, a patriot, a man of great honor. His family says Manuel loved life. His family treasured his.

Those who have never lost a child or a brother can never understand the Davila family's sorrow—words fall short of comfort. But know that the people of the State of Wyoming extend their deepest gratitude to you who have close and wonderful memories of a fine young man. And may Manuel's strength, pride, and courage be carried on through each of us.

The editor of the Gillette News Record, Ron Franscell, wrote a touching tribute to Manuel, capturing the essence of what Manual means to Gillette, WY, indeed all of us. I would like it submitted to the RECORD in its entirety.

[From the Gillette News Record, Mar. 5, 1991]

RUNNING BETWEEN THE RAINDROPS

(By Ron Franscell)

War defies logic. It is a random, messy horror. We can no more avoid being touched by it than we could run between raindrops.

Ah, but we were running between raindrops, weren't we? The community had pulled together. We took comfort in the low odds of a soldier from a small town on the Great Plains dying in the desert. We found coverage and sympathy in our hearts. Every day, the news from the Gulf was good. Casualties were miraculously low and victory was swift. Then it was over, and we relaxed our guard.

Hadn't it all added up for us? They kept telling us that no news was good news, and when the war ended, we were, still in one piece. As a community, we counted our blessings . . . we escaped unscathed . . . our soldiers would come home and we'd have a parade and be happy. We wouldn't have to feel guilty about a local soldier who didn't make it. . .

So our guard was down when we heard about Manuel Davila, who was killed in the waning hours of the war. Wait, wasn't it all finished? Hadn't we all survived?

Trying to step between raindrops, we tripped an emotional booby trap. In a way, we all fall victim to it. I never knew Manuel, but he was from my town, he was one of us, and he had dreams. In that way, I knew him very well. You know him, too.

For many of us, the dead bring memories alive. We have no choice but to keep those memories alive. People who didn't know Manual will probably erect some monument to him, and that's very good. Those who knew him will carry silent monuments in their hearts, maybe to "the boy who always smiled."

But whether you knew him or not, please remember him. War may be random and sometimes senseless, but it's the living's job to try to make sense of it, just so we can continue, maybe even learn something about life from death.

Watch over us. Manuel. Help the raindrops fall just so.

CHALLENGE FACING U.S. BUSINESS

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. THOMAS of California. Mr. Speaker, the ability of American businesses to compete with their foreign counterparts is one of the great challenges facing U.S. businesses. There is no shortage of speeches and hearings in Congress about international competitiveness. There is a shortage of action. As Congress debates what should be done, we must consider reforming IRS rules and regulations which impose additional costs on U.S. businesses competing in the world marketplace. Congress may never agree on a comprehensive program to help the United States abroad, but we may be able to remedy regulations adding to problems here.

Last session, I introduced legislation on the issue of the allocation of State corporate taxes between U.S. and foreign source income. A significant number of business groups, taxpayers and associations have spoken out in support of this legislation, including the National Governors' Association, the Multistate Tax Commission, and the Federation of Tax Administrators.

Today, I am reintroducing this legislation which provides that U.S. corporations can allocate deductions for State and local income franchise taxes to U.S. source income.

Currently, the IRS requires U.S. multinationals to allocate a portion of their deduction for State taxes to foreign source income. IRS regulations on this matter were first issued in 1977. Then, a 1979 revenue ruling interpreting those regulations held that a franchise tax measured by income should not be allocated to a foreign source income, because it is the cost of the "privilege of doing business" in the State. However, in 1987, this ruling was reversed, retroactively, for U.S. corporations and, prospectively, for foreign corporations. In December 1988, the IRS proposed new regulations, retroactive to 1977, requiring even more extensive allocations of State tax to foreign source income. These proposed regulations have been severely criticized by many taxpayers and States.

The IRS position adversely impacts the competitiveness of U.S. multinationals in world markets. U.S. corporations competing with foreign corporations have an additional cost of doing business because they are, in effect, unable to fully deduct their State income taxes. Their foreign competitors operating in the United States, however, are generally able to obtain a full deduction for State taxes.

The IRS position also inequitably subjects U.S. multinationals to inconsistent taxing regimes. States, which are constitutionally prohibited from taxing income that is not attributable to in-State activities, believe they are taxing income attributable to in-State activities. The Supreme Court has affirmed this position in the face of taxpayer challenges to State taxes. The IRS position, however, is that States are taxing foreign source income. U.S. multinationals are caught in the middle. They are subject to State tax but are required to allocate a portion of the tax on the theory that the State tax is on foreign source income. This inconsistent treatment is unjustified and must be resolved.

The problems caused by the IRS position are particularly acute for taxpayers with business operations in States using a factor formula method of taxation. Corporations operating in these States have higher after-tax costs than their competitors operating in other States. The IRS position actually discriminates among States based on their method of taxation.

Mr. Speaker, earlier this week, I was disappointed to learn that the IRS had finalized the regulations on this issue with little meaningful change. The IRS chose to ignore the major comments of State tax administrators, multinational corporations, concerned Members of Congress and many other groups.

The legislation I am reintroducing today solves the problems created by the IRS position by providing that all deductions for State and local corporate income and franchise taxes are allocated to U.S. source income for foreign tax credit purposes. The legislation will, in effect, give a full deduction for State corporate income taxes, relieve the inequity of subjecting taxpayers to inconsistent taxing regimes, and improve the competitiveness of U.S. multinationals.

THE ROCKY MOUNTAIN ARSENAL

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mrs. SCHROEDER. Mr. Speaker, today I submit legislation that turns the corner on a complex military environmental restoration project in Colorado: the Rocky Mountain Arsenal.

The Rocky Mountain Arsenal National Urban Wildlife Refuge Act would transfer title of 27 square miles of land just northeast of Denver, CO, from the U.S. Army to the U.S. Department of the Interior. The Secretary of the Interior would be charged to administer land, water, and wildlife there in accordance with applicable wildlife refuge management laws. It would be up to the Interior Department to determine compatible recreation opportunities, ways to provide interpretive displays of the land and the wildlife, and methods to provide access to the scientific knowledge gained from environmental restoration work taking place there.

The Army will still be left with the overall responsibility of the massive cleanup required on the land. Much of RMA is uncontaminated. But cleanup of the sites that do have structural, soil, or ground water contamination will still be under the ongoing RI/FS process. Liability both during and after the cleanup will remain with the U.S. Army. And the highest priority during the cleanup ahead will still be to protect the human health and the environment of residents around the arsenal.

Nothing in the bill should give anyone reason to wonder if it will direct ongoing endangerment assessments or make any decisions on how clean the arsenal should be. Two years ago I submitted an amendment that to some tied the issue of open space preservation to a diminished degree of cleanup. My intent then was to lead a cheer for the concept of open space and to send a message to key players in cleanup negotiations of my increasing impatience at the lack of progress.

This language makes no effort to tie together anything. It is a reflection from every corner of the State that the natural, cultural, and historic wealth on an inactive chemical munitions and pesticide production site should be preserved for all to enjoy.

The bill reminds us what past value we gave to the land. What used to be virgin prairie became homesteaders' farms, then a chemical weapon plant, then a commercial pesticide plant, then a public health hazard, then a monumental cleanup site. Now we formally implement an exciting future land value.

Rocky Mountain Arsenal, because so much buffer land was required for its dangerous mission, became home to an astonishingly diverse and healthy ecosystem of indigenous wildlife. Deer, bald eagle, hawk, coyote, badger, rabbit, fish, waterfowl all thrive within a major metropolitan area. It is a rare treat for the thousands who have already toured the arsenal.

It is now time to protect this natural asset and to formally remember how, despite ourselves, it came to be. After all, we would not have an abundant wildlife habitat were it not for the protection chemical weapon production gave it.

We have been telling ourselves for years about what an environmental eyesore the Rocky Mountain Arsenal is. Now on the verge of monumental environmental restoration work, we can begin to focus on the Rocky Mountain Arsenal Urban Wildlife Refuge as a way to showcase the wildlife and explain why it is here. That's turning a big corner.

CORPORATE-OWNED LIFE INSURANCE

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mrs. KENNELLY. Mr. Speaker, today I am introducing a bill to curtail certain practices in the development of corporate-owned life insurance which may be deemed to be excessive in terms of traditional COLI products.

The first newly developed product makes use of artificially high interest rates and low cash payments to create a heavily tax advantaged product designed to deal with postretirement medical benefits. The second product is so-called janitor insurance, where a company allegedly insures all or most of its employees, including the janitor, in order to generate tax-free funds with which to pay retirement income to the company's senior officers. While I firmly believe in the appropriateness of corporate-owned life insurance, it seems to me that these policies have taken advantage of normal rules governing COLI in order to create unduly tax-advantaged products.

The first problem results from the ability of a company to charge 1 percentage point more on policy loans than they credit on borrowed amounts of cash value, thereby allowing loan rates greatly in excess of the current cost of money on the open market. Since the spread is 1 percent regardless of the interest rate, it does not matter to the insurance company nor to the policyholder at what level the interest rates are set. However, the taxpayers because of the inflated interest deduction, are financing the cost of the policyholder's insurance protection which is normally nondeductible. To correct this problem, this legislation sets a limit on deductible policy loan interest so that only interest that reflects the competitive cost of money on the open market may be deducted. This is accomplished by establishing a standard already used by the insurance industry, and eliminating the ability to make a distinction between borrowed and unborrowed funds. This, in effect, limits the deductible interest to an amount that is about the same as the market cost of money.

The second problem is related to the first. It is the use of this inflated internally generated money to meet the requirements of the four out of seven rule, which should be met from policyholder money rather than tax-deferred money generated within the policy. To address this problem, the legislation limits the amount of the four premiums that can be paid with any kind of policy-generated funds.

Third, to address the problem of janitor insurance, employees who are going to be insured must, under this legislation, be notified by their employers of this fact, and given the opportunity to refuse. Also, if the business is going to be the beneficiary of the life insurance policy but purchases the insurance pursuant to a funded or unfunded plan of employee compensation or benefits, then the employee who is insured must also participate at the appropriate time in the employee benefit plan that the life insurance is helping to make possible. While some argue that this type of insurance is not actually sold, this provision will make sure that when a business uses life insurance to legitimately provide for its employees, then each and every employee that is covered by a life insurance policy must be eligible to receive those benefits when, usually at retirement, the time arrives. However, this participation requirement is not intended to apply to insurance arrangements which are not being used to fund any plan of employee compensation or benefits, such as key-man policies or buy-sell arrangements.

This legislation is identical to that introduced by Senator PRYOR (S. 632) on March 12. As the Senator indicated in his remarks, I too believe the practices addressed in this legislation are such that the effective date should remain date of introduction rather than date of committee action as is often the case.

The effective date of my bill is for contracts purchased on or after today, March 13, 1991.

I hope very much that the practices identified in this legislation will be eliminated this year.

DISCRIMINATORY PASSIVE LOSS RULES TO TODAY'S REAL ESTATE OWNERS

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. THOMAS of California. Mr. Speaker, I am pleased today to join in reintroducing legislation to resolve the serious problems inflicted upon real estate owners and the economy by today's discriminatory passive loss rules.

Since 1986, I have been concerned about the passive loss rules. I was fearful that the type of tax discrimination caused by the rules was more than an attack on tax shelters. I was also concerned that the arbitrary treatment accorded real estate professionals by the rules would have negative effects on property values, lenders, and the overall economy.

Unfortunately, many of my fears have come to pass. A serious downturn in housing and real estate markets began shortly after the enactment of the 1986 Tax Reform Act. Property values were adversely affected by that act, creating problems for lending institutions that might otherwise be in relatively good financial condition.

I have worked closely with the real estate industry since 1986 to develop meaningful legislation to correct the worst aspects of the rules. I am pleased to note that my original legislation back in 1987 to establish a "material participant" category for real estate professionals has served as the basis for the legislation we are introducing today. Today's bill represents a consensus approach to the problems created by the passive loss rules, one that is supported by all of the real estate industry groups.

There is no doubt that the passive loss rules need to be revised. The rules discriminate against someone who happens to make their living in the real estate business. Their intended effect, that of reducing tax shelter is one that many support. However, the way the current rules are written, taxpayers in the real estate business may not offset losses and credits from rental estate against any income, including their real estate income such as management or development fees. This is a tax on the gross income of those in real estate business. All other businesses are taxed on the net income from all their operations.

The rules leave two taxpayers working the same hours, making the same kinds of decisions and carrying on the same types of business activities with vastly different tax treatment because one happens to be involved in the rental real estate business. This arbitrary tax treatment warrants our immediate attention.

Our legislation would allow taxpayers engaged in the real property business to prove that they are material participants in their rental real estate activities. These taxpayers would use the same material participant test currently used by all other taxpayers. Only those in the real estate business would qualify for the standards the bill creates.

This is an important reform proposal and one that is strongly supported by Members of the House of Representatives. In light of the importance of making the tax system neutral with respect to different types of investment, I hope we can move the bill forward this year.

MAINTAIN UNITED STATES SUPPORT OF ISRAEL DURING THE QUEST FOR PEACE

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. McGRATH. Mr. Speaker, lost in the euphoria of the end of the Persian Gulf war are the deep questions that remain in the quest for peace in the Middle East. There is no doubt the travels of Secretary James Baker are to be commended. The Secretary, as directed by President Bush, has moved swiftly through the troubled region, offering solutions to problems that are hundreds of years old. For this effort, the Secretary is to be applauded. However, I cannot help but believe that Israel may emerge the loser of the Iraq invasion of Kuwait.

There is no question that linking the Palestinian question to the defeat of Iraq has materialized. I am deeply distrubed that the term "land for peace" keeps appearing during Secretary Baker's trip. To resort to this diplomacy will result in a serious setback in our relations with Israel and will cast us as an international hypocrite. If land for peace is the operative of the region, then it would be consistent with that policy to simply allow Iraq's march into Kuwait. Peace could have no doubt been maintained if Iraq was not confronted in its quest for land. To allow Iraq to take Kuwait in the name of peace is no doubt a scam. However, we are now asking Israel to relinquish land to a people who cheered the bombardments of Tel Aviv.

During the early days of the Persian Gulf war, we debated in this chamber a resolution that stated that every country has a right to defend itself and Israel is no exception. While Israel had shown great restraint, I supported her right to retaliate. There is no question that having absorbed a first strike, Israel was in a position not only to shield her borders, but to counter Saddam's missile assaults in a way she sees fit.

Israel, however, did not launch any retaliatory strike. Instead, Israel stayed on the sidelines; not out of choice, but to maintain the Arab alliance that President Bush so masterfull tailored. There is no doubt that without the restraint of Israel, the political nature of the alliance would have been in jeopardy. Had the alliance broken, I think it is safe to say that we would still be in a fight to eradicate Saddam Hussein.

Mr. Speaker, Israel is once again under fire. She is facing a region resentful of her sovereignty and freedoms. Since her existence nearly 50 years ago, Israel has been the only example of democracy in a region torn by hate and terrorism. The Palestinian Liberation Organization, who has never exhibited legitimate leadership, is now thrust to the forefront as a player for peace. This is the same PLO that so warmly embraced Saddam Hussein, the same PLO that playfully carried mock SCUD missiles through the streets in support of the Iraqi dictator. To permit the PLO to play an integral role in this peace process is akin to letting Zsa Zsa Gabor act as a marriage counselor. Put simply, the PLO cannot be trusted.

I, like all others in this House, look forward to a peace in the Middle East that is long lasting and prosperous. However, no peace can be attained at the expense of Israel. No peace can be awarded at a cost to a people who, for over 6 weeks, donned gas masks night after night.

Mr. Speaker, forging peace in the Middle East is an enormous task. I believe the United States is equal to this task. However, it is paramount that Israel, no matter what proposal is put on the table, is recognized and allowed to maintain her borders and right of self determination.

A MILESTONE FOR THE CHEMICAL INDUSTRY INSTITUTE OF TOXICOLOGY

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. PRICE. Mr. Speaker, I rise today to recognize the Chemical Industry Institute of Toxicology [CIIT], a nonprofit toxicology research institute based in North Carolina's Research Triangle Park.

In this era of heightened environmental concern, it is critical to develop the scientific tools we need to evaluate potential health risks of chemicals, pharmaceuticals, and consumer products. CIIT is devoted to that cause, and is working hard to protect public health and safety.

The institute is developing the scientific basis for understanding potential human health risks posed by exposure to chemicals, pharmaceuticals, and consumer products. By integrating molecular, cellular, animal and human toxicity data, CIIT researchers are developing more reliable methods for assessing and predicting exposure-related health effects.

CIIT's $16 million budget is funded entirely by industry, and is supported by 50 companies. The Clorox Co. recently became the 50th member of CIIT, joining an impressive list of companies working to make their products safer and more effective.

In its 15 years, CIIT has emerged as a leader in the development fo the basic science of human toxic risk assessment. New methods developed by CIIT have been adopted by many laboratories across the country and the world. This is truly science in the public interest, and I want to commend CIIT for playing such a vital role in our Nation's public health.

THE BIOTECHNOLOGY PATENT PROTECTION ACT

HON. RICK BOUCHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. BOUCHER. Mr. Speaker, the Biotechnology Patent Protection Act of 1991, which I am introducing today, will strengthen the protection afforded to products produced through biotechnology and stimulate development of new drugs through this innovative process. I am pleased to be joined by the gentleman from California, Mr. Moorhead, and 19 of our colleagues in offering this measure.

The legislation is a response to the impediments American inventors face in obtaining adequate patent protection for products and processes produced using biotechnology. Biotechnology is an immensely important industry, invented in the United States. In the decades ahead, it will improve the lives and health of virtually every American family. It will put people to work. It will save people's lives. In this decade, it will make a major contribution to America's positive balance of trade.

The promise of biotechnology has been noted by President Bush who has said that breakthroughs in the field "* * * offer unprecedented opportunities for improving the Nation's productivity, health, and well-being." Similarly, the National Academy of Engineering last year acknowledged that the development of biotechnology products is one of the 10 leading engineering accomplishments of the past 25 years.

Biotechnology allows us to replicate beneficial substances that naturally occur in minute quantities and produce them in sufficiently large amounts to make them available to treat serious and life threatening disease. Despite these impressive achievements—and the explosive growth in the industry—deficiencies in our patent law grant unfair advantages to foreign competitors and threaten the long term viability of the industry.

The Biotechnology Patent Protection Act puts American companies on an even footing with their Japanese and European competitors by providing patent protection for the production process, so long as the starting material is novel. If we continue to deny such process patent protection, we will dampen American invention and initiative, jeopardizing future drug development and the economic and medical benefits that come with it.

The United States had only just begun to tap the potential of biotechnology, which produces billions of dollars in annual sales for our Nation's economy. Currently, American companies are spending up to $2 billion in biotechnology research and development each year. The industry employs tens of thousands of highly trained scientists and engineers. More than 30 States are involved in the active promotion of biotechnology efforts.

One of the biggest impediments to the achievement of the full potential of the industry is inadequate intellectual property protection. Our legislation remedies the largest such problem.

The U.S. Patent Office has taken the position that it is barred from issuing appropriate patent protection for biotechnology processes because of an aberrant court case, the rule of which the Patent Office agrees should be reversed through legislation. This situation is especially unfair because the denial of such patent protection in the United States is contradicted by the extention of such patent protection by our trading partners in Japan and Europe.

The current problem arises—in the relatively common situation—where the starting material used in an invention is novel, but the steps used in the process, and often the final product itself, are not. In modern biotechnology, an inventor often may develop a novel starting material, such as a host cell, DNA sequence or vector, and use a process previously used in another context to create a nonpatentable final product. In these cases, Europe and Japan would grant process patents. The U.S. Patent Office frequently grants no effective patent protection, leaving U.S. biotechnology at a competitive disadvantage.

The Patent Office denies many patent applications in reliance on a court case that has been widely criticized. Last Congress, when the Committee on the Judiciary conducted a hearing on a similar measure, the Patent Commissioner strongly urged Congress to change the result of that case.

Our legislation has the strong support of the administration, the business community—including the pharmaceutical and biotechnology industries—and the university community. This support stems from a recognition that stronger patent laws stimulate research and development.

The Biotechnology Patent Protection Act of 1991 will promote industrial innovation and enhance fair trade.

CONGRESSMAN KILDEE PAYS TRIBUTE TO REPRESENTATIVE BUS SPANIOLA

HON. DALE KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. KILDEE. Mr. Speaker, I rise today to pay tribute to the long and distinguished career of Francis R. (Bus) Spaniola who has served as State representative for Michigan's 87th State House District for the past 16 years. Representative Spaniola has recently retired from public life, leaving behind a legacy of service which will long be remembered in Shiawassee and Livingston Counties. Representative Spaniola will be honored at a roast to be held on March 21, 1991 at the Knights of Columbus Hall in Owosso, MI.

Although I know Representative Spaniola will continue to serve humanity in whatever activities he pursues in retirement, I also know that his colleagues and his constituents will miss his strong moral presence in the Statehouse. I had the good fortune to have served in the Statehouse with Representative Spaniola. As an observer of his consistent and continual courage to stand and speak out for what is right, regardless of the potential criticisms, I have become a better person as well as a better legislator. His steadfast commitment and dedication to the welfare of the people of Michigan have made a major difference in the lives of many people, particularly in an area held most dear in my heart—education. Literally millions of students have benefitted from his commitment to the improvement of our State's system of education.

Mr. Speaker, I look back on the career of Representative Spaniola with fond memories of accomplishment and friendship amidst sometimes stormy waters. My respect and admiration for Representative Spaniola can only be expressed by emulating his committed and courageous service. Indeed, our society needs more public servants like Representative Spaniola.

Mr. Speaker, it is an honor and a privilege to pay tribute to this highly respected and distinguished gentleman. I ask that my colleagues join me in congratulating Representative Francis R. (Bus) Spaniola on the occasion of his retirement.

TRIBUTE TO DR. CLEO DAWSON SMITH

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. DE LA GARZA. Mr. Speaker, I respectfully request a few moments to say that south Texas recently lost one of its last remaining pioneers. I would like to take a moment to remember this incomparable individual. I'm talking about the late Dr. Cleo Dawson Smith, who a few weeks ago passed away. All of us are sadder for her loss, but there is no question that the legacy she leaves behind is a rich one.

Dr. Dawson, as she was commonly referred to, came to south Texas as a small child by covered wagon. With her family she helped to build a town beside the railroad where a trail from the Rio Grande crossed the track—a town newly named Mission. This was back in the very early 1900's and long before Mission was incorporated into a city.

Cleo Dawson grew up to be an example of how invigoratingly one can live life and how limitless are its possibilities. In all of her endeavors she shined brightly.

First and foremost, I would call her an educator. In fact, because of her years of work in this field her name, particularly in south Texas, became synonymous with education. This eventually resulted in the street crossing in front of Mission High School being named in her honor.

She was also an author, well read and widely published. One of her most successful endeavors, "She Came To The Valley," a tribute to her pioneer family's contribution to the growth of the lower Rio Grande Valley, became a movie. The true story dealt with the formation of the city of Mission, the border raids by Mexican bandits, the arrival of the United States soldiers, and her mother's life in what was truly a frontier town.

These are only but two of the hats worn so well by Dr. Dawson. Also included among her vocations were psychologist, philosopher, lecturer, dramatist, and oral historian. I should mention she won the Woman of Distinction award and in so doing joined the exclusive ranks of such other well-known recipients as Pearl Buck and Shirley Temple Black. Many of you may well remember her from various television appearances on such programs as Merv Griffin and The Tonight Show.

There is no question that Dr. Cleo Dawson was a woman of many accomplishments. To south Texas she will remain a source of pride, a woman who truly symbolizes the spirit of America.

To all whose paths she crossed she will be missed. I am most proud to say that she called me her friend. To have known her is something I consider quite an honor. She enriched my life, and she enriched south Texas. She was a great and a grand woman.

DEBT REDUCTION FOR POLAND

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. LIPINSKI. Mr. Speaker, last week the Members of this House voted overwhelmingly to give an additional $640 million in foreign assistance to the State of Israel. I was among those who realized the importance of using the immense resources of the United States to support our friends. It's simple to understand that those countries who protect the vital interests of America should always receive our willing assistance when they find themselves in peril, whether militarily or economically. In the case of Poland, 45 years of Communist mismanagement has President Lech Walesa facing an economic disaster. The United States is once again being asked to offer its assistance to a country that protects our vital interests, and I would just like to reiterate my continued support for the Polish Government and its people.

The economic problems faced by Poland are not really surprising. Only 2 years ago an inefficient, centrally controlled economy was in place. Since then, the Polish people have had to patiently wait for recovery while bearing the full effects of their economy's arduous transformation. Price controls have virtually disappeared, and the rate of inflation continues to rise, yet wages continue to fall. Thus, it is imperative that every available financial resource be invested into the domestic economy and not used to service a foreign debt. Poland has appealed for the forgiveness of as much as 80 percent of its outstanding foreign debt, and some Western governments, which hold about two-thirds of the debt, have said they are considering a "generous reduction" but have not yet named a figure. It seems fairly obvious that by forgiving a substantial portion of the $46 billion owed by Poland, Western nations can help her to advance down an economic road to recovery.

On February 24, the Government of Poland announced they had reached an agreement with the International Monetary Fund on a $2 billion financial support package. This could open the way for increased levels of Western aid and a quick reduction of the foreign debt. The IMF aid package includes economic restructuring credits, compensation for high oil prices that Poland has paid over the past few months and contingency payments to be made if oil prices rise significantly. The accord replaces last year's agreement, which was designed to help the Solidarity government begin its program of economic reform. President Lech Walesa and his democratically elected Government should be commended and supported to the fullest possible extent as they continue the formidable task before them. The Polish reform program must ot be allowed to fail, especially in view of economic and political instability spreading from the Soviet Union.

Some members of the Paris Club have suggested a reduction of only 30 percent of the overall debt; this is unacceptable. Forgiveness of 80 percent or higher would show the Polish Government and its people that the wealthier, indusrialized nations are aware of Poland's economic situation. My colleagues and I have certainly shown our concern. We have already authorized a total writeoff of the $3.5 billion which Poland owed the United States. Now is indeed the time for other nations to follow our example. I would remind all that the United States has committed a 10 percent investment in the new European Bank for Reconstruction and Development. This commendable venture will help former Eastern-bloc nations develop market economies and the future United States contribution is completely dependent upon a sizable Polish debt reduction package. In the future, United States contributions to the International Monetary Fund will also be examined in light of the final Polish debt forgiveness.

Mr. Speaker, just as my colleagues and I realized the need to support our Israeli friends in their hour of need, so too do we understand the enormous obstacles facing the people of Poland and offer our assistance. At this moment Poland and Poland alone is attempting the boldest economic change in a newly democratic Eastern Europe, still overshadowed by an increasingly militaristic Soviet Union.

President Bush must continue to press the members of the Paris Club for their help in ending Poland's debt crisis. Only then can President Walesa and his Government commit every available resource toward increasing domestic investment and spurring forward growth. Poland's program of reform is by far the most radical and courageous in any of the post-Communist countries. In addition to being in the best interest of the Polish people, a successful transition to a market economy will undeniably contribute to the West and continue to further America's vital interests.

AUGUSTUS F. HAWKINS NATIONAL RECYCLING MONTH

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. DREIER of California. Mr. Speaker, for the last 3 years I have had the distinct honor of working with my friend and former colleague from Los Angeles, Gus Hawkins, to promote and encourage recycling across the United States by designating 1 month each year as "National Recycling Month."

During this time, the Nation's recycling efforts have started to come alive. The percentage of solid waste recycled in the Nation has risen to 13 percent, and new community recycling programs have sprung up across the Nation.

Still, we must do more. Imminent closures of 50 percent of the Nation's landfills, combined with the difficulty of siting new landfills and an expected 20-percent increase in waste generation by the year 2000, forces the consideration of alternatives to solid waste disposal.

Health and environmental threats from waste incineration, the second greatest method of waste disposal, also contribute to the need to further rely on recycling. America must adopt a new ethic of waste disposal, espousing reuse, reduction, and recycling of waste as the fundamental priorities.

Our job is not finished. For this reason, I am proud to continue, with my California colleague, Congresswoman WATERS, what has become a tradition in Congress by introducing a joint resolution to designate June 1991 as the Augustus F. Hawkins National Recycling Month.

This resolution will serve as a tribute to the distinguished efforts of Gus Hawkins to solve the Nation's solid waste crisis. I encourage all my colleagues to join me in sponsoring this key to the future of our waste management.

INTRODUCTION OF THE EQUAL OPPORTUNITIES FOR ALL WORKERS ACT

HON. TOM CAMPBELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. CAMPBELL of California. Mr. Speaker, I rise today on a matter of both fiscal responsibility and simple fairness. I rise to introduce the Equal Opportunities for All Workers Act—a measure that would immediately repeal the Social Security earnings test, not simply for our Nation's older workers but for more than any other Federal program established in the last half century, Social Security represents values and objectives that are particularly American. Since its inception in the 1930's, the Social Security System has constituted a unique compact between the Government and the working men and women of this country. It has functioned, in effect, as a kind of Government promissory note—guaranteeing today's workers future security and dignity in exchange for their present sacrifices. For over 50 years, Social Security has served us well in this capacity.

Despite its successes, however, the system contains one provision that contradicts its own principles—a contradiction that compels me to act today. The outside earnings limitation imposes a tax on Social Security receipts if a senior citizen continues to work. Specifically, this limitation requires Social Security to deduct $1 of benefits for every $3 earned above the ceiling of a senior's allowable annual income: Effectively a 33-percent tax. Under current law, beneficiaries under age 65 can earn up to $6,480 a year and those aged 65 through 69 can earn up to $8,880 before this tax is imposed.

The earnings limit prevents thousands of older Americans from continuing to exercise one of their most fundamental rights: The right to work; and it denies to our economy the productive participation of skilled, experienced workers.

Over the last 20 years we have witnessed several congressional efforts to repeal this burdensome limitation. In abolishing the earnings test, however, these measures would necessarily lower the size of the Social Security trust fund. To repeal the earnings limit might jeopardize the fiscal soundness of Social Security.

The bill I am introducing today, however, accomplishes the valuable dual purpose of eliminating this barrier to older workers while also strengthening the financial integrity of the overall Social Security System. The bill would immediately abolish the outside earnings limitation, thus enabling individuals to remain professionally productive for as long as possible. The distinguishing difference of this measure, however, is that all additional taxes collected on new income earned would go exclusively toward supplementing the Social Security trust fund.

The origin of the earnings limit lies, as does Social Security itself, in the Great Depression. Jobs were scarce, so seniors were encouraged to leave the work force to make way for younger workers. Today, unemployment is relatively low—6.1 percent. The shortage is no longer in jobs, but in skilled workers, with disciplined work habits, able to fill them. Social Security has outgrown its earnings test.

This bill would also have the salutary effect of actually increasing the savings rate among what, under its own provisions, would be a newly empowered segment of American workers. The contributions from these workers to the Social Security trust fund, it has been estimated, will actually exceed their new payments from it—for a net increase in the American savings rate. In this age of unwieldy budget deficits and increasing economic competition internationally, we must do all we can to encourage individuals who wish and are able to earn and spend money to do precisely that. The current arrangement penalizes not only active, productive seniors, but in fact everyone who benefits from a healthy, growing economy.

We can expect in the next 20 years to confront the most serious challenge—both socially and fiscally—to ever face the Social Security System. It is during this time that the so-called "baby boom" generation will reach retirement age in full, rightful expectation of receiving their complete benefits. We must ensure that the fund is viable for them, and that their economic contributions are encouraged.

We live in a society in which the work force is growing older. This represents not a disadvantage, but a tremendous opportunity if we are wise enough to grasp it. We will increasingly rely on the skills and energy of older workers. The sooner we not only recognize this fact, but accommodate ourselves to it, the sooner we can realize our full economic capabilities.

My measure seeks to give those whom the system most immediately benefits as full an opportunity as possible to keep it strong and functioning. Rarely has what is most fiscally prudent so closely corresponded to what is undeniably morally right. Our action today ensures that the promise America made over 50 years ago to its workers is kept.

U.S. WORKERS, NOT JUST U.S. FIRMS, SHOULD REBUILD KUWAIT

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. BROWN. Mr. Speaker, amidst the well-deserved and joyous welcome home celebrations going on at military bases throughout the country, a little-noticed but telling phenomenon is taking place in the Nation's capital. The phones are ringing off the walls at the Department of Commerce, at the U.S. Chamber of Commerce, and in congressional offices. At the Commerce Department the volume of calls was so great that they had to install an answering machine.

The callers are unemployed Americans who are hoping to find work in American firms hired to rebuild war-torn Kuwait. These skilled craftworkers are among the hardest hit by our recession, and are precisely the type of worker who will be needed for reconstruction work in Kuwait.

Unfortunately, unemployed American workers who hope to find jobs in Kuwait are finding the door of opportunity slammed in their faces. Most are having their calls transferred to agencies all over Washington. The lucky ones at least get an answer: American companies are not hiring at this time.

Under typical business conditions, American firms operating internationally bring in some engineers and managers but rely mainly on low-wage foreign construction and craftworkers in order to compete for contracts. Despite Kuwait's already proven commitment to choose American companies for rebuilding contracts, the economic reality is that few American workers will directly benefit from those contracts.

I am sure that U.S. firms would be willing to hire more American construction and craftworkers if contracting Nations requested it and offered sufficient compensation in the contracts. This, I believe, Kuwait should do.

Before the gulf conflict comes to a close, our Nation will have spent billions of dollars and put 500,000 American lives on the line in order to liberate Kuwait. Meanwhile, our recession deepens, unemployment rises, and hundreds of thousands of families—not only of regular military personnel, but also of reservists—must sacrifice in order to support the war effort. Clearly, American workers have earned, and deserve, job opportunities in Kuwait.

Mr. Speaker, Congress should commit itself to doing all it can to ensure that United States workers are not shut out of jobs in Kuwait. Last week I introduced legislation, House Resolution 106, to encourage Kuwait to structure and award construction contracts in a way which would encourage the maximum feasible use not only of American companies, but also of American workers and products in the reconstruction of Kuwait. I am extremely happy to see amendments being offered today to the Desert Storm authorization bill that would likewise encourage the Government of Kuwait to hire American workers in reconstruction efforts.

In the Persian Gulf, American knowhow and talent were unquestionably displayed and proven to be the best in the world. It's time to redirect that talent toward building peace in the Middle East and toward rebuilding the nations damaged by this war. The soldiers are coming home and it's time to send in the new troops: the American workers.

INVITATION TO EXHIBITION OF THE PLAINS ART MUSEUM OF MOORHEAD, MINNESOTA AND FARGO, ND

HON. COLLIN C. PETERSON

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. PETERSON of Minnesota. Mr. Speaker, I would like to invite you to join me in viewing "On the Border, Native American Weaving Traditions of the Great Lakes and Prairie." The exhibition will be in the Cannon House Office Building from March 18 through 29, 1991, and is provided through the Plains Art Museum in Moorhead, MN and Fargo, ND. My colleague, the gentleman from North Dakota [Mr. DORGAN], and I are proud to represent the districts where this fine museum is located, and we wish to share with you the beauty, history, and tradition that this native American art displays.

ARROW TRUCKING CO. WINS THE 1990 ANNUAL FLEET SAFETY CONTEST

HON. JAMES M. INHOFE

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. INHOFE. Mr. Speaker, I am pleased to call to the attention of my colleagues that Arrow Trucking Co., a truckload motor carrier of Tulsa, OK, has won today the prestigious grand prize trophy in the 1990 Annual Fleet Safety Contest of the Interstate Truckload Carriers Conference. The conference represents the truckload, irregular route, common, and contract motor carriers of the United States and is affiliated with the American Trucking Associations.

Mr. Jim Pielsticker, president of Arrow Trucking Co. and his safety department staff, were presented this award at the conference's annual meeting in Phoenix, AZ. The Fleet Safety Contest is a competition between the 700 carrier members of the conference to determine which company has the best safety record and safety program in the preceding year. Arrow Trucking Co. drivers log over 43 million miles annually, and to be judged the best from among its peers in the important field of highway safety is a great tribute to the management and drivers of Arrow Trucking Co. For years, the company has been an active participant in Tulsa and Oklahoma in promoting highway safety. It is fitting that Arrow Trucking Co. has been nationally recognized for its exemplary achievements.

NATIONAL OPERATOR APPRECIATION WEEK

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Ms. OAKAR. Mr. Speaker, for more than 100 years, the American people have relied on telephone operators to assist them in using Alexander Graham Bell's magnificent invention.

The voice with a smile has been present 24 hours a day, 7 days a week to aid the public, whether to answer a question or to provide essential help in an emergency. Each day, in large and small communities throughout our Nation, telephone operators make the difference between life and death, safety and danger, or loneliness and communication for countless number of citizens.

Unfortunately, telephone operators are usually taken for granted until we are on the line in an emergency and desperately must reach someone and the operator is the only one who can help us—and help us they do. Indeed, almost every telephone operator has a story to tell about assisting a family in a crisis.

In honor of these unsung heroes and heroines, the Communications Workers of America is celebrating National Operator Appreciation Week from April 1–7, 1991. As part of that event, I urge local and long-distance telephone companies to provide the American people with easy access to a human telephone operator to ensure quality service, whatever the type of call placed.

Mr. Speaker, I am especially concerned about the future role that operators will have in our national telecommunications system. For more than a year, the Bell companies have been replacing real operators with robots. AT&T is now rolling out its robot force. The robots cause significant job losses and may be part of an effort to eliminate operators' jobs. Indeed, in the 1950's there were 450,000 telephone operators but now there are less than 100,000.

Along a related line, America is becoming a disposable society with its paper plates and TV dinners. But in recent years our Nation seems bent on a more disturbing trend. Workers are becoming an expendable commodity, similar to the inanimate objects we discard without a second thought.

Mr. Speaker, years ago, I had the pleasure of working as a telephone operator and member of the Communication Workers of America; today I deplore the dehumanization of the telephone system resulting from the replacement of human operators with robotic machines. This misguided decision poses a threat to efficient, universal service as guaranteed by the 1934 Communications Act. I urge the telephone industry to continue to provide the public with easy access to a human telephone operator to ensure the American people the quality telephone service they deserve.

TRIBUTE TO DAVID GUILFORD

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. MILLER of California. Mr. Speaker, I know all Members of the House join me in congratulating an outstanding young man from Contra Costa County, CA, who is a recipient of the Gold Congressional Award.

David M. Guilford has proven himself to be a most distinguished citizen through his outstanding achievements in public service and personal development. At 18 years of age, he is one of the youngest to receive the award, and one of only six citizens this year to earn all three congressional awards—the bronze, silver, and gold.

In addition to performing honor schoolwork, David plays the trumpet for the school band and participates on the school archery and volleyball teams. An avid boy scout, David spent a week camping at Mary Point Scout Preservation in Minnesota and participated in project C.O.P.E. He has also volunteered in several congressional offices where he performed Social Security, housing, and immigration casework, benefiting numerous members of the community.

Mr. Speaker, my colleagues in the House of Representatives join with me in acknowledging the dedication to public service David Guilford has demonstrated. I would like to congratulate him on receiving this esteemed honor and wish him the best in future endeavors.

TRIBUTE TO GERALD CALABRESE

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. TORRICELLI. Mr. Speaker, it is with great respect and admiration that I address my colleagues in the House today, for I rise to extend my heartiest congratulations and warmest best wishes to Mayor Gerald Calabrese on the occasion of his recognition for many outstanding accomplishments and service to his community.

I have known Gerry Calabrese for many years. He has been a leader in Cliffside Park, NJ since he led Cliffside Park High School to a State basketball championship. After serving in the U.S. Navy during World War II, he attended St. John's University where he was choosen for All-American honors. He went on to a professional basketball career with the Syracuse Nationals.

He was elected to the Cliffside Park Borough Council in 1955, and became mayor in 1959. Since his reelection in 1965, he has served Cliffside Park continuously as its chief executive. He served on the Bergen County Board of Freeholders in 1975, 1978, and 1982, and was freeholder director in 1984. From 1960 until January 1991, Gerry was employed by the board of public utilities, retiring as director of water and sewage for the State of New Jersey.

Gerry and his wife Marion are the parents of three children, and the grandparents of three.

Among his many honors, Gerry Calabrese has been named Man of the Year by both UNICO and B'nai B'rith. He is a life member of PBA Local 96, New Jersey State Association of Chiefs of Police, Cliffside Park Little League, Polish American Democratic Club, a member of the Cliffside Park Men's Club, VFW Post 8842, American Legion Post 126, Bergen County Democratic Mayors Association, Cliffside Park UNICO, Elks-B.P.O.E. Lodge No. 1502, AmVets, and the Epiphany Holy Name Society.

Mr. Speaker, I am proud to join in paying tribute to Gerry Calabrese as a colleague and a friend, as he continues to provide invaluable service to his community and truly makes a difference in society. I extend my best wishes to him on this most special occasion.

THE CHINESE DISSIDENT ADOPTION PROGRAM

HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. MOAKLEY. Mr. Speaker, I rise to announce that I am adopting Chinese dissident Xu Wenli, as a matter of personal concern through the Chinese Dissident Adoption Program created by our colleagues Congressman TED WEISS and Congressman JOHN MILLER.

Mr. Speaker, in 1982 Xu Wenli received a 15-year sentence for democratic agitation. He has not been heard from since September of last year, has only seen his wife once in 9 years, and has not seen his disabled daughter since his trial. Like the two leaders of the student protest at Tienanmien who recently received 13-year sentences, the only thing that stood between him and jail was a defense with precious little preparation and a jury handpicked by his accusers, the Government of China. Even in the gallery, only those chosen by the Government were allowed to view the trial.

Asia Watch keeps a list of over 600 prisoners of conscience, whom like Xu Wenli, the Government of China wishes us to forget. But through the adoption program we can focus our attention, name names, ask for facts, and send our 435 voices overseas to speak in favor of people who cannot speak on their own behalf. I urge my colleagues to call the office of JOHN MILLER and TED WEISS to obtain some information on the adoption program.

Mr. Speaker, no nation can exist without a conscience. China's conscience sits in its jails in purposed disregard. We cannot speak as the conscience of China, but, Mr. Speaker, we might speak in its favor and continue to remind China of its offenses against its own.

A TRIBUTE TO LEONARD LABELLA, JR.

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. LEVINE of California. Mr. Speaker, it is with distinct pleasure that I rise today to express my admiration, gratitude, and respect for a gentleman who has devoted many years to the medical needs of California's 27th Congressional District. After more than a decade as president and chief executive officer of the Santa Monica Hospital Medical Center, Leonard LaBella, Jr. is turning his full attention to his duties as executive vice president of UniHealth America of Burbank, CA. A farewell dinner attended by many community leaders and health care professionals was held in his honor at Verdi-Ristorante Di Musica in Santa Monica on March 7, 1991.

Among Len's many accomplishments is the instrumental role he has played in improving public access to quality health care in Santa Monica and throughout the west side. Through his involvement with the Venice Family Clinic and the Les Kelly Center, which is a clinic for low-income families, Len has labored to provide health care services for all people regardless of their ability to pay. His ongoing commitment to the people of our community is further evidenced by his participation in the Medi-Cal, CHAMPUS, and county overflow contracts.

As a consequence of his leadership in our community, Len has been frequently recognized by local and national groups. Among the more notable honors bestowed upon Len are the Humanitarian Award for the National Conference of Christians and Jews and having the UniHealth Award of Excellence in Quality named after him. A nationally recognized leader in the move toward enhancing cost effective quality patient care services, Len has played a vital role in the development of the Service Management Program which has been recognized in two national bestsellers: "At America's Service" and "Service America."

Mr. Speaker, Len LaBella is the type of caring and committed person which our Nation needs to improve our ailing health care system. His accomplishments both in Santa Monica and throughout California are most deserving of our recognition. I strongly urge my colleagues in the U.S. House of Representatives to join me in honoring Leonard LaBella, Jr. for the many years he has selflessly devoted to making quality health care a reality for all people.

SIXTH ANNIVERSARY OF TERRY ANDERSON'S KIDNAPPING

HON. LOUISE M. SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Ms. SLAUGHTER of New York. Mr. Speaker, the church bells will ring throughout Batavia, NY at 1 o'clock this Saturday afternoon. They mark a most solemn occasion: the anniversary of Terry Anderson's kidnapping in Beirut 6 long years ago. Through these 6 years, the people of Terry's hometown Batavia, like his sister Peggy Say, have kept the light of hope burning bright. As Terry begins his seventh year chained to a wall, this hope for freedom is strengthened by Secretary Baker's mission to the Middle East. Mr. Baker has been directed by President Bush to press the Syrians for help in freeing the Western hostages in Lebanon. I join Peggy Say and the families of the five other American hostages in waiting anxiously for news of the Secretary's efforts.

As the United States and her allies begin the task of building a lasting peace in the Persian Gulf region, we must recognize that there can be no real peace as long as the hostages remain captive. An unconditional respect for basic human rights must be the cornerstone of any serious, meaningful, and lasting peace in the Middle East. We must not walk away from the peace talks until the blindfolds are removed, the chains are undone and the six American hostages are allowed to return home.

RECOGNITION OF JOHN-MARIO SEVILLA

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mrs. MINK. Mr. Speaker, I rise today in recognition of the artistic achievement of a very special young man from the second district of Hawaii. John-Mario Sevilla, from the Island of Maui, has distinguished himself in a rare fashion as a member of the nationally renowned Pilobolus Dance Theatre of New York.

John-Mario, the son of A.B. and Frances Sevilla, was born in Paukukalo, Maui, raised in Wailuku, attended Wailuku Elementary and Iao Intermediate School, and graduated from Baldwin High School. From an early age he had the desire to express himself through dance. But for a young boy in the middle of the Pacific, the dream of one day dancing on Broadway must have seemed far beyond his most ambitious leap.

But John-Mario has realized that dream. As a member of the Pilobolus Dance Theatre, he has become a true inspiration for the young people of the islands who aspire to bring their talents to audiences across the country.

John-Mario's passion for dance began with the folk dances of the Philippines. He continued to improve his art until the ninth grade, but then put dance aside to allow time for the friendships and challenges of high school.

After briefly attending Northwestern University, Mr. Sevilla returned to the islands and attended the University of Hawaii at Manoa. There his desire to dance flared once again. He joined the Pamana Dancers and was soon practicing the folk dances of his childhood.

He chose, however, not to major in dance or theatre, though both had very strong programs at the university. He instead pursued his studies in the University of Hawaii English Department. There, he credits much of his education to the inspiration of the late Jack Unterecker, a distinguished professor of poetry and literature.

Following graduation, John-Mario took the extraordinary gamble of heading to New York, the Nation's center of dance. He auditioned for and was accepted by the Pilobolus Dance Theatre, which had enjoyed successful seasons on Broadway as well as being featured on PBS presentations of "Dance in America" and "Great Performances."

Now John-Mario Sevilla's life has come full circle at the young age of 27. The Pilobolus Dance Theatre has traveled to Hawaii and will perform on his home island of Maui this Friday, March 15, 1991. There, the success of his adult life will finally be shared with his family and the many friends of his youth.

I commend John-Mario Sevilla, and extend to him and his family the warmest aloha of the U.S. House of Representatives, for nurturing such a valuable gift and for sharing that gift not only with the people of Hawaii but also with the world.

An article from the Honolulu Advertiser follows:

[From the Honolulu Advertiser, Mar. 11, 1991]

HE'S GOING HOME AGAIN

(By Joseph Hurley)

When the Pilobolus Dance Theatre appears on Maui Friday, it will be the first time that the family of company member John-Mario Sevilla will ever have seen him work professionally.

The performance—the final one in a series that includes an Oahu appearance tonight—will bring out a sizable clan. "There are Sevillas and Arcillas, my mother's family, all over Maui," said the 27-year-old dancer in a New York interview before Pilobolus' current tour, "more or less all related to me, and they'll all be there that night."

If any of those siblings and cousins and aunts and uncles have seen him dance in the past, it was as a youngster participating in Filipino folk dance concerts, a passion of Sevilla's until he arrived at Baldwin High School, where folk dancing wasn't the "in" thing.

Sevilla is as intensely a product of Maui as the Kula onion, having been born in Paupukalo, raised in Wailuku, and gone first to Wailuku Elementary and then Iao Intermediate and Baldwin. His father, A.B. Sevilla, now retired and well into his 70s, owned and ran the Sevilla Store, well known to Maui residents.

Graduation from Baldwin was followed by a year at Northwestern University in Evanston, Ill., after which Sevilla returned to Hawaii for a stay he thought would last only one semester, while his father was recuperating from surgery.

At this point, his fondness for Filipino folk dance flared up again, and changed the direction of his life. "My sister told me they needed a guy for a company called Pamana Dancers," he said, "and so I went to one rehearsal, and that was all it took."

Everything came so easily and so naturally to me" he remembers, "everything I'd loved about dancing since I was an 11-year-old, that I decided not to go back to Northwestern, but to go to UH, where I could do some folk dancing."

Which is how John-Mario Sevilla became a high-achieving English major at the university, by all outward signs conforming to his family's hopes that he'd become a professional man, yet at the same time satisfying his urge to dance.

But so serious was he about dance, that at one point he nearly dropped out of the university in order to go to the Mainland to study dance fulltime.

"I felt the years going by. I knew I was behind in training and in technique, and if I really wanted to be a dancer. I knew I'd have to catch up. So I thought of quitting school and devoting myself entirely to dancing," he recalls.

"Fortunately," he said, "a lot of people, including my dance teachers, discouraged me and told me to stay in school."

Which is why the University of Hawaii's graduating class of 1986 included an English major from Paupukalo, Maui, who wanted to dance.

A short time later, he headed for New York, looking for a professional company to join. That company turned out to be Pilobolus—a group he'd only heard of, never seen, before his audition.

Pilobolus' fame has been earned through regular New York appearances, including a couple of successful seasons in Broadway theaters, a rare feat for a dance troupe, and extensive touring schedules throughout the world.

They've been featured on PBS, on both "Dance in America" and "Great Performances."

Sevilla showed up at a Pilobolus audition, without having done anything much in the way of preparation.

He found himself standing before 10 men and women. "For one part of the audition," he says, "they gave you 30 seconds, and said, 'Move.' And then they gave you a minute-and-a-half and said, 'Move some more' "—all this with no musical accompaniment.

As he moved, the dancer recalled the words of one of his instructors: "The body never lies."

"I'm sure they could really see who we were as dancers through these improvisations, rather than giving you combinations of steps and seeing how well you could copy them. They wanted to see what kind of ideas we had in our heads."

The Hawaiian tour marks Sevilla's second anniversary with the company.

Mixed with the joy of performing at home, there's an element of sadness in the mix for him. One of the people who influenced him most intensely won't be in the audience—the late UH English professor Jack Unterecker.

What the Manoa professor told the dancing English major has resounded through John-Mario Sevilla's mind in good times and bad times alike.

"He made me understand that there's nothing wrong with dedicating your life to making something beautiful."

EAGLE SCOUT AWARD TO JAMES R. ONYSKO

HON. JOHN F. REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. REED. Mr. Speaker, I rise today to salute a distinguished young man from Rhode Island who has attained the rank of Eagle Scout in the Boy Scouts of America. He is James Robert Onysko of Troop 31, Crompton, in West Warwick, RI, and he was honored last week for his noteworthy achievement.

Not every young American who joins the Boy Scouts earns the prestigious Eagle Scout Award. In fact, only 2.5 percent of all Boy Scouts do. To earn the award, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. He must earn 21 merit badges, 11 of which are required from areas such as citizenship in the community, citizenship in the Nation, citizenship in the world, safety, environmental science, and first aid. Stephen also has the distinction to have been the Boy Scout of the Year in 1989.

As he progresses through the Boy Scout ranks, a scout must demonstrate participation in increasingly more responsible service projects. He must also demonstrate leadership skills by holding one or more specific youth leadership positions in his patrol and/or troop. This young man has distinguished himself in accordance with these criteria.

For his Eagle Scout project, Jim Onysko led fellow scouts in painting and renovating the Centreville United Methodist Church in West Warwick, RI.

Mr. Speaker, I ask you and my colleagues to join me in saluting Eagle Scout James Robert Onysko. In turn, we must duly recognize the Boy Scouts of America for establishing the Eagle Scout Award and the strenuous criteria its aspirants must meet. This program has through its 80 years honed and enhanced the leadership skills and commitment to public service of many outstanding Americans, two dozen of whom now serve in the House.

It is my sincere belief that Jim Onysko will continue his public service and in so doing will in the future distinguish himself and consequently better his community. I am proud that this young man undertook his scout activity in my congressional district, and I join friends, colleagues, and family who salute him.

TRIBUTE TO MINNIE PEARL JURNETT AND HER FIVE SONS

HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. TANNER. Mr. Speaker, I rise today to pay tribute to a family in my congressional district who has given an extra measure to the Operation Desert Storm effort. The mother, Minnie Pearl Jurnett, has sent five sons to the Persian Gulf.

The young men are: Tommy, a 35-year-old police officer from Nashville, TN, who is in the Army Reserve; William, a 33-year-old staff sergeant who was sent to the Persian Gulf in September with his cavalry group from Fort Bliss, OK; Terry, a 32-year-old staff sergeant who was deployed with an artillery battalion from Fort Stewart, GA, shortly after Iraq invaded Kuwait; Kenneth, a 24-year-old Navy gunner who left in November; and Keith, who is 19 years old and who joined the Army about 1½ years ago. He was transferred from South Korea early in January with his artillery unit.

Currently, William and Terry are near the Euphrates River in Iraq, helping supply the massive army that cut off and killed the infamous Republican Guard. Kenneth is a gunner on the battleship U.S.S. *Missouri*. Keith and Tommy are somewhere on the frontline.

At the Jurnett home in Maury City, TN, one wall of the den is covered with photographs of these sons in their uniforms. These 5 young men belong to a family of 13 children who have always been close to their mother. It was tough for them to leave their mother when duty called but they willingly went to the Persian Gulf to serve their country. Only the call of duty could get them to leave her.

Mr. Speaker, not only do I pay tribute to these young men who have served so honorably in Operation Desert Storm, but I also wish to pay tribute to their mother, Minnie Pearl Jurnett. She is a shining example of the family support that our troops have received during their time away from home. All of us know the sacrifices that our men and women in the combat zone make, but we must also remember the families of those troops back home who, too, must make great sacrifices to the cause.

The entire Desert Storm undertaking has proved to be a shining moment in the history of this country. We can all be proud of not only the individual efforts made, but of the collective effort by all the citizens of this country who have supported our troops during this time of national emergency. It is a proud day for America, for Minnie Pearl Jurnett, and for her sons, Tommy, William, Terry, Kenneth, and Keith. I thank them, and honor them, for their contribution to continued freedom for all people in the world.

INTRODUCTION OF NATIONAL SPORTS PRODUCTS MONTH

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. LEWIS of Florida. Mr. Speaker, we are all aware of the positive physical and mental aspects of a healthy lifestyle. For more and more Americans, this means participation in an athletic activity.

As the sports craze of the last few years has continued, one industry has grown responsibly with the trend—the manufacturers and distributors of athletic clothing, footwear, and equipment.

Virtually every State in the country boasts an economic presence created by sports products. Their impact is demonstrated every year at the annual trade show in Atlanta which drew over 80,000 visitors this February.

In addition, money from their trade show are channeled into several worthwhile programs to combat drug abuse and encourage participation in sports and recreational activities.

In recognition of the sporting goods manufacturers and distributors' impact on our Nation's economy, health, and youth, I have introduced National Sports Products Month. In my view, it is important for Congress to recognize the efforts of this important industry.

Mr. Speaker, I encourage my colleagues to join as a cosponsor of National Sports Products Month, and urge the House to pass this legislation.

A TRIBUTE TO DOROTHY SHULA

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. SMITH of Florida. Mr. Speaker, I would like to take this opportunity to pay tribute to Dorothy Shula, the wife of legendary Miami Dolphins football coach Don Shula. Mrs. Shula passed away recently.

Mrs. Shula was a teacher who for years battled the scourge of breast cancer. A true fighter, she lived a happy and fulfilling life, bringing up five children, two of whom are also coaches in the National Football League.

Not only did Mrs. Shula help support her husband and the Miami Dolphins organization, but she also fought for organizations and ideals that are important to all of us. College scholarships, funding for medical research, ending drug abuse—these are but a few of the projects that Dorothy Shula associated herself with. She believed in her family, the community and the good that she could do for others.

Dorothy Shula had a monumental influence on so many people. She will be sorely missed by all of those who had the pleasure of knowing her.

TRIBUTE TO THE LATE WARREN H. SPENCER

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 13, 1991

Mr. McDADE. Mr. Speaker, I am deeply saddened to bring to the attention of my colleagues the death of Warren H. Spencer, a man who has contributed greatly and selflessly to his Nation, the Commonwealth of Pennsylvania, and the people of Tioga and Potter Counties, whom he so effectively served for over two decades in the State house of representatives.

Those of us who knew Warren Spencer consider ourselves fortunate. He was a fantastic individual both in and out of the political arena. I know of no finer man, no better citizen, or no more effective legislator than Warren Spencer. He was a devoted family man, a dedicated public servant, a respected member of the legal profession, and a valued community leader. He leaves behind a loving family, countless friends and admirers, and a lifetime of achievement.

Warren was born and raised in Wellsboro, PA. He served as a paratrooper in World War II, and suffered war wounds, which cost him an eye and severely injured his hips and a hand. That experience, which nearly cost him his life, made him treat each day as a special gift.

After military service and graduation from Dickinson School of Law, Warren Spencer returned to Wellsboro to practice law, eventually forming the firm of Spencer, Gleason & Hebe. He served in the Pennsylvania State Legislature from 1962 to his retirement in 1984.

His talent and energy led to many legislative landmarks in Pennsylvania, and he gave his constituents the best representation they could have. He specialized in criminal and judicial reform as chairman of the judiciary committee, and he worked tirelessly as a champion of the northern tier and all of rural Pennsylvania.

Warren made enormous contributions to his community. He was a member of St. Paul's Episcopal Church, the American Legion, Disabled American Veterans, various Masonic groups, and numerous community organizations. He was president of the Wellsboro Electric Co. from 1985–89 and its chairman of the board from 1985 to 1990. He was also a director of Citizens & Northern Bank.

No mere listing of his accomplishments can never capture the type of man Warren Spencer was. He was always eager to help, always ready to go the extra mile for those who needed his help. It was a true pleasure to have known him, and it certainly saddens me a great deal that he is no longer with us.

My thoughts are with his wife, Julia, and daughter, Susan. They can take comfort in knowing that their husband and father touched so many lives in a positive way. He will not be forgotten.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, March 14, 1991, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 15

9:30 a.m.
Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To hold hearings on proposed legislation authorizing funds for mass transit.
SD–538

10:00 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Department of Agriculture, focusing on the Animal and Plant Health Inspection Service, the Food Safety and Inspection Service, and the Agricultural Marketing Service.
SD–138

Labor and Human Resources
Disability Policy Subcommittee
To hold hearings on proposed legislation authorizing funds for the Individuals with Disabilities Education Act, focusing on part H, relating to early intervention services for infants and toddlers.
SD–430

Labor and Human Resources
Aging Subcommittee
To hold hearings on proposed legislation authorizing funds for the Older Americans Act, focusing on services to low-income minority elders.
SD–192

MARCH 18

10:30 a.m.
Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for military construction programs, focusing on guard reserves and military services.
SD–138

2:00 p.m.
Energy and Natural Resources
To hold hearings on S. 341, the National Energy Security Act of 1991, focusing on section 5101 relating to the applicability of new source review to existing steam electric generating units—WEPCo.
SD–366

Foreign Relations
To hold hearings on the nominations of Charles R. Baquet III, of Maryland, to be Ambassador to the Republic of Djibouti, Michael T.F. Pistor, of Arizona, to be Ambassador to the Republic of Malawi, Katherine Shirley, of Illinois, to be Ambassador to the Republic of Senegal, Jennifer C. Ward, of the District of Columbia, to be Ambassador to the Republic of Niger, Melissa Foelsch Wells, of Connecticut, to be Ambassador to the Republic of Zaire, and Edward Johnson, of Michigan, to be a Member of the Board of Directors of the African Development Foundation.
SD–419

MARCH 19

9:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Department of Defense, focusing on issues relating to SSN-21, the submarine "Sea Wolf".
SD–138

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Department of Education, focusing on the Office of the Secretary of Education and Special Institutions.
SD–192

Environment and Public Works
Nuclear Regulation Subcommittee
To hold hearings on the financial and programmatic management of the Nuclear Regulatory Commission.
SD–406

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Small Business Administration, and the Economic Development Administration and the Minority Business Development Agency of the Department of Commerce.
S–146, Capitol

Banking, Housing, and Urban Affairs
To hold hearings to examine problems facing black males in America.
SD–538

Commerce, Science, and Transportation
Business meeting, to consider pending calendar business.
SR–253

Judiciary
To hold hearings on the nomination of Kenneth L. Ryskamp, of Florida, to be United States Circuit Judge for the Eleventh Circuit.
SD–226

1:00 p.m.
Governmental Affairs
Government Information and Regulation Subcommittee
To hold joint hearings with the House Committee on Post Office and Civil Service's Subcommittee on Census and Population to review the progress of the post-enumeration survey and whether additional statistical methods should be initiated to improve the census.
311 Cannon Building

2:00 p.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the National Park Service, Department of the Interior.
S–128, Capitol

Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for the General Services Administration, and the United States Postal Service.
SD–116

Armed Services
To resume hearings on proposed legislation authorizing funds for fiscal years 1992 and 1993 for the Department of Defense, and to review the fiscal years 1992–1997 future year defense plan.
SR–222

Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on S. 341, the National Energy Security Act of 1991, focusing on subtitle A of Title V relating to coal and coal research.
SD–366

Energy and Natural Resources
Energy Regulation and Conservation Subcommittee
To hold hearings on S. 341, the National Energy Security Act of 1991, focusing on Title III provisions relating to building energy efficiency standards and ratings.
SD–430

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for foreign assistance, focusing on aid to Africa.
SD–138

MARCH 20

9:00 a.m.
Armed Services
To continue hearings on proposed legislation authorizing funds for fiscal years 1992 and 1993 for the Department of Defense, and to review the fiscal years 1992–1997 future year defense plan.
SR–222

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, Office of Inspecter General, and the National Credit Union Administration.

SD-116

Energy and Natural Resources

To hold hearings on S. 341, the National Energy Security Act of 1991, focusing on Title XI relating to Corporate Average Fuel Economy (CAFE).

SD-366

Governmental Affairs

To hold hearings on FTS 2000.

SD-342

Rules and Administration

Business meeting, to mark up proposed legislation relating to Congressional election campaign finance reform.

SR-301

Small Business

To hold hearings on the Small Business Administration's small business companies program, focusing on the status of new and proposed regulations and the overall posture of the program.

SR-428A

10:00 a.m.

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for the Urban Mass Transportation Administration and the Washington Metropolitan Area Transit Authority.

SD-138

Banking, Housing, and Urban Affairs

To resume hearings on financial modernization of the banking industry, focusing on interstate banking.

SD-538

2:00 p.m.

Energy and Natural Resources

To resume hearings on S. 341, the National Energy Security Act of 1991, focusing on Title XI provisions relating to transportation issues, and on the Administration's proposal contained in the National Energy Strategy relating to alternative-fuel fleets.

SD-366

MARCH 21

9:00 a.m.

Appropriations

Defense Subcommittee

To hold closed hearings on proposed budget estimates for fiscal year 1992 for the Department of Defense, focusing on the national foreign intelligence program.

S-407, Capitol

9:30 a.m.

Energy and Natural Resources

To hold hearings to review the status of implementation of the Department of Energy's civilian nuclear waste program mandated by the Nuclear Waste Policy Act of 1982 and its 1987 revisions.

SD-366

Governmental Affairs

Government Information and Regulation Subcommittee

To hold hearings on improving access to student financial aid, focusing on related provisions of S. 501, to establish a data collection, information dissemination, and student counseling and assistance network.

SD-342

Rules and Administration

To hold hearings on S. 250, to establish national voter registration procedures for Federal elections.

SR-301

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs on the proposed Soldiers' and Sailors' Civil Relief Act.

334 Cannon Building

Select on Indian Affairs

To hold joint hearings with the House Interior Committee on S. 291, to settle certain water rights claims of the San Carlos Apache Tribe.

SR-485

10:00 a.m.

Appropriations

Labor, Health and Human Services, Education Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for ACTION, the Federal Mediation and Conciliation Service, the National Mediation Board, the Railroad Retirement Board, the Federal Mine Safety and Health Review Commission, the National Labor Relations Board, and the Occupational Safety and Health Review Commission.

SD-192

Appropriations

Treasury, Postal Service, General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for the Internal Revenue Service, and Financial Crimes Enforcement Network, Department of the Treasury.

SD-116

Finance

To hear and consider the nomination of Renato Beghe, of New York, to be a Judge of the United States Tax Court.

SD-215

10:30 a.m.

Commerce, Science, and Transportation

Consumer Subcommittee

To hold hearings on S. 591, to increase automobile safety by requiring airbags for certain newly manufactured vehicles.

SR-253

2:00 p.m.

Appropriations

Labor, Health and Human Services, Education Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for the Physician Payment Review Commission, the Corporation for Public Broadcasting, the National Commission on Libraries, the U.S. Institute of Peace, the National Commission on AIDS, the Prospective Payment Assessment Commission, the National Commission to Prevent Infant Mortality, and the Soldiers' and Airmen's Home.

SD-192

Energy and Natural Resources

Energy Regulation and Conservation Subcommittee

To hold hearings on S. 341, the National Energy Security Act of 1991, focusing on subtitle A of Title IV relating to the export of renewable energy and energy efficiency technology.

SD-430

2:30 p.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 292, to expand the boundaries of the Saguaro National Monument, Arizona, S. 363, to authorize the addition of 15 acres to Morristown National Historical Park, New Jersey, S. 545, to authorize the additional use of land in Merced County, California, and S. 549, to designate the Lower Merced River in California as a component of the National Wild and Scenic Rivers System.

SD-366

MARCH 22

10:00 a.m.

Appropriations

Agriculture and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for the Department of Agriculture, focusing on the Food and Nutrition Service, and the Human Nutrition Information Service.

SD-138

Finance

International Trade Subcommittee

To hold hearings on the renewal of the U.S.-Japan Semiconductor Trade Agreement.

SD-215

APRIL 9

10:00 a.m.

Appropriations

Commerce, Justice, State, and Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for the National Oceanic and Atmospheric Administration and the National Institute of Standards and Technology of the Department of Commerce.

S-146, Capitol

1:00 p.m.

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for certain transportation programs.

SD-138

2:30 p.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for foreign assistance, focusing on aid to Latin America.

SD-192

APRIL 10

9:30 a.m.

Commerce, Science, and Transportation

Consumer Subcommittee

To hold hearings on proposed legislation authorizing funds for the National Highway Traffic Safety Administration.

SR-253

Environment and Public Works

Superfund, Ocean and Water Protection Subcommittee

To hold hearings to examine lender liability as related to Superfund.

SD-406

Rules and Administration

To resume hearings on S. 250, to establish national voter registration procedures for Federal elections.

SR-301

10:00 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Department of Agriculture, focusing on the Farmers Home Administration, the Federal Crop Insurance Corporation, and the Rural Electrification Administration.
SD-138

Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the White House residence, and the Office of Personnel Management.
SD-116

1:30 p.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Inter-agency Council on the Homeless, and the Department of Housing and Urban Development.
SD-124

APRIL 11

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Research and Special Programs Administration of the Department of Transportation, and the National Transportation Safety Board.
SD-138

2:00 p.m.
Energy and Natural Resources
To hold hearings on S. 343, to provide for continued United States leadership in high performance computing.
SD-366

APRIL 12

9:30 a.m.
Select on Indian Affairs
To hold hearings on S. 168, to provide additional financial compensation to the Three Affiliated Tribes (Mandan, Hidatsa, and Arikara Tribes that reside on the Fort Berthold Indian Reservation) and the Standing Rock Sioux Tribe for the taking of reservation lands for the sites of the Garrison Dam and Reservoir and the Oahe Dam and Reservoir.
SR-485

APRIL 16

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Departments of Labor, Health and Human Services, Education, and related agencies.
SD-192

Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on the Department of Energy's superconducting super collider program.
SD-366

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Office of the U.S. Trade Representative, and the International Trade Administration of the Department of Commerce.
S-146, Capitol

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on aid to Eastern Europe.
SD-138

APRIL 17

9:00 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the AMVETS, the American Ex-Prisoners of War, the Jewish War Veterans, and the Veterans of World War I.
345 Cannon Building

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Departments of Labor, Health and Human Services, Education, and related agencies.
SD-192

10:00 a.m.
Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Office of Management and Budget, and the Executive Office of the President.
SD-116

1:30 p.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the United States Court of Veterans Affairs, and the Department of Veterans' Affairs.
SD-138

APRIL 18

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Departments of Labor, Health and Human Services, Education, and related agencies.
SD-192

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the United States Information Agency and the Board for International Broadcasting.
S-146, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Federal Highway Administration, Department of Transportation.
SD-138

APRIL 19

10:00 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Department of Agriculture, focusing on the Commodity Futures Trading Commission, the Food and Drug Administration, the Farm Credit Administration, and the Farm Credit System Assistance Board.
SD-138

APRIL 23

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings to examine the science education programs of various Federal agencies.
SD-138

Appropriations
Labor, Health and Human Services, Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Departments of Labor, Health and Human Services, Education, and related agencies.
SD-1902

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Federal Bureau of Investigation and the Drug Enforcement Administration of the Department of Justice.
S-146, Capitol

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on security in the post-cold war era.
SD-138

APRIL 24

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Office of Science and Technology Policy, and the National Science Foundation.
SD-124

Appropriations
Labor, Health and Human Services, Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Departments of Labor, Health and Human Services, Education, and related agencies.
SD-192

2:30 p.m.
Select on Indian Affairs
To hold oversight hearings on new school construction, repair, and improvement

on Bureau of Indian Affairs' school facilities.

SR-485

APRIL 25

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for the Departments of Labor, Health and Human Services, Education, and related agencies.

SD-192

10:00 a.m.

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for the U.S. Coast Guard, Department of Transportation.

SD-138

Appropriations

Treasury, Postal Service, General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for the Office of National Drug Control Policy.

SD-116

APRIL 26

10:00 a.m.

Appropriations

Agriculture and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for the Department of Agriculture.

SD-138

MAY 7

1:00 p.m.

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for the National Highway Traffic Safety Administration and the Office of Inspector General, Department of Transportation.

SD-138

2:30 p.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for foreign assistance, focusing on AID management issues and reform efforts.

SD-192

MAY 8

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for the National Space Council, and the National Aeronautics and Space Administration.

SD-138

MAY 9

10:00 a.m.

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for the Federal Aviation Administration, Department of Transportation.

SD-138

MAY 14

2:30 p.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on U.S. trade.

SD-138

MAY 15

1:30 p.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for the Commission on National Service, and the Points of Light Foundation.

SD-138

MAY 16

10:00 a.m.

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for the General Accounting Office.

SD-138

MAY 17

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for the Departments of Veterans Affairs, Housing and Urban Development, and independent agencies.

SD-138

MAY 21

2:30 p.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on international AIDS crisis.

SD-138

3:45 p.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on the Peace Corps expansion and change.

SD-138

MAY 23

10:00 a.m.

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for certain transportation programs.

SD-138

JUNE 4

2:30 p.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance.

SD-138

CANCELLATIONS

MARCH 20

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for the Department of Education, focusing on the Offices of the Assistant Secretaries of Education, and the Office of Inspector General.

SD-192

HOUSE OF REPRESENTATIVES—*Thursday, March 14, 1991*

The House met at 11 a.m.

The Rev. W. Douglas Tanner, Jr., Virginia Annual Conference of the United Methodist Church, offered the following prayer:

O Lord God, we open this session with snow and sleet falling outside on daffodils in full bloom, and we find ourselves conscious that there are times when the seasons of nature are unpredictable. Facing the aftermath of war in the Persian Gulf, we are reminded that there are times when the seasons of politics are also unpredictable.

So we pray on this day that this body might find wisdom to live into this new season, and that that wisdom might be marked by courage, and grace, and humility. Heal the wounds in our spirits that were sustained in the season of the war, and lead us to be instrumental in binding the wounds about us in this season of its cessation: those of our own troops and their friends and families; those of the many Iraqi soldiers who never chose to be on that battlefield, and their friends and families; those of Kuwaitis whose consequent rage tempts them to destructive vengeance; those of Israelis and Palestinians whose longstanding acquaintance with injustice and terror fosters fear and leaves little room for trust; and those of some of our own veterans of past wars living on the streets of our cities, without work, without homes, without hope.

Lead us likewise, we pray, to dare in this season to seek to become more fully respectful of each other, and to seek a generosity of spirit toward each other that might symbolize a new season.

These things we pray, that we might become who You call us to be. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Utah [Mr. OWENS] please come forward and lead the House in the Pledge of Allegiance.

Mr. OWENS of Utah led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 1176. An act to provide authorizations for supplemental appropriations for fiscal year 1991 for the Department of State and the Agency for International Development for certain emergency costs associated with the Persian Gulf conflict, and for other purposes, and

H.R. 1284. An act to authorize emergency supplemental assistance for Israel for additional costs incurred as a result of the Persian Gulf conflict.

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 11. Concurrent resolution to establish an Albert Einstein Congressional Fellowship Program.

ADJOURNMENT TO MONDAY, MARCH 25, 1991

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at noon on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

ACHIEVING LASTING PEACE IN THE MIDDLE EAST

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, I take this moment to commend the President of the United States, George Bush, and Secretary of State, James Baker, on their efforts around the world to secure a lasting peace in the Middle East. Certainly they are to be commended for the way Desert Storm, the effort to free Kuwait, was prosecuted, and it looks like they are bringing the same zeal to bear in pursuing peace in the region.

However, Mr. Speaker, I am disquieted by one thing. It does appear the President has warmed toward the prospects of resuming arms sales to the nations of the Middle East, the very region in which weapons were used against our men and women. I hope that the President would reconsider.

This goal of parity of arms is very elusive and very difficult to achieve. I would like to think that better than parity is no sales at all for a while. Let the place cool down and then we can take up the cause of peace. I think we would have a better situation to achieve a lasting peace without arms sales than with them.

OPERATION DEFICIT STORM

(Mr. COBLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COBLE. Mr. Speaker, following President Bush's recent address to the joint session of Congress, I was asked by a member of the media: "What next?" I told her now that Operation Desert Storm has been resolved, we must focus our attention upon Operation Deficit Storm.

The guns of war have fallen silent in the desert, but the shrill, harsh sound of the guns of deficit spending and fiscal recklessness continue to be heard on Capitol Hill and across our country, continue in fact to plague us daily.

If we are to silence these guns, Mr. Speaker, if we are to resolve Operation Deficit Storm, we must demonstrate the dedication and discipline that was displayed in the gulf during Operation Desert Storm.

SUPER-IRA

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKLE. Mr. Speaker, earlier this week I joined with BILL THOMAS of California in introducing legislation to bring the individual retirement account [IRA] out of its premature retirement. This Super-IRA legislation, H.R. 1406, is the House companion to the bill introduced by Senator LLOYD BENTSEN and Senator WILLIAM ROTH and cosponsored by 75 Members of the other body. Mr. THOMAS and I have sent a "Dear Colleague" letter to each

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

of your offices, along with a summary of the bill's major provisions and the problems it seeks to address. We hope that you will join us by cosponsoring this measure.

The individual retirement account was a retirement plan once popular with a broad cross-section of Americans. However, in paring back the full tax deductibility of IRA's in 1986, Congress prematurely retired the IRA as an attractive retirement incentive. The legislation we have introduced will restore the universal availability of the fully tax deductible IRA.

This bill will improve on the traditional IRA by allowing people to choose between tax deductible contributions to traditional IRA's or contributions to new IRA's from which earnings would not be taxed when they are withdrawn. The bill would also allow penalty-free withdrawals from IRA's, 401(k), and 403(b) plans for first-time home purchases, higher education expenses, and devastating medical expenses.

This Super-IRA plan will not only restore incentives for individuals to save for retirement, but also for two of the biggest investments that people have to make during their lifetimes—purchasing a home and paying for their children's education. It will also correct the current situation in which a tax penalty is imposed on people who are forced to make withdrawals from their IRA to pay for costly medical expenses for themselves or a family member with a serious illness. We believe it is critical to address these needs.

Mr. Speaker, I hope my colleagues will take time to review the Pickle-Thomas Super-IRA bill. We plan to submit a list of additional cosponsors before the Easter recess, so if you would like to cosponsor this legislation or have any questions, please contact either my office or Mr. THOMAS' office.

FBI INVESTIGATION OF ABUSE OF AUTHORITY BY LAW ENFORCEMENT AGENCIES

(Mr. BERMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BERMAN. Mr. Speaker, I rise to urge, to insist that the FBI immediately undertake an investigation of what I fear is systemic police brutality in Los Angeles.

Many of my colleagues saw the videotape of the relentless beating of a suspect by three police officers while a dozen others looked on. This particular disgraceful incident happened to occur in the congressional district I represent, and it happened to have been videotaped. But I have the awful sense that it was not an isolated aberration.

While the victim of police abuse may indeed have committed a crime, that is not the point. Police lawlessness is particularly heinous because it is cloaked with the authority of the State.

We treat with special severity crimes against police officers because of the risk they take on our behalf. By the same token, when police abuse their authority, punishment must be swift and severe.

For the Director of the FBI to say, as Judge Sessions did recently, that he lacks authority to conduct systemic investigations is unadulterated hogwash. The FBI clearly has the authority to investigate allegations of patterns of deprivation of civil rights, civil rights which have been protected since the passage of the 14th amendment and since the passage of the Civil Rights Act of the 1860's.

While most police officers in Los Angeles are law abiding, respectful of their role and their authority and risk their lives on our behalf, what happened to Rodney King is a blot on Los Angeles and on this Nation. We must see that it never happens again.

□ 1110

REINTRODUCTION OF THE UTAH BLM WILDERNESS ACT

(Mr. OWENS of Utah asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS of Utah. Mr. Speaker, in these Halls, we often take actions with impacts thousands of miles away—an intimidating and inspiring responsibility. Today, I am reintroducing the Utah BLM Wilderness Act, H.R. 1500, which will affect the way the public lands will be managed in Utah for generations to come. I anticipate a long struggle to secure final passage of wilderness legislation in Utah, and I want to take a few minutes today and explain just why I am willing to make the effort.

Fifteen million years ago, the sea receded from what is now the Western United States for the final time. The land began to rise, eventually forming the Colorado Plateau, over a mile high, and the Rocky Mountains. Since that time, erosion has turned this 100,000-square-mile area into one of the scenic wonderlands of our planet. The Grand Canyon is here. So are Zion National Park, Canyonlands, Bryce Canyon, Capitol Reef, and countless other canyons and landmarks. Bob Marshall, the founder of our Government's wilderness preservation system, once said Utah was second "only to Alaska in its beauty and majesty." As much as I love Alaska, I'm not sure I would put Utah second. This spectacular plateau region of national treasures needs more protection than it has so far received. Fifty years ago, an inventory of Utah wilderness found about 18 million acres of de facto wilderness. Today, that number has been reduced by more than two-thirds. In 10 more years, we will see further significant loss of wilderness-quality lands. As the reservoir of wilderness lands becomes more restricted, the value of each parcel will increase. If we are going to preserve these lands, we must do so quickly. We will most likely never have any more wilderness-quality lands in our Nation than we have at this moment today and we must carefully evaluate what we are willing to lose.

Wilderness is lost gradually, through attrition, almost unnoticeably, an unnecessary new road here, a new mining claim there. Only our children will notice just how much has been lost. Most of this development would have little to do with the economic vitality of surrounding communities. The Utah BLM wilderness bill is an attempt to preserve and protect the best of the wilderness that remains in Utah. I am proposing 5.4 million acres of BLM wilderness in Utah, about 10 percent of the State. I do not expect to see all these areas permanently protected as wilderness and I am ready for the give-and-take of informed negotiation. But the reintroduction of this bill will at least allow Congress the opportunity which was taken from it during the Watt and Reagan years to objectively review the wilderness quality of these lands and balance that against potential economic development. For nearly half of these lands, that was never done.

The bill will preserve the most outstanding wildlands which remain of Utah's 32 million acre public domain. Presently only 800,000 acres of Forest Service lands receive wilderness protection in Utah. Most of this proposed wilderness lies within the drainage systems of the Colorado River, where the erosional carving tools of nature have already led to the establishment of seven national parks. The rest is located in the unique desert island ecosystems of Utah's Great Basin. These are wildlands of extraordinary diversity and splendor, from ponderosa forests to parched badlands, rugged desert mountains to wild rivers, and rainbow-hued canyons with plunge pools and waterfalls to red sandstone mesas, monoliths, and arches. They are rich with wildlife. Some species found in this wilderness are struggling to survive—the desert tortoise, desert bighorn sheep, and the Nation's largest free-roaming herd of buffalo outside of Yellowstone. These lands are also home to the archeological treasures of the ancient Fremont and Anasazi Indian cultures.

"In Wilderness is the preservation of the World." So wrote Henry David Thoreau in 1848, many years ahead of his time. Few people would now dispute that humankind is better off when we respect natural systems. In an era of very probable global warming, ozone depletion, acidic lakes, and deforestation, we are learning that, to paraphrase Jefferson, when we govern nature least, we govern best.

And the way to govern least is to establish wilderness reserves for perpetuity. It is, in some ways, an act of faith, a recognition that a system that has done so well for millions of years will do well without our interference for many more. When wilderness is protected, watershed is protected. Biological diversity is protected. The proper functioning of a natural system is protected. Last year, I had the chance to spend a few moments with David Brower, a legendary figure in the conversation movement, and now head of the Friends of the Earth. He told me that his daughter had been cured of an illness over a decade before through a nearly miraculous drug found in a plant on the island of Madagascar. His daughter is now healthy, but that plant, like so many others, is extinct. Establishing our dominance and impact on every square mile of this planet would mean killing the goose that laid the golden egg. Wilderness cannot easily be created, but it is extraordinarily fragile and can be destroyed in a few moments. Statutory protection is the only way to achieve our goal of maintaining a wilderness reserve on this planet.

There will sometimes be a plausible economic scenario for developing wilderness and final decisions on wilderness status will reflect a relative balancing of values. Is there any inherent value to leaving an area the way God made it? Will this value always be secondary to any conceivable, even impractical use? Maybe we can't eat wilderness, or sell wilderness, or wear wilderness—but we love it all the same, and it gives us unique rewards. Wilderness must exist for the same reason museums and art must exist: to elevate and to inspire the human soul. The Mona Lisa could be used for wrapping fish. Eagles could be sold as poultry. But sometimes there is a higher spiritual value. As John Muir said, referring to the Redwoods of the California Coast, "Surely these trees would make fine lumber after passing through a sawmill, just as George Washington would make fine food after passing through the hands of a French chef." And wilderness could probably be profitably developed in places. But the question is whether it should be.

There is a basic human affection for areas left in their natural state, an affection that increases as they become all too rare. The necessity of beauty for beauty's sake is the strongest argument we have, and one that strikes a responsive chord in most people. But this doesn't mean that I downplay the idea that wilderness in Utah will have positive economic effects—quite the opposite. Everything I have read or researched indicates that few practical resources will be lost, while interest in the region will bring visitors, money, and growth. Nor does this mean that I downplay the scientific justification for wilderness preservation. We need our wilderness for medicine, for watershed protection, for a stable and diverse gene pool. But the simplest argument to make—and the one which is ultimately most compelling—is that wilderness should be saved because it is beautiful, irreplaceable, and our lives would not be as complete or as full without it.

Surely, as John Muir said, the woods were mankind's first home and we have discovered that "going out is really going in." We need wilderness for what it does for the human spirit, for the freedom it inspires, and for the beauty that enhances our quality of life. What we now elect to save in Utah over the next few years will always remain. What we refuse to protect can never be recovered. This is a decision for the future, for our children and their children. I believe the decision we make here collectively, as citizens of the State of Utah and the United States, and as a Congress, will be an important statement on how we view our stewardship responsibility toward the Earth.

Wilderness designation is an exercise in patience and negotiation. This is our last chance, in all likelihood, to preserve large tracts of land for our childrens' heritage, unspoiled and permanently beautiful. We need hearings, we need debate, we need discussion. We need negotiation and compromise. As the facts about wilderness fully emerge—especially those detailing the economic benefits possible for southern Utah if its beauty is permanently preserved—the perception of the issue in rural Utah may shift. Wilderness and economic growth are compatible. Utah's natural beauty is its greatest economic asset. Wilderness can—and should—make us money. What makes a tourist travel to southern Utah? Is it industry they hope to see? Mines? Denuded rangeland? Obviously not. They are seeking beauty. They want to be amazed. Beauty will never drive a tourist away. Wilderness preserves that beauty. The wilderness areas I have proposed are surprisingly accessible to the average tourist. The 126 individual parcels are often separated by or surrounded by roads. Much of the proposed wilderness is visible from a car, whether looking down into a canyon or up at an escarpment. No spot in my bill will be more than 7 miles from an existing road or floatable river.

I have had the privilege over the last 2 years of visiting the residents who will be most affected by the wilderness bill I have proposed. Although the reception was always cordial, it was very clear that a great rift of opinion exists over wilderness in Utah. One argument which seemed effective was simply this: Would any of the people I spoke to be willing to live in a place which was completely developed, completely exploited, without the quiet corners of natural beauty that make Utah so unique? The question is not whether to preserve significant portions of Utah's natural beauty, but simply how much.

Last Congress, 106 of our colleagues in the House joined me in cosponsoring H.R. 1500, The Utah BLM Wilderness Act. Sixty Members are original cosponsors of the bill today, and I hope to eventually have a majority of the House, to demonstrate our commitment to these wild lands, regardless of what obstacles we may face on this question. This is truly a national issue, and these lands are national treasures. The Utah BLM Wilderness Act is identical to what was introduced last Congress except for the addition of standard "boilerplate" water language from last year's bipartisan Arizona wilderness bill which establishes a Federal reserved right, junior to all others, that guarantees that wilderness areas will not be dewatered in the future.

H.R. 1500 is endorsed by all major national conservation organizations and 35 independent Utah conservation groups. It calls for the preservation of over 2 million acres more than the BLM was even willing to study for wilderness designation. Curiously, the BLM began its Utah wilderness study over 10 years ago by identifying more than 5 million acres as qualifying for wilderness review. Then, astonishingly, the BLM methodically eliminated from consideration all wildlands where potential conflicts with economic development were speculated.

Ten years later, we see how unwise that approach was, because none of that speculated economic development ever took place. At the same time, our national interest and commitment to preserving extraordinarily beautiful, irreplaceable wilderness areas steadily increased. Utah is realizing that its fastest growing area of economic opportunity, tourism, is entirely dependent on the preservation of its natural beauty. These changing circumstances and values make clear that Congress should not be limited by the Bureau of Land Management in its analysis of Utah's wilderness lands. The outdated judgment calls of the BLM have unfairly and arbitrarily restricted evaluation of many wilderness-quality lands which should, by all rights, be fully considered by Congress.

After all, while the BLM has the responsibility to make wilderness recommendations, the Congress itself has the ultimate responsibility to designate wilderness lands. The national conservation community agrees that preserving Utah's BLM wilderness is among the most critical environmental efforts of the coming decade. There is nothing else quite like Utah's wilderness lands on Earth—and what we lose today, we lose forever.

No one, least of all the residents of southern Utah is willing to see all the wilderness of southern Utah disappear. The question is not then whether we will preserve wilderness, but how much—and when. To paraphrase John Muir, only God can create a wilderness—and only good government and wise lawmaking can preserve it. I hope we will be wise enough to save a significant portion of Utah's remaining wilderness. It is the finest legacy we can leave our children and generations yet unborn.

NEW MEXICO TEAMS IN NCAA TOURNAMENT

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, March madness is upon us. Today marks the start of the 1991 NCAA Mens College Basketball Tournament. This is an especially exciting time for the State of New Mexico, which fields two outstanding teams in this year's tournament. The University of New Mexico Lobos, who are participating for the first time since 1978, and the New Mexico State Aggies, making their second straight NCAA appearance.

The Lobos and coach Dave Bliss will open up against the Cowboys from Oklahoma State, and are led by senior center Luc Longley, the team leader in scoring and rebounds. Senior guard Rob Robbins helps round out a fine supporting cast that includes seniors Jimmy Tayler and Kurt Miller, junior guards Willie Banks, and V. McCrary, and sophomores Khari Jaxon and Ike Williams.

The New Mexico State Aggies, coached by Neil McCarthy, are currently ranked 15th in the Nation, and are making their second consecutive appearance to the NCAA Tournament. The Aggies, with 23 wins, are known for their tough defense, forcing an average of 21 turnovers per game. They will face the Creighton University Bluejays in the first round.

Mr. Speaker, these are two big games for basketball fans in New Mexico. I'm rooting for two big wins, but regardless of who advances in the tourney, I can tell you the Lobos and Aggies are both big winners. They have both come a long way this season, struggling at times and winning big at times. These teams have made our State proud. My hat is off to the Lobos and Aggies. Good luck!

WE HAVE DEVELOPED A FOURTH BRANCH OF GOVERNMENT

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, Joseph Sobran, a nationally syndicated columnist, said in one of his columns a few days ago:

> Most Americans are more afraid of what their own Government can do to them than of any foreign menace. The tax police have frightening power only partly limited by the Constitution. Young people have been far more worried about a return of the draft than about Arab terrorists. Regulatory agencies can ruin a small business. You can probably lengthen this list from your own experience.

This is a sad situation when a respected columnist says that most Americans are afraid of their own Government.

Today we have developed a fourth branch of the Government, of the Federal Government, never envisioned by our Founding Fathers, and that is our unelected, elitist Federal bureaucracy. It has now perhaps become the most powerful branch of all.

Today, unfortunately, our Federal Government has become one that is of, by, and for the bureaucrats instead of, by, and for the people. This has come about in part, in large part, because we have a civil service system that does almost nothing for good, competent, dedicated workers, but serves to protect lazy and incompetent workers, and makes it ridiculously expensive and almost impossible to remove a worker who does not do his job.

I know that it sounds good on the surface when someone in a newspaper or some person says, "Let us take the politics out of this or that," but I hope everyone will remember that the political process is the only thing that gives the people of this country some say-so or some control over or some voice in their Government.

PRESIDENT'S CRIME PACKAGE A REAL STEP FORWARD

(Mr. RAMSTAD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAMSTAD. Mr. Speaker, the crime package announced by President Bush this week is a real step forward for this Nation's crime- and drug-fighting efforts.

Violent crime has reached outrageous levels in this country. Things are so bad that the average citizen in the United States is more likely to be the victim of a violent crime than of an automobile accident. During the first 100 hours of the ground war offensive in the Middle East, more Americans were killed in our major cities as a result of crimes than on the entire Kuwaiti front lines.

The first right of any citizen is to feel safe in their homes and neighborhoods. The American people are calling for action now to stop violent crime.

The program announced by the President calls for putting real teeth into our criminal justice system by enforcing swift and certain punishment for violent crimes. We need to extend the death penalty to drug kingpins, terrorists, and serial killers.

Also, the appeals process needs reform.

In addition, a policy toward gun-related violence should be very clear. If you use or threaten to use a firearm to commit a violent crime, you must go to prison, no exceptions, period.

Mr. Speaker, I urge the House to heed the President's request and pass this important crime-fighting legislation in the next 100 days.

PERMISSION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO FILE REPORT ON H.R. 355, AMENDING THE RECLAMATION STATES DROUGHT ASSISTANCE ACT

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be permitted to have until 5 p.m., Friday, March 15, to file the report on H.R. 355, to amend the Reclamation States Drought Assistance Act to extend the period of time during which assistance may be provided.

The SPEAKER pro tempore (Mr. LAUGHLIN). Is there objection to the request of the gentleman from West Virginia?

There was no objection.

□ 1120

THE 224TH ANNIVERSARY OF THE BIRTH OF ANDREW JACKSON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. CLEMENT] is recognized for 60 minutes.

Mr. CLEMENT. Mr. Speaker, as many of my colleagues know, I have the honor of being the 38th individual to serve the district first represented here in the House of Representatives by Andrew Jackson.

Thus, I am pleased to speak on the eve of the 224th anniversary of the birth of Andrew Jackson, our Nation's seventh president.

To many of us, Jackson is best known for his stern countenance on the $20 bill. But, in his era, "Old Hickory" was a celebrity who earned his nickname through toughness in battle, driving ambition, passionate loyalty, and burning hatreds. Rising from a penniless orphan to a legendary president, Andrew Jackson became an American icon who excites controversy even today.

Recently, the Smithsonian's National Portrait Gallery presented an intimate look at our Nation's seventh president through an exhibition entitled "Old Hickory: A Life Sketch of Andrew Jackson." More than 70 likenesses of Jackson were on display, including paintings, engravings and political cartoons.

Also on view were maps, personal letters, dueling pistols and portraits of some family members as well as such contemporaries as Martin Van Buren, his cunning Vice President; the consumate political Henry Clay, who was an enemy of Jackson; and Choctaw Chief Pushmataha, an ally who became an enemy when Jackson forced the Choctaw tribe to abandon its territory to the white man.

An adept "media president." Old Hickory played many political roles, providing artists with a wide spectrum of personas. Many were included in the exhibition.

The exhibition revealed Old Hickory's prowess in battle, which was both praised and reviled in contemporary prints. One example, an engraving by Francisco Scacki, recreated the legendary battle of New Orleans in which Jackson led a rag-tag group to victory over a far larger and better organized British force.

An anonymous cartoon exhibited revealed a darker side. Depicting Jackson as the "Great Father," it lampooned his lack of compassion for native Americans. Both in his early wars against the Creek and Seminole and in his later drafting of the 1830 Indian Removal Act, which was responsible for the brutal relocation of Indians west of the Mississippi, Jackson reflected the cruel indifference of his era to the welfare of American Indians.

The exhibition also cast light on Jackson's political campaigns, in which he was vigorously attacked for marrying a divorced woman. Also explored were aspects of Jackson's controversial Presidency that offer a perspective on today's political issues. Jackson, for instance, was the only President to have paid off the national debt. And he used his veto power more times than all his predecessors put together. The first President to take advantage of the executive powers, he has also the first to suffer an assassination attempt.

Mr. Speaker, accompanying the exhibition was an outstanding, fully illustrated catalog whose introduction was written by Jackson scholar, Robert Remini.

And, on this birthday anniversary, I would include with my remarks Remini's scholarly assessment of Jackson, his life and times.

In the opinion of some Americans, Andrew Jackson was the most popular man this Nation had ever produced prior to the Civil War. George Washington, Thomas Jefferson, Patrick Henry, Benjamin Franklin, James Madison—all remarkable and beloved figures—could not compare to Old Hickory in their affections.

More popular than the "Father of His Country?" Could that be possible? Indeed, so, Philip Hone, a New York merchant, confided to his diary in June 1833. President Jackson, he wrote, "is certainly the most popular man we have ever known. Washington was not so much so. His acts were popular * * * but he was superior to the homage of the populace, too dignified, too grave for their liking, and men could not approach him with familiarity." Although Hone opposed Jackson politically and preferred Henry Clay, he was forced to admit that the seventh President of the United States was "a gourmand of adulation * * * [and] no man ever lived in the country to whom the country was so much indebted. Talk of him as the second Washington. It won't do now; Washington was only the first Jackson."

Even after Old Hickory died, some men tried to vote for him for President during the crisis of 1860, as though by their collective vote they could raise him for the grave to help the Nation escape the horrors of approaching disunion and civil war.

He was also a genuine celebrity. People came from miles around to see him when they heard that he might pass through their district. As his steamboat plied the Ohio River, taking him back and forth from his home in Tennessee to the Capital, masses of shouting, waving, applauding people gathered along the river bank to call to him, salute him, and wish him success.

For his devoted followers, Andrew Jackson was the Nation's finest image of itself during the first half of the 19th century. The original self-made man, he personified everything good and heroic and successful in American life. Although orphaned at an early age and burdened by poverty and a limited education, he rose to become a distinguished planter, lawyer, judge, military commander, and statesman.

Most important of all, Jackson won the Battle of New Orleans against tremendous odds. That victory alone enshrined him forever in the hearts of his countrymen. Throughout the War of 1812, the United States had suffered one military defeat after another. Its coastline was blockaded, its Capital burned, its reputation besmirched throughout Europe. Some Americans actually feared for the survival of its experiment in liberty and republicanism.

Then came New Orleans. A rag-tagged conglomeration of militiamen, regular army enlistees, sailors, pirates, Indians, and a "colored battalion" met a surperior force of invading British soldiers in a swampy area along the Mississippi River, just a short distance south of New Orleans. The Americans lined up behind a ditch that ran from the river to a cypress swamp, while the British Army, in full regalia, with flags flying and martial music blaring, attacked. Wave after wave of redcoats assaulted the ditch. And wave after wave of British officers and men pitched to the ground, as the American sharpshooters picked them off one by one. As the "flashing and roaring hell" in front of them grew more intense, the invaders recoiled and then began a general retreat.

When the firing ceased and the Americans scaled the parapet protecting their ditch, the scene gave Jackson the "grand and awful" sense of what the resurrection might be like. "After the smoke of the battle had cleared off somewhat," he later wrote, "I saw in the distance more than five hundred Britons emerging from the heaps of their dead comrades, all over the plain, rising up, and still more distinctly visible as the field became clearer, coming forward and surrendering as prisoners of war to soldiers." The casualties among the British soldiers totaled 2,037; among Americans only 13 were killed, 39 wounded, and 19 missing in action.

It was a fantastic victory, the greatest feat of American arms in history up to that time. The British soldiers who had defeated Napoleon and forced his abdication had been decisively whipped by American regulars and frontiersmen who were fighting for their freedom and the security of their homeland.

Was it any wonder that Gen. Andrew Jackson became the most beloved, admired, and respected man in the United States? He had restored to the American people their pride and self-confidence. Through his incredible victory, they had proved to the world the legitimacy of their independence, and that they could defend it against the mightiest power on Earth. Never again did they need to prove to themselves or anyone else that they had a right to be free and independent. Americans alerted a hostile European world of kings and emperors that if they trifled with the sovereignty of the United States, they did so at their peril. Andrew Jackson had proven for all time the strength, vigor, and power of American life and institutions.

To a large extent, the extraordinary dimension of Jackson's military victory, as well as his success in overcoming personal handicaps and deficiencies, and in rising from the lowest to the highest social strata in the Nation, resulted from unique character flaws and strengths. He was a complex of driving ambition, rigid personal discipline, strong loyalties, and ferocious hatreds. As commander of American forces at New Orleans, he demonstrated steely determination, supreme self-confidence, and extraordinary military skill, despite a near-total lack of experience or training. Later, as President of the United States, he displayed exceptional powers of understanding in grappling with national issues; an unshakable belief in the right of the American people to self-government, and an abiding love of the Union. As President he guided the country as it evolved inexorably from republicanism to democracy.

Jackson's parents had migrated to America from Carrickfergus, Northern Ireland, in 1765, along with many other Scotch-Irish. Andrew and Elizabeth Hutchinson Jackson probably landed in Philadelphia and then moved southward to join relatives living in the Waxhaw settlement, located along the northwestern boundary separating North and South Carolina. They had two sons, Hugh and Robert, and they settled on land adjacent to the Twelve Mile Creek, a branch of the Catawba River. Then, in 1767, the father suddenly died, and not many weeks later Elizabeth gave birth to her third son on March 15, 1767, and named him after her late husband.

Elizabeth moved into the home of her sister, Jane Crawford, and her husband, where young Andrew and his brothers were raised. Since her sister was a semi-invalid, Elizabeth became housekeeper and nurse. Andrew received a meager education at an academy conducted by Dr. William Humphries and, a little later, at a school run by James Stephenson. He quit school with the outbreak of the American Revolution and accompanied Col. William Richardson Davie, probably as a courier, during the attack on the British post of Hanging Rock. He was 13 years of age at the time.

His older brother, Hugh, died after the Battle of Stone Ferry in 1780, probably from heat stroke, and shortly thereafter Andrew and his brother Robert were captured by the British and imprisoned at Camden. At the time of his capture, Andrew was ordered to clean a British officer's boots, which he refused to do. Infuriated, the officer raised his sword and struck Andrew with it, leaving a deep gash on the boy's head and across several fingers.

At Camden, the brothers contracted smallpox. Their mother arranged their release in exchange for British prisoners, but Robert died before they arrived home. Andrew recovered, his face slightly marked with the scars of the disease. During his recovery, Elizabeth journeyed to Charleston to nurse American prisoners of war held in prison ships, and died from cholera a few months later.

An orphan at 14 years of age, Andrew resided with relatives for a short time, drifted from one job to another, and finally moved to Salisbury, NC, in 1784, to study law at the office of Spruce MacCay, a distinguished trial lawyer of the day. After obtaining a license to practice law in North Carolina, Jackson and several companions decided to migrate to the western end of the State, to what is now Tennessee. He built a successful practice in Nashville, married Rachel Donelson Robards after she obtained a divorce in 1793 from her first husband, Lewis Robards, and participated in the convention that wrote the constitution by which Tennessee won admission as a State in the Union.

As an extremely capable and hard-working lawyer with ties on his wife's side to one of the most important families in Tennessee, Jackson entered politics and rose quickly within the political hierarchy, thanks in large measure to the strong support of William Blount, the former territorial Governor. He served as the State's first representative to the U.S. House of Representatives, and later as U.S. Senator. Resigning from the Senate after a single session, Jackson accepted appointment to the Tennessee Superior Court, where he served for 6 years. One biographer later described his decisions as a judge as "short, untechnical, unlearned, sometimes ungrammatical, and generally right."

Jackson supplemented his income from time to time by running a general store. He even sold boats to Aaron Burr without fully comprehending Burr's scheme to undertake a military operation down the Mississippi River, for which Burr was later tried and acquitted of treason.

When war broke out with Great Britain in 1812, Jackson had won election as major general of the Tennessee militia because of his popularity among the field officers of the militia and a considerable amount of politicking he accomplished beforehand. Despite a lack of military experience, he quickly developed into an excellent commanding general, and his men affectionately dubbed him "Old Hickory," because he was a tough, but caring, officer. He sometimes made impossible demands on his men, but he constantly showed them that he would work unceasingly for their safety and well-being.

The Governor of Tennessee sent Jackson and his militia against the Creek Indians in 1813, after they had attacked American settlers along the southern frontier. Old Hickory decisively defeated the Indians at the Battle of Horseshoe Bend on March 27, 1814, wrested 23 million acres of land from the Creek Nation under the terms of the Treaty of Fort Jackson, and then hurried to New Orleans in time to repel a British invasion and inflict a devastating defeat upon the enemy. A few years later, he pursued the Seminole Indians into Florida and seized control of the area from Spanish authority. His actions triggered an international crisis, involving England as well as Spain, because of his execution of two British subjects, Alexander Arbuthnot and Robert Ambrister, for aiding and abetting Indian attacks against American settlers. The United States, nevertheless, succeeded in purchasing Florida from the Spanish and obtaining a western boundary for the Louisiana Territory that extended to the Pacific Ocean. By this single action, the United States was transformed into a potential transcontinental power.

Jackson served as territorial Governor of Florida for a short period in order to officiate at the transfer of ownership from Spain to the United States and establish civil government. Despite arbitrary actions and an impatience with Spanish temperament, Jackson provided an energetic and efficient government that facilitated the transition of a foreign land into the American political system.

As the most popular and beloved man in the Nation, Jackson received a nomination from the Tennessee legislature to run for the Presidency. The legislature also seated him in the U.S. Senate, where he again served a short term. Despite a popular and electoral plurality in the Presidential election of 1824, he did not receive the constitutionally mandated majority of electoral votes. The choice of President was therefore decided in the House of Representatives in a contest between Jackson and Secretary of State John Quincy Adams, and Secretary of the Treasury William H. Crawford. The Speaker of the House, Henry Clay, regarded Jackson as a military chieftain who had very limited qualifications to serve as President, and he therefore threw his considerable support to Adams. The House election ended on the first ballot, with Adams chosen as President.

When Adams selected Clay as his Secretary of State, Jackson exploded in indignation. He charged the two men with arranging a "corrupt bargain" in which Clay gave Adams sufficient votes in the House election to become President in return for the Office of Secretary of State. Jackson resigned his Senate seat, returned to Tennessee, and began a campaign to win election to the Presidency in 1828. With the help of Martin Van Buren and John C. Calhoun, he orchestrated the formation of an organization to support his election, which eventually became the Democratic Party. With his popularity and the strength of his organization, and after a particularly vicious and sordid campaign—possibly the worst in American history for slander and misrepresentation—Jackson won a spectacular victory in 1828.

Jackson's tenure as President—1829 to 1837—extended over a period in which the United States underwent enormous political, economic, and cultural changes, changes by which the Nation slowly began to emerge as an industrial democracy. In instituting what he called a program of "reform, retrenchment and economy," President Jackson attempted to establish democratic government. He saturated the language of his messages to Congress and other State papers with democratic intent. "The people are sovereign," he repeated many times, "their will is absolute." His philosophy of government preached the simple message that the people govern, and that majority rule constitutes the only true means of preserving a free society.

A just government, declared Jackson in his celebrated veto of the bill to recharter the Second National Bank of the United States, showers "its favors alike on the high and the low, the rich and the poor." He opposed government for and by an elite:

> Every man is equally entitled to protection by law, but when the laws undertake * * * to make the rich richer and the potent more powerful, the humble members of society—the farmers, mechanics, and laborers—have a right to complain of the injustice of their Government.

To advance his democratic ideals, he instituted what he called a program of rotation of office to bring in new blood and fresh ideas for the operation of government. No one has a vested right to government employment, he contended. His enemies, however, accused him of introducing a "spoils system" to Washington. As the Democratic Senator from New York, William L. Marcy, boldly announced: "To the victor belong the spoils of the enemy."

Despite his democratic contentions, Jackson also expanded presidential powers during his tenure through his creative use of the veto—he vetoed more times than all of his predecessors put together—and his leadership of Congress and the Democratic party. He effectively intruded into the legislative process and materially increased the power of the chief executive to control and direct the operation of Congress.

One of Jackson's most unique contributions to constitutional ideas about the government and its operation was his belief that the Union was indivisible. In his proclamation of December 10, 1832, written to the people of South Carolina after the State's convention had nullified the tariff laws of the country and threatened secession, he responded with the doctrine of the Union as a "perpetual" entity. He was the first American statesman to publicly declare that secession could not be invoked by any State to redress a supposed grievance.

> Those who told you that you might peaceably prevent

The execution of Federal law, he wrote:

> deceived you * * * Their object is disunion. But be not deceived by names. Disunion by armed force is treason. Are you ready to incur its guilt?

South Carolina ultimately backed down, and bloody civil war was postponed for nearly 30 years.

Jackson's extraordinary understanding of what is meant by "the United States" convinced Abraham Lincoln of the soundness of its constitutional argument. President Lincoln extracted from this proclamation the basic justification he needed for his course of action to meet the secession crisis of 1861.

To Jackson's credit goes the distinction of having paid off the national debt. He had made the liquidation of the debt one of the goals of his administration, and he lived to see it happen in January 1835. It remains the only instance in American history when the Nation owed nothing to anyone.

On a less happy note, the Jackson administration inaugurated the tragic history of Indian removal. The continued presence of the tribes within the several States caused mounting difficulties, including the shedding of blood, and had long defied solution by the national government. Thomas Jefferson hoped that through education the Indian might be integrated into white society. Failing that, he said, the tribes must be removed to the Rocky Mountains.

But many Indians resisted the idea of becoming cultural white men. They wished to remain as Indians, subject to Indian law, and preserving their heritage, language, and religion. The Cherokee Nation, for example, refused to obey Georgia law even though a large number of its people lived within the boundaries of that State.

Jackson contended that removal, such as Jefferson had suggested, would benefit both whites and Indians. It would prevent the annihilation of the Indian race, for one thing. More importantly, as far as Jackson was concerned, it would provide a greater degree of national security. Past Indian attacks, such as the Creek War just prior to the British invasion at New Orleans, jeopardized the safety of the American people. So Jackson prevailed upon Congress to pass the Indian Removal Act of 1830, by which lands held by the tribes within the States were exchanged for lands west of the Mississippi in an Indian territory that later became the State of Oklahoma. The Government provided the transportation, but the removal turned into a death march because of the indifference and greed of those charged with executing it. The tribes were hastened along what the Cherokee called "The Trail of Tears." Thousands died along the way, and the entire operation disgraced the Nation and blackened its history.

In foreign affairs, Jackson pursued an aggressive policy to force European governments to respect the integrity, sovereignty, and independence of the United States. Debts owed to the United States and incurred during the Napoleonic Wars had long been a source of irritation, because the European nations refused to pay what they legitimately owed. Jackson demanded payment and succeeded in bringing about settlement of the claims. He nearly provoked war with France over the settlement, but the dispute was ultimately resolved with the payment by the French Government of 25 million francs. Jackson also settled claims against Denmark, Spain, and the Kingdom of Naples.

Of particular value and importance to the United States was the conclusion of a treaty with Great Britian that resolved a long-standing dispute over trade with the West Indies. The treaty opened West Indian ports to the United States on terms of full reciprocity. The Jackson administration also signed the first treaty with an Asian nation in 1833, when Siam agreed to American trade on the basis of a most favored nation, a principle that became the basis of other treaties with South American countries and other Near Eastern countries.

After serving two terms as President, and designating Martin Van Buren as his successor, Jackson retired to his home at the Hermitage, just outside Nashville. For the remainder of his life, he took an active interest in national affairs. He favored the annexation of Texas and Oregon, even at the risk of war. And he helped his protege, James K. Polk, win the Democratic nomination in 1844. The narrow victory of Polk in the election over Jackson's longtime enemy, Henry Clay, on a platform that called for the reannexation of Texas and reoccupation of Oregon, delighted the gravely ill old hero of New Orleans. "I thank my god," he wrote, "that the Republic is safe and that he had permitted me to live to see it, and rejoice."

Jackson died at the Hermitage at the age of 78 on June 8, 1845, most likely from a heart attack. But he suffered so many ills, acquired in the service of his country—as he liked to say—that modern physicians who delve into such matters are reluctant to pinpoint the exact cause of death. He was buried next to his beloved wife in the garden adjacent to his home.

Mr. Speaker, on the eve of this anniversary we remember Jackson for the indelible mark he made on the Nation. I would like to think that the seeds which helped shape the unusual nature of this extraordinary man sprouted while Jackson served here in this institution. As one of Jackson's successors here in the House of Representatives, I am proud to join my colleagues and my fellow Tennesseans in celebrating his legacy as a Member of Congress, military leader, statesman, and President.

Just as Jackson lent his name to an era of American history, so too did he leave a mark on the individuals who followed him in representing Tennessee's Hermitage district. I am honored to be among that select group.

Thank you, Mr. Speaker, for permitting me to celebrate Andrew Jackson's birthday today in this special order. Tomorrow at 3 o'clock, on House television channel 6, a video program on the life of Andrew Jackson will be broadcast for the enjoyment of our colleagues and House employees. The video was produced by the Ladies' Hermitage Society and I invite everyone interested in Andrew Jackson to watch this program.

A chronology on Andrew Jackson follows:

ANDREW JACKSON (1767–1845)

CHRONOLOGY

1767—Born March 15, Waxhaw settlement, South Carolina.

1780–81—Participates in American Revolution; captured and later released.

1787–88—Studies and practices law in North Carolina.

c. 1791—Marries Rachel Donelson Robards.

1791—Appointed attorney general for a district in the territory which would later become Tennessee.

1794—Remarries Rachel in a legal ceremony.

1795—Elected delegate to Tennessee Constitutional Convention.

1796—Elected to United States House of Representatives.

1797—Elected to United States Senate; resigns in 1798.

1817–18—Befriends portrait painter Ralph E.W. Earl; assumes command of Seminole War in Spanish West Florida.

1819—Vistis Washington, D.C., to defend his conduct in Seminole War; visits major northeastern cities, where leading artists execute life portraits of him; builds Hermitage mansion.

1821—Resigns army commission after appointment as governor of Florida Territory; resigns from office after eleven weeks.

1823—Elected to United States Senate.

1824—Nominated for President of the United States; presented gold medal in recognition of his victory at New Orleans.

1825—Defeated for President in House of Representatives election; resigns Senate seat.

1828—Elected President in scurrilous contest; Rachel dies suddenly in December.

1829—Inaugurated seventh President of the United States.

1830—Signs Indian Removal Bill.

1831—Accepts cabinet resignations and appoints new cabinet; remodels Hermitage and builds tomb in garden.

1832—Vetoes bill to recharter second Bank of the United States; reelected President; issues proclamation to the people of South Carolina warning against the nullification of federal laws.

1834—Censured by Senate for alleged abuse of executive powers; concludes French spoliations claims controversy.

1835—Survives assassination attempt.

1837—Issues farewell address and leaves office.

1838—Joins Presbyterian Church, thus fulfilling a promise made to Rachel before her death.

1842—Troubled by debt and worsening health.

1845—Photographed at Hermitage; George P.A. Healy paints last life portrait of Jackson; dies at Hermitage on June 8; buried two days later in Hermitage garden beside Rachel.

Mr. BENNETT. Mr. Speaker, my hometown, Jacksonville, FL, was named for Andrew Jackson in 1822. There were good reasons for this. The northeast portion of Florida, under the Spanish colonial empire, was heavily populated by Anglo-Saxons, not by Spaniards. It was a restive area on the banks of the St. Johns River and the St. Marys River. It was often penetrated by pirates and revolutionaries. At this point, I would like to include in the CONGRESSIONAL RECORD, the part of the story of Andrew Jackson in Florida which makes us realize in Jacksonville that our existence as an American city is largely the result of Jackson's bold entry into Florida in the early 1800's.

This article was originally distributed in the Florida Times Union of April 26, 1987.

MOST ADMIRE COURAGE DISPLAYED IN ACTIONS BY ANDREW JACKSON

(By Representative Charles Bennett)

Many disciplined military men would think it their duty to carry out a risky international project thought to be approved by their commander in chief but not explicitly detailed in formal orders.

As the facts come out in the current congressional inquiry on the Iran arms-for-hostages matter, such a pattern may unfold. There are certainly precedents. For example, such a sense of duty was clearly in Andrew Jackson's mind when he justified his actions in bringing Florida into the United States in 1817–1821.

In 1821, at the conclusion of this Florida adventure, Jackson was rewarded for initiatives by being appointed the first U.S. governor of Florida. Jacksonville followed suit in 1822 by naming itself in his honor. This upgraded the dignity of the little community at the bend of the St. Johns River, for it had previously called itself Cowford, or even more modestly, just "the cowford."

It had by that time almost forgotten its glorious 16th century Renaissance beginnings as a haven for French Huguenots. Modern Jacksonville has overlooked neither the French nor Jackson. A fine national park museum celebrates the French; and this summer the city will erect downtown an equestrian statue of Jackson on a rearing horse, a replica of the one in Lafayette Park in Washington.

When Jackson was busy in Florida in the early 1800's, he was the nation's greatest living hero; and later he was the first president to be elected by direct appeal to the mass of voters, thus giving birth to "Jacksonian democracy." Before this Florida adventure, he had served in both houses of Congress and as judge of the Superior Court of Tennessee.

During the War of 1812, he defeated the Creek Indians in the Battle of Horseshoe Bend in 1814, and the British in the Battle of New Orleans in 1815. Log Cabin and coonskin cap background, together with his great personal courage, made him a true folk hero.

Events were exploding in Florida in 1817. The Spanish sovereignty could not enforce law and order within its boundaries and this encouraged lawlessness and revolution. Sir Gregor MacGregor, a Scottish lord and "emperor" of the Moquito Indians of Central America, captured Cowford on June 4, 1817, flying first the flag of Venezuela and then his own republican colors. Before the year was out, there was a succeeding leadership under Luis Aury, flying the Mexican flag over Florida's Amelia Island, still another republican banner to challenge Spanish authority.

U.S. troops were sent down to protect the borders and the U.S. flag was raised over Amelia Island on Sept. 21, 1817. President James Monroe in August 1817 had directed Jackson to raise troops to support the efforts on the east coast of Florida but primarily to conduct operations in the western panhandle of Florida, ostensibly against Seminole Indian insurgents preying across the borders into Georgia.

Jackson undertook the mission with enthusiasm and thought his objective was to turn Florida over to the United States and perhaps even to include Cuba in his conquests.

On Aug 4, 1817, Monroe wrote Jackson a confidential letter. "The conduct of MacGregor supposed to menace the tranquility of the Southern states, has induced the gentlemen of this administration to take a measure in my absence for the public security which has made it necessary to order an officer, near the place, to perform a prompt service . . ."

"Every order from the Department of War, to whomever directed must be obeyed. I cannot think that you are of a different opinion, and it is on you that I rely for the most decisive support of the government."

In September 1817, Seminole Indians in Florida ambushed a U.S. hospital ship on the Apalachicola, killing 34. On Dec. 16, the Secretary of war, John C. Calhoun, issued orders for Jackson, authorizing entry into Florida in retaliation unless the enemy "should shelter themselves under a Spanish post."

Jackson raised 1,000 Tennessee volunteers, partially financed with his own funds. En route to Florida, he augmented his forces with 900 Georgia militiamen and a sizable body of Creek Indians.

Jackson had objected to his orders not allowing him to attack Spanish forts and wrote Monroe on Jan. 6, 1818, urging that the "whole of East Florida be seized and held as an indemnity for the outrages of Spain upon the property of our citizens," concluding: "let it be signified to me through any channel, (say Mr. J. Rhea) that the possession of the Floridas would be desirable to the United States, and in 60 days it will be accomplished."

John Rhea, a friend of the president, wrote Jackson on Jan. 12, 1818: "I am grateful indeed that the plan of the president is satisfactory to you. I am confident that he is intended it to be so."

The restriction against attacking forts was only in the Dec. 16 order and the later (Dec. 26) orders from Calhoun to Jackson were more broadly stated. "You may be prepared to concentrate your forces and to adopt the necessary measures to terminate a conflict which it has been the desire of the president, from considerations of humanity, to avoid but which is now made necessary by their settled hostilities."

Calhoun also wrote the governor of the Alabama territory that "General Jackson is vested with full power to conduct the war in the manner he may judge best." That was all that Gen. Jackson sought.

The Seminoles' border intrusions had accelerated with the defeat of the Creek Indians at Horseshoe Bend and the subsequent treaty which took 20 million acres from the defeated, including some lands claimed by the Seminoles. Jackson pursued the marauding Seminoles in Florida and on April 16, 1818, captured St. Marks, a Spanish stone fort near the Gulf Coast, which was reputedly a supply base for the Indians. He lowered the Spanish flag and raised the U.S. flag.

Among the captured was Alexander Arbuthnot. Jackson accused him of being a British agent and had him hanged. Later, Lt. Robert C. Ambrister, formerly of the British Royal Marines, was captured, and he was tried and shot for being a British agent seeking to forment difficulties among the Indians. By the end of May 1818, Jackson's forces had captured Pensacola.

The British threatened war in retaliation for the executions, but finally were persuaded against it. To soften the Spanish tempers, the captured forts were returned to Spain in a series of confrontations that concluded on Feb. 22, 1819, in the Adams-Onis Treaty. By this treaty, the United States acquired Florida in return for giving up claims to Texas and for agreeing to pay $5 million of Spanish debts owed to U.S. citizens.

Monroe, in public statements, admonished Jackson for some of his belligerent actions, but to most Floridians, and most U.S. citizens, Jackson's appointment by Monroe to be the first U.S. governor of Florida was a well-deserved honor. Manifestly, it spoke with more truth than the press releases that were issued to diminish international complaints, however well-founded those complaints may have been.

U.S. citizens in those days admired courage.

Most do today.

So do I.

Mr. QUILLEN. Mr. Speaker, it is a pleasure for me to join my colleagues in paying tribute to a man who was a fellow Tennessean, a distinguished House and Senate Member, and a respected general not only from the field but also from the White House. Andrew Jackson spent time at the age of 21, studying law in the town of Jonesborough in what was known then as the State of Franklin, located now in my congressional district. I would like to thank the gentleman from Tennessee, Mr. Clement, for setting time aside on the floor of this House to honor President Andrew Jackson, an accomplished leader in every task he faced in business, war, and politics.

Born in the Waxhaws country of South Carolina in 1767, this son of Irish immigrants hit the ground running. At the age of 13, his parents deceased, Andrew Jackson participated in the American Revolution, was later captured and released by British soldiers.

In 1787, after a brief stint in teaching, Andrew Jackson was admitted to the North Carolina bar and was appointed Public Prosecutor of the Western District of North Carolina. However, Andrew Jackson was not to stay in North Carolina. He would later move to Tennessee to begin his public service career. Jackson was first elected to the U.S. House of Representatives in 1796 and to the U.S. Senate in 1797. The next year he would resign from the Senate and be appointed judge of the Superior Court of Tennessee. Andrew Jackson resigned from public service in 1804 to devote more time to his plantation and other business interests.

Andrew Jackson thrived on the frontier. Yet, while active in business and in the community, he, too, was hit by the ups and downs that all common men and women experience. He often brawled and he fought several duels, including one with a man who slurred his wife.

During the War of 1812, Jackson led his militia to victory over the Creek Indians at the Battle of Horseshoe Bend in Alabama. Later, Jackson and his motley army defeated the British regulars at the Battle of New Orleans. These victories brought him due recognition and enhanced his prestige throughout the country.

Following American acquisition of Florida by treaty in 1821, Jackson served a few months as its first territorial Governor. In 1823 he was reelected to the U.S. Senate from Tennessee. Jackson would then run for President receiving the greatest number of electoral and popular votes to represent the Democratic-Republican Party. However, he did not receive a majority so the election was settled by the House when they gave the nod to John Quincy Adams. Upset with the process, Jackson resigned from the Senate to devote all of his attention to becoming President. His dedication and hard work brought his goal to fruition. Jackson would become President in 1828 in a brutal campaign against his previous foe, John Quincy Adams.

His Presidency was the first to represent mainstream America. Inaugural Day festivities would not be the same for Jackson. Normally an aristocratic event, Jackson's supporters included frontiersmen, farmers, planters, artisans, laborers, mechanics, tradespeople, and businessmen. The seventh President's celebrity status among the people was so broad and widespread that it rivaled that of George Washington. Andrew Jackson was easily elected to a second term in 1832.

His opponents charged that he was a monarch and referred to him as King Andrew I. But his supporters characterized his election as a victory for the common people over the privileged, democracy over conservatism, equal opportunity over special privilege, agrarianism over capitalism, and honest labor over aristocratic leisure. Historians have written in clear terms of a political movement they called

Jacksonian Democracy and the emergence from it as the Age of the Common Man.

Old Hickory, his name acquired from his days as a field commander, left a legacy that changed the political scene for years to come. Many saw Jackson's introduction of the spoils system as a democratic advance because it eliminated entrenched officeholders and, presumably, made all areas of government more responsive to the popular will.

Andrew Jackson retired at this retreat in Hermitage, TN, in 1837, and succumbed to natural causes 8 years later. His tenacity in convincing others of the right course of action was matched only by his ability to listen in order to make a more informed decision.

Mr. Speaker, as a fellow Tennessean, I would like to pay homage to our seventh President of this fine country of ours—a great statesman, illustrious military commander, and an overachiever in everything he pursued. Andrew Jackson rose to the top, never losing touch with the common man.

SMALL BUSINESS AND OTHERS NEED CERTAINTY UNDER SUPERFUND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. LAFALCE] is recognized for 10 minutes.

Mr. LAFALCE. Mr. Speaker, last year, I was honored to have over 290 of my colleagues join me in proposing legislation, H.R. 4494, to clarify an area of environmental law that adversely impacts businesses of all types.

Today, I am introducing a considerably different bill that aims to clarify the exemption in the Superfund law for secured parties, an exemption that was part of the original law in 1980. This clarification is based on a draft rule prepared by EPA, after EPA gave careful consideration to all the competing arguments of environmentalists and lenders alike. I believe EPA crafted a balanced rule to accommodate those competing concerns.

Action on this issue is crucial.

During the 101st Congress, the Small Business Committee held hearings to explore the impact of the current uncertainty regarding the exemption provisions on lending to small business. This uncertainty resulted from a series of court cases since 1985. This uncertainty has adversely affected the ability of otherwise good businesses to borrow funds.

Testimony from government agencies, business community representatives, environmentalists, and bankers made clear that banks and other lending institutions are increasingly refusing loans to creditworthy small businesses that either use hazardous materials or are located in areas of possible contamination because of fears regarding potential liability generated by court action. In the continuing credit crunch in which we find ourselves, we cannot tolerate unnecessary impediments to appropriate lending.

It is noteworthy the EPA itself acknowledged that legislation might well be necessary, even if a rule were eventually promulgated, to provide certainty through statutory guidance. As previous EPA testimony indicates, the Agency is itself acutely aware that the current uncertainty is impacting adversely on the ability of a range of businesses to obtain financing, even for projects directed at environmental cleanup.

One of the major motivations behind my revision of this legislation was to address what I believe to be legitimate concerns advanced by the environmental community. This revised legislation provides important inducements for the conduct of environmental assessments; clarifies that lenders and other parties who are directly responsible for environmental damage do not escape appropriate but limited liability; precludes the use of sham trusts to evade liability; leaves in place existing protections against undue enrichment for lenders as the result of environmental cleanups; ensures that parties actually exercising the responsibilities of owner/operators cannot avail themselves inappropriately of the exemption; encourages lenders to take action to remedy environmental damage rather than walk away from their collateral; and requires lenders foreclosing on property to move diligently to dispose of that property in order to remain within the bounds of the exemption.

BACKGROUND AND NEED FOR THE LEGISLATION

The Comprehensive Environmental Response, Compensation and Liability Act of 1980 provides that owners and operators of facilities and vessels should be liable for environmental cleanups. The Congress exempted from the category of owners and operators parties who do not participate in the management of a facility while holding indicia of ownership to protect a security interest.

The intent was quite clear. Lenders and others who extend financing to borrowers secured by property should not have Superfund liability simply because of a financial relationship. Court cases, however, began to erode this exemption, holding parties responsible as owners or operators who simply exercised rights over property as a proper function of their security interest, even if they exercised no operational responsibility whatsoever.

In one case, Fleet Factors, the court went so far as to suggest that liability for a lender could attach where contract terms permitted a court to infer that the lender had the capability to influence through financial relationships hazardous waste decisionmaking. That kind of language is exactly what causes uncertainty, and is reducing the willingness of financial institutions to lend, even to creditworthy projects that might actually effect a positive environmental result.

Simply put, under the law as it currently stands, a lender cannot be certain, in making a loan or dealing with a borrower with an existing loan, that it will not unwittingly trigger unlimited Superfund liability.

I want to reiterate that the secured creditor exemption already exists. My bill does not create a new exemption for lenders.

The result of the current uncertainty is that certain businesses have found it difficult to secure funds and many lenders are unable to determine whether they should extend credit or how they should deal with debtors who need additional assistance or who are in default. While environmental lender liability has not been the sole cause of the current credit crunch, it has been a contributing factor in many instances across the country.

Not only does the exemption already exist and the uncertainty have an impact on financings, but most parties have already agreed that the uncertainty should be remedied.

PREVIOUS CONGRESSIONAL CONSIDERATION

Last year, the House Energy and Commerce Subcommittee on Transportation and Hazardous Materials conducted a full day of hearings, taking testimony from all sides on this issue—government, environmental groups, borrowers, and the financial community. The Senate Banking Committee conducted a hearing as well during the summer months.

Reviewing the testimony, I note that the Environmental Protection Agency and the witness for the environmental community agreed that uncertainty should be avoided. The EPA agreed to promulgate a rule that would address the issue. A draft rule has been put forward, but interagency review and comment continue to delay its adoption at this time. Moreover, a rule alone cannot provide ultimate certainty. It is noteworthy that the comments of many of the agencies seeking input included calls for legislative action.

REVIEW OF PROPOSED LEGISLATION

The EPA has done a good job with the draft rule. They have attempted to balance competing interests and, overall, their effort adds a great deal of certainty to the issue. The bill I am introducing today in large measure tracks the EPA approach. Indeed, if this bill were enacted today, the EPA rule could be promulgated virtually as currently drafted. However, legislation is necessary to give statutory guidance, to address a few items omitted by EPA, and to give certainty to EPA's efforts.

The current approach of Superfund in defining owner or operator is retained in this bill, but broken down into component parts to provide greater clarity as to the precise nature of the existing exemption.

Indicia of ownership is defined to include interests for the purpose of securing repayment of a loan. Here you can contemplate a traditional secured loan from a bank, insurance firm, or government agency. Next, the terms "payment of an indebtedness" and "performance of an obligation" are specified. Among transactions included are mechanics liens, and lease financing, such as lease financing transactions on a net lease basis of the type set forth in Federal depository institution regulations. Also covered are situations such as government and private guaranty programs, for example, mortgage insurance, packaged mortgages in the secondary market, for example, Freddie Mac and Fannie Mae securities, and government rights, for example, reversionary rights in property when a party does not meet obligations that are part of a government contract. Finally, rights acquired in protecting a security interest, such as during a workout or foreclosure, fall within the liability exclusion. It would be indeed ironic and contrary to the goals of the original exemption if lenders had a right, but could not avail themselves of appropriate remedies without voiding their exemption.

The key phrase of participating in management is also defined. Looking to the recent court case of Bergsoe, which the EPA cited favorably, and rejecting the Fleet dicta, the bill provides an explicit, succinct test. Control must be "actual, direct, and continual or recurrent * * *" and such that the "* * * managerial control materially divests the borrower, debtor, or obligor of such control." This approach is drawn from the EPA draft rule.

For the financial community and for the EPA, this is a clear guide which accords with EPA's approach. Participation in management must be concrete; there must be some action, not just the potential or capability for action.

Finally, acting to protect one's security interest does not remove a party from the exclusion. The bill makes clear that where a party is acting to protect a security interest, to preserve the value to the collateral, to recover a loan or indebtedness or to redress an obligation, then the exclusion is still applicable. Holding indicia of ownership such as title in a foreclosure or default situation fits within protecting the security interest so long as the party proceeds diligently to sell or convey title or the right to title at the earliest possible time on commercially reasonable terms while preserving the property.

Again, tracking the approach of EPA, the bill confirms that simply having a foreclosure on default, where a title may be entrusted to a lender, does not change the concept of protecting a security interest and move the secured party to an ownership position so long as appropriate efforts are made to dispose of the property.

Again paralleling the EPA draft rule, my bill addresses the situation of a secured party who necessarily has to deal with property during the period of a workout or upon foreclosure. The bill clarifies that actions taken by a party in foreclosing, and subsequently in preserving the property or otherwise exercising rights of a secured creditor in assisting in winding down an operation, are not participating in the management. I have also included language which provides that if, during a workout or winding down process or in exercising rights, a person causes a release or threatened release for purposes of the Superfund law, then he is liable for the response costs to the degree those costs are attributable to his activities.

This section provides important clarification to the benefit of all concerned. First, it makes clear that a lender may take proper and prudent actions during a workout to prepare a property for sale or preserve its value without fearing unlimited Superfund liability. But the provision provides no carte blanche. The bill specifically contemplates liability for that party to the extent the party has caused or exacerbated a problem.

To my mind, these sections benefit everyone involved, especially the Superfund itself. What this means, for example, is that a creditor can do more than merely padlock a facility and walk away from the collateral, a response that can leave environmental concerns unaddressed. The creditors may instead decide to extend additional credit to facilitate a cleanup. This would reduce any exposure to the Superfund and improve the environmental situation. But, the creditor would be compelled to act in an environmentally responsible way because, should the creditor cause damage, he will be liable for the damage attributable to him. In any event, Superfund either breaks even or saves money.

In short, we have a carrot and a stick for the creditor. If desired, he may seek to reduce losses by taking actions that make a property more likely to sell, but must do so in such a way as not to further damage the environment. This is not the strict liability for all prior harms that creates uncertainty today, but rather a liability that can be bounded and is such that we may see more positive actions by lenders. I believe many of us have constituents seeking to improve their properties who currently cannot find financing for their efforts.

Some concern has been raised that lenders might be unduly enriched and the Government might ultimately lose money under this proposed legislation. I would note that the Government is already protected as to its costs by the lien provisions of section 107(l) of Superfund. Further, EPA has clearly asserted its ability to secure equitable reimbursement where the holder of a security interest has been unjustly enriched through EPA's response action. Nothing in my legislation would intrude upon those existing rights.

Finally, I have provided an additional carrot to induce secured party assistance with our environmental concerns. The bill provides that a party which undertakes some form of environmental inspection or evaluation consistent with good business practices may use that fact in demonstrating that the party's actions fall within the exemption.

In other words, there is no mandatory inspection or evaluation; that is not needed or required here. What is provided is that lenders and others who undertake some form of environmental evaluation may utilize that fact as additional evidence in any case where they have to show that their actions fit within the exemption. As EPA mentioned, this might be of considerable use in a workout situation or where a foreclosing secured party is winding up a borrower's operations. Again, the provision acts as an inducement to encourage the environmental accountability of lenders.

I believe this provision goes a long way toward making it attractive for secured parties and others to assist in protecting the environment and is a better way to proceed than crafting some penalty that deters their lending.

There are two additional items of significance in this bill that I want to bring to the attention of my colleagues.

First, the language clarifying the owner or operator definition under the Superfund law is applied to the Resource Conservation and Recovery Act of 1976 [RCRA]. This is done because RCRA has an owner or operator definition, and it has a special secured party exemption pertinent to leaking underground storage tanks. Court cases have indicated that the interpretation of definitions under CERCLA are not necessarily applicable under RCRA. This bill does nothing more than provide the same explanations for the definition under RCRA as under CERCLA.

Second, the bill provides similar treatment to fiduciaries and trustees. Fiduciaries or trustees include both professional trustees such as a bank or bankruptcy trustee as well as individuals such as the executor of an estate. The parties often take property and stand in the place of an owner or operator.

The bill indicates clearly that any damage done to the environment concerning a trust property can be recouped by Superfund against the property or the trustee in a representative capacity. Consistent with the holding of a recent court case, the liability of the trustee or fiduciary personally is limited to instances where the trustee willfully, knowingly, or recklessly causes or exacerbates a Superfund release.

Finally, in response to a concern raised by the environmental community in Senate testimony, the bill aims to prevent sham transactions. Specifically, the exemption from liability would not be available where the trustee or fiduciary participated in the management of the vessel or facility prior to assuming the trustee relationship. In other words, you cannot create a hazardous discharge and then protect yourself by creating a trust.

Just as secured financings are favored by the law, trustees and fiduciaries are often placed in the position of already holding property that now may come under Superfund action. I believe we want to encourage fiduciary and trustee relationships and that we can prevent any abuses. My bill properly balances those interests.

THE NEED FOR ACTION

Mr. Speaker, I fully believe that this revised legislation optimally balances the legitimate but competing interests involved in this issue. Drawn from EPA draft language for the most part and responding to environmental concerns, this bill provides benefits for everyone—business can find financings, environmental groups can gain comfort that lenders have pressures upon them to do a good job in the environmental area, the Government agencies and the private financial community can have certainty in dealing with existing and new financial arrangements, and Superfund and EPA should see benefits in terms of greater certainty and increased activity by parties in preventing discharges and acting on private cleanups.

I do not expect this legislation to be the final product. As the committee of jurisdiction, the Energy and Commerce Committee will ultimately choose the appropriate vehicle and work its will on this issue. I put forward this proposal as what I hope to be a useful starting point for congressional consideration of this issue.

We need legislation and we need it soon, if capital is again to flow freely to creditworthy businesses. I urge my colleagues to work for the early consideration and enactment of legislation on this issue.

RULES OF PROCEDURE FOR THE SELECT COMMITTEE ON AGING FOR THE 102D CONGRESS

(Mr. ROYBAL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ROYBAL. Mr. Speaker, as chairman of the Select Committee on Aging, I am pleased to present today the "Rules of Procedure" of the committee for the 102d Congress, adopted at the committee's organizational meeting on February 27, 1991. This is being done pursu-

ant to rule XI, clause 2(a) of the Rules of the House of Representatives.

RULES OF PROCEDURE OF THE SELECT COMMITTEE ON AGING

(As adopted February 27, 1991, 102d Congress, 1st Session)

INTRODUCTION

The Permanent Select Committee on Aging was established on October 2, 1974 when the amendment to H. Res. 988, the Committee Reform Amendments of 1974, was adopted by the House. The amendment was subsequently incorporated in the Rules of the House of Representatives as Rule X. 6(i), which reads as follows:

(i) There shall be in the House the permanent Select Committee on Aging, which shall not have legislative jurisdiction but which shall have jurisdiction—

(1) to conduct a continuing comprehensive study and review of the problems of the older American, including but not limited to income maintenance, housing, health (including medical research), welfare, employment, education, recreation, and participation in family and community life as self-respecting citizens;

(2) to study the use of all practicable means and methods of encouraging the development of public and private programs and policies which will assist the older American in taking a full part in national life and which will encourage the utilization of the knowledge, skills, special aptitudes, and abilities of older Americans to contribute to a better quality of life for all Americans;

(3) to develop policies that would encourage the coordination of both governmental and private programs designed to deal with problems of aging; and

(4) to review any recommendations made by the President or by the White House Conference on Aging relating to programs or policies affecting older Americans.

The Honorable William J. Randall of Missouri was appointed the first chairman of the new Select Committee on Aging by Speaker Carl Albert on February 6, 1975.

The Honorable Claude Pepper succeeded as chairman on January 17, 1977, having been appointed by Speaker Thomas P. O'Neill, Jr.

The Honorable Edward R. Roybal succeeded Congressman Pepper as chairman in January 1983, also having been appointed by Speaker Thomas P. O'Neill, Jr.

In keeping with House rules that committees with membership of 20 or more members have at least 4 subcommittees, the following subcommittees have been established:

Subcommittee No. 1—Retirement Income and Employment, Mr. Hughes, chairman, Mr. Boehlert, ranking minority member.

Subcommittee No. 2—Health and Long-Term Care, Mr. Roybal, chairman, Mr. Regula, ranking minority member.

Subcommittee No. 3—Housing and Consumer Interests, Mrs. Lloyd, chairman, Mr. Smith of New Jersey, ranking minority member.

Subcommittee No. 4—Human Services, Mr. Downey, chairman, Ms. Snowe, ranking minority member.

RULES OF PROCEDURE

RULE NO. 1

General Provisions

(a) *Rules of the House*—The Rules of the House are the rules of the Permanent Select Committee on Aging and its subcommittees so far as applicable, except that a motion to recess from day to day is a motion of high privilege in committee and subcommittee.

(b) *Authority to sit and act*—For the purpose of carrying out any of its functions and duties under House Rules X and XI, the committee is authorized to—

(1) sit and act at such times and places within the United States, whether the House is in session, has recessed, or has adjourned, and to hold such hearings, and

(2) require, subject to Committee Rule 6, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as it deems necessary. The chairman of the committee, or any member designated by such chairman, may administer oaths to any witness.

(c) *Investigations*—The committee is authorized at any time to consider such investigations and studies as it may consider necessary or appropriate in the exercise of its responsibilities under Rule X, and (subject to the adoption of an expense resolution) to incur expenses (including travel expenses) in connection therewith.

(d) *Application*—Each subcommittee of the committee is a part of the committee and is subject to the authority and direction of the committee and to its rules so far as applicable. Except where the terms "full committee" and "subcommittee" are specifically referred to, the following rules shall apply to the Select Committee on Aging and its subcommittees as well as to the respective chairmen.

RULE NO. 2

Regular and Special Meetings

(a) *Regular meeting days*—The Permanent Select Committee on Aging shall meet on the first Thursday of each month at 2 p.m., except when the House of Representatives has adjourned or recessed, except that regular meetings shall be canceled when they conflict with meetings of either party's caucus or conference. The chairman is authorized to dispense with a regular meeting or to change the date thereof.

(b) *Special meetings*—The chairman may call additional meetings when circumstances warrant. A special meeting of the committee may be requested in accordance with the provisions of House Rule XI 2(c). Subcommittees shall meet at the call of the subcommittee chairmen.

RULE NO. 3

Procedure for Hearings and Meetings

(a) *Open meetings and hearings*—All meetings and hearings shall be open to the public except when the committee, in open session and with a majority present, determines by a rollcall vote that all or part of the remainder of the meeting or hearing on that day shall be closed to the public. All meetings and hearings of the committee shall also be conducted in accordance with the provisions of House Rule XI (2)(g) (1) and (2).

(b) *Agenda*—Every member of the committee, unless prevented by unusual circumstances, shall be provided an agenda at least 3 calendar days (excluding Saturdays, Sundays, and legal holidays) prior to each meeting or hearing explaining—

(1) the purpose of the meeting or hearing; and

(2) the names, titles, background and reasons for the appearance of any witness. The minority staff shall be responsible for providing the same information on witnesses whom the minority may request.

The chairman, with the consent of the ranking minority member, may waive the 3 calendar day requirement.

(c) *Ranking majority member to preside*—If the chairman is not present at any meeting of the committee, the ranking member of the majority on the committee who is present shall preside at that meeting.

(d) *Coordination*—In order that the chairman of the full committee may coordinate committee facilities and hearing plans, each subcommittee chairman shall notify him of any hearing plans at least 2 weeks in advance of the date of commencement of hearings, including the date, place, subject matter, and the names of witnesses, willing and unwilling, who would be called to testify, including, to the extent he is advised thereof, witnesses whom the minority members may request. The minority members shall supply the names of witnesses they intend to call to the chairman of the full committee or subcommittee at the earliest possible date.

(e) *Public notice*—The chairman of the committee shall make public announcement of the date, place, and subject matter of any hearing at least 1 week before the commencement of the hearing. If the chairman determines that there is good cause to begin the hearing sooner, he shall make the announcement at the earliest possible date.

(f) *Subcommittee hearings*—A subcommittee holding hearings in the field may hold a hearing on any matter that is within the committee's jurisdiction, whether or not the matter falls within the jurisdiction fixed for that subcommittee.

(g) *Investigative hearings*—Investigative hearings held by the committee shall be conducted in accordance with House Rule XI 2(k).

(h) *Broadcast of hearings*—When approved by a majority vote of the committee, an open meeting or hearing of the committee may be covered, in whole or in part, by television broadcasts, radio broadcasts, and still photography, or by any such methods of coverage, subject to the provisions of House Rule XI 3. In order to enforce the provisions of this paragraph, or to maintain an acceptable standard of dignity, propriety, and decorum, the committee may order such alteration, curtailment, or discontinuance of coverage as it determines necessary.

(i) *Public record*—A stenographic record of all testimony shall be kept of public hearings and shall be made available on such conditions as the chairman may prescribe.

RULE NO. 4

Scheduling of Witnesses; Interrogation

(a) *Procedure*—A committee member may question a witness only when recognized by the chairman for that purpose. In accordance with House Rule XI 2(j)(2), each committee member may request up to 5 minutes to question a witness in any hearing until each member who so desires has had such opportunity. Until all such requests have been satisfied, the chairman shall, insofar as practicable, recognize alternately on the basis of seniority those majority and minority members present at the time the hearing was called to order and others on the basis of their arrival at the hearing. Thereafter, additional time may be extended at the discretion of the chairman.

(b) *Statements*—Witnesses appearing before the committee shall, as far as practicable, submit written statements at least 24 hours in advance of their appearance.

(c) *Scheduling of witnesses*—Whenever any hearing is conducted by the committee upon any measure or matter, every effort shall be made to insure broad representation from interested groups and individuals in order to insure a balanced hearing record faithfully representative of all views, both pro and con, on such measure or matter.

(d) *Minority witnesses*—The minority party members of the committee shall be entitled, upon request to the chairman by a majority of them before the completion of the hearing, to call witnesses selected by the minority to testify with respect to that measure or matter during at least 1 day of hearing thereon.

RULE NO. 5

Proxies

(a) *In general*—A member may vote by proxy on any measure or matter before the committee and on any amendment or motion pertaining thereto.

(b) *Limitations*—A proxy shall be in writing and be signed by the member granting the proxy; it shall show the date and time of day it was signed and the date for which it is given and the member to whom the proxy is given. Each proxy authorization shall state that the member is absent on official business or is otherwise unable to be present, and shall be limited to the date and the specific measure or matter to which it applies; and, unless it states otherwise, it shall apply to any amendments or motions pertaining to the measure or matter.

RULE NO. 6

Subpoena Power

(a) *Authority to issue subpoenas*—A subpoena may be authorized and issued by the committee in the conduct of any investigation or series of investigations or activities, only when authorized by a majority of the members voting, a majority being present. The power to authorize and issue subpoenas may be delegated to the chairman of the committee pursuant to such rules and under such limitations as the committee may prescribe. Authorized subpoenas shall be signed by the chairman of the committee or any member designated by the committee. The provisions of House Rule XI 2(m) shall apply to the operation of this rule.

(b) *Enforcement of subpoenas*—Compliance with any subpoenas issued by the committee may be enforced only as authorized by the House.

RULE NO. 7

Committee Publications

(a) *Reports*—No report, staff study or other document which contains findings, conclusions, policy recommendations or suggestions or which purports to express publicly the findings or recommendations of the committee may be released to the public or filed with the Clerk of the House unless approved by a majority of the committee at a meeting, a quorum being present.

(b) *Additional views*—If, at the time of approval of any measure or matter by the committee, any member of the committee gives notice of intention to file supplemental, minority, or additional views, that member shall be entitled to not less than three calendar days (excluding Saturdays, Sundays, and legal holidays) in which to file such views, in writing and signed by that member, with the clerk of the committee. All such views so filed by one or more members of the committee shall be included within, and shall be a part of, the report approved by the committee with respect to that measure or matter. The report of the committee upon that measure or matter shall be printed in a single volume which—

(1) shall include all supplemental, minority, or additional views which have been submitted by the time of the filing of the report, and

(2) shall bear upon its cover a recital that any such supplemental, minority, or additional views are included as part of the report.

(c) *Other reports*—Any report, staff study, or other document printed by the committee for release to the public and not approved by the committee shall bear on its cover the following disclaimer: "This document has been printed for informational purposes only. It does not represent either findings or recommendations adopted by this committee."

RULE NO. 8

Quorums

(a) *In general*—One-third of the members of the committee shall constitute a quorum of the committee for the purpose of convening meetings and conducting business (other than for the consideration of any report, measure or recommendation, and voting on the authorization of subpoenas and on the closing of hearings and business meetings to the public). The provisions of House Rule XI 2(f) shall also apply to the operation of this rule.

(b) *Quorum for taking testimony*—Two members shall constitute a quorum for taking testimony and receiving evidence.

(c) *Points of order*—Any committee member present at a committee meeting may make a point of order that a quorum is not present under the conditions set forth in this rule, but a quorum shall be deemed present unless a member objects to the transaction of business because of the lack of a quorum.

RULE NO. 9

Rollcalls

A rollcall of the members may be had upon the request of any member.

RULE NO. 10

Committee Records

Generally—(a) The committee shall keep a complete record of all committee action which shall include a record of the votes on any question on which a rollcall vote is demanded. The result of each such rollcall vote shall be made available by the committee for inspection by the public at reasonable times in the offices of the committee. Information so available for public inspection shall include a description of the amendment, motion, order or other proposition and the name of each member voting for and each member voting against such amendment, motion, order, or proposition, and whether by proxy or in person, and the names of those members present but not voting.

(b) All committee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the member and shall be available for public inspection at the discretion of the chairman in consultation with the ranking minority member.

RULE NO. 11

Committee Budget

(a) *Preparation*—The chairman of the full committee shall prepare, after consultation with the subcommittee chairman and ranking minority member, a budget for the committee which shall include an adequate budget for the subcommittees to discharge their responsibilities.

(b) *Approval*—After the budget has been approved by the majority caucus, the chairman shall submit it to the full committee for consideration at a meeting, a quorum being present.

RULE NO. 12

Travel

(a) *In general*—Any member of the committee may initiate travel requests to include travel requests for staff personnel.

(b) *Limitations*—Travel requests originating in a subcommittee must be approved by the chairman of the subcommittee. Requests for travel by minority members or minority staff are subject to the approval of the ranking minority member of the committee. All travel entailing the use of committee funds is subject to the final approval of the chairman.

RULE NO. 13

Staff

(a) *In general*—Except as otherwise provided by House Rule XI, clauses 5 and 6, the staff of the committee shall be subject to the direction of the chairman of the full committee and shall perform such duties as he may assign.

(b) *Authority*—The chairman of the full committee shall have authority to hire and discharge employees of the professional and clerical staff of the full committee and of subcommittees subject to appropriate approval.

(c) *New positions*—No authorization for the creation of new positions shall be approved unless first approved by the majority caucus and subsequently by a majority vote of the committee, a quorum being present.

RULE NO. 14

Amendments of Rules

(a) *In general*—The rules of the committee may be modified, amended, or repealed by a majority vote of the members voting at a meeting at which a quorum is present.

(b) *Limitations*—Written notice of any proposed change shall be provided to each member of the committee not less than 3 calendar days (excluding Saturdays, Sundays and legal public holidays) before the meeting date on which such change is to be considered.

RULE NO. 15

Subcommittees

(a) *Establishment*—There shall be four (4) subcommittees with which shall have assigned or fixed jurisdictions.

(b) *Sizes and ratios*—The chairman of the full committee shall consult with the ranking minority member with respect to the size of each subcommittee, with due regard for the preference of members for subcommittee assignments, except that party representation on each subcommittee shall be no less favorable to the majority party than the ratio for the full committee.

(c) *Ex officio members*—The chairman and ranking minority member of the full committee shall be ex officio members of all subcommittees. They are authorized to vote on subcommittee matters; but, unless they are regular members of the subcommittee, they shall not be counted in determining a subcommittee quorum other than a quorum for the purpose of taking testimony.

(d) *Non-member participation*—Any member of the committee shall have the privilege of sitting with any subcommittee during its hearings or deliberations and participate therein, but shall not have authority to vote on any matter, nor be counted present for the purpose of a quorum for any subcommittee action, nor, except as the subcommittee chairman or a majority of the subcommittee may permit, participate in questioning witnesses under the 5 minute rule, nor raise points of order unless such member is a member of such subcommittee.

(e) *Task forces*—The chairman of the full committee may appoint task forces as he deems appropriate and necessary. The party representation of such task forces shall be determined in the same manner as party representation on subcommittees.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. RICHARDSON) to revise and extend their remarks and include extraneous material:)

Mrs. SCHROEDER, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. LAFALCE, for 10 minutes, today.

Mr. DIXON, for 60 minutes, on March 18.

Mr. RANGEL, for 60 minutes, on March 21.

Mr. ROYBAL, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. RAMSTAD) and to include extraneous matter:)

Mr. MACHTLEY.

Mr. RITTER.

Mr. MARLENEE.

(The following Members (at the request of Mr. RICHARDSON) and to include extraneous matter:)

Mr. SWETT.

Mr. ROE.

Mr. WISE.

Mr. SKAGGS.

SENATE CONCURRENT RESOLUTION REFERRED

A concurrent resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. Con. Res. 11. Concurrent resolution to establish an Albert Einstein Congressional Fellowship Program; to the Committee on House Administration.

ADJOURNMENT

Mr. RICHARDSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 21 minutes a.m.), under its previous order, the House adjourned until Monday, March 18, 1991, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

867. A ccomunication from the President of the United States, transmitting a request for fiscal year 1991 emergency supplemental appropriations for international security assistance, the Department of Labor, the Department of the Treasury, and the Department of Veterans Affairs, pursuant to 31 U.S.C. 1107 (H. Doc. No. 102–60); to the Committee on Appropriations and ordered to be printed.

868. A letter from the Department of Energy, transmitting notification that the report regarding recommended sites for the storage of the additional 250-million-barrel increment of the strategic petroleum reserve will be delayed several weeks; to the Committee on Appropriations.

869. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting the report on enforcement issues, pursuant to 12 U.S.C. 1833; to the Committee on Banking, Finance and Urban Affairs.

870. A letter from the Executive Director, Advisory Council on Historic Preservation, transmitting a report pursuant to the Inspector General Act Amendments of 1988, pursuant to Public Law 100–504; to the Committee on Government Operations.

871. A letter from the Director, Office of Management and Budget, transmitting a copy of OMB's pay-as-you-go status report as of March 7, 1991; to the Committee on Government Operations.

872. A letter from the Secretary of Agriculture and Administrator of Agency for International Development, transmitting their seventh quarterly report on progress made in implementing the recommendations of the Agricultural Trade and Development Missions, pursuant to 7 U.S.C. 1736bb–4; jointly, to the Committee on Agriculture and Foreign Affairs.

873. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend title II of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, to authorize appropriations for fiscal years 1992 and 1993, pursuant to 31 U.S.C. 1110; jointly, to the Committees on Merchant Marine and Fisheries and Science, Space, and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XXIV, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. CLAY: Committee on Post Office and Civil Service. H.R. 1316. A bill to amend chapter 54 of title 5, United States Code, to extend and improve the performance management and recognition system, and for other purposes (Rept. 102–20). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WYDEN:

H.R. 1441. A bill to amend the Child Nutrition Act of 1966 to provide for more competitive pricing of infant formula for the special supplemental food program for women, infants, and children [WIC], and for other purposes; to the Committee on Education and Labor.

By Mr. FOGLIETTA:

H.R. 1442. A bill to amend the Internal Revenue Code of 1986 to treat employer subsidies for mass transit as working condition fringe benefits; to the Committee on Ways and Means.

By Mr. KENNEDY (for himself, Mr. KASICH, Mrs. MORELLA, Mr. MAVROULES, Mr. MCCURDY, Ms. OAKAR, Mr. OWENS of Utah, Mr. MILLER of California, Mr. CONYERS, Mr. ORTON, Mr. DE LUGO, Mr. FRANK of Massachusetts, Mr. BEREUTER, Mr. LEHMAN of Florida, and Mr. JONES of Georgia):

H.R. 1443. A bill to require health warnings to be included in alcoholic beverage advertisements, and for other purposes; to the Committee on Energy and Commerce.

By Mr. STARK (for himself, Mr. COYNE, and Mr. MOODY):

H.R. 1444. A bill to amend title II and part A of title XVIII of the Social Security Act to provide for entitlement to Medicare of Social Security disability recipients 62 years of age or older without any waiting period and to permit Social Security recipients who are 62 years of age or older, spouses (who are 62 years of age or older) of Medicare beneficiaries, and children of Medicare beneficiaries, to buy coverage under the Medicare Program; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. DORGAN of North Dakota (for himself and Mr. GRANDY):

H.R. 1445. A bill to provide for the establishment of rural development investment zones, and for other purposes; jointly, to the Committees on Ways and Means and the Judiciary.

By Mr. PENNY (for himself, Mr. WILLIAMS, and Mr. ANDREWS of Maine):

H.R. 1446. A bill to restructure the strategic defense initiative by creating a separate Joint Tactical Missile Defense Program within the Departmnent of Defense, and for other purposes; to the Committee on Armed Services.

By Mr. SKAGGS (for himself and Mrs. SCHROEDER):

H.R. 1447. A bill to designate the Bowen Gulch areas of the Arapaho National Forest in the State of Colorado as part of the National Wilderness Preservation System, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. STALLINGS (for himself and Mr. LAROCCO):

H.R. 1448. A bill to amend the act of May 12, 1920 (41 Stat. 596), allow the city of Pocatello, ID, to use certain lands for a correctional facility for women, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SYNAR (for himself and Mr. EDWARDS of California):

H.R. 1449. A bill to amend title 18, United States Code, to protect the privacy of telephone users; to the Committee on the Judiciary.

By Mr. LAFALCE (for himself, Mr. IRELAND, Mr. SLATTERY, Mr. SMITH of Iowa, Mr. SKELTON, Mr. MAVROULES, Mr. SISISKY, Mr. OLIN, Mr. RAY, Mr. LANCASTER, Mr. ENGEL, Mr. ANDREWS of New Jersey, Mr. SCHEUER, Mr. HALL of Texas, Mr. RICHARDSON, Mr. BRUCE, Mr. MCMILLEN of Maryland, Mr. MCDADE, Mr. SLAUGHTER of Virginia, Mrs. MEYERS of Kansas, Mr. COMBEST, Mr. MOORHEAD, Mr. DANNEMEYER, Mr. OXLEY, Mr. CALLAHAN, Mr. MCMILLAN of North Carolina, Mr. HEFNER, Mr. HUBBARD, Mr. FRANK of Massachusetts, Mr. BARNARD, Mr.

LEHMAN of California, Ms. KAPTUR, Mr. SANGMEISTER, Mr. PARKER, Mr. MONTGOMERY, Mr. RAHALL, Mr. HUTTO, Mr. HOCHBRUECKNER, Mr. TAYLOR of Mississippi, Mr. LAUGHLIN, Mr. MURPHY, Mr. PAYNE of New Jersey, Mr. HUGHES, Mr. MATSUI, Mr. TRAXLER, Mr. ENGLISH, Mr. OBERSTAR, Mr. PENNY, Mr. McCURDY, Ms. LONG, Mr. FASCELL, Mr. ANTHONY, Mr. DORGAN of North Dakota, Mr. STENHOLM, Mr. TANNER, Mr. THOMAS of Georgia, Mr. McCLOSKEY, Mr. ESPY, Mr. ANNUNZIO, Mr. GORDON, Mr. PEASE, Mr. HAYES of Illinois, Mr. JOHNSTON of Florida, Mr. JACOBS, Mr. OBEY, Mr. MINETA, Mr. SABO, Mr. COSTELLO, Mr. BREWSTER, Mr. MARTINEZ, Mr. PICKETT, Mr. SPRATT, Mr. HARRIS, Mr. WILSON, Mr. KANJORSKI, Mr. HENRY, Mr. MARLENEE, Mr. RHODES, Mr. MYERS of Indiana, Mr. DREIER of California, Mr. BAKER, Mr. PAXON, Mr. BLILEY, Mr. BUNNING, Mr. KYL, Mr. HUNTER, Mr. BEREUTER, Mr. RIDGE, Mr. McCOLLUM, Mr. CLINGER, Mr. ZELIFF, Mr. ARMEY, Mr. HORTON, Mr. CHANDLER, Mr. HAMMERSCHMIDT, Mr. SUNDQUIST, Mr. BATEMAN, Mr. STALLINGS, Mrs. VUCANOVICH, Mr. BURTON of Indiana, Mr. JAMES, Mr. THOMAS of Wyoming, Mr. LAGOMARSINO, Mr. INHOFE, Mr. LEWIS of California, Mr. MARTIN, Mr. WEBER, Mr. VANDER JAGT, Mr. SMITH of Oregon, Mr. STUMP, Mr. ROBERTS, Mr. LIGHTFOOT, Mr. WYLIE, Mr. McCANDLESS, Mr. YOUNG of Alaska, Mr. HOUGHTON, Mr. GOSS, Mr. ROTH, Mr. HERGER, Mr. SHAW, Mr. LIVINGSTON, Mr. PACKARD, Mr. CHAPMAN, Mr. KOPETSKI, Mr. COLEMAN of Missouri, and Mr. KLUG):

H.R. 1450. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 and the Resource Conservation and Recovery Act of 1976 to limit the liability under those acts of fiduciaries and of lending institutions and other holding indicia of ownership primarily to protect a security interest in facilities subject to those acts; to the Committee on Energy and Commerce.

By Mr. THOMAS of California (for himself and Mr. HERGER):

H.R. 1451. A bill to extend emergency crop loss assistance through the 1995 crop year and to remove limitations on receiving such assistance and emergency livestock feed assistance; to the Committee on Agriculture.

By Mr. TORRICELLI:

H.R. 1452. A bill to establish a program of research and development on magnetic levitation transportation, and for other purpose; to the Committee on Science, Space, and Technology.

By Mr. TORRICELLI (for himself, Mr. ACKERMAN, Ms. ROS-LEHTINEN, Mr. MRAZEK, Mr. SMITH of Florida, Mr. RAVENEL, Mr. BRYANT, Mr. FEIGHAN, Mrs. MORELLA, Mr. GALLEGLY, Mr. FRANK of Massachusetts, Mr. BERMAN, Mr. CARDIN, Mr. DWYER of New Jersey, Mr. CUNNINGHAM, Mr. GREEN of New York, Mr. JONTZ, Mrs. BOXER, Mr. SWETT, Mr. LIPINSKI, Ms. KAPTUR, Mrs. LOWEY of New York, Mr. OWENS of Utah, Mr. WAXMAN, Mr. SCHIFF, Mr. LEVINE of California, and Mr. TAUZIN):

H.R. 1453. A bill requiring the Secretary of Commerce to issue an annual report on the support of other countries for foreign boycotts imposed against countries friendly to the United States or against United States persons; jointly, to the Committees on Foreign Affairs and Ways and Means.

By Mr. DORGAN of North Dakota (for himself, Mr. WHEAT, Mr. BEREUTER, Mr. EMERSON, Mr. HALL of Ohio, Mr. SMITH of Oregon, Mr. DYMALLY, Mr. WOLPE, Mr. BURTON of Indiana, Mr. TOWNS, Mrs. PATTERSON, Mr. DELLUMS, Mr. FLAKE, Mr. ABERCROMBIE, Mr. DICKS, Mrs. UNSOELD, Mr. SAVAGE, Mr. SABO, Mr. ESPY, Mr. VENTO, Mr. FORD of Tennessee, Mr. JEFFERSON, Mr. DIXON, Mr. MFUME, Mr. PENNY, Mr. SERRANO, Mr. OWENS of New York, Mr. PAYNE of New Jersey, Mr. McNULTY, Mr. SCHEUER, Mr. KLECZKA, Mr. FOGLIETTA, Mr. McHUGH, Ms. COLLINS of Michigan, Mr. WAXMAN, Mr. OBERSTAR, Mr. YATES, Mr. ACKERMAN, Mr. UPTON, Mr. WOLF, Mrs. SCHROEDER, Mrs. ROUKEMA, Mr. GILMAN, Ms. LONG, Mr. RANGEL, Mr. SMITH of New Jersey, Mrs. MEYERS of Kansas, Mrs. KENNELLY, Mr. GILCHREST, and Mr. MORRISON):

H.R. 1454. A bill to assure the people of the Horn of Africa the right to food and the other basic necessities of life and to promote peace and development in the region through grassroots participation; jointly, to the Committees on Foreign Affairs and Banking, Finance and Urban Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

31. By the SPEAKER: Memorial of the Senate of the State of South Carolina, relative to the conflict in the Persian Gulf; to the Committee on Armed Services.

32. Also, memorial of the Senate of the State of Maine, relative to the conflict in the Persian Gulf; to the Committee on Armed Services.

33. Also, memorial of the House of Representatives of the State of Colorado, relative to drug abuse; to the Committee on Education and Labor.

34. Also, memorial of the General Assembly of the State of New Jersey, relative to advertisement of adult-oriented telephone services during children's television hours, and legislation concerning zip code designations; jointly, to the Committees on Energy and Commerce and Post Office and Civil Service.

35. Also, memorial of the House of Representatives of the State of Maine, relative to the conflict in the Middle East; jointly, to the Committees on Foreign Affairs and Armed Services.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 601: Mr. DOOLITTLE, Mr. STOKES, and Mr. JEFFERSON.

H.R. 644: Mr. FROST.

H.R. 670: Mr. ROE, Mr. REGULA, Mr. STARK, Mr. SMITH of Florida, Mr. PETRI, Mr. TOWNS, Mr. BILBRAY, Mr. MRAZEK, and Mr. DeFAZIO.

H.R. 1075: Mr. PETRI, Mr. FROST, Mr. GILMAN, and Mr. GEKAS.

H.R. 1339: Mr. GORDON, Mr. BEILENSON, Mr. OLIN, and Mr. NEAL of Massachusetts.

PETITIONS, ETC.

Under clause 1 of rule XXII,

35. The SPEAKER presented a petition of the Nitijela of the Marshall Islands, relative to the conflict in the Persian Gulf; which was referred to the Committee on Foreign Affairs.

SENATE—*Thursday, March 14, 1991*

(Legislative day of Wednesday, February 6, 1991)

The Senate met at 9:45 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. Prayer will be led by the Senate Chaplain, the Reverend Dr. Richard C. Halverson.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

* * * *For there is no power but of God: the powers that be are ordained of God.* * * * *For he (the ruler) is the minister of God* * * * *for good.*—Romans 13:1, 4.

Almighty God, Lord of history, Ruler of the nations, as the euphoria of the past incredible weeks diminishes, the responsibility of government continues. And if anything, burden for the public good increases as the world awaits final resolution to the crisis in the Middle East. As the opportunity for American leadership is greater than ever, the implications for failure are more serious than ever. As confidence in our world leadership has been restored, the weight of that leadership responsibility is heavier than ever. In the light of these realities, grant to the Senators fresh awareness of their obligation to maintain national unity in diversity and to do their jobs with greater efficiency than ever. Help all in authority to realize anew their accountability to God from whom their authority comes, as well as through the sovereignty of the people.

Mighty God, rule in the hearts of Your servants as they dedicate themselves to the welfare of the Nation and the world.

In the name of the King of Kings we pray. Amen.

ORDER OF PROCEDURE

The PRESIDENT pro tempore. Under the order of yesterday, the Journal of the proceedings is approved. The time of the two leaders is reserved until later today. The time until 10:15 a.m. is for morning business and Senators may speak therein under the order. The time until 10 o'clock is under the control of the minority leader or his designee, and the time between 10 o'clock and 10:15 a.m. today is the time during which any Senator may speak.

Who seeks recognition?

Mr. SMITH addressed the Chair.

RECOGNITION OF SENATOR SMITH

The PRESIDENT pro tempore. The Senator from New Hampshire [Mr. SMITH] is recognized.

DESIGNATION OF SENATOR SMITH AS ACTING MINORITY LEADER

The PRESIDENT pro tempore. Without objection, the Senator will be the designee of the minority leader in control of the time up until 10 a.m.

Mr. SMITH. Thank you, Mr. President.

MORNING BUSINESS

Mr. SMITH. Mr. President, I ask unanimous consent that I may speak for 15 minutes as in morning business.

The PRESIDENT pro tempore. Without objection, the Senator may speak for 15 minutes.

Mr. SMITH. Thank you, Mr. President.

(The remarks of Mr. SMITH pertaining to the submission of Senate Resolution 82 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

The PRESIDENT pro tempore. The Senator from Montana [Mr. BURNS] is recognized.

Will the Senator please suspend? The remaining time under morning business will be under the previous order, which permits Senators to speak for not to exceed 5 minutes therein.

The Senator from Montana is recognized for 5 minutes.

Mr. BURNS. I thank the Chair.

(The remarks of Mr. BURNS pertaining to the introduction of S. 661 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. EXON addressed the Chair.

The PRESIDENT pro tempore. The senior Senator from Nebraska [Mr. EXON] is recognized for not to exceed 5 minutes.

DOD SUPPLEMENTAL AUTHORIZATION FOR OPERATION DESERT STORM

Mr. EXON. Mr. President, I rise today to support S. 578, the Department of Defense supplemental authorization for Operations Desert Shield and Desert Storm.

Since others who have spoken on this bill already have detailed the provisions of that bill, I will not go into any of the details, as they have been adequately explained. I just want to say S. 578 relates to the payment of the war and the benefits being proposed for military personnel.

I want to join my colleagues in praising the remarkable performance of our troops in routing Saddam Hussein's murderous, immoral army and liberating Kuwait. History will undoubtedly judge the Persian Gulf war as one of America's most resounding military victories.

The brave men and women who served in the Middle East, over 530,000 of them, deserve the Nation's most profound gratitude. The professional manner in which they performed their duties during the many months since arriving in the harsh climate of the region has collectively filled our country with pride. Through a finely crafted and well-executed allied war plan, and through the excellent implementation of that, casualties during the war were amazingly low.

However, our euphoria must be tempered by the solemn remembrance for those who did not return from the desert sands alive. For those courageous men and women, we salute them and thank them for their ultimate sacrifice, and our hearts go out to their families and loved ones as the Nation mourns. It mourns, also, the wounded and the casualties, and prays for their early recovery. It appreciates the sacrifices of our POW's and remains concerned about our MIA's.

With victory in hand, we must now turn our attention to our returning troops. This bill, in addition to establishing a method for payment of expenses incurred during Operation Desert Shield and Operation Desert Storm contains many new and expanded military benefits for the people who were there. We can do no less.

These benefits are an extension of America's gratitude for the sacrifices made by the men and women, active duty and reservists and guardsmen alike, who risked their lives in the fight against the tyranny of Saddam Hussein.

As a member of the Senate Armed Services Committee which reported out many of the benefits contained in S. 578, I believe it is important that our Nation extend to our troops more than the deserved celebrations and parades upon their return; their financial and personal needs must be addressed as well. In approving S. 578, the Senate will have gone a long way in making sure these needs are met once the fanfare has ended.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

I thank the Chair. Mr. President, I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDENT pro tempore. There is 1 minute remaining in morning business. The Chair recognizes the Senator from Iowa [Mr. GRASSLEY].

EXTENSION OF MORNING BUSINESS

Mr. GRASSLEY. Mr. President, would it be in order to ask unanimous consent that morning business be extended?

The PRESIDENT pro tempore. It would be in order. What does the Senator suggest?

Mr. GRASSELY. I ask unanimous consent that morning business be extended until 10:30 under the same rules.

The PRESIDENT pro tempore. Is there objection? Hearing no objection, morning business is extended until 10:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Iowa is recognized.

Mr. GRASSLEY. I thank the Chair.

(The remarks of Mr. GRASSLEY pertaining to the submission of Senate Resolution 82 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

The PRESIDING OFFICER (Mr. KOHL). The Senator from Maine is recognized.

CONSIDERATION OF THE WARNER-NUNN AMENDMENTS

Mr. COHEN. Mr. President, I had intended to speak at some length on the two amendments that are pending to S. 578. I have been advised that there may not be a reason to debate those two amendments for any length of time because they might, in fact, not go to conclusion.

But let me just state for the record, at least during this period of morning business, that I think the amendments—and that is both the Warner and the Nunn amendments—ought to be rejected, if they are not in fact withdrawn at this point, for the prinicipal reason that they would, in my judgment, impede the consideration of this bill.

If we start to open this up to significant amendments, and I would consider both of those to be significant amendments, then we are going to have a proliferation of amendments on both sides.

Mr. NUNN. Will the Senator yield for just a brief observation? I hope the Senator will go ahead and give us his analysis of some of the substance of the amendments. I agree with him on the point he just made.

If the Senator from Virginia decides at some point that he will draw down his amendment, I certainly will take my amendment off, because I believe it would be better if we did not have the bill opened up to a lot of amendments. No matter what happens to either of these amendments, if either of them become part of this bill, I think we will have a lot of other amendments.

Mr. COHEN. I thank the Senator for his comments. I think the measure is premature. No. 1, we had no hearings; not a witness has been called on either side. I think an issue of this magnitude at least warrants and merits that kind of thoughtful consideration.

Furthermore, there has been no request, to my knowledge, from the administration for this measure or statement by the administration that it perceives the current restrictions contained in the ABM Treaty as unduly constraining the tests that are currently being carried out, and those they contemplate being carried out in the next year or so.

The administration has indicated that if it feels the restrictions of the traditional interpretation of the ABM Treaty are too onerous, members of the administration will consult with Congress. To my knowledge, there has been no such consultation; there has been no indication. If there were, I certainly would be very amenable to listening to their concerns and perhaps supporting changes that might be necessary.

But let me just very briefly, because my time is limited this morning, draw attention to what I found to be somewhat troubling, and that is, subsection b(4) of the major amendment, the Warner amendment, which states that "the Secretary of Defense should—should—undertake preparations for development and testing of (ABM) systems and components * * * even though some of the actual development and testing may not be permitted by the ABM Treaty."

Mr. President, this subsection is at best ambiguous and subject to interpretation regarding its relationship to current law. One interpretation would be that it contradicts current law. Current law states that while the Department of Defense may undertake such steps as paper studies, it may not—may not—undertake preparations such as acquiring long lead items for SDI development or testing unless the development or testing is consistent with the traditional interpretation of the ABM Treaty.

A sense-of-the-Congress amendment does not change the law, and it certainly cannot authorize a violation of the law, and yet one could interpret that this is precisely what this subsection would purport to do: You should violate the law even though you cannot do so. I find that very troubling because many of us like to consider ourselves to be advocates of law and order, and for us to take a position that could reasonably be interpreted to state that a member of the President's Cabinet ought to undertake conduct which is clearly and expressly prohibited by law seems to me to be inconsistent with that position.

I think it is important to start the debate—and I commend Senator WARNER for doing so—in the direction we have to move, or ought to move as far as providing for defense against limited attacks either by accident or by terrorist nations. But there has to be a right time and a right place and consideration of this legislation on the Senate floor is not, in my opinion, the right time or place to address either the Nunn amendment or the Warner amendment.

We will have plenty of opportunity. We ought to hold hearings, call witnesses, ask General Scowcroft and others to submit a lengthy examination of the complex issues involved, and then I think we would be prepared to go forward. But until that time arrives, I think it would be premature to consider either amendment, and both ought to be rejected if they are not withdrawn.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Dakota.

SUPPORT FOR S. 578

Mr. PRESSLER. Mr. President, I rise to support S. 578, the Operation Desert Storm supplemental authorization bill. As one who served in the Army in Vietnam, I applaud the warm reception our troops are receiving. My generation did not receive that same warm reception, but we join in giving a warm welcome home to the troops of Desert Storm.

The Korean war veterans did not receive such a warm welcome home. I hope they are honored along with Vietnam veterans in the various celebrations. Societies welcome home troops from wars in different ways, as has been illustrated since the 1950's. But I think we all rejoice that the troops from Operation Desert Storm are being welcomed home so warmly.

As we know, S. 578 provides an increase in the monthly imminent danger pay from $110 to $150 retroactive to August 1990. The legislation authorizes $20 million for child care assistance to military personnel serving on active duty. It also authorizes $30 million for education and family support services for families of military personnel on active duty, and it increases temporarily the ceiling on the amount of death gratuity pay from $3,000 to $6,000, retroactive to August 2, 1990.

Mr. President, our brave men and women in Operation Desert Storm have given our country effective and professional service. This bill will provide them and their families with benefits they have earned.

Mr. President, I am proud to rise in support of S. 578, the Operation Desert Storm supplemental authorization bill, and I urge its immediate passage.

The PRESIDING OFFICER. The Chair recognizes the Senator from Virginia.

ORDER OF BUSINESS

Mr. WARNER. Mr. President at some point, the managers would like to address the Senate with respect to pending amendments and the bill. We do, however, wish to accommodate other Members desiring to speak.

Parliamentary inquiry, Mr. President. What is the pending matter in the Senate now? It is my understanding it is morning business.

The PRESIDING OFFICER. Morning business until 10:30.

Mr. WARNER. At such time as 10:30 arrives, the Chair will recognize the managers.

I thank the Chair.

Mr. BINGAMAN. Mr. President, I wish to address the Warner amendment and the substitute that the Senator from Georgia has offered, and perhaps if morning business is about to expire, I guess I would ask unanimous consent that I be allowed to go ahead and complete my remarks before morning business concludes.

Is that permitted?

The PRESIDING OFFICER. Without objection.

Mr. WARNER. Mr. President, I apologize to my colleague. I was engaged in another matter here. I thought he sought recognition to address the Senate. The question is?

Mr. BINGAMAN. I would advise the Senator from Virginia, I had about 6 or 8 minutes of comments on the Warner amendment and the substitute amendment offered by the Senator from Georgia. I did not know if I should offer those now and ask unanimous consent that I be allowed to conclude those before morning business concludes, or if I should wait.

Mr. NUNN. If the Senator will yield, if I could make a suggestion. When we go off of morning business and get back on the bill, the bill is open to debate with no time agreements. The Senator could be recognized for whatever time he would like to take.

We do hope to move the bill along. I do not want to encourage a lot of amendments because what we would like to do is move this bill as rapidly as possible and finish it today.

I am told by the leadership that he plans to take up the Alexander nomination today for at least a couple of hours. So with that in mind, the Senator could make whatever comments he would like to make when the bill is up.

Mr. WARNER. Mr. President, if the Senator from Virginia could advise the Senate, after consultation with the majority leader and the Republican leader, and with my distinguished colleague, the chairman, it is the intention of the Senator from Virginia to seek to bring down his amendment, withdraw it, the purpose being that this bill must be acted upon today in order that this package of benefits can be made available at the earliest possible time for those beneficiaries, primarily those in the Armed Forces of the United States.

I will at some point in time give the reasons why I think it is time to bring this amendment down, and then advise the Senate with respect to my intentions in the future.

I would think from a parliamentary standpoint it would be desirous for the Senator from Virginia to give brief comments with respect to the reasons why the amendment will be taken down at this time, followed by, I understand, the amendment of the Senator from Georgia, which would likewise come down. Then the floor would be open for such comments as other Senators may wish to make about this and other matters as they relate to the bill.

So I join with the chairman in assuring our colleague, and fellow Members of the Senate Armed Services Committee, that he will be given the time he deems necessary to address this issue.

MARGARET THATCHER

Mr. ROTH. Mr. President, last Friday one of America's true friends and allies offered a speech that we cannot allow to go unnoticed. Former British Prime Minister Margaret Thatcher used the occasion not only to offer her vision for the future of democracy, but to outline in inspiring detail the indigenous strengths of the United States of America.

The speech is effective for the fact that it climbs above partisan politics to illuminate the undeniable virtues of democracy—virtues that were reflected in Mrs. Thatcher's service to her country and the world.

We sometimes forget the tremendous initiatives she implemented in Great Britain to restore not only the ecomomy, but that great nation's sense of confidence. Her commitment to free market principles is well known, as is the resurgence of economic growth that followed as she privatized large sections of the state.

Likewise, our own Nation is grateful for her strong commitment to transatlantic ties, especially the special relationship shared between our two countries. We are grateful for her unwavering support in our own efforts in the Persian Gulf, in the INF Treaty, and in encouraging the Eastern bloc to tear down their walls.

Mr. President, Margaret Thatcher was Great Britain's longest serving Prime Minister in this century. She is as well qualified as anyone to help our global community—especially the democratic industrial nations in that community—to chart a bold and productive course for the future. In her speech last Friday, she did just that, and I ask unanimous consent that the speech be printed in the RECORD in its entirety.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

A VISION FOR THE WEST ASCENDANT

(Former British Prime Minister Margaret Thatcher delivered this address last Friday at a Washington luncheon for conservative leaders hosted by the National Review and co-sponsored by the Heritage Foundation, American Enterprise Institute, Hoover Institution and Manhattan Institute. Introductory salutations omitted.)

We have before us today the opportunities created by two great victories:

President Reagan's victory over communism in the Cold War and President Bush's victory over aggression in the Gulf.

Both those victories were hard won. They required courage, the vision to see what was possible when others could not, and the persistence to fight through to a full and final conclusion.

Very few leaders possess that combination of qualities. But in the Gulf war, President Bush has showed leadership of the very highest order.

He built a grand coalition of 28 allies; he assembled overwhelming force from around the world; he gave full backing to a brilliant military concept which produced one of the greatest feats of arms with the fewest casualties in history; and he helped lay the foundations of future stability in the region. We can truly say, as [Prime Minister William] Pitt said in 1804:

"Amid the wreck and misery of nations, it is our just exaltation that we have continued superior to all that ambition or that despotism could effect; and our still higher exaltation ought to be that we provide not only for our own safety but hold out a prospect for nations now bending under the iron yoke of tyranny of what the exertions of a free people can effect."

But that victory was not won solely in the last six months. It was the culmination of a decade's achievement:

The military buildup of the 1980s.

The recovery of America's and the West's self-confidence.

Thru technological advance that created the Patriot missile and the Apache attack helicopter.

And the revival of our economies that made these miracles possible.

Someone once said that "the past is another country—they do things differently there." It is difficult today to conjure up the despairing and defeatist atmosphere of the post-Vietnam '70s. But in those days, the West was on the decline and on the defensive.

Our defenses were neglected. The Soviet Union steadily reinforced its military superiority.

Our allies felt abandoned. They felt they could no longer rely on a hedonistic West. We coined the cynical joke: "Lose a country, gain a restaurant."

In the battle of ideas, we had all but ceased to aim at furthering freedom and had settled for containing communism.

This political weakness only mirrored deeper weaknesses in our societies. Every such crisis is ultimately a crisis of the spirit.

We knew we had lost time, lost nerve and lost ground.

THE '80S, A NEW DIRECTION

So, as the '80s began, we in the United States and Britain set out in a new direction.

We wrestled with the challenge of reviving our economies.

We rebuilt our shattered defenses.

We faced up to the threat of a Soviet empire at the peak of its military might, made still more dangerous by knowledge of its own economic weakness and social fragility.

We made it clear that arms control would proceed on the basis of genuine equality of weaponry between East and West—or not at all. The Soviet Union built up its SS-20s. We deployed cruise and Pershing missiles. The result—the first ever agreement to reduce nuclear weapons.

When the Soviet Union said that Germany could only be united if it left NATO, President Bush and I stayed firm. The result—a reunified Germany fully within NATO.

At home we liberated enterprise and cut taxes producing higher living standards, more jobs and the spread of ownership.

Capitalism made our peoples prosperous at home and enabled us to feed the hungry abroad. Socialism by contrast, proved the road to poverty and serfdom.

As Eastern Europe emerges from the darkness, the truth is now fully known, and told even by communists:

Behind statistics boasting of bumper crops, food rotted.

As economic-growth rates soared on paper, people queued for hours to buy goods that a Western supermarket couldn't even give away.

As five-year plan followed five-year plan, command economies turned out products that no one wanted to buy and created an environment in which no one wanted to live.

But the world was strangely reluctant to observe these facts.

A World Bank report praised the Romanian economy for achieving high rates of growth from the early '50s on. A perceptive economist whose name is not unknown to you, Alan Walters, calculated backward from the current Romanian living standards to show that if these figures had been accurate, the Romanian people would have all been dead in 1950.

Since then, the life has drained out of communism entirely. And with it, the heart went out of socialism.

Make no mistake. These communist regimes were not some unfortunate aberration, some historical deviation from a socialist ideal. They were the ultimate expression, unconstrained by democratic and electoral pressures, of what socialism is all about:

State ownership at the expense of private property.

Government control at the expense of individual enterprise.

The pursuit of equality at the expense of opportunity for all.

In short, the state was everything and the individual nothing.

I freely acknowledge that socialists and statists often begin by finding injustices and wanting to remove them. But they go on to the notion that only state ownership and state regulation can solve such problems. You can only believe that by ignoring the lessons of history, the lessons of politics and the lessons of economics. After the experience of this century and the testimony of Eastern Europe, intellectual irresponsibility on this scale is also moral irresponsibility.

We knew that communism was spiritually bankrupt, and we said so. We knew that the Stalinist system would always produce misery and tyranny but could never produce prosperity, and we said so.

We knew that "captive nations" under communism wanted and deserved to be free, and we said so. We even dared use the phrase "captive nations."

And the more we told the truth, the more we restored our own peoples' self-confidence and the hopes of those still living under tyranny.

In the decade of the '80s, Western values were placed in the crucible and they emerged with greater purity and strength. So much of the credit goes to President Reagan. Of him it can be said, as [19th century British Prime Minister George] Canning said of Pitt, he was the "pilot that weathered the storm."

The world owes him an enormous debt and it saddens me that there are some who refuse to acknowledge his achievement.

For the whole world changed:

The Cold War was won without a shot being fired.

Eastern Europe regained its freedom; its people elected democratic governments and they announced their intention to leave the Warsaw Pact.

The Berlin Wall came down, and Germany was reunified within NATO; she and Japan, the vanquished nations in the Second World War, prospered mightily and ironically became the creditors in the new world of peace.

A weakened Soviet Union was compelled by the West's economic and military competition to reform itself; a new, more realistic and clearsighted leadership came to the top.

Glasnost was launched, perestroika was started and we saw the beginnings of democratic politics.

As the Soviet Union abandoned its revolutionary role in the world, the United Nations became a more effective forum for active diplomacy.

And the United States once again became the pre-eminent power in the world.

These are great and for the most part beneficial changes. They have been confirmed by the progress of the Gulf war in which America led, Britain and France have helped militarily; together with many Arab nations; Germany and Japan have contributed financially, the United Nations has given its blessing, and the Soviet Union, while pursuing her own diplomatic course at times, never quite departed from the U.N. resolutions she had originally supported.

A new world means new problems and the need for new approaches. How do we deal with the crisis in the Soviet Union? How do we reshape NATO in the post-Cold War World? How do we preserve and strengthen the economic foundations of the Western alliance? How do we defend Western interests elsewhere and extend stability beyond the West in the aftermath of the Gulf War? In my view, we shall tackle all of these problems more effectively, as we won the Gulf War, by the tested policy of Western unity, based on the firm U.S. leadership of sovereign nations in alliance.

NATIONHOOD/EAST-WEST

But not every change in recent months has been for the better.

In the Soviet Union there is accumulating evidence that progress toward reform has been slowed, possibly halted. Dark forces of reaction are on the rise. At such a time, it is vital that *all* those committed to reform should not falter. No doubt some reformers never expected reform to extend to multiparty democracy and a free economy. "But no man can fix the boundaries of the march of a nation." And divisions among reformers now would only hand victory to the hard liners, whom I, at least, refuse to call conservatives. The Soviet people have not gone so far to have the prize of freedom and genuine democracy wrested from their grasp.

But the task of reforming and liberalizing the Soviet Union is a far more difficult one than any of us had supposed a few years ago.

How do you persuade people brainwashed by egalitarian propaganda that inequities are the side-effect of rising prosperity for all? How do you tell them that higher living standards can only be attained at the short-term price of higher unemployment? And how do you do any of this while the demoted bureaucrats, the discredited politicians and all those who flourished under totalitarian mediocrity are out to undermine everything you do?

I am often asked: Can we still do business with Mr. Gorbachev?

We should not underestimate the future reforming zeal of a man who allowed Eastern Europe to grasp its freedom; who has begun the withdrawal of Soviet troops; accepted arms reduction for the first time; and cut support for communist insurgencies across the world. We have to go on doing business with him. In the same way, he has to do business with the democratic reformers if he is to succeed.

The pessimists among you will perhaps reply that the Soviet leader embarked on reform so as not to be left behind by the military buildup and economic progress of the West in the 1980s. I am the last person—or maybe the second to the last person—to deny that these played a major role in Mr. Gorbachev's calculations. We had an economy driven by information technology: he had an economy fueled by vodka!

And the very realism that prompted these reforms will persuade him to step up liberalization, if he can, when the present slowing of perestroika pushes the Soviet economy further into crisis, as it must.

Perhaps it does not really matter whether the optimists or the pessimists are right. Because optimism and pessimism dictate the same policy. If Mr. Gorbachev remains a reformer at heart, as I believe, he will privately welcome Western pressure for reform and employ it against the hard-liners. If he himself has succumbed to the hard-liners, as others believe, the West's pressure will push him too in the direction of reform.

So what kind of reform should we be seeking for these people who have rejected a false ideology but have not yet learned the ways of freedom?

It is fashionable in some circles to argue for credits for the Soviet Union. But to give large credits to fill shops will not help to build the necessary structures of liberty; they would be dissipated quickly, leaving an increasing burden of debt.

Any assistance to the Soviet Union must, therefore, be granted only in response to practical economic reforms. Helping the present structures will only keep reform at bay. We must instead encourage the dispersal of power from Moscow to the republics. Five Soviet republics are now negotiating for such a dispersal of power—let us hope those negotiations succeed.

Second, we have to stress to the Soviets just how essential private property is to freedom. History teaches that human rights will not long survive without property rights; nor will prosperity be achieved without them.

Nor is freedom secure without independent courts and a rule of law. Here we have experience and knowledge totally denied to people who have grown up in a totalitarian system. Perhaps we should consider extending the know-how funds for the Soviet Union to go towards developing an independent judiciary.

We must also draw the Soviet Union closer to the institutions of the international trading and payments system. Associating the Soviet economy more closely with these will, over time, help to transform that economy internally. Their rules will help promote sound money, competition and genuine trade. No economy will prosper if it is strangled by regulations and bureaucrats.

So, let us say to Mr. Gorbachev that he can count on our help when he makes reforms. But the reverse of this is that any evidence of a return to repression must prompt from the West a swift and effective response. The constant raising of human rights cases in the Soviet Union over many years, especially since the Helsinki accords, did undoubtedly have an effect—we must remember that lesson and act upon it.

In particular, we cannot overlook or condone the disgraceful abuses of those rights which we have seen in the Baltic States. These states were seized by the Soviet Union not by law but by fraud and violence. That seizure has never been regarded as legal by the West. We fully support the right of the Baltic States to determine their own future. We must make it clear to the Soviet Union that it is not a question of whether they will be free—but only of when they will be free. And they *will* be free.

NATO AND DEFENSE

There are signs that the Soviet Union is failing to fulfill either the letter or the spirit of the terms of the treaty for reduction of conventional forces in Europe, signed in Paris. And there are signs of pressure by the Soviet military to reassert its position.

Moreover, the re-emergence of tension and uncertainty on Europe's eastern border ought to remind NATO's Continental European members both that international dangers can rarely be predicted and that sustained commitment is necessary to deal with them.

We must never forget that it is NATO—because it is strong defense which underpins that peace with freedom and justice that we in the West enjoy and now have the opportunity to extend to others.

NATO has been uniquely successful in maintaining liberty. It is not just a military alliance but an alliance in defense of a way of life. NATO must not be discarded.

It is in the interests of Europe that the United States should continue to play that dominant role in NATO to which we have been accustomed. Indeed, as was demonstrated in the Gulf, for the assistance that Britain and other powers gave, only one nation has the power to defend freedom and security in the world today. That is and for the foreseeable future [will] remain the United States.

The pursuit of a new defense role for the countries of Europe is much discussed. It is certainly true that, within NATO, the European countries should make a greater contribution.

The European countries should also be prepared to take a more active military role in response to events outside NATO's present area. Germany's interpretation of its constitution has so far prevented it making a military contribution. But a full commitment to the defense of international freedom and stability requires risking life as well as treasure.

NATO has been a great success. We should be wary of creating new institutions to replace or complement its unique and indispensable role. Perhaps the most extraordinary suggestions yet to come out of Brussels is that the disunity and halfheartedness of most European nations during the Gulf crisis demonstrate the need for a united European foreign and defense policy. A new structure, even if it were necessary, can never be a substitute for will. Any arrangements which denied Britain and France sovereign control of their foreign and military commitments, especially determining these vital questions by a majority vote, would almost certainly have excluded Anglo-French forces from the Gulf—or at least long delayed their arrival and limited their number. In those grim early days after Iraq's invasion, America would have been left to stand alone. And it is far from certain that, even if after prolonged deliberations, the European Community would have contributed military assistance. The methods of compromise which underpin such decisions would almost certainly have left Europe on the sidelines.

For many years, successive American governments believed that progress toward a United States of Europe would relieve America of the burden of defending freedom. That hope, alas, turned out to be greatly exaggerated. Moreover, this kind of geopolitical grand strategy should be regarded with the greatest skepticism. If a European superstate were to be forged, it would almost certainly develop interests and attitudes at variance with those of America. We would thereby move from a stable international order with the United States in the lead to a more dangerous world of new competing power blocs. This would be in no one's interest, least of all America's.

So NATO must remain the principal defense organization of the West: Instead of seeking to supplant it, we should aim to adapt and extend it to meet the challenges of the post-Cold War world.

ENLARGING NATO'S ROLE

Our first step should be to enlarge its political role. This great trans-Atlantic partnership should not confine itself to matters of defense but should extend its discussions into other political and economic areas. This would be of benefit to countries on both sides of the Atlantic.

Second, those Eastern European countries which have left the Warsaw Pact should be given a new, special status in NATO—something short of full membership but well beyond mere observer status. Perhaps France has pointed the way in this respect. Such a new status could be an added source of stability in a traditionally unstable area and reassure these countries in troubled times. Even in periods of warmer relations, you can have a chilly spell.

Third, I believe that NATO's role should be extended to threats which are out-of-area. When I addressed the NATO Council at Turnberry last June, I warned that: "There is no guarantee that threats to our security will stop at some imaginary line. With the spread of sophisticated weapons and of military technology to areas like the Middle East, potential threats to NATO territory may originate from outside Europe."

Within two months, Saddam Hussein had invaded Kuwait. Fortunately, although there was no coordinated NATO response, several NATO nations acted vigorously to ensure that aggression did not pay.

Saddam Hussein has been defeated.

But Iraq is not alone in acquiring the technology and power to turn regional conflict into global crisis. Defense Secretary Richard Cheney has reminded us that:

"By the year 2000, more than two dozen developing nations will have ballistic missiles, 15 of those countries will have the scientific skills to make their own, and half of them either have or are near to getting nuclear capability as well. Thirty countries will have chemical weapons and 10 will be able to deploy biological weapons."

This means that the NATO countries under America's leadership must be in a position to deter aggression by these countries and, if it occurs, to make a swift and devastating response.

Strong defense will continue to be necessary—and costly. For technology does not stand still. It was the coalition's technological superiority which, with the courage of our fighting men, enabled us to defeat the world's fourth-largest army after just four days of ground war. For myself, I believe we must keep up the rate of technological advance which gave us the Patriot missile and which will give us SDI [Strategic Defense Initiative].

All too often after wars, democracies rush to cut back defense and increase domestic public spending. The end of the Cold War led to a similar reaction. It is time to consider whether the plans to reduce spending on defense should be revised. Resolve is not enough; you must have the military capability, too.

Perhaps, the single most important point to be made today is that the only real peace dividend is, quite simply, peace. Our generation has enjoyed it because of the investment of billions of dollars and pounds in defense.

So the first way to ensure that freedom prevails is to defend it—principally through NATO.

But no less important is the second means—the maintenance of world prosperity, founded upon an open system of free trade. And if there are risks to our security, the risks today to the open trading system are just as great.

Let us remember that the West's postwar prosperity could never have been achieved without the orderly framework of free trade provided by the GATT [General Agreement on Tariffs and Trade]. Our response to the stock market crash of 1929 was rising protectionism which transformed it into a catastrophic economic depression, slashing world trade in manufactured goods by some 40 percent—and all but undermining the credibility of capitalism itself. By contrast, our response to the world recession of the early 1980s was to resist protectionist pressures. Free enterprise and open trade duly swept us into years of unparalleled prosperity.

Yet the temptation to erect or retain tariff and other barriers is understandable. Managing trade through a network of bilateral agreements and tariff barriers has superficial political attractions. But in the long term, it would make home industries less efficient; consumers pay more for less choice; and condemn the Third World to lower living standards by denying them markets.

It would serve no purpose for me now to attribute blame for the failure, so far, of the Uruguay Round of the GATT. We might both be embarrassed by the degree of our agreement. Anyway, I have had a thing or two to say about this at European Councils.

But the dangers to free trade are now greater than for 40 years. And paradoxically, they have been increased by the end of the Cold War. Solidarity on these matters between the United States and Western Europe in the face of the threat of communism has inevitably waned—and with it the will to compromise in the common economic interest.

Of course, people are impatient after four years of negotiations in the GATT. However, if there is evidence of a real and urgent comment to reach a settlement and more time is needed, it should be given. Some of the best agreements have been reached after the clock has stopped.

It would be a tragedy if the GATT talks were to fail because the U.S., the Cairns Group and the European Community could not reach an agreement on cutting farm subsidies. We cannot expect the Third World to agree to what the West wants—protecting intellectual property rights and liberalizing services—when we deprive them of their main export market, agricultural commodities, and hence of the funds to improve and diversify their economies.

The stakes are high. If GATT should fail, we would gradually drift into a world of three powerful, protectionist trade blocs—based on America, Europe and Japan—engaged in mutually destructive trade wars. That would not only threaten world prosperity, but it could also damage the common sympathy vital to defense ties across the Atlantic.

We should be moving in precisely the opposite direction. Europe and North America, staying within GATT rules, should move steadily to cut tariffs and other trade barriers between them. In the short term, special provision would have to be made for the more difficult problems like agriculture; and over the decades, we would create a free trade area in embryo across the Atlantic. It would be the greatest concentration of wealth and skills in history, encompassing 58 percent of the world's GNP, and it would be a force for free trade rather than a restraint upon it. The very size and prosperity of the group would give it enormous influence in setting liberal rules for open world trade. The inclusion of America would reassure [against] the fears, whether justified or not, of some European countries about German economic dominance. And, above all, it would provide the economic underpinning for NATO and its out-of-area role. It is a visionary prospect, but we need a distant star to steer by.

The European Community's response to the challenges and opportunities of free trade will be crucial.

Europe is now at the crossroads. Amid the apparently technical arguments on monetary union, institutional change and social dimension, a struggle is under way for Europe's future.

Only recently, perhaps, has America begun to recognize that it too has a stake in the outcome. A democratic Europe of nation-states could be a force for liberty, enterprise and open trade. But, if creating a United States of Europe overrides these goals, the new Europe will be one of subsidy and protection.

The European Community does indeed have a political mission. It is to anchor new and vulnerable democracies more securely to freedom and to the West. This is what happened after the end of authoritarian rule in Spain, Portugal and Greece. So the offer of full Community membership must be open to the countries of Eastern and Central Europe just as soon as democracy and the free market have taken root. In the meantime, we must strengthen links of trade, investment and culture.

The false political mission which some would set for the European Community is to turn it into an inward-looking and protectionist United States of Europe. A Europe in which individual nations each with its own living democracy would be subordinated within an artificial federal structure which is inevitably bureaucratic. A community lacking a common language can have no public opinion to which the bureaucrats are accountable.

Americans and Europeans alike sometimes forget how unique the United States of America is. No other nation has been built upon an idea—the idea of liberty. No other nation has so successfully combined people of different races and nations within a single culture. Both the Founding Fathers of the United States and successive waves of immigrants to your country were determined to create a new identity. Whether in flight from persecution or from poverty, the huddled masses have, with few exceptions, welcomed American values, the American way of life and the American opportunities. And America herself has bound them to her with powerful bonds of patriotism and pride.

The European nations are not and can never be like this. They are the product of history and not of philosophy. You can construct a nation on an idea; but you cannot reconstruct a nation on the basis of one. You have only to consider the consequences of trying, as did the architects of the French Revolution of 1789, to reconstruct France on the basis of a slogan. Alas, it was not "liberty, equality and fraternity" which were the result. In exactly the same period the Americans have lived under one Constitution, our French friends notched up five. A Punch cartoon has a 19th-century Englishman asking a librarian for a copy of the French constitution only to be told: "I am sorry, sir. We do not stock periodicals."

It is in this light that we should consider the attempt which is being made to create a European Superstate. That aspiration has many origins—some noble, some cynical, some just naive. But, in any case utopian aspirations never made for a stable polity. Political institutions cannot be imposed if they are to endure. They have to evolve and they have to command the affection, loyalty and respect of populations living under them. The kind of Europe which all of us—on both sides of the Atlantic and, not least, in the countries of Central and Eastern Europe so recently emerged from the thrall of communism—must see is no less visionary and far more practical than the alternative. Our kind of Europe, of sovereign states proud of their national identity, enjoying the prosperity which free enterprise brings, a force for open trade, democracy and liberty, would look outward to the world where freedom must be defended and extended. And when we look westward, we see not threatening rivals but staunch friends with common purposes. That's my vision of a European future.

MIDDLE EAST/U.N.

Whether it is in Europe or the wider world, we have to know clearly what we should expect from international institutions. The Gulf War posed a sudden, dramatic challenge to the international community. Indeed, "The Gulf" was hardly on our agenda until the sudden invasion of Kuwait on Aug. 2 last year. Yet, since then, the Gulf has dominated all else.

The war is now over and we are working to build a secure and lasting peace. It is precisely the right time both to look again at the issues which have so long divided the peoples of the Middle East and to take stock of the future role of the United Nations.

It is not for others to come up with precise formulas for solving the problems of the Middle East. Agreement will only come from painstaking and persistent negotiation between the peoples involved. An international conference could play a part in this—not to arbitrate, but its members could provide advice on the preparation of an agenda, the development of proposals, the framing of security agreements and the course of diplomacy.

I believe that six items among others should be on our agenda for peace in the Middle East:

First, the Gulf must be protected as an international seaway. Our navies will have to stay there and those from the European countries must take a bigger and more prominent share of the duty.

Second, military equipment and supplies may need to be prepositioned in the area, both to deter further aggression and to enable the rapid deployment of Western troops should that deterrent fail.

Third, arrangements must be made to safeguard the security of Kuwait. For who will be prepared to invest the enormous sums required to rebuild Kuwait, unless security is properly guaranteed? I believe a United Nations force policing a demilitarized zone would be right for this purpose.

Fourth, there is the question of biological, chemical and nuclear weapons. We must be satisfied by observation that Iraq's have been destroyed. We should have sanctions against supplying them with equipment that could be used for that purpose. And Iraq's territory must be open to rigorous inspection to ensure that production has not begun again.

Fifth, countries which engage in aggressive war cannot expect to be allowed freely and quickly to build up their military strength. We must take steps to ensure that the advanced weapons of war are withheld from Iraq, which has, twice in 10 years, invaded the territory of neighboring Islamic states.

Finally, there is the Palestinian question, so long encased in suspicion and hostility. It can only be tackled by direct negotiation with the representatives of the Palestinian people. But those leaders who supported Saddam Hussein do not come to seek equity with clean hands. One favorable development is that the Soviet Union is now playing a very different role than in the past. So some of the fears that a Palestinian state—even though part of a confederation with Jordan—would be prey to communist subversion, have receded. But we can well understand Israel's concern for secure borders and indeed the concern of all states in the area for a system of regional security.

The United Nations was tested by the crisis in the Gulf. And it came through with an enhanced reputation. The permanent members of the U.N. Security Council worked together for the first time since 1945 to defeat aggression—and not for one resolution but for 12.

But the U.N. resolution had to be enforced by the actions and commitment of individual countries—both America and her NATO allies and the other Arab countries of the region which saw their interests threatened by Saddam Hussein's aggression. This combination of international authority by the United Nations and enforcement by the United States and other sovereign countries may well prove to be the best model for future contingencies. A U.N. armed force, operating under the instructions of a U.N. committee representing the interests of opposed countries, would be paralyzed and helpless.

The counterpart to increased United Nations authority is for all of its members to take seriously their obligations under the charter. It is no good individual states condemning abuses of human rights abroad if they do not practice freedom at home.

FREEDOM AND THE FUTURE

There can be no better time or place to consider the future of our nations than here—at the heart of the Free World. The role of practical statesmen in any age is to create or adapt political structures for prosperity and peace. Today, I have suggested how this may now be done—in NATO, in the GATT, in the Soviet Union, in Europe and in the United Nations.

But true statesmanship in a free country must be measured by more than that. It requires an unswerving commitment to make the sovereignty of justice prevail. It requires an ability to inspire others with the rightness of a cause. It requires strong arms and great hearts.

We look to America for these things. And we do not look in vain.

After victory in the Cold War and in the Gulf, we face a still nobler, still more challenging task—to advance the reign of freedom and free enterprise throughout the world. It is now, more than ever, America's destiny, supported by her faithful friends—and no friends are truer than her friends in Britain—to press ahead with that endeavor.

In the words of President Abraham Lincoln:

"Let us strive on to finish the work we are in."

THE FEDERAL PROGRAM PERFORMANCE STANDARDS AND GOALS ACT

Mr. ROTH. Mr. President, today I would like to begin a series of commentaries on the long overdue need to establish measurable performance goals for Federal programs, and on the legislation I have introduced to do that—S. 20, the Federal Program Performance Standards and Goals Act of 1991.

As we have just witnessed in the amazing success of Operation Desert Storm, a well-defined, clearly stated objective is a prerequisite of a successful program. Lt. Gen. Thomas Kelly called it "the first principle of war," but it is really the first principle of good government.

All of us in the Congress have shared the frustration at our seeming inability to get a handle on waste and mismanagement in Federal programs, and on the continued inability of those programs to solve the problems they are intended to address.

Now admittedly, there are often fundamental differences of opinion expressed in this Chamber as to whether a particular matter is a Federal responsibility, or whether we can afford a particular program. But surely, after that debate is over, and the votes are cast, if a program is created—whether it be a defense program, or a social program—we should all want it to work. If we are going to spend the money, we should all want to get full value for the tax dollar—regardless of how we voted in the first instance.

Political commentators often argue that the American public wants government programs on the one hand, while opposing new taxes to pay for them on the other. This is claimed to be hypocracy on the part of the public, but I do not believe that is a fair characterization. Rather, I think it is a reflection of a strongly held belief by the tax payers that we are not getting full performance from the dollars we are already spending.

I believe the public is right. In fact, I think we all acknowledge that there is a lot of validity to that view. The question is, what to do about it.

We can begin by understanding why the problem exists. It is because when Congress creates and funds a program, rarely does it specify a well-defined goal for that activity. Unlike Operation Desert Storm, there is no clearly stated objective—no performance standard—by which to measure a successful and effective use of public funds. We debate program inputs—how much money should we spend—but we do not debate program outputs—what measurable results do we expect. It should be little wonder, then, when we encounter performance problems.

The Federal Program Performance Standards and Goals Act (S. 20) is designed to fill in this big missing piece in the Federal management puzzle. The legislation would require three things.

First, that measurable performance goals be developed for all Federal programs, and that every agency file an annual performance report—showing what was actually accomplished versus the planned goals for the past year, and for each of the 3 previous years.

Second, that programwide performance goals be incorporated directly into the Federal budget for major expenditure categories. This is what changes a budget from being largely a political document, into a real policymaking and management tool.

And third, that the Congress itself be required to specify measurable performance goals for the programs it creates and funds. We spend the money, so it just makes sense that we should say what we expect to achieve with that money. Many Federal programs are poorly focused, because it is not clear specifically what Congress wants accomplished—and that just invites waste and inefficiency.

These three reforms are all the more important now, because of the spending caps imposed by the recent budget agreement. Under that agreement, domestic programs will compete with each other for additional funds. To expand one will mean cutting another, the same as with defense programs. This means that it is now vital that we know which programs really are effective and efficient, and which are not—so that we can make sound resource allocation decisions.

Mr. President, in the coming days, I will more fully explain the urgent need for this legislation, the broad base of nonideological support for it, how State and local governments have already begun to adopt these practices, and how we might develop measures of program quality, efficiency, and effectiveness for Federal programs. In the meantime, I would welcome the additional cosponsorship of any interested Senator.

ARMS SALES

Mr. BUMPERS. Mr. President, yesterday, I watched President Bush and Prime Minister Mulroney jointly sign an agreement dealing with acid rain. This has been an extremely important thing with Canada for a long time. Obviously, they consider the United States' coal-burning utilities as the culprit in the acid rain problem in Canada and, unhappily, they are precisely right.

I have heard it said that the agreement yesterday was more pro forma for publicity purposes than anything else, but if it does not have much teeth in it, it at least continues to dramatize this problem that Canada has.

First, I must say, I do not think the United States has been very forthcoming or accommodating to a really serious problem that Canada has been talking about for many years. It sort of spoiled the well in our relationships. I think now that that agreement has been signed, at least that will be an embryonic beginning to doing something substantive in solving Canada's problem.

No. 2, as we know, President Bush and Prime Minister Mulroney had a joint press conference. President Bush said something about, in the future, we must be more careful about the countries we sell arms to, but he was correctly saying that we are not going to cut off arms sales to everybody.

Mr. President, I have stood here behind this desk for I do not know how many years talking about the absolute absurdity, the insanity, of continuing—not just us, but the Soviet Union, the French, the British, the Italians, the Brazilians, and Eastern Europe—the insanity of our continuing to sell the most sophisticated weaponry we have to every two-bit dictator in the world who is willing to starve his people to buy those weapons, such as Saddam.

So, while I applauded what President Bush said yesterday, and I agreed with President Bush's statement, Prime Minister Mulroney followed that with a really cogent point, I thought, and that is, virtually every weapon Saddam had, was purchased from the five permanent members of the Security Council: The United States, Soviet Union, France, China, and Great Britain.

I had the pleasure of spending a day at the United Nations back in December and had lunch with the five Ambassadors to the United Nations representing those five permanent Security Council members. As we went round robin among about five Senators having lunch with these five Ambassadors, when it came my time to speak, I said, "Gentlemen, you have a golden opportunity." The war had not even started at that time. but I said, "You have a golden opportunity because the people of the world are becoming more aware than ever before of what we have been doing with these arms sales to Third World nations, and we ought to be convening representatives of all the arms exporting nations right now."

I hope that our President will take leadership in this and decide in a meaningful, enforceable way to stop selling Hawk missiles, for example, to countries like Jordan and Kuwait and Stinger missiles to Bahrain.

When Saddam Hussein went into Kuwait, he captured 300 Hawk missiles that we had sold Kuwait. But the happy circumstance is that that is a sophisticated weapon and his people never could make it operational. But if they had had time to learn to use the Hawk missile, the most sophisticated antiaircraft weapon in the world, there would be a lot more dead American pilots.

The only Air Force Saddam Hussein had, really, was a whole bunch of Mig's, and they turned out to be irrelevant, but he did have 75 Mirages that he had bought from France. As Bryan Mulroney said, all that weaponry he had he bought from the permanent members of the Security Council.

Now, let me ask you this question rhetorically. What if Saddam Hussein had also invaded Bahrain, population 700,000? Bahrain is a nice, peaceful country, I suppose, but what on Earth are we doing selling them Stinger missiles? We debated here for years about whether to give Stinger missiles to the Mujahidin in Afghanistan. I resisted that for a very long time, and I finally came around to believing that we ought to do it because I thought if they could start knocking down Soviet helicopters and Soviet airplanes, that war would come to an end. That is not the only reason it came to an end. It came to an end because Gorbachev said they could not afford it anymore. But it also came to an end because the Stinger missile was so effective against Soviet air power.

But then do you know what happened to those Stinger missiles? The first thing that happened is a bunch of them fell into the hands of the Iranians, and so far as I know they still have them. But what if Saddam had invaded Bahrain and captured all the Stinger missiles we had sold them? That is not complicated like the Hawk missile. The Hawk missile batteries are extremely complex, using radars and so on. Any high school kid can fire a shoulder-fired Stinger missile, and it is a lethal weapon. If Saddam Hussein had 300 or 400 of those, we would have lost still more American pilots.

Mr. President, I have taken more time than I had intended. But as I have simply said on this floor, in great frustration I might say, dozens of times, when on Earth are we ever going to realize that our weapons last longer than our friendships? Every time we engage in these sales, we regret it. We left Vietnam the third most powerful nation on Earth with all the American equipment we abandoned there.

What is the point of us spending billions of dollars to develop these high technology weapons, because that has always been the big edge we had over the Soviet Union. Eisenhower made the decision many years ago to build small, accurate nuclear-warhead-carrying missiles instead of those gigantic, bulky, inaccurate things the Soviet Union was making. It was a wise decision. It was wise then, and it is wise now. But it is not wise to ask the American taxpayers to put up billions of dollars to build things like the Patriot missile, the Tomahawk cruise missile, the HYDRA-70's, the MLRS's, the F-16's, the F-17's, the Harriers, the F-117's, and then transfer those weapons to every Tom, Dick, and Harry in the world, where they can and often are used against us.

So I would just say to the President—and I am not lecturing because I think the President agrees with me—I think every war has its own unique lessons. Prime Minister Mulroney brought it home so dramatically yesterday, this lesson which is unique in this war, and that is everybody in the coalition that is a permanent member of the Security Council was guilty of having contributed to this swaggering dictator's confidence that he could cause us a lot of grief.

Mr. President, I yield the floor.

INTERNATIONAL ARMS TRAFFICKING

Mr. ROTH. Mr. President, we have all applauded the end of the war in the Persian Gulf—a war which, under the leadership of President Bush, was admirably executed by the coalition forces. The men and women who fought for us, and their families, deserve our enduring gratitude.

But there is more work to do as we grapple with the intricacies of the current situation in the Middle East and as we attempt to ensure the establishment of a stable and lasting peace in this strategically vital area.

During the prelude to hostilities in the gulf, as well as during the actual fighting, there was a great deal of legitimate concern about whether Saddam Hussein would employ chemical or biological weapons, as well as speculation about whether he had been able to produce a nuclear weapon. Thankfully, none of these fears were founded. Similarly, Saddam Hussein's Scud missiles proved to be overrated as strategic weapons and were not militarily significant in the face of Patriot missile defenses.

The Congress and the executive branch have devoted a great deal of the time and effort to establishing controls on the proliferation of nuclear weapons, chemical and biological weapons, and ballistic missiles. The success thus far of such efforts can be debated, and there is obviously further work to be done. What cannot be debated is an almost total lack of coordinated effort both at home and abroad on limiting proliferation of conventional weapons. We need to do something about that. After all, Saddam Hussein would never have become the offensive threat that he did if he had not been able to acquire thousands of tanks, artillery pieces, armored personnel carriers, antiship missiles and other powerful conventional weapons.

For me, a particular point of immediate concern is the disposition of the arms left behind in Iraq and Kuwait. I hope we learn a lesson from history. In the last war in which this country was involved, many weapons and over 150,000 tons of ammunition were left behind in Vietnam. Some of this may have rusted away in the jungles, but much of it has been set out on the tables of the hawkers in the international arms bazaar, to be delivered to the highest bidder, and has turned up in countries as far away as El Salvador. We cannot allow a similar situation to occur with the weapons involved in the Persian Gulf conflict. The disposition of these armaments cannot be haphazard or go unmonitored. I have heard reports that Soviet arms captured in Iraq and Kuwait will be given to Syria and that other weapons left behind by coalition forces will be divided up by the Gulf States. Who is going to make these decisions? What types and amounts of weapons will be involved? Will there be a careful accounting? These decisions need to be considered carefully. Let's not repeat the mistakes of the past and provide more material for the black market arms bazaars or, inadvertently start a new round in the Middle East arms race.

The problem of managing stockpiles of old or surplus arms is not unique to the Persian Gulf, but exists elsewhere in the world. What, for example, will be done with the stockpiles of weapons and ammunition left behind in Germany by the Soviet and former East German armies? The problem is a global one, and will require coordinated, multilateral efforts to effectively combat it.

Recent hearings of the Permanent Subcommittee on Investigations, on which I serve as ranking minority member, examined the links between arms trafficking, mercenaries and drug cartels. During the course of these hearings, we heard from more than one witness that powerful conventional weaponry is readily available on the black market and that circumvention of the existing—and, I must add, inadequate—regulations is commonplace. Equally disturbing, we also heard that nobody has a clear idea of the dimensions of the international arms trade. The phase "arms bazaar" is apt. Without better knowledge of the situation, how can we hope to control it?

We need to take some necessary first steps: We must attempt to define the dimensions of the conventional arms trade, identify the players, and illuminate the loopholes in the existing regulatory framework. And then, we—the United States, our friends and allies and others—must work together cohesively and corporately toward a solution—toward control and management of the arms trade.

In making this exhortation, I recognize and share the concerns of many knowledgeable people that unilateral attempts by the United States to limit arms sales are unlikely to succeed. Moreover, every country has the right to self defense and sufficient weaponry to maintain that defense. Concurrently, however—and the two goals are not opposed—we must work multilaterally to prevent uncontrolled and irresponsible arms trading. We did not attain victory in the gulf unilaterally, and we cannot begin to control the proliferation of conventional arms unilaterally. The United States must take the initiative in rallying the support of her allies for a concerted, cohesive, and coordinated effort to address the immediate aftermaths of the Persian Gulf war, and in the longer term, to work together to make the words "arms bazaar" an anachronism of the past.

WILLIAM L. BROWN, JOHNSTON, IA, A TRUE SCIENTIST AND PIONEER

Mr. HARKIN. Mr. President, on March 8, Dr. William L. Brown, one of Iowa's—indeed the world's—leading agricultural scientists passed away at his home in Johnston, IA. With the help and comfort of his wife, Alice, Dr. Brown had struggled for over a year in his battle with emphysema.

Bill Brown was a truly exceptional man. Throughout a long career, he developed literally hundreds of special friendships, friendships based upon his kindness and untiring generosity. I am among the many nonscientists privileged to have known Bill Brown as a friend. He had a rare facility for patiently explaining complex scientific issues and challenges in a way any lay person could fully understand.

Dr. Brown will be remembered as a man always willing to encourage, and help others extend the reach of their visions. He was a scientific pioneer, and played a vital role in the development of many plant breeding methods. The early corn varieties released by Pioneer during Dr. Brown's years as the company's scientific director set the genetic stage for the explosion that has occurred in Iowa's agricultural productivity over the last three decades. We all should remember, and take pride in the fact that the world's first Green Revolution unfolded during the 1950's and 1960's in the corn and soybean fields of the Midwest, a revolution made possible in large part by the new varieties developed by genetic pioneers like Bill Brown.

A LIFELONG COMMITMENT TO PRESERVING PLANT GERMPLASM

Throughout his career, Bill Brown spoke eloquently to the need for expanded efforts to collect, characterize, and preserve plant germplasm—the genetic heritage mankind depends on most fundamentally for food, renewable fuels, and fiber. But he also matched rhetoric with action, steadily expanding the germplasm-related efforts of Pioneer Hi-Bred International, both in the United States and worldwide.

He also patiently argued for increasing government commitment and attention to the preservation of genetic resources, a cause he pursued tirelessly for 30 years with great effectiveness all over the world.

The germplasm Bill Brown helped, in one way or another, to collect and preserve is now one of mankind's dearest treasures, a treasure of unimaginable value to a world increasingly aware of the limits of its natural resources and the value of its biological heritage. Drawing upon this germplasm, plant breeders around the world have made steady progress.

This germplasm has made it possible for scientists to develop hundreds of higher yielding varieties of dozens of crops. As the era of biotechnology unfolds around the world, this rich array of germplasm will become even more essential in global efforts to satisfy humankind's need for food, fuel, and fiber. This capacity to tap a rich and broad genetic base is the legacy of Bill Brown to the plant breeders of the world, a legacy of immeasurable value to all humankind now and in perpetuity.

Among his many honors and contributions to the Nation, Dr. Brown was elected to the National Academy of Sciences in 1980, and was appointed in 1983 as the first Chairman of the National Academy of Sciences' Board on Agriculture. During 6 years as the Chairman of the academy's Board on Agriculture, Bill Brown and his colleagues on the Board issued a series of influential reports that have already proven far reaching in their impact.

These reports address the necessity of, and methods for, preserving plant genetic resources; the tremendous opportunities to advance the productivity and sustainability of agriculture through biotechnology; options to improve the effectiveness of soil and water conservation systems and policies; opportunities to enhance the nutritional attributes of animal products; the need for a more rational, science-based approach to the regulation of pesticides; and, the agricultural research and education needs of the Nation.

It was at Bill Brown's suggestion that the academy started in 1984 a project on the role of alternative farming systems on the productivity and sustainability of American agriculture. This study, which took 4 years to complete, led in 1989 to the release by the academy of "Alternative Agriculture," one of the most influential and widely read agricultural reports ever issued.

In addition to challenging an entire industry to reassess many of its fundamental tenets, "Alternative Agriculture" provided critical guidance to the Congress as we were drafting the 1990 farm bill. The report's recommended approach to deal with water quality problems served as the basis for the legislation I authored establishing the new Agricultural Water Quality Incentives Program, the 1990 farm bill's most significant new conservation program.

Bill Brown was never bothered by the notion of sustainable agriculture, and in fact could not understand why so many of his scientific colleagues and so many farmers found the concept somehow threatening. As a scientist that understood the biological basis of all agriculture, Dr. Brown believed that the fundamental concepts behind sustainable agriculture were not only sound, but essential for American agriculture to effectively address food safety and environmental concerns, while continuing to move ahead, as we must, in pursuit of increasingly productive farming systems.

We owe a great debt of gratitude to Bill Brown for his leadership, and patience, in bringing the stature and scientific insights of the academy to the study of the sustainability of American agriculture.

I believe one of the reasons Bill Brown was so interested in the scientific basis of sustainable agriculture is his extensive travel and broad scientific background. During his career, he had several chances to travel in China, and developed a well-informed, sincere respect for the biological and ecological sophistication of many of China's traditional farming methods and systems. Indeed, he bristled whenever American agriculture leaders lightly ridiculed the backward ways of Chinese agriculture.

He liked to draw upon the lessons of Chinese agriculture in putting into perspective the enormous challenges facing farmers in Iowa and throughout America. Dr. Brown would point out that, despite amazing accomplishments over the last five decades in more than doubling average per acre yields, Midwestern farmers have been working the rich prairie soils of the Midwest for just over 100 years, and had one of the Earth's richest wells of native fertility to draw upon. He sometimes challenged farm audiences to think about what it was going to take for American agriculture to match the amazing accomplishment of Chinese farmers, who have sustained high levels of crop yields for over 2,000 years.

SCIENTIFIC AND BUSINESS LEADERSHIP

During his scientific career, Bill Brown focused on the evolutionary development of maize genetics, and tirelessly supported public and private efforts to collect, characterize, preserve, and share maize germplasm—indeed germplasm of all major agronomic plants. His efforts spanned a distinguished 40-year career with Pioneer Hi-Bred International, including 21 years devoted to science, followed by 19 years of scientific and leadership positions. He served as president of Pioneer Hi-Bred from 1975–76, president and chief executive officer (1976–79), chairman and CEO (1979–81), and finally as chairman of the board (1981–84).

Dr. Brown was elected to the National Academy of Sciences in 1980; has served on innumerable NAS committees, in addition to his chairmanship of the Board on Agriculture; and has received many scientific honors. In recent years, Dr. Brown worked tirelessly to establish and sustain Diversity magazine, the only international journal linking plant breeders, plant scientists, and others interested in the preservation of genetic resources around the world.

Bill Brown has clearly been Diversity's patron saint, and took great pleasure when, in 1990, Diversity magazine was awarded the Soviet Union's N.I. Vavilov Medal for contributions to the preservation of global genetic resources.

For years to come, Bill Brown's vision of the path toward sustainable, productive, and just agricultural systems will continue guiding and challenging individual scientists and research institutions worldwide. But for Bill's friends, and I count myself among them, Bill's charm, his gentle but firm way of sharing ideas and broadening a person's field of vision, will be sorely missed.

ANTIBALLISTIC MISSILE SYSTEMS

Mr. LIEBERMAN. Mr. President, the stunning success of the Patriot has shown that antiballistic missiles can play an important role in defending our troops and our allies' cities from short-range missiles. None of us will ever forget the sight of Patriots streaking across the dark skies of Saudi Arabia and Israel to seek out and destroy the Iraqi Scuds. The crew members of the Patriots, and those who built them, will always have our gratitude.

At the same time, it is important to keep the Patriot in perspective. Its success proves only that ground-based missiles can protect troops and cities against small-scale attacks from inaccurate and relatively slow, short-range missiles like the Scud. Clearly, more sophisticated versions of the Patriots are needed, with longer ranges, greater power to demolish targets, and greater ability to handle more attacking missiles. These versions of the Patriot should be designed primarily to protect U.S. forces abroad and friendly nations that are already threatened by short-range missiles like the Scud.

The Third World threat to the continental United States, however, must be kept in perspective. Only the U.S.S.R. and China, among potentially hostile powers, have long-range missiles that can reach the United States today. And no Third World country is likely to have this capability within the next decade. Iraq, for example, was able to reach Tel Aviv only by lightening the Scud's warhead; its ability to reach Europe, let alone the United States, is far down the road.

If there is a more immediate Third World threat, it probably comes from countries or terrorist groups that may smuggle weapons of mass destruction into the United States in such things as containers or small boats. Counterterrorism methods and devices are the antidote to this, of course, not an ambitious antiballistic missile system.

Nor does the success of the Patriot strengthen the case for an expensive strategic defense initiative aimed against a massive Soviet attack. The likelihood of such an attack—which has never been high—has never been lower. Whatever Gorbachev's faults, he is a more enlightened leader than previous Soviet politicians, and the entire Soviet regime is consumed with its internal problems. And our nuclear deterrent—the Tridents, B–52's, B–1's, and land-based missiles—remains effective.

The success of the Patriot also does not mean that we should abrogate the Antiballistic Missile Treaty, which already allows for 100 groundbased antiballistic missiles. This treaty has helped to prevent an expensive arms race. If the United States, for example, had spent enormous sums on antiballistic missiles systems to protect the continental United States, we might not have had adequate resources to fund our conventional forces that operated so well in Iraq.

Moreover, an ambitious system probably would not have been effective since it could always be overwhelmed by a massive Soviet attack. Technically, it is highly unlikely to stop enough of these missiles to prevent catastrophic damage.

An expensive antiballistic missile arms race would also create enormous apprehension on the side that was lagging behind the other. The trailing side might reason that if the leading side perfected an ABM system, it could use it as part of an offensive attack. That is, an attacker could launch a massive first strike and then defend itself against whatever retaliation took place with its own ABM system. Thus, defensive ABM systems can have an offensive effect.

Mr. President, the Patriot has shown that ground-based tactical missile systems have an important role to play in defending our troops, our friends, and, perhaps, in the longer term, our homeland from some forms of missile attacks. But its success does not mean that we should embark on a crash course to perfect an ambitious antiballistic missile system that would probably be ineffective, destabilizing, and premature. We must build upon the Patriot's accomplishments, but not distort our other defense and arms control policies in the process.

RETIREMENT OF RICHARD STOLZ

Mr. LEAHY. Mr. President, I rise today to honor my friend Dick Stolz, who retired recently from the Central Intelligence Agency.

Dick was born in Dayton, OH, and graduated from Amherst College. After 3 years in the Army, he joined the CIA in 1950. Dick served his country well in various European posts throughout the cold war and at CIA headquarters during and after the Vietnam war until he left the Agency the first time in 1981.

I got to know Dick very well in the late 1970's and early 1980's during my tenure on the Intelligence Committee. I came to respect and admire him as an example of the best our intelligence services can produce. There is nothing of the "cowboy" about Dick. An Iran/Contra caper would be outside his ken. He epitomizes the careful, calm intelligence operator who understands, accepts, and respects the limitations democracy imposes on intelligence activities.

I recall sitting in Dick's home in one of his European postings, watching the first shuttle takeoff on his television set and talking about world events. It was one of those unrehearsed and off-the-record conversations that remains in my mind because of the professionalism and dedication he reflected.

When William Webster took over as CIA Director after William Casey's death, he brought Dick Stolz back to the Agency as his head "spymaster." As Deputy Director of Operations he presided over some of our Nation's most delicate intelligence operations at a time of dramatic change around the world.

Mr. President, last month, Dick Stolz was awarded the Distinguished Intelligence Medal, the CIA's highest honor. Few have deserved this accolade more than Dick. I want to congratulate him and thank him for his 35 years of service to his country.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business has now expired.

DEPARTMENT OF DEFENSE DESERT STORM SUPPLEMENTAL AUTHORIZATION AND MILITARY PERSONNEL BENEFITS ACT

The PRESIDING OFFICER. The Senate will resume consideration of S. 578 which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 578) to authorize supplemental appropriations for fiscal year 1991 for the Department of Defense for Operation Desert Storm, to provide military personnel benefits for persons serving during Operation Desert Storm, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Warner amendment No. 30, to express the sense of Congress regarding the development and testing of ballistic missile defense systems.

(2) Nunn amendment No. 31 (to Amendment No. 30), to provide for enhanced research, development, test, and evaluation relating to ballistic missile defense.

Mr. BINGAMAN. Mr. President, I rise in opposition to the amendment offered by the senior Senator from Virginia. This amendment, which effectively puts the Congress on record that the U.S. Government should unilaterally jettison the ABM Treaty for no good reason, should be rejected out of hand.

There is no reason to vote for this amendment at this time, and every reason to reject it. The goal of this amendment is not to provide better protection to our troops deployed overseas or to our allies or to the United States against modest ballistic missile threats. That can be done, and certainly for short-range missiles done better, within the constraints of the ABM Treaty, or with very modest changes in the treaty's numerical limits that could be mutually agreeable with the Soviet Union. The target of this amendment is the United States-Soviet strategic arms control process.

We can and should develop better theater missile defenses. That is not the issue the Senator from Virginia is addressing. The Congress last year provided $398 million for such defenses, almost triple the administration's request. The Congress is providing very strong support for procurement of Patriot missiles in the supplemental and under Senator NUNN's substitute amendment we would show even stronger support. I suspect that the much larger request in fiscal year 1992 for theater missile defenses will win broad support in the Congress.

None of this requires any change in the ABM Treaty. Such missiles as Patriot, ERINT, THAAD, and Arrow all are completely compatible with the treaty, as are their sensors, both ground based and geostationary space based.

The administration is trying to sell Brilliant Pebbles as a theater missile defense. This is frankly ludicrous. Brilliant Pebbles cannot engage short-range missiles at all since they don't rise high enough above the upper atmosphere. The simple countermeasure of depressing the trajectory of intermediate-range missiles would make Brilliant Pebbles' job close to impossible because of the heating of its sensors in the upper atmosphere. I would ask unanimous consent that a recent article by Richard Garwin which goes into great detail on this point be printed in the RECORD at the end of my remarks.

I would also point out that a fleet of a thousand Brilliant Pebbles could be overwhelmed by a large enough barrage of intermediate-range missiles launched simultaneously.

The bottom line is that if you want to protect our troops deployed abroad or our allies from short- and intermediate-range ballistic missiles, you don't need the Warner amendment.

What about protecting the United States? The first question is against what? Everyone, including Senator WARNER and the administration, appears to agree the answer is not against the Soviet Union. That job is too hard. A thousand pebbles would easily be overwhelmed by the Soviet arsenal and by Soviet antisatellite capabilities.

So the administration has now set the threat to be engaged as Third World intercontinental ballistic missiles. The number of Third World nations which will have intercontinental ballistic missiles capable of reaching the United States in the next decade or two is very small. And the number of intercontinental missiles they would have is in turn very small. The Warner amendment acknowledges this in its findings.

If the threat is a very small number of missiles of very modest capability without MIRV's and decoys and other countermeasures, missiles which by the way would be very vulnerable to preemptive strikes by our forces, then ABM Treaty compatible ground-based defenses can do the job without reenergizing a strategic arms race with the Soviet Union. We again do not need the Warner amendment. At the most we may need very modest changes in the treaty's numerical limits that might well be mutually agreeable with the Soviet Union.

Many of us who have supported ballistic missile defense funding over the past 8 years have been trying to point the SDI program in a direction that would be sustainable. We want to support ballistic missile defense programs that are technically sound, that are affordable, that are aimed at real threats, and that would not terminate the United States-Soviet arms control process and rekindle the United States-Soviet arms race. The Nunn substitute points us in that sustainable direction.

The Warner amendment on the contrary points us toward confrontation at home and abroad. Its purpose is poltics, not defense. Its key assumption is that development, testing, and deployment of space-based defenses, the latest being Brilliant Pebbles, should be the centerpeice of our program. That assumption is entirely unwarranted.

It is striking to me that despite the strong congressional guidance in last year's defense authorization bill that the administration should emphasize the mature, ground-based treaty-compliant defenses and go slow on space-based weapons, the administration once again chose confrontation in its allocation of SDI funds. It cut back funding for ground-based weapons and sensors, funding which Senator NUNN's amendment would restore, while throwing $392 million at Brilliant Pebbles, $63 million more than the request. Yet, these pebbles are technically immature. The only Brilliant Pebbles test conducted thus far was a failure because no telemetry was received. They are likely to be enormously costly, despite the ever decreasing cost estimates from the Pentagon. They are irrelevant to much of the real threat we face, even if they work. Their real target would be the Soviet Union and the arms control process. The Soviets would likely make the same sort of worst-case analysis of Brilliant Pebbles capabilities which has driven the strategic arms race for 45 years. They will develop both Asat's to shoot the Brilliant Pebbles down and gear up their own ballistic missile production lines, about the only product where the Soviets have shown themselves quite capable of competing despite the woes of their economy.

If we take the route proposed by Senator WARNER, we are headed toward greater vulnerability for this Nation, not less.

I urge my colleagues to vote down the Warner amendment and support the Nunn substitute. We did not fight the Persian Gulf war to jettison arms control. The American people want arms control, not only with the Soviet Union, but in the regions of instability around the globe. The centerpiece of the New World Order is hopefully not going to be a new arms race.

The right response is for us to reenergize our efforts to build an effective multilateral missile nonproliferation regime, to work for regional arms control agreements, and to develop affordable, technically mature defenses to counter the real threats we face. The Warner amendment is the wrong response. It should be soundly rejected.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I now ask that the amendment of the Senator from Virginia be withdrawn. That will bring the amendment of the Senator from Georgia with it.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn.

The amendment (No. 30) was withdrawn.

Mr. WARNER. Mr. President, yesterday I had adequate opportunity to express my views to the Senate regarding the intentions of this Senator, and indeed many others, simply to get the Congress of the United States on record in the sense-of-the-Congress resolution in support of the President of the United States.

I think it is imperative that we move forward in these arms control negotiations which have been under way for over 5 years. I personally think it would be a very helpful step for our President, as negotiator under the Constitution, to have the support of the Congress of the United States. I fully intend to continue, as do many other Senators, to press this point at such times as we deem opportune.

The reasons for taking it down today are quite simple. Senator NUNN and I, Senators GLENN and McCAIN and many other Senators, have worked very hard with our leadership to prepare a package of benefits for the men and women of the Armed Forces. Deservedly they should receive these as early as possible. Given the fact that we are due to go out on a recess period next week, the fact that there is a very large delegation of Senators departing this evening, practically speaking this bill must be addressed today, and, hopefully, the companion bill, offered by the chairman of the Senate Appropriations Committee, the distinguished Senator from West Virginia, can likewise be acted upon today so that these matters can be quickly concluded on our return.

Mr. President, at this time I yield the floor.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I thank my colleague from Virginia. I think in the overall scope of things, even though from my perspective a vote on these two amendments would be perfectly appropriate and probably instructive now, I think it would send the right signal—if the vote moves in the direction that I hope it would move, toward my amendment in lieu of the Warner amendment—to the head of the SDI office about allocations, and about the priorities in terms of the Senate of the United States at least.

We do not know how the vote would come out. I do not have a vote count. Nobody knows who is going to win these matters. I do believe there is strong sentiment here to move forward with the ground-based systems. I think there is strong sentiment to make sure that we do not, in the quest for something that will not be ready until after the year 2000, take away money which is being used now for systems that have near-term application against limited attack, against accidental war, against third country attack, and against unauthorized launch, which is what I think the priorities of the Congress should be and the priority that the President at least indicated that he might be moving toward in his State of the Union Address.

Mr. President, for the benefit of Senators who may not have been able to follow our proceedings on this measure last night, I will recap it briefly. Yesterday evening Senator WARNER offered an amendment to this bill that would express the sense of the Congress that the President should negotiate, within the next 2 years, "an agreement which would clearly remove any limitation on the United States having effective defenses against ballistic missiles."

As I mentioned last night, it is not entirely clear whether this means the removal of treaty restrictions on development and testing or the removal of all treaty limits, including its limit on ABM deployments. There are all sorts of questions here that we would have to get answers for from our military and intelligence, whether the Soviets may be prepared to move out more readily than we are. This is not a one-way street. When you remove restrictions on America, you also remove restrictions on the Soviet Union. The Soviets have already deployed an ABM system around Moscow and could be in a position to break through in this area quicker than we could in some categories, particularly if SDIO continues to push things that are not going to be ready until, at the very best, after the year 2000 and diminish the importance of the systems that have near-term application.

There are all sorts of questions that I think need to be answered. As I told my friends from West Virginia last night I think we will be getting answers to a lot of these questions in the next 2 or 3 months in the course of our subcommittee and full committee deliberations on SDI and other related programs. We are going to be in a much better position to address this issue in 2 months, 6 or 8 weeks, than we are now in terms of the answer to the questions, and we will have a chance to hear from the administration.

It is my feeling that the head of SDI has not completely communicated with the President since his State of the Union as to the direction in which the President wants this program to move. But I may be off course on that. I am not sure whether that dialog has taken place. It is clear to me the President has a nearer term type priority than the program budgets reflect in SDI, particularly since SDIO is cutting the near-term programs and emphasizing Brilliant Pebbles, which is going to be much further down the road.

For all of those reasons, I proposed a substitute amendment, cosponsored by Senator HEFLIN, Senator SHELBY, Senator DIXON, Senator BINGAMAN, Senator LEVIN, and Senator KENNEDY, that would provide the necessary funding for two responsible missile defense initiatives that build on the lessons in the gulf war.

First, the substitute amendment authorizes $224 million for additional Patriot procurement. This funding is taken from appropriated funds for the fiscal year 1991 Army missile procurement account that we have determined are available. So there is no net increase to last year's defense budget with my substitute amendment.

This Patriot procurement will be used to begin placing Patriots in storage for our maritime prepositioned ships that are anchored around the world so the United States' rapid deployment forces, responding to regional crises, have early protection against future Scud missiles or other similar threat.

Second, the substitute amendment adjusts the SDIO Director's 1991 funding allocations to restore $218 million in cuts to four ground-based treaty compliant ABM ground-based interceptor and radar programs that could be available in the near term protection of the U.S. homeland against long-range ballistic missiles fielded by some future Saddam Hussein.

My amendment makes no net increase in the 1991 SDI total of $2.89 billion. The $218 million that the substitute amendment adds to these four treaty compliant near-term programs is freed up by making across-the-board cuts of 9 percent in the other SDI accounts.

A little history here: In last year's defense authorization and appropriations acts, Congress reduced the President's SDI request by 35 percent, from $4.46 billion to $2.89 billion. However, in the February 4, 1991, letter to the Congress announcing its allocation of the 1991 funding, SDIO cut the four ground-based treaty compliant interceptor and radar programs by over 50 percent while increasing Brilliant Pebbles by 20 percent above the requested level.

There may be reasons for this. I cannot foreclose the possibility that Director Cooper had good reasons for this. We do not know what those reasons are now. We will be hearing from him in the next 4 or 5 or 6 weeks.

I hope to personally spend some time with him to get his thinking on all of these programs. But at the moment it appears we are forsaking near-term possibilities in the interest of something that will not be ready for at least 10 years.

The Nunn substitute restores the four ground-based treaty compliant interceptor and radar programs to the funding level originally requested by the President in his fiscal year 1991 request.

As I explained to my colleagues last night, in my view at this juncture, it is not the ABM Treaty that is standing in the way of providing the American people with a credible deployment option for limited strikes in the next 5 to 10 years. By limited, I mean accidental or unauthorized launches or third country ballistic missile launches, the SDIO preoccupation with the longer term and the less technically mature Brilliant Pebbles program.

What SDI has shown with its funding allocation report is that it is prepared to leave America undefended to the long-range ballistic missile attack throughout the 1990's, in order to concentrate its funding on a space-based option that, if successful, will not be ready until the next century. That is where the funding is going.

That is not what the President indicated in his speech were his priorities, but that is where the money is being spent.

Secretary Cheney, on the other hand, warned that the long-range missile threat to our country from Third World nations will be very clear and manifest well before the turn of the century.

In summary, what SDIO is doing is deferring, deliberately, ground-based programs that could be available in the near term in the name of pursuing much longer space-based options.

The Warner amendment does not address this problem. The Senator from Virginia has expressed his great concern about this third country problem, but his amendment does not address the problem, and the problem has to be addressed by looking at the funding of the program. The substitute amendment would do that.

Mr. President, I am grateful that the Senator has seen fit to withdraw his amendment, not because I do not think a vote would be healthy and instructive, but because I think it would be. I believe he has made the prudent, responsible decision here. If we are going to be able to move this bill today, there is not doubt in my mind that we have to ward off amendments.

I know the leadership will be coming out with a benefits amendment in a few minutes, and that is one that the Senator from Virginia, the Senator from Arizona [Mr. McCAIN]; the Senator from Ohio [Mr. GLENN]; myself and many others, such as Senator LEVIN, have worked on for a long time. I hope we can pass that leadership amendment and that then we will be able to urge our colleagues to take their amendments, as worthy as they may be, and defer those to another bill, so that we can move this bill out, so that when the Senator from Virginia and the Senator from Kentucky get to the Middle East some time tomorrow, they will be able to tell the troops that this bill passed, that the funding is in place, and that these very important benefits for the men and women who served, as well as their families, will be available.

I thank the Senator from Virginia for his responsible course of action. As he always does, he has taken, I think, the action that is in the best interest of the institution.

Mr. WARNER. Mr. President, I appreciate the sentiments expressed by my good friend, the chairman, and I hope that at some point in the future, I can be associated with him on a joint resolution that would at least put the Senate on record as supporting the President in his efforts of some 5 years. Those efforts, which I think should be resumed with a stronger vigor, can receive a stronger impetus, if this Congress of the United States joins the executive branch and the legislative branch together. That is the purpose.

My good friend and colleague and fellow member of the committee, the Senator from Maine [Mr. COHEN] has raised a technical point this morning for which I will place an explanation in the RECORD. It is well taken. At no point in this sense-of-the-Senate are we encouraging a member of the President's Cabinet either to violate the ABM treaty or to violate the law of the land which, at this pioint, is the Levin-Nunn amendment. That amendment expires on September 30, 1991, and this Senator, and others, will encourage the Senate to renew it. But that is a battle for a later date.

So, Mr. President, what the Senator from Virginia needs now is time, time to go to the American public. I want this issue discussed on the village greens of every community in the United States, as to why this Nation is restraining its scientific and industrial base for moving forward with testing and research only, not deployment, testing and research only, to provide deterrence, to provide protection for the men and women in the Armed Forces, should they ever be deployed again in a hostile theater. Other nations are doing it; why can the United States of America not do it?

I, frankly, think that the Soviets—as was stated by the Vice President here recently—will see it in their interest, because they also are subject to the proliferation and the risks associated with the proliferation of ballistic missiles worldwide. This is probably one of the greatest challenges to mankind today, to see whether or not we can stop this proliferation of these frightful weapons, which are basically weapons of terrorism, as opposed to military weapons.

I think it would be a healthy step for the United States to unleash, unfetter, and allow its industrial and scientific base to go out and determine if in fact there is a body of fact or if there are instruments which can perform to interdict these missiles in some manner, to protect not only Americans and American troops, but our allies and our friends.

The President has the right to do this now, and he is doing it. I simply ask that this institution go on record recognizing this threat as a growing one to ourselves, our friends, and our allies, and to join with the President and go forward.

Mr. President, this debate will move from this Chamber to the village greens of this country, and I predict that once the people of the United States grasp this fact, they will communicate with their elected representatives, and we will see progress in the direction of the purpose of this amendment.

Mr. NUNN. Will the Senator yield?

Mr. WARNER. Yes.

Mr. NUNN. The Senator mentioned that the President is already moving in this direction, and I think that our arms control negotiation for some time has indeed asked the Soviets to give more flexibility in the ABM area. I ask the Senator, though, is it not correct that the President would have the opportunity, if he chose to, to take a look at the provision in the ABM Treaty, if he ever felt, as the Senator from Virginia feels, that that treaty is impeding our ability to defend ourselves and is exposing the American people to danger. He has a right to give 6 months notice and eliminate any obligation under the treaty; is that not the case?

Mr. WARNER. Mr. President, the Senator is correct. The ABM Treaty does provide for withdrawal upon 6 months notification to the Soviets.

Mr. NUNN. There is nothing in the treaty that keeps the President, if he sees danger, from taking steps to protect the American people; and whether it is next year, next month, or next week, he can take that step, and if he believes the ABM Treaty is eliminating any programs to protect the American people, there is nothing to keep him from taking that step; is that correct?

Mr. WARNER. Mr. President, that is correct. Again, 6 months' notice is the only requirement. I point out that it is not the intention of this amendment or sense of Congress to abrogate the entire treaty. There are certain provisions—the deployment provision has some mutual benefit. I am saying that we ought to support our President, as he tries to negotiate more flexibility, such that our industrial and scientific base, which has exhibited remarkable talent here, particularly in the quick fixes of the Patriot, could perhaps devise a better means to deter and defend against this category of weaponry.

Mr. NUNN. Will the Senator agree that one of the ways we can best protect the people is to accelerate those people that would be available in the next 10 or 12 years?

Mr. WARNER. Mr. President, if you recall, during the course of the deliberation in the Senate Armed Services Committee, I offered an amendment to do many of the things that the Senator has here in his second-degree amendment. At that time, the Senator said, if the Senator from Virginia will take that amendment now, we will consider it on the floor. Am I not correct?

Mr. NUNN. Well, the Senator offered the amendment in the committee that basically required the President to breach the ABM Treaty.

Mr. WARNER. I am talking about the amendment to augment the funding for the Patriot system. The Senator said he wished a clean bill in the committee.

Mr. NUNN. The Senator's amendment is different from this one. I support that. It is a technology development part of the Patriot. This is a procurement part. These are two different amendments. I support the Senator's amendment.

Mr. WARNER. I will support many of the features of the Senator's amendment. I say, in the spirit of good humor, that he is rearranging the deck chairs here. In the SDI Program, I do not think we want to do that either. That is another reason to bring it up.

Mr. NUNN. The Senator from Maine is correct when he said we need more time to deliberate on this issue. That point, I think, is pretty clear to everyone.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I ask the Senator from Virginia if he will yield.

Mr. WARNER. Yes.

Mr. McCAIN. First of all, if we are going to carry on this extended debate, I would like to continue it. I was under the impression we were not going to drop the Senator's amendment.

Mr. WARNER. Mr. President, the Senator is correct.

Mr. McCAIN. If we are going to continue this debate, I wish to seek recognition on my own time and I have extended remarks and views on this issue. I would be more than happy to do that, but I would like to know if we are intending to drop this at this point.

Mr. NUNN. Will the Senator yield for a brief question?

Mr. WARNER. The amendment has been withdrawn.

Mr. NUNN. The substitute also has been withdrawn. The Senator from Arizona has given us incentive to sit down and go to other things.

Mr. McCAIN. I have no further questions.

PRIVILEGES OF THE FLOOR

Mr. WARNER. Mr. President, I ask unanimous consent to allow Nancy Pomerleau of my staff to have floor privileges during the task force proposal to provide certain benefits for returning Persian Gulf troops. This staff member has been invaluable to this Senator and other Senators and she originated certain of the concepts for the increasing life insurance program, increasing the dollar value to the beneficiaries. I would like very much to have her be given floor privileges.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Does the Senator from Virginia still have the floor?

Mr. WARNER. I do.

Mr. LEVIN. Will the Senator yield for a question on the amendment which has just been withdrawn?

Mr. WARNER. I yield.

Mr. LEVIN. I have no desire to have extended debate either. I agree with the Senator from Arizona, the amendment has been withdrawn. I have lengthy remarks, but I am not going to make them either, based on the remarks last night about this. The Senator from Virginia raises a very significant issue in his sense-of-the-Congress resolution.

Mr. WARNER. I thank my good friend and colleague.

Mr. LEVIN. It is, indeed, worthy of debate. It has always been the possibility, I believe, if there were a mutual move toward defenses on the part of the United States and Soviet Union that that could enhance stability and indeed contribute to the security of both nations. So I am not one that immediately disregards much of the language in the resolution that the Senator was offering.

I happen to disagree with parts of it because it commits us or appears to commit us to a unilateral withdrawal from the ABM Treaty in the event that negotiations do not lead to modifications. It is that unilateral breach of the ABM Treaty and commitment thereto by this Congress as reflected in this resolution that I object to, not the general concern that the Senator raised about defenses and the possible contributions to the defense assistance to the stability of the world and the security of America.

In that regard, my question is: Specifically, in paragraph 5 of the resoluton it states that if the agreement to modify the ABM Treaty is not negotiated between the President and the Soviet Union, within the period described as a 2-year period, then the President should make a determination under all the circumstances as to whether or not continuing U.S. adherence to the ABM Treaty is in our national interest. I believe I am reading that correctly.

Mr. WARNER. Mr. President, the Senator is correct, and I bring to his attention presently that is that authority which was cited by the distinguished chairman in the treaty.

Mr. LEVIN. Exactly right. But is it not true that the President's determination at that time could reflect the status of the START negotiations as to whether or not we have succeeded in reducing offensive weapons, which is related to the question of defenses because there is obviously a relationship? A country that faces an increased defense may want to increase its own offense, if it is not part of the negotiated regime.

My question though is this: The President 2 years down the road, were he to make that determination, would know what the outcome of the START negotiations is, or at least the status relative to offensive weapons and also know the status of reform efforts inside the Soviet Union and the impact of any unilateral withdrawal by us on those reform efforts by some inside the Soviet Union. Is it not true that under this language the President would make that determination on whether it is in the national interest to stick to ABM 2 years down the road, but we basically are making that determination as a Congress in this resolution?

Mr. WARNER. Mr. President, that is not the intent of this resolution. I thank the Senator for giving me the opportunity to clarify that.

I shall also clarify one other phrase in here which the distinguished Senator from Maine brought to my attention this morning. I will do that as part of the RECORD so as not to further delay the proceedings.

Paragraph 5 simply says, "It is our desire as an independent body to receive from you in no less than 2 years' time your own judgment as to the interest of our country in continuing with any one or all of the provisions of the ABM Treaty," and of course at that time the President would take into consideration all the developments in START, CFE, and such other negotiations and events as may be relevant to the determination.

Mr. LEVIN. Another question: Despite other language in this resolution and other language on the floor by the Senator and others, it is not the intent then of this resolution for the Congress now to say that it is our determination that if negotiations on amendment of the ABM Treaty fail that it is in the national interest of this country to withdraw from the ABM Treaty; it is not the intention to put the Congress on record in saying that in this resolution?

Mr. WARNER. Mr. President, the purpose of the resolution is simply to say the Congress wants to support the President. We hope he would achieve certain goals. The amendment is in no way intended to force Congress or the administration to make a decision now as to what should be done 2 years henceforth.

Mr. LEVIN. Or what the national interest is?

Mr. WARNER. No; I think it is very much in our national interest.

Mr. LEVIN. No, no. If the negotiations fail—if I could pursue this for one moment—if the negotiations fail to modify the ABM Treaty, is it the intent of this resolution to say it is then in our national interest to withdraw from the ABM Treaty?

Mr. WARNER. Mr. President, I personally think, and I have tried to phrase it in here, that it is in our national interest to get on with the testing and the development of such systems as may more successfully defend ourselves and deter the use of these ballistic missiles. But I think it is properly within the constitutional province of the President to undertake these negotiations.

To answer the Senator's question, I would want to await the outcome of the negotiations to see if in good faith the Soviets endeavor to reach a meeting of the minds with the President, but that period of time should not be indefinite. An effective and fiscally sound missile defense program cannot be developed and tested under the current terms of this ABM Treaty, even in the near term, however. That is all I am saying.

Mr. President, I thank the Chair and I thank the Senator.

Mr. LEVIN. I thank the Senator.

The PRESIDING OFFICER. The Chair recognizes the Senator from Pennsylvania.

Mr. SPECTER. I thank the Chair.

Mr. President, I commend my distinguished colleague from Virginia, Senator WARNER, for offering this amendment. I believe that it is a subject which has to be examined. And I thank my distinguished colleague from Michigan for his clarifying questions with respect to the ABM Treaty; because as I read the Warner amendment it does not seek to stake out a congressional position, or Senate position, to eliminate the ABM Treaty, but to reexamine the issue of defense and to call for the President to consider what our course should be in the future and report back to Congress.

There have been some very startling developments with the Patriot missile's ability to intercept Scud missiles in the gulf war, and the distinguished Senator from Virginia has moved with dispatch to focus the attention of the Senate on these very important issues.

My own view is that we ought to be focusing more on defense. The mutually assured destruction doctrine has not made sense for a long time, and that the ABM Treaty which has precluded the defense against missiles for the United States and a defensive system for the Soviet Union. This arrangement has had some limitations right along, but we have stayed with it. However, there is a new era present when Third World countries have threatening missile systems, as we have seen with the development of the missile systems by Iraq. So that this is an issue which ought to be reconsidered.

The question about the ABM Treaty is something that has to be considered jointly by the United States and the Soviet Union, and the Warner amendment, as I read it, does not call for a withdrawal of the ABM Treaty or its abolition but it is something that both the United States and the Soviet Union ought to address in an effort to come to some agreement in a way to stabilize the world situation and to move ahead with arms control.

There has to be some taking into account of the missile threat posed by Third World countries. So as we consider this issue I think it is very important that our focus be on this issue and the Warner amendment has moved in that direction.

Mr. President, I recall the speech by President Reagan. Actually, it was in his debate with Mr. Mondale in the 1984 campaign when President Reagan suggested that the United States should proceed with the strategic defense initiative in a context of sharing United States scientific research with other nations, including the Soviet Union.

Back on September 17 of 1987, when I had an occasion to travel to Philadelphia with President Reagan for the bicentennial celebration, I asked him about the comment which he had made in that debate with Mr. Mondale. President Reagan said that it was his hope that the research which the United States would achieve from the strategic defense initiative would be shared, and it was his vision and his goal and his ideal to see to it that the defense mode ought to be available to every country to eliminate the possibility of missile attack.

Mr. President, the wanton actions of Saddam Hussein have sent a sobering message to the world on the vital need for free nations to be able to defend themselves against ballistic missile attacks. The obvious lesson is that we can no longer rely on offensive military prowess alone to deter threats to our populations. The cowardly Scud attacks on Israel's civilian population have changed the climate for military planners. Our strategic doctrine—limited primarily to the Soviet threat—is becoming outdated in the face of new threats from countries such as Iraq. This threat is not one that will likely diminish as other Third World countries are developing significant ballistic missile forces and will likely pose new threats to regional stability in the not too distant future.

If there is a positive lesson to be learned from Iraq's nefarious actions, it is that antitactical ballistic missile defense [ATBM] can and do work. On January 18 when the United States Army shot down an Iraqi Scud missile aimed at the United States airbase in Dharan, Saudi Arabia, the theoretical debate over whether missiles can shoot down missiles was resolved.

Also factoring in this debate was the successful test intercept by a single stage rocket system of an unarmed ICBM in a space orbit. This proved that the successes of the Patriot can be repeated at higher altitudes and against more numerous and much more elusive targets such as the MIRV'd heavy ICBM's in the Soviet arsenal. The successful test of this first ERIS launch provides much more reason for optimism on the whole SDI program.

Thus, if we can build upon these recent successes and judge the merits of SDI on objective, nonpartisan terms, we can offer our country feasible options on missile defense. But first, we must abandon the antediluvian notion that SDI is a star wars futuristic concept that will create world instability and give rise to an expansion of offensive threats. On the contrary, if technology can be judged as it relates to applicable real world threats—such as those posed by the global proliferation of more advanced ballistic missiles—I am confident that we will all come to understand the utility of these critical SDI technologies for world stability and our own survival. To prove that this is the case, just ask the people enduring the Scud missile attacks if the defense against ballistic missiles is science fiction that is too proactive.

Our scientists have made great progress during the past 7 years since the concept for SDI was first announced in 1983 despite the fiscal limitations imposed upon the SDI program. As we are now witnessing in the gulf, our military technology has advanced rapidly over the last few years and this is an opportune juncture to explore new strategic options.

We are now at a point in history where it is incumbent upon our Government to make a decision on how best to meet the strategic challenges that face us in a rapidly changing and uncertain global environment. Although the Patriot air defense system has been of tremendous value in our current situation, it is only a first step into a new era of SDI defenses. The Patriot was originally intended to shoot down aircraft and not missiles and was adapted to intercept relatively slow flying Scuds. As a point-defense system, Patriot has limited capabilities. However, Patriot has proven invaluable in saving civilian lives and has served as a proof of concept that missile defenses are practical and necessary.

To counter more advanced missiles such as the SS-21's and SS-23's and newer generations of ballistic missiles that will likely be procured by Third World countries, the United States should pursue an accelerated strategy of developing multilayered SDI defenses capable of intercepting all types of missiles at various altitudes and ranges.

According to CIA Director William Webster, 15 nations other than the United States and U.S.S.R. are acquiring ballistic missiles, many that are already more advanced than Scuds. Eventually several Third World countries will have the ability to launch missiles capable of reaching the United States. The Chinese have made available CSS-2 intermediate range missiles with a range of 1,900 miles to Third World buyers and Iraq recently demonstrated its ability to launch a three-stage 48-ton rocket. As much as we try to control the proliferation of missiles to these Third World nondemocratic countries, there is little doubt that they will obtain more advanced missile forces and capabilities in the future. The best option to control the rampant ballistic missile threat is not only by treaties and nonproliferation agreements, but by SDI.

In his State of the Union speech on January 29, President Bush stated what should be the objectives of the SDI Program:

> Let us pursue an SDI Program that can deal with any future threat to the United States, to our forces overseas and to our friends and allies.

I believe that we must make a decision now to develop SDI missile defense technologies that will keep the world safe into the next century. SDI offers us the means to make the world a more stable place and fulfills a fundamental component of our Government's primary obligation to protect the people.

I fully supported the administration's request for $4.6 billion for SDI in fiscal year 1991 to keep the SDI Program viable and was extremely disappointed when some of my colleagues voted to slash the budget to $2.89 billion and undermine the program by delaying some of the most promising technologies, such as Brilliant Pebbles.

President Bush and Secretary Cheney made SDI a priority in our national security strategy and argued strongly in favor of a robust SDI Program. The recent gulf crisis proved that their unheeded calls for a great SDI Program are correct. I believe that it is essential that Congress reconsider the importance of the SDI Program and put partisan differences behind us in the interest of national security. We need to address the strategic challenges ahead from a position of strength and security not from panic and temporary quick fixes.

Because of the advent of fesible SDI technologies such as the Arrow, THAAD, HEDI, ERINT, and Brilliant Pebbles, we now have the ability to develop a multilayered, low-cost, technologically feasible, and highly effective defense against ballistic missiles.

There are a variety of benefits we can derive from the further development of these technologies. Some of the major implications include: the enhancement of our strategic deterrent vis-a-vis the Soviet Union; provision of an insurance policy against unauthorized or accidental launches of ballistic missiles; protection against Third World or rogue terrorist threats; and inducement for, and stability factor in, arms control; and a catalyst for keeping America economically competitive and on the threshold of innovative spinoff technologies.

SDI has the potential to become the product and success story of American innovation. The same American ingenuity and resourcefulness that landed a man on the Moon, can provide America with the capability to defend ourselves from chemical, biological, and nuclear missiles.

SDI technologies are basically categorized in three areas: space-based interceptors, ground-based interceptors, and theater defense programs. The combination of space, theater, and ground-based systems will allow for the interdiction of short-range intermediate-range and intercontinental ballistic missiles. The strategic defense initiative director, Ambassador Henry Cooper has termed this concept of combining ground- and space-based systems as GPALS for global protection against limited strikes.

The most promising of the space-based technologies is called Brilliant Pebbles. Basically, this notion consists of constellations of about 1,000 electronically advanced, highly maneuverable satellites that could track and collide with launched missiles. We have had the ability to track and detect missiles for over 30 years and this technology utilizes these capabilities. General Monahan, former Director of the Defense Department's Strategic Defense Initiative Organization [SDIO] already has announced that the technology is at hand for the Brilliant Pebbles space-based protection system.

The concept for Brilliant Pebbles is relatively simple. These interceptors would be about 1 meter long and weigh about 100 pounds when fully loaded with fuel. The Pebbles would be deployed individually or in groups by expendable launch vehicles and dispersed about 250 nautical miles high in orbits around the globe. The pebbles would have the capability to detect, track, and then collide into ballistic missiles, destroying them by nonnuclear means by sheer impact.

SDI theater defense programs are of particular interest against the backdrop of the current use of Iraqi Scuds. The Patriot has already played an important role in demonstrating the viability of this type of technology. Reports indicate that the Ground-Based Interceptor Program [GBI], the High-Endoatmospheric/Exoatomospheric Defense Program [E2I], the Theater High Altitude Area Defense [THAAD], and the Extended Range Interceptor Technology called ERINT are very promising and have proven capable in experiments and demonstration tests.

Of special interest in the theater defense arena is the joint United States-Israeli antitactical ballistic missile program called Arrow. The Arrow was designed to intercept short- and medium-range missiles that pose an immediate threat to Israel and our forces in the region. Vice President QUAYLE stated that Arrow is one of the most promising programs in development and is further along toward deployment than anything else in the United States.

The Arrow missile, which has a range of over 40 miles and flies at 2,500 mph or 10 times the speed of sound, was recently tested and proved successful as a missile intercept. The cooperative Arrow project reached its first goal in time and within budget and is a good example of the benefits that can be derived by matching United States and Israeli scientists in developing state-of-the-art technologies.

In view of the recent Iraqi Scud attacks, the Arrow project has taken on new urgency and significance. The Arrow missile will be able to target Scuds and more advanced missiles at a higher altitude and with a greater footprint or area covered—10 times more extensive than that of the Patriot—thereby reducing the dangers from chemically or biologically equipped warheads and lessening the risks from damage caused by falling missiles intercepted at a lower altitude.

It is imperative that the United States continue this commitment to the Arrow project and proceed along the memorandum of agreement that has served United States and Israeli planners until this stage. I urge Secretary Cheney to proceed along the same guidelines delineated in the original memorandum of agreement. The Congress has expressed its desire for funding and development of this cooperative Arrow Program and for it to proceed to its next stage the United States must adhere to the spirit and intent of the agreement. The Arrow combined with a less capable Patriot point defense would serve as an excellent layered defense in future battle scenarios.

Although theater defense is of immediate concern, SDI has many other implications to our future national security doctrines on a global basis. In a world of increasing uncertainty, we can no longer rely on the obsolete notion of mutually assured destruction, also known by its appropriate acronym of MAD. In contrast to the Soviet Union and despite allowances under the ABM Treaty, the United States has chosen not to deploy a limited antiballistic missile system or create extensive civil defenses. We have literally gambled under the zero sum doctrine of MAD. But can we still afford the risks?

SDI will act as a deterrent and dissuade the Soviets or anyone else from attempting a first strike on our land-based ICBM's. Even if the system is only 50 percent efficient in knocking down missiles, it would still enormously complicate Soviet objectives by improving the survivability of our retaliatory forces.

I believe that it is in the interests of both the United States and the Soviet Union to abandon MAD and work toward building a new relationship of mutually assured survival. The leaders of both nations have a vested interest in maintaining stability and assuring that nuclear war be avoided at all costs. SDI is the only insurance policy that will serve this cause and meet the changing strategic contingencies into the next century.

What are the contingencies? Consider the following: what if events in the Soviet Union changed overnight and an ultranationalist organization, such as Pamyat, seized power and they took control over the strategic missile sites? Or, hypothetically, what would happen if nuclear weaponry fell into the hands of leaders of an uprising in a newly created Islamic Federation of Turkestan? Speaking to a National Defense University Symposium last fall, Vice President QUAYLE addressed these possibilities:

> A frightening question is emerging in this nuclear era: Who controls nuclear weapons during a period of intense civil strife, and who has the authority to release them in a time of great instability, or a prolonged internal crisis?

This is a dilemma that our military leaders have already confronted. Serious questions were raised about Soviet nuclear security during the recent war between Moslem Azerbaijanis and Christian Armenians. The Pentagon revealed that a large nuclear warhead stockpile was stored south of the city of Baku in Azerbaijan. There was a strong fear that the Azerbaijanis may have taken control of the facility. Without control over the indigenous population, the notion of mutually assured destruction becomes even less tenable. No matter what happens in Eastern Europe or the Soviet Union, America should have the capability for defending itself from ballistic missile attacks.

The Soviets still maintain some 10,000 strategic nuclear warheads and by the mid-1990's, they could be in a position to deploy some 15,000 warheads. While Soviet conventional force capabilities have certainly diminished due to recent events in Eastern Europe, their long-range attack capabilities have not declined and, in fact, have been constantly upgraded with new generations of delivery systems.

Besides acting as a safer and more reliable deterrent, SDI can operate as an insurance policy against accidental launch by either the Soviets or even our own nuclear arsenals. With a minimum multi-layer protection system, we can prevent the unauthorized or accidental launch of a boatload of submarine-launched ballistic missiles, a scenario vividly portrayed in Tom Clancy's novel "The Hunt for Red October."

Perhaps the least discussed implication of SDI is that it will lessen the risk for the United States in entering into arms reduction agreements. Many experts believe that President Reagan's decision to pursue the SDI Program brought the Soviets to the bargaining table. In any event, SDI and particularly, the Brilliant Pebbles component with its dual satellite detection capabilities, will provide insurance against cheating on arms control treaties.

The safeguarding of arms control treaties is an issue of major importance. Senate ratification of the INF Treaty concluded an historic step in arms control and SDI will allow us to continue to facilitate the negotiation of future strategic arms reductions. I have actively participated in efforts to reduce weaponry with visits to arms control meetings in Geneva in 1982, 1983, and 1987. I also have participated extensively in the debate on the ABM Treaty and I have pressed for the broad interpretation of the ABM Treaty, which I have concluded to be the correct legal interpretation and also in the best interests of the United States.

With specific regard to the ABM Treaty, DOD Instruction S-5100.72 establishes general instructions, guidelines, and procedures for ensuring the continued compliance of all DOD programs with existing arms control agreements. Ambassador Cooper has stated that the GPALS Program is consistent with ABM Treaty terms and that all SDI field tests must be approved through the DOD compliance process. Therefore, the ABM Treaty is not at issue.

I believe that it is in both Soviet and American interest to utilize defensive mechanisms as well as offensive strategies. The proliferation of missiles by Third World nations make it imperative for both the Soviets and the United States to revise strategic thinking and I believe the Soviets will be amenable to a new approach on negotiating issues relating to SDI.

Another important, but rarely discussed argument for SDI is the economic benefits derived from its research and development. In the last decade, America has faced growing competition from Europe and the Far East in the area of high technologies and industrialization. No doubt, the competition for innovation and world markets will increase with the consolidation of the European Economic Community in 1992, unification of Germany and the economic entrepreneurship of the Japanese. Like the space program in the 1960's. SDI will keep America on the threshold of scientific developments and help contribute to the restoration of U.S. supremacy in space. SDI already has led to significant spinoffs for the civil economy worth hundreds of millions of dollars in manufacturing applications, particularly in the medical field.

The question always arises as to whether or not we can afford SDI. The real question is, can we afford not to develop cost-effective strategic defenses?

The reality is that SDI is one of the most cost-effective defense programs that this country has instituted. According to Gen. Dan Graham, USA (Ret.), former Director of the Defense Intelligence Agency, the GPALS nonnuclear, multilayered system can be completed within 6 years at a very affordable cost and offer a highly effective defense against a limited strike launched from anywhere in the world.

The cost for heightened development of SDI can be derived from a static defense budget in terms of military offsets. For instance, the United States can acquire formidable strategic defenses for less money than the Midgetman missile. The GAO estimates the cost of the Midgetman Program alone to be $60 billion at the low end and $100 billion at the high end alone. If we make a decision to fully develop SDI, we will not need to procure offensive weaponry such as the Midgetman. The costs we will save by reducing our dependencies on repetitive offensive systems will far exceed the costs of developing and eventually deploying SDI.

Contrary to becoming an economic burden, SDI may turn out to be the most fiscally responsible defense program we pursue because it allows us to cut from so many other areas without creating vulnerabilities in our strategic posture.

The new proposal of Global Protection Against Limited Strikes [GPALS], which includes both ground-based and space-based components may be fielded for a cost of between $30 to $40 billion—requiring approximately 2 percent of the defense budget for several years during the period of highest spending. The cost for CPALS may even decrease as our capabilities in microcircuit technologies continue to advance.

I urge my colleagues to reconsider the importance of strategic defenses and to support the President's 1992 budget proposals for the strategic defense initiative. We can't afford to continue to let the Iraqs of this world hold the world hostage with the threat of missile attacks. President Bush stated at the outset of Desert Storm that America will not fight with one arm tied behind our backs. America should not defend itself with one arm tied behind its back either.

We owe it to future generations to ensure that the United States and our allies remain stable and protected during these dangerously uncertain times. SDI is our hope for a future where innocent civilian populations can rest at night without having to depend on gas masks, bomb shelters, and good fortune to keep them safe from the effects of missile attack. The time for strategic defense to keep us safe has arrived.

Mr. WARNER. Mr. President, I just wish to express my appreciation to the Senator from Pennsylvania for his statement. He has spent many long hours in intensive study on this question and his endorsement of the general thrust of this amendment I find to be very helpful.

Mr. SPECTER. Mr. President, I thank my colleague from Virginia for his comment.

I would add one more comment, and that is a good bit of what Senator WARNER seeks to accomplish here could be accomplished with the broad interpretation of the ABM Treaty. That is an issue which has occupied a great deal of time and attention on the floor of this body. It might be that we would return to any analysis of the ABM Treaty, because it is my legal opinion, as I have expressed on many occasions on this floor and at some considerable length, that the broad interpretation is the correct interpretation; that the negotiating record very strongly supports the broad interpretation as do the practices of the parties, although there are some evidentiary base in the negotiating record to the contrary.

But it may well be that if we would reaffirm the broad interpretation, which I believe the Soviets are following, that we would have a greater latitude to carry on experimentation which Senator WARNER's amendment seeks to achieve.

It was my thought, when the Senate voted in favor of the narrow interpretation, that it was a political judgment made by many Senators who thought that the narrow interpretation would provide greater stability, a conclusion with which this Senator disagreed.

But on the legal issue, the case is very strong, I would submit, Mr. President, that the broad interpretation is the correct interpretation. If we might revisit that at another time it may be that the political judgment of this body would now favor the broad interpretation as a way to achieve the objectives of Senator WARNER's amendment, and perhaps the broad interpretation being adopted would preclude a reexamination of some parts of the ABM Treaty. So I wanted to add that thought as well.

Mr. WALLOP. Will the Senator yield for a question?

Mr. SPECTER. I will.

Mr. WALLOP. The interesting point that the Senator makes about the broad and narrow interpretation—and he well knows I support him on—but would he agree with the Senator from Wyoming that the Nunn substitute that was offered to the Warner amendment begs the question entirely of interpretation of the treaty?

Mr. SPECTER. I do. I hate to do that when the Senator from Georgia is not on the floor.

The distinguished Senator from Georgia is here, so it is not in his absence.

Mr. WALLOP. The point that the Senator from Wyoming wishes to emphasize is that throughout the debates on the strategic defense initiative what Senator WARNER has tried to do has essentially been a question denied to the Senate, and that is whether the treaty, under either interpretation, serves the best interest of the United States.

Would the Senator—and I know he knows this well—agree with the Senator from Wyoming that virtually the only thing now that threatens Americans and our allies essentially in the world today are the Soviet ballistic missiles as well as Third World country ballistic missiles?

Mr. SPECTER. I do agree with my colleagues from Wyoming about the threat both from the Soviets and from Third World countries. It may well be that the ABM Treaty today does not serve the interest of either the United States or the Soviet Union. The ABM Treaty was entered into in 1972 and a great deal has occurred. I think that it is important that we take this question up with the Soviets as to what are the interests of the United States and the Soviet Union contrasted with the threat of ballistic missiles from Third World countries, which the distinguished Senator from Wyoming has put as part of his question.

Mr. WALLOP. Would the Senator then also agree that treaties of any kind, but the ABM Treaty in particular, allow a nation to operate in what it perceives to be its own national interest, its own national security?

Mr. SPECTER. I would agree with that. All treaties are devised and nations enter into them freely as a contractual form in their own best national interest, just as any party to any contract enters into that agreement for his or her own best interest or national interest.

Mr. WALLOP. So then it would not be untoward for the American people to have a debate as to what constituted their own national interest, whether remaining under the constraints and terms of the ABM Treaty, under either interpretation or to exercise their option to avail themselves of technology which could provide for their protection to the only basic threat to their national security that remains.

Mr. SPECTER. Well, I do agree with the statement made by my colleague from Wyoming, and that is the thrust of Senator WARNER's amendment, that it is time to take a fresh look at this entire picture. We have seen a great deal happen in the gulf with missiles and defensive missile technology. I started to say that it may be that the ABM Treaty may no longer be in the interest of either the United States or the Soviet Union because of Third World threats or it may be that the ABM Treaty is no longer in the interest of the United States, whatever the Soviet Union may have in mind. By the expressed terms of the ABM Treaty either country can abrogate it, withdraw from it, on 6 months' notice. So that paramount national interest is always a reason for abrogating the ABM Treaty, but it is time to take a fresh look at this very important subject.

Mr. WALLOP. So that a nation founded on and functioning under democracy ought not to fear debate on its own national interest. It ought not to try to slide out from under that debate but to present it to the American people as to what their options are.

Senator WARNER, I think, said quite correctly that when the American people heard it on the village greens that they would rise up in support of their own national interest. Neither of us can predict what the people will do, but each of us can predict—and I think the Senator would agree with the Senator from Wyoming—that it is not possible for the public to make a choice over an issue that has not been presented to them.

Mr. SPECTER. I agree.

Mr. WALLOP. I thank the Senator from Pennsylvania.

Mr. SPECTER. I thank my colleague from Wyoming.

The PRESIDING OFFICER (Mr. ROBB). Who seeks recognition?

Mr. WALLOP. Mr. President, I am seeking recognition in my own right.

One of the historic problems that we have had in the issue of the strategic defenses of the United States, strategic defense initiative, however it has been characterized, has been that the question has always been phrased in such a way that those who voted for it say I am for SDI, but I am for living under the treaty.

Richard Russell, the great military mind that for years served as the chairman of the Senate Armed Services Committee, made the observation during the ABM Treaty debate that it was impossible for a nation to do two things in the opposite direction at the same time, to arm while disarming, to disarm while arming; and that the choices had to be made clear.

The problem we have always had is we have been able to hide from the American people the options they may have had. We have laid down things: "I am for research, but I am for the treaty." President Reagan even made the grievous error of saying he wanted to construct this national defense against ballistic missiles while complying with the ABM Treaty.

I suggest to everyone that was never possible. The essence of the ABM Treaty is that we leave ourselves vulnerable to the judgment of the Soviet Union.

It was the theory and the essence of mutual assured destruction that we would allow, in fact insist, that our Nation remain vulnerable to the military threats, strategic threats, of the Soviet Union, if they would only just do the same thing on their side.

Over the course of time, Mr. President, we have seen the Soviet Union build what has been called the basis of a nationwide ABM capability. The CIA has never been quite willing to say that was what was happening, but each year in their briefings they would say they may be building the elements of a national defense, clearly outlawed by the treaty.

Unwilling to say that they were, we kind of begged that question, too, until finally the Soviets answered it for us when they themselves declared that the Krasnoyarsk radar was a violation and, indeed, its purpose was to be not a space vehicle surveillance thing but, in fact, joining the ring of phased array radars which, coupled with the production—which is not prohibited under the treaty—of the flat twin engagement radar, you began to see what they could do is in a matter of a very short period of time conduct a defense against the missiles we had while we maintained ourselves at a level of incompetency and self-denial of American technology.

If the gulf war showed us anything at all, it showed us that missiles, even incompetent ones like the Scud, are a terrifying thing; and it showed us a defense against those missiles, even an incompetent one, as the Patriot was—which is designed as an air defense missile, not a tactical ballistic missile defense—it is a whole lot better than no defense at all.

It is almost inconceivable to this Senator that this Congress would refuse to address even the issue as to whether or not Americans are entitled to a defense that we provided to the Saudis and provided to the Israelis, against the very real threats that remain.

The only real threats that remain to the American Nation are Soviet intercontinental ballistic missiles. Their ground army is no longer a threat. They are not going to come across the seas and invade America. They are probably not going to come across the land mass and, any longer, invade Europe. But their missiles threaten the safety and lives of Americans. And Americans now know you can hit a bullet with a bullet, even if that bullet was designed to hit an airplane.

Americans now know the technology is not star wars, but in hand, Americans should now be aware this Congress is, at this moment in time, refusing to answer the question as to whether or not the technology that this country leads the world in ought to be available for their safety and the well-being of this Nation.

That is the basis of the Warner question. It is not to duck the issue as to which kinds, ground-based, or space-based, or other kinds of things. It is to address the issue whether or not this country is best served by remaining under the terms and requirements of the ABM Treaty.

It is not a question of being for research or against research, which always begged the question of protection. It is a question of what is in the national interest of Americans.

This Senator says the technology we possess that protects us ought to be available to every city and town and military installation and military function this country has. It ought to be available to those of our allies. It cannot be available to our allies in any functional way unless it is also space-based.

So it is not a question of broad interpretations or narrow interpretations. It is a question of what is in the national interests of American survival against the one military element that fundamentally threatens this Nation: Soviet nuclear ballistic missiles as well as those rising Third World threats that continue to exist.

It is a very simple question. It is so simple, that is why we are being denied the opportunity to vote on it. The substitute is simply another confusion of an issue. It says, yes, I am for defense so long as you do not make them competent. It says I am for defenses so long as you make them only ground-based. I am for defenses as long as only making them ground-based they are so expensive we will not be able to share that technology with allies.

But it does not ever get to the question as to whether or not American technology ought to be available for the survival of the American people. That is fundamentally what is at issue in the Warner question. I suggest, though it has been taken down—although the majority leader has said we will not have such a vote on it—that issue will come back and come back until this Senate has an opportunity to express itself up or down as to what is in the national interests of the survival of our people.

You cannot get it by playing with phases of an incomplete deployment. You cannot get it by saying I am for research but within the treaty. You cannot get it by saying I am for arming while disarming or disarming while arming. You can only get that fundamental question answered by saying, Is it in our national interest to continue, to abide by the terms of this treaty or are we, as a people, entitled to the defense that American technology demonstrably is able to deliver to us now?

Those who witnessed the defense against that incompetent but dangerous and terrifying Scud can only imagine what a defense against the more competent, the more accurate, the more deadly, the more numerous Soviet ballistic missiles might be. I say it again: Americans are entitled to hear that debate. They are entitled to see how we choose on that. That is what democracy is about. Democracy is not about ducking the issue.

We will see this thing come back until we have a chance to express ourselves, because I believe the people that all of us represent are entitled to know what the issue is, what the two sides are. I do not deny there is another side. We shall hear it. But these sides ought to be weighed in the arena of democracy and the decision ought to be made in front of the American people.

Mr. COATS. Mr. President, I understand that the Warner amendment has been withdrawn and that there will not be a vote on this matter today. I will proceed, nonetheless, to express my views on the Warner amendment and the substitute offered by the Senator from Georgia [Mr. NUNN]. I want to express for the record my strong support for the Warner amendment and my disappointment that we were unable to complete the debate. I therefore ask unanimous consent that my complete statement be included in the RECORD at the appropriate place.

Stated simply, the Warner amendment would express the sense of Congress that the Secretary of Defense should develop and prepare for deployment a system to defend the United States and American Forces from ballistic missile attack. In passing this amendment, the Congress would have endorsed the view that it is more important to defend U.S. citizens and allies than to remain bound by the existing terms of the ABM Treaty.

It has been argued that the Warner amendment is unnecessary and ill-timed. Nothing could be further from the truth. Most Americans do not even realize that the United States is bound by treaty to a mutual suicide pact with the Soviet Union. And most would be shocked to learn that we are prohibited from testing and deploying many types of technologies whose purpose it is to defend against attacking ballistic missiles. The American people have witnessed the reality and the horror of ballistic missile attacks in the war with Iraq. They now have a right to know the other half of the story: that the United States is restrained by an outdated treaty from deploying many of the most promising missile defense technologies.

It has also been argued that the Warner amendment somehow would undermine our negotiators at the defense and space talks in Geneva. Again, nothing could be further from the truth. If anything, passage of this amendment would strengthen the American position at these talks. The Warner amendment would convey the message that, if the United States and the Soviet Union cannot agree to modify the ABM Treaty within 20 years, it is in the American national interest to unilaterally proceed with development and testing of a strategic defense system to protect the American people. Passage of this amendment would send a clear signal to the Soviet negotiators at the defense and space talks, which have been going on since 1985, that they have 2 years to come up with a mutually acceptable solution, but that if agreement is not reached the United States will unilaterally move beyond the existing limitations of the ABM Treaty.

The Bush administration also strongly endorses the Warner amendment. In a letter written to Senator WARNER, the National Security Advisor, Brent Scowcroft, stated:

> The administration strongly supports your sense of the Congress resolution on missile defenses. I believe it will send an unmistakable signal of our determination to proceed with ballistic missile defenses that enhance our national security.

Since the ABM Treaty prohibits the deployment of a territorial strategic defense system for the United States—which is precisely the goal of the SDI Program—it has been clear for several years that the ABM Treaty would eventually need to be amended or abrogated. I believe we should regard the ABM Treaty as a living document that was intended to be amended to meet changing conditions. Article XIV explicitly provides for proposed amendments and article XV includes provisions for withdrawal from the treaty.

If the United States decides that a nationwide strategic defense system is in the national interest, there are certainly appropriate legal avenues for amendment or withdrawal from the ABM Treaty. Therefore, the debate over the Warner amendment should not be about violating or unilaterally abrogating the treaty, but about whether a system to defend American citizens and friends from ballistic missile attack is in the national interest.

It is also important to note that passage of this amendment would not commit the Congress to any particular SDI architecture or technology. The President will still need to make a depolyment decision and come to the Congress for authority to proceed with procurement of a strategic defense system. The Warner amendment merely encourages the Department of Defense to remove certain obstacles to the implementation of an efficient and cost-effective SDI Program.

Opponents of the Warner amendment have suggested that the SDI Program is inconsistent with President Bush's direction to refocus SDI to provide protection against limited strikes, whatever their source. The implication is that the strategic defense initiative organization is freelancing. Not only is this entirely false, but it is actually the supporters of the Nunn substitute amendment themselves who are freelancing. The Warner amendment merely expresses the sense of the Senate on whether the ABM Treaty continues to serve the national interest. The Nunn amendment, on the other hand, actually would force SDIO to cut back on certain promising technologies, especially Brilliant Pebbles. The GPALS Program is the President's refocused SDI Program—unfortunately, passage of the Nunn amendment would preclude the deployment of GPALS and undermine President Bush's goal.

Mr. President, in order to evaluate the merits of going beyond current ABM Treaty limitations, one needs to look back at what the ABM Treaty was originally intended to achieve and what premises and assumptions it was based upon.

Reduced to its most basic form, the purpose of the ABM Treaty was to codify the strategic philosophy known as "mutual assured destruction," or MAD. According to the theory, if the United States and the Soviet Union were mutually vulnerable to nuclear attack, a stable state of deterrence would prevail and offensive arms reductions would naturally follow. For MAD to succeed, both sides had to accept a state of permanent vulnerability and neither side could build offensive missile forces capable of attacking the retaliatory forces of the other. Although defending one's own retaliatory forces was not logically inconsistent with MAD, by the late 1960's, when the SALT talks were underway, it had become almost axiomatic in the United States to assume that any type of ballistic missile defense was destabilizing.

For those who embraced the deterrence theory of mutual vulnerability, the ABM Treaty was the crowning success of arms control. Judging by what I've heard here on the Senate floor in the last day or so, it's clear that mutual assured destruction remains alive and well in the Senate.

Ironically, as soon as the ABM Treaty was signed and ratified in 1972, the logic structure of MAD began to crumble. The single most devastating blow to this theory of deterrence and arms control was the fact that the Soviets never accepted it. No sooner was the ink dry on the treaty than the Soviets commenced the most massive and sustained buildup of multiple-warhead intercontinental ballistic missiles in history, which interestingly enough continues to this day.

Moreover, although supposedly restrained from deploying a territorial ABM system, the Soviets continued to place heavy emphasis on strategic defensive forces of all kinds, including those that violated or circumvented the intent of the ABM Treaty. These developments were consistent with Soviet military doctrine, which emphasized damage limitation, not mutual vulnerability.

Soviet rejection of MAD was recognized in most official United States quarters during the 1970's, although some American proponents of MAD continue to deny this even today. Ironically, while U.S. strategic policy and planning began to move away from MAD in the 1970's, the ABM Treaty somehow continued to be regarded as sacred, even though its logical and philosophical essence had been discredited and all but discarded. To understand this apparent contradiction, one must realize the extent to which arms control has become an end in and of itself, not merely as a means to some positive outcome. The ABM Treaty has become a symbolic entity no longer connected to its original purpose.

The argument that we should not tamper with the ABM Treaty is based primarily on two assumptions, both of which are firmly grounded in the theory of MAD. First, that deploying strategic defenses will only fuel an arms race, leading the Soviets and presumably other countries to simply add many more offensive missiles. Second, that ballistic missile defenses would be destabilizing—that they would erode deterrence and create incentives to strike first in a crisis. Let me briefly address these two assumptions in light of our historical experience and the President's recent proposal to refocus SDI to provide "global protection against limited strikes," the so-called GPALS Program.

During the early 1970's, the arms control case against ballistic missile defenses was logical, if untested against reality. There was reason to believe reductions in defensive forces could lead to reductions in strategic offensive forces. Developments since then, however, suggest that this arms control case against missile defense has been mistaken.

By the early 1980's it was clear that, while the ABM Treaty precluded any serious strategic missile defenses, it could not lead to a reduction in the Soviet buildup of offensive ballistic missiles, as had been predicted by those who pressed for the ABM Treaty during its negotiation and ratification. Former Secretary of Defense Harold Brown summed up our experience with regard to Soviet offensive arms racing following the ABM Treaty by stating "when we build, they build; when we stop building, they nevertheless continue to build." We now know that the Soviet buildup of the 1970's and 1980's had nothing to do with a defense driven arms race dynamic.

Also in the 1980's, prominent American critics of missile defense questioned the upgrading of the Patriot to provide it with an antimissile capability—the capability now applauded by all. This reluctance stemmed from the same arms control case against missile defense: wouldn't the provision of an antitactical missile defense capability disrupt the prospective elimination of intermediate-range nuclear forces [INF]? The Soviets, according to this argument, would be compelled to maintain or increase their offensive capabilities in order to overcome United States defenses. In addition, strong claims were made that upgrading the Patriot would destroy the ABM Treaty—presumably because it would blur the distinction between permitted antitactical missile defenses and prohibited strategic missile defenses.

Contrary to this prediction, the INF Treaty went forward without a hitch and the Soviets have continued to show interest in eliminating other classes of offensive weapons. Not only did Patriot's upgrade to an antitactical missile defense system not destroy the ABM Treaty and undermine offensive arms control, as some wrongly argued, but Soviet officials have recently endorsed the use of Patriot against Saddam Hussein's Scud missiles in the gulf war.

The second principal argument why we should not disturb the ABM Treaty is that deploying strategic defenses would erode deterrence and cause strategic instability. The underlying premise here is that a United States nationwide missile defense will lead the Soviets to question the effectiveness of their retaliatory capability. In other words, the Soviets would fear that a United States missile defense system would be used to shield an American first strike, hence they would be under greater pressure to strike first in a crisis.

This view was worth debating when SDI was focused on deploying a highly effective defense against a massive Soviet attack. Today, with the GPALS configuration oriented toward defense against limited strikes, this argument is no longer relevant. To the extent that GPALS is designed to defend against a Soviet threat, it would not significantly erode Soviet retaliatory capabilities—hence it could not increase Soviet incentives to preempt in a crisis. In fact, given the instability of the Soviet domestic scene, the Soviet leadership should welcome the knowledge that an accidental or unauthorized launch from their territory would not cause the United States to retaliate. As such, GPALS will be highly stabilizing.

This is not to say that GPALS will not be a factor in the deterrence equation. Since even limited ballistic missile defense protection of U.S. retaliatory forces can enhance their survivability, GPALS will strengthen deterrence without adding first strike incentives for either side. Even the most ardent believers in mutual assured destruction should support a limited defense that will reduce the vulnerability of U.S. strategic forces. GPALS would not undermine Soviet retaliatory capabilities, yet limited defenses would create a high degree of uncertainty in the mind of any prospective attacker who must assume that some U.S. retaliatory forces will survive his first strike. Hence, GPALS would dampen first strike incentives without eroding United States and Soviet confidence in deterrence.

GPALS will also be stabilizing on the level of multilateral relations. The trend in the Third World is clearly toward longer range and more accurate ballistic missiles in the hands of increasing numbers of unpredictable leaders. This emerging situation has led Charles Krauthammer to characterize the post-cold-war environment as "the era of weapons of mass destruction." Krauthammer could well be correct in stating that "the proliferation of weapons of mass destruction and their means of delivery will constitute the greatest single threat to world security for the rest of our lives." One thing seems certain: the United States will not remain a sanctuary forever.

It is clear that the two standard arguments for not modifying the ABM Treaty—that doing so would cause an arms race and/or create strategic instability—have not met the test of time and are now largely irrelevant in the context of GPALS.

It is also difficult to avoid the conclusion that the ARM Treaty will need to be modified to accommodate missile defense deployments. We are currently permitted to deploy unlimited theater missile defenses and up to 100 ground-based strategic defense interceptors at one site in the United States. Unfortunately, 100 interceptors will not provide effective coverage of the United States. It would be an irony indeed if we were permitted to deploy a robust defense overseas but were denied a similar degree of protection for American citizens at home.

Mr. President, the case for deploying a U.S. missile defense system has been strengthened by our experience in the gulf war. Perhaps the most important lesson we can learn is that deterrence as we have defined it in the United States over the last 45 years can and will break down, even when backed up by a nuclear guarantee. The United States-Soviet model of deterrence based on the threat of nuclear retaliation may be virtually inapplicable in dealing with the emerging Third World missile threat. As President Bush put it:

> Thank God that when the Scuds came the people of Israel and Saudi Arabia, and the brave forces of our coalition had more to protect their lives than some abstract theory of deterrence.

This leads to the conclusion, which should be rather obvious to anyone who watched the news coverage of the gulf war, that even an imperfect ballistic missile defense is better than no defense at all. Some have argued, however, that an imperfect defense is only valuable against conventionally armed missiles, that if nuclear weapons are involved even a single failure to intercept an incoming missile could result in massive destruction.

This standard anti-SDI argument misses the basic point that every successful missile interception saves lives, perhaps hundreds of thousands if nuclear weapons are involved. Can anyone seriously argue that, since there is always a chance that a missile will get through, we should not even try to prevent it. The only alternative, unfortunately, is to rely solely on deterrence, which, as we have seen, is like assuming that leaders like Saddam Hussein will be reasonable and rational actors. Would anyone have recommended that we not use the Patriot if Saddam's Scud missiles were armed with nuclear warheads? If anything, we would have been even more dedicated to the task of intercepting and destroying incoming missiles.

There is no doubt that the Patriot was not completely successful in intercepting incoming Scud missiles. Rather than concluding that ballistic missile defense is not reliable, however, the lesson we should draw from the Patriot's limitations is that additional ballistic missile defense capabilities are needed to handle the emerging threat. By deploying a multilayer theater and U.S. defense system, to include overlapping space-based defenses, we will be more capable of defending against advanced threats, including long-range missiles with nuclear warheads.

The gulf war also taught us how difficult it is to destroy mobile missiles on the ground. Despite the use of massive airpower, coalition forces were unable to thoroughly suppress Iraq's Scud launching capability. This has major implications for SDI, not only for dealing with the emerging Third World threat but also for balancing Soviet strategic forces, which include the largest and most potent mobile missile force in the world.

We have also learned that providing defense against ballistic missiles serves important political functions. Traditionally, the United States has extended a nuclear guarantee over allies, particularly in Europe. While this form of extended deterrence will remain important, its credibility is increasingly open to question. Extended deterrence will, therefore, need to be supplemented by extended missile defense protection. While important, rapidly deployable theater missile defenses will probably be insuffícent, since future crises are not likely to unfold as slowly as the conflict with Iraq did. Space-based defenses will be needed since they would be in place, ready to respond to a surprise attack pending the arrival of theater defenses.

In the case of the gulf war, the reassuring function of the Patriot was an important factor in Israel's decision not to promptly retaliate against Iraq's missile attacks. A similar type of defensive guarantee extended to allies around the world can have an important stablizing effect in future conflicts. U.S. extended missile defense protection can also play a critical role in cementing and bolstering existing and future alliances and bilateral relationships.

An extended missile defense guarantee would also dampen incentives for missile proliferation by reducing the utility of ballistic missiles. Countries considering adding such missiles to their military inventories may look at the gulf war as an example of how ineffective such systems can be. The more effective the United States becomes in extending missile defense coverage, the lower will be Third World incentives to seek a ballistic missile capability.

Taken together, these findings argue strongly for proceeding with SDI along the course envisioned in the GPALS Program. The success of the Patriot in the gulf war proves that ballistic missile defenses work and are a worthwhile investment. The time has come for the United States itself to be defended against ballistic missile attack.

Mr. President, even if we disregard the growing threat of ballistic missile proliferation, mutual vulnerability is no longer an appropriate strategic theory to guide United States-Soviet relations. Mutual assured destruction, and the ABM Treaty which embodied it, are relics of the cold war. Neither are fitting for the type of relationship we seek to build between the United States and the Soviet Union. This point was emphasized in a recent article by Edward Rowny, the former chief U.S. START negotiator. According to Rowny:

> We must recognize that the search for stability may include agreements totally unlike past arms control agreements. The most important test case will be in the area of strategic defense. Survivable, effective strategic defenses can help create a strategic balance more in consonance with improved political relations. Agreeing to get beyond the once useful, but now obsolescent, mindset of the AMR treaty is the single biggest test of change in the U.S.-Soviet strategic relationship.

Within the context improving United States-Soviet relations, strategic defenses will be a key element in the arms control process. Contrary to the assumptions underlying the ABM Treaty, strategic defensive forces should not undermine offensive arms control. In fact, they may actually facilitate progress with START by serving as confidence building measures.

As offensive reductions take place, strategic defenses will be necessary to keep deterrence strong. As the number of potential targets in the United States is reduced, especially if the United States abandons mobility for its ICBM force, a strategic defense system will be necessary to keep first strike incentives low. Space-based interceptors such as Brilliant Pebbles will also provide incentives for the sides to move away from emphasis on multiple-warhead ICBM's. Without a United States capability to attack multiple-warhead ballistic missiles in their boost phase, the Soviets will have little incentive to abandon their current emphasis on heavy multiple-warhead ICBM's.

A United States strategic defense system would also reduce concerns about the Soviet mobile ICBM force. Since verification of a mobile ICBM force is extremely difficult, United States defenses could serve to guard against cheating. All in all, without a strategic defense system, it will be more risky to pursue deep cuts in offensive arms. Thus, contrary to the logic of MAD, ballistic missile defenses may actually contribute to progress in arms control.

Mr. President, before I yield the floor, I feel compelled to respond to some of the other arguments raised by proponents of the Nunn substitute amendment.

First of all, let there be no doubt, while the Nunn amendment claims to favor near-term SDI technologies and foster balance in the SDI Program, it actually would disrupt a very carefully constructed and well-balanced SDI Program. The accusation has been made that the strategic defense initiative organization is somehow out of step with the President's direction to refocus the SDI Program to provide global protection against limited strikes. This is absolutely false. The GPALS Program is the President's program for defending against diverse and multiplying ballistic missile threats. It would be thoroughly inappropriate for the Congress to undermine the program, as the Nunn amendment would indeed do.

In claiming to favor near-term technologies, the Nunn amendment misleads the American people. The fact of the matter is that those items listed as "near-term antiballistic missile defenses" are based on virtually the same technologies that Brilliant Pebbles is based upon. Many of the ground-based components, including the ground-based interceptor and the Endo/Exo-atmospheric interceptor face technological challenges as great or greater than those facing Brilliant Pebbles. According to a factsheet released by SDIO in February 1991:

> The vast majority of technologies employed in either the space-based Brilliant Pebbles or a ground-based interceptor are remarkably similar in both their complexity and maturity. In fact, the unique "space" areas for Brilliant Pebbles are all well understood and in practical use today in most spacecraft.

Proponents of the Nunn amendment also have argued that the real threat is tactical ballistic missiles and therefore we can effectively relegate Brilliant Pebbles to long-term research and development. While it is true that short-range ballistic missiles constitute the most proliferateed form of the threat today, they are not the only threat. Indeed, they are not the most ominous threat facing the United States and its allies in the decades ahead.

To focus solely upon tactical missile defense would foster major imbalances in our fight against ballistic missile proliferation. We will end up with a system that responds only to the missile technology of today and does not look toward the future. If we are serious about ballistic missile defense we must continue with strong support for space-based interceptor programs, especially Brilliant Pebbles. To argue that theater missile defense is enough, is to argue that U.S. citizens should not be defended at home. In effect, we would be arguing for a better defense for our allies overseas than for Americans living in the United States.

To the extent that the proponents of the Nunn amendment want to defend the United States from ballistic missile attack, they only seek to do so through a so-called limited protection system, which supposedly can be had without modifying the ABM Treaty or with only slight amendments. Nobody has explained why we should have a robust defense overseas but only a limited defense at home.

The argument that we can have effective defense for the United States within the limits of the ABM Treaty is false. An ABM Treaty compliant system will not even cover the entire United States. Will the people of Alaska or Hawaii, or indeed the Coastal States, be satisfied to know that most of the United States is protected from ballistic missile attack—but not them? Even if we modify the ABM Treaty to allow several ground-based missile defense sites we will not be able to gain the benefits of having a space-based system. Someone should also explain to the American people why it is bad to develop and deploy more capable space-based systems. Allegedly, they are too expensive or based on unproven technology. In fact, Brilliant Pebbles will cost only half of what the ground-based systems will cost. And, as was pointed out above, space-based technologies are largely off-the-shelf, state-of-the-art, not some "pie in the sky" as they are often portrayed.

The contradiction in favoring ground-based systems over space-based systems is illustrated by the fact that proponents of the Nunn amendment seem content to place a high degree of emphasis on space-based sensors, which are required for ground and space-based interceptors to work. Yet, when it comes to Brilliant Pebbles, there is suddenly a logical leap in attempting to explain why space-based interceptors won't work and are too expensive.

Brilliant Pebbles will be able to respond globally, which is precisely what President Bush called for in his State of the Union address. So to attack the SDIO for being out of step with the President's program is sheer subterfuge. Brilliant Pebbles will be the only means of attacking multiple-warhead missiles in their boost phase, before they dispense 10 or more nuclear warheads. Hence Brilliant Pebbles would be a true force multiplier.

Mr. President, under the guise of adding balance to the SDI Program, the Nunn amendment actually seeks to disrupt the space-based component. It favors certain systems over others by falsely identifying them as near-term technologies, even though both are based on the same components. And, worst of all, it seeks to minimize the degree of protection we will be able to afford the American people.

We have also heard that it is too early for the Congress to express its view of whether the ABM Treaty is in the national interest. Mr. President, I firmly believe that every Member of this body has a view on this matter. The time has come for us to make our views known to the American people. Let's stand up and be counted: should we allow the ABM Treaty to restrain the development of technologies whose sole intent is to defend against ballistic missile attack, or should we continue to follow a theory that tries to make a virtue out of our vulnerability?

The choice between the Warner amendment and the Nunn substitute is a clear one. The Warner amendment seeks to free the development of all types of technologies for the purpose of defending Americans from ballistic missile attack. The Nunn amendment, in effect, is a statement that we should pursue only a very limited defense system, even though our technology in this area is virtually limitless. The Nunn amendment says the United States should continue to be bound by a treaty that prohibits us from pursuing the most promising means for defending the United States from ballistic missile attack.

Mr. President, the ABM Treaty was negotiated and ratified in a very different strategic and international political environment than we face today. Some of the treaty's underlying premises have turned out to be flawed while others have become outdated. It is thus in the mutual interest of the United States and the Soviet Union to proceed with a cooperative transition away from the existing ABM Treaty. This does not mean violating the treaty, we simply need to modify it.

Rather than holding on to outdated notions of deterrence and stability, the Congress should encourage this cooperative move toward greater emphasis on defense. I urge my colleagues to vote in favor of the Warner amendment and against prolonging U.S. vulnerability to ballistic missile attack. A vote for the Warner amendment is a vote to consign mutual assured destruction to the archives of history where it properly belongs.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON. Mr. President, I ask unanimous consent to proceed as in morning business for a brief period of time for the introduction of a resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DIXON. I thank the Chair.

(The remarks of Mr. DIXON pertaining to the submission of Senate Resolution 83 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

Mr. DIXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WIRTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WIRTH. Mr. President, I ask unanimous consent to be recognized for 5 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Colorado is recognized.

Mr. WIRTH. I thank the Chair.

(The remarks of Mr. WIRTH pertaining to the introduction of S. 662 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. President, I appreciate your recognizing me.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so orderd.

The majority leader is recognized.

Mr. MITCHELL. Mr. President, last evening I stated that the bipartisan leadership, Senator DOLE, myself, the managers, and other interested Members, had reached an agreement on the provisions of the benefits package in S. 578, and I hoped that we would be able to move promptly with the measure today. I anticipate that will occur soon.

The Office of Management and Budget has been reviewing the leadership amendment, which I will be offering shortly with Senator DOLE and others. They are checking it on a line-by-line basis, and that has resulted in the delay that has ensued this morning. I am advised by Senator DOLE that that process is nearly complete.

It is my hope that we can proceed with the leadership amendment, which implements the agreement we reached yesterday, and then have prompt action on the measure.

Senators should be aware that there will, in all likelihood, be several votes during the day today. The agreement we reached is that the leadership will oppose all amendments to the package. We have been advised that there will be several amendments offered, some of which the substance of which is known to the leadership, some of which we do not know what will be in the amendments. We will be opposing them and seeking to table all the amendments.

So it is, therefore, important for Senators to be prepared for several votes today. We hope that this can begin promptly, and it is likely that there will be votes throughout the afternoon. We hope to conclude at an early hour, so that those Senators scheduled to leave on the congressional delegation trip to the Middle East will be able to leave on or as close to their previously announced schedule as possible.

Mr. President, I am pleased to yield to the distinguished Republican leader for any comments he may wish to make in this regard.

Mr. DOLE. Mr. President, I understand they are about completed with going over the different provisions that we have agreed to. That ought to be finished, I hope, within the next 15 minutes. As the majority leader indicated, someone said there could be as many as seven or eight votes this afternoon.

I advise my colleagues to be alert, and we will hopefully get time agreements on every amendment, because the votes themselves will take up a couple of hours.

So, hopefully, we can get our colleagues to give us time agreements. I think on this side, Senator HELMS has some amendments on which we can get short time agreements.

Mr. MITCHELL. I thank my colleague

I, therefore, remind Senators that it is likely that we will be having several votes beginning as soon as the OMB review of the amendment is complete, which Senator DOLE indicated he expects to be within the next 15 minutes.

So Senators should be prepared this afternoon for several votes. We are going to try to get this done as soon as possible so that Senators can make schedules with respect to which they have made plans for time.

I yield the floor.

Mr. DOLE. Mr. President, was the leaders' time reserved?

The PRESIDING OFFICER (Mr. WIRTH). Yes, the leaders' time was reserved.

PALESTINIANS IN KUWAIT

Mr. DOLE. Mr. President, all of us are aware of the disturbing reports coming out of Kuwait, indicating reprisals against Palestinians and others who are believed to have helped the Iraqi invaders. Let us be clear: those reports have not been confirmed, and they do not appear to indicate any direction or participation by senior Kuwaiti Government officials.

But any such action by anyone cannot be condoned.

No one has any political sympathy for those who may have aided Saddam Hussein's marauding hordes. But, at the same time, vigilante reprisals are neither right, nor the answer to any of the very real challenges facing Kuwait as it seeks to rebuild.

We committed 500,000 American troops, and our national honor, to repel Saddam's invasion, and protect American vital interests in the region. We did not do it so Kuwaitis—no matter how understandable their anger—can settle scores, old or new.

A Senate delegation, headed by Senator FORD and Senator WARNER, departs for Kuwait today. Hopefully, they will bring back more definitive information on what is happening in Kuwait. I am sure they will also express to Kuwaiti officials the concern many of us feel about these reports of reprisals.

The entire coalition achieved a great victory, and real honor, in Desert Storm. Let us do everything we can to insure that none of the justifiable pride we feel is tarnished by the actions of a few.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SHELBY). Without objection, it is so ordered.

DEPARTMENT OF DEFENSE DESERT STORM SUPPLEMENTAL AUTHORIZATION AND MILITARY PERSONNEL BENEFITS ACT

The Senate continued with the consideration of the bill.

Mr. DOLE. Mr. President, I think we are prepared to proceed to propose the benefits package whenever the distinguished majority leader is available, and hopefully we can finish it by 7 or 8 o'clock tonight.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 32

Mr. MITCHELL. Mr. President, I send an amendment to the desk, and I ask unanimous consent that the amendment be agreed to and that the bill as amended be considered as original text.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for himself, Mr. DOLE, Mr. NUNN, Mr. WARNER, Mr. ADAMS, Mr. GRAHAM, Mr. RIEGLE, Ms. MIKULSKI, Mr. DODD, Mr. LAUTENBERG, Mr. GLENN, Mr. MCCAIN, Mr. WIRTH, and Mr. SHELBY, proposes an amendment numbered 32.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Hearing none, it is so ordered.

The amendment (No. 32) was agreed to.

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senators GLENN, MCCAIN, WIRTH, and SHELBY be added as original cosponsors to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I am pleased to propose on behalf of myself and the distinguished Republican leader the bipartisan leadership amendment to improve benefits and compensation for the troops serving in the Persian Gulf.

We have pledged to remember their service, not just in the first days of victory, but later, when the parades are over and they take up their daily lives again. This proposal fulfills that pledge.

For the past several days, celebrations and parades have been held in cities and towns across the length and breadth of the United States to welcome our troops home from the Persian Gulf.

All of us have been able to join in this national welcome through television. Images of husbands and wives united after months apart, images of new fathers holding their babies for the first time, children and parents alike welcoming back the men and women who served—they have made us all realize how many lives were touched by this war, how many American families were directedly affected.

The welcome home celebrations express gratitude for the service of our troops, and pride in them and their victory. They reflect the relief of families and friends that the outcome was so swift and deceive. They reflect the Nation's belief that our men and women in uniform deserve the best.

It is to ensure that they get the best that I am today asking the Senate to act on this package of proposals.

This is a bipartisan proposal, selected from lists of assorted benefit upgrades and improvements, which has been determined to have the most immediate value for the troops and their families.

The measure would formally define the Desert Shield and Desert Storm actions as a "period of war." Many statutory provisions are triggered only during periods of war. This legislation would make unambiguous the fact that from August 2, 1990, until a Presidential proclamation ends the war, our forces have been engaged in war. That will ensure that the veterans of the Persian Gulf war will be eligible for VA benefits in their turn.

The measure would extend eligibility for readjustment counseling, aid and attendance, and psychological disability status to veterans of the gulf war. It would double the servicemen's group life insurance benefit from $50,000 to $100,000, with commensurate premium increases. It would increase hostile fire and imminent danger pay to $150 per month, from the current authorized level.

Today's Armed Forces manpower structure depends equally on volunteers serving on active duty and on the reservists and national guardsmen liable for activation. The Persian Gulf deployment used both elements of that force structure to a greater extent than any mobilization in decades.

Over 200,000 reservists and guardsmen were activated for duty in the gulf and the United States, the largest such activation since the Korean war.

Their activation took them away from jobs in both private and public sectors. Some were forced to leave their own small businesses, others had to interrupt their studies.

We are making those reservists who are Federal workers eligible for annual leave contributions from fellow workers. We encourage private and State employers to develop similar programs where possible.

The measure would permit reservists to defer repayment of Small Business Administration loans. For students, it would extend their eligibility period for education benefits, as well as the loan repayment period. It would also increase reservists' educational benefits to $270 per month for each month of active duty served.

In the wake of the deployment, we found that the current military compensation and benefits packages in too many instances reflected out of date costs and circumstances. For example, families were protected against eviction only from rentals costing no more than $150 per month.

But in the last 20 years, both costs and conditions in our country have changed dramatically. Women, including military spouses, have entered the work force and the military in large numbers. The schedules and arrangements working couples make to care for children and organize the other essentials of daily life can collapse when a family member is suddenly deployed thousands of miles away.

The disruption to daily life of activation in the Reserves has been difficult for many. Current law requires employers to preserve the job of anyone called to active duty. But the law does not cover other disruptions that arise when a wage earner must leave a job at short notice for an indefinite time.

Families face problems when a smaller military paycheck replaces the salary for which they have budgeted. Although we have urged creditors to be generous with people caught in this circumstance, it's clear from news reports that many are forced to deplete their savings and ask for emergency help from family and friends.

We have already taken some action: For instance, the rental threshold protected against eviction has been raised from $150 to $1,200 a month, a more realistic rate in today's world. But other deficiencies demand attention as well. I hope that as defense needs are reviewed in the years to come, we will review the needs of our service men and women as well.

No action can ever fully compensate for the risks and hardships of military service. But those serving the Nation should not have to serve with the knowledge that their families are facing destitution and economic loss. They should not have to worry about the costs of an unexpected illness or accident to family members. Their service should not come at the cost of preventable hardship to their families.

It should be part of the costs of our defense system to ensure that those who are part of today's Armed Forces are not penalized for their service to the Nation.

Since President Abraham Lincoln told the Nation, in his second inaugural address, that we would "care for him who shall have borne the battle, and for his widow and orphan," our armed services have seen many changes.

Women now serve and, to our sorrow, some pay the ultimate price alongside men.

Men and women in civilian life must be prepared to drop their accustomed lives and take up the life of active duty with little warning.

The weapons our troops face have multiplied in danger many times.

The fields on which they fight have ranged all over the world.

But Lincoln's words are as true today as they were more than a century ago: It is our Government's duty to care for those who serve the Nation in war, and for their families and children.

This legislative package is designed to do that for those who served in the Persian Gulf, and it deserves the full support of every Member of the Senate.

This package of Persian Gulf benefits has been carefully crafted. We have worked with the chairmen and ranking members of the respective committees. The bipartisan leadership has been involved, as has been the administration.

This is a significant package of benefits for our soldiers, sailors, airmen, and others, all veterans and their families; $500 million of benefits will be made available over the next 5 years.

The package is consistent with last year's bipartisan budget agreement. The costs of this package are considered to be incremental costs of the Desert Storm Operation.

Under the leadership of Senator GLENN and Senator MCCAIN, we have reviewed every proposal that has been put forward to benefit our veterans. These proposals have been carefully studied and acted upon by the respective committees of jurisdiction. Members have been extremely cooperative in helping us pull the various elements together into this single package. We believe this to be a balanced, credible, and responsible package of benefits. We are anxious to move forward with this legislation.

That requires at this point to oppose any amendment, unless an amendment is agreed to by both sides.

So I want to say now to all Senators with all due respect to those who obviously have the right to offer amendments and are free to exercise that right, that Senator DOLE, Senator NUNN, Senator WARNER, Senator GLENN, Senator MCCAIN, and myself will join in moving to table any amendment that is offered to this package.

Obviously, since we do not even know what amendments will be offered, this is not an expression of our individual views on any particular amendment. There may well be amendments offered which we, in other circumstances, would be prepared to support. We might think the amendment is a good idea. The problem is that if we begin to accept one or two amendments we cannot draw the line anywhere. It will soon become 10 or 20 or 30 or 40, and the whole concept behind a basic credible and responsible package will have been destroyed.

So, with all due respect to our colleagues, and emphasizing and making clear on behalf of the leadership on both sides of the aisle which will join in opposing any amendments that we are not expressing individual views on these amendments—I repeat, there may well be amendments whose provisions we would agree with and we would in other circumstances vote for—we are going to join to table every amendment, unless agreed to on both sides. I hope, with that, that we can reduce the number of amendments.

With respect to those Senators who feel they must offer amendments, I hope they will agree to relatively concise time agreements so we can get to the point where we can enact this legislation today and can then move forward early next week on the appropriations process to make these benefits law and a reality for the veterans and their families.

So, Mr. President, I thank all of my colleagues who have worked together on this in what I believe to be substantial and responsible legislation, and I look forward to its prompt consideration and enactment.

I will be pleased to yield to the distinguished Republican leader.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I rise in support of the Mitchell-Dole amendment, and commend the majority leader for his remarks.

In the final analysis, Mr. President, no price tag can be put on the debt we owe to the men and women who put their lives on the line in Operation Desert Storm.

When their country called, they answered as millions of soldiers had before them.

When freedom was endangered, they were on the front lines.

When the battle was waged, they fought the good fight.

Our soldiers' duty was to stand for freedom. Our duty is to ensure that they and their families do not have to face hardships because of their sacrifice, and that the members of the best trained military force in the world are not penalized as they return to the best trained work force in the world.

I want to be clear from the outset, that the benefits package contained in the leadership amendment is a responsible and reasonable approach.

We resisted the temptation to turn our backs on our budgetary problems by creating new and expensive programs.

Instead, we simply did what was fair and what was right.

It is only fair that we give our returning forces access to the health care and medical facilities needed on their trip home.

It is only fair that we extend and expand housing benefits to veterans of the Persian Gulf.

It is only right that we ensure that the surviving families of those lost during the Desert Shield time period, receive an added compensation for the irreplaceable loss they have suffered.

It is only right that we increase the special pay for duty in hostile action, and for those health professionals recalled to active duty.

Mr. President, I want to praise Senators WARNER and McCAIN for their leadership on the Republican Task Force in addressing the needs of our Operation Desert Storm veterans.

Senator McCAIN, chairman of the Republican Task Force, is, of course, a Vietnam veteran. He well knows the sacrifice required of our soldiers, their families, and their employers. He has provided yeoman's work in ensuring we do what is fair and right.

Senator McCAIN and Senator GLENN worked hard to accommodate the concerns of Senators on both sides of the aisle.

As I said, many Senators recommended benefits for inclusion. Some were not accepted, some were, due to budget constraints.

I also want to thank President Bush for the support he has provided for this package.

Secretary of Defense Cheney, Secretary of Veterans Affairs Derwinski, Secretary of Labor Martin, and OMB Deputy Director Bill Diefenderfer were also crucial to our success.

The leadership amendment is carefully crafted. The White House, and both sides of the aisle have agreed to each provision. I urge Senators not to upset our delicate balance, and to pass this legislation with the same speed our troops showed in winning the war.

I underscore the statement just made by the distinguished majority leader. I also wish to say we are trying to accommodate about 17 or 18 Senators who are leaving on a very important visit to Kuwait and other areas in the Mideast and would like to leave here as early as possible; hopefully around 4:30 or 5 o'clock. So, if Members on this side of the aisle, I address directly, have amendments, I hope you can give us a very short time agreement. We may have eight rollcalls. That will take a couple of hours just in rollcalls. So if there is going to be a lot of debate, we can be here until 10, 11 tonight at the earliest.

So I hope we will consider the concerns of a number of our colleagues, about 20 percent of our colleagues, who are leaving on what I consider to be a very important trip to the Mideast, Visiting Kuwait, Saudi Arabia, Israel, and other areas in the Mideast.

I underscore, also, that I want to congratulate Senator McCAIN and Senator GLENN for their diligent efforts and resisting the temptation to turn our backs on the budgetary problems by creating new and expensive programs. In my view, what we are doing is fair and right and responsible, and I hope our colleagues whose ideas are not included in the package will understand, as the majority leader indicated, that we wanted to be responsible.

We are concerned to some extent that when these benefits are publicized, maybe other groups of veterans may think of reasons why theirs should be expanded. Certainly, we have a priority in taking care of America's veterans. We always have had. We all feel pretty much the same about that.

But this is an all volunteer Army. There were no draftees. Those wounded and those who made the supreme sacrifice are limited, fortunately. There are provisions that would benefit some in each category. But I believe overall this is a good package, and I certainly urge its adoption without amendment.

I will join the majority leader and Senator GLENN, McCAIN, NUNN, and WARNER, in voting to table any amendment.

Mr. NUNN. Mr. President, for the past 2 months a bipartisan leadership task force has been working to put together a package of benefits for military members who served in Operation Desert Shield and Desert Storm and their families. All of us want to recognize and reward the dedicated and professional service of our dedicated men and women in uniform and their families.

The task force was led by Senator GLENN and Senator McCAIN, the chairman and ranking minority member of the Manpower and Personnel Subcommittee of the Armed Services Committee. They were assisted in their work by the very active participation of a number of other Senators.

This task force had to sort through a large number of proposals that crossed the jurisdiction of several Senate committees. Working with the leadership and OMB, the task force has come up with a bipartisan package which I think members can proudly support. Not every benefit that has been suggested in the last 2 months is included in the package. The task force was forced to recognize the financial constraints of the budget summit agreement and the need to reach a bipartisan consensus within the Senate and between the Congress and the administration.

Almost all of the task force proposals in the Armed Services Committee's jurisdiction are already in this bill, and I listed them yesterday in my opening remarks. These include an increase in imminent danger pay from $110 to $150 per month; special and incentive pays for Reserve medical personnel similar to those provided active duty medical personnel; $30 million for education and family support programs; $20 million for child care assistance; transition medical benefits for reservists and National Guardsmen leaving active duty after Operation Desert Storm; an increase in the death gratuity for survivors of military members from $3,000 to $6,000; and delaying for 1 year the reduction in CHAMPUS mental health benefits scheduled to go into effect last month.

To this list of benefits already included in the bill, the leadership amendment adds provisions that would:

Define the Persian Gulf war period as beginning on August 2, 1990, and ending by Presidential proclamation for purposes to title 38 of the United States Code, relating to pension eligibility and other veterans benefits;

Increase reservists' GI bill education entitlement from $140 per month to $270 per month for each month a reservist was called to active duty in connection with the Persian Gulf war;

Increase the active duty GI bill education benefit from $300 per month to $310 per month for 3-year enlistees, and from $250 per month to $259 per month for 2-year enlistees;

Increase the reserve GI bill education benefit from $140 per month to $145 per month for full-time students, with a comparable increase for part-time students;

Restore education entitlement for those reservists whose educational program was interrupted by the callup for Operation Desert Shield and Desert Storm;

Extend the VA home loan guarantee to reservists who were called up for 90 to 180 days;

Clarify veterans' reemployment rights;

Encourage the Department of Veterans Affairs to hire retired Federal health care workers to close staffing gaps at the VA;

Open the Veteran Centers Program to veterans who have served in the Persian Gulf conflict area;

Increase the maximum coverage of the Servicemen's Group Life Insurance Program from $50,000 to $100,000 retroactive to the start of hostilities in the Persian Gulf;

Defer repayment of existing Small Business Administration loans for reservists called to active duty for the Persian Gulf conflict;

Permit Federal employees to donate annual leave to a leave pool to be available to Federal employee veterans of Operation Desert Shield/Desert Storm;

Permit providers of health care to waive the normal copayments required under CHAMPUS for care provided to dependents of military personnel serving during the Persian Gulf war; and

Adjust from 60 to 30 days the transition medical benefits in the committee bill for reservists and National Guardsmen who are being released from active duty after Operation Desert Storm.

These benefits will be paid for from funds transferred from the defense cooperation account.

Mr. President, I congratulate those who participated in developing this package, and I urge its adoption.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, let me just back up what both of the leaders have said here. I am the last one to restrict debate in the Senate or restrict amendments, because that is one of the hallmarks of the Senate. It is one of the last open forums where we do not have artificial restrictions. It is one of the last such forums in the world, as a matter of fact, Mr. President, so I do not like to do that, but I think the timeliness of this act dictates that we get on with it.

I have nothing but the utmost sympathetic feelings for those who have amendments that did not get included through all this compromise process we went through to bring this package to the floor, but who feel very deeply about their communities or particular pieces of legislation that they wanted to see in. Because I, too, had some things in this that did not get through this whole process of winnowing out, but I think it is very important to us to not delay this any longer.

As the distinguished minority leader indicated, we have a delegation going over to the Persian Gulf, to Kuwait. We will be meeting with General Schwarzkopf and other personnel wherever we go. I think it would be very advantageous for us if we can say at least the Senate has completed work on this package. It does not mean there will not be other pieces of legislation proposed that we will act on. But what happened with this Persian Gulf personnel benefits task force that I chaired, and that Senator MCCAIN and I worked on on each side of the aisle, is that we could not wait to put in everything people wanted to get in. I do not say we should not take those things up later. In fact, I support taking them up later. Probably many of them I would personally support, and lobby for, and work for, and support here on the floor. But I think to delay things now into next week would be a big mistake. In fact, some of my amendments I wanted in did not make it either.

The package has been a bigger compromise and bigger effort than most people have realized, because we had to get agreement on these things including OMB and CBO estimates; we also dealt with the individual departments in the executive branch that were involved in each one of these bills. There have been many, many meetings.

We had people who did yeoman effort on this package: Fred Pang, of the Senate Armed Services Committee staff; and Phil Upschulte in my office on this along with Fred. Also John Hilley from the majority leader's office has been particularly effective working out all the negotiated positions on this.

Mr. President, I also give substantial credit to Kim Wallace of the policy staff on the Democratic side who did a lot of work in this area.

I do not have any problem with people suggesting things at a later date, but we have this package already agreed by both sides. It has about 17 different parts to it. Right now it is approved. The House acted on their package over there. I hope we can get on with this Senate package so that our service men and women over there in the Persian Gulf and their families know that this is for real, that we do appreciate what they did, and that we are not going to just put this benefits package off and let it be another forgotten episode in history as has too often been the case with some of our military efforts in the past.

So I certainly support the statement of the majority leader. I do not like to move to restrict any amendments, but I will support the effort on the floor here today and vote against any amendments that are offered.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, section 201 authorizes the Secretaries of the military departments to waive the end strength requirements contained in sections 401(a), 411, and 412(a) of the National Defense Authorization Act for fiscal year 1991.

To meet our commitments in Operation Desert Storm, the military departments had to invoke existing statutory authorities that allow them to retain personnel beyond their retirement date or their normal separation date. Because of ongoing commitments, the services could not possibly meet fiscal year 1991 end strength requirements that were enacted prior to the commencement of hostilities. Section 201 gives the Secretaries of the military departments needed flexibility to avoid mass involuntary separations in fiscal year 1991.

Title III of S. 578 provides a number of personnel benefits for service men and women and their families. The provisions of title III are the distillation of numerous personnel bills introduced in the 102d Congress and reviewed by the Desert Storm Legislative Task Force, which I chaired at the request of the Republican leader.

Sixty-four bills related to Operation Desert Storm have been offered thus far in the 102d Congress, spanning the jurisdiction of 10 committees. Bills were referred to the Armed Services Committee, the Veterans' Committee, the Finance Committee, the Labor and Human Resources Committee, the Government Affairs Committee, the Agriculture Committee, the Small Business Committee, the Banking Committee and the Foreign Relations Committee.

As you can see, the scope of legislation under our review was vast and diverse. However, the task force was charged by the leadership to employ simple, focused standards to our evaluation of legislation.

Our first standard required that the legislation must truly benefit the brave men and women of Operation Desert Storm. Second, for legislation that is not directly related to Operation Desert Storm, the legislation should be of sufficient merit that we would recommend its adoption regardless of events in the Persian Gulf. Third, there should be a degree of urgency related to the legislation requiring immediate congressional action.

Mr. President, the task force determined that not all of these bills provided a direct benefit to the men and women of Operation Desert Storm. Numerous other proposals contained varying degrees of merit, but failed to meet the criteria of immediacy. Legislation in these two categories were not further considered by the task force, this narrowing our decisionmaking process.

The legislative recommendations I submitted to the Senate last week have been determined by the task force to directly benefit Americans who served in the Persian Gulf theater of operations, and are composed of initiatives that are both meritorious and meet the criteria of immediacy. Let me briefly outline our recommendations. Included are provisions to: Grant unemployment compensation to military personnel involuntarily leaving the service that is equivalent to that received by civilians; exclude from income taxation all enlisted pay and $2,000 per month of officers pay for those who served in a combat zone; authorize the recall of retired military personnel at their highest rank prior to their retirement; exempt MIA's from the cap on contributions to the military savings program; increase servicemen's group life insurance [SGLI] from $50,000 to $100,000; increase imminent danger and hostile fire pay from $110 to $150 per month, effective August 1, 1990; ensure that accrued leave benefits be paid to the survivors of military personnel who perished in Desert Shield/Desert Storm; defer student loan payments for activated personnel; refund or credit the tuition lost by called-up personnel; defer Small Business Administration loan payments of active duty personnel and reservists adversely affected by their activation; delay reduction in military mental health benefits; protect Social Security income for children whose parents were activated; waive limitations on income for Social Security and Medicare disability beneficiaries whose income has increased due to Desert Storm-related work.

Title III of S. 578 encompasses many of the recommendations of the Desert Storm Legislative Task Force. Other recommendations are included in a leadership package that I understand will be offered by Senators MITCHELL and DOLE.

I would like to thank the two leaders for their steadfast support during our review of Desert Storm-related legislation, and I would especially like to thank the chairman of my subcommittee, Senator JOHN GLENN, for all of his hard work.

Mr. President, while not all Americans agreed on the wisdom of going to war, we are all united in our support for the men and women who served their country with distinction in this crisis. While not all Americans agreed about the conduct of the war, we all agree that our service men and women performed with great skill and great courage.

We should not build on this common ground to enact legislation that serves no other purpose than to treat the men and women of Operation Desert Storm with the fairness and distinction they deserve.

As we turn from war to peace, let us make this goal Congress' top priority. Let our endeavors justly recognize the great service that America's Armed Forces performed for America and the world.

I thank the Republican leader and the distinguished majority leader for their complete support of me and of Senator GLENN in this effort. I thank our colleagues who worked very hard and attended numerous meetings, and, of course, our respective staffs, who spent literally hundreds of hours in this effort to achieve consensus on a package that we can move forward rapidly.

It is not often that I am in favor of rapid enactment of legislation, since many times when we act in haste we act in error. On this occasion, though, Mr. President, I suggest it is very important that we act quickly. It is very important that we send a message to the men and women in the gulf and their families here in the United States, that this Congress is committed to providing them with the compensation and the benefits which they have earned at great cost and so richly deserve.

Let me point out, Mr. President, that there are certain aspects of this conflict which are unique. One of them is that for the first time in over 40 years, we had large scale callup of Guard and Reserve units. The United States has changed in many ways since the Korean war. I saw in my own State cases when I had scheduled meetings with the families, that the fathers showed up with their children because the mother had been called up. There were other cases where children were left because both members, both husband and wife, were called up.

I think it is important that this legislation does take into consideration those factors and many others that have imposed a very large burden particularly on our Guard and Reserve units and their families.

I think it is a good package. It does not—I repeat—it does not preclude further legislation as we see the need arise. I do not want anyone to get the message today that this is the end of our efforts to provide benefits and compensation to the men and women who not only served in the Persian Gulf but all the men and women in the U.S. military. I will say in all candor, Mr. President, some of this legislation makes up for the past few years of neglect of the men and women in the military.

I also would like to say there is a need for urgency. I urge my colleagues who have amendments, who want them considered, as is their right as Senators, that we would at least try to achieve some time agreement on these amendments.

I would also point out to my colleagues that there are certain budgetary constraints which were considered in enactment of this legislation in light of the constraints of the recent 1990 budget agreement. But those constraints were not the overriding factor, and I think that an objective observer would view this package of as one of great generosity.

I am also, finally, Mr. President, proud to say that these negotiations and these deliberations were conducted in a total bipartisan fashion. I am proud to work closely with Senator GLENN and the distinguished chairman of the Senate Armed Services Committee, as well as our distinguished ranking minority member, Senator WARNER.

I think that we can be proud of the nonpartisanship and lack of acrimony that characterized the entire negotiations and the recommendations that we bring before the Senate.

Mr. President, I yield the floor.

Mr. LAUTENBERG. Mr. President, I rise to support S. 578 and the proposed package of personnel benefits to assist our Persian Gulf troops and their families.

All Americans owe a debt of gratitude for the sacrifices made by our Armed Forces. Our troops fought to put an end to Saddam Hussein's reign of terror. They fought for the rights of the small not to be bullied by the strong. For liberty and the sovereign rights of all nations. And perhaps most importantly, they fought to rid the world of chemical and biological weapons and to stop nuclear proliferation. They made us proud. They fought with skill and professionalism, and courage. They are the finest on Earth and they were backed by equipment second to none.

And we've got heroes here at home too. The families of our troops were the backbone of our war effort. The husbands and wives, parents and children of our soldiers in the gulf have been a lifeline to our troops.

We need to do all we can to ease the burdens of our troops and their families. Parents have been pulled away from their children and asked to risk their lives for our country. The absence of parents created a strong need for child care services that were not readily available. Reservists were called away from their regular jobs and asked to serve in the Persian Gulf. For many reservists, this disruption of their daily lives meant reduced financial resources available to meet their economic commitments. Other military personnel and their families were asked to interrupt their educational programs, while still others were asked to delay the purchase of homes.

I was pleased to be a member of the personnel benefits task force, chaired by Senator GLENN, that helped develop the package before us.

The package builds on steps we have already taken in the Senate.

We have already approved legislation to amend the Soldiers' and Sailors' Civil Relief Act. That legislation assists military families by protecting them against eviction and distress during military service, prohibits an employer imposed waiting period for health insurance benefits of reservists when they return to their jobs, provides professional liability protection for military personnel called to active duty, and other types of benefits. This bill was sent to President Bush on March 6, and is awaiting his signature.

But we can do more and should do more for those brave soliders who risked their lives and for their families. S. 578 and the leadership's amendment would provide additional personnel benefits to Persian Gulf troops and their families. In addition to authorizing $15 billion in supplemental appropriations for the costs incurred by the Department of Defense for Operation Desert Shield/Storm, the bill also provides for some benefits for military personnel serving in the gulf.

S. 578 provides for increases in hostile fire pay, special pay for health care personnel, temporary increases in the amount of death gratuity paid to survivors, and transitional medical coverage for reservists following their release from military duty. Additionally, extended mental health benefits under CHAMPUS, increased child care assistance, and additional education and family support services to families of military personnel serving in the Persian Gulf are also included in the bill.

The leadership amendment would provide for additional benefits that have been identified by the Veterans' Affairs Committee and the Glenn Task Force to fill other specific needs of the Persian Gulf troops and their families.

I am particularly pleased to see that the leadership amendment expands the educational benefits for those reservists called to active duty. Specifically, this amendment increases the GI education benefits from $140 per month to $270 per month for each month that a reservist served in active duty in connection with the Persian Gulf. As our troops return home, we need to give them the opportunity to build a better future for themselves.

The leadership amendment also includes clarification of veterans' reemployment rights. The amendment also encourages the Department of Veterans' Affairs to hire retired Federal health care workers to close staffing gaps at the VA, permits providers of health care to waive the copayments required under CHAMPUS for care provided to dependents of Persian Gulf troops, and other various benefits.

Mr. President, our men and women in the gulf should come home to a warm welcome, but also to benefits that ease some of the burdens they have borne and that enable them to look to the future. That is what the legislation before us would do. I urge my colleagues to join me in approving this legislation and the leadership's amendment.

Mr. DODD. Mr. President, I am pleased to join my colleagues as a cosponsor of this amendment to provide extended benefits for the veterans of Operation Desert Storm.

From the very beginning of hostilities in the gulf conflict our Nation has been united in support of our service men and women who risked their lives fighting in defense of our national interest. Their magnificent performance has been cheered across the continent.

Now that the fight is over and our troops are returning, it is Congress' task to make sure that the Nation pays its debts to those who carried the burden for all of us.

At the beginning of this Congress we passed a few emergency bills to do the most urgent tasks, such as providing income tax deferrals and updating the civil relief provisions of existing law. I was pleased to cosponsor those earlier efforts as well.

This amendment, which was carefully marked up by the Veterans' Committee as proposed legislation S. 386, takes a more comprehensive approach to upgrade our laws on veterans' benefits.

Specifically, this legislation—

Defines the extent of the Persian Gulf war for purposes of veterans' benefits;

Increases and preserves the GI bill educational entitlements and benefits for the reservists who were called up for duty in the war;

Extends VA home loan guarantees to gulf veterans;

Strengthens the reemployment rights of veterans;

Extends the health benefits coverage for dependents of military personnel serving in the gulf war;

Opens the VA readjustment counseling system for the post-Vietnam-era veterans; and

Provides numerous other needed benefits.

Mr. President, last week I met the Connecticut delegation of the Veterans of Foreign Wars, just as I do every year, who were in town for the national convention of this great veterans' organization. I was overwhelmed not only by the pride and joy they took in our forces' splendid victory, but also by the care they took to emphasize the obligations of our Nation toward this latest group of U.S. veterans of a foreign war. Many of the provisions in this particular amendment were specifically urged and insisted on by this group.

My cosponsorship of this measure derives not only from my conviction of its basic rightness but also from my obligation to my own constituents who are veterans of this Nation.

The benefits included in this package are justified, moderate, measured, and richly earned. I urge all my colleagues to vote for this amendment.

Mr. KOHL. Mr. President, I rise today to express my support for this legislation. As my colleagues know, it was largely shaped by the work of the Persian Gulf personnel benefits task force. I was honored to be a part of that task force, and I want to thank the majority leader, Senator MITCHELL, for appointing me to the task force and Chairman GLENN for his distinguished leadership.

Mr. President, I am proud of the work of the task force, but I'm even prouder of the performance of our service personnel and the support their country gave them. Reserve units and active duty personnel from all over my State performed yeoman's service during the war. Fort McCoy in western Wisconsin did an excellent job as a key processing point for delivering manpower to the gulf. If anyone ever needed assurance that the United States is capable of amazing feats, Operation Desert Storm, and its predecessor Desert Shield, should be enough to convince any doubter that we are capable of great things.

As a member of the task force and the Senate, the question I faced was simple: "How can we best say 'thank you' to the brave men and women who have risked their lives on our behalf? Should we give them parades? Yes. Should we give them medals? Yes. Should politicians sing their praises and newspapers celebrate the exploits? Yes. Yes, of course, we should and will do all of these things. They are important. They help the entire Nation acknowledge the tremendous conflict we have emerged from. They are a powerful, visible symbol of our country's support for our soldiers. And they are a way to help soldiers mark an end to a war in which they were so intimately engaged.

But our Nation does not and must not stop at saying, "thank you." Service in the military involves an extraordinary commitment, and sometimes requires extraordinary sacrifice. We must provide the programs and health care which respond to the special needs which can accompany military service. It is only through funding these programs over the long term that our Nation can begin to repay that sacrifice that so many of our veterans have made.

I would like to discuss some of the principles that I used to evaluate legislative proposals related to Persian Gulf personnel. The first was the principle of fairness. I wanted to make sure that these veterans were eligible for the same treatment other wartime veterans receive. At the same time, I didn't want to see them qualify for a rash of new programs or benefits which the veterans of previous wars could not receive. I also wanted to make sure that the reservists and guardsmen who served alongside their active duty counterparts were not forgotten.

My second consideration involved an effort to focus on the family members of our soldiers. Many wives and husbands were left behind when their spouses went to war. Many children found themselves without one or both their parents. Due to the demographic changes in our All-Volunteer Force, the special needs of these families are, in some cases, unlike the needs we have experienced in previous wars. Soldiers can fight best when they know their dependents are cared for, and when they know the financial burdens of their service are not creating undue pressure on the folks back home. And so I focused a large part of my efforts on the task force on helping military families. And that is something I want to continue to work on even after this package is adopted because I believe our experiences in the gulf have revealed some problems in the "family support" system which need to be explored and corrected.

Third, I wanted to use this opportunity to update provisions in previous law which were simply out of step with current realities. Some of the financial benefits provided by law were based on the economic facts of life which existed in the 1940's or the 1840's. We might wish that those facts of life were still operative today—but they are not. And this was a good time to make some changes.

Finally, Mr. President, I would like to just mention a few of the specific provisions in this important legislation. We have increased the rate of hostile fire pay from $110 to $150 per month. We have increased the death gratuity from $3,000 to $6,000 for Desert Storm. We have removed the cap on a military savings plan for soldiers listed missing in action. We have provided for the payment to survivors for the unused accrued leave of soldiers who died on active duty.

We have authorized called-up health care personnel to receive the same special and incentive pay as their full-time active counterparts. Military personnel called back to active duty will be allowed to be called back in the highest grade they previously attained.

Regarding health care, reservists called to active duty who do not have other health insurance with employers covered under the Soldiers and Sailors Relief Act will have 60 days of transitional medical coverage following their release from active duty. The effective date for planned reduction in CHAMPUS mental health benefits has been postponed for 1 year, until 1992. We have opened up the veterans centers program to post-Vietnam veterans who served in the conflict area. And we permit providers of health care to waive the normal copayments required under CHAMPUS for care provided to dependents of military personnel serving during the Persian Gulf war.

For families, we provide $20 million for child care assistance, and $30 million for education and family support services.

We have defined the period of the Persian Gulf war as beginning on August 2, 1990, and ending when specified by a Presidential proclamation. These dates are central to eligibility for pension and other veterans benefits.

We have increased reservists entitlement for the GI bill of rights from $140 to $270 per month for each month served on active duty in connection with the war.

Reservists who were called up for 90 to 180 days will be extended the VA home loan guarantee.

We provide for the deferment of repayment of Government student loans for those activated, and we encourage educational institutions to refund tuition or give credit to military personnel who were not able to complete their terms due to activation.

Finally, we will allow reservists who have small business loans to defer repayment.

Mr. President, when we called upon them, our soldiers were up to the task in World War I, World War II, Korea, Vietnam, and the Persian Gulf. This package illustrates our recognition of the fact. But too often in the past we have provided support in the first flush of victory and then, as the years go by and the needs of the veterans increase, our support for their programs declines. Passing this legislation is a downpayment, nothing more and nothing less. In the years ahead, we have to continue to support the programs we have authorized here. Our soldiers did not ask how long the war would last—they told us they would be there as long as we needed them. Now we have to be there as long as they need us.

Mr. LEVIN. Mr. President, I believe that the men and women who served our country so nobly in Operation Desert Storm should be able to get on with their livelihood once they come back home. As part of that goal, it is important that reservists be given the opportunity to put themselves back in the position that they would otherwise have been in with respect to their pension benefits. We should make clear that reservists have the right to restore missing pension credits for the period they were on active duty at the usual rate of contribution. My understanding is that the current law is generally interpreted in that manner. However, returning reservists should not have to worry about any kind of ambiguity in this regard.

I had intended to offer an amendment to make the current state of the law absolutely clear. However, I will defer to the request by the Senate majority and minority leaders to withhold amendments at this time in the interest of getting the underlying veterans benefits package and Desert Storm supplemental authorization passed as quickly as possible. I will, nevertheless, be introducing a free standing bill to clarify pension buy back rights at the usual rate of contribution. I would hope that this legislation will be given serious consideration by the Veterans' Affairs Committee when it considers proposals to improve and update the veterans' reemployment rights in the near future, unless that committee concludes there is no ambiguity in current law and that such buy back rights are already protected.

Mr. CRANSTON. I want to thank the Senator from Michigan for his interest in this area of veterans' reemployment rights. I look forward to reviewing his legislation and assure him that it will be given serious consideration at the Veterans' Affairs Committee's hearings.

Mr. President, yesterday I rose, as chairman of the Veterans' Affairs Committee, to express my support for the provisions of the leadership amendment to S. 578 that related to veterans programs. Those remarks of mine appear in the RECORD for March 13, 1991, beginning on page S3168. At the time, I described the provisions as I believed they were then about to be submitted, and I believed that my statement was based on firm information. Unfortunately, however, my descriptions of certain provisions that related to the Montgomery GI bill [MGIB] have subsequently proven to be inaccurate.

In the process of working with the leadership and with the Office of Management and Budget to arrive at a mutually acceptable package of veterans benefits to be made part of S. 578—a process of balancing hard dollars, real needs, and genuine gratitude—difficult choices had to be made. I am deeply disappointed that all of the increases that I believed were being made were not ultimately possible. I regret the errors and wish to clarify the record at this point.

The first error—appearing in two places on page S3172—indicated that the MGIB benefit increase for activated reservists would be from $140 per month to $290 per month for each month an activated reservist served on active duty in connection with the Persian Gulf war. Each reference to the figure $290 should instead be $270.

The second error, appearing on page S3172, indicated that the cost-of-living adjustment [COLA] in MGIB educational assistance benefits would be 8.3 percent. The correct figure, regrettably, is 3.4 percent. Accordingly, the references on page S3173 to specific dollar increases should be corrected as follows: The increase for chapter 30 MGIB participants for full-time study for those serving on active duty for 3 years on more, which was stated as an increase from $300 to $325 a month, should be stated as being to $310 a month. The increase for chapter 30 participants for full-time study for those who serve 2 years on active duty and 4 years in the Reserves, which was stated as in increase from $250 to $271 a month, should be stated as being to $259 a month. The increase for reservists participating under chapter 106, which was stated as being from $140 to $152 a month, should be stated as being to $145 a month.

A third error indicated that the leadership amendment would provide for an increase in the monthly payroll deduction from $100 to $110 during the first 12 months of service for active-duty service members who participate in the MGIB. A payroll deduction increase provision was not made a part of the leadership amendment. Thus both references to such a provision—pages S3172 and S3173—should be disregarded.

Again, Mr. President, I regret these misstatements and hope that my colleagues now understand the correct information.

Mr. DASCHLE. Mr. President, I was pleased and honored to be named a member of the Senate Task Force on

Military Families. The task force has worked very hard to put together a reasonable package of benefits that addresses the special challenges facing military personnel and their families as a result of Operation Desert Storm.

I want to commend the Senator from Ohio [Mr. GLENN] and the Senator from Arizona [Mr. MCCAIN] for leading this task force. I also want to thank the majority leader, Senator MITCHELL; the Republican leader, Senator DOLE; and the President pro tempore and chairman of the Appropriations Committee, Senator BYRD; for making this emergency Desert Storm package possible.

S. 578, the Department of Defense Supplemental Authorization for Operation Desert Storm, is the compilation of the best of the task force proposals. S. 578 authorizes $15 billion in supplemental appropriations to cover the costs associated with Operation Desert Storm. The bill creates a Desert Storm working capital account to disburse the funds. The working capital account is to be reimbursed by the defense cooperation account, which consists of the allied contributions to Operation Desert Storm. S. 578 also waives the military personnel end strength ceilings required by the fiscal year 1991 Defense authorization bill and funds the increased costs required by increased end strengths through allied contributions.

Among the benefits for military personnel and their families provided in the bill are:

A temporary increase in "imminent danger" pay from $110 per month to $150 per month;

Special and incentive pay for health care personnel activated as a result of Desert Storm;

Authorization for the Army, Navy, and Air Force to recall military personnel to active duty for Desert Storm in the highest grades they held satisfactorily while on previous active duty;

A temporary increase in the death benefit (from January 16, 1991 through the end of the war period as designated by Presidential proclamation) from $3,000 to $6,000;

Sixty days of transitional medical coverage for reservists activated for Desert Storm following their release from active duty;

One-year postponement of the reduction in CHAMPUS mental health benefits (from February 15, 1991 to February 15, 1992);

Twenty million dollars for child care assistance for military personnel serving on active duty; and

Thirty million dollars for education and family support services to families of military personnel serving on active duty.

The leadership amendment now being offered would add the following provisions:

Definition of the period of the Persian Gulf war for purposes of veterans' benefits as beginning August 2, 1990 and ending by Presidential proclamation;

An increase in reservists GI bill education entitlement from $140 per month to $270 per month for each month a reservist was called to active duty in connection with Desert Storm;

Restored education entitlement for reservists whose educational program was interrupted by the call-up;

An extension of the VA home loan guarantee to reservists called up for 90 to 180 days;

Language encouraging the Department of Veterans Affairs to hire retired Federal health care workers to fill staffing vacancies at the VA;

Eligibility for Vet Center programs for post-Vietnam veterans who have served in the conflict area;

Deferral or repayment of existing SBA loans for reservists called to active duty; and

Authorization for health care providers to waive the patient copayment requirement under CHAMPUS during the period of the Persian Gulf war.

Mr. President, as I have traveled across South Dakota, one of the primary concerns raised by military families has been the high cost of health care. During the Persian Gulf crisis, health care costs have increased for military families as a result of the deployment of health care personnel to the gulf and the corresponding dependence on nonmilitary health care. The Civilian Health and Medical Program of fhe Uniformed Services [CHAMPUS] is designed to ensure military personnel's access to health care when care in military facilities is unavailable or when military personnel or their families are located in remote areas. However, CHAMPUS is a cost-sharing program with fee schedules that often do not cover private health care expenses.

I am pleased that the leadership amendment includes my provision to allow health care providers participating in CHAMPUS to waive the requirement for patient copayments for health care services. The amendment is intended to ease the financial burden placed on military personnel and their families who are suffering economically as a result of the war, or whose access to health care at military facilities has been reduced as a result of the war.

The waiver is strictly voluntary on the part of health care providers and authorized only during the period of the Persian Gulf war, which is defined as beginning on August 2, 1990, and ending "on the date prescribed by Presidential proclamation or by law." The amendment does not authorize providers to pass along the cost of the copayment waiver or related costs, if any, to private insurers or to the Government. Payments to providers by CHAMPUS and secondary insurers would be based on the normal, prewaiver charge. The amendment specifically states that a provider who waives the copayment may not increase the Federal Government's share of the health care costs.

Finally, the amendment expresses the sense of Congress that physicians and other health care providers participate in CHAMPUS. Increased CHAMPUS participation is especially critical during the period of the Persian Gulf war because of the strain our deployment in the gulf has put on military hospitals. Many military personnel and their families have little or no access to health care at military facilities due to the fact that so many medical personnel have been deployed in the gulf.

This amendment cost the Federal Government nothing. It is not a new spending program. Its purpose is a simple one: to allow physicians and other health care providers to voluntarily forgo their share of health care payments as a show of support for our military personnel and their families—families who are struggling to make ends meet under extraordinary circumstances.

My involvement in this issue was inspired by a group of people in Watertown, SD, who told me they wanted to show support for our troops that went beyond the yellow ribbons they had displayed. The staff at Brown Clinic felt that they could help the troops and their families by forgoing the patient's share of health care payments under CHAMPUS. To quote Jim Neisen, the business manager at the clinic, "We fully want to do more than just cheer, pray and tie ribbons." However, after reading an article from the American Medical News, they realized that the Government's position was that such an action in support of our troops was illegal and that the clinic "could face stiff fines."

While I understand that CHAMPUS is a cost-sharing program, military families are facing extraordinary circumstances. As a government, we have an obligation to remain flexible enough to allow for a creative solution to this problem. The staff at Brown Clinic and many other health care providers across the country are offering just such a solution. The Federal bureaucracy must not stand in the way.

Mr. President, I am proud of our troops. I am proud of the American people who have supported those troops unfailingly. And I am proud of the people at Brown Clinic in Watertown, at Central General Hospital in Plainview, NY, at the Manatee County Medical Society in Bradenton, FL, and all the other health care providers across the country who have found this special, tangible way to ease the financial burden on American military families.

I yield the floor.

AMENDMENT NO. 33

(Purpose: To authorize the Small Business Administration to provide financial and business development assistance to military reservists' small businesses, and for other purposes)

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. Bumpers], for himself, Mr. Kasten, Mr. Nunn, Mr. Dixon, Mr. Lieberman, Mr. Grassley, Mr. Harkin, Mr. Kerry, Ms. Mikulski, Mr. Baucus, Mr. Sasser, Mr. Moynihan, Mr. Pell, Mr. D'Amato, Mr. Daschle, Mr. Helms, Mr. Levin, Mr. Pressler, Mr. Kohl, Mr. Inouye, Mr. Shelby, Mr. Stevens, Mr. Boren, Mr. Gorton, Mr. Akaka, and Mr. Sanford, proposes an amendment numbered 33.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert in the appropriate place the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Military Reservists Small Business Relief Act".

SEC. 2. REPAYMENT DEFERRAL FOR ACTIVE DUTY RESERVISTS.

Section 7 of the Small Business Act (15 U.S.C. 636) is amended by adding at the end thereof the following new subsection:

"(m) Repayment Deferred for Active Duty Reservists.—

"(1) In general.—The Administration shall, upon written request, defer repayment of a direct loan made pursuant to subsection (a) or (b) of this section, if such loan was incurred by a qualified borrower, provided that such qualified borrower demonstrates that the absence of the eligible reservist to active duty has had, or is likely to have, an adverse economic impact on the qualified borrower.

"(2) Definitions.—For purposes of this subsection—

"(A) Qualified borrower.—The term 'qualified borrower' means—

"(i) an individual who is an eligible reservist and who, received a direct loan under subsection (a) or (b) before being ordered to active duty; or

"(ii) a small business concern that received a direct loan under subsection (a) or (b) before an eligible reservist, who is an owner, manager, or key employee described in subparagraph (C), was ordered to active duty.

"(B) Eligible reservist.—The term 'eligible reservist' means a member of a reserve component of the Armed Forces ordered to active duty during a period of military conflict.

"(C) Owner, manager, or key employee.—An eligible reservist is an owner, manager, or key employee described in this subparagraph if the eligible reservist is an individual who—

"(i) has at least a 20 percent ownership interest in the small business concern described in subparagraph (A)(ii),

"(ii) is a manager responsible for the day-to-day operations of such small business concern, or

"(iii) is a key employee (as defined by the Administration) of such small business concern.

"(D) Period of military conflict.—The term 'period of military conflict' means—

"(i) a period of war declared by the Congress,

"(ii) a period of national emergency declared by the Congress or by the President, or

"(iii) a period in which a member of a reserve component of the Armed Forces is ordered to active duty pursuant to section 673b of title 10, United States Code.

"(3) Period of deferral.—The period of deferral for repayment under this subsection shall begin on the date on which the eligible reservist is ordered to active duty and shall terminate on the date that is 180 days after the date such eligible reservist is discharged or released from active duty.

"(4) No accrual of interest during deferral.—During the period of deferral described in paragraph (3), repayment of principal and interest on the deferred loan shall not be required and no interest shall accrue on such loan."

SEC. 3. DISASTER LOAN ASSISTANCE FOR MILITARY RESERVISTS' SMALL BUSINESSES.

(a) In General.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting after the undesignated paragraph which begins "Provided, That no loan", the following new paragraph:

"(3)(A) The Administration is empowered to make such disaster loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) to assist a small business concern (including a small business concern engaged in the lease or rental of real or personal property) which has suffered or is likely to suffer economic injury as the result of the owner, manager, or key employee of such small business concern being ordered to active military duty during a period of military conflict.

"(B) Any loan or guarantee extended pursuant to this paragraph shall be made at an interest rate of 4 percent per annum, without regard to the small business concern's ability to secure credit elsewhere.

"(C) No loan shall be made under this paragraph, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, if the total amount outstanding and committed to the borrower under this subsection would exceed $500,000, unless such applicant constitutes a major source of employment in an area not larger than a county suffering a disaster, in which case the Administration, in its discretion, may waive the $500,000 limitation.

"(D) Section 120.101-2(b)(1) of title 13, Code of Federal Regulations, or any similar regulation, shall not apply to a small business concern seeking a loan under this paragraph.

"(E) For purposes of this paragraph, the term 'period of military conflict' means—

"(i) a period of war declared by the Congress,

"(ii) a period of national emergency declared by the Congress or by the President, or

"(iii) a period in which a member of a reserve component of the Armed Forces is ordered to active duty pursuant to section 673b of title 10, United States Code.

"(F) For purposes of this paragraph, the term 'economic injury' includes, but is not limited to, the inability of a small business concern to market or produce a product or to provide a service ordinarily provided by the small business concern.

"(G) For purposes of this paragraph, the term 'owner, manager, or key employee' means an individual who—

"(i) has at least a 20 percent ownership in the small business concern,

"(ii) is a manager responsible for the day-to-day operations of such small business concern, or

"(iii) is a key employee (as defined by the Administration) of such small business concern.

"(H) For purposes of assistance under this paragraph, no declaration of a disaster area shall be required.".

(b) Conforming Amendment.—Section 4(c) of the Small Business Act (15 U.S.C. 633(c)) is amended—

(1) by striking "7(b)(4)," in paragraph (1), and

(2) by striking "7(b)(4), 7(b)(5), 7(b)(6), 7(b)(7), 7(b)(8)," in paragraph (2).

SEC. 4. BUSINESS DEVELOPMENT AND MANAGEMENT ASSISTANCE FOR MILITARY RESERVISTS' SMALL BUSINESSES.

(a) In General.—Section 8 of the Small Business Act (15 U.S.C. 637) is amended by adding at the end thereof the following new subsection:

"(k) Management Assistance for Small Businesses Affected by Military Operations.—

"(1) In general.—The Administration is directed to utilize, as appropriate, its business development and management assistance programs, including programs involving State or private sector partners, to provide business counseling and training to any small business concern adversely affected by the deployment of units of the Armed Forces of the United States in support of a period of military conflict.

"(2) Period of military conflict.—For purposes of this subsection, the term 'period of military conflict' means—

"(A) a period of war declared by the Congress,

"(B) a period of national emergency declared by the Congress or by the President, or

"(C) a period during which a member of a reserve component of the Armed Forces is ordered to active duty pursuant to section 673b of title 10, United States Code.".

(b) Enhanced Publicity During Operation Desert Storm.—For the duration of Operation Desert Storm and for 120 days thereafter, the Administration is directed to enhance its publicity of the availability of assistance provided under this Act, including information regarding the appropriate local office at which affected small businesses can seek such assistance.

SEC. 5. REGULATIONS.

Not later than 30 days after the date of enactment of this Act, the Small Business Administration may promulgate such regulations as it deems necessary to carry out the provisions of sections 2 and 3 of this Act. If such regulations are promulgated, the Administration shall issue the regulations as emergency interim final regulations.

SEC. 6. TREATMENT OF EXPENDITURES.

For the purpose of section 251(b)(2)(D) and 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.), as amended by section 13101 of Public Law 101-508, all direct and discretionary spending contained in this Act are emergency expenditures related to Operation Desert Shield, Operation Desert Storm, or any successor thereto.

SEC. 7. EFFECTIVE DATES.

(a) In General.—Except as provided in subsection (b), the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) DISASTER LOANS.—The amendments made by section 3 shall apply to economic injury suffered or likely to be suffered as the result of a period of military conflict occurring on or after August 1, 1990.

Mr. NUNN. Mr. President, will the Senator be willing to enter into a time agreement on his amendment?

Mr. BUMPERS. Let me say to my good friend from Georgia, Mr. President, I am willing to enter into a 30-minute time agreement equally divided, conditioned on no motion to table or amendments in the second degree.

Mr. NUNN. I do not think we can agree to no motion to table because the leadership has already made it clear that six of us, the two leaders, Senator WARNER, Senator McCAIN and Seantor GLENN, managers of the benefits package, and I have already agreed we will be moving to table all amendments. We can agree with everything else if the Senator will drop that request on a motion to table.

Mr. BUMPERS. That is not part of the unanimous-consent agreement, is it? Have the Senators agreed on that among themselves?

Mr. NUNN. That is right. We could not ask for a unanimous-consent agreement that would not allow us to move to table. There is not time agreement.

The PRESIDING OFFICER. If the Senator from Georgia will yield, there is no unanimous-consent agreement.

Mr. BUMPERS. Mr. President, I would like to get an up-or-down vote agreement. I would like to enter into a time agreement, but I do not see why we should not be allowed to vote up or down on some of these amendments.

Mr. NUNN. The Senator has that right if he wants an up-or-down vote. We have every right to move to table. I guess we should just proceed. At this moment, my instructions would not permit the request for a unanimous consent that would deny us the right to move to table. I will just say let us proceed and maybe we can get through it just as quickly.

Mr. BUMPERS. Mr. President, it will only take me a very few brief remarks to explain this amendment. This amendment is identical to S. 360, a bill reported out of the Small Business Committee last week and which is now on the calendar.

This amendment was also agreed to by the task force on this side of the aisle. Something happened between the time our task force on this side of the aisle agreed to this amendment and the bill before us came to the floor.

I offer this amendment, Mr. President, on behalf of myself and Mr. KASTEN, who is my ranking member on the Small Business Committee and I also offer it on behalf of about 24 other cosponsors including Senators NUNN, DIXON, LIEBERMAN, GRASSLEY, HARKIN, KERRY, MIKULSKI, BAUCUS, SASSER, MOYNIHAN, PELL, D'AMATO, DASCHLE, HELMS, LEVIN, PRESSLER, KOHL, INOUYE, SHELBY, STEVENS, BOREN, GORTON, AKAKA, and SANFORD.

Mr. President, what this bill does is, No. 1, it permits any reservist or guardsman who has been called to duty in the Persian Gulf and who has a direct business loan from the Small Business Administration, to defer payments of both interest and principal until 6 months after that reservist comes home. That seems fair enough. We have had some calls in our office by families of reservists who are hurting because the reservist is gone and he or she was a key employee or very instrumental to the success of the business.

It is a negligible cost, $1 million maybe. Incidentally, that part of the amendment was on the bill. We took it off because we wanted the whole bill or nothing. I may change my mind about that, if I lose.

But the second part of the bill says, and this is very simple, that if you need a loan in the nature of a disaster loan and you can prove as a reservist or guardsman that your business has suffered a substantial economic injury, you are entitled to a disaster loan at 4 percent. That does not mean all 16,000 people in the Persian Gulf who are owners of a business—and that is how many there are—will want a loan, are going to get a loan or are even going to apply for a loan.

One of the reasons those people might want to apply for a loan of this kind is because of substantial economic injury suffered as a result of their being called up to the Persian Gulf. That is a substantial burden of proof to meet and not all reservists will be able to meet it. The Small Business Administration has a host of criteria as to what constitutes substantial economic injury. You cannot just come in and say I went over to the Persian Gulf and fought for my country and, therefore, I want a loan. You have to prove that you own 20 pecent or more of the business or that you are a key employee and that you meet some other SBA criteria; and then you have to prove that the business has really suffered.

Then, Mr. President, there is an additional point to be made. Once you withstand all of that burden of proof, the Small Business Administration is still not obligated to make that loan to you because it still has to be a viable loan. It has to, what they say, cashflow.

So in the first instance—I neglected this in the opening part of my comments, Mr. President. It is very simple. There are two major parts to this bill. Section 2 says that if you are a reservist, or guardsman, and owner of a business or key employee, or any of those things, and you were called to the Persian Gulf, you are entitled to have your payments on that direct Small Business Administration loan deferred until 6 months after you come home, but even there you have to prove to the satisfaction of the Small Business Administration that the business, as a result of your being called up, has suffered an adverse economic impact.

None of these conditions are freebees. So you in this case have to prove adverse economic impact in order to get your loan payments deferred—and, incidentally, if you look at the bill, we are deferring student loans on the same basis. There is a provision in their that it you have a student loan, those are deferred until 6 months after you come home. Why not do it for people who have a small business loan? And even in this case, as I say, you have to prove that the business has suffered an adverse economic impact.

As to the second major part of this bill, why not do for the brave troops, for whom everybody has been waving flags and wearing yellow ribbons, what we did for people down on the Rio Grande and on the Mexican border when the peso was devalued. Think about that. Do you want to go home and tell your folks that it is OK to give 4-percent disaster loans to businesses that were adversely affected by the devaluation of the peso, but not to the troops who get called up out of their businesses and had to go the Persian Gulf to risk their lives for this country. You go home and tell then that. I am not going to.

Or El Niño. Do you remember El Niño? You heard all the speeches here about what that El Niño had done to the fishing industry on the west coast. What did we do? We provided exactly the same relief for them that we are providing for the troops in the Persian Gulf in this bill. You go home and tell your folks that you are more concerned about some business on the west coast that got hurt because of El Niño than you were Persian Gulf troops who risked their lives getting the same benefit.

The list goes on and on. It is fairness.

Mr. President, there are a lot of people in the Persian Gulf who are going to get virtually nothing out of this bill. Many of them will: educational benefits, health care benefits, combat pay. There are a lot of provisions in this bill that will help a lot of people, but a lot of the people that Senator KASTEN and I are trying to help, we and our other 24 cosponsors, and I hope a majority of the Senate, will not get one single benefit out of any of the rest of this bill. If you do not pass this amendment, all they can do is sit on the sidelines and watch everybody else reap the benefits in this bill.

I close my comments, Mr. President, by saying I have the utmost respect for the majority and the minority leaders. Lord knows, we owe a debt of gratitude to Senator GLENN and Senator McCAIN for the tremendous number of hours they put into crafting this bill.

It goes without saying that every Member of the body has the utmost respect for Senators NUNN and WARNER, chairman and ranking Member of the Armed Services Committee, who bring this bill to the floor. But there are 94 Senators here who did not enter into any agreement. There are 94 Senators who may come to the floor today to debate the bill and try to improve it, and they have a right to do it, and every one of those 94 Senators has a right to vote their conscience on this. I hope they will, Mr. President. I yield the floor.

Mr. McCAIN. Mr. President, with reluctance I oppose the amendment of my colleague from Arkansas.

Many Senators were heavily involved in these negotiations. I think he might have noted that on the Republican task force there were 20-some Members who took part in these considerations. I believe—my friend from Ohio could correct me—there was almost an equal number of Democrat Senators in his task force. The Senator is incorrect when he claims that 94 Senators were not involved with this legislation. In fact, I could make a case that a majority of Senators on both sides of the aisle were involved.

I think our friend from Arkansas makes some very valid points. It is important to recognize also that a bipartisan offer was made to find an acceptable solution that limited the loan deferral to only those whose businesses were impacted by the deployment. I understand that proposal was rejected. I also understand that this amendment has no provision for Members who were on active duty and who lost their small business loan.

I should also point out that it is a mistake, I say to my friend from Arkansas, for him to tell other Members of this body what to go home and tell our constituents. I am very pleased and very proud to go home and tell my constituents about the work that I and Senator GLENN and 40 or more other Senators have done with this package. I am not afraid to go home and tell them that I strongly supported the President of the United States in the crisis which we just resolved. I am not afraid to go home to tell the people I represent that if we had let the sanctions go on, many more innocent Kuwaitis would have died or been tortured or raped. I have no reluctance to go home and tell the people of my State how strongly I supported the President of the United States and the men and women of Operation Desert Storm in more ways than are rewarded by this package.

So I will reluctantly oppose the amendment, but at the same time I assure my friend from Arkansas that I think he has laudable goals. I also think this amendment should be considered in the weeks ahead with further legislation to benefit the men and women who have served in this crisis.

I yield the floor, Mr. President.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. My remarks will be very brief, and I do not want to have to move to table until the Senator from Arkansas has finished his remarks, but I will move to table at the appropriate time.

The reason is very clear. We are going to have to ward off amendments on this bill if we are going to get it passed and if we are going to get it in law. As unfortunate as it is, we are in a position of having to table or try to table, ask our colleagues to vote to table good amendments as well as those with which we might not agree.

I happened to be a cosponsor of this amendment, I believe, when it was introduced as a bill, so I think it is a good amendment. But if it goes on this package, it is going to greatly complicate the procedure here and we are going to have a lot of other amendments. If we are not able to table the first two or three of these amendments, we will probably have 15 or 20 amendments before the afternoon is over and the evening.

Of course, we have a group of Senators leaving for the Middle East at 5 o'clock this afternoon. We have other business to take care of. So reluctantly, even though I agree with the amendment and I think it has merit and I hope it can be put on another bill, I will at the appropriate time move to table it.

Mr. GLENN. Mr. President, although with great reluctance I also have to oppose the proposal by the Senator from Arkansas. I think his motives in this are excellent. I wish I could support him. But let me just briefly address what happened on the task force and why some of these things had to be dropped out.

We had many considerations. First and foremost were the dollars involved. One of the estimates on the proposal by the Senator from Arkansas I believe is $120 million. I do not know whether that is still valid or not. I think that is one we had quoted by, I believe, CBO originally. I do not know how they made that estimate. So maybe that one is not valid. But we had to run the gamut of a lot of different organizations. One was CBO, which was first to get an estimate on it. Next was OMB.

Then we had to check what the House was going to do on these things too. That was not the end though, because the bill still has to go to conference.

We also had to consider what the Defense Department's wishes were.

Let me just run through very briefly some of the bills that did not make it into the task force and leadership package.

We had a proposal by Senator McCAIN and me to equalize unemployment compensation for separating military personnel who are only allocated 13 weeks of unemployment compensation, to start only after a month after they are out, as opposed to their civilian counterparts who rate 26 weeks of unemployment compensation which starts the first week after they are out of work. There were some objections to that on cost grounds.

I will not belabor that except to say I very much wanted that bill to be included because I thought it was preeminently fair, and I wanted to address it with legislation early on. I think plain fairness demands that be done.

But we are deferring that to later consideration because of its broad application into the future, and because it does not just apply to Desert Storm specifically. So we are deferring that.

I also had a proposal for certain waivers for medical personnel and for language specialists regarding certification requirements for certain special pays for people that are being dealt with unfairly. That was not included in the package.

Granted, with the Bumpers amendment we can get into SBA and give small business a little broader scope, but that still does not necessarily encompass all small businesses in the country.

We had another one. Senator SHELBY wanted penalty-free withdrawals from IRA's. We could not put that in. There were technicalities on that one as far as conferencing with the House. So we will take that one up later.

We had another bill introduced by Senator McCAIN and me that would have increased the Federal income tax exemption cap on officers from $500 to $1,000 a month. Once again we deferred that one.

Senator SANFORD had one on funds to go to FEMA to support the McKinney Act, food and shelter programs. I do not know whether he is going to address that again here today. That one once again was one that could be deferred, and was because there were objections to it and uncertainty as to exactly how much it would cost.

Senator MIKULSKI had a bill—unfortunately we got it pretty late in the process—and she made a statement on the floor yesterday. She is concerned about the pay lost by Federal employees who were activated, whose pay while they are in the military is going to be less than their pay would have been had they still been in their civil service jobs. She wanted to equalize that pay.

Once again that one was put off to be consider later. If the Congress is going to do things like what Senator MIKULSKI proposed, and like the SBA proposal by our distinguished colleague from Arkansas, then how about others in civilian life who were activated, who did not have a business, but whose pay is now well below what their civilian pay was in whatever job there were in?

They have been in the Reserve, accepted the responsibilities of being in the Reserve, and were paid year after year. That was fine. Nobody complained. They were supposed to be making arrangements for what would happen if and when they happened to get activated.

If we are going to do this with SBA. Then all these other considerations have to come in also. All the rest of the Reserves who took a pay cut by being recalled into the military then would have to have their pay increases backed up to what their civilian level pay was if we are going to deal with this thing fairly.

Everybody was not impacted from a small business standpoint.

It seems to me if we are going to be fair, we also should consider this in light of all those who served, and you could even say it is not fair to the regular military establishment because many of these people, especially junior enlisted people, were working a second job and getting paid for it, and now their pay is cut because they were sent to the gulf.

Is it fair that their pay be cut and their families have less money?

Mr. President, I will not belabor it any further. All of these things the committee considered were considered in conjunction with CBO, with OMB; and with various executive branch departments, as well as considering what the House was going to do; I did not like taking any of these provisions out because my view was to make this bill as inclusive as feasible, and do as much as we could for the people over there.

That was basically what Senator MIKULSKI was talking about yesterday. Is it fair that people coming in straight from civilian life may have their pay cut? But they may be far more impacted than what is being addressed by this particular amendement.

For all these reasons, Mr. President, I very regretfully have to oppose new amendments including the one on SBA offered by the distinguished Senator from Arkansas.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. BUMPERS. Mr. President, I wanted to make one point. The Senator from Arizona said it did not include active duty troops. It does not. But so far as I know, there are no active duty troops that would qualify.

We are talking about the people who are calling up from their civilian jobs, their civilian businesses—I would be delighted to amend it if I knew of any—so they would be taken care of. However, I do not believe there are any. So I am prepared to vote on this amendment right now.

I will just plead with my colleagues: Do not vote to table this amendment on the grounds it was not included with the task force. It was included on this side, but apparently was torpedoed when the two sides were trying to reconcile their differences. It is a very worthy amendment, and it is worthy of an aye vote from every Member of this body.

Mr. GLENN. Mr. President, if there is no further debate, I move to table the amendment on behalf of Senators MITCHELL, NUNN, GLENN, DOLE, WARNER, and MCCAIN.

Mr. BUMPERS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the motion of the Senator from Ohio to lay on the table the amendment of the Senator from Arkansas.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Mexico [Mr. BINGAMAN] is necessarily absent.

I also announce that the Senator from Florida [Mr. GRAHAM] is absent because of a funeral.

Mr. SIMPSON. I announce that the Senator from New Mexico [Mr. DOMENICI] and the Senator from Vermont [Mr. JEFFORDS] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 58, nays 38, as follows:

[Rollcall Vote No. 26 Leg.]

YEAS—58

Akaka
Bentsen
Biden
Bond
Boren
Bradley
Brown
Bryan
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Craig
Cranston
Danforth
Dole
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Gorton
Gramm
Hatch
Heinz
Inouye
Johnston
Kassebaum
Kennedy
Kerrey
Lieberman
Lott
Lugar
Mack
McCain
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Robb
Rockefeller
Roth
Rudman
Seymour
Simpson
Smith
Symms
Thurmond
Wallop
Warner
Wirth

NAYS—38

Adams
Baucus
Breaux
Bumpers
Burdick
Conrad
D'Amato
Daschle
DeConcini
Dixon
Dodd
Grassley
Harkin
Hatfield
Heflin
Helms
Hollings
Kasten
Kerry
Kohl
Lautenberg
Leahy
Levin
McConnell
Metzenbaum
Mikulski
Pressler
Pryor
Reid
Riegle
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Stevens
Wellstone

NOT VOTING—4

Bingaman
Domenici
Graham
Jeffords

So the motion to lay on the table amendment (No. 33) was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

The PRESIDING OFFICER. Without objection, a motion to lay that motion on the table is agreed to.

(Later the following occurred:)

Mr. SPECTER. Mr. President, I have checked with the majority leader, who has no objection. I ask unanimous consent that I may be permitted to change the recorded vote on Vote No. 26 when I intended to vote "no" but was recorded as voting "aye" on the Bumpers amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

SENATE RESOLUTION 76—URGING THE TRIAL AND PUNISHMENT OF CERTAIN CRIMES UNDER INTERNATIONAL LAW

The PRESIDING OFFICER. Pursuant to the previous order, the question is on agreeing to Senate Resolution 76, which the clerk will report by title for the information of the Senate.

The assistant legislative clerk read as follows:

A resolution (S. Res. 76) to encourage the President of the United States to confer with the sovereign state of Kuwait, countries of the Coalition or the United Nations to establish an International Criminal Court or an International Military Tribunal to try and punish all individuals, including President Saddam Hussein, involved in the planning or execution of Crimes against Peace, War Crimes, and Crimes against Humanity as defined under international law.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, for the information of Senators, the vote that is about to occur is unrelated to the pending bill. This is on a resolution offered last week by the Senator from Pennsylvania [Mr. SPECTER]. In order to accommodate the schedules of several Senators, Senator SPECTER agreed to delay the vote until this week. The agreement we reached was that the vote on his resolution would occur after the first rollcall this week, whenever and on whatever subject that first vote was. So this is on a resolution which was debated last week. It is unrelated to the current bill. There is no debate on this. It is on the Specter resolution. Then we will return to consideration of the pending measure.

I thank my colleauges.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

Mr. SPECTOR. Mr. President, have the yeas and nays been requested?

The PRESIDING OFFICER. The yeas and nays have not been requested.

Mr. SPECTER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the resolution. The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FORD. I announce that the Senator from New Mexico [Mr. BINGAMAN] is necessarily absent.

I also announce that the Senator from Florida [Mr. GRAHAM] is absent because of a funeral.

Mr. SIMPSON. I announce that the Senator from Vermont [Mr. JEFFORDS] is necessarily absent.

The PRESIDING OFFICER [Mr. BRYAN]. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 27 Leg.]

YEAS—97

Adams
Akaka
Baucus
Bentsen
Biden
Bond
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Craig
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Gorton
Gramm
Grassley
Harkin
Hatch
Hatfield
Heflin
Heinz
Helms
Hollings
Inouye
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wellstone
Wirth

NAYS—0

NOT VOTING—3

Bingaman
Graham
Jeffords

So, the resolution (S. Res. 76) was agreed to, as follows:

S. RES. 76

Whereas the International Military Tribunal at Nuremberg held the initiation of a war of agression to be "not only an international crime (but also) the supreme international crime differing only from other war crimes in that it contains within itself the accumulated evil of the whole";

Whereas on August 2, 1990, and without provocation, Iraq initiated a war of aggression against the sovereign state of Kuwait;

Whereas the charter of the United Nations imposes on its members the obligations to "refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state" and to "settle their international disputes by peaceful means";

Whereas the leaders of the Government of Iraq, a country which is a member of the United Nations, did violate this provision of the United Nations Charter;

Whereas the Geneva Convention Relative to the Protection of Civilian Persons in Time of War (the Fourth Geneva Convention) imposes certain obligations upon a belligerent state, occupying another country by force of arms, in order to protect the civilian population of the occupied territory from some of the ravages of the conflict;

Whereas the public testimony of victims and witnesses has indicated that Iraqi officials violated article 27 of the Fourth Geneva Convention by their inhumane treatment and acts of violence against the Kuwaiti civilian population, including women;

Whereas the public testimony of victims and witnesses has indicated that Iraqi officials violated articles 31 and 32 of the Fourth Geneva Convention by subjecting Kuwaiti civilians to physical coercion, suffering, and extermination in order to obtain information;

Whereas article 146 of the Fourth Geneva Convention states that persons committing "grave breaches" are to be apprehended and subjected to trial;

Whereas "grave breaches" are defined to include: "willful killing, torture, or inhuman treatment * * *, willfully causing great suffering or serious injury to body or health, taking of hostages and extensive destruction and appropriation of property, not justified by military necessity";

Whereas both Iraq and Kuwait are parties to the Fourth Geneva Convention;

Whereas on several occasions the United Nations Security Council has found Iraq's treatment of Kuwaiti civilians violative of international law;

Whereas in resolution 665, adopted on August 25, 1990, the United Nations Security Council deplored "the loss of innocent life stemming from the Iraqi invasion of Kuwait";

Whereas in resolution 670, adopted by the United Nations Security Council on September 25, 1990, it condemned further "the treatment of Iraqi forces on Kuwaiti nationals and reaffirmed that the Fourth Geneva Convention applied to Kuwait";

Whereas in resolution 674, the United Nations Security Council demanded that Iraq cease mistreating and oppressing Kuwaiti nationals in violation of the Convention and reminded Iraq that it would be liable for any damage or injury suffered by Kuwaiti nationals due to Iraq's invasion and illegal occupation;

Whereas the Geneva Convention Relative to the Treatment of Prisoners of War (the Third Geneva or POW Convention) sets forth standards for the treatment of civilians and incapacitated combatants during times of hostilities;

Whereas Iraq is a party to the POW Convention;

Whereas there is evidence and testimony that Iraq violated articles of the POW Convention by its physical and psychological abuse of military and civilian POWs including members of the international press;

Whereas there is evidence and testimony that Iraq violated articles of the POW Convention by placing POWs in solitary confinement, failing to shelter POWs against air bombardment and denying POWs contact with the outside world;

Whereas in resolution 667, adopted on September 16, 1990, the Security Council expressed "outrage" at Iraq's abduction of several persons from diplomatic premises in violation of the Vienna Conventions on Diplomatic and Consular Relations;

Whereas in violation of the Fourth Geneva Convention, Iraq did fire missiles on Israel with the intent of making it a party to war and with the intent of killing or injuring innocent civilians;

Whereas Iraq has inflicted grave risk to the health and well-being of innocent civilians in the region by its willful setting on fire of Kuwaiti oil wells and its willful spilling of oil into the Persian Gulf, resulting in the mass pollution of air and water;

Whereas for all of the above incidents, it is not a defense that an individual in committing such heinous acts acted under orders of higher government officials (International Military Tribunal (Nuremberg) Judgment and Sentences, 41 A.J.I.L. 172 (1946) ("That a soldier was ordered to kill or torture in violation of international law of war has never been recognized as a defense to such acts of brutality.");

Whereas the Nuremberg tribunal provision which held that "crimes against international law are committed by men, not by abstract entities, and only by punishing individuals who commit such crimes can the provisions of international law be enforced" is as valid today as it was in 1946;

Whereas a failure to try and punish leaders and other persons for crimes against international law establishes a dangerous precedent and negatively impacts the value of deterrence to future illegal acts; and

Whereas any Iraqi use of chemical weapons against insurgents inside Iraq should be considered a war crime and that those responsible should be held accountable: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should confer with Kuwait, other member nations of the coalition or the United Nations to establish an International Criminal Court or an International Military Tribunal to try and punish all individuals involved in the planning or execution of the above referenced crimes, including Saddam Hussein.

SEC. 2. The President should seek prompt and effective United Nations Security Council action to stop the use of chemical weapons and to punish those responsible.

(Later the following occurred:)

Mr. HELMS. Madam President, a brief explanation of the vote on the Specter amendment. We were trying to keep the Foreign Relations Committee hearing going and I stayed there too late and allowed other Senators to come over here and vote, and I thought it was a motion to table. I voted "no" when in fact I supported the Specter amendment. I ask unanimous consent that since it will not affect the outcome that I be allowed to change my vote to "aye."

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

Mr. DODD. Mr. President, I want to take just a minute to commend my colleague, the Senator from Pennsylvania, for his resolution.

It is often stated, with no small justification, that the rules of international law are observed more often in their breach than in their implementation. Even if this is true, it should not detract from the importance of those fundamental principles that are incorporated into those legal rules.

Rules of war are as old as international law itself. For many centuries war was a perfectly acceptable way of settling international disputes and international law settled only the formalities and etiquette of warfighting like some medieval dueling code.

It took the mass killing brutality of 20th-century wars and particularly the horrors unleashed by Nazi Germany to set moral rather than procedural limits on warfare. The most lasting and memorable manifestation of this development was, of course, the procedure of the International Military Tribunal at Nuremberg. My own father was a prosecutor at those trials and, therefore, I have a deep personal interest in preserving the legacy of Nuremberg.

I do not know if Saddam Hussein and his cohorts will ever be tried by an international tribunal. This resolution, however, does a great service in reminding us of certain fundamental principles of modern international law and our obligation to do everything to uphold and enforce these principles. I commend my friend for his resolution and I urge its unanimous approval.

Mr. COATS. Mr. President, I rise to support the Specter sense-of-the-Senate resolution urging the President to establish, in cooperation with our coalition partners, an international criminal court to try Iraqis on charges of war crimes. I am pleased to be a cosponsor of this important resolution.

Mr. President, the question of war crimes could not be clearer. We should pursue the prosecution of war crimes for the same reason we confronted aggression in Kuwait in the first place. We should not seek to bring war criminals to justice for the mere sake of revenge. What is at stake is a high principle: That aggression should not go unconfronted and that the rule of law should guide human relations, not only within states but between them as well.

The basis for prosecuting war crimes is customary international law, which includes the so-called laws of war. These laws come from age-old military tradition and have been codified in several international agreements, particularly the Fourth Hague Convention of 1907 and the Geneva Conventions of 1929 and 1949. Although international law is in many ways ill-defined and unenforceable, the laws of war are well established and almost universally accepted. In general, the laws of war dictate that in pursuit of war aims, combatants must avoid needless destruction and cruelties, especially against noncombatants. The primary areas of concern have to do with the treatment of civilian populations and prisoners of war. While the laws of war recognize that in certain cases military necessity prevents strict adherence to these guidelines, military necessity must be defined in the strictest possible way. Certainly none of the actions taken by Iraqi forces against innocent civilians in Kuwait could be condoned as militarily necessary.

Although the major military powers have used military courts for the trial of persons accused of war crimes since the mid-19th century, the modern precedent for enforcing the laws of war is of course the Nuremberg trials. Before the end of World War II, the Allies included in their war aims the punishment of those responsible for war crimes. On August 8, 1945, the Big Four established a military tribunal for the trial of war criminals. The tribunal's charter included three categories of actions that would be considered criminal violations of international law. These included: Crimes against peace, war crimes, and crimes against humanity.

Crimes against peace was a category that was newly established during the Nuremberg trials, yet is now widely accepted. This included the planning, preparation, initiation, or waging of a war of aggression, or a war in violation of international treaties, agreements, or assurances.

War crimes, as defined in the Nuremberg Charter, included violations of the laws or customs of war, including, but not limited to, murder, ill-treatment or deportation to slave labor of civilian populations of or in occupied territory, murder or ill-treatment of prisoners of war, killing hostages, plunder of public or private property, wanton destruction of cities, or devastation not justified by military necessity.

Crimes against humanity included murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war, or persecutions on political, racial, or religious grounds.

While it is not entirely clear how this precedent can be applied to Iraq, there is no doubt that the United States, the coalition, and the United Nations have broad authority to prosecute those responsible for violating laws of war and related principles of international law. The United States can deal with treatment of U.S. prisoners of war unilaterally if we so choose. But the broader questions should be dealt with in an international tribunal.

At a minimum, such a tribunal should consider the following: In the category of crimes against peace, Iraq certainly initiated an unprovoked war of aggression. In the category of war crimes we should consider: First, mistreatment of prisoners of war, especially their use as human shields; second, atrocities against innocent noncombatants in Kuwait, wanton destruction of cities and towns, none of which could be justified by military necessity; and third, attacking Israel, a neutral country.

In the category of crimes against humanity we should consider the following: First, the apparent attempt to commit genocide against the Kuwaiti people; and second, the destruction of the environment by dumping millions of gallons of oil into international waters. As the Nuremberg trials created a new category in defining crimes against peace, we should now act to include environmental terrorism.

Mr. President, I commend the Senator from Pennsylvania for his initiative in this area. I hope the United States along with its coalition partners will act soon to bring justice to this very unfortunate situation. As we did in defeating Iraq's aggression, we must now send a signal that war crimes will not go unpunished. Not only must we inform the world that aggression does not pay, we must also seek to enforce the notion that when war is unavoidable, laws of war do exist and that violations will be dealt with severely. We must enforce these laws today so that future heads of state, generals, and soldiers will respect them in the future.

Mr. CHAFEE. Mr. President, I would like to comment on the amendment we have just voted on which calls on the President to confer with our Persian Gulf coalition partners for the purpose of convening an international tribunal to try Iraqi officials for war crimes. I voted for this resolution, but do not believe the United States should take a leadership role in actively pursuing war crimes trials.

It is difficult adequately to express my sense of outrage and indignation at the actions of Saddam Hussein and other officials of Iraq. The extreme abuse of the civilian population of Kuwait, the widespread destruction of oil and other nonmilitary facilities, the mistreatment of prisoners of war, the holding of innocent civilians as human shields, the launching of Scud missiles against civilian targets in Israel and Saudi Arabia, and the catastrophic dumping of millions of barrels of crude oil into the Persian Gulf are all flagrant violations of the international norms of warfare.

The real question, though, is whether the United States should be the lead nation pressing for a war crimes tribunal. In my judgment, whether to take such action should be up to the most aggrieved nations—Kuwait and Saudi Arabia. Further, if Saddam Hussein and others are to be tried, then they should be tried by people from the same region and culture. If the United States were to participate actively in such a trial, I fear that the entire affair could be portrayed, in the eyes of some, as unnecessary Western interference in the affairs of Middle Eastern States.

In the end, the leaders of Kuwait and Saudi Arabia should decide whether to go forward with war crimes trials. I hope that if they chose to establish a tribunal to pursue such trials, it would be limited in scope and carefully executed. Recent history has taught us that the victors in a conflict must weigh the need for revenge with the desire for future stability in the region and the world.

DEPARTMENT OF DEFENSE DESERT STORM SUPPLEMENTAL AUTHORIZATION AND MILITARY PERSONNEL BENEFITS ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 34

(Purpose: To provide food and shelter assistance for military dependents and other civilians in communities substantially adversely affected by the deployment or assignment of personnel of the Armed Forces of the United States away from such communities in connection with Operation Desert Shield and Operation Desert Storm)

Mr. SANFORD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from North Carolina, [Mr. SANFORD] proposes an amendment numbered 34.

Mr. SANFORD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 56, between lines 19 and 20, insert the following:

TITLE VII—COMMUNITY ASSISTANCE

SEC. 701. FINDINGS.

The Congress makes the following findings:

(1) Communities where military installations, reserve units, or National Guard units are located across the United States are experiencing continuing hardships as a result of the deployment of the Armed Forces of the United States in connection with Operation Desert Storm.

(2) The hardships are especially significant for communities where military personnel comprise a large percentage of the population and military installations make crucial contributions to the strength of the local economies.

(3) The removal of so many people from such communities has caused soaring unemployment, small business failures, significantly increased demands for social services, and other adverse consequences for the economic and social life of such communities.

(4) Such adverse consequences will continue until the deployed military personnel return to their respective communities.

(5) The Federal Emergency Management Food and Shelter Program supported by the Federal Emergency Management Agency provides the type of rapid response and assistance most needed by such communities, as determined by local boards that are well qualified to make such determinations.

SEC. 702. PURPOSE.

The purpose of this title is to provide for the furnishing of assistance under the Federal Emergency Management Food and Shelter Program to persons who reside in communities from which a substantial percentage of resident members of the Armed Forces of the United States have been deployed or otherwise assigned in connection with Operation Desert Storm.

SEC. 703. SUPPLEMENTAL AID TO MILITARY COMMUNITIES.

(a) ESTABLISHMENT.—The Emergency Food and Shelter Program National Board constituted by the Director of the Federal Emergency Management Agency shall establish a program of grants to local boards to carry out the purpose of this title.

(b) AWARD OF GRANTS.—The National Board shall establish guidelines for the award of grants under the program established pursuant to subsection (a). The guidelines shall specify the criteria for the award of grants to local boards.

(c) DURATION OF GRANTS.—Notwithstanding any other provision of law, a local board may provide assistance for the purpose of this title in the case of a community referred to in section 702 until the majority of the resident Armed Forces personnel deployed or otherwise assigned away from the community in connection with Operation Desert Storm return to that community.

SEC. 704. SOURCE OF FUNDS.

For each of fiscal years 1991 and 1992, the Secretary of Defense may transfer $10,000,000 from funds in the Defense Cooperation Account to the Federal Emergency Management Agency to carry out the provisions of this title through the Federal Emergency Management Food and Shelter Program.

On page 56, strike out lines 20 and 21 and insert in lieu thereof the following:

VIII—DEFINITIONS

SEC. 801. DEFINITIONS.

Mr. SANFORD. Mr. President, today, we are considering a package to both fund Operation Desert Storm and to provide benefits for our troops, reserves, and guardsmen. Much of the benefits package of this bill was developed through the Desert Storm Task Force, chaired by my friend from Ohio, Senator GLENN.

I volunteered to serve on the Persian Gulf Benefits Task Force because it was a way for me to directly assist the troops and it was a way for me to represent the tremendous needs of my constituency back home in North Carolina. Nearly a hundred thousand of the troops deployed in the Persian Gulf for our Desert Storm operations are from bases, and Reserve and National Guard units in North Carolina. I have visited the bases and the communities in North Carolina and I have tried to develop legislation that would assist their families and their communities.

I introduced just such a bill, S. 382, the Desert Storm Community Assistance Act. This bill provides funds to the Federal Emergency Management Agency [FEMA] for distribution through a national board to communities whose economies are severely depressed due to the rapid withdrawal of a major portion of the population of these communities.

The bill thus utilizes an already existing program, which is up and running well. The National Board, made up of representatives of the Red Cross, the Salvation Army, the United Way, the National Council of Churches, and others. This Board would decide which communities are most in need of assistance and the types of assistance that should be provided. I must emphasize that this bill is intended to meet true emergency needs—for food, for shelter, for clothing. In addition, the funds are directed to those communities which are in the most need—those in which the military base forms the economic base of the community and which has experienced a significant loss of economic activity as a direct result of Desert Storm.

My bill was reported out of the Committee on Labor and Human Resources. It was also on the list of bills recommended for inclusion in this Desert Storm assistance bill by the Persian Gulf Benefits Task Force. Under the leadership of Senator GLENN the task force debated and discussed dozens of measures, some rejected on their merits, some accepted on their merits. I was very pleased that after careful scrutiny by the members of the task force, that the needs of communities were recognized and that my bill remained on their list despite substantial paring down of the list by the task force.

However, between the time the final list of proposals was developed and now, my bill was dropped for what I undestand to be partisan reasons. I regret this very deeply. I wish that we in Congress could fulfill our mission in providing ample support for the military personnel, their families, and their communities in as quick a manner as our troops fulfilled their mission.

My office here in Washington and my State offices have been inundated with phone calls and letters from mayors, chambers of commerce, dependents, and civilians asking for relief. I spent the last recess traveling to the five military bases in North Carolina. I can assure you that there is indeed a great need, as the call up of so many troops, so quickly has devastated many local economies. How can we ignore these facts, and more importantly how can we ignore the request of social service agencies like the United Way and the Salvation Army when they implore the assistance of Congress for relief for the affected communities?

There has been a doubling in the unemployment figures in military communities and requests for food stamps have jumped 50 percent. When economies experience such a depression because of a natural or economic disaster, our Federal Government is there to help those most affected. However, when the Federal Government deploys nearly 50 percent of a community's population overseas, we provide no relief and offer no support. Merely reminding those communities of their patriotic duty is not enough to feed hungry families or pay mortgages and rent. Bear in mind the high morale of the soldier, sailor, airman, and marine should not have to plummet the minute he or she steps off the plane or ship back into a coummunity that is economically depressed.

My bill, the Desert Storm Community Assistance Act would have provided for the very basic needs of military dependents and civilians in military communities. It is important to note that my amendment would include assistance for the person who lost his job because the business he or she worked for is in a military community and has had to make cut backs due to sudden and drastic declines in business. This person may be turned away from the Red Cross or the Salvation Army because they are simply out of funds. To whom do they turn next?

There is a need for this measure but it will not be made available. The troops are still deployed in large numbers. The services say that it is not easy to go by the "first in, first out" rule that the President mentioned during the joint session 2 weeks ago. There will be a large number of victims of Desert Storm here in the United States who will not get help because of partisan politics.

Support the troops has been the cheer since the first deployments to the Middle East. I have done that in every manner possible. I only ask that we do not neglect the domestic needs of the dependents and communities of the troops and realize that supporting the troops means supporting efforts to help them here at home. I will do that in every manner possible.

I have become increasingly committed to this legislation as I begin to understand that we are going to have troops remaining in the Persian Gulf much longer than we have anticipated. So it will be a long time probably before these communities around Cherry Point and Camp Lejeune are back to normal. We are going to continue to have these dire personal emergencies.

I am not going to put the Senate through the process of another rollcall vote. I am well aware of the fact that time is running out. It is important to get this assistance package passed.

I do not believe, given the fact that the leadership has made a commitment to table all amendments, that realistically we could hope to pass it. But I did want to put it in. I did want to call attention to my colleagues that communities that have sizable military establishments are experiencing real hardships. It is just like the Great Depression. There is no other way to take care of it except by some emergency assistance. Maybe next week as we look at other things, as we have a clearer picture of how long the troops will be gone, we can maybe revisit this issue and perhaps one or two other pieces of legislation to provide the kind of relief and assistance that is needed in this emergency situation.

So, Mr. President, I will ask for no action on my amendment, and I yield the floor.

Mr. McCAIN. Mr. President, I thank the Senator from North Carolina for his forbearance on what is obviously a very difficult and painful issue for people of his State and many communities around the country.

I think he voices a very genuine concern, particularly in States like North Carolina and, frankly, my own State of Arizona that have large military communities which were significantly impacted by Operation Desert Storm. This is an issue that a number of committees should address in the coming weeks and months. The individuals who were called to serve and their families were unable to meet many of their financial obligations, as we know, not because of their own doing but because of their call to service.

So I thank the Senator from North Carolina for his forbearance on this issue. I think all of us appreciate the urgency of the human problems here that need to be addressed. I hope we can all work together in addressing those in the future.

Mr. President, I yield the floor.

Mr. NUNN. Mr. President, I have discussed this amendment with the Senator from North Carolina. I have in my own State several communities in the same kind of situation he has described. They have suffered greatly; unemployment has gone up; a lot of people are without work; a lot of people are without income.

It is a good amendment. At the appropriate time, although the troops coming back home will help alleviate this some, and the reservists coming back home, I hope we would address this. I hope we would not require a vote. I would hate to vote against it. I would move to table if the Senator insists on a vote. I hope he would defer it to another day.

Mr. SANFORD. I indicated I would not request action on the amendment.

Mr. NUNN. I thank the Senator from North Carolina and appreciate his bringing this to our attention and hope it can be addressed.

At this point, as I have said and our colleague, the manager on the other side, Senator McCAIN, no matter how meritorious these amendments are, we are faced with the situation if we pass an amendment at this point in time we are going to have Senators on the floor with all sorts of amendments, and we are not going to get this bill done. If we do not get this bill done, we are not getting the war effort done, the funding required for it, and we are not going to get most importantly, the benefits that are most meaningful to the men and women in uniform.

I hope we would not have any more amendments, and I hope we could prevail on our colleagues to let this bill go, let it pass in the next few minutes, and then we can move on to many other opportunities for amendments on other bills that will be coming next week and in the weeks to follow.

I have been informed by Senator BYRD, the chairman of the Appropriations Committee, and Senator HATFIELD, the ranking member, that they plan to mark up two supplemental appropriations bills as soon as this bill is passed, maybe this afternoon, at least tomorrow or Monday. So we will have two appropriations bills next week, two supplementals, one to cover this bill and another which will be wide open, or at least it will be more open than this one has been in terms of opportunities for amendments.

So I hope we would be able to move a third reading in just a moment. I certainly want to give notice to any Senator who has an amendment to come over. But I hope that Senators would restrain themselves, not have amendments, and let us go ahead and pass this bill.

Mr. McCAIN. Mr. President, I would like to say to the distinguished chairman of the Armed Services Committee, we are running some checks right now on this side. My understanding is that we had three Senators who are considering offering amendments. I am hopeful we can get those disposed of. We are checking with those Senators right now.

I say to any of those three, if they are still intent on proposing those amendments, we obviously would like to be able to consider them as quickly as possible. In the meantime, unless no one else wishes to speak, I suggest the absence of a quorum.

I withhold that.

The PRESIDING OFFICER. The Chair informs Senators that the pending question is amendment No. 34 offered by Senator SANFORD. It is the understanding of the Chair that the Senator does not request a vote on that amendment.

Mr. McCAIN. Mr. President, it is my understanding that the Senator from North Carolina had withdrawn that amendment.

The PRESIDING OFFICER. It was not the Chair's understanding, but certainly a Member of the Senate can so request by unanimous consent.

Mr. NUNN. Mr. President having heard the Senator from North Carolina, I believe he should make it clear to the Chair that his amendment is withdrawn.

Mr. SANFORD. Mr. President, I did say that I would not request any action on the amendment which I would consider tantamount to withdrawing it. I withdraw it.

The PRESIDING OFFICER. The Senator has a right to withdraw his amendment. Having so requested, the amendment is withdrawn.

The amendment (No. 34) was withdrawn.

Mr. MCCAIN. Mr. President, we hope in the next few minutes to get a final vote. In the meantime, I suggest the absence of a quorum

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, I want to commend my colleagues who put this package together: Senator GLENN, Senator MCCAIN, Senator NUNN, Senator WARNER, and all. It includes a small package, a small bill I introduced that says the reservists should receive the same educational benefits as those who are in the active armed services. It has been included.

I see Senator NUNN looking apprehensive. My amendment is already in the bill. I am simply commending my colleagues for including it.

Clearly those who serve over there as reservists should get educational benefits just as those who are in the active armed services. That is included. It is a very small-cost item. But I think it is an important one. I commend my colleague for including that.

Mr. MCCAIN. Mr. President, I thank the Senator from Illinois for his kind words. But he is the one that deserves the commendation. It was his idea. We are very pleased to adopt it. I think it is going to have some far-reaching and very beneficial effects. We appreciate the very important recommendation. I think he can be assured we will see it enacted into law thanks to him.

Mr. SIMON. I thank my colleague.

Mr. GLENN. Mr. President, I would like to join in the comments of the distinguished Senator from Arizona. When we looked at it, I thought it was particularly good because it gives people who are serving in the combat zone some of the same benefits that accrue to the regulars in educational benefits.

It does not say that just because you are activated for 30 days, 60 days, or 90 days, you get the same benefits as you would get for a 4-year hitch, or something like that. But it does say we need to pass improved education benefits for reserves over and above what they now have based on active duty time served.

That seemed to us to be fair. I commend the distinguished Senator from Illinois. I think it is a good idea.

Mr. SIMON. I thank my colleague.

Mr. NUNN. Mr. President, I join my colleagues from Arizona and Ohio in commending the Senator from Illinois for his amendment, for his bill that really became a part of this package. It is an excellent proposal. I think the reservists will benefit greatly from it, and it makes all sorts of sense.

So I thank him for this leadership.

Mr. SIMON. I thank my colleague from Georgia. I thank all three Senators for their leadership.

Mr. President, if no one seeks the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 35

(Purpose: To assure that U.S. tax dollars are not used for the rebuilding of Iraq)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 35.

At the end of the bill, add the following new section:

"SEC. . Notwithstanding any other provision of law, none of the funds appropriated or otherwise made available by any provision of law may be obligated or expended, directly or indirectly, for the purpose of rebuilding Iraq."

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I imagine this amendment will be supported in the hearts, if not in the votes, of most Senators. It reflects the position of the President of the United States. And best of all, it makes good common sense.

Specifically, this amendment would prohibit any United States funds from being spent for the purpose of reconstructing Iraq. Its intent is to put into law the policy announced by President Bush on March 1, when he said that he did not "want to see one single dime of the United States taxpayers' money go into the reconstruction of Iraq."

The President has been, throughout the gulf crisis, resolute. He has been right on the mark. And he was right on the mark when he made this statement.

After having put the lives of nearly a half-million of our young American men and women on the line in the Persian Gulf, and after having spent billions of dollars to liberate Kuwait, the American people—and justifiably so—absolutely have no stomach for any suggestion that they now help pay for the reconstruction of Iraq.

There have been some long filibusters in this Senate down through the years but if anybody proposes spending a nickel to rebuild Iraq, I will do my part to set a new record.

But, as clear a statement as the President has made in this regard, it is not the only signal that has been sent by our Government on this issue. In a statement before the House Foreign Affairs Committee back on February 6, Secretary of State James A. Baker III, reportedly urged the rebuilding of Iraq. The Secretary was quoted as having said at that time:

> No one should forget that for the second time in a decade the people of Iraq will be recovering from a disastrous conflict. The time of réconstruction and recovery should not be the occasion for vengeful actions against a nation forced to war by a dictator's ambition. The secure and prosperous future everyone hopes to see in the gulf must include Iraq.

I talked to the Secretary about that later, in fact the next day. He suggested that his statement was taken out of context, and I accept that.

In the United States, in any event, we recognize that statements by a President provide a more accurate reading of our Government's policy than any contradictory statement made by anybody else, be he or she a member of the Cabinet or otherwise.

But, we know how inclined bureaucrats are, down in Foggy Bottom, to seek to carry out their own policies without regard to the President who happens to be in the Oval Office at the time. We have been down that road many a time. I have complained about it many a time myself, and will continue to do so.

And, in the bazaar which is the Middle East, nations often conduct their business from the standpoint that nothing is etched in stone.

So, Mr. President, the purpose of this amendment is to make clear to the nations of the Middle East and to the bureaucrats in the State Department who may have other ideas, that the President's refusal to throw U.S. tax dollars into the reconstruction of Iraq is etched in stone, or at least in the United States Code.

That is what this amendment will do. That is all this amendment will do. I hope Senators will support it.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Fine. I thank the Chair and I yield the floor.

Mr. MCCAIN. First I ask if the Senator from North Carolina would agree to a time limit on this amendment. I propose 20 minutes?

Mr. HELMS. I am through now.

Mr. McCAIN. Mr. President, I am compelled to make a motion to table this amendment. The Senator from North Carolina makes perfectly good sense. The fact is the legislation we are considering is directly related to the men and women who are serving in the gulf. This legislation is an attempt, after literally hundreds of hours of negotiation and deliberation, to come up with a package of benefits enacted expeditiously. Although the amendment may be laudable, the reality is it has nothing to do with the package of benefits which we are proposing for the men and women who are serving in the gulf.

I ask the Senator if he might forbear and seek another vehicle for his very worthy amendment. I would be pleased to support him in that endeavor. There is a delegation that is supposed to be departing for the Middle East very soon, and we very much hope to be able to assure the troops that Congress has shown appropriate concern for their welfare.

An agreement was made among the leadership, and the chairman and ranking member of the Armed Services Committee, that we would not support any amendment no matter how laudable in content, because if we did that, we would reopen the entire issue.

So I must propose a motion to table the amendment.

Mr. HELMS. Will the Senator withhold?

Mr. McCAIN. I thought the Senator indicated he was finished. If he is not. I will yield.

Mr. HELMS. I was finished until the Senator made his comments.

Mr. McCAIN. Then I withhold my motion until the Senator is finished. I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. In the first place, I have been here since 11 this morning ready to offer amendments. I am not going to characterize the statement of the Senator about the late hour.

I have been here for sometime now and have waited patiently for an opportunity to offer this amendment.

Second, this business of the leadership, self-proclaimed or otherwise, saying that, well, we are not going to let my amendment be adopted, is a contradiction of what the Senate is all about. Frankly, I resent it. But Senators can vote as they wish.

But I tell the Senator from Arizona one thing. I wish the men and women who serve in the Persian Gulf could vote on this amendment. It would be a unanimous vote. Senators can vote as they please, and I take no offense at what the Senator from New Mexico has said.

But this business of appropriating the power to say, "Well, you know, you just are just a peon. You cannot offer an amendment. If you do, we'll table it." That is a contradiction, I say, of what the Senate is supposed to be.

I do not care how many Senators are going anywhere, on a junket or whatever. I am going to stay here. I think we ought to vote on the pending amendment. We ought to vote on it up or down, and if the Senator does move to table it, we will see how Senators vote.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER (Mr. DASCHLE). The Senator from Arkansas [Mr. BUMPERS].

Mr. BUMPERS. Mr. President, I agree wholeheartedly with the comments made by the distinguished Senator from North Carolina. I made the point in my amendment a moment ago that I have the utmost respect for the leadership in this body. But I must say we are here as representatives of our people to debate these issues and vote up or down on them.

If there is anything that this country is unified on, as unified as we were in support of the troops and all the other things we have been unified on lately, it is the substance of the amendment of the Senator from North Carolina.

I will be frank with my colleagues. I would vote against that amendment or I would vote for tabling it with the utmost trepidation because if there is anything that I get unanimous approval on back in my home State, it is that we are not going to spend a nickel on rebuilding Iraq.

This amendment does not cost anything. I do not see how on Earth anybody would resist this amendment when this is George Bush's position, it is the position, in my opinion, of 100 Senators, 435 House Members, and the American people. I realize in a way it is extrinsic to what we are voting on this afternoon, but this will not be the last time we will get a chance to vote on it. It will just be the first time. We are going to be voting on this same amendment a number of times on virtually every appropriations bill that comes through here.

So I strongly urge the leadership to wave their commitment to table these amendments and not move to table this amendment. Give everybody a chance to express themselves on it.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, if I were to make the decision, it would be along the lines of the amendment offered by the Senator from North Carolina. And I have great respect for him, as he knows.

But let me tell my colleagues, I think this is precisely the kind of thing that George Bush might be referring to the other night when he said we should not micromanage. We ought to be sending every possible signal to the people of Iraq: Overthrow the government that you have there, and if you overthrow that government, then maybe you are going to get a little bit of help from the coalition.

I think the motion by my friend from Arizona is probably going to lose. You can be sure Saddam Hussein is going to have that on the front page of the Baghdad newspaper. It just seems to me we are playing right into his hands. I know that is not the intent of my colleague from North Carolina. But that, it seems to me, is precisely what we end up doing. I think we are much better off refraining.

My colleague from Arkansas is absolutely correct. I think it is a virtual, unanimous, private opinion of people in this body that we should not be doing it, and I do not think we should be giving Saddam Hussein any ammunition to stay in power at this point—I know that is not the intent—but I fear that is precisely what we are doing.

Mr. HELMS. Will the Senator yield? We do have a tripartite Government.

Also, this reflects a public statement by the President of the United States. And the Congress does have the power of the purse.

The Senator agrees to all three of those propositions, does he not?

Mr. SIMON. I agree to all three of those propositions but I will add I think it is unwise to do.

Mr. HELMS. I respect the Senator's opinion.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I intend to make a motion to table. I agree it is the sentiment of every American that we should not send any money to rebuild Iraq. The fact remains, this is a benefits package. It is a package to help the men and women in the gulf, to compensate them for their service and sacrifice, a bill on which many Members of Congress have worked hundreds of hours.

There will be another supplemental. There will be action by the Foreign Relations Committee to propose legislation more appropriate for this amendment. I hope the Senator might consider these alternative vehicles for his amendment.

Of course, the Senator is free to vote as he wishes and he is free to offer amendments whenever he chooses. That is the rule of the Senate.

I say to the Senator from North Carolina, nothing prevents him or anyone else from casting their vote as they so choose. I happen to agree with the leadership that it is appropriate to get this package done quickly, have the Appropriations Committee take it up, and have it signed into law. We will have lots of opportunities to discuss the issue of Iraq later.

Mr. President, I make a motion to table the pending amendment.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Florida [Mr. GRAHAM] is absent because of a funeral.

Mr. SIMPSON. I announce that the Senator from Vermont [Mr. JEFFORDS] is necessarily absent.

The PRESIDING OFFICER (Ms. MIKULSKI). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 0, nays 98, as follows:

[Rollcall Vote No. 28 Leg.]

YEAS—0

NAYS—98

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Craig
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Gorton
Gramm
Grassley
Harkin
Hatch
Hatfield
Heflin
Heinz
Helms
Hollings
Inouye
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wellstone
Wirth

NOT VOTING—2

Graham
Jeffords

So the motion to lay on the table amendment (No. 35) was rejected.

Mr. HELMS. Madam President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The PRESIDING OFFICER. A motion to reconsider has been made.

Mr. HELMS. Yes.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 36 TO AMENDMENT NO. 35

Mr. MITCHELL. Madam President, on behalf of myself, Senator DOLE, Senator NUNN, and Senator McCAIN, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine, [Mr. MITCHELL], for himself, Mr. DOLE, Mr. McCAIN, Mr. D'AMATO, Mr. HELMS, and Mr. KERREY, proposes an amendment numbered 36 to Amendment No. 35.

Strike all after the word "SEC." and insert in lieu thereof the following:

It is the sense of the Senate that none of the Funds appropriated or otherwise made available by any provision of law may be obligated or expended, directly or indirectly, for the purpose of rebuilding Iraq while Saddam Hussein remains in Iraq.

Mr. MITCHELL. Madam President, I ask unanimous consent that Senator HELMS and Senator D'AMATO be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Madam President, I urge the Members of the Senate to approve this amendment. I believe there is no opposition to it. I think it is self-explanatory.

Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment offered by the Senator from Maine [Mr. MITCHELL]. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Florida [Mr. GRAHAM] absent because of a funeral.

Mr. SIMPSON. I announce that the Senator from Vermont [Mr. JEFFORDS] is necessarily absent.

The PRESIDING OFFICER (Mr. BINGAMAN). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 29 Leg.]

YEAS—98

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Craig
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Gorton
Gramm
Grassley
Harkin
Hatch
Hatfield
Heflin
Heinz
Helms
Hollings
Inouye
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wellstone
Wirth

NAYS—0

NOT VOTING—2

Graham
Jeffords

So, the amendment (No. 36) to amendment No. 35 was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCAIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, if I might have the attention of Senators, in response to many questions, and following consultation with the distinguished Republican leader, I would like to suggest a course of action for the remainder of the day and the week.

I am advised by the managers there are no amendments which remain which will require rollcall votes to the pending bill. There are several minor technical amendments which I am advised will be completed in a very short time without rollcall votes, and then we will have, in just a few minutes, a rollcall vote on final passage of this bill.

Yesterday, the Labor Committee reported out the nomination of Andrew Lamar Alexander to the Cabinet, and I indicated to Senator DOLE I would be prepared to take up and act on that nomination today, and I am so prepared.

I have suggested to Senator DOLE we proceed under a time agreement of 1 hour with a voice vote upon completion of the debate. That means, unless there is objection expressed by some Senator either here on the floor or in the next few moments by communicating through the Cloakroom to either the majority or the minority side, the vote on final passage will be the last vote this evening and the last vote this week.

If anyone requests a rollcall vote, why then, of course, we would either have to put the measure off until next Tuesday or delay the several Senators who had planned to leave at 5:15 and who will now be briefly delayed but not substantially.

It is my hope that we can accommodate both the President, his nominee, and the schedules of several Senators involved if we could take it up under a time limitation and have a voice vote on it.

I would like to yield to the distinguished Republican leader.

Mr. DOLE. Mr. President, if the majority leader will yield, I think that is a good way to proceed. There will be one additional vote and the debate on the nomination and have a voice vote. In my view, if I was a nominee, I would not care whether it was a voice vote or rollcall vote as long as I was confirmed.

Mr. DOMENICI addressed the Chair.

Mr. MITCHELL. I will be pleased to yield to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, might I just say I had two amendments and my name had been regularly mentioned as a prospect for two amendments. I want to say neither of them were exactly germane to the urgency of the bill before us. But I assumed there would be a number of nongermane amendments that would be debated and perhaps adopted and in which event I would have proceeded with mine. That having not been the case, I will not offer them and wait for another day.

Mr. HATCH. Will the majority leader yield?

Mr. MITCHELL. Yes, I yield.

Mr. HATCH. Mr. President, I would hope nobody would disagree with having a voice vote on Lamar Alexander. We have now had an Education Department rudderless for almost 4 months and the Labor Committee was unanimous, with one voting present, in his favor.

If there had to be a vote, we would of course be willing to reduce the time. I would reduce it in order to have this disposed of. I do not see a reason to have a vote. We can voice vote it. I still would be willing to reduce the time.

Mr. MITCHELL. Momentarily, I am going to yield the floor to the manager, the distinguished Senator from Georgia, to complete action on the pending bill, the several technical amendments that have to be adopted. That will take a few minutes. During that period, if no Senator expresses a desire for a rollcall vote on the Alexander nomination, and I hope that none will, we will then proceed as I have suggested, and I will make that announcement just prior to the forthcoming vote on final passage which will be in just a couple of minutes.

I would like to announce now, for the benefit of Senators scheduling for next week, the Appropriations Committee has reported both appropriations bills: the supplemental appropriations for the Desert Storm operation and the second supplemental appropriations bill for other dire emergencies. We are going to begin on those next Tuesday morning. We are going to start on those Tuesday morning, so Senators should be aware we will be debating and likely voting on legislation next Tuesday, beginning in the morning.

We want to try to complete the measures, to enact them, conference them with the House and then come back with the conference reports prior to the recess, which begins at the close of business next week.

So to repeat, and for those Senators not present on the floor, I hope their offices will notify them so I do not begin next Tuesday morning with my usual 15 phone calls from Senators wanting to make sure there are not any votes before 9, 10, 11, 12, 2, so on, that we are going to be taking up the appropriations bills beginning next Tuesday morning, probably about 10 a.m., and there will be votes on Tuesday on the appropriations bills.

Mr. President, I thank my colleagues. I thank very much the Republican leader and the managers of the bill, the Senators from Georgia and Arizona, and my colleagues, for their cooperation in this matter.

I yield the floor.

Mr. NUNN. Mr. President, I thank the leader, and I thank the Republican leader, also, for their tremendous cooperation in trying to move this bill. Without them, we could not have moved it to this stage.

Mr. President, I ask unanimous consent that the yeas and nays on the Helms amendment be vitiated.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The question is on agreeing to the Helms amendment, as amended.

The amendment (No. 35), as amended, was agreed to.

AMENDMENT NO. 37

Mr. NUNN. Mr. President, I ask unanimous consent that three technical amendments be considered en bloc and passed en bloc. These have been cleared on both sides of the aisle. I send the amendments to the desk.

The PRESIDING OFFICER. Is there objection to the en bloc consideration of these amendments? Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN] for Mr. MITCHELL, (for himself and Mr. DOLE), proposes amendments en bloc numbered 37.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5 of the amendment, on line 24, strike all after "pay" through the comma on line 25.

On page 30 of the amendment, on line 20, strike "August" and insert in lieu thereof "October".

On page 30, after line 20, of the amendment add the following:

The increases in benefits and payments authorized by this title for "Montgomery GI Bill" benefits shall be ratably adjusted so that the appropriations necessary for such increases in benefits or payments for fiscal year 1991 through 1995 do not exceed $500,000,000 less the total of the amounts appropriated for fiscal years 1991 through 1995 for the benefits or payments authorized by this title other than those for increases in Montgomery GI bill benefits and payments.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 37) was agreed to.

PERSIAN GULF TROOPS DESERVE TRIBUTE AND BENEFITS

Mr. BINGAMAN. Mr. President, we are approaching an important vote on S. 578, a bill that would authorize supplemental appropriations for fiscal year 1991 to help cover the costs of war. It would also provide returning military personnel and their families with financial and medical benefits. As we approach the important business of paying for our swift and sound victory in the Persian Gulf, and compensating our troops in whatever way we can, I am promoted to offer tribute to those who so successfully earned the victory.

Those troops, numbering over half a million active duty and Reserve men and women deployed to the combat zone, many of whom have been there since August 2, 1990, deserve our utmost gratitude. In addition, I also pay tribute to the host of families and nondeployed servicemen and servicewomen who shared the tremendous burdens of this war, and without whom the war effort would have been neither so successful nor so swift. Behind each of these frontline soldiers, sailors, and marines were numerous others to whom we are also indebted.

Mr. President, in my mind, there is no way that we could ever completely render to these fine servicemen and servicewomen our full measure of gratitude. In effect, there is no single bill, nor set of bills, that would accomplish that task. Certainly there is no compensation for those families who have offered the ultimate sacrifice. My hope is this, Mr. President, that we do those things we can to show our appreciation and to ease the burdens and sacrifices of war. We must act quickly and amply to register a measure of thanks for a job well done.

Mr. President, immediately following the start of hostilities in the Persian Gulf, the majority leader appointed me to a Senate task force to recommend legislation to assist Desert Shield/Desert Storm troops and their families. I commend the majority leader for his wisdom in pulling together many of my colleagues to work on these issues under the experienced leadership of Senators JOHN GLENN and JOHN MCCAIN, the cochairmen of the task force. At least 25 Senate sponsored initiatives were considered by the task force, and at least as many came from our colleagues in the House. Some of these initiatives dealt with traditional benefits granted to troops during wartime, and some of them, such as child care, were groundbreaking provisions to answer contemporary needs. All of these initiatives were prompted in response to many concerns our constituents across the country faced as we embarked on the biggest post-Vietnam war deployment and as we called up reservists for the first time since 1961.

Last week, Mr. President, the Armed Services Committee recommended for inclusion in S. 578 several provisions concerning military personnel benefits. I have cosponsored all of these and wholeheartedly recommend my colleagues give them their full measure of support. Just to summarize for those who are not familiar with these provisions, they would do the following:

Increase imminent danger pay for troops who served in the Persian Gulf from $110 to $150 per month;

Double—from $50,000 to $100,000—the amount of life insurance provided to members of the military retroactive to August 2, 1990;

Give members leaving the military 26 weeks of unemployment benefits, the equivalent of what is given to civilians who lose their jobs;

Allow retired military personnel recalled to active duty to serve at the highest grade they held while on active duty;

Authorize Desert Storm troops to invest their pay in a Treasury savings program at an interest rate of 10 percent;

Provide $50 million to the Department of Defense to provide family services and child care delivery service to military families involved with Operation Desert Storm;

Continue CHAMPUS coverage to deactivated Guard and Reserve personnel who lost their employer-provided health insurance for 60 days or until employer-coverage resumes;

Delay authorized changes in CHAMPUS mental health benefits by 1 year; and

Authorize activated medical services reservists the same special pays as received by active duty personnel.

Mr. President, these are but a few items my colleagues and I have considered over the last 2 months. For example, 2 weeks ago, we passed the Veterans' Soldiers' and Sailors' Relief Act sponsored by our colleague, Senator CRANSTON. This act will provide numerous and lasting benefits to returning veterans. In addition to the provisions in S. 578, and in the Soldiers' and Sailors' Relief Act, Mr. President, I expect that you will see more provisions to deal with financial hardships on returning veterans and activated reservists as well as education benefits for those who served in the Persian Gulf.

It is a noble and inspiring thing to serve one's country in time of crisis. These well-trained men and women, under the commendable leadership of the President, Secretary Cheney, General Powell, and General Schwarzkopf have renewed a faith in America as the world leader with a can-do, high-technology spirit. I salute the men and women volunteers of Desert Shield and Desert Storm. I commend their hard work, determination, and sacrifices. I salute the families who sustained them in time of war, and I salute the hundreds of thousands of men and women in the services who made their efforts possible. And finally, Mr. President, I express my appreciation to our allies who contributed to the successful conduct of the allied effort, and I urge those allies who have pledged contributions to offset the costs and burdens of the war to send those checks in now.

ROCKY FLATS SUPPLEMENTAL APPROPRIATIONS

Mr. WIRTH. Mr. President, I rise to commend the distinguished chairman of the Senate Armed Services Committee for his leadership in putting together this Desert Storm authorization bill. The chairman was particularly—and correctly—adamant that this legislation not be loaded with extraneous provisions, that we have a clean bill. And we have done so.

As the chairman knows, however, I have sought a legislative vehicle to address some of the policy and budgetary issues raised by the Department of Energy's supplemental request for $623 million in 1991, and especially the $283 million requested to expedite resumption of nuclear weapons production at the Rocky Flats Plant in Golden, CO.

I ask unanimous consent that the text of the amendment relating to Rocky Flats which I intended to offer at this time be entered in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AN AMENDMENT OFFERED BY MR. WIRTH

At the appropriate place, insert the following:

SEC. . ROCKY FLATS PLANT OPERATIONS.

Of the additional funds authorized to be appropriated to the Department of Energy for fiscal year 1991 for operating expenses, production and surveillance, pursuant to section ——, not more than $166,000,000 may be obligated in fiscal year 1991 for the Rocky Flats Plant, Golden, Colorado.

None of the funds available for fiscal year 1991 or 1992 may be used to produce nuclear weapons components or materials at the Rocky Flats Plant until such time as the Secretary of Energy has established a program, independent of the programmatic review of the complex-wide reconfiguration, to relocate, by September 30, 2001, at the latest, the operations demonstrated to be necessary and currently performed at the Rocky Flats Plant to a site or sites where public health and safety can be assured. This program shall also address the Department's plan for work force management in this transition, and assistance for DOE-contracted employees and affected communities. This report shall be submitted no later than June 30, 1991.

Sixty days before the planned resumption of operations at any building at Rocky Flats, the Secretary of Energy shall provide for public review a progress report on all major safety, health and environmental deficiencies pertaining to that building noted in previous DOE and contractor reports and analyses. Such report shall include a description of what actions the Department of Energy has taken to resolve each deficiency, in whole or in part, and for those items not resolved, an explanation of why noncompletion prior to resumption is consistent with all applicable safety and health standards for the public and the workers.

SEC. . COMMUNITY IMPACT ASSISTANCE.

Of the funds authorized to be appropriated to the Department of Energy for fiscal years 1991 through 1994, for operating expenses, not more than $70,137,000 shall be made available to the State of Colorado to be used to make community impact assistance payments to the cities of Broomfield, Westminster, Thornton, and Northglenn, Colorado.

Mr. WIRTH. Mr. President, I will not seek to amend the pending legislation, and it appears unlikely that the Armed Services Committee will have time to consider a separate authorization for the Department of Energy supplemental appropriations request. I hope, therefore, that the distinguished chairman of the Armed Services Committee, the chairman of the Strategic Subcommittee, Mr. EXON, and the distinguished ranking member, Senator THURMOND, will engage in a colloquy with me at this point in order to clarify some of the issues surrounding the Department of Energy supplemental funding request.

Mr. NUNN. I thank the Senator for his cooperation in dealing with the Desert Storm authorization bill. I further wish to assure him that I share his concerns about the need to address the future of the Rocky Flats facility in detail and that I will work closely with him in addressing this matter as part of the Armed Services Committee work on the fiscal year 1992 national defense authorization bill.

Mr. EXON. As chairman of the Subcommittee on Strategic Forces and Nuclear Deterrence, I would also like to assure my good friend from Colorado that I will work closely with him in addressing the future of the Department of Energy's Rocky Flats facility. The Subcommittee on Strategic Forces and Nuclear Deterrence will be holding a series of hearings this year to review the defense activities of the Department of Energy. As part of this process, we will be focusing a good deal of attention on the Rocky Flats plant.

Mr. WIRTH. I thank the chairman and the subcommittee chairman for their interest. I must say that the senior Senator from Colorado has deep reservations about resuming plutonium operations in the Denver metropolitan area. The first area of concern is budgetary: Are we simply throwing good money after bad? Can we really afford to maintain the range of options that the Department of Energy would like, and at the same time adhere to strict environmental and safety standards? The second area is safety: Can we safely resume operations at Rocky Flats, and do so with full public confidence that the arrogant and secretive management style which has gotten us into such a mess will not be repeated? And finally, need: What is the national security rationale to rush to restart an aging nuclear weapons facility, one the Department of Energy intends to shut down, to build yet more warheads for our strategic arsenal?

Let me begin with budget. The Department of Energy in its reconfiguration study has determined that the Rocky Flats Plant should be relocated under any of the scenarios examined therein. Rocky Flats is, in fact, the only major facility specifically targeted for relocation in that report.

Yet at the same time that the Department of Energy is telling us that it wants to close down Rocky Flats, it comes to the Hill with a supplemental request of $283 million to restart plutonium operations there. This is in addition to the $460 million authorized and appropriated in the normal fiscal year 1991 budget cycle for the defense program at Rocky Flats. This is more than a 50-percent increase for Rocky Flats weapons program.

Department of Energy officials have explained to me the growing demands on the Rocky Flats budget as they discover more tasks to be accomplished. This is no surprise given the previous mismanagement of the plant. My question is: How much more are we going to have to spend before operations can safely resume? What are the anticipated operating costs for Rocky Flats? How much longer will we need to keep this aging facility in operation before it is relocated, as the Department of Energy itself recommends? How do the costs of restart and operations compare with the costs of designing and building an alternate plutonium pit production facility, as noted in the Department of Energy reconfiguration study on page 160? How do these costs compare to the Department of Energy's projected environmental restoration and waste management budget—and commitments—for Rocky Flats in the 1990's?

Will the chairman agree that these are reasonable questions, questions for which the committee must have answers before we can make informed decisions on the fiscal year 1992 budget request?

Mr. EXON. The Senator from Colorado raises legitimate budgetary concerns. In these days of a declining defense budget, it is very important that we strike a balance between the pressing long-term need to modernize the aging Department of Energy complex and the short-term national security interests. I wish to assure my colleague from the Armed Services Committee that I do not wish to see any more money spent than is necessary at Rocky Flats. However, we must address and correct the safety, health, and environmental problems that have been identified at the facility.

Mr. THURMOND. The Senator raises concerns about the cost, the safety, and the need for the restart of Rocky Flats. It is true that the Department of Energy plans to relocate Rocky Flats—but not because it is not safe and cannot be operated safely or is mismanaged. It is going to be safe or it will not reopen at all. Rather, the Federal Government is going to move Rocky Flats, at a cost of several billions of dollars, because the people of Denver do not want it there. They want it somewhere else. And they want the Federal Government to pay for it. Now I am going to support moving Rocky Flats as soon as we can, not because it is not safe in Denver, but because it clearly is not going to be allowed to continue to operate in Denver, safe or not. And this plant has to operate.

There is hardly a more dire emergency than that facing the country in our nuclear weapons establishment. We have been completely and totally unable to produce or modify the core of any nuclear weapon since November 1989.

We are producing Trident submarines with no way—no way—to produce the warheads planned for them. We have proven, effective methods for making nuclear weapons even more safe than they are now, but we cannot implement them. We have many, many weapons being retired and withdrawn, with no way to reuse the nuclear material.

I have received letters in recent days from Secretary Watkins, Secretary Cheney, and General Scowcroft. They all state most urgently that the resumption of operations at Rocky Flats is of the very highest importance to our national security. Secretary Cheney says, "the supplemental is urgently needed * * * for modern, safe nuclear weapons for our nuclear deterrent forces." And General Scowcroft tells me, "* * * it is essential that these funds be fully appropriated * * * failure to provide the full Department of Energy supplemental request will make it impossible for necessary safety and health improvements to be completed on schedule, and for the department to meet its important national security obligations."

Mr. President, I ask that these letters be made part of the RECORD.

THE SECRETARY OF ENERGY,
Washington, DC.

Hon. STROM THURMOND,
Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: As you are aware, the Administration has requested a supplemental appropriation for FY 1991 in support of the safe resumption of plutonium manufacturing operations at the Rocky Flats Plant. The amount requested is $283 million to provide for efforts necessary to address safety and health upgrades for the buildings needed to resume plutonium pit fabrication at the plant.

Initially the Administration's request met opposition in the House Appropriations Committee and only $142.5 million was reported by that Committee to the full House for Rocky Flats. A significant portion of the Administration's request was restored by the full House in action last Thursday, March 7, 1991. I am writing to request that your Subcommittee and the full Senate support the President's entire $283 million supplemental request for Rocky Flats. It is my understanding that Senator Wirth of the Armed Services Committee does not support this request. Members of my staff have met with Senator Wirth and he has indicated that one of his chief concerns is that it is not necessary at this time to provide additional funds for Rocky Flats because it is not necessary to resume nuclear weapons production.

The position of the Administration is clear. We support continuation of the policies of this and previous Administrations and the Congress that nuclear weapons are a vital part of our deterrent and have helped to preserve world peace for the past 45 years. Production of plutonium pits at Rocky Flats is essential in maintaining our nuclear weapons capabilities, including the production of the W88 warhead for the Navy's TRIDENT submarines and the joint Department of Defense/Department of Energy stockpile improvement program which is vital in improving the overall safety of our nuclear weapons.

I am bringing this matter to your attention in the hope that you will support the supplemental in its entirety, assuring that the necessary funds are provided to enable the Department of Energy to meet its obligations to the Department of Defense and to national security.

Sincerely,

JAMES D. WATKINS,
Admiral, U.S. Navy (Retired).

THE SECRETARY OF DEFENSE,
Washington, DC, March 11, 1991.

Hon. STROM THURMOND,
Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: I strongly support funding the Department of Energy FY 1991 Supplemental Appropriation as requested by the President. The $283 million supplemental is urgently needed to ensure that the Rocky Flats Plant can once again produce the plutonium pits necessary for modern safe nuclear weapons for our nuclear deterrent forces.

Sincerely,

DICK CHENEY.

THE WHITE HOUSE,
Washington, March 11, 1991.

Hon. STROM THURMOND,
Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: The President's supplemental budget request includes $283 million for the Department of Energy's facility at Rocky Flats, Colorado.

It is essential that these funds be fully appropriated. Rocky Flats is the only facility which can produce particular components needed to meet our nuclear weapons requirements. Failure to provide the full DOE supplemental request will make it impossible for necessary health and safety improvements at Rocky Flats to be completed on schedule, and for the department to meet its important national security obligations.

I appreciate your consideration of this important issue.

Sincerely,

BRENT SCOWCROFT.

Mr. THURMOND. There is every reason to believe that this request for the Department of Energy will be approved by the Appropriations Committee and by the other body. The supplemental authorization before us today does not address this request. Therefore, in the committee of conference on this supplemental authorization we will need to address this request. I hope that the Senator will join me then in supporting the President's request for this important facility.

Mr. WIRTH. I will support necessary funds to bring Rocky flats into compliance with safety, health, and environmental standards. But I am not sure that we are not throwing good money after bad in trying to restart this facility.

I would hope that the committee will look carefully at the need to relocate Rocky Flats—not in the undefined timeframe contained in the reconfiguration study—but on an expedited basis. The House authorization bill contains language calling for a report by the Department of Energy on relocating Rocky Flats's operations within 10 years. Would the chairman indicate whether he personally would be disposed to support this provision in conference with the House?

Mr. EXON. I think the approach taken by the House Armed Services Committee is a fair way to focus attention on the Rocky Flats facility. It strikes a reasonable balance between the need to clean up and safely restart the Rocky Flats facility and the need to expeditously move out on finding a new site for the work done at the complex, a process that will likely take 10 years. I support the supplemental request and efforts to relocate the facility at Rocky Flats as soon as possible.

Mr. WIRTH. I appreciate the chairman's remarks. I would add that the Department of Energy owes it to its workers at Rocky Flats to plan carefully for the management of the work force in any transition. I was dismayed at recent statements that the Department would have to lay off over 2,000 workers at Rocky Flats if we do not appropriate the supplemental request of $283 million. The Department of Energy owes more to the dedicated and professional work force at Rocky Flats than to make them pawns in a cynical budget battle. We owe it to these workers to manage the transition at Rocky Flats in a way that minimizes disruption to the work force, and that addresses the needs of workers and the communities.

Mr. President, there is also a very large question here of need. I believe that the committee should examine in greater detail the rationale and need for resumption of plutonium production at Rocky Flats in the next 2 years, rather than simply nodding in acquiescence to the requirements put forward by military planners.

We know the Navy is anxious to fill out the Trident D-5 W-88 warheads. Secretary Cheney's budget request for fiscal year 1992 foresees slipping the backfitting of the D-5 until at least fiscal year 1997. Obviously, the shutdown at Rocky Flats is causing some delays in program schedules. But the issue for us is to weigh the damage continued shutdown at Rocky Flats might cause U.S. national security, the costs, and the alternatives.

And it may not be absolutely necessary to manufacture new warheads. As the chairman may recall, last year's defense conference report contained a provision, section 3131, requiring the Secretary of Energy to report on the possible recycling of nuclear warheads as we look toward a smaller and safer arsenal. Lawrence Livermore Laboratory is currently investigating the possible use of retired plutonium pits in new warhead production. Reuse of existing pits may obviate the need to manufacture new pits from reprocessed fissile material, thereby reducing the waste stream and making the restart of Rocky Flats unnecessary, in whole or in part. I would have thought that this program would be a candidate for urgent supplemental appropriations, but, in fact, that report has been delayed. Mr. Claytor apparently told the Spratt panel that it would take 5 years or so to get reused pits into the stockpile. What urgency is the Department attaching to this effort?

Would the chairman agree that the committee ought to have fuller information in the need for resumption of new warhead production before we markup the fiscal year 1992 defense authorization bill, in addition to having a clearer picture of the possible reuse of pits in maintaining the warhead stockpile?

Mr. EXON. The W-88 program in support of the Trident submarine is a high priority issue to the Navy and to the national security. Rocky Flats plays a vital role in this program. As part of the Department of Energy budgetary and oversight hearing process, we will be examining closely the role that Rocky Flats plays in the overall defense strategy and what the Department of Energy's efforts have been to relocate the Rocky Flats plant as expeditiously as possible.

The Department of Energy laboratories have been making good progress in their efforts to develop methods to reuse existing pits from retired weapons. This should continue to be a high priority at the laboratories. However, it is a technologically complex process. In their efforts the laboratories are giving great emphasis to weapons safety and reliability. If pits are to be reused we must ensure that they can be reused safely and reliably. This takes time. We will continue to follow this process closely.

Mr. THURMOND. I agree with the Senator from Colorado that the Department of Energy should develop means to reuse pits whenever they can. But it is not as simple as the Senator implies. Switching pits is not like switching light bulbs. The chances are overwhelming that the new weapon will not work unless the Department of Energy subjects it to the full design and testing procedure. This takes years—years we do not have.

Mr. WIRTH. This Senator does not share the sense of great urgency just expressed by the Senator from South Carolina. We have won the cold war. We no longer need extended deterrence to support NATO. We have some 20,000 nuclear warheads in our arsenal. What is the rush? Is there a new window of vulnerability emerging here?

Safety is an issue, however. As the chairman knows, the Spratt panel of the House Armed Services Committee has held a very valuable series of hearings on the safety of nuclear weapons. One of the concerns expressed by Dr. Sidney Drell and others has to do with the fireproofing of the W-88 warhead. Would the chairman agree that we should learn more about these problems before committing to new production of what may be faulty warhead design?

Mr. EXON. For many years the Armed Services Committee has been actively involved in the issue of nuclear weapons safety. We will continue our efforts to ensure the safety of the nuclear weapons stockpile in the coming years. I know that this is an area that you and I have a shared and similar interest and I look forward to working closely with you, particularly on the question of making the W-88 warhead safer.

Mr. THURMOND. As the Senator knows, Senator EXON and I supported the Drell panel investigation with great enthusiasm. Clearly we will not put unsafe weapons in the field. But no one says the W-88 is unsafe. Rather what the Drell panel said is that a safe weapon can be made even safer. This does not mean that we can or should delay the W-88 program. To design and test a new warhead will take years—again, years we do not have.

Mr. WIRTH. Finally, Mr. President, I would like to draw the attention of the chairman to the need for public review of the restart decision at Rocky Flats. Following the 1989 FBI raid at the plant, and subsequent discovery of more than 60 pounds of plutonium in the duct work among other serious safety and health problems, the surrounding communities are understandably concerned about the safety of operations at Rocky Flats.

Last year, I asked Secretary Watkins to provide a public document prior to restart and I renew that request today. I would hope that the Department of Energy would provide for public review 60 days before planned resumption of operations at any building at Rocky Flats a progress report on all major safety, health, and environmental deficiencies pertaining to that building noted in previous Department of Energy and contractor reports and analyses. That report should also include a description of what actions the Department of Energy has taken to resolve each one, in whole or in part, and for those items not resolved, an explanation of why noncompletion prior to resumption is consistent with all applicable safety and health standards for the public and the workers.

Another matter of great concern to the communities surrounding Rocky Flats—Broomfield, Northglenn, Westminster, Thornton—is the safety of their water supply. Some 250,000 Coloradans drink water affected by the runoff from the nuclear weapons facility at Rocky Flats. Last year, at my urging the Armed Services Committee authorized the Department of Energy to reimburse local communities for a water diversion project identified as option B in the Rocky Flats Option Identification Group's final report. I am most pleased with the Department of Energy's efforts to support this effort, and hope that this year the committee will be able to expedite this program.

Mr. THURMOND. I recognize that the Department of Energy was authorized last year to begin the process of stopping all rainwater runoff before it leaves the property. I applaud that. But it should not be concluded that there is anything wrong with the drinking water supply. The water is continually tested. The Corps of Engineers says the water is perfectly safe. The local authorities admit the water is perfectly safe. The water is no more dangerous than any water that runs off the Rocky Mountains—all of which contains radioactive contamination to some degree. But the local population is in great alarm because of the fear that some future rainstorm might bring pollutants from Rocky Flats into the reservoir, as it has in the past—even though no past accidents have made that reservoir water unsafe. Now I support option B, to complete the project to end runnoff from Rocky Flats. I merely point out to the member that we are once again spending Federal funds because of fear, not facts.

Mr. EXON. Together with my distinguished colleague from South Carolina, Senator THURMOND, the ranking member of the Subcommittee on Strategic Forces and Nuclear Deterrence, the Subcommittee will be holding hearings on the operations and future of the Rocky Flats facility. We will be looking closely at all of the questions and concerns raised by my friend from Colorado.

Mr. NUNN. I would also like to assure the Senator from Colorado that we will work closely with him in addressing the future of the Department of Energy's Rocky Flats facility.

Mr. WIRTH. I thank the distinguished chairman, the subcommittee chairman, and the ranking member of the subcommittee for their remarks and for their consideration of this issue.

As a final note, I would also ask unanimous consent that an article which appeared in last Sunday's New York Times appear in the record immediately following my remarks. If there is any doubt that we face enormous—and enormously expensive liabilities—in the cleanup of the nuclear weapons complex, this article should dispel that notion. It seems to me that this reality alone dictates that we move as expeditiously as possible to down scale the weapons complex and the costs associated with production.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 10, 1991]

WHEN THE GOVERNMENT RUNS AFOUL OF ITS OWN REGULATORS

(By Matthew L. Wald)

Promising to make a clean break with 40 years of pollution at its nuclear weapons plants, the Department of Energy has signed agreements with states and with other Federal agencies committing itself to abide by environmental laws and clean up the mess. Now the Energy Department has a new problem. In some cases it is violating not only the laws but also the agreements.

Environmentalists say a distressing pattern is emerging, casting doubt on how the aging complex of home production plants can ever be cleaned up.

The most pressing case is at a 37-year-old uranium processing plant at Fernald, Ohio, 20 miles northwest of Cincinnati. In an almost unprecedented action against another Federal entity, the Environmental Protection Agency is trying to collect a fine of about $300,000 from the Energy Department. The fine is not for environmental crimes, which include releasing poisonous and radioactive wastes through faulty filters or unfiltered vents for years and dumping liquid wastes into lagoons that leaked into local waterways. The fine is for failing to live up to a 1990 agreement with the E.P.A. on what studies the department would carry out and what remedial actions it would take.

The fine is not much compared with a department budget of $17.7 billion this year, but the embarrassment level is high. "It shows to us taxpayers that the agency that's being fined is not complying with the law, that they are outlaws and they should be watched," said Shira Flax, a lobbyist for the Sierra Club.

While the department agreed less than a year ago that it would pay fines if it missed deadlines. It is now arguing that one Federal agency fining another makes no sense. On Friday—the deadline for the department to pay up or appeal its case to the E.P.A. chief, William K. Reilly—it was given a 10-day extension.

Leo P. Duffy, the department's top official on environmental safety and health, said fines would be appropriate against a commercial operator that was gaining undue advantage in the business world by violating environmental rules. But he said fines were not helpful if they would reduce the amount of money available to his department for cleanup.

Fernald is not the only problem. Two years ago the Energy Department agreed with the state of Washington and the E.P.A. on a schedule for stabilizing the most hazardous wastes, the highly radioactive liquids in tanks at the Hanford Nuclear Reservation near Richland. But last month the department unilaterally announced a delay of one to two years. The state's Governor, Booth Gardner, said he was "astounded."

NO TECHNICAL TOOTH FAIRY

Mr. Duffy said that it had proved harder than expected to take samples from the tanks to determine what was in them, and it made little sense to build a treatment system before the engineers were certain of what they would be treating. "There's no technical tooth fairy that's going to come along and solve these problems," he said.

Last week, James D. Watkins, the Energy Secretary told the House Appropriations Committee that without a supplemental appropriation, "I won't be able to carry out my duties" at the Rocky Flats plant near Denver where a cleanup agreement was signed with Colorado two years ago. But in other cases, say critics, the department is violating agreements because it failed to ask for enough money to get the job done. In the Fernald case, part of the fine is for failing to carry out diagnostic studies on pollution. Because the studies have not been done, the department does not even know what remedial action will be needed and what to ask Congress for.

"This is the Federal system learning how to work," said Susan Wilshire, a policy analyst at JK Research Associates, of Hamilton, Mass., a Department of Energy subcontractor that is trying to develop a system to decide which plants to clean up first.

The bomb makers, who for years plowed ahead and produced whatever weapons national security demanded, with scant attention to much of anything else, appear now to have taken the same can-do attitude toward cleaning up the mess they created. But they may lack the ability. The Office of Technology Assessment, in a report released last month, said "progress in cleaning up the waste and contamination at the weapons complex is being hampered by a paucity of data and qualified personnel, inadequate efforts to assess possible off-site health impacts, lack of ready technical solutions, and public skepticism about government agency decisions."

"Even the meaning of cleanup is not fully understood," the report said.

MOVING SLOWLY

It has been a long, circular journey for the Energy Department and its predecessor, the Atomic Energy Commission. First the bomb makers insisted that they were not subject to state regulation, or even the regulation of other Federal agencies. But the Federal courts ruled in the mid-1980's, in cases brought by environmentalists, that since Congress had not explicitly exempted the department, it was subject to Federal regulation.

In 1985 Joseph Herrington, then Secretary of Energy, said that his department would obey the laws and would sign agreements with environmental regulators specifying schedules for coming into compliance, much as a private company would. But the department moved extremely slowly, maintaining that among other problems it could not make commitments that would require appropriations from Congress, because the appropriations might not be forthcoming.

After a raid on the Rocky Flats plant in June 1989 by the Federal Bureau of Investigation and the E.P.A., Mr. Watkins, the current Energy Secretary, re-affirmed that the department would sign agreements.

Now it has the agreements but acknowledges that it has terrific trouble doing the work. Mr. Duffy said, however, that since he began, in November 1989, the number of people at his department's headquarters working on environmental repair has risen to 250 from 39, and in the field, to 600 from zero. "You have to maintain a positive mental attitude in this environment, or nothing will get done," he said.

REPAYING OUR DEBT TO THE VETERANS OF DESERT STORM

Mr. WIRTH. Mr. President, I am pleased to support the Department of Defense supplemental authorization for Operation Desert Storm. This legislation is a necessary step toward recognition of the sacrifices made by the men and women of Operation Desert Shield/Desert Storm. Our Nation owes a debt of gratitude to these brave soldiers.

Mr. President, I would first like to commend the chairman of the Armed Services Committee, Senator NUNN, as well as the ranking minority member, Senator WARNER, for their fantastic work in bringing this bill together. Their longstanding attention and concern for the Armed Forces of this country is well-known and I am proud to say that this legislation is a fine example of that fact. Senators GLENN and McCAIN, as the leaders of the Senate's task force on Desert Storm personnel relief bills, also deserve a hearty round of thanks for their work.

When Operation Desert Shield began on August 8, 1990, we embarked on the largest deployment of military personnel this Nation has seen since the Vietnam war. In total, nearly 550,000 Americans were eventually deployed to the Persian Gulf. Men and women, mothers and fathers, sons and daughters—all these answered their Nation's call and moved away from family and loved ones in order to turn back a dictator. Not only active duty soldiers responded to President Bush's call. Reservist and National Guard members also left families and jobs to go to the Persian Gulf. In fact, nearly one-half of the men and women deployed as a part of Operation Desert Shield were members of the Reserves or National Guard.

When Operation Desert Shield finally turned into Operation Desert Storm on January 16, 1991, these men and women made their country proud. Our soldiers and pilots fought with valor and strength. They won a magnificent victory and set the important precedent that a large and powerful country cannot invade its neighbors with impunity.

Today the war is over, but we should never forget the sacrifices of those soldiers who fought in Operation Desert Storm. We should not forget the soldier who needs help settling back into civilian life; the soldier who needs help alleviating the financial hardships leaving home, family, and job; the soldier who bears the wounds of battle and is in need of medical care; and, finally, we should never forget the families and survivors of those who made the ultimate sacrifice for their country.

Mr. President, this bill seeks to meet these many needs. The legislation provides for:

Increasing the monthly rate of hostile fire pay from $110 per month to $150 per month;

Allowing retired military personnel and reservists to serve at the highest military rank previously held on active duty;

Exempting military personnel classified as "missing" from the $10,000 annual cap on the military personnel savings plan;

Increasing the death gratuity from $3,000 to $6,000;

Allows family members of military personnel killed in Operation Desert Storm to receive payment for unused vacation time;

The authorization of special pay and incentives to health care personnel activated as part of Operation Desert Storm;

Increasing the maximum rental payment covered by the Soldiers' and Sailors' Relief Act from $150 to $1,200;

Equalizes unemployment compensation for separating military personnel to the same entitlement available to civilians;

Authorizes the Secretary of Defense to provide $50 million in education, child care, and family support services to the families of military personnel serving on active duty;

Delays implementation of previously legislated reductions in CHAMPUS mental health care benefits for children until February of 1992;

The reinstatement of civilian health insurance programs when an activated service member returns to civilian life;

And clarifies the reemployment rights of reservists called to active duty.

Mr. President, I am proud to support this legislation. It is necessary now that the battle is over that we do our best to care for the soliders and their families. It is they who have suffered the most from this war and it is they that deserve the most in return from their grateful Nation.

Mr. McCONNELL. Mr. President, today the Senate is considering a supplemental authorization bill for the costs of Operation Desert Storm. I would like to take a moment to make a few brief comments on our military's performance in this campaign.

Brilliant leadership and planning are the cornerstones of the success in routing Iraqi forces from Kuwait. Our Commander in Chief, Secretary Cheney, Gen. Colin Powell, Gen. Norman Schwarzkopf and our entire Armed Forces leadership are deserving of our Nation's thanks and praise. Not only was victory swift and decisive, but civilian and allied casualities were kept at an absolute minimum.

The impressive leadership in this campaign is only mirrored by the professionalism and dedication of all our soldiers and sailors. Our service men and women must be recognized for their contributions to victory. From tankers to helicopter pilots, military police to cooks, without the combined team effort of our troops, Operation Desert Storm would have stalled in the desert sand.

While all our soldiers are worthy of our highest commendation, the accomplishments of the 101st Airborne Division deserve particular attention. When the order to attack was received, over 2,000 air assault troops from the 101st penetrated 50 miles into Iraq to establish an allied base for staging attacks and refueling military machines. This action has been described as the largest helicopter-borne operation in military history.

Mr. President, so that my colleagues may better appreciate the actions of the 101st, I ask that an article from the Courier-Journal be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

101ST GOES DEEP WITH LARGEST HELICOPTER OPERATION EVER

(By John Kifner)

INSIDE IRAQ.—More than 2,000 American air assault troops plunged 50 miles into Iraq at first light yesterday in the largest helicopter-borne operation in military history.

The attack by the 101st Airborne Division—which hit north of Iraqi troop concentrations—established what is essentially a giant, fortified gas station to fuel attack and troop-carrying helicopters for assaults into the strategic Euphrates River valley to cut the main highway between Baghdad and Basra.

"We own this piece of desert," grinned 1st Lt. Phil Johnson, a Ranger, as his Huey helicopter settled into the landing zone in a cloud of sand dust.

Some of the supply choppers had women at the controls; the 101st—which is based at Fort Campbell, KY,—has 22 female pilots, though not all of them were involved in the massive ferrying operation.

By nightfall, a supporting ground column of more than 700 trucks had reached Cobra Base, bringing the number of troops to 4,000. With American planners moving their operations ahead of schedule because of crumbling Iraqi resistance, another brigade from the 101st was scheduled to fly into Cobra Base last night.

French light armor attacking on the 101st's left flank was moving faster than anticipated, ranking officers said, while on the right flank the U.S. Army's 24th Infantry Division (Mechanized) and the VII Armored Corps, equipped with heavy M-1A1 tanks, jumped off their invasion north of the border yesterday afternoon, early a day early.

The airborne operation was part of a push to establish a strong toehold on Iraqi territory west of Kuwait. From there, U.S. armored forces would be able to move north to surround Kuwait, or possibly pin down or engage the Republican Guard, the Iraqi army's elite unit, in southern Iraq. The operation also marked the first time American women had flown helicopters on an air assault into enemy territory.

As the sun broke over the desolate sands, long columns of giant black Chinook helicopters, many carrying field artillery, trucks, boxes of ammunition and aviation fuel, swept over the horizon barely 40 feet above ground. Cobra and Apache attack helicopters had been blasting the area, an ancient lake bed for days to clear out possible resistance.

By late yesterday morning, a small hill had sprouted radio antennas at the makeshift command post and soldiers were already beginning to dig in.

"There's not another division in the Army that could have done this," exulted Col. Tom Hill, the commander of the 1st Brigade, which carried out the attack. He stood atop the hill at midday with radio men crouched around him frantically calling out map coordinates. It was the 101st Airborne, nicknamed the Screaming Eagles, which in World War II parachuted behind Utah Beach to pave the way for the invasion of Normandy.

"Hoo-ah, Hoo-ah," soldiers and officers shouted in this war's expression of approval, as they tumbled off the helicopters and scrambled into position.

"We'd walk through the gates of hell now that we know we are going home," said Sgt. Mike Southall, 34, of Galveston, Texas.

Mr. McCONNELL. Mr. President, shortly after President Bush announced before Congress and the Nation that troops would be coming home from that region, the first planeload of soldiers arrived in America. This past weekend in Kentucky, members of the 5th Special Forces Group and 101st Airborne Division returned to Fort Campbell amid cheers, tears and open arms. Eric Turner, the 16-year-old son of M. Sgt. Glenn Turner, perhaps said it best when he remarked: "I love him. I'm glad he's home."

As we continue to welcome home troops and to follow developments in the Middle East, I would like to leave my colleagues with two thoughts:

First, we must never forget those who fell on the fields of battle so that others may be free. These soldiers have made the ultimate sacrifice for their country, and for the liberation of Kuwait.

Second, we must tirelessly work to determine the fate of our missing soldiers in that region. As of this morning, the Pentagon lists 23 soldiers as missing in action. I would offer that we can only imagine the pain and anguish the families of these Americans must endure. For them, the war may never be over.

Mr. CONRAD. Mr. President, the legislation before the Senate today in a sense completes a commitment that our country took upon itself over 7 months ago. At the beginning of August, President Bush ordered United States Armed Forces to the Persian Gulf to oppose Saddam Hussein's aggression and force him to withdraw from Kuwait. To achieve this goal, the United States called upon over 500,000 men and women of its Armed Forces to oppose the forces of Iraq in the sands of Saudi Arabia and Kuwait. And these men and women responded by performing brilliantly and displaying a professional competence that is unmatched by any other military in the world. Our military commitment has been honored. However, our job is not yet complete. To finish it, we must honor our commitment to our troops who served their country in Operations Desert Storm and Desert Shield. Our troops and their families here at home have real needs for support services, health benefits, and other assistance to ease the transition to civilian life.

The Persian Gulf conflict has required sacrifices from all of those involved in it. However, the war has placed a particularly harsh emotional and financial burden upon the families of men and women of the National Guard and Ready Reserve who were called to active duty. We can do little to ease the emotional burden, except to bring home our troops as quickly as possible. However, we can, and must, help to reduce the financial hardships caused by the war.

For many of those called up, active duty meant a cut in pay, depriving their family of needed income. Husbands and wives left at home have been forced to take on second jobs to make ends meet. In addition, families have incurred increased expenses: maintenance work normally done by a family member had to be hired out. phone calls from the Persian Gulf were tremendously expensive, and many families found that, with only one parent at home, they suddenly required childcare services. Even more difficult has been the challenge of single-handedly trying to maintain a family business. In my home State of North Dakota, many farmers were forced to leave during fall harvest and will not be home for spring planting.

These hardships are well-illustrated by Nancy Rader, a brave woman from Cando, ND whose husband, Gary was deployed in the Persian Gulf on September 12, 1990. Gary serves in the National Guard in order to supplement the income he receives from his small farm. The poor farm economy makes this a financial necessity. For the past 7 months, Nancy has taken care of their four children, maintained a part-time job, and tried to hold the family farm together. With the help of family and friends, she has so far been successful. She prepares for spring planting, still without her husband.

This is the kind of sacrifice, not publicized on the front pages of the papers, that our Armed Forces and their families have made. And this is the kind of sacrifice that we must acknowledge and reward here today.

S. 578 goes a long way toward this goal, making numerous benefits, retroactive to August 2, 1990, available to those involved in the conflict with Iraq, and to their families. S. 578 provides benefits such as an increase in military imminent danger pay from $110 to $150, and 60 days of transitional medical coverage for reservists called to active duty. It assists families adversely affected by the call-up by authorizing $20 million for child care assistance and $30 million for education and family support services. It extends VA home loan guarantees and provides for deferment of Small Business loans. For personnel enlisted under the GI bill, this legislation restores education entitlements for students called up, and almost doubles the education entitlement per month for each month a reservist was called to active duty. Finally, S. 578 clarifies veterans' reemployment rights, so that our veterans can return to their jobs as soon as possible.

The Persian Gulf Benefits Task Force, under the leadership of my distinguished colleague, Senator GLENN, has worked hard to put together a comprehensive package of benefits for our Persian Gulf veterans. I thank them for their efforts.

Our Nation has asked a great deal of its men and women in uniform. These men and women have done their duty admirably. Let us now do ours and pass this legislation.

ROCKY FLATS SUPPLEMENTAL APPROPRIATION

Mr. BROWN. Mr. President, I felt it important to come to the floor to report on some of the facts the Department of Energy has given me about Rocky Flats and the importance of funding the full $283 million planned by the Energy Department.

When Rocky Flats was built, it was 18 miles from the edge of Denver. Today, the nearby suburban towns completely surround it. When it was built, Rocky Flats was one of the most modern facilities of its day. More than 40 years later however, these same facilities are barely adequate to produce nuclear weapons. They need a thorough modernization I am told, just to produce on an interim basis.

These two factors, Rocky Flats' proximity to Denver and the need for continued production of nuclear weapons to maintain our nuclear deterrent capability forced a decision on the Energy Department. That is, to move the nuclear production facility at Rocky Flats to a less densely populated area. I heartily endorse the Energy Department's decision to move rather than to rebuild Rocky Flats.

Until that move can be accomplished however, I strongly support safe operations and continued cleanup at Rocky Flats to maintain our nuclear deterrent. I have received copies of letters sent by the Secretary of Defense and by the President's National Security Adviser, both underlining the importance of restarting operations at Rocky Flats to maintain our nuclear deterrent capability. The National Security Council has advised me that delaying the restart at Rocky Flats could seriously undermine the credibility of our nuclear deterrent. Taking such actions without requiring a reciprocal response from the Soviet Union just does not make sense.

Dramatic reductions in the funding for Rocky Flats proposed in the dire emergency supplemental, could severly impact many of the worker health and safety programs currently underway at the plant. For instance, this table—which I will ask unanimous consent for it to be printed in the RECORD at the conclusion of my remarks—shows that under a House proposed $140.5 million cut to the $283 million, 1815 Rocky Flats workers would be laid off.

The result? A 29-percent reduction in health and safety workers, a 24-percent reduction in quality assurance—the men and women who double-check operations to ascertain their safety, a 35-percent reduction in training.

Mr. President, the Energy Department indicates those 50 workers assigned to the training program who would be sent home if funds were dramatically reduced are there to correct the deficiencies so many of us in Colorado have been concerned about. Much of the news media reported last year that many of the difficulties at Rocky Flats came from a work force that was inadequately trained in many of these critical procedures.

Furthermore, under this proposed scenario, the Energy Department reports 33 percent of those assigned to work on plutonium duct remediation would be laid off, and from 22 to 33 pounds of plutonium slated for removal from the duct system might not be removed. Cutting funds that would make the plant safer, the workers more safe, and would better protect the surrounding communities will not benefit Colorado.

Mr. THURMOND. Mr. President, I would have to agree with my good friend, the junior Senator from Colorado.

Mr. BROWN. Mr. President, I thank my colleague and I would just like to add a few brief remarks about some of the communities surrounding the Rocky Flats plant. I planned to offer an amendment today which would allow the cities surrounding the Rocky Flats plant to move forward quickly with a project to protect their drinking water supplies from potential contamination from groundwater runoff from the site.

For some time, five Colorado cities' drinking water reservoirs have been affected by runoff from Rocky Flats. Chromium has been found in the Walnut Creek drainage basin and atrazine has been found in the Woman Creek drainage basin. To avoid this problem in the future, a partnership of Federal, State, and local entities developed a project to isolate the cities water supplies from Rocky Flats runoff.

Before this project may move forward, however, a technical clarification must be made so that it is clear that the Department of Energy is partially reimbursing these municipalities for their project. Unless this clarification is made, Mr. President, it may be years before these cities are allowed to take action to protect their citizens from potential contamination of their drinking water.

Mr. President, I ask for the support of my colleague from South Carolina to ensure that we address this critical issue in a timely manner.

Mr. THURMOND. Mr. President, I can assure the junior Senator from Colorado we look into this matter at the earliest opportunity.

Mr. BROWN. I thank my colleague from South Carolina. Mr. President, I ask unanimous consent that the previously referred to table be printed in the RECORD at this point, and I yield the floor.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

ROCKY FLATS PLANT PRODUCTION AND SURVEILLANCE PROGRAM EG&G

Budget impact on personnel	Fiscal year 1992		Percent reduction
	Planned P&S personnel	Approximate personnel impact	
Pu component production and Pu recovery operations	386	200	52
Non-Pu production operations:			
Stockpile and new programs components	1,235	680	55
Environmental waste programs	339	100	29
Support service: maintenance and plant support	954	300	31
Quality assurance program: NQA–1 and plant QA programs	370	90	24
Training: Program development and training	143	50	35
Safeguards and security	319	80	25
Health and safety: Base programs and nuclear safety	747	70	9
Engineering:			
Development and program support	596	120	20
Pu in duct work remediation support [1]	75	25	33
Administration and other support	494	100	20
Total	5,658	1,815	32

[1] Includes support from other functional organizations. Pu remaining in the duct work would be skg (B707, B771, B776) planned for fiscal year 1992 removal and 5–10kg planned for post fiscal year 1992 removal.

BENEFITS FOR MILITARY PERSONNEL

Mr. BIDEN. Mr. President, I was delighted and proud to serve with several of my colleagues on the Persian Gulf Military Personnel Benefits Task Force, which was so ably led by Senator GLENN.

The bill before us, which represents the work of Senator GLENN's task force as well as the Republican group headed by Senator MCCAIN, will help ease the many burdens placed on our troops and their families in wartime and, to some degree, compensate them for the efforts they made on behalf of our Nation.

Many Delawareans have told me of the hardships, particularly financial, they suffered as a result of a family member being in the Persian Gulf. I heard that financial institutions were not suspending interest payments on loans held by military personnel, that danger pay was unjustly low, that the continued provision of good health care was not always assured for reservist families and that a host of other problems cropped up once our troops were deployed to Saudi Arabia.

While this bill will assist Americans across the country who were affected by the conflict, I am particularly pleased and proud that it will help so many Delawareans. Although Delaware is a small State, the presence of a major military facility—Dover Air Force Base—and the many Delawareans who serve in the military invariably mean we were all personally affected or moved by this conflict in some way. This bill, for me, pays tribute to the sacrifices Delawareans and many Americans made and the courage they displayed over the long months of Desert Storm and Desert Shield.

Mr. President, Senator BUMPERS tried to attach an outstanding amendment to this bill, one that would have helped compensate military personnel whose businesses suffered as a result of the owner's presence in the Persian Gulf. However, if that amendment had passed, the entire excellent and essential package would have been in jeopardy—and so might have been the immediate provision of benefits to our military personnel. Notwithstanding the solid merit of the Bumpers amendment, I decided I had to vote to table it. Senator BUMPERS has said he will bring the amendment up again, at which time I will fully support it. Today, however, I could not in good conscience take any risk that the whole bill would be threatened. I look forward to voting for Senator BUMPERS' amendment in the future.

Mr. DURENBERGER. Mr. President, I rise to offer my support for the pending legislation to authorize supplemental appropriations for Operations Desert Shield and Storm. This is an important and necessary measure to cover the incremental costs involved in these very successful operations.

This is about what government can and should do for these brave Americans. But that's only a part of the story.

I count it one of the great privileges of my career here in the Senate to have been involved with the families of service people involved in Operations Desert Shield and Desert Storm. Over the last several months, I had the opportunity to meet with about 3,000 family members and support groups across my State and those folks made me proud to be an American.

I learned again how a crisis can bring out the best in people. The selfless giving I saw over and over again on behalf of these families was nothing short of amazing. Gifts of time, money, emotional support, you name it, made an exceedingly difficult time for parents, spouses, and kids much more tolerable. Two heroes in this effort in Minnesota and nationally were Yvonne Minor and Betty Walter.

For every family that had a member in the gulf, there were 250 American families who didn't. In my experience in Minnesota, the 250 did their part back home for those who were doing their part overseas.

This measure also provides an important and well-deserved package of benefits and assistance for personnel participating in the two operations. Our service members and their families have made major sacrifices, and they have earned this additional assistance.

Among others, these benefits include an increase in monthly imminent danger pay from $110 to $150, retroactive to August 2, 1990. It also entitles survivors of military members killed in active duty to payment for unused leave that had accrued over time.

This measure also includes important mental health and other medical benefits as well as substantial assistance for child care, education, and family support services for families of military personnel on active duty.

I am very pleased that this bill authorizes civilian health care providers to waive CHAMPUS copayment requirements, and that it encourages greater participation in this important health care program. These are especially important components of the overall package, and they enjoy my full support.

Mr. President, these are just several examples of the personnel benefits package included in this bill. The entire package provides many very important and well-earned forms of assistance. They have been detailed by the leadership earlier in this debate, so I need not repeat them.

Mr. President, this war has taught us many important lessons, not only about our military strategy, tactics, and equipment. Nor just about our diplomacy and the value of collective responses. This conflict generated a long series of unexpected experiences for the whole country, and for the families of our service people as well.

We learned just how important it is to the men and women in combat and their families back home to know that the American people support them and their actions. Traveling all through Minnesota virtually every weekend and recess period during the entire crisis, I heard time and time again from the families that their burden of having a loved one serve in the gulf was made easier to bear because they knew the American people stood with them, supported them, and loved them. We are all justifiably very proud of our service men and women, and we should also take special pride in their families as well.

Mr. President, in my own experiences in tending to the needs of families and loved ones in Minnesota, I learned how valuable it is for people just to know that someone cares, that someone is available to answer their questions, that someone in "official Washington" can provide straight, accurate information.

Several specific incidences come to mind that I would like to share with my colleagues. From some unknown source, families in Minnesota began hearing that the caskets bearing the remains of our service people would arrive at Dover Air Force Base without American flags draping them. At first glance, this may not seem like a monumentally important issue, but to the families whose loved ones were being asked to make the ultimate sacrifice in defense of this country's interest, it was a very big deal. Members of my staff discussed the matter with the Air Force to determine the correct information, which the Air Force graciously provided. The rumors were entirely false, much to the relief of a great many Minnesota families.

Quite a few families also expressed concern to me about the procedures that would be followed for notifying families of casualties and for providing funeral and burial services. Again, all it took was a little staff work to get the complete story, and the families were allowed to know how things would work.

So clearly, Mr. President, so much fear and anxiety arises from a lack of information or from incorrect or incomplete information.

There were several other areas which we will need to study carefully in the aftermath of this war, which deal with easing the burdens of this kind of reserve callup.

I am pleased that the administration has clearly said that never again will the United States go to a draft in order to provide personnel for its Armed Forces. Whatever you feel about the civil liberties aspects of a draft, the All-Volunteer Army is simply a better way to get the job done. Once we have made that decision, however, we need to address what kind of a Guard and Reserve Force we need, and how we are going to deal with those left behind.

Being from a rural State, I saw many examples of towns devastated when their reservists were activated. Tracy, MN, lost a doctor, when medical personnel are incredibly scarce already. Princeton, MN, lost a surgeon. Waconia lost a doctor. We need to provide funds to replace these people, or make a decision to measure impact on communities as we set priorities for who is going to be called up.

At least three families contacted me, the Weinands of Minneapolis, the Aulls, stationed in Germany and the Sessions, also of Minneapolis, about children left unattended by activation of their parents. In a nation of 250 million people, we should not have to deprive children of both parents to be prepared to fight a war.

We also need to be better prepared in the future to establish the vital link between families and service people through the mails. It may be that limits will have to be placed on well-meaning efforts of support the troops writing campaigns, which made it more difficult for actual family members to get their letters and packages through. It is an important need of both service people and the folks back home, that information between family members can flow.

We also need to look at ways the BAS benefits—basic allowance for subsistence—on which families depend, can be continued even after service people are activated and living on base.

Mr. President, we are all deeply thankful that the war is now over, with only the final stages of arranging a formal cease fire left to be secured. The United States led the coalition of nations arrayed against Iraq in building this remarkable victory against the tyranny and brutality of Saddam Hussein's regime. We relied on the historic building blocks of our Nation: principle, ingenuity, leadership, and courage.

President Bush, his national security and diplomatic teams, our military leaders, and of course, the men and women of our armed services deserve our praise and thanks for a job tremendously well done. The United States has the finest Armed Forces in the world, and I believe this country owes them a debt of gratitude for their courage and sacrifices.

I would also express my sadness and appreciation for the brave Americans who gave their lives in pursuit of our objectives. Minnesota paid a very high price in lives for our accomplishments. Six sons of Minnesota died in Desert Storm, and one is still missing. They have honored this country with their sacrifice, and forever they will be heroes to us all.

The success of Operation Desert Storm is a triumph for the international community. Never before has such a diverse collection of nations joined together in common purpose with such extraordinary success. It is a testimony to the world's rejection of Saddam's outrageous actions, and it offers us solid reasons for hope that the world will also unite against future aggressions.

It remains my hope that the united actions taken by a united world to respond to this aggression will serve to deter and prevent future despots from taking similar actions. We can never be fully certain that that will be the case. But I am absolutely convinced that the efforts of the international community have made this kind of aggression much less likely in the future. Indeed, future aggressors will look back on these remarkable events and have to think twice before invading a peaceful, sovereign neighbor. Future aggressors should take note of this precedent.

And this precedent could well be one of the more important and enduring benefits of this very successful political, diplomatic, economic, and military action. As I have stated before: aggression resisted today is aggression prevented tomorrow.

Further, Mr. President, I believe this precedent helps form the foundation for the more stable, peaceful world order to which President Bush has frequently referred. We have an historic opportunity to form an order in which the international community of nations will be united in ensuring that victory will prevail over tyranny; that brutality will go unrewarded; and that aggression will meet collective resistance.

The more stable and peaceful world order to which we aspire can be one in which the rule of law prevails in order to maintain peace, stability, and freedom among nations. It is one in which global organizations, such as the United Nations, will lead the international community in the collective struggle against aggression and threats to the sovereignty of peaceful nations.

Now, with the war in the gulf behind us, we must look ahead to establishing a more stable, secure, and peaceful Middle East region. I believe President Bush has set the Nation on the proper course in enunciating his four major objectives for our post-war diplomacy in the region. These four objectives include securing regional security, enhancing arms control, developing greater economic cooperation and development, and resolving the Arab-Israeli conflict. Although some of our coalition partners and other countries directly involved may differ somewhat on priorities, interpretations, and strategy, it appears that the objectives themselves are widely shared.

As President Bush and Secretary Baker have said, it is now incumbent on the United States and all other nations involved to get down to the hard work of securing the peace. It is an enormous challenge, one that will require time, patience, and determination. But it is a challenge that we are well prepared to meet, and I fully support U.S. efforts to lead the way in forging ahead in addressing these tasks. I look forward to the future with great anticipation and high expectations.

Mr. President, let me again express my hope and belief that the sacrifices this Nation and the world community have borne to reverse Saddam's aggression will set the cornerstone of a more stable, peaceful world order. Our country will be eternally grateful to the brave men and women who have made possible this successful operation, and who have laid that cornerstone.

Mr. SPECTER. Mr. President, as ranking minority member of the Veterans' Affairs Committee I would like to express my support for the leadership amendment to S. 578, a bill authorizing fiscal year 1991 supplemental appropriations for the Department of Defense for Operation Desert Storm. I was privileged to serve as a member of the Operation Desert Storm Task Force that was able to produce a bipartisan package that provides a wide range of benefits for military personnel serving during Operation Desert Storm. This comprehensive legislation will provide our men and women in uniform with many of the benefits they have earned and so richly deserve.

There were many legislative proposals introduced to assist our servicepersons in the gulf, many of which were referred to the Veterans' Committee. Although many of these legislative initiatives were thoughtful and very credible, many were not included in the final leadership package due to the extremely limited budget provided under the costs associated with Operation Desert Storm. It should be pointed out that each proposal had its merits and that each one would be of assistance to our returning servicemembers. It is unfortunate that our huge Federal budget deficit does not allow us to undertake all the ideas and legislative initiatives at this time.

On March 7, 1991, the Veterans' Committee marked up a package of legislation dealing with benefits for those individuals who served during Operation Desert Storm. This legislation, which has been modified and added to the leadership package, is designed to improve several veterans' benefits and services in order to apply them to personnel who served during Operation Desert Storm. Included in these provisions are improvements in the Department's health care, cemetery, education, benefits, rehabilitation, and reemployment rights systems. These are just some of the important areas the committee bill covers, and I am encouraged that it was included as a part of the larger authorization bill.

Mr. President, one of the specific areas of the leadership amendment I would like to mention is the increase in VA administered education benefits, specifically the Montgomery GI bill for reservists and active duty personnel. The Montgomery GI bill was established in 1985 as a way to provide incentive to individuals joining the military and as a way to help them further their education. The program is a good one and it has proved to be a significant benefit to those who use it.

As we all would agree, education is one of the most important issues facing this Nation and will continue to be for long into the future. Education is this Nation's future, and the Montgomery GI bill is a program that strengthens our future by enabling more people to get a good education. This program has not seen an increase in the benefits it provides since it was established over 5 years ago. The committee bill, now a part of this larger legislation, provides a small, but much needed increase in the Montgomery GI benefits paid to reservists and active duty participants. While this increase is not as large as many in Congress have wished for, it shows we are committed to this important issue and that serious consideration of the program will take place in the future.

This increase in education benefits is a good example of one of the important and timely provisions of the leadership package. Although this bill does not come without a cost, I feel these costs are justified as a part of the emergency expenditures associated with Operation Desert Storm.

In my role as ranking minority member on the Veterans' Affairs Committee and as a member of the Desert Storm Task Force, I feel it is extremely important for Congress to do everything reasonable to assist servicemembers returning from the gulf. The country, the Congress, and the American people are proud of the bravery and commitment shown by our armed services during the Persian Gulf war. It goes without saying that today's military is one of the best trained, most capable forces ever assembled. We, as Members of Congress, have worked diligently and thoroughly to ensure this legislation meets the needs of our servicemembers.

I urge my colleagues to give this crucial legislation their full support and would like to once again thank both our Armed Forces and the American people who supported them for a job well done. This legislation will provide many important benefits to our men and women in uniform, and most importantly, will give substance to the many words of praise and congratulations given to the members of America's military for their tremendous sacrifice and effort.

Mr. SANFORD. Mr. President, Congressman MARTIN LANCASTER, who represents the Third District in North Carolina, has submitted legislation in the House that would offer disaster loan assistance to small businesses that have suffered due to the large deployment of military personnel in support of Desert Storm. There have been measures introduced here in the Senate that would give assistance to small businesses adversely affected by Desert Storm. Unfortunately, none of those measures have been acted upon favorably.

After the passage of the Desert Storm package here in the Senate, I ask that my colleagues appointed to the conference committee give every consideration possible to the legislation of Congressman LANCASTER.

Mr. NUNN. Mr. President. I urge third reading of the bill.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. NUNN. Mr. President, I urge passage of the bill.

The PRESIDING OFFICER. The question is on the passage of the bill, as amended.

Mr. NUNN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Florida [Mr. GRAHAM] is absent because of a funeral.

Mr. SIMPSON. I announce that the Senator from Vermont [Mr. JEFFORDS] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 97, nays 1, as follows:

[Rollcall Vote No. 30 Leg.]

YEAS—97

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Craig
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Gorton
Gramm
Grassley
Harkin
Hatch
Heflin
Heinz
Helms
Hollings
Inouye
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wellstone
Wirth

NAYS—1

Hatfield

NOT VOTING—2

Graham
Jeffords

So the bill (S. 578), as amended, was passed.

(NOTE.—The text of S. 578, as passed by the Senate on this date, will appear in a future edition of the RECORD.)

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NUNN. Mr. President, I ask unanimous consent that when the Senate receives from the House of Representatives H.R. 1175, the companion National Defense Supplemental Authorization Act for the fiscal year 1991, that all after the enacting clause of the House bill be stricken and the text of S. 578, as amended, be substituted in lieu thereof; that the bill be advanced to third reading and passed; that the motion to reconsider the vote be laid on the table; and that the Senate insist on its amendment and request a conference with the House on the disagreeing votes of the two Houses; and that the Chair be authorized to appoint conferees. I further ask unanimous consent that the foregoing occur without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

TREATMENT OF ACCRUED LEAVE OF MEMBERS OF THE ARMED FORCES

Mr. NUNN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 331, Calendar No.10.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. That the text of title III and VII of S. 578, as passed, be substituted for the text of S. 331; that S. 331, as amended, be advanced to third reading and passed; that a motion to reconsider be laid upon the table; that the title of S. 331 be amended to read, "To provide military personnel benefits for persons serving during Operation Desert Storm and for other purposes"; that the Senate proceed to the immediate consideration of S. 332, Calendar No. 11; that the text of S. 578, as passed, except for section 1 and title III, be substituted for the text of S. 332; that S. 332, as amended, be advanced to third reading and passed; that a motion to reconsider be laid on the table; that the title be amended to read, "To authorize supplemental appropriations for the Department of Defense for Operation Desert Storm and for other purposes"; and that the foregoing occur without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRESSIONAL GOLD MEDALS FOR GEN. COLIN POWELL AND GEN. NORMAN SCHWARZKOPF

Mr. NUNN. Mr. President, over the last several days, we have heard a great deal of well-deserved praise for the courage, skill, and professionalism of the men and women in our military services who served in Operation Desert Shield and Desert Storm. I want to take just a few minutes at this time to commend the leadership of the two senior military officers most responsible for leading our Armed Forces during the Persian Gulf war—the Chairman of the Joint Chiefs of Staff, Gen. Colin Powell, and the commander in chief of the U.S. Central Command, Gen. H. Norman Schwarzkopf.

The entire Nation recognizes that General Powell and General Schwarzkopf made decisive contributions to the stunning success of Operation Desert Shield and Storm.

As the Chairman of the Joint Chiefs of Staff, General Powell serves as the principal military adviser to the President, the National Security Council, and the Secretary of Defense. On many occasions during the last 7 months, President Bush and Secretary Cheney have praised General Powell for his outstanding service in this demanding role. The same qualities of professionalism, integrity, and good judgment that have been evident to the President and the Secretary of Defense have been appreciated by Members of Congress as well.

Gen. Norman Schwarzkopf, the commander in chief of the U.S. Central Command, also deserves our deepest thanks and admiration for his service in the Persian Gulf. He and his subordinate commanders, such as General Horner, who did an absolutely unbelievable job with the air campaign, were responsible for planning and leading the execution of an extremely demanding operation. With the benefit of his experience in the Middle East and his personal determination to achieve the coalition's objectives, General Schwarzkopf's forces quickly and completely defeated Iraq with minimal coalition casualties and collateral civilian damage.

Our Armed Services Committee, in the course of marking up this bill which just passed, unanimously passed a resolution urging the Banking Committee, which has jurisdiction in this matter, and the Senate as a whole, to award these officers the Congressional Gold Medal.

Mr. President, I am very pleased that the Banking Committee today has passed a resolution authorizing gold medals for these two outstanding officers. I cosponsored these bills with Senator WARNER, Senator LOTT, Senator GLENN and many other Senators. In sponsoring these bills, we have directed that the Secretary of the Treasury strike congressional gold medals in their honor.

Mr. President, I am hopeful that the Senate will be able to pass this measure that came out of the Banking Committee and sent it to the House for its consideration in the near future.

Since 1776, the Congress has authorized congressional gold medals for approximately 100 individuals as well as the American Red Cross. Several of these recipients have been military officers, including some of our best known military leaders, Gen. Matthew Ridgway, Adm. Hyman Rickover, Gen. Douglas MacArthur, and Gen. George C. Marshall. I believe it is only appropriate that General Powell and General Schwarzkopf join this distinguished list of American military leaders and heros.

Mr. President, in authorizing these medals for General Powell and General Schwarzkopf, the Congress will not honor these two officers but indeed will be honoring all the officers and all the enlisted personnel who under their leadership planned and carried out Operation Desert Shield and Desert Storm so successfully.

Mr. President, I again commend the leadership of the Banking Committee for taking this step and I hope that sometime next week perhaps we will be able to pass these bills in the Senate.

The PRESIDING OFFICER. The Senate from Illinois is recognized.

NOMINATION OF LAMAR ALEXANDER TO BE SECRETARY OF EDUCATION

Mr. SIMON. Mr. President, I understand the next item of business that will be coming before the Senate will be the nomination of Lamar Alexander for Secretary of Education. I just want to take 1 minute here to say I know there have been questions raised on the financial side. I have looked into those things.

I do not believe any laws were violated, though I have to say some of the actions were troubling enough that if he were a mediocre nominee I probably would vote against him. But I think he has the potential to be a superb Secretary of Education. I voted for him in committee and I will vote for him on the floor. I hope that he really gives the Nation the leadership we so desperately need in the field of education and, frankly, leadership that up to this point has been somewhat lacking.

So my vote will be for him. I assume he will be confirmed by a voice vote.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination of Lamar Alexander to be Secretary of Education.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

DEPARTMENT OF EDUCATION

The legislative clerk read the nomination of Andrew Lamar Alexander, Jr., of Tennessee, to be Secretary of Education.

Mr. KENNEDY. Mr. President, I ask unanimous consent to vitiate the yeas and nays.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the unanimous-consent request now pending before the Senate, the Senator from Massachusetts has 1 hour and the Senator from Utah has 1 hour.

Mr. KENNEDY. Mr. President, I yield such time as I might use.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, today, the Senate will consider the nomination of Lamar Alexander to be Secretary of Education.

The President's nomination of Governor Alexander was widely praised, and deservedly so. During his 8 years of service as Governor of Tennessee from 1979 to 1987, he earned a national reputation as a champion of public education and education reform. He initiated far-reaching improvements in Tennessee public schools. He played an instrumental role in persuading the National Governor's Association to focus more attention on education and its critical importance to the Nation's future.

He has also played an active role in developing Federal education policy. His report on the National Assessment of Educational Progress was an effective blueprint for its expansion, and the Senate relied heavily upon his work when we reauthorized the program in 1988.

The Labor Committee held a hearing on Governor Alexander's nomination in January. I was impressed by his knowledge of education issues and his willingness to tackle this vitally important job. I was especially pleased with his candor and his decision to start over on the Department of Education's misguided and hastily announced policy casting doubt on minority scholarships.

Governor Alexander has an outstanding record in education and has earned bipartisan respect for his role in stimulating education reform. His leadership will be vitally important in marshaling the energy and support essential to assure that every child enters school ready to learn, and that our schools do a better job of providing all children with the opportunity to reach their full potential.

As the committee considered this nomination, a number of questions arose with respect to the propriety of a series of complex transactions that produced substantial personal financial gains for Governor Alexander and his family in the years after he became Governor of Tennessee in 1979.

The committee investigated these matters, and found no persuasive evidence of violation of law by Governor Alexander. At a meeting of the committee yesterday, we recommended his confirmation by a vote of 16 to zero, with one Member voting "present."

Governor Alexander's knowledge, interest, and commitment make him an excellent choice to be Secretary of Education. In the 12 years since the Department of Education was created, four persons have served as Secretary. None of them has had the track record in education that Governor Alexander brings to this job.

Because of his role in stimulating school reform in Tennessee, Governor Alexander knows firsthand how hard it is, and what it takes, to improve our schools. Given his efforts to attract the General Motors Saturn plant to his State, he knows about the close relationship between education and economic growth. And his service as president of the University of Tennessee gives him insight into why America has the best network of colleges and universities in the world, and what we must do to maintain them.

His personal commitment to civil rights means that he understands the importance of equal access to educational opportunities.

Last, but not least, he is a public official who understands the importance of consultation, negotiation, and compromise to accomplish public policy goals. That skill is a priceless asset for a Secretary of Education.

The challenges facing the Nation on education are profound.

Far too many students are already behind their grade level the day they enter school. Most will never catch up.

The majority of students are not challenged in school—they coast through, without ever being pushed, because they see no connection between what they do in school and what they want to do in life.

American students are at the bottom of the industrialized world in international comparisons of math and science achievement.

Too many young teenagers leave school without graduating.

Schools are of grossly unequal quality. Too many families—especially the disadvantaged—send their children to schools that are second rate, or worse.

Access to higher education is also unequal. Too many disadvantaged students find the doors to the university barred because of the high cost.

Many of our colleges are more concerned with building their endowments or improving their athletic teams than they are with the quality of the education they provide to their students.

Millions of adults lack basic literacy skills. These are important issues. We need a Secretary of Education who will address all of them as if our Nation's future depends on it—because it does.

America must once again become a nation that places a high value on education and that has high expectations for its schools, its colleges, and its students.

To achieve our goals, we need both an education President and an education Congress.

Now, as the education Governor becomes education Secretary, we have a greater chance to reach our objectives. I urge the Senate to confirm Governor Lamar Alexander as Secretary of Education. I wish him well, and I look forward to working with him.

Mr. HATCH. Mr. President, I yield such time as I may need.

The PRESIDING OFFICER (Mr. HARKIN). The Senator is recognized.

Mr. HATCH. Mr. President, I rise to support enthusiastically Governor Alexander to be our next Secretary of Education. I am delighted that Governor Alexander has been nominated by President Bush for this position. I am pleased that the committee has chosen to move this nomination forward and that we are considering this nomination today in the Senate.

Governor Alexander's distinguished career is well known to members of the committee. As Governor, he launched a wave of education reform throughout the State of Tennessee during the 1980's which increased teacher salaries and upgraded education in the State of Tennessee. The leadership, energy, and vitality that he brought to the education reform movement in Tennessee are well known and they are needed here in the country as well.

A quality education is one of the most important benefits a government can provide for its citizens. The education we provide for our students, regardless of race, creed, or economic status, will determine the future of this country. The next generation is being trained in our schools right now. What our world will be like 30 years from now depends upon teachers and students in our classrooms at this very moment.

Governor Alexander's commitment to education is personal as well as professional. As many of you may know, both of his parents were deeply dedicated to education and to the family. His mother was a teacher and his father worked as an elementary school principal. His own dedication to education has evolved and grown throughout his entire life and has been evidenced most recently during his tenure as president of the University of Tennessee.

Education in our country is clearly in need of reform, and I am confident that Governor Alexander will be able to guide us in the right direction. He is a dynamic leader, an innovator, and an experienced administor. I look forward to working with him on our educational initiatives, including the Higher Education Act reauthorization which is already underway.

I know that Governor Alexander realizes that education reform is not an end—it is only a means to our true goal of educational improvement. I know that he views this opportunity as a great responsibility and challenge.

I look forward to working with him and President Bush and the members of our committee, and the committee in the House as well, on the pressing education issues that face our Nation.

Mr. President, I have to say that I have watched this Department of Education for many years as ranking member and chairman at one time of the Labor Human Resources Committee. I think we have been privileged to have some very wonderful Secretaries of Education.

But I do not know of any time since I have been here in my three terms in the Senate that I have been more enthusiastic about having someone like Lamar Alexander as the Secretary of Education. I think he is going to make a tremendous difference in all of our lives, and I am looking forward to working with him, very very closely. I think all members of the committee are.

I personally appreciate our chairman in the efforts he has put forth to resolve the problems that have arisen and his expediting this inasmuch as the Department of Education has been rudderless, really, for almost 3 months now, almost 4 months.

Mr. President, I absolutely believe in the Senate's prerogative to question Presidential nominees and to find out whatever we can about their fitness for the office.

And, I am sure that Lamar Alexander would be the first to say that he feels thoroughly questioned about his financial affiars.

I have listened carefully. I have read all of his answers to our many questions. I have seen his tax returns, which he voluntarily supplied, and I have reviewed the FBI report. Let me tell you something of what I have found.

I have found Governor Alexander to be perhaps the most forthcoming public official with whom I have ever dealt.

Throughout his tenure as Governor of Tennessee, he faithfully disclosed all of his and his family's financial holdings—even though he was not required to do so.

One of Tennessee's leading Democratic newspapers said he was a man of unquestioned integrity.

During his 8 years as Governor, his net worth went from about $212,000 to $467,000, except for one stock transaction.

He made some money after he left office—and he certainly is not the first public official of either party to have done so—but he made it with businesses who did not do business with the State while he was Governor.

Governor Alexander was the first candidate in Tennessee history to fully disclose all his campaign contributions. This was in 1974.

When he was elected Governor—from 1979 to 1987—he disclosed every year his tax returns, his net worth, his income, his debts, and his assets as well as those of his wife and children. No Govenor had ever before done that. It was not required by law.

According to those State disclosure documents, his net worth increased from $212,000 in 1979 to $467,000 in 1986, about 12 percent a year, or just a little better than the rate of inflation. This did not include his investment in Gannett stock which he also reported on his annual returns.

Because there has been so much talk about how much his net worth has increased, I ask unanimous consent to have printed in the CONGRESSIONAL RECORD his 1979 net worth statement and his 1986 net worth statement, both of which, along with their attachments, were filed in Tennessee State government offices.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JUNE 11, 1979.

Ms. KATHERYN C. CULBERTSON,
State Librarian and Archivist, Tennessee State Library and Archives, 403 Seventh Avenue, North, Nashville, TN.

DEAR MS. CULBERTSON: On April 21, 1978 I filed with your office a full disclosure of my and my immediate family's financial position, including our federal state income tax returns for 1977.

I pledged then that, as Governor I would each year make a similar disclosure. This disclosure for the year 1978 includes sources of income, assets, debts, estimated net worth and my family's assets and sources of income. (This is in addition to the briefer "Disclosure Statement" which the law required that I file with the Secretary of State earlier this year when I was inaugurated.)

1. 1978 Taxes—On April 16, my wife, Leslee B. Alexander, and I jointly filed our 1978 federal income tax return. We paid $26,941.01 taxes on $92,653.44 income At the same time, we filed our 1978 state income tax return. We paid $100.44 on $1,674.01 dividend and interest income.

A copy of both returns is attached.

2. Sources of Income—Except for rental income mentioned below on four houses in Nashville, my only source of income is my salary as Governor.

I am not an officer, director, or stockholder in any corporation.

3. Assets, Personal Debts, Net Worth—(Some of the market values are difficult to judge; the estimates are the best I could make.)

ESTIMATED VALUE

A. Assets:

Savings: (1) Value/Retirement plans, $155,000; (2) Bank Accounts, $8,000.

Stocks: None.

Real Estate: Equity (estimated market value less mortgage indebtedness in four Nashville residences) and in ½ interest in two partnerships which own about 471 acres of mountain land in Blount County, Tennessee which are unimproved except house and barn. Rental income on the houses in 1978 was $18,418,41, all of which was spent on insurance, repairs, taxes and mortgage payments. $178,000; Personal Property: Furniture, life insurance and misc. assets, $20,000; total assets, $221,000.

B. Personal debts (excluding previously mentioned mortgage debt): Co-sign note with parents, $9,000; total personal debt, $9,000.

C. Estimated net worth, $212,000.

4. Family Assets and Sources of Income—

A. Wife.—In addition to jointly owning one of the Nashville residences previously mentioned, she has invested approximately $60,000 in three limited partnerships which own unimproved, non-income-producing real estate. Two of these tracts are in Davidson County, and one is in Williamson County. She is not a general partner in any of these partnerships.

In addition to these Tennessee investments, my wife has inherited or been given a small percentage interest in certain property which her family has owned in Texas where she was raised. Her income from all these interests totalled $9,531.34 in 1978. She also received a total of $1,664.20 in dividends from ownership of shares of stock in South Texas Savings Assn., First Texas Financial Corp., Entrex, Inc., Phillips Petroleum, Hospital Corporation of America, Houston Natural Gas Corporation, General Telephone and Electronics, and Xerox Corporation.

Children.—Our son Drew, 9, owns 13 shares of stock in American Telephone and Telegraph Co. Our son Will owns 50 shares of stock in Shoney's, Inc.

Drew with his two sisters, Leslie, 7, and Kathryn, 5, own the beneficial interest in a trust established to help with the expenses of their college education. The trust owns a 1/10 interest in a limited partnership which owns three Davidson County apartment complexes, two on White Bridge Road and one in Madison. The present value of their beneficial interest is probably $40,000 to $50,000 in excess of the Trust debt. Honey and I are contingently obligated to pay off the trust debt should the income from the trust or its value at a sale prove insufficient.

Very truly yours,

LAMAR ALEXANDER.

STATE OF TENNESSEE,
April 11, 1986.

Mr. DAVID DURHAN,
Assistant Coordinator of Education, Suite 500,
James K. Polk Building, Nashville, TN.

DEAR MR. DURHAM: This is my ninth consecutive annual voluntary disclosure of my and my family's financial position, including our federal and state tax returns for the preceding year.

This disclosure, for the year 1985, includes sources of income, assets, debts, estimated net worth and my family's assets and sources of income as of April 11, 1986. (This is in addition to the briefer "Disclosure Statement," which the law required that I file with the Secretary of State in January.)

1. 1985 Taxes—On April 11, 1986, my wife, Leslee B. Alexander, and I jointly filed our 1985 federal and state income tax returns. We paid $16,924.00 taxes on $105,574.00 income.

2. Sources of Income—Except for rental income mentioned below, and out-of-state speech honoraria, my only source of income is my salary as Governor.

3. Assets, Personal Debts, Net Worth—(Some of the market values are difficult to judge; the estimates are the best I could make.)

ESTIMATED VALUE

A. Assets:

Savings: (1) Accounts, $4,000.00; (2) Note Receivable (from Processed Food Corp.), $5,246.00.

Stocks: (1) Processed Food Corp., $2,000; (2) Shares and options to purchase shares in Gannett, Inc., value uncertain because sale is restricted.

Real Estate: Equity (estimated market value less mortgage indebtedness) in one-half interest in home and guest house and two acres in Blount County, Tennessee; in twenty-five percent interest in commercial real estate in Davidson County; in one-half interest in a rental duplex in Beaufort County, South Carolina; in one-half interest in a partnership which owns about 950 acres of mountain land in Blount County, Tennessee (which is unimproved except for two houses and a barn); in 2½ percent ownership interest in oil and gas lease in Texas and Oklahoma; and in one-half contract to purchase unimproved lot in Williamson County, $588,932.00

Personal Property: Furniture, life insurance and misc. assets, $40,000.00; total assets $640,178.00.

B. Personal debts (Excluding previously mentioned mortgage debt): Bank Loans, $171,802.00; Total Personal Debt, $171,802.00.

C. Estimated net worth (Not including Gannett shares and options) $468,376.00.

4. Family Assets and Sources of Income—

A. Wife—She has invested $35,000 in a limited partnership which owns real estate in Davidson County. She is not a general partner in this partnership.

In addition to these Tennessee investments, my wife has inherited or been given a small percentage interest in certain property which her family has owned in Texas where she was raised. Her income from all these interests was about $37,000.00 in 1985. This income included a total of $17,134.00 in dividends from ownership of shares of stock in General Telephone and Electronics, Merrill Lynch Realty Assets, South Texas Savings Association, Starboard Corporation, Gannett Co., William Wrigley Co., South Trust Corp., Multi-Media, Singer Co., Time Energy Systems, Pepsico, Cracker Barrel, Commonwealth Edison, Weyerhauser, Xerox, Southlife Corporation, Public Service of Colorado, Texaco, Flowers Industries, Longview Fiber, L&N Housing Corp., General Motors, Houston Natural Gas, Boeing, Phillips Petroleum, Pfizer, Stanley Works, Colonial Advanced Strategist Gold Trust, American Express, Anheuser Busch, IBM, Hospital Corp. of America, Entex, and Federal Express. She also had some capital gain income from the sale of some of these shares of stock and an interest in a limited partnership which owned real estate in Davidson County. She owns a half interest in a rental duplex in Beaufort County, South Carolina, a half interest in our home and two acres in Blount County, Tennessee, and a half interest in our contract to purchase an unimproved lot in Williamson County.

B. Children—Our son, Drew, 16, owns 21 shares of stock in American Telephone and Telegraph Company, and some other miscellaneous stocks worth less than $500. Our son, Will, 6, owns 50 shares of stock in Shoney's, Inc.

Drew, Will, and their two sisters, Leslee, 14, and Kathryn, 11, own the beneficial interest in a trust established to help with the expense of their education. The trust owns a note receivable resulting from the sale of apartments in Davidson County. The present value of their beneficial interest is probably $200,000 in excess of the trust debt. Honey and I are contingently obligated to pay off the trust debt should the income from the trust or its value at a sale prove insufficient.

Very truly yours,

LAMAR ALEXANDER.

Mr. HATCH. Mr. President, after he left the Governor's office, he went to work to earn a living and, while it would have been perfectly legal to do so, he worked for businesses that did not do business with the State of Tennessee while he was Governor.

My colleague, the Senator from Massachusetts, noted yesterday that Governor Alexander had investments in the Knoxville Journal, Corrections Corp. of America, Blackberry Farm, and Whittle Communications. What was not mentioned was that not one of these companies did business with the State of Tennessee while he was Governor.

Governor Alexander also has reported to us that he made some money from a venture capital firm, a private Baptist college, and Processed Foods, Inc. None of these had a State contract when he was Governor.

In 1988, after he had been busy earning a living as a private citizen, he became president of the University of Tennessee. Before taking this position, he sat down with the State attorney general, the university counsel, and his own attorney to determine what activities he could and could not appropriately undertake to be in compliance with State laws. He continued to serve on some boards, but only with the written legal opinion of the Tennessee attorney general.

When he sat on those boards, he took vacation time from the university.

And, in the case of First Tennessee Corp., he donated the fees to the university.

Moreover, with respect to the increase in the Governor's net worth that some people have focused on, I would like to point out a few things.

It didn't happen while he was Governor, except for the Knoxville Journal transaction. And, I have not heard anyone in this body suggest there is anything wrong with a politician wanting to own part of his hometown newspaper.

And, the documents show that Governor Alexander's net worth has increased from about $212,000 in 1979, his first year as Governor, to $467,000 in 1986, his last year as Governor. It is about $1 million in 1991, 4 years after he left office. That is an admirable increase, but far from the big numbers I've heard tossed around.

Some of those big numbers have included his wife's assets, which she was fortunate enough to acquire from her family and which were reported separately while he was Governor.

And, some of these big numbers come from the insistence of our committee that the Governor try to put a fair market value on his ownership of stock in new companies, which is a very inexact science at best.

For example, $800,000 of the alleged $3 million net worth of Governor and Mrs. Alexander is their holding of an estimated $800,000 worth of stock in Corporate Child Care, Inc. The Alexanders, along with Bob Keeshan, who Members may remember as Captain Kangaroo, founded this company in 1987, after the Governor left office. Its purpose is to help companies provide child care for their employees. It has won contracts with Marriott, Merck, and other fine American companies and does not do business with government. The stock does not trade. It may be worth nothing, or it may be worth $800,000, or it may be worth more. It is my understanding that the Alexanders have never taken a penny out of the company.

Now, I go into all of this because I think it needs to be presented.

I believe we have an interesting, different sort of person for Secretary of Education. This is a man who walked across his State in a red plaid shirt to be Governor, played piano concerts with symphonies all over his State, moved his family to Australia when he left office and wrote a wonderful family story about it, helped launch a State magazine, founded a child care company with Captain Kangaroo, and founded a leadership institute at Belmont College.

I believe Governor Alexander, during his public career, has demonstrated a strong sense of integrity and has tried to do what is right.

We are lucky to have a man with so much ability to be Secretary of Education. Lamar Alexander is an individual who cannot only generate ideas, but can also get them into practice. His presence in the President's Cabinet will be good for education in our country.

Mr. DOLE. Mr. President, I am very pleased to finally have this opportunity to speak in support of Gov. Lamar Alexander's nomination to be the Secretary of Education. Frankly, I'm not so sure that the long delay in his confirmation was necessary or productive. However, I, for one, believe Lamar Alexander will be worth the wait.

We are all aready well-aquainted with Lamar Alexander's track record in education. As Governor of Tennessee, as chairman of the National Governors Association, as a member of President Bush's Education Policy Advisory Committee, and, most recently, as president of the University of Tennessee, Lamar Alexander has been a leader and innovator in promoting educational progress and reform. I am convinced that he will bring the same intellect and energy to his new job as Secretary of Education.

At the same time, I have concerns about the way Governor Alexander's nomination has thus far been conducted. The Democrats on the Senate Labor Committee have belabored this nomination, supposedly to put to rest all of their questions about the Governor's financial history. I have no problem with close examination of a public servant's record—we in Government have a responsibility to the American people to set an example in ethics and integrity. However, I do object to needlessly dragging out a nominee's confirmation when there is absolutely no evidence of impropriety.

The Labor Committee Democrats asked the same questions over and over, and every question got the same answer—Governor Alexander has nothing to hide. Let's make this very clear for the record—he has broken no laws, committed no improprieties with his finances. If nothing else, Governor Alexander should be congratulated for the forthright and patient manner in which he answered every one of the questions posed to him.

In the wake of our Desert Storm victory, many Senators on the other side of the aisle have taken this opportunity to bash the President's domestic policies. Among other things, they say that the President isn't doing enough for education. Well, the President submitted Lamar Alexander's name a long time ago. Republicans and Democrats alike have acknowledged that Governor Alexander is one individual who can provide dynamic, aggressive leadership in educational policy. But maybe that's what Labor Committee Democrats were afraid of. It's pretty ironic that the same Democratic critics of the President's domestic policy have held up the appointment of an outstanding Secretary of Education.

I have known Lamar Alexander for a long time and am confident that he will serve this Nation well as the Secretary of Education. Lamar Alexander will certainly help President Bush deliver on his promise to be the "education president." I hope all of my colleagues will support his confirmation.

Mr. KENNEDY. Mr. President, I yield such time as the chairman of the Education Subcommittee, the Senator from Rhode Island [Mr. PELL] may need.

Mr. PELL. I thank my colleague from Massachusetts.

Mr. President, we are fortunate indeed to have such an educated and well qualified candidate as former Gov. Lamar Alexander for Secretary of Education. He comes from an education family, made his mark as an education Governor, and distinguished himself as an education president at the University of Tennessee.

I believe Governor Alexander has the opportunity to distinguish himself as an excellent Secretary of Education. But I also believe that he repeatedly exercised poor judgment and poor taste in his investment practices, and that this has cast an unfortunate shadow over his nomination.

However, I believe the balance lies in Governor Alexander's favor. That is why I supported his nomination in committee and why I intend to vote for his confirmation today.

Mr. President, I firmly believe that there is not a person in the U.S. Senate who does not want President Bush to become the education President. We stand ready to help him accomplish that task. But we want him to be an education President in deed as well as word.

I fervently hope that Governor Alexander, when confirmed, will use his strong record of commitment and action in education to help the President earn the title that now eludes him.

Lamar Alexander has the opportunity to become our Nation's education advocate at the Federal level, and I am equally fervent in my hope that he will reach for the brass ring and exercise the leadership which we so desperately need.

Mr. HATCH. Mr. President, I yield such time as she may need to the distinguished Senator from Kansas, who is the ranking member on the Education Subcommittee.

Mrs. KASSEBAUM. Mr. President, I am pleased to rise in strong support of the nomination of Lamar Alexander as Secretary of Education. Throughout his career, Governor Alexander has demonstrated leadership in the field of education. The experience and talent he brings to the job will serve us all well as we strive for educational excellence in all corners of our Nation.

Over the past several weeks, several questions have been raised about Governor Alexander's financial dealings. These questions have been explored in a thorough examination by Labor Committee investigative staff with the Governor's full and open cooperation. Following this review, his nomination was endorsed yesterday by a 16-to-0 vote of the committee. I commend the efforts of the committee and Senate leadership to bring his nomination to the full Senate so promptly after the committee vote.

From his childhood as the son of two educators, Lamar Alexander has held a keen sense of the importance of education. As the Governor of Tennessee, he was in the forefront of the school reform effort. His hard-fought efforts proved him to be a strong and dedicated leader in support of the quality education that our children need and deserve.

He carried this reform effort beyond the borders of his own State as chairman of the National Governor's Association [NGA]. The efforts helped lay the foundation for a growing national focus on the importance of education to our future economic security and prosperity. I concur in the sentiments he expressed in the NGA report, "Time for Results," that "to meet stiff competition from workers in the rest of the world, we must educate ourselves and our children as we never have before."

Moreover, his commitment does not stop with the Nation's elementary and secondary schools. Governor Alexander has served as the president of the University of Tennessee. As Congress addresses the reauthorization of the Higher Education Act this year, Governor Alexander's perspective will be invaluable. He will approach the issue not only as a former university official but also as one who understands the steps leading up to postsecondary education.

Experience in government and substantive knowledge of education are a powerful combination. Governor Alexander possesses both. Rarely has a candidate been as well prepared and qualified to head the Department of Education.

That is not to say, Mr. President, that we have not had exceptionally fine Secretaries who have preceded Lamar Alexander, but I think this is a rare combination and one that will serve us well. I look forward to working with Gov. Lamar Alexander as he sets about the task of pressing toward excellence and opportunity in education for all of our students. I know that he brings to the job qualifications that will serve us well as we strive for educational excellence.

I yield the floor.

Mr. HATCH. Mr. President, I yield 3 minutes to the distinguished Senator from Missouri [Mr. BOND].

Mr. BOND. Mr. President, I am very pleased to rise in support of a very good friend, Lamar Alexander, to be Secretary of Education.

As this body knows, Governor Alexander has earned the confidence of the education community because of his experience as president of the University of Tennessee where he improved the schools academic quality by recruiting topflight professors and securing more funding for scholarships.

I had the pleasure to get to know very well Governor Alexander when he was Governor of Tennessee and I was Governor of Missouri. In that period of service, I watched as Governor Alexander served as chairman of the National Governors Association. He was deeply involved in educational issues. He was honored by the Education Commission of the States for distinguished national leadership in the field.

It is frequent that we talk about States being laboratories in which governmental programs can be developed. Certainly, Governor Alexander's laboratory in Tennessee was one of the most innovative in the field of education when he led that State. He showed that education can be improved, yes, by putting more dollars into it, but also by demanding results. He was not afraid of controversy, and there were some very rough battles he had to win to convince those who were skeptical. But he persevered. He had the ideas and he had the vision for where he wanted to see education go in his State. And he accomplished it.

I believe that he will bring that same dedication to the problems of education in our Nation, the same willingness to fight hard. His diligence, his ability to see through the challenges, to seize the opportunities, will serve all of us well.

I have talked with him about the Parents and Teachers Program in Missouri, which is an innovative program. I know he can draw on his experience from other areas to help share ideas which are being tried and which are successful with other States, localities, and with this body as well.

I believe that the problems of our Nation's educational institutions are many and complex. At a time like this, I think a man of his proven leadership and management ability can serve us well. I think we can be confident that he will be as tenacious and skilled implementing the challenges confronting his new position as he was as CEO of the State of Tennessee and the university there.

I believe Lamar Alexander will be a tremendous asset to President Bush's Cabinet. I look forward to working with him on education in the years to come. Clearly, there are enough challenges ahead of us for all to share. But with a man of the caliber of intellect and dedication of Lamar Alexander, I believe that we will have good leadership of our Nation's Education Department.

I urge my colleagues to approve this nomination today. I know that we all will benefit from working with Lamar Alexander as Secretary of Education.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I will be glad to yield what time the Senator from New York requires.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I, too, rise enthusiastically to support the nomination of Lamar Alexander to be Secretary of Education, to congratulate him, and to congratulate the President for having sent this nomination to the body.

The history of the Department of Education has been a difficult one. It was conceived in circumstances that were not altogether lucid, as to their educational purposes, and has had some difficulty commencing its true vocation, which is to pursue both the improvement of American education and the measurement of that improvement.

There is just now, or has been of late, a good deal of talk in Washington—it comes from persons known in the White House staff—about a paradigm shift in domestic issues generally. That is a term taken from the work of Thomas Kuhn, at Princeton University, who described the progress over time of changes in the scientific understanding of natural phenomena. There is a period of normal science that take place in a given set of understandings of the world and then, every so often, something abruptly happens and then the paradigm shifts abruptly and then you have another such period.

I suppose the most dramatic and best understood, to us, of such a shift is the Copernican Revolution. After a long period of controversy Copernicus and Galileo discovered that an idea that had been in place for several thousand years, that the Earth was stationary in the universe and the Sun revolved around the Earth, was false, and that the Sun is stationary and the Earth revolves around it.

Something similar took place in the field of education with the publication in 1966 of the report on Equality of Educational Opportunity prepared by James S. Coleman, then of the Johns Hopkins University, and his associates, Ernest Campbell and others, in which, taking a section of the Civil Rights Act of 1964 which called for a study of equal educational opportunity, they carried out the second largest social science survey in the history of the Nation to that date.

They came forward with some striking findings which in their totality were quickly seen to be extraordinary and are now seen to have brought about a paradigm shift with respect to our understanding of the processes of education. We had previously seen education and measured its effectiveness and our performance, in terms of the resources we put into the field, how much input we had. Suddenly, with the Coleman study, we began to ask ourselves instead: What is the output; what do you get for what you put in?

He could find, at most, very weak relationships between different allocations of resources and different outcomes. He found most of the variation in outcomes—and there was a very great variation—was within schools rather than between schools.

A generation of scholarship has followed, some of it involving the very distinguished and able and learned Senator from Colorado, who is on the floor. The net results has been to confirm this view irrevocably.

That paradigm shift was to be found in the educational goals for the year 2000 which President Bush announced at his first State of the Union Address, which he had reached in cooperation with the Governors of the Nation in a meeting down in Charlottesville. It was the third such meeting in our history. The first had been called by Theodore Roosevelt on conservation; next, by Franklin D. Roosevelt on the Depression; and now by President Bush, in response to a widespread sense that things are not going well falling SAT scores, poor ranking in international comparisons and such.

So they set out in the best tradition of this new paradigm to say these are the outputs we were going to reach by the year 2000. More you could not ask in terms of public policy as conceived.

On the other hand, there was a problem, to the best of my understanding, that there is very little if any probability we will achieve those goals. Some of them verge on the tautological.

If you say every child must be ready for school at age 6 and you define age 6 as the time you are ready for school, we will get there. But to say we will be first in mathematics and science by the year 2000; we will not. As a matter of fact, it is interesting that President Reagan in 1984 set essentially the same goals for the country for the year 1990, when they were reproclaimed, as it were, for the year 2000.

That is all right, to my mind, if starting now the new Secretary of Education, a man of Lamar Alexander's range of experience from the White House to the State house to the Presidency of a great university, will begin to measure what we do. And if we fall short, as I assure you we will, the Secretary will build some experimental factual basis for this shortfall. By the year 2000 we will know a lot more about how to get those goals if we reestablish them, as indeed we should. This is now how we understand the subject.

I know he will rise to this challenge. He will understand the matter and he will take it on. This has not been the case in the past.

While he was a member of the White House staff, the President proposed the establishment of a National Institute of Education to be located in the then Department of Health, Education and Welfare, which would take that Coleman paradigm shift and begin measuring educational outputs across the country.

This bill was enacted by the Congress in 1972, the educational amendments of 1972. John Brademas, in the House of Representatives, took the lead, along with Edith Green.

I regret to say that the National Institute of Education failed completely to achieve any of its purposes. It has now, for practical purposes, disappeared into the Office of Educational Research and Improvement. I would be happy to be corrected, but I do not know, in the 19 years since it was established, it ever produced any research that changed our understanding of any of these matters. So be it. Now we have a Secretary who can deal with these matters and I hope will.

At this point I ask unanimous consent to have printed in the RECORD a recent paper entitled "Educational Goals and Political Plans" that I wrote for the public interest.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

EDUCATIONAL GOALS AND POLITICAL PLANS

(By Daniel Patrick Moynihan)

American politics has been notable for its lack of ideological structure. We have had our share and more of ideological movements, but these have typically begun outside the system of political parties, thereafter seeking to influence and on occasion to penetrate the established institutions. The latter have in the main resisted this, usually preferring to soften distinctions and to compete for votes at the center. Accordingly, it is common for American politics to be described as pragmatic, in contrast to the complex social doctrines that guide European politics.

This American institutional peculiarity, however, conceals a long-established bias in favor of that obscure but enduring ideology known as social science, to which the Founders themselves explicitly acknowledged their debt; they asserted that the Constitution was drawn up in accordance with a "new science of politics," based on a realistic assessment of human motivation, which gave promise of stability through the interaction of clashing interests. Good revolutionaries, they placed an appropriately high value on stability, but they looked for more than stable government; their science was intended to produce good government as well.

Instances abound of Americans' attempts to use social science to improve government. It was the American theory of penal reform, for example, that summoned Alexis de Tocqueville to upstate New York; only upon arrival did he look about him at American democracy.

EDUCATIONAL REFORM TODAY

But of all such reformist enterprises none began earlier, has lasted longer, and remains as problematic as the effort to provide good and equal educational opportunity. Indeed, as a nation, once again we find that we are dissatisfied with our educational system. We do not seem to be turning out the students we had hoped for. A front-page story in the New York Times last March described the present as "a moment of widespread dismay with the schools" of New York City. And New York is scarcely alone. In 1983 a National Commission on Excellence in Education entitled its report "A Nation at Risk." On every had there was a litany, as Chester E. Finn, Jr., put it, of "allegation, lamentation, and evidence." The evidence—test scores—was damning and the effort toward reform was seemingly stymied.

Recognition of the need for reform reached an apogee of sorts in 1990, when President Bush devoted a sizable portion of his 1990 State of the Union message to setting forth specific educational goals for the year 2000. The White House thereafter provided a text, which helpfully noted the moments when the Congress broke into "(applause)." "(light applause)," or "(continued applause, laughter)":

"Education is the one investment that means more for our future because it means the most for our children. Real improvement in our schools is not simply a matter of spending more. It's a matter of asking more, expecting more of our schools our teachers, of our kids, of our parents and ourselves. And that's why tonight—(light applause)—and that's why tonight I am announcing America's education goals, goals developed with enormous cooperation from the nation's governor. . . .

"By the—(applause)—by the year 2000 every child must start school ready to learn.

"The United States must increase the high school graduation rate to no less than 90 percent. (Applause.)

"And we are going to make sure our schools' diplomas mean something. In critical subjects, at the fourth, eighth, and twelfth grades, we must assess our students' performance.

"By the—(applause)—year 2000, U.S. students must be the first in the world in math and science achievement. (Applause.)

"Every American adult must be a skilled, literate worker and citizen."

Now this is a large pronouncement, even granted the setting. We are told that the future is at stake. And not just the future of our youth, but that of our nation. Of a sudden, international politics has taken over what was once the modest domain of school boards whose members in most parts of the nation carefully avoid party identification.

We will return to the (drear) implications for the nation of the State of the Union address. The point here is that the President was speaking to Congress in a vocabulary created in the 1960s by the sociologist James S. Coleman, then of Johns Hopkins University, and his associates, notably Ernest Campbell of Vanderbilt University. Coleman and his associates conducted a survey of public schools and students in 1965, which was published in 1966 by the Office of Education of the U.S. Department of Health, Education, and Welfare. Entitled "Equality of Educational Opportunity," the work soon became known as the Coleman Report.

The Coleman Report introduced the language of educational outputs, which was a wholly new way for public officials to define educational policy. This language has antecedents in economic concepts such as Leontief's input-output models and Kuznets's gross national product; but the report was unmistakably a work of sociology. It was the peculiar political fate of this most powerful government-sponsored social-science research of the later twentieth century to appear just as the federal government had lost the capacity to act upon it. Whether and when this capacity might be restored is another matter.

EDUCATIONAL FAILURE AND THE WAR ON POVERTY

Let us go back to January 1, 1964, when another government report—"One-Third of a Nation"—was issued. This report had its origins the previous summer,[1] when the author of the present essay, who was then Assistant Secretary of Labor for Policy Planning and Research, noted that half—49.8 percent—of the young men who were examined for Selective Service had been rejected, having failed the mental test (the Armed Forces Qualification Test or AFQT), the physical test, or both. This seemed a large proportion. If on closer examination it was true that a goodly portion of the entire cohort of young men would fail, then we had a better case than we perhaps realized for the assorted education and training programs that President Kennedy had proposed to a generally indifferent Congress.

Selective Service was not in the least controversial at this time, while military preparedness is (almost) always an acceptable theme and an occasion, at times, for social enquiry.[2] Wherewith, the President's Task Force on Manpower Conservation. The Task Force was chaired by W. Willard Wirtz, Secretary of Labor, with Robert S. McNamara, Secretary of Defense; Anthony J. Celebrezze, Secretary of Health, Education, and Welfare; and Lieutenant General Lewis B. Hershey, head of the Selective Service System. I served as secretary, using the great capacities of the career civil servants of the Bureau of Labor Statistics and a more-than-cooperative Department of Defense to establish the baseline data.

We established, as the title of the report indicates, that if all the eighteen-year-olds in the population were to be tested, a third would be rejected for failing at least one of the tests. One-third was surely a large enough proportion to cause concern. But most striking was the variation among states.[3] In that most admirable northern tier of states running from the Great Lakes to the Pacific Ocean, educational failure was minimal: only 2.7 percent failed in Minnesota, and 3.6 percent in Washington. By contrast, the AFQT test-failure rates in the Old South were appalling: 51.8 percent failed in South Carolina, and 51.2 percent in Mississippi. Obviously, some jurisdictions—if you like, civic cultures—did better by their children than did others. This got close to home for this Assistant Secretary from New York, whose AFQT failure rate of 34.2 percent ranked it forty-sixth in the nation, just ahead of Georgia, just behind North Carolina. The failure rate in New York, moreover, was more than twice that in Rhode Island (New York's neighbor across Long Island Sound), which had a rate of 14.3 percent.

This ought to have suggested that educational expenditures of other inputs did not automatically produce the output of educational achievement. There was no shortage of inputs in New York State as such matters were then understood. In terms of inputs, New York had one of the best school systems—if not the best—in the nation. New York was still the most populous state in the Union, and probably the wealthiest. Nonetheless, the only explanation that came to mind for the high failure rates was poverty.

On receiving the report on January 5, 1964, President Johnson issued a statement drafted largely by the present author:

"I am releasing today the report of the Task Force on Manpower Conservation, appointed by President Kennedy on September 30, 1963. I regard with utmost concern the two principal findings of that report.

"First, that one-third of the Nation's youth would, on examination, be found unqualified on the basis of standards set up for military service; and

"Second, that poverty is the principal reason why these young men fail to meet those physical and mental standards.

"The findings of the Task Force are dramatic evidence that poverty is still with us, still exacting its price in spoiled lives and failed expectations. For entirely too many Americans the promise of American life is not being kept. In a Nation as rich and productive as ours this is an intolerable situation.

"I shall shortly present to the Congress a program designed to attack the roots of poverty in our cities and rural areas. I wish to see an America in which no young person, whatever the circumstances, shall reach the age of twenty-one without the health, education, and skills that will give him an opportunity to be an effective citizen and a self-supporting individual. This opportunity is too often denied to those who grow up in a background of poverty."

Thereafter, the President recurrently referred to these findings. Lyndon B. Johnson was capable of appearing more empathic than he was, but these findings seemed to reach him. He clearly thought that evidence of dismal educational achievement would mobilize the society to improve it.

The logic seemed inescapable. If Minnesota could have a raw failure rate in an education test that was close to the incidence of very low IQ rates, then clearly it was possible to do as well elsewhere. It might have been objected—this was 1964—that the dual school systems of the South made such progress problematic in South Carolina or Mississippi, and there would have been agreement on this. But on what grounds could it be argued that New York was incapable of the performance of Rhode Island?

There were newly vigorous times in Washington. The assassination of President Kennedy had released great energy. Or was it anxiety? Either way, the capital was suddenly alive to all manner of possibilities, not least that of abolishing poverty. There were competing theories as to how this might be done, but only one set of data as to what needed doing, drawn from "One-Third of a Nation."

In his 1964 State of the Union address President Johnson urged Congress to declare "all-out war on poverty . . . in these United States," and in short order the Office of Economic Opportunity came into being. Its principal programs were educational, such as Head Start, an early childhood program pretty much modeled on the kindergarten created by Froebel in the first half of the nineteenth century in Europe, and the Job Corps, a form of residential vocational education. On its own, the Department of Defense began Project 100,000, an effort to bring into the Army young men who would otherwise have been rejected and to train them up to standards.

What we have here is a simple deficiency model. Poverty persisted because certain young people received too little education. The solution: give them more.

THE IMPORTANCE OF THE FAMILY

Twenty-four years later another president—Ronald Reagan—declared, "My friends, some years ago, the Federal Government declared war on poverty, and poverty won." There were few to contest the statement for the simple reason that the subject had proved complex. Where there were simple deficiencies, as with income or health care for the aged, poverty had in fact been greatly reduced, if not overwhelmed. However, it turned out that, by the 1960s, trends were in place that would make the poverty of portions of the nation's youth seemingly irreducible. This would be the lurking, half-understood message of the Coleman Report.

It all began, unobtrusively, in a little-noticed provision of the epic Civil Rights Act of 1964, which mandated the Commissioner of Education to "conduct a survey and make a report to the President and the Congress, within two years . . . concerning the lack of availability of equal educational opportunities for individuals by reason of race, color, religion, or national origin in public educational institutions at all levels in the United States. . . ." [My emphasis.]

The report—"Equality of Educational Opportunity"—appeared thirty months after "One-Third of a Nation." It was not, however, endorsed by a cabinet committee or hailed by a president. No new program was proposed based on its findings. To the contrary, it was released on the Fourth of July weekend, 1966, with a minimum of endorsement. The U.S. Commissioner of Education assured any potential readers that "[m]y staff members and the consultants who have assisted them on this project do not regard the survey findings as the last word on the lack of equal education opportunities in the United States." The Assistant Commissioner for Educational Statistics noted that "[i]n addition to its own staff" his office had "used the services of outside consultants and contractors," such as "James Coleman."

It was not until p. 21 of the Summary report that readers might have sensed that here was something new under the sun: "The first finding is that . . . schools are remarkably similar in the effect they have on the achievement of their pupils when the socioeconomic background of the students is taken into account."

"One-Third of a Nation" has been reported on the front page of the New York Times. Coverage of the release of "Equality of Educational Opportunity" was buried on page 24 of the Times on July 2, 1966; but Times reporter John Herbers, a journalist of rare insight, spotted the news. What was surprising, he noted, was that "differences in school had very little effect on the achievement scores of children with a strong educational background in the home." In the words of the Commissioner of Education, "[F]amily background is more important than schools."

Congress had called for a report concerning the "lack of availability of equal educational opportunities." The report that came recorded little by way of unequal opportunities, as then understood, but great differences in educational achievement. Coleman later revealed, if that is the term, that he and his associates had started out with a radically different notion of the world they were mapping.

"[T]he major virtue of the study as conceived and executed lay in the fact that it did not accept [the traditional] definition[;] . . . by refusing to do so, [it] has had its major impact in shifting policy attention from its traditional focus on comparison of inputs (the traditional measures of school quality used by school administrators: per-pupil expenditures, class size, teacher salaries, age of building and equipment, and so on) to a focus on output, and the effectiveness of inputs for bringing about changes in output."

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[1] See Daniel Patrick Moynihan. "Toward a Post-Industrial Social Policy." The Public Interest, no. 96 (Fall 1989), pp. 16-27.

[2] Tradition has it that the introduction of conscription during World War I first revealed to British authorities the ill health and educational deficiencies of the urban working class. The arrival of troops from Australia and New Zealand, who looked almost like members of a different species, is said to have made a striking contrast.

[3] "One-Third of a Nation" did not reestimate failure rates on a state-by-state basis. I use here the raw failure rates contained in General Hershey's annual Selective Service System report for 1963.

In 1990 Chester E. Finn, Jr., described the impact of the report in terms of the "paradigm shifts" discussed in Thomas Kuhn's "The Structure of Scientific Revolutions": whereas the old parading posited a "direct and automatic . . . causal relationship between inputs and outcomes[, so] that altering the former was believed ineluctably to change the latter," the new paradigm held that inputs "did not necessarily have any effect on [outcomes] . . . Educational achievement and other desired outcomes, it seemed, were strongly influenced by many factors (some external to the formal education system), such as home environment, peer group, and exposure to television."

Finn records that the response to Coleman's new paradigm was "initially, a mixture of bafflement and hostility." More importantly, and largely because of the timing of the report's release, it was subdued. Just as "One-Third of a Nation" appeared at the outset of an extraordinary period of political initiative and innovation in American national politics, so "Equality of Educational Opportunity" appeared just when that period came to a close, thirty months later.

In a 1965 message to Congress, Johnson, drawing on "One-Third of a Nation," had stated that "nearly half the youths rejected by Selective Service for educational deficiency have fathers who are unemployed or else working in unskilled and low-income jobs." This observation anticipated Coleman, but did not quite get at his point. The importance of family was evident, but since there was "nothing" to be done about family, "educational deficiency" had to be offset in the schools. The President therefore proposed a new program of financial assistance to public schools serving children in "low-income families[,] . . . with the assurance that the funds will be used for improving the quality of education in schools serving low-income areas." (This became Chapter 1 of Title I of the Elementary and Secondary Education Act of 1965, which is still in effect today.)

What if Coleman's work had been available at the outset of the thirty months in which Lyndon Johnson's attempt to reduce poverty held sway? Would the war on poverty have taken a different direction, a different cast? Not likely. This was a time when a great many interest groups were getting attention for their agendas, almost all of which were defined in traditional input terms. Civil rights apart, there was no more insistent claim than for "federal aid to education." It came now in the form of the Elementary and Secondary Education Act of 1965. Although this was not the straightforward federal cost sharing that had been sought from the time the post-war baby boom appeared, it was still federal aid. Social science was welcome to help make the case for it, but no more than that.

PUBLICIZING COLEMAN'S MESSAGE

In any event, as noted, Coleman's work appeared at the close of a period of innovation and experiment. The real challenge was to ensure that the work secured a place in the realm of policy analysis and debate. For practical purposes its sponsor, the Office of Education, with the full knowledge of the Office of the Secretary of Health, Education, and Welfare, had sought to suppress it. An effort now began to see that it survived. This was not difficult; Coleman was a well-established academic with a wide acquaintance in the circle of (then) liberal Democrats, assorted socialists, and unreconstructed Californians associated with the new journal The Public Interest. Coleman contributed an article, "Equal Schools or Equal Students," to issue No. 4, Summer 1966. He wrote:

"The sources of inequality of educational opportunity appear to lie first in the home itself and the cultural influences immediately surrounding the home; then they lie in the schools' ineffectiveness to free achievement from the impact of the home, and in the schools' cultural homogeneity[,] which perpetuates the social influences of the home and its environs."

That fall I took the report to Theodore R. Sizer, the ebullient dean of the Harvard Graduate School of Education, who immediately grasped that here was something new and important. A faculty seminar was organized, which attracted some eighty professors and graduate students from all manner of disciplines and from all over the country. (Most importantly, it attracted the attention of Frederick Mosteller, Chairman of the Harvard Department of Statistics.) Jason Epstein of Random House also recognized that something of large consequence had come along and cheerfully published "On Equality of Educational Opportunity" (Frederick Mosteller and Daniel P. Moynihan, eds.), a massive collection of papers prepared in connection with the seminar. The research was now securely in the public domain.

The seminar, in effect, "reran" the Coleman data; the numbers came out the same. Two decades later, Eric A. Hanushek, who had been a member of the seminar, reported that the conclusions remain valid.

"Two decades of research into educational production functions have produced startlingly consistent results: Variations in school expenditures are not systematically related to variations in student performance. . . . These findings suggest that school decision making must move away from traditional "input directed" policies to ones providing performance incentives. The concentration on expenditure differences in, for example, school finance court cases or legislative deliberations, appears misguided given the evidence."

Or consider Hanuskek and John E. Chubb, writing in 1990 on "Why 'More' Has Not Meant 'Better' ":

"Education policy is usually seen as a problem of selecting the correct inputs. . . . There is a fundamental problem with this approach, however. . . . For more than two decades—since the massive government study, 'Equality of Educational Opportunity'[,] was conducted in the mid-1960s—researchers have tried to identify inputs that are reliably associated with student achievement and school performance. The bottom line is, they have not found any."

Standing alone, this body of research might not present any political difficulties. But it does not stand alone. To the contrary. Research in other areas led University of Massachusetts sociologist Peter H. Rossi to announce his Iron Law: "If there is any empirical law that is emerging from the past decade of widespread evaluation research activities, it is that the expected value for any measured effect of a social program is zero."

Writers in The Public Interest, for example, had begun to suspect this; their doing so made them objects of suspicion in turn. A sometimes savage critique arose. Every finding of fact was scrutinized for intention. In the end a neoconservative school emerged, convinced that liberalism had become a closed doctrine. And yet the political system as a whole remained open enough to Coleman's insights. It was not impossible to argue that if we did not know enough about how to get inputs to yield a desired outcome, we simply needed to learn more. On the other hand, the attempt to learn more was scarcely rewarding.

In 1970, as Counselor to President Richard M. Nixon, I drafted, with the inspired help of Finn and others, a Special Message to the Congress on Education Reform, a statement drawn almost entirely from Coleman and the seminar that followed. There were two proposals worthy of notice. First was the creation of a National Institute of Education to continue the Coleman quest.

"There is only one important question to be asked about education: What do the children learn?

"Unfortunately, it is simply not possible to make any confident deduction from school characteristics as to what will be happening . . . in any particular school. Fine new buildings alone do not predict high achievement. Pupil-teacher ratios may not make as much difference as we used to think. Expensive equipment may not make as much difference as its salesman would have us believe.

"And yet we know that something does make a difference.

"The outcome of schooling—what children learn—is profoundly different for different groups of children and different parts of the country. Although we do not seem to understand just what it is in one school or school system that produces a different outcome from another, one conclusion is inescapable: We do not yet have equal educational opportunity in America.

"The purpose of the National Institute of Education would be to begin the serious, systematic search for new knowledge needed to make educational opportunity truly equal."

With the notable assistance of the late Edith Starrett Green, Representative from Oregon, and John Brademas, then Representative from Indiana, the National Institute of Education was in fact created, and located in the Department of Health, Education, and Welfare. Regrettably, it was a waste of money and, indeed, of presidential assets. No one wanted to hear from Richard M. Nixon that "the educational effectiveness of many special compensatory programs[,] . . . despite some dramatic and encouraging exceptions[,] . . . [is] not yet measurably improving the success of poor children in school." This was dismissed because it was somehow taken to mean that President Nixon opposed Head Start.

The education message, which was stuffed with proposals for increased funding of one established program or another, also called for a Presidential Commission on School Finance to address a familiar range of issues. In one respect, however, it was unique. It clearly was partial to some form of support for Catholic schools. These were described as "non-sectarian, Catholic, Protestant, Jewish and other" but to my thinking it was the Catholic schools that mattered most, for the two simple reasons that there were more of them and that so many were located in inner-city neighborhoods.

It did not require any great immersion in the Coleman data to sense that whatever-it-was-that-worked for "disadvantaged" children was most likely to be found in denominational schools and that whatever-that-was might prove transferable, so long as the models remained in place. In the 1980s, Coleman, in association with Thomas Hoffer and Andrew M. Greeley, would publish research on Catholic education of great interest. The new familiar themes of family and community emerged to account for the better performance, notably in inner cities, of parochial schools. The breakdown of "functional communities" had followed the breakdown of family.[4] Public schools somehow could not connect with children in the way that parochial schools somehow could.

But by this point the political parties had taken sides. In the 1970s a tuition tax credit for private schools passed the House of Representatives and might have passed the Senate save for fierce opposition from Democratic President Jimmy Carter. His successor, Republican Ronald Reagan, just as emphatically supported tuition tax credits; but they were not enacted, given the now settled opposition of Democrats. On the other hand, by the 1990s the case for a more pluralist educational system was being advanced with considerable vigor.[5]

UNREALISTIC GOALS

At the same time, a general pattern of avoidance in Washington led to such mindless exercises as the education goals set out in the State of the Union address of 1990. The mode of analysis could be traced to Coleman; but the rigor was absent altogether.

This thought should be pressed, not least by the research community. President Bush's goals were not merely proclaimed. They were in a legitimate sense negotiated with the governors of the states. He and the governors met to discuss the subject—one of three such gatherings in our history—in the Fall of 1989. The press office of the National Governors' Association was near to breathless on the outcome. A press release described the agreement to establish national education performance goals as "an historic first."

The following February, the National Governors' Association specifically endorsed the goals set forth in the State of the Union address. Through its emphasis on outputs, the Coleman Report had changed the terms in which political executives addressed the subject of education. What it did not do, and could not be expected to have done, was to invest these terms with an appropriate sense of accountability. For on no account could the President's goals—the quantified, specific goals—reasonably be deemed capable of achievement.

It will readily be seen that some of the presidential goals were essentially nonquantitative, such that we will never know for sure whether we have achieved them. By the year 2000 "every child must start school ready to learn". Most of us would grant that readiness to learn is an elusive concept, although we are often surprised by what we learn to measure. Similarly, it is hard to be sure just what the President meant when he said that "every adult must be a skilled, literate worker and citizen." We get the idea, of course. But measuring the outcome would seem to present difficulties. Just what do we mean by "skilled" or "literate"? But then again, we might very well find a measure of such qualities. When an employer advertises for a "skilled mechanic" those concerned seem to know what is involved. Why not, then, a "skilled citizen"?

Let us concentrate, however, on those two specific, numerical goals: that American students attain a 90-percent graduation rate and be first in the world by the year 2000 in math and science achievement. In preparing this essay, I wrote to half a dozen people who had taken part in the Harvard faculty seminar on the Coleman Report in the 1960s to ask what they thought were the prospects of achieving these goals by the year 2000. Two respondents replied that the goals were "completely unreachable" and "unrealistic"; another said that it was "barely conceivable" that we would meet the graduation goal, and a fourth held out "little hope of even beginning on the path to the goals."

The final two respondents were somewhat more sanguine. One agreed that the two goals "are . . . very hard to attain," but he "would not go so far as to say [that achieving them is] impossible"; while "skeptical," the final respondent was "impressed by the vigor" with which the governors were "attack[ing] this education issue."

I would note that the last two responses came from people who have been practitioners as well as researchers, and thus are not disposed to let hopes die too easily. I would note also that two respondents were more sanguine about graduation rates, and one suggested that to be "first in the world in science and mathematics" might be an amorphous goal—would it be enough to have the most Noble laureates?—as against the general understanding that the President was talking about test scores on various international comparisons. Accordingly, it should be made clear that I am the one holding that the President's goals are unattainable. I assume the most social scientists in the field would agree; but then agreement is never universal, nor ought it to be.

In any event, our subject is not the goals, but the relation of social science to politics in this field. As regards the goals themselves, my views derive from two sets of observations. Neither is conclusive, but then we won't have to wait long to see if the goals are met.

A first set of observations is that in recent years we seem to have been moving away from these goals rather than toward them. The big change in high school graduation rates came in the half-century from 1910 to 1960. Graduation was rare at the beginning of this period (8.8 percent of seventeen-year-olds achieved it), and common at the close (69.5 percent). By 1964 the graduation rate had reached 76.7 percent, and in 1970, 76.9 percent. Then it slumped considerably to a 1980 low of 71.4 percent, from which it has since risen to 74.0 percent in 1989. (Incidentally, don't trust any of these decimal points. They give the illusion of accuracy much too common in government statistics.) We seem to be doing a little better, but not as well as we did a quarter-century ago. The 1980s did show an improvement, but by no more than 2.6 percent. Double that for the 1990s and by the year 2000 we will have reached 79.2 percent, not far above the level of 1970.

So far as rank order is concerned, educational outcomes in the late 1980s look very much like those of the early 1960s that were recorded in "One-Third of a Nation." In 1962 Minnesota ranked first in AFQT scores (which is to say it had the lowest failure rate). In 1988 Minnesota had the highest graduation rate. New York was forty-sixth in the 1962 AFQT rankings, and forty-sixth in the 1988 graduation rankings, a quarter-century later.[6] In truth, the graduation rate in New York State has been declining steadily since the 1960s. (It was at 73.5 percent for the class that entered in the fall of 1965, but it declined to 66.3 percent for the class that graduated in June 1988.) As for funds, the National Center for Education Statistics reports that for 1989–1990, New York, at $7,153, had the third highest per-pupil expenditure in the nation, following only Alaska (whose $7,411 figure is inflated by the high cost of living there) and New Jersey ($7,312). New York was well above the national average of $4,448. By contrast, California—the largest state—was slightly below that average with a per-pupil expenditure of $4,392. As for those pesky 1988 graduation rates, while New York was forty-sixth in the nation, neighboring New Jersey ranked fifteenth.

Now to the President's goal of moving America up to first in the world in science and math scores by the year 2000. "The Budget of the United States Government, Fiscal Year 1991" has a bar chart that shows us ninth-grade science scores as evaluated by the International Association for the Evaluation Achievement. The chart is entitled "Grade 9 Science Achievement in the U.S. Lags Behind Other Industrialized Countries." In this ranking, Hungary is first, followed by Japan, Canada, Finland, Sweden, England, and, finally, the United States. These rankings seem to bounce around a bit. High school seniors in Hong Kong and Singapore regularly come out first in physics, chemistry, and biology. England often ranks second. The United States rarely makes the first ten.

Most striking is the case of Hungary. Nineteenth-century Hungary developed a high scientific culture. Much of modern physics came out of the University of Budapest in the early years of this century. (Much of the Manhattan Project was the work of native Hungarians who had fled Europe.) But the twentieth century was not kind to Hungary. War, revolution, and tyranny followed in seemingly inexorable succession. Hungary is just now emerging from a half-century of fascism followed by communism. Just about anything you could do to a people has been done to Hungarians. But nothing has been able to prevent Hungarian schoolchildren from learning physics. By contrast, is there any reason to think that American schoolchildren will reverse their long-established performance patterns in these measures in the space of a decade?

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[4] Consider the evidence provided by Marian Wright Edelman of the Children's Defense Fund in her 1990 commencement address at Howard University: "Every 79 seconds, an unmarried Black woman has a baby. Over 62 percent of Black babies are being born to unmarried women, which almost guarantees the poverty of the majority of the next generation of Black children. Every 3 minutes and 38 seconds, a Black teenager has a baby. . . . Five out of six young Black female-headed families are poor." Note also that "[e]very 30 seconds of the school day, a Black child drops out."

[5] See James S. Coleman, Thomas Hoffer, Sally Kilgore, and Samuel S. Peng, "Public and Private Schools," National Center for Education Statistics, 1982; Thomas Hoffer, Andrew M. Greeley, and James S. Coleman, "Achievement Growth in Public and Catholic Schools," Sociology of Education, American Sociological Association, Volume 58, Number 2, April 1985; and James S. Coleman and Thomas Hoffer, "Public and Private Schools: The Impact of Communities" (Basic Books, 1987). See also John E. Chubb and Terry M. Moe, "Politics, Markets and America's Schools" (Brookings Institution, 1990).

[6] Please note that I do not claim that the high school graduation rate is a surrogate for whatever it is that is tested by the AFQT. Yet there is some evidence that it is such a surrogate. In December 1989 a study sponsored by the Office of the Assistant Secretary of Defense noted that "[d]ecades of study results have demonstrated that those without a high school diploma are twice as likely as high school graduates to leave the military before completing a full term of service." See Janice H. Laurence, Peter F. Ramsberger, and Monica A. Gribben, "Effects of Military Experience on the Post-Service Lives of Low-Aptitude Recruits; Project 100,000 and the ASVAB Misnorming." Human Resources Research Organization, p. 2.

The presidential goals set out in 1990 for the year 2000 would have been more defensible were if not for the fact that in 1984 the preceding president had set out substantially the same goals for 1990. In particular, the goal of a 90-percent graduation rate seems to have gotten stuck in the memory bank of the White House word processors; in 1984 President Reagan called for reducing the dropout rate "to 10 percent or less" before the end of the 1980s.

It is safe, I would think, to regard the dropout rate as the reciprocal of the graduation rate. Surely the two goals are approximately the same.[7] The Reagan goal was not met; it was not even approximately met.

There was another goal set forth by President Reagan in 1984: "Before this decade is out, we should regain at least half of what we lost in the sixties and seventies on scholastic aptitude tests." Let us examine this proposition. Between 1984 and 1989 the mean SAT verbal score for college-bound seniors did increase—by two points, from 426 to 428. That is after having dropped forty points from the peak reached in 1967. The closure was nowhere near the half-way point.

My second set of observations has to do with how little the education innovations of the past quarter-century seem to have changed some measures of educational achievement.

Yet to leave the matter there would miss the point, for Coleman did more than put in place a new way of thinking about education. He also put in place a potentially powerful mode of accountability. His outputs, measured by specialists, can still be grasped by the general public. If, as forecast here, the year 2000 arrives and the United States is nowhere near meeting the education goals set out in 1990, the potential will nonetheless exit for serious debate as to why what was basically a political plan went wrong. We might even consider how it might have turned out better.

Mr. MOYNIHAN. Finally, Mr. President, but with great sense of importance, could from the Senate floor, call the attention of the man who will be our new Secretary of Education to section 127 of the Internal Revenue Code which provides for employer-provided educational assistance.

Every year, or just about, of the 15 years I have been in the Senate, this measure has come before us and in the very last minute has been saved. It has to be saved yet again. The Society for Human Resource Management has been organized, urging it upon us.

There cannot be a more directly related effort in the Tax Code to combine education with increased productivity and achievement and earnings, and if I may say, taxes paid on earnings: Employers sending factory workers, office workers, persons from the assembly lines in Rochester, NY, to the large accounting firms of New York City—I can speak to both matters—to get further education. Some go to complete grade school, some high school, some graduate education in engineering, accounting, economics, and at the employer's expense in order to raise the capacities and productivity of the employee.

How could we not see the advantage in this? I would hope Secretary Alexander will weigh in with the Office of Management and Budget and say this is a good idea. This program ought to be encouraged and ought to be made permanent.

I see other Senators on their feet. I do not wish to delay their remarks, and I respectfully yield the floor.

Mr. HATCH. I yield to the distinguished Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator from Utah for yielding time to me.

It is a great pleasure for me to support the nomination of Lamar Alexander to be Secretary of Education. He is a good friend and widely respected leader in education and government.

It is well known that as Governor of Tennessee, Lamar Alexander was very successful in improving the education programs and policies of that State. He pushed the Tennessee legislature to institute reforms that have become national models.

Very recently, he has gained experience as chancellor of the University of Tennessee that will be of practical benefit to this Senate as we work to try to improve student opportunities and performance, as we reauthorize the Higher Education Act this year.

I am convinced that Governor Alexander will bring a new sense of urgency to achieving excellence in education nationwide. I think his enthusiasm and his ideas will be refreshing, and his intelligent leadership will make a big difference. Students, teachers, and administrators will benefit from his service as Secretary of Education.

This administration, I am convinced, means business when it says that excellence in our schools is a national imperative. I think we will have in Lamar Alexander a strong and dynamic, competent leader to help us achieve success in reaching that goal.

I thank the Chair.

Mr. KENNEDY. Mr. President, how much time does the Senator wish?

Mr. ROBB. About 1 minute.

Mr. KENNEDY. I yield such time to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. ROBB. I thank the Senator from Massachusetts.

I just want to say one brief word on behalf of a friend of over 10 years, Lamar Alexander, as the nominee and about-to-be Secretary of Education. I think he is the right man for the job. He is a remarkably talented and highly respected leader in both government and education.

I have had occasion to work with him in both fields over an extended period of time, and like many of us who had the privilege of serving with him as Governor, we think he is the right person at this particular time in history to meet this challenge, and I look forward to working with him in that capacity.

I thank my colleagues for giving me this moment.

Mr. KENNEDY. Mr. President, I yield the remainder of my time to the Senator from Utah.

Mr. HATCH. Mr. President, I intend to yield to the distinguished Senator from Minnesota [Mr. DURENBERGER], and when he is finished, I will yield to the distinguished Senator from Minnesota [Mr. WELLSTONE] as much time as he may need.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I have had the great pleasure of knowing Lamar Alexander for many years now and have had the opportunity to work with him on several occasions. I can say unequivocally that we could not have a better candidate before us if we want to turn our educational system around in this country.

I think the thing that has impressed me most about Lamar Alexander is his strong sense of character, that he is a get-things-done type of guy. He is able to move policies and ideas with a firm, straightforward, approach. I think, Mr. President, that if we truly want to do something about education in this country, that is what it is going to take.

But at the same time, Mr. President, the Lamar Alexander I know has not only shown a great ability to get things done, but he has also shown a great human compassion in doing it.

His qualifications for the job are without repute. It was Lamar Alexander who brought education to the forefront of the National Governor's Association and the Nation. As chairman of the education panel, he issued a report in 1986 entitled "Time for Results," which outlined a set of proposals that established the Governors as the leaders in improving schools in this country and set the foundation for the President-Governor's National Goals.

Also during his time as Governor, he pushed through the Comprehensive Education Act which increased education funding in Tennessee by 50 percent. He instituted the Better Schools Program which provided merit pay to teachers, expanded kindergarden programs, the use of computers in the classroom, and math and science programs.

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[7] What neither rate takes into account is the number of people who eventually receive a General Education Development (GED) diploma. According to the Marshall S. Smith, including these "graduates" in the graduation rate would increase the 1989 rate from 74 percent to 78 percent. There has, however, been a marked reduction in the number of people receiving GEDs. In 1989, 13.4 percent fewer GED diplomas were awarded than in 1988, despite a decline in the graduation rate. See American Council on Education. "The 1989 Statistical Report" (GED Testing Service, 1990).

Lamar Alexander is probably best known for being at the forefront of choice in education and the school restructuring movement. He has been an innovator of ideas and has brought new credibility to the choice movement.

Perhaps more than any other Cabinet position, the Secretary of Education needs a true understanding of appropriate intergovernmental relationships between State, local and Federal government. The Education Secretary needs to know when to take a leadership role, when to loosen the reigns and let the States lead, and when and how to step in to ensure equity and opportunity for all Americans. I believe Lamar Alexander's experience as Governor and as the president of the University of Tennessee and his earlier work he and I did on National Advisory Commissions on Intergovernmental Relations has given him a unique understanding of this relationship that will guide him in his tenure as Secretary.

There has been some discussion over the past month about Lamar Alexander's financial dealings. His finances have been thoroughly reviewed and investigated, and I believe this is an appropriate responsibility of Congress. A public official, must be willing and prepared to uphold the public standard of ethics. I am pleased, however, that after review, there is no evidence of financial wrong-doings by Lamar Alexander and that we can move forward with his nomination.

We have reached a point in this country where we can no longer wait, where we must move from talking about and discussing what needs to be done to improving education in this country and getting out there and doing it. Lamar Alexander is the leader for that job.

I urge my colleagues to support his nomination.

Mr. HATCH. I yield 3 minutes to the distinguished Senator from Minnesota [Mr. WELLSTONE]. If he needs more time I will be happy to yield it to him.

Mr. WELLSTONE. Mr. President, I would like to thank the distinguished Senator from Utah for yielding me time. I have enjoyed working on the committee with him, and have come to know him as a good friend.

James Agee said, "Every time a child is born, the potentiality of the human race is born again."

I believe in those words.

I have tried to live my life in accord with those words. I am a teacher, heart and soul.

I came to Washington because I believe in the potentiality of the human race—and I believe that we must vigilantly devote ourselves to insuring that each and every child has the chance to realize that potential.

I believe that the ultimate indictment of the 1980's will be that we abandoned our children; that we did not invest in our children; that we failed to educate our children—in short, that we failed to unleash their potential.

We cannot let the 1990's pass in the same sorry way.

We need leaders who will dedicate themselves, fully, wholeheartedly, to be fierce advocates and fervent visionaries for all children.

The Secretary of Education must be one of those leaders. We need a strong advocate because we cannot let stand unchallenged the administration's record on education. The Federal role in education is miniscule. Only 1.7 percent of Federal spending is dedicated to education. That is down from 2.5 percent a decade ago. Where is the voice of protest? Where is the advocate? And where is the visionary?

The administration proposes for the coming year an education budget which in reality barely keeps pace with inflation. Worse yet, a large percentage of the increased spending that the administration has targeted goes to "choice programs." What does choice mean? It means that limited Federal resources would be used to pay for some children to attend private schools. It means that our schools will become further fragmented along socioeconomic lines, along racial and ethnic lines. The poor schools will grow poorer and the rich schools will grow richer and the poor children will grow poorer still. Where is the voice of protest? Where is the advocate? And where is the visionary?

Our smallest children, the most vulnerable are cut out of the system from the very beginning. Despite unanimous agreement of the effectiveness of Head Start, about 80 percent of the children that are eligible for Head Start and about half of the children who would be eligible to receive assistance through WIC are not able to participate because of the lack of funds. Where is the voice of protest? Where is the advocate? And where is the visionary?

At the other end of the system, the administration restricts even further the availability of grants for higher education. Where is the voice of protest? Where is the advocate? And where is the visionary? Where is the voice for small children?

Mr. President, I will listen for a voice which recognizes that we need to commit our abundant resources to our children and to their education. I will not accept the contention that the money is not available. We can find the funding. We find resources for other emergencies, and there is no matter that is more important for our Nation than for us to invest in the skills and the health and the intellect and the character of our children.

Mr. President, I will listen for this voice for our children. I want this voice to ring out. I will listen to this voice from Mr. Alexander. I am pleased that he will be in this leadership position, but, as a Senator, I will be diligent and I will continue to fight for this commitment to education. I will work with Mr. Alexander, but over and over and over again I will demand this voice for the children.

I thank the Chair.

Mr. DOMENICI. Mr. President, I am pleased to be able to add my support today for the confirmation of Lamar Alexander as our new Secretary of the Department of Education.

I have known Lamar for many years. I know of his competence; his personal dedication to the objective of excellence in education; and his total commitment to his new position. He will guide the process of change. As in the words of the philosopher George Lichtenberg, "I do not know whether, if things change, they will get better. But what I do know is this: if things are to get better, then they must change." Lamar is the person the President and all of us can count on to effect the important changes we need.

In the days and months ahead, we in this body recognize the challenges, and occasionally the sacrifices, that must be made to ensure that this country addresses and implements its short- and long-term educational priorities. An educated populace is rudimentary to a productive society. It is also rudimentary to the quality of life we all hold so dear. An educated populace means not only providing that competitive edge for our service, manufacturing and business communities—but it also means that our children's futures will be better and more fruitful than our own.

It is, indeed, a pleasure to vote in favor of Lamar Alexander's confirmation. Under his able leadership, our education agenda will be one of change—one of innovation, creativity, and soundness. I personally look forward to working with him, and I know I share the best wishes of my fellow colleagues in welcoming him as our new Secretary of Education.

Mr. HATCH. Mr. President, I yield whatever time he needs to the Senator from Colorado.

Mr. WIRTH. Mr. President, I thank the Senator from Utah for yielding.

Mr. President, I wanted to come over just to say a few words on behalf of my good friend Lamar Alexander. I was delighted when President Bush made the appointment of Lamar Alexander, who is somebody that I have known for a long time. My wife Wren and I have spent many long and very enjoyable days with Lamar and Honey. One of the great experiences one can have, Mr. President, is to go on a river trip in the West. The Alexanders and the Wirths joined each other almost a decade ago and spent 6 or 8 days in the Grand Canyon. I will never forget Lamar going through his first rapids, going through Crystal. I do not believe Lamar had been on a western river before. The man running the raft he was in lost an oar. Lamar was not at all daunted by the fact that the world was crashing in on him. He reached over, put the oar back in the oarlock, they got through safely, did not dump as many of us thought, of course, they were going to do. They negotiated their way through. Lamar came out the other side with a smile, a great sense of humor and said, "Let's go do it again."

I bring that up, Mr. President, because I think the challenge that Lamar Alexander faces in the Department of Education is not dissimilar from Crystal. Lamar Alexander has an enormous task to keep the oars in the oarlock and to keep the raft heading so that it does not tilt over and dump everybody in the water, so that people do not drown. We are preciously close, Mr. President, to drowning. The crisis in our education system is all around us. I need not remind the distinguished occupant of the chair, who has been one of this body's strongest advocates for children, for education, for the concerns of early childhood in particular.

This administration and this Government has a major responsibility to take the lead. The country is asking them, begging them, to show leadership, to show vision, to show direction, and to make a commitment to the young people of the United States and to make a commitment to this country's future. The opportunities have been there for a decade. We have been through crisis after crisis. We have had study after study. I will never forget the opportunities that the previous President had—a nation at risk. There were nine studies done in an 18-month period of time, but nothing came out of it. We are now in a similar kind of situation with a similar kind of opportunity.

I need not remind my colleagues, we all know the cold war is over. Coming out of the cold war, we have an opportunity to take on our future in a different way with a different set of commitments. The President now coming out of this glorious victory in the Persian Gulf has an enormous amount of credit in the bank, 91 percent ratings or 85 percent ratings or whatever it is. It is now his job and the administration's job to use that credit. Politics is getting credit and then using it, spending it on that in which you believe.

I know Lamar Alexander believes in education. Lamar Alexander has thought about it. He is a distinguished public servant in every way. I have enormous respect for him. He is headed right down the rapids, and he has to have help from the White House. He has to have support from the administration. I think he will certainly have support from most of us up here. We have to have that kind of leadership, Mr. President. The crisis is out there and has been described over and over and over again: One child in five eligible for Head Start is enrolled. That is inadequate. Inadequate is such a soft word; it is a scandal, one child in five. In fact, tens of thousands of children are not being immunized; the WIC Program, mentioned by the distinguished Senator from Minnesota; our responsibilities in higher education.

I am appalled, as we all are, by what is going on in the other body in the Energy and Commerce oversight committee, about the investigations into what is going on at Stanford and what is going on at other universities. Underneath that, Mr. President, is not the scandal. These are not people who are profiting in any way, shape, or form. Underneath it is the fact that this country is not supporting our institutions of higher education. We have built these crown jewels, these wonderful institutions, and now they are dying on the vine. We are not giving them the money for research; we are not giving them the money for students; we are not giving them the money for support. We are not keeping the young professors in the institutions. We are not providing the libraries and these resources which have been so important for our country's future and which are largely our responsibility at the Federal level. They are being starved to death. That is what we are seeing in those hearings and that is what we have to address ourselves to.

A final note, Mr. President. If we look at the responsibilities at the Federal level, we know that most of the elementary and secondary responsibilities are left to the States under the Constitution, and they delegate those to local communities. But we have a unique set of responsibilities. At the Federal level, we have the responsibility for an early childhood education, Chapter I of the Elementary and Secondary Education Act. Science training, higher education, and teacher training we are not doing; we are not carrying out our part of the responsibility very well.

It is certainly my hope, Mr. President, that this administration uses the credit it has, recognizes this responsibility, gives Lamar Alexander his head, and gives Lamar Alexander the resources that are needed. I look forward to working with the distinguished new Secretary. I know he will be confirmed. I am delighted that he and Honey will be with us in Washington. I know it is a big, big job, with major responsibilities, but to them and to the family, from all of us, congratulations. We look forward to working with them.

Mr. President, I thank you for being generous with the time. I yield the floor.

Mr. HATCH. Mr. President, it is my understanding that Senator WIRTH was the last speaker. I am prepared to yield back the remainder of the time on both sides unless someone tells me otherwise.

Mr. DODD. Mr. President, Lamar Alexander has a long and distinguished record of public service. For over a decade, he has been a strong advocate and activist for education, first as the Governor of Tennessee and the president of the National Governors' Association and more recently as the president of the University of Tennessee. For this reason, I intend to support his nomination to be the next Secretary of Education.

I will endorse Mr. Alexander's nomination with two things in mind—the future of our Nation's children and the commitment to provide each and every American access to quality educational opportunities.

The Department of Education has been without a Secretary for the last 4 months and direction for the past decade. While we have watched the condition of children and the quality of education erode over the last decade, the Department has hidden behind the veil of rhetoric. The Department of Education has a larger role to play in establishing Federal priorities and working with the Congress to advance policies. The President and the National Governors have set the education goals—it is time for the administration to come forth with the proposals to meet these goals.

The condition of our Nation's children and schools demands action and strong Federal leadership now. The facts speak for themselves—one out of every four children lives in poverty. Poor children are three times more likely to drop out of school and four times more likely to have below average basic skills. Each day, over 1,500 teenagers drop out of high school and each day over 135,000 children bring a gun to school.

According to a recent report released by the American college testing program, over 35 percent of students living in families in the lowest family income quartile—below $20,000—never finish high school, while the graduation rate for families in the top quartile—earning more than $58,000—is over 93 percent. Moreover, members of families in the top family income quartile are nearly twice as likely to attend college than members of families in the lowest quartile.

The future of this Nation rests in the hands of each generation of children. We simply cannot afford to accept these disturbing statistics. A quality education and education opportunity should be available to all Americans regardless of gender, ethnicity, or family income. The Federal Government and in this case, the Department of Education, has a vital role to play in providing children and youth the education, training, and opportunities that will turn these statistics around and prepare youth to be able and active participants in our work force and government. The Federal Government has an obligation to help level the playing field for all youth. The Congress is prepared to act and I hope the nomination of Lamar Alexander reflects the administration's commitment to do so as well.

Mr. President, I believe that Lamar Alexander's experience and commitment to education provide him with the essential tools to be an effective Secretary of Education. I expect him to be an active Secretary and look forward to working with him in the coming months.

Mr. BINGAMAN. Mr. President, as the Senate considers the confirmation of Lamar Alexander as Secretary of the Department of Education, I want to commend the Governor for his past efforts at improving education for the children in his home State of Tennessee. The record speaks to the energy he has brought to bear on this crucial issue.

On the national level, Governor Alexander has also consistently played an important role in shaping education policy, in particular the establishment of national educational goals for the year 2000. Currently, in his role as chairman of the Steering Committee of the National Summit on Mathematics Assessment, he continues to demonstrate his concern for improving the quality of education in the United States. We need the kind of leadership Governor Alexander will bring to this important position of Secretary of Education, and I look forward to his assuming this role.

I should also note that I do have some concern regarding some of Governor Alexander's past financial interests. However, I accept his assurances that he will adhere to a high standard as Education Secretary in order to avoid any appearance of conflict of interest in his new position.

The job of Secretary of Education will put Governor Alexander in a role where he will have to serve as a model for all educators, parents, and children in the United States. I wish Governor Alexander well in his new position.

Mr. SANFORD. Mr. President, I rise today in support of the nomination of Lamar Alexander for the post of Secretary of Education. I relish the arrival of this opportunity to laud his background and his credentials, and envision the great success that will be achieved under his leadership.

I have known this man and this leader for a long time. Our relationship spans back to the early days of his brainstorming of educational initiatives in Tennessee. He is known as a man who thinks for himself and is driven by a vision to challenge, discover, and take risks to achieve his goals.

It seems to me that America's education system is stuck in the quagmire of interesting ideas and a decade when education reform has been in vogue, but the bold and honest leadership that America needs to get out of this rut will be entrusted into the hands of Lamar Alexander, who has demonstrated his ability and character to stand up to the challenge. The mission of the Department of Education may finally be fulfilled by Lamar Alexander.

Former Secretary of Education Terrell Bell's renowned accomplishment, "A Nation at Risk," ignited the education reform movement in the early 1980's and there have been volumes written as a result. Many have enumerated the problems and shortfalls in their individual corners, sectors, interests, but now, almost 2 years after the Governor's Charlottesville summit with the President, we must move forward to implement the stated and other national goals for education that we all share.

Realizing that the muscle will come from the individual States, the thousands of school districts and the myriad of classrooms, the Federal role remains one of leadership, enthusiasm, and equity. It is to the Federal Government to lead and to serve, not to manage. This is clear in the Constitution and it is clearer in our experience for the past 40 years. But ensuring that bureaucracy does not overpower the educators themselves is in no way a license for the Federal Government to abrogate its responsibility to our children.

Each community in America must take pride and ownership in its schools. The business community is willing to assist in the development of our children, but it needs priorities and vision that can stem from national leadership. A comprehensive effort by the dynamic communities that typify America can distill into an educated work force and global competitiveness in a changing world economy. We need unifying leadership. That is the challenge to the new Secretary of Education.

Lamar Alexander, clad in his trademark black and red flannel shirt has the best warmth and sincerity the South has to offer, but he also led the corporate initiative in Tennessee to develop better trade relationships between Tennessee and Japan. He is a unique balance. He has demonstrated his belief in young people, his integrity, and his perseverance. Governor Alexander, bring an extra flannel shirt with you when you come to Washington.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that my March 13, 1991, statement on this matter, delivered before the Labor and Human Resources Committee, be printed in the RECORD. I further ask unanimous consent that a number of relevant news reports and related documents also be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR HOWARD M. METZENBAUM ON THE NOMINATION OF LAMAR ALEXANDER TO BE SECRETARY OF EDUCATION, MARCH 13, 1991

Mr. Chairman, recently much has been made in Republican circles about the time it has taken this committee to consider the nomination of Lamar Alexander to be Secretary of Education. I've been chided by some for alluding to the issue of certain financial transactions at the confirmation hearing. Committee Democrats have been criticized by committee Republicans for acting out of "political motives—to try to embarrass the administration on education matters." I hope that these views are not actually held by members of this committee. I hope that the members of this committee acknowledge the legitimacy of this inquiry. If not then I believe we face a fundamental disagreement over the proper role of this committee and its responsibilities with regard to the confirmation process. This committee reviewed Governor Alexander's financial transactions not for political motives, nor as a matter of education policy. However, this committee, in passing on a member of the Cabinet, has an obligation to fully inquire into the nominee's background, both in public office and in the private sector. We would have been derelict in our duty to the Senate and to the American public had we rushed this nominee through the process.

The Wall Street Journal, the New York Times and the Nashville Tennessean have all filed stories since the confirmation hearing detailing how Governor Alexander went from a net worth of $321,000 in 1984 to between some $2 to $3 million today. Obviously, it is not an indication of impropriety simply to have made money. However, the committee had a responsibility to look into matters of the Governor's personal finances and to ascertain whether his amassing of personal wealth was in any way improperly connected to his positions in public service.

The issues of education policy are certainly some of the most important to be addressed by this body. The urgent need to confirm a Secretary of Education is undisputed.

Nevertheless, the several circular investments and transfers within Governor Alexander's family—involving considerable amounts of money—raised concerns that needed to be allayed.

The committee has gone over the nominee's financial disclosures, asked more questions, gone over the new information, and asked again for clarification. Each set of queries brought forth a fountain of information from Governor Alexander. He has answered all inquiries openly and swiftly. Ironically, it is this drawn out process which has given rise to the most serious questions. These questions stem from the very nature of the dialog between Governor Alexander and the committee. Why has it been necessary to return to the well repeatedly? And why do the answers so often give cause for more questions and clarification? Clearly, these are not black or white issues. We were working in grey areas. At the end of 5 weeks of seeking assurance about some of Governor Alexander's business relationships, I'm still not certain I understand this blurred and complex series of professional positions and business transactions.

For example, after leaving the Governor's office, Governor Alexander was paid over $150,000 for a 1-year position at a Nashville Business College. That job appears to have been created for him, as no one held the position before or after him.

Another transaction involved the transfer, to his wife, of Whittle Communication stock options for which his cost was to be $10,000—a move Governor Alexander explained as an attempt to avoid potential conflicts. When Mrs. Alexander bought the stock, she paid the agreed $10,000 and 2 months later sold them back for $330,000. Governor Alexander wrote a check for these options but the check was never cashed nor the stock certificates issued to him. When he transferred the option to his wife, she wrote a check and that check was never cashed. Finally a third check was rendered in the week Time Warner Co. announced it would purchase 50 percent of Whittle shares for $185 million. This third check from the Alexanders was readily cashed. The New York Times pointed out on March 6, that such an inter-family transfer, while in the Cabinet, would have been in violation of Federal ethics regulations.

On March 5, 6 weeks after the nominee had provided the committee all financial information which might suggest any conflicts, the Wall Street Journal reported a 1986 transaction, undisclosed to the committee, where Governor Alexander consolidated three bank loans into one unsecured loan—at prime rate—a month after appointing the bank's chairman to the University of Tennessee board of trustees. As most Americans know, borrowing at the prime rate is rarely an option offered by a bank. Less than a year after leaving the office of Governor, Governor Alexander went on the board of that same bank. The bank also paid him $110,000 in consulting fees in 1 year. Even if these transactions followed the letter of Tennessee law, there is the appearance of conflict and Governor Alexander should have revealed all the facts in his original disclosure to the committee.

Mr. Chairman, as you have mentioned, these were not the only transactions which required scrutiny by the committee. I won't burden the record with a laundry list this morning, but suffice it to say that Governor Alexander's incomplete disclosures and subsequent amendments made this task no easier.

This was a difficult and complicated undertaking. After the exhaustive review of the documentation available, however, I cannot conclude that any ethical violations occurred and for that reason I will support his nomination. Given that finding, I feel there should be no negative inferences with respect to Governor Alexander's conduct in any legal or financial matters.

Mr. Chairman, I believe the thoroughness which caused a somewhat lengthy process in reviewing Governor Alexander's background should be a message from this committee of the standard to which public officials, and those aspiring to public life in the future, must adhere.

Throughout this process, there has been no quarrel that Governor Alexander cares deeply about the state of our education system, and that his policy experience in this area well qualifies him for the post of Education Secretary. I, therefore, look forward to working with him on the challenges that lie ahead, and I wish him much success. His job will be as important to this Nation's future as any I can imagine.

FINANCIAL TRANSACTIONS EXAMINED BY THE SENATE LABOR AND HUMAN RESOURCES COMMITTEE

1. SALE OF THE KNOXVILLE JOURNAL

In 1981, Governor Alexander was a member of a group of individuals who arranged the sale of the newspaper to Gannett Communications, Inc., in return for Gannett stock. For his efforts, and without making a financial investment of his own, he obtained a profit of $620,000 through the sale of his Gannett stock in 1984, 1986, and 1987.

2. CORRECTIONS CORPORATION OF AMERICA

In 1985, Governor Alexander and his Administration supported the concept of privatizing the management of Tennessee prisons during a time when his wife owned stock in Corrections Corporation of America, a private firm involved in managing corrections facilities in the State. Mrs. Alexander had invested $5,500 in the Corporation in 1984, and ultimately received over $140,000 in profit from her transactions.

3. BLACKBERRY FARM

In 1987, as a private citizen, Governor Alexander repurchased from one of his original partners, a one-third share of ownership in a conference center in eastern Tennessee in which he had owned an interest until he had become Governor. When he became president of the University of Tennessee, he transferred his ownership in the center to Mrs. Alexander, and subsequently the University did $60,000 worth of business with the center. Mrs. Alexander sold this interest in the center back to the same original partner in the enterprise on January 21, 1991 for $8,000.

4. WHITTLE COMMUNICATIONS

In 1987, as a private citizen, Governor Alexander entered into an agreement with Whittle Communications, Inc., under which he was paid $125,000 in cash and obtained the right to purchase $10,000 in Whittle stock. When he became President of the University of Tennessee in 1988, he transferred the right to purchase the stock to his wife, who purchased the stock and sold it two months later for a profit of $320,000. As President of the University, Governor Alexander served on the advisory board of Channel One, a Whittle enterprise involved in public school education.

5. INCREASE IN NET WORTH

A review of documents provided to the Committee by Governor Alexander and of other records disclosed that Governor Alexander's net worth increased from $321,000 in 1984 to between $2.5 and $3 million in 1990. Several of the transactions cited above constituted a significant part of this increase in net worth.

[From the Wall Street Journal, Mar. 5, 1991]

BUSH NOMINEE ALEXANDER'S INVESTMENT SUCCESSES HAVE MADE SENATE INVESTIGATORS VERY INQUISITIVE

(By Edward T. Pound and Hilary Stout)

WASHINGTON.—Throughout his career in public life, Lamar Alexander has displayed an extraordinary gift for making big returns on minimal investments. As a result, he now finds his widely heralded nomination as education secretary being slowed by inquisitive Senate investigators.

Some of Mr. Alexander's fortune in business is no doubt the result of savvy investment instincts, and there's no indication of any wrong-doing on his part. But a look at his lucrative transactions suggests that his political standing in Tennessee—first as governor, then as president of the University of Tennessee—made business leaders eager to include him in their investments.

In one series of stock transactions, initiated while he was governor of Tennessee, Mr. Alexander earned a $569,000 profit without investing a cent, or much of his own time. After leaving office, he arranged a stock investment with an influential Tennessee businessman that netted his wife a quick $320,000 profit.

In another case, a Tennessee venture-capital company headed by the late Jack Massey, who helped build the Kentucky Fried Chicken empire, assisted in the financing of a child-care concern cofounded by Mr. Alexander. Mr. Alexander says he and his wife invested $5,000 in the child-care company after he left the governor's office in early 1987; he says that the stock now has uncertain value, but that he estimated its worth for federal ethics officials at $800,000.

Mr. Alexander has done all right at the bank, too. In 1986, while governor, he consolidated three separate loans into a single, unsecured $131,000 loan at the prime rate, then 8%. A month earlier, he had appointed the bank's chairman to the University of Tennessee's board of trustees. Mr. Alexander says it was "a thoroughly ordinary loan" and wasn't connected to the appointment.

"I have spent about 20 years going out of my way to make sure that if anyone is going to offer me favorable treatment, I wouldn't take it," he says.

Mr. Alexander says he has been careful to avoid investing in companies that did business with the state or with the University of Tennessee, which he still heads. On the few occasions when possible conflicts arose, he says, he divested himself of his holdings or shifted them to his wife—always, he says, acting on the advice of his lawyer and Tennessee legal authorities.

Mr. Alexander's strong credentials in education and politics were supposed to make his nomination sail through the Senate confirmation process. But the staff of the Senate Labor and Human Resources Committee, headed by Edward Kennedy (D., Mass.), is continuing to question some of his financial activities.

The holdup has angered some Republicans, and the White House is pressing the committee to approve his nomination soon. One senior Republican aide complains that Mr. Kennedy's investigators are even questioning tax deductions Mr. Alexander took for writing a book, "Six Months Off," which described his family's 1987 trip to Australia.

Sitting in a small, windowless Education Department office he is using while awaiting his confirmation vote, the unflappable Mr. Alexander says he welcomes the inquiry. He says he understands why questions might be raised, because there's no disputing that he made a lot of money quickly.

"I think that some people think that I have made too much money and they don't understand how," Mr. Alexander says. The answer in many cases is quite simple, he says: taking risks in start-up, or "incubator," companies, with some significant successes. A lawyer, a concert pianist and the author of four books, the 50-year-old Mr. Alexander describes himself as "an adventuresome person" who takes risks. "I'm not a stick in the mud," he says.

Although he has told friends that he made the choice of politics over wealth, Mr. Alexander has in fact accumulated a substantial amount of the latter. Depending on how he values their assets, Mr. Alexander says that he and his wife, Leslee, who is known as Honey, have a net worth of between $1.8 million and $3 million.

In addition to his investment income, Mr. Alexander earned $303,072 in 1990, including $152,352 in salary and expense allowances from the University of Tennessee, according to a disclosure report he filed in January with the U.S. Office of Government Ethics. He also received $109,720 in directors' fees from five companies, including $50,720 from Martin Marietta Corp., a major defense contractor.

One of Mr. Alexander's Midas like investments involved Christopher Whittle, a pioneering Tennessee-based communications tycoon and former co-owner of Esquire magazine. Mr. Whittle became controversial in some education circles two years ago after creating an in-school television-news program for children called Channel One, which included commercials in its packaging.

After leaving the governor's office in 1987. Mr. Alexander became a consultant for Mr. Whittle and helped launch Tennessee Illustrated, a magazine that ultimately failed. Mr. Alexander's compensation included $125,000 in consulting fees, plus the opportunity to buy four shares in Mr. Whittle's closely held Whittle Communications Inc. The former governor wrote a $10,000 check for the shares, drawing the funds against a portion of his consulting fee.

Nearly a year later, in July 1988, Mr. Alexander became president of the University of Tennessee and was concerned that Whittle Communications might do business with the university. So, acting on legal advice, he asked Mr. Whittle to transfer the stock to Mrs. Alexander. As it turned out, though, share certificates had never actually been issued in Mr. Alexander's name. Nor, in fact, had Mr. Whittle's company even cashed the former governor's $10,000 check. Mr. Whittle explains that his company "is a very entrepreneurial place, not a bunch of lawyers and accountants. . . . We operate on handshakes." So, Mrs. Alexander sent in her $10,000 and was issued four shares of stock.

At the time, however, there was something else much bigger under way at the company. Mr. Whittle had been advised that spring by Wall Street investment bankers that his principal company, Whittle Communications LP, was valued at $400 million—twice what he had thought. He began shopping for a partner. In December Time Inc., now Time Warner Inc., bought 50% of the principal company for $185 million. Before closing the deal he bought back Mrs. Alexander's four shares for $330,000. He says that she didn't receive any special treatment—that she got the same deal as other investors and partners.

Mrs. Alexander has made other lucrative investments. In 1984, while her husband was wrestling with Tennessee's terrible prison overcrowding, she invested $8,900 in Corrections Corp. of America.

The company had been founded in 1983 by Thomas Beasley, a former Tennessee Republican Party chairman who years earlier, as an undergraduate at Vanderbilt University, rented an apartment over the Alexander's garage. Mr. Beasley recalls coming to the idea at a reception in 1980 for Howard Baker's presidential campaign, during which he heard people commenting on Mr. Alexander's success as governor. "They said everything was going beautiful—except corrections." Mr. Beasley says. He remembers someone saying that the problem wouldn't be solved until the private sector got involved.

Although Mr. Beasley says Corrections Corp. didn't intend to do business in Tennessee, in 1985 he put together a $250 million proposal to take over the troubled Tennessee prison system. Gov. Alexander supported the idea, but the plan wasn't implemented. Seeking to avoid a conflict of interest, Mrs. Alexander got rid of her Corrections Corp. stock by swapping it to a venture-capital concern for 10,000 shares in South Life Corp., a life insurance company. In 1989, she sold the South Life stock for $142,000. After Mr. Alexander left the governor's office, Corrections Corp. obtained a contract to run a state juvenile facility.

The same venture-capital concern—operated by Mr. Massey of Kentucky Fried Chicken fame—joined with a second firm in providing $2 million in 1988 to Corporate Child Care Inc., a Nashville concern founded a year earlier by Mr. Alexander, his wife and Robert Keeshan, who has portrayed Captain Kangaroo on television for many years.

The sale of Tennessee's Knoxville Journal also proved gainful for the Alexander family.

In 1981, while governor, Mr. Alexander was one of seven investors—including Howard Baker, then a senator from Tennessee—who obtained an option to buy the Journal, a 50,000-circulation daily. By the accounts of various partners, they decided not to exercise their option and instead began looking for a buyer. Even though serving as governor, Mr. Alexander found time to join in the search, which was led by Sen. Baker. Before long, Gannett Co. agreed to pay $15 million for 94.8% of the newspaper company's stock.

For putting the deal together, the Baker-Alexander partners obtained the right to swap their Journal stock—which they had acquired at no cost—in exchange for Gannett options and stock. Mr. Alexander waited as Gannett's value rose significantly and made his exchange in 1985. He cashed in his investment in the next two years, bringing in $569,000 for his Gannett holdings.

Asked who invited him into the deal, Mr. Alexander, a former newspaper reporter himself, says: "We all had the same idea at the same time. The Knoxville Journal is a great asset, a newspaper we all admired, and all of us dreamed of owning a little piece of it one day."

[From the New York Times, Mar. 6, 1991]

INQUIRY STALLS VOTE ON SCHOOLS CHIEF

(By Karen DeWitt)

WASHINGTON, March 5.—Lamar Alexander, President Bush's nominee for Secretary of Education, expressed confidence today that he would be confirmed despite a continuing Senate investigation into his financial investments.

"I've led an interesting life, but I'm confident that in the way I've conducted my political life over the last 20 years I've only done what I should have done," said Mr. Alexander during an interview in a small, windowless room in the Education Department he referred to as the "holding room." He is using the office, down the hallway from the Secretary's office, while awaiting his confirmation.

President Bush nominated Mr. Alexander for the Cabinet post on Dec. 17, and a confirmation hearing was held Feb. 6.

Mr. Alexander, president of the University of Tennessee and a two-term governor of that state, made his comments after the publication of an article today in The Wall Street Journal saying that Senate investigators were examining a series of highly lucrative investments made by Mr. Alexander.

NO WRONGDOING INDICATED

The article said there was no indication of any wrongdoing on Mr. Alexander's part, but that his political standing made business executives eager to include the former Governor in their investments.

The Senate Labor and Human Resources Committee, headed by Senator Edward M. Kennedy, Democrat of Massachusetts, is investigating the circumstances in which Mr. Alexander acquired some of his investments.

Senator Howard M. Metzenbaum, Democrat of Ohio, also told Mr. Alexander during Senate confirmation hearings that he wanted to question him in private about his financial dealings. Mr. Alexander at the time said he was prepared to answer any questions and answer them in public.

Republican lawmakers said today that Senate Democrats are being over-zealous in their scrutiny of Mr. Alexander.

SCRUTINY CRITICIZED

"He's answered every question that they have had and he's answered them straight up," said Senator Orrin G. Hatch of Utah, the ranking Republican on the labor committee. "They've just scrutinized him to death." He added, "Frankly, there were some political groups that are formenting this for political reasons to try to embarrass him."

White House officials said they expect Mr. Alexander to join the Cabinet soon.

"We do hold him in very high regard and look forward to his joining the Cabinet," said Steve Hart, deputy White House press secretary. "We think the Senate is taking the time it needs because it is clearly motivated by some serious need for information, instead of political motivations or partisanship."

According to a financial statement released to the Office of Government Ethics and made available today to news organizations by Mr. Alexander, he and his wife have a net worth of between $1.5 million and $3 million, the result of property holdings and various investments and stocks.

"I think that some people are surprised that a former governor can create from scratch a major child care company or help launch a major publication," said Mr. Alexander about two of his business ventures. The magazine, Tennessee Illustrated, eventually failed. "Primarily I'm a creative person and basically I've invested in risky 'incubator' companies. It was more fun than joining a law firm or becoming a lobbyist."

The article said that in 1981, when Mr. Alexander was Governor, he was one of seven investors, including former Senator Howard Baker, who obtained an option to buy The Knoxville Journal, a daily newspaper in Tennessee with 50,000 circulation. Deciding not to exercise their option, the investors arranged a deal in which Gannett Company paid $15 million for 94.8 percent of the newspaper's stock.

The investors then swapped Journal stock, which they had acquired at no cost, for Gannett options and stock. In 1986 and 1987, after Gannett's stock value had risen, Mr. Alexander cashed in his Gannett holdings for $569,000.

In another investment with Whittle Communications, four shares of stock that cost $10,000 were sold within a year for $330,000.

Mr. Alexander had transferred the Whittle stock to his wife when he became president of the University of Tennessee, after consulting with the school's lawyers on whether the company, which does some education work, might do business with the school.

Christopher Whittle, a communications entrepreneur and former coowner of Esquire magazine, is a longtime friend of Mr. Alexander.

Mr. Alexander said that in the rare instances where there was a possible conflict of interest, he has either divested himself of his holdings or transferred them to his wife. Federal ethics laws do not permit this kind of transfer to a spouse if such stock or investments might provide a conflict of interest to a Federal appointee. State ethics laws are not as strict.

It was the ties to Whittle that prompted Senator Metzenbaum to pursue his questioning of Mr. Alexander. Nancy Coffey, press secretary to Senator Metzenbaum, said, "When the committee investigation is completed he plans to review all the material before he makes his decision" on whether to vote for confirmation.

Mr. Alexander said he was not concerned that nearly five weeks had lapsed since his confirmation hearings were held, nor that he has been asked to answer some 100 questions as well as submit his tax returns.

"My experience has been that the best thing to do is to answer the question," said Mr. Alexander. "Confirmation is a questioning process and I think I've answered the questions."

[From the Wall Street Journal, Mar. 7, 1991]

SEN. HATCH DECRIES "FISHING EXPEDITION" BY PANEL WEIGHING EDUCATION NOMINEE

(By Edward T. Pound and Hilary Stout)

WASHINGTON.—Sen. Orrin Hatch complained that a Senate committee was conducting a "fishing expedition" into the finances of Lamar Alexander, President Bush's nominee for Secretary of Education, and demanded an immediate confirmation vote.

Mr. Hatch of Utah is the ranking Republican on the Senate Labor and Human Resources Committee, headed by Massachusetts Democrat Edward Kennedy. The vote has been slowed as the committee's staff continues to pore over the finances of Mr. Alexander, the former Tennessee governor who is currently president of the University of Tennessee. Among other items, the staff is examining his ties to a Tennessee bank holding company that paid him $161,000 in consulting and director's fees after he left the governor's mansion.

In an interview, Mr. Alexander, whose term as governor expired in early 1987, said he was paid $86,000 in consulting fees by First Tennessee National Corp. in 1988. In addition, he has received $75,000 in director's fees since January 1988, but says he contributed most of the money to the university and to charity.

One potential problem is that First Tennessee Bank, which is owned by the holding company, served as the major repository of University of Tennessee funds. The bank also made personal loans to Mr. Alexander, who says his ties are normal and proper. Beauchamp Brogan, the university's general counsel, said the school banked with First Tennessee long before Mr. Alexander became president in mid-1988. Moreover, he said the Tennessee attorney general concluded that the university president could sit on the board of a company that did business with the university.

As previously reported, Mr. Alexander's ability to make large profits on minimal investments, including profits he and his wife made on investments in communications businesses, has drawn scrutiny by committee investigators.

To date, Sen. Hatch said in a letter to Sen. Kennedy, investigators "have yet to find anything that would render Gov. Alexander unfit" for the education post. Sen. Hatch, himself a former Labor Committee chairman, charged that the panel's inquiry "has gone beyond what was necessary to answer any legitimate" financial questions and was taking on "the characteristics of a fishing expedition."

A spokesman for Sen. Kennedy responded that "a number of complex financial transactions are involved and the committee has a responsibility to the Senate and the country to explore them."

One such transaction under review involves Mr. Alexander, his wife Leslee, and Christopher Whittle, a Tennessee-based communications tycoon. Mrs. Alexander reaped a quick $320,000 profit on a $10,000 investment in a Whittle company arranged for her by her husband.

Mr. Alexander says he initially bought stock in the Whittle concern from Mr. Whittle, his longtime friend, but transferred it to Mrs. Alexander in July 1988 when he became University of Tennessee president. The arrangement required Mrs. Alexander to write her own $10,000 check, because Mr. Whittle hadn't cashed Mr. Alexander's $10,000 check.

Yesterday, Mr. Whittle provided more details on the curious transaction.

He said Mrs. Alexander paid for her stock in July 1988 and completed the paper work in August, but that he didn't deposit her check, either. Meanwhile, he was working on a lucrative deal to sell 50% of his principal company to Time Inc., now Time Warner Inc.

Mr. Whittle and an aide explained that his secretary stuck Mrs. Alexander's check in a drawer. The company later discovered that Mrs. Alexander had written the check to the wrong payee, Whittle Communications Inc., rather than to Mr. Whittle personally.

So, a few days after the Time deal was agreed upon in October 1988, she wrote a second check to Mr. Whittle for $10,000. In December, the Time deal was consummated and Mr. Whittle bought back Mrs. Alexander's stock for $330,000. He said she got the same deal as other investors and partners.

[From the Tennessean, March 6, 1991]

ALEXANDER WORTH EXAMINED: 4 DEALS MADE $1.9 MILLION

(By Sheila Wissner)

When Lamar Alexander ran for governor in 1978, he listed his net worth at $151,000.

Thirteen years later—all but 18 months of it in public office—Alexander estimates his net worth at $1.4 million–$3 million.

In four transactions alone, with investments totaling $20,000, Alexander has made profits of $1.9 million.

The former governor's financial success has attracted the attention of investigators for the Senate Labor and Human Resources Committee and The Wall Street Journal.

The committee concluded mostly amiable hearings on Alexander's nomination to be President Bush's secretary of education last month, but has not scheduled a final vote on his confirmation. No open opposition to the nomination has emerged on the committee.

"I have been in public life a long time and expect to be questioned," Alexander said yesterday. "That is what the confirmation process is all about."

"I am comfortable answering any questions they might ask. I also told Senator [Edward] Kennedy [the committee chairman] that I am ready to go to work. I can't imagine that there could be any more questions."

Sen. Orrin Hatch of Utah, the ranking Republican on the Senate committee, said he has reviewed both Alexander's financial information and the FBI report "and I don't see any reason to hold up the nomination."

"Senator Kennedy and I have worked closely on nominations in the past, and I am confident that he will report Governor Alexander's nomination from the Labor and Human Resources Committee in the next few days."

Alexander served as governor 1979–87 and became president of the University of Tennessee in July 1988. He exceeded financial disclosure requirements required by law during that time, and much of his financial life was public knowledge.

But disclosure forms filed with the committee by Alexander and details provided to The Wall Street Journal in an article published yesterday opened new windows on Alexander's finances.

In the early 1980s, Alexander and a group of other prominent Republicans, including former Sen. Howard Baker, acquired without cost an option to buy The Knoxville Journal, then Knoxville's morning newspaper. In 1981, the group brokered the sale of the newspaper to Gannett Co. Inc., owner of more than 80 daily newspapers, including The Tennessean.

The group received Gannett stock options in exchange for their role. In 1985, while still governor, Alexander exercised his options for a profit of $569,000.

In 1985, Alexander's wife, Honey, invested $5,000 in Corrections Corporation of America, a venture capital company being promoted by the Massey-Burch Investment Group. When CCA began seeking state business, Honey Alexander swapped the stock for another Massey-Burch venture, South Life Corp.

After South Life began the public sale of stock, Honey Alexander sold her holdings in 1989 for $142,000.

In 1987, the Alexanders joined to help form another Massey-Burch company, Corporate Child Care, with a $5,000 investment. Alexander told the Senate committee the value of the stock now is $800,000.

Between his service as governor and UT president, Alexander worked as a consultant for Knoxville entrepreneur Chris Whittle and Whittle Communications, earning a $125,000 fee. He also paid $10,000 for stock in the closely held company, but shifted the ownership to Honey Alexander when he became president of the university.

Within months, Whittle bought the stock back for $330,000 as he sold half interest in his company to Time Warner Inc. for $185 million. Thus, the Alexanders made $445,000 from their dealings with Whittle.

Alexander said that his own net worth—excluding Honey's and the Gannett holdings—increased from $212,000 to $467,000 from the time he took office to the time he left. That was an increase of some 12% per year, he said.

"I think it's important for people to know that because they might read all this and draw inferences that aren't appropriate," Alexander said. "But I am glad to have the questions asked."

Alexander said most of the increase in his net worth while he was in office came from reducing his mortgage payment indebtedness and from appreciation of real estate.

Honey's investments were worth about $500,000 by the time he left office, Alexander said, so their combined net worth was some $1 million plus the Gannett shares and options.

Based on conservative estimates, Alexander placed his current net worth at $1 million and their joint net worth at $1.5 million, although disclosure forms filed with the Senate committee estimate it could be as high as $3 million.

Although he sold his interest in Whittle, Alexander continues to hold a seat on the Channel One advisory board. He also enlisted Tom Ingram, Whittle's vice president of communications and a longtime friend, as an unpaid, occasional adviser after President Bush tapped him for education secretary.

Alexander said he already told the confirmation committee that he would step down from the unpaid post on the Channel One advisory council, and the other 25 or so boards and commissions on which he serves, if confirmed.

Whittle's Channel One news program for secondary schools has been controversial because of the commercials shown during the half-hour daily classroom broadcasts.

"The only one I will stay on is the National Summit for Mathematics Assessment, which is scheduled for April," he said.

"President Bush asked me to continue through April because I have been chairman for a year, and he thinks it's important."

He said Whittle paid him $125,000 to help create and launch Tennessee Illustrated, a magazine which has since ceased publication.

Alexander said he met with two or three potential advertisers, including TVA, which subsequently bought ads in the magazine, but was not in charge of selling ads.

Alexander accepted the consulting position after he left office and resigned when he became president of the University of Tennessee system. He said he did not think his former position influenced advertisers to place ads in the magazine.

"I hope any influence I had was a winning smile and a pleasantness," he said.

Chris Whittle, who had been the president of the UT student body, gave UT free ad space in the magazines, Alexander said.

Alexander said his wife bought the Whittle stock after he took the UT post to avoid any appearance of a conflict of interest in the event Whittle did business with UT. As it turned out, Whittle did no business with UT, he said.

As for his stock in Corporate Child Care, Alexander said the Office of Government Ethics has carefully reviewed his holdings and concluded there is no conflict.

"Of course, I won't serve on the board," he said. "If anything came across my desk that had anything remotely to do with Corporate Child Care, I would recuse myself from acting on that."

But that scenario is unlikely, he said, because Corporate Child Care works with companies like Marriott and Baptist Hospital to provide child care for employees and has no dealings with the government.

Marguerite Sallee, chief executive officer of the Nashville-based company that manages corporate centers, said the Alexanders have never profited from the company, which is still considered a startup venture.

"It's puzzling to me that this has created such a discussion," said Sallee, who served as Tennessee's human services commissioner under Alexander.

"He is a person of integrity, first and foremost."

Alexander said it is understandable that some people question that he has made too much money too quickly.

"Some people have the idea that people who are elected governor are somehow rendered totally incompetent to do anything else after they get out," he said.

"It's hard for them to imagine that a person who has been governor can write a book, start a company, launch a magazine and create a leadership institute at a private Baptist college.

"Those are things I did within the first two years after leaving office. I guess it's just hard for some people to imagine that a former governor has enough sense to contribute to new ventures.

"I have been very careful in my investments and business activities not to be involved with companies that did business with the state of Tennessee.

"I have been successful in that so far."

As for the Knoxville newspaper, Alexander said that when the owner, Charles Smith, died, the heirs gave him and the other investors the option to buy the paper. But the investors did not have enough money, so they brought in Gannett.

"I held onto the stock longer than anybody else and between 1981 and 1987, when I sold it, it had dramatically increased and I made a very good profit," he said.

ALEXANDER'S WRITE-OFF OF FAMILY TRIP QUERIED AS VOTE NEARS ON BUSH NOMINEE

(By Edward T. Pound and Hilary Stout)

WASHINGTON.—After eight years as Tennessee's governor, Lamar Alexander took his family on what might be called a vacation of a lifetime—six months in Australia to renew family ties.

And though he was no longer in public office, taxpayers ended up subsidizing part on the trip.

Now, as he awaits confirmation as secretary of education, Mr. Alexander has had to explain to Senate investigators why he took $128,308 in tax deductions on a book about that vacation called "Six Months Off," published by William Morrow & Co.

The Senate Labor and Human Resources Committee may vote as early as today, and although the panel has been looking into Mr. Alexander's finances, it isn't expected to block the nomination. "I understand that it is greased," said Paul Smith, press secretary for Sen. Orrin Hatch of Utah, the committee's ranking Republican.

Mr. Alexander's Tennessee accountant said that about 90% of the book deductions involved the Alexander family's living and travel expenses while on the 1987 trip. In interviews, Mr. Alexander and the accountant both described the deductions, spread out over four years on joint federal returns filed with his wife, as "ordinary and necessary" to writing a book about his family.

Accountants said it is normal and legal for authors to deduct expenses for research and for writing a book. But the amount of deductions that Mr. Alexander took has raised some eyebrows on Capital Hill.

The Bush nominee seems increasingly frustrated over the question about his finances. Previously, it was disclosed that the Senate committee, headed by Massachusetts Democrat Edward Kennedy, was reviewing a series of stock transactions in which Mr. Alexander and his wife reaped large profits with miminal investments.

"Of course, I took the appropriate tax deductions," Mr. Alexander said in explaining the book write-off. He said he kept documents and a journal on the expenses incurred by himself, his wife and their four children. He relied on his accountant for advice, he said, and the deductions weren't "in any way unusual or inappropriate."

Mr. Alexander, current president of the University of Tennessee, is the author of four books, including "Steps Along the Way," a 1986 account of his gubernatorial years. He said his campaign committee bought 4,000 of his books from Thomas Nelson Publishers at a discounted price of $7,916 after his second term ended in January 1987. He said the books were going to be discarded and were purchased for use in a possible future campaign. "I took no royalty on that," he said.

The former governor said he doesn't dispute that he "set out to make money," saying he had little chance to do that while in office except for a $569,000 profit on a Gannett Co. stock investment.

"I guess the only thing you could say about that," he said, "is that I have a capacity to make money, and maybe what I do has a value. I would hope that as secretary of education you would want somebody who's worth something, who's able to contribute.

Mr. Alexander describes himself as a risk-taker, but it is clear that he has been handed some nice job and investment opportunities. Even while in Australia for half of 1987, he said, he was on the payroll of Belmont College, a Baptist school in Nashville. Mr. Alexander explained that he was hired to create a "leadership institute" at the Massey School of Business, named for Jack Massey, who helped build the Kentucky Fried Chicken empire and was a founder of Hospital Corp. of America.

Mr. Alexander won't say what he was paid by Belmont College in 1987. But he informed the Labor Committee that he received $100,000 from the school in 1988, a year that proved lucrative for the Alexanders. He and his wife, Leslee, who is known as Honey, grossed at least $900,000 that year, including $44,000 in board and consulting fees from Massey Burch Investment Group—then operated by the same Mr. Massey—and $110,000 in consulting and board fees from First Tennessee National Corp.

Last week, after questions were raised about his profitable investments, Mr. Alexander amended financial disclosure reports he filed as University of Tennessee president from July 1988 onward. The amendment includes additional, though only general, information about the family's investments. It describes the types of investments but not the specific companies or other investment entities. He said that his lawyer, after reviewing the Tennessee disclosure law, advised him to file the amendment.

In discussing his business deductions for "Six Months Off," Mr. Alexander estimated that he had sold 35,000 to 40,000 copies in hard cover and paperback. He said he had signed a contract with William Morrow & Co. before he, his wife and his children left for Sydney in January 1987. He declined to say how much in royalties he had received, but he informed the Senate Labor Committee that he had received $45,000 in advances. He also said that Warner Brothers had bought an option on television and movie rights.

Mr. Alexander made his accountant, James Lattimore, Jr., available to discuss the $128,000 in deductions, and a Lattimore letter written yesterday that detailed the reasoning behind the deductions was provided to The Wall Street Journal. In the letter, addressed to Mr. Alexander, Mr. Lattimore recounts that he and the former governor thoroughly discussed the tax issue during the preparation of the Alexanders' joint return in 1987.

"We would be surprised if anyone could seriously question the deductibility of the expenses incurred by you and your family which were claimed on your return," he wrote.

Mr. Lattimore said that the deductions included "such expenses as air fare, hotels, car rental and upkeep, house rental and utilities, photo, camera and writing supplies, a word processing computer, and some meals."

He said, "The fact that expenses for your family were being deducted [was] fully and expressly disclosed" in memos attached to Mr. Alexander's 1987, 1988 and 1989 returns. He said the expenses "were ordinary and necessary with respect to your research, fact-gathering, compiling and writing of the book."

Mr. CONRAD. Mr. President, I rise today to commend President Bush on his choice of Lamar Alexander as Secretary of Education. Mr. Alexander, as Governor of Tennessee from 1979 to 1987 and as chairman of the National Governors' Association in 1986, was successful in making the issue of our children's education a top priority for policymakers. I believe that as Secretary of Education, he will have the opportunity to build on those successes and I hope he will bring education to the forefront as a national priority, not just in rhetoric, but also in practice.

Clearly, we must take action. The dropout rate in our country is approaching 25 percent and in some cities, the dropout rate exceeds the graduation rate. When we compare the math and science test scores of the 17-year-olds who remain in school with those of other leading industrial nations—our competitors, the results are telling: dead last in biology, dead last in mathematics and second to last in chemistry.

I hope that Secretary Alexander will make reality of our national policies match the rhetoric. We heard that this year's budget will provide investments in America and in America's richest resource—children. But when I look at the details, I find that less than 1 percent of the increased funding over fiscal 1991 is for currently authorized programs. What that really means is that very successful programs like Chapter 1, school improvement programs, vocational and adult education, and libraries wouldn't even be allowed enough to keep up with inflation, let alone improve their programs. Clearly these funding shortfalls must be remedied. I agree that change must be made in the way we do business, but the way to change is not to undercut the proven winners in our system, like chapter 1.

There is no one solution to our educational challenges. The system is complex and multifaceted. Likewise, the solution will have to be a comprehensive one. We must not place all of our stock in one or two changes. I trust that Secretary Alexander recognized in his Better School Program that changes essential in Memphis would not necessarily be the best solution in his home town of Maryville or very rural communities like Hornsby. Education reform will take on different faces in different localities—there is no one Federal solution. The solution will also only be found through consultation with all parties—teachers, administrators and State officials. There will be no successful education reform that does not have the endorsement of the teachers and administrators.

In addition, I believe that any lasting change must incorporate the entire family. Many of our problems in schools are compounded by problems in the home—from parents without the skills necessary to help the child with schoolwork, to additional stress caused by the parents' lack of a living wage. I have long supported programs that treat the entire family's problems in total, and not as isolated unrelated problems. We must bring together public and private organizations to meet the comprehensive needs of children, youth and parents much the way the Israelis help new immigrants to integrate into their new culture.

As the Secretary explores education reform proposals, I would urge him to look at the Regional Education Laboratories. These organizations are under contract to the Federal Government to provide advice regarding research priorities, opportunities and strategies. As we in North Dakota have learned, these laboratories are in a unique position to provide responsible, workable solutions to education problems. They are in the field, working day to day with teachers, administrators, and State officials to come up with solutions that will work. In my own State, we've worked closely with our lab, the Mid-Continent Regional Education Laboratory in Aurora, CO, to develop significant change in how public education works in North Dakota. Its assistance has been invaluable. I look forward to working with the lab on other education issues, and urge Secretary Alexander to take a close look at what these labs can contribute to the education reform debate.

In closing, I commend President Bush on his choice for Secretary of Education and wish Secretary Alexander the best as he enters his very challenging post.

Mr. GORE. Mr. President, 6 weeks ago before the Committee on Labor and Human Resources, I had the honor of introducing Tennessee's former Governor, Lamar Alexander, and recommending his confirmation as Secretary of Education. It is with great confidence in Governor Alexander's ability to lead a critical agency at a critical time that I now recommend his confirmation to the full Senate.

The challenge Lamar Alexander faces is clear. It's up to the new Secretary of Education to keep the promise his new boss has failed to keep. President Bush has told us repeatedly that he was going to be the Education President. With all due respect, that hasn't happened yet. But it is my belief that the confirmation of Governor Alexander will signify a turning point and a new commitment by the Bush administration to our children, their parents, their schools and their teachers.

The focus on education in this country must be on the positive potential of every child. Across our country there are many schools that are enormously successful. We must encourage these schools to define the future. We must highlight successful programs. And then we must find effective ways to share and use the knowledge we have gained.

We can't dwell on our failures or on advancing minimum standards. We must seek examples of excellence and put all our efforts into enabling every child and every school to learn from these examples. Every preschool child, every immigrant, every executive, every citizen, has something to teach other Americans and something to learn from other Americans. The administration must begin to see every American as a potential student and a potential teacher. Toward this end, Governor Alexander will be able to open some eyes.

For our students, we must develop programs that reflect our confidence in their ability to learn and that guarantee their access to quality education. We must make sure that every child enters school prepared to learn, and not distracted by hunger or abuse or illness. And, we must be prepared to make sure that the learning process continues by providing comprehensive education and training for adults.

In our schools, we must use technology to improve the learning environment, encourage the active involvement of parents, teachers, administrators, and community members. And we must expand the classroom to include all available community resources, for example, by working with organizations, businesses, and institutions of higher education.

As my colleagues know, I have worked hard on two initiatives to expand the role of new technologies in education. While I was still a member of the House, I proposed a new way to stimulate the development of new computer software programs to improve teaching resources. And more recently, I have introduced legislation to create a new communications infrastructure to serve supercomputing centers and the literally thousands of applications for supercomputing in not only research but also in education and business. I am looking forward to working with Lamar Alexander to put these and other exciting computer and telecommunications technologies to work for our Nation's students.

For our teachers, we must encourage high quality, ongoing training, ensure a substantive role in developing curriculum and provide opportunities to share information regularly with their counterparts nationwide.

Mr. President, Lamar Alexander has the experience and the expertise to meet the challenges facing our schools, our students, our teachers, and all our families. His outstanding credentials are well-known. But I cannot overemphasize the importance of Governor Alexander's work to the State of Tennessee and later, to the University of Tennessee.

The committee has carefully and painstakingly reviewed Governor Alexander's credentials both in hearings and in separate inquiries. It is time to move forward. For Governor Alexander to be the kind of Education Secretary this Nation so desperately needs, it is imperative that he have the full support and confidence of the Nation—from the President and the Congress on down to the teachers, parents, and students. The Labor Committee's thorough investigation and favorable report of Lamar Alexander should put to rest any lingering questions or concerns.

Mr. President, it is with great pride that I recommend Lamar Alexander to my colleagues. I hope his nomination will be approved quickly.

Mr. SIMPSON. Mr. President, this is very clearly a case of the right man coming into the right job at the very right time. There is no doubt in my mind at all that this will be so very good for education. All players in our political process are committed to that. The President has reserved his most generous proposals of increased budgeting for education—at a time when the entire Federal budget is proposed to grow at a rate of only 2.6 percent, he is asking for large increases in education funding—an increase larger than 22 percent for early childhood education, for example. The loyal opposition, too, has also signaled an intention to make education improvement a major theme of this Congress—witness the introduction of an education reform bill as S. 2, symbolically at the head of the agenda. The President will soon be guiding his "excellence in education" proposals through the Congress, and this truly will be a year for active Federal attention to education.

Stepping into the center of this process will be former Governor of Tennessee, Lamar Alexander. The time calls for an energetic, thoughtful, and committed educator, and one glance at his resume demonstrates that he is just that. While Governor, he launched many major educational reforms in his State of Tennessee. Some people clamor every year on behalf of a need to raise teacher salaries as part of education reform, but then they bump up against the difficult realities of trying to implement that. Lamar Alexander succeeded in getting that done in Tennessee educators throughout this country, working right down there in the trenches, should know they have a real friend in this man.

His commitment to education reform is not some late development. Both of his parents worked as educators, and instilled in Mr. Alexander the values and high commitment to education that you can only find in a teaching household. Lamar Alexander lived out that commitment in performing his duties as the president of the University of Tennessee. He will now do the same in his service to the President of the United States.

I strongly believe, that it is vitally important to have a man of Lamar Alexander's capability and expertise at the head of the Departmernt of Education at this time. The challenges before this Congress are many—reauthorization of the Higher Education Act, excellence in education, early childhood education—there is so much work for us all to do. We will be so very fortunate to have such a man as Lamar Alexander to help us do it. He is an inspiration in education and I am so very proud of him. We wish him and his lovely wife Leslee well as they embark on this important venture for our country.

Mr. SASSER. Mr. President, I rise in support of the nomination of my fellow Tennessean, Lamar Alexander, to be the Secretary of the U.S. Department of Education.

I will note that I am far from alone in my support. I join 16 members of the Labor Committee in supporting this nomination—16 members who conducted a review of Lamar Alexander's qualifications.

I have great confidence in the committee and trust in its judgment—and I believe we should accept its recommendation.

It's important that we move forward and begin to address the very pressing need to improve education in this country.

As Governor of Tennessee for 8 years, Lamar Alexander was instrumental in bringing education reform to the top of the public agenda. He implemented a better schools program to upgrade the State's public school curriculum with an emphasis on math, science, and computer technology. He also proposed and passed a merit pay plan for Tennessee teachers.

As chairman of the National Governor's Association, Lamar Alexander was instrumental in the NGA's adoption of a better schools proposal that focused national attention on his programs back home in Tennessee.

After leaving the Governor's office in 1987, Lamar Alexander did not give up public service for the private sector. Instead he carried his commitment to education to the University of Tennessee, one of the Nation's oldest and best land grant universities.

In his 2½ years as president of the university, Lamar Alexander has sought to raise the school's academic stature through tougher standards and a more talented and diverse student body and faculty.

Obviously, the nominee's background belies a longstanding devotion to learning, and to improving our country's public school system.

I feel assured that Lamar Alexander will be able to put education at the top of the Bush administration's agenda.

And that is fundamentally the most important reason to support him.

His selection is a tangible sign that the President is finally moving forward on his 1988 promise to focus heavily on improving education in this country.

I urge my colleagues to allow him to do so.

Mr. DOMENICI. Mr. President, I am pleased to be able to add my support today for the confirmation of Lamar Alexander as our new Secretary of the Department of Education.

I have known Lamar for many years. I know of his competence; his personal dedication to the objective of "excellence in education;" and his total commitment to his new position. He will guide the process of change. As in the words of the philosopher George Lichtenberg, "I do not know whether, if things change, they will get better. But what I do know is this: if things are to get better, then they must change." Lamar is the person the President and all of us can count on to effect the important changes we need.

In the days and months ahead, we in this body recognize the challenges, and occasionally the sacrifices, that must be made to ensure that this country addresses and implements its short and long-term educational priorities. An educated populace is rudimentary to a productive society. It is also rudimentary to the quality of life we all hold so dear. An educated populace means not only providing that competitive edge for our service, manufacturing and business communities—but it also means that our children's futures will be better and more fruitful than our own.

It is indeed a pleasure to vote in favor of Lamar Alexander's confirmation. Under his able leadership, our education agenda will be one of change—one of innovation, creativity, and soundness. I personally look forward to working with him, and I know I share the best wishes of my fellow colleagues in welcoming him as our new Secretary of Education.

LAMAR ALEXANDER'S CONFIRMATION AS SECRETARY OF EDUCATION

Mr. HATFIELD. Mr. President, it is a pleasure to rise today to support the confirmation of Lamar Alexander as Secretary of Education and to ask my colleagues to do the same.

I first met Governor Alexander when he was an aide to Howard Baker. Since then, I have followed his career during two terms as Governor of Tennessee, as chair of the National Governors' Association, and as president of the University of Tennessee. An active leader of the educational reform movement on a national level, he serves on the President's Advisory Committee on Education, chairs the Steering Committee of the National Summit on Mathematics Assessment, and has worked with Energy Secretary James Watkins on a program to train retired scientists to become science teachers.

As the son of a private kindergarten teacher and a one-time public school principal, Governor Alexander knows firsthand the specific skills that teachers and school administrators must possess, and which they acquire through professional training and experience. He implemented a Better Schools Program in 1984 while Governor of Tennessee. This program established a career ladder plan and raised teacher salaries, brought computers into junior high schools, enhanced vocational education in high schools, and implemented basic education programs. That exceptional program and his accomplishments as chair of the National Governors' Association demonstrate his faith in the Nation's public schools and in their ability to face the challenges of the 21st century.

For schools, Governor Alexander once told Fortune magazine, "There's no McDonald's, cookie-cutter approach. Just go to work on one school at a time in your own hometown." I hope that as Secretary of Education, he will liken education in the United States to a public utility, as for instance an electric power company—sometimes inefficient, sometimes with fallen poles and snapped cables, sometimes gamely accommodating overloads, and sometimes succumbing to them—but whose continued functioning and nurturing are for the public good.

We face many challenges as we work toward achieving the Nation's education goals. I look forward to working with Governor Alexander and a vitalized Department of Education.

Mr. THURMOND. Mr. President, I am pleased to rise today in support of the nomination of Lamar Alexander to be Secretary of Education.

As a former teacher, athletic coach, and county superintendent of education, I am vitally interested in the direction of education in this country, particularly in times such as now—the 1990's. While the face of education has undergone changes to meet new demands, one thing has remained clear, and that is—nothing is more important than a sound education to prepare Americans to meet the challenges of everyday living. Simply stated, education provides the solid foundation needed to face the challenges of today.

Mr. President, the credentials and accomplishments of our current nominee are no secret—a former Governor of Tennessee and member of the President's Education Policy Advisory Committee, Lamar Alexander has been actively involved in addressing education issues at the State and National level. As the former president of the University of Tennessee, he understands the needs and concerns of educators and students. He has worked in the trenches and knows from a practical point of view what works and does not work.

Lamar Alexander brings to the position of Secretary experience in several different areas of life. He has served as a law clerk, reporter for a newspaper, a Senate campaign coordinator, a legislative assistant, a White House staff assistant, a practicing attorney, an author, and as a director and adviser to several companies.

Mr. President, this nominee is also a past chairman of the National Governors' Association, a former law review editor at the New York University School of Law, and a Phi Beta Kappa graduate of Vanderbilt University. His hands-on experience in education and his broad background in numerous other areas well qualify him for the position of Secretary of Education. We are fortunate to have a man of his talent as the President's nominee.

He is a man of ability, dedication, character, and intellect. I am pleased to support him for the position of Secretary of Education.

Mr. HATCH. Mr. President, I yield back the remainder of the time on both sides.

The PRESIDING OFFICER. All time has been yielded back. All time has expired.

The question is, Will the Senate advise and consent to the nomination of Andrew Lamar Alexander, Jr., of Tennessee, to be Secretary of Education?

The nomination was confirmed.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. WELLSTONE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 94-304, as amended by Public Law 99-7, appoints the following Senators to the Commission on Security and Cooperation in Europe:

The Senator from Arizona [Mr. DECONCINI], as chairman;

The Senator from New Jersey [Mr. LAUTENBERG];

The Senator from Georgia [Mr. FOWLER];

The Senator from Colorado [Mr. WIRTH]; and

The Senator from Nevada [Mr. REID].

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 99-83, appoints Rabbi Morris Shmidman, of New York, and Mr. Stan Rose, of Kansas, to the Commission for the Preservation of America's Heritage Abroad.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELEASE OF BIRMINGHAM SIX

Mr. BIDEN. Mr. President, I am pleased to announce to my colleagues the release of the so-called Birmingham Six, a group of Irish nationals wrongly convicted in 1975 for horrific bombings committed by the Provisional Irish Republican Army. Earlier today in London's Old Bailey Courthouse, the six men—Hugh Callaghan, Patrick Hill, Gerald Hunter, Richard McIlkenny, William Power, and John Walker—were set free after the Court of Appeal reversed their convictions.

A year ago, I introduced a resolution in the Senate—cosponsored by 18 of my colleagues—that called on the British Government to reopen the case of these six men. Within weeks, the British Home Secretary at the time, David Waddington, ordered a new police inquiry into the case. In August of last year, the Government referred the case to the Court of Appeals.

As I discussed in detail in my floor statement last year, the men were convicted on unreliable evidence that was discredited after their trial. The courts in Britain have finally recognized these facts. I am pleased that justice, though long delayed, has now been done.

For over 16 years, these men have suffered a gross injustice, languishing in prison for crimes they did not commit. Thankfully, their long ordeal has ended. but nothing can compensate the men for pain that they—and their families—have endured for so long.

The case of the Birmingham Six is not unique. Erroneous convictions occur in every society. But this case has taken on greater significance because of its ramifications for Northern Ireland, where few Catholics have confidence in the administration of justice. Such views are warranted. Today's verdict marks the third time in 2 years that IRA suspects have been released after it was discovered that their convictions were based on flawed evidence.

Immediately after the verdict was announced today, the current Home Secretary, Kenneth Baker, revealed that he will appoint a Royal Commission to review criminal procedures in order "to minimize as far as possible the likelihood of such events happening again." I am pleased that the British Government has acknowledged the shortcomings in a system that has produced such gross injustices.

THE CHIEF OF PROTOCOL IS HONORED BY THE DIPLOMATIC CORPS AND BY THE REPUBLIC OF VENEZUELA

Mr. PELL. Mr. President, on January 21 of this year, the Washington Diplomatic Corps honored Ambassador Joseph Verner Reed, the Chief of Protocol of the United States. In honoring Ambassador Reed, the diplomatic corps honors as well the American people, the administration, the Congress and the city of Washington for their hospitality and cooperation with the foreign missions located in our capital city.

In addition, on February 28, the Minister of Foreign Affairs of Venezuela, Mr. Reinaldo Figueredo Planchart, awarded Ambassador Reed with the Venezuelan Order of Francisco de Miranda in the first class. Francisco de Miranda was one of the heroes of the liberation of Venezuela, drawing considerable inspiration in his efforts from the American Revolution. Consequently, in honoring Ambassador Reed, the Government of Venezuela has forged another link in the bond of liberty between our two countries.

Mr. President, I ask unanimous consent that the full texts of the following statements relating to the dual honors recently accorded to Ambassador Reed be printed in the RECORD at the conclusion of my statement: First, remarks by Ambassador José Luis Fernandes Lopes of the Republic of Cape Verde and dean of the diplomatic corps; second, Ambassador Reed's remarks in response; third, remarks by Mr. Reinaldo Figueredo Planchart, Minister of Foreign Affairs of Venezuela; and fourth, Ambassador Reed's remarks in response.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS ON THE OCCASION OF THE RECEPTION BY THE DIPLOMATIC CORPS OF WASHINGTON, DC, TO HONOR AMBASSADOR JOSEPH VERNER REED, THE CHIEF OF PROTOCOL OF THE UNITED STATES OF AMERICA BY HIS EXCELLENCY JOSE LUIS FERNANDES LOPES, AMBASSADOR OF THE REPUBLIC OF CAPE VERDE AND DEAN OF THE DIPLOMATIC CORPS, JANUARY 28, 1991

Fellow ambassadors, distinguished guests, ladies and gentlemen, we are very pleased to honor one of America's creative and warmly respected diplomats.

The high esteem of Ambassador Joseph Verner Reed by the Diplomatic Corps of Washington, D.C., is not simply a matter of a general sentiment recognizing the outstanding personality of a warm and gentle human being. Our deep appreciation of the Ambassador is the product of his many fruitful initiatives for the well-being both of the diplomatic community in the United States, and of visiting dignitaries and diplomats.

Indeed, while an acquaintance with his record at the United Nations led many of us to expect much of him, his service in the advancement of useful diplomatic functions and the highest precepts of diplomacy has gone beyond our high expectations. Let us note with appreciation the timely opportunities which Ambassador Reed afforded us, through many carefully planned functions at Blair House, to meet with a wide range of American leaders and prominent individuals.

The dialogues involved in such informal meetings, contributed to enhancing our work, enriching our experience, and facilitating, in some instances, exchanges of vital importance to our respective nations.

Let us also recall with great satisfaction the many efforts of the Ambassador to arrange informative policy briefings on major international events and concerns, such as in connection with the economic summit in Houston.

Let us remember the sensitivity with which Ambassador Reed proceeded to arrange the special luncheon at Blair House—where my colleagues and I were able to exchange, in the useful atmosphere of informality, points of view and concerns directly with the President of the United States.

Let us, finally, take special note of the Ambassador's gracious initiative in making it his business not only to be available to my colleagues, but to actually call on all of our Embassies in Washington. This afforded each of our Embassies an opportunity to address areas of specific concern to our respective nations.

These, and other thoughtful efforts were important opportunities for enhanced dialogues and cooperation with our host nation. The opportunities might well have been lost had it not been for the new direction set by Ambassador Reed and his hard-working staff. Their tactfulness, professionalism, sensitivity, and a great number of practical initiatives have, over recent years, been a source of great encouragement to our diplomatic community.

In the above light, Ambassador Reed, we the diplomatic community of Washington, D.C.—salute the many special ways you—and the Office of the Chief of Protocol in General—cared about and responded to our particular needs.

Ambassador Reed, we take great pleasure in recognizing the characteristic American generosity and good will which you have consistently demonstrated in the performance of your diplomatic work for your Nation and for our community of nations.

REMARKS GIVEN BY AMBASSADOR JOSEPH VERNER REED AT THE RECEPTION IN HIS HONOR GIVEN BY HIS EXCELLENCY JOSE LUIS FERNANDES LOPES, AMBASSADOR OF THE REPUBLIC OF CAPE VERDE AND DEAN OF THE DIPLOMATIC CORPS ON BEHALF OF THE CHIEFS OF DIPLOMATIC MISSIONS AND THEIR SPOUSES, JANUARY 28, 1991

Dean of the Diplomatic Corps, Mr. Secretary General, fellow Ambassadors, honored guests, friends, my first words of gratitude go to the Secretary General of the Organization of American States who has made it possible for the Diplomatic Corps to have this gathering in this great and historic institution.

We look with honor and respect to this Organization of American States which was the pioneer in establishing a multinational organization. The world organization created in 1945 drew importantly from the Charter of the OAS. I myself was honored to serve as an accredited representative and then as an officer of the United Nations.

In this dire moment in history, when the principles of mutual defense and the law of nations are being put to a cruel and severe test, the importance of the role of the diplomat is seen in its starkest form. Hopefully, under the guidance of the almighty power that rules the universe we will have a quick end to the military phase of this effort to insure that the solemn sanctions of the Security Council of the United Nations are observed.

But, this military phase will be followed by a kind of testing in the diplomatic community. Because it is only through diplomacy that we can forge the peace which the brave men and women of the coalition nations are now making possible through their skill, energy, imagination, and unfortunately in the case of some their lives.

It is because of the high calling of the diplomat that I am so honored and moved to receive this expression of friendship from the members of this Diplomatic Corps. This corps is the diplomatic elite of the world. There is no title quite like "Ambassador to Washington". From experience it has become clear that this Diplomatic Corps is peopled with the best and the brightest.

Ambassador Lopes has done me and through me, I feel, my nation a great honor in calling us together this evening. The presence of so many old and new friends touches me deeply. I thank each of you as chiefs of mission for this reception.

However, my pleasure is tempered by my knowledge that this gala represents a farewell for Ambassador Lopes as dean of the Diplomatic Corps. From my unique vantage point he has been an outstanding dean of the corps. After a decade of service in Washington we wish him well in his new endeavors in Cape Verde—health and prosperity to both him and Mrs. Lopes. I know I speak for all when I say that they have forged a circle of friends which will remain always.

I am delighted our new dean, Ambassador Ould Daddah of Mauritania is here. I know he will carry out his duties in a way that will advance the cause of the corps and do his country honor.

I have spoken too long but my heart is brimming with deeply felt pleasure, a pleasure, friends, in being in your company.

I thank you all!

REMARKS GIVEN BY HIS EXCELLENCY REINALDO FIGUEREDO PLANCHART, MINISTER OF FOREIGN AFFAIRS OF VENEZUELA AT THE CEREMONY TO BESTOW THE ORDER OF FRANCISCO DE MIRANDA FROM THE REPUBLIC OF VENEZUELA UPON AMBASSADOR JOSEPH VERNER REED, FEBRUARY 28, 1991

Ambassador Joseph Verner Reed, I am extremely pleased to bestow upon you, on behalf of the Government of Venezuela the Order Francisco de Miranda as a recognition of your distinguished performance in your different roles that have made ties among Venezuelan and United States citizens closer. President Carlos Andres Perez has asked me to convey his appreciation for the outstanding job you have done to make the rapport between him and President Bush as close and as constructive as it has been. Thank you Joseph.

We are well aware of the international services you rendered as Under Secretary-General for Political and General Assembly Affairs of the United Nations and the excellence you have achieved as chief of protocol of the United States.

Undoubtedly, you have gained respect and admiration from all quarters. The unflagging dedication to international understanding, the fairness that inspires your initiatives, the affability and gentlemanliness with which you conduct the business of diplomacy have served well not only your own government but the international community in its never ending quest for legitimate and able leaders.

You once said that "protocol was invented by the Chinese to establish the rules by which substantive diplomacy can be carried out * * *" and both President Carlos Andres Perez and myself, his foreign minister, are fully aware that your work has had much to do with the relationship of mutual trust that exists between Carlos Andres Perez and George Bush. A relationship that motivated, without delay, an immediate, positive response in the difficult juncture created by the gulf crisis.

Venezuela, as a member of OPEC, did what was within its reach to make sure that oil prices would not skyrocket uncontrollably and now Venezuela is doing its utmost to ensure that these very same prices do not plummet unjustly. We fully expect from your government the full understanding and not a dogmatic view that our request for a dialogue between oil producers and consumers not be seen as empty rhetoric nor as a rough attempt to manipulate the market. It is a serious call to common sense and common sanity to limit speculative movements that bring about serious hardships on producers or consumers. In particular developing countries, as instability and unpredictability feeds uncertainties, the worst of all scenarios for sustained development.

Venezuela regards both your tenure at the United Nations—where you are well remembered for your focus on the particular problems of developing countries—and your present responsibilities, at a time when relations between the United States and Latin America enter a new and promising phase, as ample reason to honor you.

The Order Francisco de Miranda bears the name of a truly exceptional Venezuelan. A man of vision. A great soldier who strived for freedom in the Americas. Miranda participated in the three great political movements that transformed modern history and that gave new meaning to man's life and new aims to society; the independence of the United States, the French Revolution and the independence of Hispanic America. In a sense, the fact that you are today receiving this particular honor at a time when your government and people are playing a major role in bestowing the principles of liberty in a tiny country; it could be seen as a coincidence of the standing values of our peoples throughout history, which have a particular vocation for universalism.

In the years '83 and '84 of the 18th century, fifty years before Alexis de Tocqueville, Miranda visited the United States, a country that was then only beginning to be. Before de Tocqueville, Miranda wrote about the people of the United States, its customs, idosyncracies, and its inclination toward democracy as a political system and as a way of life. Miranda was the first Latin American with a vocation for universality. His keen observations, registered in his written work, are an extraordinary record of those momentous times. I would encourage you, Ambassador Reed, to examine some of those quite extraordinary views he had about the people of this country. I am sure that Ambassador Consalvi will take pleasure in advising you in this regard.

Francisco de Miranda admired the United States' political system. His ideas and future projects were influenced considerably by his travels throughout this country and his extensive knowledge of its customs. His personal friendship with great American leaders, among them many of the Founding Fathers—George Washington, Thomas Jefferson, Alexander Hamilton, Samuel Adams, James Madison—served Miranda and our cause well. Without doubt, it constituted a legacy by which he always felt privileged.

Ambassador Joseph Verner Reed, distinguished Ambassador and dear friend, I am exceedingly pleased to bestow upon you the Venezuelan order that bears the name of Francisco de Miranda. It is particularly rewarding for me to be conferring upon you this order at a time when relations between the United States and Venezuela are prospering under the permanent stimulus of the personal, considerate and open friendship that exists between Presidents George Bush and Carlos Andres Perez.

REMARKS GIVEN BY AMBASSADOR JOSEPH VERNER REED AT THE CEREMONY TO RECEIVE THE ORDER OF FRANCISCO DE MIRANDA FROM THE REPUBLIC OF VENEZUELA PRESENTED BY HIS EXCELLENCY REINALDO FIGUEREDO PLANCHART, MINISTER OF FOREIGN AFFAIRS OF THE REPUBLIC OF VENEZUELA, FEB. 28, 1991

Minister of Foreign Affairs Figueredo, Ambassador Consalvi, your excellency, the dean of the Diplomatic Corps, Chief of Protocol of Venezuela Silva-Mendez, excellencies, family and friends, I am so honored—

Honored that President Carlos Andres Perez would bestow the Order of Francisco de Miranda upon me for services I performed as an international civil servant at the United Nations working with and for the economic and social council.

Honored that Mrs. Quayle, representing the President and the Vice President, is with us this evening on the dias.

Honored that you, Mr. Minister, would make the elegant gesture to come to Washington to preside at this ceremony.

Honored that my friends Ambassador and Mrs. Consalvi have gone to all this effort to make this a stellar event of diplomatic row.

Honored that my mother would come such a distance to be with me on this memorable occasion, as I am with the presence of two of my brothers.

Honored that Mrs. Nelson Rockefeller whose late husband the Governor of the Empire State and our Nation's Vice President and wartime coordinator of Inter-American Affairs as well as Assistant Secretary of State for Inter-American Affairs who had such a long and close association with and love for Venezuela is with us tonight.

Honored with the presence of Ambassador George Landau, president of the America's Society and a former Ambassador to Venezuela.

It is a privilege to recognize the justice of the International Court of Justice, his excellency, Andres Aguilar, former permanent representative of Venezuela at the United Nations who was president of the Economic and Social Council during my tenure in the Secretariat. Justice Aguilar was a distinguished and dedicated leader of that important body.

Venezuela—Caracas—always in my heart; for it was in Caracas that Mimi and I spent our first New Year's Eve on our wedding trip—32 years ago!

Yes, I am honored, indeed thrilled.

I say "thrilled" because that is what I feel—in the first instance for this warm gesture in relation to my own small efforts at the United Nations and in all of my professional life to advance the cause of freedom and democracy—values which are dear to all Venezuelans—and also because of what I call "the time"—our time: a time when Venezuela's example of democracy has spread to virtually every country in the hemisphere with that painful exception of our beloved Cuba, still under the yoke of discredited Marxism now rejected by even the Marxists themselves and, indeed, a time when the chance for democracy also appears to have been given a new birth in the Middle East, thanks to the common efforts of my own country and other member nations of the United Nations.

Permit me a word about Miranda: Few in our hemisphere were so great: a lieutenant general in Napoleon's armies; the friend of Washington, Hamilton, Adams, and Paine. Miranda set the agenda of revolutionary freedom in the Americas; and one cannot say Miranda without in the next breath saying, "Bolivar."

It was these giants, inspired by the noble ideals and great events of the previous century here in the United States and in France who were decisive in establishing these great principles of freedom and democracy throughout the New World.

Miranda enunciated the principles and inspired his younger colleagues to take the necessary action to achieve a government based on them. And, of course, none greater in sweeping vision or daring act than the "Immortal Caraqueno"—Bolivar: the example and model of the patriot and statesman.

So—for me—to be associated in this way with these men of vision and greatness—to be inducted into their order—is a singular honor indeed, for which I find it difficult to adequately express my appreciation to President Carlos Andres Perez, to you Foreign Minister Figueredo: and Ambassador Consalvi.

And my thrill is heightened by an additional aspect of this. "The time we live in"—for at this moment we are all grateful, indeed, relieved by the rapid and gratifying developments in the Middle East. To me, one of the most exciting aspects of these events is that their ultimate significance relates directly to our business here this afternoon. For what else are we witnessing but the working out in time and space of the values that were given early life here in our hemisphere by such men of greatness as Washington, Jefferson, Miranda, Bolivar, and San Martin?

In our century we have seen the repeated failure of despots as despicable as Lenin and Stalin, Hitler and Mussolini, Idi Amin and Saddam Hussein. One after another they have proclaimed that history speaks out of the barrel of a gun—that might makes right. But more insistently, and with growing strength, we are finding that the voices of the plain people, of the humble, of the virtuous—can and will prevail: the voices of the Buddha, of Plato, of Jesus Christ—they, and the centurions inspired by them who have like cincinnatus, reluctantly set aside the plow and taken up arms in defense of the republic.

We have seen military personnel from over thirty nations banded together to insure that the law of nations is observed, and that small and peaceful nations are not the trifles of those who amass brute power.

In view of my own service on "Turtle Bay", (United Nations) the thrill is heightened by the symbolism involved in which the peaceful blue banner of the United Nations, our common world organization, is the unifying symbol that has helped to advance the ideals of union, freedom and law that were so nobly embodied by Miranda and Bolivar.

So I thank you, minister, Ambassador and chief, as I thank all who have come to share this moment with me. What a time to be alive!

We have seen the passing of the "permanent annexation of Kuwait" along with the "Reich of 1,000 years" and the "vanguard of history". We can now look to a new opportunity to help our fellow citizens of that "ancient world", from which so many of our ideals and hopes sprang in the first place, to regain their hopes and to share with us here in the New World: governments "of the people, by the people, and for the people."

We give thanks to the Almighty that we can once more lay aside our arms. It is again the time for "the diplomat." Our Nation's first Ambassador to Venezuela was the late Dr. Frank P. Corrigan, whose son, Kevin, my close friend and colleague is with us today. Dr. Corrigan put it so succinctly: the United Nations is a "peace table in being." The challenge is great. The prospects for a better world are exhilarating.

Miranda urges us on.

Muchas gracias. Viva Venezuela. Libre Y Democratica!

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,189th day that Terry Anderson has been held captive in Lebanon.

JAMES BUCHANAN, 15TH PRESIDENT OF THE UNITED STATES

Mr. SPECTER. Mr. President, on the weekend of May 4-5, 1991, citizens of Pennsylvania will commemorate the 200th anniversary of the birth of James Buchanan, the 15th President of the United States, with ceremonies in Lancaster, PA, and at President Buchanan's mansion, "Wheatland."

The only Pennsylvanian to serve as our Nation's Chief Executive, President Buchanan was born in Cove Gap on April 23, 1791. He served as President from 1857 until early 1861 during the tumultuous period leading up to the Civil War. Despite his strenuous efforts to preserve the Union, the Southern States seceded and the Confederate States of America came into existence just as his term of office was ending.

Prior to his election, President Buchanan had served the Nation for more than 40 years in public life as a member of its Armed Forces, as a United States Representative, as a United States Senator, as a United States Minister to Russia, as Secretary of State and as Envoy Extraordinary and Minister Plenipotentiary to Great Britain.

To every national position of trust, he brought energy and dedication.

An 1809 graduate of Dickinson College in Carlisle, PA, President Buchanan was admitted to the bar in 1812 and practiced law in Lancaster before serving in the U.S. military forces during the War of 1812.

Subsequently, he served six terms in the United States House of Representatives prior to his appointment as United States Minister to Russia in 1832. He served two terms in the U.S. Senate from 1834 to 1845.

At the call of President James Polk, he served as Secretary of State from 1846 until 1849.

A tenacious political battler, President Buchanan three times failed in bids to win the Democratic nomination for President—in 1844, 1848 and 1852—before finally succeeding in 1856. In the election of that year, he defeated the Republican nominee, John C. Fremont, and the Whig standardbearer, Millard Fillmore, to become the 15th President of the United States.

On June 1, 1868, at the age of 77, President Buchanan died in Lancaster and is buried in that city's Woodward Cemetery.

It is altogether fitting then that the U.S. Senate take note of the splendid accomplishments of this native son of Pennsylvania on the occasion of the bicentennial of his birth.

It is also fitting that the U.S. Senate should congratulate those Pennsylvanians and citizens of Lancaster who are working diligently and with devotion to commemorate the 200th anniversary of the birth of this great American.

MESSAGES FROM THE HOUSE

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

At 11:27 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolutions:

H.R. 180. An act to amend title 38, United States Code, with respect to veterans education and employment programs, and for other purposes;

H.J. Res. 104. Joint resolution to designate March 26, 1991, as "Education Day, U.S.A."; and

H.J. Res. 167. Joint resolution designating June 14, 1991, and June 14, 1992, as "Baltic Freedom Day."

The enrolled bill and joint resolutions were subsequently signed by the President pro tempore [Mr. BYRD].

At 11:40 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the bill (S. 419) to amend the Federal Home Loan Bank Act to enable the Resolution Trust Corporation to meet its obligations to depositors and others by the least expensive means, with an amendment; it insists upon its amendment to the bill, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Banking, Finance and Urban Affairs, for consideration of the Senate bill, and the House amendment, and modifications committed to conference: Mr. GONZALEZ, Ms. OAKAR, Mr. VENTO, Mr. BARNARD, Mr. SCHUMER, Mr. FRANK of Massachusetts, Mr. CARPER, Mr. TORRES, Mr. WYLIE, Mr. LEACH, Mr. MCCOLLUM, Mrs. ROUKEMA, and Mr. BEREUTER.

From the Committee on Energy and Commerce, for consideration of section 4 of the Senate bill, and modifications committed to conference: Mr. DINGELL, Mr. MARKEY, and Mr. LENT.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate together with accompanying papers, reports and documents which were referred as indicated:

EC-764. A communication from the President of the James Madison Memorial Fellowship Foundation, transmitting pursuant to law the annual report of the Foundation for fiscal year 1990; to the Committee on Governmental Affairs.

EC-765. A communication from the Chairman of the Board of Governors of the Federal Reserve System transmitting pursuant to law the annual report of the Board under the Freedom of Information Act during calendar year 1990; to the Committee on the Judiciary.

EC-766. A communication from the Chairman of the Commodity Futures Trading Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1990; to the Committee on the Judiciary.

EC-767. A communication from the Chairman of the National Endowment for the Arts transmitting pursuant to law the annual report of the Commission under the Freedom of Information Act for calendar year 1990; to the Committee on the Judiciary.

EC-768. A communication from the Deputy Assistant Secretary of Commerce (Administration), transmitting pursuant to law the annual report of the Department of Commerce under the Freedom of Information Act for calendar year 1990; to the Committee on the Judiciary.

EC-769. A communication from the Marshal of the Supreme Court of the United States transmitting pursuant to law the annual report of the cost of the protective function provided by the Supreme Court Police to Justices official guests and employees of the Supreme Court; to the Committee on the Judiciary.

EC-770. A communication from the Assistant Secretary of State (Legislative Affairs) transmitting pursuant to law the quarterly report concerning human rights activities in Ethiopia; to the Committee on Foreign Relations.

EC–771. A communication from the Federal Inspector of the Alaska Natural Gas Transportation System, transmitting pursuant to law the annual report of the System under the Freedom of Information Act for calendar year 1990; to the Committee on the Judiciary.

EC–772. A communication from the Director of the Office of Legislative Affairs National Science Foundation transmitting pursuant to law the annual report of the Foundation under the Freedom of Information Act for calendar year 1990; to the Committee on the Judiciary.

EC–773. A communication from the Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1990; to the Committee on the Judiciary.

EC–774. A communication from the Administrator of the Small Business Administration, transmitting, pursuant to law, the annual report of the Administration under the Freedom of Information Act for calendar year 1990; to the Committee on the Judiciary.

EC–775. A communication from the Chairman of the Federal Deposit Insurance Corporation, transmitting, pursuant to law, the annual report of the Corporation under the Freedom of Information Act for calendar year 1990; to the Committee on the Judiciary.

EC–776. A communication from the Chairman of the Federal Labor Relations Authority, transmitting, pursuant to law, the annual report of the Authority under the Freedom of Information Act for calendar year 1990; to the Committee on the Judiciary.

EC–777. A communication from the Acting Secretary of Education, transmitting, pursuant to law, notice of final funding priorities, Chapter 1 Migrant Education Coordination Program for State Educational Agencies; to the Committee on Labor and Human Resources.

EC–778. A communication from the Administrator of the Health Care Financing Administration, Department of Health and Human Services, transmitting, for the information of the Senate, a videotape entitled "Medicare in Simple Terms"; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BYRD, from the Committee on Appropriations, with amendments:

H.R. 1282: A bill making supplemental appropriations and transfers for "Operation Desert Shield/Desert Storm" for the fiscal year ending September 30, 1991, and for other purposes (Rept. No. 102–23).

H.R. 1281: A bill making dire emergency supplemental appropriations for the consequences of Operation Desert Shield/Desert Storm, food stamps, unemployment compensation administration, veterans compensation and pensions, and urgent needs for the fiscal year ending September 30, 1991, and for other purposes (Rept. No. 102–24).

By Mr. BYRD, from the Committee on Appropriations:

Special Report entitled "Revised Allocation to Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 1991" (Rept. No. 102–25).

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. 534. A bill to authorize the President to award a gold medal on behalf of the Congress to General H. Norman Schwarzkopf, and to provide for the production of bronze duplicates of such medal for sale to the public.

S. 565. A bill to authorize the President to award a gold medal on behalf of the Congress to General Colin L. Powell, and to provide for the production of bronze duplicates of such medal for sale to the public.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs:

Arthur J. Hill, of Florida, to be an Assistant Secretary of Housing and Urban Development;

Geroge H. Pfau, Jr., of California, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1993;

Jim E. Tarro, of New Mexico, to be an Assistant Secretary of Housing and Urban Development;

Cecil B. Thompson, of Virginia, to be a Member of the Board of Directors of the Export-Import Bank of the United States for the remainder of the term expiring January 20, 1991; and

Cecil B. Thompson, of Virginia, to be a Member of the Board of Directors of the Export-Import Bank of the United States for the remainder of the term expiring January 20, 1995.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BIDEN, from the Committee on the Judiciary:

Robert Martinez, of Florida, to be Director of National Drug Control Policy (Exec. Rept. No. 102–2).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BURNS:

S. 661. A bill to provide for energy independence, the development of alternative forms of energy, and for energy conservation, and for other purposes; to the Committee on Finance.

By Mr. WIRTH:

S. 662. A bill to increase the use of natural gas in the United States; to the Committee on Energy and Natural Resources.

By Mr. CRAIG (for himself and Mr. SYMMS):

S. 663. A bill to amend the Act of May 12, 1920 (41 Stat. 596), to allow the city of Pocatello, Idaho, to use certain lands for a correctional facility for women, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. THURMOND (for himself and Mr. GORE):

S. 664. A bill to require that health warnings be included in alcoholic beverage advertisements, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. THURMOND (for himself, Mr. HELMS, and Mr. HOLLINGS):

S. 665. A bill to amend the Tariff Act of 1930 to require that certain revenues attributable to tariffs levied on imports of textile machinery and parts thereof be applied to support research for the modernization of the American textile machinery industry; to the Committee on Finance.

By Mr. SIMON:

S. 666. A bill to guarantee a work opportunity for all Americans and for other purposes; to the Committee on Labor and Human Resources.

By Mr. MCCAIN (for himself, Mr. INOUYE, and Mr. BURDICK):

S. 667. A bill to provide support for and assist the development of tribal judicial systems, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. MCCAIN (for himself, Mr. INOUYE, and Mr. SIMON):

S. 668. A bill to authorize consolidated grants to Indian tribes to regulate environmental quality on Indian reservations; to the Select Committee on Indian Affairs.

By Mr. BOND (for himself and Mr. DANFORTH):

S. 669. A bill to provide a land transfer to the Missouri Housing Development Commission; considered and passed.

By Mr. SIMON:

S. 670. A bill directing the Secretary of State and the Director of the Foreign Commercial Service to appoint permanent cultural and commercial representatives to the Baltic States, to encourage the President to appoint a special envoy to encourage Baltic-Soviet negotiations, and to extend certain assistance to the Baltic States; to the Committee on Foreign Relations.

By Mr. LEAHY (for himself, Mr. JEFFORDS, Mr. KOHL, Mr. KASTEN, and Mr. SANFORD):

S. 671. A bill to establish on a temporary basis a minimum basic formula price for the computation of Class I milk prices; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. FORD:

S. 672. A bill to amend the Petroleum Marketing Practices Act; to the Committee on Energy and Natural Resources.

By Mr. DODD (for himself, Mr. LIEBERMAN, Mr. PELL, Mr. HARKIN, Mr. KENNEDY, Mr. METZENBAUM, Mr. SIMON, and Mr. ADAMS):

S. 673. A bill to amend the Occupational Safety and Health Act of 1970 to establish an Office of Construction Safety, Health, and Education, to improve inspections, investigations, reporting, and recordkeeping on construction sites, to require the designation of project constructors who have overall responsibility for safety and health on construction sites, to require project constructors to establish safety and health plans, to require construction employers to establish safety and health programs, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. GORE (for himself and Mr. SASSER):

S. 674. A bill to designate the United States Post Office located at 304 West Commercial Avenue in Monterey, Tennessee, as the "J.E. 'Eddie' Russell Post Office"; considered and passed.

By Mr. CRANSTON (for himself, Mr. SPECTER, Mr. DECONCINI, Mr. ROCKE-

FELLER, Mr. GRAHAM, Mr. AKAKA, Mr. JEFFORDS, and Mr. DURENBERGER):

S. 675. A bill to amend title 38, United States Code, to improve the capability of the Department of Veterans Affairs to recruit and retain physicians and dentists through increases in special pay authorities and to authorize collective bargaining over conditions of employment for health-care employees of the Department of Veterans Affairs, and for other purposes; placed on the calendar.

By Mr. HOLLINGS (for himself, Mr. DANFORTH, Mr. EXON, Mr. BURNS, Mr. GORTON, Mr. LOTT, Mr. BOND, Mr. COATS, Mr. D'AMATO, Mr. GRAMM, Mr. LUGAR, Ms. MIKULSKI, Mr. MCCAIN, Mr. MCCONNELL, Mr. HELMS, Mr. WALLOP, Mr. WARNER, Mr. SIMPSON, Mr. GARN, Mr. STEVENS, Mr. THURMOND, Mr. DOLE, Mr. CHAFEE, Mr. BREAUX, and Mr. SARBANES):

S. 676. A bill to provide for testing for the use, in violation of law or Federal regulation, of alcohol or controlled substances by persons who operate aircraft, trains, and commercial motor vehicles, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HOLLINGS (for himself, Mr. DANFORTH, Ms. MIKULSKI, and Mr. SARBANES):

S. 677. A bill to provide for testing for the use, in violation of law or Federal regulation, of alcohol or controlled substances by persons who operate trains; to the Committee on Commerce, Science, and Transportation.

S. 678. A bill to provide for testing for the use, in violation of law or Federal regulation, of alcohol or controlled substances by persons who operate aircraft, commercial motor vehicles, and mass transportation conveyances, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BRADLEY:

S. 679. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income payments made by public utilities to customers to reduce the cost of energy conservation service and measures; to the Committee on Finance.

By Mr. ROCKEFELLER (for himself, Mr. HOLLINGS, Mr. INOUYE, Mr. ROBB, Mr. DANFORTH, Mr. BRYAN, Mr. PACKWOOD, Mr. PRESSLER, Mr. STEVENS, Mr. KASTEN, Mr. MCCAIN, Mr. BURNS, Mr. GORTON, Mr. LOTT, Mr. KERRY, Mr. BREAUX, Mr. GORE, Mr. EXON, Mr. FORD, and Mr. BENTSEN):

S. 680. A bill to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism into the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. NICKLES (for himself, Mr. DOLE, Mr. WARNER, and Mr. MCCAIN):

S. 681. A bill to provide an additional amount of Servicemen's Group Life Insurance for death by hostile fire, to direct the Secretary of Veterans Affairs to pay a death gratuity to certain survivors of members of the uniformed services who die in the Persian Gulf combat zone, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. PELL (for himself, Mr. ADAMS, Mr. BIDEN, Mr. BOND, Mr. BRADLEY, Mr. BREAUX, Mr. BYRD, Mr. CRANSTON, Mr. DIXON, Mr. DOLE, Mr. DURENBERGER, Mr. FORD, Mr. FOWLER, Mr. GARN, Mr. HEFLIN, Mr. INOUYE, Mr. JEFFORDS, Mr. MACK, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. PRYOR, Mr. REID, Mr. RIEGLE, Mr. SANFORD, Mr. SIMON, Mr. THURMOND, and Mr. WARNER):

S.J. Res. 95. Joint resolution designating October 1991 as "National Breast Cancer Awareness Month"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SMITH (for himself, Mr. GRASSLEY, Mr. HELMS, Mr. REID, Mr. GRAHAM, Mr. MACK, Mr. THURMOND, Mr. RIEGLE, Mr. SPECTER, Mr. LAUTENBERG, and Mr. BROWN):

S. Res. 82. Resolution to establish a Select Committee on POW/MIA Affairs; to the Committee on Rules and Administration.

By Mr. DIXON (for himself and Mr. KASTEN):

S. Res. 83. Resolution expressing the sense of the Senate to assign United States trade representation for the Baltic States; to the Committee on Finance.

By Mr. MCCAIN (for himself, Mr. INOUYE, Mrs. KASSEBAUM, Mr. SIMON, Mr. COCHRAN, Mr. BURDICK, Mr. DASCHLE, Mr. MURKOWSKI, Mr. DECONCINI, Mr. GORTON, Mr. CONRAD, and Mr. NICKLES):

S. Con. Res. 22. Concurrent resolution extending the appreciation of Congress to all American Indian veterans for their service in the Armed Forces of the United States; to the Select Committee on Indian Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BURNS:

S. 661. A bill to provide for energy independence, the development of alternative forms of energy, and for energy conservation, and for other purposes; to the Committee on Finance.

AMERICAN ENERGY INDEPENDENCE ACT

Mr. BURNS. Mr. President, I rise today to introduce legislation that, I believe, will build upon our efforts to develop a national energy strategy. The bill that I am introducing, titled the American Energy Independence Act of 1991, is a far-reaching measure.

My bill builds on the efforts of many others, in this Chamber and elsewhere, to address the energy priorities this Nation must begin setting. Currently, we import roughly one-half the oil we consume. And that amount is rising. We are dangerously dependent upon Persian Gulf oil.

I am going to the Persian Gulf to take a look at the condition of the oil fields and to visit with representatives of the Gulf States. I expect I will be told that, in terms of oil production, the situation is under control. OPEC has been meeting in Geneva and the oil is still flowing.

But events in that distant part of the world tells us that everything is not under control. It took 500,000 American men and women to bring the situation under control. And the future is uncertain at best.

Since I came to Washington, I have been talking about the need to develop a domestic energy strategy. We have the coal, the natural gas, the renewable energy sources of solar, biomass, and wind—when used in concert with added conservation and yes, with oil, can meet America's energy needs for the forseeable future.

But there needs to be a real emphasis on domestic sources. We can't simply talk about the need for alternative energy. We need to put teeth into our strategy. America's farmers aren't going to grow the biomass to make ethanol simply because the rest of us would like them to. There needs to be a place in the marketplace for such an alternative.

The President has made a start by setting us down the path of developing a national energy strategy. And the Senate Energy Committee under the able leadership of Senator JOHNSTON and Senator WALLOP have taken up the challenge by introducing S. 341, the National Energy Security Act of 1991. My own bill, the American Energy Independence Act of 1991 will hopefully build on these efforts by offering tax inducements and other incentives for energy independence.

It is my hope that when the dust has settled, that America will have a well thought out national energy strategy that will make America energy independent.

Mr. President, I yield the floor.

By Mr. WIRTH:

S. 662. A bill to increase the use of natural gas in the United States; to the Committee on Energy and Natural Resources.

GAS POLICY REFORM ACT

Mr. WIRTH. Mr. President, the war in the Persian Gulf has, once again brought Americans face to face with the need to develop and implement policies that will make us energy independent, and this time we must heed the call. The country needs a long-term energy strategy, and not just a short-term energy fix. That strategy must have as its objectives reducing our dependence on foreign oil, protecting our environment, and enhancing our competitiveness in the world economy.

What elements must be included in a domestic energy policy? It must emphasize conservation, because we need to use energy—and particularly oil—more efficiently if we wish to keep pace with our competitors for world trade. We must increase research and development of alternatives such as solar and renewable energy technologies, which hold great promise for the future.

But we must also harness another resource we have, a resource which can be directly substituted for imported oil as an industrial boiler fuel, as a powerplant fuel, as a heating fuel, and even as a fuel for our cars, trucks, and buses—the use that accounts for 50 percent of all the oil this country uses. That resource is natural gas.

There are several reasons why natural gas should play a central role in a new national energy strategy. First, as we all know, it is the cleanest burning of all fossil fuels. Second is the ability of natural gas to displace oil use in our economy. Third, natural gas is currently selling in our country for half the cost of oil, on an energy-equivalent basis. Lastly, natural gas is a domestic energy resource, abundant in North America. Yet despite all these advantages, gas use has dropped in the United States over the past 20 years.

Although oil has been the engine driving our national economy for many years, it is time to phase in real alternatives to oil, including natural gas. But that will not happen on its own.

Last year, I asked leaders in our State's natural gas industry—the producers, the pipelines, and the retailers of natural gas—to sit down, set aside their differences, and decide how best to promote the use of natural gas. Those Members familiar with the gas industry know that these three elements of the industry generally are too busy fighting each other for the last advantage in the complicated and adversarial regulatory scheme we have created for the industry to agree on much of anything.

But to their credit, these Colorado businessmen—headed by Public Service Co. of Colorado, our largest gas retailer, Colorado Interstate Gas, one of our major pipeline companies, and the Independent Petroleum Association of the Mountain States, which represents the producers, did sit down and work out an agreement on ways to get natural gas to where it is needed.

The bill I am introducing today incorporates their recommendations, and I plan to be a strong advocate of these measures as the Senate Energy Committee, on which I serve, and then the full Senate, debate our national energy policy.

This legislation would:

Promote new uses for natural gas by providing for research, development, and market incentives for gas air conditioning, vehicle fuels, and for power plant cofiring. Public Service Co. of Colorado already uses natural gas to power many of its service vehicles, and has helped make this fuel available to others. And every vehicle running on natural gas is decreasing our oil imports.

Remove regulatory barriers to allowing competition to set the prices in the gas industry, and to provide economic incentives for the expansion of gas pipelines into new markets. Current regulation creates strong economic disincentives to building new pipelines—and that has kept our abundant natural gas resources from reaching the markets that need them.

Allow natural gas producers to be paid for using their fields to store gas for peak use periods, and require Federal regulators to carefully examine natural gas import proposals to assure they compete fairly with domestic producers. That simply levels the playing field between producers and pipelines and distributors, in the first case, and Canadian competitors, in the second.

Streamline the regulatory process governing the construction of new pipelines, to enable natural gas to be brought into new markets. Significant streamlining can be achieved by allowing parallel processing of different parts of the approval process, and simplifying the approval process for noncontroversial projects.

Much of this agenda simply boils down to making it simpler to get natural gas from wells like those in Colorado's San Juan Basin, or the Denver-Julesburg Basin in the eastern part of our State, to markets like Los Angeles that are in desperate need of clean-burning fuels. The complicated, adversarial regulatory system we have built up for regulating natural gas over the years has, in effect, kept gas from the people who need it. Getting gas to where it is needed is the essence of my proposal.

These sorts of measures to increase the role of natural gas in our national energy supply are an essential part of any sensible national energy policy. I intend to do my best to see that both the Congress and the administration achieve a sensible energy policy, so we can reverse the trend of increasing dependence on Middle Eastern oil and build a future in which the United States develops its own resources and uses them wisely and efficiently.

A final note, Mr. President. I have had experience with the potential of natural gas myself. I have a Jeep Cherokee that has been converted to use compressed natural gas. It uses gasoline when I am out in the country and it uses natural gas in the city. That natural gas in the city burns 8 or 9 times cleaner than gasoline does. I took it to an EPA inspection station. We ran it through and it is truly dramatic to see the difference in the pollutants coming from the car when you switch it from gasoline over to natural gas.

In addition to being cleaner, it cost me the equivalent of 50 cents a gallon. At one point, gasoline in Colorado was $1.50 a gallon; it is now down to about $1, but still natural gas is half the price of oil. And the car runs identically in terms of power, and in terms of miles per gallon, when it runs on natural gas. Clearly, we can do a great deal more in the whole transportation sector to convert from oil to natural gas. It is in our national interest to do so.

We are on the floor right now debating a major piece of legislation related to Desert Storm, a very good piece of legislation, something we ought to pass. But let us remember that one of the reasons we ended up in the Persian Gulf was our extraordinary dependence on imported oil. We want to wean ourselves away from that. Why not do it with a resource that is an abundant resource, that is clean, a resource that is domestic? That is the thrust of the bill that I am introducing today, Mr. President.

I would hope that many of my colleagues will have a chance to look at this legislation, and I would think that many of them who have an interest in natural gas, as I do, will want to cosponsor the bill.

Mr. President, I ask unanimous consent that the text of the bill, and a section-by-section analysis, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 662

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDING AND PURPOSES

SEC. 1001. FINDINGS.—The Congress finds that:

(1) adoption of a sound energy policy is essential to the protection of our nation's economic health, our national security, and to the welfare of our citizens;

(2) such a policy must employ diverse sources of energy, particularly those sources that are both domestically available and environmentally sound;

(3) exploration and production of existing sources of energy must be enhanced at the same time as extensive research into alternative sources of energy is being conducted and efforts to conserve energy are being promoted;

(4) the usage of natural gas should be enhanced, and yet the regulatory and statutory structure for the natural gas industry has imposed burdens which have resulted in a decline of natural gas consumption, which is contrary to the national interest.

SEC. 1002. PURPOSES.—The purposes of this Act are to:

(1) reduce our reliance on foreign supplies of energy to the point where the U.S. is energy independent by the year 2025;

(2) encourage the development of domestically available oil and gas while reducing the amount of energy used by promoting conservation;

(3) enhance competition in the natural gas industry by removing or revising burdensome regulatory and statutory provisions which create disincentives to competition;

(4) enhance the usage of natural gas through improving access to new markets, fostering demand in the market place, and correcting the lack of financial incentives to pursue high-risk gas transportation projects;

(5) foster and promote the development of alternative sources of energy, including renewable resources; and

(6) encourage the development and utilization of environmentally sound sources of energy, such as compressed natural gas for vehicular use and solar energy for residential and commercial use.

DEFINITIONS

SEC. 1003.—DEFINITIONS.—As used in this Act, the term—

(a) "Commission" means the Federal Energy Regulation Commission, or any successor agency, unless otherwise provided.

(b) "Cost-Based Rates"—Rates for services that remain subject to Commission review based upon a traditional cost-of-service determination.

(c) "Department" means the Department of Energy, unless otherwise provided.

(d) "Just and Reasonable"—Shall be defined by these amendments notwithstanding any conflict between these amendments and Commission or court precedent.

(e) "Merchant Service" means the purchase and sale for resale of natural gas in interstate commerce.

(f) "Secretary" means the Secretary of Energy, unless otherwise provided.

(g) "Used and Useful" means a determination by the Commission as defined by Commission and court precedent that plant is used and useful.

(h) "Workable Competition" means a finding by the Commission that sufficient competition exists to allow rates and other terms and conditions of service to be established by market conditions.

SEC. 1004.—VEHICULAR NATURAL GAS JURISDICTION—(a) DEFINITIONS. For the purposes of this section—

(1) the term "VNG" means natural gas for ultimate use as a fuel in a motor vehicle, and includes compressed natural gas.

(2) the term "Motor Vehicle" includes any automobile, truck, bus, van, or other on-road or off-road motor vehicle, including a boat.

(b) PERSONS WITH HINSHAW EXEMPTIONS.—

(1) PLACE OF ULTIMATE CONSUMPTION.—For purposes of section 1(c) of the Natural Gas Act, in the case of any sale of VNG, such VNG shall be deemed to be "ultimately consumed" within the state in which physical delivery of such VNG occurs, whether or not physical combustion of such VNG occurs in another state.

(2) STATE REGULATION.—For purposes of section 1(c) of the Natural Gas Act, certification from a State commission to the Federal Energy Regulatory Commission that such State commission has regulatory jurisdiction over the rates, services and facilities of a person (who receives natural gas from another person within or at the boundary of a State all of which natural gas so received is ultimately consumed within such State) and is exercising such jurisdiction shall constitute conclusive evidence of such regulatory power or jurisdiction even in cases where such State commission does not have jurisdiction by reason of State law, or is not exercising jurisdiction, over the sale for resale or transportation of VNG.

(c) PERSONS WITH SERVICE AREA DETERMINATIONS.—For purposes of the Natural Gas Act—

(1) SALE FOR RESALE.—In the case of a sale for resale of VNG by the holder of a service area determination under section 7(f) of the Natural Gas Act, such sale for resale shall be subject to the exclusive jurisdiction of the state commission in the state in which physical delivery of such VNG occurs, whether or not physical combustion of such VNG occurs in another state.

(2) TRANSPORTATION.—In the case of transportation of VNG by the holder of a service area determination under section 7(f) of the Natural Gas Act, such VNG shall for purposes of section 7(f)(2) of the Natural Gas Act be deemed to be "consumed" within the State in which physical delivery of such VNG occurs, whether or not physical combustion of such VNG occurs in another state.

(3) STATE REGULATION.—In the case of a sale for resale of VNG, or the transportation of VNG, by a holder of a service area determination under section 7(f) of the Natural Gas Act, such sale for resale or transportation shall be deemed to be subject to the exclusive jurisdiction of the State commission of the State in which such sale for resale or transportation occurs whether or not the sale for resale or transportation of VNG is subject to the jurisdiction of the State commission under State law.

SEC. 1005. FEDERAL PROGRAMS TO PROMOTE VEHICULAR NATURAL GAS.—Within six months following enactment of this Act, the Secretary shall:

(a) institute a government-sponsored awareness program for alternative fuels designed to educate potential purchasers of the costs of such fuels as well as their emission characteristics and other features.

(b) identify and report to Congress on purchasing policies of the Federal government which inhibit or prevent the purchase by the Federal government of alternative-fueled vehicles;

(c) report to Congress on federal, state and local traffic control measures and policies and how the use of alternative-fueled vehicles could be promoted by granting such vehicles exemptions or preferential treatment under such measures;

(d) develop a plan for the establishment of a trust fund for loans to convert vehicles to operate on alternative fuels or to purchase vehicles which operate on alternative fuels, with such loans to be repaid by the borrower from the cost differential between gasoline and the alternative fuel on which the vehicle operates.

SEC. 1006. FEDERAL PERMITTING REQUIREMENTS.—Facilities which are constructed or used solely for the sale of vehicular natural gas to the public for use as fuel in a motor vehicle shall not be considered a major source as that term is defined in the Clean Air Act Amendments of 1990.

SEC. 1007. MASS TRANSIT PROGRAM.—(a)(1) The Secretary, consistent with the provisions of this Act, in consultation with the Administrator of the Urban Mass Transit Administration, may, consistent with the Alternative Motor Fuels Act of 1988 (P.L. 100-494), enter into cooperative agreements and joint ventures proposed by any municipal, county, or regional transit authority in an urban area with a population over 100,000 (according to latest available census information) to demonstrate the feasibility, including safety of specific vehicle design, of using natural gas or other alternative fuels for mass transit.

(2) The cooperative agreements and joint ventures under paragraph (1) may include interested or affected private firms willing to provide assistance in cash, or in kind, for any such demonstration.

(b)(1) The Secretary may not enter into any cooperative agreement or joint venture under subsection (a) with any municipal, county or regional transit authority unless such government body agrees to provide at least 25 percent of the costs of such demonstration.

(2) The Secretary, at his discretion, may grant such priority under this section to any entity that demonstrates that the use of natural gas or other alternative fuels used for transportation would have a significant effect on the ability of an air quality region to comply with applicable regulations governing ambient air quality.

(c) There is authorized to be appropriated not more than $30,000,000 for each of fiscal years 1992, 1993, and 1994 for purposes of this section.

SEC. 1008. NATURAL GAS AND OTHER ALTERNATIVE FUEL USE IN FLEET VEHICLES.—(a) The Secretary, consistent with the Alternative Motor Fuels Act of 1988 (Public Law 100-494), and in consultation with the Administrator of the United States Environmental Protection Agency and the Secretary of Transportation, shall establish and carry out a program, and provide financial assistance to encourage the development and commercialization of natural gas and other alternative fuels for use in passenger fleets, light-duty trucks, and heavy-duty trucks consistent with the purposes of the Act. Such assistance shall provide for the purchase and construction of vehicles dedicated to the use of natural gas or other alternative fuels and of vehicles dually fueled by natural gas or other alternative fuels and gasoline or diesel, and associated refueling equipment.

(b) Public and private fleets may be eligible for financial assistance under this section.

(c) The Secretary, at his discretion, may grant such priority to those fleets where the use of natural gas and other alternative transportation fuels would have a significant effect on the ability of an air quality region to comply with applicable regulations governing ambient air quality.

(d) To facilitate the use of natural gas and other alternative fueled vehicles, the conversion of a vehicle from either gasoline or diesel alone to natural gas or other alternative fuels alone, or to natural gas or other alternative fuels and either gasoline or diesel, shall not be considered a violation of any anti-tampering provisions of the Federal law and implementing regulations; provided, however, that the conversion complies with emissions standards issued by the Administrator of the Environmental Protection Agency.

(e) Any program established under this section that applies to existing vehicles shall take into consideration the safety of specific vehicle design and the compatibility of natural gas or other alternative fuel use with the original components of such existing vehicles.

(f) There is authorized to be appropriated not more than $30,000,000 for each of fiscal years 1992, 1993, and 1994, for purposes of this section.

SEC. 1009.—TRAINING PROGRAM.—(a) The Secretary of Labor shall establish and carry out a training and certification program for technicians who are responsible for vehicle installation of equipment that converts gasoline or diesel-fueled vehicles to the capability to run on natural gas or alternative fuels alone, or on natural gas or other alternative fuels and either diesel fuel or gasoline, and for the maintenance of such converted vehicles. Such training and certification programs shall provide these technicians with instruction on the correct installation procedures and techniques, adherence to specifications, vehicles operating procedures, emissions testing, and other appropriate mechanical concerns applicable to these vehicle conversions.

(b) The Secretary of Labor may enter into cooperative agreements with, and provide financial assistance to, under this section, appropriate parties to provide training programs that will ensure the proper operation and performance of conversion equipment.

(c) The program under this section shall be consistent with the Alternative Motor Fuels Act of 1988 (Public Law 100-494).

(d) There is authorized to be appropriated not more than $5,000,000 for each of the fiscal years 1992, 1993, and 1994 for purposes of this section.

SEC. 1010.—VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION.—(a) The Secretary shall carry out a program of research, development, and demonstration on techniques related to improving natural gas and other alternative fueled vehicle technology including, but not limited to, the following areas—

(1) fuel injection;
(2) carburetion;
(3) manifolding;
(4) combustion;
(5) power optimization;
(6) efficiency;
(7) lubricants and detergents;
(8) engine durability;
(9) ignition, including fuel additives to assist ignition;
(10) multifuel engines;
(11) emissions control, including catalysts;
(12) novel gas compression concepts;
(13) advanced storage systems;
(14) advanced gaseous fueling technologies; and
(15) the incorporation of advanced materials in these areas.

(b) The Secretary, consistent with the Alternative Motor Fuels Act of 1988 (Public Law 100-494), may enter into cooperative agreements with, and provide financial assistance to, under this section, public entities or interested or affected private firms willing to provide 50 percent of the costs of such programs to perform the research and development necessary to improve natural gas vehicle and other alternative fuel vehicle technology.

(c) There is authorized to be appropriated not more than $10,000,000 for each of the fiscal years 1992, 1993, and 1994 for purposes of this section.

SEC. 1011.—NATURAL GAS COFIRING RESEARCH, DEVELOPMENT AND DEMONSTRATION.—(a) DEFINITIONS.—For the purposes of this section, the term—

(1) "cofiring" means the injection of natural gas and pulverized coal into the primary combustion zone of an electric utility unit or an industrial boiler and shall include gas reburn technologies; and

(2) "gas reburn" means the injection of natural gas into the upper furnace region of an electric utility unit or an industrial boiler to produce a fuel-rich zone thereby reducing nitrogen oxide emissions.

(b) The Secretary shall conduct a program of research, development and demonstration of cofiring in electric utility units and large industrial boilers in order to determine optimal natural gas injection levels for both environmental and operational benefits.

(c) The Secretary may provide financial assistance under this section to public entities or interested or affected private firms to perform the research, development and demonstration of cofiring technologies.

(d) The Secretary may enter into cooperative agreements with, and provide financial assistance under this section to, public entities or interested or affected private firms willing to provide at least 50 percent of the costs of such programs to perform the research, development and demonstration of cofiring technologies.

(e) For purposes of this section, there is authorized to be appropriated to the Secretary not more than $9,000,000 for each of the fiscal years 1992, 1993 and 1994.

SEC. 1012.—NATURAL GAS RECOVERY, RESEARCH, DEVELOPMENT AND DEMONSTRATION PROGRAM.—(a) The Secretary shall expand and continue a program of research, development, and demonstration on techniques to increase the availability of natural gas from—

(1) intensive recovery of natural gas in place in discovered reservoirs or formations; and

(2) economic recovery of nonconventional sources of natural gas, including gas from tight formations, Devonian shales, gas from less permeable formations coalseams, and geopressured brines.

(b) The Secretary shall seek to enter into joint ventures with persons engaged in the production, transportation, distribution, or major use of natural gas to implement the program under subsection (a).

(c) There is authorized to be appropriated not more than $25,000,000 for each of the fiscal years 1992, 1993, and 1994 for purposes of this section.

SEC. 1013.—NATURAL GAS AND ELECTRIC HEATING AND COOLING TECHNOLOGIES.—(a) The Secretary shall expand the program for research, development, and demonstration for natural gas and electric heating and cooling technologies for residential and commercial buildings.

(b) The natural gas heating and cooling program shall increase research on thermally-activated heat pumps including:

(1) absorption heat pumps; and
(2) engine-driven heat pumps.

(c) The electric heating and cooling program shall increase research on:

(1) advanced heat pumps;
(2) thermal storage; and
(3) Advanced electrically-driven HVAC (heating, ventilation, and cooling) and refrigeration systems that utilize replacements for chlorofluorocarbons, including HCFC-22.

(d) There is authorized to be appropriated to the Secretary, not more than $15,000,000 for each of the fiscal years 1992, 1993, and 1994 for purposes of this section in addition to current authorizations.

SEC. 1014.—APPLICABILITY OF NEW SOURCE REVIEW TO EXISTING ELECTRIC UTILITY STEAM GENERATING UNITS.—(a) POLLUTION CONTROL PROJECTS.—For purposes of the Clean Air Act, no physical change in, or change in the method of operation of, an electric utility steam generating unit which is undertaken for purposes of pollution control, including the use of natural gas and clean coal technologies, shall be treated as a modification for a specific regulated pollutant for purposes of part C or D of title I of the Clean Air Act if such change does not increase the potential emissions of the specific regulated pollutant from such source above the potential emissions before the change.

(b) NITROGEN OXIDE CONTROL REQUIREMENTS.—

(1) For purposes of the Clean Air Act, any modification, as defined in section 169(c)(2) of such Act, at an existing electric utility steam generating unit subject to section 165 of the Clean Air Act shall be deemed to satisfy the technology requirements of section 165(a)(4) thereof for nitrogen oxides if it meets the following conditions:

(a) For a unit subject to a requirement promulgated pursuant to section 407 of the Clean Air Act, immediately following the modification, the unit shall be required to meet nitrogen oxide emissions limitation specified for that boiler type pursuant to section 407. In the event that the modification precedes the establishment of nitrogen oxide emissions limitations for that boiler type pursuant to section 407, the unit shall be required to meet the applicable emission limitation upon the date required by the regulation.

(b) For an existing electric utility steam generating unit not subject to section 407 of the Clean Air Act immediately following the modification, the unit shall be required to meet the nitrogen oxide limit equivalent to the limit achievable using "low-NO_x burners".

(2) Any State or local permitting authority shall retain the right to impose more stringent limitations for control of nitrogen oxides.

SEC. 1015—NO_x REQUIREMENT FOR NATURAL GAS FACILITIES—The Clean Air Act, as amended ( ) is further amended by inserting the following new subparagraph following Sec. 182(f)(B):

"(C) major stationary sources which use natural gas as its primary fuel."

REGULATORY ISSUES

SEC. 1016.—INCENTIVE RATEMAKING OPTIONS.—(a) Section 4(a) of the Natural Gas Act (15 U.S.C. 717c(a)) is amended by adding: "Rates shall be designed to efficiently allocate capacity, maximize throughput, eliminate cross-subsidies among customer classes and between merchant and transportation services, reflect any material distance-related variation in the cost of providing service, and appropriately unbundle distinct services. Such rates shall be deemed just and reasonable if (1) they are designed to provide a reasonable opportunity to recover prudently incurred costs and to earn a fair rate of return on the natural gas company's investment, or (2) they are determined pursuant to an incentive formula approved by final and nonappealable Commission order, the original term of effectiveness of which formula has not expired at the time of rate review, or (3) they fall within a Commission-prescribed zone of reasonableness, the upper limit of which shall be the rates yielded by incorporating a current market valuation of the natural gas company's investment and lower limit of which shall provide for the minimum return on investment necessary to attract and retain capital. The Commission is directed to develop an incentive formula as used in subparagraph (2) herein, with the goals of allowing natural gas companies to earn a fair rate of return, providing proper price signals to the marketplace, and rewarding pipeline efficiency."

(b) Section 5(a) of the Natural Gas Act (15 U.S.C. 717(a)) is amended by deleting "or are not the lowest reasonable rates" and adding: "exceed the rates established by formula pursuant to 15 U.S.C. 717c(a)(2), or, in the absence of such formula, exceed the upper limit of the zone of reasonableness prescribed at 15 U.S.C. 717c(a)(3)."

SEC. 1017. REHEARING TIME LIMITS.—Section 19(a) of the Natural Gas Act (15 U.S.C. 717r(a)) is amended by striking the fourth sentence and inserting in lieu thereof the following: The Commission shall take final action on the merits of the application for rehearing within 60 days after such application is filed, and the Commission may not defer action on the merits of the application through issuance of an order during that 60 day period. Unless the Commission takes final action on the merits of such application within 60 days after it is filed, the application for rehearing shall be deemed to have been denied.

SEC. 1018. FILING OF JOINT RATES.—Section 4 of the Natural Gas act (15 U.S.C. 717c) is amended by adding the following new Section 4(f): "Under such rules and regulations as the Commission may prescribe, natural gas companies subject to the commission's jurisdiction under this act, may file with the Commission for its approval, joint rates which have been negotiated by them for the transportation of natural gas through each of their pipelines in sequence on the way to market. Neither the provisions of Sections 1 and 2 of the Sherman Antitrust Act, 15 U.S.C. 1 and 2, nor any other antitrust law, whether federal or state, shall preclude the development or utilization of such joint rates."

SEC. 1019. FAIR RETURN ON INVESTMENT.—Section 4(a) of the natural Gas Act (15 U.S.C. 717c(a)) is amended by adding: "notwithstanding the specific methodology used to set the rates of the natural gas company, to the extent that the dollar value or cost of the natural gas company's investment in utility plant is a determinant of the allowed rate level, all such plant shall be recognized so long as it is used and useful in discharging the utility business of the natural gas company."

SEC. 1020.—COMPETITIVE SALES SERVICES.—Title VI of the Natural Gas Policy Act (15 U.S.C. 3431) is amended by adding new Section 15 U.S.C. 3431(b)(1)(F), as follows:

"Sales for Resale by Interstate Pipelines—For purposes of Sections 4 and 5 of the Natural Gas Act, any amount for a sale for resale by an interstate pipeline shall be deemed just and reasonable if—

(i) such amount is charged pursuant to rates approved by the Commission, or

(ii) the Commission has made and not revoked a finding that workably competitive alternatives exist for such sale for resale, subject to such rules and standards for determining such workable competition as the Commission may prescribe, including but not limited to adequate comparability between the sales services and the transportation services of the seller. If such charges are deemed just and reasonable pursuant to this paragraph, profits and losses occasioned by such sale for resale shall not be taken into consideration in any way in setting the seller's rates for other services, and the rates for such sale for resale are exempt from the tariff posting authority of the Commission pursuant to 15 U.S.C. 717c(c)."

SEC. 1021.—COMPETITIVE SERVICES.—(a) Services provided by facilities constructed under Section 311 of the Natural Gas Policy Act shall not require a certificate of public convenience and necessity.

(b) Any new service proposed and implemented by a natural gas company which does not require the construction of major new facilities shall be authorized by the acceptance of tariff sheets and shall not require a certificate of public convenience and necessity.

(c) Any new service offered by a natural gas company which can be fully supplanted with other pre-existing services subject to tariff and rate review under Sections 4 and 5 of the Natural Gas Act shall be exempt from the tariff and rate review provisions of Section 4 and 5 of the Natural Gas Act.

(d) Notwithstanding the above, the Commission may consider the impact of any new services offered under this subsection in subsequent rate cases, in setting rates for other services.

SEC. 1022.—PIPELINE ABANDONMENTS.—Section 7(b) of the Natural Gas Act (U.S.C. 717f(b)) is amended by adding the following at the end of the section: "A natural gas company may abandon jurisdictional sales services to customers upon the expiration of underlying sales contracts with such customers, without approval by the Commission. If a customer of a natural gas company has previously converted all or a portion of jurisdictional sales service provided by a natural gas company to jurisdictional transportation service, and such customer pays the just and reasonable non-discriminatory rate established by the natural gas company for such service, then such transportation service shall not be abandoned by the natural gas company without approval of the Commission as provided in this section."

WELLHEAD PRICES

SEC. 1023. PRODUCER DEMAND CHARGES.—Title VI of the Natural Gas Policy Act (15 U.S.C. 3431) is amended by adding new section (15 U.S.C. 3431(c)(3)):

"RECOVERY OF DEMAND CHARGES.—Any fixed charge paid by an interstate pipeline to a first seller for gas supply security shall be recoverable on an "as-billed basis" in the interstate pipeline's demand charges, unless the commission determines, after a hearing, that the interstate pipeline does not offer a reasonably competitive alternative to its sales service."

SEC. 1024. REGULATION OF NATURAL GAS IMPORTS.—Section 3 of the Natural Gas Act [15 U.S.C. 717(b)] is amended by adding at the end of the section the following language: "The Secretary shall condition the approval of any import application pursuant to this section upon action by the Commission to redress any anticompetitive impacts on U.S. gas producers, including, but not limited to, competitive disparities resulting from different rate designs applied to the transportation of domestic gas and imported supplies."

ACCELERATED PIPELINE CONSTRUCTION

SEC. 1025. AUTOMATIC PIPELINE CONSTRUCTION.—Section 311 of the Natural Gas Policy Act of 1978 (15 U.S.C. 3371) is amended to add the following:

"(d)(1) The provisions of the Natural Gas Act and the jurisdiction of the Commission, except as specifically provided herein, shall not apply to the construction or operation of any facilities constructed by a natural gas company subject to the Commission's jurisdiction under the Natural Gas Act by virtue of such construction or operation, if the natural gas company constructing such facilities: (a) holds a certificate of public convenience and necessity issued by the Commission pursuant to Section 7 of the Natural Gas Act and pursuant to which the natural gas company has agreed to provide open access transportation service; and (b) the natural gas company agrees that the provisions of such certificate shall apply to transportation service provided through facilities constructed under this Section.

"(d)(2) All facilities constructed under this Section shall be constructed in accordance with applicable laws and regulations governing environmental and safety factors; provided, however, the provisions of the National Environmental Policy Act of 1978, 42 U.S.C. 437, *et seq.*, shall not apply to the construction or operation of facilities provided for in this Section.

"(d)(3) Nothing in this Section shall preclude a natural gas company from filing for and/or preclude the Commission from issuing a certificate of public convenience and necessity pursuant to Section 7 of the Natural Gas Act for the operation of the facilities constructed under this section."

SEC. 1026—REBUTTABLE RESUMPTION OF NO SIGNIFICANT IMPACT.—For purposes of required environmental review of natural gas pipeline projects at the Commission, there shall be a rebuttable presumption of a finding of no significant impact ("FONSI") for any natural gas pipeline construction project which either utilizes existing utility or highway corridors, or does not involve construction in high value wetland areas.

SEC. 1027—LEAD AGENCY.—In cases where Federal Energy Regulatory Commission authorization of the construction or operation of facilities or projects under the Natural Gas Act may be deemed a major Federal action under the National Environmental Policy Act ("NEPA"), or requires the preparation of other environmental documents, the Commisson shall be the lead agency and shall have primary authority for compliance with NEPA. The Commisison may set reasonable time limits for consultation with other Federal agencies which participate in the review of a proposed facility or project pursuant to NEPA to complete their review of any potential environmental impacts of the construction or operation of such facility or project, and for such other agencies to consult and submit comments to the Commission.

SEC. 1028—TWO-PHASE CERTIFICATION PROCESS.—Section 7(e) of the Natural Gas Act (15 U.S.C. 717f(e)) shall be amended to add the following language at the end of the section: "The Commission shall have the power to issue certificates of public convenience and necessity in a two-phase process. The first phase certificate shall involve all matters requiring Commission review and approval other than environmental matters, and shall constitute a final order on such matters. The second phase certificate shall address only required environmental matters, and approvals and shall constitute a final order on such matters."

SEC. 1029—PIPELINE SUBMISSION OF ENVIRONMENTAL ASSESSMENTS.—Environmental Assessments ("EA") submitted by pipelines at the time of filing for approval of proposed facilities, which EAs utilize a specified format to be determined by the Commission, will be presumptively valid, subject to initial Commission review for completeness. Nothing in this subsection shall affect the Commission's responsibility to comply with the National Environmental Policy Act of 1969.

SEC. 1030—Section 16 of the Natural Gas Act (15 U.S.C. 7170) is amended—

(1) by inserting "(a)" after "SEC. 16."; and

(2) by adding at the end of the existing section the following new subsection: "(b) Where the Commission by rule or order requires the preparation of an environmental assessment of an environmental impact statement in connection with an application for authority to construct or extend facilities for the transportation of natural gas under this Act, the Commission shall permit the applicant to elect a contractor, consultant, or other person designated by the Commission for such purposes to prepare the environmental impact statement at the applicant's expense. The Commission shall establish procedures to ensure that the contractor, consultant, or other person has no financial or other potential conflict of interest in the outcome of the proceeding. Nothing in this subsection shall affect the Commission's responsibility to comply with the National Environmental Policy Act of 1969."

STUDIES

SEC. 1031.—GLOBAL PRODUCTION TRENDS.—The Office of Technology Assessment in conjunction with the Department, shall study and report to Congress on the global trends of production, usage, and transportation of natural gas and the ways in which these trends can affect domestic energy policy and the U.S. natural gas industry.

SEC. 1032.—REMOVAL OF STATE AND LOCAL BARRIERS.—The Office of Technology Assessment, in conjunction with the Department, shall identify, study and report to Congress on state-and locally-imposed institutional and regulatory barriers to increased natural gas usage, and make recommendations as to the establishment of a uniform national policy to enhance the use of natural gas.

SECTION-BY-SECTION ANALYSIS—WIRTH GAS POLICY REFORM ACT

Sections 1001–1002 set out Congressional findings and purposes of this bill. Section 1003 defines terms used in the bill.

MARKET DEMAND

Sections 1004–1014 promote new uses for natural gas in our economy through research, development, and the creation of market incentives.

Section 1004 removes the retail sale of compressed natural gas for vehicular use from regulation by the Federal Energy Regulatory Commission, leaving regulatory jurisdiction with the state commission of the State in which physical delivery occurs.

Section 1005 directs the Secretary of the Department of Energy to (a) develop a public awareness program to encourage the use of alternative fuels; (b) study and propose revisions to federal purchasing policies which inhibit the federal government from utilizing alternative fuels; (c) study and propose means of providing alternative fuel vehicles preferential treatment under federal, state and local traffic control measures; and (d) establish a loan program for the conversion of vehicles to alternative fuel use or the purchase of alternative fuel vehicles.

Section 1006 provides that facilities which are used solely for the retail sale of compressed natural gas are not major sources of pollution subject to certain permitting requirements.

Section 1007 authorizes the Urban Mass Transit Administration to enter into joint projects with municipalities of 100,000 or more to demonstrate the feasibility of using natural gas or other alternative fuels for mass transit.

Section 1008 creates a program to encourage the development and commercialization of natural gas and other alternative fuels and provides financial assistance to public and private fleets to purchase and to construct alternative fuel vehicles.

Section 1009 establishes and financially assists a training and certification program for the conversion and maintenance of alternative fuel vehicles.

Section 1010 calls for research, development, and demonstration of techniques to improve natural gas and other alternative fueled vehicle technology, and provides for matching grants to public and private entities for this purpose.

Section 1011 establishes a research, development and demonstration program of cofiring and reburn of natural gas with coal in electric utility units or industrial boilers, including 50/50 matching grants for this purpose to public or private sectors.

Section 1012 expands research, development and demonstration efforts designed to increase the availability of natural gas from existing formations and nonconventional sources.

Section 1013 directs the Secretary to expand research, development, and demonstration of improved technology for gas and electric heating and cooling in residential and commercial applications. Up to $15,000,000 of funding is provided.

Section 1014 excludes physical or operational changes in electric utility steam generating units undertaken for purposes of pollution control from the definition of "new or substantially modified" sources of pollution under the Clean Air Act.

Section 1015 recognizes that the use of natural gas can produce overall reductions of SO_2, NO_x, and other pollutants, and therefore excludes major stationary sources which use natural gas as their primary fuel from NO_x emission reduction requirements.

REGULATORY ISSUES

Sections 1016–1022 form a statutory framework for the enhancement of competition and new service in the interstate natural gas industry. These sections provide economic incentives for the nationwide pipeline network to expand, to enhance efficiency, and to offer an ever-growing menu of services to utility customers, producers, and any other user or shipper of natural gas, while preserving the FERC's overall role in protecting utility consumers' interests.

Section 1016 broadens the Natural Gas Act definition of just and reasonable rates to include, in addition to the traditional regulatory formula based on accounting costs and original-cost investment, a "zone-of-reasonableness" approach to allow the market to operate within a cost-based range, and such incentive ratemaking formula as the Commission may prescribe. The objective of this section is to encourage the Commission and interstate pipelines to develop incentive rate designs which achieve the dual objective of allowing pipelines to earn a fair rate of return and simultaneously provide the correct price signals to the marketplace. The latter objective is furthered by codifying the goals of the Commission's Statement of Policy on the Designing of Pipeline Rates (issued May 31, 1989 in Docket No. PL89–1).

Section 1017 eliminates the Commission's ability to delay rendering its actions final and subject to court review through the issuance of a "tolling order." The Commission would be required to render its actions final or to modify them within 60 days of taking those actions.

Section 1018 provides an exemption from antitrust status permitting natural gas companies to post joint tariffs for the transportation of natural gas which would otherwise require the shipper to negotiate a separate transportation agreement with each company which is a participant in the transaction.

Section 1019 requires that any investment made by a natural gas company which is used and useful in rendering service shall be fully included in setting that pipeline's rates. Thus, if a pipeline segment delivers needed peak capacity, but operates at a low load factor, the Commission is precluded from penalizing the constructing pipeline through elimination of rate base or through unrealistically high rate-design load factors. Nothing, however, restricts the Commission's ability to allocate costs to the responsible customer or customers.

Section 1020 removes from Commission jurisdiction profits or losses which result from the performance of merchant services provided that the Commission has made a finding that the interstate pipeline has satisfied the Commission criteria for determining that the pipeline is offering transportation service which represents truly competitive alternatives to the pipeline merchant function.

Section 1021 removes any certificate requirements from the offering of new services which either require no major new facilities or require only facilities constructed pursuant to Section 311 of the Natural Gas Policy Act. Such services could be implemented by the pipeline filing, and the Commission accepting, tariff sheets. If the new service could be fully replaced by existing rate-regulated services, the new service would be exempt from rate review.

Section 1022 provides that pipeline sales service may be abandoned upon contract expiration, but the customer may continue firm transportation, in lieu of the sales service, indefinitely if that customer will pay just and reasonable, nondiscriminatory rates for firm transportation service.

WELLHEAD PRICES

Sections 1023 and 1024 seek to give U.S. natural gas producers the competitive tools to enhance productive capability when they are selling to a pipeline or selling in competition with imported supplies.

Section 1023 mandates the pipeline's ability to recover demand charges paid to producers on an "as-billed" basis. The Commission would be precluded from impeding the direct transmission of this important market signal absent an affirmative, record-based, finding that the pipeline offered no reasonably competitive alternative to its sales service.

Section 1024 makes the competitive impact on U.S. producers a statutory criterion in the approval of any import. If the rate design of the imported supply is found to cause a significant competitive distortion, the Secretary and/or the Commission shall take steps to correct that distortion.

ACCELERATED PIPELINE CONSTRUCTION

Sections 1025–1030 drop many of the regulatory barriers to construction of new, competitive interstate pipeline facilities. Further, it streamlines the environmental review process to accelerate project approval, without diminishing the Commission's ability to carry out its responsibilities to protect the environment.

Section 1025 continues the self-implementing authority to build interstate pipeline facilities under Section 311 of the Natural Gas Policy Act, while eliminating the requirement that any use of such facilities be on behalf of an intrastate pipeline or a local distribution company. The section makes clear that normal certificate procedures under Section 7 of the Natural Gas Act are still available.

Section 1026 provides that a rebuttable finding of no significant impact (FONSI) on the environment attaches to interstate pipeline facilities constructed in existing corridors or not crossing environmentally sensitive areas.

Section 1027 designates the Commission as lead agency for preparation of environmental assessments and environmental impact statements regarding interstate natural gas facilities. Other agencies are strictly advisory at the Commission's discretion under this section.

Section 1028 codifies the Commission's "two-phase" certificate process, wherein a certificate as to non-environmental issues can be granted prior to environmental review being complete.

Section 1029 encourages interstate pipelines to prepare environmental assessments prior to filing certificate applications by providing that, if such environmental assessments comply with a Commission-specified format, they are presumptively valid for adoption by the Commission.

Section 1030 provides a vehicle for avoiding resource bottlenecks in Commission environmental review by allowing an applicant to pay an outside environmental contractor, approved by the Commission, to conduct such review.

STUDIES

Section 1031 requires the Congressional Office of Technology Assessment, in conjunction with the Secretary of Energy, to provide a report to Congress on global trends in natural gas production, use, and transportation, and on the ways these trends may effect domestic energy policy and the U.S. natural gas industry.

Section 1032 requires the Office of Technology Assessment, in conjunction with DOE, to identify, study and report to Congress on barriers to increased use of natural gas which may exist in state and local regulation, and to make recommendations as to the establishment of a uniform national policy to enhance the use of natural gas.

By Mr. THURMOND (for himself and Mr. GORE):

S. 664. A bill to require that health warnings be included in alcoholic beverage advertisements, and for other purposes; to the Committee on Commerce, Science, and Transportation.

ALCOHOLIC BEVERAGE ADVERTISING ACT

Mr. THURMOND. Mr. President, a little over 1 week ago, the Surgeon General, Dr. Antonia Novello, pointed out the severe problems of excessive alcohol consumption by our young people during annual "spring break" celebrations across the country. Today, I want to follow up on the attention she has focused on this issue by introducing the "Alcoholic Beverage Advertising Act of 1991." Before doing so, I would like to draw the attention of my colleagues to some disturbing facts about alcohol consumption:

First, alcohol is the most widely used and abused drug among young people today, even though it is illegal for youths under age 21 to purchase alcohol in all 50 States and the District of Columbia;

Second, by the time high school students reach their senior year, 90 percent of them report using alcohol at least once in the preceding year;

Third, the average age at which young people begin drinking is 13. By this age, approximately 30 percent of boys and 22 percent of girls classify themselves as drinkers. According to the 1988 National High School Senior Survey, 17 percent of high school seniors reported having been drunk by eighth grade, 37 percent by ninth grade, 54 percent by tenth grade, and 71 percent by twelfth grade. Studies demonstrate that the use of alcohol before the age of 15 appears to be one of the predictors of later heavy alcohol and other drug use;

Fourth, young people are not well-informed about the hazards of alcohol use. Only 43 percent of high school seniors believe there is great risk of harm from drinking activities, such as binge drinking once or twice each weekend;

Fifth, alcohol is a factor in 21 percent of all college dropouts;

Sixth, nearly one-half million college students drink every day;

Seventh, American students consume over 430 million gallons of alcoholic beverages per year;

Eighth, college students will spend about $4.2 billion yearly for alcoholic beverages—which is more than is spent operating campus libraries, and on college scholarships and fellowships combined; and

Ninth, alcohol consumption is one of the leading causes of death among young adults.

Mr. President, the facts and figures go on and on. In short, alcohol abuse and its attendant problems are a major concern for this Nation.

The legislation I am introducing builds on the foundation of the 1988 alcohol warning label legislation, which I was pleased to author. The 1988 law requires health warning labels on alcoholic beverage containers. The bill I am introducing today expands upon the concept by requiring a series of five rotating health warnings to appear with alcoholic beverage advertisements in print and electronic media, such as magazines, newspapers, brochures, promotional displays, radio, and television.

Why are these warnings needed? There are many reasons.

First, health warnings in advertisements represent one important step in educating the consumer on the potential hazards of alcohol consumption. Similar to cigarette warning labels and alcohol warning labels on containers, the warnings in advertisements do not create any legal restriction or penalty to those who do not heed the warnings. They merely provide cautionary notice that consumption of the product may entail serious consequences in certain situations.

Second, The National Commission on Drug-Free Schools' September 1990 Final Report, "Toward a Drug-Free Generation: A Nation's Responsibility," recommends Congress require additional health and safety messages on alcohol products and their advertisements.

Third, the 1988 Surgeon General's Workshop on Drunk Driving has recommended that the level of alcoholic beverage advertising be matched with an equal number of pro-health and prosafety messages, and also recommended the inclusion of health warning messages in all alcohol advertising.

Fourth, alcohol advertising, especially in the broadcast media, represents the single greatest source of alcohol education for Americans. According to a 1990 study of 10 to 13 year olds funded by the AAA Foundation for Traffic Safety, there is a relationship between exposure and attention to beer advertising, and expectations to drink as an adult.

Fifth, a major 1981 federally funded study found a significant relationship between youth exposure to alcoholic beverage advertising and drinking behavior and attitudes which can lead to certain forms of problem drinking.

Mr. President, for all these reasons, and many other reasons which time does not permit to include here, health warnings in alcohol advertisements are much needed.

Section 1 of the bill I am introducing sets forth the title, the "Alcoholic Beverage Advertising Act of 1991".

Section 2 lists 16 congressional findings with respect to alcohol consumption, associated hazards, and advertising.

Section 3 is the definitions section. It defines the term "alcoholic beverage" and several other relevant terms.

Section 4 sets forth the advertising requirement for print media such as magazines, newspapers, brochures and promotional displays. This section requires a series of five rotating health warnings in alcoholic beverage advertisements, and provides authority for the establishment of certain toll free numbers for information on drinking-related problems.

Section 4 also sets forth a series of five rotating warnings required for alcoholic beverage advertisements in the electronic media, such as radio and television.

Section 5 sets forth the powers of the Federal Trade Commission.

Section 6 sets forth a civil penalty of not more than $10,000 for violation of the Act.

Section 7 sets forth injunction proceedings.

Section 8 sets forth the authority of the Federal Trade Commission.

Section 9 sets forth reporting requirements and section 10 includes a severability provision.

Mr. President, in closing, it is important to note that this legislation is supported by several organizations, which include the Center for Science in the Public Interest; the National Council on Alcoholism and Drug Dependence, Inc.; the American Medical Association; the National Parent Teacher Association; Mothers Against Drunk Driving; the American Academy of Pediatrics; and the Coalition for Consumer Health and Safety, which consists of many insurance companies and other associations.

I wish to thank the members of these groups for their support and ask unanimous consent that letters of support be included in the RECORD following the text of the bill, which I ask unanimous consent be included immediately after my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 664

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Alcoholic Beverage Advertising Act of 1991".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Alcohol is by far the drug most widely used and abused by young people in the United States today, even though it is illegal for youths under age 21 to purchase alcohol in all 50 of the United States and the District of Columbia.

(2) Ninety percent of high school seniors report using alcohol at least once in the preceding year. The 1989 National Institute on Drug Abuse/University of Michigan survey of high school seniors found that 33 percent of the seniors surveyed reported having consumed five or more drinks at one time in the 2 weeks preceding the survey.

(3) The average age at which young people begin drinking is 13. By age 13, approximately 30 percent of boys and 22 percent of girls classify themselves as drinkers. According to the 1988 National High School Senior Survey, 17 percent of high school seniors reported having been drunk by eighth grade, 37 percent by ninth grade, 54 percent by tenth grade, and 71 percent by twelfth grade. Studies demonstrate that the use of alcohol by individuals before the age of 15 appears to be one of the predictors of later heavy alcohol and other drug use by the individuals.

(4) Young people are not well informed about the hazards of alcohol use. Only 43 percent of high school seniors believe there is great risk of harm from drinking activities such as binge drinking once or twice each weekend.

(5) According to the Department of Health and Human Services, sponsorships and promotions on college campuses by alcohol producers and the use of celebrities and youth-oriented musical groups in advertising create a pro-drinking environment.

(6) Alcohol use during pregnancy is the leading preventable cause of birth defects.

(7) According to the National Institute on Alcohol Abuse and Alcoholism, an estimated 18,000,000 persons in the United States who are 18 or older currently experience problems as a result of alcohol use. An estimated 4,500,000 young people are dependent on alcohol or are problem drinkers.

(8) According to Healthy People 2000, the National Health Promotion and Disease Prevention Objectives—

(A) nearly one-half of all deaths from motor vehicle crashes are alcohol-related;

(B) alcohol is implicated in nearly one-half of all fatal intentional injuries such as suicides and homicides; and

(C) victims are intoxicated in approximately one-third of all homicides, drownings, and boating deaths.

(9) An estimated 25 percent of all hospitalized persons have alcohol-related problems.

(10) Alcohol advertising, especially in the broadcast media, represents the single greatest source of alcohol education for persons in the United States. According to a 1990 study of 10- to 13-year-olds, funded by the American Automobile Association Foundation for Traffic Safety, there is a relationship between exposure and attention by an individual to beer advertising, and expectations that the individual drink as an adult.

(11) A major 1981 federally funded study found a significant relationship between—

(A) exposure of individuals to alcoholic beverage advertising as youth; and

(B) drinking behaviors and attitudes of the individuals that can lead to certain forms of problem drinking.

(12) Over 80 percent of 2,000 adults surveyed in 1988 for the Bureau of Alcohol, Tobacco, and Firearms by the Opinion Research Corporation believe that alcohol advertising influences underage youth to drink alcoholic beverages. The survey also found that the general public feels that the young people of the United States constitute the group that is most at risk from drinking alcoholic beverages.

(13) The alcoholic beverage industry spends approximately $2,000,000,000 each year on advertising and promotions in the United States.

(14) The 1988 Surgeon General's Workshop on Drunk Driving has recommended—

(A) that the level of alcoholic beverage advertising be matched with an equal number of pro-health and pro-safety messages; and

(B) the inclusion of health warning messages in all alcohol advertising.

(15) The National Commission on Drug-Free Schools' September 1990 Final Report, "Toward a Drug-Free Generation: A Nation's Responsibility", recommends that Congress—

(A) require additional health and safety messages on all alcohol products and advertising for the products; and

(B) consider enacting a ban on advertising and promotion of alcohol if alcohol advertising still targets youth and glamorizes alcohol use.

(16) Over two-thirds of persons surveyed in a 1989 Wall Street Journal poll favor requiring warnings about the dangers of drinking both on alcoholic beverage containers and in alcohol advertisements. Nearly three-fourths of persons surveyed in a 1990 Gallup Poll favor requiring health warning messages in alcohol advertising.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) ALCOHOLIC BEVERAGE.—The term "alcoholic beverage" includes any beverage in liquid form that contains not less than one-half of one percent of alcohol by volume and is intended for human consumption.

(2) CHAIRMAN.—The term "chairman" means the chairman of the Federal Trade Commission.

(3) COMMERCE.—The term "commerce" means—

(A) commerce between any State and any place outside the State;

(B) commerce between points in any State through any place outside the State; or

(C) commerce wholly within the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, Wake Island, the Midway Islands, Kingman Reef, or Johnston Island.

(4) HEALTH.—The term "health" includes the prevention of accidents.

(5) PERSON.—The term "person" means—

(A) an individual;

(B) a partnership;

(C) a joint stock company;

(D) a business trust;

(E) an association;

(F) a corporation;

(G) any business or legal entity not described in subparagraphs (A) through (F), including a receiver, trustee, or liquidating agent; and

(H) a State, a State agency, or an officer or employee of a State or State agency.

(6) SALE AND DISTRIBUTION.—The terms "sale" and "distribution" include sampling or any other distribution not for sale.

(7) STATE.—The term "State" includes—

(A) any political subdivision of any State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico;

(D) the Commonwealth of the Northern Mariana Islands;

(E) Guam;

(F) the Virgin Islands;

(G) American Samoa;

(H) Wake Island;

(I) the Midway Islands;

(J) Kingman Reef; and

(K) Johnston Island.

(8) STATE LAW.—The term "State law" includes State statutes, regulations, and principles and rules having the force of law.

(9) UNITED STATES.—The term "United States", when used in a geographical sense, includes all States.

SEC. 4. ADVERTISING REQUIREMENT.

(a) PRINT MEDIA.—

(1) IN GENERAL.—Effective 6 months after the date of the enactment of this Act, it shall be unlawful for any person to advertise any alcoholic beverage, or cause any alcoholic beverage to be advertised, for sale or distribution in commerce through magazines, newspapers, brochures, and promotional displays, within the United States, unless the advertising bears, in accordance with the requirements of this section, one of the following health warnings:

(A) "**SURGEON GENERAL'S WARNING:** Drinking during pregnancy may cause mental retardation and other birth defects. Avoid alcohol during pregnancy. If you are pregnant and cannot stop drinking, call [insert appropriate toll free number]."

(B) "**WARNING:** Alcohol impairs your ability to drive a car or operate machinery. If you or people you love drink and drive, call [insert appropriate toll free number]."

(C) "**WARNING:** Alcohol may be hazardous if you are using any other drugs such as over-the-counter, prescription, or illicit drugs. To find out what happens when you drink while using other drugs, call [insert appropriate toll free number]."

(D) "**WARNING:** Drinking alcohol may become addictive. If you know someone who has an alcohol or other drug problem or has trouble controlling drinking, call [insert appropriate toll free number]."

(E) "**WARNING:** It is against the law to purchase alcohol for persons under age 21. For more information about the risks associated with alcohol use among teenagers and young adults, call [insert appropriate toll free number]."

(2) USE OF WARNINGS.—The health warnings required for alcoholic beverage advertisements by paragraph (1) shall—

(A) meet the requirements of regulations promulgated by the chairman not later than 6 months after the date of the enactment of this Act, including requirements that—

(i) one such health warning be located in a conspicuous and prominent place in each advertisement;

(ii) all letters in the health warning appear in conspicuous and legible type that is not script or italicized;

(iii) the health warning be in contrast by typography, layout, and color with all other printed material in the advertisement;

(iv) the health warning be surrounded by typographic lines that form a box; and

(v) on an appropriate visual medium, the health warning appear on the front of an advertisement as indicated by labeling of the manufacturer or importer; and

(B) be rotated in an alternating sequence on each advertisement of a brand style in accordance with a plan submitted to the chairman by the manufacturer or importer.

(3) TOLL FREE NUMBERS.—The Secretary of Health and Human Services, in consultation with the Surgeon General and the chairman, shall be responsible for establishing and maintaining the toll free numbers referred to in the health warnings set forth in paragraph (1). The Secretary of Health and Human Services shall annually submit a report to Congress containing information on the number of calls received from persons using the numbers and the types of referrals made as a result of the calls.

(b) ELECTRONIC MEDIA.—

(1) IN GENERAL.—Effective 6 months after the date of the enactment of this Act, it shall be unlawful for any person to advertise any alcoholic beverage, or cause any alcoholic beverage to be advertised, for sale or distribution in commerce through radio or television broadcasting (including cable broadcasting) within the United States unless the advertising bears, in accordance with the requirements of this section, one of the following health warnings:

(A) "**SURGEON GENERAL'S WARNING:** Drinking during pregnancy may cause mental retardation and other birth defects. Avoid alcohol during pregnancy.";

(B) "**WARNING:** Alcohol impairs your ability to drive a car or operate machinery.";

(C) "**WARNING:** Alcohol may be hazardous if you are using any other drugs such as over-the-counter, prescription, or illicit drugs.";

(D) "**WARNING:** Drinking alcohol may become addictive."; and

(E) "**WARNING:** It is against the law to purchase alcohol for persons under age 21.".

(2) USE OF WARNINGS.—The health warnings required for alcoholic beverage advertisements by paragraph (1) shall—

(A) meet the requirements of regulations promulgated by the chairman not later than 6 months after the date of the enactment of this Act, including requirements that—

(i) one such health warning be included in a conspicuous and prominent manner in each advertisement;

(ii) the health warning be read as part of each alcoholic beverage advertisement in an audible and deliberate manner and in a length of time that allows for a clear understanding of the health warning message by the intended audience;

(iii) with respect to each advertisement for television—

(I) a graphic representation of the health warning be included;

(II) all letters in the health warning appear in conspicuous and legible type that is not script or italicized;

(III) the health warning be surrounded by typographic lines that form a box; and

(IV) the health warning appear in the same length of time as is required for a reading of the message required by clause (ii); and

(B) be rotated in an alternating sequence on each advertisement of a brand style in accordance with a plan submitted to the chairman by the manufacturer or importer.

(c) PLAN.—

(1) APPROVAL.—The chairman shall approve a plan submitted by a manufacturer or importer—

(A) under subsection (a)(2)(B), that assures that an equal distribution of each of the health warnings described in subsection (a)(1) is displayed on each sequence of the same or substantially similar advertisement for a brand style at the same time; and

(B) under subsection (b)(2)(B), that assures that an equal distribution of each of the health warnings described in subsection (b)(1) is displayed on each sequence of the same or substantially similar advertisement for a brand style at the same time.

(2) TIMING.—If a plan described in paragraph (1) containing a distribution described in subparagraph (A) or (B) of paragraph (1) is approved by the chairman, the distribution shall apply with respect to the applicant submitting the plan during the 1-year period beginning on the date of the approval of the plan.

SEC. 5. POWERS.

The chairman—

(1) shall ensure the enforcement of the provisions of this Act;

(2) shall, after consultation with the Director of the Bureau of Alcohol, Tobacco, and Firearms, issue regulations to carry out this Act; and

(3) shall consult, and coordinate the health awareness efforts of the labeling requirements of this Act, with the Surgeon General.

SEC. 6. CIVIL PENALTIES.

Any person who violates the provisions of this Act shall be subject to a civil penalty of not more than $10,000, and each day shall constitute a separate offense.

SEC. 7. INJUNCTION PROCEEDINGS.

The several district courts of the United States are vested with jurisdiction to prevent and restrain violations of this Act, for cause shown, on the application of the Attorney General acting through the several United States attorneys in the several districts of the attorneys.

SEC. 8. AUTHORITY OF FEDERAL TRADE COMMISSION.

Nothing in this Act shall be construed to limit, restrict, expand, or otherwise affect the authority of the Federal Trade Commission with respect to unfair or deceptive acts or practices in the advertising of alcoholic beverages.

SEC. 9. REPORT TO CONGRESS.

(a) INVESTIGATION.—Not earlier than 2 years after the date of the enactment of this Act, the chairman shall conduct an appropriate investigation and consult with the Surgeon General, to determine whether available scientific information would justify a change in, an addition to, or deletion of, a health warning set forth in subsection (a)(1) or (b)(1) of section 4.

(b) REPORT.—If the chairman finds that available scientific information would justify the change, addition, or deletion described in subsection (a), the chairman shall promptly submit a report to the appropriate committees of Congress containing—

(1) the information; and

(2) specific recommendations for such amendments to this Act as the chairman determines to be appropriate and in the public interest.

SEC. 10. SEVERABILITY.

If any provision of this Act or the application of the provision to any person or circumstance is held invalid, the validity of the remainder of this Act, and of the application of the provision to other persons and circumstances, shall not be affected thereby.

THE NATIONAL PTA,
OFFICE OF GOVERNMENTAL RELATIONS,
Washington, DC, March 12, 1991.

Hon. STROM THURMOND,
U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: On behalf of the 6.8 million member National PTA, I would like to thank you for sponsoring the Sensible Advertising and Family Education (SAFE) Act, which would require five rotating, health warnings on all print and broadcast advertising of alcoholic beverages.

This legislation is a sound public education measure. Last July, the National PTA testified, before the House Subcommittee on Transportation and Hazardous Materials, in support of the SAFE bill. In addition, the National PTA representative to the National Commission on Drug-Free Schools was instrumental in securing language in the Commission's final report in September 1990, which stated that Congress should "require health and safety messages on all alcohol and tobacco products and their advertising."

SAFE would also require the establishment and maintenance of a toll-free number that would be located on all print advertising . . . an important provision that will help individuals and/or their families get the information needed to combat problem alcohol use.

We thank you for the leadership on this issue. The National PTA applauds your longstanding commitment to educating the public to the potential dangers associated with alcohol use and misuse. Please know that our association is committed to helping get the SAFE bill enacted into law.

Sincerely,

ARLENE ZIELKE,
Vice-President for Legislative Activity.

MOTHERS AGAINST DRUNK DRIVING,
Dallas, TX, March 13, 1991.

Hon. STROM THURMOND,
U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: It was a pleasure to visit with you and have the opportunity to recognize your contributions to anti-impaired driving efforts last month at our Legislative Reception in Washington, DC. MADD is grateful for the concern you have shown for issues affecting victims of this terrible crime.

We also are pleased to acknowledge your continued efforts in the form of the Sensible Advertising and Family Education (S.A.F.E.) Act which you and Representative Joseph Kennedy are sponsoring. As our enclosed statement indicates, MADD views this measure as a promising means of increasing awareness of the hazards attached to driving after drinking. The bill has potential also to contribute in an important manner to promoting more responsible methods of marketing and serving this product. While legal for those aged 21 and older, alcohol poses significant health and safety hazards which the producers and advertisers must acknowledge.

Again, thank you on behalf of MADD, for continuing to address issues which impact our traveling safety and health.

Sincerely,

MICKY SADOFF,
National President.

CENTER FOR SCIENCE
IN THE PUBLIC INTEREST,
Washington, DC, March 13, 1991.

Hon. STROM THURMOND,
U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: On behalf of the Center for Science in the Public Interest and our 250,000 members, I would like to commend you for your efforts to prevent alcohol-related problems in our society.

CSPI strongly supports legislation to require health and safety warnings in all alcoholic beverage advertising and promotional materials. There is growing public awareness about the health risks that can go along with drinking. That's why the vast majority of the American public, in poll after poll, supports the enactment of legislation such as you are introducing. Polls conducted by Advertising Age, the Wall Street Journal, the Wine Spectator, and the Federal Bureau of Alcohol, Tobacco and Firearms have found as many as three-quarters of those surveyed supporting health messages in ads.

Health messages in alcohol advertising would complement the already required health messages on alcoholic beverage containers. Simple, rotating health and safety warning messages in advertising is the logical next step in a comprehensive strategy to change the way Americans think about alcohol. We must act to prevent the over 100,000 alcohol-related deaths each year and do something about the source of America's number one drug problem—alcohol.

We look forward to working with you on this critical piece of legislation and look forward to a time when our youth receive their education about alcohol from health officials, not ads glamorizing drinking.

Sincerely,

PATRICIA TAYLOR
Director, Alcohol Policies Project.

AMERICAN ACADEMY OF PEDIATRICS,
Washington, DC, March 13, 1991.

Hon. STROM THURMOND,
U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: On behalf of the American Academy of Pediatrics, whose 40,000 pediatricians are dedicated to the promotion of infant, child and adolescent health, I want to extend our strongest support for your leadership in sponsoring the new Alcoholic Beverage Advertising Act of 1991, which would place prudent health-and-safety messages on all print and broadcast alcohol advertisements.

Pediatricians are convinced that this eminently reasonable legislation would, as part of broader educational activities, help stem the tide of newborns who suffer perfectly preventable birth defects such as fetal alcohol syndrome (FAS); would help protect impressionable young children from clever, comic-strip marketing in the vein of Spuds MacKenzie; and would help restore some responsible balance to the onslaught of alcohol advertising adversely affecting (if not directly aimed at) adolescents, who remain particularly at peril.

You are obviously addressing a compelling need. The report emanating from a 1988 workshop on these issues conducted under the auspices of the United States Surgeon General recommended reasonably that the level of alcoholic beverage advertising be matched with an equal number of pro-health and pro-safety messages, and also recommended the inclusion of health warning messages in all alcohol advertising.

An earlier federally funded study found a significant relationship between youth exposure to alcoholic beverage advertising and drinking behaviors and attitudes which can lead to certain forms of problem drinking. But even more than that, the American public today is clearly indicating its baleful appreciation of the power of alcohol advertising on impressionable children and youth. More than 80 percent of 2000 adults surveyed in 1988 for the Bureau of Alcohol, Tobacco and Firearms believe that alcohol advertising influences under-age youth to drink alcoholic beverages. Two-thirds of those surveyed in a 1989 Wall Street Journal poll favor requiring warnings about the dangers of drinking on both alcoholic beverage containers (which successful political struggle you led) and in alcohol advertisments.

We know that in 1988 alcohol killed more than 125,000 persons, many of them adults who, understandably, never got the message that alcohol is the most addictive and widely consumed drug in America. The promise of your new legislation is that from this day forward more of our children will in fact get that message—and get it straight.

Sincerely,

ANTOINETTE PARISI EATON, M.D.,
President.

NATIONAL COUNCIL ON ALCOHOLISM
AND DRUG DEPENDENCE, INC.,
Washington, DC, March 12, 1991.

Hon. STROM THURMOND,
U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: On behalf of the National Council on Alcoholism and Drug Dependence (NCADD), the nation's oldest private, voluntary health organization dedicated to combatting alcoholism, drug addictions and related problems, we would like to thank you for your sponsorship of the Alcoholic Beverage Advertising Act of 1991. NCADD sees this as the logical follow-up to your successful leadership on the Alcohol Beverage Labeling Act of 1988 and has made this legislation one of our top priorities in the 102nd Congress.

Far too little attention is being paid to America's favorite drug, alcohol. Day in and day out, advertisements and promotions glamorize this product and seduce consumers, both young and old, into believing that alcohol is a magic potion that will improve their lives. They say careers will be enhanced, relationships will have more meaning, and athletic success will surely be acheived. What these messages fail to convey are the true statistics associated with alcohol—40,000 babies are born each year with Fetal Alcohol Syndrome or Fetal Alcohol Effects; over 100,000 Americans die each year, including over 20,000 on our highways; the average age at which Americans begin to drink is 13; and in approximately 50% of all crimes, either the victim or perpetrator had been drinking.

Your legislation will begin to address this disparity. The five rotating health and safety messages proposed in the Alcoholic Beverage Advertising Act will finally provide Americans with concrete information about alcohol.

We appreciate your continuing interest in this issue. If there is anything we can do to assist you, please do not hesitate to contact us.

Sincerely,

CHRISTINE LUBINSKI,
Director for Public Policy.
SARAH KAYSON,
Associate Director for Public Policy.

AMERICAN COUNCIL OF LIFE INSURANCE,
Washington, DC, February 27, 1991.

Hon. STROM THURMOND,
U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: At its November, 1989 Board of Directors meeting, the American Council of Life Insurance endorsed the recommendations of the Coalition for Consumer Health and Safety related to health messages and labeling alcoholic beverages.

Specifically, ACLI supports:

Rotating health and safety labels concerning the risks of drinking while taking other drugs; the increased risk of hypertension, liver disease and cancer; and indicating that alcohol is a drug that can be addictive.

Full ingredient listings on all alcoholic beverage containers; and

Caloric labels on all alcoholic beverage containers.

The ACLI is a member of the Coalition for Consumer Health and Safety. Through the Coalition, ACLI works with consumer and health advocacy organizations and other insurance associations and companies to address threats to the nation's health and safety. Alcohol-related problems are one important area of concern.

Sincerely yours,

RICHARD S. SCHWEIKER.

By Mr. THURMOND (for himself, Mr. HELMS, and Mr. HOLLINGS):

S. 665. A bill to amend the Tariff Act of 1930 to require that certain revenues attributable to tariffs levied on imports of textile machinery and parts thereof be applied to support research for the modernization of the American textile machinery industry; to the Committee on Finance.

TEXTILE MACHINERY MODERNIZATION ACT

Mr. THURMOND. Mr. President, I rise today to introduce the Textile Machinery Modernization Act of 1991. I am pleased to be joined in introducing this bill by Senator HELMS and Senator HOLLINGS.

The textile machinery industry consists primarily of small business which produce finished machinery, parts and accessories used in the production of textile mill products. This industry is composed of approximately 500 companies, employing 17,800 people. According to the Department of Commerce, 86 percent of the textile machinery firms employ less than 50 people.

The textile machinery industry, like many other industries, has lost domestic market share due to the increased level of imports. The U.S. market held by imported machinery has risen steadily, from 6.9 percent in 1960 to 57.5 percent in 1986. Further, employment in this industry has dropped from 28,500 to 17,800 during the last two decades.

The legislation being introduced today will set up a textile machinery modernization fund within the Department of the Treasury to support research and development projects for machinery used in the textile industry which will enhance the competitiveness of the domestic industry. This bill will divert a small portion of revenues collected from tariffs of imported textile machinery to support this fund. The tariffs will not be increased above current levels, only redirected from the General Treasury. This fund is capped at 10 percent or $10 million of the import duties, whichever is greater.

The Secretary of Commerce, in consultation with industry representatives, would administer the funds in the form of research and development project grants. To demonstrate the commitment to the projects on the part of the industry, all potential grant recipients must have incurred the total costs associated with the research project prior to being awarded a grant. Additionally, the funds from the Federal Government cannot exceed 60 percent of the total cost of the project.

To help ensure that smaller firms without the capital to invest in research and development are able to participate, the Secretary of Commerce may give a company a prior commitment that the project is eligible, thereby assuring that the firm will be reimbursed for their expenses. This prior commitment could then be used by the small firm to help secure financial backing for the project.

This legislation is identical to H.R. 713 which was introduced in the House of Representatives on January 30, 1991 and has gathered widespread bipartisan support.

Mr. President, this measure will not limit the amount of textile machinery imported into this country. It will provide an incentive for the domestic companies to produce equipment that can compete in the world marketplace for textile machinery equipment. I hope the Senate will consider this measure expeditiously.

Mr. President, I ask unanimous consent that the text of this bill be printed in the Record.

There being no objection, the bill ordered to be printed in the Record, as follows:

S. 665

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) since the late 18th century, the United States textile machinery industry has played an important role in the development of the world textile industry;

(2) the United States textile machinery industry currently consists of approximately 500 companies, primarily small businesses, producing machinery, parts and accessories used in the production of textile mill products for apparel, defense, furniture and industrial application;

(3) the textile machinery industry is overwhelmingly comprised of firms with 50 or fewer employees;

(4) the textile machinery industry is one of 92 industries in the United States considered essential to our defense needs;

(5) during the last decade, the textile machinery industry has been among those industries most weakened due to a dramatic rise in imports and foreign trade barriers which thwart United States exports;

(6) further erosion of the textile machinery industry will expose the United States textile and apparel complex to offshore pricing, delivery and service resulting in less competition and limited choice;

(7) shipments of textile machinery, parts and accessories were approximately 26 percent lower in 1988 than in 1980, while imports rose by an astounding 100 percent during this same period;

(8) such erosion of the textile machinery industry will result in loss of tariff revenue to the Treasury of the United States;

(9) the textile industry is among the largest five employers in the country;

(10) there are many economic benefits of the textile machinery industry, including tariffs on imports, corporate and employee taxes, preservation of jobs and small businesses, industrial growth, manufacturing skills, maintenance of basic industries, increased exports, and a lower trade deficit;

(11) over the last two decades, employment in the textile machinery industry has shrunk from 28,500 individuals to 17,800;

(12) recapturing the textile machinery market will be a positive contribution to the balance of trade;

(13) trade impacted businesses should have direct access to capital from the source of subsidized competition; and

(14) government studies recommend that research and development programs be developed to help sustain and expand the textile machinery industry.

SEC. 2. TEXTILE MACHINERY MODERNIZATION FUND.

Part I of title III of the Tariff Act of 1930 (19 U.S.C. 1303–1323) is amended by inserting after section 323 the following new section:

"SEC. 324. TEXTILE MACHINERY MODERNIZATION FUND.

"(a) Definitions.—For purposes of this section:

"(1) The term 'Fund' means the Textile Machinery Modernization Fund established under subsection (b).

"(2) The term 'qualified organization' means any entity organized under the laws of the United States with principal manufacturing facilities located in the United States that manufactures and markets any of the following for utilization by the textile industry worldwide:

"(A) Machinery.

"(B) Parts.

"(C) Accessories.

"(D) Related systems.

"(3) The term 'qualified research project' means a research project, conducted within the United States, for machinery and equipment used predominantely, if not exclusively, by the textile industry, or for major capital expenditure items of the textile industry.

"(4) The term 'Secretary' means the Secretary of Commerce.

"(5) The term 'textile machinery and parts thereof includes all articles provided for in subheadings 8420.10.10, 8420.91.10, 8420.00.10, 8443,50.10, and 8443.90.10 and in headings 8444 through 8449 of the Harmonized Tariff Schedule of the United States and all textile machinery and parts thereof provided for in headings 8450 through 8452 of such Schedule.

"(b) Establishment of Fund.—There is established in the Treasury of the United States the Textile Machinery Modernization Fund. The Fund consists of such amounts as may be appropriated to it.

"(c) Purposes of Fund.—Monies in the Fund shall be available, as provided for in advance in appropriation Acts, for—

"(1) grants made in accordance with subsection (d) to qualified organizations to assist such organizations to carry out qualified research projects; and

"(2) the administration of this section, and the carrying out of textile machine industry-wide research and promotion, by the Secretary.

"(d) Grants.—

"(1) In general.—Subject to paragraphs (3) and (4) and to such terms and conditions (including those necessary to protect the interests of the United States) as the Secretary shall by regulation prescribe, the Secretary may make one or more grants to any qualified organization for the purpose of reimbursing that organization for costs incurred by it in carrying out one or more qualified research projects.

"(2) Statements of intent.—The Secretary may in advance of any qualified organization commencing a qualified research project, provide to such organization a statement indicating the Secretary's intent to make one or more grants to such organization for the purpose of funding one or more qualified research projects.

"(3) Consultation and determinations regarding applications.—The Secretary must—

"(A) make grants under this section in consultation with appropriate representatives from the textile and textile machinery industries and the public; and

"(B) make a determination whether or not to award any grant under this section within 12 months after the grant is applied for.

"(4) Limitations.—(A) No grant made under this section with respect to a qualified research project may exceed 60 percent of the cost of the project.

"(B) The aggregate amount of the grant or grants made to a qualified organization under this section during any fiscal year is limited to expenditures above that organization's base line average of annual expenditures during the 3 previous fiscal years for qualifying textile machingery research, development, and product engineering, as defined in section 174 of the Internal Code of 1986. Grants awarded under this section shall be excluded from baseline calculations.

"(C) If the total amount of monies available in the Fund for the payment of grants for a fiscal year is less than that total amount of the grants approved for disbursement under this section for that fiscal year, the amount of the grants paid during such year shall be equitably prorated.

"(e) Appropriations to Fund.—

"(1) In general.—There is appropriated to the Fund for each fiscal year after fiscal year 1992, from the revenues attributable to the customs duties imposed on textile machinery and parts thereof imported into the United States during the preceding fiscal year, the greater of—

"(A) an amount equal to 10 percent of such revenues; or

"(B) $10,000,000;

of which not to exceed $500,000 shall be available for the purposes specified in subsection (c)(2).

"(2) Limitation.—The aggregate amount of monies in the Fund during any fiscal year may not exceed $10,000,000.".

By Mr. SIMON:

S. 666. A bill to guarantee a work opportunity for all Americans, and for other purposes; to the Committee on Labor and Human Resources.

GUARANTEED JOB OPPORTUNITY ACT

Mr. SIMON. Mr. President, today I am reintroducing the Guaranteed Job Opportunity Act, a bill I originally introduced in the 100th Congress. I am reintroducing this bill today because I am committed to putting America back to work, and injecting new lifeblood into our sagging economy.

In my home State of Illinois, more than 400,000 Illinoisians are jobless. According to the Bureau of Labor Statistics, over 8 million people are currently unemployed. Significantly, these estimates do not include the millions of part-time workers who would like to have full-time work or the so-called discouraged workers, the people who have given up, who are no longer looking for a job. These two groups currently total an additional 7 million people. Millions of citizens who are eager to work and contribute to our country, are for various reasons—including language barriers, lack of basic and occupational skills, layoffs—simply unable to find a job. National studies have shown that we simply do not have enough jobs for our unemployed. In fact, according to national studies conducted by Katherine Abraham and Harry Holzer, the number of unemployed individuals consistently exceeds the number of unfilled jobs by ratios, ranging from 10:1 to 3:1. The end result of this shortage is that millions of Americans find themselves without employment, and are unable to support themselves or their families. As a result, the number of welfare recipients increases, and the economy as a whole suffers. Our Nation need not tolerate this massive waste of our human resources, and indeed, cannot.

We now find ourselves in the midst of a recession. Economic indicators are down across the board, and joblessness is increasing. By guaranteeing jobs for all Americans, we not only greatly reduce the number of unemployed, we help to strengthen the economy as well.

In 1946, under the leadership of President Truman, Congress passed the Full Employment Act, making a commitment in words to provide employment opportunities to all Americans. At that time, there were about 1 million people unemployed. Forty-five years later, with over 8 million people unemployed, the hope and the promise of that dream remain unfulfilled. Even worse, the burden of unemployment is being borne disproportionately by groups who have been the subject of historic discrimination. The Bureau of Labor Statistics estimates the February 1991 unemployment rate for whites at 5.9 percent—14.5 for white teenagers—the rate for blacks is twice as high, 11.8 percent—35.4 for black teenagers—and the rate for Hispanics is 9.5 percent. Some other unemployment estimates are staggering. According to the Census Bureau's current population study for 1988, 68.4 percent of people with work disabilities are not in the labor force, and the Bureau of Indian Affairs estimates that as many as 48 percent of American Indians are out of work. In fact, unemployment rates on many American Indian reservations often exceed 60 percent, and reach a high of 90 percent on the Rosebud Reservation in South Dakota. Mr. President, something must be done to address this problem.

As I've consistently said throughout my fight to eliminate unemployment, since we are not going to let people in America starve, we have two options—to pay people for doing nothing or to pay them for doing something. It makes infinitely more sense to pay people to work.

The legislation I am introducing today would establish a Guaranteed Job Opportunity Program [GJOP] to ensure that every American has an opportunity to work productively at a job. In each community, a local board composed of equal numbers of business, labor, and public sector representatives would develop employment projects, and those who have been unemployed for at least 5 weeks would be afforded the opportunity to work on the projects.

At a maximum of 32 hours per week, a participant would work on a project in the local area. These projects could include repairing sidewalks, tearing down condemned buildings, tutoring the illiterate or non-English speaking people, assisting day-care centers for children so unemployed single parents can seek and accept employment, and tutoring grade school and high school students who need special help.

Many who criticize job programs, such as the Works Progress Administration under President Roosevelt's New Deal, picture people leaning up against shovels and digging ditches. But the fact is that the Guaranteed Job Opportunity Act, like the WPA, would turn unemployed, hopeless people into happier, productive people. And an opportunity to work gives people self-esteem, something we all need.

For those who ask how much does it cost and insist on the bottom line for the budget, a preliminary cost estimate suggests that, if fully implemented GJOP would cost about $8 billion. How much is that? From 1985 to 1987 we appropriated exactly $8.2 billion for the Strategic Defense Initiative (SDI). I am confident that we can spend that much to fully develop our human resources.

In fact, much of the costs of the GJOP would be offset by the savings in programs that assist the unemployed.

A conservative estimate is that the Federal expenditure for food stamps, welfare, unemployment compensation, Medicaid, and a host of other expenditures, plus loss of revenue, amounts to $25 billion for each million unemployed. Eight million people unemployed amounts to a loss of $200 billion annually. Unemployment, an inexcusable waste of humanity, is slowly but certainly eroding our economic future.

Furthermore, the costs of unemployment extend throughout our economy. All businesses are harmed by unemployment. Obviously, people who do not work cannot buy as many cars or air conditioners or suits. Tax incentives to stimulate business investment sometimes can be effective, but creating an economic climate in which people are working and buying always stimulates the economy.

The Guaranteed Job Opportunity Act would provide assistance and training to people with limited job, English, and reading and writing skills. It would allow millions of Americans presently confined within the constraints of the welfare system to contribute to our country and lift themselves out of poverty. Mostly, it would turn unemployed and often, hopeless people, into happier, productive workers.

While there are some who say we can't afford to make the investments it takes to eliminate unemployment and poverty, I say, once again, we can't afford not to.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 666

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Guaranteed Job Opportunity Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the relationship between a strong educational system, practical and realistic training and retraining programs, and a healthy national economy is inseparable in an era in which economic growth is dependent on technology and is imperiled by unemployment and by increasing numbers of unskilled, ill-trained and undereducated individuals who are in the workforce or seeking employment;

(2) restoring the competitiveness and enhancing the productivity of the United States will require that all workers possess basic educational skills and job experience; and

(3) the United States must recognize the substantial impact that an investment in human capital will have on increasing productivity.

(b) PURPOSES.—It is the purpose of this Act to establish a national program designed—

(1) to improve the productivity and competitive position of the United States by investing in human capital; and

(2) to assist adults and youths to become productive workers in a competitive economy by authorizing a job opportunity program.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) GOVERNOR.—The term "Governor" means the chief executive of a State.

(2) PARTICIPANT.—The term "participant" means an individual who is determined to be eligible under section 6.

(3) PROJECT.—The term "project" means the definable task or group of tasks that—

(A) will be carried out by a public agency, a private nonprofit organization, or a private contractor;

(B) will meet the requirements of section 8(f);

(C) will result in a specific product or accomplishment; and

(D) would not otherwise be conducted with existing funds.

(4) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(5) STATE.—The term "State" means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the

Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

SEC. 4. ESTABLISHMENT OF PROGRAM.

From the sums appropriated pursuant to section 15 for a fiscal year, the Secretary shall make grants to District Executive Councils established in accordance with section 5 for the purpose of assisting local job projects that meet the requirements of this Act.

SEC. 5. DISTRICT EXECUTIVE COUNCIL.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—An eligible area that desires to receive funds under this Act shall establish a District Executive Council. The Council shall be composed of at least 13 members—

(A) four of whom shall be appointed by the Governor of the State within which the eligible area is located;

(B) four of whom shall be appointed by the mayor or chief executive of the largest municipality located in the eligible area; and

(C) five of whom shall be appointed by the chief executives of governmental units comprising or located in the eligible area.

(2) TERM.—A member of the Council shall serve for a term of 3 years.

(3) POLITICAL AFFILIATION.—

(A) APPOINTMENTS BY GOVERNOR AND MAYOR.—Not more than two members of the Council appointed under paragraph (1)(A) and not more than two members of the Council appointed under paragraph (1)(B) may be members of the same political party.

(B) APPOINTMENTS BY CHIEF EXECUTIVE OF GOVERNMENTAL UNITS.—Not more than three members of the Council appointed under paragraph (1)(C) shall be members of the same political party.

(4) REPRESENTATION.—The members of the Council appointed under paragraph (1) shall, in the aggregate, include—

(A) at least four representatives of the business community in the eligible area;

(B) at least four representatives of labor organizations in the eligible area; and

(C) at least one member representing the education community of the eligible area.

(5) SERVICE DELIVERY AREAS.—In any eligible area that is substantially the same as a service delivery area under title I of the Job Training Partnership Act (29 U.S.C. 1511 et seq.), the private industry council for the area may, on a two-thirds vote of the members of the Council, petition the Governor to be designated as the District Executive Council for that area. On receiving such a petition, the Governor shall appoint members pursuant to paragraph (1)(A) and make arrangements to ensure that the membership of the private industry council, for the purpose of this Act, substantially meets the requirements of paragraphs (1) and (2). The private industry council so reconstituted shall be the District Executive Council, for the purpose of this Act, for the appropriate eligible area.

(b) FUNCTIONS OF THE COUNCIL.—Each District Executive Council shall—

(1) select the projects to be assisted under this Act pursuant to criteria prescribed by the Secretary;

(2) prepare and submit a plan for the conduct of projects to be assisted under this Act; and

(3) prepare and submit an annual report to the Secretary on the activities of the District Executive Council.

(c) PERSONNEL.—Each District Executive Council shall—

(1) employ an Administrator and sufficient support personnel, including at least one counselor, sufficient to carry out the functions of the Council under this Act; and

(2) select a manager for each job project assisted under this Act, in accordance with criteria established by the Secretary.

(d) LIMITATIONS ON ADMINISTRATIVE COSTS.—Not more than 10 percent of the amount available to the District Executive Council of each eligible area may be used for administrative expenses.

(e) ESTABLISHMENT OF ELIGIBLE AREA.—For the purpose of this Act—

(1) an "eligible area" shall be a county or comparable unit of general local government as designated by the Secretary after consultation with elected officials in each State; and

(2) no eligible area may have a population in excess of 300,000 individuals, unless the Secretary waives the requirement of this paragraph.

SEC. 6. PROGRAM ELIGIBILITY.

(a) IN GENERAL.—For the purpose of this Act, an individual shall be eligible to participate in a job project assisted under this Act if the individual—

(1)(A) has a high school diploma or its equivalent; or

(B) is at least 18 years of age;

(2) has resided in the eligible area for at least 30 days;

(3) has been unemployed for 35 days prior to the determination of employment for a job project assisted under this Act; and

(4) is a citizen of the United States, is a national of the United States, is a lawfully admitted permanent resident alien, is a lawfully admitted refugee and parolee, or is otherwise authorized by the Attorney General to work in the United States.

(b) LIMITATIONS.—

(1) MAXIMUM ELIGIBLE INDIVIDUALS PER HOUSEHOLD.—Not more than two individuals who reside in any household may be eligible for a job assisted under this Act.

(2) MAXIMUM INCOME.—No individual—

(A) whose earned income for the year preceding the year in which the determination of employment under this Act is made is equal to or more than $17,000; or

(B) who has a family income in the year in which the determination of employment under this Act is made that is paid for the month prior to the determination at a rate of $17,000 a year,

may be eligible for a job assisted under this Act.

(3) MAXIMUM COMPENSATED HOURS PER WEEK.—An individual participating in a job opportunity project assisted under this Act may not work in any compensated job other than the job assisted under this Act for more than 16 hours per week.

(4) EMPLOYMENT SEARCH.—An individual participating in a job project assisted under this Act shall demonstrate, to the project manager of the job project assisted under this Act, that the individual sought employment in the private sector during the 35 days prior to making application for employment under this Act and will continue to seek employment during the period of employment assisted under this Act.

(5) RETIREMENT BENEFITS.—Any individual eligible for retirement benefits under the Social Security Act (42 U.S.C. 301 et seq.), under any retirement system for Federal Government employees, under the railroad retirement system, under the military retirement system, or any private pension program is not eligible to participate in a job project assisted under this Act.

SEC. 7. TESTING AND EDUCATION REQUIREMENTS.

(a) TESTING.—Each participant in a job project assisted under this Act shall be tested for basic reading and writing competence by the District Executive Council prior to employment under the job project.

(b) EDUCATION REQUIREMENT.—

(1) FAILURE TO SATISFACTORILY COMPLETE TEST.—Each participant who fails to complete satisfactorily the basic competency test required by subsection (a) shall be furnished counseling and instruction.

(2) PROGRESS TOWARD DIPLOMA.—Each participant in a job project assisted under this Act who has not received a high school diploma or its equivalent shall, in order to continue the employment, maintain satisfactory progress towards receiving a high school diploma or its equivalent.

(3) LIMITED ENGLISH.—Each participant with limited English speaking ability may be furnished such instruction as the District Executive Council considers appropriate.

SEC. 8. LOCAL JOB PROJECTS.

(a) IN GENERAL.—Each District Executive Council shall select job projects to be assisted under this Act. Each such job project selected for assistance shall provide employment to eligible participants.

(b) PROJECT OBJECTION.—No project may be selected under this section if an objection to the project is filed by two representatives appointed under paragraph (3)(A) of section 5(a) or by two representatives appointed under paragraph (3)(B) of such section.

(c) POLITICAL AFFILIATION PROHIBITED.—No manager and no other officer or employee of a District Executive Council, or of the job project assisted under this Act, may select eligible participants for employment in the project on the basis of political affiliation.

(d) LIMITATIONS.—

(1) MAXIMUM EXPENSES FOR TRANSPORTATION AND EQUIPMENT.—Not more than 10 percent of the total expenses in any fiscal year of the job project may be used for transportation and equipment.

(2) MAXIMUM NUMBER OF SUPERVISORS.—Not more than one-tenth of the individuals employed in any job project assisted under this Act may be employed to supervise the project. Individuals selected for supervision may be selected without regard to section 6 and may receive wages in excess of the rate determined under section 9. This paragraph shall not apply to in any case in which, pursuant to objective criteria prescribed by the Secretary, more supervision of eligible participants will contribute to carrying out the objectives of this Act.

(e) MAXIMUM HOURS PER WEEK EMPLOYED.—An eligible participant employed in a job project assisted under this Act may not be employed on the project for more than 32 hours per week.

(f) PROJECT DURATION.—Each job project assisted under this Act and selected under this section shall be capable of completion within 18 months.

(g) PROJECT PROGRESS REPORTS.—Each project manager of a job project asssisted under this Act shall prepare and submit to the District Executive Council monthly progress reports on the job project.

SEC. 9. BENEFITS; SUPPORTIVE SERVICES; JOB CLUBS.

(a) WAGES.—Each eligible participant who is employed in a job project assisted under this Act shall receive wages equal to the higher of—

(1) the minimum wage established under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1));

(2) the minimum wage established under the applicable minimum wage law; or

(3) the amount that the eligible participant receives in assistance pursuant to a State plan approved under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or in the form of unemployment compensation, if applicable, plus 10 percent of the amount, whichever is higher.

(b) BENEFITS.—Each eligible participant who is employed in a project assisted under this Act shall be furnished benefits and employment conditions comparable to the benefits and conditions provided to other employees employed in similar occupations by a comparable employer, except that no such participant shall be eligible for unemployment compensation during or on the basis of employment in such a project.

(c) SUPPORTIVE SERVICES.—Each eligible participant who is employed in a project assisted under this Act shall be eligible for supportive services, which may include transportation, health care, special services and materials for the handicapped, child care, and other services that are necessary to enable the individual to participate.

(d) JOB CLUBS.—Each District Executive Council shall establish for the eligible area job clubs to assist eligible participants with the preparation of resumes, the development of interviewing techniques, and evaluation of individual job search activities.

SEC. 10. LABOR STANDARDS APPLICABLE TO JOB PROJECTS.

(a) CONDITIONS OF EMPLOYMENT.—

(1) IN GENERAL.—Conditions of employment and training shall be appropriate and reasonable in light of such factors as the type of work, geographical region, and proficiency of the participant.

(2) HEALTH AND SAFETY STANDARDS.—Health and safety standards established under Federal and State law, otherwise applicable to working conditions of employees, shall be equally applicable to working conditions of participants. With respect to any participant in a job project conducted under this Act who is engaged in activities that are not covered by health and safety standards under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), the Secretary shall prescribe, by regulation, such standards as may be necessary to protect the health and safety of the participant.

(3) RETIREMENT SYSTEMS OR PLANS.—No funds available under this Act may be used for contributions on behalf of any participant to retirement systems or plans.

(b) DISPLACEMENT RULES.—

(1) CURRENT EMPLOYEES.—No currently employed worker shall be displaced by any participant (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits).

(2) EXISTING CONTRACTS AND COLLECTIVE BARGAINING AGREEMENTS.—No job project shall impair an existing contract for services or a collective bargaining agreement. No job project under this Act that would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization and employer concerned.

(3) LAYOFFS AND TERMINATIONS.—No participant shall be employed or job opening filled—

(A) when any other individual is on layoff from the same or any substantially equivalent job; or

(B) when the employer has terminated the employment of any regular employee or otherwise reduced its workforce with the intention of filling the vacancy so created by hiring a participant whose wages are subsidized under this Act.

(4) PROMOTIONS.—No job shall be created in a promotional line, as a result of a job project assisted under this Act, that will infringe in any way on the promotional opportunities of currently employed individuals.

(c) SPECIAL LIMITATIONS.—Where a labor organization represents a substantial number of employees who are engaged in similar work or training in the same area as that proposed to be funded under this Act, an opportunity shall be provided, at least 30 days before the project is approved, for the organization to submit comments with respect to the proposal.

(d) SPECIAL WAGE RULE.—

(1) IN GENERAL.—All laborers and mechanics employed by contractors or subcontractors in any construction, alteration, or repair, including painting and decorating, of projects, buildings, and works that are federally assisted under this Act shall be paid wages at rates that are not less than those prevailing on similar construction in the locality as determined by the Secretary in accordance with the Act of March 3, 1931, commonly known as the Davis-Bacon Act (40 U.S.C. 276a et seq.). The Secretary shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267; 5 U.S.C. App. 1) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

(2) APPLICATION OF RULE.—This subsection shall not apply to an eligible participant in a project assisted under this Act.

SEC. 11. NONDISCRIMINATION.

(a) IN GENERAL.—

(1) APPLICATION OF EXISTING PROHIBITIONS.—For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), on the basis of handicap under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), on the basis of sex under title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), projects and activities funded or otherwise financially assisted in whole or in part under this Act are considered to be programs and activities receiving Federal financial assistance.

(2) PROHIBTION.—No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with any such project because of race, color, religion, sex, national origin, age, handicap, or political affiliation or belief.

(3) RELIGIOUS INSTRUCTION OR WORSHIP.—No participant shall be employed on the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship.

(4) PARTICIPATION.—With respect to terms and conditions affecting, or rights provided to, individuals who are participants in activities supported by funds provided under this Act, such individuals shall not be discriminated against solely because of their status as such participants.

(b) NONCOMPLIANCE.—Whenever the Secretary finds that a recipient has failed to comply with a provision of law referred to in subsection (a)(1), with paragraph (2), (3), or (4) of subsection (a), or with an applicable regulation prescribed to carry out such paragraph, the Secretary shall notify the recipient and shall request the recipient to comply. If within a reasonable period of time, not to exceed 60 days, the recipient fails or refuses to comply, the Secretary may—

(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), or section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as may be applicable; or

(3) take such other action as may be provided by law.

(c) REFERRAL TO ATTORNEY GENERAL.—When a matter is referred to the Attorney General pursuant to subsection (b)(1), or whenever the Attorney General has reason to believe that a recipient is engaged in a pattern or practice in violation of a provision of law referred to in subsection (a)(1) or in violation of paragraph (2), (3), or (4) of subsection (a), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

SEC. 12. EVALUATION FILES.

(a) IN GENERAL.—Each District Executive Council shall establish and maintain an evaluation file for each individual employed in a project assisted under this Act.

(b) AVAILABILITY.—The evaluation file shall be made available to the participant monthly and shall not be available to any other person without the consent of the employee. In carrying out this section, each such Council shall ensure that the participant will be afforded the opportunity to discuss any matter contained in, or omitted from, the file.

SEC. 13. ALLOTMENT AND ALLOCATION.

(a) ALLOTMENT.—The Secretary shall allot the amount available in each fiscal year under section 15 to each State so that—

(1) 33⅓ percent shall be allotted on the basis of the relative number of unemployed individuals residing in areas of substantial unemployment in each State as compared to the total number of such unemployed individuals in all such areas of substantial unemployment in all States;

(2) 33⅓ percent shall be allotted on the basis of the number of workers displaced by plant closings or mass layoffs in such State in the most recent period for which satisfactory data are available under section 462(e) of the Job Training Partnership Act (29 U.S.C. 1752(e)) compared to the total number of such workers in all States; and

(3) 33⅓ percent shall be allotted on the basis of the relative number of individuals receiving public assistance under State and local laws and the number of individuals receiving assistance under a State plan approved under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) within the State compared to the total number of such individuals in all States.

(b) SUBSTATE ALLOCATION.—

(1) IN GENERAL.—The Governor shall allocate 100 percent of the allotment to the State for each fiscal year among the District Executive Councils within the State in accordance with paragraph (2).

(2) BASIS.—Of the amount allocated under this subsection—

(A) 33⅓ percent shall be allocated on the basis of the relative number of unemployed individuals residing in each eligible area as compared to the total number of such unemployed individuals in all such eligible areas in the State;

(B) 33⅓ percent shall be allocated on the basis of the number of workers displaced by plant closings or mass layoffs in eligible areas in the most recent period for which satisfactory data are available under section 462(e) of the Job Training Partnership Act (29 U.S.C. 1752(e)) as compared to the total of such workers in all eligible areas in the State; and

(C) 33⅓ percent shall be allocated on the basis of the relative number of individuals receiving public assistance under State and local laws and the number of individuals receiving assistance under a State plan approved under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) in an eligible area within the State compared to the total number of such individuals in all eligible areas in the State.

(c) REALLOTMENT.—

(1) REALLOTMENT BY SECRETARY.—The Secretary shall, beginning after September 30, 1991, reallot amounts appropriated and allotted to any State that is equal to the unexpended balance of the allotment of the State at the end of the fiscal year prior to the fiscal year for which the determination is made if the unexpended balance exceeds 20 percent of the State's allotment for that fiscal year.

(2) OBJECTIVES.—The Secretary shall reallot the amounts available under paragraph (1) to any State that demonstrates that the State is making progress toward achieving the stated objectives in carrying out this Act and that the State required additional funds in order to accomplish the objectives.

SEC. 14. ADMINISTRATION.

(a) REGULATORY AUTHORITY.—

(1) IN GENERAL.—The Secretary may, in accordance with chapter 5 of title 5, United States Code, prescribe such rules and regulations (including performance standards) as the Secretary considers necessary.

(2) USE OF EXISTING STATE OR MULTIMEMBER AGENCY.—The rules and regulations may include adjustments authorized by section 6504 of title 31, United States Code.

(3) PUBLICATION.—All such rules and regulations shall be published in the Federal Register at least 30 days prior to their effective date.

(4) TRANSMITTAL TO CONGRESS.—Copies of all such rules and regulations shall—

(A) be transmitted to the appropriate committees of Congress at the same time as publication under paragraph (3); and

(B) contain, with respect to each material provision of the rules and regulations, a citation to the particular substantive section of law that is the basis for the rule or regulation.

(b) ACCEPTING PROPERTY FOR USE UNDER THIS ACT.—The Secretary is authorized, in carrying out this Act, to—

(1) accept, purchase, or lease in the name of the Department of Labor, and employ or dispose of in furtherance of the purpose of this Act, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise; and

(2) accept voluntary and uncompensated services, notwithstanding section 1342 of title 31, United States Code.

(c) GENERAL ADMINISTRATIVE AUTHORITY.—The Secretary may make such grants, contracts, or agreements, establish such procedures and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend funds under this Act as necessary to carry out this Act, including expenditures for construction, repairs, and capital improvements, and including necessary adjustments in payments on account of overpayments or underpayments.

(d) WAIVER AUTHORITY.—The Secretary may waive—

(1) the testing requirement established under section 7(a) for individuals with handicaps;

(2) the education requirement established under section 7(b)(2); and

(3) subject to a ⅔ vote of each District Executive Council, the requirement relating to a 32-hour work week under section 8(e) for unusual circumstances.

(e) REPORT.—The Secretary shall prepare and submit to Congress an annual report of the administration of this Act. The Secretary shall include in the report—

(1) a summary of the achievements, failures, and problems of the programs authorized in this Act in meeting the objective of this Act; and

(2) such recommendations, including recommendations for legislative or administrative action, as the Secretary considers appropriate.

(f) AUDIT.—The Comptroller General of the United States, and authorized representatives of the General Accounting Office, shall have access for the purpose of audit and examination to any books, documents, papers, and records, of any recipient under this Act that are pertinent to the amounts received and disbursed under this Act.

SEC. 15. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act $5,000,000,000 for fiscal year 1991, $8,000,000,000 for the fiscal year 1992, and such sums as may be necessary for fiscal year 1993 and each of the succeeding fiscal years ending prior to October 1, 1996.

By Mr. MCCAIN (for himself, Mr. INOUYE, and Mr. BURDICK):

S. 667. A bill to provide support for and assist the development of tribal judicial systems, and for other purposes; to the Select Committee on Indian Affairs.

TRIBAL JUDICIAL ENHANCEMENT ACT

• Mr. MCCAIN. Mr. President, I rise today to introduce the tribal Judicial Enhancement Act. I am pleased to be joined by Senators INOUYE and BURDICK as cosponsors of this very important legislation.

During the last several years, the Select Committee on Indian Affairs, under the leadership of Senator INOUYE, has held several hearings and tribal forums at which tribal leaders have raised, among other concerns, the inadequate funding levels for tribal judicial systems. Likewise, in my personal visits with tribal leaders and judges in Arizona, I have also heard about the need for support services to tribal courts including ready access to law libraries, improved court records management systems, continuing legal education, and technical assistance. At a time when tribal courts are hearing major tax disputes, personal injury, criminal, and regulatory cases, it is essential for tribal courts to be well equipped to handle the decisions before them.

The legislation I am introducing today for discussion offers one approach to establishing appropriate support structures and funding mechanisms for developing tribal judicial systems. This legislation is the result of numerous meetings and discussions with the representatives of Indian tribes, tribal judges and tribal court personnel. It is my hope that this bill will stimulate thoughtful discussion as the Congress considers the issues of tribal court development and enhancement.

This bill is not meant to be all encompassing. I am fully aware that there are other issues, such as full faith and credit, appellate review, and the role of the BIA with regard to tribal courts which merit careful consideration. I am confident, however, that the discussions and the extensive committee hearings which will follow will enable the Select Committee on Indian Affairs to further refine the concepts in this legislation to ensure that the end product truly meets the needs of Indian tribes and tribal judicial systems.

The Tribal Judiciary Enhancement Act would create an Office of Tribal Judicial Support within the Bureau of Indian Affairs which would be responsible for providing funds for the development, enhancement, and continuing operation of tribal judicial systems. The Office would also provide training and technical assistance to tribal judicial systems. Finally, the Office would be responsible for the development of recommended standards for judicial administration and court management.

Under this bill, the Director of the Office of Tribal Judicial Support would be required to conduct a survey of the conditions of tribal judicial systems across the country. This survey will provide the base line information necessary to determine funding, staffing and facilities needs for tribal courts. The results of the survey of tribal judicial systems would be included in an annual report to the Secretary and the Congress.

The Tribal Judicial Enhancement Act requires the Secretary to develop a formula for base support funding for tribal judicial systems. This funding would be independent of the Indian priority system and based on objective criteria including reservation size and population, the volume of tribal court cases, and the staffing levels of tribal judicial systems. It would require the Secretary of the Interior to develop appropriate caseload standards and staffing requirements for tribal judicial systems which are comparable to standards developed by the Judicial Conference of the United States, the National Center for State Courts, and the American Bar Association.

The bill would establish a Commission on Tribal Judicial Systems which would be made up of 12 tribal judges selected from each of the area offices of the BIA. Members of the Commission would be selected by tribal judges and serve for a term of 3 years. The Commission shall provide advice to, and consult with, the Director of the Office of Tribal Judicial Support on the improvement of tribal judicial systems. In addition, the Commission shall develop recommended standards for judicial administration, court management and judicial performance, and develop recommended training and educational requirements for judicial personnel. The Commission shall promote increased communication and cooperation among Indian, State, and Federal judicial systems.

Finally, the bill authorizes $5 million for fiscal years 1992 through 1996 for the operations of the Office of Tribal Judicial Support and $30 million to provide base support funding to tribal judicial systems for fiscal years 1992 through 1996. The level of administrative costs is capped at 5 percent.

Mr. President, I am looking forward to continued discussion with my colleagues on the Indian Affairs Committee and with tribal representatives, tribal judges, and tribal court personnel on these very important issues. I believe that only through thoughtful dialog can this legislation be refined to reflect the views of Indian tribes and provide for the needs of tribal judicial systems.

Mr. President, I ask unanimous consent that the full text of the Tribal Judicial Enhancement Act and the section-by-section summary be printed in the RECORD immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 667

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tribal Judicial Enhancement Act".

SEC. 2. FINDINGS.

The Congress finds and declares that—

(1) the United States and Indian tribes have a government-to-government relationship;

(2) Congress, through statutes, treaties, and the exercise of administrative authorities, has encouraged the self-determination, self-reliance, and independence of Indian tribes;

(3) Indian tribes have reserved the inherent authority to establish and empower tribal judicial systems;

(4) tribal courts are an essential element of tribal self-government and integral to the fulfillment of the Federal Government's policy of self-determination; and

(5) tribal judicial systems are currently inadequately funded and such lack of adequate funding limits their ability to effectively administer justice.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the term "Bureau" means the Bureau of Indian Affairs of the Department of Interior;

(2) the term "Commission" means the Commission on Tribal Judicial Systems;

(3) the term "Director" means the Director of the Office of Tribal Judicial Support;

(4) the term "Indian" means an individual who is a member of an Indian tribe;

(5) the term "Indian tribe" means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native entity which administers justice under the authority of the United States or the inherent authority of the native entity, and which is recognized as eligible for the special programs and services provided by the United States to Indian tribes because of their status as Indians;

(6) the term "judicial personnel" means any judge, magistrate, court counselor, court clerk, court administrator, bailiff, probation officer, or other court employee;

(7) the term "Office" means the Office of Tribal Judicial Support within the Bureau of Indian Affairs;

(8) the term "Secretary" means the Secretary of the Interior; and

(9) the term "tribal judicial system" means the entire judicial branch of an Indian tribe, including all tribal courts whether or not they constitute a court of record, and the employees thereof.

SEC. 4. OFFICE OF TRIBAL JUDICIAL SUPPORT.

(a) There is hereby established within the Bureau the "Office of Tribal Judicial Support", whose purpose it shall be to further the development and enhancement of tribal judicial systems.

(b) It shall be the function of the Office in consultation with the Commission on Tribal Judicial Systems—

(1) to develop recommended standards for judicial administration and management of tribal judicial systems;

(2) to develop and conduct programs of continuing education and training for personnel of tribal judicial systems;

(3) to provide funds to Indian tribes for the development, enhancement and continuing operation of tribal judicial systems;

(4) to provide advice, technical assistance and consultation to Indian tribes, tribal organizations, and intertribal consortia upon request; and

(5) to conduct research and study the operation of tribal judicial systems.

(c) The Office shall, insofar as may be consistent with the performance of the other functions set forth in this section, provide staff, research, and planning assistance to the Commission.

(d) The Office shall work in concert with the Commission to promote cooperation and coordination between the Commission, the Federal Judicial Center, the National Center for State Courts, and the Office.

SEC. 5. TECHNICAL ASSISTANCE.

(a) The Office shall provide training and technical assistance to any Indian tribe upon request. Technical assistance and training to be provided by the Office shall include, but is not limited to—

(1) tribal code development and rules of procedure;

(2) tribal court administration and court records management systems;

(3) methods of reducing case delays;

(4) methods for alternative dispute resolution;

(5) standards for judicial administration;

(6) development of tribal standards for training and education of judicial personnel; and

(7) development of long-range plans for the enhancement of tribal judicial systems.

(b) The Office shall provide technical assistance and training, either through direct services or contracts with independent entities, to Indian tribes and tribal judicial systems.

(c) The Secretary, through the Office, shall establish an information clearinghouse on tribal judicial systems, including but not limited to, personnel, funding, judicial activities and decisions.

SEC. 6. SURVEY OF TRIBAL JUDICIAL SYSTEMS.

(a) The Director shall, within 12 months following the date of enactment of this Act, make a survey of conditions of tribal judicial systems to determine the number of full- or part-time judges required by Indian tribes to provide for expeditious and effective administration of justice. The Director shall annually update the information and findings contained in the survey required under this section.

(b) In the course of any annual survey, the Director shall take into account local conditions on each reservation including, but not limited to—

(1) the reservation size and population to be served;

(2) the levels of functioning and capacity of the tribal judicial system;

(3) the volume and complexity of the caseloads;

(4) the available facilities and program resources;

(5) funding levels and personnel staffing levels;

(6) the relative experience and qualifications of judicial personnel; and

(7) the training and technical assistance needs of the tribal judicial system.

(c) The Director shall, in preparing the survey, consult with and consider the recommendations of the Commission on Tribal Judicial Systems.

(d) The Director shall report to the Secretary and the Congress on the results of the survey of tribal judicial systems.

SEC. 7. BASE SUPPORT FUNDING FOR TRIBAL JUDICIAL SYSTEMS.

(a) The Secretary, through the Office, is authorized to enter into contracts, grants or agreements with Indian tribes, tribal organizations, or intertribal consortia pursuant to the Indian Self-Determination Act for the development, enhancement, or continuing operation of tribal judicial systems on Indian reservations. Financial assistance provided through contracts, grants, or agreements entered into pursuant to this section may be used for—

(1) the employment of judicial personnel;

(2) training programs and continuing education for tribal judicial personnel;

(3) the development of a law library or computer assisted legal research capacities;

(4) the development of rules of practice, rules of court procedure, and standards of judicial performance;

(5) the development of a records management system;

(6) the construction or renovation of facilities for the tribal court; and

(7) the development of such other innovative and culturally relevant programs and projects as the Director may approve, including programs and projects for—

(A) alternative dispute resolution;

(B) tribal victims assistance or victims services; and

(C) tribal probation services or diversion programs.

(b)(1) The Secretary, with the participation of Indian tribes, shall establish and promulgate by regulations, a formula which establishes base support funding for tribal judicial systems.

(2) In the development of regulations for base support funding for tribal judicial systems, the Secretary shall develop, in consultation with Indian tribes and the Commission, appropriate caseload standards and staffing requirements which are comparable to standards developed by the Judicial Conference of the United States, the National Center for State Courts, and the American Bar Association. Each level of funding assistance shall correspond to the staffing requirements established by the Secretary pursuant to this section.

(3) Factors to be considered in the development of the base support funding formula shall include, but are not limited to—

(A) the reservation size and population to be served;

(B) the volume and complexity of the caseloads;

(C) the projected number of cases per month;

(D) the projected number of persons receiving probation services or participating in diversion programs; and

(E) any special circumstances warranting additional financial assistance.

(4) In any fiscal year that appropriations are not sufficient to fully fund tribal judicial systems at each level of assistance under the formula required to be established in this section, available funds for each level of assistance shall be evenly divided among the tribes qualifying for that level of assistance.

SEC. 8. COMMISSION ON TRIBAL JUDICIAL SYSTEMS.

(a)(1) There is established the Commission on Tribal Judicial Systems.

(2) The Commission is composed of 12 members. The members shall be appointed by the tribal judges of those Indian tribes served by each of the 12 Bureau of Indian Affairs area offices. Each such area shall be entitled to appoint one member, who shall be a tribal judge from that area.

(3) The term of office for a member of the Commission shall be 36 months. Only tribal judges in regular active service shall serve as members of the Commission.

(4) In the event that a member of the Commission is no longer in active service or is otherwise unable to serve the remainder of his term, a replacement member shall be appointed by the tribal judges from the area in which the vacancy occurred to serve the remainder of the unexpired term.

(5) The Secretary shall call the first meeting of the Commission within 90 days following the date of enactment of this Act. A Chairman shall be chosen by a vote of the membership of the Commission at its first meeting. The Commission shall have such other officers as it may determine.

(6) Regular meetings of the Commission shall be held quarterly. Special meetings may be held from time to time upon the call of the Chairman, acting at his own discretion, and shall be held pursuant to the petition of any six members.

(7) Each member of the Commission shall be entitled to one vote. A simple majority of the membership shall constitute a quorum for the conduct of business. The Commission shall act upon the concurrence of a simple majority of the members present and voting.

(8) Members of the Commission shall serve without additional compensation, but shall be reimbursed for actual and necessary expenses incurred in connection with service on the Commission at the current per diem rates established for independent commissions by the Office of Personnel Management.

(b) The Commission shall—

(1) develop, in cooperation with the Director, recommendations for the improvement of the administration and management of tribal judicial systems;

(2) formulate recommendations for improvements in the administration of tribal judicial systems, in the training of judicial personnel, and in the management of their resources;

(3) consult with and make recommendations to the Director in the development of the Survey on Tribal Judicial Systems required under section 6 of this Act;

(4) promote increased communication among Indian tribal judicial systems and State and Federal judicial systems; and

(5) develop recommended standards for—

(A) judicial administration and management of tribal judicial systems;

(B) judicial performance and rules of ethics;

(C) training and educational requirements for judicial personnel; and

(D) judicial recruitment and retention.

(c) The Commission shall carry on a continuous study and review of the operation of tribal judicial systems.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) There are authorized to be appropriated to carry out the provisions of sections 4, 5, and 6 of this Act $5,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996.

(b) There are authorized to be appropriated to carry out the provisions of section 7 of this Act $30,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996.

(c) All funds appropriated pursuant to authorizations contained in this Act may be made available for the purposes of this Act without regard to the Indian Priority System.

(d) No more than 5% of all funds appropriated pursuant to authorizations contained in this Act may be used by the Bureau of Indian Affairs for administrative costs.

SEC. 10. DISCLAIMER.

Nothing in this Act shall be construed to diminish or expand the existing jurisdiction of any Indian tribe.

SECTION-BY-SECTION SUMMARY ANALYSIS OF THE TRIBAL JUDICIAL ENHANCEMENT ACT

SECTION 1

Section 1 cites the short title of the Act as the "Tribal Judicial Enhancement Act."

SECTION 2

Section 2 sets out the findings of the Congress.

SECTION 3

Section 3 of this bill sets out the definitions used in the Act.

SECTION 4

Section 4 of this bill provides that there will be established within the Bureau of Indian Affairs an "Office of Tribal Judicial Support". The Office shall develop, in consultation with the Commission on Tribal Judicial Systems, recommended standards for judicial administration and court management, establish programs for continuing education and training for judicial personnel, and provide technical assistance to Indian tribes upon request. The Office shall provide funds to Indian tribes for the development, enhancement, and continuing operation of tribal judicial systems. Finally, the Office shall conduct research and study the operation of tribal judicial systems.

SECTION 5

Section 5 provides that the Office of Tribal Judicial Support shall provide training and technical assistance to any Indian tribe upon request. This section describes the types of assistance and training to be provided by the Office including the development of tribal codes, rules of procedure, court records management systems, and plans for the enhancement of tribal judicial systems. Finally, this section would establish an information clearinghouse on tribal judicial systems.

SECTION 6

Section 6 requires the Director of the Office of Tribal Judicial Support to conduct a survey of the conditions of tribal judicial systems within one year of enactment. This survey shall be updated annually and a report shall be provided to the Secretary and the Congress. This survey shall determine the number of full or part-time judges required by Indian tribes to provide expeditious and effective administration of justice. In addition, the survey shall consider local conditions including reservation size and service population, the volume and complexity of the caseload, facilities needs and staffing levels of the tribal judicial systems. In developing this survey the Director shall be required to consult with the Commission on Tribal Judicial Systems.

SECTION 7

Section 7 provides that the Secretary of the Interior through the Office of Tribal Judicial Support is authorized to enter into agreements or contracts to provide financial assistance to any Indian tribe for the development, enhancement, or continuing operation of a tribal judicial system pursuant to the Indian Self-Determination Act. This section provides that funds may be used for employment of judicial personnel, training programs, development of law libraries, development of rules of practice and court procedure and such other innovative and culturally relevant projects as the Director may approve.

Finally, this section requires the Secretary to promulgate regulations, with the participation of Indian tribes, a base support funding formula for tribal judicial systems. It further requires the Secretary to establish appropriate caseload standards and staffing requirements which are comparable to standards developed by the Judicial Conference of the United States, the National Center for State Courts and the American Bar Association. Each level of funding assistance shall correspond to the staffing requirements established by the Secretary. Factors to be considered in the development of the formula shall include the reservation size, service population, and the volume and complexity of the caseload.

SECTION 8

Section 8 establishes the Commission on Tribal Judicial Systems. The Commission shall be composed of 12 members appointed by tribal judges from each of the 12 Bureau of Indian Affairs area offices. Each area shall be entitled to one member. Only tribal judges in regular active service shall serve as members of the Commission. The Commission shall meet quarterly. The Commission shall develop recommendations for the improvement of the administration and management of tribal judicial systems, shall consult with the Director on the development of the Survey on Tribal Judicial Systems, and promote increased communication among tribal, State and Federal judicial systems.

SECTION 9

Section 9 provides that $5,000,000 shall be authorized for each of the fiscal years 1992 through 1996 to carry out the provisions of Sections 4, 5, and 6 of this Act. This section also authorizes $30,000,000 to carry out the provisions of Section 7 of this Act for each of the fiscal years 1992 through 1996. Finally, this section provides that the funds appropriated pursuant to these authorizations shall be made available without regard to the Indian Priority System.

SECTION 10

Section 10 states that nothing in this Act shall be construed to diminish or expand the existing jurisdiction of any Indian tribe.•

By Mr. McCAIN (for himself, Mr. INOUYE, and Mr. SIMON):

S. 668. A bill to authorize consolidated grants to Indian tribes to regulate environmental quality on Indian reservations; to the Select Committee on Indian Affairs.

REGULATION OF ENVIRONMENTAL QUALITY ON INDIAN RESERVATIONS

• Mr. McCAIN. Mr. President, I rise today to introduce the Indian Environmental Consolidated Grant Program Act of 1991. I am pleased to be joined by Senator INOUYE as a cosponsor of this important legislation. For nearly 20 years, Congress neglected to include tribal governments in the Federal Environmental Regulatory System. We have recently acted to correct this oversight in the Clean Water Act, Clean Air Act, and the Safe Drinking Water Act. However, we have not provided adequate financial resources to assist the tribes in their efforts to promote environmental quality. We can and must do more to provide an adequate level of funding for Indian environmental programs. Concurrently, we must also act to ensure that every dollar appropriated can be put to the best use on each reservation. My bill seeks to address this second concern by providing much needed flexibility to Federal and tribal efforts to develop sound environmental regulatory programs on Indian lands.

The Indian Environmental Consolidated Grant Program Act of 1991 would authorize the Administrator of the Environmental Protection Agency to consolidate any or all grants made to an Indian tribe under any law administered by the Environmental Protection Agency. The bill would allow Indian tribes to consolidate grant awards and utilize the funds in several environmental media areas for the maximum benefit to the reservation environment. This authority would minimize the burdens on Indian tribes with regard to multiple grants awarded by the Environmental Protection Agency by allowing an Indian tribe to submit one application and provide a consolidated accounting for grant awards. It would provide to Indian tribes the same flexibility for the administration of environmental grant awards that is currently enjoyed by trust territories and insular areas of the United States.

Many Indian tribes today are faced with growing environmental problems on their reservations. In order to address these problems, a growing number of Indian tribes are seeking to obtain regulatory primacy under the provisions of the Clean Water Act and other Federal statutes. Unfortunately, there is little Federal funding available through the Environmental Protection Agency to provide badly needed resources for the establishment of Indian environmental regulatory programs. By providing this authority to the Administrator of the Environmental Protection Agency, Indian tribes would be able to establish multimedia environmental programs for the maximum benefit to Indian tribes. It would allow Indian tribes a greater degree of flexibility to allocate funds from the consolidated grant award among authorized purposes and programs. Indian tribes would be able to uniquely tailor the environmental regulatory programs to meet changing reservations needs and priorities.

Mr. President, I ask unanimous consent that the full text of the Indian Environmental Consolidated Grant Program Act of 1991 and the section-by-section summary be printed in the RECORD immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 668

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT.

The Act entitled "An Act to authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes", approved October 15, 1977 (91 Stat. 1159), is amended by adding at the end thereof the following:

"SEC. 502. CONSOLIDATED GRANT PROGRAM.

"(a) SHORT TITLE.—This section may be cited as the 'Indian Environmental Consolidated Grant Program Act of 1991'.

"(b) CONSOLIDATION OF GRANTS.—In order to minimize the burden caused by existing application and reporting procedures for certain grant-in-aid programs available to Indian tribes, the Administrator of the Environmental Protection Agency is authorized, upon application of any Indian tribe in accordance with this section, to consolidate any or all grants made to such Indian tribe under any law administered by the Environmental Protection Agency for any fiscal year or years.

"(c) NO REDUCTION IN AMOUNTS.—In no case shall the amount of a consolidated grant for any Indian tribe under this section be less than the aggregate sum of all grants so consolidated.

"(d) EXPENDITURE OF CONSOLIDATED GRANT.—The proceeds of any consolidated grant under this section shall be expended in furtherance of the programs and purposes authorized by the law authorizing the grants so consolidated. In expending such proceeds, the Indian tribe receiving the consolidated grant shall have the authority to determine the proportion of such proceeds which shall be allocated among such programs and purposes.

"(e) PROCEDURES.—(1) Within 90 days following the date of the enactment of this section, the Administrator of the Environmental Protection Agency shall issue such regulations as may be necessary to establish procedures under which an Indian tribe may apply for a consolidation of grants under this section.

"(2) In establishing such procedures, the Administration shall permit an Indian tribe to submit a single application for a consolidated grant for any fiscal year. In no case shall such procedures require more than a single report to the Environmental Protection Agency for any one consolidated grant.

"(3) The Administrator of the Environmental Protection Agency shall publish regulations issued pursuant to this section in the Federal Register.

"(4) Nothing in this section shall be construed as precluding the Administrator of the Environmental Protection Agency from establishing adequate procedures for accounting, auditing, evaluating, and reviewing any programs or activities funded in whole or in part from the proceeds of a consolidated grant under this section.

"(f) WAIVER.—The Administrator is authorized, in his discretion, to—

"(1) waive any or all requirements for matching funds otherwise required by law to be provided by an Indian tribe in connection with a grant consolidated pursuant to this section;

"(2) waive any requirement that an Indian tribe submit an application or report in writing with respect to any consolidated grant under this section; and

"(3) adjust or otherwise modify maintenance or level of effort requirements for any Indian tribe with respect to any consolidated grant.".

SECTION-BY-SECTION SUMMARY ANALYSIS OF THE INDIAN ENVIRONMENTAL CONSOLIDATED GRANT PROGRAM ACT OF 1991

Section 1

Section 1 amends the Omnibus Territories Act (91 Stat. 1159) by adding at the end thereof the following new section:

Section 502

Subsection (a) cites the short title of the Act as the "Indian Environmental Consolidated Grant Program Act of 1991."

Subsection (b) provides that the Administrator of the Environmental Protection Agency shall be authorized, upon application by an Indian tribe, to consolidate any or all grants to the tribe under any law administered by the Environmental Protection Agency for any fiscal year. Subsection (c) provides that in no event shall the amount of the consolidated grant be less than the aggregate sum of all the grants.

Subsection (d) of this section provides that an Indian tribe receiving a consolidated grant shall have authority to determine the proportion of the consolidated grant funds to be allocated among the purposes and programs authorized under the law providing said grants.

Subsection (e) of this section provides that within 90 days of enactment, the Administrator shall issue such regulations as may be necessary to establish procedures for grant consolidation. It also provides that the Administrator may permit an Indian tribe to submit a single application for a consolidated grant for any fiscal year.

Subsection (f) of this section authorizes the Administrator to waive any or all requirements for matching funds required under law to be provided by an Indian tribe, to waive any requirement that an Indian tribe submit an application or report in writing pursuant to a consolidated grant, and to adjust or otherwise modify maintenance or level of effort requirements for any Indian tribe with respect to any consolidated grant.●

By Mr. SIMON:

S. 670. A bill directing the Secretary of State and the Director of the Foreign Commercial Service to appoint permanent cultural and commercial representatives to the Baltic States, to encourage the President to appoint a special envoy to encourage Baltic-Soviet negotiations, and to extend certain assistance to the Baltic States; to the Committee on Foreign Relations.

U.S. POLICY TOWARD THE BALTIC STATES

● Mr. SIMON. Mr. President, today I am introducing legislation that I hope will move us in a direction that will ultimately lead to a stronger U.S. policy toward the Baltic States. I thought about offering this as an amendment to the resolutions we had in early January of this year, after the crackdown in the Baltics, but I wanted to wait until we had some hearings in the Foreign Relations Committee. The time is now right to move ahead.

Let me briefly describe what my bill does:

First, the bill directs the Secretary of State, in consultation with the Director of the U.S. Information Agency, to appoint within 90 days a permanent cultural representative to each of the three Baltic States—Lithuania, Latvia, and Estonia. This will give us the opportunity to expand cultural contacts as well as citizen, academic, professional and other exchanges with the Baltic peoples. We need to understand that the Baltics are not a part of the Soviet Union, except by force, and in this way we can learn more about the separate cultural identities and traditions of the Baltic nations.

Second, the bill directs the Foreign Commercial Service to appoint, within 90 days, a permanent commercial representative to each of the three Baltic States. In this way, we can expand U.S.-Baltic commercial relations.

The bill does not specify where these representatives shall be located. If it were not for the problem of recognizing the annexation of the Baltic States, my preference would be to locate these people in Vilnius, Riga, and Tallinn. But in view of the concern that could be raised if it were done as part of our Moscow or Leningrad diplomatic missions, I am not specifying where these diplomats will be located.

Third, the bill urges the President to appoint a special envoy to encourage Baltic-Soviet negotiations leading to independence. I hope this idea can be acted upon, as one way to break the current deadlock. The bill also urges that we raise the question of Baltic independence at the September 1991 U.N. General Assembly session. After 50 years of Soviet occupation, we really ought to bring this up before the international community and work in that forum as well.

Fourth, this bill makes the Baltic States eligibile for United States assistance and related benefits established under the SEED authorization bill and the fiscal year 1991 foreign operations appropriations bill. The Baltic States can clearly benefit from these programs, and I see no reason why we can't include them in our aid efforts in Eastern Europe—particularly given our policy of non-recognition of the Soviet annexation of the Baltic States. And the bill calls for a progress report within 180 days.

Let me add that we have recently paid a great deal of attention to one part of the world, and for good reason—the Persian Gulf. But what is happening in the Baltics has not received the kind of attention that it deserves. We really have to lead in persuading Gorbachev to let the Baltic States become independent.

In Taiwan, in Cuba, we have interest sections, and we encourage trade, we encourage cultural contacts. If we do this for the Baltic States, we are saying to them, "You are not alone. We respect your desire for freedom and independence." And to Gorbachev, we hold out the promise of economic help, technical training and a much improved relationship if the Baltic States are set free.

Mr. President, I ask unanimous consent that my bill be printed in the RECORD in full.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 670

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. APPOINTMENT OF DIPLOMATIC PERSONNEL.

(a) The Secretary of State, in consultation with the Director of the United States Information Agency, shall appoint, within ninety days of the date of enactment of this Act, a permanent cultural representative to each of the three Baltic States (Lithuania, Latvia and Estonia) for the purpose of expanding US-Baltic cultural contacts and citizen, academic, professional and other exchange programs with each of these three countries; and that

(b) The Director of the Foreign Commercial Service shall further appoint, within ninety days of the date of enactment of this Act, a permanent commercial representative to each of the three Baltic States for the purpose of expanding US-Baltic commercial relations.

(c) It is the Sense of the Senate that the President should appoint a special envoy to encourage Baltic-Soviet negotiations leading to independence for each of the three Baltic States, and it is further the sense of the Senate that the United States should raise the question of Baltic independence during the September 1991 session of the United Nations General Assembly.

(d) Each of the Baltic States shall be eligible for US assistance and related benefits established under Public Law 101-179 and Pub-lic Law 101-513, subject to the same terms and conditions as are applicable to such assistance under those provisions of law.

SEC. 2. REPORT.

The Secretary of State shall submit, no later than 180 days after the date of enactment of this Act, a report on the progress made in fulfilling the requirements mandated by Section 1 of this Act.●

By Mr. LEAHY (for himself, Mr. JEFFORDS, Mr. KOHL, Mr. KASTEN, and Mr. SANFORD):

S. 671. A bill to establish on a temporary basis a minimum basic formula price for the computation of class I milk prices; to the Committee on Agriculture, Nutrition, and Forestry.

MINIMUM BASIC FORMULA PRICE

● Mr. LEAHY. Mr. President, I am introducing a revised emergency dairy bill, which is similar to S. 520, which I introduced on February 28, 1991. As a result of extension discussions with dairy leaders from across the country and with my own dairy farmers in Vermont, I have broadened the benefits of this emergency legislation to benefit dairy farmers more equitably.

Simply put, my original bill provides for an increase in the price paid to farmers for their product which is used as fluid milk. The revision that I am offering today would pool this increased price among all grade A producers.

I have asked the Congressional Budget Office to score this revised bill. As I understand it, this bill will have no cost in the first year, and will probably generate savings in the outyears.

Mr. President, I urge my colleagues who have heard from their dairy farmers to support this bill. It responds to a very real crisis, a sudden and dramatic fall in the market price.●

By Mr. FORD:

S. 672. A bill to amend the Petroleum Marketing Practices Act; to the Committee on Energy and Natural Resources.

PETROLEUM MARKETING PRACTICES AMENDMENTS ACT

● Mr. FORD. Mr. President, today I am reintroducing the Petroleum Marketing Practices Act Amendments Act, which makes minor modifications to the PMPA to restore the original intent of that legislation. Identical legislation has been introduced in each Chamber during each of the last two sessions of Congress. Last year, H.R. 830, the Fairness in Bargaining Act, enjoyed 119 cosponsors and was favorably considered by the House Energy and Commerce Subcommittee on Energy and Power.

It is my hope that we can build upon this progress in considering a final solution. The PMPA was enacted in 1978 to assure fairness and equalize the bargaining positions between franchisors and franchisees during the renewal or renegotiation of their contracts. The legislation was designed to promote fair competition, prevent unreasonable terminations and nonrenewals, and enhance stability in the marketing of gasoline at the retail level. For service station dealers, it was known as the "dealer's day in court" bill, promoting fairness in bargaining among parties whose resources were sometimes vastly different.

There is now some concern as to whether the bill has actually worked to promote fairness. There is a concern as to whether dealers are really assured their day in court. Through certain straightforward and important changes, the legislation which I am introducing today attempts to assure fairness and the sense of balance originally intended through the PMPA. Most importantly, the bill requires any changes proposed at the time of renewal of a franchise agreement to be fair and reasonable. Present law allows franchise nonrenewals based on a failure to agree to changes or additions to the underlying franchise agreement, so long as such changes or additions are made in good faith and not for the purpose of preventing the renewal of the franchise relationship. This standard poses the danger of requiring overly subjective assessments of the motivation underlying changes or additions to the franchise agreement. And it is inconsistent with other areas of the act where the reasonableness standard is followed.

For instance, termination or nonrenewal of a franchise is permissible under current law upon the occurrence of a relevant event, categories of which are delineated in the act, which makes such termination or nonrenewal reasonable. In addition, the act allows nonrenewal where the franchisor determines, in good faith, that the continuation of the relationship would be uneconomical despite any reasonable changes or additions which might be made to the agreement.

And termination or nonrenewal is allowed where the franchise fails to comply with any provision of the franchise which is both reasonable and of material significance. Mr. President, consider the implications of this provision. The statute is internally inconsistent. If a dealer refuses to agree to a new condition during negotiations and the franchise is not renewed, the franchisor has acted properly under the act if the new condition was demanded in good faith. However, if that same condition is accepted by the dealer during renegotiation and then the dealer fails to fully comply with the condition, the franchise may only be terminated if the new condition is reasonable and of material significance. Under current law, therefore, we have two very different standards to assess the same new condition. This unusual inconsistency in the original act may in fact result in unintended affects on the negotiating strategies of franchisors and franchisees. It is my view that the original intentions of the PMPA would be better served if we had a similar standard to judge new conditions.

Mr. President, I am aware of informal discussions which are currently being held among various parties affected by the PMPA in different ways. I am greatly encouraged by the fact that these discussions are occurring. And I join with my colleagues on the House side who have expressed a strong desire in reaching a solution to this issue which will be acceptable to all interested parties. It is my hope that we can reach a fair solution and move forward quickly with this matter.•

By Mr. DODD (for himself, Mr. LIEBERMAN, Mr. PELL, Mr. HARKIN, Mr. KENNEDY, Mr. METZENBAUM, Mr. SIMON, and Mr. ADAMS):

S. 673. A bill to amend the Occupational Safety and Health Act of 1970 to establish an Office of Construction Safety, Health, and Education, to improve inspections, investigations, reporting, and recordkeeping on construction sites, to require the designation of project contractors who have overall responsibility for safety and health on construction sites, to require project constructors to establish safety and health plans, to require construction employers to establish safety and health programs, and for other purposes; to the Committee on Labor and Human Resources.

CONSTRUCTION SAFETY, HEALTH, AND EDUCATION IMPROVEMENT ACT

• Mr. DODD. Mr. President, on behalf of myself and Senators LIEBERMAN, PELL, HARKIN, KENNEDY, SIMON, METZENBAUM, and ADAMS, I rise to introduce the Construction Safety, Health, and Education Improvement Act of 1991.

Mr. President, there can be no dispute that the current record of occupational safety and health in the construction industry is horrendous.

Since 1970, when the Occupational Safety and Health Act was passed, there have been 47,500 deaths and 5 million serious injuries to construction workers. In 1969, construction workers constituted 4 percent of the total work force and accounted for 15 percent of the total fatalities. Today, construction workers constitute 5 percent of the total work force and account for 26 percent of the fatalities. Moreover, the problem is not limited to large construction projects employing large numbers of employees. OSHA's statistics indicate that 45 percent of all fatalities and 42 percent of all serious violations of the OSHA Act are attributable to construction workplaces with 25 or fewer employees.

We all know that construction is a dangerous industry. However, the current record of occupational safety and health in this industry is unacceptable.

Blame for the present tragic state of affairs in the construction industry should not be placed wholly on the Occupational Safety and Health Administration. It is too easy for unions and employers to point to OSHA when accidents occur and say that the Agency failed to prevent the accident.

However, there are numerous deficiencies in the Occupational Safety and Health Act and in OSHA's administration of the act. The fact is, we need more vigorous enforcement of existing law by OSHA, and stronger standards governing the construction industry.

In the past 3 years, I have chaired two hearings in the Labor and Human Resources Committee concerning construction safety and health. During the course of those hearings, testimony was given by all segments of the construction industry including contractors, unions, OSHA, and engineering groups. The testimony clearly demonstrated the need for improved safety and health precautions for construction workers and a stronger Federal role in enforcing OSHA regulations to ensure a safer workplace.

While many employers offered examples of excellent safety and health programs that have enabled projects to be completed on or ahead of schedule, below budget, and with few lost time injuries, the consensus was that a significant number of employers do not follow even the basic provisions of job site safety.

The Construction Safety, Health, and Education Improvement Act of 1991 would establish national uniform requirements and procedures for OSHA and employers to improve worker protection throughout the country. The bill would ensure that all contractors take health and safety precautions—especially those who ignore the safety and health of their employees, at the expense of workers' lives and limbs, to maximize their profits.

The bill contains six major elements which, together, would strengthen construction safety and health; provide construction workers the protection they have long deserved, and help OSHA to focus limited resources on the types and locations of worksites that are most hazardous to workers. They are:

Establishment of contractor safety and health programs;

Establishment of onsite project safety and health plans monitored by project safety coordinators;

An improved system for OSHA investigation of fatalities, serious injuries, and structural failures on construction projects;

Establishment of a rational and coherent inspection targeting system by OSHA;

Development of a cadre of OSHA compliance officers with expertise in recognizing and helping to correct imminent dangers and other hazards on construction sites; and

Establishment of a new office of construction safety, health, and education.

While the bill requires new safety plans and programs, the Secretary of Labor would be authorized to make determinations that certain types of construction projects and operations should not be covered by some or all of the requirements. Such determinations must be based on the Secretary's conclusion that compliance with such requirements is not feasible. In making such determinations, the Secretary would take into consideration the many variables that exist with respect to construction projects, operations, and employers. Where such a determination is made, the Secretary would establish alternative requirements by regulation to promote employee safety and health.

The bill also states that construction work done for a homeowner, on his or her home, would not be covered by this measure, unless such work involves specified operations that pose a risk of death or serious injury.

As you know, opponents of this measure have contended that new legislation is not needed now that OSHA has recently implemented several new administrative measures. While I am encouraged by some of OSHA's administrative changes in the construction safety and health areas, the number of construction deaths and injuries obviate the need for major reform in the area of OSHA construction safety and health. The OSHA Construction Safety, Health, and Education Act of 1991 suggests reforms necessary to reduce a continuing annual toll of 2,500 deaths and 200,000 serious injuries to construction workers in the United States.

Moreover, many of this measure's most important provisions are not among the administrative measures adopted by OSHA. Legislation action on this matter better ensures that worker safety and health is a long-term, permanent priority of the Federal Government.

Mr. President, the Construction Safety, Health, and Education Improvement Act would improve OSHA's ability to assure safe and healthful workplaces for working men and women in the construction industry. It does provide the Secretary of Labor administrative flexibility to determine if alternative regulations should be created for certain sectors of the construction industry. This measure is a balanced, reasonable, and needed initiative and I urge my colleagues to join me as cosponsors.

Mr. President, I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 673

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Construction Safety, Health, and Education Improvement Act of 1991".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Occupational Safety and Health Act of 1970 (29 U.S.C. et seq.).

(c) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; reference; table of contents.
Sec. 2. Definitions.
Sec. 3. Office of Construction Safety, Health, and Education.
Sec. 4. Construction safety and health plans and programs.
Sec. 5. Inspections, investigations, reporting, and recordkeeping.
Sec. 6. Construction Safety and Health Academy.
Sec. 7. National Institute for Occupational Safety and Health.
Sec. 8. Advisory Committee on Construction Safety and Health.
Sec. 9. State construction safety and health plans.
Sec. 10. Grants to States.
Sec. 11. Reports.
Sec. 12. Application.
Sec. 13. Federal construction contracts.
Sec. 14. Effective date and timetable for regulations.

SEC. 2. DEFINITIONS.

Section 3 (29 U.S.C. 652) is amended by adding at the end thereof the following:

"(15) The term 'Academy' means the Construction Safety and Health Academy established under section 30.

"(16) The term 'Advisory Committee on Construction Safety and Health' means the Advisory Committee established under section 107(e) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333(e)).

"(17) The term 'qualified person' means an individual who, by possession of a recognized degree, certificate, or professional standing and by extensive knowledge, training, and experience, has successfully demonstrated the ability to solve or resolve problems relating to worker safety and health involving construction work.

"(18) For purposes of subsections (h) through (l) of section 8 and sections 18(i), 28, and 29:

"(A) The term 'competent person' means one who, by knowledge, training, and experience is capable of identifying existing and predictable hazards in the surroundings or working conditions that are unsanitary, hazardous, or dangerous to construction employees of the construction employer who appointed the competent person, and who has authorization from the construction employer to take prompt corrective measures.

"(B) The term 'construction employer' means an employer (including a self-employed person) engaged primarily in the building and construction industry or who performs construction work under a contract with a construction owner.

"(C) The term 'construction employee' means an employee of a construction employer, including a self-employed construction employer, at such times as the employer personally performs construction work.

"(D) The term 'construction owner' means a person who owns, leases, or has effective control of property, with or without improvements, a structure, or other improvement on real property on which construction work is being, or will be, performed.

"(E) The term 'construction work' means work for construction, alteration, demolition, or repair, or any combination thereof, including painting and decorating, and including such work performed under a contract between a construction employer and an agency of the United States or any State or political subdivision of a State.

"(F) The term 'construction worksite' means a site where construction work is performed by one or more construction employers.

"(G) the term 'incident' means an event occurring at a construction worksite that involves—

"(i) a structural failure;

"(ii) a fire or explosion; or

"(iii) any other class of incident as determined in regulations promulgated by the Secretary that could have caused death or serious injury had an individual been in proximity.

"(H) The term 'project constructor' means a person (including a construction owner, construction manager, prime contractor, general contractor, or construction employer) who assumes the responsibilities of a project constructor.

"(I) The term 'project safety coordinator' means an individual who is designated by a project constructor to perform the duties prescribed by section 29, and who is certified by the Secretary or by an organization approved by the Secretary as having fulfilled the requirements of a standardized training course and testing program developed or approved by the Secretary, with the advice of the Advisory Committee on Construction Safety and Health.

"(J) the term 'serious injury' means bodily injury or illness that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.".

SEC. 3. OFFICE OF CONSTRUCTION SAFETY, HEALTH, AND EDUCATION.

The Act (29 U.S.C. 651 et seq.) is amended—

(1) by repealing sections 28 through 31 and section 34; and

(2) by inserting after section 27 (29 U.S.C. 676) the following new section:

"SEC. 28. OFFICE OF CONSTRUCTION SAFETY, HEALTH, AND EDUCATION.

"(a) ESTABLISHMENT.—There is established in the Occupational Safety and Health Administration an Office of Construction Safety, Health, and Education (hereafter in this section referred to as the 'Office') to ensure safe and healthful working conditions in the performance of construction work.

"(b) DUTIES.—The Secretary shall—

"(1) develop mandatory standards for construction safety and health plans and programs established under section 29;

"(2) assume control of a construction site to—

"(A) prevent the destruction of any evidence that would assist in the investigation of a fatality, serious injury, or incident unless it must be moved or destroyed as a part of rescue operations; and

"(B) monitor the rescue operations conducted in response to the incident;

"(3) assist the Advisory Committee on Construction Safety and Health in the development of training courses and curriculum for the Construction Safety and Health Academy;

"(4) in carrying out the duties of the Secretary under section 21(c), consult with and advise construction employer associations, construction employers, construction employees, and labor organizations as to effective means of preventing serious injuries in construction work and ensuring equal access to the consultative services;

"(5) increase awareness of construction site safety through education, training, and outreach programs;

"(6) promulgate regulations requiring construction employers who have high frequency rates of fatalities or serious injuries or who have demonstrated a pattern of noncompliance with health and safety standards, rules or regulations to establish, implement, and comply with special health and safety programs to be approved by the Secretary;

"(7) make available materials necessary for compliance with this Act to project constructors, employers, and employees; and

"(8) carry out the other duties set forth in this Act.

"(c) PERSONNEL.—

"(1) DEPUTY ASSISTANT SECRETARY OF LABOR FOR CONSTRUCTION.—

"(A) ESTABLISHMENT.—There is established within the Occupational Safety and Health Administration the position of Deputy Assistant Secretary of Labor for Construction, to be appointed by the Secretary.

"(B) DUTIES.—The Deputy Assistant Secretary of Labor for Construction shall—

"(i) coordinate the activities of the Office with the activities of other offices and directorates within the Occupational Safety and Health Administration to the extent that the activities of those other offices and directorates relate to safety, health, and education in the construction industry; and

"(ii) coordinate the activities and advice of the Advisory Committee on Construction Safety and Health with the activities of all offices and directorates within the Occupational Safety and Health Administration relating to safety, health, and education in the construction industry, and to ensure that the Advisory Committee performs the functions set forth in this Act and the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.).

"(2) QUALIFICATIONS AND TRAINING OF INSPECTORS.—The Secretary, with the advice of the Advisory Committee on Construction Safety and Health, shall determine the necessary qualifications and training requirements of inspectors performing inspections of construction worksites. The qualifications and requirements shall, at a minimum, include—

"(A) a full understanding of this Act and the Secretary's standards and regulations applicable to the construction industry; and

"(B) at least 5 years of experience working in the construction industry.

"(3) SMALL BUSINESS LIAISON.—

"(A) DESIGNATION.—The Secretary shall designate an employee of the Office to serve as a small business liaison.

"(B) DUTIES.—The liaison shall be responsible for providing assistance for complying with new and existing standards under this Act for the performance of construction work (in the form of manuals, videos, and audiotapes and other research programs) to trade associations and other small businesses.".

SEC. 4. CONSTRUCTION SAFETY AND HEALTH PLANS AND PROGRAMS.

The Act (as amended by section 3 of this Act) is further amended by inserting after section 28 the following new section:

"SEC. 29. CONSTRUCTION SAFETY AND HEALTH PLANS AND PROGRAMS.

"(a) PROJECT CONSTRUCTOR.—

"(1) IN GENERAL.—For every construction project covered by this Act, the construction owner shall be responsible for designating a project constructor. If no project constructor is so designated, the construction owner shall be the project constructor.

"(2) DUTIES.—The project constructor shall have overall responsibility for the safety and health of all construction employees on a construction project and shall perform the duties of project constructors set out in this Act and the regulations issued under this Act.

"(b) PROJECT SAFETY AND HEALTH PLAN.—

"(1) IN GENERAL.—The project constructor for every construction project shall develop and implement a written safety and health plan (hereafter referred to in this section as 'the plan'). The plan shall be prepared prior to the commencement of construction work, except that if it is not practicable to prepare the plan for the project in its entirety before the commencement of construction work, the plan shall be prepared in stages prior to the commencement of each major phase of construction work.

"(2) REQUIREMENTS.—

"(A) CONTRACT DOCUMENTS.—The plan shall be set forth, or incorporated by reference, in the contract documents for the project.

"(B) APPROVAL.—The project constructor shall indicate approval of the plan in writing on plan documents.

"(C) COPIES.—Copies of the plan shall be made available to each construction employer prior to commencement of construction work by that employer.

"(D) HAZARD ANALYSIS.—The plan shall include a hazard analysis that identifies the potential for hazards in the construction process and provides instructions for their prevention.

"(E) CONSTRUCTION PROCESS PLAN.—The plan shall include a construction process plan that—

"(i) describes the construction process to be used, with specific reference to critical points and conditions in the process that require special attention;

"(ii) identifies the means that will be used to ensure the structural stability of all buildings, structures, and excavations during the construction process;

"(iii) contains a list of all inspections and tests required (including a schedule for the inspections and tests) and the criteria established for continuation of construction based on the inspection and test results; and

"(iv) makes appropriate reference to the hazard analysis prepared in accordance with subparagraph (D).

"(c) PROJECT SAFETY COORDINATOR.—

"(1) IN GENERAL.—For every construction project, the project constructor shall designate a project safety coordinator, and shall ensure that all construction employers on the project are notified of the identity and duties of the project safety coordinator. Notwithstanding the designation of the project safety coordinator, the project constructor shall retain overall responsibility for the safety of all construction employees on a construction project.

"(2) DUTIES.—The project safety coordinator, on behalf of the project constructor, shall—

"(A) monitor compliance by every construction employer on a project with the project safety and health plan, the employer's own safety and health program, this Act and all applicable standards and regulations issued by the Secretary under this Act;

"(B) maintain a detailed safety record with respect to the construction project, including fatalities, injuries, and incidents on the project, and information concerning hazardous conditions and unsafe practices;

"(C)(i) notify affected construction employers of any hazardous conditions discovered at a construction worksite, or of noncompliance by a construction employer with the project safety and health plan, the employer's own safety and health program, this Act, or with the Secretary's standards or regulations issued under this Act; and

"(ii) if the hazard or noncompliance is not corrected, notify the Secretary, the construction owner, and the project constructor;

"(D) review the safety and health program of each construction employer prior to the commencement of construction work by that employer to ensure that each program meets the requirements of the project safety and health plan, this Act, and the standards and regulations of the Secretary issued under this Act; and

"(E) ensure compliance by construction employers with reporting requirements established under the Act and the standards and regulations of the Secretary thereunder.

"(d) PERMIT SYSTEM.—

"(1) IN GENERAL.—For every construction project, the project constructor shall develop and implement a permit system to authorize construction employers to engage in operations determined to pose a risk of death or serious injury.

"(2) COVERED OPERATIONS.—The operations covered by this subsection shall include—

"(A) the construction of trenches and excavations;

"(B) the erection and dismantling of scaffolding;

"(C) the demolition of any building or structure;

"(D) operations of cranes and derricks;

"(E) operations requiring employees to enter confined or enclosed spaces;

"(F) operations involving exposure to asbestos and other toxic materials; and

"(G) other operations that the Secretary by regulation shall designate.

The Secretary shall conduct an annual review to determine whether additional operations should be designated under subparagraph (G).

"(3) COMPLIANCE.—In issuing a permit, the project safety coordinator shall ensure that the construction employer—

"(A) is knowledgeable of and evidences intent and ability to comply with the requirements of this Act and all standards and regulations issued by the Secretary under this Act; and

"(B) has developed a safety and health program that adequately addresses the hazards presented by the covered operation in which the employer seeks to engage.

"(e) SAFETY AND HEALTH PROGRAM.—

"(1) IN GENERAL.—Each construction employer on a construction project shall develop and implement a safety and health program (hereafter in this section referred to as the 'program') commensurate with the scope of work of the employer on the project.

"(2) ADMINISTRATION.—The program shall provide that—

"(A) the construction employer shall appoint a competent person to be responsible for the general administration of the program;

"(B) a competent person shall be at each construction worksite at all times that the construction employer is engaged in construction work; and

"(C) the responsibilities and authorities of competent persons shall include frequent inspections of construction worksites and the taking of all actions necessary to eliminate hazards, including the stoppage of work or removal of affected employees if necessary.

"(3) Training.—

"(A) In general.—The program shall provide that all construction employees shall receive, or have received within the immediately preceding 12-month period, general safety and health training in a manner prescribed by the Secretary.

"(B) Compliance.—The Secretary shall promulgate regulations establishing a procedure under which the Secretary can ensure that the training requirements are complied with.

"(4) Construction worksite instruction.—The program shall provide applicable worksite-specific instruction to construction employees in—

"(A) the recognition and avoidance of unsafe and unhealthy conditions;

"(B) the standards and regulations applicable to the work activities of each construction employee;

"(C) the use of construction worksite equipment and required personal protective equipment;

"(D) the handling and use of poisons, caustics, flammable liquids, gases, and other toxic or harmful substances; and

"(E) other matters that the Secretary may by regulation prescribe.

"(5) Emergency evacuation.—The program shall provide for an emergency evacuation plan, including the location of first-aid facilities and the routes of exiting from areas during emergencies.

"(6) Inspections.—The program shall provide for frequent and regular inspections of the construction worksite by the construction employer and for such emergency and special inspections as may be appropriate.

"(7) Reporting and recordkeeping.—The program shall provide for the reporting and recordkeeping of fatalities, serious injuries, and incidents in accordance with the requirements of this Act and other applicable laws, standards, and regulations.

"(8) Employee-requested evaluations and inspections.—The program shall—

"(A) provide a procedure under which a construction employee or employee representative may obtain an immediate inspection or a written evaluation, or both, of a perceived hazardous condition or harmful substance by a qualified person at any time in the construction process; and

"(B) provide that if it is determined that such a hazardous condition or harmful substance presents an imminent danger, the project constructor shall stop work at, or remove affected construction employees from, the area in which the imminent danger exists.

"(9) Other requirements.—The program shall—

"(A) establish benchmarks and procedures for monitoring compliance with the program;

"(B) provide that the construction employer shall notify its employees of the existence of the program, the identity and means of contacting the competent person responsible for general administration of the program, and the identity and means of contacting the project safety coordinator;

"(C) provide that the construction employer shall maintain a copy of the program on the construction worksite and make it available to all construction employees and their representatives on request; and

"(D)(i) provide for scheduled safety and health meetings to be conducted with construction employees at the construction worksite during working hours at least once during the first week of a new construction project and at least once every month thereafter to review and update the program; and

"(ii) provide that a meeting must be held with a new employee, or an employee engaging in an activity with which the employee is unfamiliar, before the employees may begin work.

"(f) Emergency Waiver.—If, in order to prevent injury to any person, it is necessary to perform construction work on a construction worksite before compliance with the requirements of this section and subsections (i) through (l) of section 8, the work may be commenced prior to compliance with the requirements, and compliance shall be effected as soon as practicable thereafter.".

SEC. 5. INSPECTIONS, INVESTIGATIONS, REPORTING, AND RECORDKEEPING.

Section 8 (29 U.S.C. 657) is amended by adding at the end the following:

"(h)(1) The Secretary shall by regulation establish an effective system for construction worksite inspections. In establishing the system, the Secretary shall accord inspection priorities for construction worksites and operations on the basis of their potential for fatalities or serious injuries.

"(2) In establishing priorities under paragraph (1) with respect to construction worksites, the Secretary shall give due weight to—

"(A) the records of compliance with this Act of the construction employers on the worksites, including compliance with recordkeeping and reporting requirements of this Act and with standards established under this Act and the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.);

"(B) the records of compliance with this Act of the construction owners of the worksites; and

"(C) the frequency and severity rates of fatalities, serious injuries, and incidents attributable to particular construction owners and construction employers and particular types of construction projects, worksites, and operations.

"(3) The Secretary shall use reports and notices filed under subsections (i) and (l) and other pertinent information to develop the system of prioritized inspections required under this subsection.

"(4) The inspection priority system required by paragraph (1) shall not have the effect of limiting—

"(A) inspections conducted by the Secretary on the basis of complaints by construction employees or construction employee representatives or complaints of imminent dangers; or

"(B) inspections intended as a followup to prior enforcement actions or proceedings.

"(5) No construction owner or construction employer engaged in construction work shall be excluded by the Secretary from inspections conducted under this Act.

"(i) Before the commencement of construction work on a construction project, the project constructor for the project shall provide to the Secretary notice in writing that provides—

"(1) a description of the project;

"(2) the name, principal business address, and telephone number of the construction owner and the project constructor and the name of the project safety coordinator;

"(3) the type of work to be performed;

"(4) the project address;

"(5) the date construction work will commence and the anticipated duration of the work;

"(6) the expected number of construction employees to be employed by all construction employers on the project;

"(7) a statement that the Secretary or the Secretary's authorized representative shall have a right of entry to the project—

"(A) to inspect or investigate compliance with this Act or compliance with any standard, regulation, rule, or order promulgated issued under this Act; and

"(B) to carry out the duties of the Secretary under this Act; and

"(8) any other information required in regulations issued by the Secretary.

"(j)(1) Every project constructor shall make and maintain accurate records concerning fatalities, serious injuries, and incidents on a project.

"(2) Every construction employer shall make and maintain accurate records concerning fatalities, serious injuries, and incidents involving that employer's own employees.

"(3) The records required under paragraphs (1) and (2) shall contain—

"(A) the name, business address, and telephone number of the construction owner and project constructor and the name of the project safety coordinator;

"(B) the location of the construction worksite where the fatalities, serious injuries, or incidents occurred;

"(C) the name, business address, and telephone number of the construction employer whose construction employee was killed or injured;

"(D) the date and time of the fatalities, serious injuries, and incidents covered by the report;

"(E) the type of fatalities, serious injuries, and incidents (such as whether the fatalities, serious injuries, and incidents involved a fire, explosion, or building collapse) covered by the report;

"(F) the number and nature of fatalities or serious injuries;

"(G) the number of persons who were hospitalized or received medical treatment as a result of the fatalities, serious injuries, or incidents;

"(H) the number of persons unaccounted for at the time the report is made; and

"(I) the identity and mailing address of the individual responsible for investigating the fatalities, serious injuries, and incidents covered by the report.

"(4) The information shall be available for any inspection conducted under this Act.

"(k)(1) Except as otherwise provided in this subsection, a construction employer shall report to the Secretary by telephone or telegraph, within 4 hours, any occurrence involving construction work that results in a serious injury or fatality of an employee of the construction employer.

"(2) Except as otherwise provided in this subsection, a project constructor for a construction worksite shall report to the Secretary by telephone or telegraph, within 4 hours, the occurrence of any structural failure on the construction worksite.

"(3) Each report required under paragraphs (1) and (2) shall specify—

"(A) the name, business address, and telephone number of the construction owner of the project;

"(B) the location of the project and the name of the project constructor and the project safety coordinator;

"(C) the name, business address, and telephone number of the construction employer whose construction employee was killed or seriously injured;

"(D) the date and time of the occurrence of the fatality, serious injury, or structural failure with respect to which the report was made;

"(E) the nature of the occurrence;

"(F) the number of fatalities and serious injuries; and

"(G) the number of persons who were hospitalized or received medical treatment.

"(4)(A) The Secretary shall conduct an inspection of the construction worksite, or the pertinent area of the site, to investigate all reports of incidents described in this subsection as the Secretary, by regulation, prescribes.

"(B) The Secretary shall be granted access to the site.

"(C) The Secretary shall commence the inspection within 24 hours after receipt of a report under paragraph (1) or (2), unless the Secretary determines that conditions at the site would make an inspection dangerous.

"(5) The project constructor shall take appropriate measures (as defined in regulations issued by the Secretary) to prevent the destruction of any evidence that would assist the Secretary in the investigation of the incident with respect to which the report was made.

"(6)(A) As soon as practicable after the investigation, the Secretary shall prepare and make public a narrative description of the occurrence.

"(B) The description shall include a statement of all of the items referred to in paragraph (2) and shall contain appropriate recommendations for the prevention of a similar incident in the future.

"(C) A copy of the description shall be made available by the Secretary to the project constructor and shall be made available to employees and their representatives on request.

"(l)(1) At the completion of a construction project, or (if the project has more than a 1-year duration) 1 year after the commencement of the project, and each year thereafter until the project is completed, the project constructor shall submit to the Secretary a report of all fatalities and serious injuries suffered by employees, and of all structural failures that occurred, on the project. If there have been no fatalities or serious injuries or structural failures, no report shall be required.

"(2) The report under paragraph (1) shall provide—

"(A) the name, business address, and telephone number of the construction owner and project constructor and the name of the project safety coordinator;

"(B) the name of each construction employer whose employee suffered death or serious injury;

"(C) a description of the nature of the work performed by the construction employer on the project;

"(D) a description of the nature of the work performed by each construction employee at the time the construction employee suffered death or serious injury; and

"(E) the date of each such occurrence.".

SEC. 6. CONSTRUCTION SAFETY AND HEALTH ACADEMY.

The Act (as amended by section 4 of this Act) is further amended by inserting after section 29 the following new section:

"SEC. 30. CONSTRUCTION SAFETY AND HEALTH ACADEMY.

"(a) ESTABLISHMENT.—There is established in the Occupational Safety and Health Administration a Construction Safety and Health Academy.

"(b) FUNCTIONS.—The Academy shall be responsible for the training of—

"(1) employees of the Occupational Safety and Health Administration who conduct inspections of construction worksites;

"(2) construction employers and employees; and

"(3) other persons as the Secretary, with the advice of the Advisory Committee on Construction Safety and Health, shall consider appropriate.

"(c) COOPERATIVE AGREEMENTS.—In carrying out this section, the Secretary may enter into cooperative educational and training agreements with educational institutions, State governments, local organizations, and construction industry employers.

"(d) ACCESS.—The Secretary shall ensure that construction employees, construction employee representatives, and construction employees have access to the services made available pursuant to this section.".

SEC. 7. NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH.

Section 22 (29 U.S.C. 671) is amended—

(1) in subsection (a), by striking "Department of Health, Education, and Welfare" and inserting "Department of Health and Human Services"; and

(2) in subsection (b)—

(A) by striking "in the Department of Health, Education, and Welfare" and inserting "as an agency of the National Institutes of Health"; and

(B) by striking "Secretary of Health, Education, and Welfare" each place it appears and inserting "Secretary of Health and Human Services.".

SEC. 8. ADVISORY COMMITTEE ON CONSTRUCTION SAFETY AND HEALTH.

Section 7 (29 U.S.C. 656) is amended by adding at the end the following new subsection:

"(d)(1) The Advisory Committee on Construction Safety and Health shall advise, consult with, and make recommendations to the Secretary and the Secretary of Health and Human Resources on construction safety and health standards and other regulations, and with respect to policy matters arising in the administration of the Act. The Committee shall hold no fewer than four meetings during each calendar year. All meetings of the Committee shall be open to the public and a transcript shall be kept and made available for public inspection.

"(2) The Secretary shall divide the members of the Advisory Committee on Construction Safety and Health serving on the effective date of this subsection into three classes of equal size. No more than two representatives of any interest (for example, employers and employees) shall be assigned to the same class. The Secretary shall then adjust the terms of the members of the Committee so that—

"(A)(i) the terms of the members in the first class shall expire on the first anniversary of the effective date of this subsection;

"(ii) the terms of the members in the second class shall expire on the second anniversary of the effective date of this subsection; and

"(iii) the terms of the members in the third class shall expire on the third anniversary of the effective date of this subsection; and

"(B) after the expiration of the terms of the members of the Advisory Committee on Construction Safety and Health serving on the effective date of this subsection, the terms of Committee members shall be for a period of 3 years.

"(3) A member of the Advisory Committee on Construction Safety and Health whose term has expired, but is otherwise qualified to serve on the Committee, shall continue to serve until a successor is appointed, unless the member resigns or becomes unable to serve.

"(4) The Secretary shall respond in writing to any recommendation made by the Advisory Committee on Construction Safety and Health within sixty days of the Committee's issuance of the recommendation.

"(5) In the performance of its duties prescribed in this section and in section 107(e) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333(e)), the Advisory Committee on Construction Safety and Health shall have the authority to schedule meetings and set meeting agendas, establish subcommittees, conduct research, and issue reports. The Secretary shall provide to the Committee the services of such experts and consultants, secretarial and clerical personnel, as well as office equipment and research material, as the Committee may request to carry out its functions.".

SEC. 9. STATE CONSTRUCTION SAFETY AND HEALTH PLANS.

Section 18 (29 U.S.C. 667) is amended by adding at the end the following new subsection:

"(i) Any State plan that covers construction safety and health shall—

"(1) comply with the requirements listed in subsection (c); and

"(2) provide for the development and enforcement of requirements that (and the enforcement of which requirements) are and will be at least as effective, in providing safe and healthful employment and places of employment in the construction industry, as the requirements imposed by (and the enforcement of requirements under) this Act and the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.), including requirements relating to—

"(A) inspections, investigations, reporting, and recordkeeping;

"(B) construction safety and health programs;

"(C) construction safety and health plans;

"(D) project safety coordinators; and

"(E) the training and certification of State agency construction inspectors.".

SEC. 10. GRANTS TO STATES.

Section 23 (29 U.S.C. 672) is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection:

"(h)(1) The Secretary is authorized to make grants to States to assist the States in administering and enforcing provisions of the Construction Safety, Health, and Education Improvement Act of 1991, and amendments made by such Act, for programs approved by the Secretary pursuant to section 18.

"(2)(A) The Federal share for each State grant under this subsection shall, subject to appropriations, for the first 3 years the plan is in operation, be up to 90 percent of the additional cost to the State of such a program.

"(B) Beginning with the fourth year the plan is in operation—

"(i) the Federal share for the plan shall constitute up to 50 percent of the additional cost to the State of the program; and

"(ii) if the Federal share for all States under this subsection is not the same, the differences among the States shall be established on the basis of objective criteria.”.

SEC. 11. REPORTS.

The Act (as amended by section 6 of this Act) is further amended by inserting after section 30 the following new section:

"SEC. 31. REPORTS.

“(a) ANNUAL REPORTS.—The Secretary, with the advice and assistance of the Advisory Committee on Construction Safety and Health, shall prepare and submit to the President for transmittal to Congress an annual report on the same general subjects as are set forth in section 26, as the subjects relate to the construction industry, including the operation of the Office of Construction Safety, Health and Education.

“(b) EFFECTIVENESS REPORT.—Within 120 days following the conclusion of 3 years of operation of the Office, the Secretary, with the advice and assistance of the Advisory Committee on Construction Safety and Health, shall prepare and submit to the President for transmittal to Congress a report concerning whether the then existing conditions of occupational safety and health in the construction industry, the effectiveness of regulation and enforcement under this Act, and any other relevant information supports the continued existence of the Office within the Occupational Safety and Health Administration or supports the enactment of legislation to establish in the Department of Labor a Construction Industry Safety and Health Administration to be headed by an Assistant Secretary of Labor for Construction Safety and Health.”.

SEC. 12. APPLICATION.

Section 4 (29 U.S.C. 653) is amended by adding at the end the following new subsections:

“(c)(1) The Secretary of Labor may determine that certain types' of construction projects or operations should not be covered by the requirements of section 29 and subsections (h) through (l) of section 8, or portions thereof, on the grounds that compliance with such requirements is not feasible and will not promote a significant increase in construction employee safety and health. The Secretary's determination in this regard shall be established in accordance with section 553 of title 5, United States Code.

“(2) In making the determinations referred to in paragraph (1), the Secretary shall take into account—

“(A) the number of construction employees working on construction projects or operations;

“(B) the duration of construction projects or operations;

“(C) the type of work being performed on construction projects or operations, particularly the risk of death or serious injury associated with the type of work being performed;

“(D) the frequency and severity rates of deaths, serious injuries, and incidents of the construction employers and construction owners working on or involved with construction projects or operations; and

“(E) the record of compliance with Federal and State safety and health laws and regulations of the construction employers and construction owners working on or involved with construction projects or operations.

“(3) Any person who may be adversely affected by a determination made under paragraph (1) or (2) may (at any time prior to the 60th day after the determination is issued) file a petition challenging the validity of the determination with the United States court of appeals for the circuit in which the person resides or has the person's principal place of business, for a judicial review of the determination. A copy of the petition shall be transmitted by the clerk of the court to the Secretary. The filing of the petition shall not, unless otherwise ordered by the court, operate as a stay of the determination. The determinations of the Secretary shall be conclusive if supported by substantial evidence in the record considered as a whole.

“(4) Notwithstanding the preceding provisions of this subsection, the requirements of section 8(k) for the submission of reports concerning the death or serious injury of any construction employee, or any structural failure, shall apply to all construction employers.

“(5) Each type of construction project or operation that the Secretary determines is not covered by section 29 and subsections (h) through (l) of section 8, or portions thereof, shall be required to comply with alternative requirements, to be established by the Secretary, with the advice of the Advisory Committee on Construction Safety and Health, that are determined by the Secretary to be feasible for that type of project or operation, and that are capable of promoting construction employee safety and health.

“(6) Unless and until the Secretary establishes a contrary determination, section 29 and subsections (h) through (l) of section 8 shall cover all construction projects and operations.

“(d)(1) Except as provided in paragraph (2), section 29 and subsections (h) through (l) of section 8 shall not apply to construction work performed under a contract between a construction employer and a homeowner for work on the homeowner's own residence.

“(2) Paragraph (1) shall not apply if the work involves a covered operation referred to in section 29(d)(2).”.

SEC. 13. FEDERAL CONSTRUCTION CONTRACTS.

(a) REVIEW.—The Secretary of Labor shall review all laws and regulations describing criteria by which contracts subject to section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) are awarded.

(b) RECOMMENDATIONS.—Within 90 days after the date of the enactment of this Act, the Secretary shall deliver to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives the recommendations of the Secretary regarding legislative changes required to make the safety records (including records of compliance with safety and health laws and regulations) one criterion considered in the awarding of contracts.

SEC. 14. EFFECTIVE DATE AND TIMETABLE FOR REGULATIONS.

(a) IN GENERAL.—This Act and the amendments made by this Act shall become effective on October 1, 1991.

(b) TIMETABLE FOR REGULATIONS.—

(1) IN GENERAL.—In promulgating the rules, standards or other regulations that are required or authorized by the amendments made by sections 3, 4 and 5 of this Act, the Secretary of Labor shall comply with the timetable prescribed in this subsection.

(2) INTERIM REGULATIONS.—

(A) IN GENERAL.—Not later than 60 days after the effective date of this Act, the Secretary shall promulgate interim regulations to carry out the amendments made by sections 3, 4 and 5 of this Act.

(B) EFFECTIVE DATE.—The interim regulations shall take effect on issuance and shall apply until final regulations become effective under paragraph (3).

(3) FINAL REGULATIONS.—

(A) IN GENERAL.—Not later than 180 days after the effective date of this Act, the Secretary shall develop and implement final regulations to carry out the amendments made by sections 3, 4 and 5 of this Act.

(B) EFFECTIVE DATE.—The final regulations shall become effective 60 days after the date on which the regulations are promulgated.

(c) RELATIONSHIP TO EXISTING LAW AND REGULATIONS.—Nothing contained in this Act, the amendments made by this Act, or the regulations issued to carry out this Act or the amendments shall limit the application of, or lessen, any of the requirements of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) or the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.), or the standards or regulations issued by the Secretary of Labor to carry out either such Act.•

By Mr. CRANSTON (for himself, Mr. SPECTER, Mr. DECONCINI, Mr. ROCKEFELLER, Mr. GRAHAM, and Mr. AKAKA):

S. 675. A bill to amend title 38, United States Code, to improve the capability of the Department of Veterans Affairs to recruit and retain physicians and dentists through increase on special pay authorities and to authorize collective bargaining over conditions of employment for health care employees of the Department of Veterans Affairs; ordered to be placed on the calendar.

DEPARTMENT OF VETERANS AFFAIRS HEALTH-CARE PERSONNEL ACT

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I am today introducing S. 675, the proposed Department of Veterans Affairs Health-care Personnel Act of 1991. Joining as cosponsors is the ranking member, Senator SPECTER and five committee members, Senators DECONCINI, ROCKEFELLER, GRAHAM, AKAKA, and JEFFORDS in addition to Senator DURENBERGER. This measure represents the final stage in an extended process, which I will describe in more detail in a moment, to enact legislation in two key areas—special pay for VA physicians and dentists and labor relations matters involving VA health care personnel.

TITLE I—PHYSICIAN AND DENTIST RECRUITMENT AND RETENTION ACT OF 1991

Mr. President, the goal of title I, the Physician and Dentist Recruitment and Retention Act of 1991, is to give VA the tools with which to act with flexibility and speed in setting levels of pay for physicians and dentists that are necessary to ensure the effective functioning of VA facilities and the high quality of care that the Nation desires VA to provide. These provisions would substantially raise the upper limits on the categorical rates, and total amounts, of special pay for VA physicians and dentists. The pay provisions reflect the same goal as the committee sought to achieve in the Department of Veterans Affairs Nurse Pay Act of 1990, Public Law 101-366, namely, enabling VA to recruit and retain highly-qualified health care professionals, while not paying more than it must in order to do so.

Mr. President, I believe the widespread support in the Congress for legislation to reform pay for VA physicians and dentists demonstrates a recognition of the vital need to address the pay disincentives confronting VA-employed physicians and dentists and others who might consider a VA career.

In addition to the many Members of Congress who are supporting such legislation, there is strong administration support for physician and dentist special pay modifications to improve recruitment and retention. Building upon the data and recommendations of the Quadrennial Report to the President on the Adequacy of Special Pay for Physicians and Dentists and the VA Task Force which reviewed it, the Committee on Veterans' Affairs has worked with the House Committee and VA to develop a bill which I believe will enable VA to improve the recruitment and retention of high-quality physicians and dentists.

Mr. President, I first introduced physician and dentist pay provisions as S. 2701 on May 24, 1990. S. 2701 was derived in substantial part from title I of H.R. 4557 as passed by the House of Representatives on May 1, 1990. The Senate Veterans Affairs' Committee received testimony on S. 2701 and H.R. 4557 at its June 14 hearing. Based on that testimony and other information, I made certain revisions to the bill which were adopted by the committee at its June 28, 1990, meeting and incorporated into S. 2100, the proposed "Veterans Benefits and Health Care Amendments of 1990", as that bill was reported on July 19 of last year.

Unfortunately, differences with regard to unrelated agent orange and other provisions of S. 2100 prevented the Senate from considering the bill before the end of the 101st Congress and precluded the House and Senate Committees on Veterans' Affairs from reaching a compromise on a number of legislative proposals, including physician and dentist special pay.

Mr. President, this Congress, on January 15, 1991, I introduced S. 127, the proposed Veterans Benefits and Health-Care Amendments of 1991, which includes the same physician or dentist special pay provisions as S. 2100 of the 101st Congress. My counterpart in the House, Representative SONNY MONTGOMERY, chairman of the House Veterans' Affairs Committee, introduced H.R. 598 on January 23, 1991, a bill which basically reflected the agreements reached between House and Senate staff by the end of the 101st Congress. The House passed H.R. 598 by a vote of 399 to 0 on January 30, 1991. The bill we are introducing today reflects the final compromise agreement between the House and Senate committees with regard to physician and dentist special pay and, I am pleased to note, is generally satisfactory to VA.

Mr. President, I acknowledge the debt that our committee owes in the crafting of the initial special pay provisions in S. 2701 of the 101st Congress to the excellent work of the House committee and its leadership, Chairman SONNY MONTGOMERY and ranking minority member BOB STUMP. The invaluable work done by the House committee in developing title I of H.R. 4557 provided a strong foundation upon which our committee could build. Since that time, the provisions in the compromise agreement have been finely honed by the combined efforts of House and Senate staff members, interested professional and veterans groups, and VA officials. Finally, the committee is indebted to many officials in VA for their cooperation in answering numerous inquires and providing a large volume of technical data.

I note that in the past some Senators have expressed reservations about the cost of the physician and dentist pay provisions in earlier versions of this bill. While I share their interest in holding down costs, I believe that, if we want VA to continue to provide high-quality medical care to our Nation's veterans—and I'm certain every member of the Senate does—we must be able to pay the salaries necessary to recruit and retain highly qualified physicians and dentists. I note that the predominate rate-setting mechanism of this bill involves large, authorized ranges of rates of pay for various categories of special pay. Therefore, within the confines of the bill we are introducing today, VA would have considerable discretion in setting pay levels that it considers prudent but still adequate.

To continue to fail to pay VA doctors salaries which are competitive with those offered by other health-care employers, however, would be highly cost-ineffective. That practice results in VA having to spend exorbitant sums to contract for care and services not available from VA staff doctors. Moreover, another cost of unwise frugality in physician and dentist pay is declining morale and a diminishing core of dedicated full-time VA clinicians. The cost of this phenomenon is high and, although not precisely measurable, has adverse implications for patient care. The testimony our committee has received showed the anger and hopelessness that VA clinicians feel and which could very well lead to a mass exodus which would make the already dramatic recruitment and retention problems pale by comparison, unless adequate special pay legislation is enacted as quickly as possible.

Many highly skilled doctors work for VA; not all of them can be rewarded financially at a level that would match what some physicians and dentists can earn in the private market. What should be offered to all of them, however, is pride in VA and trust that VA and Congress will continue on an ongoing basis to do their best to provide fair and appropriate compensation. The approach in the committee bill would work to the benefit of all veterans receiving VA health care.

TITLE II—DEPARTMENT OF VETERANS AFFAIRS LABOR RELATIONS IMPROVEMENT ACT OF 1991

Mr. President, the bill we are introducing today contains, in title II, the Department of Veterans Affairs Labor Relations Improvement Act of 1991, provisions which address many long-standing concerns regarding labor-management relations within VA. We have long recognized the serious problems that exist with regard to both the current disciplinary procedures applicable to title 38 employees and the lack of clear guidance as to the scope of collective bargaining for title 38 employees in the aftermath of the decision handed down in 1988 by the U.S. Court of Appeals for the DC Circuit in the case Colorado Nurse Association versus Federal Labor Relations Authority.

The measure we are introducing today represents a compromise between provisions contained in H.R. 4557, passed by the House of Representatives on May 1, 1990, and those contained in Senate legislation, most recently, in S. 127, introduced on January 14, 1991. The Senate has passed similar legislation dealing with VA labor management issues in S. 2011 on October 18, 1988, and in S. 13 on October 3, 1989, and the committee again reported such provisions in S. 2100 on July 19, 1990.

Specifically, the provisions in the compromise agreement would provide limited collective-bargaining rights similar to those which exist under title 5 to VA employees employed under the title 38 personnel system—physicians, dentists, nurses, podiatrists, optometrists, physician assistants, and expanded function dental auxiliaries. In addition, the VA system of disciplinary actions and grievance procedures would be restructured but would retain its peer review component and would ensure VA employees due process rights substantively similar to those available to title 5 employees. We believe these measures would improve the relationship between VA and health-care professionals employed under the title 38 personnel system, and we are pleased that a successful resolution to these important matters is at hand.

ADMINISTRATIVE REORGANIZATION

Mr. President, section 303 of the bill we are introducing today would modify section 210(b) of title 38, which contains report-and-wait requirements for VA administrative reorganizations, in order to establish a better balance between the need for VA to change and adapt and the needs of oversight committees to have advance notice of significant VA reorganizations. An administrative reorganization is defined under current law as one that involves a loss or transfer of functions away from a covered VA facility or office resulting in personnel reductions that exceed specified levels. VA cannot implement an administrative reorganization during a given fiscal year unless a detailed plan and justification has been sent to Congress not later than the date on which the President's budget for that fiscal year is submitted to Congress.

This measure would amend the report-and-wait restrictions in three ways. First, VA would be allowed to submit a reorganization proposal to Congress at any time and the waiting period before implementation would be shortened to 90 days. Second, administrative reorganizations involving the transfer of personnel between the Veterans Benefits Administration and the Veterans Health Services and Research Administration at the same facility would be exempt if the number of employees at that facility remained the same. Third, this measure would increase the level of personnel reductions at which report-and-wait restrictions would be triggered.

These modifications would preserve the original intent underlying section 210(b)—to protect the provision of care and service to veterans—while allowing VA greater flexibility in carrying out its mission.

TECHNICAL RESTRUCTURING OF VA HEALTH-CARE SYSTEM PROVISIONS

Mr. President, this measure also includes a technical restructuring of the provisions in current chapter 73 of title 38, relating to the organization of VA's health care system.

These changes, which are purely technical in nature and meant to have no substantive impact, are the first of what will be a number of technical revisions of title 38 to reflect and codify the elevation of VA to a Cabinet level department which occurred on March 15, 1989, pursuant to Public Law 100-527. Other related changes to other chapters of title 38 will be proposed in the coming months.

Mr. President, the changes which are proposed in the pending measure would divide existing chapter 73 into two new chapters—chapter 73, entitled "Veterans Health Administration—Organization and Functions", which, as the title suggests, contains the provisions dealing with the overall organization of VA's health system, and chapter 74, entitled "Veterans Health Administration—Personnel", which includes all of the personnel-related provisions relating to VA's health care system.

In addition, the measure would make various technical, stylistic changes at appropriate points in the two new chapters, such as substituting "Secretary" for "Administrator" and redesignating the Veterans Health Services and Research Administration as the Veterans Health Administration. Also, as the first step in what will be an overall renumbering of title 38 so that the section numbers conform to the chapters in which they are placed, the existing sections of chapter 73, which all are numbered in the 4100's, would be renumbered to begin with 73 or 74 as the first two digits depending on the new chapter in which they appear.

CONCLUSION

Mr. President, I look forward to prompt Senate action on this measure of vital importance to VA health-care personnel and, therefore, to the health of veterans seeking care in VA facilities. I urge all my colleagues to support this legislation.

Mr. President, I ask unanimous consent that titles I and II of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 675

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Department of Veterans Affairs Health-Care Personnel Act of 1991".

(b) REFERENCES TO TITLE 38.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. RENAMING OF VETERANS HEALTH SERVICES AND RESEARCH ADMINISTRATION.

(a) RENAMING.—The establishment in the Department of Veterans Affairs known as the Veterans Health Services and Research Administration is hereby redesignated as the Veterans Health Administration.

(b) REFERENCES.—Any reference to the Veterans Health Services and Research Administration (or to the Department of Medicine and Surgery of the Veterans' Administration) in any Federal law, Executive order, regulation, delegation of authority, or document of or pertaining to the Department of Veterans Affairs shall be deemed to refer to the Veterans Health Administration.

TITLE I—SPECIAL PAY FOR PHYSICIANS AND DENTISTS

SEC. 101. SHORT TITLE.

This title may be cited as the "Department of Veterans Affairs Physician and Dentist Recruitment and Retention Act of 1991".

SEC. 102. REVISION AND REORGANIZATION OF SPECIAL PAY STATUTE.

Part V is amended by inserting after chapter 73 the following new chapter:

"CHAPTER 74—VETERANS HEALTH ADMINISTRATION—PERSONNEL

"SUBCHAPTER III—SPECIAL PAY FOR PHYSICIANS AND DENTISTS

"7431. Special pay: authority.
"7432. Special pay: written agreements.
"7433. Special pay: full-time physicians.
"7434. Special pay: part-time physicians.
"7435. Special pay: full-time dentists.
"7436. Special pay: part-time dentists.
"7437. Special pay: general provisions.
"7438. Special pay: coordination with other benefits laws.
"7439. Periodic review of pay of physicians and dentists; quadrennial report.
"7440. Annual report.

"SUBCHAPTER III—SPECIAL PAY FOR PHYSICIANS AND DENTISTS

"§ 7431. Special pay: authority

"(a) In order to recruit and retain highly qualified physicians and dentists in the Veterans Health Administration, the Secretary shall provide special pay under this subchapter. Such special pay shall be provided under regulations that the Secretary shall prescribe to carry out this subchapter. Before prescribing regulations under this subchapter, the Secretary shall receive the recommendations of the Chief Medical Director with respect to those regulations.

"(b) Special pay may be paid to a physician or dentist under this subchapter only upon the execution of, and for the duration of, a written agreement entered into by the physician or dentist in accordance with section 7432 of this title.

"(c) A physician or dentist serving a period of obligated service pursuant to chapter 76 of this title is not eligible for special pay under this subchapter during the first three years of such obligated service, except that, at the discretion of the Secretary and upon the recommendation of the Chief Medical Director, such a physician or dentist may be paid special pay for full-time status during those three years.

"(d)(1) The Secretary may determine categories of positions applicable to either physicians or dentists, or both, in the Veterans Health Administration as to which there is no significant recruitment and retention problem. While any such determination is in effect, the Secretary may not enter into an agreement under this subchapter with a physician or dentist serving in a position covered by the determination. Before making a determination under this paragraph, the Secretary shall receive the recommendations of the Chief Medical Director with respect to the determination.

"(2) Not later than one year after making any such determination with respect to a category of positions, and each year thereafter that such determination remains in effect, the Secretary shall make a redetermination.

"(3) Any determination under this subsection shall be in accordance with regulations prescribed to carry out this subchapter.

"(e) If the Chief Medical Director determines that payment of special pay to a physician or dentist who is employed on a less than half-time basis is the most cost-effective way available for providing needed medical or dental specialist services at a Department facility, the Chief Medical Director may authorize the payment of special pay for factors other than for full-time status to that physician or dentist at a rate computed on the basis of the proportion that the part-time employment of the physician or dentist bears to full-time employment.

"(f) Special pay may not be paid under this section to a physician or dentist who—

"(1) is employed on less than a quarter-time basis or on an intermittent basis;

"(2) occupies an internship or residency training position; or

"(3) is a reemployed annuitant.

"(g)(1) In the case of a physician or dentist who is employed in a position that is covered by a determination by the Secretary under subsection (d)(1) that the Administration does not have a significant recruitment or retention problem with respect to a particular category of positions and who on the day before the effective date of this subchapter was receiving special pay under an agreement entered into under section 4118 of this title (as in effect before such date), the Secretary may pay to that physician or dentist, in addition to basic pay, retention pay under this subsection.

"(2) The annual rate of such retention pay for any individual may not exceed the rate which, when added to the rate of basic pay payable to that individual, is equal to the sum of the annual rate of basic pay and the annual rate of special pay paid to that physician or dentist pursuant to the final agreement with that individual under such section 4118.

"(3) Such retention pay shall be treated for all purposes as special pay paid under subchapter III of chapter 74 of this title.

"(4) Retention pay under this subsection shall be paid under such regulations as the Secretary may prescribe.

"§ 7432. Special pay: written agreements

"(a) An agreement entered into by a physician or dentist under this subchapter shall cover a period of one year of service in the Veterans Health Administration unless the physician or dentist agrees to an agreement for a longer period of service, not to exceed four years, as specified in the agreement. A physician or dentist who has previously entered into such an agreement is eligible to enter into a subsequent agreement unless the physician or dentist has failed to refund to the United States any amount which the physician or dentist is obligated to refund under any such previous agreement.

"(b)(1) An agreement under this subchapter shall provide that, if the physician or dentist entering into the agreement voluntarily, or because of misconduct, fails to complete any of the years of service covered by the agreement (measured from the anniversary date of the agreement), the physician or dentist shall refund an amount of special pay received under the agreement for that year equal to—

"(A) in the case of a failure during the first year of service under the agreement, 100 percent of the amount received for that year;

"(B) in the case of a failure during the second year of service under the agreement, 75 percent of the amount received for that year;

"(C) in the case of a failure during the third year of service under the agreement, 50 percent of the amount received for that year; and

"(D) in the case of a failure during the fourth year of service under the agreement, 25 percent of the amount received for that year.

"(2) The Secretary may waive (in whole or in part) the requirement for a refund under paragraph (1) in any case if the Secretary determines (in accordance with regulations prescribed under section 7431(a) of this title) that the failure to complete such period of service is the result of circumstances beyond the control of the physician or dentist.

"(3) Any such agreement shall specify the terms under which the Department and the physician or dentist may elect to terminate the agreement.

"(c)(1) If a proposed agreement under this subchapter will provide a total annual amount of special pay to be provided to a physician or dentist who has previously entered into an agreement under this subchapter (or under section 4118 of this title as in effect before the effective date of the Department of Veterans Affairs Physician and Dentist Recruitment and Retention Act of 1991) that will exceed the previous annual amount of special pay provided for the physician or dentist by more than 50 percent (other than in the case of a physician or dentist employed in an executive position in the Central Office of the Department), or that will be less than the previous annual amount of special pay provided for the physician or dentist by more than 25 percent, the proposed agreement shall be promptly submitted to the Secretary. The proposed agreement shall not take effect if it is disapproved by the Secretary within 60 days after the date on which the physician or dentist entered into the proposed agreement.

"(2) For purposes of paragraph (1), the previous annual amount of special pay provided for a physician or dentist is the total annual amount of special pay provided, or to be provided, to the physician or dentist for the most recent year covered by an agreement entered into by the physician or dentist under this subchapter or under section 4118 of this title. In the case of an agreement entered into under section 4118 of this title, incentive pay shall be treated as special pay for purposes of this paragraph.

"(3) The Secretary shall adjust special pay as necessary for purposes of this subsection to reflect appropriately any change in the status of a physician or dentist (A) from full-time status to part-time status, (B) from part-time status to full-time status, or (C) from one proportion of time spent as a Department employee under part-time status employment to a different proportion.

"(d)(1) If a proposed agreement under this subchapter (other than an agreement in the case of the Chief Medical Director) will provide a total annual amount of special pay to be provided to a physician or dentist which, when added to the amount of basic pay of the physician or dentist, will be in excess of the amount payable for positions specified in section 5312 of title 5, the proposed agreement shall be promptly submitted for approval to the Secretary through the Chief Medical Director. The agreement shall take effect at the end of the 60-day period beginning on the date on which the physician or dentist entered into the proposed agreement if it is neither approved nor disapproved within that 60-day period. If the agreement is approved within that period, the agreement shall take effect as of the date of the approval. A proposed agreement may be disapproved under this paragraph only if it is determined that the amounts of special pay proposed to be paid are not necessary to recruit or retain the physician or dentist.

"(2) A proposed agreement under this subchapter with the Chief Medical Director may provide for payment of special pay for which the Chief Medical Director is eligible under this subchapter (other than that specified in section 7433(b)(4)(B) of this title) only to the extent specifically approved by the Secretary.

"(3) The Secretary shall include in the annual report required by section 7440 of this title—

"(A) a statement of the number of agreements entered into during the period covered by the report under which the total amount of special pay to be provided, when added to the amount of basic pay of the physician or dentist, will be in excess of the amount payable for positions specified in section 5312 of title 5;

"(B) a statement of the number of proposed agreements which during the period covered by the report were disapproved under this subsection; and

"(C) a detailed explanation of the basis for disapproval of each such proposed agreement which was disapproved under this subsection.

"(4) This subsection does not apply to any proposed agreement entered into after September 30, 1994.

"§ 7433. Special pay: full-time physicians

"(a) The Secretary shall provide special pay under this subchapter to eligible physicians employed on a full-time basis based upon the factors, and at the annual rates, specified in subsection (b).

"(b) The special pay factors, and the annual rates, applicable to full-time physicians are as follows:

"(1) For full-time status, $9,000.

"(2)(A) For length of service as a physician within the Veterans Health Administration—

"Length of Service	Rate	
	Minimum	Maximum
2 years but less than 4 years .	$4,000	$6,000
4 years but less than 8 years .	6,000	12,000
8 years but less than 12 years	12,000	18,000
12 years or more	12,000	25,000

"(B) The Chief Medical Director shall specify a uniform national rate for each range of years of service established by or under this paragraph. The Chief Medical Director may, as to length of service in excess of 12 years, establish uniform national rates for such ranges of years of service as the Chief Medical Director considers appropriate.

"(3)(A) For service in a medical specialty with respect to which there are extraordinary difficulties (on a nation-wide basis or on the basis of the needs of a specific medical facility) in the recruitment or retention of qualified physicians, an annual rate of not more than $40,000.

"(B) For service by a physician who serves only a portion of a year in a medical specialty for which special pay is paid under subparagraph (A), the annual rate shall be calculated on the basis of the proportion of time served in the specialty for which the special pay is paid.

"(4)(A) For service in any of the following executive positions, an annual rate not to exceed the rate applicable to that position as follows:

"Position	Rate	
	Minimum	Maximum
Service Chief (or in a comparable position as determined by the Secretary).	$4,500	$15,000
Chief of Staff or in an Executive Grade.	14,500	25,000
Director Grade	0	25,000

"(B) For service in any of the following executive positions, the annual rate applicable to that position as follows:

"Position	Rate
"Deputy Service Director	$20,000
"Service Director	25,000
"Deputy Assistant Chief Medical Director	27,500
"Assistant Chief Medical Director	30,000
"Associate Deputy Chief Medical Director	35,000
"Deputy Chief Medical Director	40,000
"Chief Medical Director	45,000

"(C) For service by a physician who serves only a portion of a year in an executive position listed in subparagraph (A) or (B) or who serves a portion of a year in such a position and also serves a portion of that year in another position or grade for which special pay is provided under this section, the annual rate shall be calculated on the basis of the proportion of time served in the position or positions for which special pay is provided.

"(5) For specialty certification or first board certification, $2,000, and for subspecialty certification or secondary board certification, an additional $500.

"(6) For service in a specific geographic location with respect to which there are extraordinary difficulties in the recruitment or retention of qualified physicians in a specific category of physicians, an annual rate of not more than $17,000.

"(7)(A) For service by a physician with exceptional qualifications within a specialty, an annual rate of not more than $15,000.

"(B) Special pay under this paragraph may be paid to a physician only if the payment of such pay to that physician is approved by the Chief Medical Director personally and on a case-by-case basis and only to the extent that the rate paid under this paragraph, when added to the total of the rates paid to that physician under paragraphs (1) through (6), does not exceed the total rate that may be paid under those paragraphs to a physician with the same length of service, specialty, and position as the physician concerned.

"§ 7434. Special pay: part-time physicians

"(a) Subject to section 7431(e) of this title and subsection (b) of this section, special pay under this subchapter for physicians employed on a part-time basis shall be based on the special-pay factors and annual rates specified in section 7433 of this title.

"(b) The annual rate of special pay paid to a physician employed on a part-time basis shall bear the same ratio to the annual rate that the physician would be paid under section 7433 (other than for full-time status) if the physician were employed on a full-time basis as the amount of part-time employment by the physician bears to full-time employment, except that such ratio may not exceed 3/4.

"§ 7435. Special pay: full-time dentists

"(a) The Secretary shall provide special pay under this subchapter to eligible dentists employed on a full-time basis based upon the factors, and at the annual rates, specified in subsection (b).

"(b) The special pay factors, and the annual rates, applicable to full-time dentists are as follows:

"(1) For full-time status, $3,500.

"(2)(A) For length of service as a dentist within the Veterans Health Administration—

"Length of Service	Rate	
	Minimum	Maximum
2 years but less than 4 years .	$1,000	$2,000
4 years but less than 8 years .	2,000	3,000
8 years but less than 12 years	3,000	3,500
12 years or more	3,000	4,000

"(B) The Chief Medical Director shall specify a uniform national rate for each range of years of service established by or under this paragraph. The Chief Medical Director may, as to length of service in excess of 12 years, establish uniform national rates for such ranges of years of service as the Chief Medical Director considers appropriate.

"(3)(A) For service in a dental specialty with respect to which there are extraordinary difficulties (on a nation-wide basis or on the basis of the needs of a specific medical facility) in the recruitment or retention of qualified dentists, an annual rate of not more than $20,000.

"(B) For service by a dentist who serves only a portion of a year in a dental specialty for which special pay is paid under subparagraph (A), the annual rate shall be calculated on the basis of the proportion of time served in the specialty for which the special pay is paid.

"(4)(A) For service in any of the following executive positions, an annual rate not to exceed the rate applicable to that position as follows:

"Position	Rate	
	Minimum	Maximum
Service Director	$1,000	$9,000
Deputy Service Director	1,000	8,000
Chief of Staff or in an Executive Grade.	1,000	8,000
Director Grade	0	8,000
Service Chief (or in a comparable position as determined by the Secretary).	1,000	5,000

"(B) For service in any of the following executive positions, the annual rate applicable to that position as follows:

"Position	Rate
Assistant Chief Medical Director (or in a comparable position as determined by the Secretary)	$10,000
Deputy Assistant Chief Medical Director	10,000

"(C) For service by a dentist who serves only a portion of a year in an executive position listed in subparagraph (A) or (B) or who serves a portion of a year in such a position and also serves a portion of that year in another position or grade for which special pay is provided under this section, the annual rate shall be calculated on the basis of the proportion of time served in the position or positions for which special pay is provided.

"(5) For specialty or first board certification, $2,000 and for subspecialty or secondary board certification, an additional $500.

"(6) For service in a specific geographic location with respect to which there are extraordinary difficulties in the recruitment or retention of qualified dentists in a specific category of dentists, an annual rate not more than $5,000.

"(7)(A) For service by a dentist with exceptional qualifications within a specialty, an annual rate of not more than $5,000.

"(B) Special pay under this paragraph may be paid to a dentist only if the payment of such pay to that dentist is approved by the Chief Medical Director personally and on a case-by-case basis and only to the extent that the rate paid under this paragraph, when added to the total of the rates paid to that dentist under paragraphs (1) through (6), does not exceed the total rate that may be paid under those paragraphs to a dentist with the same length of service, specialty, and position as the dentist concerned.

"§ 7436. Special pay: part-time dentists

"(a) Subject to section 7431(e) of this title and subsection (b) of this section, special pay under this subchapter for dentists employed on a part-time basis shall be based on the special-pay factors and annual rates specified in section 7435 of this title.

"(b) The annual rate of special pay paid to a dentist employed on a part-time basis shall bear the same ratio to the annual rate that the dentist would be paid under section 7435 of this title (other than for full-time status) if the dentist were employed on a full-time basis as the amount of part-time employment by the dentist bears to full-time employment, except that such ratio may not exceed 3/4.

"§ 7437. Special pay: general provisions

"(a) A physician who is provided special pay for service in an executive position under paragraph (4)(B) of section 7433(b) of this title may not also be provided scarce specialty special pay under paragraph (3) of that section. A dentist who is provided special pay for service in an executive position under paragraph (4) of section 7435(b) of this title for service as a Service Director, Deputy Service Director, Deputy Assistant Chief Medical Director, or Assistant Chief Medical Director may not also be provided scarce specialty special pay under paragraph (3) of that section.

"(b) The following determinations under this subchapter shall be made under regulations prescribed under section 7431 of this title:

"(1) A determination that there are extraordinary difficulties (on a nation-wide basis or on the basis of the needs of a specific medical facility) in the recruitment or retention of qualified physicians in a medical specialty or in the recruitment or retention of qualified dentists in a dental specialty.

"(2) A determination of the rate of special pay to be paid to a physician or dentist for a factor of special pay for which the applicable rate is specified as a range of rates.

"(3) A determination of whether there are extraordinary difficulties in a specific geographic location in the recruitment or retention of qualified physicians in a specific category of physicians or in the recruitment or retention of qualified dentists in a specific category of dentists.

"(c) A determination for the purposes of this subchapter that there are extraordinary difficulties in the recruitment or retention of qualified physicians in a medical specialty, or in the recruitment or retention of qualified dentists in a dental specialty, on the basis of the needs of a specific medical facility may only be made upon the request of the director of that facility.

"(d) A physician or dentist may not be provided scarce specialty pay under section 7433(b), 7434(b), 7435(b), or 7436(b) of this title (whichever is applicable) on the basis of the needs of a specific medical facility unless the Secretary also determines that geographic location pay under that section is insufficient to meet the needs of that facility for qualified physicians or dentists, as the case may be.

"(e)(1) A physician or dentist shall be paid special pay under this subchapter at a rate not less than the rate of special pay the physician or dentist was paid under section 4118 of this title as of the day before the effective date of this subchapter if the physician or dentist—

"(A) is employed on a full-time basis in the Veterans Health Administration;

"(B) was employed as a physician or dentist on a full-time basis in the Administration on the day before such effective date; and

"(C) on such effective date was being paid only for the special-pay factors of primary, full-time, and length of service.

"(2) A physician or dentist shall be paid special pay under this subchapter at a rate not less than the rate of special pay the physician or dentist was paid under section 4118 of this title as of the day before the effective date of this subchapter if the physician or dentist—

"(A) is employed on a part-time basis in the Veterans Health Administration;

"(B) was employed as a physician or dentist on a part-time basis in the Administration on the day before such effective date; and

"(C) on such effective date was being paid only for the special-pay factors of primary and length of service.

"(f) Any amount of special pay payable under this subchapter shall be paid in equal installments in accordance with regularly established pay periods.

"(g) Except as otherwise expressly provided by law, special pay may not be provided to a physician or dentist in the Veterans Health Administration for any factor not specified in section 7433, 7434, 7435, or 7436, as applicable, of this title.

"(h) In no case may the total amount of compensation paid to a physician or dentist under this title in any year exceed the amount of annual compensation (excluding expenses) specified in section 102 of title 3.

"§ 7438. Special pay: coordination with other benefits laws

"(a) Special pay paid under this subchapter shall be in addition to any other pay and allowances to which a physician or dentist is entitled.

"(b)(1) A physician or dentist who has no section 4118 service and has completed not less than 15 years of service as a physician or dentist in the Veterans Health Administration shall be entitled to have special pay paid to the physician or dentist under this subchapter considered basic pay for the purposes of chapter 83 or 84 of title 5, as appropriate.

"(2) A physician or dentist who has section 4118 service and has completed a total of not less than 15 years of service as a physician or dentist in the Veterans Health Administration shall be entitled to have special pay paid to the physician or dentist under this subchapter considered basic pay for the purposes of chapter 83 or 84, as appropriate, of title 5 as follows:

"(A) In an amount equal to the amount that would have been so considered under section 4118 of this title on the day before the effective date of this section based on the rates of special pay the physician or dentist was entitled to receive under that section on the day before such effective date.

"(B) With respect to any amount of special pay received under this subchapter in excess of the amount such physician or dentist was entitled to receive under section 4118 of this title on the day before the effective date of this section, in an amount equal to 25 percent of such excess amount for each two years that the physician or dentist has completed as a physician or dentist in the Veterans Health Administration after the effective date of this section.

"(3) All special pay paid under this subchapter shall be included in average pay (as defined in sections 8331(4) or 8401(3) of title 5, as appropriate) for purposes of computing benefits paid under section 8337, 8341(d) or (e), 8442(b), 8443, or 8451 of such title.

"(4) Special pay paid under section 4118 of this title, as in effect before the effective date of this section, to a physician or dentist who has section 4118 service shall be credited to the physician or dentist for the same purposes and in the same manner and to the same extent that such special pay was credited to the physician or dentist before such effective date.

"(5) For purposes of this subsection:

"(A) The term 'physician or dentist who has no section 4118 service' means a physician or dentist employed as a physician or dentist in the Veterans Health Administration who has no previous service as a physician or dentist in the Administration (or its predecessor) before the effective date of this section.

"(B) The term 'physician or dentist who has section 4118 service' means a physician or dentist employed as a physician or dentist in the Veterans Health Administration who has previous service as a physician or dentist in the Administration (or its predecessor) before the effective date of this section.

"(C) Service in any predecessor entity of the Veterans Health Administration shall be considered to be service in the Veterans Health Administration.

"(c) Compensation paid as special pay under this subchapter or under an agreement entered into under section 4118 of this title (as in effect on the day before the effective date of the Department of Veterans Affairs Physician and Dentist Recruitment and Retention Act of 1991) shall be considered as annual pay for the purposes of chapter 87 of title 5, relating to life insurance for Federal employees.

"§ 7439. Periodic review of pay of physicians and dentists; quadrennial report

"(a) In order to make possible the recruitment and retention of a well-qualified work force of physicians and dentists capable of providing quality care for eligible veterans, it is the policy of Congress to ensure that the levels of total pay for physicians and dentists of the Veterans Health Administration are fixed at levels reasonably comparable—

"(1) with the levels of total pay of physicians and dentists employed by or serving in other departments and agencies of the Federal Government; and

"(2) with the income of non-Federal physicians and dentists for the performance of services as physicians and dentists.

"(b)(1) To assist the Congress and the President in carrying out the policy stated in subsection (a), the Secretary shall—

"(A) define the bases for pay distinctions, if any, among various categories of physicians and dentists, including distinctions between physicians and dentists employed by the Veterans Health Administration and physicians and dentists employed by other departments and agencies of the Federal Government and between all Federal sector and non-Federal sector physicians and dentists; and

"(B) obtain measures of income from the employment or practice of physicians and dentists outside the Administration, including both the Federal and non-Federal sectors, for use as guidelines for setting and periodically adjusting the amounts of special pay for physicians and dentists of the Administration.

"(2) The Secretary shall submit to the President a report, on such date as the President may designate but not later than December 31, 1994, and once every four years thereafter, recommending appropriate rates of special pay to carry out the policy set forth in subsection (a) with respect to the pay of physicians and dentists in the Veterans Health Administration. The Secretary shall include in such report, when considered appropriate and necessary by the Secretary, recommendations for modifications of the special pay levels set forth in this subchapter whenever—

"(A) the Department is unable to recruit or retain a sufficient work force of well-qualified physicians and dentists in the Administration because the incomes and other employee benefits, to the extent that those benefits are reasonably quantifiable, of physicians and dentists outside the Administration who perform comparable types of duties are significantly in excess of the levels of total pay (including basic pay and special pay) and other employee benefits, to the extent that those benefits are reasonably quantifiable, available to those physicians and dentists employed by the Administration; or

"(B) other extraordinary circumstances are such that special pay levels are needed to recruit or retain a sufficient number of well-qualified physicians and dentists.

"(c) The President shall include in the budget transmitted to the Congress under section 1105 of title 31 after the submission of each report of the Secretary under subsection (b)(2) recommendations with respect to the exact rates of special pay for physicians and dentists under this subchapter and the cost of those rates compared with the cost of the special pay rates in effect under this subchapter at the time the budget is transmitted.

"§ 7440. Annual report

"The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an annual report on the use of the authorities provided in this subchapter. The report shall be submitted each year as part of the budget justification documents submitted by the Secretary in support of the budget of the President submitted pursuant to section 1105 of title 31 that year. Each such report shall include the following:

"(1) A review of the use of the authorities provided in this subchapter (including the Secretary's and Chief Medical Director's actions, findings, recommendations, and other activities under this subchapter) during the preceding fiscal year and the fiscal year during which the report is submitted.

"(2) The plans for the use of the authorities provided in this subchapter for the next fiscal year.

"(3) A description of the amounts of special pay paid during the preceding fiscal year, shown by category of pay.

"(4) A list of those geographic areas, and those scarce specialties, for which special pay was paid during the preceding fiscal year, those for which special pay is being paid during the current fiscal year, and those for which special pay is expected to be paid during the next fiscal year, together with a summary of any differences among those three lists.

"(5) The number of physicians and dentists (A) who left employment with the Veterans Health Administration during the preceding year, (B) who changed from full-time status to part-time status, (C) who changed from part-time status to full-time status, as well as (D) a summary of the reasons therefor.

"(6) By specialty, the number of positions created and the number of positions abolished during the preceding fiscal year and a summary of the reasons for such actions.

"(7) The number of unfilled physician and dentist positions in each specialty in the Veterans Health Administration, the average and maximum lengths of time that such positions have been unfilled, and a summary of the reasons that such positions remain unfilled and, in the case of any specialty not designated as a scarce specialty for purposes of special pay under this subchapter, an explanation (including comparisons with other specialties that have been so designated) of why the specialty has not been so designated.".

SEC. 103. OTHER COMPENSATION BENEFITS.

(a) IN GENERAL.—Subchapter I of chapter 74 (as added by section 401(b)(2)) is amended by adding at the end the following sections:

"§ 7410. Additional pay authorities

"The Secretary may authorize the Chief Medical Director to pay advance payments, recruitment or relocation bonuses, and retention allowances to the personnel described in paragraph (1) of section 7401 of this title, or interview expenses to candidates for appointment as such personnel, in the same manner, and subject to the same limitations, as in the case of the authority provided under sections 5524a, 5706b, 5753, and 5754 of title 5.

"§ 7411. Full-time board-certified physicians and dentists: reimbursement of continuing professional education expenses

"The Secretary shall reimburse any full-time board-certified physician or dentist appointed under section 7401(1) of this title for expenses incurred, up to $1,000 per year, for continuing professional education.".

(2) The table of sections at the beginning of chapter 74 (as amended by section 401(b)(1)(A)) is amended by inserting after the item relating to section 7409 the following:

"7410. Additional pay authorities.
"7411. Full-time board-certified physicians and dentists: reimbursement of continuing professional education expenses.".

(b) EFFECTIVE DATE.—Section 7411 of title 38, United States Code, as added by subsection (a), shall apply with respect to expenses incurred for continuing professional education that is pursued after September 30, 1991.

SEC. 104. EFFECTIVE DATE AND TRANSITION.

(a) EFFECTIVE DATE.—Subchapter III of chapter 74 of title 38, United States Code, as added by section 102, shall take effect on the first day of the first pay period beginning after the earlier of—

(1) July 1, 1991; or

(2) the end of the 90-day period beginning on the date of the enactment of this Act.

(b) TRANSITIONS PROVISIONS.—(1) In the case of an agreement entered into under section 4118 of title 38, United States Code, before the date of the enactment of this Act that expires after the effective date specified in subsection (a), the Secretary of Veterans Affairs and the physician or dentist concerned may agree to terminate that agreement as of that effective date in order to permit a new agreement under subchapter III of chapter 74 of title 38, United States Code, as added by section 102, to take effect as of that effective date.

(2) In the case of an agreement entered into under section 4118 of title 38, United States Code, before the date of the enactment of this Act that expires during the period beginning on the date of the enactment of this Act and ending on the effective date specified in subsection (a), an extension or renewal of that agreement may not extend beyond that effective date.

(3) In the case of a physician or dentist who begins employment with the Department of Veterans Affairs during the period beginning on the date of the enactment of this Act and ending on the effective date specified in subsection (a) who is eligible for an agreement under section 4118 of title 38, United States Code, any such agreement may not extend beyond that effective date.

(c) SAVINGS PROVISION.—Except as provided in subsection (b)(1), any agreement entered into under section 4118 of title 38, United States Code, before the effective date specified in subsection (a) shall remain in effect in accordance with its terms and shall be treated for all purposes in accordance with such section as in effect on the day before such effective date.

(d) PROHIBITION OF RETROACTIVE AGREEMENTS.—An agreement entered into under subchapter III of chapter 74 of title 38, United States Code, as added by section 102, may not provide special pay with respect to a period before the effective date specified in subsection (a).

TITLE II—LABOR-MANAGEMENT RELATIONS

SEC. 201. SHORT TITLE.

This title may be cited as the "Department of Veterans Affairs Labor Relations Improvement Act of 1991".

SEC. 202. COLLECTIVE BARGAINING FOR TITLE 38 EMPLOYEES.

Chapter 74, as added by section 102, is amended by inserting before subchapter III the following:

"SUBCHAPTER II—COLLECTIVE BARGAINING AND PERSONNEL ADMINISTRATION

"§ 7421. Personnel administration: in general

"(a) Notwithstanding any law, Executive order, or regulation, the Secretary shall prescribe by regulation the hours and conditions of employment and leaves of absence of employees appointed under any provision of this chapter in positions in the Veterans Health Administration listed in subsection (b).

"(b) Subsection (a) refers to the following positions:

"(1) Physicians.
"(2) Dentists.
"(3) Podiatrists.
"(4) Optometrists.
"(5) Registered nurses.
"(6) Physician assistants.
"(7) Expanded-duty dental auxiliaries.

"§ 7422. Collective bargaining

"(a) Except as otherwise specifically provided in this title, the authority of the Secretary to prescribe regulations under section 7421 of this title is subject to the right of Federal employees to engage in collective bargaining with respect to conditions of employment through representatives chosen by them in accordance with chapter 71 of title 5 (relating to labor-management relations).

"(b) Such collective bargaining (and any grievance procedures provided under a collective bargaining agreement) in the case of employees described in section 7421(b) of this title may not cover, or have any applicability to, any matter or question concerning or arising out of (1) professional conduct or competence, (2) peer review, or (3) the establishment, determination, or adjustment of employee compensation under this title.

"(c) For purposes of this section, the term 'professional conduct or competence' means any of the following:

"(1) Direct patient care.

"(2) Clinical competence.

"(d) An issue of whether a matter or question concerns or arises out of (1) professional conduct or competence, (2) peer review, or (3) the establishment, determination, or adjustment of employee compensation under this title shall be decided by the Secretary and is not itself subject to collective bargaining and may not be reviewed by any other agency.

"(e) A petition for judicial review or petition for enforcement under section 7123 of title 5 in any case involving employees described in section 7421(b) of this title or arising out of the applicability of chapter 71 of title 5 to employees in those positions, shall be taken only in the United States Court of Appeals for the District of Columbia Circuit.

"§ 7423. Personnel administration: full-time employees

"(a) The hours of employment in carrying out responsibilities under this title of any employee who is appointed in the Administration under any provision of this chapter on a full-time basis in a position listed in section 7421(b) of this title (other than an intern or resident appointed pursuant to section 7406 of this title) and who accepts responsibilities for carrying out professional services for remuneration other than those assigned under this title shall consist of not less than 80 hours in a biweekly pay period (as that term is used in section 5504 of title 5).

"(b) A person covered by subsection (a) may not do any of the following:

"(1) Assume responsibility for the medical care of any patient other than a patient admitted for treatment at a Department facility, except in those cases where the person, upon request and with the approval of the Chief Medical Director, assumes such responsibilities to assist communities or medical practice groups to meet medical needs which would not otherwise be available for a period not to exceed 180 calendar days, which may be extended by the Chief Medical Director for additional periods not to exceed 180 calendar days each.

"(2) Teach or provide consultative services at any affiliated institution if such teaching or consultation will, because of its nature or duration, conflict with such person's responsibilities under this title.

"(3) Accept payment under any insurance or assistance program established under title XVIII or XIX of the Social Security Act or under chapter 55 of title 10 for professional services rendered by such person while carrying out such person's responsibilities under this title.

"(4) Accept from any source, with respect to any travel performed by such person in the course of carrying out such person's responsibilities under this title, any payment or per diem for such travel, other than as provided for in section 4111 of title 5.

"(5) Request or permit any individual or organization to pay, on such person's behalf for insurance insuring such person against malpractice claims arising in the course of carrying out such person's responsibilities under this title or for such person's dues or similar fees for membership in medical or dental societies or related professional associations, except where such payments constitute a part of such person's remuneration for the performance of professional responsibilities permitted under this section, other than those carried out under this title.

"(6) Perform, in the course of carrying out such person's responsibilities under this title, professional services for the purpose of generating money for any fund or account which is maintained by an affiliated institution for the benefit of such institution, or for such person's personal benefit, or both.

"(c) In the case of any fund or account described in subsection (b)(6) that was established before September 1, 1973—

"(1) the affiliated institution shall submit semiannually an accounting to the Secretary and to the Comptroller General of the United States with respect to such fund or account and shall maintain such fund or account subject to full public disclosure and audit by the Secretary and the Comptroller General for a period of three years or for such longer period as the Secretary shall prescribe, and

"(2) no person in a position specified in paragraph (1)(B) may receive any cash from amounts deposited in such fund or account derived from services performed before that date.

"(d) As used in this section:

"(1) The term 'affiliated institution' means a medical school or other institution of higher learning with which the Secretary has a contract or agreement as referred to in section 7313 of this title for the training or education of health personnel.

"(2) The term 'remuneration' means the receipt of any amount of monetary benefit from any non-Department source in payment for carrying out any professional responsibilities.".

SEC. 203. ADVERSE PERSONNEL ACTIONS.

(a) REFORM OF DISCIPLINARY PROCEDURES FOR SECTION 7401(1) EMPLOYEES.—Chapter 74, as added by section 102 and amended by section 202, is further amended by adding at the end the following:

"SUBCHAPTER V—DISCIPLINARY AND GRIEVANCE PROCEDURES

"§ 7461. Adverse actions: section 7401(1) employees

"(a) Whenever the Chief Medical Director (or an official designated by the Chief Medical Director) brings charges based on conduct or performance against a section 7401(1) employee and as a result of those charges an adverse personnel action is taken against the employee, the employee shall have the right to appeal the action.

"(b)(1) If the case involves or includes a question of professional conduct or competence in which a major adverse action was taken, such an appeal shall be made to a Disciplinary Appeals Board under section 7462 of this title.

"(2) In any other case, such an appeal shall be made—

"(A) through Department grievance procedures under section 7463 of this title, in any case that involves or includes a question of professional conduct or competence in which a major adverse action was not taken or in any case of an employee who is not covered by a collective bargaining agreement under chapter 71 of title 5; or

"(B) through grievance procedures provided through collective bargaining under chapter 71 of title 5 or through Department grievance procedures under section 7463 of this title, as the employee elects, in the case of an employee covered by a collective bargaining agreement under chapter 71 of title 5 that does not involve or include a question of professional conduct or competence.

"(c) For purposes of this subchapter—

"(1) Section 7401(1) employees are employees of the Department employed on a full-time basis under a permanent appointment in a position listed in section 7401(1) of this title (other than interns and residents appointed pursuant to section 7406 of this title).

"(2) A major adverse action is an adverse action which includes any of the following:

"(A) Suspension.

"(B) Transfer.

"(C) Reduction in grade.

"(D) Reduction in basic pay.

"(E) Discharge.

"(3) A question of professional conduct or competence is a question involving any of the following:

"(A) Direct patient care.

"(B) Clinical competence.

"(d) An issue of whether a matter or question concerns, or arises out of, professional conduct or competence is not itself subject to any grievance procedure provided by law, regulation, or collective bargaining and may not be reviewed by any other agency.

"(e) Whenever the Secretary proposes to prescribe regulations under this subchapter, the Secretary shall publish the proposed regulations in the Federal Register for notice-and-comment not less than 30 days before the day on which they take effect.

"§ 7462. Major adverse actions involving professional conduct or competence

"(a)(1) Disciplinary Appeals Boards appointed under section 7464 of this title shall have exclusive jurisdiction to review any case—

"(A) which arises out of (or which includes) a question of professional conduct or competence of a section 7401(1) employee; and

"(B) in which a major adverse action was taken.

"(2) The board shall include in its record of decision in any mixed case a statement of the board's exclusive jurisdiction under this subsection and the basis for such exclusive jurisdiction.

"(3) For purposes of paragraph (2), a mixed case is a case that includes both a major adverse action arising out of a question of professional conduct or competence and an adverse action which is not a major adverse action or which does not arise out of a question of professional conduct or competence.

"(b)(1) In any case in which charges are brought against a section 7401(1) employee which arises out of, or includes, a question of professional conduct or competence which could result in a major adverse action, the employee is entitled to the following:

"(A) At least 30 days advance written notice from the Chief Medical Director or other charging official specifically stating the basis for each charge, the adverse actions that could be taken if the charges are sustained, and a statement of any specific law, regulation, policy, procedure, practice, or other specific instruction that has been violated with respect to each charge, except that the requirement for notification in advance may be waived if there is reasonable cause to believe that the employee has committed a crime for which the employee may be imprisoned.

"(B) A reasonable time, but not less than seven days, to present an answer orally and in writing to the Chief Medical Director or other deciding official, who shall be an official higher in rank than the charging official, and to submit affidavits and other documentary evidence in support of the answer.

"(2) In any case described in paragraph (1), the employee is entitled to be represented by an attorney or other representative of the employee's choice at all stages of the case.

"(3)(A) If a proposed adverse action covered by this section is not withdrawn, the deciding official shall render a decision in writing within 21 days of receipt by the deciding official of the employee's answer. The decision shall include a statement of the specific reasons for the decision with respect to each charge. If a major adverse action is imposed, the decision shall state whether any of the charges sustained arose out of a question of professional conduct or competence. If any of the charges are sustained, the notice of the decision to the employee shall include notice of the employee's rights of appeal.

"(B) Notwithstanding the 21-day period specified in subparagraph (A), a proposed adverse action may be held in abeyance if the employee requests, and the deciding official agrees, that the employee shall seek counseling or treatment for a condition covered under the Rehabilitation Act of 1973. Any such abeyance of a proposed action may not extend for more than one year.

"(4)(A) The Secretary may require that any answer and submission under paragraph (1)(B) be submitted so as to be received within 30 days of the date of the written notice of the charges, except that the Secretary shall allow the granting of extensions for good cause shown.

"(B) The Secretary shall require that any appeal to a Disciplinary Appeals Board from a decision to impose a major adverse action shall be received within 30 days after the date of service of the written decision on the employee.

"(c)(1) When a Disciplinary Appeals Board convenes to consider an appeal in a case under this section, the board, before proceeding to consider the merits of the appeal, shall determine whether the case is properly before it.

"(2) Upon hearing such an appeal, the board shall, with respect to each charge appealed to the board, sustain the charge, dismiss the charge, or sustain the charge in part and dismiss the charge in part. If the deciding official is sustained (in whole or in part) with respect to any such charge, the board shall—

"(A) approve the action as imposed;

"(B) approve the action with modification, reduction, or exception; or

"(C) reverse the action.

"(3) A board shall afford an employee appealing an adverse action under this section an opportunity for an oral hearing. If such a hearing is held, the board shall provide the employee with a transcript of the hearing.

"(4) The board shall render a decision in any case within 45 days of completion of the hearing, if there is a hearing, and in any event no later than 120 days after the appeal commenced.

"(d)(1) After resolving any question as to whether a matter involves professional conduct or competence, the Secretary shall cause to be executed the decision of the Disciplinary Appeals Board in a timely manner and in any event in not more than 90 days after the decision of the Board is received by the Secretary. Pursuant to the board's decision, the Secretary may order reinstatement, award back pay, and provide such other remedies as the board found appropriate relating directly to the proposed action, including expungement of records relating to the action.

"(2) If the Secretary finds a decision of the board to be clearly contrary to the evidence or unlawful, the Secretary may—

"(A) reverse the decision of the board, or

"(B) vacate the decision of the board and remand the matter to the Board for further consideration.

"(3) If the Secretary finds the decision of the board (while not clearly contrary to the evidence or unlawful) to be not justified by the nature of the charges, the Secretary may mitigate the adverse action imposed.

"(4) The Secretary's execution of a board's decision shall be the final administrative action in the case.

"(e) The Secretary may designate an employee of the Department to represent management in any case before a Disciplinary Appeals Board.

"(f)(1) A section 7401(1) employee adversely affected by a final order or decision of a Disciplinary Appeals Board (as reviewed by the Secretary) may obtain judicial review of the order or decision.

"(2) In any case in which judicial review is sought under this subsection, the court shall review the record and hold unlawful and set aside any agency action, finding, or conclusion found to be—

"(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(B) obtained without procedures required by law, rule, or regulation having been followed; or

"(C) unsupported by substantial evidence.

"§ 7463. Other adverse actions

"(a) The Secretary shall prescribe by regulation procedures for the consideration of grievances of section 7401(1) employees arising from adverse personnel actions in which each action taken either—

"(1) is not a major adverse action; or

"(2) does not arise out of a question of professional conduct or competence.

Disciplinary Appeals Boards shall not have jurisdiction to review such matters, other than as part of a mixed case (as defined in section 7462(a)(3) of this title).

"(b) In the case of an employee who is a member of a collective bargaining unit under chapter 71 of title 5, the employee may seek review of an adverse action described in subsection (a) either under the grievance procedures provided through regulations prescribed under subsection (a) or through grievance procedures determined through collective bargaining, but not under both. The employee shall elect which grievance procedure to follow. Any such election may not be revoked.

"(c)(1) In any case in which charges are brought against a section 7401(1) employee which could result in a major adverse action and which do not involve professional conduct or competence, the employee is entitled to the same notice and opportunity to answer with respect to those charges as provided in subparagraphs (A) and (B) of section 7462(b)(1) of this title.

"(2) In any other case in which charges are brought against a section 7401(1) employee, the employee is entitled to—

"(A) an advance written notice stating the specific reason for the proposed action, and

"(B) a reasonable time to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer.

"(d) Grievance procedures prescribed under subsection (a) shall include the following:

"(1) A right to formal review by an impartial examiner within the Department of Veterans Affairs, who, in the case of an adverse action arising from a question of professional conduct or competence, shall be selected from the panel designated under section 7464 of this title.

"(2) A right to a prompt report of the findings and recommendations by the impartial examiner.

"(3) A right to a prompt review of the examiner's findings and recommendations by an official of a higher level than the official who decided upon the action. That official may accept, modify, or reject the examiner's recommendations.

"(e) In any review of an adverse action under the grievance procedures prescribed under subsection (a), the employee is entitled to be represented by an attorney or other representative of the employee's choice at all stages of the case.

"§ 7464. Disciplinary Appeals Boards

"(a) The Secretary shall from time to time appoint boards to hear appeals of major adverse actions described in section 7462 of this title. Such boards shall be known as Disciplinary Appeals Boards. Each board shall consist of three employees of the Department, each of whom shall be of the same grade as, or be senior in grade to, the employee who is appealing an adverse action. At least two of the members of each board shall be employed in the same category of position as the employee who is appealing the adverse action. Members of a board shall be appointed from individuals on the panel established under subsection (d).

"(b)(1) In appointing a board for any case, the Secretary shall designate one of the members to be chairman and one of the members to be secretary of the board, each of whom shall have authority to administer oaths.

"(2) Appointment of boards, and the proceedings of such boards, shall be carried out under regulations prescribed by the Secretary. A verbatim record shall be maintained of board hearings.

"(c)(1) Notwithstanding sections 5701 and 7332 of this title, the chairman of a board, upon request of an employee whose case is under consideration by the board (or a representative of that employee) may, in connection with the considerations of the board, review records or information covered by those sections and may authorize the disclosure of such records or information to that employee (or representative) to the extent the board considers appropriate for purposes of the proceedings of the board in that case.

"(2) In any such case the board chairman may direct that measures be taken to protect the personal privacy of individuals whose records are involved. Any person who uses or discloses a record or information covered by this subsection for any purpose other than in connection with the proceedings of the board shall be fined not more than $5,000 in the case of a first offense and not more than $20,000 in the case of a subsequent offense.

"(d)(1) The Secretary shall provide for the periodic designation of employees of the Department who are qualified to serve on Disciplinary Appeals Boards. Those employees shall constitute the panel from which board members in a case are appointed. The Secretary shall provide (without charge) a list of the names of employees on the panel to any person requesting such list.

"(2) The Secretary shall announce periodically, and not less often than annually, that the roster of employees on the panel is available as described in paragraph (1). Such announcement shall be made at Department medical facilities and through publication in the Federal Register. Notice of a name being on the list must be provided at least 30 days before the individual selected may serve on a Board or as a grievance examiner. Employees, employee organizations, and other interested parties may submit comments to the Secretary concerning the suitability for service on the panel of any employee whose name is on the list.

"(3) The Secretary shall provide training in the functions and duties of Disciplinary Appeals Boards and grievance procedures under section 7463 of this title for employees selected to be on the panel.".

(b) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 74, as added by section 102, is amended—

(1) by inserting before the item relating to subchapter III the following:

"SUBCHAPTER II—COLLECTIVE BARGAINING AND PERSONNEL ADMINISTRATION

"7421. Personnel administration: in general.

"7422. Collective bargaining.

"7423. Personnel administration: full-time employees."; and

(2) by adding at the end the following:

"SUBCHAPTER V—DISCIPLINARY AND GRIEVANCE PROCEDURES

"7461. Adverse actions: section 7401(1) employees.

"7462. Major adverse actions involving professional conduct or competence.

"7463. Other adverse actions.

"7464. Disciplinary Appeals Boards.".

SEC. 204. DEADLINE FOR REGULATIONS.

The Secretary of Veterans Affairs shall prescribe regulations under subchapter V of chapter 74 of title 38, United States Code (as added by section 203), not later than 180 days after the date of the enactment of this Act. Such regulations shall be published in the Federal Register for notice-and-comment not less than 30 days before the day on which they take effect.

SEC. 205. PRESERVATION OF EXISTING COLLECTIVE-BARGAINING ARRANGEMENTS AND PENDING ACTIONS.

(a) EXISTING COLLECTIVE-BARGAINING ARRANGEMENTS.—Any determination under chapter 71 of title 5, United States Code, of a collective bargaining unit within the Veterans Health Administration of the Department of Veterans Affairs, and any recognition under that chapter of an employee labor organization as the exclusive bargaining representative for employees in a collective bargaining unit of the Department of Veterans Affairs, that is in effect on the date of the enactment of this Act shall not be affected by the amendments made by this Act and shall continue in effect in accordance with the terms of such determination or regulation.

(b) PENDING CASES.—With respect to cases pending on the date of the enactment of this Act, or those cases which are brought before the establishment of either an administrative grievance procedure pursuant to section 7463 of title 38, United States Code (as added by the amendments made by this title), or a negotiated grievance procedure established under a collective bargaining agreement, such cases shall proceed in the same manner as they would have if this Act had not been enacted.

By Mr. HOLLINGS (for himself, Mr. DANFORTH, Mr. EXON, Mr. BURNS, Mr. GORTON, Mr. LOTT, Mr. BOND, Mr. COATS, Mr. D'AMATO, Mr. GRAMM, Mr. LUGAR, Ms. MIKULSKI, Mr. MCCAIN, Mr. MCCONNELL, Mr. HELMS, Mr. WALLOP, Mr. WARNER, Mr. SIMPSON, Mr. GARN, Mr. STEVENS, Mr. THURMOND, Mr. DOLE, Mr. CHAFEE, Mr. BREAUX, and Mr. SARBANES):

S. 676. A bill to provide for testing for the use, in violation of law or Federal regulation, of alcohol or controlled substances by persons who operate aircraft, trains, and commercial motor vehicles, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HOLLINGS (for himself, Mr. DANFORTH, Ms. MIKULSKI, and Mr. SARBANES):

S. 677. A bill to provide for testing for the use, in violation of law or Federal regulation, of alcohol or controlled substances by persons who operate trains; to the Committee on Commerce, Science, and Transportation.

S. 678. A bill to provide for testing for the use, in violation of law or Federal regulation, of alcohol or controlled substances by persons who operate aircraft, commercial motor vehicles, and mass transportation conveyances, and for other purposes; to the Committee on Commerce, Science, and Transportation.

TRANSPORTATION EMPLOYEE TESTING LEGISLATION

• Mr. HOLLINGS. Mr. President, today I send to the desk an omnibus bill that would require drug and alcohol testing in the commercial aviation, railroad, mass transit, and motor carrier industries. I send this bill to the desk on behalf of myself, Senator DANFORTH, and 23 other cosponsors. This is essentially the same bill that Senator DANFORTH and I introduced in the 100th and 101st Congresses. Those bills were debated, reported overwhelmingly by the Commerce Committee, and passed overwhelmingly by the Senate twice in the 100th Congress and three times in the 101st Congress. However, regrettably for transportation safety, we ended the 101st Congress without reaching agreement with our House colleagues on drug and alcohol legislation. This Congress I am hopeful that we can finally enact this important legislation.

We continue to see the need for this legislation. In the railroad industry, as recently as 2 years ago, an accident occurred every 12½ days in which either drugs or alcohol were involved. In the aviation industry, the Department of Transportation [DOT] Inspector General reported in 1989 that 10,300 certified airmen had had their drivers licenses suspended or revoked for driving while intoxicated during the preceding 7 years. In the motor carrier industry, the National Transportation Safety Board recently found that 33 percent of the fatally injured truck drivers tested positive for alcohol and other drugs of abuse, with stimulants being the most frequently identified drug class. The most frequently cited cause of accidents was fatigue—31 percent—followed by alcohol and other drug impairment—29 percent. Furthermore, of the drivers who were fatigued, 33 percent of those also were impaired by alcohol and/or other drugs.

Mr. President, our effort to require drug and alcohol testing programs for safety-sensitive transportation employees began 4 years ago, when 25 people tragically lost their lives in separate airline and rail passenger accidents. Specifically, in January 1987, 16 people died when an Amtrak passenger train was struck by a Conrail engine in Chase, MD. Two weeks later, nine people were killed when a Continental Express commuter aircraft crashed in the mountains near Durango, CO. More recently, we saw the conviction of three Northwest Airlines pilots for flying while intoxicated. The flight was between Fargo, ND, and Minneapolis, and the only reason we know these pilots were legally intoxicated is because the airport authorities called for testing under Minnesota State law. On December 29, 1990, in Boston, 33 people were injured when the trolley car driven by an operator under the influence of alcohol crashed into another trolley car.

These incidents had at least one thing in common. Proof was established that the individuals responsible for the safety of the public in their respective modes of transportation either had been drinking alcohol or had used cocaine, marijuana, or the hallucinogenic drug, PCP. This use impaired or threatened their safety and the safety of the traveling public for whom they were responsible.

DOT has issued a series of rules and regulations in this area. However, the regulations have been contested as having been enacted without authority, and more particularly, they do not include alcohol testing. Our bill includes alcohol—another drug with serious consequences to safety.

This legislation is eminently fair. It both mandates testing to protect the public and includes strong safeguards to ensure accurate testing and to protect innocent employees. It is also multimodal, covering the rail, aviation, motor carrier, and mass transit industries.

Mr. President, this legislation has broad support. The Senate has considered this critical safety legislation five times. This legislation has passed by large majorities five times. Our resolve in this 102d Congress is greater than ever. The safety of the traveling public demands nothing less than prompt enactment of drug and alcohol testing legislation for all commercial modes of travel.

It is critical that we take every step possible to improve transportation safety. By requiring drug and alcohol testing of safety-sensitive transportation workers, this legislation will significantly enhance the safety of the traveling public. It should be favorably considered by the Congress and signed into law as expeditiously as possible. Mr. President, those who drink alcohol and/or use illegal drugs have no business operating a train, plane, truck, or bus. They have no business assuming responsibility for innocent lives.

In addition to the omnibus bill I just described, I also am introducing two additional bills, the Railroad Employee Testing Act of 1991, covering only the railroad industry, and the Transportation Employee Testing Act of 1991, covering commercial aviation, motor carrier, and mass transit. The provisions of these bills are the same as those in the Omnibus Transportation Employee Testing Act of 1991 for the respective modes. I introduce these bills separately in an effort to facilitate conference with the House and enactment. I look forward to working with my Senate colleagues in passing these bills and dealing with the House Members to enact this much needed legislation.

Mr. President, I urge my colleagues to join us in supporting these important safety bills, and I ask unanimous consent that the text of the bills be printed in the RECORD at this point.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 676

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This section may be cited as the "Omnibus Transportation Employee Testing Act of 1991".

FINDINGS

SEC. 2. The Congress finds that—

(1) alcohol abuse and illegal drug use pose significant dangers to the safety and welfare of the Nation;

(2) millions of the Nation's citizens utilize transportation by aircraft, railroads, trucks, and buses, and depend on the operators of aircraft, trains, trucks, and buses to perform in a safe and responsible manner;

(3) the greatest efforts must be expended to eliminate the abuse of alcohol and use of illegal drugs, whether on duty or off duty, by those individuals who are involved in the operation of aircraft, trains, trucks, and buses;

(4) the use of alcohol and illegal drugs has been demonstrated to affect significantly the performance of individuals, and has been proven to have been a critical factor in transportation accidents;

(5) the testing of uniformed personnel of the Armed Forces has shown that the most effective deterrent to abuse of alcohol and use of illegal drugs is increased testing, including random testing;

(6) adequate safeguards can be implemented to ensure that testing for abuse of alcohol or use of illegal drugs is performed in a manner which protects an individual's right of privacy, ensures that no individual is harassed by being treated differently from other individuals, and ensures that no individual's reputation or career development is unduly threatened or harmed; and

(7) rehabilitation is a critical component of any testing program for abuse of alcohol or use of illegal drugs, and should be made available to individuals, as appropriate.

TESTING TO ENHANCE AVIATION SAFETY

SEC. 3. (a) Title VI of the Federal Aviation Act of 1958 (49 App. U.S.C. 1421 et seq.) is amended by adding at the end thereof the following:

"SEC 614. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

"(a) TESTING PROGRAM.—

"(1) PROGRAM FOR EMPLOYERS OF CARRIERS.—The Administrator shall, in the interest of aviation safety, prescribe regulations within 12 months after the date of enactment of this section. Such regulations shall establish a program which requires air carriers and foreign air carriers to conduct preemployment, reasonable suspicion, random, and post-accident testing of airmen, crewmembers, airport security screening contract personnel, and other air carrier employees responsible for safety-sensitive functions (as determined by the Administrator) for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Administrator may also prescribe regulations, as the Administrator considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such employees for such use in violation of law or Federal regulation.

"(2) PROGRAM FOR FAA EMPLOYEES.—The Administrator shall establish a program applicable to employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions. Such program shall provide for preemployment, reasonable suspicion, random, and post-accident testing for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Administrator may also prescribe regulations, as the Administrator considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such employees for such use in violation of law or Federal regulation.

"(3) SUSPENSION; REVOCATION; DISQUALIFICATION; DISMISSAL.—In prescribing regulations under the programs required by this subsection, the Administrator shall require, as the Administrator considers appropriate, the suspension or revocation of any certificate issued to such an individual, or the disqualification or dismissal of any such individual, in accordance with the provisions of this section, in any instance where a test conducted and confirmed under this section indicates that such individual has used, in violation of law or Federal regulation, alcohol or a controlled substance.

"(b) PROHIBITION ON SERVICE.—

"(1) PROHIBITED ACT.—It is unlawful for a person to use, in violation of law or Federal regulation, alcohol or a controlled substance after the date of enactment of this section and serve as an airman, crewmember, airport security screening contract personnel, air carrier employee responsible for safety-sensitive functions (as determined by the Administrator), or employee of the Federal Aviation Administration with responsibility for safety-sensitive functions.

"(2) EFFECT OF REHABILITATION.—No individual who is determined to have used, in violation of law or Federal regulation, alcohol or a controlled substance after the date of enactment of this section shall serve as an airman, crewmember, airport security screening contract personnel, air carrier employee responsible for safety-sensitive functions (as determined by the Administrator), or employee of the Federal Aviation Administration with responsibility for safety-sensitive functions unless such individual has completed a program of rehabilitation described in subsection (c) of this section.

"(3) PERFORMANCE OF PRIOR DUTIES PROHIBITED.—Any such individual determined by the Administrator to have used, in violation of law or Federal regulation, alcohol or a controlled substance after the date of enactment of this section who—

"(A) engaged in such use while on duty;

"(B) prior to such use had undertaken or completed a rehabilitation program described in subsection (c);

"(C) following such determination refuses to undertake such a rehabilitation program; or

"(D) following such determination fails to complete such a rehabilitation program,

shall not be permitted to perform the duties relating to air transportation which such individual performed prior to the date of such determination.

"(c) PROGRAM FOR REHABILITATION.—

"(1) PROGRAM FOR EMPLOYEES OF CARRIERS.—The Administrator shall prescribe regulations setting forth requirements for rehabilitation programs which at a minimum provide for the identification and opportunity for treatment of employees referred to in subsection (a)(1) in need of assistance in resolving problems with the use, in violation of law or Federal regulation, of alcohol or controlled substances. Each air carrier and foreign air carrier is encouraged to make such a program available to all of its employees in addition to those employees referred to in subsection (a)(1), The Administrator shall determine the circumstances under which such employees shall be required to participate in such a program. Nothing in this subsection shall preclude any air carrier or foreign air carrier from establishing a program under this subsection in cooperation with any other air carrier or foreign air carrier.

"(2) PROGRAM FOR FAA EMPLOYEES.—The Administrator shall establish and maintain a rehabilitation program which at a minimum provides for the identification and opportunity for treatment of those employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions who are in need of assistance in resolving problems with the use of alcohol or controlled substances.

"(d) PROCEDURES FOR TESTING.—In establishing the program required under subsection (a), the Administrator shall develop requirements which shall—

"(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(2) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(A) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

"(B) establish the minimum list of controlled substances for which individuals may be tested; and

"(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

"(3) require that all laboratories involved in the controlled substances testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(4) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(5) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within 3 days after being advised of the results of the confirmation test;

"(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

"(7) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

"(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"(e) EFFECT ON OTHER LAWS AND REGULATIONS.—

"(1) STATE AND LOCAL LAW AND REGULATIONS.—No State or local government shall adopt or have in effect any law, rule, or regulation, ordinance, standard, or order that is inconsistent with the regulations promulgated under this section, except that the regulations promulgated under this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury or damage to property, whether the provisions apply specifically to employees of an air carrier or foreign air carrier, or to the general public.

"(2) OTHER REGULATIONS ISSUED BY ADMINISTRATOR.—Nothing in this section shall be construed to restrict the discretion of the Administrator to continue in force, amend, or further supplement any regulations issued before the date of enactment of this section that govern the use of alcohol and controlled substances by airmen, crewmembers, airport security screening contract personnel, air carrier employees responsible for safety-sensitive functions (as determined by the Administrator), or employees of the Federal Aviation. Administration with responsibility for safety-sensitive functions.

"(3) INTERNATIONAL OBLIGATIONS.—In prescribing regulations under this section, the Administrator shall only establish requirements applicable to foreign air carriers that are consistent with the international obligations of the United States, and the Administrator shall take into consideration any applicable laws and regulations of foreign countries. The Secretary of State and the Secretary of Transportation, jointly, shall call on the member countries of the International Civil Aviation Organization to strengthen and enforce existing standards to prohibit the use, in violation of law or Federal regulation, of alcohol or a controlled substance by crew members in international civil aviation.

"(f) DEFINITION.—For the purposes of this section, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) specified by the Administrator.".

"(b) That portion of the table of contents of the Federal Aviation Act of 1958 relating to title VI is amended by adding at the end thereof the following:

"Sec. 614. Alcohol and controlled substances testing.

"(a) Testing program.

"(b) Prohibition on service.

"(c) Program for rehabilitation.

"(d) Procedures.

"(e) Effect on other laws and regulations.

"(f) Definition.".

TESTING TO ENHANCE RAILROAD SAFETY

SEC. 4. Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end therefore the following:

"(4)(1) In the interest of safety, the Secretary shall, within twelve months after the date of enactment of this subsection, issue rules, regulations, standards, and orders relating to alcohol and drug use in railroad operations. Such regulations shall establish a program which—

"(A) requires railroads to conduct preemployment, reasonable suspicious, random, and post-accident testing of all railroad employees responsible for safety-sensitive functions (as determined by the Secretary) for use, in violation of law or Federal regulation, of alcohol or a controlled substance;

"(B) requires, as the Secretary considers appropriate, disqualification for an established period of time or dismissal of any employee determined to have used or to have been impaired by alcohol while on duty; and

"(C) requires, as the Secretary considers appropriate, disqualification for an established period of time or dismissal of any employee determined to have used a controlled substance, whether on duty or not on duty, except as permitted for medical purposes by law and any rules, regulations, standards or orders issued under this title.

The Secretary may also issue rules, regulations, standards, and orders, as the Secretary considers appropriate in the interest of safety, requiring railroads to conduct periodic recurring testing of railroad employees responsible for such safety sensitive functions, for use of alcohol or a controlled substance in violation of law or Federal regulation. Nothing in this subsection shall be construed to restrict the discretion of the Secretary to continue in force, amend, or further supplement any rules, regulations, standards, and orders governing the use of alcohol and controlled substances in railroad operations issued before the date of enactment of this subsection.

"(2) In carrying out the provisions of this subsection, the Secretary shall develop requirements which shall—

"(A) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(B) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(i) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this subsection, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

"(ii) establish the minimum list of controlled substances for which individuals may be tested; and

"(iii) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this subsection;

"(C) require that all laboratories involved in the controlled substances testing of any employee under this subsection shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(D) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or a controlled substance by any employee shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(E) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibilty of tampering, so that in the event the individual's confirmation tests results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within 3 days after being advised of the results of the confirmation test;

"(F) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

"(G) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this subparagraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this subsection; and

"(H) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"(3) The Secretary shall issue rules, regulations, standards, or orders setting forth requirements for rehabilitation programs which at a minimum provide for the identification and opportunity for treatment of railroad employees responsible for safety-sensitive functions (as determined by the Secretary) in need of assistance in resolving problems with the use, in violation of law or Federal regulation, of alcohol or a controlled substance. Each railroad is encouraged to make such a program available to all of its employees in addition to those employees responsible for safety sensitive functions. The Secretary shall determine the circumstances under which such employees shall be required to participate in such program. Nothing in this paragraph shall preclude a railroad from establishing a program under this paragraph in cooperation with any other railroad.

"(4) In carrying out the provisions of this subsection, the Secretary shall only establish requirements that are consistent with the international obligations of the United States, and the Secretary shall take into consideration any applicable laws and regulations of foreign countries.

"(5) For the purposes of this subsection, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) specified by the Secretary.".

TESTING TO ENHANCE MOTOR CARRIER SAFETY

SEC. 5. (a)(1) The Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2701 et seq.) is amended by adding at the end of the following new section:

"SEC. 12020. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

"(a) REGULATIONS.—The Secretary shall, in the interest of commercial motor vehicle safety, issue regulations within twelve months after the date of enactment of this section. Such regulations shall establish a program which requires motor carriers to conduct preemployment, reasonable suspicion, random, and post-accident testing of the operators of commercial motor vehicles for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Secretary may also issue regulations, as the Secretary considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such operators for such use in violation of law or Federal regulation.

"(b) TESTING.—

"(1) POST-ACCIDENT TESTING.—In issuing such regulations, the Secretary shall require that post-accident testing of the operator of a commercial motor vehicle be conducted in the case of any accident involving a commercial motor vehicle in which occurs loss of human life, or, as determined by the Secretary, other serious accident involving bodily injury or significant property damage.

"(2) TESTING AS PART OF MEDICAL EXAMINATION.—Nothing in subsection (a) of this section shall preclude the Secretary from providing in such regulations that such testing be conducted as part of the medical examination required by subpart E of part 391 of title 49, Code of Federal Regulations, with respect to those operators of commercial motor vehicles to whom such part is applicable.

"(c) PROGRAM FOR REHABILITATION.—The Secretary shall issue regulations setting forth requirements for rehabilitation programs which provide for the identification and opportunity for treatment of operators of commercial motor vehicles who are determined to have used, in violation of law or Federal regulation, alcohol or a controlled substance. The Secretary shall determine the circumstances under which such operators shall be required to participate in such program. Nothing in this subsection shall preclude a motor carrier from establishing a program under this subsection in cooperation with any other motor carrier.

"(d) PROCEDURES FOR TESTING.—In establishing the program required under subsection (a) of this section, the Secretary shall develop requirements which shall—

"(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(2) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guildelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(A) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

"(B) establish the minimum list of controlled substances for which individuals may be tested; and

"(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

"(3) require that laboratories involved in the testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(4) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(5) provide that each specimen sample be subdivided, secured, and labeled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within 3 days after being advised of the results of the confirmation test;

"(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

"(7) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

"(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"(e) EFFECT ON OTHER LAWS AND REGULATIONS.—

"(1) STATE AND LOCAL LAW AND REGULATIONS.—No State or local government shall adopt or have in effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with the regulations issued under this section, except that the regulations issued under this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to commercial motor vehicle employees, or to the general public.

"(2) OTHER REGULATIONS ISSUED BY SECRETARY.—Nothing in this section shall be construed to restrict the discretion of the Secretary to continue in force, amend, or further supplement any regulations governing the use of alcohol or controlled substances by commercial motor vehicle employees issued before the date of enactment of this section.

"(3) INTERNATIONAL OBLIGATIONS.—In issuing regulations under this section, the Secretary shall only establish requirements that are consistent with the international obligations of the United States, and the Secretary shall take into consideration any applicable laws and regulations of foreign countries.

"(f) APPLICATION OF PENALTIES.—

"(1) EFFECT ON OTHER PENALTIES.—Nothing in this section shall be construed to supersede any penalty applicable to the operator of a commercial motor vehicle under this title or any other provision of law.

"(2) DETERMINATION OF SANCTIONS.—The Secretary shall determine appropriate sanctions for commercial motor vehicle operators who are determined, as a result of tests conducted and confirmed under this section, to have used, in violation of law or Federal regulation, alcohol or a controlled substance but are not under the influence of alcohol or a controlled substance, as provided in this title.

"(g) DEFINITION.—For the purposes of this section, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) specified by the Secretary.".

(2) The table of contents of the Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570; 100 Stat. 5223) is amended by adding at the end thereof the following:

"Sec. 12020. Alcohol and controlled substances testing.".

(b)(1) The Secretary of Transportation shall design within nine months after the date of enactment of this Act, and implement within fifteen months after the date of enactment of this Act, a pilot test program for the purpose of testing the operators of commercial motor vehicles on a random basis to determine whether an operator has used, in violation of law or Federal regulation, alcohol or a controlled substance. The pilot test program shall be administered as part of the Motor Carrier Safety Assistance Program.

(2) The Secretary shall solicit the participation of States which are interested in participating in such program and shall select four States to participate in the program.

(3) The Secretary shall ensure that the States selected pursuant to this subsection are representative of varying geographical and population characteristics of the Nation and that the selection takes into consideration the historical geographical incidence of commercial motor vehicle accidents involving loss of human life.

(4) The pilot program authorized by this subsection shall continue for a period of one year. The Secretary shall consider alternative methodologies for implementing a system of random testing of operators of commercial motor vehicles.

(5) Not later than thirty months after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a comprehensive report setting forth the results of the pilot program conducted under this subsection. Such report shall include any recommendations of the Secretary concerning the desirability and implementation of a system for the random testing of operators of commercial motor vehicles.

(6) For purposes of carrying out this subsection, there shall be available to the Secretary $5,000,000 from funds made available to carry out section 404 of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2304) for fiscal year 1990.

(7) For purposes of this subsection, the term "commercial motor vehicle" shall have the meaning given to such term in section 12019(6) of the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2716(6)).

TESTING TO ENHANCE MASS TRANSPORTATION SAFETY

SEC. 6.(a) As used in this section, the term—

(1) "controlled substance" means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) whose use the Secretary has determined has a risk to transportation safety;

(2) "person" includes any corporation, partnership, joint venture, association, or other entity organized or existing under the laws of the United States, or any State, territory, district, or possession thereof, or of any foreign country;

(3) "Secretary" means the Secretary of Transportation; and

(4) "mass transportation" means all forms of mass transportation except those forms that the Secretary determines are covered adequately, for purposes of employee drug and alcohol testing, by either the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.) or the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2701 et seq.).

(b)(1) The Secretary shall, in the interest of mass transportation safety, issue regulations within twelve months after the date of enactment of this Act. Such regulations shall establish a program which requires mass transportation operations which are recipients of Federal financial assistance under section 3, 9, or 18 of the Urban Mass Transportation Act of 1964 (49 App. U.S.C. 1602, 1607a, or 1614) or section 103(e)(4) of title 23, United States Code, to conduct preemployment, reasonable suspicion, random, and post-accident testing of mass transportation employees responsible for safety-sensitive functions (as determined by the Secretary) for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Secretary may also issue regulations, as the Secretary considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such employees for such use in violation of law or Federal regulation.

(2) In issuing such regulations, the Secretary shall require that post-accident testing of such a mass transportation employee be conducted in the case of any accident involving mass transportation in which occurs loss of human life, or, as determined by the Secretary, other serious accidents involving bodily injury or significant property damage.

(c) The Secretary shall issue regulations setting forth requirements for rehabilitation programs which provide for the identification and opportunity for treatment of mass transportation employees referred to in subsection (b)(1) who are determined to have used, in violation of law or Federal regulation, alcohol or a controlled substance. The Secretary shall determine the circumstances under which such employees shall be required to participate in such program. Nothing in this subsection shall preclude a mass transportation operation from establishing a program under this section in cooperation with any other such operation.

(d) In establishing the program required under subsection (b), the Secretary shall develop requirements which shall—

(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

(2) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

(A) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

(B) establish the minimum list of controlled substances for which individuals may be tested; and

(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

(3) require that all laboratories involved in the testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

(4) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

(5) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within three days after being advised of the results of the confirmation test;

(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

(7) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

(e)(1) No State or local government shall adopt or have in effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with the regulations issued under this section, except that the regulations issued under this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to mass transportation employees, or to the general public.

(2) Nothing in this section shall be construed to restrict the discretion of the Secretary to continue in force, amend, or further supplement any regulations governing the use of alcohol or controlled substances by mass transportation employees issued before the date of enactment of this Act.

(3) In issuing regulations under this section, the Secretary shall only establish requirements that are consistent with the international obligations of the United States, and the Secretary shall take into consideration any applicable laws and regulations of foreign countries.

(f)(1) As the Secretary considers appropriate, the Secretary shall require—

(A) disqualification for an established period of time or dismissal of any employee referred to in subsection (b)(1) who is determined to have used or to have been impaired by alcohol while on duty; and

(B) disqualification for an established period of time or dismissal of any such employee determined to have used a controlled substance, whether on duty or not on duty, except as permitted for medical purposes by law or any regulations.

(2) Nothing in this section shall be construed to supersede any penalty applicable to a mass transportation employee under any other provision of law.

(g) A person shall not be eligible for Federal financial assistance under section 3, 9, or 18 of the Urban Mass Transportation Act of 1964 (49 App. U.S.C. 1602, 1607a, or 1614) or section 103(e)(4) of title 23, United States Code, if such person—

(1) is required, under regulations prescribed by the Secretary under this section, to establish a program of alcohol and controlled substances testing; and

(2) fails to establish such a program in accordance with such regulations.

S. 677

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This section may be cited as the "Railroad Employee Testing Act of 1991".

FINDINGS

SEC. 2. The Congress finds that—

(1) alcohol abuse and illegal drug use pose significant dangers to the safety and welfare of the Nation;

(2) millions of the Nation's citizens utilize transportation by railroad, and depend on the operators of trains to perform in a safe and responsible manner;

(3) the greatest efforts must be expended to eliminate the abuse of alcohol and use of illegal drugs, whether on duty or off duty, by those individuals who are involved in the operation of trains;

(4) the use of alcohol and illegal drugs has been demonstrated to affect significantly the performance of individuals, and has been proven to have been a critical factor in transportation accidents;

(5) the testing of uniformed personnel of the Armed Forces has shown that the most effective deterrent to abuse of alcohol and illegal drugs is increased testing, including random testing;

(6) adequate safeguards can be implemented to ensure that testing for abuse of alcohol or use of illegal drugs is performed in a manner which protects an individual's right of privacy, ensures that no individual is harassed by being treated differently from other individuals, and ensures that no individual's reputation or career development is unduly threatened or harmed; and

(7) rehabilitation is a critical component of any testing program for abuse of alcohol or use of illegal drugs, and should be made available to individuals, as appropriate.

ALCOHOL AND CONTROLLED SUBSTANCES TESTING

SEC. 3. Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end thereof the following:

"(r)(1) In the interest of safety, the Secretary shall, within twelve months after the date of enactment of this subsection, issue rules, regulations, standards, and orders relating to alcohol and drug use in railroad operations. Such regulations shall establish a program which—

"(A) requires railroads to conduct preemployment, reasonable suspicion, random, and post-accident testing of all railroad employees responsible for safety-sensitive functions (as determined by the Secretary) for use, in violation of law or Federal regulation, of alcohol or a controlled substance;

"(B) requires, as the Secretary considers appropriate, disqualification for an established period of time or dismissal of any employee determined to have used or to have been impaired by alcohol while on duty; and

"(C) requires, as the Secretary considers appropriate, disqualification for an established period of time or dismissal of any employee determined to have used a controlled substance, whether on duty or not on duty, except as permitted for medical purposes by law and any rules, regulations, standards, or orders issued under this title.

The Secretary may also issue rules, regulations, standards, and orders, as the Secretary considers appropriate in the interest of safety, requiring railroads to conduct periodic recurring testing of railroad employees responsible for such safety sensitive functions, for use of alcohol or a controlled substance in violation of law or Federal regulation. Nothing in this subsection shall be construed to restrict the discretion of the Secretary to continue in force, amend, or further supplement any rules, regulations, standards, and orders governing the use of alcohol and controlled substances in railroad operations issued before the date of enactment of this subsection.

"(2) In carrying out the provisions of this subsection, the Secretary shall develop requirements which shall—

"(A) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(B) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(i) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this subsection, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

"(ii) establish the minimum list of controlled substances for which individuals may be tested; and

"(iii) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this subsection;

"(C) require that all laboratories involved in the controlled substances testing of any employee under this subsection shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(D) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or a controlled substance by any employee shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(E) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within 3 days after being advised of the results of the confirmation test;

"(F) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

"(G) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this subparagraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this subsection; and

"(H) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"(3) The Secretary shall issue rules, regulations, standards, or orders setting forth requirements for rehabilitation programs which at a minimum provide for the identification and opportunity for treatment of railroad employees responsible for safety-sensitive functions (as determined by the Secretary) in need of assistance in resolving problems with the use, in violation of law or Federal regulation, of alcohol or a controlled substance. Each railroad is encouraged to make such a program available to all of its employees in addition to those employees responsible for safety sensitive functions. The Secretary shall determine the circumstances under which such employees shall be required to participate in such program. Nothing in this paragraph shall preclude a railroad from establishing a program under this paragraph in cooperation with any other railroad.

"(4) In carrying out the provisions of this subsection, the Secretary shall only establish requirements that are consistent with the international obligations of the United States, and the Secretary shall take into consideration any applicable laws and regulations of foreign countries.

"(5) For the purposes of this subsection, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) specified by the Secretary.".

S. 678

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This section may be cited as the "Transportation Employee Testing Act of 1991".

FINDINGS

SEC. 2. The Congress finds that—

(1) alcohol abuse and illegal drug use pose significant dangers to the safety and welfare of the Nation;

(2) millions of the Nation's citizens utilize transportation by aircraft, trucks, buses, and mass transportation conveyances and depend on the operators of aircraft, trucks, buses, and mass transportation conveyances to perform in a safe and responsible manner;

(3) the greatest efforts must be expended to eliminate the abuse of alcohol and use of illegal drugs, whether on duty or off duty, by those individuals who are involved in the operation of aircraft, trucks, buses, and mass transportation conveyances;

(4) the use of alcohol and illegal drugs has been demonstrated to affect significantly the performance of individuals, and has been proven to have been a critical factor in transportation accidents;

(5) the testing of uniformed personnel of the Armed Forces has shown that the most effective deterrent to abuse of alcohol and use of illegal drugs is increased testing, including random testing;

(6) adequate safeguards can be implemented to ensure that testing for abuse of alcohol or use of illegal drugs is performed in a manner which protects an individual's right of privacy, ensures that no individual is harassed by being treated differently from other individuals, and ensures that no individual's reputation or career development is unduly threatened or harmed; and

(7) rehabilitation is a critical component of any testing program for abuse of alcohol or use of illegal drugs, and should be made available to individuals, as appropriate.

TESTING TO ENHANCE AVIATION SAFETY

SEC. 3. (a) Title VI of the Federal Aviation Act of 1958 (49 App. U.S.C. 1421 et seq.) is amended by adding at the end thereof the following:

"SEC. 614. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

"(a) TESTING PROGRAM.—

"(1) PROGRAM FOR EMPLOYERS OF CARRIERS.—The Administrator shall, in the interest of aviation safety, prescribe regulations within 12 months after the date of enactment of this section. Such regulations shall establish a program which requires air carriers and foreign air carriers to conduct preemployment, reasonable suspicion, random, and post-accident testing of airmen, crewmembers, airport security screening contract personnel, and other air carrier employees responsible for safety-sensitive functions (as determined by the Administrator) for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Administrator may also prescribe regulations, as the Administrator considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such employees for such use in violation of law or Federal regulation.

"(2) PROGRAM FOR FAA EMPLOYEES.—The Administrator shall establish a program applicable to employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions. Such program shall provide for preemployment, reasonable suspicion, random, and post-accident testing for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Administrator may also prescribe regulations, as the Administrator considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such employees for such use in violation of law or Federal regulation.

"(3) SUSPENSION; REVOCATION; DISQUALIFICATION; DISMISSAL.—In prescribing regulations under the programs required by this subsection, the Administrator shall require, as the Administrator considers appropriate, the suspension or revocation of any certificate issued to such an individual, or the disqualification or dismissal of any such individual, in accordance with the provisions of this section, in any instance where a test conducted and confirmed under this section indicates that such individual has used, in violation of law or Federal regulation, alcohol or a controlled substance.

"(b) PROHIBITION ON SERVICE.—

"(1) PROHIBITED ACT.—It is unlawful for a person to use, in violation of law or Federal regulation, alcohol or a controlled substance after the date of enactment of this section and serve as an airman, crewmember, airport security screening contract personnel, air carrier employee responsible for safety-sensitive functions (as determined by the Administrator), or employee of the Federal Aviation Administration with responsibility for safety-sensitive functions.

"(2) EFFECT OF REHABILITATION.—No individual who is determined to have used, in violation of law or Federal regulation, alcohol or a controlled substance after the date of enactment of this section shall serve as an airman, crewmember, airport security screening contract personnel, air carrier employee responsible for safety-sensitive functions (as determined by the Administrator), or employee of the Federal Aviation Administration with responsibility for safety-sensitive functions unless such individual has completed a program of rehabilitation described in subsection (c) of this section.

"(3) PERFORMANCE OF PRIOR DUTIES PROHIBITED.—Any such individual determined by the Administrator to have used, in violation of law or Federal regulation, alcohol or a controlled substance after the date of enactment of this section who—

"(A) engaged in such use while on duty;

"(B) prior to such use had undertaken or completed a rehabilitation program described in subsection (c);

"(C) following such determination refuses to undertake such a rehabilitation program; or

"(D) following such determination fails to complete such a rehabilitation program,

shall not be permitted to perform the duties relating to air transportation which such individual performed prior to the date of such determination.

"(c) PROGRAM FOR REHABILITATION.—

"(1) PROGRAM FOR EMPLOYEES OF CARRIERS.—The Administrator shall prescribe regulations setting forth requirements for rehabilitation programs which at a minimum provide for the identification and opportunity for treatment of employees referred to in subsection (a)(1) in need of assistance in resolving problems with the use, in violation of law or Federal regulation, of alcohol or controlled substances. Each air carrier and foreign air carrier is encouraged to make such a program available to all of its employees in addition to those employees referred to in subsection (a)(1). The Administrator shall determine the circumstances under which such employees shall be required to participate in such a program. Nothing in this subsection shall preclude any air carrier or foreign air carrier from establishing a program under this subsection in cooperation with any other air carrier or foreign air carrier.

"(2) PROGRAM FOR FAA EMPLOYEES.—The Administrator shall establish and maintain a rehabilitation program which at a minimum provides for the identification and opportunity for treatment of those employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions who are in need of assistance in resolving problems with the use of alcohol or controlled substances.

"(d) PROCEDURES FOR TESTING.—In establishing the program required under subsection (a), the Administrator shall develop requirements which shall—

"(1) promote, to the maximum extent practicable, individual privacy in the coalition of specimen samples;

"(2) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(A) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

"(B) establish the minimum list of controlled substances for which individuals may be tested; and

"(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

"(3) require that all laboratories involved in the controlled substances testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(4) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(5) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within 3 days after being advised of the results of the confirmation test;

"(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

"(7) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

"(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"(e) EFFECT ON OTHER LAWS AND REGULATIONS.—

"(1) STATE AND LOCAL LAW AND REGULATIONS.—No State or local government shall adopt or have in effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with the regulations promulgated under this section, except that the regulations promulgated under this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury or damage to property, whether the provisions apply specifically to employees of an air carrier or foreign air carrier, or to the general public.

"(2) OTHER REGULATIONS ISSUED BY ADMINISTRATOR.—Nothing in this section shall be construed to restrict the discretion of the Administrator to continue in force, amend, or further supplement any regulations issued before the date of enactment of this section that govern the use of alcohol and controlled substances by airmen, crewmembers, airport security screening contract personnel, air carrier employees responsible for safety-sensitive functions (as determined by the Administrator), or employees of the Federal Aviation Administration with responsibility for safety-sensitive functions.

"(3) INTERNATIONAL OBLIGATIONS.—In prescribing regulations under this section, the Administrator shall only establish requirements applicable to foreign air carriers that are consistent with the international obligations of the United States, and the Administrator shall take into consideration any applicable laws and regulations of foreign countries. The Secretary of State and the Secretary of Transportation, jointly, shall call on the member countries of the International Civil Aviation Organization to strengthen and enforce existing standards to prohibit the use, in violation of law or Federal regulation, of alcohol or a controlled substance by crew members in international civil aviation.

"(f) DEFINITION.—For the purposes of this section, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) specified by the Administrator.".

(b) That portion of the table of contents of the Federal Aviation Act of 1958 relating to title VI is amended by adding at the end thereof the following:

"Sec. 614. Alcohol and controlled substances testing.
"(a) Testing program.
"(b) Prohibition on service.
"(c) Program for rehabilitation.
"(d) Procedures.
"(e) Effect on other laws and regulations.
"(f) Definition.".

TESTING TO ENHANCE MOTOR CARRIER SAFETY

SEC. 4. (a)(1) The Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2701 et seq.) is amended by adding at the end the following new section:

"SEC. 12020. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

"(a) REGULATIONS—The Secretary shall, in the interest of commercial motor vehicle safety, issue regulations within twelve months after the date of enactment of this section. Such regulations shall establish a program which requires motor carriers to conduct preemployment, reasonable suspicion, random, and post-accident testing of the operators of commercial motor vehicles for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Secretary may also issue regulations, as the Secretary considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such operators for such use in violation of law or Federal regulation.

"(b) TESTING.—

"(1) POST-ACCIDENT TESTING.—In issuing such regulations, the Secretary shall require that post-accident testing of the operator of a commercial motor vehicle be conducted in the case of any accident involving a commercial motor vehicle in which occurs loss of human life, or, as determined by the Secretary, other serious accidents involving bodily injury or significant property damage.

"(2) TESTING AS PART OF MEDICAL EXAMINATION.—Nothing in subsection (a) of this section shall preclude the Secretary from providing in such regulations that such testing be conducted as part of the medical examination required by subpart E of part 391 of title 49, Code of Federal Regulations, with respect to those operators of commercial motor vehicles to whom such part is applicable.

"(c) PROGRAM FOR REHABILITATION.—The Secretary shall issue regulations setting forth requirements for rehabilitation programs which provide for the identification and opportunity for treatment of operators of commercial motor vehicles who are determined to have used, in violation of law or Federal regulation, alcohol or a controlled substance. The Secretary shall determine the circumstances under which such operators shall be required to participate in such program. Nothing in this subsection shall preclude a motor carrier from establishing a program under this subsection in cooperation with any other motor carrier.

"(d) PROCEDURE FOR TESTING.—In establishing the program required under subsection (a) of this section, the Secretary shall develop requirements which shall—

"(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(2) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(A) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

"(B) establish the minimum list of controlled substances for which individuals may be tested; and

"(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

"(3) require that all laboratories involved in the testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(4) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(5) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within 3 days after being advised of the results of the confirmation test;

"(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

"(7) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

"(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"(e) EFFECT ON OTHER LAWS AND REGULATIONS.—

"(1) STATE AND LOCAL LAW AND REGULATIONS.—No State or local government shall adopt or have in effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with the regulations issued under this section, except that the regulations issued under this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to commercial motor vehicle employees, or to the general public.

"(2) OTHER REGULATIONS ISSUED BY SECRETARY.—Nothing in this section shall be construed to restrict the discretion of the Secretary to continue in force, amend, or further supplement any regulations governing the use of alcohol or controlled substances by commercial motor vehicle employees issued before the date of enactment of this section.

"(3) INTERNATIONAL OBLIGATIONS.—In issuing regulations under this section, the Secretary shall only establish requirements that are consistent with the international obligations of the United States, and the Secretary shall take into consideration any applicable laws and regulations of foreign countries.

"(f) APPLICATION OF PENALTIES.—

"(1) EFFECT ON OTHER PENALTIES.—Nothing in this section shall be construed to supersede any penalty applicable to the operator of a commercial motor vehicle under this title or any other provision of law.

"(2) DETERMINATION OF SANCTIONS.—The Secretary shall determine appropriate sanctions for commercial motor vehicle operators who are determined, as a result of tests conducted and confirmed under this section, to have used, in violation of law or Federal regulation, alcohol or a controlled substance but are not under the influence of alcohol or a controlled substance, as provided in this title.

"(g) DEFINITION.—For the purposes of this section, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) specified by the Secretary.".

(2) The table of contents of the Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570; 100 Stat. 5223) is amended by adding at the end thereof the following:

"Sec. 12020. Alcohol and controlled substances testing.".

(b)(1) The Secretary of Transportation shall design within nine months after the date of enactment of this Act, and implement within fifteen months after the date of enactment of this Act, a pilot test program for the purpose of testing the operators of commercial motor vehicles on a random basis to determine whether an operator has used, in violation of law or Federal regulation, alcohol or a controlled substance. The pilot test program shall be administered as part of the Motor Carrier Safety Assistance Program.

(2) The Secretary shall solicit the participation of States which are interested in participating in such program and shall select four States to participate in the program.

(3) The Secretary shall ensure that the States selected pursuant to this subsection are representative of varying geographical and population characteristics of the Nation and that the selection takes into consideration the historical geographical incidence of commercial motor vehicle accidents involving loss of human life.

(4) The pilot program authorized by this subsection shall continue for a period of one year. The Secretary shall consider alternative methodologies for implementing a system of random testing of operators of commercial motor vehicles.

(5) Not later than thirty months after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a comprehensive report setting forth the results of the pilot program conducted under this subsection. Such report shall include any recommendations of the Secretary concerning the desirability and implementation of a system for the random testing of operators of commercial motor vehicles.

(6) For purposes of carrying out this subsection, there shall be available to the Secretary $5,000,000 from funds made available to carry out section 404 of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2304) for fiscal year 1990.

(7) For purposes of this subsection, the term "commercial motor vehicle" shall have the meaning given to such term in section 12019(6) of the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2716(6)).

TESTING TO ENHANCE MASS TRANSPORTATION SAFETY

SEC. 5.(a) As used in this section, the term—

(1) "controlled substance" means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) whose use the Secretary has determined has a risk to transportation safety;

(2) "person" includes any corporation, partnership, joint venture, association, or other entity organized or existing under the laws of the United States, or any State, territory, district, or possession thereof, or of any foreign country;

(3) "Secretary" means the Secretary of Transportation; and

(4) "mass transportation" means all forms of mass transportation except those forms that the Secretary determines are covered adequately, for purposes of employee drug and alcohol testing, by either the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.) or the Commerical Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2701 et seq.).

(b)(1) The Secretary shall, in the interest of mass transportation safety, issue regulations within twelve months after the date of enactment of this Act. Such regulations shall establish a program which requires mass transportation operations which are recipients of Federal financial assistance under section 3, 9, or 18 of the Urban Mass Transportation Act of 1964 (49 App. U.S.C. 1602, 1607a, or 1614) or section 103(e) of title 23, United States Code, to conduct preemployment, reasonable suspicion, random, and post-accident testing of mass transportation employees responsible for safety-sensitive functions (as determined by the Secretary) for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Secretary may also issue regulations, as the Secretary considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such employees for such use in violation of law or Federal regulation.

(2) In issuing such regulations, the Secretary shall require that post-accident testing of such a mass transportation employee be conducted in the case of any accident involving mass transportation in which occurs loss of human life, or, as determined by the Secretary, other serious accidents involving bodily injury or significant property damage.

(c) The Secretary shall issue regulations setting forth requirements for rehabilitation programs which provide for the identification and opportunity for treatment of mass transportation employees referred to in subsection (b)(1) who are determined to have used, in violation of law or Federal regulation, alcohol or a controlled substance. The Secretary shall determine the circumstances under which such employees shall be required to participate in such program. Nothing in this subsection shall preclude a mass transportation operation from establishing a program under this section in cooperation with any other such operation.

(d) In establishing the program required under subsection (b), the Secretary shall develop requirements which shall—

(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

(2) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

(A) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

(B) establish the minimum list of controlled substances for which individuals may be tested; and

(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

(3) require that all laboratories involved in the testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

(4) provide that all tests which indicate the use, in violation of law or Federal Regulation, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

(5) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within three days after being advised of the results of the confirmation test;

(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

(7) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

(e)(1) No State or local government shall adopt or have in effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with the regulations issued under this section, except that the regulations issued under this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to mass transportation employees, or to the general public.

(2) Nothing in this section shall be construed to restrict the discretion of the Secretary to continue in force, amend, or further supplement any regulations governing the use of alcohol or controlled substances by mass transportation employees issued before the date of enactment of this Act.

(3) In issuing regulations under this section, the Secretary shall only establish requirements that are consistent with the international obligations of the United States, and the Secretary shall take into consideration any applicable laws and regulations of foreign countries.

(f)(1) As the Secretary considers appropriate, the Secretary shall require—

(A) disqualification for an established period of time or dismissal of any employee referred to in subsection (b)(1) who is determined to have used or to have been impaired by alcohol while on duty; and

(B) disqualification for an established period of time or dismissal of any such employee determined to have used a controlled substance, whether on duty or not on duty, except as permitted for medical purposes by law or any regulations.

(2) Nothing in this section shall be construed to supersede any penalty applicable to a mass transportation employee under any other provision of law.

(g) A person shall not be eligible for Federal financial assistance under section 3, 9, or 18 of the Urban Mass Transportation Act of 1964 (49 App. U.S.C. 1602, 1607a, or 1614) or section 103(e)(4) of title 23, United States Code, if such person—

(1) is required, under regulations prescribed by the Secretary under this section, to establish a program of alcohol and controlled substances testing; and

(2) fails to establish such a program in accordance with such regulations.•

• Mr. DANFORTH. Mr. President, today, Senator HOLLINGS and I, along with twenty three cosponsors, are introducing legislation to require drug and alcohol testing for transportation professionals in the aviation, motor carrier, mass transit, and railroad industries. This is the third Congress in which we have introduced similar legislation.

Twice during the 100th Congress, the Senate voted overwhelmingly in favor of provisions mandating drug and alcohol testing of aviation, motor carrier and railroad employees. The House of Representatives voted 377 to 27 to accept those provisions in a House/Senate conference. Unfortunately, a few Members of the House blocked further action during the final hours of the Congress.

During the 101st Congress, legislation providing for aviation, motor carrier and railroad testing was approved by the Senate three times and considered in four separate House/Senate conferences. Again, the House refused to meet its safety obligations, and those provisions were not enacted. Also, bills calling for drug and alcohol testing of mass transit workers were introduced in both the House and the Senate for the first time, but failed to become law.

On January 4, we marked the fourth anniversary of the event that first focused the Nation's attention on the need for drug and alcohol testing in transportation. On that day in 1987, near Chase, MD, a Conrail engineer and brakeman who were smoking marijuana on-the-job ignored a series of warning signals and directed their locomotive into the path of an Amtrak train. In the resulting crash, 16 passengers died and 170 were injured.

Some progress has been made since the Chase tragedy. In 1988, the Department of Transportation issued rules requiring that transportation employees be tested for drug use only. The DOT rules fall short, however. They are not consistent among transportation modes; intrastate and interstate operators are not uniformly covered; and they do not cover alcohol.

We need only turn on the nightly news to see proof that we cannot win the battle against substance abuse in the transportation industry unless worker testing covers alcohol, as well as drug use.

On December 28, 1990, a Boston mass transit operator, with a blood alcohol content above 0.10 percent, crashed his trolley car into another, injuring 33 people. The general manager of the Massachusetts Bay Transportation Authority said, "It is clear that the operator's inability to function was the critical element * * *. There is no better argument for random drug testing than what we've seen in the last few days."

Last August, three Northwest Airlines pilots were convicted of flying while intoxicated between Fargo, ND, and Minneapolis. The blood alcohol content [BAC] of the captain of that flight was 0.13 percent 2 hours after the flight ended. He testified that he had drunk 20 rum and cokes the night prior to the 6 a.m. flight. It is only because airport authorities called for testing under Minnesota State law that we know the pilots were legally intoxicated. The Federal Aviation Administration must have the authority to keep drunk pilots out of the cockpit.

President, I urge my colleagues to continue to support this important legislation. It is a matter of life and death.•

• Ms. MIKULSKI. Mr. President, on January 4, 1987, the town of Chase, MD was the scene of a brutal crime. A southbound Conrail locomotive sped by two warning signals and through a stop sign to smash into a northbound Amtrak passenger train. Sixteen people were killed and more than 170 were injured. The engineer and the brakeman were too stoned to care about the warnings—they had been smoking marijuana before the crash.

That accident, those deaths, were entirely preventable.

I can never forget the grief of Susan and Roger Horn, whose 16-year-old daughter Ceres died that day. And I will never forget the promise I made to them: that I would fight to make sure that other parents never had to bear the same burden of grief they carry with them every day. I promised that I would fight for legislation that would catch drug and alcohol abusers in the transportation industry before they had a chance to kill.

I am proud to keep that promise today, by joining with Senators HOLLINGS and DANFORTH to cosponsor the Omnibus Transportation Employee Testing Act of 1991.

I want it to be clear that while we are fighting a war on drugs, we are not fighting a war on employees. This legislation provides for employee privacy, and ensures fairness and accuracy by incorporating the same Department of Health and Human Services laboratory and testing standards which are used in testing Federal employees.

It is a tragedy that this legislation has not yet become law, even though the U.S. Senate has passed it three times.

But more tragic is the fact that accidents and close calls continue. We can not rely on Department of Transportation regulations when they prevent the FAA from testing pilots seen drinking before takeoff; when intrastate operators, like the Boston trolley car driver who injured 33 people in an alcohol-induced crash, are not included; and when we have no idea if future administrators will even bother to enforce them.

We need to send the courts, and the people of this country a message: we will not tolerate drug and alcohol abuse by the people to whom we entrust our lives and the lives of our loved ones. We will not forget the lessons of Chase, MD and Ceres Horn.•

By Mr. BRADLEY:

S. 679. A bill to amend the Internal Revenue Code of 1986 to exclude the gross income payments made by public utilties to customers to reduce the cost of energy conservation services and measures; to the Committee on Finance.

RESIDENTIAL ENERGY EFFICIENCY POLICY ACT OF 1991

•Mr. BRADLEY. Mr. President, this past month, the Bush administration announced its own national energy strategy. I believe that this plan is deficient and unbalanced. The strategy emphasizes energy production, with drilling for oil in the pristine Arctic Wildlife Refuge as its centerpiece, and largerly overlooks energy conservation.

It is a fact that domestic oil production peaked in 1972. Not a quadrupling of prices in 1973, and not a tripling of prices in 1979, has allowed the domestic oil industries to surpass this two-decade oil peak. It's a fact that we're not going to drill our way out of our predicament.

The legislation I'm introducing today is indicative of my continued commitment to push for effective energy conservation measures. It is simply much cheaper to save a barrel of oil than it is to find a new one.

Just over 1 year ago, the IRS produced a ruling that was a giant step backward for energy conservation efforts. My legislation will reverse the IRS position and get our priorities straight.

On April 15, many people are going to face a choice: Either report energy efficiency rebates they've received from electric and gas utilities as taxable income, or overlook the assistance and risk penalties and an audit.

For the past decade, many, many utilties have participated in interactive programs with their customers. Estimates are that, nationally, nearly one-half of the electric utility customers have access to rebate programs.

Rebates have worked. Household energy consumption is down 30 percent in a decade. Utilities that have rebate programs have documented that these programs are effective. In New Jersey, one utility estimates that it has avoided the siting and construction of a moderate-sized powerplant because of its aggressive residential conservation program. One analysis showed 60 percent of customers bought energy efficient refrigerators when a $50 rebate was offered. Only 15 percent bought the superior and cost-effective refrigerator without the rebates.

So what has changed? Not long ago, the IRS said that consumers who receive rebates have to report these rebates on their tax returns. Until then, there was no tax. But, now, if a utility pays $5 cash toward the purchase of an energy efficient light bulb, or $100 toward a super efficient refrigerator, or $200 toward insulation, you've got to report the rebate as income.

The IRS ruling was a little peculiar or perverse, in that not all rebaters or financial assistance is affected. If you can wait until your electric or gas bill comes, the utility can give you a credit on your bill which is not taxable. It's an incongruity: If you get the cash up front, you're taxed. If you can wait for a month or two, it's tax free.

This is unfair: Rebates or financial assistance aren't for those who can wait. We want an effective program not an exclusive one. The poor and middle-income are most pressed and least likely to be swayed by promises of help down the road. Maybe they'll take the rebate and not report it. More likely, they will pass on energy conservation. And we'll all pay later, with more pollution, or higher energy bills as new plants are built.

Mr. President, I intend to change this policy to make it fair and effective. Utilities and consumers can and should help each other. Utilities can help consumers make more effective and sensible choices about energy efficiency Consumers, by making the right decisions, can help the utilties avoid building costly power plants or pipelines. And the IRS—if I have anything to say about it—isn't going to get in the middle.

I ask unanimous consent that the text of the bill be printed following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 679

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Residential Energy Efficiency Policy Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that—

(1) enormous economic and social gains can be made by increased energy efficiency in our homes;

(2) electric and gas utilities are natural partners to homeowners, tenants, and landlords and have a long relationship of providing energy services to the community;

(3) utilities might be forced to construct new energy facilities that will be more costly to society than reducing the demand for more facilities through energy conservation measures;

(4) by reducing the need for new facilities and the consumption of energy resources, utilities can promote important social goals, such as reducing pollution, saving depletable fuels for future generations, and reducing national dependence on insecure energy supplies; and

(5) cost-effective utility assistance to homeowners, tenants, and landlords for energy conversation should not be considered as taxable income.

SEC. 3. PUBLIC UTILITY PAYMENTS TO CUSTOMERS FOR ENERGY CONSERVATION PURPOSES.

(a) IN GENERAL.—Part III of subchapter B of Chapter 1 of the Internal Revenue Code of 1986 (relating to amounts specifically excluded from gross income) is amended by redesignating section 136 as section 137 and by inserting after section 135 the following new section:

"SEC. 136. ENERGY AND WATER CONSERVATION SUBSIDIES.

"(a) GENERAL RULE.—Gross income shall not include the value of any financial assistance or service provided by a public utility to a residential customer for the purchase or installation of any energy conservation measure.

"(b) DENIAL OF DOUBLE BENEFIT.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, any expenditure to the extent of any amount excluded under subsection (a) with respect to such expenditure. The adjusted basis of any property shall be reduced by the amount excluded under subsection (a) with respect to such property.

"(c) ENERGY CONSERVATION MEASURE.—For purposes of this section, the term 'energy conservation measure' means any residential energy conservation measure described in section 210(11) of the National Energy Conservation Policy Act (42 U.S.C. 8211(11)).

"(d) PUBLIC UTILITY.—For purposes of this section, ther term 'public utility' means any person, corporation, State agency or local unit of government, or Federal agency engaged in the sale of electrical energy or gas."

(b) CONFORMING AMENDMENT.—The table of sections for part III of subchapter B of Chapter 1 of such Code is amended by striking the item relating to section 137 and inserting:

"Sec. 136. Energy conservation measures.

"Sec. 137. Cross reference to other Acts."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act.•

By Mr. ROCKEFELLER (for himself, Mr. HOLLINGS, Mr. INOUYE, Mr. ROBB, Mr. DANFORTH, Mr. BRYAN, Mr. PACKWOOD, Mr. PRESSLER, Mr. STEVENS, Mr. KASTEN, Mr. MCCAIN, Mr. BURNS, Mr. GORTON, Mr. LOTT, Mr. KERRY, Mr. BREAUX, Mr. GORE, Mr. EXON, Mr. FORD, and Mr. BENTSEN):

S. 680. A bill to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism into the United States and for other purposes; to the Committee on Commerce, Science, and Transportation.

TOURISM POLICY AND EXPORT PROMOTION ACT OF 1991

• Mr. ROCKEFELLER. Mr. President, I rise today, as chairman of the Foreign Commerce and Tourism Subcommittee, to introduce the Tourism Policy and Export Promotion Act of 1991. As the title suggests, the objective of this legislation is to lend focus to, and maximize, the export potential of the travel and tourism industry.

The bill I am introducing today is the same tourism export bill which, last year, unanimously passed the Senate and was stymied on the House side. I offer the identical bill today not as the final tourism export promotion bill, but rather as a discussion draft. During last year's debate on this measure, several of my House colleagues expressed concerns about the bill and I fully intend to work with my House and Senate colleagues, industry, and other interested parties to effectively focus the Government's role in directing a vigorous and coordinated national tourism policy.

When you ask people to name our Nation's largest export, most think of agriculture or chemicals. Because tourism is not a commodity that you can put in a box and ship overseas, few think of tourism as our Nation's largest export—which it is. The travel and tourism industry is one of the rare success stories in an otherwise bleak trade picture. Last year, the industry posted a record $4 billion surplus. Foreign visitors made 40 million trips—up 9 percent—to the United States last year and spent $53 billion—up 19 percent.

Unfortunately, one of the unintended casualties of the gulf war, as well as the recession, has been the travel and tourism industry. The United States Travel and Tourism Administration [USTTA] estimates the number of international visitors to the United States has declined 27 percent in recent months.

Mr. President, in the last 2 years, the travel and tourism industry has enjoyed phenomenal growth, in part due to the decline of the dollar. Now, the industry faces its most daunting challenge—can it build upon its success or will we become content, as we have with so many other industries, to sit back and watch other nations capture market share.

The "discussion draft" I introduce today is designed to build on the past gains in this industry and alleviate its current difficulties.

The goal of the Tourism Policy and Export Promotion Act of 1991 is to reorient our current Federal tourism policy by changing its focus from marketing to export promotion. It provides the USTTA with a 3-year authorization, giving this underfunded agency the stability that it needs to pursue its mission of promoting the United States as the ultimate travel destination. It requires the USTTA to target markets which have growth potential. It also understands that no trade policy can be successful without market access. Therefore, the bill requires the Commerce Department to publish a list of barriers to entry that currently close markets to the U.S. travel and tourism industry.

In addition, this bill establishes the Rural Tourism Foundation to assist States in the development of their rural areas as tourist attractions. In my experience as Governor of the State of West Virginia, I discovered the value of tourism as a vital component of the State's economic development program. It created jobs and brought in much needed revenue.

Our efforts to promote tourism to West Virginia continue to pay a handsome dividend for my State. Tourism is now the third largest employer in West Virginia, providing paychecks for over 40,000 West Virginians. Tourists spent $2.4 billion last year in West Virginia, providing State government with a total of $108 million in annual tax revenues.

Mr. President, as I said earlier, I am introducing this measure as a way to get the discussion started on the Federal Government's tourism policy, which has not been updated since 1979. In April, I will be holding a hearing on this bill in the Foreign Commerce and Tourism Subcommittee. I welcome suggestions and ideas to strengthen USTTA's role in fostering the growth of travel and tourism, as an export.

A vigorous and coordinated Federal tourism policy, as embodied in a tourism export promotion bill, will ensure that the outlook for this industry's future remains bright.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows.

S. 680

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Tourism Policy and Export Promotion Act of 1991".

FINDINGS

SEC. 2. The Congress finds that—

(1) the travel and tourism industry is the second largest retail or service industry in the United States;

(2) travel and tourism receipts make up over 6.7 percent of the United States gross national product;

(3) travel and tourism expenditures last year were approximately $350 billion;

(4) in 1988 the travel and tourism industry generated about 6 million jobs directly and about 2.5 million indirectly;

(5) international visitors spent approximately $43 billion in the United States last year;

(6) travel and tourism services ranked as the largest United States export in 1989;

(7) advanced technologies, industrial targeting, the industrialization of the Third World, and the flight of some United States manufacturing capacity to overseas locations have affected the international competitiveness of the United States; and

(8) although the trade deficit is shrinking, imports continue at record levels and, therefore, export expansion must remain a national priority.

NATIONAL GOAL

SEC. 3. It shall be the national goal under this Act to increase and sustain United States export earnings from United States tourism and transportation services traded internationally and to maintain a travel and tourism export surplus in order to help eliminate the overall United States trade deficit.

STATISTICAL REPORT

SEC. 4.(a) SURVEY OF INTERNATIONAL AIR TRAVELERS.—The Secretary of Commerce, to the extent available resources permit, shall improve the survey of international air travelers conducted to provide the data needed to estimate the Nation's balance of payments in international travel by—

(1) expanding the survey to cover travel to and from the Middle East, Africa, South America, and the Caribbean and enhancing coverage for Mexico, Oceania, the Far East, and Europe; and

(2) improving the methodology for conducting on-board surveys by (A) enhancing communications, training, and liaison activities in cooperation with participating air carriers, (B) providing for the continuation of needed data bases, and (C) utilizing improved sampling procedures.

The Secretary of Commerce shall seek to increase the reporting frequency of the data provided by Statistics Canada and the Bank of Mexico on international travel trade between the United States and both Canada and Mexico. The Secretary shall improve the quarterly statistical report on United States international travel receipts and payments published in the Bureau of Economic Analysis document known as "The Survey of Current Services" and heighten its visibility.

(b) REPORT TO CONGRESS.—The Secretary of Commerce shall, within 18 months after the date of enactment of this Act, report of to the Congress on—

(1) the status of the efforts required by subsection (a); and

(2) the desirability and feasibility of publishing international travel receipts and payments on a monthly basis.

TOURISM TRADE BARRIERS

SEC. 5.(a) ANALYSIS AND ESTIMATES.—For calendar year 1990 and each succeeding calendar year, the Secretary of Commerce shall—

(1) identify and analyze acts, policies, or practices of each foreign country that constitute significant barriers to, or distortions of, United States travel and tourism exports;

(2) make an estimate of the trade-distorting impact on United States commerce of any act, policy, or practice identified under paragraph (1); and

(3) make an estimate, if feasible, of the value of additional United States travel and tourism exports that would have been ex-

ported to each foreign country during such calendar year if each of such acts, policies, and practices of such country did not exist.

(b) REPORT.—On or before March 31 of 1991 and each succeeding calendar year, the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the analysis and estimates made under subsection (a) for the preceding calendar year. The report shall include any recommendation for action to eliminate any act, policy, or practice identified under subsection (a).

ACTION TO FACILITATE ENTRY OF FOREIGN TOURISTS

SEC. 6.(a) FINDING.—The Congress finds that foreign tourists entering the United States border.

(b) ACTION BY SECRETARY.—The Secretary shall, in coordination with appropriate Federal agencies, take appropriate action to ensure that foreign tourists are not unnecessarily delayed when entering the United States.

TOURISM TRADE DEVELOPMENT

SEC. 7.(a) ANNUAL PLAN.—(1) Section 202(a)(15) of the International Travel Act of 1961 (22 U.S.C. 2123(a)(15)) is amended by striking "marketing" and inserting in lieu thereof "tourism trade development".

(2) Section 202 of the International Travel Act of 1961 (22 U.S.C. 2123) is amended by adding at the end the following new subsection:

"(e) Beginning with fiscal year 1991, each annual tourism trade development plan developed and submitted to the Congress by the Secretary under subsection (a)(15) of this section shall focus on those countries with respect to which tourism trade development has the greatest potential for increasing travel and tourism export revenues.".

(b) ADVISORY BOARD.—(1) Section 303(a)(3) of the International Travel Act of 1961 (22 U.S.C. 2124b(a)(3)) is amended—

(A) in subparagraph (a), by striking "and";

(B) in subparagraph (B), by striking "one" and inserting in lieu thereof "two" and by striking the period at the end and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new subparagraph:

"(C) at least one shall be a representative of a city who is knowledgeable of tourism promotion.".

(2) The last sentence of section 303(b) of the International Travel Act of 1961 (22 U.S.C. 2124b(b)) is amended by striking "two consecutive terms of three years each" and inserting in lieu thereof "six consecutive years or nine years overall".

(3) The first sentence of section 303(f) of the International Travel Act of 1961 (22 U.S.C. 2124b(f) is amended—

(A) by striking "and" and inserting in lieu thereof a comma; and

(B) by inserting immediatley before the period at the end the following: ", and when the plan is submitted to the Congress, shall send to the Congress by separate communication the comments of the Board on the plan".

(c) CONFORMING AMENDMENTS.—(1) Section 204 of the International Travel Act of 1961 (22 U.S.C. 2123b) is amended by striking "marketing" each place it appears and inserting in lieu thereof "tourism trade development".

(2) Section 301(a) of the International Travel Act of 1961 (22 U.S.C. 2124(a)) is amended—

(A) by striking "Marketing" and inserting in lieu thereof "Trade Development"; and

(B) by striking "marketing" and inserting in lieu thereof "tourism trade development".

(3) Section 303(f) of the International Travel Act of 1961 (22 U.S.C. 2124b(f)) is amended—

(A) by striking "Marketing" and inserting in lieu thereof "Trade Development"; and

(B) by striking "marketing" and inserting in lieu thereof "tourism trade development".

COORDINATION

SEC. 8. Section 301 of the International Travel Act of 1961 (22 U.S.C. 2124) is amended by adding at the end the following new subsection:

"(c) The Secretary shall ensure that the services of the United States and Foreign Commercial Service continue to be available to assist the United States Travel and Tourism Administration at locations identified by the Under Secretary of Commerce for Travel and Tourism, in consultation with the Director General of the United States and Foreign Commerical Service, as necessary to assist the Administration's foreign offices in stimulating and encouraging travel to the United States by foreign residents and in carrying out other powers and duties of the Secretary specified in section 202.".

RURAL TOURISM DEVELOPMENT FOUNDATION

SEC. 9. (a) FINDINGS; ESTABLISHMENT OF FOUNDATION.—(1) The Congress finds that increased efforts directed at the promotion of rural tourism will contribute to the economic development of rural America and further the conservation and promotion of natural, scenic, historic, scientific, educational, inspirational, or recreational resources for future generations of Americans and foreign visitors.

(2) In order to assist the United States Travel and Tourism Administration in the development and promotion of rural tourism, there is established a charitable and nonprofit corporation to be known as the Rural Tourism Development Foundation (hereafter in this section referred to as the "Foundation").

(b) FUNCTIONS.—The functions of the Foundation shall be the planning, development, and implementation of projects and programs which have the potential to increase travel and tourism export revenues by attracting foreign visitors to rural America. Initially, such projects and programs shall include but not be limited to—

(1) participation in the development and distribution of educational and promotional materials pertaining to both private and public attractions located in rural areas of the United States, including Federal parks and recreational lands, which can be used by foreign visitors;

(2) development of educational resources to assist in private and public rural tourism development; and

(3) participation in Federal agency outreach efforts to make such resources available to private enterprises, State and local governments, and other persons and entities interested in rural tourism developments.

(c) BOARD OF DIRECTORS.—(1)(A) The Foundation shall have a Board of Directors (hereafter in this section referred to as the "Board") that—

(i) during its first two years shall consist of nine voting members; and

(ii) thereafter shall consist of those nine members plus up to six additional voting members as determined in accordance with the bylaws of the Foundation.

(B)(i) The Under Secretary of Commerce for Travel and Tourism shall, within six months after the date of enactment of this Act, appoint the initial nine voting members of the Board and thereafter shall appoint the successors of each of three such members, as provided by such bylaws.

(ii) The voting members of the Board, other than those referred to in clause (i), shall be appointed in accordance with procedures established by such bylaws.

(C) The voting members of the Board shall be individuals who are not Federal officers or employees and who have demonstrated an interest in rural tourism development. Of such voting members, at least a majority shall have experience and expertise in tourism trade promotion, at least one shall have experience and expertise in resource conservation, at least one shall have experience and expertise in financial administration in a fiduciary capacity, at least one shall be a representative of an Indian tribe who has experience and expertise in rural tourism on an Indian reservation, at least one shall represent a regional or national organization or association with a major interest in rural tourism development or promotion, and at least one shall be a representative of a State who is responsible for tourism promotion.

(D) Voting members of the Board shall each serve a term of six years, except that—

(i) initial terms shall be staggered to assure continuity of administration;

(ii) if a person is appointed to fill a vacancy occurring prior to the expiration of the term of his or her predecessor, that person shall serve only for the remainder of the predecessor's term; and

(iii) any such appointment to fill a vacancy shall be made within 60 days after the vacancy occurs.

(2) The Under Secretary of Commerce for Travel and Tourism and representatives of Federal agencies with responsibility for Federal recreational sites in rural areas (including the National Park Service, Bureau of Land Management, Forest Service, Corps of Engineers, Bureau of Indian Affairs, Tennessee Valley Authority, and such other Federal agencies as the Board determines appropriate) shall be nonvoting ex-officio members of the Board.

(3) The Chairman and Vice Chairman of the Board shall be elected by the voting members of the Board for terms of two years.

(4) The Board shall meet at the call of the Chairman and there shall be at least two meetings each year. A majority of the voting members of the Board serving at any one time shall constitute a quorum for the transaction of business, and the Foundation shall have an official seal, which shall be judicially noticed. Voting membership on the Board shall not be deemed to be an office within the meaning of the laws of the United States.

(d) COMPENSATION AND EXPENSES.—No compensation shall be paid to the members of the Board for their services as members, but they may be reimbursed for actual and necessary traveling and subsistence expenses incurred by them in the performance of their duties as such members out of Foundation funds available to the Board for such purposes.

(e) ACCEPTANCE OF GIFTS, DEVISES, AND BEQUESTS.—(1) The Foundation is authorized to accept, receive, solicit, hold, administer, and use any gifts, devises, or bequests, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein for the benefit of or in connection with rural tourism, except that the Foundation may not accept any such gift, devise, or bequest which entails any expenditure other than from the resources of the Foundation. A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of rural tourism.

(2) A gift, devise, or bequest accepted by the Foundation for the benefit of or in connection with rural tourism on Indian reservations, pursuant to the Act of February 14, 1931 (25 U.S.C. 451), shall be maintained in a separate accounting for the benefit of Indian tribes in the development of tourism on Indian reservations.

(f) INVESTMENTS.—Except as otherwise required by the instrument of transfer, the Foundation may sell, lease, invest, reinvest, retain, or otherwise dispose of or deal with any property or income thereof as the Board may from time to time determine. The Foundation shall not engage in any business, nor shall the Foundation make any investment that may not lawfully be made by a trust company in the District of Columbia, except that the Foundation may make any investment authorized by the instrument of transfer and may retain any property accepted by the Foundation.

(g) USE OF FEDERAL SERVICES AND FACILITIES.—The Foundation may use the services and facilities of the Federal Government and such services and facilities may be made available on request to the extent practicable without reimbursement therefor.

"(h) PERPETUAL SUCCESSION; LIABILITY OF BOARD MEMBERS.—The Foundation shall have perpetual succession, with all the usual powers and obligations of a corporation acting as a trustee, including the power to sue and to be sued in its own name, but the members of the Board shall not be personally liable, except for malfeasance.

"(i) CONTRACTUAL POWER.—The Foundation shall have the power to enter into contracts, to execute instruments, and generally to do any and all lawful acts necessary or appropriate to its purposes.

"(j) ADMINISTRATION.—In carrying out the provisions of this section, the Board may adopt bylaws, rules, and regulations necessary for the administration of its functions and may hire officers and employees and contract for any other necessary services. Such officers and employees shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and may be paid without regard to the provisions of chapters 51 and 53 of such title relating to classification and General Schedule pay rates.

"(2) The Secretary of Commerce may accept the voluntary and uncompensated services of the Foundation, the Board, and the officers and employees of the Foundation in the performance of the functions authorized under this section, without regard to section 1342 of title 31, United States Code, or the civil service classification laws, rules, or regulations.

"(3) Neither an officer or employee hired under paragraph (1) nor an individual who provides services under paragraph (2) shall be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and chapter 171 of title 28, United States Code, relating to tort claims.

"(k) EXEMPTION FROM TAXES, CONTRIBUTIONS.—The Foundation and any income or property received or owned by it, and all transactions relating to such income or property, shall be exempt from all Federal, State, and local taxation with respect thereto. The Foundation may, however, in the discretion of the Board, contribute toward the costs of local government in amounts not in excess of those which it would be obligated to pay such government if it were not exempt from taxation by virtue of this subsection or by virtue of its being a charitable and nonprofit corporation and may agree so to contribute with respect to property transferred to it and the income derived therefrom if such agreement is a condition of the transfer. Contributions, gifts, and other transfers made to or for the use of the Foundation shall be regarded as contributions, gifts, or transfers to or for the use of the United States.

"(l) LIABILITY OF UNITED STATES.—The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation.

"(m) ANNUAL REPORT.—The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to Congress an annual report of its proceedings and activities, including a full and complete statement of its receipts, expenditures, and investments.

"(n) DEFINITIONS.—As used in this section, the term—

"(1) "Indian reservation" has the meaning given the term "reservation" in section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d));

"(2) "Indian tribe" has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450(e));

"(3) "local government" has the meaning given that term in section 3371(2) of title 5, United States Code; and

"(4) "rural tourism" means travel and tourism activities occurring outside of United States Standard Metropolitan Statistical Areas, including activities on Federal recreational sites, on Indian reservations, and in the territories, possessions, and commonwealths of the United States.

"(o) ASSISTANCE BY SECRETARY OF COMMERCE.—Section 202(a) of the International Travel Act of 1961 (22 U.S.C. 2123(a)) is amended—

"(1) by striking "and" at the end of paragraph (14);

"(2) by striking the period at the end of paragraph (15) and inserting in lieu thereof "; and"; and

"(3) by adding at the end the following new paragraph:

"(16) may assist the Rural Tourism Development Foundation, established under the Tourism Policy and Export Promotion Act of 1991, in the development and promotion of rural tourism.".

TOURISM DEVELOPMENT STUDY

SEC. 10. (a) REQUIREMENT TO ASSEMBLE INFORMATION.—The Secretary of Commerce shall assemble available information on economic activity associated with scenic and recreational travel, including but not limited to case studies of existing scenic byways. The Secretary shall consult with other departments and agencies of the United States which may have relevant data.

"(b) STUDY.—The Secretary of Commerce shall conduct a study regarding—

(1) economic effects associated with the public identification and promotion of scenic byways as tourist attractions;

(2) techniques for incorporating scenic byways into tourism development programs;

(3) economic effects associated with the public identification and promotion of Indian reservations as tourist attractions; and

(4) techniques for incorporating Indian reservations into tourism development programs.

(c) REPORT.—Not later than one year after the date of enactment of this Act, the Secretary of Commerce shall transmit to the Congress a report on the information assembled under subsection (a) and the results of the study conducted under subsection (b), including any recommendations based on that study.

POLICY CLARIFICATIONS

SEC. 11. (a) NATIONAL TOURISM POLICY.—(1) Section 101(b)(1) of the International Travel Act of 1961 (22 U.S.C. 2121(b)(1)) is amended to read as follows:

"(1) optimize the contributions of the tourism and recreation industries to the position of the United States with respect to international competitiveness, economic prosperity, full employment, and balance of payments;"

(2) Section 101(b) of the International Travel Act of 1961 (22 U.S.C. 2121(b)) is amended—

(A) by redesignating paragraph (2) through (12) as paragraphs (5) through (15), respectively; and

(B) by inserting immediately after paragraph (1) the following new paragraphs:

"(2) increase United States export earnings from United States tourism and transportation services traded internationally;

"(3) ensure the orderly growth and development of tourism;

"(4) coordinate and encourage the development of the tourism industry in rural communities which (A) have been severely affected by the decline of agriculture, family farming, or the extraction or manufacturing industries, or by the closing of military bases; and (B) have the potential necessary to support and sustain an economy based on tourism;".

(b) DUTIES OF SECRETARY OF COMMERCE.—(1) Section 201 of the International Travel Act of 1961 (22 U.S.C. 2122) is amended—

(A) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively;

(B) in paragraph (3), as so redesignated, by striking "tourist facilities," and all that follows and inserting in lieu thereof the following: "receptive, linguistic, informational, currency exchange, meal, and package tour services required by the international market;"; and

(C) by inserting immediately after paragraph (1) the following new paragraph:

"(2) provide export promotion services that will increase the number of States, local governments (as defined in section 3371(2) of title 5, United States Code), and companies in the United States that sell their tourism services in the international market, expand the number of foreign markets in which exporting States, cities, and companies are active, and inform States, cities, and companies in the United States regarding the specialized services the international market requires;".

(2) Section 202(a)(9) of the International Travel Act of 1961 (22 U.S.C. 2123(a)(9)) is amended by striking "United States travel and tourism interests" and inserting in lieu thereof "the United States national tourism interest".

(c) AUTHORIZATION REGARDING CERTAIN EXPENDITURES.—Section 202 of the International Travel Act of 1961 (22 U.S.C. 2123), as amended by section 7(a) of this Act, is further amended by adding at the end the following new subsection:

"(f) Funds appropriated to carry out this Act may be expended by the Secretary without regard to the provisions of sections 501 and 3702 of title 44, United States Code. Funds appropriated for the printing of travel promotional materials shall remain available for two fiscal years.".

(d) REPEAL.—The International Travel Act of 1961 (22 U.S.C. 2121 et seq.) is amended by repealing section 203.

(e) TOURISM POLICY COUNCIL.—(1) Section 302(b)(1) of the International Travel Act of 1961 (22 U.S.C. 2124a(b)(1)) is amended—

(A) by redesignating subparagraph (H) and (I) as subparagraphs (L) and (M); and

(B) by inserting immediately after subparagraph (G) the following new subparagraphs:

"(H) the Secretary of Agriculture;

"(I) the Chairman of the Tennessee Valley Authority;

"(J) the Commanding General of the Corps of Engineers of the Army, within the Department of Defense;

"(K) the Administrator of the Small Business Administration;".

(2) Section 302(d) of the International Travel Act of 1961 (22 U.S.C. 2124a(d)) is amended by adding at the end the following new paragraph:

"(4)(A) Each year, upon designation by the Secretary of Commerce in accordance with subparagraph (B), up to three Federal departments and agencies represented on the Council shall each detail to the Council for that year one staff person and associated resources.

"(B) In making the designation referred to in subparagraph (A), the Secretary of Commerce shall designate a different group of agencies and departments each year and shall not redesignate any agency or department until all the other agencies and departments represented on the Council have been designated the same number of years.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 12. (a) IN GENERAL.—Section 304 of the International Travel Act of 1961 (22 U.S.C. 2126) is amended to read as follows:

"SEC. 304. For the purpose of carrying out this Act, there is authorized to be appropriated an amount, not to exceed $18,000,000 for the fiscal year ending September 30, 1991, not to exceed $21,000,000 for the fiscal year ending September 30, 1992, and not to exceed $24,000,000 for the fiscal year ending September 30, 1993.".

(b) FUNDS FOR FOUNDATION.—Of the funds authorized under section 304 of the International Travel Act of 1961 (22 U.S.C. 2126), as amended by subsection (a), there are authorized to be appropriated to the Secretary of Commerce for each of fiscal years 1991, 1992, and 1993 not to exceed $500,000 to—

(1) match partially or wholly the amount or value of contributions (whether in currency, services, or property) made to the Rural Tourism Development Foundation by private persons and Federal, State, and local government agencies; and

(2) provide administrative services for the Rural Tourism Development Foundation.•

• Mr. DANFORTH. Mr. President, I am pleased to cosponsor the Tourism Policy and Export Promotion Act of 1991, a bill to help the United States capture its share of the lucrative international tourism market.

At this time, we are lagging behind. While Western Europe attracts between half and two-thirds of all world tourism earnings annually, in 1990 the United States attracted only 9.4 percent, or $52.8 billion. Ironically, this total broke all previous U.S. records and generated our country's largest export revenue earnings last year. Agriculture earnings were in second place at $40 billion, followed by chemicals at $36 billion. In fact, foreign visitors spent $4.7 billion more in our country than Americans spent abroad.

This year, however, the U.S. travel and tourism industry got off to a rough start. When the air war in the Persian Gulf began on January 16, large numbers of businessmen and tourists stopped traveling. Airports were deserted. Travel destinations were abandoned. The U.S. Travel and Tourism Administration [USTTA] estimates that international travel dropped 27 percent during the first month of 1991.

The prospects for another record-breaking year for international tourism were looking bleak, but with an allied victory, we can celebrate—and contribute to the renewal of our Nation's economic health and well-being—by getting back to business as usual, including travel for work and pleasure.

Another way we can help is to support the legislation we are introducing today. This bill directs USTTA to sustain and maintain a travel and tourism export surplus. It requires USTTA to focus trade development activities on countries with the greatest potential for increasing our travel and tourism export earnings. It creates a Rural Tourism Foundation to ensure that foreign visitors see all of the U.S.A., spreading tourism export earnings to every region of the country.

A healthy U.S. travel and tourism industry is good for State and local economies. During 1990, domestic and international tourists spent $6 billion in Missouri alone. Equally important, however, may be the fact that a healthy travel and tourism industry will build understanding among the nations of the world.•

• Mr. BURNS. Mr. President, today, we know that 37 States in this country quote tourism as being their first, second, or third leading business. It is no wonder that once again tourism is the United States largest export with a $6 billion lead over agriculture. In 1990, domestic and foreign visitors spent a total of $377 billion in this country, creating a total of 6 million jobs.

This gives us living proof that tourism is alive and well in America today. Now our job and commitment is to make sure that tourism is given every chance to maintain and even increase its performance again next year.

In the last year we have seen continued efforts to maintain the export surplus this country enjoys in the tourism industry. Through the continued research and promotion of USTTA, TIA, and the many other tourism industry associations, the tourism business progresses forward to maintain a solid future in this country's economy. These efforts will maintain our tourism balance of trade.

Today it is more important than ever that rural States like my home of Montana and others look seriously at diversifying their economic development resources. In my home State we have miles and miles of open roads and beauty and splendor that not many States have left to offer.

It is important that we don't stop with this one piece of legislation to support tourism. In future months I will be working with my colleagues to bring about changes that will help support the changes that are needed to encourage growth and prosperity in tourism. We need to build incentive for business men and women to open businesses and take on leadership roles that that will help build this industry's future.

We need to encourage innovative and creative thinking and action. But in order for this creativity to succeed we need to offer support and leadership in the right places. We need to be creative in our thinking here in the Congress. I ask my colleagues here today to act with me in the future. I know we can make a difference.•

• Mr. McCAIN. Mr. President, I am pleased to join Senator ROCKEFELLER and my other colleagues on the Commerce Committee in again cosponsoring the Tourism Policy and Export Promotion Act.

During the last Congress, the Commerce Committee undertook a comprehensive review of the National Tourism Policy Act of 1981. The result was this legislation, which would update and upgrade our efforts to promote tourism, as well as ensure that greater resources within the Department of Commerce are made available to assist in these efforts. Furthermore, it would create a Rural Tourism Foundation to promote rural America as a travel destination and to assist in building private/public partnerships to develop and promote rural America, including Federal parks and recreational lands. I am particularly pleased that the bill includes language to require the Commerce Department to appoint a native American to the Board of the Rural Tourism Foundation, and that it calls for a study of how to promote tourism at reservations. Unfortunately, the House of Representatives did not act on the bill before Congress adjourned last fall.

This legislation is vitally important. It would give full recognition to tourism as an export. Tourism is not just marketing; it is trade development. Quite simply, tourists are a vital component of our export trade. Over the past 30 years, tourism has grown to surpass all other U.S. exports. Furthermore, in 1990, tourism was one of only a tiny handful of industries to post a trade surplus, estimated at $4.9 billion.

I admit, Mr. President, my home State of Arizona has an advantage over many other States. Arizona is the proud home of one of the seven natural wonders of the world, the Grand Canyon. This stunning site is one of the most visited spots in the entire United States. In addition, visitors to Arizona can travel back in time to explore ancient Indian dwellings and retrace the footsteps of cowboys and mountain men. As a result of these fabulous attractions, tourism is our largest employer and the second largest industry in the State.

Recent events, however, should teach us not to take this industry for granted. During the Persian Gulf conflict, tourism both within the United States and from abroad fell off abruptly, dramatically highlighting tourism as an econmic force. The U.S. Travel and Tourism Administration's efforts and those of other government agencies to combat this development are to be commended.

Mr. President, we are fortunate that our Nation is the world's No. 1 travel destination, but in order to maintain that position in an increasingly competitive marketplace we must take strong steps now. This legislation represents a more vigorous and coordinated policy, and I urge its swift enactment.•

By Mr. NICKLES (for himself, Mr. DOLE, Mr. WARNER, and Mr. MCCAIN):

S. 681. A bill to provide an additional amount of servicemen's group life insurance for death by hostile fire, to direct the Secretary of Veterans Affairs to pay a death gratuity to certain survivors of members of the uniformed services who die in the Persian Gulf combat zone, and for other purposes; to the Committee on Veterans' Affairs.

ADDITIONAL INSURANCE FOR MEMBERS OF THE ARMED FORCES WHO DIE IN COMBAT

• Mr. NICKLES. Mr. President, I am pleased to introduce today legislation to provide additional life insurance benefits for members of the Armed Forces who die as a result of hostile fire.

The recent war in the Persian Gulf was an enormous victory for the U.S. and coalition military forces. The superior leadership, superior equipment and superior military personnel possessed by coalition forces was an important factor in ensuring not only a quick victory but also one in which casualties were kept to a minimum. But as General Schwarzkopf said, the minimal number of casualties does not seem to be a miracle to the families of those young men and women who lost their lives while serving their country.

I am proud that in the wake of Operation Desert Storm my colleagues have moved expeditiously in providing additional military and veterans benefits to those who serve in the military. Last week I introduced legislation to pay a death gratuity of up to $200,000 to the survivors of military personnel who lost their life while participating in Operation Desert Shield. In addition, my bill S. 587, would have increased the maximum amount of servicemen's group life insurance [SGLI] to $200,000 for military personnel who are killed while in a combat zone.

I am pleased that the Senate has passed legislation to increase the maximum amount of servicemen's group life insurance from $50,000 to $100,000. However, I believe that we should not impose such a low cap on the maximum amount of life insurance available to military service members.

I recognize that the increase to $100,000 was based on the average size of life insurance coverage in the civilian sector. However, there are many service personnel who would like to obtain additional coverage above $100,000. For those members who have a family and more than one dependent $100,000 simply is not enough money to ensure that their family is taken care of or that their children will receive a college education.

The legislation I am introducing today would provide supplemental coverage under SGLI to provide for double indemnity coverage to service members who die as a result of hostile fire. The bill would cover deaths of service members who die as a result of hostile fire from any source and would include military members who are serving in dangerous parts of the world even though they are not declared to be combat zones.•

By Mr. PELL (for himself, Mr. ADAMS, Mr. BIDEN, Mr. BOND, Mr. BRADLEY, Mr. BREAUX, Mr. BYRD, Mr. CRANSTON, Mr. DIXON, Mr. DOLE, Mr. DURENBERGER, Mr. FORD, Mr. FOWLER, Mr. GARN, Mr. HEFLIN, Mr. INOUYE, Mr. JEFFORDS, Mr. MACK, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. MURKOWSKI, Mr. PRYOR, Mr. REID, Mr. RIEGLE, Mr. SANFORD, Mr. SIMON, Mr. THURMOND, and Mr. WARNER):

S.J. Res. 95. Joint resolution designating October 1991 as "National Breast Cancer Awareness Month"; to the Committee on the Judiciary.

NATIONAL BREAST CANCER AWARENESS MONTH

• Mr. PELL. Mr. President, I rise today to introduce a joint resolution to designate October 1991 as "National Breast Cancer Awareness Month." I am delighted that 27 of my colleagues have joined as original cosponsors, proving that the fight against breast cancer has strong bipartisan support in the Senate.

Mr. President, setting aside a time of the year to learn about breast cancer is really nothing new. For several years, health advocates have taken upon themselves the task of setting aside time in the month of October to bring attention to this frightening disease.

In cold, hard statistics, the numbers are quite staggering. In 1991, breast cancer is expected to strike an estimated 175,000 women, 25,000 more women than in 1990. And 1991 will see about 44,500 women die from the disease—an estimated 500 more women than in 1990. And breast cancer, which is already the second leading cause of cancer death among women, is likely to increase further as our population ages, since a woman's risk of developing breast cancer increases as she ages.

Mr. President, many people do not realize that breast cancer can also strike men. Though their numbers are fewer, their plight is no less serious: this year alone, about 900 men will develop breast cancer; in addition, about 300 men will die from the disease.

In my own State of Rhode Island, the incidence of breast cancer has increased. The American Cancer Society estimates that breast cancer will strike about 1,000 Rhode Island women in 1991, a full 11-percent higher than last year's estimate. Fortunately for Rhode Islanders, those same figures show a decline in our State's death rate; in 1991, about 250 Rhode Island women are expected to die of the disease, about 9-percent less than were expected to die in 1990.

Mr. President, with regard to the increased incidence of breast cancer, Rhode Island reflects a national trend. In 1990, it was estimated that 1 in every 10 women would develop breast cancer at some point in her lifetime. Current estimates indicate that 1 in every 9 women will develop breast cancer. We know the numbers are increasing, but we don't know why. The cause of breast cancer continues to elude us.

Unfortunately, Rhode Island's death rate is not representative of a national trend. In fact, the national death rate from breast cancer has remained relatively stable.

That is the bad news.

But there is good news too, and Rhode Island's statistics reflect it: we can significantly reduce breast cancer mortality through early detection: self-examination, clinical examination by a qualified health care provider, and screening mammography. The numbers illustrate this best: 50 years ago, the 5-year survival rate for localized breast cancer was 78 percent; now it is over 90 percent. The American Cancer Society estimates that the use of a combination of early detection procedures can boost the survival rate for localized breast cancer to almost 100 percent.

And yet, Mr. President, despite the proven success of early intervention, many women do not know how to self-examine, and some are afraid to do so. Some women do not seek a screening mammogram because they are afraid, either of the procedure itself, or of the diagnosis it might reveal. Still others do not seek a screening mammogram because of lack of access or cost, or because they simply don't know the vital importance of mammography screening.

All these questions, misconceptions, and problems simply must be addressed. While our Nation moves, far too slowly, I might add, toward a health care system that provides access to basic health care for all, there are steps we can and must take now to educate people about those diseases, like breast cancer, that can be treated.

For many years, health care organizations, providers, and advocates have worked to teach the very simple message that, while breast cancer can kill, it can also be conquered. That, very simply, is the message of the resolution we introduce today.

Last year, Mr. President, I introduced a similar resolution which became law, marking the first congressionally authorized National Breast Cancer Awareness Month. Sixty-three Senators joined me in cosponsoring that first resolution. This year, I hope that all of my colleagues will help mark this important month and the efforts of health advocates across the Nation to reduce the rate of breast cancer mortality by joining with me to designate October 1991 as National Breast Cancer Awareness Month.

I ask unanimous consent that the resolution be printed in full at the end of my remarks.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 95

Whereas breast cancer will strike an estimated 175,000 women and 900 men in the United States in 1991;

Whereas 1 out of every 9 women will develop breast cancer at some point in her life;

Whereas the risk of developing breast cancer increases as a woman grows older;

Whereas breast cancer is the second leading cause of cancer death in women, killing an estimated 44,000 women and 300 men in 1990;

Whereas the 5-year survival rate for localized breast cancer has risen from 78 percent in the 1940s to over 90 percent today;

Whereas most breast cancers are detected by the woman herself;

Whereas educating both the public and health care providers about the importance of early detection will result in reducing breast cancer mortality;

Whereas appropriate use of screening mammography, in conjunction with clinical examination and breast self-examination, can result in the detection of many breast cancers early in their development and increase the survival rate to nearly 100 percent;

Whereas data from controlled trials clearly demonstrate that deaths from breast cancer are significantly reduced in women over the age of 40 by using mammography as a screening tool;

Whereas many women are reluctant to have screening mammograms for a variety of reasons, such as the cost of testing, lack of information, and/or fear;

Whereas access to screening mammography is directly related to socioeconomic status;

Whereas increased awareness about the importance of screening mammography will result in the procedure being regularly requested by the patient and recommended by the health care provider; and

Whereas it is projected that more women will use this lifesaving test as it becomes increasingly available and affordable: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1991 is designated as "National Breast Cancer Awareness Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate programs and activities.•

ADDITIONAL COSPONSORS

S. 12

At the request of Mr. HOLLINGS, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 12, a bill to amend title VI of the Communications Act of 1934 to ensure carriage on cable television of local news and other programming and to restore the right of local regulatory authorities to regulate cable television rates, and for other purposes.

S. 24

At the request of Mr. MOYNIHAN, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 24, a bill to amend the Internal Revenue Code of 1986 to make permanent the exclusion from gross income of educational assistance provided to employees.

S. 26

At the request of Mr. MOYNIHAN, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 26, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income the value of certain transportation furnished by an employer, and for other purposes.

S. 140

At the request of Mr. WIRTH, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 140, a bill to increase Federal payments in lieu of taxes to units of general local government, and for other purposes.

S. 171

At the request of Mr. ROTH, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 171, a bill to amend title 5, United States Code, to establish an optional early retirement program for Federal Government empoyees, and for other purposes.

S. 250

At the request of Mr. FORD, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 250, a bill to establish national voter registration procedures for Federal elections, and for other purposes.

S. 254

At the request of Mr. MCCONNELL, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of S. 254, a bill to repeal the provisions of the Revenue Reconciliation Act of 1989 which require the withholding of income tax from wages paid for agricultural labor.

S. 264

At the request of Mr. COCHRAN, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 264, a bill to authorize a grant to the National Writing Project.

S. 278

At the request of Mr. SARBANES, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 278, a bill to provide for certain notice and procedures before the Social Security Administration may close, consolidate, or recategorize certain offices.

S. 284

At the request of Mr. BRADLEY, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 284, a bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of payments under life insurance contracts for terminally ill individuals.

S. 311

At the request of Mr. ROTH, the name of the Senator from Wyoming [Mr. SIMPSON], and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of S. 311, a bill to make long-term care insurance available to civilian Federal employees, and for other purposes.

S. 359

At the request of Mr. BOREN, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 359, a bill to amend the Internal Revenue Code of 1986 to provide that charitable contributions of appreciated property will not be treated as an item of tax preference.

S. 360

At the request of Mr. BUMPERS, the names of the Senator from North Carolina [Mr. SANFORD], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 360, a bill to authorize the Small Business Administration to provide financial and business development assistance to military reservists' small businesses, and for other purposes.

S. 383

At the request of Mr. MCCAIN, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 383, a bill to provide tax incentives for the establishment of tax enterprise zones on Indian reservations, and for other purposes.

S. 398

At the request of Mr. WIRTH, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 398, a bill to amend the Solid Waste Disposal Act to provide management standards and recycling requirements for spent lead-acid batteries.

S. 403

At the request of Mr. WALLOP, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 403, a bill to clarify the intent of Congress with respect to establishment and collection of certain fees and charges.

S. 416

At the request of Mr. DANFORTH, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of S. 416, a bill to amend the Internal Revenue Code of 1986 to make permanent the tax credit for increasing research activities.

S. 466

At the request of Mr. GRASSLEY, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 466, a bill to amend the Internal Revenue Code of 1986 to provide for a renewable energy production credit, and for other purposes.

S. 473

At the request of Mr. DECONCINI, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 473, a bill to amend the Lanham Trademark Act of 1946 to protect the service marks of professional and amateur sports organizations from misappropriations by State lotteries.

S. 474

At the request of Mr. DECONCINI, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 474, a bill to prohibit sports gambling under State law.

S. 489

At the request of Mr. HATCH, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 489, a bill to provide grants to States to encourage States to improve their systems for compensating individuals injured in the course of the provision of health care services, to establish uniform criteria for awarding damages in health care malpractice actions, and for other purposes.

S. 509

At the request of Mr. HARKIN, the names of the Senator from Arizona [Mr. MCCAIN], the Senator from Ohio [Mr. METZENBAUM], and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of S. 509, a bill to amend the Public Health Service Act to establish a program for the prevention of disabilities, and for other purposes.

S. 532

At the request of Mr. BOREN, the names of the Senator from Louisiana [Mr. BREAUX], and the Senator from South Dakota [Mr. DASCHLE] were added as cosponsors of S. 532, a bill to amend the Internal Revenue Code of 1986 to prohibit the retroactive application of Treasury Department regulations and rulings.

S. 534

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 534, a bill to authorize the President to award a gold medal on behalf of the Congress to Gen. H. Norman Schwarzkopf, and to provide for the production of bronze duplicates of such medal for sale to the public.

S. 542

At the request of Mr. GRASSLEY, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 542, a bill to amend the Internal Revenue Code of 1986 to restore the deduction for interest on educational loans.

S. 565

At the request of Mr. WARNER, the names of the Senator from Montana [Mr. BAUCUS], and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of S. 565, a bill to authorize the President to award a gold medal on behalf of the Congress to Gen. Colin L. Powell, and to provide for the production of bronze duplicates of such medal for sale to the public.

S. 602

At the request of Mr. SASSER, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 602, a bill to improve the food stamp and nutrition programs, and for other purposes.

S. 641

At the request of Mrs. KASSEBAUM, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 641, a bill entitled the "Improved Rural and Short-Line Railroad Service Act".

SENATE JOINT RESOLUTION 69

At the request of Mr. RIEGLE, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of Senate Joint Resolution 69, a joint resolution to designate the week commencing May 5, 1991, through May 11, 1991, as "National Correctional Officers Week".

SENATE JOINT RESOLUTION 85

At the request of Mr. KASTEN, the names of the Senator from Washington [Mr. ADAMS], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Joint Resolution 85, a joint resolution authorizing and requesting the President to appoint Gen. Colin L. Powell and Gen. H. Norman Schwarzkopf, Jr., U.S. Army, to the permanent grade of General of the Army.

SENATE CONCURRENT RESOLUTION 12

At the request of Mr. LEVIN, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of Senate Concurrent Resolution 12, a concurrent resolution to express the sense of the Congress that the civil rights and civil liberties of all Americans, including Arab-Americans, should be protected at all times, and particularly during times of international conflict of war, and for other purposes.

SENATE CONCURRENT RESOLUTION 16

At the request of Mr. MACK, the names of the Senator from North Carolina [Mr. HELMS], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Indiana [Mr. COATS], the Senator from Maine [Mr. MITCHELL], the Senator from Arizona [Mr. MCCAIN], the Senator from Vermont [Mr. LEAHY], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Arizona [Mr. DECONCINI], the Senator from Wyoming [Mr. WALLOP], the Senator from California [Mr. CRANSTON], the Senator from Illinois [Mr. SIMON], the Senator from Hawaii [Mr. INOUYE], and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of Senate Concurrent Resolution 16, a concurrent resolution urging Arab states to recognize, and end the state of belligerency with, Israel.

SENATE CONCURRENT RESOLUTON 18

At the request of Mr. LEVIN, his name was added as a cosponsor of Senate Concurrent Resolution 18, a concurrent resolution expressing the concern of the Senate for the ongoing human rights abuses in Burma and for the status of displaced Burmese and Burmese refugees.

SENATE CONCURRENT RESOLUTION 19

At the request of Mr. LEVIN, his name was added as a cosponsor of Senate Concurrent Resolution 19, a concurrent resolution condemning the People's Republic of China's continuing violation of universal human rights principles.

SENATE CONCURRENT RESOLUTION 22—EXPRESSING APPRECIATION TO AMERICAN INDIAN VETERANS OF THE ARMED FORCES

Mr. MCCAIN (for himself, Mr. INOUYE, Mrs. KASSEBAUM, Mr. SIMON, Mr. COCHRAN, Mr. BURDICK, Mr. DASCHLE, Mr. MURKOWSKI, Mr. DECONCINI, Mr. GORTON, Mr. CONRAD, and Mr. NICKLES) submitted the following concurrent resolution; which was referred to the Select Committee on Indian Affairs:

S. CON. RES. 22

Whereas American Indians, of various Indian tribes across the nation, have a long, proud and distinguished tradition of service in the Armed Forces of the United States;

Whereas American Indians have historically served in the Armed Forces of the United States in numbers which far exceed their representation in the population of the United States;

Whereas American Indians have lost their lives in the service of their nation, and in the cause of peace, including Operations Desert Storm and Desert Shield; and

Whereas American Indians currently deployed in the Persian Gulf have continued this proud and courageous tradition of service in the Armed Forces of the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. APPRECIATION.

The Congress expresses its appreciation to:

(1) all American Indian veterans for their long, proud, and distinguished tradition of service in the Armed Forces of the United States;

(2) all American Indian service men and women currently or heretofore deployed in the Persian Gulf region as part of Operation Desert Shield and Desert Storm; and

(3) the families of American Indian service men and women and members of Indian tribes nationwide who have supported their loved ones through traditional ceremonies and have prayed for the safety and continued strength of all American forces and Allied partners.

SEC. 2. CONDOLENCES.

The Congress expresses its condolences to the families whose loved ones have made the ultimate sacrifice in the service of their nation and in the cause of peace.

• Mr. McCAIN. Mr. President, I am pleased to submit along with Senators INOUYE, KASSEBAUM, SIMON, COCHRAN, BURDICK, DASCHLE, MURKOWSKI, DECONCINI, GORTON, and CONRAD a concurrent resolution to extend the appreciation of the Congress to all American Indian veterans for their service in the Armed Forces of the United States.

Mr. President, as events in the Persian Gulf draw to a close, the attention of the Nation is focused upon the return of the men and women who have courageously served in Operations Desert Shield and Desert Storm. As America honors these brave men and women, I believe it is also important to acknowledge the unparalleled devotion that American Indians have had to the Armed Forces of the United States. In fact, American Indians continue to be the highest percentage of any ethnic group in the United States to serve our country, including Operation Desert Storm.

Ever since Colonial times, American Indians have enlisted in the armed services of the United States. Even in pre-Revolutionary Wars, American Indians were fighting on the side of the Colonists. Perhaps the most legendary contribution by American Indians occured during World War II. When communications between Allied Forces were being continuously intercepted by our enemies, the need for a code which could not be broken became of paramount importance to our survival and success. When everything else failed, it was the Navajo code talkers whose native language provided a means of communication that eluded the most expert of codebreakers. Of all the codes developed in World War II, the Navajo language code was the only one not broken during World War II.

In Operations Desert Shield and Desert Storm hundreds of American Indians continued the proud and courageous tradition of service in the Armed Forces. From my own home State of Arizona, the Navajo Nation estimates that it has sent at least 360 men and women to the Persian Gulf. Recently, during a visit to the Tohono O'Odham Nation concerning Indian health issues, Secretary Sullivan and I had the privilege of meeting with the families of the 33 men and women serving in the Persian Gulf. It was a very moving occasion for me, one which showed the pride these families had in their sons and daughters and in the job they had been called to do.

Mr. President, the event I was able to witness in Arizona can be repeated on all, if not most, of the Indian reservations across this country. The young and old have a deep pride in their tribal members who have been or are presently called to duty; they don't take a backseat to anybody in the level of patriotism and love of country. Indeed, it was largely because of the American Indian's record of service in World War I that Congress enacted legislation in 1924 granting citizenship to all American Indians.

Yet as I reflected on these recent events, I am reminded of the services that we have failed to provide American Indian veterans. This perhaps is all too sadly captured in the life of Ira Hayes. The American public has probably never heard the full story about this American hero. He was a Pima Indian who served in the Marine Corps during the Korean conflict and is depicted in the Iwo Jima Memorial as one of the brave men who planted the American flag. Although that moment is captured in time, Ira Hayes the man was soon forgotten. He eventually died a broken man and a victim of alcoholism.

Another American hero, Senator DAN INOUYE, perhaps said it best:

> Even though a great number of native American veterans have served this country with incomparable bravery and valor, the recognition and level of services which have been provided to Indian veterans remains largely undocumented. It would appear that in our efforts to mainstream our country's veterans, the needs of America's Indian veterans have been forgotten.

As this concurrent resolution extends the appreciation of the Congress, I can think of no more appropriate subsequent action that the Congress can take than to examine the problems, assess current services, and explore the solutions necessary to fulfill the needs of native American veterans. I look forward to working with my colleagues to do just that in this Congress.•

SENATE RESOLUTION 82—TO ESTABLISH A SELECT COMMITTEE ON POW/MIA AFFAIRS

Mr. SMITH (for himself, Mr. GRASSLEY, Mr. HELMS, Mr. REID, Mr. GRAHAM, Mr. MACK, Mr. THURMOND, Mr. RIEGLE, Mr. SPECTER, and Mr. LAUTENBERG) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 82

Resolved,

SEC. 1. (a) There is hereby established a select committee to be known as the Select Committee on POW/MIA Affairs (hereinafter in this resolution referred to as the "select committee"). The select committee shall be composed of ten members, who shall be evenly divided between the two major political parties and shall be appointed by the President pro tempore of the Senate upon recommendations of the majority and minority leaders of the Senate after consultation with their chairman and ranking minority member. Five of the members appointed under this subsection shall be appointed by the President pro tempore of the Senate upon the recommendation of the majority leader of the Senate and five shall be appointed by the President pro tempore of the Senate upon the recommendation of the minority leader of the Senate.

(b) The majority leader of the Senate and the minority leader of the Senate shall be ex officio members of the select committee but shall have no vote in the committee and shall not be counted for purposes of determining a quorum.

(c) At the beginning of each Congress, the Members of the select committee shall elect a chairman of the select committee and a vice chairman of the select committee; provided, however, that the chairman and vice chairman of the select committee shall not be from the same political party. The vice chairman shall act in the place and stead of the chairman in the absence of the chairman.

SEC. 2. (a) There shall be referred to the select committee, concurrently with referral to any other committee of the Senate with jurisdiction, all messages, petitions, memorials, and other matters relating to United States personnel unaccounted for from military conflicts.

(b) Nothing in this resolution shall be construed as prohibiting or otherwise restricting the authority of any other committee of the Senate or as amending, limiting, or otherwise changing the authority of any standing committee of the Senate.

SEC. 3. The select committee may, for the purposes of accountability to the Senate, make such reports to the Senate with respect to matters within its jurisdiction as it shall deem advisable. Such select committee shall promptly call to the attention of the Senate or to any other appropriate committee or committees of the Senate any matters deemed by the select committee to require the immediate attention of the Senate or such other committee or committees. In making such reports, the select committee shall proceed in a manner consistent with the requirements of national security.

SEC. 4. (a) For the purposes of this resolution, the select committee is authorized at its discretion (1) to make investigations into any matter within its jurisdiction, (2) to hold hearings, (3) to sit and act at any time or place during the sessions, recesses, and adjourned periods of the Senate, (4) to require, by subpoena or otherwise, the attendance of witnesses and the production of correspondence, books, papers, and documents, and (5) to take depositions and other testimony.

(b) The chairman of the select committee or any member thereof may administer oaths to witnesses.

(c) Subpoenas authorized by the select committee may be issued over the signature of the chairman, the vice chairman, or any member of the select committee designated by the chairman, and may be served by any person designated by the chairman or any member signing the subpoena.

SEC. 5. No employee of the select committee or person engaged to perform services for or at the request of such committee shall be given access to any classified information by such committee unless such employee or person has (1) agreed in writing and under oath to be bound by the rules of the Senate and of such committee as to the security of such information during and after the period of this employment or relationship with such committee; and (2) received an appropriate security clearance as determined by such committee in consultation with the Director of Central Intelligence. The type of security clearance to be required in the case of any such employee or person shall, within the determination of such committee in consultation with the Director of Central Intelligence, be commensurate with the sensitivity of the classified information to which such employee or person will be given access by such committee.

SEC. 6. The select committee shall formulate and carry out such rules and procedures as it deems necessary to prevent the disclosure, without the consent of the person or persons concerned, of information in the possession of such committee which unduly infringes upon the privacy or which violates the constitutional rights of such person or persons. Nothing herein shall be construed to prevent such committee from publicly disclosing any such information in any case in which such committee determines the national interest in the disclosure of such information clearly outweighs any infringement on the privacy of any person or persons.

SEC. 7. The select committee is authorized to permit any personal representative of the President, designated by the President to serve as a liaison to such committee, to attend any closed meeting of such committee.

SEC. 8. Subparagraph (c) of Rule XXV of the Standing Rules of the Senate is amended by adding at the end thereof the following:

"POW/MIA Affairs .... 10."

Mr. SMITH. Mr. President, I rise today to submit a resolution to establish the Senate Select Committee on POW/MIA Affairs. I am joined in this effort by several of my distinguished colleagues, Mr. HELMS, Mr. GRASSLEY, Mr. SPECTER, Mr. REID, Mr. MACK, Mr. THURMOND, Mr. LAUTENBERG, and Mr. GRAHAM of Florida.

For nearly a decade, the executive branch has designated the fullest possible accounting of American prisoners of war to be an issue of the highest national priority. It is truly unfortunate that, despite this designation, there continues to be foot-dragging by Communist governments, specifically in Southeast Asia and North Korea.

Moreover, extremely serious charges persist concerning the deliberate mishandling of POW/MIA matters by certain policy level persons in the executive branch of our Government. These charges are serious enough to warrant further investigation by a bipartisan select committee. As an example of these charges and for the RECORD, Mr. President, I ask unanimous consent that a copy of the interim report by the minority staff of the Senate Foreign Relations Committee on the POW/MIA issue be printed at the end of my statement.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SMITH. Thank you, Mr. President.

Let me briefly point out some of the preliminary conclusions from this report:

1. After the conclusion of Operation Homecoming in April, 1973, brought the return of the 591 POWs, official U.S. Government policy internally adopted and acted upon the presumption that all other POWs were dead, despite public asssertions that the government was still open to investigating the possibility of discovering the existence of living prisoners.

2. Following the adoption of an internal policy in April, 1973, that all POW/MIAs were presumed dead, the U.S. Government, convened commissions in each military service to consider each case on the POW/MIA list in order to make a statutory declaration of presumption of death.

3. While there is no reason to believe that the majority, if not most, of the declarations of presumptive death are incorrect, staff review of live-sighting report files at DIA found a disturbing pattern of arbitrary rejection of evidence that connected a sighting to a specific POW/MIA or U.S. POW/MIAs in general.

4. The pattern of arbitrary rejection resulted in a declaration of presumptive finding of death for every such individual case, except one.

5. The internal policy that all POW/MIAs were presumed dead resulted in an emphasis on finding and identifying remains of dead personnel, rather than search for living POW/MIAs.

6. The desire to identify specific sets of remains with specific names on the POW/MIA list led DOD to an exaggeration of the capabilities of forensic science, and identification based on dubious presumptions and illogical deductions rather than actual physical identification—a process which resulted in numerous misidentifications of remains.

7. Despite adherence to internal policies and public statements after April, 1973 that "no evidence" existed of living POWs, DIA authoritatively concluded as late as April, 1974 that several hundred living POW/MIAs were still held captive in South East Asia.

8. Although the Pathet Lao declared on April 3, 1973, that Laotian Communist forces were holding American POWs and were prepared to give an accounting, nine days later a DOD spokesman declared that there were no more American prisoners anywhere in South East Asia. No POWs held by Laotian Communist forces ever returned. The evidence indicates that the U.S. Government made a decision to abandon U.S. citizens still in the custody of the Socialist Republic of Vietnam, Laos and Cambodia, at the conclusion of U.S. involvement in the Second Indochina War.

9. U.S. casualities, including POW/MIAs in South East Asia, resulting from covert or cross border operation, may not be included on the list of those missing.

10. The executive branch has failed to address adequately the concerns of the family members of the POW/MIAs, and has profoundly mishandled the POW/MIA problem.

Mr. President, these conclusions illustrate major inconsistencies with the way the Government has handled the POW/MIA problem. I believe it's time we get to the bottom of these inconsistencies and find out the truth. That is why we are proposing a select committee, to go right back to the beginning, to the Paris peace accords in 1973, and then figure out what happened to our missing soldiers. No high level Government officials have ever been brought before the Congress to explain what happened—not President Nixon, not Secretary Kissinger, no one. I believe, if necessary, these officials should be subpoenaed before this committee, and their answers should be provided under oath. It is time we and the American people find out the truth.

Mr. President, before the allied liberation of Kuwait, my colleagues will remember the reporting which came out of this pillaged nation describing the atrocities being committed by Iraqi forces. When allied forces entered Kuwait City, we discovered that this reporting was, indeed, accurate. In fact, I want to call attention to comments made by Robert Gates, the President's Deputy National Security Adviser, on February 25, 1991, on CNN's Newsmaker Sunday.

Mr. Gates was asked whether or not Kuwaitis were being tortured and executed by Iraqis. Mr. Gates replied, "We hear that from the Kuwaiti resistance, from people who have emerged from Kuwait, and from others still in Kuwait City. We've heard enough stories from enough different sources to give us a high degree of confidence that there is a great deal of credibility to these stories."

Mr. President, in Southeast Asia, U.S. Intelligence Agencies have received over 1,400 first-hand eyewitness accounts of American prisoners of war being held in captivity since 1973. These accounts come from the Vietnamese and Lao Resistance, people fleeing from Vietnam and Laos, people still inside Vietnam and Laos, and even Bobby Garwood, an American Prisoner of war who came out 6 years after the war ended, 6 years after the Government said they were all dead.

Mr. President, I cannot emphasize enough that these are the same sources of information that were good enough to believe in Kuwait! I would also point out that our intelligence agencies have received some 10,000 additional reports relating to POW/MIA's. But despite all these reports, the official position of our Government is that no credible evidence exists to suggest that American prisoners of war were left behind at the end of the Vietnam conflict.

Moreover, this position implies that the executive branch has followed up diligently on every single one of these reports to determine that it did not fit into the category of credible evidence. Now, Mr. President, I have spent a considerable amount of time looking into this issue since I first came to Congress 7 years ago. My own investigation into this matter has convinced me that we have not followed up diligently on every one of these reports using all means at our disposal. I might also add that many times family members of prisoners of war did not even know that reports on their loved ones even existed.

Even the Vietnamese have publicly admitted that there may be POW's living in the remote areas of Vietnam and Laos not under the control of their central government. Mr. President, Vietnam and Laos will not even let us travel to these remote areas, so how can we be so sure no one is there?

The American people find this very hard to believe that there is no credible evidence, despite the existence of nearly 12,000 live-sighting reports. And I remind my colleagues that these reports are in addition to other types of POW/MIA information which has been collected by the United States through various intelligence means.

In fact, polls indicate that the majority of the American people believe United States soldiers are still being held captive in Southeast Asia, and they have not even seen these intelligence reports. Is the evidence that overwhelming?

Mr. President, allow me to quote from just one of these reports which is declassified in part and has found its way into the public domain. In this report, which is an eyewitness account of American POW's—I actually have the report here—the Lactian source states the following:

> I saw five caucasian prisoners being held in the cave. I was told by my guard that these prisoners were American pilots. All five of the prisoners were quite tall—approximately six feet in height * * * they wore pieces of car tires tied onto their feet for shoes * * * all five of the American prisoners were quite skinny; however they all appeared to be uninjured. There were twelve guards at the camp, and there were always two guards guarding the Americans at the cave. All of the guards had guns—apparently, they were A-K guns. I did notice that when the American prisoners were sitting down that I could see a red rash on the lower part of their ankles.

Mr. President, we believed the Kuwaiti resistance and their stories of torture, yet the Defense Intelligence Agency does not believe the Vietnamese and Laotian resistance and their stories on the treatment of American POW's. Maybe they are true and maybe they are not. We do not believe them and we do not check them out.

Mr. President, there are over 1,400 first hand, eyewitness accounts of American POW's from these resistance people. Some of us in this body have tried to examine more of this evidence and have found that in doing so, it is nearly impossible to exercise oversight on how the executive branch is handling this issue. Not only is it impossible, but we have been met with resentment and obstruction from the agencies involved.

Let me explain how congressional oversight has been hindered. This past December, I decided I would like to attend a meeting of our Government's POW/MIA Interagency Group—the IAG. Mr. President, I would first like to explain exactly what this inter-agency group is.

The Department of Defense published a POW/MIA fact book in 1989 in which the IAG is described as follows:

> United States Government policy regarding the POW/MIA issue is coordinated through the POW/MIA Interagency Group. Membership in the IAG includes the Defense Department, the White House National Security Council Staff, the State Department, the Joint Staff, the Defense Intelligence Agency, the National League of POW/MIA Families, and House and Senate staff members from the respective Foreign Affairs and Foreign Relations Committees. The IAG develops policy concerning the POW/MIA issue and assesses current efforts, while evaluating new initiatives and approaches to enhance resolution.

This all sounds very nice, Mr. President, even though Members of Congress are never informed when these meetings take place. In fact, last December, I found out that one of these meetings was going to take place with General Vessey, the President's special emissary to Hanoi. It so happens that on the morning of this meeting which I had planned to attend, Deputy Secretary of State Lawrence Eagleburger barred me—a U.S. Senator—from attending the meeting, even though it says in the book that staff members can attend.

Mr. President, staff members of the Senate are by definition members of this interagency group yet I am barred from the meeting. It is very disturbing that Members of Congress have been shut out of the interagency group. Is somebody hiding something?

On top of that, when we take a look at the 1990 POW/MIA Fact Book put out by the Defense Department, we find that the line about Senate Foreign Relations staffers being part of the interagency group is now omitted.

So, from 1989 to 1990, we omit the line about Senate staffers.

Mr. President, I ask unanimous consent that the relevant sections from the 1989 and 1990 POW/MIA fact books be printed in the RECORD at the conclusion of my remarks.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 2.)

Mr. SMITH. So we find up until last year Senate and House Members were members of this IAG group and now, not only are staff members not allowed, but I, as a U.S. Senator, cannot even participate in policy discussions on the POW/MIA issue. There is a shroud of secrecy in the executive branch surrounding this issue. It is wrong and it is time we do something about it.

Let me point out to my colleagues there is one person from outside the Government who participates in these interagency groups which I, as a U.S. Senator, and you and anyone else in the Senate cannot. This person is Ann Griffiths, director of the National League of Families who purports to represent all POW families from the Vietnam conflict. In fact, Mr. President, she does not represent all families.

Mr. President, this nonelected, nongovernment person has been given access to highly sensitive, top secret documents and is allowed to shape Government policy as a member of this group. Moreover, she has been actively and secretly lobbying the Defense Department to prevent Members of the U.S. Senate from reviewing over 1,400 eyewitness accounts of POW's, the same documents that she has access to. I submit something is terribly wrong when a nonelected, nongovernment person actively lobbies to forbid elected representatives of the American people from seeing these very documents.

Mr. President, I ask unanimous consent that a copy of a memorandum dated August 2, 1990, from Ann Griffiths to the Under Secretary of Defense, and an article on the National League of Families dated April 29, 1990, be printed in the RECORD following my remarks.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 3.)

Mr. SMITH. Mr. President, the gulf war has recently concluded, and nearly all our POW's and MIA's have been accounted for. We did it right this time and I am proud of our country and I am proud of the people who served and I am proud of those who brought them home. We are achieving the fullest possible accounting.

However, we did not do it right in Vietnam. We did not do it right in North Korea. And this Senator, through this select committee, is going to get the truth. If it takes me the rest of my term here, I am going to get the truth. And I hope my colleagues will join me in finding the truth. The families of our gulf POW's found out the truth, and the families of North Korea and Vietnam POW's deserve no less.

Sadly enough, the administration's designation of this issue as the highest national priority has not convinced this Senator that we have been doing all we possibly can to resolve the fate of these men.

I come to this conclusion after having sat in on countless briefings and meetings with the Defense Intelligence Agency and the Defense Department's Office of International Security Affairs. Throughout all these briefings and meetings, I have yet to receive answers on exactly what we are doing to actively follow up on these reports.

Have we simply resigned ourselves to a presumptive finding of death for hundreds of servicemen our Government believed had been held in captivity at the conclusion of the Vietnam and Korean conflicts?

Can we responsibly dismiss every single one of these eyewitness accounts of our men and women in captivity? And are we keeping up the pressure at the highest possible diplomatic levels to bring about a full accounting of these men? Frankly, we are not, and we are not doing enough to resolve this issue.

When the wife of a missing serviceman from Vietnam asks me if we are doing everything possible, I regretfully have to say no. We know the Vietnamese are warehousing remains, we know there are still reports coming in every day of live Americans.

We have to get out and actively investigate these reports. We cannot just shuffle paperwork back and forth in the bowels of the Pentagon.

In short, Mr. President, it is time we, in this body, in the U.S. Senate, address this issue as one of the highest national priorities. Unfortunately, 5 years have passed since any hearings in this body were held.

It is certainly time for this body to focus its energies on resolving the issue once and for all. That is why I want the select committee. That is why all of us who are on this bill want it. It is not only our duty, it is our moral obligation to our missing, to their families, to our veterans, and to the American people.

Mr. President, I ask unanimous consent that a copy of the goals for this proposed committee be printed in the RECORD, as well as a factsheet outlining why the formation of a select committee will help resolve the POW/MIA dilemma.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 4.)

Mr. SMITH. Mr. President, Col. Peter Stewart was shot down on March 15, 1966, over Vietnam. Tomorrow is the 25th anniversary of his shoot-down. He is still missing. His family is still looking for answers.

EXHIBIT 1

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, October 26, 1990.

DEAR REPUBLICAN COLLEAGUE: Enclosed is an Interim Report by the Minority Staff of the Senate Committee on Foreign Relations on the U.S. Government's handling of the POW/MIA matter. This summary document represents a year of intensive investigation, culminating in a major breakthrough in the careful examination of DIA live-sighting reports on POW/MIAs—the first time in 17 years that an independent branch of the government has had an opportuntiy to make an objective evaluation of the methods used in accounting for those categorized as POW/MIAs in Southeast Asia.

On October 17, 1990, the Foreign Minister of Vietnam, Nguyen Cao Thac addressed a meeting at the Foreign Relations Committee and attended by Senators of the Committee as well as invited guests. In my opinion, the Department of State's invitation to Thac to visit the United States was inappropriate at a time when the Executive Branch is still unwilling to address the hard issue of living American POWs still being held captive in Southeast Asia.

The thrust of Thac's address was to call for the acceleration of the time table for renewal of relations between the government of Vietnam and the United States. Thac indicated that the resolution of the POW/MIA issue is one of two major areas of contention. Furthermore, Thac stated that he had agreed to all terms levied by the President through his special envoy, General John Vessey USA (Ret.). But in re-stating the terms to which he had agreed, Thac never once mentioned that the issue of living American POWs in Vietnam had been addressed.

The position of the Executive Branch is that there is "no evidence" that living Americans exist in SE Asia, nor were any left after American prisoners were returned in 1973.

Nevertheless, public opinion polls continue to suggest that 62% of the American people believe that U.S. POW/MIAs are still alive in Vietnam, and 84% of Vietnam veterans believe so. Clearly the U.S. Government no longer maintains credibility on this issue.

For this reason, a year ago, I assigned investigators on the Minority Staff of the Senate Foreign Relations Committee to conduct a staff investigation of the handling of the POW/MIA issue by the U.S. Government. These investigators are highly trained professionals, with a total of more than 68 years of investigative experience in the Executive Branch, including criminal investigative experience, as well as more than 17 years of experience in intelligence analysis. All served in Vietnam and are knowledgeable about the history, geography, and language of that unfortunate country.

The investigation has proceeded quietly, and without public fanfare. But much remains to be done. Information developed in the course of the inquiry was the result of the following methods: 1) face-to-face and telephonic interviews; 2) review of various classified and unclassified official documents; 3) corroborative information from government and private sources; and 4) historical research. This reports is in all respects an interim report: It is incomplete and it is a summary report of conclusions which must be further tested.

The Committee on Foreign Relations has authority to engage in oversight of POW/MIA issues implicit in its broad mandate to study and review foreign policy. Senate Rule 25.1j specifically refers to the Committee on Foreign Relations matters dealing with: "[11.] Intervention abroad and declarations of war," and "[15.] Protection of United States citizens abroad and expatriation."

The focus of the inquiry has centered on the following questions:

1. Does the U.S. Government possess valid information concerning living POWs in Southeast Asia?

2. Has the U.S. Government failed to act on information concerning living POWs in Southeast Asia?

3. Has the U.S. Government acted improperly to intimidate, coerce, or discredit sources which have valid information concerning living POWs in Southeast Asia?

I believe that the investigators have come to valid conclusions, although of course much of the material they reviewed remains classified. Moreover, I believe that the American people have the right to see that this inquiry is pursued to a proper conclusion.

I am deeply grateful for the enormous contribution of Senator Chuck Grassley who, out of his deep concern for American service personnel, joined me at the very beginning and supported and encouraged it at every step.

Sincerely,

JESSE HELMS.

Enclosure.

[By the U.S. Senate Committee on Foreign Relations Republican Staff, Oct. 29, 1990]

INTERIM REPORT ON THE SOUTHEAST ASIAN POW/MIA ISSUE

"Accountability lies in oversight by Congress or in criticism from the electorate, but not in the judgment of the courts."—From *Smith* vs. *Reagan*, United States Court of Appeals, for the Fourth Circuit, No. 87-1661, April 20, 1988, regarding the POW/MIA issue.

INTRODUCTION

One year ago, the Ranking Minority Member of the Senate Committee on Foreign Relations assigned members of the Minority Staff to investigate the following three questions:

1. Whether the United States Government has received and still possesses valid information concerning living prisoners of war/missing in action—POW/MIAs—in Southeast Asia;

2. Whether the U.S. Government has failed to act on such information; and,

3. Whether the U.S. Government has acted improperly to intimidate and discredit sources of such information.

The primary purpose of this investigation has been, and will continue to be, to determine whether the U.S. Government has handled the question in a truthful and effective manner. But if it results in a determination that even one POW may still be alive, it will result in a dividend of blessings.

The inquiry remains on-going. It is based not only on the review of thousands of classified and non-classified documents, but also upon hundreds of telephonic and face-to-face interviews with government officials and those affected by their decisions with regard to POW/MIAs. A full report will require much additional investigation and analysis. The following, however, represents an interim report at the conclusion of one year's work. It allows the presentation of some preliminary conclusions.

PRELIMINARY CONCLUSIONS

The U.S. Government states it has no evidence that POWs were left behind in Southeast Asia. The official policy assets that it is open to investigation of all reports. For example, the official Department of Defense (DOD) *POW-MIA Fact Book*, issued July, 1990, states:

"Although we have thus far been unable to prove that Americans are still detained against their will, the information available to us precludes ruling out that possibility. Actions to investigate live sighting reports receive and will continue to receive necessary priority and resources based on the assumption that at least some Americans are still held captive. Should any report prove true, we will take appropriate action to ensure the return of those involved."

Notwithstanding this professed openness to new evidence, the U.S. Government has insisted since April 12, 1973, that it has no evidence of living POWs. In fact, on that date—at the conclusion of Operation Homecoming, which brought home 591 POWs—Dr. Roger Shields, then Assistant Secretary of Defense, stated that the DOD had "no evidence that there were any more POWs still alive in all of Indochina."

This assertion has been consistent. For example, last July, Col. Joseph A. Schlatter, then chief of the Defense Intelligence Agency's Special Office for POW/MIAs, was saying that "If we look at everything we collected during the war and everything we've collected since the war, we don't find any evidence that Americans are captive."

Furthermore, as late as October, 1990, an unnamed "senior State Department official" was quoted in the press as saying the U.S. Government has "no evidence" of living American prisoners in Southeast Asia.

However, to say that the U.S. Government has "no evidence" is not the same as saying that no evidence exists. After all, there have been nearly 11,700 reports relating to POW/MIAs over the years, including 1,400 first-hand, live-sighting reports. The question is whether every single one of these reports can be dismissed from the category of credible evidence.

The U.S. Government position makes sense only if every single one of these reports can be shown to have been fabricated, erroneous, or not relating directly to a POW/MIA—for example, some reports may relate to Europeans in the area. In fact, DIA analysts have rejected the evidence of all these reports, except for a small pool of less than 150 still considered "unresolved."

The preliminary conclusions presented by staff for review by Senators are as follows:

1. After the conclusion of Operation Homecoming in April, 1973, brought the return of the 591 POWs, official U.S. Government policy internally adopted and acted upon the presumption that all other POWs were dead, despite public assertions that the government was still open to investigating the possibility of discovering the existence of living prisoners.

2. Following the adoption of an internal policy in April, 1973, that all POW/MIAs were presumed dead, the U.S. Government, convened commissions in each military service to consider each case on the POW/MIA list in order to make a statutory declaration of presumption of death.

3. While there is no reason to believe that the majority, if not most, of the declarations of presumptive death are incorrect, staff review of live-sighting report files at DIA found a disturbing pattern of arbitrary rejection of evidence that connected a sighting to a specific POW/MIA or U.S. POW/MIAs in general.

4. The pattern of arbitrary rejection resulted in a declaration of presumptive finding of death for every such individual case, except one.

5. The internal policy that all POW/MIAs were presumed dead resulted in an emphasis on finding and identifying remains of dead personnel, rather than searching for living POW/MIAs.

6. The desire to identify specific sets of remains with specific names on the POW/MIA list led DOD to an exaggeration of the capabilities of forensic science, and identification based on dubious presumptions and illogical deductions rather than actual physical identification—a process which resulted in numerous misidentifications of remains.

7. Despite adherence to internal policies and public statements after April, 1973 that "no evidence" existed of living POWs, DIA authoritatively concluded as late as April, 1974 that several hundred living POW/MIAs were still held captive in South East Asia.

8. Although the Pathet Lao declared on April 3, 1973, that Laotian Communist forces were holding American POWs and were prepared to give an accounting, nine days later a DOD spokesman declared that there were no more American prisoners anywhere in South East Asia. No POWs held by Laotian Communist forces ever returned. The evidence indicates that the U.S. Government made a decision to abandon U.S. citizens still in the custody of the Socialist Republic of Vietnam, Laos and Cambodia, at the conclusion of U.S. involvement in the Second Indochina War.

9. U.S. casualties, including POW/MIAs in South East Asia, resulting from covert or cross border operation, may not be included on the list of those missing.

10. The executive branch has failed to address adequately the concerns of the family members of the POW/MIAs, and has profoundly mishandled the POW/MIA problem.

DEFINITION OF POW/MIA

The subject of POW/MIAs requires some definitions. After the Second Indochina War—popularly known as the Vietnam War, even though Thailand, Burma, Laos and Cambodia saw U.S. combat action—hundreds of POWs returned alive, notably in Operation Homecoming, which concluded in April, 1973.

Those who did not return home are classified by the Department of Defense into two categories: POW/MIAs—that is, those for whom there is some documentation that they were captured but never repatriated; and KIA/BNRs—that is, those believed to have been killed in action, but whose bodies were not recovered. For the latter, there is no evidence of their death except DOD's evaluation of the circumstances, even though no physical evidence of death may be available.

In April, 1973, DOD reported that 2,383 personnel were unaccounted for: 1,259 POW/MIAs, and 1,124 KIA/BNRs. This study assumes that both categories of the unaccounted for deserve review. Since 1973, DOD has announced the return of 280 sets of remains, diminishing the over-all number by that amount.

In addition, there could well be an equal number of military personnel missing in action from various U.S. covert actions during the war. Since DOD files on covert actions have not been opened, and the participants in such actions never publicly identified, this inquiry could not establish any number for covert POW/MIAs. However, public source books and interviews with participants suggest that the issue of covert operations adds a substantial, but unknown, dimension to the MIA question which has received no scrutiny.

REVIEW OF LIVE-SIGHTING DOCUMENTS

In this inquiry, staff has reviewed hundreds of U.S Government classified, declassified, and open-source documents. In addition, Senator Grassley and Committee Minority staff were given access to, and have reviewed personally, hundreds of classified live-sighting reports (accounts by Southeast Asians of live POWs in Southeast Asia) in the files of the Defense Intelligence Agency (DIA). According to DIA, this is the first time that either a United States Senator or any United States Congressional Committee staff have been given access to the raw intelligence contained in the 1,400 live-sighting reports.

Out of the 1,400 live-sighting reports, approximately 1,200 are considered by DIA to be "resolved." Each of the so-called "resolved" sightings was resolved by concluding that the live-sighting report did not pertain to U.S. POWs present after April 1979. Staff felt that in some cases such a conclusion was correct, but that in many it was not supported by the facts.

Staff began by first examining so-called resolved cases in order to study DIA methodology by which a conclusion of "resolution" was reached. Since the guidelines set by DIA for access to the files were extremely restrictive, the time available allowed review of only about one-quarter of the so-called "resolved" cases, and none of those in the category of "unresolved." Nevertheless, staff concluded that a significant number of the "resolved" cases reviewed showed that the DIA methodology was faulty, or that the evidence did not support the DIA conclusion in the case, or both.

The information collected and reviewed to date by the staff shows that the position held by the United States Government—namely, that no evidence exists that Americans are still being held against their will—cannot be supported. Rather, the infornmation uncovered during this inquiry provides enough corroboration to cast doubt upon the veracity of the U.S. Government's conclusion.

Without revealing classfied information, staff believes that the review of the classified live-sighting reports reinforces that doubt. Although more information remains to be reviewed, the evidence this inquiry has thus far uncovered shows that:

1. living U.S. citizens, military and civilian, were held in Southeast Asia against their will after the U.S. Government's statement on April 13, 1973, that no prisoners remained alive; and

2. the information available to the U.S. Government does not rule out the probability that U.S. citizens are still being held in Southeast Asia.

In fact, classified, declassified and unclassifed information all confirm one startling fact: The DOD in April, 1974, concluded beyond a doubt that several hundred living American POWs remained in captivity in Southeast Asia. This was a full year after DOD spokesmen were saying publicly that no prisoners remained alive.

Evidence uncovered in the several hundred cases reviewed thus far clearly demonstrates that, in a disturbing number of cases, DOD made significant errors in drawing conclusions about live-sighting reports, the presumed deaths of individuals, or about individuals that were unaccounted for at the conclusion of the war. Although many cases were resolved correctly based upon the files, there were too many errors apparent to rule out the need to undertake and complete the review of the "unresolved" cases.

Staff also concluded that DOD spent an excessive amount of effort in discrediting live-sighting reports, while exaggerating or mishandling forensic data in order to confirm a presumptive finding of death than in following up reports of sightings with creative investigative work.

Furthermore, there is evidence of insensitivity on the part of the Executive Branch of the U.S. Government in providing complete and accurate information to the next-of-kin of missing American servicemen.

The classified evidence in DIA files suggests a pattern by a few U.S. Government officials of misleading Congressional inquiries by concealing information, and misinterpreting or manipulating data in government files. Interested Senators and staff with proper clearances no doubt will want to review the classified files themselves and draw their own conclusions.

THE 1973 POLICY DECISION

Those who have not dealt with the POW/MIA issue may find it difficult to understand how DOD's analysis of the information could be in error. Unfortunately, staff believes that DOD has allowed its procedures to be dictated by a pre-conceived policy finding.

The New York Times reported on April 12, 1973, as follows:

"WASHINGTON, April 12—The Pentagon, two months after the first American prisoners of war began coming home, said today that it had no evidence that there were any more prisoners still alive in all of Indochina.

"Despite the fact that interviews with all returning prisoners are nearly compelete, a Pentagon official, Dr. Roger Shields, said that none of the 1,389 Americans listed as missing were now technically considered prisoners. 'We have no indication at this time that there are any Americans missing alive in Indochina,' Dr. Shields said at a news conference."

Dr. Shields was at that time Assistant Secretary of Defense, but he was following guidance issued on that date by the Department of State in a memorandum to DOD which stated that "There are no more prisoners in Southeast Asia. They are all dead." This directive was issued immediately after the return of the last POWs in Operation Homecoming. This finding was made despite that the fact that none of the hunderds of POW/MIAs that the Pathet Lao publicly acknowledged holding were ever returned from Laos. There were hundreds of live-sighting reports on file in 1973. Thousands of such reports have continued to be received since then.

PROCESS FOR "PRESUMPTION OF DEATH"

Since it was official policy, then, that all MIAs were dead, it became a bureaucratic necessity for all "unresolved" cases to be resolved in favor of a presumed finding of death.

Each respective military service from time to time convenes its own special commissions to pronounce on individual cases. Such a commission has before it at least three categories of information: The first is intelligence-related information concerning the individual. The second is eyewitness accounts of the loss event. The third is the so-called "incident report"—the offical report of the loss incident.

If a year passes without new information, the respective military service can convene a commission to determine whether a presumptive finding of death should be declared.

The April, 1973, statement of policy was a political statement, rather than a finding according to statutory authority. As a result, the military services subsequently reviewed each individual case of those who previously had been declared dead en masse. And in every case except one, the commissions made a determination of a presumptive finding of death.

Because of this procedure, the bureaucratic necessity arose for discrediting any evidence that might cast doubt on the mass presumptive finding of death of April, 1973. From the standpoint of law and military regulations, the procedure followed in each case gave a legal affirmation to the original political statement.

Therefore, in order to discredit any information which might undermine the political thesis, the analysis of intelligence files fell into a systematic pattern of debunking information contrary to the thesis.

This systematic debunking included discrediting of reports, possible intimidation of witnesses, dismissal of credible evidence through technicalities, and—if all else failed—the arbitrary disregard of evidence contrary to the thesis.

DOD'S WORKING HYPOTHESIS

An analysis of DOD's working hypothesis for fully accounting for American MIAs is the key to understanding the discrepencies between DOD's position on the POW issue and the evidence uncovered by the staff.

DOD's premise, beginning in April, 1973, has been that all MIAs are dead; the corollary, therefore, is that DOD must never find any evidence that any MIA is alive. The best evidence, in DOD's opinion, is a set of physical remains that can be identified as a specific individual on the POW/MIA list. Once such an identification has been made, the case of that individual can be removed forever from the list. This is an easier task than to accept live-sighting reports that might point to a living POW, thereby necessitating appropriate follow-up action.

It is a reasonable assumption to remove POW/MIAs from the list when remains are identified, if the identification is correct. But the fact is that in a significant number of cases, such identifications have been made on the basis of inadequate physical evidence, using presumptive deductions that may or may not be true. The pressure to identify sets of remains even has resulted in specific cases where caskets have been buried with full military honors as the "remains" of the individual when, in fact, the casket is empty.

Therefore, DOD acts on its premise by vigorously investigating for the remains of dead MIAs. The list of MIAs presumed dead following the conclusion of the war totalled 2,383. DOD has received and claimed to have identified a total of 280 sets of remains since 1973.

Any full accounting of MIAs, according to DOD's working hypothesis, would necessarily involve only those cases in which either a presumptive finding of death could be made, or else full or partial remains could be discovered. As each presumptive finding of death is declared or set of remains is identified, DIA would remove, as accounted for, the names that matched those on the original MIA List. In this respect, DOD claims that DIA has vigorously investigated and resolved hundreds of such cases.

The policy of DOD is to focus attention on the cases where some evidence, no matter how small, of physical remains can be recovered. But even while DOD enthusiastically and vigorously investigates remains case—no matter how fragmentary—it just as vigorously discredits live-sighting and other witness accounts. Throughout the 1970s and 1980s hundreds of thousands of Asians fled Vietnam, Cambodia and Laos. These refugees provided many first-hand reports, or knew by second- or third-hand reports, of American prisoners being held in their respective countries.

To date, over 11,700 accounts have been received by DOD; 1,400 of these are first-hand, live-sighting reports. DIA claims to have analyzed fully each of these live-sighting reports, and to have left "no stone unturned" in searching for living prisoners. After analyzing the live-sighting reports, DIA has concluded that the majority are not related to living American POWs, with the possible exception of a small percentage of reports that DIA describes as "unresolved."

However, no "resolved" case has ever concluded that an American POW remains captive in Southeast Asia. In this way DIA concludes that there is no evidence of Americans currently being held captive in Southeast Asia. This contention is consistent with both the working hypothesis described above and with DIA's apparent success at removing from the MIA list names that involve only those cases in which remains are identified, or a finding of death declared.

Insofar as these discrepancies relate to the 1,400 first-hand reports of living prisoners, DOD's original premise comes into question. Numerous live-sighting reports have been erroneously discredited by DIA analysts. Moreover, staff has reason to believe that DOD has misidentified the remains of scores of MIAs, and has incorrectly presumed dead many others.

This analytical bias is typical of a bureaucracy defending an established policy at all costs, even if it means denying the obvious. It is also a typical characteristic of an out-moded paradigm that can no longer explain the real world or real facts. If the original premise of DOD had been that at least some of the 2,383 MIAs were alive, then DOD would have been forced by circumstance to view the evidence collected, including the hundreds of live-sighting reports, from an objective standpoint. The relevance and validity of each report could have been judged on its own merits rather than whether it supported a pre-determined hypothesis that no living POW/MIAs remained.

Unfortunately, DOD choose to make its own analysis, without proper legislative oversight. Claiming extreme sensitivity and possible threats to sources and methods of intelligence gathering, DOD evaded the proper oversight that would have assured the objectivity of their process, The result has been a disservice to the POW/MIAs, their families and the American people.

IMPORTANCE OF THE PROBLEM

The resolution of these questions is important not only to any MIA/POWs who may be still alive, but also to the families involved. It is also important to the fate of any possible POWs in a future military action. With 200,000 U.S. troops now deployed to the Persian Gulf, the question of possible prisoners of war once again becomes an urgent matter.

Moreover, the resolution of issues relating to Southeast Asia is a key priority of our nation's foreign policy. Secretary of State James A. Baker III stated recently that the POW/MIA issue is the last remaining obstacle to resumption of relations with the government of Vietnam. But if it turns out that Vietnam has been concealing the existence of POWs, then it would be a complicating factor in initiating relations with the present regime.

EXHIBIT 2

[POW-MIA Fact Book from the Department of Defense, July 1989]

U.S. GOVERNMENT EFFORTS TO OBTAIN THE FULLEST POSSIBLE ACCOUNTING

United States Government policy regarding the POW/MIA issue is coordinated through the POW/MIA Interagency Group (IAG). Membership in the IAG includes the Defense Department, the White House National Security Council (NSC) staff, the State Department, the Joint Staff, the Defense Intelligence Agency (DIA), the National League of POW/MIA Families, and House and Senate staff members from the respective Foreign Affairs and Foreign Relations Committees. The IAG develops policy concerning the POW/MIA issue and assesses current efforts, while evaluating new initiatives and approaches to enhance resolution.

Most Americans felt that with the signing of the agreements ending the war in Indochina, accounting for our missing countrymen would finally occur. In 1973 the then Democratic Republic of Vietnam (DRV) North Vietnam, was expected to honor Article 8 of the Paris Peace Agreement dealing with those missing and killed in action. This article specifically provided for repartriating POWs from both sides as well as exchanging information about the missing and returning the remains of those who died. These points were conditional only on the withdrawal of U.S. and allied forces from Vietnam. The agreement ending the war in Laos had less specific articles pertaining to POWs and MIAs of all nations. However, because of the intransigence of the Indochinese governments, the POW/MIA issue remains unresolved.

Prior to the fall of the Republic of Vietnam in 1975, teams from the Joint Casualty Resolution Center (JCRC), augmented by members of the U.S. Army Central Identification Laboratory, Thailand (CIL-Thai) and other units, searched the jungles and mountains of South Vietnam for remains of U.S. personnel, under the auspices of the Four Party Joint Military Team (FPJMT) established by the Paris Peace Agreement. Despite a lack of cooperation from the Vietnamese communists and often at great personal risk, the JCRV recovery teams achieved noteworthy success in their efforts. U.S. efforts in North Vietnam during this period were limited to negotiations with the Vietnamese concerning the fate of our servicemen and the repatriation of remains. Between April 1973 and April 1975, North Vietnam returned the remains of 23 U.S. personnel.

In the first six years after the fall of the Republic of Vietnam, several U.S. Congressional delegations, as well as delegations from the State and Defense Departments, met with the Vietnamese regarding this specific issue. In addition, JCRC representatives met in Hawaii with Vietnamese officials in July 1978 and traveled to Hanoi in October 1980 and May 1981. These three meetings dealt with technical aspects of the accounting process.

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Most Americans felt that with the January 1973 signing of the agreements ending the war in Indochina, accounting for our missing countrymen would finally begin. The then Democratic Republic of Vietnam (DRV), North Vietnam, was expected to honor Article 8 of the Paris Agreement which specifically provided for repatriating POWs from all sides as well as exchanging information about the missing and returning the remains of those who died. These points were conditional only on the withdrawal of U.S. and allied forces from Vietnam. The agreement ending the war in Laos had less specific articles which pertained to repatriating and accounting for POWs and MIAs of all nationalities.

To implement Article 8, the Four Party Joint Military Team (FPJMT) was established. Prior to the fall of the Republic of Vietnam in 1975, under the auspices of the FPJMT, numerous meetings were held where the U.S. negotiators continually pressed for information on the missing. During this same period, despite the lack of cooperation from the Vietnamese communists, the Joint Casualty Resolution Center (JCRC), augmented by members of the U.S. Army Central Identification Laboratory (CIL), Thailand, and other units, were able to conduct limited searches. These efforts halted in December 1973, when a search party visiting a pre-announced site was ambushed by communist forces and an American was killed. Between April 1973 and April 1975, North Vietnam returned the remains of 23 U.S. servicemen who died in captivity.

In the first six years after the fall of the Republic of Vietnam, U.S. Government officials had intermittent and largely unproductive contacts with the Vietnamese on this issue. The House of Representatives established the Select Committee on Missing Persons in Southeast Asia which, during its 15 month tenure (1975–76), had several contacts with the Vietnamese in Hanoi, Paris and the United Nations. In 1977, President Carter appointed Leonard Woodcock to head a Presidential Commission on Americans Missing and Unaccounted for in Southeast Asia. This Commission visited both Vietnam and Laos to discuss the POW/MIA issue. It was during their March 1977 visit that the Vietnamese first announced that they had established an office to seek information on missing Americans and to recover remains. In addition, Vietnamese officials visited the JCRC and CIL in Hawaii. In July 1978; technical level meetings were held in Hanoi in October 1980 and May 1981.

EXHIBIT 3

MEMORANDUM TO PAUL WOLFOWITZ

From: Ann Mills Griffiths.

Subject: Access to classified POW/MIA material.

Date: August 2, 1990.

On August 1, letters from ASD/LA Dave Gribbin were sent to Senators Jesse Helms (R–NC) and Charles Grassley (R–IA) giving them full access to cases of interest on the POW/MIA issue. In addition, Mr. Gribbin suggested that the Senators may wish to invite staff of the Foreign Relations, Armed Services or Intelligence Committees, with the appropriate clearances and with responsibility for the POW/MIA issue, to accompany them to review of the classified material.

An additional August 1 letter was sent to Representative Beilenson stating that Congressman Bob Smith (R–NH) would be provided the same opportunity, along with staff of the Armed Services or Intelligence Committees, under the same clearance criteria. Mr. Gribbin's decision to pursue this course (which I understand was strongly opposed by ISA, DIA and the Deputy Chief of Staff for Intelligence, Department of the Army) has far reaching ramifications about which I feel you and the Secretary should be aware.

As you know, the President, Vice President, Secretary Cheney, you, Bob Kimmitt and others have firmly committed the U.S. Government to pursuing resolution of the POW/MIA issue as a matter of highest national priority. These pledges were taken at face value and gratefully received by POW/MIA families. If implemented, this course makes a mockery of the Bush Administration's commitments.

On any matter of highest national priority, sensitive information is not subject to indiscriminate release outside of the parameters established by the Congress itself, i.e., the respective Select Committees on Intelligence and responsible staff members with appropriate clearances. This path, if followed, sets a precedent for similar access of other issues, such a step would not be considered, much less approved, on Cambodian, Soviet, Chinese, Middle East or other matters of importance to the U.S. In short, the President's and Secretary's pledges will be viewed as nothing more than hollow tokenism.

Mr. Gribbin's communications authorize access to individual Members of Congress who have been loudest in proclaiming that USG officials are not pursuing this issue with integrity or priority. (Examples are enclosed.) Their records are replete with implications, or outright assertions, that the USG is involved in a conspiracy to cover up evidence that Americans are being held captive in Southeast Asia.

I have no concern that Members of Congress or staff will uncover anything which would lend credence to the charges of conspiracy against which we have collectively fought since the 1983–86 time frame. On the contrary, while problems are continuously identified and remedied, there is a great well of talent in DIA's Special POW/MIA Office.

My concern is that if this decision is implemented, the above message—that the POW/MIA issue is one solely of rhetorical priority—will be made throughout the U.S. Government. Equally or more important, Hanoi will perceive that stated U.S. policy on this issue is no longer valid and that resolution of the fates of America's POW/MIAs is not an issue which they need to seriously address.

Beyond these significant policy considerations, there will be a severe negative impact throughout the intelligence community. One can anticipate immediate CIA and NSA action to pull their documents and information from the files currently held by DIA. Department of State, the FBI and DEA, as well as friendly foreign intelligence services and others with ongoing investigations and cooperative programs will cease all cooperation on POW/MIA related matters. Sensitive sources and methods will be exposed which will have an adverse effect on source cooperation and reporting. Strategies will be exposed and negotiations will be compromised by revealing the extent of U.S. knowledge and intelligence gaps to those from whom we are seeking information.

As outlined in Mr. Gribbin's letters, DIA's Special Office for POW/MIA Affairs will necessarily be available to assist the Members of Congress and staff during their review of the material. This will usurp critical manpower from important and serious efforts to accomplish the objectives stated by the President and Secretary Cheney. The current level of personnel in DIA's POW/MIA office was established as a result of the Reagan/Bush priority, hard earned and absolutely mandatory. Squandering their time and efforts to participate in a "witch hunt" against themselves does nothing to help resolve the issue and, in fact, lends credence to those most involved in accusations that a "mindset to debunk" exists in that office.

Finally, indiscriminate release such as Mr. Gribbin has now invited will potentially subject POW/MIA family members to further, tragic exploitation by "activists." I am appalled by this motion from an individual who obviously knows little about the issue but is seeking to pander to Congress by sacrificing principle and the integrity of the President and Secretary Cheney. He clearly has no understanding of what this will mean in the broader sense, not to mention POW/MIA.

POW/MIA GROUP BECOMES PART OF BUREAUCRACY

(By Jack Anderson and Dale Van Atta)

WASHINGTON.—Bruce Adams of Laramie, Wyo., is far from the nation's nerve center, and he asks little of the Washington bureaucracy, other than that it help find his brother. Adams may be asking too much.

His brother, along with thousands of other American soldiers, is still listed as missing, nearly 15 years after the Vietnam War ended. Some 3,600 families are tormented by the unknown fate of their loved ones.

The families have relied for two decades on an influential non-profit group to tout their cause in Washington. The National League of Families of American Prisoners and Missing in Southeast Asia has been almost their only hope in prodding Congress and the administration to continue the search for lost GIs.

But Adams no longer belongs to the league. He and other bitter families say the league has sold its soul for the trappings of Washington power. The organization that once relentlessly pressed the government for answers and accepted no double-talk now mouths that same double-talk. It has been transformed from a feisty independent advocate to a member of the Washington club. Instead of solving the mystery of missing GIs, the league has become a self-perpetuating bureaucracy that shows few signs of completing its mission.

The way Adams sees the situation, "It means there's nobody out there except a handful of activists and congressmen who even give a damn."

His is not a voice in the wilderness. Some of those who are most involved on the POW/MIA issue, ranging from Capitol Hill insiders to prominent activists across the country, agree. To hear them talk, the league in recent years has become a mouthpiece for official pronouncements.

It wouldn't be the first time a grass-roots group of firebrands had lost its zeal in Washington. There is something seductive about meetings with the president and cocktail parties with movers and shakers that wears down even the most contrary outsiders. But the critics of the league say this particular seduction is even more disappointing because the league was the only hope for so many desperate families.

How has the league wound up in the pocket of the Washington bureaucracy? By landing a seat on a government panel, a security clearance to peruse classified data and a close working relationship with insiders.

The result is that the league, which once challenged the government, now urges family members to be patient with the government's approach. The league, which once shared information freely with families, is now obliged by a security clearance to withhold some facts.

Longtime league director Ann Mills Griffiths calls her critics the "nut fringe." She says if the government and the league seem to be in sync, it is because the government has come around to the league's way of thinking. The administration gives the search for missing GIs its highest priority, Griffiths told us. "Public criticism is no longer necessary," she said. She called herself an "advocate inside the system."

That doesn't impress those who believe the system isn't doing much.

Congressional sources told our associate Dan Njegomir that the league's setup is "too close for comfort." One Capitol Hill source close to the POW/MIA issue described Griffiths as "part of the government."

Those in and out of government who accuse the administration of foot dragging get a swift backhand from Griffiths. She writes to families and the news media urging them to ignore the more outspoken POW/MIA advocates. One rival group is suing the league for defamation.

Some families have quit the league over differences. The league's unforgiving policy is to ban those defectors from readmission.

The league has even attacked some congressional efforts at speeding up the search for missing soldiers because those initiatives didn't follow the official line.

Rep. Robert Smith, R-N.H., has sponsored a bill to open secret government records on soldiers missing since World War II. But the league doesn't like the bill, claiming it could jeopardize missing Americans, if any, who are still alive. Griffiths is "part of the interagency group," said a congressional source. "She doesn't want this stuff declassified."

As the league's Washington roots have grown, so have its finances. The job paid Griffiths precious little when she signed on in 1978. Now the league has a staff of seven and a payroll of $200,000 out of annual contributions of $1.1 million. Griffiths' last reported salary was $75,000.

The cozy working relationship is just fine with the administration. As one State Department official put it, the government extended quasi-official status to the league at least partly to ease the suspicion of some families that too little was being done.

But the suspicions linger. Sens. Charles Grassley, R-Iowa, and Jesse Helms, R-N.C., have begun their own confidential inquiry into how the government has handled the search.

In spite of the critics, the league will continue to draw the good will, and money, from many families. As one congressional source put it, "I guess they feel obligated to give because it's the only hope they have."

EXHIBIT 4

DISCUSSION DRAFT OF GOALS FOR PROPOSED SENATE SELECT COMMITTEE ON POW/MIA AFFAIRS

To provide a bipartisan group of Senators to exercise oversight on government efforts to obtain the fullest possible accounting of POW/MIAs from military conflicts.

To review and assess current U.S. policy concerning the POW/MIA issue.

To recommend and evaluate new initiatives and/or approaches to enhance resolution of the POW/MIA issue (i.e.: legislative proposals, diplomatic efforts, etc.)

To review and assess how agencies are organized for purposes of declassifying POW/MIA information from the Second World War to the present.

To consider legislation to declassify government documents on the POW/MIA issue dating back to World War II when release of the documents would not jeopardize national security, including sources and methods.

To provide a forum for a closer, more coordinated working relationship between the Administration's POW/MIA Interagency Group (IAG) and the United States Senate.

To promote responsible efforts to increase public awareness on the POW/MIA issue.

To review and assess benefits and services provided by the Government to families of military personnel who have not been accounted for.

To review and assess the Government's criteria for classifying American service personnel as prisoner of war, missing in action, or killed in action.

To coordinate with officials of the International Red Cross and the United Nations in order to review and recommend effective frameworks for enforcement of the Third Geneva Conventions of 1949.

To review and assess the manning, funding, methodology, and operations of the POW/MIA division of the Defense Intelligence Agency.

To review and assess the professionalism and quality of the Division's finished analyses of POW/MIA-related intelligence, including live-sighting reports.

To examine Department of Defense procedures and practices in responding to Congressional requests for information concerning POW/MIA matters.

To examine the manning, funding, methodology and operations of the Joint Casualty Resolution Center in Bangkok, Thailand.

To review and assess the manning, funding, methodology, and operations of the United States Army Central Identification Laboratory in Hawaii.

To review and assess the professionalism and quality of the Laboratory's finished analyses of alleged U.S. MIA remains.

To review and assess Government procedures and laws concerning POW/MIA information being provided to next of kin in a timely manner.

WHY A SELECT COMMITTEE AND NOT JUST A TASK FORCE OR CAUCUS OR SOME INFORMAL AD HOC GROUP?

Establishing a Senate Select Committee on POW/MIA Affairs would formally put the Senate on record as giving this issue the high national priority that the Executive Branch has assigned to it for nearly a decade.

A Select Committee would give institutional life in the Congress to efforts to resolve the POW/MIA issue. At the same time, it would ensure that these efforts are pursued until the fullest possible accounting is achieved.

A Select Committee would, by its nature, create the necessary momentum to address the situation in the Persian Gulf (i.e.: the treatment that was given to POWs and enforcement of the Geneva Conventions). The House POW/MIA Task Force was not created until 1977—five years after Operation Homecoming in Vietnam.

More Senators would be involved to a greater extend if a Select Committee were established.

A Select Committee would provide leverage for working with the Executive Branch to resolve the issue.

More resources would be provided to a Select Committee, as opposed to any informal caucus or task force.

Currently, jurisdiction over POW/MIA matters is shared by four committees: Foreign Relations, Armed Services, Veterans Affairs, and Intelligence. A Select Committee would consolidate jurisdiction under one committee, thereby focusing greater attention to the POW/MIA issue.

Establishment of a Select Committee in the Senate would help satisfy to a greater extent the concerns of many Americans who are not satisfied with Government efforts to achieve the fullest possible accounting of all POW/MIAs.

It would send a clearer signal to communist nations like North Korea, Laos, Vietnam, and Cambodia that the United States Congress is not satisfied with cooperation received thus far in addressing the POW/MIA issue.

Mr. GRASSLEY. Mr. President, I would like to express my strong support for the resolution offered by the distinguished Senator from New Hampshire [Mr. SMITH], to establish a Select Committee on POW/MIA Affairs. I would like, as well, to commend Senator SMITH for his leadership and initiative in this regard. In my opinion, this is the right bill at the right time, and it deserves measured consideration and support by this body.

My colleagues are aware, Mr. President, that I have had a close involvement with this issue in the past couple of years. During that time, I have become convinced of the importance and urgency of a committee devoted solely to oversight of the POW/MIA issue. It is for that reason that I am an original cosponsor of this legislation, and why I would urge my colleagues to join us in supporting it.

The Senator from New Hampshire has eloquently stated numerous valid reasons why this legislation is essential.

At this time, I want to remind this body that approximately 1½ years ago, I requested the assistance of the ranking member of the Committee on Foreign Relations, Mr. HELMS, in investigating allegations of the mishandling of the POW issue by the Government. Experienced criminal investigators were brought on board to conduct a thorough, empirically based inquiry.

Three fundamental questions served as the focus of the investigation. Those questions are the following:

First, whether the U.S. Government has received and still possesses valid information concerning living prisoners of war in Southeast Asia;

Second, whether the U.S. Government has failed to act on such information; and

Third, whether the U.S. Government has acted improperly to intimidate and discredit sources of such information.

The answers to these questions following 1½ years' investigation are sobering, indeed, Mr. President. In its interim report issued last October, the investigative team reached some troubling conclusions. The information collected and reviewed shows that the position held by the Government; namely, that no evidence exists that Americans are still being held against their will—cannot be supported. Instead, the information collected provides enough corroboration to cast doubt upon the veracity of the Government's statement.

In September, I and part of the investigative team were given access to hundreds of live sighting reports of POW's in Southeast Asia. According to DIA, this was the first time that either a Member of Congress or committee staff was given access to the raw intelligence data. Although more information remains to be reviewed, the investigative team concluded that a review of the live sighting reports reinforces the doubt about the veracity of the Government's position.

The evidence thus far uncovered shows that:

First, living U.S. citizens were held in Southeast Asia against their will after the Government's statement on April 13, 1973, that no prisoners remained alive; and

Second, the information available to the U.S. Government does not rule out the probability that U.S. citizens are still being held in Southeast Asia.

The second investigative report is about to be issued by the investigative team, Mr. President. That report will provide flesh to the skeletal interim report issued in October.

Following the publication of the second report, there will be sufficient cause for a full-blown investigation into the POW/MIA issue. The second report will disclose evidence that the mishandling of the issue by the Government was not relegated to the war in Southeast Asia. The problem appears to have continued in virtually every war engaged in by the United States since 1917.

Another issue I have addressed on this floor, Mr. President, is that of access to Government information pertaining to POW's. Last April, I requested access to the live sighting reports contained in Defense Intelligence Agency files at the Pentagon. Several weeks after my request, I was denied access to the files. The reason I was denied access to them is because, according to the Assistant Secretary who responded, the material is classified. It was not until July 31—when I spoke here before this body about the propriety of denying a U.S. Senator access to information simply because it is classified—that access was granted to me and the staff of investigators. The restrictions for that access are so ridiculous that the situation begs for review by this Congress. DIA is apparently not used to lowly Senators or Congressmen thumbing through their POW files, and do not take kindly to it. It appears some bureaucrats over there need a refresher course in the constitutional role of Congress in our republican form of government.

These two issues I raise, Mr. President—the investigation and the matter of access—are by no means, in and of themselves sufficient reason for establishing a Select Committee for POW Oversight. They are simply two specific examples—and good examples—of why oversight is needed, and why Congress needs to make this a higher priority, with additional attention and resources. They are simply two more good reasons to add to those already articulated by the Senator from New Hampshire.

In addition to these matters, Mr. President, there are others that must be addressed. We need to:

First, assess the staffing, funding, methodology and operations of the POW/MIA division of DIA;

Second, review the professionalism and quality of the division's analysis of POW intelligence, including live sighting reports;

Third, examine DOD's security procedures and practices when responding to congressional requests for information concerning POW matters;

Fourth, examine the staffing, funding, methodology and operations of the joint casualty resolution center in Bangkok, Thailand;

Fifth, review the staffing, funding, methodology and operations of the U.S. Army Central Identification Laboratory in Hawaii;

Sixth, review the professionalism and quality of the lab's analysis of alleged MIA remains; and

Seventh, review Government procedures and laws concerning the provision of POW/MIA information in a timely manner to POW/MIA families.

In closing, Mr. President, I would once again urge my colleagues to support this resolution so we can elevate this issue to its proper priority, devote the necessary resources, and help resolve the POW problem once and for all.

Mr. HELMS. Mr. President, I support the resolution of the distinguished Senator from New Hampshire [Mr. SMITH], to create a select committee on the POW/MIA issue. Indeed, I congratulate him on his insight in proposing this approach to resolve the doubts that a majority of Americans have about the POW/MIA issue. It is significant that the polls show that Vietnam veterans, by a margin of 85 percent, believe U.S. servicemen were left in captivity in Southeast Asia.

Mr. President, my own informal efforts to determine the veracity of many of the disturbing facets of the POW/MIA issue has amply illustrated to me the challenge presented by this issue. The coordinated effort of a select committee, and the commitment of a bipartisan group of interested and concerned Senators that a select committee entails, finally, will neutralize one of the few remaining poisonous effects of the Vietnam war in the American body politic.

Mr. President, throughout the 18 years I have been in the United States Senate, I have heard reports that United States servicemen who served in Indochina during the Vietnam war remain in captivity. The idea that even one U.S. serviceman—men who were sent over there to fight a war they were not allowed to win—might remain trapped alive in Southeast Asia is my own, personal nightmare.

Over the years, reports of Americans held in captivity in Southeast Asia increased in frequency and authority, leading me, over 18 months ago, to direct the minority staff of the Senate

Committee on Foreign Relations to undertake a comprehensive and fresh look at the POW/MIA issue.

The U.S. Court of Appeals for the Fourth Circuit, April 20, 1988, squarely put the responsibility of the resolution of the POW/MIA issue at Congress's doorstep, stating: "Accountability [of U.S. POW/MIA's] lies in oversight by Congress or in criticism from the electorate, but not in the judgment of the courts."

Some of my colleagues may be aware of the first report that has been issued as a result of this inquiry, the "Interim Report on the Southeast Asian POW/MIA Issue." For the benefit of my colleagues who may not have seen this report, and in light of the efforts of the distinguished Senator from New Hampshire to create a select committee to "strengthen efforts in the Senate to address the POW/MIA issue," I will review the 10 preliminary conclusions of the minority staff report:

First, after the conclusion of Operation Homecoming in April 1973, brought the return of 591 POW's, official U.S. Government policy internally adopted and acted upon the presumption that all other POW's were dead, despite public assertions that the Government was still open to investigating the possibility of discovering the existance of living prisoners.

Second, following the adoption of an internal policy in April 1973, that all POW/MIA's were presumed dead, the U.S. Government convened commissions in each military service to consider each case on the POW/MIA list in order to make a statutory declaration of presumption of death.

Third, while there is no reason to believe that the majority, if not most, of the declarations of presumptive death are incorrect, staff review of live-sighting report files at DIA found a disturbing pattern of arbitrary rejection of evidence that connected a sighting to a specific POW/MIA or U.S. POW/MIA's in general.

Fourth, the pattern of arbitrary rejection resulted in a declaration of presumptive finding of death for every such individual case, except one.

Fifth, the internal policy that all POW/MIA's were presumed dead resulted in an emphasis on finding and identifying remains of dead personnel, rather than searching for living POW/MIA's.

Sixth, the desire to identify specific sets of remains with specific names on the POW/MIA list led DOD to an exaggeration of the capabilities of forensic science, and identification based on dubious presumptions and illogical deductions rather than actual physical identification—a process which resulted in numerous misidentifications of remains.

Seventh, despite adherence to internal policies and public statements after April 1973, that "no evidence" existed of living POW's, there is evidence that DIA believed as late as April 1974, that several hundred living POW/MIA's were still held captive in Southeast Asia.

Eighth, although the Pathet Lao declared on April 3, 1973, that Laotian Communist forces were holding American POW's and were prepared to give an accounting, 9 days later a DOD spokesman declared that there were no more American prisoners anywhere in Southeast Asia. No POW's held by Laotian Communist forces ever returned. The evidence indicates that the United States Government made a decision to abandon United States citizens still in the custody of the Socialist Republic of Vietnam, Laos, Cambodia, at the conclusion of United States involvement in the second Indochina war.

Ninth, U.S. casualties, including POW/MIA's in Southeast Asia, resulting from covert or cross border operation may not be included on the list of those missing. In fact, Newsweek reported in its March 18, 1991, issue that: "Eleven Green Berets engaged in reconnaissance and sabotage around Baghdad are still missing in action, though their names have never been listed on any public MIA reports."

SENATE RESOLUTION 83—RELATIVE TO THE ASSIGNMENT OF UNITED STATES TRADE REPRESENTATION FOR THE BALTIC STATES

Mr. DIXON (for himself and Mr. KASTEN) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 83

Resolved, That it is the sense of the Senate that—

(1) the United States Government should take additional steps to recognize the relationship between the United States and the Baltic states of Lithuania, Latvia, and Estonia;

(2) the Secretary of Commerce, in consultation with the Secretary of State, should assign, on an interim basis, additional United States Government personnel to the United States Trade Center in Warsaw, Poland, to serve as the sole United States Government trade representation with the Baltic states of Lithuania, Latvia, and Estonia; and

(3) the Secretary of Commerce should establish, at the earliest feasible time, a trade center situated in the Baltic states of Lithuania, Latvia, and Estonia and should transfer to that center the personnel assigned under paragraph (2).

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the Secretary of Commerce and the Secretary of State.

● Mr. DIXON. Mr. President, today I am submitting a sense-of-the-Senate resolution urging the administration to take additional steps to recognize the enduring relationship between the United States and the Baltic States of Latvia, Lithuania, and Estonia. The resolution urges the Secretary of Commerce, in consultation with the Secretary of State, to assign personnel to the United States trade center in Warsaw. Their sole purpose would be to encourage and develop the trade relationship between the United States and the Baltic States. Finally, the resolution urges the administration to move such personnel to a site in one of the Baltic States at the earliest feasible moment.

Many resolutions, many statements, many expressions of support have been given to the Baltic States for over 50 years. Successive administrations and Congresses have consistently supported the rightful independence of the Baltics. Our words of support could fill volumes. Our actions of support are far fewer in number.

The time has come for the United States to put some teeth into its expressions of moral obligations when it comes to the struggle by the Baltic States. This resolution, while nonbinding, will be followed in the near future with binding legislation directing the Department of Commerce to assign additional personnel to our trade office in Warsaw. These additional personnel would constitute a United States trade office for the Baltic States. Since it is not practicable at this time for the United States to open such an office actually within one of the Baltic States, this office would operate for the time being out of the Warsaw office.

The Establishment of a United States trade office for the Baltics recognizes the continuing, special relationship between the United States and the Baltic Republics. Steps such as the one I propose today, and similar proposals in the future, will help lay the groundwork for the day when the United States can establish United States Government offices in a free Lithuania, a free Latvia, and a free Estonia.

Simply put, this measure would not impinge upon current diplomatic personnel agreements between the United States and the Soviet Union. It recognizes the realities of United States-Soviet relations. The measure provides the administration the opportunity to move the Baltic Trade Office into the Baltics whenever it sees fit. It is a prudent, reasonable, achievable request.

Actions speak louder than words, Mr. President. It is time to act.

I urge upon my colleagues swift consideration of this measure, and look forward to its early adoption.●

AMENDMENTS SUBMITTED

DEPARTMENT OF DEFENSE DESERT STORM SUPPLEMENTAL AUTHORIZATION AND MILITARY PERSONNEL BENEFITS ACT

MITCHELL (AND OTHERS) AMENDMENT NO. 32

Mr. MITCHELL (for himself, Mr. DOLE, Mr. NUNN, Mr. WARNER, Mr. GLENN, Mr. MCCAIN, Mr. ADAMS, Mr. GRAHAM, Mr. RIEGLE, Ms. MIKULSKI, Mr. DODD, Mr. LAUTENBERG, Mr. WIRTH and Mr. SHELBY) proposed an amendment to the bill (S. 578) to authorize supplemental appropriations for fiscal year 1991 for the Department of Defense for Operation Desert Storm, to provide military personnel benefits for persons serving during Operation Desert Storm, and for other purposes, as follows:

On page 20 after line 20, insert:

"(13) Temporary housing assistance for immediate family members visiting soldiers wounded during Operation Desert Storm and receiving medical treatment at military hospitals and facilities in the United States."

At the appropriate place in title III insert the following part:

SEC. . SHORT TITLE.

This part may be cited as the "Desert Shield/Desert Storm Reservist Leave Bank Act of 1991.".

SEC. . APPLICATION OF LEAVE PROVISIONS.

(a) The Office of Personnel Management shall establish a leave bank program under which—

(1) an employee in any executive agency may (during a period specified by the Office of Personnel Management) donate any unused annual leave from the employee's annual leave account to a leave bank established by the Office of Personnel Management;

(2) The total annual leave that has been donated under paragraph (1) shall be divided equally among the annual leave accounts of all employees who have been members of the Armed Forces of the United States serving on active duty during the Persian Gulf War pursuant to an order issued under section 672(a), 672(g), 673, 673b, 674, 675, or 688 of title 10, United States Code, and who return to civilian employment with their agencies; and

(3) such Persian Gulf War participants who have returned to civilian employment may use such annual leave, after it is credited to their leave accounts, in the same manner as any other annual leave to their credit.

(b)(1) For purposes of this section, "employee" means an employee as defined by section 6361(1) of title 5, United States Code.

(2) For purposes of this section, the term "Persian Gulf War" means the period beginning on August 2, 1990, and ending on the date thereafter prescribed by Presidential proclamation or by law.

(c) Within 30 days after the date of the enactment of this part, the Office of Personnel Management shall prescribe regulations necessary for the administration of this part.

SEC. . The Secretary of Veterans' Affairs shall establish a program similar to that established under section of this part for the benefit of health-care professionals covered under section 4108(e) of title 38, United States Code. Such program shall be as similar as practicable to the program established under section of this Part.

SEC. . The provisions of this part shall be effective on the date of the enactment of this Act.

On page 13, line 16, strike out "August 2, 1990" and insert in lieu thereof "January 16, 1991".

On page 21, between lines 2 and 3, insert the following:

PART C—SERVICEMEN'S GROUP LIFE INSURANCE ENHANCEMENT

SEC. 331. INCREASE OF SGLI AND VGLI MAXIMUM AMOUNT.

(a) INCREASED AMOUNT.—Section 767 of title 38, United States Code, is amended by striking out "$50,000" each place it appears and inserting in lieu thereof "$100,000".

(b) CONFORMING AMENDMENT.—Section 777(a) of title 38, United States Code, is amended by striking out "$50,000" each place it appears and inserting in lieu thereof "$100,000".

(c) TRANSITION PROVISIONS.—(1) Effective on the date of the enactment of this Act, the amount of the insurance provider under section 767 of title 38, United States Code, for a person who is insured under such section on the day before that date shall be increased to the amount equal to twice the amount of the insurance provided for such person under that section on such day.

(2) The Secretary of Veterans Affairs, in consultation with the Secretary concerned, shall take such action as is necessary to ensure that each person referred to in paragraph (1) is notified of the increased insurance coverage provided under such paragraph and is afforded the opportunity to make an election under section 767 of title 38, United States Code, within 120 days after the date of the enactment of this Act.

SEC. 332. DEATH GRATUITY FOR PARTICIPANTS WHO DIED BEFORE THE DATE OF ENACTMENT.

(a) PAYMENT OF DEATH GRATUITY.—Subject to subsections (c) and (d), the Secretary of Defense shall pay, out of any sums in the Treasury not otherwise appropriated, a death gratuity to each SGLI beneficiary of each deceased member of the uniformed services who died after August 1, 1990, and before the date of the enactment of this Act, and whose death was in conjunction with or in support of Operation Desert Storm, or attributable to hostile action in regions other than the Persian Gulf, as prescribed in regulations set forth by the Secretary of Defense.

(b) SGLI BENEFICIARY DEFINED.—In this section, the term "SGLI beneficiary", with respect to a deceased member of the uniformed services, means a person to whom Servicemen's Group Life Insurance is paid or payable under subchapter III of chapter 19 of title 38, United States Code, by reason of the death of such member.

(c) AMOUNT AND DISTRIBUTION OF GRATUITY.—The amount of the death gratuity payable to an SGLI beneficiary in the case of a deceased member of the uniformed services under this section shall be equal to the Servicemen's Group Life Insurance paid or payable to such beneficiary under subchapter III of chapter 19 of title 38, United States Code, by reason of the death of such member.

(d) APPLICATION FOR GRATUITY REQUIRED.—A death gratuity shall be payable to an SGLI beneficiary under this section upon receipt of a written application therefor by the Secretary of Defense within one year after the date of the enactment of this Act.

(e) REGULATIONS.—The Secretary shall prescribe in regulations the form of the application for benefits under this section and any procedures and requirements that the Secretary considers necessary to carry out this section.

(f) SOURCE OF FUNDS.—Amounts necessary for the payment of death gratuities under this section shall be derived from funds appropriated out of the Defense Cooperation Account for payment of the incremental costs associated with Operation Desert Storm that are incurred in fiscal year 1991.

SEC. 333. DEFINITIONS.

In this part:

(1) The term "uniformed services" has the same meaning as is provided in section 765(6) of title 38, United States Code.

(2) The term "Secretary concerned" has the same meaning as is provided in section 101(25) of title 38, United States Code.

On page 21, between lines 2 and 3, insert the following new part:

PART C—HIGHER EDUCATION ASSISTANCE

SEC. 331. SHORT TITLE.

This part may be cited as the "Gulf War Higher Education Assistance Act".

SEC. 332. PURPOSES, WAIVER AUTHORITY, AND DEFINITIONS.

(a) IN GENERAL.—It is the purpose of this section to ensure that—

(1) the men and women who are or were serving on active duty in connection with Operation Desert Shield or Operation Desert Storm and who are borrowers of Stafford Loans or Perkins Loans are not placed in a worse position financially in relation to those loans because of such service;

(2) the administrative requirements placed on all borrowers of student loans made in accordance with title IV of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) (hereafter in this section referred to as the "Act") who are or were serving on active duty in connection with Operation Desert Shield or Operation Desert Storm are minimized to the extent possible without impairing the integrity of the student loan program, in order to ease the burden on such borrowers, and to avoid inadvertent, technical defaults; and

(3) the eligibility of an individual who is or was serving on active duty in connection with Operation Desert Shield or Operation Desert Storm for a Pell Grant is not reduced by the amount of Pell Grant assistance awarded for a period of instruction for which such individual did not receive academic credit because such individual was called up for such service.

(b) WAIVER OR MODIFICATION.—Notwithstanding any other provision of law, unless enacted with specific reference to this section, the Secretary of Education shall waive or modify any statutory or regulatory provision applicable to the student financial aid programs under title IV of the Act that the Secretary deems necessary to achieve the purposes described in subsection (a), including—

(1) the length of, and eligibility requirements for, the military deferments authorized under sections 427(a)(2)(C)(ii), 428(b)(1)(M)(ii), and 464(c)(2)(A)(ii) of the Act, in order to enable the borrower of a Stafford Loan or a Perkins Loan who is or was serving on active duty in connection with Operation Desert Shield or Operation Desert Storm to obtain a military deferment, under which interest shall accrue and, if otherwise payable by the Secretary of Education, shall be paid by the Secretary of Education, for the duration of such service;

(2) administrative requirements placed on all borrowers of student loans made in ac-

cordance with title IV of the Act who are or were engaged in such military service;

(3) the number of years for which individuals who are or were engaged in such military service may be eligible for Pell Grants under subpart 1 of part A of title IV of the Act;

(4) the point at which the borrower of a Stafford Loan who is or was engaged in such military service is required to resume repayment of principal and interest on such loan after the borrower completes a period of deferment under section 427(a)(2)(C)(ii) or 428(b)(1)(M)(ii) of the Act;

(5) the point at which the borrower of a Stafford Loan who is or was engaged in such military service is required to resume repayment of principal and interest on such loan after the borrower completes a single period of deferment under section 427(a)(2)(C)(i) or 428(b)(1)(M)(i) of the Act subsequent to such service; and

(6) the modification of the terms "annual adjusted family income" and "available income", as used in the determination of need for student financial assistance under part F of title IV of the Act for such individual (and the determination of such need for such individual's spouse and dependents, if applicable), to mean the sums received in the first calendar year of the award year for which such determination is made, in order to reflect more accurately the financial condition of such individual and such individual's family.

(c) Special Rules.—Notwithstanding section 431 of the General Education Provisions Act (20 U.S.C. 1232) and section 553 of title 5, United States Code, the Secretary shall, by notice in the Federal Register, publish the waivers or modifications of statutory and regulatory provisions he deems necessary to achieve the purposes of this section. Such notice shall include the terms and conditions to be applied in lieu of such statutory and regulatory provisions. The Secretary is not required to exercise the waiver authority under this section on a case-by-case basis.

(d) Definitions.—For purposes of this part—

(1) the term "serving on active duty in connection with Operation Desert Shield or Operation Desert Storm", with respect to any individual, means—

(A) any Reserve of an Armed Force called to active duty under section 672(a), 672(g), 673, 673b, 674, or 688 of title 10, United States Code, for service in connection with Operation Desert Shield or Operation Desert Storm, regardless of the location at which such active duty service is performed; and

(B) for purposes of waivers of administrative requirements under subsection (b)(2) only, any other member of an Armed Force on active duty in connection with Operation Desert Shield or Operation Desert Storm, who has been assigned to a duty station at a location other than the location at which such member is normally assigned; and

(2) the term "active duty" has the meaning given such term in section 101(2) of title 10, United States Code, except that such term does not include active duty for training or attendance at a service school.

SEC. 333. TUITION REFUNDS OR CREDITS.

(a) In General.—It is the sense of the Congress that all institutions offering postsecondary education should provide a full refund or a credit in a comparable amount against future tuition and fees, to any member or Reserve of an Armed Force who is or was serving on active duty in connection with Operation Desert Shield or Operation Desert Storm for that portion of a period of instruction such individual was unable to complete because such individual was called up for such service.

(b) Encouragement and Report.—The Secretary of Education shall encourage institutions to provide such refunds or credits, and shall report to the appropriate committees of Congress on—

(1) the actions taken in accordance with this subsection; and

(2) information the Secretary receives regarding any institutions that are not providing such refunds or credits.

SEC. 334. ELIGIBILITY OF STUDENT BORROWERS.

Section 731 of the Public Health Service Act (42 U.S.C. 294d) is amended—

(1) in subsection (a)(2)(C)—

(A) by striking "or" at the end of clause (vi); and

(B) by striking "and any such period" and all that follows through "clause (B) above;" and inserting the following: ", and (viii) in addition to all other deferments for which the borrower is eligible under clauses (i) through (vii) of this subparagraph, during which the borrower is a member of the Armed Forces on active duty during the Persian Gulf Conflict, and any period described in clauses (i) through (viii) shall not be included in determining the 25-year period described in subparagraph (B);"; and

(2) by adding at the end the following new subsection:

"(f) As used in this section:

"(1) The term 'active duty' has the meaning given such term in section 101(18) of title 37, United States Code, except that such term does not include active duty for training.

"(2) The term 'Persian Gulf Conflict' means the period beginning on August 2, 1990, and ending on the date thereafter prescribed by Presidential proclamation or by law.".

SEC. 335. EMERGENCY EXPENDITURES.

For the purposes of sections 251(b)(2)(D) and 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.), as amended by section 13101 of Public Law 101-508, all direct or discretionary spending contained in this part, and the amendment made by this part, are emergency expenditures related to the Persian Gulf Conflict.

SEC. 336. EFFECTIVE DATE.

The provisions of sections 332 and 333 shall cease to be effective on September 30, 1996.

On page 21, between lines 2 and 3, insert the following:

Part C—Miscellaneous Benefits

SEC. 331. AUTHORITY FOR HEALTH CARE PROVIDERS TO WAIVE CHAMPUS COPAYMENT REQUIREMENTS DURING THE PERSIAN GULF WAR.

(a) In General.—Any civilian health care provider furnishing health care pursuant to a plan contracted for under the authority of section 1079 or 1086 of title 10, United States Code, may waive, in whole or in part, any requirement for payment by the patient under section 1079(b) or 1086(b) of such title for health care furnished the patient by such health care provider during the Persian Gulf War.

(b) Waiver Not To Increase Cost to Federal Government.—If a health care provider waives a payment for health care under subsection (a), the health care provider may not increase the amount charged the Federal Government for such health care above the amount that the health care provider would have charged the Federal Government for such health care had the payment not been waived.

SEC. 332. SENSE OF CONGRESS REGARDING THE NEED FOR INCREASED PARTICIPATION OF CIVILIAN HEALTH CARE PROVIDERS IN CHAMPUS.

(a) Findings.—The Congress makes the following findings:

(1) The availability of health care in facilities of the uniformed services has been reduced for dependents of members of the uniformed services by reason of the deployment of many health care personnel of the uniformed services to the Middle East during the Persian Gulf War.

(2) It has been necessary for the dependents of uniformed services personnel increasingly to rely for health care on the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS).

(3) The CHAMPUS resources are severely strained by the increased demand for CHAMPUS health care.

(b) Sense of Congress.—Civilian health care providers in the United States are strongly urged to participate or to increase participation, as the case may be, in CHAMPUS plans contracted for under the authority of section 1079 or 1086 of title 10, United States Code.

On page 20, line 8, strike out "and" and all that follows through "programs" on line 9.

On page 15, line 4, strike out "60 days" and insert in lieu thereof "30 days".

On page 15, line 13, strike out "60 days" and insert in lieu thereof "30 days".

On page 15, line 17, strike out "60-day" and insert in lieu thereof "30-day".

At the appropriate place in title III of the bill add the following new part.

Part —Veterans Programs

SEC. . SHORT TITLE

This part may be cited as the "Persian Gulf War Veterans' Assistance Act of 1991".

SEC. . PERSIAN GULF WAR ADDED TO DEFINITION OF "PERIOD OF WAR"

(a) Period of War.—Section 101(11) of title 38, United States Code, is amended by inserting "the Persian Gulf War," after "the Vietnam era,".

(b) Period of War Defined.—Section 101 of such title is amended by adding at the end the following new paragraph:

"(33) The term 'Persian Gulf War' means the period beginning on August 2, 1990, and ending on the date thereafter prescribed by Presidential proclamation or by law.".

SEC. . ELIGIBILITY FOR PENSION OF VETERANS AND SPOUSES OF VETERANS WITH SERVICE DURING THE PERSIAN GULF WAR

(a) Pension for Veterans.—Section 501(4) of title 38, United States Code, is amended by inserting "the Persian Gulf War," after "the Vietnam era,".

(b) Pension for Surviving Spouses.—Section 541(f)(1) of such title is amended—

(1) by striking out "or" at the end of clause (C); and

(2) by inserting before the semicolon at the end ", or (E) before the expiration of ten years following the termination of the Persian Gulf War, in the case of a surviving spouse of a veteran of the Persian Gulf War".

(c) Technical and Conforming Amendments.—(1) The heading above section 541 of such title is amended to read as follows:

"Other Periods of War".

(2) The table of sections at the beginning of chapter 15 of such title is amended by striking out the heading between the items relating to section 537 and 541 and inserting in lieu thereof the following:

"OTHER PERIODS OF WAR".

SEC. . ELIGIBILITY FOR CERTAIN MEDICAL CARE FOR SERVICE DURING THE PERSIAN GULF WAR

(a) PRESUMPTION RELATING TO PSYCHOSIS.—Section 602 of title 38, United States Code, is amended—

(1) by striking out "or the Vietnam era" and inserting in lieu thereof "the Vietnam era, or the Persian Gulf War";

(2) by striking out "or before May 8" and inserting in lieu thereof "before May 8"; and

(3) by inserting "or before the expiration of two years following the date of the termination of the Persian Gulf War, in the case of a veteran of the Persian Gulf War," after "a Vietnam era veteran,".

(b) ELIGIBILITY FOR MEDICINES.—Section 612(h) of such title is amended in the first sentence by striking out "or the Vietnam era," and inserting in lieu thereof "the Vietnam era, or the Persian Gulf War,".

(c) ELIGIBILITY FOR READJUSTMENT COUNSELING.—Section 612A(a) of such title is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following new paragraph:

"(2)(A) The Secretary shall furnish counseling as described in paragraph (1), upon request, to any veteran who served on active duty after May 7, 1975, in an area at a time during which hostilities occurred in such area.

"(B) For the purposes of subparagraph (A) of this paragraph, the term 'hostilities' means an armed conflict in which members of the Armed Forces are subjected to danger comparable to the danger to which members of the Armed Forces have been subjected in combat with enemy armed forces during a period of war, as determined by the Secretary in consultation with the Secretary of Defense.".

SEC. . BURIAL AND FUNERAL EXPENSES

Section 904 of title 38, United States Code, is amended—

(1) by inserting "(a)" before "Applications for"; and

(2) by adding at the end the following new subsection:

"(b) Notwithstanding subsection (a) of this section, an application for payment under section 902 of this title in the case of a veteran of the Persian Gulf War who died before the date of the enactment of the Persian Gulf War Veterans' Assistance Act of 1991 may be filed not more than two years after the date of such enactment.".

SEC. . INCREASE IN THE AMOUNT OF MONTGOMERY GI BILL EDUCATIONAL ASSISTANCE PAYMENTS

(a) ALL-VOLUNTEER FORCE EDUCATIONAL ASSISTANCE PROGRAM.—(1) Section 1415 of title 38, United States Code, is amended—

(A) in subsection (a)(1), by striking out "$300" and inserting in lieu thereof "$310"; and

(B) in subsection (b)(1), by striking out "$250" and inserting in lieu thereof "$259".

(2) The amendments made by paragraph (1) shall take effect with respect to payments of educational assistance made for an approved program of education on or after October 1, 1991.

(b) AMOUNT OF BENEFIT PAYMENT UNDER SELECTED RESERVE PROGRAM FOR SERVICE IN THE PERSIAN GULF.—(1) Section 2131(b) of title 10, United States Code, is amended—

(A) By striking out"(b) Except as provoided in subsections (d) through (f)," and inserting in lieu thereof "(b)(1) Except as provided in paragraph (2) and subsections (d) through (f),"; and

(B) by inserting at the end the following new paragraph:

"(2)(A) Each educational assistance program established under subsection (a) shall provide for payment by the Secretary concerned to each person referred to in subparagraph (B) who is entitled to educational assistance under this chapter and who is pursuing a program of education an educational assistance allowance at the following rates:

"(i) $145 per month for each month of fulltime pursuit of a program of education:;

"(ii) $108.75 per month for month of three-quarter-time pursuit of a program of education;

"(iii) $72.50 per month for each month of half-time pursuit of a program of education; and

"(iv) an appropriately reduced rate, as determined under regulations which the Seretary of Veterans Affairs shall prescribe, for each month of less than half-time pursuit of a program of education, except that no payment may be made to a person for less than half-time pursuit if tuition assistance is otherwise available to the person for such pursuit from the military department concerned.

"(B) A person entitled to receive an educational assistance allowance at the rates described in subparagraph (A) is a member of the Selected Reserve who serves on active duty during the Persian Gulf War pursuant to an order to active dury issued under section 672(a), (d), or (g), 673, or 673b of this title.

"(C) For the purposes of this paragraph, the term 'Persian Gulf War' means the period beginning on August 2, 1990, and ending thereafter on the date prescribed by Presidential proclamation or by law.".

(2) The amendments made by paragraph (1) shall take effect with respect to payments of educational assistance made for an approved program of education on or after August 1, 1991.

SEC. . IMPROVED EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE SELECTED RESERVE WHO SERVE ON ACTING DUTY DURING THE PERSIAN GULF WAR

Section 2131 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(h)(1) Notwithstanding the rates provided for educational assistance allowances under subsection (b), each educational assistance program established under subsection (a) shall provide for payment to each member of the Selected Reserve who serves on active duty during the Persian Gulf War pursuant to an order issued under section 672(a), (d), or (g), 673, or 673b of this title and who is entitled to educational assistance under this chapter a monthly educational assistance allowance for pursuit of a program of education at the following rates:

"(ii) the aggregate period of the individual's eligibility for assistance under section 1795 of title 38.

"(B) A course referred to in subparagraph (A) of this subsection—

"(i) in the case of a member of the Selected Reserve who, during the Persian Gulf War, performs active duty pursuant to an order to active duty issued under section 672 (a), (d), or (g), 673, or 673b of this title, is any course pursued by such member which the member fails to complete by reason of such order, as determined by the Secretary of Veterans Affairs; or

"(ii) in the case of any other member of the Armed Forces who serves on active duty during the Persian Gulf War, is any course pursued by such member which the member fails to complete by reason of being ordered to a new location or assignment during the Persian Gulf War or by reason of a substantial increase in the work associated with the military duties of such member during the Persian Gulf War, as determined by the Secretary of Veterans Affairs.

"(C) No course for which a member of the Armed Forces referred to in subparagraph (B) receives full credit from the institution or program offering the course may be considered a course referred to in subparagraph (A)."

SEC. . MEMBERSHIP ON EDUCATIONAL BENEFITS ADVISORY COMMITTEE FOR PERSIAN GULF WAR VETERAN

Section 1792(a) of title 38, United States Code, is amended by striking out "and the post-Vietnam era" and inserting in lieu thereof "the post-Vietnam era, and the Persian Gulf War".

SEC. . ELIGIBILITY FOR HOUSING BENEFITS

Section 1802(a)(2) of title 38, United States Code, is amended by adding at the end the following new subparagraph:

"(D) Each veteran who served on active duty for 90 days or more at any time during the Persian Gulf War other than a veteran ineligible for benefits under this title by reason of section 3103A(b) of this title.".

SEC. . REQUALIFICATION OF FORMER EMPLOYEES

(a) IN GENERAL.—Section 2021(a) of title 38, United States Code, is amended—

(1) in clause (A), by inserting "or able to become requalified with reasonable efforts by the employer" after "perform the duties of such position"; and

(2) in clause (B), by inserting "or able to become requalified with reasonable efforts by the employer" after "perform the duties of such position".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect after July 31, 1990.

SEC. . IMPROVED REEMPLOYMENT RIGHTS FOR DISABLED VETERANS

(a) IN GENERAL.—Chapter 43 of title 38, United States Code, is amended by adding at the end the following new section:

§2027. Qualification for employment position

"(a) For the purposes of this chapter, a person shall be considered qualified for an employment position if such person, with or without reasonable accommodation, can perform the essential functions of the position.

"(b) For the purposes of subsection (a) of this section, the term 'reasonable accommodation shall have the meaning given such term in section 101(9) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111(9)).

"(c) Nothing in this chapter shall be interpreted to limit in any way any of the rights conferred by the Americans with Disabilities Act of 1990.".

"(A) $270 for each month (or part thereof) of such service in the case of full-time pursuit of such a program.

"(B) $202.50 for each month (or part thereof) of such service in the case of three-quarter-time pursuit of such a program.

"(C) $135 for each month (or part thereof) of such service in the case of half-time pursuit of such a program.

"(2) For the purposes of this subsection, the term 'Persian Gulf War' shall have the meaning given such term in section 101(33) of title 38.".

SEC. . DELIMITING DATE

Section 2133(b) of title 10, United States Code, is amended by adding at the end the following:

"(4) In the case of a member of the Selected Reserve of the Ready Reserve who, during the Persian Gulf War, serves on active duty pursuant to an order to active duty issued under section 672 (a), (d), or (g), 673, or 673b of this title—

"(A) the period of such active duty service shall not be considered in determining the expiration date appliable to such member under subsection (a); and

"(B) the member may not be considered to have been separated from the Selected Reserve for the purposes of clause (2) of such subsection by reason of the commencement of such active duty service.".

SEC. . RESTORATION OF EDUCATIONAL ASSISTANCE

(a) CHAPTER 30 PROGRAM.—Section 1413 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(f)(1) Notwithstanding any other provision of this chapter or chapter 36 of this title, the payment of an educational assistance allowance to an individual for the pursuit of a course or courses described in paragraph (2) of this subsection shall not constitute receipt by such individual of such educational assistance allowance for the purposes of determining—

"(A) the individual's remaining entitlement to such assistance under this chapter; and

"(B) the aggregate period of the individual's eligibility for assistance under section 1795 of this title.

"(2)(A) A course referred to in paragraph (1) of this subsection—

"(i) in the case of a member of the Selected Reserve who, during the Persian Gulf War, performs active duty pursuant to an order to active duty issued under section 672 (a), (d), or (g), 673, or 673b of title 10, is any course pursued by such member which the member fails to complete by reason of such order, as determined by the Secretary; or

"(ii) in the case of any other member of the Armed Forces who serves on active duty during the Persian Gulf War, is any course pursued by such member which the member fails to complete by reason of being ordered to a new location or assignment during the Persian Gulf War or by reason of a substantial increase in the work associated with the military duties of such member during the Persian Gulf War, as determined by the Secretary.

"(B) No course for which a member of the Armed Forces referred to in subparagraph (A) of this paragraph receives full credit from the institution or program offering the course may be considerd a course referred to in pargraph (1) of this subsection.".

(b) CHAPTER 32 PROGRAM.—(1) Section 1631(a) of such title is amended by adding at the end the following new paragraph:

"(5)(A) Notwithstanding any other provision of this chapter or chapter 36 of this title, the payment of an educational assistance allowance to an individual for the pursuit of a course or courses described in subparagraph (B) of this paragraph shall not constitute receipt by such individual of such educational assistance allowance for the purposes of determining—

"(i) the individual's remaining entitlement to such assistance under this chapter; and

"(ii) the aggregate period of the individual's eligibility for assistance under section 1795 of this title.

"(B) A course referred to in subparagraph (A) of this paragraph—

"(i) in the case of a member of the Selected Reserve who, during the Persian Gulf War, performs active duty pursuant to an order to active duty issued under section 672 (a), (d), or (g), 673, or 673b of title 10, is any course pursued by such member which the member fails to complete by reason of such order, as determined by the Secretary; or

"(ii) in the case of any other member of the Armed Forces who serves on active duty during the Persian Gulf War, is any course pursued by such member which the member fails to complete by reason of being ordered to a new location or assignment during the Persian Gulf War or by reason of a substantial increase in the work associated with the military duties of such member during the Persian Gulf War, as determined by the Secretary.

"(C) No course for which a member of the Armed Forces referred to in subparagraph (B) of this paragraph receives full credit from the institution or program offering the course may be considered, a course referred to in subparagraph (A) of this paragraph.

"(D) The amount in the fund for each eligible veteran who received a payment of an educational assistance allowance for a course or courses described in subparagraph (B) of this paragraph shall be restored to the amount that would have been in the fund for the veteran if the payment had not been made. For purposes of carrying out the previous sentence, the Secretary of Defense shall deposit into the fund, on behalf of each such veteran, an amount equal to the entire amount of the payment made to the veteran.

"(E) In the case of a veteran who discontinues pursuit of a course or courses as described in subparagraph (B) of this paragraph, the formula for ascertaining the amount of the monthly payment to which the veteran is entitled in paragraph (2) of this subsection shall be implemented as if—

"(i) the payment made to the fund by the Secretary of Defense under subparagraph (D) of this paragraph, and

"(ii) any payment for a course or courses described in subparagraph (B) of this paragraph that was paid out of the fund.

had not been made or paid.".

(2) Section 1631(a)(2) of such title is amended by inserting "in paragraph (5)(E) of this subsection and" after "Except as provided".

(c) CHAPTER 35 PROGRAM.—Section 1711(a) of such title is amended—

(1) by striking out "Each" and inserting in lieu thereof "(1) Each"; and

(2) by adding at the end the following new paragraphs:

"(2) Notwithstanding any other provision of this chapter or chapter 36 of this title, the payment of an educational assistance allowance to an individual for the pursuit of a course or courses described in paragraph (3) of this subsection shall not constitute receipt by such individual of such educational assistance allowance for the purposes of determining—

"(A) the individual's remaining entitlement to such assistance under this chapter; and

"(B) the aggregate period of the individual's eligibility for assistance under section 1795 of this title.

"(3)(A) A course referred to in paragraph (2) of this subsection in the case of a member of the Selected Reserve who, during the Persian Gulf War, performs active duty pursuant to an order to active duty issued under section 672 (a), (d), or (g), 673, or 673b of title 10, is any course pursued by such member which the member fails to complete by reason of such order, as determined by the Secretary.

"(B) No course for which a member of the Armed Forces referred to in subparagraph (A) of this paragraph receives full credit from the institution or program offering the course may be considered a course referred to in paragraph (2) of this subsection.".

(d) SELECTED RESERVE PROGRAM UNDER TITLE 10.—Section 2131(c) of title 10, United States Code, is amended by adding at the end the following new paragraphs:

"(3)(A) Notwithstanding any other provision of this chapter or chapter 36 of title 38, the payment of an educational assistance allowance to an individual for the pursuit of a course or courses described in subparagraph (B) shall not constitute receipt by such individual of such educational assistance allowance for the purposes of determining—

"(i) the individual's remaining entitlement to such assistance under this chapter; and

(b) TECHNICAL AMENDMENT.—The table of sections at the end of such chapter is amended by adding at the end the following:

"2027. Qualification for employment position."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect after July 31, 1990.

SEC. . WAIVER OF ANNUITY REDUCTION UNDER TITLE 5, UNITED STATES CODE, IN THE CASE OF THE REEMPLOYMENT OF CERTAIN ANNUITANTS IN CONNECTION WITH THE PERSIAN GULF WAR.

(a) AUTHORITY TO WAIVE ANNUITY REDUCTIONS.—In any case in which a person entitled to an annuity under chapter 83 or 84 of title 5, United States Code, is reemployed on or after the date of the enactment of this title in the Veterans Health Services and Research Administration by the Department of Veterans Affairs as a health care specialist, the Secretary of Veterans Affairs may waive (in accordance with this section) any requirement of section 8344 or 8468 of such title for—

(1) deductions from the pay of such person during the period of such reemployment; or

(2) any reduction that would otherwise be made in the annuity of such person.

(b) LIMITATIONS ON WAIVERS.—(1) Waivers granted under subsection (a) may be granted by the Secretary of Veterans Affairs only to the extent that the Secretary determines that the granting of the waivers is necessary in order to recruit health-care specialists to replace health-care specialists of the Department of Veterans Affairs who have been ordered to active duty during the Persian Gulf War.

(2) A waiver granted under this section may extend for any period during the Persian Gulf War and for a period of not more than one year after the date of the termination of that war.

(3) A waiver granted under this section shall become effective upon receipt by the Director of the Office of Personnel Management of a written notice of the waiver from the Secretary of Veterans Affairs.

(c) DEFINITIONS.—As used in this section:

(1) The term "health-care specialist" means a physician, dentist, podiatrists, optometrist, nurse, physician assistant, expanded-function dental auxiliary, medical technican, or other medical support personnel.

(2) The terms "veterans", "Armed Forces", "active duty", and "reserve component" have the meaning given such terms under paragraph (2), (10), (21), and (27), respectively, of section 101 of title 38, United States Code.

SEC. . TECHNICAL AMENDMENT.

Section 5011A(b)(2)(A) of title 38, United States Code, is amended by striking out "subsection (f) of (g) of section 612" and inserting in lieu thereof "section 612(a)".

At the appropriate place, insert

SEC. . AVAILABILITY OF APPROPRIATIONS.

(a) Appropriations Required.—Notwithstanding any other provision of this title, members or former members of the uniformed services (or the dependents or survivors of such members or former members, as the case may be) shall be entitled or eligible to receive payments or other benefits (or an increase in payments or an enhancement of other benefits, as the case may be) under a provision of this title only upon the enactment of an Act or Acts that appropriates funds for such payments or other benefits from the Defense Cooperation Account for transfer to applicable appropriations.

(b) Limitation.—All funds for the benefits provided by this title shall be derived by transfer from the Defense Cooperation Account.

(c) Authorization of Appropriations.—In addition to the amounts authorized to be appropriated by section 101(a) of this Act, there is hereby authorized to be appropriated for the payments, benefits, and increases in benefits provided by this title for fiscal years 1991–95, only by transfer from the Defense Cooperation Account, $500,000,000. Funds remaining in the Defense Cooperation Account on October 1, 1992 (except for funds appropriated pursuant to authorizations in this Act) are authorized to be appropriated to fund the long term costs accruing after fiscal year 1995 of the payments, benefits and increases in benefits provided by this title. The costs for which appropriations are authorized by this section are incremental costs associated with Operation Desert Storm.

At the appropriate place, insert the following new part:

PART —FAIR TREATMENT FOR FARMERS AND RANCHERS WHO PARTICIPATED IN THE PERSIAN GULF WAR AS ACTIVE RESERVISTS OR IN ANY OTHER MILITARY CAPACITY

SEC. . DEFINITIONS.

As used in this title:

(1) Activated reservist.—The term "activated reservist" means a member of a reserve component of the Armed Forces of the United States or the National Guard who is serving on active duty during the Persian Gulf War pursuant to an order issued under section 672(a), 672(d), 672(g), 673, 673b, 674, 675, or 678 of title 10, United States Code.

(2) Farmer program loan.—The term "farmer program loan" has the same meaning given such term in section 343(a)(10) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(10)).

(3) Reserve component of the armed forces of the united states.—The term "reserve component of the armed forces of the United States" means a reserve component named in section 261(a) of title 10, United States Code.

(4) Persian gulf war.—The term "Persian Gulf War" means the period beginning on August 2, 1990, and ending thereafter on the date prescribed by Presidential proclamation or by law.

(5) Secretary. The term "Secretary" means the Secretary of Agriculture.

(6) Other terms.—

(A) Agricultural act of 1949.—The terms "crop acreage base", "producer", "program crop", and any other terms used in this title have the same meanings given such terms in the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.).

(B) Title 10.—The terms "National Guard" and "active duty" have the same meanings given such terms, respectively, in section 101 of title 10, United States Code.

SEC. . BASE PROTECTION.

The Secretary shall, with respect to a producer on a farm who is an activated reservist during a crop year, provide for the protection of the producer's crop acreage base for any program crop on the farm to the extent necessary to provide fair and equitable treatment for the producer.

SEC. . WAIVER OF MINIMUM PLANTING REQUIREMENT.

The producers on a farm shall be eligible for payments for a crop of rice or upland cotton under sections 101B(c)(1)(D)(i) and 103B(c)(1)(D)(i) of the Agricultural Act of 1949 (7 U.S.C. 1441–2(c)(1)(D)(i) and 1444–2(c)(1)(D)(i), without regard to the minimum planting requirement established in sections 101B(c)(1)(D)(ii) and 103B(c)(1)(D)(ii) of such Act, if—

(1) one or more of the producers is an activated reservist during the crop year; and

(2) the producers on the farm satisfy all other requirements determined appropriate by the Secretary for the payments.

SEC. . CONSERVATION REQUIREMENTS.

The Secretary may provide for a temporary waiver or modification of the application of subtitles A through E of title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.) with respect to producers on a farm who are activated reservists if—

(1) the temporary waiver or modification is only for the period during which the producer is an activated reservist;

(2) the Secretary determines that the temporary waiver or modification is necessary to prevent undue hardship caused as a result of the producer's service on active duty during the Persian Gulf War or to provide equitable treatment for the activated reservist; and

(3) the temporary waiver or modification will not significantly detract from the purposes and objectives of subtitles A through E of title XII of the Food Security Act of 1985.

SEC. . FARM CREDIT PROVISIONS.

(a) In General.—The Secretary shall establish a program to provide relief to any borrower under any farmer program loan under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) if the borrower is an activated reservist.

(b) Borrower Relief.—The Secretary shall modify the terms and conditions of farmer program loans (including loans in which any participant in the loan is an activated reservist) made or insured under the Consolidated Farm and Rural Development Act, or purchased under section 309B of such Act (7 U.S.C. 1926b), to the extent necessary, as determined by the Secretary, to alleviate conditions of distress and to assist keeping the farm or ranch of an activated reservist borrower in operation until the return to farming or ranching by the borrower.

(c) Loan Modifications.—The Secretary may modify loans, including delinquent loans, by deferring scheduled payments, reducing interest rates or accumulated interest charges, reamortizing or consolidating loans, reducing the amount of scheduled payments, releasing additional income, reducing collateral requirements, or taking any other restructuring actions determined appropriate by the Secretary to assist in maintaining the farm or ranch until the return to farming or ranching of the activated reservist borrower.

(d) Notice.—The Secretary shall develop a program to notify any adult person that has an interest in, or is operating, a farm or ranch of an activated reservist who is a farmer program borrower under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) of the borrower relief provisions of this section.

SEC. . PROGRAM ADMINISTRATION PROVISIONS.

(a) Sign-up Procedures.—The Secretary may provide for procedures by which the spouse or other close relative (as determined by the Secretary) of an activated reservist may participate in, or make decisions related to, a program administered by the Secretary under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), the Conservation and Domestic Allotment Act (16 U.S.C. 590a et seq.), the Food Security Act of 1985 (Public Law 99–198), the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624), the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), or any other Act concerning the operation of the activated reservist's farming or ranching operation.

(b) Requirements.—The Secretary may rely on the representation of the spouse or close relative (even in the absence of a power of attorney) made under such procedures if—

(1) The Secretary determines that the reliance is appropriate in order to prevent undue hardship and to provide equitable treatment for the activated reservist; and

(2) the Secretary has reason to believe that the representation of the spouse or close relative is in accordance with the wishes of the activated reservist.

SEC. . ADMINISTRATION.

(a) Implementation.—The Secretary shall issue such regulations, and take such other actions, as are necessary to carry out this title. Section 553 of title 5, United States Code, shall not apply with respect to the implementation of this title by the Secretary.

(b) Treatment of Expenditures.—For the purposes of sections 251(b)(2)(D) and 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as amended by section 13101 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508)), all direct or discretionary spending contained in this Act are emergency expenditures related to Operation Desert Shield and Operation Desert Storm.

BUMPERS AMENDMENT NO. 33

Mr. BUMPERS (for himself, Mr. Kasten, Mr. Nunn, Mr. Dixon, Mr. Lieberman, Mr. Grassley, Mr. Harkin, Mr. Kerry, Ms. Mikulski, Mr. Baucus, Mr. Sasser, Mr. Moynihan, Mr. Pell, Mr. D'Amato, Mr. Daschle, Mr. Helms, Mr. Levin, Mr. Pressler, Mr. Kohl, Mr. Inouye, Mr. Shelby, Mr. Stevens, Mr. Boren, Mr. Gorton, Mr. Akaka, and Mr. Sanford) proposed an amendment to the bill S. 578, supra, as follows:

Insert in the appropriate place the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Military Reservists Small Business Relief Act".

SEC. 2. REPAYMENT DEFERRAL FOR ACTIVE DUTY RESERVISTS.

Section 7 of the Small Business Act (15 U.S.C. 636) is amended by adding at the end thereof the following new subsection:

"(m) Repayment Deferred for Active Duty Reservists.—

"(1) In general.—The Administration shall, upon written request, defer repayment of a direct loan made pursuant to subsection (a) or (b) of this section, if such loan was incurred by a qualified borrower, provided that such qualified borrower demonstrates that the absence of the eligible reservist to active duty has had, or is likely to have, an adverse economic impact on the qualified borrower.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) QUALIFIED BORROWER.—The term 'qualified borrower' means—

"(i) an individual who is an eligible reservist and who, received a direct loan under subsection (a) or (b) before being ordered to active duty; or

"(ii) a small business concern that received a direct loan under subsection (a) or (b) before an eligible reservist, who is an owner, manager, or key employee described in subparagraph (C), was ordered to active duty.

"(B) ELIGIBLE RESERVIST.—The term 'eligible reservist' means a member of a reserve component of the Armed Forces ordered to active duty during a period of military conflict.

"(C) OWNER, MANAGER, OR KEY EMPLOYEE.—An eligible reservist is an owner, manager, or key employee described in this subparagraph if the eligible reservist is an individual who—

"(i) has at least a 20 percent ownership interest in the small business concern described in subparagraph (A)(ii),

"(ii) is a manager responsible for the day-to-day operations of such small business concern, or

"(iii) is a key employee (as defined by the Administration) of such small business concern.

"(D) PERIOD OF MILITARY CONFLICT.—The term 'period of military conflict' means—

"(i) a period of war declared by the Congress,

"(ii) a period of national emergency declared by the Congress or by the President, or

"(iii) a period in which a member of a reserve component of the Armed Forces is ordered to active duty pursuant to section 673b of title 10, United States Code.

"(3) PERIOD OF DEFERRAL.—The period of deferral for repayment under this subsection shall begin on the date on which the eligible reservist is ordered to active duty and shall terminate on the date that is 180 days after the date such eligible reservist is discharged or released from active duty.

"(4) NO ACCRUAL OF INTEREST DURING DEFERRAL.—During the period of deferral described in paragraph (3), repayment of principal and interest on the deferred loan shall not be required and no interest shall accrue on such loan.".

SEC. 3. DISASTER LOAN ASSISTANCE FOR MILITARY RESERVISTS' SMALL BUSINESSES.

(a) IN GENERAL.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting after the undesignated paragraph which begins "Provided, That no loan", the following new paragraph:

"(3)(A) The Administration is empowered to make such disaster loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) to assist a small business concern (including a small business concern engaged in the lease or rental of real or personal property) which has suffered or is likely to suffer economic injury as the result of the owner, manager, or key employee of such small business concern being ordered to active military duty during a period of military conflict.

"(B) Any loan or guarantee extended pursuant to this paragraph shall be made at an interest rate of 4 percent per annum, without regard to the small business concern's ability to secure credit elsewhere.

"(C) No loan shall be made under this paragraph, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, if the total amount outstanding and committed to the borrower under this subsection would exceed $500,000, unless such applicant constitutes a major source of employment in an area not larger than a county suffering a disaster, in which case the Administration, in its discretion, may waive the $500,000 limitation.

"(D) Section 120.101-2(b)(1) of title 13, Code of Federal Regulations, or any similar regulation, shall not apply to a small business concern seeking a loan under this paragraph.

"(E) For purposes of this paragraph, the term 'period of military conflict' means—

"(i) a period of war declared by the Congress,

"(ii) a period of national emergency declared by the Congress or by the President, or

"(iii) a period in which a member of a reserve component of the Armed Forces is ordered to active duty pursuant to section 673b of title 10, United States Code.

"(F) For purposes of this paragraph, the term 'economic injury' includes, but is not limited to, the inability of a small business concern to market or produce a product or to provide a service ordinarily provided by the small business concern.

"(G) For purposes of this paragraph, the term 'owner, manager, or key employee' means an individual who—

"(i) has at least a 20 percent ownership in the small business concern,

"(ii) is a manager responsible for the day-to-day operations of such small business concern, or

"(iii) is a key employee (as defined by the Administration) of such small business concern.

"(H) For purposes of assistance under this paragraph, no declaration of a disaster area shall be required.".

(b) CONFORMING AMENDMENT.—Section 4(c) of the Small Business Act (15 U.S.C. 633(c)) is amended—

(1) by striking "7(b)(4)," in paragraph (1), and

(2) by striking "7(b)(4), 7(b)(5), 7(b)(6), 7(b)(7), 7(b)(8)," in paragraph (2).

SEC. 4. BUSINESS DEVELOPMENT AND MANAGEMENT ASSISTANCE FOR MILITARY RESERVISTS' SMALL BUSINESSES.

(a) IN GENERAL.—Section 8 of the Small Business Act (15 U.S.C. 637) is amended by adding at the end thereof the following new subsection:

"(k) MANAGEMENT ASSISTANCE FOR SMALL BUSINESSES AFFECTED BY MILITARY OPERATIONS.—

"(1) IN GENERAL.—The Administration is directed to utilize, as appropriate, its business development and management assistance programs, including programs involving State or private sector partners, to provide business counseling and training to any small business concern adversely affected by the deployment of units of the Armed Forces of the United States in support of a period of military conflict.

"(2) PERIOD OF MILITARY CONFLICT.—For purposes of this subsection, the term 'period of military conflict' means—

"(A) a period of war declared by the Congress,

"(B) a period of national emergency declared by the Congress or by the President, or

"(C) a period during which a member of a reserve component of the Armed Forces is ordered to active duty pursuant to section 673b of title 10, United States Code.".

(b) ENHANCED PUBLICITY DURING OPERATION DESERT STORM.—For the duration of Operation Desert Storm and for 120 days thereafter, the Administration is directed to enhance its publicity of the availability of assistance provided under this Act, including information regarding the appropriate local office at which affected small businesses can seek such assistance.

SEC. 5. REGULATIONS.

Not later than 30 days after the date of enactment of this Act, the Small Business Administration may promulgate such regulations as it deems necessary to carry out the provisions of sections 2 and 3 of this Act. If such regulations are promulgated, the Administration shall issue the regulations as emergency interim final regulations.

SEC. 6. TREATMENT OF EXPENDITURES.

For the purpose of section 251(b)(2)(D) and 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.), as amended by section 13101 of Public Law 101-508, all direct and discretionary spending contained in this Act are emergency expenditures related to Operation Desert Shield, Operation Desert Storm, or any successor thereto.

SEC. 7. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) DISASTER LOANS.—The amendments made by section 3 shall apply to economic injury suffered or likely to be suffered as the result of a period of military conflict occurring on or after August 1, 1990.

SANFORD AMENDMENT NO. 34

Mr. SANFORD proposed an amendment to the bill S. 578, supra, as follows:

On page 56, between lines 19 and 20, insert the following:

TITLE VII—COMMUNITY ASSISTANCE

SEC. 701. FINDINGS

The Congress makes the following findings:

(1) Communities where military installations, reserve units, or National Guard units are located across the United States are experiencing continuing hardships as a result of the deployment of the Armed Forces of the United States in connection with Operation Desert Storm.

(2) The hardships are especially significant for communities where military personnel comprise a large percentage of the population and military installations make crucial contributions to the strength of the local economies.

(3) The removal of so many people from such communities has caused soaring unemployment, small business failures, significantly increased demands for social services, and other adverse consequences for the economic and social life of such communities.

(4) Such adverse consequences will continue until the deployed military personnel return to their respective communities.

(5) The Federal Emergency Management Food and Shelter Program supported by the Federal Emergency Management Agency provides the type of rapid response and assistance most needed by such communities, as determined by local boards that are well qualified to make such determinations.

SEC. 702. PURPOSE

The purpose of this title is to provide for the furnishing of assistance under the Federal Emergency Management Food and Shelter Program to persons who reside in communities from which a substantial percentage or resident members of the Armed Forces of the United States have been deployed or otherwise assigned in connection with Operation Desert Storm.

SEC. 703. SUPPLEMENTAL AID TO MILITARY COMMUNITIES

(a) ESTABLISHMENT.—The Emergency Food and Shelter Program National Board constituted by the Director of the Federal Emergency Management Agency shall establish a program of grants to local boards to carry out the purpose of this title.

(b) AWARD OF GRANTS.—The National Board shall establish guidelines for the award of grants under the program established pursuant to subsection (a). The guidelines shall specify the crieria for the award of grants to local boards.

(c) DURATION OF GRANTS.—Notwithstanding any other provision of law, a local board may provide assistance for the purpose of this title in the case of a community referred to in section 702 until the majority of the resident Armed Forces personnel deployed or otherwise assigned away from the community in connection with Operation Desert Storm return to that community.

SEC. 704. SOURCE OF FUNDS

For each of fiscal years 1991 and 1992, the Secretary of Defense may transfer $10,000,000 from funds in the Defense Cooperation Account to the Federal Emergency Management Agency to carry out the provisions of this title through the Federal Emergency Management Food and Shelter Program.

On page page 56, strike out lines 20 and 21 and insert in lieu thereof the following:

VIII—DEFINITIONS

SEC. 801. DEFINITIONS

HELMS AMENDMENT NO. 35

Mr. HELMS proposed an amendment to the bill S. 578, supra, as follows:

At the end of the bill, add the following new section:

"SEC. . Notwithstanding any other provision of law, none of the funds appropriated or otherwise made available by any provision of law may be obligated or expended, directly or indirectly, for the purpose of rebuilding Iraq.".

MITCHELL (AND OTHERS) AMENDMENT NO. 36

Mr. MITCHELL (for himself, Mr. DOLE, Mr. NUNN, Mr. MCCAIN, Mr. HELMS, Mr. KERREY, and Mr. DIXON) proposed an amendment to amendment No. 35 proposed by Mr. HELMS to the bill S. 578, supra, as follows:

Strike all after the word "SEC." and insert in lieu thereof the following: "It is the sense of the Senate that none of the Funds appropriated or otherwise made available by any provision of law may be obligated or expended, directly or indirectly, for the purpose of rebuilding Iraq while Saddam Hussein remains in power in Iraq".

MITCHELL (AND DOLE) AMENDMENT NO. 37

Mr. NUNN (for Mr. MITCHELL and Mr. DOLE) proposed an amendment to the bill S. 578, supra, as follows:

On page 5 of the amendment, on line 24, strike all after "pay" through the comma on line 25.

On page 30 of the amendment, on line 20, strike "August" and insert in lieu thereof "October".

On page 30, after line 20, of the amendment, add the following:

(3) The increases in benefits and payments authorized by this title for "Montgomery GI bill" benefits shall be ratably adjusted so that the appropriations necessary for such increases in benefits or payments for fiscal years 1991 through 1995 do not exceed $500,000,000 less the total of the amounts appropriated for fiscal years 1991 through 1995 for the benefits or payments authorized by this title other than those for increases in "Montgomery GI bill" benefits and payments.

DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS

NICKLES AMENDMENT NO. 39

(Ordered to lie on the table.)

Mr. NICKLES (for himself, Mr. DECONCINI, Mr. D'AMATO, and Mr. LAUTENBERG) submitted an amendment intended to be proposed by him to the bill (H.R. 1281) making dire emergency supplemental appropriations for the consequences of Operation Desert Shield/Desert Storm, food stamps, unemployment compensation administration, veterans compensation and pensions, and other urgent needs for the fiscal year ending September 30, 1991, and for other purposes, as follows:

At the end of the legislation, add the following new section:

SEC. . TERMINATION OF ASSISTANCE FOR JORDAN.

(a) PROHIBITION.—None of the funds appropriated or otherwise made available by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, or by any previously enacted Act making appropriations for foreign operations, export financing, and related programs, may be obligated or expended for assistance for Jordan, and funds previously obligated for assistance for Jordan shall be deobligated within 30 days from the date of enactment of this Act. Such deobligated funds shall be available for reobligation pursuant to section 515 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991.

(b) EXCEPTIONS.—The provisions of subsection (a) shall not apply to—

(1) assistance for refugees;

(2) assistance to finance the training or studies outside Jordan of students whose course of study or training program began before the date of enactment of this Act; or

(3) costs incurred in connection with the termination or suspension of contractual arrangements as a result of the termination of assistance under subsection (a).

(c) TERMINATION EXPENSES.—

(1) CONTRACT ADOPTION.—In implementing the requirements of this section, for the purpose of making an equitable settlement of termination claims under extraordinary contractual relief standards, appropriate Federal agencies may adopt as a contract or other obligation of the United States Government, and assume (in whole or in part) any liabilities arising thereunder, any contract with a United States or third-country contractor that had been funded with assistance for Jordan under the Foreign Assistance Act of 1961 or the Arms Export Control Act prior to the termination of assistance for Jordan.

(2) AVAILABILITY OF FUNDS.—Amounts certified as having been obligated against appropriations made before the date of enactment of this Act for assistance for Jordan are hereby continued available until expended to meet necessary expenses arising from the termination of assistance under this section.

NOTICES OF HEARINGS

SUBCOMMITTEE ON ENERGY AND REGULATION AND CONSERVATION

Mr. WIRTH. Mr. President, I would like to announce for the public that the hearing scheduled before the Subcommittee on Energy and Regulation and Conservation for Tuesday, March 19, at 2 p.m., will focus on provisions of title III of S. 341 regarding building energy efficiency standards. The hearing will not include building energy and efficiency ratings as originally planned.

The hearing will take place in room SD-430 of the Dirksen Senate Office Building in Washington, DC.

For further information, please contact Leslie Black or Allen Stayman, at (202) 224-4756.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a joint hearing with the House Committee on Interior and Insular Affairs on Thursday, March 21, 1991, beginning at 9:30 a.m., in 485 Russell Senate Office Building on the San Carlos Water Rights Settlement Act of 1990.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON EUROPEAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask, unanimous consent that the Subcommittee On European Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, March 14, at 10 a.m. to hold a hearing on the lesson of the Helsinki process for the new world order.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WESTERN HEMISPHERE AND PEACE CORPS AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Western Hemisphere and Peace Corps Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, March 14, at 2 p.m. to hold a hearing on issues relating to a bilateral free trade agreement with Mexico.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Communications, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on March 14, 1991, at 2 p.m. on S. 12, Cable Television Consumer Protection Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, March 14, beginning at 9:30 a.m., to conduct a hearing on the nomination of William H. Kennoy to be a member of the Board of Directors, Tennessee Valley Authority.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER RESOURCES, TRANSPORTATION, AND INFRASTRUCTURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Water Resources, Transportation, and Infrastructure, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, March 14, beginning at 10 a.m., to conduct a hearing on how to provide excellence in public building design, and public building service oversight.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on March 14, 1991, at 10 a.m. to hold a hearing on the President's request for extension of fast track legislative procedures for consideration of international trade agreements.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, March 14, 1991, at 10 a.m., for a hearing on the nomination of Bernadine Healy to be Director of the National Institutes of Health.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, March 14, 1991, at 9:30 a.m., to receive testimony on the following congressional election campaign finance reform proposals: S. 3, S. 6, S. 7, S. 53, S. 91, S. 128, S. 143, S. 294, and Senate Resolution 70. Witnesses include Mr. Fred Hardin, president, United Transportation Union; Mr. Fred Garber, president, National Association of Business PACs; Mr. James M. Ratcliffe, chairman, National Public Affairs Steering Committee, National Association of Manufacturers; Mr. Michael J. Malbin, director, Center for Legislative Studies, Rockefeller Institute of Government; Mr. Curtis B. Gans, director, Committee for the Study of the American Electorate; and Mr. Michael J. Conly, member, Television Board of Directors, National Association of Broadcasters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATIONAL RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the full committee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 10 a.m. March 14, 1991, to receive testimony on S. 341, the National Energy Security Act of 1991, title XV concerning reform of the Public Utility Holding Company Act of 1935 [PUHCA].

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

By Mr. MITCHELL. Mr. President, I ask unanimous consent that the full committee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m. March 14, 1991, to continue the morning hearing on PUHCA.

The PRESIDING OFFICER. Without objection it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President I ask unanimous consent that the Committee on Banking, Housing and Urban Affairs be allowed to meet during the session of the Senate, Thursday, March 14, 1991, at 10 a.m. to conduct a markup of S. 534, and S. 565, awarding gold medals to Gen. H. Norman Schwarzkopf and Gen. Colin Powell; pending nominations; and S. 305, Money Laundering Enforcement Amendments of 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

A TRIBUTE TO PAULA KRANZ

• Mr. CONRAD. Mr. President, I rise today to honor an outstanding young woman from my State of North Dakota.

Paula Dean Kranz of Bismarck has just been named one of the eight regional winners of the High School All-American Award sponsored by the Amateur Athletic Union and Mars Milky Way. She was selected from over 8,500 high school seniors nominated nationwide.

One glance at Paula's long list of accomplishments makes it easy to understand why Paula has been honored with this scholarship. She is Century High Schools' valedictorian. She is president not only of Century High School's student body, but of the North Dakota Association of Student Councils. She plays principal second violin in the all-State orchestra. She is an all-State basketball player and her team's captain for 4 years. She holds three school records in track and was voted the track team's most valuable player. And still, I would add, Paula finds time to tutor and sponsor a Guatemalan child.

I could go on for hours about Paula's many accomplishments. She is truly an amazing individual with a bright future ahead of her. I speak for my entire State when I wish Paula all the best, and say that I am very proud of her.•

GENERAL AVIATION ACCIDENT LIABILITY STANDARDS ACT OF 1991

• Mr. MURKOWSKI. Mr. President, I rise today in support of legislation introduced by the Senator from Kansas, Mrs. KASSEBAUM, the General Aviation Accident Liability Standards Act of 1991.

The escalating cost of liability insurance has had a significant impact on the ground aviation industry. Not only have manufacturers been subject to astronomical damage awards, which translate into high liability insurance premiums, but subsequent increases in the cost of small aircraft have priced many consumers out of the market. The bill introduced by the Senator from Kansas injects a sense of realism into the debate over general aviation accident liability standards.

The bill would establish a uniform standard for liability cases in this industry, to address inconsistent State court judgments which have lead to instability and unpredictability in the industry. The bill would impose what I believe is a realistic 20-year statute of repose for aircraft and replacement parts. When a manufacturer sells an aircraft, the new owner is responsible for the inspection, maintenance and upkeep of the aircraft. This legislation would ensure that a manufacturer is not held liable for an accident that results from an owner's failure to perform these responsibilities. This is particularly significant in Alaska, where it is not unusual to come across planes still active in general aviation which are 40 or even 50-years-old, which have been repaired with parts that have been cannibalized from other aircraft.

The Senator's bill will provide stability to the general aviation industry, which would be very helpful to my State. Alaskans are uniquely dependent upon general aviation aircraft for our way of life. From communities on the Aleutian Chain to the North Slope, Alaskans depend on small aircraft for the basic necessities of life. Mail, foodstuffs, and equipment are all transported by small aircraft throughout rural communities that have no access to a road system. Many communities have minimal or no healthcare facilities and residents must depend on general aviation aircraft to transport them to facilities in Anchorage or Fairbanks for treatment.

The importance and prevalence of general aviation in Alaska cannot be underestimated. Alaska has one of the highest percentage per capita of pilots in the entire United States, with approximately 13,000 pilots. Merrill Field in Anchorage is one of the busiest airfields in the world servicing small aircraft. Hard flying conditions in Alaska place difficult demands on equipment and pilots in Alaska.

Mr. President, I would not support the Senator's bill if I believed it solely protected manufacturers. This bill will also protect general aviation consumers. Many consumers are unable to purchase new aircraft or obtain liability insurance because of escalating costs caused at least in part by product liability concerns. In addition, exorbitant liability insurance rates have forced many manufacturers, and suppliers to curtail production or get out of the aviation business altogether. For example, virtually no single engine aircraft are manufactured in the U.S. If we do not take steps to assist our general aviation industry, our foreign trading partners are poised to export their planes to fill the void. This bill should help to rein in the costs of aircraft and liability insurance and increase the ability of consumers to purchase new aircraft and aviation products.

The bill ensures that there will be fair compensation for those who are injured as a result of defective aviation products. The bill does not place a cap on damage awards, limit the right of a party to file suit, or relieve a manufacturer of responsibility for its product. It will, however, help to ensure the availability, at a reasonable cost, of general aviation products.

Mr. President, the bill introduced by the Senator from Kansas realistically balances the interests of manufacturers and consumers. I urge my colleagues to give it their full support.•

JOBS AS WELL AS AFFORDABLE HOUSING

• Mr. SIMON. Mr. President, in grade school and high school and for one year of college, I went to school with a friend named Don Schmieding.

He then went into business in Eugene, OR, and has been a business leader and is now retired from business. Now he is active in providing help for the homeless.

He is an illustration of the kind of asset that can make such a huge difference in this country.

He recently wrote to me, and I would like to quote one paragraph from that letter:

> The most important statistic that we have developed is how many of our residents are working—either one or both members of a two parent family—and they cannot make it. They live so close to the crisis line that any reversal can put them on the street. So it is about jobs, as well as affordable housing.

I mention this because you will be hearing more from me on the question of jobs as this session rolls on. The reality is that we have far too many people who are still unemployed in this Nation or, if they are employed, are having a really difficult time getting by.

Someday, this Nation is going to have a program where we will guarantee a job opportunity to every American.

I want to see us try some demonstration projects along that line.

My letter from Don Schmieding simply underscores how the jobs program ties into homelessness, as it does to health, as it does to education opportunities and to many other things.•

TRIBUTE TO DR. DOUGLAS C. ENGELBART

• Mr. SEYMOUR. Mr. President, I rise today to recognize and bring to the Senate's attention the achievements of a distinguished Californian, Dr. Douglas C. Engelbart.

Today, Dr. Engelbart is being inducted into the Coors American ingenuity Hall of Fame in honor and recognition of his pioneering efforts in the field of computer technology.

Only 40 years ago, Mr. President, the computer was a large, cumbersome, misunderstood device that existed only in a few research laboratories. It was Dr. Engelbart's vision, for which he is being honored today, that led to the widespread application of this new technology.

He said, "I had this kooky thing happen to me in 1951." Well this "kooky idea" as he calls it, was based in his belief that the computer could become a part of daily life, that it could be integrated into the personal and business lives of Americans.

Much of the computer technology that we now take for granted is a result of Dr. Engelbart's creativity and innovation. How many of us can imagine an office—our own offices—without at least one, and usually many, desktop computers? Dr. Engelbart invented this now widespread device, as well as many of the important applications associated with it. For instance, he showed how individual work-stations could be linked to allow several people to work together on one project, how a "split-screen" could allow one person to work on more than one project at the same time, and he developed the concept of compiling information in enormous data bases accessible to many people.

Clearly, Dr. Engelbart's ideas and their applications have radically affected modern society and our lifestyles.

Mr. President, I am pleased to be able to recognize Dr. Engelbart for his truly visionary and innovative achievements, and I would also like to thank the Coors Brewing Co. for their efforts in identifying and honoring Americans like Dr. Engelbart who have contributed to the vitality of American business through their ingenuity and creativity.•

HIGHER EDUCATION ACT

• Mr. SIMON. Mr. President, later this year, we will be working on the reauthorization of the Higher Education Act.

We have just gone through a remarkable military victory in the Middle East, and part of the credit for that victory goes to Gen. Colin Powell.

These two subjects come together when you realize that it was access to higher education that made possible General Powell's rise in the military.

When we fail to provide an opportunity for quality education for all young people, we deprive this Nation of future military leaders, scientists, engineers, teachers, members of the clergy, and political leaders. In the column written by Albert Shanker, president of the American Federation of Teachers, which appears in the New York Times each week, he has General Powell's recollections as they first appeared in the American School Board Journal.

I ask to insert General Powell's remembrances into the RECORD at this point, and I urge my colleagues to read his story, not only for the personal insight it gives into General Powell but the insight it gives into the need for providing quality education for everyone.

The article follows:

THE UNWRITTEN AMERICAN BARGAIN

(Today's guest column is by Gen. Colin L. Powell, chairman of the Joint Chiefs of Staff, U.S. Department of Defense. It first appeared in The American School Board Journal, February 1991.)

I graduated from Morris High School on Boston Road in the Bronx when I was 16. My parents expected me to go to college—they expected me to do better than they had done. And I valued my parents' opinion so highly that there was no question in my mind. I was going to college. And where to go to college was not an issue either. I was accepted at New York University and at the City College of New York. But NYU cost $750 a year, and CCNY cost $10—no contest for a poor boy from the South Bronx.

I didn't do exceptionally well at CCNY—or at least, I didn't think so at the time. I passed with straight C's and graduated only because of my superior grades in ROTC, the Reserve Officer Training Corps. It took me four and one-half years, one summer session and a change of academic major—plus straight A's in ROTC—but I did graduate.

My CCNY graduating class went off in a thousand and one directions, as do all classes. Many people went the same way I did, into the Army. The Army was exciting: It promised adventure, it was a way to serve and most of all it was a job. For me, it turned out to be maturing process also.

Between the ages of 16 and 33, something happened to me because later, when I went to George Washington University and got my Master's degree, I made an A in every course except one, in which I made a B. I believe the difference was a matter of growing up, the sense of responsibility the Army had given me, a few years of war and perhaps a wife and two children.

But I believe it was also the foundation I had gotten at CCNY. In fact, soon after entering the Army, I discovered how important CCNY had been. I was serving with West Pointers and with other ROTC graduates who had the benefit of having attended some fairly prestigious universities. But I found out that the education my fellow ROTC cadets and I had received at CCNY was a great one, notwithstanding my own failure to drink as deeply from it as I might have. In terms of our ability to write, to express ourselves, to reflect the skills and mental disciplines of a liberal arts education, to be knowledgeable of our culture and our values, to know our history, we were equal to our contemporaries from any school in the nation. And for that I must thank the institution—the teachers and faculty of the City College. And also the entire public school system of the City of New York—including Public Schools 20 and 39, Junior High School 52, and Morris High School.

My story is not very different from the stories of tens of thousands of other CCNY graduates who received the benefits of a great, free public education. Most of those people fit the same mold I did—kids from working-class immigrant families. Their parents had dreams and ambitions for their children—if not always the means to fulfill those dreams. And we lived in a city that believed in its obligation to educate its youth and to be the dream-maker for those parents.

It was sort of an unwritten but intuitively understood three-way bargain: a bargain among parents, kids and schools. The parents were aware of it. The kids weren't so much aware but just sensed it through their parents. The schools strove to hold to it. Entire neighborhoods were buoyed by it—how could they not be? Education was the way up.

Parents worked long hours, many of them at menial tasks. The kids were often latchkey boys and girls. There were so many "minorities" that none of us really thought of ourselves as being in a minority. An implicit trust in "the bargain" and in one another, person to person and person to institution, was undefined but nonetheless powerful, strong and abiding. After all, it was America. And America meant progress. There simply was no disputing that—you could get a black eye if you tried.

Looking back, I guess if I had to say what was the most important lesson I ever learned—and that's hard because there are several—my first inclination would be to say it is the imperative to drink very deeply at the fountain of knowledge wherever, whenever and in whatever guise that fountain might appear.

But looking more deeply, I believe there's a more vital thing to be learned. It's the obligation we all have to keep the fountain flowing, now and for future generations. The lesson is not simply to get the most we possibly can out of every ounce of education we can get our hands on and never stop learning. That's very important, but there is more. We must ensure there is always a fountain to drink from and no obstacles to drinking.

We must ensure there is always some sort of bargain—a mutual promise concerning education—among the parents, schools and children in our cities. This bargain is the single most important building block of our future. It will determine what America will be like in the 21st century. It will shape our future more dramatically than anything else we do.

I believe it was Henry Adams who said that the purpose of education is to increase the extent of our ignorance. That sounds a bit crazy until you give it some long, hard thought. If Adams was right, maybe that's why my teachers at CCNY and elsewhere knew someday I would be sufficiently ignorant to look back and thank them. And sufficiently ignorant to want to protect the imperfect but beautiful process that made me that way.•

McGRUFF TRUCK CRIME PREVENTION PROGRAM

• Mr. INOUYE. Mr. President, it is always difficult to evaluate the effectiveness of crime prevention programs. Nevertheless, Congress has continually funded crime prevention programs with the hope that our investment will yield future dividends.

For example, each year Congress makes a relatively modest investment in the National Crime Prevention Council. The Council helps State and local governments, law enforcement, schools, and community organizations work together to reduce crime and drug abuse. Their symbol is "McGruff the Crime Dog," who advises our Nation's youth to "Take a bite out of crime," and "Just say no."

In Hawaii, we have a McGruff Truck Program, a network of utility truck drivers who are trained to respond to emergency situations by using their two-way communication radios. On August 22, 1990, three McGruff truck drivers helped avert an attempted sexual attack on a 13-year-old girl in Kahuku, HI.

The McGruff campaign has also been successful in Hawaii's elementary schools. According to a recent survey conducted by the Hawaii Criminal Justice Commission, 98 percent of kindergarten through sixth grade students in Hawaii indicated that they do what McGruff tells them to do. Virtually all elementary school teachers in Hawaii teach McGruff crime prevention lessons one or two times a month.

According to the Hawaii Criminal Justice Commission, "McGruff has been effective in preventing substance abuse and providing protection skills for the 5- to 12-year-old school population."

The message is clear. Our investment in crime prevention is paying off. As Congress faces the prospect of increasing Federal deficits, we must not lose sight of the fact that crime prevention programs are cost effective. Funding for crime prevention can help reduce the long-term demand for costly prison space and can help contain the rising cost of drug treatment. But our investment in crime prevention is minuscule compared to the staggering costs of incarceration, rehabilitation, and treatment.

Crime prevention programs do not always provide quick-fix solutions to social problems, and policymakers are always seeking short-term results. But as we have learned in Hawaii, crime prevention is a critical, and often overlooked, component of our arsenal to stem drug abuse and crime. If this Nation is seriously interested in fighting crime and drug abuse in the long term, we must be prepared to make investment in crime prevention today.•

OUT OF MY MIND

• Mr. SIMON. Mr. President, a longtime friend of mine is a retired faculty member at Valparaiso University in Indiana. He is John Strietelmeier, and every week he sends out a column that he writes to a few of his friends titled simply, "Out of My Mind."

Recently, he had some comments about the war and what we ought to be doing that I thought my colleagues in the House and Senate would be interested in seeing, and I will ask to insert them into the RECORD at the end of my remarks.

Two observations of interest.

First, generals are much more sensitive about keeping us out of war than nongenerals as Presidents. It was interesting to me during the Reagan administration that the State Department frequently was more willing to become bellicose and willing to take military action than was the Defense Department.

I have also noticed that, occasionally, people with either no military background or very limited military background are in some way compensating, perhaps subconsciously, and being more military than is prudent.

The second observation that John Strietelmeier makes, I agree with completely. He says:

If restoring the Emir of Kuwait to his throne is worth the lives of young men and women, it ought to be worth a few bucks from all of the rest of us.

We are playing a game that we can have war "on the cheap." We are asking our troops to sacrifice in Saudi Arabia and their families to sacrifice at home, but we are not being asked to sacrifice, and that does not make much sense.

I ask to insert the John Strietelmeier statement in the RECORD at this point.

The article follows:

I read somewhere yesterday that, of all the generals we have elected to the presidency, not a single one got us into a war during his term of office. I had not known this before, but I do not find it surprising. Men—and now women—who have known the hell of combat have no desire to repeat the experience. It may look like a game on television news. It may look even more like a game on the hooked-up John Wayne-Ronnie Reagan fictionalized versions of it. And it may sound like a game when the personable spokesmen for the military gives the press their daily ration of low-calorie, low-cholesterol "news from the front." But games are for the young. And war is a process of premature aging.•

ARIZONA EYE DONOR MONTH

• Mr. McCAIN. Mr. President, I am proud to voice my support for all the noble work done by the Arizona Eye Bank. In my home State of Arizona, March is Eye Donor Month. Through the efforts of those who do so much at the Arizona Eye Bank, the precious gift of sight can be bestowed to countless Arizonans.

The transplant process depends upon donation from humanitarian minded citizens; there is no substitute for human corneal tissue. Many people, many Arizonans, wait in pain and in darkness because there is not emough corneal tissues available. I commend the Arizona Legislature and former Governor Mofford for supporting recognition of March as Eye Donor Month and bringing this issue to the attention of my fellow Arizonans.

Mr. President, sight is such a precious commodity, and the Arizona Lions Eye Bank deserves credit for helping restore sight to so many. They deserve our support and commendation during Arizona Eye Donor Month for all their hard work.•

UGANDA'S WOMEN: CHILDREN, DRUDGERY AND PAIN

• Mr. SIMON. Mr. President, one of the most moving stories I have read for sometime comes from Uganda, a country that has experienced more pain than most countries, in terms of its Government, though recently it has had the good fortune to have an enlightened leader. But enlightened leaders cannot change a culture overnight in Uganda any more than they can in the United States.

The plight of women in much of Africa, in much of the world, is one of those nondramatic tragedies that I hope civilization can move away from.

There is no better illustration of this than a story by Jane Perlez in the New York Times titled, "Uganda's Women: Children, Drudgery and Pain."

I have been reading Ms. Perlez' stories in the New York Times for some time, but rarely have I been so moved by a story as I have by this story from Uganda.

I ask to insert this story in the RECORD, and I urge my colleagues and their staffs to read the story. Somehow, we have to do better for the women of the world than we are now doing.

The article follows:

[From the New York Times, Feb. 24, 1991]

UGANDA'S WOMEN: CHILDREN, DRUDGERY AND PAIN

(By Jane Perlez)

NAMUTUMBA, UGANDA.—When 28-year-old Safuyati Kawuda married the man she remembers as "handsome and elegant," her husband scraped together the bride price: five goats and three chickens. The animals represented a centuries-old custom intended to compensate Mrs. Kawuda's father for losing the labor of his daughter.

In the decade since, Mrs. Kawuda has rarely seen her husband, who long ago left this hot and dusty village for a town 70 miles away. She has accepted her husband's acquisition of two other wives and has given birth to five of his 13 children.

Instead of laboring for her father she has toiled for her husband instead— hauling firewood, fetching water, digging in the fields, producing the food the family eats, and bearing and caring for the children.

Like Mrs. Kawuda, women in rural Africa are the subsistence farmers. They produce, without tractors, oxen, or even plows, more than 70 percent of the continent's food, according to the World Bank. Back-breaking hand cultivation is a job that African men consider to be demeaning "women's work." The male responsibility is generally to sell the food the women produce. But as urbanization has stepped up, men have gone to the cities in search of other jobs, leaving women like Mrs. Kawuda alone.

MANY INEQUALITIES

The discrepancy between the physical labor of women and men is accompanied by other pervasive inequalities. In the vast majority of African countries, women do not own or inherit land. Within families, boys are encouraged to go to school, girls are not. In many places, women treat wife-beating as an accepted practice. The Uganda Women's Lawyers Association recently embarked on a compaign to convince women that wife-battering is not a sign of a man's love.

Recent surveys in Africa show other significant disparities between men and women. In 10 African countries, according to the United Nations Children's Fund, women and children together make up 77 percent of the population. Yet in only 16 percent of the households in those countries do the women have the legal right to own property.

Despite calls by the United Nations for the improvement of the lives of African women and efforts by the World Bank to finance projects focused on women, little has been done to improve the dismal status of rural women, African and Western experts say. With the continent's worsening economies in the 1980's, women suffered even more.

"The poor, the majority of whom are women, have had to take on additional work burdens in order to cope with cutbacks in social services and the increased cost of living," the Weekly Review, a magazine in Kenya, reported last year.

NO EXPECTATIONS

Mrs. Kawuda has never attended school. She cannot read or write, although her husband can. She has no radio. The farthest she has been from home is Jinja, 70 miles away. She has no expectations of a better life because she has known nothing else. But her ignorance of the outside world does not stop her from knowing her life is unrelentingly tough. She knows that in her bones.

"Everything is difficult," Mrs. Kawuda said, as she bent over to hoe cassava, her bare, rough feet splattered with dark dirt. "It's more of a problem than it used to be to find firewood. If you can't find wood on the ground, you have to cut it and there is no one to help you. Digging in the fields is the most difficult. I don't like it."

Mrs. Kawuda shares her world of perpetual fatigue with her five children; her husband's second wife, Zainabu Kasoga, 27, and her four children. Her husband's third wife—"the town wife"—lives in Jinja, where the husband, 31-year-old Kadiri Mpyanku, a tea packer, spends most of his time.

When the husband visited Mrs. Kawuda on a recent weekend, he brought enough sugar for three days and a packet of beans. Mrs. Kawuda said she was dependent on him for clothes and other essentials, and money that she said he did not always have. In most households in the area, the men also live most of the time in either Jinja or Kampala, the capital.

Here in the village, 120 miles northeast of Kampala, Mrs. Kawuda and Mrs. Kasoga run a household with another woman, the wife of their husband's brother, Sayeda Naigaga, 20, and her three children.

VILLAGE LIFE

The women live without running water or electricity in three small, mud-wall structures. In the outdoor courtyard, life grinds on: the peeling and chopping of food, eating by adults and feeding of infants, washing, bathing, weaving and the receiving of guests all take place on the orange clay ground, packed smooth by the passage of bare feet.

In the old days, Ugandan men built separate houses for each wife, but such luxuries disappeared with the collapse of the economy. Mrs. Kawuda and her five children sleep in one room of the main shelter and Mrs. Kasoga and her four children in another. When their husband is around, he shuttles between the two bedrooms.

Mrs. Kawuda is of the Bisoga tribe, the second largest in Uganda and one where polygamy is common. Sexual and marriage mores differ in various parts of Africa. The Uganda Women's Lawyers Association estimates that 50 percent of marriages in Uganda are polygamous and, according to United Nations figures, a similar percentage exists in West Africa.

In Kenya, the Government's Women's Bureau estimates that about 30 percent of the marriages are polygamous. However, because of the economic burden of keeping several wives and families, the practice is declining, the bureau says.

WIVES OFTEN HOSTILE

Often the wives in a polygamous marriage are hostile toward each other. But perhaps as a survival instinct, Mrs. Kawuda and Mrs. Kasoga are friendly, taking turns with Mrs. Naigaga to cook for the 15-member household.

Days start with the morning ritual of collecting water. For these Ugandan women, the journey to the nearest pond takes half an hour. The six-gallon cans, when full of water, are heavy on the trip home.

Digging in the fields is the most loathed of the chores, but also the one the women feel most obliged to do since the family's food supply comes from what they grow. As they work under the sun, the women drape old pieces of clothing on their heads for protection. The youngest child, 2-year-old Suniya clings to her mother's back while Mrs. Kawuda hunches over, swinging a hoe, a sight as pervasive in rural Africa as an American mother gliding a cart along the aisles of a supermarket. "Having a baby on your back is easy," Mrs. Kawuda said. "When you are eight months pregnant and digging, it is more difficult."

There was no possibility the husband would help in the fields. It was his job to "supervise," said Mrs. Kawuda, ridiculing a suggestion that he might pitch in.

When he arrived late on a recent Saturday night Mr. Mpyanku was treated as the imperious ruler by the children, some of whom tentatively came to greet him. He was barely acknowledged by the women, who seemed a little fearful and immediately served tea.

By early Sunday morning, he had disappeared to the nearby trading post to be with his male friends. "He has gone to discuss business with his friends," Mrs. Kawuda said. "What business can I discuss with him? Will we talk to him about digging cassava?"

Mrs. Kawuda said her husband had promised not to take any more wives. "But you never know what he thinks," she said. "I can't interfere in his affairs. If I did, he would say: 'Why is she poking her nose into my affairs?'"

Fertility and children remain at the center of rural marriage in Africa. Large numbers of children improve a household's labor pool and provide built-in security for parents in old age.

Mrs. Kawuda said she wanted one more child in the hopes of its being another boy. After that, she said, she would use an injectible form of contraceptive. It is a method popular among African rural women because it can be used without their husband's knowledge. But in reality, contraception was an abstraction to Mrs. Kawuda since she had no idea where to get it. She had never heard of condoms.

A recent concern for African women is AIDS, which like much else in their lives they seem powerless to control. Unconvinced by her husband's assurances that he is faithful to his town wife, Mrs. Kawuda said: "He can say it's all right, we need not worry. But you never know what he does in town. He fears AIDS, too. But he messes around too much."

A worldly person compared to his wives, Mr. Mpyanku speaks reasonable English and has traveled to Kenya.

He described himself as the provider of cash for the rural family. But Mr. Mpyanku's emphasis is on his own livelihood and his urban life.

He rode the most confortable form of transportation home, a nonstop minibus from Jinja that cost about $1.50, instead of the cheaper taxi at $1. He would do the same on his return.

Yet his oldest child, a daughter, Maliyamu, 10, missed much of her schooling last year. Her report card said her $7 in school fees had not been paid. It was a cheerless sigh that Mrs. Kawuda's daughter would, like her mother, remain uneducated and repeat for another generation the cycle of female poverty and punishing physical labor.●

VERMONTERS RESPOND TO "OPERATION LITTLE THINGS"

● Mr. JEFFORDS. Mr. President, I would like to take this opportunity today to recognize the many Vermonters who responded so generously to my appeal for Operation Little Things, a grassroots effort for holiday donations for our service personnel stationed in Saudi Arabia.

The project, which was initiated by Colin and Alice MacDonald of Essex Junction, VT, was supported by the Westminster Cub Scouts, led by Steve Kerr, and organized by volunteers from my Vermont offices. Donations of little things were collected from a statewide network of dropoff sites and then trucked to the Westover Air Force Base. From the Air Force base, they were flown to Saudi Arabia aboard military transport planes as space became available.

Volunteers supervising statewide dropoff sites included: Roy Beardsley of the Bennington Veterans of Foreign Wars, Gary O'Dell of the St. Albans American Legion, Roberta Baker of the St. Johnsbury American Legion, George Bennett of the Bellows Falls Elks Lodge No. 1619, Sam Haskins of the Brattleboro Veterans of Foreign Wars, Tim Beede of the White River Junction Vietnam Vets Center, Pete Shattuck of the Springfield Elks Lodge No. 1560, and Rodney Dimick of the Windsor Elks Lodge No. 1665.

Donations were collected from the sites and driven to Westover Air Force Base in numerous trips, with many vehicles, by Colin and Alice MacDonald of Essex Junction and Steve Kerr of Westminster with the assistance of National Guard members: Leon Parker of Chester, David Stewart of Brattleboro and John Kelleher of Greenwich, NY.

The outpouring of support shown by Vermonters for our troops was overwhelming. This kindness and support sent a very clear message to our service personnel that the folks back home are proud of their efforts and have not forgotten them. I am especially appreciative of the many individuals, families, businesses, and organizations who donated hundreds of boxes of personal items, sports equipment, and reading and writing materials.

Our service personnel had to spend the holidays far from home and without their families. Their job was made a bit more bearable with the "little things" and heartfelt support sent by caring Vermonters.●

STATE INDIANS LOSE GOOD FRIEND

● Mr. SIMON. Mr. President, recently, Robert N. Huey, had an article in the Argus Leader of Sioux Falls, SD.

He was in charge of the Bureau of Indian Affairs Chicago field office for Industrial Development for 16 years. But more important than that, his daughter, Pam Huey, works on my staff. Not only is she an asset to the staff, but she is simply a marvelous human being.

Robert Huey writes about a gesture of friendship to the American Indian community by the late George Allen, former coach of the Washington Redskins.

It is a story that I hope will invite others to be more sensitive to the problems faced by the American Indian community.

I ask to place the Robert Huey article into the RECORD at this point.

The article follows:

STATE INDIANS LOSE GOOD FRIEND—ALLEN CO-FOUNDED FUND THAT RAISED THOUSANDS FOR SCHOOL

(By Robert N. Huey)

The Indians in South Dakota and elsewhere lost a true friend in the death recently of George Allen, nationally-known football coach.

One day in the mid-1960s George Allen, then defensive coach for the Chicago Bears, and Bill George, all-pro line backer for the Bears, happened to stop at the Red Cloud Indian School near the Pine Ridge Indian Reservation after filling a speaking engagement in northwestern Nebraska.

They were immediately made aware of the poor sports facilities and equipment the Red Cloud Indian athletes had. There seemed to be little in the way of adequate uniforms, a real gymnasium or a full-time athletic coach.

When they returned to Chicago they didn't forget the new friends they had met at the Red Cloud Indian School. Allen and George immediately called a meeting of an all-star cast of Chicago professional athletes, radio and TV sports personalities plus a number of sports enthusiasts.

Allen was elected first president of the organization. Vince Lloyd Skaff, then a popular WGN sports announcer, now retired and living in Sioux Falls, was elected president the fourth year. The Red Cloud Athlete Fund was begun on behalf of the Red Cloud School. Dizzy Trout, former pitcher for the Detroit Tigers and the Chicago White Sox; Lou Boudreau, formerly with the Cleveland Indians and at that time with WGN; Bill Gleason, sports editor for the Chicago Sun Times; Roy Leonard, a Chicago TV personality and many others were among the members recruited.

Over the years the group, working closely with Father Earl Kurth, mission administrator at the school, raised thousands of dollars at annual banquets held in Chicago in February. This effort brought much new hope to the students and faculty of the school. A new athletic building named the "Dizzy Trout Field House" costing over $250,000 was constructed, a salary for an athletic coach was provided, a football field with complete watering system was prepared and traveling expenses for certain Indian athletes were paid and substantial funds were donated to the American Indian Athletic Hall of Fame in Lawrence, Kan.

Other items provided included pool tables, an outside basketball court, wrestling room, weight room and an outdoor track "with more equipment that I could name," Father Kurth said.

One year the Red Cloud School held a buffalo dinner and named Allen "honorary chief" and gave him the name High Eagle.

Billy Mills, Olympic gold medal winner in the 100,000 meter race in the Tokyo Olympics in 1964, was invited to one of the annual banquets and given the "First American Award."

From those early efforts a strong bond of friendship and mutual trust has grown up between the Chicago athletic community and the Indian youth at the Red Cloud School. Red Cloud athletes are invited to Chicago each year to attend the annual banquets.

The motivation and desire to be of help that for 25 years prompted Allen and the members of the Red Cloud Fund is typical of an attitude found among many U.S. business and professional individuals and others throughout the country. This spirit of good will is an important source of assistance and help available to American Indians in South Dakota and the nation.•

S. 651—FEDERAL DEPOSIT INSURANCE IMPROVEMENT ACT OF 1991

• Mr. GARN. Mr. President, yesterday I introduced S. 651, the Federal Deposit Insurance Improvement Act of 1991. I ask consent for a section-by-section analysis of that bill to be printed in today's RECORD.

The analysis follows:

SUMMARY OF S. 651, THE FEDERAL DEPOSIT INSURANCE IMPROVEMENT ACT OF 1991

TITLE I—AMENDMENTS TO THE FEDERAL BANKING ACTS

Subtitle A—Federal Banking Agency Improvements Act

Section 101. Short Title.

Section 102. Terms of the FDIC Board. Under current law, the President may appoint an individual to fill an unexpired term on the FDIC board only for the remainder of that term. This section provides that if there is less than two years remaining in the unexpired term, the appointment would be for six years.

Section 103. Conversions. Presently, a SAIF-member may sell a branch to a BIF-member if the transaction involves an "insubstantial" portion of the total deposits of both institutions, defined as 35% or less of each institution's total deposits. According to the FDIC, it does not make sense to require that the transaction affect only an insubstantial amount of the acquiror's deposits, since the public policy concern is only with the size of the branch that is leaving SAIF. This section of the bill corrects this probable drafting error, and only applies the 35% limit to the branch being acquired.

Section 104. Suspension of Deposit Insurance. Under FIRREA, the FDIC was given new power to suspend deposit insurance in certain emergency situations. However, the FDIC is required to give the other regulators 30 days advance notice before taking action. This section deletes this requirement and otherwise streamlines the process for suspending federal insurance.

Section 105. Priority of Claims. This provision gives the FDIC priority, over depositors, creditors and shareholders, in suits against officers and directors and other employees of insured institutions.

Section 106. Exemption for Certain Savings Banks. Under FIRREA, before an insured savings association conducts a new activity through a subsidiary, it must first notify the FDIC and OTS and must conduct the activities of the subsidiary pursuant to OTS regulations. However, an exemption exists for certain Federal savings associations primarily located in the Northeast. This section deletes this exemption so that these savings associations are treated in the same manner as other institutions.

Section 107. Disclosure of Uninsured Status. Current law requires uninsured savings associations to disclose the fact that they are uninsured, pursuant to FDIC regulations. This section brings uninsured banks within the scope of this requirement.

Section 108. Asset Disposition Amendments. Under FIRREA, the RTC is generally prohibited from selling property in certain distressed areas for less than 95% of its "market value." In addition, the RTC is required to sell certain residential property to low income purchasers, at below market value prices. This amendment deletes these limitations on sales.

Section 109. Penalties. Under the FDI Act, persons convicted of certain crimes may not participate in the affairs of certain insured institutions without prior regulatory approval. This amendment extends the list of institutions or organizations that are covered by this restriction to include any Federal Home Loan Bank, the Federal Housing Finance Board, and any Federal banking agency.

Section 110. Appointment of a Receiver. Under current law, the Comptroller of the Currency may appoint a receiver for a national bank only if the bank is insolvent or has violated a provision of the National Bank Act. This amendment permits the Comptroller to place a national bank in receivership if it is in an unsafe or unsound condition, including having substantially insufficient capital, or for similar safety and soundness concerns.

Subtitle B—Asset Conservation and Deposit Insurance Protection

Section 151. Short Title.

Section 152. Amendment to the Federal Deposit Insurance Act.

Depository Institutions and Mortgage Lenders. This section caps the liability of insured depository institutions and other mortgage lenders under Federal statutes that impose "strict" liability (liability without the need to prove fault or negligence) for the release of hazardous materials, where the institution involved did not cause or contribute to the release. For insured depository institutions, the limitation applies with respect to property acquired through foreclosure, or held in a fiduciary capacity, or held as a lessor pursuant to a lease that is the functional equivalent of a loan. It also applies with respect to property subject to the financial control or oversight of the institution, so long as the institution does not actively direct or conduct operations that result in the release of a hazardous substance. Under this section, if a clean-up is conducted, the institution will have liability for the benefit it receives, up to the fair market value of the property.

Cause or Contributed. The bill provides that the limitation on liability does not apply to any institution or company that caused or contributed to a release.

Failure to Stop Continuing Releases. The bill provides that the limitation does not apply to any institution or company that fails to take reasonable steps to prevent the continued release of a hazardous substance after such release is discovered.

Unexercised Capacity to Influence. The bill also provides that an insured depository institution or mortgage lender will not be liable under Federal law because they have the unexercised capacity to influence operations at or on property in which the institution has a security interest.

Federal Banking and Lending Agencies. Federal banking and lending agencies (hereinafter "Federal agencies") are protected against liability under State of Federal laws with respect to releases on property acquired in connection with receivership or conservatorship activities, or with respect to property acquired in connection with the provision of a loan, or with respect to property acquired as a result of a civil or criminal proceeding.

Cause or Contributed. Federal agencies are not protected if they caused or contributed to the release.

Subsequent purchaser. Federal agencies may sell such property to one subsequent purchaser, who will also be covered by the bill, if the purchaser was not a prior owner or otherwise potentially liable for the release, and is not affiliated with or related to such a party. The purchaser must take reasonable steps to prevent the continued release of hazardous materials discovered prior to or after the purchase.

Emergency Response. Federal agencies are given protection against liability when they take actions in response to an emergency situation, so long as the agency does not engage in gross negligence or intentional misconduct.

Lien Exemption. Property transferred by a Federal agency shall not be subject to any lien for costs or damages associated with a release.

Covenants to Remediate. Federal agencies are exempt from requirements to covenant that remedial action has been or will in the future be taken.

Due Diligence. The Federal banking agencies are required to promulgate regulations to require insured depository institutions to implement procedures to evaluate potential environmental risks prior to making a loan. The Secretary of HUD is to promulgate similar regulations for mortgage lenders.

Subtitle C—Amendments to CERCLA

Section 171. This section amends the Superfund Act to provide parity of treatment for the States and Federal Government with respect to property acquired involuntarily and for emergency response actions undertaken by a governmental entity.

TITLE II—CLARIFYING AMENDMENTS

Section 201. FSLIC Resolution Fund. The bill clarifies the FDIC's role as manager of the FSLIC resolution fund and that the FDIC is authorized to act as receiver of institutions that failed pre-FIRREA.

Section 202. Branching. This section clarifies that the RTC may override state branching limitations in connection with the acquisition of a failing savings association and its conversion to a bank.

Section 303. Removal to District Court. This provision makes technical changes with respect to the RTC's authority to remove actions to the appropriate U.S. district court.

TITLE III—CLERICAL AMENDMENTS

This title corrects errors of a clerical nature concerning the Federal Deposit Insurance Corporation or the Federal Deposit Insurance Act.•

HOMICIDE: LEADING CAUSE OF YOUTH DEATH

• Mr. KOHL. Mr. President, I wish to commend Secretary Sullivan for his remarks yesterday, focusing attention on the national emergency caused by youth homicide. According to the Center for Disease Control, homicide is now the leading cause of death for black males between the ages of 15 and 19. Both victims and perpetrators are adolescents: A chilling fact, indeed.

Guns figure prominently in such tragic deaths. As Sullivan pointed out, a black male teenager is 11 times more likely to die from a gunshot than his white counterpart. And death by firearm for all teens increased over 40 percent from 1984 through 1988, according to the National Center for Health Statistics. Last year, I addressed a part of this problem by sponsoring the Gun Free Schools Act. But we need to do much more to combat the proliferation of guns in our Nation's schools and streets.

As chairman of the newly created Juvenile Justice Subcommittee, I intend to take a good, hard look at this entire crisis. I look forward to working with Secretary Sullivan in efforts to untangle causes, repercussions, and possible remedies for youth violence and premature death. While we may not necessarily agree with all of Secretary Sullivan's conclusions here, I know my colleagues on the Judiciary Committee and in the Senate as a whole share an admiration for his obvious concern, compassion, and commitment.

Mr. President, I ask that the Washington Post story describing Secretary Sullivan's remarks be printed in the RECORD.

The article follows:

[From the Washington Post, Mar. 14, 1991]

GUNS AND YOUTH: HHS'S GRIM STATISTICS

(By Paul Taylor)

More teenage boys die from gunshots than from all natural causes combined, and a black male teenager is 11 times more likely to be murdered with a gun than a white counterpart, Health and Human Services Secretary Louis W. Sullivan disclosed last night in a speech that linked firearms, race and family breakdown.

"Do you realize that the leading killer of young black males is young black males?" Sullivan said at Hampton University, a historically black school in Hampton, Va. "As a black man and a father of three, this reality shakes me to the core of my being."

Sullivan cited a study, to be released today by HHS's National Center for Health Statistics, showing that:

Between 1984 and 1988, the firearm death rate among teenagers increased by more than 40 percent—to the point where, for the first time, the firearm death rate for both black and white male teenagers exceeded the mortality rate from all natural causes. In 1988, a black male age 15 to 19 was nearly three times more likely to die from a bullet than a disease, and a fatal gunshot was 11 percent more likely than a fatal illness for a white male teenager.

A total of 1,641 Americans age 15 to 19 were victims of homicide by firearm in 1988, a figure that included 955 black males, 453 white males, 98 black females and 97 white females. The number of firearm deaths—a more comprehensive figure that includes accidents and suicides as well as homicides—was 3,226 for that age group, including 1,634 white males, 1,118 black males, 273 white females and 116 black females.

Unintentional injuries are the leading cause of death for all persons age 15 to 34, with motor vehicle injuries accounting for two-thirds of the total. Homicide and suicide are the second and third leading causes, followed by diseases such as cancer, leukemia and heart ailments. However, among black males age 15 to 34, homicide is the leading cause of death, and firearms are implicated in 88 percent of these homicides.

"During every 100 hours on our streets we lose three times more young men than were killed in 100 hours of ground war in the Persian Gulf," Sullivan said. "Where are the yellow ribbons of hope and remembrance? . . . Where is the concerted, heartfelt commitment to supporting the children of this war?"

Sullivan shied from any discussions of gun control. However, Rep. Edward F. Feighan (D-Ohio) said, "I can only hope that the information the secretary has presented will persuade some in his administration to support handgun control." Feighan is lead sponsor of a bill—opposed by the Bush administration—that would mandate waiting periods for handgun purchases.

Sullivan spoke to a conference on the black family and he used the firearm report for some sharp commentary about family life.

"The collapse of the American family in the past few decades is historically unprecedented in the U.S., and possibly in the world," he said. "Nowhere is this trend more apparent than in the black community, where 86 percent of children spend part of their childhood living in a mother-only family.

"Some argue that the high rate of single parenthood has not adversely affected our children. But, sadly, the research does not bear them out. . . . Study after study has shown that children from single-parent families are five times more likely to be poor and twice as likely to drop out of school. . . . They are also more likely to be involved in criminal activity, to abuse drugs and alcohol, to suffer ill health, and to become trapped in welfare dependency."

The secretary proposed no new government programs to address these matters. "I believe the federal government's role should be to encourage and assist the spread of local indigenous" community organizations that combat crime and try to restore families, he said.

Sullivan sought to use his office as a bully pulpit, as he has in his crusade against smoking. He called for a return to a "culture of character," which he described as "a culture in which parents invest time and attention in their children, and the children of a neighborhood; a culture in which children growing up without a father are a small minority."•

MANIFESTO FOR THE NEW SOUTH AFRICA

• Mr. SIMON. Mr. President, the retiring South African Ambassador, Ambassador Piet Koornhof, sent me a copy of a manifesto that President F.W. de Klerk referred to in his recent speech to the Parliament.

Let me first express my appreciation to Ambassador Koornhof, with whom I have had the privilege of working, for sending me this manifesto. And let me add that those of us who have had the opportunity to work with him wish him the best as he returns to South Africa with a good understanding of the concerns and desires of the people of the United States for freedom and justice and opportunity for all citizens in South Africa, and for a good working relationship with the United States.

The manifesto is another indication of the positive steps forward that are being taken in South Africa. This manifesto, the concrete steps called for by President de Klerk, the greater cooperation between Nelson Mandela of the African National Congress and Chief Buthelezi—all of these things—are indications that, despite some real problems that South Africa still has to overcome, they are moving in the right direction, and we applaud that movement.

I ask to insert into the RECORD the "Manifesto for the New South Africa" that President de Klerk referred to.

The manifesto follows:

MANIFESTO FOR THE NEW SOUTH AFRICA

We, as South Africans from all walks of life, associating ourselves with the goodwill and the shared desire for justice, peace and freedom among the majority of our fellow South Africans, declare—

That a just and fair New South Africa, free from apartheid, requires a strong South African nation,

That there exists, therefore, an urgent need for the leaders of all our people and communities to come together to shape a mutually acceptable new constitution for our country,

That such a constitution should be based on the rule of law and lay the foundation for a nation dedicated to justice, democracy and freedom for all, through the pursuit of participation, peace, progress, and prosperity.

That Christian values and universally accepted civilised norms and standards should be maintained in South Africa together with recognition and protection of freedom of faith and worship,

That all the people of our country should take part in this endeavour,

That we, to this end, subscribe to the following:

PARTICIPATION: A FREE AND DEMOCRATIC POLITICAL SYSTEM

We commit ourselves to the creation of a free and democratic political system in South Africa, in which:

All people shall be free in this, their country of birth;

All the people of our land shall participate fully at all levels of government on the basis of universal adult franchise;

The government of the country shall at all times be based upon the consent of the governed;

All people shall be equal before the law, and shall enjoy equal rights regardless of race, colour, sex or creed;

The rights of all individuals and minorities defined on a non-racial basis shall be adequately protected in the constitution and in a constitutionally guaranteed and justiciable Bill of Rights;

Freedom of expression, within the generally recognised bounds of responsibility, shall be the right of all people;

Freedom of movement and of association shall be guaranteed to all.

PROGRESS: AN EQUITABLE SOCIAL SYSTEM

We commit ourselves to the creation of an equitable social system in South Africa in which:

The human dignity of each individual, being a unique creature of God, shall be respected at all times;

Freedom of religion and of worship shall be guaranteed for all;

All discrimination between groups of people or between individuals shall be eliminated and discriminatory legislation shall be repealed;

The goal of just and equitable educational systems, accessible to all, shall be striven for unswervingly;

Access for all to affordable shelter shall be a high priority.

PROSPERITY: A FREE AND EQUITABLE ECONOMIC SYSTEM

We commit ourselves to the creation of a free and equitable economic system in South Africa in which:

All people shall be free to sell their labour and market their products;

The ownership of property shall be open to all;

Economic growth with the emphasis on the creation of employment shall be vigorously promoted;

The resources of the state shall be fairly used for the common good, with special regard to the socio-economic backlogs existing in our country;

The State and all the members of our society shall accept our responsibility as custodians of our environment and resources.

PEACE: FREEDOM AND SECURITY FOR ALL

We commit ourselves to the maintenance of South Africa as a sovereign independent state, secure against foreign interference, in which:

The protection of, and respect for life, liberty and property shall be a first principle;

The peaceful settlement of political and other disputes between groups and individuals shall form the foundation of a democractic society;

Violence and intimidation shall not be tolerated as tools to attain political ends;

The State shall be charged with the duty to ensure the maintenance of stability in a peaceful and orderly society;

The application of the powers of State shall be limited to the minimum necessary for the maintenance of a peaceful and orderly society, and shall be governed by the law.

We, who associate ourselves with this Manifesto, recognize that we are still divided by many differences concerning the manner in which these ideals may best be realised, but

We also recognize that we are united in our love for our country and all its people, and therefore

We declare that we are determined to apply all our talents and our labours to overcome these differences and to find a peaceful way to build a great South African nation and a better future for the generations to come.•

WORLD CONSUMER RIGHTS DAY

• Mr. SARBANES. Mr. President, today marks the ninth formal observance of World Consumer Rights Day, which was first observed in 1983. To the credit of the United States and to our basic belief in consumer rights, the designation of March 15 as the day for this observance has great historical significance.

It was on March 15, 1962, then President John F. Kennedy sent to the Congress "A Special Message on Protecting the Consumer Interest." In it, he declared four basic consumer rights: the right to safety, the right to be informed, the right to choose, and the right to be heard.

Consumer organizations have worked to implement these rights, both in the United States and around the world. In recent years, the International Organization of Consumer Unions [IOCU] has added four more important rights: the right to satisfaction of basic needs, the right to redress, the right to consumer education, and the right to a healthy environment.

The Congress of the United States has taken important steps to further these eight rights. Even long before President Kennedy's declaration, we established a Food and Drug Administration and charged it with assuring a safe and effective drug supply and a safe food supply. The Department of Agriculture was given additional responsibilities respecting the safety of the food supply. We established a Federal Trade Commission with responsibility for securing the rights to be informed and to choose. In the past three decades we established the National Highway Traffic Safety Commission and the Consumer Product Safety Commission, both for the purpose of furthering the consumer's right to safety. We also created the Environmental Protection Agency to work for a healthier environment. Other offices within the government share responsibilities for consumers as well.

Of course, not all of these programs have been given the powers or resources needed to fully achieve their goals. Much more can and must be done. But these programs established by the Congress demonstrate a recognition of consumers' rights which many other nations are just beginning to recognize. Consumers in developing nations and the emerging democracies are just beginning to be aware of these rights, and they are developing their own consumer movements, often with the assistance and coordination function of IOCU.

International organization efforts toward these ends are important. On April 9, 1985, after 10 years of committee consideration and debate, the U.N. General Assembly adopted the U.N. Guidelines for Consumer Protection. The guidelines embrace the principles of these eight consumer rights and provide a framework for strengthening consumer protection policies of U.N. member nations. The challenge is now being taken up in many nations to achieve a transition from the statement of principles to a working reality. The work is not done, it is merely beginning. The United Nations has launched a sustained program to promote the guidelines and to assist governments, particularly those developing nations, in their implementation.

The United Nations is now working toward adoption of a U.N. Code of Conduct on Transnational Corporations. This code would further international protection of consumers and the environment. It would set up common standards of decency, fair competition, fair pricing practices, and honesty in operation of business across international boundaries. It would reaffirm the essential rights enumerated by President Kennedy. In December 1990 the U.N. General Assembly agreed to consider the adoption of the code in 1991. This comes after 12 years of negotiations. Thus, we are in the final phase of the important international effort. The code is strong and contains essential consumer and environmental protections. The United States should support its adoption.

Mr. President, I commend World Consumer Rights Day to the attention of all Members. The United States can be proud of the role we have played in assisting in the establishment of international consumer rights.•

AMERICA'S CAPTIVE NATION

• Mr. SIMON. Mr. President, the New York Times recently had an article on the question of the Puerto Rican referendum that hits the nail squarely on the head, if I may overuse an old, trite phrase.

For the United States to continue to ignore the wishes of the people of Puerto Rico and tolerate second-class citizenship for them is simply not acceptable. It is far below what we profess in our ideals.

I commend my colleague Senator PAT MOYNIHAN for standing up on this issue. Also, I want to commend my colleague Senator BENNETT JOHNSTON for his leadership. He has become almost a matinee idol in Puerto Rico because of his interest and leadership, and he deserves that stature.

Recently, Tom Wicker, with whom I ordinarily agree, had a column on Puerto Rican statehood that I think was off the mark.

I ask to insert into the RECORD the New York Times editorial, the Tom Wicker column, and a column I wrote responding to the Tom Wicker column.

The material follows:

[From the New York Times, Feb. 22, 1991]

AMERICA'S CAPTIVE NATION

How perverse it would be if American politicians who upbraid Mikhail Gorbachev for ignoring Lithuania's independence plebiscite were to refuse Puerto Rico the same right of expression. But that's exactly what seems to be happening in the U.S. Senate.

Discovered by Columbus, colonized by Spain, seized as war booty by the United States, Puerto Rico qualifies as the oldest colony in this Hemisphere. Like the Baltic states, it was involuntarily annexed by a big neighbor. But unlike the Baltics, most Puerto Ricans favor continued association with their distant overlords, as 51st state or as a partly autonomous commonwealth.

In a world boiling with ethnic discord, Puerto Rico is enviably free of rage and persistent violence. Yet Puerto Ricans are justly furious at Washington's unwillingness to provide a free and fair referendum this year in which Puerto Ricans could finally determine whether to seek statehood, choose continued commonwealth autonomy or, as a minority wishes, become independent.

If there is to be plebiscite in 1991, Congress must act by early July. Chairman J. Bennett Johnston of the Senate Energy Committee, vowing to meet that deadline, has already held hearings on legislation that would carefully define the choices. This is very different from a House bill that simply lists the options, without elaboration, inviting angry misunderstandings.

But Mr. Johnston's draft bill may well be killed by lawmakers who like self-determination—in the Baltics. After all, says, Don Nickles, an Oklahoma Republican, Puerto Ricans might not "blend" with the U.S. if they chose statehood. Exactly, says Wendell Ford, a Kentucky Democrat, who describes Puerto Rico as that sinister thing, a "separate culture." Malcolm Wallop, Republican of Wyoming, is all for letting Puerto Ricans hold a referendum as long as Congress can ignore the results.

These are wounding arguments. Cultural, ethic and religious differences were once cited by bigots who opposed statehood for Hawaii, New Mexico, Utah and Oklahoma. Nobody spoke of a "separate culture" when Puerto Ricans were drafted to fight in past wars. Nobody says the 15,000 Puerto Ricans serving in the Persian Gulf now do not "blend in."

Finally, it verges on the dishonorable to invite Puerto Ricans to hold a referendum without assurance that Congress will heed the results—especially so when the invitation comes from Mr. Wallop, whose President and party favor statehood. Every President starting with Eisenhower has affirmed Puerto Rico's right to choose. That commitment was repeated time and again in the U.N. New York's Senator Daniel P. Moynihan recalls that it was once his job as U.S. envoy to ridicule Fidel Castro's claim that Americans would never allow Puerto Ricans freedom of choice.

Charting Puerto Rico's future will require hard legislative work and much good will. But Puerto Ricans did not ask to be annexed. They were compelled to become part of the U.S. by a process far less brutal but very like the Soviet absorption of the Baltics. It is both honorable and politically wise to permit this captive nation to decide its status freely, fairly—and promptly.

[P.S./Washington, a weekly column by Senator Paul Simon of Illinois]

COMMONWEALTH STATUS FOR PUERTO RICO: REPACKAGED COLONIALISM

One of my favorite columnists is Tom Wicker of the New York Times, but unfortunately the other day he bought a line passed out by some big corporations and their cooperative friend, the current governor of Puerto Rico, that commonwealth status is a great thing for Puerto Rico and that statehood would be bad.

Commonwealth status is fine for some major American corporations avoiding income taxes, but that is a high price to pay for second-class citizenship for Puerto Rico's citizens.

No matter how you cut it, the present commonwealth status is simply old-fashioned colonialism, attractively packaged. And the package stinks, no matter how you wrap it.

Puerto Ricans are American citizens who have served heroically in United States' wars since 1899. During World War I, 18,000 Puerto Ricans served in the armed forces, many defending vital installations in the Panama Canal Zone. A few years later, Puerto Rico contributed 65,034 of its men to the U.S. effort in World War II. Puerto Rico had more soldiers in the Korean conflict than 20 states and suffered more injuries per capita than any state. The 270 Puerto Rican combat deaths in Vietnam placed Puerto Rico ahead of at least 14 states and territories.

Puerto Ricans are entitled to be treated as first-class American citizens.

Puerto Ricans are the poorest of Americans. And statistical studies show that they are among the hardest working of Americans, measured in terms of productivity and absenteeism.

The people who defend commonwealth status are the same people who last year tried to take Puerto Rico out from the minimum wage that protects other American citizens. I led the fight to protect Puerto Rican workers because unfortunately they have no voting representation in Congress.

I have helped Puerto Ricans some, but obviously my major responsibility is to the people of Illinois.

Eventually, commonwealth status will go, just as other forms of colonialism around the world have gone. Puerto Rico will either become a state or become independent.

That decision should be up to the people of Puerto Rico.

Congress is considering legislation to give Puerto Ricans an opportunity to choose their political status in a referendum.

My own belief is that both Puerto Ricans and other Americans would be better off if the island became a state.

The corporations that now have the bonanza of not paying any income tax in Puerto Rico argue that if that island becomes a state and the corporations lose that windfall, there will be a loss of jobs.

Others argue persuasively that removing the uncertainty of Puerto Rico's status would increase its attractiveness for investment and retirement, and would cause a significant increase in employment.

No one knows the answer with certainty.

What we do know is that the current exemption (Section 936 of the Internal Revenue Code) annually costs $2.5 billion to the U.S. Treasury. In 1983, tax benefits to pharmaceutical companies in Puerto Rico amounted to $905 million or roughly $70,000 for every employee they hired in Puerto Rico (at an average salary of $20,000).

That's a good break for those corporations, but not good for America's taxpayers or the people of Puerto Rico.

But it is unhealthy to have second-class American citizens.

That has been wrong throughout our history. Interestingly, whenever we finally have had the courage to move away from second-class citizenship, with whatever name we called it, the nation has always benefitted.

Those who argue for the people of Puerto Rico against the big corporate giants may not have as slick a campaign.

But we have justice and history on our side.●

MEASURES INDEFINITELY POSTPONED

Mr. MITCHELL. Mr. President, I ask unanimous consent that Calendar items Nos. 13, 14, 16, 26, 27, 34, and 36 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar items Nos. 25 and 26; I further ask unanimous consent that the nominees be confirmed en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table, en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND IMPROVEMENT

The following-named persons to be Members of the National Advisory Council on Educational Research and Improvement for the terms indicated:

Eugene L. Madeira, of Pennsylvania, for the remainder of the term expiring September 30, 1991.

A. Pierre Guillermin, of Virginia, for a term expiring September 30, 1993.

June Scobee Rodgers, of Arizona, for a term expiring September 30, 1993.

NATIONAL SCIENCE FOUNDATION

Marye Anne Fox, of Texas, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 1996.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

TACONIC MOUNTAINS PROTECTION ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 37, S. 483, the Taconic Mountains Protection Act of 1991.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 483) entitled the "Taconic Mountains Protection Act of 1991."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 38

(Purpose: To make a technical correction)

Mr. MITCHELL. Mr. President, on behalf of Mr. LEAHY, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. LEAHY, proposes an amendment numbered 38.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In section 1(a)(2) of the bill, strike "Vermonters" and insert "Americans".

The PRESIDING OFFICER. If there is no debate, the question is on agreeing to the amendment.

The amendment (No. 38) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 483

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSES.

(a) Congress finds that—

(1) large tracts of undeveloped forest land in Vermont's Taconic Mountain Range are threatened by conversion to nonforest uses;

(2) lands included in the Green Mountain National Forest are forever open to all Americans;

(3) the Green Mountain National Forest permanently protects forests for their environmental and economic benefits through the management of range, recreation, timber, water, wilderness, and fish and wildlife resources;

(4) the Bennington County Regional Commission supports expanding the Green Mountain National Forest boundary to include the Taconic Mountain Range; and

(5) the Vermont General Assembly has enacted legislation consenting to the acquisition by the Federal Government of lands throughout the Taconic Mountain Range within Bennington County for inclusion in the Green Mountain National Forest.

(b) It is the purpose of this Act to expand the boundaries of the Green Mountain National Forest to include the Taconic Mountain Range within Bennington County.

SEC. 2. GREEN MOUNTAIN NATIONAL FOREST EXPANSION.

The boundaries of the Green Mountain National Forest are hereby modified to include all lands depicted on a map entitled "Taconic Mountain Range Expansion" dated March 1, 1991, which shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Washington, District of Columbia. Within the area delineated on such map, the Secretary shall utilize his authorities under the Act of March 1, 1911 (chapter 186, 36 Stat. 961 as amended), to acquire lands, waters, and interests therein. Lands so acquired shall be managed under such Act for National Forest purposes.

"J.E. 'EDDIE' RUSSELL POST OFFICE"

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 674, a bill to designate a U.S. post office in Tennessee, as the "J.E. 'Eddie' Russell Post Office" introduced earlier today by Senators GORE and SASSER.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 674) to designate the United States Post Office located at 304 West Commercial Avenue in Monterey, Tennessee, as the "J.E. 'Eddie' Russell Post Office."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. GORE. Mr. President, I rise today to introduce legislation to designate the U.S. Post Office presently located at 304 West Commercial Avenue in Monterey, TN, as the "J.E. 'Eddie' Russell Post Office." I am joined in offering this bill by my distinguished colleague, Senator JIM SASSER.

Designating this post office the "J.E. 'Eddie' Russell Post Office" would be a fitting tribute to a man whose life was distinguished by a commitment to community service. Eddie Russell served as postmaster of the Monterey Post Office from 1985 until leukemia took his life in 1989. Eddie was very instrumental in helping to bring this new post office to Monterey, and it would be an appropriate tribute to his hard work and dedication to have this post office bear his name.

Tipper and I remember Eddie Russell as a good friend. He began his admirable career with the U.S. Postal Service in my home town of Carthage, TN, as a postal carrier. After serving the community of Carthage for 9 years, he was promoted to the position of postmaster in the nearby town of Baxter, TN. He served there until 1984, hen he began serving Monterey. His service in the U.S. post office was exemplary and admirable.

Eddie placed significant importance on community involvement. He was a member of the Tennessee Chapter of the National Association of Postmasters of the United States, and served as vice president of this organization for 3 years. Eddie Russell was a respected member of the community as well. He was very involved in local activities with the Shriners and attended Mount Tabor Baptist Church. He is remembered fondly by his many friends in the communities which he served and is missed by his family, who live in various cities in Tennessee.

This bill is a fitting memorial to a man who devoted 19 years of his life to the U.S. Postal Service and to the communities of Monterey, Carthage, and Baxter, TN.

I ask unanimous consent that the full text of this bill be printed at the conclusion of my prepared remarks.

Mr. SASSER. Mr. President, I am most proud and pleased to join my distinguished colleague and fellow Tennessean, Senator GORE, in this legislation to designate the J.E. "Eddie" Russell Post Office in Monterey, TN.

Eddie Russell was only 43 when he lost his battle with leukemia in February 1989. Yet he had already served as Monterey's postmaster for 5 years at the time of his death. Despite his youth, Eddie had also served as postmaster of Baxter, TN, for the 5 years prior to his assignment in Monterey. Throughout his postal career, which began in 1970, Eddie's dedication to his customers, neighbors, and the Postal Service was as exemplary as his death was untimely.

Eddie's life was a story, in fact, of involvement and leadership. He was a 4-year letterman in football and class officer at Carthage High School, before attending Cumberland College in Lebanon, TN. He started out with the Postal Service as a letter carrier and worked his way up to two postmasterships. In addition to his postal responsibilities, Eddie found time to serve as area vice president of the Tennessee Chapter of the National Association of Postmasters of the United States. A member of the Mount Tabor Missionary Baptist Church, Eddie was also active with the Shriners both as a member and past master.

Eddie Russell was particularly instrumental in getting the current Monterey Post Office facility built, so it is especially fitting that the Monterey Post Office should hereafter bear his name. I join Senator GORE in extending my best wishes to Eddie's family and friends. I hope that upon the passage of this bill, Eddie's dedication and courage will have a suitable memorial.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows.

S. 674

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Post Office currently located at 304 West Commercial Avenue in Monterey, Tennessee, is designated as the "J.E. 'Eddie' Russell Post Office". Any reference in a law, map, regulation, document, paper, or other record of the United States to such United States Post Office shall be deemed to be a reference to the "J.E. 'Eddie' Russell Post Office".

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TO PROVIDE LAND TRANSFER IN MISSOURI

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 669, a bill to provide land transfer in Missouri introduced earlier today by Senator Bond.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 669) to provide a land transfer to the Missouri Housing Development Commission.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BOND. Mr. President, I rise this evening to offer legislation that will make great use of a surplus U.S. Army housing property in the St. Louis area to help address the desperate need for transitional housing for homeless families with dependent children and low-income housing for the poor. This legislation will convey, at no cost, to the Missouri Housing Development Commission all right, title and interest of the Army in a property known as the Charles Melvin Price Support Center Wherry Housing Annex in Pine Lawn, MO, for the purpose of operating and maintaining the property for low-income and transitional housing for the homeless.

Mr. President, this property is ideal for this purpose and the Missouri Housing Development Commission intends to operate the property to meet this urgent need in the St. Louis area. We have almost no place for homeless families and mothers with dependent children to go in the St. Louis area and this legislation will go a long way toward meeting that need. There is no cost to the Federal Government for this transfer and actually, we will save money since the Army Corps of Engineers currently is responsible for maintaining and providing security at the site.

Since I first toured this abandoned Federal property last summer, I have believed that its best use would be to provide families in the St. Louis area who are most in need of help, a new start in life. The MHDC proposal will ensure that the taxpayer's investment there continues to serve our community by meeting an urgent civilian need, now that its military use has ended.

Mr. President, I hope my colleagues will support the passage of this important legislation for the St. Louis area and I urge its passage by the Senate.

The PRESIDING OFFICER. The bill is before the Senate open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 669

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1.—(a) CONVEYANCE.—Subject to the conditions set forth in paragraph (b), the Secretary of the Army shall convey, at no cost, to the Missouri Housing Development Commission all right, title and interest of the United States in and to the land known as the U.S. Army Charles Melvin Price Support Center Wherry Housing Annex in Pine Lawn, Missouri, comprising approximately 13.2 acres and all improvements thereon.

(b) CONDITION.—The conveyance provided for in paragraph (a) may be made only on condition that the Missouri Housing Development Commission agrees to operate and maintain the property and to use it for low-income and transitional housing for the homeless. The property shall revert to the Army if the Commission ceases to use the property for the described purpose.

(c) DEADLINE FOR CONVEYANCE.—The conveyance under paragraph (a) shall be made no later than 90 days after the date of enactment of this section.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the bill was passed.

The PRESIDING OFFICER. Without objection, the motion to lay on the table was agreed to.

MEASURE PLACED ON THE CALENDAR—S. 675

Mr. MITCHELL. I ask unanimous consent that S. 675 introduced earlier today dealing with veterans health care be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the majority leader, following consultation with the Republican leader, may proceed at any time to the consideration of H.R. 1282, the Desert Shield/Desert Storm supplemental appropriations, notwithstanding the provisions of rule XXII.

The PRESIDING OFFICER. Without objection, it is so ordered.

STAR PRINT OF S. 619

Mr. MITCHELL. Mr. President, I ask unanimous consent that S. 619 be star printed to reflect the changes I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL EMPLOY THE OLDER WORKER WEEK

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of House Joint Resolution 133, designating "National Employ the Older Worker Week," and that the Senate then proceed to its immediate consideration; that the resolution be deemed read a third time and passed and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the joint resolution (H.J. Res. 133) was deemed read the third time and passed.

RESOLUTION TRUST CORPORATION FUNDING ACT

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 419.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House insist upon its amendment to the bill (S. 419) entitled "An Act to amend the Federal Home Loan Bank Act to enable the Resolution Trust Corporation to meet its obligations to depositors and others by the least expensive means", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That the following Members be the managers of the conference on the part of the House:

From the Committee on Banking, Finance and Urban Affairs, for consideration of the Senate bill, and the House amendment, and modifications committed to conference: Mr. Gonzalez, Ms. Oakar, Mr. Vento, Mr. Barnard, Mr. Schumer, Mr. Frank of Massachusetts, Mr. Carper, Mr. Torres, Mr. Wylie, Mr. Leach, Mr. McCollum, Mrs. Roukema, and Mr. Bereuter.

From the Committee on Energy and Commerce, for consideration of section 4 of the Senate bill, and modifications committed to conference: Mr. Dingell, Mr. Markey, and Mr. Lent.

Mr. MITCHELL. Mr. President, I move that the Senate disagree to the amendment of the House, agree to the conference requested by the House, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer [Mr. HARKIN] appointed Mr. RIEGLE, Mr. SARBANES, and Mr. GARN conferees on the part of the Senate.

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m., Friday, March 15; that on Friday, March 15, the Senate meet in pro forma session only, that at the close of the pro forma session the Senate stand in recess until 9:30 a.m., Tuesday, March 19; that on Tuesday, following the prayer, the Journal of the proceedings be deemed approved to date; that following the time reserved for the two leaders, there be a period for morning business not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each.

I further ask unanimous consent that on Tuesday, March 19, the Senate stand in recess from 12:30 p.m. to 2:15 p.m. to accommodate the respective party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 10 A.M.

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate, and if no other Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess, as under the previous order, until 10 a.m., Friday, March 15.

There being no objection, the Senate, at 6:51 p.m., recessed until Friday, March 15, 1991, at 10 a.m.

CONFIRMATIONS

Executive Nominations Confirmed by the Senate March 14, 1991:

DEPARTMENT OF EDUCATION

ANDREW LAMAR ALEXANDER, JR., OF TENNESSEE, TO BE SECRETARY OF EDUCATION.

NATIONAL ADVISORY COUNCIL ON EDUCATION RESEARCH AND IMPROVEMENT

THE FOLLOWING NAMED PERSONS TO BE MEMBERS OF THE NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND IMPROVEMENT FOR THE TERMS INDICATED:

EUGENE L. MADEIRA, OF PENNSYLVANIA, FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 30, 1991, VICE DONALD M. CLARK.

A. PIERRE GUILLERMIN, OF VIRGINIA, FOR A TERM EXPIRING SEPTEMBER 30, 1993, VICE ROBERT LEE MCELRATH, TERM EXPIRED.

JUNE SCOBEE RODGERS, OF ARIZONA, FOR A TERM EXPIRING SEPTEMBER 30, 1993, VICE CAROL PENDAS WHITTEN, TERM EXPIRED.

NATIONAL SCIENCE FOUNDATION

MARYE ANNE FOX, OF TEXAS, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 1996.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EXTENSIONS OF REMARKS

INTRODUCTION OF THE MEDICARE ELIGIBILITY EXPANSION ACT OF 1991

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1991

Mr. STARK. Mr. Speaker, I rise, joined by my colleagues Mr. COYNE and Mr. MOODY, to introduce a bill that would extend Medicare coverage to hundreds of thousands of near-elderly persons who are without health insurance.

An estimated 11.5 percent of near-elderly persons, between ages 62 through 64 are without health insurance. This group includes approximately 400,000 Social Security cash recipients who are uninsured, 600,000 spouses and 300,000 dependents of Medicare beneficiaries, and 75,000 disabled individuals who have not met the 2-year waiting period requirement to become eligible for Medicare benefits.

The lack of health insurance for the near-elderly can be a particularly serious concern for a number of reasons. First, uninsured persons between the ages of 62 and 64 tend to be in fair or poor health. According to a survey conducted by Louis Harris Associates, sponsored by the Commonwealth Fund, 40 percent of older adults without health insurance are in fair or poor health. The absence of health insurance places people in poor health at risk for substantial medical expenses.

Second, uninsured older persons are more likely to have low incomes. According to the same Louis Harris survey, one half of low-income older adults are uninsured. Without sufficient income, it is extremely difficult for uninsured persons to obtain health insurance on their own. What's worse, health insurance may not even be available for uninsured low-income individuals with preexisting conditions.

Finally, unlike younger cohorts of uninsured persons, the near-elderly are more likely to be detached from the labor market. The majority of nonworking older Americans do not receive health insurance coverage from a former employer. Retiree health benefits are limited and affect primarily higher income individuals. Consequently, uninsured near-elderly persons are least likely to benefit from options that link the expansion of health insurance to employment.

This bill would expand Medicare eligibility criteria to cover three subgroups of near-elderly persons. First, it would extend Medicare to cover individuals ages 62 and older who are entitled to Social Security disability benefits but have not met the 2-year waiting requirement for Medicare. Second, it would create a Medicare buy-in option for early retirees receiving monthly Social Security benefits but are not eligible for Medicare. Third, it would allow spouses ages 62 through 64 and child dependents of Medicare beneficiaries to purchase Medicare benefits.

Under this proposal, the 24-month waiting period for Medicare would simply be waived for individuals entitled to disability benefits beginning at age 62. Some 75,000 individuals fall into this category. Given the requirements of the disability program of being permanently and totally disabled, older, disabled individuals are least likely to have access to employer-sponsored health insurance and are highly unlikely to find an insurance company that will sell them a policy to cover the expenses of their medical conditions—regardless of price.

For early retirees receiving monthly Social Security benefits, spouses ages 62 through 64 and dependents of Medicare beneficiaries, this bill would provide an opportunity to purchase Medicare, parts A and B. The part A premium would be modified in a manner consistent with H.R. 941 introduced earlier this year. The part B premium would be consistent with current law and set at 25 percent of program costs.

Under current law, individuals not eligible for Medicare have the option of paying a monthly part A premium to purchase hospital, skilled nursing facility and other part A benefits—if they can afford the expense. In 1991, the part A premium increased to $177 per month. Annual out-of-pocket premiums for parts A and B are nearly $2,500 or $5,000 per couple.

Not only is the part A premium unaffordable, it is also based upon a formula that is fundamentally inequitable. Individuals who purchase part A benefits must pay a greater share of average Medicare benefits than the share currently paid by eligible beneficiaries.

The current formula requires noneligible persons to pay 100 percent of the actuarial value of the benefits, while the average Medicare beneficiary contributes only 30 percent of average lifetime Medicare benefits. In some cases, purchasers of the part A premium can end up paying as much as 300 percent more for this coverage than an average earner and his or her employer paid in payroll taxes for the same time period.

This bill, like H.R. 941, would correct the inequity in the formula. The part A premium would be adjusted to cover the average nonsubsidized portion of Medicare benefits for the average Medicare beneficiary. The premium would be set at $57 per month in 1992, $62 in 1993, $67 in 1994, $73 in 1995, and $78 in 1996. In subsequent years, the part A premium would be indexed to the growth in the hospital part A deductible.

Under this bill, near-elderly individuals who opt to purchase Medicare would pay approximately $88 per month in 1992, increasing to $114 per month by 1995 for part A and part B services.

Mr. Speaker, the proposed legislation is currently under review by the Congressional Budget Office. The bill has been drafted without the financing necessary to cover costs. I fully anticipate that these benefits, if adopted by the Committee on Ways and Means, will be financed on the required pay-as-you-go basis.

Before closing, I am submitting for the record a letter that I recently received from a woman in Clearwater, FL, which exemplifies the critical need to expand health insurance coverage for the near-elderly. Her story illustrates the urgency and necessity of this legislation.

I urge my colleagues to support this bill and move for its timely consideration.

The letter follows:

Hon. PETE STARK,
House of Representatives, Cannon House Office Building, Washington, DC.

DEAR CONGRESSMAN STARK: I read with great interest an article concerning a plan you introduced for national health insurance called MediPlan.

Attempting to explain why such a plan is so important to me and my family and hundreds of thousands other is the reason why I am writing.

My husband and I have been what we would call middle class and have worked hard all our married lives. Two and one half years ago I had three heart attacks in one month. I could not work for quite some time, having spent many weeks in the hospital. My husband has been treated for hypertension for some years, and it has become obvious he must sell our business because of this and his worry over me, plus the fact that I could no longer work with him at our business. Since he returned to the workplace at age 59, it was very difficult to secure a well paying position, but he is a hard worker and he can provide for our needs at this time, except for health insurance coverage. I have returned to work part-time only, as my health does not permit me to work full-time.

As we had group health coverage for both us and our employees in our business, we have kept up that coverage until this month. We have been covered by Prudential Insurance Company for about ten years. Each six months our health insurance premium was raised fifteen percent until this month when it went to $575 per month. We have been paying this premium each month from our savings (from the sale of the business and it was intended to be for our retirement). But now it has been depleted and we no longer can pay for the coverage. We have been unsuccessful in locating other coverage because of the two year wait for "pre-existing" conditions, I for my heart problems, and he for hypertension. Also, not being in a "group" the cost was as much as we were paying Prudential for a group coverage.

This means we are without any insurance coverage of any kind. You can't realize how devastating and vulnerable we feel now. My income from part time work is only $50/$60 per week, and he is earning $300/$400 per week before deductions. This income barely covers our mortgage payments.

We are part of the people of our great nation who fall between the cracks of the government. We are not poor, therefore, cannot receive Medicaid, not old enough to receive Medicare, not wealthy enough to pay for insurance!

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

I am very apprehensive about the fact that if either of us becomes ill enough for hospitalization, we will be shunned aside because we have no insurance. My medication is very expensive, realizing a total expense of over $300 per month, and my husband's hypertension medication is $68 per month. We are struggling to make ends meet with these drug expenses and other obligations in this depressed economy.

There is nowhere to turn it seems. We have an "insurance pool" here in Florida for people like us without insurance, but having looked into it, we would be paying far more for this coverage than we have been paying to Prudential, and we would be waiting for the 2 year waiting period for "pre-existing" conditions again.

I know several acquaintances who are in this same predicament, paying $6000 plus per year for insurance coverage. They, too, just cannot afford it any longer.

I sincerely hope your plan is allowed to be put into action before more and more are without coverage. It is a horror we must face daily, hoping we stay well and healthy and not require hospitalization.

As I have said before, we are just keeping up with current expenses and trying to pay past debts from my illness and there is no provision within our income for a $600 health insurance premium. We are not destitute. We are not on welfare of any kind, we are both gainfuly employed and our children are grown and not financially dependent upon us. We just want to be able to have health insurance coverage we can afford. A reasonable amount such as you propose, or even a higher amount so as not to feel so terribly vulnerable.

It had been said that people in their sixties are in their "Golden Years," but I am finding that ours will be more like tarnished brass, not gold!!

I wish you the greatest success in your endeavors. I remain

Sincerely,

Mrs. Q.

COUNSEL OF A FORMER PRESIDENTIAL ADVISER

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1991

Mr. DELLUMS. Mr. Speaker, While the war in the Persian Gulf may have concluded, I feel that it is still appropriate to reflect on the manner in which our Government operated to limit the availability of information regarding developments there.

Recently, a friend, and former Presidential adviser, Arthur Blaustein, addressed this topic in the editorial pages of the San Francisco Chronicle. I commend his excellent article to the attention of my colleagues.

[From the San Francisco Chronicle, Feb. 20, 1991]

WAR "PROPAGANDA" CAN UNDERMINE DEMOCRACY

(By Arthur I. Blaustein)

Censorship is to dissent (and democracy) what lynching is to justice.—Northrop Frye

Censorship and media manipulation have determined the way we respond to the Gulf War, as individuals and as a nation.

My own reaction to the past month of television began with fascination, adrenalin highs and compulsion. Soon that gave way to passivity, fatigue and depression.

I had four responses to CNN and network coverage. First, with 98 percent of the "news" being repetitive, speculative and often irrelevant, I was overloaded with decontextualized details and facts. Second, I was participating in a Pentagon Trade Show: being taught how planes, tanks, missiles and anti-missiles functioned.

Meanwhile, I was learning absolutely nothing about the political, social, economic, historical, cultural or religious conflicts underlying the war.

Third, with the enemy demonized as subhuman, I began, disturbingly, to find myself detached from caring about how many were maimed or killed (military or civilian). Nor was it real to me that Iraq could be reduced to rubble.

Fourth, as the distinctions between political judgement and military strategy became blurred, I had difficulty sorting out what was real and what was symbolic, what was fact and what was propaganda, what was rational thinking and what was mood.

The "doublethink" and "newspeak" of "1984" have arrived seven years later. This war is part of a well-orchestrated White House strategy. Pentagon censorship and media complicity have created a counter-reality destined to undermine our rationality, intuition, comprehensibility and humaneness.

INFORMANIA

Once I pulled the plug on the tube, it became clear that the advanced technology of both the war and coverage of it have given us an insidious new disease: "Informania" or the indiscriminate ingestion of junk-information. But what can you expect after the past decade, when the White House became a movie studio and the nation a set for media events; when half-truths and deceits were elevated to an art form.

We are told by pollsters and pundits that Bush's popularity is at an all-time high because he has caught the mood of the country.

Speed and images. Enjoyment and action. Money and technique. And mood. The ultimate recipe for climbing the greasy pole. White House rhetoric and news media coverage of it—a symbiotic embrace of hype—have become public entertainment, a distraction from real problems and complexities.

Repetitively manipulated images create a predetermined counter-reality until the mood of the present smells like a deodorant and sounds like Muzak. Pentagon censorship has even given us a sanitized, panoramic techno-war.

As the White House and the mass media reduce painful real-life circumstances and even mass killing—into easily digestible sound bites, we have undercut our moral values and civic traditions.

IMAGE VERSUS REALITY

A nationwide study confirmed last year that American democracy is in a tail spin because most citizens are so ill-informed that they cannot tell reality and truth from false campaign claims and manipulative advertising. The Markle Commission found that we are rapidly becoming a "cynical, passive and uninformed" electorate. The Bush administration is counting on this cynicism and passivity as it stages this made-for-TV war.

The counter-reality is the barrage of images that Bush, the Pentagon and the cheerleading networks are offering us, cloaked in patriotism. The reality is that for the past 20 years America has had administrations (with the exception of Jimmy Carter) that have deliberately lied, distorted and manipulated.

From Watergate to the Iran-Contra scandal, we have had the most flagrant contempt for law. We've had domestic and international dirty tricks, industrial pollution and stealing, collusion with drug lords and right-ring dictatorships. It has all been cynically explained in the name of patriotism.

George Bush is correct when he tells us that he has a problem with the "vision thing." However, he never mentions his problem with the "truth thing." Bush's manipulative images are subtly undermining our values.

The average citizen in today's anything-goes society is losing the power to believe in any moral value. We could be drawing upon America's best principles—integrity and patience—to fight our worst practices—aggressiveness and deceit. Instead, Bush takes our worst practices to fight our best principles.

The time has come to strike a blow for democracy by tearing the mask off the facades of secrecy, manipulation, upscale mood, paranoia and censorship. The phony flag-waving and excessive jingoism can only get us bogged down in a murderous land war.

The consequences could be ugly—the subversion of our legitimate long-range foreign policy goals: regional stability, Saddam's withdrawal, Israel's security, a Palestinian settlement—and the devastation of our domestic economic and social priorities. We should call a cease-fire, with sanctions, and give peace a chance. Now. This is the far more patriotic vision.

(Arthur I. Blaustein was chairman of the President's National Advisory Council on Economic Opportunity under President Carter and now teaches at the University of California at Berkeley. His most recent book is "The American Promise.")

OUTSTANDING BUDDIES: THE WESTCHESTER COUNTY NUTRITION PROGRAM ANNUAL AWARD WINNERS

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1991

Mrs. LOWEY of New York. Mr. Speaker, there are some people who would ignore the contributions that older Americans make to our society. Senior citizens, these cynics assert, do nothing to improve the lives of those around them.

I rise today to dispute that vicious assertion, and to salute a group of seniors whose actions speak louder than any words of mine ever could—the 27 Outstanding Buddies who are being honored at the Westchester County Office of the Aging's Third Annual Nutrition Program recognition awards luncheon this Friday.

The Outstanding Buddies have been nominated by their peers at nutrition sites throughout the county. They are being recognized for making a significant contribution to giving those sites the home away from home atmosphere that has made the nutrition program a successful one. They have researched and recommended new ideas for program improvements; they have assisted the site managers in keeping the nutrition sites orderly and dealing with any problems that arise; they go out and encourage other seniors who are in need of companionship to come and take advantage of the opportunities that the nutrition site has to offer.

By making Westchester's nutrition sites into warm and thriving places, these 27 remarkable individuals have made a real difference in their communities. They stand as a stirring rebuttal to the cynics of the world, and I am truly proud to have this opportunity to honor them today. I hope that they would not consider it presumptuous for me to call each of these outstanding people my buddy.

The 1991 Outstanding Buddies are: Thomas Heffernan, town of Eastchester; Olga Thompson, town of Greenburgh; Mary Vella, village of Dobbs Ferry; Grace Fansel; village of Mamaroneck; David Wolfson, village of Mount Kisco; Bernadette Miller, city of Mount Vernon, armory site; Sophie Wigfall, city of Mount Vernon, Doles site; Rose Mages, city of Mount Vernon, YM-YWHA site; Beatrice Roach, city of Mount Vernon, Martin Luther King site; William Robinson, town of Ossining; Herbert Fox, city of Peekskill; Connie Desio, village of Port Chester; Patricia Gasparini, town of Somers; Mary Marinaro, city of White Plains; Margaret Salone, city of Yonkers, Chema site; Eileen Farman, city of Yonkers, Commerce site; Linnian Puite, city of Yonkers, Bronx River Road site; Nettie Sohmer, city of Yonkers, Jewish Community center site; Lu Tkach, city of Yonkers, Sacred Heart site; and Louise Frankenberry, town of Yorktown.

BRING MORE COMPETITION TO THE INFANT FORMULA INDUSTRY—SUPPORT THE WIC INFANT FEEDING INITIATIVE ACT OF 1991

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1991

Mr. WYDEN. Mr. Speaker, today I am introducing the WIC Infant Feeding Initiative Act of 1991 in order to bring more competition into the purchase of infant formula for the Special Supplemental Food Program for Women, Infants, and Children [WIC].

This legislation is the companion to legislation introduced yesterday by my colleagues in the Senate, Senators LEAHY and METZENBAUM. Today, there was a joint Senate hearing on the issues that this legislation seeks to address. What follows is my testimony before the Committee on Agriculture, Nutrition, and Forestry, and the Subcommittee on Antitrust, Monopolies and Business Rights.

I would urge my colleagues to support this much-needed legislation which holds the promise of allowing an additional 270,000 needy women, infants, and children on to the WIC Program without an additional cost to the taxpayer.

The testimony follows:

TESTIMONY OF REPRESENTATIVE RON WYDEN

In January of 1991, insiders within the industry told my Subcommittee on Regulation, Business Opportunities, and Energy that a can of infant formula that sells in a store in Washington, DC for more than $3 this morning has only $.22 worth of ingredients. The cost of vegetable oil is $.01, nonfat dry milk is $.17, corn syrup $.02, vitamin premix $.01 and other ingredients $.01. The accuracy of this information was confirmed in a letter to me from the Carnation Company on January 28, 1991. I would urge you to ask Carnation and other companies to discuss this further.

From November 1990 to January 1991, the wholesale price of one brand of infant formula (Similac made by Ross Laboratories) has increased from $1.83 per can to $1.99 per can. That's an 8.7-percent increase. In the same time, the price of whole fresh milk declined by 4.6 percent. This information was obtained this morning from the Department of Labor's Consumer Price Index.

What the Congress of course wants to know is where is the rest of the money going, and it is pretty clear that the best product this industry has is a formula for profit.

In 1987, Congress tried to bring competition into the purchasing of infant formula for the WIC program. I introduced H.R. 3453 to encourage states to start making these formula companies compete for bids to provide infant formula to the WIC program.

Before this bidding system got underway for the WIC program, the industry was giving Toys 'R' Us a better deal on formula because the WIC program was buying formula at retail prices, and Toys 'R' Us was getting formula at wholesale.

Senator Leahy was instrumental in getting this competitive bidding process enacted in the Commodities Distribution Act of 1987. As a result, millions of taxpayer dollars are being saved and hundreds of thousands more women and children getting this food help.

By yesterday, the State of Oregon sent me a letter describing how the big three formula makers can get around this 1987 law.

It seems that Mead Johnson has figured out a way to undermine the sealed bidding process in Oregon. Mead Johnson submit the highest bid, but did not comply with a state requirement for the provision of special formula for premature infants.

After getting verbal assurances from Mead Johnson that these requirements would be met if the bid were reopened, the state agreed to rebid the contract. But instead of submitting a clean bid, Mead Johnson responded by dropping their rebate to $.75 per can. This would have cost my state $3 million and forced thousands of Oregon children off the WIC program.

This is particularly relevant because it supplements the now-infamous letter that Mead Johnson sent out to states on March 6, 1990, which stated that its maximum WIC contract bid would be only $.75 per can of formula. That letter has raised many antitrust concerns, because of its face, it appears to be a clear attempt to wipe out true competition in the industry.

Senators Leahy and Metzenbaum and I are introducing legislation, the WIC Infant Formula Initiatives Act of 1991, that will close some of the loopholes in the 1987 law that have allowed this kind of follow-the-leader bidding game to occur.

First, the legislation will prevent manufacturers from undermining the competitive bidding by prohibiting any announcements of their bid before all the bids are unsealed. Under this legislation, mead Johnson would be kicked out of the WIC program for two years if they sent another letter announcing their top bid.

Second, competition for WIC formula contracts would be increased by allowing more players to come into the market. Right now, WIC contracts require that manufacturers provide both milk and soy-based formulas. This has the effect of limiting the competition to the big three and freezing out the smaller companies who want to compete for the WIC contracts. We simply need to let more players on to the field if we want more competition. And with more competition, there's a greater chance that prices will come down and this will benefit all consumers—not just the babies on the WIC program.

Third, the legislation calls for the USDA to issue contract bids on a regional basis. There's a great deal of concern in the WIC community that smaller states are especially vulnerable to manipulation by the big three formula makers.

If contracts are continued to be awarded on a state-by-state basis, there's a risk of smaller states getting smaller and smaller bids. This spells less money for hungry babies in these states which have just as great a need as kids in larger states.

One formula maker has told my staff that they don't care if a small state like South Dakota got a rebate for its WIC formula and that they would just as soon walk away from WIC contracts in rural states.

The fact is this is an industry that will not act in the public interest unless it's required to by legislation. Last summer, 140 members of the House joined me in challenging the manufacturers to voluntarily hold the line on WIC rebates and lower their prices by 30 percent. Some manufacturers responded to this plea by raising their prices and cutting back on rebates.

And yesterday, I heard from the Oregon WIC director reports of Oregon families diluting formula to share among children. This dangerous practice can lead to serious illness or even death. Constituents who have called my office to complain about the high price of formula have also confided to my staff that they have been forced to begin diluting formula to feed more than one child. Dollar for dollar, the WIC program is one of the best programs to America. For every $1 spent through WIC, $3 is saved in the first year of a child's life by reducing the likelihood of low-birthweight and prematurity.

However, despite tripling the appropriation over the last 10 years for WIC, the program now only reaches a little more than half of the women, infants and children who need it.

Every 14 minutes, in the United States of America in 1991, a baby dies in the first year of life. Most of these babies died of prematurity and low-birthweight. How many of those children would have been saved if the infant formula industry had shown just a little more restraint in its quenchless thirst for profit?

REPUBLICANS, DEMOCRATS, AND THE GULF WAR

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1991

Mr. LEVINE of California. Mr. Speaker, with the Republican Members of Congress accusing the Democrats of voting wrong on the gulf vote, it is important to remember that it was the Reagan and Bush administration's tilt toward Iraq that led to a war that could have been avoided. In his op-ed in the Washington Post of March 13, Richard Cohen warns that the Republican's attempt to politicize the gulf vote could easily backfire in light of the Republican's prewar policy of appeasing Saddam up until the day before Iraq's invasion of Kuwait. And not only did the Republican administration's appease Saddam, they sold Iraq $1.5 billion in advanced technology—technology that Americans had to face in conflict.

If the Democrats insist that the Republicans be held accountable for their Iraq policy just as the Republicans are demanding of them, the administration could find itself in an extremely embarrassing position. As Richard Cohen notes, both the Democratic and Republican parties need to rethink their foreign policy assumptions.

Rather than engaging in a new round of partisan finger pointing, I urge all of my colleagues to join with me in an effort to forge a new bipartisan foreign policy consensus in the Congress.

I urge my colleagues to review the following article:

[From the Washington Post; Mar. 13, 1991]

GINGRICH WEEK

(By Richard Cohen)

Rep. Newt Gingrich (R-Ga.) has asked Democratic members of Congress who voted against the use of force in the Gulf to admit they were wrong. In the manner of Henry II, who had himself flagellated for the murder of Thomas a Becket, Gingrich would like a confession of a "mistake"—maybe congressman by congressman on the Capitol steps.

Such a day—Newt Gingrich Day, we shall call it—would be a busy time indeed. For as Democratic members of Congress stepped forward to admit to being wrong, another line would have to be formed at the White House. There, George Bush and members of his administration would explain why they told Saddam Hussein that his quarrel with Kuwait was one of those "Arab-Arab" disputes, oh-so-tedious and of no real importance to the United States.

The line at the White House would be long indeed. It would include Secretary of State James Baker, who either instructed the ambassador to Iraq, April Glaspie, to effectively tell Saddam Hussein to do as he pleased or who failed to give her any instructions at all. The record is not clear if only because Baker, a man allergic to taking responsibility, has purposely muddied it.

Who else shall line up? Well, what about the Commerce Department? Until the very eve of Saddam's invasion of Kuwait, it was authorizing the sale to Iraq of everything short of atomic weapons. In fact, the day before the invasion, the administration approved the sale of $695,000 worth of advanced gizmos to Iraq, some of military value. From 1985 to 1990, certifiably Republican years in the White House, the United States sold Iraq $1.5 billion in advanced technology.

Back at the Capitol, we will have to have separate lines for certain senators who voted "right" on the war resolution, but only after talking "wrong" to Saddam Hussein face to face. The senator who could not possibly flagellate himself enough is Alan Simpson. Meeting with Saddam Hussein back in April 1990, the Wyoming Republican commiserated with the Great Ogre over his image in the American press. It seems that after a decade of making war with Iran, gassing the Kurds, vowing to burn much of Israel, torturing and killing dissidents and leveling whole villages, Saddam had what Simpson defined as a PR problem. "I believe your problem is with the Western media and not with the U.S. government," he was quoted as saying. Alas, Simpson was right.

The glorious victory in the Gulf—and it was that—nevertheless was a war that might have been avoided. Had the Bush administration been firmer with Saddam Hussein, had it warned him rather than buttering him up, he might not have moved into Kuwait. Once Saddam sent his army over the border, the Gulf war became inevitable and morally correct. But before that, the Bush administration, with the help of many Republicans, beat back an attempt to impose sanctions on Iraq. Will those members of Congress form their own line?

Like Gingrich, I think that those Democratic members of Congress who voted to stick with the economic sanctions were wrong. But for most of them, only their timing—not their logic—was off. Only a few adopted what could be called the knee-jerk anti-war positions.

But if now is the time for an accounting, it would be wrong to limit the calling of the roll to those who voted to continue sanctions. We ought to ask some hard questions, too, of Republican hawks who over the years offered no alternative energy policy, making the United States ever more reliant on Middle East oil. Many were simply having a swell time telling Jimmy Carter jokes—the president who, let it be noted, saw this crisis coming and tried to avoid it.

Still, Gingrich is on to something: the Democratic Party ought to rethink its foreign policy assumptions. But the Republican Party ought to do some rethinking, too. The war, while a satisfying victory, nevertheless amounted to a brief fight against a Third World country commanded by a fool. If the United States has been changed by the experience, it's only in mood, and even then maybe only on television. Unemployment has worsened, our schools are no better, our highways are deteriorating, and we are as racially divided as ever. On second thought, I amend my proposal to hold a Newt Gingrich Day.

Make it a week.

PEACE THROUGH STRENGTH

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1991

Mr. RITTER. Mr. Speaker, the impact of the Persian Gulf war will be debated for years to come. In the following editorial, the Bethlehem Globe-Times looked at our experience in the gulf and saw in it a lesson—a lesson on the importance of a free people's ability to achieve peace through a position of strength:

I commend it to my colleagues.

[From the Bethlehem Globe-Times, Mar. 1, 1991]

REMEMBERING—A SIMPLE TRIBUTE TO OUR SOLDIERS AND DOING THE RIGHT THING

When it comes time to salute our brave soldiers from the Greater Bethlehem Area, parades, of course, are a must.

But we suggest a longer-lasting tribute.

No, not a monument, per se, which politicians would use as a backdrop for misplaced patriotic musings on national holidays.

We suggest something simpler, more meaningful.

For any municipality that's interested, we suggest a yellow ribbon under glass, displayed publicly, but gracefully, with a simple sentiment engraved just below: "We remember."

We remember: Peace through strength is more than a plea of an old vet on a bar stool, complaining about peaceniks and recalling the "Big One," when we fought for what was right and saved the world.

Peace through strength is a higher standard, the concept of the intellectual battle—where planning and execution share equal roles, where the goal is to do what's right for the world community.

They will cite the allied battle plan in the Persian Gulf War for years—and perhaps centuries—to come when military science is studied.

The Allies had a goal, put their best generals to work on it and prosecuted a war that led to the complete defeat of Iraq, with an amazingly limited loss of allied lives.

But peace through strength highlights compassion and limits. We were out to defeat the enemy, perhaps even devastate it, but not destroy it. While we fought the war with just the amount of single-minded ruthlessness necessary to win, we understood that there would be peace, a peace with which the Middle East must be able to live.

While some will wonder why President Bush didn't go after Saddam's head, why he allowed a cease-fire while controlling southern Iraq and having freed Kuwait rather than rolling on to Baghadad, we suggest he had an eye on the future, a knowledge of why he was in the region in the first place.

His generals knew they had completely and impressively defeated the enemy. Now it is time to rebuild, relying on the Iraqi people to deal with Saddam, who will be remembered as a minor figure in history, a brutal sub-human and one of the worst military strategists of all time.

But something else is key to peace through strength: The simple reality that we may not have to wage such a war in the near—and hopefully even distant—future, because we proved once and for all that when Third World dictators, full of bluster and self-pride, step over the edge—perhaps even work to develop nuclear capability—the rest of the world is now willing not just to stop them, but to clearly put them back in their place. Hopefully, the world can restrain itself, as well, and not rearm Iraq—and other future Iraqs.

Peace through strength is the civilized world's response to the insanity of war. If we have finally placed the United Nations on the level of which planners dreamed in the 1940s, we may have taken a big step in avoiding future confrontation, thus making the world a safer place.

If this is a New World Order, then so be it—despite our dislike of the label.

Therefore, we must remember our soldiers—both men and women—from the Greater Bethlehem Area. People such as Ben Salaski, who suffered injuries when a coward filled the air with a terror weapon. Salaski was there to defend what was right—and paid a considerable price for the principle.

And that's what we were doing in the Persian Gulf, not simply defending oil rights or propping up monarchies.

We were doing the right thing.

So each time we gaze at those yellow ribbons under glass, we should pass on to our children and our children's children the horrors of war, as well as the simple reality that at times, despite the greatest of peace-making efforts, war cannot be avoided.

WILL CAFE BE MORE LETHAL?

HON. RON MARLENEE

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1991

Mr. MARLENEE. Mr. Speaker, I request that the following article by Warren Brookes on Corporate Average Fuel Economy be inserted into the CONGRESSIONAL RECORD. CAFE is not a mandate for energy conservation; it is a mandate for death. As Energy Secretary Adm. James Watkins recently put it, CAFE standards would be best referred to as the "Highway Death Act of 1991."

It is hard to believe that anyone could devise a system like CAFE that could inflict so much damage on so many Americans. It has forced our U.S. automakers to build vehicles that frequently do not have the power and performance required to transport people safely.

The text of Mr. Brookes' article follows:

[From the Washington Times, Mar. 6, 1991]

WILL CAFE BE MORE LETHAL?

(By Warren Brookes)

The night the war ended, a former Democratic national chairman told a dinner party in Washington it could be two decades before his party retook the White House. But it's not just the perception his party is weak on foreign policy. Many had legitimate doubts about the Gulf involvement. It's mainly because Democrats have so little confidence in freedom and markets.

Nowhere was that more apparent than on Capitol Hill the week before last when the Bush administration was pounded for its new National Energy Strategy because it puts most of its emphasis on energy production and so little on mandated conservation.

But the centerpiece of the Democrats' conservation program is not raising taxes on gasoline (which might actually reduce gasoline usage) but a plan to attack the already reeling U.S. auto industry and force it to close down consumer choice and increase the risk of highway death by several thousand lives every year.

In the opening hearing, Democrats, led by Sen. Richard Bryan (from Nevada, whose economy is based in gambling), made it clear that if the administration wants to tap the massive oil reserves off the North Slope of Alaska in the Arctic National Wildlife Refuge, it would have to accept a big increase in the Corporate Average Fuel Economy (CAFE) standards imposed on U.S. automakers, but on no other carmakers in the world.

Those standards now require a fleet average of 27.5 miles per gallon. Mr. Bryan wants 40 mpg. Today, the only way that standard could be met would be to stop making any cars of more than over 2,500 pounds in size, wiping out the entire family car market, even compacts. Beyond the loss of capacity and convenience, smaller cars automatically increase the rate of auto fatalities.

In the House, Kansas Democrat Rep. Dan Glickman, who never misses a chance to expand government subsidies to rich wheat farmers, upper Mr. Bryan's idiocy to 50 mpg. That would require an average auto weight of 1,500 pounds or slightly larger than a Harley-Davison motorcycle with sidecar.

It seems a very bizarre bargain. Americans just risked their lives in the Gulf in order for Congress to take away their freedom to pay higher prices to drive safer cars, and have Congress trade thousands of additional lives for the right to tap our own oil. As Adm. James Watkins, energy secretary, told the senators at last Thursday's hearing, "CAFE is the highway death act of 1991."

He said that even if CAFE standards were raised to 40 miles per gallon, they would only reduce oil consumption by 500,000 barrels a day, or less than 3 percent or $3 billion a year! Yet, as a 1989 study by Robert Crandall of the Brookings Institution and John Graham of the Harvard School of Public Health shows, even the present 27.5 mpg CAFE standard is already costing the nation between 2,200 and 3,900 lives a year by forcing Americans to drive in much lighter cars. Pushing that standard to 40 mph would more than double that cost in human lives.

That means Congress thinks when it comes to saving oil, average human lives are worth only $940,000 to $1,660,000 each—to conserve a product that is now glutting the world market and whose real price is now 60 percent less than in 1980.

This is the same Democratic leadership who voted overwhelmingly not to support President Bush's decision to launch the war against Iraq because it saw no reason why American blood should be shed to protect the supplies and price of oil! So far, fewer than 100 Americans have lost their lives in this victorious campaign for the protection of world energy supplies. This means congressional Democrats think that 500,000 barrels a day of added oil consumption is 20 times as serious a threat as Saddam Hussein. Given the Democrats' relentless support of the environmentalists' logjam against nuclear power and offshore drilling, such a perspective is not merely weird, it's obscene.

The same Democrats who last week were unwilling to slap the wrists of their own money-grubbing senator now want to punish consumers merely for buying gas-guzzling cars.

If Congress were really serious about cutting U.S. oil consumption, it might raise the price of oil by taxing it massively, as is done in Europe. That could make consumers more willing to choose fuel-efficient cars and drive them less. Virtually all the reduction in fuel consumption per car took place from 1973 to 1981, and was entirely driven by high market prices, not by CAFE.

Unfortunately, such a tax would also shatter a fragile economy for absolutely no economic or strategic reason. Neither a massive tax on gasoline nor a draconian CAFE standard will cut our dependence on fossil fuels much below 40 percent.

Fortunately for the economy and common sense, passing such a tax would involve the kind of political risk politicians recoil from. Instead, they put the onus on an already troubled auto industry still punchy from the 1990 Clean Air Act that adds $10 billion a year to car costs for little or no ecological benefit.

CAFE is noting more than a Democratic payoff to the environmental lobby. It does nothing of economic or ecologic value, but raising it will cost far more American lives than Saddam.

SALUTE TO THE HON. WILLIAM J. BRENNAN, JR., ON HIS RETIREMENT FROM HIS POSITION AS JUSTICE OF THE SUPREME COURT OF THE UNITED STATES

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1991

Mr. ROE. Mr. Speaker, it is with the greatest admiration that I rise today to salute a man of lengthy and distinguished service to my State of New Jersey, as a juror and noteworthy contributor to the creation of our State constitution, and to our Nation as an Associate Justice on the Supreme Court.

I speak of The Honorable William J. Brennan, Jr., as he retires after more than 34 years of devotion to that great body and to the Constitution of these United States. Justice Brennan has enjoyed the respect of all segments of our society. As Chief Justice Robert N. Wilentz of the New Jersey Supreme Court stated:

> Justice Brennan's approach to constitutional interpretation reflected a vision of what America should be.
>
> It was a vision of freedom, compassion, and dignity: freedom of expression and freedom from oppression, compassion for the poor and the disadvantaged, and dignity for all people, dignity that depends on freedom and compassion . . .
>
> It was a vision that has breathed new life into the Constitution, a vision often unpopular, but a vision always clear, one that instructs and inspires . . .
>
> Justice Brennan is one of the great people of our nation. New Jersey is proud to claim him as one of its own, and so is America.

Mr. Speaker, I am proud to claim Justice Brennan as one of New Jersey's own. Few men have had such a glowing record of service to our Bill of Rights as he. William J. Brennan, Jr., attended the University of Pennsylvania and Harvard Law School, where he received his bachelor of science and bachelor of laws, respectively. He practiced law from 1931–42 and 1945–49, interrupted by his service to our Nation in World War II as a colonel in the Army General Staff Corps.

After the war he was a leader in the creation of New Jersey's modern legal system under the State constitution, representing the New Jersey Law Journal in the adoption of the constitution's judicial article. His leadership led to my State's adoption of a judicial system which actively fought for an expansion of the rights of the individual.

William J. Brennan, Jr., was appointed to the New Jersey Superior Court in 1950 and continued his service to the people of my State as an Associate Justice of the Supreme Court until he was nominated to the Supreme Court of the United States by President Eisenhower and took his seat on October 16, 1956. Since that date he has been a leader in pushing the Supreme Court's defense of equal rights for all Americans under the Bill of Rights.

I know that his record of accomplishments and personal commitment to people are applauded by all of us who have had the pleasure of knowing him. I hope that he and his family—his loving wife Mary and his children, William J. III, Hugh Leonard, and Nancy—will continue to enjoy the greatest success.

I am certain, Mr. Speaker, that you and our colleagues will join me in recognizing the profound effect which William J. Brennan, Jr.'s, leadership and devotion to justice have had upon our Nation, and the freedom of our citizens. For the benefit of our colleagues, I am also including articles that will more comprehensively illustrate the extraordinary career of Justice Brennan. I am most proud to extend my warmest regards, gratitute and personal best wishes for the happiness that he so richly deserves.

The Opinion of the Court

I accept with pleasure your invitation to add a few words to The Reporter's special issue honoring William J. Brennan, Jr. As you know, Justice Brennan served on the Supreme Court of the United States for almost 34 years. When I took my Judicial Oath in January, 1972, he had already been on the Court for over 16 years. In November, 1975, upon the retirement of William O. Douglas, Justice Brennan became the new senior Associate Justice and moved to the seat on the bench which is immediately to the right of the Chief Justice, a seat which he continued to occupy until his retirement in July. At the time of his retirement, the Supreme Court had had one hundred and four members—William Brennan had served with over twenty of these Justices and with three of the Court's sixteen Chief Justices. His term on the Court also spanned the administrations of eight Presidents. However, while the length of his service is of itself notable, it is the depth of Justice Brennan's contribution to American constitutional jurisprudence that will cause him to be remembered as one of the most influential members of this Court. Not only legal scholars, but judges and practicing lawyers as well recognize the many important decisions which he authored during his remarkable tenure.

We who are his colleagues will miss Bill Brennan's wise counsel during our conferences, but we are happy that he continues to be in our midst; he has only moved his chambers within the building. I join the other contributors to The Reporter in expressing our profound appreciation to Justice Brennan for his years of tireless service and for his selfless dedication to the work of the Supreme Court of the United States.

Sincerely,

Chief Justice William H. Rehnquist.

Although a brief letter cannot possibly pay an adequate tribute to either the work product or the generous character of Justice Brennan, I am happy to endorse wholeheartedly your special edition honoring this great man. The privilege of sharing his friendship and witnessing his continuing struggle to serve the cause of justice has enriched my own personal and professional life more than I can say. The multitude of nice comments about his personality and his character are all true. The record of his contribution to our jurisprudence during the past thirty-four years demonstrates beyond question that his eminent reputation in the legal community, not only in this country but abroad as well, is fully justified.

Sincerely,

Justice John Paul Stevens.

You have chosen appropriately to honor Justice Brennan in your Passaic County Bar Association publication. He had served on the Court for 34 years and has had a profound influence on the resolution of literally thousands of important cases.

His personal warmth and sparkle have extended to all his colleagues on the Court. It has been a great privilege to work with him.

Sincerely,

Justice Sandra Day O'Connor.

As requested, I make the following brief statement about Justice Brennan:

"Justice Brennan and I were friends before I came on the Court in January 1972. He had spoken to the Virginia State Bar on my invitation. Our friendship ripened with the passage of time. To say that I admire him is an understatement. He will certainly rank in history as one of the great Justices of this Court."

I am sure your issue on Justice Brennan will be widely read and appreciated.

Sincerely,

Justice Lewis F. Powell, Jr. (Retired).

It is very appropriate that you dedicate an issue of The Reporter to Justice Brennan, who is a great Justice and a wonderful man. New Jersey and Passaic County should be proud of him.

Cheers,

Justice Byron R. White.

It is an enlightening experience for one who for years has read the seminal decisions of this great jurist, to confront the fact that he is a colleague on the Court. A new justice must always wonder, I suppose, whether he or she deserves to be on a court which not only interprets history, but makes it in the process.

Justice Brennan teaches the new justice there is a place for him on the Court, and he teaches it in two ways. First, by the warmth and sincerity of his welcome and friendship. And second, by illustrating through his own dedication to the law that our Constitution and our jurisprudence is so sound, so rich, that we too can find ways to contribute to it, though as we begin our tenure on the Court we can only hope and aspire to make a contribution as influential and as lasting, and as compassionate as that of Mr. Justice Brennan.

He is a wonderful friend, a splendid jurist, and a magnificent man.

Sincerely,

Justice Anthony M. Kennedy.

I greet the news of my Brother Justice Brennan's departure from the Court with deep regret. He is an eminent jurist whom no one can equal for his breadth of knowledge, integrity and commitment to justice for all humankind. Without doubt his opinions will go down in history as the greatest of the Court. Justice Brennan consistently has been a voice of caution and compassion in urging that this Court not retreat from its constitutional mission to protect individual's rights of freedom of expression, to guarantee that minorities be free from discrimination and to assure the rights of those accused of crimes. Justice Brennan has been a treasured colleague and a dear friend. I will miss his warm heart and kindred spirit.

Sincerely,

Justice Thurgood Marshall.

Since 1969 Bill Brennan and I have been colleagues with virtually daily contact. As has been true for 200 years, Justices are not here to agree with each other on every issue. If that were so we would not need nine; one would be enough.

This has been true for the history of the Court when the conflicts over ideas spilled over into personal conflicts within the Court. Bill and I disagreed sometimes but our differences were two lawyers reading the Constitution or other laws differently. In more than 17 years there was never a voice raised in our conferences and Bill has a good deal to do with that state of affairs in a period when hard questions were presented.

Cordially,

Chief Justice Warren E. Burger (Retired).

In Gratitude for Justice William J. Brennan, Jr.

The Temple of Justice

The great nation built
Its temple of Justice.
A place of great beauty.
An edifice of law,
Serene in dignity,
In timeless harmony.
Marble splendor matching
Mankind's irrepressible dreams.

Justice, justice, shall you pursue:
Mandate of the ancient sages,
Implicit in the Bill of Rights.
Not always found.
Freedom and liberty,
Equity and decency,
Full rights for all people;
Denied for too many.

Cherished vision still unmet.
Human rights unrespected.
Elusive as quicksilver,
Mirages of hope.
The temple has marble.
The dungeons have blood.
Prisoners seek justice.
The visions persist.

We honor freedom's choices,
Conscience of the Bill of Rights,
Our keeper of the Faith,
Justice William J. Brennan,
More splendid than marble halls,
Giving Life to troubled rights,
He's made the vision real
And given freedom a chance.

D.C.

From Jim Florio, Governor of New Jersey

Dear Mr. Crystal: Thank you for the opportunity to join your special tribute to Justice William J. Brennan, Jr.

Because of his roots in New Jersey, I think it's very appropriate for the Reporter of the Passaic County Bar Association to produce an issue dedicated to Justice Brennan.

I'd like to believe that it was the New Jersey influence which made Justice Brennan such a wonderful jurist.*

New Jersey played an important role at the Constitutional Convention. Our New Jersey Plan insured that there would be a bicameral legislature which protected the rights of all states, large and small. We also were the first state to ratify the Bill of Rights.

I don't think it's an exaggeration to say that not since the delegates to the Constitutional Convention has a New Jerseyan played such an important role in serving the Constitution as Justice Brennan.

Without his input on issues of civil rights, freedom of speech and privacy, our country would be lost. Justice Brennan provided an important moral and common-sense compass to guide us in our reading of the Constitution and in our everyday lives.

I also know that Justice Brennan provided a standard to which all lawyers and judges in

New Jersey aspired. He was an excellent role model.

I wish you the best of luck in producing this special issue in Justice Brennan's honor. Even with his resignation, the power of his decisions and the wisdom of his voice will continue to guide us for generations.

FROM CHIEF JUSTICE ROBERT N. WILENTZ

The Reporter is honored to bring two statements from Justice Robert Wilentz about Justice Brennan who was appointed to the Supreme Court of the United States in 1957 after years of distinguished service as an Associate Justice of the Supreme Court of New Jersey. These comments had been previously prepared by Chief Justice Wilentz. (See letter by Steven D. Bonville, his Special Assistant. The Mail Bag, p. 51.)

For fascinating, heartwarming material that each of you has in your own law library about the decades-long close relationship between Justice Brennan and the Supreme Court of New Jersey read the opening pages of 69 N.J., pp. XXV–XLVI (1976). The occassion marked the presentation to the Court of a portrait of Justice Brennan painted by Paul Burns. Justice Brennan's clerks later chipped in to have the same noted artist paint a similar portrait which they presented to the Supreme Court of the United States.

STATEMENT BY CHIEF JUSTICE ROBERT M. WILENTZ ON THE RETIREMENT OF U.S. SUPREME COURT JUSTICE WILLIAM BRENNAN, JULY 21, 1990

Justice Brennan's approach to constitutional interpretation reflected a vision of what America should be, a vision of what any society should be.

It was a vision of freedom, compassion, and dignity: freedom of expression and freedom from oppression, compassion for the poor and the disadvantaged, and dignity for all people, dignity that depends on freedom and compassion.

It was a vision that helped bring about equal voting rights, assured fairness to those accused of crime, protected minorities, and gave greater freedom of the press.

It was a vision that has breathed new life into the Constitution, a vision often unpopular, but a vision always clear, one that instructs and inspires.

Everyone—friend and foe—recognizes the stature of this man who served 34 years on the nation's highest court and who responded only to the voice of justice as he heard it.

Justice Brennan is one of the great people of our nation. New Jersey is proud to claim him as one of its own, and so is America.

All of us wish him the greatest happiness in his retirement.

FROM SENATOR BILL BRADLEY

It gives me great pleasure to extend my warmest regards to Justice William J. Brennan, Jr.

Justice Brennan's long and distinguished career has left an indelible impression on the American judicial system and on the country. For five decades he spoke out for the causes of liberty and fairness, and for those Americans the United States Supreme Court was devised to protect.

Justice Brennan always understood that the purpose of the American judicial system was not to devise the cleverest intellectual theories, but to mediate real conflicts between individuals, between people and institutions, and, at the highest level, between popular majorities and the rights of minorities.

I would like to personally thank Justice Brennan for the enduring contribution he has made to the country.

Note to the reader: We ask that you also read the Senate and General Assembly Joint Resolution adopted by our Legislature in response to our request, as well as the letter dated December 7, 1990, by Congressman Robert A. Roe, (p. 58). We express our gratitude to Governor Jim Florio, to Chief Justice Robert N. Wilentz, Senator John M. Lynch, President of the Senate, Joseph V. Dorio, Speaker of the General Assembly, Senator Bill Bradley, Congressman Robert A. Roe, retired Supreme Court Justice Worrall Mountain, and all the others who helped us make this an issue where we could each give thanks to what Justice Brennan has meant to all of us. We speak for all in quoting these lines from that astute observer, William Shakespeare, (in Twelfth Night, as we recall), "Thanks and thanks and once again thanks."

JOINT LEGISLATIVE RESOLUTION OF THE STATE OF NEW JERSEY

Whereas, The year 1990 marked the end of the remarkable career of one of this State's most distinguished natives with the retirement of the Honorable William J. Brennan Jr. as an Associate Justice of the Supreme Court of the United States of America; and,

Whereas, William J. Brennan Jr. received his first judicial appointment by Governor Alfred E. Driscoll, who named him to the New Jersey Superior Court in the year 1949; and,

Whereas, His extraordinary and significant leadership on New Jersey's and the nation's highest courts continued with his service on the bench of the New Jersey Supreme Court from 1952 to 1956, and his tenure of almost thirty-four years on the United States Supreme Court; and,

Whereas, In both his majority and dissenting opinions, Justice William J. Brennan Jr. has played a pivotal role in the extension of the Bill of Rights to the state courts, an extension that has resulted in such guarantees as the right to counsel and the right to be free from a state-established religion while safeguarding a person's right to practice the faith of choice; and

Whereas, Although he has been a leader of the Federal Judiciary, Justice William J. Brennan Jr. has been one of this nation's leading advocates for a strong State court system and for reforms in State constitutions to allow their courts even greater powers and latitude than that enjoyed by the Supreme Court; and,

Whereas, The Honorable William J. Brennan Jr. has also been one of the Court's strongest proponents for granting women's rights the same constitutional protections that enforce equality of race and religion; and,

Whereas, Throughout his long career on the nation's highest bench, Justice Brennan has been esteemed for his competence, scholarly research and painstaking dedication to the law and every person's right to enjoy its protection; now, therefore,

Be It Resolved by the Senate and the General Assembly of the State of New Jersey: That this Legislature hereby salutes the outstanding career of the Honorable William J. Brennan Jr., praises his brilliant judicial record, and expresses gratitude on behalf of the citizens of this State for the pride we can take in his tenure on the Court; and,

Be It Further Resolved, That a duly authenticated copy of this resolution, signed by the Senate President and the Assembly Speaker and attested by the Senate Secretary and the Assembly Clerk, be transmitted to the Honorable William J. Brennan, Jr.

STATEMENT OF SENATOR KENNEDY ON THE RESIGNATION OF JUSTICE BRENNAN

Justice Brennan has earned an extraordinary place in American history and American constitutional law. He ranks with Marshall, Holmes and Brandeis as the greatest Justice the country has ever had.

In his long and brilliant career since his appointment by President Eisenhower, Justice Brennan's opinions have shaped a fairer and more just America for all citizens. No justice has more faithfully reflected our country's defining ideal of commitment to the Bill of Rights and equal justice under law.

Justice Brennan's America is the kinder, gentler nation of which President Bush has eloquently spoken. I urge the President to nominate a successor worthy of that vision.

THE THIRD ANNUAL KLEENEX SAYS BLESS YOU AWARDS

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1991

Mr. PETRI. Mr. Speaker, what I bring to your attention today may not spur a great and heated debate, but it will, I'm certain, evoke powerful emotion.

Our Nation has rightfully been called the land of volunteers where fully half of our citizens give freely of themselves to help others. For them the satisfaction in giving of their time, money, talents, and love comes not from any reward but from the knowledge that someone has been helped, someone is happier. These unsung Americans, who every day live their lives in heroic and quite extraordinary ways, are what our President called for us all to become in his State of the Union Address—people who teach youngsters to read, help innercity teens to build a future and minister to those in need of food, clothing, shelter, and warmth. These kind people, whether we know them or not, touch us and our communities in ways that are indelible and immeasurable.

And so it is with great honor and pleasure that I bring to the attention of my colleagues the recipients of the third annual Kleenex Says Bless You Awards.

On March 28, Kimberly-Clark Corp. will salute 11 men, women, and children who have put their own lives at jeopardy to save the life of another; created innovative, community-based programs to benefit the needy; or triumphed over personal tragedy to enrich the lives of others. Now in their third year, the Kleenex Says Bless You Awards were established to bring recognition and gratitude to those who least seek it and yet most deserve it. Through the years, the awards have provided encouragement and financial backing to more than 30 unsung American heroes and their designated causes. They serve as a platform so that many more of us who want to give will be inspired to act.

This year's outstanding individuals, recipients of the Kleenex Says Bless You Awards, are:

RECIPIENTS OF AWARDS

Gilda Radner—beloved actress and comedienne who lost her life to ovarian cancer in May, 1989. Praised for her involvement in the Wellness Community, she educated the public about ovarian cancer in her moving and spirited book, *It's Always Something.*

Bernard Bourdon of Conyers, Georgia—who has purchased and prepared more than 21,000 weekend and holiday meals for the elderly and disabled and provided companionship to all he serves.

Elizabeth Glaser of Los Angeles, California—who, as co-founder of the Pediatric AIDS Foundation, has raised almost $3 million to educate the public about children with AIDS.

Linda and Bob Cornyn of Puyallup, Washington—who have adopted more than 35 children, many of whom are disabled.

Henry and Mary Ann Gaskins of Washington, D.C.—who began an after-school and weekend tutorial program for minority students in their home.

Justin Lebo of Saddle Brook, New Jersey—who, at 14, uses his allowance to buy and then rebuild bicycles for children less fortunate than himself.

Richard Martin of Salt Lake City, Utah—who climbed a six-foot fence and 20-foot transformer tower to rescue a boy whose clothes were on fire;

Silas Purnell of Chicago, Illinois—a former Coca-Cola executive who quit his job to dedicate his time to helping more than 1,500 inner-city youths each year with the process of getting into college.

Alicia Sims of Slidell, Louisiana—an 18-year-old who authored a book and started a support group for children coping with the death of a sibling, and

Sharon Roberts of Anaheim, California—who created the CDC Gang which helps reform juvenile felons by pairing them with handicapped children.

I invite my colleagues to join me in saluting these individuals who have so profoundly impacted the quality of life in our country and in our communities. In their honor, I urge all members to use whatever means are available to foster and recognize the American spirit of voluntarism in their home districts and States.

EDUCATING OUR YOUTH FOR THE FUTURE: A TRIBUTE TO LYNN AND JULES KROLL AND THE SOLOMON SCHECHTER SCHOOL

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1991

Mrs. LOWEY of New York. Mr. Speaker, education is one of my most important priorities as a Member of Congress, and I am fortunate to represent a district which is home to a number of exceptional schools and community leaders who share my commitment to educational excellence for our young people. Among these institutions, the Solomon Schechter School stands out as an example of the finest in education today. And among community leaders committed to educational excellence, Lynn and Jules Kroll stand out as individuals whose tireless efforts have truly made a difference in the lives of countless children.

The Solomon Schechter School provides a unique learning environment where Westchester students receive a top-notch education in traditional subjects, combined with Jewish studies that strengthen their sense of pride in their heritage and their reverence for their faith. Solomon Schechter graduates go on to attend some of the finest colleges and universities in the country, and they are fully prepared for the rigors which await them. Moreover, the Solomon Schechter education fortifies these young people with an understanding and love of Judaism that will nurture them throughout their lives.

Through their generosity and tireless effort, the Krolls have been instrumental in making the Solomon Schechter School what it is today. In fact, Jules has served on the school's board of trustees since 1985 and was the founding chairman of its endowment trust. Both Lynn and Jules play an important role in countless New York area philanthropic organizations and are widely known for their hard work and devotion to the cause of bettering our entire community.

I particularly want to call my colleagues' attention to the consistent support which the Krolls and the Solomon Schechter School give to the historic and essential partnership between the United States and Israel. They have worked tirelessly to educate our Jewish youth about the importance of a strong and secure Israel. For that, they deserve special commendation.

Mr. Speaker, the Solomon Schechter School is the type of educational institution that others should strive to emulate. It presents an opportunity for a better future not only for our Nation, but also for the world. Likewise, the Krolls are working every day to build a better community and a better world. I am proud to count them as my friends, and am pleased to have this opportunity to honor both of them and the school that they love.

HORN OF AFRICA RECOVERY AND FOOD SECURITY ACT—H.R. 1454

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1991

Mr. DORGAN of North Dakota. Mr. Speaker, I am introducing today with Congressmen ALAN WHEAT and DOUG BEREUTER, along with 47 other colleagues, the Horn of Africa Recovery and Food Security Act. Joining us in this bipartisan effort are the chairman and ranking minority member of the Hunger Committee, TONY HALL and BILL EMERSON, as well as the chairman and ranking members of the African Affairs Subcommittee, MERVYN DYMALLY, HOWARD WOLPE, and DAN BURTON.

We are introducing this legislation with the strong backing of Bread for the World and a wide coalition of private, voluntary organizations [PVO's] involved with promoting food security in the Horn of Africa. May I say at the outset how much I value the support and advice of these organizations.

This timely measure will focus attention on an enormous, looming, human tragedy in the countries of Sudan, Ethiopia, and Somalia. The tragedy is hunger—a killer threatening over 20 million people in the Horn of Africa. As chairman of the Hunger Committee's international task force, I can think of no global problem which should receive greater attention in Congress.

Our legislation will also reformulate U.S. policy toward the region and set forth a comprehensive program to prevent widespread famine and to chart a course for long-term recovery and food security in the region.

A REGION IN PERIL

The region has been plagued by persistent famine, widespread poverty, and decades of devastating civil wars. Some 2 million Ethiopians and Sudanese have died from war or famine in the last 5 years alone. Relief officials estimate that another 8 million have become refugees or displaced persons. Although some progress has been made in curtailing civil strife, military conflict and famine continue to threaten millions of people in the Horn.

Let me illustrate the urgency and magnitude of the problem by noting the comments of relief experts. The Director of the United States Agency for International Development's Sudan office, Mr. Frederick Machmer, was recently quoted as saying: "Very likely we'll see hundreds of thousands die in Sudan. Those deaths will increase the longer we delay [in getting food to those Sudanese]."

Similarly, James Grant, Worldwide Director of UNICEF, anticipates the "threat of a major disaster in the months immediately ahead" in Sudan. Estimates are that 9 million people need emergency food in Sudan alone. Most of these people live in Government-held areas, according to Grant, while severe hunger continues to imperil Sudanese in civil war zones in the south.

Ethiopia's persistent civil wars exacerbate the suffering caused by another drought. The northern part of the country is thought to need 1 million tons of food relief in 1991. Although the Hunger Committee and the African Affairs Subcommittee were instrumental in getting the Ethiopian Government and opposition groups to open the port of Massawa and overland routes for secure passage of emergency food relief, a recent outbreak of hostilities again jeopardizes these relief channels. That is why many voluntary organizations have questioned the wisdom of cutting back on alternative supply routes from Sudan and other bordering nations.

The food situation in Somalia is also precarious, although precise estimates of need are still unclear. The rebel victory in January that ended that nation's civil war has created an opportunity to prevent widespread starvation. However, millions are now in need of food and other emergency aid.

THE WIDER PICTURE OF AFRICAN FAMINE

Let me say that the sponsors of this legislation are acutely aware that famine stalks several other African nations—particularly in Angola, Mozambique, Liberia, and other sub-Saharan nations. In Angola, for example, U.N. officials are striving to implement peace corridors to reach some 2 million people in need of emergency food. The United States also bears a special responsibility for Liberia, where a massive refugee problem in the aftermath of another civil war, has put over 1 million people at risk.

The United States will certainly need to exercise leadership in responding to these emergencies, as well. I know that the Hunger Committee has, and will continue, to press for cease-fires, peace settlements, and secure relief arrangements in these nations, too.

A NEW POLICY FOR THE HORN OF AFRICA

Our purpose, then, is not to single out the Horn of Africa to the exclusion of other needy nations. It is rather, to reaffirm that the United States will not neglect the Horn of Africa in an hour of dire human need. It is to say that many of the problems affecting individual nations in the region can only be resolved as peace, stability, and food security grow in the whole region. It is to assert that the peace settlements, which have been achieved elsewhere in Africa should be sought with equal diligence in the Horn, as well. That will require the top-level attention of the President and the United Nations.

It is also our intent to capitalize on the reversal of the cold war as an occasion to redefine our policy toward the region. It is time to move away from a preoccupation with security aid toward an approach that pays attention to basic human needs and a strategy for recovery and food security.

Part of that effort entails solving problems from the bottom up, rather than from the top down. The bill recognizes the essential role of grassroots and private organizations in policymaking and development. It authorizes the use of bilateral development funding through indigenous organizations, PVO's and international organizations, even as we retain current restrictions on government-to-government aid. The bill sets forth specific criteria for human rights, democracy, and national reconciliation which must be met before U.S. Government aid can flow to any given government in the region.

A BUDGET NEUTRAL INITIATIVE

The bill does not authorize new funding. It provides authority to transfer from unobligated security aid balances such funds as are necessary to meet food and other emergency requirements in the Horn. It also authorizes the use of existing resources in the development fund for Africa to support the special, human-needs-based projects described in the bill. Among these are restoring agricultural extension services, veterinary assistance, and primary health care centers.

If we truly believe that averting starvation and human tragedy should be a top foreign policy priority, then surely we should be prepared to divert resources from lower priority needs to achieve more important goals. I am pleased that we have obtained a strong bipartisan group of cosponsors in support of this vital and fiscally responsible effort.

LEADERSHIP BEYOND THE PERSIAN GULF

For several months, the Persian Gulf war has eclipsed news about most other regions of the world. Happily, that war has been won.

I hope that the President and the Congress will now turn to an even tougher challenge: Mobilizing to fight hunger in the Horn of Africa and wherever it threatens. I urge the administration and all of my colleagues to join the original 50 sponsors in this fight to keep millions of people alive. And, then, I request support for the ensuing effort to help the people of Somalia, Sudan, and Ethiopia on the road to recovery and food security.

I am including for the RECORD a brief factsheet on the Horn of Africa Recovery and Food Security Act.

H.R. 1454, THE HORN OF AFRICA RECOVERY AND FOOD SECURITY ACT

SUMMARY

The Horn of Africa Recovery and Food Security Act provides a comprehensive approach to advancing food security and recovery in Ethiopia, Somalia, and Sudan. The bill lays out a program designed for emergency relief and rehabilitation, sets forth a peace initiative which is directed at stopping the civil wars and lingering conflicts in the region, and carefully defines a targeted, grassroots, human needs-based development approach that can be undertaken while conflicts persist.

THE HORN OF AFRICA RELIEF AND REHABILITATION PROGRAM

Assures noncombatants in the region equal access to food and other emergency relief assistance, particularly those that promote self-reliance (e.g. seeds, fertilizers, pesticides, water projects).

Encourages the United Nations to redouble efforts to secure safe corridors of passage for emergency food and relief.

Calls for the maximum utilization of Private Voluntary Organizations (PVOs).

Authorizes emergency food assistance and emergency health, education, and other relief projects to be financed by unobligated balances from military and Economic Support Fund (ESF) accounts.

THE HORN OF AFRICA PEACE INITIATIVE

Supports expanded and grassroots participation in economic development and peace initiatives.

Directs the President to consult with the Soviets and the Secretary General of the UN to bring about a negotiated settlement to the conflicts and to institute an arms embargo to the region.

STRATEGY FOR FOOD SECURITY AND RECOVERY IN THE HORN OF AFRICA

Targets US development assistance to aid the poor majority and build upon the capabilities of indigenous and international PVOs as well as multilateral organizations with a proven track record of working at the local level.

Continues current restrictions on assistance to the governments while supporting development assistance to PVOs and certain international organizations.

FURTHER LIMITATIONS ON U.S. ASSISTANCE

Prohibits non-humanitarian assistance to the governments until the President certifies that governments have begun to implement peace or reconciliation agreements and demonstrated a commitment to human rights and democracy.

Directs U.S. officials to support only those multilateral development bank loans to Horn countries that meet basic human needs.

THE BOWEN GULCH WILDERNESS ACT OF 1991

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1991

Mr. SKAGGS. Mr. Speaker, Representative SCHROEDER and I are today reintroducing legislation to expand Colorado's Never Summer Wilderness to include an area in the Arapaho National Forest known as Bowen Gulch.

This beautiful area was considered for wilderness designation during the Roadless Area Review and Evaluation [RARE II] process in the mid and late 1970's; however, the Forest Service, to allow for harvesting the area's timber, did not recommend Bowen Gulch for inclusion in the Never Summer Wilderness. That decision was made before compelling new scientific information about the ecological significance of old-growth forests helped change both public attitudes and Forest Service policy with respect to logging old growth.

Bowen Gulch is a unique forest that is one of the best stands of old-growth trees in Colorado. The area is adjacent to the Continental Divide, which leads to unusually high levels of rainfall, for Colorado, as the prevailing westerly winds force clouds higher into the air to carry them across the mountains. Largely as a result of the abundant rainfall, some of the trees in the Bowen Gulch area are over 600 years old, and as large as 5-feet in diameter. They tower over lush undergrowth and support an ecosystem that may not be able to survive in their absence. Stands like this are rarely found in Colorado because in most of Colorado there's a short growing season, limited soil, and little water. According to the Forest Service, its ongoing old-growth inventory of the Arapaho National Forest indicates this is the best single stand of old-growth trees in the national forest. It would be a terrible shame to lose this rare resource. Yet, we almost did.

The Forest Service signed a contract with Louisiana Pacific Co. [LP] in 1988, giving LP the right to harvest timber in Bowen Gulch. Unfortunately, the environmental assessment of the then-proposed sale was prepared by the Forest Service in 1984—before the Service adopted its new policy of protecting old-growth trees. Contractually, LP had every right to proceed with logging; however, because of the growing controversy surrounding the sale, it agreed not to log Bowen Gulch if it were provided with comparable substitute timber.

During the 101st Congress, I worked with my colleague from Colorado, Representative BEN NIGHTHORSE CAMPBELL, to see to it that the Forest Service had the statutory authority to sell LP the substitute timber. At our request, the Committee on Appropriations included language in the fiscal year 1991 Interior appropriations bill, which was later signed into law, giving the Forest Service the authority to make the trade.

I'm pleased to report that the Forest Service recently submitted to LP its proposal for a substitute timber sale. Although I've not yet had the opportunity to review the Forest Service's offer carefully, I hope that it will be acceptable to all parties and that we can close the books permanently on the Bowen Gulch timber sale.

The question remains, however, how should we manage this unique area after the LP contract is canceled?

The bill we're introducing today, the Bowen Gulch Wilderness Act of 1991, provides that once the timber exchange is completed and the contract for Bowen Gulch timber is canceled, 7,400 acres in the Bowen Gulch area and in adjacent wild lands would become part of the contiguous Never Summer Widlerness and be managed forever under the provisions of the Wilderness Act. This is the only way we can be sure Bowen Gulch survives, along with all of the species that flourish in the shadows of its towering trees. And we have a moral responsibility to ensure that they do survive. We who are here today are borrowing this land from future generations. It would be a great tragedy to break the chain of intergovernmental trust during brief watch.

Those who are familiar with the wilderness legislation we introduced during the last session of Congress will notice that this year we've revised the bill by proposing that a slightly smaller area be set aside for wilderness designation and that timber and mining activities be restricted in an adjacent area, referred to on the map as a "timber sale prohibition area." This change is in response to the concerns expressed by both Grand County officials and snowmobile enthusiasts about the economic and recreational impact of our original bill, which would have designated the southern part of Blue Ridge, down to Porphyry Peaks, as wilderness.

After talking with the Forest Service, Grand County officials, and environmental groups, we have determined that the best way to address the snowmobile issue while still preserving valuable old-growth stands is to prohibit by statute timber harvesting and mining in an adjacent 10,800-acre area. Otherwise, the Forest Service would manage the area like any other part of the national forest. Consequently, snowmobile activity in the area would be unaffected.

An unusually high moisture level is a major reason for the old-growth ecosystem in Bowen Gulch. So it's essencial to reserve the water necessary to fulfill the purposes of this particular wilderness designation. This bill would do just that. The wilderness water provision in this bill is the same as the language included in the Arizona wilderness bill enacted last year. That language does not reserve all the unappropriated water in the area—only the amount necessary to fulfill the purposes of the wilderness designation. In the case of Bowen Gulch, where an abundance of water is essential to the purposes of wilderness designation, it would be a larger quantity of water than is necessary in other wilderness areas in the State. According to the Forest Service, there are no private inholdings in the proposed Bowen Gulch wilderness, and it would include only headwaters areas. Therefore, there should be no conflcit between the wilderness water rights and any future water rights. In fact, since the wilderness reserved rights are to in-stream flows, those rights would ensure that water remains in the streams and is available for consumptive use downstream of the wilderness addition.

Since the area where timbering and mining would be prohibited is located within a national forest, it already carries with it the reserved water rights legally accorded to national forests. The water language we've included pertaining to that area simply clarifies that the legislation neither extinguishes existing water rights nor creates new water rights for the area.

We almost lost the chance to preserve this ancient stand. Let's not make that same mistake again. Let's save Bowen Gulch so that future generations have the opportunity to experience its majesty.

I urge my colleagues to join us in supporting this important legislation.

A TRIBUTE TO ELLEN AHLGREN

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1991

Mr. SWETT. Mr. Speaker, today I rise in admiration to pay tribute to a living example of can-do American ingenuity and kindness. I am speaking of New Hampshire citizen Ellen Ahlgren who, with her untiring efforts, has highlighted the plight of at-risk children. Through her example, she has inspired countless others.

Mr. Speaker, Ellen Ahlgren began her work in 1988 when, as a former teacher and retired mental health counselor, she discovered that there were thousands of children afflicted with the deadly disease AIDS, doomed to a life expectancy of less than 4 years. With this knowledge as her driving force, Ellen set out to provide every infected child with a comforting quilt.

> These babies are children first, who love to be cuddled and to wrap up in their own little quilt. And they are infected with AIDS, which is second. We can all help to give them a gift of love and comfort.

This simple statement has been the foundation of what has become a nationwide movement over the past 2 years. Thousands of quilts have been made since 1988, distributed from Hawaii to Moscow. This is truly extraordinary.

In this day and age problems sometimes seem to overwhelm us by their complexity. But Ellen, by her special example, reminds us once again that when confronting such problems, the important thing is to act, to do something. Analysis and finger pointing is secondary or irrelevant. When confronting the issues of AIDS and other at-risk children, she has demonstrated that what is important is the human touch, kindness and warmth—attributes which we, as a nation, have always aptly demonstrated. So now I draw my colleague's attention to this shining light to remind us that, even when faced with the most difficult situation, the light at the end of the tunnel is often an extraordinary individual, asking us to join hands and come together as only our Nation can, reminding us that through our own simple, individual actions, we can overcome. Let us guide our actions by her continuing example of what one individual can accomplish and work together to lessen the horror for these children. The task is daunting, but Ahlgren reminds us that "This is really a bittersweet project. But it's wonderful to know you are doing something."

Mr. Speaker, I am proud to announce that this extraordinary New Hampshire woman, will be honored by the National Association of Children's Hospitals and Related Institutions, Inc., for her tireless work on behalf of underprivileged children. I ask my colleagues to join me in paying tribute to a truly compassionate human being. Basic action, human warmth—that is what Ellen teaches us.

GIVE CROATIA YOUR ATTENTION

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1991

Mr. LIPINSKI. Mr. Speaker, I find myself growing increasingly disturbed by the present situation in the Republic of Croatia. The people there are not being allowed to pursue their fundamental right of self-determination. Instead, they find themselves locked in a bitter fight for survival. This battle is being waged against a stronger majority which has consistently shown it is more than willing to sacrifice the abundant resources of Croatia to further its own ends. In a region still undergoing a difficult transformation from 45 years of inept Communist rule, Croatia, and the other Yugoslav Republics have found themselves fighting over basic questions of nationalism, economics, and political reform. The situation has become so severe that it threatens the unity of the entire federation and could plunge the region into civil war.

Yugoslavia is the most ethnically and religiously diverse country in Europe. It is comprised of six republics and two autonomous regions which were created along ethnic lines. Five major nationalities and 17 other ethnic and national minorities call themselves Yugoslavs but still remain culturally and socially segregated having four languages, three religions, and two alphabets among them. Croatia is the second largest republic and its 5 million people were the first to choose a democratic system of government during free elections last year. In April and May, the Croatian people elected Dr. Franjo Tudjman to the presidency. President Tudjman has stated publicly that the No. 1 priority of his administration will be to initiate a series of reforms aimed at bringing Croatia into the new European Community.

Realizing that economic prosperity can only be achieved in an environment that rewards innovation and entrepreneurship, while safeguarding the Croatian people, President Tudjman has instilled a sense of hope and purpose in his countrymen and women. Historically, Croatians have succeeded in achieving their goals. For over a thousand years, they have found themselves on the ideological as well as geographical divider between East and West and managed to maintain their national identity. Even with formidable forces arrayed against them, the people of Croatia have remained steadfast in their determination. I should just like to point out that although the Turks conquered Budapest, ruling it for 145 years, and then attempting the same thing at Vienna, they were never able to enter the city of Zagreb, Croatia's capital. Today, I am confident that the tenacity of the Croatian people has not diminished in the slightest.

The Government of Croatia is suggesting that their relations with other Yugoslav Republics be carried out on a confederate basis only. The revival of private ownership and free enterprise and its resulting economic security will allow the Croatian people to raise their standard of living. This in turn will enable them to compete more effectively at the marketplace and pursue long-term domestic ventures. For the last half-century, the majority controlling Yugoslavia's Federal Government has siphoned off the profits from Croatian labor. There is little doubt that the Croatian people have been forced to settle for less so that others could line their own pockets. Only by obtaining its sovereignty can Croatia ensure a future of economic prosperity, one free of external manipulation and corruption.

It is a historical paradox that the Republic of Croatia, one of the oldest European nations, must learn the democratic alphabet. However, they are determined to return to the embrace of Western civilization and join the community of free nations. To achieve this, the new Croatian Government must patiently and prudently work toward a full affirmation of national sovereignty. After only 1 year, the results of the first free elections have produced a firm obligation. The free will of the people—expressed in the most democratic way known, through the electoral process—has granted legislative power to the party whose program clearly expresses the aspirations of Croatia's people. Croatians only seek to enjoy the right of national independence, self-determination and all that they imply.

THE SENSIBLE ADVERTISING AND FAMILY EDUCATION ACT

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1991

Mr. KENNEDY. Mr. Speaker, today I'm introducing legislation with the distinguished Senator from South Carolina, STROM THURMOND, and 14 colleagues from the U.S. House of Representatives, legislation which will address the number one drug problem facing America.

We hear a lot of talk about the war against drugs and how many Americans are dying from drug abuse. As a matter of fact, President Bush has committed $11.7 billion to fight the war on drugs, an 11-percent increase from last year, but not a penny of this money will be spent on alcohol abuse. If we are serious about winning the war against drugs, we must address the enormous problem of alcohol abuse in this country. Alcohol kills at least three times as many Americans than crack, heroin and all other drugs combined. Although the headlines read every day with stories about crack and coke killing our Nation's youth, I have a headline for you: alcohol-related causes of deaths are the number one killer for persons under age 34. What you may not see in the headlines is the fact that half of all motor vehicle deaths, 500 deaths per week are alcohol-related. And the body count for alcohol-related homicides is 200 deaths per week—half the total. The deaths every week due to alcohol abuse would be equivalent to 3 or 4 major airplane accidents a week, but the fact is, alcohol-related deaths do not make the headlines in the paper or the lead story on the TV news.

Despite the known dangers, this drug is sold by some of the best-produced, best-written, best-acted ads in America that only tell one side of the story. Like it or not, beer ads educate Americans, particularly younger Americans, that taking a drink is needed in order to win that race, or make it down the ski slope, or land that account or meet that new girl or guy.

Let's just take a look at some of the advertisements that are on TV now. How about the Michelob Lite ad that tells Americans "You can have it all"—what it doesn't tell them is that there are 18 million adults and 4.5 million kids who tried to have it all and are now alcoholics. How about the Colt 45 ad that croons: "The Power of Colt 45: It works everytime"—what it doesn't say is that alcohol works to rob more productive years of your life than smoking cigarettes. How about the Coors Light ad that boasts: "It won't slow you down"—what it doesn't say is that drinking will slow down your ability to think and react. The nearly 25,000 deaths a year due to auto crashes is strong testimony to that fact.

There is no doubt that the industry has been trying to act more responsibly to the problems of alcohol abuse. But the ads still don't tell the whole story. Budweiser's "Know when to say when" doesn't tell kids to say no. Miller's "Think when you drink" doesn't tell a pregnant woman to think about her baby, who could suffer mental retardation as a result of that drink. Coor's the "Right Beer Now" doesn't tell people that there is no right beer when taking prescription medication. This is the crux of the legislation I have proposed, called the Sensible Advertising and Family Education Act.

The SAFE Act will give the public information so that they can make informed decisions about the use of alcohol. We do this by providing five basic warnings on all alcohol advertisement:

First, to address the issue of fetal alcohol syndrome and fetal alcohol effects that disable more than 50,000 babies per year, we have the message: "Drinking during pregnancy may cause mental retardation and other birth defects. Avoid alcohol during pregnancy."

Second, to address the issue of drunk driving which is responsible for 25,000 deaths per year, we have the message: "Alcohol impairs your ability to drive a car or operate machinery."

Third, to address the issue of the thousands of overdoses and injuries that are caused because people mix other drugs with alcohol, we have the message: "Alcohol may be hazardous if you are using any other drugs such as over-the counter prescription, or illicit drugs.

Fourth, to address the rampant problem of alcoholism, we have the simple message: "Drinking alcohol may be addictive."

Fifth, and to send a clear warning to the 90 percent of the high school kids who have tried or continue to use alcohol, we have the warning: "It's against the law to purchase alcohol for persons under age 21."

The Sensible Advertising and Family Education Act will provide balance to deceptive advertising. These messages will appear at the end of a T.V. or radio ad or at the bottom of a magazine, newspaper or billboard ad. On print ads, a toll-free number will be provided so that more information can be obtained. The SAFE Act includes health messages that are pertinent to every American. This is legislation that one Gallup poll found 74 percent of Americans favor.

Of course dangerous drinking would be best reduced if we legislated more school-based education for kids, more treatment and rehabilitation for alcoholics, more ways to strictly enforce the 21-year-old drinking age. But the fact is that we have a budget deficit of over $300 billion. The money to fund these goals is just not available at this time. In the age of tight budgets, the SAFE Act is a sensible step that the Congress can take to encourage responsible drinking.

Despite public urging for these messages, the alcohol, broadcasting, and advertising industries have waged a tough campaign against this bill. These industries claim that this act violates the first amendment. There is no doubt that our constitution specifically protects the right to freedom of speech. However, the Supreme Court has ruled on numerous occasions that commercial speech, such as advertising, does not have the same constitutional protection, and that the Government has the right to alter commercial speech if it's deemed in the interest of its citizens. Thomas Jefferson once said, "The care of human life and happiness is the first and only legitimate object of good government." The SAFE Act will pass constitutional muster.

There is no doubt that when my father introduced legislation in 1967 to place health warnings on all tobacco advertising, he faced a similar uphill battle. But there is also no doubt that these warnings combined with other public health strategies has done a tremendous job in changing the way we think about smoking and, overall, reducing the numbers of deaths and diseases attributed to tobacco use.

Arthur Sulzberger, the former editor of the New York Times, once said, "Obviously, a man's judgment cannot be better than the information on which he has based it." For years, the American public has been receiving a lopsided message from the industry. It is time we wake up and say "enough is enough" to the industry and start dealing with the needs of this society.

The SAFE Act in combination with an overall public health campaign will be effective in preventing the terrible problems associated with alcohol abuse and misuse. The SAFE Act has the endorsement of over 60 groups which comprise the Coalition of Alcohol Advertising and Family Education. This diverse coalition includes the Center for Science in the Public Interest, the National Council on Alcoholism, the American Medical Association, the National PTA, and the United Methodist Church. With the strength of these organizations, we can see this legislation through. I urge my colleagues to join us in this Fight to put an end to the rampant problem of alcoholism in this country by supporting the Sensible Advertising and Family Education Act. The text of the legislation follows below.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress makes the following findings:

(1) Alcohol is by far the drug most widely used and abused by young people in the United States today, even though it is illegal for youths under age 21 to purchase alcohol in all 50 of the States and the District of Columbia.

(2) Ninety percent of high school seniors report using alcohol at least once in the preceding year. The 1989 National Institute on Drug Abuse/University of Michigan survey of high school seniors found that 33 percent of the seniors surveyed reported having consumed 5 or more drinks at one time in the 2 weeks preceding the survey.

(3) The average age at which young people begin drinking is 13. By age 13, approximately 30 percent of boys and 22 percent of girls classify themselves as drinkers. According to the 1988 National High School Senior Survey, 17 percent of high school seniors reported having been drunk by eighth grade, 37 percent by ninth grade, 54 percent by tenth grade, and 71 percent by twelfth grade. Studies demonstrate that the use of alcohol by individuals before the age of 15 appears to be one of the predictors of later heavy alcohol and other drug use by the individuals.

(4) Young people are not well informed about the hazards of alcohol use. Only 43 percent of high school seniors believe there is great risk of harm from drinking activities such as binge drinking once or twice each weekend.

(5) According to the Department of Health and Human Services, sponsorships and promotions on college campuses by alcohol producers and the use of celebrities and youth-oriented musical groups in advertising create a pro-drinking environment.

(6) Alcohol use during pregnancy is the leading preventable cause of birth defects.

(7) According to the National Institute on Alcohol Abuse and Alcoholism, an estimated 18,000,000 persons in the United States who are 18 or older currently experience problems as a result of alcohol use. An estimated 4,500,000 young people are dependent on alcohol or are problem drinkers.

(8) According to Healthy People 2000, the National Health Promotion and Disease Prevention Objectives—

(A) nearly one-half of all deaths from motor vehicle crashes are alcohol-related;

(B) alcohol is implicated in nearly one-half of all fatal intentional injuries such as suicides and homicides; and

(C) victims are intoxicated in approximately one-third of all homicides, drownings, and boating deaths.

(9) An estimated 25 percent of all hospitalized persons have alcohol-related problems.

(10) Alcohol advertising, especially in the broadcast media, represents the single greatest source of alcohol education for persons in the United States. According to a 1990 study of 10- to 13-year-olds, funded by the American Automobile Association Foundation for Traffic Safety, there is a relationship between exposure and attention by an individual to beer advertising, and expectations that the individual drink as an adult.

(11) A major 1981 federally funded study found a significant relationship between—

(A) exposure of individuals to alcoholic beverage advertising as youth; and

(B) drinking behaviors and attitudes of the individuals that can lead to certain forms of problem drinking.

(12) Over 80 percent of 2,000 adults surveyed in 1988 for the Bureau of Alcohol, Tobacco and Firearms by the Opinion Research Corporation believe that alcohol advertising influences underage youth to drink alcoholic beverages. The survey also found that the general public feels that the young people of the United States constitute the group that is most at risk from drinking alcoholic beverages.

(13) The alcoholic beverage industry spends approximately $2,000,000,000 each year on advertising and promotions in the United States.

(14) The 1988 Surgeon General's Workshop on Drunk Driving has recommended—

(A) that the level of alcoholic beverage advertising be matched with an equal number of pro-health and pro-safety messages; and

(B) the inclusion of health warning messages in all alcohol advertising.

(15) The National Commission on Drug-Free Schools' September 1990 Final Report, "Toward a Drug-Free Generation: A Nation's Responsibility", recommends that Congress—

(A) require additional health and safety messages on all alcohol products and advertising for the products; and

(B) consider enacting a ban on advertising and promotion of alcohol if alcohol advertising still targets youth and glamorizes alcohol use.

(16) Over two-thirds of persons surveyed in a 1989 Wall Street Journal poll favor requiring warnings about the dangers of drinking both on alcoholic beverage containers and in alcohol advertisements. Nearly three-fourths of persons surveyed in a 1990 Gallup Poll favor requiring health warning messages in alcohol advertising.

SEC. 2. HEALTH WARNINGS.

(a) IN GENERAL.—On and after the expiration of the 6-month period following the date of enactment of this Act, it shall be an unfair or deceptive act or practice under section 5 of the Federal Trade Commission Act for any person to—

(1) advertise or cause to be advertised through magazines, newspapers, brochures, and promotional displays within the United States any alcoholic beverage unless the advertising bears, in accordance with requirements of section 3(a), one of the following health warnings:

Surgeon General's Warning: Drinking during pregnancy may cause mental retardation and other birth defects. Avoid alcohol during pregnancy. If you are pregnant and can't stop drinking, call [insert appropriate toll free number].

Warning: Alcohol impairs your ability to drive a car or operate machinery. If you or people you love drink and drive, call [insert appropriate toll free number].

Warning: Alcohol may be hazardous if you are using any other drugs such as over-the-counter, prescription, or illicit drugs. To find out what happens when you drink while using other drugs, call [insert appropriate toll free number].

Warning: Drinking alcohol may become addictive. If you know someone who has an alcohol or other drug problem or has trouble controlling their drinking, call [insert appropriate toll free number].

Warning: It's against the law to purchase alcohol for persons under age 21. For more information about the risks associated with alcohol use among teenagers and young adults, call [insert appropriate toll free number], or

(2) advertise or cause to be advertised through radio or television broadcasting (including cable broadcasting) any alcoholic beverage unless the advertising includes, in accordance with requirements of section 3(b), one of the following health warnings:

Surgeon General's Warning: Drinking during pregnancy may cause mental retardation and other birth defects. Avoid alcohol during pregnancy.

Warning: Alcohol impairs your ability to drive a car or operate machinery.

Warning: Alcohol may be hazardous if you are using any other drugs such as over-the-counter, prescription, or illicit drugs.

Warning: Drinking alcohol may become addictive.

Warning: It's against the law to purchase alcohol for persons under age 21.

(b) TOLL FREE NUMBERS.—The Secretary of Health and Human Services, in consultation with the Federal Trade Commission, shall be responsible for establishing and maintaining the toll free numbers referred to in the health warnings required by subsection (a)(1). The Federal Trade Commission shall report to Congress annually on the number of calls received using those numbers and the types of referrals made.

SEC. 3. REQUIREMENTS.

(a) IN GENERAL.—The health warnings required for alcoholic beverage advertisements by section 2(a)(1) shall—

(1) be located in a conspicuous and prominent place on each such advertisement, as determined by the Federal Trade Commission in regulations to take effect no later than 6 months after the date of the enactment of this Act, except that such regulations shall require that all letters in such health warnings appear in conspicuous and legible type that is not script or italic and that such health warnings be in contrast by typography, layout, and color with all other printed material in the advertisement, be surrounded by typographic lines that form a box, and, on an appropriate visual medium, appear on the front of an advertisement as indicated by labeling of the manufacturing or importer, and

(2) be rotated in an alternating sequence on each advertisement of a brand style in accordance with a plan submitted by such manufacturer or importer to the Federal Trade Commission.

The Federal Trade Commission shall approve a plan submitted under paragraph (2) by a manufacturer or importer that assures that each sequence of the same or substantially similar advertisement for a brand style has displayed upon it an equal distribution of each health warning at the same time. If an application is approved by the Federal Trade Commission, the rotation shall apply with respect to the applicant during the one-year period beginning on the date of the application approval.

(b) RADIO AND TELEVISION.—The health warnings required for alcoholic beverage advertisements placed on radio or television broadcasting by section 2(a)(2) shall—

(1) be included in a conspicuous and prominent manner in such advertisement, as determined by the Federal Trade Commission in regulations to take effect not later than 6 months after the date of the enactment of this Act, except that such regulations shall require—

(A) that such health warnings be read as part of an alcoholic beverage advertisement in an audible and deliberate manner and in a length of time that allows for a clear understanding of the health warning message by the intended audience, and

(B) that for television a graphic representation of such health warning required by section 3 be included after each advertisement, that all letters in such health warning appear in conspicuous and legible type that is not script or italic, that such health warning be surrounded by typographic lines that form a box, and that such health warning appear in the same length of time as is required for the reading of the message required by subparagraph (A), and

(2) rotated in an alternating sequence on each such advertisement of a brand style in accordance with a plan submitted by such manufacturer or importer to the Federal Trade Commission.

The Federal Trade Commission shall approve a plan submitted under paragraph (2) by a manufacturer or importer that assures that an equal distribution of each of the health warnings is displayed on each sequence of the same or substantially similar advertisement for a brand style at the same time. If an application is approved by the Federal Trade Commission, the rotation shall apply with respect to the applicant during the one-year period beginning on the date of the application approval.

SEC. 4. DEFINITION.

For purposes of this Act, the term "alcoholic beverage" includes any beverage in liquid form which contains not less than one-half of one percent of alcohol by volume and is intended for human consumption.

SEC. 5. REPORT TO CONGRESS.

(a) INVESTIGATION.—Not earlier than 2 years after the date of the enactment of this Act, the Commissioner shall conduct an appropriate investigation and consult with the Surgeon General to determine whether available scientific information would justify a change in, an addition to, or deletion of, a health warning set forth in section 2.

(b) REPORT.—If the Commissioner finds that available scientific information would justify the change, addition, or deletion described in subsection (a), the Commissioner shall promptly submit a report to the appropriate committees of Congress containing—

(1) the information; and

(2) specific recommendations for such amendments to this Act as the Commissioner determines to be appropriate and in the public interest.

THE RURAL DEVELOPMENT INVESTMENT ZONE ACT OF 1991

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1991

Mr. DORGAN of North Dakota. Mr. Speaker, today Mr. GRANDY and I are introducing the Rural Development Investment Zone Act of 1991, legislation to encourage businesses to bring new jobs into economically-distressed rural areas. Congress has already used Federal tax incentives to stimulate economic growth and job creation in places like Puerto Rico. And it now appears that there's a good chance that an enterprise zone proposal will be passed in Congress this year to stimulate jobs in urban America.

Unfortunately, rural America is notably absent in the major enterprise zone proposals to revitalize economically-distressed areas. And even in those few proposals being floated around that do not expressly disqualify rural areas from applying for enterprise zone status, the criteria used to designate whether an impoverished area qualifies for these tax incentives is heavily biased in favor of urban areas.

In my judgment, any enterprise zone legislation must set aside an equal percentage of potential enterprise zone sites for economically distressed rural areas. That's why I am introducing the "Rural Development Investment Zone Act of 1991," legislation to stimulate new development in impoverished rural communities around the country.

We're losing thousands of our educated young people each year in North Dakota as they move off to Minneapolis, Denver and east coast cities in search of gainful employment. I'm convinced that most of our sons and daughters would choose to stay or move back after college, but simply can't afford to because jobs just are not available. Increased economic opportunity for rural communities will help stem the tidal wave of workers in rural America who are forced to leave their homes and families to seek work elsewhere, and to ensure rural America's strong contribution to this country's continued growth and prosperity.

We must strive to expand the economic base of rural States so that they become more resistant to the inevitable swings of farm and energy prices.

This legislation would designate up to 100 investment zones in qualifying rural areas. First, the legislation will target relief to distressed rural areas based not only on high unemployment and poverty rates, but also on factors specific to rural regions such as out-migration and job loss. The strength of this approach is that it takes into account the rapidly dwindling number of rural workers who don't show up in unemployment statistics until they've reached the cities.

Second, the legislation provides employment-related tax incentives to both attract new businesses and retain existing businesses within the designated investment zones. The Federal tax incentives include an employer tax credit of 10 percent for increased spending on qualified wages, and an investment tax credit for certain depreciable property used by a trade or business within the development investment zone.

It seems to me that a balanced approach to rural and urban enterprise zones can only strengthen the enterprise zone idea by addressing those weak spots in our national economy. It's time to allow all impoverished Americans, rural and urban, to share the economic prosperity enjoyed by so many others in the 1980's.

Now's the time to get this Nation's farm economy back on it's feet. If we're going to help keep alive the American dream of greater economic security for our citizens, let's make sure the dream stays alive for rural America, too.

I urge my colleagues to cosponsor this legislation to stimulate the kind of economic growth so desperately needed to improve the quality of life for rural Americans.

The highlights of the bill follow:

HIGHLIGHTS OF THE BILL

DESIGNATION PROVISIONS FOR IMPOVERISHED RURAL AREAS

Up to 100 rural development investment zones may be designated by Treasury and no more than 40 designated during the first twelve months.

Areas nominated may not be in central cities of a metropolitan statistical area (MSA) and must have a population of less than 50,000, or be outside an MSA or be determined by Treasury to be a rural area.

Areas nominated must have a population of at least 1,000.

Designations are based on the degree of poverty, unemployment, out-migration, job loss and general economic distress.

Poverty and Unemployment rates

The area is one where there is evidence of high rates of unemployment or poverty, or general economic distress.

Out-migration

The population of the area decreased by 10% or more between 1980 and 1990, based upon the most recent census data.

Job Loss

The amount of wages attributable to employment in the area, and subject to tax under Section 3301 is not more than 95% of such wages during the 5th preceding calendar year.

FEDERAL INCOME TAX INCENTIVES

Credit of 10% for qualified increased employment expenditures.

Credit of 10% for new development investment zone construction property.

OTHER PROVISIONS

State and local governments must submit an inventory of the historic properties within a designated development zone.

Treasury will help to prescribe and designate development areas.

State and local government commitments are also required, including reduced tax rates, streamlined governmental requirements, local services and technical assistance.

The Foreign Trade Board shall consider any application to establish a foreign trade zone within a development zone on a priority basis.

Waiver or modification of Treasury rules are permitted in certain circumstances in order to further job creation, community development and economic revitalization objectives of the zones.

THE ENTREPRENEURIAL EDUCATION PROMOTION ACT OF 1991

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1991

Mr. McDADE. Mr. Speaker, I rise today to introduce a measure of great importance to the long-term health and vitality of our economy and Nation. The Entrepreneurial Education Promotion Act of 1991 is targeted at the young people of America in the hope that through them our position in the world marketplace and as the bastion and protector of free enterprise may be maintained and strengthened in the years ahead.

While it has been the burden of recent generations to toil under the constant military threats and pressures of the cold war, today that dark chapter in global history stands ready to close. In its place an era is opening in which economic might will be the chief determinant of achieving superpower status. While it is those of us in this Chamber who must labor to put our fiscal house in order today and in the remaining years of this century, the young people who sit today in the classrooms of our elementary schools are responsible for managing the crises of the future.

The measure that I unveil today is aimed at instilling in these inheritors of the America dream an understanding of and respect for the importance of this Nation's economic system and how it functions. Only by imparting to our children an awareness of the ingredients of a strong economy, and cultivating in each of them a respect for the important role they can and must play in bringing it about, can the United States maintain its high standard of living and endure as a shining example of what free people can achieve through free enterprise.

Specifically, the legislation, which was one of the key recommendations of the 1986 White House Conference on Small Business, calls for the President and Congress to appoint a national commission to explore how topics such as marketing, microeconomic and macroeconomic principles, labor relations, finance, management, and foreign language proficiency, among many other subjects, can be better communicated by teachers and mastered by students. In addition, the Commission would be directed to review current domestic efforts in this area as well as analyze the success other nations have enjoyed in this undertaking. The panel, comprised of outstanding citizens with firsthand experience in either free enterprise or education, would issue a comprehensive legislative and executive agenda for the Federal Government to pursue in achieving the goal of more economically literate young people. The Commission's findings are to be submitted to the President and the Congress not later than 1 year after its convening.

Mr. Speaker, each of us here recognizes the critical responsibility we bear in ensuring that our children enjoy a better life than we have had. The most important gift we can give them to help guarantee this is the knowledge and understanding of how we have become who we are and how they can take America to even higher levels of greatness. This is the goal of the Entrepreneurial Education Promotion Act of 1991. I hope my colleagues will join with me in bringing about the enactment of this proposal.

TELEPHONE PRIVACY ACT OF 1991

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1991

Mr. SYNAR. Mr. Speaker, today on behalf of myself and Mr. EDWARDS of California, I have filed the Telephone Privacy Act of 1991. The purpose of this legislation is to provide a clear exception to the wiretap statutes to ensure that telephone and information systems companies can provide new technologies to customers. On March 13, Senator KOHL introduced a similar bill in the Senate. That bill has received the endorsement of the Fraternal Order of Police.

Emerging new services offered in the past few years permit telephone customers to utilize their private telephones for applications such as banking, obtaining information, accessing computers, and myriad other uses. New services such as caller identification—caller ID—also permit customers to limit outside access through the telephone. With the growth of such services, however, telephone providers have been faced with uncertainties in various States as to the legality of such services. Suits based on privacy grounds have already succeeded in one jurisdiction and apparently are being contemplated by customers in other jurisdictions.

Part of the reason for the uncertainty lies with conflicting interpretations of the Federal wiretap statute. While the matter has not yet been addressed by the Federal courts, the popularity and increasing use of these services point to a need to remove any questions of legality. Use of these services also have created problems for police organizations, various social services, and individuals desiring to protect access to their telephone numbers.

The Telephone Privacy Act of 1991 will clarify present statutes and ensure that the privacy rights of all parties are guaranteed while permitting the use of these new technologies.

TRIBUTE TO COL. WILLIAM NIVEN

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1991

Mr. FAZIO. Mr. Speaker, I rise today to pay tribute to Col. William A. Niven, who is retiring from the Air Force Reserve. Since September 1990, Colonel Niven has served as the individual mobilization augmentee to the director, space and C3 management directorate, Sacramento Air Logistics Center, McClellan Air Force Base, CA.

Colonel Niven was born in Mexico City, Mexico. He graduated from the American High School in Mexico City and received his bachelor of science and master of science in electrical engineering from Stanford University, Stanford, CA.

While attending Sanford University, Colonel Niven enrolled in Air Force ROTC and received his commission as a second lieutenant on June 14, 1958. After an educational delay of 1 year to pursue his MSEE degree, he went on active duty in May 1959 at the Air Force Special Weapons Center, at Kirtland Air Force Base where he was assigned as project officer for the Jupiter, Thor, and Atlas nuclear warheads.

After spending 3 years on active duty, Colonel Niven separated from the Air Force in August 1962 and accepted a position as electronics engineer with the Lawrence Livermore National Laboratory. His career at the laboratory has included project, group, and division level electronics engineering responsibilities. His specific technical contributions are primarily in the areas of advanced nuclear weapon use control concepts, and safing, arming and firing systems for high mechanical shock instrumentation for nuclear weapons and advanced conventional munitions. In addition, Colonel Niven developed computer-based electronics measurement and control systems for the nuclear and nonnuclear programs.

Colonel Niven is currently the deputy division leader in the laser engineering division at the Lawrence Livermore National Laboratory. He is responsible for providing technical and administrative direction to approximately 70 personnel within this multidisciplinary engineering organization supporting the magnetic Fusion and Free Electron laser programs. Technical responsibilities focus on pulsed power engineering, diagnostics, and timing and control systems for a plasma fusion, electron beam and free electron laser experiments and projects.

Colonel Niven's career in the Air Force Reserve following his 3-year active duty tour included research and development and air reserve recovery squadron activities. He was first assigned as an individual mobilization augmentee in the service engineering division of the Sacramento Air Logistics Center in November 1972. In the past 10 years, he has held positions as mobilization assistant to the branch chief, MMEC, mobilization assistant to the division chief, MME, and mobilization assistant to the director, MM.

Among Colonel Niven's military decorations are the Air Force Legion of Merit, the Air Force Commendation Medal, and the Air Force Reserve Medal.

Mr. Speaker, I join Colonel Niven's colleagues from the Sacramento Air Logistics Center and McClellan Air Force Base, his family, and his many friends in the civilian community in commending Colonel Niven for his many accomplishments and the tremendous contributions he has made to the service of his country.

INTRODUCTION OF THE TACTICAL MISSILE DEFENSE ACT OF 1991

HON. TIMOTHY J. PENNY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1991

Mr. PENNY. Mr. Speaker, today I and my colleagues, Mr. ANDREWS from Maine and Mr. WILLIAMS are introducing the Tactical Missile Defense Act of 1991. The intent of this legislation is to restructure the strategic defense initiative by creating a separate Joint Tactical Missile Defense Program within the Department of Defense. This measure would allow the American people and Congress to clearly establish priorities between the two missions—strategic missile defense and tactical missile defense.

The recent waning of the cold war and the Persian Gulf war requires the United States to rethink many elements of its defense policy. Both events clearly show that emphasis should be placed on tactical missile defense systems like the Patriot missile, a system unrelated to SDI. Tactical missile defense should be a priority, which should be managed and funded separately from the strategic defense initiative. The head of the Joint TMD Program would be a director of the same classification as the director of the strategic defense initiative organization. In addition, both directors would report to the Under Secretary of Defense for Acquisitions.

In January, the President said that SDI should be "refocused on providing protection from limited ballistic missile strikes." I agree with the decision to refocus SDI, but I am disturbed that the new SDI or GPALS is simply a scaled-down version of the old SDI, or phase I, with the theater and tactical missile defense initiative simply thrown in. I do not believe that the issue of tactical missile defense should be just thrown in with SDI in order to make an expensive space-based strategic missile defense system like Brilliant Pebbles more acceptable to Congress and the American people. If Brilliant Pebbles is a priority, it should be able to stand on its own merit. The United States can no longer afford to spend billions of dollars on weapon systems that are not needed and do not have the support of the American people.

I urge my colleagues to support the Tactical Missile Defense Act of 1991.

TRIBUTE TO POLICE CHIEF GEORGE W. WELLHAM III

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1991

Mr. McMILLEN of Maryland. Mr. Speaker, I rise today to congratulate Police Chief George W. Wellham III, on his 43 years of service to the Anne Arundel County, MD community. His retirement ends a long and fruitful career in law enforcement and his dedication serves as an example to all citizens and public servants.

By serving in every capacity in each patrol division in the department, he better than anyone has an intrinsic knowledge of effective police work in Anne Arundel County, MD. His lifetime residence in the county evidences a deep love of the area and its people. During his 4 year tenure as the Anne Arundel Chief of Police, George Wellham has reorganized the training academy; improving it to its current, outstanding state; which, as an example of its improvement, now offers 21 hours of college credits. He has also expanded drug enforcement in the area to ensure the safety of our community.

Those who know him describe Chief George Wellham III, as a worker of enormous capacity who often works around the clock. For those hours of commitment to the Anne Arundel community, I thank him.

INTRODUCTION OF THE HORN OF AFRICA RECOVERY AND FOOD SECURITY ACT

HON. ALAN WHEAT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1991

Mr. WHEAT. Mr. Speaker, today my colleague BYRON DORGAN and I are introducing the Horn of Africa Recovery and Food Security Act, legislation to help end the cycle of hunger, poverty, and despair that has characterized life in Ethiopia, Somalia, and Sudan.

As one of the poorest regions in the world, the Horn of Africa has been plagued by famine, widespread poverty, and decades of bloody civil wars. In the past 5 years alone, an estimated 2,000,000 people in Ethiopia and Sudan lost their lives as a result of war or famine.

Today, relief officials estimate that over 20,000,000 people are threatened by starvation and military conflicts that continue to ravage the area. In fact, experts project that this year the people in Sudan will be the victims of a famine of apocalyptic dimensions—perhaps 10 times greater than the Ethiopian famine of 1984–85.

Clearly, the United States and other donors should commit resources and relief to respond to this emergency. But if efforts to end hunger are to have a lasting success, we must go beyond emergency relief and operating from famine to famine.

The capacity for the Horn of Africa to achieve food security rests on the ability to confront the structural causes of this crisis. War, famine, environmental degradation, and misguided policies of the repressive political regimes in each of these countries have fostered instability and a chronic dependence on international food aid.

Through a combination of emergency relief and targeted development assistance, this legislation builds on current U.S. policy to address some of the root causes of strife and instability by promoting sustainable recovery and food security in this war-torn region.

The bill targets U.S. development assistance to aid the poor majority and build upon the capabilities of indigenous and international private voluntary organizations with a proven track record of working at the local level. Furthermore, the legislation calls on U.S. policymakers to play a constructive role in efforts directed toward establishing lasting peace in the region.

Having suffered through decades of untold suffering, the people of the Horn are in desperate need of assistance. By emphasizing local self-reliance and the pursuit of peace, this bill will help the citizens of the Horn of Africa in building their own foundation of hope for the future.

WEST VIRGINIA STATE COLLEGE OBSERVES 100TH ANNIVERSARY OF ITS FOUNDING

HON. ROBERT E. WISE, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1991

Mr. WISE. Mr. Speaker, I rise today to pay tribute to West Virginia State College, which observes the 100th year of its founding on Sunday, March 17. On that date in 1891, the West Virginia Legislature enacted legislation which provided for the College to be established 8 miles west of Charleston at Institute, WV.

The college was founded following passage of the Second Morrill Act in 1890 by the Congress of the United States. The act required States that established land grant colleges under the First Morrill Act to make provisions for the education of black citizens in agriculture and mechanical arts. The State legislature provided $10,000 for the purpose of land and construction of a building. The Federal Government allotted $3,000 for faculty salaries.

Originally called the West Virginia Colored Institute, the name was changed in 1915 to West Virginia Collegiate Institute, and in 1929 to West Virginia State College.

During its 100 year history, West Virginia State College has had only nine presidents, including the current president, Dr. Hazo W. Carter, Jr., who assumed the position on September 1, 1987. Three former presidents of the college will return to the 83-acre campus to participate in the centennial celebration on Sunday, March 17. They are Dr. William J.L. Wallace, who was president in 1954 when the college was integrated; Dr. Harold NcNeill, who is retired and living in North Carolina; and Dr. Thomas W. Cole, Jr., currently president of Clark Atlanta University.

The college began its centennial observance at homecoming last October and will continue until the October 1991 homecoming.

In keeping with this important milestone, the college is featuring throughout the year various concerts, special symposia, art exhibits, and performances, all designed to focus on the academic reputation the college has gained over the years.

The college has graduated students from 35 foreign countries and most of the 50 United States since first opening its doors with 20 students. The college, during this centennial, has experienced its highest enrollment with 4,834 students.

Included among those institutions referred to as "historically black colleges and universities," West Virginia State College offers a wide array of 2-year and 4-year degree programs and claims one of the finest science facilities in the Mid-Atlantic region. The programs are accredited by the appropriate organizations and include offerings in business, education, the sciences, arts and humanities, and modern technologies including robotics, nuclear medicine, and preprofessional areas.

For its next 100 years, the college has adopted "Entering Our Second Century of Excellence" as its motto.

Mr. Speaker, it gives me great pleasure to honor West Virginia State College today and I urge my colleagues to join me in paying tribute to one of West Virginia's most outstanding educational institutions.

TRIBUTE TO THE NEWPORT ARTILLERY COMPANY

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 14, 1991

Mr. MACHTLEY. Mr. Speaker, I rise today to recognize the Newport Artillery Company, and join them in celebrating their 250th anniversary. The Newport Artillery Company has enjoyed a proud tradition as a military unit dating back to 1741, when the charter for the artillery company was formally granted by the General Assembly of his Majesty's Colony of Rhode Island.

The artillery company formed as a result of the Second Spanish War. Anticipating raids from Spanish ships, the people of Newport felt the need for a professional military unit. It was then that they organized and petitioned the

King for their charter. Two hundred and fifty years of proud service had begun. The company's first formal service was at Fort George in Newport in the 1740's. During the Revolutionary War the company split into loyalist and rebel factions. However, after the conflict they remained intact under their original charter. The company remained active in military conflicts, yet their proud deeds and gallant service have spanned over both times of war and peace.

It is with great pleasure that I join the Newport Artillery Company in celebrating their proud history as a military unit. I wish them the best of luck for the next 250 years.

SENATE—*Friday, March 15, 1991*

(Legislative day of Wednesday, February 6, 1991)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable RICHARD H. BRYAN, a Senator from the State of Nevada.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 15, 1991.

To the Senate:

Under the provisions of Rule I, Section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RICHARD H. BRYAN, a Senator from the State of Nevada, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. BRYAN thereupon assumed the chair as Acting President pro tempore.

RECESS UNTIL TUESDAY AT 9:30 A.M.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate stands in recess until 9:30 a.m., Tuesday, March 19, 1991.

Thereupon, at 10 o'clock and 48 seconds, the Senate recessed, under the order of Thursday, March 14, 1991, until Tuesday, March 19, 1991, at 9:30 a.m.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

HOUSE OF REPRESENTATIVES—*Monday, March 18, 1991*

The House met at 12 noon.

The Reverend Bernard Coughlin, S.J., president, Gonzaga University, Spokane, WA, offered the following prayer:

Almighty and eternal God, You bless us in many ways.

One of our great blessings is that this Nation lives under the rule of law.

And it is in this Chamber, more than in any other of the many across the land, that laws are made that most influence the lives and fortunes of the American people.

As we begin this day, we pray for those who serve here. Dispel all darkness from their minds that they may serve wisely. Move their wills, that they may decide justly. Expand their hearts as they work together in harmony. And give them the wisdom to know that all authority derives from Your divine authority, and that in some way they are instruments of Your work on Earth.

This, Father, we pray, in Your holy name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE.

The SPEAKER. The Chair will ask the gentleman from Wyoming [Mr. THOMAS] if he would kindly come forward and lead the membership in the Pledge of Allegiance.

Mr. THOMAS of Wyoming led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate disagrees to the amendment of the House to the bill (S. 419) entitled "An act to amend the Federal Home Loan Bank Act to enable the Resolution Trust Corporation to meet its obligations to depositors and others by the least expensive means" and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. RIEGLE, Mr. SARBANES, and Mr. GARN to be the conferees on the part of the Senate.

The message also announced that, pursuant to Public Law 94-304, as amended by Public Law 99-7, the Chair, on behalf of the Vice President, appoints Mr. DECONCINI, chairman; Mr. LAUTENBERG; Mr. FOWLER; Mr. WIRTH; and Mr. REID; to the Commission on Security and Cooperation in Europe.

The message also announced that, pursuant to Public Law 99-83, the Chair, on behalf of the President pro tempore, appoints Rabbi Morris Shmidman, of New York, to the Commission for the Preservation of America's Heritage Abroad.

IT IS TIME TO STOP FORCED UNION DUES

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, as a recent observer of the election process in El Salvador, I have a question.

The Beck decision by the Supreme Court ruled that unions are entitled to collect dues from their membership for collective bargaining and other activities related to the union representing its members with their employer. The Court also said that unions could not force members to pay dues to support political causes and matters unrelated to normal union duties.

If this decision applies in this country, then surely it must also apply in other areas of the world. Do you think rank and file members of the AFL-CIO know that their dues were being given in large amounts to support the election of the leftist coalition called the Democratic Convergence in El Salvador? My guess is that given this information, rank and file members would demand lowering of dues rather than supporting Communists in El Salvador.

American men and women who are forced to pay union dues as a condition of employment are further degraded by being forced to support organized labor's political agenda in a foreign country. It may not necessarily be a policy most Americans would agree with.

The time to stop forced union dues is now.

THE LOS ANGELES POLICE DEPARTMENT AND THE RODNEY KING INCIDENT

(Mr. BROWN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN. Mr. Speaker, it is difficult to express the outrage one feels when watching the March 3 video of uniformed Los Angeles police officers repeatedly kicking and beating an unarmed man lying on the sidewalk. The fact that these officers were all white, that the victim was black, and that another group of white officers stood by and watched it happen, is a sorry welcome home for the soldiers—both black and white—who have for the past 8 months put their lives on the line in the Persian Gulf in order to defend American values and the American way of life.

We cannot go into the hearts of these men and know whether or not this attack was racially motivated. However, given our Nation's long and troubled history of race relations, and given the Los Angeles Police Department's troubling record on police misconduct, we cannot ignore the symbolism of this attack. We cannot help but feel that if Rodney King were white, or if several of those police officers were black, this young man might not have had his skull smashed, his leg broken, his eye socket crushed, and his flesh burned from a stun gun.

When I watch that video, I am outraged not only for Rodney King and his family, but also for the rest of my country. These are not our values. This is not our idea of law and order.

The Los Angeles Police Department has a long road ahead of it before public confidence can be restored in its ability to obey the laws it is supposed to uphold and to protect all of its citizens. I urge the elected officials and the leaders of Los Angeles to waste no time in punishing those responsible for this terrible crime, and in making the necessary changes within the police department so that this never happens again. Perhaps the city's first move should be to begin recruiting more black police officers.

I am heartened by the response of the Attorney General, Richard Thornburgh, who swiftly called for a broad, Federal civil rights investigation of police brutality complaints across the Nation. This is not an indictment of all police officers; however, it is a sensitive and appropriate response to the evidence we have all seen

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

from the Rodney King video. That video, taken by chance, raises a horrible question: How many other Rodney Kings are there who have not had their cases brought to light?

In the America we all love and respect, questions like this do not go unanswered, and problems, even of this magnitude, do not remain unresolved. I have confidence that from this terrible incident we can begin a process of healing. Neither Rodney King nor the rest of our country will be the same now. However, perhaps America will use this as a chance to look inward and heal herself, so that this never happens again.

INTERNATIONAL COMMUNITY MUST DEMONSTRATE OUTRAGE AT SOVIET REFERENDUM

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, yesterday afternoon in the wake of the so-called referendum which was taking place in the Soviet Union, Mikhail Gorbachev said, "The people will be with us. I know that they are not suicidal."

What a sad commentary on what Gorbachev is trying to call a referendum, a free vote of the people. Mr. Speaker, in fact, nothing could be further from the truth.

What we saw in the Soviet Union was a sham. Just a few moments ago my friend, the gentleman from North Carolina [Mr. BALLENGER], was talking about the fact that he was an observer of the elections recently in El Salvador. I have had the privilege of observing elections that have taken place throughout Latin America and Eastern Europe.

With the reports in the international media about yesterday's development, it is clear that we have seen old-style Chicago politics used as a model for the Soviet election, and it is obviously Mikhail Gorbachev's attempt to grasp at his last-ditch effort to hold on to power.

We have got to recognize that 6 of the 15 republics refused to have any part in this election whatsoever. We have got to recognize that many of them have held plebiscites, free and fair elections of their own, and these peoples were never asked whether or not they wanted to be part of this union before this election took place yesterday.

Mr. Speaker, it is very apparent that the international community must demonstrate its outrage, and we must stand behind these peoples who are desperately seeking the same kind of freedom and opportunity which we and the rest of the growing free world enjoy.

LOS ANGELES POLICE ACTION INTOLERABLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DREIER] is recognized for 5 minutes.

Mr. DREIER of California. Mr. Speaker, at a time when the international community has demonstrated its outrage over the reprehensible human rights violations which have been perpetrated by Saddam Hussein for the past several months and years, it is a very sad commentary for us to have witnessed on March 3 the horrible beating of Rodney King in Los Angeles.

Mr. Speaker, I am privileged to be a Representative in this body from Los Angeles County, and I am embarrassed and outraged by this action as everyone has stated.

We like to hold up the United States of America as a model for human rights, and as we looked at this videotape over and over and over again, it was a very sad commentary on where we stand today. Many people have called for disparate actions to be taken, but I believe that there are some very clear things that need to be done.

I recognize that in Los Angeles we have over 8,000 police who put their lives on the line, and there are law enforcement officials throughout the country who, under a great deal of pressure and tension, do that, but this kind of action is intolerable.

□ 1210

Lou Cannon reported in a recent column that in fact the highest ranking officer involved in this, has been responsible for a similar beating in 1987, and was suspended. However, when he made the promise that he would not involve himself in this kind of action, he was able to return to the force.

It is clear that racism, it is clear that all kinds of prejudice continue to exist today. That is why it is absolutely essential that we, as a Congress, and we as a country, do everything we can to ensure that it is stopped. One of the things that I believe is absolutely essential, Mr. Speaker, is the passage of the President's criminal code reform bill, which has been discussed as part of his domestic reform package. Clearly, the American people and the criminal justice system need a death penalty as a deterrent. We need to put into place the exclusionary rule. We need to ensure that officers do not have their hands tied, which allows a criminal to get off because of a minor technicality.

I would also like to underscore, and it was an interesting irony to me, Mr. Speaker, I had the chance to be one of nine cohosts for the Washington Leadership Conference for what is known as the Simon Wiesenthal Center in Los Angeles, located just a few miles from where the brutal beating of Rodney King took place, and they were here just 2 days after that meeting took place. We had the chance to have explained to Members the activities of the Simon Wiesenthal Center. Presently under construction at the behest of Rabbi Marvin Heier and Rabbi Cooper is the Museum of Tolerance, and they are dealing with the importance of tolerance and understanding, not just as it relates to the brutal Holocaust of 6 million Jews during the Second World War, but in fact, this century, the kinds of genocide which we have seen take place in Cambodia, the Armenian genocide, and other examples.

It is just a few miles away from where this brutal beating took place, Mr. Speaker. I think we need to recognize that right here in the United States, firm and decisive action needs to take place.

Now, there are many who have argued that we should, because of this strip of videotape, apply the Nicolae Ceausescu model of justice to Darryl Gates and anyone in the Los Angeles Police Department. I do not believe that we should have that instantaneous overnight response. We in this country argue for the perpetuation of the rule of law, and I think the rule of law needs to be applied in this exact situation, too, but it is very clear that any peace-loving individual concerned about the human rights of all would be outraged in what we have witnessed here.

I urge everyone in Los Angeles and throughout the country to move as expeditiously as possible to bring about a resolution to this extraordinarily serious crisis.

A TRIBUTE TO HUBERT MESSE

The SPEAKER pro tempore (Mr. HAYES of Louisiana). Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, I rise to pay tribute to my dear friend Hubert Messe, a distinguished newspaper publisher, business, and civil leader from the city of Chicago, who passed away at age 77 on February 25.

As I look back on Hubert's long career as a businessman, publisher, and public official, it seems there was never a job too big for him to handle.

Hubert never let his own success blind him to the needs of his community. He embraced the idea that all citizens should contribute what they can to improve the lives of those living around them.

Hubert brought a similar philosophy to politics. He shared the values of working families throughout Chicago and across the United States who believe that government has an obligation to help those in need.

This philosophy played a prominent role in Hubert's career in business and government. At age 15, he began working in the newspaper business as an advertising manager for the South Shore News and Views. In 1949, Hubert began publishing a group of neighborhood newspapers on the northwest side of Chicago. In addition to providing jobs for his employees, Hubert's Leader group of newspapers provided a positive forum for debate on local issues.

In addition to his work as a publisher, Hubert helped to foster economic growth in our community by overseeing several banks during his career. His work for local financial institutions included 16 years as a director of Colonial Bank. Hubert also provided leadership to nonprofit groups such as the Belmont-Central Chamber of Commerce, where he once served as president.

As if that weren't enough, Hubert also lent his skills to a number of local government agencies. From 1963 to 1969, he served on the Chicago Zoning Board. He worked as an administrator and community relations specialist for Chicago's Regional Transit Authority from 1975 until his retirement in 1984.

Without question, Hubert's recent passing has left an empty place in the hearts of literally hundreds of people who worked with him to enhance the life of our community. It is my hope that Hubert's lifetime of public service will serve as an example to our young people as they work to improve the city of Chicago and our great Nation.

Mrs. Annunzio and I extend our sincerest condolences to Hubert's wife, Dena, and to their entire family.

FANNIE MAE'S CHAIRMAN JOHNSON LAUNCHES $10 BILLION HOUSING INITIATIVE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, I rise today to applaud the announcement of a new plan by Fannie Mae Chairman Jim Johnson, to further open wide the doors of housing for Americans of modest means.

Fannie Mae's goal, unveiled today by Mr. Johnson, would produce $10 billion in low- and moderate-income and special needs housing over the next 4 years.

With a growing need for affordable housing in both urban and rural America for working families, young families, the elderly, the homeless, and low-income renters, the Fannie Mae affordable housing plan encompasses a sweeping set of initiatives to address this challenge:

Creation of a new mortgage product called the "3/2 option" which will allow borrowers to qualify for 5-percent downpayment loans by using 3 percent of their own funds coupled with a gift from a family member; or a grant or loan from a nonprofit organization, or State and local government;

Development of new employer assisted housing products which employers can use to help their employees finance housing, products to deal with the problems of accumulating downpayments and other funds for closing and meeting monthly housing expenses;

Expansion of the company's public finance programs with State and local housing finance agencies by purchasing $1.5 billion in new mortgage revenue bonds by the end of 1992, and to provide $700 million in specialized securities to support reduced-rate mortgages;

Enlargement of tax-credit equity investments by $150 million over the next 2 years to finance a total of more than $400 million of housing for low-income renters;

Working on the preservation of more than 350,000 units of older federally aided rental housing that could be lost to low-income families by providing financing to keep this housing affordable and to increase the capacity of nonprofit groups to own this housing;

Development of new mortgage products for elderly Americans, such as conventional reverse annuity mortgages, rehabilitation products for older homes, and financing arrangements for assisted living, to supplement Fannie Mae's expanded home equity conversion mortgage demonstration with HUD;

Creating special mortgage products and securities to expand the secondary market for rural home finance through new partnerships with community banks, housing finance agencies, and rural communities and extending tax credit investments to them; and

Providing assistance to lenders in meeting the requirements of the Community Reinvestment Act [CRA] in the form of products and information.

I commend Fannie Mae for its continuing efforts to be America's housing partner, and I include in the RECORD a copy of Mr. Johnson's remarks this morning to the employees of Fannie Mae announcing this new program.

OPENING DOORS TO AFFORDABLE HOUSING

(Remarks by James A. Johnson)

We gather today to launch an ambitious program to open doors to affordable housing.

I am announcing a significant expansion of our effort to provide low-cost home mortgage funds for those who need help achieving their dream of a decent home.

Our goal is to produce $10 billion in commitments for low- and moderate-income and other special housing needs by July of 1993, and to turn all of those commitments into deliveries by the end of 1994.

Young families and the elderly, the homeless and those who cannot afford to rent, many people in rural areas and cities, and those who cannot afford to live near their work—all of these people will be the focus of our attention and action.

I know we can succeed in this effort because it depends so much upon you, and you have responded so well to challenge after challenge in the past decade.

First, let me say thank you to each and every Fannie Mae employee for what you have achieved.

In 1980, Fannie Mae had no MBS business. This January, we passed the $300 billion milestone in MBS outstanding. It was a big challenge, and you met it. In the process, you proved teamwork pays.

In the last three years, our customer survey showed a tremendous leap in customer satisfaction. Today, 78 percent of our customers say they are "fully satisfied" with their Fannie Mae relationship. You met—and continue to meet—the challenge of customer service, proving again that teamwork pays.

Insulating our company from interest rate risk through better matching of our assets and liabilities was a critical challenge. It involved finance technology, sales and marketing, and a corporate commitment to excellence. Working as a team, you met that challenge, too.

And together we met another challenge in a way that shows the kind of company we are. In 1988, we started the Futures 500 Club at Woodson High School. This program has put $500 a semester toward college in a special account for 211 students getting all A's and B's. When the program began, there were 33 Fannie Mae volunteer mentors. Today there are over 100.

Fannie Mae has a record of thriving on challenges. In 1990, we served over 1.3 million families, more than a third in homes affordable to families with incomes below the median in the area where they lived. The average single-family loan financed by Fannie Mae in 1990 had a balance of $89,700, in a year in which the national median price for an existing home was $95,500 and for a new home, $122,500. On all the single-family loans we own or guarantee, the average balance is less than $60,000.

We earned over $1.1 billion in 1990 and paid the federal government over $500 million in income taxes. We reduced risk. Charge-offs for losses were less than $235 million on over $400 billion of mortgages financed. Foreclosures fell to just over 9,000 properties out of 6.5 million loans on one-to-four-family properties on the books.

In 1987, the company gave fresh emphasis to our public responsibility when it created a separate Office of Low- and Moderate-Income Housing. David Maxwell believed that step re-engraved Fannie Mae's mission on our consciousness. Today, our years of experience put us in a good position to spot new ideas and convert them into practical products quickly. Let me give you some examples.

We have worked with scores of lenders and community groups in states and cities throughout the country to make homeownership affordable to lower income families and to tailor programs to local needs. In Washington, we are working with the city government, the Local Initiatives Support Corporation, and nine community groups and three lenders in the innovative Home-Sight program. Likewise, in New York City, the New York City Housing Partnership has shown us the way.

We lead the nation in low-income rental housing investments using the federal low-income housing tax credit. We have invested in 80 projects in 20 states. In partnership with Rural Housing Services, we have reached corners of the country too long overlooked. With the Enterprise Foundation we have established an equity fund to serve the homeless and others with needs that go beyond shelter.

No one surpasses our work with state and local housing agencies to help them raise funds at lower cost and leverage their scarce resources. We have purchased more than $2.6 billion in mortgage revenue bonds in unique transactions that help them stretch their dollars. Just last week, we announced the $250 million Housing Opportunity Program in partnership with the New Jersey Housing and Mortgage Finance Agency. Any doubt about the enthusiasm for that program was erased the first day when the agency received more than 160 telephone calls an hour from interested consumers.

We have done well for those in need of affordable housing, but the need is still great.

Too many young families can't afford a down payment for their first home. Even with a 10 percent down payment, four out of five families who rent do not have the ability to buy a typical starter home.

Minority families of all income levels appear to have less access to housing finance than white families.

There is a growing shortage of affordable rental units for poor families. From 1974 to 1988, units renting for less than $300 a month shrank by 24 percent while the number of families living in poverty who rent rose by 56 percent.

As many as 2 million Americans experienced homelessness in 1990, when the daily average of homeless people was 700,000, including 100,000 children.

One in seven elderly Americans live in poverty, many in unfit housing. Many others are "house rich and cash poor."

In rural America, working families are twice as likely to live in poverty as those in our cities. In 1985, there were 500,000 more low-income rural families than there were units of affordable housing.

The lack of affordable housing in urban America makes it difficult for working people to live near their place of work, including many who are needed to serve our urban communities, such as police officers, firefighters, teachers, and nurses.

We will succeed in the commitment we are making today because we will build on our strengths and know-how. We know how to raise large amounts of relatively low-cost money to finance mortgages. We have active relationships with more than 1,400 customers. We have over 12-million-mortgages-worth of experience in underwriting. And most important of all, we have dedicated professionals throughout the country who work with lenders, community groups, and state and local governments every single day.

We have set a $10 billion goal because we are ready to move from the development stage of our lower income programs into full production for Americans who need affordable housing. Our objective will stretch us and test us. We know we need to do better matching deliveries to commitments. But I am confident we can do it. We can improve our products, orient our sales force, and serve our customers in ways that will speed deliveries.

Everyone at Fannie Mae will be involved in the effort to reach our objective. All sales people and account executives will have specific targets as part of their annual business plans to help achieve $10 billion in deliveries by the end of 1994.

As we proceed, we will be guided by four business principles:

We are a financial partner, not a solo provider of housing. We work with others—lenders; developers; community groups; and federal, state, and local governments. Without dedicated partners with a stake in the enterprise, we cannot succeed. We will go out of our way to find partners and develop new partnerships.

We are a wholesale provider of housing finance. We make our greatest contribution when we use our nationwide scope to deliver funds efficiently. Our best efforts are the ones that can be widely replicated across the country, but we will always be sensitive to unique local needs.

We are a private, profit-making company. We help finance housing—at greater or lesser returns—through investments that must be financially sound.

We care about credit and believe in prudent underwriting. Borrowers must have a real stake in the housing they are buying. No one benefits when people buy houses they cannot afford. Nevertheless, we encourage lenders to consider nontraditional measures of credit worthiness.

Abraham Lincoln once said: "I like to see a man proud of the place in which he lives. I like to see a man live so that his place will be proud of him." Those sentiments from the frontier are no less valid today than they were in Lincoln's time. Experience tells us that people willing to make a financial sacrifice to own a home are, almost always, sound business risks.

Using these principles, we will forge ahead. Economic forces may impede the effort or may accelerate it. But there should be no doubt in anyone's mind that Fannie Mae is fully committed to achieving results.

Let me extend an invitation to lenders and other partners to bring us their good ideas for products and approaches consistent with the principles I have outlined. Although Fannie Mae cannot embrace every suggestion, we always are ready to consider thoughtful proposals. Together, lenders and Fannie Mae can renew and deepen the commitment to affordable housing.

We will continue to work with the Congress, which approved the Cranston-Gonzalez National Affordable Housing Act last session—the first major housing act in a decade—to further expand housing opportunities. We will work with Secretary of Housing and Urban Development Jack Kemp to implement the Act and accomplish his goal of empowering the poor to achieve homeownership.

Much of our effort will be directed to helping families unable to accumulate funds for a down payment and closing costs. An initiative I am announcing today—the "3/2 Option"—will help those families cross the threshold to homeownership by reducing the dollars they have to bring to the closing table.

The "3/2 Option" allows borrowers to qualify for 5 percent down payment loans by using 3-percent of their own funds coupled with a gift from a family member; or a grant or loan from a nonprofit organization, or state or local government. While mindful of prudent underwriting, the "3/2 Option" truly makes it possible for a new group of home shoppers to become home buyers.

We will expand and improve the effectiveness of our public programs, working with state and local housing finance agencies to reduce the cost of mortgages that are financed with mortgage revenue bonds (MRBs). Fannie Mae will continue to pioneer innovations in this type of funding. Our goal is to purchase $1.5 billion in new MRBs by the end of 1992 and to provide $700 million in specialized securities to support reduced-rate mortgages.

Fannie Mae will enlarge its tax-credit equity investments by $150 million over the next two years to finance a total of more than $400 million of housing for low-income renters. This $150 million is not a ceiling, but an objective we hope to exceed. Our investments will be designed to tackle some of the toughest problems in housing today—permanent housing for the formerly homeless; affordable housing for single men and women working for minimum wages; housing for large families.

Through this decade and beyond, American employers will face a shortage of skilled workers. In many locations, workers face a shortage of affordable housing. Shortly, we will introduce a set of products employers can use to help their employees finance housing—products to deal with the problems of accumulating down payments and other funds for closing and meeting monthly housing expenses. It is a Fannie Mae formula we believe can make a difference.

We also must work on the preservation of affordable housing. By 1995, more than 350,000 units of older federally aided rental housing could be lost to low-income families. Fannie Mae will provide financing to keep this housing affordable and will increase the capacity of nonprofit groups to own this housing.

Fannie Mae is determined to help the elderly deal with their special housing problems—an excess of equity and a shortage of money for living expenses; older homes that are difficult to keep up; a need and desire for readily available assistance while maintaining maximum independence. We are working to develop new products, such as conventional reverse annuity mortgages, rehabilitation products for older homes, and financing arrangements for assisted living, to supplement our expanded Home Equity Conversion Mortgage demonstration with HUD.

This month Fannie Mae is cosponsoring with the American Association of Retired Persons the first of five conferences around the nation to obtain grassroots feedback on the housing needs of senior citizens. We will use the information we gather at these conferences to expand and better target our products for the elderly.

Production of rural housing falls short of need by about 75,000 units a year, and financing is less readily available than in urban areas. We are developing special mortgage products and securities to expand the secondary market for rural home finance. We will seek new partnerships with community banks, housing finance agencies, and rural communities. Our tax-credit investments will be extended to them, as well as other financing tools to help reverse the decline of affordable housing in rural America.

None of these initiatives will work without active participation by lenders and other partners. Lenders need assistance in meeting the requirements of the Community Reinvestment Act (CRA) in the form of products and information. We are providing both.

Fannie Mae has hired new employees both in Washington and across the country to help lenders meet the requirements of the Act. We are using census data and Home Mortgage Disclosure Act (HMDA) data to analyze opportunities for delivering more mortgage credit to areas currently underserved. We are committed to eliminating discrimination in the mortgage finance system wherever it may exist and will work with everyone concerned to that end.

We are producing the information lenders need and seeing to it that it is readily available. We have published a detailed guide to meeting the requirements of the Community Reinvestment Act called "Investing In Your Community." We will be giving training seminars to lenders on the Act in more than a dozen cities this year.

We will be meeting with all state and major local housing agencies over the next 50 days to learn more about how we can better serve them. New consumer information bulletins about our low-income products—in both English and Spanish—will be supplemented later this year by a workbook for potential new homeowners on the opportunities and responsibilities of buying a home.

I have described to you a sweeping set of initiatives for the poor and lower income families, the elderly, young home buyers, minorities, rural Americans, and city dwellers. The initiatives involve lenders, other partners, and you. Our tools will be the 3/2 Option, tax credits, mortgage revenue bonds, employer-assisted financing, funding for preservation, and a number of new products still in the developmental stage. We will preserve, create, and inform.

And there will be more to come.

Just as this expansion builds on our history of involvement, the programs I have described will become the preface for future programs and initiatives still on the drawing board or only now coming into focus.

Is Fannie Mae doing enough for affordable housing? The answer is no. Do we plan to do more? Absolutely. Until the housing problems of those in need are solved, we will not have an answer to what is enough, either in dollars and cents or in people and ideas. With these new programs in place, we will gauge our performance, the performance of our lenders and partners, and the impact on those in need. And then we will know how best to do more.

I raise questions about doing enough and doing more because I know there will be skeptics on both sides—those who say we cannot do what we are announcing, and those who say what we are announcing is not enough. I invite those skeptics to lay aside their doubts and join us. We see both the problems and the opportunities. We welcome help on both scores.

The challenge we face—each of us—is large and it is serious, but the goals are not beyond our reach. I know we will meet this challenge, as we have met so many in the past, with intelligence, commitment, a sense of fairness, and hard work.

We are going to push and set higher goals, then push some more and establish a permanent, new dimension of involvement. Beyond the dollars, which are essential; beyond the volume, which remains very important; beyond the returns, which will always be central to this company, there will be another index of performance. We will measure it each year by how much progress we make in serving unmet housing needs. And it will become a permanent measure of our success as people who work for Fannie Mae.

You can be sure the work will not be easy. You can be equally sure it is both necessary and the right thing to do.

There can be no bystanders. This is a new age of engagement in addressing housing needs in the United States. Today we make the promise. Today we step up the pace. Tomorrow, we step it up again.

I was asked this week how many Fannie Mae employees will be assigned to this new effort. My answer was 2,512, all of us. So let me finish where I began, by thanking you for all you have done, and asking your help in all there is to do.

FACT SHEET—OPENING DOORS TO AFFORDABLE HOUSING

On March 14, 1991, James A. Johnson, chairman and chief executive officer of Fannie Mae, will announce a major new plan for Fannie Mae to open wide the door to housing for Americans not yet served.

Fannie Mae's goal is to produce $10 billion in low- and moderate-income and special needs housing commitments by July of 1993 and to turn all of those commitments into deliveries by the end of 1994. This new plan will be in addition to the special programs the company began in 1987 that were designed to meet the unique housing needs of modest-income Americans.

To date Fannie Mae's Office of Low- and Moderate-Income Housing and Housing Initiatives has committed more than $5 billion through specialized financing programs in communities across the nation.

Going forward, we will work even harder to assure that our products are available—and aggressively marketed—in lower income and minority neighborhoods. Fannie Mae will increase business with lenders that serve those areas and will bring on new lenders, including minority-owned institutions.

We also have integrated our special low-income product line into our general product line. The following summarizes the areas of unmet housing needs that Fannie Mae will continue to address, and why.

LOW- AND MODERATE-INCOME HOME BUYERS

For households of modest means, the three greatest barriers to homeownership are:

Accumulating the down payment and closing costs;

Establishing a credit history; and

Managing housing expenses that often exceed standards permitted in traditional mortgage lending.

In 1987, Fannie Mae launched its Community Lending initiative. Today, this initiative has expanded to six models that were designed to overcome the barriers to homeownership. The programs are done in partnership with lenders, mortgage insurers, public agencies, and non-profit organizations across the country.

A significant new feature of the program now makes it easier for borrowers to accumulate the minimum down payment by combining their own resources with gifts or loans from others. Under the new "3/2 Option," home buyers may now meet the minimum 5 percent down payment requirement with 3 percent coming from their personal resources and up to 2 percent from a gift from a family member or a grant or unsecured loan from a nonprofit organization or public entity.

Other flexible standards in the program recognize that many borrowers have a long history of managing high rental payments. Therefore, these new standards allow as much as 33 percent of monthly gross income to be used for mortgage payments. The traditional standard limits mortgage expenses to 28 percent of income.

In terms of credit history, home buyers in this program may demonstrate their credit history through nontraditional means, including verification from utility companies and landlords.

EMPLOYER-ASSISTED HOUSING

The high cost of housing in urban areas has made it difficult, if not impossible, for many wage earners to find affordable housing close to where they work. Employers in these areas have found that the lack of affordable housing undermines their efforts to attract and retain qualified employees. As labor force conditions tighten as a result of a maturing work force and demographic changes, employers increasingly look to offering housing benefits as a tool for recruiting and retaining employees.

Fannie Mae is addressing this growing problem by creating a set of new products employers can use to help their workers afford housing, including accumulating funds for down payments, closing costs, and meeting monthly housing expenses.

LOWER INCOME RENTERS

There is a growing shortage of affordable rental units for poor families. From 1974 to 1988, units renting for less than $300 a month shrank by 24 percent, while the number of families living in poverty who rent increased 56 percent.

One of the few sources supporting the construction or rehabilitation of rental units today is a program Congress authorized in 1986 to allow tax credits for equity investments in qualified low-income rental housing projects.

Through this program, Fannie Mae has made commitments to invest more than $160 million in projects located in numerous communities throughout the country. Fannie Mae will enlarge its tax credit investments by $150 million over the next two years to finance a total of more than $400 million of additional housing for low-income renters. Our investments will be designed to tackle some of the toughest problems in housing today—permanent housing for the formerly homeless; affordable housing for single men and women working for minimum wages; and housing for large families.

PUBLIC FINANCE INITIATIVES

Fannie Mae works with state and local housing finance agencies (HFAs) to reduce the cost of mortgages that are financed with mortgage revenue bonds and to help HFAs increase the supply of low- and moderate-income housing in their jurisdictions.

Since 1987, Fannie Mae has purchased more than $2.6 billion of single-family mortgage revenue bonds from housing finance agencies. By selling bonds directly to Fannie Mae, HFAs can reduce their borrowing costs and, consequently, can make mortgages available to home buyers at lower costs than would otherwise be possible.

Fannie Mae also provides credit enhancement for single-family tax-exempt mortgage revenue bonds in conjunction with our community lending programs. Using our Mortgage-Backed Securities (MBS) as collateral, Fannie Mae's credit enhancement makes mortgage revenue bonds eligible for a "triple-A" rating, which reduces the cost to the agency and, therefore, the home buyer.

As part of this initiative, Fannie Mae will increase its products and services to housing finance agencies. Fannie Mae representatives will meet with all state and major local agencies within the next 50 days to see how we can better serve them. Our goal is to purchase $1.5 billion in new MRBs and provide $700 million in specialized securities to support reduced-rate mortgages by the end of 1992.

PRESERVATION OF EXISTING HOUSING

Over the next five years, the nation's existing stock of affordable housing units is vulnerable to being reduced further. As many as 3,700 federally assisted projects, with more than 350,000 units of housing, are at risk of converting to market rental rates. Fannie Mae will seek to play a major role in helping to preserve this housing. We will expand our support of nonprofit groups to help them assume ownership of threatened projects. We also will develop specialized financing tools to help keep the units affordable.

RURAL HOUSING

In rural America, working families are twice as likely to live in poverty as those in our cities. In 1985, there were 500,000 more low-income rural families than there were units of affordable housing.

Fannie Mae is developing special mortgage products and securities to expand the secondary market for rural home finance. We will seek new partnerships with community banks, housing finance agencies, and rural communities.

ELDERLY

By the year 2030, the "baby boom" will have reached age 65 and will represent 22 percent of the population. Even though home price appreciation has increased older homeowners' net wealth, many are living on fixed retirement incomes and are "house rich but cash poor." Also, many are not physically or financially capable of repairing or maintaining their properties. However, most desire to "age in place."

Building on our experience with our Seniors' Housing Opportunities demonstration and our work with HUD on the Home Equity Conversion Mortgages, we will continue to develop options designed to meet the special needs of older Americans. These ideas and others are being explored in cooperation with the American Association of Retired People (AARP) through a series of conferences. We will use the information we gather at these conferences to expand and better target our products for the elderly.

FANNIE MAE'S JOHNSON LAUNCHES $10 BILLION HOUSING INITIATIVE

(Statement by Representative Henry B. Gonzalez)

Mr. Speaker, I rise today to applaud the announcement of an impressive new plan by the Chairman and CEO of Fannie Mae, Jim Johnson, to further open wide the doors of housing for Americans of modest means.

Fannie Mae's goal unveiled today by Mr. Johnson to produce $10 billion in low- and moderate-income and special needs housing over the next four years is a significant expansion of the company's special community finance programs begun in 1987.

With a growing need for affordable housing in both urban and rural America for working families, young families, the elderly, the homeless, and low-income renters, the Fannie Mae affordable housing plan encompasses a sweeping set of initiatives to address this challenge:

Creation of a new mortgage product called the "3/2 Option" which will allow borrowers to qualify for 5 percent down payment loans by using 3 percent of their own funds coupled with a gift from a family member; or a grant or loan from a nonprofit organization, or state or local government;

Development of new employer assisted housing products which employers can use to help their employees finance housing—products to deal with the problems of accumulating down payments and other funds for closing and meeting monthly housing expenses;

Expansion of the company's public finance programs with state and local housing finance agencies by purchasing $1.5 billion in new mortgage revenue bonds by the end of 1992, and to provide $700 million in specialized securities to support reduced-rate mortgages;

Enlargement of tax-credit equity investments by $150 million over the next two years to finance a total of more than $400 million of housing for low-income renters;

Working on the preservation of more than 350,000 units of older federally aided rental housing that could be lost to low-income families by providing financing to keep this housing affordable and to increase the capacity of nonprofit groups to own this housing;

Development of new mortgage products for elderly Americans, such as conventional reverse annuity mortgages, rehabilitation products for older homes, and financing arrangements for assisted living, to supplement Fannie Mae's expanded Home Equity Conversion Mortgage demonstration with HUD;

Creating special mortgage products and securities to expand the secondary market for rural home finance through new partnerships with community banks, housing finance agencies, and rural communities and extending tax credit investments to them; and

Providing assistance to lenders in meeting the requirements of the Community Reinvestment Act (CRA) in the form of products and information.

I commend Fannie Mae for its continuing efforts to be America's Housing Partner, and I ask that I be permitted to put into the record a copy of Mr. Johnson's remarks this morning to the employees of Fannie Mae announcing this new program.

ON POLICE BRUTALITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DIXON] is recognized for 60 minutes.

Mr. DIXON. Mr. Speaker, in the early morning hours of March 3, a vicious and brutal beating was administered to Rodney G. King by three members of the Los Angeles Police Department [LAPD]. Since then, Americans throughout this Nation have viewed the unprovoked and horrifying attack on a helpless, unarmed black motorist.

Were it not for video technology and the timely action of a nearby resident, today Rodney King would no doubt be another statistic—in jail. But the videotape that has been broadcasted and rebroadcasted in living rooms throughout the United States, revealed a disturbing scene. The King story underscores the old cliche, "A picture is worth a thousand words."

The King case is only the latest visible example that proves that some law enforcement officers have no respect for the law and order that they have been sworn to uphold.

Fifteen police officers failed to follow proper procedures in stopping Mr. King, and 12 police officers looked on as King was savagely clubbed and shot with a stun gun. All 15 officers failed to file an accurate report on the incident. The videotape reveals solid, undeniable evidence that the Los Angeles police officers engaged in street justice and brutality.

Los Angeles City and County officials have taken immediate action to not only deal with the officers involved in the King incident, but are seeking to find a long-term solution to the pattern of systemic police brutality in the Los Angeles Police Department. It is clear. The Los Angeles law enforcement system must be cleaned up from the top to the bottom.

Just as tragic as the beating administered by the police is the fact that not 1 of the 12 officers witnessing this assault stepped forward to stop the attack nor even reported this misconduct to a supervisor. Could there be clearer evidence that this activity is either encouraged, condoned, or that officers are intimidated so they will not report these events?

The Los Angeles grand jury has issued an indictment against the supervising sergeant and three officers, and continues to meet on this matter.

I joined with my colleagues in the Congressional Black Caucus and the Congressional Hispanic Caucus in requesting a Federal probe by U.S. Attorney General Thornburgh. The U.S. Attorney has asked the Civil Rights Divison of his office to review all official complaints within the past 6 years to discern whether any pattern of misconduct is apparent.

The mayor and the Los Angeles City Council members are seeking to amend the city charter limiting the police chief's term of office, and mandating a review of the police chief's performance.

The police commission has held an extensive hearing calling upon community leaders and civil rights groups.

Local officials are moving expeditiously, but Los Angeles must establish a system to examine future complaints of police abuse by an independent body.

The Los Angeles police chief is wrong. The King incident is not an aberration. Only recently a former Los Angeles Laker and businessman Jamaal Wilkes was stopped and handcuffed because his automobile registration was about to expire. Joe Morgan, former Cincinnati Reds baseball player, was physically abused and wrongfully detained on suspicion of dealing in drugs. In a civil suit, the court awarded Mr. Morgan $540,000 in punitive damages. Last year an appalling and astounding sum of $8 million was awarded to victims of Los Angeles police brutality or abuse.

There is ample evidence that over the years the Los Angeles Police Department has been seriously delinquent in its ability to control the abusive behavior of certain officers. This inability has created fear of police in a large segment of this city population.

The citizens have a right to expect that their police department will not resort to lawlessness and violence in carrying out the performance of their duties.

It is time to establish a citizens police review board, which would investigate cases of alleged police misconduct and wrongdoing. The board must be a representative body of citizens with clear authority to examine and recommend disciplinary action. Police brutality does not start or end with the chief of police. This street justice mentality lies in the ranks. It will not stop until there is an independent review on each and every complaint.

For that reason I am delighted that the Judiciary Subcommittee on Civil and Constitutional Rights will start a hearing this Wednesday in Washington on the subject of police conduct. I have joined with my colleagues Representatives DYMALLY and WATERS in requesting that Chairman EDWARDS hold a hearing in Los Angeles on this problem.

Police misconduct is not just a problem for African Americans or Hispanics. It is not just a problem for the many decent and capable police officers in our city. It is a problem for every resident of our city. The Los Angeles Police Department must demonstrate to all citizens of Los Angeles that it will not tolerate police brutality; the police department must demonstrate that it will make fundamental changes in the manner in which it conducts its mandate; the public's trust be restored in a police department vested with the authority to uphold the law. Decent, honorable citizens, and police officers demand no less.

Mr. BERMAN. Mr. Speaker, will the gentleman yield?

Mr. DIXON. I yield to the gentleman from California.

Mr. BERMAN. Mr. Speaker, I congratulate the gentleman on taking out this special order, and perhaps more importantly, on his efforts and the efforts of the Congressional Black Caucus and the Congressional Hispanic Congress to convince the Director of the Federal Bureau of Investigation and the Attorney General, on the need not simply for a Federal investigation of this specific incident, but the general question of whether or not there has been a pattern of police brutality of deprivation of individual constitutional rights, under color of law, in the Los Angeles Department over the past 6 years.

I am indeed happy that those officials have listened seriously to the plea raised by the caucuses, to the reaction of a horrified Nation on seeing the videotape, and are going to undertake those investigations.

It is a difficult thing to do. Many Members who represent the areas of Los Angeles work closely with our local police officers. We know what these people have to go through. We know that they risk their lives and their physical well-being in helping to enforce and making sure the law is in force, and in dealing with criminals, and particularly violent criminals, and that they are called to an extra requirement of bravery and courage by virtue of their work. However, at the same time, I think we have to look at what we have done and what the legislators in the past have done in recognizing their special status. We have consistently made it a more severe crime to attack a police officer, to treat a police officer in a certain way, than we have other citizens in this country, and for good reason, because of the risk they are, because we want to do everything possible to deter those kinds of crimes.

□ 1220

So when a person assaults a police officer, it is a more serious crime than if he assaults another civilian. If an individual kills a police officer, the penalties are much more severe for that even than for other kinds of murder.

There is a history and a rationale and a logic to this kind of treatment. But the flip side of the coin I think also appears here.

The thing that separates this country and democracy and our whole system of government from that of the lawlessness and the police states in other parts of the world is the notion that there are constraints, there have to be constraints, meaningful constraints, on those few officers who might abuse their authority, take advantage of their uniform, and engage in the kind of conduct that we saw portrayed on that videotape.

It defies common sense to think that this was an isolated incident, that this is the one time that happened when it just happened that those activities were captured on videotape. I think what happened, for me and for many Americans, is we heard charges in the past about this kind of improper treatment, about this kind of abuse of authority, and we treated it with skepticism because of our own desire to believe that it could not be true, that it would not be true in America or in Los Angeles.

I think, with what we saw here, we have to take a more skeptical point of view. We have to encourage these kinds of investigations that the FBI is now going to undertake. We have to, as the gentleman has so correctly pointed out, start looking for a system which allows the average citizen to feel confidence that he can pursue a complaint against misuse of authority by the police and know that he will get an objective and thorough investigation of that kind of charge, apparently a process that many citizens of Los Angeles do not feel they now have.

I do not want to belabor this any more than is necessary; the gentleman has played a very useful, I think, role in bringing this to the attention of many of us at the Federal level that this is not just the kind of an issue that should be left to the local city council and the district attorney in Los Angeles, but all of us in Federal office have the responsibility to speak out on what happened and to try and take from that horrible episode a broader message, a broader review and, hopefully, within the Los Angeles Police Department there will be a similar look again at these questions in an effort to deal with them.

I thank the gentleman for yielding.

Mr. DIXON. I would like to thank the gentleman for his remarks and for speaking out heretofore on this issue. As we both know, it took place in his district.

I would like to emphasize two things the gentleman pointed out. One is that there are many fine Los Angeles police officers. But to think that 15 officers could gather in one spot and watch what the grand jury believes to be a felony committed, and no one interfere, which is their sworn duty, and then no one report it, shows that there are quite a few officers within the department that need either retraining or need not be police officers for our fine city.

I yield to the gentleman from California once again.

Mr. BERMAN. I thank the gentleman for yielding further.

On the gentleman's point, and he said it earlier, for that to have happened, one of three things must have occurred: Either those 12 other officers supported this kind of brutality, in which case there is something terribly, terribly wrong with the screening and personnel selection process. Or, they condoned this kind of activity, in which case it says something about the training and the message that is taught inside the police department from the time people are hired, in terms of how they are supposed to carry out their very broad authorities. Or, they were intimidated about doing anything to protest this, which, again, goes to the point of the need for an independent kind of a system, a system which insures that an officer will not be retaliated against because he is speaking up for justice and for restraint on abuses of authority like we saw here.

Mr. DIXON. I thank the gentleman for his comments.

Mr. Speaker, I yield to the gentleman from California, [Mr. DREIER].

Mr. DREIER of California. I thank my very good friend for yielding.

I appreciate his taking out this time. What an interesting commentary that we have witnessed tremendous advances in technology, that an individual was able to stand on the balcony at his apartment and utilize this great new technology of the videotape which we have and use here virtually every day in our lives on different activities, something that 15 or 20 years ago would have thought this kind of thing could not happen. Yet, I am sure the action against Rodney King, that similar action was taking place years ago and it does not seem that we have made the kinds of advances in human behavior and responsibility that we have in technology.

I think that that is a commentary on where we need to go.

Many have argued that, as we looked at the struggle in the Persian Gulf, that we have not, obviously, brought an end to war. But I do believe with these advances we have seen, we do have a chance to utilize the technological advances to improve the quality of life of people who are victimized in such a way. One cannot help but think of the very famous line, "There but for the grace of God go I," or the famous World War II line that, "They came after the lawyers, they came after the blacks, they came after the Jews, and I didn't speak. And then they came after me, and there was no one to speak." That is why I feel compelled to do everything that I can to stand up for Rodney King, Mr. Morgan, Mr. Wilkes, and others who were victiminzed by this kind of behavior.

We all acknowledge there is a great level of frustration among those who are in law enforcement, but it does not in any way excuse this kind of behavior. What we need to do is to recognize maybe they should be compensated in a better way. Obviously, as my two friends from California have pointed out, we have to insure that people are better trained and better equipped. We cannot have people standing by, ignoring this kind of behavior, even if it is a superior. There has to be a degree of accountability. That is what I am calling for here today.

I know my friends are seeking the same kind of thing. Responsibility for actions cannot be ignored.

What direct action can we take? I believe, as I said just a few moments ago, it is absolutely essential that we move ahead with reform of the Criminal Code. The package which President Bush has sent forward is one which I think we need to pursue. The exclusionary rule, the death penalty, a wide range of other things, need to be addressed.

□ 1230

Mr. Speaker, this will not be a panacea to these problems, but I clearly do believe that it will take a strong and very dynamic step toward turning the corner.

Mr. Speaker, I thank my friend, the gentleman from California [Mr. DIXON] for yielding.

Mr. DIXON. Mr. Speaker, I thank the gentleman from California [Mr. DREIER] for his remarks, and I yield to the gentleman from California [Mr. DYMALLY].

Mr. DYMALLY. Mr. Speaker, I want to thank my colleage from Los Angeles, the gentleman from California [Mr. DIXON], who represents the 28th District, for bringing us together to focus attention on what has become a critical problem in the city and county of Los Angeles. I believe it is important for Members of Congress to understand the frustration that we experience in Los Angeles.

Mr. Speaker, the question of policy misconduct is not confined to the Rodney King issue exclusively. Neither is it confined to the city of Los Angeles. The Los Angeles County Sheriff has had an outstanding record of public service, but more recently they have indulged in violations of the laws of the State of California and the United States. They have also been involved in policy misconduct in their relationship with individuals.

More recently, Mr. Speaker, two young American Samoans in Compton, a city which I represent, were shot 20 times by a Compton police officer. Eight of those shots came from the back, and so one wonders why is it necessary to shoot someone from the back, if that person is moving away? I have asked the Department of Justice to conduct an investigation into that shooting, and because the FBI works on a case-by-case basis, I have also asked the FBI to look into the question of the conduct of the Los Angeles County sheriff.

So, basically we have put in three requests: One, to look into the question of the beating of Rodney King; two, the question of the two American Samoans; and three, the Los Angeles County sheriff's conduct in the county of Los Angeles.

This is an issue which has bothered us for a long time. I recall, as a young legislator in 1962, this became a major issue in Los Angeles when the police shot up the Moslem Mosque, and this conduct has continued from time to time. More recently I was encouraged by the show of confidence in the African-American community in the police. A very close and effective working relationship had developed in the south side of Los Angeles with the community and the police of Los Angeles.

In my city of Compton I have gotten to know the police officers on a personal basis. I have worked with them in the city council in trying to recoup some of the moneys seized in drug busts. So, I know them as very dedicated men with families who are concerned about law and justice.

So, Mr. Speaker, it is very unfortunate for me to have to experience this tragedy experienced by these two American Samoans and their families.

I do want to thank the distinguished gentleman from Los Angeles [Mr. DIXON] for bringing this issue to the attention of the Congress because we believe it has become a very serious problem, not just in Los Angeles or California, but around the country.

Mr. DIXON. Mr. Speaker, I would also like to thank the distinguished gentlemen from California [Mr. DYMALLY] for he makes the point that, not only is there a problem in the Los Angeles Police Department, but in general in Los Angeles County with the county sheriff's department and the Compton Police Department.

Mr. Speaker, I yield to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, I thank the gentleman from California [Mr. DIXON] for yielding once again to me.

Mr. Speaker, I could not help though but note the comments of my friend, the gentleman from California [Mr. DREIER], and I appreciate them very much, but it would be ironic indeed if the lesson of this horrible incident in California would be now applied to an argument that would support the kind of change in the exclusionary rule which would in effect be removing one of the last disincentives against police lawlessness; that is, unlawful searches and seizures, that somehow that the lesson we should take from this incident is worth at least some debate before we immediately accept what I view as a very, very thin nexus indeed.

Mr. Speaker, I thank the gentleman from California [Mr. DIXON] for yielding.

Mr. DIXON. Yes, Mr. Speaker, I agree with the gentleman from California [Mr. BERMAN], and I associate myself with his remarks.

Finally, Mr. Speaker, Members, the community has been, or a segment of our community has been, very active in the pursuit of asking Daryl Gates to resign.

Let me indicate that a poll taken by the Los Angeles Times less than 2 weeks ago discloses that, when asked if they approved of the way Gates was handling his job, that in April 1979, 55 percent of the people said that they approved of the way he was handling his job. In March 1988, 61 percent said they approved of the way he was handling his job. And in March 1991, just a few days ago, only 33 percent, a third, of the people of the city thought he was handling his job in a way which they approve. There was no ethnic group polled where a majority of the people thought he was handling his job properly. Anglos, only 36 percent; blacks, only 23 percent; and Hispanics, the Latinos, 32 percent.

Mr. Speaker, it is clear that there is no consensus among people in Los Angeles that Chief Gates is handling his job in a way which they approve of.

When asked the question do they approve of the way the Los Angeles Police Department is handling its job, in April 1979, 52 percent said they did. In March 1988, 74 percent said they did. And in March 1991, in the same poll just a few weeks ago, 46 percent said that they approve of the way the Los Angeles Police Department is handling their job.

Mr. Speaker, I asked Chief Gates, "With less than a third of the people in Los Angeles supporting you for chief, and with less than half of the people of Los Angeles thinking your department is doing a good job, isn't it time that you retire?"

Mr. DELLUMS. Mr. Speaker, I rise today to express my outrage at the brutal actions of some Los Angeles police officers that have left a California man with multiple fractures to his skull and a wounded sense of dignity.

When George Holiday used his video camera on March 3 to expose the beating of Rodney Glenn King by several Los Angeles police officers, he not only captured on tape a deplorable act of brutality, he also awakened a sleeping giant here in the United States. Holiday forced us to recognize the level that the mentality of violence has reached in our society.

There are many of us who have always spoken out against police violence, and there are others who always suspected that police often go too far in their eagerness to maintain law and order. In communities around the country, most people have heard a story about the time the police took some friend for a long ride, only to release him later with bruises, cuts, or other injuries. These stories of unjustified beatings and violence are too often explained away, put to the side and stored away with all the other unpleasant things in life we don't like to deal with.

Holiday's video camera will not allow us to escape from the truth. We cannot rationalize 15 whites officers standing over a stunned African-American man, as he was struck over and over with night sticks, kicked at least seven times and shot with an electric stun gun. The video camera has captured raw, pure, violence.

It is imperative that Rodney Glenn King's attackers receive due process for their role in this travesty. There is a danger, however, that this national outrage will subside when this case is settled. Americans will once again go back to their daily lives and violence at intolerable levels will be allowed to run rampant through our communities, until the next incident recaptures our national conscience.

The attack on Rodney King is just one more example of a problem that pervades every level of American life. If we watch TV police intimidate and rough up criminals, we cannot be surprised when real cops adopt that technique on the streets. If our children watch their parents fight, to settle family disputes, we shouldn't be surprised to find fist fights on playgrounds. And if our national leaders think dropping bombs is the most effective form of diplomacy then why should we be shocked when others use this strategy to solve problems.

The time has come to reevaluate our most common problem solving tool and to formulate new ways of approaching other human beings. If we continue to just react when our violent behavior bubbles to the surface with a nasty display, then there will be no end to our shock and outrage or to the violence. We must decide that violence is not the answer and that conflicts will be resolved with due respect for all members of our society.

Mr. FALEOMAVAEGA. Mr. Speaker, I join my colleagues in expressing, in the strongest possible terms, our indignation with police brutality, which is now becoming a national crisis.

The brutal beating of Rodney Glenn King 2 weeks ago by officers of the LAPD is not an isolated incident. There is a clear pattern of police brutality sweeping the Nation, and in some instance it has resulted in deaths. I call upon the administration to use its resources to stop this crisis.

Mr. Speaker, I stand before you to protest police brutality on behalf of the families of Pouivi and Italia Taulaulelei. These two Samoan brothers were brutally shot to death on February 12, 1991, by a police officer in Compton, CA. Their bodies were riddled with 20 gunshot wounds. Unfortunately, there is no video tape of this brutal killing by the police.

Mr. Speaker, I stand here to protest police brutality on behalf of the Dole family of Cerritos, CA. On February 11, 1989, members of this Samoan family were hosting a bridal shower when police officers stormed the Dole residence and began to beat the guests indiscriminately. Three members of the Dole family, the 60-year-old father and his two daughters, were injured and received hospital attention as a result of overzealous police beatings. Two neighbors videotaped police deputies clubbing the guests who had been handcuffed and made to lie face down on the driveway of the front lawn.

Mr. Speaker, our society entrusts police officers with the tremendous responsibility of enforcing the law. Police brutality has no place in law enforcement. I am sure that most police officers are dedicated professionals, but when police brutality occurs they must be able to withstand the most intensive public scrutiny; otherwise, mistrust of law enforcement officers will erode public confidence and respect.

Mr. Speaker, I urge President Bush, Attorney General Thornburgh, and the relevant agencies to devote more resources of the National Government to the investigation of police brutality.

Mr. Speaker, I submit the following newspaper articles and reports for the RECORD.

[From the Los Angeles Times, Mar. 11, 1991]

TWO MEN KILLED BY OFFICER WERE SHOT 20 TIMES

(By Marc Lacey)

Autopsy reports indicate that two brothers from Compton were shot a total of 20 times—with many of the bullets striking them in the back—by a local police officer responding to a domestic disturbance call at their home, authorities said Sunday.

The officer, whom Compton police have declined to name, has been placed on desk duty pending completion of separate investigations of the February shootings by the Los Angeles County district attorney's office and police, authorities said.

Compton police say the officer shot and killed Pouvi Taulaulelei, 31, and his brother, Italia Taulaulelei, 22, after they attacked him and tried to wrest away his 9-mm semiautomatic service pistol shortly after midnight on Feb. 12. Neither brother was armed, police said.

The officer emptied his gun at the two men, reloaded and fired again.

The coroner's report said the elder brother had 12 bullet wounds, eight in the back. The report also showed trace amounts of cocaine in Pouvi Taulaulelei's blood.

The younger brother was shot eight times, with five of the bullets striking him in the back.

The officer had gone by himself to the house in the 1800 block of North Grandee Avenue to take a report after Pouvi Taulauleei's wife told police that her husband had beaten her and left the house with the couple's two young sons. As the officer began to question the woman, the brothers drove up and confronted the officer in the driveway, police said. The shooting erupted after a brief struggle.

The deaths have prompted cries of outrage in the Samoan community, of which the Taulauleleis were members, and among students at El Camino College, where Italia played for the football team.

Protests are scheduled for today at the college and for Tuesday in front of Compton City Hall.

John Featherstone, Italia's football coach, questioned the police account. The coach said a Taulaulelei family member who witnessed the shootings contends that the brothers did not attack the officer.

Compton Mayor Pro Tem Maxcy D. Filer said he is reserving judgment until the official investigations are complete.

[From the Los Angeles Times, Feb. 14, 1991]

SHERIFF, RESIDENTS SHARPLY DISAGREE ON MELEE AT PARTY

(By Michele Fuetsch and Tracy Wood)

Sheriff Sherman Block stood behind his deputies Monday, saying a review of evidence, including a home video of part of the incident, showed that they exercised "great restraint" in breaking up a Cerritos bridal shower where guests said they were beaten by deputies.

Block's account of events in the suburban neighborhood conflicted with that of members of the Arthur Dole family, who held a news conference of their own at their Noran Avenue home.

Both sides displayed their wounded.

Block had color photos of some of the 10 deputies who, he said, were cut and battered as repeated attempts to end the party peacefully were thwarted by party-goers who first hurled insults at deputies and later threw chunks of rock and some beer bottles. Block displayed six large rocks, three damaged police helmets, three beer bottles, a beer can and a galvanized steel ice tub that he said were thrown at deputies.

He downplayed the importance of the home video, but acknowledged that it did show "one brief part where it appears that a deputy used his baton three times on two different people." Those who were hit already were on the ground.

TAPE QUALITY POOR

"It would be unusual to use a baton if they were handcuffed," Block said, but the quality of the tape was too poor to determine if the man was restrained.

"What I saw on that tape is, considering the magnitude of the situation . . . the deputies acted in a very orderly fashion, they were under control," Block said. He blamed David Dole, 28, for inciting others to disobey the officers and said David's father, Arthur, refused to break up the party. "Based on the evidence of deadly force used . . . against the deputies, I think the entire incident was handled with great restraint," Block said.

Three members of the Dole family, Arthur, 60, and two of his daughters, Olanda, 23, and Emily, 31, showed injuries of their own to reporters. They said the cuts and bruises stemmed from being struck by deputies. David Dole is hospitalized and under arrest.

Arthur Dole said he was kicked by deputies and when he asked them to loosen handcuffs that were cutting into his wrists, a deputy said, "'Shut up,' and kicked me again. He said 'You're Samoan . . . you think you're so big, and I can knock you out anytime.'"

BROTHER TALKED TO DEPUTIES

Emily, a member of the Gorgeous Ladies of Wrestling (GLOW), known to television audiences at Mt. Jifi, said brother David tried to argue deputies out of entering the house, telling them it was a bridal shower for a sister, Melinda.

"We're going in there and [obscenity] it up," Emily said the deputy replied.

The family has strongly denied provoking officers, or throwing any rocks, bottles or other debris, insisting it was the deputies who instigated any fighting. Neighbors who came out to watch also denied seeing any rocks or bottles thrown.

In the aftermath of the Saturday night melee, 34 men and women were arrested. Two of the men were charged with felonies, and the rest with lesser charges of rioting and unlawful assembly.

Both sides generally agree that when a patrol car first went into the suburban neighborhood about 9:30 p.m. and asked the party-goers to keep the noise level down, they complied. And on a second pass a short time later, Block and family members concur that the party was progressing peaceably.

From there, the accounts diverge wildly.

Block said more than 100 party-goers were present.

According to the Doles, there were only 35 or 40.

Block said a maximum of 50 officers from three jurisdictions, Lakewood sheriff's station. Norwalk sheriff's station and the Downey Police Department, were on the scene at the height of action.

Those attending the party and neighbors estimated there were 100 officers.

Neither side can agree on the role of Sky Knight, a patrol helicopter maintained by the cities of Lakewood and Cerritos. The helicopter is flown by a private pilot but carries a sheriff's deputy who is in communication with the ground.

Block said the first order to disperse was given over loud-speakers from the helicopter. The order was greeted with obscene gestures and ignored, he said.

Family members and irate neighbors said Saturday night that the helicopter inexplicably hovered over the party and surrounding homes, its loud engine and brilliant search light acting as an irritant, for a long time before the final encounter. Two neighbors, who asked that their names not be used because they did not want to anger the Sheriff's Department, said officers asked them after the melee if they had heard the chopper's loud-speaker order the party to disband. The neighbors said they never heard such an order.

Some party guests also said they never heard any commands from the helicopter.

Block said patrol cars approached the house for the third time after a citizen telephoned a report at 10:18 p.m. of "street fighting with sticks and knives." Family and neighbors insisted there never was any such fighting. [No tape recording exists of the emergency telephone calls, Block said, because the recording equipment had been out of order since Friday.]

Twice more, Block said, the order to disperse was given, this time over the patrol car's speaker system.

The about 15 deputies pulled back at one point to await reinforcements. When they arrived, everyone in the house was ordered to come out, Block said. Instead, he said, there was more verbal abuse of the deputies.

As the officers formed a line to move on the house, Block said the rock and bottle throwing began.

[From the Los Angeles Times, Feb. 13, 1989]

BEATING OF GUESTS TAPED IN DISPUTED ACCOUNTS OF PARTY

(By Michele Fuetsch)

Members of a Cerritos family said Sunday they were handcuffed and beaten and their home was in shambles after Los Angeles County sheriff's deputies stormed in during a prenuptial celebration.

Two neighbors videotaped the scene Saturday night as deputies in riot gear surrounded and entered the house in the 18400 block of Noran Avenue. On one of the tapes, deputies can be seen clubbing people who had been handcuffed and made to lie face down on the driveway or on the front lawn.

The Sheriff's Department said 35 party-goers were arrested in the incident.

Sgt. Tom Gordon, watch commander at the department's Lakewood Station, said that a neighbor called the department to complain about noise at 9:21 p.m. Deputies were sent to check out the reported disturbance, he said.

When deputies arrived at the scene and tried to get those at the shower to disperse, they were pelted with rocks, bricks and bottles, Gordon said.

Although neighbors said about 100 deputies in 50 cars finally showed up at the house, Gordon said about 50 deputies were involved.

Gordon said about 10 deputies were injured in the incident. The extent of their injuries could not be immediately determined.

Family members said Sunday that no one threw anything at the deputies. No rocks, bricks or bottles were in view at the scene Saturday night or Sunday, but Gordon said that the debris was picked up by deputies as evidence.

All 35 taken into custody were booked on suspicion of unlawful assembly, failure to disperse and battery on peace officers. David Dole, brother of the bride to be, also was booked on suspicion of assault with a deadly weapon, said Garo Mardirossian, his attorney.

SUFFERS BROKEN HAND

All except David Dole were released Sunday after posting bail. He was hospitalized in sheriff's custody with several lacerations on his scalp, as well as a broken hand, on which he must have surgery, his attorney said.

Sgt. Chris Gutierrez of the department's information bureau said Sheriff Sherman Block would have no comment on the incident until he reviews the tape and other evidence.

The bridal shower for Melinda Dole—who lives at the house with her father and three sisters—began at noon and lasted into the night.

Her father, Arthur Dole, an electrician at a Long Beach company for 21 years, his two sons and four of his daughters were among those arrested. Melinda Dole was not taken into custody.

"They treated me like an animal," said Dole, showing swollen hands with cuts across them from where he said he had been handcuffed. "This is a family. We've never been in trouble."

Melinda Dole said most of the party guests were inside the house when the deputies arrived. She said family members closed the garage door to the house and turned the music down at the request of the deputies.

The next thing she knew, she said, helicopters were flying over. She said deputies then surrounded the house.

The videotape shows several family members, including Arthur Dole, coming out of the house and telling police that people inside had no weapons and were prepared to leave.

David Dole, 28, was one of those who tried to talk to deputies, family members said.

The attorney said that Dole, a warehouse supervisor for a store in the Cerritos Mall, suffered a broken hand when he put it up to protect himself and one of his sisters from the blows of a police club.

Mardirossian said that David Dole called 911 after the deputies arrived, saying that he needed help because deputies were outside provoking guests. The attorney said that Dole was told over the 911 line to ask for the sergeant in charge. When he did that, he was attacked, Mardirossian said.

One of those arrested was Emily Dole, a member of the Gorgeous Ladies of Wrestling (GLOW), known to television audiences as Mt. Fuji. The wrestling star, Melinda Dole's older sister, said she was hit with clubs and shackled by authorities.

On Sunday afternoon, members of the Dole family surveyed damage to the family's modest tract home. Bloodstains could be seen on a carpet and on a window ledge. Bridal gifts lay strewn across the floor of one room of the house.

Neighbors interviewed Sunday said they were shocked at the incident and defended the Dole family. No neighbor said he or she had complained about noise from the bridal shower.

Mr. STOKES. Mr. Speaker, I want to commend my colleague, Mr. DIXON, for reserving time to speak out against police brutality. Mr. Speaker, all of our Nation's law enforcement officers take an oath—an oath to uphold the law. I am outraged by the recent, lawless conduct of police officers of the Los Angeles Police Department against a helpless citizen.

On March 3, 1991, Rodney G. King was brutally clubbed more than 50 times and kicked by officers of the Los Angeles Police Department. While there may be some question as to the circumstances which preceded the apprehension of Mr. King, there is no question as to what transpired after Mr. King was pulled from his car onto the highway and the infamous 7-minute videotape started to roll. We saw it all, broadcast repeatedly on nationwide television. We felt each brutal blow, as the nightsticks raised up by police officers fell repeatedly on Mr. King's head, shoulders, and body. In horrifying detail, we all witnessed 7 minutes of a brutal beating by police officers sworn to uphold the law and protect citizens like Mr. King.

The supervising sergeant at the incident and the three officers directly involved in the beating have been indicted on charges of felony assault. But I am disturbed at the fact that 11 police officers reportedly watched the incident and did little, if anything, to stop it. The officers who watched this savage beating took the same oath of office as the police officers who struck those brutal blows.

I am equally appalled at the response of the chief of the Los Angeles Police Department, Daryl Gates. He called the incident an aberration and reportedly waited 4 days to announce that the officers would be investigated. The evidence in that 7-minute videotape is irrefutable.

Furthermore, Chief Gates has failed to take any action to correct a documented, abysmal pattern of police brutality, under his leadership in the Los Angeles Police Department, directed at African-Americans and Hispanics. In the recent incident, all of the officers involved were white; Mr. King is an African-American. Yet, Chief Gates continues to deny evidence of racial motivation for such incidents of police brutality. Chief Gates has failed in his responsibility to the citizens of Los Angeles.

Unfortunately, Mr. Speaker, this incident is not the aberration Chief Gates would have us believe. Allegations of police brutality are a common occurrence in counties, cities, and States all over our Nation. It took a 7-minute, amateur videotape to focus the attention of our Nation on this issue. Were it not for that videotape, if Mr. King had complained, his complaint might have been ignored, or investigated by the internal affairs unit of the police department and written off as an aberration.

But the real tragedy, Mr. Speaker, is that these incidents have destroyed the confidence of citizens across the Nation in our system of justice. We must work together with Federal, State, and local officials and our citizens to stamp out incidents of police brutality. We must ensure that all our citizens are confident that those sworn to uphold the law will do so, regardless of the color of their skin. We must restore the trust of all our citizens and people throughout the world in U.S. law enforcement and the American system of justice. Rest assured, Mr. Speaker, the world will be watching.

Mr. DANNEMEYER. Mr. Speaker, thank you, Mr. DIXON, for giving me a few minutes during this special order to express my outrage for the most recent act of brutality unleashed on the community by officers of the Los Angeles Police Department.

I say the most recent act because I hope that none of us forgets the chilling sound of a bone snapping in two by some other Los Angeles police officers who were videotaped arresting protesters of Operation Rescue. I am only sorry that a similar special order was not taken out after that incident.

What happened to Rodney Glenn King should not happen to any person. Why this brutality seems to raise its ugly head in the Los Angeles Police Department is a question begging for an answer. I do know that it cannot be tolerated again. The officers in question should have a fair hearing and then, if internal affairs concludes that the full context of the arrest does not reveal some startling countertestimony to the vivid images captured on videotape, the officers should be fired and held responsible as the law allows.

Based on this cruel abuse coupled with the violence against citizens in Operation Rescue, I would also tell Police Chief Daryl Gates not to let the door to the private sector hit him in the backside on the way out. Gates should resign or be removed from that office.

I am not one who believes that what happened to Rodney King was racially motivated, because the same treatment was given to middle-class whites in Operation Rescue.

A community healing can take place in Los Angeles. Gates can be removed from office and proper leadership can be restored to a department that cries out for professionalism. On the other side of the coin, the Los Angeles community can set an example for the rest of the Nation and prove that racial and class hatred is never acceptable, no matter what cards life has dealt you and no matter how other people treat you. At times, the response from the citizenry seems as uncontrolled as the apparent actions of the officers in question.

Healing demands that justice be instituted. But it also demands forgiveness.

Mr. DIXON, thank you for this time.

Mr. FORD of Tennessee. Mr. Speaker, I rise to protest the beating of Rodney King by the Los Angeles Police Department and police brutality against blacks and hispanics all across this Nation.

The beating of Rodney King in Los Angeles on March 3, did not stem solely from the felonious conduct of 4 police officers, nor from the criminally negligent conduct of 12 officers who watched the beating—a beating reminiscent of the Ku Klux Klan. The beating is not even the sole responsibility of Chief Daryl Gates. These men are products of a system that encourages and perpetuates police brutality against people of color.

No one instructed the offending officers to beat Rodney King. But, clearly, no one told them not to. The LAPD equates brutality with upholding the law. Soon after being named police chief in 1978, Chief Gates, in defending the choke hold as a form of restraint, said that blacks are more likely to die from it than normal people. Not surprisingly, of the 16 people the LAPD killed from 1978 to 1983, 12 were black.

Obviously, the beating of Rodney King was not uncommon. The officers who beat Mr. King had no concern that they would be caught or punished for their actions. Twelve officers witnessed the beating with no display of surprise or dismay. They disregarded the cries for mercy from residents of the neighborhood, knowing that they could use a magic pen to write that Mr. King had resisted arrest and the use of force was a necessary restraint.

When police internal departments consider brutality cases, it often comes down to the officer's word against the victim's. There is usually more than one officer at the scene of a beating, and the word of two cops is always stronger than that of one victim. The case of Rodney King is a perfect example. Even with videotaped evidence, the accomplices tried to justify the actions of their partners, and Chief Gates wavered in asking that charges be brought against these criminals.

Rodney King was just one black American brutalized by police officers this year. How many thousands of victims do not come forward with complaints, either because they know the system is stacked against them or because they fear retaliation for their complaint. Of those cases filed, only 2 out of 600 complaints of police brutality result in felony convictions. In a sense, we were lucky to see the beating of Rodney King. The bad guys got caught this time.

But how many innocent victims are beaten without getting prime time video coverage? How many innocent victims are beaten in the street, and then go home to recover from their wounds? How many innocent victims are killed by choke holds, or other methods of restraint, and do not have their murders televised?

Daryl Gates and the 12 officers are directly responsible for the attempted murder of Rodney King. However, the power structure of Los Angeles knew for many years that Daryl Gates' police force regularly beat and harassed its black and Hispanic citizens.

Just last year, two prominent professional athletes in the Los Angeles area were harassed by thugs pretending to uphold the law. In fact, the LAPD, rather than trying to eliminate police brutality, now spends $8 million a year to settle complaints. In 1972, the LAPD spent only one-sixteenth of this amount on brutality settlements. The LAPD has accepted police brutality as a part of law enforcement.

Mr. Speaker, I welcome the Justice Department's decision to investigate patterns of police brutality. But a study will not eliminate police brutality. It will require an entire restructuring of the way police forces themselves are policed, the process of handling brutality complaints. No longer should police judge other police. Independent agencies, average citizens, should be responsible for deciding cases of police brutality. Just because the Los Angeles police wear blue uniforms does not mean then can legally kill a black man for speeding.

Mrs. COLLINS of Michigan. Mr. Speaker, I appreciate the opportunity to be here today to address the recent police brutality incident in Los Angeles. I would also like to thank the gentleman from California for the opportunity to express my thoughts on this unfortunate situation.

Like many people, I saw the brutal beating of Mr. Rodney King by 3 Los Angeles police officers while 12 other officers looked on. I do not know about anyone else, but I was absolutely horrified. Reportedly Mr. King was struck more than 50 times and has sustained a broken cheek bone, a broken leg, nerve damage to his face, a concussion, burns from a laser stun gun and many other bruises.

It appears to me that these police officers were extremely comfortable with this type of activity. No doubt—they were.

Such behavior on the part of those who are sworn to uphold the law should not be tolerated and definetely not permitted to continue to exist. Unfortunately, for our country—Mr. King's case is not so uncommon in Los Angeles—and regrettable—not so uncommon in other parts of the United States. Los Angeles—however—reportedly has spent millions of dollars on out of court settlement cases of police brutality. It is obvious to me that Mr. King's case is not so uncommon in Los Angeles—but such behavior appears to be a way of life for many in the LAPD.

There has been a proliferation of the number of police brutality cases in the United States. According to the Justice Department, the State of Texas has the highest number of reported cases. Between 1984 and 1989 the State had more than 2,000 such reports. Overall, the number of cases currently under investigation by the Justice Department in no way reflects the number of incidents which actually take place nationwide. If not for the help of the amateur photographer who captured Mr. King's beating—this case may have also escaped an adequate investigation.

Police brutality is an old enemy of the black community. It is an historical fact—that the majority of the lynchings of Blacks which occurred in this country—happened with the knowledge of and/or the active participation of local police officers. Black men have historically lived in constant terror and fear of the police. This was the case 200 years ago—and it remains so today.

During slavery—blacks were beaten into submission. This was how we were controlled. In Richard Wright's "Native Son," he speaks of the "badge and the bully club" as a symbol of oppression for black people. Wright suggests that the police have traditionally not protected black people—but actually served to brutalize and oppress us.

Black people have always equated freedom with the absence of this type of violence from the police. I submit—that until we have some type of control over such behavior—there can be no freedom and certainly no justice for black people—because the police are a symbol of justice.

The LA incident strikes at the very core of many of the problems currently facing black America today. With all of the progress we've made in the civil and consititutional rights arenas—the past few years have seen a resurgence of racism and racially motivated violence. People have once again become comfortable with their racist feelings. The police are just a mirror of our society. The police reflect the larger society's feelings.

As a world leader—whose long arms reach across the oceans—preaching our philosophy of democracy, peace, and freedom, we should not tolerate such brute force on the part of our officers of the law. Mr. King's tragedy is a sad statement about our country and the work we have to do right here at home if we are ever to realize the true meaning of democracy, peace, and freedom for all.

If public outcry favors bringing war crimes against Hussein for the atrocities his army committed against the Kuwaiti people and for the treatment of Allied prisoners—then indeed—Los Angeles Chief of Police Daryl F. Gates should be held responsible for the systematic brutalization of blacks by the police force in Los Angeles—as documented with the number of official complaints filed and court settlements reached. None of our prisoners returned home with the type of severe injuries received by Mr. King.

We should all stand together and demand the resignation of Mr. Gates. We should insist that the Justice Department take the investigation of this matter seriously and more importantly, that the Department take seriously the obvious rise in the number of police brutality cases all across the country.

I would like to conclude by saying that I am outraged by this incident and concerned that it always takes a case receiving such publicity before people start to take notice. However, I have faith in our system of justice and believe that we can bring an end to this type of brutality.

Again, I would like to thank the gentleman from California for the opportunity to share my thoughts on this matter. And I look forward to working with my colleagues as we seek a solution to such unfortunate situations.

Mr. LEVINE of California. Mr. Speaker, the Los Angeles Police Department is one of the finest departments in the country. I have nothing but the deepest respect for the men and women of the LAPD.

Every day they put their lives on the line to protect the residents of Los Angeles from the crime and violence which has become a part of daily life in our city.

As we honor returning veterans from Desert Storm, we would do well to remember that more people die every week from crime and violence in this country than lost their lives in the Persian Gulf war.

Our police officers are veterans of the brutal daily war now being fought in the streets of our city. They deserve every bit of thanks and recognition they receive and more.

It is because of my deep respect for the brave men and women of the LAPD that I wanted to make this statement.

There is a cancer within the department which has already seriously damaged its reputation and threatens to do even more damage unless it is exorcised.

Like millions of other Americans I watched the vicious beating of Rodney King in horror. I was sickened by the mercilessness and senselessness of the violence inflicted on Mr. King.

That beating fractured Mr. King's skull 11 times, crushed his cheekbone, broke his ankle, caused numerous internal injuries, and damaged his brain. He may never recover from his injuries.

The police officers who attacked Rodney King have, however unjustly, cast a pall over the entire department. Their lack of remorse in conversations following the attack makes the incident all the more chilling.

The officers who beat King, and the other officers who stood by and watched and did nothing to stop the attack must be prosecuted for their crimes. There is no place for them, or anyone like them, on any police department, especially the Los Angeles Police Department.

Unfortunately, the evidence indicates that this was not an isolated incident. Disturbing allegations have been raised about a pattern of violence committed against minorities by police departments around the country.

I am very pleased that the Justice Department has agreed to investigate these charges. Such an investigation is both overdue and important.

If there is any truth to these allegations Congress must deal with the problem forcefully and resolutely.

We cannot tolerate such actions. A clear and unequivocal message must be sent that this kind of violence will not be tolerated and that there will be a heavy price to pay for anyone who engages in such behavior.

It is the job of law enforcement to prevent violence, not initiate it.

Prosecuting those responsible for this beating will be an important first step in reclaiming and restoring the image of the department. But it is only a first step.

While great strides have been made in recent years in promotion policy within the department, LAPD must do a better job of finding, recruiting, and promoting minority police officers.

This means finding more money to hire new officers and providing them with the training necessary to ensure that this never happens again.

I hope that Rodney King will serve as a catalyst for a national movement to protect others from the fate he suffered. Perhaps then the injuries he suffered will not have been without purpose.

Mr. ROYBAL. Mr. Speaker, I rise today to speak out against the horrific scenes of police brutality in Los Angeles which we have all seen on our televisions.

This was truly a terrible episode, but it was not an isolated case. What separates this incident from so many others we hear about but are never resolved, is that this one happened to be captured on film. To watch a man who was offering no resistance to arrest being fearfully beaten, kicked and electrically shocked by police officers is truly a sickening sight. Equally disgusting is the fact that a dozen other police officers stood by watching without making any effort to intervene or protest the actions of their fellow officers.

There is a clear pattern of excessive force being used by some law enforcement officers. How many incidents of police violence have occurred outside the range of any movie camera? How many people have been beaten within the confines of police stations? The policemen involved in this instance lied and filed false reports to protect their fellow officers. The chief of police in Los Angeles should take responsibility for the actions of his men. It is obvious that a widespread problem exists when a dozen police officers stand around and watch their colleagues brutally violate someone's civil rights.

The chief of police should take responsibility for preventing this kind of barbarous brutality and see that the guilty parties are punished. Instead of looking the other way when brutality reports are filed, these cases need to be thoroughly and vigorously investigated. Police officers need to report acts of excessive violence committed by other officers. The Los Angeles Police Department is guilty of an intolerable pattern of excessive violence.

This is not just a problem in Los Angeles, it is a nationwide problem. I applaud Attorney General Thornburgh's action in reopening investigations about civil rights violations. We must realize that respect for the law decreases, when our law enforcement officers violate the laws they have sworn to enforce.

Mr. PAYNE of New Jersey. Mr. Speaker, I rise to voice my opposition to the history of police brutality which has tarnished our Nation's law enforcement agencies. I say "history of brutality" because the most recent incident captured on tape is very often the norm rather than an isolated incident.

This incident of which I speak occurred only 2 weeks ago, though from watching the tape it might have been the Montgomery, AL, police spraying firehoses at young black children in the 1960's. Has nothing changed in 30 years? I hope I speak for all Americans when I say that my heart filled with repulsion and horror at witnessing 10 Los Angeles police officers administer kicks and blows with a baton to a single unarmed man lying prone in the street.

Unfortunately, this occurs all too often for people of color who find injustice rather than justice from the organizations that swear to protect us. The Los Angeles chief of police, Daryl Gates, has shown insensitivity and has failed to demonstrate strong leadership of his department, and now, he refuses to be held accountable for the racist actions of his department.

I abhor the violence on the streets that rob our children of opportunity and life, but I equally abhor the violent and blatantly hostile reaction of many law enforcement officers who use their badge as a permit to perpetrate even more violence against people of color.

Mr. Speaker, many years ago, the people of my communities feared the police because they were the men who stopped black motorists randomly simply to intimidate and physically abuse them, and they were the men who trumped charges in order to deny blacks their civil rights. In particular, 1967 was a time of much tension and unrest for my city of Newark. From one suspicious arrest and beating of a black man, erupted an angry riot of the black community which ultimately left 26 men, women, and children dead. I sense the same tension, fear, and anger today that incited the Newark riots over 20 years ago. It seems that not much has changed since then and that saddens me immensely. I hope that from this tragic incident evolves an investigation that will result in a tangible change in attitude and procedure to permanently eliminate such brutality.

I rise today, Mr. Speaker, to register my protest at the police brutality that still pervades enforcement agencies and to call upon all Americans to insist that the police in all cities treat people justly and fairly. Thank you Mr. Speaker.

POLICE BRUTALITY

SPEECH OF

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1991

Mr. RANGEL. Mr. Speaker, I join my colleagues in deploring the vicious attack on an unarmed citizen who had been stopped for speeding by the California Highway Patrol and then beaten by officers of the Los Angeles Police Department when they arrived on the scene. Thanks to an alert citizen who videotaped the incident, there is irrefutable evidence of police officers out of control.

I commend the Justice Department for taking a proactive role in investigating the Rodney King case as well as other reports and complaints of police brutality nationwide. For the first time, the Department will study police brutality cases on a board scale to see if there are any geographic or systemic patterns. In addition, the National Institute of Justice will study whether or not there is a correlation between the incidence of police brutality reports and police departments' training programs and procedures.

Police officers are sworn to serve and protect the public, and the vast majority of police officers do just that. They are our neighbors and friends, volunteers in our churches, hospitals, and community centers. They are the people for whom the term "solid citizen" was invented. So it is all the more shocking and appalling to see these same police officers abuse and literally beat senseless the very citizens they have been sworn to protect. This kind of mindless, gratuitous violence on the part of law-enforcement officers betrays the badge they have sworn to keep untarnished.

Nationally, about 2,500 complaints, most about police brutality, are made to the Civil Rights Division each year, and about 2 percent result in enough evidence for a grand jury investigation.

Over the past 3 years the Civil Rights Division has brought criminal charges against 98 law-enforcement officials; 60 of those cases have been prosecuted, and 45 have resulted in convictions.

The Department is now investigating 22 cases of possible police brutality nationally, and is preparing to bring civil rights charges in 14 police brutality cases, including 1 against an INS agent accused of intimidating grocery store owners in Manhattan.

Texas, with 2,015 brutality investigations between 1984 and 1989, led the country in number of cases reported to the Justice Department. California was second with 1,294 and Louisiana third with 1,050. Vermont was last with only 3 investigations during the period.

It is heartening to note that in New York City, which has had some serious police abuse problems, the situation is improving dramatically. While there are clearly still problems with police brutality in New York, Lee Brown, the new police commissioner under Mayor David Dinkins, seems to be exhibiting a sensitivity to the issue. Key in his plan is the intention to reinstitute the policy of neighborhood patrols to encourage a closer working relationship between community and police. The mayor has also taken an important step with his little noticed residency requirement for police officers in his crime package, which is before the legislature in Albany.

Everyone understands that now, more than ever, police officers are under tremendous pressure to perform with professional correctness and common sense, to play by the rules. This is a world of crime that is increasingly hostile to civilization and the rules it imposes. Police face a criminal element that wants to eliminate all rules, and corrupt all those who hope to uphold the rule of law and maintain the order of society. When all these negative factors come together, it is up to the officer to bring to bear all of his training, experience, and humanity to defend the community he has sworn to protect. The community requires that its law-enforcement officers behave more responsibly than ordinary citizens.

Police can serve as positive role models for young people. As positive role models, the police should be looked up to by young people who can turn to them for help and guidance. The cop on the beat should be the one person in the neighborhood that every law-abiding citizen can trust to do the right thing.

Our Nation's police officers should be in the business of combatting drugs instead of battering citizens. Unfortunately, the message sent by the officers in the Los Angeles case is that it is OK for crimefighters to use the same kind of brutal methods that the drug dealers are using.

Initial evidence suggests that this beating incident with Rodney King is not an isolated one; that the beating of suspects, dangerous or not, is virtually a routine occurrence for some members of the LAPD. It appears that the officials responsible for the conduct of these officers, Sgt. Stacey Koon and Chief Daryl F. Gates, apparenty offered little or no appropriate guidance for proper police conduct in this instance, and in fact, may have condoned such grievous conduct in the past.

When the police become the thugs, what hope can individuals have that they will be able to depend on informed, professional help from the police? Fr. Robert Rankin, parish priest and close family friend of Police Sergeant Koon expressed the dilemma so well: "There is a very thin blue line between civility and chaos, and that blue line is our police force."

I urge the Justice Department and every local police internal affairs office in every municipality to look closely at its own operations and officers to be very sure that civility does not become chaos. Law-enforcement officers, more than ever, must uphold the law they have pledged to serve, not abuse their authority or betray the communities they protect. The thin blue line must be solid and those who are a part of it must be there on the side of right or suffer the consequences.

GENERAL LEAVE

Mr. DIXON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of my special order today.

The SPEAKER pro tempore (Mr. HAYES of Louisiana). Is there objection to the request of the gentleman from California?

There was no objection.

TRIBUTE TO GEORGE R. SWARTZENDRUBER

(Mr. NICHOLS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NICHOLS. Mr. Speaker, I want to call the attention of the Nation to the life of George R. Swartzendruber today.

Warrant Officer Swartzendruber, after sustaining injuries in southern Iraq on February 27 of this year in the crash of the Army's Blackhawk helicopter, died along with all nine people aboard.

George was a native Kansan, and served his country in the highest sense. At the funeral just this last Saturday, his fellow soldiers from nearby Fort Riley, gave him the finest military honors.

He is survived by his parents and a younger brother. We owe a tremendous amount of gratitude to this Kansan who gave his life for a cause in which he believed.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. THOMAS of Wyoming) to revise and extend their remarks and include extraneous material:)

Mr. DREIER of California, for 5 minutes, today.

Mr. BURTON of Indiana, for 60 minutes, each day on April 9, 10, 11, 16, 17, and 18.

Mr. WELDON, for 60 minutes, each day on March 19, 20, 21, and 22.

Mr. DORNAN of California, for 60 minutes, each day on March 19 and 20.

(The following Members (at the request of Mr. DIXON) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. ALEXANDER, for 60 minutes, on March 19.

Mr. GONZALEZ, for 60 minutes, each day on April 11, 15, 18, and 19.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. THOMAS of Wyoming) and to include extraneous matter:)

Mrs. MORELLA.

Mr. VANDER JAGT.

(The following Members (at the request of Mr. DIXON) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. LANTOS in two instances.

Mr. TORRES.

Mr. CARR.

ENROLLED BILLS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1176. An act to provide authorizations for supplemental appropriations for fiscal year 1991 for the Department of State and the Agency for International Development for certain emergency costs associated with the Persian Gulf conflict, and for other purposes, and

H.R. 1284. An act to authorize emergency supplemental assistance for Israel for additional costs incurred as a result of the Persian Gulf conflict.

BILL AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. ROSE, from the Committee on House Administration, reported that that committee did on the following day present to the President, for his approval, a bill and joint resolutions of the House of the following titles:

On March 14, 1991:

H.J. Res. 167. Joint resolution designating June 14, 1991, and June 14, 1992, each as "Baltic Freedom Day";

H.J. Res. 104. Joint resolution to designate March 26, 1991, as "Education Day, U.S.A."; and

H.R. 180. An act to amend title 38, United States Code, with respect to veterans education and employment programs, and for other purposes.

ADJOURNMENT

Mr. DIXON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 40 minutes p.m.), the House adjourned until tomorrow, Tuesday, March 19, 1991, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

874. A letter from the Acting Under Secretary, Department of Defense, transmitting certification with respect to the Harpoon Program, pursuant to 10 U.S.C. 2431(b)(3)(A); to the Committee on Armed Services.

875. A letter from the Assistant Secretary for Indian Affairs, Department of Interior, transmitting the Department's third annual safety plan for bringing Indian educational facilities into compliance with health and safety standards, pursuant to 25 U.S.C. 2005(b); to the Committee on Education and Labor.

876. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

877. A letter from the Under Secretary for Export Administration, Department of Commerce, transmitting information regarding past applications for licenses to export to Iraq processed by the Department; to the Committee on Foreign Affairs.

878. A letter from the Personnel Benefits Section, Department of the Navy, transmitting the 1988 annual report for the Navy nonappropriated fund retirement plan of employees of civilian morale, welfare and recreation, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

879. A letter from the Director of Public Affairs and Press Secretary, Department of Agriculture, transmitting the Department's annual report of activities under the Freedom of Information Act for the calendar year 1990, pursuant to 5 U.S.C. 552(e); to the Committee on Government Operations.

880. A letter from the Secretary of Housing and Urban Development, transmitting the 15th annual report on the Department's activities under the Freedom of Information Act, pursuant to 5 U.S.C. 552(e); to the Committee on Government Operations.

881. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend the National Sea Grant College Program Act, as amended, to authorize appropriations for fiscal years 1992 and 1993, pursuant to 31 U.S.C. 1110; to the Committee on Merchant Marine and Fisheries.

882. A letter from the Chairman, Federal Labor Relations Authority, transmitting a draft of proposed legislation to provide for a pay adjustment for the Chairman, Members and General Counsel of the Federal Labor Relations Authority; to the Committee on Post Office and Civil Service.

883. A letter from the Chairman, Inland Waterway Users Board, transmitting the Board's third annual report of its activities; recommendations regarding construction, rehabilitation priorities and spending levels on the commercial navigational features and components of inland waterways and harbors, pursuant to Public Law 99-662, section 302(b) (100 Stat. 4111); to the Committee on Public Works and Transportation.

884. A letter from the Secretary of Veterans Affairs, transmitting a report on the Department's fiscal year 1990 contract care; to the Committee on Veterans' Affairs.

885. A letter from the Secretary of the Treasury, transmitting a report on the taxation of Social Security and railroad retirement benefits in calendar years 1987 and 1988, pursuant to 42 U.S.C. 401 note; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Omitted from the Record of March 15, 1991]

[Pursuant to the order of the House on March 13, 1991, the following report was filed on March 15, 1991]

Mr. DE LA GARZA: Committee on Agriculture. H.R. 805. A bill to restore the effectiveness of the Export Enhancement Program; with an amendment (Rept. 102-22, Pt. 1). Ordered to be printed.

[Submitted March 18, 1991]

Mr. FORD of Michigan: Committee on Education and Labor. H.R. 751. A bill to enhance the literacy and basic skills of adults, to ensure that all adults in the United States acquire the basic skills necessary to function effectively and achieve the greatest possible opportunity in their work and in their lives, and to strengthen and coordinate adult literacy programs; with an amendment (Rept. 102-23). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

[Omitted from the Record of March 15, 1991]

[Pursuant to the order of the House on March 14, 1991, the following report was filed on March 15, 1991]

Mr. MILLER of California, Committee on Interior and Insular Affairs. H.R. 355. A bill to amend the Reclamation States Drought Assistance Act of 1988 to extend the period of time during which drought assistance may be provided by the Secretary of the Interior, and for other purposes; with amendments; referred to the Committee on Merchant Marine and Fisheries for a period ending not later than March 18, 1991, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(n), rule X. (Rept. 102-21, Pt. 1). Ordered to be printed.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

[Submitted March 18, 1991]

Under clause 5 of rule X the following action was taken by the Speaker:

The Committee on Merchant Marine and Fisheries discharged from further consideration of H.R. 355; H.R. 355 referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MCCURDY:

H.R. 1455. A bill to authorize appropriations for fiscal year 1991 for the intelligence activities of the U.S. Government, the Intelligence Community Staff, and the Central

Intelligence Agency retirement and disability system, and for other purposes; to the Committee on Intelligence (Permanent Select).

By Mr. VANDER JAGT (for himself, Mr. ANTHONY, and Mrs. KENNELLY):

H.R. 1456. A bill to amend the Internal Revenue Code of 1986 to clarify that customer based, market share, and any similar intangible items are amortizable; to the Committee on Ways and Means.

By Mr. COOPER (for himself, Mr. GORDON, Mr. LEWIS of Georgia, Mr. TOWNS, Mr. STENHOLM, Ms. PELOSI, Mr. ROWLAND, Mrs. LLOYD, Mr. CHAPMAN, Mr. PERKINS, Mr. FEIGHAN, Mr. COMBEST, Mrs. BOXER, Mr. DICKINSON, Mr. LEHMAN of Florida, Mr. DARDEN, Mr. LANCASTER, Mr. CLEMENT, Mr. BRYANT, Mr. FIELDS, Mr. WILSON, and Mr. HATCHER):

H.R. 1457. A bill to amend title XIX of the Social Security Act to permit State matching payments through voluntary contributions; to the Committee on Energy and Commerce.

By Mr. DORNAN of California:

H.R. 1458. A bill to amend the Internal Revenue Code of 1986 to deny status as a tax-exempt organization, and as a charitable contribution recipient, for organizations which directly or indirectly perform or finance procedures which take the life of a preborn child other than procedures required to prevent the death of either the pregnant woman or preborn child so long as every reasonable effort is made to preserve the life of each, and to provide that tax-exempt bonds may not be used to provide hospitals or other health care facilities which perform such procedures; to the Committee on Ways and Means.

By Mr. McDADE (for himself, Mr. RAVENEL, Mr. MCGRATH, Mr. DE LUGO, Mr. BEREUTER, Mr. SERRANO, Mr. SANTORUM, and Mr. EMERSON):

H.R. 1459. A bill to establish the National Commission on Entrepreneurial Education; to the Committee on Education and Labor.

By Mr. MOODY (for himself, Mr. HALL of Ohio, Mr. HORTON, Mr. OWENS of New York, Mr. PAYNE of New Jersey, Mr. POSHARD, Ms. SLAUGHTER of New York, Mr. LEHMAN of Florida, Mr. SANDERS, Mrs. BOXER, Mr. GUARINI, Mr. RANGEL, Mrs. JOHNSON of Connecticut, Mr. JOHNSTON of Florida, Mr. ROE, Mr. LAFALCE, Mr. LEVIN of Michigan, Mr. BILBRAY, Mr. GILCHREST, Mr. KENNEDY, Mr. DELLUMS, Mr. RAVENEL, Mr. MFUME, Mr. FROST, Mr. DE LUGO, Mr. BACCHUS, Mr. JEFFERSON, Mr. HUGHES, Mr. ESPY, Mr. EVANS, and Mr. KOPETSKI):

H.R. 1460. A bill entitled "The Food for Young Children Act"; to the Committee on Education and Labor.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. FRANK of Massachusetts introduced a bill (H.R. 1461) for the relief of Ovidio Javier Morla Paredes, Maria Estrada de Morla, Javier Alfredo Morla Estrada, and Carlos Andres Morla Estrada; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

[Omitted from the Record of March 14, 1991]

H.R. 601: Mr. DOOLITTLE, Mr. STOKES, and Mr. JEFFERSON.

H.R. 644: Mr. FROST.

H.R. 670: Mr. ROE, Mr. REGULA, Mr. STARK, Mr. SMITH of Florida, Mr. PETRI, Mr. TOWNS, Mr. BILBRAY, Mr. MRAZEK, and Mr. DEFAZIO.

H.R. 1075: Mr. PETRI, Mr. FROST, Mr. GILMAN, and Mr. GEKAS.

H.R. 1339: Mr. GORDON, Mr. BEILENSON, Mr. OLIN, and Mr. NEAL of Massachusetts.

[Submitted March 18, 1991]

H.R. 20: Mr. ANTHONY, Mrs. BYRON, Mr. DARDEN, Mr. DINGELL, Mr. DOOLEY, Mr. MOLLOHAN, Mr. PRICE, Mr. GEREN of Texas, Ms. WATERS, Mr. WEISS, and Mr. LAROCCO.

H.R. 108: Mr. FROST, Mr. HORTON, and Mr. WILSON.

H.R. 110: Mr. DWYER of New Jersey and Mr. OWENS of Utah.

H.R. 127: Mr. DOOLITTLE, Mr. SHAW, and Mr. COX of California.

H.R. 134: Mr. MILLER of California, Mr. DE LUGO, Ms. DELAURO, Mr. LANTOS, Mr. UPTON, Ms. NORTON, Mr. BRYANT, Mr. FRANK of Massachusetts, and Mr. SMITH of Florida.

H.R. 524: Mr. DANNEMEYER.

H.R. 559: Mr. BORSKI, Mr. BURTON of Indiana, Mr. BLILEY, and Mr. GILMAN.

H.R. 572: Mr. OWENS of Utah.

H.R. 645: Mr. FRANK of Massachusetts, Mr. ABERCROMBIE, Mr. MFUME, Mr. STUDDS, and Mr. JOHNSTON of Florida.

H.R. 652: Mr. DELLUMS and Mrs. UNSOELD.

H.R. 706: Mr. FROST and Mr. WILSON.

H.R. 731: Mr. KOLBE.

H.R. 751: Mr. HUGHES, Mr. UPTON, Ms. HORN, Ms. NORTON, and Mr. ANDREWS of Texas.

H.R. 774: Mr. KOSTMAYER.

H.R. 791: Mr. PEASE.

H.R. 806: Mrs. MEYERS of Kansas and Mr. PALLONE.

H.R. 828: Mr. COSTELLO, Mr. EMERSON, Mrs. LOWEY of New York, Mr. ROE, and Mrs. UNSOELD.

H.R. 830: Mr. HUGHES and Mr. PANETTA.

H.R. 835: Mr. MCCRERY and Mr. JONES of Georgia.

H.R. 860: Mr. DWYER of New Jersey, Mr. ESPY, Mr. LIPINSKI, Mr. ZELIFF, Mr. LAGOMARSINO, Mr. FRANK of Massachusetts, Mr. ROE, Mr. EDWARDS of California, Mr. MFUME, Mr. SERRANO, Mr. MACHTLEY, Mr. RANGEL, Mr. HUGHES, Mr. MARTINEZ, Ms. SLAUGHTER of New York, Mr. HYDE, Mr. JEFFERSON, Mr. HOCHBRUECKNER, Mr. EVANS, Mr. FISH, Ms. DELAURO, Mr. KOLTER, Mr. CUNNINGHAM, Mrs. KENNELLY, Mrs. JOHNSON of Connecticut, and Ms. KAPTUR.

H.R. 908: Mr. OBERSTAR, Mr. MARTINEZ, Mr. IRELAND, Mr. BROWN, Mrs. MINK, Mr. DEFAZIO, Mr. KOLTER, and Mr. HAYES of Louisiana.

H.R. 924: Mr. SKELTON, Mr. BUNNING, Mr. WEBER, Mr. GUNDERSON, and Mr. MARTIN.

H.R. 975: Mrs. PATTERSON.

H.R. 1024: Mr. WASHINGTON, Mr. HYDE, Mr. JEFFERSON, and Mr. LAGOMARSINO.

H.R. 1074: Mr. COSTELLO, Mr. POSHARD, Mr. SCHIFF, Mr. FALEOMAVAEGA, Mr. PAYNE of New Jersey, Mrs. LOWEY of New York, and Mr. BUSTAMANTE.

H.R. 1079: Mr. QUILLEN and Mr. LANCASTER.

H.R. 1135: Mr. OWENS of New York, Mr. ANDREWS of New Jersey, and Mr. RIGGS.

H.R. 1154: Mr. DWYER of New Jersey, Mr. BILBRAY, Mr. MYERS of Indiana, Mr. TOWNS, Mr. LIPINSKI, Mr. WOLF, Mr. STENHOLM, Mr. SAWYER, Mr. SIKORSKI, Mrs. BOXER, Mr. PENNY, Mr. JONES of Georgia, Mr. FROST, Mr. LAFALCE, Mr. FUSTER, Mrs. UNSOELD, and Mrs. MORELLA.

H.R. 1155: Mr. LAGOMARSINO, Mr. LEWIS of California, Mr. LANCASTER, Mr. ZELIFF, Mr. GALLEGLY, Mr. GORDON, Mr. KOPETSKI, and Mr. ORTON.

H.R. 1165: Mr. TAYLOR of Mississippi, Mr. LIPINSKI, Ms. MOLINARI, Mr. BAKER, Mr. MATSUI, Mrs. LLOYD, Mr. DELLUMS, Mr. FROST, Mr. KLUG, Mrs. JOHNSON of Connecticut, Mr. ROE, Mr. HORTON, Mr. IRELAND, Mr. LAGOMARSINO, Mr. HUGHES, and Mr. SHAYS.

H.R. 1200: Mr. UDALL, Mr. MATSUI, Mr. TOWNS, Mr. FRANK of Massachusetts, Mr. CHAPMAN, Mr. DYMALLY, Mr. MRAZEK, Mrs. UNSOELD, Ms. PELOSI, and Mr. ERDREICH.

H.R. 1202: Mr. SANDERS, Mr. JOHNSON of South Dakota, Mr. UPTON, and Mr. FLAKE.

H.R.1250: Mr. BROWN.

H.R. 1277: Mr. FIELDS, Mr. WALKER, Mr. DANNEMEYER, Mr. CAMP, Mr. MACHTLEY, Mr. STEARNS, Mr. CRAMER, Mr. HYDE, Mr. LEWIS of California, and Mr. DUNCAN.

H.R. 1278: Mrs. JOHNSON of Connecticut, Mrs. COLLINS of Illinois, Mr. MACHTLEY, and Mr. CUNNINGHAM.

H.R. 1285: Mr. EVANS and Ms. HORN.

H.R. 1289: Ms. MOLINARI.

H.R. 1300: Ms. NORTON.

H.R. 1308: Mr. GILMAN, Mr. WOLF, Mr. SERRANO, Mr. MCGRATH, Mr. TOWNS, Mr. UDALL, Mr. HERTEL, and Mr. MFUME.

H.R. 1341: Mr. FRANK of Massachusetts, Mr. HOCHBRUECKNER, Mr. ABERCROMBIE, Mr. BERMAN, Mr. TOWNS, Mr. BROWN, and Mr. CHAPMAN.

H.R. 1395: Mr. MANTON.

H.J. Res. 61: Mr. SABO, Mr. MCNULTY, Mr. BONIOR, Mr. FROST, and Mr. BATEMAN.

H.J. Res. 120: Mr. OWENS of Utah, Mr. EMERSON, Mr. BUSTAMANTE, Mr. CARR, Mr. HUTTO, Mr. JONES of North Carolina, Mr. KOLTER, Mr. MONTGOMERY, Mr. ROE, Mr. ROYBAL, Mr. SAVAGE, Mr. SERRANO, Mr. SLATTERY, Mr. STAGGERS, Mr. WAXMAN, Mr. WILSON, Mr. YATRON, Mr. LEHMAN of Florida, Mr. FROST, Mr. ANNUNZIO, Mr. CARDIN, Ms. PELOSI, Mr. PICKETT, Mr. TANNER, Mr. MCMILLEN of Maryland, Mr. MCNULTY, Mrs. LLOYD, Mr. TALLON, Mrs. BOXER, Ms. KAPTUR, Mr. PRICE, Mr. MARTINEZ, Mr. LANCASTER, Mr. CLINGER, and Mr. BENNETT.

H.J. Res. 129: Mr. CLEMENT, Mr. ABERCROMBIE, Mr. ROE, Mr. BROWN, Ms. KAPTUR, Mr. ERDREICH, Mr. JEFFERSON, Mr. POSHARD, Mr. HORTON, Mr. HERTEL, Mr. DOWNEY, Mr. BARNARD, Mr. MARTINEZ, Ms. OAKAR, Mr. HUGHES, Mr. RANGEL, Mr. ANDREWS of Maine, Mr. JONTZ, Mr. MANTON, Mr. RINALDO, Mr. DE LUGO, Mr. BROOMFIELD, Mr. RAMSTAD, Mr. OWENS of Utah, Mr. STOKES, Mr. GILCHREST, Mr. BACCHUS, Mr. PAYNE of New Jersey, and Mr. LAFALCE.

H.J. Res. 130: Mr. BEREUTER, Mr. YATRON, Mrs. UNSOELD, Mr. MCDERMOTT, Mr. TORRES, Ms. PELOSI, Ms. COLLINS of Michigan, Mr. CLEMENT, Mr. MAVROULES, Mr. MINETA, Mr. BILBRAY, Mr. CARPER, and Mr. SABO.

H.J. Res. 131: Mr. FROST, Mr. BATEMAN, Mr. UPTON, Mr. JONTZ, Mr. JONES of Georgia, Mr. CAMP, and Mr. LAFALCE.

H.J. Res. 182: Mr. BEREUTER, Mr. BERMAN, Mr. BEVILL, Mr. BILIRAKIS, Mr. BLAZ, Mr. DEFAZIO, Mr. EMERSON, Mr. FASCELL, Mr. FUSTER, Mr. JEFFERSON, Mr. JONES of Georgia, Mr. HOUGHTON, Mr. HOYER, Mr. KOSTMAYER, Mr. LAGOMARSINO, Mr. LANTOS, Mr. LEWIS of Georgia, Mr. MCDERMOTT, Mr. MARTINEZ, Mr. OBERSTAR, Mr. PAXON, Mr. PAYNE of New Jersey, Ms. PELOSI, Mr. RANGEL, Mr. TOWNS, Mr. TRAXLER, Mr. WEISS, Mr. WILSON, and Ms. NORTON.

H. Con. Res. 11: Mr. RHODES.

H. Con. Res: 67: Mr. DEFAZIO.

H. Con. Res. 70: Mr. EMERSON, Mr. WILSON, and Mr. GILMAN.

H. Con. Res. 85: Mr. HUCKABY, Mr. FROST, Mr. RAMSTAD, Mr. DeFAZIO, Mr. TAUZIN, Mr. JONTZ, Mr. COSTELLO, and Mr. VALENTINE.

H. Res. 32: Mr. ABERCROMBIE, Mr. SANGMEISTER, Mr. DANNEMEYER, Mrs. BOXER, Mr. EVANS, Mr. KILDEE, Mr. FOGLIETTA, Mr. COX of California, Mr. FROST, and Mr. LEWIS of Georgia.

PETITIONS, ETC.

Under clause 1 of rule XXII,

36. The SPEAKER presented a petition of the Nitijela of the Marshall Islands, relative to a war claims commission; which was referred to the Committee on Foreign Affairs.

EXTENSIONS OF REMARKS

PEACE IN THE MIDDLE EAST

HON. BILL ORTON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1991

Mr. ORTON. Mr. Speaker, now that the war in the Persian Gulf is over, pundits and Monday-morning quarterbacks have sprouted all over Washington this spring like so many daffodils. I want to take this opportunity to share with you the remarks of the Honorable DANTE FASCELL who recognized the threat to U.S. national security posed by Saddam Hussein last fall, and who later led the difficult but successful effort in this body to authorize the President's use of force in the Persian Gulf.

As a freshman Member, I appreciated Chairman FASCELL's leadership in what was a time of profound soul-searching for me. With that in mind, I would like to urge my colleagues to take a minute and consider a recent address by the chairman which contemplates the shape of peace taking form in the Middle East today.

The address follows:

REMARKS OF HON. DANTE B. FASCELL BEFORE THE NAPLES COUNCIL ON FOREIGN AFFAIRS, NAPLES BEACH, FL

Good evening—as always, it is both a pleasure and honor for me to appear before you. You know, the other day, Dick Cheney was briefing Members of Congress on the so called "end game" of the Gulf War. He informed Members of the truly remarkable, indeed astonishing performance of both U.S. forces and that of the allied coalition in bringing the war with Iraq to an end. He also related a story about elements of the U.S. VII Corps that took Iraqi POW's who upon leaving their bunker said, "God Bless George Bush." Dick then told us, "these POW's were obviously members of the Republican Guards."

Seriously though, what I have come to discuss with you this evening is the Congressional perspective on the most serious issue that can ever confront this great nation of ours. That subject, the issue of war and peace is, and remains as relevant a subject than ever before. I say this because now that we have won the war, it is absolutely essential that we win the peace as well.

SUPPORT FOR THE PRESIDENT

As Chairman of the House Foreign Affairs Committee, I was a member of the Congressional leadership consultative group that the President brought in on a regular and routine basis to discuss Iraq's naked, blatant and illegal seizure and occupation of Kuwait. During the initial course of these consultations we were all hopeful that a peaceful resolution to this crisis could be achieved through both diplomatic means and economic sanctions.

On October 1st of last year, these consultations resulted in Congressional action—House Joint Resolution 658—which was crafted by Members of both sides of the aisle and among the highest representatives of the administration. Simply stated that resolution affirmed and congratulated the President on the actions he had taken with respect to Iraq's aggression in assembling an international consensus on Iraq's occupation of Kuwait. This resolution also specified that both Congress and the executive had an equal role on the issue of war.

At that time, it was our mutual hope that Saddam Hussein would wake up, and smell the coffee. It was our hope that Saddam would realize that Americans share a consensus of opinion to our democratic and Constitutional principles and are supportive of our traditional role in opposing illegal and naked aggression be it against Poland in 1939, Pearl Harbor in 1941, or Kuwait in 1990.

IRAQI INTRANSIGENCE

As stated, those were our hopes for a peaceful resolution of this crisis. But Saddam Hussein never budged. Diplomatic endeavors of all sorts were tried. World leaders, kings, the Arab League, the Soviet Union, the Pope, the Secretary General of the United Nations, the Secretary of State, and yes, indeed even the Iranians endeavored for a peaceful solution. And in the end, each and every one of those efforts met with greater Iraqi intransigence and bellicosity. All of those efforts failed. And, while those efforts were going in, Iraq continued in its brutal and systematic rape of Kuwait. They continued to reinforce their troops in Kuwait, while at the same time turning Kuwait into an Iraqi fortress of occupation.

It was under these circumstances that the President again came to Congress to seek authorization to use military force to implement those United Nations Security Council Resolutions that were pertinent to this crisis. I supported the President in this regard because of my convictions that all peaceful means toward ending this crisis had been exhausted. I supported the President in this regard because of my long-standing belief that naked aggression cannot be tolerated. Congressional support—both Democratic and Republican—to authorize the use of force was embodied in Public law 102-1.

This was one of the more difficult decisions of my Congressional career but I made this decision in the solemn judgment that we were left with no other alternatives. I know this judgment to be correct as the evidence of Iraqi horrors continues to mount. We now know better than ever before that Iraq completely plundered its former ally. This rape was conducted in such proportions so as to defy any civilized imagination.

We know that Iraq completely sacked Kuwait. We know that Iraq killed babies by taking them off their incubators which were sent back to Iraq. We know that Iraq systematically tortured the Kuwaiti people. We know that Iraq killed innocent civilians. We know that Iraq committed environmental terrorism. We know that Iraq endeavored to fray at the edges of the U.S.-led coalition through its missile attacks against Israel. We know that Iraq adopted a scorched earth policy when the end was near and finally, we know that Iraq's leadership—especially Saddam Hussein—did so with no regard to human life be it Kuwaiti or sadly enough, even his own people. Even more sadly, I am sure that we have only just begun to scratch at the veneer of these and other yet to be discovered Iraqi atrocities.

THE AFTERMATH

America went to war against Iraq along with some thirty other partners in the military coalition. Our objectives in this endeavor were straightforward. Simply stated, the U.S.-led coalition sought to: (1) preserve the territorial integrity and economic and political security of Saudi Arabia; (2) seek the immediate withdrawal of all Iraqi forces from Kuwait; (3) seek the peaceful restoration of the legitimate Kuwaiti government; and (4) provide for the protection of American citizens abroad. We sought these objectives peacefully and we prosecuted and achieved them through war. As I stated earlier, however, now that we have won the war, we must strive to win the peace.

SHORT-TERM OBJECTIVES

In the short-term winning the peace will require Iraqi compliance with each of the U.N. mandates. This process is currently underway. It will also require Iraqi repatriation of all coalition POW's and other detainees. It will also require Iraqi cooperation on the disarming of all land and sea mines throughout the Kuwait theater of operations. It will require an end to all missile attacks on third world countries. Each of these efforts are also being negotiated but much more must be done.

An organized plan must be devised to provide humanitarian assistance to this strife-torn region. We must assess how the global community, indeed the allied coalition will address these needs. We—the global community—must prevent the outbreak of disease in the Kuwaiti and Iraqi civilian populations. We must seek the solutions to the environmental disaster that has struck the Persian Gulf and Kuwait itself. We must confront these and other issues systematically. The rebuilding of Kuwait—oil fires, oil refinery capacities, roads, power plants, desalination plants, sewage facilities, hospitals and housing—will take years but our priorities in the short-term must focus on the human equation. This rebuilding process is underway and must proceed with haste. In this regard, the Kuwaitis are anxious for U.S.-led efforts. Indeed, in this regard, some 70% of the first $1 billion in reconstruction contracts have been awarded to U.S. firms.

LONG-TERM OBJECTIVES

While short-term objectives are both logical and imminent, the single most long-term objective that I believe we must achieve in the wake of this crisis rests in our mutual efforts in bringing about a negotiated end to the Arab-Israeli conflict. Like the Cold War, this forty-three year conflict must be brought to an end—a peaceful and negotiated end.

When I last checked, more than 30 percent of all world-wide arms sales were to the Middle East. Think about that—more than 30 percent of the global trade in arms takes place in the Middle East. In 1987, the total worldwide trade in arms exceeded $56 billion. In 1988, the total worldwide trade in arms exceeded $49 billion. This would appear to be a small step in the right direction but how far

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

a step I really can't say given the continued desire of the nations within this region to acquire weapons of even greater lethality than those currently in inventory.

In 1988, Iraq alone, accounted for more than 30%—some $4.6 billion in just one year—of the regional arms trade in the Middle East. In 1989, weapons deliveries to Iraq exceeded $1.9 billion and this was an Iraq allegedly at peace. Iraq traded with everybody and anybody. Iraq traded with the Soviet Union, France, other western powers including Switzerland which sold Iraq air defense systems, and lesser developed countries such as Brazil and Argentina. Iraq was an arms merchant of death's definition of paradise. If you had something, anything to sell that dealt with death or destruction, Iraq had to have it.

Iraq wanted and got jets, and then Iraq wanted and got more jets. Iraq wanted and got tanks, and Iraq wanted and got more tanks. Iraq wanted and got artillery, and Iraq wanted and got more artillery. Iraq wanted it all, and I do mean all. In 1989, a staff study mission of the Foreign Affairs Committee was advised by Iraqi officials of Iraq's desire and intention to become a superpower—not just the regional superpower that it already was—but a superpower, a global superpower by the end of the century. Iraq's arms and dual use technology feeding frenzy was, in a word, unbelievable. So let's start right there.

REGIONAL ARMS CONTROL AND COLLECTIVE SECURITY

In my mind, I know that the economic sanctions against Iraq will, sooner or later, be lifted. I would suggest, however, that when these sanctions are lifted they should only be lifted at the humanitarian level. In other words, access to nuclear research and development materials comes to an end. Similarily, access to the dual use technologies for missile components comes to an end. Finally, access to chemical and biological weapons components that also have peaceful applications comes to an end. The world can ill afford to go back to business as usual with Iraq.

It is equally clear that the military sanctions that have been imposed upon Iraq remain in place. In other words, all arms trade with Iraq must come to an absolute end. This suspension of arms dealing with Iraq will allow the region to take a breather. It will also allow the United States and its coalition partners—including on the diplomatic side the Soviet Union—the opportunity to seriously reasses the nature of all arms traffic in the Middle East.

This suspension of arms sales to Iraq will assure its smaller neighbors that Iraq will not rise like a military Phoenix out of the ashes of its military's destruction. It will allow those neighbors the opportunity to assemble new collective security arrangements where they will be capable of defending themselves against future aggression. As the suspension of arms transfers to Iraq remain in place the opportunity for diplomacy comes into play.

THE POTENTIAL SILVER LINING

They say that every cloud has a silver lining, and unwittingly Saddam Hussein may have provided the Middle East with a silver lining to the clouds of war and Iraqi caused smog that are now lifting from the Persian Gulf. In his desire to devour Kuwait and in the Palestinian Liberation Organization's duplicity in supporting him in this effort, Saddam Hussein and Yasser Arafat contributed to the formation of a Rijadh-Cario-Damascus alliance. Now I for one, have never been a fan of Hafez Assad, but I do see the potential for the development of a Camp David II type of agreement coming out of the Gulf War.

Clearly, the United States has a longstanding and unswerving commitment to Israel and its security and survival. In this regard, the United States has consistently committed itself to maintaining what we describe as Israel's qualitative edge over its quantitative disadvantages vis-a-vis its hostile neighbors. Hence the transfer of U.S. Patriot missile batteries to Israel to offset the threat of indiscriminate Iraqi Scud missile attacks against Israel's civilian population. This is a commitment from which we will not stray.

It is equally clear, that each of the nations within this highly volatile region have just been witness to the most incredible and devastating destruction of any army since that of Napoleon's disastrous retreat from Moscow, or that of the German Wehrmacht on the Russian steppe. Keep in mind, however, that those past engagements and defeats took place over years, after hundreds upon hundreds of days of fighting, attacking and counter attacking. The destruction of the Iraqi war machine—what once was the fourth largest war making machine in the world—took place in some forty days of air operations of unprecedented magnitude but in no more than one hundred hours of ground warfare, the intensity of which I hope and pray that none of us will ever see again.

This utter and complete destruction of Saddam Hussein's legions of doom, in what he called the "mother of all battles," but what became the mother of all disasters to the Iraqi army must signal to all parties in the Middle East that war can no longer be an alternative to diplomacy and peace. Anwar Sadat courageously faced this reality when he went to Jerusalem and on to Camp David where he and Prime Minister Menachem Begin took those first steps toward ending the Arab-Israeli conflict peacefully. It is now time for other Arab states to take similar action. The forces of moderation are now at the fore of Arab leadership, and the time for building upon the Camp David foundation is upon us.

President Bush exhibited sound and credible leadership in his prosecution of the war against Iraq. His leadership in assembling the allied coalition of forces was masterful. His unprecedented consultations with Congress ensured American unity of purpose. His deliberations with the allies and the Soviet Union maintained the integrity of the international coalition. The President, joined by a historic Congressional war powers authorization and an international coalition of thirty countries, was able to demonstrate cohesion and solidarity of purpose. The President, along with his council of war, and his generals were successful in winning the war.

We, in Congress, however, now call upon the President to chain the dogs of war, to demonstrate his leadership and resolve in bringing diplomacy to the fore. It is now time for the President to unleash his counsels of peace. In pursuing this endeavor the United States and its partners must commit themselves to building bridges between the rich and poor peoples of this strife torn region through economic development. We must convince these peoples to respect the rule of law and not the rule of the jungle through their mutual recognition of their rights to individual and state security. We must continue to pursue the principles of human rights through our historical and basic commitment to such principles. We must continue to propose the development of democratic institution building through our traditional commitment to such institutions. We must encourage these developments or risk all that we have achieved in victory through a continuation of the status quo in Arab-Israeli relations. While the achievement of these tasks will not be easy, they are possible to imagine, and therefore, not impossible to achieve.

A TRIBUTE TO LeROY COLLINS

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1991

Mr. FASCELL. Mr. Speaker, I join our colleagues in paying tribute to a man who led the State of Florida and our Nation into a new era, Gov. LeRoy Collins. While other Southern Governors fought integration, LeRoy Collins was fighting for its peaceful implementation. While others sat on the sidelines or ran for cover, LeRoy Collins threw himself in the middle of the most controversial issue of the day. First as Governor, and then as a representative of President Johnson when he mediated the historic march from Montgomery to Selma in 1965, he was committed to integrating our society at all levels.

LeRoy Collins vetoed segregation legislation and successfully lobbied legislators to sustain his veto. In 1956, he used an obscure constitutional provision to adjourn the legislature and prevent the passage of segregationist measures. In a 1963 speech in South Carolina he reflected on the future of the South:

> Any rational man who looks out on the horizon and sees the South of the future segregated is simply seeing a mirage. Above all else it is the moral duty of our generation to plow under racial injustice everywhere in the United States.

In 1960, he used the occasion of the first statewide radio-television address by a Governor in Florida to denounce white-owned businesses which encouraged blacks to patronize parts of their establishments, but denied them service in others. Collins struck at the heart of segregation and ignored its political risks. In 1968, the political ramifications of his courage would catch up with him when he was branded "Liberal LeRoy" in an unsuccessful bid for the U.S. Senate. Earlier in his career, he made a comment that is an appropriate footnote to the 1968 Senate contest: "I do not have to get reelected, but I have to live with myself."

His belief in integration was rooted in what I believe was his fundamental political principle—all citizens have the same rights to hope and opportunity. He established a statewide system of junior colleges which has allowed countless Floridians to further their education. In a recent interview Collins said: "I believe we ought to look for the stars. We can find a lot of stars if we look for them."

LeRoy Collins was the same thoughtful and reflective person in his private life as he was in his public life. His peaceful resolve and strong leadership helped Florida through a period of our history that other States struggled with. He has already been eulogized as a timeless figure in a very critical time in the history of our State, in particular, and the Nation, in general. Indeed, at anytime our Nation would have been blessed to have him, but during the struggle for civil rights it was critical that we had LeRoy Collins.

Jeanne-Marie and I extend our sympathy to his wife, Mary Call, and to his family.

OFFICIAL INTIMIDATION OF THE CROATIAN PRESIDENT BY YUGOSLAV FEDERAL OFFICIALS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1991

Mr. LANTOS. Mr. Speaker, Yugoslavia has reached a crossroads. Most of the six Yugoslav Republics have held free and fair elections in which Communist leaders have been replaced by democratically elected officials. But in the Republic of Serbia and in the Yugoslav Federal Government, old line Communists continue to dominate.

I would like to draw the attention of my colleagues to one particularly disturbing example of the level to which the old order will stoop to maintain its illegitimate grip on power. Croatia's democratically elected President, Franjo Tudjman, has been the target of malicious intimidation carried out by the Yugoslav Federal Government.

In January of this year President Tudjman sent a letter to President Bush requesting moral support from the United States in averting the escalation of conflict between Croatia and the Yugoslav Federal Government. President Tudjman advocated "a peaceful resolution to ensure future stability, respect for internal borders, and cooperation between the nations states" of Yugoslavia.

In an effort to intimidate President Tudjman and to discourage Croatia's movement toward democracy, the Federal prosecutor of the Federal Government issued an opinion that President Tudjman's letter "appealed to a foreign power to resolve the Yugoslav crisis, thereby putting Yugoslavia in a subordinate position." He declared that under the Yugoslav Criminal Code, section 117, this was a criminal act of treason.

Croatia has advocated the peaceful resolution of problems between the republics of the Federal Government of Yugoslavia in much the same way that Lithuania, Latvia, Estonia, and Georgia have sought to advance democratic and pluralistic ideals within the Soviet Union. Just as Gorbachev has used military force and other totalitarian tactics to repress these Soviet republics, the Yugoslav Federal Government is using similar tactics against President Tudjman and the Croatian Government. high treason do not cease. For the sake of creating normal conditions for a democratic resolution of the state-political crisis in the SFRY, I consider it necessary for the federal public prosecutor to withdraw its opionion regarding the justification of criminal-legal accountability and that the Presidency of the SFRY disassociate itself from threats of opening new Stalinist processes against even the highest representatives of the Republics.

Mr. Speaker, it is a serious matter that a request for moral support for the democratic and peaceful resolution of differences be branded as treason. It is of the utmost importance that we in the U.S. Congress actively encourage and promote the spread of democracy and the peaceful resolution of problems. To the end, we must not ignore the attempts by Yugoslav federal officials to suppress democracy by military intervention or by politically motivated criminal prosecution. We must support a peaceful and democratic resolution to the conflict in this region.

In a letter to the President of the Federal Presidency, Dr. Borislav Jovic of the Republic of Serbia, President Tudjman stated earlier this month,

> This letter, sent in a manner usual in international relations, appealed to President Bush—with regard to the role and reputation that the U.S.A. and President Bush have in the international democratic public and the free world—to influence with diplomatic means a peaceful outcome of the Yugoslav crisis and the prevention of bloodshed.

Mr. Speaker, because of the intimidation campaign against President Tudjman by federal officals, the democratically elected President of Croatia is not able to travel to Belgrade to perform his official duties as a member of the expanded Yugoslav Federal Presidency because of fear of being arrested by federal officials. President Tudjman wrote the following in a letter to the Federal President:

> In reference to today's [March 1, 1991] meeting of the Presidency of the SFRY, I wish to reiterate that as President of the Republic of Croatia, I cannot participate in the work of the Presidency of the SFRY and in negotiations on the future of Yugoslavia if the pressures and even threats of criminal prosecution for high treason do not cease. For the sake of creating normal conditions for a democratic resolution of the state-political crisis in the SFRY, I consider it necessary for the federal public prosecutor to withdraw its opinion regarding the justification of criminal-legal accountability and that the Presidency of the SFRY disassociate itself from threats of opening new Stalinist processes against even the highest representatives of the Republics.

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INTRODUCTION OF H.R. 1456, THE INTANGIBLES AMORTIZATION CLARIFICATION ACT OF 1990

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1991

Mr. VANDER JAGT. Mr. Speaker, I am today introducing H.R. 1456, the Intangibles Amortization Clarification Act of 1991. I am very pleased that two of my colleagues on the Ways and Means Committee, Congressman BERYL ANTHONY and Congresswoman BARBARA KENNELLY, are joining me in introducing this legislation. This legislation is intended to clarify the current law income tax treatment of customer based, market share, and any similar intangible items. This bill would specifically clarify that these intangible assets are amortizable over their determinable useful life provided that the taxpayer can demonstrate that: First, such items have an ascertainable value separate and distinct from other assets—including goodwill or going concern value; and second, such assets have a limited useful life.

By way of example, customer based intangibles include customer or subscriber lists; patient lists; insurance expirations and client lists; and advertiser lists. Such assets are present in the context of acquiring any business which provides service to customers, including, but not limited to, the acquisition of insurance agencies, newspapers, heating oil companies, waste disposal companies, magazine companies, medical practices and other similar businesses.

The introduction of this legislation is necessitated by two recent developments. First, the Internal Revenue Service has issued what is referred to as a "Coordinated Issue Paper" which takes the position that as a matter of law, customer based intangible assets cannot be amortized in any situation in which the acquirer of those assets, acquires as part of the same transaction, goodwill of a business. This position is inconsistent with the judicial precedent in this area and the IRS' own prior pronouncements. Notwithstanding the fact that the IRS position misstates current law, tremendous problems have been created for taxpayers as a consequence of IRS audit activity attempting to impose the position of the coordinated issue paper on taxpayers. Moreover, the mere existence of the coordinate issue paper is having a depressing effect particularly on the value of small businesses which are currently being offered for sale.

The second development is the introduction of legislation by my good friend and fellow colleague on the Ways and Means Committee, Congressman BRIAN DONNELLY. Mr. DONNELLY's legislation, H.R. 563, would provide that customer based intangibles shall be treated as having "an indeterminate useful life." While this provision would seem to be innocuous, the consequence of its enactment would be to prevent taxpayers from amortizing any such assets in that one of the requirements of current law for amortization, as specified in my legislation, is that the asset have a determinable useful life.

Enactment of my legislation would clearly indicate to the IRS the view of the Congress that the coordinated issue paper incorrectly describes current law and would assure affected and potentially affected taxpayers that Congress does not believe H.R. 563 is consistent with notions of fairness and sound tax policy.

Both the position of the IRS, as set forth in the coordinated issue paper, and the proposed legislation of Congressman DONNELLY, violate fundamental tax principles and represent questionable tax policy for the following reasons:

Taxpayers are obviously permitted to depreciate the cost of tangible assets used in business, for example, vehicles, machinery and equipment, furniture and fixtures, et cetera. The coordinated issue paper and H.R. 563 do not allow taxpayers comparable treatment with respect to customer based intangibles because they prevent taxpayers from demonstrating that such assets actually have determinable useful lives and value. The unfairness of this is apparent for a variety of assets which include, but are not limited to, insurance in force, insurance expirations, mailing lists, and the subscription lists of newspapers or magazines.

A consequence of this arbitrary approach is to tax more than the net income that the taxpayer earns with respect to these assets by disallowing a deduction for the cost of an asset that is exhausted over a period of time. This provision particularly penalizes any service industry.

Some might suggest that either H.R. 563 or the position taken in the coordinated issue paper might eliminate a difficult source of controversy between the IRS and taxpayers. Experience indicates, however, as in the case of other tax interpretive issues, that the IRS and the courts are more than capable of handling these problems as they have concluded on many occasions that assets such as subscription lists, franchises, and other intangibles can be wasting assets with a determinable life, and that taxpayers should be allowed to depreciate them. Moreover, I would encourage the IRS to devote their resources to assisting taxpayers in determining useful life and value rather than to costly and endless litigation which is not a productive use of either Government resources or taxpayer resources.

The position proposed by both the coordinated issue paper and H.R. 563 is unfair to taxpayers because it denies the ability of a taxpayer to establish that an asset has a determinable useful life and to recover its costs in that asset. In theory, H.R. 563 is even more unfair than the coordinated issue paper because it would preclude amortization even in those cases where goodwill is not present.

As I indicated, my legislation is simply intended to clarify the current law treatment of intangibles as reflected in years of judicial decisionmaking. By way of example, let me refer my colleagues to one of the preeminent cases in this area, the Houston Chronicle case. In that case, the Fifth Circuit Court of Appeals specifically recognized that the tax law has no rule that customer based intangibles are nonamortizable in those cases where goodwill is present. The court noted as follows:

> [W]e are satisfied that the rule does not establish a *per se* rule of non-amortizability in every case involving both goodwill and other intangible assets. In light of section 167(a) of the Code and Regulation section 1.167(a)-(3), we are convinced that the "mass asset" rule does not prevent taking an amortization deduction if the taxpayer properly carries his dual burden of proving that the intangibles asset involved (1) has an ascertainable value separate and distinct from goodwill, and (2) has a limited useful life, the duration of which can be ascertained with reasonable accuracy.

The Court of Claims reached a similar conclusion in the Richard S. Miller case when it stated as follows:

> There is no per se rule of nondepreciability or nonamortizability in every case that involves both goodwill and other intangible assets. The depreciability of assets such as customer and subscription lists, location contracts, insurance expirations, etc., is a factual question only.

This court, like many others specified the two pronged test that taxpayers must satisfy while stressing that reasonable approaches to satisfying these tests are appropriate:

> The evidence must establish that the expirations (1) have an ascertainable value separate and distinct from goodwill, and (2) have a limited useful life, the duration of which can be ascertained with reasonable accuracy. In application of this test, precise exactitude is not required. As the court in *Houston Chronicle* states:
>
> "Our view that amortizability for tax purposes must turn on factual bases—is more in accord with realities of modern business technology in a day when lists are bartered and sold as discrete vendible assets. Extreme exactitude in ascertaining the duration of an asset is a paradigm that the law does not demand. All that the law and regulations require is reasonable accuracy in forecasting the asset's useful life."

My legislation is intended to stress to the IRS that they must apply this reasonableness standard in considering taxpayer positions in this area. For example, studies used to determine value prepared based on generally accepted valuation methods, even if prepared by in-house personnel, should be considered reasonable. Likewise, valuations based on arms-length allocations generally should be treated as reasonable. Useful life estimates based on experience of the taxpayer, the seller of assets, industry experience or reasonable appraisals also should be treated as reasonable.

Many of my colleagues may recall that Congress recently addressed the tax treatment of intangible matters. In 1987, as part of the Omnibus Budget Reconciliation Act of 1987, legislation similar to Congressman DONNELLY's was considered as part of the conference committee deliberations on that legislation. After thoughtful consideration, the conference committee rejected that legislation as unfair and inconsistent with sound tax policy for many of the reasons I have discussed today.

Finally, let me emphasize that my proposed legislation will have no revenue losing effect, as it is only intended to restate current law. In fact, it is likely to have a positive effect on the budget deficit in that it is intended to eliminate needless litigation and should facilitate early resolution of disputes pending between taxpayers and the IRS. It is, nevertheless, important, particularly in light of the position which the Internal Revenue Service is currently taking through its coordinated issue paper of refusing in many cases to recognize that taxpayers can amortize customer-based intangibles and similar assets when they satisfy the two-pronged test of establishing value and useful life. The obvious unfairness which this position is having for both buyers and sellers of business is a serious matter. This unfairness is particularly severe for small business men and women contemplating a possible sale of their business because the very existence of the coordinated issue paper is depressing the possible purchase price of such businesses. Thus, I encourage my fellow colleagues to cosponsor and work for enactment of my legislation.

THE FOOD FOR YOUNG CHILDREN ACT

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1991

Mr. MOODY. Mr. Speaker, today I am introducing legislation that will help ensure that all poor children in day care centers have balanced meals. The Food for Young Children Act, which I am introducing with 30 of my colleagues, will make adjustments in the Federal Child Care Food Program so all low-income children will qualify for participation in this valuable program. This is an important investment in our children and their future.

Poor nutrition has both serious short- and long-term effects. Good nutrition is essential for young children in order to grow physically and mentally. There is a clear link between proper nutrition, good health, and cognitive development. Hungry children have a greater inability to concentrate, are more irritable, and have a greater tendency to be sick. Poor nutrition can also result in growth retardation and an increased risk of infections.

The Food for Young Children Act will help correct the problem with the Federal Child Care Food Program that inadvertently excludes many poor children. Currently children who attend for-profit day care centers can only participate in the USDA Food Program if at least 25 percent of the children attending the day care center receive title XX funds. In the early 1980's, Congress made a change in the Child Care Food Program eligibility requirements to allow for-profit day care centers to participate in the program. The intent was to ensure that low-income children are receiving proper nutrition and also to provide a greater incentive to for-profit day care centers to accept these children.

The number of day care funding sources for low-income children have expanded during the 1980's which means many poor children no longer rely on title XX as their child care funding source. As a result, these children no longer qualify for the Child Care Food Program. The Food for Young Children Act adjusts the participation requirements so child care centers can participate in the Child Care Food Program if 25 percent or more of the children they serve have family incomes that qualify them for free or reduced price meals, regardless of whether these children are receiving title XX funds.

I urge my colleagues to join me in support of this legislation. It is time to rectify this inequity in the Federal Child Care Food Program. Let us make sure that all children are eating properly while at day care.

PROLIFERATION PROFITEERS: PART 3

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1991

Mr. STARK. Mr. Speaker, today I am placing into the CONGRESSIONAL RECORD the third of 12 case studies on foreign firms which sold nuclear weapons technology to Saddam Hussein.

With the easing of East-West tensions, nuclear proliferation is now the No. 1 threat to U.S. national security. And one of the leading causes of proliferation has been the weak and poorly enforced export controls of many Western countries. We must address this problem today or else face a world with dozens of countries armed with weapons of mass destruction and the means to deliver them.

Last month, I introduced the Nuclear Non-Proliferation Enforcement Act (H.R. 830), to help halt the spread of nuclear weapons. The legislation is closely modeled on the missile technology sanctions passed in the Defense bill last fall and is currently cosponsored by 18 Members of Congress.

TWELVE FOREIGN FIRMS REPORTEDLY ENGAGED IN NUCLEAR WEAPONS-RELATED TRADE WITH IRAQ

FIRM 3: EXPORT-UNION GMBH (GERMANY)

Export-Union GmbH is a medium-sized trading firm owned by Wolfgang Boehm. In 1990, the company filed an Iraqi order for 40 tons of metal sheets made of maraging steel and 14 tons of steel rings. Because of its hardness and high tensile strength, maraging steel is suitable for such nuclear weapons-related applications as the production of uranium enrichment centrifuges. The order was worth DM 100,000, but Iraq was prepared to pay DM 3.8 million. In mid-1990, three employees of the Iraqi firm Teco went to Germany to monitor a special materials test of the maraging steel and to receive training in processing of the material. As of August 1990, the German government did not require any official permit for the export of this material, which was originally produced by the German firm Saarstahl.

IN HONOR OF 50 YEARS OF THE MONTEREY PENINSULA AIRPORT DISTRICT

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1991

Mr. PANETTA. Mr. Speaker, I rise today to pay tribute to the Monterey Peninsula Airport District on the occasion of the 50th anniversary of its March 22, 1941, founding.

In the last 50 years, we have seen the Monterey Peninsula Airport District extend its capacities to fulfill the growing needs of the people of the 16th District of California. Since its opening, the airport district has encouraged and participated in the advancement of the Monterey Peninsula in business, industry, and character.

Established in 1941, the Monterey Peninsula Airport District began as a small facility with limited services. Presently, it provides both corporate and private aircraft lines serving five major air carriers and their regional affiliates. Not only is the facility a convenient outlet for the district's high level of tourism, but it also serves as a base for military air operations. In times of emergency, the airport has supported the tactical deployment of military transport from Fort Ord. In the past 50 years, the Monterey Peninsula Airport District has been accommodating and responsive to the needs of the civilian and military personnel of the 16th District who have come to depend on it.

The airport has managed to incorporate the serenity of the Monterey area with the efficiency of a large airport facility. It is constructed on 600 acres of land, including a terminal and two runways, and generates an estimated 425 jobs for the people of the Monterey Peninsula. It is a small and personable facility that compliments the atmosphere of the district that it serves.

The Monterey District Airport and the people who contribute to its survival have created a gateway to one of the most breathtaking and historical areas in the world. The airport is a vital part of the growth and diversity of the Monterey Peninsula. Without it, thousands of people each year could not experience the exquisite beauty of Pebble Beach, Big Sur, Carmel, and Monterey.

Mr. Speaker, I ask my colleagues to join me now in honoring the Monterey Peninsula Airport District on its 50th anniversary. It is with great pride and respect that I pay tribute to the outstanding service this facility has provided to the citizens of the 16th Congressional District of California.

TRIBUTE TO THE MIAMI CHILDREN'S HOSPITAL

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1991

Mr. FASCELL. Mr. Speaker, I would like to take this opportunity to call to our colleagues' attention the story of the Miami Children's Hospital, an institution that, for over 50 years, has been committed to excellence in pediatric health care, research, and education. Our greatest resource is our children. Therefore, the selfless dedication of the entire hospital staff to treat the sickest of children in a variety of medical specialties is of the utmost importance to south Florida, as well as the Nation as a whole. Over the years, the miracles performed daily at the hospital have given scores of children and their families hope, as well as bringing smiles and laughter back into their lives.

None of these accomplishments would have been possible without the efforts of the Miami Children's Hospital Foundation, the fiduciary and fund raising affiliate of the pediatric medical center. David M. Walters, president of the foundation, as well as former U.S. Ambassador to the Vatican, deserves special recognition for the work he has done as leader of the foundation. His tireless work on behalf of countless numbers of ailing children stands as an example for all U.S. citizens of what a difference one person can make by sharing his or her talents with those less fortunate. It was Ambassador Walters who first shared the story of the Miami Children's Hospital with me, and today I commend the story to our colleagues' attention.

THE STORY OF MIAMI CHILDREN'S HOSPITAL

The story of the development of Miami Children's Hospital-Mary Ann Knight International Institute of Pediatrics is a legend in the modern history of Florida. It stands as a tribute to the private citizens of south Florida who have, through their energy and benevolence, created one of the most advanced free standing, independent, teaching and research pediatric institutions in the hemisphere.

The beginnings were humble, conceived in the minds of local doctors in the mid-thirties at a time when south Florida was celebrated primarily as a place to escape the harsh winters of the north. The early concept was a crippled children's hospital on 26 acres just west of Coral Gables. The war interrupted its construction however Variety Club Tent #33 joined the venture thus completing the first structure. In the early 1950's, the hospital was a regional hospital for polio patients. With the arrival of the Salk vaccine on the medical front, this threat disappeared and Variety Children's Hospital, as it was then known, became a modest caring community children's hospital.

By 1980, it became apparent that Variety Children's Hospital could not meet the demands of the burgeoning population of south Florida. A decade of development was planned by leading citizens who gave of their time and wealth to what then became Miami Childen's Hospital. The object was to achieve the ultimate in child health care so that no child need leave Florida to get the best of care for the worse of diseases. In less than ten years, that goal has been achieved without losing the tender care characterized by the original hospital.

Today, this now international institution has flourished to the point of treating as inpatients and outpatients over 100,000 children annually, cared for by more than 1,700 employees. 87 sub-specialty pediatricians are officed on campus providing training for a substantial number of the state's pediatric residents. A 43,000 sq. ft. Research Center in basic science with protocols in genetics-microbiology, nutrition and neurobiology is the latest achievement.

The Legislature of the State of Florida by Resolution has lauded the institution for its great merit.

HUMAN RIGHTS IN GUATEMALA

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1991

Mr. LANTOS. Mr. Speaker, the Congressional Human Rights Caucus, which I cochair with Congressman JOHN PORTER, recently invited Members of Congress to join us in sending a letter to newly elected President Jorge Antonia Serrano of Guatemala. The letter commends President Serrano for his strong statements for the defense of human rights and calls on him to take concrete actions to ensure that justice and basic rights are protected in his country. The bipartisan letter was signed by 105 Members of Congress—a quarter of the United States House of Representatives—and was delivered to the Guatemalan Ambassador by Congressman JOHN SPRATT, a leader in Congress for human rights.

In addition, Assistant Secretary of State for Inter-American Affairs, Bernard Aronson, has echoed our concerns, and we look forward to working together to identify measures that will support Guatemalan initiatives for the improvement of human rights.

Human rights monitors have sadly referred to Guatemala as having one of the worst human rights situations in the world. Up to 38,000 disappearances were documented by human rights monitors in Guatemala before 1986. The restoration of civilian rule in 1986, after nearly 30 years of military governments, raised hopes that the long and tragic history of human rights abuses would come to an end. Those hopes have not been realized. Despite an initial decline in the number of human rights abuses, political violence has once again reached disturbing levels. Political killings now occur at the rate of more than one death per day.

President Serrano has called for an improvement in human rights conditions in Guatemala. In his inaugural speech, he pledged to protect human rights in his country. We welcome this interest in giving human rights a higher priority.

Mr. Speaker, I wish to submit for the RECORD the letter that was sent to President Serrano. I urge my colleagues to give it the serious attention it deserves.

The letter follows:

FEBRUARY 7, 1991.

DEAR MR. PRESIDENT: We would like to take this opportunity to extend to you our sincere congratulations on your inauguration. We welcome the peaceful transfer of power from one civilian administration to another. During your tenure in office, we look forward to working with you on issues of mutual interest.

As Members of Congress active in foreign affairs, we remain deeply concerned about the escalating human rights abuses in your country. Despite an initial decline in violations under the administration of President Vinicio Cerezo Arevalo, by 1990 human rights abuses once again reached very disturbing levels. Substantial evidence suggests that members of the security forces continue to be implicated in widespread and systematic human rights violations.

In recent years, Guatemalans from all sectors of society and of all ages have been the victims of human rights abuses. Reports indicate that those at particular risk include trade unionists, academics and students, church workers, peasants, human rights activists, journalists, and members of grass roots organizations. We are especially concerned that human rights organizations, including the GAM and the CERJ, have been targeted in campaigns of harassment and intimidation. Among the most troubling new victims of human rights violations are street children. According to Amnesty International, evidence has come to light that Guatemala City police and private security personnel have harassed, beaten, and, in some instances, killed street children. Witnesses have been intimidated and charitable organizations working with the children have suffered reprisals.

Because the improvement of human rights across the globe is an important goal of U.S. foreign policy, your government's success in improving human rights conditions in Guatemala will have a favorable impact on the future of bilateral relations between our two nations. We urge you to take several steps to help stem the renewed wave of political violence in Guatemala and improve human rights conditions.

First, we urge your government to issue a public condemnation of torture, "disappearances", and extra-judicial executions. Between 1986 and 1989, Amnesty International documented more than 222 political "disappearances" and Guatemala's assistant human rights procurator recorded 243 political killings in the first seven months of 1990 alone.

Further, we urge you to announce your intention to investigate thoroughly and impartially all human rights violations and to bring those responsible to justice. Procedures for arrest, interrogation, and the custody of suspects should be established and made known to all police and military personnel. The recent and expecially disturbing incident in Santiago Atitlan where 13 villagers were killed and at least 19 wounded is a poignant example. The recent arrest of two soldiers in connection with this event may be a first step towards justice that must be followed by a thorough and impartial investigation and vigorous prosecution of those responsible.

Finally, as Members of Congress especially concerned about human rights, we believe that governmental human rights bodies should be given adequate resources and authority, while special efforts should be made to protect all human rights monitors.

We recognize that as President of Guatemala you face many challenges and we stand with you in your endeavors to ensure the protection of fundamental human rights for all Guatemalans. We urge you to seize the opportunity of your election to your nation's highest office to champion the cause of human rights in Guatemala.

Sincerely,

Tom Lantos, John Porter, John M. Spratt, William H. Gray, Peter H. Kostmayer, William Clay, Stephen L. Neal, Richard A. Gephardt, John W. Cox, Jr., J. Roy Rowland, Ted Weiss, Ron Wyden, Beverly B. Byron, Norman D. Dicks, Douglas Applegate, Bob Livingston, Thomas C. McMillen, Joseph P. Kennedy II, Robert T. Matsui, Dan Burton, Nancy Pelosi, Frank R. Wolf, Lindsay Thomas, Porter J. Goss, Barbara Boxer, Ronald V. Dellums, Edward J. Markey, Frank Horton, Howard L. Berman, Ronald K. Machtley, Jerry F. Costello, Morris K. Udall, James A. Traficant, Jr., Robert J. Mrazek, Tom Campbell.

George E. Brown, Jr., Vic Fazio, Tony P. Hall, Martin Olav Sabo, James H. Scheuer, Dave McCurdy, William Lehman, John J. LaFalce, Henry A. Waxman, Guy Vander Jagt, Martin Frost, David E. Bonior, James L. Oberstar, George Miller, W.J. Tauzin, Nicholas Mavroules, Matthew F. McHugh, Charles E. Schumer, Barney Frank, Frank J. Guarini, Harry Johnston, Anthony C. Beilenson, Constance A. Morella, Elizabeth J. Patterson, Frank McCloskey, Thomas J. Manton, James H. Bilbray, Timothy J. Penny, Dennis E. Eckart, Jose E. Serrano, Jim Moody, Arthur Ravenel, Jr., Byron L. Dorgan, Leon E. Panetta, Ronald D. Coleman.

Harris W. Fawell, Dick Swett, Barbara F. Vucanovich, Rosa L. DeLauro, Gerry Sikorski, Donald M. Payne, Michael R. McNulty, John Joseph Moakley, Rick Boucher, Mike Espy, John Miller, John Lewis, William J. Hughes, Bernard Sanders, Jim Bacchus, Sander M. Levin, Rick Santorum, Nita M. Lowey, Jim Olin, Louise McIntosh Slaughter, Sid Morrison, Ben Nighthorse Campbell, David E. Skaggs, Jim McDermott, Esteban Edward Torres, Scott L. Klug, Jim Jontz, David E. Price, Christopher Shays, Jim Slattery, Jolene Unsoeld, Edolphus Towns, Edward F. Feighan, Michael R. McNulty, Robert G. Torricelli, Gerald D. Kleczka.

STANFORD PRESIDENT SETS INITIATIVE ON TEACHING

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1991

Mr. BROWN. Mr. Speaker, Stanford University recently has adopted new policies for evaluation of faculty performance which include placing increased emphasis on teaching. These new policies signal the beginnings of a welcome reassessment in universities of the balance that ought to be achieved among the different components of scholarship.

Since the post World War II era when the Federal Government became a major patron for university-based research, the focus of scholarship in universities has shifted noticeably with research emerging in a predominant position. While the research enterprise created is unsurpassed in the world, the concern has arisen that teaching of undergraduates may have suffered as faculty attention is diverted to other pursuits. It is not surprising that professors who perceive they are valued mainly for their research accomplishments begin to see teaching as merely a distracting burden.

The Stanford president, Donald Kennedy, has announced that, in making faculty hiring, promotion, and tenure decisions, the university will in the future consider only a limited number of research publications and will also consider teaching performance, and scholarly activities related to teaching. Mr. Kennedy also proposes special financial incentives to stimulate greater faculty attention to teaching. I am pleased to observe that this latter initiative has similarities to a program of Centers of Excellence of Undergraduate Teaching authorized at the National Science Foundation, which I proposed and which was included in the Excellence in Mathematics, Science and Engineering Education Act (Public Law 101–589).

Stanford is to be commended for the new policies which have been instituted. By these actions, Stanford reaffirms the central role of teaching at universities, while also placing the proper emphasis on quality of research publications, as opposed to number of publications. U.S. academic institutions can only be strengthened if similar reforms are widely adopted. The following news article describes the policies Stanford has adopted.

[From the Washington Post, Mar. 3, 1991]

STANFORD PRESIDENT SETS INITIATIVE ON TEACHING

(By Kenneth J. Cooper)

The president of Stanford University, in a paper released today, proposes extraordinary policy changes designed to ease the conflict between faculty research and teaching demands, including limiting how many scholarly articles are considered when professors seek tenure.

Donald Kennedy, Stanford's president since 1980, also announced $7 million in financial incentives and other programs intended to improve the teaching of undergraduates at the university near Palo Alto, Calif. Last April, he had promised such initiatives in a widely quoted speech to Stanford faculty that noted "troubling symptoms" of decline in undergraduate education at the private school.

Other college presidents and education researchers have expressed similar concerns that faculty members, driven to "publish or perish" to get tenure, have been paying more attention to their research and less to teaching. Students and their parents, more value-conscious after recent tuition hikes, also have questioned the research emphasis at large universities such as Stanford.

The main change Kennedy proposed in "an essay to the Stanford community" would limit the number of scholarly writings that the college will consider when deciding whether to hire, promote or grant lifelong tenure to faculty members. A faculty advisory board must approve the change.

Kennedy labeled "disturbing" a report last year from the Carnegie Foundation for the Advancement of Teaching that nearly half of faculty members believe their scholarly writings are merely counted—and not evaluated—when personnel decisions are made.

"First, I hope we can agree that the quantitative use of research output as a criterion for appointment or promotion is a bankrupt idea," Kennedy said. "The overproduction of routine scholarship is one of the most egregious aspects of contemporary academic life: It tends to conceal really important work by its sheer volume; it wastes time and valuable resources."

The proposed limits, he said, would "reverse the appalling belief that counting and weighing are the important means" of evaluating faculty research.

In addition, Kennedy urged faculty committees to value "forms of scholarship related to teaching" such as textbooks, instructional software programs and books or even videos geared to popular audiences.

He also proposed faculty peer reviews to supplement student evaluations of their teachers as well as ongoing evaluations of tenured professors, who now have "little incentive to attend to the improvement of teaching," he said.

Kennedy announced a half-dozen programs, the largest funded by a $5 million gift from Stanford trustee Peter Bing, designed to give faculty members ranging from graduate teaching assistants to senior professors better incentives to concentrate on effective instruction.

The new programs include base salary increases and $5,000 awards for superior teachers, teaching fellowships for senior faculty members and pay raises for lecturers who teach freshman English and required multicultural courses.

Robert Hochstein, spokesman for the Carnegie Foundation, predicted that Kennedy's initiative would stimulate other colleges to act to improve undergraduate teaching.

"It's the Harvard of the West Coast, and it plays back across the country," Hochstein said. "When big research universities make these kinds of commitments to teaching, it has a major impact on higher education."

Hochstein noted that other large research universities have recently acted on the same problem: Columbia University has established endowed chairs for outstanding teachers and the University of Pennsylvania has announced that all newly hired faculty members must teach undergraduates.

TRIBUTE TO THE AMERICAN LEGION POST 737

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1991

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to the American Legion Lake Post 737 of my 17th Congressional District of Ohio as it celebrates its 72d birthday.

The members of Lake Post 737 proudly recall the history of the American Legion, begun by a group of respected officers concerned with improving troop morale during World War I. The group received a national charter in 1919, then laid the foundations for local legions such as Lake Post 737. Lake Post 737 continues this tradition of fine work today, offering support and services to the veterans of Lake Milton.

The members of Lake Post 737 recognize the compassion and community support entitled to every American veteran who has selflessly offered his or her services to the country. Through hard work and caring programs, Lake Post 737 has made community support a reality. With our Persian Gulf troops just beginning their long trek home, the post continues to rally understanding and thanks for our veterans today with the same tireless energy it has had since the legion's inception in 1919.

Mr. Speaker, I would like to take this opportunity to recognize the American Legion Lake Post 737 as one of our Nation's premier examples of patriotism and love. It has carried on a tradition of American compassion while serving as an inspiration to us all. It is with great pride that I congratulate the members of Lake Post 737 on this 72d birthday celebration of the American Legion.

HONORING MSU'S CONCRETE CANOE TEAM

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1991

Mr. CARR. Mr. Speaker, I rise today to call attention to an outstanding group of young people in my home State of Michigan. On June 23, 1990, a group of Michigan State University engineering students demonstrated their skills which resulted by winning the American Society of Civil Engineers Third Annual National Concrete Canoe Competition in Amherst, NY.

Each team consisted of five members and was judged on the canoe's design, speed, construction, and maneuverability. Sixty percent of the total team score was computed by judging the team's written and oral presentation outlining the construction and material used in building the canoe. The 40 percent remaining was scored on actual racing of the concrete craft.

The event, written up in Sports Illustrated, was called "a unique look at the country's future engineering leaders." Nineteen colleges competed, entering canoes which weighed an average of 175 pounds. Michigan State's entry, however, weighed in at only 109 pounds, a demonstration of their superior engineering skills which no doubt contributed to their victory. In addition to winning the design portion of the competition, these competitors won the men's and women's distance, the women's sprint, and the coed races.

ASCE president, John Focht, Jr., recognized the improvement in this year's entries over those from previous competitions. "The technical level of the entries, the spirit of competition, and the enthusiasm of the participants was overwhelming," he said.

I would like to recognize these promising young engineers, and their engineering faculty, on their outstanding accomplishment.

A TRIBUTE TO THE REVEREND CHARLES W. GILCHRIST

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, March 18, 1991

Mrs. MORELLA. Mr. Speaker, I rise to honor the Reverend Charles W. Gilchrist, who will soon begin another stage of his remarkable career in public service by heading an inner-city shelter and rehabilitation program in Chicago.

Charlie Gilchrist ably served in the Maryland State Senate from 1974–78 and as Montgomery County's Executive from 1978–86. During his tenure as county executive, Charlie was a constant advocate for the poor, the elderly, and the mentally ill in our county. As a member of the Maryland House of Delegates, I had numerous opportunities to work with Charlie on a variety of issues of importance to our community. I always found him to be an extremely receptive, thoughtful, and deeply caring individual.

Charlie Gilchrist opted out of political life in 1986 to pursue another calling, the Episcopalean ministry. In the seminary and in his first assignment as assistant rector at St. Margaret's Episcopal Church, Charlie displayed the same diligence and dedication which characterized his tenure in government. Charlie is a public servant in the truest sense of the word, and I know that he will be an immense asset to those whom he will serve in Chicago.

I wish Charlie Gilchrist the very best as he embarks on what I am sure will be yet another exciting and rewarding stage of his life.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, March 19, 1991, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 20

9:00 a.m.

Labor and Human Resources

Business meeting, to consider the nomination of Bernadine P. Healy, of Ohio, to be Director of the National Institutes of Health, Department of Health and Human Services, and other pending calendar business.

SD-430

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, Office of Inspector General, and the National Credit Union Administration.

SD-116

Armed Services

To continue hearings on proposed legislation authorizing funds for fiscal years 1992 and 1993 for the Department of Defense, and to review the fiscal years 1992–1997 future year defense plan.

SR-222

Energy and Natural Resources

To hold hearings on S. 341, the National Energy Security Act of 1991, focusing on Title XI relating to Corporate Average Fuel Economy (CAFE).

SD-366

Governmental Affairs

To hold hearings on FTS 2000.

SD-342

Rules and Administration

Business meeting, to mark up proposed legislation relating to Congressional election campaign finance reform.

SR-301

Small Business

To hold hearings on the nomination of Patricia S. Saiki, of Hawaii, to be Administrator, Small Business Administration.

SR-428A

10:00 a.m.

Appropriations

Interior Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for the National Endowment for the Arts and the National Endowment for the Humanities.

SD-192

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for energy and water development programs.

SH-216

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for the Urban Mass Transportation Administration and the Washington Metropolitan Area Transit Authority.

SD-138

Banking, Housing, and Urban Affairs

To resume hearings on financial modernization of the banking industry, focusing on interstate banking.

SD-538

Environment and Public Works

Environmental Protection Subcommittee

To hold hearings to examine and evaluate global warming and other environmental consequences of energy strategies.

SD-406

Finance

To continue hearings on the President's proposed budget for fiscal year 1992, focusing on reductions in Medicare benefits.

SD-215

2:00 p.m.

Armed Services

To hold hearings on the nomination of Duane H. Cassidy, of Virginia, to be a Member of the Defense Base Closure and Realignment Commission.

SR-222

Commerce, Science, and Transportation

To hold hearings to examine new priorities for U.S. technology policy.

SR-253

Energy and Natural Resources

To resume hearings on S. 341, the National Energy Security Act of 1991, focusing on Title XI provisions relating to transportation issues, and on the Administration's proposal contained in the National Energy Strategy relating to alternative-fuel fleets.

SD-366

Foreign Relations

Terrorism, Narcotics and International Operations Subcommittee

To resume hearings on proposed legislation authorizing funds for foreign assistance, focusing on the Board for International Broadcasting and the National Endowment for Democracy.

SD-419

3:00 p.m.

Foreign Relations

European Affairs Subcommittee

To hold hearings on the status of the Conventional Forces in Europe Treaty (pending receipt by the Senate).

S-116, Capitol

MARCH 21

9:00 a.m.

Appropriations

Defense Subcommittee

To hold closed hearings on proposed budget estimates for fiscal year 1992 for the Department of Defense, focusing on the national foreign intelligence program.

S-407, Capitol

9:30 a.m.

Energy and Natural Resources

To hold hearings to review the status of implementation of the Department of Energy's civilian nuclear waste program mandated by the Nuclear Waste Policy Act of 1982 and its 1987 revisions.

SD-366

Governmental Affairs

Government Information and Regulation Subcommittee

To hold hearings on improving access to student financial aid, focusing on related provisions of S. 501, to establish a data collection, information dissemination, and student counseling and assistance network.

SD-342

Rules and Administration

To hold hearings on S. 250, to establish national voter registration procedures for Federal elections.

SR-301

Select on Indian Affairs

To hold joint hearings with the House Interior Committee on S. 291, to settle certain water rights claims of the San Carlos Apache Tribe.

SR-485

10:00 a.m.

Appropriations

Labor, Health and Human Services, Education Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for ACTION, the Federal Mediation and Conciliation Service, the National Mediation Board, the Railroad Retirement Board, the Federal Mine Safety and Health Review Commission, the National Labor Relations Board, and the Occupational Safety and Health Review Commission.

SD-192

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for energy and water development programs.

SD-138

Appropriations

Treasury, Postal Service, General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for the Financial Crimes Enforcement Network, Department of the Treasury.

SD-116

Banking, Housing, and Urban Affairs

To continue hearings on financial modernization of the banking industry, focusing on bank industry insurance fund recapitalization.

SD-538

Environment and Public Works

Water Resources, Transportation, and Infrastructure Subcommittee

To hold hearings on issues relating to the application of pricing to surface transportation policy.

SD-406

Finance

To hear and consider the nomination of Renato Beghe, of New York, to be a Judge of the United States Tax Court.

SD–215

Foreign Relations

Terrorism, Narcotics and International Operations Subcommittee

To continue hearings on proposed legislation authorizing funds for foreign assistance, focusing on the U.S. Information Administration and the Voice of America.

SD–419

Judiciary

Business meeting, to consider pending calendar business.

SD–226

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To hold hearings on proposed legislation authorizing funds for programs of the Higher Education Act, focusing on financing college education.

SD–430

10:30 a.m.

Commerce, Science, and Transportation

Consumer Subcommittee

To hold hearings on S. 591, to increase automobile safety by requiring airbags for certain newly manufactured vehicles.

SR–253

1:30 p.m.

Select on Intelligence

To hold hearings on the reorganization of the intelligence community.

SR–222

2:00 p.m.

Appropriations

Labor, Health and Human Services, Education Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for the Physician Payment Review Commission, the Corporation for Public Broadcasting, the National Commission on Libraries, the U.S. Institute of Peace, the National Commission on AIDS, the Prospective Payment Assessment Commission, the National Commission to Prevent Infant Mortality, and the Soldiers' and Airmen's Home.

SD–192

Banking, Housing, and Urban Affairs

To continue hearings on financial modernization of the banking industry, focusing on bank insurance fund recapitalization.

SD–538

Energy and Natural Resources

Energy Regulation and Conservation Subcommittee

To hold hearings on S. 341, the National Energy Security Act of 1991, focusing on subtitle A of Title IV relating to the export of renewable energy and energy efficiency technology.

SD–430

Foreign Relations

Terrorism, Narcotics and International Operations Subcommittee

To continue hearings on proposed legislation authorizing funds for foreign assistance, focusing on the U.S. Arms Control and Disarmament Agency.

SD–419

2:30 p.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 292, to expand the boundaries of the Saguaro National Monument, Arizona, S. 363, to authorize the addition of 15 acres to Morristown National Historical Park, New Jersey, S. 545, to authorize the additional use of land in Merced County, California, and S. 549, to designate the Lower Merced River in California as a component of the National Wild and Scenic Rivers System.

SD–366

MARCH 22

9:00 a.m.

Foreign Relations

Western Hemisphere and Peace Corps Affairs Subcommittee

To resume hearings to examine issues relating to a bilateral free trade agreement between the United States and Mexico.

SD–419

10:00 a.m.

Appropriations

Agriculture and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for the Department of Agriculture, focusing on the Food and Nutrition Service, and the Human Nutrition Information Service.

SD–138

Appropriations

Legislative Branch Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for the Legislative Branch, focusing on the Capitol Police Board, and the Architect of the Capitol.

SD–116

Finance

International Trade Subcommittee

To hold hearings on the renewal of the U.S.-Japan Semiconductor Trade Agreement.

SD–215

MARCH 25

10:00 a.m.

Appropriations

Treasury, Postal Service, General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for the Internal Revenue Service, Department of the Treasury.

SD–116

APRIL 9

10:00 a.m.

Appropriations

Commerce, Justice, State, and Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for the National Oceanic and Atmospheric Administration and the National Institute of Standards and Technology of the Department of Commerce.

S–146, Capitol

1:00 p.m.

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for certain transportation programs.

SD–138

2:30 p.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for foreign assistance, focusing on aid to Latin America.

SD–192

APRIL 10

9:30 a.m.

Commerce, Science, and Transportation

Consumer Subcommittee

To hold hearings on proposed legislation authorizing funds for the National Highway Traffic Safety Administration.

SR–253

Environment and Public Works

Superfund, Ocean and Water Protection Subcommittee

To hold hearings to examine lender liability as related to Superfund.

SD–406

Rules and Administration

To resume hearings on S. 250, to establish national voter registration procedures for Federal elections.

SR–301

10:00 a.m.

Appropriations

Agriculture and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for the Department of Agriculture, focusing on the Farmers Home Administration, the Federal Crop Insurance Corporation, and the Rural Electrification Administration.

SD–138

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for energy and water development programs.

SD–192

Appropriations

Treasury, Postal Service, General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for the White House residence, and the Office of Personnel Management.

SD–116

1:30 p.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for the Inter-agency Council on the Homeless, and the Department of Housing and Urban Development.

SD–124

2:00 p.m.

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for energy and water development programs.

SD–192

APRIL 11

10:00 a.m.

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for the Research and Special Programs Administration of the Department of Transportation, and the National Transportation Safety Board.

SD–138

1:30 p.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 218, to require the Secretary of Commerce to make additional frequencies available for commercial assignment in order to promote the development and use of new telecommunications technologies.
SR-253

2:00 p.m.
Energy and Natural Resources
To hold hearings on S. 343, to provide for continued United States leadership in high performance computing.
SD-366

APRIL 12

9:30 a.m.
Select on Indian Affairs
To hold hearings on S. 168, to provide additional financial compensation to the Three Affiliated Tribes (Mandan, Hidatsa, and Arikara Tribes that reside on the Fort Berthold Indian Reservation) and the Standing Rock Sioux Tribe for the taking of reservation lands for the sites of the Garrison Dam and Reservoir and the Oahe Dam and Reservoir.
SR-485

APRIL 16

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Departments of Labor, Health and Human Services, Education, and related agencies.
SD-192

Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on the Department of Energy's superconducting super collider program.
SD-366

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Office of the U.S. Trade Representative, and the International Trade Administration of the Department of Commerce.
S-146, Capitol

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on aid to Eastern Europe.
SD-138

APRIL 17

9:00 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the AMVETS, the American Ex-Prisoners of War, the Jewish War Veterans, and the Veterans of World War I.
345 Cannon Building

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Departments of Labor, Health and Human Services, Education, and related agencies.
SD-192

10:00 a.m.
Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Office of Management and Budget, and the Executive Office of the President.
SD-116

1:30 p.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the United States Court of Veterans Affairs, and the Department of Veterans Affairs.
SD-138

APRIL 18

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Departments of Labor, Health and Human Services, Education, and related agencies.
SD-192

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the United States Information Agency and the Board for International Broadcasting.
S-146, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Federal Highway Administration, Department of Transportation.
SD-138

APRIL 19

10:00 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Department of Agriculture, focusing on the Commodity Futures Trading Commission, the Food and Drug Administration, the Farm Credit Administration, and the Farm Credit System Assistance Board.
SD-138

APRIL 23

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings to examine the science education programs of various Federal agencies.
SD-138

Appropriations
Labor, Health and Human Services, Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Departments of Labor, Health and Human Services, Education, and related agencies.
SD-1902

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Federal Bureau of Investigation and the Drug Enforcement Administration of the Department of Justice.
S-146, Capitol

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on security in the post-cold war era.
SD-138

APRIL 24

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Office of Science and Technology Policy, and the National Science Foundation.
SD-124

Appropriations
Labor, Health and Human Services, Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Departments of Labor, Health and Human Services, Education, and related agencies.
SD-192

2:30 p.m.
Select on Indian Affairs
To hold oversight hearings on new school construction, repair, and improvement on Bureau of Indian Affairs' school facilities.
SR-485

APRIL 25

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Departments of Labor, Health and Human Services, Education, and related agencies.
SD-192

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the U.S. Coast Guard, Department of Transportation.
SD-138

Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Office of National Drug Control Policy.
SD-116

APRIL 26

10:00 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Department of Agriculture.
SD-138

MAY 7

1:00 p.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the National Highway Traffic Safety Administration and the Office of Inspector General, Department of Transportation.
SD-138

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for foreign assistance, focusing on AID management issues and reform efforts.
SD-192

MAY 8

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the National Space Council, and the National Aeronautics and Space Administration.
SD-138

MAY 9

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Federal Aviation Administration, Department of Transportation.
SD-138

MAY 14

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on U.S. trade.
SD-138

MAY 15

1:30 p.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Commission on National Service, and the Points of Light Foundation.
SD-138

MAY 16

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the General Accounting Office.
SD-138

MAY 17

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Departments of Veterans Affairs, Housing and Urban Development, and independent agencies.
SD-138

MAY 21

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on international AIDS crisis.
SD-138

3:45 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on the Peace Corps expansion and change.
SD-138

MAY 23

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for certain transportation programs.
SD-138

JUNE 4

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance.
SD-138

CANCELLATIONS

MARCH 19

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for foreign assistance, focusing on aid to Africa.
SD-138

MARCH 20

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Department of Education, focusing on the Offices of the Assistant Secretaries of Education, and the Office of Inspector General.
SD-192

MARCH 21

9:30 a.m.
Labor and Human Resources
Children, Family, Drugs, and Alcoholism Subcommittee
To hold hearings on proposed legislation to revise the Child Abuse Prevention and Treatment Act to authorize grants to States for improving child protective service systems.
SD-106

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs on the proposed Soldiers' and Sailors Civil Relief Act.
334 Cannon Building

HOUSE OF REPRESENTATIVES—*Tuesday, March 19, 1991*

The House met at 12 noon.

The Reverend Willard Albertson, Wayzata Community Church, Wayzata, MN, offered the following prayer:

Almighty God, our God of life and amazing grace, we thank You for Your presence at this moment and in this place.

Your grace has rooted this Nation with the uncommon legacy of liberty; we pray for strength of national character and personal integrity to keep this legacy ever alive.

May Your wise counsel instruct the deliberations of this day and keep us mindful of those who struggle for freedom in the face of those who rule through terror, those who plunder the weak, and imprison the just.

We pray our profound gratitude, Almighty God, that our national purpose has been a sacred resolve of life and liberty. May we never forget that liberty is no accident and freedom is not free. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair will ask the gentleman from Georgia [Mr. DARDEN] if he would kindly come forward and lead the membership in the Pledge of Allegiance.

Mr. DARDEN led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 133. Joint resolution authorizing and requesting the President to designate the second full week in March 1991 as "National Employ the Older Worker Week".

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 331. An act to provide military personnel benefits for persons serving during Operation Desert Storm, and for other purposes;

S. 332. An act to authorize supplemental appropriations for the Department of Defense for Operation Desert Storm, and for other purposes;

S. 483. An act entitled the "Taconic Mountains Protection Act of 1991";

S. 578. An act to authorize supplemental appropriations for fiscal year 1991 for the Department of Defense for Operation Desert Storm, to provide military personnel benefits for persons serving during Operation Desert Storm, and for other purposes;

S. 669. An act to provide a land transfer to the Missouri Housing Development Commission; and

S. 674. An act to designate the U.S. Post Office located at 304 West Commercial Avenue in Monterey, TN, as the "J.E. 'Eddie' Russell Post Office."

WELCOME TO THE REVEREND WILLARD ALBERTSON

(Mr. RAMSTAD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAMSTAD. Mr. Speaker, I am proud and honored today to welcome the Reverend Willard Alberston, Bill to his many friends in the Twin Cities of Minnesota, minister of our own Wayzata Community Church, as guest chaplain.

Mr. Speaker, as a student, Reverend Albertson was just 2 years behind our own beloved House Chaplain, Dr. Jim Ford, at Gustavus Adolphus College in St. Peter, MN.

As Dr. Ford told me recently, Bill Albertson was one of the great leaders at Gustavus Adolphus College. Dr. Ford also told me that he and Bill ran the political affairs at Gustavus.

Reverend Albertson has had a tremendous impact on my life as well as the lives of the people of our community. His concern for people who are disadvantaged, chemically dependent, and politically imprisoned around the world has been underscored by his own actions.

Bill Albertson has personally led several groups from our community to Haiti to assist in its development and to aid the people there.

Reverend Albertson came to Wayzata Community Church in 1980, the first year I was elected to the Minnesota Senate. I have had the pleasure of working closely with Bill in our church and the Wayzata-Plymouth Chemical Health Commission as well as through Interfaith Outreach in our area.

During my 10 years in the Minnesota Senate, Bill Albertson was one of my closest advisers. As a Member of Congress, I continue to benefit from his wise and compassionate counsel.

Thank you, Mr. Speaker and Members, for giving Rev. Bill Albertson such a warm reception. I know Bill Albertson will serve us well.

INTRODUCTION OF LEGISLATION TO EASE BURDEN ON FDIC FUND

(Mr. DARDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DARDEN. Madam Speaker, last week, this House was called upon to increase the funding for an already costly savings and loan resolution. Additionally, another financial institution insurance fund shows signs of distress. Americans can no longer be held accountable for all financial failures; without some changes both in the deposit insurance provisions and in their enforcement, I am afraid we will find ourselves mired in another costly fiasco. Accordingly, today I am introducing legislation which I believe will ease some of the burden on the FDIC fund.

Madam Speaker, many Americans are unaware of the fact that while the FDIC is funded through premiums assessed on deposits, this agency does not require premiums to be paid on foreign deposits held in American institutions. Yet when these banks fail, the FDIC covers these investments. I believe this is unreasonable, unfair, and irresponsible. The FDIC loses approximately $600 million per year by not requiring these assessments. With $30 billion more needed in the fund, this policy can no longer be justified.

Today, I am introducing legislation to require the FDIC to assess premiums on foreign deposits. I believe this is the only fair method of assuring equitable responsibility and benefit, and I urge my colleagues to join me in this effort.

IT IS TIME THE JAPANESE PLAY FAIR

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include therein extraneous material.)

Mr. BROOMFIELD. Madam Speaker, 10 pounds of American rice. Display 10 pounds of American rice in Japan and you can get arrested.

That's what our Embassy officials were told last Saturday when the American Rice Council tried to display a small bag of its product at a Tokyo trade show.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Showrooms all over America display Hondas, Toyotas, and Nissans. But in Japan you cannot display a 10-pound bag of American rice.

I cannot think of a country that has benefited more from our open markets than Japan. And I cannot think of any country that has done less to deserve it.

There are lobbyists all over this town paid huge sums to convince us that Japan is interested in fair trade.

Let them explain why the Japanese Government will not let us display a simple little bag of American rice.

Madam Speaker, I would like to insert an article from the New York Times, which describes this ridiculous situation.

[From the New York Times, March 18, 1991]

JAPAN SHUTS U.S. RICE EXHIBITION

LATEST TRADE DISPUTE EMBARRASSES SOME OFFICIALS IN TOKYO

(By David E. Sanger)

TOKYO, March 17.—The United States Rice Council reluctantly withdrew its exhibition here on Saturday after Japan's Agriculture Minister threatened the exhibitors with arrest for displaying 10 pounds of American rice.

This latest twist in the continuing trade disputes between the United States and Japan began as an amusing standoff, but turned serious as Japanese threats mounted during the week.

Each day, Japanese Government agents arrived at the Foodex international exhibition here and with a perfunctory bow and the look of highway patrolmen who had a speeder where they wanted him, studied the contraband: a few sealed bags of American rice and some plastic containers containing samples of different American varieties.

HAVE A RICE DAY

Not only was the rice in plain view, but the United States Rice Council was also handing out bumper stickers that said, "Have a Rice Day."

Each day the agents from Japan's Food Agency demanded that the Americans remove the rice. Each day, the Rice Council listened politely and ignored them.

For decades, Japan has enforced a ban against selling imported rice, but to the Americans it hardly seemed a violation of the law to invite Japanese to look at rice—under glass.

Then, on Saturday morning, the Minister of Agriculture, Forestry and Fisheries, Motoji Kondo, notified the American Embassy that everyone associated with the exhibit would be arrested if the rice was not taken off display.

I THINK WE MADE OUR POINT

At noon, the Americans reluctantly removed their rice.

"We removed it under threat of arrest, but I think we made our point," David Graves, the president of the United States Rice Millers Association, said Saturday. "It is ridiculous that Japan's 10-million-ton rice industry should feel threatened by 10 pounds of American rice. I hope the Japanese feel pretty foolish."

Parts of the Japanese bureaucracy are likely to feel that way. For months Japanese politicians have been trying to come up with ways to relax the ban on imported rice without angering Japan's weekend farmers, who make up a key constituency for the ruling Liberal Democratic Party.

These farmers reap enormous tax benefits from growing rice—even on small, inefficient plots in the middle of some of Japan's most overcrowded cities.

The issue has become particularly intense in recent weeks because Japan is afraid it will receive part of the blame if efforts to revive the global trade talks collapse.

Those talks broke off in December, deadlocked by a dispute between food-exporting nations, led by the United States, Australia and Canada and the European Community. The food exporters wanted to slash farm subsidies, saying they led to closed markets and inefficiency; the Europeans refused, saying they needed to protect their farmers.

JAPAN'S JUSTIFICATION

Japan came in for its share of criticism as well, and Japanese trade negotiators acknowledged that the nation's justification for the trade barrier—that its security would be imperiled if it did not produce all its own rice—was convincing no one.

So a senior official of the Ministry of International Trade and Industry, Noboru Hatakeyama, suggested Japan would be wise to ignore the Rice Council's exhibit. "It would be strange to remove something which is not dangerous to national security," he said.

But the Food Agency, which is responsible for distributing the nation's rice at fixed prices, found the exhibit too much, especially after the Japanese press began playing up the fact that consumers here pay two and a half times more for their rice than Americans do.

American officials had armed themselves with a copy of Japan's Food Control Law, which allows educational displays of rice.

"We asked the Japanese to show us the language in the law that makes it illegal to show people rice and teach them about it," Jim Parker, the minister-counselor for agricultural affairs at the United States Embassy said. "We're still waiting."

But one embassy official said this weekend, "It's not our job to ask people to subject themselves to arrest."

At the Food Agency, officials said the exhibit did not look like education to them. "This fair is for market development and sales promotion," Tetsuro Yakushiji, the deputy director of the policy division, said Saturday.

REMEMBERING COURAGEOUS CREW MEMBERS OF DOWNED AC-130 GUNSHIP

(Mr. HUTTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks)

Mr. HUTTO. Madam Speaker, on February 5 I spoke to the House about the 14 brave Americans who were then listed as missing in action after their AC-130 gunship disappeared during a combat mission in southeastern Kuwait. The plane has since been located in the Persian Gulf. The crew members and the aircraft were based at Hurlburt Field, FL, which is in my congressional district. Last Friday, I had the solemn experience of attending a service memorializing these American patriots. The ceremony was a fitting tribute to those who gave the supreme sacrifice while fighting for their country and against the tyranny and aggression of Saddam Hussein. Our Nation's history teaches us that the cost of freedom is high. Just as we remember the fallen soldiers of past wars, let us never forget the price paid by these 14 courageous crew members and all the others who died during the war against Iraq.

LET US BE FAIR

(Mr. COMBEST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COMBEST. Madam Speaker, I rise to introduce to my colleagues my campaign to fight against intrusive regulation, or FAIR. We all have been contacted by our constituents about the increased burden of ridiculous Government regulations. OMB estimates that regulations drain our economy of $175 billion each year—an average of more than $1,700 per taxpayer. That is like writing a check out to the U.S. Government—paid for by the American taxpayer.

Clearly, Government overregulation is like a stranglehold on the throats of the American entrepreneurial spirit—a stranglehold which saps the strength of our Nation's economy. We all agree that responsible, effective regulations are necessary. However, the need for regulatory reform is real.

A survey by the National Federation of Independent Businesses found Government regulation as one of the most important problems small business owners face. The FAIR campaign will try to root out this problem from the grassroots on up. The FAIR campaign will serve as a clearinghouse between those who are experiencing unfair regulations and a network of members and associations serious about affecting meaningful regulatory reform.

During a series of 1 minutes this week, I will highlight examples of the type of overzealous regulations my FAIR campaign will seek to address. If you are interested in bringing about regulatory reform, and if you are interested in canceling this check from the American taxpayer to the U.S. Government, I urge you to contact me and join this bipartisan effort to fight against intrusive regulations.

☐ 1210

COMMUNITY GRIEVES FOR BAND MEMBERS KILLED IN PLANE CRASH

(Mr. CLEMENT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLEMENT. Madam Speaker, the city of Nashville, and its music community in particular, grieve for the country music band members killed

Sunday morning in a plane crash near San Diego.

Among those killed were seven members of Reba McEntire's Band as well as her tour manager. While Ms. McEntire was aboard a different aircraft which flew safely to its destination, the death of the band members highlights the difficult travel conditions under which performers work. It also underscores the close-knit family relationships which develop among performers who spend time on the road and in concert.

Our prayers go to the families and friends of tour manager Jim Hammon, keyboardist and bandleader Kirk Cappello, singer Paula Kaye Evans, guitarist Michael Thomas, bass player Terry Jackson, keyboardist Joey Cigainero, drummer Tony Saputo, and acoustic guitartist, fiddler, and singer Chris Austin.

These individuals were the backbone and core of the band. They were the friends, the dedicated workers, and the perfectionists who helped brighten Ms. McEntire's already brilliant stardom.

They will be sorely missed.

SUPPORT THE VOLUNTEER PROTECTION ACT

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Madam Speaker, I have reintroduced the Volunteer Protection Act. Last year, the House passed this legislation as part of the National Service Act but it was stripped out in conference. This year, volunteer protection has the support of the House and that of the YMCA, the Women's Clubs, the Farm Bureau, the Air Force Association, Big Brother/Big Sister, and many, many others; 250 national organizations depend on volunteers in all.

Lawsuits against volunteers are a real problem, Madam Speaker, the volunteer organizations know this problem. Twenty percent of association directors report it has hurt recruitment. The States know it is a problem. A number have already enacted volunteer protection laws. The President knows it is a problem. He recently released a model volunteer protection law. Only this Congress has failed to recognize the problem by not enacting the Volunteer Protection Act.

The act is simple. It channels the lawsuit from the volunteer to the organization itself. It protects the injured and supports volunteers.

I urge all Members to, once again, cosponsor this measure and get behind this Nation's volunteers, not in their way.

TRIBUTE TO ROBERT LEWIS ASACK, DIRECTOR, OFFICE OF AVIATION OPERATIONS, U.S. CUSTOMS SERVICE

(Mr. ENGLISH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ENGLISH. Madam Speaker, I rise today to pay tribute to a good friend and a stalwart in our country's war on drugs, Mr. Robert L. Asack. It is with regret that I stand here today to announce his retirement after having served his country both as a naval aviator and Federal drug agent for a total of 27 years. Following 7 years of service in the U.S. Navy, Mr. Asack briefly ventured into the private sector before reentering the Federal service as a sky marshal in the early 1970's. Thus began an illustrious civil service career which culminated in 1987 with his appointment as the new Director of the U.S. Customs Service's Office of Aviation Operations. His rise to the top was not a fluke. While representing our efforts on the frontlines of the drug war, Mr. Asack rose through the ranks with various assignments to such places as New York, Miami, San Diego, and here in Washington. As he achieved personal goals in his career, the Customs Aviation Program benefited by his insight into the problems confronting a relatively ill-equipped Federal airborne antidrug smuggling effort. His input into the resolution of those problems is the basis for the successful record of achievement compiled by a much modernized Customs Air Program.

Frequently referred to as the godfather of today's modern Customs Aviation Program, Mr. Asack is credited with writing the book on air interdiction in that he identified the airborne smuggling threat and created the strategy for successfully overcoming that threat. In so doing, he was the architect of the design document that was the basis for the modernization of the Customs airborne fleet.

As if that weren't enough, Mr. Asack then oversaw the successful implementation of that strategy and leaves Government service knowing full well that his personal efforts have contributed greatly to the successful prosecution of the war on drugs.

Mr. Asack's commitment to public service has truly been exemplary. I join his coworkers at the Customs Service, and the many friends he has acquired during his career, in honoring him for his dedication and service to the people of the United States.

OPPOSE MORE FEDERAL MANDATES

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Madam Speaker, once again Congress is attempting to destroy the time-honored system of flexible employee benefits by pushing H.R. 2, the mandated employee leave bill.

I think almost all employers and Members of Congress will agree that leave benefits make good business sense. The issue is not the leave. The issue is should the Federal Government dictate employee benefits for all businesses and their employees. With 39 States already having their own variation of this law, and many businesses offering it as well, why mandate it from Washington.

A January 1991 survey by Penn & Schoen Associates, Inc., an independent corporate and political survey research firm conducted a survey of public opinion on family and medical leave was done. The survey found that the American public does not support federally mandated leave. In fact, 89 percent of those surveyed believed that employee benefits should be a matter decided by employers and employees. Only 6 percent of those surveyed felt the Federal Government should mandate this benefit.

Leave benefits make good business sense and this is recognized by the American public. However, as this survey shows the public does not support a federally mandated leave policy.

This Federal mandate should be voted down. Join me in that effort.

PRESIDENT BUSH'S CRIME PACKAGE

(Mr. RAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAY. Madam Speaker, on March 11, President Bush sent Congress his 1991 crime package. While there are elements of this proposal which may need to be reviewed or modified by the House and Senate, there are many elements which I strongly support.

Last year this House passed a tough crime control package. However, during conference consideration, many of the strongest provisions of this legislation were stripped away.

I am pleased that the President's proposal takes a strong stand against crime. Included in his proposal are provisions to expand the list of crimes subject to the death penalty. I strongly support these provisions. I believe we need the death penalty as a deterrent to crimes of great magnitude, and I urge enactment of procedures which would allow the death penalty to be used as punishment for grave and heinous crimes.

In addition, the President's crime proposal seeks to modify rules governing illegally seized evidence.

His proposal would allow such evidence in trials if police acted in good faith, during seizure. I firmly believe that our law enforcement people should have some degree of flexibility in prosecuting criminals. We should not cripple law enforcement initiatives, nor force our law enforcement officials to miss the opportunity to prosecute a known criminal because of technical rules that do not take into account the real situation on the streets.

Madam Speaker, I am hopeful that the Members of this House will take into consideration the support that expansion of the death penalty and habeas corpus reform received from the Members of this Chamber last year. Madam Speaker, Americans deserve a good crime package. They deserve to be safe in their homes, their businesses, and on the streets. We must make sure that law enforcement officials have the tools they need to do their jobs.

ALLIES MUST PAY THEIR SHARES

(Mr. BONIOR asked and was given permission to address the House for 1 minute.)

Mr. BONIOR. Madam Speaker, I read with anguish and with deep anger this morning, reports that some members of the German Government now want to reduce its gulf war burden-sharing pledge.

To suggest, as they have, that the United States will end the gulf war with a profit is absolutely insulting and it is absurd. Do these nations consider our cost in lives to our young men and women? Do they consider the cost in lost wages to thousands of reservists who were called to active duty? Do they consider the costs of all Americans that have had to pay to divert our resources to this war?

☐ 1220

We should not have to remind them that we stood guard for 45 years to protect the interests of a free and democratic Western Europe.

We should not have to remind anyone that it was the United States that committed half a million troops to the gulf. American lives were on the line and we indeed lost some of our best.

The Japanese are now hedging on whether to send minesweepers to clear shipping lanes. Prime Minister Kaifu says he is tired of hearing the expression, "Too little, too late." In fact, it appears some nations now want to turn "late" into "never."

The United States has more than lived up to its commitments. We will not accept broken pledges and broken promises from others.

FAMILY AND MEDICAL LEAVE

(Mr. BOEHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHNER. Madam Speaker, H.R. 2, the Family and Medical Leave Act, has been heavily promoted as a minimum labor standard, one which takes a minimalist approach to the challenges of balancing work and family.

The proponents of H.R. 2 dismiss the argument that family and medical leave is the first of many mandated benefits which will be thrust upon the back of American business. I would like to take this opportunity to point out what proponents of H.R. 2 have in mind next.

Recently, two of my colleagues introduced legislation which would entitle employees to paid leave in order to attend their children's school activities. Specifically, H.R. 1388 would require employers to provide 8 hours of paid leave to each worker to attend undefined school activities. The penalties for failing to comply with this legislation could reach $50,000.

Madam Speaker, does this legislation represent another minimum labor standard? Is it now the proper roll of the Federal Government to tell all employers they must provide leave to parents, so they can attend PTA meetings, football games, and serve as cafeteria monitors? All parents want to fully participate in their children's school activities. However, I know of no schools that do not try to accommodate working parents by scheduling these events when parents aren't at work. Further, most companies are more than happy to give working parents time to attend important school activities.

Madam Speaker, supporters of mandated benefits are not looking for a minimum labor standard. They want Congress, and not the private sector, to determine employee benefits. However, I believe that individuals and their employers are in a far superior position to determine what benefits best meet their need. I urge my colleagues to oppose H.R. 2 and any other mandated benefit.

TIME FOR ALLIES TO PAY UP

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Madam Speaker, I am delighted to follow the gentleman from Michigan [Mr. BONIOR] into this well, because what he said about the Germans who are over here saying that they do not want to now pay their share of the gulf war is absolutely outrageous. To have them accuse us of making a profit is just despicable.

We are going to in the Committee on Children, Youth and Families, have our first hearing on April 15 where we start reclaiming the Tax Code for American families, and we are going to show what American families get for their taxes versus what German families get for their taxes and other of our allies. They invest in their families first and then if there are a few coins left, they drop them in for defense. We have been protecting them for 45 years and cutting short our families and moving more and more of the tax burden on our families, which is part of why they are so understressed.

American families feel like the squirrel on the wheel, running and running. At the end of the year they are still at the bottom of the wheel with their tongues hanging out.

Well, we are taking back the Tax Code. We are going at it and we really think it is time that everybody started paying their fair share and acting responsibly and this is the day when we are going to start turning that around.

STOP JONES ACT VESSELS FROM BEING REBUILT IN FOREIGN SHIPYARDS

(Mr. PICKETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKETT. Madam Speaker, the industrial base of America is in jeopardy, and nowhere is this more apparent than in the area of shipbuilding and ship repair.

Section 27 of the Jones Act, which requires that all vessels engaged in coastwise trade be built, rebuilt, or repaired in American shipyards has not worked as Congress intended.

Judicial and administrative interpretations have hollowed out this law to the point where there is virtually no limitation on the rebuilding and repair of Jones Act vessels abroad.

The bill I am introducing today will restore the effectiveness of section 27 by establishing a clear and unmistakable standard to be applied in determining the emergency repairs that may be performed on a Jones Act vessel in a foreign yard, and prohibiting all other work, no matter how minor.

Madam Speaker, America's shipbuilding and ship repair industries must be preserved. Since 1982 alone, more than 40 domestic shipyards have closed, throwing thousands of highly skilled employees out of work; this must not continue. My bill will restore the congressional intent to help our Nation retain its industrial base in shipbuilding and ship repair. I urge my colleagues to join me in this effort.

INFANT MORTALITY AWARENESS DAY

(Mr. HARRIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HARRIS. Madam Speaker, I rise today to introduce a House joint resolution to designate Mother's Day, May 12, 1991, as "Infant Mortality Awareness Day." It is my hope that this commemorative legislation will make more Americans aware of our Nation's deplorable infant mortality rate.

As an active member of the Task Force on Infant Mortality in the House Sun Belt Caucus, I am pleased to be the primary sponsor of legislation to encourage the birth of healthy babies. Last year, I sponsored a similar resolution. This effort is part of the task forces' continuing work to educate the public about infant mortality.

I believe our educational efforts are paying off. In the recently passed dire emergency supplemental appropriations bill, House Resolution 1281, Congress provided a $25 million initiative to target populations with infant mortality rates higher than twice the national average. I expect the conference report to be voted on later this week, and this initiative is an important part of the bill.

Alabama has consistently been one of the States with the highest infant mortality rates in the Nation and it troubles me that our State has been listed as one of the five worst States in this regard.

It is with these sobering thoughts in mind that I am pleased that our national rates have improved slightly since last year. This year's resolution documents our improvements. It is unfortunate that the best available statistics about this issue date back to 1988. Our national rate for 1988 has declined to 10.0 deaths per 1,000 live births. However this improvement still translated into more than 38,000 deaths per year. We must remember that these deaths represent a personal tragedy for a family. In addition, our international ranking has also improved from 23d to 21st. At this point, I would like to insert in the RECORD the recently published statistics provided by the National Commission on Infant Mortality for the year 1988.

INFANT MORTALITY RATE AND SELECTED DATA, ALL RACES, 1988

Rank and State	IM rate[1] (thousands)	Number deaths	Number births	Number low birthweight[2]	Percent low birthweight
1. Vermont	6.8	55	8,111	406	5.0
2. Hawaii	7.2	137	19,045	1,311	6.9
3. Minnesota	7.8	521	66,748	3,322	5.0
4. Maine	7.9	136	17,172	832	4.9
5. Massachusetts	7.9	695	88,194	5,286	6.0
6. Utah	8.0	287	36,055	2,048	5.7
7. Kansas	8.0	309	38,792	2,379	6.1
8. Rhode Island	8.2	116	14,224	854	6.0
9. New Hampshire	8.3	144	17,364	837	4.8
10. Wisconsin	8.4	595	70,817	3,856	5.4
11. Nevada	8.4	152	18,008	1,358	7.5
12. Oregon	8.6	343	40,052	2,101	5.2
13. California	8.6	4,573	533,148	32,001	6.0
14. Iowa	8.7	331	38,119	2,072	5.4
15. Montana	8.7	102	11,692	696	6.0
16. Idaho	8.8	138	15,741	808	5.1
17. Connecticut	8.9	426	48,077	3,238	6.7
18. Wyoming	8.9	64	7,162	504	7.0
19. Texas	9.0	2,724	303,418	20,727	6.8
20. Nebraska	9.0	215	23,907	1,319	5.5
21. West Virginia	9.0	197	21,846	1,389	6.4
22. Washington	9.0	654	72,503	3,804	5.3
23. Oklahoma	9.0	429	47,408	3,102	6.5
24. Colorado	9.6	510	53,367	4,186	7.8
25. Arizona	9.7	637	65,623	4,088	6.2
26. Ohio	9.7	1,565	160,529	11,017	6.9
27. New Jersey	9.9	1,168	117,764	8,285	7.0
28. Pennsylvania	9.9	1,643	165,639	11,417	6.9
29. New Mexico	10.0	270	27,015	1,950	7.2
30. South Dakota	10.1	113	11,194	523	4.7
31. Missouri	10.1	773	76,492	5,221	6.8
32. Virginia	10.4	967	93,127	6,549	7.0
33. North Dakota	10.5	106	10,103	485	4.8
34. Florida	10.6	1,952	184,119	14,119	7.7
35. Kentucky	10.7	544	51,058	3,421	6.7
36. Arkansas	10.7	374	35,035	2,870	8.2
37. New York	10.8	3,017	280,650	21,774	7.8
38. Tennessee	10.8	761	70,711	5,556	7.9
39. Indiana	11.0	899	81,643	5,365	6.6
40. Louisiana	11.0	814	73,902	6,504	8.8
41. Michigan	11.1	1,544	139,714	10,192	7.3
42. Illinois	11.3	2,083	184,841	13,793	7.5
43. Maryland	11.3	854	75,768	6,136	8.1
44. Alaska	11.6	130	11,232	558	5.0
45. Delaware	11.8	123	10,406	765	7.4
46. Alabama	12.1	736	60,745	4,866	8.0
47. Mississippi	12.3	516	42,074	3,668	8.7
48. South Carolina	12.3	677	55,144	4,935	9.0
49. North Carolina	12.5	1,215	97,579	7,823	8.0
50. Georgia	12.6	1,331	105,923	8,858	8.4
51. D.C.	23.2	245	10,540	1,507	14.3
Total United States	10.0	38,910	3,909,510	270,681	6.9

[1] The number of infant deaths (up to 1 yr of age) per 1,000 live births.

[2] Less than 5 pounds 8 ounces (2,500 grams).

Source: National Center for Health Statistics.

Individuals can and should make a difference. In Greene County, the efforts of Dr. Sandral Hullett and the West Alabama Health Services have proven effective. These hard-working health care practitioners succeed in reaching high-risk mothers. Greene County has an impressive record of improving the lives of a rural community. I applaud all health care practitioners who are working to improve the lives of mothers and infants.

The solution to the problem is complex. Proper prenatal care has been found to be the single greatest contributor to the birth of a healthy baby. For every $1 invested in prenatal care, there can be $3 savings for postnatal, acute care. In cases where mothers are exposed to drugs, this prenatal care can be even more effective. The ratio of spending to savings increases from $1 to $4. This initial investment by the State and Federal Government can be expensive. However, providing preventive care is always cheaper than paying for acute, postnatal care and counseling.

I hope this educational effort will make this year's Mother's Day a special day for our Nation's infants. The birth of healthy babies to healthy mothers should be the goal of all Americans.

FAIR TRADE

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Madam Speaker, our friend the gentleman from Michigan [Mr. BROOMFIELD], got up awhile ago and was talking about the price of rice in Japan, the fact that they limit the amount that we can even put on display, and I think the gentleman is absolutely right that this is a disgrace that we have this kind of policy and we recognize its importance.

The problem is that we can grow rice at a less price, for only about 25 percent of the cost that they can grow it in Japan, and yet they will not allow us to send it over there; yet when they produce something for less money, we open up our doors and say, "Bring it all in. Let the American people have it."

Well, we are losing jobs in this country and we cannot continue to do it. I had a group of 100 Close Up Students in here awhile ago. Their concern was that after they graduate from school, where are they going to go? Where are the jobs going to be? Unfortunately, they have to go other places.

I talked to some Japanese not too long ago and some Koreans. You know, they think we are stupid. They say:

> You just allow us to produce all your products over in Japan and Korea. You are not interested in producing over here because you make more money if you do it over there.

When is the Congress and the administration going to wake up from their economic slumber? We cannot continue to live a quality of life, giving food, clothing, shelter, health insurance to our people if we have to ask them to work for minimum wages. All we ask for is the quality in the workplace.

INTRODUCTION OF TRAWLERS RELIEF AND WORKING LIVELIHOOD ACT OF 1991

(Mr. LAUGHLIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAUGHLIN. Madam Speaker, the shrimpers in my district are severely threatened by a recent Federal law which requires their nets to be equipped with a turtle excluder device, or TED. I certainly believe that endangered sea turtles must be protected. However, our Nation's shrimpers are themselves at risk of becoming extinct, due to diminished harvest and income, when pulling a TED. Therefore, they too must be protected.

I am introducing the Trawlers Relief and Working Livelihood Act of 1991 to relieve the severe economic burden that the shrimpers are now bearing. My bill prohibits the Secretary of Commerce from shortening the shrimping season in the Gulf of Mexico and the South Atlantic. It also provides a tax credit to offset the loss of income by shrimpers using TED's.

This legislation also removes criminal penalties for violations of Federal requirements concerning the use of TED's. Under the current law, normally law-abiding shrimpers can be thrown into jail with murderers and drug dealers. The stringent civil penalties and fines shrimpers must pay are certainly a strong enough deterrent.

The final provision of my bill directs the Secretary of Commerce to establish and implement a program whereby endangered sea turtle eggs are removed from the wild, hatched in captivity, and released months later into the wild after the greatest period of threat from predators has passed.

Madam Speaker, shrimpers in my district and around the country simply cannot survive under the status quo. The Trawlers Relief and Working Livelihood Act of 1991 will protect this endangered group of hard-working Americans and their families, just as TED's are protecting our endangered sea turtles.

☐ 1230

JAPANESE RICE CONSTRAINTS UNFAIR

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Madam Speaker, fairness—the one thing that sets America apart is fundamental fairness. We strive for it politically not only for our own citizens but also for our former enemies.

It would be refreshing if our allies showed a similar concern for what is fair when it concerns America.

Today's papers report that 10 pounds of American rice will not be displayed at a Japanese trade show, because Japanese officials are terrified that their citizens will want to buy American rice.

Homegrown Japanese rice is two to three times more expensive than imported American rice. American and Japanese farmers know this; American and Japanese officials know this—but Japanese consumers do not know this, and good American rice is kept from them.

The Japanese argue that it is in the national interest of Japan that their consumers buy Japanese rice.

It must be a question of national security—the billions that are gouged annually from Japanese shoppers are billions that could be spent for something else—and the billions spent this year to prop up the Japanese rice farmer are the billions that Japan could have used to pay its Desert Storm obligation to the United States.

It is obvious that Japan's national security is more concerned with protecting their own markets than honoring their international commitments.

LET'S NOT USE EXIMBANK TO SUBSIDIZE FOREIGN ARMS SALES

(Mr. MOODY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOODY. Madam Speaker, the administration wants to increase taxpayer-subsidized foreign arms sales to NATO or to any country deemed in the Nation's interest.

The administration wants to do this by accessing the Export-Import Bank's already inadequate credits for this purpose.

Have we not learned anything from NATO and, sadly, United States arming, providing arms to Iraq up until last August? Or from arming the Shah of Iran, when these arms fell into the wrong hands? And who will be next year's Iraq if this policy is sustained? Will it be our new ally Syria, deemed in the Nation's interests, or another dictator in the volatile Middle East who has been promoting terrorism?

This sudden policy shift in the administration to harness Eximbank to finance foreign arms sales completely contradicts the President's own recent statements on this matter that we should end the arms proliferation.

The same administration contends now that subsidizing foreign arms sales is necessary to maintain a strong industrial base in America. The same administration previously opposed any industrialized policy, or a national industrial policy, in this country.

Mr. President, if this policy is changed, what about the civilian industrial base? Wouldn't that make more sense? What about the machine-tool industry, the telecommunications industry, the shipbuilding industry, the semiconductor industry, are these less worthy sectors of our economy than the arms sector?

It is these civilian industries that over the long term create jobs and wealth in America, and it is these civilian industries that must ultimately raise our standard of living.

I invite my colleagues to join me in offering legislation to prohibit this pollution of the Eximbank for this purpose.

SUPER IRA IS LESS THAN SUPER

(Mr. PEASE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEASE. Madam Speaker, my esteemed colleagues Congressmen PICKLE and THOMAS have recently introduced legislation that will restore fully deductible IRA's, as well as establish an alternative IRA that would be tax free when withdrawn. They refer to this legislation as the super IRA bill. I am here today to argue that this bill is super only because it results in a super cost to the U.S. Treasury and its benefits have been superexaggerated.

The primary selling point for this legislation is that it will promote an increase in the national savings rate. I think we all agree that our national savings rate must be increased. What we disagree about is whether or not expanded IRA's will achieve this result. A CRS report on this subject concluded that the effects on savings would be quite modest.

I'm all for even a modest increase in the national savings rate. What I cannot support is a proposal that will cost the taxpayers $30 billion over the next 5 years while generating an increase in the national savings rate that can only be described as quite modest.

THOUGHTS ON THE REFERENDUM IN U.S.S.R.

(Mr. RITTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RITTER. Madam Speaker, a major historic vote has just taken place, a referendum, in the Soviet Union on whether or not the citizens there would want to preserve the Union of Soviet Socialist Republics. Now, there has been a lot of press commentary. I suggest that before the dust settles we hold back a little bit.

Let me just share a few ideas. The authorities reported a voter turnout of 500,000 people in the Baltic States, which is a very large number for the Baltics. Ninety percent of those voted for preserving the Union of Soviet Socialist Republics. But just recently, a short while ago, these Republics voted in referenda for independence. It does not make any sense.

Widespread ballot stuffing was observed, and people were observed pushing in four or five ballots apiece.

In Kazakhstan the Communist authorities removed Soviet and Socialists from the ballot question, totally changing the meaning of the referendum.

I guess my question is: Where else was this ballot question edited so substantially?

So many votes were conducted, ballots were conducted on military bases, and I guess the question there is: Is there any oversight? There is no review of who voted on these military bases and how many times.

We know that in the urban centers there was oversight of the process, and there Gorbachev was very substantially denied.

What about all the outlying areas? I think we need to be very cautious in our interpretation of this ballot until that dust settles.

THE PLIGHT OF THE UNEMPLOYED IN THE UNITED STATES

(Mr. BORSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BORSKI. Madam Speaker, our recent victory in the Persian Gulf shows what we as a nation can accomplish when we unite behind a just cause. Now, we need the President to use the same leadership to solve the plight of the unemployed here at home.

Yesterday, I went to a machinists union hall in the Bridesburg section of Philadelphia. I met with hundreds of unemployed people. They are among the 8.9 million Americans who are out of work. But what's even worse is that only half of these workers even qualified to collect unemployment benefits in the first place. Of those, more than 628,000 unemployed have exhausted their benefits and hundreds of thousands of others will soon see their benefits run out.

What I saw yesterday in Bridesburg was not statistics and numbers; I saw people. I saw good, hardworking Americans who want to provide for their families. I saw it in their eyes and I heard it in their voices. One young man told me about diligently looking for work for 6 months, but finding nothing. Another described attending a job fair where 1,500 people turned out to apply for 20 jobs. And, a labor representative talked about plant closings instead of job openings. That is what a 6.5-percent unemployment rate is all about.

The President made a priority of liberating Kuwait and we accomplished that goal. Surely we can make a priority of helping 9 million unemployed Americans.

I urge my colleagues to join with me in supporting Congressman TOM DOWNEY'S legislation to extend unemployment benefits.

KPL/KGE SCHOLARSHIP FUND

(Mr. NICHOLS asked and was given permission to address the house for 1 minute and to revise and extend his remarks.)

Mr. NICHOLS. Madam Speaker, may I play a little show and tell at the beginning.

Madam Speaker, I come before you today to tell you what two Kansas companies are doing to help the families of those who served in Operation Desert Storm.

KPL Gas Service and Kansas Gas and Electric Co. have established a scholarship fund designed to benefit children whose parents served in Operation Desert Storm.

The companies are selling these red, white, and blue T-shirts which say "These colors don't run." The proceeds are then going toward these scholarships.

As Wilson Cadman, chairman of the board and president, said, "We urge all citizens to determine their own way to show support for military personnel facing dangers on the country's behalf."

This, Madam Speaker, is just another example of how Kansans are looking out for other Kansans. These fine companies saw a need, and instead of asking the Government to pick up the tab to start another program, they took matters into their own hands.

Thanks to this splendid private initiative, children of military personnel will be able to afford a college education in the future without placing a further strain on our Federal budget.

□ 1240

RESIGNATION AS MEMBER OF SELECT COMMITTEE ON HUNGER

The SPEAKER pro tempore (Mrs. UNSOELD) laid before the House the following resignation as a member of the Select Committee on Hunger:

WASHINGTON, DC,
March 12, 1991

THOMAS S. FOLEY,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I would like to request that my name be withdrawn from the Select Committee on Hunger.

I believe the issues addressed by this committee are important, and I have served on the panel for over two years. However, because of other pressing commitments in the House, I do not believe I would be able to adequately devote myself to the work of the committee.

Thank you for your consideration.

Sincerely,
THOMAS M. FOGLIETTA,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that she will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Wednesday, March 20, 1991.

NATIONAL LITERACY ACT OF 1991

Mr. KILDEE. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 751) to enhance the literacy and basic skills of adults, to ensure that all adults in the United States acquire the basic skills necessary to function effectively and achieve the greatest possible opportunity in their work and in their lives, and to strengthen and coordinate adult literacy programs, as amended.

The Clerk read as follows:

H.R. 751

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Literacy Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that—

(1) nearly 30,000,000 adults in the United States have serious problems with literacy;

(2) literacy problems are intergenerational and closely associated with poverty and pose a major threat to the economic well-being of the United States;

(3) present public and private literacy programs reach only a small portion of the population in need and often result in only minimal learning gains;

(4) the prevention of illiteracy is essential to stem further growth in national illiteracy rates;

(5) literacy programs generally lack adequate funding, adequate coordination with other literacy programs, and an adequate investment in teacher training and technology;

(6) access to better information about the best practices in the literacy field and more research in order to provide better diagnostic and instructional tools are essential for the improvement of literacy and employability in the United States;

(7) as many as 50,000,000 workers may have to be trained or retrained before the year 2000;

(8) the supply of unskilled workers is increasing while the demand for unskilled labor is decreasing;

(9) programs under the Adult Education Act, which are the largest Federal source of direct literacy services in the United States, serve only 10 percent of eligible participants; and

(10) all public and private literacy programs serve only about 19 percent of those who need help.

SEC. 3. DEFINITION.

For purposes of this Act the term "literacy" means an individual's ability to read, write, and speak in English, and compute and solve problems at levels of proficiency necessary to function on the job and in society, to achieve one's goals, and develop one's knowledge and potential.

TITLE I—LITERACY: STRATEGIC PLANNING, RESEARCH, AND COORDINATION

SEC. 101. LITERACY RELATED PROGRAMS IN THE DEPARTMENT OF EDUCATION.

Section 202 of the Department of Education Organization Act (20 U.S.C. 3412) is amended by adding at the end the following:

"(h) The Assistant Secretary for Vocational and Adult Education, in addition to performing such functions as the Secretary may prescribe, shall have responsibility for coordination of all literacy related programs and policy initiatives in the Department. The Assistant Secretary for Vocational and Adult Education shall assist in coordinating the related activities and programs of other Federal departments and agencies.".

SEC. 102. NATIONAL INSTITUTE FOR LITERACY.

(a) PURPOSE.—It is the purpose of the amendment made by this section to enhance the national effort to eliminate the problem of illiteracy by the year 2000 by improving research, development and information dissemination through a national research center.

(b) FINDINGS.—The Congress finds that—

(1) much too little is known about how to improve access to, and enhance the effectiveness of, adult literacy programs, assessment tools, and evaluation efforts;

(2) there is neither a reliable nor a central source of information about the knowledge base in the area of literacy;

(3) a national institute for literacy would—

(A) provide a national focal point for research, technical assistance and research dissemination, policy analysis, and program evaluation in the area of literacy; and

(B) facilitate a pooling of ideas and expertise across fragmented programs and research efforts.

(c) AMENDMENT TO THE ADULT EDUCATION ACT.—Section 384 of the Adult Education Act (20 U.S.C. 1213c) is amended—

(1) in the second sentence of subsection (a), by inserting after "shall include" the following: "the operation of the Institute established by subsection (c) and"; and

(2) by adding at the end the following:

"(c) ESTABLISHMENT.—(1) There is established the National Institute for Literacy (in this section referred to as the 'Institute'). The Institute shall be administered under the terms of an interagency agreement entered into by the Secretary with the Secretary of Labor and the Secretary of Health and Human Services (in this section referred to as the 'Interagency Group'). The head of any other agency designated by the President may be involved in the operation of the Institute as fits the involvement of such agency in accomplishing the purposes of the Institute. The Secretary may include in the Institute any research and development center supported under section 405(d)(4)(A)(ii) of the General Education Provisions Act and any other center, institute, or clearinghouse established within the Department of Education whose purpose is determined by the Secretary to be related to the purpose of the Institute.

"(2) The Institute shall have offices separate from the offices of any agency or department involved in the operation of the Institute.

"(3) The Interagency Group shall consider the Board's recommendations in planning the goals of the Institute and in the implementation of any programs to achieve such goals. The daily operations of the Institute shall be carried out by the Director. If the Board's recommendations are not followed, the Interagency Group shall provide a written explanation to the Board concerning actions the Interagency Group has taken that includes the Interagency Group's reasons for not following the Board's recommendations with respect to such actions. The Board may also request a meeting with the Interagency Group to discuss the Board's recommendations.

"(d) DUTIES.—(1) The Institute is authorized, in order to improve and expand the system for delivery of literacy services, to—

"(A) assist appropriate Federal agencies in setting specific objectives and strategies for meeting the goals of this title and in measuring the progress of such agencies in meeting such goals;

"(B) conduct basic and applied research and demonstrations on literacy, including—

"(i) how adults learn to read and write and acquire other skills;

"(ii) how the literacy skills of parents affect the ability of children to learn literacy skills;

"(iii) the assessment of literacy skills and the development of instructional techniques;

"(iv) the best methods for assisting adults and families to acquire literacy skills, including the use of technology;

"(v) the special literacy needs of individuals with learning disabilities and individuals with limited English proficiency;

"(vi) how to effectively reach and teach the most educationally disadvantaged individuals;

"(vii) the use of technology and other studies which will increase the literacy knowledge base, use but not duplicate the work of other research services, and build on the efforts of such other research services; and

"(viii) how to attract, train, and retrain professional and volunteer teachers of literacy;

"(C) assist Federal, State, and local agencies in the development, implementation, and evaluation of policy with respect to literacy by—

"(i) establishing a national data base with respect to—

"(I) literacy and basic skills programs, including programs in Federal departments, State agencies, and local agencies, and programs that are privately supported through nonprofit entities and for profit entities;

"(II) assessment tools and outcome measures;

"(III) the amount and quality of basic education provided in the workplace by businesses and industries; and

"(IV) progress made toward the national literacy goals; and

"(ii) providing technical and policy assistance to government entities for the improvement of policy and programs relating to literacy and the development of model systems for implementing and coordinating Federal literacy programs that can be replicated at the State and local level;

"(D) provide program assistance, training, and technical assistance for literacy programs throughout the United States in order to improve the effectiveness of such programs and to increase the number of such programs, which assistance and training shall—

"(i) be based on the best available research and knowledge; and

"(ii) be coordinated with activities conducted by—

"(I) regional educational laboratories supported under section 405(d)(4)(A)(i) of the General Education Provisions Act;

"(II) curriculum centers assisted under section 251(a)(8) of the Carl D. Perkins Vocational and Applied Technology Education Act; and

"(III) other educational and training entities that provide relevant technical assistance;

"(E) collect and disseminate information to Federal, State, and local entities with respect to literacy methods that show great promise (including effective methods of assessment, effective literacy programs, and other information obtained through research or practice relating to adult and family learning that would increase the capacity and quality of literacy programs in the United States), using a variety of methods to ensure that the best information is received by State and local providers of literacy services;

"(F) review and make recommendations regarding—

"(i) ways to achieve uniformity among reporting requirements;

"(ii) the development of performance measures; and

"(iii) the development of standards for program effectiveness of literacy-related Federal programs; and

"(G) provide a toll-free long-distance telephone line for literacy providers and volunteers.

"(2) The Institute may enter into contracts or cooperative agreements with, or make grants to, individuals, public or private nonprofit institutions, agencies, organizations, or consortia of such institutions, agencies, or organizations to carry out the activities of the Institute. Such grants, contracts, or agreements shall be subject to the laws and regulations that generally apply to grants, contracts, or agreements entered into by Federal agencies.

"(e) LITERACY LEADERSHIP.—(1) The Institute is, in consultation with the Board, authorized to award fellowships, with such stipends and allowances that the Director considers necessary, to outstanding individuals pursuing careers in adult education or literacy in the areas of instruction, management, research, or innovation.

"(2) Fellowships awarded under this subsection shall be used, under the auspices of the Institute, to engage in research, education, training, technical assistance, or other activities to advance the field of adult education or literacy, including the training of volunteer literacy providers at the national, State, or local level.

"(3) Individuals receiving fellowships pursuant to this subsection shall be known as 'Literacy Leader Fellows'.

"(f) NATIONAL INSTITUTE BOARD.—(1)(A) There is established the National Institute Board (in this section referred to as the 'Board'). The Board shall consist of 10 individuals appointed by the President with the advice and consent of the Senate from individuals who—

"(i) are not otherwise officers or employees of the Federal Government;

"(ii) are representative of entities or groups described in subparagraph (B); and

"(iii) are chosen from recommendations made to the President by individuals who represent such entities or groups.

"(B) Entities or groups described in this subparagraph are—

"(i) literacy organizations and providers of literacy services, including—

"(I) providers of literacy services receiving assistance under this Act; and

"(II) nonprofit providers of literacy services;

"(ii) businesses that have demonstrated interest in literacy programs;

"(iii) literacy students;

"(iv) experts in the area of literacy research;

"(v) State and local governments; and

"(vi) organized labor.

"(2) The Board shall—

"(A) make recommendations concerning the appointment of the Director and staff of the Institute;

"(B) provide independent advice on the operation of the Institute; and

"(C) receive reports from the Interagency Group and the Director.

"(3) The Interagency Group may carry out the duties of the Board until the expiration of the 180-day period beginning on the date of the enactment of the National Literacy Act of 1991.

"(4) Except as otherwise provided, the Board established by this subsection shall be subject to the provisions of the Federal Advisory Committee Act.

"(5)(A) Each member of the Board shall be appointed for a term of 3 years. Any such member may be appointed for not more than 2 consecutive terms.

"(B) Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that members' term until a successor has taken office. A vacancy in the Board shall be filled in the manner in which the original appointment was made. A vacancy in the Board shall not affect the powers of the Board.

"(6) A majority of the members of the Board shall constitute a quorum but a lesser number may hold hearings. Any recommendation may be passed only by a majority of its members present.

"(7) The Chairperson and Vice Chairperson of the Board shall be elected by the members. The term of office of the Chairperson and Vice Chairperson shall be 2 years.

"(8) The Board shall meet at the call of the Chairperson or a majority of its members.

"(g) GIFTS, BEQUESTS, AND DEVISES.—The Institute and the Board may accept (but not solicit), use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Institute or the Board, respectively. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Institute or the Board, respectively.

"(h) MAILS.—The Board and the Institute may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

"(i) STAFF.—The Interagency Group, after considering recommendations made by the Board, shall appoint and fix the pay of a Director.

"(j) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Institute may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for GS–18 of the General Schedule.

"(k) EXPERTS AND CONSULTANTS.—The Board and the Institute may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

"(l) REPORT.—The Institute shall submit a report to the Congress in each of the first 2 years in which it receives assistance under this section, and shall submit a report biennially thereafter. Each report submitted under this subsection shall include—

"(1) a comprehensive and detailed description of the Institute's operations, activities, financial condition, and accomplishments in the field of literacy for such fiscal year;

"(2) a description of how plans for the operation of the Institute for the succeeding fiscal year will facilitate achievement of the goals of the Institute and the goals of the literacy programs within the Department of Education, the Department of Labor, and the Department of Health and Human Services; and

"(3) any additional minority, or dissenting views submitted by members of the Board.

"(m) NONDUPLICATION.—The Institute shall not duplicate any functions carried out by the Secretary pursuant to subsection (a) or (b). This subsection shall not be construed to prohibit the Secretary from delegating such functions to the Institute.

"(n) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated for purposes of operating the Institute established by subsection (c) $15,000,000 for each of the fiscal years 1992, 1993, 1994, and 1995.

"(2) Any amounts appropriated to the Secretary, the Secretary of Labor, the Secretary of Health and Human Services, or any other department that participates in the Institute for purposes that the Institute is authorized to perform under this section may be provided to the Institute for such purposes.".

SEC. 103. STATE LITERACY RESOURCE CENTERS.

Part B of the Adult Education Act (20 U.S.C. 1203 et seq.) is amended—

(1) by redesignating subpart 7 as subpart 8; and

(2) by inserting after subpart 6 the following:

"Subpart 7—State Literacy Resource Centers

"SEC. 356. STATE LITERACY RESOURCE CENTERS.

"(a) PURPOSE.—It is the purpose of this section to assist State and local public and private nonprofit efforts to eliminate illiteracy through a program of State literacy resource center grants to—

"(1) stimulate the coordination of literacy services,

"(2) enhance the capacity of State and local organizations to provide literacy services, and

"(3) serve as a reciprocal link between the National Institute for Literacy and service providers for the purpose of sharing information, data, research, and expertise and literacy resources.

"(b) ESTABLISHMENT.—From amounts appropriated pursuant to subsection (k), the Secretary is authorized to make grants for purposes of establishing a network of State or regional adult literacy resource centers.

"(c) ALLOTMENT.—(1) From sums available for purposes of making grants under this section for any fiscal year, the Secretary shall allot to each State having an approved application under subsection (h) an amount that bears the same ratio to such sums as the amount allotted to such State under section 313(b) for the purpose of making grants under section 321 bears to the aggregate amount allotted to all States under such section for such purpose.

"(2) The chief executive officer of each State that receives its allotment under this section shall contract on a competitive basis with the State educational agency, 1 or more local educational agencies, a State office on literacy, a volunteer organization, a community-based organization, institution of higher education, or other nonprofit entity to operate a State literacy resource center. No applicant participating in a competition pursuant to the preceding sentence shall participate in the review of its own application.

"(d) USE OF FUNDS.—Funds provided to each State under subsection (c)(1) to carry out this section shall be used to conduct activities to—

"(1) improve and promote the diffusion and adoption of state-of-the-art teaching methods, technologies and program evaluations;

"(2) develop innovative approaches to the coordination of literacy services within and among States and with the Federal Government;

"(3) assist public and private agencies in coordinating the delivery of literacy services;

"(4) encourage government and industry partnerships, including partnerships with small businesses, private nonprofit organizations, and community-based organizations;

"(5) encourage innovation and experimentation in literacy activities that will enhance the delivery of literacy services and address emerging problems;

"(6) provide technical and policy assistance to State and local governments and service providers to improve literacy policy and programs and access to such programs;

"(7) provide training and technical assistance to literacy instructors in reading instruction and in—

"(A) selecting and making the most effective use of state-of-the-art methodologies, instructional materials, and technologies such as—

"(i) computer assisted instruction;

"(ii) video tapes;

"(iii) interactive systems; and

"(iv) data link systems; or

"(B) assessing learning style, screening for learning disabilities, and providing individualized remedial reading instruction; or

"(8) encourage and facilitate the training of full-time professional adult educators.

"(e) ALTERNATIVE USES OF EQUIPMENT.—Equipment purchases pursuant to this section, when not being used to carry out the provisions of this section, may be used for other instructional purposes if—

"(1) the acquisition of the equipment was reasonable and necessary for the purpose of conducting a properly designed project or activity under this section;

"(2) the equipment is used after regular program hours or on weekends; and

"(3) such other use is—

"(A) incidental to the use of the equipment under this section;

"(B) does not interfere with the use of the equipment under this section; and

"(C) does not add to the cost of using the equipment under this section.

"(f) LIMITATION.—Not more than 10 percent of amounts received under any grant received under this section shall be used to purchase computer hardware or software.

"(g) SPECIAL RULE.—(1) Each State receiving funds pursuant to this section may not use more than 5 percent of such funds to establish a State advisory council on adult education and literacy (in this section referred to as the 'State council') pursuant to section 332.

"(2) Each State receiving funds pursuant to this section may use such funds to support an established State council to the extent that such State council meets the requirements of section 332.

"(3) Each State receiving funds pursuant to this paragraph to establish or support a State council pursuant to section 332 shall provide matching funds on a dollar-for-dollar basis.

"(h) APPLICATIONS.—Each State or group of States, as appropriate, that desires to receive a grant under this section for a regional adult literacy resource center, a State adult literacy resource center, or both shall submit to the Secretary an application that has been reviewed and commented on by the State council, where appropriate, and that describes how the State or group of States will—

"(1) develop a literacy resource center or expand an existing literacy resource center;

"(2) provide services and activities with the assistance provided under this section;

"(3) assure access to services of the center for the maximum participation of all public and private programs and organizations providing or seeking to provide basic skills instruction, including local educational agencies, agencies responsible for corrections education, service delivery areas under the Job Training Partnership Act, welfare agencies, labor organizations, businesses, volunteer groups, and community-based organizations;

"(4) address the measurable goals for improving literacy levels as set forth in the plan submitted pursuant to section 342; and

"(5) develop procedures for the coordination of literacy activities for statewide and local literacy efforts conducted by public and private organizations, and for enhancing the systems of service delivery.

"(i) PAYMENTS; FEDERAL SHARE.—(1) The Secretary shall pay to each State having an application approved pursuant to subsection (h) the Federal share of the cost of the activities described in the application.

"(2) The Federal share—

"(A) for each of the first 2 fiscal years in which the State receives funds under this section shall not exceed 80 percent;

"(B) for each of the third and fourth fiscal years in which the State receives funds under this section shall not exceed 70 percent; and

"(C) for the fifth and each succeeding fiscal year in which the State receives funds under this section shall not exceed 60 percent.

"(3) The non-Federal share of payments under this section may be in cash or in kind, fairly evaluated, including plant, equipment, or services.

"(j) REGIONAL CENTERS.—(1) A group of States may enter into an interstate agreement to develop and operate a regional adult literacy resource center for purposes of receiving assistance under this section if the States determine that a regional approach is more appropriate for their situation.

"(2) Any State that receives assistance under this section as part of a regional center shall only be required to provide under subsection (i) 50 percent of the funds such State would otherwise be required to provide under such subsection.

"(3) In any fiscal year in which the amount a State will receive under this section is less than $100,000, the Secretary may designate the State to receive assistance under this section only as part of a regional center.

"(4) The provisions of paragraph (3) shall not apply to any State that can demonstrate to the Secretary that the total amount of Federal, State, local and private funds expended to carry out the purposes of this section would equal or exceed $100,000.

"(5) In any fiscal year in which paragraph (2) applies, the Secretary may allow certain States that receive assistance as part of a regional center to reserve a portion of such assistance for a State adult literacy resource center pursuant to this section.

"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this section $25,000,000 for each of the fiscal years 1992 and 1993, and such sums as may be necessary for each of the fiscal years 1994 and 1995.".

TITLE II—WORKFORCE LITERACY

SEC. 201. NATIONAL WORKFORCE LITERACY ASSISTANCE COLLABORATIVE.

(a) ESTABLISHMENT.—There is established in the Department of Labor a National Workforce Literacy Assistance Collaborative (in this subsection referred to as the "Collaborative") to improve the basic skills of individuals, especially those individuals who are marginally employed or unemployed with low basic skills and limited opportunity for long-term employment and advancement, by assisting small- and medium-sized businesses, business associations that represent small- and medium-sized businesses, and labor organizations to develop and implement literacy programs tailored to the needs of the workforce.

(b) FUNCTIONS.—The Collaborative shall—

(1) develop and implement a plan for providing small- and medium-sized businesses with the technical assistance required to address the literacy needs of their workforce;

(2) monitor the development of workforce literacy training programs and identify best practices and successful small- and medium-sized business program models;

(3) inform businesses and unions of research findings and best practices regarding exemplary curricula, instructional techniques, training models, and the use of technology as a training tool in the workplace;

(4) provide technical assistance to help businesses assess individual worker literacy skill needs, implement workforce literacy training programs, and evaluate training program effectiveness;

(5) promote cooperation and coordination among State and local agencies and the private sector to obtain maximum uses of existing literacy and basic skills training resources;

(6) conduct regional and State small business workforce literacy meetings to increase program effectiveness and accountability;

(7) establish cooperative arrangements with the National Institute for Literacy and other centers involved in literacy and basic skills research and development activities; and

(8) prepare and produce written and video materials necessary to support technical assistance and information dissemination efforts.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for purposes of carrying out this section $5,000,000 for each of the fiscal years 1992, 1993, 1994, and 1995.

SEC. 202. GRANTS FOR NATIONAL WORKFORCE LITERACY STRATEGIES.

Section 371 of the Adult Education Act (20 U.S.C. 1211) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting after "Secretary" the following: ", in consultation with the Secretary of Labor and the Administrator of the Small Business Administration,";

(B) in subparagraph (B) of paragraph (2)—

(i) by striking "and" and inserting a comma; and

(ii) by inserting after "local educational agencies" the following: ", and other entities described in paragraph (1) that receive grants under this subsection"; and

(C) by adding at the end the following:

"(5) In awarding grants under this section, the Secretary shall give priority to applications from partnerships that include small businesses.

"(6) The Secretary is authorized to award grants under this section for a period not to exceed 3 years.";

(2) in subsection (b)—

(A) in paragraph (1), by striking "subsection (c)" and inserting "subsection (e)";

(B) in subparagraph (B) of paragraph (2)—

(i) by striking "and" the first place it appears and inserting a comma; and

(ii) by inserting after "local educational agencies" the following: ", and other entities described in paragraph (1) that receive grants under this subsection"; and

(C) in paragraph (7), by amending subparagraph (B) to read as follows:

"(B) From the sum appropriated for each fiscal year under subsection (c) for any fiscal year in which appropriations equal or exceed $50,000,000, the Secretary shall allot to each State (as defined in section 312(7)) an amount proportionate to the amount such State receives under section 313.";

(3) by redesignating subsection (c) as subsection (e);

(4) by inserting after subsection (b) the following:

"(c) GRANT FOR NATIONAL WORKFORCE LITERACY STRATEGIES.—(1) In any fiscal year in which amounts appropriated pursuant to the authorization contained in subsection (e) equal or exceed $25,000,000, the Secretary shall reserve not more than $5,000,000 to establish a program of grants to facilitate the design and implementation of national strategies to assist unions, unions in collaboration with programs eligible for assistance under this Act and businesses, and small- and medium-sized businesses to effectively provide literacy and basic skills training to workers.

"(2) Grants awarded under this subsection shall pay the Federal share of the cost of programs to establish large-scale national strategies in workforce literacy, which may include the following activities:

"(A) Basic skills training that is—

"(i) cost-effective;

"(ii) needed by employees; and

"(iii) required by employers to establish a trainable workforce that can take advantage of further job specific training and advance the productivity of the labor force on an individual, industry, or national level.

"(B) Specific program offerings, which may include—

"(i) English as a second language instruction;

"(ii) communications skill building;

"(iii) interpersonal skill building;

"(iv) reading and writing skill building; and

"(v) computation and problem solving.

"(C) Appropriate assessments of the literacy and basic skills needs of individual workers and the skill levels required by business.

"(D) Cooperative arrangements with other organizations involved in providing literacy and basic skills training, including adult education organizations, vocational education organizations, community and junior colleges, community-based organizations, State level agencies, and private industry councils.

"(E) The establishment as appropriate of technology-based learning environments, such as computer-based learning centers.

"(3) Any partnership described in subsection (a)(1) that desires to receive a grant under this subsection shall submit a proposal to the Secretary. The proposal shall contain a plan specifying a strategy for designing and implementing workforce literacy and basic skills training for workers, and justifying the national, statewide, or industry-wide importance of this strategy. The proposal shall include—

"(A) a demonstration of need for literacy and basic skills training;

"(B) a description of the business or industry for which the strategy is to be established;

"(C) a statement of specific, measurable goals and participant outcomes;

"(D) a strategy for achieving the goals, including a description of the process to identify literacy and basic skills required by employers and the skills of individual workers, and a description of the specific services to be provided; and

"(E) a description of the costs of the activities to be undertaken.

"(4) The Secretary shall develop a formal process for the submission of proposals and publish an announcement in the Federal Register with respect to that process and the availability of grants under this subsection.

"(5) The Federal share of the cost of a program assisted under this subsection shall not exceed 70 percent.

"(6) The Secretary shall give priority for grants under this subsection to proposals to carry out activities described in paragraph (2)(D).

"(7) In awarding grants under this subsection, the Secretary may consider geographic factors, such as rural and urban areas and national distribution.

"(8) Of the grants awarded under this subsection each year, not less than 5 shall each be for an amount that is not less than $500,000.

"(d) EVALUATION.—The Secretary shall reserve not more than 2 percent of any amount appropriated pursuant to the authorization contained in subsection (e) for the purpose of carrying out an independent evaluation of the effectiveness of programs assisted under this section in improving the literacy and basic skills of workers and the productivity of employees, including potential for the replicability or adaption of such programs."; and

(5) in subsection (e) (as redesignated by paragraph (3)) by striking paragraph (1) and inserting the following:

"(1) There are authorized to be appropriated for purposes of carrying out this section such sums as may be necessary for the fiscal year 1991, $60,000,000 for the fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993, 1994, and 1995.".

TITLE III—INVESTMENT IN LITERACY

SEC. 301. AMENDMENTS TO THE ADULT EDUCATION ACT.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 313 of the Adult Education Act (20 U.S.C. 1201b) is amended in subsection (a) by striking "$200,000,000" and all that follows through "1993" and inserting the following: "such sums as may be necessary for the fiscal year 1991, $260,000,000 for the fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993, 1994, and 1995".

(b) USE OF FUNDS.—Subsection (a) of section 322 of the Adult Education Act (20 U.S.C. 1203b(a)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Grants to States under this subpart shall be used in accordance with State plans (and amendments thereto) approved under sections 341 and 351, to pay the Federal share of the cost of the establishment or expansion of adult education programs to be carried out by local educational agencies, correctional education agencies, community-based organizations, public or private nonprofit agencies, postsecondary educational institutions, and other institutions that have the ability to provide literacy services to adults and families. Each State educational agency receiving financial assistance under this subpart shall provide assurance that local educational agencies, public or private nonprofit agencies, community-based organizations, correctional education agencies, postsecondary educational institutions, and institutions which serve educationally disadvantaged adults will be provided direct and equitable access to all Federal funds provided under this subpart. Failure to provide the assurance required by the preceding sentence shall disqualify a State from receiving its allotment under this title. In determining which programs shall receive assistance under this paragraph, the State shall consider—

"(A) the past effectiveness of applicants in providing services (especially with respect to recruitment and retention of educationally disadvantaged adults and the learning gains demonstrated by such adults);

"(B) the degree to which the applicant will coordinate and utilize other literacy and social services available in the community; and

"(C) the commitment of the applicant to serve individuals in the community that are most in need of literacy services.";

(2) in paragraph (3)—

(A) by striking the first sentence;

(B) by inserting after "sources;" the following: "the projected goals of the applicant with respect to participant recruitment, retention, and educational achievement and how the applicant will measure and report progress in meeting its goals;";

(C) by striking "the Carl D. Perkins Vocational Education Act" and inserting "the Carl D. Perkins Vocational and Applied Technology Education Act"; and

(D) by striking "the Education of the Handicapped Act" and inserting "the Individuals with Disabilities Education Act";

(3) in paragraph (4)—

(A) by striking "(A)";

(B) by inserting after "adults" the following: ", particularly in areas with a high proportion of adults who do not have a certificate of graduation from a school providing secondary education or its equivalent"; and

(C) by striking subparagraph (B);

(4) by redesignating paragraphs (3) and (4) (as amended by paragraphs (2) and (3) of this subsection) as paragraphs (4) and (5), respectively; and

(5) by inserting after paragraph (2) the following:

"(3)(A) Grants to States provided under this section shall also be used for competitive 2-year grants to public housing authorities for literacy programs and related activities. Any public housing authority that receives a grant under this subparagraph shall consult with local adult education providers in conducting programs and activities with assistance provided under the grant. Any grant provided under this subparagraph shall be referred to as a 'Gateway Grant'.

"(B) The Secretary shall, not less often than every 2 years, evaluate any grants made under this paragraph and report the results of such evaluation to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.".

(c) STATE ADMINISTRATION.—Section 331(a) of the Adult Education Act (20 U.S.C. 1205(a)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following:

"(2) within 2 years of the enactment of the National Literacy Act of 1991, the development and implementation, in consultation with a widely representative group of appropriate experts, educators, and administrators, of indicators of program quality to be used to evaluate programs assisted under this title, as required by section 352, to determine whether such programs are effective, including whether such programs are successfully recruiting, retaining, and improving the literacy skills of the individuals served in such programs;".

(d) STATE ADVISORY COUNCIL.—(1) The heading for section 332 of the Adult Education Act is amended to read as follows:

"SEC. 332. STATE ADVISORY COUNCIL ON ADULT EDUCATION AND LITERACY.".

(2) Section 332 of the Adult Education Act (20 U.S.C. 1205a) is amended—

(A) in the first sentence of subsection (a)(1), by striking "adult education, appointed by the Governor" and inserting "adult education and literacy, appointed by, and responsible to, the Governor";

(B) in the second sentence of subsection (a)(1)—

(i) by inserting "and literacy" after "adult education"; and

(ii) by striking "consist" and all that follows through the period at the end and inserting the following: "consist of—

"(i) representatives of public education;

"(ii) representatives of public and private sector employment;

"(iii) representatives of recognized State labor organizations;

"(iv) representatives of private literacy organizations, voluntary literacy organizations, and community-based literacy organizations;

"(v) the chief administrative officer of a State, or the designee of such officer;

"(vi) representatives of—

"(I) the State educational agency;

"(II) the State job training agency;

"(III) the State human services agency;

"(IV) the State public assistance agency;

"(V) the State library program; and

"(VI) the State economic development agency;

"(vii) officers of the State government whose agencies provide funding for literacy services or who may be designated by the Governor or the Chairperson of the council to serve whenever matters within the jurisdiction of the agency headed by such an officer are to be considered by the council; and

"(viii) classroom teachers who have demonstrated outstanding results in teaching children or adults to read.";

(C) by amending subsection (d) to read as follows:

"(d) PROCEDURES.—(1) Subject to paragraphs (2) and (3), the State advisory council shall determine its own procedures, staffing needs (subject to funding levels authorized by the chief executive officer of the State), and the number, time, place, and conduct of meetings.

"(2) The State advisory council shall meet at least 4 times each year. At least 1 such meeting shall provide an opportunity for the general public to express views concerning adult education in the State.

"(3) One member more than ½ of the members on the council shall constitute a quorum for the purpose of transmitting recommendations and proposals to the chief executive officer of the State, but a lesser number of members may constitute a quorum for other purposes.";

(D) in subsection (f)—

(i) by amending paragraph (1) to read as follows:

"(1) meet with the State agencies responsible for literacy training during the planning year to advise on the development of a State plan for literacy and for adult education that fulfills the literacy and adult education needs of the State, especially with respect to the needs of the labor market, economic development goals, and the needs of the individuals in the State;";

(ii) by amending paragraph (2) to read as follows:

"(2) advise the Governor, the State educational agency, and other State agencies concerning—

"(A) the development and implementation of measurable State literacy and adult education goals consistent with section 342(c)(2), especially with respect to—

"(i) improving levels of literacy in the State by ensuring that all appropriate State agencies have specific objectives and strategies for such goals in a comprehensive approach;

"(ii) improving literacy programs in the State; and

"(iii) fulfilling the long-term literacy goals of the State;

"(B) the coordination and monitoring of State literacy training programs in order to progress toward the long-term literacy goals of the State;

"(C) the improvement of the quality of literacy programs in the State by supporting the integration of services, staff training, and technology-based learning and the integration of resources of literacy programs conducted by various agencies of State government; and

"(D) private sector initiatives that would improve adult education programs and literacy programs, especially through public-private partnerships;";

(iii) by redesignating paragraph (3) as paragraph (7); and

(iv) by inserting after paragraph (2) the following:

"(3) review and comment on the plan submitted pursuant to section 356(h) and submit such comments to the Secretary;

"(4) measure progress on meeting the goals and objectives established pursuant to paragraph (2)(A);

"(5) recommend model systems for implementing and coordinating State literacy programs for replication at the local level;

"(6) develop reporting requirements, standards for outcomes, performance measures, and program effectiveness in State programs, that are consistent with those proposed by the Interagency Task Force on Literacy; and".

(e) State Plan.—Subsection (c) of section 342 of the Adult Education Act (20 U.S.C. 1206a) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) describe and provide for the fulfillment of the literacy needs of individuals in the State;";

(2) by striking paragraph (9);

(3) by redesignating paragraphs (2) through (8) as paragraphs (3) through (9), respectively;

(4) by inserting after paragraph (1) the following:

"(2) set forth measurable goals for improving literacy levels, retention in literacy programs, and long-term learning gains of individuals in the State and describe a comprehensive approach for achieving such goals, including the development of indicators of program quality as required by section 331(a)(2);";

(5) in paragraph (4) (as redesignated by paragraph (3) of this section)—

(A) by striking "the use of" and inserting "coordination by";

(B) by striking "other than" and inserting "including"; and

(C) by striking "such as" the second place such term appears;

(6) by striking "and" at the end of paragraph (12);

(7) by striking the period at the end of paragraph (13) and inserting a semicolon; and

(8) by adding at the end the following:

"(14) report the amount of administrative funds spent on program improvements; and

"(15) contain assurances that financial assistance provided pursuant to this title shall be used to assist and expand existing programs and to develop new programs for adults whose lack of basic skills—

"(A) renders them unemployable;

"(B) keeps them, whether employed or unemployed, from functioning independently in society; and

"(C) severely reduces their ability to have a positive effect on the literacy of their children.".

(f) Evaluation.—Section 352 of the Adult Education Act (20 U.S.C. 1207a) is amended—

(1) in paragraph 1—

(A) by striking "data to the Secretary" and inserting the following: "to the Secretary and make public within the State data";

(B) by inserting before the semicolon the following: ", including—

"(A) the number and percentage of local educational agencies, community-based organizations, volunteer groups, and other organizations that are grant recipients; and

"(B) results of the evaluations carried out as required by paragraph (2) in the year preceding the year for which the data is submitted";

(2) in paragraph (2)—

(A) by striking "before the end" and all that follows through "shall consider" and inserting the following: "evaluate 20 percent of the grant recipients each year so that at the end of such period 80 percent of all grant recipients shall have been evaluated once and such evaluations shall consider, at a minimum";

(B) by redesignating subparagraphs (A) through (D) as subparagraphs (B) through (E), respectively;

(C) by inserting before subparagraph (B) (as redesignated by subparagraph (B) of this paragraph) the following:

"(A) the projected goals of the grant recipient as described in its application pursuant to section 322(a)(3);";

(D) by amending subparagraph (D) (as redesignated by subparagraph (B) of this paragraph) to read as follows:

"(D) the success of the grant recipient in meeting the State's indicators of program quality after such indicators are developed as required by section 331(a)(2); and"; and

(E) by striking "and" at the end.

(g) Teacher Training.—(1) Subsection (a) of section 353 of the Adult Education Act (20 U.S.C. 1208(a)) is amended—

(A) by striking "and" at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting "; and"; and

(C) by adding at the end the following:

"(3) training professional teachers, volunteers, and administrators, with particular emphasis on—

"(A) training—

"(i) full-time professional adult educators;

"(ii) minority adult educators;

"(iii) educators of adults with limited English proficiency; and

"(B) training teachers to recognize and more effectively serve illiterate individuals with learning disabilities and individuals who have a reading ability below the fifth grade level.".

(2) Section 353 of the Adult Education Act (as amended by paragraph (1) of this subsection) (20 U.S.C. 1208) is amended—

(A) in subsection (a), by striking "10" and inserting "15"; and

(B) by amending subsection (b) to read as follows:

"(b) Special Rule.—At least ⅔ of the 15 percent reserved pursuant to subsection (a) shall be used to carry out the provisions of paragraphs (2) and (3) of subsection (a).".

(h) Federal Responsibility.—Section 361 of the Adult Education Act (20 U.S.C. 1209) is amended by adding at the end the following:

"(c) Federal Responsibility.—Within 1 year after the enactment of the National Literacy Act of 1991, the Secretary, in consultation with appropriate experts, educators, and administrators, shall develop indicators of program quality that may be used by State and local programs receiving assistance under this title as models by which to judge the success of such programs, including success in recruitment and retention of students and improvement in the literacy skills of students. Such indicators shall take into account different conditions under which programs operate and shall be modified as better means of assessing program quality are developed.".

SEC. 302. TARGETED ASSISTANCE.

Section 1531(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2941) is amended by—

(1) redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively; and

(2) inserting the following new paragraph (5) after paragraph (4):

"(5) programs of training to enhance the ability of teachers and school counselors to identify, particularly in the early grades, students with reading and reading-related problems that place such students at risk for illiteracy in their adult years;".

SEC. 303. AMENDMENTS TO THE EVEN START PROGRAM.

(a) Amendment to Part Heading.—The heading for part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2741 et seq.) is amended to read as follows:

"PART B—EVEN START FAMILY
LITERACY PROGRAMS".

(b) State Grant Program.—Section 1052 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2742) is amended—

(1) in subsection (a), by striking "local educational agencies or consortia of such agencies" and inserting "eligible entities";

(2) in subsection (b)—

(A) by inserting "(1)" before "In"; and

(B) by adding at the end the following:

"(2) In any fiscal year in which this subsection applies, no State shall award a grant under this part for an amount less than $75,000.

"(3) In any year in which this subsection applies, each State that receives a grant under this part may use not more than 5 percent of assistance provided under the grant for costs of—

"(A) administration; and

"(B) the provision, through grant or contract, of technical assistance for program improvement and replication to eligible entities that receive grants under this part.";

(3) by redesignating subsection (c) as subsection (d);

(4) by inserting after subsection (b) the following new subsection:

"(c) Reservation.—From amounts appropriated for purposes of carrying out this part, the Secretary may reserve an amount equal to not more than 2 percent of such amounts or the amount reserved for such purposes in the fiscal year 1991, whichever is greater, for purposes of—

"(1) carrying out the evaluation required by section 1058; and

"(2) providing, through grant or contract, technical assistance for program improvement and replication to eligible entities that receive grants under this part."; and

(5) by amending subsection (d) (as redesignated by paragraph (3)) to read as follows:

"(d) Definitions.—For the purpose of this part:

"(1) The term 'eligible entity' means—

"(A) a local educational agency applying in collaboration with a community-based organization, public agency, institution of higher education, or other nonprofit organization; or

"(B) a community-based organization, or other nonprofit organization of demonstrated quality applying in collaboration with a local educational agency.

"(2) The terms 'Indian tribe' and 'tribal organization' have the respective meanings given such terms in section 4 of the Indian Self-Determination and Education Assistance Act.

"(3) The term 'State' includes each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.".

(c) ALLOCATION.—Subsection (a) of section 1053 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2743) is amended to read as follows:

"(a) RESERVATION FOR MIGRANT PROGRAMS AND TERRITORIES.—(1) In each fiscal year in which section 1052(a) applies, the Secretary shall first reserve for programs consistent with the purpose of this part—

"(A) for programs for migrant children, which shall be conducted through the Office of Migrant Education, an amount equal to 3 percent of the amount appropriated for purposes of carrying out this part; and

"(B) for allocations to Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658), and to Indian tribes and tribal organizations, an amount comparable to their relative need.

"(2) In each fiscal year in which section 1052(b) applies, the Secretary shall first reserve for programs consistent with the purpose of this part, an amount equal to 5 percent of the amount appropriated for purposes of carrying out this part, of which—

"(A) amounts shall be allocated for programs for migrant children, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658), and Indian tribes and tribal organizations, according to their relative need; but

"(B) in no case shall the amount reserved for programs for migrant children be less than the amount reserved for such programs in the preceding fiscal year.".

(d) FEDERAL SHARE LIMITATION.—Section 1054 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2744) is amended—

(1) in subsection (a), by striking "local educational agencies" and all that follows through "nonprofit organizations," and inserting "an eligible entity";

(2) in paragraph (2) of subsection (b), by inserting after "counseling," the following: "other developmental and support services,"; and

(3) in subsection (c)—

(A) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively;

(B) by inserting "(1)" before "The Federal share";

(C) in subparagraph (A) (as redesignated by subparagraph (A) of this paragraph), by striking "local educational agency" and inserting "eligible entity";

(D) by striking the last sentence and inserting the following: "The remaining cost may be provided in cash or in kind, fairly evaluated, and may be obtained from any source other than funds made available for programs under this chapter."; and

(E) by adding at the end the following:

"(2) The Secretary (in any fiscal year in which section 1052(a) applies) or the State educational agency (in any fiscal year in which section 1052(b) applies) may waive, in whole or in part, the requirement that all or part of the remaining cost described in paragraph (1) be obtained from sources other than funds made available under this chapter if an eligible entity—

"(A) demonstrates that it otherwise would not be able to participate in the program under this part; and

"(B) negotiates an agreement with the Secretary or the State educational agency, as appropriate, with respect to the amount of the remaining cost to which the waiver would be applicable.".

(e) ELIGIBLE PARTICIPANTS.—Section 1055 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2745) is amended—

(1) by striking "Eligible" and inserting the following: "(a) IN GENERAL.—Except as provided in subsection (b), eligible";

(2) in paragraph (2) of subsection (a) (as designated by paragraph (1)), by striking "(aged 1 to 7," and inserting "(from birth to age 7,"; and

(3) by adding at the end the following:

"(b) CONTINUATION OF ELIGIBILITY FOR CERTAIN PARTICIPANTS.—Any family participating in the program under this part that becomes ineligible for such participation as a result of 1 or more members of the family becoming ineligible for such participation, may continue to participate in the program until all members of the family become ineligible for participation, which—

"(1) in the case of a family in which ineligibility was due to the child or children of such family attaining the age of 8, shall be when the parent or parents become ineligible due to educational advancement; and

"(2) in the case of a family in which ineligibility was due to the educational advancement of the parent or parents of such family, shall be when all children in the family attain the age of 8.".

(f) APPLICATIONS.—Section 1056 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2746) is amended—

(1) in subsection (a), by striking "a local educational agency" and inserting "an eligible entity"; and

(2) in subsection (b), by striking "the local educational agency" and inserting "the eligible entity".

(g) SELECTION PROCESS.—Section 1057 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2747) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (1) through (7) as subparagraphs (A) through (G), respectively;

(B) by inserting "(1)" before "The";

(C) in paragraph (1) (as designated by subparagraph (B) of this paragraph)—

(i) by amending subparagraph (B) (as redesignated by subparagraph (A) of this paragraph) to read as follows:

"(B) demonstrate that the area to be served by such program has a high percentage or a large number of children and adults who are in need of such services as indicated by high levels of poverty, illiteracy, unemployment, limited English proficiency, or other need-related indicators;";

(ii) in subparagraph (E) (as redesignated by subparagraph (A) of this paragraph), by striking "the local educational agency's" and inserting "the eligible entity's"; and

(iii) by adding at the end the following:

"(2) The review panel shall give priority for grants under this subsection to proposals which—

"(A) make the demonstration described in paragraph (1)(B); and

"(B) demonstrate an ability to operate an effective program.";

(2) by amending subsection (c) to read as follows:

"(c) DISTRIBUTION OF ASSISTANCE.—(1) In approving grants under this part pursuant to section 1052(a), the Secretary shall ensure a representative distribution of assistance among the States and among urban and rural areas of the United States.

"(2) In approving grants under this part pursuant to section 1052(b), the review panel shall ensure a representative distribution of assistance between urban and rural areas of the State."; and

(3) in paragraph (1) of subsection (d)—

(A) by striking "a local educational agency" and inserting "an eligible entity"; and

(B) by striking "such local educational agency" and inserting "such eligible entity".

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 1059 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2749) is amended to read as follows:

"SEC. 1059. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated for purposes of carrying out this part such sums as may be necessary for the fiscal year 1991, $60,000,000 for the fiscal year 1992, and such sums as may be necessary for the fiscal year 1993.".

SEC. 304. FAMILY LITERACY PUBLIC BROADCASTING PROGRAM.

(a) PROGRAM AUTHORIZED.—(1) The Secretary is authorized, subject to the availability of appropriations, to enter into a contract with the Corporation for Public Broadcasting to arrange for the production and dissemination of family literacy programming and accompanying materials which would assist parents in improving family literacy skills and language development. In producing and developing such programming, the Corporation for Public Broadcasting shall work in cooperation with local public broadcasting stations to avoid duplication of efforts.

(2) After the program described in paragraph (1) is produced, the Corporation for Public Broadcasting shall arrange to have audio and video instructional media materials for distribution at sites chosen from among—

(A) State and local libraries operating literacy programs, and

(B) nonprofit entities serving hard-to-serve populations as defined in section 304(b)(2), including community-based organizations, volunteer organizations and other nongovernmental entities.

(3) The audio and video instructional media materials described in paragraph (2) shall be used at sites described in paragraph (2), and on a loan basis, distributed to families.

(4) One year after distribution of the audio and video instructional media materials, the Corporation for Public Broadcasting shall report to the Congress on the distribution and use of the audio and video instructional media materials produced pursuant to this subsection and such audio and video instructional media materials' contribution in promoting literacy.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for fiscal year 1992 to carry out the provisions of subsection (i), of which $100,000 shall be reserved for reproducing and distributing programming or audio and video instructional media materials.

TITLE IV—BUSINESS LEADERSHIP FOR EMPLOYMENT SKILLS

SEC. 401. EDUCATION PROGRAMS FOR COMMERCIAL DRIVERS.

(a) IN GENERAL.—Part C of the Adult Education Act (20 U.S.C. 1211 et seq.) is amended by adding at the end the following:

"SEC. 373. EDUCATION PROGRAMS FOR COMMERCIAL DRIVERS.

"(a) PROGRAM AUTHORIZED.—The Secretary is authorized to make grants on a competitive basis to pay the Federal share of the costs of establishing and operating adult education programs which increase the literacy skills of eligible commercial drivers so that such drivers may successfully complete the knowledge test requirements under the Commercial Motor Vehicle Safety Act of 1986.

"(b) FEDERAL SHARE.—The Federal share of the costs of the adult education programs authorized under subsection (a) shall be 50 percent. Nothing in this subsection shall be construed to require States to meet the non-Federal share from State funds.

"(c) ELIGIBLE ENTITIES.—Entities eligible to receive a grant under this section include—

"(1) private employers employing commercial drivers in partnership with agencies, colleges, or universities described in paragraph (2);

"(2) local educational agencies, State educational agencies, colleges, universities, or community colleges;

"(3) approved apprentice training programs; and

"(4) labor organizations, the memberships of which include commercial drivers.

"(d) REFERRAL PROGRAM.—Grantees shall refer to appropriate adult education programs as authorized under this title individuals who are identified as having literacy skill problems other than or beyond those which prevent them from successfully completing the knowledge test requirements under the Commercial Motor Vehicle Safety Act of 1986.

"(e) DEFINITIONS.—For purposes of this section:

"(1) The term 'approved apprentice training programs' has the meaning given such term in the National Apprenticeship Act of 1937.

"(2) The term 'eligible commercial driver' means a driver licensed prior to the requirements of the Commercial Motor Vehicle Safety Act of 1986.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for purposes of carrying out this section $3,000,000 for each of the fiscal years 1991, 1992, and 1993.".

(b) AVOIDANCE OF DUPLICATE ENACTMENT.—The amendment made by subsection (a) shall not take effect if the Higher Education Amendments of 1991 are enacted before the enactment of this Act.

TITLE V—BOOKS FOR FAMILIES

SEC. 501. INEXPENSIVE BOOK DISTRIBUTION PROGRAM.

(a) PRIORITY.—Section 1563(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2963) is amended by—

(1) striking "and" at the end of paragraph (2);

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by inserting after paragraph (2) the following:

"(3) in the fiscal year 1991 and each succeeding fiscal year, the contractor will give priority in the selection of additional local programs to programs and projects which serve children and students with special needs including, at a minimum—

"(A) low-income children (particularly such children in high poverty areas);

"(B) children at risk for school failure;

"(C) children with disabilities;

"(D) emotionally disturbed children;

"(E) foster children;

"(F) homeless children;

"(G) migrant children;

"(H) children without access to libraries;

"(I) institutionalized or incarcerated children; and

"(J) children whose parents are institutionalized or incarcerated; and".

(b) STUDY.—The contractor shall report to the Secretary of Education annually regarding the number and description of the additional programs funded under subsection 1563(a)(3) of the Elementary and Secondary Education Act of 1965.

SEC. 502. LIBRARY LITERACY PROGRAMS.

Section 601 of the Library Services and Construction Act (20 U.S.C. 375) is amended by inserting at the end thereof the following new subsection:

"(f) In awarding grants under this section the Secretary shall give priority to programs and services which—

"(1) will be delivered in areas of greatest need which have highest concentrations of adults who do not have a secondary education or its equivalent, and which—

"(A) have few community or financial resources to establish the program described under this section without Federal assistance, or

"(B) have low per capita income, unemployment or underemployment; and

"(2) coordinate with literacy organizations and community based organizations providing literacy services.".

TITLE VI—LITERACY FOR INCARCERATED INDIVIDUALS

SEC. 601. MANDATORY EDUCATION FOR INCARCERATED ADULTS.

Subpart 1 of part B of the Adult Education Act (20 U.S.C. 1203 et seq.) is amended by adding at the end the following:

"SEC. 324. MANDATORY LITERACY PROGRAM.

"(a) INITIAL REQUIREMENT.—Before the expiration of the 2-year period beginning on the date of the enactment of the National Literacy Act of 1991, each State correctional system shall have in effect a mandatory functional literacy program in at least 1 major correctional facility.

"(b) SUBSEQUENT REQUIREMENT.—Before the expiration of the 5-year period beginning on the date of the enactment of the National Literacy Act of 1991, each State correctional system and each local jail or detention center with a population of more than 150 inmates shall have in effect a mandatory functional literacy program where funds are available to operate such a program.

"(c) PROGRAM REQUIREMENTS.—Each mandatory functional literacy program required by subsections (a) and (b) shall include—

"(1) a requirement that each individual incarcerated in such system, jail, or detention center who is not functionally literate shall participate in such program until such individual—

"(A) achieves functional literacy;

"(B) is granted parole;

"(C) completes his or her sentence; or

"(D) is released pursuant to a court order;

"(2) a prohibition on granting parole to any individual described in paragraph (1) who refuses to participate in such program;

"(3) adequate opportunities for appropriate educational services and testing all inmates for functional literacy upon reception; and

"(4) an inmate participation incentive program which may include—

"(A) better housing opportunities;

"(B) monetary incentives for achievement; and

"(C) positive reports from the education department to the parole authorities for inmates who participate and progress in the literacy program.

"(d) FUNCTIONAL LITERACY.—For purposes of this section, the term 'functional literacy' means—

"(1) an eighth grade equivalence in reading on a nationally recognized standardized test;

"(2) functional competency or literacy on a nationally recognized criterion-referenced test; or

"(3) both.

"(e) EXCEPTED INDIVIDUALS.—Any individual who is serving a life sentence without parole, is terminally ill, or is under a sentence of death shall not be required to participate in a mandatory functional literacy program.

"(f) EARLY RELEASE WAIVER.—Subsection (c)(2) shall not apply in any case in which a court order requires early release of an individual due to a constitutional consideration.

"(g) ANNUAL REPORT.—Each State correctional education agency shall submit a report annually to the Secretary with respect to its program under this section. Such report shall include—

"(1) the number of individuals tested for eligibility;

"(2) the number of individuals eligible for the program;

"(3) the number of individuals participating in the program;

"(4) the numbers of hours of instruction per week;

"(5) sample data on achievement of students; and

"(6) data on the costs of the program.

"(h) EDUCATIONAL RECOMMENDATIONS.—Parole agencies are encouraged to make educational recommendations for those being released who do not have a marketable job skill or a high school diploma.

"(i) NON-MANDATORY PROGRAMS.—Jails and detention centers with a population of 150 inmates or less are encouraged to develop mandatory functional literacy programs as described in subsection (c).".

SEC. 602. BLUE RIBBON AWARDS FOR CORRECTIONAL EDUCATION PROGRAMS.

(a) IN GENERAL.—Section 1566 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2966) is amended—

(1) in subsection (a), by striking "The" and inserting "Subject to subsection (d), the"; and

(2) by adding at the end the following:

"(d) BLUE RIBBON AWARDS FOR CORRECTIONAL EDUCATION PROGRAMS.—The Secretary, through nominations provided by the Office on Correctional Education after consultation with representatives of correctional education organizations and others active in literacy education, shall annually make 1 or more awards under this section to effective and innovative programs for inmate education and literacy.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1992.

TITLE VII—VOLUNTEERS FOR LITERACY

SEC. 701. LITERACY CHALLENGE GRANTS.

(a) GENERAL AUTHORITY.—

(1) PROGRAM AUTHORIZED.—Part C of title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4991 et seq.) is amended by adding at the end the following:

"LITERACY CHALLENGE GRANTS

"SEC. 125. (a) The Director is authorized to award challenge grants to eligible public agencies and private organizations to pay the Federal share of the costs of establishing, operating or expanding community or employee literacy programs or projects that include the use of full-time or part-time volunteers as one method of addressing illiteracy.

"(b) Each eligible organization desiring a grant under this section shall submit to the ACTION Agency an application in such form and accompanied by such information as the Director may reasonably require. Each such application shall—

"(1) describe the activities for which assistance is sought,

"(2) contain assurances that the eligible organization will provide from non-Federal sources the non-Federal share of the cost of the program or project,

"(3) provide assurances, satisfactory to the Director, that the literacy project will be operated in cooperation with other public and private agencies and organizations interested in, and qualified to, combat illiteracy in the community where the project is to be conducted, and

"(4) contain such other information and assurances as the Director may reasonably require.

"(c)(1)(A) The Federal share of the cost of a program or project authorized by this section administered by a public agency, a nonprofit organization other than an organization described in paragraph (2), or a private, for-profit organization shall not exceed—

"(i) 80 percent in the first fiscal year;

"(ii) 70 percent in the second fiscal year; and

"(iii) 60 percent in the third fiscal year.

"(B) The non-Federal share paid by a private, for-profit organization shall be in cash.

"(2) The Federal share of the cost of a program or project administered by a nonprofit or community-based organization shall not exceed—

"(A) 90 percent in the first fiscal year;

"(B) 80 percent in the second fiscal year; and

"(C) 70 percent in the third fiscal year.

"(3) The non-Federal share provided by a public agency or a nonprofit or community-based organization may be provided in cash, or in kind, fairly evaluated, and may include the use of plant, equipment, and services.".

(2) CONFORMING AMENDMENT.—The table of contents contained in the first section of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 note) is amended by inserting after the item relating to section 124 the following new item.

"Sec. 125. Literacy challenge grants.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 501(c) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5081(c)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting "(1)" after the subsection designation; and

(3) by inserting at the end the following:

"(2) Except as provided in paragraph (3) and in addition to the amounts authorized to be appropriated pursuant to paragraph (1) there is authorized to be appropriated $2,500,000 for the fiscal year 1992 and such sums as may be necessary for 1993 for Literacy Challenge Grants under section 125.

"(3) No funds shall be appropriated pursuant to paragraph (2) in any fiscal year unless—

"(A) the funds available in such fiscal year for the VISTA Program under part A of title I are sufficient to provide the years of volunteer service specified for such fiscal year under section 501(d)(1) for the VISTA Program; and

"(B) the funds available in such fiscal year for the VISTA Literacy Corps under part A of title I are sufficient to provide at least the same years of volunteer service as were provided in the fiscal year preceding such fiscal year.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan [Mr. KILDEE] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I am truly pleased to be able to bring H.R. 751 to the House floor.

This bill was first introduced by Congressman TOM SAWYER in the last Congress.

It was approved by the House last year as part of the excellence in education bill by a vote of 350 to 25.

Unfortunately it was not enacted into law at that time because of unrelated problems with the excellence bill.

H.R. 751 introduced again by the gentleman from Ohio [Mr. SAWYER] represents a truly bipartisan effort to improve the literacy and basic skill levels of adults and we owe a debt of gratitude to Mr. SAWYER and Mr. GOODLING for their work.

Madam Speaker, at least 30 million adults in our country have serious problems with literacy: the ability to read, write, speak English, compute and solve problems effectively.

H.R. 751 proposes a comprehensive approach to ensuring the availability of literacy services by coordinating, integrating, and investing in adult and family literacy programs at the Federal, State, and local level.

The services it authorizes will enable many adults to more fully participate in society and will improve the Nation's ability to compete in an ever complicated world economy.

Dollars spent for literacy are a capital investment in people.

Seventy-five percent of the American work force in the year 2000 are adults today.

Improving their literacy skills will not only make the work force more productive for American business, it also will help ensure that workers have the skills necessary to retain their jobs in a rapidly changing work environment.

I urge the passage of H.R. 751.

Madam Speaker, I reserve the balance of my time.

Mr. GOODLING. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I would like to first thank the gentleman from Michigan [Mr. FORD], our new chairman, and the gentleman from Michigan [Mr. KILDEE], the new chairman of the Subcommittee on Elementary, Secondary, and Vocational Education, for their willingness to expedite this legislation. They inherited H.R. 751 from the last Congress and have already become its champion. His staff, on the part of the gentleman from Michigan [Mr. KILDEE], Susan Wilhelm, and Tom Kelly, have worked hard to master the bill and bring it to the floor. They deserve much credit for their efforts.

Madam Speaker, I also need to single out the gentleman from Ohio [Mr. SAWYER] for his leadership on this issue. We have been walking down this road together for 2 years, and he and his staffer, Sara Davis, have been willing to stop and work things out at every step of the way. Because of his willingness to compromise, the administration does not oppose the bill. The literacy community has a very good friend in the gentleman from Ohio [Mr. SAWYER].

Madam Speaker, illiteracy is our No. 1 domestic problem. Between 21 and 75 million adults are affected.

There are a lot of things to like about H.R. 751. It creates several needed additions to the Federal effort to fight illiteracy. The National Literacy Institute and the State literacy centers will provide the first national support system for local literacy providers. Better teaching techniques, curriculum, and assessment instruments will flow to where they are needed in the field.

I am especially pleased that there are several new provisions to the Adult Education Act which will establish program goals and increase accountability for local providers. Similar to the provisions in chapter 1 and vocational education, there are appropriate Federal, State and local roles designed to bring about improved literacy services.

There are also several amendments to the Even Start Program contained in H.R. 751. These are in essence technical and perfecting amendments that will improve the performance of this successful literacy family program. We have to understand that literacy is a problem that starts when young children fail to learn appropriate skills and is too often a family problem where parents fail to adequately support their children's learning development. Illiteracy is an intergenerational problem.

Madam Speaker, this is a good, lean bill. It has gone through many revisions and is in shape to move forward and become law. I hope that all my colleagues can support this legislation.

Madam Speaker, I reserve the balance of my time.

Mr. KILDEE. Madam Speaker, I would also like to thank the staff of the gentleman from Pennsylvania [Mr.

GOODLING] for their fine work on H.R. 751. This has been really a pleasant, enjoyable task, and this bill is a bill that will make a difference in this country. I would like to thank particularly Andy Hartman, Lynn Selmser, Beth Buehlmann, and Jo Marie St. Martin. They really contributed well to this bill.

Madam Speaker, I yield 5 minutes to the gentleman from Ohio [Mr. SAWYER], the sponsor of the bill.

Mr. SAWYER. Madam Speaker, I thank the gentleman from Michigan [Mr. KILDEE] and my other friend, the gentleman from Michigan [Mr. FORD], the chairman of our committee, and the gentleman from Pennsylvania [Mr. GOODLING] for all of their leadership in support of H.R. 751.

Madam Speaker, we are here today for several reasons. We are here because economic and demographic trends are telling us that our Nation's competitive abilities are steadily being eroded by a work force that is declining both in terms of real numbers and in terms of their training and basic skills. We are here today because of the sheer magnitude of the number of Americans who are wholly or functionally illiterate. The numbers are ranging from 25 to perhaps as many as 75 million Americans who cannot read, write, calculate or solve problems well enough to function productively in society.

Madam Speaker, we are sometimes cavalier about the use of those kinds of numbers, so sometimes it helps to think of it in this way: think of the entire population of the States of New Jersey and New York unable to fill out medical insurance forms, or to read to their children at night, or have even the faintest understanding of the information contained on a ballot.

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That is 25 million people, and that is a conservative estimate. For these people and their families, it is nothing less than a personal tragedy, and for our Nation it is as important an economic indicator as the GNP, the Consumer Price Index, or the balance of trade.

This measure before us today will provide tools, tools that will help to coordinate and integrate and invest in adult and family literacy programs on the Federal, State, and local levels. It will help to build an infrastructure in several ways. First, it will develop State resource centers that will create information and resource networks within the States to help literacy providers offer services that are based on the known needs of their own communities, using the best available resources in the most coordinated and effective ways possible.

Second, these State literacy resource centers will be linked to a National Institute for Literacy. Its purpose will be to provide current research on what constitutes an effective literacy program and how best those programs are conducted.

With this structure in place, it will be a lot easier for schools, governments, and average businesses to have ready access to information pertinent to their unique needs and advice on how best to develop programs that will meet the needs of their employees.

The Federal program that provides the core of adult literacy services, the Adult Education Act, is also at the core of this proposal that all of us have worked on here today. Unfortunately, that particular program is small. It serves only 10 percent of the population in need. But this measure would help improve and streamline the administration of the Adult Education Act. It will expand its reach by permitting community-based organizations, public and private nonprofit agencies, and other literacy program providers to receive Federal funding. Under current law, they may not, and we need to bring them into the system as well as full partners.

Every adult who needs skills retraining has needs that are unique to that adult. Our legislation would ensure that they have a wide variety of programs and options to choose from.

For many adults there are real barriers to returning to an actual classroom. Just imagine that you are 50 years old, that you are an assembly line worker, and that for 30 years you have successfully hidden the fact that you cannot read. Suddenly you face a wholesale modernization of your job, your boss is bringing in computerized robotics or statistical production controls, you never did well in school in the first place, and you are not likely to become a model student at the age of 50 anyway. You should have another option to unemployment, a program on the shop floor or someplace in your place of employment or one at the local career center.

This bill will make that possible. It will provide flexible solutions for workers, employers, and families in a vast array of settings.

Madam Speaker, I, too, would like to take just this moment to thank my chairman, the gentleman from Michigan [Mr. FORD], our ranking minority member, the gentleman from Pennsylvania [Mr. GOODLING], and the gentleman from Michigan [Mr. KILDEE] for their leadership. I would like to thank Andy Hartman and Sara Davis for their staff work in this matter. It was exemplary. Due to all that hard work and commitment on this issue, this bill was the first education bill to reach the House floor in this Congress.

Finally, I would like to thank every one in the literacy community all across this Nation. It represents one of the most diverse coalitions I think I have ever seen in my 15 years in public office. In many ways this is their bill, and I know all of us who joined today in this effort are pleased that these many years of steadfast dedication in the face of real adversity are about to pay off.

Madam Speaker, I look forward to working with all of them and with all of us here today in the years to come to make sure that this comes to fruition.

Mr. KILDEE. Madam Speaker, I yield 2 minutes to the gentleman from Rhode Island [Mr. REED].

Mr. REED. Madam Speaker, I rise today in support of the National Literacy Act of 1991, introduced by my distinguished colleague from Ohio, Mr. Sawyer and passed last week by the House Education and Labor Committee of which I am a member.

Today, 30 million adult Americans have problems with literacy skills. That does not just mean they cannot read the CONGRESSIONAL RECORD.

These are people who may not have the basic reading and math skills they need to read a bus schedule, make change at the store or any of the other skills that many of us take for granted. That is what we mean when we talk about literacy.

At the same time as we see rising unemployment, we also see the beginning of a literacy gap between the needs of the workplace and the skills of our workforce.

These literacy problems are ruining individual lives but they are also a threat to our Nation's well being. Our economic competitiveness is at stake.

The bill we are discussing today will help small- and medium-sized businesses and labor organizations develop and implement literacy programs to improve the basic skills of their employees.

This legislation also includes teacher training programs to identify students with reading.

It will improve library literacy programs and expand the reading is fundamental program.

Public and private literacy programs have long suffered from a lack of funding, lack of coordination, and lack of teacher training.

This bill addresses these issues and will go a long way toward insuring that adults in the United States of America are able to read a bus schedule, fill in a job application form and, in short, lead happy, productive lives that contribute not only to their own well being but also that of the country as a whole.

Madam Speaker, I hope all my colleagues will support this bill.

Mr. KILDEE. Madam Speaker, it is my privilege to yield 2 minutes to the chairman of the full committee, the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Madam Speaker, I take this time to thank the new chairman of the Subcommittee on Elementary and Secondary Education and the ranking Republican on the full committee for the dispatch with which they have put together this very valuable piece of legislation. I am very pleased, as the new chairman of the Committee on Education and Labor, to bring as our first vehicle to the floor a bill that everybody is going to stand up and cheer for. I would be very much surprised if any Member wants to vote against this piece of legislation. It is in fact a well thought out piece of legislation, one that has been through the mill before.

When we passed this in the last Congress, it was part of a bill that went out of here known as the President's education initiative, and unfortunately for that initiative, it came a cropper in the other body from the President's own party, as a matter of fact, and through no fault of anything in this part of the bill. Nobody disagreed with this part of the bill.

I am very pleased that the gentleman from Michigan [Mr. KILDEE] and the gentleman from Pennsylvania [Mr. GOODLING] got their heads together early and smoothed the way for this legislation and brought it to the floor. I notice that the gentleman from Pennsylvania has also done a little cleanup work on his Even Start Program which he deserves credit for. But the one Member who has been working on all of us for the longest about the problem of literacy and the need for the Federal Government to do something about it has been the former mayor of Akron, OH, the gentleman from Ohio [Mr. SAWYER]. The gentleman from Ohio has been at it so long that very early in the year, when I talked to the gentleman from Pennsylvania [Mr. GOODLING] and the gentleman from Michigan [Mr. KILDEE] and others, I said, "We have got to get to this Sawyer bill as soon as we can, because it is too bad something this good had to be taken down by something that drew controversy."

Madam Speaker, I am very happy to have it here, and I want to compliment the new chairman of the Subcommittee on Elementary and Secondary Education for the way he has handled the bill and the way he has worked it out in the committee and for giving the Members of the House a nice clean education vote this early in the session.

Madam Speaker, functional illiteracy is a very serious problem facing our country. The estimates vary, but it is generally assumed that about 30 million Americans cannot read, write, compute, or otherwise communicate competently to meet the needs of modern society. The United States cannot expect to compete effectively in the world economy with such a heavy burden weighing us down.

H.R. 751 proposes a comprehensive approach to dealing with illiteracy. The purpose of the bill is to seek a better coordination of all the current Federal, State, and local efforts to eradicate illiteracy.

A new National Institute for Literacy which would be the central focal point for raising literacy skills is the key element of this bill. The Institute would be operated by a board composed of the Secretaries of Education, Labor, and Health and Human Services. Information on literacy programs and technical assistance to operate programs would be available from the Institute to business, private organizations, State, and local governments.

The same theme of achieving greater coordination among current programs is also shown in the creation of State and regional literacy resource centers. These centers would operate in each State or in consortia of States in the same manner as the National Institute, as focal points for all the education, job training, welfare, and private industry literacy efforts within a State or region.

The Adult Education Act is also broadened to encourage literacy programs to be offered at sites other than in school buildings and to make grants to a variety of groups in addition to public schools. Moreover, the Workplace Literacy Program is strengthened through encouraging industrywide programs.

Lastly, the authorization of appropriations for the Adult Education Act is increased by $50 million over the current appropriation of $209 million. The total cost of the bill, including the Institute and the resource centers, as well as the increase in the Adult Education Act, totals $144 million for fiscal 1992.

I strongly urge support for this legislation.

Mr. GOODLING. Madam Speaker, I yield back the balance of my time.

Mr. KILDEE. Madam Speaker, I yield 3 minutes to the gentleman from North Carolina [Mr. PRICE].

Mr. PRICE. Madam Speaker, I rise today as a cosponsor and strong supporter of H.R. 751, the National Literacy Act. I commend Representative SAWYER, Representative GOODLING, Representative KILDEE, Representative FORD, and others who have brought this urgently needed and well-crafted bill before us.

Many people and organizations have helped bring us to this important day, by documenting the need for a national literacy initiative, by formulating a well-conceived and practical bill, and by working tirelessly for its passage.

In the 101st Congress, we passed a similar literacy initiative as a part of the Equity and Excellence in Education Act. I was disappointed that this omnibus proposal was not enacted, but I am especially pleased to see the literacy components of this bill return to the House floor today for our consideration and approval so early in the 102d Congress.

Illiteracy is a daily tragedy for millions of our citizens, depriving them of full participation in the life of our society. It is also a tragedy for us as a nation—and the bill before us lays particular stress on the impact that the education and skills of our work force have on our Nation's economy and on our ability to compete in the global marketplace. In my district, which encompasses the high technology facilities in Research Triangle Park as well as traditional industries that are rapidly modernizing, business leaders tell me that education is their No. 1 concern.

Too many of our young people are entering the work force without the skills necessary to advance, and too many of our adult workers find themselves unable to adapt to the workplace's changing demands. The Sunbelt Institute, in a study cochaired by Representative HAL ROGERS and myself, has documented a cycle of undereducation and underemployment that is especially critical in the Southern States. Our region's literacy problem, the study concludes, must increasingly be seen in terms of work force skills—grade school dropouts who never learned to read, write, add, or subtract, but also, increasingly, high school dropouts whose skills still fall far short of what the workplace requires. The bill before us, formulated in the context of studies like these, conceives of literacy in this functional sense and encourages public-private partnerships in literacy training, often geared to the workplace.

The bill before us, H.R. 751, includes provisions for the establishment of a National Institute for Literacy—a center for research, program evaluation and assistance, and the dissemination of curricula and instructional technologies—which will provide an absolutely critical resource for State and local programs. Representative JIM COOPER is due a great deal of credit for his effective advocacy of this proposal. The bill also will encourage the establishment of much needed State and regional adult literacy resource centers. These centers will be of great importance to regions of the country, like the South, which have lagged behind much of the Nation in educating their work force. I am encouraged that the Southern Growth Policies Board, a consortium of the Southern States, has already begun to develop a southern regional literacy center. This is the sort of initiative H.R. 751 will facilitate and support.

I appreciate the cooperation of my colleague Representative SAWYER in making it clear that the funding States receive under H.R. 751 can go for services provided by a regional center, a State center, or both. We must work to ensure the flexibility of these centers in addressing the diverse problems posed by illiteracy. My own State of North Carolina will channel most of its efforts through a State literacy center but will also participate in the regional center being set up in the South.

I believe this is entirely appropriate. There are some activities which will be best undertaken by a State literacy center while others may be best undertaken through a regional center.

I look forward to working with Mr. GOODLING, Mr. SAWYER, and others to ensure that States and regional groups of States have the greatest possible flexibility in establishing and funding centers that meet their diverse needs.

Madam Speaker, I am pleased to see this desperately needed literacy initiative come to the floor, and pleased to see the bipartisan agreement in this body on the importance of an educated work force. Workplace literacy will have an enormous impact on all of us and on the strength and productivity of our Nation.

It will take the efforts of all of us to meet this challenge facing our country. This is why I strongly support passage of H.R. 751, an essential building block in this effort. I urge my colleagues to lend their support to this important legislation, which will enhance this Nation's readiness to meet the challenges which lie ahead.

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Mr. KILDEE. Madam Speaker, I yield 2 minutes to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Madam Speaker, I represent a great congressional district, the Fourth Congressional District of Tennessee. But in terms of literacy, I am afraid that this district is the 427th least literate congressional district in the United States, according to the 1980 census numbers. I have been working for several years now at the State level to try to promote literacy so that we can pull ourselves up by our own bootstraps. This bill before us today is a major step in the right direction.

Madam Speaker, I would like to thank the gentleman from Michigan [Mr. FORD], the gentleman from Michigan [Mr. KILDEE], the gentleman from Ohio [Mr. SAWYER], and the gentleman from Pennsylvania [Mr. GOODLING] for their tremendously hard work on this, and also for separating this issue so we can get a good, clean literacy vote this early in the session to make sure this legislation becomes law.

I have a particular interest in the National Institute for Literacy—a small section of the bill but I feel a very important one—because for the first time we will be able to tackle this problem as a Nation, instead of as 50 separate States, some of which have commendable efforts, and others of which have very feeble efforts indeed.

Madam Speaker, there are a host of people to thank in terms of making this legislation possible. I would like to thank a former staffer of mine, Eleanor Copeland, for her hard work on this issue.

I would also like to recognize others whose assistance to me personally and to the cause of literacy generally has been invaluable: Forrest Chisman and Renee Woodworth of the Southport Institute for Policy Analysis; the adult education and literacy directors in my district, especially Marie Baker, Bedford County; Margaret Bott, Rhea County; Alpha Black, Fentress County; Theresa Ayers, Ann Laws, Bobbie Sellers, all of Hamblen County; Roger Hansard, Sherry Claiborne, both of Claiborne County; Lillian Stevens, Grainger County; Danny Turnmire, Hancock County; Bonnie Thomas, Union County; and Ann Hables, Campbell County, who are out there doing the work in the trenches every day to make sure that adult Tennesseans have the chance to learn to read and write, even though they may have missed that opportunity while they were younger in grade school or high school.

Madam Speaker, this is a very important piece of legislation. Thanks to the hard work of the gentleman from Pennsylvania [Mr. GOODLING], this should be a noncontroversial piece of legislation. Members on both sides, on both sides of the aisle, should support this important step forward for our adult education in America.

Mr. JEFFERSON. Madam Speaker, I rise in support of H.R. 751, the National Literacy Act of 1991. This legislation is a comprehensive attack on the problem of adult literacy confronting our Nation. The National Literacy Act is a crucial step in efforts to ensure that every able American can read, write, speak, and compute at a level sufficient to function in our society.

Despite laudable measures taken in the past, today, nearly 30 million American men and women have serious problems with literacy, and my home State of Louisiana continues to rank last in terms of the number of adults able to meet literacy standards. Clearly, as these alarming statistics indicate, there is still much to be done.

In recognition of the long road ahead, the National Literacy Act will combat adult illiteracy by investing in programs on the Federal, State and local levels, and by making information on the most effective strategies for reaching and teaching those in need of literacy services more accessible to public, volunteer, community and business-based literacy programs. Today, less than one-third of all those who need help in becoming literate are being served by current programs. The act will expand the scope of literacy programs to enable them to reach the growing volume of people in need of basic skills.

Investing in literacy is not a luxury. What we cannot afford to do, is write off generations of Americans who hold the key to our future competitiveness.

Literacy is at the very foundation of a viable democracy. It is a mistake to think that national security is exclusively linked to military defense. For at the core of national security is the ability of citizens to read, write, solve problems, make rational decisions, and think critically. Our investment in human resource development must be as strong, and our innovation in this development as sophisticated as the weapon systems deployed by our military.

The list of costs associated with illiteracy is extensive, but I believe that the greatest cost is the human cost—wasted potential, shattered dreams, and no hope of a better tomorrow.

I urge the passage of the National Literacy Act of 1991 by Congress, and once passed I urge President Bush to acknowledge and respond to the literacy crisis facing this Nation by expeditiously signing H.R. 751 into law.

Mrs. MINK. Madam Speaker, I rise today in support of H.R. 751, the National Literacy Act of 1991. I would like to commend Chairman FORD of the Education and Labor Committee and Representative SAWYER, the author of the legislation, for swift action on this much needed bill. The National Literacy Act would provide for a coordinated effort in our country to combat illiteracy. It is estimated that close to 30 million American adults have serious problems with literacy, that is nearly 15 percent of our country. In my State alone, 154,000 adults were classified as functionally illiterate in 1988. This accounts for 19 percent of our population.

To combat this deficiency, the State of Hawaii has initiated a unique program called the family literacy pilot project to reinforce the progress and instruction both generations receive. In addition to teaching reading skills, this program gives both young and old the kind of support system needed to help them succeed. It is my hope that the passage of H.R. 751 will encourage the development of more innovative programs, such as this one, throughout the country, to reach out to the millions of illiterate adults and children in our Nation that need the essential skill of reading to succeed and contribute to our modern society.

States, localities, and private entities will benefit from H.R. 751 and have access to Federal funding for literacy programs for adults, children, and the family. To solve the problem of illiteracy we must attack it from all fronts, at home, at school, and at the work place.

The need is evident. Existing public and private literacy programs touch only about 19 percent of those needing help. Programs around the country are fragmented and lack the funds to make a real impact in our efforts to reduce illiteracy. Like our war on drugs, we must have a cohesive national plan to combat literacy. It is no less a problem for the survival of our Nation. Let us pass H.R. 751 today.

Ms. LONG. Madam Speaker, I rise today in support of the National Literacy Act. H.R. 751 approaches the problem of illiteracy through the reauthorization of several existing programs as well as the creation of new initiatives. This effort to build on an existing foundation will improve the efficiency of Federal literacy programs.

Illiteracy is one of our Nation's greatest tragedies. In these times of economic hardship, we speak of America's competitiveness in the world economy, but we will never be truly competitive until all of our work force can read. State programs, where they exist, may be reaching individuals who are lucky enough to gain access to the programs, but there is no way to ensure that we are effectively addressing the problem of illiteracy across the country.

H.R. 751 will, among other things, authorize funding for work force literacy programs, such as the Business-Education Work Force Literacy Program in the Department of Education. In addition, a new collaborative effort would be created between the business community and the Department of Labor.

These programs must be authorized if we are to keep America's work force competitive.

The need for these programs is greater now, as our economic makeup has shifted from manufacturing to service- and information-related industries. The ability to read is fundamental to the ability to get and keep a job. I urge my colleagues to make an investment in our future economic growth and security. I urge passage of the National Literacy Act.

Mr. STOKES. Madam Speaker, I rise today in support of H.R. 751, the National Literacy Act of 1991. I want to commend my esteemed colleague from Ohio, Mr. SAWYER, for his leadership in bringing this bill to the floor. Our youth of today, growing up in a very troubled society, need a dedicated advocate like him to ensure educational opportunities on their behalf. This bill is a concerted effort to meet this objective and is especially important when we take a close look at the failing educational achievement of today's students.

In 1988, 25 percent of U.S. high school students left public schools without graduating; between now and the year 2000, it is estimated that 1 out of 7 preschoolers is at risk of dropping out of school. Furthermore, only 50 percent of high school seniors read at levels considered adequate for performing moderately complex tasks, and 80 percent have inadequate reading skills.

Currently, as many as 23 million Americans are functionally illiterate, lacking basic skills beyond a fourth-grade level. Many of the problems associated with illiteracy are passed from one generation to another. And, we see that many of those persons who are unable to read, are also unable to make a living. Functionally illiterate Americans represent over one-third of mothers receiving aid to families with dependent children. This is a crisis which not only determines the quality of the future for our children, but one that determines how well we as a nation will compete in a global economy.

Madam Speaker, this situation prompted my introduction of the gateway bill, during the last session of Congress. The concept of the Gateway Program has been incorporated into H.R. 751 as part of a national literacy package—a package which will provide, indeed, a gateway of opportunity to those individuals, who generation after generation, have had the doors of opportunity shut in their faces.

Basically, H.R. 751 directs the States to provide competitive, 2-year grants to public housing authorities. The purpose of the program is to make available to residents of public housing projects programs of information and outreach, literacy training, basic skills training, and the development of work habits. Child care services also would be encouraged in order to allow young parents to participate in education and training programs leading to meaningful employment.

The provision of child care is an important part of the campaign against illiteracy because the majority of families living in public housing are headed by single, young women. Oftentimes, the prohibitive cost of, and the lack of, quality day care have prevented many of these young mothers from going on to obtain the skills which would help them and their children pursue and enjoy the many opportunities our Nation has to offer. Child care services would include services for daytime care of child dependents not attending school as well as adult dependents of eligible individuals.

Madam Speaker, my own personal experiences help me to understand the significant role a program like Gateway can play. My brother and I spent 10 years in public housing. My mother took us into public housing when I was 13 years of age and we remained in public housing until I was 23 years of age, after I had returned from the armed services and took advantage of the GI bill.

When my mother took us into public housing, it was because she was a widow raising two boys. She was a domestic worker, a woman with an eighth-grade education who could not really make enough money as a domestic worker to support us. So, she went to AFDC to try and make enough money to be able to raise two young boys. During these times, we were not the only ones in this dilemma. Many people who lived in public housing during those days were good people, decent people, but they were poor people.

This is the situation we basically have today in public housing. We find people who do not have the advantage I had of being able to take advantage of the GI bill and go to college, and on to law school. Many of them are good and decent people. But, they, too, are poor people. They need some help if they are to be able to escape going from one generation to another, living in public housing, dependent upon public assistance, with no opportunity whatsoever of escape.

Public housing serves the very poor, the most vulnerable segment in our society. By design, public housing is generally restricted to tenants with incomes below 50 percent of the median income. Many of the residents lack a high school diploma. Many have never held a job. Many of them have less than eighth-grade level skills in reading and math. Consequently, they are disqualified from some federally funded training programs.

Madam Speaker, illiteracy affects every aspect of our Nation. It is a problem which disproportionately affects our Nation's poor. Therefore, if we are to effectively tackle problems associated with illiteracy, we must direct our efforts toward those most in need of assistance, the economically disadvantaged. In this regard, as we attempt to draft remedies for those problems affecting our Nation's poor, we must be mindful of the role public housing can play.

Madam Speaker, I want to thank the distinguished chairman, Mr. FORD, the ranking minority member, Mr. GOODLING, and my colleague from Ohio, Mr. SAWYER, for including this very important initiative in this bill. I ask my colleagues to join me in voting for the final passage of H.R. 751.

Mr. KLUG. Madam Speaker, I rise to offer strong support for H.R. 751, and to commend our committee chairman, Mr. FORD, our ranking member, Mr. GOODLING, and Mr. SAWYER for their efforts in moving this legislation through the Committee on Education and Labor and onto the floor so expeditiously.

Today, there are nearly 30 million adult Americans who have serious problems with literacy. Many of them cannot read or write at all. For these 30 million Americans, Mr. Speaker, illiteracy is a personal tragedy: It cuts them off from a great deal of what is truly good and beautiful in the world; it makes many of them outsiders in their communities and even in their own families; and it slams shut in their face the door to economic opportunity and advancement.

If illiteracy is a personal tragedy, it is no less of a tragedy for the Nation as a whole, for we—all Americans—are denied the full participation of these millions of men and women in the life of our society and our economy. H.R. 751 will help us bring these Americans in.

H.R. 751 attempts, in a comprehensive way, to respond to what is currently a fragmented and disjointed approach to the problem of adult literacy. It establishes a much needed infrastructure for Federal and State leadership in the planning and delivery of quality adult literacy programs, programs which are now reaching only a small portion of the population in need. It also provides for additional resources to improve literacy and basic skills training programs, and to assist business and labor organizations in developing literacy programs tailored to the needs of the Nation's work force.

In sum, Madam Speaker, there is a great deal which is good and necessary in this legislation. I urge all of my colleagues to give it their full support.

Mrs. UNSOELD. Madam Speaker, it is a pleasure to speak in favor of a literacy bill that has not only bipartisan support in the Congress, but the support of the President as well. I want to thank Mr. SAWYER for putting together this effective piece of legislation.

As our economy labors to keep our place in international markets, we have to do more than ever to help our work force meet new challenges. Literacy is a basic, yet critical, first step toward meeting those challenges. We know of programs that will help our children and our workers become literate for the modern workplace, but we have never committed the funds to reach out to more than 1 in 10 of those who need help. Nor have we found a way to pool our knowledge of what actually works and use our limited resource most effectively.

The National Literacy Act would help us reach out to the 90 percent who need help, but haven't been able to get it, and it would create a mechanism to share knowledge about what works, and what doesn't.

In my State alone, 440,000 adults cannot read on even an eighth grade level. By using some of the programs established or expanded by this act, they will be able to become more self-sufficient and better able to accept the challenges that face them. That is why I support the National Literacy Act.

Mr. GINGRICH. Madam Speaker, I rise in support of H.R. 751, the National Literacy Act of 1991, and urge my colleagues to vote in favor of this important legislation.

Nearly 30 million American adults have serious problems with literacy, and it is clear that their problems are closely linked to be debilitating cycles of poverty and crime. While this legislation is not a panacea for these deeper societal problems, it will provide a comprehensive and coordinated approach to literacy on a Federal, State, and local level, and thereby offer hope to people who have not known it before.

One aspect of H.R. 751 which deserves particular mention is title VI, "Literacy for Incarcerated Individuals." It is a crucial first step toward requiring prisoners in State corrections institutions to learn basic educational skills while serving their sentences.

It is nearly identical to legislation I introduced in January, H.R. 326. This language also was included in the last year's conference report on the Education Excellence Act, which met with House approval, but was not considered by the Senate prior to adjournment.

The major provisions of title VI are as follows:

Each State correctional system is required to have in effect a mandatory functional literacy program in at least one major corrections institution within 2 years of enactment.

Each State correctional system and each local jail or detention center with an over 150 inmate population is required to have in effect a mandatory functional literacy program within 5 years of enactment.

Each individual incarcerated in a State corrections system, or in a local jail or detention center with an over 150 inmate population, who is serving a sentence of at least 1 year, and who is not functionally literate, shall be required to participate in a mandatory functional literacy program until such individual: achieves functional literacy, is granted parole, completes his or her sentence, or is released pursuant to a court order.

Prisoners who refuse to participate in a functional literacy program shall not be granted parole.

Let me take a few minutes to explain how this idea was brought to my attention. On May 2, 1990, John Chancellor delivered a commentary on NBC Nightly News aimed at shedding light on one of our society's major shortfalls. The commentary was aptly titled "Readin', Writin' & Pris'n."

Chancellor's main thrust was that "in the American penal system, too many people go to prison, get out, commit another crime and go back in again. In Japan, the rate of return to prison is far lower."

One reason advanced by Chancellor for the disparity is that "* * * In Japan, they won't let you out if you can't read and write." To illustrate the problem just consider that in the United States 62 percent of all released prisoners who are rearrested have an education of eighth grade or less.

The District of Columbia, 10 States, and the Federal Prison System currently have mandatory components to their educational programs. In the only court decision on mandatory prisoner education, Arkansas' program was upheld by a Federal district court.

Madam Speaker, I applaud the judgment of the Committee on Education and Labor in bringing H.R. 751 to the floor and including in this bill the prisoner literacy title. I urge my colleagues to support this bill.

Mr. VALENTINE. Madam Speaker, I rise today in support of H.R. 751, the National Literacy Act of 1991. I am a cosponsor of this legislation and strongly believe in what it is trying to accomplish.

I want to compliment the authors of this bill, Representatives SAWYER and GOODLING, and the members of the Education and Labor Committee for expediting the consideration of this bill.

In my view, illiteracy is one of the most serious and unnecessary problems facing our country today. With coordinated involvement on the local, State, and Federal level, this is one problem that we can, and should, be able to solve.

I am hopeful that the information and resource network that will be established within the States will lead to an exchange of information about programs that work.

I believe that the National Literacy Act is starting the country down the path of education for all Americans. I urge all my colleagues to join the battle against illiteracy by voting to suspend the rules and pass H.R. 751.

Mr. PAYNE of New Jersey. Madam Speaker, today I rise in support of H.R. 751, the National Literacy Act of 1991. For the past few years, my colleague, Mr. SAWYER of Ohio worked tirelessly to put together this piece of legislation and I would like to commend him on his efforts.

This act is indeed a comprehensive approach to improving the literacy and basic skill level of adults by coordinating, integrating, and investing in adult and family literacy programs at the Federal, State, and local level. Additionally the program provides for research, quality program delivery and it involves all sectors, from public programs to community-based to volunteer to business and industry in the provisions of literacy services.

Today more than 30 million adults lack the basic skills necessary to function in this society. Moreover, it is estimated that an additional 42 million Americans are marginally illiterate. These citizens cannot complete a job application, read a newspaper, comprehend a bus or train schedule or understand a warning label on a bottle of medicine.

The unfortunate product of these deficiencies has been acutely borne out in the workplace. Our Nation's competitiveness is being eroded by the presence of millions of Americans who are functionally illiterate; citizens who cannot comprehend simple manuals or equipment. Consequently, the total cost of the errors and accidents and missed opportunities in business now exceeds $225 billion annually.

Equally important, however are the societal costs. The lack of reading, writing, and mathematical skills leads to resignation, despair, and in some cases, contributes to crime, alcohol and drug abuse, unemployment, and economic dependence. Essentially, illiteracy has become a tax. A tax that has exacted a heavy price in valuable human resources from our Nation.

This legislative effort has eight titles that would address these issues by providing an infrastructure for coordination, research, and planning; upgrading the literacy and basic training systems; and investing in the programs assisting adults and families with low levels of literacy.

Madam Speaker, I wholeheartedly support this comprehensive legislation and I hope it commands all the support it deserves.

Ms. HORN. Madam Speaker, I rise today in strong support of H.R. 751, the National Literacy Act of 1991. This bill passed both Houses of Congress last year and I am pleased to see that it has been acted upon so quickly this session.

I applaud President Bush's goal for this Nation to be first in the world in math and science by the year 2000. As a former educator, I strongly support reaching this goal and will work with him to help achieve it. However, a chain is only as strong as its weakest link. This country will never reach its full potential if we continue to have millions of citizens who cannot read.

Illiteracy affects us all. It weakens the productivity of our work force, affects competitiveness in international markets, and most of all it limits the quality of life of those Americans who cannot read. There are millions of Americans who could be strong productive members of our work force and lead normal lives, if they could only read. We have let these people down and it is time to find a solution to the problem of illiteracy.

The National Literacy Act attempts to address the needs of all illiterate persons by authorizing money for a National Institute for Literacy and providing money for grants to States to develop State and regional literacy institutes. These institutes would provide services to illiterate persons, teach them how to read and also conduct research on how best to combat illiteracy.

This bill is one of many that the House will consider this year dealing with education. With this legislation, we have an opportunity to make significant improvements in our education system and I will work hard to accomplish this goal. However, we must walk before we can run. This bill will help many of our citizens take the first step toward a more meaningful and productive life.

Mrs. COLLINS of Michigan. Madam Speaker, today Congress stands ready to approve the National Literacy Act, legislation which will significantly increase the chances millions of adult Americans have to compete in the workplace and improve the quality of their lives.

In 1991, America has 30 million adults who are functionally illiterate, 30 million. As a result, these people are less productive workers in a society where competition and excellence determine success. Our standing as an economic power is diminished graphically by this loss of thought power.

In Japan, schoolchildren learn English in order to compete on the business battlefield with Western economic powers. Yet in the United States, our school system fails to inspire students to learn any foreign languages and I have yet to find any that will teach Japanese. Do we really believe we can remain within striking distance of economic dynamos such as Japan and Germany, with the illiteracy plaguing us?

Outside the workplace, the problem of illiteracy is just as important. The American dream is based on a good standard of living, a quality of lifestyle. Can this really hold true if one can't read a newspaper or a book or read to one's children? Aren't those, when it comes right down to it, the true moments of pleasure life has to offer?

This legislation authorizes an increase of $144 million for Federal literacy programs for next year. It also creates a new National Institute for Literacy, which will conduct policy analysis on illiteracy and disseminate information on literacy programs. In addition to the new Institute, funding will be provided to establish State and regional literacy resource centers. The measure makes a variety of efforts to combat the problem, even going into our prison system to educate the illiterate.

The National Literacy Act marks a true commitment by Congress to react to the crisis of illiteracy. To be competitive in the international economic arena and to improve the quality of life at home, America needs this bill. I want to express my enthusiastic support for this effort and urge my colleagues to join me.

Mr. SERRANO. Madam Speaker, I rise in strong support of the National Literacy Act of 1991.

Madam Speaker, I am pleased that we are considering this important bill, because by reporting it favorably from the House, we shall be signaling to America that we have our priorities in order.

This legislation, which promotes literacy, will equip millions of Americans with an invaluable key to success in our society, access. Existing programs only help about 10 percent of those in need of basic skill training. I believe that we cannot fail if we arm all Americans with an education and the technological tools.

Madam Speaker, we all know that we cannot continue to be a global economic force when there are more than 30 million functionally illiterate Americans. Granted this bill will not address all the problems facing our country, but it is a step in the right direction in creating a literate, creative, and skillful work force. Furthermore a literate work force will allow America to maintain economic competitiveness with other leading nations, as well as ensuring an educated, responsible citizenry.

I believe that $260 million is a modest amount to provide the kind of adequate assistance to Americans seeking access for a better education, employment opportunities, and quality of life.

Madam Speaker, this is a proposal I can take home to the people of the South Bronx. I urge my colleagues to do the same.

Mr. ROEMER. Madam Speaker, I rise in strong support of H.R. 751, the National Literacy Act of 1991. As a new member of the Education and Labor Committee, I am proud to be a cosponsor of this important legislation and to follow its progress through the Subcommittee on Elementary, Secondary, and Vocational Education. I would like to compliment the subcommittee chairman, Mr. KILDEE, Mr. SAWYER, and Mr. GOODLING, the ranking Republican member, for their hard work in crafting this vitally needed act.

Illiteracy is a serious national problem. It is serious because illiterates cannot readily stay informed on issues vital to participating in a democracy. It is serious because illiterates cannot be fully productive in the workplace. And, it is serious because illiterate parents cannot share in the joy of helping their children with homework or teaching them to read. Illiteracy hinders full participation in a democracy, makes our citizens less productive in a competitive global economy and unable to help prepare the next generation of Americans for the challenges they face in the next millennium.

Studies reveal that almost 30 million Americans are unable to read and write effectively. One country in the Third Congressional District of Indiana estimates that more than one-third of its adults over age 25 are illiterate. These dramatic statistics have both human and financial costs. These costs are staggering, with some estimates in excess of $200 billion annually. Existing public and private literacy programs serve less than one-fifth of those Americans who are either totally or functionally illiterate. This bill addresses the problems and costs of illiteracy in a comprehensive and effective fashion.

This legislation will be effective because it builds upon successful and proven ideas, and builds an infrastructure for literacy. Henry David Thoreau once said, "If you have built castles in the air, your work need not be lost; that is where they should be, now put the foundations in under them." The literacy bill seeks to build such a foundation.

H.R. 751 establishes a new National Institute for Literacy which is designed to improve the delivery of services and dissemination of information on literacy programs. It expands the Even Start Family Literacy Program which combines early childhood and adult education in an integrated program. It provides for the expansion of work force literacy through public-private partnerships. It also provides for the establishment of State and regional literacy resource centers to assist State and local agencies in the elimination of illiteracy.

I am pleased that the bill forges partnerships with the private sector and at the Federal, State, and local levels. In my State of Indiana, Gov. Evan Bayh and his wife, Susan, have provided the kind of bold leadership and constant commitment which are essential to combat this serious problem. I am proud to say that as First Lady of the State, Susan Bayh has promoted literacy efforts throughout Indiana. She has traveled with my wife, Sally, throughout the district to focus attention on illiteracy and promote workable solutions. We are fortunate indeed to have such strong interest and dedication in our State's Capitol.

These renewed efforts on literacy are crucial. Some of my constituents are dropouts who never learned to read. They are unable to perform daily tasks that we take for granted such as grocery shopping or reading the labels on food or prescriptions. For them, the inability to read and write effectively translates into a life of poverty in unskilled, low paying jobs. As I travel throughout my district, however, I meet people whose lives have been changed dramatically because they have learned to read and write. One example is Beverley Ann Heuer from Michigan City who could not read just a few months ago. She sought help and is now close to completing here GED, has saved two lives in her job, and writes poetry. It is my hope that this bill will provide the basis of change for many other Americans who face serious literacy problems.

Madam Speaker, reducing illiteracy represents an investment in our Nation's future competitiveness. It is an investment in families working together on homework and participating actively in our great democracy. It is an investment in an individual's pride and dignity. There is no better investment than in challenging and improving all Americans' ability to help themselves. I urge my colleagues to support this bill.

Mr. KILDEE. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. UNSOELD). The question is on the motion offered by the gentleman from Michigan [Mr. KILDEE] that the House suspend the rules and pass the bill, H.R. 751, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider the bill was laid on the table.

GENERAL LEAVE

Mr. KILDEE. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 751, as amended, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

HIGHER EDUCATION TECHNICAL AMENDMENTS OF 1991

Mr. FORD of Michigan. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 1285) to resolve legal and technical issues related to Federal postsecondary student assistance programs and to prevent undue burdens on participants in Operation Desert Storm, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1285

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "Higher Education Technical Amendments of 1991".

(b) REFERENCES.—References in this Act to "the Act" are references to the Higher Education Act of 1965.

SEC. 2. ABILITY TO BENEFIT.

(a) DEFINITION OF ELIGIBLE INSTITUTION.—

(1) STAFFORD LOANS.—Section 435(c)(1) of the Act (20 U.S.C. 1085(c)(1)) is amended by striking out "and who have the ability to benefit (as determined by the institution under section 481(d)) from the training offered by such institution" and inserting in lieu thereof "or who are beyond the age of compulsory school attendance in the State in which the institution is located".

(2) DEFINITION OF PROPRIETARY INSTITUTION OF HIGHER EDUCATION.—Section 481(b) of the Act (20 U.S.C. 1088(b)) is amended—

(A) by striking out "and who have the ability to benefit (as determined by the institution under section 484(d)) from the training offered by the institution"; and

(B) by striking out the last sentence thereof.

(3) DEFINITION OF POSTSECONDARY VOCATIONAL INSTITUTION.—Section 481(c) of the

Act (20 U.S.C. 1088(c)) is amended by striking out "and who have the ability to benefit (as determined by the institution under section 484(d)) from the training offered by the institution".

(4) DEFINITION FOR INSTITUTIONAL AID PROGRAMS.—Section 1201(a) of the Act (20 U.S.C. 1141(a)) is amended by striking "and who meets the requirements of section 484(d) of this Act" in the third sentence.

(b) DEFINITION OF ELIGIBLE STUDENT.—Section 484(d) of the Act (20 U.S.C. 1091(d)) is amended to read as follows:

"(d) TESTING OF STUDENTS WHO ARE NOT HIGH SCHOOL GRADUATES.—In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate, to be eligible for any assistance under subparts 1, 2, and 3 of part A and parts B, C, D and E of this title, the student shall pass an independently administered examination approved by the Secretary.".

(c) CONFORMING AMENDMENTS.—

(1) SUPPLEMENTAL LOANS.—Section 428A(a)(1) of the Act is amended by striking the last sentence thereof and inserting "No student shall be eligible to borrow funds under this section until such student has obtained a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate.".

(2) STUDENT ELIGIBILITY.—Section 484(a)(1) of the Act is amended by inserting before the semicolon at the end thereof the following: ", and not be enrolled in an elementary or secondary school".

(3) PROGRAM PARTICIPATION AGREEMENTS.—Section 487(a)(11) of the Act is amended by striking "which admits" and all that follows through "484(d))," and inserting "whose students receive financial assistance pursuant to section 484(d),".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to any grant, loan, or work assistance to cover the cost of instruction for periods of enrollment beginning on or after July 1, 1991.

(2) ELIMINATION OF CONFLICTING PROVISIONS.—(A) Section 3005 of the Omnibus Budget Reconciliation Act of 1990 is repealed. Sections 484(d) and 481(b) of the Act shall be applied as if such section 3005 had not been enacted.

(B) The last proviso of the paragraph under the heading "STUDENT FINANCIAL ASSISTANCE" of title III of Public Law 101-517 (104 Stat. 2213) is repealed.

SEC. 3. ELIMINATION OF STATUTE OF LIMITATIONS FOR STUDENT LOAN COLLECTIONS.

(a) AMENDMENT.—Section 484A(a) of the Act (20 U.S.C. 1091a(a)) is amended to read as follows:

"(a) IN GENERAL.—(1) It is the purpose of this subsection to ensure that obligations to repay loans and grant overpayments are enforced without regard to any Federal or State statutory, regulatory, or administrative limitation on the period within which debts may be enforced.

"(2) Notwithstanding any other provision of statute, regulation, or administrative limitation, no limitation shall terminate the period within which suit may be filed, a judgment may be enforced, or an offset, garnishment, or other action initiated or taken by—

"(A) an institution that receives funds under this title that is seeking to collect a refund due from a student on a grant made, or work assistance awarded, under this title;

"(B) a guaranty agency that has an agreement with the Secretary under section 428(c) that is seeking the repayment of the amount due from a borrower on a loan made under part B of this title after such guaranty agency reimburses the previous holder of the loan for its loss on account of the default of the borrower;

"(C) an institution that has an agreement with the Secretary pursuant to section 453 or 463(a) that is seeking the repayment of the amount due from a borrower on a loan made under part D or E of this title after the default of the borrower on such loan; or

"(D) the Secretary, the Attorney General, or the administrative head of another Federal agency, as the case may be, for payment of a refund due from a student on a grant made under this title, or for the repayment of the amount due from a borrower on a loan made under this title that has been assigned to the Secretary under this title.".

(b) CONFORMING AMENDMENT.—Section 16041 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (P.L. 99-272) is amended—

(1) by striking out subsection (e);

(2) in subsection (f), by striking out "The amendment made by section 16034" and inserting in lieu thereof "The amendments made by sections 16033 and 16034"; and

(3) by redesignating subsection (f) as subsection (e).

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective as if enacted by the Consolidated Omnibus Budget Reconciliation Act of 1985 (P.L. 99-272), and shall apply to any actions pending on or after the date of enactment of the Higher Education Technical Amendments of 1991 that are brought before November 15, 1992.

SEC. 4. OPERATION DESERT SHIELD/DESERT STORM WAIVER AUTHORITY.

(a) PURPOSE.—It is the purpose of this section to ensure that—

(1) the men and women serving on active duty in connection with Operation Desert Shield or Operation Desert Storm who are borrowers of Stafford Loans or Perkins Loans are not placed in a worse position financially in relation to those loans because of such service;

(2) the administrative requirements placed on all borrowers of student loans made in accordance with title IV of the Act who are engaged in such military service are minimized to the extent possible without impairing the integrity of the student loan programs, in order to ease the burden on such borrowers, and to avoid inadvertent, technical defaults; and

(3) the future eligibility of such an individual for Pell Grants is not reduced by the amount of such assistance awarded for a period of instruction that such individual was unable to complete, or for which the individual did not receive academic credit, because he or she was called up for such service.

(b) WAIVER REQUIREMENT.—Notwithstanding any other provision of law, unless enacted with specific reference to this section, the Secretary of Education shall waive or modify any statutory or regulatory provision applicable to the student financial aid programs under title IV of the Act that the Secretary deems necessary to achieve the purposes stated in subsection (a), including—

(1) the length of, and eligibility requirements for, the military deferments authorized under sections 427(a)(2)(C)(ii), 428(b)(1)(M)(ii), and 464(c)(2)(A)(ii) of the Act, in order to enable the borrower of a Stafford Loan or a Perkins Loan who is or was serving on active duty in connection with Operation Desert Shield or Operation Desert Storm to obtain a military deferment, under which interest shall accrue and shall, if otherwise payable by the Secretary, be paid by the Secretary of Education, for the duration of such service;

(2) administrative requirements placed on all borrowers of student loans made in accordance with title IV of the Act who are or were engaged in such military service;

(3) the number of years for which individuals who are engaged in such military service may be eligible for Pell Grants under subpart 1 of part A of title IV of the Act;

(4) the point at which the borrower of a Stafford Loan who is or was engaged in such military service is required to resume repayment of principal and interest on such loan after the borrower completes a period of deferment under section 427(a)(2)(C)(ii) or 428(b)(1)(M)(ii) of the Act;

(5) the point at which the borrower of a Stafford Loan who is or was engaged in such military service is required to resume repayment of principal and interest on such loan after the borrower completes a single period of deferment under section 427(a)(2)(C)(i) or 428(b)(1)(M)(i) of the Act subsequent to such service; and

(6) the modification of the terms "annual adjusted family income" and "available income," as used in the determination of need for student financial assistance under title IV of the Act for such individual (and the determination of such need for his or her spouse and dependents, if applicable), to mean the sums received in the first calendar year of the award year for which such determination is made, in order to reflect more accurately the financial condition of such individual and his or her family.

(c) NOTICE OF WAIVER.—Notwithstanding section 431 of the General Education Provisions Act (20 U.S.C. 1232) and section 553 of title 5, United States Code, the Secretary shall, by notice in the Federal Register, publish the waivers or modifications of statutory and regulatory provisions the Secretary deems necessary to achieve the purposes of this section. Such notice shall include the terms and conditions to be applied in lieu of such statutory and regulatory provisions. The Secretary is not required to exercise the waiver or modification authority under this section on a case-by-case basis.

(d) DEFINITIONS.—For purposes of this Act—

(1) Individuals "serving on active duty in connection with Operation Desert Shield or Operation Desert Storm" shall include—

(A) any Reserve of an Armed Force called to active duty under section 672(a), 672(g), 673, 673b, 674, or 688 of title 10, United States Code, for service in connection with Operation Desert Shield or Operation Desert Storm, regardless of the location at which such active duty service is performed; and

(B) for purposes of waivers of administrative requirements under subsection (b)(2) only, any other member of an Armed Force on active duty in connection with Operation Desert Shield or Operation Desert Storm, who has been assigned to a duty station at a location other than the location at which such member is normally assigned.0

(2) The term "active duty" has the meaning given such term in section 101(22) of title 10, United States Code, except that such term does not include active duty for training or attendance at a service school.

SEC. 5. TUITION REFUNDS OR CREDITS.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that all institutions offering postsecondary education should provide a full refund to any member or Reserve of an Armed Force on active duty service in connection with Operation Desert Shield or Operation Desert Storm for that portion of a period of instruction such individual was unable to complete, or for which such individual did not receive academic credit, because he or she was called up for such service. For purposes of this section, a full refund includes a refund of required tuition and fees, or a credit in a comparable amount against future tuition and fees.

(b) ENCOURAGEMENT AND REPORT.—The Secretary of Education shall encourage institutions to provide such refunds or credits, and shall report to the appropriate committees of Congress on the actions taken in accordance with this subsection as well as information he receives regarding any institutions that are not providing such refunds or credits.

SEC. 6. TERMINATION OF AUTHORITY.

The provisions of sections 4 and 5 shall cease to be effective on September 30, 1997.

SEC. 7. EDUCATION PROGRAMS FOR COMMERCIAL DRIVERS.

Part C of the Adult Education Act (20 U.S.C. 1211 et seq.) is amended by inserting at the end thereof the following new section 373:

"SEC. 373. EDUCATION PROGRAMS FOR COMMERCIAL DRIVERS.

"(a) PROGRAM AUTHORIZED.—The Secretary is authorized to make grants on a competitive basis to pay the Federal share of the costs of establishing and operating adult education programs which increase the literacy skills of eligible commercial drivers so that such drivers may successfully complete the knowledge test requirements under the Commercial Motor Vehicle Safety Act of 1986.

"(b) FEDERAL SHARE.—The Federal share of the costs of the adult education programs authorized under subsection (a) shall be 50 percent. Nothing in this subsection shall be construed to require States to meet the non-Federal share from State funds.

"(c) ELIGIBLE ENTITIES.—Entities eligible to receive a grant under this section include—

"(1) private employers employing commercial drivers in partnership with agencies, colleges, or universities described in paragraph (2);

"(2) local educational agencies, State educational agencies, colleges, universities, or community colleges;

"(3) approved apprentice training programs; and

"(4) labor organizations, the memberships of which include commercial drivers.

"(d) REFERRAL PROGRAM.—Grantees shall refer to appropriate adult education programs as authorized under this Act individuals who are identified as having literacy skill problems other than or beyond those which prevent them from successfully completing the knowledge test requirements under the Commercial Motor Vehicle Driver Safety Act of 1986.

"(e) DEFINITIONS.—For purposes of this section:

"(1) The term 'approved apprentice training programs' has the meaning given such term in the National Apprenticeship Act of 1937.

"(2) The term 'eligible commercial driver' means a driver licensed prior to the requirements of the Commercial Motor Vehicle Safety Act of 1986.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,000,000 for each of fiscal years 1991, 1992, and 1993.".

SEC. 8. ADMINISTRATIVE TREATMENT.

The Secretary of Education shall treat the University of Detroit Mercy of Detroit, Michigan, as an eligible institution under part A of title III of the Act for purposes of section 356 of the Act for fiscal year 1991.

SEC. 9. LOAN CERTIFICATION BY ELIGIBLE INSTITUTIONS.

Section 428(a)(2)(F) of the Act is amended to read as follows:

"(F) Except as provided in subparagraph (D), an eligible institution may refuse to certify a statement which permits a student to receive a loan under this part or to certify a loan amount that is less than the student's determination of need (as determined under part F of this title), if the reason for such action is documented and provided in written form to each student so affected.".

SEC. 10. STUDENT RIGHT-TO-KNOW AND CAMPUS SECURITY TECHNICAL AMENDMENTS.

(a) GRADUATION RATES.—Section 485(a)(1)(L) of the Act is amended by inserting "undergraduate" after "full-time".

(b) CALCULATION OF RATES.—Section 485(a)(3) of the Act is amended—

(1) by inserting "and" at the end of subparagraph (A);

(2) by striking "; and" at the end of subparagraph (B) and inserting a period; and

(3) by striking subparagraph (C).

(c) USE OF COMPARABLE DATA.—Section 485(a) of the Act is amended by adding at the end thereof the following new paragraph:

"(5) The Secretary shall permit any institution of higher education that is a member of an athletic association or athletic conference that has voluntarily published completion or graduation rate data or has agreed to publish data that, in the opinion of the Secretary, is substantially comparable to the information required under this subsection, to use such data to satisfy the requirements of this subsection.".

(d) SCHEDULE FOR DISCLOSURE.—Section 485(f)(1) of the Act is amended—

(1) in the matter preceding subparagraph (A), by striking "September 1, 1991," and inserting "August 1, 1991,";

(2) in subparagraph (F)—

(A) by striking "school year" and inserting "calendar year; and

(B) by striking "school years" and inserting "calendar years".

(e) EFFECTIVE DATE.—Section 104(b) of the Student Right-to-Know and Campus Security Act is amended to read as follows:

"(b) EFFECTIVE DATE.—The report to the Secretary of Education required by the amendments made by this section shall be due on July 1, 1993, and annually thereafter, and shall cover the one-year period ending on June 30 of the preceding year.".

SEC. 11. SIMPLIFIED NEEDS ANALYSIS.

Section 479(a) of the Act is amended by adding before the period at the end thereof the following: ", or who file an income tax return pursuant to the tax code of the Commonwealth of Puerto Rico or who are not required to file pursuant to that tax code".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan [Mr. FORD] will be recognized for 20 minutes, and the gentleman from Missouri [Mr. COLEMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 1285, the Higher Education Technical Amendments of 1991, is aimed at remedying several pressing problems in the student financial aid programs and other education programs.

Most importantly, H.R. 1285 is the first bill to reach the floor that actually does something specific about the people who were called to active duty in Desert Storm in regard to the way in which our programs affect them. We in this bill would grant authority to the Secretary of Education to waive or modify student aid laws or regulations to ensure that those who were called to service for Operation Desert Shield, and subsequently Operation Desert Storm, are not harmed financially by their service, and do not lose any eligibility for future students aid benefits.

In addition, it encourages colleges and universities to give full refunds of tuition and fees to those who were forced to leave and discontinue their studies because they were called to active duty in the Middle East.

Since the Senate has indicated its disposition to accept this bill, without reference to the committee as it comes to the desk over there, H.R. 1285 promises to be the first measure enacted into law to help those who served in Operation Desert Shield/Desert Storm.

I would like to particularly recognize the contribution of the gentleman from Indiana [Mr. MCCLOSKEY] in developing this provision for Desert Storm. The gentleman introduced it as a bill, H.R. 1302, and this bill served as a model for us and is incorporated in its entirety into this package.

In addition, H.R. 557, the Military Personnel Pay and Benefits Act of 1991, introduced by the gentlewoman from Maryland [Mrs. BYRON], the Persian Gulf Conflict Education Equity Act, introduced by the gentleman from New Mexico [Mr. RICHARDSON], provided early notice to the committee of the need to address unique problems, with respect to Federal student aid faced by those called to service in Operation Desert Shield/Storm.

Second, H.R. 1285 overcomes a recent circuit court decision that puts in jeopardy the ability of the Department of Education to collect defaulted student loans through offsets of income tax refunds and other means. In particular, the bill would eliminate the statute of limitations with respect to recovery of defaulted student loans through offsets of Federal income tax refunds, litigation, and garnishment, where otherwise permitted by Federal law. This provision would ensure with respect to just defaulted national direct student loans that $180 million already collected through tax refund offsets would not have to be returned to defaulters, and that an additional $64.2 million per year can be collected by the Department. Substantial additional collections of defaulted guaranteed student loans are also safeguarded by this provision.

Third, H.R. 1285 clarifies the requirement adopted in last year's reconciliation that students without a high school diploma or GED pass a test prescribed by the Secretary in order to be eligible for Federal student aid. This requirement was erroneously applied to all students admitted without a high school diploma or GED, not only to those receiving Federal aid.

This amendment applies the requirement only to those receiving Federal aid, makes it clear that we are not interfering with institutional admission decisions, and establishes an effective date for the new requirement of July 1, 1991.

□ 1310

It should be clearly understood that the intent of this bill is to continue until July 1, 1991, the policies concerning ability to benefit students in effect prior to the adoption of the Omnibus Budget Reconciliation Act of 1990, and the Department of Labor, Health and Human Services, and Education and Related Agencies Appropriation Act of 1991.

I would like to express my appreciation to the gentleman from Texas [Mr. COLEMAN], who introduced H.R. 553, and the gentleman from California [Mr. MILLER], who introduced H.R. 907. Both of these bills highlighted the problems with respect to educational opportunities for ability to benefit students created by last year's reconciliation bill.

The bill before us remedies the technical problems that made the ability to benefit provisions adopted in reconciliation unworkable. Both the bills introduced by the gentleman from Texas [Mr. COLEMAN] and the gentleman from California [Mr. MILLER] went much further and would substantially revise the policy adopted last year with respect to ability to benefit students. While this bill does not go as far as their bills to modify that policy, their ideas certainly have our attention and merit very serious consideration as part of our higher education authorization which will occur later this year.

I know that the gentleman from Missouri [Mr. COLEMAN], the ranking Republican on that subcommittee which I chair, is aware of this.

All three of these major provisions dealing with Desert Storm, offsets of tax refunds and defaults and ability-to-benefit students were developed with technical assistance from the Education Department and in close consultation with them. That is not something we have been able to come to the floor and say in recent years very often, and we appreciate the help the Department of Education did give us and is giving us in working out these problems.

Fourth, the bill authorizes a program of literacy training for commercial truck drivers who must pass the new driver's test prescribed by the Commercial Motor Vehicle Safety Act of 1986. Funds for this purpose have already been appropriated, and this authorization was passed by both the House and Senate last year as part of the omnibus education bill which, unfortunately, did not become law, and the authorization is needed so that the money already appropriated can be spent.

Fifth, the bill remedies an administrative problem with respect to the eligibility of the University of Detroit-Mercy, a new name and new college, with the merger of the University of Detroit, one of the Jesuit colleges of the country, a sister to Georgetown, and Mercy College, an outstanding former girls' Catholic school in Detroit. They have now merged, and, Madam Speaker, you might be interested in the fact that the result of that merger is that for the first time ever there is a women president of a Jesuit university in this country. I am sure that they will look with favor on that kind of progress. All this does is restore their eligibility as applicants for title III aid; each of the institutions were title III-qualified, but in the process of merging, they overlooked this little detail and took themselves temporarily out of qualification.

Sixth, we did something that is kind of experimental, and the gentleman from Missouri [Mr. COLEMAN] and I are going to have a look at this again, too. At the request of the student aid administrators, we are authorizing financial aid administrators to refuse to certify loans in some cases. This provision which we are clarifying was adopted in last year's reconciliation act, and we are cleaning it up. This, in effect, would let a student aid officer, who has reason to believe that the person borrowing the money does not intend to seriously pursue education with the money, refuse to certify that person for the student loan. As the law is now, a student could actually say to a student aid officer, "I do not have any intention of hanging around this place. As soon as I get my money, I am headed off on vacation." The student aid officer must, nevertheless, certify the loan. We give them the authority to refuse it. We think it might cause some problems, and we hope it is going to work, but the gentleman from Missouri [Mr. COLEMAN] and I and the rest of our subcommittee will have an opportunity to look at it closely when we get into reauthorization.

Seventh, the bill makes technical changes to the Student-Right-To-Know and Campus Security Act adopted last year. These changes correct inconsistent effective dates and definitions under various parts of the act.

The eighth provision of this bill directs itself only to Puerto Rico. By a peculiarity in the way in which we set up the simplified needs analysis for student aid, you have to use the Federal income tax return to verify it. The residents of Puerto Rico do not pay Federal income tax. So they do not have a Federal income tax return, and, therefore, a student population that is made up largely of the kind of people we expected to benefit from the simplified application form cannot use it. This would simply extend that simplified application to Puerto Rico.

In my view, the development and consideration of H.R. 1285 has been a model of collaboration and cooperation between the Democratic and Republican members of the committee and between the committee and the Department of Education. It is my hope and expectation that the effective bipartisan partnership which produced this bill will continue as we undertake the much larger and more complex task of reauthorizing the Higher Education Act.

In sum, this bill gives us the opportunity to do a number of things that have to be done very quickly, and as I have indicated, the managers of this legislation on the Senate side have worked with us in putting the bill together and indicate that they will keep it at the desk and pass it. It should be before the President by next week.

Madam Speaker, I reserve the balance of my time.

Mr. COLEMAN of Missouri. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of suspending the rules and passing H.R. 1285, the Higher Education Technical Amendments of 1991.

H.R. 1285 is bipartisan legislation and was reported out of the Committee on Education and Labor unanimously. By agreement, the leadership of the Education and Labor Committee has limited provisions in this bill to technical amendments or provisions clarifying congressional intent on legislation for which the Department of Education is drafting regulations.

The legislation contains a number of technical amendments to the Omnibus Budget Reconciliation Act of 1990, to ensure that we meet the budget savings targets. One provision specifies that new requirements for an independently administered ability-to-benefit test apply only to students applying for title IV financial aid.

Second, we have clarified the ability of financial aid administrators to reduce loan eligibility or to refuse to certify loan eligibility for documented reasons. I want to emphasize that the institution must document the reasons for such action and retain a record of this documentation to ensure that students are not treated in an arbitrary or unfair manner.

Additionally, this bill makes technical changes to the Student Right-to-Know and Campus Security Act of 1990, correcting inconsistent effective dates and definitions.

At the request of the administration, this bill removes the 10-year statute of limitations on IRS offset collections from student loan defaulters. This provision will be reconsidered during the reauthorization of the Higher Education Act and expires on November 15, 1992. In the interim, removal of the statute of limitations will provide substantial savings in the student loan program.

Most importantly, H.R. 1285 contains the first legislation that will be passed by the House for men and women of the armed services who have served with such distinction in Operations Desert Shield and Desert Storm.

The bill gives the Secretary of Education the flexibility to waive any statutory or regulatory provision applicable to title IV student aid programs necessary to ensure that no active duty or Reserve personnel are financially penalized or lose eligibility for Federal student aid because of their military service in Operation Desert Storm.

This legislation is timely and deserves quick action by the Congress. Its passage by the House is supported by the administration. As cosponsor of the legislation, with Chairman FORD and the ranking member, BILL GOODLING, I urge my House colleagues to pass, under suspension of the rules, this essential legislation which benefits the members of the Armed Forces who participated in Operations Desert Shield and Desert Storm and which improves the operations of the Federal student financial assistance programs. I hope this technical bill will provide a model for the bipartisan reauthorization of the Higher Education Act.

Madam Speaker, I hope we can move this bill right along.

Mr. FORD of Michigan. Madam Speaker, I yield such time as he may consume to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Madam Speaker, I thank the gentleman, our chairman, for yielding me this time.

Madam Chairman, I want to commend the gentleman on this legislation and its timeliness to deal with the problems of the returning soldiers from the Middle East and also for addressing the very current problem with respect to the State of California and other States on the ability to benefit provisions for students in community colleges and other public institutions.

Madam Speaker, if the gentleman would agree to it, I would like to enter into a colloquy with him about the intent of the provisions on the ability to benefit students.

With respect to the tests prescribed by the Secretary for ability-to-benefit students my understanding of the congressional intent is that the Secretary shall assure that assessments and determinations of passing scores shall be in accordance with guidelines for educational testing developed by major professional associations in education and psychometrics.

Also, we expect that the guidelines developed by professional organizations, such as the College Board "Guidelines on the Uses of College Board Test Scores and Related Data," and the National Council on Measurement in Education and other organizations "Standards for Educational and Psychological Testing" will be utilized by the Secretary. Does the chairman share my understanding of our intent?

Mr. FORD of Michigan. Madam Speaker, will the gentleman yield?

Mr. MILLER of California. I am happy to yield to the gentleman from Michigan.

Mr. FORD of Michigan. Madam Speaker, the gentleman from California is absolutely correct with respect to my understanding of our intent.

Mr. MILLER of California. In addition, as you know, many institutions of higher education, such as community colleges, offer curriculum designed to benefit students at a wide range of skill levels. Is it your understanding of our intent that in such institutions, several passing scores may be established for a particular examination if such scores are used in conjunction with other assessment measures to provide placement into courses and programs suitable to the skill level demonstrated and to provide services necessary to support the student's academic achievement and program completion?

Mr. FORD of Michigan. If the gentleman will yield further, yes, that is our intention. Determination of passing scores should be based on validity, reliability, and predictiveness of the examination for students with similar characteristics.

□ 1320

Mr. COLEMAN of Missouri. Madam Speaker, I yield such time as he may consume to a new member of our committee who is making a fine contribution, the gentleman from Nebraska [Mr. BARRETT].

Mr. BARRETT. Madam Speaker, I rise today in support of H.R. 1285, the Higher Education Technical Amendments of 1991. I'd like to highlight just two provisions of this bill.

First, this bill would ensure that those men and women called to active duty to participate in, or in support of, Operation Desert Shield and Operation Desert Storm, are not penalized out of the Federal student financial aid programs. I believe this provision safeguards the capabilities of these men and women, to resume their normal lives when they have returned to civilian life.

Second, I'm proud to see that we are restoring the highly successful tax offset mechanism to collect on defaulted student loans.

The hundreds of millions of dollars that have been collected through this mechanism, has meant that fewer tax dollars have had to be appropriated from the public coffers to cover these defaulted loans. I hope that when this bill passes, the administration will use this tool to aggressively pursue those defaulted student loan borrowers that currently eat up over $2 billion annually from appropriated moneys.

I am looking forward to working with my ranking Republican member on the Postsecondary Subcommittee, Mr. COLEMAN of Missouri, and with my chairman, Mr. FORD. I hope, gentlemen, that future subcommittee business can continue to be conducted in such a bipartisan spirit.

Mr. FORD of Michigan. Madam Speaker, I yield 4 minutes to the gentleman from Indiana [Mr. MCCLOSKEY].

Mr. MCCLOSKEY. Madam Speaker, I find it appalling that many who heroically and unselfishly served and serve in connection with the Persian Gulf war could be penalized financially in matters regarding Federal student financial assistance.

With that in mind, I rise in strong support of H.R. 1285 the Higher Education Technical Amendments of 1991, introduced by the chairman of the committee, the gentleman from Michigan [Mr. FORD]. It incorporates the provisions of the Desert Shield and Desert Storm Military Personnel Student Financial Assistance Fairness Act which I introduced 2 weeks ago.

This technical corrections bill will ensure that Desert Storm and Desert Shield personnel who participated in the Federal Student Loan and Pell Grant Programs have various financial problems alleviated.

In my hometown of Bloomington, IN, 40 students at Indiana University had their studies interrupted and were sent to the Middle East. Because they are no longer technically in school, they may be required to begin paying back Federal loans before they are capable of doing so.

H.R. 1285 will grant the Secretary of Education broad authority to waive various administrative requirements placed on military personnel with student loans or grants who are serving on active duty in connection with Desert Shield and Desert Storm. These provisions will ease the burden and avoid inadvertent technical defaults.

This measure assures students that their financial eligibility for Federal student assistance, particularly Pell grants based on need, is not reduce because of service to our Nation. It requires the Department of Education to look at a student's available income or annual adjusted family income the year he or she was first awarded the loan or grant, not at his or her current financial situation, and encourages colleges and universities to offer tuition refunds for credit in a comparable amount against future tuition and fees to individuals who are not able to complete a course of study due to participation in Operation Desert Shield and Desert Storm.

Passing this legislation is the very least that Congress can do to recognize the efforts of the thousands of young men and women who served our country in its hour of need.

I particularly want to thank the chairman of the committee, the gentleman from Michigan [Mr. FORD], and his excellent staff for his quick action on this vital issue.

Mr. COLEMAN of Missouri. Madam Speaker, I yield myself such time as I may consume to note that this is the first time in this Congress that our new chairman has brought a higher education bill to the floor. We were able to do this in a very collegial fashion. I look forward to working with the gentleman from Michigan [Mr. FORD] on reauthorization of the Higher Education Act, and hope this tone and spirit of bipartisanship will continue, as I know it will, under his leadership.

Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FORD of Michigan. Madam Speaker, I yield myself such time as I may consume to thank the gentleman from Missouri [Mr. COLEMAN] for his kind remarks.

I want to tell my colleagues and Members that we have done this before. Five years ago we brought to the floor a consensus reauthorization of the Higher Education Act. It passed this floor with virtually no opposition because, I believe at that time, every Democrat and every Republican ended up as a sponsor of the piece of legislation that we finally got to the floor.

We have proven that we can work together in this valuable area. As strong a partisan that I am, I find no difficulty at all working with the Republicans on my committee in the field of higher education. I hope some of it slips over into some of the other issues at some time, but we do not expect any difficulty. I look forward again to working once again with the gentleman from Missouri. I promise Members that we will do the best we can to come back a little later in the year with a bill that Democrats and Republicans alike can be proud to support on the floor.

Mr. MATSUI. Madam Speaker, I rise today in support of H.R. 1285, the Higher Education Technical Amendments of 1991. This bill includes some important technical corrections to the education provisions in last year's reconciliation package, provisions which are critical to ensuring equal access to education for all students.

In an attempt to stem the growth in student loan defaults, Congress last year put into place more stringent requirements regarding the ability to benefit test that is applied to applicants for Federal financial assistance. Unfortunately, these controls had the unintended effect of limiting the educational opportunity for low-income and immigrant students.

The Omnibus Budget Reconciliation Act of 1990 changed the law to require that all students who attend schools that receive Federal financial assistance, either through grants or student loans, obtain a high school diploma, take a high school equivalency examination, or take a federally-determined entrance test before they could begin their postsecondary education.

The California Community Colleges operate on an open admission's policy, and as a result, were particularly hard hit by this requirement. The basic tenet of the California Community College System is to provide open access and opportunities for those in greatest need of developmental and vocational education. The vocational and technical education programs these community colleges provide to all students are particularly critical to underrepresented and immigrant students who may not have had the benefit of a high school education or who may be reluctant to apply to a postsecondary program when faced with the prospect of an entrance examination.

I am pleased to see the language in H.R. 1285 begins to address this problem by tying the Federal admissions exam only to those students seeking Federal financial assistance, rather than tying this requirement to the school's admission process. While H.R. 1285 does not entirely solve the problem faced by students enrolling or planning to enroll in a community college in California, it does take a first step to ensuring equal access to education for these students. I urge my colleagues to support the Higher Education Technical Amendments of 1991.

Mr. GOODLING. Madam Speaker, I rise in support of H.R. 1285, the Higher Education Technical Amendments of 1991. I would like to highlight a few of the amendments.

First, these amendments will give our soldiers, who have served us so brilliantly in Operation Desert Storm and Desert Shield relief from some of the requirements of the student aid programs.

Second, these amendments correct some technical problems with the Budget Reconciliation Act of 1990 by clarifying that only "ability to benefit" students who actually receive Federal aid are required to take an independently administered test approved by the Secretary of Education.

Third, these amendments change the statute of limitations for collecting defaulted student loans through IRS offsets of tax refunds. Last year, about $150 million in defaulted student loans were collected in this manner. Some questions have arisen regarding the running of the statute of limitations. The amendment would life the statute of limitations for all time, would apply it retroactively, and would sunset this provision on November 15, 1992 in line with the reauthorization of the Higher Education Act.

Finally, included in the amendment in the nature of a substitute are clarifying changes to the Student Right-To-Know and Campus Security Act. These amendments will change the effective date of the campus security provisions from September 1, 1991 to August 1, 1991 and clarify our intent that the reporting period for campus crime statistics covers a full calendar year rather than school year.

Mr. EDWARDS of California. Madam Speaker, I am proud to rise today as a cosponsor in support of these amendments. I commend Chairman FORD and the Education and Labor Committee for their expeditious and significant efforts in protecting our student reservists-called to active duty and for their furthering of academic pursuits.

Of particular note is the strong leadership displayed by my colleague and committee member GEORGE MILLER in clarifying the ability to benefit provisions of the 1990 Omnibus Reconciliation Act. The ability to benefit measures as written would have had the unfortunate effect of denying access to postsecondary learning to thousands of worthy students and would have eliminated Federal financial aid at numerous deserving institutions.

The clarification of these provisions will be most beneficial to students without a high school diploma or its equivalent who still have the desire to improve their skills, and increase their knowledge at postsecondary school. That desire is particularly evident at community colleges where nearly 1.5 million students at 107 institutions in California alone are acquiring the tools to assist them in becoming productive members of the work force.

The Higher Education amendments say thank you to the student reservists whose education was interrupted so that they could serve their country and correct an oversight that would have mistakenly affected those who truly demonstrate the "ability to benefit."

Mrs. COLLINS of Michigan. Madam Speaker, I want to express my support for the higher education technical amendments being considered by the House today. In addition, I would like to extend my appreciation to Chairman BILL FORD and the Education Committee for moving this legislation in a timely fashion.

I believe this bill proves that Government can act quickly on behalf of the public good when it is apparent that a wrong has been committed and needs to be addressed. The provision in the bill I allude to affects the University of Detroit-Mercy and the status of this institution's eligiblity for title III funding.

Last year, the University of Detroit and Mercy College merged into one institution. As a result, the school missed a filing deadline for assistance under title III of the Higher Education Act. This financial aid is available to schools that serve low-income students. Since the university had missed the filing deadline, the Department of Education ruled it was ineligible for title III aid.

This would have been a crippling blow for the university. Valuable services in the coming fiscal year would have been severely threatened, because under this assistance, the university receives as much as $400,000 in Federal aid for programs like college-workstudy and supplemental educational opportunity grants.

Clearly an inequity existed because two institutions of higher learning merged and missed a filing deadline. Those who would have had to shoulder the burden of that administrative miscue were the students. That would have been wrong for them and for us.

We need to give our young people every opportunity to receive the best education possible, and not hinder them because of bureaucratic bungling.

Once again, I would like to thank my colleagues on the Education Committee for moving expeditiously on this matter and urge the House to move quickly as well.

Mr. FAZIO. Madam Speaker, I rise today in support of H.R. 1285, the Higher Education Technical Amendments offered by the distinguished chairman of the Education and Labor Committee. This legislation, among other things, is designed to correct Higher Education Act provisions included in the 1990 Omnibus Budget Reconciliation Act. Hoping to lower the student loan default rate, Congress included provisions in the Budget Reconciliation Act which require students seeking Federal financial aid to pass an independently administered test of their ability to benefit from the instruction. Unfortunately, this provision has had effects far beyond the intent of Congress.

For many years, community colleges in my home State of California have been open to any student 18 years of age or older who can benefit from the instruction offered. This policy has provided opportunities to countless numbers of students who wish to improve their job skills or resume their schooling after a few years in the job market. California law does not permit us to turn away students on the basis of a test. Unfortunately, the ability to benefit test provision in the Budget Reconciliation Act has been interpreted to apply to all new students, including students that receive no Federal financial aid whatsoever. Violation of this provision by permitting the enrollment of students who did not pass the test, whether they need financial aid or not, would disqualify the institution from eligibility to participate in all financial aid programs under title IV of the Higher Education Act of 1965. This could unfairly impact more than 100,000 students in California community colleges who receive much needed Federal grants and loans.

I agree that we must make efforts to address the growing number of individuals who default on Federal student loans, but it clearly was not the intent of Congress to apply this ability to benefit test to all students. The issues of student loan default rates can be thoroughly and more properly addressed when Congress considers legislation to reauthorize higher education programs later this year. However, we must address the current inequity of applying an ability to benefit test to all students, regardless of their need for financial aid now. I urge my colleagues to join me in support of H.R. 1285.

Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. UNSOELD). The question is on the motion offered by the gentleman from Michigan [Mr. FORD] that the House suspend the rules and pass the bill, H.R. 1285, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FORD of Michigan. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1285, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

PERFORMANCE MANAGEMENT AND RECOGNITION SYSTEM AMENDMENTS OF 1991

Mr. ACKERMAN. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 1316) to amend chapter 54 of title 5, United States Code, to extend and improve the Performance Management and Recognition System, and for other purposes.

The Clerk read as follows:

H.R. 1316

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Performance Management and Recognition System Amendments of 1991".

SEC. 2. AMENDMENTS.

(a) STATEMENT OF WORK OBJECTIVES.—Section 4302a of title 5, United States Code, is amended by adding at the end the following:

"(h) Notwithstanding subsections (a)(2) and (b)(2)–(4), an agency performance appraisal system may utilize a written statement of the work objectives of the employee's position to establish performance requirements related to the position and to evaluate job performance against such requirements. Such statement of work objectives shall be jointly developed by the supervising official and the employee, and may be used in lieu of, or in addition to, critical elements and performance standards.".

(b) PERFORMANCE AWARDS.—Section 5406 of title 5, United States Code, is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a) Any employee who is covered by this chapter, and whose performance for an appraisal period is rated under section 4302a (or an equivalent rating system) at the fully successful level or higher may be paid a performance award for such period.

"(b) The amount of a performance award under this section shall be determined by the appropriate agency head, except that any such award shall not be more than 10 percent of the employee's annual rate of basic pay, unless the agency head determines that a higher amount is warranted by unusually outstanding performance, in which case an award of not to exceed 20 percent of the employee's annual rate of basic pay may be paid.";

(2) in subsection (c)(1) by striking "Subject to subsections (a)(2) and (b)(2) of this section, the" and inserting "The";

(3) by amending subsection (c)(2)(A)(i) to read as follows:

"(2)(A)(i) The applicable minimum percentage for each fiscal year during which this chapter is in effect shall be 1.15 percent."; and

(4) by striking subsection (c)(3).

(c) PROGRAM EXTENSION.—Section 5410 of title 5, United States Code, is amended by striking "March 31, 1991" and inserting "September 30, 1993".

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective as of April 1, 1991.

SEC. 3. STUDY AND REPORT.

(a) ESTABLISHMENT OF REVIEW COMMITTEE.—The Office of Personnel Management shall establish a Performance Management and Recognition System Review Committee to review the Performance Management and Recognition System (established under chapter 54 of title 5, United States Code) and advise the Office on any improvements needed in that system.

(b) MEMBERSHIP.—(1) The Committee shall consist of such members as the Office considers appropriate, including representatives of organizations that include in their membership employees who are covered under the Performance Management and Recognition System, and representatives of agencies employing such employees.

(2) The Chairman of the Committee shall be appointed by the Director of the Office, and may be paid (except as provided by the first sentence of paragraph (3)) at a rate determined by the Director, not to exceed the maximum rate of basic pay for the Senior Executive Service.

(3) The members of the Committee who are otherwise employees of the Federal Government (including the Chairman, if applicable) shall not receive any additional pay for their service on the Committee. Members of the Committee who are not otherwise employees of the Government (other than the Chairman, if applicable) shall not be paid for their service on the Committee and shall not be considered employees of the Federal Government for any purpose by reason of their service on the Committee.

(c) STAFF AND ADMINISTRATIVE SUPPORT.—The Office may provide staff and administrative support for the Committee.

(d) COORDINATION.—In carrying out its responsibilities under this section, the Committee shall coordinate its efforts with those of the Pay-for-Performance Labor-Management Committee (established under section 111 of the Federal Employees Pay Comparability Act of 1990) to the extent those committees consider appropriate.

(e) REPORT.—The Committee shall submit a report with its recommendations to the Director of the Office on November 5, 1991, or such other date as the Director may determine.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. ACKERMAN] will be recognized for 20 minutes, and the gentleman from New York [Mr. HORTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. ACKERMAN].

GENERAL LEAVE

Mr. ACKERMAN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 1316, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. ACKERMAN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 1316, the Performance Management and Recognition System Amendments of 1991, would extend the performance management and recognition system through September 30, 1993, as well as make two changes to the program.

The first change allows agencies to use work objectives in lieu of, or in addition to, critical elements and performance standards to establish performance requirements and evaluate employee performance.

The second change removes the requirement in current law that an employee who receives an outstanding rating must receive a bonus of at least 2 percent.

Lastly, the bill establishes a PMRS Review Committee to review the program and advise the Office of Personnel Management on any improvements needed in that system. The committee must report to the Director of OPM by November 5, 1991, or such other date as the Director may prescribe.

I would like to inform my colleagues that both the administration and the managers' associations support H.R. 1316.

Mr. Speaker, the committee has received the CBO cost estimate to accompany H.R. 1316, and I insert it in the RECORD immediately following my statement.

Mr. Speaker, I reserve the balance of my time.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 14, 1991.

Hon. WILLIAM L. CLAY,
Chairman, Committee on Post Office and Civil Service, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 1316,the Performance Management and Recognition System Amendments of 1991, as ordered reported by the House Committee on Post Office and Civil Service on March 13, 1991. We estimate that the bill would result in costs for performance awards of about $100 million in fiscal year 1991 and about $225 million annually for 1992 and 1993. These costs would be paid from appropriated accounts. This bill does not affect direct spending or receipts and therefore would not affect pay-as-you-go scoring.

Under current law, certain federal employees are eligible for cash awards based on their performance rating under the Performance Management and Recognition System. This program will expire March 31, 1991. H.R. 1316 would extend the program through September 30, 1993, revise the program to allow greater flexibility in the distribution of performance awards, and establish a Performance Management and Recognition System Review Committee.

Under the existing program, agencies may pay awards totaling up to 1.5 percent of the aggregate salary costs of eligible employees (those in grades 13 through 15 of the General Schedule). Each agency's funding source for these awards is its annual salary and expense appropriation. Information obtained from the Office of Personnel Management indicates that agencies generally pay the maximum amount of awards allowed by law, amounting to an estimated $200 million in 1990.

If the program were allowed to expire on March 31, 1991, then agencies would not be able to make awards during the second half of this fiscal year and in subsequent years. We estimate that extension of the program through September 1993 would make possible awards of about $100 million in the second half of fiscal year 1991 and about $225 million annually in 1992 and 1993. The 1991 costs would come from existing appropriations; the 1992 and 1993 costs would come from future appropriations.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are James Hearn and Patricia Conroy, who can be reached at 226-2860.

Sincerely,
ROBERT D. REISCHAUER,
Director.

□ 1330

Mr. HORTON. Madam Speaker, I yield myself 5 minutes.

I rise in support of H.R. 1316.

I want to commend the gentleman from New York [Mr. ACKERMAN] for his leadership not only in introducing this bill, but in the expeditious manner in which he has handled it.

This is a noncontroversial bill which would extend, with minimal revisions, the performance management and recognition system through September 30, 1993, and establish a committee to review and suggest improvements in the program.

The PMRS is a rating and bonus program covering approximately 145,000 employees in grades 13 and 15 of the General Schedule. The existing program will expire March 31.

Extension of the program will amend the present law so that there will be no mandatory bonus amount for employees rated "outstanding". Agencies will be permitted to give performance awards to any employee rated above the fully successful level. The bill also allows agencies to use "work objectives" in place of or, in addition to, critical elements and performance standards to establish performance standards and evaluate employee performance.

This bill was reported out of the Post Office and Civil Service Committee, on March 13, without a dissenting vote. The legislation also has been reviewed by the Congressional Budget Office. According to CBO, this bill does not affect direct spending or receipts and therefore would not affect pay-as-you-go scoring.

Finally, the bill is supported by the administration.

Madam Speaker, I will include an article from the Federal Times dated March 18, 1991, entitled "Merit Bonuses to Expand." This would further explain H.R. 1316.

[From the News Digest, Mar. 12, 1991]

MERIT BONUSES TO EXPAND

(By Ellen Rafshoon)

Managers who receive "outstanding" appraisals no longer would automatically receive a minimum 2 percent merit award.

Instead, agencies would be allowed to give performance awards to any manager rated at or above "fully successful."

The lifting of mandatory awards for outstanding managers is one of two changes proposed for the ratings and bonus system for managers, due to expire March 31.

About 145,000 managers in grades GM-13 through GM-15 are paid under the Performance Management Recognition System.

The changes in the PMRS are contained in legislation introduced March 7 by Rep. Gary Ackerman, D-N.Y. The measure would extend the system for a year-and-a-half until a replacement can be created. The Senate is expected to agree to the House bill, and it is being supported by the administration.

Under the legislation, the maximum award of 10 percent of base pay, or up to 20 percent with approval from the agency head, would remain. Agencies still must pay bonus awards from a cash pool of 1.15 percent of the management payroll.

The lifting of mandatory awards for managers with "outstanding" ratings was supported by both managers' associations and the Office of Personnel Management. Managers wanted the requirement dropped because they felt agencies were lowering performance appraisals to avoid giving the merit bonuses, since agencies could not foot the bill.

"Federal managers say the accuracy of the evaluation is the most important objective, even above the money, albeit a small amount," said Bruce Moyers, legislative director for the Federal Managers Association.

OPM pushed for an end to the mandatory awards because agencies complained they constrained their ability to give other less highly rated people awards, said Doris Hausser, acting director of OPM's performance management division.

"If agencies had to give 2 percent to outstanding people, it limited what they could give to others," she said.

The interim system being proposed also would allow agencies to rate employees against written statements of work objectives. The work objectives can be used instead of or in addition to mandatory critical elements and performance standards.

The work objectives can be devised by managers and their supervisors, Hausser said. Giving agencies freedom to devise their own objectives ensures that employees are not measured against standards that have little relation to the work they are doing, she said.

A committee of agency administrators and members of managerial associations, such as the Federal Managers Association, Social Security Managers Association and the Professional Managers Association, will advise OPM on a new bonus system for managers.

The current system has been criticized by OPM and managers alike. Managers say awards are too small. OPM officials criticize the high number of people rated above "fully successful," undermining the system's intent of differentiating between good and poor performers.

The Performance Management and Recognition System Review Committee will work in tandem with a labor-management committee tasked with recommending ways to strengthen links between performance and pay for all white-collar government employees.

New performance appraisal sytems must be in place by September 1993, under the pay reform law enacted last November.

The committee working on General Schedule pay-for-performance is chaired by George Milkovich, a Cornell University labor relations professor, who recently completed a study of merit pay for OPM.

The study concluded that there is no one private sector performance appraisal system that is better than others or that should be adapted for the government. The study recommended that the government's system be as decentralized as possible. It suggested several agencies should conduct pilot programs of various merit pay programs.

The General Schedule's extensive network of employee protections and operating rules could inhibit merit pay programs, the study authors said. Adjustments in civil service protections might be required to make a system work.

The 12 members of the committee will use the study, published by the National Research Council, as a framework for their discussions, Hausser said. Their first meeting will be March 18.

Mr. GILMAN. Madam Speaker, this legislation addresses some of the serious concerns our Committee on Post Office and Civil Service has developed in regards to the Administration of the pay for performance system. I want to commend the chairman of the Subcommittee on Compensation and Employee Benefits, Mr. ACKERMAN, for his work and efforts in developing a proposal which can enjoy the support of both the administration and affected employee groups, and the chairman of the full committee, Mr. CLAY, for expeditiously bringing this legislation before the full House.

I am pleased that the legislation addresses the problem of linkage between a manager's performance rating and the mandated cash bonus. Under current law, performance ratings were kept artificially low because cash awards were mandated upon the award of an outstanding rating. The new law decouples the cash awards from the employee's ratings thereby ensuring an employee will not be precluded from a higher rating because the agency does not have the funds to award a mandated cash bonus.

The legislation also increases managerial flexibility by providing that a written evaluation of an employee's performance may use work or other job-related objectives in lieu of or addition to the critical elements of performance standards.

H.R 1316 also creates a commission to address future issues which may arise in regards to the Federal Government's implementation of pay for performance. I note the legislation requires the commission to submit its report to the Director of the Office of Personnel Management by November 5, 1991, and I look forward to its recommendations.

Accordingly, Madam Speaker, I urge all my colleagues to support this legislation.

Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ACKERMAN. Madam Speaker, I have no additional speakers on this very exciting subject, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. UNSOELD). The question is on the motion offered by the gentleman from New York [Mr. ACKERMAN] that the House suspend the rules and pass the bill, H.R. 1316.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

JESSE OWENS BUILDING OF THE UNITED STATES POSTAL SERVICE

Mr. McCLOSKEY. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 831) to designate the Owens Finance Station of the U.S. Postal Service in Cleveland, OH, as the "Jesse Owens Building of the United States Postal Service."

The Clerk read as follows:

H.R. 831

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building located at 5600 Woodland Avenue, Cleveland, Ohio, known as the Owens Finance Station is designated as the "Jesse Owens Building of the United States Postal Service". Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be deemed to be a reference to the Jesse Owens Building of the United States Postal Service.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. McCLOSKEY] will be recognized for 20 minutes, and the gentleman from New York [Mr. HORTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. McCLOSKEY].

Mr. McCLOSKEY. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 831 would designate the postal building located at 5600 Woodland Avenue, Cleveland, OH, as the Jesse Owens Building of the United States Postal Service.

The legendary triumph of Jesse Owens in the 1936 Olympic games passed from generation to generation as one of the great moments in American history. We often tell the story of when the son of a sharecropper and grandson of an American slave crushed Hitler's theory of the superior Aryan race.

Jesse Owens returned from those Olympic games as a new American hero. A responsibility he combined with his special concern for the youth of our Nation. He spent the rest of his life reinforcing to all that making dreams into reality takes a lot of determination, dedication, self-discipline, and effort.

I feel the naming of the post office in Cleveland, OH, would be a fitting honor to be bestowed on one of our great American heroes, and I urge Members to support this legislation.

Mr. HORTON. Madam Speaker, I yield myself 5 minutes.

Madam Speaker, I rise in strong support of H.R. 831 introduced by Congressman LOUIS STOKES, to designate a postal facility in Cleveland, OH the "Jesse Owens Building of the United States Postal Service."

This measure is a fitting tribute to one of the most famous athletes in sports history. Jesse won four gold medals at the 1936 summer Olympic games in Berlin, Germany. He won the 100-meter and 200-meter races, the broad jump, and he was a member of the winning American 400-meter relay team. He set Olympic records in the 200-meter race and the broad jump.

The outstanding performance of Jesse Owens was extremely embarrassing to Adolph Hitler, the ruler of Germany. Hitler and his followers were hoping that German athletes would prove that the Aryans—a term they used for Germans and certain other people of northern Europe—were superior to all other people.

Jesse was born in Oakland, AL, the son of a sharecropper. At the age of 7 Jesse's family moved to Cleveland, OH. Owens excelled in track and filed while attending Ohio State University from 1933 to 1936. In 1935 Jesse broke three world records and tied a fourth at a college meet in Ann Arbor, MI. Jesse set seven world records during his career.

Jesse was active in community service, especially youth work. He spoke eloquently of patriotism, clean living, and fair play, and he believed that athletic competition could help solve racial and political problems.

I want to congratulate Mr. Stokes on bringing this legislation to the floor to honor such a great man, who was not only a great athlete, but truly an exemplary human being. It is a most appropriate tribute to name a postal facility in the memory of James Cleveland Owens, or Jesse Owens.

Mr. McCLOSKEY. Madam Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. STOKES].

Mr. STOKES. Madam Speaker, I thank the distinguished gentleman for yielding this time to me.

Madam Speaker, I am proud to rise today in support of H.R. 831, which would further memorialize one of the greatest athletes of our time, Jesse Owens. This legislation which I authored would officially rename the postal facility located at 5600 Woodland Avenue in Cleveland, OH as the Jesse Owens Building of the U.S. Postal Service.

I would like to extend a special thanks to the distinguished chairman of the Post Office and Civil Service Committee, Mr. CLAY, as well as Mr. HORTON, the ranking minority member, and the other members of this panel for their support of this legislation.

Madam Speaker, many are familiar with the extraordinary accomplishments of Jesse Owens as an outstanding athlete. This tribute to Jesse would further commemorate his contributions as an extraordinary athlete, and a great American.

Jesse Owens began his record breaking career in track while attending high school in Cleveland, OH. He went on to Ohio State University where he continued to set precedents in track and field.

Perhaps Jesse Owens is best remembered for his accomplishments in the 1936 Berlin Olympics. During a time of world turmoil, Jesse bridged the gap between races by using athletics to win four gold medals and set three new world records in track. It was in the face of racism that Jesse Owens, a black American, captured not only four gold medals, but the imagination of the German crowds, who rose to their feet chanting his name. Jesse Owens' Olympic performance was an athletic triumph. It was also a triumph of humanity and the Olympic spirit over evil.

Madam Speaker, Jesse's accomplishments were not limited to the track field. Throughout his life, he was dedicated to instilling the principles of fair play and discipline in young people. He contributed a tremendous amount to future Olympic teams and traveled extensively to spread the doctrine of sportsmanship and friendship.

I was proud to author legislation to bestow the highest recognition from this body, the Congressional Medal of Honor, to Jesse Owens posthumously. In his lifetime, Jesse Owens was also honored with the Presidential Freedom and Living Legends Award.

H.R. 831 would pay further tribute to a man that was not only a role model and an inspiration to many young people, but to a man whose life was committed to using sports to bridge racial boundaries. I, as well as residents of the city of Cleveland, take tremendous pride in being the home of this outstanding American hero.

I hope that my colleagues will join me in supporting this measure to rename a postal facility and salute one of the most dedicated Americans and athletes of our time, Jesse Owens.

Mr. CLAY. Madam Speaker, I rise today in support of H.R. 831, a bill to designate the Owens Finance Station of the U.S. Postal Service in Cleveland, OH, as the "Jesse Owens Building of the U.S. Postal Service."

Jesse Owens was born on September 12, 1913, on a tenant farm in northern Alabama, one of the seven children of Henry and Emma Owens. As a child he worked in the cotton fields before moving to Cleveland, OH. His exceptional athletic prowess was first noted when he established a new junior high school record in the 100-yard dash of 10 seconds flat. Jesse Owens continued to astound the track world at both East Technical High School in Cleveland, and later at Ohio State where on May 25, 1935, he broke three world records and tied a fourth. At the 1936 Olympic games in Berlin, Germany, Jesse won four gold medals for his performance in the 100-meter dash, 200-meter dash, the broad jump and the 400-meter relay, breaking two Olympic records and one world record.

Owens was given a hero's welcome on his return to the United States, but when the confetti cleared, the best job he could find was a playground janitor. He later tried unsuccessfully to operate a chain of laundries, and after a brief career in entertainment, Jesse turned to public relations work. Delivering some 200 speeches a year Jesse was comfortable discussing motivation, values and patriotism. Jesse once stated:

> The road to the Olympics doesn't lead to Moscow. It leads to no city, no country. It goes far beyond Lake Placid or Moscow, ancient Greece or Nazi Germany. The road to the Olympics leads, in the end, to the best within us.

It is in that spirit Madam Speaker, that I rise today to salute this great black American hero.

Mr. GILMAN. Madam Speaker, I am pleased to once again join my colleagues in moving this legislation a step closer to reality. I was pleased to support designating this postal facility after Jesse Owens in the previous Congress and I am equally happy to support it today.

Tributes to Jesse Owens come very easy for most of us. A truly remarkable human being, born in Alabama in 1913, his winning of four gold medals in the 1936 Olympic games, held in Berlin, was the culmination of an excellent collegiate career and secured for him the status of truly being a legend in his own lifetime. At those games he set new Olympic records in the 100-meter dash, the 200-meter dash and the long jump and shared in setting a new Olympic record for the 400-meter relay.

In later years he worked as a public relations consultant and received the Presidential Medal of Freedom from President Gerald R. Ford in 1976. He followed that by receiving the "Living Legends Award," from President Jimmy Carter in 1979. When Jesse Owens passed away in Tucson, AZ, in March 1980, more than just the sports world paused to take notice of a passing giant from our landscape.

I thank my colleagues, the gentleman from New York [Mr. HORTON], and the gentleman from Indiana [Mr. McCLOSKEY], for bringing this measure before the House and I encourage my colleagues to support it and I heartily recommend its adoption.

□ 1340

Mr. McCLOSKEY. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HORTON. Madam Speaker, I do want to thank the gentleman from Indiana [Mr. McCLOSKEY] for his leadership in handling this bill and bringing it to the floor.

Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. UNSOELD). The question is on the motion offered by the gentleman from Indiana [Mr. McCLOSKEY] that the House suspend the rules and pass the bill, H.R. 831.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

PERMISSION TO FILE CONFERENCE REPORT ON S. 419, RESOLUTION TRUST CORPORATION FUNDING ACT OF 1991

Mr. GONZALEZ. Madam Speaker, I ask unanimous consent that the manager may have until midnight tonight, Tuesday, March 19, 1991, to file a conference report on the Senate bill (S. 419) to amend the Federal Home Loan Bank Act to enable the Resolution Trust Corporation to meet its obligations to depositors and others by the least expensive means, and that it be in order to consider the conference report on Thursday, March 21, 1991.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

LUKE EASTER POST OFFICE

Mr. McCLOSKEY. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 971) to designate the facility of the U.S. Postal Service located at 630 East 105th Street, Cleveland, OH, as the "Luke Easter Post Office."

The Clerk read as follows:

H.R. 971

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 630 East 105th Street, Cleveland, Ohio, is designated as the "Luke Easter Post Office".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "Luke Easter Post Office".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. McCLOSKEY] will be recognized for 20 minutes, and the gentleman from New York [Mr. HORTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. McCLOSKEY].

Mr. McCLOSKEY. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in support of H.R. 971, a bill to name the post office at 630 East 105th Street, Cleveland, OH "The Luke Easter Post Office." This measure was introduced by my good friend and colleague, FRANK HORTON, ranking minority member of the Subcommittee on Postal Operations and Services.

Standing 6 feet 4 inches tall and weighing over 240 pounds, Luke was one of the greatest power hitters in the history of baseball, scoring 86 home runs and driving in 307 runs in his three seasons with the Cleveland Indians, 1950–52. In 1952 he finished second to his teammate Larry Doby for the American League home run title with 31. In fact, in his first year in the major league he broke the record for the longest home run ever hit in Cleveland, 477 feet. To this day his record stands unbroken.

An achiever both on and off the field, Easter worked for TRW, Inc., and was chief steward of the Airline Workers Alliance.

Tragically, he was killed in the prime of life in a robbery attempt in Euclid, OH.

I urge my colleagues to support this bill to acknowledge Luke Easter, or "the gentle giant," as he was called by his adoring fans.

Madam Speaker, I reserve the balance of my time.

Mr. HORTON. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I want to thank the chairman of the Post Office Committee, Representative BILL CLAY, for his support of my legislation and also thank the entire membership of the committee for their unanimous sponsorship of H.R. 971. My legislation would honor a man who was a true goodwill ambassador of baseball, Luke Easter. H.R. 971 will designate a postal facility at 630 East 105th Street in Cleveland, OH as the "Luke Easter Post Office." I want to extend a special thanks to my good friend, Representative LOUIS STOKES, who represents this area of Cleveland and was instrumental in the formulation of this legislation. I also want to commend the other Member of Congress from Cleveland, MARY ROSE OAKAR for her support.

Luke is still regarded in Rochester, NY as the most popular player in the history of the Rochester Red Wings. After a successful career in the majors with the Cleveland Indians and the old Triple A Buffalo Bisons, Luke joined the Rochester Red Wings in 1959. He spent six seasons as a player and a coach in Rochester, where he became a legend. I had the honor of knowing Luke Easter, his wife Virgil, and his entire family, since I was at that time the president of the Rochester Red Wings. Luke and I had become close friends and we stayed in contact after I was elected to Congress in 1962.

Luke was as popular in Cleveland and Buffalo as he later became in Rochester. He was as well known for his friendliness, warmth, and generosity of spirit as he was for his ability to hit towering home runs. Jack Graney, the Cleveland radio announcer, called Luke's home runs "bazooka blasts."

Luke was one of the first blacks to gain entry into major league baseball, following Jackie Robinson by only 2 years. He had little professional training when he was signed by Cleveland Indian general manager Bill Veeck out of the Negro American League. After a short stint in the minors Luke joined the Indians in 1949 at the age of 33. Although plagued by chronic knee injuries that limited his career to 491 games with Cleveland, his long home runs made him a fan favorate.

On June 27, 1950, Luke connected for the longest home run ever hit at Cleveland's Municipal Stadium, the 477-foot shot landed in the upper right field seats. The 6-foot-4, 240-pound first baseman batted left handed and, in six seasons with the Indians, hit 0.274 with 93 home runs and 340 runs batted in. Luke finished fourth in the league in home runs in 1951, and second in 1952. During Luke's years with the Cleveland Indians his teammates included four future members of the hall of fame, Lou Boudreau, Bob Feller, Bob Lemon, and Early Winn.

On March 29, 1979, Luke, by then a union steward for the Aircraft Workers Alliance at TRW, Inc., of Cleveland, was accosted by two men as he left a branch office of the Cleveland Trust Co. When he refused to give up the cash he had in a shopping bag, he was hit fatally about the heart by a shotgun blast, The money in the bag was not his, it was from checks he had cashed for fellow workers.

Luke was a perfect role model for the children who adored him. He often would spend hours talking to children and signing autographs, to the great pleasure of his fans. Luke is a man we will not forget not only for his baseball ability, but the way he gave of himself to his fans and each community in which he played. Luke truly was bigger than life.

It is a just and fitting tribute for the postal facility at 630 East 105th Street, Cleveland, OH to be named after Luke Easter.

Madam Speaker, I would like to quote an article by George Beahon:

LUKE EASTER

(By George Beahon)

He was one of the first blacks in major league baseball, with the Cleveland Indians. He hit some of the most gigantic home runs ever to fly out of that stadium, over the right field walls.

On March 29, 1979, Luscious (Luke) Easter was shot and killed as an innocent bystander during an atempted bank robbery in Euclid, Ohio.

On this March 19, Congressman Frank Horton served as principal sponsor of legislation to name a Cleveland Post Office after Luke Easter. The co-sponsor of the bill is Rep. Louis Stokes. So what is Frank Horton of Rochester doing sponsoring a bill for an athlete best known nationally for his moon shots out of Cleveland's Municipal Stadium?

On his way out of baseball, Easter became an electric figure with his towering shots out of Buffalo's old War Memorial Stadium, for the International League Bisons. When Bison management thought Easter was about done, the Rochester Red Wings picked him up for free (actually a $100 waiver price). Easter was not through. For the next five seasons—1959 through 1963—he made an impact on Rochester baseball fans. He would become, without argument, the most popular player in Rochester's long history of International League baseball. Horton was part of that picture, serving at times as both Red Wing president and International League vice president. More to the point, he and Easter became fast friends.

Easter, a first baseman with a big reach, at 6'4" and 222 pounds, hammered 22 home runs in 1959. And, in his five-year span, he became the 10th leading all time Rochester home run hitter with a total of 66. His five-year batting average was a stocky .278.

The mere statistics don't tell the real reasons for Easter's popularity at an age when most players were long retired. The home runs were Superman varieties. They didn't just clear the right field walls. Many of them actually cleared the tops of the light towers. At least 20 were recognized as traveling more than 500 feet.

Beyond that field performance, Easter earned "most popular" to this day, for his personality on and off the field. His teammates and managers loved his devotion to team play. But the fans just simply adored him. Before games, during batting practices, and mostly after games, Luke Easter was the last man out of the stadium and parking lot. Foul weather or fair, Easter never left an autograph seeker disappointed. For years, I would leave the press box, stories filed and gone to bed, to see Luke outside the clubhouse or in the parking lot talking with kids, singing his name and generally making friends for himself and the baseball franchise.

Little surprise that when the Red Wings organized their first annual Hall of Fame committee, in 1989, Luke Easter (the fans bellowed his name, as LUUUKe, and strangers to the stadium misinterpreted it as booing. He was a unanimous pick on the 12-member committee ballot. On August 17, 1963, on one of several "Luke Easter Nights," at the stadium, he finally confessed to his real age. "My baseball age is 42," he said, "but my real age is 52."

Horton and Stokes are members of the Post Office and Civil Service Committee, and it is a measure of strong respect that there is an expected unanimous approval of the bill to honor Easter in his home town of Cleveland.

Easter and Horton, then International League President, had an interesting get together when the Red Wings played their first game in Havana's Le Gran Stadium after Fidel Castro assumed power in Cuba. Castro and Horton were together on the mound for the honorary "first pitch" on opening night with 34,000 Cuban fans in the stadium.

Ninth inning, score tied 4–4. Easter triggered a moon shot out of sight over the right field wall to beat the Cubans. The stands became weirdly, almost totally silent. It is not known to this date whether the quiet resulted from disappointment by the fans—or the wonder at the sight of the "beisbol" soaring out of sight—just one of many of Luke Easter's moon shots. He made an impression, internationally.

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Mr. McCLOSKEY. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, if I might ask the distinguished gentleman from New York [Mr. HORTON] a question or two?

Did I understand the gentleman to say that Luke was 43 when he finally made it to the big leagues with the pattern of discrimination in the sport?

Mr. HORTON. Madam Speaker, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from New York.

Mr. HORTON. Madam Speaker, the gentleman from Indiana [Mr. McCLOSKEY] is correct.

Mr. McCLOSKEY. And, Madam Speaker, does the gentleman from New York [Mr. HORTON] have an opinion, or does he know, what his records could have been like if he had been there in his early twenties and had a normal career?

Mr. HORTON. Madam Speaker, I imagine, if he had been there in his early twenties, he probably would have had one of the greatest records for home runs for any ballplayer.

He was not a very good defensive fielder, but he could play first base great. He was not very fast, but he could get around the bases, especially after he made home runs, and he did not have to run fast because all he did was hit the ball out of the park, and he trotted around.

I will never forget seeing him go around those four bases in Havana, Cuba.

Mr. McCLOSKEY. Madam Speaker, it is truly amazing. I thank the gentleman from New York [Mr. HORTON].

Madam Speaker, I yield such time as he may consume to the distinguished gentleman from Ohio [Mr. STOKES].

Mr. STOKES. Madam Speaker, I am proud to rise in support of H.R. 971, legislation to designate that a facility of the U.S. Postal Service in Cleveland, OH, be named in honor of Luke Easter. I also take this opportunity to commend the author of this legislation, our distinguished colleague from New York [Mr. HORTON], for his special efforts to pay tribute to one of our Nation's greatest major league baseball players. I was proud to join my colleague as a cosponsor of this measure.

Let me also commend the chairman of the Committee on Post Office and Civil Service, Mr. CLAY, for his support of this measure, and for expediting the legislation through the committee process.

Madam Speaker, Luke Easter was born in St. Louis, MO, and was a renowned softball player until signed by the Cincinnati Crescents of the Negro American League in 1946. He was a member of the Homestead Grays when the owner of the Cleveland Indians purchased his contract and sent Easter to San Diego to play. After playing with the Pacific Coast League, Luke Easter returned to Cleveland where he began a 6-year major league career.

Although Luke Easter hit only 93 major-league home runs in Cleveland, his long drives made him a favorite. Announcers and fans affectionately referred to his home runs as "bazooka blasts."

It was on June 23, 1950, that Luke Easter hit a baseball into the Cleveland stadium upper deck that was measured at 477 feet from home plate. The home run stands as the longest home run hit at Cleveland Municipal Stadium.

Madam Speaker, I am certain that the name "Luke Easter" brings to mind many fond memories for baseball fans from Buffalo, NY, also. In fact, it is Luke Easter who is often credited with saving the game of baseball in Buffalo. Prior to his arrival in 1955 to play with the Bisons, Buffalo suffered from a lack of interest in baseball due not only to poor team performance, but competition from the television, movie, and racetrack industries.

Luke Easter used personality, showmanship, and his outstanding performance on the field to instill in Buffalo fans a new enthusiasm for the game. During the 1957 season, Easter not only played in every one of the team's 154 games, but he led the league in home runs, walks, total bases, and RBI's.

Luke Easter was later released from the Bison franchise and returned to Cleveland. He died tragically during a robbery attempt while employed at TRW, Inc.

It is ironic to note that only at the time of his death was it learned the talented hero Luke Easter was 40 years old when he joined the Bisons; and 48 years old when he went to bat for the last time.

Madam Speaker, I am proud that the city of Cleveland is being designated as the site for honoring Luke Easter. He was an outstanding athlete, a source of inspiration, and a great American. The designation of a postal facility in his honor will stand as a lasting monument to an outstanding American.

Madam Speaker, I cannot recite as eloquently as the gentleman from New York [Mr. HORTON] has recited Luke's great contribution to the field of baseball. They were very close friends, as my colleagues can see from his speech here on the floor, and, over the years when we have talked about Luke, the gentleman from New York [Mr. HORTON] has stories like that which he can tell all day long about his great relationship, his great friendship, with Luke Easter.

So, I am just proud that the gentleman from New York [Mr. HORTON] has sponsored this legislation. I know how much it means to him, how close he was, not only to Luke, but to Luke's wife, Virgil, who is still in Cleveland, and she grew up there. In fact, she, and I and their family all went to high school together in Cleveland.

So, I just want to commend the distinguished gentleman from Indiana [Mr. McCLOSKEY], the chairman of the subcommittee, and my good friend, the gentleman from Missouri [Mr. CLAY], the chairman of the full committee, and again the gentleman from New York [Mr. HORTON] for the great contributions they have made in paying honor to Luke by designating this facility in Cleveland, OH.

Madam Speaker, I assure my colleagues that we are going to have a great celebration in Cleveland in honor of this, and we really express our appreciation for what has been done on behalf of Luke Easter.

Mr. HORTON. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I want to take this opportunity to thank the gentleman from Ohio [Mr. STOKES] and say to him, "We're looking forward to that celebration."

Madam Speaker, Luke was a great personal friend of mine, and I loved him like a brother, and I know that the gentleman felt the same.

Mr. CLAY. Madam Speaker, I rise today in support of H.R. 971, a bill to designate the facility of the U.S. Postal Service located at 630 East 105th Street, Cleveland, OH, as the "Luke Easter Post Office."

Born in St. Louis, MO, Luke Easter, known by those who loved him as "the Gentle Giant," was one of the greatest natural power hitters in the history of baseball. Luke, who stood 6 feet 4 inches and weighed over 240 pounds, broke into the major leagues at the age of 33 after a stellar career with the Negro League Homestead Grays. In his 3 full seasons with the Cleveland Indians, 1950–52, Easter proved to be the slugger of his day hitting 86 home runs while driving in 307 runs. Few people know this, but Luke still holds the record for the longest home run hit in Cleveland, 477 feet, in 1950, the year after he broke into the major leagues. In 1952, he finished second to his teammate Larry Doby for the American League home run title with 31.

After baseball, Easter worked for TRW Inc., and was chief steward of the Airline Workers Alliance. Luke's life was cut short however, as he was fatally wounded in a robbery attempt in Euclid, OH. We can only wonder how great he might have been had he been allowed to play during his prime. Madam Speaker, Luke Easter was a giant both on and off the baseball diamond, and it is for that reason I stand to support this bill today.

Mr. GILMAN. Madam Speaker, I want to take this opportunity to join my colleagues the gentleman from New York, [Mr. HORTON] and the gentleman from Indiana, [Mr. McCLOSKEY] in urging my colleagues on both sides of the aisle to support this measure and I commend my good friends, Congressman LOU STOKES and Congressman FRANK HORTON, for initiating this action.

Luke Easter experienced both the bitterness of being limited to playing in the segregated baseball clubs of the time and the warmth and esteem of finally getting some well earned respect in the newly integrated major leagues. He continued to earn the respect of all who knew him throughout his baseball career and well on into his second career as a union steward at T.R.W., Inc. in Cleveland. His death in 1979, protecting the cash of his co-workers during a bank robbery in Cleveland, left a void not only in the baseball world, but in each of us.

Accordingly, it is a pleasure for me to join with my colleagues in recommending that the East 105th Street Post Office in Cleveland, OH, be designated the Luke Easter Post Office. I am hopeful that this will serve to remind future generations of what good sportsmanship and a truly unselfish spirit are all about.

I thank the speaker and my colleagues for the opportunity to share with the House my support for H.R. 971.

Mr. HORTON. Madam Speaker, I yield back the balance of my time.

Mr. McCLOSKEY. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. UNSOELD). The question is on the motion offered by the gentleman from Indiana [Mr. McCLOSKEY] that the House suspend the rules and pass the bill, H.R. 971.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. McCLOSKEY. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 831 and H.R. 971, the bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

SMALL BUSINESS DESERT STORM LOAN RELIEF ACT OF 1991

Mr. LAFALCE. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 902) to provide assistance to recipients of loans from the Small Business Administration who are affected by military service as part of Operation Desert Storm, and for other purposes, as amended.

The Clerk read as follows:

H.R. 902

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Small Business Desert Storm Loan Relief Act of 1991".

SEC. 2. The Small Business Act is amended by adding the following new section:

"SEC. 28. (a) It is the purpose of this section to provide assistance in addition to that authorized by the Soldiers' and Sailors' Civil Relief Act of 1940 as now in effect or as subsequently amended, and it shall not be interpreted in any way to reduce the benefits of such Relief Act.

"(b) Any small business concern which is the obligor of a loan made or guaranteed by the Small Business Administration under this Act or the Small Business Investment Act of 1958 may apply for assistance under this section. In order to assist persons called to active duty in the military service of the United States, the Administration (1) is directed to liberally construe the provisions of this section to benefit such persons and companies substantially owned by or dependent upon them, (2) is authorized to extend the term of any direct loan for up to five years beyond the maximum term otherwise provided by law, and (3) is authorized to waive or modify any of the minimum periods of time or minimum income declines specified in this section if it determines that it would be appropriate to effectuate the purpose of this Act, but it may not do so if it would result in the denial of assistance to an applicant otherwise eligible.

"(c) The Administration shall temporarily suspend the repayment obligation of any person under a direct loan made by the Small Business Administration to a borrower if the borrower, or any person jointly liable with the borrower, is called to active duty in the military service subsequent to the disbursement of the proceeds of such loan. The suspension shall be effective on the date the Administration is notified that the borrower has commenced active duty status or, at the election of the borrower it shall be made effective at any time subsequent to the date the borrower entered active duty status, and shall continue for 90 days after such person ceases to be on active duty.

"(d) The Administration shall suspend or reduce the repayment obligation of any small business concern under a direct loan made by the Administration to a partnership or corporation if it determines that there has been substantial impairment of the repayment ability of the borrower due to the entry on active duty of any person who is a principal owner, manager or key employee of such borrower. The suspension shall be effective on the date the Administration is notified that such person has commenced active duty status or, at the election of the borrower it shall be made effective at any time subsequent to the date the person entered active duty status, and shall continue for 90 days after such person ceases to be on active duty.

"(e) The Administration may agree to make all or part of any payments due to any person pursuant to the terms of any loan guaranteed by the Administration under this Act or under the Small Business Investment Act of 1958 if it determines that there has been substantial impairment of the repayment ability of the obligor due to the entry on active duty of any person who is a principal owner, manager or key employee of such borrower. The time during which such payments may be made shall commence on the date the person entered active duty status and shall terminate 90 days after such person ceases to be on active duty. Any loan made under this subsection is declared to be a disaster loan under section 7(b) of this Act and shall be made from amounts made available for such loans. Such loans shall be subject to the same terms and conditions for other loans made under section 7(b). The Administration is directed to transfer from the disaster loan fund to the business loan and investment fund an amount equal to the amount of any payment of principal and interest on any loan funded through such account which is suspended or reduced pursuant to this Act.

"(f) Within 60 days after the return to non-active duty status of any person to whom the preceding subsections may apply, the Administration shall arrange a meeting with agency personnel and the affected small business concern to discuss repayment of the loan. The Administration is authorized to extend the term of any direct loan or to set a repayment schedule for loans made under subsection (e) for a period of up to 1 year for each 60 days of active duty, but not to exceed 5 years.

"(g) If the Administration determines that an obligor meets the criteria of this section, it may, in its discretion, reduce or eliminate the assistance provided herein if it determines that the obligor has the financial ability to meet the terms and conditions of the obligation without substantially disrupting business operations if the applicant is a business or without imposing a substantial financial burden if the applicant is an individual disaster loan recipent. Any such determination shall be made only after affording the applicant the opportunity to present information in person or through others in support of the request for assistance. This determination need not be made pursuant to the Administrative Procedures Act unless the Administration determines that such proceedings would be appropriate.

"(h) As used in this section, the term:

"(1) 'base years' means the past three years if (A) it is a business loan to a borrower who has been in business for such time, or such shorter time as the borrower has been in business as determined to be appropriate by the Administration but not less than one year, or (B) if it is a disaster loan to an individual who has taxable income for such time, or such shorter time as determined to be appropriate by the Administration.

"(2) 'direct loan' means a loan made under this Act or the Small Business Investment Act of 1958;

"(3) 'loan' also includes a debenture guaranteed as to repayment by the Administration;

"(4) 'military service' means the military service of the United States as defined in the Soldiers' and Sailors' Civil Relief Act of 1940, 50 U.S.C. App. 511, as amended;

"(5) 'obligor' includes the borrower and, for debentures issued by development companies, the small business concern which is financed by the debenture proceeds; and

"(6) 'substantial impairment' means a decline in the income of the borrower over a period of a minimum of 30 months which represents a decline equal to at least 25 per centum from the average income over the base years prior to the entry on active duty of a person referred to in subsection (d) above.

SEC. 3. The authority of the Administration to make loans, or to suspend or reduce payments on direct loans under section 28 or section 7(b)(3) of the Small Business Act shall be limited to amounts approved in advance in appropriations Acts. There are hereby authorized to be appropriated not to exceed $5,000,000 to carry out the provisions of section 28 of the Small Business Act and $50,000,000 to carry out the provisions of section 7(b)(3) of such Act.

SEC. 4. Section 7(b) of the Small Business Act is amended by inserting after paragraph (2) the following new paragraph:

"(3) To make such disaster loans as the Administrator may determine to be necessary or appropriate to assist a small business concern which has suffered economic injury due to operation Desert Storm/Shield in an amount not to exceed $50,000 per borrower.

"(A) Not to exceed $25,000,000 in such loans may be made to assist small businesses owned and controlled by reservists in a period of active duty as a result of an emergency deployment.

"(B) Not to exceed $25,000,000 in such loans may be made to assist small businesses in any county in which at least five small business concerns have suffered severe economic injury as a result of the emergency deployment in support of national defense objectives of units of the Armed Forces of the United States from an installation or installations in an area where such business concerns are located: *Provided*, That no assistance shall be provided under this paragraph unless at least 10,000 individuals comprising at least 60 percent of the personnel normally assigned to such installation or installations are so deployed.

"(C) For the purposes of this paragraph—

"(i) the term 'small business concern owned and controlled by reservists' means a small business concern which—

"(I) is at least 51 percent unconditionally owned by one or more members of reserve components of the Armed Forces; and

"(II) is managed and the daily business operations of which are controlled by one or more such members;

"(ii) the term 'period of active duty' means the period beginning on the date on which an owner of the small business concern is called or ordered to active duty and ending on the 180th day following the date on which such owner is released from active duty.

"(iii) the term 'emergency deployment' means one which commenced on or after August 1, 1990, and before October 1, 1991; and

"(iv) the term 'county' includes any other equivalent political subdivision.".

SEC. 5. (a) Due to the necessity of providing immediate assistance to borrowers impacted by military service requirements, and notwithstanding any other law, rule or regulation, the Small Business Administration is authorized and directed to issue interim final rules and regulations implementing this Act within ten days of the date of enactment, and the rules shall be effective on publication. The Administraton may, however, solicit comments and modify such rules.

(b) In order that borrowers may become aware of the assistance under section 28 of this Act, the Adminstration shall notify every borrower of the assistance available hereunder within 30 days after the date of enactment.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. LAFALCE] will be recognized for 20 minutes, and the gentleman from Florida [Mr. IRELAND] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in strong support of H.R. 902, the Small Business Desert Storm Loan Relief Act of 1991. Very simply, the legislation would authorize financial assistance of up to $55 million to small businesses which have been financially injured due to the transfer or deployment of troops as part of Desert Storm.

I believe that we are all very proud of the service which has been performed for our country by our regular, active duty troops and also by our citizen warriors who constitute our Reserves. We have disrupted the lives of these citizen soldiers and we must not impose undue economic hardship upon them. Moreover, we should facilitate their efforts to resume their civilian occupations.

When I introduced my bill, I was primarily concerned that these servicemen and servicewomen should not have to worry about repaying direct or indirect Government loans nor should they have to worry about the Government dunning their loved ones for these loan payments while they are in the gulf risking their lives. The Soldiers' and Sailors' Civil Relief Act of 1940 addressed this problem some 50 years ago, but the coverage provided by that Act did not contemplate the way we handle financial transactions today.

The Relief Act authorizes a moratorium on loan repayments and a reduction in the interest rate to a maximum of 6 percent, but in order to qualify the reservist being called to active duty must be one and the same as the borrower. If these interests are not identical, no assistance is mandated.

Accordingly, there is no relief provided in situations where the reservist is simply one of joint borrowers. This may be the case in many loans, including disaster loans made to a husband and wife, with one of them being a reservist who is called to active duty.

Nor is there any coverage under the Relief Act if the loan is made to a small corporation or a partnership and the reservist is one of the principal owners or a manager or a key employee whose absence has substantially reduced the profitability of the company.

Thus, I introduced H.R. 902 along with 22 of my colleagues as cosponsors to fill this gap and to provide a moratorium on loan repayments in these situations.

Subsequently, my friend and colleague Representative MARTIN LANCASTER brought another situation to our attention.

We are all aware of the economic impact on an area where a military base is closed; it can be devastating. Well, the deployment of troops from some bases was so extensive that it was almost the same as closing the base. And the impact on the small businesses who operate in the area around those bases was just the same—the customers have all been transferred to the gulf as part of Operation Desert Storm. Many viable small businesses simply lost all of their customers.

Thus, at the request of Mr. Lancaster we provided in the bill that if at least 10,000 troops from any base are deployed to the gulf and if the number deployed represents at least 60 percent of the troops normally assigned to the base, then we would treat this as an economic disaster to the small firms which have lost their customers. The SBA would provide them with working capital of up to $50,000 at a reduced interest rate and under the same terms and conditions under which we helped the victims of natural disasters. This would give them some breathing room and help them to survive until the troops return from the gulf.

In addition, now that the reservists are beginning to return, we find that many need operating money for their firms. Some have to almost reestablish themselves, as they literally had to close their doors and go to war.

Thus, at the request of Mr. SKELTON the committee amended the bill to provide that this uprooting of small business personnel would be treated as an economic disaster and that they be provided loan assistance of up to $50,000 per small business under the same terms and conditions as exist for other disasters. Again, this is simply a small helping hand to allow them to resume their primary occupation in our society.

Finally, I want to note that the bill requires SBA to expedite its implementation of this law. The assistance being provided to these small businesses would be virtually meaningless unless it is made available on a timely basis and the reservists and other small businesses are made aware of its existence.

The bureaucracy is very slow to implement assistance such as that being provided in this act. It is even very slow when we simply fine tune an existing program. For example, last November we fine tuned a program to provide working capital for small business exporters for up to 36 months instead for a maximum of 18 months, as was previously authorized by law. It was not until March 12, or 4 months later, that a regulation implementing this change was published in the Federal Register, and who knows how long it will be before this information is distributed to personnel in the field who actually administer the program.

A similar delay in the implementation of the financial assistance being afforded by this act is simply unacceptable. Thus, the law will require the agency to adopt interim final regulations to implement it within 10 days of enactment. Certainly the action of this House in passing the bill should be sufficient notice to the agency to begin planning for implementation, and thus it will actually have much longer.

I want to congratulate my colleagues who have supported this measure, and I want in particular to thank Representative SKELTON and Representative LANCASTER, who contributed very substantially to the development of this bill.

I also want to note that the Small Business Committee has a new ranking minority member, Congressman ANDY IRELAND. This is the first bill on which I have been pleased to cooperate with him and obtain his support and I thank him for it. I trust that it will be the first of many such bills which we will jointly bring before this body.

Madam Speaker, I reserve the balance of my time.

Mr. IRELAND. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, it is my privilege today to rise in support of H.R. 902, the Small Business Desert Storm Relief Act, which seeks to ensure that those who served our country in war do not have to bear a great burden in peace as well.

As our colleague, Mr. LaFalce, noted so eloquently, H.R. 902 allows the SBA to temporarily suspend or reduce repayments on existing SBA direct loans, allows the SBA to make payments on guaranteed small business loans, permits the agency to make new business loans to military reservists called to active duty, and allows the SBA to make new loans to qualified small businesses that otherwise suffered substantially because of our war to liberate Kuwait.

More specifically, H.R. 902 allows the SBA to show forbearance on SBA direct loans when a qualified small business was substantially impaired by war activities.

This means that the income of a small business must have declined by at least 25 percent because the principal owner, a cosignor of a direct loan, a manager, or a key employee was called into active service.

Under the provisions of the bill, the SBA may also make temporary payments on a federally guaranteed small business loan when the same conditions prevail.

In both cases, the SBA can only suspend, reduce, or make payments for a period of up to 1 year for every 60 days of active duty status, and the total time of forbearance cannot exceed 5 years.

And, Madam Speaker, let me hasten to assure our colleagues that this is not loan forgiveness. Rather, H.R. 902 allows the SBA to rearrange repayment schedules, thereby protecting the vitality of the enterprises involved and the people they employ.

As I noted, the measure before us also allows the SBA to make new, economic disaster loans to small businesses affected by the war. Under the bill, a small business would qualify for the loan if: First, an owner, manager, or key employee was called into active duty and the business suffered substantially for it; or second, if five or more small businesses in a given area suffered substantially because of a major troop deployment—that is, if at least 10,000 individuals comprising 60 percent of the number normally based in a given area were shipped out. Such loans would be limited to $50,000 or less per business, and credit cannot be available elsewhere.

I ask our colleagues to take particular note of the second provision, and to join me in commending Mr. Skelton and Mr. Lancaster for offering this provision.

In cities and towns across America where our Armed Forces are based, small businesses have offered the products and services that our men and women in uniform depend on. They are part of the communities that support the military during thankful times of peace, and I think it is right and proper that we make sure these essential enterprises are there when our soldiers and sailors return from the gulf.

Overall, then, Madam Speaker, H.R. 902 seeks to ensure that our Nation's small business owners—men and women who contribute to much to our quality of life—have time to recuperate or reorganize before getting back to the business at hand.

Madam Speaker, let me emphasize that this is not a massive piece of legislation in scope, scale, or cost. To qualify, small business owners must demonstrate that our efforts in the Middle East hurt them substantially. All the loans, whether new or restructured, must be repaid. And if a small business owner is financially capable of doing without a new loan or is capable of keeping up with the current schedule of payments, then the provisions of H.R. 902 do not apply.

Madam Speaker, I am pleased to report to our colleagues that the House Small Business Committee voted unanimously, 41–0, to report H.R. 902 to the full House. And let me take this opportunity to thank the chairman, Mr. LaFalce, for the fine work he performed on behalf of our Nation's small businesses. Let me also thank, again, our other colleagues, Messrs. Skelton, and Lancaster, for their helpful amendment to the bill, and Messrs. Baker, Machtley, and Ramstad on this side of the aisle for spearheading the minority efforts.

Madam Speaker, in war and in peace, we owe our country's great small businesses a debt of gratitude for the jobs they provide, the innovations they produce, the services they provide, and for their sterling contributions to the quality of life in America.

H.R. 902, while a modest offering, will help ensure that these enterprises remain strong and vital, and that the sacrifices they made on our behalf will not linger on in the months and years ahead.

I recommend the Small Business Desert Storm Relief Act to our colleagues.

□ 1400

Mr. BROOMFIELD. Madam Speaker, will the gentleman yield?

Mr. IRELAND. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. Madam Speaker, let me join in complimenting our chairman, the gentleman from New York [Mr. LaFalce], and our ranking member on this important piece of legislation. I am very happy to be a supporter of this bill.

Madam Speaker, I rise in support of the Small Business Desert Storm Relief Act, which authorizes $55 million for the Small Business Administration to temporarily suspend repayment of SBA loans to reservists called to active duty.

The Soldiers' and Sailors' Civil Relief Act of 1940 was enacted to ease the financial burdens of those persons called to active duty during World War II. The 1940 act, which still applies today, imposes a moratorium on repayments and authorizes interest rate reductions on loans made to reservists called to active duty. H.R. 902 would extend the coverage of the 1940 law, making it applicable to Small Business Administration loans.

American soldiers called to active military duty should not have to worry about defaulting on their SBA loans, but instead should be able to devote their full attention to the war. Surely, our success in the Persian Gulf demonstrates the importance of a clearly focused and directed effort.

H.R. 902 would help to ease the financial burden back home for those soldiers who so ably served their country in the Persian Gulf. I urge my colleagues to assist the brave men and women of Desert Storm by voting for the Small Business Desert Storm Relief Act.

Mr. LAFALCE. Madam Speaker, I yield 3 minutes to the gentleman from Missouri [Mr. Skelton].

Mr. SKELTON. Madam Speaker, I rise in support of this measure.

Madam Speaker, I take particular note to thank the committee chairman, the gentleman from New York [Mr. LaFalce], for this excellent piece of legislation. I also commend and thank our friend, the gentleman from Florida [Mr. Ireland], for his strong support and for his forceful statement a few moments ago.

Back in Missouri, as all across our country, we see signs saying, "Support Our Troops." Our chairman, the gentleman from New York [Mr. LaFalce], has put this into active legislation to the point where we are supporting our troops.

As was mentioned a few moments ago, I have a portion of this bill, as my friend, the gentleman from North Carolina [Mr. Lancaster], has a portion of the bill. I will speak about that portion which I have put forward.

I would be remiss if I did not mention the fact that the gentleman from South Carolina [Mr. Spratt] is the originator of this idea. Though it was modified somewhat, I do wish to thank him for his creativity and his thought and his assistance in this regard.

The particular part of the bill which I refer to would create a new class of injured people who are eligible for loans from the disaster loan fund, but it would make such funds authorized subject to the appropriation process. In order to be eligible, someone must be a reservist, someone must have been called to active duty for Desert Storm or Desert Shield for 180 days or more, who individually or collectively owns 51 percent of the business and who individually or collectively runs the day-to-day operations of that business, and whose business was injured due to the deployment with the armed services as a reservist; further, that this individual would be unable to obtain credit elsewhere, and that the loan is in an amount not to exceed $50,000.

According to the Department of Defense, we have over 200,000 reservists who have been called up for active duty and who had to leave behind their families, their homes, their jobs, and in many instances the small business which they run.

The situation we want to address is one where a reservist answers his country's call and is returning now to a business that may now be on the ropes. One can imagine how disruptive that must be to a small business when the owner-operator, the one with his or her name on the door, the driving force behind that small business, is gone for 6 months or more. But now their business is in trouble, and they cannot get the help they have come to expect as returning soldiers. Perhaps they have never borrowed money before and, therefore, have no established banking relationships, or perhaps their local lender or leaseholder or supplier is not in a good enough financial position to forebear. For whatever reason, the reservist who owns that small business may need just enough help to tide him or her over until that business is running smoothly again.

Madam Speaker, the amendment I have put forward simply gives the President and the Small Business Administration the tools to offer that help. I again congratulate the chairman of the committee and the ranking minority member for their support.

Mr. IRELAND. Madam Speaker, I reserve the balance of my time.

Mr. LAFALCE. Madam Speaker, I yield 3 minutes to the gentleman from North Carolina [Mr. LANCASTER].

Mr. LANCASTER. Madam Speaker, I rise today in strong support of H.R. 902, the Desert Storm Small Business Loan Relief Act. I commend the chairman of the Small Business Committee for his efforts in trying to come to the aid of the often forgotten casualties of our war in the Persian Gulf and I thank the new ranking minority member for his assistance and support. The casualties I am speaking of are small businesses, the backbones of our Nation's economy, who have been literally devastated by the deployment of troops to the Persian Gulf.

As we have proven decisively, our troops were extremely well prepared for the rigors of their assignment. Clearly, though, we did not prepare our military communities for battle. Ironically, the communities which have so faithfully supported our troops in peacetime have now become casualties of war.

I am, therefore, Madam Speaker, urging my colleagues to help provide essential relief now, in the wake of Operations Desert Shield and Desert Storm. The House Small Business Committee unanimously approved this legislation before us today, which would provide disaster loan assistance to communities particularly hard-hit by the deployment of large numbers of military personnel and assistance to businesses devastated by the loss of a key person, who was a reservist or guardsman called to active duty.

Included in the bill is a carefully drawn section I have added which is designed to provide relief in the form of small loans for businesses in those nine communities which have been most severely hit by the deployment of our troops. Specifically, these are areas which are totally dependent on the military bases for economic stability. In order to apply for this one-time disaster loan relief, a business must be located in a community where the military bases in the area have deployed at least 10,000 individuals comprising at least 60 percent of the personnel on base.

Jacksonville, NC, is a prime example of such a casualty of war. Jacksonville is a town of 25,000 people and Onslow County has approximately 120,000. Camp LeJeune, the military base on which the community is dependent, has a population of about 45,000 troops. When the U.S. military was mobilized, 37,000 of these troops were deployed to the Persian Gulf. That's 37,000 men and women out of 45,000, Madam Speaker, over 75 percent. The numbers are mind boggling.

I realize that such a loss to a community is hard to imagine Madam Speaker, yet it has struck two communities in North Carolina alone. Our economies, and the economies of the other seven communities around the United States who face similar overwhelming statistics, have been devastated.

Referring to the war in the gulf, President Bush has said "this war is now behind us." But though the battlefield now lies silent and our troops are beginning to come home, the war is not yet behind us. It is not yet behind those communities which have been economically devastated by the conflict. The troops are returning to battle—worn economies. Thus our efforts to respond to the needs of those communities must continue.

Madam Speaker, I ask the Members to support H.R. 902.

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Mr. LAFALCE. Madam Speaker, I yield 3 minutes to the distinguished gentleman from Mississippi [Mr. MONTGOMERY], the chairman of the Committee on Veterans' Affairs.

Mr. MONTGOMERY. Madam Speaker, I rise in support of H.R. 902, the Desert Storm Small Business Loan Relief Act. The provisions of this bill are similar to a more comprehensive small business loan program for veterans contained in H.R. 908, an appreciation benefits package I introduced several weeks ago. One of the biggest problems our citizens-soldiers are going to find out is getting their jobs back or saving their small businesses. This legislation will help.

H.R. 902, Madam Speaker, would make a minor change in the loan relief provisions of the Soldiers' and Sailors' Civil Relief Act, a matter within the jurisdiction of the Committee on Veterans' Affairs. It would extend the protections under the act to Small Business Administration loans to joint borrowers, so long as one is a member of the Selected Reserve called or ordered to active duty. That protection is not available under current law.

Certain partnerships and corporations would also be assisted under this measure if they have experienced a 25-percent reduction in income because the principal owner, manager, or key employee is a selected reservist called to active duty.

Also included in H.R. 902 is a provision which would grant loan relief, subject to appropriations, for direct and guaranteed SBA loans. Additionally, the measure authorizes $25 million in new loans to reservists and guardsmen who, after their separation from active duty, need working capital to reestablish their small businesses.

Madam Speaker, calling National Guardsmen and reservists to active duty can have an adverse impact on the livelihood of the reservist. The very least we must do is give the men and women called to active duty the opportunity to hold on to their small business. H.R. 902 provides this opportunity.

H.R. 902 will help our reservists and their familes avoid situations such as the one described to me in a letter I recently received form Mike Jenkins of Jackson, MS. I would like to insert a copy of the letter at this point in the RECORD.

February 25, 1991.

DEAR CONGRESSMAN, As a soldier of Desert Storm I would like to share the appreciation of my fellow troops of the support that has been shown to us by our fellow Mississippians. They have not forgotten us and that has kept us going in the most difficult times.

We have some problems never thought of by the planners of the mobilization process. Or if they were they were ignored and not even mentioned. So many times when we've asked a question about a situation we were told you have to do it for the flag. Well we're here for the flag, but its my family that's suffering.

I had a small business in Jackson and was doing as well as a person could starting out. The call up came and I had some agreements still to be fulfilled. My employees finished the work, but my wife still had to close the business. It left a lot of debts and we wouldn't have the money to restart the business when I got home now. Some creditors have been hounding my wife and she has gone to the State JAG assistance program, but they have been very little help and don't seem to know what their doing. They want her to hire a private lawyer to handle the problem.

One creditor, Texaco laughed in her face when she told them about the Soldiers and Sailors Relief Program. I would like to get a loan to cover those debts and hopefully restart my business and it may be through the VA Administration. The finance people here and the JAG don't know anything they can do. The Chain of Command keeps referring to them, but they're not concerned about traditional guardsman problems. If you could, please send me some information or send it to my wife. Any information or assistance that you can give will be greatly appreciated.

Again I wish all I could tell you was how appreciative of the support and what a terrific job the troops are doing. But I'm in really a difficult situation and any help you can give will be appreciated.

SFC MIKE JENKINS,
112 MP BN. USA.

Madam Speaker, I wholeheartedly support the bill we consider today, but more should be done.

Last year I cosponsored H.R. 5616, a measure introduced by Mr. McDADE, to assist and promote the creation, development, and growth of small businesses owned by veterans. Earlier this month Mr. McDADE introduced a similar bill, H.R. 1404, and I am again a cosponsor, as is TIM PENNY, chairman of the Subcommittee on Education, Training and Employment. H.R. 1404 would authorize the SBA to guarantee bank loans to veteran-owned small businesses and establish a goal of awarding 5 percent of Federal procurement to small businesses owned by veterans. Chairman PENNY is expected to conduct hearings on this more comprehensive bill within the next few weeks.

I believe it is in the national interest to enhance, support, and increase the number of small businesses owned and operated by veterans. Veterans have proven their commitment to our Nation and demonstrated their ability to get the job done. They are steady, reliable, and responsible, and we must do what we can to provide them equal opportunity to participate fully in our country's free enterprise system.

I commend the distinguished chairman, Mr. LA FALCE, and ranking minority member, Mr. IRELAND, and all members of the Committee on Small Business for developing and bringing to the floor H.R. 902.

I also want to commend the very able ranking minority member of the Appropriations Committee, and former ranking minority member of the Small Business Committee, Mr. McDADE, for the leadership he has provided for the past several years in assisting our Nation's veterans in gaining access to programs administered by the Small Business Administration.

I urge my colleagues to support the bill.

Madam Speaker, this is a good bill. It was in our package earlier. The chairman and the minority member felt that we got into some of their jurisdiction. I certainly understand that. They are getting into some of our jurisdiction today. We are not complaining. I hope all Members support this legislation.

Mr. LaFALCE. Madam Speaker, I thank the distinguished gentleman from Mississippi [Mr. MONTGOMERY]. We are always delighted to have his full support. We try to reciprocate.

Madam Speaker, I yield 3 minutes to the distinguished gentleman from Virginia [Mr. OLIN].

Mr. OLIN. Madam Speaker, I rise in support of H.R. 902, the Desert Storm Small Business Loan Relief Act. This bill, sponsored by the distinguished chairman of the Small Business Committee JOHN LaFALCE, is needed to correct problems created by the deployment of troops to the Persian Gulf.

The success of our troops during the recent war demonstrates the wisdom of the all volunteer military backed-up by well-trained reserves. While this policy is a military success, problems have been created for the business community. Last Wednesday, the Small Business Subcommittee on Environment and Employment, which I chair, held a hearing on the effect of the deployment of active duty personnel, reservists, and members of the National Guard on small businesses.

During the hearing, we heard testimony describing a number of problems that have developed. Perhaps the most moving was that of Mrs. Carolee Ploof, who's husband was deployed as a member of the Vermont National Guard. Mrs. Ploof is working around the clock to keep her husband's excavation company in business and to keep her own job as the manager of a florist shop. She works every day, and operates a dump truck on the weekends.

Another reservist, Mr. David Lough, is flying C–141 cargo planes to and from the Persian Gulf while attempting to keep his real estate firm operating.

A different problem occurs around areas where small businesses are dependent on nearby military bases. These businesses provide important services for the troops. When the troops left, the firms lost their main source of income and now face economic disaster. This problem can be found near Fort Stewart, GA; Fort Campbell, KY; and Camp Lejeune, NC, as well as other areas.

I do not want to leave the impression that the people facing these problems are complaining—they are not. During the hearing we found that those deployed with the reserves or National Guard remained eager to serve. Their families, struggling to keep businesses going, are proud of their loved ones in the gulf. The businesses near military bases remain committed to the troops. All they are asking for is a little help to get back in business now that the war is over.

I think it is important that we take steps to help these businesses and those reservists who served. Also, I think it is equally important that the steps we take are cost effective. H.R. 902 deals very effectively with these issues.

It extends the type of loan relief available under the Soldiers' and Sailors' Civil Relief Act to Small Business Administration loans where a principal owner, manager, or key employee has been called to active duty. Also, the bill authorizes $25 million in new loans for reservists and members of the National Guard who return from active duty and need working capital to reestablish their businesses. In addition, another $25 million is authorized in emergency loans to businesses near military bases that have suffered economic hardship as a result of this deployment.

Finally, the bill allows the SBA to use disaster field offices to process the loans, which will help reduce redtape.

As I understand the bill, most of the funds authorized will come from existing disaster loan funds controlled by SBA. If other spending is required, it will be subject to the normal appropriating process and the deficit reduction agreement.

It certainly was not anyone's intention that people be financially wiped out for serving their country. H.R. 902 is a good, cost-effective solution to the business problems created by the Persian Gulf deployment. I commend Chairman LaFALCE for sponsoring the bill, and I urge my colleagues to support it.

Mr. LaFALCE. Madam Speaker, might I inquire how much time I have remaining?

The SPEAKER pro tempore (Mrs. UNSOELD). The gentleman from New York has 6 minutes remaining.

Mr. LaFALCE. Madam Speaker, we have heard from members of the Small Business Committee, and we have heard from members of the Committee on Veterans' Affairs. I now yield 2 minutes to the gentleman from Texas [Mr. EDWARDS]. Although not a member of the committee, the gentleman worked diligently with the gentleman from New York [Mr. MARTIN], the gentleman from North Carolina [Mr. LANCASTER], and myself, especially on behalf of those provisions that can be extremely helpful to the people from Fort Hood, TX.

Mr. EDWARDS of Texas. Madam Speaker, many Americans made sacrifices in our Persian Gulf war effort. It was a great example of national unity and commitment for a just cause. I think it is appropriate today that we recognize the real sacrifices in that effort made by communities across our Nation, communities such as Killeen, Harkers Height, Copperas Cove, and others, in my area of Texas.

Madam Speaker, as neighbor cities to Fort Hood, these and other communities overwhelmingly supported our Nation's effort. They supported our troops and their families with volunteer efforts. Having patriotically supported our country's war effort, these communities now find themselves with vacant apartments, bankrupt businesses, lower home values, and businesses struggling to survive. By trying to provide the very services that the Army wants its soldiers to have and their families to have available, Fort Hood area businesses are now devastated, because 25,000 troops from that area left to do their duty in the Persian Gulf.

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These communities and many like them throughout the country do not ask for sympathy or handouts. What they do need and what they do deserve is the availability of SBA loans for businesses devastated by the loss from troops temporarily sent to the Persian Gulf.

I want to commend Chairman LAFALCE and Congressman LANCASTER and others for their strong leadership in seeing that these partners in our war effort are treated fairly and helped as we bring our troops back home and get these communities back to normalcy.

Madam Speaker, these communities are partners in our Nation's defense effort. They played their role in our war effort. Now is the time for us to keep this partnership alive, and with this bill we can see that these communities stay healthy so that our returning troops and their families can continue to live in the kind of communities that they deserve to have.

Mr. SPRATT. Madam Speaker, I rise in support of H.R. 902, the Desert Storm small business loan relief bill. This bill gives needed relief to small businesses adversely affected by the Persian Gulf deployment.

H.R. 902 addresses the range of problems that were graphically described in a hearing held March 13, 1991, by the Committee on Small Business, Subcommittee on Environment and Employment. During that hearing, we received testimony from Members of Congress describing the effects of the deployment on reservist-owned small businesses and on small businesses that rely on business from military communities. There is no way these small businesses could prepare for the effects of this deployment. Jacksonville, NC, a community of 25,000 people relies on Camp LeJeune, a military base with 45,000 troops. Seventy-five percent of the troops stationed in Camp LeJeune were mobilized last August. The first district of Georgia relies on business from Fort Stewart. When 16,000 troops were mobilized from Fort Stewart last August, the small businesses in that area were devastated. The problem was compounded when 25 percent of the military families also left the Fort Stewart area. To illustrate, consider that apartment vacancy rates jumped from 4 percent to 40 percent in the first month. H.R. 902 addresses the problem of communities that are so affected and establishes criteria for determining if the damage is due to the deployment of military troops. It lays down strict requirements for the providing of relief from current SBA loans and the granting of new SBA loans.

H.R. 902 also addresses the problem of small businesses owned by reservists. My testimony submitted to the Small Business Committee described the effects of the deployment on reservists who own and manage small businesses or small farms. Eleven percent of enlisted reservists own small businesses, as do 13 percent of reserve officers. The Small Business Administration has attempted to help these families through counseling programs, but there are many businesses that need more substantial help. In my testimony I gave examples of businesses that are in this situation. The examples included a small farm in North Dakota, an independent tax consultant in Pennsylvania, a contractor in Pennsylvania and a small manufacturing business in South Carolina. Testimony during the hearing held on March 13, 1991, included personal statements from Mrs. Carol L. Ploof of East Middlebury, VT, and Maj. David Lough of Fredericksburg, VA. Mrs. Ploof works at a florist shop and her husband recently started an excavation company. Her husband, a member of the Vermont National Guard was deployed to the gulf. Mrs. Ploof is now at the point where she is considering giving up her job in a floral shop to run her husband's excavation business. She has learned to operate the heavy machinery and is determined to keep his business afloat, no matter what effort is required of her. Major Lough is a real estate broker who has been forced to close down one of his offices since there is a legal requirement to have a licensed broker present in the office and he has been deployed to fly C–141 transport aircraft in support of Desert Shield/Desert Storm. During their testimony these two people expressed their support of their country and their pride in participating in the effort to free Kuwait. They did not ask for special handouts nor do they expect them. However, their testimony drives home the fact that the total force concept has affected their livelihoods. We have an obligation to help these people because of the service they render our country. I am pleased that the Small Business Committee has seen fit to report H.R. 902, and I am proud to speak in support of it.

Mr. RAMSTAD. Madam Speaker, I rise today in support of the Small Business Desert Storm Relief Act.

The men and women of our Armed Forces did more than risk their lives in Operation Desert Storm. When called to active duty and sent to the Persian Gulf, these individuals were forced to pick up, and leave their financial commitments behind.

Many of these individuals had to close down their businesses, not knowing when they were coming back home, but realizing they would still be held accountable for paying their bills.

Entire communities were significantly impacted by large troop deployments. In some cases, the population of entire counties were reduced by 25 to 40 percent. While the troops were away, small mom and pop businesses such as restaurants, laundromats, and even gas stations were forced to close.

Congress has already postponed most tax filing requirements for our troops, but we need to go further. This is a significant and very important step to show we really do back our troops. We also need to provide financial assistance to the small business servicemen and women who were called to duty in Operation Desert Storm.

I am pleased to be an original cosponsor of this legislation. Our Small Business Committee passed it quickly and unanimously. This is a great credit to our distinguished chairman, Mr. LAFALCE, and the distinguished minority member, Mr. IRELAND.

Though the fighting may be over, we cannot simply offer our thanks for a job well done. Our troops need to know we will do more than welcome them home with parades and flag-waving rallies. They need to know we will help them meet their financial obligations they incurred as civilians.

I ask my colleagues to join with me in support of this legislation and send a clear message that we continue to support our troops.

Mr. PACKARD. Madam Speaker, I rise in support of the passage of H.R. 902, the Desert Storm Small Business Relief Act. This legislation will provide much needed relief to the owners of small businesses who were called to duty in the Persian Gulf. Federal law requires companies to protect the jobs of employees who are called into military service. The Federal Government should offer similar protection to independent business owners and managers.

Madam Speaker, I would particularly like to commend the gentleman from North Carolina [Mr. LANCASTER] for his efforts on behalf of small businesses in the communities which support our largest military facilities. I also would like to thank the gentleman from New York, chairman of the Committee on Small Business [Mr. LAFALCE], and the gentleman from Florida, the ranking minority member of the committee [Mr. IRELAND], for their cooperation and responsiveness to the concerns raised by Mr. LANCASTER and others, myself included.

Mr. LANCASTER's language will be very important to the small businesses in my district. The 43d District of California contains Camp Pendleton, home of the 1st Marine Division. Economic life in many of the cities in my district, most notably Oceanside, ground to a halt as thousands of marines left to take their places in the front lines of operation Desert Storm, and their loved ones left southern California to stay with close family members until the 1st Division's return.

Madam Speaker, the Lancaster provision, like the other provisions in this bill, will not be costly. There is a $50,000 loan cap on the loans in H.R. 902. The Small Business Administration will insure that loans will be made only when these businesses have nowhere else to turn for credit and when they demonstrate the ability to repay the loan. I urge my colleagues to support H.R. 902.

Madam POSHARD. Madam Speaker, as a cosponsor of H.R. 902 I rise in strong support of this bill and ask my colleagues for their support.

This bill is part of our effort to recognize the sacrifice of Americans across this country when they were called to participate in Operation Desert Storm. In some cases these men and women left behind profitable businesses that have not quite been the same without them. This bill provides modest financial assistance to those operations until they can return to their former status.

It also reaches a helping hand to businesses at or near large military installations that sent huge numbers of troops overseas. Those business people have gone without a majority of their customers for quite some time, and they too need some help making ends meet until things return to normal.

This is not extra spending for the American taxpayers. This is a loan program, at interest rates that will allow the borrowers to repair their businesses and continue contributing to the well-being of their communities.

The Small Business Committee has quickly but thoroughly examined this legislation and reported it to you today with a unanimous recommendation. I believe it is a modest but reasonable approach to assist our small business, the backbone of the American economy, and to again say our thanks to the men and women of Operation Desert Storm.

Mr. IRELAND. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LAFALCE. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. UNSOELD). The question is on the motion offered by the gentleman from New York [Mr. LAFALCE] that the House suspend the rules and pass the bill, H.R. 902, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LAFALCE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include therein extraneous matter, on H.R. 902, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

DEPLORING THE RELEASE OF MILLIONS OF GALLONS OF OIL INTO THE PERSIAN GULF

Mr. HAMILTON. Madam Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 57) deploring the release of millions of gallons of oil into the Persian Gulf and declaring that Saddam Hussein and Iraq should be held legally, morally, and financially accountable for this cruel act against the environment, as amended.

The Clerk read as follows:

H. CON. RES. 57

Whereas the release of millions of gallons of oil into the Persian Gulf will have a devastating impact on the wildlife and marine life of the Gulf region and endangers the water supplies of several Gulf states;

Whereas the deliberate torching of more than 500 oil wells in Kuwait has created severe atmospheric pollution; and

Whereas Saddam Hussein is responsible for the degradation of the environment: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) deplores Saddam Hussein's vicious attacks against the environment in releasing millions of gallons of oil into the Persian Gulf and torching hundreds of oil wells in Kuwait; and

(2) declares that Saddam Hussein and the current Iraqi regime should be held liable under United Nations Security Council Resolution 686 (1991) for the costs resulting from these deliberate destructive acts, including—

(A) the costs of containment incurred by any nation,

(B) the clean-up costs incurred by any nation,

(C) the costs of restoration of the natural resources, and

(D) Any other costs associated with these environmental catastrophes.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. HAMILTON] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. HAMILTON].

Mr. HAMILTON. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in strong support of House Concurrent Resolution 57, as amended. This resolution deplores the release of millions of gallons of oil into the Persian Gulf and declares that Saddam Hussein and Iraq should be held legally, morally, and financially accountable for this cruel act against the environment.

I want to acknowledge the very strong leadership of the gentleman from Florida [Mr. GOSS] on behalf of this resolution. I commend him for his sponsorship of this timely resolution and his attention to this issue.

Madam Speaker, I also want to speak a word of commendation to the gentleman from Pennsylvania [Mr. YATRON] for his strong support and cosponsorship of the resolution.

The Committee on Foreign Affairs considered this resolution last week, amended it, and voted it out by voice vote. The resolution, as amended, is supported by the administration.

This resolution is an appropriate expression by the Congress of its view that those who perpetrate acts of environmental damage should be held responsible for cleaning it up.

I wish to point out to the supporters of this resolution and I am among them, that if Iraq is going to be held responsible for environmental damages, Iraq will have to be allowed to export oil to earn the money necessary to pay for that environmental cleanup.

I urge my colleagues to support House Concurrent Resolution 57, as amended.

Mr. BROOMFIELD. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, this resolution, which deplores Iraq's use of environmental warfare and declares that Iraq should be held responsible for it.

In the course of defending their illegal occupation of Kuwait Iraqi forces were ordered to attack the environment itself in order to slow down allied military advances. Iraqi forces took actions which resulted in the release of milions of barrels of oil into the Persian Gulf. Prior to retreating from Kuwait, they also set afire several hundred oil wells.

At present, no one can say what environmental effects these actions will have. Large quantities of oil have come ashore on the Saudi and Kuwaiti coasts, including marshes and reefs that are the home of many wildlife species. The burning oil wells have produced concentrations of toxic gases and are pouring countless tons of smoke and soot into the atmosphere.

These actions were unprecedented in the history of warfare. As the administration continues to address the issues resulting from the war—including reparations and war crimes—consideration must be given to how to include deliberate damage to the environment.

The present resolution deplores these acts against the environment which were ordered by Saddam Hussein and his military government in Iraq. It also declares that the Iraqi Government should be held liable for those acts in accordance with United Nations Security Council Resolution 686.

Madam Speaker, I wish to commend the chief sponsor of the resolution, the gentleman from Florida [Mr. GOSS], for his work in bringing this important issue to the floor of the House of Representatives.

I also thank Chairman FASCELL for his support for the resolution. Credit also goes to the chairmen and ranking members of the two subcommittees of jurisdiction, Congressmen HAMILTON, GILMAN, YATRON, and BEREUTER.

This resolution is supported by the administration, and in fact is the first legislative action that the administration has accepted on the subject of liabilities for the Persian Gulf war. I'm sure all Members of this House will give it their strong support.

Madam Speaker, I yield the balance of my time to the gentleman from Florida [Mr. GOSS] for the purposes of managing the balance of the time on the minority side.

Mr. GOSS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I thank my colleagues for allowing me the opportunity to address them and ask their support for this amended House Concurrent Resolution 57, a measure which deplores Saddam Hussein's ruinous degradation of the Kuwaiti environment and surrounding Persian Gulf region.

Before getting into my remarks, I wish to express my thanks also, my deep thanks to the many people and many staffers who made this possible.

Chairman FASCELL and ranking member BROOMFIELD of the Foreign Affairs Committee certainly made it all work out as we went through the process of something that had not been tried before. They were flexible and supportive and I appreciate that. Chairman HAMILTON and ranking member GILMAN of the Subcommittee on Europe and the Middle East, the appropriate geographic subcommittee, also bent over backward to help make this work and come to the floor and to the attention of the Members of the House at a very, very timely moment. And of course Chairman YATRON and ranking member BEREUTER of the Subcommittee on Human Rights and International Organizations, which is also cosponsoring with us today, deserve a tremendous amount of credit. One other Member who helped me and shared in this very much is my own ranking leader of the Subcommittee on Western Hemisphere Affairs, the gentleman from California [Mr. LAGOMARSINO], who I think will have something to say on this a little while later.

Paramount, of course, is our concern over the loss of human life and the cruel treatment of hostages and innocent civilians brought about by Saddam Hussein's selfish grab for power. But this does not diminish our outrage over the environmental holocaust he has instigated. To most of us here today, the brief accounts we've been getting of viscous sludge enveloping the shoreline and billowing charcoal clouds blocking any glimpse of the Sun seem to belong to the world of the surreal; however, for the people living there, it is real, and it is tragic, and it is needless. It will be years before the Persian Gulf region recovers from the nightmare of Saddam's atrocities. Personal accounts from visitors to the region express spontaneous amazement and anger; amazement about the totality of the devastation and anger in knowing such devastation is the willful and malevolent consequence of one man's warped desire for power.

The intentional dumping of millions of gallons of oil into the gulf waters and the torching of hundreds of Kuwaiti oil wells must be fully accounted for. These are environmental catastrophes of vast proportions. These are deplorable acts that threaten the health, welfare, and economic viability of the region. A recent count showed 700 of Kuwait's 950 oil wells were on fire and approximately 84 million gallons of oil were to be cleaned up.

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At this point, there are so many unanswered questions regarding these disasters, it is practically impossible to calculate the costs involved. However, it is safe to say they will easily soar into the millions. In addition to the necessary cleanup and restoration projects, we cannot forget the potential health hazards of pollutants released from the burning wells, or the contamination of water desalinization plants by lingering oil slicks. Nobody really yet knows what the dollar consequences will be to agriculture or to marine commerce. Nobody can yet accurately predict a waste of natural resources figure, but it will be high when it arrives.

The outrage against Hussein and public demands for accountability for these acts of unprovoked environmental degradation continue to grow. This resolution recognizes this public sentiment. Whereas United Nations Resolution 686 expresses that Saddam Hussein and the current Iraqi regime should be held liable for "any loss, damage or injury arising in regard to Kuwait and third states," this resolution, which has the support of the State Department and OMB, and, I understand, their boss, because I believe the President of the United States has spoken within the last 24 hours to this, clearly spells out that this liability should apply to the environmental costs as well. We cannot turn back the clock and somehow wish these terrible events away. It is up to the world community to ensure that Saddam Hussein is made responsible for his rape of Mother Nature—and we must send an unquestionable message to other would-be aggressors that such unspeakable acts will not be tolerated. I urge my colleagues' support.

Madam Speaker, I yield 3 minutes to my colleague, the gentleman from New York [Mr. GILMAN], the ranking member of the subcommittee to whom I previously referred.

Mr. GILMAN. Madam Speaker, I thank the gentleman for yielding me this time.

Madam Speaker, I am pleased to rise to lend my strong support to House Concurrent Resolution 57, condemning the release of millions of gallons of oil into the Persian Gulf by Saddam Hussein and the Iraqi Army. I would also like to take this opportunity to commend the gentleman from Florida [Mr. GOSS] and the gentleman from California [Mr. LAGOMARSINO] for their dedication to our environment and hard work on this important measure.

The environmental consequences of the worst oilspill in history, combined with over 800 oil wells currently burning out of control cannot be estimated. At a minimum, the ecosystem of the Persian Gulf region has been disrupted and possibly destroyed. Any environmental recovery will take several decades and billions of dollars both in direct cleanup costs and indirect costs through the destruction of agriculture and fishing.

Most importantly, this resolution urges the U.N. Security Council to hold Saddam Hussein and Iraq financially responsible for these costs through war reparations and any other effective and acceptable measure. By holding Saddam Hussein responsible, we will be sending a clear message to other dictators that such actions will not be tolerated.

Let us not forget that while the immediate effect of the oilspill and massive air pollution from the burning wells have affected only the fish and birds in the gulf, it is only a matter of time when the enormous costs of this disaster begin to be paid in terms of lower harvests of fish and acid rain falling throughout the region.

As we support this resolution, our thoughts and prayers have been and will continue to be with our brave men and women of our Armed Forces serving our Nation in the Persian Gulf, dedicated to bringing freedom to the people of Kuwait. Now it is our turn to make certain that the freedom they fought for so valiantly will not be tainted should Saddam Hussein's environmental crimes go unpunished.

Mr. GOSS. Madam Speaker, I yield 4 minutes to my colleague, friend, and associate who helped make this possible, the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Madam Speaker, I thank the gentleman for yielding me this time.

Madam Speaker, I rise in strong support of House Concurrent Resolution 57, the resolution our colleague PORTER GOSS introduced along with me in condemning the intentional release of millions of gallons of oil into the Persian Gulf by Saddam Hussein.

Earlier last month, I along with PORTER GOSS and others introduced House Concurrent Resolution 55, which similarly condemns this act of ecoterrorism by Saddam Hussein and holds Iraq 100 percent responsible for the economic losses, environmental damages, and cleanup costs associated with this outrageous oilspill.

This oilspill, which is estimated to be far greater in magnitude and potential damage across the board than the infamous spill in Alaska's Prince William Sound, threatens wildlife, plant life, fishing and aquaculture industries, water desalinization plants, and the ecological future of the entire gulf.

Saddam Hussein's reckless actions had little, if any, military value. By threatening water supplies and economic livelihoods, this oilspill especially hurts the working class Arabs throughout the gulf that Saddam Hussein claims to represent and claims to want to liberate. By threatening the gulf waters and the plant life and wildlife that inhabits it—including rare species like the dugong, a relative of Florida's manatee, sea turtles, birds and dolphins, among others, Saddam Hussein is really targeting the environmental heritage and future of the region. As we have witnessed by so many other of his actions in Kuwait, Iran, and inside Iraq, Saddam Hussein is clearly a destroyer, not a liberator.

I want to take this opportunity to thank Congressman DANTE FASCELL, the chairman of the Foreign Affairs Committee, who as a representative of a southern Florida coastal district shares our concern about our oceans, for bringing this issue up before the full committee in a timely manner. During the committee markup, we incorporated some improvements suggested by the State Department as well as the key provisions of my resolution, House Concurrent Resolution 55, into the measure before us today. We have a good, solid resolution that is supported by the administration and has been cosponsored by many of our colleagues on both sides of the aisle representing the full spectrum of political views in this Congress.

Sadly, the consequences of Saddam Hussein's intentionally reckless actions did not end with the liberation of Kuwait. Hundreds of oil wells are still burning in Kuwait and pumping vast amounts of pollution into the air, literally turning day into night and depositing soot everywhere, particularly in the lungs of innocent people. The Kuwaiti Ambassador tells me 1 million barrels a day are being burned. While international efforts, including an interagency team led by the U.S. Coast Guard, have tried to clean up the oilspill in the gulf, deadly pollution still exists and in some cases is settling to the bottom of the gulf suffocating all it covers. These intentional actions of Saddam Hussein aimed at innocent people and our planet itself are nothing more than terrorism in its most vile form. They underscore the type of inhuman dictator Saddam Hussein really is.

I believe this resolution sends an important signal to Iraq and the rest of the world that we will not ignore Saddam Hussein's deliberately destructive ecological terrorism. This resolution declares that Saddam Hussein and the current Iraqi regime should be held liable under U.N. Security Council Resolution 686, 1991, for all costs to any nation including containment, cleanup, restoration of natural resources, and any other costs associated with these environmental catastrophes. Iraq caused this mess and Iraq is responsible for fully cleaning it up.

I hope that strong action by the United States and the United Nations in response to this disaster will serve as a deterrent to any future tyrant contemplating ecoterrorism. The bottom line is ecoterrorism does not pay and ecoterrorists will be held accountable.

Again, I want to thank PORTER GOSS for his leadership and working with me on this critical issue. Representing an environmentally sensitive part of California's coast and witnessing the tragedy of an oilspill first hand in 1969 in Santa Barbara, this issue is of great importance to me. I urge my colleagues to join me in passing House Concurrent Resolution 57.

Ms. PELOSI. Madam Speaker, I rise today in support of House Concurrent Resolution 57, condemning the Government of Iraq for its use of environmental terrorism during the Persian Gulf war.

On January 12, as Congress considered whether or not to authorize the use of force in the gulf, I raised, in addition to questions about the human costs of war, the issue of war's effect on the environment. Sadly, much of what was warned against has come to pass: Today, fires destroy 6 million barrels of Kuwaiti oil each day—three times the country's normal output; smoke and soot threaten fragile ecosystems as far away as northern India; and over a million gallons of crude oil, an amount 6 times the size of the *Exxon Valdez* oilspill, blacken the beaches and wildlife habitats of gulf coastal areas. The result is an environmental legacy of war that will effect the economies of all the gulf states for decades.

Although we are aware of environmental devastation in the gulf, little is known about the long-term environmental ramifications of the war. On January 25, 17 Members of Congress sent a letter to the U.N. Environmental Programme [UNEP] urging the organization to initiate immediately a study on the environmental effects of a full-scale war in the gulf. More recently, 13 of us called for congressional hearings on the issue. It is imperative that we ascertain the environmental damage to the gulf area, so that the international community can move quickly to mitigate this environmental disaster.

During the months that led up to the war, the President spoke repeatedly of the need to restore peace and stability in the Persian Gulf. Today, massive environmental destruction threatens the economic stability of the entire gulf region and parts of south Asia. Immediate action is required to restore the environmental quality of the gulf and to enact international mechanisms for preventing the use of environmental terrorism in future conflicts.

I urge my colleagues to vote for this resolution and to support further efforts to protect our environment from all ravages of war.

Mr. YATRON. Madam Speaker, I rise in strong support of House Concurrent Resolution 57. This resolution deplores Saddam Hussein's vicious attacks against the environment including the release of millions of gallons of oil in the gulf. I want to commend Congressman GOSS and Congressman LAGOMARSINO for their leadership in sponsoring this measure. I also want to recognize the outstanding efforts of Chairman FASCELL, and Congressmen HAMILTON, BROOMFIELD, GILMAN, and BEREUTER on this most critical matter.

The resolution calls for the Iraqi Government to pay all costs associated with this massive cleanup. These costs would be consistent with U.N. Security Council Resolution 686 which holds the Iraqi Government liable for this environmental disaster.

The Foreign Affairs Committee passed House Concurrent Resolution 57, after adopting an amendment in the nature of a substitute offered by Mr. GOSS. The substitute further clarifies some of the horrible environmental misdeeds deliberately perpetrated by Saddam Hussein and incorporates some suggestions of the administration.

Madam Speaker, it is now clear that the environmental damage caused by Saddam Hussein will have long-term, devasting effects. To allow such despicable tactics to go unaccounted for would be a gross injustice and would invite future dictators to wage similar atrocities.

Madam Speaker, I ask all my colleagues to support House Concurrent Resolution 57, as amended.

Mr. GOSS. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HAMILTON. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. UNSOELD). The question is on the motion offered by the gentleman from Indiana [Mr. HAMILTON] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 57, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The title was amended so as to read: "Concurrent Resolution deploring the blatant destruction of the environment in the Persian Gulf region, and declaring that Saddam Hussein and the current Iraqi regime should be held liable under United Nations Security Council Resolution 686 for these cruel acts against the environment.".

A motion to reconsider was laid on the table.

☐ 1440

GENERAL LEAVE

Mr. HAMILTON. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Concurrent Resolution 57, as amended, the concurrent resolution just agreed to.

The SPEAKER pro tempore (Mrs. UNSOELD). Is there objection to the request of the gentleman from Indiana?

There was no objection.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Kalbaugh, one of his secretaries.

INTRODUCTION OF THE PUBLIC INTEREST RISK ALLOCATION ACT OF 1991

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas [Mr. GLICKMAN] is recognized for 5 minutes.

Mr. GLICKMAN. Madam Speaker, I am pleased to introduce today the Public Interest Risk Allocation Act of 1991. I take great pride in announcing that this important legislation is cosponsored by my good friend and the ranking minority member of the House Judiciary Committee, HAMILTON FISH. We recognize the importance of the private sector in providing high-risk services to the Federal Government and hope that this bill can move forward to provide a fair allocation of the risks involved.

BACKGROUND

The design professional firms that provide architectural and engineering [A–E] services to the Federal Government share a sense of alarm and frustration at the escalating liability exposure they are asked to assume under Federal contracts for activities that have a substantial risk of injury. Under current Federal law, the indemnification protection available to the design professional is extremely limited. This statement outlines the nature of the risks, the key elements of this bill that is a response to deal with those risks, and the benefits-disadvantages to the public and industry that accompany such a response.

I. NATURE OF UNACCEPTABLE RISKS

Madam Speaker, the Federal Government has a need for and requires the assistance of design professional firms to address activities that have a substantial risk of injury. These activities include safety inspections, bridge inspections, asbestos removal, hazardous wastes, mixed wastes, testing, evaluation, et cetera. While contracting for design professional services to address the technical aspects of these activities that have a substantial risk of injury, the Government fails to address the risk-sharing and public safety aspects of the responsibilities which the contractor is asked to assume. Without adequate protection, the Government leaves the contractor significantly exposed to catastrophic loss and the public with severe apprehension with respect to the ability of victims to recover from contractors who perform the work assigned in the event of such a loss. Failure to provide a reasonable limitation on liability through an indemnification provision will result in further erosion of the contractor base. In the past 10 years, there has been a significant decline in the participation of responsible contractors in Federal activities that have a substantial risk of injury. As a result, the contractors who remain in the available pool will tend to be those with few assets who simply count on their ability to declare bankruptcy to avoid liability in the event of a disaster or catastrophic loss. The impact on the public is enormous.

In certain limited circumstances, the Government has recognized the need for indemnification to obtain the participation of highly skilled, technically superior contractors in selected activities that have a substantial risk of injury. For example, indemnification has been provided in legislation and implementing regulations for nuclear powerplant contractors, space shuttle contractors, military research and development contractors, Federal aviation traffic control system contractors, and selected vaccine manufacturers.

In each instance cited above, our colleagues in the Congress recognized the potential for a catastrophic loss. Members also saw the need for public confidence in the ability of the contractor to perform the contract and to develop an effective solution to meet the Government's requirements without fear of exposure of unlimited liability.

Parallel activities that have a substantial risk of injury with potential for catastrophic loss are present when a design professional is asked to perform the tasks related to the projects that have a substantial risk of injury as outlined above.

II. LIMITATION OF RISKS

To combat the reluctance of responsible design professional firms to participate in activities that have a substantial risk of injury and public fears about the consequences of catastrophic loss, the Congress must narrow the liability exposure of the design professional. This goal can be met best by a series of simple steps designed to share the risk between the design professional and the Government:

Indemnification of contractors who provide design professional services for activities that have a substantial risk of injury over the amount of reasonably priced and available insurance up to a cap of $5 billion or five times the contract value, whichever is greater.

Coverage of all defined activities that have a substantial risk of injury performed by design professionals clearly acknowledge with contract clause.

Standard: Liability standard for design professionals: claimant must establish by a preponderance of the evidence that design professional services are the proximate cause of the injury.

Statute of Repose: If suit brought within 10 years of date after public use, occupancy, or control of the project.

Exclusion: Gross negligence, intentional misconduct, or bad faith of any director, officer, or managing official.

Contractor liable for proven claims up to amount of insurance coverage—if coverage available at fair and reasonable costs. Government liable for payments under proven claims that represent differential between insurance coverage and claims up to $5 billion.

Presumption of indemnification in the absence of insurance availability at fair and reasonable price at time contract signed.

Define scope of activities that have substantial risk of injury to include design professional activities to promote, facilitate, or support human health or safety, including emergency preparedness or response, environmental protection or cleanup, health or safety regulation, and related activities if the activities involve participation in, support of or assistance to that activity, including, but not limited to, activity that constitutes conceiving, designing, planning, testing, analyzing, evaluating, advising, preparing, assembling, manufacturing, constructing, collecting, producing, combining, conducting, performing, controlling, managing, storing, transporting, supplying, disseminating, using, applying, operating, maintaining, repairing, replacing, or disposing.

III. IMPACT ON PUBLIC, GOVERNMENT, AND DESIGN PROFESSIONALS

I would now like to share with my colleagues some of the benefits and advantages to the public, to the Federal Government, and to the design professionals industry that I anticipate will derive from this act. If an indemnification bill for Federal design professionals who contract to perform services that have a substantial risk of injury is adopted, the impact on the interested parties will be significant. This impact can be summarized in the following highlights.

The public will benefit in several ways. First, there will be increased confidence in the quality of design professionals who perform activities that have substantial risk of injury with the predictable assurance that victims of a disaster will receive reasonable compensation.

Although there is a potential limitation on recovery of victims because of the cap, the $5 billion figure is high enough so that only the most catastrophic incidents might not be fully covered.

For the Government there are also enormous benefits. The improved quality of design professional firms expands the available pool and reduces potential for catastrophe. There is a limitation on Government exposure because of the cap on liability. Appropriately, the Government is required to share risk with design professional firm. Since the Government is only responsible for payment of the proven claims differential between insurance coverage and cap, any potential drain on Treasury is kept to a minimum.

From the perspective of the design professional firms the bill would remove the burden of unlimited liability. With predictable coverage identified at the time of contract award the design professional firm will have an incentive to increase its participation in activities that have a substantial risk of injury.

Design professional firms recognize that the bill leaves to the discretion of the OFPP and the contracting officer the determination of the availability of insurance coverage. This is a vast improvement over current law since it requires that contract be identified as an activity that has substantial risk of injury in contract clause prior to award.

Madam Speaker, I urge my colleagues to give careful consideration to this important measure and to join me in addressing this most serious problem for the members of the design professional community and for the public.

POST-TRAUMATIC STRESS DISORDER

The Speaker pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. JONTZ] is recognized for 5 minutes.

Mr. JONTZ. Madam Speaker, I rise today to discuss the issue of post-traumatic stress disorder among our Nation's veterans.

The most personal cost associated with war is the toll that it takes on people's lives, particularly the servicemen and women who fought and their families.

In conflicts such as World War II, Korea, Vietnam, and in the Persian Gulf as well, American soldiers have gone into battle as normal and healthy individuals, able to cope with the daily stresses of life. But many have returned adversely impacted by the combat which they experienced, some with physical scars and others with mental scars.

PTSD is a mental health condition which is a response in some soldiers of all wars to the combat they experienced. PTSD also occurs among victims of violent crime, natural disasters and other events outside the realm of normal experience.

As it pertains to combat, studies have shown that the incidence of PTSD is directly related to the intensity and frequency of combat to which a soldier was exposed. PTSD is not the result of combat exacerbating some previous problems that a soldier may have had, as is sometimes mistakenly believed.

More than 960,000—or 30 percent—of our 3.1 million Vietnam theater veterans have been affected by PTSD at one time or another, and an estimated 479,000 are still suffering from the disorder, according to the VA's own study on the readjustment of Vietnam veterans.

It is too soon to tell how many veterans and their families will be affected by the Persian Gulf conflict and the incidence of PTSD associated with it. The war was brief, combat was less severe than expected, and support for the troops has been high. Because of the vastly different nature of the Persian Gulf war, it is unlikely that 30 percent of our Persian Gulf veterans will develop PTSD, but we know that the war will produce some cases of PTSD and that it may be years before we know the full extent of its impact.

We do know today that the Persian Gulf war has already affected Vietnam veterans. Treatment professionals and readjustment counselors from across the country have reported that media coverage of the war has sparked vivid memories of combat and more symptoms of PTSD in Vietnam veterans. The homecoming celebrations, the recognition and benefits we are bestowing on Persian Gulf veterans are well-deserved, but we cannot leave a past generation of veterans forgotten.

It is important for the Congress to remember that we have an obligation to all veterans, regardless of the support which was given to the war in which they fought, regardless of their age, and regardless of the particular battles in which they served.

Vietnam veterans fought for our Nation just like Persian Gulf veterans did. They risked their lives and suffered wounds both physical and mental. They served their country with skill and dedication—just like our Persian Gulf veterans did.

Many Vietnam veterans in Indiana have been included in "Support the Troops" rallies and are involved in preparations for homecoming celebrations. This inclusion is one means by which we can give proper recognition for the contribution that each and every Vietnam veteran made to our country.

But as long as veterans of Vietnam and other conflicts are bearing the costs of untreated wounds from their service, we cannot rest.

With that in mind, the Congress should endeavor to ensure that each and every veteran who needs PTSD treatment or readjustment counseling receives it from the VA. Persian Gulf veterans and their families will need help, but a need that is no less important is providing help for the 480,000 Vietnam veterans who are still suffering from PTSD—20 years after most of them came home.

Madam Speaker, the Congress has taken some action in recent weeks to provide more funding for the VA's PTSD treatment programs. Two weeks ago the House approved $4 million as part of the fiscal year 1991 supplemental appropriations bill for 8 new PTSD inpatient units and $1.4 million to provide readjustment counseling to Persian Gulf veterans. These are good initial steps, but this $5.4 million by itself will not be adequate to meet the needs which exist for PTSD treatment as identified by the VA's own study completed in 1988 and the VA's own committee of medical professionals who specialize in PTSD treatment.

There are currently 20 inpatient units in VA hospitals to treat PTSD, and if the supplemental appropriation is signed into law, there will be 8 additional units in operation this year.

For the past 7 years, the Chief Medical Director's Special Committee on PTSD has recommended the establishment of a total of 50 inpatient units. For 7 years, their calls have gone unheeded by the administration.

There are currently 44 PTSD clinical teams in VA hospitals to provide medical services and psychological counseling to veterans with PTSD.

For the past 7 years, the Special Committee has recommended the establishment of one clinical team in each of the 158 VA hospitals which deliver mental health services.

The Special Committee's calls cannot be ignored any longer. The incidence of PTSD among veterans and the VA's capacity to treat it have been well-documented. It is now a matter of devoting the resources necessary to address the problem.

H.R. 841, the Veterans PTSD Treatment and Psychological Readjustment Act of 1991, would implement many of the Special Committee's recommendations.

The legislation was originally introduced in July 1989 in recognition of the foot-dragging by the VA and Congress in expanding PTSD services. This measure was amended into a veterans' health care bill introduced by the chairman of the House Veterans' Affairs Committee, G.V. MONTGOMERY, and was passed by the House in October, but regrettably it was not taken up by the Senate.

With the help of PTSD treatment professionals, mental health organizations and veterans organizations, our bill was refined and reintroduced last month.

Madam Speaker, I want to caution my colleagues that while the increased funding proposed in the supplemental appropriations bill will be helpful for expanding the VA's service delivery system for PTSD treatment, more needs to be done and should be done this session.

What the VA does for PTSD, when properly funded, it does well. The VA's National Center for PTSD is the world's leader in research, education and the development of treatment models for PTSD. Many of the programs at local hospitals are effective, but the program at Marion, IN, for instance, has never had more than 12 beds and has operated on a tenuous basis because it has been funded at the local level, and not by the VA's Central Office.

Madam Speaker, the personal costs of war for the 479,000 Vietnam veterans with PTSD remain today, 20 years after they came home. We've paid the bills for the bullets and bombs, but we haven't fulfilled our obligation to the men and women who fought the war.

I agree with the chairman of the Veterans' Affairs Committee that the costs of any war include providing medical care to those veterans who need it as a result of their participation in that conflict. There is no greater example of a combat-related condition than PTSD. While it is not as visible as a shrapnel wound or a lost limb, it is a mental scar that affects not only the veteran but also his family and friends.

Madam Speaker, as the House considers improvements and funding for veterans' programs, it should pass comprehensive legislation and increased funding to address PTSD.

□ 1450

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 355, RECLAMATION STATES DROUGHT ASSISTANCE ACT AMENDMENTS

Mrs. SLAUGHTER of New York, from the Committee on Rules, submitted a privileged report (Rept. No. 102-25) on the resolution (H. Res. 114) providing for the consideration of the bill (H.R. 355) to amend the Reclamation States Drought Assistance Act of 1988 to extend the period of time during which drought assistance may be provided by the Secretary of the Interior, and for other purposes, which was referred to the House Calendar and ordered to be printed.

CLOROX COMPANY BECOMES 50TH MEMBER OF CIIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. VALENTINE] is recognized for 5 minutes.

Mr. VALENTINE. Madam Speaker, on February 15 the Clorox Co. became the 50th member of the Chemical Industry Institute of Toxicology (CIIT).

CIIT is a nonprofit, industry-funded organization. The Institute provides a conducive environment for extended high-risk interdisciplinary team research. Using contemporary technology, the Institute's scientists focus on basic problems in toxicology.

CIIT, which is located in the Research Triangle Park district which I represent, has been in existence for only 15 years, yet in that time it has established itself as a leader in the development of the basic science of human toxic risk assessment. Primary research at CIIT has produced new methods that are used in laboratories throughout the world, and we have all benefitted from safer and more effective products that have been developed.

I have visited CIIT headquarters and spoken before the board of directors. I have been highly impressed with the Institute and the companies that support it. The list of companies reads like a who's who of industry.

CIIT is an excellent example of how private industries can work together in a responsible manner to protect the public without infringing on the competitive process. I am delighted to recognize the outstanding achievements of CIIT.

The following is a list of the 50 companies which support the CIIT:

Air Products & Chemicals, Inc.
Allied Signal, Inc.
Amoco Chemical Co.
ARCO Chemical Co.
Bayer USA, Inc.
BP America, Inc.
Chevron Corp.
CIBA-GEICY Corp.
The Clorox Co.
The Dow Chemical Co.
Dow Corning Corp.
E.I. du Pont de Nemours & Co., Inc.
Eastman Kodak Co.
Ethyl Corp.
Exxon Chemical Co.
Fina Oil & Chemical Co., subsidiary of American Petrofina, Inc.
FMC Corp.
GAF Chemicals Corp.
General Electric Co.
Georgia Gulf Corp.
The BF Goodrich Co.
W.R. Grace & Co.
Hoechst Celanese Corp.
Huls American Inc.
ICI American Inc.
The Lubrizol Corp.
Lyondell Petrochemical Corp.
Mallinckrodt, Inc.
Manville Corp.
Mobil Research & Development Corp.
Monsanto Co.
Nalco Chemical Co.
National Starch & Chemical Co.
NOVA Corporation of Alberta
Occidental Chemical Co.
Olin Corp.
Phillips 66 Co.
PPG Industries, Inc.
The Procter & Gamble Co.
Quantum Chemical Co.
Reichhold Chemicals, Inc.
Rhone-Poulenc, Inc.
Rohm & Haas Co.
Sandoz Crop Protection Corp.
Shell Chemical Co.
Texaco, Inc.
Union Carbide Corp.
Unocal Corp.
Volkswagen of America.
Vulcan Materials Co.

IN CELEBRATION OF 100TH ANNIVERSARY OF BIRTH OF CHIEF JUSTICE EARL WARREN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. EDWARDS] is recognized for 60 minutes.

GENERAL LEAVE

Mr. EDWARDS of California. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore (Mrs. UNSOELD). Is there objection to the request of the gentleman from California?

There was no objection.

Mr. EDWARDS of California. Madam Speaker, I rise for this special order to commemorate the 100th anniversary of the birth of one of the greatest Chief Justices to lead the Supreme Court of the United States, Chief Justice Earl Warren.

With our eyes on the unbelievable police brutality recently recorded in the Los Angeles area, with the rollback of civil rights across the land, it is a fitting time to remind ourselves of the legacy of Chief Justice Earl Warren and the Warren Court.

Earl Warren was part and parcel of the American Dream. He was born to immigrant parents on March 19, 1891, in Los Angeles, CA. After the family moved to Bakersfield, his dad worked as a railroad car repairman. It was a family of very modest means, but steeped in religious faith and rich in love.

Warren was a product of California's public schools. Following an interest in the law held from his earliest youth, he worked his way through college and law school at the University of California at Berkeley. He was admitted to the California Bar in 1914.

After being discharged as a first lieutenant at the end of World War I, he began a distinguished career in public service that spanned a half-century. I would be remiss if I neglected to mention that he also was a lifelong devotee of the great American pastimes of football and baseball.

A self-made man, Earl Warren worked his way up in various crime enforcement positions, and by 1925 he was elected the district attorney of Alameda County, CA. He proved a tough adversary of the criminal element and built a national reputation as a tough but fair prosecutor, totally committed to law and order.

After 14 years of exemplary service, Warren was elected State attorney general and acquired fame as the racket-busting attorney general of California. Demonstrating his great skill as an administrator, he also modernized an antiquated attorney general's office. Under Warren's leadership, that office became second only to the Governor's in its power and influence.

In 1942, Earl Warren ran for Governor of California. Even though he was a lifelong Republican, he cross-filed and won three primaries—the Republican, the Democratic, and the Progressive. He won the election, too, taking office during the turbulent years of World War II. He went on to serve as Governor of California for an unheard of three consecutive terms, from 1943 to 1953.

Throughout his tenure, he was well-loved, well-respected, and he led the State with great wisdom and skill during California's wartime industrialization and postwar growth. A great administrator, his successes included a Department of Mental Hygiene that became a model for other States, an outstanding program for highway development, the Central Valleys project that provided Californians with low cost hydroelectric energy, a strengthened California university system, and a reorganized State prison system.

After the death of Chief Justice Fred M. Vinson, President Eisenhower called on Governor Warren. In nominating him as Chief Justice of the United States Supreme Court, President Eisenhower had this to say of Earl Warren:

> A man whose reputation for integrity, honesty, middle-of-the-road philosophy, experience in government, experience in the law,

> were all such as to convince the United States that here was a man who had no ends to serve except the United States, and nothing else.

In 1953, Warren resigned as Governor of California to don the black robes and the awesome responsibility of the 14th Chief Justice of the United States. The new Chief Justice was faced with a host of justiciable problems that urgently demanded redress.

For those who have criticized the Warren Court for its so-called judicial activism, the Washington Post said it best on the occasion of Earl Warren's 75th birthday:

> Not since the formative days of the Republic when John Marshall presided over its deliberations has the Supreme Court played so dynamic a part in American affairs as during the dozen years since Earl Warren became Chief Justice of the United States. Great issues of individual rights, not yet ready for judicial decision in the first century and a half of the country's territorial and economic development, presented themselves inescapably for adjudication. A willingness on the part of Justices to meet issues when they become ripe for resolution . . . is really nothing more than a recognition of the Supreme Court's responsibility to serve effectively as guardian of a living Constitution related to current realities—and to serve especially as guardian of the spirit of liberty characterizing that Constitution.

Indeed, in 1789, when James Madison wrote to Thomas Jefferson regarding the need for a bill of rights for the new nation's constitution, he argued that the liberties contained therein would only "acquire by degrees the character of fundamental maxims and as they become incorporated with the national sentiment, counteract the impulses of interest and passion."

Warren served as Chief Justice from 1953 to 1969, years of intense social upheaval. Here's the way Charles Morgan, Jr., in an article in the Nebraska Law Review's November 1968, issue described how it was back then:

> * * * [Earl Warren] presided over the Court at a time when an accumulation of assorted injustices could no longer be swept under the judicial rug.
>
> Black children were attending public schools that were considerably more separate than equal, and penniless prisoners were being put on trial without assistance of counsel. Even when a lawyer was appointed to represent an impoverished defendant in court, his conviction might already have been assured by a confession wrung from him in the station house by force, by guile, or simply by taking advantage of his ignorance of his right to silence and to counsel.

When Earl Warren raised his right hand in 1953 and swore to "administer justice without respect to persons and do equal right to the poor and to the rich", he took those words quite literally.

Called to address some of the most controversial and far-reaching issues ever to come before it, the Warren Court made the Bill of Rights binding on State governments; outlawed public school segregation; forbade compulsory religious exercises in the public schools; barred racial discrimination in voting, in marriage laws, in the use of public parks, airports, buses and bus terminals, and in housing sales and rentals; enunciated the one-man-one-vote doctrine; protected the exercise of free speech; curbed wiretapping; upheld the right to be secure against unreasonable searches and seizures; strengthened the right to counsel; guaranteed the right to jury trial when charged with something more serious than a "petty" offense; upheld the right to disseminate birth control information. The list goes on, but let me highlight just those historic decisions.

In Brown versus Board of Education, issued in 1954, the Warren Court struck down the whole structure of segregated public schools. Here, Chief Justice Warren wrote:

> To separate [Negro pupils] from others of similar age and qualifications solely because of their race generates a feeling of inferiority * * * that may affect their hearts and minds in a way unlikely ever to be undone * * *.
>
> We conclude that in the field of public education, the doctrine of separate but equal has no place. Separate education facilities are inherently unequal.

Miranda versus State of Arizona, handed down in 1966, breathed life into the Constitution's guarantee of due process and made clear that the police, in the administration of the law, are not above it.

Thus, in this decision, the Court ensured the right of every arrested person to see a lawyer before being questioned by the police, the right to be informed of the nature of an accusation, and the guarantee that no one shall be compelled in any criminal case to be a witness against himself. Here, the Chief Justice wrote:

> The current practice of incommunicado interrogation is at odds with one of our Nation's most cherished principles—that the individual may not be compelled to incriminate himself. Unless adequate protective devices are employed to dispel the compulsion inherent in custodial surroundings, no statement obtained from the defendant can truly be the product of his free choice.

In Reynolds versus Sims, issued in 1964, the Warren court laid down the guiding principle of one man, one vote. Here, Warren wrote:

> Legislators represent people, not trees or acres. Legislators are elected by voters, not farms or cities or economic interests.
>
> The right to vote freely for the candidate of one's choice is of the essence of a democratic society, and any restrictions on that right strike at the heart of representative government. And the right of suffrage can be denied by a debasement of dilution of the weight of a citizen's vote just as effectively as by wholly prohibiting the free exercise of the franchise.

Earl Warren once said:

> The heart of any constitution consists of its bill of rights, those provisions that secure to the people their liberty of conscience, of speech, of the press, of lawful assembly, and the right to uniform application of the laws and to due process.

Chief Justice Warren's deep and passionate commitment was to that heart, the individual rights of each citizen, rich or poor, black or white, regardless of status or lack thereof. When he announced his retirement from the bench, Warren said:

> Justice in individual cases is the basis of justice for everyone. A failure to protect and further anyone's individual rights leads to justice for no one * * * Justice will be universal in the country when the processes as well as the courthouse are open to everyone. This can occur only as the institutions of justice, the courts and their processes are kept responsive to the needs of justice in the modern world. Such a goal will be accomplished only as all elements of the legal system, the law-makers, practicing attorneys, legal scholars and judges, recognize the ever-changing effects of the law on society and adapt to them within the principles which are fundamental to freedom.

Once when he was asked how he would like to be remembered in the history books, Warren said: "I'd like to be remembered as having done the best I could". A nation grateful for his steady stewardship in tumultuous times will remember him for that and for so much more.

Earl Warren's record of public service left us legacies of fairness, honesty, and ability which his successors have found difficult to equal, impossible to surpass. Enforcing the rule of law, he changed the face of our Nation.

The Warren court, with little help from Congress or the White House, helped the country take a giant step toward our national goal of equal justice under law. Earl Warren showed us the path to justice. It is up to us to follow it.

Mr. MARTINEZ. Madam Speaker, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from California.

Mr. MARTINEZ. Madam Speaker, I thank the gentleman for yielding to me.

Madam Speaker, I rise today to honor the centennial birth of a great American and to pay tribute to a historic figure who left his imprint on American society—Chief Justice Earl Warren. Earl Warren's careers in politics and law are impressive testimonials to his stature and brilliance, but it is for his role as Chief Justice of the U.S. Supreme Court that he will be best remembered and embraced by future generations of Americans.

Several years prior to becoming the Chief Justice, Earl Warren, then Governor of the State of California, stated:

> The heart of any constitution consists of its bill of rights, those provisions that secure to the people their liberty of conscience, of speech, of the press, of lawful assembly, and the right to uniform application of the laws and to due process.

Madam Speaker, it is these very rights that Earl Warren spoke of as

Governor of California in 1947, that he would champion as Chief Justice of the Supreme Court from 1953 until his retirement in 1969. For Earl Warren, "equal justice under the law" meant exactly that, equal justice for all individuals regardless of the color of their skin or the size of their purse.

During his 16-year tenure as Chief Justice of the U.S. Supreme Court, Earl Warren strengthened civil rights for all Americans, including minorities. Ever cognizant of the fragile balance between the overbearing powers of the State and the rights of citizens, the Warren Court moved to protect and clearly delineate the fundamental civil liberties of individuals—our "inalienable rights"—from the encroachment of Government. Moreover, Earl Warren wove compassion with justice in a series of landmark Court decisions that strengthened the very fabric and moral fiber of this great Nation.

It was under the Warren Court that the specious doctrine of "separate but equal" was finally overturned and laid to rest in Brown versus Board of Education. In that historic decision, Chief Justice Warren, writing for a unanimous Court, wrote "* * * in the field of public education, the doctrine of 'separate but equal' has no place. Separate education facilities are inherently unequal." The Warren Court subsequently moved to dismantle the legal barriers that had separated black Americans from white Americans—setting the stage for the Civil Rights Act of 1964.

In Reynolds versus Sims, the Warren Court restored one of the most sacred and fundamental principles in American democracy, the principle of "one man, one vote." Writing the majority opinion, Chief Justice Warren stated that "legislators represent people, not trees or acres" and went on to argue that "* * * the right of suffrage can be denied by a debasement or dilution of the weight of a citizen's vote just as effectively as by wholly prohibiting the free exercise of the franchise." Thus, reapportionment could not be used to dilute or weaken the vote of a single American citizen.

In Miranda versus State of Arizona, the Warren Court strengthened the rights of suspects not to incriminate themselves by imposing strict constraints on the admissibility of confessions. Decision after decision, the Warren Court ruled in favor of the constitutional rights of the individual, protecting the rights of the people from the potentially excessive and sometimes overzealous reach of the Government. Former Associate Justice Tom Clark said of Chief Justice Warren's tenure of the Supreme Court:

> Beyond question, the rights of man have been enlarged and extended further and given more constitutional protection than ever before. This is not to say that the Chief Justice brought this about singlehandedly * * * but as one who was on the court, I add that it might well have never been done without him.

Chief Justice Warren understood that our Founding Fathers designed the Constitution of the United States to be a living document, a document that would have the flexibility to address the changing needs of our dynamic society. In this regard, Americans owe an eternal debt of gratitude to Earl Warren for breathing new life into the Constitution, making this most cherished document more responsive to the needs of people, which lies at the very heart of American democracy.

Mr. EDWARDS of California. Madam Speaker, I thank the gentleman from California [Mr. MARTINEZ]. The gentleman is one of the great heroes of southern California and has been forthright and skillful in advancing the rights of Hispanic Americans, as a matter of fact of all Americans. I know that he keenly appreciates the enormous contribution made by Chief Justice Earl Warren, our fellow Californian, and I thank the gentleman from California [Mr. MARTINEZ] very much.

Madam Speaker, I now have the honor of yielding to one of our dear friends, someone who was here when the Warren court was in sway, the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Madam Speaker, I rise today, on the 100th anniversary of his birth, to pay tribute to one of the most distinguished men of this century, Chief Justice Earl Warren.

Earl Warren was one of the most esteemed and courageous judges our Highest Court has ever produced. He was responsible for helping to shape this country's modern social and political destiny, and continues to stand out as a source of leadership and pride for the entire Nation.

I feel privileged to have been able to regard him as a close friend as well as a leader. I have especially fond memories of my friendship with Earl Warren which began in 1943 when he was sworn in as Governor and I as a member of the California State Assembly. During the time we served together in Sacramento, we were able to establish a professional camaraderie which I treasure to this day. I also fondly recall my personal relationship with Earl Warren and his family. My mother and Nina Warren were close friends, and when my wife Lee and I visited Washington before I was elected to Congress, we often spent evenings with the Warrens. Their son, Earl Jr., served as my campaign manager in northern California when I was a candidate for Lieutenant Governor.

Earl Warren's service to the public began in 1920 when he served as a deputy city attorney for Oakland, and ran uninterrupted until his resignation from the Supreme Court in 1969. After serving as city attorney, he served as a district attorney, State attorney general, Governor for three terms, and Chief Justice of the Supreme Court for 15 years.

As Chief Justice, Earl Warren headed the Supreme Court during a time of unprecedented turmoil and change in the world and the Nation. It was a time when the Court was called upon to decide some of the most significant and controversial issues ever to come before it.

Chief Justice Warren viewed the Supreme Court as the ultimate arbiter of the Constitution. He became the conscience of America, challenging the States to accept a wider application of the Bill of Rights. Decisions made by the Court, under Chief Justice Warren's leadership, applied Bill of Rights guarantees such as the right to counsel and protection against self-incrimination to State crimes as well as to Federal offenses. These decisions have had a revolutionary impact on our legal, social, and political structures.

While some present-day conservatives would label the Warren Court as excessively liberal, and regard it with disdain, I strongly believe that the Supreme Court under the leadership of Chief Justice Warren was instrumental to the betterment of this Nation. "Judicial activism" has always been a misnomer, meant to defame a shining record in support of the constitutional and civil rights which are the backbone and lifeblood of the United States.

America is a better place because of Earl Warren. Few can claim such distinction; few are so deserving of our recognition of commendation.

Mr. EDWARDS of California. Madam Speaker, I thank the gentleman from California [Mr. ANDERSON]. I find it very moving that he and his family had such a wonderful, personal relationship with the Chief Justice.

I do know that the gentleman from California [Mr. ANDERSON] had a very distinguished career in the State legislature as an assemblyman from the southern part of California. He later served as the Lieutenant Governor of California, the No. 2 political position in our great State. Since his election to Congress, he has had a remarkably successful record and brought great credit to our State. As I say, it is very moving that the personal aspects of his friendship with Earl Warren and his wife have been made a part of the RECORD today.

Now, Madam Speaker, it is my honor and pleasure to yield to the gentleman from California [Mr. MINETA], the former mayor of San Jose, also a good personal friend.

Mr. MINETA. Madam Speaker, I appreciate the gentleman from California taking out these special orders.

Madam Speaker, I must admit that it is with a profound sense of irony that I rise in tribute to former Chief Justice of the U.S. Supreme Court Earl Warren on this the occasion of his centennial of his birth.

Earl Warren's distinguished career in public service spanned 50 years. As Chief Justice from 1953 to 1969, he proved himself a force for promoting justice for all people. The Warren Court set about protecting individual rights and strengthened the constitutional rights of all Americans. The legal landmarks are many, including:

The halt to racial segregation in our schools;

The guarantees of due process for everyone, limited admissibility of confessions, limited use of lineup identifications, each person's right to counsel, protection against illegal searches and seizures;

The establishment of the principle of "one-man, one-vote" guaranteeing equal representation for all Americans;

The declaration of poll taxes as unconstitutional;

The unconstitutionality of State laws forbidding interracial marriages; and,

The strengthening of the constitutional separation of church and state.

Many of these decisions were not popular at the time, but nearly everyone has come to recognize how far Chief Justice Warren brought this country in the quest to protect the rights of all people.

But, as I said, the many achievements of the Warren Court constitute a great irony for me when cast against an earlier legal standard, a standard which led to the forced removal and internment of 120,000 Americans of Japanese ancestry by the U.S. Government during the Second World War.

I was one of those thousands interned. I was 10 years old at the time. My only crime, in the eyes of California and the Nation, was my ancestry; and one set of those eyes belonged to Earl Warren, who was in 1942 attorney general for the State of California.

Wartime hysteria, racism, and a failure of political leadership were the ingredients that led directly to the internment. So, too, was the failure to distinguish between the actions of the empire of Japan and the rights of Americans of Japanese ancestry endowed by the United States Constitution.

In 1942, Attorney General Warren supported the forced removal of Americans of Japanese ancestry from the west coast in his testimony before this Chamber's Select Committee Investigating National Defense Migration. Even the name of the committee suggests the national defense canard used to justify the internment, despite the fact that no such security threat ever existed.

"I do not mean to suggest that it should be thought that all of these Japanese (sic) who are adjacent to strategic points are knowing parties to some vast conspiracy to destroy our State by sudden and mass sabotage," said Warren.

> Undoubtedly, the presence of many of these persons in their present locations is merely coincidence, but it would seem equally beyond doubt that the presence of others is not coincidence. . . .
>
> But, in any case, it is certainly evident that the Japanese (sic) population of California is, as a whole, ideally situated, with reference to points of strategic importance, to carry into execution a tremendous program of sabotage on a mass scale should any considerable number of them be inclined to do so.

In 1980, the Commission on Wartime Relocation and Internment of Civilians spoke plainly about the influence Warren had had on the committee.

> The overpowering mass of Warren's data—maps and letters and lists from all over California—gripped the imagination and turned the discussion to fruitless argument about whether land was bought before or after a powerline or plant was built; no one focused on whether there was reason to believe that this 'evidence' meant anything at all.

Where does this leave Earl Warren in our history, and in our memory? Like many other Americans, it leaves him swept up in a tide of hysteria that would haunt their consciences for decades.

In his memoirs, published in 1977, Earl Warren wrote,

> I have since deeply regretted the removal order and my own testimony advocating it, because it was not in keeping with our American concept of freedom and the rights of citizens.
>
> Whenever I thought of the innocent little children who were torn from home, school friends, and congenial surroundings, I was conscience-stricken.
>
> It was wrong to react so impulsively, without positive evidence of disloyalty, even though we felt we had a good motive in the security of our state. It demonstrates the cruelty of war when fear, get-tough military psychology, propaganda, and racial antagonism combine with one's responsibility for public security to produce such acts.

Madam Speaker, amen.

Chief Justice Warren learned this truth after the moment in time which did so much harm to so many innocent people. But he learned this lesson of history long before our Nation did, as a whole, with the enactment of the Civil Liberties Act of 1988, which offers an apology and redress to surviving former internees.

The fact that the Chief Justice Warren came to his conclusion on his own reveals the strength of the man and his conscience, but also the strength of our American Nation.

One reason that the United States is the world's greatest successful experiment in self-government is because we try to acknowledge our human frailties and protect the future from the mistakes of the past.

This Earl Warren did for himself regarding the internment. This Earl Warren did for our Nation on so many occasions as the Chief Justice of the U.S. Supreme Court.

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Mr. EDWARDS of California. Madam Speaker, I thank the gentleman from California [Mr. MINETA] for his very moving statement. It is very much to his credit that he laid out the record of Chief Justice Warren's actions during the difficult period after Pearl Harbor, and I believe it is to the Chief Justice's credit that later on he reviewed the decision that he had made and admitted publicly that it was a tragic mistake.

Years later, long after Chief Justice Warren was gone, Congressman NORMAN MINETA was the author and instigator and manager of the Civil Liberties Act of 1988, which provided for the apology and redress, monetary redress, for those good Americans who had been put away after Pearl Harbor, to our great discredit.

So I believe Mr. MINETA did everything he could to wipe the record clean, and it is very much to his credit.

Madam Speaker, when we read about and see on television the unbelievable police brutality that took place in Los Angeles the other day and when we experience the rollback in civil rights, the veto of good civil rights bills, we must remind ourselves of the legacy of Chief Justice Warren and the Warren court.

Earl Warren was a product of the public schools, like my friend the gentleman from California [Mr. MINETA] and my colleague, the gentleman from California [Mr. ANDERSON]. He worked his way through college and law school at the University of California at Berkeley.

When you think of the Warren court and its accomplishments, it is really unbelievable to think that so much could be done by a court, so many decisions that changed the way we live in this country and all to the better.

The Warren court made the Bill of Rights binding on State governments, outlawed public school segregation, and made compulsory religious exercise in the public schools a forbidden practice. It barred racial discrimination in voting, in marriage laws, in the use of public parks, airports, buses and bus terminals, and in housing sales and rentals.

The court produced the 1-man, 1-vote decision, outlawing the control of our Senate assembly seats and congressional districts by a very few people.

The Warren court curbed wiretapping, upheld the constitutional prohibition against unreasonable searches and seizures, strengthened the right to counsel, guaranteed the right to a jury trial, and enforced the right to disseminate birth control information. The list of landmark decisions goes on. Certainly Brown versus Board of Education, the decision to require the desegregation of our public schools, towers among them.

Justice Earl Warren's deep and passionate commitment was to the individual rights of each citizen, poor or rich, black or white, and regardless of status or lack thereof.

The Warren court, with little help from Congress or the White House, helped the country take a giant step toward our national goal of equal justice under law. Earl Warren showed us the path to justice and, Madam Speaker, it is up to us to follow that path.

Mr. PANETTA. Madam Speaker, I am proud, as a Californian and as an American, to be able to join my colleagues today in honoring the memory of one of the great men of this century, Earl Warren.

Earl Warren was one of the most outstanding and influential Chief Justices in the history of the Supreme Court. As the leader of a Court which helped to produce a virtual revolution in civil and human rights in this country, his contribution is incalculable. The decisions of the Warren Court had such a huge impact that they serve as a dividing line in American history almost as significant as the American Revolution and the Civil War.

The U.S. Constitution is a document that evolves as American society evolves over decades and over centuries. Yet the country remains loyal to its fundamental concepts. They are the basis for a faith in the law in this Nation that is unshakable. The Warren Court remained true to that faith and yet provided new interpretations which helped the Constitution to adjust to a changing America. That took a special genius, and while many other justices obviously played major roles, it was the Chief Justice who provided the leadership which was absolutely essential to accomplishing that mission. For that leadership, the American people owe Earl Warren their eternal gratitude.

In addition, it should not be forgotten that Earl Warren was one of California's outstanding Governors. His tenure was one of the great examples of progressive Republican leadership that existed in California and a number of other States around the Nation in the middle part of this century.

Madam Speaker, I want to thank DON EDWARDS for taking this special order to honor Earl Warren. It gives the House and the American people an opportunity to reflect on a unique period in American judicial history—and on a unique man. Particularly at a time when the Supreme Court too often seeks to retreat rather than move forward, it is good to remember the leadership and the accomplishments of Earl Warren.

Mr. BROWN. Madam Speaker, to say that the era of the Warren court brought about a legal revolution in our country would be no understatement. In the areas of race relations, free speech, criminal justice, and artistic expression, to name only a few, the Supreme Court under the leadership of Justice Earl Warren brought about an unprecedented wave of social change. One could easily argue that Earl Warren had a greater impact on our country than even the President who appointed him, Dwight D. Eisenhower.

One has only to name a few of the major decisions of the Warren court to realize the profound impact which Earl Warren's leadership had on the United States. Brown versus Board of Education. Miranda versus Arizona. Gideon versus Wainwright. It is hard to imagine our society today in the absence of these landmark decisions.

Because of the Warren court, all criminal defendants have a right to counsel in a court of law. Because of the Warren court, the premise of separate but equal was discredited, and schools across our Nation were integrated. Because of the Warren court, the rights of criminal suspects are clearly outlined in the law, and police officers are required to uphold those rights. In light of the tragic beating by police officers of a criminal suspect, Rodney King, in Los Angeles earlier this month, I believe the principles of the Warren court are particularly reasonant today.

Perhaps the greatest tribute we can pay to Earl Warren is to remain vigilant in upholding the rights established during the 15 years of his tenure as Chief Justice. It is necessary that we remain vigilant. As the March 3 incident in Los Angeles shows us, challenges and threats to our basic human rights still exist. It is the responsibility of the citizens of a free society to ensure that those rights are not violated, and if they are, to oppose those who would diminish those rights.

Mr. DELLUMS. Madam Speaker, it is most appropriate that we pause today to reflect on the momentous career of a man who used his platform as a public servant to enrich the lives of Americans and who helped expand the freedoms that many of us now take for granted.

As Chief Justice of the U.S. Supreme Court, Earl Warren led the Court during some of the most turbulent years in our Nation's civil rights history, from 1952 to 1969. Under Warren's leadership the Court handed down numerous landmark decisions that changed the course of the struggle for civil rights in this country.

It is ironic that this 100th anniversary of Earl Warren's birth comes at a time when we are once again struggling to define the new path of civil rights law in the United States. Just at the time when this issue is being debated across the land, we are looking back on the brilliant career of a man who, along with his colleagues on the Court, brought us through the first round of this struggle.

He will always be remembered for Brown versus the Board of Education, which for the first time in American history effectively ended legal segregation in the public schools and furthermore lent the authority of the law to the struggle of African-Americans.

Chief Justice Earl Warren was also a proud Californian who started his career as a public servant as deputy city attorney in Oakland. Warren went on to serve as attorney general and Governor of the great State of California.

Although we are proud to have this great man hail from our State, we Californians were happy to share him with the rest of the country. We could not have asked for a man with a greater commitment to law and with greater foresight and compassion. He came to the Court just when this country needed him most. We are grateful that a man of his stature was there to lead us through the storm.

Mr. HORTON. Madam Speaker, today marks the 100th anniversary of the birth of Chief Justice Earl Warren. So, it is fitting that we take a moment and pause to reflect on the profound impact that this man and his court have had on America.

In 1953, after a long and distinguished career in California politics, President Eisenhower appointed Earl Warren to the position of Chief Justice of the United States. This marked the beginning of a 16-year tenure during which the Court's rulings impacted on nearly all areas of our daily lives.

Just 8 months after his appointment, Chief Justice Warren wrote the Court's unanimous opinion in Brown versus Board of Education. The words are now cemented in Americans' memories: "Separate educational facilities are inherently unequal."

By ruling that racial segregation in public schools was unconstitutional, the Warren court served as one of the catalysts for the civil rights movement of the 1960's. The Brown decision also served as the foundation from which the Court proceeded to outlaw all public discrimination. The Brown decision and those that followed from it were essential landmarks on the road to full constitutional rights for all Americans.

While Brown may have had the most profound effect on America's social structure, Chief Justice Warren often described Baker versus Carr as the most important opinion rendered by the Court during his tenure. This decision further codified the one-man, one-vote principle that is embodied in the Constitution. In this regard, it is most fitting that we are paying tribute to him in this, a year which is observing massive redistricting throughout the country. Ultimately, the Warren court extended the one-man, one-vote principle to State and local governments, which was the beginning of the Court's efforts to extend most of the Bill of Rights to the States.

In addition to widening the scope of the rights provided by the Constitution, the Warren court also provided a greater degree of protection for those accused of crimes. The embodiment of this change was Chief Justice Warren's opinion in Miranda versus Arizona, which gave new meaning to the rights to remain silent, to be free from unreasonable searches and seizures, and to be represented by counsel.

But beyond these particular examples of the Warren court's agenda, was Earl Warren's deep-rooted sense of fair play. Perhaps this value was best expressed by Earl Warren himself during his farewell radio address to Californians, just prior to assuming his duties as Chief Justice. He said:

> If throughout the years, [the Court's] work is well done, the home of every American will always be his castle—every human life will have dignity, and there will forever be one law for all men.

It is clear that this was, indeed, a guiding principle for Earl Warren. For him, the laws of this country needed to have an element of fairness for everyone. This was just simply part of his pragmatic approach.

To Earl Warren, social justice was more important than legalism. It did not matter whether a case involved $5 or $5 million—it still came down to the one simple test—fairness. Again, Earl Warren himself provides us with the best insight into his thinking.

> You sit up there, and you see the whole gamut of human nature. Even if the case

being argued involves only a little fellow and $50, it involves justice. That's what is important.

Today, Earl Warren remains one of the giants of the U.S. Supreme Court. Two hundred years ago, when our Nation was still young, the Supreme Court was expected to support and bolster the strength of the Federal Government. Over time, our Republic has solidified itself, and the role of the Court has changed so that it is now one of the chief protectors of the people—defending them from ever-expanding governmental authority. I am confident that Earl Warren would approve of this new role of the Court.

Mr. MATSUI. Madam Speaker, it is with great honor that I join in this tribute to the memory of Chief Justice Earl Warren. Today marks the 100th anniversary of the birth of a truly great American—a man who throughout his life worked to better the Nation. Earl Warren is best remembered through the decisions handed down by the Warren court, rulings which shaped him as a humanitarian, judicial scholar, and a national leader. The impression he left on American society has been a lasting and profound one.

Under the leadership of Earl Warren the Supreme Court handed down such landmark decisions as Brown versus Board of Education, Miranda versus State of Arizona, and Gideon versus Wainwright, decisions that have proved to be timeless in their influence on the rights of Americans. He believed the Constitution existed to protect all Americans and to provide opportunity to all, and the rulings handed down by the Supreme Court under Chief Justice Warren remain current today.

Earl Warren believed the Constitution was a document written to reflect the values and principles of the Nation, and interpreted the Constitution to best protect all those in need. Many times the decisions handed down by the Warren court were not received by the Nation with open arms. Brown versus Board of Education set off a chain of events surrounding the integration of the Nation's schools that still remain to be resolved. To this day, we are still working to ensure that all children have an equal educational opportunity, free of discrimination and bias.

He was a true visionary—a man who worked to craft an America that was responsive to the needs of all citizens, no matter how high or low their status. The Constitution, he believed, protected all citizens, and this is borne out in numerous decisions that banned evidence obtained by illegal search and seizure, placed strict limitation on the use of lineup identifications, and moved to guarantee both rich and poor the right to counsel at all relevant points of the criminal procedure.

Earl Warren saw and used the Constitution as an instrument to affect change. His interpretation of the words guaranteeing liberty and equal opportunity to all was carried out through the rulings handed down during his tenure as Chief Justice. He believed in the spirit of the words in the Constitution.

As Chief Justice, as a citizen, and as a national leader, Earl Warren lived his life to uphold the guarantees included in the Constitution. His energy and commitment were unparalleled and remain a beacon to this day. We owe a tremendous debt of gratitude to the vision and commitment of Earl Warren, one that truly embodies the words of the Constitution that all men are created equal.

Mr. GONZALEZ. Madam Speaker, I join my colleagues on this, the 100th anniversary of Chief Justice Earl Warren's birth in recognition and celebration of his remarkable life and great achievements.

Chief Justice Warren was driven by the promise held within the Constitution of the United States that all people, rich and poor, black, brown, and white, men and women, have equal rights under law. He fought to make this promise open to everyone.

In Brown versus Board of Education, the Warren court opened public education to all regardless of race. The reverberations of striking down the practice of separate but equal were felt throughout Nation. Here in Texas, the fight was taken up in the State senate. In 1957, filibustered two sets of race bills in the Texas Senate, one with State Senator Abraham Kazen, Jr., for 36 hours and a second alone for 20 continuous hours. Eight of the 13 bills were defeated and 1 of those that passed was declared unconstitutional by a Federal court.

Following the lead of his effort to eliminate the vestiges of slavery in our society, Chief Justice Warren opened wide the political process so that every woman and man could participate regardless of race or economic standing. The Warren court struck down the gerrymandered voting districts that cut minorities out of the political process. In its place the court established the principle of one person, one vote. Again, effects of the decision permeated the Nation, something I carried here to the House of Representatives. The first legislation I introduced upon coming to Congress in 1962 was a resolution calling for the abolishment of the poll tax in five States where it still existed, including Texas.

From opening the political process, Chief Justice Warren sought to ensure free access to information and freedom of thought. He fought against censorship and indoctrination, and for freedom of conscience.

In his effort to make sure everyone had access to the rights guaranteed by the Constitution, Chief Justice Warren also sought to protect those rights for the accused, regardless of whether or not they could afford expensive lawyers.

Chief Justice Warren was one who stood up for the fair treatment of all people regardless of race or wealth, whether it was popular or not. The importance and magnitude of his impact on this country during an era of great change deserves not only celebration, but also thoughtful reflection, for the profound nature of what Chief Justice Warren accomplished ensures its enduring relevance. And this is a relevance that should not be ignored as we confront the challenges of racial and sexual bias and economic disadvantage that continue to this day. On this the 100th anniversary of this birth, we can take a lesson from Chief Justice Warren and be inspired to carry on the hope and promise of his life and work in our own endeavors today.

Mr. TORRES. Madam Speaker, I thank my colleague, the gentleman from California [Mr. EDWARDS], for reserving time this evening so that we might pay tribute to the late Chief Justice Earl Warren.

In describing the 50 years of Earl Warren's public service, we hear consistently the phrases:

A statesman with the wisdom and courage to help the Nation honor its commitment to the rule of law and equal justice for all.

A force for promoting justice and protecting individual rights.

Known for his down-to-earth realism and pragmatism.

An authentic Horatio Alger.

A man of action.

When speaking of Earl Warren, we hear most often words such as competence, honesty, integrity, excellence, warmth, kindness, humanitarian, judicial scholar, and national leader.

All those phrases and words are accurate descriptions of the man, but what I remember most about Earl Warren is his selfless devotion to public service. Every job he held, every position to which he was elected, every appointment he accepted, he always placed his own affairs aside. He always acted to benefit others, in the true spirit of public service.

As a young man growing up in California, I remember Earl Warren's service as Governor of California. I recall that he was universally liked, that his policies with respect to health care and education were years ahead of his time, and that he left for his successors an excellent, nonpartisan civil service system.

Yet for all his leadership as Governor, when he left California in 1953 to become Chief Justice of the Supreme Court, he left a State in which minority schoolchildren attended inferior schools, impoverished prisoners were denied adequate counsel, and the legislature was deaf to the pleas of many citizens. In due time, Earl Warren changed all that.

With the school desegregation decisions he wrote, beginning with Brown versus the Board of Education, he did more to help this country prepare for the next century than almost any educator. He unleashed the resources to make it possible for talent to flourish, whether that talent was embodied in the doctor's son or lay latent in the washerwoman's daughter. He understood intuitively that equal educational resources could translate into expanded economic opportunity and heightened national strength.

The decisions he wrote on criminal justice, including the Miranda decision, have forever changed our view of what we expect of a fair criminal justice system. We are revolted today by the sight of police clubbing an unarmed suspect, in part, because of what Earl Warren taught us: That the rights of the accused must always be protected.

His simple assertion in Reynolds versus Sims that "Legislators represent people, not trees or acres. Legislators are elected by voters, not farms or cities or economic interests," has enfranchised millions of Americans. It has given them a voice in Congress, in State legislatures, in city councils and county boards that they would otherwise not have had. That simple statement, and the implementation of the relevant decision of the Court, has paved roads, bought new school books, built hospitals, saved our environment, and helped untold numbers of people.

Once again, I thank my close friend, the gentleman from California, himself a stalwart protector of the Constitution, for allowing us this opportunity to honor the late Earl Warren on his 100th birthday.

Mr. MILLER of California. Madam Speaker, I join my colleagues in rising tonight to honor the memory of one of the greatest Americans of our century on the centennial of his birth.

It can truly be said, by friend and foe alike—and he had plenty of both—that few men affected the history of the Nation as decisively as the late Chief Justice of the Supreme Court Earl Warren. Throughout a half century of public service—as a district attorney in Alameda County, as Governor of California for three terms, and particularly as Chief Justice—Earl Warren demonstrated the quality of character to which every public official should rightly aspire.

Others who knew him personally can speak to his personal qualities. I knew him through my own study of the law, and as a student developed the greatest respect not only for the genius of his legal mind, but also for his willingness to use his powers and opportunities to reshape the Nation for the modern age.

Perhaps his devotion to individual rights and civil liberties, so frequently exhibited throughout his judicial career, was his way of repenting for a political decision to sanction the internment of fellow citizens during World War II because of their Japanese ancestry. Whether consciously contrite or not, the remainder of his career was spent methodically tearing down the barriers of racial discrimination and bias that had characterized American society and American law for the first century and a half of our history.

The striking down of the concept of separate but equal in the Brown versus Board of Education case, set the early tone of the Warren court. For a decade and a half, Chief Justice Warren lived by the adage he included in his book, "A Republic If You Can Keep It: 'A prime function of government has always been to protect the weak against the stong.'"

A prime function, yes; but one not always carried out by those entrusted with the responsibilities of leading our country, or other nations either.

Yet using the authority of the Court as few before or since him, Earl Warren handed down decision after decision that expanded the rights of the individual against the State, a record for which ironically was branded a traitorous liberal by conservatives who claim to honor the primacy of the individual.

In Brown versus Board of Education, the unanimous Warren Court dealt the deathblow to entrenched, legally sanctioned racism and segregation. In Reynolds versus Sims, the Warren Court established the principle of one person, one vote, that revolutionized the political system and improved the representation of people in our legislative process. In Miranda versus Arizona, the Court established the fundamental rights of the individual accused of crime to be informed to their legal and constitutional rights.

Somehow, along the way, this paragon of civil rights and civil liberties became the special target of extremists who resented his monumental efforts to guarantee our constitutional legacy to every citizen. I recall well the "Impeach Earl Warren" billboards and bumper stickers in the 1960's that were displayed by those incapable of understanding or appreciating the enormous contributions of this extraordinary jurist.

The achievements and career of this great American have particular relevance today when too often political party and partisanship have been elevated to an unhealthy and counterproductive level in the Nation, when vitriol substitutes for reason, when superficiality and banality fill the public debate, when symbol is more valued than substance. For a decade, we, in the United States and particularly those in the government, have frequently substituted opportunism and symbolism for the strong and decisive leadership this country desperately needs.

Earl Warren did not let partisanship stand in the way of doing what he believed the Constitution demanded. He was, after all, a longtime Republican officeholder who became more venerated by Democrats than by those of his own party.

Unlike too many elected officials today, Earl Warren was not fearful of approbation from the public when a fundamental rule of law was at stake. True, he enjoyed an appointment for life. But a lifetime appointment does not shield you or your family from the venality and hatred his courage brought down upon his shoulders. And how tragic it is if the pursuit of office and power are used to justify our own unwillingness to take courageous actions.

And yet, we have failed. Failed to tell the truth to the American people, failed to pass the laws that must be enacted, failed to endorse strong medicine when it was the remedy called for. We have instead spent more than a decade waving flags, selling candidates like automobiles, relying on catch phrases and public relations ploys, instead of doing the difficult work of Government. And not surprisingly, our constituents' views of elected officials reflect that lack of leadership.

We, in 1991, cannot claim to have a role model if we truly seek to restore the greatness of America and to secure the respect of our country men and women and history. Few men or women present so unsullied a legacy of nonpartisanship, of thoughtful leadership, of innovative policy and of political courage than the man whose centennial we salute today. I am honored to join my colleagues in paying my respects to a great Californian and a great American, Chief Justice Earl Warren.

Mr. FAZIO. Madam Speaker, I would first like to thank my colleague from California, Mr. EDWARDS, for the opportunity to pay homage to Chief Justice Earl Warren on the occasion of the 100th anniversary of his birth. Chief Justice Warren was truly one of the greatest public servants of his century. I could easily provide a long list of his achievements, but ultimately, his contribution to our Nation is immeasurable. He spent 50 years in service to the public, serving without interruption in public office from 1920 until 1969, as district attorney for Alameda County in California, attorney general of California, Governor of California, and then, finally, as Chief Justice of the Supreme Court. Although he distinguished himself in each one of these offices, it was through his leadership on the Supreme Court that he truly made his mark.

Chief Justice Warren presided over the highest court in the land during a time of great political and social change in our country, and it was under his guiding hand that the Supreme Court handed down some of its most landmark decisions. For example, in Brown versus Board of Education, the Warren court ruled that school segregation was unconstitutional, declaring that racially segregated schools were inherently unequal. Further, Chief Justice Warren presided over the Court when it handed down its decision in Reynolds versus Sims, bringing about more equal political representation through its one person, one vote ruling. It was also the Warren court that ruled in Gideon versus Wainwright that all defendants in serious criminal cases have a constitutional right to legal counsel. Each one of these landmark cases was a great contribution to our society, reaffirming the constitutionally protected rights of every citizen.

Through his legacy on the Supreme Court, Chief Justice Warren insisted all Americans, regardless of their race, social position, or economic status, have the same constitutional guarantees. Earl Warren provided a legacy of individual rights that I hope will long continue, and one that we will look to for inspiration for many years to come. It is with great gratitude and respect that I take this opportunity to recognize his great achievements on this day, the 100th anniversary of his birth.

Mr. STARK. Madam Speaker, it is with great pleasure that I join Representative EDWARDS of California and my colleagues today in paying tribute to the late Chief Justice of the U.S. Supreme Court, Earl Warren. He has remained a lasting inspiration to all those committed to justice in the United States. His achievements stand in lasting testimony to a man who was not afraid of controversy or conflict in order to follow his convictions of what was right.

Coming from humble beginnings he epitomized the possibilities of the American Dream. He was the son of a Norwegian-born railway worker who used to tell him that the family was too poor, on $70 a month, to give him a middle name. He worked his way through law school and in 1923, at the age of 32, was elected District Attorney of Alameda County in my constituency. Having built a reputation for fairness and a strong social conscience, he became the Governor of California in 1942. During his two terms of office he served the Californian people admirably. He initiated badly needed welfare and prison reforms and fought hard to establish a State health-insurance program. It was his dynamism and his unflinching belief in justice that Earl Warren brought to the bench when appointed by President Eisenhower in October 1953.

He faced the challenges of history with his unique mixture of humanity and stubbornness. His court attacked racism head on with the decision, in 1954, that declared segregation in schools illegal. This decision proved to be the catalyst for a national awakening to the problem of racial injustice in American society. His leadership of the Supreme Court over the next 16 years established it as the true guardian of our Constitution. The Miranda decision in 1966 established the right of every arrested person to see a lawyer before being questioned by the police. The Gideon case established the right to counsel as a fundamental right and essential to ensure a fair trial. This decision was based on Earl Warren's common sense interpretation of the Constitution and the sixth amendment that clearly states that, "in all criminal prosecutions the accused shall have the assistance of counsel for his defense." Throughout his leadership Earl Warren never wavered from his guiding principle of justice for all. On numerous occasions the Warren court upheld the first amendment's right to free speech. During the 16 years that the Supreme Court was honored by his wise and thoughtful leadership, so many landmark decisions were made that its impression will be felt well into the next century.

It is ironic that at a time when we are commemorating the centennial of one of America's greatest leaders and servants, we are facing an erosion of the very rights Earl Warren sought to protect and preserve. We must endeavor to ensure that this great man's principles are kept in mind in the protection of our individual and constitutional rights.

Mr. ROYBAL. Madam Speaker, I rise to honor the memory of one of the most important Americans to ever serve in the judicial branch of our Government, former Chief Justice Earl Warren.

Chief Justice Warren would have been 100 years old today. During his tenure he was able to do more to ensure liberty and equality for all Americans than almost any President. He presided over a Court which struck down the noxious idea that our children's schools should be kept racially separate. He saw that every person, no matter how poor, had the right to a lawyer when they had to stand trial. The Warren Court's decision in Miranda versus the State of Arizona ensured that all criminal suspects must be advised of their rights to legal counsel before being interrogated. His Court assured that authorities could not illegally seize evidence and then use it in court. The Warren Court struck down the undemocratic manner in which many States elected their legislators. He stated that legislators must represent people, not land areas. This ensured that urban Americans could be equally represented.

No other Supreme Court, before or since, has done as much to ensure that the promise of our Constitution be extended to protect all Americans.

MESSAGE FOR THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1282. An act making supplemental appropriations and transfers for "Operation Desert Shield/Desert Storm" for the fiscal year ending September 30, 1991, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 1282) an act making supplemental appropriations and transfers for Operation Desert Shield/Desert Storm for the fiscal year ending September 30, 1991, and for other purposes, requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BYRD, Mr. INOUYE, Mr. HOLLINGS, Mr. JOHNSTON, Mr. LEAHY, Mr. SASSER, Mr. DECONCINI, Mr. BUMPERS, Mr. LAUTENBERG, Mr. HARKIN, Mr. HATFIELD, Mr. STEVENS, Mr. GARN, Mr. KASTEN, Mr. D'AMATO, Mr. RUDMAN, Mr. COCHRAN, Mr. SPECTER, and Mr. DOMENICI, to be the conferees on the part of the Senate.

ANNUAL REPORT OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, without objection, referred to the Committee on Banking, Finance, and Urban Affairs.

(For message, see proceedings of the Senate of today, Tuesday, March 19, 1991.)

ACTIVITIES OF U.S. GOVERNMENT IN UNITED NATIONS AND AFFILIATED AGENCIES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs.

(For message, see proceedings of the Senate of today, Tuesday, March 19, 1991.)

TRIBUTE TO LEROY COLLINS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. BACCHUS] is recognized for 5 minutes.

Mr. BACCHUS. Madam Speaker, I rise today to honor and to remember the legacy of a man I have long considered to be the first citizen of my State of Florida, former Gov. Leroy Collins.

Madam Speaker, the first time I heard Leroy Collins speak was when I was a small boy. He gave a speech on the radio. I remember it for two reasons. First, my parents told me that Leroy Collins was a wonderful man and a wonderful Governor; and, second, his voice was so reassuring. Perhaps it was his reassurance that has made so many of us remember him for so long and so well. Leroy Collins provided reassurance to a generation of Floridians and more.

Madam Speaker, as Governor, Leroy Collins led us at a time when we needed reassurance and when we needed the example of his gentility, his gentleness, his generosity and, most of all, his vision. There are so many examples of his vision.

There was time in the 1950's, when most southerners fought against integration. It was Leroy Collins who refused to close the public schools of Florida when those who called for the preservation of segregation were willing to close them. He told Floridians that equal opportunities should be available for all our children. Leroy Collins fought for a minimum foundation for education that equalized the opportunities in the public schools and all of Florida. This he did three decades ago and more.

Madam Speaker, he pioneered environmental laws that were the foundation for laws in Florida that are now the model for some other States. He did all that and more.

Ruben Askew and BOB GRAHAM have both been quoted many times as saying that Leroy Collins was the greatest Governor that Florida ever had. They should know. After his service as Governor, he came to Washington and helped President Johnson on the war on poverty. He helped work for peace in Selma, peace between the races, peace among all Americans.

Madam Speaker, he paid the price for that when he ran for the U.S. Senate in 1968 in Florida. A racist campaign was conducted against him, and Leroy Collins never served in a Congress of the United States. But that was the last such overt racist campaign in Florida, and I believe it was because of the courage and the character that Leroy Collins showed at that time.

Afterward, deep in debt, in order to repay his creditors, he wrote a book called Forerunners Courageous. It was a history book about great Floridians. We should now amend that book to add Leroy Collins among those called forerunners courageous because he was one.

Today I had lunch with a friend of Governor Collins, Don Fuqua, who served many years in this House and also served in the Florida Legislature with Governor Collins, and Don Fuqua told me something that one of his doctors told him a few days ago, just after the Governor died in Tallahassee. He said, "Leroy Collins taught us how to live."

Madam Speaker, that made me remember a spring day a few years ago when my wife and son, Joey, and I went to Tallahassee to visit with Governor Collins and Mrs. Collins at the mansion there, the grove where he lived, a mansion he has now given to the people of Florida. I remember the lemonade, and the iced tea and cookies that Mrs. Collins made. I remember Governor Collins taking my son down into his study to show him all the books he read and encouraged him to read, and I remember Governor Collins taking my son out into the back yard on the long green lawn and pushing my boy, Joey, on that swing.

Joey will miss Governor Collins. I will miss him. We all will miss him. But his reassurance, and his example, and his leadership and his vision remain for all those who love Florida and who love America.

Someone once said that the true test of a leader is whether, when he is gone, there are others left with the courage, and the will and the strength to carry on.

□ 1520

Madam Speaker, Governor Collins passed that test. In Florida there are those among us who, because of him, have the will to carry on.

Mr. BENNETT. Madam Speaker, will the gentleman yield?

Mr. BACCHUS. I yield to the gentleman from Florida.

Mr. BENNETT. Madam Speaker, we just heard a very beautiful tribute to a very beautiful, wonderful man that Florida was lucky enough to have in its leadership.

As has been stressed by my predecessor on the floor here today, Governor Collins was chiefly known in the hearts of people in the State of Florida, throughout the world, and certainly in this country for the courage he showed in doing the things that were right to do, even though they were not politically or personally the best things for him to do at the time. He had the courage to do things, and indeed he is an inspiration to people of this generation and will be an inspiration to people for generations to come.

Madam Speaker, we are very, very deeply grateful that he lived, and that he lives on in the hearts of many people.

Madam Speaker, the death of Florida's 33d Governor, Leroy Collins is an event we have learned of with sincere sadness. He was a much loved, much revered public servant; a great man in every respect. We in Congress send our loving sympathy to Mary Call Collins, his beloved widow, and their four children. The Library of Congress has furnished me, for inclusion at this point in the RECORD, the following brief history of his outstanding accomplishments.

THOMAS LEROY COLLINS

Thirty-third Governor (January 4, 1955-January 3, 1961), was born in Tallahassee on March 10, 1909, one of four sons and two daughters of a grocer, Marvin Collins, and his wife, the former Mattie Brandon. LeRoy Collins was graduated from Tallahassee's Leon High School, attended the Eastman School of Business at Poughkeepie, N.Y., and received a law degree from Cumberland University. He was married in 1932 to Mary Call Darby, a great-granddaughter of Richard Keith Call, twice Territorial Governor of Florida. Governor and Mrs. Collins raised their four children in the Call family home, "The Grove," which was acquired by them in 1941, and is located across the street north of the official Governor's Mansion in Tallahassee. He was elected at 25 as Leon County Representative in the Legislature, and reelected in 1936 and 1938. He was elected to the Senate in 1940 to complete an unexpired term, reelected in 1942, resigned to serve in the Navy during World War II, reelected in 1946 and again in 1950. He was the first Governor to be elected for consecutive terms. He was first elected in 1954 to complete the two remaining years of the term of the late Governor Dan McCarty and reelected in 1956 for a regular four-year term. He also made political history in 1956 by being the first Florida Governor to win a first primary victory, defeating five opponents. Governor Collins was the first American Governor to serve simultaneouly as chairman of the Southern Governors' Conference and the National Governor's Conference. As chairman of the latter, he led the first delegation of Governors on a foreign visit, to the Soviet Union in 1959 to compare its republic-level governments with the states. He was the first Governor since the Civil War to serve as permanent chairman of a Democratic National Convention, in Los Angeles in 1960. He led efforts to establish a strong, diversified state basic economy supported by industry, agriculture and tourism through creation of State Development Commission and assisted in its promotion program. His prime interest was education, and he worked to strengthen and modernize Florida's school system from the grade schools through the universities. He sponsored educational television, nuclear science, a broad community college program and university expansion and improvement. In the racial unrest of his time he took a moderate course, counselling progress under law, and the state experienced only minimal disorder. He served two terms as chairman of the Southern Regional Education Board. Upon completion of six years as Governor, he became president of the National Association of Broadcasters. He resigned this at the request of President Lyndon B. Johnson to become the first Director of the Community Relations Service under the 1964 Civil Rights Act. Also by Presidential appointment, he became Under Secretary of Commerce on July 7, 1965. He resigned this position effective October 1, 1966 to return to Florida and become a partner in a Tampa law firm. He was successful in obtaining the Democratic nomination for the U.S. Senate in the primary elections of 1968 but was defeated in the general election. In early 1969 he resigned from the Tampa firm and after business associations for one year which required his residence in Miami, continues to live at "The Grove" and practice law as counsel to the firm of Ervin, Varn, Jacobs, Odom and Kitchen with offices at 305 South Gadsden Street.

REPORT FROM KUWAIT

The SPEAKER pro tempore (Mrs. UNSOELD). Under a previous order of the House, the gentleman from Oklahoma [Mr. INHOFE] is recognized for 60 minutes.

Mr. INHOFE. Madam Speaker, I am going to be joined in just a minute or so by the gentlewoman from Maryland [Mrs. BENTLEY]. Twelve of us who are Members of Congress just returned 2 days ago from Kuwait. We were the first of any Americans who are Members of Congress to be there. In fact, when the plane landed in Kuwait City, it was the first nonmilitary airplane to land in Kuwait City. We came in from Bahrain.

Many times the perceptions that we get from the newspapers are not all that accurate, and perhaps the perceptions that people get from Members of Congress might be a little prejudiced also, but I came back with some perceptions that made it very clear that we will be doing a special order on the subject at some length tomorrow afternoon at the conclusion of our legislative session. This will be called the First Freedom Flight. Those of us who went there as Members of Congress were 2 Democrats and 10 Republicans, Members that they consider to be among the strongest supporters of the President's initiative to use force where force had to be used. When we got there, accompanied by some pretty great Americans, our Secretary of Commerce, Robert Mosbacher, Alexander Haig, Frank Carlucci, and a few others, we came down and descended into the city of Kuwait. It was a beautiful, sunny day in Bahrain. The sun was shining. It could not have been a nicer day. I guess we could say it was perfect weather, but as we descended into Kuwait City, as that first nonmilitary flight to land there, it became very dark. All of a sudden it became black, just as if it were midnight, although it was 9 o'clock in the morning.

We looked down as we were making a final approach onto the runway, and we saw flames shooting out of the ground, and we landed there as the first civilian airplane in Kuwait City. What we had gone through was the burning oil fields.

Those of us from Oklahoma are from, as they say, the Oil Patch, but we never knew anything like this in the Oil Patch.

We got in vehicles accompanied by armored cars and by grenade launchers, because there are still Iraqis out there in the middle of the oil fields who did not know the war was over, so you have to have automatic weapons and you have to have grenade launchers, and you have to take every precaution. As we drove through the little town outside the oil fields—and it was pitch black at the time—we could see the bunkers on these beautiful little houses that were there just a matter of 1 month ago, spotlessly clean, in this paradise of the Middle East. And as we started going through, we started going through pools of oil.

When the Iraqis evacuated and went back to Iraq, they knew they had had it down there, but they were going to destroy everything they could find to destroy. And what is the greatest asset of Kuwait? The oil fields. So they took these oil fields, and there were 1,000 producing wells. This is not like we think of a producing well in this country, where you have to pump the oil. This oil is all under pressure and it is blowing out of the ground. They were not satisfied to torch the wells. They had to get petroleum engineers down from Iraq to do it in such a way that you could not put the fire out. Out of these 1,000 oil wells they ignited a little over 700 of them, and they were blowing up in the air.

I wish I had pictures that could be seen, Madam Speaker, so we could all share that sight. I think it can be characterized, as I mentioned to a group last night, in this way: All the time you are growing up, you wonder what hell must look like. When we went from the sunshine into the oil fields where it became black all of a sudden, the temperature dropped between 15 and 20 degrees and the fire was shooting out of the ground and we could hear gunshots in the background from the Iraqis who did not know that the war was over. That was the environment we were in, and I thought surely that was what I had always envisioned, what hell must look like. We could see 50 wells at one time burning, with fire shooting out of the ground.

Just one well was blowing out 30,000 barrels a day. Those of us who are from the Oil Patch and are familiar with what it takes to produce oil know what a problem we have had in this country because people do not understand that we need to be energy sufficient and not dependent upon the Middle East. Fortunately, some of the people who did not understand that before do understand it now. Those of us from the Oil Patch, whether we are from Oklahoma, Texas, or Louisiana, know that if you are going to have a relatively successful well and it comes out with 50 or 60 barrels a day, you have done a pretty good job. This was 30,000 barrels a day that was blowing up into the atmosphere. If you tried to translate that into money, because that is the way we all think of it, it comes out to 6 million barrels a day or $3 billion a month. That is $3 billion a month that is coming out of the ground, blowing up into the sky now, and it was done for no purpose by the Iraqis who were trying to do their best to destroy a civilization that had taken place, the backbone of which was their oil industry. And, of course, they successfully did that.

They anticipate it will take close to 2 years to get all of the fires out. We might think that that would be simple, that we could just go over there and throw a blanket over them and smother them, but it does not work that way. It has to be done very professionally so we do not disturb the refining capability of the future and so we can protect the reserves.

That is what is going on over there, and I think this is probably the predicate to this special order we will hear tomorrow. That is the environment. This smoke, depending on where the wind is coming from, covered a 500-mile radius, and the area within that radius is black. So when you are in Kuwait City, it can be beautiful and sunny, and all of a sudden, a minute or two later, it is black and you are covered with that oily, sooty grime. That is the second largest oil field in the world, and it is burning now, and there is nothing that is really going to be done about it in the very near future.

I would say this, though: That those of us out in Oklahoma will be participating in the reconstruction because we understand how the oil industry works. Tomorrow we also will be talking a litte bit about Kuwait, the occupation, the postoccupation, and what it is really like there. I would ask you to envision being in a city that has no lights, no power, no electricity, no water, and no food, and it has been that way since the end of the war and will be in the foreseeable future. They did manage to get a little bit of electricity on while we were there, but not very much. To operate in that environment is a very difficult thing.

We went to the royal palace. The royal palace, as some people might remember from shows like "The King and I," where they dramatized what the Arabian world looks like, is actually a beautiful place. The royal palace is one that was obviously built when no expense was spared. There was a lot of abundance at that time. It is a beautiful, palatial place, and that is where Saddam Hussein's barbaric brother was holding out at his headquarters, and that is where the generals were making most of the decisions. As we looked, we could see they had left the beautiful chandeliers. They did not pilfer, they did not loot that what they left because they had to leave too quickly. When they left, they did not loot the rest of it because they did not have time.

We walked through the palace. We were some of the first to go through there, and we saw on the second floor where the generals worked and made the decisions that were made as to where they were going to defend their positions and where they were going to expand and go on down south.

☐ 1530

Interestingly, down in the basement they had a 30 by 30 big battle scene, a model. They had sand down there. They had the Persian Gulf. It was obvious that they thought the allied forces and the United States were going to attack them from the water, from the sea, from the Persian Gulf. So they had all of their bunkers dug in. You could not go 100 feet on the beautiful beach without seeing bunkers that were in.

What did they use in this 30 by 30 model down there to express the different armaments and the artillery and the building and the vehicles? They used Lego toys. So some of you guys that have done that, they found something to do, and that is about the mentality of the Iraqis anyway. So they were doing that. That was in the basement.

The third floor was one of the largest and most sophisticated torture chambers that was in Kuwait at the time. You have to keep in mind that we look back at totalitarian dictators throughout the history of this country, people like Adolf Hitler, people who had committed atrocities that were indescribable, and no one yet has been able to equal the torture devices used by the Iraqis.

There is a book that everyone ought to read, it is by a guy named Armando Valladares, who spent 22 years in the Castro Cuban Communist prison camp. He describes the tortures that took place there.

When I read that book by Armando Valladares, I got to thinking, you know, this has got to be the worst thing that even Hitler would have thought about. What we saw that took place in this awful building was something that made the Castro Cuba prison camps and prisons look like a Sunday School.

On the third floor there they started showing us the devices where they strapped the feet in. They would take rubber hose and beat the feet until they beat them to their bones, and then throw salt water on the feet. They would drill holes in their legs with electric drills. They did this, and they chose a room that had nothing like carpet or anything to temper the noise, so the screams would go through the royal palace. We often, in offices, in this country have background music. That is their background music. They wanted to hear the screams of people being murdered and raped and tortured. So 24 hours a day, the screams were coming out, day after day after day, during the occupation.

They showed us a device that they put on both temples, and they crank it until the skull splits open, and they said they can keep them alive until the brain is actually out of the head. That is why so many bodies that had been tortured were bodies that didn't have a brain in the cavity. It was empty.

It is one thing to read about it and hear it. It is another thing to see where it happened. There is still blood on the walls, hair on the instruments, and it was an awful thing. But this is the background where the decisions were made by this animal called Saddam Hussein.

We went from there to the Embassy. Now, as you know, there is a problem in international law about going into the Embassy, but, fortunately for us, so we could go in, it was taken over by the Kuwait Government and we were given permission to go in.

In there we saw the same things, that were taking place of the same type and nature. The No. 3 person, I guess is the easiest way to describe him, the person behind the Crown Prince, who is behind the Emir of Kuwait, is the gentleman who is also the Ambassador from Kuwait to the United States and has been for 10 years. He has a beautiful family, five children. He and one of this daughters, a 15-year-old daughter, came over there with us.

We walked in their home, their beautiful home there, which to most of us in this country we would call that a palace. As we walked in, we saw that is where another subheadquarters was taking place from Saddam Hussein, where he occasionally visited. In there they had time before they left, that they knew the war was over, so they stole everything. They ripped the wallpaper off the wall, they stole the carpet. They looted this. They took the doorknobs off. They blasted the safe. They took everything, just cleaned it out.

When the little 15-year-old girl and I went up the second floor and went into what I guess was her bedroom before, it had been used as a torture chamber. There were all the devices, the electrical shock devices that Saddam Hussein had developed in this state of the art torture, that were up there in this little girl's bedroom, which I don't know if they will ever go back and inhabit.

This was right on the Persian Gulf. On the roof of it, of course, you have the bunkers where you were looking out, and they clearly were expecting that that would come from the Persian Gulf. Of course, it did not do it.

You have read about Hell's Highway. They did not take any pictures, because at that time they did not have any. We have a lot of pictures. I am not able to show Members and the Speaker here today, but if I did, if I had the capability of doing that, it would surprise you. Because when they knew they had had it and the Iraqis were retreating back to Iraq on the road, the one major road going north out of Kuwait, there was a hill, not very high hill, but a hill. The vehicles were military vehicles, the tanks, the trucks, and all of the civilian vehicles that the Iraqis could steal from the Kuwaitis. They had loaded them up with all of the loot from the town. They would even go into a store and take all the receipt books, shoot the owner of the store, and steal everything in the store, and steal the inventory and receipt books so 10 years from not if someone said, "You stole that," they would say, "No, here is a receipt for it."

Anyway, they had the cars and trucks laden down so some of them at the front were not able to get up the hill fast enough. An Apache helicopter came up, saw them, fired a few rockets, and then, before you know it, the F-15's came in. I think they were from the 82d Airborne, I am not sure which group it was. They came in and wiped them out.

So when you go up the road, for 10 miles, you go by every conceivable kind of military and civilian vehicle, that had been so laden down with loot that they were all down. They killed them all. They were able to get them when they escaped.

Do you remember the story about the little kid that reaches in the candy jar and takes so much that his hand could not come out? That is exactly what happened there. If it had not been for their looting, probably many of them would have been alive today.

Incidentally, if has not been announced yet, but while we were there, and this was yesterday while it happened, it is a custom in Kuwait to name the major roads on the major streets in the town after capitals of Arab nations. So they had one called Amman, of course named after the capital of Jordan. They changed that to the Road of Liberation.

Guess what they named Bagdad Highway? George Bush Road.

Anyway, there are some exciting things and good things that are happening over there. Four things were discovered during the time we were there that I think are worth mentioning today, because otherwise we will not really have an understanding of what Saddam Hussein was all about.

There are a lot of sympathizers. I made a stop in Tulsa, my hometown, coming here from Kuwait. There is a letter to the editor in this morning's paper where someone was talking about how could we have been so cruel to a fine gentleman like Saddam Hussein.

There are minds like that in this country who do not understand that this individual is the most barbaric animal in the history of warfare, in the history of leadership in the world.

They discovered just north of the Iraq-Kuwait border a bunker. They dug down, and it was where they hid all of their ammunition, their artillery. There was more live ammunition and artillery there than the NATO forces have in all of Europe combined. Keep in mind, this was after the war was lost.

Saddam Hussein had no intention of stopping with Kuwait. He did not care about Kuwait. He wanted Kuwait, and Bahrain, and Saudi Arabia, and the Emirates, and Egypt, Israel, and the rest of the Middle East, and he was on his way to getting it done.

I will share three documents with Members. These documents, incidentally, are signed by Saddam Hussein. These were discovered about the time that we were there.

One of the documents calls for the execution of 14 Kuwaiti citizens for every Iraqi soldier that was killed. They were carrying this out. They would go out at random and bring out 14 every time they had an Iraqi soldier killed. They would line them up and execute them. This was signed by Saddam Hussein.

The second one was calling for the execution of all retreating Iraqi soldiers, that is, those that knew the war was over, that there was no way of winning it. If they came back, they were going to execute them. He wanted them to stay there and die. That is why you saw so many Iraqi soldiers surrendering, thinking they would be executed by the allies, and finding out they were not going to be. They found out that humanitarianism does exist somewhere in the world.

□ 1540

But the last one is one that sounds a little hysterical, if it were not for the fact that it was seen by our U.S. Ambassador just the same day that I talked to him, the day before yesterday. This was a document signed by Saddam Hussein, and listen very carefully. It was dated February 21. What happened on February 21? On February 21 was when Gorbachev had his peace initiative that he was going to try to get us to agree to and get the allies to agree to. All he really wanted from February 21 was 21 days to give them a chance to evacuate, almost a pause, a 21-day pause.

Saddam Hussein was absolutely convinced that we were going to accept that initiative, and so he had an order that he signed on February 21 that called for the execution of all male Kuwaitis and the rape of all female Kuwaitis in 21 days. What he was doing was wiping out an entire nation and changing it to Iraqis in 21 days that would be produced by the next generation.

If that is not a madman, if that does not put him in a dimension so that the American people can understand.

I was very pleased coming back to be accompanied by a number of pilots from the 58th Tactical Fighter Squadron from Eglund Air Force Base. One of them was a young captain named Brad Powell. He had been over there. He had flown I believe 35 missions. I do not know how many kills he had; F-15's is what they were flying.

I said to him and to the rest of them that were there, I asked the same question that I asked the ground troops when I was in Saudi Arabia earlier on on that trip when I was in Kuwait, I said what were your three major fears during the time that this took place. Do you know what he said?

No. 1 was that Congress would not vote to support the President. What does that mean? Those individuals who voted not to support the President, maybe that was a safe vote to make at that time. It seemed to make a lot of sense, because if it had been a devastating war with a loss of a lot of American lives, that is a lot easier out, is it not?

Fortunately, the majority, a very small majority did vote to support the President, give him the right of force, if necessary, to follow through on the declaration of war and to be able to send in the troops that were over there.

It is true when they say he could have sent troops over anyway, but if he sent troops over without support of the Congress, then that is interpreted by our troops and interpreted by the enemy as not support of the American people, and we would have another Vietnam on our hands. It would be going in there for a partial war.

Madam Speaker, the one thing this country cannot ever have again in its history is a partial war. When I see the veterans who came back from one of the cruelest wars of all time, and then find that there are people like Jane Fonda and Angela Davis permeating the veins of politicians in this country here saying that the war was not necessary and the people were not really behind it, one of the glorious things about this is at least the people were behind it.

Anyway, their No. 1 fear was that we would not vote to give the President that support.

The second greatest fear that they had was that Saddam Hussein would respond to the demands of the alliance and evacuate from Kuwait early on. These soldiers knew more than the American people knew. They are over there and they knew what a mad dog this man is. They all knew that all he would do is go back up to Iraq and work on his biological warfare and his chemical warfare and further develop the nuclear warfare that he was just getting on line, and that in a year or 2 years later our troops would still be there, all of these people who are coming home in this victory would still be up there waiting for it to happen, waiting for the ax to drop, and it would drop when Saddam Hussein had nuclear capability. Then it would not just be a problem for Kuwait or for the Middle East, but for the entire civilized world.

Does anybody really believe that if Saddam Hussein went back and started his oil production up again that those 50 companies that were French companies and Japanese companies and some American companies that gave him the technology that he needed for his biological, chemical and nuclear activity, that he would somehow decide that he would be a nice guy again and not go out, and that they would not go ahead and continue to sell him that capability? Does anyone believe that this man who had executed thousands of his own citizens is going to go back to Iraq, if he still had his capability, and that he would not build it up once the income from the vast oil reserves was on line again? I do not think anyone is going to be naive enough to believe that, and certainly our soldiers were not because they said that their one concern that he was going to do what the ultimatum said and go back into Iraq. If he had had any sense, he would have done that, because he had an easy out at the time, but he did not do it because he wanted total annihilation at that time. He did not want to have to wait.

The third major concern that the soldiers had, that was repeated again by Capt. Brad Powell of the 58th was that we would accept Gorbachev's initiative. The Gorbachev initiative, as I mentioned before, was on February 21, and on February 21 it called for a withdrawal to take place, but one that would be in what he described as, the Soviets described as a reasonable period of time, one that would be orderly. And he was under the same assumption that if we accepted that in the alliance, that Saddam Hussein would start packing up and leaving, and would shake hands with his captors who would then turn them loose and everything would just turn out fine.

But that was not going to be happening, and our troops there knew that. They knew that if he had 21 more days that not only would he be able to in some devious, perverted way to destroy a nation, but he would be able to do it in a manner that would be a threat to them.

I can remember the week before Christmas. There is some confusion in the American public at that time. If you remember, that was before the real declaration came. That was when we had a half a million troops that were over there. That was when there was some doubt. They figured the Air Force was all ready to go, but maybe the ground troops were not. They were not quite in place at that time. And we say a lot of media here in this country who were saying that the morale level of troops is low, and that we have to do something about it because the troops are ready to cash in and come home. In fact, they specifically said that 97 percent of our troops in Saudi Arabia wanted to jump ship and come home. Wow.

I checked into it, and I found out what it was, what it was that gave that newspaper that excuse to come up with that conclusion. Do you know what it was? This was the week before Christmas. The week before Christmas they asked the troops in a survey: "Would you rather spend Christmas at home with your family or in Saudi Arabia?" Ninety-seven percent of the troops, including General Schwarzkopf, would rather have spent Christmas at home with their families. But because of that, they said that morale was low.

What else did they say? There were many media myths that were floating around at that time.

They said our equipment was not going to work. They said specifically that the Patriot missile, the antimissile missile has never been tried under actual conditions, and there were some very high-level military people who are saying it is not going to work when you get into actual warfare and actual warfare environment. And they said that the Apache helicopter is not going to be functionally right because they cannot maintain it, they do not have the equipment and personnel to maintain it properly.

My background is aviation, and I have been a licensed pilot for 35 years now, I am a commercial pilot and I know a little bit about aviation. So I went over there0 and I flew around in some of these vehicles that they said were not supposed to work. They were operating perfectly. Now history has shown in retrospect that we were the best equipped country for a war in the history of warfare, that our troops were the best trained, our equipment was the most modern and advanced, our equipment was kept up and maintained better. The spare parts were there in place.

So those individuals who did not want us to be in a position where we would ultimately have to go to war, of course they might have had a number of motivations for that notion, they were trying to say that we were not prepared for war. We were prepared for war, and Christmas came, and of course we know the rest of the story.

Anyway, those were the concerns of our troops that were there. That is what is happening over there at this time, and those documents that were uncovered I think should be a lesson for all mankind that there are people in this country who do not think like we do.

□ 1550

How many times have we heard people say, "Why is it that Saddam Hussein did not respond to the massive air power of America and the alliance?" There is a very good answer to that. The answer to that is that he did not know that we had that kind of strength. Why did not Saddam Hussein know that? Because Saddam Hussein did not understand Western thinking.

At that point when I was in Saudi Arabia before Christmas, Saddam Hussein had only spent one night in his life in the Western world, and that was in Paris, France. I doubt if he was on a factfinding mission at that time, and he certainly did not know how the American people thought.

Saddam Hussein started out with a very large group of people around him advising him, but as they told him things he did not want to hear, he executed them. He was finally down to five people, five people, and one was a cousin, one was an uncle, one was a brother, and two were brothers-in-law. They told him exactly what he wanted to hear, because if they did not tell him exactly what he wanted to hear, he would execute them. So they told him exactly what he wanted to hear.

I am kind of glad that they did, because he was not aware that we had that capability. With his ultimatums that he came up with, Saddam Hussein was not prepared, because he did not know. There can be no doubt in anyone's mind as to what an animal he is.

I would say to the gentlewoman from Maryland [Mrs. BENTLEY] that I have been talking for 45 minutes about our experience that we had together, about the documents that were uncovered, about the torture chambers and about a war that had to be fought. And, you know, you have to come to the conclusion that if we had not fought the war then, we would have had to fight it when he had nuclear capability, and then it would be a matter for the entire civilized world.

Mrs. BENTLEY. Madam Speaker, will the gentleman yield?

Mr. INHOFE. I am happy to yield to the gentlewoman from Maryland.

Mrs. BENTLEY. Madam Speaker, I want to commend the distinguished gentleman from Oklahoma for taking this time and for getting it underway. I apologize, but I have had committee hearings all afternoon, and I have not been able to hear what the gentleman has been saying, but his summary presents it very well.

I am going to just repeat probably some of what the gentleman has already said, because I think it is so important, the fact that our Ambassador, the United States Ambassador in Kuwait, has the written document from Saddam Hussein, the written directive actually, which said or which ordered his people to execute all Kuwaiti males if there had been any extension of time, if we had not gotten under way when we did, if the bombing had not started, and the war had not gotten under way, all of the Kuwaiti males were to be executed. I think that in itself, that document in itself, is enough to call for a war crimes trial.

Mr. INHOFE. I would interrupt the gentlewoman from Maryland to just give the rest of that directive that he signed. In addition to the execution of the male population, it was the raping of the women, and one can only come to the conclusion that he did it to annihilate a nation and turn it, within a generation, into a nation of Iraqis.

Mrs. BENTLEY. Very, very definitely, and the torture, some of the weapons that we saw that were involved concerning women up in the torture chambers; that just shows you exactly what little feeling he had for human beings and what little feeling any of the Iraqis had for human beings.

I think, you know, I just thank God that President George Bush moved when he did, that this Congress did approve his going in, and that he moved when he did, because if there had been any other delay there would have been a total annihilation of this whole country.

Mr. INHOFE. I would suggest to the gentlewoman from Maryland that it should be required reading for all Americans, and certainly all school kids coming up, the Amnesty International report of the human rights violations to Kuwaitis. That is a published and documented document wherein they describe on pages 37, 38, and 39 the indescribable tortures that this state-of-the-art barbarian was able to inflict upon the people, the way he would raise them in the air with their arms tied behind their back and drop them from high levels to break their joints and their bones, and as we saw over there, the instruments that they used once they were in that position. As disgusting and as sickening as it is to talk about, it should be required reading so people would know what happened, because, unfortunately, I think the gentlewoman would agree, for many Americans who do not understand the real Saddam Hussein.

Mrs. BENTLEY. Well, perhaps many Americans do not understand it because Americans do not have that kind of mind. They do not think of doing this to other people. They just do not understand that other human beings do believe in torturing, they do believe in desecrating, they do believe in cutting.

I think of that one instrument that they had in the room. It was what I would call a dandelion puller, because it has the two prongs.

Mr. INHOFE. Yes.

Mrs. BENTLEY. And they bent it like this, and then they used that to tear the skin off of the bodies of the people.

The other item that was a cleaning item that they used in guns, and this is what they used to torture women with, and then we saw the photographs which had been played back here, but, again, when you see them in living color, all of them together with the people whose eyes have been pushed out, with the people whose ears have been cut off, this again just makes you sick.

Mr. INHOFE. I would have two observations that I would share with the gentlewoman from Maryland, and that is that was happening actually long before, well, back in December and November, the tortures that were taking place. When I was in Saudi Arabia, I met and talked to a family, a man and wife and a child, a 13-year-old boy. The 13-year-old boy had had his eyes burned out with cigarettes for carrying, not even demonstrating with it, but carrying a Kuwaiti flag.

But when the gentlewoman says the American people do not understand, I think that is true, because you have to keep in mind that the mentality that we are dealing with is one that it is difficult to be in a position to understand it.

I mentioned before the gentlewoman came in about how he did not have the information that was at all accurate. He had information that people told him in order not to be executed, and so he had no way of knowing what the real scene was, what the real danger and the real capacity of the alliance was.

Mrs. BENTLEY. The gentleman may recall the one story we were told about the mother and her four sons when the Iraqi soldiers came to the home. They took one of the sons out in the yard there, and before the eyes of the other four, they shot the one and killed him. They took the other three sons with them, and a few days later they brought the other three sons back, let them embrace their mother, and then they took those three out in the back yard and killed all three of them.

Mr. INHOFE. That is right.

Mrs. BENTLEY. This is the type of a person that we were giving sanctions to when we said that we could go on and on forever with sanctions. There would not have been anybody left.

Mr. INHOFE. The sanctions, "Give sanctions a chance to work," that is exactly what Saddam Hussien wanted was time.

Mrs. BENTLEY. That is right.

Mr. INHOFE. Time was in his favor. Time was in his favor.

Mrs. BENTLEY. As the gentleman said when I came into the Chamber, he was pointing out that if there had been any more time, if this had not taken place now that he would have developed his nuclear capability and put his chemical capability to work. We were very, very fortunate that we had the intelligence that we had, the technology to locate all of this, and to destroy it before he was ever able to really use it.

Mr. INHOFE. And that we were humble enough to believe it.

You know, today I heard General Powell give a speech at noon, and I looked at him, and I can remember both Powell and General Schwarzkopf, Dick Cheney, our President, when you look at our team at the top, when you compare it to their team at the top, what a contrast it is. It is almost as if it is prophetic that we would at that particular time in history have those four individuals working.

Mrs. BENTLEY. Yes, It really is almost prophetic.

Did not the gentleman have a marvelous feeling as we were there and the strong feeling that the people of Bahrain and the people from Kuwait whom we were able to see, I mean, there are still many, many of them who are still MIA's, how much they loved America for what America did for them and how proud you felt and I know I felt that we were Americans and that we were able to come to the rescue of this country?

Mr. INHOFE. I think that is something we need to share with the Speaker, with the Members of this institution, with all of America.

□ 1600

We remember the liberation of Europe, during World War II, and how quickly some of these countries forgot.

I had a recent experience that reminded me that there are some who always remember General Patton and others who were there at the liberation. I do not think we can equate it to the troops driving down the streets of Paris or any of the liberated countries from World War II, because even though other Members and I were not involved in a military way on the front lines, there was not one car that went by on that devastated highway that I described in some detail, where those individuals who did not wave and give everyone that victory sign that they developed. After the cars went by we would see in the back the picture of the American flag and George Bush. I have never seen an appreciation at the level that it was.

Mrs. BENTLEY. If the gentleman will continue to yield, it was from the littlest kid on up to the older people. They really did appreciate and were very appreciative of what we had done for them.

Mr. INHOFE. And I believe they should have been.

Mrs. BENTLEY. I am proud that we as Americans did it.

Mr. INHOFE. I think we can speak on behalf of the whole delegation that went over, and I have already described who the delegation was, that a good job was done for humankind, and almost as I said before, something almost prophetic about it, and the fact that we were fortunate enough to be the eyes and ears of half a million people, that we each represent, was one of the high honors of my lifetime.

Mrs. BENTLEY. Certainly a trip that no Member will ever forget.

Again, I want to commend the gentleman from Oklahoma for getting this underway and for saying all that he did. I am sure that some of the other Members will want to pick this up in a day or two.

Mr. INHOFE. I thank the gentlewoman for her comments.

RULES OF PROCEDURE FOR THE SELECT COMMITTEE ON CHILDREN, YOUTH, AND FAMILIES FOR THE 102D CONGRESS

(Mrs. SCHROEDER asked and was given permission to extend her remarks at this point in the RECORD and to include extraneous matter.)

Mrs. SCHROEDER. Mr. Speaker, I submit herewith for publication in the CONGRESSIONAL RECORD the rules of procedure of the Select Committee on Children, Youth, and Families for the first session of the 102d Congress, as follows:

RULES OF THE SELECT COMMITTEE ON CHILDREN, YOUTH, AND FAMILIES, 102D CONGRESS, APPROVED MARCH 13, 1991

RULE 1.—MEETINGS

The regular meetings of the committee shall be held on the third Thursday of each month at 9:45 a.m., except when Congress has adjourned. The chairwoman is authorized to dispense with a regular meeting or to change the date thereof, and to call and convene additional meetings, when circumstances warrant. A special meeting of the committee may be requested by members of the committee in accordance with the provisions of House Rule XI, 2(c)(2). Every member of the committee, unless prevented by unusual circumstances, shall be provided with a memorandum at least three calendar days (excluding Saturdays, Sundays, and legal holidays) prior to each meeting or hearing explaining (1) the purpose of the meeting or hearing; and (2) the names, titles, background and reasons for appearance of any witnesses. The majority staff shall be responsible for providing the same information on witnesses whom the minority may request.

RULE 2.—QUORUMS

A majority of the members of the committee shall constitute a quorum, except that two members shall constitute a quorum for taking testimony and receiving evidence. Proxies shall not be used to establish a quorum. If the chairman is not present at any meeting of the committee, the ranking member of the majority party on the committe who is present shall preside at that meeting.

RULE 3.—COMMITTEE REPORTS

Every investigative report shall be approved by a majority vote of the committee at a meeting at which a quorum is present. Supplemental, minority, or additional views may be filed in accordance with House Rule XI, 2(1)(5). The time allowed for filing such views shall be three calendar days (excluding Saturdays, Sundays, and legal holidays) unless the committee agrees to a different time, but agreement on a shorter time shall require the concurrence of each member seeking to file such views. A proposed report shall not be considered in committee unless the proposed report has been available to the members of the committee for at least three calendar days (excluding Saturdays, Sundays, and legal holidays) prior to the consideration of such proposed report in the committee. If hearings have been held on the matter reported upon, every reasonable effort shall be made to have such hearings available to the members of the committee prior to the consideration of the proposed report in the committee.

RULE 4.—PROXY VOTES

A member may vote by proxy on any measure or matter before the committee and on any amendment or motion pertaining thereto. A proxy shall be in writing and be signed by the member granting the proxy; it shall show the date and time of day it was signed and the date for which it is given and the member to whom the proxy is given. Each proxy authorization shall state that the member is absent on official business or is otherwise unable to be present; shall be limited to the date and specific measure or matter to which it applies; and, unless it states otherwise, shall apply to any amendments or motions pertaining to the measure or matter.

RULE 5.—ROLLCALLS

A rollcall of the members may be had upon the request of any member.

RULE 6.—RECORD OF COMMITTEE ACTIONS

(a) The committee staff shall maintain in the committee offices a complete record of committee actions including a record of the rollcall votes taken at committee business meetings. The original records, or true copies thereof, as appropriate, shall be available for public inspection whenever the committee offices are open for public business. The staff shall assure that such original records are preserved with no unauthorized alteration, additions, or defacement.

(b) The records of the committee at the National Archives and Records Administration shall be made available for public use in accordance with Rule XXXVI of the Rules of the House of Representatives. The chairwoman shall notify the ranking minority member of any decision, pursuant to clause 3(b)(3) or clause 4(b) of the rule, to withhold a record otherwise available, and the matter shall be presented to the committee for a determination on the written request of any member of the committee.

RULE 7.—TASK FORCES

There shall be no more than three temporary task forces of the committee; the jurisdiction of each shall be established by the chairwoman of the committee. Each task force shall have fourteen members, divided between majority and minority party members in the ratio of nine to five. The chairwoman and ranking minority member of the committee shall serve ex officio on each task force.

Members of the majority party shall have the right to bid for task force chairs in order of full committee seniority. No member elected as a task force chairperson may choose a second task force position before all other members of the majority party have selected one task force assignment in order of full committee seniority. After each member of the majority party has selected one task force assignment, each may bid, in order of full committee seniority, for a second task force assignment. No member may serve on more than two task forces.

The chairperson of each task force may designate one committee staff member who shall serve at the pleasure of such chairperson, with the approval of the chairwoman of the full committee. Such staff members shall be paid from funds provided for the appointment of committee staff pursuant to primary and additional expense resolutions.

RULE 8.—HEARINGS DATES AND WITNESSES

The chairwoman of the committee, after consultation with the ranking minority member of the committee, shall announce the date, place, and subject matter of all hearings at least one week prior to the commencement of any hearings, unless she, after consultation with that member, determines that there is good cause to begin such hearings at an earlier date. The minority members shall supply the names of witnesses they intend to call to the chairwoman of the committee at the earliest possible date. Witnesses appearing before the committee shall, so far as practicable, submit written statements at least 24 hours in advance of their appearance.

RULE 9.—OPEN MEETINGS

Meetings for the transaction of business and hearings of the committee shall be open to the public or closed in accordance with Rule XI of the House of Representatives.

RULE 10.—FIVE-MINUTE RULE

A committee member may question a witness only when recognized by the chairwoman for that purpose. In accordance with

House Rule XI 2(j)(2), each committee member may request up to five minutes to question a witness until each member who so desires has had an opportunity. Until all such requests have been satisfied, the chairwoman shall, so far as practicable, recognize alternately on the basis of seniority those majority and minority members present at the time the hearing was called to order and others on the basis of their arrival at the hearing. Thereafter, additional time may be extended at the direction of the chairwoman.

RULE 11.—INVESTIGATIVE HEARINGS; PROCEDURE

Investigative hearings shall be conducted according to the procedures in House Rule XI, 2(k). All questions put to witnesses before the committee shall be relevant to the subject matter before the committee for consideration, and the chairwoman shall rule on the relevance of any questions put to the witness.

RULE 12.—STENOGRAPHIC RECORD

A stenographic record of all testimony shall be kept of public hearings and shall be made available on such conditions as the chairwoman may prescribe.

RULE 13.—TV, RADIO, AND PHOTOGRAPHS

When approved by a majority vote, an open meeting or hearing of the committee may be covered, in whole or in part, by television broadcast, radio broadcast, and still photography, by any of such methods of coverage, subject to the provisions of House Rule XI, 3. In order to enforce the provisions of said rule or to maintain an acceptable standard of dignity, propriety, and decorum. the chairwoman may order such alternation, curtailment or discontinuance of coverage as she determines necessary.

RULE 14.—STAFF

The chairwoman shall have the authority to appoint and terminate employees of the professional and clerical staff of the committee. The ranking minority member shall have the authority to select minority staff to be appointed by the chairwoman and to refer minority staff to be terminated by the chairwoman. The authorization for the creation of new majority staff positions, subject to the budget, shall rest with the chairwoman, and the ranking minority member shall have the same authority with respect to minority staff.

RULE 15.—STAFF DIRECTION

The majority staff shall be subject to the direction of the chairwoman of the committee and shall be assigned to such committee business as she considers advisable. The minority staff shall be subject to the direction of the ranking minority member of the committee and shall be assigned to such committee business as he considers advisable.

RULE 16.—AUTHORIZATION FOR TRAVEL

Travel to be paid from funds set aside for the full committee for any member or any staff member shall be paid only upon the prior authorization of the chairwoman. Travel may be authorized by the chairwoman for any member and any staff member in connection with the attendance of hearings conducted by the committee and meetings, conferences, and investigations which involve activities or subject matter under the general jurisdiction of the committee. Before such authorization is given there shall be submitted to the chairwoman in writing the following:

(1) The purpose of the travel;

(2) The dates during which travel is to be made and the date or dates of the event for which the travel is being made;

(3) The location of the event for which the travel is to be made;

(4) The names of members and staff seeking authorization.

RULE 17.—ADDITIONAL DUTIES OF CHAIRMAN

The chairwoman of the committee shall:

(1) Make available to other committees the findings and recommendations resulting from the investigations of the committee as appropriate;

(2) Prepare a budget for the committee and present such budget to the committee for its approval; and

(3) Authorize and issue subpoenas as provided in House Rule XI, 2(m)(1), in the conduct of any investigation or activity or series of investigations of activities within the jurisdiction of the committee.

RULE 18.—AMENDMENT OF RULES

These rules may be modified, amended, or repealed by a majority vote of the committee, if at least two legislative days' written notice of the proposed change has been provided each member of the committee prior to the meeting date on which such changes are to be discussed and voted upon.

CONFERENCE REPORT ON S. 419

Mr. GONZALEZ submitted the following conference report and statement on the bill (S. 419), to amend the Federal Home Loan Bank Act to enable the Resolution Trust Corporation to meet its obligations to depositors and others by the least expensive means:

CONFERENCE REPORT (H. REPT. 102–27)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 419), to amend the Federal Home Loan Bank Act to enable the Resolution Trust Corporation to meet its obligations to depositors and others by the least expensive means, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Resolution Trust Corporation Funding Act of 1991".

TITLE I—RTC RESOLUTION PROCESS AND FUNDING

SEC. 101. THRIFT RESOLUTION FUNDING.

Section 21A(i) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(i)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and moving the left margin of such subparagraphs (as so redesignated) 2 ems to the right;

(2) in the heading, by striking "BORROWING" and inserting "FUNDING";

(3) by inserting after such heading the following new paragraph designation and heading:

"(1) BORROWING.—"; and

(4) by adding at the end the following new paragraph:

"(2) INTERIM FUNDING.—The Secretary of the Treasury shall provide the sum of $30,000,000,000 to the Corporation to carry out the purposes of this section.".

SEC. 102. REPORTS.

(a) IN GENERAL.—Section 21A(k) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)) is amended—

(1) in paragraph (1)(A)—

(A) by striking "The" and inserting "Notwithstanding section 9105 of title 31, United States Code, the"; and

(B) by striking everything after "standards" the first place it appears and inserting ". The audited statements shall be transmitted to the Congress by the Oversight Board not later than 180 days after the end of the Corporation's fiscal year to which those statements apply.";

(2) in paragraph (1)(B), by striking ", or by an independent certified public accountant retained to audit the Corporation's financial statement,"; and

(3) by adding at the end the following:

"(8) OPERATING PLANS.—

"(A) IN GENERAL.—Before the beginning of each calendar quarter, the Oversight Board shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a detailed financial operating plan covering the remaining quarters of the Corporation's fiscal year in which that quarter occurs.

"(B) CONTENTS.—At a minimum, a detailed financial operating plan shall include—

"(i) estimates of the aggregate assets of institutions that are projected to be resolved in each quarter,

"(ii) the estimated aggregate cost of resolutions in each quarter,

"(iii) the estimated aggregate asset sales and principal collections in each quarter, and

"(iv) the Corporation's summary pro forma financial statement at the end of each quarter.

"(9) REPORTS ON SEVERELY TROUBLED INSTITUTIONS.—The Director of the Office of Thrift Supervision shall deliver on a quarterly basis to the Oversight Board a list of savings associations for which the Director has determined grounds exist, or are likely to exist in the current fiscal year of the Corporation and in the next following fiscal year of the Corporation, for the appointment of a conservator or receiver under the Home Owners' Loan Act. The Oversight Board shall report the aggregate number and assets of such savings associations to Congress within 60 days after the end of each calendar quarter.".

(b) FIRST REQUIRED PLAN.—The first plan described in section 21A(k)(8) of the Federal Home Loan Bank Act, as amended by subsection (a), is due not later than 30 days after the date of enactment of this Act.

(c) TIMELINESS OF REPORTS.—

(1) IN GENERAL.—At any time when an agency is delinquent in providing information to Congress or any of its committees as required by paragraph (1), (4), (5), (6), (8), or (9) of section 21A(k) of the Federal Home Loan Bank Act or by subsection (b) of this section, the President of the Oversight Board, and the head of any agency responsible for such delinquency shall, within 15 days of such delinquency, in testimony before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives—

(A) explain the causes of such delinquency; and

(B) describe what steps are being taken to correct it and prevent its recurrence.

Testimony shall not be required pursuant to the preceding sentence before either Committee if the Chairman and Ranking Member of such Committee agree that such testimony is not necessary. For purposes of this paragraph, the term "head of an agency" means the Chairman of the Resolution Trust Corporation with respect to reports to be filed by such Corporation, the Director of the Office of Thrift Supervision with respect to reports to be filed by such Office, and the Comptroller General with respect to audits *to be conducted by the General Accounting Office.*

(2) Transition Rule.—Any information described in paragraph (1) of this subsection that is delinquent on the date of enactment of this Act shall be provided to the appropriate committees of Congress not later than 30 days following enactment of this Act. Failure to provide such information as required by this paragraph shall be considered as a delinquency under the provisions of paragraph (1).

SEC. 103. STATUS OF EMPLOYEES.

(a) Resolution Trust Corporation.—Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by adding at the end the following new subsection:

"(q) Status of Employees.—

"(1) Liability.—A director, member, officer, or employee of the Corporation or of the Oversight Board has no liability under the Securities Act of 1933 with respect to any claim arising out of or resulting from any act or omission by such person within the scope of such person's employment in connection with any transaction involving the disposition of assets (or any interests in any assets or any obligations backed by any assets) by the Corporation. This subsection shall not be construed to limit personal liability for criminal acts or omissions, willful or malicious misconduct, acts or omissions for private gain, or any other acts or omissions outside the scope of such person's employment.

"(2) Definition.—For purposes of this subsection, the term 'employee of the Corporation or of the Oversight Board' includes—

"(A) any employee of the Office of the Comptroller of the Currency or of the Office of Thrift Supervision who serves as a deputy or assistant to a member of the Board of Directors of the Corporation; and

"(B) any officer or employee of the Federal Deposit Insurance Corporation who performs services for the Corporation on behalf of the Federal Deposit Insurance Corporation, acting as exclusive manager.

"(3) Effect on Other Law.—This subsection does not affect—

"(A) any other immunities and protections that may be available under applicable law with respect to such transactions, or

"(B) any other right or remedy against the Corporation, against the United States under applicable law, or against any person other than a person described in paragraph (1) participating in such transactions.

This subsection shall not be construed to limit or alter in any way the immunities that are available under applicable law for Federal officials and employees not described in this subsection.".

(b) Federal Deposit Insurance Corporation.—Section 2 of the Federal Deposit Insurance Act (12 U.S.C. 1812) is amended by adding at the end the following new subsection:

"(f) Status of Employees.—

"(1) In General.—A director, member, officer, or employee of the Corporation has no liability under the Securities Act of 1933 with respect to any claim arising out of or resulting from any act or omission by such person within the scope of such person's employment in connection with any transaction involving the disposition of assets (or any interests in any assets or any obligations backed by any assets) by the Corporation. This subsection shall not be construed to limit personal liability for criminal acts or omissions, willful or malicious misconduct, acts or omissions for private gain, or any other acts or omissions outside the scope of such person's employment.

"(2) Definition.—For purposes of this subsection, the term 'employee of the Corporation' includes any employee of the Office of the Comptroller of the Currency or of the Office of Thrift Supervision who serves as a deputy or assistant to a member of the Board of Directors of the Corporation in connection with activities of the Corporation.

"(3) Effect on Other Law.—This subsection does not affect—

"(A) any other immunities and protections that may be available to such person under applicable law with respect to such transactions, or

"(B) any other right or remedy against the Corporation, against the United States under applicable law, or against any person other than a person described in paragraph (1) participating in such transactions.

This subsection shall not be construed to limit or alter in any way the immunities that are available under applicable law for Federal officials and employees not described in this subsection.".

SEC. 104. INCIDENTAL POWERS.

(a) Resolution Trust Corporation.—Section 21A(b)(10)(N) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(10)(N)) is amended by adding at the end the following: "The Corporation may indemnify the directors, officers and employees of the Corporation on such terms as the Corporation deems proper against any liability under any civil suit pursuant to any statute or pursuant to common law with respect to any claim arising out of or resulting from any act or omission by such person within the scope of such person's employment in connection with any transaction entered into involving the disposition of assets (or any interests in any assets or any obligations backed by any assets) by the Corporation. For purposes of this subparagraph, the terms 'officers' and 'employees' include officers and employees of the Federal Deposit Insurance Corporation or of other agencies who perform services for the Corporation on behalf of the Federal Deposit Insurance Corporation, acting as exclusive manager. The indemnification authorized by this subparagraph shall be in addition to and not in lieu of any immunities or other protections that may be available to such person under applicable law, and this provision does not affect any such immunities or other protections.".

(b) Oversight Board.—Section 21A(a)(5) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(5)) is amended—

(1) by redesignating subparagraphs (I) and (J) as subparagraphs (J) and (K), respectively; and

(2) by inserting after subparagraph (H) the following:

"(I) indemnify, from funds made available to it by the Corporation, the members, officers, and employees of the Oversight Board on such terms as the Oversight Board deems proper against any liability under any civil suit pursuant to any statute or pursuant to common law with respect to any claim arising out of or resulting from any act or omission by such person within the scope of such person's employment in connection with any transaction entered into involving the disposition of assets (or any interests in any assets or any obligations backed by any assets) by the Corporation, and the indemnification authorized by this provision shall be in addition to and not in lieu of any immunities or other protections that may be available to such person under applicable law, and this provision does not affect any such immunities or other protections;".

SEC. 105. CLARIFICATION OF REVIEW OF PRIOR CASES.

Section 21A(b)(11)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(11)(B)) is amended—

(1) by striking "The Corporation shall exercise" and inserting the following:

"(C) Provisions Applicable to Review of Prior Cases.—

"(i) In General.—The Corporation shall exercise"; and

(2) by adding at the end of subparagraph (C), as so designated by paragraph (1) of this section, the following:

"(ii) Additional Provisions.—The Corporation, in modifying, renegotiating, or restructuring the insolvent institution cases resolved by the Federal Savings and Loan Insurance Corporation between January 1, 1988, and the date of enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, shall carry out its responsibilities under section 519(a) of the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1991 (104 Stat. 1386) and shall, consistent with achieving the greatest overall financial savings to the Federal Government, pursue all legal means by which the Corporation can reduce both the direct outlays and the tax benefits associated with such cases, including, but not limited to, restructuring to eliminate tax-free interest payments and renegotiating to capture a larger portion of the tax benefits for the Corporation.".

TITLE II—RTC DISPOSITION OF AFFORDABLE HOUSING

SEC. 201. AMENDMENTS RELATING TO SCOPE OF PROGRAM.

(a) Definition of Corporation.—Section 21A(c)(9)(C) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(9)(C)) is amended by striking the period at the end and inserting ", except that for purposes of subsection (c)(2) only, the term means the Resolution Trust Corporation acting in any capacity.".

(b) Sales to Insured Depository Institutions Excluded From Program.—Section 21A(c)(10) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(10)) is amended to read as follows:

"(10) Exemption for Certain Transactions With Insured Depository Institutions.—The provisions of this subsection shall not apply with respect to any eligible residential property after the date the Corporation enters into a contract to sell such property to an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act), including any sale in connection with a transfer of all or substantially all of the assets of a closed savings association (including such property) to an insured depository institution.".

SEC. 202. AMENDMENTS RELATING TO SALE PROCEDURES.

Section 21A(c)(6)(A)(i) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(6)(A)(i)) is amended to read as follows:

"(i) Sale Price.—The Corporation may sell eligible single family property to qualifying households, nonprofit organizations, and public agencies without regard to any minimum purchase price.".

SEC. 203. SCOPE OF APPLICATION.

The amendments made by sections 201 and 202 of this Act to section 21A of the Federal Home Loan Bank Act shall be effective only during the period beginning on the date of the enactment of this Act and ending at the end of fiscal year 1991, and section 21A shall apply after the end of such period as if such amendments had not been made.

TITLE III—RTC MANAGEMENT REFORMS

SEC. 301. MANAGEMENT ENHANCEMENT GOALS.

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by adding at the end the following new subsection:

"(r) Management Enhancement Goals.—

"(1) Action to Achieve Specific Goals.—The Corporation, upon the enactment of this subsection, shall take action to assure achievement of the management goals specified in this paragraph, as follows:

"(A) MANAGING CONSERVATORSHIPS.—The Corporation shall standardize procedures with respect to its (i) auditing of conservatorships, (ii) ensuring and monitoring of compliance with Corporation policies and procedures by conservatorship managing agents, and (iii) ensuring and monitoring of conservatorship managing agent performance. These procedures shall be developed and implemented not later than September 30, 1991.

"(B) PACE OF RESOLUTIONS.—The Corporation shall take all reasonable and necessary steps to reduce the length of time institutions remain in conservatorship, with the goal that no institution shall be in conservatorship for more than 9 months.

"(C) INFORMATION RESOURCES MANAGEMENT PROGRAM.—The Corporation shall develop and incorporate within its strategic plan for information resources management, (i) a translation of program goals into the communication and computer hardware and software, and staff needed to accomplish such goals, (ii) a systems architecture to ensure that all systems will work together, and (iii) an identification of corporation information and systems needs at all operational levels.

"(D) SECURITIES PORTFOLIO MANAGEMENT SYSTEM.—The Corporation shall develop within its information architecture framework, a centralized system for the management of its portfolio of securities. This system shall be developed and implemented not later than September 30, 1991.

"(E) TRACKING REO ASSETS.—The Corporation shall develop, within its information architecture, an effective system to track and inventory real-estate-owned assets. This system shall be developed and implemented not later than September 30, 1991.

"(F) ASSET VALUATION.—The Corporation shall develop a process for the quarterly valuation or updating of valuations of the assets it holds in its capacity as receiver (or as a result of such capacity). Such process shall incorporate, to the extent practical, Corporation disposition experience. In addition, the necessary information systems shall be developed to track and manage these valuations.

"(G) STANDARDIZATION OF DUE DILIGENCE AND MARKET FORMAT.—The Corporation shall develop a program for performing due diligence on one- to four-family mortgages and for marketing such loans on a pooled basis.

"(H) CONTRACTING.—The Corporation, in order to identify the need for any changes in its contracting process which would enhance the independence, integrity, consistency and effectiveness of that process, shall consult on a regular basis with other agencies and organizations that have large scale contracting and procurement systems, and shall review on a regular basis its organizational structure and relationships. The Corporation shall develop and have in widespread use the following:

"(i) A manual setting forth comprehensive policies and procedures.

"(ii) A revised and expanded directive that clearly and definitively describes the roles and responsibilities of all those involved in the contracting process.

"(iii) A revised and expanded directive that sets forth in detail the standard procedures to be followed in evaluating contractor proposals.

"(iv) A set of standardized solicitation and contract documents for use by all Corporation officers.

"(v) A series of standardized contracting training modules for use by Corporation personnel and private contractors.

"(2) The Corporation shall, not later than September 30, 1991, file with the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, a report on the progress being made toward full compliance by the agency with this subsection, as well as a timetable for completing those items not yet completed.".

TITLE IV—MINORITY CONTRACTING REPORT

SEC. 401. MINORITY AND WOMEN BUSINESS POLICY, OUTREACH AND EQUAL OPPORTUNITY REPORTING REQUIREMENT.

Section 21A(k)(5)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(5)(B)) is amended by adding at the end the following new clause:

"(xiii) A complete description of all actions taken by the Corporation pursuant to subsections (a), (b), and (c) of section 1216 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 with respect to the employment of and contracting with minorities, women, and businesses owned or controlled by minorities or women and any other activity of the Corporation pursuant to the outreach program of the Corporation for minorities and women. Such description shall specify the steps taken by the Corporation, in its corporate capacity and its capacity as conservator or receiver, to implement the minority and women outreach programs required by section 1216(c) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and shall set forth information and data showing—

"(I) the extent to which and means by which contract solicitations have been directed to minorities, women, and businesses owned or controlled by minorities or women by the Corporation and by the Federal Deposit Insurance Corporation on behalf of the Corporation;

"(II) the extent to which prime contracts and subcontracts have been awarded to minorities, women, and businesses owned or controlled by minorities or women, including data with respect to the number of such contracts, the dollar amounts thereof, and the percentage of Corporation contracting activity represented thereby (including contracting activity by the Federal Deposit Insurance Corporation on behalf of the Corporation);

"(III) contracting and outreach activity with respect to joint ventures and other business arrangements in which minorities, women, or businesses owned or controlled by minorities or women have a participation or interest; and

"(IV) the extent to which the Corporation's minority and women contracting outreach programs have been successful in maximizing opportunities through the outreach policies established by the Corporation for participation of minorities, women, and businesses owned or controlled by minorities or women in the Corporation's contracting activities.".

And the House agree to the same.

From the Committee on Banking, Finance and Urban Affairs, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

HENRY GONZALEZ,
B. VENTO,
DOUG BARNARD, Jr.,
CHARLES SCHUMER,
BARNEY FRANK,
TOM CARPER,
ESTEBAN EDWARD TORRES,
CHALMERS P. WYLIE,
JIM LEACH,
BILL MCCOLLUM,
MARGE ROUKEMA,

From the Committee on Energy and Commerce, for consideration of sec. 4 of the Senate bill, and modifications committed to conference:

EDWARD J. MARKEY,
Managers on the Part of the House.

DON RIEGLE,
PAUL SARBANES,
JAKE GARN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate accepted the House amendment to the Senate bill with the following additional Amendments:

The addition of the auditing and reporting requirements from Section 3 of the Senate bill (except for the employee sanctions for delinquent reports and except that the first financial operating plan would be due 30 days after the date of enactment as opposed to 10 days); the immunity and indemnification provisions of the Senate bill with amendments; and the Senate's requirement directing the Resolution Trust Corporation (RTC) to seek reductions in tax benefits in its negotiations for changes in the 1988 thrift deals.

The final bill includes provisions that require an annual audit of the RTC by the General Accounting Office; financial operating plans from the Oversight Board; reports on projected transfers of savings associations from the OTC to the RTC; limited immunity and indemnification provisions; and direction to the RTC on renegotiation of the 1988 deals.

In addition, the bill includes provisions to improve the efficiency and effectiveness of the RTC's affordable housing provisions, provides for management reforms and improves minority contracting reporting requirements.

Some members of the conference believe that the RTC has not included racial and ethnic groups in the business activities of the Corporation in a significant way, to the detriment of the national interest. Therefore, the Conference Report requires the RTC in its semi-annual report to provide a complete description of all actions taken by the RTC pursuant to the minority outreach program prescribed by FIRREA with respect to the employment of and contracting with minorities and women, and businesses owned or controlled by minorities and women.

The conferees expect, however, that the RTC will, to the maximum practicable extent, make available contracting and subcontracting opportunities to minority individuals and women or to companies owned and controlled by minorities and women. It is further expected that the RTC will exercise its utmost authority, resourcefulness and diligence in ensuring that such contracting opportunities reflect a fair proportion of minority and women individuals, or companies owned or controlled by minorities and women, engaged in the activities of the Corporation. It is understood that this would apply to every type of contracting activity, including conservatorships, entered into by the RTC and by the FDIC on behalf of the Corporation.

SECTION-BY-SECTION ANALYSIS OF THE RESOLUTION TRUST CORPORATION FUNDING ACT OF 1991

Section 1. Short Title

The "Resolution Trust Corporation Funding Act of 1991."

TITLE I—RTC RESOLUTION PROCESS AND FUNDING

Section 10A. Thrift Resolution Funding

Additional Treasury Funding. The bill appropriates $30 billion for interim funding of the RTC.

Section 102. Reports

Amends FIRREA to require an annual audit of the RTC by the GAO without exception. The audits must be completed within 180 days of the close of the fiscal year. (Prior law required an annual audit but permits the Oversight Board to contract with an independent accountant to conduct the RTC audit if the GAO notifies the Board that it will not perform the audit for that fiscal year.)

Requires the Oversight Board to submit quarterly financial operating plans to the House and Senate Banking Committees, and specifies the minimal contents of the quarterly financial operating plan. The first plan is due within 30 days of the date of enactment of this Act.

Requires the OTS to provide the Oversight Board quarterly with a list of savings associations that are projected to fail or to be placed into conservatorship during the current and following fiscal years. The Oversight Board must provide the aggregate number and assets of such institutions to the Congress within 60 days after the end of each calendar quarter.

Section 103. Status of Employees

Clarifies current law that provides that directors, officers, and employees of the RTC, the Oversight Board, and the FDIC are not subject to personal civil liability under the Securities Act of 1933 when they act within the scope of their employment in connection with asset disposition activities. The subsection is not to be construed to limit personal liability for criminal acts or omissions, willful or malicious misconduct, acts or omissions for private gain, or any other acts or omissions outside the scope of such person's employment. The subsection is not to be construed to limit or alter in any way the immunities that are available under applicable law for any federal official or employee.

Section 104. Incidental Powers

Provides that the directors, officers, and employees of the FDIC, RTC, and Oversight Board may be indemnified by the RTC or the Oversight Board.

Section 105. Clarification of Review of Prior Cases

Requires the RTC to pursue all legal means to reduce the direct outlays and tax benefits of the 1988 thrift deals, consistent with achieving the greatest overall savings to the Federal government.

TITLE II—RTC DISPOSITION OF AFFORDABLE HOUSING

Section 201. Amendments Relating to Scope of Program

(a) Definition of Corporation. Expands the RTC affordable housing program to include eligible single family properties held in conservatorships.

(b) Sales to Insured Depository Institutions Excluded From Program. Excludes from the program any properties that are sold to an insured depository institution, including properties transferred in connection with the sale of a failed institution.

Section 202. Amendments Relating to Sale Procedures

Allows the RTC to sell eligible single family properties to qualifying families, nonprofit organizations, and public agencies without regard to minimum sales price. Deletes the requirement for the RTC to establish "net realizable market value" for eligible residential property.

Section 203. Scope of Application

Provides that the provisions of Title II shall apply from date of enactment through the end of fiscal year 1991 only.

TITLE III—RTC MANAGEMENT REFORM

Section 301. Management Enforcement Goals

Requires the RTC to develop various programs, procedures, and systems for the management of conservatorships, pace of resolutions, information resources management, securities portfolio management, tracking REO, asset valuation, performing due diligence, and contracting. The RTC must file a report with the House and Senate Banking Committee on progress being made toward full compliance with this section by September 30, 1991.

TITLE IV—MINORITY CONTRACTING REPORT

Section 401. Minority and Women Business Policy, Outreach and Equal Opportunity Reporting Requirements

Requires a complete description of actions taken pursuant to section 1215 of FIRREA (affirmative program for equal employment opportunity and minority outreach provisions) with respect to the TRC's employment of and contracting with minorities, women and businesses owned or controlled by minorities or women. Specifically requires detailed reporting on minority and women owned business contract solicitations, contract awards, and outreach regarding joint ventures.

From the Committee on Banking, Finance and Urban Affairs, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

HENRY GONZALEZ,
B. VENTO,
DOUG BARNARD, Jr.,
CHARLES SCHUMER,
BARNEY FRANK,
TOM CARPER,
ESTEBAN EDWARD TORRES,
CHALMERS P. WYLIE,
JIM LEACH,
BILL MCCOLLUM,
MARGE ROUKEMA,

From the Committee on Energy and Commerce, for consideration of sec. 4 of the Senate bill, and modifications committed to conference:

EDWARD J. MARKEY,
Managers on the Part of the House.

DON RIEGLE,
PAUL SARBANES,
JAKE GARN,
Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GOSS) to revise and extend their remarks and to include extraneous material:)

Mr. GINGRICH, for 60 minutes each day, on April 9, 10, 11, 16, 17, and 18.

Mr. INHOFE, for 60 minutes, today.

Mr. WYLIE, for 60 minutes, on March 20.

(The following Members (at the request of Mr. JONTZ) to revise and exend their remarks and to include extraneous material:)

Mr. WHEAT, for 5 minutes, today.

Mr. BACCHUS, for 5 minutes, today.

Mr. CHAPMAN, for 5 minutes, today.

Mr. GLICKMAN, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. JONTZ, for 5 minutes, today.

Mr. VALENTINE, for 5 minutes, today.

Mr. WATERS, for 60 minutes, today.

Mr. KOPETSKI, for 15 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following members (at the request of Mr. GOSS) and to include extraneous matter:)

Mr. GALLEGLY in three instances.
Mr. LENT.
Mr. DORNAN of California.
Mr. MACHTLEY.
Mr. HENRY.
Mr. KOLBE.
Mr. MCEWEN.
Mr. COLEMAN of Missouri in two instances.
Mr. GILMAN.
Mrs. MORELLA.
Mr. PORTER, in three instances.
Mr. GEKAS.
Mr. KLUG.

(The following Members (at the request of Mr. JONTZ) and to include extraneous matter:)

Mr. BONIOR.
Mr. NEAL of Massachusetts.
Mr. ROE.
Mrs. SCHROEDER.
Mr. STARK.
Mr. BILBRAY.
Mr. DORGAN of North Dakota.
Mr. LEHMAN of Florida.
Mr. LAFALCE.
Mr. JONTZ.
Mr. MAZZOLI in three instances.
Mr. PANETTA in two instances.
Mr. SCHUMER.
Mr. RICHARDSON.
Mr. KOSTMAYER.
Mr. DERRICK.
Mr. SKELTON.
Mr. MATSUI.
Mr. FAZIO in two instances.
Mr. LAROCCO.
Mr. SHARP.

ENROLLED JOINT RESOLUTION SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 133. Joint resolution authorizing and requesting the President to designate the second full week in March 1991 as "National Employ the Older Worker Week."

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 483. An act entitled the "Taconic Mountains Protection Act of 1991"; to the Committee on Agriculture.

S. 669. An act to provide a land transfer to the Missouri Housing Development Commission; to the Committee on Armed Services.

S. 674. An act to designate the United States Post Office located at 304 West Commercial Avenue in Monterey, Tennessee, as the "J.E. 'Eddie' Russell Post Office"; to the Committee on Post Office and Civil Service.

ADJOURNMENT

Mrs. BENTLEY. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 2 minutes p.m.), the House adjourned until tomorrow, Wednesday, March 20, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

886. A letter from the Chief of Legislative Liaison, Department of the Army, transmitting notice of the Department's decision to convert the food services function at Fort McPherson, GA, by DOD civilian personnel to private contractors, pursuant to 10 U.S.C. 2304 nt.; to the Committee on Armed Services.

887. A letter from the Chief of Legislative Liaison, Department of Army, transmitting notice of the Department's decision to convert the word processing function at the Kansas City District, USACE by DOD civilian personnel to private contractors, pursuant to 10 U.S.C. 2304 nt.; to the Committee on Armed Services.

888. A letter from the Chairman, Resolution Trust Corporation, transmitting the report on enforcement issues, pursuant to Public Law 101-647, section 2540 (104 Stat. 4885); to the Committee on Banking, Finance and Urban Affairs.

889. A letter from the Acting Secretary, Department of Education, transmitting the followup report of the National Advisory Council on Women's Educational Programs, pursuant to 20 U.S.C. 3346(c) (1) and (4); to the Committee on Education and Labor.

890. A letter from the Chairman, National Foundation on the Arts and Humanities, transmitting the Federal Council on the Arts and the Humanities, 15th annual report on the Arts and Artifacts Indemnity Program for fiscal year 1990, pursuant to 20 U.S.C. 977; to the Committee on Education and Labor.

891. A letter from the Secretary, Department of Energy, transmitting the annual report of actions under the Powerplant and Industrial Fuel Use Act of 1978 during calendar year 1990, pursuant to 42 U.S.C. 8482; to the Committee on Energy and Commerce.

892. A letter from the Chairman, Washington, Utilities and Transportation Commission, transmitting, the 1991 report on the status of the Washington State telecommunications industry; to the Committee on Energy and Commerce.

893. A letter from the Executive Director, Board for International Broadcasting, transmitting a draft of proposed legislation to amend the Board for International Broadcasting Act of 1973, as amended, to authorize appropriations for fiscal years 1992 and 1993 for carrying out that act and the Inspector General Act of 1978, as amended, pursuant to 31 U.S.C. 1110; to the Committee on Foreign Affairs.

894. A letter from the Inspector General, Department of Health and Human Services, transmitting the report on the Department controls over obligations for advisory and assistance services need to be strengthened; to the Committee on Government Operations.

895. A letter from the Chairman, Federal Maritime Commission, transmitting the Department's annual report of activities under the Freedom of Information Act for the calendar year 1990, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

896. A letter from the Director, Institute of Museum Services, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1990, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Operations.

897. A letter from the Senior Vice President and Chief Financial Officer, Tennessee Valley Authority, transmitting the reconciliation to the budget report, statement on internal accounting, and administrative control, pursuant to Public Law 101-576, section 306(a) (104 Stat. 2854); to the Committee on Government Operations.

898. A letter from the Solicitor, U.S. Commission on Civil Rights, transmitting the Department's annaul report of activities under the Freedom of Information Act for the calendar year 1990, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

899. A letter from the Department of the Interior, transmitting the safety of dams programs modification report, "O'Neill Forebay Dam"; to the Committee on Interior and Insular Affairs.

900. A letter from the Department of the Interior, transmitting copies of the Reclamation Reform Act of 1982, annual report to the Congress, February 1991, and the Reclamation States Drought Assistance Act of 1988, report to the President and the Congress; to the Committee on Interior and Insular Affairs.

901. A letter from the Administrator, Federal Aviation Administration, transmitting the semiannual report on the effectiveness of the Civil Aviation Security Program for the period July 1, 1989 through December 31, 1989, pursuant to 49 U.S.C. app. 1356(a); to the Committee on Public Works and Transportation.

902. A letter from the Secretary, Department of Agriculture, transmitting the rehabilitation needs of each Forest Service region, resulting from disastrous forest fire damage during the previous year, pursuant to Public Law 101-286, section 202(1) (104 Stat. 174); jointly, to the Committees on Agriculture and Interior and Insular Affairs.

903. A letter from the Secretary of Energy, transmitting the first annual report by the Department on its activities relating to the Defense Nuclear Facilities Safety Board; jointly, to the Committees on Armed Services and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FORD of Michigan: Committee on Education and Labor. Report of the Committee on Education and Labor pursuant to section 302(b) of the Congressional Budget Act of 1974, as amended (Rept. 102-24). Referred to the Committee of the Whole House on the State of the Union.

Mr. BEILENSON: Committee on Rules. House Resolution 114. Resolution providing for the consideration of H.R. 355, a bill to amend the Reclamation States Drought Assistance Act of 1988 to extend the period of time during which drought assistance may be provided by the Secretary of the Interior, and for other purposes (Rept. 102-25). Referred to the House Calendar.

Mr. CLAY: Committee on Post Office and Civil Service. Report of the Committee on Post Office and Civil Service, pursuant to section 302(b) of the Congressional Budget Act of 1974 (Rept. 102-26). Referred to the Committee of the Whole House on the State of the Union.

Mr. GONZALEZ: Committee of Conference. Conference Report on S. 419 (Rept. 102-27). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WHITTEN:

H.R. 1462. A bill to establish the Reconstruction Finance Corporation to make loans and loan guarantees to individuals or concerns engaged in industry, agriculture, and commerce, who would otherwise be unable to obtain needed financing or refinancing essential for continued operation thereby preventing unemployment and resulting disruption of the economy, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

H.R. 1463. A bill making appropriations to meet our economic problems coming from changing conditions with essential productive jobs for the fiscal year ending September 30, 1991, and for other purposes; to the Committee on Appropriations.

By Mr. JONES of North Carolina (for himself, Mr. LENT, Mr. HUBBARD, Mr. DAVIS, Mr. TAUZIN, and Mr. STUDDS):

H.R. 1464. A bill to authorize appropriations for fiscal year 1992 for the Maritime Administration, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. BROWN (for himself and Mr. WALKER) (both by request):

H.R. 1465. A bill to authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, and research and program management, and inspector general, and for other purposes; to the Committee on Science, Space, and Technology.

By Mr. BRUCE (for himself, Mr. ROYBAL, Mr. TOWNS, Mr. STUDDS, Mr. SCHEUER, Ms. PELOSI, Mr. SIKORSKI, Mr. BOUCHER, Mr. GORDON, Mr. BILBRAY, Mr. RICHARDSON, Mr. SYNAR, Mr. COLEMAN of Texas, Mr. VALENTINE, Mr. COX of Illinois, and Mr. WEISS):

H.R. 1466. A bill to amend title VII of the Public Health Service Act to increase the support provided to programs for the training of medical rehabilitation health personnel, to establish an Advisory Council on Allied Health, and for other purposes; to the Committee on Energy and Commerce.

By Mr. CARDIN (for himself, Mr. STARK, and Mr. DONNELLY):

H.R. 1467. A bill to amend title XVIII of the Social Security Act to reduce from 1 year to 30 days the deadline for submitting claims to the Secretary of Health and Human Services for services provided under part B of the Medicare Program; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. CRANE (for himself and Mr. SHAYS):

H.R. 1468. A bill to authorize and direct the General Accounting Office to audit the Federal Reserve Board, the Federal Advisory Council, the Federal Open Market Committee, and Federal Reserve banks and their branches; to the Committee on Banking, Finance and Urban Affairs.

By Mr. DARDEN:

H.R. 1469. A bill to amend the Federal Deposit Insurance Act to include foreign deposits in the assessment base; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BROOKS:

H.R. 1470. A bill to establish evidentiary standards for Federal civil antitrust claims based on resale price fixing; to the Committee on the Judiciary.

By Mr. DAVIS (for himself, Mr. LENT, Mr. JONES of North Carolina, Mrs. BENTLEY, and Mr. FIELDS):

H.R. 1471. A bill to amend the Merchant Marine Act, 1936, to provide reemployment rights for merchant seamen who are employed in activation or operation of certain vessels of the United States during periods of national defense need, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. DORGAN of North Dakota (for himself, Mr. MATSUI, Mr. CRANE, Mr. SUNDQUIST, Mr. BUNNING, Mr. AUCOIN, Mr. BREWSTER, and Mr. KOPETSKI):

H.R. 1472. A bill to amend the Internal Revenue Code of 1986 to restore prior law with respect to the application of employer Social Security taxes to employees' cash tips; to the Committee on Ways and Means.

By Mr. DORNAN of California (for himself, Mr. LANCASTER, Mr. WILSON, and Mr. GILMAN):

H.R. 1473. A bill to repeal section 3205 of title 38, United States Code; to the Committee on Veterans' Affairs.

By Mr. GLICKMAN (for himself and Mr. FISH):

H.R. 1474. A bill to provide a comprehensive system for assuring compensation to injured parties through indemnification by the United States of its design professionals for liability in excess of reasonably available financial protection; to the Committee on the Judiciary.

By Mr. JONTZ (for himself, Mr. SHARP, Mr. HAMILTON, Mr. JACOBS, Ms. LONG, and Mr. ROEMER):

H.R. 1475. A bill to restore Federal recognition to the Miami Tribe in Indiana; to the Committee on Interior and Insular Affairs.

By Mr. KOLBE (for himself, Mr. UDALL, Mr. STUMP, Mr. RHODES, and Mr. KYL):

H.R. 1476. A bill to provide for the divestiture of certain properties of the San Carlos Indian Irrigation Project in the State of Arizona, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. KOSTMAYER (for himself and Mr. MCDADE):

H.R. 1477. A bill to provide for the transfer of certain real property to the National Park Service for inclusion in the Upper Delaware Scenic and Recreational River; to the Committee on Interior and Insular Affairs.

By Mr. LAUGHLIN (for himself, Mr. TAUZIN, Mr. BROOKS, Mr. DE LA GARZA, Mr. ORTIZ, Mr. LIVINGSTON, Mr. HUTTO, Mr. FIELDS, Mr. HAYES of Louisiana, Mr. CALLAHAN, Mr. LANCASTER, Mr. JEFFERSON, Mr. TANNER, Mr. TAYLOR of Mississippi, Mr. PARKER, Mr. BAKER, Mr. DELAY, Mr. GRAY, and Mr. HARRIS):

H.R. 1478. A bill to provide relief to shrimp fishermen from economic hardship caused by the mandatory use of turtle excluder devices under the Endangered Species Act, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries and Ways and Means.

By Mr. LEWIS of Florida:

H.R. 1479. A bill to amend title 5, United States Code, to provide that the Civil Service Retirement and Disability Fund be excluded from the budget of the U.S. Government; jointly, to the Committees on Post Office and Civil Service and Government Operations.

By Mr. NEAL of North Carolina:

H.R. 1480. A bill to amend the Bank Holding Company Act of 1956; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MILLER of Ohio:

H.R. 1481. A bill to amend title 10, United States Code, to authorize the detail of personnel of the Department of Defense to assist the Immigration and Naturalization Service and the U.S. Customs Service perform border patrol-related activities; jointly, to the Committees on Armed Services and the Judiciary.

By Mr. MURPHY (for himself, Mr. HORTON, Mr. COLEMAN of Texas, Mr. YATRON, Mr. BEREUTER, Mr. PENNY, Mr. LENT, Mr. EVANS, Mr. TOWNS, Mr. HYDE, Mr. DERRICK, Mr. FROST, Mr. LANCASTER, Mr. RAMSTAD, Mr. BRUCE, Mr. LAGOMARSINO, Mr. ROE, Mr. OWENS of Utah, Mr. ERDREICH, Mr. CHAPMAN, and Ms. NORTON):

H.R. 1482. A bill to amend title IV of the Higher Education Act of 1965 to allow resident physicians to defer repayment of title IV student loans while completing accredited resident training programs; to the Committee on Education and Labor.

By Mr. PALLONE (for himself, Mr. BROWN, Mr. SCHEUER, Mr. WOLPE, Mr. DWYER of New Jersey, Mr. SHAYS, Mr. OWENS of Utah, Mr. HAYES of Louisiana, Mr. JONTZ, Mr. JOHNSON of South Dakota, Mrs. MINK, Mr. DE LUGO, Mr. GILMAN, Mr. NEAL of North Carolina, Mr. ECKART, Mr. RAVENEL, Mr. UPTON, Mr. ROE, Ms. SLAUGHTER of New York, Mr. ANDREWS of Maine, Mr. HUGHES, Mr. ANDREWS of New Jersey, Mr. MFUME, and Mrs. LOWEY of New York):

H.R. 1483. A bill to require the Secretary of Energy, in close consultation with the Administrator of the Environmental Protection Agency and the Director of the National Institute of Environmental Health Sciences, to develop and implement a comprehensive study of the potential human health effects of electric and magnetic fields, to evaluate whether improved engineering designs of electricity delivery systems to residences and workplaces will reduce potential health risks posed by electric and magnetic fields, and to establish a comprehensive public information dissemination program on issues related to electric and magnetic fields; jointly, to the Committees on Energy and Commerce and Science, Space, and Technology.

By Mr. PANETTA:

H.R. 1484. A bill to amend the Internal Revenue Code of 1986 to reduce the occupational tax on retail dealers in liquors and beer, to limit the period during which such tax may be assessed; to the Committee on Ways and Means.

H.R. 1485. A bill to amend the Internal Revenue Code of 1986 to provide that certified public accountants and enrolled agents may represent taxpayers in certain Tax Court cases involving $10,000 or less; to the Committee on Ways and Means.

By Mr. RICHARDSON:

H.R. 1486. A bill to amend title IV of the Act of December 19, 1980 (94 Stat. 3227) to provide further relief to the Vermejo Conservancy District from its repayment obligations for the construction, operation, and maintenance of the Vermejo reclamation project, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. ROHRABACHER:

H.R. 1487. A bill to amend the Internal Revenue Code of 1986 to provide a limitation on the application of the affiliated service group rules of section 414(m) of such Code in the case of certain bone fide business transactions; to the Committee on Ways and Means.

By Mrs. SCHROEDER:

H.R. 1488. A bill to amend the Department of Energy Organization Act to prohibit Department of Energy contractors from taking retaliatory personnel actions against any employee who discloses information which the employee reasonably believes evidences a violation of Federal law relating to the contract; to the Committee on Energy and Commerce.

By Mr. SHARP (for himself, Mr. MOORHEAD, Mr. TAUZIN, Mr. LEVINE of California, and Mr. BEILENSON):

H.R. 1489. A bill to increase the safety to humans and the environment from the transportation by pipeline of natural gas and hazardous liquids, and for other purposes; jointly, to the Committee on Energy and Commerce and Public Works and Transportation.

By Mr. SMITH of New Jersey (for himself, Mr. MOLLOHAN, Mrs. VUCANOVICH, Mr. HYDE, Mr. BONIOR, Mr. STENHOLM, Mr. APPLEGATE, Mr. VOLKMER, Mr. ROE, Mr. TAUZIN, Mr. LENT, Mr. ARCHER, Mr. BLILEY, Mr. HUNTER, Mr. WEBER, Mr. MCCOLLUM, Mr. DANNEMEYER, Mr. KYL, Mr. HENRY, Mr. RAHALL, Mr. HOLLOWAY, Mr. EMERSON, Mr. LIGHTFOOT, Mr. OXLEY, Mr. DORNAN of California, Mr. PETERSON of Minnesota, Mr. BOEHNER, Mr. SMITH of Texas, Mr. SANTORUM, Mr. RHODES, Mr. BUNNING, Mr. WALSH, Mr. LAGOMARSINO, Mr. HASTERT, Mr. MCCRERY, Mr. DOOLITTLE, Mr. HANSEN, Mr. DELAY, Mr. GRANDY, Mr. INHOFE, Mr. ARMEY, Mr. PACKARD, Mr. HANCOCK, Mr. PAXON, Mr. BARTON of Texas, Mr. SUNDQUIST, and Mr. COMBEST):

H.R. 1490. A bill to establish, with respect to abortions and parental notifications, a requirement in programs in which the Secretary of Health and Human Services provides financial assistance to non-Federal entities for the provision of health services; to the Committee on Energy and Commerce.

By Mr. SOLOMON:

H.R. 1491. A bill to amend the Anti-Drug Abuse Act of 1988 to eliminate the discretion of the court in connection with the denial of certain Federal benefits upon conviction of certain drug offenses; to the Committee on the Judiciary.

By Mr. STARK (for himself and Mr. COYNE):

H.R. 1492. A bill to provide coverage under the Medicare Program to individuals receiving extended unemployment compensation benefits or trade readjustment allowances, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. VENTO (for himself, Mr. ANNUNZIO, Mr. KLECZKA, Mr. KANJORSKI, Mr. NEAL of North Carolina, Mr. SANDERS, Mr. ABERCROMBIE, Mr. BONIOR, Mr. BRYANT, Mrs. COLLINS of Illinois, Mr. COSTELLO, Mr. DE LUGO, Mr. DWYER of New Jersey, Mr. EVANS, Mr. FUSTER, Mr. GEJDENSON, Mr. GORDON, Mr. GUARINI, Mr. HARRIS, Mr. HERTEL, Mr. KOLTER, Mr. KOPETSKI, Mr. LANCASTER, Mr. LEHMAN of California, Mrs. LOWEY of New York, Mr. MCCLOSKEY, Mr. MRAZEK, Ms. PELOSI, Mr. PENNY, Mr. RANGEL, Mr. SABO, Mr. SMITH of Florida, and Mr. VALENTINE):

H.R. 1493. A bill to amend the Electronic Fund Transfer Act to provide that the endorsement, deposit, transfer, or other form of negotiation of a check by any consumer may not constitute the authorization of the consumer to make any preauthorized electronic fund transfer from the consumer's account and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WALSH (for himself, Mr. BOEHLERT, Ms. SLAUGHTER of New York, Mr. MARTIN, Mr. HORTON, Mr. SANDERS, and Mr. MCDADE):

H.R. 1494. A bill to establish on a temporary basis a minimum basic formula price for the computation of Class I milk prices; to the Committee on Agriculture.

By Mr. WILLIAMS (for himself and Mr. OWENS of Utah):

H.R. 1495. A bill to increase Federal payments in lieu of taxes to units of general local governments, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. ASPIN:

H.J. Res. 191. Joint resolution designating January 5, 1992 through January 11, 1992 as "National Law Enforcement Training Week"; to the Committee on Post Office and Civil Service.

By Mr. COLEMAN of Missouri:

H.J. Res. 192. Joint resolution proposing an amendment to the Constitution of the United States to prohibit the Supreme Court or any inferior court of the United States from ordering the laying or increasing of taxes; to the Committee on the Judiciary.

H.J. Res. 193. Joint resolution proposing an amendment to the Constitution of the United States to provide that appropriations made by the United States shall not exceed its revenues, except in time of war or national emergency; and to provide for the systematic paying back of the national debt; to the Committee on the Judiciary.

By Mr. HARRIS (for himself, Mr. BEVILL, Mr. BILIRAKIS, Mr. BLILEY, Mr. BROWDER, Mr. CALLAHAN, Mr. CRAMER, Mr. DICKINSON, Mr. ERDREICH, Mr. ROWLAND, Mr. WISE, Mr. BONIOR, Mr. MOODY, Mr. PICKETT, Mr. APPLEGATE and, Mr. LAUGHLIN):

H.J. Res. 194. Joint resolution designating May 12, 1991, as "Infant Mortality Awareness Day"; to the Committee on Post Office and Civil Service.

By Mr. MCNULTY (for himself, Mr. WELDON, Ms. OAKAR, Mr. FEIGHAN, Mr. HORTON, Mr. DORNAN of California, Mr. ESPY, Mr. WALSH, Mr. LANCASTER, Mr. SCHEUER, Mr. BROOKS, Mr. PANETTA, Mr. MARTIN, Mr. LAGOMARSINO, Mr. EVANS, Mr. SLATTERY, Mr. ROE, Mr. BLAZ, Mr. MCGRATH, Mr. MRAZEK, Mr. ACKERMAN, Mr. KOSTMAYER, Mr. SOLOMON, Mr. ABERCROMBIE, Ms. SLAUGHTER of New York, Mr. SERRANO, and Mr. FISH):

H. Con. Res. 100. Concurrent resolution expressing the sense of the Congress that the President should award the Presidential Medal of Freedom to Martha Raye; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. OLIN introduced a bill (H.R. 1496) for the relief of Octavianus David Reinhart; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 7: Mrs. KENNELLY, Mr. MINETA, Mr. PALLONE, Ms. DELAURO, Ms. NORTON, Mr. ANDREWS of New Jersey, Mr. ANDREWS of Maine, Mr. GUARINI, Mr. PANETTA, Mr. FORD of Tennesse, and Mr. FLAKE.

H.R. 10: Mrs. LLOYD.

H.R. 44: Mr. YATRON, Mr. DWYER of New Jersey, Mr. SHAW, Mr. PALLONE, and Mr. GAYDOS.

H.R. 53: Mr. KILDEE, Mrs. LOWEY of New York, Mr. MARKEY, Mr. SCHAEFER, and Mr. MOLLOHAN.

H.R. 62: Mr. ZIMMER, Mr. OLIN, and Mr. KANJORSKI.

H.R. 64: Mr. BILIRAKIS, Mr. MCCOLLUM, Mr. LANCASTER, Mr. GOSS, Mr. LEHMAN of Florida, and Mr. JOHNSTON of Florida.

H.R. 66: Mr. FROST, Mr. TRAFICANT, Mr. RINALDO, Mr. RHODES, Mr. SMITH of Texas, Mr. ROTH, Mr. DWYER of New Jersey, Mr. RITTER, Mr. KANJORSKI, and Mrs. MEYERS of Kansas.

H.R. 94: Mr. WILSON.

H.R. 179: Mr. SIKORSKI, Mr. UPTON, and Mr. HUGHES.

H.R. 252: Ms. PELOSI, Mr. HOCHBRUECKNER, Mr. YATRON, Mr. MCGRATH, Mr. GILMAN, Mr. JACOBS, Mr. GIBBONS, Mr. TORRES, Mr. FEIGHAN, Mr. GUARINI, Mr. LANTOS, Mr. DWYER of New Jersey, Mr. PORTER, Mr. KOSTMAYER, Mr. RAHALL, Mr. WILSON, Mr. LIPINSKI, and Mr. OWENS of New York.

H.R. 298: Mr. MCGRATH and Mr. CUNNINGHAM.

H.R. 357: Mr. FISH, Mr. HOAGLAND, and Mr. ENGEL.

H.R. 418: Mr. UPTON, Mr. CAMPBELL of Colorado, Mr. JEFFERSON, Mr. FALEOMAVAEGA, Mr. HALL of Texas, and Mr. QUILLEN.

H.R. 483: Mr. NEAL of North Carolina, Mr. SABO, Mr. FROST, Mr. SANTORUM, Mr. LANCASTER, Mr. KENNEDY, Mr. PRICE, and Mrs. BOXER.

H.R. 559: Mr. ANDREWS of Texas.

H.R. 576: Mr. KOPETSKI, Mr. PARKER, Mr. HAYES of Illinois, Mr. BRUCE, Mrs. LOWEY of New York, Mr. HYDE, Mr. ALEXANDER, Mr. OWENS of Utah, Mr. GALLO, Mr. EMERSON, Mr. KOLTER, Mr. KANJORSKI, Mr. BURTON of Indiana, Mr. QUILLEN, Mr. SANGMEISTER, and Mr. MOLLOHAN.

H.R. 583: Mr. BEVILL.

H.R. 585: Mr. COSTELLO, Mr. FAWELL, and Mr. MARKEY.

H.R. 602: Mr. COUGHLIN, Mr. FISH, Mr. HERTEL, Mr. KOLTER, Mr. LAGOMARSINO, Mr. MARTIN, Mr. MILLER of Ohio, Mr. NEAL of North Carolina, Mr. UPTON, and Mr. WOLPE.

H.R. 652: Mr. FROST and Mr. KLECZKA.

H.R. 680: Mr. RANGEL and Mr. CLINGER.

H.R. 754: Mr. ABERCROMBIE, Mr. CONYERS, MR. FISH, and Ms. WATERS.

H.R. 756: Mr. FISH, Mr. MOODY, and Mr. UPTON.

H.R. 785: Mr. SCHEUER.

H.R. 830: Mr. HUCKABY.

H.R. 840: Mr. HANSEN, Mr. UPTON, Mr. STEARNS, Mr. DORGAN of North Dakota, Mr. SIKORSKI, Mr. ROGERS, Mr. COBLE, Mr. KOPETSKI, Ms. NORTON, Mrs. KENNELLY, and Mr. LANCASTER.

H.R. 888: Mrs. UNSOELD.

H.R. 902: Mr. HUBBARD and Mr. BOEHNER.

H.R. 919: Mr. FROST.

H.R. 924: Mr. PETRI, Mr. INHOFE, and Mr. MCDADE.

H.R. 972: Mr. CAMPBELL of Colorado.

H.R. 999: Mr. BACCHUS.

H.R. 1000: Mr. RANGEL, Mr. RAVENEL, Mr. MCNULTY, Mrs. BOXER, Mr. TOWNS, Mr. OWENS of Utah, Mrs. LLOYD, Mr. RAMSTAD, Mr. LEVIN of Michigan, Mr. MCDERMOTT, Mr. BROWN, Mr. ECKART, Mr. MFUME, Ms. PELOSI, and Mr. TRAFICANT.

H.R. 1052: Mr. RAMSTAD, Mr. HOCHBRUECKNER, and Mr. QUILLEN.

H.R. 1054: Mr. SANTORUM, Mr. FISH, Mr. OXLEY, and Mr. MCEWEN.

H.R. 1059: Mr. LAGOMARSINO, Mr. ROE, Mr. WAXMAN, and Mr. HOAGLAND.

H.R. 1079: Mr. LAUGHLIN, Mr. PICKLE, Mr. HORTON, and Mr. PARKER.

H.R. 1081: Mrs. BOXER.

H.R. 1107: Mr. ALEXANDER, Mr. ANDREWS of New Jersey, Mr. ASPIN, Mr. BEVILL, Mr. BILBRAY, Mr. BROWDER, Mr. CARPER, Mr. CLEMENT, Mr. DERRICK, Mr. DIXON, Mr. DOOLITTLE, Mr. DORGAN of North Dakota, Mr. ECKART, Mr. FOGLIETTA, Mr. FROST, Mr. GEREN of Texas, Mr. GONZALEZ, Mr. HAMMERSCHMIDT, Mr. HEFNER, Mr. HOYER, Mr. HUGHES, Mr. JONES of Georgia, Mr. LAFALCE, Mr. LANCASTER, Mr. LANTOS, Mr. LEHMAN of California, Mrs. LLOYD, Mr. MACHTLEY, Mr. MRAZEK, Mr. PENNY, Mr. POSHARD, Mr. ROE, Mr. SANTORUM, Mr. SERRANO, Mr. SHARP, Mr. SOLARZ, Mr. SPENCE, Mr. STAGGERS, Mr. TORRICELLI, and Mr. WISE.

H.R. 1120: Mr. FISH, Mr. FROST, Mr. KOPETSKI, and Mr. YATRON.

H.R. 1124: Mr. PERKINS, Ms. OAKAR, and Mr. ABERCROMBIE.

H.R. 1156: Mr. BLILEY and Ms. MOLINARI.

H.R. 1171: Mr. MCNULTY, Mr. DORGAN of North Dakota, Mr. NOWAK, Mr. RAVENEL, Mr. DWYER of New Jersey, Mr. LIPINSKI, Mr. PETRI, Mr. COSTELLO, and Mr. VALENTINE.

H.R. 1184: Mr. HOLLOWAY and Mr. HUCKABY.

H.R. 1197: Mr. BRUCE, Mr. BRYANT, Mr. DWYER of New Jersey, and Mr. STARK.

H.R. 1226: Mr. HORTON, Mr. BEILENSON, Mr. DWYER of New Jersey, and Mr. WEISS.

H.R. 1259: Mr. PAYNE of New Jersey, Mr. GOSS, Mr. RAMSTAD, Mr. ABERCROMBIE, Mrs. LLOYD, Mr. ROHRABACHER, Mr. CONDIT, Mr. INHOFE, Mr. ESPY, Mr. HOAGLAND, Mr. MARLENEE, Mr. KANJORSKI, Mr. DWYER of New Jersey, Mr. GALLEGLY, Mr. QUILLEN, and Mr. DERRICK.

H.R. 1263: Mr. ECKART, Mrs. JOHNSON of Connecticut, Mr. JEFFERSON, Mr. DOOLEY, Mr. BRYANT, Mr. KOLTER, and Ms. NORTON.

H.R. 1264: Mr. ECKART, Mrs. JOHNSON of Connecticut, Mr. JEFFERSON, Mr. DOOLEY, Mr. BRYANT, Mr. KOLTER, and Ms. NORTON.

H.R. 1285: Ms. NORTON.

H.R. 1360: Mr. FROST, Mr. JEFFERSON, Mr. PORTER, Mrs. LOWEY of New York, Ms. NORton, Ms. Slaughter of New York, Mr. Levine of California, and Mr. Kennedy.

H.R. 1373: Mr. Moorhead, Mr. Hughes, and Mr. Frost.

H.R. 1386: Mr. Miller of California.

H.R. 1397: Mrs. Bentley, Mr. Baker, Mr. Doolittle, Mr. Lightfoot, and Mr. Smith of New Jersey.

H.R. 1446: Mr. Bruce.

H.J. Res. 80: Mr. Bliley.

H.J. Res. 81: Mr. Morrison and Mr. Cox of California.

H.J. Res. 107: Mr. Rahall and Mr. Pallone.

H.J. Res. 134: Mr. Archer, Mr. Broomfield, Mr. Brown, Mr. Conyers, Mr. DeFazio, Mr. Gradison, Mr. Hall of Ohio, Mr. Hammerschmidt, Mr. Hertel, Mr. Hubbard, Mr. Jefferson, Mr. Livingston, Mr. Markey, Mr. Mfume, Mr. Moorhead, Mr. Sarpalius, Mr. Shays, Mr. Sikorski, Mr. Slattery, Mr. Washington, and Mr. Young of Alaska.

H.J. Res. 141: Mr. Lagomarsino, Mr. Hammerschmidt, Mr. Paxon, Mrs. Meyers of Kansas, Mr. Frost, Mr. Guarini, Mr. Mrazek, Mrs. Byron, Mr. Abercrombie, Mr. Donnelly, Mr. Jefferson, Mr. Payne of New Jersey, Mrs. Kennelly, Ms. Norton, Mr. Espy, Mr. Nichols, and Ms. Snowe.

H.J. Res. 142: Mr. Ford of Michigan, Mr. Lowey of New York, Mr. Fawell, Mr. Henry, Ms. Molinari, Mr. Klug, Mr. Gunderson, Mr. Kildee, Mr. Sawyer, Mr. Barrett, and Mr. Horton.

H.J. Res. 148: Mr. Ballenger.

H.J. Res. 156: Mr. Rowland, Mr. Rogers, Mr. Ray, Ms. Pelosi, Mr. Hunter, Mr. Fascell, Mr. Hoagland, Mr. Emerson, Mr. LaFalce, Ms. Snowe, and Mr. Alexander.

H.J. Res. 169: Ms. Norton, Mr. DeFazio, Mr. Levine of California, Mr. Valentine, Mr. Guarini, Mr. Riggs, Mr. McNulty, Mr. Bacchus, Mr. Jefferson, Mr. Wilson, Mr. Payne of Virginia, Mr. Lagomarsino, Mrs. Lloyd, Mr. Lantos, Mr. Lehman of Florida, Mr. Barnard, and Mr. Andrews of Maine.

H.J. Res. 171: Mr. Thomas of Georgia, Mr. Oxley, Ms. Kaptur, Mr. Mavroules, Mr. Hastert, Mr. Bunning, Mr. Livingston, Mr. Emerson, Mr. Neal of North Carolina, Mr. Dannemeyer, Mrs. Mink, Mr. Ramstad, Mr. Frank of Massachusetts, Mr. Clement, Mr. Bliley, Mr. Fascell, and Mr. Stokes.

H. Con. Res. 20: Mr. Solomon.

H. Con. Res. 56: Mr. Rangel.

H. Con. Res. 77: Ms. Norton, Mr. Ramstad, and Mr. Mfume.

H. Con. Res. 81: Mr. Frost, Mr. Ballenger, Mr. Moorhead, Mr. Duncan, Mr. Barnard, Mr. Crane, Mr. Anderson, Mr. Lewis of California, and Mr. Schaefer.

H. Res. 100: Mr. Lagomarsino and Mr. Santorum.

SENATE—*Tuesday, March 19, 1991*

(Legislative day of Wednesday, February 6, 1991)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable JOSEPH I. LIEBERMAN, a Senator from the State of Connecticut.

The PRESIDING OFFICER. Today's prayer will be offered by our guest Chaplain, Rabbi Seth Frisch, Temple Beth El in Portland, ME.

PRAYER

Rabbi Seth Frisch, Temple Beth El, Portland, ME, offered the following prayer:

Almighty God, in Your Holy Writ, the Book of Numbers, You give us a most unusual view of Moses, Your servant, who has brought the Israelites out of Egypt. He has demanded of Pharaoh to let his people go.

While physically they have been freed, they have yet to become in their own minds free. When they are confronted with the harsh realities of life in the desert, they cry out for their past life in Egypt.

In this particular passage in Numbers, it is Moses instead who cries out. He says:

"I am not able to bear all this people myself alone, because it is too heavy for me."

And it is You, God, who answers Your servant with compassion. You say to him:

"Gather unto Me seventy of the elders of Israel, whom thou knowest to be elders of the people, and officers to represent them; and bring them to the tent of meeting that they may stand there with thee.

"They shall bear the burden of the people with you, that thou bear it not thyself alone."

These are powerful words for our ancestors in this ancient world, but for us these words founded this great Nation. These are words upon which this United States is but a cornerstone.

And so today I as a rabbi ask you, the representatives of this Nation, to pray with me.

Lord God, stand together with us this day as You once stood with the elders of Israel at a tented meeting in a desert far away. Today our prayer is that we ask You to guide us in our most difficult task of governing this Nation. Help us to come to one another's aid so that we will remain united in our purpose and so that we may continue to receive Your blessings, blessings that You have graciously bestowed upon us these many years since the founding of this most noble Nation.

May God bless you and keep you, may God make his continence to shine down upon you, and may God grant you his most special blessing of peace. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 19, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOSEPH I. LIEBERMAN, a Senator from the State of Connecticut, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. LIEBERMAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order the majority leader is now recognized.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, this morning following the time reserved for the two leaders, there will be a period for morning business, not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each.

At 10 this morning, the Senate will proceed to the consideration of Calendar No. 42, H.R. 1282, the Desert Shield/Desert Storm supplemental appropriations bill. Upon disposition of this measure, it is my intention to then proceed to the other supplemental appropriations bill, H.R. 1281, the dire emergency supplemental.

From 12:30 p.m. to 2:15 p.m., today, the Senate will stand in recess in order to accommodate the respective party conferences.

Mr. President, under the authority granted to me in a previous unanimous-consent agreement, I ask the Chair to lay before the Senate H.R. 1282 at 10 a.m., this morning.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I now ask that the remainder of my leader time be reserved and that all of the time of the distinguished Republican leader be reserved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Maine [Mr. COHEN].

THANKS TO THE GUEST CHAPLAIN

Mr. COHEN. Mr. President, I take this opportunity to thank Rabbi Frisch for being with us this morning and offering the opening prayer. As my colleagues go about their legislative duties today and the days to come I hope they will reflect upon these words and truly understand the significance of what was said today.

We are very, very fortunate to have a guest with such a distinguished and fascinating background. He is a young man, only 33 years of age, but he is an old and very wise soul. During his young years he had a chance to live in the region which we are talking about even today. He studied for a year at the Hebrew University in Jerusalem. He lived and studied with not only Israeli but also Palestinian students. He was able to visit Egypt and meet with President Anwar Sadat in his home to discuss, among many topics, America's view of the peace process. From his experience, I think he has brought great wisdom and deep understanding not only of the particulars in the Middle East but of human nature itself.

Today, Rabbi Frisch, at the age of 33, serves as the rabbi and spiritual leader of Temple Beth El in Portland, ME, the largest Jewish congregation in the State. He is also the senior rabbi of the Portland Congregational Rabbinate, which includes the orthodox, conservative, and reform congregations.

The State of Maine is fortunate to have such a man as a resident and servant, as are we to have him with us today. Again, my thanks to Rabbi Frisch for joining us. I wish him many years of good service to the Portland and greater Maine community.

SUPPORT FOR NATO AND CONTRIBUTIONS TO THE PERSIAN GULF WAR

Mr. COHEN. Mr. President, I also would like to take a few moments to bring to my colleagues' attention another matter which is of significant interest to me. I served for the past year working with a Johns Hopkins study group. It was chaired by a former Secretary of Defense, Harold Brown, and also by William Simon, former Secretary of the Treasury, and included a number of Members of Congress and academic experts.

The essence of the report was that we had to continue our support for NATO. For the foreseeable future, NATO will remain an institution that is vital to the security of western Europe and that of the United States. Indeed, the essence of the report was that the division of Europe has ended, but the unity of Europe is not yet in sight nor in hand; the Russians are not coming in, but they have not gone away; that uncertainty abounds and, therefore, an American presence at reduced levels we will certainly want to continue and there will be a greater burden borne by many European nations. That was the essence of the report.

But also implicit in that report was the understanding that a good deal will depend upon the leadership exercised by various participants in that institution. There was an item in yesterday's Post in which a Japanese leader was complaining that we had not been as tough on the Germans as we have on the Japanese as involves their contributions to the Persian Gulf war. I indicate that my reaction is that both countries, Japan and Germany, certainly in the initial phases, contributed meagerly in relationship to their total exposure to a potential cutoff of Persian Gulf oil. It was appallingly meager in my mind. I think they were certainly open and exposed to energy blackmail by Saddam Hussein, and yet their response was not correspondingly significant.

In today's Post, there is another item that has caught my attention. Apparently the German Government intends to send a delegation to the United States to discuss whether they can renegotiate their pledge to the contribution for the Persian Gulf war itself. Apparently this is in response to pressure coming from the SPD.

I point out to my colleagues that it was SPD that campaigned vigorously and aggressively against the deployment of Pershings and ground-launched cruise missiles back at the time when we were negotiating over the INF treaty, and it was over their objection that the German Government went forward. Indeed, Chancellor Kohl deserves credit for that, actually deploying Pershings and ground-launch cruise missiles, and, as a result, we were able to get an INF Treaty that is in place today.

This is also the same party which nominated a leader to challenge Chancellor Kohl in the recent election. Their leader was appearing before the standing crowds saying the following, and I am paraphrasing the report that appeared in the Washington Post. He said, "First, we sell chemical weapons to Iraq, and then you are asking us to send Germans to fight against those chemical weapons—never." Of course, he was getting standing applause from that particular line.

Now that the war is over, the German Government apparently wants to renegotiate the pledge saying, well, the United States does not need as much as we offered.

Let me simply suggest that not one German went without a meal or a night's rest; not one German soldier had to eat an MRE; not one German soldier risked his life; not one German soldier ever lost his life.

I respectfully suggest to Chancellor Kohl and the German Government, who is sending this delegation, if you really want to save Bonn money, then I suggest you cancel that delegation's trip to the United States, for if it is up to this Senator, there will be no renegotiation of that pledge. The German people have made a contribution that I think is not even proportional to the risk of exposure that they had during this war, and I suggest for them to try to renegotiate, to cut back that pledge at this time, would seriously complicate our relationship.

I yield back the remainder of my time.

Mr. President, I ask unanimous consent that the article to which I referred from this morning's Washington Post be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

> BONN TO ASK ABOUT CUTTING WAR PAYMENT
>
> BONN, March 18—The German government plans to send a delegation to Washington in the coming days to discuss whether the United States really needs the entire German contribution to the cost of the Persian Gulf War.
>
> The moves comes as a result of a call by the German opposition Social Democrats for Bonn not to complete its pledged $11 billion donation to the war effort. About $5.5 billion of that total was to be delivered to the United States in cash; the rest was directed at other members of the coalition or consisted of equipment and other non-cash contributions.
>
> The Social Democrats contend that Washington will receive $60 billion from other countries while the war cost only $42 billion, leaving the United States with a profit. Social Democrat Wolfgang Roth said Germany should stop its payments and use the money to roll back the tax hike announced by the Kohl government rather than "to add to the United States' surplus."
>
> Bonn government spokesman Dieter Vogel said today that the anti-Iraq coalition is still spending money on the continuing presence of troops in the Gulf region, and so it is premature to name a bottom line for the war effort.

TRIBUTE TO EARL WARREN

Mr. BIDEN. Mr. President, today we mark the 100th anniversary of the birth of Chief Justice Earl Warren. Along with a number of my distinguished colleagues, I rise today to remember Earl Warren and to express my gratitude for his life's work.

The time since Earl Warren's death now exceeds the length of his service as Chief Justice. History has confirmed the enormity of his contribution to justice in America. Today, Americans understand their Constitution, their basic civil rights, and their role in electoral politics, in the language of opinions written by Chief Justice Earl Warren and the Supreme Court that is identified by his name.

The breadth of the Warren Court's impact on modern American life is, in many ways, framed by two decisions. In Brown versus Board of Education, a unanimous Supreme Court declared segregation in our schools unconstitutional. With characteristic compassion, Chief Justice Warren chose to emphasize the human toll of racism. He wrote that the segregation of schoolchildren "solely because of their race, generates a feeling of inferiority * * * that may affect their hearts and minds in a way unlikely to ever be undone." Ten years later, in Reynolds versus Sims, the principle of "one person, one vote" was established, and the character of American politics was forever changed.

It is no secret that Chief Justice Warren was a controversial figure—some have said the most controversial figure of this century. After the Brown decision, segregationists campaigned to impeach the Chief Justice. Liberals were prone to honoring him more than they honored most Presidents. To focus on this controversy, however, is, I think, to miss the point. Chief Justice Warren was a man who had served, for a record term, as the highest elected official of America's fastest growing State. He was familiar with seeking the favor of the electorate and understood that such concerns had no place in the work of a judge.

Chief Justice Warren did more than breathe life into our Constitution. By treating the Constitution as a living compact, he helped renew and revitalize a democracy's most precious relationship: that between the Government and the citizens that consent to its authority. The landmark decisions of the Warren Court made our Government more responsible to its citizens. Chief Justice Warren once noted: "This Government was born of its citizens, it maintains itself in a continuing relationship with them * * *."

When Earl Warren became Chief Justice, the relationship between the Nation's citizens and their Government was troubled by a deep-rooted problem: the 14th amendment's promise that no person shall be denied "the equal protection of the laws" had not been kept.

Decided 37 years ago, it has become possible to take Brown versus Board of Education for granted. The unanimous, nine-to-zero vote is remembered as a matter of course. The unequivocal holding of the case—"We conclude that in the field of public education the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal" has, thankfully, gone into our culture and become a familiar credo. But it did not have to happen that way. A different Supreme Court, lead by a different Chief Justice, could have reached a different decision; middle roads were available. The Court could have kept the old separate but equal standard intact, limiting itself to the conclusion that the schools in the cases before the Court were insufficiently equal to meet that test. Certainly, dissenting votes were a possibility. These middle roads were not taken, however. Though just eight months into his 16-year tenure as Chief Justice, Earl Warren made certain that the Court's correction of the egregious unfairness of school segregation was clear and unambiguous.

Like Brown, the reappointment cases reflect a commitment to fairness and to equal justice. For Chief Justice Warren, the issue of reapportionment touched upon the lifeline of our democracy; it was the link between the Nation's citizens and their government. Ten years after Brown, he again was able to supply simple and powerful answers to fundamental questions about our Nation. Writing for the Court in Reynolds versus Sims, the Chief Justice explained: "Legislators represent people, not acres or trees. Legislators are elected by voters, not farms or cities or economic interests. * * * The weight of a citizen's vote cannot be made to depend on where he lives."

Earl Warren believed in the American political system and in the essential goodness of individuals. He was generous and optimistic. He possessed great courage and dignity. Not surprisingly, he had faith in the possibility of positive change. Shortly after his retirement from the Supreme Court, he said: "The foundations of a new world must be laid by those who have the courage to change the old; by those whose arteries are still soft and clear, whose minds are still active, and hearts still generous." We should all endeavor to make good on his legacy to America.

TRIBUTE TO CHIEF JUSTICE EARL WARREN

Mr. CRANSTON. Mr. President, today marks the 100th anniversary of the birth of Earl Warren. As the 14th Chief Justice of the United States, Warren presided over one of America's seminal periods of constitutional law, transforming the broad language of our Constitution into a pointed tool for greater civil liberties. Earl Warren emerged as one of our Nation's most important leaders of the century. It is appropriate that we should take this opportunity to recognize the special contributions which he has made to our country.

The son of a Norwegian-born railway car repairman and a Swedish-American mother, Warren was born in Los Angeles and grew up in Bakersfield, CA. After completing law school at the University of California's Boalt Hall and serving in World War I, he was known as a fierce prosecutor while serving as deputy district attorney and district attorney of Alameda County. His Statewide reputation grew as he was elected attorney general and eventually Governor of California. Warren's image as a liberal-conservative from a moderately progressive state and his performance as Thomas Dewey's Vice Presidential running mate in 1948 figured prominently in President Eisenhower's decision to nominate Warren, in 1953, to fill a vacancy on the Supreme Court. President Eisenhower saw Warren as someone who would not rock the boat. But less than a year after his confirmation Warren would lead the Court to one of its most important civil rights decisions ever, a precursor to the profound social changes which were to come. The Warren Court was not just at the forefront of civil rights change but also produced important decisions concerning church-state relations, school prayer, legislative reapportionment, and personal rights.

Chief Justice Warren's contributions to the Court and the Nation have been well documented. But we should remember the man, the sense of justice and fairness that he brought to the law and to the Nation. As former Justice Abe Fortas wrote:

> He was a constant reminder that the task of a judge is always to seek the truth—the essential constitutional and human values at stake * * * he was a constant reminder that neither fear nor the intricacies of the legal craft should divert justices from this noble pursuit.

EARL WARREN—A GREAT CHIEF JUSTICE

Mr. KENNEDY. Mr. President, summing up the monumental accomplishments of Earl Warren's distinguished career is no easy task. As we celebrate the centennial of the birth of this remarkable man on March 19, 1891, we are especially mindful of the extraordinary progress by the Nation under his leadership as Chief Justice toward securing the rights and liberties guaranteed to all Americans by the Constitution.

Earl Warren grew up at the end of the last century in the small Western town of Bakersfield, CA. The hardships he witnessed there made a deep impression on him, one he carried with him throughout his long career of public service.

Indeed, with the exception of a few early years in private practice, he spent his entire career in the law engaged in public service. He was deputy city attorney for the city of Oakland, district attorney, State attorney general and a highly successful three-term Governor of the State of California. But Earl Warren's greatest legacy to the American people began with his appointment by President Eisenhower to be Chief Justice of the United States. He held this post for 16 years, a time of great change and progress for this country that he himself did much to foster.

The Warren Court championed the rights of individuals, of minorities, and of the weak and disadvantaged, to the ultimate benefit of us all. Under his leadership, the Supreme Court vigorously defended the Bill of Rights, upheld the civil rights of minorities, wiped out the infamous and invidious doctrine of "separate but equal," and firmly established the principle of "one person, one vote."

Chief Justice Warren is perhaps best known and most widely remembered for writing the landmark opinion ending school desegregation. Brown versus Board of Education changed the face of our country and set the stage for the long fight to eradicate the legacy of slavery and shameful discrimination that blighted the history of our Nation.

In announcing the Court's decision in the Brown case, Chief Justice Warren concluded:

> In the field of public education the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal.

In later years, the Court applied the teachings of Brown to other realms of public life, in decisions desegregating beaches, buses, golf courses, and parks. These decisions culminated in the Court's determination in 1963 that:

> It is no longer open to question that a State may not constitutionally require segregation of public facilities.

In a series of landmark decisions, the Warren Court ensured that our criminal justice system would respect the constitutional rights of the accused. The Court affirmed the fundamental rights to be free from unlawful searches and seizures and to have adequate legal representation. These decisions helped to secure the blessings of liberty for all Americans.

And it was the Warren Court that issued the historic ruling that State legislatures may not apportion themselves so as to reduce the voting strength of particular constituencies. Under our Constitution, the Warren

Court told us, the principle of "one person, one vote" means that every person's vote should be counted equally.

Under Earl Warren the Supreme Court also revitalized the equal protection clause of the Constitution, requiring strict scrutiny for Government actions that single out minorities or restrict fundamental rights.

These accomplishments are the great legacy of Chief Justice Earl Warren. In honoring the centennial of his birth, we also honor the best in the Nation's ideals of individual liberty, equal justice under law, and a democracy truly representative of all the people.

Mr. SIMON. Mr. President, I am pleased to join my colleagues today in paying tribute to one of the finest jurists to have served this great Nation—Chief Justice Earl Warren—on the 100th anniversary of his birth.

Earl Warren was the American-born son of Scandinavian immigrants. No stranger to poverty and misfortune, he overcame his humble beginnings to become the Chief Justice of the United States. At the time of his retirement from the Supreme Court in 1969, Chief Justice Warren had built a career of public service that spanned over 50 years. The highlight of his career, his 16-year service as Chief Justice, was distinguished by his courage, dedication to fairness and pursuit of equality for all men.

I am told that Chief Justice Warren borrowed a phrase from Abraham Lincoln and said of himself, "I am a slow walker, but I never walk backward." A humble phrase from a man whose judicial leadership helped propel this Nation forward at a time when passive indifference to the individual rights of racial minorities and the less fortunate prevailed.

The Chief Justice of the Supreme Court is sometimes referred to as the first among equals. Chief Justice Warren was a leader and a consensus builder who truly earned this title. He decided cases and crafted opinions in such a manner as to gain the unanimous support of the Court on a number of highly contentious social issues. The unanimity of the Court on some of these opinions may only be explained by way of Chief Justice Warren's statesmanship, his courage, and his conviction to create a more perfect union for all Americans.

Of the many landmark opinions handed down by the Warren Court, the opinion in Brown versus the Board of Education best represents of the measure of Chief Justice Warren's leadership, his commitment to individual rights and his dedication to the principle recognized on the Supreme Court Building itself—"equal justice under the law."

Chief Justice Warren wrote the unanimous opinion for the Court. The Brown decision laid bare the national travesty of "separate but equal" and established that "separate educational facilities are inherently unequal." There can be little doubt that Chief Justice Warren recognized the symbolic need for unanimity in the Brown decision. And the importance of this decision cannot be overemphasized.

Chief Justice Warren bore the slings and arrows of public criticism of the Brown decision, criticism that was often directed at him personally. But he withstood these personal attacks "with malice toward none, with charity for all," and with the betterment of the Nation in his heart.

Mr. President, evidence of Chief Justice Warren's commitment to individual rights is also found in his opinions in Reynold versus Sims which, following the Court's decision in Baker versus Carr, established the principle of "one man, one vote" and state legislative and congressional apportionment. This commitment is the unifying thread that runs through his many great opinions.

Mr. President, another esteemed jurist in our Nation's history, Chief Justice John Marshall, said, "The Constitution was intended to endure for ages to come, and to be adopted to the various crises of human affairs." Let it be said that Chief Justice Warren truly understood the core principles of our Constitution and he strove to ensure the rights and protections of the Constitution to all Americans even during times of national crisis. And our Nation is all the better for his contributions.

WE THANK YOU CHARLES AMBUSH

Mr. BURDICK. It is my honor today to pay tribute to a staff member of the Environment and Public Works Committee who is retiring after 37 years of Government service. Charles Ambush began his Government tenure with the U.S. Air Force and concluded his last 14 years with the Environment and Public Works Committee. Charles was a behind the scenes player on our committee but his contribution does not go unnoticed. His commitment to serving the public was an asset to our committee. His consistent congeniality and dedicated work ethic was surely an inspiration to others working with him.

Charles served under Chairmen Randolph, Stafford, and myself and for each proved his unfailing excellence in producing work of the highest quality. It is with pleasure therefore today I join my staff in honoring this longstanding and high-minded employee.

Retirement I know is a welcome progression after such a devoted service to our Government. Mr. President I ask you and my colleagues to join me in thanking Charles for his commitment of service and in wishing him well on this exciting next phase of life.

CENTER FOR DEMOCRACY'S NEWS RELEASE ON THE ELECTIONS IN EL SALVADOR

Mr. PELL. Mr. President, last Sunday the people of El Salvador went to the polls to cast their votes in an election that many believe will prove key to the negotiations to achieve lasting peace and justice in that beleaguered country. Many international observer groups were present to witness the process, among them the Center for Democracy. Members of the center's delegation included representatives of the European Parliament and the Council of Europe, congressional leaders from six Latin American nations, noted academics, and Senate staff members Barry Sklar, of the Foreign Relations Committee, Andy Semmel, staff of Senator LUGAR, and Martin Andersen, staff of Senator CRANSTON. In the days ahead, the Senate staffers will be participating in briefings on the elections along with other Washington-based observers.

I ask unanimous consent to have printed in the RECORD the statement that the Center for Democracy released at a press conference in San Salvador the morning after the election and urge my colleagues to thoughtfully consider its conclusions.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY THE CENTER FOR DEMOCRACY DELEGATION, EL SALVADOR ELECTIONS, MARCH 10, 1991

Despite a number of problems in implementing the administration of yesterday's voting, on balance The Center for Democracy observer delegation—which traversed the entire country in monitoring the process—believes that democratization took a giant step forward in this polarized society as a result of the current election. Having watched the runup to Sunday's voting, the voting itself in 14 provinces (including all the major war zones) and the vote count, we begin by complimenting the people of El Salvador for displaying once again their ever-deepening commitment to peaceful resolution of the armed conflict and of the issues underlying it.

The Center's delegation includes leaders of the Congresses of Argentina, Costa Rica, Guatemala, Honduras, Panama and Venezuela; representatives of the European Parliament and of the Council of Europe; key staff members from both parties in the United States Senate; and noted academics among others. It reflects a meaningful body of experience not only in monitoring elections but in assisting the evolution of democracy throughout the world. We would like to outline briefly some of our major observations.

First, the delegation noted that administrative problems seemed to plague Election Day procedures: a number of voting tables throughout the country opened late, often with officials uncertain as to precise electoral procedures, and—despite the good intentions of the Electoral Council—with a degree of anxiety and improvisation unusual for such normally uniform and calm occasions. In some places, unfamiliarity with the new voting lists and a shortage of trained election officials in outlying regions and towns compounded the confusion. Fortunately, as the day wore on, most initial difficulties were addressed and resolved. Some were not. For example, Center observers witnessed the suspension of one mayoral race because the ballots sent to that community lacked the name and party symbol of the Convergencia.

Our delegation also witnessed instances of partisan behavior that some have called intimidating—for example, the presence at many voting tables of clusters of ARENA pollwatchers where other parties had only one pollwatcher per table. The question we must all evaluate for ourselves is how intense a level of political partisanship might be expected as normal during an election in a country still at war when the parties of the Left are engaged for the first time in comprehensive campaigning for legislative and municipal offices.

The results of this election—whatever the specific results for each party—will broaden still further the spectrum of political participation in El Salvador. Above all else, we commend that fact and urge in the strongest terms that both the Government and the FMLN resume with utmost seriousness immediate negotiations leading to a ceasefire with necessary protections and reforms. The people of El Salvador deserve no less, and the ultimate value of the electoral process just ended will depend to a great extent upon the success or failure of the negotiations to follow.

The delegation will issue a final report in due course.

THE CENTER FOR DEMOCRACY, ELECTION MONITORING DELEGATION, EL SALVADOR, MARCH 10, 1991

Prof. Allen Weinstein, President, The Center for Democracy, Chairman of the Delegation.

Martin E. Andersen, Senior Defense & Foreign Policy Advisor, Office of Senator Alan Cranston.

Prof. Abdo Baaklini, Director, Center for Legislative Development, State University of New York/Albany.

Jan Willem Bertens, Member, European Parliament (Netherlands), Former Dutch Ambassador to Central America, Brussels, Belgium.

Lic. Gerardo Bolanos Altizar, Deputy, National Assembly, Vice Leader, Christian Social Unity Faction, San Jose, Costa Rica.

Dr. Arnulfo Escalona, First Vice President, Legislative Assembly, Republic of Panama.

Dr. Alejandro Giammetti, Director, EMPAGUA, Republic of Guatemala.

Deborah Hauger, Esq., Regional Election Specialist, Boston, MA.

Ember Iguaran Silva, Deputy, Parliament of Venezuela, President, Indigenous Parliament of the Americas.

Elliott Kulick, Esq., Member, Board of Directors, The Center for Democracy.

Cynthia McClintock, Jennings Randolph Peace Fellow, United States Institute of Peace, Washington, D.C.

Jose Roberto Oliva Herrera, Deputy, National Congress, Republic of Honduras.

Prof. Allan Rosenbaum, Dean, School of Public Affairs, Florida International University.

Guadalupe Ruiz-Gimenez, Member, European Parliament, Member, Institute for European-Latin American Relations (IRELA), Madrid, Spain.

Andy Semmel, Foreign Policy Assistant, Office of Senator Richard Lugar.

Dr. George C. Shipley, Political Consultant, San Antonio, Texas.

Barry A. Sklar, Professional Staff Member, U.S. Senate Committee on Foreign Relations.

Susan Smolko, Coordinator, Panama Country Study, Inter-American Dialogue, Washington, D.C.

Ana Catalina Soberanis, President, Legislative Assembly, Republic of Guatemala.

Joern Stegen, Head of Division, Parliamentary Assembly, Council of Europe, Strasbourg, France.

Dr. Jose Manuel Ugarte, Defense Advisor, Radical Civic Union, Buenos Aires, Argentina.

Carlos Augusto Valle Torres, Deputy, National Congress, President, Municipal Affairs Commission, Republic of Guatemala.

Jacob Weisberg, Senior Editor, The New Republic, Washington, D.C.

SPECIAL 301

Mr. BAUCUS. Mr. President, the Congress worked for 3 long years to complete the 1988 Trade and Competitiveness Act. And I am proud to say we produced a bill that establishes a strong, market opening trade policy for the United States.

Unfortunately, as is so often the case, we have not put as much energy into implementation as we did into drafting and passing the Trade Act.

I have come to the floor today to draw attention to the administration's implementation of one key provision of the 1988 Trade Act—the Special 301 provision.

SPECIAL 301

At the heart of the 1988 Trade Act are a series of changes to section 301 of U.S. trade law. Section 301 is a market opening provision. It directs the U.S. Trade Representative to identify foreign trade barriers, initiate negotiations to eliminate the barriers, and retaliate if the negotiations are unsuccessful.

Most have probably heard a great deal about the section 301 provision known as Super 301. But there is a similar, lesser known provision referred to as Special 301. Special 301 is directed at the problem of foreign piracy of U.S. copyrighted, patented, or trademarked material—collectively known as intellectual property.

The United States is a major exporter of intellectual property, including movies, books, recordings, and pharmaceuticals. But the International Trade Commission has estimated that foreign piracy of this intellectual property—mainly in developing nations—costs the United States $60 billion in lost exports each year.

In light of these massive export losses, Congress wrote the Special 301 provision to respond to piracy of intellectual property. By April 30 of each year, Special 301 requires that USTR identify those countries that tolerate the most egregious piracy as "priority foreign countries." Section 301 cases are then to be initiated against those countries aimed at increasing protection of intellectual property within the priority countries.

IMPLEMENTATION OF SPECIAL 301

Unfortunately, the administration has not chosen to implement Special 301 as its authors intended. In both the 1989 and 1990 rounds of Special 301 determinations, USTR declined to identify any priority foreign countries. Instead, a "priority watch list" and a "watch list" were created. Placement on the watch lists was meant to indicate to the listed countries that the United States had substantial concerns about their protection of intellectual property. It further indicated that the listed nations might be made priority foreign countries in the future if the situation did not improve.

The administration argues that the watch lists put pressure on nations to negotiate improved intellectual property protection in the Uruguay round of GATT negotiations. Further, they contend that actually initiating section 301 cases might create an international outcry.

At first, both Congress and the industry were willing to accept this rather creative reading of the law. The watch lists have no basis in statute. But they did convince some nations to make positive changes in their intellectual property protection laws while keeping the GATT negotiations moving.

IMPLEMENTATION OF SPECIAL 301 IN 1991

Time has run out for the watch lists, however. If Special 301 is to retain any credibility, some nations must be identified as priority foreign countries in 1991. Four countries—India, Thailand, Indonesia, and the Peoples Republic of China—remain on the priority watch list. These nations have done relatively little to improve intellectual property protection since being placed on the priority watch list. Piracy of U.S. intellectual property remains rampant in each of these nations.

As many trade groups argued in submissions to USTR, to leave these nations on the priority watch list without taking any action undermines the credibility of the 1988 Trade Act. Inaction would demonstrate that Special 301 is all bark and no bite. It would send a message to other countries that the United States is not serious about enforcing its trade laws.

USTR has recently taken action against Thailand under section 301, but more must be done. At minimum, unless major progress is made, the four nations that remain on the priority watch list should be upgraded to priority foreign countries in April. Further, the United States should seriously consider action against Mexico unless it carries out its commitments to pass new intellectual property protection. A strong case can also be made for taking action against the EC's quotas on imports of television programs.

CONCLUSION

Mr. President, the 1988 Trade Act established power sharing between the administration and the Congress in trade policymaking. The administration was given authority to negotiate trade agreements under the fast track approval arrangement. In return. The administration agreed to vigorously implement the 1988 Trade Act and employ section 301 to break down trade barriers.

Now, the administration is seeking to extend the bargain, by extending the fast track negotiating authority for 2 more years.

Mr. President, I am willing to support the administration's request. But the administration must hold up its end of the bargain and continue to enforce the 1988 Trade Act if it expects the cooperation of Congress. That means employing section 301, including Special 301. It will also mean considering some contructive changes in section 301 during this Congress.

Cooperation on trade policy must work both ways.

I ask unanimous consent that statements by the International Intellectual Property Alliance and the Motion Picture Export Association of America appear in the RECORD immediately after my statement.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

MPEAA ASKS USTR TO DESIGNATE EUROPEAN COMMUNITY "PRIORITY COUNTRY" BASED ON RESTRICTIVE QUOTA

WASHINGTON, DC, Friday, February 15, 1991.—The Motion Picture Export Association of America today called upon the U.S. Trade Representative to designate the European Community as a "priority country" based upon its restrictive quota aimed at U.S. television broadcast materials. The "Special 301" provision of the 1988 Trade Act requires USTR to identify "priority countries" that refuse to protect U.,S. intellectual property or erect barriers against U.S. copyright industries. USTR has six months after such designation to negotiate the removal of the trade restrictions or to recommend retaliation to the President.

The EC broadcast quota is aimed directly and specifically at the U.S. motion picture and television program production industry. The quota limits the export of U.S. television programming to the largest and fastest growing market for such exports, threatening the existing level of exports as well as the potential for substantially increasing U.S. market share. According to the MPEAA, the U.S. motion picture industry currently brings back into this country over $3.5 billion annually in surplus balance of trade. The EC television program market is responsible for a substantial portion of those earnings.

In addition, the EC broadcast quota sets a dangerous precedent for other nations around the world. "The EC quota, under the guise of protecting its 'culture,' manacles American television programs," said Jack Valenti, Chairman and CEO of the MPEAA. "It sends out an ominous invitation to other countries around the world by indicating that it is acceptable to hobble one of America's most successful export industries in the name of culture."

The MPEAA strongly urged the USTR to carefully consider its request and to take appropriate action.

U.S. COPYRIGHT INDUSTRIES TARGET 22 COUNTRIES FOR SPECIAL 301 LISTS; PIRACY LOSSES IN THESE COUNTRIES EXCEED $4 BILLION IN 1990

WASHINGTON.—The International Intellectual Property Alliance ("IIPA" or the "Alliance") today targeted 22 countries that fail to provide adequate copyright protection or that have failed to provide fair market access to U.S. movies, music and records, books and software. Total losses suffered by these industries in these countries were estimated at $4.17 billion in 1990.

The IIPA urged the United States Trade Representative to identify 4 countries—People's Republic of China, India, Thailand and Indonesia—as "Priority Foreign Countries" under the "Special 301" provisions of the U.S. trade laws. Identification as a "Priority Foreign Country" under this provision triggers a formal Section 301 investigation that, if unsuccessful at resolving outstanding issues, could lead to the imposition of trade sanctions. Thailand is already the subject of an IIPA, MPEAA, RIAA-initiated Section 301 action. Their petition was accepted by the U.S. Trade Representative on December 24, 1990.

Targeted for placement on the USTR's "Priority Watch List" to be given special attention by U.S. trade negotiators were seven other countries which cause significant losses to the U.S. copyright industries. These are: Mexico, Brazil, Greece, Philippines, Poland, Turkey and the United Arab Emirates.

Targeted for placement on the "Watch List" were Cyprus, Egypt, El Salvador, Germany, Italy, Korea, Pakistan, Saudi Arabia, Taiwan, U.S.S.R. and Yugoslavia. The IIPA asked that Malaysia be removed from the "Watch List" because of its significant improvement in copyright protection and enforcement.

Jack Valenti, President of the MPAA, one of the eight trade associations making up the IIPA, referring to these recommendations, said: "In the two years the Special 301 legislation has been in effect, USTR has issued warning citations to countries that have denied access to their markets and failed to protect our copyrights. Some countries have heeded those warnings. Others have not. It is now time for USTR to demonstrate to these countries that the U.S. is serious about removing barriers to our copyrighted products. Countries which have refused to remove trade barriers or protect intellectual property should immediately be designated as 'priority foreign countries' according to the Congressional mandate in the 1988 Trade Act."

Jay Berman, President of the recording Industry Association of America (RIAA) commended Ambassador Hills for her dedication to the fight for adequate and effective copyright protection worldwide, and commented that "present Special 301 designations are a watershed event signaling to the world the continued commitment of the U.S. to pursue its objectives bilaterally. The stakes have been raised considerably in light of the still unresolved fate of the Uruguay Round negotiations. Countries that fail to adequately protect U.S. copyrights can simply not expect to find smooth sailing in exploiting access to the U.S. market."

Ambassador Nicholas Veliotes, President of the Association of American Publishers (AAP), commented on the relationship of the Special 301 to the international efforts to achieve an intellectual property agreement in the current Uruguay round of the GATT negotiations. He said, "bilateral negotiations aimed at improving protection of American copyrights overseas have produced some solid results in recent years. In light of the failure so far to achieve an intellectual property agreement under the GATT, these bilateral agreements assume an even greater significance. The TRIPS agreement will be more likely to happen if our trading partners come to the negotiating table with a sincere desire to reach agreement. The Special 301 provisions of the Trade Act are a powerful tool for instilling this desire."

Jonas Rosenfield, President of the American Film Marketing Association (AFMA) stated: "As representatives of the independent sector of the motion picture industry, we strongly support this action by the IIPA. The countries targeted for USTR attention represent a dishonor list in market access abuse and pirate-friendly laws and administration. It is time they be brought to the judgement table provided in the Special 301 provisions of the U.S. trade law."

"The U.S. software industry generated $12 billion in foreign sales in 1989. Our estimates show that we could double this figure, were it not for the rampant piracy of our products in overseas markets," said Robert Holleyman, Managing Director of the Business Software Alliance. "The Special 301 process was enacted with the specific intent of providing a trade mechanism to address countries which are responsible for these high rates of piracy due to their failure to protect intellectual property. Only the assurance of strong protection for intellectual property will open the door to trade and provide the incentives for software publishers to make investments into new and developing markets."

John L. Pickitt, President of CBEMA, the Computer Business and Manufacturers Association, said: "Disparate and inadequate intellectual property protection laws and enforcement procedures have cost U.S. information technology companies hundreds of millions of dollars in lost revenues. As the Uruguay Round progressed, we had some hope that higher standards of protection would prevail on a multilateral scale. Without a sound GATT agreement, however, the U.S. may be forced to turn to Section 301 to counter the grave and costly piracy and market access problems abroad and be forced to take punitive action against trading partners identified as "priority countries."

Luanne James, President of ADAPSO, the Computer Software and Services Industry Association stated: "With revenues totalling almost $35 billion and a growth rate of 12%, software remains an American success story. It's not surprising that other countries want a 'piece of the action.' It is surprising, however, when governments sanction what amounts to outright theft of intellectual property. To protect the U.S. software industry as well as the entire U.S. copyright industry, ADAPSO endorses efforts to seek enforcement of the Special 301 provisions."

The IIPA, formed in 1984, is composed of eight trade associations, each of which, in turn, represents a significant segment of the copyright industry in the United States. Those associations are: ADAPSO, the Computer Software and Services Industry Association (ADAPSO); the American Film Marketing Association (AFMA); the Association of American Publishers (AAP); the Business Software Alliance (BSA); the Computer and

Business Equipment Manufacturers Association (CBEMA); the Motion Picture Association of America (MPAA); the National Music Publishers' Association (NMPA); and the Recording Industry Association of America (RIAA). The IIPA represents more than 1,600 companies—with combined 1988 revenues totaling over $270 billion—which produce and distribute computers and computer software; motion pictures, television programs and home videocassettes; music records, compact discs and audiocassettes; textbooks, tradebooks, reference and professional publications and journals.

THE SOVIET REFERENDUM

Mr. KASTEN. Mr. President, I rise today to comment on the weekend vote concerning the future of the 15 Soviet Republics.

At this point it appears that President Gorbachev will narrowly get a majority vote to maintain the Union of Soviet Socialist Republics. But we must not forget that six Republics—Lithuania, Latvia, Estonia, Moldavia, Armenia, and Georgia—have all officially boycotted the referendum.

Therefore, it would be wrong to accept this vote as conclusive or as the collective will of the people. It is not.

Rather, if Gorbachev is really serious about democratic reforms, he must accept the will of the people in the six boycotting Republics. The real challenge the West must pose to the Kremlin leadership is simple: Maintain the current Union with the nine Republics voting "yes" for unification—and let the other six Republics go free.

This would be a bold step for the self-proclaimed reformer, Mikhail Gorbachev. To forcibly maintain the Union without the blessing of the six boycotting Republics would be unacceptable.

Fortunately, the United States has several options to deal effectively with an unrelenting Gorbachev. We can take the following actions that would make Gorbachev think twice about a tough stance against the freedom-hungry Republics.

Cancel all Export-Import loans to the Soviet Union. Block the Soviet Union's participation in all international organizations dealing with lending or development. Direct all agricultural credits to the individual Republics and not to Moscow's central government. And establish bilateral relationships with all the independent Republics seeking their long-deserved independence.

The United States has never recognized the Soviet hegemony over the Republics of Latvia, Lithuania and Estonia. But the illegal Soviet occupation of these countries has nonetheless remained a sad fact of life in the recent political history of Europe.

I am calling upon the Senate to leave no doubt where we as a legislative body stand on the issue of independence: We stand with the people.

The legitimate striving of the six Republics for self-determination must be a keystone of the American position in discussions with Soviet authorities. Mr. President, there is nothing extremist about human rights. There is nothing extremist about self-determination. On the contrary—these are the building blocks of civilization. And the United States ought to be making this clear in all bilateral contacts with the Soviet Union.

Sunday's referendum can have legitimacy if the will of the people is respected.

MARVIN BARRISH

Mr. SPECTER. Mr. President, today I would like to bring to the attention of my colleagues a truly remarkable individual, Marvin Barrish of Philadelphia.

Mr. Barrish engages in a unique form of self-expression; he dances in his wheelchair. Over the years, he has appeared at countless charity events, raising untold thousands of dollars for the disabled.

More important, however, is the message he sends to every one who has had the pleasure of watching Mr. Barrish perform. By overcoming his disability, Mr. Barrish is proof positive that disabilities can be turned into possibilities and successes.

Mr. President, I can think of no nobler nor more estimable task than endeavoring to restore disabled individuals to independent, productive, and fulfilling lives. Therefore, I take this opportunity to commend Marvin Barrish, express my admiration for his courage and determination, and extend to him my best wishes.

JOINT SURVEILLANCE ATTACK RADAR SYSTEM

Mr. McCAIN. Mr. President, I rise today to acknowledge the contribution of a very key element in the surveillance of the battlefield in the Kuwait theater of operations—the joint surveillance attack radar system [JSTARS].

I have just returned from a trip to Southwest Asia where I talked with several of the battlefield commanders; they could not have been more supportive of a system which provided detailed information as to the precise location of tanks, vehicles, guns, and so on.

Mr. President, this system was deployed to the gulf region while it was still in the evaluation phase. Six ground station modules were deployed to assist the ground commanders in formulating and implementing what is now recognized as a tremendous battle plan for our fine men and women in the gulf.

Mr. President, this system would not be anything without the people who operated it and made the outstanding contribution they did to reduce allied casualties.

Without a doubt, JSTARS, built by Motorola, Boeing, and Grumman—to name a few of the manufacturers, was instrumental in bringing our men and women home safely. Without this system, who knows how many lives would have been lost.

FARMER/RESERVISTS FAIR TREATMENT ACT OF 1991

Mr. HEFLIN. Mr. President, I rise in support of an amendment to S. 578 which would provide for the fair treatment of farmers and ranchers who are participating in the Persian Gulf war as active reservists or in any other military capacity.

Mr. President, throughout rural Alabama and indeed rural America our Nation's farmers were called to active duty to aid in our country's war effort. The activation of farmer/reservists presents a unique problem for family farmers. Most USDA farm programs require producers to either enroll and participate in farm programs or risk losing farm benefits. This use it or lose it philosophy causes a great hardship for many farmers who have been activated into military service. Furthermore, the Farmer's Home Administration could actually foreclose on a farmer for missing a payment while the farmer/reservist is risking his life to preserve peace in the Middle East.

This amendment is introduced in an effort to prevent the ill-treatment of our Nation's activated family farmers.

The purpose of this amendment is to provide for the fair treatment of farmers who are or were participating in the Persian Gulf war as active reservists and National Guardsmen. Specifically, this amendment would provide for the protection of a farmer's crop acreage, prevent the Farmers' Home Administration from foreclosing on a activated reservist's/producer's farm, waive the minimum planting requirement for cotton and rice, and provide a temporary waiver for farmers with respect to the conservation provisions contained in the Food Security Act of 1985. The amendment would also allow a procedure by which a spouse or a close relative of a farmer/activated reservist could make decisions relating to farm programs administered by the U.S. Department of Agriculture.

Our Nation's family farmers should not have to worry about whether the Government will foreclose on their farm or take away farm program benefits as a result of their service to this Nation in the Persian Gulf.

Mr. COHEN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KOHL). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

OPERATION DESERT SHIELD/DESERT STORM SUPPLEMENTAL APPROPRIATIONS ACT, 1991

The PRESIDING OFFICER. Under the authority granted the majority leader by order of the Senate March 14, 1991, exercised earlier today, the Chair lays the bill H.R. 1282 before the Senate. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1282) making supplemental appropriations and transfers for Operation Desert Shield/Desert Storm for the fiscal year ending September 30, 1991, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

H.R. 1282

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide supplemental appropriations for the fiscal year ending September 30, 1991, and for other purposes, namely:

PERSIAN GULF REGIONAL DEFENSE FUND

(INCLUDING TRANSFER OF FUNDS)

For incremental costs of the Department of Defense and the Department of Transportation associated with operations in and around the Persian Gulf as part of operations currently known as Operation Desert Shield (including Operation Desert Storm), $15,000,000,000 is appropriated to the Persian Gulf Regional Defense Fund, which is hereby established in the Treasury of the United States, and in addition such sums as necessary are appropriated [to such Fund by transfer] from current and future balances in the Defense Cooperation Account, [such sums so appropriated to the Persian Gulf Regional Defense Fund] to be available only for [transfer] *transfers by the Secretaries of Defense or Transportation, with the approval of the Director of the Office of Management and Budget,* in a total amount not to exceed [$42,588,372,000] *$42,625,822,000* to the following chapters and accounts in not to exceed the following amounts:

CHAPTER I

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

(TRANSFER OF FUNDS)

MILITARY PERSONNEL, ARMY

For an additional amount for "Military Personnel, Army", [$4,863,700,000] *$4,849,000,000.*

MILITARY PERSONNEL, NAVY

For an additional amount for "Military Personnel, Navy", [$797,400,000] *$792,000,000.*

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for "Military Personnel, Marine Corps", [$983,400,000] *$978,000,000.*

MILITARY PERSONNEL, AIR FORCE

For an additional amount for "Military Personnel, Air Force", [$1,278,200,000] *$1,271,000,000.*

OPERATION AND MAINTENANCE

(TRANSFER OF FUNDS)

OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Operation and Maintenance, Army", [$16,393,750,000] *$14,981,400,000*[*,–of which $350,000 shall be available only for the 1991 Memorial Day Celebration*].

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and Maintenance, Navy", [$3,009,500,000] *$2,391,000,000.*

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for "Operation and Maintenance, Marine Corps", [$1,330,000,000] *$1,197,000,000.*

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and Maintenance, Air Force", [$4,080,000,000] *$3,026,000,000.*

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

For an additional amount for "Operation and Maintenance, Defense Agencies", [$236,000,000] *$173,000,000.*

[OPERATION AND MAINTENANCE, NAVY RESERVE

[For an additional amount for "Operation and Maintenance, Navy Reserve", $16,000,000.

[OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

[For an additional amount for "Operation and Maintenance, Air National Guard", $55,000,000.]

PROCUREMENT

(TRANSFER OF FUNDS)

AIRCRAFT PROCUREMENT, ARMY

For an additional amount for "Aircraft procurement, Army", $7,100,000.

MISSILE PROCUREMENT, ARMY

For an additional amount for "Missile procurement, Army", $311,900,000.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For an additional amount for "Procurement of weapons and tracked combat vehicles, Army", $26,300,000.

PROCUREMENT OF AMMUNITION, ARMY

For an additional amount for "Procurement of ammunition, Army", [$437,000,000] *$425,800,000.*

OTHER PROCUREMENT, ARMY

For an additional amount for "Other procurement, Army", [$30,300,000] *$26,300,000.*

AIRCRAFT PROCUREMENT, NAVY

For an additional amount for "Aircraft procurement, Navy", $16,000,000.

WEAPONS PROCUREMENT, NAVY

For an additional amount for "Weapons procurement, Navy", [$1,065,100,000] *$1,057,300,000.*

OTHER PROCUREMENT, NAVY

For an additional amount for "Other procurement, Navy", $34,600,000.

PROCUREMENT, MARINE CORPS

For an additional amount for "Procurement, Marine Corps", [$68,000,000] *$64,200,000.*

AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for "Aircraft procurement, Air Force", $101,200,000.

MISSILE PROCUREMENT, AIR FORCE

For an additional amount for "Missile procurement, Air Force", $400,000,000.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for "Other procurement, Air Force", $419,100,000.

PROCUREMENT, DEFENSE AGENCIES

For an additional amount for "Procurement, Defense Agencies", $2,700,000.

[RESEARCH, DEVELOPMENT, TEST AND EVALUATION

[(TRANSFER OF FUNDS)

[RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

[For an additional amount for "Research, Development, Test and Evaluation, Army", $1,200,000.]

REVOLVING AND MANAGEMENT FUNDS

(TRANSFER OF FUNDS)

ARMY STOCK FUND

For an additional amount for "Army Stock Fund", [$57,000,000] *$214,000,000.*

AIR FORCE STOCK FUND

For an additional amount for "Air Force Stock Fund", [$214,000,000] *$57,000,000.*

COMBAT COSTS OF OPERATION DESERT SHIELD/DESERT STORM

(TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary to finance the estimated partial costs of combat and other related costs of Operation Desert Shield/Desert Storm in the following additional amounts: [for Operation and maintenance, $5,000,000,000; for Procurement, $1,300,000,000; In all: $6,300,000,000] *for Operation and maintenance, $7,000,000,000; for Procurement, $2,750,000,000.*

GENERAL PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

SEC. 101. (a) In administering the Persian Gulf Regional Defense Fund, the Secretary of Defense shall use the corpus of the Fund only to the extent that amounts [transferred to the Fund] from the Defense Cooperation Account established under section 2608 of title 10, United States Code, are not currently available.

(b) If the balance of the corpus of the Persian Gulf Regional Defense Fund is less than $15,000,000,000, the Secretary shall transfer amounts from the Defense Cooperation Account to the Persian Gulf Regional Defense Fund, to the extent that amounts are available in that Account, to restore the balance in the corpus of the Fund to $15,000,000,000.

(c) For purposes of this section, the term "corpus of the Fund" means the amount of $15,000,000,000 appropriated by this Act to the Persian Gulf Regional Defense Fund from the general fund of the Treasury, as such amount is restored from time to time by transfers from the Defense Cooperation Account.

(INCLUDING TRANSFER OF FUNDS)

SEC. 102. (a) The authority provided in this Act to transfer funds from the Persian Gulf Regional Defense Fund *and from the Defense Cooperation Account* is in addition to any other transfer authority contained in this or any other Act making appropriations for the Department of Defense for fiscal year 1991.

(b) Amounts transferred from the Persian Gulf Regional Defense Fund *and from the De-*

fense Cooperation Account shall be merged with and be available for the same purposes and the same time period as the appropriations to which transferred.

(c) Amounts appropriated to the Persian Gulf Regional Defense Fund shall remain available until transferred.

(d)(1) Upon payment of all incremental costs associated with the purpose for which the Persian Gulf Regional Defense Fund is established, the Fund shall be terminated.

(2) If the balance in the Fund at the time of the termination is $15,000,000,000 or less, the balance shall revert to the general fund of the Treasury. [If the balance in the Fund at the time of the termination is in excess of $15,000,000,000, the amount of $15,000,000,000 shall revert to the general fund of the Treasury and the remaining amount shall revert to the Defense Cooperation Account.]

(e) The Secretary of Defense shall notify the Committees on Appropriations and Armed Services of the Senate and House of Representatives before making any transfer from the Persian Gulf Regional Defense Fund or from the Defense Cooperation Account. No transfer may be made until the seventh day after such committees receive the notification required by this subsection to be submitted for such transfer.

(TRANSFER OF FUNDS)

SEC. 103. (a) For the purpose of adjusting amounts appropriated to the Department of Defense for fiscal year 1991 to reflect changes in expenses due to the order to active duty (other than for training) of members of the National Guard and Reserves in connection with operations in and around the Persian Gulf as part of operations currently known as Operation Desert Shield (including Operation Desert Storm), the Secretary of Defense may during fiscal year 1991 transfer not to exceed $446,000,000 among the fiscal year 1991 Military Personnel appropriation accounts of the Department of Defense.

(b) Amounts transferred under subsection (a) shall be merged with and be available for the same purposes and the same time period as the appropriations to which transferred.

(c) A transfer of funds under subsection (a) is subject to regular congressional reprogramming notification requirements.

(d) The transfer authority in subsection (a) is in addition to any other transfer authority contained in this or any other Act making appropriations for the Department of Defense for fiscal year 1991.

SEC. 104. Of the funds appropriated or made available in this Act, the amount for fuel price increases shall be allocated only to the fuel consumed in direct support of Operation Desert Shield/Desert Storm.

[SEC. 105. Any CHAMPUS (Civilian Health and Medical Program of the Uniformed Services) medical provider may voluntarily waive the patient co-payment for medical services provided from August 2, 1990, until the termination of Operation Desert Shield/Desert Storm for dependents of active duty personnel: *Provided*, That the government's share of medical services is not increased during the specified time period.

[Sec. 106. Mitchel Field Health Care Facility in the State of New York shall only be funded from the Operation and Maintenance, Navy, appropriation and shall not be funded or included within the congressionally imposed ceiling of the Uniformed Services Treatment Facility account.]

SEC. 105. (a) All equipment, supplies, and other materials (including, to the maximum extent practicable, construction equipment and construction materials described in subsection (b)) of the United States that, after August 1, 1990, were transported to or procured by the United States in the Middle East for the use of the Armed Forces of the United States or the use of the armed forces of any other member country of the multinational coalition participating in Operation Desert Storm shall be removed from the Middle East to the United States or to any United States military installation outside the United States and the Middle East as soon as practicable in conjunction with the removal of such forces of the Armed Forces of the United States from the Middle East.

(b) The construction equipment and construction materials referred to in subsection (a) are construction equipment and construction materials used in the construction of military facilities for the Armed Forces of the United States in the Middle East in connection with Operation Desert Storm.

(c) Subsection (a) does not apply to any equipment, supply, or material that—

(1) is to be transferred to a foreign government and has negligible value, or

(2) is to remain under the control of United States forces in the region, or

(3) is to be stored in the Middle East as prepositioned equipment and material for the use of the Armed Forces of the United States; or

(4) has been expended, depleted, or rendered unusable.

(d) The President shall attempt to obtain reimbursement from the government of each country in the Middle East for the cost to the United States of materials referred to in subsection (a) that are not removed from that country because of impracticality.

(e) No equipment, supply, or material referred to in subsection (a) or which was captured from Iraq by United States forces in the context of Operation Desert Storm may be transferred to the government or any entity of any foreign country in the Middle East unless the President first notifies Congress of the proposed transfer and, after the date on which Congress receives the notification, Congress enacts a bill or joint resolution specifically authorizing the proposed transfer.

(f) The President shall notify Congress of the proposed storage of any equipment, supply, or material referred to in subsection (a) in a prepositioned status referred to in subsection (c)(3).

(g) The President shall report to the Committees on Appropriations and Armed Services of the House and Senate sixty days after the enactment of this Act, on the quantity, condition, value, disposition and manner of seizure of all enemy equipment falling under the control or the possession of the United States, as well as all enemy equipment falling under the control of allied forces, within the Desert Storm theater of operations.

(h) For the purposes of this provision, the term "material" shall include all lethal and non-lethal instruments of war and their supporting elements, components and subcomponents.

SEC. 106. (a) Not later than 60 days after the date of the enactment of this Act, the President shall submit to Congress a report, in both classified and unclassified forms, on the redeployment in the forces of the Armed Forces of the United States that were deployed in the Persian Gulf area in connection with Operation Desert Storm.

(b) The report shall contain the following information:

(1) A detailed specification of the costs of the reduction in such forces.

(2) The schedule for returning such forces to the United States or other locations from which the forces were deployed to the Persian Gulf area in connection with Operation Desert Storm.

(3) The size and composition of any element of the Armed Forces of the United States that will remain in the Persian Gulf area after fiscal year 1991.

(4) A detailed discussion of any arrangement for a United States military presence that has been made or is expected to be made to the government of any country in the Middle East, including any such arrangement that is expected to result from negotiations between the United States and the government of such a country.

(c) In this section, the term "Operation Desert Storm" means Operation Desert Shield, Operation Desert Storm, and any related successive operations of the Armed Forces of the United States.

SEC. 107. None of the funds appropriated or otherwise made available by this Act or any other provision of law shall be available for sales, credits, or guarantees for defense articles or defense services under the Arms Export Control Act to any country that has made a commitment to contribute resources to defray any of the costs of Operation Desert Storm and has not made such contributions.

CHAPTER II

MILITARY CONSTRUCTION

(TRANSFER OF FUNDS)

MILITARY CONSTRUCTION, ARMY

For an additional amount for "Military Construction, Army", $35,000,000, to remain available for obligation until September 30, 1994.

CHAPTER III

DEPARTMENT OF TRANSPORTATION

(TRANSFER OF FUNDS)

COAST GUARD

OPERATING EXPENSES

For an additional amount for "Operating expenses", $18,922,000.

This Act may be cited as the "Operation Desert Shield/Desert Storm Supplemental Appropriations Act, 1991".

Mr. BYRD. Mr. President, before we begin examining the details of the bill, it should be noted that the speed with which the Congress is dealing with this request is in part a tribute to the great success of our military forces.

The men and women of the armed services have done a superb job from the moment they were first called to respond to the aggression of Saddam Hussein last August. From the original mobilization and deployment to the extremely effective air campaign, and culminating with a ground offensive that was stunningly successful, our soldiers and sailors have given America reason to be proud.

The Appropriations Committee has done everything it can do to see that all necessary authority and funding will be provided the President in a timely manner to cover the cost associated with the very swift and successful prosecution of the Persian Gulf war.

At the same time, however, we wanted to assure ourselves that the amounts requested were only the incremental costs of the Defense Department, over and above the amounts already provided for normal, peacetime operations, and that those costs would be offset to the greatest extent possible by contributions from our allies. We think we have done that.

This supplemental provides an appropriation of $15 billion in U.S. funds together with allied contributions from the defense cooperation account. A ceiling in the amount of $42,635,822,000 has been established for the total amount which can be transferred to the Defense Department accounts from the defense cooperation account and the $15 billion appropriation. This is in addition to the $2 billion in U.S. funds appropriated last October by Public Law 101-403, the continuing resolution.

No part of the $15 billion can be spent except on occasions when funds from the defense cooperation account have been exhausted. If that occurs, subsequent deposits received in the defense cooperation account shall be used to restore the original balance of $15 billion in U.S. funds. No funds can be transferred from either source until at least 7 days following the notification of the Congress of the requirement for and the specific uses of any such funds.

The committee intends that the large amounts that will be expended from these accounts will be carefully monitored and scrutinized, that every penny spent is fully justified as a legitimate cost of our Persian Gulf operation. No questionable expenditure will be approved.

An important issue during the preparation of this legislation has been and continues to be the level of financial participation by our coalition partners. Allied commitments to the United States are impressive—I underline that word "commitments"—totaling $54.5 billion for the period from August 2, 1990, through March 31, 1991. However, the payments to date on those commitments total only $25.6 billion or 45 percent of the promises made.

I understand that we are expecting another $3 billion from Japan within the next 10 days, by March 28 to be specific. This will help, but the pace at which we are receiving contributions from our allies is a real concern to me and the members of the committee, particularly with regard to the cash-rich gulf states. We have received only 34 percent of the amount pledged by Kuwait, 36 percent of Saudi Arabia's commitment, and 50 percent of a rather small pledge from the United Arab Emirates. If our goal is to have all of the allied funds in hand by March 31, we have a long way to go and a short time in which to go.

I do not recall any hesitation whatsoever on the part of the United States in deploying the heart, brains, and muscle of our Military Establishment to the Saudi Arabian Peninsula and its adjacent waters.

There was no delay; we moved quickly and decisively, and so it is more than just a little disconcerting to see this kind of delay and stalling by those countries, the defense of which we took up, with no questions asked, from both the point of view of the stability of their economies as well as, in the case of a country like the United Arab Emirates, the very survival of their societies. Both talk and promises are cheap. What the committee is interested in is not talk and it is not promises but action. And so we have had to take out an insurance policy on the credibility of our allies' promises, and that should be deeply embarrassing to our allies. I hope this message will find its way to the right audiences in the decisionmaking circles of those countries whose promises are still hanging out.

Is there some good reason that the United States must bear the entire burden for this war, or most of the burden? We have already paid a great price, in terms of the lives that have been lost; those who have suffered permanent disabilities; and the pain those who lost their loved ones will feel for the rest of their lives. Take, for example, the 22 members of our special forces units who gave their lives in this war. I am told they were all married men and all had at least two children each. We should always be deeply aware of the painful human cost that is borne by these youngsters whose fathers have been taken from them. We made the decision to go to war and have, as a nation, reconciled ourselves to the inevitability of these terrible human costs. But it would be totally unbearable and unacceptable if the promises that have been made are not kept and the United States is forced to bear those financial costs as well.

There are those who will look back at the amounts in this supplemental appropriations bill, who will look today at the amounts and note that the level of allied commitments will cover all of the U.S. costs. Let us not fool ourselves into thinking that this supplemental request represents the real cost of this war. These numbers do not show the hundreds of billions of dollars that the United States has spent in maintaining the only Military Establishment capable of reacting to and meeting the threat of Saddam Hussein. And this is a cost that the American taxpayers have borne for many years—the world's bulwark for democracy and freedom. These costs have been going on throughout all the past almost 50 years. Nor do these numbers explain that building and maintaining the military capability has diverted billions of dollars, scarce dollars, from vital domestic needs such as education, our infrastructure, and our health costs. So these are the costs, somewhat hidden costs, if one takes a mere cursory look at the costs which the American taxpayers have had to pay.

So I say that to underline the fact that the costs we see written into the bill and into the committee report do not reflect the cost to the taxpayers they have been making over these many years and, as I say, diverted those dollars away from education, from bridges, roads, mass transit, waterways, and health services.

While I compliment the efforts of the administration to secure $54.5 billion in commitments from the allies—and I especially compliment the Secretary of State in this regard—I cannot emphasize too strongly how important it is for those commitments to be paid in full as quickly as possible, hopefully by the March 31 date, which I believe was set by the administration—by and large the resources that have been promised to appear adequate to defray the so-called incremental costs of the war, costs which in reality represent only a small part of the total cost to this country, costs of putting over half a million American servicemen and base costs concerning equipment and construction of facilities in excess of $100 billion carried exclusively by the American taxpayer.

So let no one say that we are asking our allies to pay for the war. We are only asking for a modest share, and that they bear that modest share to supplement the lion's share that has been and continues to be borne by the United States for a new world order which benefits those other countries as well as our own.

It is critical that our allies meet their commitments in full and on time. In an effort to assure that our allies understand our position, the committee has included a provision in the bill that prohibits the use of funds to provide sales credits or guarantees for defense articles or services to any country that has not fulfilled its commitment to the United States.

If a country has the money to purchase expensive new items from the United States, then it certainly has the money to pay its bills to the United States. It is not acceptable for nations to put that commitment at the end of the line with every other priority ahead of the contributions that they pledged to the United States now that the war is over and they are safe again.

The committee has also included a provision requiring the administration to submit a report to the Congress detailing the costs associated with the drawdown of forces in the region. The report will contain information on the level of forces that will remain in the Persian Gulf area after the end of fiscal year 1991, and will include a discussion of any arrangements made or contemplated that would establish a U.S. military presence in the region.

The committee is concerned that all U.S. forces deployed to the Persian Gulf region in connection with the war be returned home to the United States or their permanent duty stations elsewhere as soon as possible.

While the return of our forces is reasonably expected to take several months, the long-term presence of U.S. forces in the Persian Gulf region should not be planned without the full concurrence of the Congress.

The committee is concerned that any new long-term presence through basing arrangements amounts to a costly long-term new commitment by the United States. Therefore the report requires an accounting of any forces that the administration contemplates leaving in the region beyond October 1, 1991, that are in addition to those that were in the region prior to the war.

It is critical that the administration develop a clear consensus with the Congress if and before any commitment is made to a costly new overseas military presence.

The President was right to be careful, and should be recognized for his actions in requesting congressional approval for using military force in the war, and I have every expectation that he will continue to take care to build consensus and support for his postwar policies.

One final provision that I bring to the attention of my colleagues concerns the disposition of United States military equipment transferred to the region during this operation, and equipment captured from Iraq by United States forces.

During the debate on the Desert Storm supplemental authorization bill last week, there was some discussion about the continuing danger of arms proliferation in the Middle East and around the world. It would be unfortunate if the United States were to fight this war with the aim of promoting regional stability and then transfer massive amounts of equipment in such a fashion as to directly contradict that goal.

A new world order should be something more than just a continuation of the arms race that was instrumental in bringing us to war with Iraq in the first place. The cycle of armament, fighting, and rearmament should be transformed into something more hopeful and more productive.

Section 105 of the bill does not prohibit transfer of the equipment but it does require the administration to seek prior approval from the Congress before doing so. It does not preclude the prepositioning of equipment for the contingency use of American Armed Forces.

Mr. President, I think this supplemental meets the needs of the Department of Defense resulting from Desert Shield and Desert Storm. It does so in a way that allows the Congress to maintain the appropriate level of oversight of the expenditure of funds.

Now, Mr. President, I extend my special thanks to the ranking minority member of the Senate Appropriations Committee and former chairman of the committee, my friend, Senator HATFIELD. As always, his help, cooperation, wisdom, and leadership in bringing this bill to the floor has been instrumental in the expedited action we have seen, and it is most appreciated. Without his strong support the committee would not have been able to move in such an expeditious manner.

Mr. President, I yield the floor.

Mr. HATFIELD addressed the chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oregon.

Mr. HATFIELD. Mr. President, I would like to associate myself with the chairman's opening remarks. He has accurately and precisely defined the contents of this supplemental appropriation.

Once again, the chairman's—Senator BYRD's—leadership in that committee has expedited the process probably in the most expeditious manner that I can recall since we have handled an appropriations supplemental, at least in my memory. I commend him for that kind of leadership.

This called for extraordinary working relationships between the chairman and the members of the committee, with the Office of Management and Budget, the Department of Defense, the Department of State, and the White House.

We talk about orchestrating the forming of the alliance against Iraq. There was a great orchestration of the partnership in this process in bringing forth these two appropriations bills. This was a very smooth operation for which we are all grateful.

Mr. President, the Senate Committee on Appropriations met last Thursday afternoon to consider and report to the Senate H.R. 1282, the Desert Shield/Desert Storm supplemental, and H.R. 1281, the fiscal year 1991 dire emergency supplemental for a variety of purposes. The reports were available on Friday, so the requirements of the 2-day rule have been met.

H.R. 1282, the Desert Shield/Desert Storm supplemental, provides a grand total of $12,625,822,000 for costs directly attributable to the Persian Gulf war. Of the total provided, $15,000,000,000 is an appropriation of new budget authority from the U.S. Treasury, to be used only if foreign contributions are not available. More than $42 billions may be transferred from the defense cooperation account into which the foreign contributions have been deposited.

The President requested this supplemental on February 22. The details of the request are presented in House Document No. 102-43. The committee held a hearing on the President's request on February 26, receiving testimony from Deputy Defense Secretary Donald Atwood and Office of Management and Budget Director Richard Darman.

The President requested $15,000,000,000 in new budget authority for a "Desert Shield working capital account" and virtually unlimited authority to transfer into that account from funds deposited into the existing defense cooperation account by foreign contributors supporting the war effort. The committee has joined our brethren in the other body in rejecting that approach. Instead, the committee recommends the appropriation of $15,000,000,000 as requested and makes specific, account-by-account recommendations for the expenditure of up to $42,625,822,000 in foreign contributions as they become available. The committee also recommends that foreign funds be used first and that any of the $15,000,000,000 in U.S. funds that remain after all costs are met be returned to the Treasury.

It should be noted that all of the funds provided pursuant to the terms of H.R. 1282 are emergency funding requirements as set forth in title XIII, section 251(b)(2)(D)(ii) of the Omnibus Budget Reconciliation Act of 1990, and as such are not counted against the defense caps established by that act pursuant to last year's budget summit agreement.

The committee has not agreed with several recommendations of the other body in various accounts, but in total dollars we are not far apart. The committee also recommends striking House provisions relative to the Tidewater Family Services Center, the Mitchel Field health care facility, Memorial Day celebration preparations, and CHAMPUS copayments.

The committee has included bill language regarding notification requirements on the transfer of funds, the disposition of equipment in the Middle East, a report on withdrawal costs, and arms sales and transfers to nations with unfulfilled pledges of contributions to the war effort.

All of these recommendations are more fully described in the committee's report, Senate Report 102-23.

Mr. President, I have before me a communication from the Executive Office of the President, Office of Management and Budget, Statement of Administration Policy, on this supplemental.

They have raised three specific concerns relating to sectionss 105, 106 and 107 of H.R. 1282. They raise them in more the context of constitutional concerns. I am not going to raise them here on the floor, and I am hopeful we can work these out by the time we go to conference with the House of Representatives so they will not provide us with any obstacles to completing the business at hand.

I ask unanimous consent that the statement of the administration be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Statement of Administration Policy from the Office of Management and Budget, Washington, DC, Mar. 18, 1991]

H.R. 1282—OPERATION DESERT SHIELD/DESERT STORM SUPPLEMENTAL APPROPRIATIONS ACT, 1991

(Sponsor: Senator Byrd, West Virginia)

The Administration appreciates the work of the House and the Senate Appropriations Committees in promptly advancing the Operation Desert Shield/Desert Storm Supplemental Appropriations Act. The Administration will work with the House and Senate to improve the bill as it moves through Congress. In addition to preferring full funding of its requests, the Administration strongly opposes three sections of the bill reported by the Senate Appropriations Committee. In particular, sections 105, 106, and 107 of H.R. 1282 raise serious policy and constitutional concerns.

Section 105(d) directs the President to undertaken cetain negotiations concerning materials and equipment used in the construction of military facilities for Operation Desert Shield/Storm. Section 106(b)(4) would interfere with the President's authority to conduct foreign affairs by directing that he reveal expected, but not completed, arrangements for any possible U.S. military presence in the Middle East. The Administration urges the deletion of sections 105(d) and 16(b)(4).

In addition, section 105(e) prohibits the transfer of Operation Desert Storm equipment, supplies, or materials to any foreign country in the Middle East without prior notification to Congress and specific authorization of the transfer, by bill or joint resolution. This provision creates an unnecessary burden on the ability of the Executive branch to conduct foreign affairs activities that are already subject to significant Congressional oversight pursuant to legislation such as the Arms Export Control Act, In like fashion, section 105(g) not only imposes burdensome and unnecessary reporting requirements on the Executive branch but infringes upon the President's foreign affairs power by requiring him to demand similar information from other coalition countries. These provisions should be deleted.

The Administration also urges the deletion of section 107. It places unnecessary and inappropriate constraints on the ability to provide sales, credits, or guarantees for military equipment or services to allied countries. It is expected that full payment depends, in part, on U.S. determination of costs and billing. There can thus be "delays" caused by U.S. action or inaction. In these cases it would be unreasonable to forgo the opportunity to conduct business with these countries while awaiting full payment of commitments. In the event that it should become clear that commitments were not to be fully met, appropriate steps could be taken consistent with the sense of Congress expressed in section 304 of H.R. 1281.

Mr. HATFIELD. Mr. President, I would like to just take a few seconds to add my comments to a couple of the points Chairman BYRD raised in his opening statement.

One is the question of what we might title, generally, allied war debts. And he has very accurately pointed out that out of the number of dollars that have been pledged, we only have a portion of them in hand. And I do not want to use history to discourage us, but only to perhaps stimulate payment of those pledges.

If we go back to the time that the United States established a creditor role to war debts, it was in World War I. Out of all of the allies in World War I, in which we lent both our money and resources, and later our manpower, we did not have a very good record upon which to base our expectations now, if you look at the amount of the debt created in World War I and how little of it was paid back to the United States by the allies. I would like to say that Finland was the one country out of the alliance in World War I that did meet its payment schedule throughout that period.

During World War II, we also found ourselves in the same creditor role to our allies to help sustain a warmaking capacity and, again, our record of repayment from our allies is not that good.

Mr. President, I want to point out a unique situation in this instance that did not prevail in either World War I or II, and that is the diminished capacity of our allies following a tremendous expenditure in the war effort that each of our allies had made, the diminishing capacity of our allies at that point in time following the war to make those payments. I do not excuse them; I do not think they made the amount of effort they could have, even under those limiting circumstances.

But today is a totally different situation. There is not that diminished capability on the part of Saudi Arabia or Kuwait on the United Arab Emirates. You see how they spend their billions of dollars they have raked in from the oil profits, and you certainly find that they can spend money for far less important matters than to pay their debts. I want to underscore this particular point that the chairman brought out: They have a capability to make good on their pledges. It is not going to cause one Saudi to go hungry; it is not going to cause one Kuwaiti to go hungry, to pay their pledges.0

The chairman pointed out that the American people have made a tremendous sacrifice in this particular military effort, even though I did not support the policy. Nevertheless, the brilliant orchestration on the part of the President, the Secretary of State, the Secretary of Defense, the Chairman of the Joint Chiefs, General Schwarzkopf, from the top right through to the enlisted personnel, cannot be denied. All of them gave a tremendous demonstration of leadership, followership, and good organization, and the best-trained military we have had, probably, in our history; I point out, without a draft, all volunteer.

Having said that, I think we have to understand that there were many contributions beyond the actual war, as the chairman indicated, and that we have denied ourselves the resources and have gone to military spending. We have denied ourselves on so many other fronts and they are really trying the vulnerability of America's security.

A secure nation must have a well-housed, well-fed, well-educated people, and it must have a productive economy and a strong infrastructure. And America today is truly vulnerable on many of those fronts, because we have diverted our resources over the years to create this major outstanding military organization.

Now that we have won the war, can we win the peace? We have won a number of wars, and we have won very many peace efforts that have been made following those wars. The President has outlined a new world order. I am very hopeful that by repaying these debts to the United States on the pledges made by these countries we will be able to help in this new world order.

In speaking to the new world order, I want to say that there have been some restrictions, as the chairman has indicated, on that part of a new world order that has to restrict the flow of arms in these world areas of great trouble and volatility. Mr. President, we helped build Saddam Hussein with our lust for arms and our hawking arms on the international market, our promoting arms, our giving arms, when they could not even afford to buy them. The largest arms peddler in the world—we have that dubious distinction with the Soviet Union year after year. Twenty-one nations contributed arms to Saddam Hussein. I would like to see that same political skill orchestrated in the world to embargo arms all over the world.

What we could do with those moneys to help build and diminish the causes of war. Three billion dollars of arms went into that little country of El Salvador. Mr. President, they have fewer homes, fewer schools, fewer health programs that they can deliver, and they have less food; they are worse off today, all in the name of trying to build peace by sending them arms. Not a single hungry baby could eat one piece of armament that was sent them.

If we are going to continue to export arms, which never settles anything, we ought to understand that this peace we hope to win will be very elusive. We, in this very small effort, have tried to set the stage to help the President in the new world order by restricting the exporting of certain arms, and I hope that this will be a signal from the Congress to the White House that we would like to see that the great sacrifice the American people have made bears a good return.

You will never return the lives of those who were lost. But we certainly can honor their sacrifice by reducing the possibility of this kind of war breaking out again 6 months from now, or 1 year from now, because the same driving forces that created this war are in place today: The unresolved Palestinian issue, the gap between the "haves" and the "have nots" amongst the Arab people, the overdependence upon their oil supply that leverages all kinds of political action, which really is perhaps not wise action, all of those represent part of our responsibility to build peace, toward a new world order.

So, Mr. President, I am very proud to be associated with my chairman in terms of presenting this program to the Senate. It is not one I support, because I did not support the policy; nevertheless, it is one we have to face the reality of dealing with. I hope that we can expedite this, and I hope that in the meantime we can work out these little questions that have been raised by the administration and the informal relationships we have in reaching an understanding both with the House and with the White House.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank my distinguished colleague for his lucid and impressive statement, and again for the support that he has given to the effort.

Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and considered as original text for the purpose of further amendment, with no points of order being waived thereby.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to.

Mr. BYRD. Mr. President, for the record I wish to first explain the structure that has been created by the Senate and House Appropriations Committees for the purposes of funding Operation Desert Storm.

On the chart the $15 billion appropriated from the U.S. taxpayers is to go into a fund titled "the Persian Gulf regional defense fund." The moneys that are contributed by the allies go into a different fund, the defense cooperation account. Moneys from both of these funds may flow directly into defense appropriation accounts.

However, the committee has specified that the funds from the Persian Gulf regional defense fund, moneys from the Persian Gulf regional defense fund, in other words the $15 billion appropriated by the taxpayers, will not be spent until the moneys contributed by the allies to the defense cooperation account have been spent. If there are cash flow needs and allied delays which require an expenditure from the $15 billion appropriated by the American taxpayers, then that money, the $15 billion will be replenished with moneys from the defense cooperation account as the moneys continue to flow in from the allies in payment of their commitments.

At the end of the Desert Storm/Desert Shield operation we would expect $15 billion to remain in the Persian Gulf regional defense fund, the original taxpayers $15 billion appropriation. That appropriation then, or whatever remains of it, would revert to the U.S. Treasury. Any moneys that would remain in the defense cooperation account would remain in the defense cooperation account. That account was established long prior to Desert Shield and Desert Storm.

Finally, I should say that the committees would require a 7-day notice prior to the expenditure from either of these accounts, the Persian Gulf regional defense fund or the defense cooperation account. They require that 7 days before the flow of moneys from either of those accounts Congress be notified and the Appropriations Committees and the Armed Services Committees give their approval of such expenditure before the expenditures can be made. That is according to current practice.

So our colleagues, the viewing audience, and the readers of the RECORD may understand a little more vividly the situation with respect to the allied commitments and their payments on those commitments, the chart before us I think is clear. The large bar is the total amount committed by our allies, $54.5 billion. That constitutes the promises of the allies. How have they fulfilled on their promises, how well? The green bar represents the payments that they have made, both in cash and in kind. The narrow red ribbon at the top of the second bar represents payments in kind by the allies. The larger portion of that bar represents payments in cash by the allies.

So we see that the total in cash and in kind paid by the allies amounts to $25.6 billion—$25.6 billion paid as against $54.5 billion committed. In other words, the total of payments in kind and in cash represent less than half, 47 percent to be more precise, of the commitments that were made. So the allies have yet to pay a little over half of what they promised to pay.

We will show in this chart the breakdown among the allies with respect to the commitments they have made and the payments they have made. And beginning with Saudi Arabia, to which my dear friend and colleague, Senator HATFIELD, referred specifically along with some others, as to Saudi Arabia the commitments by Saudi Arabia amounted to $16.8 billion, represented by the black bar. The payments in kind and in cash by Saudi Arabia amount to $6.1 billion, in other words, $6.1 billion paid on promises amounting to $16.8 billion. To be exact, Saudi Arabia has paid 36 percent of its commitments.

Kuwait made commitments amounting to $16 billion. It has made payments in cash and in kind amounting to $5.5 billion, or 34 percent.

The United Arab Emirates, which could easily send us a check of $10 billion overnight and scarcely miss it, made promises amounting to $4 billion and has paid half that amount, $2 billion, 50 percent.

The Emirates would have been wiped out completely had it not been for the ready action of the United States deploying manpower and equipment which provided a great threat to Hussein had he attempted to go farther south from Kuwait.

Germany, one of our friends, made commitments of $6.6 billion. It has paid 70 percent of those commitments, $4.6 billion, most of which is cash, and a bit of which is in kind.

Japan has made commitments amounting to $10.7 billion, has paid as of today $7.3 billion, or 68 percent, with another $3 billion expected by March 28.

Korea committed $385 million and has paid $71 million or 18 percent of its commitments.

Mr. President, I again thank my counterpart, my friend, the ranking member, the former chairman, Mr. HATFIELD, and I thank all members of the committee, and I thank also our fine committee staff led on this side of the aisle by Jim English and on the other side by Keith Kennedy. These are excellent staffers and they work days, and many evenings—on weekends also from time to time—to prepare these bills, have them on the floor and prepare them then for the conference that will later follow.

Mr. LAUTENBERG. Mr. President, I rise in support of H.R. 1282, the supplemental appropriations bill for Operations Desert Shield and Desert Storm. In doing so, I want to express my gratitude and that of the people I represent for the heroic and highly successful efforts by our military services in bringing about the victory against Iraq and the liberation of Kuwait. It is said, Mr. President, that "victory has its cost." Today we take to the floor to pay the bill. Appropriately, a very significant part of that bill is to be paid by our allies and the gulf nations that most benefited by our actions. The bill before us makes available a total of $15 billion in new budget authority and $42.6 billion in funding from the defense cooperation account—the account which houses the contributions from the gulf nations and our allies. The bill further ensures that United States tax dollars will only be used if the funding for our allies and the gulf nations are insufficient to meet the incremental costs of Operations Desert Shield and Desert Storm.

As chairman of the Transportation Appropriations Subcommittee, I wish to call attention to a very small but critical funding item contained in the bill. Chapter III of the bill appropriates $18,922,000 for the incremental costs borne by the Coast Guard in support of the recent activities in the gulf. The level provided fully covers the amount requested by the administration. While this is a small fraction of the funding contained in the entire bill, this contribution is essential to ensure that the Coast Guard is not required to pay for its involvement in the war by slowing its maintenance program, which supports all of the service's critical missions.

On February 28, the Transportation Subcommittee heard testimony from Adm. Bill Kime, the Commandant of the Coast Guard. Admiral Kime outlined very articulately the involvement of the Coast Guard dating back to our Nation's response to Iraq's initial invasion of Kuwait. Indeed, from that day forward, Coast Guard units were called on to respond skillfully and quickly. During the first callup of our military reserves this past summer, the Coast Guard called up a larger percentage of its Selected Reserves than any other military service. Many of these Reserves were trained in port security, a specialty not found among the other services.

The Coast Guard's involvement has included the inspecting of the Ready Reserve Fleet, the identification of merchant seamen to sail supply ships to the gulf, supervising the loading of hazardous material and ammunition, providing waterside security in the United States, Saudi, and Bahraini ports, and the boarding of merchant vessels in the gulf region to ensure compliance with the international trade embargo against Iraq. By all accounts, the Coast Guard performed each of these missions with the skill and commitment we expect of that proud service.

As I have already noted, the Coast Guard's involvement in Operations Desert Storm and Desert Shield brought about the first involuntary callup of the Coast Guard's Reserves. According to Admiral Kime, these reservists performed most admirably. Indeed, a solicitation requesting volunteers among the Reserves to replace those in the gulf yielded an overwhelming response far in excess of numbers needed. It so happens, Mr. President, that this year is the 50th anniversary year of the Coast Guard Reserves, and I want to commend their efforts along with those of the active duty Coast Guard personnel.

Mr. President, I should point out that the Coast Guard also has lead responsibility for the President's Interagency Task Force charged with assessing the catastrophic oilspill in the Persian Gulf. I should note, however, that the administration has not requested any funding for the costs of this mission and, thus, no funding has been provided. Admiral Kime informed us as part of his testimony that he is hopeful that the Coast Guard will be reimbursed directly for these activities by one or a number of the gulf nations.

I think it is critical, Mr. President, that the Coast Guard be adequately reimbursed for the costs of its Desert Shield and Desert Storm operations. We cannot let the Coast Guard divert resources from its other missions. There are simply too many unmet needs that must be addressed here at home, such as the implementation of the Oil Spill Act and other pollution prevention and marine safety initiatives.

Admiral Kime told my subcommittee that the requirements to focus on the oilspill in the gulf has, to a small degree, required some of his senior officers to divert attention from these critical agendas here at home. The need to focus on port security did, temporarily, require local marine safety offices to slow down marine safety and environmental protection efforts. While we expect Coast Guard units to respond to all challenges as they present themselves, it is essential that these units do not lose sight of all their critical civilian missions. Our responsibility is to ensure that they have the resources to do both. I believe this bill accomplishes that end.

Mr. DOLE. Mr. President, I commend the distinguished chairman, Senator BYRD, Senator HATFIELD, Senator INOUYE, and Senator STEVENS for their outstanding effort in putting together this supplemental appropriations package. Further, I commend the Secretary of Defense and his staff for their diligence and hard work.

As we transition from Operation Desert Storm to Operation Desert Accountant, we must remember that the world remains a dangerous place. American security has—and will continue to rely on the quality of forces and military personnel that we maintain. Weakness translates into vulnerability. Strength enhances security—a simple lesson, yet it is a lesson that some never learn. It is a lesson that many choose to ignore.

This is what this bill is all about—American strength and the commitment to maintain it. Freedom and security have a cost—and it is time to pay the bill.

Our allies must understand that while America will meet her commitments, they too must meet theirs. We fully expect the pledges made by our allies to be met and we will insist that costs of Desert Shield/Storm to be shared equitably. I am confident that in the end, they will be.

Our military success in Operation Desert Storm was not an accident. It was a result of the President's resolve to maintain American strength, it was a result of the quality of our military personnel, it was a result of America's innovation and industry, and it was a result of America's resolve.

In my view, we owe the American taxpayer a full accounting of the costs of this operation, but we must not allow our green eyeshades to obscure our vision—the lesson of Desert Storm remains clear. Strength means security.

MARK-82 500-POUND BOMBS

Mr. KASTEN. Will the Senator yield for a question? It is my understanding that one of the most widely used weapons during the Persian Gulf war was the Mark-82 500-pound bomb. Not only was this type of bomb frequently used, it was used to great effect. A full accounting of expended weapons has not been received but I believe that these bombs will be at or near the top of the list when that report is received. Is it your understanding that the Navy and the Air Force can replace Mark-82 bombs using funds from this supplemental appropriation?

Mr. INOUYE. The Senator is correct. We will make sure to direct the Department of the Navy and Air Force to provide a full accounting of the number of Mark-82 bombs consumed between August 1990 and February 1991. Those numbers should include not only just those that were fired, but also those that are now unusable because of shipping, handling or other reasons.

Mr. STEVENS. So what you are saying, Senator, is that the Defense Department should replace Mark-82 500-pound bomb consumed during Operations Desert Shield and Desert Storm consistent with their future inventory objectives?

Mr. INOUYE. That is exactly what I mean. Thank you for clarifying that.

Mr. KASTEN. I thank the Senators from Hawaii and Alaska for their help. I believe that this is a critical program for the preparedness of the United States.

SECTION 202

Mr. BOND. Mr. President, I rise with an inquiry for the distinguished chairman of the Defense Subcommittee concerning section 202 of the dire emergency supplemental.

Mr. INOUYE. I would be happy to yield for a question.

Mr. BOND. Mr. Chairman, I note that there is no discussion of section 202 of the committee report accompanying the bill. I would like to clarify the committee position for the record. As I understand it, section 202 is identical to section 202 of the House-passed bill. The section directs obligation of $988 million within 30 days of enactment of the bill for remanufacture of 12 F-14D's. I note that this is a program that Secretary Cheney has proposed for termination.

Mr. INOUYE. Yes, that is my understanding also. The provision insists on obligation of the fiscal year 1991 funds allocated to the F-14 remanufacture program in last year's bill rather than termination of the program as subsequently proposed by the administration.

Mr. BOND. I thank the distinguished chairman.

My understanding is, further, that no funds are being directed away from any of the other previously funded fiscal year 1991 Navy aircraft procurement programs. However, the committee's action does raise the question of what impact it will have in the future on other Navy aircraft procurement programs. And as the chairman knows, the only Navy combat aircraft program continuing in fiscal year 1992 production is the F/A-18.

Mr. INOUYE. The Senator has raised a legitimate concern. I can assure that junior senator from Missouri that section 202 is included without prejudice to the F/A-18 program or other Navy aviation programs. I believe Senator STEVENS, the ranking Republican on the Defense Subcommittee, would agree with me on this point.

As my good friend knows, the Navy is preparing an amendment budget submission for its aviation program. Until the Defense Subcommittee has reviewed that request I cannot say how the committee will proceed in fiscal year 1992. However, nothing recommended here today should suggest any lessening in our support for any aspect of the F/A-18 program.

Mr. STEVENS. If the Chairman would yield, I would just simply point out that I agree with his comments that our actions on this bill are in no way intended to lesson our support for the F/A-18 program.

Mr. BOND. I thank the chairman and the distinguished ranking member for their time and for helping to clarify this issue for me. I yield the floor.

Mr. DODD. Mr. President, I rise in support of the two pending supplemental appropriations bills, H.R. 1281 and H.R. 1282. I commend the members of the House and Senate Appropriations Committees for assembling and marking up this comprehensive package on such short notice.

I would like to take this opportunity to point out a couple of items in this package which I feel are particularly noteworthy. One of these is the manner in which the contributions from other nations are handled. While this legislation establishes in the U.S. Treasury a $15 billion fund for additional expenses related to the war, the legislation also makes clear that no U.S. funds will be spent before the expected contributions from our allies are received.

That is a very important point, Mr. President. The United States sent over 500,000 troops to the Persian Gulf, by far the largest contingent represented there. We bore the largest number of casualties, and the greatest expenditure of supplies and armaments. We should not have to bear a disproportionately high financial burden as well.

To this date, our allies and coalition partners have promised $54.5 billion in contributions to the gulf effort. As of today, only $25.6 billion has actually been received, in the form of cash or in-kind contributions. Before we spend a dime of U.S. funds on the conflict in the gulf, we must make sure we have all of our pledges in hand from our allies. Only then can we make an informed—and responsible—decision on how best to fund the shortfall.

Mr. President, I would also like to make note of a relatively small item within this package, the $2.9 million in supplemental appropriations to the U.S. Commerce Department's International Trade Administration. In the next 5 to 10 years, much of Kuwait will need to be completely rebuilt, at a cost now estimated in the area of $20 to $30 billion. The Kuwaiti reconstruction presents a significant opportunity for American businesses and individuals, and this legislation ensures that the Commerce Department has the funding it needs to adequately promote United States participation.

Finally, Mr. President, I would like to note one particular aspect of this legislation that is very special to me, the $650 million for emergency assistance to Israel. Let me take a moment if I may, Mr. President, to make a few remarks on that subject.

Mr. President, since Israel's establishment nearly half a century ago, its survival has been based upon one simple, incontrovertible principle: No attack on Israel shall go unpunished. And the United States has made sure that Israel has the means to make good on this promise. We have assisted Israel in acquiring the financial means and military goods it needs to ensure its security in the region.

How ironic, then, that when Iraq launched its infamous Scud missiles at residential Israeli neighborhoods, it was the United States that urged Israel not to respond. And in not responding, Israel provided what may have been the most important blow to Saddam Hussein's regime. Hussein's overt strategy was to draw Israel into the war, uniting the Arab masses against his opposition and tearing the coalition apart. It did not work.

It didn't work, Mr. President, because Israel showed restraint. In the face of nightly Scud alerts and the threat of chemical attack, Israel refused to respond to Iraq's missile attacks. At the very least, Israel must now be compensated adequately for the damage it suffered.

Israel's restraint is all the more noteworthy when we take into account the terrible destruction that was done to that nation during the war with Iraq. I speak not only of the actual missile attacks, which left five people killed, hundreds of people injured, and thousands of homes demolished. Rather, Mr. President, I speak of the constant fear, the heartstopping terror, that gripped all Israelis during the 5 weeks of the war.

Mr. President, I received a visit last month from Shimon Shetreet, a leading member of the Knesset, who showed to me a number of photos of the devastation and destruction in Israel. I would like to share with the Members of this body one image that I found particularly disturbing.

The photo was of a young woman who had just given birth in an Israeli hospital. Cradled in her left arm, as she lay in her hospital bed, was a newborn baby. In her right arm, clutched equally tightly, she held a gas mask. Mr. President, there could be no better image of the fear that haunted the Israeli people during the course of this war. On that hospital bed, the promise of a precious new life shared close proximity with the specter of a horrible death.

Mr. President, the supplemental appropriations package before us today will not erase that horror. It will not undo the suffering that the Israelis have endured as a result of Iraq's missile attacks. But it is an important step toward the recognition of Israel's sacrifice. Mr. President, I urge its immediate passage.

Mr. BYRD. Mr. President, if there are no further comments and no further amendments, I ask for third reading of the bill.

The PRESIDING OFFICER. If there are no further amendments, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. BYRD. Mr. President, I have been authorized by the joint leadership to set the vote to occur at 2:15 p.m. today without any intervening action.

I ask unanimous consent that the vote on the bill occur at the hour of 2:15 p.m. today, with paragraph 4 of rule VI waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask for the yeas and nays on final passage of the bill.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that any Senators on both sides may include statements in the RECORD as though read in connection with the debate on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS

Mr. BYRD. Mr. President, I now ask unanimous consent that the bill be laid aside and that the Senate proceed to the consideration of H.R. 1281, Calendar Order No. 43.

Mr. President, I withhold that request.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I renew my request.

The PRESIDING OFFICER. Is there objection? If there is no objection, the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1281) making dire emergency supplemental appropriations for the consequences of Operation Desert Shield/Desert Storm, food stamps, unemployment compensation administration, veterans compensation and pensions, and other urgent needs for the fiscal year ending September 30, 1991, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

H.R. 1281

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide dire emergency supplemental appropriations for the fiscal year ending September 30, 1991, and for other purposes, namely:

TITLE I—EMERGENCY SUPPLEMENTAL APPROPRIATIONS

All funds provided under this title are hereby designated to be "emergency requirements" for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CHAPTER I

DEPARTMENT OF COMMERCE

International Trade Administration

OPERATIONS AND ADMINISTRATION

For an additional amount for "Operations and administration" to provide for additional costs resulting from Operation Desert Shield/Operation Desert Storm, **[**$2,951,000**]** *$310,000*, to remain available until expended.

National Oceanic and Atmospheric Administration

OPERATION, RESEARCH, AND FACILITIES

For an additional amount for "Operations research, and facilities" to provide for additional costs resulting from Operation Desert Shield/Operation Desert Storm, **[**$2,775,000**]** *$632,000*, to remain available until expended.

[National Institute of Standards and Technology

[SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

[For an additional amount for "Scientific and technical research and services" to provide for additional costs resulting from Operation Desert Shield/Operation Desert Storm, $1,610,000, to remain available until expended.**]**

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses" to provide for additional costs resulting from Operation Desert Shield/Desert Storm, $4,633,000.

Immigration and Naturalization Service

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses" to provide for additional costs resulting from Operation Desert Shield/Desert Storm, $3,103,000.

DEPARTMENT OF STATE

Administration of Foreign Affairs

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses" to provide for additional costs resulting from Operation Desert Shield/Operation Desert Storm, $39,700,000, of which $10,000,000 shall be available notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, as amended.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For an additional amount for "Emergencies in the diplomatic and consular service" to provide for additional costs resulting from Operation Desert Shield/Operation Desert Storm, $9,300,000, to remain available until expended, notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, as amended.

RELATED AGENCY

United States Information Agency

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses" to provide for additional costs resulting from Operation Desert Shield/Operation Desert Storm, **[**$6,800,000**]** *$5,800,000*, of which $1,400,000 is to be derived by transfer from unobligated balances in "Radio Construction" subject to the Department of Defense waiving reimbursement for transportation, personnel, and related costs for establishing a temporary medium-wave broadcast facility for the Voice of America in Bahrain.

[CHAPTER II

[DEPARTMENT OF DEFENSE—MILITARY

[OPERATION DESERT SHIELD/DESERT STORM

[Additional Transfer Authority

[(Transfer of Funds)

[For incremental costs of Operation Desert Shield/Desert Storm, $333,600,000 is appropriated for transfer from the Defense Cooperation Account to the following accounts in not to exceed the following amounts:

[PROCUREMENT

[(Transfer of Funds)

[Missile Procurement, Army

[For an additional amount for "Missile procurement, Army", $269,300,000.

[Procurement of Ammunition, Army

[For an additional amount for "Procurement of ammunition, Army", $29,600,000.

[Procurement, Marine Corps

[For an additional amount for "Procurement, Marine Corps", $34,700,000.

[GENERAL PROVISION

[(Including Transfer of Funds)

[Sec. 101. (a) The transfer authority provided in the foregoing paragraphs is secondary to the authority provided in the "Operation Desert Shield/Desert Storm Supplemental Appropriations Act, 1991."

[(b) The authority provided in this Act to transfer funds from the Defense Cooperation Account is in addition to any other transfer authority contained in this or any other Act making appropriations for the Department of Defense for fiscal year 1991.

[(c) Amounts transferred from the Defense Cooperation Account in this Act shall be merged with and be available for the same purposes and the same time period as the appropriations to which transferred.**]**

CHAPTER **[**III**]** *II*

DISTRICT OF COLUMBIA

Federal Payment to the District of Columbia

For an additional amount for "Federal payment to the District of Columbia" to provide for additional costs resulting from Operation Desert Shield/Operation Desert Storm, $3,565,000, to remain available until expended.

CHAPTER **[**IV**]** *III*

FUNDS APPROPRIATED TO THE PRESIDENT

Agency for International Development

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

For an additional amount for "Operating Expenses of the Agency for International Development" to provide for additional costs resulting from Operation Desert Shield/Operation Desert Storm, $6,000,000 to remain available until September 30, 1991, which shall be made available only for the costs of evacuating United States Government employees and Personal Services Contractors, their dependents, and for subsistence allowance payments**[**: *Provided*, That such funds may be obligated and expended notwithstanding section 10 of Public Law 91–672**]**.

Economic Support Fund

For an additional amount for the "Economic Support Fund", **[**$650,000,000**]** *$850,000,000*, to provide for additional costs resulting from the conflict in the Persian Gulf, **[**which**]** *of which $650,000,000* shall be made available only for Israel, *and of which $200,000,000 may be obligated and expended notwithstanding section 10 of Public Law 91–672 only for the Republic of Turkey*: *Provided*, That such **[**sum**]** *sums* shall be made available on a grant basis as **[**a**]** cash **[**transfer**]** *transfers* and shall remain available for obligation until September 30, 1991: *Provided further*, That such **[**sum**]** *sums* may be used by Israel *and the Republic of Turkey* for incremental costs associated with the conflict in the Persian Gulf, notwithstanding section 531(e) of the Foreign Assistance Act of 1961**[**: *Provided further*, That such funds may be obligated and expended notwithstanding section 10 of Public Law 91–672**]**.

CHAPTER **[**V**]** *IV*

LEGISLATIVE BRANCH

JOINT ITEMS

Capitol Police Board

Capitol Police

SALARIES

For an additional amount for "Capitol Police Board, Salaries", to provide for additional costs associated with Operation Desert Shield/Operation Desert Storm, [$6,164,000] *$6,328,000*, of which [$3,130,000] *$3,232,000* is appropriated to the Sergeant at Arms of the House of Representatives, to be disbursed by the Clerk of the House, and [$3,034,000] *$3,096,000* is appropriated to the Sergeant at Arms and Doorkeeper of the Senate, to be disbursed by the Secretary of the Senate.

GENERAL EXPENSES

For an additional amount for "Capitol Police Board, General expenses", to provide for additional costs associated with Operation Desert Shield/Operation Desert Storm, [$978,000] *$1,138,000*, to be disbursed by the Clerk of the House.

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $88,000.

FURNITURE AND FURNISHINGS

For an additional amount for "Furniture and Furnishings", $351,000.

CHAPTER [VI] *V*

PANAMA CANAL COMMISSION

Panama Canal Revolving Fund

The fiscal year 1991 obligation limitation on non- administrative and capital programs, as set forth in Public Law 101–516, is increased by $60,000,000 to meet the unexpectedly high traffic from disruptions in world markets caused by the Middle East crisis.

CHAPTER [VII] *VI*

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco, and Firearms

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses" to provide for additional costs associated with Operation Desert Shield/Operation Desert Storm, $2,028,000.

United States Customs Service

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses" to provide for additional costs associated with Operation Desert Shield/Operation Desert Storm, $1,825,000.

United States Secret Service

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses" to provide for additional costs associated with Operation Desert Shield/Operation Desert Storm, $4,906,000.

CHAPTER [VIII] *VII*

DEPARTMENT OF VETERANS AFFAIRS

Veterans Health Service and Research Administration

MEDICAL CARE

For an additional amount for "Medical care" to provide for unbudgeted medical expenses resulting from Operation Desert Shield/Operation Desert Storm, [$46,000,000] *$25,000,000*.

Departmental Administration

GENERAL OPERATING EXPENSES

For an additional amount for "General operating expenses" to provide for unbudgeted Veterans Benefits Administration costs associated with Operation Desert Shield/Operation Desert Storm, $12,000,000.

CHAPTER VIII

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Section 634 of the Rural Development, Agriculture, and Related Agencies Appropriations Act of 1991, Public Law 101–506, is hereby repealed.

TITLE II—SUPPLEMENTAL APPROPRIATIONS

CHAPTER I

DEPARTMENT OF COMMERCE

Bureau of the Census

SALARIES AND EXPENSES

(BY TRANSFER)

For an additional amount for "Salaries and expenses", $1,000,000, to be derived by transfer from Periodic Censuses and Programs.

[Economic and Statistical Analysis

[SALARIES AND EXPENSES

[For an additional amount for "Salaries and expenses", $1,000,000.]

Economic Development Administration

ECONOMIC DEVELOPMENT REVOLVING FUND

(RESCISSION)

Of the unobligated balances in the Economic Development Revolving Fund, [$9,600,000] *$20,000,000* are rescinded: *Provided, That for the current fiscal year, notwithstanding any other provision of law, including section 257(c) of the Trade Act of 1974, as amended, and section 203 of the Public Works and Economic Development Act of 1965, as amended, the Secretary of Commerce may transfer unobligated balances from the Economic Development Revolving Fund, to the extent that such balances are excess to the requirements of the fund, to other accounts in the Department of Commerce when the Secretary determines that a need for such transfers exists, and only if such transfers are proposed pursuant to section 606 of Public Law 101–515.*

International Trade Administration

OPERATIONS AND ADMINISTRATION

For an additional amount for "Operations and administration", $1,500,000, to remain available until expended.

National Oceanic and Atmospheric Administration

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, research, and facilities", $3,000,000, to remain available until expended.

Department of Commerce—General Provision

Notwithstanding any other provision of law, of the funds appropriated to Department of Commerce, Bureau of the Census, "Periodic censuses and programs" in Public Law 101–515, $750,000 shall be available to provide the Federated States of Micronesia technical assistance and training for census taking and other data collection efforts: Provided, That such assistance shall include but not be limited to statistical training in planning and data collection, processing and analysis, equipment and supplies, long-term training, and subsistence expenses for trainees.

DEPARTMENT OF JUSTICE

Legal Activities

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

(BY TRANSFER)

For an additional amount for "Salaries and expenses, General Legal Activities", [$3,180,000,] *$7,180,000 of which $3,180,000, is* to be derived by transfer from Federal Prison System, Salaries and Expenses.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

(BY TRANSFER)

For an additional amount for "Salaries and expenses, United States Attorneys", $1,903,000, to be derived by transfer from Salaries and Expenses, General Legal Activities.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

(BY TRANSFER)

For an additional amount for "Salaries and expenses, United States Marshals Service", $1,025,000, to be derived by transfer from Federal Prison System, Salaries and Expenses.

FEES AND EXPENSES OF WITNESSES

For an additional amount for "Fees and expenses of witnesses", $9,203,000.

Department of Justice—General Provisions

SEC. 101. [Section 524(c)(9) of title 28, United States Code, is amended by adding the following new subsection:

["(E) Subject to the notification procedures contained in section 606 of Public Law 101–515, any unobligated balances in excess of $15,000,000 remaining in the Fund on September 30, 1991, and on September 30, 1992, may be transferred by the Attorney General, to remain available until expended, as follows—

["(i) the first $25,000,000 of such unobligated balances to the Office of Justice Programs for grants authorized by section 515(a)(1) of chapter B of subpart 2 of part E of title I of the Omnibus Crime and Safe Streets Act of 1968, as amended (42 U.S.C. 3760 et seq.), and

["(ii) such sums as are available to the Salaries and Expenses appropriations of the Drug Enforcement Administration and the Federal Bureau of Investigation to enhance training and to procure vehicles and equipment.".]

[SEC. 102.] Notwithstanding 28 U.S.C. 1821, no funds appropriated to the Department of Justice in fiscal year 1991 or any prior fiscal year shall be obligated or expended to pay a fact witness fee to a person who is incarcerated testifying as a fact witness [pursuant to a writ of habeas corpus ad testificandum] in a court of the United States, as defined in paragraph (a)(2) of section 1821, 28 United States Code: *Provided*, That the one exception to the preceding prohibition is the fact witness fee decided in United States Supreme Court case No. 89–5916, Richard Demarest, Petitioner v. James Manspeaker et al. on January 8, 1991.

DEPARTMENT OF STATE

Administration of Foreign Affairs

SALARIES AND EXPENSES

Funds made available under this heading in Public Law 101–515 shall be available to procure special purpose motor vehicles without regard to any price limitation established by law.

International Commissions

INTERNATIONAL FISHERIES COMMISSIONS

For an additional amount for "International fisheries commissions", $100,000, notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, as amended.

Department of State—General Provision

Of the funds made available to Department of State "Salaries and expenses" pursuant to title IV of this Act, $1,250,000 shall be available only for payment of processing fingerprint and identification records and name checks as required by Public Law 101–515 (104 Stat. 2112).

THE JUDICIARY

Supreme Court

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $54,000.

United States Court of Appeals for the Federal Circuit

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $51,000.

United States Court of International Trade

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $36,000.

Courts of Appeals, District Courts, and Other Judicial Services

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", [$69,520,000] *$67,980,000*, of which $48,520,000 shall remain available until expended.

FEES OF JURORS AND COMMISSIONERS

For an additional amount for "Fees of jurors and commissioners", $5,600,000, to remain available until expended.

COURT SECURITY

For an additional amount for "Court security", $530,000.

Administrative Office of the United States Courts

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $2,450,000.

Federal Judicial Center

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $1,633,000.

RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

Maritime Administration

READY RESERVE FORCE

For an additional amount for "Ready reserve force", $20,000,000, to remain available until expended.

Board for International Broadcasting

GRANTS AND EXPENSES

For an additional amount for "Grants and expenses", as authorized by 22 U.S.C. 2877, $8,000,000 to remain available until expended.

Equal Employment Opportunity Commission

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", [$1,000,000] *$2,000,000*.

Federal Communications Commission

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $1,000,000.

Federal Trade Commission

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", [$2,000,000] *$1,000,000*.

Legal Services Corporation

PAYMENT TO THE LEGAL SERVICES CORPORATION

For an additional amount for "Payment to the Legal Services Corporation", $1,000,000.

Securities and Exchange Commission

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", [$2,000,000] *$1,000,000*. In addition, any offsetting receipts deposited into the general fund of the Treasury under section 6(b) of the Securities Act of 1933 between October 1, 1990, and the November 5, 1990, enactment date of Public Law 101-515 shall be recorded as an offsetting collection and be available for obligation and expenditure by the Securities and Exchange Commission in accordance with the provisions governing the obligation and expenditure of offsetting collections under the above heading in Public Law 101-515.

Small Business Administration

SALARIES AND EXPENSES

(BY TRANSFER)

For an additional amount for "Salaries and expenses", $1,500,000, to be derived by transfer from the Disaster Loan Fund: *Provided, That of the funds appropriated under this head in Public Law 101-515, not less than $2,767,000 shall be available only for the Service Corps of Retired Executives (SCORE).*

SMALL BUSINESS ADMINISTRATION—GENERAL PROVISION

Notwithstanding any other provision of law, the Administrator of the Small Business Administration shall not withhold disaster assistance under section 7 of the Small Business Act to greenhouses or nurseries (including but not limited to those whose business operations are described in SIC code 0181) that suffered damage as the result of severe storms or flooding and are located in areas declared to be major disaster areas by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act pursuant to the notice [FEMA-883-DR] dated November 26, 1990, and related determinations.

CHAPTER II

DEPARTMENT OF DEFENSE—MILITARY

[OPERATION AND MAINTENANCE

[Operation and Maintenance, Army

[For an additional amount for "Operation and Maintenance, Army", $95,220,000.

[Operation and Maintenance, Navy

[For an additional amount for "Operation and Maintenance, Navy", $173,880,000.

[Operation and Maintenance, Marine Corps

[For an additional amount for "Operation and Maintenance, Marine Corps", $4,000,000.

[Operation and Maintenance, Air Force

[For an additional amount for "Operation and Maintenance, Air Force", $76,400,000.

[RESEARCH, DEVELOPMENT, TEST AND EVALUATION

[Research, Development, Test and Evaluation, Army

[For an additional amount for "Research, Development, Test and Evaluation, Army", $58,000,000 for development of a Patriot Missile Quick Response Program, to remain available until September 30, 1992.]

GENERAL PROVISIONS

[SEC. 201. Restrictions provided under subsection (b)(2) of section 301d of title 37, United States Code, as authorized by the National Defense Authorization Act for 1991 shall not apply in the case of flag or general officers serving as practicing physicians.]

SEC. 201. Of the funds made available to the Department of Defense for Chemical Agents and Munitions Destruction, Defense, an amount not to exceed $2,000,000 shall be available only for an off-island leave program: Provided, That notwithstanding any other provision of law, the Secretaries concerned may, pursuant to uniform regulations, prescribe travel and transportation allowances for travel performed by participants in the off-island leave program: Provided further, That funds appropriated for the off-island leave program shall remain available until expended.

SEC. 202. Of the funds appropriated for fiscal year 1991 for the account "Aircraft Procurement, Navy", the amount of $987,936,000 provided for the F-14 remanufactured program shall be obligated for the twelve F-14 aircraft not later than thirty days after the enactment of this Act.

SEC. 203. None of the funds available to the Department of Defense may be used for advance procurement of material and other efforts associated with the industrial availability of the U.S.S. Kennedy other than the service life extension program for the U.S.S. Kennedy at the Philadelphia Naval Shipyard.

[SEC. 204. Of the funds appropriated in the Department of Defense Appropriations Act (Public Law 100-463) for fiscal year 1989 under the heading, "Aircraft Procurement, Navy", $200,000,000 shall be made available to the Department of the Navy and shall be obligated for the V-22 Osprey tilt rotor aircraft program: *Provided*, That notwithstanding any other provision of law, these funds shall remain available until such time as they are expended for the V-22 Osprey tilt rotor program.]

SEC. 204. Of the funds appropriated in the Department of Defense Appropriations Act (Public Law 100-463) for fiscal year 1989 under the heading, "Aircraft Procurement, Navy", $200,000,000 shall be made available to the Department of the Navy and shall be obligated not later than sixty days from the enactment of this bill for the V-22 Osprey tilt rotor aircraft program: Provided, That notwithstanding any other provision of law, these funds shall remain available until such time as they are expended for the V-22 Osprey tilt rotor program.

[(TRANSFER OF FUNDS)

[SEC. 205. Upon enactment of this Act, the Secretary of Defense shall make the following transfer of funds: *Provided*, That the amounts transferred shall be available for the same purposes as the appropriations to which transferred, and for the same time period of the appropriation from which transferred: *Provided, further*, That funds shall be transferred between the following appropriations in the amounts specified:

[From:

[Under the heading, "Shipbuilding and Conversion, Navy, 1991/1995":

[AOE combat support ship program, $237,000,000;

[To:

[Under the heading, "Shipbuilding and Conversion, Navy, 1987/1991";

[AOE combat support ship program, $77,000,000;

[Under the heading, "Shipbuilding and Conversion, Navy, 1989/1993";

[AOE combat support ship program $79,000,000;

[Under the heading, "Shipbuilding and Conversion, Navy, 1990/1994";

[AOE combat support ship program, $81,000,000.]

SEC. 205. Section 8126 of the Department of Defense Appropriations Act, 1991 (Public Law 101-511; 104 Stat. 1907), is amended by striking out "None of the funds" and all that follows through "1990" and inserting in lieu thereof "The Secretary of Defense shall provide a report by May 31, 1991, indicating what additional positions he intends to fill above those positions assigned to the Office of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict as of September 30, 1990".

CHAPTER III

DISTRICT OF COLUMBIA

Federal Payment to the District of Columbia

For an additional amount for "Federal payment to the District of Columbia" to provide for essential public safety, health and other municipal services in the face of a severe financial crisis, $100,000,000, to remain available until expended: *Provided, That these funds shall remain in the United States Treasury and shall be transferred to the District of Columbia government immediately upon certification by the Mayor of the District of Columbia to the Committees on Appropriations of the Senate and House of Representatives that spending reductions and revenue enhancements in amounts not less than $216,000,000 in the aggregate are being implemented and all approvals by the Council of the District of Columbia, as required by law, have been secured.*

CHAPTER IV

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

Corps of Engineers—Civil

GENERAL INVESTIGATIONS

Funds appropriated for "General investigations" in the Energy and Water Development Appropriations Act, 1991, Public Law 101–514, for the initiation of preconstruction engineering and design for the Los Angeles-Long Beach Harbors, California, project may be used for completion of the feasibility study for that project[: *Provided*, That within funds appropriated for "General investigations" in the Energy and Water Development Appropriations Act, 1991, Public Law 101–514, not less than $5,800,000 shall be available only for the Passaic River Mainstem, New Jersey, project].

CONSTRUCTION, GENERAL

Using funds appropriated for the "Construction, General Continuing Authorities Programs" in the Energy and Water Development Appropriations Act, 1991, Public Law 101–514, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue work during fiscal year 1991 which would be terminated solely for policy reasons as a result of the proposed phase out of the sections 103, 107, 111, and 208 Continuing Authorities Programs.

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

CONSTRUCTION PROGRAM

For an additional amount for "Construction program" to meet the emergency needs for areas stricken by drought, [$30,000,000] *$20,000,000*, to remain available until expended.

Administrative Provision

Of the amount appropriated under this heading in the Energy and Water Development Appropriations Act, 1991 (Public Law 101–514), up to $11,930,000 shall be available for Buffalo Bill Dam Modification, Wyoming, as proposed in the United States Department of the Interior Budget Justifications, fiscal year 1991, for the Bureau of Reclamation.

DEPARTMENT OF ENERGY

Atomic Energy Defense Activities

For an additional amount for "Atomic energy defense activities", [$603,000,000] *$623,000,000*, to remain available until expended.

INDEPENDENT AGENCIES

Delaware River Basin Commission

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $39,000.

Susquehanna River Basin Commission

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $39,000.

CHAPTER V

DEPARTMENT OF LABOR

Employment and Training Administration

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For an additional amount for "State unemployment insurance and employment service operations", [$200,000,000] *$150,000,000*, which shall be expended from the Employment Security Administration account in the Unemployment Trust Fund, to fund activities under title III of the Social Security Act, as amended (42 U.S.C. 502–504): *Provided, That all funds provided under this head are hereby designated to be "emergency requirements" for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.*

Pension Benefit Guaranty Corporation

PENSION BENEFIT GUARANTY CORPORATION FUND

In the appropriations language under this heading in the Department of Labor Appropriations Act, 1991, delete the word "contractual" and the words "for legal and financial services".

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

PROGRAM OPERATIONS

For an additional amount for "Program operations" for a targeted initiative to combat infant mortality, $25,000,000: *Provided, That funds appropriated by the Department of Health and Human Services Appropriations Act, 1991, for rural health outreach grants, may not be used to provide forward or multiyear funding.*

VACCINE INJURY COMPENSATION

For an additional amount for "Vaccine Injury Compensation" for payment of claims incurred before October 1, 1988, $100,000,000 to remain available until expended; and for an additional amount for program operations associated with the Vaccine Injury Compensation Program, $1,000,000 to be derived by transfer from the Vaccine Compensation Trust Fund and to remain available until expended.

Social Security Administration

SUPPLEMENTAL SECURITY INCOME PROGRAM

For an additional amount for the "Supplemental Security Income Program", $232,000,000, for payment to the Social Security trust funds for administrative expenses, to remain available until September 30, 1993.

LIMITATION ON ADMINISTRATIVE EXPENSES

For an additional amount for "Limitation on Administrative Expenses", $232,000,000 from any one or all of the Social Security trust funds as authorized by section 201(g)(1) of the Social Security Act, to remain available until September 30, 1993[: *Provided*, That Public Law 101–517 is amended under this heading by striking "$150,000,000" and inserting in its place "$47,530,000"].

FAMILY SUPPORT ADMINISTRATION

REFUGEE AND ENTRANT ASSISTANCE

Of the amount provided under this heading in the Department of Health and Human Services Appropriations Act, 1991, $1,700,000 shall be available for an expanded Cuban Private Sector Initiative.

DEPARTMENT OF EDUCATION

VOCATIONAL AND ADULT EDUCATION

Funds appropriated in Public Law 101–517 for grants to tribally controlled postsecondary vocational institutions shall become available for obligation on April 1, 1991, *and such funds shall be awarded no later than June 1, 1991.*

EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT

In the appropriations language under this heading in the Department of Education Appropriations Act, 1991, delete the words "if authorized" and the words "if such a grant is specifically authorized in law".

CHAPTER VI

LEGISLATIVE BRANCH

House of Representatives

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For payment to Corinne L. Conte, widow of Silvio O. Conte, late a Representative from the State of Massachusetts, $125,100.

ARCHITECT OF THE CAPITOL

ADMINISTRATIVE PROVISION

(TRANSFER OF FUNDS)

Notwithstanding any other provision of law and subject to approval by the Joint Committee on the Library, the Architect of the Capitol is authorized (1) to procure, through a rental, lease, or other agreement, not more than 25,000 square feet of temporary storage and warehouse space outside the Capitol Grounds for use by the Library of Congress during fiscal year 1991, and (2) to incur incidental expenses in connection with such use. Subject to approval by the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate, amounts for the purposes of the preceding sentence may be transferred from the appropriation "Library of Congress, Salaries and expenses" to the appropriation "Architect of the Capitol, Library buildings and grounds, Structural and mechanical care". Amounts so transferred shall be available for expenditure upon vouchers approved by the Architect of the Capitol.

Library of Congress

ADMINISTRATIVE PROVISION

Previously obligated funds appropriated to the account "Library of Congress, Books for the blind and physically handicapped, Salaries and expenses" in Legislative Branch Appropriations Acts for prior fiscal years shall be exempt, effective as of March 5, 1991, from the application of the provisions of sections 1405 (b)(4) and (b)(6) of Public Law 101–510 (104 Stat. 1679) and section 1552 of title 31, United States Code, and shall remain available until expended for the purposes for which originally obligated, in amounts as follows:

From amounts appropriated for fiscal year 1978 in Public Law 95–94, $223,000.

From amounts appropriated for fiscal year 1980 in Public Law 96–86, $393,000.

From amounts appropriated for fiscal year 1981 in Public Law 96–536, $4,905,426.

From amounts appropriated for fiscal year 1982 in Public Law 97–51, $1,960,000.

From amounts appropriated for fiscal year 1985 in Public Law 98–367, $2,226,243.

From amounts appropriated for fiscal year 1989 in Public Law 100–458, $1,391,280.

CHAPTER VII

DEPARTMENT OF DEFENSE

Military Construction

(DISAPPROVAL OF DEFERRALS)

[Effective April 16, 1991, in order to provide for urgently needed military construction and family housing, the] *The* Congress disapproves the deferrals relating to the Department of Defense as set forth in the messages from the Comptroller General transmitted to the Congress on June 28, 1990 (H. Doc. 101–210), and February 5, 1991 (H. Doc. 102–40)[: *Provided*, That this section may not apply to projects at installations recommended for closure or realignment by the Secretary of Defense pursuant to title XXIX of Public Law 101-510: *Provided further*, That the budget authority subject to the deferrals disapproved herein shall be made available for obligation effective April 16, 1991].

LAND CONVEYANCE

(a) CONVEYANCE.—Subject to the conditions set forth in paragraph (b), the Secretary of the Army shall convey, at no cost, to the Missouri Housing Development Commission all right, title, and interest in the United States in and to the land known as the U.S. Army Charles Melvin Price Support Center Wherry Housing Annex in Pine Lawn, Missouri, comprising approximately 13.2 acres and all improvements thereon.

(b) CONDITION.—The conveyance provided for in paragraph (a) may be made only on condition that the Missouri Housing Development Commission agrees to operate and maintain the property and to use it for low-income and transitional housing for the homeless. The property shall revert to the Army if the Commission ceases to use the property for the described purpose.

(c) DEADLINE FOR CONVEYANCE.—The conveyance under paragraph (a) shall be made no later than ninety days after the date of enactment of this section.

CHAPTER VIII

DEPARTMENT OF AGRICULTURE

COOPERATIVE STATE RESEARCH SERVICE

Of the $62,867,000 provided in Public Law 101–506 for grants to States and other eligible recipients under the Cooperative State Research Service Buildings and Facilities account, $93,000 is transferred to the Special Research Grants program of the Cooperative State Research Service for the University of Maine to purchase necessary scientific instrumentation to assist in carrying out agricultural research under the Act of August 4, 1965, as amended (7 U.S.C. 450i).

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for "Salaries and expenses", not to exceed $13,000,000, to be derived from the Agricultural Quarantine Inspection User Fee Account, to be available to carry out inspection, quarantine, and regulatory activities.

Of the amount previously made available under this account for the control of outbreaks of insects, plant diseases, animal diseases and for control of pest animals and birds to the extent necessary to meet emergency conditions, up to $1,000,000 shall be used to carry out, in coordination with the Maine Department of Agriculture, an inspection, quarantine, eradication, and control program in the State of Maine concerning the necrotic strain of potato virus Y (PVY–N).

FOOD SAFETY AND INSPECTION SERVICE

For an additional amount for necessary expenses to carry on services authorized by the Federal Meat Inspection Act, as amended, and the Poultry Products Inspection Act, as amended, $8,000,000.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $46,900,000.

COMMODITY CREDIT CORPORATION

For disaster payments as authorized by the Disaster Assistance Act of 1989 (7 U.S.C. 1421 note), as amended, $1,400,000: Provided, That such payments shall be available only for damages attributable to Hurricane Hugo and consistent with section 104(a)(5) of such Act.

FARMERS HOME ADMINISTRATION

RURAL HOUSING INSURANCE FUND

Of the loan funds previously made available under title V of the Housing Act of 1949, not less than $35,000,000 shall be made available for section 502(g), Deferred Mortgage Demonstration.

FOOD AND NUTRITION SERVICE

FOOD STAMP PROGRAM

For an additional amount for making benefit payments to individuals under the Food Stamp Act, for unanticipated costs incurred for the current fiscal year, $200,000,000, and in addition up to $1,300,000,000 shall be available only to the extent an official budget request, for a specific dollar amount, is transmitted to the Congress: *Provided*, That funds provided herein shall remain available until September 30, 1992.

PUBLIC LAW 480

During fiscal year 1991, the President may not use authority provided in section 604 of title VI of the Agricultural Trade Development and Assistance Act of 1954.

CHAPTER IX

DEPARTMENT OF TRANSPORTATION

COAST GUARD

RETIRED PAY

For an additional amount for "Retired pay", $14,500,000.

FEDERAL HIGHWAY ADMINISTRATION

TRADE ENHANCEMENT DEMONSTRATION PROJECT

Funds made available under this head for fiscal year 1991 shall remain available until expended.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

HIGHWAY TRAFFIC SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of additional obligations incurred carrying out the provisions of 23 U.S.C. 408, to remain available until expended, $4,980,000, to be derived from the Highway Trust Fund: Provided, That none of the funds in this Act or any other Appropriations Act for fiscal year 1991 shall be available for the planning or execution of programs the total obligations for which are in excess of $19,980,000 for "Alcohol safety incentive grants" authorized under 23 U.S.C. 408.

FEDERAL RAILROAD ADMINISTRATION

MANDATORY PASSENGER RAIL SERVICE PAYMENTS

Funds made available under this head for fiscal year 1991 shall remain available until expended.

CHAPTER X

[GENERAL SERVICES ADMINISTRATION

[None of the funds made available by this or any other Act with respect to any fiscal year may be used by the General Services Administration to obligate or expend any funds for the award of contracts for the construction of the Northern Virginia Naval Systems Command Headquarters project without advance approval in writing of the House Committee on Public Works and Transportation and the House Committee on Appropriations.]

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICIAL RESIDENCE OF THE VICE PRESIDENT

Of the funds provided under this heading in the Executive Office Appropriations Act, 1991, Public Law 101–509, $330,000 shall remain available until expended for the rehabilitation of the Official Residence of the Vice President.

CHAPTER XI

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

For an additional amount for "Compensation and pensions", [$303,084,000] *$712,584,000*, to remain available until expended.

READJUSTMENT BENEFITS

For an additional amount for "Readjustment benefits", $250,000,000, to remain available until expended.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(RESCISSION)

Of the funds made available under this head in prior years for projects to be developed for the elderly and handicapped under section 202 of the United States Housing Act of 1959, as amended, $275,815,000 are rescinded.

ASSISTANCE FOR THE RENEWAL OF EXPIRING SECTION 8 SUBSIDY CONTRACTS

For an additional amount for "Assistance for the renewal of expiring section 8 subsidy contracts", $155,815,000, to remain available until expended: *Provided*, That of the $7,734,985,400 provided for use in connection with section 8 expiring contracts in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1991 (Public Law 101–507), is increased by the foregoing appropriation to $7,890,800,400, of which $4,234,500,400 shall be for existing certificates, $671,300,000 shall be for housing vouchers, and $2,985,000,000 shall be for loan management and other project-based section 8 contracts.

CONGREGATE SERVICES

Funds appropriated under Public Law 101–507, 104 Stat. 1362, as well as prior year unobligated balances made available under the Congregate Housing Services Act of 1978, shall be provided for in section 802 of the National Affordable Housing Act of 1990.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For an additional amount for "Payments for operation of low-income housing projects", $75,000,000, to remain available until September 30, 1992: *Provided*, That these funds shall be used by the Secretary for fiscal year 1991 requirements in accordance with section 9(a), notwithstanding section 9(d) of the United States Housing Act of 1937, as amended.

RENTAL REHABILITATION GRANTS

Notwithstanding section 289(c) of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), the unexpended balances of the Rental rehabilitation grants program (account symbols 86/0182 and 86/0164), and any amounts recaptured under account symbol 86/0182 for such program, shall be added to and merged with the Revolving Fund (liquidating programs), established pursuant to title II of the Independent Offices Appropriation Act, 1955, as amended (12 U.S.C. 1701g–5), effective October 1, 1991.

[REHABILITATION LOAN FUND

[Notwithstanding section 289(c) of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), the assets and liabilities of the revolving fund established by section 312 of the Housing Act of 1964, as amended (42 U.S.C. 1452b), and any collections, including repayments or recaptured amounts, of such fund shall be transferred to and merged with the Revolving Fund (liquidating programs), established pursuant to title II of the Independent Offices Appropriation Act, 1955, as amended (12 U.S.C. 1701g–5), effective October 1, 1991.

[POLICY DEVELOPMENT AND RESEARCH

[RESEARCH AND TECHNOLOGY

[Of the amount made available under this head in Public Law 101–507, $500,000 shall be made available for the National Commission on Manufactured Housing as authorized by section 943 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625).]

ADMINISTRATIVE PROVISIONS

SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES.—Section 811(k)(4) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013(k)(4)) is amended by striking "20 persons with disabilities" and inserting "24 persons with disabilities [(or such higher number of persons as permitted under criteria that the Secretary shall prescribe)]"; *and by adding the following new sentence at the end of said paragraph: "The Secretary may waive the project size limitation contained in the previous sentence if the applicant demonstrates that local market conditions dictate the development of a larger project.".*

Section 17(f) of the National Housing Act of 1937 (12 U.S.C. 170(f)), as amended by Public Law 101–507 (104 Stat. 1369) is further amended by striking "or City of West Hollywood, California" and by inserting at the end thereof, the following new paragraph: "This section shall not apply to requirements relating to rents imposed on a structure by the City of West Hollywood, California.". This amendment shall also apply retroactively to any structure assisted with section 17 rental rehabilitation funds in the City of West Hollywood, California.

PREVIOUSLY OBLIGATED FUNDS

[All previously obligated funds appropriated to the Department of Housing and Urban Development under the head "Urban development action grants" for prior fiscal years shall be exempt, effective as of March 5, 1991, from the application of the provisions of sections 1405 (b)(4) and (b)(6) of Public Law 101–510 (104 Stat. 1679) and section 1552 of title 31, United States Code, and shall remain available until expended for the purposes for which originally obligated.]

All previously obligated funds appropriated to the Department of Housing and Urban Development under the respective heads "Community development grants" and "Urban development action grants" for prior fiscal years shall be exempt, effective as of March 5, 1991, from the application of the provisions of sections 1405 (b)(4) and (b)(6) of Public Law 101–510 (104 Stat. 1679) and section 1552 of title 31, United States Code, and shall remain available until expended.

TITLE III—GENERAL PROVISIONS

SEC. 301. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 302. Section 332 of the Department of Transportation and Related Agencies Appropriations Act, 1991 is amended to delete the period at the end of the section and insert in lieu thereof the following: : *Provided further*, That for the purposes of this section, funds appropriated in this Act may be used to initiate a multiyear contract for the Medium Range Recovery Helicopter (HH–60J) program, *and the Automated Surface Observing System program.*

SEC. 303. Notwithstanding any other provision of law, no funds shall be expended by the Secretary of Labor to implement or administer the regulations published at 54 Federal Register 4234–44 (January 27, 1989) to be codified at 1.7(d), 5.2(n)(4), 5.5(a)(1)(ii)(A) and 5.5(a)(4)(iv) of title 29 of the Code of Federal Regulations or to implement or administer any other regulation that would have the same or similar effect. No funds shall be expended by the Secretary of Labor to implement or administer revisions to part 29 of title 29 of the Code of Federal Regulations published at 55 Federal Register 34868–34876 (August 24, 1990) to the extent such revisions affect apprenticeship programs in the construction industry.

SEC. 304. (a) The Congress finds that—

(1) United States and coalition armed forces devoted enormous human and financial resources to the successful effort to free Kuwait from illegal Iraqi occupations, enforce United Nations resolutions, and preserve the territorial integrity of the Gulf States;

(2) Americans take great pride in the troops who won this historic victory and honor those who gave their lives to liberate Kuwait and turn back aggression;

(3) major trading nations of the world will benefit substantially and directly from the coalition victory in this strategic area;

(4) six nations have pledged $53,500,000,000 in contributions to help meet the costs of the coalition effort;

(5) some nations have been slow to honor those commitments for 1990; and

(6) the 1991 commitments are agreed to be due on March 31, 1991.

(b) Having appropriated significant supplemental funding for the United States Armed Forces in the Gulf region in a time of recession and budget deficits, it is the sense of the Congress that—

(1) these pledges of financial support from the allied nations are appreciated;

(2) nations that have made such pledges are urged to comply with them at the earliest possible time, with substantial compliance or an agreed upon payment schedule no later than April 15, 1991;

(3) these commitments shall be fulfilled; and

(4) if these commitments are not met the Congress may consider appropriate action.

SEC. 305. Notwithstanding any provision of the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1991, none of the funds appropriated or otherwise made available by that Act or by any other act may be used for the restoration of the birthplace of Lawrence Welk.

SEC. 306. (a) Section 5502(a) of title V, part E of Public Law 100–297, is amended to read as follows:

"(a) the President shall call and conduct a White House Conference on Indian Education (hereinafter in this part referred to as the 'Conference') which shall be held not earlier than a date which shall be 9 months after the date of the initial meeting of the Advisory Committee established pursuant to section 5506 of this part and not later than 12 months after the date of said meeting."

(b) Section 5506(b) of title V, part E of Public Law 100–297, is amended by adding the following new sentence: "The Advisory Committee shall be consulted on, and shall advise the Task Force and the Congress on, all aspects of the Conference and actions which are necessary for the conduct of the Conference.".

SEC. 307. Notwithstanding any other provision of law, no funds shall be expended by the Administrator of the Environmental Protection Agency to enforce the March 18, 1991, deadline contained in the regulations published in the Federal Register on November 16, 1990, (40 CFR, parts 122, 123, 124), pertaining to group applications from municipalities for stormwater discharges, until such deadline is extended to September 30, 1991.

SEC. 308. Section 533(c)(3)(B) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, is amended by—

(1) striking "industrial" and inserting in lieu thereof "commerical"; and

(2) inserting "unless an environmental assessment:

(i) identifies potential impacts on biological diversity;

(ii) demonstrates that all timber extraction will be conducted according to an environmentally sound management system which maintains the ecological functions of the natural forest and minimizes impacts on biological diversity; and

(iii) demonstrates that the activity will contribute to reducing deforestation"

before the period at the end thereof.

TITLE IV—TECHNICAL CORRECTIONS

SEC. 401. INTERNATIONAL AFFAIRS.

(a) The appropriation "Foreign Military Financing Program" as contained in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513) is amended by striking out "$4,663,420,800" and inserting in lieu thereof "$4,259,920,800".

(b) Upon the enactment of this Act, the order issued by the President on November 9, 1990, pursuant to sections 251 and 254 of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is hereby rescinded. Any action taken to implement this order shall be reversed, and any sequestrable resource that has been reduced or sequestered by such order is hereby restored, revived, or released and shall be available to the same extent and for the same purpose as if the order had not been issued.

SEC. 402. MILITARY CONSTRUCTION.

In Public Law 101–519, the Military Construction Appropriations Act, 1991, sections 131 and 132 are hereby repealed.

SEC. 403. GENERAL SERVICES ADMINISTRATION.

In Public Law 101–509, the Treasury, Postal Service, and General Government Appropriations Act, 1991, under the heading "General Services Administration, Real Property Activities, Federal Buildings Fund, Limitations on Availability of Revenue, New Construction" at the end of the listing for the District of Columbia add the following project:

"General Services Administration, Southeast Federal Center, Headquarters, $148,500,000: Provided, That such funds shall be obligated only upon the advance approval of the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works", and under the heading "General Services Administration, Real Property Activities, Federal Buildings Fund, Limitations on Availability of Revenue, New Construction, Virginia, Northern Virginia Naval Systems Commands" strike "$273,000,000" and insert in lieu thereof "$240,000,000: Provided, That $10,000,000 in additional funds may be obligated upon the advance approval of the House and Senate Committees on Appropriations and the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works: Provided further, That no more than $250,000,000 shall be available for acquisition, through direct purchase and construction of 1,000,000 square feet of occupiable space: Provided further, That acquisition of an additional 1,000,000 square feet either through direct purchase, construction, or lease, shall only be permitted upon the advance approval of a prospectus by the House Committee on Public Works and Transportation and Senate Committee on Environment and Public Works".

SEC. 404. REPEAL; RESTORATION OF OBLIGATION AUTHORITY.

(a) Section 329 of the Department of Transportation and Related Agencies Appropriations Act, 1991, is repealed.

(b) The Secretary of Transportation shall restore any reductions in obligation authority made under section 329 prior to its repeal.

TITLE V—CERTAIN MILITARY PERSONNEL AND VETERANS BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For emergency expenses necessary for the benefits provided in S. 578, for fiscal year 1991 through fiscal year 1995, not to exceed $500,000,000 is appropriated, to be derived by transfer only by the Secretary of Defense, with the approval of the Director of the Office of Management and Budget, from current and future balances in the Defense Cooperation Account to the following accounts in chapters I and II of this title in not to exceed the following amounts:

CHAPTER I

DEPARTMENT OF DEFENSE

Military Personnel

(TRANSFER OF FUNDS)

For an additional amount for the payment of special death gratuities for service members participating in the Servicemen's Group Life Insurance program, for the following accounts in the amounts specified:

FISCAL YEAR 1991

Military personnel, Army $15,000,000;
Military personnel, Navy, $4,000,000;
Military personnel, Marine Corps, $4,000,000;
Military personnel, Air Force, $2,000,000

For an additional amount for the payment of death gratuities, for the following accounts in the amounts and fiscal year specified:

FISCAL YEAR 1991

Military personnel, Army, 2,800,000;
Military personnel, Navy, $1,900,000;
Military personnel, Marine Corps, $800,000;
Military personnel, Air Force, $1,500,000;

FISCAL YEAR 1992

Military personnel, Army, $2,100,000;
Military personnel, Navy, $1,700,000;
Military personnel, Marine Corps, $600,000;
Military personnel, Air Force, $1,600,000;

FISCAL YEAR 1993

Military personnel, Army, $2,100,000;
Military personnel, Navy, $1,700,000;
Military personnel, Marine Corps, $600,000;
Military personnel, Air Force, $1,600,000;

FISCAL YEAR 1994

Military personnel, Army, $2,100,000;
Military personnel, Navy, $1,700,000;
Military personnel, Marine Corps, $600,000;
Military personnel, Air Force, $1,600,000;

FISCAL YEAR 1995

Military personnel, Army, $2,100,000;
Military personnel, Navy, $1,700,000;
Military personnel, Marine Corps, $600,000;
Military personnel, Air Force, $1,600,000;

For an additional amount for the payment of a temporary increase in the rate of special pay for duty subject to hostile fire or imminent danger, for the following accounts in the amounts specified:

FISCAL YEAR 1991

Military personnel, Army, $101,000,000;
Military personnel, Navy, $24,000,000;
Military personnel, Marine Corps, $29,000,000;
Military personnel, Air Force, $19,000,000.

For an additional amount for the payment of special pay for health professionals recalled to active duty or involuntarily retained on active duty, for the following accounts in the amounts specified:

FISCAL YEAR 1991

Military personnel, Army, $9,500,000;
Military personnel, Navy, $500,000;
Military personnel, Air Force, $2,000,000.

For an additional amount for the payment of increased amounts attributable to the removal of the sixty-day limitation on the amount of leave that may be paid to survivors of military members who die on active duty, for the following accounts in the amounts specified:

FISCAL YEAR 1991

Military personnel, Army, $580,000;
Military personnel, Navy, $140,000;
Military personnel, Marine Corps, $160,000;
Military personnel, Air Force, $100,000.

For an additional amount for the payment to retired members of the Armed Forces recalled to active duty during a war or national emergency at the highest grade previously held and to allow these members to retire in the highest grade held, for the following accounts in the amounts specified:

FISCAL YEAR 1991

Military personnel, Army, $50,000;
Military personnel, Navy, $14,000;
Military personnel, Marine Corps, $17,000;
Military personnel, Air Force, $10,000.

For an additional amount for payment to the Department of Veterans Affairs for the Readjustment Benefits Program for the following accounts in the amounts and fiscal years specified:

FISCAL YEAR 1992

Reserve personnel, Army, $1,624,000;
Reserve personnel, Navy, $1,190,000;
Reserve personnel, Marine Corps, $1,050,000;
Reserve personnel, Air Force, $280,000;
Reserve personnel, Army National Guard, $2,436,000;
Reserve personnel, Air National Guard, $420,000;

FISCAL YEAR 1995

Reserve personnel, Army, $464,000;
Reserve personnel, Navy, $340,000;
Reserve personnel, Marine Corps, $300,000;
Reserve personnel, Air Force, $80,000;
Reserve personnel, Army National Guard, $696,000;
Reserve personnel, Air National Guard, $120,000.

Operation and Maintenance

(TRANSFER OF FUNDS)

For an additional amount for the payment of increased costs of the Civilian Health and Medical Program of the Uniformed Services for the following accounts in the amounts and fiscal years specified:

FISCAL YEAR 1991

Operation and maintenance, Army, $14,400,000;
Operation and maintenance, Navy, $16,700,000;
Operation and maintenance, Air Force, $13,900,000;

FISCAL YEAR 1992

Operation and maintenance, Army, $8,600,000;
Operation and maintenance, Navy, $10,100,000;
Operation and maintenance, Air Force, $8,300,000;

For an additional amount to provide transitional health care coverage upon deactivation for reservists on active duty during the Persian Gulf Conflict, for the following accounts in the amounts specified:

FISCAL YEAR 1991

Operation and maintenance, Army, $15,900,000;
Operation and maintenance, Navy, $6,370,000;
Operation and maintenance, Air Force, $2,730,000.

CHAPTER II

DEPARTMENT OF VETERANS AFFAIRS

(TRANSFER OF FUNDS)

Veterans Benefits Administration

Compensation and Pensions

For an additional amount for "Compensation and pensions", for the following amounts and fiscal years specified: fiscal year 1991, $200,000; fiscal year 1992, $600,000; fiscal year 1993, $700,000; fiscal year 1994, $700,000; fiscal year 1995, $700,000, to remain available until expended.

Readjustment Benefits

FISCAL YEAR 1995

For an additional amount for "Readjustment benefits", $11,000,000, to remain available until expended.

VETERANS HEALTH SERVICE AND RESEARCH ADMINISTRATION

Medical Care

For an additional amount for "Medical care", for the following amounts and fiscal years specified: fiscal year 1991, $1,500,000; fiscal year 1992, $1,300,000; fiscal year 1993, $1,100,000; fiscal year 1994, $700,000; fiscal year 1995, $300,000.

Veterans Education Benefits

For an additional amount for purposes of funding chapter 30 of title 38, United States Code, and chapter 106 of title 10, United States Code, for fiscal years 1991 through 1995, $500,000,000, less the total of the amounts appropriated for fiscal years 1991 through 1995 in the preceding paragraphs of this section.

CHAPTER III

For an additional amount for emergency expenses not otherwise provided for in this Act, $50,000,000 of which $30,000,000 may be available for Family Education and Support Services as authorized in S. 578 and of which $20,000,000 may be available for Child Care Assistance as authorized in S. 578: Provided, That the Secretary of Defense may transfer these sums as necessary to the appropriate operations and maintenance appropriations to be merged with and available for the same purposes and the same time period as the appropriations to which transferred: Provided further, That this transfer authority shall be in addition to any other transfer authority contained in this Act.

General Provision

SEC. 501. (a) The authority provided in this title to transfer funds from the Defense Cooperation Account is in addition to any other transfer authority contained in this or any other Act making appropriations for fiscal year 1991 through fiscal year 1995.

(b) Amounts transferred from the Defense Cooperation Account shall be merged with and be available for the same purposes as the appropriations to which transferred.

(c) The Secretary of Defense shall notify the Committees on Appropriations and Armed Services of the Senate and House of Representatives before making any transfer from the Defense Cooperation Account. No transfer may be made until the seventh day after such committees receive the notification required by this subsection to be submitted for such transfer.

This Act may be cited as the "Dire Emergency Supplemental Appropriations for Consequences of Operation Desert Shield/Desert Storm, Food Stamps, Unemployment Compensation Administration, Veterans Compensation and Pensions, and Other Urgent Needs Act of 1991".

The PRESIDING OFFICER. The Chair recognizes the Senator from West Virginia.

Mr. BYRD. Mr. President, H.R. 1281, the dire emergency supplemental appropriations bill for fiscal year 1991 includes appropriations totaling $4,737,031,100. Of this amount, $2,591,667,100 is for mandatory programs. These are programs for which funding is statutorily set and, therefore, beyond the control of the Appropriations Committee.

Among the amounts recommended by the committee for these mandatory programs are: Food stamps, $1.5 billion; Coast Guard retired pay, $14.5 million; VA compensation and pensions, $712.6 million; VA readjustment benefits, $250 million; vaccine injury compensation, $100 million.

Title I of H.R. 1281 contains appropriations which have been designated as emergencies by the President and are so designated in the bill. Therefore, these appropriations will not be counted against the discretionary allocation. A number of these emergency appropriations are to reimburse non-DOD agencies for their incremental Desert Shield-related costs. Emergency appropriations of $650 million in aid to Israel and $200 million in aid to Turkey are included in the bill, as well as an emergency appropriation of $150 million for unemployment compensation administration expenses and the removal of the cap on the export enhancement program.

Title II of the dire emergency supplemental includes funding for urgent items that could not wait for our regular fiscal year 1992 appropriations bills. The amounts appropriated in title II are within the committee's caps for fiscal year 1991, and among these domestic discretionary items are: Social Security administrative costs, $232 million; judiciary salaries, $78.3 million; payment to the District of Columbia, $100 million; infant mortality initiative, $25 million; VA medical care, $25 million; Agricultural Stabilization and Conservation Service, $46.9 million; Bureau of Reclamation, $20 million; atomic energy defense activities, $623 million; operations for low-income housing, $75 million.

Title III of the bill contains general provisions that are summarized on pages 61 through 63 of the committee report.

Title IV of the bill is a general provision, identical to House Joint Resolution 157, a joint resolution making technical corrections and correcting enrollment errors in certain of our regular 1991 appropriations bills.

Finally, title V of the bill will fund the military and veterans benefits in the leadership amendment to S. 578. It appropriates $500 million from the defense cooperation account to pay for the 5-year costs of these benefits, which include: Special death gratuities for service members; a temporary increase in the rate of combat pay; special pay for health professionals recalled to active duty; payment of increased leave to survivors of military members who die on active duty; VA readjustment benefits; transitional health care coverage upon deactivation for reservists on active duty during the Persian Gulf conflict; veterans education benefits; family support services; and child care assistance—as I say, all authorized by S. 578.

Mr. President, I have provided a brief summary of the bill. It is a good bill. It contains appropriations for emergencies and for many important discretionary programs. All discretionary appropriations are within the caps established in the Budget Enforcement Act, so the bill is in conformance with section 311(a) of the Budget Act.

The committee also filed Senate Report 102-25, making 302(b) reallocations to incorporate the necessary funds within the various subcommittees to conform the allocations of the various subcommittees to the amounts contained in this measure.

Again, I thank my distinguished colleague, Mr. HATFIELD, for his unstinting support and cooperation, and I also thank the other members of the Appropriations Committee on both sides of the aisle. And, again, with deep appreciation expressed to our staffs headed up by Jim English and Keith Kennedy.

I urge my colleagues to support the bill and I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oregon.

Mr. HATFIELD. Mr. President, I thank the chairman for his eloquent description of this second supplemental. Mr. President, H.R. 1281 had its genesis in the President's request of February 22, in which he asked for fiscal year 1991 supplemental appropriations of $89,750,000 for various nondefense agencies and activities of the Federal Government. The President designated these specific supplemental requests as emergency requirements pursuant to section 251(b)(2)(D)(i) of title XIII of last year's reconciliation act embodying the budget summit agreement. As such, these funds are excluded from the limitations of the discretionary caps enacted in that agreement.

Subsequent to that initial request, on March 7 the President requested $650,000,000 for aid to Israel as an emergency requirement. On March 14, the President requested $200,000,000 for aid to Turkey, $1,828,000 for the Customs Service, and $12,000,000 for general operating expenses of the Department of Veterans Affairs, and increased his request for State administrative expenses for unemployment compensation to $150,000,000. These requests were also designated as emergency requirements. All have been printed as House documents 102-44, 102-53, and 102-60.

The President has also requested fiscal year 1991 supplementals for discretionary programs that are not designated as emergency requirements in his fiscal year 1992 budget submission on February 4, as well as having requested fiscal year 1991 supplementals for mandatory programs. The committee has considered all of these matters and made its recommendations to the Senate in H.R. 1282 and the accompanying report (S. Rept. 102-24).

Mr. President, with but a few minor adjustments, the committee recommends approval of all the President's emergency funding requirements, and reports favorably to the Senate a few additional items. Notable among those are $100,000,000 as a supplemental Federal payment to the District of Columbia, $25,000,000 for veterans medical care, $20,000,000 for the Ready Reserve Fleet of the Maritime Administration, and $100,000,000 for vaccine injury compensation claims. We have also included, as title V of the bill, the benefits package adoptd by the Senate last week on the supplemental authorization bill.

The committee also recommends the deletion of certain items included in the bill as passed by the other body. Most significant in this regard is the deletion of $407,500,000 for the Department of Defense that was not requested by the President.

Mr. President, I believe the committee has recommended a good bill, responsive to the requests of the President and consistent with the letter and spirit of the budget summit agreement. I know we will have some amendments offered here today, but I hope that they will be few in number and handled in an expeditious manner so that we may move to final passage and conference with the House, and meet our common goal of sending this measure to the President by the end of this week.

Mr. President, I would like to just add one or two comments for the benefit of our colleagues. We are just practically at the ceiling of the caps that were agreed to under the budget summit agreement last year—last fall. Therefore, for those who may be contemplating amendments to this supplemental, I would only restate the situation under which we are functioning.

First, a dire supplemental request has to be either approved by the President, as he has provided his requests in this form for the major part of this second supplemental, or, for the changes that have been made by the actions of the committee, they have to be within the caps agreed to in the budget summit. But that is not the end of the process. Whatever we ultimately pass on the floor of the Senate, we have to go to conference with the House of Representatives if there have been some modifications made by the House of Representatives that we have not accepted, and we will have a number of items in conference.

So that what appears to be a little, very small amount of wiggle room within that budget summit cap, for all practical purposes we could say it does not exist, in order to anticipate the various and sundry accommodations that the House and the Senate will have to make in conference.

We will need that kind of flexibility. So if colleagues do have in mind offering amendments, it seems to me they are then faced with the almost, we might call it, requirement to find an offset to what they are going to add in their amendment if they plan to do so to this appropriation supplemental.

I really feel this is the first test of the discipline we exercised in making that summit agreement self-imposed, along with the working relationship and agreement with the White House.

I hope, with great expectation, our colleagues will understand that I believe the public yet has to be convinced we are serious about the deficit, and any attempt to waive the Budget Act to accommodate an amendment, I want to say, however worthy it might be, I will stand in opposition at this point because I do very firmly feel we do have this horrendous issue hanging over us like a black cloud; namely, the deficit.

To really give leadership to dealing with the ultimate solution to that problem, this is going to be a testing time, the first testing time since our budget summit agreement made last fall.

I hope we would exercise every restraint possible to not in any way appear that we are going to go over that or to deny the Appropriations Committee the needed flexibility to go to the House of Representatives to get an ultimate product out of this process to get the President's signature down at the White House.

I wanted to share those concerns with my colleagues at this time. I thank the chairman for expeditiously handling this very complex bill.

Mr. BYRD. Mr. President, I again thank my colleague, Mr. HATFIELD, for his explanation of the bill and for his calling attention to the fact that we are pretty close to the ceiling with respect to budget authority and outlays.

I want to take this opportunity to congratulate the House on its quick action on these two bills and for the discipline that the House demonstrated in its action on the bills.

I earlier wrote a letter to Mr. WHITTEN, the chairman of the House Appropriations Committee, urging that the Desert Storm supplemental request and the dire emergency request be separated into two bills, and I wish to publicly express my appreciation to Chairman WHITTEN for having done that.

I assured Chairman WHITTEN in return that I would do everything I possibly could on this side to keep the bills as clean as possible, and I think we have carried out our commitment thus far.

Mr. President, I ask unanimous consent that the letter which I wrote to Chairman JAMIE WHITTEN of the House Committee on Appropriations be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, January 31, 1991.

Hon. JAMIE L. WHITTEN,
Chairman, Committee on Appropriations, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: As we prepare for the upcoming Fiscal Year 1991 supplemental appropriations requests for Desert Storm, as well as those for certain domestic programs, I am sure you agree with me that we should do everything possible to enact the Desert Storm supplemental as expeditiously as possible.

After carefully considering this important matter, I am convinced that our best chance for such expeditious action in the House and Senate, as well as in our Conference, would be to handle Desert Storm as a separate supplemental appropriation bill from all other supplemental requests. If that is done, I assure you that I will do everything possible to discourage amendments to the Desert Storm supplemental unless such amendments involve increases in incremental costs associated with Department of Defense operations in the Middle East. In that way, we could possibly move both supplemental bills simultaneously, thereby allowing Members a chance to offer their non-Desert Storm amendments to a separate vehicle.

I would be happy to discuss this important matter with you in more detail at your convenience.

With kind regards, I am,
Sincerely,
ROBERT C. BYRD,
Chairman.

Mr. BYRD. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc with the exception of the following amendment: page 11, lines 1 through 6, and that the bill, thus amended, be considered as original text for the purposes of further amendments, with no points of order being waived therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to en bloc, except the committee amendment appearing on page 11, lines 1 through 6.

Mr. LEAHY. Mr. President, if the Senator will yield, I wish to compliment the chairman of the committee. I appreciate his courtesy in excepting the one amendment. So that my colleagues will understand it was at my request. It is an amendment which I support that involves the justifiable concern of the wheat farmers in this country, and the amendment is designed to help them because of their precipitous loss of income. It was excepted simply because Senator JEFFORDS, Senator KASTEN, myself, and others will be attempting to add on an amendment that reflects an even more precipitous loss to dairly farmers, an amendment we believe will be of no cost but will allow the marketing of dairy products to be changed in such a way as a temporary, and as only a temporary, stopgap measure but will be done in a way that can save a lot of family farms that are going to go under in the next few weeks if it is not done. It will give them hope. More than that, it will give them the ability to keep, in many instances, the farms they have spent their lives trying to maintain, farms that have been built with the very hard work of families, husbands, wives, and children. Those farms now face a very bleak future solely because of a temporary, I believe, aberration in dairy prices but one that could drive many of them off their farms.

I think we can correct that because this fall the Department of Agriculture must come up with new plans on supply management which may give a far longer solution to the problem, one where the dairy industry itself, in conjunction with the Department of Agriculture, can put together a plan where the best of all possible worlds will happen: The cost to the taxpayers will go down, the profits of individual family farms can rise, and people of this country can be provided with an affordable, safe, constant supply of dairy products produced within the United States, not imported from abroad.

But until that can go into place, as mandated by the 1990 farm bill, as mandated by the Department of Agriculture, we have to do something to help these farmers. If we do not, we will have some very good people, very hardworking people, very honest people throughout this country, who paid their bills, paid their taxes, did their work, through no fault of their own suddenly finding themselves out of business. In a time of recession it would be aggravated even more. It would impact virtually every State that has a dairy industry.

I hope we will be able to work with some of the key Members of the Senate during the next few hours to get the amendment that Senator JEFFORDS, myself, Senator KASTEN and others have put together added to this bill. But in the meantime, I wish to mention to the distinguished chairman of the committee and the distinguished ranking member of the committee at this time—I raised this point briefly during markup. Obviously, I did not want to delay the committee at that time—we are working very hard to get this matter settled before we get the vote on the dire emergency supplemental.

I thank the Chair for excepting the amendment and making it possible. I yield the floor.

Mr. BYRD. Mr. President, I hope Senators will now avail themselves of the opportunity to call up amendments.

AMENDMENT NO. 40

(Purpose: Funding to provide for participation in the Coastal Wetlands Conservation and Restoration Task Force)

Mr. BYRD. I offer an amendment on behalf of Mr. JOHNSTON.

The PRESIDING OFFICER (Mr. LEVIN). The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. JOHNSTON, proposes an amendment numbered 40.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

"*Provided*, That, from within funds appropriated to "General Investigations" by the Energy and Water Development Appropriations Act, 1991, Public Law 101-514, the Secretary shall make $300,000 available to implement the provisions of the "Coastal Wetlands Planning, Protection and Restoration Act" (Public Law 101-646)."

Mr. BYRD. Mr. President, the amendment is not to the committee amendment. I, therefore, ask unanimous consent that the committee amendment be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, this amendment does not add any money to the bill. It is to be provided for within the available funds.

Mr. JOHNSTON. Mr. President, Public Law 101-646 established a coastal wetlands trust fund which will make funds available on October 31, 1991, for projects agreed to by State and Federal officials as priority projects to protect Louisiana's fragile and endangered coastal wetlands. These areas are disappearing at a rate as great as 60 square miles each year.

The Louisiana Coastal Wetlands Conservation and Restoration Task Force was also established by this law to identify a list of priority projects within 1 year from the date of enactment, November 1991. The Corps of Engineers is the chair of the task force. However, because Public Law 101-646 was enacted after completion of our work on the fiscal year 1991 Energy and Water Development Appropriations Act no funds were provided to finance the corps' participation. As a result, although the State of Louisiana and other participants are ready to begin work the corps has not been able to participate. Without corps participation, the development of this list will be unnecessarily delayed.

This amendment will provide $300,000 to the corps from within available funds to allow them to participate in the ongoing planning process, and to assure that a jointly agreed list of priority projects is complete within the required statutory time frame.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. HATFIELD. Mr. President, the amendment has been cleared on this side.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Louisiana.

The amendment (No. 40) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I hope that Senators will take advantage of the opportunity to offer their amendments.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I hope that our colleagues will come to the floor and offer their amendments. With the consensus between the two managers of the bill, I hope that the Cloakrooms will urge our colleagues to come to the floor with their amendments as soon as possible. This is valuable time, and the Senate should be considering amendments.

Mr. President, I yield to my friend, Mr. HATFIELD.

Mr. HATFIELD. Mr. President, I join the chairman in urging colleagues to come to the floor and offer their amendments. Let me remind our colleagues that we are in a timeframe, and this represents a dire emergency supplemental. We have to go to the House of Representatives following action here to resolve differences between the two; we have to bring those reports back, and we have to send it down to the White House, all before the recess. We are moving in upon the recess in terms of this coming Friday or Saturday. I think, if we cannot finish our legislative responsibilities, we should not be going on a recess.

Mr. BYRD. Mr. President, I only know of a very few amendments. My colleague, Mr. HATFIELD, and I certainly want to protect our colleagues. Also, they have a responsibility to come to the floor to offer their amendments.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BURDICK). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, the two bills before the Senate today afford this body an opportunity to demonstrate our support for Operation Desert Storm. The Desert Storm and dire emergency supplemental appropriations bills reflects the costs of the war, both for the Department of Defense and the other agencies of the Federal Government, as well as other emergency requirements.

The chairman and ranking member of the committee have explained the bills to the Senate, and I join them in urging the quick passage of both bills. The Desert Storm bill, H.R. 1282, grants the Department of Defense access to over $19 billion in foreign contributions received so far to support the U.S. deployment to the Persian Gulf. The dire emergency bill, H.R. 1281, provides funding for the benefits package worked out between the Senate and the administration last week, and urgently needed aid for Israel and Turkey, two key contributors to the success of Operation Desert Storm.

I would like to take few moments and reflect on my own experiences traveling in the Persian Gulf in both December and February, and the issues that will be before the Congress later this year, as we attempt to learn the lessons of Operation Desert Storm.

During the time that I have been on the Defense Subcommittee, I have had occasion to come to the floor on many occasions to manage the defense bills that put in place the military force that achieved such success in Operation Desert Storm. The events that riveted world attention in January and February could hardly have been predicted by the most optimistic supporter of the U.S. Defense Establishment.

The success of U.S. forces, and the systems provided to them by the Congress over the past decade, was not a partisan victory. It was the culmination of 10 years of work by the executive and legislative branches to not only modernize, but reorganize our Nation's defenses to meet the challenges of the 1980's, 1990's, and the next century. While we may pause to savor these achievements today, the work, and the challenges, remain before us.

The technical advancements funded through the 1980's, the F-117 Stealth fighter, the Tomahawk cruise missile, the F-15E, the M-1A1 tank and the Patriot PAC–II antimissile were clear for all to observe. Of equal importance, the command structure established by the Goldwater-Nichols legislation served our country, and the international coalition superbly. These accomplishments set the foundation for the success of Operation Desert Storm. That success could not have been realized without the leadership of President Bush, himself a World War II veteran; the Secretary of Defense, Dick Cheney; and my great friend and Chairman of the Joint Chiefs of Staff, Gen. Colin Powell.

The bills before the Senate today, in compliance with the budget agreement reached last year, pay the costs of the war, and the replacement of items consumed during the deployment and conflict. No segment of the Department benefits from this bill beyond the incremental costs incurred during Operation Desert Storm. In the hearings before the committee, that view was made clear by witnesses from both DOD and the Office of the President.

The aftermath of Operation Desert Storm does pose a new question to the Congress, and the Nation: What sort of defense capability do we need for the future? My own impressions from meeting with the commanders in the Persian Gulf was that they could call on every resource available to the Department of Defense to counter the threat from Iraq, and that this Nation had available the trained manpower and logistical supplies to fill virtually every request.

Whether medical personnel, laser guided bombs or MRE's, General Schwarzkopf was able to put in his request, and in many cases, the Desert Express had it there in 24 hours or less. That capability demonstrated to the world the determination of the United States to bring the occupation of Kuwait to an end, and was crucial in keeping the coalition together.

In meeting with troops from all the military services in the gulf, I was struck by their confidence in their training, their commanders, and their equipment. They were concerned about going to war—the fears every soldier in every war has faced were evident, and indicative of their preference for a peaceful solution to the conflict. But we were able to honestly assure them that the country had done everything in its power to provide them with the support essential for them to win, and to survive.

I was also struck by the effect of having troops trained for 3½ months, without access to alcohol. That is something we ought to look at sometime in the future. They certainly improved their fitness and their training and the capability by not having available a continued access to alcohol.

I especially praise General Schwarzkopf for his leadership, and particularly for setting the superb example that he did.

My major concern, though, is where do we go from here? I am concerned, if the present budget levels are sustained, whether or not General Schwarzkopf or any other member of the military could answer the question of what would happen in 1995 if a similar request was made by a subsequent commander of an international coalition led by our military.

In the 5 years ahead, the Army will shrink from 8 to 12 active component divisions. The Navy will decline from 540 to 450 combat ships, and the Air Force will disband 11 of the 36 tactical fighter wings. Simultaneously, our Nation is projected to end the production of all new tanks by the end of next year, and by 1994, no new tactical fighter aircraft will be in production.

We just had a meeting this morning before the Defense Subcommittee on the termination of the Trident submarine and the conflict over who is to produce the new SSN–21. The limited production of the SSN–21 submarine may lead us to have only one submarine industrial plant left in the United States if we are not careful. We need a minimum of two.

In preparing for the budget package that we are working with now, members of our committeee have conferred often with Secretary Cheney and General Powell. I do not quarrel with the decisions they made with regard to the budget that is before us this year. Their mission was to put together the best possible Military Defense Establishment within the budget constraints that were set by Congress and the White House last year, but only now, I believe, is the true meaning of those budget ceilings becoming evident.

I have asked every witness that has appeared before the Appropriations Committee in the Defense Subcommittee this year, if, under the current budget plan, this Nation could conduct another Operation Desert Storm at the end of the 5-year reduction period. Each witness has described how we would have to do it differently, with greater risk, and potentially greater loss of American lives. This Senator is not prepared to accept that response without a more complete understanding of what is meant by "greater risk."

And that is what I call upon the Senate to do. It will be not only our responsibility in Appropriations, but the Armed Services Committee. What is the greater risk to our Nation, what is the greater risk to our military men and women of the reduction that we have already planned and agreed to in terms of defense spending?

Over the next 2 years, Congress will have to determine the future structure of our Nation's military forces. Today we are able to watch the final results of the most capable, ready, and successful Military Establishment our country has ever had in a period of relative peace without a worldwide conflict. Our responsibility, I think, as Members of the Senate is to pass on to our successors a force no less capable, no less ready, no less prepared to defend our country, our ideals, and our commitments under the U.N. charter. We must be able to defend those against any potential enemy of the United States. I do not think we will have done our duty if in 5 years we cannot meet the challenge of another Operation Desert Storm. That, in my opinion, is the sobering reality of the hearings we have had so far.

Again I point out to the Senate, every single military witness before the Defense Subcommittee and civilian at the Secretary level, has stated that, in their opinion, we could not have handled Desert Storm in the same time frame with the same capabilities at the end of this budget reduction period. I think we must reassess our priorities and we must reassess our needs.

Thank you, Mr. President.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask unanimous consent to lay aside temporarily the pending committee amendment in order to offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 41

Mr. HATFIELD. Mr. President, on behalf of Senator KASTEN of Wisconsin and Senator LEAHY of Vermont, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD], for Mr. KASTEN (for himself and Mr. LEAHY), proposes an amendment numbered 41.

Mr. HATFIELD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

SEC. . PERSIAN GULF ENVIRONMENTAL TECHNICAL ASSISTANCE.

(a) INTERNATIONAL FRAMEWORK.—Congress strongly encourages the President to seek the establishment of an international framework agreement to—

(1) provide for environmental monitoring, assessment, remediation and restoration in the Persian Gulf region of effects of the recent war; and

(2) provide for the payment, by the host country, of appropriate Federal agencies uti-

lized to establish or implement this agreement.

(b) REPORTS.—

(1) Within 60 days of enactment of this Act, the President shall submit to the Committees on Appropriations of the Senate and House or Representatives an unclassified report identifying the actions taken to implement these provisions and any costs and payments, and

(2) By March 1, 1992, the Administrator of the Environmental Protection Agency, in consultation with appropriate agencies, shall submit to Congress an unclassified report providing a comprehensive evaluation of environmental effects of the Persian Gulf conflict identified pursuant to his provision.

Mr. KASTEN. Mr. President, the war in the Persian Gulf has ravaged many of the environmental resources of the region.

The most sinister action was Saddam Hussein's use of a new form of terrorism—eco-terrorism if you will.

His single act of dumping oil into the gulf has seriously contaminated a unique environmental resource, and threatens a system thousands rely on to provide them with food, drinking water, and other needs.

Some of the most shocking events of this war are not just the crimes against humanity, but also the crimes against nature.

I have prepared an amendment which sets in motion a comprehensive program to restore and manage the environmental resources of Kuwait and the gulf.

Specifically, my amendment provides for the following: First, direct the President to seek the establishment of a framework agreement for the assessment of environmental damage and the environmental management and restoration of the Persian Gulf region; second, allows the President to draw on U.S. Government environmental expertise to carry this out; third, provides that the cost of the work is to be carried by the host country so that it is not at taxpayer expense; and fourth, requires Congress be informed on the implementation of this program.

This amendment will not cost taxpayers anything. It provides a mechanism where the host country will pay the Federal Government for the costs of any actions.

This amendment was specifically crafted to aviod raiding the funding of any domestic programs.

The amendment has the support of the Environmental Protection Agency and environmentalists.

Mr. HATFIELD. Mr. President, this is a straightforward amendment offered by Senators KASTEN and LEAHY, urging the President—strongly encouraging the President—to seek the establishment of an international framework agreement into which a monitoring system for the cleanup of the Persian Gulf region be established and that the payment for this be made by the host country.

This has to do with the oil spill. It has to do with other environmental impacts of that war. It is not an amendment that requires but an amendment which is encouraging the President to move in this direction.

It does seem, with the data that we have at hand and with the data yet to be developed, that we have very serious environmental problems in that region, due not only to the oil slick but to other activities of war, and that this is an amendment that has merit. I urge its adoption.

Mr. BYRD. Mr. President, the amendment has cleared on this side. It requires no appropriations. I join in the support of it.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 41) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from West Virginia is recognized.

AMENDMENT NO. 42

Mr. BYRD. Mr. President, I send an amendment to the desk on behalf of Mr. DECONCINI, and I ask unanimous consent that the pending committee amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. DECONCINI (for himself, Mr. CRANSTON, and Mr. SPECTER), proposes an amendment numbered 42.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert:

DEPARTMENTAL MANAGEMENT

ASSISTANT SECRETARY FOR VETERANS EMPLOYMENT AND TRAINING

In addition to the amounts which are available for the Employment Security Administration account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 2001–10 and 2021–26, not to exceed $4,000,000 may be derived from that account for unbudgeted costs associated with Operation Desert Shield/Operation Desert Storm for carrying out the Transition Assistance Program under section 1144 of title 10, United States Code.

Mr. DECONCINI. Mr. President, I rise today to offer an amendment of paramount importance to some 150,000 brave men and women in our armed services who will be reentering civilian life before the end of the year. Given their dedication to duty in combat, we in Congress must meet ours. Fresh from our victory in battle, we must embark upon a great demobilization of military forces from all services. While we must be prudent in our efforts to reduce the deficit, we must be vigilant in our efforts to meet the urgent and legitimate medical, employment and other needs our veterans who have served and sacrificed. If we do otherwise, we jeopardize future peace by undermining the confidence of our veterans of tomorrow who are serving today.

Mr. President, I have only recently learned that the Office of the Assistant Secretary of Labor for Veterans Employment and Training requires $4 million in supplemental appropriations in fiscal year 1991 to fulfill its responsibilities to separating military personnel under the Transition Assistance Program. This program, known as TAP, is mandated by the National Defense Authorization Act of 1991 (Public Law 101–510). The amount authorized for the Department of Labor in fiscal year 1991 by that legislation is $4 million.

Under TAP, the Secretary of Labor, in conjunction with the Secretaries of Defense and Veterans Affairs, must provide assistance to military personnel leaving the service, and their spouses, to help them make the transition to civilian life. Specifically, the Secretaries must conduct a program to furnish counseling, assistance in identifying employment and training opportunities, help in obtaining employment and training, and other related information and services. TAP basically consists of 3-day on-base seminars on employment and related issues.

At present, the Department of Labor does not have adequate resources to accomplish its mission. Hence, an earmark of $4 million for the Office of the Assistant Secretary for Veterans Employment and Training out of the $150 million increase intended for Unemployment Insurance Services is desperately needed to provide for the unique transition needs of active duty military personnel separating during the remainder of this fiscal year.

Mr. President, the Labor/Health and Human Services Subcommittee chairman, Senator HARKIN, and the ranking member of the subcommittee, Senator ARLEN SPECTER, have approved this request that $4 million be earmarked from the $150 million for Unemployment Insurance Services provided in the pending supplemental appropriations bill, H.R. 1281. I would note that

Senator SPECTER is also the ranking member of the Committee on Veterans' Affairs.

Mr. President, I should emphasize that the chairman of the Committee on Veterans' Affairs, Senator CRANSTON, was a coauthor of the original TAP authorization for fiscal year 1991 (Public Law 101-237), and he first raised the supplemental TAP funding issue with me since I am the only majority member on both the Veterans and Appropriations Committee. I am pleased to see that our teamwork has again paid off for America's veterans and their families.

TAP, as a pilot program in fiscal year 1990, was operating on only 22 military facilities in 7 States. The fiscal year 1991 appropriation of $225,000 for TAP only partially funds the Department's TAP activities at a limited number of sites. With limited separations occurring up to this point in fiscal year 1991, this shortage of funding has so far been absorbed through existing resources.

Now, however, with the cessation of hostilities in the Persian Gulf, the Department of Defense expects to release approximately 150,000 servicemembers before the end of fiscal year 1991. If Labor is able to expand TAP effectively to its projected goal of 36 States, it will need $1 million to cover the administrative expenses of printing materials, purchasing computers for labor market information at new TAP sites, hiring additional contractors, and monitoring program activities. Labor would also need $3 million for grants to States to conduct TAP so that award increases can be made to State governments for the travel of State employment services personnel to TAP training sites to conduct the training sessions. The Department has done all it can with existing funds, and cannot hope to meet its projected goal without this supplemental appropriation.

The downsizing of the military will cause large numbers of servicemembers—so recently acclaimed as heroes—to be released from active duty. For many who do not wish to leave, this will be unexpected and unwanted. Even those who wish to leave may encounter serious difficulties in finding jobs. The least we can do as our part of a moral contract to those who stood by their country in its time of need is to ensure that their transition to productive civilian life is as smooth and as short as possible.

I would like to express my sincere gratitude to Senator HARKIN and Senator BYRD for their support, especially in light of the 13th hour nature of this request. I am also very appreciative of the fine staff work performed by Senator BYRD'S committee staff director, Jim English, and Senator HARKIN'S able subcommittee staff, led by Mike Hall and Jim Sourwine; each quickly assessed the problem and immediately provided very valuable counsel from beginning to end. It should also be noted that Senator CRANSTON'S staff on the Committee on Veterans' Affairs, led by its director, Ed Scott, and the professional staff specialist on veterans employment issues, Chuck Lee, were instrumental in bringing this matter to the floor for consideration.

DEPARTMENT OF LABOR SUPPLEMENTAL

Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I wish to thank the esteemed chairman of the Appropriations Committee, Mr. BYRD, for proposing on behalf of myself and others this amendment to the supplemental appropriations bill, H.R. 1281, to provide $4 million for the Department of Labor's Office of the Assistant Secretary for Veterans Employment and Training for the conduct of the Transition Assistance Program [TAP] under the National Defense Authorization Act of 1991 (Public Law 101-510).

As the Senate author of the original Transition Assistance Program (in Public Law 101-237), and a coauthor of the $4 million TAP authorization for fiscal year 1991, I am especially pleased that this amendment is being acted upon in this measure. Under TAP, the Secretary of Labor, in conjunction with the Secretaries of Defense and Veterans Affairs, are required to establish and maintain a program of counseling and employment assistance to members of the Armed Forces who are leaving active duty and to their spouses, to help them make the transition to civilian life.

With the ending of hostilities in the Persian Gulf, the Department of Defense expects to release approximately 150,000 servicemembers before the end of fiscal year 1991. The Department of Labor's fiscal year 1991 appropriation of $225,000 for TAP only partially funds its current activities at a limited number of sites now being operated as part of a program that just last spring began as a pilot, and certainly would not be enough to provide TAP services for the projected numbers of military personnel and their spouses soon to be needing this valuable service.

This $4 million supplemental amount would enable Labor to expand its TAP activities from its original 7-State base to its projected goal of 36 States, allowing it to offer 3-day, on-base employment assistance seminars to approximately 90 percent of the military facilities in the continental United States. I believe that this funding is essential in order to meet the needs for those who, with the conclusion of the conflict in the Persian Gulf, will be leaving active duty and can use this help in making a successful transition to civilian life.

Mr. BYRD. Mr. President, this amendment provides for the transition program provided for under section 1144, title X of the United States Code, and it is within the allocation. I am prepared to accept the amendment on this side.

Mr. HATFIELD. Mr. President, the amendment has been cleared on our side of the aisle.

The PRESIDING OFFICER. Is there additional debate?

The question is on agreeing to the amendment.

The amendment (No. 42) was agreed to.

Mr. BYRD. I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, as all Senators and staff who have been hearing my stentorian voice will see, the Senate is acting with lightning speed on amendments being called up and handled by the managers. It might be a good time for Senators to bring amendments over which have been cleared.

Mr. HATFIELD. Mr. President, I associate myself with the remarks of the chairman and also indicate that, after noon, things become much slower. I would think that after lunch, it would be very appropriate to get these amendments adopted.

Mr. BYRD. Mr. President, I wonder if my colleague and I could work to get consent to have an amendment laid down immediately upon the rollcall that will occur at 2:15, and upon the disposition of that and the bill, if there be an amendment that would be laid down, at that point, it would save the time of the Senate, and the Senate would not have to await the calling up of the amendment by a Senator.

So I hope that we will attempt to clear a unanimous-consent request that a particular amendment by a Senator be made the pending question at that point.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ROBB). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. BYRD. Mr. President, in order to expedite the action of this bill following the recess of the Senate, to accommodate the two conferences, I ask unanimous consent that upon the disposition of the rollcall on H.R. 1282, which will occur at the hour of 2:15 p.m., the Senate, upon its return then to H.R. 1281, the amendment by Mr. LEAHY and Mr. JEFFORDS to the pending committee amendment be laid before the Senate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BYRD. Mr. President, action has been taken on a few amendments that were precleared. It is my hope that this afternoon the Senate can move quickly following the rollcall on the bill, H.R. 1282, to the amendment that will be offered to the committee amendment by Senators LEAHY and JEFFORDS, and that the Senate may move then quickly in early afternoon to dispose of the bill. This will allow the staffs to be in the preconference work on the two bills and accommodate, hopefully, the conferees on both sides.

Mr. HATFIELD. Mr. President, I, too, urge colleagues to make known their amendments at this point. I think we have knowledge on our side of about five amendments. I know the subject of at least four of them, which I think can be worked out with a minimal amount of time.

I do not say that as a final figure, but I do think that colleagues who may have amendments in mind ought to indicate to the managers just what those amendments are so we can be available to help work them out, if possible, and to then dispose of the bill, as the chairman has indicated.

I hope that maybe the leadership will see fit to put out a hotline to the Members to make known those amendments that are out there perhaps unknown to us here.

Mr. BYRD. Hopefully not to encourage the offering of additional amendments but to have Senators restrain themselves in offering them.

Mr. HATFIELD. Urging them to restrain themselves but identify the amendments where they have not been able to restain themselves.

Mr. BYRD. I thank the Senator.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, is the Senate to go into recess at 12:30 p.m. under a previous order?

The PRESIDING OFFICER. The Senator is correct.

RECESS UNTIL 2:15 P.M.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed to that order and go into recess until the hour of 2:15 p.m.

There being no objection, the Senate, at 12:25 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. BRYAN].

OPERATION DESERT SHIELD/DESERT STORM SUPPLEMENTAL APPROPRIATIONS ACT, 1991

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Under the previous order, the question occurs on final passage of H.R. 1282, as amended. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY] is necessarily absent.

The result was announced—yeas 98, nays 1, as follows:

[Rollcall Vote No. 31 Leg.]

YEAS—98

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Breaux
Brown
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Craig
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Gorton
Graham
Gramm
Grassley
Harkin
Hatch
Heflin
Heinz
Helms
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wellstone
Wirth

NAYS—1

Hatfield

NOT VOTING—1

Bradley

So the bill (H.R. 1282) as amended, was passed.

Mr. BYRD. I move to reconsider the vote by which the bill, as amended, was passed.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I move that the Senate request a conference with the House of Representatives on the disagreeing votes, that the Senate insist on its amendments, and that the Chair appoint conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer [Mr. BRYAN] appointed Mr. BYRD, Mr. INOUYE, Mr. HOLLINGS, Mr. JOHNSTON, Mr. LEAHY, Mr. SASSER, Mr. DECONCINI, Mr. BUMPERS, Mr. LAUTENBERG, Mr. HARKIN, Mr. HATFIELD, Mr. STEVENS, Mr. GARN, Mr. KASTEN, Mr. D'AMATO, Mr. RUDMAN, Mr. COCHRAN, Mr. SPECTER, and Mr. DOMENICI conferees on the part of the Senate.

DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 1281, which the clerk will now report.

The assistant legislative clerk read as follows:

A bill (H.R. 1281) making dire emergency supplemental appropriations for the consequences of Operation Desert Shield/Desert Storm, food stamps, unemployment compensation administration, veterans compensation and pensions, and other urgent needs for the fiscal year ending September 30, 1991.

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The pending question is the remaining committee amendment on page 11, lines 1 through 6, of the bill. Under the previous order, the Senator from Vermont [Mr. LEAHY], is recognized for the purpose of offering an amendment.

AMENDMENT NO. 43 TO EXCEPTED COMMITTEE AMENDMENT ON PAGE 11

(Purpose: To amend the amendment to H.R. 1281 making dire urgent supplemental appropriations for the consequences of Operation Desert Shield/Desert Storm, food stamps, unemployment compensation administration, veterans compensation and pensions, and other urgent needs for the fiscal year ending September 30, 1991, and or other purposes)

Mr. LEAHY. Mr. President, under the unanimous-consent request, I am to be recognized to add an amendment to the pending amendment. I send the amendment to the desk so that would be done.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself, Mr. JEFFORDS, Mr. DURENBERGER, Mr. HARKIN, Mr. PRESSLER, and Mr. D'AMATO, proposes an amendment numbered 43.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the pending amendment, strike everything after "634" and insert the following; "of the Rural Development, Agriculture, and Related Agencies Appropriations Act of 1991, Public Law 101-506, is hereby repealed.

"SEC. 101. EMERGENCY DAIRY ADJUSTMENTS.

"(a) ADJUSTMENTS TO CLASS I PRICE.—

"(1) MINUMUM BASIC FORMULA PRICE—The Secretary of Agriculture shall, with respect to milk marketed during the period beginning on the first day of the first month after the date of enactment of this Act and ending December 31, 1991, provide that the basic formula price used for the purpose of computing the price of Class I milk under milk marketing orders may not be less than the basic formula price determined for the month of August 1990, as determined by the Secretary of Agriculture.

"(2) EQUITABLE DISTRIBUTION OF FUNDS.—Notwithstanding any other provision of law, the Secretary of Agriculture—

"(A) shall provide for the uniform national pooling of funds (on a monthly basis) equal to the difference between the price of Class I milk as determined under this subsection and the price of Class I milk that would be determined if this subsection were not in effect, multiplied by the quantity of Class I milk that is marketed under milk marketing orders during such month;

"(B) shall distribute such funds (less the amount provided for in subparagraph (D)) on a monthly basis to all producers under milk marketing orders at a uniform rate per hundredweight;

"(C) is authorized to make such temporary modifications in the operation of milk marketing orders as are necessary to carry out the provisions of this subsection; and

"(D) shall deposit a total of $30 million of such funds into the general treasury of the United States (but no more than $5 million per month) to be applied by the Secretary of the Treasury during the fiscal years 1991 and 1992 against the obligations of the Commodity Credit Corporation incurred as a result of the administration of this subsection or the operation of the dairy program under the Agricultural Act of 1949 and the Agricultural Adjustment Act, reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

"(3) DEFINITIONS.—As used in this subsection—

"(A) the term "basic formula price" shall mean the basic formula price as defined under regulations contained in parts 1001 through 1139, respectively, of title 7 of the Code of Federal Regulations;

"(B) the term "Class I milk" shall mean all milk classified as Class I milk in accordance with regulations contained in parts 1001 through 1139, respectively, of title 7 of the Code of Federal Regulations;

"(C) the term "milk marketing orders" shall mean the milk marketing orders issued pursuant to section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937; and

"(D) the term "producer" shall mean any person defined as a producer under regulations contained in parts 1001 through 1139, respectively, of title 7 of the Code of Federal Regulations.

"(4) REGULATIONS.—The Secretary of Agriculture shall promulgate regulations amending federal milk marketing orders as necessary to carry out the provisions of this subsection. The procedural requirements of paragraphs (3), (4), (9), (17), (18) and (19) of section 608c of title 7 of the United States Code and the provisions of section 553 of title 5 of the United States Code shall not apply with respect to the provisions of this subsection.

"(5) REDUCED INTEREST RATE LOANS.—

"(A) GUARANTEED LOANS.—Of the amounts available for operating loan guarantees under section 351 of the Consolidated Farm and Rural Developement Act (7 U.S.C. 1999), the Secretary of Agriculture shall, during the period beginning on the first day of the first month after the date of enactment of this Act and ending December 31, 1992, make available loan guarantees of not less than $2,000,000, but not more than $5,000,000, to eligible producers for the purpose of assisting an eligible producer to upgrade the producer's production facilities to be suitable for purposes of producing milk which can be marketed under milk marketing orders.

"(B) ELIGIBLE PRODUCERS.—Producers eligible to receive loans under paragraph (1) shall be limited to persons who produce milk that can not be marketed under milk marketing orders.

"(b) SOLIDS CONTENT OF BEVERAGE MILK.—

"(1) SOLIDS CONTENT.—Notwithstanding any other provison of law—

"(A) all milk that is in final package form for beverage use shall contain not less than 8.7 percent milk solids not fat;

"(B) all lowfat milk that is in final package form for beverage use shall contain not less than 10 percent milk solids not fat; and

"(C) all skim milk that is in final package form for beverage use shall contain not less than 9 percent milk solids not fat.

"(2) DEFINITION OF MILK.—The term "milk" as used in this subsection means sweet milk of cows.

"(c) HEIFER EXPORTS.—

"(1) IN GENERAL.—Section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e) is amended—

"(A) by redesignating subsections (j) and (k) as subsections (k) and (l) respectively; and

"(B) by inserting after subsection (i) the following new subsection:

"'(j) HEIFER EXPORTS.—

"'(1) IN GENERAL.—If the Commodity Credit Corporation estimates that the savings to the Corporation achieved from carrying out this subsection during the calendar years 1991 through 1995 exceed the cost to the Corporation of carrying out this subsection during such calendar years, the Corporation shall encourage the export of heifers to foreign countries during each of such calendar years through the export enhancement program established under section 301 of the Agricultural Trade Act of 1978 (7 U.S.C. 5651.'.

"(2) FUNDING.—This subsection shall be carried out using savings achieved as the result of this section.

SEC. 102. PLANTING OF COVER CROPS.

"(a) RICE.—Section 101B(e)(4)(B)(i) of the Agricultural Act of 1949 (7 U.S.C. 1441–2(e)(4)(B)(i)) is amended by striking "of the crop acreage base established for the crop. This requirement shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary." and inserting "of the crop acreage base established for the crop or to devote such acreage to native cover which results in the same environmental benefits as such planted cover. The minimum planting requirement shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary. In carrying out this clause, the Secretary shall take into consideration guidelines established by the State technical committees established in subtitle G of title XII of the Food Security Act of 1985.".

"(b) COTTON.—Section 103B(e)(4)(B)(i) of the Agricultural Act of 1949 (7 U.S.C. 1444–2(e)(4)(B)(i)) is amended by striking "of the crop acreage base established for the crop. This requirement shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary." and inserting "of the crop acreage base established for the crop or to devote such acreage to native cover which results in the same environmental benefits as such planted cover. The minimum planting requirement shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary. In carrying out this clause, the Secretary shall take into consideration guidelines established by the State technical committees established in subtitle G of title XII of the Food Security Act of 1985.".

"(c) FEED GRAINS.—Section 105B(e)(4)(B)(i) of the Agricultural Act of 1949 (7 U.S.C. 1444f(e)(4)(B)(i)) is amended by striking "of the crop acreage base established for the crop. This requirement shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary." and inserting "of the crop acreage base established for the crop or to devote such acreage to native cover which results in the same environmental benefits as such planted cover. The minimum planting requirement shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary. In carrying out this clause, the Secretary shall take into consideration guidelines established by the State technical committees established in subtitle G of title XII of the Food Security Act of 1985.".

"(d) WHEAT.—Section 107B(e)(4)(B)(i) of the Agricultural Act of 1949 (7 U.S.C. 1445b–3a(e)(4)(B)(i)) is amended by striking "of the crop acreage base established for the crop. This requirement shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary." and inserting "of the crop acreage base established for the crop or to devote such acreage to native cover which results in the same environmental benefits as such planted cover. The minimum planting requirement shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary. In carrying out this clause, the Secretary shall take into consideration guidelines established by the State technical committees established in subtitle G of title XII of the Food Security Act of 1985.".

Mr. LEAHY. The amendment is on behalf of myself and the Senator from Vermont [Mr. JEFFORDS] and others, whose names I will be adding to it.

Mr. President, it is somewhat rare and unusual for this Senator to raise any issues on a supplemental appropriations bill. Normally, if I have had matters of concern regarding a supplemental appropriation, I have raised them in the Appropriations Committee, either at the subcommittee or the full committee level. Rarely, in the 17 years that I have been a Member of the Senate, have I had a matter of such importance that I felt it necessary to address it on a supplemental or, in this case, the dire emergency supplemental.

I have discussed this amendment with the distinguished chairman of the Appropriations Committee and the distinguished ranking member of the Appropriations Committee to make them aware of the importance of the underlying issue. I have spent, as has my good friend and colleague from Vermont, Senator JEFFORDS, spent the last several months going around our State talking with dairy farmers, meeting with them in their kitchens, and in their living rooms, in their milk barns, in the fields, at their co-op meetings, and elsewhere. In these meetings we have discussed the very real problems that dairy farmers are facing. I have also received letters, in my capacity as chairman of the Senate Agriculture

Committee, from dairy farmers throughout the country, talking about the problems that they are facing.

These are very, very real problems. They are manifested in those who see a lifetime of work suddenly going down the drain through no control of their own. It can be seen by farmers wanting to tell their sons or daughters they should follow them in farming, but being able to say only that you will not be able to follow us in farming, because we very quickly face foreclosure on the farm that we and our parents and your grandparents helped put together.

Our Nation's dairy farmers are facing very difficult times. Just a year ago, things looked a lot different. The droughts, the "whole herd buyout," all of these factors decreased the country's supplies of milk. In fact, it gave our farmers record high market prices for a short period of time. Because of these temporarily high prices, many farmers expanded production. In my home State of Vermont, several new farms were started. But several other short-term factors have triggered in the last several months a dramatic 25-percent drop in the market price. A lot of farmers lost thousands of dollars in actual income; many have been producing milk at a loss.

A number of Vermont dairy farmers are not going to make it through these hard times. They are going to lose their farms. There are no ifs, ands, or buts about it. The same is true across the country. Dairy farmers in virtually every State of the Union are in danger of losing their livelihoods.

This January, just to put it in perspective, Mr. President, U.S. dairy farmers had only 10 percent of what they had last January to spend on personal living expenses—10 percent. That is a 90-percent drop. In many States, farmers face zero or even negative cash income.

Two weeks ago at the meeting of one of our largest dairy co-ops, the St. Albans Co-op, one of the farmers came up to me and said she had just gotten her milk check that month. The milk check was zero, literally zero. Another told me that she had gotten hers, and it was 13 or 14 cents, with a note saying "do not spend it all in one place."

In response to my request for an investigation of possible price gouging at the retail level, the General Accounting Office has initially concluded that prices at the farm level are falling a lot faster than retail prices. In fact, since last August, the price paid to dairy farmers for fluid milk has fallen by 25 percent, while the consumer price for a gallon of milk has dropped only 5 percent.

It looks to me like farmers are losing thousands of dollars. Those in the middle are making a fast buck.

I would like to point out one example, Mr. President, from the Denver market area. You can see what the farm price was on February 1990 for a gallon of fluid milk, $1.50. This farm level price goes continuously down until by February 1991 the price has reached $1.30 per gallon.

Look at the prevailing retail price in the same market. Watch it go continually up. Where there is a difference between the farm level and retail level price of $1.07 a gallon 1 year ago, this difference has now increased to $1.45 a gallon. In other words, the price paid to the farmer, the producer of the milk, has fallen, but the price paid to the person selling it has remained the same or, in this case, actually went up.

A long-term solution, I think we all know, is to manage the amount of milk produced. We have to have a system that allows farmers to earn a decent living. Consumers have to have an adequate supply of milk. This is known as supply management. We can do it by guaranteeing that there would be a fair return to farmers in our country, and a safe, clean, dependable supply of dairy products—I might say dairy products produced within our own country. Maintaining production in the United States is in itself extremely important, when we are talking about the damage done to our economy by a balance of payment rate that has gone amok.

We want to keep the ability to produce within our own country and not have to spend and send dollars overseas for commodities that we can produce better here in the United States.

In the 1990 farm bill we took a giant step forward. We gave dairy farmers the opportunity to tell Congress the type of supply management program they want, one that would stabilize both the supply and price of milk. But it is going to be a year or more before the Department of Agriculture studies and Congress even acts on any supply management proposal.

For these reasons, Senators JEFFORDS and I are today offering an amendment to the dire emergency supplemental bill. It will provide urgently needed relief, emergency relief for dairy farmers across the Nation.

The amendment temporarily moves the farm price for fluid milk closer to last summer's prices. In technical terms for those watching, it means for the next 8 months the price paid to farmers for class I fluid milk would be increased. All farmers who market their milk in market orders, no matter where they live, are going to share equally in the increased payment.

The amendment will guarantee the profits from the sale of milk used to preserve family farms instead of lining the pockets of middle men. The amendment is consistent with the pay-as-you-go budget rules adopted in the Budget Enforcement Act of 1990, pay-as-you-go rules that I support.

This amendment does not affect the price of milk used in the manufacture of cheese, butter, and other dairy products. The amendment will only marginally impact the dairy program.

This amendment sets other important policy.

To both improve the quality and taste of milk and save taxpayers money spent on the entire dairy program, the amendment increases the protein, calcium, and other nutritional components in milk similar to that currently set by California. By increasing these standards, all types of milk—including skim milk—will have a richer, better taste, as well as have a higher nutritional value. The use of the components in milk will use more milk product and thus reduce the cost of surplus milk purchases by the Government.

This amendment also directs the Secretary to utilize any savings generated by the amendment to promote the export of heifers to foreign countries if the Secretary determines that this export would provide further savings.

This amendment boils down to a simple fact: Dairy farmers in virtually every State are suffering and Congress has to act to stop the hemorrhaging.

A "yes" vote on this amendment recognizes the immediate, emergency crisis facing our Nation's dairy farmers. A "no" vote slams the door shut on our family farmers, the same family farmers who today are struggling to survive.

Mr. President, we have heard a lot of speeches on the floor of this Senate about the concern all of us have for family farmers. We have talked about how important it is to our way of life and to our history as a nation. Certainly in my own State of Vermont, it is an extremely important part of our way of life. Now we have a chance to save those family farms.

I should add that this amendment includes a concept known as "pooling." Pooling permits the moneys generated in this amendment to be shared among all grade A producers in Federal order areas. The issue of pooling is of great concern in New England and in the South. My own cooperatives care deeply about the existing regional distinctions in the current dairy program. The effort in this amendment to provide a temporary increase in income does not set a precedent for the larger issues related to market orders and transportation differentials.

This amendment has 3 major provisions: It raises the Export Enhancement Program cap to help wheat growers; it supports higher dairy prices with no monetary cost to the budget; and it addresses a technical problem in the cover-crop requirement of the 1990 farm bill.

IMPLEMENTATION OF THE SET-ASIDE PROVISIONS DEALING WITH WEED PROBLEMS

Mr. PRYOR. Mr. President, I know that red rice is not specifically mentioned in the Senator's amendment.

Is it the intent of the chairman that this amendment would give the Secretary the authority to develop regulations that would allow producers to control red rice on their set-aside lands and still meet the provisions of this requirement?

Mr. LEAHY. Yes, it is.

I would also like to note that this amendment directs the Secretary to consider the guidance of the State technical committees in implementing this provision.

The intent of this amendment is for the Secretary to use such guidance when developing regulations to address situations such as those concerning red rice problems on set-aside lands.

Is this the Senator's understanding as well?

Mr. PRYOR. Yes, it is.

AMENDMENT NO. 43, AS MODIFIED

Mr. LEAHY. Mr. President, I understand from staff that there was a scorekeeping problem. In order that the amendment will have no cost I ask unanimous consent to send a modification to the desk which clears up those items.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

The amendment is so modified.

In the pending amendment, strike everything after "634" and insert the following:

of the Rural Development, Agriculture, and Related Agencies Appropriations Act of 1991, Public Law 101-506, is hereby repealed

SEC. 101. EMERGENCY DAIRY ADJUSTMENTS.

(a) ADJUSTMENTS TO CLASS I PRICE.—

(1) MINIMUM BASIC FORMULA PRICE.—The Secretary of Agriculture shall, with respect to milk marketed during the period beginning on the first day of the first month after the date of enactment of this Act and ending December 31, 1991, provide that the basic formula price used for the purpose of computing the price of Class I milk under milk marketing orders may not be less than the basic formula price determined for the month of August 1990, as determined by the Secretary of Agriculture.

(2) EQUITABLE DISTRIBUTION OF FUNDS.—Notwithstanding any other provision of law, the Secretary of Agriculture—

(A) shall provide for the uniform national pooling of funds (on a monthly basis) equal to the difference between the price of Class I milk as determined under this subsection and the price of Class I milk that would be determined if this subsection were not in effect, multiplied by the quantity of Class I milk that is marketed under milk marketing orders during such month;

(B) shall distribute such funds (less the amount provided for in subparagraph (D)) on a monthly basis to all producers under milk marketing orders at a uniform rate per hundred-weight;

(C) is authorized to make such temporary modifications in the operation of milk marketing orders as are necessary to carry out the provisions of this subsection; and

(D) shall deposit a total of $32 million of such funds into the general treasury of the United States (but no more than $6 million per month) to be applied by the Secretary of the Treasury during the fiscal years 1991 and 1992 against the obligations of the Commodity Credit Corporation incurred as a result of the administration of this subsection or the operation of the dairy program under the Agricultural Act of 1949 and the Agricultural Adjustment Act, reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

(3) DEFINITIONS.—As used in this subsection—

(A) the term "basic formula price" shall mean the basic formula price as defined under regulations contained in parts 1001 through 1139, respectively, of title 7 of the Code of Federal Regulations;

(B) the term "Class I milk" shall mean all milk classified as Class I milk in accordance with regulations contained in parts 1001 through 1139, respectively, of title 7 of the Code of Federal Regulations;

(C) the term "milk marketing orders" shall mean the milk marketing orders issued pursuant to section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937; and

(D) the term "producer" shall mean any person defined as a producer under regulations contained in parts 1001 through 1139, respectively, of title 7 of the Code of Federal Regulations.

(4) REGULATIONS.—The Secretary of Agriculture shall promulgate regulations amending Federal milk marketing orders as necessary to carry out the provisions of this subsection. The procedural requirements of paragraphs (3), (4), (9), (17), (18) and (19) of section 608c of title 7 of the United States Code and the provisions of section 553 of title 5 of the United States Code shall not apply with respect to the provisions of this subsection.

(5) REDUCED INTEREST RATE LOANS.—

(A) GUARANTEED LOANS.—Of the amounts available for operating loan guarantees under section 351 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1999), the Secretary of Agriculture shall, during the period beginning on the first day of the month after the date of enactment of this Act and ending December 31, 1992, make available loan guarantees of not less than $2,000,000, but not more than $5,000,000, to eligible producers for the purpose of assisting an eligible producer to upgrade the producer's production facilities to be suitable for purposes of producing milk which can be marketed under milk marketing orders.

(B) ELIGIBLE PRODUCERS.—Producers eligible to receive loans under paragraph (1) shall be limited to persons who produce milk that can not be marketed for fluid purposes.

(b) SOLIDS CONTENT OF BEVERAGE MILK.—

(1) SOLIDS CONTENT.—Notwithstanding any other provision of law—

(A) all milk that is in final package form for beverage use shall contain not less than 8.7 percent milk solids not fat;

(B) all lowfat milk that is in final package form for beverage use shall contain not less than 10 percent milk solids not fat; and

(C) all skim milk that is in final package form for beverage use shall contain not less than 9 percent milk solids not fat.

(2) DEFINITION OF MILK.—The term "milk" as used in this subsection means sweet milk of cows.

(c) HEIFER EXPORTS.—

(1) IN GENERAL.—Section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e) is amended—

(A) by redesignating subsections (j) and (k) as subsections (k) and (l) respectively; and

(B) by inserting after subsection (i) the following new subsection:

"(j) HEIFER EXPORTS.—

"(1) IN GENERAL.—If the Commodity Credit Corporation estimates that the savings to the Corporation achieved from carrying out this subsection during the calendar years 1991 through 1995 exceed the cost to the Corporation of carrying out this subsection during such calendar years, the Corporation shall encourage the export of heifers to foreign countries during each of such calendar years through the export enhancement program established under section 301 of the Agricultural Trade Act of 1978 (7 U.S.C. 5651).".

(2) FUNDING.—This subsection shall be carried out using savings achieved as the result of this section.

(d) DAIRY PRODUCT EXPORTS.—In addition to any programs to export dairy products which have been announced by the Secretary of Agriculture prior to the date of enactment of this Act, the Secretary shall sell for export 60 million pounds of butter in fiscal year 1991 and 35 million pounds of butter in fiscal year 1992.

(e) PAYMENTS TO MILK PRODUCERS.—The Secretary of Agriculture shall make available to producers of milk who cannot market their milk for fluid purposes a payment of $0.50/cwt on all milk marketed by such producers during the period beginning on the date of enactment of this Act and ending on December 31, 1991. In order to be eligible to receive such payment, such producers must submit an application to the Secretary of Agriculture requesting such payment and containing such other information as may be required by the Secretary.

SEC. 102. PLANTING OF COVER CROPS.

(a) RICE.—Section 101B(e)(4)(B)(i) of the Agricultural Act of 1949 (7 U.S.C. 1441-2(e)(4)(B)(i)) is amended by striking "of the crop acreage base established for the crop. This requirement shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary." and inserting "of the crop acreage base established for the crop or to devote such acreage to native cover which results in the same environmental benefits as such planted cover. The minimum planting requirement shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary. In carrying out this clause, the Secretary shall take into consideration guidelines established by the State technical committees established in subtitle G of title XII of the Food Security Act of 1985.".

(b) COTTON.—Section 103B(e)(4)(B)(i) of the Agricultural Act of 1949 (7 U.S.C. 1444-2(e)(4)(B)(i)) is amended by striking "of the crop acreage base established for the crop. This requirement shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary." and inserting "of the crop acreage base established for the crop or to devote such acreage to native cover which results in the same environmental benefits as such planted cover. The minimum planting requirement shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary. In carrying out this clause, the Secretary shall take into consideration guidelines established by the State technical committees established in subtitle G of title XII of the Food Security Act of 1985.".

(c) FEED GRAINS.—Section 105B(e)(4)(B)(i) of the Agricultural Act of 1949 (7 U.S.C. 1445f(e)(4)(B)(i)) is amended by striking "of the crop acreage base established for the crop. This requirement shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary." and inserting "of the crop acreage base established for the crop or to devote such acreage to native cover which results in the same environmental benefits as such planted cover. The minimum planting requirement shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary. In carrying out this clause, the Secretary shall take into consideration guidelines established by the State technical committees established in subtitle G of title XII of the Food Security Act of 1985.".

(d) WHEAT.—Section 107B(e)(4)(B)(i) of the Agricultural Act of 1949 (7 U.S.C. 1445b–3a(e)(4)(B)(i)) is amended by striking "of the crop acreage base established for the crop. This requirement shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary." and inserting "of the crop acreage base established for the crop or to devote such acreage to native cover which results in the same environmental benefits as such planted cover. The minimum planting requirement shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary. In carrying out this clause, the Secretary shall take into consideration guidelines established by the State technical committees established in subtitle G of title XII of the Food Security Act of 1985.".

Mr. LEAHY. Mr. President, lastly I ask unanimous consent that Senators KOHL, KASTEN, and PRYOR be listed as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I must note again, as has been the case for 17 years, it would have been impossible for me to work on dairy amendments or dairy matters during this time without the tremendous help and expertise of Senator JEFFORDS, both when he was in the House, and known there as the person most knowledgeable in dairy matters, and now in the Senate. There is no way that this amendment could have come this far without his expertise and his own work in helping to draft it.

I yield to the Senator from Vermont.

Mr. JEFFORDS. Mr. President, I appreciate my colleague, the senior Senator yielding. I simply repay the compliments to him, that as the chairman of the Agriculture Committee he has done a superb job assisting us in trying to make a good dairy program.

Mr. President, what I would like to do is first to explain that none of us want to be here, that this is a supplemental, an emergency supplemental, or whatever you want to call it, but it is appropriate at such times that when you recognize the emergency, which has occurred which was not anticipated but does come as a result of judgments which proved to be incorrect as they did on the farm bill, it is important to try to attach it to something that you know will be able to solve the problem.

Let me first run through briefly a little bit of the history of dairy programs. As my senior Senator has pointed out, I served on the House Agriculture Committee for 14 years and as ranking member on the dairy subcommittee for all those years dealing with dairy policy. Thus, I have watched the ups and downs of the dairy programs.

The last time we had a crisis of this magnitude was back in the mid-seventies when the Government came in and decided that it would use the dairy programs as an example of how to fight inflation, and got it totally fouled up. At that time we had a decrease in the farmer's milk price of 20 percent. What happened as far as the price of fluid milk, it went down just 2 percent but the farm community was devasted. We had way too many farmers go out of business. We got into the roller coaster cycle with too many going up, and we end up with prices going up again and down again.,

Around 1980, Congress decided things were so fouled up they would take control of the program and run it themselves. We got off to a bad start but we did implement a program to try to stabilize the price of milk. We did implement two successful programs of too short duration but both were successful in not only getting the price of milk stabilized but saving millions of dollars for the Treasury as well. The first was the diversion program and second was the dairy termination program saving taxpayers over the recommendations of the administration at that time billions of dollars, somewhere up around $6 billion over the alternative program.

We discovered that there were supply management programs which could be successful. The dairy termination program was extremely successful. We were left last year with farmers having a very high price around $14 or $15 a hundredweight for their milk.

Things looked like they were going very well. This was as we wrote the 1990 farm bill.

Also we did have a problem with butter. The only cost to the Federal Government at that time was in the purchases of butter. The farm bill took immediate action and corrected the butter situation such that we no longer have the high amount of surpluses of butter we had in the past. What we did not expect nor understand was that before we would get to the administration's recommendation on a milk supply management program, we had to keep farm prices stabilized and keep consumer prices from increasing as well. However, recently, we have run into a situation where the price of milk for farmers has dropped precipitously. This occurred because the price support that was set in the farm bill was not based upon what was good for the dairy industry but based entirely on budget considerations. The price support at that time was reduced to around $10 a hundredweight.

I recognized at that time it would be too low, but we all thought that the farm price for milk would not drop until the end of 1991. The present emergency occurred primarily because the Government in many ways encouraged dairy farmers and expanded their herds when the price was high. However, the damage will be done to all dairy farmers. As many as 6,000 to 7,000 dairy farms probably will go out of business in the next year. What will that do? That will leave a shortage of milk, the price will go up again, and we will probably overreact again, and we will have the same yo-yo effect creating havoc for both consumers and dairy farmers.

The senior Senator from Vermont has pointed out the very serious damage that is being done to the various farms in our State. For instance, the average of the good farms, the farms that everyone looks to as the better farms, ones which made quite a bit of money in the dairy business, will average $400 or $500 per dairy cow.

That was the average that was coming out of these farms a year ago. Nothing extraordinary, but close to the average. That figure now—and these are on our good dairy farms—that figure now is minus $100 a cow.

What does this mean? This means there will be a cruel elimination of a sufficient number of farmers, unnecessarily so, to get the price back down. And that will probably overshoot the market, as history will show us, will put many more out of business than need to be put out.

What we seek to do here on an emergency basis is to say, all right, we goofed on our estimates as to when the price would come down. We thought it would be a year from now when we had our supply management program in. But let us try to carry forward for a year the benefits that the dairy farmers had last August. Doing that will not cost the Government anything, and it should not cost the consumers anything as well.

As was demonstrated by the senior Senator from Vermont, the consumers have not gained by this reduction in the pricing bill except in a minuscule amount. In some cases, they have not even gained that. It has only hurt the farmers. It has not helped the consumer.

Our proposal is you go in and you take back that unfair, unnecessary, unreasonable profit margin that the retailers are receiving for their milk now—or the wholesalers, whatever it is—we grab it back for a year. We are saying we will only do that. I do not like all of the provisions of our own bill here. I do not want to see the receipts pooled.

We would like to see it given back to the farmers who have suffered from these low prices. But we are willing to pool it and share it with the farmers in the Midwest and other parts of the country and say, OK, if we can get that extra dollar, if that dollar is the difference between survival and not going on in business, we will accept that.

We also recognize that the budget requires us to pay for things as we go. We have a double payment here. We are going to pay for this bill and use the kind of techniques that were successful in the past, some of the things that we learned from the dairy termination program.

First of all, California has for many years now established a different standard for their milk and it has been so successful. For instance, almost everyone now is going out and buying 1 percent, 2 percent low-fat milk. But it does not really taste as good as the old milk used to. But what California has discovered is you improve the nutrition and improve the way it tastes by adding it to nonfat dry milk—protein. Their milk not only tastes better, it is also better for you. And we found it would increase the nutritional value of milk by 27 percent, that it would help in many, many ways to reduce also the surplus of the nonfat dry milk and would make life better for everyone. In that sense, what we have done is to partially adopt those standards. We have done that for two purposes. One is to give more nutritional milk, better tasting milk, to the consumer, the consumer outside of California, as we have done it to save the Government money. And it will save hundreds of millions of dollars over the long run and enough right now to certainly cover the costs of this bill and to actually improve the overall budget situation because there should not be any cost through the first part of the program.

In addition to that, we would allow that money to be rolled over and reinvested in another program that would also save money, and that is to use it to export cows.

I want to concentrate on that because whatever happens today I think it is important, for all of those that are interested in trying to find solutions to our dairy problem, to know our dairy cows are by far the best in the world and we have many areas in the world now that are suffering from the lack of food and nutrition and the ability to produce sufficient milk for their people.

We can improve the herds of many nations not in any way to end up competing with us but in areas where there is no market at this time. We have an order, for instance, for 10,000 cows, an order outstanding for 10,000 cows to go to Kuwait to replace those that were killed or destroyed in other ways by the gulf war. We cannot fill this order because we do not have the mechanism right now to be able to give the kind of a subsidy that would be necessary to compete with others who are subsidizing their dairy export sales; in this case the Germans.

There are also outstanding needs and orders in many other areas of the world. There are areas all over the world. Thailand needs 50,000 dairy cattle; Turkey, 50,000; Egypt, 25,000. The U.S.S.R. could use 20,000. We could export all the cows necessary if we had the mechanism to do it to ensure that our price comes down and we make a lot of money in the sense of reducing the cost to the Government by getting rid of the cows instead of getting rid of the farmers. But we need the mechanism to do that.

So what we are asking today in this emergency legislation is that you provide us with the mechanism we need to do it and also a short run price increase to take back the unreasonable profits that are occurring in the retail milk industry. We can take care of these problems and we can do it with a little help here today. And when the new supply management program comes, as recommended by the Department of Agriculture, then we will be able to have a way to ensure that we keep our matters under control as we have been able to do over the 1980's by use of supply management programs.

We have learned enough to come up with that. But we need time. That is all we are asking for, is time; time to keep these farmers in business until such time as we can have a rational program as was designed in the 1990 farm bill.

So, Mr. President, I urge that everyone support the Leahy amendment. I think it is important we do so. Certainly this Nation needs to continue to be able to supply dairy products and other products through our agricultural system, however we need to do it in a fashion which is reasonable and fair to the farmers.

I am sorry this emergency occurred. It is unfortunate. But we have it and we must deal with it.

I urge everyone to vote for the Leahy amendment.

(Mr. KERREY assumed the chair.)

Mr. KASTEN. Mr. President, I rise in strong support of the emergency assistance for dairy farmers amendment, the amendment the Senator from Vermont has offered. I am a cosponsor of the amendment. I appreciate what the Senator from Vermont [Mr. JEFFORDS] has just said.

For Wisconsin, for the upper Midwest, for Wisconsin dairy farmers, it has not been a Desert Storm; it has been a depressed price storm. The price the farmers receive for milk has dropped some 25 percent since last year. In Wisconsin, we are now estimating that 4,000 farmers will go out of business this year. Dairy farmers are now filing chapter 7, chapter 11, and all other chapters that you can think about with regard to bankruptcy cases.

We are in a crisis situation. It is an important situation and I think we now have the opportunity in this emergency legislation to address what is an emergency in the upper Midwest, and particularly in Wisconsin.

The circumstances for dairy farmers has gone way beyond what you could classify as being bad. We are now talking about critical. We certainly have reached the critical stage.

The amendment offered here today provides some temporary help, if you will, a window of hope for these forgotten small business men and women—the farmers of the upper Midwest.

What this amendment would do is simply pay farmers for class I fluid milk and increase prices for 1 year. In terms of dollars, farmers will net about $1.25 more for their milk. I do not think we are asking too much. This little bit of help will go a long way in assisting dairy farmers in this country and in Wisconsin.

The current fall in market prices hurt dairy farmers as much as wheat farmers. While the market has dropped for both wheat and dairy, deficiency payments for wheat farmers cushion the blow. I support the effort to help the wheat producers but I also think we have to have some fairness, some parity, some equity here. If wheat deserves help, so does dairy.

Another important component of the amendment will promote the export of heifers to foreign countries. Mr. President, during the Small Business Committee hearing last week, I assured the dairy farmers I would fight hard to see they would be included in the rebuilding effort of Kuwait and in opening up export markets not only all across the world but with specific emphasis on Kuwait and the Persian Gulf.

This amendment, through the Export Enhancement Program, would afford us an opportunity to help feed our friends. And on the domestic front, it would help keep our dairy farmers and help them save their family businesses.

Mr. President, a Wisconsin farmer called our office this morning and said things out here were simply "bad, bad, bad." What he was saying is this is an emergency, and it is critical. A "yes" vote on this amendment, agreeing to this amendment, will recognize the immediate emergency facing our Nation's dairy farmers. A "no" vote, in effect, slams the door shut on our family farmers who are right now struggling to survive.

So, Mr. President, I will be voting yes on this amendment. I am proud to be a cosponsor and to have helped in the drafting of this amendment. I encourage my colleagues to do the same. We are simply asking for equity right here, and we have an emergency situation for which right now I believe we have a solution.

Right now, the budgetary effect of this amendment is such that there is no budgetary effect of the amendment. There will be no point of order, no problem; this program will pay for itself. Unlike the wheat program, which will not pay for itself, this program, in a sense, pays for itself.

So I am hopeful we will adopt this amendment. I congratulate my colleague for his work. But we have to get to work and adopt this emergency amendment for this temporary window of opportunity for our dairy farmers.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I yield to the Senator from West Virginia.

Mr. BYRD. Mr. President, I think Mr. KASTEN has already answered my question, but let me address this question to the distinguished Senator from Vermont.

Has this amendment been costed out by the Congressional Budget Office? And, if so, does it have any budgetary impact on either budget authority or outlays?

Mr. LEAHY. Mr. President, I advise the distinguished Senator from West Virginia that, because of my own commitment to the Budget Act, that is one of the first things I asked. The amendment as drafted now, I am told by CBO, has no cost in the first year, and the 5 outyears have a savings of approximately $80 million.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

Mr. LEAHY. I thank the distinguished chairman, and I note, Mr. President, the chairman of the Appropriations Committee has drilled into the Members over and over again that we are going to keep within the budget. I wanted to do so.

I also felt, having gone through the major battle of the 1990 farm bill, it was the only fair way to do this.

Mr. President, I ask to add to the list of cosponsors the Senators from Minnesota, Senator DURENBERGER and Senator WELLSTONE; Senator DASCHLE, and Senator CONRAD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I thank the Senator from Vermont [Mr. JEFFORDS] and the Senator from Wisconsin [Mr. KASTEN] for their statements. Again, both of these Senators have concerns and interests in this area, and concern and interest for family farms.

In Mr. JEFFORDS case, his is a State we are both proud to represent. In the case of Mr. KASTEN, the State of Wisconsin.

I see the distinguished Senator from Indiana on his feet, so I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I thank the distinguished chairman of our committee for his presentation. I will be in opposition to his amendment today for reasons that I think will become apparent as my statement progresses.

Let me state at the outset that I have received communications from organizations that have not been heard on this issue, and I take this opportunity to give them that hearing. The American Farm Bureau Federation writes that they are opposed to the Leahy amendment. I quote from the second paragraph of their letter:

> Substituting a Government mandated price for a market determined price will distort dairy markets. Although we are concerned about the current financial stress of many dairy producers, federally administered prices which have no relationship to supply and demand are not the answer.
>
> As a result of the Food, Agriculture, Conservation, and Trade Act of 1990, an action by the United States Department of Agriculture, a review of the M-W is underway.
>
> Actions taken as a result of this thorough review are clearly preferable to action taken without the benefit of hearings.
>
> The ink is barely dry on the 1990 farm bill, and the difficult compromises which were forged must be preserved.

Let me mention another letter from Public Voice, written by Helen Haas, executive director of that public interest group. She writes:

> DEAR SENATOR LUGAR: Tomorrow, S. 671, a bill that would temporarily increase the base price for fluid milk, will be introduced as a floor amendment to the supplemental appropriations bill. As an organization that has long promoted the consumer interest in national dairy policy, we are writing to express our opposition to the amendment. . . .
>
> S. 671 would deal a severe blow to consumers, who would face substantially higher retail prices for fluid milk if the amendment is enacted. Estimates range from 25 cents to 40 cents per gallon.
>
> The higher prices caused by the legislation would precipitate a significant reduction in the consumption of fluid milk, especially by low-income Americans.
>
> The consequences would not only be a reduction in consumer purchasing power, but a decline in family nutrition, as well.
>
> In addition—

Ms. Haas continues—

> S. 671 would set an ominous precedent for modern dairy policy. The 1985 farm bill began balancing the needs of consumers and dairy producers by tying the milk support price to dairy productivity. It was enough that the 1990 farm bill forced consumers to forego sharing further in the benefits of dairy productivity by placing a floor on the milk support price. Consumers should not now be asked to give up their equitable share of these benefits through the hidden consumer surtax required by S. 671.
>
> We urge Senators to vote for the consumers' interest by rejecting S. 671.

The Milk Industry Foundation writes, in a letter written by E. Linwood Tipton, president and CEO of that organization:

> On behalf of members of the Milk Industry Foundation, I urge you to oppose efforts by Senator Leahy to include new legislation to increase milk prices on the supplemental appropriations measure scheduled for floor consideration tomorrow. The Leahy Amendment could raise the cost of milk to the nations' consumers by more than 40 cents per gallon, increase the already excessive milk production, reduce consumption and increase government purchases.
>
> This proposal combines two main elements: (1) a provision to increase the price of Class I milks (fluid beverage milks) by over $3.00 per hundredweight—this translates to about 26 cents more per gallon; and, (2) a mandate that nonfat milk solids be added to all beverage milks—compared to the current requirements this would force prices up by about another 15 cents per gallon. Overall these changes would represent a 15 percent increase in the price per gallon of milk.

I make these points, Mr. President, as a prelude to my statement, to indicate the flavor of the debate and the issue. The representation has been made by the Appropriations Committee chairman, the distinguished Senator from West Virginia, and by Senator LEAHY, that this is a budget neutral situation, that there is no added cost to the taxpayers. I will leave it to others to divine whether that is true.

What is very clear, Mr. President, is that this costs money. You cannot raise the price of milk by 25 cents to 40 cents a gallon without somebody paying.

It may be that in terms of our budgetary procedures, Senators can say we are not adding anything to the budget. We simply decided to charge consumers 25 cents to 40 cents more a gallon of milk—every consumer in the United States—because there is a problem in the dairy industry currently.

That is the issue, Mr. President. The Senator from Wisconsin has pointed out that as many as 4,000 dairy farms might fail in his State. And there are, according to the literature supplied to us by the Northeast/Midwest Senate Coalition, in the State of Wisconsin, 33,000 dairy farms.

That would be a very sizable loss in the Senator's State, and all of us recognize that. That would represent well over one out of every 10 farms failing, if his prediction is correct.

In the State of the distinguished Senator from Vermont, there are 2,700 farms. By the same proportion, if that many failed in Vermont, 300 farms would fail. In my State of Indiana, there are in fact 5,000 dairy farms, and by the same proportion at least 500, perhaps 600, farms would fail.

I am concerned about that, Mr. President, as is the Senator from Vermont and the Senator from Wisconsin, and we ought to be. We ought to be concerned whenever a small business fails in this country. We ought to be concerned whenever there is difficulty by any household in this country.

Mr. President, we are charged, at least on some occasions, to try to take a look at the public good, at the condition of all of us in America, rich and poor alike, whether we are in farming or not, whether we are in dairy farming or other kinds of farming, and to act as rational, sensible human beings and to make policy statements and judgments that make some sense and have some consistency in fairness and equity to all people.

Now, the problems with the Leahy amendment, Mr. President, are numerous, and they start, first of all, with the fact that this amendment does not belong on an appropriations bill. It is clearly authorizing legislation. When it was introduced as S. 671, it was properly referred to the Agriculture Committee. Some may cite the presence in H.R. 1281 of additional funds for the Export Enhancement Program as justification for giving something to dairymen as well and that argument has been made earlier on, but this is clearly a red herring. Whatever the merits of EEP, and they are certainly debatable, that program has been the subject of annual limits by the Appropriations Committee, a subject often discussed, often debated. As a matter of fact, those limits have been imposed for 3 fiscal years in a row.

The present funding shortfall of EEP is a consequence of a spending cap imposed in the 1991 appropriations for the Agriculture Department. When that cap was placed on EEP, it was widely acknowledged the program would run out of money sometime during the year and that a supplemental appropriation would be necessary. That time is here. There is nothing mysterious, unexpected or sinister about the funding appearing in H.R. 1281, and it is completely unrelated to the merits of the amendment at hand.

Let us talk about the merits of the amendment at hand. First of all, in addition to being authorizing legislation on an appropriations bill, this amendment clearly reopens the 1990 farm bill that we just closed a few months ago.

Mr. President, I believe—and so do most Americans, so do most farmers in particular—that the farm bill deserves a chance to work before it is changed. This amendment proposes a fundamental change in one of the primary support programs of the 1990 farm bill, less than 4 months after the farm bill was signed into law by President Bush.

The Senator from Vermont may claim that the amendment does not reopen the farm bill, but as a matter of fact even a cursory glance at the substance of the amendment makes it clear the proposal before the Senate is a fundamental change in dairy support policy. In contrast to the current marketing order system, which bases fluid milk prices on the actual Minnesota-Wisconsin price, the Leahy amendment would arbitrarily set a value for the M-W price. In effect, the Senator from Vermont is increasing the minimum price.

I will comment shortly on whether or not this is a good idea, but for the moment I simply want to point out that this is certainly a major policy change. It fundamentally alters the milk price support structure established in the 1990 farm bill, and it makes basic changes in the rules of the game.

The architects of the current formula had an agreement on dairy policy. Knowing that some changes would be needed, we commissioned a major study by the Agriculture Department covering a wide variety of policy options. The study has received extensive input from products and other groups and will be presented to the Congress in August. Our agreement was that following our vote on this study, we would consider whether the legislation was needed.

This amendment, by proposing such a radical change today in current dairy policy, is entirely inconsistent with our agreement to have the USDA study the situation.

Second, Mr. President—and I ask the attention of Members particularly to this point—this amendment has not been subject to the legislative scrutiny normally applied to major policy changes. I serve as the ranking member of the committee which has jurisdiction over S. 671, the bill that contains the substance of Senator LEAHY's amendment. The Senator from Vermont is, as all of us know, the chairman of that same committee, the Committee on Agriculture. Notwithstanding that, not one hearing has been called on this matter. Neither the administration nor the private sector has been afforded the opportunity to present their ideas. No markup has been held or scheduled. And these are significant new proposals. During the entirety of last year's debate on the farm bill, no one proposed a legislative increase in the M-W price, nor did anyone propose to change the nonfat solids standards for fluid milk, as Senator LEAHY now does.

Mr. President, the Senate does not have adequate information on which to make a decision about this bill, yet we are asked to approve it as a part of the most urgent legislation now before this body.

My third objection, Mr. President, is that the amendment benefits one group of agricultural producers to the exclusion of others. Let us review our different commodity interests laid out in last year's farm bill. The target prices for corn, wheat, cotton, and rice were frozen. So was the dairy support rate. An extension of the 1985 farm bill would have led to further declines in all these support levels, so we eventually decided to freeze them at the 1990 levels.

Then it was necessary to find savings. The farmers who grow corn, wheat, cotton, and rice will now give up all payments on 15 percent of their base acreage, the so-called triple-base plan. Dairymen, by contrast, did not suffer a loss of price support on 15 percent of their milk production. There was no triple base for dairy. Instead, dairy producers will be subject to an assessment that will average just 1 percent of the support price. In short, it does not appear to me that dairy producers came out on the short end of the stick last year.

Consider the amendment before us. It does not raise target prices for Indiana corn farmers. It does not raise target prices for Texas cotton farmers or Oklahoma wheat farmers or Arkansas rice growers. It does not increase support rates for Illinois soybean growers or Georgia peanut farmers or North Carolina tobacco producers. Dairymen and only dairymen are to get higher price guarantees.

If we are to get into a full-fledged debate on the farm bill, Mr. President, it seems to me there are a great many things that could be changed. I have heard from soybean producers in my State who are not happy about the new origination fee on their price-support loans. Many farmers like the new flexibility, but others dislike the triple base. Other producers in Western States may want disaster benefits. Where does it end, Mr. President? Where does it end when you begin to unravel the farm bill once again?

I also object to this amendment because it overrides normal regulatory processes. The Department of Agriculture is considering changes to the Minnesota-Wisconsin price series already. The Department has held an extensive series of hearings on possible changes in marketing orders, which could include fluid milk pricing. The amendment's provisions to increase minimum solids content should appropriately be examined by the Food and Drug Administration. In all these cases the Leahy amendment short circuits rulemaking procedures that give the public the chance to comment and to suggest changes.

I further oppose the amendment because it amounts to setting prices by Federal fiat. It ignores market forces by simply decreeing that milk prices must return to where they were last August.

No matter that supply and demand have brought them lower since then—like King Canute ordering the tides to stop coming in—we are going to reverse the course of the market forces by fiat this afternoon in the Leahy amendment. It may be tempting sometimes to override the market. As I have said already I am in favor of taking actions administratively to help dairymen. I urge the administration to do so. But all our experience tells us that when we rig the market we usually fool only ourselves and there are always unintended consequences and seldom good ones.

A case in point, Mr. President: this amendment will perpetuate the present dairy surplus, by discouraging the culling of herds that would normally occur in the coming months. Surely most Senators know that beef cattle prices are at near-record levels. The combination of low milk prices and high cow prices normally would induce substantial culling, eventually making the milk surplus less burdensome and bringing things back into equilibrium.

But, if dairymen think Congress is going to raise fluid prices today by 30 percent, there will seem to be much less need for the market to work or for culling to occur. The amendment will build surpluses, retain additional dairy cows and not reduce them.

Finally, Mr. President, someone should say something about the enormous effect of this amendment on American consumers. Raising fluid milk prices by 30 percent will cost about $1.240 billion for the rest of this year and this money has to come from somewhere. The amendment's supporters claim it will not come from the Treasury.

Some will make the claim that manufacturers or retailers can simply absorb these excess costs. Those proponents will claim that retail prices have not fallen in tandem with farm prices, and even allege price gouging. Such arguments are simply not supported by the facts.

There is normally at least a 2-month lag before price changes at the farm level show up in grocery store dairy cases. If we compare the M-W price from July to November 1990, we will find a decrease of 24 percent. Normally, a 10-percent change in farm prices will change retail milk prices about 3 percent because farm prices are only one component of the retail price of milk. So a 24-percent farm price drop should equate to about a 7.2-percent drop at the retail level.

But another component of milk prices is energy costs. Again the rule of thumb is that a 10-percent energy price change will change retail milk prices by 0.5 percent. Between July and November, the large increase in industrial fuel costs should have raised retail milk prices by 1.7 percent. If we subtract this number from the expected 7.2 percent in drop due to farm prices, we come up with an expected decline of retail milk prices of 5.5 percent. Because of the 2-month lag I have mentioned earlier, we would expect this decline to show up in January 1991.

As a matter of fact, January retail prices fell 4.6 percent since last fall, very close to the predicted 5.5-percent drop, especially when one considers that wage and cost and other expenses had already been rising in that period.

Mr. President, in essence, retail prices have performed pretty much as economic analysis would have predicted. There are no excess profits for retailers to absorb. Moreover, studies of supermarkets show that the average gross margin on milk is already 42 percent below the gross margin of other food items. Net margins on fluid milk are even smaller, often just tenths of a cent for every dollar's worth of milk sold.

This means the costs imposed by this bill are very likely to be passed on directly to consumers. I have detailed these statistics to nail down that point.

Senators may find it easier to vote for raising consumer prices than to vote for increasing Federal spending. It is important that we understand that one or the other is going to go up, if not both in this process. But really what is the difference between consumers and taxpayers? One difference is that consumers in the case of milk are more likely to be poorer as a group. Not everybody pays taxes, but everybody does eat and the cost of milk to the poor is a very important consideration, I would hope, in this debate.

For example, households with incomes below $10,000 spend three times as much of their disposable income on milk as do households with incomes between $30,000 and $40,000. Raising milk prices by legislative fiat will affect poor people more severely than middle class or wealthy people.

Consider the 30 percent fluid milk price hike in this amendment. It would probably increase retail prices by roughly 12 cents per half gallon. That may not be much to anyone in this Chamber. It may be substantial to the single mother with three children who may buy up to 3 gallons of milk a week.

Let me simply say, Mr. President, the effect of this legislation on our Federal nutrition programs is a related program, too—one that deserves separate and very special attention. The budget for the Women, Infants, and Children programs, the WIC Program, often discussed in this Chamber, is not an entitlement. Raising the costs of the food items provided by WIC will have the effect of reducing the number of people who can be served by the Women, Infant, and Children Program. This is simply a harsh fact of this amendment.

In the short term, this amendment will also reduce the value of food stamp benefits. Though food stamps are an entitlement, there is a lag before price increases show up in increased benefits. During this period food stamp recipients will find their benefits do not go as far. There are still more costs imposed by the amendment before us since it would mandate standards for nonfat solids content similar to standards that now prevail in the State of California.

Some believe this would increase consumption and the proposal deserves close study. However, in the short term, the result of the added costs for industry, which would have to purchase larger than expected amounts of nonfat dry milk, would be higher prices, perhaps as much as 15 cents per gallon on top of the 25 cents per gallon imposed by the higher M-W price. Therefore, the increase in consumer prices stemming from this amendment will be large.

Moreover, it is most uncertain whether the change in standards would really boost consumption. Per capita milk consumption in California is about the U.S. average, but this is partly because of demographics. More people in California are in more consumption age groups. Historically, lower prices in California also contributed to that State's high consumption. The situation is changing. During the 1980's, per capita fluid milk sales dropped 7.6 percent throughout the United States, but by nearly 13 percent in California.

Mr. President, I share the concern of my colleagues who have spoken in favor of this amendment. We need to take a look at options for the U.S. dairy policy. A target price system may be preferable to the way we now do things.

Another possibility is a so-called class IV pricing system, whereby milk above market needs would receive only a market clearing price. These options have the potential to align supply and demand more closely, thus increasing returns for dairymen.

We are not yet in a position to have a comprehensive debate about these matters or to make these judgments in any factual way. We may be by late summer when the USDA study is completed.

In the interim, Mr. President, some emergency measures may be called for. One possibility is a substantial amendment of EEP funds to the export of dairy cattle, especially to the Middle East or to Kuwait, as has been suggested earlier.

But this particular amendment is not good agricultural policy. It is being offered hastily, in an emergency way, to the wrong bill.

I suggest, Mr. President, that if Senators wish to finish work on the supplemental appropriation bill, reopening the 1990 farm bill is not the way to start that debate. I urge my colleagues to oppose this amendment, vote against it, and to work with the distinguished chairman of the Agriculture Committee, and with the minority members of that committee, who will be devoted to finding emergency ways to assist an industry that is clearly in need.

I conclude simply by saying that Members are concerned in this body about family farmers. There is a very real problem, when the price for milk falls from $13 to $10.

Mr. President, those sorts of changes in supply and demand in prices have occurred, historically, with some frequency in American agriculture. It is a very rare situation, and in an emergency supplemental bill, that a large change in farm policy will be brought to the floor of the Senate, without hearings, without markup, without the input that has already been called for by law, and at a time when we have finally resolved, after a yearlong debate, some equity in all the contending forces in American agriculture.

For these reasons, I ask for common sense and prudence today, even as I ask for compassion and thoughtfulness about the specific dairy farmers that have been mentioned. Their needs must be met, and in my judgment they can be met in a constructive, regular manner.

I yield the floor.

Mr. HELMS. Mr. President, I associate myself with the comments of the distinguished Senator from Indiana [Mr. LUGAR]. I share his strong opposition to the Leahy amendment.

My colleagues know how difficult it is to vote against measures designed to provide temporary assistance to farmers. However, a closer look at the Leahy amendment reveals a dangerous precedent that could affect all commodity markets. Having talked with several dairymen in my home State, I am concerned this amendment will have a devastating impact on the dairy industry of North Carolina—in fact, upon the dairy industry of the entire Southeast.

Mr. President, I recognize that depressed milk prices are hurting dairy farmers throughout the Nation. However, charging consumers up to 40 cents more for a gallon of milk—and let us not fool ourselves, this is precisely what this amendment will do—40 cents more for milk in one area of the country, to support production of milk in another area, sets a dangerous precedent. Consumers in regions such as the Southeast will be forced to pay prices beyond levels required to assure an ample supply of milk.

Moreover, this amendment will provide incentive to continue overproduction and will eventually increase the milk surpluses that are currently depressing milk prices.

Mr. President, the Senate passed the 1990 farm bill less than 6 months ago which established support prices based on the level of surplus dairy products purchased by the Commodity Credit Corporation. I do hope my colleagues will not penalize milk-deficit regions such as the Southeast, and I urge Senators to reject this amendment. It sets a dangerous and economically unjustifiable precedent in U.S. dairy policy.

Mr. CRAIG. Mr. President, today I reluctantly cast my vote against the Leahy-Jeffords amendment to H.R. 1281.

Even though I recognize the serious economic stress in the dairy industry, I doubt that the process followed has brought us to the best solution—or even a workable one. None of the people most affected by this amendment have been directly consulted through a normal legislative process.

Furthermore, there are many commodity groups, including a number in my own State of Idaho, who feel all their concerns were not adequately addressed in the farm bill. It is hardly fair to take this forum to force open the farm bill in order to address the concerns of only one group.

Questions have even been raised about the amendment's long-term effect on the dairy industry. No matter how those questions are answered, it is clear that there should at the very least be an opportunity to have them answered before making a change of this significance.

Mr. President, good intentions don't guarantee good law. Despite my sympathy for the dairy industry, I cannot in good conscience support this amendment.

Mr. LEAHY. Mr. President, I will be very brief. There are a couple of things I cannot let pass.

This idea of no hearings, no debate, and so on, is a bit of a red herring. We have the vehicle, the dire supplemental before us now, and we have a dire emergency among the family dairy farms in this country.

I have, and others have on both sides of the aisle, attempted to work with the administration to find some way through the problems besetting the dairy industry. There have not been any solutions.

When we speak of not having hearings, Mr. President, let us look at the whole amendment. If you remove the Jeffords-Leahy part of this amendment there remains another part proposed by the distinguished Senator from Kansas and the Senator from Oklahoma and others, to raise the cap for the Export Enhancement Program [EEP] that has by CBO's reckoning a cost of $320 million.

I am here every single day, and I have not heard anybody ask for a hearing on such proposal. I have not heard anybody say this costs money, so we ought to have a hearing on it. Nobody has come up and asked for that.

Instead, we have a notice from the administration that it is an emergency. It is an emergency because the wheat farmers are losing money. Some of them are losing almost as much money as some of these dairy farmers. But that was an emergency. We are being asked to approve the EEP amendment and with no hearings, at a cost of $320 million. But something else, this dairy amendment, which is every bit as much of an emergency—many would say a greater emergency—at no cost, that, of course, has to wait for a few months.

Unfortunately, in this time more dairy farmers will have gone out of business, possibly a few more hundred or thousand. These are real men and women, real families, real businesses, a real part of the economy of rural America, whether in my State or in any other.

We can wait, and wait, and wait on that, but it appears that whether it is OMB or somebody else, they say let us make a deal, depending upon whose amendment is up—even if it costs $320 million, and even if we have not held hearings. We do not have to wait. We do not have to ask questions. Zip that one through, because it is an emergency. But on dairy, aha, we better go by the books for a few weeks, months, or years, until it is a moot point because there are not any dairy farmers left.

I happen to support the EEP amendment. I do not want anybody to misunderstand that. It is part of the Leahy, Jeffords, Kasten, Kohl, et al., amendment that is on the floor. I happen to support it. I think it is justifiable. I think it is an emergency, and I think in recessionary times, it is necessary so we do not see a greater recession throughout the Farm Belt.

But let me tell you, if that is an emergency, certainly there is an emergency in the dairy industry because of the same recessionary pressures throughout rural America. But not just the rural America that depends on wheat production, but also the rural America that has dairy farms. They are all facing these pressures, and we have an opportunity to do something about it.

I yield the floor.

Mr. Kasten addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Mr. President, I want to reply to some of the comments made recently on the floor. First of all, we have been accused of reopening the 1990 farm bill. Yes, there is an emergency situation, and we are reopening the 1990 farm bill, but we are closing it again.

In effect, this is temporary legislation, this is not permanent legislation. It is temporary legislation to deal with a very specific crisis that we are faced with right now.

The Senator from Indiana correctly pointed out, and I agree with him—he and I both agree with the Department of Agriculture—that we need to be working on this whole outmoded system of dairy price support and regulation of the industry.

There is a study out, which the Secretary of Agriculture has commissioned. The results of that will be due sometime late in the summer, or early in the fall. The point is that that study will come out, and we may then have an opportunity to act on that study, and this temporary legislation, in effect, fills the gap during which that study is taking place, and we will have an opportunity to act on it.

So it is not as if we are reopening the 1990 farm bill on a permanent basis. We are simply dealing with a crisis in this emergency crisis legislation, and then we will have the opportunity to visit this whole subject again.

When we talk about giving the 1990 farm bill a chance, do not touch it, give it a chance to work, well, we in Wisconsin cannot give it a chance to work.

We see what is happening. How many farms do we have to lose while we give it a chance to work?

You cannot go from $15 milk to $13 milk to $10.10 milk and continue to say, "do not change anything, give it a chance to work." It is not working, and we have to change it. So we cannot wait for the study, but we can still have that taking place during the time.

The last point I want to make, Mr. President—and it is very important to recognize that the price of milk at retail basically has not changed—certainly, the price of cheese at retail has not changed during the time that we have gone from $15 to $13 and now to $10.10.

So a number of the comments made with regard to the effect on consumers, that consumers are going to pay more, do not really hold much weight, at least with this Senator, at this time. These prices have been changing for the farmer, but there has not been this kind of change at the retail level. So whether there is room in there, or no room in there, whether its margins are higher or lower, I am not sure.

But simply look at the evidence. The evidence is that while the price of milk has gone down significantly, by almost a third, we have not seen that kind of price action, either in milk or cheese; so if it is going to hurt consumers or help the consumers, right now they have not been affected either way during this tremendous drastic drop we have had in the price of milk to the dairy farmers.

So we talk about the effect on consumers. I think this bill will have little or no effect on consumers. I hope by making a better milk that we say will sell better, that more people will want to consume, that that will have a positive and not a negative effect on consumers.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I rise to cosponsor and strongly support this amendment. I do so because dairy farmers are facing a critical situation.

Since last August, milk prices have dropped more than 25 percent. While prices were relatively high last summer, they are now at their lowest since 1978. According to USDA, dairy farmers in Wisconsin alone will face a $660 million loss in farm cash receipts this year if milk prices do not improve.

Nationwide, receipts to dairy farmers could drop by nearly $4 billion this year.

With today's milk prices, dairy farmers cannot make a living, let alone a profit. Nowhere is that more apparent than in my home State of Wisconsin, the leading milk-producing State in the country. A farmer assistance program operated by the Wisconsin Department of Agriculture reported a fivefold increase in calls this January. More than half of the callers indicated that their income from milk production is no longer enough to cover farm operating and living expenses. Many farm families are now having to ask for food, fuel, and medical assistance.

Mr. President, 2 weeks ago I met with Ed Madigan prior to his confirmation as Secretary of Agriculture. I was pleased to hear him recognize that today's milk prices are unacceptably low. But recognition is one thing. Action is another. USDA has yet to take any significant step—or even offer any substantive suggestion—to shore up milk prices.

A long-term solution is clearly necessary. And we expect to have a supply management proposal before this body yet his year—a proposal that would provide some long-term price stability in the dairy industry. But the situation is desperate enough that we need some temporary price relief until changes to the dairy program can be made. Without emergency action, thousands of dairy farmers will be forced out of business by the end of this year.

Let me explain briefly what this amendment would and would not do.

First, the amendment would provide dairy farmers covered under Federal milk marketing orders with an immediate price increase of approximately $1.20 per hundredweight. It does so by requiring that class 1 differentials under the Federal milk marketing order system be calculated from the basic formula price for milk received by producers during August 1990. This change in calculation would be effective only through December 1991.

Second, grade A dairy farmers in all regions of the country would benefit equally under this legislation. The funds generated by the increase in the price of class 1 milk would then be pooled by USDA and distributed on a pro rata basis to all producers covered under milk marketing orders.

Third, the amendment would change the standard of identity for beverage milk, by requiring an increase in the minimum solids content. This standard of identity has already been adopted in California, and studies suggest that such a change could improve consumer demand for milk.

Let me now turn for a moment to what this amendment does not do.

First, the amendment is budget neutral. In fact, it would save money in the dairy program in the out years due to the standard of identity change.

Second, the amendment should not cause an increase in retail dairy product prices. As diary processors and retailers have clearly been reaping the profits from falling milk prices, it is not unreasonable to suggest that they now absorb the costs of a temporary increase in milk prices to dairy farmers.

Third, this amendment will not create a precedent with regard to the future operation of the Federal milk marketing order system. The use of national pooling in this measure is a means of providing as much immediate price relief to as many dairy farmers as possible. It is not a generic endorsement of national pooling within the milk market order system. And it is certainly not seen as such by the principal sponsor of this amendment, the distinguished chairman of the Agriculture Committee, or by dairy cooperatives across the country who support its use on an emergency basis.

Futhermore, I point out to my colleagues that, in a proposal submitted to USDA on reform of the milk marketing order system, a coalition of upper Midwest dairy cooperatives and farm organizations did not even recommend national pooling. To suggest, therefore, that this amendment will lead us down the road to national pooling in the future is plain wrong.

Mr. President, I commend Senator LEAHY for his willingness to include national pooling in this amendment. Dairy farmers in Vermont would have fared marginally better under this measure without it. But he was willing to compromise on this issue in order to get this emergency legislation through.

But those of us from the upper Midwest have compromised as well. This amendment at the moment provides less relief for grade B dairy farmers than is provided for grade A producers. Yet grade B farmers in Wisconsin produce 17 percent of our State's milk, and an even higher percentage in many neighboring States. So we from the upper Midwest have compromised in the interest of seeing this amendment adopted.

Mr. President, the Appropriations Committee had included in its committee amendments one designed to assist wheat farmers through additional funding for the Export Enhancement Program. I do not object to helping wheat farmers. In fact, wheat prices have dropped as dramatically as milk prices. But I do object to recognizing an emergency situation in the wheat industry when we don't do likewise for the dairy industry.

Mr. President, we truly face a desperate situation in the dairy industry. I have heard too many farmers tell me that they will not survive this year at current milk prices to believe otherwise. I urge my colleagues to support this amendment.

I ask unanimous consent that a letter endorsing this amendment from the National Milk Producers Federation be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL MILK
PRODUCERS FEDERATION,
Arlington, VA, March 19, 1991.

Hon. PATRICK J. LEAHY,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEAHY: The National Milk Producers Federation strongly supports S.

671. We commend you for your efforts to provide an emergency increase in minimum Class I fluid milk prices to be pooled nationally and distributed on an equitable basis to producers throughout the country.

This emergency legislation is desperately needed by the nation's dairy farmers. As you know, dairy farmers are suffering the worst collapse in milk prices since 1978. This legislation is necessary to offer some temporary relief for many farmers who are faced with the choice of paying their feed bill or their loan payments, but can't afford to pay both. According to USDA, cash receipts by the nation's dairy farmers will plummet nearly $4 billion this year due to the collapse in market prices. Unfortunately, as you know, this price drop has not been passed on to consumers in the form of lower milk prices at the retail level.

We continue to support efforts to provide Grade B producers, who would not directly benefit from S. 671, with some needed income assistance. We hope that an amendment will be offered to provide such assistance and that you would support such efforts.

We also strongly support the increase in the Federal minimum standards for the solids content of beverage milk as provided in the bill. This will provide consumers a better tasting beverage milk product with higher nutritional content. These standards will also reduce the proportion of calories from fat in beverage milk. Such standards allow the dariy industry to better meet changing consumer preferences for products with lower fat content and improved taste.

In addition, by increasing the solids not fat content of beverage milk, domestic use of skim milk solids will increase by as much as 200 million pounds per year. This alone will reduce Federal outlays for the dairy price support program. In short, Mr. Chairman, these changes will allow the dairy industry to provide products consistent with consumer demand and will enhance the stability of the dairy industry in the long run by reducing the amount of nonfat dry milk that the government must purchase.

We thank you for your efforts to provide temporary price relief to dairy farmers and will strongly urge your colleagues to support passage of this bill.

Sincerely,

JAMES C. BARR,
Chief Executive Officer.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, let me first commend the chairman of the Agriculture Committee for putting together this amendment that addresses emergencies that exist in wheat and in dairy.

As a Senator from a State that has constituents who are wheat farmers and dairy farmers, let me just say we have a crisis; we have an emergency.

There are those who say well, we should not open the farm bill in any way; we should let it work. It is not working. Wheat prices are near the historical low. A senior research economist at North Dakota State University testified before a Senate Agriculture Committee hearing in my State that 35 percent of the cash grain farmers of North Dakota, outside the Red River Valley, will not cash-flow this year. Let me repeat that, 35 percent of the farmers in my State, cash grain farmers, are not going to cash flow outside the Red River Valley, which is a very narrow strip in eastern North Dakota.

In his testimony, the senior research economist for the State university said that, in addition to cash income problems, 35 percent of the farmers of North Dakota have debt-to-equity ratios of over 40 percent. Farmers with debt-to-equity ratios that high were considered to be in sound financial condition only a few years ago, but as a result of the 1990 farm bill their operations are not sustainable, not sustainable with debt-to-equity ratios of that magnitude, they no longer have a chance to survive.

The distinguished occupant of the Chair represents a State that, like my State, is a wheat State and a dairy State, and he knows the problems that we confront.

It is not just in wheat. It is in dairy as well.

We are pleased that our new Secretary of Agriculture has said there is an emergency in wheat so that we can move into the export market with $320 million in additional export enhancement program funding. We need to be aggressive in wheat sales and send a signal to our friends in Europe that America is not going to retreat, America is not going to give up the fight for world markets. The same is true in dairy, because there, too, we face an emergency and there, too, our producers need help.

It has been noted here that milk prices have dropped from $13 a hundredweight to $10. We face an even sharper drop in price for grade B milk used primarily for cheese. For those who wonder, while the price was $13 1 year ago, that price is down from even a higher level just a few years ago. Can our dairy producers and rural economies withstand even further price cuts?

The answer is no, a resounding no, Mr. President.

In 1977 and 1978, milk prices were the equivalent of $21 a hundredweight—twice today's prices. Today we are talking $10 a hundredweight. And some say let us wait; there is no crisis. Let us let the 1990 farm bill work.

Mr. President, we have seen what is happening. In my State, in 1985, we had 3,400 dairy farmers; today there are 1,605. And they are dropping every day. And the question is are we going to respond; is there going to be some Federal Government action here; or are we going to stand by, or more precisely sit by, and let even more of these producers be washed out of the business.

Mr. President, I, for one, stand with the chairman of the Senate Agriculture Committee who has said now is the time to respond. It is the time. Frankly, I would like to see us have a much stronger response. But at least this is a beginning, a beginning on wheat, a beginning on dairy.

I also want to thank the chairman for hearing the plea of those of us who came to him in the last several hours and said, Mr. Chairman, we need help for grade B milk producers similar to the provision for grade A producers. And the chairman, working with a number of us, the Senator from Minnesota [Mr. WELLSTONE], the Senator from South Dakota [Mr. DASCHLE], the Senator from Wisconsin [Mr. KOHL], the Senator from Wisconsin on the other side, Senator KASTEN, agreed to provide 50 cents per hundred weight for class B producers.

Mr. President, this legislation is critical. We should do more. But at least this is a step. The chairman of the Agriculture Committee ought to be commended and ought to be thanked for responding to the critical need that exists in our States.

With that, Mr. President, I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, in a very brief way, I wish to thank Chairman LEAHY for his leadership.

This issue means so much to me in personal terms. The Senator from North Dakota talked about ways in which we have at least begun to respond to B producers, as well as A producers. I hear from the wheat farmers, but I hear from the dairy farmers. There is but just one conversation that stands out in my mind, Mr. President, that I would like to repeat today on the floor.

To have farmers in their mid-30's from Preston, MN, call me and say to me respectfully, but with a considerable amount of anger, "We can't make it. What are you doing in the United States Senate to us? We want to be family farmers. We want to raise children in this community. And if it is not going to be us, then it will be corporate farmers."

Mr. President, on present course, there will be no future for the dairy farmers, and thousands of farmers will go under. On present course, Mr. President, the wheat farmers will go under. I do not think this is all that we can do. I would like to see a two-tier dairy price program, eventually, for dairy farmers. But I think this is an important step in the right direction.

And it makes me proud to be a U.S. Senator, to know that today we could very well be passing an amendment, and I hope we will, which will at least represent an important beginning in responding to the concerns and circumstances of the lives of farmers not just in the Midwest, but farmers all across the States.

And one more time, I would like to thank Senator LEAHY for all that he has done and indicate to him my full support, and how proud I am that we are taking an important step in the right direction.

Thank you, Mr. President.

Mr. BOND. Mr. President, I rise today in support of this amendment which will help America's dairy farmers out of some extremely tough times. Milk prices to farmers have fallen nearly 25 percent since last August. Missouri dairy farmers are now using their savings to offset the drop in prices and at the current pace many will be out of business before the end of the year.

Mr. President, we have looked for alternatives and none were to be found, but I must say I am concerned about the precedent this proposal sets for the dairy industry. As you know, the Secretary will submit a report and recommendations by August 1, 1991 on a milk inventory management program. That is the time we should take care of the dairy program and I will be looking forward to that report. Unfortunately, during the 1990 farm bill the dairy industry was split on its future. Now, for the most part the dairy industry is united on what action is needed, which is financial relief. I support that goal.

Mr. President, short term programs like the whole herd buyout and this amendment should not be considered the answer to the dairy industry's problems. Thus it is imperative that the dairy industry come together, not only on a quick-fix program like today, but on a sound, sensible, and stable long term program. I also challenge the USDA to step forward and work with the dairy industry on long-term goals.

For example, the new allocations USDA announced under the Dairy Export Incentive Program is a step in the right direction, but we must be even more aggressive to pursue export markets. Congress must do its part as well. When regional differences arise, we must be willing to compromise for the good of the industry.

However, dairy farmers in my State are in financial trouble. This amendment will provide them some much needed relief, and should give all of us—USDA, the industry and Congress an opportunity to craft the long-term solution.

I hope my colleagues will support this amendment.

Mr. COCHRAN. Mr. President, there is a very serious dairy price situation affecting our Nation's dairy farmers. In Mississippi, for instance, dairy farmers have seen the price of milk decrease as much as $3 per hundredweight over the past few months.

Mr. President, I realize the need to assist our dairy farmers with a stable level of price supports and believe the Leahy amendment would provide a temporary increase in dairy prices to all producers. I am concerned, however, that by implementing a national pooling of milk revenues, a precedent could be established for the later enactment of a national milk market order. This precedent would undermine the fundamental principles of local markets on which our Nation's dairy policy is based.

A national milk market order would be regionally discriminatory, and contrary to the philosophy of regional markets upon which U.S. dairy policy has been based. The Congress for over 30 years has recognized that while the functions of the dairy price support program and the Federal Milk Marketing Order Program are separate, together they provide a policy that serves the interest of producers, processors, and consumers alike.

The Food, Agriculture, Conservation and Trade Act of 1990 establishes the support price for milk based on the level of purchases of surplus dairy products by the Commodity Credit Corporation [CCC], and it freezes the minimum support price at a level of $10.10 per hundredweight to undergrid production during the life of the bill. Federal milk marketing order programs in turn continue to function to attract milk for fluid (class I) uses to fluid deficit areas.

Mr. President, due to the urgency of the current dairy market crisis, I support the Leahy amendment that would provide a temporary increase in the class I dairy price. I do have concern, however, that national pooling could adversely effect the dairy producers in my State in the long run. It is not my intention for the dairy provisions set forth in the Leahy amendment to be extended beyond the December 31, 1991, termination date. We must be careful not to be shortsighted when dealing with the future of the many farm families that rely on dairy production for their livelihood.

I will continue to work with the administration and Chairman LEAHY over the next several months to develop a sound dairy policy. I must reemphasize that I support the provisions of the Leahy amendment only as a temporary measure to address the emergency crisis facing our Nation's dairy farmers.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, let me respond to the distinguished Senator from Minnesota by saying I hope this is not the first step toward supply management, in the forms that he suggests.

I would point out one of the reasons for the Leahy amendment is, very candidly, that some dairy farmers have come into difficulty; the Leahy amendment, according to my calculation, will put $1.24 billion into the pockets of dairy farmers, and it will take it out of the pockets of American consumers. Now, ultimately, this is the issue. This is the issue that Senators really have to resolve.

Today, out of sympathy for dairy farmers—as Mr. Kasten has pointed out, 4,000 farmers may be in trouble in his State; Senator Leahy may have 200 or 300; I may have 400 or 500 who are in trouble in my State—is the Senate's will really to take $1.25 billion and give it to those farmers, and in so saying, we are prepared to say to you today, at the expense of 40 cents a gallon for milk for every American, why not adopt the logic that if wheat farmers are hurting, as Senator CONRAD has pointed out, or if other farmers are hurting, that we simply send more money to them; charge Americans more for each and every food commodity.

Some agriculture exponents have said that is precisely the thing to do. Some agriculture theorists have said we have a cheap food policy in this country. Food costs too little for consumers. They ought to pay more. They ought to send out the money to farmers, whatever they need, to keep every single farmer everywhere, every time, in business, and let the American consumer pay, pay in higher food costs.

Now, I hope American listening to this debate understand the issue. If Americans want to pay more money for food at the grocery store, vote for the Leahy amendment. That will guarantee a higher price for milk.

I have heard a strange argument that somehow or other the price of milk does not really follow through from the producer to the retail store. I tried to demonstrate earlier in very concise detail that, in fact, a price increase, or rather, a price decrease of 24 percent to the producers should have an anticipated price decrease of 5 percent at the market 2 months later, and almost precisely that occurred. The follow-through does occur.

The burden of this bill is on the consumer. Without hearings, without examination of the alternatives, a group of Senators came here to the floor today and said our dairy farmers suddenly have come into trouble. We had 2 great years. The price was $13, and suddenly became $10. It is a Federal emergency. On an emergency supplemental bill, you come in and get $1.25 billion to pay for the thing. My colleagues, that simply is not going to work as good agriculture policy, even if it somehow slips by today without the attention of the American people being focused on what is clearly a grab by one group of people.

I am not certain, if dairy farmers knew that was the issue, that they would propose the grab. I think there are advocates for the dairy farmers here who believe that favor will be obtained from dairy farmers if the grab is made. But when the American people focus on what is occurring here today, they are not going to like it. The politics of this amendment, in my judgment, are all bad. Senators are responsible for their votes. And let there be no doubt that this is an important vote on agriculture policy, and a vote that will be remembered.

Some Senators may be in their offices, working their way through the situation, without understanding the elements here today. But this is an important demarcation in agriculture policy. I hope that Senators understand the consequences and defeat the amendment.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER (Ms. MILKULSKI). The Senator from Vermont.

Mr. JEFFORDS. Madam President, I would like to make a few comments to my esteemed colleague from Indiana, who is always very eloquent, and uses his facts to his advantage very well. But I would like to try and cast it in somewhat of a different light.

What we are trying to do, those of us that represent this industry, is find an option to the serious problems that are facing us at this moment, which will result in thousands of farmers being forced out of business. We have an option, but we need time.

So the basic question comes down to this: If you have an option wherein you can send cows which are badly needed overseas to assist those nations which I mentioned before, whether it be in Eastern Europe or the Soviet Union, and there is a market out there for them, and if we can develop the time to do that, we can reduce the production and get the program under control without the necessity of placing farmers into bankruptcy.

To give you an idea of the threat that the farmers are now facing as to going into bankruptcy, let me just give you an example in Wisconsin. Eighty-five percent of their FHMA loans are now in jeopardy; 85 percent. This could result in up to a $60 million loss to the Federal Government.

Now, you multiply this across the country and you are going to end up with a huge cost to the taxpayers by going forward, under our present situation. We are carefully trying to develop the beginnings of a program which, if fully initiated, will be able to bring this under control by bringing the milk production under control by exporting cows to foreign countries.

We did this to some degree during the Dairy Termination Program. Without even trying to develop the program, we exported some 65,000 head of dairy cattle. For every 10,000 head of cattle that we export, we can save that many farms divided by 100 or 1,000 farms. What we need to do is to give us time to develop the programs to do that.

We did not get as much time as we thought we would get because, unexpectedly, the price of milk dropped like a rock at the beginning of this year, whereas we had anticipated it would stabilize and gradually go down through the year and we would have those dairy studies the Senator from Indiana has indicated were now being done. We thought we would have those studies back and we would be able to do what would need to be done, modify the M-W or develop a supply management program, to keep farm prices stable.

It really hurts me to have an attempt to make our dairy farmer an enemy of the consumer. History does not allow us to come to the conclusion. The dairy farmer has been the best friend of the consumer for the last several decades. Compare the cost of milk over that course of time with any other product, and studies show the dairy industry has been the most productive in the Nation, bar none, as far as production per labor unit is concerned. What this has meant has been great savings to consumers all along.

What we are trying to do here is not to increase the price of fluid milk, but to take back that part of the price of fluid milk which is out there now, and which used to be the farmer's but now is being picked off by the retailers and the middle men. We want it back.

Consumers could end up with some slight increase, we feel, in the short run. I cannot deny that. But, on the other hand, this price increase deals with only 40 percent of total dairy sales. Sixty percent of milk product does not go into fluid milk. Consumers are paying lower prices for cheese and other dairy products. They are getting the benefit of that precipitous drop in milk prices which is harming the farmers.

What we need now, and what we are asking for, is time. I do not like this bill in the sense of a permanent dairy law. I would oppose that. It would disrupt my area of the country, it would hurt the South, it would hurt other areas. But we now are even willing to sacrifice what we might get in the final analysis by allowing this pooling to go on now. I do not like it, but I do like the fact that I can come forward with a program and see a program developed which will help other nations in this world so we can export the overproduction to help those nations but not have to put my friend out of business. To bring things under control we need time. It is an emergency.

By the time we get to any other solution, waiting for August, waiting for these studies to come back and then develop to a consensus around the Nation as to what the dairy policy ought to be, it will be too late.

The question of whether you send the cows overseas or the farmers to bankruptcy, and we believe that the best thing to do for all is to make sure we can come up with a humane program which does not require the indignity of bankruptcy for dairy farmers. When other alternatives will be available to us for a short period of time. We need to raise the price of milk to make it a living wage for our dairy farmers.

I urge my colleagues to vote for the Leahy amendment. I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Madam President, I cosponsored this amendment. I did it not because I think it is a final answer, as my good friend and colleague, Senator JEFFORDS, from Vermont, has indicated, but because there is a dire emergency in every real sense in the dairy industry.

Yesterday I visited four communities in the State of New York: Olean, in the western part of our State; Buffalo, again in the western region; Rochester; and Syracuse. In each one of these communities people who are being affected, who say they are going out of business, came to me. They are the dairy farmers. And their plea was one of great distress, indicating that with energy prices having gone up, with taxes having gone up, with cost of business having gone up, and with the prices that they are receiving having plunged from something in the area of $14 per hundredweight to $11, that they face no alternative other than going out of business.

This loss of their production will not benefit anyone, be it farmers, our States' economy, or consumers. It is only going to exacerbate the problem. It will take fluid milk that we desperately need in our region out of circulation. It is going to drive up prices.

So while I do not suggest I am an expert in this area, I can say that those people are good, hardworking middle-class families, who say they are going to go out of business, and can no longer operate the farms. This result can only be a devastating blow to our State. Already, New York dairy farmers have earned $334 million less than they did last year.

Let me, if I might, share—and I was unaware of this until just a few moments ago—a personal communication from our Governor. Let me share this with my colleagues. He says:

> DEAR AL: Over the past six months, dairy farmers throughout the nation have experienced a sharp decline in farm milk prices, causing severe economic disruption for the dairy industry, particularly family dairy farms. I urge your support of efforts to revise federal dairy policies and programs in order to restore economic stability in our dairy production sector.
>
> Dairy farming is the largest sector of the New York's agricultural industry. With an annual production in excess of eleven billion pounds, New York is the third largest dairy state. The importance of dairying extends well beyond the farm gate—to hundreds of businesses in rural and urban areas that depend on farm related expenditures and to the communities that rely on farming activities for their tax base. Consumers in New York also benefit from a strong agricultural industry that provides quality farm products.
>
> The farm milk price in New York has declined by over $4.00 per hundred pounds since January, 1990. The present price of approximately $11.00 per hundred is well below the cost of production for most of our dairy

farmers, reducing their revenue by over $30 million per month. This threatens the future of our dairy industry and has caused personal hardships for thousands of New Yorkers.

New York's dairy farms are overwhelmingly family operations that have succeeded in the competitive marketplace through efficient operations. Tragically, the present pricing structure will guarantee the demise of many, despite their best efforts.

The prompt passage of federal legislation to assist dairy farmers through improved milk price support levels or other measures is necessary to address the economic plight of this essential industry.

Moreover, I urge you to investigate aggressively the many reports that consumers were gouged when retail milk prices remained steady while producer prices declined over the past six months. Emergency federal assistance for dairy farmers would thus give no justification for future retail price increases, as greatly increased retailer margins are more than ample to absorb any producer price increases.

It is signed Mario Cuomo, our Governor.

Madam President, again, I am not suggesting that this legislation is the be all and end all, but I am suggesting to you, from the people I have heard from just yesterday in Syracuse, in Olean, in Buffalo, in Rochester—and they came to meetings where I did not expect to see the agricultural community, but when they heard we were coming they made known their concerns. They are good people, they are hard-working people, and they need relief and they need it now. I know of no other method to get it to them. This amendment will help the small family farmer. If we lose him, not only does he go out of business, but the fact of the matter is that the dairy prices ultimately, to the consumer, will be higher. This amendment is vitally important to the over 13,000 dairy farmers in my State.

Madam President, I yield the floor.

Mr. LUGAR. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SYMMS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. Madam President, I would like to make some inquiries of some of my colleagues who are sponsors of this legislation and relay some conversations I have had today because, coming from an agricultural State—my State is the 13th leading dairy production State in the Nation—it is a very important issue to us. We are very concerned. I am very concerned about the plight of the producers.

But I called a fellow I know who is a dairyman in Idaho, my neighbor as a matter of fact. His place is right across the road from where I live. I asked him what he thought about this.

I address this question to the distinguished chairman from Vermont. I said:

"Tom, what do you think about this amendment to raise the price support level to $13 per hundredweight?"

"Well," he said, "as a producer, I would like to have the money. But the problem is what do you do at the end of this 1-year period?" He said, "If you call the dairy association, 99 out of 100 people will say that they are for it, but in reality what happens is we will not thin our herds out and the problem will be worse next year."

So I ask the distinguished chairman that question: Where are we at the end of 1 year? I really have not completely made up my mind on how I am going to vote on this issue because of my sympathy for the plight of the producers. But I am concerned because my friend, Tom Dorsey's, point is no one will ever thin out their herds and get rid of the cows they should; they will keep on producing, thinking somehow they can get by and we will just overproduce again.

What is the answer to that?

Mr. LEAHY. Madam President, if the Senator will yield——

Mr. SYMMS. I will be happy to yield.

Mr. LEAHY. The Senator from Idaho raises a good and valid point. It is actually the same point I raised. I know the distinguished Senator from Vermont [Mr. JEFFORDS] also raised it when we were putting this amendment together.

I would not go through this exercise if this bill would lead to greater problems next year was all there was, for exactly the same reasons explained by the Senator from Idaho. I would not be asking to take the time on the bill before us if such a problem were to develop, because a year from now we would be back at the same problem all over again.

In the 1990 farm bill we have a requirement that this year the Department of Agriculture must come up with ideas for supply management, and that these ideas must address the very appropriate questions the Senator from Idaho has just raised about the possible expansion of herd size.

But we need to do this amendment in the meantime, while we are waiting for the Secretary's proposals, and the appropriate congressional reaction. If we do not adopt this amendment we will loose an inordinate number of family farms, people who have spent their lifetime getting where they are. Without this amendment we will not be able to resolve these farmers no matter what proposal Congress adopts in the fall.

So what this amendment does is buy time. As the Dairymen's Creamery Association of Caldwell, ID, says, "Please be advised that the concept of this amendment does have the full support of Idaho's largest dairy cooperative because of the extremely serious economic conditions that prevail today for dairy farmers."

Mr. SYMMS. I am aware of that.

Mr. LEAHY. I agree. But the question the Senator asks is a very appropriate one.

Mr. SYMMS. I just say to the chairman that that comes from Frank Crumb, who is also a friend of mine, who runs the co-op in Idaho. This particular farm I am talking about sells milk to the co-op in Caldwell and his place is 10 miles from the processing plant in Caldwell. He still is opposing this based on the grounds that he thinks we will be worse off next year. I just want the Senator to answer that question. Are we going to export this milk or what are we going to do with it?

Mr. LEAHY. Madam President, if we were going to be worse off, I would not be supporting this amendment. This simply keeps in business those farms that really deserve to be in business. It will not help poorly managed or poorly run farms. They are going to go out of business no matter what, and they should.

But this will keep well-run farms, which otherwise would not be able to make it, in business until the Department of Agriculture comes back with their plan later this year. It will also for a number of reasons that have been stated over the hours by different proponents of this amendment on both sides of the aisle, increase the quality and consumption of milk. These changes in quality standards should have been done by the industry before now, but now the Senate has the chance to do it.

Mr. SYMMS. I thank the chairman.

I might say, Madam President, I had the vice president of a major grocery chain coming in the door as I came over here to pose this question. I posed the question to him. They are a major retail outlet for milk. I said, "How will this impact you?" He said, "Very simply, it will raise the price of milk 40 cents a gallon in the grocery store. It will not cost our grocery anything. We will pass it through to the consumers." He said, "We can tell you from our experience that they will drink less milk." What is the committee's answer to that.

Mr. JEFFORDS. If the Senator from Idaho will yield, first of all, let me go back to the Senator's first question momentarily. Even with the $1.25 per hundredweight that we will be adding here, there will be many farmers who will go out of business. You will have a reduction anyway, most likely. The question is, Do you want to overshoot the mark and put too many out?

Another point there, of course, is that when farmers go out, a lot more cows go to market and that interferes with beef prices and this sort of thing. Just keep that in mind.

But also the plan I am developing and have been working, on with the Department of Agriculture is one which says that while we transit from one program to another, as we try to develop the milk inventory management program, the best way to get things under control is to start to export dairy cattle. Now how do we do that? There is a huge demand for those cows all around the world. We have a problem with infrastructure and transportation, which we have to develop, but we know we can export 50,000, 60,000, 70,000 fairly quickly and there are markets for them. We only have to get rid of about 300,000 head instead of 1.6 million when we had real problems back in the mid-1980's. It is not really a large number of cows. So if we can get rid of those cows, then the supply will come down and our problem will be over as the price will go up for the dairy farmer.

Second, with respect to the retail grocer, right now, unless for some reason he was selling his milk for a loss at 40 cents a gallon, he has suddenly been given a 40-cent-a-gallon increase in his profit, unless he has put his retail price back down. If he put it all the way down, then he could be right. But nationwide that has not happened. It has only gone down a couple cents a gallon. So there is that huge increase in the difference between his cost and his retail price, which simply means that many processors and retail sales stores are making large profits.

Our theory is we go in and let the dairy farmers share in these profits. It has only been there a couple months. Consumer prices have just not gone down. Competition has not taken care of it.

This is an emergency situation. It is not good milk policy, but it is survival policy. What we are trying to do is survive here, not to create dairy policy. The price increase will be gone at the end of the year by our bill. Thank God, it will be gone, because for my area I do not want that. I am sure the Senator's area does not want it either. It is a temporary emergency program to try to transit out of a very difficult problem and to save dairy farmers and to get rid of cows instead of dairy farmers.

Mr. SYMMS. I thank my colleague for the comments. I ask those questions out of my genuine concern for where we are going with this because some of the people with whom I talk—and the Senator may have had this testimony in the Agriculture Committee which I did not hear, but when you talk about how many dairymen are going out of business, I wonder how many dairymen will thin out their herds, get rid of the cows that are not good producers and reduce their overall production but still stay in business if we can weather through this.

My friend in Caldwell, ID, that talked to me today, he is of the opinion that we are only 2 percent over production and if we just weather through—he said, of course, I want more money, but I would like to see the end of this problem without having an artifical incursion and not have the cows thinned out of the herds. He thinks there will be a gradual erosion in the numbers in production.

Now, our State, I say to my colleague from Vermont, has dramatically increased milk production over the last 15 years. We have had a dramatic increase in milk production in my State. And there are reasons for that—high priced property in California where people sell land and bring their operation to a neighboring State like Oregon or up into Idaho or somewhere and set up another dairy and ship the milk back, and all those things. But notwithstanding that, what about the fact that some people might just milk a few less cows for the interim period and not actually go out of business? Or do the statistics show they are actually going out of business?

Mr. JEFFORDS. If the Senator will yield, the program we had back in the 1980's, the early 1980's diversion program, did that. It worked very successfully. We do not have time to put that in place right now. If we did, we might use that kind of milk diversion program to get things under control.

We used that successfully. At the same time, we adjusted the price support down so that a number of farmers did not go out.

The problem right now is we have a precipitous price drop. It was not $1; it dropped about $3 or $4 per hundred weight. This also happened back in the 1970's. When that happened, we put too many farmers out and milk supplies became tight and prices climbed back up and consumer prices increased as well.

A dollar additional here is not going to keep all the farmers in business: Number two, if we can get rid of those excess dairy cattle it will help to get milk supplies back under control.

Mr. SYMMS. I might ask is there anything in this package that would encourage the export of butterfat or milk fat products? I know USDA recently has seen some of those products added to it.

I think the Export Enhancement Program—how much headway are we making on that program?

Mr. JEFFORDS. First of all, I do not believe there is much butter in storage right now. In the last farm bill we reduced the butter price drastically and got rid of most of the excess butter. The price has gone way down. There is not much butter left. However there has been an increase in powdered milk. That is why we have in this bill the modified California milk quality standards which will increase the nutritional value of milk and help get rid of that excess nonfat milk product.

You still have the Public Law 480 program and others which can be used as well. We still have distributions through the food shelters and all those kinds of programs to help reduce excess manufactured milk products.

Mr. SYMMS. I thank the Senator from the Agriculture Committee.

I will say to my colleagues that, like I said, I have not made up my mind on how to vote on this issue. I am greatly concerned. I guess the other question I would have is how much money is this in the budget? Is it $1 billion?

Mr. JEFFORDS. This amendment raises money. It does not cost money.

Mr. SYMMS. You pass it through to the consumers?

Mr. JEFFORDS. If there is a cost, which we do not think there will be—there may be some costs to the consumers. The question is whether or not the dairy farmer will be able to share in the huge profits that milk processors and retailers are now making on fluid milk. This amendment will help the dairy farmer share in some of those receipts.

Mr. SYMMS. Does the distinguished Senator from Indiana concur with that? Is there a cost on the budget on this amendment?

Mr. LUGAR. If I may respond to the Senator, I understood the dialog between the Senator from Vermont and the chairman of the committee that there was no cost. There is clearly a dispute about this. That is not the point I made in the debate.

Mr. SYMMS. The Senator's point primarily is one of how best to approach this in the long term for the health of the diary industry of the United States?

Mr. LUGAR. The Senator is correct. This amendment has cost I think a billion and a quarter, passed on to the consumers, not the taxpayers. If it is level in the budget, the $1 billion goes into the cost and the lives of Americans generally, and there will be higher milk prices.

Mr. SYMMS. I thank the Senator. I thank both Senators.

Mr. CHAFEE. Madam President, I would like to take a moment to discuss the pending amendment. I appreciate the intentions of my colleagues from Vermont regarding the situation of dairy farmers—indeed, I share their concern about those farmers. However, at this time I am not sure that this amendment represents the kind of policy we should be shaping.

While the amendment seems simple on its face, its impact is just not clear. We could be getting into a policy that would have serious long-term negative ramifications, for both the dairy industry and the consumer.

Under the amendment, the price paid by processors for class I milk would be temporarily increased by about $3 per hundredweight to the price level of August 1990. This increase is intended to help relieve financial pressure on dairy farmers. However, increasing the price that processors pay for store-bought milk likely would cause the retail price of milk to go up, anywhere from 10 to 40 cents per gallon. In turn, that retail price increase would have its own ripple effect.

First, higher prices would directly and negatively affect consumers, particularly those who are of low income. Second, higher milk prices could lead to a drop in consumer purchases of milk. That not only means lower sales for producers and processors alike, but it means that consumers are cutting out an important nutritional component of their diet. Third, higher milk prices could induce more dairy production, which could add to the perennial problem of dairy surpluses.

Another important point to note is that an increase in the price of class I milk would have a significant negative side effect on nutrition programs that include milk as a basic component of their food package. One such program that is extremely important is the WIC Nutrition Program for pregnant mothers and children. Fluid milk accounts for over 23 percent of WIC food package costs; indeed, WIC participants consume over 150 million gallons of milk every year. A recent analysis by the Department of Agriculture, using an assumption that milk prices would increase by 10 cents per gallon, has estimated that this amendment would cost the WIC Program $15 million in the next fiscal year, and more thereafter. Likewise, the USDA analysis showed that other programs—such as Food Stamps and the School Lunch and Breakfast Programs—would also bear heavy costs: about $95 million for next year.

These are some of the possible ramifications of the pending amendment, and they are of great concern to me. We simply do not know what effect this amendment will have. I am particularly concerned about its effects on Rhode Islanders, both on our dairy industry and our consumers. Should this amendment exacerbate surpluses and reduce demand, it well could hurt not only dairy processors and consumers, but also the very dairy farmers that it is intended to help.

In sum, I do not believe that the measure before us should be acted upon unless we can clear up some of these questions. This amendment represents a significant change—temporary or not—in dairy policy. Given that we have just finished the 1990 farm bill, I believe that we should act carefully when considering further changes. That means prudent study by the Agriculture Committees and comment by the parties involved during the hearing process; it does not mean a quick vote on an amendment during an appropriations bill.

We simply do not have enough information on just what the amendment will or won't do to make an informed judgment on this measure. I am concerned that this amendment might do more harm than good for dairy farmers, dairy processors, and consumers. For that reason, I cannot support the Leahy-Jeffords amendment.

Mr. McCONNELL. Madam President, I have reviewed the amendment which the chairman of the Senate Agriculture Committee has offered and it causes me a great deal of concern on several points. My greatest fear is the signal which this amendment sends to everyone that the 1990 farm bill is open for revisions just 4 months after President Bush signed the legislation into law. No less of a concern is that our committee has not held hearings to discuss the implications which this amendment could have longer term to the supply of dairy products and consumer demand. Additionally, I am worried about the precedent which national pooling of milk revenues sets for any future change in dairy policy.

An enormous amount of time and work went into completing the Food, Agriculture, Conservation and Trade Act of 1990 and now, less than 4 months from the date President Bush signed the bill into law, the Senate is ready to make significant alterations in national dairy policy. The final regulations on the implementation of many parts of the farm bill have not even been released by the Department of Agriculture, but yet we are debating changes which affect the Nation's 200,000 dairy farmers.

These changes which have been offered have not been discussed in the Agriculture Committee this year. The normal process of holding a hearing, receiving testimony from several witnesses, and proceeding to a markup has been bypassed. Because this legislation is on a fast track we will not fully understand the regional implications of increasing class I milk prices. We will not know fully what effect the legislation will have on the demand for milk and the possible added cost to our Nation's various nutrition and food programs. There is also no provision in the legislation which addresses the root of our current problem, too much milk production.

Then, there is the problem that despite the fact this amendment is designed only as a temporary measure it could set a precedent to continue pooling class I differentials nationally. This practice does not reflect the regional differences in milk production and fluid milk demand. Also, the Agriculture Committee is less than 6 months away from reviewing dozens of suggestions for a standby supply management program for milk. Legislating a major change in dairy policy at this point may be a bit premature.

Yet after reviewing all of the concerns over this amendment it is abundantly clear our Nation's dairy farmers are facing a crisis. Kentucky's 7,000 dairy farmers have seen their milk prices drop more than 25 percent in less than 6 months. While I continue to stand firmly behind a market-oriented dairy policy, I recognize the extreme circumstances which my State's dairy farmers face today.

Given the extraordinary situation facing our dairy farmers, I will support this amendment because the author of the amendment assures me there is no additional program cost associated with this temporary emergency legislation. However, I will continue to review the alternatives for more permanent legislation. Those alternatives include legislation which will permit milk production adjustments to occur gradually in response to market conditions without leading to supply management measures or producer assessments to control production or program costs.

It makes no sense to have a dairy program that is less market-oriented and less responsive to budget pressures than it is currently. Today we face the challenge of bringing Federal spending under control—not just this year—but in the years to come. That is a very compelling reason to keep a dairy program which is responsive to the marketplace.

A sound and effective dairy policy is extremely important to Kentucky's dairy industry. Milk is produced in all 120 Kentucky counties and accounts for over 10 percent of the State's total farm income. We must maintain a flexible national dairy policy, one which works well for our producers and provides an adequate supply for our Nation's consumers. We must not fall into a trap of writing a long-term bill based on short-term ideas.

The recommendations to the Congress by the National Commission on Dairy Policy, a commission made up of dairy farmers from all regions of the United States, reported that "market forces, together with adjustments in the Government support price, should balance supply and demand for milk and dairy products." I wholeheartedly agree and intend to work with my chairman and other members of the Agriculture Committee to develop legislation which helps all of America's dairy farmers.

Thank you, Madam President.

Mr. COCHRAN. Mr. President, H.R. 1281, the dire emergency supplemental appropriations bill for fiscal year 1991, as reported by the Appropriations Committee on Thursday, March 14, appropriates a total of $1,569,300,000 in new budget authority and $68,622,000 in outlays for program activities under the jurisdiction of the Agriculture, Rural Development and Related Agencies Subcommittee.

The largest item, and probably the most critical item in the agriculture chapter, is the supplemental appropriation of $1.3 billion to meet the needs of the Food Stamp Program. Participation and benefit costs continue to grow, and that is the current estimated amount based on recent trends and historical participation patterns. The committee recognizes the need to protect the benefits of low-income Americans.

In order to avoid furlough of Federal and county Agricultural Stabilization and Conservation Service [ASCS] employees, an additional $46.9 million is provided. These funds are required because of major increases in workload areas and program changes related to the 1990 FACT Act.

A supplemental appropriation of $80 million will enable the Food Safety and Inspection Service to provide full mandatory inspection services to the meat and poultry food industry for the remainder of fiscal year 1991. This funding is needed to cover the January, 1991 pay raise, the recently enacted 8-percent differential for Federal employees in three major metropolitan areas, and the assumption of the Maryland State Inspection Program.

In addition, this bill includes language which removes the $425 million limitation on Export Enhancement Program [EEP] bonuses that can be awarded during fiscal year 1991. Current estimates of bonus requirements support a $900 million level. Enactment of this provision will maximize U.S. exports, support farm prices and income, and further U.S. trade policy objectives.

Another important item in the agriculture chapter of the bill allows the Animal and Plant Health Inspection Service [APHIS] access to the agricultural quarantine inspection account from Treasury. The fees collected will permit APHIS to continue inspection activities at port and airports outside of normal duty hours after the April 1, 1991, implementation of user fees.

Also, language was included in the report of the supplemental appropriations bill directing the Farmers Home Administration to administer the Emergency Disaster Loan Program in a more effective manner and to utilize task forces to expedite completion and consideration of applications for emergency disaster loans. Only a small amount of this loan authority has been obligated this year, and we believe every effort should be made to accommodate those farmers and producers who have suffered major losses.

Mr. President, I support the agriculture chapter and the appropriations bill as reported by the committee. I commend the chairman of the Committee, Senator BYRD, and the ranking member, Senator HATFIELD, for their dedicated efforts and work in bringing this bill to the floor. I recommend it to my colleagues.

Mr. DASCHLE. Madam President, I would like to express my support for the Leahy amendment. I support the measure because it is designed to address the crisis facing our Nation's dairy farmers. It is a timely response, and one that attempts to address the difficulties faced by producers of both grade A and grade B milk. If Congress fails to act now, both the producer and the consumer will feel the undesirable effects. Large numbers of producers will be forced out of business, which will eventually result in higher prices for consumers.

I remind my colleagues that this amendment is designed to offer a short-term response to the dairy situation. It will offer relief now, in an effort to ensure that dairy farmers have a chance to survive until Congress can finish work on meaningful reform of the dairy program In the coming months, this body will be taking up the issue of long-term supply management for the dairy industry. I hope that a long-term program, that is designed to offer the producer a fair price while offering the consumer a dependable supply, will be the result. In the meantime, the Leahy amendment is needed to avoid extreme hardship in the U.S. dairy industry.

Mr. KERRY. Madam President, today I am voting in support of Senator LEAHY'S amendment to provide emergency relief to the Nation's dairy farmers.

I have never been one to favor increased agricultural price supports and, in fact, tried repeatedly to diminish such programs in last year's farm bill. Today, however, I was persuaded by some particularly convincing arguments. First, I have been assured that the situation is indeed critical. In Massachusetts, the average full-time family farm made $35,000 to $40,000 in profits last year. This year, they will only see profits of $10,000. That is well below the poverty line.

Clearly this is an emergency situation for these families. And it occurs at a time when the economy is down and unemployment is high—nearly 10 percent for the Commonwealth as a whole. We don't need yet another sector of our State economy to go into bankruptcy.

Second, I was persuaded by the temporary nature of this amendment and by the fact that the dairy program was not dealt with last year. The 1990 farm bill asked only that the Agriculture Secretary make recommendations to Congress for overhauling this program.

Had Congress debated this last year, I would say we should stick to those agreements. I would not agree to changes for those commodity programs that were discussed last year. And had the dairy farmers been suffering when we were debating the farm bill, I would say that that was the time for this discussion. But last year, dairy farmers were stable and Congress left the program to be dealt with this year. Now we must support these farmers while we take the time to consider their situation and devise a long-term program that is fair to farmers and consumers alike.

I am optimistic that dairy program revisions will be debated by Congress this year and that new management, distribution, and pricing systems will be in place by early next year. I'd like to make it clear that my support of this amendment is predicated on these changes occurring.

Finally, I want to point out that the Weld administration in Massachusetts and the State department of food and agriculture tell me that this measure is needed.

Madam President, more than one-third of dairy farms in Massachusetts have failed in the past 3 years. I would like to see the remaining 435 farms in my State stay in business, at least for the next year while the dairy program is revised.

Mr. SPECTER. Madam President, I support the amendment offered to the supplemental appropriations bill by Senator LEAHY to temporarily require the prices for fluid milk used for beverage purposes to be set at levels achieved last August.

The dairy industry in Pennsylvania has suffered significant losses since late last year and this legislation will assist these producers in maintaining their livelihood. The current dairy program has resulted in producers having little control over the wholesale milk price. In addition, to make matters worse, they have little control over their operating costs which have recently been on the rise. Due to international conditions, the cost of petroleum has gone up affecting prices for fertilizers, heating oil to heat dairy barns, rubber products associated with production, and transportation.

Madam President, the current dairy program is designed to protect dairy farmers from price declines that might force them out of business and to protect consumers from unseasonal imbalances of supply and demand. In reality, however, the present program does very little to regulate the production levels through supply and demand. Generally, farmers milk at capacity, having little direct influence over the market. It can be argued that a producer responds to a decline in the market price by increasing his production in an effort to maintain his income level. This action by the producer, in turn, has a negative effect on the market that is experiencing a surplus and has a tendency to further drive the market price down.

Accordingly, many will agree that the current dairy program needs reform to better address the supply and demand principles which direct the price of milk. In turn, the 1990 farm bill provides direction to the Secretary to evaluate proposals to reform the program. The directive to the Secretary requires him to report back to Congress this summer on his findings. At that time, Congress then will have the opportunity to address the issue of reform for the long run to better guarantee a fair price for our dairy producers.

On December 17, 1990, and February 4, 1991, I met with Pennsylvania dairy farmers to hear their concerns for the recent drastic reductions in dairy prices. Their voices were united that the current program needs reform and that without assistance many farmers will be out of business. It is estimated that in Pennsylvania, the average dairy farmer will be paid a market price that is $4 less than the cost of production. As a result, many farmers indicated that at the present milk prices they will be able to operate their farms for only another month or two.

I am hopeful that in the long term, with the price support floor that has been provided to producers and the development of international trade, the dairy industry will continue to be a vibrant industry in Pennsylvania and the Nation. However, this does not address the current emergency facing many Pennsylvania producers. Therefore, while we consider a long-term approach to this important matter, I support the amendment sponsored by Senator LEAHY.

Mr. DURENBERGER. Madam President, I am pleased to cosponsor the Leahy-Jeffords amendment that will provide a temporary increase in the price which dairy farmers receive for their milk.

Madam President, the last 6 months have been very difficult for the Nation's dairy producers. Milk prices have fallen 25 percent nationwide since early last fall. In Minnesota, milk prices have declined even more precipitously, falling by nearly 40 percent. This price collapse will diminish farm income of my State by close to $400 million if prices stay at their current level for the balance of 1991. This represents a decline in annual average dairy farm income of about $25,000.

A year ago, my State's dairymen and the main streets of rural Minnesota communities were upbeat in their prospects and hopeful about their future. This winter, however, the mood is completely the opposite. Minnesota dairymen are sustaining huge economic losses and are becoming extremely pessimistic about the future of the U.S. dairy industry and the continued role of family farms. Consequently, I believe it is imperative that Congress take prompt and emergency action to at least partially offset the recent and unprecedented collapse in milk prices.

I can appreciate sentiments that opponents of this amendment will make regarding their concern that this measure is premature and may improperly preempt forthcoming administrative action. If I thought this legislation would interfere with the ongoing administrative review of the Federal milk marketing order system, I too, would have serious qualms about this measure. However, as I reviewed this legislation I noted that it is temporary and will lapse about the time the administration plans to make its recommendations on restructuring the Federal milk marketing order system. Hence, I believe that this bill provides emergency temporary relief to the Nation's dairy farmers which only precedes forthcoming administrative action and will not interfere with it.

I also believe that this measure may be less disruptive to the dairy sector should the impact of the California drought effect dairy production to the extent that market milk prices rebound to levels closer to last year's average. If that occurs, the impact of this legislation will diminish until it vanishes when market condition drives fluid milk above $13.09/per hundredweight. At that point, this legislation is moot. In contrast, other legislative dairy proposals being proposed would have a more disruptive effect on the dairy food industry.

I want to thank Senator LEAHY for his work to expand relief to grade B producers which comprise nearly 40 percent of all Minnesota milk operation and produce one-quarter of the State's milk. While the 50 cents is not equal to what this legislation provides to grade A producers, it will help these farmers pay their bills and stay on the farm until more permanent legislation can be enacted and take effect.

In closing, I would note that there is an emergency in America's dairyland because of the sudden precipitous decline in milk prices. This legislation provides a minimal level of temporary economic relief while Congress and the administration decide on more permanent legislation and administrative action. Hopefully, such prospective action will bring greater equity to all dairy farmers and stabilizes a dairy sector which has become increasingly volatile in recent years.

EMERGENCY DAIRY LEGISLATION

Mr. HARKIN. Madam President, our Nation's dairy farmers are facing severe economic hardship. This amendment will assist them in a way that does not increase the cost of the dairy program.

I am therefore pleased to be a cosponsor of this amendment, and of the bill from which it is derived, S. 671, authored by Chairman LEAHY and Senator JEFFORDS. It has been my privilege to work with them on this legislation and on other dairy matters on numerous occasions in the past. I commend them for their efforts on behalf of America's family dairy farmers.

One cannot overemphasize how critical the need is for this amendment, in my State and in the Nation as a whole. For example, the gross revenues of Iowa dairy farmers have fallen by over 30 percent in the past year. Net revenues over total cash costs of Iowa dairy farmers are down over 100 percent in the past year.

This amendment is not a matter of propping up profits for dairy farmers. Dairy farmers in my State are now losing money at a shocking rate. This amendment will not make all dairy farms profitable. It will, however, mitigate the price situation to some extent, giving many farm families better odds of surviving the current dairy crisis. As a consequence, fewer family dairy farms will be forced out of business than would otherwise be the case.

The amendment provides for using the same class I formula price as was in effect last August. That is only fair. Since last August the class I price has dropped precipitously from $13.09 a hundredweight to $10.16 a hundredweight.

Through national pooling and distribution of this increase, the blend price will be increased by $1.25 a hundredweight for dairy farmers under Federal milk marketing orders. This national pooling and distribution is very important to dairy farmers in States such as Iowa which have relatively low levels of class I utilization. I am very grateful to Chairman LEAHY and Senator JEFFORDS for responding to the concerns expressed by this Senator and others by crafting the legislation to include national pooling and distribution, which enhances the fairness of the measure to Iowa diary farmers.

I also want to thank Chairman LEAHY and Senator JEFFORDS for listening to the concerns expressed by this Senator and others about the provisions of S. 671 regarding grade B producers of which there are a significant number in Iowa, and for modifying this amendment to improve the assistance to grade B producers. The amendment will provide a 50-cent-a-hundredweight increase to grade B producers, financed through increased export sales of butter held in Commodity Credit Corporation stocks. The amendment will thus assist the dairy industry while reducing burdensome CCC butter stocks. The amendment also contains other provisions to help grade B producers. While I would have favored doing more to help grade B producers, the constraints on Federal spending have severely limited our options.

Madam President, this amendment is a modest measure, designed to help ameliorate the worst aspects of the drastic decline that has occurred in milk prices. The amendment is critical to the survival of thousands of family dairy farms and to the future of their communities. I urge my colleagues to support this important amendment.

Mr. BYRD. Madam President, we have had a good debate of 2 hours on this amendment.

Senator DOLE has a statement. I wonder if following the Republican leader's statement if we could not get on with this vote. There is a Desert Storm/Desert Shield supplemental appropriations bill. We want to finish this bill today and go to conference.

Mr. LEAHY. I am perfectly willing to go immediately to a vote after the distinguished Republican leader speaks.

I ask unanimous consent that a number of letters of support from the Save the Family Farm Coalition, the National Milk Producers Federation, numerous co-ops, as well as the Farm Bureaus of New York, New Jersey, Vermont, and others be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL MILK
PRODUCERS FEDERATION,
Arlington, VA, March 19, 1991.

Hon. PATRICK J. LEAHY,
U.S. Senate, Washington, DC.

DEAR SENATOR LEAHY: The National Milk Producers Federation strongly supports S. 671. We commend you for your efforts to provide an emergency increase in minimum Class I fluid milk prices to be pooled nationally and distributed on an equitable basis to producers throughout the country.

This emergency legislation is desperately needed by the nation's dairy farmers. As you know, dairy farmers are suffering the worst collapse in milk prices since 1978. This legislation is necessary to offer some temporary relief for many farmers who are faced with the choice of paying their feed bill or their loan payments, but can't afford to pay both. According to USDA, cash receipts by the nation's dairy farmers will plummet nearly $4 billion this year due to the collapse in market prices. Unfortunately, as you know, this price drop has not been passed on to consumers in the form of lower milk prices at the retail level.

We continue to support efforts to provide Grade B producers, who would not directly benefit from S. 671, with some needed income assistance. We hope that an amendment will be offered to provide such assistance and that you would support such efforts.

We also strongly support the increase in the Federal minimum standards for the solids content of beverage milk as provided in the bill. This will provide consumers a better tasting beverage milk product with higher nutritional content. These standards will also reduce the proportion of calories from fat in beverage milk. Such standards allow the dairy industry to better meet changing consumer preferences for products with lower fat content and improved taste.

In addition, by increasing the solids-nonfat content of beverage milk, domestic use of skim milk solids will increase by as much as 200 million pounds per year. This alone will reduce federal outlays for the dairy price support program. In short, Mr. Chairman, these changes will allow the dairy industry to provide products consistent with consumer demand and will enhance the stability of the dairy industry in the long run by reducing the amount of nonfat dry milk that the government must purchase.

We thank you for your efforts to provide temporary price relief to dairy farmers and will strongly urge your colleagues to support passage of this bill.

Sincerely,

JAMES C. BARR,
Chief Executive Officer.

LAND O'LAKES, INC.,
Minneapolis, MN, March 18, 1991.

Hon. PATRICK LEAHY,
Chairman, Committee on Agriculture, U.S. Senate, Washington, D.C.

DEAR SENATOR LEAHY: Land O'Lakes strongly supports S. 671 and commends you for your creative leadership in this effort to respond to the urgent need of dairy farmers for relief from distressed milk prices. We have been in contact with the Senators from our trade region as the bill was developed and now will renew our contacts to urge their suppoirt for S. 671.

We feel that the national pooling provision in the bill is the critical factor that makes this approach to emergency income enhancement acceptable to a broad majority of dairy farmers and cooperatives. Producers in all regions have suffered by the same magnitude of milk price reduction. We recognize that producers in some regions have strong reservations about national pooling. However, your bill uses national pooling as a method to achieve equitable price enhancement, it's not a precedence to using pooling for milk allocation.

When the process of crafting emergency income relief to dairy farmers began, we expressed hope that Grade B producers could be included within the scope of the bill. The emergency loan fund for Grade B producers to upgrade to Grade A is a very weak response to the plight of about 25 percent of dairy farmers in the Midwest. We will continue to seek a better way to help them.

However, we don't want this regional concern to delay progress of your bill, so you can count on our support and assistance in the effort to pass S. 671.

Sincerely,

JOHN E. GHERTY,
President and Chief Executive Officer.

MICHIGAN MILK
PRODUCERS ASSOCIATION,
Novi, MI, March 18, 1991.

To: Senator PATRICK LEAHY.
From: Michigan Milk Producers Association, Elwood Kirkpatrick, President.
Subject: Emergency Dairy Legislation.

We have alerted our members to the introduction of S. 671. The annual meeting of our cooperative was held on March 16, 1991 and the delegates unanimously passed the following resolutions:

(1) Michigan Milk Producers Association strongly endorses the legislation recently introduced in the U.S. Congress to temporarily adjust the Federal order class I price formula. The effect of the legislation would be to establish a new floor for the "basic price" which is used to determine the Federal order class I price.

(2) We recognize the benefit to dairy farmers and consumers that would result from revising milk standards to provide for higher milk solids, not fat.

We support the National Milk Producers Federation in working for higher minimum standards for milk solids-not-fat in fluid milk production.

Further, we advocate strict enforcement of solid-not-fat standards by appropriate State or Federal agencies. We strongly endorse the recently introduced Leahy bill to raise solid-not-fat standards in fluid milk.

You will be receiving in another mailing, information from Michigan State University regarding the economic condition of dairy farmers in Michigan. The current dairy picture leaves farmers upset, concerned, and worried about their future.

We applaud your intuitive and strongly support your efforts in this matter. We will work with you and the dairy industry to see this legislation through to successful passage.

DARIGOLD FARMS,
Seattle, WA, March 15, 1991.

Hon. Senator PATRICK LEAHY,
Washington, DC.
Subject: S. 671.

DEAR SENATOR LEAHY: This letter is in response to your emergency bill providing price relief to the nation's dairy farmers.

Darigold Farms is a dairy farmer cooperative representing 1,200 producers in the Pacific Northwest.

Our members have witnessed a total collapse of their dairy income due to an unprecedented drop in producer milk prices.

If this situation continues, we fully expect that the next six months will bring at least 25 percent of our dairy farmers to the point of absolute and complete failure.

We support all aspects of S. 671 and can only hope you are successful in your attempt to save many dairy farmers throughout this nation.

Sincerely,

RICHARD LOW,
General Manager, Darigold Farms.

SHENANDOAH'S PRIDE
DAIRY PRODUCTS,
Mt. Crawford, VA, March 18, 1991.

To: Senator Patrick Leahy.
From: Valley of Virginia Co-operative Milk Producers Association, Mt. Crawford, VA.

The Valley of Virginia Co-operative Milk Producers, Association wishes to commend you for your efforts on behalf of America's Dairy Farmers.

Our Association and its members strongly endorse and support the Emergency Dairy Legislature you introduced last week along with the bill's cosponsors.

Dairy Farmers are really suffering from the recent collapse in milk pricing, making your legislature very important in maintaining the financial viability of our producers and their industry.

We commend you for your efforts on behalf of all our producers.

FRED H. SCOTT,
General Manager.

MILK MARKETING INC.,
Strongsville, OH, March 18, 1991.

To: Senator Patrick Leahy.
From: J. Gordon Riehl, General Manager Milk Marketing Inc.
Subject: S. 671.

We are responding to your fax sent March 15, 1991 regarding emergency dairy legislation.

Dairy farmers are in desparate need of an increase in the price they receive for their milk. Since we understand the problem of budget restrictions on what help the government can give to dairy farmers, we support your effort to help dairy farmers obtain the needed relief from the marketplace. We will expect full support and effort to obtain approval of S. 671 by your Senate Agriculture Committee and then on the Senate floor.

We, in turn, will mobilize our members to talk or write to their Congressman on the need for this legislation.

ELLSWORTH COOPERATIVE CREAMERY,
Ellsworth, WI, March 18, 1991.

Re: S. 671.

Hon. PATRICK LEAHY: The Board of Directors and Management of the Ellsworth Cooperative Creamery wishes to extend its full support to your proposed emergency bill raising the Class I formula price.

During 1990 the profits at the Creamery were down 60% in attempting to hold prices up to our farmer patrons.

Because of the depressed milk prices the number of total farm auctions are up and many younger farmers are going out of business.

The Creamery's gross sales are down 30% from one year ago. This reduction in plant sales also reflects back to the farmer, as the fixed costs remain the same or go up at the plant. The lower the price we receive on the selling end also results in a lower pay price to our patrons.

Raising the Class I under this proposal would also increase our pay price to farmers by roughly $1.25/cwt.

Respectfully,

ROBERT SWENSON,
President, Ellsworth Coop Creamery.

DAIRYMEN'S CREAMERY
ASSOCIATION INC.,
Caldwell, ID, March 18, 1991.

Senator PATRICK LEAHY: Please be advised that the concept of S. 671 does have the full support of Idaho's largest dairy cooperative because of the extremely serious economic conditions that prevails today for dairy farmers. The drought and depressed milk prices are beyond the control of dairy farmers and only legislative action by Congress can bring the immediate relief that is necessary to preserve the investments of dairy farmers. We believe it will also reduce the cost of the dairy program to taxpayers.

Sincerely,

ADRIAN BOER.

[MEMORANDUM]
MARYLAND & VIRGINIA
MILK PRODUCERS COOPERATIVE
ASSOCIATION, INC.

To: Senator PATRICK LEAHY.
From: Robert E. Vaughn, General Manager and James H. Reeder, Director Member Relations.
Date: March 19, 1991.
Subject: Farm Bill S. 671.

The Maryland and Virginia Milk Producers Cooperative Association supports your bill, (S. 671).

Everyday we receive calls, and our Field Representatives are bombarded by members, stating that some relief is needed for the drastically depressed prices they are receiving for their milk. Many of our producer members have shown us where their incomes have dropped as much as thirty (30%) percent within the past twelve (12) month period. We believe that your bill will provide some immediate relief to all dairy farmers.

We have contacted the Senators from the states of Maryland, Virginia, West Virginia, and Pennsylvania and have urged their support for this bill.

Thank you for your interest and support for dairy farmers.

Mr. LEAHY. I am willing to go to a vote.

Mr. BYRD. Madam President, I ask unanimous consent that, upon the completion of the statement by the able distinguished Republican leader, the Senate vote on or in relation to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Madam President, the supplemental appropriation request being considered today contains a provision that is vital to our Nation's farmers and to the economic vitality of rural America. The Export Enhancement Program [EEP] has been the major workhorse over the past 5 years in moving U.S. commodities, especially wheat, and is responsible for virtually every bushel sold to date during this fiscal year. Under current market conditions and due to the market-crippling trade tactics of the European community [EC], we simply cannot sell our wheat without the EEP.

By raising the spending cap on the EEP, we send a strong signal to those engaged in negotiations on the GATT, and we score a victory for the farmer and for commonsense farm policy. Our trade negotiating team has to maintain a strong hand as the EC comes to the table—to expect less would be unilateral forfeiture. The current wheat market demonstrates how agriculture has become a global concern, and we cannot afford to sacrifice our market share because of legislative inaction on our part.

This legislation also makes sense fiscally. The Office of Management and Budget scores the EEP, this particular program, and lifting the cap—I want to thank the distinguished chairman of the Appropriations Committee for his assistance, and others—scores it at no cost, due to rising market prices and deficiency payment margins.

We do not raise the market price. We will make a bigger deficiency payment. Either way it is going to be costly. But it is scored as no cost. Quite frankly, there are no holes in this provision. It is a no cost program that keeps us in the international market and boosts our rural economies by allowing farmers to market their grain more profitably and pay their bills. That is the real impact that this legislation will have, and it is good news for a group of Americans who have not had much good news in quite some time.

Madam President, let me indicate that for about 18 months we have had record low wheat prices—the lowest we have had in 17, 18, 19 years. It has caused great distress all over the Midwest—not just in my State of Kansas.

We did not come and ask that we increase our price supports. And I am not certain, by taking the lid off the EEP—how much that will increase the market price—probably not too much, but it will be a start.

But there is an amendment pending. I certainly sympathize with the distinguished chairman of the Agriculture Committee, one of the experts on dairy legislation. I might say I was in the State of New York yesterday with the distinguished Senator from New York, Senator D'AMATO. We met a lot of dairy farmers. They are having real problems. They have had these problems for 3, 4, 5 months. In fact, they had record high prices not too many months ago as opposed to some of the other commodities that we are not affecting today.

I hope we do not try to justify the dairy amendment because of what was done for the Export Enhancement Program because this would be a misconception.

We are simply restoring adequate funding to a no-cost program that was taken away in last year's budget debate. Not only did that action diminish our export capability but we further slashed Government support to grain producers by 15 percent.

I think anybody who takes a look at the budget summit and takes a look at how agriculture took a pretty good hit—about the only group that did, I might add—in the budget summit of the real cuts in addition to defense, we did take about a 15-percent reduction on the grain side and the dairy producers on the other hand had nothing taken away and are only 5 months away from implementing a supply management program to deal with the problem.

Moreover, as I mentioned earlier, the Export Enhancement Program does more than just benefit American producers. It has a very important trade objective, in we do not send a signal to some of our trading partners, if we cannot be competitive through EEP or other programs of this kind—this happens to be the only one we have—we are not going to strengthen our hand in Geneva, we are not going to have a satisfactory conclusion to the trade talks, and we are not going to have trade policies that will give our farmers an opportunity to compete.

So that is another reason many of us felt it was necessary to raise the cap.

I hope now that it is going to be in the bill that passes the Senate unless there is some effort to strike it, which I do not think would be successful—but in any event we now hope that in the conference the Senate will prevail.

I do not believe the American wheat producers should be used to justify policies in some other countries and I do not think we are asking anything except—and it is properly Appropriations Committee jurisdiction as the distinguished Senator from Indiana [Mr. LUGAR] pointed out earlier. And I do not know how to deal with a dairy program. It seems to me that what we are doing, shortly after we pass a new farm bill, after much difficult work by the distinguished chairman, Senator LEAHY and Senator LUGAR, the ranking Republican, and many others on that committee, we are reopening, in effect, the farm bill.

I assume—and I do not understand how it is done—if we are going to raise the support price for milk, then the next group to follow would be the wheat producers, reminding you that we have had 16-, 17-, 18-year low prices, and we have had these low prices for not 3 or 4 months as dairy has, but for 14, 16, 18 months.

So dairy has a problem. I imagine other commodities are going to have problems. I guess cotton does not have a problem, but other commodities, in addition to wheat, may decide if it is OK to open up the farm bill for dairy and legislate on an appropriation bill for dairy, then I would hope we might accommodate others who come before the Senate and come before the Congress on either side of the aisle, because I know that Members on the Democratic side and the Republican side are affected not only by dairy, but by wheat and other commodities. I predict that it will not be long before some of the others will be here asking for relief, comparable to the relief that will probably be provided today to dairy producers.

Madam President, having made that statement, I yield the floor.

Mr. BYRD. Madam President, I ask unanimous consent to proceed for not to exceed 2 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 44

Mr. BYRD. Madam President, I have an amendment that I send to the desk, which has been cleared. It is an amendment by Mr. HOLLINGS.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. HOLLINGS, proposes an amendment numbered 44.

Mr. BYRD. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 23, after the sum "$39,700,000" strike all up to and including "as amended" on line 2 page 4.

On page 4, line 8, after the sum "$9,300,000" strike all up to and including "as amended" on line 10 page 4.

Mr. BYRD. Madam President, this amendment removes language in the bill that waives the need for an authorization on certain State Department appropriations contained in the bill. Such as authorization bill has been sent to the President, so the waiver is no longer needed.

Mr. HOLLINGS. Mr. President, we have submitted an amendment to the Commerce, Justice, and State chapter of H.R. 1281, the dire emergency supplemental appropriations bill.

This is a technical amendment. Both the House and Senate have included $49 million for emergency expenses borne by the State Department during Operation Desert Storm. These funds are for such costs as additional security, emergency evacuation costs, crisis operations, and communications.

Because of the high priority need for these funds, the House included and the Senate Appropriations Committee approved bill language waiving authorization ceilings for State Department salaries and expenses and emergencies in the diplomatic and consular service appropriations accounts.

Mr. President, I am pleased to note that the House Foreign Affairs Committee and the Senate Foreign Relations Committee have been able to react quickly to address this emergency situation. The Senate has approved and sent to the President H.R. 1176 which authorizes these emergency appropriations for the State Department. This is indeed a credit to the leadership of Chairman PELL, subcommittee Chairman KERRY, and Senators HELMS and BROWN.

Accordingly, the bill language included in H.R. 1281 to waive authorization is no longer necessary. My amendment, therefore, strikes the appropriate sections of the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 44) was agreed to.

Mr. BYRD. Madam President, I move to reconsider the vote.

Mr. KASTEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 43, AS MODIFIED

Mr. LUGAR. Madam President, I ask for the yeas and nays on the Leahy amendment.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Vermont. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER (Mr. AKAKA). Are there any other Senators in the Chamber who desire to vote?

And so the result was announced—yeas 60, nays 40, as follows:

[Rollcall Vote No. 32 Leg.]

YEAS—60

Adams
Akaka
Baucus
Bentsen
Bingaman
Bond
Boren
Breaux
Bryan
Bumpers
Burdick
Byrd
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
Dodd
Durenberger
Exon
Ford
Fowler
Gore
Gorton
Grassley
Harkin
Heinz
Hollings
Inouye
Jeffords
Johnston
Kasten
Kennedy
Kerrey
Kerry
Kohl
Leahy
Levin
Lieberman
Lott
McConnell
Mikulski
Mitchell
Moynihan
Pell
Pressler
Pryor
Riegle
Robb
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Simon
Specter
Thurmond
Wellstone

NAYS—40

Biden
Bradley
Brown
Burns
Chafee
Coats
Craig
DeConcini
Dixon
Dole
Domenici
Garn
Glenn
Graham
Gramm
Hatch
Hatfield
Heflin
Helms
Kassebaum
Lautenberg
Lugar
Mack
McCain
Metzenbaum
Murkowski
Nickles
Nunn
Packwood
Reid
Roth
Seymour
Shelby
Simpson
Smith
Stevens
Symms
Wallop
Warner
Wirth

So the amendment (No. 43) as modified, was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I thank my colleagues for this vote. It is probably the only good news the dairy farmers have received this year. It is extremely good news. I hope the other body will follow our lead. I want to thank Senator JEFFORDS for his cosponsorship of this and all the Senators who voted with us.

I yield the floor.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, a number of Senators have inquired as to the schedule for the remainder of the day and the week. As I indicated earlier, it is my hope that we can complete action on these two appropriations bills—we are now on the second one—promptly so that the Appropriations Committee members can take them to conference and we can act finally on the conference reports this week. Obviously, the sooner we complete action on the bills, the sooner we can get the conference reports back, the sooner the week's work will be completed.

It is also my intention to take up the nomination of Governor Martinez to be drug czar as soon as we complete action on this pending bill and while the conferences are occurring. I hope the Martinez nomination will be sometime tomorrow.

I inquire of the manager and the distinguished chairman of the Appropriations Committee as to his assessment of the current status of the pending bill and when we might expect to complete action on this, what is remaining, and that, of course, would be the key to the remainder of the week.

Mr. BYRD. Mr. President, if the distinguished majority leader will yield, I know of two amendments that are going to be controversial but should not take too long to deal with. One is an amendment by Mr. D'AMATO, which would convert housing programs into a new HOPE grant program. It is my understanding he is ready to lay down that amendment and is willing to accept a time agreement thereon of not to exceed 1 hour to be equally divided, and Senator MIKULSKI has indicated she is willing to agree to such a request.

Then there is an amendment, I believe, by Senator LOTT, which has to do with Davis-Bacon. Perhaps we can get a time agreement on that. It deals with Labor Department regulations anent Davis-Bacon.

Perhaps I am mistaken in thinking that it was Mr. LOTT.

In any event, I think those two amendments will be called up.

Mr. D'AMATO. I believe it was Senator NICKLES.

Mr. BYRD. I believe Senator HELMS has a point of order with regard The National Board for Professional Teaching Standards.

With the exception of those three, any remaining amendments are probably minor ones.

I say to the majority leader that it is very important for us to finish action on this bill today. We need to go to conference with the House. We have two appropriations bills, both of which will have been passed today by the Senate. If we can get this bill passed today, our staffs then can be doing the preconference work so that on tomorrow we can go to conference with the House, hopefully wrap up action in the conference tomorrow, no later than Thursday morning, and have the conference reports back for action by both Houses on Thursday.

Otherwise, we conceivably could run into some problem if we get that far along and have to wait until after the break to finish the second bill.

I would hope the majority leader would keep us in, as far as I am concerned, and let us finish those two bills so we can get action on them and get out early. I would like to get back to West Virginia on Friday.

Would the leader allow me?

Mr. President, I ask unanimous consent that the amendment by Mr. D'AMATO be the pending amendment after the adoption of the committee amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Has the committee amendment——

The PRESIDING OFFICER. Is there further debate on the committee amendment?

The question is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

Mr. BYRD. Mr. President, I repeat my request on the D'Amato amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that there be a 1-hour time limit on the amendment, that time be equally divided between Mr. D'AMATO and Ms. MIKULSKI, and that no amendments to the amendment be in order.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, at this point in the RECORD I would like to produce a statement from the administration, relating to this second appropriations emergency. Mr. President, there are a series of objections to this bill.

Mr. President, this is one of those situations of a different scorekeeping by the CBO from the scorekeeping and assessment of these bills' impact by the OMB. And the administration is indicating to us that we have exceeded the cap in this particular document. It falls primarily in the field of the legislative bill and the HUD bill.

I am very hopeful that we can work these out before we finish this bill, or by the time we get to conference. I do not propose we attempt to work it out at this particular moment. But I just want to put the Senate on alert and introduce into the RECORD at this point this communication from the administration, pointing out these difficulties.

I ask unanimous consent it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows.

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, March 19, 1991.

STATE OF ADMINISTRATION POLICY

(H.R. 1281—Dire Emergency Supplemental Appropriations for Consequences of Operation Desert Storm/Desert Shield, Food Stamps, Unemployment Compensation Administration, Veterans Compensation and Pensions, and Other Urgent Needs Act of 1991—Sponsor: Byrd of West Virginia)

This Statement of Administration Policy expresses the Administration's views on the Dire Emergency Supplemental Appropriations Act, 1991, as reported by the Senate Appropriations Committee. While the Administration has several serious concerns with this bill, it commends the Senate Appropriations Committee for producing a generally responsible bill in a timely fashion.

The Administration is most concerned about the following items:

The Administration opposes the overall level of funding in this bill because OMB's preliminary scoring indicates that, using the President's determination of what constitutes an emergency, the domestic discretionary proposals would result in a sequester of an estimated $17 million (not including $100 million for the HHS Vaccine Compensation Program discussed below).

The Administration opposes the exclusion of FY 1991 funds for the HOPE, HOME, and Shelter Plus Care programs requested by the President.

The Administration strongly opposes a prohibition on regulations concerning the use of helpers on Federal construction projects.

The Administration objects to the Committee's designation as "emergencies" funding for certain Veterans Administration and Commerce accounts.

The Administration strongly opposes language that would prevent the President from implementing a portion of his Enterprise for the Americas Initiative, thus delaying gains in economic reform and environmental improvement in Latin America.

The Administration strongly opposes language that requires the Department of Defense to proceed with certain procurement activities.

According to preliminary legal opinion, the Committee's addition of $100 million for the HHS Vaccine Compensation Program will be scored against the domestic discretionary cap and thus would require an even larger sequester. The Administration will work with CBO and the Budget Committees to resolve this issue before the bill goes to Conference.

The Administration supports enactment of up to $500 million for certain military personnel and veterans benefits based on S. 578, the Senate-passed authorization bill. The Administration opposes funding any additional programs from the Defense Cooperation Account.

These and a number of other objections and comments are discussed below.

DOMESTIC DISCRETIONARY PROGRAMS

PROHIBITION OF HELPER RULES ON FEDERAL CONSTRUCTION PROJECTS

The Administration would support Senator Nickles' amendment to strike the general provision prohibiting the use of helpers on Federal construction projects. The Administration strongly opposes the general provision that prohibits the increased use of helpers on Federal construction projects and bars implementation of revised apprenticeship regulations. The issue of expanding the allowable duties of helpers has been fully examined in the regulatory review process, in which over 2,000 public comments were considered, and in the courts. If this prohibition were continued in FY 1992, the amount of Federal construction that could be completed with available funds would be reduced by about $623 million.

The apprenticeship regulations cited in the general provision are proposed regulations only. By their nature, proposed regulations anticipate continued review of public comment and discussion with interested parties by the Department of Labor. That process is underway and will continue. This prohibition is so broad that it would even bar changes in apprenticeship programs that all interested parties agree are warranted. These prohibitions would seem to be extraneous, and should be deleted.

The FY 1992 budget assumes savings from the application of the DOL regulation governing the use of helpers. The prohibition of this regulation would reduce the estimated program level for construction programs across the government. Examples include construction programs funded by: the Department of Housing and Urban Development ($44 million); the Energy Department's research and development programs, atomic energy activities, and regional power administrations ($42 million); Army Corps of Engineers civil projects ($25 million); Environmental Protection Agency ($28 million); Department of Defense family housing, military construction, and operations and maintenance accounts ($111 million); Department of Interior ($5 million); NASA ($5 million); Department of Veterans Affairs medical care facilities ($12 million); Department of Agriculture waste and disposal programs ($3.4 million); and Department of Transportation programs such as mass transit, Federal-aid-to-highways, formula grants and airport grants ($290 million).

HOPE, HOME, AND SHELTER PLUS CARE

The Administration strongly objects to the Committee decision not to fund the HOPE, HOME, and Shelter Plus Care programs. These programs, newly authorized in the Cranston-Gonzalez National Affordable Housing Act (which was enacted with bipartisan support), represent innovative approaches—in conjunction with State, local and non-profit sectors—to address the affordable housing needs of low-income residents and the deep and persistent problems of the homeless. The Department of Housing and Urban Development has moved expeditiously to develop regulations implementing these programs in FY 1991. Lack of funding would unnecessarily delay progress on these important initiatives. The Administration would strongly support an amendment that may be offered by Senator D'Amato that fully funds these initiatives (with appropriate and necessary offsets).

NATIONAL BOARD FOR PROFESSIONAL TEACHING STANDARDS

The supplemental would eliminate the requirement that there must be authorizing legislation before a grant of $4.9 million is made to the National Board for Professional Teaching Standards. If this is done, there would be no opportunity for Congress and the Administration to consider the form which authorizing legislation should take. In addition, this grant would be non-competitive; the Government could not select from among the most qualified bidders.

EMERGENCY DESIGNATION

The Administration commends the Senate Appropriations Committee for providing funding for domestic emergency requirements resulting from the conflict in the Persian Gulf, such as funding for the FBI and the Secret Service. However, the Administration objects to the Committee's designation as "emergencies" of $25 million for VA Medical Care and $942 thousand for Commerce. The funding for these programs must be scored against the FY 1991 discretionary caps.

While the Administration prefers the $25 million provided by the Committee to the $46 million provided by the House for VA Medical Care, the Administration cannot justify the additional funding or the designation of this proposal as an emergency. Fortunately, the Persian Gulf conflict resulted in far fewer casualties than many had anticipated. The estimates of additional requirements for contract and other services are overstated. The Persian Gulf conflict has not created, and will not create, an unmanageable burden for the VA Medical Care system.

The Commerce proposals are not directly related to Operation Desert Shield/Desert Storm and are not emergencies. In several cases, the Commerce proposals relate to programs not yet initiated or for which costs have not yet been incurred.

EXPORT ENHANCEMENT PROGRAM

The Administration appreciates the inclusion of the provision requested by the President that would eliminate the limitation on the amount of the Department of Agriculture's Export Enhancement Program (EEP) bonuses that can be awarded in FY 1991. The Administration scores the EEP proposal as being budget neutral because it is managed under administrative guidelines that specifically require budget-neutrality as a condition of project approval. Whether or not this program is scored as an emergency is, from the Administration's perspective, a moot point. The Administration could deem it to be an emergency for scoring purposes without meaningful effect, because under Administration scoring such designation for this particular program would have no impact on discretionary spending. (This is not the case for any program which the Administration would administer and score as costing money.)

DAIRY AMENDMENT

The Administration would oppose an amendment to be offered by Senator Leahy to alter dairy price support provisions of the farm bill for several reasons:

The Administration opposes re-opening of the 1990 farm bill;

According to USDA, the amendment would cause any increase of $1.36 billion in prices to consumers for fluid milk. This increase falls disproportionately on the poor. Further, the department estimated that, under this amendment, 1.4 billion fewer glasses of milk will be consumed. This represents 37 glasses of milk per year for each school-aged child;

The amendment will increase CCC dairy program budget outlays by $67 million in FY 1991 and only reduce outlays by $31 million in FY 1992, for a 2-year CCC budget cost of $36 million. Beyond that, the amendment would cause the cost of food assistance programs (Food Stamps, WIC, and others) to rise by an estimated $110 million in FY 1992.

The contemplated changes to the dairy program are not subject to the administrative guidelines of EEP that specifically require budget neutrality. Thus, an amendment that raises milk prices would result in increased CCC purchases of milk byproducts and/or in higher costs of nutrition assistance. The budgetary difference between its emergency and non-emergency treatment would not be moot, as in the case of EEP. Indeed, if it were adopted without offsets, it would trigger a sequester.

UNEMPLOYMENT INSURANCE

The Administration is able to support the level of funding provided by the Committee for Unemployment Insurance administrative contingencies, but no higher amount. The $150 million provided is 100 percent of the incremental administrative costs resulting from changes in the Administration's official forecast adjusted for the fact that the current fiscal year is already almost half over. On this basis, the Administration approves of $150 million as the appropriate emergency amount.

DISTRICT OF COLUMBIA

The Administration has argued that it is premature to provide a $100 million increase in the Federal payment. Recognizing the Committee's interest in providing this $100 million request, we commend the Committee for approving language to ensure that local spending reductions and/or revenue increases totaling $216 million are achieved before the Federal funds are provided the city. This is important because the City Council has not yet approved the Mayor's revised 1991 budget, or implemented comparable savings. However, the bill, as currently drafted, raises constitutional concerns that a governmental action (release of funds) would be authorized based on a determination of an official (the Mayor) not appointed in conformity with the Appointments Clause of the Constitution. The Administration urges the adoption of an amendment to correct this problem.

PUBLIC HOUSING OPERATING SUBSIDIES

The Administration objects to the unrequested $75 million provided for public housing operating subsidies included in the bill. With this additional $75 million, total funding for operating subsidies would be increased by almost 17 percent over the FY 1990 funding level. The additional funds are unnecessary given the current projected *surplus* of $17 million over estimated subsidy needs. Such unnecessary funding would have to be charged against the domestic discretionary cap.

URBAN DEVELOPMENT ACTION GRANTS/COMMUNITY DEVELOPMENT GRANTS

The Senate Appropriations Committee included a provision that would make available until expended all previously obligated funds for Urban Development Action Grants and Community Development Grants. The Administration opposes this open-ended exemption because it is contrary to the intent of Public Law 101-510 to close out expired accounts, and it would set an undesirable precedent.

LAWRENCE WELK HISTORIC SITE

The Administration commends the Committee for deleting the earmark that provides funds for the restoration of the birthplace of Lawrence Welk in North Dakota.

TREASURY/POSTAL TECHNICAL CHANGE

During consideration of the FY 1991 Treasury/Postal bill, the Administration objected to a number of provisions that purported to restrict the use of funds unless approval is granted by Congressional Committees. Such provisions are unconstitutional (see *INS v. Chadha*, 462 U.S. 919 (1983)). The Administration continues to object to the provision in Title IV that purports to restrict the use of funds for GSA unless approval is granted by Congressional committees. In any event, the Executive Branch will continue to provide the Committee notification and consultation that inter-branch comity requires in matters in which Congress has indicated such a special interest.

SBA DISASTER LOAN PROGRAM

The Administration opposes expanding the scope of the Small Business Administration's disaster loan program to include agricultural greenhouses and nurseries that suffered damage as the result of adverse weather conditions in the State of Washington in November 1990. All Federal loans to agricultural enterprises should be made by the U.S. Department of Agriculture through its emergency disaster loan program. Although the USDA program was established to assist family farmers, loans can be made to other agricultural entities—such as greenhouses and nurseries—if conditions warrant such assistance.

EPA STORMWATER REGULATIONS

The Administration commends the Committee for including the general provision on EPA stormwater discharges.

WHITE HOUSE CONFERENCE ON INDIAN EDUCATION

The Administration strongly objects to the general provisions language added by the Senate Appropriations Committee regarding the Advisory Committee for the proposed White House Conference on Indian Education. The proposed language requires that the Conference, now scheduled for FY 1991, be held not sooner than nine months after the initial meeting of the Advisory Committee, which has yet to be formed. The language would therefore cause unnecessary delay in holding the Conference and addressing the important question of how to improve Indian education programs and best organize these programs at the Federal level.

INTERNATIONAL DISCRETIONARY PROGRAMS

EMERGENCY AID TO ISRAEL AND TURKEY

The Administration appreciates the Committee's concurrence in providing $650 million in emergency assistance as reimbursement for the incremental Israeli defense costs of the Gulf War and $200 million for direct Turkish incremental defense operating costs. The Israeli funding reflects the agreement reached between the Administration and the Government of Israel with regard to the Israeli supplemental request. The United States is, of course, deeply appreciative of the role and conduct of Turkey in the Gulf War and supports emergency funding of $200 million for incremental defense costs. The Administration does not support funding for Israel and Turkey in excess of these amounts.

ENTERPRISE FOR THE AMERICAS INITIATIVE

The Administration strongly opposes the language in the Senate Committee version of the bill that would prevent the President from using the debt reduction authority of the Enterprise for the Americas Initiative provided in Section 604 of Title VI of the Agricultural Trade Development and Assistance Act of 1954. The Administration wishes to work with Congress on mutually agreeable appropriations language for FY 1991 and has proposed language to the appropriations committees. The Senate Committee version would seriously delay gains in economic reform and environmental improvement that are not possible in Latin America.

U.S. INFORMATION AGENCY

The Administration opposes the proposed transfer of $1.4 million from the Radio Construction account of the U.S. Information Agency to the Salaries and Expenses account of that agency because the funding is not needed for emergency purposes.

DEFENSE DISCRETIONARY PROGRAMS

DEFENSE PROCUREMENT REQUIREMENTS

The Administration strongly opposes the Department of Defense general provisions contained in Title II, chapter 2, of the bill. These provisions are extraneous, will force spending for unrequested and unnecessary purposes, and should not be included in dire emergency legislation.

MILITARY CONSTRUCTION MORATORIUM

The provision that disapproves deferrals of military construction and family housing should be deleted since it unnecessarily restricts the authorities of the Secretary of Defense.

MANDATORY

The Senate has approved $2.5 billion in additional funding for mandatory programs such as Food Stamps, Veterans compensation, pensions, burial and readjustment benefits, and Coast Guard retirement pay. Although the Administration would prefer "such sums" language for the Food Stamp program, we have no fundamental objection to the provision of this mandatory funding authority. We currently estimate that up to $350 million in new spending authority is required for Food Stamp benefits.

VACCINE COMPENSATION PROGRAM

The Committee added $100 million for the HHS Vaccine Compensation Program. According to a preliminary legal opinion, this funding would be scored against the domestic discretionary cap and would trigger a sequester of domestic discretionary programs even though the program is classified as a "mandatory" program. The Administration will work with CBO and the Budget Committees to resolve this issue before the bill goes to Conference.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, in light of the remarks of the distinguished chairman of the Appropriations Committee, then, Senators should be aware that it is my hope and intention that we could complete action on this bill this evening. It will obviously mean staying beyond 7 p.m., but I think, based upon my conversations with many Senators regarding the schedule for this week, it will produce a result that will be more accommodating for a larger number of Members than would otherwise be the case. So I hope we can do that.

I thank the Senator from New York for his willingness to accept the time agreement and hope those other Senators who have amendments will be willing to do so as well. We will proceed in that fashion and hope we can move along the schedule I outlined earlier.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New York is recognized.

AMENDMENT NO. 45

(Purpose: To provide urgently needed funds for the Department of Housing and Urban Development to administer the HOME Investment Partnerships program and the Housing and Opportunity for People Everywhere (HOPE) programs)

Mr. D'AMATO. Mr. President, on behalf of myself, Senator NICKLES, Senator MACK, and Senator SEYMOUR, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO], (for himself, Mr. NICKLES, Mr. MACK, and Mr. SEYMOUR) proposes an amendment numbered 45.

Mr. D'AMATO. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 38, strike out line 13 and all that follows through line 24 on page 40, and insert in lieu thereof the following:

HOMEOWNERSHIP AND OPPORTUNITY FOR PEOPLE EVERYWHERE GRANTS (HOPE GRANTS)

For the Homeownership and Opportunity for People Everywhere Programs, $165,000,000, to remain available until expended: *Provied*, That $68,000,000 shall be for the HOPE I program authorized under title III of the United States Housing Act of 1937; $51,000,000 shall be for the HOPE II program authorized under subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625); $36,000,000 shall be for the HOPE III program authorized under subtitle C of title IV of such Act; and $10,000,000 shall be for supportive services for the HOPE for Elderly Independence demonstration program authorized under section 803 of such Act.

COMMUNITY PLANNING AND DEVELOPMENT

SHELTER PLUS CARE: HOMELESS RENTAL HOUSING ASSISTANCE

For the Shelter Plus Care: Homeless Rental Housing Assistance program, as authorized under subtitle F, part II of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77), as amended, $80,000,000, to remain available until expended.

RENTAL REHABILITATION GRANTS

Proposed Rescission (R91-24)—Fiscal Year 1991

All of the funds made available under this head in Public Law 101-507 are rescinded.

URBAN HOMESTEADING

Proposed Rescission (R91-25)—Fiscal Year 1991

All of the funds made available under this head in Public Law 101-507, together with available balances (including amounts deobligated in fiscal year 1991), are rescinded.

REHABILITATION LOAN FUND

Proposed Rescission (R91-26)—Fiscal Year 1991

Amounts made available for commitments for loans under this head in Public Law 101-507, other than amounts necessary for operating costs and the capitalization of delinquent interest on delinquent or defaulted loans, are rescinded.

URBAN DEVELOPMENT ACTION GRANTS

Proposed Rescission (R91-23)—Fiscal Year 1991

Available funds under this head (including amounts deobligated in fiscal year 1991), except such amounts as may be necessary to comply with court orders of United States Courts which direct the Secretary of Housing and Urban Development to set aside funds for possible future approval of grants to carry out urban development action grant programs authorized in section 119 of the Housing and Community Development Act of 1974, as amended, are rescinded.

HOUSING PROGRAMS

ANNUAL CONTRIBUTION FOR ASSISTED HOUSING

Proposed Rescission (R91-20)—Fiscal Year 1991

Of the funds made available under this head in prior years for projects to be developed for the elderly and handicapped under section 202 of the Housing Act of 1959, $295,815,000 are rescinded.

Of the funds made available under this head in Public Law 101-507, $229,660,000, are rescinded: *Provided*, That $514,100,000 shall, in lieu of $733,760,000, be for the development and acquisition cost of public housing: *Provided further*, That $25,000,000 shall, in lieu of $35,000,000, be available for assistance under the Nehemiah housing opportunity program.

Of the amounts under this head carried over from appropriations for fiscal year 1990 and prior years, $250,300,000 are rescinded: *Provided*, That $60,500,000 of such amount shall be from public housing amendments, $102,390,000 of such amount shall be from amounts for section 8 certificate assistance to eligible tenants of section 8 projects that are withdrawn from assistance under that program, $7,110,000 of such amount shall be from amounts for section 8 certificate assistance for tenants affected by public housing disposition, $112,700,000 of such amount shall be from amounts for section 8 voucher assistance for tenants affected by public housing relocation activities, and $12,600,000 of such amount shall be from section 8 amounts for tenants of projects heretofore subsidized under prior section 23 of the United States Housing Act of 1937 (as in effect before August 22, 1974).

HOME INVESTMENT PARTNERSHIPS GRANT PROGRAM

For the HOME investment partnerships program as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625), $500,000,000, to remain available until expended.

SHELTER PLUS CARE: SECTION 8 MODERATE REHABILITATION SINGLE ROOM OCCUPANCY

For the Shelter Plus Care: Section 8 moderate rehabilitation, single room occupancy program, as authorized under subtitle F, part III, of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77), as amended, $24,000,000, to be derived by transfer from the Section 8 moderate rehabilitation single room occupancy program, to remain available until expended.

SHELTER PLUS CARE: SECTION 202 RENTAL ASSISTANCE

For the Shelter Plus Care: Section 202 rental assistance program, as authorized under subtitle F, part IV, of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77), as amended, $18,000,000, to remain available until expended.

ASSISTANCE FOR THE RENEWAL OF EXPIRING SECTION 8 SUBSIDY CONTRACTS

For an additional amount for "Assistance for the renewal of expiring section 8 subsidy contracts", $155,815,000, to remain available until expended: *Provided*, That of the $7,734,985,400 provided for use in connection with section 8 expiring contracts in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1991 (Public Law 101-507), is increased by the foregoing appropriation to $7,890,800,400, of which $4,234,500,400 shall be for existing certificates, $671,300,000 shall be for housing vouchers, and $2,985,000,000 shall be for loan management and other project-based section 8 contracts.

CONGREGATE SERVICES

Funds appropriated under Public Law 101-507, 104 Stat. 1362, as well as prior year unobligated balances made available under the Congregate Housing Services Act of 1978, shall be provided for in section 802 of the National Affordable Housing Act of 1990.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For an additional amount for "Payments for operation of low-income housing projects", $75,000,000, to remain available until September 30, 1992: *Provided*, That these funds shall be used by the Secretary for fiscal year 1991 requirements in accordance with section 9(a), notwithstanding section 9(d) of the United States Housing Act of 1937, as amended.

Mr. D'AMATO. Mr. President, in the last Congress the Banking Committee worked in close cooperation with Secretary Kemp and with the other body to produce the first bipartisan housing bill in almost a dozen years. This body approved the Cranston-Gonzalez National Affordable Housing Act by a vote of 93 to 6.

The bill authorized the Home Investment Partnership Program, which provides States and cities with flexibility to meet their specific affordable housing needs using alternatives ranging from tenant-based assistance to new construction.

The HOME program culminates several years of work by Senator CRANSTON, myself and many others in this body to develop new and more effective means of providing decent, safe, and affordable shelter. It also authorized the administration's Homeownership and Opportunity for People Everywhere, called the HOPE Program, which will advance opportunities for home ownership and economic self-sufficiency for thousands of low-income families, many of whom already live in public and assisted housing communities.

HOPE and HOME both represent a major redirection of housing policy that will allow Federal funds to serve more low-income people, more cost effectively, and with more choice and direct benefit to low-income families than current programs allow.

These new programs have enjoyed overwhelming bipartisan support and we are now ready to make good on the commitment that we and the administration made together last year; to expand affordable housing and home ownership opportunity.

When we authorized these new programs at the end of last year we made a clear and conscious decision to authorize funding for them beginning in fiscal year 1991, not next year. Since the National Affordable Housing Act was signed last November 28, HUD has worked overtime to develop guidelines and regulations to implement the new programs. It has already published HOPE guidelines and proposed HOME regulations which will be published in the Federal Register this week. There is, therefore, no practical reason why these programs should not be funded this year, why they cannot be up and running this year, or why they cannot meet their stated objectives this year.

To put it very succinctly, Mr. President: People need the opportunity to own their own home, and that is what these programs would permit.

What do the modest funding levels for HOPE and HOME funding mean for low-income families? In short they mean housing opportunities. Based on the requirements and incentives of the HOME Program, the $500 million that the administration proposes to spend would produce affordable housing for 37,000 individuals and families and provide it in a way that best meets the needs of the various communities throughout our Nation. A similar amount of funding for public housing new construction, by contrast, produces only 7,000 units of housing. So if we are going to compare the number of units produced, we see by way of HOME 37,000 individual homes produced; by way of public housing units, 7,000. That is a pretty good ratio, it is five times more effective.

Let me go on also to remind the body that in 1991 HOME provides a certain and guaranteed source of funding for up to 295 entitlement communities that might otherwise have been required to compete for the scarce funding under the categorical grant programs. In addition, 40 percent of all HOME funds are allocated to States for use in nonentitlement programs giving the States and local communities great flexibility.

The HOPE Grants Program will support up to 4,000 new homeowners in 1991 in existing public housing, multifamily housing, and Government-owner single family properties. It will provide assistance for numerous resident management corporations already in existence and help to develop the home ownership programs of new tenant groups and community-based nonprofits.

If HOPE funding is begun in 1991 the program will be able to produce more than 35,000 new homeowners by the end of 1992. This home ownership program is important because it gives tenants direct incentives not found in existing programs to improve and upgrade the substantial public investment in their homes.

The Shelter Plus Care component of HOPE for the first time provides housing assistance linked with supportive services for the homeless who are severely mentally ill, suffer from substance abuse problems, or suffer from AIDS-related problems.

HOPE for elderly independence will provide housing and supportive services to help the frail elderly to avoid prematurely institutionalization.

The administration's request is budget neutral as last year's budget agreement requires it to be.

I give credit to Secretary Kemp for being extremely careful to find resources to fund these new initiatives without harming existing programs or violating the spirit of the negotiations on last year's housing authorization.

The administration is asking for the consolidation of several small categorical programs that are scheduled to be terminated at the end of the fiscal year 1991. All these programs—rental rehabilitation, section 312 rehabilitation and urban homesteading—are expressly intended to be eligible activities under the HOME Program. So we are not eliminating it. We are giving it the flexibility to have these funded under HOME. A substantial part of the administration's request comes from transfers of excess funds carried over from 1990 for which there is no demand.

These transfers will not affect any existing program.

Finally, the administration proposes to rescind $220 million previously appropriated for public housing new development. This reduction will bring 1990 funding down to the level authorized in the National Affordable Housing Act, 7,000 units. When added to the carryover from last year, sufficient funding exists for the construction of more than 12,700 new public housing units in 1991, which is in addition to the more than 27,000 units already in the public housing pipeline and the more than 100,000 already vacant public housing units.

Mr. President, what are we doing? We are saying use resources that have not been used from last year. Do not just add them to the pipelines. Take them and put them into a program that will produce housing.

The debate over this supplemental does not appear on the surface to be one of whether or not HOPE and HOME should ever be funded. I respect the commitment of those who say they intend to give serious consideration to funding these programs in 1992, but the fact of the matter is that this is a debate over whether HOPE and HOME ever receive a dime of funding. No one for a minute can believe that the climate for funding new programs in 1992 is going to be any better than it is in this year. Unless we are willing to make the commitment to funding these new initiatives this year, we are not likely to fund them next year when we will have even less new money to work with.

The same interests that want us to continue putting all of our limited resources into traditional programs will make similar claims on our budget resources next year. It will be the same battle. We cannot do away with public housing new initiatives and we do not want to do away with them, but that will be the battle; that will be the cry. If we believe these new programs, which we have adopted by overwhelming congressional majority, are worth funding, then I suggest it is our obligation to find the funding. That is what this amendment attempts to bring forth.

Mr. President, I know that our distinguished colleagues in the Appropriations Committee face a very difficult task. There is no doubt sometime it maybe is borrowing from Peter to pay Paul. In this case, we are saying there are excess funds; we are not going to impinge on any programs. Indeed, those categorical programs that will be wiped out will be funded in the HOME program, and we are then carrying out the congressional mandate that we passed so overwhelmingly in the Cranston-Gonzalez bill.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Ms. MIKULSKI. I yield to the distinguished chairman of the committee.

AMENDMENT NOS. 46 AND 47, EN BLOC

Mr. BYRD. Mr. President, I thank the distinguished Senator from Maryland. Mr. President, these two amendments have been cleared: One amendment by Mr. BUMPERS is needed because of the scoring of the committee amendment and has been cleared on both sides of the aisle; one by Senators WIRTH and BROWN which does not add any budget authority or outlays to the bill and has been cleared on both sides of the aisle.

I ask unanimous consent that the amendments be considered en bloc, agreed to en bloc, and that the motion to reconsider, en bloc, be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 46 and 47) were agreed to, en bloc, as follows:

AMENDMENT NO. 46

At the appropriate place, insert the following:

SEC. . COMMUNITY IMPACT ASSISTANCE.

Of the funds provided to the Department of Energy for fiscal year 1991, not more than $10,000,000 shall be made available to the State of Colorado for community impact assistance payments to the cities of Broomfield, Westminster, Thornton, and Northglenn, Colorado.

Mr. WIRTH. Mr. President, last year during consideration of the DOD Authorization, the Armed Services Committee discussed at length a problem concerning runoff from Rocky Flats that was contaminating, or had the potential to contaminate, drinking water supplies of nearby residential communities.

When the DOD bill was passed last year, its report language granted the Secretary of Energy the discretion to use DOE funds to assist the local community in building a water diversion project to protect its water supply. Since that time, I am pleased to say, DOE has cooperated fully in working with the community to plan the diversion project. DOE representatives both at Rocky Flats and in the Washington headquarters have been supportive of these efforts.

Unfortunately, Mr. President, progress on the diversion project has bogged down in red tape. As I understand it, DOE is concerned that the discretionary authority granted to it in last year's authorization is not clear enough for it to make the first payment in reimbursing local cities for their expenses on the project. DOE has asked for clarifying language which is what this amendment I and my colleague from Colorado propose is all about.

The amendment is revenue neutral. The DOE has already identified the funds for this project within existing waste management programming and has no objection to the language of this amendment, according to the DOE Office of Environmental Restoration and Waste Management. The amendment, in essence, directs the DOE to provide reimbursement to those Colorado communities whose drinking water is affected by Rocky Flats runoff.

As many of my colleagues know, the history of the Rocky Flats is characterized by numerous problems and accidents, which have resulted in on- and off-site contamination. Local residents drank water contaminated with tritium in the 1970's. Reservoirs serving the area have plutonium contamination in their sediment and on the surface surrounding the reservoirs. Surface water contaminants include nitrates, chromium, plutonium, tritium, americium, and excess fecal coliform bacteria. In the future, ground water contamination may seep into the surface drainage, carrying still other contaminants into the drinking water. The management and operation of the plant has created mistrust of the public water supplies. It is time that we did something to restore public confidence.

The proposed diversion project is the first step to a permanent solution addressing the drinking water contamination problem. When the project is completed, Great Western Reservoir would no longer be used as a drinking water supply, and Standley Lake would be protected against runoff from the plant, up to and including 100-year storm event.

Mr. President, this amendment seeks to finish the job that was started last year in the DOD authorization. I hope that the Senate will assist these Colorado communities in protecting their drinking water by accepting this amendment.

Mr. BROWN. Mr. President, I thank my colleague from West Virginia, Senator BYRD, for offering the amendment to the dire emergency supplemental bill which allows the cities surrounding the Rocky Flats Plant to move forward quickly with a project to protect their drinking water supplies from potential contamination from groundwater runoff from the site.

Before going further, let me take just a moment to commend my colleagues on the Appropriations Committee, and especially Senator HATFIELD, for his work to ensure the full $283 million for Rocky Flats was approved by the committee.

When Rocky Flats was built, it was 18 miles from the edge of Denver. Today, the nearby suburban towns completely surround it. When it was built, Rocky Flats was one of the most modern facilities of its day. More than 40 years later however, these same facilities are barely adequate to produce nuclear weapons. They need a thorough modernization I am told, just to produce on an interim basis.

These two factors, Rocky Flats' proximity to Denver and the need for continued production of nuclear weapons to maintain our nuclear deterrent capability, forced a decision on the Energy Department. That is, to move the nuclear production facility at Rocky Flats to a less densely populated area. I heartily endorse the Energy Department's decision to move rather than to rebuild Rocky Flats.

Until that move can be accomplished, however, I strongly support safe operations and continued cleanup at Rocky Flats to maintain our nuclear deterrent. I have received copies of letters sent by the Secretary of Defense and by the President's National Security Adviser, underlining the importance of restarting operations at Rocky Flats to maintain our nuclear deterrent capability. The senior Senator from South Carolina placed them in the RECORD last week.

In addition, the National Security Council has advised me that delaying the restart at Rocky Flats could seriously undermine the credibility of our nuclear deterrent. Taking such actions without requiring a reciprocal response from the Soviet Union just does not make sense.

Members of the Senate may not have had a chance to read a colloquy inserted into the RECORD by Senators WIRTH, THURMOND, and EXON last week—but I want to review two key points covered during their discussions here on the Senate floor.

First, it was suggested that somehow the Energy Department's plan to cut 2,000 workers if the $283 million request were halved was an insincere gimmick to get the attention of members of the Colorado delegation. But as far as I can see from the budgetary figures the Energy Department has discussed with me and with my staff, the Energy Department's efforts are not a game or a gimmick—not even close. In fact just today, in a story about Rocky Flats, the Rocky Mountain News reported that the Department of Energy has hired more than 600 additional cleanup workers and implemented more stringent procedures for "employee training and documentation." Unfortunately, effective cleanup is just not cheap.

Second, it was suggested that the nuclear pits of retired weapons could be reused in new weapons. As my dear colleague from South Carolina, Senator THURMOND suggested, these pits are not interchangeable like lightbulbs. The Energy Department reports it is exploring the option of pit reuse, but there are still a number of technical obstacles to be overcome. The concept of pit reuse has not been proven. I am told an underground nuclear test must be accomplished before pit reuse can be assured as effective for even one weapon. Furthermore, pit reuse has yet to be proven as compatible with all modern safety features.

Even if pit reuse works, it will take two to three years at a minimum—and that is only if it works—to get into production. And, the Energy Department reports, at this point pit reuse can never be used for all weapons we currently produce or plan to produce.

More importantly, dramatic reductions in the funding for Rocky Flats proposed in the dire emergency supplemental could severely impact many of the worker health and safety programs currently underway at the plant. For instance, had the more than 2,000 workers been laid off due to funding cuts, the Rocky Flats Plant would have seen:

A 29-percent reduction in health and safety workers.

A 24-percent reduction in quality assurance—the men and women who double-check operations to ascertain their safety.

A 35-percent reduction in training to correct the deficiencies so many of us in Colorado have been concerned about.

A 33-percent reduction in those assigned to work on plutonium duct remediation, and from 22 to 33 pounds of plutonium slated for removal from the duct system might not be removed.

Cutting funds that would make the plant safer, the workers more safe, and would better protect the surrounding communities will not benefit Colorado.

Mr. President, I ask unanimous consent that two letters outlining the true impact of funding cuts on operations at Rocky Flats be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF ENERGY,
Washington, DC, March 7, 1991.

Hon. HANK BROWN,
U.S. Senate, Washington, DC.

DEAR SENATOR BROWN: The Department is separately replying to the questions contained in your letter of March 6, 1991.

Meanwhile, we have developed a detailed summary of how Defense Programs Rocky Flats operating funds have been and are planned to be spent. This summary is enclosed; it segregates the budget into eight elements which allows one to differentiate what is spent for maintaining the plant, safety improvements, and production.

It is important to note that less than $22 million (or about 3.5 percent) in the total FY 1992 requirement of $600 million is for the manufacturing of nuclear components, whereas $525 million (or about 87.5 percent) is required to maintain the plant in a shutdown state at a level of safety consistent with current nuclear safety standards. Following is a list of conclusions derived from the enclosed detailed summary:

The first four budget elements discussed in the summary represent the minimum funding required if the public is to be protected at the current level of safety with the plant shutdown (this is $478.6 million in FY 1992).

The first six elements provide funding to maintain the plant in a shutdown state at a level of safety consistent with current nuclear safety standards ($523.8 million in FY 1992).

The incremental cost of production in FY 1992 is $76.2 million of which only $21.7 million is for the manufacturing of nuclear components.

If the supplemental funding for FY 1992 ($140.5 million) is not provided, only part of the base plant requirements will be provided for, and maintenance support for the base operations will have to be reduced with a subsequent reduction in public safety.

In addition, it is worth noting that the support for the DOE field office at Rocky Flats has increased from $2 million in FY 1989 to $20 million in FY 1991. This increase in support is due to the increase of field office personnel from 60 full-time equivalents (FTEs) in FY 1989 to 159 FTEs in FY 1990.

I trust that this will be helpful to you.

Sincerely,

RICHARD A. CLAYTOR,
Assistant Secretary for Defense Programs.

ROCKY FLATS PLANT PRODUCTION AND SURVEILLANCE PROGRAM

[In millions of dollars, and fiscal years]

Plant priority	1989 actual	1990 actual	1991 requested	1992 requested
1. Plant maintenance and Operations to protect workers and the public	277.9	307.9	314.0	331.2
2. Environmental and waste management compliance programs	7.5	33.5	79.5	93.3
3. Safeguards and Security upgrades		3.6	36.7	18.0
4. Implementation of key DOE nuclear facility orders		10.7	37.6	36.1
Base plant requirements	285.4	355.7	467.8	478.6
5. Maintenance improvements		2.5	13.5	37.3
6. Building specific safety improvements in the resumption plan		41.4	82.4	17.9
7. Manufacture nonnuclear components	47.5	52.1	51.3	54.5
8. Manufacture nuclear components	18.0	4.0		21.7
Total mission requirement	350.9	455.7	615.0	600.0
Authorized (fiscal year 1991)			459.4	
Requested (fiscal year 1992)				472.6
Shortfall			[1]155.6	[1]127.4

[1] Shortfall has resulted in administration's fiscal year 1991 supplemental appropriations request of $283M to Congress.

ROCKY FLATS PLANT PRODUCTION AND SURVEILLANCE PROGRAM

MARCH 7, 1991.

INTRODUCTION

During the latter part of FY89 and early FY90 the Rocky Flats Plant was subject to intense scrutiny by the FBI, EPA, DOE oversight groups, and the DOE. The investigations showed that the Rocky Flats Plant had deteriorated, both in structure and in management processes, to a point that was unacceptable to the Secretary. This fact resulted in a number of actions taken by the DOE. The most significant of these actions was the development of the Secretary's 10 point plan for Rocky Flats. This plan outlined the actions that the operating contractor must take before the Secretary would authorize the resumption of plutonium production activities. As examples, the plan included requirements to improve compliance with safety standards, improved documentation of the facility's configuration, and a higher standard for contractor performance. The plan accurately addressed the key elements necessary to provide an adequate level of safety for a nuclear facility, protect the nuclear inventory, and come into compliance with environmental regulations.

The following information segregates the Rocky Flats Production & Surveillance (P&S) budget into eight elements which allow one to differentiate what is spent for maintaining the plant, safety improvements, and production. The attached table gives a break down for the eight elements from FY89 through FY93. Subsequent text explains what is in each element.

PLANT MAINTENANCE & OPERATIONS TO PROTECT WORKERS AND THE PUBLIC

A large cost is incurred by the fact that the Rocky Flats Plant exists and the public must be protected whether the Plant operates or not. These costs cover building and vital safety systems maintenance and operational activities, safeguards and security, power, administration, fire department, radiation protection, and surveillance etc. These costs are: FY89 $278M, FY90 $308M, FY91 $314M, and FY92 $332M. The large increase in costs noted in FY90 continues through FY92 and is primarily attributable to the actions that are necessary to improve control and maintenance of the facility. Specifically they include: additional independent oversight, equipment surveillance, and nuclear safety evaluation as well as additional security personnel. These activities represent progressive improvement in safety as additional performance standards are imposed on the Rocky Flats Plant.

ENVIRONMENTAL AND WASTE MANAGEMENT COMPLIANCE PROGRAMS

Environmental management which involves air, water and soil monitoring, environmental restoration, and waste management to protect the environment, the public and future generations from the hazards of radioactive and toxic waste is of preeminent concern. Radioactive and toxic releases from the plant must ensure less than a one in a million risk of causing a latent (long term exposure) cancer fatality. To accomplish this, air released through stacks, ambient air, soil, surface and ground water must be frequently sampled and evaluated to ensure federal and state limits are not exceeded. Where high levels are detected in the plant or its surrounding environment, they must be contained, their growth stopped and the area remediated. Finally radioactive and toxic waste must be minimized, reduced, treated, packaged and stored so that there will be no leaching or adverse environmental impact for thousands of years.

The funding to meet the landlord responsibilities for these areas has increased production and surveilliance (P&S) funding nearly $50 million dollars to $79.5M for FY91, $93.3M for FY92 and $107.8M for FY93.

The growth in environmental management funding under P&S must increase dramatically because inadequate attention and funding had been paid to these areas between 1952 and 1989. Major accomplishments in the environmental and waste management element include: hazardous substance releases from the Rocky Flats Plant have been reduced to ⅒ of the federal allowed limit for general population; waste generated from the Rocky Flats Plant has been reduced to ⅓ of previous quantities; monitoring and reporting of releases comply with all federal regulations; ground water releases have been reduced to 10 to 1000 times less than acceptable limits, and seed moneys have been made available to surrounding communities to initiate water improvement projects which will be designed to protect water supplies ($10 million in FY91 and $10 million in FY92).

SAFEGUARDS & SECURITY UPGRADES

The Rocky Flats Safeguards and Security Program, at the time of curtailment, was found to be out of compliance with DOE Orders and, upon testing, could not meet the performance requirements established by the DOE. The contractor immediately defined a comprehensive program to bring the Rocky Flats Safeguards and Security posture into compliance with the DOE Orders and to a condition that would assure that performance criteria could be met. The objective of the program would be to assure that the initial Safeguards and Security posture was adequate and that it could be maintained throughout the remaining lifetime of the facility.

The funding profile for the Safeguards and Security activities for fiscal years 1990, 1991, and 1992 are shown below. The substantial increase in funding between fiscal years 1990 and 1992 for the Rocky Flats Safeguards and Security activities supplements the program funding inadequacies that have existed over the last several years of operations at the Rocky Flats facilities. FY 90 = $3.6M; FY 91 = $36.7M; FY 92 = $18.0M.

Accomplishments to date in the Rocky Flats Safeguards and Security program are as follows: Major vulnerability evaluations have been completed; major improvements in Rocky Flat's ability to protect special nuclear materials have been implemented and improvements are continuing; improvements in control of classified material have been implemented and additional improvements are ongoing; continued improvements in control of physical and personnel security have been planned and are being implemented; continued improvements in the Rocky Flats protective force capabilities are being implemented.

IMPLEMENTATION OF KEY DOE NUCLEAR FACILITY ORDERS

This element defines the relatively long term activities required to come into full compliance with nine key DOE safety orders which cover the safety of nuclear facilities as well as funding a portion of the field office and contractor independent oversight functions. Specific activities include: (1) Upgrades to the radiological protection program; (2) employee training i.e.: conduct of operations, OSHA, and radiation safety; (3) enhancements to the quality assurance program; (4) improvements in the nuclear safety oversight function; (5) expansion of the configuration management and deficiency control systems; and (6) as built drawings for safety systems. The costs and requested funding in this element are as follows: FY 89 = 0; FY 90 = $10.7M; FY 91 = $37.6M; FY 92 = $36.1M.

Key accomplishments in FY90 and early FY91 include: 90% reduction in lockout/tagout procedure violation; development of a radiological improvement plan; upgraded radiation worker training; reduced personnel contamination by 60%, reduced personnel injury rate 33%; started a configuration control system; completed OSHA training for over 4,000 workers; upgraded the general employee training and trained more than 3,000 people; and developed conduct of operations training program and trained over 250 managers and workers.

MAINTENANCE IMPROVEMENTS

Maintenance improvement program provides for the enhancement of maintenance by formalizing the conduct of maintenance and reducing the backlog of safety maintenance work orders. This element supports the necessary personnel to develop the procedures, tracking systems and site wide work control process to assure that safety, health, security, environment, and training issues are adequately controlled by the maintenance and utility operations organizations. In addition it supports both maintenance and engineering personnel and services to reduce the backlog of safety maintenance work orders. The budget for this activity for FY90, FY91, and FY92 is $2.5M, $13.5M, and $27.3M, respectively. The increase in the budget is to continue the maintenance backlog reduction program into the remainder of the plant so that all operations are comparable to Plutonium Operations. The backlog of safety maintenance work orders must be reduced to an appropriate level as soon as possible and sustain at that level. In addition, the budget increase will implement conduct of maintenance into the non-nuclear production areas to assure the same level of safety, health and training as in the Plutonium Operations area. Accomplishments to date include development and implementation of an integrated work control program, initiation of the maintenance backlog reduction program in the plutonium buildings, nuclear industry standard preventive maintenance, procedures and training and qualification of maintenance personnel in plutonium buildings.

BUILDING SPECIFIC SAFETY IMPROVEMENTS IN THE RESUMPTION PLAN

The Rocky Flats plutonium production facilities (buildings 559, 707, 771, 779, 776–777, and 371), their management and personnel, the necessary safety assessments, and operating procedures, prior to curtailment in 1989, were not to the standards required of a high hazard nuclear facility. Early in FY90, the Contractor began a very disciplined process to upgrade these deficiencies to comply with the standards for contemporary nuclear facilities.

The funding profile for the resumption efforts for fiscal years 1989, 1990, 1991, and 1992 are shown below. This profile reflects the phased resumption plan that has been specified by the DOE. FY 89 = 0; FY 90 = $41.4M; FY 91 = $82.4M; FY 92 = $17.9M.

Accomplishments to date are as follows:

Significant progress has been made and work is ongoing in removing plutonium from the ducts in Building 707.

Performance based training programs are being Institutionalized for each curtailed facility. Training is essentially complete for over 100 employees in Building 559.

Major improvements in the operating safety envelope documentation are being effected. Operations Safety Requirements for Building 559 and 707 are complete.

Disciplined operating procedures are being prepared and implemented in each curtailed facility. 140 procedures for Building 559 are complete. A number of Building 707 procedures are in draft form.

New P&ID drawings are being prepared from system-by-system walkdowns (Building 559 P&ID's are complete).

Vital safety system performance tests are essentially complete for Building 559 and test procedures for Building 707 are well underway.

NON-NUCLEAR COMPONENT MANUFACTURING

Non-nuclear component manufacturing element provides for the fabrication, asembly inspection and testing of all stockpile maintenance and non-nuclear components such as reservoirs/work bottles. The budget includes the necessary program management, product and process engineering to assure product compliance, quality assurance, and the operational support to comply with operational criteria and conduct of operations. The budget for non-nuclear component manufacturing for the four years (FY89, FY90, and FY92) is $47.5M, $52.1M, $51.3M, and $54.5M, respectively. The increase in the FY92 budget is to accommodate conduct of operations in the manufacturing of non-nuclear components to improve safety, health, and security by meeting OSHA standards and DOE orders. Non-nuclear manufacturing has met all production schedules and has initiated implementation of conduct of operations.

MANUFACTURE NUCLEAR COMPONENTS

Nuclear production costs are incurred as a result of manufacturing nuclear components and recovering plutonium from retired weapons and other sources. The actual and planned expenditures are: FY89 $18M, FY90 $4M, FY91 $0M, FY92 $22M. These expenditures reflect curtailment of Pu production in December of 1989 and the planned restart of production during the first quarter of FY92.

CONCLUSION

From the foregoing discussion several points should be clear:

The first four budget elements discussed above represent the minimum funding required if the public is to be protected at the current level of safety with the plant shutdown. (This is $478.6M in FY92.)

The first six elements provide funding to maintain the plant in a shutdown state at a level of safety consistent with current nuclear safety standards ($523.8 million in FY92).

The incremental cost of production in FY92 is $76.2 million of which only $21.7 million is for the manufacturing of nuclear components.

If the supplemental funding for FY92 (140.5 million) isn't provided, only part of the base plant requirements will be provided for and maintenance support for the base operations will have to reduced with a subsequent reduction in public safety.

In addition, it is worth noting that the support for the DOE–RFO Field Office has increased from $2 million in FY89 to $20 million in FY91. This increase in support is due to the increase of Field Office personnel from 60 FTEs in FY89 to 159 FTEs in FY90.

THE SECRETARY OF ENERGY,
Washington, DC, March 7, 1991.

Hon. HANK BROWN,
U.S. Senate, Washington, DC

DEAR SENATOR BROWN: Thank you for your letter of March 6, 1991, in which you requested answers to several questions related to the President's supplemental appropriation for FY 1991 for the Rocky Flats Plant.

I am providing the answers you requested in the enclosure to this letter. I hope these answers are helpful to you. I would very much appreciate your support when this issue comes before the Senate.

Sincerely,

JAMES D. WATKINS,
Admiral, U.S. Navy (Retired).

1. Although the Department of Energy announced its plans to move Rocky Flats in the future rather than continue operations there indefinitely, many Coloradans are concerned the $283 million excludes monies that will be used to build new facilities or to upgrade existing ones rather than to move the complex.

a. Does the $283 million include any funds for new facilities?

The Department of Energy requested $283 million in supplemental funds for FY 1991 for operating expenses at Rocky Flats Plant to implement safety improvements mandated by the Secretary. This request represents our requirements for additional funding before the phased resumption of plutonium operations at the Rocky Flats Plant would be permitted.

The money is *not* for a "PRMP" or any new facilities. It is *only* to get the existing plant in a safe, secure condition so we can meet national security requirements.

b. What concrete steps has the Department of Energy taken to begin the process of moving Rocky Flats?

Relocation of the Rocky Flats Plant is one of the options under consideration in the Complex Reconfiguration Study (CRS). The entire reconfiguration effort involves a multi-step NEPA process which began with the submission of the CRS to Congress on February 7, 1991. The Secretary of Energy has stated in releasing this study that a preferred option under the NEPA process is to relocate Rocky Flats to another location. On February 11, 1991, a Notice of Intent to prepare a Programmatic Environmental Impact Statement (PEIS) for reconfiguration of the nuclear weapons complex appeared in the *Federal Register*. On the same date, the *Federal Register* also contained an announcement inviting Federal agencies, states, and others to propose sites on which DOE may construct and operate one or more of the facilities proposed by the CRS. This multi-step process involves examination of a number of options for reconfiguration of the nuclear weapons complex, including the preferred option of relocating Rocky Flats, which will result in a Record of Decision in early FY 1994.

2. Many Colorado papers reported yesterday that the $142.5 million cut approved by the House Appropriations Committee will cost Colorado 2,000 jobs, while supporters of the measure dubbed the announcement a "scare" tactic.

a. Will any jobs actually be lost? If so, how many? What Rocky Flats operations will be affected?

The failure to get the additional $140.5 million will result in a layoff of about 2,000 people, with notification provided to the people in July. This is not a "scare" tactic but a reality if the funds are not received. Among the activities affected will be a variety of safety and security-related activities including environmental/waste programs, maintenance, and removal of plutonium in the ductwork.

b. What increased cost will be incurred if the layoff goes through to retrain or rehire high-tech workers?

The cost cannot be precisely determined, but it will be very expensive since trained people may not be available for rehire and training costs are significant.

3. Many believe the cut-off in funding would eliminate the United States' ability to produce certain high-tech weapons unilaterally, thereby increasing the risk of aggression. Others claim it will have a negligible effect on America's nuclear deterrent. Without resorting to classified data if possible, how will America's national security be affected by the cut-off in funding for Rocky Flats?

It is absolutely essential that this money be reinstated and the full $283 million be appropriated. Rocky Flats is the only production facility which can manufacture the plutonium components needed to meet the nuclear weapons requirements of the Department of Defense as approved by the President, thereby significantly denigrating national security.

4. Can the manufacturing process be performed at current facilities at another federal site? What would be the cost differential, if any?

The Rocky Flats Plant is the only pit production facility in the nuclear weapons complex which can meet the weapons requirements of the Department of Defense.

5. Should the cut to $142.5 million be sustained, what would the effect be on work currently underway to ensure Rocky Flats is secure? To protect worker health? To continue the clean-up?

Without the restoration of these monies, it will not be possible to bring Rocky Flats into compliance with Federal, state, and local laws and regulations in a timely manner. The vast majority of the funds being requested are for necessary actions to assure a safe and secure facility, including cleaning the ductwork, to protect the health and safety of the public and our workers and protect the environment.

6. What will the effect of the cut be on removal of plutonium from the ductwork at Rocky Flats?

A part of the $283 million request is to assure completion of many safety improvement activities that must be completed before currently curtailed plutonium manufacturing activities can resume. These activities are designed to correct deficiencies and to assure the readiness of the people, hardware, and management systems to operate safely. An example of such an activity is the removal of plutonium which had accumulated over many years of operation, from glovebox exhaust ducts.

7. What will the effect of the cut be on grants to the cities surrounding Rocky Flats, including Broomfield, for their water protection projects?

The Department of Energy plans to disburse up to $10 million in FY 1991 funds for water protection projects after completion of an action description memorandum in accordance with the NEPA requirements. We also plan to disburse $10 million in FY 1992. However, if we do not receive the supplemental funding, we will have to carefully consider whether we can continue to fund the program in light of the requirements to fund the necessary safety improvements.

Mr. BROWN. Several days ago, the mayors of the towns surrounding Rocky Flats came to my office here in Washington to explain the necessity of streamlining the approval process for a project to protect their drinking water supplies from Rocky Flats runoff. This project was included in report language for the Senate's Defense authorization bill last year, but the cities had run into a series of difficulties.

The potential for drinking water contamination from groundwater runoff is a real problem for the cities of Broomfield, Thornton, Northglenn, Westminster, and Federal Heights. Thirty-five percent of Rocky Flats' site drains into Woman Creek, which provides drinking water to four of the cities. Fifty-one percent of Rocky Flats' runoff drains into Walnut Creek and Great Western Reservoir, which are the primary sources of Broomfield's drinking water.

Over the past 2 years, incidents involving toxic chromic acid, the herbicide atrazine and repeated problems with the current holding ponds at the plant have necessitated a close partnership between the Energy Department and the five cities. The result of their work is a water project entitled option B, which has the support of all five cities and the Department of Energy.

In addition to the report language accompanying the fiscal year 1991 Defense authorization bill, Secretary Watkins sent a letter to the cities and the Colorado delegation indicating the Energy Department's support for option B and that DOE had set aside $10 million in fiscal year 1991 for this project.

Before this project may move forward, however, a technical clarification must be made so that it is clear that the Department of Energy is partially reimbursing these municipalities for their project. Unless this clarification is made, Mr. President, it may be years before these cities are allowed to take action to protect their citizens from potential contamination of their drinking water.

I ask unanimous consent that this letter be included in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF ENERGY,
Washington, DC, October 26, 1990.

Hon. HANK BROWN,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN BROWN: Thank you for your August 31, 1990, letter to Under Secretary John Tuck. As you know, and with your steady counsel, the Department of Energy has determined that funds will be available to begin work on the proposed water management project in this fiscal year.

I am extremely encouraged and heartened by the team effort that has been displayed in resolving this difficult problem. The Department has committed to an initial investment of approximately $10 million in Fiscal Year 1991, subject to completion of the appropriate review under the National Environmental Policy Act. I have instructed plant officials at Rocky Flats to reevaluate their current programs and to identify sources of future funds. While we are still evaluating the funding sources for Fiscal Years 1992 through 1996, I am confident that solutions can and will be found without compromising important environmental restoration and safety upgrade programs currently in progress.

Sincerely,

JAMES D. WATKINS,
Admiral, U.S. Navy (Retired).

Mr. BROWN. Mr. President, I thank my fellow Senators for their consideration, and especially my colleague from West Virginia, Senator BYRD, for offering the amendment.

Mr. President, I yield the floor.

AMENDMENT NO. 47

At page 28, line 20 of the bill, strike "$100,000,000" and insert in its place the following: "17,000,000".

Mr. BYRD. I thank the distinguished Senator from Maryland [Ms. MIKULSKI].

The PRESIDING OFFICER. The Senator from Maryland is recognized.

AMENDMENT NO. 45

Ms. MIKULSKI. Mr. President, the amendment offered by the Senator from New York is indeed a good idea, but it is a good idea at the wrong time.

I would like to commend the Banking Committee for the work it did on authorizing the new housing initiatives contained in HOME. I would like to congratulate Secretary Kemp on his initiatives to empower public housing residents in his project, called HOPE, to create home ownership. However, this is a dire, urgent supplemental bill. It is not a window of opportunity to create new programs. It is meant to meet compelling needs based on underestimates of funding in last year's budget resolution.

The amendment offered by the Senator from New York creates new programs, new commitments. Though he talks about the new opportunities it creates, it does encumber us for the rest of the fiscal year and beyond that.

It is my recommendation that we reject the amendment of the Senator from New York while maintaining his idea to create these programs and to fund those programs in the regular 1992 fiscal appropriations to begin in October. We should wait until 1992 because the levels at which we fund these initiatives depends on how much the VA subcommittee will get for its budget allocation, and we do not know what it is. In fact, I wish I did. But in today's recessionary climate, the uncertainties of budget estimates, we do not know what we are going to get.

I think if we do not know what we are going to get, we should not spend it until we have it. Unfortunately, the new authorizing bill was not formulated under a pay-as-you-go principle that we agreed to in last fall's budget agreement. The new program authorization is not offset by an equal number of cuts.

Sure, we talk about cuts and phasing out old programs, but that only amounts to $800 million. Imagine, only $800 million, but that is what we do cut. What the appropriations is talking about in funding the new programs will equal $5 billion. That means, Mr. President, we would be $4.2 billion short. The new HUD authorizations alone could consume over 50 percent of all the discretionary domestic spending. So we cannot expect to get a 602(b) to match the authorized levels, but we are absolutely committed to making sure that HOPE and HOME get off to a good start.

This amendment, as offered by the Senator from New York, would reduce outlays available in other programs in our VA subcommittee. What does it mean? While the amendment is budget neutral in 1991, it will actually increase actual outlay or spending obligations by roughly $200 million in fiscal years 1992 to 1994. That is not Senator MIKULSKI's opinion; that is according to the Congressional Budget Office. What is the reason? The programs cut to pay for the new initiatives do not spend out as fast in fiscal years 1992 and 1994 as do the new initiatives. So we will increase our prior year outlay obligations in 1992 without being able to adjust outlay caps set under the budget agreement.

Mr. President, what I just said is budget speak. What does that mean in plain English to the folks sitting out there? Why do we not start these new programs that means such opportunities? Quite frankly, Mr. President, our subcommittee will have to absorb an extra $200 million in actual spending and that has to be taken from other aspects of my bill.

Our bill funds VA. What would $200 million cost VA? It could mean outpatient medical care for 400,000 vets and 21,000 vets on an inpatient basis in that 3-year period. Or it could mean a $400 million reduction in the National Science Foundation research grants. Or it could mean the termination of a sewage treatment construction grant essential to local government. Or it could mean a $400 million cut in our space program which is essential to our competitiveness.

We know what that means now, but if we are allowed to work the appropriations bill and to go through the normal process, we will be able to meet the obligations of the new housing initiatives, at least to get them off to a good start.

The amendment violates the spirit of the agreement on last year's housing authorization. Last year's authorization said do not start new programs in 1991 by raiding existing programs. That is why every major organization that represents municipal government, nonprofits and religious groups, and housing interests strongly oppose this amendment.

We all support the intent but, quite frankly, we think that trying a jump start will only result in a bad start and ultimately wreak havoc with this subcommittee's commitments to veterans, housing, science, space, when we want to meet our commitments.

Mr. President, I ask unanimous consent that letters of all of the groups who oppose this amendment be printed in the RECORD. These are the groups like the National Association of Counties, the League of Cities, Conference of Bishops, B'nai B'rith, Evangelical Lutheran Church, the Enterprise Foundation, which was the architect of the HOME proposal. I want those to be reflected in the RECORD so it is very clear that the reason we are opposing the amendment is not because we oppose the content of the HOPE or HOME, but because of the agreement that this program will not start now at the expense of other programs. This is the understanding of all who participate in generating housing and opportunities for the poor of this country.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

FEBRUARY 22, 1991.

Hon. BARBARA A. MIKULSKI,
Chair, VA, HUD, and Independent Agencies Subcommittee, Dirksen Senate Office Building, Washington, DC.

DEAR MADAM CHAIR: The undersigned organizations are writing to express our strong support for continuing in the direction your committee began last year to restore vitality to our assisted housing programs and to express our concerns regarding the Administration's proposed "budget neutral" Supplemental Appropriation for FY 1991.

While we support the HOME Investment Partnership program as well as the need to fully fund Section 8 expiring contracts and initiatives linking housing and services, we oppose the rescission of monies from currently funded HUD Programs to fund the Supplemental.

As you know, the Administration has proposed that more than half of the $918 million supplemental be funded by rescinding $500 million in public housing development funds from FY 1991 and FY 1990 appropriated monies. Nearly 7,000 public housing new construction and reconstruction units would not be funded as a result of this proposal. Also proposed for rescission from appropriate FY 1991 funds are Section 312 Rehabilitation Loan funds at $13.4 million, UDAG at $13.5 million, Rental Rehabilitation at $70 million, Urban Homesteading at $13.5 million, Congregate Housing Services at $9.5 million, Section 8 SRO at $24 million, Supplemental Assistance for Facilities to Assist the Homeless (SAFAH) at $11.3 million, and Nehemiah at $39.1 million.

The cuts in existing programs would shortchange their beneficiaries: low- and moderate-income families, seniors, persons with disabilities, and homeless persons. Given the fact that 20.5 million lower-income Americans still face immediate and serious housing problems, such as overcrowding, substandard physical conditions, excessively burdensome rents, or homelessness, it would be a serious breach to reduce or eliminate funding midway through this fiscal year and delay delivery of critically needed housing resources.

We also believe that providing for the shortfall in FY 1991 Section 8 contract renewals should not require cuts from currently funded programs as proposed by the Administration. The need for additional funding arises from the Administration's misestimations of these obligations that should be within the spending caps. As such, it should be accounted for through a technical change in the Congressionally adopted spending caps or considered as an emergency outside the caps altogether.

If funds can be made available for the HOME program in FY 1991, without rescinding funds appropriated for current programs, we urge funding at least proportionate to the authorization level. This would be consistent with the carefully crafted compromise which gained bipartisan Congressional and White House support leading to enactment of The National Affordable Housing Act. This compromise involved a scaling down of the authorization level for HOME in FY 1991, reflecting Congressional intent to provide a transition period for start up of HOME prior to the contemplated termination of certain programs, such as Rental Rehab, Nehemiah, Urban Homesteading, and Section 312 Rehab loans and full funding of HOME in FY 1992.

We stand ready to continue working with you to fund programs within the framework established in the 1991 Appropriations Act and the National Affordable Housing Act of 1990.

Thank you for your attention to this important issue.

Sincerely,

ACORN.
American Association of Homes for the Aging.
American Federation of State, County and Municipal Employees.
American Planning Association.
Association for Retarded Citizens of the United States.
Association of Local Housing Finance Agencies.
B'nai B'rith International.
Center for Community Change.
Church Women United.
Council of Large Public Housing Authorities.
The Enterprise Foundation.
Evangelical Lutheran Church in America.
Jewish Labor Community.
Local Initiatives Support Corporation.
McAuley Institute.
Mortgage Bankers Association of America.
National Alliance to End Homelessness.
National Association of Counties.
National Association of Home Builders.
National Association of Housing and Redevelopment Officials.
National Association of Protection and Advocacy Systems.
National Association of Realtors.
National Coalition for the Homeless.
National Community Development Association.
National Corporation for Housing Partnerships.
National Congress for Community Economic Development.
National Consumers League.
National Council of La Raza.
National Council of Senior Citizens.
National Housing Conference.
National Law Center on Homelessness and Poverty.
National Leased Housing Association.
National League of Cities.
National Low Income Housing Coalition.
National Multi Housing Council.
National Neighborhood Coalition.
National Puerto Rican Coalition.
National Rural Housing Coalition.
National Urban League.
Network: A National Catholic Social Justice Lobby.
Public Housing Authorities Directors Association.
Union of American Hebrew Congregations.
Unitarian Universalist Association of Congregations.
United Church of Christ.
U.S. Conference of Mayors.
United Way of America.

Washington, DC, March 14, 1991.

Hon. BARBARA A. MIKULSKI,
Chair, Subcommittee on VA, HUD and Independent Agencies, U.S. Senate Appropriations Committee, Washington, DC.

DEAR MADAM CHAIR: The American Association of Retired Persons strongly urges you to not adopt the Administration's proposal to reprogram some FY 1991 housing funds for a wide variety of new housing initiatives authorized in the National Affordable Housing Act of 1990. While the Association supports these new programs, to eliminate funding for existing activities in the middle of the fiscal year would needlessly disrupt some important programs.

We are also very concerned about the proposal to reprogram Congregate Housing Services Program (CHSP) funds for the new HOPE for Elderly Independence program. While we strongly support the new HOPE program, it would serve a different population from that served by CHSP. Congregate services have been very effective in preventing unnecessary institutionalization for the frail elderly in federally assisted housing projects. Congress has just renewed its commitment to the program by revising and expanding CHSP's mission. We believe that both programs should receive increased funding in fiscal year 1992.

The Association stands ready to work with the Committee in seeking a way to fund new housing programs in the coming fiscal year. We have serious reservations about taking such action now, however, and we urge you to reject the Administration's request.

If we can be of any assistance in this regard, please do not hesitate to call Marion Mayer (728-4611) or Don Redfoot (728-4275).

Sincerely,

JOHN ROTHER,
Director,
Legislation and Public Policy.

NAHRO, CLPHA, PHADA,
March 12, 1991.

Senator ROBERT C. BYRD,
Chairman, Senate Appropriations Committee, The Capitol, Washington, DC

Senator BARBARA MIKULSKI,
Chairperson, Senate Appropriations Subcommittee on VA, HUD and Independent Agencies, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN AND MADAM CHAIR: As representatives of the nation's public housing, we strongly urge that Secretary Kemp's continuing efforts to rescind FY 91 appropriations for major reconstruction and development of public housing should be rejected.

HUD seeks to "transfer" these funds to the Administration's new HOPE (sale of public housing) program and to the new HOME program of the recent National Affordable Housing Act in an Amendment to H.R. 1281, the FY91 Supplemental Appropriations. The House defeated the proposal 240 to 177.

Forty-six national housing organizations, including every major housing and municipal organization, have objected to the Secretary's proposal in a letter to Senator Mikulski, dated 2/22/91; copy attached.

The organizations do not object to funding HOPE and HOME, but adamantly oppose taking the funds from enacted FY91 appropriations for other programs. The National Affordable Housing Act of 1990 was adopted with the understanding that established programs, such as public housing, Farmers Home, and 202 for the elderly and handicapped, would be continued, while new programs such as HOME and HOPE would be an expansion, not a replacement, of our nation's housing efforts, HUD and Secretary Kemp seek to undermine this approach.

The HOPE program serves only persons already receiving housing assistance; the HOME program serves people with higher incomes than those assisted by the public housing funds HUD would rescind. HUD's Budget for FY92 also would further reduce public housing funding; the HOME program has many merits, but neither it nor any other program serves as many poor as public housing.

The appropriation in question is for public housing development/major reconstruction of obsolete projects. Contrary to HUD's assertion, a significant portion of these funds are used primarily for purposes other than to build new units.

Over 25 percent of the monies are used to do major reconstruction of oversized, obsolete projects to make them habitable and to eliminate vacancies. (30 percent of the 1.4 million units are thirty to fifty years old; 56 percent are from twenty to fifty years old.)

3000 to 4000 units are needed for statutorily-required replacements for demolished units, many arising from improvements in reducing resident density.

The balance goes to buy existing properties from private owners, FHA-foreclosed or Resolution Trust Corp inventories, or to build small scattered sites. (No monies are used—or have been used for twenty-five years—for high-rise buildings.)

It does not take 5 years or more to put these funds into housing, nor is there a backlog, nor any lack of demand, as HUD lobbyists contend. To the contrary, demand always exceeds available funds; completions ran 25,000 or more a year until recently (see attached chart). The only backlog comes from HUD's illegal impoundment of the FY90 appropriation—6500 units and major reconstruction funds—which HUD has not yet allocated to the housing authorities in the sixteen months since the appropriations became law! HUD controls the pace, while PHAs can lose funds unused after thirty-six months.

Additions to the public housing stock are necessary because new low income housing is needed in low vacancy areas and for certain families, as well as for special needs dwellings.

Why can't these new programs await the FY92 appropriations that are only months away? HUD will not be able to deploy these monies effectively now because state and localities must first adopt Comprehensive Affordability Housing Strategies, after public participation—a process which has hardly started.

If the Administration is seriously committed to these new housing programs in FY91, why has it not sought funds elsewhere? Because the real argument is over providing a political showcase, not over housing families.

In addition to attacking the development and major reconstruction monies, HUD seeks to strangle operations of the PHAs by opposing the $75 million supplemental for operating subsidies. These monies make up part of the shortfall in FY91 from the Performance Funding System. Please see the attached sheet on this matter.

Sincerely yours,

Council of Large Public Housing Alternatives (CLPHA), National Association of Housing and Redevelopment Officials (NAHRO), Public Housing Authorities Directors' Association (PHADA).

Ms. MIKULSKI. Mr. President, I note the distinguished chairman of the authorizing Subcommittee on Housing, so I will yield the floor so that other might speak, reserving the right to come back for rebuttal and additional discussion. I yield the floor.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. Will the Senator yield 5 minutes?

Ms. MUKULSKI. I yield 5 minutes to the Senator from California, the chairman of the authorizing subcommittee.

The PRESIDING OFFICER. The Senator from California is recognized for 5 minutes.

Mr. CRANSTON. I thank the distinguished chair of the very important subcommittee handling this matter, and I rise to support her position and to urge opposition to the pending amendment.

Frankly, I am reluctant to do so because Senator D'AMATO and I have had a very good working relationship on this committee. He is the ranking Republican member of the Housing Subcommittee of the Banking Committee, and I am the chairman of that committee. We labored together for more than 3 years to develop the fresh, new housing initiatives contained in the National Affordable Housing Act.

That legislation is the product of a nationwide effort to develop a new national housing policy that can provide more affordable housing for American families.

The new housing initiatives were developed in consultation with the country's top housing leaders—including State and local officials, private developers, experts in housing finance, housing managers, nonprofit housing organizations, tenant representatives, low-income housing advocates and housing researchers.

The Housing Act was developed in a truly bipartisan fashion. Many important differences between House Members, Senators and the administration had to be overcome. And those differences were overcome in a spirit of commitment to turn away from the deep hostility to housing that marked the Reagan years and to launch new nationwide efforts to provide more affordable housing in this country.

I believe it is important for housing throughout the country that we begin those promising new housing initiatives—particularly the HOME Investment Partnership—as quickly as possible and with adequate levels of funding.

I am deeply disappointed that appropriations for this fiscal year include no funds at all for new housing initiatives.

I believe early funding for HOME is well justified. HUD is preparing the necessary regulations with unusual promptness. State and local governments, nonprofit organizations and many others across the country are awaiting the program's implementation with great enthusiasm and willingness to get to work.

We need to keep up that momentum.

Now, the pending amendment may seem to be consistent with getting the National Affordable Housing Act up and running.

In fact, however, adoption of this amendment would violate solemn agreements that were reached with the administration barely 5 months ago when the National Affordable Housing Act was passed.

During Senate and conference action on the National Affordable Housing Act, both HUD Secretary Jack Kemp and OMB Director Dick Darman said they were willing to make a deal to get a housing bill. They agreed that the administration would support significant levels of new funding for new housing initiatives in exchange for a number of major policy changes that were important to the administration.

Congress finally agreed to that. Senate and House provisions were changed to accommodate the administration. And the act authorizes a substantial increase in funding for housing.

Decisions about housing authorizations and housing policies were not taken lightly. The administration, House and Senate engaged in long, often contentious negotiations.

The administration amendment now before the Senate seeks to undo four basic components of last year's conference agreement.

First, the amendment would provide no new funding for housing initiatives during the current fiscal year. Instead, it would start the new housing programs through a mix of program cuts, program terminations and carryovers of funds not put to use last year.

Second, the amendment would provide full funding for the administration's HOPE Program, but only 50 percent funding for HOME and no funding at all for other initiatives contained in the National Affordable Housing Act.

I believe that Secretary Kemp's HOPE initiative should be given a fair chance to demonstrate its workability. If it works as advertised by its proponents, then it certainly should be an ongoing part of Federal policy. However, in a period of deepening shortages of affordable housing, I do not believe we should go full blast to sell off the existing affordable housing without a comparable commitment to providing more of the affordable housing that Americans urgently need.

Third, the amendment would immediately terminate or deeply cut the few housing programs that have been available in recent years. They include rental rehabilitation grants, section 312 rehabilitation loans, urban homesteading and Nehemiah homeownership grants.

The abrupt terminations proposed in this amendment would violate a key part of last year's conference agreement. The House and Senate agreed to fund new housing initiatives partially by terminating a series of existing housing programs in fiscal year 1992. Conferees were determined to give a reasonable transition period to local governments and housing organizations who were making use of those programs. This amendment would disrupt a pipeline of affordable housing projects—the number of projects may be small, but they are important to many communities.

Fourth, the amendment would make a series of so-called technical revisions to the HOME Program that would sabotage the program before it even starts.

One revision would place the HOME Program under the Community Development Block Grant office, rather than the Office of Housing as the law explicitly requires. This amendment would continue to dismantle HUD's ability to support State and local efforts to expand the supply of affordable housing.

This change would torpedo the intent of the law, which is to establish a one-stop-shop providing States and localities with the various forms of Federal housing assistance—flexible capital subsidies, mortgage insurance, long-term rental assistance, and technical assistance—that they need to achieve their affordable housing goals. It would undermine the promise of the HOME Investment Partnership Program by turning it into just a block grant distributing funds for housing.

Another revision would dramatically lower the minimum funding allocation that States and localities would receive. States could get as little as $750,000 compared to a minimum $3,000,000 in the law, localities could get as little as $350,000 instead of a minimum $750,000. Federal housing funds would be spread around thinly so that many jurisdictions would get funds, but not enough to carry out an effective housing program.

Mr. President, I believe the National Affordable Housing Act is landmark legislation that should be implemented—just as soon as possible and with significant levels of funding. I am encouraged that efforts are being made in both the House and Senate to accommodate substantial funding for these new housing initiatives in the fiscal 1992 budget resolution.

I urge the Appropriations Committee to follow through with funding levels that can mobilize the country's energy to provide more affordable housing.

I am sorry that the administration has come forward with an amendment that does not do that. And therefore, I urge all Senators to vote against the amendment.

I would like to ask the distinguished chairman of the subcommittee one question, if I may. I deeply appreciate her comments in regard to the future and the need to support the very important HOME Program which she has lauded. I trust she is speaking about the budget request for next year that will come along soon. I just wonder how much she feels can be done at that time to get HOME off to a fine and important start?

Ms. MIKULSKI. Given the very clear direction by the authorizing committee that the HOME initiative is of absolute top priority, it will be our intent to terminate the programs indicated by the authorizing committee, to phase out some—for example, Nehemiah has some projects in the pipeline—and then, based on the fact that we have over, counting HOPE and HOME, 5 billion dollars' worth of new initiatives, it will depend on our 302(b) allocation.

It is our intention to give it a maximum priority. I cannot say what the dollar figure is yet because I do not know what my own allocation will be. But HOME has a top priority with the Congress and with the Appropriations Subcommittee. And HOPE also will receive funding to move people who are currently tenants of public housing into home ownership.

I did not know if my staff had some insights as to what we could project our allocation to be, and we do not. But I can tell the Senator every nickel we can find is going to go into the HOME project.

Mr. CRANSTON. I deeply appreciate the response of the chairlady. It needs top priority. Her giving it a top priority means it is going to move forward effectively. I am very grateful. Again, I urge rejection of the pending matter.

The PRESIDING OFFICER. The Senator has used 5 minutes. Who yields time?

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Let me, if I might, attempt to trace for my colleagues where the $787 million this amendment calls for comes from. It does not come from new moneys. We are not asking for additional appropriations. As a matter of fact, for the budget implication as it relates to the outyears, you have to go to 1992, and I believe we talk about increasing the spending level in 1992 by $21.5 million. So we are not impacting programs.

Indeed, what we have done and what the administration has called for is to say look, we asked for, and it was authorized—Congress authorized it—$514 million for public housing construction. That is a good program. And $514 million is not an inconsequential amount of money, particularly when you have carryover funds of maybe another half a billion. That means money in the pipeline.

What did Congress do? We were better. We said we are going to give another $220 million to that public construction housing program, and that is what we did. So we made it $734 million, in coming forth with this program to say let us get to the business. If we are going to give home ownership an opportunity, if we are saying we want to work with the President and the administration, if we are saying we want tenant management, we want this HOPE Program, we say look, in my amendment, do not give us $734 million. You gave us $220 million more in that program. Take for this one time that $220 million and use it in the HOPE Program. That makes some sense.

Now, what did we do in the other areas? There are programs scheduled to be terminated. There are various categorical programs, 312 loan programs, et cetera. There is money in the pipeline.

We say look, take that money in the pipeline for the HOME program—that is the program that Senator CRANSTON and National Affordable Housing worked on, the universities—and put it in HOPE. We say do it now.

Then we said there are $299 million in carryover funds that have not paid spent as it relates to public housing, as it relates to rental rehabilitation, et cetera. Use that as part of the HOME Program. That is how we get the package that came up with $788 million.

It is a redistribution. It is using funds that have not been spent. It is using funds that were over the budet, or the authorization limit that we appropriated to put forth and to put on the front burner that which otherwise will be on the back burner for another year.

I think it makes sense. We challenge Secretary Kemp if we give him these dollars to go forward with that program, and we do not impair or impinge on necessary, vital housing programs.

I know that my colleague certainly from the great State of Maryland has demonstrated herself particularly in the city of Baltimore as a tireless worker to see and promote tenants advcoacy, programs that are necessary. If I thought in any way this would impinge in any way on these programs, that would hamper or impede them, I would not put this forward. But I do because I believe we should give to Secretary Kemp and to the President that opportunity to carry out their programs.

Mr. President, I am going to read from a letter dated March 19, addressed to the Senate, basically—I believe all Senators have received a copy of this letter from Secretary Kemp, where he says, and I will quote in part:

> I am writing to request your support for a budget-neutral amendment to be offered to dire supplemental. The amendment offered by Senator D'AMATO would provide $500 million to the new HOME Housing Block Grant Program.

We want to give our communities flexibility. That is what HOME does. If anything, this is a program that was overwhelmingly supported by the Congress and crafted by my colleague, the chairman of the Housing Subcommittee.

We say we want to give 35,000 needy Americans $165 million for home ownership opportunities. RTC has all of these houses on the market. Would it not be nice if working middle-class families or lower income families had an opportunity under the HOPE Program to buy RTC properties, to live in them, instead of having them boarded up? This is what this amendment will give us the opportunity to do.

So I hope we will give the President of the United States an opportunity—because that is who is asking for it, through the Department of HUD and through Secretary Kemp—of implementing parts of this program; that we say yes, we want it; yes, we passed legislation 93 to 6; but no, we do not have the money now. We found a way to provide those dollars without impacting adversely on the important programs that we care for, and we want to see nurtured.

Mr. President, I yield the floor.

Mr. BYRD addressed the Chair.

TIME LIMITATION AGREEMENT

Mr. BYRD. Mr. President, I ask unanimous consent on the amendment by Mr. NICKLES to strike the language relative to Davis-Bacon that there be a time limitation of 40 minutes to be equally divided between Mr. NICKLES and Mr. HARKIN. This request has been cleared on the other side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator has 17 minutes 40 seconds.

Ms. MIKULSKI. I yield 5 minutes to the Senator from Missouri, a member of the subcommittee.

Mr. BOND. Mr. President, thank you. It seems strange that I rise in opposition to an amendment that transfers moneys to programs that I strongly support, but I believe there are several problems with the amendment. I would like to point those out.

Last year, we went through a long process of debate, disagreement, and finally bipartisan consensus on the Cranston-Gonzalez National Affordable Housing Act. We agreed that additional moneys for housing programs was warranted, but that we should spend the money in new and innovative ways. HOPE and HOME were the results of this bipartisan consensus to try new approaches to housing problems.

I was very pleased to work with my colleague from New York, the Secretary of HUD, and other members of the Banking and Housing Committee in crafting this new approach that I strongly support.

Early last year, we had hoped to have the housing bill done by the August recess. But, as is so often the case around here, deadlines do tend to slip. We were not finished until the very end of the session. Since we finished so late in the session, the conferees agreed to a 1-year transition period with the new initiatives starting up in fiscal year 1992. Both HOPE and HOME are substantial departures from the old programs, and we wanted to give HUD time to write the regulations, and State and local governments time to gear up to spend the HOME money well.

Secretary Kemp, in his great and justified enthusiasm for the new initiatives, has proposed this timetable be moved up and that the money flow into the new program now. I have no quarrel with his enthusiasm. I share that. But I have a quarrel with the timing. I want to make sure that these new programs work well, and are not derailed by mistakes caused by hasty implementation.

I see this as a good government issue. State and local governments are not finished with the comprehensive housing affordability strategies required under the HOME Program. We want them to do a thorough needs assessment, and really spend their HOME money wisely.

Over the years, HUD has been plagued with housing money being spent willy-nilly on poorly conceived projects. I would hate to see the new approaches as discredited as some of the HUD programs we have had to terminate.

In addition, I object to taking the money out of public housing new development to fund the new initiatives. Contrary to what some may argue, this money is not being used to build immense highrise slums. This money, in fact, is being used to rectify the past mistakes made in the public housing program.

Most of the money is used for major reconstruction of obsolete projects, or to meet one-for-one replacement requirements for the demolition of public housing that is no longer decent, safe, and sanitary housing. It is disingenuous to argue that public housing is a mess; therefore, let us deny the PHA's and local governments the tools they need to clean up the mess.

There is a real need for public housing development money in St. Louis, as an example, where there are dilapidated and dangerous highrise projects that should be replaced with smaller-scale family units. While I appreciate Senator D'AMATO's amendment takes less money away from public housing development than the amendment which was defeated in the House, I still have concerns that this amendment, in combination with the President's budget for fiscal year 1992, which eliminated public housing development, could hurt St. Louis' chances of getting the replacements it needs.

I see the new initiatives working hand in hand with public housing. The lessons from the mistakes of the past that we made when we created HOME and HOPE are also being applied in the public housing programs. We no longer build dense, highrise housing for families with children. It was a terrible mistake that needs to be rectified.

Rather than throw up our hands, however, and abandon the 4 million people who live in public housing, we need to rehabilitate the existing public housing stock or demolish and replace it where necessary. Secretary Kemp's empowerment initiatives are going to be an important part of this process, as well.

HOME is the wave of the future. I think that State and local governments will do a much better job of meeting local housing needs than the old Washington-driven HUD programs of the past. That being said, I believe that urgent unfinished business remains with the public housing program.

Mr. President, I believe that urgent unfinished business remains with the public housing programs, and that we need to make sure that public housing is not abandoned as we move to a new delivery mechanism for housing funds.

In summary, Mr. President, I have two substantive objections. No. 1, I really wanted HOPE and HOME to work. I am not much of an auto mechanic, but I know you can flood an automobile by putting too much gas in too soon. I have seen that it delays the start.

I do not want to flood the engine of the new programs of HOPE and HOME by putting in money before we are ready for it. The new fiscal year starts in 6 months. Let us take time to work out the bugs.

I will join with my colleagues in pushing for as large an appropriation as we can for HOPE and HOME. But I believe that we must wait until we can hit the ground running.

As part of our agreement of the National Affordable Housing Act, we set forth a new approach to public housing, but we did not agree to abandon public housing. I want to maintain that commitment.

I encourage my colleagues to vote against this amendment.

Mr. D'AMATO. Mr. President, let me, if I might, respond very briefly.

We are not talking about flooding an engine. We are talking about not giving an engine any fuel, any oxygen, starving it so it cannot start. Do you want this program to start, or do you not? That is what we are talking about. Do we want the administration's program to be given an opportunity?

Let me point out an article that appeared in today's Wall Street Journal, called "Killing HOPE." That is what we are doing; we are killing HOPE. How do we get it started?

I will ask that it might be submitted for the RECORD, and appear in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Mar. 19, 1991]

KILLING HOPE

The next time you see another Democratic Member of Congress complaining that the Bush administration "doesn't have an answer" for the problems at home, keep in mind what the majority party did to Jack Kemp's HOPE proposal.

Last November, President Bush signed into law a landmark Affordable Housing Act, which starts to shift the federal government away from warehousing public-housing tenants. As an alternative, HUD Secretary Jack Kemp created the HOPE program to promote tenant management and ownership. Congress agreed to fund HOPE with $287 million taken from other housing programs (failed housing programs, in our opinion). The price for this modest reform was Mr. Kemp's support for an extra $2 billion for new public housing.

But the lobbies representing developers and public-housing managers were horrified at the mere idea that HUD would experiment with privatizing public housing. The real beneficiaries of federal housing programs, after all, aren't the poor who end up still living in squalid, crime-infested neighborhoods, but the people HUD pays large sums to build and run the housing. If HOPE worked, they'd be cut out of the action.

And so no less than 46 pro-public-housing groups formed a coalition to block the transfer of money to HOPE and another $500 million program to give states block grants to rehabilitate low-income rental housing. Their effort paid off: The House Appropriations Committee voted down all funding for HOPE. Rep. Charles Schumer of New York intoned that HOPE is "not a substitute for the lack of affordable housing."

This was too much even for Mr. Kemp, who is fairly tenderhearted toward his former colleagues in Congress. He accused the Appropriations Committee of being "more concerned about failed new construction programs of the past, which create dependency and despair." An attempt to restore funding for HOPE will be made on the Senate floor today; the vote will probably be close. Secretary Kemp is only the latest reformer to discover that cutting a deal with Congress is easy; getting Members to honor it is another matter.

Mr. Kemp noted that if there is a shortage of public housing, it is in large part because conditions in existing units are so bad that 7% of them, or some 100,000 apartments, are currently vacant. The reasons why so many poor people recoil from moving into public housing are clear: There are few incentives to keep up the buildings, it is almost impossible to evict drug dealers and other criminals, and tenants have no say in the management of the projects. Encouraging tenant control and ownership can turn neighborhoods around, as pilot programs in Washington, DC, St. Louis and Boston have shown.

Last year, the House's own Government Operations Committee issued a report on the scandals at HUD. It concluded that both Congress and Sam Pierce's HUD deserved blame for allowing politics to run housing policy. And of course the Members yawned and went on with business as usual.

The killing of HOPE is a good example of why politics in Washington, especially on domestic matters, so often seems incapable of making forward progress. Like the fable of the dog in the manger, congressional Democrats haven't the slightest intention of giving an idea such as Mr. Kemp's HOPE program a chance to prove itself. Heavens, it might work. Then where would they be?

Mr. D'AMATO. Mr. President, abandoning public housing? This amendment does not abandon public housing. I think that is quite an overstatement. The fact of the matter is, what we say is the $220 million that was appropriated over and above what was authorized be utilized in the marriage of HOME and HOPE.

So we are not killing public housing. We are not taking moneys away from the public housing authorities that they are going to use. The fact of the matter is, I daresay, that next year we are going to find that these moneys have not been expended. Either we want to start a program or we do not. If they are going to say, let us wait 6 months, I want to know why; why do we want to wait? Why not give the President and the administration an opportunity to start the engine?

Mr. President, I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT,
Washington, DC, March 19, 1991.

DEAR SENATOR: I am writing to request your support for a budget-neutral amendment to be offered to H.R. 1281, the Dairy Emergency Supplemental Appropriations Act.

The amendment, offered by Senator Al D'Amato, would provide $500 million to the new HOME housing block grant program to expand housing assistance to more than 35,000 needy Americans; $165 million for the HOPE (Homeownership and Opportunity for People Everywhere) program to promote homeownership opportunities for low income residents of public and assisted housing; and $122 million for the Shelter Plus Care program for service-supported housing for the homeless.

Forty percent of the funds needed for this budget-neutral amendment come from carry-over funds from FY 1990 that can't be used in existing program in 1991 or 1992. The amendment funds public housing new construction at the fully authorized level of over $500 million, and transfers funds from programs Congress has already voted to terminate under the National Affordable Housing Act. The Nehemiah program and Congregate Services for the elderly would be fully funded under this amendment.

Last year, Congress and the Administration joined together to overwhelmingly pass the National Affordable Housing Act which authorized new and promising approaches to attack poverty and expand homeownership opportunity. This amendment would give these new "empowerment" approaches to funding they deserve. Your support for these new initiatives would bring hope and opportunity to those low-income families and communities most in need of assistance.

Sincerely,

JACK KEMP.

TIME LIMITATION AGREEMENT

Mr. BYRD. Mr. President, this request has been cleared on both sides.

I ask unanimous consent that on the Helms amendment to strike the language relative to the school standard board there be a time limitation of not to exceed 40 minutes, to be equally divided between Mr. HELMS and Mr. HARKIN, and that no amendment to the underlying language proposed to be stricken be in order on this amendment or on the amendment that deals with Davis-Bacon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, I yield 4 minutes to my distinguished colleague from the State of Maryland.

The PRESIDING OFFICER. The Senator from Maryland [Mr. SARBANES] is recognized for 4 minutes.

Mr. SARBANES. I thank the very able chairman of the subcommittee that is handling this matter for the time. Mr. President, I rise to support her position and in opposition to the amendment offered by my good friend, the Senator from New York.

Mr. President, the first observation I make is that the housing authorization bill passed last year, the National Affordable Housing Act, was the end result of a very long and intricate series of negotiations, confrontations, compromises, you name it. I see the Senator from New York who participated in that process smiling and nodding his head. I have to say to him that, at the time, I do not think anybody expected or anticipated that there would be an effort to rescind 1991 moneys for existing programs, in order to jump start these new programs.

In fact, I am deeply concerned, because I think the HUD budget submitted by the administration for housing for 1992, in terms of how it has sought to fully or largely fund some programs and only partially or not fund other programs, all of which were in the authorization bill that we passed, in itself represents a problem. I am talking about fiscal year 1992, and I will come back to the 1991 supplemental that is here before us. But in the 1992 budget, I expected that there would be some effort to put additional moneys into housing generally, responding to the various initiatives, both HOME and HOPE, that were in the affordable housing bill. But I also thought that, to the extent the moneys fell short and they were not available to fully fund programs in fiscal 1992, that there would be, if not proportionate, at least some effort to fund the different components of the Affordable Housing Act. In other words, what I am saying is I did not expect that the budget request would, in effect, seek to undo the compromises that were contained in the Affordable Housing Act.

My perception of the 1992 budget submission is that it, in fact, tries to do that. The proposed 1991 rescissions I perceive as only compounding that problem. We had a big fight over public housing. Let us admit that. It was one of the major issues. There were very strong divisions. The Secretary of HUD had one position, and Members of the

Congress had a different position. We finally accommodated those positions and moved forward, and I just think that this rescission that is before us, in effect, is an effort to reopen that old issue.

I was very interested to hear the comments of my able friend, the distinguished Senator from Missouri, who spoke a few minutes ago and, in effect, I think, made that very point. This is a dire emergency supplemental. I agree with the attitudes that say we ought not be trying to redo our housing approach at this point and, particularly, ought not to be doing it out of the context of addressing the 1992 budget submission, and the 1992 appropriations, which relate to each of these new programs we have talked about, and on which we are going to face difficult questions in terms of how they will be funded and in what amount.

Some of the programs that are going to be reduced here would be on the move, and they would be particularly on the move if HUD would let the money go. Some of the money for these programs is being held up downtown. Then we are saying the money is not being used, and it ought to be shifted. One of the reasons that at least some of the money is not being used is because HUD, in effect, is holding it, instead of responding to the requests that have come in from around the country.

I simply say, in closing, Mr. President, that I think the response which the Senator from Maryland made to this amendment is the sensible way to go. We are going to address the broader issues in the 1992 budget. They are important issues. I am concerned about that budget submission, because I do not think it tracks the authorizing legislation. That is an issue that will have to be settled within the appropriating committee and on the floor of the Senate. But I do not think it wise or sensible policy to come to the floor now with this amendment, rescind, and undo a number of programs that are ongoing and could be effective in the course of the remainder of this fiscal year. I, therefore, very much hope that this amendment will be defeated.

The PRESIDING OFFICER. Who yields time?

Mr. D'AMATO. Mr. President, I yield 5 minutes to my colleague from California.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. SEYMOUR. Mr. President, I rise to support my colleague from New York, Senator D'AMATO, and to suggest that what he is offering in the way of amendments is a courageous step. I believe his amendment recognizes the fact that we have failed in public housing. In fact, this body recognized failure in public housing when they debated the HOPE and the HOME Programs. I was not privileged to be a Member of this body at that time, but I followed closely the debate and development and cheered the passage of HOME and HOPE.

Why was I so concerned? Well, I have had a background in housing, and I think I understand a little bit about the needs and desires for housing of those who have been deprived of the American dream.

When I look at this consideration of the amendment by Senator D'AMATO, I have to ask myself this question: Is it better to put another $100 million into a program that, in essence, most have agreed has failed? There was reference made to the fact that we were putting gas in the vehicle, and we might flood the vehicle. In other words, the HOPE and the HOME programs were not ready to go. Well, I believe they are ready to go. The Secretary of HUD, Mr. Kemp, has made it clear that he is ready to give his new infusion of ideas and creativity into housing. The bottom line is that it takes people out of the traditional and historical public housing projects, as we have known them, and takes them out of the environment of these some hundred thousand public housing units that are currently standing units and says that we are not going to do it that way any more.

We are going to put the tenant in the driver's seat of this car. Therefore, I, for one, stand in support of the amendment of Senator D'AMATO and his desire to do so.

These are not new programs. They have been successful. The HOPE and HOME Programs have been successful in pilot programs in Washington, DC, St. Louis, and Boston. So why can we not readily recognize that there is a better way to provide housing for those who are in need? And it is not to have them enslaved in an environment of drug lords and crime, but it is to put them in the ownership position of controlling their own environment and their own destiny.

Finally, I think what the effect of this amendment will do is to provide very much needed flexibility at the local level, at the local level of government where they know best their community needs, they know best whether it should be a subsidized house or whether it should be rehabilitation or whether it should be new construction.

So I say we should pass this amendment and get on with the hope of the future and the hope of the American dream being realized by so many who have been suffering in public housing tenements and give them a chance for homeownership as other Americans have had that opportunity.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. D'AMATO. Mr. President, I yield 4 minutes to my colleague from Idaho.

The PRESIDING OFFICER. The Senator is recognized for 4 minutes.

Mr. SYMMS. I thank the distinguished Presiding Officer.

Mr. President, I compliment the Senator from New York for offering this amendment. Very simply what this does is start to provide an opportunity for homeownership for the people who live in the inner city. There is nothing that this Congress could do that would do more to reduce crime on the streets in the inner city than to help privatize the capital stock in the inner city.

The place to start is the homes so people have an opportunity to own their house, tenement housing where they could be owned by the people who live in them.

For us to continue to try to build public housing where a very high percentage is not fit for living—and I understand there is some 100,000 units that are not even lived in, they are currently vacant because of poor upkeep, poor quality, poor water conditions, all kinds of reasons, cannot keep the drug people out of them and all these other reasons.

So I think the Senator from New York is right on target. This is an opportunity for Congress to allocate some of the sources of the revenues of the Federal Treasury into development privatization.

I will note that around the world today all nations, all peoples of the world are clamoring for private ownership, for privatization of their affairs. They are appealing to people for an opportunity to own a home, to decide how to allocate their own resources. Yet here in the United States we are still pushing billions of dollars into bankrupt housing programs. It seems to me that the Senator from New York is offering an alternative to what we have been doing in this Congress that has not been working.

I do not know what it takes to penetrate through the impenetrable membrane of the Congress of the United States to recognize that freedom works, homeownership works, privatization works, capitalism works, and socialism is a failure. Why we are trying to continue to socalize the housing market of America at a time in our history when the rest of the world is clamoring to get to a more free and open society is beyond this Senator's imagination. So I think even though the amendment of the Senator from New York is only just a small step in the right direction, it is a step indeed that needs to be taken.

I know that Secretary Kemp has worked very hard to lead this Nation in a direction of better opportunities for people in the inner city, and yet Congress is failing to fund the very programs which would make it possible, rather than following the trend we have been following for the past many years, building more housing stocks in public hands that is not taken care of, run down and dilapidated, and run over with people who are involved in drug business, and so forth. We cannot get them out of there.

I think this is an amendment that should be kept. It should be passed. I ask my colleagues to vote for it.

Mr. President I ask unanimous consent that today's Wall Street Journal article, Killing HOPE, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Mar. 19, 1991]

KILLING HOPE

The next time you see another Democratic Member of Congress complaining that the Bush administration "doesn't have an answer" for the problems at home, keep in mind what the majority party did to Jack Kemp's HOPE proposal.

Last November, President Bush signed into law a landmark Affordable Housing Act, which starts to shift the federal government away from warehousing public-housing tenants. As an alternative, HUD Secretary Jack Kemp created the HOPE program to promote tenant management and ownership. Congress agreed to fund HOPE with $287 million taken from other housing programs (failed housing programs, in our opinion). The price for this modest reform was Mr. Kemp's support for an extra $2 billion for new public housing.

But the lobbies representing developers and public-housing managers were horrified at the mere idea that HUD would experiment with privatizing public housing. The real beneficiaries of federal housing programs, after all, aren't the poor who end up still living in squalid, crime-infested neighborhoods, but the people HUD pays large sums to build and run the housing. If HOPE worked, they'd be cut out of the action.

And so no less than 46 pro-public-housing groups formed a coalition to block the transfer of money to HOPE and another $500 million program to give states block grants to rehabilitate low-income rental housing. Their efforts paid off: The House Appropriations Committee voted down all funding for HOPE. Rep. Charles Schumer of New York intoned that HOPE is "not a substitute for the lack of affordable housing."

This was too much even for Mr. Kemp, who is fairly tenderhearted toward his former colleagues in Congress. He accused the Appropriations Committee of being "more concerned about failed new construction programs of the past, which create dependency and despair." An attempt to restore funding for HOPE will be made on the Senate floor today; the vote will probably be close. Secretary Kemp is only the latest reformer to discover that cutting a deal with Congress is easy; getting Members to honor it is another matter.

Mr. Kemp noted that if there is a shortage of public housing, it is in large part because conditions in existing units are so bad that 7% of them, or some 100,000 apartments, are currently vacant. The reasons why so many poor people recoil from moving into public housing are clear: There are few incentives to keep up the buildings, it is almost impossible to evict drug dealers and other criminals, and tenants have no say in the management of the projects. Encouraging tenant control and ownership can turn neighborhoods around, as pilot programs in Washington, D.C., St. Louis and Boston have shown.

Last year, the House's own Government Operations Committee issued a report on the scandals at HUD. It concluded that both Congress and Sam Pierce's HUD deserved blame for allowing politics to run housing policy. And of course the Members yawned and went on with business as usual.

The killing of HOPE is a good example of why politics in Washington, especially on domestic matters, so often seems incapable of making forward progress. Like the fable of the dog in the manger, congressional Democrats haven't the slightest intention of giving an idea such as Mr. Kemp's HOPE program a chance to prove itself. Heavens, it might work. Then where would they be?

The PRESIDING OFFICER. Who yields time?

Ms. MIKULSKI. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 4½ minutes remaining.

Ms. MIKULSKI. Let me wrap up this debate, Mr. President. First, let us talk about the programs that are being terminated to fund the program if the amendment of the Senator from New York is successful. We are not only going to rob Peter, we are going to rob Bob, we are going to rob Nehemiah, and probably rob Isaiah.

The program proposed for termination is something called 312, the successful Nehemiah project, rental rehabilitation and urban homesteading, a program added by that free marketeer, Ronald Reagan. The reason we want these programs in 1991 is not because we want to hold on to them, but because 1991 is a transition year for these programs. These programs are not used by big bureaucrats to create big slums. These are programs heavily used by nonprofits and they have the sweat equity initiatives that are neighborhood based; they are projects now on the drawing board and they will absolutely be disruptive if we terminate them prematurely. We need funds appropriated in 1991 for these four programs to provide the bridge between now and the start of the HOME Program and HOPE Program for fiscal year 1992.

Mr. President, again the language and oratory of my colleagues in support of the HOPE initiative and the HOME initiative are absolutely accurate. We do not dispute that. But what we do say is starting prematurely by trying to jump start really is a bad start because we will not create new housing. We are just going to create more confusion.

If we do it in an orderly process, we will help the poor help themselves, we will enable local communities to unleash their creativity and not now disrupt the fine work that many fine Governors, mayors, nonprofit, and religious groups have been doing, if we say stay the course until fiscal year 1992.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I ask how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 6 minutes remaining.

Mr. D'AMATO. Mr. President, it has just come to my attention by the Congressional Budget Office several minutes ago that the HOME Investment Partnership Program would be $31.5 million over budget. Therefore, I will ask that I might be permitted to modify my amendment so that the HOME Investment Partnership Grant Program would be reduced from $500 million to $468,500,000.

That would then leave it so that it would not be subject to a point of order. I appreciate that and I am prepared then to yield back the remainder of my time and we can proceed to disposition.

Ms. MIKULSKI. Mr. President, reserving the right to object, I tell the Senator from New York, of course, I am not going to object to a technical correction. I am willing to share with him that I knew about this sometime ago and he did not choose to raise a point of order so we could have a debate and vote on this up or down and have it resolved on its policy merits rather than on technical amendments. I think the offerer of the amendment knows the spirit in which this debate has occurred. I withdraw my reservation.

AMENDMENT NO. 45, AS MODIFIED

Mr. D'AMATO. Mr. President, I send the modification to the desk.

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

The amendment, as modified, is as follows:

On page 38, strike out line 13 and all that follows through line 24 on page 40, and insert in lieu thereof the following:

HOMEOWNERSHIP AND OPPORTUNITY FOR PEOPLE EVERYWHERE GRANTS (HOPE GRANTS)

For the Homeownership and Opportunity for People Everywhere Programs, $165,000,000, to remain available until expended: *Provided*, That $68,000,000 shall be for the HOPE I program authorized under title III of the United States Housing Act of 1937; $51,000,000 shall be for the HOPE II program authorized under subtitle B of title IV of Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625); $36,000,000 shall be for the HOPE III program authorized under subtitle C of title IV of such Act; and $10,000,000 shall be for supportive services for the HOPE for Elderly Independence Demonstration program authorized under section 803 of such Act.

COMMUNITY PLANNING AND DEVELOPMENT

SHELTER PLUS CARE: HOMELESS RENTAL HOUSING ASSISTANCE

For the Shelter Plus Care: Homeless Rental Housing Assistance program, as authorized under subtitle F, part II of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77), as amended, $80,000,000, to remain available until expended.

RENTAL REHABILITATION GRANTS

Proposed Rescission (R91-24)—Fiscal Year 1991

All of the funds made available under this head in Public Law 101-507 are rescinded.

URBAN HOMESTEADING

Proposed Rescission (R91-25)—Fiscal Year 1991

All of the funds made available under this head in Public Law 101-507, together with available balances (including amounts deobligated in fiscal year 1991), are rescinded.

REHABILITATION LOAN FUND

Proposed Rescission (R91-26)—Fiscal Year 1991

Amounts made available for commitments for loans under this head in Public Law 101-507, other than amounts necessary for operating costs and the capitalization of delinquent interest on delinquent or defaulted loans, are rescinded.

URBAN DEVELOPMENT ACTION GRANTS

Proposed Rescission (R91-23)—Fiscal Year 1991

Available funds under this head (including amounts deobligated in fiscal year 1991), except such amounts as may be necessary to comply with court orders of United States Courts which direct the Secretary of Housing and Urban Development to set aside funds for possible future approval of grants to carry out urban development action grant programs authorized in section 119 of the Housing and Community Development Act of 1974, as amended, are rescinded.

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

Proposed Rescission (R91-20)—Fiscal Year 1991

Of the funds made available under this head in prior years for projects to be developed for the elderly and handicapped under section 202 of the Housing Act of 1959, $295,815,000 are rescinded.

Of the funds made available under this head in Public Law 101-507, $229,660,000, are rescinded. *Provided*, That $514,100,000 shall, in lieu of $733,760,000, be for the development and acquisition cost of public housing: *Provided further*, That $25,000,000 shall, in lieu of $35,000,000, be available for assistance under the Nehemiah housing opportunity program.

Of the amounts under this head carried over from appropriations for fiscal year 1990 and prior years, $250,300,000 are rescinded: *Provided*, That $60,500,000 of such amount shall be from public housing amendments, $102,390,000 of such amount shall be from amounts for section 8 certificate assistance to eligible tenants of section 8 projects that are withdrawn from assistance under that program, $7,110,000 of such amount shall be from amounts for section 8 certificate assistance for tenants affected by public housing disposition, $112,700,000 of such amount shall be from amounts for section 8 voucher assistance for tenants affected by public housing relocation activities, and $12,600,000 of such amount shall be from section 8 amounts for tenants of projects heretofore subsidized under prior section 23 of the United States Housing Act of 1937 (as in effect before August 22, 1974).

HOME INVESTMENT PARTNERSHIPS GRANT PROGRAM

For the HOME investment partnerships program as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625), $468,500,000, to remain available until expended.

SHELTER PLUS CARE: SECTION 8 MODERATE REHABILITATION, SINGLE ROOM OCCUPANCY

For the Shelter Plus Care: Section 8 moderate rehabilitation, single room occupancy program, as authorized under subtitle F, part III, of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77), as amended, $24,000,000, to be derived by transfer from the Section 8 moderate rehabilitation single room occupancy program, to remain available until expended.

SHELTER PLUS CARE: SECTION 202 RENTAL ASSISTANCE

For the Shelter Plus Care: Section 202 rental assistance program, as authorized under subtitle F, part IV, of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77), as amended, $18,000,000, to remain available until expended.

ASSISTANCE FOR THE RENEWAL OF EXPIRING SECTION 8 SUBSIDY CONTRACTS

For an additional amounts for "Assistance for the renewal of expiring section 8 subsidy contracts", $155,815,000, to remain available until expended: *Provided*, That of the $7,734,985,400 provided for use in connection with section 8 expiring contracts in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1991 (Public Law 101-507), is increased by the foregoing appropriation to $7,890,800,400, of which $4,234,500,400 shall be for existing certificates, $671,300,000 shall be for housing vouchers, and $2,985,000,000 shall be for loan management and other project-based section 8 contracts.

CONGREGATE SERVICES

Funds appropriated under Public Law 101-507, 104 Stat. 1362, as well as prior year unobligated balances made available under the Congregate Housing Services Act of 1978, shall be provided for in section 802 of the National Affordable Housing Act of 1990.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For an additional amount for "Payments for operation of low-income housing projects", $75,000,000, to remain available until September 30, 1992: *Provided*, That these funds shall be used by the Secretary for fiscal year 1991 requirements in accordance with section 9(a), notwithstanding section 9(d) of the United States Housing Act of 1937, as amended.

Mr. D'AMATO. Mr. President, let me thank my colleague from Maryland who I think has very aptly put it. We had a full debate on this. There is no sense in going any further. I wish to see us give the Secretary an opportunity to start this program. I recognize the concerns that have been voiced by my colleagues.

With that, Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. D'AMATO. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Do the Senators yield back the remainder of their time?

Mr. D'AMATO. Mr. President, I ask unanimous consent that Senator KASTEN and Senator SYMMS be added as original cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I ask unanimous consent that a letter from the National Association of Home Builders be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION
OF HOME BUILDERS,
Washington, DC, March 18, 1991.

Hon. ALFONSE D'AMATO,
U.S. Senate,
Washington, DC.

DEAR SENATOR D'AMATO: On behalf of the 157,000 members of the National Association of Home Builders (NAHB), I respectfully urge your support and vote for an amendment to be offered by Senator D'Amato (R-NY) to the FY 1991 Supplemental Appropriations Bill, H.R. 1281. The D'Amato amendment will maximize the use of scarce federal dollars devoted to housing programs at the Department of Housing and Urban Development (HUD).

This amendment will make it both possible and desirable to provide initial funding for the new initiatives contained in the Cranston-Gonzalez National Affordable Housing Act—HOME and HOPE—in a way that will balance Congressional intent with respect to both the authorization and appropriations legislation enacted in the 101st Congress. NAHB strongly supports the D'Amato amendment.

It is our understanding an amendment will support funding for public housing, new construction and reconstruction at the authorization level, while providing $500 million for HOME—the state and local matching grant program—as well as $165 million for homeownership opportunities under HOPE and $122 million for Homeless Shelter Plus Care for a total of $287 for the HOPE programs.

This budget-neutral amendment would transfer $220 million in funding from public housing construction, which takes roughly five years from funding approval to occupancy, and apply these funds to the HOME program, where immediate assistance will be made available, providing a predictable flow of funds to almost 300 states, cities, and towns. Currently, the public housing program is experiencing a 27,700 unit backlog, while nearly 100,000 units of public housing remain vacant.

Again, we respectfully urge your support and vote for the D'Amato amendment to H.R. 1281 to provide initial funding for the HOME and HOPE initiatives in FY 1991, in an effort to more responsibly address the unmet housing needs of the nation's low- and moderate-income families.

Sincerely,

MARK ELLIS TIPTON.

Mr. SASSER. Mr. President, I rise today in opposition to the D'Amato amendment.

Mr. President, the amendment before us would rescind $756 million from existing HUD programs. With these savings, the amendment would propose to fund the newly authorized HOME Investment Partnership Program and the administration's Homeownership and Opportunities for People Everywhere or HOPE Program.

Now, I was an original cosponsor of the HOME Program and I remain a strong supporter of the HOME Program. I believe the HOME Program represents the vehicle for funding low-income housing in the 1990's.

HOME is unique in the flexibility that the program will provide to State and local governments. The program favors housing rehabilitation, but will allow communities to support new housing construction or to provide rental assistance payments, if these strategies better meet a particular, pressing local need.

HOME is unique with its matching requirement. This requirement is important in a difficult budget environment because it expands the resources available for low-income housing. But it is also important because it mandates a partnership between the Federal Government and the local governments—a partnership that combines Federal resources and 60 years of low-income housing experience with local understanding of the needs and of what programs will or will not work.

HOME is unique in the role it envisions for nonprofits. Nonprofits are now playing a significant role in housing and their capacity is growing daily. In my State, an excellent example of the possibilities for nonprofits is Chattanooga Neighborhood Enterprises or CNE. I support the HOME Program because I believe it will spawn organizations like CNE across the Nation, new organizations that are effective providers of low-income housing assistance.

Mr. President, if new funding were available, I would like to see the HOME Program funded as soon as possible. I regret to say that I cannot support funding for HOME this year at the expense of existing housing programs. The National Affordable Housing Act that created the HOME Program made an implicit promise to cities and States of a transition year. Terminating the Rental Rehabilitation Grant Program, the section 312 Rehabilitation Loan Program, and the Urban Homesteading Program this year before the HOME infrastructure is in place will create an unfortunate and harmful hiatus in funding available to cities for their housing needs.

Mr. President, I must also oppose this amendment for another reason. This is because the amendment would provide $165 million for the administration's HOPE Program.

I must confess to a certain ambivalence about the HOPE Program. I favor homeownership. I favor innovation in our antipoverty approaches. We need to try new strategies and evaluate the effectiveness of these strategies very carefully.

But Mr. President, I cannot support a full-blown HOPE Program based on the information we have so far. The GAO found that the cost per unit of public housing homeownership at a D.C. project exceeded $73,000. At that cost, we could have housed more than twice as many currently unserved families using the section 8 existing housing program.

Moreover, an evaluation of the initial public housing homeownership demonstration found that participants had higher incomes than the average public housing tenant by $16,673 to $6,539. If the administration is asking us to go more deeply into the business of giving away the only resources affordable to the very poor and transferring that ownership to relatively better off households, Mr. President, then I would suggest that HOPE is flawed both as a housing program and antipoverty program.

Mr. HATFIELD. Mr. President, during consideration of H.R. 1281, the dire emergency supplemental appropriations bill, the committee agreed to defer the administration's proposed rescissions, transfers, and appropriations of more than $780 million in housing and community development programs to support programs authorized in the National Affordable Housing Act, including the HOPE Grants Program. While the HOPE and HOME Programs have obvious merit, I fully concur with the committee's decision on this matter.

Mr. President, for many years I have supported a variety of HUD Programs including Urban Homesteading, Nehemiah, UDAG, Rental Rehabilitation and Supplemental Assistance for Facilities to assist the Homeless. Many of these programs are now targeted in these rescissions.

Without a doubt, Secretary Kemp has exemplified great leadership in putting forth a number of new and valuable initiatives and has done much to restore credibility and accountability to the Department of Housing, but I feel strongly that programs such as HOPE and HOME should be given every consideration through the regular appropriations process and not on a dire emergency supplemental bill. I intend to work with the VA, HUD Subcommittee to see if these important new initiatives can be implemented expeditiously in the new fiscal year without rescinding funds appropriated for current programs.

Mr. LAUTENBERG. Mr. President, I must reluctantly oppose this amendment.

Mr. President, I was an original cosponsor of the National Affordable Housing Act, and in fact worked closely with the Housing Subcommittee on several of its provisions. So I would very much like to see these new programs funded, particularly the HOME Program, which includes a set-aside for community-based groups based on my own bill, the Community Housing Partnership Act.

However, as strongly as I support the National Affordable Housing Act, I don't think it's right to fund the new programs now by taking money away from existing programs.

Mr. President, it's premature to appropriate money to the HOME Program. The States and localities that will get money for the HOME Program must first put together comprehensive housing strategies, and they must do it after the public gets a chance to participate. Yet State and local officials are just getting started in preparing their strategies and learning about the program. Officials in New Jersey tell me that they will not be ready to use HOME funds effectively for many months. Municipal officials around the country are saying the same thing.

Mr. President, it does not make sense to rush 1991 money into a program that the recipients aren't ready to use, and when the same recipients are urging us to oppose the effort. Particularly when such funding would be taken from programs that help nonprofit, community-based groups provide housing, and that allow us to repair the many public housing projects that are in dire need of major reconstruction.

Mr. President, despite my concerns about this amendment, I want to again emphasize my support for the HOME Program, and my hope that the program will be funded in 1992. As a member of the VA, HUD and Independent Agencies Subcommittee of the Appropriations Committee, I intend to work for such funding in the coming fiscal year, and I am hopeful we can work in a bipartisan manner to make that happen.

Mr. GRASSLEY. Mr. President, during the 101st Congress, the Congress overwhelmingly passed the National Affordable Housing Act. This bill was the first major housing legislation in years.

Some of the inventive aspects of this landmark legislation were:

The HOPE Program, which promotes low-income homeownership and resident management;

the HOME Housing Grant Program, which increases housing assistance to States and cities for vouchers, rehabilitation, and new construction; and

the Shelter Plus Care Program, an innovative new service-supported housing program for the homeless most in need.

The Department of Housing and Urban Development has quickly issued regulations to carry out these programs. The program regulations for HOPE and Shelter Plus Care were published in early February. The HOME Program regulations were issued on February 28 for prepublication review, and will be published soon.

The administration is seeking $787 million in supplemental funds for 1991 in a budget neutral request. HOME would receive $500 million in 1991, HOPE grants would receive $155 million in 1991, services for frail elderly housing would receive $10 million, and Shelter Plus Care would receive $122 million.

These funds would be offset by a $220 million reduction in public housing new construction. This would bring 1991 funding to the authorized level of $154 million, down from the appropriated level of $734 million, but still permitting 12,708 units of new construction. This amendment does not reduce operating subsidies or modernization funds for public housing.

A $500 million HOME block grant would serve more than 37,200 families. The reduction in public housing new construction has little impact on the number of families served—reducing the increase in public housing new construction by less than 3,000 families. And these units would take 4-5 years to become occupied. Therefore, HOME funds will serve more than 12 times the number of low-income families, compared to the existing appropriations level for public housing new construction and allowing carryover funds to be unused.

Mr. President, I feel it is time to move forward aggressively with these programs. It is time to break from the failed policies of the past and embrace the bright future promoted by these programs. It is time for Congress to follow through with its support of the National Affordable Housing Act of last year.

Now is the time to fully fund these programs.

Mr. CHAFEE. Mr. President, I would like to voice my strong opposition to this amendment which would shift funding away from the Nation's Public Housing Authorities to help launch the Department of Housing and Urban Development's new HOME and HOPE programs.

Just a few months ago, I joined with an overwhelming majority of my colleagues in support of the National Affordable Housing Act—the legislation that created both the HOME and the HOPE programs. It was a good bill that put forth a number of innovative housing programs to aid low-income families, the homeless, and other needy individuals. The Department recently published regulations regarding the National Affordable Housing Act, and I look forward to public comment on these regulations.

My enthusiasm for HOPE and HOME, however, does not come at the expense of current funding for Public Housing Authorities [PHA's]. In my home State of Rhode Island, PHA's are scheduled to receive nearly $7 million this fiscal year. Budgets have been planned based on this figure, and hundreds of families are depending upon this Federal assistance. The pending amendment would reduce Rhode Island's funding by $4.5 million—a devastating 66-percent cut.

Public Housing programs in my State are a great success. The cities of Providence, Pawtucket, Cranston, Warwick, Woonsocket, and others are creating new housing opportunities for Rhode Islanders each day. Therefore, I see no need to abandon PHA's in order to embrace programs that are already scheduled to be implemented next year.

Mr. President, I look forward to working with the Housing Subcommittee and the HUD Secretary to implement the promising components of the National Affordable Housing Act. At this time, however, I must support the current fiscal year funding schedule and urge my colleagues to oppose the amendment.

Mr. RIEGLE. Mr. President, I rise in opposition to the amendment proposed by Mr. D'AMATO on behalf of the administration. I am opposed to this amendment because it violates several key points of the conference agreement of the National Affordable Housing Act. As chairman of the Committee on Banking, Housing, and Urban Affairs, and as a conferee on the housing bill, I am very disappointed that the administration has made a proposal that flies in the face of an agreement that was over 3 years in the making.

During the housing conference, it was agreed that a number of existing programs would be folded into the HOME Program beginning in fiscal year 1992. Today the administration is asking to rescind funding for these programs for the second half of fiscal year 1991. This is fundamentally unfair to the States and local jurisdictions who are relying on these programs to bridge the transition to the HOME Program. This move would disrupt the plans and commitments communities have made in anticipation of having the programs operable until fiscal year 1992.

During the housing conference, it was also agreed that the Senate's HOME Program would be funded at $1 billion in fiscal year 1991 and the administration's HOPE Program would be funded at $165 million. The amendment would only fund the HOME Program at half of the amount agreed—yet fully fund the HOPE Program at its authorized level. It is interesting that the administration can manage to come up with full funding for their new initiative, yet not find sufficient funds for HOME. While the administration is proposing to fund HOME, it is largely at the expense of other much needed programs—such as public housing development.

Work on the National Affordable Housing Act began over 3 years ago with the creation of the Rouse-Maxwell Task Force. During this process, the Senate held over 30 days of hearings and actively sought the input of every major housing interest. From day one, members on both sides of the aisle and the administration were integrally involved in crafting the bill. I am very proud of the bill that was developed by wide consensus, passed overwhelmingly by both Chambers of Congress, actively supported by the Secretary of HUD, and signed into law by the President.

The HOME Program is the cornerstone of the National Affordable Housing Act and represents the next generation of housing and community development programs. It is designed to expand the supply of decent and affordable housing for millions of low-income families by creating dynamic partnerships between States, local communities, nonprofits, for-profit developers, and the Federal Government.

Significant momentum has been built over the 3-year process of developing the HOME Program and we need to maintain that momentum. Since enactment, States and local communities have been working diligently to develop housing strategies to address local needs. These communities are ready and eager to put the HOME Program to work in solving the affordable housing crisis. The Department of Housing and Urban Development has also been working to promptly issue regulations to get the program off the ground beginning in fiscal year 1992.

I was disappointed to see that supplemental appropriations could not be found to fund HOME or the other initiatives created in the National Affordable Housing Act. However, as a member of the Budget Committee, I will be working over the next few weeks to try to ensure that the new initiatives created in the housing bill receive adequate funding for fiscal year 1992.

I urge my colleagues to reject the amendment offered by Mr. D'AMATO because it violates the conference agreement of the National Affordable Housing Act.

Mr. KOHL. Mr. President, at the end of last session, Congress passed historic housing legislation—legislation that revamped how we fund housing programs in this country. And though there were many honest disagreements about the direction this legislation should take, and though many compromises went into the final package that passed Congress, I honestly believe that every Member of the Congress and every member of the administration that worked on this bill was trying to move it toward the same end: efficiently and effectively meeting the housing needs of this country. In other words, we all wanted to enact programs that move as many people as possible into decent, affordable housing.

A major component of last year's housing legislation was the HOME Block Grant Program. In my opinion, this program embodies the commitment Congress and the administration has shown to meeting the diverse housing needs of this Nation. The HOME grant allows States and entitlement cities to tap Federal housing money to fund programs designed specifically for that State or locality by that State or locality. Again, the emphasis is on getting people into housing in the most efficient and effective manner.

Because the Cranston-Gonzalez housing legislation did not pass until the final days of session last year, Congress and the administration made another collective decision—to hold off funding and implementing the new housing programs—including the HOME block grant—until fiscal year 1992. This decision was not made because of any doubts about the new housing programs; their authorization was supported overwhelmingly in both the House and the Senate. The decision was not made for any fiscal year beyond fiscal year 1991; as the chairman of the Appropriations Committee that funds HUD has stated, she—and most others in this body—are committed to supporting the new housing programs with appropriations in fiscal year 1992.

The decision to delay funding the Cranston-Gonzalez housing bill had the same motive as the other collective decisions about housing made last year: to meet this Nation's housing needs efficiently and effectively. The new grant programs HOME and HOPE involve major changes in the way State and localities access Federal funds. HUD has only recently issued the regulations for these. HOPE regulations were out at the beginning of February. HOME regulations were just released yesterday. It would be almost impossible for States and cities to understand how to tap into these programs this year.

Despite this, Senators D'AMATO and GARN's amendment asks us to fund these new programs today—and to do so by eliminating, cutting, or shifting funds from housing programs for which money has already been appropriated and, in many cases, on which States and cities already depend. In other words, the amendment before us today asks us to rush into the new housing programs this year—and to terminate several of the older, established programs to fund that rush. Enacting this amendment would result in confusion, interruption of projects already in the pipeline for this year, and probably less funds flowing to most areas. The bottom line is that the D'Amato-Garn amendment means serving less people less well.

I share this impression of the D'Amato-Garn proposal with several people working in the housing field in the State of Wisconsin. I've checked with State legislators interested and in charge of housing programs; I've checked with housing authority officials in our major cities; I've checked with city development officers; I've checked with real estate industry representatives in Wisconsin; and I've checked with our State Housing Office. All sent me the same message; it's been summed up by one State official who said of the D'Amato-Garn amendment: Great ideas, great programs, let's do it, but let's do it next fall when we can do a good job of it.

Mr. President, I support the Cranston-Gonzalez housing legislation. I support the flexibility of the HOME Grant Program. I support the dream of home ownership symbolized by the HOPE Program. I support the long-term approach to homelessness embodied in the Shelter Plus Care Program. And because I support these new initiatives, I support doing them well. I support funding them next year after States and cities have a chance to learn the programs and to incorporate the new funds into their budgets.

I can understand Secretary Kemp's enthusiasm for the HOME and HOPE programs; I share it. I understand his desire to get funding for those programs this year in order to ensure that they are also funded next year. We all know that is often how the appropriations game is played.

However, what I cannot understand—or support—is playing an appropriations, fund switching game that will disrupt the flow of Federal money to those who need decent housing this year, this month, today. And that, Mr. President, is what this amendment will do. For that reason, I will vote against it, and I urge my colleagues to do the same.

Mr. D'AMATO. Mr. President, I yield back the remainder of my time.

Ms. MIKULSKI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Does the Senator from Maryland yield back the remainder of her time?

Ms. MIKULSKI. The Senator from Maryland does yield back the remainder of her time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from New York [Mr. D'AMATO].

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 40, nays 60, as follows:

[Rollcall Vote No. 33 Leg.]

YEAS—40

Boren
Burns
Coats
Cochran
Craig
D'Amato
Dodd
Dole
Domenici
Durenberger
Garn
Gorton
Gramm
Grassley
Hatch
Helms
Kassebaum
Kasten
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Moynihan
Murkowski
Nickles
Pressler
Roth
Rudman
Seymour
Shelby
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner

NAYS—60

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick
Byrd
Chafee
Cohen
Conrad
Cranston
Danforth
Daschle
DeConcini
Dixon
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Hatfield
Heflin
Heinz
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Metzenbaum
Mikulski
Mitchell
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Simon
Wellstone
Wirth

So the amendment (No. 45) as modified, was rejected.

Ms. MIKULSKI. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TIME LIMITATION AGREEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that on an amendment which Mr. D'AMATO will now call up dealing with the HOPE Program that there be a time limitation of 20 minutes to be equally divided between Senator MIKULSKI and Senator D'AMATO.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, since I last addressed the schedule of this evening and this week, the number of amendments has increased. No one here will be surprised at that.

What I now suggest for the Senate's consideration, following consultation with the distinguished Republican leader and the chairman of the Appropriations Committee, is that we use the 20 minutes during which the D'Amato amendment will be debated to reach an agreement identifying and limiting the amendments to this bill with time agreements on them in a manner that will assure our ability to complete action on this bill by early or mid-afternoon tomorrow.

That would then, with the diligent effort of the chairman of the Appropriations Committee, give us a chance—not a certainty, but a chance—of having the conference completed and the conference reports back here Thursday evening, which will enable us to complete action this week by the close of business on Thursday evening.

If we are unable to reach such an agreement this evening and, therefore, unable to complete action on this bill tomorrow, then almost certainly we will be in Friday, and possibly we will not be able to complete action on these two appropriations bills, the conference reports for them, in this week prior to the recess, both of which are results that I think Senators would prefer not to occur. Therefore, I encourage all Senators who may have an agreement to now be prepared to make clear to the staff and the managers the amendment, the subject matter, and the time agreement so that we can be assured of completing action on this bill by early to midafternoon tomorrow.

I yield to the Republican leader.

Mr. DOLE. It is my understanding the House is going to leave tomorrow evening in any event so whether we are here on Thursday or Friday might not be significant; there would not be anybody to conference with. But we will try to get time agreements. I am not certain we will get them on every amendment, but I will pledge my cooperation to the distinguished chairman and to the majority leader. The problem on this side is there are about three different events tonight people supposedly have agreed to attend. If we can do as much as we can in the next 20 minutes, as far as agreements are concerned, then I can discuss it with the majority leader and the chairman of the committee.

Mr. MITCHELL. Mr. President, as the distinguished Republican leader knows, having been in this position more than I have, almost all of the people who have an event tonight also do not want to be here on Friday. We are trying to reach accommodation of both. But I think if we can get the agreement, it will permit us to achieve both, and I hope we can do that.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. MITCHELL. Yes.

Mr. BYRD. I suggest, also, if we hope to complete action on this bill by midafternoon tomorrow, that we come in and begin on the legislation in the morning at 9 o'clock and that we have a lineup of amendments in sequence so that we will not have to wait around between amendments as we have had to do today.

Mr. MITCHELL. Leaving in the hands of the capable chairman of the committee the preparation and implementation of the unanimous-consent agreement, I am certain that will be part of it, if it is at all possible.

Mr. BYRD. Mr. President, I ask unanimous consent that the amendment by Mr. D'AMATO be called up, that that be followed by the amendment by Mr. NICKLES.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New York is recognized for 10 minutes.

AMENDMENT NO. 48

Mr. D'AMATO. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. D'AMATO], for himself, Mr. SYMMS, Mr. KASTEN, Mr. SEYMOUR, Mr. MACK, Mr. NICKLES, Mr. COATS, and Mr. CRAIG, proposes an amendment numbered 48.

Mr. D'AMATO. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 38, line 13, insert the following:

HOMEOWNERSHIP AND OPPORTUNITY FOR PEOPLE EVERYWHERE GRANTS (HOPE Grants)

For the Homeownership and Opportunity for People Everywhere Programs, $165,000,000, to remain available until expended: *Provided*, That $68,000,000 shall be for the HOPE I program authorized under title III of the United States Housing Act of 1937; $51,000,000 shall be for the HOPE II program authorized under subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625); $36,000,000 shall be for the HOPE III Program authorized under subtitle C of title IV of such Act; and $10,000,000 shall be for supportive services for the HOPE for Elderly Independence Demonstration Program authorized under section 803 of such Act.

SHELTER PLUS CARE: HOMELESS RENTAL HOUSING ASSISTANCE

For the Shelter Plus Care: Homeless Rental Housing Assistance Program, as authorized under subtitle F, part II of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77), as amended, $80,000,000, to remain available until expended.

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

Proposed Rescission (R91-20)—Fiscal Year 1991

On page 38, at line 19 of H.R. 1281, delete, "$275,815,000" and insert "295,815,000".

On page 38, at line 20, insert the following: Of the amounts under this head carried over from appropriations for fiscal year 1990 and prior years, $267,000,000 are rescinded: *Provided*, That $39,310,000 of such amount shall be from public housing amendments, $102,390,000 of such amount shall be from amounts for section 8 certificate assistance to eligible tenants of section 8 projects that are withdrawn from assistance under that program, $112,700,000 of such amount shall be from amounts for section 8 voucher assistance for tenants affected by public housing relocation activities, and $12,600,000 of such amount shall be from section 8 amounts for tenants of projects heretofore subsidized under prior section 23 of the United States Housing Act of 1937 (as in effect before August 22, 1974).

SHELTER PLUS CARE: SECTION 8 MODERATE REHABILITATION, SINGLE ROOM OCCUPANCY

For the Shelter Plus Care: Section 8 moderate rehabilitation, single room occupancy program, as authorized under subtitle F, part II, of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77), as amended, $24,000,000.

SHELTER PLUS CARE: SECTION 202 RENTAL ASSISTANCE

For the Shelter Plus Care: Section 202 rental assistance program, as authorized under subtitle F, part IV, of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77), as amended, $18,000,000, to remain available until expended.

Mr. D'AMATO. Mr. President, I offer a budget-neutral amendment to the dire emergency supplemental for the new HOPE—Homeownership and Opportunity for People Everywhere—programs, including the HOPE Grants Program, the Shelter Plus Care Program for the homeless, and the Elderly Independence initiative. My amendment would provide $287 million in fiscal year 1991 for these three innovative housing programs from excess carryover funds from fiscal year 1990. This amendment would not affect fiscal year 1991 or fiscal year 1992 appropriations.

These three major programs were all authorized as part of the National Affordable Housing Act for fiscal year 1991, and they were overwhelmingly supported by most Senators last November.

The HOPE Grants Program would be funded at $155 million to finance resident management and home ownership efforts in three major types of housing: public housing, FHA insured and assisted housing, and other Federal, State, and local vacant, in rem, or distressed properties. Despite what you may have heard this program would not destroy the public housing stock. In fact, carryover funds would be used to increase funding for public housing, providing $68 million more for public and Indian housing home ownership, and rehabilitation. HOPE does not mandate home ownership or resident management; it expands choice by creating new opportunities for residents to purchase their homes and apartments.

We are convinced that private property ownership gives poor people pride of ownership, widens the benefits of democratic capitalism, and creates new incentives for maintenance of housing and improvement of neighborhoods.

This amendment would also provide $122 million for funds in the new Shelter Plus Care Program for the homeless. As the name implies, this initiative ties housing to supportive services—like drug and alcohol treatment, mental health care, and job training—to expand housing for the hard to reach homeless. If anyone wonders why this funding amendment is attached to a dire emergency supplemental, let me say that the needs of the mentally ill and substance-addicted homeless are absolutely critical in my State and in many States around the country. This amendment would earmark over 42 percent of the carryover funds to offer homeless Americans a decent place to live and a chance to get back on their feet. I believe that this amendment deserves bipartisan support, and if serving the homeless does not deserve bipartisan support, I don't know what does.

Finally, this amendment would also provide funding for the Elderly Independence Program, which ties services for the frail elderly with housing vouchers. This effort would bring home health care, meal delivery and preparation, housekeeping, and other services together with housing to help thousands of frail elderly individuals and families stay in their own home. Without some help with daily living, the frail elderly might prematurely be forced into expensive nursing home facilities, which studies show cost more in Medicaid costs than staying home under limited care. I expect that this program will offer some real hope to many elderly in my own State and around the country.

Mr. President, these programs deserve our support, and they were passed on a bipartisan basis just a few months ago with great fanfare and self-congratulation. I think they deserve not just our rhetoric but our resources.

Three major arguments were raised to oppose the previous amendment to fund HOPE and HOME. This amendment addresses those concerns. The first argument was that some of the offsets to fund the new program would come from rescissions of funds for public housing new construction and three other categorical grant programs. I understand the reluctance of many Senators to rescind funds so far into the fiscal year for successful programs that States, cities, and nonprofit groups were depending on in fiscal year 1991.

This amendment answers that concern—it contains no reductions in existing programs, including public housing new construction, the 312 loan program, rental rehab, or urban homesteading. The HOPE programs would be financed entirely from excessive carryover funds. These carryover funds are not needed because of unanticipated changes resulting from legislation—particularly the National Affordable Housing Act—economic and technical reestimates, and program demand that was less than anticipated or budgeted.

It seems to me it would be a terrible mistake to allow these excess carryover funds to go unused when these new programs could deliver important assistance and self-help efforts to low income people this year. The real estate slowdown, collapse of the S&L's, the Resolution Trust Fund portfolio, as well as the portfolio of State and local properties, present unique and perhaps unprecedented opportunities. HOPE funds could be used to buy these properties at bargain basement prices to help low income people become homeowners and expand access to affordable housing.

The second argument against funding the new programs has been that States, cities, counties, and nonprofits were not ready to use the HOME Block Grant Program. If the HOME Program is arguably not ready, the HOPE programs which this amendment would fund are clearly ready to go. Not only has the Department been preparing for 2 years to get these programs up and running, but the HOPE programs—unlike the HOME program—is guided by an interim regulation that was published on February 4. Over 100 resident management groups are already in training, and many will want the opportunity to own their projects and properties in fiscal year 1991. No further regulations need to be issued to allow this program to become effective today.

The third argument is that Congress cannot guarantee funds in 1992 for these new programs, so why start in 1991? In these days of tight budgeting, funding is not guaranteed for any program. But that should not prevent us from funding programs when money is available as with the 1991 carryover funds. If we must take 1 year at a time, then let's take advantage of the opportunity we have before us. These excess carryover funds can start relatively small programs like the HOPE programs, but they would not be sufficient for a large block grant, like the HOME Program.

In close, I urge my colleagues to support this budget-neutral amendment which does not cut funding for any existing program. The Democrats have asked President Bush for a domestic agenda. This amendment would begin an important part of a new domestic agenda by funding promising programs for the homeless, for potential low income homeowners, and for the frail elderly. This may not be the best way or time to finance new programs, but with limited budgets, it appears to be the only way.

Promises to do something in 1992 may only be smoke and mirrors. Today, we can do something important and significant by funding HOPE as a downpayment on implementing new directions in housing policies—policies overwhelmingly endorsed by this Chamber in the National Affordable Housing Act.

Mr. President, in conclusion, I offer a budget-neutral amendment to the dire emergency supplemental for the new Homeownership and Opportunity for People Everywhere Program, known as the HOPE Program, and include the HOPE Grants Program, the Shelter Plus Care Program for homeless, and the elderly independence initiative.

The amendment would provide $287 million in fiscal year 1991 for these three innovative housing programs from excess carryover funds from fiscal year 1990—no new funds. No new funds. It does not tamper with any programs. It keeps all existing programs, all the public housing programs in place.

I understood the arguments saying, look, we do not want to tamper with public housing; look, we do not want to tamper with the 312 Program; we do not think that the HOME Program is ready. It does not deal with HOME, just HOPE.

We are talking about whether or not we are going to give our President the opportunity to deal with these programs for which he has called. He said, give us a chance. This is not Senator D'AMATO coming forward. I am doing this on behalf of the administration, on behalf of the President, on behalf of the Secretary.

Let me tell you what this program does. This program would earmark 42 percent of the carryover funds to offer homeless Americans a decent place to live and a chance to get back on their own feet.

The Shelter Plus Care Program, what a program, $122 million. You say you are for dealing with people who are homeless, people who are mentally ill, drug addicts. Here is a chance, because as the name implies, Shelter Plus Care Program, this initiative ties housing to supportive services like drug and alcohol treatment, like mental health and care and job training, to expanding housing for the hard-to-reach homeless.

If anyone wonders why this funding amendment is attached to a dire emergency supplemental, let me tell you. You talk about what are we going to do with the homeless. Here is an opportunity to demonstrate that you are committed to put the funding into the legislation that we authorized.

Finally, this amendment would provide funds for the Elderly Independence Program. What does that do? It ties services for the frail elderly with housing vouchers. This effort brings home health care, meal delivery and preparation, housekeeping, and other services together with housing to help thousands of frail elderly individuals. I hear a lot of my colleagues talking about whether or not the administration has a heart. Here is an opportunity for us to demonstrate that we are going to put excess carryover money into a program to deal with the frail elderly. When we talk about saving money, I have wondered for years why HHS and others have not done this. You can save a fortune if you keep a senior in his or her house. You are not going to keep those people who are wondering around.

By the way, when we talk about the homeless, giving them supportive care, I look on the floor and I see my friend and colleague, Senator DOMENICI, who has worked so diligently with others to help bring this program about. Mr. President, these programs deserve our support. They were passed on a bipartisan basis a few months ago. I think we owe it to these groups, to these people, to have an opportunity to do something.

Let me just point out one other thing. Mr. President, HOPE funds can be used right now to buy properties at bargain basement prices to give people with low incomes an opportunity. What a thing for them and what a way to help the taxpayers. We have this portfolio of the Resolution Trust Corporation as well as a portfolio of State and local properties. They present a unique opportunity to put people in houses. We are complaining about what is happening with all of these houses. Here is an opportunity to empower people to own their own homes.

I hope my colleagues will take a look at this proposal in light of what it can do and then let us challenge the administration. Let us give them this opportunity to use this funding, particularly since it does not represent additional funds but really a recapture of funds that have not been spent.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Does the Senator retain the remainder of his time?

Mr. D'AMATO. Yes, I retain the remainder of my time.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 10 minutes.

Ms. MIKULSKI. Mr. President, the funds in the amendment of the Senator from New York would go for a project called HOPE and another called Shelter Plus Care. Both have a great deal of merit. HOPE essentially, as the Senator for New York said, would be able to convert public housing now rented by the tenants into home ownership. This was tried in England under Margaret Thatcher and had a great deal of success. This appropriator actually funded demonstration projects with the Secretary to test the feasibility of the idea. There is no doubt that the idea has merit because public housing should always be a way to a better life, not to be a way of life.

Our problem is that this uses an offset and a reprogramming carryover for funds for fiscal year 1990.

The Senator from New York said we have $300 million sitting around. Well, Mr. President, if we have $300 million sitting around at HUD, something is wrong if we are not spending. The idea of carryover funds might or might not be a good idea. In fact, we do not know even how much the estimates really are of how much they have left over.

This $300 million was appropriated in fiscal year 1990 for four programs which HUD Under Secretary Jack Kemp insisted that they needed. He said we need money for public housing amendments. We said OK. He said we need money for section 8 opt outs. We said, "You got it." He talked about vouchers for the relocation of tenants in Mr. D'AMATO's public housing units and then eloquently spoke about projects that converted the old section 23 programs into something called section 8. We said, "you bet. We are willing to work with you."

HUD asked for the money, said they needed it, it was crucial to housing opportunities for people, and guess what? They did not spend it.

Now they said they did not need it. What did they need when they said they needed it? The existence of carryover does not show that there is not a need for it, because I think the need that Kemp said was accurate. It simply shows that HUD's estimating ability and the data management systems used to forecast housing needs are way off. HUD has not done any surveys of its 10 regions or 7 field offices to determine if this $300 million is crucially needed, but it is not getting out to those in need.

Unfortunately HUD's estimating capability is among the worst of any Federal agency. In fiscal year 1990, the same year in which HUD wanted this $300 million, they initially showed up with a $500 million error in section 8 contracts.

Mr. President, what would your constituents have said if you made a $500 million estimating error, underestimation of 80 percent?

We had taken HUD's figures, had not questioned them, even had a separate hearing on it. Over 20,000 families would be out on the streets today, not because of the lack of funds but because of the lack of adequate estimates.

Now, because the Department needs to develop an offset that is less painful to existing programs than their original budget submission, they want us to believe their computer forecasting has become better than IBM's.

The truth is that HUD's data forecasting situation has so many errors that HUD's Inspector General, the man who covered the HUD scandal, said less than 1 year ago that HUD's data system is in shambles. Let me quote the IG. This is not Senator MIKULSKI:

> HUD does not have accurate reliable data in support of its administration for the section 8 program. This is due to serious weaknesses in the section 8 accounting and budgeting system. Consequently, this is not assurance that section 8 funds are being optimized or properly budgeted or accounted for.

We are not talking about scandal. We are not talking about fraud. We are talking about tremendous errors in reporting.

When we say OK we have the $300 million here, this is a question of, did they need the money when they asked for it? Should not that money be used for that now, or did they not need it? And if they did not need it, why did they ask for it? Is this example now of the HOPE project starting one more thing they do not need that they are asking for? Is it more for the need or is it more for their bureaucracy?

Mr. President, we want to start the HOPE project. I do not have confidence that this $300 million is painless. I have confidence that the $300 million we authorized and appropriated is needed right now in this fiscal year. To prematurely just turn it over, then something is either wrong with their forecasting, and one should say why is this forecast better than all others? Or, did they come before the committee saying they needed the program when they really did not? Once again, we have to question their own estimates of what the need really is.

Mr. President, I return to the arguments that we had in our ample debate on the HOME project and the HOPE project. It is a good intention. It is the wrong time. We happen to think the estimates on which this is based have a very serious question.

Mr. President, I reserve my time.

Mr. D'AMATO. Mr. President, I yield 3 minutes to my distinguished colleague from New Mexico.

Mr. DOMENICI. Mr. President, I rise to talk about a shelter plus care provision of this amendment. I think the HOPE proposals have been discussed. Let me make two points:

First, I believe the Senator from New York has provided money for this amendment that makes it neutral and does not take away from any ongoing programs. One might argue whether one wants to use carryover funds, save it for next year, use it this way. I am convinced he has carryover money not needed elsewhere and he is trying to put it into some programs that the Senate has an opportunity tonight to decide whether they want to fund or not.

I want to talk about a concept whose time has come. It is Shelter Plus Care. I was on the floor when we authorized this program. We have now authorized it two different ways because we had come to the realization that many of the homeless do not just need a house. If all they needed was a roof over their heads, the problem would be simple. The reality is if you put them in a house without services they will be on the street, if not tomorrow morning, tomorrow afternoon, because they need social services. They need care.

The provisions of this amendment fund three sections of the Homelessness Act that deal with Shelter Plus Care. It says we will build the shelters with Federal money, and if the locals will put up half the service, we will put up the other half. That is services for the mentally ill, those who are sick, those who have an addiction. And unless and until we do this we will not solve the homeless problem in America.

This is a good program. If we have a chance to fund it, we ought to. I say to the regular appropriations we just cannot continue to fund public housing and ignore new approaches. Public housing will take all the money we can put in it. We need this kind of approach in addition to public housing if we are going to solve the problem.

I commend the Senator from New York. I commend him to the Senate of the United States.

Mr. KERRY. Mr. President, I rise today in opposition to the amendment offered by my colleague from New York, Senator D'AMATO. Last year this body overwhelmingly passed the Cranston-Gonzalez Affordable Housing Act, and our vote on that bill was indicative of the bipartisan support for the legislation. We should move toward implementation in the same bipartisan manner.

I want to make clear that I fully support the new initiatives authorized in last year's housing bill. What I do not support, however, is the method used to fund these programs in this supplemental appropriations bill. The funding for the new authorized programs should not come at the expense of existing programs funded for fiscal year 1991 and should not come at the expense of funds allocated for public housing.

In addition, Mr. President, I have concerns about the timing of this amendment and the impact it will have on the ability of State and local governments to successfully complete the comprehensive housing affordability strategy plans required under the HOME Program. We need to ensure that we give HUD enough time to write satisfactory regulations and time for the State and locals to properly gear up to implement these programs.

It is my understanding that the distinguished chairman of the appropriations subcommittee with jurisdiction over housing programs has indicated her commitment to fund the HOME Program in fiscal year 1992. I am encouraged by her statement and support her efforts in this regard.

There is no doubt that these programs are worth funding, but as many of my colleagues already indicated, this amendment is an example of robbing Peter to pay Paul. In my view, this is not an appropriate way to allocate resources for important programs.

Mr. D'AMATO. Mr. President, let me conclude, because we have had some arguments on this. What are we looking for, $287 million of carryover funds? We have an opportunity to do something. Let us give the President and the administration an opportunity to provide housing for people that need it. One hundred fifty-five million dollars goes to public housing, FHA-insured assisting housing, and it does not cut back on the public housing. It gives a chance, rehabilitation.

We talk about it. It is there. The Senator from New Mexico talked about it. We talk about homeless people, and $122 million for a new Shelter Plus Care Program for the homeless. Give them drug and alcohol treatment, give them mental health care, give them job training. That is what it does. The money is there. Let us use it now.

Finally, it says for the elderly, who need elderly care, why have them committed into residential institutions when you have an opportunity to make a difference for the frail elderly?

So I hope that we will give the President, and Secretary Kemp an opportunity.

Lastly, we talked about the RTC. We talk about the S&L debacle. There is a whole host of housing opportunities out there, FHA foreclosures. Let them use this housing stock in this program to give low and working middle-class families an opportunity to own their own homes.

Mr. President, I yield the floor.

Ms. MIKULSKI. How much time do I have?

The PRESIDING OFFICER. The Senator has 3 minutes 47 seconds remaining.

Ms. MIKULSKI. Mr. President, I believe that in the debate on the first amendment, we had ample and full discussion on this. I want to conclude by saying that certainly the subcommittee, either Democrats or Republicans, in no way opposed tenant ownership and tenant empowerment. I think we have demonstrated that by our commitment to funding demonstration programs, and also the rehabilitation of public housing itself to make sure that it is fit for habitation at such time as that could be solved.

However, Mr. President, this once again is a good idea, starting with time, and the appropriations process where we do not know what the next year is going to be. This $300 million offset has very serious questions and I urge the defeat of the D'Amato amendment.

Mr. President, I move to table the D'Amato amendment.

The PRESIDING OFFICER. Do the Senators yield the remainder of their time?

Mr. D'AMATO. I yield the remainder of my time.

The PRESIDING OFFICER. The time has expired. The question is on the motion to table the amendment of the Senator from New York.

Mr. D'AMATO. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the previous agreement on the amendment by Mr. HELMS be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 49

AMENDMENT NO. 50

(Purpose: To make a technical correction in the Child Care and Development Block Grant Act of 1990 with respect to the spending of funds by States.

Mr. BYRD. Mr. President, I send to the desk an amendment by Mr. DODD and an amendment by Mr. BREAUX, both of which have been cleared on both sides of the aisle.

I ask unanimous consent that the two amendments be considered en bloc, adopted en bloc, and that the motion to reconsider en bloc be laid on the table.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendments (No. 49 and No. 50) agreed to en bloc are as follows:

AMENDMENT NO. 49

At the appropriate place in the bill, insert the following new section:

SEC. . Section 3(f)(3) under the heading "Administrative Provisions" in the appropriation for the Senate in the Legislative Branch Appropriation Act, 1975 (Public Law 93–371; 2 U.S.C. 59(e)), as amended by Public Law 94–32, is amended by striking subparagraph (B) and inserting the following:

"(B) Either of the following inscriptions shall be clearly visible on three sides of such mobile office in letters not less than three inches high:

"UNITED STATES GOVERNMENT VEHICLE

"'FOR OFFICIAL USE ONLY'.";

Or

"MOBILE OFFICE OF SENATOR ——

"'FOR OFFICIAL USE ONLY'.".

AMENDMENT NO. 50

At the appropriate place, insert the following new section:

SEC. . CHILD CARE BLOCK GRANT TECHNICAL AMENDMENT.

Section 658J of the Child Care and Development Block Grant Act of 1990 is amended by striking out "expended" and inserting in lieu thereof "obligated".

Mr. DODD. Mr. President, this amendment simply restores the original congressional intent of providing the States with 2 years to use the funding provided under the new child care legislation. As the Members will recall, the Senate provided $731 million for the child care legislation, but it is not available until September 19 of this year. Therefore, the States only have 1 year and 2 weeks to use the money instead of the 2 years originally contemplated.

Mr. President, this amendment has been cleared on both sides of the aisle and adds no money to the supplemental and I would urge its adoption.

AMENDMENT NO. 48

The PRESIDING OFFICER. The question is on the motion to table the amendment of the Senator from New York.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 52, nays 48, as follows:

[Rollcall Vote No. 34 Leg.]

YEAS—52

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bradley
Breaux
Bryan
Bumpers
Burdick
Byrd
Conrad
Cranston
Daschle

DeConcini
Dixon
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Hatfield
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Metzenbaum
Mikulski
Mitchell
Nunn
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Simon
Wellstone
Wirth

NAYS—48

Bond
Boren
Brown
Burns
Chafee
Coats
Cochran
Cohen
Craig
D'Amato
Danforth
Dodd
Dole
Domenici
Durenberger
Garn
Gorton
Gramm
Grassley
Hatch
Heinz
Helms
Jeffords
Kassebaum
Kasten
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Moynihan
Murkowski
Nickles
Packwood
Pressler
Roth
Rudman
Seymour
Shelby
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner

So the motion to table the amendment (No. 48) was agreed to.

Ms. MIKULSKI. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I will momentarily yield to the distinguished chairman of the Appropriations Committee who will propound a proposed unanimous-consent agreement which will limit the remaining amendments to the bill.

I understand no effort was made to obtain time limitations on each amendment at this time, although that will be attempted later this evening and tomorrow if we get this agreement limiting the amendments.

Part of the agreement will be to take up next an amendment by the Senator from Oklahoma, Senator NICKLES, which would be debated this evening and then, first thing in the morning, following brief closing statements by both sides, there would be a vote at 9:15 a.m. on that amendment, and then the remaining amendments would be offered.

It is my hope we will be able to get this agreement which will enable us to conclude activities for this evening following that debate. There would be no further rollcall votes this evening if that occurs. We will then vote at 9:15 and then continue on the bill. It is my hope we can finish this bill by early or midafternoon, immediately following which it is my intention to proceed to the Martinez nomination.

I hope we can get all of that wrapped up in here this evening in connection with this agreement.

Unless the distinguished Republican leader wishes to comment at this time, I yield to the chairman of the Appropriations Committee.

Mr. BYRD. Mr. President, would the distinguished majority leader set the time for convening at 9 o'clock?

Mr. MITCHELL. Yes. It would be my intention to convene at 9, have a final 15 minutes of debate, equally divided, on the Nickles amendment, which will be debated in the main this evening, and the vote would occur at 9:15. Thereafter, the amendments which hopefully would be contained in the agreement to be propounded and limited to those, would be considered and voted on and we can complete action on this bill at a reasonably early hour tomorrow, I hope.

Mr. BYRD. Would the distinguished majority leader now proceed to set the convening time and delay the standing order?

Mr. MITCHELL. Yes.

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPROVAL OF THE JOURNAL AND RESERVATION OF LEADER TIME

Mr. MITCHELL. I further ask unanimous consent that upon convening, the Journal of proceedings be deemed approved and that the time for the two leaders be reserved for their use later in the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS

The Senate continued with the consideration of the bill.

Mr. BYRD. Mr. President, I thank the majority leader.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that following the prayer on tomorrow there be 15 minutes, equally divided between Mr. NICKLES and Mr. KENNEDY, on the amendment by Mr. NICKLES dealing with the Davis-Bacon Act; that no amendments to the amendment be in order; and that a vote then occur on or in relation to the amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that following the amendment by Mr. NICKLES, there be an amendment by Mr. NICKLES and Mr. DECONCINI in relation to aid to Jordan or, if Mr. NICKLES does not choose to offer the amendment, that Mr. DECONCINI be recognized to call up an amendment in relation to aid to Jordan.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Reserving the right to object, that is without a time agreement?

Mr. BYRD. Yes; I am not seeking any time agreements this evening.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the amendments be limited to the following:

An amendment by Mr. DOMENICI, dealing with WIC; an amendment by Mr. COATS, dealing with U.S.S. *Kennedy* repairs; an amendment by Mr. HELMS, dealing with the Teachers' Standards Board; an amendment by Mr. BAUCUS, dealing with Forest Service; an amendment by Mr. LEAHY, dealing with nutrition; and a sense-of-the-Senate amendment by Mr. GRAHAM.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object, I was informed that we were going to have this unanimous consent, that I would have an opportunity to offer an amendment, and that I would have an opportunity to have a vote on it, and that there would be no amendments to it.

I just heard there is a nutrition amendment, and my amendment is a nutrition amendment; WIC is a nutrition program. I just want to make sure that there is no amendment to my amendment.

Mr. LEAHY. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I did not understand—I would ask the Chair, to correct me if I am wrong—I did not understand the unanimous-consent request as propounded to preclude second-degree amendments. Is the Senator from Vermont correct? As propounded?

Mr. DOMENICI. Well, it has not been propounded.

The PRESIDING OFFICER. At this point, the amendments suggested or propounded in the unanimous-consent request are not precluded from a second-degree amendment.

Mr. DOMENICI. I understand that; reserving the right to object. Therefore I object. We can stay here. It seems to me I understood that I would have an amendment; I would have a chance to vote on it. It has not been so propounded, but I would ask unanimous consent that the amendment alluded to as Senator DOMENICI's amendment on WIC not be subject to further amendment, and that the Senator from New Mexico have an up-or-down vote.

Mr. LEAHY. I object.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. MITCHELL. Will the Senator yield?

Mr. BYRD. Yes.

Mr. MITCHELL. Mr. President, every Senator has the right to offer an amendment, but no Senator has the right to demand that there be no second-degree to his amendment, absent unanimous consent. The Senator has a right to object to this agreement on the basis that he cannot get his way on his amendment, but I think it should be clear that every Senator has the right to offer an amendment and every Senator, when he or she offers the amendment, runs the risk of a potential second-degree amendment. Perhaps we cannot resolve it.

In that case, I think it is not likely we are going to finish this bill any time soon, and that means that the Senate appropriations bills, neither of them, will become law.

That may be the consequence if the Senator from New Mexico insists; then there is nothing we can do.

Mr. DOMENICI. Mr. President, I greatly appreciate the statement of the majority leader. I understand exactly what he has said. I am merely saying that if this Senator is going to agree to a unanimous-consent agreement, then, as to the amendment which he intends to offer, I do not expect to agree to a unanimous consent unless there is no second-degree amendment. That has been done here today with reference to other amendments. It was the will of the body.

I am suggesting and am hopeful that would be the will of the Senate. If it is not, then I object to the unanimous-consent request.

Mr. BYRD. Mr. President, let me try again.

Parliamentary inquiry, Mr. President. Has the Senate not already agreed to an order which would provide for the calling up of an amendment by Mr. NICKLES and Mr. DECONCINI regarding aid to Jordan; or, in the event that amendment is not called up, an amendment by Mr. DECONCINI relating to aid to Jordan be called up following the disposition of the Nickles amendment anent Davis-Bacon?

The PRESIDING OFFICER (Mr. DECONCINI). There is unanimous consent to call up a Nickles Davis-Bacon amendment; after that, a Nickles-DeConcini amendment dealing with Jordan, and in the event that that is not a Nickles-DeConcini amendment, or a Nickles amendment, then the Senate has agreed that Senator DECONCINI would have a right to call up an amendment on Jordan.

Mr. BYRD. I thank the Chair. I ask unanimous consent then, Mr. President, that the following amendments constitute the only amendments to be called up to the bill, with the exception of an amendment by Mr. DOMENICI and an amendment by Mr. LEAHY, and I do not address my comments to the subject as to whether or not either of those amendments would be subject to a second-degree amendment at this time. But excepting those amendments, I ask unanimous consent that the remaining amendments be limited to the following:

An amendment by Mr. COATS dealing with U.S.S. *Kennedy* repairs; an amendment by Mr. HELMS in relation to the Teachers' Standards Board; an amendment by Mr. BAUCUS on the Forest Service; and a sense-of-the-Senate amendment by Mr. GRAHAM.

Mr. DOMENICI. Reserving the right to object.

Mr. DOLE. Reserving the right to object, I wonder if we might have more information on both the Forest Service and the sense-of-the-Senate amendments?

Mr. BYRD. Yes; the sense-of-the-Senate by Mr. GRAHAM has to do with Syria. I yield to Mr. GRAHAM for a brief explanation.

Mr. GRAHAM. Thank you, Mr. Chairman.

The sense-of-the-Senate resolution which might be cosponsored with Senator LAUTENBERG deals with Syrian Jewry, calling, on Syria's part, in the negotiations that will be taking place in the postwar period, they provide the right to emigrate to the 4,000 Jews currently denied that right.

Mr. DOMENICI. Mr. President, I reserve the right to object.

Mr. DOLE. I was inquiring about the Forest Service.

Mr. BYRD. Yes; the Forest Service, may I say to the distinguished Republican leader, comes under my Subcommittee on the Interior. And the Senator from Montana would elect to provide $600,000 out of available funds for acquisition of the Rattlesnake Wilderness Area. I am not saying I will agree to that; I might oppose it. But at least it gets his amendment in, and we will have an opportunity to vote on it.

Mr. DOLE. I wanted to just get it in. And I understand the Senator from Missouri, Senator BOND, would like to add his infant mortality amendment to the list.

Mr. BYRD. All right. I add that amendment to the list.

The PRESIDING OFFICER. Is there objection? The Senator from New Mexico.

Mr. DOMENICI. Reserving the right to object, and I probably will object, I understand that we have to pass this bill, and I am here to help. But I am not asking for anything very unusual, very exceptional.

The Senator from Vermont had an amendment agreed to today that substantially changed the dairy program of this country, and he got a vote. Now, I want the Senate to understand what they did, and so the Senator from New Mexico wants a vote. And that is all I am seeking

I do not think that is unusual. If we have no time agreements, I will get a vote sooner or later, even if I have to have a second-degree amendment to my amendment. At some stage before we are finished, unless the leadership chooses, and I do not think they will, to literally not let me or a supporter of mine get the floor in a first- and second-degree amendment sequence, the Senator from New Mexico will get a vote. That is all I want.

It is nothing monumental. I just want everyone to know that the Senator from New Mexico thinks that the amendment that we adopted has the potential for removing up to 100,000 people who presently get WIC assistance from the rolls or cutting the benefit package 30 percent. And I think we ought to vote on that.

And it is simple. It just says, if that event occurs because of the amendment changing the dairy program, the subsidy on the dairy program is null and void. That is all it says. So I want the leaders to know I do not ask for anything unusual.

Frankly, knowing what you have already done, I do not believe you will adopt my amendment. I just would like Senators to vote on whether they want to cut the WIC Program dramatically to help the dairy farmers or not. That is it.

Mr. LEAHY. Reserving the right to object, Mr. President, with all due respect to the distinguished Senator from New Mexico—and I raise this only because he said "the Senator from Vermont"—it was an amendment sponsored by both Senators from Vermont. But he looked in my direction and he said the Senate did not know what they were voting on.

I have a much higher opinion of the other 99 Members of the Senate, apparently, than the distinguished Senator from New Mexico. We debated this at great length. Everybody was given a chance to talk. It was not under a time agreement. We did not vote until no Senator sought the floor, even though there were numerous Senators on the floor. Every argument was made; everybody heard those arguments. It was voted on 60 to 40, and the Senator simply was on the losing side and wants another bite of the apple. That is fine. I am not objecting to it. But what I will object to is for his side, having lost as bad as they did, for him to set up a way that he tends to either obfuscate the issue or turn it into a WIC thing, which it is not. But if he does want to do that, there are a whole lot of areas of WIC that I would like to add. As one who supported WIC more strongly than any Member in this Chamber, I would do just that.

Mr. MITCHELL addressed the Chair.

Mr. BYRD. Mr. President, I yield the floor.

Mr. MITCHELL. Mr. President, there comes a time when we recognize that we have gone about as far as we can go in getting these agreements and that we are spending more time trying to save time that we would if we were not trying to save time. So might I suggest to the distinguished managers and the Republican leader and the others present that we now have obtained an agreement, thanks to the chairman of the Appropriations Committee, that will permit us to lay down a Nickles amendment this evening, complete debate on that in the morning, vote on that at 9:15; then lay down another amendment, either by Senator NICKLES or Senator DECONCINI. That will get us into the middle of the morning, and perhaps, with the benefit of overnight and further deliberation, we can proceed to try to sort this out and move forward on this measure.

I simply want to say for the benefit of Senators, I have been asked many, many times in the past 2 days what the schedule is going to be for the remainder of the week. We really want to try to finish these appropriations bills. That means if we cannot finish them on Tuesday or Wednesday, we finish them on Thursday or Friday. And we want to complete the nomination of Governor Martinez as well. I want people to understand what we did not do Tuesday, we must do Friday, and so on. So I think it is best not to try to push this agreement any further, but proceed, under the agreements that have already been obtained, to the Nickles amendment. Senators should now be aware we will vote at 9:15 in the morning and there will be no more votes this evening. I thank my colleagues for their cooperation.

Mr. President, if I might have the attention of the Senator from Oklahoma if he is ready to proceed with his amendment.

Mr. BYRD. Mr. President, I have not withdrawn my request.

The PRESIDING OFFICER. That is correct. Pending on the floor now is a unanimous-consent request.

Mr. BYRD. I have not withdrawn my request. I am still operating on just a little bit of hope that the distinguished Senator from New Mexico will not object to it. He would not prejudice his position or the position of the distinguished Senator from Vermont [Mr. LEAHY], if he would let the agreement that I presented go through.

What it would do is, it would serve to keep other amendments from crawling out of the woodwork overnight. Tomorrow we may have another dozen. It would at least limit the amendments to those amendments, plus whatever problem the distinguished Senator from New Mexico has with the distinguished Senator from Vermont. It would not prejudice either of the two Senators. The Senator is on the Appropriations Committee, and it would be an accommodation to the committee. It would help us to get to conference earlier at some point. Otherwise, we may have another half-dozen amendments tomorrow.

Will the Senator allow me to plead with him on my bended knee to let this amendment go through and then, we hope, that "sleep that knits up the ravell'd sleave of care" will enable us to come to some resolution of the Senator's problem and not cause worms to crawl out of the woodwork.

The PRESIDING OFFICER. Does the Senator from West Virginia yield to the Senator from New Mexico?

Mr. BYRD. The Senator has a right to reserve an objection.

Mr. DOMENICI. Reserving the right to object.

The PRESIDING OFFICER. The Senator is so recognized.

Mr. DOMENICI. I say to my good friend, I have allowed him to do all of those things, and yet I cannot agree. I do not believe there is going to be anything crawling out of the woodwork, and we probably can reach some agreement early in the morning. We will have our staff work on it with the Senator. Maybe we do not have a conflict with the amendments. I only saw two amendments that seemed to be running this way, instead of parallel, running perpendicular. If they are running parallel, I do not have any reason to object to anyone's amendments. I just want to make sure it does not affect mine.

I say to my good friend, the chairman of the Appropriations Committee, I hope he understands there are just times—and this Senator does not do this often, maybe in all these years, maybe four times I have done this this late in the evening, maybe one was 4 in the morning.

Mr. BYRD. I am in my 33d year as a Member of this body and I have never done it. I just hope additional amendments will not come out of the woodwork. "A man may fish with the worm that hath eat of a king, and eat of the fish that hath fed of that worm."

The PRESIDING OFFICER. There is still a unanimous-consent request pending. The Senator from New Mexico objects?

Mr. DOMENICI. I object.

The PRESIDING OFFICER. Objection is heard. The Senator from Oklahoma is recognized.

AMENDMENT NO. 51

(Purpose: To strike the general provision which prohibits the increase use of helpers on Federal construction projects and barring implementation of revised apprenticeship regulations)

Mr. NICKLES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES], for himself Mr. HELMS, and Mr. SYMMS, proposes an amendment numbered 51.

Mr. NICKLES. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 43, line 3 strike all through line 15.

Mr. ADAMS. Parliamentary inquiry, Mr. President. What is the time agreement on this amendment? I think that was agreed to. I know there were a lot of discussions. Is it 20 minutes with part of it for tomorrow morning? Would you repeat that for us, please?

The PRESIDING OFFICER. There is a 40-minute allocation of time equally divided tonight between the Senator from Oklahoma and the Senator from Iowa [Mr. HARKIN].

Mr. ADAMS. It was my understanding that a portion of that was allocated over until tomorrow morning, 15 minutes. Is the Senator correct?

Mr. ADAMS. To 9 or 9:15.

The PRESIDING OFFICER. The Chair indicates that there are 15 additional minutes equally divided tomorrow morning before the vote, in addition to the 40 minutes this evening equally divided as the Chair so stated.

Mr. ADAMS. I thank the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, the amendment I have sent to the desk on behalf of myself and others would strike language that is in the bill on page 43, line 3 through line 15. This is a subject that a lot of us have debated in the past. I have tried to exempt tenants from the Davis-Bacon law so they can work in their homes. I will probably try that again on housing reauthorization. I have tried to come up with a small business exemption for Davis-Bacon so we can have small business participate in Government contracts. That is not what the Senator is trying to do this time. Senator NICKLES is not trying to insert language to repeal Davis-Bacon. This is my effort now to try to repeal language that was inserted in the House that would stop the Department of Labor from implementing regulations dealing with Davis-Bacon. Frankly, these regulations have been in the process now for over 10 years. The Department of Labor has now issued those regulations, and some Members of the House did not like them.

And so in this appropriations bill of 56 pages there is one little paragraph on page 43 that says the Department of Labor cannot spend a dime to implement these regulations. In other words, they want to kill these regulations. Well, what is so evil about these regulations that the Department of Labor has worked so very hard to implement?

These regulations deal with semiskilled workers, or helpers. They allow the Department of Labor to implement a helper classification, which is a common thing done in construction now. Why would anyone want to prohibit the Department of Labor from implementing these regulations? Frankly, some leaders in organized labor, do not want these regulations to go forward because they fear it might introduce more people into the work force to compete with them.

I find that to be ridiculous. These regulations, to make it very simple, would allow a construction project to employ helpers, if they normally employ helpers, in the private sector. They allow it. They do not mandate it. They allow a construction company, if the prevailing practice is to use helpers, to use helpers in their construction projects with the Federal Government. I think it makes sense.

In other words, when you are talking about semi-skilled laborers that maybe would be making $7 an hour, why should they be paid the journeyman's rate of $20 or $25 an hour? This will only inflate the cost of the project. It also denies somebody that job, it denies somebody trying to enter into the work force the opportunity to learn a trade, the opportunity to get off the streets, the opportunity maybe to get off crime and start earning an honest living. I find that to be probably the most objectionable part about this attempt to stop these regulations, the language on page 43 would stop a lot of people from entering the work force.

Mr. President, I feel very strongly about this amendment of mine to delete the language that should not be in this appropriations bill. This appropriations bill goes under the title of emergency supplemental. Yet, we have some people in the House, and I am afraid now in the Senate, who want to legislate labor law, who want to prohibit the Department of Labor from implementing regulations it has been working on for 10 years. Now that those regulations are to be in effect, they say no, to the Department of Labor. They prohibit the Department of Labor from expending funds to administer the regulations.

I happen to think these regulations make sense, common sense, that if a private contractor does business with the private sector and he employs semiskilled laborers, he should be able to do the same thing when he works for the Federal Government.

These are regulations that my colleagues who oppose this amendment do not want.

What will be the result? It will be wasting taxpayers' dollars and it will be denying people the chance to climb the economic ladder. This is really pulling the economic ladder out of the water and saying we do not want you on board. You do not have the classification. There is no classification for semiskilled or for helpers. Therefore, if you are not a journeyman, you do not have the opportunity to participate on Federal construction projects.

What it also means is that we are going to be paying journeymen wages to do helper work. We are going to be paying carpenters $26 an hour to be sweeping up. We are going to be paying $22 an hour to a plumber to clean the floors.

I do not think that makes sense. I am not knocking anybody who is in the janitor service. I used to have such a job myself. I worked my way through school sweeping floors, so I do not look down on any particular job classification. I look at job classification as a way to climb the economic ladder. If we do not strike this prohibition on implementing these regulations, we are going to be denying a lot of people entry-level jobs all across the country.

Mr. President, we are also going to be wasting taxpayers' dollars. A lot of people say, wait 1 minute, where is the waste, fraud, and abuse? I will tell you one of them is in Davis-Bacon. These regulations would take away some of the waste, fraud, and abuse in Federal spending.

So this is not a Don Nickles amendment to kill Davis-Bacon, or eliminate Davis-Bacon, or even have a small business exemption from Davis-Bacon. This is an amendment that would strike language which prohibits the Department of Labor from even implementing language to allow helpers all across the country where it is already a prevailing practice.

Mr. President, if we do not strike this language we are going to be wasting billions of dollars.

People ask, well, why does Federal spending continue to climb? Why cannot Congress get a handle on it? It is because of little paragraphs stuck in appropriations bills like this that cost billions of dollars.

They say, well, where do you get these figures? I will show you the figures. This is an estimate that came from OMB on March 18. OMB estimates that these regulations which the bill language seeks to strike would save $2,717,000,000 in the next 5 years.

You say, well, that is OMB. What about CBO? They work for Congress. CBO estimates that it would save $2,142,000,000 over the next 5 years. CBO and OMB say that the helper regulations will save money. But yet the language that was inserted in the supplemental appropriations bill says no, no money shall be spent to implement the regulations. Therefore, go ahead and waste the money.

If we do not pass my amendment, that is exactly what we are going to do. We are going to waste $2 billion in the next 5 years for no reason whatsoever. And not only will we waste $2 billion, we will be denying thousands of people entry level jobs. They can get entry level jobs when they work in the private sector for private contractors, but if that contractor does business with the Federal Government he is not entitled to helper classification or a semiskilled classification.

How many employers are going to hire somebody that is semiskilled if they have to pay journeyman wages? No one. They are not going to do it, not for $22 an hour. So you are going to have a lot of minorities, poor people, and people who want to join the economic mainstream denied jobs if we do not remove this language. These people want to have a job, even if that job pays $7 an hour. They want to have that opportunity.

That is the purpose of my amendment. This amendment is supported by the administration. I will just read one paragraph of a letter from the Secretary of Labor dated March 19, 1991. It says, "The administration strongly opposes section 303 and its purposes. We also strongly oppose legislating substantive labor policy in an appropriations bill. An appropriations bill is not the appropriate vehicle for introducing significant reversals in established governmental policies. Additionally, implementation of section 303 will cost the Federal Government at least $623 million in additional construction labor costs during 1992. For these reasons, the administration supports the motion to strike the provision from H.R. 1281."

Mr. President, a lot of times we hear people on the floor, and we hear people making speeches at home, giving accolades to and complimenting free enterprise. If we allow this language in section 303 to strike the regulations as proposed by the administration dealing with Davis-Bacon, allowing a helper classification, we are certainly casting an antifree enterprise vote.

We are saying that we do not care what you do as an employer in the private sector, we are going to mandate that you pay wages for a journeyman classification for semiskilled work. That is not free enterprise.

Whatever happened to the idea of allowing an employer and an employee to decide what is mutually beneficial as far as wages and benefits? Why in the world would we have the Federal Government dictating that you cannot have a helper classification? That is exactly what will happen if we allow this language to stay in.

There is a provision in these regulations that prevents any abuse of the helper classification. The regulations say you cannot have any more than 40 percent of your work force in a helper classification. No one is going to be able to hire only helpers or semiskilled workers to do skilled work.

These regulations are well thought out. They are not antilabor regulations. These regulations allow and promote free enterprise. They are regulations that promote the prevailing practices that are done right now in the private sector.

We should not be denying jobs for people on the lowest end of the economic scale.

So even if you do not care about saving $623 million next year, if you do not really care about wasting taxpayers' money; for crying out loud, support my effort to strike this one section because you want to give some people a chance. You want to allow some people who right now maybe do not have a job to get that first job, to learn that semi-skilled job so they can learn a skilled job. Let us not deny them that opportunity.

Mr. President, I ask unanimous consent that a letter from Secretary of Labor Lynn Martin be printed in the Record. In addition I ask unanimous consent that a letter by the National Taxpayers Union, the U.S. Chamber of Commerce; the Chamber of Commerce from Tulsa, OK, the Coalition to reform the Davis-Bacon Act be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Department of Labor,
Washington, DC, March 19, 1991.

Hon. Robert Dole,
U.S. Senate, Washington, DC.

Dear Mr. Leader: It is my understanding that an amendment to strike Section 303 of H.R. 1281, the "Dire Emergency Supplemental", will likely be offered by Senator Don Nickles during Senate consideration of that measure. The Administration supports the Nickles amendment.

This letter is to express the Administration's strong objection to Section 303 of H.R. 1281, which was approved by the House of Representatives on March 7 and the Senate Appropriations Committee on March 14. Section 303 would prohibit the Department of Labor from expending funds to administer regulations governing the use of semi-skilled helpers on federally-financed and assisted construction contracts subject to the Davis-Bacon and Related Acts (DBRA). These regulations went into effect on February 4, 1991. It would also enjoin the Department from promulgating final regulations pertaining to revisions to the apprenticeship programs in the construction industry.

The Administration strongly opposes Section 303 and its purposes. We also strongly oppose legislating substantive labor policy in an appropriations bill. An appropriations bill is not the appropriate vehicle for introducing significant reversals in established governmental policies. Additionally, implementation of Section 303 will cost the Federal Government at least $623 million in additional construction labor costs during FY 1992. For these reasons, the Administration supports a motion to strike the provision from H.R. 1281.

The issues underlying the DBRA regulations have been examined extensively over the past decade, and the Department's authority to implement them has been sustained through the courts. The objections to these regulations were considered in the courts and were rejected. The helper regulations reflect a longstanding position of the Executive Branch over the last decade.

These regulations set no government-imposed constraints or conditions on construction contractors or construction workers. The employment of helpers is permitted only when their use is the prevailing practice in an area. The regulations do place limits on the ratio of helpers to journeymen to prevent abuses—their use is limited to two for every three journeymen.

Permitting the use of helpers, according to local industry practices, will: Save the Federal government a substantial amount in construction labor costs (estimated to be at least $623 million in FY 1992); provide increased job opportunities for semi-skilled workers and encourage their use in a manner which provides training; update outmoded practices under Davis-Bacon to reflect more accurately widespread industry practices thereby enhancing private sector competition on Federal construction projects.

The proposed revisions to the regulations governing the Department's registration of traditional apprenticeship programs were published after two years of research, review, and discussion in an open and public debate on the issues. The purpose was to streamline and update these regulations as part of an overall Departmental program to expand apprenticeship to additional occupations and industries and to maintain and improve the quality of all apprenticeship programs. These regulations would require State Apprenticeship Councils to promptly advise a sponsor of a proposed apprenticeship program of a decision on the sponsor's request and furnish an explanation of the decision in the event of a denial. In addition, there would be the right of appeal to the Department of Labor if the request was denied.

The changes proposed in the revised regulations are intended to reduce subjectivity and the opportunity for bias in determining conditions for program registration and in the monitoring of programs.

When put in place, these revised regulations will: Ensure that all registered programs meet consistent, high quality standards; ensure that all potential program sponsors are treated fairly by setting up a Departmental appeal process; establish a uniform Federal standard for registering apprenticeship programs, with allowances for State flexibility for specific State purposes.

In addition, I would point out that these regulations are still in proposed form. We will keep the Congress informed as the rulemaking proceeds.

Again, and for the foregoing reasons, the Administration strongly opposes Section 303 of H.R. 1281. Background information on the helper regulations is enclosed.

The Office of Management and Budget advises that there is no objection to the transmittal of this letter from the standpoint of the President's program.

Sincerely,

Lynn Martin,
Secretary of Labor.

National Taxpayers Union,
Washington, DC, March 19, 1991.

Hon. Don Nickles,
U.S. Senate, Washington, DC.

Dear Senator Nickles: The National Taxpayer Union strongly supports your amendment to H.R. 1281, the Dire Emergency Supplemental Appropriations bill which will strike language approved by the House of Representatives preventing the Department of Labor from implementing its "helper" regulations. The regulations cover the use of semi-skilled labor, known as "helpers", on Federally-financed and assisted construction projects.

The Labor Department's proposed regulations are the result of lengthy and thorough consideration. They reflect a long-standing effort, lasting more than nine years, to update antiquated regulations which have little relation to the modern workplace. The regulations are modest and their scope is limited. Importantly, the proposed regulations would only apply to areas where the use of "helpers" is the prevailing practice in non-Federal construction.

From the standpoint of the taxpayer, the regulations are potentially very important. As you have pointed out, estimates of cost savings range from $500-600 million per year. The Congressional Budget Office has estimated that the savings could be as much as $2 billion over the next five years. In light of this year's record Federal deficit, Congress should seek every opportunity to encourage an efficient government.

On behalf of our 200,000 members, we strongly endorse your efforts to strike the House language and we urge in adoption by the full Senate.

Sincerely,

James D. Davidson,
Chairman.

U.S. Chamber of Commerce,
Washington, DC, March 18, 1991.

Members of the U.S. Senate: When the Senate takes up H.R. 1281, the Supplemental Domestic Appropriations bill, a fight is likely to be waged over the David-Bacon Act of 1931. A legislative rider was inserted into this appropriations bill by the House, almost unnoticed, that would prohibit the Secretary of Labor from implementing the final regulations under Davis-Bacon that would allow the employment of semi-skilled helpers on federally financed construction projects. The regulations went into effect on February 4. An amendment to strike the rider will be offered. The U.S. Chamber of Commerce strongly urges you to support this amendment.

After nine years of litigation and redrafting, the federal courts have determined that these helper regulations are fully consistent with the long-stated intent of the Davis-Bacon Act that federal construction contracts reflect locally prevailing wages. In the 1930s, the use of helpers was virtually nonexistent in the construction industry. Today, the practice is almost universal, except in federal contracts, which have remained covered by archaic, obsolete "work rules.

For example, under longstanding Davis-Bacon rules, a contractor is required to classify and pay the same semi-skilled helper as a journeyman carpenter for moving lumber one day, and as a journeyman plumber for carrying pipes and tools the next. As a result of such complications and the attendant paperwork, small and minority contractors simply walk away from federal contracts. In contrast, the new, final regulations would recognize a "helper" classification in locations where employing helpers is a locally prevailing practice. The final regulations also would provide stringent safeguards to prevent the inappropriate substitution of unskilled helpers for skilled mechanics.

The Office of Management and Budget, using a methodology agreeable to the Congressional Budget Office, estimates the helper regulations will save approximately $500 million in budget authority and $200 billion in outlays in fiscal year 1992. After they are fully phased in, the regulations will save about $600 million a year. By more accurately reflecting local labor markets, the regulations will open up competition for federal contracts to small and minority firms, and create more job opportunities for minorities, women, and entry-level workers.

The Secretary of Labor's helper regulations are one significant step toward improving the administration of a perennially problematic law. The extraneous rider banning helpers is the wrong provision in the wrong bill under the wrong procedure, and should be deleted. To that end we ask your support for the amendment allowing these beneficial regulations to go forward.

Sincerely,

DONALD J. KROES.

TULSA CHAMBER OF COMMERCE,
Tulsa, OK, March 18, 1991.

Hon. DON NICKLES,
U.S. Senate, Washington, DC.

DEAR DON: On March 7, the House considered H.R. 1281, the Emergency Supplemental Domestic Appropriations bill, and added a nongermane rider repealing regulations which allow semi-skilled "helpers" to perform certain tasks on federal construction projects. These regulations, issued by the Secretary of Labor, have been determined by federal courts to be fully consistent with the intent of the Davis-Bacon Act that federal contracts reflect locally prevailing wages. In addition, these helper regulations would save $500–$600 million per year and open up competition for federal contracts to small and minority firms, thereby creating more jobs for minorities, women and entry-level workers.

This appropriations measure will probably be taken up by the Senate tomorrow, Tuesday, March 19, and with it, an amendment to protect these helper regulations by striking the House-approved rider.

Your assistance in supporting this amendment to protect the Davis-Bacon regulations is critical. Thank you for your consideration.

Kindest personal regards,

CLYDE C. COLE,
President.

COALITION TO REFORM
THE DAVIS-BACON ACT,
Washington, DC, March 15, 1991.

The members of the Coalition to Reform Davis-Bacon urge you to support a motion to be offered by Senator Nickles on the Senate floor during consideration of the Dire Emergency Supplemental Appropriations bill (H.R. 1281). The motion will strike language in the bill prohibiting the Department of Labor from implementing its final regulation on "helpers" on Davis-Bacon jobs, and improving the regulations which govern the approval of apprenticeship and training programs.

The helper regulations reflect widespread industry practice and a nine year effort on the part of the Department of Labor spanning two administrations, to update 1930's-style work rules. Helpers are semi-skilled workers who assist journeylevel workers on construction projects.

The Coalition has consistently pushed for the implementation of helpers on Davis-Bacon projects which will:

Provide increased job opportunities for semi-skilled workers, including many minority workers, giving them an entry into the construction industry;

Bring Davis-Bacon projects more in line with locally prevailing practices thus making it more attractive for small and minority contractors to compete for this work;

Save the Federal government an estimated $500–$600 million in construction labor costs per year.

Under the regulations that have been approved by the U.S. District Court Judge, Harold Greene, helpers can only be used when they are prevailing in the local area and then only at a ratio of two helpers to every three journeyworkers. In its recent decision, the district court stated that the regulations are fully consistent with the language and purpose of the Davis-Bacon Act to protect locally prevailing practices, and that the promulgation of the regulations was well within the authority delegated to the Secretary under the Davis-Bacon Act.

The Coalition unequivocally opposes this naked act of desperation on the part of those who opposed helpers throughout the regulatory process and the nine year legal battle that followed. This provision blatantly violates the longstanding prohibition on legislating policy through appropriations measures. Any bill which does not have hearings or a record to support it is clearly an inappropriate vehicle for reversing carefully developed and well established administration policies.

Please support the Department of Labor in closing the gap between federal and private sector construction and support the motion to strike this provision from the appropriations bill.

Sincerely,

The Coalition to Reform the Davis-Bacon Act:

Air Conditioning Contractors of America.
American Farm Bureau.
American Public Transit Association.
American Road and Transportation Builders Association.
Associated Builders and Contractors.
Associated General Contractors of America.
Brick Institute.
Brown & Root, Inc.
Citizens Against Government Waste.
Contract Services Association.
Independent Electrical Contractors, Inc.
Labor Policy Association.
National Aggregates Association.
National Association of Counties.
National Association of Homebuilders.
National Association of Housing and Redevelopment Officials.
National Apartment Association.
National Association of Manufacturers.
National Association of Minority Contractors.
National Center for Neighborhood Enterprise.
National Federation of Independent Business.
National League of Cities.
National Ready Mixed Concrete Association.
National School Boards Association.
National Stone Association.
National Tax Limitation Committee.
National Taxpayers Union.
National Utility Contractors Association.
Printing Industries of America.
Public Service Research Council.
U.S. Chamber of Commerce.

Mr. NICKLES. To summarize, Mr. President, the coalition to reform Davis-Bacon, which basically says we think the regulations make sense, they are fair to workers, they are the prevailing practice in the private sector, we can save billions of dollars if we allow them to be implemented—support my amendment. My amendment is supported by numerous organizations including the American Farm Bureau, the Citizens Against Government Waste, the Labor Policy Association, the National Association of Home Builders, the National Apartment Association, the National Association of Manufacturers, the National Association of Minority Contractors, the National Center for Neighborhood Enterprise, the National Federation of Independent Business, the National School Boards Association, National Taxpayers Union, as well as the Chamber of Commerce, and many others that are members of the coalition to reform Davis-Bacon.

As my colleagues can tell, there is broad coalition support for making common sense out of an archaic law to allow the prevailing practice and to allow people the opportunity to work. If they can work in the private sector, they should be entitled and allowed to work for people who are doing work for the Federal Government. Let us not deny them that opportunity.

This amendment is a small business amendment. This is a free enterprise amendment. This is an economic opportunity amendment for those people who are disadvantaged who have not yet entered the work force. Mr. President, I urge my colleagues to support the amendment.

Mr. COCHRAN. Mr. President, section 304, as it applies to the Department of Labor's helper rules for Davis-Bacon construction contracts, should never have been included in this legislation by the other body.

As I understand this issue, the Department of Labor has worked in a responsible fashion with all parties concerned to craft reasonable, commonsense rules that will allow for the use of helpers under Davis-Bacon contracts in areas where the use of helpers is a prevailing practice in the construction industry.

The final rules are not the result of some arbitrary action by Department of Labor officials. They are the product of over 10 years of careful examination and consideration of the issue of using helpers to save costs under Davis-Bacon contracts.

If the provisions of section 304 are allowed to take effect to prohibit the implementation of these rules, the Department of Labor estimates that it will cost the Federal Government an additional $623 million in fiscal year 1992.

I find it very difficult to comprehend that the Congress is prepared to add a half-billion dollars to the Federal Government's construction expenses for next year just to prevent the limited use of helpers under Davis-Bacon contracts.

Those who may not be familiar with the issue may not be aware that the Department's rules do not give a blank check for contractors to replace journeymen workers with helpers.

The rules require that no more than two helpers may be employed for every three journeymen, and, furthermore, that the practice of employing helpers will only be allowed when their use is the prevailing practice in the area. These rules are reasonable; recognizing and attempting to deal with the problem of providing employment opportunities for entry level workers in the construction industry.

Mr. President, the final rules have been promulgated after many years of negotiation and litigation. The courts have agreed that they are fair to all concerned. When these facts are considered in conjunction with the more than $600 million in fiscal year 1992 savings and the several billion dollars in additional savings to the taxpayers over the next several years. I don't see how this body in good conscience can oppose this effort to strike section 304.

Mr. HARKIN. Mr. President, I understand the Senator from Iowa holds 20 minutes' time.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator is correct.

Mr. HARKIN. Mr. President, I yield myself such time as I may consume, and then I will yield the remainder of the time to the Senator from Washington.

Mr. President, I rise in opposition to the amendment offered by my friend from Oklahoma. I guess this amendment can be best described as a cold leftover crumb from the banquet of greed of the Reagan administration, a banquet of greed that said to the working people of this country that you can keep getting less and less but those at the top can keep getting more and more.

Real wages we know have fallen over the last 10 years of our working people in this country. That is what this amendment is trying to do, to again tell the working people of this country that they should accept even less than they are getting now. For 10 years the Reagan administration, now the Bush administration, have been trying to change what has been settled, practiced in law since 1937. For 10 years the Congress has said no. So now what they are trying to do is by fiat and regulation what they could not accomplish by changing the law because the Congress said "no."

Since 1937 we have had apprenticeship programs in this country. Over 30 States now have apprentice councils and apprenticeship programs. All of the building trades industry have apprentice programs. It is a way for a young unskilled worker to enter the work force as an apprentice to do maybe some of the menial jobs, to help cut, but to learn how to do that journeyman's job, whether it is a bricklayer, laborer, carpenter, pipefitter, cement finisher, whatever it might be in the construction industry. It is a way for young people to get in there, be an apprentice, and go on to be a journeyman.

This amendment, and what the regulations that are trying to be foisted on us by the Bush administration would do is say, no, we are not going to have that apprenticeship program any more, we are going to have a whole subculture of helpers with subminimum wages, low wages with no hope of ever getting out of it; no hope of ever getting and climbing up that ladder of apprenticeship, being a journeyman.

The distinguished Senator from Oklahoma says if you do not care about wasting money, then you can go ahead and vote against this amendment, I guess. We do not care about wasting money.

You know what wastes money? Shoddy construction, projects that do not last very long. That is what you get when you have unskilled construction people building our buildings.

You can go out and look for yourself. Find a building that is built with good union labor. You will find good construction that is going to last for a long time. Find one that is not, and you will find one that will fall down in a shorter period of time. We are talking about here Federal projects. We are not talking about private. We are talking about projects that come under Davis-Bacon. This is Federal projects.

I am telling you if my taxpayers, and myself as a taxpayer, if I am going to be paying money to build something under the auspices of the Federal Government, I want it to be built well. I want it to last a long time. I do not want it falling down. I want it to be built with journeymen labor and skilled labor.

You want to waste money? I tell you if you want to waste money, you support the amendment of the Senator from Oklahoma. You will get some cheap building out there. You will get a cheap building that will fall down and will not last very long. Again, maybe in the short term it might be all right, but that is another legacy of the Reagan administration. Just look at the short term. Forget about the long-term. That is what this is—a short-term view.

Mr. President, we have tried for a long time. We should not let them do by fiat what we would not let them do by law. I have every reason to believe that again Congress will say, no, that we are not going to let them take away the apprenticeship programs that have been so vital to our country.

I will close by saying I think one of the things wrong in this country today—we have all of these economic theories about what is wrong, what is going on in America—I have always reduced it to very simple terms, Mr. President. I think what is wrong in this country today is that there are too many people making money on money, and there is not enough people making money building, constructing, mining, manufacturing, raising, growing, the things that produce real wealth in this country.

People that are working out there—building our highways and bridges, skyscrapers, and schools—ought to be paid well, a decent living wage, whereby they can raise their families, feed them, clothe them, and educate them, have a home of their own, a car, educate their kids, have retirement and health care for the people that build America. These are the people that build this country, and we can accept no less than that.

Mr. President, I yield the remainder of my time, or whatever time he may consume, to my distinguished friend from Washington.

Mr. ADAMS. I thank my friend, the Senator from Iowa, for his excellent statement.

I rise today in strong opposition to the Nickles amendment. I want to echo what has been said by my friend, the Senator from Iowa, Senator HARKIN. What we are talking about in this amendment is to strike Davis-Bacon and to drive down the wages and working conditions of skilled working people in the United States—the people in the United States who work with their hands and work with their tools and build things.

We spent too much time, in recent years, paying attention to people who have made money on money and too little time to the people who really work to make this country competitive and a better country. Competition does not come from making money on money. Competition comes from skilled people being able to do a skilled job, and do it well and in a quality manner, who have been well-trained, and who like their jobs, and who are well paid for it, and who can buy their home and raise their families and raise their children.

What this amendment attempts to do is put in place regulations issued by the Department of Labor of this administration that would say: We are going to put on jobs unskilled people. Yes, it is always a little cheaper in the shortrun, to take quality people off the job, or to say to a quality journeyman, such as a carpenter, somebody working in a skilled trade on a job in construction, and say he has to work as a helper. That is what this is.

Let us turn this coin around. This is not just to bring people in at the bottom. This is a two-pronged attack that we are trying to prevent. And that two-pronged attack is, first, to change the definition of people working on a job, which they cannot do by legislation, but do it by regulation so that people are paid helper's wages rather than journeyman's wages. All those groups you heard listed by the Senator from Oklahoma—I hope everybody listened, because those are the people who are doing the hiring—they are not the people who are doing the work.

The second part of this two-pronged attack is to destroy the apprenticeship programs of the States, and the apprenticeship program—and I had the honor and the privilege to attend one recently in Seattle—where skills are given to those who are coming into the work force, the true helpers, so they become journeymen, so they have a skill so they can take their tools from job to job and not be forced into a permanent classification where they can do no more than unskilled work. This amendment would go directly toward taking away the programs that teach the skills to people that are out working in our technical force.

I am talking about the people that build the highways and the buildings in this country, the people that build the houses in this country. I am not talking about technical experts that are dealing with maybe a computer, or in a financial institution, or working for an insurance company. Those are all fine jobs, and I think it is wonderful for people that are in them, and they are well paid for them.

What this is an attempt to do is to take the other technical skills of this country, which are skills that we need to build our automobiles, and to build our houses, and to build our appliances, and to say to them, we will not have apprentice programs; we will just freeze things the way they are. Does it save you some money short term? What this really gets down to is breaking unions or breaking the ability of people to train other people to do jobs. You can get a short-term saving on it by putting on a number of helpers, but the thing that happens is the quality of your work goes down, and the quality of your job goes down.

The administration has come to the Hill again and again to try to pass this legislatively, and we will give them a hearing and a vote, and they have had them, and they have lost them. Now they are doing by regulation what they cannot do by legislation. All this provision is is a simple statement that the Congress has the power to legislate, and the administration cannot do by regulation what it has to do by legislation.

So let them bring the bill up. We will have the chance to vote on it. They will have plenty of chances to have us vote on it. And the House passed this bill by an overwhelming margin. Why? I want to protect the apprentice programs that now exist in my State and in other States that train people. Many people do not even know what these are.

But let me just take a moment so that my colleagues know that, for example, the Washington State Department of Labor and Industries has a fine apprenticeship program.

I will ask unanimous consent that at the end of my statement the statement of the Department of Labor and Industries Director Joe Dear be made part of the RECORD. He was one of more than 60,000 citizens who commented in opposition to the United States Department of Labor's proposed changes in the apprenticeship rules.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ADAMS. I want to compliment Chairman BYRD for maintaining this restriction in H.R. 1281.

The House voted 244 to 173, to show you how much people care about seeing that as young people enter the work force, they are not forced into permanent, low-paying jobs. There is a lot of difference between a job where you may be working just in a restaurant, where you will never get to be a chef, or never move up, and you will always get $5 or $7 an hour, or now to force it into a construction industry, always $5 to $7 an hour, never a health and welfare program, never a chance to improve your skills, never a chance to get a job where you are paid a little more, and to get a little more quality, and to make us a really competitive nation.

The chairman of the House Labor and Education Committee and the Senate Labor and Human Resources Committee will have hearings if they want to change the Davis-Bacon Act. But this is regulatory mischief that has been going on for 10 years down at the Department of Labor. This is one of the first things sent up by our new Secretary of Labor. I am sorry about that letter, because I expected more and different things, because much of the prosperity of recent years for certain groups in American society has been paid for on the backs of the American working people who carried this Nation for years and years from World War II on, who carried it by the fact that they could educate their children. They had enough money to pay for their medical bills. They had enough money to put down for a house. We now have created in this country a group of people who do not have enough money to make a down payment on a house. They do not have enough money to buy medical insurance. There are 37 million people in the United States today who do not have medical insurance because they cannot afford it.

I get very tired hearing chambers of commerce and management groups say all we have to do is reduce the wages a little further and we will have some more money and then it comes around and we wonder why it is people are not able to buy houses; we wonder why the Federal Government is being asked to create a health insurance program.

We have tried to go to the marketplace to create a health insurance program, but you cannot do it on $5 an hour.

Why are we so selfish to our workers? Why are we so selfish to the people who are out there every day, every day, rain or shine, working on these jobs?

Why is Davis-Bacon with Federal jobs important? Because it sets a prevailing wage in an area. It gives an idea of what is a proper wage level for people to be paid.

Why drive down the wages of these people? This is not the place you are going to make savings, because we are going to pay them back elsewhere. We are going to pay them back in additional insurance costs the Government is going to have to pick up. We are going to have to pay it back because savings and loans are out doing high fliers because they cannot do enough in the housing market anymore.

Yes, we need to retrain our workers; we need to have our workers have more skills. How are they going to get them if we destroy the apprentice program, which is what will happen if the helpers are moved out to the job and out of the apprentice program. They will be gone and never get beyond that point.

I think we ought to unshackle a few rogue elephants loose in the Department of Labor who have been trying to rewrite this law and regulations for over 10 years.

The Senator from Oklahoma is right. They have been at this for 10 years trying to get these regulations in that would change the law, and that is what regulations are for. As a former Secretary of Transportation, I know that regulations are intended to follow the law. They are not to create the law.

To those who claim they would save money, I would say this: One, we are spending billions to pay out the savings and loan cesspool. Working people are picking up the tab.

We are sending billions of dollars from the United States to countries from Afghanistan to Zaire and hundreds of points in between, and American workers are to be paying for those programs.

We forgive the debts of countries that join us in battle and we felt that was good. I could see a reason for supporting it. But who has to pay for that? The American workers pay for that.

But here today we have an opportunity to stand up and be counted for wage levels paid to American workers, and that is what this is all about. How much are the wage levels you are going to pay to your own people and how much are you going to allow your own people to be trained? That is what it is all about.

I oppose this amendment by the Senator from Oklahoma. I oppose it with every breath I have and with all of my being, because I feel we should be going the other way in this country. We should be saying to our people they can be paid a decent wage for the work they have, that they are not going to be trapped in the same job forever, and that they will be rewarded for their quality as it improves and that we put quality people out on the jobs, and not say to our quality people instead, well, 40 percent are helpers, and remember all these jobs come up on bid, and this man is bidding with 40 percent helpers so I am sorry for you journeymen, 60 percent are applying, we have to knock 20 percent of you off and you have to be helpers. That is how you drive down the journeymen wage.

These people are not trying to be difficult. When you talk about the amount of money they are making compared to the amount of money that is made in the financial markets, by the stock brokers, by the sellers of junk bonds, by the people who are working in the type of jobs where they are working, money on money, and compare it to the amount of money the people are being paid to create things in this country, you find there is great disparity.

Maybe that disparity is the way this Nation is going. But I do not think this Congress should encourage that. If that is the thing that is going to happen we should try to see to it that it is slowed down, not rushed ahead, because otherwise, Mr. President, we are going to be paying more unemployment compensation benefits, we are going to have more people at $5 and $7 jobs and lower. And we are going to have fewer people with the skills that are needed to get up on their feet and be able to support themselves and pay taxes.

That is what it is all about.

This fight on Davis-Bacon has gone on ever since I can remember. I have been in the Congress and administration and the Senate a long time. I have heard the same arguments before and will probably hear them again. But I have never seen regulations coming out to change the law as it is written.

I hope, Mr. President, we will defeat this amendment.

I ask my colleagues to defeat the amendment of Mr. NICKLES, the Senator from Oklahoma, and I yield the floor.

EXHIBIT 1

DEPARTMENT OF LABOR
AND INDUSTRIES,
Olympia, WA, October 11, 1990.

Re. comments on proposed revisions to 29 CFR 29 as published in the Federal Register August 24, 1990.

Assistant Secretary of Labor,
Employment and Training Administration, Department of Labor, Washington, DC.
Attention: Director, Bureau of Apprenticeship and Training.

I am submitting comments on behalf of the State of Washington regarding the proposed revisions to federal regulation of apprenticeship programs. Adopting the proposed revisions would substantially change the state role in apprenticeship and also would change the nature of apprenticeship itself.

My concerns with the proposed revisions can be grouped into five categories:

1. Preemption of state authority;
2. Inefficient use of government resources;
3. Erosion of apprentice protections;
4. Erosion of industry-wide standards; and
5. Increasing federal responsibility during a time of decreasing federal resources.

I also am submitting additional comments on a separate enclosed page.

Preemption of State Authority.—The proposal eliminates the state's authority to require standards not set forth in federal rules (proposed 29 CFR 29.4(c)). It also expands the federal authority to approve programs (proposed 29 CFR 29.15(d)). The proposed revisions allow federal registration of any program for sufficient reason or when in the national interest.

The federal statute should not be interpreted to prevent states from imposing additional requirements necessary to protect apprentices or to promote efficiency in the use of state resources. The rules should not be rewritten to allow federal officials to approve programs rejected by the state to prevent harm to apprentices or avoid needless duplication of state resources.

Let me provide a real-life example. Under the new rules, the Bureau of Apprenticeship and Training (BAT) could approve a sprinkler fitter program that has been submitted to the Washington State Apprenticeship and Training Council and not approved. At the present time, an existing program is capable of meeting the training needs of these employers requesting an additional program. The proposed program intended to offer related and supplemental instruction classroom training at Edmonds Community College, only twenty miles away from the related and supplemental classroom training currently provided at the Duwamish Campus of Seattle Community College. Allowing both programs to function would result in needless duplication of programs and unnecessary expenditure of scarce state tax dollars. In this state, the community college system cannot afford such duplication when so many other educational and training needs are not being met.

Let me cite another possibility. If twenty individual companies in the same trade in the same county submitted proposed standards for a new apprenticeship program, should BAT and/or the state approve all twenty if their standards meet minimum federal guidelines? The ongoing state or federal monitoring would be much more difficult for twenty programs rather than one multi-employer program.

With numerous separate programs, what would happen to an apprentice who was laid off for lack of work? A single employer program would not have a mechanism to refer the apprentice to another employer. This would diminish the likelihood of the apprentice completing his or her training. In contrast, a single multi-employer program could develop such a referral program.

The state's ability to require multi-employer programs where appropriate would encourage affirmative action. At the present time, only programs with five or more apprentices must have an affirmative action program with specific goals. Encouraging or requiring multi-employer programs would increase the likelihood of affirmative action requirements applying to programs.

The proposal also requires that requests to establish apprenticeship programs be acted upon within 30 days and provides for expedited appeals of state action (proposed 29 CFR 29.5(g)). By law, the Washington State Apprenticeship and Training Council currently meets only every three months to act on proposals for new or revised programs. Unless additional funding becomes available to allow more frequent deliberation by the state council, these timelines would effectively replace state decision making by the labor and management representatives on the state Apprenticeship Council with program decisions made by federal officials.

Efficient Use of State Resources.—In addition to the concerns about inefficiency discussed above, other sections of the proposed rules may promote inefficient use of state resources or hinder valuable training opportunities which now take place. The proposed revision increases minimum requirements for classroom instruction from 144 hours to at least 1/12 of training time of the apprenticeship (proposed 29 CFR 29.3(d)). This means an additional 20 hours of instruction is required each year.

Although basing classroom instruction in an apprenticeship program on a percentage of on-the-job training may be sound policy, the proposed ratio would increase training costs borne by community colleges and other state educational institutions without regard to the actual need for increased classroom related and supplemental instruction. In addition, the proposal to increase the minimum term of apprenticeship from one to two years also would increase training costs without regard of the need of program sponsors for longer related and supplemental instruction training (proposed 29 CFR 29.3(a)). More importantly, this revision would reduce the opportunities for expanding apprenticeship into new occupations and decrease the chances of linking apprenticeship with short-term training programs such as JTPA and JSP.

Erosion of Protection for Apprentices.—One of the unique advantages of apprenticeship as compared to other job training methods is the protection afforded an apprentice from discriminatory practices of an employer and the likelihood of employment at completion of the apprenticeship. The proposed revisions contemplate revising apprenticeship program registration (proposed 29 CFR 29.5(b)) and program portability between states (proposed 29 CFR 29.6).

The proposed revision on registration would allow an employer with multiple plants across the United States to register the apprenticeship program in any state in which the program operates. Although improved accommodation for apprentice mobility may be desirable, without additional safeguards the proposed revisions would reduce a state's ability to monitor the training and welfare of apprentice workers.

Erosion of Training to Industry-Wide Standards.—Another advantage of apprenticeship as a training method is that apprentices are trained both to industry-wide standards and to the specific requirements of the employer sponsor.

The proposed revisions require that the ratio of apprentices to journey workers relate to the sponsor's ability and capacity to train (proposed 29 CFR 29.4(b)(6)(iii)). Current law requires that a numeric ratio of apprentices to journey-level workers be stated in program standards. While the proposed language provides added flexibility for apprenticeship to respond to changing business and labor conditions, it is important to have consistent ratio throughout an occupation to ensure uniformity in training that results in achievement of industry-wide standards.

This revision also provides another example of how the proposed rule would erode apprentice protection. To ensure adequate training and supervision of apprentice workers, the ratio of apprentices to journey level workers should never exceed 1:1. In addition, the rules should specify that the number of apprentices in training correspond to the sponsor's ability to retain apprentices at completion of the program.

Conclusion.—In short, the proposed regulations appear to shift responsibility for apprenticeship decisions from state councils comprised of labor, management and public representatives to federal officials. Not only will this change weaken apprenticeship training as it has been conducted over the past fifty years, it completely ignores state and federal financial considerations by adding responsibilities to both levels of government in a time of shrinking resources.

It is ironic that the Bureau of Apprenticeship and Training proposes to take additional responsibility for program approval and monitoring at a time when its August 1990 newsletter recognizes that current staffing levels are threatened. It cites as a BAT priority recruitment of additional women apprentices and concedes that to accomplish that goal "past emphasis and priority activities must be changed. In other words, do more with less."

I would recommend that BAT focus on the laudable goal of improving outreach to women and to minority groups, rather than adopting new measures that will increase its workload, diminish state authority and promote inefficiency in the delivery of trainng programs.

Sincerely,

JOSEPH A. DEAR,
Director.

Mr. NICKLES. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. The time controlled by the Senator from Iowa which has been transferred to the Senator from Washington has expired.

Mr. NICKLES. Mr. President, I ask unanimous consent for 2 additional minutes for my friend and colleague from Washington to respond to a question.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I just wonder if we have anybody in the Senator's office that has a salary or wage of less than say $40,000 or $50,000 a year.

Mr. ADAMS. Is there in my office?

Mr. NICKLES. Yes.

Mr. ADAMS. Yes, there is.

Mr. NICKLES. I appreciate that.

Why is that OK in the Senator's office but we are going to tell those in construction that they are going to have to pay everybody who works for them $40,000 or $50,000 a year even though some tasks are semiskilled such as sweeping, cleaning up, picking up tools, or using a shovel. Why should we tell them they have to pay $40,000 or $50,000 a year, but the Senator has people in his office that do not make $40,000 or $50,000 a year? I do not understand.

Mr. ADAMS. The Senator has just never been on a construction job.

Mr. NICKLES. That is not correct.

Mr. ADAMS. He would not have said that to me because there are a whole series of people on every construction job in this Nation ranging all the way from journeymen to helpers, to apprentices. We used to have masters. We do not have masters anymore out on the job. And they are paid at differing rates and differing amounts.

These people are trained or not trained. They are paid according to their training. This particularly applies to both construction trades and the trades in the highways. And a lot of it is very dangerous.

In other words, I do not go to an operating engineer out there when I am carrying a hod or my son is carrying a hod, who does not know what he is doing. I want him paid $26 an hour.

There are people in my office who make more than that. They had training for more than that. There are people who make less and have less training.

What the Senator is saying is that the whole classification system is going to be changed by fiat by the Labor Department and I am saying to him simply I do not believe we should do that.

Mr. NICKLES. If the Senator will yield further, that is not what I am saying. What I am saying is I do not think—if the Senator is talking about highway construction, I did work in highway construction and I worked on the lower semiskilled classification. I will tell the Senator I was not paid a journeyman wage. I was not paid the same amount as the construction worker that had the skills, that knew how to lay the concrete.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. NICKLES. I ask unanimous consent for an additional 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. If my colleague will focus again, the facts are if we do not allow these regulations to go forward you are going to be mandating that the high school students, which I was when I worked in highway construction, are paid journeyman's rates.

Mr. ADAMS. No. Wait a minute.

Mr. NICKLES. Let me finish the question.

The PRESIDING OFFICER. Does the Senator from Oklahoma have a question for the Senator from Washington?

Mr. NICKLES. Why in the world would the Senator want to pay a person—let us take myself. I was a high school student working in highway construction. If I was working on a Federal highway, the Senator is saying that I should be paid journeyman's rates?

Mr. ADAMS. I did not say that.

Mr. NICKLES. If the Senator will yield, because under the Senator's amendment you are not going to allow a helper or semiskilled classification to even be in existence even if it is the prevailing practice. Why would you not allow me to be paid what I should be paid instead of mandating that I be paid a journeyman's rate?

Mr. ADAMS. I cannot believe this. There are all kinds of classifications out there on that highway. The Senator was not paid journeyman wages. I am not going to pay everybody, including operating engineers, journeyman wages for the job that they carry on.

You have people out there on every job in a whole series of classifications, running from the people that are operating heavy equipment, dangerous equipment, operating engineers down to apprentices who are sweeping, which is what you were doing, which is what my son did, to people who are very skilled carpenters to helpers doing nothing but hammering nails.

What you are attempting to do is to say that this system, which has grown up through the years of people having differing classifications of work—and we have done away with a lot of the restrictions on classifications so that people can move from one thing to another—but you are saying you are going to use unskilled people out there.

I am not defining on any job that everybody is going to be paid $26 an hour, any more than I do in my office, or you do in yours. On those jobs, people are paid according to their skills and according to their training, and you go down and get them at the hiring hall, and you know what you get. And if you get a bad one, you send them back.

This has been the struggle that has gone on in the industry for a long time. All you are going to do with your amendment, and the Department of Labor is going to do, is build a lot of shoddy stuff in America and drive down what we have already.

Mr. NICKLES. Mr. President, I appreciate my colleague's response, but I totally disagree. I wish he were correct, but he is not.

The facts are, what we are trying to do is to allow a helper classification, if it is the prevailing practice in an area or a community. Under the existing rules, there was no "semiskilled" or helper classification. The Department of Labor thinks there should be.

I might tell my friend and colleague, who thinks that this began in the Reagan administration, he is incorrect. It actually began in the Carter administration in Interagency Review of Contract Wage Laws, options paper, they knew the system was not working. They knew they could save billions of dollars if they followed common industry practices of allowing semiskilled classifications. But the old regulations did not allow it.

And so we are denying thousands of people this entry-level job. They were not going to hire DON NICKLES, a high school or college student, to work on these projects because I was not worth $20 an hour. Back then it was less than that. But no, they did not do that.

If we do not pass my amendment, we are going to be denying economic opportunity for thousands of people.

I totally disagree with my colleague's statement, and also my colleague from Iowa, who said, you need Davis-Bacon to have quality construction. This is totally false. That is like saying the Government buildings are built better than private-sector buildings, and frankly, it is just the opposite. We pay more for Federal Government buildings, but we get less quality. We paid $137 million for the Hart Building. I mean, that is a lot of money.

Look at the expense for Federal buildings. Compare it to the expense and quality for private-sector buildings, and there is no comparison. I moved out of the Federal building in my offices in Oklahoma City and in Tulsa, and saved money by going to the private sector. And I will tell you, our offices are better than what they were in the Government building. And I saved the taxpayers money.

Government buildings cost a lot of money. They cost too much money. One of the reasons is Davis-Bacon. And one of the reasons is because Davis-Bacon does not have a classification for helpers, for semiskilled workers. They require that everybody be paid journeyman's rate. In some cases, they might have an apprentice program.

It is interesting to note that also part of the regulation they are trying to strike eliminates a Department of Labor regulation dealing with the apprentice program. The Department of Labor has been working with organized labor and business trying to come up with revised, updated apprentice regulations, and they are trying to kill those, too.

And Senator ADAMS said, well, he had a friend that spoke against the apprentice regulation. He was one of thousands of people who testified on the apprentice regulations. There has been years of work going into those regulations. And without a hearing, with the stroke of a pen, they say we are just going to eliminate the regulations proposed by the Department of Labor. They are seeking to eliminate the regulations dealing with both helpers and apprentices.

They are going to make it more difficult for a person to become an apprentice. They are going to make it more difficult for a person to become a helper, to get a job in a semiskilled capacity. They are going to drive the cost of buildings up. And to say that Government buildings built under Davis-Bacon are better than private-sector buildings is just totally, completely false. They are going to waste billions and billions of dollars. The administration estimated $623 million to be wasted next year alone.

Frankly, I think we have a big enough deficit already. We need to save money. We are talking now about real money. We are talking about hundreds of millions of dollars a year. And yet people say, "Oh, no, let us eliminate that regulation." So we put in a little paragraph on a bill nobody is going to pay any attention to, and that little paragraph is going to cost $2 billion in the next 5 years. That is totally irresponsible. And it is irresponsible for the thousands of people who are not going to get a job. What about the unemployed black youth in Chicago that would like to have a chance, that would like to work on one of those Federal building construction projects. He would like to work as a beginning laborer building a housing project or maybe a road? He is going to be denied the opportunity because he will not be worth the minimum wage that they pay at that project with a journeyman's wage, and it may well be $18 an hour. He does not have any skills to offer, and they do not have a semiskilled classification in many areas. Therefore, he is out of luck. He is unemployed. He is going to be sitting on his hands. Maybe he is going to be collecting unemployment; maybe he is going to be involved in drugs or crime.

And that is a travesty that we ought to try and eliminate. We ought to try and give him an opportunity. We ought to try and let him at least work on many of these Federal construction projects as he can on the private side. Why deny him that opportunity just because it happens to be paid for by the Federal Government? Why mandate the buildings built by the Federal Government have to cost a lot more than buildings built by the private sector? I think that is ridiculous.

Again, I say to my colleagues, you do not pay everybody in your office $50,000 a year or $45,000 a year. You ought to look at some of these wage classifications. And if they are worth it, I think it is fine, but I do not think it makes sense to pay somebody $22 an hour if really the market would dictate they should only be paid $7 an hour.

I do not think that helps the individual either.

Basically, what it does is it means they will not get the job.

So I would just urge my colleagues to adopt this amendment, and we will debate it further in the morning.

Mr. President, I yield back the remainder of my time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NICKLES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I am pleased to be a cosponsor of the amendment offered by my good friend from Oklahoma, Senator NICKLES.

As he has explained, this so-called dire supplemental appropriations bill has become a Christmas tree for legislative initiatives. The provision that our amendment will strike was inserted in the bill to prohibit the Secretary of Labor from implementing the final regulations under Davis-Bacon that would allow the employment of semiskilled helpers on federally financed construction projects. That is both unwise, and unfair, and I urge my colleagues to join us in stripping it from this bill.

Mr. President, after 9 years of litigation, the Federal courts have determined that the helper regulations are fully consistent with the long-stated intent of the Davis-Bacon Act that Federal construction contracts reflect locally prevailing wages. The proposed revisions to the regulations were published after 2 years of open and public debate. It is unfair for Congress to sneak in at the last hour and circumvent that process.

Even though the use of helpers in construction contracts is widespread, the Federal Government is prohibited from allowing their use in Federal contracts. As a result, many small and minority contractors simply walk away from Federal contracts. This is unfair to them, and it costs the taxpayers hundreds of millions of dollars.

The Office of Management and Budget has estimated that the helper regulations will save approximately $500 million in budget authority and $200 million in outlays in fiscal year 1992. OMB has also estimated that after the regulations are fully phased in, they will save about $600 million each year.

Mr. President, as we face the worst budget crisis in history, it is foolish for Congress to attempt to block the implementation of these regulations. Furthermore, it is unwise to block an effort that will open up competition for Federal contracts to small and minority firms.

I commend my friend from Oklahoma for his work on this issue, and I urge my colleagues to vote to delete the provisions that would block the implementation of the helper regulations.

Mr. KENNEDY. Mr. President, I oppose the motion to strike offered by my colleague from Oklahoma.

The provision my colleague seeks to strike from this bill prohibits the Secretary of Labor from expending funds to implement or administer either the Department's new Davis-Bacon regulations regarding the use of helpers or its proposed revisions to the apprenticeship regulations to the extent those revisions affect apprenticeship programs in the construction industry.

I support the inclusion of this provision because the combined impact of these regulations would be to undermine the craft apprenticeship system which has proved so effective in producing a well-trained, highly skilled construction work force.

The new helper regulations would allow contractors working on Federal and federally assisted construction to replace apprentices enrolled in certified training programs with low-wage, low-skilled helpers with no employment training and no opportunity for advancement.

The proposed apprenticeship regulations would downgrade Federal standards for apprenticeship programs and prevent States from enforcing standards that are higher than the Federal standards.

At a time of mounting national concern about the deteriorating skill levels of the American workforce, it is disturbing that the Department of Labor should be promoting measures that can only accelerate this downward trend.

Ironically, at the same time the Department is promoting regulations that would undermine the building trades apprenticeship system, that system is being held up as a model of effective skills training.

The Commission on Skills of the American Workforce, cochaired by former Labor Secretaries Ray Marshall and Bill Brock, pointed out in its recent report that apprentices are part of the small minority of workers in this country who receive extensive, systematic, long-term skills training.

The Office of Technology Assessment, in its recent report on worker training, said the apprenticeship model, combining classroom instruction with hands-on practice and skill training, is a highly effective approach to technical training which is particularly well-suited to the needs of smaller companies.

The Department of Labor itself has recognized the value of the apprenticeship system. The Department's report on work-based learning, issued last year by Secretary Dole, states that "the apprenticeship concept of structured on-the-job training, combined with classroom instruction, is an ideal model for learning the job-specific skills needed by today's workers."

In that same report, the Department says that we need more Government incentives to encourage employers to adopt structured work-based training programs and points out that one of the few incentives that do exist are the Davis-Bacon Act wage provisions, which "have traditionally been a strong incentive to train within the construction industry."

Now, however, the Department seems bent on implementing regulations that will effectively eliminate the provisions in the Davis-Bacon Act that provide incentives for employers to invest in workforce training.

If allowed to go into effect, the new helper regulations would permit contractors on federally funded construction projects to replace up to 40 percent of the current workforce with lower paid and lower skilled helpers, and to assign work currently performed by laborers, apprentices or skilled journeymen to the lower-paid helper classifications.

Moreover, and most importantly, contractors would not be required to provide or pay for any training for these helpers.

This is directly contrary to current law, which generally permits contractors to pay reduced wages to workers who do not have the full range of skills necessary to command a journeyman wage only if those workers are enrolled in an approved apprenticeship or training program.

The requirement that the worker be enrolled in an apprenticeship program ensures that those lower-paid workers will in fact receive training to enable them to progress through a structured training program and acquire the full range of skills necessary to become a journeyman.

This is good for the industry, because it assures the existence of a pool of highly skilled craft workers to meet the industry's workforce needs. It is also good for the workers, because it provides entry-level employees with opportunities for advancement and the acquisition of marketable, portable skills.

In place of that system, the new regulations will result in the creation of a new, permanent subclass of workers consigned to low-skilled, dead-end jobs that are not only low-paid, but offer no opportunity for advancement.

Because the new regulations eliminate incentives for employers to participate in formal training programs, it will be increasingly difficult for those contractors who are willing to invest in training for their workers to support those programs, and to compete with employers who don't pay for worker training.

In the long run, the construction industry and the Nation as a whole will suffer because the absence of bona fide apprenticeship and training programs will result in a shortage of fully qualified laborers and journeyman capable of performing a wide range of skilled tasks and supervising the work of others.

One person who has closely examined the new helper regulations is Dr. John T. Dunlop, formerly Secretary of Labor under President Ford and currently Acting Director of the Business and Government Center of the John F. Kennedy School of Government at Harvard.

What he says about the new regulations is that they are—and I quote—"a skill dilution program enabling employers to turn over journeymen's work to jacks of all trades—without a training component—who will have little chance of improving their economic or social position."

"Today, there are almost 200,000 apprentices in formal construction training programs acquiring technical skills which will enrich the present and future manpower resources of this country. Contractors will now have little economic incentive to support apprenticeship programs. Can this country over the long run afford this loss of its most vital private skill training program? Is the Government then prepared to advance the costs of supporting such a system?"

I say the answer is "No," and I urge you to join with me in preventing the Department from continuing on this ill-conceived course.

What are the arguments made in favor of these regulations?

The administration claims they will save the Government $600 million a year in Federal construction costs, but that's just not true.

The notion that using untrained low-wage helpers to construct our public works and public building will result in substantial cost savings for the Federal Government has been examined and rejected by Dr. Dunlop, who is the leading construction industry economist in the country.

Dr. Dunlop spent many years administering Government-imposed wage controls in the construction industry—after World War II, during the Korean conflict, and again in the early 1970's as Chairman of the Construction Industry Stabilization Board, and he is probably more familiar than any other person in the country with the impact of the Davis-Bacon Act on the construction industry.

As he explains, the administration's supposed cost savings come from simply taking the current wage rates and subtracting the lower rates that will be paid to the helpers who will replace laborers and journeyman.

But from an economist's viewpoint, he says, that methodology is totally unsupportable and in fact "proves nothing":

> [I]n the real world helpers are used in a system which requires more supervisors and uses less journeymen than the system that does not use helpers. While * * * wage costs may be lower, labor costs may be higher because of the greater cost of supervision. Also increased use of helpers quite frequently leads to lower productivity of workers, or inferior products. * * * There is simply no sound basis for gratuitously assuming that lower wage rates in the construction industry generally mean lower costs to the public. * * *

The administration also claims that the new helper regulations will somehow expand employment opportunities in construction for women and minorities—and that's equally specious.

Besides apprentices, the bulk of the workers who would be displaced as a result of the new helper regulations would be construction laborers, and the fact, is that a substantial percentage of the laborer work force is already composed of women and minorities. Indeed in 1989, a full 40 percent of the laborers trained by the Laborers—Associated General Contractors Educational and

Training Fund were women or members of minority groups.

If the new helper regulations are implemented, these are the people who will either lose their jobs or be forced to accept the lower wage helper jobs, losing access not only to training, but to the opportunity for advancement that goes with it.

As Judge Harold Greene said in striking down an earlier version of these regulations, the expanded use of helpers, rather than improving employment opportunities for women and minorities, "will assign [women and minorities] to the lowest classification of workers, and is likely to keep them there on a permanent or long-term basis."

This is not something we should be promoting as a matter of national labor policy.

SUPPLEMENTAL AID TO TURKEY

Ms. MIKULSKI. Mr. President, today's supplemental appropriations bill contains $200 million in military assistance to Turkey. Turkey has been a fine ally throughout the gulf war and deserves our respect and gratitude, but the additional United States military aid which Turkey has received this year raises a serious question.

The United States has a longstanding policy of maintaining a 7 to 10 ratio of military aid to Greece and Turkey. This approach is intended to prevent a further widening of Turkey's military advantage over Greece and to create a consistent and evenhanded United States policy, under which Greece and Turkey would begin to resolve many issues of longstanding dispute.

Already this year the United States administration has broken that 7 to 10 ratio by providing an extra $82 million in military aid to Turkey. Today's bill further breaks that ratio.

It is important to note that the Congress has spoken clearly on the need to maintain 7 to 10 military funding, and recent events have not altered the political and military situation which led to the ratio. The gulf war was a one-time, extraordinary event, and the resultant extra U.S. aid should be applied only to incremental costs associated with the war. Above all, the extra aid should not be considered a precedent for altering U.S. policy on the military aid ratio.

REPORT CONCERNING CERTAIN SPECIES OF SALMON

Mr. BURDICK. Mr. President, the Senate report accompanying H.R. 1281 includes language regarding activities occurring in the Pacific Northwest concerning pending petitions to list several species of salmon under the Endangered Species Act. I wish to point out the interest of the Committee on Environment and Public Works, the committee with jurisdiction over the Endangered Species Act, in this matter.

Mr. CHAFEE. I want to thank the chairman of the Environment and Public Works Committee for making this point. Further, I ask the chairman of the Committee on Appropriations whether it is his intention that upon completion of the report from certain departmental secretaries on steps being taken to deal with potential listing or emergency listing of these salmon, this report be submitted to the Committee on Environment and Public Works as well as the Committee on Appropriations.

Mr. BYRD. I am pleased to clarify for the chairman and ranking member of the Committee on Environment and Public Works my expectation that the report will be submitted to the Committee on Environment and Public Works concurrent with its submission to the Committee on Appropriations.

Mr. HATFIELD. Mr. President, I share the opinion of the chairman of the Committee on Appropriations that the report regarding the potential listing of several salmon species in the Pacific Northwest be submitted to the House and Senate Committees with jurisdiction over the Endangered Species Act.

DISTRICT OF COLUMBIA

Mr. HATFIELD. Mr. President, H.R. 1281, the dire emergency supplemental appropriations bill, contains funding of $100 million for the District of Columbia. These funds are needed to help offset the tremendous budget deficit inherited by the city's new Mayor, Sharon Pratt Dixon. I am enthusiastic about the leadership skills the new Mayor brings to the District and am fully supportive of this funding request.

In an effort to eliminate the District of Columbia's projected $312 million budget deficit, the Mayor has proposed making spending reductions and revenue enhancements totaling $216 million and has asked Congress to provide a one-time appropriation of $100 million to help make up for the revenue shortfall.

Each year, Congress provides for an annual appropriation to the city to offset for the lack of tax revenues paid on federally owned property. Since 1985, however, the city's annual payment has been frozen at $430.5 million, despite a steep increase in local property values. This situation has not helped the District balance it's financial ledger. Clearly, it is not the responsibility of the Federal Government to assure the solvency of the District government, but we do have an obligation to equitably provide for the loss of revenue due to property occupied by federal buildings that would otherwise be taxable. In the coming months, Congress will need to address this discrepancy and, if warranted, make the necessary changes to the annual allocation.

Mr. President, what the Mayor is proposing to do is no easy task. Popular programs such as the Summer Youth Employment Program, assisted housing, education, construction projects, and many vital police functions are being cut, or eliminated. No aspect of the District of Columbia's government is being spared. As tourists, businessmen and government officials come to our Nation's Capital, they see a city in crisis. Mayor Dixon has given new life to an ailing municipal government. She has provided integrity and credibility to the government of the District of Columbia and deserves the necessary financial tools to rebuild the city. I urge the support for this provision and look forward to a greatly improved partnership between the Congress and its host city.

H.R. 1281

Mr. BURDICK. Mr. President, I rise in support of H.R. 1281, the supplemental appropriations bill for 1991. As chairman of the Subcommittee on Agriculture, Rural Development, and Related Agencies, I want to point out several of the provisions in this bill that are important to agriculture.

First of all, we have eliminated the spending cap for the Export Enhancement Program [EEP]. A cap of $425,000,000 was placed on EEP in the 1991 agriculture appropriations bill. At that time, EEP was not being used extensively by USDA, and the ceiling did not appear to be an impediment to the program. However, since then, the international market has changed and much larger EEP bonuses are being used more frequently to facilitate the sale of commodities. Currently, 97 percent of the funds available have been used. The year is not even half over. If the cap were to remain in place, sales of U.S. commodities in markets where our farmers face unfair competition from subsidizing suppliers would likely come to a standstill, resulting in a reduction of farm income, the loss of key export markets, and an increase in domestic stocks. Therefore, I am extremely pleased that the bill removes the cap.

The bill also provides additional funds for the Agricultural Stabilization and Conservation Service [ASCS]. The 1990 farm bill significantly changed the farm program and initiated new programs that ASCS employees must implement. While I wish we could have provided the full amount that was requested by the administration, budgetary restraints prevented us from doing so. Nevertheless, the $46,900,000 will go a long way to help ASCS with its heavy workload.

Another important appropriation in the bill is for a significant increase in the Food Stamp Program. The participation levels in the Food Stamp Program are up from levels previously estimated. In order to make sure that any eligible person receives benefits, the bill makes another $1,500,000,000 available for this program.

Mr. President, the report accompanying H.R. 1281 contains several important provisions that I hope the Department of Agriculture will be quick to address. We have asked the Department to provide an estimate and a request for funds to fund disaster assistance provisions of the 1990 farm bill. Many States have experienced a natural disaster of one form or another. I hope the administration will recognize the seriousness of the situation for many farmers and will act expeditiously to assist in making disaster assistance available.

In line with the request for this information, the Committee has also included language directing the Department to change its operation of the Emergency Disaster Loan Program. While there remains substantial authority for making emergency disaster loans, very little has been used. I have received complaints that the qualifications are too stiff and the program is operated in such a way that many farmers cannot get the loans. I hope the Secretary of Agriculture will take a close look at this program and act to make it more accessible to farmers.

Mr. President, I urge my colleagues to support this bill.

H.R. 1281

Mr. HARKIN. Today we are taking another step to ensure that equal opportunity will finally be a reality for millions of our fellow Americans with disabilities. This supplemental appropriations bill contains $6 million for the Department of Justice and the Equal Employment Opportunity Commission to implement their technical assistance plan under the Americans with Disabilities Act. In addition, the supplemental provides a transfer of $2,262,000 from the Bureau of Prisons to the ADA unit within the Department of Justice to support new responsibilities associated with the ADA.

I would like to thank my distinguished colleague, Senator HOLLINGS, the chair of the Commerce, Justice, State, and Judiciary Subcommittee for his leadership in securing these funds.

A new era for America began on July 26, 1990 when President Bush signed the Americans With Disabilities Act into law. I have called the ADA the "20th Century Emancipation Proclamation" for America's 43 million citizens with disabilities. This landmark law, which prohibits discrimination on the basis of disability in employment, transportation, public accommodations, activities of State and local governments and telecommunications, will vastly change the lives of millions of Americans with disabilities, their families, and friends.

Many in the business community are still fearful about what the ADA means for them. Education through technical assistance will allay those fears. Whenever sweeping legislation is passed, there is a need to educate entities which must comply with the law as well as individuals who will benefit from the law and the general public. Once businesses have an understanding of what the ADA actually requires, I am confident that they will act to comply voluntarily with the law.

As President Bush noted when he signed this historic legislation, "the ADA recognizes the necessity of educating the public about its rights and responsibilities under the Act." Section 506 of the act, requires that the Department of Justice develop a coordinated plan to provide such education to covered entities and individuals with disabilities and their advocates. I would once again like to take this opportunity to thank my distinguished colleague from Kansas, Senator DOLE, for his leadership in including this provision during Senate consideration of the bill.

Pursuant to its responsibility under section 506 of the act, the Department of Justice has issued a proposed plan, after consultation with the Equal Employment Opportunity Commission [EEOC], Department of Transportation [DOT], the Federal Communications Commission [FCC], and the Architectural and Transportation Barriers Compliance Board [ATBCB], all of which have implementation responsibilities under the ADA. This proposed plan is both comprehensive and coordinated. It calls for establishment of an ADA technical assistance working group by the Attorney General to ensure that technical assistance activities of all agencies will be coordinated. The Department of Justice, through this body, will also monitor the effectiveness of technical assistance activities of all agencies with implementation responsibilities under the ADA. The proposed plan also requires that the Attorney General prepare an annual report describing the Federal Government's ADA technical assistance efforts. This report is to be issued by December 31 of each year.

The $4 million in this fiscal year 1991 supplemental appropriations bill earmarked for the Department of Justice will allow the agency to begin the activities outlined in its proposed plan. The Justice Department has implementation responsibilities for title II of the act which prohibits discrimination on the basis of disability in public services, by State and local government entities, and for title III, the provision prohibiting discrimination by public accommodations. Two million dollars in this bill is earmarked for the Equal Employment Opportunity Commission [EEOC], which is responsible for implementing title I of the act which prohibits discrimination on the basis of disability by private sector employers.

As the Federal Government's proposed technical assistance plan states the Department of Justice will "inform and train covered entities about ADA requirements and how to solve compliance problems." The EEOC, according to this plan, "expects that technical assistance efforts to result in greater compliance with ADA's employment requirements and a corresponding reduction in the need to resort to enforcement activity." I am pleased to see that the Department of Justice and the EEOC have included a variety of methods of technical assistance in their plan and have recognized that the same informational and training materials and mechanisms will not effectively serve all categories of public accommodations and employers. As the Justice Department's section of the proposed plan states, informational needs will differ greatly, depending on the type of audience that must be reached. What may be effective information for a restaurant will not be effective for a retail store. Voluntary compliance will be enhanced if entities receive information which is tailored to their needs.

The Department of Justice, as outlined in its proposed plan, intends to widely disseminate its publications to entities that are required to comply with the public accommodations provisions. Teleconferences and videotapes will also be used by the Department to reach wider and more diverse audiences. It is my understanding that the Department of Justice will work closely with the Department of Commerce to maximize the effectiveness of this dissemination effort. The EEOC has set forth a similar plan to provide educational materials to entities covered under title I, with an emphasis on small employers who have not had experience complying with section 503 or 504 of the Rehabilitation Act.

Both the Department of Justice and the EEOC also plan to widely distribute their publications, in an accessible format, to individuals with disabilities who have rights under the ADA and their representatives and advocates. I urge the Department and the EEOC to also ensure that their publications are available in a format that is useable by individuals with low reading skills, such as persons who are mentally retarded.

Pursuant to section 506(d)(1) of the ADA, Federal agencies may award grants or contracts to nonprofit institutions and associations representing individuals with rights or duties under the act. The Department of Justice's proposed plan states that it plans to award grants or contracts for training projects for both covered entities and individuals with disabilities. The EEOC, according to the proposed plan envisions grants or contracts for similar programs concerning the employment provisions of the act. Such grants, contracts or cooperative agreements, whether funded by the Department of Justice or the EEOC, must be awarded for training programs at the national, State and local level to entities, or organizations or associations representing such entities that are subject to the requirements of the act and to organizations of or for individuals with disabilities who have either legal or technical knowledge of disability issues.

The training projects envisioned by the Department of Justice and the EEOC in the proposed plan, by including both constituencies—the business and disability communities—will encourage voluntary compliance with the act. During congressional consideration of the ADA we learned that persons with disabilities are the real experts on how to achieve access and reasonable accommodations, most easily and cost effectively. Training programs will provide individuals with disabilities the opportunity to learn their rights. Armed with knowledge of the substantive requirements of the law, they will be able to become resources for businesses in their communities. I urge the Department of Justice and the EEOC to encourage grantees and or contractees from both constituencies to work together on technical assistance activities. By working together, the disability and business communities will be able to develop model compliance strategies that can broadly disseminate. Such collaboration will achieve what I know my colleagues, the administration and the disability and business communities seek—effective implementation of the Americans With Disabilities Act, which will ultimately benefit all Americans.

SECTION 305, TITLE III

Mr. BURDICK. Mr. President, regarding section 305 of title III of this bill, H.R. 1281, I would like the record to reflect a letter from Sharon Eiseman to Representative JIM SLATTERY dated December 26, 1990. I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WELK HERITAGE, INC.,
Strasburg, ND, December 26, 1990.

Hon. JIM SLATTERY,
Longworth House Building, Washington, DC.

MR. RIVLIN AND HON. JIM SLATTERY: In regards to the Welk Heritage restoration project, we feel that you and the media have been misinformed, or not informed at all in regards to our project. We hope that the information we are presenting to you will clarify the need for funds, and just what the funds will be used for.

The grant in question is an Industrial Development Grant through the Department of Agriculture. These grants are set up to facilitiate development of private business enterprises in rural areas or cities up to 50,000 in population, with priority to application for projects in open country, rural communities and towns of 25,000 and under.

The funds may be used to finance industry that will result in development of business enterprises. Costs that may be paid from grant funds include the acquisition and development of land and the construction of buildings, equipment, access streets and roads, parking areas, refinancing and fees. Grant applications are processed through FmHA, and the brochure was found at the county extension office in Linton, North Dakota.

Our area has been economically depressed because of a 3-year drought, which has hit our area, and it does not look much better for 1991. Our project will bring an industry to the area, which will supply jobs, bring additional traffic to our area, and to the state, and we are restoring a part of our ancestry and the history of our early ancestors.

The media has stated that the funds will be used to restore Lawrence Welk's boyhood home . . . wrong! The home which Lawrence grew up in, has been restored with private funds raised through our efforts, as has the summer kitchen, grainery/buggy house, blacksmith shop and outhouse. The funds we have applied for will be used for a German/Russian Interpretive Center which will tell of the early immigration to the United States, where they came from in Russia, how the railroad was involved, how land was obtained, what the early settlers had to work with coming into an area with no trees, and what the early settlers had to work with in regards to farming tools, etc. This is a story that has never been told, and it is a portion of our history that needs to be told. Another portion of the grant will be used for economic development in Emmons County. Our area is not set up to handle tour buses, facilitate travelers, and many other things. As our community is today, our bowling alley/cafe holds 25 people comfortably, there is no place for people to spend the evening, and the road going to the site is gravel, and last but not least—there is no public restroom!

Mr. Rivlin and Mr. Slattery, have you ever seen a sod brick home, made out of pressed mud, straw, and other components; thousands of them; stacking them and making a home out of them? Can you imagine a house with walls that are 18 to 24 inches thick? A home that is cool in the summer, and warm in the winter with very little to heat it? Have you ever seen cooking done in another building other than the home, to keep the heat out? Have you ever tasted the excellent German/Russian heritage food? Have you ever had strudels, knephla, stirrum, kuchen, fleishkeuchla; have you ever heard of a strommkopf? All these things will be interpreted at the center, along with the German/Russian delicacies!

Did you know that we have raised close to $200,000 on our own? Did you know that with all the negative publicity that we have lost pledges, foundation grants, and possible corporate gifts? All these losses because the media did not take the time to get the full story.

After reading this letter, the enclosed packets, and other information we are enclosing for your review, we would like to request your interpretation of our project. Should you still decide that we are "pork barrel", and that we did not need the funds, and it comes up for debate, we would like the right to testify.

Sincerely,

SHARON EISEMAN,
Executive Director, Welk Heritage, Inc.

KILAUEA RIFT ZONE

Mr. INOUYE. Mr. President, would the Senator from Louisiana yield for a colloquy on a matter under the jurisdiction of the Energy and Water Development Subcommittee?

Mr. JOHNSTON. I yield to the Senator from Hawaii for that purpose.

Mr. INOUYE. Mr. President, the Senator from Louisiana will recall that $5,000,000 was included in last year's Energy and Water Development Appropriations Report to assist the State of Hawaii in a program of geothermal resource verification and characterization in the Kilauea Rift Zone of the Big Island of Hawaii. Since that time, the Department of Energy, whose responsibility it is to administer this grant, has withheld the funding citing the fact that questions have been raised in Hawaii about the need for the conduct of a Federal environmental impact statement before the resource verification and characterization program can begin.

Mr. President, I have reviewed the situation in Hawaii regarding the need for an EIS for this federally supported program. In light of the fact that the area in which the geothermal research and development is being conducted is an environmentally sensitive area which must be protected and preserved, I strongly believe that a Federal EIS should be conducted. The Congress has long supported the State of Hawaii's efforts to develop the potential of geothermal energy in order to reduce our State's dangerous dependence upon imported oil and has done so with our full assurance that our efforts would be fully protective of our precious environment. I believe that conducting a Federal EIS before moving forward with further geothermal resource verification and characterization is consistent with our pledge to the Congress.

Mr. President, I have spoken to the State of Hawaii Department of Business, Economic Development and Tourism, which is responsible for geothermal development in Hawaii and officials there have indicated that the State of Hawaii would welcome the opportunity to conduct a Federal EIS to address all environmental issues related to geothermal development in Hawaii. The State is already in the process of developing a master plan for commercial geothermal development on the Big Island and is conducting a programmatic State EIS for the large scale geothermal development and transmission project. State officials have indicated that expanding those efforts to a Federal EIS designed to meet all NEPA requirements would not be difficult and would, in fact, be desirable.

Mr. President, would the chairman of the subcommittee agree that the $5,000,000 included for Hawaii geothermal resource verification and characterization in last year's energy and water development appropriations report should be used to conduct the necessary EIS for the program?

Mr. JOHNSTON. Mr. President, the work contemplated by the Federal

Government and State of Hawaii is resource verification and characterization. This is research work , not development or project construction work and is not a major Federal action and therefore would not require an EIS. However, the environmental sensitivity of this geothermal resource is so acute that the process required in an EIS would be a useful discipline in this case. I will therefore join you in directing that the DOE work with the State of Hawaii in conducting a Federal assessment or EIS. I do so with the express understanding that the law does not require such an EIS nor does my action set a precedent for doing so in similar situations in the future. Rather, I do so only because of the unique sensitivity of this resource.

Mr. INOUYE. Mr. President, would the chairman work with me in conference with the House on language which would be included in the statement of the managers which would direct that the $5,000,000 included in the fiscal year 1991 appropriations be used for the conduct of the EIS and that funds not expended for this purpose be applied to the characterization effort originally specified in last year's report.

Mr. JOHNSTON. Mr. President, I would be happy to work with my distinguished colleagues in the conference to accomplish these tasks.

Mr. INOUYE. I thank the chairman for his kind assistance.

Mr. GORTON. Mr. President, H.R. 1281, the dire emergency appropriations bill, contains several funding provisions for items within the legislative branch. As a result of Operations Desert Storm and Desert Shield, certain urgent funding needs have been identified by the U.S. Capitol Police and the Library of Congress. The increased threat of terrorism to the Capitol and congressional buildings has required Capitol Police and security personnel to work extended tours of duty and excessive overtime. Since the gulf crisis began, the cost of this increased manpower requirement has been approximately $325,000 per week, which depleted the $2,300,000 appropriated for overtime expenses in fiscal year 1991 by early February.

H.R. 1281, as reported by the full Committee on March 14, 1991, recommends supplemental funding of $6,328,000 to the U.S. Capitol Police for related overtime costs. This amount is a reduction of $3,990,000 from the initial request and $164,000 over the House allowance.

Despite the cessation of hostilities in the Persian Gulf, the security environment here remains unpredictable and measures implemented to increase security must remain in place. Accordingly, the committee has provided funding for 10 additional freight handlers to augment the off-site screening of deliveries to the Capitol complex and has restored funding for 12 additional K-9 teams. The K-9 teams are needed to augment the existing Capitol Police K-9 Corps with explosive detection and security sweeps of congressional buildings as well as for vehicles entering the Capitol complex.

The supplemental also contains additional funds and recommendations to enhance the security of the valuable assets of the Library of Congress. Language extending the availability of obligated fund balances used for reading equipment by the National Library Service for the Blind and Physically Handicapped is also included. This provision does not affect outlays in fiscal year 1991 and, without inclusion, would prematurely cancel the balance of the account.

As is customary, a gratuity payment is provided for Corinne L. Conte, widow of former Representative Silvio O. Conte.

Mr. President, I look forward to resolving the remaining differences in these provisions with the House Appropriations Committee when we go to conference.

DEPARTMENT OF VETERANS AFFAIRS

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I rise to address the fiscal year 1991 supplemental appropriations in the pending measure, H.R. 1281, for the Department of Veterans Affairs medical care account and general operating expenses account.

MEDICAL CARE

Mr. President, with respect to VA medical care funding, I urge that, in conference with the House on this bill, my colleagues on the Appropriations Committee make every effort to move to the levels provided in the House-passed bill for the Department of Veterans Affairs' medical care account. The House-passed bill included a $46 million supplemental appropriation for that account; the Senate-reported measure, only a $25 million supplemental. Both versions included $3.6 million to restore funding that VA has expended in preparing for the possibility that it would have to care for large numbers of American casualties in the Persian Gulf conflict, $1.4 million for readjustment counseling, and $4 million for posttraumatic stress disorder care. However, with respect to the major difference between the two bodies, the House provided $15 million, and the Senate nothing, for the dental-care entitlements of reservists who are leaving active duty this year.

Mr. President, the additional amounts provided in the House version for anticipated costs of the dental entitlement are fully supported by the facts and are critically important to helping VA, which is already operating on a very, very tight health-care budget, to be able to provide quality health-care services to veterans.

Section 612(b) of title 38, United States Code, provides that, upon the discharge of an individual who has been on active duty for at least 180 days, has not received complete dental care within the last 90 days of service, and, according to a military dental examination, requires dental care, VA must furnish that care, either directly or by contract. VA anticipates increased costs in the amount of $41.4 million for the rest of this year and in fiscal year 1992 due to the increased dental workload that will be generated by reservists' being discharged following their service during the Persian Gulf conflict. Approximately $25 million of that amount is expected to be incurred in fiscal year 1992, and I am working to ensure that it is provided for in the budget and appropriations processes for fiscal year 1992. However, the $15-million cost expected this year must be provided now.

Mr. President, I recognize that in a March 7, 1991, letter to the Speaker of the House, copies of which were sent to various Senate and House committee chairmen as well, Secretary of Veterans Affairs Edward J. Derwinski stated, "Our medical system absorbed about $3 million in costs preparing for potential casualties. * * * We can absorb any further costs in our * * * budget." I disagree wholeheartedly with the Secretary's assessment. VA does not have the capacity to absorb unbudgeted costs of this magnitude without reducing services or jeopardizing quality. How would the cuts be absorbed? By adding to VA's over-$800-million backlog in replacing worn-out and outdated medical equipment? Or perhaps by adding weeks to the already 3-month-long waiting period for many outpatient clinics—or the even longer waits for certain specialty clinics? These are about the only ways for VA to absorb the cuts and they are plainly unacceptable.

Mr. President, I am proud of the manner in which VA conducted its preparation for the receipt of Persian Gulf conflict casualties. I am relieved that implementation of the VA/DOD contingency plan for back-up medical care was never needed. I do not want to short-change current or future veterans—who may be denied appropriate, timely, and quality health-care services—by failing to provide VA with the fiscal support it needs to carry out what our country has asked it to do. Thus, I strongly urge that the Senate conferees, working with their House counterparts, restore the reduction made in the Senate.

GENERAL OPERATING EXPENSES

Mr. President, this bill would provide $12 million for fiscal year 1991 Persian Gulf conflict costs for the Veterans Benefits Administration, the branch of VA that administers nonmedical benefits for veterans and their families. This amount will pay for 132 additional employees to handle the benefits caseload that will result from termination of hostilities and deactivation of reservists and release of other servicemembers following the conflict, including $1.2 million for VA personnel training, $8 million for assisting the new veterans in making the transition from active duty to civilian life, and $2.5 million to process new claims for benefits for these veterans.

Mr. President, the House agreed to the full amount the administration requested for the general operating expenses account. I would like to thank the distinguished Chair of the VA-HUD Appropriations Subcommittee, Ms. MIKULSKI, the ranking minority member of the subcommittee, Mr. GARN, the distinguished Chair of the full Appropriations Committee, Mr. BYRD, and the ranking minority member, Mr. HATFIELD, for including in the Senate bill this same, full amount. These funds are of vital practical importance to the veterans and their families who otherwise might not receive in a timely manner the benefits to which they are entitled.

VA has advised our committee that the recurring costs in VBA for these activities will be at least $6.3 million and I will be doing all I can to ensure that we do not force this already-strapped agency to absorb these costs in fiscal year 1992 and beyond.

ENTERPRISE FOR THE AMERICAS INITIATIVE

Mr. COCHRAN. Mr. President, I would like to take a moment to discuss the Enterprise for the Americas Initiative [EAI] with my colleague, the chairman of the Subcommittee on Agriculture, Rural Development and Related Agencies. We have a provision in this bill that prohibits any action under this initiative for 1991. This provision does not mean we are opposed to the EAI. Does the chairman agree with that?

Mr. BURDICK. Yes, the Senator from Mississippi is correct. I have an open mind with regard to the EAI, and as the committee report states, we will be looking at the EAI and considering it for appropriations action for fiscal year 1992. I have some questions about the program before we proceed with it.

Mr. COCHRAN. I thank the Senator. I understand that while the administration does not plan to proceed in 1991 with debt restructuring under the EAI in the absence of appropriations action, the bill language causes some problems with regard to planning for the initiative. I know that several Latin American countries have expressed an interest, and I hope that we do not jeopardize their involvement.

Mr. BURDICK. I certainly do not believe that all activities with regard to EAI need to cease. Planning may continue and I expect that it will. If our language causes a serious problem with these activities, I will be happy to work with the Senator between now and conference to change it to meet his concerns.

Mr. COCHRAN. I thank the Senator very much for his willingness to take another look at this matter.

FUNDING FOR GUNNISON AND RIFLE, CO, URANIUM MILL TAILINGS REMEDIAL ACTION PROGRAM

Mr. WIRTH. Mr. President, this supplemental appropriations bill restores $5.5 million in funds for continued cleanup of uranium mill tailing waste sites in Gunnison and Rifle, CO, under the Department of Energy's [DOE] Uranium Mill Tailings Remedial Action [UMTRA] Program.

Last year, this relatively small amount of funds was cut from the DOE's UMTRA Program. The cut caused the DOE to delay remedial action at uranium mill tailing waste sites in Gunnison and Rifle, CO. These two communities have been working for many years to deal with the environmental and health risks associated with uranium mining, and although uranium wastes are found in several communities across the Western United States, Gunnison and Rifle have always been viewed as high priority sites for cleanup.

The people who live in these communities were understandably concerned, therefore, when the DOE announced that the fiscal year 1991 funding shortfall would delay cleanup activities at Gunnison and Rifle.

It is clear that last year's cut in the UMTRA Program was penny-wise and pound-foolish. A 1-year delay in remedial action at these sites will almost certainly result in higher project completion costs in the long run. Moreover, the State of Colorado, which is responsible for 10 percent matching UMTRA cleanup funds, obviously stands to lose a great deal if these projects are seriously delayed.

My biggest concern, Mr. President, is for the people who have had to live and raise their families near these abandoned waste sites. The people of Gunnison and Rifle are very proud of the contribution their communities have made to our national security when large tracts of the West were mined for uranium in the 1950's. All they have asked in return, is for the Federal Government to make good on its promise to restore these mining communities by meeting their legitimate health and environmental needs.

This bill includes funding necessary to make good on that promise. In closing, I wish to thank a number of individuals who have worked hard on this issue—including my colleague, Senator HANK BROWN, who joined me in supporting this funding request. Gunnison County Commissioners Mario Petri, Fred Field, and Rikki Santarelli, County Manager Gary Tomsik and Mayor Bill Nesbitt should also be mentioned. I also want to acknowledge the efforts of Garfield County Commissioner Arnold Mackley, and former Gunnison County Commissioner David Leinsdorf. There are dozens of very hard-working people in Gunnison and Garfield Counties who have been helpful in this project; my thanks to all of them.

I ask that certain correspondence pertaining to this matter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, December 10, 1990.

Mr. LEO DUFFY,
Director, Office of Environmental Restoration and Waste Management, Department of Energy, Washington, DC.

DEAR MR. DUFFY: I am writing to express my concern about the Department of Energy's (DOE) Uranium Mill Tailings Remedial Action (UMTRA) program as it relates to two projects in Gunnison and Rifle, Colorado. I understand that your office has instructed DOE's Albuquerque Office—which oversees the UMTRA program—to cut funding and suspend certain remedial action activities at the Gunnison and Rifle sites in order to accommodate increased funding for certain lower priority projects.

This change in the DOE's priorities for UMTRA clean-ups will seriously jeopardize the scheduled remediation of the Gunnison and Rifle sites. Halting or even slowing the schedule at the Gunnison site will reduce the transportation/haul options for uranium wastes at this site. A slow-down now could force a 24-hour truck hauling schedule for final remediation, which will increase the noise and environmental hazards at the Gunnison project.

I am particularly concerned that the DOE's decision represents a shift in priorities for UMTRA sites without strong or compelling justification based on technical or environmental evaluation. In fact, a December 1987 DOE bulletin on the UMTRA program (see attached) listed the Rifle and Gunnison Colorado sites as "high priority" sites for DOE funding. Before your agency shifts funds from high priority sites to low priority sites, I hope DOE will clearly explain the basis for such a decision.

Finally, I am concerned about the impact that the DOE's decision will have on the availability and use of Colorado State matching funds (required by UMTRA). As you may know, Governor Romer and authorities with the Colorado Department of Health worked very hard in a difficult budget setting to put aside funds for the clean-up of Colorado sites. Slowing down or halting operations at these Colorado sites will compromise the State's matching funds program.

The UMTRA Office in Albuquerque has informed my staff that the DOE will continue to supply bottled water to residents of Gunnison whose water supply may be tainted by mail tailings wastes—and will proceed with hooking up residential city water lines. The Albuquerque Office has also informed my office that design work for the Rifle site will also proceed—although actual remediation will be "put on the shelf" until funding is available.

I am pleased that the residential water hook-up at Gunnison and the design work at Rifle will continue, but these activities are not substitutes for final clean-up. The State of Colorado is ready to proceed with these clean-ups and the people of Rifle and Gunnison are understandably concerned about any further delays. The DOE's decision to reprioritize these sites is a matter of deep interest, and I hope you will be able to explain the technical and environmental factors justifying this change in the UMTRA program in Colorado.

In the absence of a clear and convincing case for this shift in priorities, I strongly urge that your Department reaffirm its existing priorities for UMTRA sites, including designation of the Rifle and Gunnison sites as high priorities for remediation. The case for immediate remediation of these sites is clear and compelling.

I look forward to hearing from you, and wish to thank you in advance for your attention and consideration.

With best wishes,

Sincerely yours,

TIMOTHY E. WIRTH.

DEPARTMENT OF ENERGY,
Washington, DC, February 1, 1991.

Hon. TIMOTHY E. WIRTH,
U.S. Senate, Washington, DC

DEAR SENATOR WIRTH: This responds to your recent letter in which you expressed concern regarding scheduling decisions made by the Department of Energy (DOE) with respect to Uranium Mill Tailings Remedial Action (UMTRA) Project sites at Rifle and Gunnison, Colorado.

Fiscal year 1991 appropriations for the UMTRA Project were $5.5 million less than requested. Despite the reduced UMTRA budget, DOE still plans to allocate over 70 percent of its total UMTRA budget to Colorado sites, as originally planned. The major change impacting the Rifle and Gunnison sites has been the requirement for $14 million more than originally planned to fund activities at the Grand Junction, Colorado, UMTRA site to accommodate additional quantities of materials and to perform more complex vicinity property cleanups. Our decision to schedule some lower priority work in Idaho, after conferring with Idaho Governor Cecil Andrus, had negligible effect on the delay to remediation schedules for Rifle and Gunnison. Although rescheduling the start of site cleanups at Rifle and Gunnison will likely delay completion of these sites by 1 year, the rescheduling at Gunnison will not force the DOE to employ a 24-hour truck hauling schedule.

The site priorities referred to in your letter were developed during the early part of the UMTRA Project. These decisions were based on an assessment of the potential health risks that might exist prior to the completion of site remediation, primarily due to exposure to radon gas from vicinity properties (i.e., tailings that have been transported off site), or, as in the case of Gunnison, the contamination of local drinking water supplies. The DOE is addressing potential near-term health risks at both Rifle and Gunnison independent of the start of actual site remediation.

Other factors besides site priorities have a role in the Department's UMTRA scheduling decisions. Technical considerations, site acquisitions, the need to meet environmental and regulatory requirements, public input to the decision process, and the availability of funds are factors that influence site-specific work schedules. We will be able to accelerate cleanup of the low priority site at Lowman, Idaho, with limited cost or schedule impact on other sites, because it can be completed in a single construction season.

In 1991, the DOE will provide funds for a permanent water supply for affected Gunnison residents. Also at Gunnison, the DOE will initiate vicinity property cleanups, fence the tailings site, fulfill Gunnison County land use change permit requirements, and complete the final design and associated regulatory requirements. At Rifle, design work for site remediation will continue, residential and commercial vicinity property remediation will be completed, and a safety lane on the Highway 13 route to the disposal cell will be constructed.

Your letter expressed concern that the DOE's scheduling decisions might affect the availability and use of State matching funds. The changes to our plans for remediation of Colorado UMTRA sites have been discussed and coordinated with the Colorado Department of Health. Also, the State's Uranium Mill Tailings Remedial Action Program Fund Oversight Committee was briefed by DOE officials on our budget situation and how this affects present work schedules. This was done to help ensure that the State's matching funds program is not compromised.

It has been the intent of the DOE to complete stabilization of all UMTRA sites within the statutory time frame. The DOE believes that its efforts to schedule site remediation in the most cost, effective manner, consistent with protection of public health and safety, significantly contributes to realization of that goal.

Please let me know if I can provide additional information on our plans for completing this program.

Sincerely,

LEO P. DUFFY,
Director, Office of Environmental Restoration and Waste Management.

VACCINE INJURY COMPENSATION ACT

Mr. BUMPERS. Mr. President, I want to make a few comments on the amendment on funding for the Vaccine Injury Compensation Program which the Senate adopted. This amendment, to reduce the $100 million in supplemental vaccine injury funding originally approved by the Senate Appropriations Committee to $17 million, was necessary because of a ruling by the Office of Management and Budget. That ruling is that this program, which has traditionally been scored as a mandatory program, would instead be scored as a domestic discretionary program and that the supplemental funding of $100 million would trigger a sequester of domestic discretionary programs.

I have been very frustrated by the administration's handling of this program and their lack of cooperation in helping the Congress deal with a difficult situation. The Vaccine Injury Compensation Program compensates children who have been injured by childhood vaccines. When the program was authorized, those injured children were divided into two groups: children injured by vaccines administered before October 1, 1988, who would be compensated out of appropriated funds; and children injured by vaccines administered after that date, who would be compensated out of a trust fund financed by excise taxes on the childhood vaccines.

When the program was authorized, we relied on the best available estimates of injured children and the awards they would receive in setting the authorization ceiling for the "past" awards. Unfortunately, those estimates have proved to be woefully inaccurate. The number of past cases now totals more than 4,000—more than we ever imagined. And we have not had the opportunity to adust the authorization ceiling for the past awards appropriation because many of these 4,000 cases were filed immediately before the filing deadline of January 31, 1991.

The administration has not requested any supplemental funds for this program in fiscal year 1991 and has not requested any funds in fiscal year 1992—even though 4,000 cases must still be adjudicated and some number of those cases will be compensated. Indeed, the best information I have been able to get out of the administration on this issue is that they are considering hiring an actuary to help them come up with some reliable estimate of the amount that will be needed to compensate these cases. That is simply not enough.

The Senate Appropriations Committee, acting without any accurate information from the administration, provided $100 million additional funds for the Compensation System for past case awards. We felt that this supplemental funding would allow the Compensation System to continue to operate in fiscal year 1991 and would forestall the collapse of the system; in the meantime, we hoped the administration would cooperate in developing solid estimates for fiscal year 1992 appropriations.

However, the OMB has spoken. The OMB has stated that according to preliminary legal opinion, "this funding would be scored against the domestic discretionary cap and would trigger a sequester of domestic discretionary programs even though the program is classified as a 'mandatory' program." So we have been forced to approve an amendment reducing the supplemental funding for the system so that the supplemental appropriations bill will meet domestic discretionary caps. The OMB has also stated that it will work with CBO and the Budget Committee to resolve this issue before conference. It is my sincere hope that the OMB will work in good faith with the Congress to reach some fair conclusion to this problem so that the conference committee can increase the supplemental funding for this program to meet the needs of children who should be compensated in fiscal year 1991.

This whole experience has brought to my attention some of the serious flaws of the Budget Enforcement Act and the power of the OMB to dictate certain spending decisions. I voted for the Budget Enforcement Act with some trepidation, and I regret that my fears are being realized.

EXPORT ENHANCEMENT PROGRAM

Mr. GRASSLEY. Mr. President, I rise today to discuss a provision in H.R. 1281 which removes the funding cap on the Export Enhancement Program [EEP].

The EEP Program was created in the 1985 farm bill and is generally designed to meet several major goals; protect U.S. market share, further our trade policy interests, and help us reach a GATT agreement.

Mr. President, the EEP Program has been largely used to assist in the export of wheat against highly subsidized European Community wheat. I support these efforts to reclaim our markets from competitors who have used their deep pockets to steal our traditional commodity markets away from us. The EC export program alone costs as much or more—some $11 billion—as the whole U.S. commodity support program—$8 to $11 billion.

What does concern me is that there is a very real possibility that taking off the cap imposed on the EEP in order to sell more wheat could result in slightly decreased market prices for feed grains producers, mostly corn farmers. Although there are many uncertainties involved, feed grain prices may decline as exporters redeem their EEP certificates for feed grains, which will increase available supplies, thus driving down the price received by corn producers. The effect would not be great, probably less than a nickel off the season average price for corn, but farmers are counting pennies these days.

As I stated earleir, most of EEP's funds go to the export of one bulk commodity, wheat. In fact, some 81 million metric tons of wheat have been exported under EEP. Nearly 4 million metric tons of flour and 8.7 million metric tons of barley have also used EEP. Only 540,000 tons of vegetable oil have been exported under EEP, mostly in the first year of its use. I want to remind USDA that there are other products which may be exported via EEP.

Something positive that USDA could do is something I have been pushing for some time now. I pushed for its inclusion in the 1990 Food, Agriculture, Conservation and Trade Act, otherwise known as the 1990 farm bill. Basically, I want USDA to be more aggressive in the use of existing programs for the purpose of increasing exports of value-added products made from agricultural commodities.

A provision which I introduced last year for inclusion in the 1990 farm bill directed USDA to use 25 percent of EEP's total available funds for the export of value added products. This was toned down in conference committee so that it only recommends a goal for which USDA to shoot. I still believe this is a desirable goal and I will continue to monitor the progress USDA makes toward a more broad based program. During Secretary Madigan's confirmation hearing, I asked him to remember that other commodities can use export assistance.

I think it is worthwhile to remember that when we ship value added products, that we create more jobs than when a bulk commodity is shipped. One study by USDA projected that if the United States increased its share of world value added trade by 5 percent, that 1 million new American jobs would be created. When we sell a bulk commodity, those processing jobs are created in the importing country.

I am encouraged by several developments over the last several months; one was the announcement of GSM guarantees to the Soviets, most of which went toward the sale of corn and soybeans, another was the announcement last Friday of export assistance for sunflower and cottonseed oil under two programs that are run very much like EEP, known as SOAP and COAP. These initiatives show that options are available, they just need more attention in order to provide benefits to more farmers.

I want to encourage USDA to closely watch for opportunities for the sale of value added commodities under either EEP or some related program such as the Targeted Export Program. Including more products under EEP is a good goal and it should be pursued. By broadening its base, EEP will gain a greater following among farmers and the American public.

STORMWATER DISCHARGE REGULATIONS

Mr. DOMENICI. Mr. President during consideration in committee of the bill before us, I offered an amendment which was adopted, to extend an interim deadline contained in stormwater discharge regulations issued by the Environmental Protection Agency [EPA] on November 16, 1990.

These regulations have generated an enormous amount of confusion as communities grapple to determine exactly what is required of them.

The confusion has been particularly rampant in small communities and counties with populations under 100,000. Most of those municipalities, up until recently, were under the false impression that these regulations did not apply to them.

The deadline addressed by this provision pertains to "group" applications for permits under the program. Stormwater discharges are stormwater runoff, snow melt runoff, surface runoff and drainage that enter waters from a point source.

A point source includes pipes, ditches, channels, tunnels and conduits. In a municipality or county a point source could include—

Landfills and open dumps that receive or have received industrial wastes;

Hazardous waste treatment, storage or disposal facilities;

Transportation facilities which have vehicle maintenance shops, equipment cleaning operations or airport deicing operations—this includes school bus maintenance facilities, airports and fleet maintenance operations;

Wastewater treatment works that have a pretreatment program; and

Construction activities which result in the disturbance of 5 acres or greater.

A group approach allows similar industrial activities to be lumped together in one application. For example, a county could submit one application covering all of its vehicle maintenance areas. Because it has been estimated that these permits could cost as much as $75,000 per facility, the group approach could greatly reduce the overall cost of the program.

EPA's November 1990 regulations required that group applications be submitted by March 18, 1991—Monday of this week. Meanwhile the applications for individual permits are not due to be submitted until November 18, 1991. Furthermore, the date for submitting final information for group applications is not until May 1992.

In other words, Mr. President, because of an unreasonably short interim deadline, a major cost-saving approach was about to be closed.

In preparing this amendment, I and others were in constant touch with EPA.

Because of the significant concern that was being expressed by the Congress and the municipalities, the Agency on Monday of this week took similar action—

By extending the deadline for group applications to September 30, 1991, and

Reaffirming that the fixed final deadline for information on group applications is May 18, 1991.

The Agency has also proposed two additional deadline changes under the program.

First, extending the deadline for submission of individual industrial stormwater applications to May 18, 1992;

Second, establishing a final fixed deadline of no later than May 18, 1992 for submission of individual applications from rejected members of stormwater groups. In other words, if certain facilities within a group application are rejected by EPA, then a separate, individual application must be submitted by that rejected facility by May 18, 1992.

EPA determined that a 6-month extension would be an appropriate amount of additional time for members of the regulated community to determine their status under the November 16, 1990, rule, to organize groups and to prepare and submit applications.

By establishing a fixed date of no later than May 18, 1992, the Agency has made no effective change in the time by which all information must be filed thus ensuring that the environmental benefits of the November 16, 1990, rule are not delayed.

The additional deadline extensions proposed by the Agency are designed to accomplish several goals:

To reduce the confusion in the regulated community over what application requirements affect which facility on which dates;

To treat all regulated facilities as equitably as possible and;

To avoid serious delays in the issuance of stormwater permits and the implementation of necessary controls leading to the desired water quality benefits.

These proposals will have the effect of ensuring that all industrial applications, whether individual or group, will be due on the same day.

Some may ask why we need this provision in the bill now that EPA has acted. The answer is quite simple: a legislative confirmation of what EPA has done will ensure smooth implementation of these deadline extensions.

Finally, Mr. President, let me address one further matter. The committee added report language on this amendment, directing EPA to provide technical assistance to municipalities, particularly those under 100,000 in population, in implementing these regulations. Without such assistance, the problem being addressed by this extension will not be resolved because smaller communities will be unable to determine what is expected of them and will still be unable to meet this new deadline.

Inadvertently, this report language mentioned cities but failed to reference counties. The same problems that plague our smaller cities also plague small counties. Consequently, Mr. President, it is my hope that appropriate changes can be made to the statement of managers that accompanies the conference report to reflect the concerns of our small counties.

NATIONAL DEFENSE SUPPLEMENTAL AUTHORIZATION ACT

The PRESIDING OFFICER. The Chair announces that the Senate has received H.R. 1175, the National Defense Supplemental Authorization Act. Pursuant to the order of March 14, 1991, all after the enacting clause of H.R. 1175 is stricken and the text of S. 578, as amended, is substituted therefor; the bill is deemed read the third time and passed, and a motion to reconsider that vote is tabled; and the Senate insists upon its amendment and requests a conference with the House of Representatives.

Pursuant that order, the Chair is authorized to appoint conferees.

The Presiding Officer appointed, from the Committee on Armed Services: Mr. NUNN, Mr. EXON, Mr. LEVIN, Mr. KENNEDY, Mr. BINGAMAN, Mr. DIXON, Mr. GLENN, Mr. GORE, Mr. WIRTH, Mr. SHELBY, Mr. BYRD, Mr. WARNER, Mr. THURMOND, Mr. COHEN, Mr. McCAIN, Mr. WALLOP, Mr. LOTT, Mr. COATS, Mr. MACK, Mr. SMITH; and additional conferees from the Veterans Affairs Committee for matters solely within that committee's jurisdiction: Mr. CRANSTON, Mr. DECONCINI, Mr. ROCKEFELLER, Mr. SPECTER, and Mr. MURKOWSKI.

APPOINTMENT BY THE MAJORITY LEADER

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, pursuant to Public Law 101-363, appoints the Senator from Arkansas [Mr. PRYOR] to the National Advisory Council on the Public Service.

Mr. NICKLES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,194th day that Terry Anderson has been held captive in Lebanon.

On Friday, March 16, his family and the families of other men still held captive in Lebanon gathered in a "Tribute to Courage." It was a tribute to the courage of Terry Anderson, who has endured 6 years of captivity. To the courage of those who have come home, and to those who have died in captivity. But, most significantly, to the courage of the families who will never allow their loved ones to be forgotten.

On Saturday, six Beirut newspapers printed letters to Terry Anderson from his family and friends. An Associated Press writer, Mohammed Salam, shares excerpts from the letters. I ask unanimous consent that a part of this report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

ANDERSON MARKS 6TH YEAR AS HOSTAGE

(By Mohammed Salam)

BEIRUT, LEBANON.—Lebanese newspapers Saturday published letters from his family and friends to Anderson, the longest-held of the 13 Westerners missing in Lebanon.

It was not known if Anderson would see the messages, but his Shiite Muslim captors are known to have sometimes allowed him to read newspapers and see television appearances by his family.

His sister, Peggy Say, who has campaigned tirelessly to secure Anderson's freedom, said she hopes this year will bring his release.

"Soon, God willing, you will all be free," she wrote. "But until then, know that your fellow Americans salute you and pray every day for your continued strength and courage."

Beirut's six Arabic language dailies published the letters, and the leading paper, An-Nahar, also published the original English texts. Anderson did not speak Arabic when he was kidnapped.

The pro-Syrian ash-Sharq daily headlined its report: "The dean of Western hostages begins his seventh year in captivity."

Anderson, 43, of Lorain, Ohio, is Chief Middle East correspondent for The Associated Press. He was kidnapped on March 16, 1985. The pro-Iranian Shiite group Islamic Jihad said it holds him.

The other missing Westerners are five Americans, four Britons, two Germans and an Italian. Most are believed held by fundamentalist Shiite factions.

The anniversary of Anderson's abduction coincided with renewed optimism in the United States that the new political climate following the Gulf War will speed the hostages' release.

After Secretary of State James A. Baker III met with Syrian President Hafez Assad in Damascus last week, Foreign Minister Farouk al-Sharaa promised his country would exert "maximum effort" to help win the hostages' release.

"We have the feeling that the hostage issue has to be resolved," al-Sharaa said.

The weekly magazine ash-Shiraa quoted an unnamed senior Syrian source as saying that Syria and Iran also "agreed . . . on the need to work for the release of the foreign hostages in Lebanon."

Syria has been instrumental in previous hostage releases. It maintains good ties with Iran and its 40,000 peacekeeping troops in Lebanon are deployed in areas where the hostages are believed to be held. And it improved relations with Washington by sending 19,000 troops to join the U.S.-led coalition against Iraq in the Gulf War.

But Shiite clerics familiar with the kidnappers' thinking said they saw no real signs of progress toward the hostages' release. They also noted that Iran does not control the Islamic Jihad, Anderson's captor.

The clerics, speaking on condition of anonymity, listed three conditions that must be met first:

Billions of dollars of Iranian assets frozen in the United States since 1979 should be released.

Israel should free Sheik Abdul Karim Obeid, a Shiite religious leader kidnapped in Lebanon in 1989.

The kidnappers must be assured that U.S. authorities will not pursue them after the hostages are freed.

Islamic Jihad had demanded that Kuwaiti authorities release 17 convicted pro-Iranian terrorists jailed for the December 1983 bombings in the Persian Gulf emirate.

Kuwait refused. Two of the men were freed in February 1989 after serving five-year terms. The remaining 15 were freed when Iraq invaded Kuwait in August.

Beirut newspapers Saturday also published a letter from Anderson's 6-year-old daughter, Sulome, and Sulome's mother Madeleine Bassil.

"These six years have become our key to an everlasting bond and happiness, " the letter said. "We do love you very much. No time could ever take that away."

Sulome was born almost two months after Anderson was kidnapped. He has never met his daughter, although released hostages have said his kidnappers allowed him to see her in television broadcasts on their birthdays.

Mrs. Say also wrote "I hope that as you are reading this letter, you and your fellow hostages are also hearing about the beautiful ceremony we are holding in your honor on Friday."

Anderson's family, friends and colleagues gathered in Washington Friday for a somber ceremony to mark his six years of captivity.

Since Anderson was kidnapped, his father, Glenn R. Anderson, died of cancer at age 69 in 1986, 11 months after his son was seized. Anderson's elder brother, Glenn Jr., died of cancer later that year, four days after making a videotape from his sickbed pleading for his brother's release.

Several freed hostages who shared Anderson's cell said he was not aware of the deaths.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and treaties which were referred to the appropriate committees.

(The nominations and treaties received today are printed at the end of the Senate proceedings.)

TWENTY-FIFTH ANNUAL REPORT OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—MESSAGE FROM THE PRESIDENT—PM 28

The Presiding Officer laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Development:

To the Congress of the United States:

Pursuant to the requirements of 42 U.S.C. 3536, I transmit herewith the Twenty-fifth Annual Report of the Department of Housing and Urban Development, which covers calendar year 1989.

GEORGE BUSH.

THE WHITE HOUSE, *March 19, 1991.*

REPORT ON UNITED STATES ACTIVITY IN THE UNITED NATIONS AND ITS ORGANIZATIONS—MESSAGE FROM THE PRESIDENT—PM 29

The Presiding Officer laid before the Senate the following message from the President of the United States; together with an accompanying report; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

I am pleased to transmit herewith a report of the activities of the United States Government in the United Nations and its affiliated agencies during calendar year 1989, the first year of my Administration. The report is required by the United Nations Participation Act (Public Law 264, 79th Congress; 22 U.S.C. 287b).

GEORGE BUSH.

THE WHITE HOUSE, *March 19, 1991.*

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

ENROLLED BILLS SIGNED

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 18, 1991, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill:

H.R. 1176. An act to provide authorizations for supplemental appropriations for fiscal year 1991 for the Department of State and the Agency for International Development for certain emergency costs associated with Persian Gulf conflict, and for other purposes.

H.R. 1284. An act to authorize emergency supplemental assistance for Israel for additional costs incurred as a result of the Persian Gulf conflict.

The enrolled bills were signed on March 19, 1991, by the Acting President pro tempore [Mr. LIEBERMAN].

MESSAGES FROM THE HOUSE

At 9:44 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1175. An act to authorize supplemental appropriations in fiscal year 1991 in connection with operations in and around the Persian Gulf presently known as Operation Desert Shield/Desert Storm, and for other purposes.

At 2:44 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of the reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1316. An act to amend chapter 54 of title 5, United States Code, to extend and improve the Performance Management and Recognition System, and for other purposes.

ENROLLED JOINT RESOLUTION SIGNED

At 8 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its clerks, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 133. Joint resolution authorizing and requesting the President to designate the second full week in March 1991 as "National Employ the Older Worker Week".

The enrolled joint resolution was subsequently signed by the President pro tempore [Mr. BYRD].

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 64: A bill to provide for the establishment of a National Commission on a Longer School Year, and for other purposes (Rept. No. 102–26).

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Res. 81: A resolution commending the Baltic States for their efforts to regain independence and urging measures to support such efforts.

By Mr. PELL, from the Committee on Foreign Relations, with an amendment in the nature of a substitute and with a preamble:

S.J. Res. 94: A joint resolution relative to Iraq.

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Con. Res. 16: A concurrent resolution urging Arab states to recognize, and end the state of belligerency with, Israel.

S. Con. Res. 18: A concurrent resolution expressing the concern of the Senate for the ongoing human rights abuses in Burma and for the status of displaced Burmese and Burmese refugees.

By Mr. PELL, from the Committee on Foreign Relations, with amendments and with a preamble:

S. Con. Res. 19: A concurrent resolution condemning the People's Republic of China's continuing violation of universal human rights principles.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation:

Stanford E. Parris, of Virginia, to be Administrator of the Saint Lawrence Seaway Development Corporation for a term of 7 years;

J.J. Simmons, III, of Oklahoma, to be a member of the Interstate Commerce Commission for a term expiring December 31, 1995;

Carl W. Vogt, of Maryland, to be a member of the Board of Directors of the National Railroad Passenger Corporation for a term of 4 years;

Donald A. Henderson, of Maryland, to be an Associate Director of the Office of Science and Technology Policy;

Capt. Christian Andreasen for appointment to the grade or rear admiral (lower half), while serving in a position of importance and responsibility as Deputy Director, Office of NOAA Corps Operations, National Oceanic and Atmospheric Administration, and Capt. Freddie L. Jeffries for appointment to the grade of rear admiral (lower half), while serving in a position of importance and responsibility as Director, Atlantic Marine Center, National Oceanic and Atmospheric

Administration, under the provisions of title 33, United States Code, section 853u.

Rear Adm. James A. Yeager for appointment to the grade of rear admiral (0-8), while serving in a position of importance and responsibility designated by the Secretary of Commerce as warranting that grade in the National Oceanic and Atmospheric Administration, and

Rear Adm. Raymond L. Speer for appointment to the grade of rear admiral (lower half) (0-7), while serving in a position of importance and responsibility designated by the Secretary of Commerce as warranting that grade in the National Oceanic and Atmospheric Administration, under the provisions of title 33, United States Code, section 853u.

The following officers of the U.S. Coast Guard for appointment to the grade of rear admiral:

Arthur E. Henn.
Peter A. Bunch.
David E. Ciancaglini.
William J. Ecker.

The following officers of the U.S. Coast Guard for appointment to the grade of rear admiral (lower half):

John L Linnon, Jr.
Rudy K. Peschel.
Gerald F. Woolever.
Richard D. Herr.

Mr. HOLLINGS. Mr. President, for the Committee on Commerce, Science, and Transportation, I also report favorably two nomination lists in the Coast Guard, which were printed in full in the CONGRESSIONAL RECORDS of February 26 and March 5, 1991, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before and duly constituted committee of the Senate.)

By Mr. PELL, from the Committee on Foreign Relations:

Edward Johnson, of Michigan, to be a member of the Board of Directors of the African Development Foundation for a term expiring September 22, 1995;

Lewis W. Douglas, Jr., of California, to be a member of the U.S. Advisory Commission of Public Diplomacy for a term expiring July 1, 1993;

Melissa Foelsch Wells, of Connecticut, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Zaire.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Melissa Foelsch Wells.

Post: Ambassador to the Republic of Zaire.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, Alfred Wells, none.

3. Children and spouses, names, Christopher, none; Gregory, none.

4. Parents names, Kuno Foelsch, (deceased); Walter Shector (stepfather) deceased; Miliza Korjus (deceased); Emilie Foelsch, stepmother (93 years old); 1986, $100 (approx.), Republican Party; 1987, $200 (approx.), Republican Party; 1988, $120, Republican Party; 1989, $120, Republican Party; 1990, $120, Republican Party.

5. Grandparents Georg Foelsch (deceased); Helen Foelsch (deceased); Arthur Korjus (deceased); Anna Korjus (deceased).

6. Brothers and spouses names, Richard Foelsch, none; Ernest and Jacque Foelsch, none.

7. Sisters and spouses names, none.

Charles R. Baquet III, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Djibouti.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Charles R. Baquet III.

Post: Ambassador to the Republic of Djibouti.

Contributions, amount, date donee:

1. Self, $100.00, 1990, Cong. Byron.

2. Spouse, Carolyn Louise, none.

3. Children and spouses names, none.

4. Parents names, Charles R. Baquet, Jr., none; Lucille Baquet, none.

5. Grandparents names, deceased.

6. Brothers and spouses names, Glen M. Baquet, none; Rebecca White Baquet, none.

Sisters and spouses names, Linda R. Baquet, none; Andrea R. Baquet, none.

Katherine Shirley, of Illinois, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Senegal.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee, Katherine Shirley.

Post, Senegal.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, John W. Shirley, None.

3. Chilren and spouses Names, None.

4. Parents names, Jack C. Horberg (deceased—1971); Celeste Horberg, none.

5. Grandparents names, George and Alice Weinheller, deceased; Samuel and Alta Horberg, deceased.

6. Brothers and spouses names none.

7. Sisters and spouses names, Susan Horberg Server, (divorced), $35, May 1990, Edwin Eisendrath, Democratic Party primary Illinois-9th Cong.

Michael T.R. Pistor, of Arizona, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Malawi.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee, Michael T.F. Pistor.

Post, Malawi.

Contributions, amount, date, and donee:

1. Self, Michael T.F. Pistor, none.

2. Spouse, Shirley Scott Pistor, none.

3. Children and spouses names William (son), none; Julia (daughter), none.

4. Parents names, deceased.

5. Grandparents names, deceased.

6. Brothers and spouses names, none.

7. Sisters, and spouses names, none.

Jennifer C. Ward, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Niger.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee, Jennifer C. Ward.

Post, Niger.

Contributions, amount, date, and donee:

1. Self, Jennifer C. Ward, none.

2. Spouse, none, none.

3. Children and spouses names, Jacqueline (7 years), none.

4. Parents names, Herbert Baswick (deceased); Betty, Kohn and Larry Kohn, none.

5. Grandparents names, Alfred and Therese Czarlinski; Fannie and Benno Baswitz, all deceased, none.

6. Brothers and spouses, names, none.

7. Sister and spouses names, Barbara Reitan (divorced), none.

Mr. PELL. Mr. President, for the Committee on Foreign Relations, I also report favorably a nomination list (one name—Timothy C. Brown—not reported with list) in the Foeign Service which was printed in full in the CONGRESSIONAL RECORD of January 4, 1991, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. NUNN, from the Committee on Armed Services:

The following-named persons to be members of the Defense Base Closure and Realignment Commission for terms expiring at the end of the 1st session of the 102d Congress:

James C. Smith, II,* of South Carolina.
Howard H. Callaway,* of Colorado.
James A. Courter,* of New Jersey.

James A. Courter, of New Jersey, to be Chairman of the Defense Base Closure and Realignment Commission.

Mr. NUNN. Mr. President, from the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (8) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of January 11, January 31, February 5, February 19, and February 26, 1991 at the end of the Senate proceedings.)

**In the Air Force there are 44 appointments to a grade to be determined by the Secretary of the Air Force (list begins with Brian D. Affleck) (Reference No. 51)

*Rear Admiral William C. Bowes, USN, to be vice admiral (Reference No. 92)

**In the Navy there is one promotion to the grade of lieutenant commander (William A. McManus) (Reference No. 94)

*In the Army there are 34 appointments to the grade of major general (list begins with Roland Lajoie) (Reference No. 98)

**In the Army there are 5 promotions to the grade of lieutenant colonel (list begins with Benjamin M. Adams) (Reference No. 100)

**In the Army there are 4 promotions and appointments to the grade of lieutenant colonel and below (list begins with Raymond P. Orwig) (Reference No. 101)

**In the Army there are 347 appointments to the grade colonel and below (list begins with Joseph H. Stribrny) (Reference No. 102)

*General John M. Loh, USAF, for reappointment to the grade of general (Reference No. 124)

*Lieutenant General Leo W. Smith II, USAF for reappointment to the grade of lieutenant general (Reference No. 127)

**In the Navy there are 2 promotions to the grade of lieutenant commander (list begins with Francis D. Hurry) (Reference No. 135)

**In the Army there are 243 promotions to the grade of colonel and below (list begins with Marc A. Abramowitz) (Reference No. 137)

**In the Army Reserve there are 30 appointments to the grade of colonel and below (list begins with Joseph A. Intile, Jr.) (Reference No. 151)

**In the Army Reserve there are 46 promotions to the grade of colonel and below (list begins with Barney E. Crews, Jr.) (Reference No. 152)

**In the Army there are 8 promotions to the grade of lieutenant colonel and below (list begins with Richard A. Elliott) (Reference No. 153)

**In the Navy and Naval Reserve there are 22 appointments to the grade of commander and below (list begins with David D. Hinspater) (Reference No. 154)

**In the Navy there are 964 appointments to the grade of ensign (list begins with Alan William Abbs) (Reference No. 155)

**In the Air Force and Air Force Reserve there are 55 appointments to the grade of colonel and below (list begins with Donald H. Ankov) (Reference No. 157)

**In the Navy there are 326 appointments to the grade of lieutenant (list begins with Marlon Q. Abreu) (Reference No. 159)

Total: 2,134.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GRASSLEY:

S. 682. A bill for the relief of Foad Miahi-Neysi and his wife, Haiedeh Miahi-Neysi; to the Committee on the Judiciary.

By Mr. SARBANES:

S. 683. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to require the Administrator of the Environmental Protection Agency to maintain a facility for the biological testing of pesticides, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. FOWLER (for himself, Mr. AKAKA, Mr. BOREN, Mr. CONRAD, Mr. DECONCINI, Mr. HEFLIN, Mr. INOUYE, Mr. LEAHY, Mr. METZENBAUM, Mr. SHELBY, and Mr. KENNEDY):

S. 684. A bill to amend the National Historic Preservation Act and the National Historic Preservation Act Amendments of 1980 to strengthen the preservation of our historic heritage and resources, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GLENN (for himself, Mr. HATFIELD, and Mr. KOHL):

S. 685. A bill to establish Summer Residential Science Academies for talented, economically disadvantaged, minority participants, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BAUCUS:

S. 686. A bill to amend the Internal Revenue Code of 1986 to provide for the establishment of enterprise zones, and for other purposes; to the Committee on Finance.

By Mr. JOHNSTON (by request):

S. 687. A bill to specify the applicability or inapplicability of certain Federal laws to the Commonwealth of the Northern Mariana Islands, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DURENBERGER:

S. 688. A bill to grant employees family and sick leave under certain circumstances, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. HATFIELD:

S. 689. A bill to amend the Internal Revenue Code of 1986 to provide that a taxpayer conscientiously opposed to participation in war may elect to have such taxpayer's income, estate, or gift tax payments spent for nonmilitary purposes; to create the United States Peace Tax Fund to receive such tax payments; to establish a United States Peace Tax Fund Board of Trustees; and for other purposes; to the Committee on Finance.

By Mr. SIMON:

S. 690. A bill to amend the Illinois and Michigan Canal National Heritage Corridor Act of 1984 to extend the boundaries of the corridor; to the Committee on Energy and Natural Resources.

By Mr. BOREN:

S. 691. A bill to establish a National Foundation for Excellence for outstanding students who are committed to careers in teaching in public education and for other purposes; to the Committee on Labor and Human Resources.

By Mr. JOHNSTON (by request):

S. 692. A bill to establish a Commonwealth of Guam, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LAUTENBERG (for himself, Mr. KOHL, Mr. BINGAMAN, Mr. INOUYE, and Mr. KERRY):

S. 693. A bill to amend the Internal Revenue Code of 1986 to allow individuals who are involuntarily unemployed to withdraw funds from individual retirement accounts and other qualified retirement plans without incurring a tax penalty; to the Committee on Finance.

By Mr. HARKIN (for himself, Mr. DASCHLE, Mr. SIMON, Mr. AKAKA, Mr. ADAMS, and Mr. INOUYE):

S. 694. A bill to amend title VII of the Public Health Service Act to increase the support provided to programs for the training of medical rehabilitation health personnel, to establish an Advisory Council on Allied Health, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ROTH:

S. 695. A bill to amend the Consolidated Omnibus Budget Reconciliation Act of 1985 to clarify the limitation of customs user fees with respect to foreign trade zones; to the Committee on Finance.

By Mr. RIEGLE (for himself, Mr. AKAKA, Mr. BRADLEY, Mr. FOWLER, Mr. DECONCINI, Mr. GORE, Mr. LAUTENBERG, Mr. LEVIN, Mr. CRANSTON, Mr. BURDICK, Mr. MURKOWSKI, Mr. PACKWOOD, Mr. KERRY, Mrs. KASSEBAUM, Mr. GLENN, Mr. METZENBAUM, Mr. PELL, Mr. ROCKEFELLER, and Mr. CHAFEE):

S.J. Res. 96. Joint resolution to designate November 19, 1991, as "National Philanthropy Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LIEBERMAN (for himself, Mr. BRADLEY, Mr. LEVIN, Mr. WIRTH, Ms. MIKULSKI, Mr. ROTH, Mr. KASTEN, and Mr. MURKOWSKI):

S. Res. 84. Resolution praising the people and the Government of Poland for their efforts in trying to transform their economy; to the Committee on Foreign Relations.

By Mr. MITCHELL:

S. Res. 85. Resolution to amend paragraph 3 (a), (b) and (c) of Rule XXV; considered and agreed to.

S. Res. 86. Resolution to make majority party appointments to Senate committees under paragraph 3 (a), (b) and (c) of Rule XXV for the 102d Congress; considered and agreed to.

S. Res. 87. Resolution to amend paragraph 4 of Rule XXV of the Standing Rules of the Senate; considered and agreed to.

By Mr. NICKLES (for Mr. DOLE):

S. Res. 88. Resolution making minority party appointments to Senate committees for the 102d Congress; considered and agreed to.

S. Res. 89. Resolution to amend paragraph 4 of Rule XXV; considered and agreed to.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS AND STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY:

S. 682. A bill for the relief of Foad Miahi-Neysi and his wife, Haiedeh Miahi-Neysi; to the Committee on the Judiciary.

RELIEF BILL FOR FOAD MIAHI-NEYSI AND HAIEDEH MIAHI-NEYSI

Mr. GRASSLEY. Mr. President, today I am introducing a private relief bill on behalf of Foad Miahi-Neysi and his wife, Haiedeh Miahi-Neysi. The Neysis are Iranian nationals currently residing in Cedar Falls, IA. Foad and Haiedeh have three children, all of whom were born in the United States and are American citizens.

Foad's mother and father, along with other members of his immediate family, fled from Iran several years ago and were given refugee status in Australia. While in Iran, Foad's father was active in anti-Khomeni activities, the Iranian resistance, and human rights causes. He also assisted political dissidents to escape from Iran.

Foad fears that his family's activities would be used against him if he is deported to Iran. Further, his children were born and bred in America. They speak English and are in every sense, Americans. I fear that the children will suffer serious persecution if they are sent back to Iran. Moreover, since their arrival in the United States, the Neysi family has converted to Christianity. We are all well aware of the human rights abuses in Iran and the oppression of religious freedom.

The Neysis applied for political asylum in the United States. However, they were denied asylum and have exhausted all possible judicial remedies. They cannot even join their family in Australia because that country has closed its doors to Iranian refugees. The Neysis have nowhere else to go.

My office has been involved with the Neysis and their immigration case for over a year. I had hoped that they would have been granted political asylum through the judicial process. However, since that channel is now closed, I am compelled to introduce this protective legislation. It is my belief that if the family is forced to return to Iran they will be targets of persecution. And I am particularly concerned with the fate of their American children. We should not allow American children to be deported to Iran.

Therefore, I submit this private relief legislation and ask for the support of my colleagues. It is my hope that we can act now to protect Foad and Haiedeh and their American children.

By Mr. SARBANES:

S. 683. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to require the Administrator of the Environmental Protection Agency to maintain a facility for the biological testing of pesticides, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

BIOLOGICAL TESTING OF PESTICIDES ACT

• Mr. SARBANES. Mr. President, today I am introducing legislation, similar to measures which I have introduced in previous Congresses, to require the Environmental Protection Agency [EPA] to maintain an in-house laboratory facility for conducting biological tests on pesticides, hospital disinfectants and related products. This legislation is needed to address a very serious and continuing environmental and public health problem—the inability of EPA to accurately verify the safety and efficacy of the pesticides, hospital disinfectants and other chemicals placed on the market.

Every day we come into contact with a broad range of chemical products defined as pesticides and subject to regulation and registration by EPA under the Federal Insecticide, Fungicide, and Rodenticide Act [FIFRA]. These products include disinfectants, sterilizers, and sanitizers used in hospitals and on medical and dental equipment; on dairy, bottling, canning, and food processing equipment; on barber shop and beauty parlor instruments; as well as in restaurants. They also include herbicides and rodenticides. For the approximately 34 million Americans who will be hospitalized this year, and for doctors and all hospital personnel, the effectiveness and dependability of hospital disinfectants are a matter of particular concern. Every year, about 2 million Americans come down with secondary—hospital based—infections. The Public Health Service estimates that these infections cause thousands of deaths and contribute to a rising cost in annual heath care, estimated at some additional $2.5 billion. This is only one illustration, however, the issue is important to every one of us because without biological testing capability, EPA cannot assure the American people that pesticides and related products now on the market or scheduled to be registered are effective and environmentally safe.

It had been a longstanding policy, prior to 1982, with the Registration Division of the EPA to verify the performance data submitted for products of critical public health importance at EPA's microbiology laboratory located in Beltsville, MD. This laboratory also provided laboratory support to the enforcement program conducted by the Office of Pesticides and Toxic Substances in the Office of Pesticide Programs of which the laboratory was a part. Preregistration as well as confirmatory testing was done at the laboratory to determine the chemical composition, efficacy and safety of the pesticides. During its existence, the laboratory tested thousands of pesticides, hospital disinfectants and related products and found hundreds of them ineffective, unsafe or environmentally hazardous. In fact, in the 3 years prior to lab's closure, failure rates of disinfectants tested exceeded 40 percent. Test results by the laboratory were used by EPA in granting or canceling registration of a pesticide and for support of enforcement cases.

In April 1982, however, EPA closed the Beltsville laboratory. The Agency justified the decision on the grounds that it could rely on the integrity of industry-supplied data and manufacturers' assurances together with market forces to identify dangerous or ineffective products. The Agency also argued that States would undertake the responsibility of testing, that it would reduce EPA costs and was consistent with the general policy of deregulation.

Since the closing of this facility, it has become increasing evident that the decision to terminate in-house laboratory testing was short-sighted, ill-advised and potentially dangerous. Numerous articles, studies and testimony from health care officials, State agencies, chemical manufacturers and environmental groups over the past 8 years underscore what in my view is a serious abdication of the responsibility for the protection of health and environment which Congress entrusted to the Agency.

A recent article in the Washington Post entitled "Pesticide Safety Tests: Can They Be Trusted" reported that a private laboratory is currently under investigation for allegedly falsifying data on 17 pesticides approved by EPA and widely used on fruits and vegetables.

A GAO study published in August, 1990 entitled "Disinfectants: EPA Lacks Assurance They Work" found that:

> EPA's registration process by itself cannot provide assurance that disinfectants are effective because registrants could market ineffective batches, either intentionally or inadvertently, after registering them. However, EPA does not enforce the efficacy claims of disinfectants on the market. EPA discontinued its limited enforcement testing program in 1982 primarily because of budget contraints. Since 1982, EPA has looked to the States, user groups, and the industry to enforce efficacy claims. However, GAO found few States and no users monitoring disinfectant efficacy because of cost concerns. Only five States test disinfectants for efficacy, and these States have limited programs. Moreover, EPA lacks a strategy to channel complaints about potentially ineffective disinfectants from the States, user groups, and the industry and to take appropriate enforcement action against disinfectants found to be ineffective.

In hearings, which I chaired, before the Joint Economic Committee in 1986, expert witnesses drawn from several of the Nation's major schools of medicine and public health, from industry, and from one of only five States which has undertaken its own testing program all agreed on the following:

Regularized testing procedures to assure reliability are essential;

This can be done most effectively, independently and efficiently at the Federal level; States, hospitals or other facilities do not have the capability to test the vast number and array of pesticides on the market today.

Market forces cannot be relied upon to control efficacy problems.

Mr. President, I ask unanimous consent that materials related to the articles, studies and hearings mentioned above be included in the RECORD immediately following my statement.

To monitor efficacy properly, one needs laboratory facilities and standardized laboratory testing methods. Without such a facility, EPA is incapable of carrying out independent, objective tests to verify data regarding safety and efficacy being supplied by manufacturers seeking to register new chemicals or reregister pesticides.

During the 99th Congress, Senator GORE and I offered an amendment to the FIFRA reauthorization legislation to address this situation by mandating the resumption of a very reasonable testing program that should never have been abandoned. The amendment required EPA to maintain an in-house facility and that the facility be used to verify data supplied in connection with hospital disinfectant registrations. The amendment was adopted by the Senate but unfortunately, was not included in the so-called FIFRA-lite bill that was enacted in the 100th Congress. I am introducing this bill today with the hope that it will be included in the FIFRA reauthorization legislation in the 102d Congress.

At a time of rising concern about new and tenacious hospital infections and pesticide residues on fruits and vegetables, reasonable efforts must be made to ensure that pesticide products are adequately tested and that test results are verified. The current situation clearly cannot be allowed to continue. I urge my colleagues to join me in sponsoring this measure.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Pesticide Safety Tests: Can They Be Trusted?

EPA Probes Alleged Fraud by Texas Lab

(By Michael Weisskopf)

Faced with questions of food safety, consumers often rely on the old credo: "If the government hasn't banned it, it must be okay."

But what happens when the government's approval is based on bad data?

The question came home March 1 when the Environmental Protection Agency announced an investigation into alleged fraud by a Texas laboratory that evaluated some of the most widely used pesticides. The studies, paid for by pesticide makers, were submitted to the EPA as part of requests to license the chemicals.

Craven Laboratories of Austin is accused of understating the residues of at least 17 pesticides used on fruits and vegetables, officials said. Seven of them are known to cause cancer in laboratory animals.

Approved years ago without full health studies, the chemicals are undergoing long-awaited review by the EPA. The agency sets limits on pesticide matter that remains on produce, and it relies on residue chemistry studies that manufacturers farm out to laboratories such as Craven. The reviews could be delayed for months if the allegations against the lab are proven.

Craven is considered a small laboratory. It has submitted more than 100 studies on at least 40 pesticides approved since 1975, including the 17 for which results are alleged to have been falsified, officials said. Don Craven, the president, was not available for comment.

Linda Fisher, assistant EPA administrator for pesticides and toxic substances, called the allegations against Craven "very serious" and promised a speedy review of pesticides tested by the Texas laboratory to "resolve questions about the safety of the food supply." But she said that preliminary findings indicate no risk to the public health.

"We don't know for sure if the data was manipulated, and even if it was, it may have been [manipulated] to such a small degree that it wouldn't have affected our decision," she said.

Consumer activists are not as sanguine. "The basic information that EPA needs to make food safety decisions does not exist for many widely used pesticides," said Jay Feldman, head of the National Coalition Against the Misuse of Pesticides.

Feldman called for immediate withdrawal and review of pesticides approved on the basis of faulty data. Otherwise, he said,"There's no incentive for pesticide manufacturers to present EPA with credible information."

Information supplied by a pesticide industry task force last August triggered the EPA investigation. The task force was coordinating residue chemistry studies for the fungicide EBDCs (ethylene bisdithiocarbamates), which the agency in 1989 had proposed to ban for most uses unless new residue data proved that unnecessary.

A month after the task force tip, the EPA inspected the facility. Officials said that records obtained with a search warrant indicate data manipulation for such popular chemicals as the weedkiller Round-up and four kinds of carcinogenic EBDCs, used on apples, almonds, grapes and bananas.

According to Fisher, the EPA's decision on EBDCs, originally scheduled for the spring, has been delayed several months partly because of concerns over Craven's data.

The EPA's inspection of Craven was the first since the Good Laboratories Program was extended to residue testing outfits in 1989. Only toxicology labs where the health effects of pesticides are tested with animals, had been inspected until then.

The program was set up in 1983 after the EPA found that Industrial Bio-test Laboratories of Northbrook, Ill., had falsified or performed inadequate health effects studies on more than 200 chemicals and pesticides approved by the agency. The company was under contract to most of the major pesticide manufacturers at the time.

Hundreds of laboratories that do pesticide work are said to be inspected every 18 to 24 months, a time frame that Feldman criticized as "wholly inadequate given EPA's reliance on independent contract data."

David Dull, director of the laboratory data integrity program in the EPA's pesticide office, acknowledged the need for more frequent inspections. But he said that fraud does not turn up in routine plant visits. "If somebody's going to manipulate data in a careful way, it's hard to detect," he said.

Dull said a number of "built-in safeguards" lower the chances of laboratory fraud. They include pressure from major pesticide manufacturers to assure they are getting solid data.

"Obviously, each case of fraudulent data brings the integrity of the whole system into question," Dull said, "But basically, it's a sound system. It's difficult to imagine another way of doing it. The amount of data is so enormous that the thought of the government doing it is impractical."

[U.S. General Accounting Office, August 1990]

Disinfectants: EPA Lacks Assurance They Work

(Report to Congressional Requesters)

EXECUTIVE SUMMARY

Purpose

Disinfectants—about a $1 billion per year market—are used to kill germs on inanimate surfaces and objects in hospitals, schools, restaurants, and homes. Because users cannot see whether disinfectants kill bacteria, fungi, and viruses, the use of ineffective disinfectants poses a threat to public health and wastes consumer dollars.

Mounting concerns about whether hospital and household disinfectants work as claimed and the adequacy of the Environmental Protection Agency (EPA) disinfectants program led the House Committee on Government Operations to request that GAO review EPA's regulation of the efficacy of disinfectants.

Background

Under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRAT1), EPA generally must register (license) pesticide products, including disinfectants, before they are marketed. EPA may register a pesticide product only if EPA determines that it is effective, when used as claimed, without causing an unreasonable risk to health or the environment. For most pesticides, EPA allows the marketplace to regulate product performance (efficacy) because users can see whether the pesticide is effective against the target pest. However, registrants of disinfectants intended to protect public health must submit efficacy data to substantiate each product performance claim and use.

Until 1982, EPA conducted limited preregistration confirmatory and post-registration enforcement tests on disinfectants at its laboratory facilities in Beltsville, Maryland. EPA discontinued disinfectant testing in 1982 primarily because of budget constraints. Currently, EPA relies on its review of registrant-submitted efficacy data to register disinfectants. As of September 1, 1989, about 4,100 disinfectants for public-health use were registered with EPA, representing about 18 percent of approximately 23,000 registered pesticide products.

Results in Brief

EPA does not know whether disinfectants kill the germs claimed on product labels for four reasons. First, although the validity of methods and performance standards used to assess the efficacy of disinfectants has been the source of scientific controversy for over a decade, EPA does not independently test disinfectants before registering them and lacks criteria to assess the validity of registrant-proposed test methods and modifications. Second, EPA has made little progress in resolving these controversies because of budget constraints and inadequate research management. Third, EPA lacks sufficient internal controls to ensure the quality and integrity of the data that registrants submit on disinfectant efficacy. Fourth, EPA lacks an enforcement strategy to ensure that, once registered, disinfectants sold and distributed in the marketplace work as claimed.

The extent to which ineffective disinfectants are marketed is unknown. Although the scientific controversies cloud the issue somewhat, evidence from EPA, the states, and others suggests that up to 20 percent of disinfectants on the market may be ineffective.

[From the New York Times, June 22, 1986]

NEED CITED FOR U.S. TESTING FOR HOSPITAL DISINFECTANTS

(By Robert Pear)

WASHINGTON, June 21.—Federal officials say a significant proportion of the disinfectants approved for hospital use do not kill germs, but the Government's ability to act against the products is seriously hampered because Federal testing stopped four years ago.

The Government no longer checks the efficacy of these products because in 1982, as part of President Reagan's effort to reduce Federal regulation, it closed the Federal laboratory that had routinely tested disinfectants since the late 1940's. Disinfectants are used to prevent the spread of bacteria, viruses, fungi and other microorganisms.

State officials, hospital officials and several members of Congress say there is an urgent need for the Federal Government to resume testing and increase regulation of hospital disinfectants. Ralph Engel, president of the Chemical Specialties Manufacturers Association, which represents makers of disinfectants, also called for reopening the Federal laboratory, at Beltsville, Md., although he insisted that most of the products were "highly efficacious."

2 MILLION INFECTIONS A YEAR

The products are considered important because they are intended to destroy or inactivate germs that cause such ailments as tuberculosis, typhoid fever, pneumonia, blood poisoning, food poisoning, strep throat, influenza and staphylococcus infection. Hospital disinfectants are used to clean floors, walls, beds, table tops, medical equipment and certain instruments that are inserted into the body.

The Public Health Service estimates that two million patients acquire infections in hospitals each year. The infections cause 20,000 deaths, contribute to an additional 60,000 deaths and add $2.5 billion a year to the nation's health care costs, the agency estimates.

When the Beltsville laboratory was closed, the Environmental Protection Agency, which regulates disinfectants under the pesticide statutes, assumed that states would take over responsibility for testing. But that has not occurred. Only four states, Florida, North Carolina, Mississippi and Virginia, regularly do laboratory testing of hospital disinfectants, according to the Federal agency.

The EPA has no plans to reopen the laboratory. But it recently acknowledged "a generic efficacy problem" and estimated that there would be a "20 percent failure rate" if disinfectants were tested by an impartial laboratory such as the one closed in 1982. The failure rate averaged more than 30 percent for samples tested at the laboratory in the five years before it was closed; however, the samples were not randomly selected but were generally from products suspected of having problems. Indeed, in the three years before the laboratory closed, the failure rates were 46 percent, 59 percent and 72 percent.

Dr. Martha E. Rhodes, who as Assistant Commissioner of the Florida Department of Agriculture and Consumer Services supervises regulation of hospital disinfectants, said, "In recent years, 15 to 20 percent of the samples we analyzed were showing ineffective products." Indeed, she said, "two or three samples were received by the state laboratory in Tallahassee with large numbers of bacteria growing in the disinfectant that was supposed to kill them."

In a notice published last month in the Federal Register, the Environmental Protection Agency said it was concerned about "unwarranted claims" for disinfectants that purport to kill the AIDS virus and a hepatitis virus. The agency said the manufacturers had not submitted data to support their claims.

Confidential agency documents say that "no private sector testing or quality assurance program exists" and that "market forces cannot be relied upon to control efficacy problems."

Senator Albert Gore Jr., Democrat of Tennessee, is drafting legislation that would require the Federal Government to test disinfectants on the market.

Hospital patients "place their lives and health in the hands of professionals." Mr. Gore said in an interview. "If those hands are contaminated with bacteria or other microorganisms because the disinfectants are ineffective, the patient runs the risk of getting a secondary infection. That happens with alarming frequency."

JOINT EFFORT WITH STATES URGED

A. E. Conroy 2d, an enforcement official at the Environmental Protection Agency, has recommended that the Federal Government join the states in a cooperative effort to test hospital disinfectants. "The absence of Federal efficacy testing" creates a "void," he said.

The agency has registered more than 3,300 hospital disinfectants, thus clearing them for sale.

Linda H. Brooks, director of infection control for the American Hospital Association, which represents 5,600 hospitals, said disinfectants were "not adequately tested by a neutral source." She added: "We have to rely too much on the manufacturers' testing data. Our members would like a Government agency to verify the data."

Martin S. Favero of the Federal Centers for Disease Control said there had been "an explosion in the number of germicidal products available to hospitals." The industry is "highly competitive," he said, adding, "Exaggerated claims are often made."

A report by Aram Beloian, a microbiologist at the E.P.A., said "the absence of testing at the Federal level poses a problem for public health officials." For years, he said, the Public Health Service has "discouraged hospital microbiologists from doing efficacy testing of disinfectants," assuring hospitals that they could "rely on the testing performed by E.P.A." to assure that commercial disinfectants met "test criteria for effectiveness."

[From the Infection Control, May–June 1983]

CAVEAT EMPTOR—DO YOUR DISINFECTANTS WORK?

(By Dieter H.M. Groschel, M.D.)

Infection control personnel and other health care workers responsible for disinfection and sterilization of patient care areas and medical instruments should be aware of a recent unpublicized program change in the Office of Pesticide Programs of the Environmental Protection Agency (EPA). Since 1946 the Federal government, first under the Department of Agriculture and now under EPA, has tested the efficacy of disinfectants available on the commerial market. The EPA has discontinued efficacy testing of disinfectants after registration with the Agency. Chemical sterilizers which were pretested by the EPA before granting registration are no longer subject to testing. This policy has been in effect since the summer of 1982. EPA registration of disinfectants, sporicides, virucides, fungicides, and sterilizers is now based solely on efficacy data submitted by the manufacturer. There is no Federal government enforcement testing of commercially available products after registration is granted. The EPA believes such testing is redundant and that personnel who did the testing should be reassigned to higher priority needs.

Congress has given the EPA, through the Federal Insecticide, Fungicide and Rodenticide Act, the means to assure the public that EPA registered disinfectants/sterilizers are effective when used as directed on the label. Now this is being ignored, apparently for budgetary reasons. For years we were advised, and reminded ourselves, that efficacy testing by the laboratories of the EPA gave assurance that the directions for use and claims of effectiveness of an EPA-registered germicide were valid. It appears that the government has silently abandoned its responsibilities for the sake of cost reduction, while professing continued interest in protecting the public's health. Since, we, the users of disinfectants and sterilizers, rely on the effectiveness of commercial products in many areas of medical institutions—operating rooms, intensive care units, nurseries, isolation rooms—we are forced to find other means to guarantee the efficacy of disinfectants. The Federal government believes that the final users of disinfectants, like any other pesticide in the marketplace, should determine whether or not a product is effective. The government also believes that the states should assume enforcement duties; this at a time when state budgets are severely strained. If the states assume the burden of disinfectant testing, will we then have redundant testing in the 48 contiguous states? Only Florida, North Carolina and Virginia currently do disinfectant testing. Or, should the individual clinical microbiologist test all disinfectants considered for purchase by their hospitals? That seems to be the government's idea.

The choices before us are these: we can do testing in our clinical microbiology laboratories; we can contract with a commercial laboratory to do testing; we can appeal to our states to begin testing; or, we can tell our representatives and senators that the EPA has abrogated its statutory responsibility to the public without any publicity. And all this, mind you, during a time when hospital laboratories are faced with reduced budgets and hospitals look forward to impending changes in reimbursements. Not only that, increasing reports are in the literature about disinfectants that are contaminated with organisms. Our actions and choices on this issue in the immediate future will directly affect the health of the patients under our care.●

By Mr. FOWLER (for himself, Mr. AKAKA, Mr. BOREN, Mr. CONRAD, Mr. DECONCINI, Mr. HEFLIN, Mr. INOUYE, Mr. LEAHY, Mr. METZENBAUM, Mr. SHELBY, and Mr. KENNEDY):

S. 684. A bill to amend the National Historic Preservation Act and the National Historic Preservation Act Amendments of 1980 to strengthen the preservation of our historic heritage and resources, and for other purposes; to the Committee on Energy and Natural Resources.

NATIONAL HISTORIC PRESERVATION ACT AMENDMENTS

• Mr. FOWLER. Mr. President, I am pleased to introduce the National Historic Preservation Act Amendments of 1991, legislation to strengthen our commitment to preservation of our national heritage. How we conserve and protect our past says much about what we value as a society. Preservation of our country's prehistoric and historic sites is essential if we and future generations are to truly know from whence we have come and where we are headed.

This year marks the 25th anniversary of that landmark in our country's efforts to protect our heritage, the National Historic Preservation Act [NHPA] of 1966. Few Members of our current Congress were present when this historic, in both a figurative and literal sense, legislation was enacted, but suffice it to say that it was the passage of this one act which was to serve as a watershed in historic preservation in the United States. What was before a piecemeal, uncoordinated collection of individual Federal, State, local and private preservation-related programs was transformed into an effective partnership whose total contribution was greater than the sum of its parts. The success of the 1966 Act can be measured from the fact that it still serves as the cornerstone of our national preservation policies a quarter of a century later.

It is certainly true that significant refinements and expansions have been made to the 1966 legislation, most recently in 1980, but I can think of few governmental programs which have served our country so well and for so long as the original National Historic Preservation Act. When you look at this bill which I introduce today, you see another effort to fine-tune that wonderful original work, and you see the major institutions and processes from the 1966 law still there at the heart of my proposal: the intergovernmental/private preservation partnership; the National Register of Historic Places; the section 106 review process; and the Advisory Council on Historic Preservation. So my legislation is seeking to follow in some giant footsteps indeed.

And yet, for all of this rich history of a quarter-century of a veritable flowering of historic preservation in the United States, the passage of time—and with it the development of new problems and new opportunities—together with uneven Federal leadership and financial support, has brought us, in 1991, many unanswered questions about the Federal Historic Preservation Program.

If we have made some progress in improving the production of our Nation's prehistoric and historic resources, there are still too many gaps in that protection. If we have made some advance in saving particular parts of our national heritage from uncontrolled development, such as the Manassas Battlefield, many more sites face current or future peril because of inadequate nationwide standards. If we can take some encouragement from the smashing success of Union Station, it must be acknowledged that changes in the tax code have sharply reduced the financial attractiveness of preservation investments by the private sector. If we, the Congress, can take some justifiable pride in preventing attempts by the Reagan administration to reduce or eliminate Federal funding for historic preservation, the reality is that actual appropriations for these programs have fallen far short of what was provided under previous administrations, and even further short of the actual need. Finally, if we have seen an explosion of interest and involvement in preservation by State and local governments and by the private sector, we have also witnessed in many ways an abdication of Federal responsibilities, financial and otherwise.

In fairness, I must add that there have been some very encouraging signals from the Bush administration in the field of historic preservation. Hopefully, we will be able to work together to fully restore the Federal leg of the preservation partnership.

In this 25th anniversary year of the NHPA, there are a number of worthy bills which would address these problems, including Senator BUMPERS' "National Heritage Conservation Act" to strengthen the Federal protections for national parks and other significant sites. There is also my bill, the "National Historic Preservation Act Amendments of 1991," which addresses a number of other preservation issues.

The measure which I lay before the Senate today is the culmination of 4 years' work. I started this effort back in the summer of 1987 when I solicited the views and suggestions from the people who know the preservation program best, the preservation community itself. This led to my introduction of the Comprehensive Preservation Act in October of 1988. After receiving many helpful comments on improvements in that original bill, I introduced the Historic Preservation Administration Act and the National Historic Preservation Policy Act in August of 1988. The Public Lands Subcommittee held hearings on these proposals in early 1990 in Washington, DC, and Savannah, GA. based on questions and recommendations submitted at those hearings, and in further consultation with a number of experts in various aspects of preservation policy, I further refined my legislation and introduced the National Historic Preservation Amendments Act in the closing days of the 101st Congress last October. Between then and now, I received suggestions for a few relatively small changes in that bill, and the end result is the measure which I am here introducing.

I am very pleased with the widespread help I have received during the development of this legislation, and with the near-consensus support it now enjoys in the preservation community: the National Trust for Historic Preservations; Preservation Action; the National Conference of State Historic Preservation Officers; the Society for American Archaeology; the Society for Historical Archaeology; the Navajo Nation; the American Institute of Architects; and others, all support the National Historic Preservation Act Amendments of 1991.

The legislation I introduce today contains the following major features:

First, re-asserts Federal leadership in historic preservation while recognizing and strengthening the Federal/State partnership administrative structure, and, for the first time, extends this partnership to Indian tribes.

Second, strengthens the Federal protection process for historic properties. The bill requires Federal agencies to consider historic properties in project planning, in order to accomplish project goals without harming historic properties. In those instances where the agency fails to balance project goals and preservation as articulated by the advisory council on historic preservation, the agency must demonstrate that there is no "feasible and prudent" way for it to follow council comments before proceding with the undertaking.

Third, improves the efficiency of the Federal environmental review process by permitting agencies, working with the advisory council, to combine the historic preservation review requirements of the National Historic Preservation Act and the National Environmental Policy Act into one effort.

Fourth, strengthens the Federal archaeology program in both protection and content. With the Federal Government currently spending an estimated $300 million annually on archaeological projects, taxpayers certainly have a right to expect that these projects produce the maximum return in increased understanding of the past and enhanced protection of the archaeological record of our national heritage for the present and future. In protection, the legislation attempts to curb the looting and illegal trade of archaeological resources by: Requiring a study of a voluntary registration of antiquities program to both encourage the conduct of scientifically valid excavations and create a potential market incentive in favor of certified antiquities; calling for an international conference on the antiquities trade; and providing information and incentives to encourage private owners of archaeological resources to protect those resources. In terms of content, there are provisions to improve the value and the conduct of federally sponsored archeology by focusing the work on important research questions, and by requiring the professional certification of archeologists who wish to participate in the Federal program.

Fifth, further defines the role of States in the national preservation program by allowing State programs to take on additional responsibilities while insuring they receive adequate resources to do so. As a former local official myself, I strongly believe in this concept of matching resources with responsibilities as a central tenet of our federalist system.

Sixth, defines and strengthens the role of Indian tribes in the National Preservation Program by providing statutory authority for Indian tribes to assume various preservation responsibilities on tribal lands, including the functions and responsibilities given to State historic preservation offices and the authority to use qualified tribal permits in place of Federal permits for undertakings on tribal lands.

Seventh, strengthens preservation education programs. In my opinion, this is one of the most important portions of the entire measure. It establishes a comprehensive education and training program which includes: Provisions to increase public awareness of and participation in historic preservation; and provisions to improve and expand training opportunities in preservation fields, including special assistance to historically black colleges and schools with large numbers of native Americans to establish preservation degree programs. As with so many areas in our free society, public education must be at the root of any successful effort to promote historic preservation. Only if our citizens are concerned about threats to our national heritage will our protection efforts be successful, and lasting. And only if the public understands and supports the values underlying our preservation programs will these programs receive the kind of backing, financial and otherwise, which they need to achieve their objectives.

Eighth, creates a national center for preservation technology in the National Park Service to aid in the development and transfer of preservation and conservation technologies. A September 1986 report by the office of technology assessment found that "the lack of adequate (preservation) technology transfer demonstrates a conspicuous need for an institution to coordinate research, disseminate information, and provide training about new technologies." The center established by my bill, which is based on the work of the national coalition for applied preservation technology, is in response to that need.

The measure I place before you is the product of many hands, though I alone except full responsibility for the total package. I want to especially thank Tom King, formerly with the advisory council and now a preservation consultant, Loretta Neumann and Kathleen Reinburg with the Society for American Archaeology; Eric Hertfelder and Nancy Miller with the National Conference of State Historic Preservation Officers; Nellie Longsworth with Preservation Action; Karen Funk—an expert on Native American law and institutions; Alan Downer with the Navajo Nation; Ian Spatz and Helen Hooper with the National Trust for Historic Preservation; Liz Lyon—the State of Georgia Historic Preservation Office; Greg Paxton with the National Alliance of Statewide Preservation Organizations; and all of the other individuals and organizations who have contributed so much to this effort with their analyses and recommendations.

I would also like to express my appreciation to a number of individuals from the executive branch, including especially Jerry Rogers of the National Park Service and Deputy Assistant Secretary of the Interior Scott Sewell, for their insights and contributions in improving my legislation.

To sum up, I am introducing today a legislative package designed to expand and strengthen our national commitment to historic preservation. My legislation contains improved coordination, enhanced protection, and organization reform to further those objectives.

Mr. President, I ask unanimous consent to insert at this point in the RECORD a copy and a summary of the National Historic Preservation Act Amendments of 1991.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 684

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Historic Preservation Act Amendments of 1991".

SEC. 2. FINDINGS.

Section 1(b) of the National Historic Preservation Act (16 U.S.C. 470(b)) is amended—

(1) by redesignating paragraphs (2), (3), (4), (5), (6), and (7) as paragraphs (4), (5), (6), (7), (8) and (9); and

(2) by inserting after paragraph (1) the following new paragraphs:

"(2) historic properties, including prehistoric and historic sites, buildings, districts, structures, landscapes, and objects, prehistoric and historic archaeological resources, prehistoric and historic roads and trails, and places that have figured in the traditions and lifeways of our communities, of Native American, Native Hawaiian, and other ethnic groups, and of the Nation as a whole, are vital links to our past and contribute in major ways to the identity of our Nation and its communities;

"(3) a national preservation program is achieved by extending Federal Government concern to properties of significance to localities, Indian tribes, Native Hawaiians, States, and the Nation in private and public ownership;".

SEC. 3. POLICY.

Section 2 of the National Historic Preservation Act (16 U.S.C. 470-1) is amended—

(1) in paragraph (2) by inserting "and in the administration of the national preservation program in partnership with States, Indian tribes, Native Hawaiian organizations, and local governments" after "community of nations"; and

(2) in paragraph (6) by inserting ", Indian tribes, and Native Hawaiian organizations" after "local governments".

SEC. 4. REVIEW OF THREATS TO PROPERTIES.

Section 101(a) of the National Historic Preservation Act (16 U.S.C. 470a(a)) is amended—

(1) in paragraph (2)(F)—

(A) by striking "property, any" and inserting "property and any"; and

(B) by striking ", and the general public,"; and

(2) at the end thereof by adding the following new paragraph:

"(8) The Secretary shall, at least once every 4 years, in consultation with the Council, make a review of threats to properties included in or eligible for inclusion on the National Register, in order to—

"(A) determine what kinds of properties may be in particular danger;

"(B) ascertain the causes of the threats; and

"(C) develop and submit to the President and Congress recommendations for remedial action.".

SEC. 5. STATE HISTORIC PRESERVATION PROGRAMS.

Section 101(b) of the National Historic Preservation Act (16 U.S.C. 470a(b)) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) Periodically, but not less than every 4 years after the approval of any State program under this subsection, the Secretary, in consultation with the Council and the State Historic Preservation Officer, shall evaluate the program to determine whether it is consistent with the purposes and requirements of this Act. If at any time the Secretary determines that a State program is not consistent with the purposes and requirements of this Act, the Secretary shall disapprove the program and suspend, in whole or in part, assistance to the State under subsection (b)(1), unless there are adequate assurances that the program will be made consistent with the purposes and requirements of the Act within a reasonable period of time. At the discretion of the Secretary, a State system of fiscal audit and management may be substituted for comparable Federal requirements so long as the State system establishes and maintains substantially similar accountability standards. The Secretary may also conduct periodic fiscal audits of State programs approved under this section.";

(2) in paragraph (3)—

(A) by striking "and to" and inserting "and administer the State program of Federal assistance for historic preservation within the State, and to";

(B) in subparagraph (A), by striking "in cooperation with Federal and State agencies, local governments, and private organizations and individuals,";

(C) by amending subparagraph (B) to read as follows:

"(B) nominate eligible properties to the National Register of Historic Places;";

(D) by striking subparagraph (D) and redesignating subparagraphs (E), (F), (G), and (H) as subparagraphs (D), (E), (F) and (G);

(E) in subparagraph (F), as redesignated by subparagraph (D), by striking "relating to the Federal and State Historic Preservation Programs; and" and inserting "in historic preservation;";

(F) in subparagraph (G), as redesignated by subparagraph (D), by striking the period at the end thereof and inserting a semicolon; and

(G) by adding at the end thereof the following new subparagraphs:

"(H) consult with appropriate Federal agencies in accordance with this Act, on—

"(i) Federal undertakings that may affect historic properties; and

"(ii) the content and sufficiency of any plans developed to protect or to reduce or mitigate harm to such properties;

"(I) advise, assist, and evaluate proposals for rehabilitation projects that may qualify for Federal assistance (including grants, loans, and tax incentives); and

"(J) carry out such additional responsibilities as the State Historic Preservation Officer determines to be appropriate, consistent with the purposes of this Act.";

(3) in paragraph (5) by striking "1980" and inserting "1991"; and

(4) by adding at the end thereof the following new paragraphs:

"(6)(A) Subject to subparagraph (B), the Secretary or the Council may delegate to a State Historic Preservation Officer, through contracts and cooperative agreements, all or any part of their authorities within the State—

"(i) to identify and preserve historic properties;

"(ii) to determine the eligibility of properties for listing on the National Register;

"(iii) to expand the National Register;

"(iv) to maintain historical and archaeological data bases;

"(v) to certify eligibility for Federal preservation incentives;

"(vi) to comment on, approve, and enforce actions of Federal, State, or local governments, private individuals, and corporations pursuant to this Act, the Internal Revenue Code of 1986, and other Federal law; and

"(vii) to exercise such other authority as the Secretary or the Council may decide to delegate.

"(B) A delegation of authority under subparagraph (A) may be made if—

"(i) the State Historic Preservation Officer has requested the additional authority;

"(ii) the Secretary has approved the State historic preservation program pursuant to section 101(b) (1) and (2);

"(iii) the State Historic Preservation Officer agrees to carry out the additional authority in a timely and efficient manner acceptable to the Secretary or the Council, as the case may be;

"(iv) the Secretary or the Council agree to provide for a timely review of decisions when requested; and

"(v) the Secretary or the Council and the State Historic Preservation Officer agree on the terms of additional financial assistance to the State, if there is to be any, for the costs of carrying out the delegated authority.".

SEC. 6. CERTIFICATION OF LOCAL GOVERNMENTS.

Section 101(c) of the National Historic Preservation Act (16 U.S.C. 470a(c)) is amended by adding at the end thereof the following new paragraph:

"(4) For the purposes of this section—

"(A) the term 'designation' means the identification and registration of properties for protection that meet criteria established by the State or the locality for significant historic and prehistoric resources within the jurisdiction of a local government; and

"(B) the term 'protection' means a local review process under State or local law for proposed demolition of, changes to, or other action that may affect historic properties designated pursuant to subsection (c).".

SEC. 7. TRIBAL HISTORIC PRESERVATION PROGRAMS.

(a) REVISION OF EXISTING LAW.—Section 101 of the National Historic Preservation Act (16 U.S.C. 470a) is amended—

(1) by redesignating subsections (d), (e), (f), (g) and (h) as subsections (e), (f), (g), (h), and (i); and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1)(A) The Secretary shall establish a program and develop regulations to assist Indian tribes and Native Hawaiian organizations in preserving their unique cultural heritage. The program shall have as its purpose the preservation, retention, and enhancement of the historic properties and cultural traditions of Indian tribes and Native Hawaiians. The Secretary shall foster communication and cooperation between Indian tribes and Native Hawaiian organizations and State Historic Preservation Officers in the administration of the national historic preservation program to ensure that all types of historic properties and all public interests in such properties are given due consideration, and to encourage coordination among Indian tribes, Native Hawaiian organizations, State Historic Preservation Officers, and Federal agencies in historic preservation planning and in the identification, evaluation, protection, and interpretation of historic properties.

"(B) The program under subparagraph (A) shall be developed in such a manner as to ensure that tribal and Native Hawaiian values are taken into account. The Secretary may waive or modify requirements of this section to conform to the cultural setting of tribal or Native Hawaiian heritage preservation goals and objectives. The tribal and Native Hawaiian programs implemented by specific tribes and Native Hawaiian organizations may vary in scope, as determined by each tribe's chief governing authority and Native Hawaiian organization's authorized officials.

"(C) The Secretary shall consult with Indian tribes, Native Hawaiian organizations, other Federal agencies, State Historic Preservation Officers, and other interested parties and initiate the program under subparagraph (A) by not later than October 1, 1992.

"(2) A tribe or a Native Hawaiian organization may assume all or any part of the functions of a State Historic Preservation Officer under subsection (b)(3), together with the concomitant responsibilities under subsection (b) (2) and (3), with respect to tribal land, as such responsibilities may be modified for tribal programs through regulations issued by the Secretary if—

"(A) the tribe's chief governing authority or organization's chief executive official so requests;

"(B) the tribe or organization designates a tribal preservation official to administer the tribal historic preservation program, through appointment by the tribe's chief governing authority or organization's chief executive official or as a tribal ordinance may otherwise provide;

"(C) the tribal preservation official provides the Secretary with a plan describing how the functions the tribal preservation official proposes to assume will be carried out;

"(D) the Secretary determines, after consultation with the tribe or organization, the appropriate State Historic Preservation Officer, the Council if the tribe or organization proposes to assume the functions of the State Historic Preservation Officer with respect to review of undertakings under section 106, and other tribes or organizations, if any, whose tribal or aboriginal lands may be affected by conduct of the tribal preservation program—

"(i) that the tribal preservation program is sufficient to carry out the functions specified in the plan provided under subparagraph (C); and

"(ii) that the plan defines any remaining responsibilities of the State Historic Preservation Officer; and

"(E) based on satisfaction of the conditions stated in subparagraphs (A), (B), (C), and (D), the Secretary approves the plan.

"(3) In consultation with interested Indian tribes, Native Hawaiian organizations, and other Native American organizations and the National Conference of State Historic Preservation Officers, the Secretary shall establish and implement procedures for carrying out section 103(a) with respect to tribal programs that assume responsibilities under paragraph (2).

"(4) At the request of a tribe or Native Hawaiian organization whose preservation program has been approved to assume responsibilities pursuant to paragraph (3), the Secretary shall delegate to such tribe or organization, through a contract or cooperative agreement, all or any part of the authorities described in subsection (b)(6) on tribal land, if—

"(A) the Secretary and the tribe or organization agree on additional financial assistance, if any, to the tribe or organization for the costs of carrying out the delegated authority;

"(B) the Secretary ensures that the tribal historic preservation program is sufficient to carry out the contract or cooperative agreement of this Act; and

"(C) the contract or cooperative agreement specifies any continuing responsibilities of the Secretary or of the appropriate State Historic Preservation Officers and provides for appropriate participation by—

"(i) the tribe's or organization's traditional cultural authorities;

"(ii) representatives of other tribes or organizations whose traditional lands are under the jurisdiction of the tribe or organization to which the Secretary's preservation responsibilities are delegated; and

"(iii) the interested public.

"(5) The Council may enter into an agreement with an Indian tribe or a Native Hawaiian organization to permit undertakings on tribal land to be reviewed under tribal historic preservation regulations in place of review under regulations promulgated by the Council to govern compliance with section 106, if the Council, after consultation with the tribe or organization and appropriate State Historic Preservation Officers, determines that the tribal historic preservation regulations will afford historic properties protection at a level and of a kind equivalent to those afforded by the Council's regulations.

"(6) At the request of an Indian tribe or a Native Hawaiian organization whose preservation program has been approved to assume responsibilities pursuant to paragraph (2), and with the concurrence of the Council, after consultation with the affected State

Historic Preservation Officer, the Bureau of Indian Affairs, and the Indian Health Service, shall, and other Federal agencies may, delegate such part of their preservation functions and responsibilities as the tribe or organization may request on tribal land to the tribal preservation official, or, when a tribe or organization so requests, to the appropriate State Historic Preservation Officer, including any such agency's responsibility to consult with the Council and the State Historic Preservation Officer pursuant to section 106.

"(7)(A) Properties of traditional religious and cultural importance to an Indian tribe, Native Hawaiian organization, or other Native American organization shall be eligible for inclusion on the National Register.

"(B) In planning an undertaking in compliance with section 106, a Federal agency shall consult with an Indian tribe or Native Hawaiian organization that may attach religious and cultural values to properties described in subparagraph (A).".

(b) CONFORMING AMENDMENTS.—(1) Section 102(a)(3) of the National Historic Preservation Act (16 U.S.C. 470b(a)(3)) is amended by striking "101(d) (1) and (2)" and inserting "101(e) (1) and (2)".

(2) Section 110(c) of the National Historic Preservation Act (16 U.S.C. 470h-2(c)) is amended by striking "101(g)" and inserting "101(h)".

SEC. 8. MATCHING GRANTS.

Section 101(e) of the National Historic Preservation Act, as redesignated by section 7(a)(1), is amended—

(1) by amending paragraph (1) to read as follows:

"(1)(A) The Secretary shall administer a program of matching grants to the States for the purposes of carrying out this Act and for such other purposes as the Secretary may determine.

"(B) The Secretary shall consult with the Council regarding the provision of grants related to the carrying out of authorities under subsection (b)(6)."; and

(2) by adding at the end thereof the following new paragraphs:

"(4) The Secretary shall administer a program of direct grants to Indian tribes and Native Hawaiian organizations for the purpose of carrying out this Act as it pertains to Indian tribes and Native Hawaiian organizations. Matching fund requirements may be waived or Federal funds available to a tribe or Native Hawaiian organization may be used as matching funds for the purposes of the tribe's or organization's conducting its responsibilities pursuant to this section.

"(5)(A) As part of the program of matching grant assistance to States, the Secretary shall administer a program of direct grants to the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau (referred to as the 'Micronesian States') in furtherance of the Compact of Free Association between the United States and the Federated States of Micronesia and the Marshall Islands, approved by the Compact of Free Association Act of 1985 (48 U.S.C. 1681 note), and the Compact of Free Association between the United States and Palau, approved by the Joint Resolution entitled 'Joint Resolution to approve the "Compact of Free Association" between the United States and the Government of Palau, and for other purposes' (48 U.S.C. 1681 note). It shall be the goal of the program to ensure at the termination of the Compacts that each Micronesian State has established historic and cultural preservation programs that meet the unique cultural needs of those emerging nations, thus guaranteeing the continuation of the programs. The Secretary may waive or modify the requirements of this section to conform to the cultural setting of those nations in order to achieve that goal.

"(B) The amounts to be made available to the Micronesian States shall be determined by the Secretary on the basis of needs as determined by the Secretary. Matching funds shall not be required.".

SEC. 9. EDUCATION AND TRAINING.

Section 101 of the National Historic Preservation Act (16 U.S.C. 470a), as amended by section 6, is amended by adding at the end thereof the following new subsection:

"(j)(1) The Secretary shall, in consultation and cooperation with—

"(A) the Department of Education;

"(B) the Council;

"(C) the Department of Labor;

"(D) the National Conference of State Historic Preservation Officers;

"(E) the National Trust for Historic Preservation;

"(F) the Smithsonian Institution;

"(G) the Society for American Archaeology;

"(H) the American Institute of Architects;

"(I) the Organization of American Historians; and

"(J) other Federal, tribal, Native Hawaiian, and non-Federal organizations,

develop and implement a comprehensive preservation education and training program.

"(2) The education and training program described in paragraph (1) shall include—

"(A) new standards and increased preservation training opportunities for Federal workers involved in preservation-related functions;

"(B) increased preservation training opportunities for other Federal, State, tribal, and local government workers, students, and individuals with an avocational interest in preservation;

"(C) inclusion of provisions in federally-sponsored survey and excavation work to afford an opportunity for the participation of avocational archaeologists;

"(D) special assistance to historically black colleges and universities and to tribal colleges and colleges with a high enrollment of Native Americans or Native Hawaiians to establish preservation degree programs;

"(E) dissemination of information on preservation technologies;

"(F) implementation of a coordinated national informational and media program (such as public service announcements) on preservation topics;

"(G) distribution of model preservation curricula for elementary and high schools and adult education programs;

"(H) preservation internship programs for United States and foreign students;

"(I) provision of training and skill development in trades, crafts, and disciplines related to historic preservation in existing Federal training and development programs; and

"(J) support for research, analysis, curation, interpretation, and display related to preservation.

"(3) There are authorized to be appropriated to carry out this subsection $5,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996.".

SEC. 10. REQUIREMENTS FOR AWARDING OF GRANTS.

Section 102 of the National Historic Preservation Act (16 U.S.C. 470b) is amended—

(1) by amending subsection (a)(3) to read as follows:

"(3) for more than 60 percent of the aggregate costs of carrying out projects and programs specified in section 101(b)(3) in any one fiscal year, except that the Secretary may provide up to 100 percent of the aggregate costs in any one fiscal year for the additional costs incurred by a State Historic Preservation Officer in carrying out activities pursuant to section 101(b)(6).";

(2) in subsection (b) by striking ", in which case a grant to the National Trust may include funds for the maintenance, repair, and administration of the property in a manner satisfactory to the Secretary"; and

(3) by adding at the end thereof the following new subsection:

"(e) The Secretary may make funding available to individual States and the National Trust for Historic Preservation as soon as possible after execution of a grant agreement. For purposes of administration, grants to individual States and the National Trust each shall be considered to be one grant and shall be administered by the National Park Service as such.".

SEC. 11. APPORTIONMENT OF GRANT FUNDS.

Section 103 of the National Historic Preservation Act (16 U.S.C. 470c) is amended—

(1) in subsection (a) by striking "for comprehensive statewide historic surveys and plans under this Act", and inserting "for the purposes of this Act"; and

(2) in subsection (b) by striking "The amounts appropriated and made available for grants to the States for purposes and programs under this Act for each fiscal year shall be apportioned among the States by the Secretary in accordance with needs as disclosed in approved statewide historic preservation plans.".

SEC. 12. FEDERAL AGENCY HISTORIC PRESERVATION PROGRAMS.

Section 110 of the National Historic Preservation Act (16 U.S.C. 470h-2) is amended—

(1) in subsection (a)(1) by striking "101(f)" and inserting "101(g)";

(2) by amending subsection (a)(2) to read as follows:

"(2) In consultation with the Council and the Secretary and in cooperation with State Historic Preservation Officers, tribal preservation programs, and certified local governments, each Federal agency, unless exempted pursuant to section 214, shall establish and implement a preservation program for the identification, evaluation, nomination to the National Register of Historic Places, and protection of historic properties that ensures—

"(A) that historic properties under the jurisdiction or control of the agency, or subject to possible effect by actions assisted, licensed, permitted, or participated in by the agency or by programs subject to review and approval by the agency, are identified and evaluated and nominated to the National Register;

"(B) that such properties under the jurisdiction or control of the agency as are listed in or may be eligible for the National Register—

"(i) are managed and maintained in a way that reasonably preserves their historic, archaeological, architectural, cultural, and other values; and

"(ii) are not inadvertently damaged, disposed of or allowed to deteriorate;

"(C) that the preservation, management, and maintenance of such properties not under the jurisdiction or control of the agency but subject to possible effect by actions assisted, licensed, permitted, or participated in by the agency or by programs subject to review and approval by such agency are given full consideration in planning;

"(D) that the agency's preservation-related activities are carried out in cooperation with other Federal, State, and local agencies, Indian tribes, Native Hawaiian organizations, and the private sector, and in coordination with Federal, State, tribal, Native Hawaiian, and local historic preservation plans; and

"(E) that the agency's procedures for compliance with section 106—

"(i) are consistent with regulations issued by the Council pursuant to section 211;

"(ii) provide for identification and evaluation of historic properties for listing in the National Register and the development and implementation of agreements, in consultation with State Historic Preservation Officers, local governments, Indian tribes, Native Hawaiian organizations, and the interested public, regarding the means by which adverse effects on such properties will be resolved; and

"(iii) provide for the disposition of Native American cultural items from Federal or tribal land in a manner consistent with section 3(c) of the Native American Grave Protection and Repatriation Act (25 U.S.C. 3002(c)).''; and

(3) by adding at the end thereof the following new subsections:

"(k) Each Federal agency shall ensure that the agency will not grant a loan, loan guarantee, permit, license, or other assistance to an applicant who, at any time prior to the making of the grant, has intentionally adversely affected a historic property to which the grant would relate, or having legal power to prevent it, allowed such adverse effect to occur, unless the agency, after consultation with the Council, determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant.

"(l) With respect to any undertaking subject to section 106 which adversely affects any property included in or eligible for inclusion in the National Register and for which the Federal agency has not entered into an agreement with the Council and the appropriate State Historic Preservation Officer, the head of the Federal agency shall approve the undertaking only if the head of the agency has determined that implementing the recommendations contained in the comments of the Council pursuant to section 106 is not feasible and prudent.

"(m) When the Council finds, after consultation with the Secretary, State Historic Preservation Officers, affected Indian tribes, Native Hawaiian organizations, and local governments, and the interested public, that a Federal agency's procedures for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) provide adequately for consideration of cultural resources, including—

"(1) the identification of effects on cultural resources; and

"(2) the development and implementation of agreements with affected parties and others regarding the means by which adverse effects will be resolved,

the agency may comply with those procedures in place of regulations promulgated by the Council in order to meet the requirements of sections 106, 110(a)(2), 110(b), and 111, as applicable. The Council shall review the procedures of such an agency from time to time to ensure that they continue to provide adequately for consideration of cultural resources.''.

SEC. 13. LEASE OR EXCHANGE OF FEDERAL HISTORIC PROPERTIES.

Section 111 of the National Historic Preservation Act (16 U.S.C. 470h-3) is amended—

(1) in subsection (a) by striking "may, after consultation with the Advisory Council on Historic Preservation, lease" and inserting "shall, after consultation with the Council, establish and implement adaptive use alternatives for historic properties that are not needed for current or projected agency purposes, and may" and

(2) in subsection (b) by striking "may" and inserting "shall".

SEC. 14. DISPOSITION OF ARCHAEOLOGICAL MATERIALS.

Title I of the National Historic Preservation Act (16 U.S.C. 470 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 112. (a) Each Federal agency that is responsible for the protection of archaeological resources or that conducts, causes to be conducted, or permits archaeological surveys or excavations pursuant to this Act or any other law shall ensure that—

"(1) agency personnel and contractors supervising archaeological surveys and excavations meet professional standards under regulations developed by the Secretary in consultation with the Council and other affected agencies, taking into account, and, when appropriate, utilizing the pertinent standards and certification systems of, international, national, State, and local archaeological organizations;

"(2) programs for the protection of archaeological resources and for archaeological surveys and excavations are designed, when appropriate, to involve and inform the interested public, including volunteers, professional societies, avocational groups, educational institutions, Indian tribes, Native Hawaiian organizations, and other Native American organizations;

"(3) archaeological surveys and excavations are designed, to the extent feasible, to address research topics of demonstrable significance to the sciences and humanities; and

"(4) data produced by archaeological surveys and excavations are maintained in perpetuity in appropriate data bases and disseminated to potential users.

"(b)(1) The ownership or control and disposition of Native American cultural items to which the Native American Grave Protection and Repatriation Act applies shall be governed by that Act. Artifacts, materials, and records produced by archaeological survey and recovery work conducted by or caused to be conducted or permitted by Federal agencies other than Native American cultural items to which the Native American Grave Protection and Repatriation Act applies shall be—

"(A) analyzed as necessary to address significant research topics; and

"(B)(i) preserved in an appropriately equipped repository; or

"(ii) curated or disposed of in a manner that reflects balanced consideration of their ownership, scientific and educational value, cultural or religious significance (where applicable), artistic and aesthetic qualities (where applicable), and any special conservation problems that the materials may present.

"(3) When artifacts or other materials are preserved in a repository, retained by their owner for study or exhibition, or donated, loaned, leased, or otherwise transferred to another party for study or exhibition, the Federal agency that gives up possession of the materials or that conducted or caused to be conducted the excavation or survey that produced them shall ensure that the materials are registered with an antiquities registration program in order to maintain a permanent record of such materials and their location.

"(c) Except in the case of a removal or excavation of Native American cultural items to which section 3(c) of the Native American Grave Protection and Repatriation Act (25 U.S.C. 3002(c)) applies, archaeological survey and recovery work conducted pursuant to an agreement executed under section 106 shall not require a separate permit under the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.) if the work meets the requirements of section 4(a) of that Act (16 U.S.C. 470cc(a)).

"(d) The Secretary, in consultation with the Council and affected Federal agencies, State Historic Preservation Officers, tribal preservation officials, and appropriate national and regional archaeological and anthropological organizations, and Native American organizations, shall promulgate regulations, standards and guidelines to implement this section.

"(e) In order to promote the preservation of archaeological resources on private land that are eligible for listing in the National Register, the Secretary shall, in consultation with the Council, promulgate guidelines to ensure that Federal, State, and tribal historic preservation programs subject to this Act include plans to—

"(1) identify locations of archaeological resources on private land that have a demonstrated or likely research significance;

"(2) provide information to the owners of those resources concerning the significance of the archaeological resources, the need for protection of those resources, and the available means of protection;

"(3) encourage owners to preserve archaeological resources in place and offer the owners of those resources information on the tax and grant assistance available for the donation of the resources or of a preservation easement of the resources;

"(4) encourage the protection of Native American cultural items (within the meaning of section 2 (3) and (9) of the Native American Grave Protection and Repatriation Act (25 U.S.C. 3001 (3) and (9)) and of properties of religious or cultural importance to Indian tribes, Native Hawaiian organizations, or other Native American groups; and

"(5) encourage owners who are undertaking excavations to—

"(A) conduct excavations and analyses that meet the standards for federally-sponsored excavations established pursuant to this Act;

"(B) register artifacts found within the archaeological resource with an antiquities registration program;

"(C) donate or lend artifacts of great significance in current or likely research to an appropriate research institution;

"(D) allow access to artifacts for research purposes; and

"(E) prior to excavating or disposing of a Native American cultural item in which an Indian tribe or Native Hawaiian organization may have an interest under section 3(a)(2) (B) or (C) of the Native American Grave Protection and Repatriation Act (25 U.S.C. 3002(a)(2) (B) and (C)), give notice to and consult with the Indian tribe or Native Hawaiian organization.''.

SEC. 15. INTERSTATE AND INTERNATIONAL TRAFFIC IN ANTIQUITIES.

Title I of the National Historic Preservation Act (16 U.S.C. 470 et seq.), as amended by section 13, is amended by adding at the end thereof the following new sections:

"SEC. 113. (a) In order to facilitate the control of illegal interstate and international traffic in antiquities, the Council, in consultation and cooperation with the Secretary, shall study and report the suitability and feasibility of establishing a program for the registration of artifacts removed from archaeological sites in the United States and artifacts brought into the United States from abroad.

"(b) In conducting the study described in subsection (a) the Council shall consult with other Federal agencies that conduct, cause to be conducted, or permit archaeological surveys or excavations and with State Historic Preservation Officers, archaeological organizations, Indian tribes, Native Hawaiian organizations, and other Native American organizations, international organizations and other interested persons.

"(c) Not later than 18 months after the date of enactment of this section, the Council shall submit to Congress a report detailing its findings and recommendations from the study described in subsection (a).

"(d) There are authorized to be appropriated not more than $500,000 for the study described in subsection (a), such sums to remain available until expended.

"SEC. 114. (a) The Council shall, in consultation with the Cultural Property Advisory Committee established by section 306 of the Convention on Cultural Property Implementation Act (19 U.S.C. 2605), call for and organize United States leadership and participation in an international conference on the international antiquities trade.

"(b) The conference described in subsection (a) shall focus on—

"(1) providing adequate controls, enforcement, and incentives to ensure that traded artifacts are the products of properly conducted excavations; and

"(2) promoting an exchange between nations to enhance public knowledge of each nation's cultural heritage.

"(c) Invitations to the conference described in subsection (a) shall be extended to representatives of national governments, archaeological and anthropological organizations, Native American organizations, public and private museums, arts and antiquities dealers, private collectors, legislators, and law enforcement specialists.

"(d) The conference described in subsection (a) shall be held in 1992 as part of the commemoration of the 500th anniversary of the Columbus Discovery Voyage.

"(e) Funds for the conference described in subsection (a) shall be provided through appropriations of such sums are necessary to the Council and other Federal agencies and by donations or transfer to the Council from other public and private sources.".

SEC. 16. MEMBERSHIP OF ADVISORY COUNCIL ON HISTORIC PRESERVATION.

Section 201(a) of the National Historic Preservation Act (16 U.S.C. 470i(a)) is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting ", and"; and

(3) by adding at the end thereof the following new paragraph:

"(11) one member of an Indian tribe or Native Hawaiian organization appointed by the President.".

SEC. 17. REGULATIONS OF THE ADVISORY COUNCIL ON HISTORIC PRESERVATION.

Section 211 of the National Historic Preservation Act (16 U.S.C. 470s) is amended by striking the period at the end of the first sentence and inserting "in its entirety".

SEC. 18. DEFINITIONS.

(a) AMENDMENT AND ADDITION OF DEFINITIONS.—Section 301 of the National Historic Preservation Act (16 U.S.C. 470w) is amended—

(1) in paragraph (1) by striking "Code" and all that follows through the end of the paragraph;

(2) in paragraph (2) by striking "the Trust Territories of the Pacific Islands" and inserting "the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau";

(3) by amending paragraph (4) to read as follows:

"(4) 'Indian tribe' or 'tribe' means an Indian tribe, band, nation, or other organized group or community, including a Native village, Regional Corporation or Village Corporation, as those terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.";

(4) in paragraph (5) by—

(A) inserting "landscape," after "district,"; and

(B) striking "Register" and all that follows through the end of the paragraph and inserting "Register, including artifacts, records, and material remains related to such a property or resource.";

(5) by amending paragraph (7) to read as follows:

"(7) 'undertaking' means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including—

"(A) those carried out by or on behalf of the agency;

"(B) those carried out with Federal financial assistance;

"(C) those requiring a Federal permit, license, or approval; and

"(D) those subject to State or local regulation administered pursuant to a delegation or approval by a Federal agency.";

(6) in paragraph (8) by—

(A) striking "maintenance and reconstruction," and inserting "maintenance, study, interpretation, reconstruction, and education and training regarding the foregoing activities,";

(7) in paragraph (9) by striking "urban area" and inserting "area";

(8) in paragraph (10) by striking "urban area of one or more neighborhoods and" and inserting "area";

(9) in paragraph (13)(A) by striking "archaeology" and inserting "prehistoric and historic archaeology, folklore and cultural anthropology,"; and

(10) by adding at the end thereof the following new paragraphs:

"(14) 'Indian land manager' means the official of an Indian tribe having primary management authority over lands under the tribe's jurisdiction.

"(15) 'tribal land' means—

"(A) all lands within the exterior boundaries of any Indian reservation;

"(B) all dependent Indian communities; and

"(C) any lands administered for the benefit of Native Hawaiians pursuant to the Hawaiian Homes Commission Act, 1920 (42 Stat. 108), and section 4 of the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 17, 1959 (Public Law 86–3; 73 Stat. 5).

"(16) 'Traditional cultural authority' means an individual in a Native American group, Native Hawaiian, or other social or ethnic group who is recognized by members of the group as an expert on the group's traditional history and cultural practices.

"(17) 'Certified local government' means a local government whose local historic preservation program has been certified pursuant to section 101(c).

"(18) 'Cultural resources' means the tangible and intangible elements of traditional culture, including—

"(A) historic resources;

"(B) American folklife, as that term is defined in section 3(1) of the American Folklife Preservation Act (20 U.S.C. 2102(1)); and

"(C) Native American cultural values protected by the American Indian Religious Freedom Act (42 U.S.C. 1996).

"(19) 'Council' means the Advisory Council on Historic Preservation established by section 201.

"(20) 'Native Hawaiian' means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii.

"(21) 'Native Hawaiian organization' means any organization which—

"(A) serves and represents the interests of Native Hawaiians;

"(B) has as a primary and stated purpose the provision of services to Native Hawaiians; and

"(C) has expertise in Native Hawaiian Affairs,

and includes the Office of Hawaiian Affairs of the State of Hawaii and Hui Malama I Na Kupuna O Hawai'i Nei, an organization incorporated under the laws of the State of Hawaii.".

(b) TECHNICAL AMENDMENT.—Section 201(a) of the National Historic Preservation Act (16 U.S.C. 470i(a)) is amended by striking "(hereafter referred to as the 'Council')".

SEC. 19. COOPERATIVE AGREEMENTS FOR THE PERFORMANCE OF FUNCTIONS OF A FEDERAL AGENCY.

Section 302 of the National Historic Preservation Act (16 U.S.C. 470w–1) is amended by inserting after "Act," the following: "and, in consultation with the Council, enter into an agreement with the Council, a State Historic Preservation Officer, or a tribal preservation official to perform functions of the Federal agency within a State or within tribal land, and may make funds available to the Council, State Historic Preservation Officer, or tribal preservation official for that purpose,".

SEC. 20. ACCESS TO INFORMATION.

Section 304 of the National Historic Preservation Act (16 U.S.C. 4702–3) is amended to read as follows:

"(a) The head of a Federal agency or other public official receiving grant assistance pursuant to this Act, after consultation with the Secretary, shall withhold from disclosure to the public, information about the location, character, or ownership of a historic resource if the Secretary and the agency determine that disclosure may—

"(1) cause a significant invasion of privacy;

"(2) risk harm to the historic resource; or

"(3) impede the use of a traditional religious site by practitioners.

"(b) When the Secretary has determined that information should be withheld from the public pursuant to subsection (a), the Secretary, in consultation with the Federal agency, shall determine who may have access to the information for the purpose of carrying out this Act.

"(c) When the information in question has been developed in the course of an agency's compliance with section 106 or 110(f), the Secretary shall consult with the Council in reaching determinations under subsections (a) and (b).".

SEC. 21. INTERNATIONAL ACTIVITIES.

(a) TRANSFER OF TITLE.—Title IV of the National Historic Preservation Act Amendments of 1980 (16 U.S.C. 470a-1 and 470a-2) is transferred to and added at the end of the National Historic Preservation Act.

(b) FEDERAL UNDERTAKINGS OUTSIDE THE UNITED STATES.—Section 402 of the National Historic Preservation Act, as transferred by subsection (a), is amended to read as follows:

"SEC. 402. A Federal agency having direct or indirect jurisdiction over undertakings carried out outside the United States shall establish procedures, in consultation with the Advisory Council on Historic Preservation, the Department of Defense, and the Department of State, to ensure that—

"(1) during the planning of each such undertaking the appropriate preservation authorities in the host country are consulted;

"(2) properties significant to the history or prehistory of the host country or included on or eligible for inclusion on the host country's equivalent of the National Register, which might be affected by a United States-sponsored undertaking, are identified and evaluated;

"(3) the undertaking's effects on such properties are taken into account; and

"(4) reasonable and effective steps are taken to avoid or mitigate adverse effects on such properties.".

SEC. 22. NATIONAL CENTER FOR PRESERVATION TECHNOLOGY.

Title IV of the National Historic Preservation Act, as transferred by section 20(a), is amended by adding at the end thereof the following new sections:

"SEC. 403. The Congress finds and declares that the lack of adequate technology transfer for historic preservation demonstrates a clear need for a new national institution to coordinate research, disseminate information, and provide training about preservation technologies.

"SEC. 404. For the purposes of this title—

"(1) the term 'Board' means the National Preservation Technology Board established by section 406; and

"(2) the term 'Center' means the National Center for Preservation Technology established by section 405.

"SEC. 405. (a) There is established in the National Park Service a National Center for Preservation Technology.

"(b) It shall be the duty of the Center to—

"(1) develop and transfer preservation and conservation technologies for the identification, evaluation, conservation, and interpretation of prehistoric and historic resources (including archaeological sites, historic buildings and structures, cultural and designed landscapes, maritime sites, objects, and documents);

"(2) coordinate preservation technology transfer among Federal agencies, State and local governments, universities, international organizations and the private sector; and

"(3) conduct such other activities as are necessary to fulfill the purposes of this title.

"(c) The work of the Center shall be conducted through research, professional training, technical assistance, and programs for public awareness in conjunction with the National Park Service through consortia of regional centers and laboratories and service facilities designated or established under section 407.

"(d) The Center shall be headed by an Executive Director, appointed by the Secretary in consultation with the Board, who has demonstrated high level abilities and experience in the social or physical sciences and in organizational management and the use of technologies.

"(e) The Executive Director of the Center may appoint and fix the compensation of such officers and employees as are necessary to perform the functions of the Center.

"(f) The Director of the National Park Service shall provide the Center such additional personnel, equipment and facilities as may be needed for the Center to carry out its activities.

"SEC. 406. (a) There is established a Preservation Technology Board.

"(b) The Board shall—

"(1) provide leadership, policy advice, coordination and professional oversight to the Center;

"(2) advise on priorities and the allocation of funds among the activities of the Center; and

"(3) submit an annual report to the President and Congress.

"(c) The Board shall be comprised of—

"(1) The Director of the National Park Service (or the Director's designee);

"(2) 1 representative appointed by the head of each of—

"(A) the Department of the Interior;

"(B) the Smithsonian Institution;

"(C) the Department of Agriculture;

"(D) the Department of Commerce;

"(E) the Department of Defense;

"(F) the Department of Energy;

"(G) the Advisory Council on Historic Preservation;

"(H) the Department of State;

"(I) the Department of Transportation;

"(J) the General Services Administration;

"(K) the National Archives and Records Administration;

"(L) the National Science Foundation;

"(M) the Library of Congress;

"(N) the Office of Technology Assessment;

"(O) the National Trust for Historic Preservation;

"(P) the National Conference of State Historic Preservation Officers;

"(Q) the National Academy of Sciences; and

"(R) the Consortia of National Laboratories; and

"(3) 10 persons appointed by the President whose professional qualifications or experience include the disciplines included in the scope of the work of the Center.

"(d) The members of the Board shall serve one 5-year term each, except that the initial appointments shall be staggered so that 6 shall serve a 1-year term, 6 shall serve a 2-year term, 6 shall serve a 3-year term, 6 shall serve a 4-year term and 5 shall serve a 5-year term.

"SEC. 407. (a) The Center shall select regional preservation technology centers from among applicants with a demonstrated institutional commitment to continuing preservation.

"(b) A regional preservation technology center shall develop, coordinate, and implement preservation technology transfer functions in an area of the United States designated by the Board.

"(c) Eligible applicants from areas of the United States designated by the Center may include—

"(1) Federal and non-Federal laboratories;

"(2) museums;

"(3) universities;

"(4) non-profit or for-profit corporations;

"(5) offices and Cooperative Park Study Units of the National Park Service;

"(6) State Historic Preservation Offices; and

"(7) tribal preservation officials.

"(d) The Center may establish or designate analytical or technical research laboratories and service facilities to further the purposes of the Center.

"SEC. 408. The Center may accept—

"(1) grants and donations from private individuals, groups, organizations, corporations and foundations; and

"(2) transfers of funds from other Federal agencies.

"SEC. 409. The Center may enter into contracts and cooperative agreements with Federal, State, tribal, and local governments, Native Hawaiian organizations, nonprofit organizations, for-profit corporations and educational institutions to carry out the Center's responsibilities under this Act and to provide grants and loans to the regional centers and laboratories or service facilities pursuant to section 407.

"SEC. 410. There are authorized to be appropriated for the purposes of the Center $500,000 in fiscal year 1992 and $5,000,000 in each of fiscal years 1993, 1994 and 1995, such sums to remain available until expended.".

SEC. 23. REPORT.

Not later than the end of fiscal year 1993, the Secretary, in consultation with the Council, State Historic Preservation Officers, and others, as appropriate, shall undertake a study and report to Congress on the status of the inclusion of artifacts, records, and material remains and on the advisability of including traditional cultural practices and lifeways on, the National Register of Historic Places.

SUMMARY OF NATIONAL HISTORIC PRESERVATION ACT AMENDMENTS OF 1991

The National Historic Preservation Act Amendments of 1991 is aimed at strengthening, and improving the accountability of, our national preservation program. The bill provides for the first comprehensive update and fine-tuning of the National Historic Preservation Act since 1980.

The National Historic Preservation Act Amendments of 1991 combines features of two bills introduced in the 101st Congress: S. 1578, the Historic Preservation Administration Act, and S. 1579, the National Historic Preservation Policy Act. The new legislation represents the portions of the two previous measures upon which widespread consensus has been reached within the preservation community. The National Park Service also provided valuable assistance in the development of the bill.

The National Historic Preservation Act Amendments of 1991 contains the following major features:

1. Re-asserting federal leadership in historic preservation while recognizing and strengthening the Federal/State partnership administrative structure, and, for the first time, extending this partnership to Indian tribes.

2. Strengthening the federal protection process for historic properties. The bill requires Federal agencies to consider historic properties in project planning, in order to accomplish project goals without harming historic properties. In those instances where the agency fails to balance project goals and preservation as articulated by the Advisory Council on Historic Preservation, the agency must demonstrate that there is no "feasible

and prudent" way for it to follow Council comments before proceeding with the undertaking.

3. Improving the efficiency of the Federal environmental review process by permitting agencies, working with the Advisory Council, to combine the historic preservation review requirements of the National Historic Preservation Act and the National Environmental Policy Act into one effort.

4. Strengthening the federal archaeology program, both in protection and content. With the Federal government currently spending approximately $300 million a year on archaeological projects, taxpayers certainly have a right to expect that these projects produce the maximum return in increased understanding and enhanced protection for the archaeological record of our national heritage.

5. Further defining the role of States in the national preservation program by allowing State programs to take on additional responsibilities while insuring they receive adequate resources to do so.

6. Strengthening the role of Indian tribes in the national preservation program by providing statutory authority for Indian tribes to assume various preservation responsibilities on tribal lands.

7. Strengthening preservation education programs.

8. Creating a National Center for Preservation Technology in the Department of Interior to aid in the development and transfer of preservation and conservation technologies.

A summary of the National Historic Preservation Act Amendments of 1991 follows:

Section 1. Short title designates the bill as the "National Historic Preservation Act Amendments of 1991."

Section 2. Findings adds two new findings to the National Historic Preservation Act (NHPA).

Section 3. Policy amends NHPA by adding Indian tribes to the national historic preservation partnership.

Section 4. Review of threats to properties establishes a new requirement for the Secretary of Interior to report every four years to the President and the Congress on threats to properties on the National Register of Historic Places.

Section 5. State historic preservation programs revises the subsection of the NHPA which governs these programs as follows:

(1) improves the system for reviewing the sufficiency of State preservation programs to carry out the mandates of the NHPA.

(2) revises the list of State Historic Preservation Officer responsibilities to reflect existing activities including review of Federal undertakings and of applications for rehabilitation tax credits.

(3) updates the date used in determining how long an existing approved State Historic Preservation program has to gain approval under NHPA, as amended, from 1980 to 1991.

(4) details new authority for the Secretary of interior or the Advisory Council on Historic Preservation (ACHP) to delegate to a State Historic Preservation Officer specific authorities within the State: to identify and preserve historic properties; to determine eligibility for, and to expand, the National Register; to maintain historical and archaeological data bases; to certify eligibility for federal preservation incentives; to respond to actions of other governmental and private entities; and any other authority the secretary or the Council decides to delegate. This paragraph also sets out the conditions for the exercise of this delegation authority.

Section 6. Certification of local governments adds two new definitions (of "designation" and "protection") to the NHPA subsection on local preservation programs. These definitions set a *minimum* standard that local preservation commissions be knowledgeable when locally designated historic properties are adversely affected.

Section 7. Tribal historic preservation programs creates a new subsection of NHPA in order to establish and define the role of tribal preservation programs within the national preservation partnership.

(1) creates the mechanism for the development of a Federal assistance program for the preservation of tribal cultural heritage. This program, which includes communication and cooperation between Indian tribes and State Historic Preservation Officers, is to be initiated by October 1, 1992.

(2) provides the means for tribes to "assume all or any part of the functions of a State Historic Preservation Officer . . . together with the concomitant responsibilities" by establishing the processes to be utilized by the tribe in submitting and the Secretary of Interior in considering such requests. The authorization for partial assumption of these functions is a recognition of the highly divergent circumstances of tribes in terms of population, geography, and other factors.

(3) gives the Secretary of Interior the necessary authorities to implement procedures for apportioning funds to tribal preservation programs which assume preservation responsibilities under this section.

(4) establishes the mechanisms for the Secretary of Interior to use in delegating preservation responsibilities to qualified tribal preservation programs. Included are requirements that the tribe be appropriately compensated for the costs of carrying out the delegated authority, that the tribal program is "sufficient" to carry out the responsibility, that the roles of the Secretary of Interior and the State Historic Preservation Officer(s) are specified, and that the participation of the tribe's traditional cultural authorities, other Indian tribes, and the interested public is provided for.

(5) authorizes the ACHP to allow qualified tribal procedures to be used in place of Federal procedures for the issuance of permits for undertakings on the tribe's lands.

(6) mandates the delegation by the Bureau of Indian Affairs and the Indian Health Service, and permits the delegation by other Federal agencies, of their preservation responsibilities to qualified tribal preservation programs (or when the tribe so requests, to a State Historic Preservation Officer) upon the request of the tribe, consultation with the affected State Historic Preservation Officer, and the concurrence of the ACHP.

(7) stipulates that religious and cultural historic properties of a tribe are eligible for inclusion on the National Register, and requires that the tribes which are associated with such properties must be consulted in advance of Federal undertakings under Section 106 of NHPA.

Section 8. Matching grants provides authority for the Secretary of Interior to make matching grants to the States, and direct grants to Indian tribes and the Micronesian states. In each case, this represents a modification or clarification of current law rather than a new authority.

Section 9. Education and training requires the Secretary of Interior to establish a comprehensive education and training program, designed to increase public awareness of preservation concerns, to increase opportunities for avocational preservationists to participate in the federal program and to expand training opportunities in the field (including special assistance to Historically Black Colleges and Universities and to schools with large numbers of American Indians). An annual authorization level of $5 million is also included.

Section 10. Requirements for awarding of grants revises NHPA provisions on grants to increase the flexibility of the Secretary of Interior in awarding grants to States and the National Trust for Historic Preservation.

Section 11. Apportionment of grant funds also increases the flexibility of NHPA grants to States and simplifies the language of current law in this respect.

Section 12. Federal agency historic preservation programs clarifies and strengthens the preservation responsibilities of Federal agencies.

(1) is a conforming amendment.

(2) clarifies Federal agency responsibilities to give cognizance to national preservation policies by requiring each agency to "establish and implement a preservation program for the identification, evaluation, nomination to the National Register of Historic Places, and protection of historic properties," and specifies the content of that program: (A) expands current law's coverage of agency properties; (B) provides for the establishment of a management program for all historic properties owned or controlled by a Federal agency; (C) requires consideration of preservation concerns in the case of properties not under the direct control or jurisdiction of the agency, but subject to the agency's influence; (D) requires agency cooperation for preservation purposes with other governmental non-governmental entities; and (E) coordinates this section with Section 106 of NHPA and with the Native American Grave Protection and Repatriation Act.

(3) adds the following subsections: (k) provides for the denial of all forms of Federal assistance to those who "intentionally adversely affect" a historic property related to the grant application (to address the situation in which a developer demolishes a historic property and then applies for Federal assistance in order to escape historic preservation review); (1) requires that in the less than one percent of cases in which the consultation carried out pursuant to Section 106 of NHPA does not result in an agreement (between a Federal agency and the ACHP), the Federal agency must follow the recommendations of the ACHP unless the agency finds that there is no "feasible and prudent" way to do so; and (m) allows an agency whose system of environmental review under the National Environmental Policy Act is found by the ACHP to provide sufficient attention to the protection of cultural resources to substitute this review for the requirements of Section 106 of NHPA.

Section 13. Lease or exchange of federal historic properties requires Federal agencies to "establish and implement adaptive use alternatives for historic properties that are not needed for current or projected agency purposes."

Section 14. Disposition of archaeological materials creates a new section on archaeology in NHPA, and coordinates the latter with the Archaeological Resources Protection Act (ARPA).

(a)(1) requires that Federal agencies involved with archaeological resources be responsible for ensuring both agency personnel and contractors meet professional standards developed by the Secretary of Interior in consultation with the ACHP. In this process, existing standards and certification standards are to be taken into account and, where appropriate, utilized.

(a)(2) requires that Federal archaeological activities provide appropriate opportunities for the involvement of the interested public.

(a)(3) directs that Federal archaeological research be "designed, to the extent feasible, to address research topics of demonstrable significance to the sciences and humanities."

(a)(4) provides for the maintenance and dissemination of data produced by Federal archaeological research.

(b)(1) replaces current law's requirement for permanent retention of the products of Federally sponsored archaeology with the provisions of the Native American Grave Protection and Repatriation Act, and in circumstances where that law does not apply, with the option of permanent retention *or* appropriate curation or disposal.

(b)(2) requires that, when the products of Federally sponsored archaeology are held for study and/or exhibition, such materials must be registered with an antiquities registration program.

(c) provides that, except in the case of Native American cultural items covered by the Native American Grave Protection and Repatriation Act, archaeological work conducted under Section 106 of NHPA will not require a permit under ARPA.

(d) establishes a consultative process to assist the Secretary of Interior in implementing this new archaeological section of NHPA.

(e) creates a requirement for the Secretary of Interior to promulgate guidelines to ensure that Federal, State, and tribal preservation programs include plans to promote voluntary preservation measures for archaeological resources on private lands.

Section 15. Interstate and international tariff in antiquities is aimed at combatting the looting and illegal trade of archaeological resources by requiring a study (with a $500,000 authorization) by the ACHP (in consultation and cooperation with the Secretary of Interior) of "the suitability and feasibility" of establishing a new government-sponsored registration of antiquities program of both encourage the conduct of scientifically valid excavations and create a potential market incentive in favor of certified antiquities (Section 113); and by calling for an international conference in 1992 on the antiquities trade (Section 114).

Section 16. Membership of advisory council on historic preservation adds an Indian tribe representative to the ACHP.

Section 17. Regulations of the advisory council on historic preservation clarifies the responsibility of the ACHP "to promulgate such rules and regulations it deems necessary to govern the implementation of section 106 of (NHPA) *in its entirety*." This makes clear that the ACHP has the authority to define not only how agencies will afford the Council a reasonable opportunity to comment, but also how agencies should take effects on historic properties into account in their planning.

Section 18. Definitions amends and adds definitions in NHPA.

(1) amends the definition of "agency" by dropping the exemption for certain agencies exempted from NHPA.

(2) updates the definition of "State."

(3) substitutes the more current and inclusive definition of "Indian tribe" found in Section 2 of the Native American Grave Protection and Repatriation Act.

(4) amends the definition of "historic property" by adding "landscape" to the list of property types, and specifying "material" remains as an included item.

(5) rewords and expands the definition of "undertaking," based largely on ACHP regulations, and specifically including programs carried out by States pursuant to Federal permits or funding (such as surface mining, and certain HUD, DOT, and Corps of Engineers programs).

(6) expands the definition of "preservation" to include "study, interpretation . . . education and training."

(7) expands the definition of "Cultural park" to include non-urban areas.

(8) expands the definition of "Historic conservation district" to include non-urban areas.

(9) expands the representation on "Historic preservation review commissions" to include "prehistoric and historic archaeology" and "folklore and cultural anthropology."

(10) adds new definitions to NHPA for: "Indian land manager," "Tribal land," Traditional cultural authority," "Certified local government," "Cultural resources," "Council" (ACHP), "Native Hawaiian," and "Native Hawaiian organization."

Section 19. Cooperative agreements for the performance of functions of a federal agency provides explicit authority for Federal agencies to delegate (with the consent of the ACHP) preservation responsibilities, and the necessary funding, to the ACHP or to State or tribal preservation programs.

Section 20. Access to information clarifies and expands this section of NHPA by: adding "invasion of privacy" and "impede the use of a traditional religious site by practitioners" to the grounds for the withholding of information; providing that, when information is withheld, the Secretary of Interior will determine who may have access to that information; and coordinating the operation of this Section with the ACHP.

Section 21. International activities rewords current law and adds the requirement that Federal agencies operating outside the United States "establish procedures, in consultation with the Advisory Council on Historic Preservation, the Department of Defense, and the Department of State" in order to carry out their international preservation responsibilities. This requirement is important because, in its absence, no Federal agency has taken substantive steps to comply with the existing Section 402, which has been in effect since 1980.

(1) establishes a new requirement that "the appropriate preservation authorities in the host country are consulted."

(2) broadens coverage of properties to include those "significant to the history or prehistory of the country or included on or eligible for inclusion on the host country's equivalent of the National Register" and requires that such properties be "identified and evaluated."

(3) and (4) provide that in addition to current law's requirement for Federal agencies to "take into account" their impact on foreign historic properties, "reasonable and effective steps are taken to avoid or mitigate adverse effects on such properties."

Section 22. National Center for Preservation Technology creates a National Center for Preservation Technology to research, develop, and disseminate historic and prehistoric preservation technologies. This Center, which is based on the recommendations of the National Coalition for Applied Preservation Technology, responds to the finding of a 1986 report by the Office of Technology Assessment that "the lack of adequate (preservation) technology transfer demonstrates a conspicuous need for an institution to coordinate research, disseminate information, and provide training about new technologies." To fund the Center, $500,000 is authorized for FY92, and $5 million annually for FY93-95.

Section 23. Report requires the Secretary to study and report to Congress, before the end of FY93, on the inclusion of various items in the National Register of Historic Places.

[Note: In the above, most grants of authority to the Department of Interior will be exercised by the National Park Service.]•

By Mr. GLENN (for himself, Mr. HATFIELD, and Mr. KOHL):

S. 685. A bill to establish Summer Residential Science Academies for talented, economically disadvantaged, minority participants, and for other purposes; to the Committee on Labor and Human Resources.

SUMMER RESIDENTIAL SCIENCE ACADEMY ACT

• Mr. GLENN. Mr. President, today I rise to introduce the Summer Residential Science Academy Act of 1991. This bill is similar to S. 2391, a bill I introduced last April. Once again, I am joined by Senators HATFIELD and KOHL as original cosponsors. I appreciate their support very much.

This legislation is designed to address the historical underrepresentation of minorities and women in science and engineering and the potential shortage of young people entering scientific and engineering careers.

The United States now operates in a global market that places a high premium on technological innovation. More than 70 percent of the goods manufactured in the United States now compete with merchandise made overseas. Innovation ensures that U.S. firms will be able to manufacture state-of-the-art, high-quality products that consumers both here and abroad will want to buy. Ultimately, this means more and better jobs for American workers.

Yet, this country may not produce enough scientists, engineers, and technical personnel to meet the demands of a dynamic, high-technology economy. Declining interest in scientific careers among young people and declining birthrates have shrunk the pool of potential scientists. In fact, the National Science Foundation predicts that by the year 2010, if current trends continue, America will suffer a shortfall of more than 600,000 scientists and engineers.

One way to avert this impending crisis is to recruit more of our Nation's minorities and women into the fields of math, science, and engineering. Although these groups are becoming a greater percentage of our Nation's work force, they have traditionally been neglected as a human resource and underrepresented in these fields.

Today, black Americans make up 12 percent of our population, but they account for only 2 percent of this country's engineers and scientists. Meanwhile, Hispanics, America's fastest growing minority group, make up 9 percent of our population, but they too only account for two percent of our scientists and engineers. In my home State of Ohio, women receive one-half of all bachelor's degrees, but receive only one-fourth of all the bachelor's degrees in science and engineering.

This is, indeed, disturbing news considering that blacks and hispanics—now 25 percent of our schoolchildren—will be 47 percent by the year 2000. These groups already constitute the majority in 22 of the 25 largest U.S. city school districts. Quite simply, unless we as a nation do a better job in encouraging these groups to enter a technical career, America's economy and its companies will suffer.

The legislation I am introducing today is a dramatic effort to recruit more women and minorities into the technical fields. A recent report of the Ohio Science and Technology Commission concluded that the kind of interactive, hands-on activities planned for these academies "are useful in encouraging students to persist in pursuing careers in science and engineering." Moreover, "special attention," the report continued, should be given to recruiting women and minorities into scientific careers.

This bill creates 50 geographically dispersed residential science academies to provide talented, economically disadvantaged minority students instruction in the fields of mathematics, science, and engineering design. Each academy will provide 8 weeks of intensive instruction to 100 students in each of the grades 7 through 12. All students will return to the academy until the summer after the completion of the 12th grade.

Models for this proposal can be found in many places around the country. Right in my home State of Ohio the American Association of University Women, the Ohio Academy of Science and an all-volunteer staff run a summer science camp for 150 seventh and eighth grade girls at the College of Wooster. Many colleges bring young people to their campuses during the summer for science and preengineering instruction. My proposal would also target underrepresented groups. In addition, my proposal would provide participants 8 weeks of intensive science instruction and experiences every summer from grade 7 through grade 12.

The National Science Foundation will select academies through open, merit-based competition. At least 70 percent of the participants will be minority students from the poorest of circumstances for whom all books, food, lodging, and other costs will be provided. The remaining 30 percent will be talented students from other income categories whose families will be assessed fees according to their ability to pay. The cost to establish and run the summer science academies is a modest $10 million in fiscal year 1992.

Plain and simple, this legislation will open the door of opportunity to thousands of talented youth who might otherwise not have the resources or guidance to pursue a technical career. Students will be exposed to the concepts of science and math and, consequently, will gain both the self-confidence and training necessary to pursue scientific studies. These students will also serve as role models in their respective communities. They will communicate to their peers that science and math are worthy pursuits and that a technical career is attainable. Equally important, academy graduates who go on to become scientists and engineers will serve as desperately needed mentors.

That American industries will need more young people to fill their technical positions is reason enough to establish these summer academies. There is, however, another important reason. The barrier to high-paying technical jobs has inhibited this nation's pursuit of equal opportunity for all its citizens. As long as minorities are denied access to decent jobs—due to prejudice and inadequate training—our commitment to an open and fluid society is hollow. These academies will help to break down these barriers.

In closing, I want to commend Dean Shirley McBay of the Quality Education for Minorities network for her contributions to this legislation. The QEM network has endorsed this bill. Incidentally, its board of directors includes such eminent Americans as former Labor Secretary Ray Marshall, Senators KENNEDY and BINGAMAN, Albert Shanker, Dorothy Height of the National Council of Negro Women, Richard Nicholson of the American Association for the Advancement of Science, Mary Harwood Futrrell, and M.I.T. President Paul E. Gray.

I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent to insert in the RECORD the full text of the bill.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 685

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Summer Residential Science Academy Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Nation's colleges and universities are not graduating enough American students, particularly students from underrepresented minority groups, into the fields of science or engineering;

(2) the United States must reach out to minorities in order to address the Nation's future potential shortfall of scientists and engineers;

(3) innovative and creative approaches to recruiting and educating minority students in the science, mathematics, and engineering fields are sorely needed;

(4) Black Americans make up over 12 percent of the population of the United States, but account for only 2 percent of the Nation's employed engineers and scientists;

(5) Hispanic Americans are the fastest growing American minority group and comprise 9 percent of the Nation's population, but account for only 2 percent of the Nation's employed scientists and engineers; and

(6) American Indians, including Alaska Natives, constitute one-half of 1 percent of the population of the United States, but make up only three one-thousandths of all the baccalaureate degrees awarded in engineering and science.

SEC. 3. STATEMENT OF PURPOSE.

The purposes of this Act are to—

(1) expose minority students to instruction in mathematics, science and engineering at Summer Residential Science Academies for each summer following completion of the 7th grade through the summer following completion of the 12th grade;

(2) improve the enrollment and graduation rates of minority individuals in science and engineering;

(3) improve the precollege preparation of minority students for whom a science or engineering career is a viable option;

(4) strengthen participating students' mathematical, science and communication skills which are essential to success in high school, college and the workplace;

(5) identify approaches to teaching that may be particularly effective with minority students; and

(6) enhance participating students' sense of self-esteem and life skills to enable such students to successfully meet life's many challenges.

SEC. 4. DEFINITIONS.

For purposes of this Act—

(1) the term "Academy" means a Summer Residential Science Academy established pursuant to the provisions of this Act;

(2) the term "eligible entities" means—

(A) institutions receiving financial assistance from the Foundation to serve the education needs of minority students, including Resource Centers in Science and Engineering, Minority Research Centers, and Comprehensive Minority Centers; and

(B) other nonprofit educational organizations with a demonstrated commitment to and expertise in improving the mathematics, science or engineering education of minority students;

(3) the term "Foundation" means the National Science Foundation;

(4) the term "parent" includes a legal guardian or person standing in loco parentis; and

(5) the term "participant" means a student enrolled in an Academy.

SEC. 5. PROGRAM ESTABLISHED.

(a) IN GENERAL.—The Foundation shall make grants to or enter into contracts or cooperative agreements with eligible entities to pay the Federal share of the costs of establishing and operating not more than 50 Summer Residential Science Academies that shall provide talented, economically disadvantaged, minority and other students with instruction in the fields of mathematics, science, engineering design, and communications.

(b) RESIDENTIAL REQUIREMENT.—Each Academy shall be residential.

(c) DURATION.—Each grant, contract or cooperative agreement awarded or entered into pursuant to subsection (a) shall be awarded or entered into for a period of not more than 5 years.

(d) SPECIAL REQUIREMENTS.—To the maximum extent possible, the Foundation shall provide for an equitable geographic distribution of Academies throughout the United States.

(e) ACADEMY ENROLLMENT.—

(1) IN GENERAL.—Each Academy shall be ultimately responsible for serving not more than 100 participants in each of the grades 7 through 12 for a combined annual Academy enrollment of not more than 600 participants.

(2) INITIAL AND SUBSEQUENT YEARS.—In the first fiscal year in which an Academy is established, such Academy shall instruct not more than 100 participants in each of the grades 7 and 8. In each succeeding fiscal year, the Academy shall instruct not more than 100 participants in each of the grades taught in the preceding fiscal year and 100 participants in the next higher grade.

(3) STUDENT ELIGIBILITY.—A student shall be eligible for enrollment at an Academy for each summer following completion of the 7th grade through the summer following completion of the 12th grade, at which time such participants shall be considered graduates of the Academy.

(4) PARTICIPANT DEPARTURES.—Enrollment slots which become available as a result of participant departures from the Academy shall be filled in accordance with criteria established by each Academy. Such criteria shall be approved by the Foundation.

SEC. 6. ACADEMY SELECTION CRITERIA.

The Foundation shall establish a peer review process to select eligible entities to establish and operate Academies.

SEC. 7. PARTICIPANT SELECTION CRITERIA.

(a) IN GENERAL.—The Foundation shall establish selection criteria and procedures by which each Academy shall select and admit participants. Such selection criteria shall include—

(1) in-school academic performance and accomplishments;

(2) aptitude and expressed interest in the fields of science, mathematics, or engineering; and

(3) recommendations from potential participants, parents, church organizations, civic organizations, and other community-based or educational organizations.

(b) SPECIAL RULE.—To the maximum extent possible—

(1) at least 50 percent of the participants in each grade level in each Academy shall be female; and

(2) at least 70 percent of the participants in each grade level in each Academy shall be talented, economically disadvantaged, minority students.

SEC. 8. USE OF FUNDS.

(a) IN GENERAL.—Each eligible entity receiving funds pursuant to the provisions of this Act shall use such funds to—

(1) recruit and employ permanent and visiting staff to instruct and supervise participants;

(2) provide participants and staff with lodging, food, materials, and other accommodations;

(3) provide stipends to economically disadvantaged minority participants to cover the costs of attending the Academy;

(4) assist participants in acquiring certain life skills including—

(A) respect for others;

(B) responsibilities as members of communities;

(C) conflict resolution;

(D) working with others; and

(E) basic written and verbal communication skills;

(5) provide participants instruction in mathematics, science, and engineering design through—

(A) problem solving and reasoning skills development;

(B) interactive, laboratory and hands-on learning; and

(C) group study and cooperative learning; and

(6) conduct such other activities as the eligible entity may determine necessary to carry out the provisions of this Act.

(b) STIPENDS.—The amount of the stipend provided pursuant to subsection (a)(3) shall be determined on the basis of the participant's or participant's parents' ability to pay the costs of attending the Academy.

(c) ADMINISTRATIVE COSTS.—The Foundation may use not more than 5 percent of the funds appropriated in each fiscal year pursuant to the authority of section 11 for administrative expenses.

SEC. 9. APPLICATION.

(a) IN GENERAL.—Each eligible entity desiring a grant or entering into a contract or cooperative agreement under this Act shall submit an application to the Foundation at such time, in such manner and accompanied by such information as the Foundation may reasonably require.

(b) CONTENTS.—Each application submitted pursuant to subsection (a) shall—

(1) describe the activities for which assistance is sought; and

(2) provide such additional assurances as the Foundation determines to be essential to ensure compliance with the requirements of this Act.

SEC. 10. PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE.

(a) PAYMENTS.—The Foundation shall pay to each eligible entity having an application approved under section 9 the Federal share of the cost of the activities described in the application.

(b) FEDERAL SHARE.—The Federal share shall be 85 percent.

(c) NON-FEDERAL SHARE.—The non-Federal share of the cost of activities described in the application submitted pursuant to section 9 may be in cash or in kind, fairly evaluated.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $10,000,000 for fiscal year 1992, $15,000,000 for fiscal year 1993, $20,000,000 for fiscal year 1994, $25,000,000 for fiscal year 1995, and $30,000,000 for fiscal year 1996 to carry out the provisions of this Act.•

• Mr. HATFIELD. Mr. President, I am pleased to rise with my colleague from Ohio, Mr. GLENN, to offer legislation to establish summer residential science academies for talented minority students.

Over the past several years, one of my highest priorities has been on developing and advancing legislation to enhance the Federal role in support of science and mathematics education. The crisis in mathematics and science education has risen, in the last 3 years, from virtual obscurity to political center stage. This heightened awareness paved the way in the last session for the most comprehensive mathematics and science education legislation in recent years, the Excellence in Mathematics, Science and Engineering Education Act of 1990.

As we work to increase the number of qualified science and mathematics teachers and to improve the knowledge and skills of teachers already in our schools, we need to provide a safety net for those students who need additional challenge, skills, or motivation now. The summer residential science academies are, in a sense, a stop-gap measure to prepare students academically for college and toward majors in science or engineering. Nearly 30 percent of high schools in the United States offer no courses in physics, 17 percent offer none in chemistry, and an astounding 70 percent none in Earth or space science. From another perspective: In U.S. high schools, 60 percent of the students take biology, 30 percent, chemistry, and only 18 percent, physics. Even when they take science courses, the experiences may be less than optimal; fewer than 39 percent of science classes in grades 7 to 12 have laboratory experiences as part of their coursework.

The summer science academies are part of a strategy to expand our pool of potential scientists and engineers. Faced with changing demographic trends, the Congressional Research Service predicts a shortage of more than 560,000 scientists and engineers by the year 2020. Not only are fewer students electing to enter these fields; there just are fewer students: The Bureau of the Census projects that in 1996 to 1998, there will be 25 percent fewer 22-year-olds—the traditional college graduation age—in the country than there were in 1982.

We must act now. Through early identification of talented students, academic and personal counseling in a residential setting, and learning experiences in real laboratories working with expert teachers, the summer science academies will help us take immediate steps to prepare promising minority students in science and recruit them at an early age into scientific and engineering careers.•

By Mr. BAUCUS:

S. 686. A bill to amend the Internal Revenue Code of 1986 to provide for the establishment of enterprise zones, and for other purposes; to the Committee on Finance.

RURAL BUSINESS REVITALIZATION ACT

• Mr. BAUCUS. Mr. President, today I am introducing the Rural Business Revitalization Act of 1991. This bill will authorize the establishment of Federal enterprise zones in rural communities throughout the country. This approach will give a much-needed boost to State and local development efforts. Businesses which locate or expand their operations in these rural areas would be eligible for specified tax incentives.

For the Nation's rural areas, both the 1980's and the 1990's have proven to be a period of severe economic stress. During this period, industries which were the backbone of the rural economy—agriculture, timber, mining manufacturing—have deteriorated.

The gap between rural employment and urban employment has increased from a positive 4 percent in 1988, in favor of the rural sectors of our economy, to less than zero percent today. Rural poverty rates in comparison with urban poverty rates were narrowing in the 1970's. But during the 1980's the differential increased by 2 to 3 percent. Rural per capita income as a percent of urban per capita income slipped from a high of 78 percent in 1973 to 71 percent in 1987. By every major standard, rural economies have fallen sharply behind urban economies.

This represents a dramatic reversal of trends established in the 1970's, when the differences between rural and urban economies was narrowing.

The impact of all this can be seen in population statistics. Rural America is losing its most valuable asset—its people. Young, educated entrepreneurs are moving out.

In fact, the Northern Great Plains, which my own State of Montana comprises, has experienced a 6-percent drop in population during the 1980's.

The facts are clear. Rural America is not doing very well. Unless the Federal, State and local governments take action to reverse this trend, the future of rural America and its people are in jeopardy.

In order to create jobs and to compete in today's global economy, rural America must diversify.

Congress can address this lack of economic opportunity by providing the means necessary to expand the rural employment base away from natural resource-based industries to new manufacturing and service industries.

My legislation will provide an essential tool to help foster business development in rural America. Namely tax incentives to encourage business of all types to locate or expand their operations in rural areas.

My bill is modeled after enterprise zone programs which have been initiated in 37 States. Nationally, the State enterprise zone initiatives are credited with creating over 133,000 new jobs and preserving more than 67,000 existing ones while simultaneously attracting nearly $9 billion in new investment in depressed areas.

The bill would provide a 10 percent investment tax credit for investment in new construction property and new equipment. This will help encourage the physical infrastructure needed to create jobs.

The bill also provides for a 40 percent research and development tax credit for R&D conducted in rural enterprise zones. This will help attract and keep the scientists and engineers who provide the intellectual foundation for enhancing business opportunities.

In addition, the bill will provide an incentive for investors to look closely at rural areas by deferring the capital gains tax for those investors who reinvest their gains in qualified zone property.

I believe that this new package of tax incentives for investment in rural areas will go a long way toward giving community leaders the tools they need to attract and keep jobs.

More importantly, they will make more opportunities available to young entrepreneurs so that they will be encouraged to remain and develop jobs in rural areas instead of being forced to move to urban centers for employment.

In conclusion, this legislation will help reverse the historical flow of investment capital from rural to urban areas by providing an incentive for investors to seek out and create investment opportunities in rural America. It will encourage business to expand its capital base. And it will foster development of high-tech industries. Taken together, these provisions will provide a much needed infusion of job opportunities—and hope—for Americans living in rural areas.

Mr. President, I ask that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 686

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Rural Business Revitalization Act of 1991".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—DESIGNATION OF RURAL ENTERPRISE ZONES

SEC. 101. DESIGNATION OF ZONES.

(a) GENERAL RULE.—Chapter 80 (relating to general rules) is amended by adding at the end thereof the following new subchapter:

"Subchapter D—Designation of Rural Enterprise Zones

"Sec. 7881. Designation.

"SEC. 7881. DESIGNATION.

"(a) DESIGNATION OF ZONES.—

"(1) DEFINITIONS.—For purposes of this title, the term 'rural enterprise zone' means any area—

"(A) which is nominated by 1 or more local governments and the State or States in which it is located for designation as a rural enterprise zone (hereafter in this section referred to as a 'nominated area'), and

"(B) which the Secretary of the Treasury, after consultation with—

"(i) the Secretaries of Agriculture, Commerce, Labor, and Housing and Urban Development, and the Administrator of the Small Business Administration, and

"(ii) in the case of an area on an Indian reservation, the Secretary of the Interior, designates as a rural enterprise zone.

"(2) LIMITATIONS ON DESIGNATIONS.—

"(A) PUBLICATION OF REGULATIONS.—Before designating any area as a rural enterprise zone and not later than 4 months following the date of the enactment of this section, the Secretary shall prescribe by regulation, after consultation with the officials described in paragraph (1)(B)—

"(i) the procedures for nominating an area under paragraph (1)(A),

"(ii) the parameters relating to the size and population characteristics of a rural enterprise zone, and

"(iii) the manner in which nominated areas will be compared based on the criteria specified in subsection (d) and the other factors specified in subsection (f).

"(B) TIME LIMITATIONS.—The Secretary shall designate nominated areas as rural enterprise zones only during the 36-month period beginning on the later of—

"(i) the first day of the first month following the month in which the effective date of the regulations described in subparagraph (A) occurs, or

"(ii) January 1, 1992.

"(C) PROCEDURAL RULES.—The Secretary shall not make any designation of an area as a rural enterprise zone under paragraph (1) unless—

"(i) the local government and the State in which the nominated area is located have the authority—

"(I) to nominate such area for designation as a rural enterprise zone,

"(II) to make the State and local commitments under subsection (d), and

"(III) to provide assurances satisfactory to the Secretary that such commitments will be fulfilled,

"(ii) a nomination therefor is submitted in such a manner and in such form, and contains such information, as the Secretary shall by regulation prescribe,

"(iii) the Secretary determines that any information furnished is reasonably accurate, and

"(iv) the State and local governments certify that no portion of such area is already included in a rural enterprise zone or in an area otherwise nominated to be a rural enterprise zone.

"(3) NOMINATION PROCESS FOR INDIAN RESERVATIONS.—In the case of a nominated area on an Indian reservation, the reservation governing body (as determined by the Secretary of the Interior) shall be deemed to be both the State and local governments with respect to such area.

"(b) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

"(1) IN GENERAL.—Any designation of an area as a rural enterprise zone shall remain in effect during the period beginning on the date of the designation and ending on the earliest of—

"(A) December 31 of the 15th calendar year following the calendar year in which such date occurs,

"(B) the termination date designated by the State and local governments as provided in the nomination submitted under subsection (a)(2)(C)(ii), or

"(C) the date the Secretary revokes such designation under paragraph (2).

"(2) REVOCATION OF DESIGNATION.—The Secretary, after consultation with the officials described in subsection (a)(1)(B), may revoke the designation of an area if the Secretary determines that the local government or the State in which it is located is not complying substantially with the State and local commitments under subsection (d).

"(c) AREA AND ELIGIBILITY REQUIREMENTS.—

"(1) IN GENERAL.—The Secretary may make a designation of any nominated area under subsection (a)(1) only if it meets the requirements of paragraphs (2) and (3).

"(2) AREA REQUIREMENTS.—A nominated area meets the requirements of this paragraph if—

"(A) the area is—

"(i) a county or a political subdivision the aggregate population of which is 50,000 or less, or

"(ii) a county or a political subdivision the aggregate population of which exceeds 50,000, which is determined by the Secretary to be a rural area, and

"(B) the boundary is continuous.

"(3) ELIGIBILITY REQUIREMENTS.—For purposes of paragraph (1), a nominated area meets the requirements of this paragraph if the State and local governments in which it is located certify and the Secretary, after such review of supporting data as he deems appropriate, accepts such certification, that there exists general economic distress in the area. For general economic distress to be present, at least one of the following criteria must be met:

"(A) The area is one where there is evidence of high rates of poverty or unemployment, reduced incomes, or the number of jobs in the area has dropped from year-to-year.

"(B) The area is located within the jurisdiction of a local government that the Secretary finds is experiencing a high number of farm or small business bankruptcies, loss of private investment in the business sector, or other factors determined to be relevant in assessing the comparative degree of economic deterioration in the rural area.

"(C) During the period after 1974 and before the calendar year in which the area is nominated, there are 5 years during which the population in the area (as determined from the most recent estimates of population by the Department of Commerce) decreased by at least 2 percent from the prior year.

"(d) REQUIRED STATE AND LOCAL COMMITMENTS.—

"(1) IN GENERAL.—No nominated area shall be designated as a rural enterprise zone unless the local government and the State in which it is located agree in writing that, during any period during which the area is a rural enterprise zone, such governments will follow a specified course of action designed to reduce the various burdens borne by employers or employees in such area.

"(2) COURSE OF ACTION.—The course of action under paragraph (1) may be implemented by both the State and local governments and private nongovernmental entities, may be funded from proceeds of any Federal program, and may include, but is not limited to—

"(A) a reduction of tax rates or fees applying within the rural enterprise zone,

"(B) an increase in the level or efficiency of local services within the rural enterprise zone,

"(C) actions to reduce, remove, simplify, or streamline governmental requirements which apply within the rural enterprise zone,

"(D) involvement in the program by private entities, organizations, neighborhood associations, and community groups, particularly those within the nominated area, including a commitment from such private entities to provide jobs and job training for, and technical, financial or other assistance to, employers, employees, and residents of the nominated area, and

"(E) mechanisms to increase the equity ownership of residents and employees within the rural enterprise zone.

"(3) SUBSEQUENT MODIFICATION OF COURSE OF ACTION.—The Secretary may by regulation prescribe procedures for modifying a course of action within a rural enterprise zone under paragraph (1) following designation of such zone.

"(e) PRIORITY OF DESIGNATION.—In choosing nominated areas for designation, the Secretary shall give special preference to the areas with respect to which the strongest and highest quality contributions described in subsection (d)(2) have been promised as part of the course of action, taking into consideration the fiscal ability of the nominating State and local governments to provide tax relief. The Secretary shall also give preference to—

"(1) the nominated areas with respect to which the nominating State and local governments have provided the most effective and enforceable guarantees that the proposed course of action under subsection (d) will actually be carried out during the period of the rural enterprise zone designation,

"(2) the nominated areas with high levels of poverty, unemployment, and general distress, particularly the areas—

"(A) which are near areas with concentrations of disadvantaged workers or long-term unemployed individuals, and

"(B) with respect to which there is a strong likelihood that residents of the area described in subparagraph (A) will receive jobs if the area is designated as a rural enterprise zone,

"(3) the nominated areas the size and location of which—

"(A) will primarily stimulate new economic activity, and

"(B) minimize unnecessary tax losses to the Federal Government,

"(4) the nominated areas with respect to which private entities have made the most substantial commitments in additional resources and contributions, including the creation of new or expanded business activities, and

"(5) the nominated areas which best exhibit such other factors determined by the Secretary as are—

"(A) consistent with the intent of the rural enterprise zone program, and

"(B) important to minimizing the unnecessary loss of tax revenues to the Federal Government.

"(f) DEFINITIONS.—For the purposes of this title—

"(1) GOVERNMENTS.—If more than 1 government seeks to nominate an area as a rural enterprise zone, any reference to, or requirement of, this section shall apply to all such governments.

"(2) STATE.—The term 'State' shall also include the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau; and any other possession of the United States.

"(3) LOCAL GOVERNMENT.—The term 'local government' means—

"(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State, and

"(B) any combination of political subdivisions described in subparagraph (A) recognized by the Secretary of Housing and Urban Development."

(b) CONFORMING AMENDMENT.—The table of subchapters for chapter 80 is amended by adding at the end thereof the following new item:

"SUBCHAPTER D. Designation of rural enterprise zones."

SEC. 102. EVALUATION AND REPORTING REQUIREMENTS.

Not later than the close of the third calendar year after the calendar year in which the Secretary of the Treasury first designates areas as rural enterprise zones under section 7881 of the Internal Revenue Code of 1986, and at the close of each third calendar year thereafter, the Secretary of the Treasury shall prepare and submit to the Congress a report on the effects of such designation in accomplishing the purposes of this Act.

SEC. 103. INTERACTION WITH OTHER FEDERAL PROGRAMS.

(a) TAX REDUCTIONS.—Any reduction of taxes under any required program of State and local commitment under section 7881(d) of the Internal Revenue Code of 1986 shall be disregarded in determining the eligibility of a State or local government for, or the amount or extent of, any assistance or benefits under any law of the United States.

(b) COORDINATION WITH RELOCATION ASSISTANCE.—The designation of a rural enterprise zone under section 7881 of such Code shall not—

(1) constitute approval of a Federal or federally assisted program or project (within the meaning of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.)), or

(2) entitle any person displaced from real property located in such zone to any rights or any benefits under such Act.

(c) COORDINATION WITH ENVIRONMENTAL POLICY.—Designation of a rural enterprise zone under section 7881 of such Code shall not constitute a Federal action for purposes of applying the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or other provisions of Federal law relating to the protection of the environment.

TITLE II—FEDERAL INCOME TAX INCENTIVES

SEC. 201. CREDIT FOR RURAL ENTERPRISE ZONE EMPLOYERS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45. CREDIT FOR RURAL ENTERPRISE ZONE EMPLOYMENT.

"(a) IN GENERAL.—For purposes of section 38, the amount of the rural enterprise zone credit determined under this section for any taxable year shall be an amount equal to—

"(1) 10 percent of the qualified increased employment expenditures of the taxpayer for the taxable year, and

"(2) 10 percent of the wages paid employees during any portion of the taxable year during which the employer is training or retraining such employees.

"(b) COMPUTATION OF CREDIT.—Wages paid during training or retraining under subsection (a)(2) shall not be taken into account for purposes of determining qualified increased employment expenditures under subsection (a)(1).

"(c) QUALIFIED INCREASED EMPLOYMENT EXPENDITURES DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified increased employment expenditures' means the excess of—

"(A) the qualified wages paid or incurred by the employer during the taxable year to qualified employees with respect to all rural enterprise zones, over

"(B) the base period wages of the employer with respect to all such zones.

"(2) BASE PERIOD WAGES.—

"(A) IN GENERAL.—The term 'base period wages' means, with respect to any rural enterprise zone, the amount of wages paid to employees during the 12-month period preceding the date on which the rural enterprise zone was designated as such under section 7881, or the date on which the rural enterprise zone is designated under State law, enacted after January 1, 1981, if earlier, which would have been qualified wages paid to qualified employees if such designation had been in effect for such period.

"(B) RULES OF SPECIAL APPLICATION.—For purposes of subparagraph (A), subsection (e)(1) shall be applied by substituting '12-month period' for 'taxable year' each place it appears.

"(C) ADJUSTMENTS FOR INFLATION.—

"(i) IN GENERAL.—In the case of any taxable year beginning after the period described in subparagraph (A) with respect to a rural enterprise zone, the base period wages for such zone shall be increased by an amount equal to—

"(I) such base period wages, multiplied by

"(II) the living standard adjustment for the calendar year in which such taxable year begins.

"(ii) LIVING STANDARD ADJUSTMENT.—For purposes of clause (i), the living standard adjustment for any calendar year is the percentage (if any) by which—

"(I) the living standard for the preceding calendar year, exceeds

"(II) the living standard for the calendar year in which the period described in subparagraph (A) begins.

"(iii) LIVING STANDARD FOR ANY CALENDAR YEAR.—For purposes of clause (ii), the living standard for any calendar year is the lower living standard for a family of 4 as determined by the Bureau of Labor Statistics for such calendar year.

"(d) QUALIFIED WAGES DEFINED.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified wages' has the meaning given to the term 'wages' by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section).

"(2) REDUCTION FOR CERTAIN FEDERALLY FUNDED PAYMENTS.—For purposes of this section, the wages paid or incurred by an employer for any period shall not include the amount of any federally funded payments the employer receives or is entitled to receive for on-the-job training of such individual for such period.

"(3) SPECIAL RULES FOR AGRICULTURAL AND RAILWAY LABOR.—Under regulations prescribed by the Secretary, rules similar to the rules of section 51(h) shall apply with respect to services described in subparagraphs (A) and (B) of section 51(h)(1).

"(e) QUALIFIED EMPLOYEE DEFINED.—For purposes of this section, the term 'qualified employee' means an individual—

"(1) at least 90 percent of whose services for the employer during the taxable year are directly related to the conduct of the employer's trade or business located in a rural enterprise zone, and

"(2) who performs at least 50 percent of his services for the employer during the taxable year in a rural enterprise zone.

"(f) SPECIAL RULES.—For purposes of this section—

"(1) PERIODS OF LESS THAN A YEAR.—If designation of an area as a rural enterprise zone under section 7881 occurs, expires, or is revoked on a date other than the first or last day of the taxable year of the taxpayer, or in the case of a short taxable year—

"(A) the base period wages determined under subsection (c)(3) shall be adjusted on a pro rata basis (based upon the number of days), and

"(B) the reduction specified in subsection (d)(2) and the 90 percent and 50 percent tests set forth in subsection (e)(1) shall be determined by reference to the portion of the taxable year during which the designation of the area as a rural enterprise zone is in effect.

"(2) REVOCATION OF DESIGNATION.—If the designation of an area as a rural enterprise zone is revoked under section 7881(b)(2), such area shall continue to be treated as a rural enterprise zone for the period of 3 taxable years beginning on the date which is after the date of such revocation.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including regulations to prevent the abuse of such purposes by denying the credit allowable under this section to employers which relocate their businesses in a rural enterprise zone while displacing former employees or which otherwise conduct their businesses so as to take advantage of the credit allowable by this section without furthering such purposes."

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 is amended by striking "plus" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ", plus", and by adding at the end thereof the following new paragraph:

"(8) the credit for rural enterprise zone employment under section 45."

(c) NO DEDUCTION ALLOWED.—Section 280C (relating to disallowance of deductions for certain expenses for which credits are allowable) is amended by adding at the end the following new subsection:

"(d) RULE FOR SECTION 45 CREDITS.—No deduction shall be allowed for that portion of the wages or salaries paid or incurred for the taxable year which is equal to the amount of the credit allowable under section 45 (relating to credit for rural enterprise zone employment). This subsection shall be applied under rules similar to the rules under the last sentence of subsection (a)."

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding after the item relating to section 44 the following new item:

"Sec. 45. Credit for rural enterprise zone employment."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 202. INVESTMENT TAX CREDIT FOR RURAL ENTERPRISE ZONE PROPERTY.

(a) CREDIT ALLOWED.—Section 46 (relating to amount of credit) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by adding after paragraph (3) the following new paragraph:

"(4) the rural enterprise zone credit."

(b) AMOUNT OF CREDIT.—

(1) IN GENERAL.—Section 48 is amended by adding at the end thereof the following new subsection:

"(c) RURAL ENTERPRISE ZONE CREDIT.—

"(1) IN GENERAL.—For purposes of section 46, the rural enterprise zone credit for any taxable year is the enterprise zone percentage of the basis of rural enterprise zone property placed in service during such taxable year.

"(2) RURAL ENTERPRISE ZONE PERCENTAGE.—For purposes of this subsection, the rural enterprise zone percentage is 10 percent.

"(3) RURAL ENTERPRISE ZONE PROPERTY.—

"(A) IN GENERAL.—The term 'rural enterprise zone property' means property—

"(i) which is—

"(I) zone personal property, or

"(II) new zone construction property,

"(ii) not acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer (determined as of the time the property is acquired by the taxpayer), and

"(iii) acquired and first placed in service by the taxpayer in a rural enterprise zone during the period the designation as a zone is in effect under section 7881.

"(B) ZONE PERSONAL PROPERTY DEFINED.—The term 'zone personal property' means property which is—

"(i) 3-year property;

"(ii) 5-year property;

"(iii) 7-year property;

"(iv) 10-year property;

"(v) 15-year property; and

"(vi) 20-year property;

which is used by the taxpayer predominantly in the active conduct of a trade or business within a rural enterprise zone. Property shall not be treated as 'zone personal property' if it is used or located outside the rural enterprise zone on any regular basis.

"(C) NEW ZONE CONSTRUCTION PROPERTY DEFINED.—The term 'new zone construction property' means any residential rental property or nonresidential real property which is—

"(i) located in a rural enterprise zone,

"(ii) used by the taxpayer predominantly in the active conduct of a trade or business within a rural enterprise zone, and

"(iii) either—

"(I) the construction, reconstruction, rehabilitation, renovation, expansion, or erection of which is completed by the taxpayer during the period the designation as a zone is in effect under section 7881, or

"(II) acquired during such period if the original use of such property commences with the taxpayer and commences during such period.

"(D) COORDINATION WITH REHABILITATION PERCENTAGE.—The rural enterprise zone percentage shall not apply to the portion of the basis of any property which is attributable to qualified rehabilitation expenditures.

"(4) DEFINITIONS AND SPECIAL RULES.—

"(A) 3-YEAR PROPERTY.—For purposes of this subsection, the terms '3-year property', '5-year property', '7-year property', '10-year property', 'residential rental property', 'nonresidential real property', '15-year property', and '20-year property' have the meanings given such terms by section 168(e).

"(B) RELATED PERSON.—For purposes of paragraph (3)(A), a person (hereafter in this subparagraph referred to as the 'related person') is related to any other person if—

"(i) the related person bears a relationship to such other person specified in section 267(b) or 707(b)(1), or

"(ii) the related person and such other person are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52).

For purposes of clause (i), '10 percent' shall be substituted for '50 percent' in applying sections 267(b)(1) and 707(b)(1). In the case of the acquisition of any property by any partnership which results from the termination of another partnership under section 708(b)(1)(B), the determination of whether the acquiring partnership is related to the other partnership shall be made immediately before the event resulting in such termination.

"(C) REAL ESTATE RENTAL.—For purposes of this section, ownership of residential, commercial, or industrial real property within a rural enterprise zone for rental shall be treated as the active conduct of a trade or business in a rural enterprise zone."

(2) CONFORMING AMENDMENTS.—

(A) The heading for section 48 is amended by inserting "; **RURAL ENTERPRISE ZONE CREDIT**" after "**REFORESTATION CREDIT**".

(B) The item relating to section 48 in the table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by inserting "; rural enterprise zone credit" after "reforestation credit".

(c) LODGING TO QUALIFY.—Paragraph (2) of section 50(b) (relating to property used for lodging) is amended—

(1) by striking "and" at the end of subparagraph (C),

(2) by striking the period at the end of subparagraph (D) and inserting ", and," and

(3) by adding at the end thereof the following new subparagraph:

"(E) new zone construction property (as defined in section 48(c))."

(d) RECAPTURE.—Section 50(a) (relating to recapture) is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULES FOR NEW ZONE CONSTRUCTION PROPERTY.—In the case of investment credit property which is new zone construction property (as defined in section 48(c))—

"(A) the recapture percentage shall be equal to 100 percent, reduced by the percentage determined by dividing the number of full years the taxpayer held the property after the property was placed in service by the applicable recovery period for such property under section 312(k), and

"(B) property shall not be treated as ceasing to be investment credit property by reason of the expiration or revocation of the designation as an enterprise zone."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 1991.

SEC. 203. INCREASE IN RESEARCH CREDIT FOR RESEARCH CONDUCTED IN RURAL ENTERPRISE ZONES.

(a) IN GENERAL.—Section 41 (relating to credit for increasing research activities) is amended by adding at the end the following new subsection:

"(i) INCREASE IN CREDIT FOR RESEARCH CONDUCTED IN RURAL ENTERPRISE ZONE.—Subsection (a)(1) shall be applied by substituting '40 percent' for '20 percent' with respect to the lesser of—

"(1) the excess described in subsection (a)(1), or

"(2) the excess which would be described in subsection (a)(1) if only research conducted in rural enterprise zones were taken into account.

For purposes of paragraph (2), an area shall be treated as a rural enterprise zone for a base period with respect to a taxable year if such area is designated as a rural enterprise zone for such taxable year."

(b) TECHNICAL AMENDMENT.—Subsection (h)(1) of section 41 is amended by striking "This" and inserting "Except for the amount of any credit determined under subsection (i), this".

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1991, and to base periods with respect to such taxable years.

SEC. 204. DEFERRAL OF CAPITAL GAIN REINVESTED IN ZONE PROPERTY.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 (relating to nontaxable exchanges) is amended by adding at the end thereof the following new section:

"SEC. 1044. DEFERRAL OF CAPITAL GAIN REINVESTED IN ZONE PROPERTY.

"(a) GENERAL RULE.—Except as otherwise provided in this section, any qualified reinvested capital gain shall be taken into account for purposes of this title—

"(1) in the 9th taxable year following the taxable year of the sale or exchange, or

"(2) in such earlier taxable year (or years) following the taxable year of the sale or exchange as the taxpayer may provide.

"(b) QUALIFIED REINVESTED CAPITAL GAIN.—For purposes of this section—

"(1) QUALIFIED REINVESTED CAPITAL GAIN.—The term 'qualified reinvested capital gain' means the amount of any long-term capital gain (determined without regard to this section) from any sale or exchange to which an election under this section applies but only to the extent that the amount of such gain exceeds the excess (if any) of—

"(A) the amount realized on such sale or exchange, over

"(B) the cost of any qualified zone property which—

"(i) is purchased by the taxpayer during the reinvestment period, and

"(ii) the taxpayer elects to take into account under this paragraph with respect to such sale or exchange.

For purposes of subparagraph (B), the cost of any property shall be reduced by the portion of such cost previously taken into account under this paragraph.

"(2) QUALIFIED ZONE PROPERTY.—

"(A) IN GENERAL.—The term 'qualified zone property' means—

"(i) any tangible property if substantially all of the use of such property is in a rural enterprise zone and is in the active conduct of a trade or business in such zone (during the period the designation as a zone is in effect under section 7881),

"(ii) any new zone construction property as defined in section 48(c)(3)(C), and

"(iii) any qualified zone equity investment.

"(B) QUALIFIED ZONE EQUITY INVESTMENT.—The term 'qualified zone equity investment' means any stock in a corporation or partnership interest in a partnership if—

"(i) at the time such stock or partnership interest is issued—

"(I) substantially all of the activities of the corporation or partnership (as the case may be) involve the active conduct of 1 or more trades or businesses in a rural enterprise zone (designated under section 7881), or

"(II) in the case of a new corporation or partnership, such corporation or partnership (as the case may be) is being organized for purposes of engaging in activities substantially all of which will involve such active conduct, and

"(ii) such stock or partnership interest was issued by the corporation or partnership to the taxpayer in exchange for money or other property (other than stock and securities).

"(3) REINVESTMENT PERIOD.—The term 'reinvestment period' means, with respect to any sale or exchange, the period beginning on the date of such sale or exchange and ending on the day 2 years after the close of the taxable year in which such sale or exchange occurs.

"(4) PURCHASE.—the term 'purchase' has the meaning given to such term by section 179(d)(2).

"(c) TERMINATION OF DEFERRAL IN CERTAIN CASES.—

"(1) CERTAIN DISPOSITIONS, ETC., OF REPLACEMENT PROPERTY.—

"(A) IN GENERAL.—If the taxpayer disposes of any qualified zone property (or such property otherwise ceases to be qualified zone property) before the date 5 years after the date of its purchase—

"(i) any amount treated as a qualified reinvested capital gain by reason of the purchase of such property (to the extent not previously taken into account under subsection (a)) shall be taken into account for the taxable year in which such disposition or cessation occurs, and

"(ii) the tax imposed by this chapter for the taxable year in which such disposition or cessation occurs shall be increased by interest at the underpayment rate (established under section 6621(a)(2))—

"(I) on the additional tax which would have been imposed under this chapter (but for this section) for the taxable year of the sale or exchange, and

"(II) for the period of the deferral under this section.

Any increase in tax under clause (ii) shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit allowable under this chapter or the amount of the minimum tax imposed by section 55.

"(B) SPECIAL RULE FOR QUALIFIED ZONE EQUITY INVESTMENT.—

"(i) IN GENERAL.—For purposes of subparagraph (A), any qualified zone equity investment in any corporation or partnership shall be treated as ceasing to be qualified zone property as of the close of any taxable year of such corporation or partnership beginning after the issuance of such investment unless at least 80 percent of the total gross income of such corporation or partnership for such taxable year was derived from the active conduct of a trade or business within a rural enterprise zone.

"(ii) SPECIAL RULE.—For purposes of clause (i), the determination of whether any area is a rural enterprise zone shall be made as of the date the qualified zone equity investment was issued.

"(C) EXCEPTIONS.—Subparagraph (A) shall not apply to—

"(i) a disposition in a transaction to which section 381(a) applies, or

"(ii) any disposition in a compulsory or involuntary conversion (within the meaning of section 1033).

For purposes of subparagraph (A), property shall not be treated as disposed of (or otherwise ceasing to be qualified zone property) by reason of a mere change in the form of conducting the trade or business so long as the property is retained in such trade or business as qualified zone property and the taxpayer retains a substantial interest in such trade or business.

"(D) TRANSFERS BETWEEN SPOUSES OR INCIDENT TO DIVORCE.—In the case of any transfer described in subsection (a) of section 1041—

"(i) subparagraph (A) of this paragraph shall not apply, and "(ii) any disposition (or change in use) by the transferee shall be treated as a disposition or change in use by the transferor.

"(2) LAST TAXABLE YEAR.—In the case of the last taxable year of any taxpayer, any qualified reinvestment capital gain (to the extent not previously taken into account under subsection (a)) shall be taken into account for such last taxable year. The preceding sentence shall not apply in the case of a transaction to which section 381(a) applies.

"(d) COORDINATION WITH INSTALLMENT METHOD REPORTING.—This section shall not apply to any gain from any installment sale (as defined in section 453(b)) if section 453(a) applies to such sale.

"(e) STATUTE OF LIMITATIONS.—If any gain is realized by the taxpayer on any sale or exchange to which an election under this section applies, then—

"(1) the statutory period for the assessment of any deficiency with respect to such gain shall not expire before the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may by regulations prescribe) of—

"(A) the taxpayer's cost of purchasing any qualified zone property,

"(B) the taxpayer's intention not to purchase qualified zone property within the reinvestment period, or

"(C) a failure to make such purchase within the reinvestment period, and

"(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any law or rule of law which would otherwise prevent such assessment."

(b) CLERICAL AMENDMENT.—The table of sections of part III of subchapter O of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1044. Deferral of capital gain reinvested in zone property."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges after December 31, 1991, in taxable years ending after such date.•

By Mr. JOHNSTON (by request):

S. 687. A bill to specify the applicability or inapplicability of certain Federal laws to the Commonwealth of the Northern Mariana Islands, and for other purposes; to the Committee on Energy and Natural Resources.

APPLICABILITY OF CERTAIN FEDERAL LAWS TO THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

• Mr. JOHNSTON. Mr. President, today I am introducing legislation by request of the Administration regarding the applicability of certain Federal laws to the Commonwealth of the Northern Mariana Islands [CNMI].

I am pleased that representatives of the President of the United States and of the Governor of the CNMI have dedicated themselves to working together to identify areas where Federal laws should be modified to respond to the particular circumstances of the islands. This consultative process was established under section 902 of the Covenant between the United States and the CNMI which was enacted in 1976 as Public Law 94-241. Section 902 provides a mechanism to resolve the legal issues that have arisen, and that will inevitably continue to occur, when broadly drawn national legislation is applied to a small and remote island group such as the Northern Mariana Islands. I look forward to working with the Department of the Interior and with the CNMI government in considering this legislation.

Mr. President, I ask unanimous consent that the letter of transmittal and a sectional analysis which accompanied this legislation be inserted in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, DC, October 23, 1990.

Hon. J. DANFORTH QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is draft legislation "To specify the applicability or inapplicability of certain Federal laws to the Commonwealth of the Northern Mariana Islands, and for other purposes."

This draft legislation is submitted by the Department of the Interior pursuant to the Secretary of the Interior's responsibility under Executive Order 12572. The draft legislation is a product of consultations under section 902 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (P.L. 94-241, 90 Stat. 263, March 24, 1976).

Section 902 provides in pertinent part, that:

"The Government of the United States and the government of the Northern Mariana Islands will consult regularly on all matters affecting the relationship between them. At the request of either Government, and not less frequently than every ten years, the President of the United States and the Governor of the Northern Mariana Islands will designate special representatives to meet and consider in good faith such issues affecting the relationship between the Northern Mariana Islands as may be designated by either Government and to make a report and recommendations with request thereto * * *."

The enclosed draft legislation is the result of recent discussions between the Special Representative of the President of the United States and the Special Representatives of the Governor of the Commonwealth of the Northern Mariana Islands; it includes recommendations for proposed revisions to current United States law previously adopted by the former Northern Mariana Islands Commission on Federal Laws.

In identifying special problems of applying Federal law to the Northern Mariana Islands, and in formulating alternative solutions to such problems, agreement was reached with the Administration in four areas which are set forth in the draft legislation as follows:

Section 1, which would revise the residency requirement for naturalization under Section 302 of the Northern Marianas Covenant;

Section 2, which would authorize nominations to each of the United States military academies under existing law under the same conditions as American Samoa, Guam and the Virgin Islands;

Section 3, which would amend two Federal laws to clarify Department of Commerce responsibilities to advance the fishing interests of the Commonwealth of the Northern Mariana Islands; and

Section 4, which would concern consolidated grants by the Secretary of Education under the Higher Education Act.

Some of the proposals from the Northern Mariana Commission on Federal Law, as modified in the consultation process under section 902 of the Covenant, have been further modified during the Executive Branch clearance process. Section 2 not only permits the nomination and appointment to the service academies of persons from the Northern Marianas, but it also contains some perfecting amendments with respect to Puerto Rico and American Samoa that we believe are the result of oversights in earlier amendments to Title 10 of the United States Code. Section 3 pertaining to the advancement of fishing interests has been expanded to include all "territories, possessions, and commonwealths of the United States", since several in addition to the Northern Marianas have fishery concerns. And section 4, pertaining to grant consolidation under the Higher Education Act and Public Law 95-134, the language of which is a result of the Executive Branch clearance process, has also been made applicable to the Virgin Islands, Guam, and American Samoa, in addition to the Northern Marianas. The authority contained in that section is likely to be of value to each of these areas.

We would, finally, call attention to an internal conflict that we believe exists as to American Samoa in the laws that would be amended by section 2, pertaining to service academies. The problem arises because of the status of most Samoans as nationals but not citizens of the United States.

Many Samoans have achieved U.S. citizenship, either by birth or naturalization, but a majority are noncitizen nationals. Existing law requires that commissioned officers "in the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps" be citizens of the United States (10 U.S.C. 532(a)(1)). The provisions of existing law pertaining to the nomination of cadets and midshipmen from the insular areas do not impose a citizenship requirement. (The citizenship requirement appearing in 10 U.S.C. 6958(c)(1) for the Naval Academy is not applicable to nominees by Delegates from the insular areas, who need only be "domiciled" in such areas under 10 U.S.C. 6958(b)). Indeed, that nominees may be noncitizen nationals is apparent from provisions referring to a cadet or midshipman who is "a citizen or national of the United States" (10 U.S.C. 4348(e), 6959(e), and 9348(e)). Yet every academy graduate, except for one who is "not a citizen or national of the United States" (10 U.S.C. 4348(e), 6959(e), and 9348(e)) must accept an appointment, "if tendered," as a commissioned officer (10 U.S.C. 4348(a), 6959(a), and 9348(a)). Obviously a noncitizen national of the United States, upon graduating from a service academy, would be barred by law from serving in the role which by law he or she is obliged to accept—if that role is "tendered."

We have included provisions in sections 2(b), 2(g), and 2(i) of this draft legislation to address this problem.

The Office of Management and Budget has advised that enactment of this legislation would be in accord with the program of the President.

Sincerely,

TIMOTHY W. GLIDDEN,
Counselor to the Secretary.

SECTIONAL ANALYSIS

Section 1, Residency requirement for naturalization, would allow persons electing U.S. nationality under section 302 of the Northern Marianas Covenant subsequently to satisfy the residency requirements for naturalization as a U.S. citizen by residence in the Northern Mariana Islands. Section 301 of the Covenant provides generally for the collective naturalization of the people of the Northern Marianas, declaring them to be citizens of the United States as of November 3, 1986. Section 303 provides that persons born in the Northern Marianas on or after November 3, 1986, become citizens of the United States at birth. But section 302 permits two categories of persons to choose to become noncitizen nationals of the United States instead of citizens:

(1) Those who become citizens of the United States under section 301 may, within six months of November 3, 1986, choose U.S. nationality instead by making a declaration under oath to that effect; and

(2) Those who reach the age of 18 after November 3, 1986, may also choose U.S. nationality instead of U.S. citizenship by making a similar declaration under oath.

We understand that no person described in (1) has made such declaration. It will be possible for those described in (2) to do so for some years yet to come.

The purpose of section 1 of the proposed bill is to accommodate one who has chosen nationality over citizenship, and who later changes his or her mind and seeks to become a citizen, to count residence in the Northern Marianas toward the residence requirement of the U.S. naturalization laws. Under existing law that would not be possible, because the Federal naturalization laws are largely inapplicable to the Northern Marianas under section 503(a) of the Covenant. Subsection (c) of the proposed bill would expand the jurisdiction of the courts of the Northern Marianas to permit the naturalization of such persons. Under section 506 of the Covenant, that jurisdiction is now very limited, owing to the inapplication generally of the Federal Immigration and Nationality Act to the Northern Marianas.

Section 2, Nominations to the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy, would authorize the nomination of one person from the Northern Marianas to attend each of the three service academies at any one time. Nominations would be made by the Resident Representative to the United States from the Northern Marianas. Nominations may be made under existing law in the same number from the Virgin Islands, Guam, and American Samoa, with nominations from those areas being made by their respective Delegates in Congress. Nomination is not the equivalent of admission, because nominees must meet certain physical and academic requirements.

Section 2 also contains some technical changes in existing law that are intended to overcome earlier drafting oversights. These changes appear in subsection (e) for Puerto Rico, and in subsections (c), (f), and (j) for American Samoa. In addition, section 2 contains language in subsections (b), (g), and (i) that is intended to meet the problem described in our cover letter, that is, the problem of noncitizen U.S. nationals being eligible for appointment to the academies, but ineligible to serve as commissioned officers thereafter. These subsections would require that such nonciizen nationals commence naturalization proceedings so as to become eligible for naturalization as U.S. citizens within two years following their admission to the academies.

Section 3, Fishery Trade Officers; Department of Commerce, amends two Federal laws to make clear that the Department of Commerce is obliged to advance the fishing interests of the Northern Marianas, as a part of its obligation to abvance fishing interests of the "United States." Public Law 96-511 (15 U.S.C. 1511b) provides for Department of Commerce fishery officers to "promote United States fishing interests"; and the Commerce Department's 1903 Organic Act provides that the Department is to foster foreign and domestic commerce, including "fishery industries of the United States" (15 U.S.C. 1512). Section 3 of the proposed bill is intended to make clear that the "United States" for the purposes of these two statutes includes the Northern Mariana Islands. The language chosen, however, which is "the territories, possessions, and commonwealths of the United States", would include insular areas in addition to the Northern Mariana Islands, inasmuch as several others also have fishery concerns.

Section 4, Consolidated Grant for Higher Education, authorizes the consolidation under section 5 of Public Law 95-134 of discretionary grants received by the Northern Mariana Islands under the Higher Education Act. Section 5 of Public Law 95-134 now permits the consolidation by any Federal department or agency of grants received by the Northern Marianas, as well as by the Virgin Islands, Guam, and American Samoa. Section 4 is intended to make clear that discretionary, or competitive, grants received by any such insular area under the Higher Education Act may be included in the consolidated grant.•

By Mr. DURENBERGER:

S. 688. A bill to grant employees family and sick leave under certain circumstances, and for other purposes; to the Committee on Labor and Human Resources.

FAMILY FINANCIAL AND JOB SECURITY ACT

• Mr. DURENBERGER. Mr. President, I rise today to introduce the Family Financial and Job Security Act to provide protection for the birth or adoption of a child and to provide expanded sick leave for the care of an immediate family member.

We are all aware of the changing nature of the American family in today's society and the rapid changes that have resulted in the American work force. Today, 24 percent of all children grow up in single parent families. And by the turn of the century, up to two-thirds of the work force will be women. As more and more single parents and women enter the work forces, we are seeing an increasing strain on work-family relations. Even among the traditional two-parent family we are seeing both parents in the work force often working longer hours and two jobs simply to retain the standard of living they grew up in.

These changing societal demands require us to review the work-family needs of families in the 1990's and beyond. The right of job security for the first few weeks following the birth or adoption of a child is not only in the best interest of the child and the family, it also makes good business sense in today's work force. Most businesses have acknowledged this and have implemented family leave policies and many States have adopted statutes protecting the right of reemployment for employees taking short periods of family leave for the birth or adoption of a child. The message is clear, no parent should be forced to choose between their job and having or adopting a child and caring for that child during the precious first weeks of a child's life.

The increasing number of women in the work force and the aging of American population also adds new pressures of caregiving for the American family. More and more individuals are in need of time away from work to deal with the medical needs of an immediate family member. Today's realities require a positive role for employers in meeting the multiple obligations their employees have both at home and at work.

The bill I am introducing today, Mr. President, is designed to address these two problems in a manner that is consistent with current State law and business practice. My bill would require employers with 50 or more employees to provide at least 10 weeks of unpaid leave following the birth or adoption of a child—a proposal similar to the original family leave policy under the family medical leave bill as passed by the Senate Labor and Human Resources Committee in the 101st Congress. In addition, my bill would allow employees to use up to five days of their own sick leave to care for the illness of an immediate family member. An employee using family leave would be entitled to their old job or a comparable job and would continue to receive health benefits during the period of leave. Sick leave for the care of an immediate family member would be taken under the same terms as that employee is able to use his or her own leave.

My proposal starts from the premise that employers need to take steps to assist their employees meet their dual obligations—at home and in the workplace. But it does so in a way that has maximum value to the greatest number of employees with a minimum disruption to current employment practices because it builds on an existing fringe benefit, rather than establishing a new Federal mandate for medical leave.

The family leave provided under my bill sticks closely to family leave policy passed by the Congress in the 101st Congress. New to this bill, Mr. President, is the idea of an expanded definition of an employee's own sick leave to include the care of a sick child, spouse or parent. The leave would be made under the same conditions as the employee's own sick leave. For most employees this means paid leave. Thus the primary advantage of my medical leave proposal is that it gives greater financial security to the employee by making paid leave available for a shorter period of time. I believe these shorter periods of paid leave represent a greater benefit to the employee than a longer period of unpaid leave, while at the same time, creating less disruption in the workplace for the employer.

A recent national study found that among those who have taken leave, approximately 10 percent were out of work less than one day and another 70 percent were on leave between 1 and 5 days. These statistics indicate that the greatest need for medical leave is for shorter periods of time, often scattered throughout the year. An expanded definition of sick leave seems to be an effective way of meeting that need.

It is important to point out that my proposal does not affect an employers right to negotiate or define their own benefit package. My proposal only affects those employers with more than 50 employees who offer sick leave benefits.

Mr. President, Minnesota was one of the first States to pass family leave legislation. During the last session, the Minnesota legislature debated whether or not to add a similar medical leave mandate. In the end, they rejected a new mandated medical leave policy in exchange for an expanded sick leave option similar to the one in this bill. I hope, Mr. President, that you will closely review both the family and sick leave proposals in my bill and come to the same conclusion that I have, that it provides the best option for ensuring that we no longer have families having to choose between work and family needs. I urge your support and ask unanimous consent that a copy of the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 688

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Family Financial and Job Security Act of 1991".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.

TITLE I—GENERAL REQUIREMENTS FOR LEAVE

Sec. 101. Definitions.
Sec. 102. Leave requirement.
Sec. 103. Employment and benefits protection.
Sec. 104. Sick leave.
Sec. 105. Prohibited acts.
Sec. 106. Administrative enforcement.
Sec. 107. Enforcement by civil action.
Sec. 108. Investigative authority.
Sec. 109. Relief.
Sec. 110. Special rules concerning employees of local educational agencies and private elementary and secondary schools.
Sec. 111. Notice.
Sec. 112. Regulations.

TITLE II—LEAVE FOR CIVIL SERVICE EMPLOYEES

Sec. 201. Leave requirement.

TITLE III—COMMISSION ON LEAVE

Sec. 301. Establishment.
Sec. 302. Duties.
Sec. 303. Membership.
Sec. 304. Compensation.
Sec. 305. Powers.
Sec. 306. Termination.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Effect on other laws.
Sec. 402. Effect on existing employment benefits.
Sec. 403. Encouragement of more generous leave policies.
Sec. 404. Effective dates.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the number of single-parent households and two-parent households in which the single parent or both parents work is increasing significantly;

(2) it is important for the development of children and the family unit that fathers and mothers be able to participate in early childrearing;

(3) the lack of employment policies to accommodate working parents can force individuals to choose between job security and parenting;

(4) due to the nature of the roles of men and women in our society, the primary responsibility for family caretaking often falls on women, and such responsibility affects the working lives of women more than it affects the working lives of men; and

(5) employment standards that apply to one gender only have serious potential for encouraging employers to discriminate against employees and applicants for employment who are of that gender.

(b) PURPOSES.—It is the purpose of this Act—

(1) to balance the demands of the workplace with the needs of families, and to promote the stability and economic security of families;

(2) to entitle employees to take reasonable leave for medical reasons, for the birth or adoption of a child, and for the care of a child, spouse, or parent;

(3) to accomplish the purposes described in paragraphs (1) and (2) in a manner that accommodates the legitimate interests of employers;

(4) to accomplish the purposes described in paragraphs (1) and (2) in a manner that, consistent with the Equal Protection Clause of the Fourteenth Amendment, minimizes the potential for employment discrimination on the basis of sex by ensuring generally that leave is available for eligible medical reasons (including maternity-related disability) and for compelling family reasons, on a gender-neutral basis; and

(5) to promote the goal of equal employment opportunity for women and men, pursuant to such clause.

TITLE I—GENERAL REQUIREMENTS FOR LEAVE

SEC. 101. DEFINITIONS.

As used in this title:

(1) COMMERCE.—The terms "commerce" and "industry or activity affecting commerce" mean any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce, and include "commerce" and any "industry affecting commerce", as defined in paragraphs (3) and (1), respectively, of section 120 of the Labor Management Relations Act, 1947 (29 U.S.C. 142 (3) and (1)).

(2) ELIGIBLE EMPLOYEE.—

(A) IN GENERAL.—The term "eligible employee" means any "employee", as defined in section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)), who has been employed by the employer with respect to whom leave is sought under section 102 or 104 for at least—

(i) 1,000 hours of service during the previous 12-month period; and

(ii) 12 months.

(B) EXCLUSIONS.—The term "eligible employee" does not include—

(i) any Federal officer or employee covered under subchapter V of chapter 63 of title 5, United States Code (as added by title II); or

(ii) any employee of an employer who is employed at a worksite at which such employer employs less than 50 employees if the total number of employees employed by that employer within 75 miles of that worksite is less than 50.

(3) EMPLOY; STATE.—The terms "employ" and "State" have the same meanings given such terms in subsections (g) and (c), respectively, of section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(g) and (c)).

(4) EMPLOYEE.—The term "employee" means any individual employed by an employer.

(5) EMPLOYER.—

(A) IN GENERAL.—The term "employer"—

(i) means any person engaged in commerce or in any industry or activity affecting commerce who employs 50 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year;

(ii) includes—

(I) any person who acts, directly or indirectly, in the interest of an employer to any of the employees of such employer; and

(II) any successor in interest of an employer; and

(iii) includes any "public agency", as defined in section 3(x) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(x)).

(B) PUBLIC AGENCY.—For purposes of subparagraph (A)(iii), a public agency shall be considered to be a person engaged in commerce or in an industry or activity affecting commerce.

(6) EMPLOYMENT BENEFITS.—The term "employment benefits" means all benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a policy or practice of an employer or through an "employee welfare benefit plan", as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)).

(7) HEALTH CARE PROVIDER.—The term "health care provider" means—

(A) a doctor of medicine or osteopathy that is legally authorized to practice medicine and surgery by the State in which the doctor performs such function or action; or

(B) any other person determined by the Secretary to be capable of providing health care services.

(8) PARENT.—The term "parent" means the biological parent of the child or an individual who stood in loco parentis to a child when the child was a son or daughter.

(9) PERSON.—The term "person" has the same meaning given such term in section 3(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(a)).

(10) REDUCED LEAVE SCHEDULE.—The term "reduced leave schedule" means leave scheduled for fewer than the usual number of hours per workweek, or hours per workday, of an employee.

(11) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(12) SON OR DAUGHTER.—The term "son or daughter" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is—

(A) under 18 years of age; or

(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

SEC. 102. LEAVE REQUIREMENT.

(a) IN GENERAL.—

(1) ENTITLEMENT TO LEAVE.—An eligible employee shall be entitled to 10 workweeks of leave during any 12-month period—

(A) because of the birth of a son or daughter of the employee; or

(B) because of the placement of a son or daughter with the employee for adoption or foster care.

(2) EXPIRATION OF ENTITLEMENT.—The entitlement to leave under paragraph (1) shall expire at the end of the 12-month period beginning on the date of the birth or placement involved.

(3) INTERMITTENT LEAVE.—Leave under paragraph (1) shall not be taken by an employee intermittently unless the employee and the employer of the employee agree otherwise.

(b) REDUCED LEAVE.—On agreement between the employer and the employee, leave under subsection (a) may be taken on a reduced leave schedule. Such reduced leave schedule shall not result in a reduction in the total amount of leave to which such employee is entitled.

(c) UNPAID LEAVE PERMITTED.—Except as provided in subsection (d), leave under subsection (a) may consist of unpaid leave.

(d) RELATIONSHIP TO PAID LEAVE.—

(1) UNPAID LEAVE.—If an employer provides paid leave for fewer than 12 workweeks, the additional weeks of leave necessary to attain the 12 workweeks of leave required under this title may be provided without compensation.

(2) SUBSTITUTION OF PAID LEAVE.—An eligible employee may elect, or an employer may require the employee, to substitute any of the accrued paid vacation leave, personal leave, or family leave of the employee for leave provided under subsection (a) for any part of the 10-week period of such leave under such subsection.

(e) FORESEEABLE LEAVE.—In any case in which the necessity for leave under subsection (a) is foreseeable based on an expected birth or adoption, the eligible employee shall provide the employer with prior notice of such expected birth or adoption in a manner that is reasonable and practicable.

(f) SPOUSES EMPLOYED BY THE SAME EMPLOYER.—In any case in which a husband and wife entitled to leave under subsection (a) are employed by the same employer, the aggregate number of workweeks of leave to which both may be entitled may be limited to 10 workweeks during any 12-month period.

SEC. 103. EMPLOYMENT AND BENEFITS PROTECTION.

(a) RESTORATION TO POSITION.—

(1) IN GENERAL.—Any eligible employee who takes leave under section 102 for the intended purpose of the leave shall be entitled, on return from such leave—

(A) to be restored by the employer to the position of employment held by the employee when the leave commenced; or

(B) to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

(2) LOSS OF BENEFITS.—The taking of leave under section 102 shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced.

(3) LIMITATIONS.—Except as provided in subsection (b), nothing in this section shall be construed to entitle any restored employee to—

(A) the accrual of any seniority or employment benefits during any period of leave; or

(B) any right, benefit, or position of employment other than that to which the employee was entitled to on the date the leave was commenced.

(4) CERTIFICATION.—As a condition of restoration under paragraph (1), the employer may have a policy that requires each employee to receive certification from the health care provider of the employee that the employee is able to resume work.

(5) CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit an employer from requiring an employee on leave under section 102 to periodically report to the employer on the status and intention of the employee to return to work.

(b) MAINTENANCE OF HEALTH BENEFITS.—During any period that an eligible employee takes leave under section 102, the employer shall maintain coverage under any "group health plan" (as defined in section 5000(b)(1) of the Internal Revenue Code of 1986) for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously from the date the employee commenced the leave until the date the employee is restored under subsection (a).

SEC. 104. SICK LEAVE.

(a) IN GENERAL.—An eligible employee may use personal sick leave benefits provided by the employer of the employee for absences due to an illness of the child, spouse, or parent of the employee. An employer may limit the aggregate amount of leave used in accordance with this section to 5 days during a 12-month period.

(b) RELATIONSHIP TO OTHER PERSONAL SICK LEAVE.—An eligible employee may use personal sick leave benefits as described in subsection (a) on the same terms and with the same conditions as apply to personal sick leave benefits used due to an illness of the employee.

SEC. 105. PROHIBITED ACTS.

(a) INTERFERENCE WITH RIGHTS.—

(1) EXERCISE OF RIGHTS.—It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this title.

(2) DISCRIMINATION.—It shall be unlawful for any employer to discharge or in any other manner discriminate against any individual for opposing any practice made unlawful by this title.

(b) INTERFERENCE WITH PROCEEDINGS OR INQUIRIES.—It shall be unlawful for any person to discharge or in any other manner discriminate against any individual because such individual—

(1) has filed any charge, or has instituted or caused to be instituted any proceeding, under or related to this title;

(2) has given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under this title; or

(3) has testified, or is about to testify in any inquiry or proceeding relating to any right provided under this title.

SEC. 106. ADMINISTRATIVE ENFORCEMENT.

(a) IN GENERAL.—The Secretary shall issue such rules and regulations as are necessary to carry out this section, including rules and regulations concerning notice of foreseeable leave, service of complaints, notice of hearings, answers and amendments to complaints, and copies of orders and records of proceedings.

(b) CHARGES.—

(1) FILING.—Any person (including a class or organization, on behalf of any person) alleging an act that violates any provision of this title may file a charge respecting such violation with the Secretary. Charges shall be in such form and contain such information as the Secretary shall require by regulation.

(2) NOTIFICATION.—Not more than 10 days after the Secretary receives notice of a charge under paragraph (1), the Secretary—

(A) shall serve a notice of the charge on the person charged with the violation; and

(B) shall inform such person and the charging party as to the rights and procedures provided under this title.

(3) TIME OF FILING.—A charge shall not be filed more than 1 year after the date of the last event constituting the alleged violation.

(4) SETTLEMENT PRIOR TO DETERMINATION BY SECRETARY.—The charging party and the person charged with the violation under this section may enter into a settlement agreement concerning the violation alleged in the charge before any determination is reached by the Secretary under subsection (c). Such an agreement shall be effective unless the Secretary determines, not later than 30 days after the notice of the proposed agreement is received, that the agreement is not generally consistent with the purposes of this title.

(c) INVESTIGATION AND COMPLAINT ON NOTICE OF A CHARGE.—

(1) INVESTIGATION.—Not later than 60 days after the Secretary receives any charge respecting a violation of this title, the Secretary shall investigate the charge and issue a complaint based on the charge or dismiss the charge.

(2) DISMISSAL.—If, after conducting an investigation under paragraph (1), the Secretary determines that there is no reasonable basis for the charge that is being investigated, the Secretary shall dismiss the charge and promptly notify the charging party and the respondent as to the dismissal.

(3) COMPLAINT BASED ON CHARGE.—If, after conducting an investigation under paragraph (1), the Secretary determines that there is a reasonable basis for the charge, the Secretary shall issue a complaint based on the charge and promptly notify the charging party and the respondent as to the issuance.

(4) SETTLEMENT WITH SECRETARY.—On the issuance of a complaint under paragraph (3), the Secretary and the respondent may enter into a settlement agreement concerning a violation alleged in the complaint. Any such settlement shall not be entered into over the objection of the charging party, unless the Secretary determines that the settlement provides a full remedy for the charging party.

(5) CIVIL ACTIONS.—If, at the end of the 60-day period referred to in paragraph (1), the Secretary—

(A) has not made a determination under paragraph (2) or (3);

(B) has dismissed the charge under paragraph (2); or

(C) has disapproved a settlement agreement under subsection (b)(4) or has not entered into a settlement agreement under paragraph (4) of this subsection;

the charging party may elect to bring a civil action under section 107. Such election shall bar further administrative action by the Secretary with respect to the violation alleged in the charge.

(6) COMPLAINT AND RELIEF ON INITIATIVE OF SECRETARY.—

(A) COMPLAINT.—The Secretary may issue and serve a complaint alleging a violation of this title on the basis of information and evidence gathered as a result of an investigation initiated by the Secretary pursuant to section 108.

(B) RELIEF.—On the issuance of a complaint under subparagraph (A), the Secretary may petition the United States district court for the district in which the violation is alleged to have occurred, or in which the respondent resides or transacts business, for appropriate temporary relief or a restraining order. On the filing of any such petition, the court shall cause notice of the petition to be served on the respondent, and the court shall have jurisdiction to grant to the Secretary such temporary relief or restraining order as the court determines just and proper.

(d) RIGHTS OF PARTIES.—

(1) SERVICE OF COMPLAINT.—In any case in which a complaint is issued under subsection (c), the Secretary shall, not later than 10 days after the date on which the complaint is issued, cause to be served on the respondent a copy of the complaint.

(2) PARTIES TO COMPLAINT.—Any person filing a charge alleging a violation of this title may elect to be a party to any complaint filed by the Secretary alleging such violation. Such election must be made prior to the commencement of a hearing.

(3) CIVIL ACTION.—The failure of the Secretary to comply in a timely manner with any obligation assigned to the Secretary under this title shall entitle the charging party to elect, at the time of such failure, to bring a civil action under section 107.

(e) CONDUCT OF HEARING.—

(1) PROSECUTION BY SECRETARY.—The Secretary shall have the duty to prosecute any complaint issued under subsection (c).

(2) HEARING.—An administrative law judge shall conduct a hearing on the record with respect to any complaint issued under this title. The hearing shall be commenced not later than 60 days after the issuance of such complaint, unless the judge, in the discretion of the judge, determines that the purposes of this Act would best be furthered by commencement of the action after the expiration of such period.

(f) FINDINGS AND CONCLUSIONS.—

(1) IN GENERAL.—After a hearing conducted under this section, the administrative law judge shall promptly make findings of fact and conclusions of law, and, if appropriate, issue an order for relief as provided in section 109.

(2) NOTIFICATION CONCERNING DELAY.—The administrative law judge shall inform the parties, in writing, of the reason for any delay in making such findings and conclusions if such findings and conclusions are not made within 60 days after the conclusion of such hearing.

(g) FINALITY OF DECISION; REVIEW.—

(1) FINALITY.—The decision and order of the administrative law judge under this section shall become the final decision and order of the Secretary unless, on appeal by an aggrieved party taken not later than 30 days after the entry of the order, the Secretary modifies or vacates the decision, in which case the decision of the Secretary shall be the final decision.

(2) REVIEW.—Not later than 60 days after the entry of the final order of the Secretary under paragraph (1), any person aggrieved by such final order may seek a review of such order in the United States court of appeals for the circuit in which the violation is alleged to have occurred or in which the employer resides or transacts business.

(3) JURISDICTION.—On the filing of the record of an order under this subsection with the court, the jurisdiction of the court shall be exclusive and the judgment of the court shall be final, except that the judgment shall be subject to review by the Supreme Court of the United States on writ of certiorari or certification as provided in section 1254 of title 28, United States Code.

(h) COURT ENFORCEMENT OF ADMINISTRATIVE ORDERS.—

(1) POWER OF SECRETARY.—If an order of the Secretary is not appealed under subsection (g)(2), the Secretary may petition the United States district court for the district in which the violation is alleged to have occurred, or in which the respondent resides or transacts business, for the enforcement of the order of the Secretary, by filing in such court a written petition praying that such order be enforced.

(2) JURISDICTION.—On the filing of a petition under paragraph (1), the court shall have jurisdiction to make and enter a decree enforcing the order of the Secretary. In such a proceeding, the order of the Secretary shall not be subject to review.

(3) DECREE OF ENFORCEMENT.—If, on appeal of an order under subsection (g)(2), the United States court of appeals does not reverse or modify such order, such court shall have the jurisdiction to make and enter a decree enforcing the order of the Secretary.

SEC. 107. ENFORCEMENT BY CIVIL ACTION.

(a) RIGHT TO BRING CIVIL ACTION.—

(1) IN GENERAL.—Subject to the limitations contained in this section, an eligible employee or any person, including a class or organization on behalf of any eligible employee, or the Secretary may bring a civil action against any employer (including any State employer) to enforce the provisions of this title in any appropriate court of the United States or in any State court of competent jurisdiction.

(2) NO CHARGE FILED.—Subject to paragraph (3), a civil action may be commenced under this subsection without regard to whether a charge has been filed under section 106(b).

(3) LIMITATIONS.—No civil action may be commenced under paragraph (1) if the Secretary—

(A) has approved a settlement agreement or has failed to disapprove a settlement agreement under section 106(b)(4) or 106(c)(4), as appropriate, if such action is based on a violation alleged in the charge and resolved by the agreement; or

(B) has issued a complaint under section 106(c)(3) or 106(c)(6), if such action is based upon a violation alleged in the complaint.

(4) ENFORCEMENT OF SETTLEMENT AGREEMENTS.—Notwithstanding paragraph (3)(A), a civil action may be commenced to enforce the terms of any such settlement agreement.

(5) TIMING OF COMMENCEMENT OF CIVIL ACTION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), no civil action may be commenced later than 1 year after the date of the last event that constitutes the alleged violation.

(B) EXCEPTION.—In any case in which—

(i) a timely charge is filed under section 106(b); and

(ii) the failure of the Secretary to issue a complaint or enter into a settlement agreement based on the charge (as provided under section 106(c)(4)) occurs later than 11 months after the date on which any alleged violation occurred;

the charging party may commence a civil action not later than 60 days after the date of such failure.

(6) AGENCIES.—The Secretary shall not bring a civil action against any agency of the United States.

(7) EXCLUSIVE JURISDICTION ON COMPLAINT.—On the filing of a complaint with the court under this subsection, the jurisdiction of the court shall be exclusive.

(b) VENUE.—An action brought under subsection (a) in a district court of the United States may be brought—

(1) in any appropriate judicial district under section 1391 of title 28, United States Code; or

(2) in the judicial district in the State in which—

(A) the employment records relevant to such violation are maintained and administered; or

(B) the aggrieved person worked or would have worked but for the alleged violation.

(c) NOTIFICATION OF THE SECRETARY; RIGHT TO INTERVENE.—A copy of the complaint in any action by an eligible employee under subsection (a) shall be served on the Secretary by certified mail. The Secretary shall have the right to intervene in a civil action brought by an employee under subsection (a).

(d) ATTORNEYS FOR THE SECRETARY.—In any civil action under subsection (a), attorneys appointed by the Secretary may appear for and represent the Secretary, except that the Attorney General and the Solicitor General shall conduct any litigation in the Supreme Court.

SEC. 108. INVESTIGATIVE AUTHORITY.

(a) IN GENERAL.—To ensure compliance with the provisions of this title, or any regulation or order issued under this title, the Secretary shall have, subject to subsection (c), the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)).

(b) OBLIGATION TO KEEP AND PRESERVE RECORDS.—Any employer shall keep and preserve records in accordance with section 11(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(c)) and in accordance with regulations issued by the Secretary.

(c) REQUIRED SUBMISSIONS GENERALLY LIMITED TO AN ANNUAL BASIS.—The Secretary shall not under the authority of this section require any employer or any plan, fund, or program to submit to the Secretary any books or records more than once during any 12-month period, unless the Secretary has reasonable cause to believe there may exist a violation of this title or any regulation or order issued pursuant to this title, or is investigating a charge pursuant to section 106.

(d) SUBPOENA POWERS, ETC.—For the purposes of any investigation provided for in this section, the Secretary shall have the subpoena authority provided for under section 9 of the Fair Labor Standards Act of 1938 (29 U.S.C. 209).

SEC. 109. RELIEF.

(a) INJUNCTIVE RELIEF.—

(1) CEASE AND DESIST.—On finding a violation under section 106, the administrative

law judge shall issue an order requiring such person to cease and desist from any act or practice that violates this title.

(2) INJUNCTIONS.—In any civil action brought under section 107, the court may grant as relief against any employer (including any State employer) any permanent or temporary injunction, temporary restraining order, or other equitable relief as the court determines appropriate.

(b) MONETARY DAMAGES.—

(1) IN GENERAL.—Any employer (including any State employer) that violates any provision of this title shall be liable to the injured party in an amount equal to any wages, salary, employment benefits, or other compensation denied or lost to such eligible employee by reason of the violation, plus interest on the total monetary damages calculated at the prevailing rate.

(2) GOOD FAITH.—If an employer who has violated this title proves to the satisfaction of the administrative law judge or the court that the act or omission that violated this title was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of this title, such judge or the court may, in the discretion of the judge or court, reduce the amount of the liability provided for under this subsection to the amount determined under paragraph (1).

(c) ATTORNEY'S FEES.—A prevailing party in an action described under this section (other than the United States) may be awarded a reasonable attorney's fee as part of the costs, in addition to any relief awarded. The United States shall be liable for costs in the same manner as a private person.

(d) LIMITATION.—Damages awarded under subsection (b) shall not accrue from a date that is later than 2 years prior to the date on which a charge is filed under section 106(b) or a civil action is brought under section 107.

SEC. 110. SPECIAL RULES CONCERNING EMPLOYEES OF LOCAL EDUCATIONAL AGENCIES.

(a) IN GENERAL.—Except as otherwise provided in this section, the rights (including the rights under section 103, which shall extend throughout the period of leave of any employee under this section), remedies, and procedures under this Act shall apply to—

(1) any "local educational agency" (as defined in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12))) and its employees; and

(2) any private elementary and secondary school and its employees.

(b) LEAVE DOES NOT VIOLATE CERTAIN OTHER FEDERAL LAWS.—A local educational agency and a private elementary and secondary school shall not be in violation of the Education of the Handicapped Act (20 U.S.C. 1400 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), or title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), solely as a result of an eligible employee of such agency or school exercising the rights of such employee under this Act.

(c) RULES APPLICABLE TO PERIODS NEAR THE CONCLUSION OF AN ACADEMIC TERM.—The following rules shall apply with respect to periods of leave near the conclusion of an academic term in the case of any employee employed principally in an instructional capacity by any such educational agency or school:

(1) LEAVE MORE THAN 5 WEEKS PRIOR TO END OF TERM.—If the employee begins leave under section 102 more than 5 weeks prior to the end of the academic term, the agency or school may require the employee to continue taking leave until the end of such term, if—

(A) the leave is of at least 3 weeks duration; and

(B) the return to employment would occur during the 3-week period before the end of such term.

(2) LEAVE LESS THAN 5 WEEKS PRIOR TO END OF TERM.—If the employee begins leave under section 102(a) during the period that commences 5 weeks prior to the end of the academic term, the agency or school may require the employee to continue taking leave until the end of such term, if—

(A) the leave is of greater than 2 weeks duration; and

(B) the return to employment would occur during the 2-week period before the end of such term.

(3) LEAVE LESS THAN 3 WEEKS PRIOR TO END OF TERM.—If the employee begins leave under section 102(a) during the period that commences 3 weeks prior to the end of the academic term and the duration of the leave is greater than 5 working days, the agency or school may require the employee to continue to take leave until the end of such term.

(d) RESTORATION TO EQUIVALENT EMPLOYMENT POSITION.—For purposes of determinations under section 103(a)(1)(B) (relating to the restoration of an employee to an equivalent position), in the case of a local educational agency or a private elementary and secondary school, such determination shall be made on the basis of established school board policies and practices, private school policies and practices, and collective bargaining agreements.

(e) REDUCTION OF THE AMOUNT OF LIABILITY.—If a local educational agency or a private elementary and secondary school that has violated title I proves to the satisfaction of the administrative law judge or the court that the agency, school, or department had reasonable grounds for believing that the underlying act or omission was not a violation of such title, such judge or court may, in the discretion of the judge or court, reduce the amount of the liability provided for under section 109(b)(1) to the amount determined under subparagraph (A) of such section.

SEC. 111. NOTICE.

(a) IN GENERAL.—Each employer shall post and keep posted, in conspicuous places on the premises of the employer where notices to employees and applicants for employment are customarily posted, a notice, to be prepared or approved by the Secretary, setting forth excerpts from, or summaries of, the pertinent provisions of this title and information pertaining to the filing of a charge.

(b) PENALTY.—Any employer that willfully violates this section shall be assessed a civil money penalty not to exceed $100 for each separate offense.

SEC. 112. REGULATIONS.

Not later than 60 days after the date of enactment of this title, the Secretary shall prescribe such regulations as are necessary to carry out this title (including regulations under section 106(a)).

TITLE II—LEAVE FOR CIVIL SERVICE EMPLOYEES

SEC. 201. LEAVE REQUIREMENT.

(a) CIVIL SERVICE EMPLOYEES.—

(1) IN GENERAL.—Chapter 63 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER V—FAMILY LEAVE

"§ 6381. Definitions

"For purposes of this subchapter:

"(1) The term 'employee' means—

"(A) an 'employee', as defined by section 6301(2) of this title (excluding an individual employed by the government of the District of Columbia); and

"(B) an individual described in clause (v) or (ix) of such section;

who has been employed for at least 12 months and completed at least 1,000 hours of service during the previous 12-month period.

"(2) The term 'son or daughter' means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is—

"(A) under 18 years of age; or

"(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

"(3) The term 'parent' means the biological parent of the child or an individual who stood in loco parentis to a child when the child was a son or daughter.

"§ 6382. Leave requirement

"(a)(1) An employee shall be entitled to 10 workweeks of leave during any 12-month period—

"(A) because of the birth of a son or daughter of the employee; or

"(B) because of the placement of a son or daughter with the employee for adoption or foster care.

"(2) The entitlement to leave under paragraph (1) for a birth or placement of a son or daughter shall expire at the end of the 12-month period beginning on the date of such birth or placement.

"(3) Leave under paragraph (1) shall not be taken by an employee intermittently unless the employee and the employing agency agree otherwise.

"(b) On agreement between the employing agency and the employee, leave under this section may be taken on a reduced leave schedule. Such reduced leave schedule shall not result in a reduction in the total amount of leave to which the employee is entitled.

"(c) Except as provided in subsection (d), leave granted under subsection (a) may consist of unpaid leave.

"(d)(1) If an employing agency provides paid leave for fewer than 12 workweeks, the additional weeks of leave necessary to attain the 12 workweeks of leave required under this title may be provided without compensation.

"(2) An employee may elect, or an employing agency may require the employee, to substitute for leave under subsection (a) any of the accrued paid vacation leave, personal leave, or family leave of the employee for any part of the 12-week period of such leave under such paragraph.

"(e) In any case in which the necessity for leave under subsection (a) is foreseeable based on an expected birth or adoption, the employee shall provide the employing agency with prior notice of such expected birth or adoption in a manner that is reasonable and practicable.

"§ 6383. Job protection

"(a) Any employee who takes leave under section 6382 for the intended purpose of the leave shall be entitled, upon return from such leave—

"(1) to be restored by the employing agency to the position of employment held by the employee when the leave commenced; or

"(2) to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

"(b) The taking of leave under section 6382 shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced.

"(c) Nothing in this section shall be construed to entitle any restored employee to—

"(1) the accrual of any seniority or employment benefits during any period of leave; or

"(2) any right, benefit, or position of employment other than that to which the employee was entitled to on the date the leave was commenced.

"(d) As a condition to restoration under subsection (a), the employing agency may have a policy that requires each employee to receive certification from the health care provider of the employee that the employee is able to resume work.

"(e) Nothing in this section shall be construed to prohibit an employing agency from requiring an employee on leave under section 6382 to periodically report to the employing agency on the status and intention of the employee to return to work.

"§ 6384. Sick leave

"(a) An employee may use personal sick leave benefits provided by the employer of the employee for absences due to an illness of the child, spouse, or parent of the employee. An employer may limit the aggregate amount of leave used in accordance with this section to 5 days during a 12-month period.

"(b) An employee may use personal sick leave benefits as described in subsection (a) on the same terms and with the same conditions as apply to personal sick leave benefits used due to an illness of the employee.

"§ 6385. Prohibition of coercion

"(a) An employee shall not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with the exercise of the rights of the employee under this subchapter.

"(b) For the purpose of this section, 'intimidate, threaten, or coerce' includes promising to confer or conferring any benefit (such as appointment, promotion, or compensation), or taking or threatening to take any reprisal (such as deprivation of appointment, promotion, or compensation).

"§ 6386. Health insurance

"An employee enrolled in a health benefits plan under chapter 89 who is placed in a leave status under section 6382 may elect to continue the health benefits enrollment of the employee while in leave status and arrange to pay into the Employees Health Benefits Fund (described in section 8909) through the employing agency of the employee, the appropriate employee contributions.

"§ 6387. Regulations

"The Office of Personnel Management shall prescribe regulations necessary for the administration of this subchapter. The regulations prescribed under this subchapter shall be consistent with the regulations prescribed by the Secretary of Labor under title I of the Family Financial and Job Security Act of 1991.".

(2) Table of contents.—The table of contents for chapter 63 of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER V—FAMILY LEAVE AND SICK LEAVE

"6381. Definitions.
"6382. Leave requirement.
"6383. Job protection.
"6384. Sick leave.
"6385. Prohibition of coercion.
"6386. Health insurance.
"6387. Regulations.".

(b) Employees Paid From Nonappropriated Funds.—Section 2105(c)(1) of title 5, United States Code, is amended by striking out "53" and inserting in lieu thereof "53, subchapter V of chapter 63,".

TITLE III—COMMISSION ON LEAVE

SEC. 301. ESTABLISHMENT.

There is established a commission to be known as the Commission on Leave (hereinafter referred to in this title as the "Commission").

SEC. 302. DUTIES.

The Commission shall—

(1) conduct a comprehensive study of—

(A) existing and proposed policies relating to leave;

(B) the potential costs, benefits, and impact on productivity of such policies on employers; and

(C) alternative and equivalent State enforcement of this Act with respect to employees described in section 110(a); and

(2) not later than 2 years after the date on which the Commission first meets, prepare and submit, to the appropriate Committees of Congress, a report that may include legislative recommendations concerning coverage of businesses that employ fewer than 50 employees and alternative and equivalent State enforcement of this Act with respect to employees described in section 110(a).

SEC. 303. MEMBERSHIP.

(a) Composition.—

(1) Appointments.—The Commission shall be composed of 12 voting members and 2 ex officio members to be appointed not later than 60 days after the date of the enactment of this Act as follows:

(A) Senators.—One Senator shall be appointed by the majority leader of the Senate, and one Senator shall be appointed by the minority leader of the Senate.

(B) Members of house of representatives.—One member of the House of Representatives shall be appointed by the Speaker of the House of Representatives, and one Member of the House of Representatives shall be appointed by the minority leader of the House of Representatives.

(C) Additional members.—

(i) Appointment.—Two members each shall be appointed by—

(I) the Speaker of the House of Representatives;

(II) the majority leader of the Senate;

(III) the minority leader of the House of Representatives; and

(IV) the minority leader of the Senate.

(ii) Expertise.—Such members shall be appointed by virtue of demonstrated expertise in relevant family, temporary disability, and labor-management issues and shall include representatives of employers.

(2) Ex officio members.—The Secretary of Health and Human Services and the Secretary of Labor shall serve on the Commission as nonvoting ex officio members.

(b) Vacancies.—Any vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(c) Chairperson and Vice Chairperson.—The Commission shall elect a chairperson and a vice chairperson from among the members of the Commission.

(d) Quorum.—Eight members of the Commission shall constitute a quorum for all purposes, except that a lesser number may constitute a quorum for the purpose of holding hearings.

SEC. 304. COMPENSATION.

(a) Pay.—Members of the Commission shall serve without compensation.

(b) Travel Expenses.—Members of the Commission shall be allowed reasonable travel expenses, including a per diem allowance, in accordance with section 5703 of title 5, United States Code, when performing duties of the Commission.

SEC. 305. POWERS.

(a) Meetings.—The Commission shall first meet not later than 30 days after the date on which all members are appointed, and the Commission shall meet thereafter on the call of the chairperson or a majority of the members.

(b) Hearings and Sessions.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(c) Access to Information.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this Act. On the request of the chairperson or vice chairperson of the Commission, the head of such agency shall furnish such information to the Commission.

(d) Executive Director.—The Commission may appoint an Executive Director from the personnel of any Federal agency to assist the Commission in carrying out the duties of the Commission.

(e) Use of Facilities and Services.—Upon the request of the Commission, the head of any Federal agency may make available to the Commission any of the facilities and services of such agency.

(f) Personnel From Other Agencies.—On the request of the Commission, the head of any Federal agency may detail any of the personnel of such agency to assist the Commission in carrying out the duties of the Commission.

SEC. 306. TERMINATION.

The Commission shall terminate 30 days after the date of the submission of the report of the Commission to Congress.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. EFFECT ON OTHER LAWS.

(a) Federal and State Anti-Discrimination Laws.—Nothing in this Act or any amendment made by this Act shall be construed to modify or affect any Federal or State law prohibiting discrimination on the basis of race, religion, color, national origin, sex, age, or handicapped status.

(b) State and Local Laws.—Nothing in this Act or any amendment made by this Act shall be construed to supersede any provision of any State and local law that provides greater employee leave rights than the rights established under this Act or any amendment made by this Act.

SEC. 402. EFFECT ON EXISTING EMPLOYMENT BENEFITS.

(a) More Protective.—Nothing in this Act or any amendment made by this Act shall be construed to diminish the obligation of an employer to comply with any collective bargaining agreement or any employment benefit program or plan that provides greater family and sick leave rights to employees than the rights provided under this Act or any amendment made by this Act.

(b) Less Protective.—The rights provided to employees under this Act or any amendment made by this Act shall not be diminished by any collective bargaining agreement or any employment benefit program or plan.

SEC. 403. ENCOURAGEMENT OF MORE GENEROUS LEAVE POLICIES.

Nothing in this Act or any amendment made by this Act shall be construed to discourage employers from adopting or retaining leave policies more generous than any policies that comply with the requirements under this Act or any amendment made by this Act.

SEC. 404. EFFECTIVE DATES.

(a) TITLE III.—Title III shall take effect on the date 3 months after the date of the enactment of this Act.

(b) OTHER TITLES.—

(1) IN GENERAL.—Except as provided in paragraph (2), titles I and II and this title shall take effect 6 months after the date of the enactment of this Act.

(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a collective bargaining agreement in effect on the effective date prescribed by paragraph (1), title I shall apply on the earlier of—

(A) the date of the termination of such agreement; or

(B) the date that occurs 12 months after the date of the enactment of this Act.

SEC. 405. REGULATIONS.

The Secretary shall prescribe such regulations as are necessary to carry out this title not later than 60 days after the date of the enactment of this Act.•

By Mr. HATFIELD:

S. 689. A bill to amend the Internal Revenue Code of 1986 to provide that a taxpayer conscientiously opposed to participation in war may elect to have such taxpayer's income, estate, or gift tax payments spent for nonmilitary purposes; to create the United States Peace Tax Fund to receive such tax payments; to establish a United States Tax Fund Board of Trustees; and for other purposes; to the Committee on Finance.

UNITED STATES PEACE TAX FUND ACT

• Mr. HATFIELD. Mr. President, today the Senate has voted to spend $15 billion of the taxpayers' money to pay for our war in the Persian Gulf. There are some taxpayers, however, who cannot in good conscience contribute to this effort, citizens will risk fines and jail sentences to withhold taxes that support war, or who will even impoverish themselves and their families rather than be legally bound to pay such taxes.

These are people deeply driven by values born of conscience, and although conscientious objectors to war have not been forced to serve in active combat for 45 years, they are still required to support the military through taxation. Mr. President, if it has ever been clear in the history of our democracy, it is clear now that we need to protect the preeminent right of conscience of all our citizens.

For 14 years I have had the privilege to introduce the peace tax fund bill to the Senate. This bill would protect the right of conscience by allowing those who object to war pay their fraction of military taxes to an organized peace tax fund. That small minority of our Nation who are officially recorded conscientious objectors would not be relieved of their responsibility to pay their taxes in full. Instead, conscientious objectors who now unlawfully withhold the portion of their taxes which supports military spending would be able, with a clear conscience, to pay full taxes once again. Consequently, revenue collection would improve as a result of this bill.

The right of conscientious objection is guaranteed to men and women who, because of religious or moral beliefs, cannot participate in military service. the Peace Tax Fund Act would further protect that right. Most conscientious objectors believe that supporting military service through taxation is no different than fighting in war; each are equally unacceptable, morally. The peace tax fund would give them a legal alternative to military taxes.

Under this legislation, criteria used to determine conscientious objector status would be similar to that used in the Selective Service Act. Eligible individuals are those who certify on their tax refunds that they are conscientiously opposed to war and have been exempted from combatant service and training in the U.S. armed services. The taxpayer could be required to present additional information to verify conscientious objector status.

A board of trustees for the peace tax fund would be made up of 11 individuals who have demonstrated a consisttent commitment to world peace, international friendship, and the peaceful resolution of international conflict. They would be appointed by the President and Congress, and would be responsible for distributing the funds to Federal programs for nonmilitary and nonviolent solutions to military conflict.

Appropriations suggested by the trustees would be reviewed and authorized by Congress. The tax money would help finance projects such as: Retraining of workers displaced by conversion from military production or activities; select projects at the U.S. Institute of Peace; disarmament efforts; and improvement of international health, education, and welfare.

The peace tax fund would be an alternate fund within the U.S. Treasury. It would be determined by the head of the General Accounting Office what percentage of the funds were appropriated for a military purpose. The IRS would then be required to transfer tax receipts designated for the peace tax fund to that fund each month.

Some of my colleagues may fear a surge in individuals claiming conscientious objector status should this bill become law. History does not bear this out. During past wars when troops were called to fight, there was no significant increase in the number of conscientious objectors. That number has remained constant, reflecting the true and constant moral beliefs on which conscientious objection is based.

As we vote to appropriate funds for this war in the Persian Gulf and prepare to take care of our veterans, we must also pay close attention to the rights of conscientious objectors. Freedom of conscience is a constitutional right. Establishment of a U.S. peace tax fund would protect that right.•

By Mr. BOREN:

S. 691. A bill to establish a National Foundation for Excellence for outstanding students who are committed to careers in teaching in public education, and for other purposes; to the Committee on Labor and Human Resources.

NATIONAL FOUNDATION FOR EXCELLENCE ACT

• Mr. BOREN. Mr. President, I truly believe that the bill which I am introducing today deals with the single most important challenge facing this generation of Americans: The critical need to restore excellence to our system of public education.

If we deal successfully with every other major policy area facing us and fail to rebuild our educational system, we will eventually undermine our progress in all other areas. The plain truth is that a nation with a second- or third-rate educational system will ultimately be in the second or third rank of nations.

I rise today to introduce the National Foundation for Excellence Act. This bill establishes a national foundation funded by a public and private partnership to fund educational costs for outstanding students who wish to enter the teaching profession.

Thanks to the support of the Senate Labor and Human Resources Subcommittee on Education, we were very close to passing the National Foundation for Excellence Act as a committee amendment to the National Teachers Act based on my original proposal. Unfortunately, time was not on our side in passing the major teacher bill last year. But with the reauthorization of the Higher Education Act occurring this year, I am hopeful that the Teacher Scholarship Program I first began working on in 1985 will again have the support of the committee and the Senate.

Many of the problems we faced in education in 1985 remain the same, and, in several areas, our problems have worsened. It is crucial in this coming decade that we recognize and begin to address our urgent need to support our best teachers and to replenish the talent pool available for the classroom.

We must work to attract our best and brightest students to the classroom, and we must restore the honor this profession so greatly deserves. We must take positive steps to ensure that outstanding students from disadvantaged backgrounds who are underrepresented in the teaching profession are given the incentive to go into the classroom. We must ensure that our inner-city and our rural schools are staffed by teachers who graduated in the top portions of their class or excelled in a particular subject or discipline. And we, as a government, must begin to include American educators and business leaders in coalitions to meet these goals. Mr. President, we must make a commitment to our Nation's students by making a commitment to our Nation's teachers. The National Foundation for Excellence makes this commitment.

Since I first introduced this bill, I have received a remarkable degree of support for the legislation from teachers, parents, students, and members of the higher education community. As Kyle Dahlem, past president of the Oklahoma Education Association, reiterated, full scholarships for academically capable students are scarce and a stipend is a positive reinforcement of a teacher's value.

The National Foundation for Excellence establishes a national foundation funded by a public and private partnership to fund educational costs for outstanding students who wish to enter the teaching profession. It provides for governance by a board of distinguished citizens and is patterned somewhat after the Harry S. Truman Scholarship Foundation which awards scholarships to students interested in careers in public service.

When I was Governor, we had a shortage of doctors in rural areas and small towns. We developed a Rural Medical Scholarship Program under which we paid the full educational cost of medical students who promised to practice in these underserved areas for a least 5 years after graduation or be forced to pay back all of the educational costs plus a large penalty payment. The program made a major reduction in the shortage of rural medical manpower.

A similar program for teachers can also provide a direct incentive to our Nation's best students to become educators. It is imperative that we take the initiative now to help address the current shortages in the teaching profession. Like all other States throughout the Nation, Oklahoma is currently facing a shortage of teachers in many important academic areas, including mathematics, sciences, and foreign languages. Seventy of Oklahoma's seventy-seven counties face teacher vacancies. And last year it was reported by the Oklahoma Department of Education that 522 emergency and provisional teaching certificates had to be granted to alleviate teacher shortages. Mr. President, our students deserve better than that and our Nation demands it.

The scholarships provided by the National Foundation for Excellence will not only help fill these teacher shortages but will fill these vacancies with the very best students our Nation has to offer. A student, to apply for the educational package, would have to have tested in the top 10 percent of the scholastic aptitude test or the American college test; must have graduated in the top 10 percent from high school; must maintain a 3.2 grade point average in college; and, must commit to teaching in public schools after graduation.

The amount of available financial aid would depend on the students commitment to teaching post-graduation. A ceiling of $20,000 would be available for individuals who will teach for a minimum of 2 years: $28,000 for 3 years, $36,000 for 4 years, $50,000 for 5 years, and $70,000 for 6 years.

A penalty for failing to teach in public schools after graduation would be the principal amount of the scholarship plus interest equal to the T-bill rate plus 20 percent.

The foundation would be funded by a permanent endowment. The funding would come from a one-time $200 million appropriation and an additional $200 million available for matching to private gifts, for a period of 5 years.

With the potential to receive up to the full cost of attendance to any university in the United States, we can convince our very best students to consider teaching as a career. Since some of our Nation's finest universities now cost almost $20,000 per year for the cost of attendance, many students can simply not afford to attend such expensive institutions. With tuition for colleges and universities currently rising 7 percent on average for public institutions and 8 percent on average for private institutions, the costs of obtaining an education is rising at a rate that is twice that of our national inflation average. It is simply becoming prohibitive for middle and lower income families to finance an education. And those who take out student loans to finance their degrees are faced with enormous debt when they graduate, thus forcing our best and brightest to make career decisions based on salary rather than proposal fulfillment.

The Oklahoma State University College of Education has been one of the strongest advocates of a National Foundation for Excellence, because the school contends that while the quality of the students at the college of education is reaching new levels of achievement, the school still can't compete with the college of engineering, for example, in consistently getting students who graduated at the very top of their high school classes. The main problem in consistently attracting the best and the brightest students to teaching, the college of education contends, is financial. If we took steps to provide scholarships and other financial compensation to our teachers, our Nation would be taking an important step toward a brighter future for our Nation's students and teachers.

The National Foundation for Excellence also encourages State and local participation in the program. State or local governments can partially fund a scholarship to a particular student who would then agree to return to that State or locality to teach. Businesses will also be allowed and encouraged to participate at a State or local level by partially funding the scholarships and specifying the State or locality where they want the student to return to teach. In doing so, State and local governments and businesses become an integral participant in our national effort to provide scholarships to our best and brightest students.

This past year has been witness to an avalanche of studies, conferences, and panel discussions of the crisis we now face in education. But studies, conferences, and discussions will not change SAT scores and academic performance. We must stop talking about the problems in education and start making real changes.

While it is important to understand and evaluate the statistics generated regarding our classrooms, it is even more important to take active steps in trying to change all that we know is wrong with our schools. Senator William Fulbright stated, "Creative leadership and liberal education, which in fact go together, are the first requirement for a hopeful future for humankind."

Six years ago, I decided to try to do something real and positive to encourage our students and teachers to excel, so I started a private foundation in my State called the Oklahoma Foundation for Excellence. The foundation is proof positive that action leads to results. Since the foundation was begun, we have given out over 20 $5,000 cash awards to our State's best educators and over 400 $1,000 scholarships to our State's best students. Even more importantly, the work of the Oklahoma Foundation for Excellence has led to a new sense of importance and appreciation for our State's outstanding teachers and students. It is time we try to create the same momentum on a national level and that is why I have worked so vigorously on behalf of the National Foundation for Excellence.

Like the Oklahoma Foundation for Excellence, the National Foundation for Excellence will directly involve the private sector and combine the talents and vision of our nation's business leaders with the experience and wisdom of our nation's educators to help find solutions to the problems we now face.

By drawing on the talents and commitment of our most respected teachers, business leaders, and Members of Congress, we will work together to find solutions. Many of our previous attempts to improve the American educational system have failed because they did not bring all the vital players together as one to make the system work. Now more than ever we must forge a strong alliance between the education, private and public sectors to reach our common goal of helping our Nation's students to succeed.

In a report released in September 1990 by the Department of Education, our students are failing to make the grade. The study shows that despite the attention given to education this past year, our students are still lacking in many critical areas. Most importantly, our Nation's students do not have the analytical skills nor the mathematical ability necessary to compete in today's global environment. The report, compiled by the Educational Testing Service of the U.S. Department of Education, also chronicles our students' failure to make the grade in many other important areas of education.

As I have said before on the floor of the U.S. Senate, Mr. President, as chairman of the Intelligence Committee I consider our single greatest threat to our national security to be our failure to fully develop our nation's human resources. We are moving into a new world environment. Our influence can no longer be based solely upon our military strength. We must equip ourselves for the 21st century by building our economic strength. Our future well-being as a nation and our ability to compete in world trade is dependent upon the development of our human resources.

In order to develop our human resources, we must start with effective educators. The talents of our best students coming out of colleges and universities in our country must be utilized in the classroom.

Our public education system is the cornerstone of a strong and vital democratic system. The people cannot fully participate in a society if they are not sufficiently educated about themselves, their own past, and the nature of the problems which they confront.

Excellence in public education is fundamental to our commitment to equality of opportunity without regard to race, creed, or economic status. If we allow two standards of educational opportunity to develop, excellence in private schools for the affluent and mediocrity in public schools for the masses, we will soon find that we live in a country in which true equality of opportunity has ceased to exist.

We will also find that our economic strength and our ability to compete in the world marketplace will continue to erode and a nation that loses its economic strength will soon lose its political, diplomatic, and military strength as well.

As the United States economic strength becomes increasingly dependent on high-skill jobs which require a far more advanced education than has ever been necessary before, we must recognize that a literate work force in this country is no longer one that can merely read and write but a work force that is also computer literate, for example. The only way for the United States to retain the highest standard of living in the world in a century in which human resource development has become the key element is to have the best educated work force in the world.

We are learning that the failure of our educational system to adequately prepare workers can greatly increase the cost of production in the private sector and make American companies less competitive. Private companies are now close to spending roughly as much retraining and providing remedial education for their workers as we as taxpayers spend educating all of the children in the Nation in elementary and secondary schools.

The key to rebuilding our educational system is the attraction of qualified young people into the teaching profession and retention of the best teachers already in the classroom. Fine physical facilities will only produce mediocre eductional experiences if they are staffed with mediocre teachers.

There is no single solution to the problem and no simple way to attract a fair portion of the best and brightest in our society to the teaching profession and keep them in it. Compensation is a major part of the problem and the failure to recognize the importance of teaching and grant it the community status which it deserves is another.

How do we break the cycle of taxpayers who are unwilling to raise teachers salaries as long as they feel that we are not bringing enough of the best and brightest students into the profession? A part of the answer is to ask taxpayers to invest in what they know is an excellent product. That is what this bill seeks to do. It is not a total solution to the problem. While we still need to address questions such as how to retain good teachers already in the profession, this bill does take a step in the right direction by bringing more of our most talented people into teaching.

I would like to thank the members of the Education Subcommittee of the Labor and Human Resources Committee for their support of the proposal for a National Foundation for Excellence. I would like to especially thank Senators KASSEBAUM, PELL, SIMON, and KENNEDY for their commitment to this scholarship program.

It is our duty, Mr. President, as U.S. Senators, to do all that we possibly can to ensure that our very best students consider teaching as a future career. I am pleased that through this bill we are taking a step toward this responsibility.●

By Mr. JOHNSTON (by request):

S. 692. A bill to establish a Commonwealth of Guam, and for other purposes; to the Committee on Energy and Natural Resources.

GUAM COMMONWEALTH ACT

● Mr. JOHNSTON. Mr. President, today I am pleased to introduce the Guam Commonwealth Act at the request of the Congressman from Guam, BEN BLAZ. This legislation is the same as that introduced in the 101st Congress, S. 317, and I refer my colleagues to my statement of introduction made on January 31, 1989—CONGRESSIONAL RECORD S894—on the background of this measure.

I would like to reiterate my support for the objectives of the bill: to review Guam-Federal relations, to resolve issues in those relations, and to provide the people of Guam with greater self-government as a commonwealth of the United States.

In my statement from the last Congress I expressed my concern regarding the broad scope of several provisions in the act. I am certain that each provision was conceived and formulated in response to a local need. However, I continue to believe that the language of many provisions may go beyond what is needed to resolve specific issues. Accordingly, it is necessary for representatives of the Federal Government and of Guam to determine the exact nature of any problems in Guam-Federal relations and then, after agreement on the problems, appropriate solutions can be developed.

It is unfortunate that such a process of discussions has been hampered by political difficulties in both Washington and Guam, including a change of administration in Washington and a very intense local election campaign in Guam. I am currently uncertain about the prospects of getting passed these, and other, political difficulties so that the necessary process of analysis and negotiations on this measure can take place.

Members of the U.S. House of Representatives and of the Guam political community showed great leadership in initiating this quest for commonwealth several years ago. I will continue to look to them for leadership on this issue, and I look forward to working with them in considering legislation to improve Guam-Federal relations.●

By Mr. LAUTENBERG (for himself, Mr. KOHL, Mr. BINGAMAN, Mr. INOUYE, and Mr. KERRY):

S. 693. A bill to amend the Internal Revenue Code of 1986 to allow individuals who are involuntarily unemployed to withdraw funds from individual retirement accounts and other qualified retirement plans without incurring a tax penalty; to the Committee on Finance.

PENALTY-FREE WITHDRAWALS FROM INDIVIDUAL RETIREMENT ACCOUNTS UNDER CERTAIN CIRCUMSTANCES

● Mr. LAUTENBERG. Mr. President, today, along with Senators KOHL, BINGAMAN, INOUYE, and KERRY, I am introducing legislation to allow persons who are involuntarily unemployed to withdraw funds from individual retirement accounts [IRA's] and other retirement plans, without the tax penalty that would otherwise apply.

Mr. President, over 8 million people were unemployed last month, which translates to an unemployment rate of 6.5 percent. Many of the unemployed will find themselves with no income, substantial fixed expenses, and severely impaired ability to make ends meet.

While they may lack a regular income, Mr. President, in some cases the unemployed have significant savings in an IRA or other retirement plan. However, for those under 59½, a withdrawal from such a plan generally will trigger a 10-percent tax penalty. This bill would eliminate the 10-percent penalty for persons who have been eligible for unemployment compensation for at least 30 days. I believe it is inappropriate to impose a penalty when a saver is trying to cope with involuntary unemployment.

Mr. President, the primary purpose of my legislation is to provide relief to the involuntarily unemployed. However, it would offer at least two additional benefits.

First, it would increase the savings rate by encouraging Americans to participate in IRA's and other retirement plans. Currently, many people, particularly young people, are reluctant to tie up their money for decades in a retirement plan because of concerns that their money would be inaccessible in an emergency, such as an unexpected period of unemployment, without the imposition of a heavy penalty. Allowing greater flexibility during periods of involuntary unemployment should reduce this concern and lead to increased savings.

In addition, by unlocking savings and injecting money into the economy during periods of high unemployment, the bill would provide a modest countercyclical stimulus. This would help revive a slow economy to the benefit of all Americans.

Mr. President, although an official estimate is not yet available, the bill may also reduce the budget deficit. Distributions from retirement plans generally are subject to individual income taxes, in addition to the 10-percent penalty. This bill would eliminate the penalty, but most distributions would remain taxable. Therefore, to the extent that eliminating the penalty will mean more distributions, more revenue will be generated to reduce the deficit. This additional revenue may more than offset the penalties that otherwise would have been collected, although that is not clear at this point.

Mr. President, the concept of allowing early withdrawals from retirement plans for specific compelling reasons is not new. For example, S. 612, legislation introduced by the distinguished chairman of the Finance Committee, Senator BENTSEN, would allow penalty-free withdrawals from IRA's to pay for college education expenses, first-time home purchases, and high medical expenses. S. 612 is supported by three-quarters of the Members of the Senate. I believe my bill is entirely consistent with S. 612, which I have cosponsored, and am hopeful that my proposal will become a part of that legislation.

In sum, Mr. President, this bill would provide relief to the unemployed, increase our Nation's savings rate, and provide an automatic stimulus to the economy during slow periods. It even might reduce the deficit in the process.

I urge my colleagues to support the bill, and ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 693

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WAIVER OF EARLY DISTRIBUTION PENALTY DURING PERIODS OF INVOLUNTARY UNEMPLOYMENT.

(a) IN GENERAL.—Paragraph (2) of section 72(t) of the Internal Revenue Code of 1986 (relating to exceptions to 10-percent additional tax on early distributions from qualified plans) is amended by adding at the end thereof the following new subparagraph:

"(D) DISTRIBUTIONS FOR PERSONS WHO ARE INVOLUNTARILY UNEMPLOYED.—Any distributions which are made during any applicable involuntary unemployment period. For purposes of this subparagraph—

"(i) the term 'applicable involuntary unemployment period' means the consecutive period beginning on the 30th day after the first date on which an individual is entitled to receive unemployment compensation and ending with the date on which the individual begins employment which disqualifies the individual from receiving such compensation (or would disqualify if such compensation) had not expired by reason of a limitation on the number of weeks of compensation; and

"(ii) the term 'unemployment compensation' has the meaning given such term by section 85(b)."

"(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions made after the date of the enactment of this Act.•

By Mr. HARKIN (for himself, Mr. DASCHLE, Mr. SIMON, Mr. AKAKA, Mr. ADAMS, and Mr. INOUYE):

S. 694. A bill to amend title VII of the Public Health Service Act to increase the support provide to programs for training of medical rehabilitation health personnel, to establish an Advisory Council on Allied Health, and for other purposes; to the Committee on Labor and Human Resources.

ALLIED HEALTH PROFESSIONALS PROMOTION ACT

• Mr. HARKIN. Mr. President, I rise today to introduce the Allied Health Professionals Promotion Act of 1991. I am very pleased to be joined by my distinguished colleagues, Senators DASCHLE, SIMON, AKAKA, ADAMS, and INOUYE in this important effort.

Mr. President, our legislation is designed to alleviate the severe national shortage of allied health professionals. These health professionals make up two-thirds of our Nation's health care work force, and they share important responsibilities for the delivery of health care services—from those related to the prevention, identification, and evaluation of diseases and disorders, to health promotion services, to rehabilitation and health systems management services. The lack of an adequate supply of these key health professionals is limiting many Americans' access to quality health care and is adversely affecting hospitals, nursing homes, home health agencies, clinical laboratories, rehabilitation facilities, school systems, and other service providers. These shortages are particularly acute among rehabilitation professionals such as occupational therapists, physical therapists, speech-language pathologists, respiratory therapists, and others whose skills and services are so important in the provision of care to older Americans, the chronically ill and children and adults with disabilities. Our bill would amend title VII of the Public Health Service Act to increase and target Federal support for the training of those allied health professionals in short supply, particularly those who play a significant role in the care and rehabilitation of the elderly and disabled.

Information from a variety of sources indicates that the shortage of allied health professionals will steadily worsen in the years to come without a renewed Federal effort to train additional personnel. A recent study by the Institute of Medicine projected that by the year 2000, the demand for physical therapists will increase by 87 percent and the demand for occupational therapists will jump by over half—52 percent. A national survey of over 7,000 hospitals found that vacancy rates are 16.4 percent for physical therapists, 13.6 percent for occupational therapists, and 9.9 percent for speech-language pathologists. The survey also revealed that shortages of these professionals are significant all over the Nation and are forcing facilities to reduce services, close beds, and divert patients to other hospitals.

The Department of Veterans Affairs [VA] medical system is encountering even more severe shortages of allied health professionals. Despite redoubled recruitment and retention efforts, vacancy rates for some types of allied health professionals have reached up to 27.3 percent.

The Department of Health and Human Services, in its Seventh Annual Report to the President and Congress on the "Status of Health Personnel in the Unites States" noted that "* * * the allied health field is faced with growing shortages of personnel in a number of critical professional categories, reductions in program enrollments, closures of training programs, underrepresentation of minorities, and shortages in faculty and trained researchers." Additional studies, surveys, and reports from diverse organizations and agencies such as the American Medical Association, the National Institute on Aging, the Department of Education, the Easter Seals Society and the Institute of Medicine all point to this significant and growing threat to our Nation's ability to provide important health and rehabilitative services.

In my own State of Iowa, we face severe shortages of allied health professionals. The vacancy rate for occupational therapists is 21 percent, some 5 percent higher than the national average. Fully 56 counties in Iowa have no occupational therapist. Iowa's current statewide vacancy rate for physical therapists is approximately 10.6 percent and is significantly higher in many rural parts of the State. Over the next 5 years, rural hospitals estimate a need for 62 additional physical therapists. Each year, the University of Iowa physical therapy program is only able to accept 30 students of the 250 individuals who apply. Our State's 21-percent vacancy rate for respiratory therapists is well over double that of the national average. In addition, Iowa is suffering from shortages of laboratory technicians, emergency medical technicians, medical technologists, and other allied health professionals.

The shortages of allied health professionals stem from a combination of factors. The principal cause is the surge in need for services created by the aging of the population and the increased prevalence of chronic disease and disability. As the Bureau of Health Professions noted in a recent report, "As the number of elderly increases, the demand for allied health practitioners in a variety of fields will rise accordingly, and combined with greater longevity will have a significant impact on demand for practitioners in rehabilitation fields such as occupational therapy, physical therapy, respiratory therapy, and audiology." In addition, advances in medicine and technology have increased the frequency of survival from accidental trauma or severely disabling conditions present at birth, thus increasing the need for services to enhance functional independence and quality of life.

Further compounding the problem created by significantly increased demand for these services has been the lack of focused Federal support for the education and training of allied health professionals over the past decade. While historically the health professions training programs within the Public Health Service Act represented the primary source of Federal support for the education of allied health professionals, this support was severely restricted in 1980. A step back in the right direction was taken with the last reauthorization of title VII of the act in 1988 when several modest initiatives to increased training support were enacted. However, annual authorization levels targeted to allied health training totals only $6 million. And again this year, the President's budget includes no funding for even this modest program.

The proposal we are introducing today seeks to build on the modest improvements made in 1988, incorporating additional provisions designed to improve Federal support for allied health education and training. The Allied Health Professionals Promotion Act of 1991 contains a number of initiatives targeting Federal support to those allied health fields or specialties that are experiencing the most severe personnel shortages. Additionally, it seeks to assure that the future needs of our aging population and disabled community are met by directing support to those fields that have a significant role in the care and rehabilitation of the elderly and disabled. This legislation will assist in expanding existing allied health education programs and in creating new programs. It will also help address the shortage of qualified faculty and will provide incentives for attracting talented individuals into key allied health professions.

In greater detail, the bill authorizes $7 million in fiscal year 1992 for the Secretary of Health and Human Services [HHS] who may make grants to and enter into contracts with allied health educational entities to assist in the improvement and expansion of available faculty and resources. It would also authorize $10 million in fiscal year 1992 for the Secretary to make grants to schools of allied health and others to help students meet the costs of entry level education. The Secretary would be required to direct 75 percent of the funds available to fields or specialties experiencing greatest national or regional shortages and play a significant role in the care and rehabilitation of the elderly or disabled.

The measure would also authorize the Secretary to provide grants to allied health educational entities to assist them in the development and operation of postgraduate programs for the advanced specialty training of professionals who plan to teach and conduct research, and to provide financial assistance to postgraduate students in the form of traineeships or fellowships. The current statutory language also requires the Secretary to direct these grants to those allied health fields or specialties that are in greatest shortage nationally or regionally, those with insufficient numbers of qualified faculty, and those with a significant role in the care and rehabilitation of the elderly or disabled. The act would increase the existing authorization for these purposes from $2 million to $7 million in fiscal year 1992.

To assist in carrying out these endeavors, the legislation would create an Allied Health Professions Advisory Council within the Health Resources and Services Administration's Bureau of Health Professions. The purpose of this council would be to provide advice and recommendations to the Secretary and Congress on policy matters relevant to education, training, and research.

Mr. President, the Allied Health Professionals Promotion Act is strongly supported by a broad coalition of health consumers, facilities, providers and professional associations. These include the American Occupational Therapy Association, American Physical Therapy Association, American Speech-Language-Hearing Association, National Association of Rehabilitation Agencies, National Association of Rehabilitation Facilities, National Easter Seals Society, American Association of Respiratory Care, and the American Hospital Association.

I urge my colleagues to join me in support of this timely and important legislation.

I would also ask unanimous consent that a copy of the bill and a more detailed bill summary be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 694

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Allied Health Professionals Promotion Act of 1991".

SEC. 2. REFERENCES.

Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act (42 U.S.C. 201 et seq.).

SEC. 3. USE AND AUTHORIZATION OF PROJECT GRANTS AND CONTRACTS.

(a) USE.—Section 796(b) (42 U.S.C. 295h-5(b)) is amended by adding at the end thereof the following new paragraph:

"(3) The Secretary shall allocate 75 percent of the funds authorized under subsection (d) for grants and contracts made or entered into under subsection (a) to those allied health fields or specialties as the Secretary shall, from time to time, determine to have—

"(A) the most significant national or regional shortages of practitioners; and

"(B) a significant role in the care and rehabilitation of clients and patients who are elderly or disabled.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Subsection (d) of section 796 (42 U.S.C. 295h-5(d)) is amended to read as follows:

"(d) For the purpose of making payments under grants and contracts under subsection (a), there are authorized to be appropriated $7,000,000 for fiscal year 1992, $9,000,000 for fiscal year 1993, and $11,000,000 for fiscal year 1994.".

SEC. 4. ALLIED HEALTH STUDENT TRAINEESHIPS.

Title VII is amended by adding after section 796 (42 U.S.C. 295h–5) the following new section:

"SEC. 796A. ALLIED HEALTH STUDENT TRAINEESHIPS.

"(a) GRANTS.—The Secretary may make grants to, and enter into contracts with, public and nonpublic private schools of allied health, or other educational entities offering an allied health program, to assist students in meeting the costs of entry level education.

"(b) USE OF GRANTS.—Grants or contracts awarded under subsection (a) shall be used to assist in the payment of costs associated with tuition, fees, and such other stipends and allowances for trainees as the Secretary may consider necessary.

"(c) LIMITATION.—The Secretary shall allocate 75 percent of the funds authorized for grants and contracts made or entered into under subsection (a) to those allied health fields or specialties as the Secretary shall, from time to time, determine to have—

"(1) the most significant national or regional shortages of practitioners; and

"(2) a significant role in the care and rehabilitation of clients and patients who are elderly or disabled.

"(d) TAXATION.—Notwithstanding any other provision of law, any payment to, or on behalf of, a participating student of tuition under this section shall be exempt from taxation.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $10,000,000 for fiscal year 1992, $12,000,000 for fiscal year 1993, and $14,000,000 for fiscal year 1994.".

SEC. 5. ADVANCED TRAINING OF ALLIED HEALTH PERSONNEL.

Section 797 (42 U.S.C. 295h–6(c)) is amended—

(1) in subsection (a), in paragraphs (1) and (2), by striking "doctoral" each place such term appears and inserting "postgraduate"; and

(2) by amending subsection (c) to read as follows:

"(c) AUTHORIZATION OF APPROPRIATIONS.—For purposes of making payments under grants and contracts under subsection (a), there are authorized to be appropriated $7,000,000 for fiscal year 1992, $9,000,000 for fiscal year 1993, and $11,000,000 for fiscal year 1994.".

SEC. 6. ADVISORY COUNCIL ON ALLIED HEALTH.

Subpart II of part G (42 U.S.C. 295h–4 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 798A. ADVISORY COUNCIL ON ALLIED HEALTH.

"(a) ESTABLISHMENT.—There is established within the Health Resources and Services Administration an Advisory Council on Allied Health (hereafter in this section referred to as the 'Council'). The Council shall—

"(1) meet twice annually to provide advice and make recommendations to the Secretary and to the Committees on Labor and Human Resources and Finance of the Senate and the Committees on Energy and Commerce and Ways and Means of the House of Representatives, with respect to—

"(A) the supply and distribution of allied health personnel in the United States;

"(B) current and future shortages or excesses of allied health personnel;

"(C) priority research needs within the allied health professions;

"(D) appropriate Federal policies with respect to the matters specified in subparagraphs (A), (B), and (C), including policies concerning changes in the financing of undergraduate and graduate allied health programs, changes in the types of allied health education, and the appropriate Federal role in the development of a research base in the allied health professions;

"(E) appropriate efforts to be carried out by health care facilities, schools and programs of allied health, and professional associations with respect to the matters specified in subparagraphs (A), (B), and (C), including efforts for changes in undergraduate and graduate allied health education programs, and private support for research initiatives;

"(F) deficiencies and needs for improvements in existing data bases concerning the supply and distribution of training programs for allied health in the United States and steps that should be taken to eliminate those deficiencies; and

"(G) problems, and recommendations for their resolution, relating to the roles and functions of professionals within the allied health fields and other fields such as medicine and dentistry; and

"(2) encourage entities providing allied health education to conduct activities to voluntarily achieve the recommendations of the Council under paragraph (1)(E).

"(b) COMPOSITION.—The Council shall be composed of—

"(1) the Assistant Secretary for Health;

"(2) the Administrator of the Health Care Financing Administration;

"(3) the Assistant Secretary for Defense (Health Affairs);

"(4) the Chief Medical Director of the Department of Veterans Affairs;

"(5) eight members appointed by the Secretary to represent the allied health professions, of which two shall be representatives of such professionals who provide rehabilitation services; and

"(6) five members appointed by the Secretary, including representatives of schools and programs of allied health, health care facility employers of allied health personnel, health insurers, and professional organizations representing the allied health professions.

"(c) APPOINTMENT.—

"(1) TERMS.—Members of the Council appointed under paragraphs (4) and (5) of subsection (b) shall be appointed for a term of 4 years, or until a replacement is appointed, except that the term of office of three of the members first appointed shall expire, as designated by the Secretary at the time of appointment, at the end of 4 years.

"(2) TIME FOR APPOINTMENT.—The Secretary shall appoint the first members to the Council under paragraphs (4) and (5) of subsection (b) not later than 60 days after the date of the enactment of the Allied Health Professionals Promotion Act of 1991.

"(d) CHAIRPERSON.—The Council shall elect one of its members as Chairperson of the Council.

"(e) QUORUM.—Nine members of the Council shall constitute a quorum, but a lesser number may hold hearings.

"(f) VACANCIES.—Any vacancy in the Council shall not affect its power to function.

"(g) COMPENSATION.—Each member of the Council who is not otherwise employed by the United States Government shall receive compensation at a rate not greater than the daily rate prescribed for GS–18 under the General Schedule under section 5332 of title 5, United States Code, for each day, including traveltime, such member is engaged in the actual performance of duties as a member of the Council. A member of the Council who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Council shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

"(h) ADMINISTRATION.—

"(1) IN GENERAL.—To carry out this section, the Council may—

"(A) collect such information, hold such hearings, and sit and act at such times and places, either as a whole or by subcommittee, and request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as the Council or such subcommittee may consider available; and

"(B) request the cooperation and assistance of Federal departments, agencies, and instrumentalities, and such departments, agencies, and instrumentalities are authorized to provide such cooperation and assistance.

"(2) COORDINATION.—The Council shall coordinate activities carried out under this section with the activities of the National Advisory Council on Health Professions Education under section 702 and with the activities of the Secretary under section 708. The Secretary shall, in cooperation with the Council and pursuant to the recommendations of the Council, take such steps as are practicable to eliminate deficiencies in the data base established under section 708 and shall make available in its reports such comprehensive data sets as are developed pursuant to this section.

"(i) REPORTS.—In the reports required under subsection (a), the Council shall specify its activities during the period for which the report is made.".

SEC. 7. DEFINITIONS REGARDING ALLIED HEALTH.

(a) ALLIED HEALTH PROFESSIONAL.—Section 701(13) (42 U.S.C. 292a(13)) is amended in the matter preceding subparagraph (A) by striking "means" and inserting the following: "does not include any registered nurse and otherwise means".

(b) ALLIED HEALTH PERSONNEL.—Section 795(1) (42 U.S.C. 295h–4(1)) is amended by striking "means" and inserting the following: "does not include any registered nurse and otherwise means".

SEC. 8. EFFECTIVE DATE.

The amendments made by this Act shall take effect October 1, 1991, or upon the date of the enactment of this Act, whichever occurs later.

FACT SHEET ON THE ALLIED HEALTH PROFESSIONS PROMOTION ACT OF 1991

To amend Title VII of the Public Health Service Act to increase support of programs for the training of medical rehabilitation health personnel and establish an Allied Health Professions Advisory Council.

SUMMARY

Project Grants and Contracts.—Section 796 of Title VII provides that the Secretary of Health and Human Services may make grants to and enter into contracts with allied health educational entities to assist in the recruitment of individuals into allied health professions, and to assist in the improvement and expansion of available faculty and program resources. The proposed legislation would increase the existing authorization under this section to $7 million in fiscal year 1992 and $9 million in fiscal year 1993 and $11 million for fiscal 1994. In addition, the Secretary will be required to direct 75 percent of the funds available for such grants to eligible entities for the purpose of supporting programs in those allied health fields or specialties that have significant shortages and a significant role in the care and rehabilitation of patients and clients who are elderly and disabled.

Entry-Level Study Traineeships—The proposed legislation would create a new Section 796(A) under Title VII to provide that the Secretary shall make grants to and enter into contracts with allied health educational entities to provide assistance to students in meeting the costs of entry level education. The Secretary will ensure that 75 percent of the funds available for such grants and contracts be directed to eligible entities for the purpose of preparing individuals to enter fields or specialties that have significant shortages and a significant role in the care and rehabilitation of the elderly and disabled. Authorized to be appropriated under this new section would be $10 million in fiscal year 1992, $12 million in fiscal year 1993, and $14 in fiscal 1994.

Traineeships for Advanced Training.—Section 797 of title VII authorizes the Secretary to make grants to and enter into contracts with allied health educational entities to assist them in the development and operation of post-graduate programs for the advanced specialty training of allied health professionals who plan to teach and conduct research, and to provide financial assistance to students in the form of traineeships or fellowships. The current statutory language also requires the Secretary to direct grants and contracts entered into under this section to those fields or specialties that have the most significant national or regional shortages of practitioners, insufficient numbers or qualified faculty, and a significant role in the care and rehabilitation of the elderly and disabled. The proposed legislation would increase the existing authorization under this section to $7 million in fiscal year 1992, $9 million in fiscal year 1993, and $11 million in fiscal 1994.

Allied Health Professions Advisory Council.—The purpose of the Advisory Council on Allied Health is to provide advice and recommendations to the Secretary and the Congress on policy matters relevant to education, training and research in allied health.●

By Mr. ROTH:

S. 695. A bill to amend the Consolidated Omnibus Budget Reconciliation Act of 1985 to clarify the limitation of customs user fees with respect to foreign trade zones; to the Committee on Finance.

APPLICATION OF CUSTOMS USER FEES

● Mr. ROTH. Mr. President, I rise to introduce legislation to clarify the application of customs user fees on goods entering the United States from foreign trade zones [FTZ's]. It addresses an unintended consequence of a specific user fee provision on agricultural products in last year's Customs and Trade Act. Unfortunately, this provision has been interpreted broadly to mean that, except for domestic agricultural products, all domestic inputs in foreign trade zones will now be subject to customs users fees.

Congress never intended to penalize domestic manufactured inputs in foreign trade zones by applying the customs users fee to them. Moreover, until the enactment of last year's trade bill, standard Customs practice with respect to the application of customs user fees on goods leaving FTZ's has been to collect fees only on the value of foreign component parts of the final product.

The bill I am introducing today will clarify original congressional intent and help preserve the competitive advantage of using domestic products in FTZ's. It will benefit manufacturers of U.S. goods, and is of critical importance to the U.S. auto industry, which will be confronted with excessive retroactive fees if the current law is not clarified. I would like to point out that it is my understanding that this legislation has no budgetary impact.

I look forward to the early passage of this legislation, and urge my colleagues to support it.●

By Mr. RIEGLE (for himself, Mr. AKAKA, Mr. BRADLEY, Mr. FOWLER, Mr. DECONCINI, Mr. GORE, Mr. LAUTENBERG, Mr. LEVIN, Mr. CRANSTON, Mr. BURDICK, Mr. MURKOWSKI, Mr. PACKWOOD, Mr. KERRY, Mrs. KASSEBAUM, Mr. GLENN, Mr. METZENBAUM, Mr. PELL, Mr. ROCKEFELLER, and Mr. CHAFEE):

S.J. Res. 96. Joint resolution to designate November 19, 1991, as "National Philanthropy Day"; to the Committee on the Judiciary.

NATIONAL PHILANTHROPY DAY

● Mr. RIEGLE. Mr. President, today I am introducing, together with 18 of our colleagues, a resolution, to designate November 19, 1991 as National Philanthropy Day.

Philanthropy is one of America's most noble traditions. The legacy of giving of oneself to benefit both the individual and society is evident in the life of Benjamin Franklin, who—in addition to spending most of his life in public service—donated much of the profits from his inventions to various causes.

The word philanthropy is derived from the Greek words meaning "love of man." Americans have consistently taken that meaning to heart, and have devoted portions of their lives to fulfilling its cause. Alexis de Tocqueville, the French historian, lauded the American enthusiasm to "make great and real sacrifices for the common good." He attributed this drive to democracy, which, he felt, by destroying barriers of class and privilege, promotes a feeling of compassion for all members of the human race.

Today, the spirit of philanthropy and volunteerism is stronger than ever. Over 10 million people are serving in philanthropic organizations and more than 4½ million of these are volunteers tackling myriad of needs and problems—from battling heart disease to delivering groceries to seniors. Americans are generous with their resources, as well. In 1989, Americans gave $114 billion to philanthropic organizations.

I believe it is important to set aside November 19 as National Philanthropy Day to recognize the generous spirit of the American people, and to promote efforts to carry on this vital tradition of giving and I urge my colleagues to join us in this effort.●

ADDITIONAL COSPONSORS

S. 14

At the request of Mr. SARBANES, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 14, a bill to assist in the restoration of the Chesapeake Bay, and for other purposes.

S. 15

At the request of Mr. BIDEN, the names of the Senator from New Mexico [Mr. BINGAMAN], and the Senator from Ohio [Mr. GLENN] were added as cosponsors of S. 15, a bill to combat violence and crimes against women on the streets and in homes.

S. 102

At the request of Mr. COHEN, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 102, a bill to amend title IV of the Higher Education Act of 1965 to allow resident physicians to defer repayment of title IV student loans while completing accredited resident training programs.

S. 109

At the request of Mr. MURKOWSKI, the names of the Senator from Wyoming [Mr. SIMPSON], the Senator from Montana [Mr. BURNS], the Senator from Mississippi [Mr. COCHRAN], the Senator from Mississippi [Mr. LOTT], the Senator from Idaho [Mr. CRAIG], the Senator from Kansas [Mr. DOLE], the Senator from Alabama [Mr. HEFLIN], and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 109, a bill to amend the Mineral Lands Leasing Act of 1920 to authorize the Secretary of the Interior to lease, in an expeditious and environmentally sound manner, the public lands within the Coastal Plain of the North Slope of Alaska for oil and gas exploration, development, and production.

S. 140

At the request of Mr. DOMENICI, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of S. 140, a bill to increase Federal payments in lieu of taxes to units of general local government, and for other purposes.

S. 173

At the request of Mr. HOLLINGS, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S.

173, a bill to permit the Bell Telephone Companies to conduct research on, design, and manufacture telecommunications equipment, and for other purposes.

S. 199

At the request of Mr. GLENN, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 199, a bill to amend the Internal Revenue Code of 1986 to exclude from income the compensation received for active service as a member of the Armed Forces of the United States in a dangerous foreign area.

S. 272

At the request of Mr. GORE, the names of the Senator from Washington [Mr. ADAMS], and the Senator from Pennsylvania [Mr. HEINZ] were added as cosponsors of S. 272, a bill to provide for a coordinated Federal research program to ensure continued U.S. leadership in high-performance computing.

S. 307

At the request of Mr. RIEGLE, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 307, a bill to amend the Internal Revenue Code of 1986 to permit individuals to receive tax-free distributions from an individual retirement account or annuity to purchase their first home, and for other purposes.

S. 308

At the request of Mr. MITCHELL, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 308, a bill to amend the Internal Revenue Code of 1986 to permanently extend the low-income housing credit.

S. 310

At the request of Mr. PELL, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 310, a bill to provide for full statutory wage adjustments for prevailing rate employees, and for other purposes.

S. 364

At the request of Mr. LIEBERMAN, the names of the Senator from New York [Mr. D'AMATO] and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of S. 364, a bill to provide assistance to business and education partnerships for the reform of education and training to revitalize the Nation's economy and improve the Nation's competitive position.

S. 384

At the request of Mr. CRAIG, his name was added as a cosponsor of S. 384, a bill to delay the effective date of reductions in the CHAMPUS mental health benefit, and for other purposes.

S. 386

At the request of Mr. DECONCINI, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 386, a bill to amend title 38, United States Code, to define the period of the Persian Gulf war, to extend eligibility for pension, medical, educational, housing, financial, and other benefits provided under the title to veterans of the war, and for other purposes.

S. 403

At the request of Mr. WALLOP, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 403, a bill to clarify the intent of Congress with respect to establishment and collection of certain fees and charges.

S. 416

At the request of Mr. DANFORTH, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 416, a bill to amend the Internal Revenue Code of 1986 to make permanent the tax credit for increasing research activities.

S. 417

At the request of Mr. LIEBERMAN, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 417, a bill to establish energy conservation and clean energy requirements for Federal buildings, and for other purposes.

S. 420

At the request of Mr. SARBANES, the names of the Senator from Alabama [Mr. SHELBY] and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of S. 420, a bill to increase to $50,000 the maximum grant amount awarded pursuant to section 601 of the Library Services and Construction Act.

S. 447

At the request of Mr. THURMOND, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 447, a bill to recognize the organization known as The Retired Enlisted Association, Incorporated.

S. 456

At the request of Ms. MIKULSKI, the names of the Senator from Kentucky [Mr. FORD], the Senator from Nebraska [Mr. EXON], the Senator from South Dakota [Mr. DASCHLE], and the Senator from Pennsylvania [Mr. HEINZ] were added as cosponsors of S. 456, a bill to amend chapter 83 of title 5, United States Code, to extend the civil service retirement provisions of such chapter which are applicable to law enforcement officers to inspectors of the Immigration and Naturalization Service, inspectors and canine enforcement officers of the U.S. Customs Service, and revenue officers of the Internal Revenue Service.

S. 481

At the request of Mr. SIMON, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as cosponsor of S. 481, a bill to authorize research into the desalting of water and water reuse.

S. 487

At the request of Mr. GLENN, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 487, a bill to amend title XVIII of the Social Security Act to provide for coverage of bone mass measurements for certain individuals under part B of the Medicare Program.

S. 488

At the request of Mr. GRASSLEY, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 488, a bill to amend the Public Health Service Act to establish and coordinate research programs for osteoporosis and related bone disorders, and for other purposes.

S. 492

At the request of Mr. SIMON, the name of the Senator from Maryland [Ms. MIKULSKI] was added as cosponsor of S. 492, a bill to amend the National Labor Relations Act to give employers and performers in the live performing arts, rights given by section 8(e) of such act to employers and employees in similarly situated industries, to give to such employers and performers the same rights given by section 8(f) of such act to employers and employees in the construction industry, and for other purposes.

S. 499

At the request of Mr. LUGAR, the names of the Senator from Washington [Mr. GORTON], and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 499, a bill to amend the National School Lunch Act to remove the requirement that schools participating in the school lunch program offer students specific types of fluid milk, and for other purposes.

S. 519

At the request of Mr. REID, the names of the Senator from New Hampshire [Mr. SMITH], and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of S. 519, a bill to amend title II of the Social Security Act to exclude child care earnings from wages and self-employment income under the earnings test with respect to individuals who have attained retirement age.

S. 565

At the request of Mr. WARNER, the name of the Senator from Indiana [Mr. LUGAR] was added as cosponsor of S. 565, a bill to authorize the President to award a gold medal on behalf of the Congress to Gen. Colin L. Powell, and to provide for the production of bronze duplicates of such medal for sale to the public.

S. 576

At the request of Mr. DECONCINI, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S. 576, a bill to amend the Internal Revenue Code of 1986 to provide a credit against tax for employers who provide on-site day-care facilities for dependents of their employees.

S. 583

At the request of Mr. ROTH, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 583, a bill to amend the Internal Revenue Code of 1986 to require the recapture of certain losses of savings and loan associations, to clarify the treatment of certain Federal financial assistance to savings and loan associations, and for other purposes.

S. 588

At the request of Mr. MITCHELL, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 588, a bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of certain cooperative service organizations of private and community foundations.

S. 611

At the request of Mr. DOLE, the names of the Senator from Montana [Mr. BURNS] and the Senator from New York [Mr. D'AMATO] were added as cosponsors of S. 611, a bill to amend the Civil Rights Act of 1964 to strengthen protections against discrimination in employment, and for other purposes.

S. 612

At the request of Mr. BENTSEN, the names of the Senator from Colorado [Mr. WIRTH] and the Senator from Delaware [Mr. BIDEN] were added as cosponsors of S. 612, a bill to amend the Internal Revenue Code of 1986 to encourage savings and investment through individual retirement accounts, and for other purposes.

S. 651

At the request of Mr. GARN, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 651, a bill to improve the administration of the Federal Deposit Insurance Corporation, and to make technical amendments to the Federal Deposit Insurance Act, the Federal Home Loan Bank Act, and the National Bank Act.

S. 659

At the request of Mr. GRAHAM, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 659, a bill to suspend temporarily certain bars to the furnishing of veterans benefits to certain former spouses of veterans and to suspend temporarily a bar to the recognition of certain married children of veterans for veterans benefits purposes.

S. 664

At the request of Mr. THURMOND, the names of the Senator from Alaska [Mr. STEVENS] and the Senator from Ohio [Mr. GLENN] were added as cosponsors of S. 664, a bill to require that health warnings be included in alcoholic beverage advertisements, and for other purposes.

S. 671

At the request of Mr. LEAHY, the names of the Senator from Minnesota [Mr. DURENBERGER], the Senator from New York [Mr. D'AMATO], and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of S. 671, a bill to establish on a temporary basis a minimum basic formula price for the computation of Class I milk prices.

SENATE JOINT RESOLUTION 15

At the request of Mr. THURMOND, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of Senate Joint Resolution 15, a joint resolution proposing an amendment to the Constitution of the United States relating to voluntary school prayer.

SENATE JOINT RESOLUTION 16

At the request of Mr. THURMOND, the names of the Senator from Illinois [Mr. DIXON] the Senator from Delaware [Mr. BIDEN], the Senator from Tennessee [Mr. GORE], the Senator from Florida [Mr. MACK], the Senator from Mississippi [Mr. COCHRAN], the Senator from North Dakota [Mr. BURDICK], the Senator from Virginia [Mr. WARNER], the Senator from Vermont [Mr. JEFFORDS], the Senator from Georgia [Mr. FOWLER], the Senator from North Dakota [Mr. CONRAD], the Senator from Connecticut [Mr. DODD], and the Senator from Georgia [Mr. NUNN] were added as cosponsors of Senate Joint Resolution 16, a joint resolution designating the week of April 21–27, 1991, as "National Crime Victims' Rights Week."

SENATE JOINT RESOLUTION 21

At the request of Mr. SASSER, the names of the Senator from Hawaii [Mr. AKAKA], and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of Senate Joint Resolution 21, a joint resolution expressing the sense of the Congress that the Department of Commerce should utilize the statistical correction methodology to achieve a fair and accurate 1990 Census.

SENATE JOINT RESOLUTION 38

At the request of Mr. THURMOND, the names of the Senator from Oklahoma [Mr. BOREN], and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of Senate Joint Resolution 38, a joint resolution to recognize the "Bill of Responsibilities" of the Freedoms Foundation at Valley Forge.

SENATE JOINT RESOLUTION 40

At the request of Mr. THURMOND, the names of the Senator from Pennsylvania [Mr. SPECTER], the Senator from Georgia [Mr. FOWLER], the Senator from Maryland [Ms. MIKULSKI], the Senator from Alabama [Mr. SHELBY], and the Senator from Pennsylvania [Mr. HEINZ] were added as cosponsors of Senate Joint Resolution 40, a joint resolution to designate the period commencing September 8, 1991, and ending on September 14, 1991, as "National Historically Black Colleges Week."

SENATE JOINT RESOLUTION 43

At the request of Mr. THURMOND, the names of the Senator from New Jersey [Mr. BRADLEY] the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Joint Resolution 43, a joint resolution to authorize and request the President to designate May 1991 as "National Physical Fitness and Sports Month."

SENATE JOINT RESOLUTION 57

At the request of Mr. THURMOND, the names of the Senator from Delaware [Mr. BIDEN], and the Senator from Illinois [Mr. DIXON] were added as cosponsors of Senate Joint Resolution 57, a joint resolution to designate the month of May 1991, as "National Foster Care Month."

SENATE JOINT RESOLUTION 67

At the request of Mr. THURMOND, the names of the Senator from Louisiana [Mr. BREAUX], and the Senator from Delaware [Mr. BIDEN] were added as cosponsors of Senate Joint Resolution 67, a joint resolution to recognize and commemorate the centennial of the Immigration and Naturalization Service.

SENATE JOINT RESOLUTION 72

At the request of Mr. SPECTER, the names of the Senator from Illinois [Mr. DIXON], and the Senator from California [Mr. SEYMOUR] were added as cosponsors of Senate Joint Resolution 72, a joint resolution to designate the week of September 15, 1991, through September 21, 1991, as "National Rehabilitation Week."

SENATE JOINT RESOLUTION 73

At the request of Mr. SPECTER, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of Senate Joint Resolution 73, a joint resolution designating October 1991 as "National Domestic Violence Awareness Month."

SENATE JOINT RESOLUTION 77

At the request of Mr. KERRY, his name was added as a cosponsor of Senate Joint Resolution 77, a joint resolution relative to telephone rates and procedures for Operation Desert Storm personnel.

SENATE JOINT RESOLUTION 85

At the request of Mr. KASTEN, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of Senate Joint Resolution 85, a joint resolution authorizing and requesting the President to appoint Gen. Colin L. Powell and Gen. H. Norman Schwarzkopf, Jr., U.S. Army, to the permanent grade of General of the Army.

SENATE JOINT RESOLUTION 91

At the request of Mr. KENNEDY, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of Senate Joint Resolution 91, a joint resolution expressing the sense of the Congress regarding the political and human rights situation in Kenya.

SENATE JOINT RESOLUTION 94

At the request of Mr. BROWN, the names of the Senator from Washington [Mr. GORTON], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Colorado [Mr. WIRTH], the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Utah [Mr. GARN] were added as cosponsors of Senate Joint Resolution 94, a joint resolution relative to Iraq.

SENATE JOINT RESOLUTION 95

At the request of Mr. PELL, the names of the Senator from Oregon [Mr. PACKWOOD], and the Senator from California [Mr. SEYMOUR] were added as cosponsors of Senate Joint Resolution 95, a joint resolution designating October 1991 as "National Breast Cancer Awareness Month."

SENATE CONCURRENT RESOLUTION 16

At the request of Mr. MACK, the names of the Senator from Colorado [Mr. BROWN], the Senator from Michigan [Mr. RIEGLE], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Colorado [Mr. WIRTH], the Senator from Maine [Mr. COHEN], the Senator from Delaware [Mr. BIDEN], the Senator from South Dakota [Mr. PRESSLER], the Senator from Washington [Mr. ADAMS], the Senator from Missouri [Mr. BOND], the Senator from Iowa [Mr. GRASSLEY], the Senator from Massachusetts [Mr. KERRY], the Senator from Indiana [Mr. LUGAR], the Senator from Maryland [Mr. SARBANES], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Wisconsin [Mr. KASTEN], the Senator from North Carolina [Mr. SANFORD], the Senator from New Hampshire [Mr. SMITH], the Senator from Wisconsin [Mr. KOHL], the Senator from Idaho [Mr. SYMMS], the Senator from Ohio [Mr. METZENBAUM] the Senator from Mississippi [Mr. LOTT], and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of Senate Concurrent Resolution 16, a concurrent resolution urging Arab states to recognize, and end the state of belligerency with, Israel.

SENATE CONCURRENT RESOLUTION 18

At the request of Mr. CRANSTON, the names of the Senator from Delaware [Mr. BIDEN], the Senator from Michigan [Mr. RIEGLE], and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of Senate Concurrent Resolution 18, a concurrent resolution expressing the concern of the Senate for the ongoing human rights abuses in Burma and for the status of displaced Burmese and Burmese refugees.

SENATE CONCURRENT RESOLUTION 19

At the request of Mr. CRANSTON, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of the Senate Concurrent Resolution 19, a concurrent resolution condemning the People's Republic of China's continuing violation of universal human rights principles.

STATE RESOLUTION 84—PRAISING THE PEOPLE AND GOVERNMENT OF POLAND FOR THEIR EFFORTS IN TRYING TO TRANSFORM THEIR ECONOMY

Mr. LIEBERMAN (for himself, Mr. BRADLEY, Mr. LEVIN, Mr. WIRTH, Ms. MIKULSKI, Mr. ROTH, Mr. KASTEN, and Mr. MURKOWSKI) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 84

Whereas the people and Government of Poland have led the revolution of economic and political change in Central Europe over the last two years;

Whereas the people and Government of Poland have committed themselves to dramatic transformation of their economy from a command economy to one based on free market principles;

Whereas the process of change in Poland has been difficult, causing the Polish People great hardship;

Whereas the people and Government of Poland have displayed an unwavering commitment to the process of democratization and marketization;

Whereas aid from the developed nations has not been sufficient to the magnitude of the problems confronting the people and Government of the people of Poland;

Whereas the burden of the foreign debt has made the process of economic transformation more difficult for the people and Government of Poland;

Whereas the people and Government of Poland should not have to bear the burden of debt accumulated by the former Communist regime;

Whereas a reduction in Polish foreign debt is an important way to help the people and Government of Poland;

Whereas there is precedent for the reduction of debt of a nation under special circumstances, including the London accord after World War II, in which the allies forgave the debt of the new German Government incurred by the Nazi government, as well as the recent forgiveness by the United States Government of the debt of the military debt of the Egyptian Government;

Whereas Poland is an extraordinary case because the success of the Government and people of Poland in the rebuilding of their economy is important to all the nations of Central and Eastern Europe; and

Whereas the success of the Government and people of Poland in the rebuilding of their economy is dependent on the Government of Poland receiving a reduction in their foreign debt burden: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the people and Government of Poland should be praised for their efforts in trying to transform their economy;

(2) the Polish Government is expected to receive a significant reduction of its external debt burden as a result of those efforts;

(3) the United States representatives to the Paris Club should be applauded for reaching agreement on a signficant reduction of this debt, which provides a basis for sustained economic growth in Poland;

(4) the United States representatives to the Paris Club discussions strongly encourage the governments of Western Europe and Japan, in following through on their commitments to reduce their officially held Polish debt by at least 50 percent, to take advantage of the agreed arrangements to exceed the 50 percent level by using swaps; and

(5) commercial banks holding Polish debt should also be strongly encouraged to reduce that debt by at least 50 percent.

• Mr. LIEBERMAN. Mr. President, I am submitting a resolution today along with Senators MIKULSKI, BRADLEY, KASTEN, MURKOWSKI, LEVIN, WIRTH, and ROTH on Polish debt forgiveness. This sense of the Senate resolution praises our Paris Club negotiators for their efforts to get the governments of other developed nations to forgive a significant portion of their Polish debt.

Late last week, the Paris Club reached an historic agreement to reduce Polish debt by 50 percent. This reduction would be achieved by one of three options and would be front-loaded, cutting interest rates by as much as 80 percent over the next 3 years. It is estimated that this would reduce Poland's annual interest payments from over $3 billion to about $660 million.

American negotiators worked hard to move the Europeans and Japanese to agree to this arrangement, letting the Polish people know that we continue to support them in their struggle to rebuild their economy from the ashes of communism. The Poles have taken the high, hard, quick road to transformation, rejecting a more gradual approach to change.

It is our responsibility to help the Poles with their courageous economic struggle. For over 40 years we offered words of consolation and support for those in Poland struggling to free themselves from their Communist oppressors. During the early eighties we applauded the valiant struggle of Solidarity and the courage of men like Lech Walesa.

They have won, succeeded beyond our expectations, and we cannot in good conscience now stand timidly by the side of the road. Granted, we have limited resources. Granted we must make certain that we use our aid cost effectively. But the Paris Club debt agreement is a cost-effective way of offering a helping hand to the people of Poland by relieving them of a financial burden that is not of their making and that they would not have been able to repay anyway.

The Polish Government has indicated that their worldwide official or government to government debt is $30.9 billion. Another $10.6 billion is owed to commercial banks, and $2.4 billion is owed to the Soviets and other CMEA members. Our next step is to try and get commercial banks to enter into a similar agreement with the Polish Government, further helping them with their efforts to rebuild their economy.

The Polish example is not only important to the people of Poland, it is important to all Eastern bloc reformers, including reformers in the Soviet Union. If the Poles succeed, in their bold push for change, that will encourage other reformers to move forward. By supporting their efforts through direct aid and other methods such as debt relief, we can show that the West is willing to support reform actively.

We in the United States bore the burden of Desert Storm. We have proven that we are capable of leading the nations of the world in pursuit of a just cause. We must exert our leadership again with the rebuilding of Poland and the other nations of Eastern Europe. This means not only taking the initiative ourselves through actions like offering debt relief but also getting our allies to live up to their responsibility to help build democracy and free enterprise.

The Polish people need our help. By passing this resolution, we are sending a strong signal to them and to their government that we have not forgotten them, that we are supportive of their historic efforts to transform their nation from the rubble of communism, and in so doing, make the world more peaceful and prosperous in the decades ahead.●

SENATE RESOLUTION 85—TO AMEND THE STANDING RULES OF THE SENATE

Mr. MITCHELL submitted the following resolution; which was considered and agreed to:

S. RES. 85

Resolved, That paragraph 3(a), (b), and (c) of Rule XXV of the Standing Rules of the Senate is amended for the One Hundred and Second Congress as follows:

Strike "23" after "Budget" and insert in lieu thereof "21".

Strike "19" after "Small Business" and insert in lieu thereof "18".

Strike "11" after "Veterans Affairs" and insert in lieu thereof "12".

Strike "19" after "Special Committee on Aging" and insert in lieu thereof "21".

SENATE RESOLUTION 86—MAKING MAJORITY PARTY APPOINTMENTS TO CERTAIN COMMITTEES

Mr. MITCHELL submitted the following resolution; which was considered and ageed to:

S. RES. 86

Resolved, That the following shall constitute the majority party's membership on the committees for the One Hundred and Second Congress, or until their successors are chosen:

Committee on the Budget: Mr. Sasser (Chairman), Mr. Hollings, Mr. Johnston, Mr. Riegle, Mr. Exon, Mr. Lautenberg, Mr. Simon, Mr. Sanford, Mr. Wirth, Mr. Fowler, Mr. Conrad, and Mr. Dodd.

Committee on Rules and Administration: Mr. Ford (Chairman), Mr. Pell, Mr. Byrd, Mr. Inouye, Mr. DeConcini, Mr. Gore, Mr. Moynihan, Mr. Dodd, and Mr. Adams.

Committee on Small Business: Mr. Bumpers (Chairman), Mr. Nunn, Mr. Baucus, Mr. Levin, Mr. Dixon, Mr. Harkin, Mr. Kerry (MA), Ms Mikulski, Mr. Lieberman, and Mr. Wellstone.

Committee on Veterans' Affairs: Mr. Cranston (Chairman), Mr. DeConcini, Mr. Mitchell, Mr. Rockefeller, Mr. Graham, Mr. Akaka, and Mr. Daschle.

Select Committee on Ethics: Mr. Heflin, Mr. Pryor, and Mr. Sanford.

Special Committee on Aging: Mr. Pryor (Chairman), Mr. Glenn, Mr. Bradley, Mr. Burdick, Mr. Johnston, Mr. Breaux, Mr. Shelby, Mr. Reid, Mr. Graham, Mr. Kohl, and Mr. Sanford.

SENATE RESOLUTION 87—AMENDING THE STANDING RULES OF THE SENATE

Mr. MITCHELL submitted the following resolution; which was considered and agreed to:

S. RES. 87

Resolved, That paragraph 4 of Rule XXV is amended by striking subparagraphs (h)(16) through (h)(25) and inserting in lieu thereof the following:

"(16) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Special Committee on Aging, may, during the One Hundred Second Congress, also serve as a member of the Committee on Intelligence so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(17) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Veterans Affairs, may, during the One Hundred Second Congress, also serve as a member of the Committee on Intelligence so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(18) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Rules and Administration, may, during the One Hundred Second Congress, also serve as a member of the Committee on Veterans Affairs and the Committee on Intelligence so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than three committees listed in paragraphs 3 (a) and (b).

"(19) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Rules and Administration, may, during the One Hundred Second Congress, also serve as a member of the Joint Economic Committee so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(20) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Veterans Affairs, may, during the One Hundred Second Congress, also serve as a member of the Special Committee on Aging so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(21) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on the Budget, may, during the One Hundred Second Congress, also serve as a member of the Special Committee on Aging so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(22) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Small Business, may, during the One Hundred Second Congress, also serve as a member of the Committee on Intelligence so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(23) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Special Committee on Aging, may, during the One Hundred Second Congress, also serve as a member of the Committee on Intelligence so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(24) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on the Budget, may, during the One Hundred Second Congress, also serve as a member of the Committee on Intelligence so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(25) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Rules and Administration, may, during the One Hundred Second Congress, also serve as a member of the Committee on Budget so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(26) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Rules and Administration, may, during the One Hundred Second Congress, also serve as a member of the Joint Committee on Taxation so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraph 3."

"(27) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Budget, may, during the One Hundred Second Congress, also serve as a member of the Special Committee on Aging so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b)."

SENATE RESOLUTION 88—MAKING MINORITY PARTY APPOINTMENTS TO CERTAIN COMMITTEES

Mr. NICKLES (for Mr. Dole) submitted the following resolution; which was considered and agreed to:

S. Res. 88

Resolved, That the following shall constitute the minority party's membership on those Senate committees listed below for the One Hundred Second Congress, or until their successors are appointed:

Committee on the Budget: Mr. Domenici, Mr. Symms, Mr. Grassley, Mr. Kasten, Mr. Nickles, Mr. Gramm, Mr. Bond, Mr. Lott, and Mr. Brown.

Committee on Rules and Administration: Mr. Stevens, Mr. Hatfield, Mr. Helms, Mr. Warner, Mr. Dole, Mr. Garn, and Mr. McConnell.

Committee on Small Business: Mr. Kasten, Mr. Pressler, Mr. Wallop, Mr. Bond, Mr. Burns, Mr. Stevens, Mr. Mack, and Mr. Seymour.

Committee on Veterans' Affairs: Mr. Specter, Mr. Simpson, Mr. Thurmond, Mr. Murkowski, and Mr. Jeffords.

Select Committee on Ethics: Mr. Rudman, Mr. Lott, and Mr. Gorton.

Special Committee on Aging: Mr. Heinz, Mr. Cohen, Mr. Pressler, Mr. Grassley, Mr. Simpson, Mr. Jeffords, Mr. McCain, Mr. Durenberger, Mr. Craig, and Mr. Burns.

SENATE RESOLUTION 89—AMENDING THE STANDING RULES OF THE SENATE

Mr. NICKLES (for Mr. Dole) submitted the following resolution; which was considered and agreed to:

S. Res. 89

Resolved, That paragraph 4 of rule XXV is amended by adding the following:

A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on the Budget and the Committee on Small Business may, during the One Hundred Second Congress, continue his service on these two Committees so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on the Budget and the Special Committee on Aging may, during the One Hundred Second Congress, continue his service on these two Committees so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on the Budget and the Committee on Small Business may, during the One Hundred Second Congress, continue his service on these two Committees so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

A Senator who on the last day of the One Hundred First Congress was serving as a member of the Select Committee on Intelligence and the Committee on Veterans' Affairs may, during the One Hundred Second Congress, continue his service on these two Committees so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Veterans' Affairs and the Special Committee on Aging may, during the One Hundred Second Congress, continue his service on these two Committees so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Rules and Administration and the Committee on Small Business may, during the One Hundred Second Congress, continue his service on these two Committees so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

A Senator who on the last day of the One Hundred First Congress was serving as a member of the Special Committee on Aging and the Committee on Small Business may, during the One Hundred Second Congress, continue his service on these two Committees so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

A Senator may serve as a member of the Special Committee on Aging and the Committee on Veterans' Affairs during the One Hundred Second Congress so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

A Senator may serve as a member of the Committee on Rules and Administration and the Select Committee on Intelligence during the One Hundred Second Congress, so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

AMENDMENTS SUBMITTED

THE DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT

JOHNSTON AMENDMENT NO. 40

Mr. BYRD (for Mr. Johnston) proposed an amendment to the bill (H.R. 1281) making dire emergency supplemental appropriations for the consequences of Operation Desert Shield/Desert Storm, food stamps, unemployment compensation administration, veterans compensation; and pensions, and other urgent needs for fiscal year ending September 30, 1991, and for other purposes, funding to provide for participation in the Coastal Wetlands Conservation and Restoration Task Force, as follows:

At the appropriate place in the bill, insert the following: "*Provided*, That, from within funds appropriated to General Investigations by the Energy and Water Development Appropriations Act, 1991, Public Law 101-514, the Secretary shall make $300,000 available to implement the provisions of the Coastal Wetlands Planning, Protection and Restoration Act (Public Law 101-646)."

KASTEN (AND LEAHY) AMENDMENT NO. 41

Mr. HATFIELD (for Mr. Kasten, for himself and Mr. Leahy) proposed an amendment to the bill (H.R. 1281), supra, as follows:

At the appropriate place insert the following:

SEC. . PERSIAN GULF ENVIRONMENTAL TECHNICAL ASSISTANCE.

(a) International Framework.—Congress strongly encourages the President to seek the establishment of an international framework agreement to—

(1) provide for environmental monitoring, assessment, remediation and restoration in the Persian Gulf region of effects of the recent war; and

(2) provide for the payment, by the host country, of appropriate federal agencies utilized to establish or implement this agreement.

(b) Reports—(1) Within 60 days of enactment of this Act, the President shall submit to the Committees on Appropriations of the Senate and House or Representatives an unclassified report identifying the actions taken to implement these provisions and any costs and payments, and

(2) By March 1, 1992, the Administrator of the Environmental Protection Agency, in consultation with appropriate agencies, shall submit to Congress an unclassified report providing a comprehensive evaluation of environmental effects of the Persian Gulf conflict identified pursuant to this provision.

DeCONCINI (AND CRANSTON) AMENDMENT NO. 42

Mr. BYRD (for Mr. DeConcini, for himself Mr. Cranston, and Mr. Specter) proposed an amendment to the bill (H.R. 1281), supra, as follows:

At the appropriate place in the bill, insert:

DEPARTMENT MANAGEMENT

Assistant Secretary for Veterans Employment and Training

In addition to the amounts which are available for the Employment Security Administration account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 2001-10 and 2021-26, not to exceed $4,000,000 may be derived from that account for unbudgeted costs associated with Operation Desert Shield/Operation Desert Storm for carrying out the Transition Assistance Program under section 1144 of title 10, United States Code.

LEAHY (AND OTHERS) AMENDMENT NO. 43

Mr. LEAHY (for himself, Mr. Jeffords, Mr. Dodd, Mr. Durenberger, Mr. Wellstone, Mr. Daschle, Mr. Conrad, Mr. Harkin, Mr. Kohl, Mr.

KASTEN, Mr. PRYOR, Mr. PRESSLER, and Mr. D'AMATO, proposed an amendment, which was subsequently modified, to the bill (H.R. 1281), supra, as follows:

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In the pending amendment, strike everything after "634" and insert the following:

of the Rural Development, Agriculture, and Related Agencies Appropriations Act of 1991, Public Law 101-506, is hereby repealed

SEC. 101. EMERGENCY DAIRY ADJUSTMENTS.

(a) ADJUSTMENTS TO CLASS I PRICE.—

(1) MINIMUM BASIC FORMULA PRICE.—The Secretary of Agriculture shall, with respect to milk marketed during the period beginning on the first day of the first month after the date of enactment of this Act and ending December 31, 1991, provide that the basic formula price used for the purpose of computing the price of Class I milk under milk marketing orders may not be less than the basic formula price determined for the month of August 1990, as determined by the Secretary of Agriculture.

(2) EQUITABLE DISTRIBUTION OF FUNDS.—Nothwithstanding any other provision of law, the Secretary of Agriculture—

(A) shall provide for the uniform national pooling of funds (on a monthly basis) equal to the difference between the price of Class I milk as determined under this subsection and the price of Class I milk that would be determined if this subsection were not in effect, multiplied by the quantity of Class I milk that is marketed under milk marketing orders during such month;

(B) shall distribute such funds (less the amount provided for in subparagraph (D)) on a monthly basis to all producers under milk marketing orders at a uniform rate per hundred-weight;

(C) is authorized to make such temporary modifications in the operation of milk marketing orders as are necessary to carry out the provisions of this subsection; and

(D) shall deposit a total of $32 million of such funds into the general treasury of the United States (but no more than $6 million per month) to be applied by the Secretary of the Treasury during the fiscal years 1991 and 1992 against the obligations of the Commodity Credit Corporation incurred as a result of the administration of this subsection or the operation of the dairy program under the Agricultural Act of 1949 and the Agricultural Adjustment Act, reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

(3) DEFINITIONS.—As used in this subsection—

(A) the term "basic formula price" shall mean the basic formula price as defined under regulations contained in parts 1001 through 1139, respectively, of title 7 of the Code of Federal Regulations;

(B) the term "Class I milk" shall mean all milk classified as Class I milk in accordance with regulations contained in parts 1001 through 1139, respectively, of title 7 of the Code of Federal Regulations;

(C) the term "milk marketing orders" shall mean the milk marketing orders issued pursuant to section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937; and

(D) the term "producer" shall mean any person defined as a producer under regulations contained in parts 1001 through 1139, respectively, of title 7 of the Code of Federal Regulations.

(4) REGULATIONS.—The Secretary of Agriculture shall promulgate regulations amending Federal milk marketing orders as necessary to carry out the provisions of this subsection. The procedural requirements of paragraphs (3), (4), (9), (17), (18) and (19) of section 608c of title 7 of the United States Code and the provisions of section 553 of title 5 of the United States Code shall not apply with respect to the provisions of this subsection.

(5) REDUCED INTEREST RATE LOANS.—

(A) GUARANTEED LOANS.—Of the amounts available for operating loan guarantees under section 351 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1999), the Secretary of Agriculture shall, during the period beginning on the first day of the month after the date of enactment of this Act and ending December 31, 1992, make available loan guarantees of not less than $2,000,000, but not more than $5,000,000, to eligible producers for the purpose of assisting an eligible producer to upgrade the producer's production facilities to be suitable for purposes of producing milk which can be marketed under milk marketing orders.

(B) ELIGIBLE PRODUCERS.—Producers eligible to receive loans under paragraph (1) shall be limited to persons who produce milk that can not be marketed for fluid purposes.

(b) SOLIDS CONTENT OF BEVERAGE MILK.—

(1) SOLIDS CONTENT.—Nothwithstanding any other provision of law—

(A) all milk that is in final package form for beverage use shall contain not less than 8.7 percent milk solids not fat;

(B) all lowfat milk that is in final package form for beverage use shall contain not less than 10 percent milk solids not fat; and

(C) all skim milk that is in final package form for beverage use shall contain not less than 9 percent milk solids not fat.

(2) DEFINITION OF MILK.—The term "milk" as used in this subsection means sweet milk of cows.

(c) HEIFER EXPORTS.—

(1) IN GENERAL.—Section 204 of the Agricultural Act of 1949 (7 U.S.C. 1446e) is amended—

(A) by redesignating subsections (j) and (k) as subsections (k) and (l) respectively; and

(B) by inserting after subsection (i) the following new subsection:

"(j) HEIFER EXPORTS.—

"(1) IN GENERAL.—If the Commodity Credit Corporation estimates that the savings to the Corporation achieved from carrying out this subsection during the calendar years 1991 through 1995 exceed the cost to the Corporation of carrying out this subsection during such calendar years, the Corporation shall encourage the export of heifers to foreign countries during each of such calendar years through the export enhancement program established under section 301 of the Agricultural Trade Act of 1978 (7 U.S.C. 5651).".

(2) FUNDING.—This subsection shall be carried out using savings achieved as the result of this section.

(d) DAIRY PRODUCT EXPORTS.—In addition to any programs to export dairy products which have been announced by the Secretary of Agriculture prior to the date of enactment of this Act, the Secretary shall sell for export 60 million pounds of butter in fiscal year 1991 and 35 million pounds of butter in fiscal year 1992.

(e) PAYMENTS TO MILK PRODUCERS.—The Secretary of Agriculture shall make available to producers of milk who cannot market their milk for fluid purposes a payment of $0.50/cwt on all milk marketed by such producers during the period beginning on the date of enactment of this Act and ending on December 31, 1991. In order to be eligible to receive such payment, such producers must submit an application to the Secretary of Agriculture requesting such payment and containing such other information as may be required by the Secretary.

SEC. 102. PLANTING OF COVER CROPS.

(a) RICE.—Section 101B(e)(4)(B)(i) of the Agricultural Act of 1949 (7 U.S.C. 1441-2(e)(4)(B)(i)) is amended by striking "of the crop acreage base established for the crop. This requirement shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary." and inserting "of the crop acreage base established for the crop or to devote such acreage to native cover which results in the same environmental benefits as such planted cover. The minimum planting requirement shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary. In carrying out this clause, the Secretary shall take into consideration guidelines established by the State technical committees established in subtitle G of title XII of the Food Security Act of 1985.".

(b) COTTON.—Section 103B(e)(4)(B)(i) of the Agricultural Act of 1949 (7 U.S.C. 1444-2(e)(4)(B)(i)) is amended by striking "of the crop acreage base established for the crop. This requirement shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary." and inserting "of the crop acreage base established for the crop or to devote such acreage to native cover which results in the same environmental benefits as such planted cover. The minimum planting requirement shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary. In carrying out this clause, the Secretary shall take into consideration guidelines established by the State technical committees established in subtitle G of title XII of the Food Security Act of 1985.".

(c) FEED GRAINS.—Section 105B(e)(4)(B)(i) of the Agricultural Act of 1949 (7 U.S.C. 1444f(e)(4)(B)(i)) is amended by striking "of the crop acreage base established for the crop. This requirement shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary." and inserting "of the crop acreage base established for the crop or to devote such acreage to native cover which results in the same environmental benefits as such planted cover. The minimum planting requirement shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary. In carrying out this clause, the Secretary shall take into consideration guidelines established by the State technical committees established in subtitle G of title XII of the Food Security Act of 1985.".

(d) WHEAT.—Section 107B(e)(4)(B)(i) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3a(e)(4)(B)(i)) is amended by striking "of the crop acreage base established for the crop. This requirement shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary." and inserting "of the crop acreage base established for the crop or to devote such acreage to native cover which results in the same environmental benefits as such planted cover. The minimum planting requirement shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary. In carrying out this clause, the Secretary shall take into consideration guidelines established by the State technical committees established in subtitle G of title XII of the Food Security Act of 1985.".

HOLLINGS AMENDMENT NO. 44

Mr. BYRD (for Mr. HOLLINGS) proposed an amendment to the bill H.R. 1281, supra, as follows:

On page 3, line 23, after the sum "$39,700,000" strike all up to and including "as amended" on line 2, page 4.

On page 4, line 8, after the sum "$9,300,000" strike all up to and including "as amended" on line 10, page 4.

D'AMATO (AND OTHERS) AMENDMENT NO. 45

Mr. D'AMATO (for himself, Mr. NICKLES, Mr. MACK, Mr. SEYMOUR, Mr. KASTEN, and Mr. SYMMS) proposed an amendment, which was subsequently modified, to the bill H.R. 1281, supra, as follows:

On page 38, strike out line 13 and all that follows through line 24 on page 40, and insert in lieu thereof the following:

HOMEOWNERSHIP AND OPPORTUNITY FOR PEOPLE EVERYWHERE GRANTS (HOPE GRANTS)

For the Homeownership and Opportunity for People Everywhere Programs, $165,000,000, to remain available until expended: *Provided*, That $68,000,000 shall be for the HOPE I program authorized under title III of the United States Housing Act of 1937; $51,000,000 shall be for the HOPE II program authorized under subtitle B of title IV of Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625); $36,000,000 shall be for the HOPE III program authorized under subtitle C of title IV of such Act; and $10,000,000 shall be for supportive services for the HOPE for Elderly Independence Demonstration program authorized under section 803 of such Act.

COMMUNITY PLANNING AND DEVELOPMENT

SHELTER PLUS CARE: HOMELESS RENTAL HOUSING ASSISTANCE

For the Shelter Plus Care: Homeless Rental Housing Assistance program, as authorized under subtitle F, part II of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77), as amended, $80,000,000, to remain available until expended.

RENTAL REHABILITATION GRANTS

Proposed Rescission (R91-24)—Fiscal Year 1991

All of the funds made available under this head in Public Law 101-507 are rescinded.

URBAN HOMESTEADING

Proposed Rescission (R91-25)—Fiscal Year 1991

All of the funds made available under this head in Public Law 101-507, together with available balances (including amounts deobligated in fiscal year 1991), are rescinded.

REHABILITATION LOAN FUND

Proposed Rescission (R91-26)—Fiscal Year 1991

Amounts made available for commitments for loans under this head in Public Law 101-507, other than amounts necessary for operating costs and the capitalization of delinquent interest on delinquent or defaulted loans, are rescinded.

URBAN DEVELOPMENT ACTION GRANTS

Proposed Rescission (R91-23)—Fiscal Year 1991

Available funds under this head (including amounts deobligated in fiscal year 1991), except such amounts as may be necessary to comply with court orders of United States Courts which direct the Secretary of Housing and Urban Development to set aside funds for possible future approval of grants to carry out urban development action grant programs authorized in section 119 of the Housing and Community Development Act of 1974, as amended, are rescinded.

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

Proposed Rescission (R91-20)—Fiscal Year 1991

Of the funds made available under this head in prior years for projects to be developed for the elderly and handicapped under section 202 of the Housing Act of 1959, $295,815,000 are rescinded.

Of the funds made available under this head in Public Law 101-507, $229,660,000, are rescinded. *Provided*, That $514,100,000 shall, in lieu of $733,760,000, be for the development and acquisition cost of public housing: *Provided further*, That $25,000,000 shall, in lieu of $35,000,000, be available for assistance under the Nehemiah housing opportunity program.

Of the amounts under this head carried over from appropriations for fiscal year 1990 and prior years, $250,300,000 are rescinded: *Provided*, That $60,500,000 of such amount shall be from public housing amendments, $102,390,000 of such amount shall be from amounts for section 8 certificate assistance to eligible tenants of section 8 projects that are withdrawn from assistance under that program, $7,110,000 of such amount shall be from amounts for section 8 certificate assistance for tenants affected by public housing disposition, $112,700,000 of such amount shall be from amounts for section 8 voucher assistance for tenants affected by public housing relocation activities, and $12,600,000 of such amount shall be from section 8 amounts for tenants of projects heretofore subsidized under prior section 23 of the United States Housing Act of 1937 (as in effect before August 22, 1974).

HOME INVESTMENT PARTNERSHIPS GRANT PROGRAM

For the HOME investment partnerships program as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625), $468,500,000, to remain available until expended.

SHELTER PLUS CARE: SECTION 8 MODERATE REHABILITATION, SINGLE ROOM OCCUPANCY

For the Shelter Plus Care: Section 8 moderate rehabilitation, single room occupancy program, as authorized under subtitle F, part III, of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77), as amended, $24,000,000, to be derived by transfer from the Section 8 moderate rehabilitation single room occupancy program, to remain available until expended.

SHELTER PLUS CARE: SECTION 202 RENTAL ASSISTANCE

For the Shelter Plus Care: Section 202 rental assistance program, as authorized under subtitle F, part IV, of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77), as amended, $18,000,000, to remain available until expended.

ASSISTANCE FOR THE RENEWAL OF EXPIRING SECTION 8 SUBSIDY CONTRACTS

For an additional amounts for "Assistance for the renewal of expiring section 8 subsidy contracts", $155,815,000, to remain available until expended: *Provided*, That of the $7,734,985,400 provided for use in connection with section 8 expiring contracts in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1991 (Public Law 101-507), is increased by the foregoing appropriation to $7,890,800,400, of which $4,234,500,400 shall be for existing certificates, $671,300,000 shall be for housing vouchers, and $2,985,000,000 shall be for loan management and other project-based section 8 contracts.

CONGREGATE SERVICES

Funds appropriated under Public Law 101-507, 104 Stat. 1362, as well as prior year unobligated balances made available under the Congregate Housing Services Act of 1978, shall be provided for in section 802 of the National Affordable Housing Act of 1990.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For an additional amount for "Payments for operation of low-income housing projects", $75,000,000, to remain available until September 30, 1992: *Provided*, That these funds shall be used by the Secretary for fiscal year 1991 requirements in accordance with section 9(a), notwithstanding section 9(d) of the United States Housing Act of 1937, as amended.

WIRTH (AND BROWN) AMENDMENT NO. 46

Mr. BYRD (for Mr. WIRTH, for himself and Mr. BROWN) proposed an amendment to the bill H.R. 1281, supra, as follows:

At the appropriate place, insert the following:

SEC. . COMMUNITY IMPACT ASSISTANCE.

Of the funds provided to the Department of Energy for fiscal year 1991, not more than $10,000,000 shall be made available to the State of Colorado for community impact assistance payments to the cities of Broomfield, Westminster, Thornton, and Northglenn, Colorado.

BUMPERS AMENDMENT NO. 47

Mr. BYRD (for Mr. BUMPERS) proposed an amendment to the bill H.R. 1281, supra, as follows:

At page 28, line 20 of the bill, strike "$100,000,000" and insert in its place the following: "$17,000,000".

D'AMATO (AND OTHERS) AMENDMENT NO. 48

Mr. D'AMATO (for himself, Mr. SYMMS, Mr. KASTEN, Mr. SEYMOUR, Mr. MACK, Mr. NICKLES, Mr. CRAIG, and Mr. COATS) proposed an amendment to the bill H.R. 1281, supra, as follows:

On page 38, line 13, insert the following:

HOMEOWNERSHIP AND OPPORTUNITY FOR PEOPLE EVERYWHERE GRANTS (HOPE Grants)

For the Homeownership and Opportunity for People Everywhere Programs, $165,000,000, to remain available until expended: *Provided*, That $68,000,000 shall be for the HOPE I program authorized under title III of the United States Housing Act of 1937; $51,000,000 shall be for the HOPE II program authorized under subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625); $36,000,000 shall be for the HOPE III Program authorized under subtitle C of title IV of such Act; and $10,000,000 shall be for supportive services for the HOPE for Elderly Independence Demonstration Program authorized under section 803 of such Act.

SHELTER PLUS CARE: HOMELESS RENTAL HOUSING ASSISTANCE

For the Shelter Plus Care: Homeless Rental Housing Assistance Program, as authorized under subtitle F, part II of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77), as amended, $80,000,000, to remain available until expended.

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

Proposed Rescission (R91–20)—Fiscal Year 1991

On page 38, at line 19 of H.R. 1281, delete, "$275,815,000" and insert "$295,815,000".

On page 38, at line 20, insert the following: Of the amounts under this head carried over from appropriations for fiscal year 1990 and prior years, $267,000,000 are rescinded: *Provided*, That $39,310,000 of such amount shall be from public housing amendments, $102,390,000 of such amount shall be from amounts for section 8 certificate assistance to eligible tenants of section 8 projects that are withdrawn from assistance under that program, $112,700,000 of such amount shall be from amounts for section 8 voucher assistance for tenants affected by public housing relocation activities, and $12,600,000 of such amount shall be from section 8 amounts for tenants of projects heretofore subsidized under prior section 23 of the United States Housing Act of 1937 (as in effect before August 22, 1974).

SHELTER PLUS CARE: SECTION 8 MODERATE REHABILITATION, SINGLE ROOM OCCUPANCY

For the Shelter Plus Care: Section 8 moderate rehabilitation, single room occupancy program, as authorized under subtitle F, part III, of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77), as amended, $24,000,000.

SHELTER PLUS CARE: SECTION 202 RENTAL ASSISTANCE

For the Shelter Plus Care: Section 202 rental assistance program, as authorized under subtitle F, part IV, of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77), as amended, $18,000,000, to remain available until expended.

BREAUX AMENDMENT NO. 49

Mr. BYRD (for Mr. BREAUX) proposed an amendment to the bill H.R. 1281, supra, as follows:

AMENDMENT NO. 49

At the appropriate place in the bill, insert the following new section:

SEC. . Section 3(f)(3) under the heading "Administrative Provisions" in the appropriation for the Senate in the Legislative Branch Appropriation Act, 1975 (Public Law 93–371; 2 U.S.C. 59(e)), as amended by Public Law 94–32, is amended by striking subparagraph (B) and inserting the following:

"(B) Either of the following inscriptions shall be clearly visible on three sides of such mobile office in letters not less than three inches high:

"UNITED STATES GOVERNMENT VEHICLE

"'FOR OFFICIAL USE ONLY'.";

Or

"MOBILE OFFICE OF SENATOR ——

"'FOR OFFICIAL USE ONLY'.".

DODD AMENDMENT NO. 50

Mr. BYRD (for Mr. DODD) proposed an amendment to the bill H.R. 1281, supra, as follows:

At the appropriate place, insert the following new section:

SEC. . CHILD CARE BLOCK GRANT TECHNICAL AMENDMENT.

Section 658J of the Child Care and Development Block Grant Act of 1990 is amended by striking out "expended" and inserting in lieu thereof "obligated".

NICKLES (AND OTHERS) AMENDMENT NO. 51

Mr. NICKLES (for himself, Mr. HELMS, and Mr. SYMMS) proposed an amendment to the bill H.R. 1281, supra, as follows:

Beginning on page 43, line 3, strike all through line 15.

BOYS AND GIRLS CLUBS OF AMERICA

THURMOND AMENDMENT NO. 52

Mr. NICKLES (for Mr. THURMOND) proposed an amendment to the bill (S. 213) to amend the Federal charter for the Boys' Club of America to reflect the change of the name of the organization to the Boys & Girls Clubs of America, as follows:

On page 2, line 24, delete the word "and" and insert in lieu thereof "&".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, March 19, at 11:45 a.m. to hold a business meeting to consider and vote on pending nominations and resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUSINESS MEETING, TUESDAY, MARCH 19, 1991

(11:45 a.m., SD–419)

The Committee will consider and vote on the following business items:

I. NOMINATIONS

(1) Mr. Charles R. Baquet III, of Maryland, to be Ambassador to the Republic of Djibouti.

(2) Mr. Michael T.F. Pistor, of Arizona, to be Ambassador to the Republic of Malawi.

(3) Ms. Katherine Shirley, of Illinois, to be Ambassador to the Republic of Senegal.

(4) Ms. Jennifer C. Ward, of the District of Columbia, to be Ambassador to the Republic of Niger.

(5) Ms. Melissa Foelsch Wells, of Connecticut, to be Ambassador to the Republic of Zaire.

(6) Mr. Edward Johnson, of Michigan, to be a Member of the Board of Directors of the African Development Foundation for a term expiring September 22, 1995.

(7) Mr. Lewis W. Douglas, Jr., of California, to be a Member of the U.S. Advisory Commission on Public Diplomacy for a term expiring July 1, 1993.

(8) Foreign Service Officers' Promotion List, Mr. William C. Montoney, *et. al.*, dated Jan. 4, 1991, with the name of Timothy C. Brown, of Nevada, deferred.

II. LEGISLATION

(1) S. Con. Res. 16, a Mack-Robb resolution urging Arab states to recognize, and end the state of belligerency with, Israel.

(2) S. Con. Res. 18, a Cranston resolution expressing concern for the ongoing human rights abuses in Burma and for the status of displaced Burmese and Burmese refugees.

(3) S. Con. Res. 19, a Cranston resolution condemning the People's Republic of China's continuing violation of universal human rights principles.

(4) S. Res. 81, a Bradley resolution commending the Baltic states for their efforts to regain independence and urging measures to support such efforts.

(5) S.J. Res. 94, a Brown resolution concerning the continuation of sanctions against Iraq.

SUBCOMMITTEE ON ENERGY REGULATION AND CONSERVATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Energy Regulation and Conservation of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m., March 19, 1991, to receive testimony on S. 341, the National Energy Security Act of 1991, title III concerning building energy efficiency standards.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Energy Research and Development of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m., March 19, 1991, to receive testimony on S. 341, the National Energy Security Act of 1991, subtitle A of title V concerning coal and coal research.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, March 19, 1991, at 10 a.m., to hold a hearing on the nomination of Kenneth L. Ryskamp, to be U.S. circuit judge for the 11th circuit.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on March 19, 1991, at 9:30 a.m. to hold a hearing on President Bush's budget for fiscal year 1992.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NUCLEAR REGULATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Nuclear Regulation, Committee on Environmemt and Public Works, be authorized to meet during the session of the Senate on Tuesday, March 19, beginning at 9:30 a.m., to conduct a hearing on the financial and programmatic management of the Nuclear Regulatory Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Tuesday, March 19, 1991, at 10 a.m. to conduct a hearing on the problems of African-American males in urban America.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, March 19, 1991, at 2 p.m. in open session to receive testimony on the Defense authorization request for fiscal years 1992 and 1993 and the fiscal year 1992–97 future year Defense plan.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO SENATOR JOHNSTON FOR HIS WORK ON BEHALF OF A PUERTO RICAN PLEBISCITE

• Mr. BUMPERS. Mr. President, last week, a commentary piece entitled "The Father of the Plebiscite" appeared in the San Juan Star. The subject of the article is our esteemed colleague, the senior Senator from Louisiana and chairman of the Energy and Natural Resources Committee. Recently, the members of the Energy Committee, with strong leadership from our chairman, wrestled with an extremely complex and contentious issue—the crafting of legislation to provide for a plebiscite in Puerto Rico on the future political status of the island. Unfortunately we could not reach a consensus on a bill to recommend to the Senate. Nevertheless, as this article makes clear, Senator JOHNSTON throughout the process "remained true to the plebiscite ideal. He alone demonstrated an unwavering desire to help Puerto Ricans resolve their decades-old status quandary." I commend Senator JOHNSTON for his efforts on behalf of Puerto Rico and I ask that a copy of the article in the March 11 San Juan Star be printed in the RECORD at this point.

The article follows:

THE FATHER OF THE PLEBISCITE

(By Harry Turner)

WASHINGTON.—Damon Runyon, the legendary New York sports writer of the 1930s, was guided by a simple philosophy in choosing which dressing room to cover after a big boxing match: "I always talk to the losers," Runyon said. "They're more interesting than the winners."

There is something of the loser's attraction these days attached to J. Bennett Johnston. It's not just that Johnston lost, it's that he lost after such a long, gutwrenching effort.

As Sen. Wendell Ford told Johnston just before the crucial vote in the Energy and Natural Resources Committee: "Mr. Chairman, you've worried yourself sick over this legislation for the past two years."

And yet Ford, clearly a friend of Johnston's, felt impelled to join nine other senators and reject the Puerto Rico plebiscite bill, ending, perhaps permanently, Johnston's self-imposed mission of helping Puerto Ricans finally decide their political destiny.

When the votes were tallied up, Johnston looked like he had been kicked in the stomach.

Chairman of Senate committees are not supposed to lose votes like that, not on bills they've strongly supported and on which they've ever risked their personal prestige.

Especially senators like J. Bennett Johnston. Few members of Congress have as secure a reputation for hard work and integrity.

Not only did Johnston's dreams of a plebiscite come crashing down with the bill's defeat, but in the process he was accused, both in San Juan and Washington, of being personally responsible for the debacle.

Some criticized him openly, like the leaders of Puerto Rico's three political parties, and some spoke more discreetly, like Del. Ron de Lugo, D–VI, chairman of the Insular and International Affairs Subcommittee, and the subcommittee staff director, Jeff Farrow.

These critics charged that Johnston, by insisting that the plebiscite bill contain a detailed list of definitions—the benefits each status would get upon winning the plebiscite—had not only ensured the measure's defeat this year but doomed House and Senate agreement on legislation last year.

The critics said Johnston was stubborn, that his ego kept him from recognizing that Congress would never accept the status definitions. They said he was perverse in refusing to accept the House bill, which contains no definitions.

They said a a lot things about Johnston, a few rather harsh.

Well, some of them were certainly true. There is no question that Johnston is stubborn. Nor is there much doubt that, as things turned out, he helped bring about the legislation's final defeat.

Any yet, he had his reasons for clinging to the definitions. He was absolutely certain, as he said time and again, that if the Puerto Rican people went to a plebiscite without knowing what they were voting for, great mischief could result.

For one thing, the local parties could deceive the voters, and Johnston's aides said privately he was particularly worried about the Popular Democratic Party using the government's resources to do precisely that.

But beyond that, Johnston warned, the people might think they were voting for something which Congress would later refuse to grant—an action Puerto Ricans could easily regard as a betrayal.

The plebiscite bill's subsequent defeat suggests that Johnston's reasoning was sound.

But even assuming that Johnston was not only stubborn but wrong, there is nevertheless a higher standard by which to judge him and all the other plebiscite participants: By their singled-minded desire, untinged by politics, to help Puerto Rico.

Measured in this way, J. Bennett Johnston comes across as perhaps the only true plebiscite hero. He alone acted out of the purest of motives.

Judge the others by this same standard. Sen. James McClure, R-Ida., who retired last year, comes closest to Johnston's dedication. But McClure's objectivity was tainted—he wanted statehood for Puerto Rico, while Johnston has remained unflinchingly neutral.

Sure, some senators—including Bill Bradley, D-N.J., and Timothy Wirth, D-Colo.—said some nice words about self-determination and, if it worked out that way, welcoming Puerto Rico as the 51st state.

But both men were probably influenced by their large number of Hispanic constituents. Besides, words are easy, Johnston gave two years of his life to the plebiscite ideal.

And look at the other side of Capitol Hill. De Lugo should be commended for getting the plebiscite bill through the House last year, but the Virgin Islands delegate was a very reluctant warrior at the outset, bending so much with the political winds that it took him nine months to even introduce his legislation.

Indeed, partisan politics nearly drowned the plebiscite ideal. Look at the Puerto Rican political leaders, Gov. Hernández Colon and the PDP acted in a particularly shameful way.

After urging Johnston to embark on the plebiscite effort, Hernández Colon and his lobbyists worked assiduously behind the scenes in Congress to subvert the process after local sentiment swung behind statehood.

The statehood and independence officials likewise engaged in fiercely partisan and at times disruptive lobbying campaigns which, while understandable, made Johnston's life no easier in trying to get a bill passed.

No, of them all only Johnston remained above partisan politics and true to the plebiscite ideal. He alone demonstrated an unwavering desire to help Puerto Ricans resolve their decades-old status quandary.

In the end, Johnston failed. Well, history remembers only the winners, and so there will be no statues raised to the Father of the Plebiscite in any town plazas in Puerto Rico.

But it would be fitting if historians, at some point in the future, devoted a line or two to J. Bennett Johnston or if someone put up a placque in his honor in some corner of the island.

The placque wouldn't have to be elaborate, just the senator's name and this brief description:

"He tried to help Puerto Rico."•

PORT OF PORTLAND'S 100TH ANNIVERSARY

• Mr. HATFIELD. Mr. President, in the past century, the Port of Portland has played an enormously important role in the development of Oregon and indeed the entire Northwest. I rise today to commemorate its 100th anniversary.

Oregon's history is tied directly to the Columbia River. For centuries, various Indian tribes have relied on the river for everything from food to trade to religious ceremonies. Soon after Meriwether Lewis and William Clark traveled down the Columbia during their historic expedition to the Pacific Coast in 1805, the Columbia became a key to the westward expansion. In 1811, John Jacob Astor realized the extraordinary economic potential of the Columbia's ideal location. Intent on establishing fur trade with the Orient, he founded the Pacific Fur Co., at Fort Astoria at the mouth of the Columbia. It was the Columbia River's strategic location that led the Oregon Legislature to create the Port of Portland 100 years ago.

Portland's early leaders believed that their city's proximity to the Columbia River gave Portland the potential of becoming one of the most important cities on the west coast. The treacherous waters of the Columbia acted as a deterrent to cargo ships, however, and there were threats that all trade through Portland would be stopped. The visionary solution to these problems was the creation of the Port of Portland. The port's first and possibly most important task was to dredge a navigational channel in the Columbia from Portland to the Pacific Ocean. Building on that historic accomplishment, the port has continued to work with the community to better the city of Portland.

With the port's help, a waterfront suited for expanding trade was developed in 1910. The city turned to the port for help in developing the city's first municipal airport, which opened with the arrival of Charles Lindbergh in the Spirit of St. Louis in 1927. With the expansion of air traffic, Portland's airport quickly became too small and again it was the port that developed a new airport at the present site of the Portland International Airport. The Port of Portland contributes over $9 million a day to Oregon's economy, and is responsible for 38,000 jobs throughout the State.

Mr. President, the Port of Portland has been an asset not only to the people of Oregon and the Northwest, but also to the entire Nation. During WWII, the port developed its property on Swan Island into a shipbuilding facility that produced one ship a week. After the war, this property was converted into a ship repair site. Today, 50 percent of the ship repair on the west coast is completed at this location.

The Port of Portland is now building on it's first 100 years. The port and the community, as partners for progress, are looking into the future to find even more ways to enhance transportation and development in Oregon and throughout the region. I recently had the pleasure of being a passenger on Delta Airlines inaugural flight from Portland to Nagoya, Japan. The development of this air route is significant not only to Delta Airlines, but also to the entire transportation industry in Oregon. The expansion of shipping routes for airlines and cargo ships is just one of the ways in which the Port of Portland hopes to better serve the community in the future. Also, the port is looking forward to deepening the Columbia's channel from 40 to 45 feet, making Portland even more accessible by water.

Mr. President, Oregon's trade and commerce needs have been constantly changing in the past century. The Port of Portland has worked with the community, State, and regional leaders to meet each one of those needs and it will continue to do so in the future. I congratulate the Port of Portland on its first 100 years of outstanding service, and wish everyone involved in this extraordinary enterprise the very best for the next 100 years.•

TRIBUTE TO DUPONT HIGH SCHOOL CHAPTER 2 OF THE FUTURE HOMEMAKERS OF AMERICA

• Mr. ROCKEFELLER. Mr. President, I would like to express my admiration and pride in DuPont High School Chapter 2 of the Future Homemakers of America for their impressive contributions to their community through public service. DuPont High School is located in Belle, WV. This past year they received the Most Exemplary Student Vocational Activity Award from the West Virginia State Board of Education. This award was richly deserved by this energetic and innovative group of students.

These students, led by their teacher Karen Payne, decided to adopt a group of homeless men from their area. By doing so, they have made a real difference in the lives of these men. Since they began this project in 1988, not a single holiday has passed unobserved. They have worked hard to make each of these holidays special, even making decorations and home-made goodies for each event.

These students, numbering close to 200, have spent countless hours of their own time seeking help from local organizations and just spending time with these less fortunate men. Not a week goes by that the shelter is not visited by a group of students intent on spending time with their new friends. Working at the shelter has made the teens acutely aware of the problems the homeless face. Being sensitive to these issues, the students have plans to begin literacy and job training programs with the men. In addition, the students have begun to visit local homeless children and their families.

Their enthusiasm has caught on within their school and neighborhood. They stand as an example, showing each of us what a little time and commitment can accomplish. I would like to congratulate Ms. Payne and her students on their award. Their hard work, dedication, and commitment to those less fortunate has made their community a better place. They are truly outstanding West Virginians.•

OPERATION DESERT FLOWER

• Mr. DECONCINI. Mr. President, all of us these days have two very good reasons to be immensely proud: the magnificent performance of our military personnel and equipment in the gulf and the groundswell of troop support from Americans all across this great land. As the men and women of Desert Storm return home, they are receiving the hero's welcome they deserve.

Today I rise to pay tribute to the students and faculty at Mohave Valley School District No. 16 who are planning a special homecoming for 28 GI's returning from the gulf. During Operations Desert Shield and Desert Storm, these students at District No. 16, located in the tristate communities of Arizona, California, and Nevada, wrote letters to our service men and women stationed half a world away. In all, 550 students, from kindergarten through sixth grade, participated in an outpouring of support and concern and caring. Now that the war is over, they have issued an invitation to their military pen pals to visit their community and to be their guests at a very special dinner. The students are now pooling their resources, their time, their hard efforts, and their good ideas to raise money for airfare and hotels so they can express their pride and their gratitude to these heroes in person.

It is a project of love and good will that has united communities in three States. Schoolchildren, teachers, businessmen and women, and public officials have all jumped on the bandwagon to welcome the GI's home. Students are washing windows, mowing grass, holding car washes, and recycling cans to raise the funds they need. Businesses are donating items for raffles; picnics are being planned. It is a tremendous community effort of support for a tremendous performance by American men and women in the Persian Gulf.

Those of us who live in the Southwest know the power of a desert storm. We also know that after the passing of a storm—no matter how violent—flowers bloom in the desert. It is a period of great transition. Given this desert phenomenon, Mohave Valley's project of support has appropriately been named "Operation Desert Flower." The project, like the name itself, is an affirmation of a new world of promise, a new world of hope.

Mr. President, Operation Desert Flower is a communitywide effort. People of all ages are giving of their time, and giving of themselves, in order to bring 28 very special pen pals to Mohave County to express, face to face, the thanks that are proclaimed daily throughout a grateful nation. It is through acts of dedication and commitment such as this that America renews itself and remains the last, best hope on Earth.●

UNIVERSITY OF FLORIDA RECEIVES 5 MILLIONTH PATENT

● Mr. GRAHAM. Mr. President, today the University of Florida was awarded the Nation's 5 millionth patent in a special ceremony at the Department of Commerce. Secretary Mosbacher awarded the patent for the groundbreaking scientific work of one of the university's microbiologists, Lonnie Ingram. Dr. Ingram developed a process to make ethanol, an environmentally sound substitute for gasoline, from organic matter. What is revolutionary about Dr. Ingram's works is the nature of the organic matter that the process uses—anything from agriculture products to fast food wrappers. Up to now, making ethanol has been an expensive process because it was made from corn or sugarcane. Dr. Ingram inserted the genes from a microbe that produces ethanol into another microbe that metabolizes all kinds of plant fiber to create an organism that converts virtually any plant or plant byproduct into ethanol.

The potential for this new ethanol-producing process is enormous. As an editorial in the Florida Times Union explains, Dr. Ingram's work may have significant impact on two of our most pressing domestic problems: overdependence on foreign oil and overabundance of garbage and waste products.

President Bush's recently released National Energy Strategy called for more research in the area of biomass conversion into ethanol. In his strategy the President says, "Successful research here will provide a major alternative to gasoline that is domestic, renewable, and competitively priced—and one that could reduce the U.S. dependence on foreign oil."

Already a company has licensed Dr. Ingram's technology to market the process. The company, Bioenergy, believes that if the new technology proves itself, it could both substantially reduce solid waste and eventually replace gasoline in the Nation's cars.

Dr. Ingram's research was carried out at the University of Florida's Institute of Food and Agricultural Sciences and at the Biotechnology Institute. The Institute works as an incubator for promising biotechnology research, providing technical support and business-development assistance. Dr. Ingram's ethanol project is an excellent example of the institute's goal of producing scientifically sound research that has commercial potential. As a strong supporter of the University of Florida, IFAS, and the Biotechnology Institute, I am delighted to join the Secretary of Commerce in recognizing this significant scientific achievement.

I congratulate the University of Florida, Lonnie Ingram, and the Biotechnology Development Center on making significant progress in the country's search for both alternative fuel sources and waste reduction methods.

Mr. President, I ask that the editorial from the Florida Times Union be printed in the RECORD.

[From the Florida Times-Union, March 12, 1991]

UF SCIENTIST MAY HAVE EASED OUR GARBAGE AND ENERGY WOES

Just as Uncle Sam's remarkable progress in high-tech weapons shocked the daylights out of Saddam Hussein, a University of Florida scientist's research may cause the doom-and-gloom gang in the United States to rearrange their thinking drastically about the domestic crises: overdependence on foreign oil and garbage disposal.

It was announced last week that the 5 millionth patent to be issued by the U.S. Patent Office will be awarded to the university March 19 in Washington, D.C.

The patent covers UF microbiologist Lonnie O. Ingram's development of a bacteria that may someday make ethanol a competitively priced substitute for gasoline in the nation's automobiles.

What's more, the same process could greatly reduce the amount of garbage going into U.S. landfills; perhaps 70 percent of it could be diverted to ethanol production. This would be recycling at its best, turning waste into energy instead of throwing it away at great cost to both our pocketbooks and our environment.

The patent will be awarded for Ingram's genetic engineering of a new bacteria—produced by implanting genes from one organism into the cells of another. Ingram's creation can produce ethanol from a broad range of organic matter, including agricultural waste, yard trash and newspapers.

Ethanol, commonly called grain alcohol, has long been recognized as a potentially nonpolluting substitute for gasoline. It is already used as 10 percent of the formula for gasohol, but gasohol use isn't widespread in this country. Thus, the 850 million gallons of ethanol produced in the United States today for blending with gasoline represent only 0.8 percent of the total U.S. gasoline market.

However, pure ethanol can also be used to power automobiles, but it costs too much—about twice as much as gasoline when the lower energy content of ethanol is taken into account according to the U.S. Energy Department.

Ethanol is costly because it is fermented from corn in the United States. Although other plant components are potential sources of ethanol, they could not be fermented efficiently with existing technology. Ingram's new organism promises to change all that, because it can ferment the sugars in hemicellulose, which makes up from 35 percent to 50 percent of plant material.

His laboratory-created organism "gives mankind its first economical, totally renewable, environmentally benign liquid fuel," says Thomas Hayes-Morrison, president of Bioenergy International, the company licensed to market the process.

Ingram and Bioenergy officials believe the most promising short-term application of the new technology will be to substantially reduce the trash going into landfills by using it to produce fuel. But if the new technology proves itself, Hayes-Morrison believes it could replace gasoline in the nation's cars.

The National Energy Strategy recently proclaimed by President George Bush bolsters that hope. It says that while ethanol is currently produced from corn and sugarcane, "lignocellulosic feedstocks (biomass) such as trees and grasses have not yet been converted to ethanol on a commercial scale. Successful research here will provide a major alternative to gasoline that is domestic, renewable, and competitively priced—and one that could replace the United States' dependence on oil."

Also, since so much household refuse—newspapers, fast-food wrappers and throw-away diapers—are made from lignocellulosic raw materials, the UF scientist's breakthrough might also reduce our garbage bills and controversies over siting landills.

With the potential to help answer two of our era's most pressing problems—dependence on foreign oil and safe, economical disposal of waste—Ingram's approach should be given every chance to succeed.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 for a member of the staff of Senator JESSE HELMS, to participate in a program in Taiwan, sponsored by the Tamkang University, from March 25 to April 1, 1991.

The committee has determined that participation by this particular member of Senator HELMS' staff in the program in Taiwan, at the expense of the Tamkang University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for a member of the staff of Senator J. BENNETT JOHNSTON, to participate in a program in Taiwan, sponsored by the Tamkang University, from March 25 to April 1, 1991.

The committee has determined that participation by this particular member of Senator JOHNSTON's staff in the program in Taiwan, at the expense of the Tamkang University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for William B. Bonvillian, a member of the staff of Senator LIEBERMAN, to participate in a program in China, sponsored by the People's Institute of Foreign Affairs from March 25 to April 5, 1991.

The committee has determined that participation by Mr. Bonvillian in the program in China, at the expense of the People's Institute of Foreign Affairs, is in the interest of the Senate and the United States.•

H.R. 180: THE VETERANS EDUCATION, EMPLOYMENT, AND TRAINING AMENDMENTS OF 1991

• Mr. CRANSTON. Mr. President, on March 7, 1991, the Senate passed H.R. 180, the Veterans Education, Employment, and Training Amendments of 1991. In my remarks in the RECORD on that date—beginning on page S2995—I referred to an explanatory statement—developed jointly by the House and Senate Veterans' Affairs Committees—in which the provisions of this legislation are described in detail. Contrary to my intentions, the explanatory statement was not printed in the RECORD at the conclusion of my remarks. Thus, I am submitting at this time the explanatory statement on the provisions of H.R. 180 as agreed to by the committees and passed by the Senate on March 7.

Mr. President, I ask that the explanatory statement be printed in the RECORD at this point.

The statement follows:

EXPLANATORY STATEMENT ON H.R. 180, THE VETERANS' EDUCATION, EMPLOYMENT AND TRAINING AMENDMENTS OF 1991

H.R. 180 reflects a compromise agreement that the Senate and House of Representatives Committees on Veterans' Affairs have reached on certain bills considered in the Senate and the House of Representatives, but not enacted, during the 101st Congress. These are H.R. 4088, which the House passed on June 12, 1990, H.R. 4087 and H.R. 4089, which the House passed on July 10, 1990, and S. 2100, which the Senate Committee on Veterans' Affairs reported on July 19, 1990, but which did not receive Senate consideration prior to the end of the 101st Congress.

The Committees on Veterans' Affairs of the Senate and the House of Representatives have prepared the following explanation of H.R. 180. Differences between the provisions contained in H.R. 180 (hereinafter referred to as "Compromise agreement") and the related provisions in the House-passed versions of H.R. 4087, H.R. 4088, and H.R. 4089 and to S. 2100 as reported in the Senate (hereinafter referred to as the "Senate bill") are noted in this document, except for clerical corrections, conforming changes made necessary by the compromise agreement, and minor drafting, technical, and clarifying changes.

EXTENSION OF DEFINITION OF VIETNAM-ERA VETERAN

Current law: Section 2011(2)(B) of title 38, United States Code, provides that no veteran may be considered a veteran of the Vietnam era after December 31, 1991, for chapter 42 (Employment and Training of Disabled and Vietnam Era Veterans) purposes. Section 2001(2) defines a veteran of the Vietnam era for purposes of chapter 41 (Job Counseling, Training and Placement of Veterans), and thus for the formula determining the number of disabled veterans' outreach specialists (DVOPs) funded by the Federal Government, by reference to the definition in section 2011(2).

House bill: Section 2 of H.R. 4087 would extend the definition of a Vietnam-era veteran to December 31, 1996, for the purposes of chapters 41 and 42 of title 38.

Senate bill: Section 301 would extend the definition of a Vietnam-era veteran to December 31, 1993, for the purposes of chapter 41.

Compromise agreement: Section 1 provides for an extension of the definition of a Vietnam-era veteran for chapter 41 and 42 purposes to December 31, 1994.

The Committees plan to review the DVOP funding formula and the programs involved prior to any extension of the new expiration date.

EDUCATIONAL AND VOCATIONAL COUNSELING

Current law: Under section 1797 of title 38, VA is authorized to use up to $5 million annually of the funds available to it for payment of readjustment benefits in order to provide contract educational and vocational counseling to individuals applying for or receiving benefits under section 524 or chapter 30, 32, 34, or 35 of title 38, or chapter 106 of title 10.

House bill: Section 2 of H.R. 4089 would establish new uses of these contract counseling funds. This section would add to title 38 a new section 1797A under which VA would be required to provide educational and vocational counseling and other assistance (upon individual request and as determined necessary by VA to aid in selecting an educational or training objective, school, and employment objective) to individuals who (1) are eligible for benefits under chapter 30, 31, or 32 of title 38 or chapter 106 of title 10; (2) were discharged or released from active duty under conditions other than dishonorable if not more than one year has elapsed since the date of last discharge or release; or (3) are on active duty and within 180 days of discharge or release, including those who are making a determination as to whether to continue as servicemembers. New section 1797A would also require counseling for veterans rated incompetent before their selection of a program of education. In addition, the Secretary would be required to make information available concerning the need for general education and for trained personnel in the various crafts, trades, and professions, and must take steps to acquaint eligible individuals with the availability and advantages of counseling services. Counseling services would be paid for from the Readjustment Benefits account, within the existing $5 million cap.

Senate bill: No provision.

Compromise agreement: Section 2 follows the House bill with an amendment restricting the availability of counseling to eligible applicants within the United States.

The Committees expect VA to use the counseling authority under 1797 of title 38 in order to avoid a negative impact on the timely availability of counselors for chapter 31 participants and expect such counseling services to be provided to the extent that resources are available through section 1797.

VOCATIONAL REHABILITATION AMENDMENTS

Extension of Eligibility

Current law: Chapter 31 of title 38 provides for a program of rehabilitation services for service-disabled veterans who have employment handicaps. Section 1502(1)(B) of title 38 authorizes VA to provide chapter 31 rehabilitation services to servicemembers being treated for service-connected disabilities prior to separation from active duty if they are being treated in Department of Defense medical facilities.

House bill: Section 2 of H.R. 4089 would extend eligibility for rehabilitation to servicemembers with service-connected disabilities who are receiving outpatient medical care or who are being treated at DoD expense in medical facilities not controlled by DoD.

Senate bill: Section 303 contains the same provision.

Compromise agreement: Section 3(a) contains this provision.

Payment of Handling Fees

Current law: Under section 1504(a)(7) of title 38, VA is authorized to pay for certain supplies and services necessary to accomplish an individual's rehabilitation program objectives. As the finance system is structured currently, payment for tuition, books, and supplies is made from the Readjustment Benefits account, while payment of handling fees for supplies is made from the General Operating Expenses account. This results in the issuance of two checks for a single billing from an educational or training institution.

House bill: Section 2 of H.R. 4089 would, effective with respect to payments made after the date of enactment, include handling fees among the listed training expenses for which chapter 31 assistance may be provided and would specify that all of the services and supplies be paid for from the Readjustment Benefits account.

Senate bill: No provision.

Compromise agreement: Section 3(b) follows the House bill.

On-the-Job Training Allowance

Current Law: Section 1508(c) (2) of title 38 provides for a subsistence allowance to be paid to chapter 31 participants pursuing on-the-job training or work experience in a Federal agency for no or nominal pay.

House bill: Section 2 or H.R. 4089 would specify that chapter 31 participants pursuing similar training as part of a rehabilitation program in a State or local government agency be paid an appropriate subsistence allowance.

Senate bill: No provision.

Compromise agreement: Section 3(c) follows the House bill.

EXTENSION OF PERIOD FOR APPLYING FOR POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE BENEFITS

Current law: Under section 1632(b) of title 38, participants in the Post-Vietnam Era Veterans' Educational Assistance Program (VEAP) are automatically disenrolled from the program at the end of the 10-year period of eligiblity, which begins when a veteran is released from active duty. VA generally pays education benefits for training received up to one year before the date a claim for benefits is received. However, VA has construed the requirement for automatic disenrollment from VEAP after 10 years as barring any payment of benefits if the claim for education benefits is filed after the automatic disenrollment.

House bill: No provision.

Senate bill: Section 304 would extend until one year after the expiration of the 10-year eligibility period the date on which eligible veterans are automatically disenrolled from VEAP. This would allow VA to pay benefits based on claims received after the eligibility period has expired but within one year after the training is received.

Compromise agreement: Section 4 follows the Senate bill.

REPEAL OF REPORTING REQUIREMENTS

Current law: Under section 1642 of title 38, VA and the Department of Defense are required to submit an annual report detailing operation of the Post-Vietnam Era Veterans' Educational Assistance Program. Section 1798(e) of title 38 requires VA to submit an annual report concerning its default experience under the chapter 36 educational loan program.

House bill: Section 3 of H.R. 4089 would repeal both reporting requirements.

Senate bill: No provision.

Compromise agreement: Section 5 follows the House bill.

ELIMINATION OF OVERPAYMENT THROUGH WORK-STUDY

Current law: Under section 1685 of title 38, VA is authorized to pay an additional educational assistance allowance ("a work-study allowance") to veteran students who, while pursuing a program of education under chapters 30, 31, 32, or 35 (section 1737) of this title, or chapter 106 of title 10, agree to perform certain services for VA.

House bill: No provision.

Senate bill: Section 305 would permit an individual to enter into an agreement to perform work-study services and have the allowance otherwise payable credited to an account receivable in connection with an overpayment of VA education, rehabilitation, or training benefits.

Compromise agreement: Section 6 follows the Senate bill.

EDUCATIONAL ASSISTANCE FOR FLIGHT TRAINING

Current law: Under section 1434(d) of title 38, participants in the Montgomery GI Bill (MGIB) program of educational assistance are allowed, on a trial basis, to use their educational assistance benefits to pursue a program of education leading to the vocational goal of professional pilot. To participate in this program, an individual must (a) have a valid pilot's license, (b) meet the medical requirements for a commercial pilot's rating, and (c) be pursuing training recognized as necessary to obtaining a vocation in the aviation industry. The training must meet Federal Aviation Administration standards and be approved by the relevant State Approving Agency. The educational assistance allowance is equal to 60 percent of the tuition and fees charged for dual flight instruction.

House bill: No provision.

Senate bill: Section 306 would extend flight training benefits to participants in the Post-Vietnam Era Veterans' Educational Assistance Program who fulfill the same eligibility and other requirements as are applied to MGIB participants. This provision would apply during fiscal years 1991 through 1994.

Compromise agreement: Section 7 follows the Senate bill, except that it would take effect as of April 1, 1991.

ADVISORY COMMITTEE ON VETERANS EMPLOYMENT AND TRAINING

Current law: Section 2010 of title 38 provides for a Department of Labor advisory committee known as the "Secretary's Committee on Veterans' Employment", which is composed of representatives of Federal agencies and veterans service organizations and which meets quarterly in order to bring to the attention of the Secretary problems and issues relating to veterans' employment.

House bill: Section 2 of H.R. 4087 would replace the current committee with an "Advisory Committee on Veterans Employment and Training" in which a 12-to-18 person voting membership appointed by the Secretary of Labor would include representatives of certain veterans' organizations and not more than six individuals who are recognized authorities in fields related to employment, training, rehabilitation, labor, and business; representatives of various Federal agencies would be non-voting, ex officio members. The Advisory Committee would meet at least quarterly. The Secretary of Labor would appoint the chairman for a term not to exceed two consecutive years. Members would serve without compensation but would be allowed reasonable and necessary travel expenses. The Secretary of Labor would provide staff and administrative support. The Advisory Committee would submit a report to the Secretary of Labor not later than July 1, 1991, and annually thereafter, and within 60 days after receiving each report the Secretary would transmit a copy together with comments to Congress.

Senate bill: No provision.

Compromise agreement: Section 8 follows the House bill with minor drafting differences.

The Committees note that it is their intention that the operation of the Advisory Committee not be a major expense to the Department of Labor.

EXTENSION AND EXPANSION OF THE VETERANS' READJUSTMENT APPOINTMENT (VRA) AUTHORITY

Current law: The Veterans' Readjustment Appointment (VRA) authority, which was established in 1970 by Executive Order 11521 and revised and codified in section 2014 of title 38, provides authority for certain veterans to receive excepted (*i.e.,*) non-competitive) appointments in the Federal civil service. Under section 2014, Vietnam-era veterans who received a campaign badge, service-disabled Vietnam-era veterans, and veterans who served after the Vietnam era may be given excepted appointments in the Federal civil service. A veteran with less than 15 years of education who receives a VRA must be provided with a program combining education or training with the opportunity for a regular career appointment. A veteran who satisfactorily completes two years of substantially continuous service under a VRA may be converted to career-conditional employment and automatically acquires a competitive status for civil service purposes. The VRA authority expires December 31, 1993.

EXTENSION OF TERMINATION DATE

Current law: Appointments may not be made under section 2014 after December 31, 1993.

House bill: H.R. 4088 would eliminate the December 31, 1993, termination date and thus made the VRA authority permanent.

Senate bill: No provision.

Compromise agreement: Section 9 follows the House bill.

ELIGIBILITY

Current law: Vietnam-era veterans who are service-disabled or received a compaign badge during the Vietnam era (including a badge for a campaign in the Dominican Republic, Korea, Cambodia, or elsewhere) and post-Vietnam-era veterans (*i.e.,* those who were on active duty after May 7, 1975) are eligible for VRAs. Eligible veterans who do not have a service-connected disability cannot have completed more than 16 years of education; there is no education limit in the case of eligible disabled veterans. VRAs may be made at a grade level up to GS–11 for eligible Vietnam-era veterans; GS–9 is the maximum grade level for post-Vietnam-era veterans.

House bill: H.R. 4088 would (a) make eligible all Vietnam-era veterans (those who did not receive a campaign badge, as well as those who did) and veterans who first became members of the Armed Forces or first entered on active duty after May 7, 1975; (b) remove the education-level restriction for non-disabled veterans and the grade-level restriction for all appointments; and (c) provide for a preference in VRAs for service-disabled veterans.

Senate bill: No provision.

Compromise agreement: Section 9 would (a) clarify the date of the post-Vietnam-era by specifically providing VRA eligibility for all verterans who first became members of the Armed Forces or first entered on active duty after May 7, 1975; (b) remove the education-level restriction; (c) require that preference be given in VRAs to service-disabled veterans; and (d) increase the grade-level restriction to GS–11 for all VRAs.

Current law eligibility continues for Vietnam-era veterans with service-connected disabilities or active-duty service for which a campaign badge was authorized during the Vietnam era, as well as for post-Vietnam-era veterans.

ELIGIBILITY PERIOD

Current law: The period during which a veteran may receive an appointment is limited to the later of (a) the end of the 4-year period from date of last separation, or (b) the end of the 2-year period beginning on December 18, 1989.

House bill: H.R. 4088 would (a) provide for lifetime eligibility for VRAs for veterans of the Vietnam era, service-disabled veterans, and veterans who served in a campaign or expedition for which a campaign badge is authorized; and (b) in all other cases, limit eligibility to the latter of the end of the 5-year period from date of separation or the end of the 5-year period beginning on the date of enactment.

Senate bill: No provision.

Compromise agreement: Section 9 would provide that (a) a Vietnam-era veteran is eligible for an appointment until (1) the end of the 10-year period following separation, or (2) December 31, 1993, whichever is later; (b) a veteran who first became a member of the Armed Forces or first entered on active duty after May 7, 1975, is eligible for a VRA until the end of the 10-year period from (1) his or her date of separation, or (2) December 18, 1989, whichever is later; and (c) a veteran with a service-connected disability rated at 30 percent or more is eligible for a VRA without any time limitation.

CONVERSION TO CAREER-CONDITIONAL APPOINTMENT

Current law: A VRA appointee must satisfactorily complete a period of substantially continuous service measuring at least two years to receive a career-conditional appointment.

House bill: H.R. 4088 would provide that any veteran receiving a VRA would acquire competitive status upon successful completion of any prescribed probationary period established by the employing agency.

Senate bill: No provision.

Compromise agreement: Section 9 follows the House bill.

TECHNICAL AMENDMENTS

Eligibility for "Open Period" Under Chapter 30

Current law: Under section 1418(b)(4) of title 38, individuals must have completed the requirements of a secondary school diploma or equivalency certificate in order to be eligible for the "open period" in which they may withdraw their election not to enroll in the chapter 30 educational benefits program.

House bill: Section 5 of H.R. 4089 would include chapter 30 "open period enrollees" among those who may meet the chapter 30 secondary-school-completion requirement by completing twelve semester hours in a standard college degree program.

Senate bill: Section 707 of S. 2100 contains the same provision.

Compromise agreement: Section 10(a) contains this provision.

Bar to Duplication of Educational Assistance Benefits

Current law: Under section 1433(b) of title 38, a period of service counted for purposes of repayment of an education loan under section 902 of the Department of Defense (DoD) Authorization Act, 1981 (10 U.S.C. 2141 note), may not also be counted for purposes of entitlement to chapter 30 educational assistance.

House bill: Section 5 of H.R. 4089 would amend section 1433(b) to substitute a reference to chapter 109 of title 10 for the outdated reference to section 902 of the DoD Authorization Act of 1981.

Senate bill: Section 707 of S. 2100 contains the same provision.

Compromise agreement: Section 10(a) contains this provision.

Work-Study Program

Current law: Under section 1685 of title 38, an individual who is receiving educational assistance under chapter 106 of title 10 may engage in appropriate work-study activities at Department of Defense (DoD) facilities.

House bill: Section 5 of H.R. 4089 would authorize chapter 106 participants in a work-study program to engage in appropriate work-study activities at Selected Reserve (including National Guard) facilities, in addition to DoD facilities.

Senate bill: Section 707 of S. 2100 contains the same provision and also includes Coast Guard facilities as work-study sites.

Compromise agreement: Section 10(a) follows the Senate bill.

Effective Date for Education Benefits

Current law: Section 3013 of title 38 specifies that effective dates relating to awards under chapters 30, 31, 32, 34, and 35 shall, to the extent feasible, correspond to effective dates relating to awards of disability compensation.

House bill: Section 5 of H.R. 4089 would specify that the same award-effective-date provisions as apply to the title 38 education benefits program shall apply equally to education benefits paid to selective reservists:

Senate bill: No provision.

Compromise agreement: Section 10(e) follows the House bill.

Basic Educational Assistance Entitlement

Current law: Under section 1411(a)(3)(A) of title 38, the service-separation requirements for Montgomery GI Bill (MGIB) eligibility specify that an individual must be discharged from service with an honorable discharge, placed on the retired list, transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or placed on the temporary disability retired list.

House bill: Section 5 of H.R. 4089 would clarify that, for MGIB eligibility purposes, a release from active duty characterized as honorable is a requirement for individuals placed on the retired list, transferred to Fleet Reserve of Fleet Marine Corps Reserve, or placed on the temporary disability retirement list.

Senate bill: No provision.

Compromise agreement: Section 10(a) follows the House bill.

Reimbursement of Expenses Under Chapter 36

Current law: Under section 1774 of title 38, the Secretary is authorized to reimburse State and local agencies for expenses of salary and travel incurred in approving education courses for eligible persons under chapters 30 through 36 of that title and chapters 106 and 107 of title 10.

House bill: Section 5 of H.R. 4089 would delete the reference to chapter 107 of title 10 from the course-approval provisions in title 38 because chapter 107 contains no requirement that courses approved thereunder must be approved by State approving agencies.

Senate bill: Section 707 contains the same provision.

Compromise agreement: Section 10(a) contains this provision.

Rates of Education Assistance for Survivors and Dependents

Current law: Section 101 of title 38 defines the term "Secretary" as the "Secretary of Veterans Affairs" and sections 1732 and 1733 contain several references to the "Secretary of Veterans Affairs".

House bill: No provision.

Senate bill: Section 707 of S. 2100 would strike out each reference to the "Secretary of Veterans Affairs" and insert in lieu thereof "Secretary".

Compromise agreement: Section 10(a) follows the Senate bill.

Limitations on Education Assistance

Current law: Section 1432(f)(3) of title 38, specifies that the number of months MGIB entitlement charged in the case of any individual for a program of education described in that subsection shall be equal to the number determined by dividing the total amount of educational assistance paid to the individual by the monthly rate of educational assistance which he or she would be paid under subsection (a)(1), (b)(1), or (c) of section 1415.

House bill: No provision.

Senate bill: Section 707 of S. 2100 would correct an omission in the list of subsections, in section 1432(f)(3), which set rates of educational assistance by including in that list subsection (d)(1) of section 1415 of title 38.

Compromise agreement: Section 10(a) follows the Senate bill.●

SENSIBLE ADVERTISING AND FAMILY EDUCATION ACT OF 1991

● Mr. GLENN. Mr. President, I have joined Senator THURMOND and Senator GORE in sponsoring legislation, S. 664—the Sensible Advertising and Family Education Act of 1991 to require health warning statements on all print and broadcast alcohol advertisements and promotional materials. I agreed to become a cosponsor of this bill because I believe that health warning statements on alcohol advertisements and promotional materials would increase consumer awareness about the adverse effects of alcohol consumption and educate the youth of America about the dangers of drinking.

Mr. President, I believe that Americans needs to be made more aware of the dangers of alcohol use and abuse. For the last 4 years the Committee on Governmental Affairs, which I chair, has been holding oversight hearings on the causes and consequences of alcohol abuse and addiction. From what I have learned, the most widely used and abused drug in America today is not cocaine, crack cocaine, heroin, or marijuana but alcohol.

There is much activity at all levels of Government directed toward ridding this country of the "drug scourge." Yet, it is easy to forget in our zeal to wage a "holy war" on drugs that the use of alcohol—a legal drug—is exacting a very heavy toll on our society. In fact, the Director of the National Institute on Drug Abuse, Dr. Charles Schuster, reported that the estimated number of alcoholics was nearly six times higher than the number of monthly users of cocaine, and 30 times higher than the estimated number of heroin addicts. In his opinion, "[t]here's no question about it, alcohol remains the No. 1 drug problem in the United States."

The use and abuse of alcohol is exacting a far heavier toll on our society than all illicit drugs combined. Over 10 million Americans are classified by the Government as alcoholics; over 7 million more Americans are described as problem drinkers. More frightenting, still, is the fact that the Government estimates that 4.5 million youngsters are either dependent on alcohol or problem drinkers. Last year, an article appeared in the Journal of the American Medical Association which suggested that a putative gene for alcoholism had been found on chromosome 11 in close association with an allele of the dopamine D_2 receptor. A copy of this research article, and an accompanying editorial on this finding, follow my formal remarks. While this observation is provocative, it must be regarded with some degree of caution. Until the medical community is able to identify persons with a genetic predisposition to alcohol abuse we in Congress must assume that all of society is vulnerable to develop alcohol-related diseases and disability.

Consumption of beverage alcohol has been associated with an increased risk of developing liver diseases, hypertension, cardiovascular disease, and certain forms of cancer. Last April, Dr. Arthur Mashberg, of the Veterans' Administration Medical Center in East Orange, NJ, reported that heavy beer drinkers—defined as men who drank six or more cans of beer a day—were twice as likely to develop cancer of the mouth as men who drank hard liquor. A copy of this article appears at the end of my statement.

It has been reported by the Department of Health and Human Services that alcohol is a factor in nearly 50 percent of all suicides, murders, and accidental deaths in this country. More than 50,000 babies are born each year in this country with alcohol-related birth defects; in approximately 25 percent of the cases the damage is severe enough to be classified as fetal alcohol syndrome. Fetal alcohol syndrome is the third leading cause of birth defects with accompanying mental retardation, and is thought to be responsible for an estimated 20 percent of all U.S. cases of mental retardation.

Alcohol is the most widely used drug among American kids. In 1986, one out of every three adolescents between the ages of 14 and 17 experienced poor school performance, trouble with parents, or involvement with the law because of alcohol. One in four American homes have been touched by an alcohol-related family problem. And alcohol-involved vehicular crashes are the No. 1 killer of young adults in this country.

In 1988, there were 47,093 highway fatalities, of which 23,352—almost 50 percent—involved alcohol. That's one death every 22 minutes attributed to alcohol! In terms of damage, insurance costs, injury treatments, and lost work, traffic crashes cost this country approximately $74 billion in 1987. The aggregate cost to this Nation of alcohol-involved death and disability will be $136 billion this year, and is expected to reach $150 billion by 1995 if we continue on our present course. By comparison, the socioeconomic costs of illicit drug abuse is approximately $60 billion—or more than 200 percent less that the costs associated with consumption of the legal drug alcohol.

Despite these alarming figures, this subject has not received the attention it deserves from Congress. The seriousness of the threat alcohol use poses to public health and safety, and to the future of America's youth, has been largely overshadowed by our national obsession—one might say addiction—with the use of illicit drugs like marijuana, cocaine, crack cocaine, and heroin.

Our Nation cannot, in my opinion, wage a "war on drugs" without addressing the problem of alcohol use and abuse. That is because alcohol is itself an addictive drug and can be a gateway drug to the so-called hard drugs mentioned earlier. But unlike the addictive, illicit drugs, alcohol use is promoted by the advertising and marketing activities of the alcohol beverage industry.

More resources are spent on alcohol advertising campaigns designed to encourage increased consumption of alcoholic beverage products than on campaigns designed to publicize the health hazards and social costs of alcohol abuse. By the time American teenagers reach the age of 18, they will have seen more than 100,000 alcohol beverage commercials on television. This is in addition to the advertisements they will have heard on the radio or have seen in magazines or on billboards. Moreover, the alchohol industry finances sporting and cultural events, which links its product with a popular activity in the public's mind.

Alcohol advertising, especially in the broadcast media, represents the single greatest source of alcohol education for most Americans. Promotional efforts present an attractive, but uncritical, picture of alcohol consumption that is designed to appeal to a wide audience, including young people.

The Sensible Advertising and Family Education Act of 1991 would begin to counterbalance this consumer education bias, by requiring the placement of a rotating, health warning statement on all print and broadcast alcohol advertisements and promotional materials. The bill also provides for the creation of a toll-free number for consumers to call if they want additional information about specific health risks associated with alcohol consumption.

Within 6 months after the date of enactment of this legislation, all alcohol advertisements appearing on radio, television and cable television must also include one of five health and safety messages.

Enactment of this legislation will provide individuals with basic and much needed information about the dangers associated with drinking. A recent Federal study concluded that well-designed health message labels can only increase consumer knowledge, but can also initiate positive behavior change. In addition, a recent Advertising Age-Gallup poll found that nearly 75 percent of the people questioned are in favor of warning labels on beer, wine, and liquor advertising. Seventy-five percent. Mr. President, I am including a copy of the Advertising Age-Gallup poll story at the end of my formal remarks.

These lables, which will be prominently placed on print advertisements and promtional materials, or prominently featured within electronically broadcast advertisements, will go a long way toward educating our young people about the dangers of drinking.

Now, many young people believe that there is something special about drinking, that drinking alcoholic beverages, will make them more popular, sophisticated, and attractive. Health warning messages included in alcohol advertisements and promotional materials just might have some effect upon dispelling the mythology surrounding alcohol consumption in our country.

I have supported and continue to support legislation that would wage a national war on alcohol abuse. Clearly a large part of this war must involve increased public awareness about the dangers associated with alcohol consumption. This bill would continue the war that was started with the passsage of Senator THURMOND's alcoholic beverage warning label legislation by ensuring that consumers have increased access to information alerting them to the serious consequences of alcohol use and abuse.

I urge my colleagues to support this bill. In doing so, we will be sending an unambiguous message that alcohol must be included in the "war on drugs" and will begin a much needed educational campaign for the American people.

The material earlier referred to follows:

[From JAMA, Apr. 18, 1990]

Allelic Association of Human Dopamine D_2 Receptor Gene in Alcoholism

(By Kenneth Blum, PhD; Ernest P. Noble, PhD, MD; Peter J. Sheridan, PhD; Anne Montgomery, MSc; Terry Ritchie, PhD; Pudur Jagadeeswaran, PhD; Harou Nogami, PhD; Arthur H. Briggs, MD; Jay B. Cohn, MD, PhD)

In a blinded experiment, we report the first allelic association of the dopamine D_2 receptor gene in alcoholism. From 70 brain samples of alcoholics and nonalcoholics, DNA was digested with restriction endonucleases and probed with a clone that contained the entire 3' coding exon, the polyadenylation signal, and approximately 16.4 kilobases of noncoding 3' sequence of the human dopamine D_2 receptor gene (λhD2G1). In the present samples, the presence of A1 allele of the dopamine D_2 receptor gene correctly classified 77% of alcoholics, and its absence classified 72% of nonalcoholics. The polymorphic pattern of this receptor gene suggests that a gene that confers susceptibility to at least one form of alcoholism is located on the q22-q23 region of chromosome 11. (*JAMA*. 1990;263:2055–2060)

Alcoholism is a major and devastating health problem with an unknown etiologic basis. The question of whether environment or heredity is the prime determinant for the development of alcoholism continues to receive extensive attention throughout the world and has recently involved the US Supreme Court. Family, twin, and adoption studies are pointing to genetic factors as significant contributors to alcoholism. These studies also demonstrate that other forms of mental illness such as schizophrenia and other major psychoses are not found at higher frequencies in families of alcoholics compared with the general population.

Alcoholism currently is viewed as a heterogeneous entity that arises from a combination of biopsychosocial factors. In regard to biological factors, an extensive literature reveals a wide range of potential physiological and biochemical markers in the risk for alcoholism. Moreover, linkage analysis has implicated chromosomes 4, 6, and 11, but not specific gene markers, in the genetic risk for alcoholism.

Restriction fragment length polymorphism (RFLP) offers a powerful molecular genetic tool for the direct analysis of the human genome to determine elements that provide predisposition to genetic diseases. The basic strategy for RFLP analysis is to find a sequence of DNA that is closely associated and/or linked with a particular disease of interest. To accomplish this, one approach is to use candidate gene probes (DNA fragments of suspected genes) in the hope of selecting one gene marker or fragment associated with individuals who exhibit the disease. These probes need not originate from protein-en-coding sequences (albeit they can), so their utility does not depend on the coding sequence per se. This technique has been used to demonstrate a structural mutation in the gene that codes for an enzyme involved in alcohol metabolism (aldehyde dehydrogenase), which leads to the loss of this enzyme's ability to metabolize acetaldehyde. This altered gene is prevalent among Orientals and may explain the well-known alcohol-flush syndrome as a protective factor in this population. However, no specific gene abnormality has been identified thus far that could regulate alcohol-seeking behavior or is associated with alcoholism in humans.

Numerous animal studies indicate that neurotransmitter synthesis, metabolism, regulation, and receptor activity mediate reward in the mesolimbic circuitry of the brain, as well as drug (eg, alcohol)-seeking behavior. In this regard, the dopamine D_2 receptor has been implicated as a prime target site in the nucleus accumbens and hippocampal cornu Ammonis 1 cluster cells of the brain reward system. Bunzow et al have recently cloned and expressed rat dopamine D_2 receptor complementary DNA. Moreover, the same laboratory has mapped the dopamine D_2 receptor gene to the q22-q23 region of chromosome 11 in humans (Fig. 1). In view of the important role of the dopaminergic system in alcohol-related behaviors and the implementation of genetic factors in alcoholism, the present study was carried out to determine whether an allelic association of the dopamine D_2 receptor gene is present in alcoholic subjects.

We now provide the first evidence, through the use of RFLP analysis, that an allele of *Taq* I digest of the dopamine D_2 receptor gene is significantly associated with alcoholism.

METHODS: BRAIN SAMPLES

Brain tissue from 35 alcoholics and 35 nonalcoholics was obtained from the National Neurological Research Bank. Brain cortex from the frontal gray area was removed at the time of autopsy by a neuropathologist and immediatgely frozen at −70°C until use. The ages (average ± SEM) of the alcoholics and nonalcoholics, respectively, were 51.0 ± 2,3 years and 51.9 ± 2.5 years. The racial distribution of alcoholics included 22 whites and 13 blacks, and there were 24 white and 11 black nonalcoholics. The sex distribution of alcoholics included 32 men and 3 women, and there were 28 male and 7 female nonalcoholics. The autolysis times (average ± SEM) of the alcoholics' and nonalcoholics' brain samples, respectively, were 22.9 ± 1.4 hours and 22.4 ± 1.7 hours. Alcoholic (diagnosed as alcohol dependence and alcohol abuse using) and nonalcoholic diagnoses were made independently by two trained psychiatrists, through examination of medical and autopsy records, interviews of treatment center personnel and relatives, and alcohol consumption data. There was a 100% concordance in diagnosing alcoholism in subjects between these two assessments. The causes of death included accidents, gunshot wounds, myocardial infarction, heart failure, cancer, hepatorenal failure, gastrointestinal bleeding, suicide, and pneumonia.

RESTRICTION ENDONUCLEASE ANALYSIS OF GENOMIC DNA

The 70 frozen brain samples were coded without reference to their group identity (nonalcoholic and alcoholic). They were then thawed and processed for high-molecular-weight genomic DNA. The tissue was homogenized in 50-mmol/L phosphate buffer (pH 7.5) then contained 250-mmol/L sucrose and a nuclear pellet prepared. Next, the pellets were incubated at 37°C for 3 hours in 0.5% sodium dodecyl sulfate and proteinase K (0.1 g/L), and the DNA was extracted with phenol followed by extraction with chloroform/isoamyl alcohol. The DNA was then spooled out, washed with ethanol, and stored in TE (10-mmol/L TRIS chloride [pH 8.0], 1-mmol/L ehtylenediametetraacetic acid [pH 8.0]) at 4°C. When all the DNA samples were isolated, aliquots (20 μg of DNA) were digested separately with four different restriction endonucleases (ie, *Taq* I, *Msp* I, *Eco*RI, and *Pst* I, obtained from IBI) at approximately 2 U of enzyme per microgram of DNA, run on agarose gels, Southern-transferred to modified nylon-66 membranes (Nytran, Schleicher and Schuell), and hydridized with different DNA probes using standard methods.

ιHD2G1 PROBE

The DNA samples, after digestion with the four restriction endonucleases (enzymes that are responsible for two thirds of all polymarphisms obtained to date), were hybridized with the human dopamine D_2 receptor gene (ιhD2G1) to determine polymorphism.

A human genomic library was screened with the rat dopamine D_2 receptor complementary DNA. The human genomic library (Clonetech) in a particular bacteriophage vector (EMBL3) was prepared from normal male leukocyte DNA and screened with a nicktranslated probe that contained the 1.3-kilobase (Kb) coding portion of the rat dopamine D_2 receptor complementary DNA. One clone, ιhD2G1, with an 18-Kb insert was identified and characterized. This clone contained the entire 3′ coding exon, the polyadenylation signal, and approximately 16.4 Kb of non-coding 3′ sequence.

Twenty micrograms of the parent clone (ιhD2G1 obtained from O. Civelli) was digested with 48 U of *Bam*HI for 2 hours at 37°C in 50-mmol/L TRIS, hydrochloride (pH 8.0), 10-mmol/L $MgCl_2$, 100-mmol/L sodium chloride (Buffer C, IBI), loaded on 1% agarose gel (Sea Plaque), and run overnight at 23 V. When digested under these conditions, several fragments were generated, including a 1.6-Kb fragment and a second band (1.5-Kb band), possibly made up of two 1.5-Kb fragments. The 1.5-Kb band was cut, heated at 68°C, diluted by a factor of 3 with TE buffer, and stored at 4°C. The 1.5-Kb insert was labeled by random priming with phosphorus 32-labeled deoxycytidine triphosphate to a specific activity of 1×10 counts per minute per microgram. The diluted gel was placed in boiling water for 3 minutes and then incubated for 10 minutes at 37°C. A 25-μL aliquot was then removed and labeled according to the oligo-labeling kit (Pharmacia). The 50-μL incubation mixture was then centrifuged through a G-50 Sephadex column and the eluent used for hybridization. The *Taq* I-digested DNA samples were then transferred to Nytran membranes and hybridized with the labeled insert in 50% formamide, 5×SSC (1×SSC=0.15-mol/L sodium chloride, 0.15-mol/L sodium citrate [pH 7.0]). 1×Denhart's (1×Denhart's=0.02% Ficoll, 0.02% polyvinylprollidone, 0.02% bovine serum albumin), 20-mmol/L NaH_2 PO_4. 0.2 g/L of single-stranded DNA, 0.1% sodium dodecyl sulfate, 10% dextran sulfate, 0.25% dry milk, incubated overnight at 42°C. The filters were then washed twice with SSC and 0.1% sodium dodecyl sulfate at 55° C, and radioautographed overnight. Of the four endonucleases used, the only one that showed polymorphism with λhD2G1 was *Taq* I.

OTHER GENE PROBES

Nuclear DNA was isolated from the matched brain samples as previously described for the λhD2G1 probe. Twenty micrograms of DNA was digested with each one of four restriction endonucleases (*Taq* I, *Msp* I, *Eco*RI, and *Pst* I). The resulting DNA fragments were separated according to size by electrophoresis at 120 V for 3 hours in 0.8% agarose gel, transferred to Nytran membranes, fixed, and hybridized with ^{32}P-labeled probes. Washing of filters and autoradiography were carried out as descrbied earlier. The probes included alcohol dehydrogenase (pADH/3 from the American Type Culture Collection), protein kinase C (phPKC from the American Type Culture Collection), carboxypeptidase A (CPA from S. Naylor), pro-enkephalin (phPE9 from A. Seasholz), trypotophan hydroxylase (TPH479 from R. C. Eisensmith), tyrosine hydroxylase (BTH from W. Morgan), monoamine oxidase B (MAOB from C. Abell), and transferrin (TF from B. Bowman).

RESULTS

Figure 2 illustrates the polymorphic pattern of the human dopamine D_2 receptor gene. Figure 2, left, depicts the polymorphic allelic pattern for the λhD2G1 gene clone. Figure 2, right shows the allelic pattern using a *Bam*HI 1.5-Kb subclone, which reduced overall background and still was informative as to the presence of alleles A1 and A2. However, the smaller probe did not hybridize to the 2.9- and 2.3-Kb *Taq* I fragments of the human dopamine D_2 gene. For illustrative purposes only, we have labeled the polymorphic patterns according to their allelic association with either alcoholics (A1 allele) or nonalcoholics (the absence of the A1 allele), respectively labeled A1/A2 and A2/A2.

Table 1 gives the polymorphic pattern of the dopamine D_2 receptor gene with DNA obtained from alcoholic and nonalcoholic subjects following three independent hybridizations. The A1 allele is associated with 24 (69%) of 35 known alcoholics, but it associated with only 7 (20%) of 35 nonalcoholics. The absence of the A1 allele is associated with 28 (80%) of 35 nonalcoholics and with only 11 (31%) of 35 alcoholics. The proportion of the presence of the A1 allele to the absence of this allele is significantly different in alcoholics as compared with nonalcoholics (Yates' X^2 corrected for continuity = 14.8, *df* = 1, $P<.001$).

TABLE 1.—POLYMORPHIC PATTERN OF THE DOPAMINE D RECEPTOR GENE (λhD2G1) IN BRAIN TISSUE OF NONALCOHOLICS AND ALCOHOLICS

DNA Source	No. (percent) of subjects	
	Absence of A1 Allele	Presence of A1 Allele[1]
Nonalcoholic (n = 35)	28 (80)	7 (20)
Alcoholic (n = 35)	11 (31)	24 (69)
Nonalcoholic Whites (n = 24)	20 (83)	4 (17)
Alcoholic whites (n-22)	8 (36)	14 (64)
Nonalcoholic blacks (n = 11)	8 (73)	3 (27)
Alcoholic blacks (n = 13)	3 (23)	10 (77)

[1] A1 allele, 6.6 kilobases.

The race of subject populations is an important determinant in allelic patterns. Recently, Kidd et al[43] reported that at some loci, alleles that are infrequent in whites are common in other populations. As the present brains were derived from both whites and blacks, the presence of the A1 allele of the dopamine D_2 receptor gene was analyzed in these two racial groups.

Table 1 shows the A1 allele to be associated with 14 (64%) of 22 white alcoholics, but it associated with only 4 (17%) of 24 white nonalcoholics. When the proportion of the presence of the allele in white alcoholics is compared with white nonalcoholics in the present sample, a significant difference is found (Yates' Corrected $X^2 = 8.75$, *df* = 1, *P* = .003).

Similarly in blacks, the A1 allele is associated with 10 (77%) of 13 alcoholics, but it is associated with only 3 (27%) of 11 nonalcoholics (Table 1). The proportion of the presence of the A1 allele to the absence of this allele is also significantly different in black alcoholics compared with black nonalcoholics (Yates' Corrected $X^2 = 4.09$, *df* = 1, *P* = .044).

To determine the relationship between alcoholism and the A1 allele, controlling for race, the Mantel-Haenzel test, which is a statistic that evaluates the relationship between two variables while controlling for a third, was used. A significant (X^2=14.2, *df*=1, *P*<.001) association between alcoholism and the A1 allele was found even after controlling for race. Thus, in the present sample, the results favor the view that A1 allelic association is based on whether an individual is an alcoholic, rather than the individual's racial background.

An analysis of A1 associaton, based on sex, was carried out. In men, the A1 allele is associated with 21 (66%) of 32 alcoholics, but it associated with only 5 (18%) of 28 nonalcoholics. The proportion of the presence of the A1 allele to the absence of this allele is also significantly different in male alcoholics compared with male nonalcoholics (Yates' Corrected X^2=12.0, *df*=1, *P=.001). In women, the A1 allele is associated with 3 (100%) of 3 alcoholics, but it associated with only 2 (29%) of 7 nonalcoholics (since there are only 10 samples from women, the Pearson* X^2=4.29, *df*=1, *P*=.039, whereas Fisher's Exact Test yields *P=083). When A1 allele distribution is considered between alcoholic and nonalcoholic men and women, using a Yates' Corrected* X^2 no significant sex difference was obtained.

Figures 3 and 4 show the samples grouped according to whether the A1 allele was present. This grouping allowed a classification of samples based on their unique allelic association with alcoholism. Figure 3 represents 31 brain samples that possessed the A1 allele. Four of the DNA samples were homozygous for the A1 allele and 24 of the 31 DNA samples (ie, 77%) that had the A1 allele were from alcoholics. Figure 4 represents 39 brain samples that did not possess the A1 allele. Twenty-eight of the 39 DNA samples (ie, 72%) that did not have the A1 allele were derived from nonalcoholics. To determine the correct classification of alcoholics of nonalcoholics in our sample according to the presence or absence of the A1 allele distributed between the two groups at better than chance probability, a X^2 analysis with an expected probability of .50 was used. Observed values were significantly different from the assigned probability for the A1 allele for samples of alcoholics (Pearson X^2=9.32, *df*=1, *P*=.002) and for the absence of the A1 allele for samples of nonalcoholics (Pearson X^2=7.41, *df*=1, *P*=.007).

Allelic frequencies, in the total sample of 140 alleles, were A1 allele, 24%; and A2 allele, 75%. In the samples of nonalcoholics, A1 and A2 allelic frequencies were 13% and 87%, respectively. The allelic frequencies in the samples of alcoholics were A1, 37%; and A2, 63%. The frequency of the A1 allele in samples of nonalcoholics and alcoholics were significantly different (Yates' Corrected X^2=9.75, *df*=1, *P*=.002).

The association of other putative genes with alcoholism was determined using eight additional candidate probes. The complementary DNA probe for alcohol dehydrogenase, an enzyme involved in the metabolism of alcohol, displays a polymorphism using *Msp* I, but the polymorphism is not associated with alcoholism. The complementary DNA probe for transferrin displays polymorphism using *Eco*RI, but again this polymorphism is not associated with alcoholism. The remaining probes revealed no polymorphism with any fo the four restriction endonuclease digests of the brain DNA samples. Thus, unlike λhD2G1, none of these eight probes revealed a polymorphic pattern of association with alcoholism (Table 2). However, these findings do not rule out the possibility that other endonucleases might reveal polymorphism with these eight probes that associate with DNA obtained from alcohol-dependent subjects or alcohol abusers.

COMMENT

During the past three decades, research concerned with the interaction of genetic and environmental factors in the development of alcoholism has shown that the risk for this behavior is determined by genetic as well as by environmental factors. The conclusion that there is a significant genetic component to alcoholism has led to the realization that individuals who are at risk of becoming alcoholic, because of inherited factors, are biologically and behaviorally different from individuals who have few or no inherited factors that predispose them to alcoholism. Thus, a recent study that compares preadolescent sons of alcoholic fathers, who have a positive family history of alcoholism, with sons of nonalcoholic fathers, who have a negative family history of alcoholism, shows that the two groups are differentiated by electrophysiological, neuropsychological, and personality characteristics. Moreover, follow-up studies of these children during adolescence reveal the sons of alcoholics to have enhanced consumptive behaviors relative to alcohol, tobacco, and marijuana compared with the sons of nonalcoholics.

The accumulting evidence that points to hereditary factors in alcoholism has stimulated an extensive search for genes that predispose individuals to alcoholism or markers that identify subjects at increased risk for alcoholism. Unlike genetic diseases such as Huntington's chorea or cystic fibrosis, where a single gene is thought to be responsible for disease expression, the heterogeneous nature of alcoholism may not allow for the generation of a single marker that can identify all individuals at risk. Clincially, various subgroups of alcoholics have been described. More recently, evidence has been provided for two types of inherited alcoholism. Type I and type 2 were distinguished by their characteristics of alcohol-related problems and personality traits. Using a neurobiological model, it was hypothesized that these two types of alcoholism are differentially subserved by the following three principal central monoamines; dopamine, serotonin, and norepinephrine. Support for alcoholism subtypes can also be found in other neurochemical hypotheses, that include (1) individual differences in nerve cell membrane sensitivity to alcohol, (2) inherited variations in the sensitivty of Na–K adenosine triphosphatase inhibition to alcohol, (3) inherited variations in neurotransmitter release and uptake systems involved in a reward cascade of events, (4) inherited variations in the production of abnormal amounts of tetrahydroisoquinolines, and (5) inherited variations in second messenger response-coupling mechanisms.

In a previous study, when the λhD2G1 was used to probe digests of human genomic DNA, it was found that only Tag 1, but not digests from 30 other endonucleases, revealed a frequent two-allele RFLP (allele A1 [6.6Kb] and allele A2 [3.7+2.9 Kb] with constant bands at 10.5 and 2.3 Kb). Allele frequencies were measured in 43 unrelated subjects and calculated to be 24 percent for A1 and 76 percent for A2. Codominant mendelian inheritance was observed in four informative families with a total of 39 children. Additionally, the human dopamine D_2 receptor gene was mapped on the q22–q23 region of chromosome 11.

In the present sample, derived from 70 deceased individuals, we have found a strong association between alcoholism and the A1 allele of a Taq I polymorphism close to the dopamine D_2 receptor gene (O. Civelli, D. K. Grandy, oral communication 1989). (These investigators independently analyzed a blind subsample of our nonalcoholics' and alcoholics' brains. The presence or absence of the A1 allele exactly matched the analysis done in our laboratory.) This polymorphism need not result in a complete loss of dopamine D_2 receptor function. That this association prevailed in a subsample of both whites and blacks raises interesting questions about the prevalence of the A1 allele in other samples of alcoholics. A large majority of alcoholics in the present study had experienced repeated treatment failures in their alcoholic rehabilitation and the cause of death was primarily attributed to the chronic damaging effects of alcohol on their bodily systems. It is possible that the A1 allele found in this study may be associated with a particular subtype of virulent alcoholism.

Given that there are various subtypes of alcoholics, it would have been surprising if a 100% association was found between the A1 allele and alcoholism. In this regard, the 31% of alcoholics who did not associate with the dopamine D_2 receptor gene polymorphism suggest the following interesting possibilities: (1) Environmental rather than genetic factors contributed to their alcoholism. (2) Other genes may be critical for the predisposition to and subsequent expression of alcohol-seeking behavior. This possibility is intriguing, since it suggests that gene-specific subtypes of alcoholism could be identified through RFLP analysis and provide the basis for multiple etiologies. (3) There may be only partial linkage disequilibrium between the RFLP and the gene responsible for the disease. This could occur because of occasional crossover between marker and gene.

Chromosome 11 has been linked to alcoholism as well as to depression. Moreover, the tyrosine hydroxlylase gene has been mapped on chromosome 11. Since tyrosine hydroxylase regulates catecholamine synthesis and because catecholamines play an important role in the alcohol reward system, interesting questions have been raised about the duality of alcoholism and depression. However, in the present sample, the tyrosine hydeoxylase gene probe showed no polymorphic pattern associated with alcoholism (Table 2), suggesting that both alcoholism and depression do not share a common defect in the tyrosine hydroxylase gene. Additionally, a chromosomal break at 11q23–q24 to the terminus has been linked to manic-depressive disorder (a balanced 9–11 chromosomal translocation [11q22.3–q23.1, 9p23–p24] associated with bipolar disorder [S. G. Potkin, oral communication, 1990]) and preliminary data indicate that the dopamine D_2 receptor gene, as recognized by the λhD2G1 probe, is not of etiologic importance in the pathogenesis of manic-depressive disorder. It is of further interest that in another mental illness, where a Swedish kindred was used, evidence has been provided to exclude the schizophrenia trait from the loci of the dopamine D_2 receptor gene, again using the λhd2G1 probe, ruling out mutations in this gene as an etiologic factor for schizophrenia.

Certain difficulties have been encountered in applying molecular genetic techniques in ascertaining the locus of inheritance in neuropsychiatric disorders. In 1987, an attempt to determine the chromosomal location in manic-depressive disorder came from studies of the Old Order Amish of Pennsylvania. Restriction fragment length polymorphism from two markers on chromosome 11 was found to be linked with this affective disorder. In the same year, two groups of investigators, using six other family groups, three from Iceland and three from North America, showed that linkage with the same probes to chromosome 11 gave negative lod scores that indicate the likelihood of either nonallelic genetic heterogeneity for manic-depressive disorder or of an error in the analysis of the Amish pedigree. Moreover, additional pedigrees of patients in Israel and in Belgium both demonstrated genetic linkage between bipolar affective disorder and the X chromosome—a finding that has been unchallenged thus far. These observations, indicate that one must proceed with caution in interpreting allelic association with behavioral disorders, including the findings obtained in the present study. It is necessary, therefore, to replicate, in other subject populations, the association of the A1 allele with a type of alcoholism that has a fatal outcome. Moreover, additional research is also required on living alcoholics and their relatives. In this respect, studies now in progress in our laboratory, using peripheral blood from large pedigrees, as well as from unrelated individuals of several different racial and ethnic groups, will further ascertain polymorphism of the dopamine D_2 receptor gene or a gene close to the dopamine D_2 receptor gene as a specific trait marker for alcoholism.

We believe that research that deals with the exploration of various candidate gene probes, which encode elements related to the synthesis of neurotransmitters or neuromodulators involved in the brain reward system, might ultimately lead to multigene trait markers that can detect the susceptibility of individuals with a family history of alcoholism. For the present, our initial findings of an allelic association of the dopamine D_2 receptor gene with alcoholism suggests that an abnormality in this gene, or in another gene with linkage disequilibrium with it, may cause susceptibility to at least one subtype of alcoholism. Still, these findings do not imply that the dopamine D_2 receptor gene probe is ready to be used as a diagnostic marker for the risk of alcoholism. Further studies on the molecular genetics of alcoholism are needed as they could be of great benefit for the 28 million American children of alcoholics who are potentially at risk for this disease.

We extend appreciation to The Seaver Institute in Los Angeles, Calif, the Wacker Foundation in Dallas, Tex, Texas Research and Technology Foundation in San Antonio, and Neurogenesis, Inc in Houston. We acknowledge the assistance of W. W. Tourtellotte and I. Rosario in obtaining the human autopsy specimens. We appreciate the kind supply of the various probes used in this study. We also thank E. Nathan for technical assistance; R. Wood for statistical advice; G. Greiss and C. Whitehead for the graphic analysis program (Image software by W. Rasband) in the generation of the RFLP images; D. Barnett, Z. D. Sharp, and H. Payamai for consultation on human genetics; R. Sparkes, O. Civelli, M. Litt, and D. Grandy for review and critique of the manuscript; and J. E. Payne for editorial assistance. We thank A. Jaeger for assistance in the literature review and in the preparation of the manuscript.

Table 2.—Polymorphic Association With Alcoholism of DNA Probes Using Restriction Endonucleases

DNA Probe	Polymorphism				Polymorphism significantly associated with alcoholism
	Msp 1	EcoRI	Taq 1	Pst 1	
Alcohol dehydrogenase (pADH/3).	Yes	No	No	No	No.
Protein kinase C (phPKC).	No	No	No	No	No.
Tryptophan hydroxylase (TPH479).	No	No	No	No	No.
Pro-enkephalin (phPE9).	No	No	No	No	No.
Monoamine oxidase (MAOB).	No	No	No	No	No.
Carboxypeptidase A (CPA).	No	No	No	No	No.
Transferrin (TF)	No	Yes	No	No	No.
Tyrosine hydroxylase (BTH_4).	No	No	No	No	No.
Dopamine D_2 receptor (λhD2G1).	No	No	Yes	No	Yes.[1]

[1] The proportion of the presence of the Al allele to the absence of this allele in the 70 DNA samples shown in Table 1 is significantly different in alcoholics as compared with nonalcoholics (Yates λ corrected for continuity, 14.8; df=1, $P<.001$). No significant ($P>.05$) polymorphic association with alcoholism was found with either the pADH/3 or the TF probe.

[From JAMA, Apr. 18, 1990]

FINDING THE GENE(S) FOR ALCOHOLISM

In this issue of the JOURNAL,[1] Blum and colleagues report a surprisingly strong association between an allele of the dopamine D_2 receptor and alcoholism. This observation is provocative and promising but must be regarded with caution. Here is the background.

Research during the last two decades has provided strong evidence that at least part of the vulnerability to becoming alcoholic on exposure to alcohol is inherited.[2] In most twin studies, identical (monozygotic) twins have been found to be approximately twice as likely to be in concordance for alcoholism as fraternal (dizygotic) twins of the same sex. The strongest evidence for a genetic role in alcoholism comes from the adoption studies of Bohman, Cloninger, and others.[2] Young children who were adopted away from alcoholic biological parents and raised in a nonalcoholic family developed many more alcohol problems as adults than similar adoptees whose biological parents were not alcoholic.

Supporting evidence for a genetic influence in alcoholism also comes from animal research. Over many generations, strains of rats have been bred that differ markedly in their propensity to drink large amounts of alcohol under conditions of free choice, with food and water freely available.[3] This is an indispensable condition for judging an animal model relevant to human alcoholism, and many other features of these animals parallel aspects of the human disease.

Finally, several physiological markers have been associated with alcoholism or the risk for it. For example, high-risk children (those born to an alcoholic father, but who have not consumed alcohol themselves) differ from low-risk, nondrinking children (children of nonalcoholics) in the pattern of their evoked potential waves—the pattern of electroencephalographic activity that is evoked by stimuli or attention to them.[4] Other physiological markers have been found in alcoholics but are not caused by the drinking itself:[5] diminished platelet adenylate cyclase response to a variety of stimulants (which persists into abstinence and appears to be at least in part genetic), differences in monoamine oxidase activity, and diminished response by lymphocyte adenylate cyclase to adenosine, even after these lymphocytes were cultured for several generations in alcohol-free media.

There are, in general, two kinds of useful genetic loci that have been discovered in different diseases. One kind is the gene that actually determines the abnormality, for example, the gene for sickle cell hemoglobin or the abnormal dystrophin in muscular dystrophy. Another kind of genetic finding is a gene or a stretch of DNA, which may be completely unrelated to the disease, but which lies so close to the disease gene that during the reproductive process it is rarely separated from it. In this situation, detecting this close neighboring gene suggests with high probability that the disease gene is present as well, even if the disease gene itself has not been identified.

In conditions like alcoholism, where probably several or perhaps many genes are involved, the determination of linkages like these is much more difficult. Nevertheless, there is suggestive evidence that certain genes, especially the genes for the NNS blood group[6] and for esterase-D[7] may lie close to some gene determinants of alcoholism. Conclusive evidence regarding these claims, as their authors themselves admit, is still lacking.

At this point in the development of the research, the goal becomes to find the chromosomal location of the genes that confer vulnerability to alcoholism and eventually to characterize the genes and determine their protein products. Since alcoholism appears to be at least clinically heterogeneous, it is highly unlikely that the same gene or genes confer vulnerability in all families. What the function of such genes might be or whether these genes are going to be specific for alcoholism or be of more general influence on affect, appetite, personality, or behavior is also unknown. The analysis is complex, not only because alcoholism is probably heterogeneous and polygenic but because genes for alcoholism may display incomplete penetrance, and, in addition, there may be phenocopies (alcoholism of a nongenetic type that is clinically identical to genetically influenced variants) mixed into the same families as the genetically influenced alcoholism.

The most powerful approach to this complex challenge is to study informative pedigrees. The idea is to determine from these pedigrees what a likely mode of inheritance is and then see whether any sort of marker is transmitted through the families parallel to the transmission of the disease. A powerful tool in such studies is provided by restriction fragment length polymorphisms (RFLPs)—specific patterns of electrophoretically displayed fragments that are produced by digesting the chromosomal DNA with certain enzymes. Certain patterns of fragments, which can be visualized after complexing with a complementary DNA probe, may be transmitted through the generations with the disease, and this suggests where within these fragments one should look for an important genetic variant. Two kinds of probes are used to identify these patterns on electrophoretic gels. With no starting hunches about the locus of interest, nonspecific random probes that bind at different sites in the genome are used. Another approach starts with an educated guess—

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[1] Footnote at end of article.

choose a "candidate gene" that appears plausibly linked to the known physiology of the disease and then use it as a probe to examine the electrophoretic pattern of chromosome fragments. Since several brain receptors have been shown to be involved in alcohol action, probes created from genes for the receptors or for the enzymes that synthesize their neurotransmitter ligands are plausible candidates.

In the study by Blum and colleagues,[1] the dopamine D_2 receptor was chosen as a candidate gene not for family studies, but to compare a group of alcoholics and a group of nonalcoholic subjects. All of the subjects were dead, and the DNA was derived from brain tissue. The gene for the D_2 receptor had been localized previously to chromosome 11 by Grandy and colleagues,[8] and a probe for it, called λhD2G1, was made available to the authors. The DNA from all subjects was digested with different enzymes. The digest with the enzyme called *Taq* I generated an electrophoretically separated group of fragments probed with h2G1. Two alleles of the D_2 receptor, named "A1" and "A2," were detectable. The A1 allele was present in 24 (69%) of 35 brain samples of alcoholics and absent in 28 (80%) of 35 nonalcoholics. The authors conclude that "a gene that confers susceptibility to at least one form of alcoholism is located on the q22–q23 region of chromosome 11."

The dopamine receptor (two subtypes are known, D_1, and D_2) is a plausible candidate gene. It has been linked strongly with the neural mechanisms for "reward" (the neural event that reinforces the behavior that produced it), especially in cocaine dependence.[9] Although alcohol clearly affects the dopamine system of the brain,[10] and a role for dopamine and its receptors in the rewarding effects of alcohol has been described,[10] the evidence is much weaker for alcohol than it is for cocaine. In fact, other neurotransmitter systems may have a greater role in alcohol's reward than dopamine. Even in the case of cocaine, where the evidence for the role of dopamine in reward is strong, there is controversy whether the relevant receptors are of D_1 or D_2 varieties.[11, 12] Nevertheless, even if no rationale for the choice of this receptor existed, the findings must be examined on their merits.

This is the first candidate probe that has yielded results of such potential promise. The authors controlled for sex and race, and the important difference in the frequency of the two alleles was maintained. Undoubtedly, this work will be a spur to further research with the dopamine receptor gene.

The need for confirmation of this work, however, is very evident. First, the sample is small. Second, in view of the presumed heterogeneity of alcoholism and its likely polygenic causes, the power of one allele to identify almost 70% of a presumably unselected group of alcoholics is striking and surprising. The main problem is the sketchy clinical description of the alcoholic and nonalcoholic subjects. Alcoholism (or abuse?) was diagnosed retrospectively after deaths from a variety of causes. The nonalcoholic subjects were said to be matched, but we do not know if the populations from which the alcoholic and nonalcoholic subjects were drawn differed in important ways. The authors claim to have identified a "virulent type" of alcoholism, but the definition for this new type of alcoholism is not provided. Precision in the diagnosis and ascertainment of alcoholic and nonalcoholic subjects in the genetic study of polygenic illness is mandatory. Without this, the interpretation of the results is uncertain. With such meager case description, it is possible that the differences between the groups were caused by characteristics of the groups that were unrelated to alcoholism. This type of comparison, although provocative, cannot substitute for the detailed kind of complex family studies mentioned previously.

What must be done, of course, is to learn from the work of Blum and colleagues and pursue the many ongoing large, family studies (theirs and others), with the dopamine receptor probe as well as other probes now under study. Brain samples are not needed: peripheral cells (from living subjects) are quite adequate as a source of DNA, since all autosomal cells contain the whole genome. Even well-executed large, family studies in behavioral genetics have run into problems:[13] the claim for a chromosomal locus for manic-depressive disorder in the Older Order Amish was recently retracted, and two studies could not replicate[13] the chromosomal assignment for the schizophrenia locus recently described. The validity of conclusions in this type of research often hinges on subtle, complex, and often controversial statistical considerations, as well as on the stability of the subjects' diagnoses over time.

Success in research on the genetics of alcoholism would provide insight into the physiology of the disease, suggest new methods of prevention and treatment, and illuminate brain physiology far beyond the issue of alcoholism. Blum and colleagues have added a promising new observation to current genetic research. Genetics accounts for only part of the vulnerability to alcoholism. Understanding how genes and environment interact to produce alcoholism in any individual is the larger challenge to both genetic and psychosocial research.

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FOOTNOTES

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[From Food Chemical News, Apr. 2, 1990]

BEER DRINKERS FACE HIGHER CANCER RISK, RESEARCHER SAYS

Heavy beer drinkers were twice as likely to develop cancer of the mouth as those who drank hard liquor, but both groups ran a significantly higher risk than non-drinkers, according to reports from an American Cancer Society seminar in Daytona Beach, Fla., last week.

Everybody who regularly drank large amounts of alcohol faced an increased risk of oral cancer, although a new study found the problem to be more severe among beer drinkers, United Press International reported.

Dr. Arthur Mashberg, Veterans Administration Medical Center, East Orange, N.J., compared the drinking habits of 181 hospital patients who had mouth cancer with a group of 497 unafflicted people. Of the cancer patients, 82% had six or more drinks or cans of beer a day.

The study showed that those who drank 6 ounces or more of hard liquor daily had 10 times greater rates of cancer of the mouth than non-drinkers. However, among those who drank six or more cans of beer a day, the rate rose to 25 times that on non-drinkers.

The same seminar was told that cutting calories dramatically delayed aging and the development of cancer in animals. Animal studies funded by the National Institute on Aging showed that lowering calorie intake significantly reduced the incidence and delayed the onset of most spontaneous cancers, retarded aging of the immune system, and greatly prolonged life span (See Food Chemical News, March 12, Page 20).

Separate research by Dr. Stephen Barnes, University of Alabama, found that eating soybeans might reduce the risk of developing breast cancer. The phytoestrogens in soybeans could be part of the reason women in Asia who ate soybean-rich diets were up to eight times less likely to develop breast cancer than American-born women, he told the seminar.●

SOCIAL SECURITY/PAYROLL TAX CUTS

● Mr. KASTEN. Mr. President, today I would like to make a few comments about the payroll tax cut I am cosponsoring with Senator MOYNIHAN and enter into the RECORD a recent study by Gary and Aldona Robbins showing the economic benefits of this tax cut. I believe that this year a payroll tax cut will pass the Senate by a wide margin. The principal reason for my confidence is the wide range of support that this proposal has attracted. For the first time, we have assembled a winning coalition for this tax cut—and we will press our advantage until we have won a total victory. At a press conference on March 14, the study by Gary and Aldona Robbins was released and the National Committee to Preserve Social Security and Medicare, the National Federation of Independent Business, the U.S. Chamber of Commerce, the Seniors Coalition, and Citizens for a Sound Economy all had representatives at the press conference speaking in support of a payroll tax cut.

A majority of Americans now pay more in payroll taxes than they pay in income taxes. In fact, the Government is taxing workers billions of dollars more than necessary to finance Social Security benefits. The rationale was to save these surplus funds in order to finance future benefits for the baby boom generation. Yet these surpluses are not saved, they are immediately raided and used to finance non-Social Security spending. The payroll tax cut that Senator MOYNIHAN and I have sponsored would return the Social Security system to pay-as-you-go financing and end this charade.

Another reason I am confident that a payroll tax cut will pass the Senate is the very strong economic arguments in favor of this tax reduction. The study I am entering into the RECORD confirms what we have long suspected, a payroll tax cut will create hundreds of thousands of new jobs and dramatically boost economic growth. All of this is made possible by putting money back into taxpayers pockets, thereby increasing take-home pay and lowering labor costs to small business. A 1-percentage point payroll tax cut will save workers up to $693 in taxes per year. That is $693 more take home pay to save, invest, pay for education or health care.

The most important conclusion of this study is that by cutting the payroll tax now, we actually strengthen the Social Security system and enable it to better meet the needs of retirees in the decades to come.

The workers of America need and deserve this tax cut. We must not let them down.

I ask that the full text of the study be printed in the RECORD immediately following my remarks.

The text follows:

[From the Institute for Policy Innovation, Mar. 14, 1991]

SOCIAL SECURITY TAX CUTS: TOO GOOD TO BE TRUE?

(By Aldona and Gary Robbins)

Social Security is the largest government program. It is also one of the most misunderstood. Recent increases in payroll tax rates have created huge surpluses. Most people believe these surpluses are being saved in a trust fund to help ensure that future retirees will receive promised benefits. They are not. Payroll taxes not needed to pay current beneficiaries are borrowed and spent by the federal government and are replaced with government bonds. The government bonds held in Social Security's trust funds represent claims against future taxpayers.

Senators Daniel Moynihan (D-NY) and Robert Kasten (R-WI) have introduced legislation, S. 11, to reduce the Social Security payroll tax. Specifically, their proposal would phase-in a two percentage point reduction in the payroll tax rate over the next five years while increasing the Social Security wage base to $82,200 by 1996 instead of the $69,300 expected under current law.

Proponents of a payroll tax cut argue it would reduce the tax burden on low- and middle-income workers, serve as a recession-fighting measure, and help maintain the long-term financial integrity of the program. Opponents argue that cutting payroll tax rates will undermine Social Security's ability to pay retirement benefits to baby boomers or cause additional government borrowing, thereby raising interest rates.

Who is right? This *Issue Brief* examines the current tax burden on workers and how two different versions of a payroll tax cut would affect GNP, employment, and the stock of capital. It also analyzes how these options would affect federal revenues.

PAYROLL TAX BURDEN ON TODAY'S WORKERS

While income tax rates were reduced during the 1980s, Social Security payroll tax rates increased—from 12.26 percent in 1980 to 15.3 percent in 1990. Today many workers pay more in Social Security taxes than they do in income taxes. Income tax changes legislated during the 1980s lowered the federal tax burden at all income levels.

Marginal rates were substantially reduced relative to what they were in 1980.

The personal exemption was doubled from $1,000 in 1980 to $2,000 by 1989, and the standard deduction was increased by over 50 percent for most taxpayers.

As many as 4 million low-income taxpayers no longer pay income taxes.

Rising payroll tax rates, however, have increased the Social Security tax burden for all workers. According to Table 1, which compares the income and Social Security taxes paid by single and married taxpayers:

At least 35 percent of taxpayers pay more in Social Security payroll taxes than they do in income taxes when only the employee's share of the tax (7.65 percent) is considered.

When the employer's share is included—which most economists believe appropriate—at least 55 percent of today's taxpayers pay more in Social Security than income taxes.

When fully phased-in, a two percentage point reduction in payroll tax rates would put $600 more a year in the average worker's pocket.

TABLE 1.—AVERAGE INCOME & SOCIAL SECURITY TAXES, 1990

[By adjusted gross income]

Adjusted gross income	Cumulative workers (thousands)	Taxpayer distribution (percent)	Income taxes	Social Security taxes	
				Employee only	Employee and employer
SINGLE FILERS					
Nonfilers	4,305	8.2	0	$189	$378
$3,500	14,372	35.5	0	189	378
$10,000	10,655	55.8	$608	540	1,081
$20,000	13,176	80.9	2,091	1,160	2,319
$30,000	5,823	91.9	3,694	1,889	3,777
$45,000	2,437	96.6	7,733	2,965	5,929
$60,000	900	98.3	12,407	3,924	7,849
$85,000	716	99.7	20,338	3,924	7,849
$175,000	122	99.9	45,416	3,924	7,849
$375,000	51	100.0	87,697	3,924	7,849
$1,700,000	9	100.0	444,210	3,924	7,849
Taxes paid by average filed return			4,057	1,845	3,690
JOINT FILERS					
Nonfilers	4,210	5.5	0	189	378
$3,500	3,161	9.6	0	189	378
$10,000	5,479	16.7	0	540	1,081
$20,000	13,899	34.7	1,015	1,160	2,319
$30,000	14,699	53.8	2,452	1,889	3,777
$45,000	12,972	70.7	4,383	2,965	5,929
$60,000	9,748	83.3	6,972	3,932	7,863
$85,000	10,872	97.5	12,131	4,531	9,061
$175,000	1,488	99.4	34,397	5,537	11,075
$375,000	361	99.9	85,143	5,887	11,773
$1,700,000	111	100.0	384,499	5,887	11,773
Taxes paid by average filed return			2,521	1,845	3,690

REDUCING PAYROLL TAX RATES

Accumulating government debt in the Social Security trust funds does not assure today's workers that they will receive their promised benefits. In addition to having paid higher than necessary payroll taxes while working, they are likely to face higher income taxes in retirement to pay their own benefits.

A number of proposals would remove the unnecessary payroll tax burden. Rather than hurting Social Security's chances to meet its promises, cutting payroll taxes would actually improve them. The reason is that a reduction in payroll taxes would enhance take-home pay, increase labor supply, and lower labor costs. As a result, the economy would experience higher employment, captial accumulation, and output than otherwise. This higher level of growth would heighten the ability of taxpayers to pay Social Security's bills in the future.

Conversely, higher payroll taxes raise labor costs and reduce output, jobs and investment. In an earlier study, we estimated that the 1988 and 1990 Social Security payroll tax increases (from 14.3 percent to 15.3 percent) would result in 512,000 fewer jobs.[1] Between June and November of last year, civilian employment declined by over one million.[2] The payroll tax hikes by themselves would have caused an economic slowdown. The combination of banking system problems, higher oil prices, war in the Persian Gulf, taxes enacted in last fall's budget agreement, and the payroll tax increases helped end the longest peacetime expansion and push the economy into its current recession.

We have estimated the economic and revenue impact of the following two options over the next ten years:[3]

Option 1: A phased-in 2 percentage reduction in the OASDI payroll tax rate—from 12.4 percent to 11.4 percent (7/1/91) to 11 percent (1/1/94) to 10.4 percent (1/1/96)—plus an increase in the wage base to $60,600 in 1992, $64,200 in 1993, $70,200 in 1994, $73,800 in 1995, and $82,200 in 1996 (similar to S. 11 by Senators Moynihan and Kasten).

Option 2: The same phased-in 2 percentage point reduction in the OASDI rate without the corresponding increases in the wage base.

THE ECONOMIC EFFECTS OF A PAYROLL TAX CUT

Both options would benefit the economy by lowering the cost of labor. In the long run, the phased-in reduction of payroll tax rates would lower the cost of labor by four percent. Over the same time frame, increasing the wage base in addition to a phased-in rate reduction would lower the cost of labor by 1.9 percent.[4]

Raising the wage base would negate a significant part of the economic benefits from a rate reduction. The reason is that, although relatively few workers are affected, the incentive effects are substantial.[5] The marginal rates on these workers increase from zero to 12.4 percent (the current OASDI rate) on their entire wages thereby dampening the reduction in the economy-wide average marginal tax rate on labor.[6]

Graphs 1, 2, and 3 depict the effect of the two options on GNP, job creation, and capital accumulation.

Gross national product: Over the next ten years, a phased-in two percentage point reduction in the payroll tax rate with corresponding increases in the wage base would increase GNP by $112.2 billion (in nominal dollars). The same reduction without a corresponding increase in the wage base would increase GNP by $226.2 billion over the same period.

Footnotes at end of article.

New jobs: By the year 2000, a phased-in two percentage point reduction in the payroll tax rate with corresponding increases in the wage base would result in 299,000 more jobs than otherwise. The same reduction without a corresponding increase in the wage base would result in 650,000 more jobs.

Capital accumulation: By the year 2000, a phased-in two percentage point reduction in the payroll tax rate with corresponding increases in the wage base would increase the capital stock by $64.4 billion (in nominal dollars). The same reduction without a corresponding increase in the wage base would increase capital stock by $137 billion.

REVENUE EFFECTS

Official revenue estimates are static in nature because they ignore the economic effects of tax change. A reduction in payroll taxes would lead to more jobs, output, and investment. This would increase payroll and income tax revenue to Federal, State, and local governments.

Table 2 summarizes the static and dynamic (which include economic effects) revenue estimates over the next five and ten calendar years for the two options.

TABLE 2.—STATIC AND DYNAMIC REVENUE EFFECTS OF TWO PAYROLL TAX CUT OPTIONS

[Amounts in billions of dollars; calendar years]

	Phased-in cut		Plus higher wage base	
	1991–95	1991–2000	1991–95	1991–2000
Static tax change from FICA reduction	−146.5	−511.5	−124.7	−424.9
Additional Federal payroll, income, excise tax revenues	16.4	72.5	9.5	35.6
Dynamic Federal tax change	−130.1	−439.0	−115.2	−389.3
Efficiency[1]	[2]88.8	[2]85.8	[2]92.4	[2]91.6
Additional State and local taxes	8.8	40.0	5.1	19.5
Total dynamic change	−121.2	−399.1	−110.1	−369.8
Efficiency[1]	82.8	[2]78.0	[2]88.3	[2]87.0

[1] Efficiency refers to the amount of revenue actually lost for every dollar of static revenue loss. It is calculated as the dynamic tax change divided by the static tax change and is averaged over the 5 and 10-yr periods.

[2] In percent.

On a static basis the phased-in cut with the increased wage base would lose $124.7 billion in payroll tax revenues over the next five years. Over the same time period, the phased-in cut without an increase in the wage base would lose $146.4 billion.

The added growth and jobs, however, would generate additional federal revenues of $9.5 billion and $16.4 billion respectively.

Over 1991 through 1995, for every dollar in static revenue loss the actual federal revenue loss would be an average of 92 cents for the phased-in cut with the increased wage base and 89 cents for the phased-in cut without the increased wage base.

By the year 2000, the actual federal revenue loss would be 92 cents for the phased-in cut with increased base and 86 cents for the rate cut without an increased wage base.

When the additional revenues to state and local governments are included, the actual loss for every dollar in static revenue loss would be an average of 88 cents and 83 cents, respectively, over 1991 through 1995.

By the year 2000, the actual total revenue loss would be 87 cents for the phased-in cut with an increased wage and 78 cents for the phased-in cut without an increased base.

WILL INTEREST RATES RISE?

Reducing payroll tax rates holds greater potential for helping Social Security keep its promises than allowing the trust fund accumulation of government debt to continue. The economic gains of a payroll tax cut include: (1) up to 650,000 more jobs than otherwise; (2) additional output that could amount to $226 billion by the turn of the century; and (3) the capital stock, which represents the fruits of real saving, could be as much as $137 billion higher by the year 2000.

Naysayers who claim that the payroll tax cut would hurt saving are wrong. Although they hold the view that the trust fund surpluses represent real saving, how these surpluses translate into plant, equipment, and jobs is not exactly clear. One argument is that trust fund surpluses mean the federal government has to borrow less from the public, thereby lowering interest rates. By reducing payroll taxes, Social Security surpluses would be less, thereby raising federal borrowing and interest rates.

The problem with this argument is that federal borrowing does not have much, if any, effect on interest rates. Outstanding debt in U.S. credit markets is about $13.2 trillion.[7] The impact of an added $50 to $100 billion in federal borrowing on U.S. credit markets and, therefore, on interest rates is virtually negligible. Moreover, capital trades in a world market whose size is many times that of the U.S.

What naysayers ignore is that the trust fund surpluses do not magically appear. They come from somewhere, specifically the pockets of working Americans. Higher payroll taxes have an economic cost which any reduction in interest rates—if ever forthcoming—would fall far short of offsetting. As shown earlier, higher payroll taxes raise the cost of labor and result in fewer jobs, output, and capital accumulation. Better to cut payroll tax rates now and enjoy the beneficial economic effects than accumulate trust surpluses that mean higher taxes now and even higher taxes in the future.

CONCLUSION

Reducing Social Security payroll tax rates makes sense for several reasons. Reducing payroll tax rates by two percentage points would:

Stimulate the economy and add as many as 650,000 more job years than if there were no tax cut;

Reduce the burden of a tax that falls particularly hard on lower- and middle-income workers; and,

Increase the total output of goods and services and the accumulation of capital, thereby improving the economy's ability to meet the future demands of Social Security.

Note: Nothing written here should be construed as necessarily reflecting the views of the Institute for Policy Innovation or as an attempt to aid or hinder passage of any legislation before Congress.

FOOTNOTES

[1] Aldona and Gary Robbins, "Effects of the 1988 and 1990 Social Security Tax Increases," Washington, DC: Institute for Research on the Economics of Taxation, *Economic Report* No. 39, February 1988.

[2] The Federal Reserve Bank of St. Louis, *National Economic Trends*, January 1991, p. 2.

[3] The baseline is that of the Congressional Budget Office for the fiscal year 1992 Budget. Using the standard Cobb-Douglas production function, we have derived relationships to determine the changes in the amounts of capital services, labor services, and output that will occur in response to a change in the tax on labor. The long-term adjustments in response to a tax change will depend upon: (1) the size of the tax change; (2) the nature of the production process, i.e., how capital and labor are combined in the most effective way; (3) the responsiveness of workers to a change in their aftertax wage rate, or the elasticity of labor supply; and (4) the amount of U.S. capital affected by the tax change. In these policy simulations we used a labor supply elasticity of 0.3, which is well within the range of empirical estimates.

[4] See the forthcoming IPI Report, "Reducing Social Security Taxes: Sound Policy for Today and Tomorrow?", for detailed tables on the economic effects.

[5] Over the last several years, about 90.5 percent of wages and salaries subject to Social Security tax are below the wage ceiling. Apart from the years 1937 to 1941, when Social Security taxes were first paid, this percentage is the highest in the program's history. In 1937, the wage base was $3,000 and only 70 percent of wage and salaries were subject to tax; today 96.5 percent are covered by Social Security. See *Social Security Bulletin, Annual Statistical Supplement, 1988*, December 1988, Table 4.B1, Pg. 127.

[6] See the forthcoming IPI Report, "Reducing Social Security Taxes: Sound Policy for Today and Tomorrow?", for an explanation of the wage base effects.

[7] *Federal Reserve Bulletin*, September 1990.•

TRIBUTE TO LON DECKARD, COLD SPRING, KY

• Mr. McCONNELL. Mr. President, over 8 months ago, Saddam Hussein ordered his war machine into Kuwait. This unprovoked and lawless aggression did not go unnoticed or unchecked. Under the leadership of President Bush, and with the backing of the United Nations, American and allied forces were deployed to the Middle East.

I would like to take a moment to bring my colleagues' attention to the patriotic deeds of Mr. Lon Deckard of Cold Spring, KY. Mr. Deckard is the president and chief executive officer of Graphic Resources, Inc., and he, too, took notice of the deployment of U.S. service men and women to that region.

Mr. Deckard is personally familiar with the deployment of troops to theaters of combat. During Vietnam, he served as a lieutenant junior grade with the U.S. 7th Fleet. Upon completion of his military service, Mr. Deckard furthered his education at the University of Cincinnati, and in 1976, he founded the company which grew into Graphic Resources.

If this company's name sounds familiar, it is most likely because of its generosity and patriotism during Operation Desert Storm. Under Mr. Deckard's guidance, over 30 million "Operation Desert Storm—Support our Troops" stickers were manufactured and distributed. The free printing of these stickers has enabled Americans to proudly display their support for our brave service men and women in the Persian Gulf.

What motivates Mr. Deckard to act in such a patriotic and generous manner? I would offer two explanations. First, he is an American proud of his country and proud of his fellow soldiers and sailors. He knows firsthand the sacrifices and hardships of service to one's country, and he wants that service to be recognized.

Second, Mr. Deckard remembers all too well the reception some servicemen received upon their return home from Vietnam. He sought to ensure all troops would be recognized for their service in this campaign. I would offer that Mr. Deckard's generosity contributed to the warm reception our returning troops receive.

Mr. President, I am certain my colleagues will join me today in saluting Lon Deckard for his patriotism and dedication during our Nation's hour of greatest need.•

THE DEPARTURE OF JASON YUAN

• Mr. WALLOP. Mr. President, on March 5, 1991, hundreds of Jason Yuan's friends, including 19 of my Senate colleagues and 36 House Members, all came to the Capitol's Mansfield room to say goodbye to Jason Yuan and his beautiful wife Maggie. The Yuans will be returning to Taipei, and Jason Yuan will assume the post of assistant secretary of state in charge of North American affairs in the Republic of China's ministry of foreign affairs.

I have known Jason and his wife for a number of years and have enjoyed tremendously working with him on issues of concern to the Republic of China. The Yuans are superb people. Jason has earned respect from both parties as well as from both Houses. He was the best agent the ROC could have had to hold together support for Taiwan when many in Washington were ready to transfer all our efforts to Beijing. He was an extraordinarily effective advocate for his country and made sure that the relationship between the ROC and the United States ultimately flourished.

And I am confident that the relationship between the United States and the Republic of China will become even stronger, given the foundation that Jason so carefully laid. And I hope sincerely that many of us will be able to renew our personal ties with the Yuans either in Taipei or in Washington soon.•

1990 ANTI-GAY AND LESBIAN VIOLENCE REPORT OF THE NATIONAL GAY AND LESBIAN TASK FORCE POLICY INSTITUTE

• Mr. SIMON. Mr. President, I rise today to commend the National Gay and Lesbian Task Force Policy Institute [NGLTF] for their work to expose and combat hate crimes and to bring your attention to their most recent report, "Anti-Gay/Lesbian Violence, Victimization and Defamation in 1990." For the past 6 years, the NGLTF has compiled data about incidents of antigay and lesbian violence and intimidation. Their efforts in data collection and in promoting awareness of gay and lesbian issues greatly helps to address the problem of antigay and lesbian violence.

Unfortunately, the NGLTF Policy Institute indicates that the number and severity of antigay and lesbian hate crimes has worsened nationwide. There were 1,588 incidents, including harassment, intimidation, physical assault, vandalism, arson, police abuse, and murder, reported to gay and lesbian victim assistance agencies in the six U.S. cities surveyed in 1990. Compared to 1989, antigay incidents increased by 11 percent in Chicago, 20 percent in Los Angeles, 29 percent in San Francisco, 65 percent in New York City, 75 percent in Boston, and 133 percent in Minneapolis/St. Paul. In total, antigay episodes in all six cities increased by 42 percent over 1989. Physical assaults were among the most serious incidents to increase last year, rising by as much as 210 percent. New York City reported 3 antigay murders last year. In addition, the 6 cities surveyed reported 16 gay-related murders last year.

While the numbers themselves make a powerful statement about the enormity of the problem, some specific examples illustrate even more graphically the sad story of hatred present in our society today. In Queens, NY, a gay man was bludgeoned to death with a hammer near several gay bars. In Burlington, VT, a gay man was beaten so badly after he left a gay bar that he now suffers partial blindness and brain damage. His attacker told the police that he went out looking for a "fag" to "kick the —— out of him." In Seattle, WA, FBI agents arrested members of the Aryan Nations just hours before the men planned to detonate a powerful pipe bomb in a popular gay bar.

Equally disturbing is the abuse gays and lesbians suffer on our college campuses. On the University of Delaware campus, a chalk outline of a body, with raw meat splattered by its head, was found with the written message, "Another dead faggot." The "Homophobic Liberation Front" claimed responsibility. At Central Connecticut State College, students shouting antigay slurs attacked two gay men, kicking in the teeth of one of the victims. At the University of Oregon, 54 percent of the lesbian and gay respondents surveyed reported having been verbally harassed or threatened on campus because of their sexual orientation. These reports of antigay violence on college campuses are especially disturbing because the campus environment is ideally one in which diversity and pluralism are cherished values.

While the National Gay and Lesbian Task Force Policy Institute's report greatly increases public awareness of antigay violence, there are many other minority communities in our society that are also victims of hate crimes. Therefore, I was very pleased when Congress passed the Hate Crime Statistics Act which I sponsored last year, along with my colleague, Senator HATCH. By requiring the Attorney General to collect data on crimes motivated by hatred based on race, religion, ethnicity, or sexual orientation, the act will give us a broader picture of hate crimes in our society.

On January 1, 1991, the Federal Bureau of Investigation officially began to collect statistics on hate crimes. I am pleased to report that to date the effort to accomplish this goal has been carried out with diligence and enthusiasm. I urge the FBI to continue its good work and look forward to their results.

In closing, I again want to commend the National Gay and Lesbian Task Force for its important work. It is my belief that the light their continuing efforts shed on this problem will help our efforts to eliminate dreadful acts of hate crime violence.•

GREECE AND TURKEY: THE 7-TO-10 RATIO

• Mr. HARKIN. Mr. President, I would like to take this opportunity to acknowledge the efforts of one of our more silent partners in the gulf war. As you know Mr. President, the Government of Greece committed both personnel and equipment to the world's alliance against Saddam Hussein. Greek airfields, ports, and airspace were used and greatly contributed to the success of Operation Desert Storm. As a member of NATO, Greece has consistently demonstrated its strong commitment to upholding international law and a penchant for cooperation with the United States.

The deep friendship between the United States and Greece should never be forgotten. The friendship between our countries has weathered the test of time and is bound not only in our firm commitment to the defense of Greece but also in a proven formula for peace.

Since 1980, Congress has approved military aid programs to Greece and Turkey in the form of 7-to-10 ratio. In other words, for every $10 in military aid to Turkey, Greece receives $7. Despite the administration's opposition to this congressional practice, I believe experience has shown us that continuing to fund Greece and Turkey on the basis of a 7-to-10 ratio is in the best interest of the United States.

Of course, Mr. President, our commitment to maintaining this established congressional practice of funding should in no way preclude the United States from providing a one-time expenditure to help Turkey offset the losses it has incurred as a result of the Persian gulf war. Turkey played a critical role in the United Nations coalition against Saddam's aggression. Turkey's laudable efforts are deserving of our appreciation. The burden of war should not impose further suffering or extract a greater sacrifice by the Turkish people in a time of peace.

Still, as the United States emerges from the gulf crisis and is focusing on winning the peace, we must reaffirm our commitment to a proven formula for stability between Greece and Turkey. For the past 11 years, since Congress initiated the 7-to-10 ratio, peace and stability have been achieved in the eastern Mediterranean by preserving a balance in the region. The 7-to-10 ratio has helped preserve that balance. It has been an important mechanism to promote improved relations between our two NATO allies. I believe that a rupture in this established congressional funding ratio could dredge up a legacy of problems rather than promote a future of promise.●

ST. PATRICK'S DAY

● Mr. SIMON. Mr. President, this past Sunday, March 17 was St. Patrick's Day. St. Patrick, the patron saint of Ireland, brought the rich religious tradition to the people of Eire. On March 17 of each year, we honor St. Patrick and pay tribute to the contributions of Irish-Americans.

St. Patrick's Day unites Americans to celebrate the rich cultural, political, scientific, and athletic achievements of Irish-Americans. Many Irish-Americans reside in my home State, Illinois, and the city of Chicago is the site of a festive parade. Chicago even dyes its river green for the day in honor of this occasion. It is always an honor for me to march in Chicago's St. Patrick's Day parade, which I have done on many occasions.

Irish-Americans have had a diverse and deep impact on the history of the United States. Nine men of Irish origin signed the Declaration of Independence and thousands of Irish fought for the United States during the Revolutionary War. The Irish immigrants of the 19th century helped the expansion of our country by extending our railroads to the West. Irish-Americans have always had a penchant for political activity in our great land; they continue today to be leaders in political life across our country.

Even though St. Patrick's Day is traditionally a day of celebration and festivity, we also need to reflect on the sad situation in the north of Ireland. Religious animosity and political differences have created a situation that has made the residents of Belfast hostages to violence. I hope this year the people of Ireland can move ahead toward a peaceful resolution. Rededication to a just peace in all of Ireland must be our goal on this St. Patrick's Day.

The sons and daughters of St. Patrick have given the United States a unique cultural heritage. As we honored Irish-Americans for their many contributions on March 17, let us also remember that there is still much to be done to assure peace and prosperity on the Emerald Isle.●

SUE YOUNG RECEIVES COMMISSIONER'S CITATION FOR 1990

● Mr. BRYAN. Mr. President, I rise today to recognize one of Nevada's most outstanding public servants. In recognition of her exceptional work for the Nevada Department of Human Resources, Ms. Sue Young of Carson City, NV, has recently been awarded the rare Commissioner's Citation for 1990. Among the many thousands of disability determination service and Social Security Administration employees across the Nation, Ms. Young has proven herself among the Nation's most outstanding workers with her creativity and tireless effort.

At a time when our country faces record deficits and decreasing Federal services, the Federal Government desperately needs workers with initiative and creativity. These qualities, Mr. President, set Sue Young apart from others.

Ms. Young conceptualized and implemented a new and unique disability determination process that is receiving national attention for its effectiveness in Nevada. Many other States are in the process of implementing this innovative procedure. It allows the disabilities determination service to make accurate and responsible decisions regarding disability claims in a responsive and efficient manner. Ms. Young also conceived of, and is in the process of implementing, a new approach to DDS computer systems, which is also receiving nationwide attention. Her work in the disability determination service of the Nevada Department of Human Resources has been one of the principal reasons that this division is one of the most outstanding in the Nation. Her creativity allows this unit to achieve an extremely high level of services despite decreased financial resources.

Mr. President, the Commissioner's Citation is only awarded to a very few of the most outstanding disability determination service and Social Security Administration employees from across the country. One of the most glaring problems that our Nation faces is eliminating waste and bureaucracy in the Federal Government. People such as Sue Young are helping solve this problem. I commend her for her work and congratulate her on this honor. She is a shining example to Nevadans and Federal Government workers across the United States.●

HONORING FRANCIS "BUS" SPANIOLA

● Mr. RIEGLE. Mr. President, it is my privilege to rise today to pay tribute to Francis "Bus" Spaniola, a former State representative from my home State of Michigan.

Mr. Spaniola served in the Michigan House of Representatives for 16 years, representing the 87th Legislative District. During his tenure in the House, he has been a leading spokesman on pensions, aging and retirement related issues. He was the author and prime sponsor of many public acts concerning public retirement issues and has also served as a member or presenter at many conferences and conventions focusing on these issues.

In addition, Mr. Spaniola has distinguished himself through 10 years as a high school teacher and 12 years of active and reserve duty in the U.S. Army where he attained the rank of captain.

Mr. Spaniola is a dedicated family man. He and his wife, Carol, are the proud parents of four children and have five grandchildren.

Despite a very busy legislative schedule and family life, Mr. Spaniola has found time to involve himself in his community. He is a member of numerous organizations including the Knights of Columbus, Sons of Italy, the Shiawasse Historical Society, the City of Corunna Historical Commission, as well as a life member of the VFW National Home.

On Thursday, March 21, Bus' family, friends, supporters, and colleagues will gather in Owosso, MI, to honor him upon his retirement from the Michigan House of Representatives. Although I will not be able to be with him on this special occasion, I would like to join his many friends and colleagues in celebrating his contribution to our great State. I have known Bus for more than 15 years and he is as fine a public servant as I have ever met. He is a treasured friend and counselor who has given the public interest his total dedication and effort. His good work has changed Michigan for the better and we are in his debt.●

NATIONAL ENERGY PROGRAM

● Mr. SYMMS. Mr. President, the war in the Persian Gulf has refocused the attention of this Nation upon the need to develop a wise and balanced national energy program. For too long we have permitted those who object to every proposal to develop energy to frustrate the ability of this Nation to end its dependence upon foreign sources for our energy needs. Perhaps the specter of our sons and daughters fighting on foreign soils will bring us to our senses.

This very point was made most eloquently in an article which appeared in Miner's News which is published in Boise, ID. The article was written by William Perry Pendley, president and chief legal officer of Mountain States Legal Foundation.

Mr. President, I ask that the article, "The Moral Equivalent of Surrender," be placed in the RECORD at this point.

The article follows:

THE MORAL EQUIVALENT OF SURRENDER

(By William Perry Pendley)

A WORLD AT WAR

Once again Americans are on foreign shores fighting, in President Bush's words, "to preserve and extend the blessings of liberty." While we fight to stop a madman armed with the world's fourth greatest military machine, we do so, in large part, because Saddam Hussein is a most strategically-placed madman. As President Bush asserted recently: "We cannot allow control of the world's oil resources to fall into [Saddam Hussein's] hands."

Even if America did not get half of its oil from other countries, American men and women might be fighting in the Persian Gulf, doing—in President Bush's words—"the hard work of freedom." However, the fact is we do. A quarter of it comes from the Persian Gulf. The question is why? After all, it was President Jimmy Carter who—when faced with an energy crisis caused by Iraq's neighbor Iran—asked the nation to wage "the moral equivalent of war."

THE MORAL EQUIVALENT OF SURRENDER

Today our energy policy is a disaster. While our dependence on foreign oil has climbed from one third of our oil consumption to one half—in just five years—that startling reality is but a symptom of a society which lacks not wealth, but will. Consider:

Over the past eight years the U.S. Congress has placed huge portions of the oil-rich lands beneath our oceans off limits to exploration and development.

In the past five years, the U.S. Forest Service—which has responsibility for such exciting energy prospects as the Overthrust Belt which stretches through the Rocky Mountain West—has cut leasing for energy exploration by a shocking 60 percent.

For the past several years, the U.S. Congress has refused to explore for oil in the Arctic National Wildlife Refuge—an area the size of South Carolina which may contain nine billion barrels of oil. (How much land is needed to search for oil in this huge expanse: an area the size of Dulles International Airport.)

While conservation and substitution are important components of a national energy program, they are not enough. In the past two decades, the United States has achieved a 50 percent increase in the fuel efficiency of its motor vehicle fleet. Nonetheless our consumption of motor fuel has increased by 26 percent simply because there are more vehicles. Today oil and gas provide two thirds of our energy, a ratio that is unlikely to change for the foreseeable future.

Many of our leaders have not demonstrated an understanding of these facts. While they mouth hackneyed calls for an "energy policy," they refuse to take the only meaningful steps toward achieving the most essential ingredient of such a policy—developing energy resources here at home.

THE OUTER CONTINENTAL SHELF—A CASE STUDY

The Outer Continental Shelf (OCS) is the natural extension of the land mass of the United States into the ocean. The OCS is enormous—over one billion acres. Its energy resources are equally impressive. Government experts assert that the OCS alone contains enough oil to supplant—for the next 25 years—all the oil that America purchases from Persian Gulf countries.

Since 1954, the United States has been exploring for and producing oil and gas from the OCS. During the past 37 years the U.S. Government has permitted the drilling of some 37,500 wells in the OCS, yielding billions of barrels of oil, trillions of cubic feet of natural gas and hundreds of thousands of jobs—in every state in the Union. In addition, more than $90 billion has been paid into the federal treasury in the form of "bonus bids" and royalties, nearly all of which has been used by the U.S. Government to protect and enhance wildlife and recreational lands.

Today the OCS produces 12 percent of the nation's oil and 25 percent of our natural gas, all the result of our leasing of 41 million acres—that is, a mere four percent of the OCS. While the energy production from these lands is impressive, it pales in comparison to what could be produced and what our allies in the Persian Gulf have done. While we have leased 41 million acres, the provinces of Canada have leased 900 million acres. Tiny Great Britain has leased some 66 million acres.

Yet even our pitiful program is too much for Congress. Congress has declared a "moratorium" on oil and gas exploration and development in much of the OCS. This despite the impressive safety record of OCS exploration and development. Through 1986, 7.5 billion barrels of oil have been produced from the OCS and less than .005 percent have been spilled. By contrast, some 1,400,000 barrels of oil have entered our oceans due to natural seeps.

For many Congressional critics of OCS exploration and development, an energy platform 17 miles at sea—which appears from shore as smaller than a person's thumb, at the end of his or her arm—is visual pollution. Of course, it is nothing compared to the sight of 460,000,000 gallons of oil flowing—at Saddam Hussein's orders—into the Persian Gulf.

NO MORE CHEAP ENVIRONMENTAL VOTES

There is a dangerous and arrogant elitism in the reality that Congress appears less concerned about sending the young men and women of this nation to war than about risking the rath of so-called environmentalists by producing oil far offshore California or in an infinitesinal portion of the North Slope of Alaska. In the six months since Saddam Hussein invaded Kuwait, that reality has not changed. In a disturbing similarity to the Vietnam War, nothing is asked of us here at home. Thus, our leaders, while voting for war, can cast "cheap environmental votes" as well. But those votes are no longer "cheap."

The long-term lessons of the war in the Persian Gulf have yet to be written. But one should be evident even now. If we care about the security of our nation, and if we care about the quality of the human environment, we must develop our own energy resources and we must start now. Our brave men and women in the Gulf deserve no less.•

NICK PANDELIS TO RECEIVE HUMANITARIAN OF THE DECADE AWARD

• Mr. BRYAN. Mr. President, I rise today to recognize a Nevadan who through his service to Nevada's needy, has demonstrated some of the most admirable of human qualities. Mr. Nick Pandelis will be honored on March 26, 1991, with Goodwill Industries of Nevada's "Humanitarian of the Decade" Award. His generosity, perseverance and benevolence have helped establish Goodwill Industries as a reliable resource for some of society's less fortunate individuals. He is truly a source of pride and inspiration in the Nevada community.

Mr. President, Goodwill Industries of Nevada provides training and employment for the disabled and disadvantaged of our society. Whether physically or mentally handicapped, a recovering drug addict or illiterate, this organization exists to help those who want to help themselves.

Mr. President, many have cynically termed the eighties the "me" generation. Nick Pandelis is a living demonstration of the dangers of stereotyping. Since the early eighties, Mr. Pandelis has been working to help Good-will Industries of Nevada. He has helped the organization overcome many financial difficulties, assisted in the hiring of a new chief executive officer, and holds a position on the executive committee. In recognition of these efforts, he was the recipient of Goodwill Industries Forever Faithful Award in 1989.

Mr. President, people like Nick Pandelis do not need awards to make their efforts seem worthwhile. These special people are motivated by something deeper, something vastly more important. Whether for religious, ethical, or personal reasons, Nick Pandelis has contributed immeasurable to the welfare of Nevada. Goodwill industries is showing their appreciation for his invaluable work by honoring him with the Humanitarian of the Decade Award. In light of the noble purpose of this organization, Mr. Pandelis should indeed feel honored by this recognition. I want to add my voice to the many others who offer their thanks to Nick Pandelis for what he has done for needy individuals and for the Nevada community.•

TRIBUTE TO S. SGT. DAMON V. KANUHA

• Mr. AKAKA. Mr. President, I rise today to extend a special and personal tribute to S. Sgt. Damon V. Kanuha, a flight engineer born in Hawaii, who, along with 13 fellow members of the special forces from the 1st Special Operations Wing, was reported missing during a crash of an AC-130 Spectre gunship on January 31 in Kuwait. With recovery of some of the wreckage of the aircraft, the crew of the aircraft has been listed as "presumed dead" by the Department of Defense.

Damon made the ultimate sacrifice for the successful mission of American and coalition forces in the Persian Gulf. His loss was tragic for his family, for this Nation, and for the people of Hawaii. With pride, we will long remember and honor Damon's distinguished service to his country and untiring dedication to the principles for which he gave his life. When his country needed him most, Damon responded without hesitation and performed his duties with distinction.

Damon, I salute you. Your country, grateful to your courage and bravery, honors you. Your heroism was in keeping with the highest tradition of military service. True to the motto of your unit, "any time, any place," you are a hero. We are all proud of you ●

PRIVATE PROPERTY RIGHTS ACT OF 1991

● Mr. SYMMS. Mr. President as my colleagues know, I have introduced the Private Property Rights Act of 1991. I have been joined in that effort by over 30 of my colleagues, on both sides of the aisle.

The importance of that legislation was made clear recently by an article which appeared in the Portland Oregonian. That article, entitled "Taking a Stand on Property Rights," demonstrated the depth of feelings on this issues with its subheading, "Angry landowners fight to protect themselves from environmental restrictions."

I urge my colleagues who are, as yet, undecided on my legislation to read this article carefully and then join with me in fighting for the rights of individual Americans.

Mr. President, I ask unanimous consent that the article from the Portland Oregonian be placed in the CONGRESSIONAL RECORD at this point.

The article follows:

[From the Portland Oregonian, Feb. 10, 1991]

TAKING A STAND ON PROPERTY RIGHTS

(By Kathie Durbin)

Rural America is busy building fences to halt the environmental tide that's sweeping the nation before it spills over the barrier between public and private land.

Its message, delivered Jan. 31 at a two-day property-rights symposium, couldn't be clearer: If society expects property owners to dedicate their land to protecting endangered kangaroo rats—or beach views, or wetlands, or northern spotted owls—society must pay.

Meeting at Spokane's Ag Trade Center, about 135 Northwest ranchers, farmers, developers, timberland owners and attorneys swapped horror stories about how sweeping applications of environmental laws and regulations are eating away at their constitutional right to use and dispose of their property as they see fit.

They took aim at proposals, not yet adopted, to set aside wildlife habitat on private forest land in Washington; limits on coastal development in California; and stiff restrictions on development of wetlands under Section 404 of the Clean Water Act.

But their biggest fear is that the Endangered Species Act, the nation's most powerful environmental law, will gobble up their land, parcel by parcel, without paying them a dime in return.

The star of the two-day symposium was William Perry Pendley, president and chief executive officer of the Denver-based Mountain States Legal Foundation, the nation's best-known conservative defender of Western land and water rights.

Colorado brewer Joseph Coors established the public-interest law firm in 1977 with the intent to "fight in the courts those bureaucrats and no-growth advocates who create a challenge to individual liberty and economic freedoms."

Mountain States' first president, James Watt, went on to become President Reagan's secretary of the interior, a post from which he launched a full scale attack on environmental regulations that remains one of that administration's most notorious legacies.

Pendley, who has William Buckley's charm and a rapid-fire delivery, let go with a barrage of one-liners atacking Environmental Protection Agency chief William Reilly, Interior Secretary Manuel Lujan Jr., the Humane Society, the Forest Service, the Fish and Wildlife Service, the news media and even President Bush.

"I wait in vain for the president to use the bully pulpit, but the leadership won't come from there," he said.

He castigated Reilly for using the federal Clean Water Act to kill an ambitious Colorado water project on the Two Forks of the South Platte River, Lujan for deciding not to issue patents for oil shale mining claims in Colorado and the Forest Service for protecting "old growth for old growth's sake" in the Pacific Northwest.

Pendley also took potshots at what he dubbed the "weird science" driving protection of threatened and endangered species, including the northern spotted owl and the Mount Graham red squirrel, which stood in the way of a $200 million University of Arizona observatory last year.

Several speakers, said that while they're for reasonable regulations, things have gotten out of hand;

In California's Ventura County, the California Coastal Commission told a beachfront property owner she could have a permit to replace her dilapidated beach cabin—but only if she agreed to deed part of her property to the state. In a landmark 1987 ruling, the U.S. Supreme Court overturned the requirement, saying the right of property owners to build on their own land could not be considered a "government benefit."

In Carbondale, Colo., the U.S. Army Corps of Engineers, which enforces federal restrictions on development of wetlands, denied two elderly ranchers permission to repair a levee along river frontage on their property. When the Roaring Fork River flooded and debris blocked its flow, flooding their ranch and removing five feet of topsoil, an attorney advised them they were within their rights to remove the blockage and repair the levee—but the EPA fined them $45 million. The ranchers, represented by the Mountain States Legal Foundation, have taken the government to court.

Officials in Southern California's Riverside County have begun assessing developers a fee of $1,950 an acre for permits to build in an area inhabited by the Stevens kangaroo rat, a federally listed endangered species. Under a recovery plan developed by the U.S. Fish and Wildlife Service, the money will be used to buy habitat elsewhere for the rat, a victim of suburban sprawl.

That's unfair, says Edward J. Connor Jr., chief attorney in the Pacific Legal Foundation's property-rights section. If society wants to protect the kangaroo rat, society as a whole should pay.

U.S. Sen. Steve Symms, R-Idaho, introduced a bill in Congress last month that would require all federal agencies to assess whether they are violating private property rights before they take any action affecting land use. The Private Property Rights Act of 1991 would add Congress's stamp of approval to an executive order issued by President Reagan in 1988.

The conservation community is divided on where the line should be drawn to protect the environment when private land is involved, said Dean Lydig of the Washington Wildlife Federation, one of a handful of environmentalists invited to speak at the Spokane conference.

"Unfortunately, not all property owners are responsible," Lydig said. "When a landowner's only concern is profit, other resources will suffer."

"There should be a moral obligation to protect the land even if there is not a legal one," he said.

The constitutional basis for private property rights is the Fifth Amendment, which states that no person shall "be deprived of life, liberty, or property, without due process of law: nor shall private property be taken for public use without just compensation."

Property-rights groups have long used that language to contest zoning and land-use laws that take their property without compensation by restricting how they may develop or dispose of their land. The U.S. Supreme Court upheld local zoning laws in 1926.

But as environmentalists and lawmakers turn their attention to the effects of logging, grazing, farming and urban development on private land, many property owners see a more omnious threat.

A 1978 Supreme Court decision said that whether a government regulation constitutes a "taking" for which the government should pay depends on three factors: the character of the action, its economic impact on the property owner and the extent to which it interferes with "investment-backed expectation."

Court rulings on the issue have been mixed, but the courts generally have upheld restrictions that benefit the public welfare in specific ways—a legal principle known as the Public Trust Doctrine.

Erik Meyers, general counsel for the Environmental Law Institute, said the answer to the murky property-rights question lies in more cooperation between government regulators and property owners.

"When we look to the future as to how we would like to pass on the land and water resources of this nation to our children, the vision calls for greater, not less, public-private collaboration and less, not more, focus on legal 'rights,'" he said.

But his message fell on largely unsympathetic ears.

"Do we really have the freedoms we think we have, or are we waiting in line to have our rights challenged?" asked Ron Zumbrun, president of the Pacific Legal Foundation.

Still, several speakers said there are signs that the tide is turning. The one most mentioned was California voters' decisive defeat last November of the sweeping Big Green initiative, which would have required the state to buy private old-growth timberland and would have phased out the use of many pesticides heavily used by California agribusiness.

Zumbrum urged landowners to fight in the courts against efforts to lock up land for wildlife and wetlands. He said the judicial climate for doing that is much better than four years ago, thanks to changes in the makeup of the Supreme Court and the federal and state judiciaries:

"The judicial branch is the forum," he said, "and we think this is the time to go full speed in that jurisdiction."●

SENATE RESOLUTIONS 85, 86 AND 87

Mr. MITCHELL. Mr. President, I send three resolutions to the desk and ask unanimous consent that the Senate proceed to their consideration en bloc, that the resolutions be adopted, that the motions to reconsider be tabled, and that action on each resolution appear separately in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolutions considered and agreed to en bloc are as follows:

S. RES. 85

Resolved, That paragraph 3(a), (b) and (c) of Rule XXV of the Standing Rules of the Senate is amended for the One Hundred and Second Congress as follows:

Strike "23" after "Budget" and insert in lieu thereof "21".

Strike "19" after "Small Business" and insert in lieu thereof "18".

Strike "11" after "Veterans Affairs" and insert in lieu thereof "12".

Strike "19" after "Special Committee on Aging" and insert in lieu thereof "21".

S. RES. 86

Resolved, That the following shall constitute the majority party's membership on the committees for the One Hundred and Second Congress, or until their successors are chosen:

Committee on the Budget: Mr. Sasser (Chairman), Mr. Hollings, Mr. Johnston, Mr. Riegle, Mr. Exon, Mr. Lautenberg, Mr. Simon, Mr. Sanford, Mr. Wirth, Mr. Fowler, Mr. Conrad, and Mr. Dodd.

Committee on Rules and Administration: Mr. Ford (Chairman), Mr. Pell, Mr. Byrd, Mr. Inouye, Mr. DeConcini, Mr. Gore, Mr. Moynihan, Mr. Dodd, and Mr. Adams.

Committee on Small Business: Mr. Bumpers (Chairman), Mr. Nunn, Mr. Baucus, Mr. Levin, Mr. Dixon, Mr. Harkin, Mr. Kerry (MA), Ms. Mikulski, Mr. Lieberman, and Mr. Wellstone.

Committee on Veterans' Affairs: Mr. Cranston (Chairman), Mr. DeConcini, Mr. Mitchell, Mr. Rockefeller, Mr. Graham, Mr. Akaka, and Mr. Daschle.

Select Committee on Ethics: Mr. Heflin, Mr. Pryor, and Mr. Sanford.

Special Committee on Aging: Mr. Pryor (Chairman), Mr. Glenn, Mr. Bradley, Mr. Burdick, Mr. Johnston, Mr. Breaux, Mr. Shelby, Mr. Reid, Mr. Graham, Mr. Kohl, and Mr. Sanford.

S. RES. 87

Resolved, That paragraph 4 of Rule XXV is amended by striking subparagraphs (h)(16) through (h)(25) and inserting in lieu thereof the following:

"(16) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Special Committee on Aging, may, during the One Hundred Second Congress, also serve as a member of the Committee on Intelligence so long as his service as a member of such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(17) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Veterans Affairs, may, during the One Hundred Second Congress, also serve as a member of the Committee on Intelligence so long as his service as a member of such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(18) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Rules and Administration, may, during the One Hundred Second Congress, also serve as a member of the Committee on Veterans Affairs and the Committee on Intelligence so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than three committees listed in paragraphs 3 (a) and (b).

"(19) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Rules and Administration, may, during the One Hundred Second Congress, also serve as a member of the Joint Economic Committee so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(20) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Veterans Affairs, may, during the One Hundred Second Congress, also serve as a member of the Special Committee on Aging so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(21) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on the Budget, may, during the One Hundred Second Congress, also serve as a member of Special Committee on Aging so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(22) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Small Business, may, during the One Hundred Second Congress, also serve as a member of the Committee on Intelligence so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(23) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Special Committee on Aging, may, during the One Hundred Second Congress, also serve as a member of the Committee on Intelligence so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(24) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on the Budget, may, during the One Hundred Second Congress, also serve as a member of the Committee on Intelligence so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(25) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Rules and Administration, may, during the One Hundred Second Congress, also serve as a member of the Committee on Budget so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(26) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Rules and Administration, may, during the One Hundred Second Congress, also serve as a member of the Joint Committee on Taxation so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraph 3."

"(27) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on the Budget, may, during the One Hundred Second Congress, also serve as a member of the Special Committee on Aging so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b)."

SENATE RESOLUTIONS 88 AND 89

Mr. NICKLES. Mr. President, I send two resolutions to the desk on behalf of Senator DOLE and ask unanimous consent that the Senate proceed to their consideration en bloc, that the resolutions be adopted, that the motions to reconsider be tabled, and the action on each resolution appear separately in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolutions considered and agreed to en bloc are as follows:

S. RES. 88

Resolved, That the following shall constitute the minority party's membership on those Senate committees listed below for the One Hundred and Second Congress, or until their successors are appointed:

Committee on the Budget; Mr. Domenici, Mr. Symms, Mr. Grassley, Mr. Kasten, Mr. Nickles, Mr. Gramm, Mr. Bond, Mr. Lott, and Mr. Brown.

Committee on Rules and Administration: Mr. Stevens, Mr. Hatfield, Mr. Helms, Mr. Warner, Mr. Dole, Mr. Garn, and Mr. McConnell.

Committee on Small Business: Mr. Kasten, Mr. Pressler, Mr. Wallop, Mr. Bond, Mr. Burns, Mr. Stevens, Mr. Mack, and Mr. Seymour.

Committee on Veterans' Affairs: Mr. Specter, Mr. Simpson, Mr. Thurmond, Mr. Murkowski, and Mr. Jeffords.

Select Committee on Ethics: Mr. Rudman, Mr. Lott, and Mr. Gorton.

Special Committee on Aging: Mr. Heinz, Mr. Cohen, Mr. Pressler, Mr. Grassley, Mr. Simpson, Mr. Jeffords, Mr. McCain, Mr. Durenberger, Mr. Craig, and Mr. Burns.

S. RES. 89

Resolved, That paragraph 4 of rule XXV is amended by adding the following:

A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on the Budget and the Committee on Small Business may, during the One Hundred Second Congress, continue his service on these two Committees so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on the Budget and the Special Committee on Aging may, during the One Hundred Second Congress, continue his service on these two Committees so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on the Budget and the Committee on Small Business may, during the One Hundred Second Congress, continue his service on these two Committees so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

A Senator who on the last day of the One Hundred First Congress was serving as a member of the Select Committee on Intelligence and the Committee on Veterans' Affairs may, during the One Hundred Second Congress, continue his service on these two Committees so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Veterans' Affairs and the Special Committee on Aging may, during the One Hundred Second Congress, continue his service on these two Committees so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Rules and Administration and the Committee on Small Business may, during the One Hundred Second Congress, continue his service on these two Committees so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

A Senator who on the last day of the One Hundred First Congress was serving as a member of the Special Committee on Aging and the Committee on Small Business may, during the One Hundred Second Congress, continue his service on these two Committees so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

A Senator may serve as a member of the Special Committee on Aging and the Committee on Small Business during the One Hundred Second Congress so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

A Senator may serve as a member of the Special Committee on Aging and the Committee on Veterans' Affairs during the One Hundred Second Congress so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

A Senator may serve as a member of the Committee on Rules and Administration and the Select Committee on Intelligence during the One Hundred Second Congress so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

AUTHORITY FOR COMMITTEES TO FILE LEGISLATIVE OR EXECUTIVE CALENDAR BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that during the recess or adjournment of the Senate that Senate committees may file reported Legislative or Executive Calendar business on Wednesday, April, 3, from 11 a.m. until 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

BOYS & GIRLS CLUBS OF AMERICA

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 30, S. 213, regarding a name change for the Boys' Club.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report

The assistant legislative clerk read as follows:

A bill (S. 213) to amend the Federal charter for the Boys' Clubs of America to reflect the change of the organization to the Boys and Girls Clubs of America.

The Senate proceeded to consider the bill.

AMEMDNENT NO. 52

(Purpose: Technical amendment to change "and" to "&")

Mr. NICKLES. Mr. President, on behalf of Mr. THURMOND, I send a technical amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES], for Mr. THURMOND, proposes an amendment numbered 52.

Mr. NICKLES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 24, delete the word "and" and insert in lieu thereof "&".

Mr. THURMOND. Mr. President, I am pleased that the full Senate is considering today S. 213—a bill which amends the Boys Clubs of America Federal charter to reflect the name change to Boys & Girls Clubs and updates the members of the board of directors. I introduced identical legislation last year, which was approved by the full Senate, but was not acted upon by the House.

In August of 1956, the Congress of the United States recognized the work of Boys' Club of America by presenting to it a Federal charter on the occasion of its 50th anniversary. This outstanding organization has a superlative record of service to youth with a special concern for girls and boys from disadvantaged circumstances.

For 130 years, the young people of this country have benefited from caring people who serve as board members and staff and who truly believe, "there's no such thing as a bad kid."

In 1860, the first clubs were founded in New England during the height of the industrial revolution. This concept of provising after school and evening growth-enchancing activities for young people grew and in 1906 the national organization, now known as Boys Clubs of America, was founded. For the next six decades, local clubs served a growing youth population primarily made up of boys.

Today, there are 1,100 clubs across the country serving 1.4 million girls and boys.

Mr. President, in May of last year, the National Council of Boys Clubs of America voted to change the name of the national organization to Boys & Girls Clubs of America in recognition of more than 400,000 girls who are now members of Boys & Girls Clubs across the country. Therefore, I urge my colleagues to join me and approve this amendment to the Boys Clubs Federal charter which reflects the change of the name of the organization to the Boys & Girls Clubs of America and also updates the names of the board members.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 52) was agreed to.

The PRESIDING OFFICER. Is there further debate on the bill, as amended? If there be no further debate, the question is on the engrossment and third reading of the bill.

The bill was engrossed for a third reading, was read the third time, and passed as follows:

S. 213

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to incorporate the Boys' Clubs of America," approved August 6, 1956 (70 Stat. 1052) is amended—

(1) in the title by striking "Boys" and inserting "Boys & Girls";

(2) in the first section by striking "successors," and inserting "successors: Gerald W. Blakeley, Jr., Boston, Massachusetts; Roscoe

C. Brown, Jr., Bronx, New York; Cees Bruynes, Stamford, Connecticut; Honorable Arnold I. Burns, New York, New York; John L. Burns, Greenwich, Connecticut; Hays Clark, Hobe Sound, Florida; Mrs. Albert L. Cole, Hobe Sound, Florida; Honorable Michael Curb, Burbank, California; Robert W. Fowler, Atlantic Beach, Florida; Thomas G. Garth, New York, New York; Moore Gates, Jr., Princeton, New Jersey; Ronald J. Gidwitz, Chicago, Illinois; John S. Griswold, Greenwich, Connecticut; Claude H. Grizzard, Atlanta, Georgia; George V. Grune, Pleasantville, New York; Peter L. Haynes, New York, New York; James S. Kemper, Northbrook, Illinois; Plato Malozemoff, New York, New York; Edmund O. Martin, Oklahoma City, Oklahoma; Donald E. McNicol, Esq., New York, New York; Carolyn P. Milbank, Greenwich, Connecticut; Jeremiah Milbank, New York, New York; C. W. Murchison, III, Dallas, Texas; W. Clement Stone, Lake Forest, Illinois,";

(3) in the first section by striking "Boys" and inserting "Boys & Girls";

(4) in section 3 by striking "boys" and inserting "youth".

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REMOVAL OF INJUNCTION OF SECRECY

Mr. MITCHELL. Mr. President, as in executive session,

I ask unanimous consent that the injunction of secrecy be removed from two treaties transmitted to the Senate today by the President:

The treaty with the People's Republic of the Congo Concerning the Reciprocal Encouragement and Protection of Investment (Treaty Document No. 102–1); and

Protocols to the Safety of Life at Sea Convention and the Load Lines Convention (Treaty Document No. 102–2).

I also ask that the Treaty and protocols be considered as having been read the first time; that they be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's messages be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The messages of the President are as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty Between the United States of America and the People's Republic of the Congo Concerning the Reciprocal Encouragement and Protection of Investment, signed at Washington on February 12, 1990. I transmit also, for the information of the Senate, the report of the Department of State with respect to this treaty.

The Bilateral Investment Treaty (BIT) program, initiated in 1981, is designed to encourage and protect U.S. investment. The treaty is an integral part of U.S. efforts to encourage the Congo and other governments to adopt macroeconomic and structural policies that will promote economic growth. It is also fully consistent with U.S. policy toward international investment. That policy holds that an open international investment system in which participants respond to market forces provides the best and most efficient mechanism to promote global economic development. A specific tenet, reflected in this treaty, is that U.S. direct investment abroad and foreign investment in the United States should receive fair, equitable, and nondiscriminatory treatment. Under this treaty, the Parties also agree to international law standards for expropriation and compensation; to free financial transfers; and to procedures, including international arbitration, for the settlement of investment disputes.

I recommended that the Senate consider this treaty as soon as possible and give its advice and consent to ratification of the treaty at an early date.

GEORGE BUSH.

THE WHITE HOUSE, *March 19, 1991.*

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to ratification, the Protocol of 1988 Relating to the International Convention for the Safety of Life at Sea, 1974, with Annex, and the Protocol of 1988 Relating to the International Convention on Load Lines, 1966, with Annexes. Both Protocols were done at London November 11, 1988, and signed by the United States April 6, 1989, subject to ratification. I also transmit, for the information of the Senate, the report of the Department of State with respect to the Protocols.

These Protocols are designed to standardize the inspection intervals and the periods of validity of the certificates required under the 1974 International Convention for the Safety of Life at Sea, as amended (SOLAS), and the 1966 International Convention on Load Lines (Load Lines Convention). Entry into force of the 1988 Protocols will reduce the number of ship visits by inspectors, as well as the time a ship must be withdrawn from service for inspection and survey, thereby representing a significant improvement to the existing system. The surveys and certifications of ships required by the SOLAS and Load Lines Conventions will be accomplished in a more efficient manner, bringing the international system to a level more consistent with U.S. domestic inspection requirements. The United States Coast Guard, the American Bureau of Shipping, shipyards, and, most important, shipowners and seafarers will benefit as a result. In addition, the additional survey requirements will improve the level of safety of foreign ships entering U.S. ports, thus having a positive impact on the environment.

The 1988 Protocol to the Load Lines Convention also contains amendments to the regulations of the Convention that replace amendments previously adopted, but that to date have not entered into force. I, therefore, desire to withdraw from the Senate the following treaties:

Amendments to the International Convention on Load Lines, 1966, adopted at London November 15, 1979 (Treaty Document 97–14, 97th Congress, 1st Session);

Amendments to the International Convention on Load Lines, 1966, adopted at London November 17, 1983 (Treaty Document 100–12, 100th Congress, 2nd Session).

The United States has played an active and vital role in the negotiation of the 1988 Protocols to the Safety of Life at Sea and Load Lines Conventions and in promoting and developing the concept of a harmonized system of certification. Early ratification of the 1988 Protocols by the United States should encourage similar actions by other nations.

I recommend that the Senate give early and favorable consideration to these Protocols and give its advice and consent to ratification.

GEORGE BUSH,

THE WHITE HOUSE, *March 19, 1991.*

PERFORMANCE MANAGEMENT AND RECOGNITION SYSTEM AMENDMENTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 1316, the Performance Management and Recognition System Amendments of 1991, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1316) to amend chapter 54 of title 5, United States Code, to extend and improve the Performance Management and Recognition System, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. PRYOR. Mr. President, I rise today in support of H.R. 1316, the Performance Management and Recognition System Amendments of 1991. The measure reauthorizes the Performance Management Recognition System [PMRS], the merit pay program for midlevel Federal managers. This program is scheduled to expire the last day of this month.

The idea of paying employees for their outstanding performance certainly sounds like the right way to increase productivity and reward those responsible. However, in practice, we have learned that this system is far from perfect. The General Accounting Office [GAO] found that PMRS employees did not believe that the program's objectives of motivating and rewarding employees were met. In response, OPM has been working with the Federal Managers Association, the Professional Managers Association, the Social Security Management Association, and others on long-term reform of this system. This is especially important since the recently enacted pay reform law mandates the adoption of a new performance appraisal system governmentwide by October 1993.

H.R. 1316 extends the current program until September 30, 1993. It authorizes the use of written work objectives to both establish and evaluate employee performance. It does away with the mandatory requirement to pay 2-percent monetary award for those rated two levels above the fully successful level. In addition, it adds a provision which requires OPM to develop a review committee to advise them on any changes that need to be made to PMRS.

Mr. President, these slight changes to PMRS are noncontroversial and are supported by the Administration. I urge my colleagues to support the passage of H.R. 1316.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the third reading and passage of the bill.

The bill [H.R. 1316] was ordered to a third reading, was read the third time, and passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESOLUTION TRUST CORPORATION FUNDING ACT—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I submit a report of the committee of conference on S. 419 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 419) to amend the Federal Home Loan Bank Act to enable the Resolution Trust Corporation to meet its obligations to depositors and others by the least expensive means, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of the RECORD.)

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I ask that it be noted in the RECORD that Senator GRAHAM of Florida is opposed to the enactment of the conference report on S. 419 and if there had been a rollcall vote would have voted no on agreeing to that conference report.

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess, as under the previous order, until 9 a.m. on Wednesday, March 20.

There being no objection, the Senate, at 8:50 p.m., recessed until Wednesday, March 20, 1991, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate March 19, 1991:

EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

WILLIAM G. CURRAN, OF NEW YORK, TO BE U.S. DIRECTOR OF THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT. (NEW POSITION)

DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION

WILLIAM L. BALL, III, OF GEORGIA, TO BE A MEMBER OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION FOR A TERM EXPIRING AT THE END OF THE FIRST SESSION OF THE 102D CONGRESS. (NEW POSITION)

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. HENRY VICCELLIO, JR., [redacted] U.S. AIR FORCE.

IN THE ARMY

THE U.S. ARMY NATIONAL GUARD OFFICERS NAMED HEREIN FOR APPOINTMENT IN THE RESERVE OF THE ARMY OF THE UNITED STATES IN THE GRADES INDICATED BELOW, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A), 3371 AND 3384:

To be major general

BRIG. GEN. RICHARD E. HAYNES, [redacted]
BRIG. GEN. DONALD R. BRUNELLE, [redacted]
BRIG. GEN. CHARLIE D. BRACKEEN, [redacted]

To be brigadier general

COL. ROBERT J. BYRNE, [redacted]
COL. SANTO J. FRUSCIONE, [redacted]
COL. JAMES W. HOLMES, [redacted]
COL. CHARLES M. HOOD, [redacted]
COL. JAMES H. LIPSCOMB, [redacted]
COL. FRED. K. MORRISON, [redacted]
COL. CHARLES R. ARGO, [redacted]
COL. TERRY O. BALLARD, [redacted]
COL. JAMES G. BLANEY, [redacted]
COL. JOHN D. CURELL, [redacted]
COL. CLARANCE C. KNAPP, [redacted]
COL. WILLIAM A. LAPRISE, [redacted]
COL. PATRICK NAPPI, [redacted]
COL. GERALD A. RUDISILL, JR., [redacted]
COL. WALTER L. STEWART, JR., [redacted]
COL. CHARLES M. WHITAKER, [redacted]
COL. LARRY C. BARKER, [redacted]

IN THE MARINE CORPS

THE FOLLOWING NAMED COLONELS OF THE U.S. MARINE CORPS FOR PROMOTION TO THE PERMANENT GRADE OF BRIGADIER GENERAL, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 624:

WILLIAM A. FORNEY
JOSEPH D. STEWART
BERTIE D. LYNCH
GEORGE H. WALLS, JR.
JOHN H. ADMIRE
STEPHEN R. BERKHEISER
COLEMAN D. KUHN, JR.
CARLTON W. FULFORD, JR.
CAROL A. MUTTER

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS OF THE MARINE CORPS FOR PERMANENT APPOINTMENT TO THE GRADE OF LIEUTENANT COLONEL UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

RAYMOND ADAMIEC, [redacted]
DIRK R. AHLE, [redacted]
DAVID A. ANDERSON, [redacted]
CLARENCE T. ANTHONY, JR., [redacted]
STEVEN J. ANTOSH, [redacted]
SIDNEY E. ATWATER, [redacted]
BRIAN J. BACH, [redacted]
COZY E. BAILEY, [redacted]
STEPHEN W. BAIRD, [redacted]
PAUL BALASH, III, [redacted]
RALPH A. BALDWIN, [redacted]
MARK J. BALLAS, [redacted]
DANIEL E. BARBER, [redacted]
WILLIAM G. BARTHOLD, [redacted]
JEFFERY W. BEAROR, [redacted]
BILLY C. BELL, [redacted]
WILLIAM F. BEST, [redacted]
ROBERT J. BIGGS, [redacted]
GEORGE A. BISZAK, [redacted]
JOHN E. BLAIR, [redacted]
JOHN F. BLANCHE, [redacted]
PATRICK S. BOLE, [redacted]
JOHN E. BORLEY, [redacted]
TIMOTHY B. BORN, [redacted]
MICHAEL D. BOYD, [redacted]
LARRY M. BOYER, [redacted]
ALAN R. BRADSHAW, [redacted]
GARY W. BRAGDON, [redacted]
THOMAS P. BREHM, [redacted]
TERRY L. BREITHAUPT, [redacted]
ROBERT L. BRIDGERS, [redacted]
BRUCE E. BRONARS, [redacted]
GORDON A. BROUSSARD, [redacted]
JOHN D. BROWN, [redacted]
WILLIAM M. BRUMBACH, [redacted]
LAURA J. BRUSH, [redacted]
JOHN C. BUCKINGHAM, JR., [redacted]
MICHAEL BULAWKA, [redacted]
RICHARD K. BURCHNALL, [redacted]
JOE C. BURGIN, III, [redacted]
TERRANCE G. BUSCHELMAN, [redacted]
GEORGE E. BUSFIELD, JR., [redacted]
JIMMIE M. BYREM, JR., [redacted]
PAUL J. CAHILL, [redacted]
WILLIAM A. CARD, [redacted]
ALBERT W. CARPENTER, [redacted]
STEVEN C. CARPENTER, [redacted]
JOHN K. CARROLL, JR., [redacted]
ROBERT M. CARROLL, [redacted]
BENJAMIN L. CASSIDY, [redacted]
CLAUDE C. CASTAING, JR., [redacted]
ROBERT W. CERNEY, [redacted]
PAUL J. CHASE, [redacted]
COURTNEY D. CHINN, [redacted]
MICHAEL G. CHLEBIK, [redacted]
LEE A. CHROSTOWSKI, [redacted]
GEORGE A. CLARK, JR., [redacted]
WILLIAM D. CLAYTOR, [redacted]
BARBARA J. COLE, [redacted]
EUGENE J. COLE, [redacted]
JOHN C. COLEMAN, [redacted]
RONALD S. COLEMAN, [redacted]
RAYMOND S. COLLINS, JR., [redacted]
JOHN W. COWAN, JR., [redacted]
JOHN S. CRAMER, [redacted]
JOSEPH F. CRAMER, [redacted]
JAMES J. CUFF, JR., [redacted]
MARSHA L. CULVER, [redacted]
THOMAS J. CZECH, [redacted]

CONRAD G. DAHL, [redacted]
THEODORE E. DAILEY, JR [redacted]
DORIS A. DANIELS [redacted]
DAVID T. DARRAH [redacted]
JENNINGS M. DAVENPORT, JR [redacted]
STEVEN F. DAY [redacted]
ARTHUR L. DEAL [redacted]
THOMAS L. DEMPSEY [redacted]
WILLIAM H. DIXON, JR [redacted]
GEOFFRY M. DOERMANN [redacted]
KEVIN G. DONALESKI [redacted]
TERRANCE S. DORAN [redacted]
CHARLES D. DUKE [redacted]
SCOTT G. DUKE [redacted]
WALLACE G. DUNCAN, JR [redacted]
JERRY L. DURRANT [redacted]
FRANCIS S. DURTCHE [redacted]
WILLIAM H. DYKES [redacted]
DANIEL M. DYKSTRA [redacted]
RICHARD C. EISIMINGER [redacted]
JOEL P. EISSINGER [redacted]
ROBERT W. ELFLEIN [redacted]
ROBERT W. ELLIS, JR [redacted]
JOHN P. ELWELL [redacted]
REX A. ESTILOW [redacted]
RUSSELL A. EVE [redacted]
FRANK R. EVERSOLE, I [redacted]
JOHN D. FAVORS [redacted]
JOHN W. FERRARI [redacted]
PAUL T. FILLA, SR [redacted]
STEVE J. FINSTERLE [redacted]
DONALD K. FISHER [redacted]
BARRY M. FORD [redacted]
JOHN J. FORR [redacted]
PAUL O. FREEBERG [redacted]
ANDREW P. FRICK [redacted]
STEVEN J. GAFFNEY [redacted]
DENNIS P. GALLAHER [redacted]
JAVIER GARCIA [redacted]
WILLIAM M. GARRABRANTS [redacted]
BRADLEY M. GATES [redacted]
RICHARD W. GOODALE, JR [redacted]
GREGORY L. GOODMAN [redacted]
DAVID F. GOOLD [redacted]
TERRENCE M. GORDON [redacted]
RICHARD J. GOUGH [redacted]
TERRY L. GRANT [redacted]
ROBERT J. GRAUS [redacted]
DANIEL J. GRIFFIN [redacted]
DENNIS E. GRUNDY [redacted]
GLENN A. HALE [redacted]
JOHN A. HAMILTON [redacted]
THOMAS X. HAMMES [redacted]
TERRY R. HARDING [redacted]
GLORIA J. HARMON [redacted]
GEORGE S. HARTLEY [redacted]
GEORGE J. HAYN, JR [redacted]
STANLEY M. HEBERT [redacted]
DUANE V. HEGNA [redacted]
FRANK L. HENSON [redacted]
HORACIO M. HERNANDEZ, [redacted]
CRAIG B. HEROLD [redacted]
MARY L. HICKS [redacted]
JAMES E. HIETT [redacted]
WILLIAM L. HINZMAN [redacted]
NORMAN E. HITCHCOCK [redacted]
RICHARD A. HOBBS, JR [redacted]
HERBERT T. HOLDEN [redacted]
DON E. HORN [redacted]
CASS D. HOWELL [redacted]
CRAIG S. HUDDLESTON [redacted]
CARL L. HUGHES, JR [redacted]
JOHN B. HULICK [redacted]
ROBERT L. HUMPHREY [redacted]
MAURICE B. HUTCHINSON [redacted]
CARTER L. HUTSON [redacted]
CHRISTOPHE J. IAQUINTO [redacted]
JONATHAN D. INGHRAM [redacted]
GILDA A. JACKSON [redacted]
MICHAEL D. JACOBS [redacted]
MATEUSZ K. JASTRZEBSKI [redacted]
JAMES R. JOHNSON [redacted]
OKE I. JOHNSON [redacted]
THOMAS V. JOHNSON [redacted]
PETER J. KARONIS, III [redacted]
ALLAN A. KATZBERG [redacted]
CHRISTOPHE C. KAUFFMANN, [redacted]
BRENDAN P. KEARNEY [redacted]
JOHN F. KELLY [redacted]
FRANK B. KENNEDY [redacted]
ROBERT J. KENNEDY [redacted]
DANIEL J. KERNEN [redacted]
CHARLES E. KERR [redacted]
KEVIN M. KIERNAN [redacted]
FREDERICK T. KING [redacted]
PAUL J. KOPER [redacted]
JAMES J. KRATSAS [redacted]
MARY A. KRUSADOSSIN [redacted]
ROBERT A. LACKNER [redacted]
COLIN D. LAMPARD [redacted]
KENNETH R. LANGFORD [redacted]
GRANT E. LATTIN [redacted]
GEORGE S. LAUER [redacted]
DENNIS R. LAWLER [redacted]
DENNIS L. LAWRENCE [redacted]
HENDERSON LAWSON, JR [redacted]
RODERICK W. LEITCH [redacted]
JAMES E. LENDERMAN, JR [redacted]
RICHARD W. LEVAN [redacted]
DAVID S. LIBBEY [redacted]
RITCHIE M. LILLY [redacted]
FREDERICK H. LINDNER [redacted]
SCOTT A. LINDSEY [redacted]
DAVID G. LINNEBUR [redacted]
ROBERT A. LODGE [redacted]
EUGENE A. LOHMAN, III [redacted]
JAMES H. LONG, JR [redacted]
PAUL H. LORD [redacted]
DOUGLAS L. LOVEJOY [redacted]
JAMES M. LOVELY [redacted]
RICHARD W. LUEKING [redacted]
STEVEN J. LYNN [redacted]
THOMAS M. LYTLE [redacted]
MARTIN S. MACY [redacted]
EDWARD J. MAGUIRE [redacted]
RONALD S. MAKUTA [redacted]
SAMUEL A. MARSHALL, II [redacted]
RICHARD J. MARTIN, JR [redacted]
MARY P. MAUCK [redacted]
DAVID W. MAULDIN [redacted]
EDMUND B. MAYER, JR [redacted]
JOHN M. MCADAMS, JR [redacted]
RONALD L. MCCLAIR [redacted]
FRANCIS M. MCCOMB [redacted]
CHARLES H. MCGOHEY [redacted]
THOMAS W. MCGOWAN [redacted]
JOHN D. MCGUIRE [redacted]
CHARLES A. MCLAURINE [redacted]
PAUL P. MCNAMARA [redacted]
JAMES M. MCNEAL [redacted]
THOMAS O. MCQUERRY [redacted]
SIDNEY O. MEAD [redacted]
WILLIAM A. MEIER [redacted]
DAVID B. MERCIER [redacted]
TERRY D. METLER [redacted]
JOHN M. METTERLE [redacted]
ROBERT E. MILSTEAD, JR [redacted]
DAVID R. MIRRA [redacted]
MARVIN MONTEZ [redacted]
WILLIAM C. MOOG [redacted]
CHARLES W. MORRIS [redacted]
JOHN C. MUERDLER, JR [redacted]
WILLIAM J. MULLENS, JR [redacted]
RICHARD D. MULLINS [redacted]
JOHN D. MURRAY [redacted]
WILLIAM R. MURRAY [redacted]
ROBERT B. NELLER [redacted]
JAMES D. NELSON [redacted]
MARK A. NEWBOLD [redacted]
JOHNNIE L. NEWTON [redacted]
RICHARD M. NIXON [redacted]
JOSEPH E. NOBLE [redacted]
FREDERICK C. NOLTE [redacted]
DANIEL P. OBRIEN [redacted]
DARRELL P. OLSON [redacted]
MICHAEL C. ONEAL [redacted]
PIERRE J. ORTIZ, JR [redacted]
FRANK A. PANTER, JR [redacted]
CHARLES S. PATTON [redacted]
ALAN R. PAVSNER [redacted]
JOSEPH H. PEAGLER [redacted]
JAMES C. PEERY [redacted]
EUGENE D. PELLECCHIA [redacted]
ALAN C. PENDLETON [redacted]
DAVID N. PENMAN [redacted]
ANDREW J. PETERS, JR [redacted]
MAXIE W. PHILLIPS [redacted]
TIMOTHY L. PHILLIPS [redacted]
DANIEL F. PIERMARINI [redacted]
RANDALL A. PLUM [redacted]
TERRANCE M. PORTMAN [redacted]
WILLIAM J. POWELL [redacted]
WILLIAM F. PRATT [redacted]
WILLIAM J. PRESTON [redacted]
FRANCIS A. QUINDLEN, JR [redacted]
CANDACE G. QUINLAN [redacted]
DAVID P. RANN [redacted]
RICHARD M. RASMUSSEN [redacted]
GREGORY G. RATHS [redacted]
DAVID J. REINTJES [redacted]
ARTHUR M. REYNOLDS, JR [redacted]
LINWOOD D. RICHARDS, III [redacted]
ROBERT S. RICHARDSON [redacted]
JAMES RICKARD [redacted]
ERVIN RIVERS [redacted]
BLAKE J. ROBERTSON [redacted]
TERRY G. ROBLING [redacted]
JOHN S. ROGERS, III [redacted]
PAUL D. ROY [redacted]
PHILIP C. RUDDER [redacted]
CHARLES T. RUSHWORTH, III [redacted]
MERRILL L. RUSSELL, JR [redacted]
ROBERT D. RUTLEDGE [redacted]
KEVIN M. SANDKUHLER [redacted]
WALTER A. SCHARTMANN [redacted]
JAMES W. SCHINDLER [redacted]
PATRICK D. SCHRUNK [redacted]
RICHARD M. SCOTT [redacted]
THOMAS E. SEAL [redacted]
RAYMOND S. SHELTON [redacted]
RICHARDS W. SHUTTERS [redacted]
DANIEL L. SICKINGER [redacted]
DENNIS J. SMITH [redacted]
RICHARD J. SMITH [redacted]
STEVEN L. SMITH [redacted]
JAMES E. SNELL [redacted]
JOHN W. SONDERMANN [redacted]
ROBERT L. SONGER [redacted]
LELAND F. SORRELS, JR [redacted]
THOMAS W. SPENCER [redacted]
ROBERT E. STEFFENSEN [redacted]
LESLIE STEIN [redacted]
MICHAEL H. STEVENS [redacted]
GRANT R. STEWART [redacted]
MICHAEL E. STEWART [redacted]
ROBERT W. STRAHAN [redacted]
DOUGLAS G. STREETER [redacted]
FREDERICK T. STROCK [redacted]
JOHN L. SWEENEY, JR [redacted]
JAMES S. SWIFT [redacted]
JOHN R. TAXERAS [redacted]
JOHN M. TAYLOR [redacted]
STEPHEN P. TAYLOR [redacted]
TIMMY J. TERREBONNE [redacted]
JOHN D. THEEUWEN [redacted]
ROBERT M. THOMAS [redacted]
MICHEAL W. THUMM [redacted]
MICHAEL A. TOEPFER [redacted]
DOUGLAS M. TONN [redacted]
FELIPE TORRES [redacted]
CHARLES F. TRIPLETT [redacted]
WILLIAM K. TRITCHLER [redacted]
RICHARD T. TRYON [redacted]
FREDERICK L. TUGGLE [redacted]
ALLEN E. TURBYFILL [redacted]
CARL D. TURK [redacted]
JOHN H. TURNER [redacted]
JOHN R. TURNER [redacted]
BERT B. TUSSING [redacted]
CLARENCE L. URPS, JR [redacted]
EDWARD G. USHER, III [redacted]
JOHN VALENTIN [redacted]
THOMAS M. VANDERHOOF [redacted]
ENRICO M. VELASQUEZ [redacted]
GEORGE J. VINSKEY [redacted]
JONATHAN N. VIZINA [redacted]
ANDREW D. WALKER [redacted]
CLIFTON B. WALLACE [redacted]
DAYTON F. WARFLE [redacted]
ROBERT M. WATTS [redacted]
PHILIP R. WESTCOTT, III [redacted]
RONALD C. WESTON [redacted]
WALTER J. WIERZBICKI [redacted]
ROBERT G. WILCOX [redacted]
CHRISTOPHE A. WILK [redacted]
MICHAEL E. WILLIAMS [redacted]
DUANE L. WITMER [redacted]
STEPHEN M. WOMACK [redacted]
DOUGLAS T. WRAY [redacted]
DAVID L. WRIGHT [redacted]
GERALD L. YANELLO [redacted]
PHILIP N. YFF [redacted]
PHILIP A. YOUNG [redacted]

IN THE NAVY

THE FOLLOWING-NAMED COMMANDERS IN THE STAFF CORPS OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADE OF CAPTAIN, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

MEDICAL CORPS OFFICERS

To be captain

CLINTON E. ADAMS
HENRY GEORGE ADAMS
ELENITA FARRO ALETA
JAMES CHARLE ALEXANDER
JAMES THOMAS ALEXANDER
DENNIS E. AMUNDSON
DONALD C. ARTHUR, JR
KARL GUNTER BAER
JAMES HOSEA I. BARNEBEE
RICHARD LAWRENCE BUCK
THOMAS KINSMA BURKHARD
FRANK KENNEDY J. BUTLER
JOHN FREDERICK CARSON
NEIL TODD CHOPLIN
PAUL J. CHRISTENSON
THOMAS R. CULLISON
ANDREW J. DUTKA
ROBERT T. FRAKER
ROBERT D. GARDNER
CHARLES GLENN GRAY
JAY DUNCAN HARVIEL
STEPHEN LEV HOFFMAN
DENNIS G. HOOPER
FITZGERALD HUN JENKINS
WILLIAM LUVERNE LITTLE
LAWRENCE T. K. LIU
EMILIO NMN MASSA
JOHN MATTHEW MATECZUN
DOUGLAS LYTLE MAYERS
JEFFREY E. MILLER
JOSEPH AUSTIN J. MILLER
LARRY K. MILLER
HOMER JACKSON MOORE, JR
JOHN D. NASH
LINDSAY BERNARD PADEN
DONNA RUTH PERRY
JOHN CARMONY PHARES
CALVIN LEE POLLAND
RALPH ARTHUR I. PUCKETT
RODNEY WELLS SAVAGE
RICHARD TOM I. SIZEMORE
PERRY W. STAFFORD
NADER KAMEL TAKLA
WILLIAM BERNARD TAUBER
JOHN KENYON TAYLOR
MARGARET ANN TUDDENHAM
JOHN EDWARD WEAVER
GEORGE CHARLES WILSON
WILLIAM DAVID WURZEL
NICOLAS DIMITR YAMODIS
EVELINA YUNAN

SUPPLY CORPS OFFICERS

To be captain

ERIC ARTHUR ARLLEN
ALLAN ANDREW BANGHART
DANNY ARTHUR BENDER
BRUCE ROBERT BENNETT
ROBERT RALPH BIRD
DONALD CLYDE BOHANNON
WILLIAM HENRY BURDON
MICHAEL PATRICK CALLAWAY
DAVID ALAN CAPIZZI
LEVON HENRY CARPENTER
ANTHONY JOHN CASSANO, JR
FREDERICK COLE CHITTY
BRUCE ARNOLD COLVIN
STEPHEN GARY CRANDALL
PATRICK WILLIAM CUMMINGS
ROSEMARY NELSON DAWSON
DAVID BRUCE DOUGLAS
THOMAS OWEN DUFFEY
JIMMIE DARRELL EMERSON
DAVID SCOTT ENSMINGER
MICHAEL W. EVANS
PAUL DAVID FAUBELL
LARRY EUGENE FLOHR
KENNETH DAVID FREDERICKS
RICHARD TAYLOR GINMAN
WILLIAM CLIFTON GRIGGS

FRANKLIN PALMER GUERARD
ROBERT ANDREW GUSTAFSON
THOMAS JOEL HAMMONS, III
PHILIP STEPHEN HANNAFORD
RYAN LEWIS HANSON
RONALD WILLIAM HICKMAN
LEE DAVID HOFFMAN
RONALD DUANE HUDDLESTON
JOSEPH FRANCIS HURLEY, JR
JOHN EDWARD JACKSON
GWILYM HOWARD JENKINS, JR
MICHAEL LYNN JENKINS
TERRENCE BATEMAN JOHNSON
STEVEN DALE KESSELRING
JAY BARRY KOEHLER
DAVID A. LINDSAY
NATHANIEL D. MALCOLM, JR
STEWART LEE MANLEY
ALFONS CARL MARCZYNSKI
JAMES ELBURN MCCRAY, II
DONALD RICHARD MCKENZIE, JR
FELTON MILLER
RAYMOND LEE MILLER
LONSDALE CLIFFORD MITCHELL
ROBERT TOLMIE MOORE, III
JOHN NOGOSEK
JOHN DAVID PLEDGER
ROBERT EUGENE REEVE
JAMES DONALD REILY, JR
SYD W. RODENBARGER
THOMAS ARTHUR ROREX
GEORGE EMERY SAUER, III
WILLIAM GEORGE SCHMIDT
JEFFERY WILLIAM SCHNEIDER
THOMAS JOSEPH SCHREIBER
ANTHONY EDWARD STEIGELMAN
DANIEL HERMAN STONE
ROBERT LEE SWENEY
GRANT WILLIAM THORPE
JOHN EMORY TUFTS
EDUARDO GERARDO VINAGRE
JAMES EDWIN VOGELSANG
JAMES STEPHEN WALTERS
BENJAMIN HARRISON WELCH, III
ROY WALTER WERTHMULLER
CHARLES ELBRIDGE WHITE
WILLIAM THOMAS WIMETT
ROBERT HARDING WOOD, II
ERIC HAMILTON WORRALL
DENNIS LLOYD WRIGHT
DALE J. ZEHNER

CHAPLAIN CORPS OFFICERS

To be captain

LEO THOMAS BROGAN
IVAN BLACKWELL BURNETT, JR
THOMAS K. CHADWICK
EDWIN DANIEL CONDON, JR
CHARLES R. DUNCAN
PATRICK L. FRYER
THOMAS GINO GIUNTOLI
YOUNG CHANG HA
JOSEPH W. HINES
MICHAEL H. KENNEDY
GEORGE A. LANGHORNE
RONALD LIVOJEVICH
GLENN H. MCCRANIE
GEORGE C. PAUL
ROSCOE E. RECTOR, JR
STANLEY BERNARD SCOTT, JR
ROBERT HARRY WILLIAMS
WINSTON BRUCE WILSON

CIVIL ENGINEER CORPS OFFICERS

To be captain

JAMES RICHARD ALLEN
PAUL DOUGLAS CHAMBERLIN
THOMAS HOLM CHRISTENSEN
GARY MYERS CRAFT
JOSEPH CLAY DEAN
FRED WARREN DEW
FRANK PETER DIGEORGE, III
DAVID KIRK GEBERT
WILLIAM MICHAEL HALL
ROBERT GERAD HOCKER, JR
RONALD ARNOLD KECHTER
ROBERT FRANKLIN KIESLING
DONALD GENE MORRIS
BERNARD FRANCIS MURPHY, JR
ANTHONY MICHAEL PARISI
LINWARD RAY PYLANT
WILLIAM HERMAN RIGBY, JR
LEONARD PAUL SCULLION
TERRENCE WILLIAM TULL

JUDGE ADVOCATE GENERAL'S CORPS OFFICERS

To be captain

JOSEPH EDWARD BAGGETT
FRED REINHARDT BECKER
PATRICK J. CARNEY
GERALD EDWAR CHAMPAGNE
THOMAS JOSEPH CONNELLY
DANIEL J. DALESIO, JR
JAMES E. HALVORSON
MARK MICHAEL HORGAN
PATRICK W. KELLEY
THOMAS NEAL LEDVINA
PETER JOHN MCLAUGHLIN
JOHN BERNAR MONTGOMERY
DAVID LESLIE PEACE
JOSEPH DOUGLA SCRANTON
CLYDE JOSEPH VILLEMEZ
RICHARD FRANCIS WALSH

DENTAL CORPS OFFICERS

To be captain

JEFFERY PAUL ALLEN
DONALD J. BEZDEK
EUGENE D. BRINKLEY, JR
GORDON M. BROWN, JR
ROBERT BRUCE CARLSON
SAMUEL J. CATHERS
STEPHEN GARRETT DAVIS
LARRY JAMES DERMODY
ROBERT A. ENGLER
DAVID ROSS FITCH
FRANKLIN EARL HART
JEFFREY W. HUTTER
DAVID GARY KOFFLER
MICHAEL E. LITTLE
ROBERTSON D. LOAR
EDWARD C. MARSHALL
CLYDE WESLEY MAYHALL
DANIEL M. MEYER
GORDON JAMES NOLAN
PETER V. ROGERS
HENRY A. STGERMAIN, JR
DAVID PETER TERCHA
CAROL IRENE BAK TURNER
SHEILA MCCABE TWOHEY
JEFFREY PETER WETZEL

MEDICAL SERVICE CORPS OFFICERS

To be captain

CHARLES LAWSO ANDERSON
ROBERT RANSOME AYERS
FRED GEORGE BARINA, JR
PHILLIP JAY BARNETT
LAWRENCE J. BOLAND, JR
AUGUST LOUIS BOURGEOIS
ROBERT CHARLES CARTER
JOHN PETER CHRISTOPHER
GEORGE HOWA CRITTENDEN
DAVID G. DANIEL
WILLIAM STEPHEN DIAL
GEORGE E. GIBSON, JR
ANDRE MICHAEL GREEDAN
JOHN EVERETT I. GREENAN
HAYWOOD NANCE HUGHES
MICHAEL MEYER
ROBERT MARTIN MILLER
KATHLEEN DOUG MORRISON
ROBERT CLAYTO ROCKHILL
ROY REYNOLD SKOG, JR
DONALD ANTHONY SMITH
JESSE HERNANDE VASQUEZ
LEN STANLEY WATTS
SHEILA RAY WEINBERG
JOHN HARVEY ZIMMERMAN

NURSE CORPS OFFICERS

To be captain

WILLIAM DAVID AHRENS
ERVIN LYLE AMES
BARBARA JEAN BEEBY
MICHAEL WILLIAM BENWAY
JESSE PAUL BURNS, JR
GLORIA JEAN CAFFREY
JOHN FRANCIS CAFFREY
CAROLYN ZAK CARLTON
CAROL ANNE CARNEY
RICHARD ALLEN DUNN
MARY ANNE GARDNER
PAMELA GRAY
MARY LOUISE HOUSER
LOIS ELAINE LOVERIDGE
KRISTINE ELLEN MINNICK
CYNTHIA E. PERRY
ELEANOR ELSIE PERRY
ELAINE CHARLOTT SAVIGE
FAYE THORR SCOTT
JAMES FRANCIS TYNAN, JR
LUCY MENDOZA VANBELOIS

EXTENSIONS OF REMARKS

THE CYPRUS PROBLEM AND THE NEW WORLD ORDER

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. BROOMFIELD. Mr. Speaker, as we put the gulf crisis behind us, now is the time to focus on the Cyprus dispute and commit ourselves to resolving that long-standing problem in a fair and timely fashion.

The administration is to be commended for its military victory over Iraq. Our loyal allies, including Turkey, helped us make that military operation successful. Turkey supported America's efforts and deserves the aid that it recently received from our Government. I have always said, however, that friends help friends. Now it is time for Turkey to again extend a hand of friendship to help us resolve a long-standing dispute that has concerned me for many years.

Since 1974, Cyprus has been a divided island nation. Turkey's invasion of that island displaced thousands of Greek Cypriots who fled to the south to become refugees in their own land. United Nations troops separate the two communities on Cyprus with a barrier known as the green line. What can we do to address this human tragedy?

As we begin to build a new world order, I hope that the Cyprus problem is at the top of the administration's international priority list. History has taught us that unresolved problems have a way of festering. As we emerge from the tragic gulf war, we do not need a serious problem in the eastern Mediterranean.

When we address the Cyprus problem, our goal should be a solution that brings fairness, justice, and respect for fundamental liberties. We should discuss the many United Nations Security Council resolutions that remain to be implemented. When we work with the international community to build a new world order, we should insist that the Cyprus dilemma be solved once and for all.

I welcome the new world order and trust that the crafters of that future landscape envision peace on that long-troubled island.

AMERICA'S COMMITMENT TO PEACE AND PROSPERITY

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. DORNAN of California. Mr. Speaker, I would like to share with you Vice President DAN QUAYLE's outstanding March 13, 1991, speech before the Mid-America Committee in Chicago, IL.

Vice President QUAYLE delivered a rousing tribute to our brave men and women who served in Operation Desert Storm. He commended their dedication to duty and their professionalism. He also credited the role President Reagan played in modernizing our Armed Forces during his 8 years in office. He praised the inspired leadership of President George Bush and his military advisers, Secretary of Defense Dick Cheney, Gen. Colin Powell and Gen. Norman Schwarzkopf.

Mr. Speaker, the United States led liberation of Kuwait is a tribute to American determination, ingenuity, and courage and Vice President QUAYLE's speech epitomizes the pride all Americans feel about our great Nation. I urge all our colleagues to take a few moments and read these important remarks:

REMARKS BY VICE PRESIDENT DAN QUAYLE

It's good to be here in Chicago. Just before coming here, I had the great pleasure of meeting with the 126th Air Refueling Wing of the Illinois Air National Guard, and the 36th APSS of the Air Force Reserve. And let me tell you something: Those men and women are sure glad to be back home. And we're even more glad to have them home. They have accomplished their mission. And this time, unlike Vietnam, our Nation is treating our returning soldiers like the heroes they are.

But they're not our only heroes. I'd also like to take this occasion to pay tribute to the Veterans of Korea and Vietnam. These veterans also fought heroically, but they didn't get the recognition they deserved. To them I say: Desert Storm is your victory too.

The Mid-American Committee is celebrating its twenty-fifth anniversary. You have always provided a forum to discuss the great issues facing our Nation. Today will be no exeption.

We meet at an extraordinary moment in world history. The United States and its allies have just won one of the most stunning military victories. The movie *Henry V* reminds us that our Persian Gulf victory has parallels to Agincourt. You'll recall that English forces killed ten thousand French troops in that epic battle, while losing only twenty five men themselves. And in Desert Storm, we destroyed an Iraqi army of over half a million troops, while suffering slightly more than a hundred fatalities.

Operation Desert Storm is obviously going to be studied in military academices for years to come. But it holds important lessons for the rest of us, as well. This afternoon, I'd like to examine some of those lessons.

My first visit to Chicago, as Vice President was in April '89 to address the American Newspaper Publishers Association. My speach zeroed in on America's so-called "declinists." America's declinists are a group of pundits who were predicting America's imminent fall from world leadership. America's best days, the declinists argued, were behind us. We had better accept this fact, and resign ourselves as graciously as possible to our diminished role in the world. The declinists predict defeatism, low growth, and an America unable to sustain its status of world leadership. Their bible is a much-heralded book called *The Rise and Fall of the Great Powers*, by Paul Kennedy.

For me and hopefully others, the Persian Gulf War has once and for all slam-dunked our declinists. Other nations made impressive contributions to Desert Storm, but it was America's leadership and contribution that were decisive. Today, as in the past, the world looks to America for leadership in times of crisis. And today, as in the past, only America is capable of providing world leadership.

But the stunning victory achieved by coalition forces against Iraq has refuted the declinists in yet another respect. In recent years, many declinists made reputations for themselves by running down the skills of American servicemen and women, and deriding the quality of American technology. As one pundit put it on the eve of war, "All those precision weapons and gadgets and gizmos and stealth fighters are not going to make it possible to reconquer Kuwait without many thousands of casualties."

Well, it turned out he got it exactly wrong. The quality of our people was the key to our victory. And our military technology—"all those gizmos and gadgets"—saved thousands of American and allied lives, and provided us with the decisive edge. Let me give you some examples.

I'll begin with the Patriot missile. The idea of a bullet hitting a bullet was proven a reality. Scores of Saddam's Scuds were blown out of the sky by the Patriot.

In the past, however, some had urged us to rely for our defense on theories of deterrence rather than on technologies of defense. They argued that security can be achieved by relying on offensive weapons alone. Well, as President Bush put it the other day, "Thank God that when the Scuds came in, the people of Israel and Saudi Arabia had more to protect them than some abstract theory of deterrence." They had defensive weapons. Thank God for the American creativity and technology, which saved thousands of priceless human lives.

Another example of American innovation and creativity was the M-1 Abrams Tank. Although some in Congress have criticized the M-1 tank as "vulnerable" and a "questionable buy," it showed its capability in Desert Storm. Going up against the Soviet-made T-72 tanks of Saddam's Republican Guard in the largest tank battle since World War II, the M-1 tanks destroyed hundreds of their adversaries. And throughout the course of the battle, the Soviet-made T-72's were able to knock out only two M-1's.

As a final example the effectiveness of American technology, consider the Stealth Fighter in Desert Storm. The F-117 constituted less than three percent of the total aircraft of Desert Storm. Yet it accounted for more than forty percent of the Iraqi targets we hit.

Many of those targets were in Baghdad. You saw the night skies of Baghdad light up like the fourth of July with anti-aircraft fire, yet not a single F-117 was shot down—not a single one.

All in all, smart weapons, in the hands of smart people, made all the difference in Desert Storm. Indeed, U.S. technology and

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface **indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.**

skills won the war. American quality triumphed over Iraqi quantity. And American brainpower triumphed over Soviet hardware. As the President said last week, "The America we saw in Desert Storm was first-class talent."

President Bush is right. Our armed forces displayed a professionalism that was truly first-class. But you know, it hasn't always been like that. In the aftermath of Vietnam, our armed forces were badly demoralized. Veterans who came home after serving in Vietnam were often shunned by the rest of the society. Parts of the country turned their back on the military. The military became hurt, bitter, and confused.

Today is a different story. Today our military wear the uniform proudly. Today our military stands tall and proud. Yes, there has been a dramatic change over the years. There have also been some profound reforms which have changed the quality and character of servicemen and women.

Perhaps the most important reform was replacing the draft by an all volunteer force. This means that the only people who are serving in our armed forces today are men and women who want to serve, men and women who have chosen to serve. Clearly, nothing does more to lower the morale of an organization—any organization—than the presence of large numbers of people who are there under duress. And nothing does more to raise the morale of an organization than having it consist entirely of men and women who have freely chosen to join it.

But while our armed forces no longer rely on the draft, they have not abandoned their high standards. For they understand that nobody signs up to join a third-rate organization. To attract the best, you've got to be the best. And our armed forces are the best!

Our armed forces have maintained a strictly enforced policy of color-blindness. Our military is a true meritocracy. In today's army, you don't get ahead because you are white, and you don't get ahead because you are black. There are no quotas. You simply get ahead because you are good. And far from causing racial friction, this policy has promoted greater racial harmony. It also enhances the virtue of self-respect.

A final reason for the superb performance of our armed forces in Desert Storm was that they were allowed to do their job. Washington didn't try to "micro-manage" this war. The President set the war's broad objectives. He carefully defined the military's mission. And having done all that, he let the military itself carry out that mission. He treated our servicemen and women like professionals—not like puppets of the Federal bureaucracy. And our soldiers responded as he knew they would: With skill, courage and dedication.

Our armed forces understand the value of our people. They know that success in combat depends on making the most of the human mind and the human spirit. And their reforms have sought to do just that. By giving people a greater choice; by enforcing high standards; by recognizing and rewarding merit; by being truly color-blind; and by knowing when to intervene, and when to stay out of the way—we have succeeded in creating a military that is truly second to none.

But our military is not the only American institution that should be second to none. Our schools, our industries and our productivity should also be second to none. And while I would not argue that techniques that work in the military are directly applicable to the domestic sector, I would argue that the military's emphasis on our people is a lesson that does carry over into other walks of life.

President Bush understands this lesson. He knows that our future competitiveness depends as much on the intangible currency of our people's skills and motivations as it does on the dollars and cents of financial capital. He knows that as we move into the 21st century, we must continue to improve our competitiveness. And that means using our moral and intellectual resources as effectively as possible. That's what President Bush's domestic agenda is really all about.

For example, the President is committed to restructing our educational system by promoting greater educational choice. He knows that just as the performance of our servicemen and women improved when they were given a choice about whether or not to serve, so the performance of our students will improve if they and their parents can choose the schools they attend. You can't solve the problems of our educational system simply by throwing more money at it, any more than you could have solved our military's problems in the wake of Vietnam through financial means alone. You had to change the system. You had to change the atmosphere. You had to change people's motivation. And that's what educational choice is all about.

But along with greater educational choice, the President is dedicated to maintaining standards of educational excellence. His goal is for our students to be number one in the world in math and science by the year 2000. And we can achieve it; we will achieve it.

We will also achieve another goal of the President: Becoming a truly color-blind society. And you don't do that by discriminating in favor of one group and against another. You do it by treating all groups equally. That's what the President's civil rights agenda is all about: Equality. The experience of black Americans in our armed forces demonstrates that they don't need quotas and preferences to attain the very highest ranks of excellence. All Americans of all races desire fairness and equal opportunity.

The President, is also committed to promoting America's progress in science and technology. Smart weapons in the hands of smart people won the war in the Gulf. And the finest technology in the hands of a skilled people will keep America competitive in the world of the future.

That is why the President's budget calls for a 13 percent increase for research and development. That increase is one of the largest in the budget—and brings Federal R and D investment to a record high. And one of our highest priorities is basic research, especially by the individual scientist or a small research team. To support that work, our budget calls for a $1 billion increase in basic research.

But along with record levels of federal investment in research and development—investment totaling $76 billion—we are committed to working with American industries. We want to make it easier for companies to capitalize on the discoveries of basic science. We want businesses to develop new products and processes. One way to meet these goals is to remove the roadblocks of over regulation. For just as federal micro-management undercuts our military's effectiveness, so federal over-regulation undercuts our economy's effectiveness.

As most of you know, President Bush, as Vice President, chaired the Task Force on Regulatory Relief. Last June, the President's Competitiveness Council, which I head, was directed by the President to assume the same role in this Administration. The President asked the Council to put an end to what he has called "regulatory creep" in the federal government. With that mandate, we have begun to reassert the Bush legacy of regulatory relief.

And the President remains committed to reducing the tax rate on capital gains to unleash the power of the market place—the power of ideas and free enterpise. Despite what the critics try to argue, the facts are in: A reduction in the capital gains rate creates jobs and promotes economic growth. We saw it happen in 1978. We saw it happen in 1981. And I promise you: We'll see it happen again.

All of the President's domestic initiatives that I've just outlined have a single, underlying goal. They seek to enlarge the scope of individual freedom, to liberate the power of the American mind and the potential of the American spirit. For when it comes to the military, when it comes to politics, and when it comes to economics, we know this: Freedom works. And we know how freedom works: By enabling every individual to put his or her talents to full use.

Speaking nearly 150 years ago in Springfield Illinois, Abraham Lincoln looked forward to the day when "mind, all-conquering mind, shall live and move the monarch of the world." My friends, that day is fast approaching. In the 21st century, success will go to the nation that utilizes its intellectual resources most effectively. And as Desert Storm demonstrates, that nation will be the United States—provided we are wise enough to learn its lessons, and determined enough to apply those lessons.

Thank you and God Bless You.

DADE'S SCIENCE ZOO MAGNET PROGRAM

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, the Magnet School Program in Dade County, FL, has nurtured ethnic diversity and academic excellence in south Florida. A special contributor to this endeavor is the Science Zoo Magnet Program. The Science Zoo Program offers students a unique opportunity to explore in depth the discipline of science as it relates to the zoo and natural animal habitat. Unlike traditional classroom experience, students are able to interact with zoo and animal experts with hands-on activites.

The Science Zoo Magnet Program is part of a larger Magnet Program. The district magnet advisory committee, in cooperation with the Dade County Public Schools, has assembled an impressive educational program of 47 magnet schools and programs. The success is due in part to community involvement in the program, like that of the Metrozoo in the Science Zoo Program. Local universities, colleges, businesses, and cultural associations are able to take pride in and contribute to the education system in Dade County.

The Magnet Program as a whole affirms two fundamental values in education, diversity, and excellence. The program offers diverse educational experiences which more closely represent the ethnic makeup of Dade County. The Magnet Program also encourages academic excellence through educational choice for parents and children. Students show great enthusiasm and commitment to their studies because they are able to choose the academic path of greatest interest.

I commend the efforts of Silvia Gonzales-Conn, community affairs coordinator for the Zoological Society of Florida, friends of Metrozoo for making the Science Zoo Magnet a success. I also commend those leaders in business, academia, and cultural endeavors which have contributed so much to the Magnet School Program in Dade County and thus contributed to the quality of education in general for south Florida.

BALANCED BUDGET AMENDMENT

HON. E. THOMAS COLEMAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. COLEMAN of Missouri. Mr. Speaker, in July of last year, the House of Representatives voted on a resolution calling for a constitutional amendment to mandate a balanced Federal budget. That resolution failed, by only seven votes, to achieve the two-thirds majority required for passage. Instead, the House passed a balanced budget statute, a measure so meaningless that the Senate never even bothered to take it up.

I recently reviewed the record of that House debate. I reread the speeches made by opponents of the amendment resolution who insisted, the evidence of two decades notwithstanding, that Congress would indeed make the hard decisions needed to control Federal spending; I noted the arguments that the amendment represented nothing but gimmickry and political cover, offered by some who then voted for the statutory approach; and I was fascinated by the solemn predictions that Congress would voluntarily face up to economic reality and prioritize Federal spending programs—though, on the very day the balanced statute was passed, the House refused to cut even $19.90 from a Federal spending bill.

Mr. Speaker, a constitutional amendment to mandate a balanced Federal budget will force Congress to stand firm in the face of various spending pressures. Congress as an institution has clearly demonstrated it does not have the will to hold the fiscal line, and just this month the House voted to significantly weaken the spending control mechanisms enacted as part of the last year's budget summit agreement. The Office of Management and Budget has just announced the result of this fiscal mismanagement: OMB has estimated the deficit for fiscal year 1991 will ring in at some $300 billion, almost $80 billion more than the previous record deficit of $221.2 billion back in 1986.

It is obvious that Congress will take the steps necessary to control Federal spending only when it has no other choice. I am again introducing, as I have each Congress since first coming to Washington, a resolution calling for a constitutional amendment to mandate a balanced Federal budget, and to provide for the systematic repayment of the accumulated national debt. I urge my colleagues to review this legislation, and to join me in this effort to restore the fiscal integrity of the U.S. Government.

THE STRUGGLE OF THE BAHA'IS IS NOT OVER YET

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. PORTER. Mr. Speaker, for decades the Baha'i minority in Iran has suffered brutal repression by the Iranian Government. Since 1979, hundreds of Baha'is have been executed, thousands have been imprisoned solely for their religious beliefs, and many have been ruthlessly tortured.

Fortunately, the situation is much better today than it was 10 years ago. At the present time, fewer than 10 Baha'is remain in prison and none were executed during 1990.

Obviously the Iranian government responds to international pressure. Over the years the administration and Congress have openly supported the Baha'is, including a resolution I introduced in 1988 expressing concern about abuses directed toward the Baha'is.

The United Nations has also focused its attention on the Baha'is in Iran. At the recent meetings of the United Nations Human Rights Commission in Geneva, Switzerland, a consensus resolution was reached which not only refers specifically to the Baha'is, but also extends the mandate of United Nations Special Representative to Iran, who has reported continued official discrimination against the Baha'is.

It is crucial that the world not forget that although the Baha'is are no longer being executed and imprisoned for their religious affiliation, they are still being systematically discriminated against in Iran. We must continue to speak out on behalf of the Baha'is and condemn Iran's denial to respect their religious rights guaranteed by international law.

TO CORRECT INJUSTICE IN OUR TAX CODE

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. PANETTA. Mr. Speaker, I rise today to reintroduce legislation that will correct a gross injustice in our Tax Code. As many of my colleagues know, the U.S. Bureau of Alcohol, Tobacco, and Firearms [BATF], with help from the IRS and State alcohol license agencies, is now collecting large, sometimes decades-old tax debts, including penalties and interest, from thousands of small businesses on a tax of which many have been completely unaware.

As you know, the BATF issued notices ordering businesses to immediately pay in full the balance of all uncollected taxes previously unknown to most businesses. This is a prime example of an overzealous bureaucracy creating an absolute injustice to honest businesses who have no intention of evading tax liabilities. These levies, known as occupational taxes, are imposed on all producers, wholesalers, and retailers of alcoholic beverages, including grocery stores and restaurants.

However, prior to 1989 the tax on retailers was only $54 and considered not cost effective to enforce. In fact, this tax has been in existence since 1866. In 1987, the tax was raised to $250 a year and the BATF was put in charge of collecting all back taxes. With this new incentive of higher revenues through the collection of the increased tax, the BATF instructed businesses to pay all back taxes plus interest and penalties without any statute of limitations. Thus, businesses are being taxed for back taxes owed, going back several years, plus interest and penalties on that tax. This BATF action has created an enormous burden for small businesses without taking into account the possible impact of the policy.

My legislation would waive all taxes, interest, and penalties incurred prior to this change in the law and lower the rate for alcohol retailers to $165. I believe that it is the responsibility of the Congress to correct this injustice. Most of these honest business people, who had no idea that such a tax existed, are now faced with bills that endanger their business. We must not let this type of action take place.

Mr. Speaker, I ask that my colleagues join me in support of this important piece of legislation. This type of action by the IRS and the BATF is simply taxation without notification and must be corrected by Congress.

Following is the text of my bill:

H.R. 1484

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDUCTION OF OCCUPATIONAL TAX ON RETAIL DEALERS IN LIQUORS AND BEER.

(a) IN GENERAL.—Section 5121 of the Internal Revenue Code of 1986 (relating to imposition and rate of occupational tax on retail dealers) is amended by striking "$250" each place it appears and inserting "$165".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1990.

SEC. 2. LIMITATION ON ASSESSMENT PERIOD FOR OCCUPATIONAL TAX ON RETAIL DEALERS IN LIQUORS AND BEER.

(a) IN GENERAL.—In the case of any tax imposed by section 5121 of the Internal Revenue Code of 1986, with respect to any taxable period beginning before January 1, 1989—

(1) no assessment of any such tax may be made after the date of the enactment of this Act,

(2) if such tax was assessed after December 31, 1987, and on or before such date of enactment, such assessment shall be abated, and

(3) if such tax was collected after December 31, 1987, and on or before such date of enactment, the amount so collected shall be credited or refunded as an overpayment.

(b) DEFINITION.—For purposes of paragraphs (1) through (3) of subsection (a), the term "tax" includes any interest, addition to tax, additional amount, or assessable penalty with respect to the tax.

HEROES OF OPERATION DESERT STORM

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. MAZZOLI. Mr. Speaker, I commend to the attention of my colleagues the following editorial from the March 2 Louisville Courier-Journal which very appropriately identifies all the men and women involved in Operation Desert Storm as authentic American heroes.

Kentucky-based military units, and members of National Guard and Reserve outfits played a significant role in the success of Operation Desert Storm. Now that the war in the gulf has ended, we welcome back home with thanks, honor and respect, all these valiant and selfless Americans.

[From the Courier-Journal (Louisville, KY), Mar. 2, 1991]

HEROES OF THE HOUR

As in the aftermath of all wars, there will be overwhelming problems to sort out in the coming months. But at the top of today's agenda should be something else: Let's bask in the feelings of a job well done. The allied forces performed so well that even their generals couldn't contain their surprise. At times General Schwarzkopf was so puffed up with pride he nearly burst out of his fatigues.

Yet soldiers, isolated in the desert, worried whether they had public support. It was the one question they never failed to ask in their rare calls home. They couldn't see how the streets here are decorated—yellow ribbons and flags are all over town. They didn't know they had become heroes, the stars of a drama that captivated millions for months.

The armed forces earned our appreciation, but so did their families. The ground war may have lasted "only" 100 hours, but 100 hours is eternity when someone you love is at the front. Plus, families had endured six months of expecting the worst. Threats of chemical attacks, speculation that high-tech weapons would jam in the sand, rumors of the Pentagon ordering 30,000 caskets kept them awake while the rest of us slept. "Thank heaven for cable TV," said a clerk in a flower shop at Christmas. "It's all that gets me through the night."

There's euphoria in the air because the war is over; there's appreciation for the sacrifices of individual servicemen and women. The 21,000 soldiers from Ft. Campbell, 2,000, from Ft. Knox and 1,300 members of the Kentucky National Guard represented us well. Saddam Hussein predicted this country didn't have the stomach for war, Israel worried we were too spoiled to be tough, but our military proved them wrong. Like General Schwarzkopf, we're so puffed up with pride we may burst.

SALUTE TO DENVER PYLE

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. GALLEGLY. Mr. Speaker, it is a privilege to rise today to honor an actor whose work has entertained us for more than four decades.

Denver Pyle—who perhaps is best noted for playing alongside our good friend and colleague, the gentleman from Georgia, in the "Dukes of Hazzard" television series—will be enshrined this Saturday in the Downtown Newhall Walk of Western Stars in Santa Clarita, CA. The award ceremonies will be held in my district, and I can assure you it's an honor he has earned.

Denver made four films with the great John Wayne and worked with the famed director John Ford in three films, and appeared in many TV westerns in the 1950's and early 1960's, including "Bonanza," "Gunsmoke," "Gene Autry," "Roy Rogers," and "Wyatt Earp," where he starred with another of this year's inductees, Hugh O'Brian.

He also is a noted director, having directed episodes of such series as "Death Valley Days," "The Doris Day Show" and "The Dukes of Hazzard."

But Denver is more than just an entertainer. After completing "The Dukes" series, he and his wife, Tippi, traveled around the United States in his role of Uncle Jesse to raise millions of dollars for children's charities. He also raised thousands of dollars for the Motion Picture and Television Fund as the energetic auctioneer of 1989 and 1990.

Mr. Speaker, I ask my colleagues to join me in honoring a western legend and fine humanitarian, Denver Pyle, as he receives the bronze saddle that has already been given such western luminaries as Roy Rogers, Gene Autry, Tom Mix, and Chuck Connors. Like them, Denver's legend will shine on along with the romance of the Old West.

TRIBUTE TO JOSEPH P. THEROUX

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mrs. MINK. Mr. Speaker, I rise today to recognize Joseph P. Theroux of Hilo, HI, an English teacher at Hilo High School. He is here in Washington, DC, today to be recognized by the National Endowment for the Humanities as Hawaii's NEH-Reader's Digest Teacher-Scholar for 1991.

The National Endowment for the Humanities selected 49 outstanding educators from across the country to conduct year-long independent study projects in history, literature, foreign languages, or other humanities disciplines.

Mr. Theroux will be conducting research on Hawaiian King David Kalakaua's attempt in 1887 to revitalize his kingdom and colonize other Pacific Islands, creating a united Polynesia. The expedition of King Kalakaua's ship, the Kaimiloa, to Samoa and its failure was an important factor in opening Hawaii to the multiethnic immigration that followed.

Very little research currently exists in this area. Mr. Theroux plans to use photocopies of original documents to create a casebook that students can use in learning to interpret historical research materials.

I commend Mr. Theroux for taking the initiative on a project of importance to the people of Hawaii. While sabbaticals are common for college level professors, elementary and secondary schools make few provisions for their teachers.

Mr. Speaker, in a time when our education system is struggling, I believe it is important for us to recognize those truly inspiring educators that are taking great strides. I am sure you agree, Mr. Speaker, that Mr. Joseph P. Theroux deserves the respect and admiration of every Member of this body and ask that we extend our highest regards and recognition for his efforts.

KALAKAUA'S "JOKE" WILL GET SERIOUS LOOK BY HISTORIAN—MANY HAD LAUGHED AT HIS ATTEMPT TO CREATE A PACIFIC POLYNESIAN EMPIRE

(By Rod Thompson)

HILO.—In the summer of 1887, King David Kalakaua sent a re-outfitted bird manure ship captained by a drunkard and manned in part by reform school boys off to Samoa to establish a new Polynesian empire.

The powerful missionary descendants and businessmen of the day saw it as a bad joke.

A century later, Joseph Theroux, an English teacher, amateur historian and acting vice principal at Hilo High School, admits that a lot about that expedition was funny, but he doesn't think it was a joke.

The expedition of the ship Kaimiloa was Kalakaua's attempt to strengthen the Hawaiian people through an alliance with fellow Polynesians, Theroux said. Its failure was an important factor in opening Hawaii to the multiethnic immigration that followed, he believes.

Theroux is one of 49 teachers nationwide who recently received grants for special projects. The $27,500 grant to allow Theroux to take a one-year sabbatical to study the expedition is made by the National Endowment for the Humanities and Reader's Digest. It includes $500 for books for Hilo High School and $500 for a "mentor" to assist Theroux.

The popular image of Kalakaua today is the Merrie Monarch who revived the hula, but in his day, the king was criticized heavily by missionary descendants and businessmen, especially for spending too much money.

For example, converting the Kaimiloa from a hauler of bird guano to the first and only warship in Kalakaua's hoped-for new navy cost the equivalent in today's money of several million dollars.

The Kaimiloa was supposed to help create a Kingdom of Oceania partly the idea of Kalakaua's "Minister of Everything," Walter Murray Gibson, and partly an outgrowth of Kalakaua's expanded concepts of royalty picked up during his world tour in 1881.

In 1886, Kalakaua sent an ambassador to the king of Samoa, apparently not troubled that there were actually two kings of Samoa fighting with each other, with the United States and Britain backing one side and Germany backing the other.

When the Kaimiloa sailed for Samoa in mid-May 1887 to continue the diplomacy, the ship's captain was George Gresley Jackson, who had been kicked out of the British Navy for drunkenness, Theroux said.

Jackson had been principal of the Honolulu Reformatory School and recruited a third of his crew from there. He had to put down a mutiny in the crew the day before he sailed, Theroux said. He then stayed drunk for the first 11 days of the monthlong voyage, said historian Gavan Daws.

The first night in Samoa the crew held an orgy on the beach, Theroux said. One of the ship's four cannons was bartered for food and supposedly is still on little Aunuu island in American Samoa to this day.

While this fiasco went on for about six months, Honolulu businessmen forced Kalakaua to accept a new constitution stripping him of most of his powers in July 1887.

That bare outline is all that most historians say about the Kaimiloa expedition. Theroux thinks it deserves a lot more attention for what it tells about Kalakaua and his attempt to preserve and strengthen the Hawaiian people and culture.

Theroux got into this line of research from an unusual starting point: Boston. In 1975, he was a recent college graduate with a teaching certificate and not much prospect of a job in Masachusetts, where few teachers were being hired.

He joined the Peace Corps and told them to send him anywhere. They picked Western Samoa, where he stayed three years, then another seven years in American Samoa.

When he returns on sabbatical this fall, he'll be looking for old documents, including newspaper accounts of the Kaimiloa.

The purpose will be to show students: "This is how we write history. This is how we figure out what happened," he said.

HILO HIGH TEACHER RECEIVES NATIONAL HONOR

(By Jim Witty)

Hilo High School English teacher Joseph P. Theroux has been named Hawaii's National Endowment for the Humanities/Reader's Digest Teacher-Scholar for 1991.

The Endowment selected Theroux and 48 other outstanding educators from across the country to conduct year-long independent study projects in literature, history, foreign languages or other humanities disciplines, according to an NEH spokeswoman.

Each award provides a stipend of up to $27,500 to replace the teacher's annual salary or to supplement sabbatical pay up to the amount of the academic year salary. Hilo High School will also receive an additional $500 to buy books for the school's library.

"These awards give outstanding teachers what they need most—time for study and reflection," Cheney said. "We are pleased to give teachers this opportunity for intellectual and professional renewal," said NEH Chairman Lynne V. Cheney.

Beginning this fall, Theroux, who is also currently serving as a vice-principal at Hilo High, will use the award to study King Kalakaua's attempt to expand his kingdom in 1887.

NEH selected the 49 nationwide winners from 325 eligible applications. Project proposals were reviewed by panels of humanities educators who judged the applications on their intellectual quality, the significance of the topic and materials to be studied, the relevance of the study plan to the applicant's teaching responsibilities and evidence of the applicant's ability to carry out a serious independent study project.

Theroux, who was a Peace Corps volunteer in Western Samoa, will research and write an account of Hawaiian King Kalakaua's attempt in 1887 to revitalize his kingdom and colonize other Pacific islands, creating a united Polynesia. This attempt, said Theroux, "led the way for Hawaii to develop extensive immigrant labor and thus contributed to its present-day cultural makeup."

He will use photocopies of original documents to create a casebook that students can use in learning to interpret historical research materials.

A published novelist who has won several literary awards including first prize in the South Pacific Festival of Arts fiction competition, Theroux holds a bachelor's degree in English and education from the University of Massachusetts at Amherst.

FOR CALIFORNIA: A POLITICAL FIX THAT ABANDONS NURSING HOME PATIENTS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. STARK. Mr. Speaker, the kinder, gentler Nation will not be found in California's nursing homes in the near future, due to political pressure by the Governor and a dereliction of duty by the Federal Government.

I believe that the nursing home industry in California wants to do right for its patients, but is caught in the middle of a budget war in Sacramento and a spineless Federal Government that has abandoned nursing home patients in favor of supporting the newest big State Republican Governor.

The New York Times editorial of March 18, 1991 says it all:

FOR CALIFORNIA: A POLITICAL FIX

California health officials have long boasted that their nursing homes for the elderly set a national standard. But when new Federal regulations tried to upgrade glaring deficiencies in that care, the state applied political muscle in Washington to evade its responsibilities. Lamentably, the Bush Administration appears to be caving.

California's boasts about its nursing homes have grown increasingly hollow. Nursing home patients, once admitted, are seldom reexamined, or given different treatments. Even worse, California's use of drugs and physical restraints to control behavior has risen alarmingly. California sedates more than 65 percent of its nursing home patients; the national average is less than 40 percent; and in Vermont the figure is 10 percent. Excess sedation is almost always a sign that institutions are trying to save money by immobilizing patients instead of providing staff to treat them.

Alarmed by the high sedation rate and other nursing home abuses, the Federal Government has, wisely, been inching toward tighter supervision. Most states have lauded the potential benefits but some have grumbled about added costs. California first balked, then openly dared Washington to force it to comply.

Last week, after California's Republican Governor, Pete Wilson, peppered the White House with complaints, the Feds blinked. Washington not only agreed to review the new regulations; it allowed California to be the only state able to comment on revisions. The Governor promptly hailed the agreement as a victory for common sense and state's rights, but it was nothing of the sort. What triumphed was politics and wrongheaded stonewalling.

Last October, when the new Federal regulations went into effect, California simply ignored them. State officials dismissed them as unnecessary, including one wise rule that puts a virtual ban on the use of drugs or physical means to restrain patients unless lives are in danger. State nursing home inspectors were told to simply recertify institutions under the old laws.

The Governor, who had supported the tougher Federal rules when he ran last fall, whipped off an angry letter to fellow Republican George Bush. In an illogical straddle, he argued that California's nursing home rules were as good or better than the Federal ones—and yet living up to the new Federal requirements would cost the state $250 million more a year.

Federal health officials blanketed California with 100 inspectors to force compliance. While some critics cried overkill, Washington was clearly in the right. The new Federal rules had been argued out among all 50 states over two years. Many, like those dealing with restraints, had even been tested with dramatic success.

Some of the regulations may be, as California claims, "wasteful" and "cosmetic." One would establish standard room temperatures. Another would regulate the size of bedside tables. But the rules California is most anxious to sidestep are hardly cosmetic, like the severe regulation of restraints and mandatory re-examinations of patients at least annually.

Congress's intent, clearly stated, is that all nursing home patients have a right to "attain and maintain their highest level of functioning." California's stonewalling suggests that its patients will fall far short of that goal.

MIAMI CHILDREN'S HOSPITAL: THE GIFT OF HEALING FOR OUR CHILDREN

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, the Miami Children's Hospital has become the finest pediatric medical center in the Southeast United States. No child—no matter how complex or rare his condition—need leave Miami to receive the best possible care. In fact, many children come to south Florida to receive treatment at Miami Children's Hospital. I am very proud to have this outstanding medical center in our area that every day brings the gift of healing to our children.

From its founding in the 1950's as a regional hospital for polio patients, the Miami Children's Hospital has a history of providing loving treatment to broken and diseased children. By 1980, it became apparent that this modest, caring community children's hospital could not meet the needs of the rapidly expanding population in Miami. In response to this demand, a decade of development was initiated by leading citizens who selflessly gave of their resources and time to make Miami Children's Hospital what it is today.

The vision for the expansion of Miami Children's Hospital was ambitious, to make the hospital a leader in pediatric medicine and care. In 10 years, with the sacrifice of many dedicated volunteers, generous doctors, and committed physicians, Miami Children's Hospital offers world class pediatric care while retaining the tender care offered by the original facility.

There are so many to commend for their role in building today's Miami Children's Hospital. The hospital's doctors, specialists, nurses, and staff should be recognized for excellence in their duties. To make this excellence possible, the activities and programs of the Miami Children's Hospital rely upon the Miami Children's Hospital Foundation. The leadership of the board of trustees provide rock solid support for the Miami Children's Foundation. The board consists of: Ambassador David M. Walters, president; Albert H. Nahmad, chairman; Harry Hood Basset, Jr., first vice president; Mark Blank, second vice president; Alan I. Weiselberg, treasurer; Dr. Ricardo Pines, secretary; Dr. Donald H. Altman, Luis J. Botifoll, Alec P. Courtelis, Florence Groover Frank, Paula Friedland, Barbara Havenick, Abel Holtz, Burton S. Kahn, Arthur L. Moses, J. David Scheiner, Arthur E. Teele, Jr., Barbara Weintraub, Judy Weiser, Wesley F. White, and Teresa Zubizarreta.

May they continue to offer the gift of healing to our children.

HUMAN RIGHTS IN CUBA

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. PORTER. Mr. Speaker, on March 2, 1991, I was giving a speech at the National Institute of Health and regrettably missed Rollcall No. 26. Had I been present I would have voted yea.

Cuba continues to be one of the worst violators of human rights in the world. Freedom of speech, press, and religion are ignored in this totalitarian state. Torture and psychiatric abuse in prison, arbitrary arrests and harassment as a form of intimidation, and human rights violations against children including assaults, rape, and imprisonment are currently practiced.

Last year the United Nations Commission for Human Rights passed a resolution outlining the Commission's concerns in Cuba. This was followed by a widespread roundup of activists in Cuba and Fidel Castro's obvious disregard for international concern for improved human rights conditions in his country.

We must continue to focus world attention on the atrocities occurring in Cuba and work to put an end to Fidel Castro's systematic policy of repression.

LOUISVILLE COUPLE CELEBRATE 70TH WEDDING ANNIVERSARY

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. MAZZOLI. Mr. Speaker, I rise today to honor Mr. and Mrs. Donald P. Vandivier of Louisville, KY, who have reached a most noteworthy milestone in their lives together. On March 19, Donald and Anne Dudley celebrate their 70th wedding anniversary.

Mr. Vandivier is a spry 93 years of age and his wife is nearing her 90th birthday. Their marriage has produced three children, and, to date, nine grandchildren, and five great grandchildren.

Donald and Anne Dudley met while attending Transylvania University in Lexington, KY, in 1919 and married on March 19, 1921. It is hard to believe, Mr. Speaker, but Warren G. Harding was then our President, refrigerators were actually iceboxes, and the "War to End All Wars" had just been fought. Things have changed since then, not all for the better for us and for the planet. But, one wonderful thing has endured and deepened and become more beautiful: Mr. and Mrs. Vandivier's love and devotion to one another.

Donald Vandivier had a long and successful career in the insurance business and has been honored frequently for his outstanding service. He is a Kentucky Colonel, a long-time activist with the Boy Scouts of America, and a recipient of the Boy Scouts of America Silver Beaver Award for Distinguished Service to Boyhood.

Anne Dudley has also had a very fulfilling life. In addition to raising and nurturing a loving family, Anne has been an active volunteer with the Louisville Women's Club. In 1948, Anne remembers with pride the Women's Club cofounding, with the Louisville Kiwanis Club, the Louisville Deaf Oral School, a unique diagnostic and education center which continues to serve the multiple needs of preschool children with hearing impairments.

Mr. Speaker, wedding anniversaries are important occasions, and a 70th wedding anniversary is truly a rare and special event. I wish Donald Parkhurst and Anne Dudley Vandivier all best health and happiness for their 70th anniversary. They are two remarkable and loving people.

HONORING HOYT AXTON

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. GALLEGLY. Mr. Speaker, this Saturday an accomplished singer, composer, record producer, recording artist, and actor will be inducted into Santa Clarita's Downtown Newhall Western Walk of Stars, joining such celebrities as John Wayne and Gene Autry.

Hoyt Axton, truly an entertainer in every sense of the word, knows a little something about western, with or without country.

As a singer-songwriter, he penned such hits as "Greenback Dollar," "Joy to the World," "Never Been to Spain," "Ease Your Pain," "Southbound," and "Outlaw Blues." He also performed in the Grand Ole Opry from 1974 to 1983, and appeared on the Ernest Tubbs Show and Ralph E. Mery Show in the early 1970's.

As an actor and a singer, he's performed in such shows as "Bonanza," "Hoyt Axton Country Western," "McCloud," "Nashville on the Road," and "The Barbara Mandrell Show."

And he's been in such movies as "Story of a Folk Singer," "Smoke," and "Black Stallion."

In addition, Hoyt has given freely of his time to help others, serving as a spokesman for such organizations as the American Heart Association, UNICEF, Interplast, Free Clinics and the Redwing Foundation, as well as founding the Bread and Roses Foundation.

Mr. Speaker, the Old West taught us such virtues as self-reliance and the need to help others. In his work on-screen and off, Hoyt Axton reflects those virtues. I ask my colleagues to join me in saluting him as he receives his bronze saddle on the Walk of Western Stars.

RECOGNITION OF THE KAUA'I CHAMPIONSHIP BOYS' SOCCER TEAM

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mrs. MINK. Mr. Speaker, I rise today to recognize the championship Kaua'i High School boys' soccer team from the island of Kaua'i in the Second Congressional District of Hawaii. The Kaua'i boys' team, the Red Raiders, won the Kaua'i Interscholastic Federation Championship for the first time ever with a sudden death final match against the formidable Kapa'a High School boys' team, the Warriors.

After a neck and neck tournament which left Kaua'i and Kapa'a dead even, the final game that would have decided the overall champion was deadlocked at 0 to 0. Finally, with neither team gaining the advantage, and the match already into double overtime, the game was called due to darkness.

Two days later the two teams met again. The tension was mounting and the spectators filled the stands with numbers even greater than the game before. The game would be played with two sudden death periods. If neither team scored in those two periods, the championship would be decided by a shootout.

The first period began, and just as before when the clock ran out no score was on the board. But then came the second sudden death period. After battling down to the final 23 seconds, Kaua'i's Dan Prigge took a shot on goal. It was blocked by the Kapa's fullback and then reversed back to the goal, rolling in to score the winning point.

Mr. Speaker I salute the boys of both teams for their skill and dedication. It is a true measure of the character of Kaua'i's young people this tournament enjoyed such wide community support. These two teams both demonstrated their commitment and good sportsmanship. I applaud their efforts and I congratulate Kaua'i on their hard fought victory.

Allow me to recognize the members of the 1991 KIF championship boy's soccer team, the Kaua'i Red Raiders:

Randy Asuncion, Adam Eggerston, Dan Prigge, Wes Juvick, Canaan Blake, Jason Dobson, Keola Griep, Timothy Jiminez, Tyler Nekomoto, Andy Reuarin, Jr., Joshua Rudinoff, Jay Sakoda, Jason Tangalin, Andy Kakutani, and Cleve Zarbaugh.

And their coaches: Guy Simola, Andy Reuarin, Sr., and Arnold Cruz.

PROLIFERATION PROFITEERS: PART 4

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. STARK. Mr. Speaker, foreign companies are selling us rapidly down the river towards the sea of nuclear proliferation. With the help of Western assistance, India, Pakistan, Israel, Brazil, Argentina, South Africa, and Iraq have all significantly advanced their nuclear weapons programs in recent years.

Today, I am placing into the Congressional Record the fourth in a series of 12 case studies on foreign companies that have furthered the spread of nuclear weapons.

To help address this, the single most grave threat to United States national security today, I have introduced the Nuclear Non-Proliferation Enforcement Act (H.R. 830). This legislation would put import sanctions on foreign companies found selling nuclear equipment, materials, or technology, or nuclear use items, without the proper safeguards.

TWELVE FOREIGN FIRMS REPORTEDLY ENGAGED IN NUCLEAR WEAPONS-RELATED TRADE WITH IRAQ

FIRM 4: GILDEMEISTER PROJEKTA GMBH (GERMANY)

Gildemeister Projekta, GmbH is a general construction contractor. The firm is a subsidiary of Gildemeister AG and C. Plath. C. Plath is a subsidiary of the U.S. firm Litton Industries. In 1989, the German government conducted investigations of Gildemeister Projekta for allegedly supplying laboratory equipment and missile propulsion technology to a secret Iraqi military research center called Sa'ad 16. Israeli intelligence claims the facility to be a warhead development center. Gildemeister Projekta was the general contractor responsible for the DM 400 million project, which involved a number of other subcontracted German firms, including MBB. Gildemeister Projekta placed an order in 1986 with two U.S. companies, Electronics Associates of New Jersey and Gould of Fort Lauderdale, who unwittingly supplied the Sa'ad 16 complex with a sophisticated computer for simulating ballistic missile flights.

TAXATION WITHOUT REPRESENTATION, 1990'S STYLE

HON. E. THOMAS COLEMAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. COLEMAN of Missouri. Mr. Speaker, in April of last year, the Supreme Court ruled that Federal courts have the power to order localities to raise taxes, clearly violating the separation of powers carefully crafted in the Constitution and usurping the power of the people to counter unfair and burdensome taxes through the legislative branch.

As we all know, taxation without representation prompted Americans to fight a revolution and declare themselves an independent nation, and I do not believe Americans today are any more willing to be taxed by unelected robed judges, with lifetime tenure, than they were by the wigged English lords of 200 years ago.

The decision of the Supreme Court, if allowed to stand, will wreak havoc with our Federal system of government. The keystone of the system of checks and balances which has served our country so well is obviously the separation of powers; to state that Federal courts now have the power to levy taxes totally upends the system, and threatens an end to representative government.

I am again introducing legislation calling for a constitutional amendment to prohibit Federal courts from levying or increasing taxes. I believe this is the only sure-fire remedy available to counter what amounts to a naked grab by the judiciary for the legislative power of Congress. If Congress does not take fast, preventive action, the unelected judicial branch of government will increasingly impose its will on U.S. citizens without offering them any recourse.

The restriction on judicial taxation would extend to the Supreme Court, and to Federal inferior courts as well. The court's decision represents a very real threat to our system of government, and I urge my colleagues to join me in this effort to preserve the separation of powers envisioned by the Founding Fathers and prescribed by the Constitution.

THE ALLIED HEALTH PROFESSIONS PROMOTION ACT OF 1991

HON. TERRY L. BRUCE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. BRUCE. Mr. Speaker, I rise today to introduce the Allied Health Professions Act of 1991. This legislation is also being introduced on the Senate side by Senator TOM HARKIN of Iowa.

In the rehabilitation fields the vacancy rates for available personnel have risen up to as much as 20 percent in some regions, while in others, almost every slot is empty. For those who want to become physical and occupational therapists, they have the pick of almost any area of the country or any place to work, because there are seven jobs for every one physical or occupational therapist.

In the next 30 years, the number of Americans over the age of 65 will increase from 21 million to 54 million. The demand for all health care workers will increase by 42 percent by the year 2000, because of the increased average age. The demand for physical therapists will increase by 87 percent. In contrast to this, the entire labor force is expected to increase by only 19 percent.

While the demand will continue to climb for health care professionals, the supply will not. The American Medical Association reports that the number of graduates of professional programs and the quality of these graduates has been declining steadily.

The baby boom days have ended and the labor pool is decreasing. Today the majority of health care workers are women, but the opportunities for women in other fields have increased dramatically during the past 20 years. The health care field is also suffering from a poor image, low salaries, and long hours.

The bill that I am introducing today will help many involved in the allied health field. An allied health professional can be almost anyone involved in health care—be it a clinical technician, a physical therapist, or an occupational therapist.

Funding increases will be authorized through this legislation for those allied health programs most in need, particularly in fields relating to the care and rehabilitation of the elderly and disabled. Recruitment, improved teaching programs, and traineeships will help recruit talented individuals into the rehabilitation field. In addition, an advisory council will be set up through the Health Resources Services Administration.

I am very concerned with the state of our country's health care system. I believe that with legislation such as this we will come closer to finding a solution to the access to care crisis. This bill will help improve the quality of care and the number of health care professionals in the rehabilitation field. As our country's population ages and our medicine becomes more sophisticated, the need for physical therapists, occupational therapists, and many more health care professionals increases. Congress must not wait for this crisis to grow before acting.

H.R. 1466

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Allied Health Professionals Promotion Act of 1991".

SEC. 2. REFERENCES.

Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act (42 U.S.C. 201 et seq.).

SEC. 3. USE AND AUTHORIZATION OF PROJECT GRANTS AND CONTRACTS.

(a) USE.—Section 796(b) (42 U.S.C. 295h-5(b)) is amended by adding at the end thereof the following new paragraph:

"(3) The Secretary shall allocate 75 percent of the funds authorized under section (d) for grants and contracts made or entered into under subsection (a) to those allied health fields or specialties as the Secretary shall, from time to time, determine to have—

"(A) the most significant national or regional shortages of practitioners; and

"(B) as significant role in the care and rehabilitation of clients and patients who are elderly or disabled.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Subsection (d) of section 796 (42 U.S.C. 295h-5(d)) is amended to read as follows:

"(d) For the purpose of making payments under grants and contracts under subsection (a), there are authorized to be appropriated $7,000,000 for fiscal year 1992, $9,000,000 for fiscal year 1993, and $11,000,000 for fiscal year 1994.".

SEC. 4. ALLIED HEALTH STUDENT TRAINEESHIPS.

Title VII is amended by adding after section 796 (42 U.S.C. 295h-5) the following new section:

"SEC. 796A. ALLIED HEALTH STUDENT TRAINEESHIPS.

"(a) GRANTS.—The Secretary may make grants to, and enter into contracts with, public and nonpublic private schools of allied health, or other educational entities offering an allied health program, to assist students in meeting the costs of entry level education.

"(b) USE OF GRANTS.—Grants or contracts awarded under subsection (a) shall be used to assist in the payment of costs associated with tuition, fees, and such other stipends and allowances for trainees as the Secretary may consider necessary.

"(c) LIMITATION.—The Secretary shall allocate 75 percent of the funds authorized for grants and contracts made or entered into under subsection (a) to those allied health fields or specialties as the Secretary shall, from time to time, determine to have—

"(1) the most significant national or regional shortages of practitioners; and

"(2) a significant role in the care and rehabilitation of clients and patients who are elderly or disabled.

"(d) TAXATION.—Notwithstanding any other provision of law, any payment to, or on behalf of, a participating student of tuition under this section shall be exempt from taxation.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $10,000,000 for fiscal year 1992, $12,000,000 for fiscal year 1993, and $14,000,000 for fiscal year 1994.".

"SEC. 5. ADVANCED TRAINING OF ALLIED HEALTH PERSONNEL.

Section 797 (42 U.S.C. 295h-6(c)) is amended—

"(1) in subsection (a), in paragraphs (1) and (2), by striking "doctoral" each place such term appears and inserting "postgraduate"; and

"(2) by amending subsection (c) to read as follows:

"(c) AUTHORIZATION OF APPROPRIATIONS.—For purposes of making payments under grants and contracts under subsection (a), there are authorized to be appropriated $7,000,000 for fiscal year 1992, $9,000,000 for fiscal year 1993, and $11,000,000 for fiscal year 1994.".

SEC. 6. ADVISORY COUNCIL ON ALLIED HEALTH.

Subpart II of part G (42 U.S.C. 295h-4 et seq.) is amended by adding at the end thereof of the following new section:

"SEC. 798A. ADVISORY COUNCIL ON ALLIED HEALTH.

"(a) ESTABLISHMENT.—There is established within the Health Resources and Services Administration an Advisory Council on Allied Health (hereafter in this section referred to as the 'Council'). The Council shall—

"(1) meet twice annually to provide advice and make recommendations to the Secretary, the Administrator of the Health Resources and Services Administration, and to the Committees on Labor and Human Resources and Finance of the Senate and the Committees on Energy and Commerce and Ways and Means of the House of Representatives, with respect to—

"(A) the supply and distribution of allied health personnel in the United States;

"(B) current and future shortages or excesses of allied health personnel;

"(C) priority research needs within the allied health professions;

"(D) appropriate Federal policies with respect to the matters specified in subparagraphs (A), (B), and (C), including policies concerning changes in the financing of undergraduate and graduate allied health programs, changes in the types of allied health education, and the appropriate Federal role in the development of a research base in the allied health profession;

"(E) appropriate efforts to be carried out by health care facilities, schools and programs of allied health, and professional associations with respect to the matters specified in subparagraphs (A), (B), and (C), including efforts for changes in undergraduate and graduate allied health education programs, and private support for research initiatives;

"(F) deficiencies and needs for improvements in existing data bases concerning the supply and distribution of training programs for allied health in the United States and steps that should be taken to eliminate those deficiencies; and

"(G) problems, and recommendations for their resolution, relating to the roles and functions of professionals within the allied health fields and other fields such as medicine and dentistry; and

"(2) encourage entities providing allied health education to conduct activities to voluntarily achieve the recommendations of the Council under paragraph (1)(E).

"(b) COMPOSITION.—The Council shall be composed of—

"(1) the Assistant Secretary for Health;

"(2) the Administrator of the Health Care Financing Administration;

"(3) the Assistant Secretary for Defense (Health Affairs);

"(4) the Chief Medical Director of the Department of Veterans Affairs;

"(5) eight members appointed by the Secretary to represent the allied health professions, of which 2 shall be representatives of such professionals who provide rehabilitation services; and

"(6) five members appointed by the Secretary, including representatives of schools and programs of allied health, health care facility employers of allied health personnel, health insurers, and professional organizations representing the allied health professions.

"(c) APPOINTMENT.—

"(1) TERMS.—Members of the Council appointed under paragraphs (4) and (5) of subsection (b) shall be appointed for a term of 4 years, or until a replacement is appointed, except that the term of office of three of the members first appointed shall expire, as designated by the Secretary at the time of appointment, at the end of 4 years.

"(2) TIME FOR APPOINTMENT.—The Secretary shall appoint the first members to the Council under paragraphs (4) and (5) of subsection (b) not later than 60 days after the date of the enactment of the Allied Health Professionals Promotion Act of 1991.

"(d) CHAIRPERSON.—The Council shall elect one of its members as Chairperson of the Council.

"(e) QUORUM.—Nine members of the Council shall constitute a quorum, but a lesser number may hold hearings.

"(f) VACANCIES.—Any vacancy in the Council shall not affect its power to function.

"(g) COMPENSATION.—Each member of the Council who is not otherwise employed by the United States Government shall receive compensation at a rate not greater than the daily rate prescribed for GS-18 under the General Schedule under section 5332 of title 5, United States Code, for each day, including traveltime, such member is engaged in the actual performance of duties as a member of the Council. A member of the Council who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Council shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

"(h) ADMINISTRATION.—

"(1) IN GENERAL.—To carry out this section, the Council may—

"(A) collect such information, hold such hearings, and sit and act at such times and places, either as a whole or by subcommittee, and request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as the Council or such subcommittee may consider available; and

"(B) request the cooperation and assistance of Federal departments, agencies, and instrumentalities, and such departments, agencies, and instrumentalities, are authorized to provide such cooperation and assistance.

"(2) COORDINATION.—The Council shall coordinate activities carried out under this section with the activities of the National Advisory Council on Health Professions Education under section 702 and with the activities of the Secretary under section 708. The Secretary shall, in cooperation with the Council and pursuant to the recommendations of the Council, take such steps as are practicable to eliminate deficiencies in the data base established under section 708 and shall make available in its reports such comprehensive data sets as are developed pursuant to this section.

"(i) REPORTS.—In the reports required under subsection (a), the Council shall specify its activities during the period for which the report is made.".

SEC. 7. DEFINITIONS REGARDING ALLIED HEALTH.

"(a) ALLIED HEALTH PROFESSIONAL.—Section 701(13) (42 U.S.C. 292a(13)) is amended in the matter preceding subparagraph (A) by striking "means" and inserting the following: "does not include any registered nurse and otherwise means".

"(b) ALLIED HEALTH PERSONNEL.—Section 795(1) (42 U.S.C. 295h-4(1)) is amended by striking "means" and inserting the following: "does not include any registered nurse and otherwise means".

SEC. 8. EFFECTIVE DATE.

The amendments made by this Act shall take effect October 1, 1991, or upon the date of the enactment of this Act, whichever occurs later.

INTRODUCTION OF LEGISLATION TO DIVEST THE SAN CARLOS INDIAN IRRIGATION PROJECT

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. KOLBE. Mr. Speaker, along with Chairman UDALL and the other Members of the Arizona delegation, I am today introducing legislation to authorize the Secretary of the Interior to divest the San Carlos Indian irrigation project's power transmission and distribution system. Although we first introduced this legislation in April 1987, divestiture actually has been in the making for over 6 years.

The reasons for divestiture are clear. The system was built for the Gila River Indian community and the San Carlos irrigation and drainage district, who together still owe about

$9 million for the cost of constructing the system. Both are completely dissatisfied with the management of the system by the Bureau of Indian affairs.

The San Carlos Apache Tribe is similarly dissatisfied with the operation of the system. The tribe claims it has never received the benefits promised to them by Congress, and would like to operate that portion of the system that is on their reservation.

Federal Indian policy is abundantly clear that if the tribes desire to operate their own electrical systems—or any other program, for that matter—then, in the name of self determination, they should be allowed to do so.

Further, if the tribes, rather than BIA, operate their own electrical systems, there is no reason why the BIA, whose very purpose is to serve Indians, should operate an off-reservation electrical system to serve non-Indians.

In addition, the nonreservation residents of Pinal County served by the project have repeatedly complained about unreliable service and mismanagement of the SCIP system by the BIA.

A recently completed audit of the project, the first 65 years, confirms the claims of the tribes and non-Indians. The audit makes painfully clear that the system has labored under decades old mismanagement, nonfeasance and neglect.

The legislation that I am introducing today will accomplish many important goals. First, the central Arizona communities will enjoy a significantly more reliable and certain electrical system. Second, the Department of the Interior will be rid of a system that has outgrown its original purpose. Third, the Gila River and San Carlos Apache Tribes will have the opportunity to pursue their rights to self-determination and economic self-sufficiency.

Moreover, this bill will settle debt obligations of the two principal clients of the San Carlos project: the San Carlos irrigation and drainage district and the Gila River Indian community. The money received from these debt settlements will be used to establish an environmental protection account. This account will be available to solve problems that may arise associated with the disposal of transformers or equipment which contain hazardous materials.

I would also like to say a few words about the project employees. Approximately 65 people whose jobs are related to the power system may be affected by divestiture. We pledge to make sure they are treated fairly. Their services will continue to be a valuable resource and I am confident they will have opportunities to use their abilities. We have included in the bill language that will provide a variety of post-divestiture opportunities and benefits to them. This legislation is not intended to reflect on their work. The SCIP employees are dedicated and capable professionals. The Federal Government has simply not been able to devote the necessary resources to a project that serves a different purpose than originally intended.

For over 6 years all parties involved with divestiture have worked extremely hard to respond to various concerns and issues as they arose. All interested parties have had ample opportunities to be heard. Last year, the divestiture bill that was introduced was an excellent piece of legislation. Just before the end of the session, however, several final issues were raised by the BIA and the Office of Management and Budget. Those issues have been fairly dealt with in this year's bill. Although the process has at times been slow and tortuous, the result of years of refining, amending, and perfecting the divestiture are evident in this outstanding legislation.

I am hopeful that the bill will receive an early hearing and that a quick and successful disposition of the San Carlos irrigation project will result. The Indian population the project was designed to serve, the irrigation district, the electric consumers of eastern Pinal County, and the taxpayers of America will all be better for our efforts.

SMALL BUSINESS AND OTHERS NEED CERTAINTY UNDER SUPERFUND

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. LAFALCE. Mr. Speaker, last year, I was honored to have over 290 of my colleagues join me in proposing legislation, H.R. 4494, to clarify an area of environmental law that adversely impacts businesses of all types.

Last week I introduced new legislation—H.R. 1450—that aims to clarify the exemption in the Superfund law for secured parties, an exemption that was part of the original law in 1980. This clarification is based on a draft rule prepared by EPA, after EPA gave careful consideration to all the competing arguments of environmentalists and lenders alike. I believe EPA crafted a balance rule to accommodate those competing concerns. Action on this issue is crucial.

During the 101st Congress, the Small Business Committee held hearings to explore the impact of the current uncertainty regarding the exemption provisions on lending to small business. This uncertainty resulted from a series of court cases since 1985. This uncertainty has adversely affected the ability of otherwise good businesses to borrow funds.

Testimony from Government agencies, business community representatives, environmentalists, and bankers made clear that banks and other lending institutions are increasingly refusing loans to creditworthy small businesses that either use hazardous materials or are located in areas of possible contamination because of fears regarding potential liability generated by court action. In the continuing credit crunch in which we find ourselves, we cannot tolerate unnecessary impediments to appropriate lending.

It is noteworthy that EPA itself acknowledged that legislation might well be necessary, even if a rule were eventually promulgated, to provide certainty through statutory guidance. As previous EPA testimony indicates, the agency is itself acutely aware that the current uncertainty is impacting adversely on the ability of a range of busnesses to obtain financing, even for projects directed at environmental cleanup.

One of the major motivations behind my revision of this legislation was to address what I believe to be legitimate concerns advanced by the environmental community. This revised legislation provides important inducements for the conduct of environmental assessments; clarifies that lenders and other parties who are directly responsible for environmental damage do not escape appropriate but limited liability; precludes the use of sham trusts to evade liability; leaves in place existing protections against undue enrichment for lenders as the result of environmental cleanups; ensures that parties actually exercising the responsibilities of owner/operators cannot avail themselves inappropriately of the exemption; encourages lenders to take action to remedy enviromental damage rather than walk away from their collateral; and requires lenders foreclosing on property to move diligently to dispose of that property in order to remain within the bounds of the exemption.

Mr. Speaker, I fully believe that this revised legislation optimally balances the legitimate but competing interests involved in this issue. Drawn from EPA draft language for the most part and responding to environmental concerns, this bill provides benefits for everyone—business can find financings, environmental groups can gain comfort that lenders have pressures upon them to do a good job in the environmental area, the government agencies and the private financial community can have certainty in dealing with existing and new financial arangements, and Superfund and EPA should see benefits in terms of greater certainty and increased activity by parties in preventing discharges and acting on private cleanups.

We need legislation and we need it soon, if capital is again to flow freely to creditworthy businesses. I urge my colleagues to work for the early consideration and enactment of legislation on this issue.

The legislation follows:

H.R. 1450

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Subsection 101(20) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(20)) is amended—

(1) by striking the last sentence of paragraph 101(20)(A) and by inserting the following new paragraphs 101(20) (E) and (F):

"(E)(i) The term 'owner or operator' does not include a person who, without participating in the management of a vessel or facility, holds indicia of ownership primarily to protect his or her security interest in the vessel or facility.

"(ii) The term 'indicia of ownership' means any interest in a vessel or facility acquired either (I) for the purpose of securing payment of a loan or indebtedness or the performance of an obligation, including the performance of a lease obligation or (II) in the course of protecting a security interest.

"(iii) The term 'participating in the management of a vessel or facility' means the actual, direct, and continual or recurrent exercise of managerial control by a person over the vessel or facility in which he or she holds a security interest, which managerial control materially divests the borrower, debtor, or obligor of such control.

"(iv) The term 'primarily to protect his or her security interest' includes but is not limited to ownership interests acquired as a consequence of exercising rights as a security interest holder respecting a vessel or facility, where such exercise is necessary or appropriate to protect the security interest, to preserve the value of the collateral, or to recover a loan or indebtedness or to redress an obligation secured by such interest. A person who holds indicia of ownership in a vessel or facility and who acquires title or a right to title to such property upon default under the security arrangement, or at, or in lieu of, foreclosure, shall continue to hold such indicia of ownership primarily to protect his or her security interest so long as he or she diligently is proceeding to sell or convey title or the right to title on commercially reasonable terms at the earliest possible time while preserving the property in the interim.

"(v) Actions taken by a person to foreclose, sell, or otherwise cause the transfer of the vessel or facility subject to his or her security interest, or to preserve and protect the value of such vessel or facility, or otherwise to exercise rights of a security interest holder specified in subparagraph (iv) above, or to assist the borrower, debtor, or obligor in winding down its operations or activities related to such vessel or facility shall not be deemed 'participating in the management of a vessel or facility' within the meaning of this paragraph. Completion of an environmental inspection or evaluation consistent with good commercial or customary practice by or for the use of a security holder is probative evidence that the security holder is acting to preserve and protect the vessel or facility during the time the security holder may have possession or control of such vessel or facility.

"(vi) A person who, in taking actions referred to in subparagraph (v) above respecting a vessel or facility, causes or exacerbates a release or threatened release of a hazardous substance shall be liable for the cost of such response, to the extent that the release or threatened release is attributable to the person's activities.

"(F)(i) A fiduciary or trustee who acquires ownership or control of a vessel or facility without having owned, operated or participated in the management of that vessel or facility prior to assuming ownership or control as fiduciary or trustee shall not be an owner or operator under this Act.

"(ii) A fiduciary or trustee who willfully, knowingly, or recklessly causes or exacerbates a release or threatened release of a hazardous substance shall be liable for the cost of such response, to the extent that the release or threatened release is attributable to the fiduciary's or trustee's activities.

"(iii) Nothing in this subsection shall prevent claims against the assets that constitute the estate held by the fiduciary or trustee or the filing of actions against the fiduciary or trustee in its representative capacity"; and

(b) by adding at the end of subsection 107(a) the following sentence: "The liability established by subparagraphs 101(20) (E)(vi) and (F)(ii) shall be deemed to arise under this subsection."

SEC. 2. The Resource Conservation and Recovery Act of 1976 is amended—

(a) by adding at the end of section 1004 the following paragraph:

"(41) The terms 'owner,' 'operator,' 'generator' and 'transporter' do not include a person who would not be an owner or operator within the meaning of paragraphs 101(20) (E) and (F) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.''; and

(b) by adding at the end of paragraph 9003(h)(9) the following sentence: "This definition shall be construed to be parallel and comparable to that specified in paragraph 101(20)(E) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980."

LEAVE CREDIT UNIONS ALONE

HON. LARRY LaROCCO

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. LAROCCO. Mr. Speaker, on February 5, Treasury Secretary Nicholas Brady unveiled and transmitted to Congress the long anticipated FIRREA mandated study for reform of our Nation's financial institution system. Entitled "Modernizing the Financial System: Recommendations for Safer, More Competitive Banks," this 650-page manuscript provides a broad description of the legislative proposal the administration will soon be submitting to Congress.

Included in the Treasury Secretary's recommendations for reform are suggestions that the regulatory and insurance systems under which credit unions function be overhauled. I am troubled by these suggestions, since credit unions—alone as a class of institutions—have survived and prospered despite the economic stresses which were the undoing of so many other, for profit, institutions.

I would like to align myself with remarks delivered recently by the distinguished chairman of the House Banking Subcommittee on Financial Institution Regulation, Supervision, and Insurance, Mr. ANNUNZIO of Illinois, who has pledged to offer an amendment to strike any provision for us and which unfairly changes the way credit unions and their Federal regulators do business. His message is one I closely identify with: "Leave credit unions alone."

A partial text of his remarks follow:

REMARKS OF HON. FRANK ANNUNZIO

Some 20 years ago, Wright Patman, the Godfather of credit unions, said quote, "next to the church, credit unions do more good for people than any other institution." That statement is equally true today, particularly in light of the spectacular successes our troops are having in the Persian Gulf War. Many of our troops are credit union members, and I know it gives our men and women in the desert a sense of comfort to know that their credit union is helping them through some tough financial times.

For example, the Wright Patman Federal Credit Union here at the House of Representatives has waived all interest on loans to servicemen and women in the Gulf while they are on active duty. The credit union didn't have to do it, and it didn't wait for the shooting to start, but put the program in operation the day the first reservists were called up, months ago.

We have many financial problems in this country. We have a problem with the savings and loans. The banks are having problems, and the FDIC fund is nearly bankrupt and may cause the taxpayers an even bigger problem. But what we don't have is a credit union problem. The National Credit Union Share Insurance Fund is the only Federal insurance fund that is on a sound footing and in no danger of needing taxpayer help. Only a mother's arms are safer than the Credit Union Share Insurance Fund.

So guess what plan the Treasury Department has to solve our financial problems. Instead of coming up with a plan to restore the Bank Insurance Fund, the Treasury wants to tamper with the credit union fund—the only solid fund.

Next week Treasury is planning to send its financial reform package to the Congress. The Subcommittee on Financial Institutions, which I chair, will begin hearings immediately. When we vote on that legislation, I will offer an amendment to strike out any provision that unfairly changes the way credit unions and their Federal regulators do business. And I predict that my amendment will be passed overwhelmingly.

My message to those who seek to damage the credit union spirit and to make unnecessary credit union changes is simple. Leave credit unions alone.

INTRODUCTION OF THE HEALTH INSURANCE FOR THE UNEMPLOYED ACT OF 1991

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. STARK. Mr. Speaker, I am pleased to introduce H.R. 1492, the Health Insurance for the Unemployed Act of 1991.

Since the summer of last year, the economy of the United States has been sliding into a recession. The unemployment rate was 5.3 percent in the first half of 1990 and is projected to increase to a peak of 6.9 percent in 1991. Given this increase, an additional 2 million people will be unemployed in 1991 than in 1990. As many as 20 million people are likely to experience some period of unemployment during the year.

These national averages mask the fact that in many States, the actual unemployment situation will be much worse.

Many of these workers, and their dependants, are losing not only their income, but often also their protection against the high cost of health care—their health insurance. In the case of illness, they may face complete and total financial ruin.

Increasing numbers of unemployed will swell the ranks of the uninsured—people without health insurance. The uninsured are already placing intolerable strains on our health care system. Public hospitals and community health centers, providers that typically bear the burden of caring for the poor and uninsured, are already seeing increases in the demands for their attention. Resources that are only minimally adequate are being forced to stretch even further.

There are provisions in current law that enable people who have lost their jobs to purchase health insurance coverage from their prior employer. Known as the COBRA continuation requirements, individuals can purchase this insurance for up to 18 months for the full cost of coverage. The premium for this coverage is priced at group rates, as opposed to the more expensive individual rates.

However, the availability of this coverage offers little consolation to the long-term unemployed during a recession. The average monthly cost of family coverage under COBRA can exceed an estimated $400 per month, while the average monthly unemployment compensation check is only $730.

A family may be willing to commit to this level of expense when the prospects for reemployment are good. In times of recession, families are more likely to forgo this needed coverage, husband their resources, and simply hope to stay healthy.

It is also true that many of the short-term unemployed retain some type of health coverage, usually through their spouse's employment, or through special separation benefits from their prior employer or union.

However, the probability that an unemployed person will have some form of health insurance declines as the period of unemployment lengthens. Thus, the long-term unemployed are less likely than the short-term unemployed to have any form of health insurance.

The bill I am introducing today, the Health Insurance for the Unemployed Act of 1991, would make health insurance available to the long-term unemployed.

Under this bill, individuals who qualify for extended unemployment compensation benefits would also be entitled to enroll in the Medicare Program. Enrollment could be on either an individual or family basis. Thus, each enrolled person would have coverage for the cost of hospital and physician services in the case of illness.

The individual would be required to pay a modest weekly premium that would be deducted from his or her weekly unemployment compensation check. This premium would be equal to the premium that currently applies to the part B program under Medicare on a weekly basis. In 1991, the weekly premium would be $6.90. For approximately twice that amount, $14.15, the individual could elect family coverage.

When using services, the covered individual would also be responsible for paying Medicare's usual deductible and coinsurance amounts.

The coverage made available under this bill would be limited to those weeks during which extended unemployment compensation benefits are paid.

It is important to recognize that the Medicare program offers the most efficient and cost-effective program for providing these important health insurance benefits.

Medicare is the most effective insurance program in the country at controlling the growth in health care costs. While the annual real increase in national health care expenditures from 1985 through 1988 in the private sector was 4.3 percent, Medicare's real costs increased by only two-thirds as fast, 2.9 percent.

Medicare also has an efficient administrative structure. Only 2.5 percent of Medicare's total costs are for administrative expenses. Private insurers typically spend between 10 and 15 percent of their costs on administration.

Mr. Speaker, under current law, very few individuals are able to qualify for extended unemployment compensation benefits. Thus, relatively few people would qualify for the health benefits proposed in this bill.

My colleague, Mr. DOWNEY, has introduced a bill, H.R. 1367, the Unemployment Insurance Reform Act of 1991 that would, among other things, expand the pool of workers that would be eligible for extended unemployment compensation benefits.

I hope that the bill I am introducing today would be considered in the context of expanded availability of long-term unemployment benefits.

The proposed legislation is currently under review by the Congressional Budget Office. The bill has been drafted without the financing necessary to cover its costs. I fully anticipate that these benefits, if adopted by the Committee on Ways and Means, will be fully financed on the required pay-as-you-go basis.

I urge my colleagues to support this bill and move for its timely consideration.

A section-by-section summary of the bill follows:

SECTION-BY-SECTION SUMMARY OF THE HEALTH CARE FOR THE UNEMPLOYED ACT OF 1991

Section 1. Title

Section 2. Medicare Benefits for Individuals Receiving Certain Unemployment Benefits

The bill would amend the Federal-State Extended Unemployment Compensation Act of 1970 to provide that individuals receiving extended benefits under either the unemployment compensation program or trade adjustment allowances would be eligible to elect to receive Medicare coverage. These individuals could also elect family coverage which would provide Medicare benefits for their spouse and dependant children.

The coverage would apply to weeks during which the individual received extended benefits.

Individuals electing Medicare coverage would be required to pay a weekly premium. For individual coverage, the premium would be equal to the monthly Part B premium divided by 4.35, the average weeks in a month. The premium would be $6.90 in 1991. For family coverage, the premium would be 2.07 times the individual premium, reflecting the average family size of such individuals.

The applicable premium would be deducted from the extended benefit cash payment.

The premium amounts deducted from the cash benefits would be transferred into the Hospital Insurance (HI) and Supplementary Medical Insurance (SMI) trust funds. Sixty percent of the premium amounts would go into the HI trust fund, and the remainder into the SMI trust fund.

The bill provides that the Secretary of Labor would transmit information to the Secretary of Health and Human Services regarding the individuals who elect Medicare coverage and the duration of their eligibility of such coverage.

The Secretary of Labor would enter into agreements with States to administer the enrollment in and disenrollment from Medicare of individuals who qualify for Medicare as a result of receiving extended unemployment benefits. The States would also perform certain other administrative functions relating to providing information and notice to workers regarding these health benefits.

Section 3. Medicare coverage and COBRA Continuation for Individuals receiving Extended Compensation or Trade Readjustment Allowances

The bill amends Title XVIII of the Social Security Act to provide for Medicare benefits to individuals receiving extended compensation or trade readjustment allowances. The benefits would be available on the same basis as for other individuals entitled to Medicare, except that they would not be allowed to enroll in a Medicare cost or risk-contracting health maintenance organization.

The Secretary of Health and Human Services would be permitted to make adjustments in the rates of payments to hospitals and physicians to take into account the characteristics of the population enrolling as a result of the bill.

The bill amends Section 4980B of the Internal Revenue Code which provides for the so-called COBRA continuation coverage. Under COBRA coverage, individuals who lose their group health insurance coverage due to job loss and other specified reasons may purchase health insurance from their prior employer for up to 18 months at no more than 102 percent of the group rate. This bill provides that, for the purpose of determining the months of eligibility for continuation coverage under COBRA, the maximum coverage would be increased by the weeks that such individual elects coverage for Medicare under this bill.

CAMPAIGN FINANCE NEEDED TO RESTORE CONFIDENCE IN CONGRESS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. MAZZOLI. Mr. Speaker, I commend to the attention of my colleagues the following editorial from the March 3 Louisville Courier-Journal which underscores the need for Congress to reform its election finance laws.

Campaign finance reform is vital to assuring that Government serves all citizens, not just monied special interests, and to restoring the faith of our citizens in the political system.

I am a proud original cosponsor of H.R. 1177, the Clean and Fair Elections Act of 1991, introduced by Representatives MIKE SYNAR and DAN GLICKMAN on February 28.

This comprehensive legislation establishes voluntary spending limits for campaigns in exchange for discounted broadcast and postal rates, special communication vouchers, and a 100 percent tax credit for small contributors.

H.R. 1177 also limits Political Action Committee [PAC] contributions to $1,000 and limits the amount of a candidate's total treasury that can be made up from PAC contributions.

H.R. 1177 strengthens current regulations governing independent expenditures and restricts the use of soft money and bundling.

Mr. Speaker, I believe my colleagues will find this editorial interesting—if not disturbing—and I hope it serves notice that campaign finance reform should be a high priority this Congress.

AN ASSEMBLAGE OF FIXERS

It's not easy for us to quote Sen. Jesse Helms with approval. However, in his impatient remarks during the Senate Ethics Committee investigation of the Keating Five, he voiced conclusions that any reasonable citizen must share.

"I don't believe anybody would have been involved with Mr. Keating if he didn't have the ability to give other people's money away," the senator declared. That's the way it looks to many Americans.

Sen. Helms' committee colleagues, especially Democrats, tended to be more charitable. They reserved their only serious rebuke for Sen. Alan Cranston of California, whose "impermissible" conduct was too obvious to ignore.

He benefited most from the generosity of Charles Keating, the infamous savings-and-loan magnate who funneled $900,000 to Cranston political causes. And the links, in time and place, between the dollars and the senator's efforts to help Mr. Keating fend off U.S. regulators were, as the committee tenderly put it, substantial.

So he faces disciplinary action, probably a reprimand, by the full Senate. The four others, who received less, but still considerable help from Mr. Keating for various political campaigns, were mildly berated for having exercised poor judgment. The committee decided that was severe enough even though two of them had been particularly aggressive in their interventions on behalf of Mr. Keating's Lincoln Savings & Loan.

The other two, though they had the sense to pull back early, still had ties to Mr. Keating (whom even the Reagan administration kept at arm's length) that ranged from close to very close. And they were a key part of the phalanx of five powerful senators who confronted a federal bank regulator—an experience that couldn't help but intimidate any bureaucrat.

Will this reassure the public that Congress is getting serious about addressing an ethical dilemma that, to some degree, burdens almost every member? Not a chance.

The Keating Five defended themselves by arguing, much as naughty children do, that, well, everybody does it. Indeed, citizens view Congress more and more as assemblage of fixers who run errands for constituents (i.e. campaign contributors). The routine exchange of access and favors for political money is a way of doing business that is hard to distinguish from organized bribery.

Yet the committee, in judging the Five, had trouble accepting the concept, pushed vehemently by Special Counsel Robert Bennett, that members bring the Senate into disrepute and erode public confidence when they even "appear" to be acting improperly.

Perhaps this humiliating affair will finally move Congress to reform election finance and adopt the kind of "appearance standard" suggested by Mr. Bennett. But don't hold your breath.

DADE PEARLS PROGRAM A SUCCESS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, the most important and enduring lessons we learn come from our parents. When parents show their children by their own example the importance of learning, their children will not soon forget. Many mothers and fathers earnestly desire to pass on a passion for learning to their children but face difficulty in tutoring because of a language barrier. A program called Parents Encourage Achievement in Reading, Learning and Self-Esteem [PEARLS] in many Dade County elementary schools helps parents be more effective teachers of their children.

Recently, at the Fienberg Elementary School in Miami Beach, a PEARLS Program was organized to help parents help their children with learning. In the Fienberg PEARLS Program parents meet with teachers Wednesdays and Saturdays to learn how to help their children develop test-taking skills, build self-esteem, and read and write in English. The program also encourages parents to share in additional activities with their children, such as science fair projects. The workshops are in Spanish, English, and Creole to assist Fienberg's multilingual student population. The Fienberg PEARLS Program is supported by the full faculty and many community volunteers, in particular: Rosa White, assistant principal; Dr. Menia G. Stone, principal; Corrine Thiel, Fredeswinda Torres, Bryna Berman, Linda Cage, Valerie Wilkinson, Geraldine Walton, Octavia Sumlar, Carolyn Curtiss, Ina McNeil, Nancy Mitchell, Leonora Clark, Deborah Gonzales, Deborah Markham (Ruggiero), Dr. Ed Garret, Robin Heckler, and Bernice Gold. These individuals should be noted for their contribution.

The Comstock Elementary School in Miami has had great success with its PEARLS Program now 2 years old. The program has been extremely helpful to a large number of Hispanic students and parents there. With the guidance and enthusiasm of Merwyn Levin, principal; Flor Avila, Elena Arguelles, Jean Sanders, Rosa Fernandez and a hard working faculty, the Comstock School has adapted to the needs of a student body which is 70 percent Hispanic. Mr. Levin attributes a recent increase in test scores in some grades and general academic improvement to the success of the PEARLS Program.

Mr. Speaker, I am encouraged by the success of the Parents Encourage Achievement in Reading, Learning and Self Esteem Program. This program is a testament to the importance of the family to the learning process. Mr. Speaker, as a Florida certified teacher, I know first hand that the best route to helping children with learning problems is through their parents. The PEARLS Program plays a very special role in this parent-teacher relationship by helping parents feel confident in their ability to help their children learn. I commend the participants of the PEARL Program and encourage them to continue to strengthen this vital link between teacher, child and parent.

TRIBUTE TO HUGH O'BRIAN

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. GALLEGLY. Mr. Speaker, I rise today to honor a great Western star and an outstanding humanitarian, Hugh O'Brian, who on Saturday will be honored in my district with a bronze saddle on the Downtown Newhall Western Walk of Stars.

Hugh O'Brian has had a long and distinguished career that has seen him play in a wide variety of roles in movies ranging from "No Business Like Show Business" with Marilyn Monroe to "Twins" with Danny DeVito and Arnold Schwarzenegger. But he will forever be best remembered as the brave, courageous, and bold marshal of Tombstone, AZ, Wyatt Earp, where he helped define the role of the no-nonsense Western lawman.

Now, in its ninth year, the Western Walk of Stars in Santa Clarita, CA, helps us all recall those celluloid heroes of a generation ago who helped us learn that crime did not pay, that a man's word was his bond, and that chivalry and honor were virtues to emulate. Certainly, Hugh O'Brian has earned enshrinement.

But Hugh also is a noted philanthropist, in the spirit of volunteerism that helped make America great. After a meeting with Albert Schweitzer, Hugh became a strong believer in serving humanity, especially in the area of education. That is why he established the Hugh O'Brian Youth Foundation to seek out, recognize, and reward leadership potential in high school sophomores.

Mr. Speaker, I ask my colleagues to join me in honoring this fine actor and humanitarian as he joins the likes of John Wayne, Tex Ritter, and Dennis Weaver as stars honored for celebrating the romance of the Old West.

ROSEMARY JACKSON'S COMMUNITY SERVICE

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. YATRON. Mr. Speaker, I rise today to pay tribute to a woman who is truly a credit to the community of Reading, PA. I am speaking of Ms. Rosemary Jackson, who is being honored by the National Council on Alcoholism and Drug Development. Ms. Jackson has dedicated 30 years of her life to Reading and in so doing has played a major role in various facets of the community. She has provided outstanding service and leadership to health, social work, cultural, religious, and outreach organizations and programs. Through her dedication, she has served as an exemplary member of the Reading community.

In reviewing Ms. Jackson's community activities, a common thread seems to run through them—an interest in health, be it physical or mental health. She has volunteered her expertise in nursing to organizations such as the American Red Cross, Community General Hospital, and Partakes of Drug Programs. Her contributions to these vital organizations were by no means small ones. During her service to the American Red Cross, Ms. Jackson received the First Nurse's pin for 1,000 hours of service. In addition, she dedicated 15 years to the Community General Hospital as a volunteer. Currently, as the institutional coordinator for the Alanon drug program, she is actively involved in organizing drug-related programs in the Reading area. Throughout these years of service, Ms. Jackson has also provided much support to programs helping women in crisis, the displaced, and the needy. Furthermore, her involvement and leadership in the church has remained constant. And this is only a sample of Ms. Jackson's outstanding devotion to the community.

Mr. Speaker, Ms. Jackson has brought inspiration, leadership, and guidance to the

Reading community, and she epitomizes the essence of civic and community service. It is only fitting that she be recognized for her contributions. Indeed, it is an honor and a privilege to thank and commend Ms. Jackson on the House floor for her outstanding service.

ST. FRANCIS HOSPITAL AUXILIARY AND THE NEW WORLD SCHOOL OF THE ARTS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, The St. Francis Hospital Auxiliary held their annual fundraising luncheon on Friday, March 8, featuring the New World Connection from the New World School of the Arts. The St. Francis Hospital Auxiliary has long played a supporting role in the success of St. Francis Hospital which earlier this year celebrated its 65th year of service. The New World Connection from the New World School of Arts is a touring musical theater group which is part of an exciting magnet school program in Miami that promotes the arts in education.

The St. Francis Hospital Auxiliary has dedicated itself to actively supporting the important work of the St. Francis Hospital. The auxiliary has initiated a dynamic scholarship program to encourage hospital staff to seek additional degree in health service and administration. This program was formed in honor of Sister Margaret McManus, the distinguished president of the hospital for 17 years. The auxiliary has also made a significant contribution to the new obstetrics ward.

The auxiliary benefits from the leaderhip of: Robert Jackson, president; Marilyn Charles, vice president; Helen Kurtz, recording; William Altszayler, Estelle Antiles, Bernadette Cunningham, Beatrice Donato, Susan Dunn, Patrick R. Garret, Eleanor Glassman, Dorothy Goldwasser, Florence Jubelirer, Marijo Kinney, Eleanor Lombardi, and Jan Valdesuso.

The New World Connection is a model for the promotion of the arts through the magnet school program in the Dade County schools. The New World Connection is a touring, music theater group led by choreographer, Clay James; production manager, Paula Wane; and musical director, Vic Glaser.

The New World School of the Arts itself is part of the public school system in Dade County. The student body is selected by audition to take part in the school's unique curriculum of the arts and tradition academics. Presently, the school is open to students from grade 10 through the junior year in college.

Beginning in the fall of 1991, the school will offer its program to students grade 9 through a bachelor's degree in fine arts. Under the creative leadership of Theater Director Jorge Gurera, Principal Mandy Offerel and Provost Richard Klein, the New World School of the Arts promises to continue its contribution to the arts and education in Dade County, FL.

These two very different groups in south Florida have in common the pursuit of excellence, one in health care the other in education. The "Sing Into Spring" event sponsored by the St. Francis Hospital Auxiliary helps us to see both diversity and commitment to community in south Florida. I am proud to have the St. Francis Hospital Auxiliary and the New World School of the Arts in my congressional district and I encourage them to continue in their unique contributions to society.

JIM HANLEY RETIRES FROM UPS

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. HOYER. Mr. Speaker, I want to pay tribute today to Jim Hanley, who retired from United Parcel Service in January after 34 years with the company. His career has been marked by loyalty, achievement, and professionalism.

Jim Hanley began his UPS career in 1957 in the Metro New York district as a return clerk. In traditional UPS fashion, he worked his way up the corporate ladder, working also in international assignments for the company in Canada and Germany.

In 1978, Jim was promoted to Nebraska district manager, and continued to be assigned to larger districts, in the west Carolinas, Atlantic region, and finally in February 1983, to metro D.C., based in Burtonsville.

Jim Hanley's years at UPS were marked by his contribution to transportation innovation and efficiency. I've personally worked with Jim on matters beneficial to Maryland, and I join his friends and colleagues in saying that I am sorry to see him go.

Nevertheless, Jim and his wife Diane, who live in Annapolis, MD, will enjoy the benefits of his dedication to the company in the future, and I and all his friends at UPS wish him and his extended family the best of health and happiness in his retirement.

UNFAIR FICA TAX PROVISION

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. DORGAN of North Dakota. Mr. Speaker, today, I am introducing legislation to correct an unfair FICA tax provision that requires some employers to pay FICA taxes on income their employees receive from customers in the form of cash tips.

In 1987, Congress expanded the FICA tax base by requiring employers to pay FICA taxes on the cash tips received by their employees even though the income did not come from the employer. This was, I feel, a mistake. I do not believe that Congress fully understood the adverse consequences of that 1987 decision, and I believe it should be reconsidered.

Right now, employers must treat tips as wages for tax purposes, and pay FICA taxes on all tips earned by their employees. Yet, the Federal Government says to these same businesses—typically a small restaurant—that they can only consider a portion of their employee's tip income as wages for purpose of meeting the minimum wage requirements. As I understand it, the Federal Government tells these businesses that only 50 percent of the minimum wage amount in tips can be called wages for purposes of computing the minimum wage.

I do not think that the Federal Government can have it both ways. It needs to treat tip income the same way for minimum wage purposes as it does for FICA tax purposes. My legislation would do that. Specifically, it would provide that employers pay FICA taxes on all tips that are considered wages for purposes of the minimum wage requirement but that they not be forced to pay FICA taxes on tips above that amount.

We need to remember that tip income is income that passes between a customer and an employee, and the employer has nothing to do with it. Tips are gratuities paid for a service, and Congress has traditionally resisted treating all tips as wages precisely because it was felt tips are not wage income in the traditional sense.

This change in the FICA tax treatment of tips has had a significant impact on a lot of small restaurants in North Dakota and around the country. I think we ought to change this unfair law.

A copy of the bill follows:

H.R. 1472

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RESTORATION OF PRIOR LAW WITH RESPECT TO APPLICATION OF EMPLOYER SOCIAL SECURITY TAX TO CASH TIPS.

(a) GENERAL RULE.—Subsection (q) of section 3121 of the Internal Revenue Code of 1986 (relating to tips included for both employer and employee taxes) is amended—

(1) by striking "BOTH EMPLOYEE AND EMPLOYER TAXES" in the heading and inserting "EMPLOYEE TAXES",

(2) by inserting "other than for purposes of the taxes imposed by section 3111" after "this chapter",

(3) by striking all that follows "such employment" in the first sentence and inserting a period, and

(4) by striking all that follows "at the time received" and inserting a period.

(b) CONFORMING AMENDMENTS.—

(1) Subsections (a) and (b) of section 3111 of such Code are each amended by inserting "and (t)" after "section 3121(a)".

(2) Section 3121 of such Code is amended by inserting after subsection (s) the following new subsection:

"(t) SPECIAL RULE FOR DETERMINING WAGES SUBJECT TO EMPLOYER TAX IN CASE OF CERTAIN EMPLOYERS WHOSE EMPLOYEES RECEIVE INCOME FROM TIPS.—If the wages paid by an employer with respect to employment during any month of an individual who (for services performed in connection with such employment) receives tips which constitute wages, and to which section 3102(a) applies, are less than the total amount which would be payable (with respect to such employment) at the minimum wage rate applicable to such individual under section 6(a)(1) of the Fair Labor Standards Act of 1938 (determined without regard to section 3(m) of such Act), the wages so paid shall be deemed for purposes of section 3111 to be equal to such amount."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to tips received (and wages paid) after December 31, 1991.

A TRIBUTE TO BISHOP RAYMOND J. VONESH ON THE 50TH ANNIVERSARY OF HIS ORDINATION

HON. GEORGE E. SANGMEISTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. SANGMEISTER. Mr. Speaker, I rise today to pay tribute to Bishop Raymond J. Vonesh, auxiliary bishop of Joliet, IL, who will be celebrating the 50th anniversary of his ordination to the priesthood on May 3, 1991.

Bishop Vonesh was ordained a priest on May 3, 1941, and served as an assistant at Sacred Heart Church and Holy Name Cathedral in Chicago. Upon completion of a canon law degree in Rome, he worked at the Chicago Tribunal. In addition, Bishop Vonesh spent 11 years as procurator of St. Mary of the Lake Seminary in Mundelein, IL.

After the passing of the first bishop of Joliet, Father Vonesh was sent by the Chicago Archdiocese to assist the new bishop. It has been Joliet's good fortune that Father Vonesh has remained there.

Father Vonesh became Bishop Vonesh on April 3, 1968, when he was ordained auxiliary bishop of Joliet. Among his many responsibilities, the bishop serves as vicar general for the diocese, episcopal vicar for the permanent diaconate and episcopal vicar for the Hispanic ministry.

Mr. Speaker, Bishop Vonesh is to be commended for 50 years of devoted service to the spiritual needs of his fellow man. I congratulate him on this important milestone and wish him many more happy and productive years in the priesthood.

FAIRNESS IN THE U.S. TAX COURT FOR THE AVERAGE TAXPAYER

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. PANETTA. Mr. Speaker, I am today reintroducing legislation to permit certified public accountants and enrolled agents to practice before the U.S. Tax Court in small tax cases without taking the stringent examination now required of them. This measure was adopted by the House as part of H.R. 3838, the Tax Reform Act of 1986, and H.R. 4170, the Tax Reform Act of 1984. In both instances, however, it was removed from the final bill by the House-Senate conference committee.

This legislation is needed to provide fairness to taxpayers who have disputes with the Internal Revenue Service in cases involving $10,000 or less. Current law denies them an opportunity for the least expensive, most effective possible representation before the Tax Court in these cases.

In determining who may practice before the Tax Court, the court is prevented by current law from denying admission to any individual on account of his "failure to be a member of any profession or calling." However, the law does not prevent the court from establishing rules making it more difficult for members of a particular profession to qualify.

The Tax Court has established separate qualifying rules for attorneys and nonattorneys. Attorneys qualify for practice through a relatively simple procedure which does not require that they show any particular knowledge of tax law and procedures. But nonattorneys, including certified public accountants and enrolled agents authorized to practice before the IRS, must take a difficult written examination which emphasizes court procedures as well as tax law. How difficult is this test? Generally, fewer than 10 percent of those who take the test are able to pass it.

For large tax cases, it makes sense to require a knowledge of both tax law and courtroom procedures for practice before the Tax Court. While CPA's and enrolled agents have proven their knowledge of tax law in order to qualify for their particular licenses, they have not had to display any knowledge of courtroom procedures, and such knowledge could be crucial to their ability to represent clients.

But small tax cases, those involving amounts of under $10,000, are different. Section 7563 of the Internal Revenue Code establishes a less formal procedure for the handling of these cases. Normal court procedures are discarded, and an effort is made to air the facts of the case in a direct, informal manner. The court tries cases under section 7563 only at the request of the taxpayer.

In cases tried under this informal process, there is no need for knowledge of courtroom procedures. Yet CPA's and enrolled agents, who have a demonstrated knowledge of tax law, still may not represent clients in these cases unless they have demonstrated, through the written examination, extensive knowledge of those procedures.

It is the taxpayer who is hurt most by this restriction. Most taxpayers who obtain outside assistance for preparation of income tax returns employ CPA's or enrolled agents. But if they become involved in a dispute with the IRS, they must hire an attorney to take their case before the Tax Court or find one of the few nonattorneys who have qualified to practice.

In small cases, it is very costly for the taxpayer to hire an attorney who is unfamiliar with the case and must be paid to catch up on the details. But the fact is that most attorneys are not even interested in representing taxpayers in small tax cases. The result is that many smaller taxpayers are unable to gain representation. And many who do obtain representation hold up the work of the Tax Court because their attorney or other representative is not familiar with their case. Neither of these results is acceptable.

Enabling the taxpayer to employ the individual who helped prepare his return would not only make it easier for taxpayers to exercise their rights but also greatly expedite many small cases before the Tax Court. And this is increasingly important as the backup of cases before the court remains severe.

This legislation would promote both fairness and efficiency in small cases before the Tax Court. I hope my colleagues will join me in supporting it.

Following is the text of my legislation:

H.R. 1485

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 7463 of the Internal Revenue Code of 1986 (relating to disputes involving $10,000 in tax or less) is amended by adding at the end thereof the following new subsection:

"(g) REPRESENTATION OF TAXPAYER.—In any case in which the proceedings are conducted under this section, any person who is—

"(1) a certified public accountant, or

"(2) an enrolled agent authorized to practice before the Internal Revenue Service,

shall be allowed to represent the taxpayer."

(b) The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

LEGAL AND ETHICAL ISSUES RAISED BY THE HUMAN GENOME PROJECT

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. ANDREWS of Texas. Mr. Speaker, George Bernard Shaw once said: "Science is always wrong. It never solves a problem without creating 10 more." With every major scientific advance, there are problems for society to face. The human genome project is no different. It puts many legal and ethical problems foremost in our minds, but I believe these problems are opportunities, not obstacles.

The human genome project will give us a complete understanding of the human genetic makeup. The possible applications of this ability are endless.

For example, we will be able to complete a genetic profile on every person at birth. Such information will have to be protected. New privacy laws will have to be enacted. Access to genetic profiles will have to be defined.

At the same time, we have a great opportunity. We could use a national database on genetic profiles to fight crime more successfully. With the smallest sample of cells found in connection with a crime, detectives could get positive identification of the criminal.

Another application of genetic profiles will be to prediagnose and treat genetic diseases. This application raises the concern that genetic testing might be unfairly used to deny health benefits and jobs. We must enact laws to prevent discrimination based on genetic profiles.

But we also have an opportunity to create a health care system in which no one is denied access to health care because of their medical condition. This problem exists with our current health care system and will get worse as genetic profiles become commonplace.

We have a similar problem with genetic testing prior to birth. Screening for genetic diseases occurs today and will become more sophisticated as our knowledge increases. The problem here is to prevent selection for the wrong reasons. We cannot allow births to be avoided due to the sex of the child.

Genetic screening may cause the most difficult of the challenges of the human genome project. But the opportunity here is tremendous. We are holding looking at the possibility of ridding the world of all genetic diseases.

It is important to remember that we face all of these issues even without the human genome project. Genetic testing and monitoring are now in use. A study by the Office of Technology Assessment turned up several U.S. companies that perform regular genetic testing on their employees. The human genome project will simply expand the detection of genetic abnormalities and lower the cost of doing so.

Due to this prospect, some Members of Congress have put the burden of addressing the legal and ethical issues on the human genome project. Many legal experts throughout the country have begun to help with this task. But these same Members of Congress have also used these problems to argue for a lower level of funding for the human genome.

Last year, the administration requested $108 million for the human genome project. Congress appropriated $88 million after a debate over the same ethical issues discussed at this conference.

We cannot allow anxiety over the future to break the promise of scientific progress. Congress should not peg the pace of the project to our progress in resolving the many legal and ethical issues. There is no test that we can apply to determine how well we have answered these problems.

The pace of funding should be set by what is scientifically and fiscally feasible. I plan to continue my support for administration's request for full funding.

The promise of the human genome project should be enough to move us forward as fast as possible. The possibilities are limited only by our imagination: It could unlock the mysteries of the 4,000 genetic diseases that afflict humans like sickle cell anemia, hemophilia, and cystic fibrosis. It could create thousands of new pharmaceutical products for treating these diseases. It could start a new field of gene therapy to cure blood diseases and other illnesses that have a genetic component. It could teach us to adapt our diet, environment, and medication to make up for genetic weaknesses.

What we learn from the human genome can be transferred to plant and animal biology. A 1987 Conference on Research Bottlenecks for Commercialization of Plant Technology in Austin, TX, discussed this issue. They found that the lack of basic knowledge of identifying cloned genes for desirable traits in plants has hindered progress.

Some genes for herbicide, virus, and insect resistance have been identified through current research. The human genome project will give us a comprehensive method for genome research in agriculture.

Put simply, the human genome project will give us control of our own destiny. This is the course of science.

Sir William Osler, the father of the modern medical education, stated: "The future belongs to science. More and more science will control the destinies of nations."

The economy of the United States will increasingly depend on biotechnology. One by one, we have watched the pillars of our economy fall: the steel industry, the auto industry, the electronics industry, the energy industry.

Biotechnology and biomedical research are areas where the United States has a clear lead. All the major biotechnology products on the market today were developed in the United States. Here in Houston, the Texas Medical Center is our largest employer.

We do not have to look far for competition. The Japanese, for example, have developed a number of economic development programs to try to overcome the United States. One of their advantages is a patent system that makes it difficult, if not impossible, to get patent protection. The application process is lengthy and crowded with obstacles.

This year, Congress will consider legislation, which I support, to clarify patent protection for biotechnology products. This protection can then be used to keep foreign products out of U.S. markets when they violate our patents.

In addition, I expect that the Japanese patent system will come under scrutiny through an international effort to harmonize patent protection laws.

International competition has often spurred the United States into action on major scientific endeavors: Sputnik caused us to put a man on the Moon. World War II brought about the Manhattan project in Los Alamos.

No one knows exactly where the human genome project will lead us. The possibilities are exciting. I have no doubt that our country's leadership is ready and able to meet the challenges that the human genome project puts to us.

HONORING HAROLD EARL YOUNG, SR.

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. McEWEN. Mr. Speaker, it is with great appreciation that I rise today to honor Harold Earl Young, Sr., who on April 13, 1991, will be 90 years old.

Harold was born in Portsmouth, OH, where he was taught the virtue of hard work, the spirit of voluntarism, and the value of life. His mother, Elizabeth Young, died when Harold was just 9 years old. He then lived with his grandmother, Margaret Hanes Young, until her death 7 years later.

Over the course of his life, Harold has given unselfishly of himself. He supported his family without relying on others or the government by working many jobs like hanging wall paper, painting homes, working on furnaces, and so on.

At the age of 15, and already employed at a garage, Harold was recognized as a hero. The Portsmouth Times reported:

> Although almost exhausted from a long and tiresome swim across the Ohio river, Harold Young 15, Lawson street, without regard for his own safety, bravely (went) to the rescue of Russell Soles, 16, son of Edward Little, Mound street, and saved this boy from drowning.

A year later, Harold was in the news again. This time the story is documented as follows:

> Harold Young, age 16, who is employed in W.J. Patton's Eleventh street garage proved himself a genuine hero Sunday when at the risk of losing his own life, he saved the lives of four companions.
>
> Those whom he rescued from drowning in the Ohio River near the dykes are Melvin Huffman aged 15, Sixth street, Clifford Bear, aged 14, High street, Russell Soles, aged 17, Mound street, and Elmer Dolmatch, aged 18, Robinson Avenue.
>
> Clifford Bear gave out while swimming in deep water and Young quickly realized his danger and swam out to him and then swam to shore with him. Melvin Huffman then gave out from sheer excitement and after going down once he was rescued by Young who remained cool under most extraordinary circumstances. After these two boys were rescued Elmer Dolmatch lost his strength and he too was going down the second time when rescued by Young, whose strength did not fail him despite the fact that Dolmatch kicked him in the stomach while he was being taken to shore. Young then started after Russell Soles who became excited and could not swim any farther and when he got into deep water near the shore a boat came along and assisted Young and Dolmatch to the shore.
>
> Persons who witnessed Young's remarkable feat claim that he is entitled to a Carnegie Medal.

Today, I am happy to report that Harold is still active around his home, working in his garden, and getting his daily exercise by walking to the local parts store and gas station. Harold's hobbies have included painting, wood carving, and solitaire. On most holidays, he travels to Hamilton, OH, to work at his son's nursery, Young's Greenhouse. While he is there he enjoys talking to the customers and advising them on plant care.

Harold married Gladys Marie Clark on September 16, 1922. Gladys was born March 28, 1902 on Blue Run Road in Lucasville. She died on March 3, 1974.

Harold attended the Manly Methodist Church in Portsmouth as a child. He later became a member of the United Brethren Church in Lucasville, and was the superintendent for several years.

Harold's family is very proud of their father, grandfather, and great grandfather. His 10 children include Bessie (Ketter), Bettie, Harold Earl, Jr., James Arthur, Elizabeth Loretta (Coles), David Richard, Margaret Ann (Theiss), John Edward, Joseph, (deceased), and Frank Ernest. He has 17 grandchildren, 16 living and 1 deceased, and 14 great grandchildren.

Harold has served his community with dedication and integrity throughout his lifetime. His tireless spirit and giving heart know no bounds. My dear colleagues, I ask you to join me, and the many friends of Harold Earl Young, Sr., in extending sincere congratulations and gratitude to a person so very much appreciated throughout his community, for giving so much to so many. May he be an example to the rest of us.

A CALL FOR TOUGHER LAWS FOR CRIMES AGAINST THE ELDERLY

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. BILBRAY. Mr. Speaker, I rise today in support of my esteemed colleague from Nevada, the Honorable Senator Harry Reid, and his outstanding work and devotion to the seniors in our State. Senator Reid has been investigating crimes against the elderly and has been searching for ways to improve safety on the streets for our senior citizens. He is determined to strengthen the enforcement for those who commit crimes against our most susceptible citizens. Senator Reid also has the support of a very important senior organization in Nevada called SCAN—Senior Cooperative Alert Network—and therefore, Mr. Speaker, I ask that this article in the SCAN newsletter be included in the Record today.

The article follows:

SCAN Calls for Tough National Laws for Crimes Against the Elderly

On October 2, 1990, a SCAN member was viciously attacked at 11:30 a.m. at a grocery store one mile from her home. The victim is 73 years old and weighs 125 pounds. Her attacker was between 18 and 19 years old and weighed 175 to 200 pounds. He stuck a gun in the victim's side, pulled her out of the car and slammed her onto the pavement.

She sustained a severely crushed left leg, requiring four hours of surgery, ten days in a general hospital and twenty days in a rehabilitation hospital. She is still undergoing out-patient therapy and cannot put any weight on her leg.

And, she is damn mad! The Police Chief explained "how things are" and expressed his regret for her injuries. Yet, no one has been arrested, though there were fingerprints all over her car. She must pay the hospital and medical costs, and she will suffer the consequences of this attack for the rest of her life.

IT'S TIME TO FIGHT BACK!

Senator Harry Reid of Nevada, a member of the Senate Select Committee on Aging, conducted hearings in Las Vegas and Reno, Nevada in August of 1990. The title of the widely publicized hearings was "Crimes Against the Elderly: Let's Fight Back."

SCAN has learned that the Senator is completing research, working with the FBI and other law enforcement agencies and will be introducing a bill in the Senate in late January or early February.

SENIORS MUST SEE THAT TOUGH LAWS ARE PASSED

Those of us who fought for Repeal of the Medicare Catastrophic Act know that there are many Congressmen and Senators concerned about Seniors, especially in the area of crime against Seniors. You must work with your Congressmen to see that legislation is introduced in the House of Representatives and you must contact your Senators and inform them of the work of Senator Reid and let them know that you want tough, national laws passed.

PRICE FIXING PREVENTION ACT OF 1991

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. BROOKS. Mr. Speaker, today I am introducing the Price Fixing Prevention Act of 1991 to end increasing confusion in the Federal courts over the proper substantive and evidentiary standards to be applied in antitrust cases where a manufacturer conspires with a dealer to drive a rival dealer out of business because of that rival's competitive pricing policies.

The retail sector of the American economy is without parallel in the world. From full service to highly innovative discount stores, the American consumer is presented with the widest selection of goods and services at the lowest prices. Without the vigorous pull of competition, however, the number and diversity of retail sources would diminish rapidly, ultimately driving up prices for nearly all consumer goods. For this reason, the antitrust laws were designed to protect against all conspiracies aimed at driving competitors out of the marketplace.

But striking out against such conspiracies has been severely hampered because of two developments: The first involves the continuing failure—even refusal—of the antitrust enforcement agencies to bring vertical price fixing cases in the past 10 years. In fact, it was only through congressional action that we have been able to bar efforts by the Department of Justice to intervene in behalf of defendants charged with price fixing. We can no longer harbor any illusion that public enforcement alone will be a factor in deterring or punishing such conspiracies.

Without public enforcement of the antitrust laws, we can only rely on private enforcement by individuals injured in their business or property. And yet, even the private remedy has been put at risk by two cases decided by the Supreme Court. In Monsanto versus Spray-Rite Corp. and in Business Electronics versus Sharp Electronics, the Court made statements that have now created uncertainty about the proper substantive and evidentiary standards to be applied in cases involving the termination of a dealer as a result of a vertical price fixing conspiracy. In the wake of these decisions, a number of lower courts have erected procedural and substantive barriers which may have prevented many meritorious cases from even reaching the jury.

As the ultimate antitrust policymaker, Congress should now put an end to confusion and clarify precisely what its policy views are in this area. The Price Fixing Prevention Act of 1991 thus has two major provisions: First, it clarifies that if sufficient causation for a Sherman Act section 1 claim is shown by the plaintiff, then an inference of illegal concerted action is raised; and a jury will decide whether the antitrust laws have been violated. Where these requirements are not met, a defendant's ability to obtain a grant of summary disposition under the Federal rules of civil procedure remains unaffected. Second, the bill states plainly that resale price maintenance in all its various forms, other than a maximum price, is illegal per se under the antitrust laws.

The legislation that I am introducing today is identical to a predecessor bill in the 101st Congress, which I sponsored and which this body passed. It is my hope that we may move quickly forward with this legislation so that the bill will reach the President early this Congress. It is quite clear to me that without action by Congress, vertical price fixing will become an increasingly familiar business practice in the marketplace. That would be a disastrous result for the American consumer as well as the general economy, which in times of recession urgently needs the stimulus of consumer spending made possible by discount stores.

I urge you to join with me in supporting this most important legislative effort.

A TRIBUTE TO COL. DONALD W. KLOVSTAD

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. FAZIO. Mr. Speaker, I rise today to pay tribute to Col. Donald W. Klovstad who will depart from McClellan AFB, CA, on March 30, 1991. He has served as the associated director of financial management, Sacramento Air Logistics Center. His new postion is chief of quality for the Air Force.

Colonel Klovstad was born on November 1, 1946, in Fort Worth, TX, and graduated from Castleberry High School in 1964. He completed studies at Oklahoma State University in January 1969, graduating with a bachelor of science degree in marketing.

After receiving his commission through the ROTC program, he assumed duties as a supply officer and had various assignments with the Pacific Air Force and Tactical Air Command, including tours at Ching Chang Kang AFB, Taiwan, and Langley AFB, VA. In 1974, he attended the Air Force Institute of Technology, Wright-Patterson AFB, OH, and graduated with a master of science degree in Logistics. He then became the logistics advisor to the deputy chief of staff for civil engineering, Alaskan Air Command, Elemendorf, AK, from 1975 to 1978. He spent another 2 years at Elmendorf as director of logistics for the 531st Air Control and Warning Group, supporting 13 remote radar stations throughout the State.

Colonel Klovstad entered the Education with Industry Program in 1979, spending a year working with Montgomery Ward in Chicago, IL. In 1980, he took an assignment at Air Force headquarters as acting officer for supply policy where he was the program manager for the development and funding of the European distribution system and the acquisition of the C–23A aircraft. In 1983, he became the HQ USAF congressional liaison. From 1986 to 1987, he served as the commander, 8th Supply Squadron, Kunsan AB, Korea, supporting the F–16 aircraft. The 8th Supply Squadron was selected as Best in PACAF in 1987.

Colonel Klovstad's assignments at SM–ALC include serving as chief of logistics research and systems division in the plans and programs directorate, system program manager for communications electronics, and resources management division chief in the material management directorate. During his most recent assignment, he was involved in the design and implementation of SM–ALC's reorganization. Colonel Klovstad was responsible for the creation of a directorate which coordinates policy, guidance, and procedures for the product directorates and other key organizations. This directorate is responsible for the center's plans and programs, budget, and resources, including land, facilities, and manpower.

Colonel Klovstad's achievements and devotion to the Sacramento community extend beyond his work at the base. He has been involved in a multitude of studies and action groups which were designed to assess and mitigate the impact of any force reduction at McClellan. He had made it his personal goal to limit the negative effects to the Sacramento area of a reduced base population and still ensure that the Air Force mission is accomplished.

Colonel Klovstad is a graduate of Squadron Officers' School and Air Command and Staff College, both located at Maxwell AFB, AL, and the Industrial College of the Armed Forces, Fort McNair, Washington, DC. His military awards and decorations include: The Meritorious Service Medal with Four Oak Leaf Clusters; the Air Force Commendation Medal; the National Defense Service Medal; the Vietnam Service Medal, and the Vietnam Campaign Medal. Colonel Klovstad was "NORAD Officer of the Year, and twice he was selected as the Air Force Outstanding Supply Officer of the Year. He is married to the former Frances Sinclair Cumming of Hampton, VA. They have one daughter, Martha, 13, and have lived in Sacramento, CA, for the past 4 years.

Mr. Speaker, I know my colleagues will join with me today in expressing our sincere appreciation and praise to Col. Donald W. Klovstad on the occasion of his new assignment. I have known and worked with Don for over 10 years. His devotion, skills, and extraordinary contributions to the public sector and the mission of the U.S. Air Force are a shining example to all in our country's military service. In addition, I would like to personally extend my best wishes to Colonel Klovstad and his wife, Frances in the years to come.

INTRODUCTION OF THE PIPELINE SAFETY ACT OF 1991

HON. PHILIP R. SHARP

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. SHARP. Mr. Speaker, I am pleased to introduce the Pipeline Safety Act of 1991. This legislation reauthorizes and expands the two pipeline safety acts, the Natural Gas Pipeline Safety Act of 1968, and the Hazardous Liquid Pipeline Safety Act of 1979. The pipeline safety program has significantly improved in recent years, in part as a result of legislation we have passed, and this bill will continue that progress.

Just 2 days ago we saw an example of why this legislation is needed. The anchor of an oil tanker apparently ruptured an underwater pipeline, spilling over 500 barrels of oil into Santa Monica Bay. This bill will, among other things, reduce the risk of offshore pipeline accidents. It will ensure that pipelines such as the one in Santa Monica Bay will be subject to reporting and inspection requirements as well as safety standards.

Previous accidents, involving both gas and liquids, have resulted in loss of life as well as environmental damage. The bill therefore strengthens and expands the coverage of reporting, inspection, and other safety requirements already in the law.

The bill requires the Department of Transportation and the pipeline industry to do more to prevent pipeline accidents. It sets some ambitious safety goals and gives DOT a fair amount of discretion in how to implement those goals. It also gives the DOT additional resources to do the job well. Since the Pipeline Safety Program has been and will continue to be funded through user fees, this will not affect the budget deficit.

The bill reflects a significant number of lessons learned from the current DOT program, from accidents, including the recent one in Santa Monica Bay, from recommendations of the National Transportation Safey Board, from regulated industry, and other Members of Congress. The bill already represents a significant effort to compromise among the various interested parties. I believe it is a reasonable bill which can form the basis of a consensus on this important program.

The current Pipeline Safety Program authorization expires in October. I intend to work closely with other members of the Energy and Commerce Committee, and with the Committee on Transportation and Public Works, with whom we share jurisdiction over this legislation, as well as our counterparts in the Senate, to pass this bill well before then.

A summary follows:

SUMMARY OF THE PIPELINE SAFETY ACT OF 1991

Section 1. Short Title.

The Short Title of the bill is the Pipeline Safety Act of 1991.

Section 2. Environmental Protection.

This section expands DOT's authority to include environmental protection as a responsibility under the two pipeline safety acts. Historically, DOT has issued safety regulations to prevent damage to property or threats to human life. This section requires DOT to include protection of the environment as an objective when administering the two pipeline safety acts.

This section does not expand DOT's responsibility into those areas of environmental protection that are the responsibility of the Federal Energy Regulatory Commission (FERC), the states or the Corps of Engineers.

Section 3. Environmentally Sensitive and High-Density Population Areas.

This section requires the identification of all natural gas pipelines subject to the NGPSA which pass through areas with a high population density. These pipelines must be included in the pipeline inventory. The bill assumes that DOT will simply use the existing class location definitions of high density population areas. The section recognizes that rural gathering lines by their very definition cannot be located in high population density areas.

The section also requires the identification of all hazardous liquid pipelines which pass through areas with a high population density. These pipelines must be included in the pipeline inventory. The bill assumes that DOT will use a definition similar to the class location used in the gas regulations.

The section also requires the identification of all hazardous liquid pipelines, including all gathering lines, that are located in environmentally sensitive areas. The Secretary of Transportation is required to issue regulations for identifying these areas. The intent of this section is to identify all liquid pipelines which pass through an area where a leak of oil could severely damage the environment.

This section recognizes that pipelines, other than oil pipelines, are regulated under the HLPSA and clearly allows DOT to issue different regulations for pipelines that carry substances other than oil.

Section 4. Increased Inspection Requirements.

This section requires the use of smart pigs in all pipelines identified in section 3, unless smart pigs cannot physically operate in such lines or other methods of inspection can provide an equivalent level of safety. This section establishes the smart pig as the minimum level of inspection required for all pipelines that are located in a high density population area of liquid lines that are in an environmentally sensitive area.

Section 5. Excess Flow Valves.

This section requires the Secretary of Transportation to issue regulations requiring the installation of excess flow valves in new or rebuilt natural gas distribution systems. This section will be eliminated if DOT completes its pending rulemaking related to the issue.

Section 6. Technical Pipeline Safety Standards Committees.

This section requires the appointment of individuals with a background in environmental protection to the Pipeline Safety Standards Committees.

Section 7. Operator Training.

This section mandates the DOT issue minimum operator training requirement for all pipeline operators. Again, recognizing that DOT is in the process of developing a rule on operator training, this section may require modification or deletion.

Section 8. Low Internal Stress Hazardous Liquid Pipeline Facilities.

This section eliminates the blanket exemption from regulation of all pipelines operating at low stress (20% or less SMYS). The Secretary could continue to exempt some low stress lines on the basis of other conditions.

Section 9. User Fees.

This section modifies the consolidated Omnibus Budget Reconciliation Act of 1985 to allow DOT to charge a User Fee for pipeline facilities not in operation but still requiring DOT resources.

Section 10. Pipeline Facility Inspection Amendments.

This section expands existing requirements to inspect for proper burial all pipelines and to report and mark any hazardous conditions that now apply only in the Gulf of Mexico to include all off-shore pipelines and pipelines in navigable waterways, such as rivers. It also makes it clear that underwater pipelines that connect ships to onshore facilities are subject to the Pipeline Safety Act.

Section 11. Gathering Lines.

This section requires the Secretary to define by rule the term gathering line, and to define a class of gathering lines that warrant increased safety regulation.

Section 12. Revised Reporting Requirements.

This section raises the level of damage by a pipeline operator which must be reported from $5,000 to an amount determined by the Secretary (of Transportation).

Section 13. Underground Storage Tanks.

Underground storage tanks which are part of a pipeline facility are currently exempt from certain provisions of the Solid Waste Disposal Act. This section narrows the exemption.

Section 14. Authorization of Appropriations.

Appropriations are authorized for three years.

Section 15. Table of Contents for the NGPSA.

This is a purely technical amendment.

COMPUTERS, AND A SEALED ROOM IN ISRAEL

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. LENT. Mr. Speaker, at the request of a constituent, Mr. J. James Plesser of Hicksville, NY, I am submitting the following two articles for insertion in the CONGRESSIONAL RECORD:

[From the New York Times, Feb. 17, 1991]

COMPUTERS, AND A SEALED ROOM IN ISRAEL

(By Brian Silver)

Tonight I am sitting in a sealed room in Haifa, Israel, thinking about the Department of Commerce in Washington. I hope the plastic sheets that cover the windows and the masking tape that seals the door of my room will hold back the as-yet-to-materialize clouds of never gas and toxins that Iraq's President Saddam Hussein has promised to send us.

This evening I heard the roar of Patriot missiles followed by a wall-shaking blast as a Scud disintegrated over a nearby wadi. The Scuds are not too accurate—plus or minus a couple of miles is considered fine. Not that the Iraqis lack high technology. They might even have access to a Cray supercomputer, something my university does not have—and why I am now mulling the Commerce Department.

Despite our attempts to purchase one, no Israeli university has a Cray supercomputer, a common resource in American and European universities.

Two years ago, the Technion Institute ordered from Cray Research Inc. a lower-range supercomputer, an extremely fast computer for use in unclassified academic research. The United States has so far refused to give Cray an export license.

In September 1989, in search of enlightenment, I traveled to Washington to find out what was holding up the process. I walked the corridors of power—the State Department, the Department of Defense, the Department of Commerce and finally the Pentagon. Everyone, I must say, was very nice.

"Can the Technion buy a Cray?" I would ask. No one said, "Yes." No one said, "No."

One exchange at the Department of Commerce stands out in my mind: I said to a senior official that I could explain why it would not be a danger to the United States if Technion owned a Cray. "Can you give me 10 minutes?" I asked.

"That's the time it takes for a Jericho missile to get from Israel to Baghdad," the senior official said, referring to a surface-to-surface missile designed and built in Israel.

Perhaps it is. But only now can I savor the full answer I gave: "The return journey takes about the same time." The content of this conversation was significant, and becomes more so with each Scud attack.

I am not sure that I can estimate what mixture of political and technological considerations lie behind America's refusal to sell Israel a technology that is advanced—but not that advanced. My overall impression is of a rambling bureaucracy in which the decision-making process has—either deliberately or mistakenly—become divorced from the real world.

After all, the international community was prepared to create a $50 billion Iraqi war machine. But a lower-range Cray for Israel? Heaven forbid! That might be a threat to world peace.

The subliminal message I received in Washington was that someone in Israel—sometime—could tap into a Cray and design a doomsday weapon, or, at the very least, a more accurate guided missile. And all this with a computer only three or four times more powerful than the one we have on our campus.

Until recently, only the United States and Japan built supercomputers, and they have had a very cosy agreement: If the United States doesn't sell to a given country, neither does Japan.

But this duopoly is coming apart. A new kind of computer is taking over. While a Cray has just a few very complicated and very powerful central processing units, the newer computers, called parallel-processing computers, have as many as a thousand very simple processors. The Cray is difficult to construct, the parallel-processing computer is far easier. The idea behind parallel machines is that seven 70-pound weaklings can lift more than one Arnold Schwarzenegger.

Parallel-processing technology is already being used by companies around the world. The main difficulties involved in building these computers fall within the areas of computer science where Technion has real expertise. Some of the world's best minds working on these problems work at Technion. The nation that got a rescue force to Entebbe and back can build parallel computers as good as any—if it has to.

Israel doesn't need a supercomputer at Technion to defend itself. Nor would owning a supercomputer turn Israel into a superpower. We want a supercomputer for unclassified research. The atomic bomb that leveled Hiroshima was built in precomputer times. If we have a nuclear bomb, we built it without a supercomputer. If we haven't got one, we don't need a supercomputer to make one.

It has been suggested by a certain authority in the United States—a Senator—that we could make more accurate missiles if we had a Cray. Indeed, would they be more accurate than the ones we used 10 years ago to destroy an Iraqi nuclear reactor? Or is it ground-to-ground missiles that worry the Senator? He should come to Tel Aviv. Then I can tell him that if a hundred Scuds land there, their inaccuracy won't matter one bit.

The time is long overdue for the United States to review its policy regarding the export of technology, especially to friendly, technologically advanced countries like Israel. The restrictive policies are clearly the product of faulty thinking which in the case of the Cray may well push Israel—and some other countries—into building their own supercomputers. The policy is not only bad for Israel, it is bad for the United States.

Finally, a question which to some may seem irrelevant, but to me, wearing my gas mask, sitting in my sealed room, seems worth an answer: Which country in the Middle East has turned out to be the United States's best friend in the Gulf crisis? Who exactly, is threatening whom?

[From the Wall Street Journal, Feb. 15, 1991]

APPEASEMENT OF IRAQ MADE ME A SPY

In 1985, my son Jonathan Pollard pleaded guilty to providing Israel with information about the military capabilities of Arab states, including Iraq. Today he sits in a basement cell, in isolation 23 hours a day, serving a life sentence.

Jonathan was never accused of or indicted for treason, because he did not commit treason. He was indicted on one count—giving information to an ally, Israel. Abdel Kader Helmy, an Egyptian-American rocket scientist, participated in a scheme to illegally ship ballistic missile technology to Egypt—technology later used to help increase the range of Iraq's Scud-B missiles. Mr. Helmy got less than a four-year sentence. Jonathan, who warned Israel about Iraq's capabilities, got life.

America is now fighting a war with Iraq, while the one person who tried to warn Israel about Iraqi threats sits in jail. In a 1989 letter excerpted below, Jonathan wrote to an American rabbi from his cell that America would have to go to war against Iraq if we failed to prevent the completion of chemical facilities that we knew were under construction. How right he was.

MORRIS POLLARD

Dear Rabbi,

My name is Jonathan Pollard and I am currently serving a life sentence due to my activities on behalf of Israel.

Lest you labor under a false impression, Rabbi, I want to state quite categorically that I do not consider myself to be above the law. I fully appreciate the fact that I must be punished for my activities, however justified I may have felt them to be. That being said, I do not believe that the draconian sentence meted out to me was in any way commensurate with the crime which I committed. Nowhere in my indictment . . . was I ever described as a "traitor," which is hardly a surprise given the fact that the operation with which I was associated actually served to strengthen America's long-term security interests in the Middle East.

Notwithstanding [then Defense Secretary Casper] Weinberger's disingenuous opinion, any objective examination of the record will show that no American agent, facility or program was compromised as a result of my actions—not one. But this salient fact was conveniently overlooked by Mr. Weinberger, who felt that I deserved the death penalty for having had the audacity to make Israel "too strong."

In retrospect, perhaps one of the worst things the Reagan Administration did to Israel during the course of our trial was that it purposely distorted the nature of my activities in such a way so as to leave the impression that Israel had somehow become a threat to the national security of this country. So by intent the subsequent sentence I received was an arrow aimed directly at the heart of the U.S.-Israel "special relationship."

The case of Mr. and Mrs. Abdel Kader Helmy appears to be yet another instance where the political aspects of an espionage trial have been of paramount concern to the government. As you'll recall, the Helmys are the Egyptian-born U.S. citizens who were accused last year of funneling highly sensitive ballistic missile technology to their native land. At the time of his arrest on June 24, 1988, [Mr.] Helmy was a senior propulsion engineer who held a "secret" level security clearance from the U.S. Department of Defense. According to a 36-page affidavit filed by the Customs Service . . . U.S. customs agents searching . . . notes outlining how to work with carbon-carbon fiber material, used in rocket nose cones and "stealth" aircraft . . .; instructions on building rocket exhaust nozzles; a description of an extremely sensitive microwave telemetry antenna; and a complete package needed to build or upgrade a tactical missile system.

Although there is no public evidence linking [Mr.] Helmy directly with the Iraqis, intelligence sources have indicated that the Egyptians used [Mr.] Helmy's expertise to help Baghdad modify its stockpile of Soviet-supplied Scud-B ballistic rockets. His principal responsibility, however, was to ensure the success of an Egyptian-Iraqi missile program which had encountered some developmental problems. Code named BADR 2000 by the Egyptians and SAAD-16 by the Iraqis, this Argentine-designed weapon has an estimated range of 500–1,000 miles, and, from what I've been told, figures prominently in Arab strategic planning against Israel.

If one compares the way in which the government responded to my affair with that of its soft-pedalling of the Helmy case, the existence of a double standard becomes apparent. Firstly, at the insistence of the State and Defense Departments, all espionage-related charges against Mr. and Mrs. Helmy have been quietly dropped. . . . [T]he administration has done everything it can to reduce the notoriety of the Helmy affair.

The problem . . . lay in the fact that many of the photos I turned over to the Israelis were of a number of Iraqi chemical weapons manufacturing plants which the Reagan administration did not want to admit existed. Why? Well, if no one knew about these facilities then the State and Defense Departments would have been spared the embarrassing task of confronting Iraq over its violation of the Geneva Protocol of 1925, which banned the use of chemical weapons in war. You have to remember . . . that at the time of my sentencing the massacre of Kurdish civilians in Halabja had not yet occurred, and what little public concern was being voiced over Iraq's apparent use of poison gas was largely ignored by the administration, which did not want to anger the Arab world by criticizing the employment of such barbaric weapons against Iran. The photos I gave Israel, though, if "compromised," would have jeopardized the administration's policy of callous indifference towards this issue, in that they constituted hard, irrefutable proof that Iraq was indeed engaged in the production and wide-scale use of chemical weapons. What the administration was really concerned about was being placed in a position where it would have to admit that it had tacitly condoned the creation of an Iraqi chemical weapons manufacturing capability.

Once the atrocity at Halabja had occurred, though, the White House was placed in a rather awkward position. On the one hand, the U.S. intelligence community did not want to be accused of having failed to keep an eye on Iraq's burgeoning chemical weapons arsenal. Then again, the CIA . . . could not very well confirm the existence of the Iraqi poison gas plants without running the risk of compromising the Reagan administration's policy towards these facilities.

After a few days of "soul searching," the State Department finally admitted that the U.S. had intercepted some Iraqi military communications which indicated that lethal gas had, in fact, been employed against unarmed Kurdish civilians. The Iranians had astutely outmaneuvered them, though, and the issue had to be "contained" before it caused a rift in U.S.-Arab relations. Certainly, confirming the undeniable operational employment of chemical munitions by the Iraqis was far perferable to describing the exact dimension of their poison gas plants, which would have raised some uncomfortable questions on Capitol Hill . . .

Thus, in an attempt to recapture the moral "high ground," so to speak, from Iran, the White House evidently decided that it would be better for the U.S. to be seen as leading the public denunciation of Iraq rather than the Ayatollah Khomeini. As it was, though, the administration still managed to salvage its standing in the Arab world by preventing Congress from imposing any punitive sanctions against Iraq. In essence, then, what I did by passing satellite photos of the Iraqi poison gas plants to Israel was endanger the Reagan administration's pro-Saudi political agenda, not the intelligence community's "sources and methods."

According to the prosecution, there were two reasons why the government refused to tell Israel about Iraq's poison gas plants: 1) fear of compromising the KH-11 [Intelligence] system, and 2) concern over the Israeli's probable reaction once they recognized the threat these facilities posed to their survival.

What the Israelis would actually have considered was a preventive attack on the Iraqi chemical-arms factories before they had become fully operational. Once they had come on-line, you see, and the Iraqis had been able to disperse their arsenal of chemical munitions, these plants, like the ones in Syria, would only have been attacked either in war time, where the idea of a preemptive strike is valid, or in a clandestine sabotage campaign aimed at slowing their production of poisons. This was the same reasoning, by the way, that lay behind the Reagan administration's desire to bomb the Rabta industrial complex before the Libyans had had the opportunity to complete its construction.

The crisis over the Rabta plant does beg the question, though: If the Reagan administration felt justified in its desire to eliminate what it perceived to be an impending Libyan chemical threat to our national security, why was it so unwilling to grant Israel the same right of preventive self-defense with regard to Iraq's poison gas manufacturing facilities?

So what was I supposed to do? Let Israel fend for herself? If you think that is what I should have done, then how can we condemn all those . . . who during the Second World War consciously participated in the abandonment of European Jewry? Seriously, Rabbi, what would be the difference between what they did and a decision on my part to have kept silent about the Iraqi poison gas threat to Israel? I'd rather be rotting in prison than sitting shiva for the hundreds of thousands of Israelis who could have died because of my cowardice.

JONATHAN POLLARD.

TRIBUTE TO KATIE ELIZABETH BREHM

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. CAMP. Mr. Speaker, it is with great pleasure that I rise today to recognize one of our Nation's truly outstanding young people, Miss Katie Elizabeth Brehm, of Mt. Pleasant, MI. Miss Brehm has written an award winning essay entitled "What Freedom Means to Me." In her essay, Miss Brehm recognizes the value of freedom and what it means, not only to herself and her family, but to all citizens of the United States of America.

As a fourth-grade student at Sacred Heart Academy in Mt. Pleasant, MI, Miss Brehm has demonstrated that our young people truly care about freedom and liberty. She says "freedom doesn't mean that I can change the television channel when my parents are watching something, but I can still vote when I get older." Those words could not be more true. At 10 years of age, Miss Brehm unquestionably recognizes one of the most valuable rights of all Americans, the right to vote.

Not only has Miss Brehm established herself as an exceptional writer, but she has also demonstrated her talent in the performing arts. Since the age of 5, she has been involved in dancing, acting, writing stories, music, and drawing. Her creativity goes beyond the classroom, and beyond writing. Miss Brehm has proven to be an accomplished dancer by performing in the acclaimed "Nutcracker" with the Cincinnati/New Orleans Ballet Company at the Midland Center of the Arts in 1989. With her creativity in dancing and writing, Miss Brehm definitely illustrates the importance of freedom of expression.

Mr. Speaker, I know that you will join me in commending this truly outstanding young American for demonstrating the value of freedom. She is a model for American youth and her recognition of liberty is a model for all Americans. We all wish Miss Brehm well, along with her parents John and Jody, and her sister Molly. Let us all hope for her continued success in all future endeavors.

SUPPORT GROUP IN NORTHWEST MIAMI

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, a group formed in Miami to give moral support to families in north Dade County with loved ones serving in the Persian Gulf. Operation United Front was founded January 22, 1991, by Femi Folami Browne to provide centralized and convenient access to information and referral and support services.

Services are provided by professional social service providers at no cost to the public during the crisis in the Persian Gulf and until all family members' loved ones are repatriated to the United States and counseled in order to mitigate their war-related readjustment problems.

This warm and supportive group has helped family members cope with their anxiety, worries, anguish, and fears. The members get together 4 days a week for crisis counseling and fellowship. The family members support one another and bring photos of their family members in their military uniforms.

Members of the first management team, now the board of directors, include Femi Folami Browne, Dewey Knight III, Julie Coleman, Sherwood Dubose, Bill Pratt, Willie Barnett, and Lucius Reeves. Each of these persons should be highly commended for their community service. Indeed, on May 5 the organization was honored with the 1990 Distinguished Community Service Award of the medical social work department of Jackson Memorial Hospital.

Following are the members of Operation United Front and their sons, daughters, sisters, and brothers, who valiantly defended the military objectives of America in the Persian Gulf and stand ready to defend them in the future:

Femi Browne, sister of Cecil Johnson; Bonita Peele, mother of Maurice Tillman; Patricia L. Hopkins, mother of Ranzer F. Turner II: Fannie Dean, mother of Andre Dean; Annie H. Christie, mother of Kendrick T. Henry; Gwendolyn Estine, mother of Michael C. Smart; Marie McKinney, mother of Jerome L. McKinney.

Also, George Moore, brother of Thora Downey; Rena M. Ingraham, mother of Oswald B. Ingraham, Irvin W. Ingraham, and Adrian C. Ingraham; Everlyn R. Long, wife of Michael D. Long; Leroy Conyers, father of Patricia C. Butler; Carrie and James Burkes, parents of Janis R. Burkes; Gladys S. McDonald, mother of Tony L. McDonald and Mark E. McDonald.

Also, Rose M. Reed, mother of Wallace J. Ponder; Linda and Ronald Christian, parents of Aaron E. Christian; Beverly Burns, mother of Ralph P. Burns and aunt of Jerome Simons and La-Shawn Simons; Cherly Moore, sister of Johnny Motton; Queen Esther Waldon, mother of Albert Y. Mitchell; Yvette Mikell, mother of Anthony K. Mikell and Alfred L. Mikell; Gloria P. Williams, mother of Leon Williams.

Also, Gloria Jean Williams, mother of Eldridge P. King; Anita McGruder, mother of David J. McGruder; Daisy Mack, mother of Lendzy C. Mack, Jr.; Dan and Pat Wilcox, friends of Jack Daniel; Angela J. Hurst, mother of Reaudry Hurst, Jr.; Litha L. Miller, mother of Horace L. Miller.

Also, Carmel Williams, wife of Andre L. Williams; Janet Picard, mother of Alix J. Picard; Lebbie H. Dillard Lee, mother of Ricardo Dillard; Betty Dennis, mother of Kervin L. McCall; Diane Floreal, aunt of Daniel Nixon and Cecil Nixon, Jr.; Renee Harris, sister of Nealon Sears; and Ernestine Graham, mother of Fred Graham, Jr.

Our hearts and prayers are with these brave men and women and their families.

I would like to offer my warmest congratulations to Femi Folami Browne and to the entire board of directors for doing an extaordinary job of helping families cope with the anxieties of having their loved ones away, proudly serving our Nation's Armed Forces.

A TRIBUTE TO THE 30TH ANNIVERSARY OF USC-AIKEN

HON. BUTLER DERRICK

OF SOUTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, March 19, 1991

Mr. DERRICK. Mr. Speaker, I am pleased to recognize the University of South Carolina at Aiken on its 30th anniversary. The University of South Carolina established the 2-year off-campus center in Aiken County in September 1961. The center was housed in Banksia, a renovated mansion, in the city of Aiken. Some 139 students enrolled that year. The first associate degrees were awarded in June 1968. The campus of USCA moved from Banksia to the present 144-acre site in 1977. The first baccalaureate degrees were granted in May 1977. In December 1977, USCA become fully accredited as a senior college.

Today, the college is home to the Gregg-Graniteville Library, Etherredge Fine Arts Center, and the historic Pickens-Salley house. USCA is comprised of approximately 3,000 students, 180 faculty, and 80 staff members. Attracting a racially and culturally-diverse student body of varying ages and experiences, the University of South Carolina at Aiken has a direct positive impact on the quality of life within my Third Congressional District. I send my best wishes for many continued years of success.

TRIBUTE TO HARRY KUBO

HON. ROBERT T. MATSUI

OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, March 19, 1991

Mr. MATSUI. Mr. Speaker, it gives me great pleasure to rise and pay tribute to an outstanding citizen, Mr. Harry Kubo, who on April 2 will be honored by Ag One for his contributions and dedication to the agricultural industry. I ask that my colleagues join with me as I extend my most sincere congratulations.

Mr. Kubo has been the only president of the Nisei Farmers League since its founding in the early 1970's. Under his leadership, the Nisei Farmers League has grown to include over 1,000 members who live and work throughout the northern part of the San Joaquin Valley. Mr. Kubo has been a driving force behind this organization's efforts to improve the quality of labor management relations, working conditions, wages, and fringe benefits, and the overall health of the California agricultural industry.

In addition to his many years of service to the Nisei Farmers League, Harry Kubo has been a leader in many other important agricultural organizations. He has served as president of the Agricultural Action Committee and as the commissioner representing the United States in the Commission of the Californias. Currently he is president of the Farm Labor Alliance, Inc., president of the California Fresh Fruit Growers, chief operating officer of the Agricultural Exports of California, and a board member on the Fresno City and County Chamber of Commerce.

For his many contributions to the California agricultural industry, Harry Kubo has been chosen as Ag One's Outstanding Member of the Agribusiness Industry. In addition to this honor, Ag One has established a scholarship fund in his name to benefit students in the School of Agricultural Sciences and Technology at California State University at Fresno.

Mr. Speaker, the achievements of Mr. Harry Kubo are truly worthy of praise and recognition. On behalf of all of my colleagues, I pay tribute to the tireless efforts of Mr. Harry Kubo.

STATEMENT UPON INTRODUCTION OF MIAMI NATION OF INDIANA RESTORATION ACT

HON. JIM JONTZ

OF INDIANA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, March 19, 1991

Mr. JONTZ. Mr. Speaker, I rise today to introduce legislation which would restore Federal recognition to the Miami Nation of Indiana and ask that the full text of the bill be placed after my remarks in the RECORD.

In 1897, the Federal Government's recognition of the Eastern Band of Miamis, now known as the Miami Nation of Indiana, was administratively and erroneously terminated by the U.S. Department of the Interior. The Department's action in 1897 was not authorized by an act of Congress.

Until 1897, the Miamis had been recognized by the Federal Government. The Senate had ratified a treaty with the Indiana Miamis in 1854.

The tribe has retained a political and social organization since 1897 and has considered various means to have their Federal recognition restored. The Miamis have established an administrative office in Peru, IN, and meet on a regular basis in Wabash. There are currently 2,500 enrolled members of the tribe in Indiana alone, and 4,800 nationwide.

In recent years the Miamis have been involved with the Bureau of Indian Affairs' administrative recognition process. It has been a frustrating experience. The tribe's petition for Federal recognition has been considered by many native American advocates as more than enough evidence to warrant restoration. However, the serious flaws of the administrative recognition process and the foot-dragging of the BIA have resulted in a preliminary denial issued last fall, with a final decision expected to be handed down this year.

Understandably, the Miamis are seeking other more equitable means of restoring their Federal recognition. The senior Senator from Indiana [Mr. LUGAR] earlier this month introduced legislation in the other body which would restore Federal recognition to the Miamis. My colleague from Indiana [Mr. SHARP] and myself, as members of Committee on Interior and Insular Affairs, have prepared companion legislation which we are introducing today. Our Hoosier colleagues Mr. HAMILTON, Mr. JACOBS, Ms. LONG and Mr. ROEMER are joining us as original cosponsors.

Mr. Speaker, the Miamis have been waiting for almost 100 years to have their Federal recognition restored. It is time that the Congress and the Federal Government respond.

TRIBUTE TO HENRY HAJDAS

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to an outstanding individual, Mr. Henry Hajdas. Mr. Hajdas is being recognized as the 1991 Lutheran Layman of the Year by the Lutheran Luncheon Club of Metro Detroit.

Mr. Hajdas was chosen for this recognition from a group of many deserving candidates. It is a tribute to his commitment to his church and community that he was selected to receive this honor.

The horizons of Mr. Hajdas' service to his church and community have always extended above and beyond the call of duty. Mr. Hajdas has served as Mel Ott Little League coach and as chairman of the Mel Ott League for the past 15 years. He is treasurer of the board of directors of the Lutheran High School Association.

Mr. Hajdas plays a special role in the lives of the children in our community. As a coach and as a parent, he draws the best out of kids. He teaches them respect, self-confidence, independence and teamwork. But above all, he teaches them to be their best. This gift to children is what makes Mr. Hajdas such an important part of our community.

I am honored to recognize Mr. Hajdas on the floor of the House and thank him for the many hours he has given to our children, the contributions he has made to our community, and his gifts to all of us.

RESIDENT PHYSICIAN STUDENT LOAN DEFERMENT ACT

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. MURPHY. Mr. Speaker, today I am introducing the Resident Physician Student Loan Deferment Act. This legislation would allow physicians continuing their education in accredited residency training programs to defer payment of their title IV student loans until completion of their residency program.

Prior to enactment of the Omnibus Budget and Reconciliation Act [OBRA] of 1989, graduate medical students were able to have themselves classified as students, thereby qualifying them for deferment while they completed their residency. OBRA 1989 scaled back to 2 years after graduation from medical school, the deferment period for payment of these student loans.

Current law now has the effect of accelerating the repayment of these loans at precisely the time that these graduate students are least able to meet such financial obligations due to postgraduate training. The average residency stipend is $2,300 a month while loan payments can average up to $700 a month. A 1- or 2-year residency, the length of time student deferment is allowed under current law, permits physicians time to be licensed. It does not allow sufficient time for certification in any specialized area. That can take a 5- to 7-year residency. The present law, therefore, can have the effect of discouraging physicians from undergoing specialized training. Moreover, no other professional group is required under Federal student loan policies to begin paying back their loans before completing their education. This discriminates against the medical profession.

The cost of medical education requires most medical students to borrow heavily to finance their education. Among 1989 graduates, 81 percent were indebted with an average debt of over $42,000. Twenty-nine percent of 1989 graduates had debts in excess of $50,000. Minorities' indebtedness levels are even higher. Because of this, potential medical students are rethinking their careers. In addition, this indebtedness can make it financially impossible for many young physicians to set up practice in rural or urban underserved areas.

A longer deferment period for repayment of these medical student loans will ease the indebtedness problem and help ensure access to medical education. It will also eliminate one factor contributing to the problem of specialty and geographic maldistribution and better enable young physicians to provide much needed health care services to the Nation's poor and underserved populations.

Mr. Speaker, I ask all my colleagues to join in supporting this important legislation.

ERNEST E. LATSHA, HARRISBURG, PA, EXCHANGITE OF THE YEAR

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. GEKAS. Mr. Speaker, I rise today to ask my colleagues to join me in honoring Ernest E. Latsha, a fine citizen from Harrisburg, PA, in my congressional district. Mr. Latsha is a member of the Exchange Club, an organization consisting of several business persons whose main goal is to raise money for the prevention of child abuse. Mr. Latsha was chosen by the club to be the 1991 Exchangite of the Year.

An avid member of the Exchange Club for 30 years, Mr. Latsha has served many terms on the board of directors. During this time, he has participated in, and has been the chief organizer of several fundraisers. As social chairman for the club, he has instituted the annual Christmas party, the Night at the Races, the Celebrity Cookoff, and Magic and Comedy Night, just to name a few.

Currently, Mr. Latsha is a member of the board of directors of the Exchange Club Center for the Prevention of Child Abuse of South Central Pennsylvania [ESCAPE], the main beneficiary of the Exchange Club.

Not only has Mr. Latsha dedicated much of his time and energy to the club, but to the Harrisburg community in general. He has served as potentate of the Zembo Temple in Harrisburg, and has been an active organizer in many of their fundraisers. He is currently a member of the board of directors of the Crippled Children's Hospital in Philadelphia, a position he has held for several years.

As a self-employed businessman, Mr. Latsha operates Ernest E. Latsha, Inc., where he provides heating oil to unfortunate residents during the winter months. Such selfless giving is found in very few people, and I commend Mr. Latsha for having achieved such a fine characteristic.

Mr. Speaker, it is quite obvious that Ernest Latsha is well-deserving of this year's Exchangite of the Year award. On countless occasions, he has given his time and effort in aiding the unfortunate of the community. The Exchange Club should be proud to have Ernest as a member, and the people of Harrisburg should feel privileged to have him as a citizen. Ernest not only is a fine, upstanding citizen, but he has proven himself to be a loyal friend of the community as well. I congratulate and commend Ernest again for being named this year's recipient of this fine and very important award.

PAYMENT OF MEDICARE CLAIMS

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. CARDIN. Mr. Speaker, today I am introducing legislation, along with Mr. STARK and Mr. DONNELLY, to guarantee senior and disabled citizens timely payment of Medicare claims.

One provision of the 1989 physician payment reform legislation requires doctors to file all claim forms on behalf of their Medicare patients. In cases where the physician charges more than the Medicare-approved fee the doctor may bill the patient immediately and then file a claim for Medicare reimbursement on behalf of the patient.

Under the terms of the new law, however, the physician is allowed up to 1 year to file the claim. Medicare beneficiaries could have to wait a year for their doctor to file a claim on their behalf, and then wait even longer as Medicare processed the claim before receiving the reimbursement to which they are entitled under law. Obviously not having access to one's own money for over a year would be a serious hardship for many seniors.

My legislation would require physicians to submit all claims on behalf of Medicare beneficiaries within 30 days of delivering the service. This change would ensure faster payments to beneficiaries while still allowing doctors sufficient time to collect information and file claims.

I invite my colleagues to cosponsor this legislation.

HONORING JIM COMSTOCK

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. RAHALL. Mr. Speaker, on March 2, 1991, Jim Comstock, a living legend in West Virginia, celebrated his 80th birthday. Jim, who is the driving force behind the West Virginia

Hillbilly, was recently honored by our State. The Governor proclaimed February 25, 1991, "Jim Comstock Day" in West Virginia.

The proclamation read as follows:

> Whereas, Jim Comstock has devoted his life to the betterment of West Virginia and to the honor and benefit of the people of this state; and,
>
> Whereas, Jim has initiated and rallied support for preserving our historic places and protecting our West Virginia heritage; and,
>
> Whereas, Jim has promoted West Virginia, its ramps, its mountain lion, and its people to the rest of the nation; and,
>
> Whereas, Jim's efforts have been recognized on numerous occasions throughout this State and elsewhere; and,
>
> Whereas, Jim's gentle humor and wry commentary have enriched thousands of lives;
>
> Now, therefore, I, Gaston Caperton, Governor of the State of West Virginia, do hereby proclaim February 25, 1991 as: Jim Comstock Day.

Jim, all of West Virginia thanks you for your efforts on behalf of small town America.

THE SILVER ANNIVERSARY OF FATHER EUGENIOS PAPPAS' ORDINATION

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. SCHUMER. Mr. Speaker, it is with great pleasure that I commemorate the 25th anniversary of the ordination of Father Eugenios Pappas to the Greek Orthodox Church, taking place on March 24, 1991.

Father Pappas has long been devoted to his religion and service to his fellow man. Deciding at the age of 16 to make the priesthood his life's vocation, Father Pappas embarked on a long and distinguished road that took him from his boyhood home in Brooklyn throughout the United States, the Far East, Europe, and finally, back to his home and paternal parish of Three Hierarchs Greek Orthodox Church in my Brooklyn district.

After graduating from James Madison High School in Brooklyn, Father Pappas was accepted to St. John's Roman Catholic University where he pursued a pre-law degree concentrating his studies in European history, American literature, philosophy, and theology. As a student, Father Pappas was active as president of the freshman class and advanced to the status of student body president in his senior year, in addition to being the president of the oldest campus fraternity, the Indian Society. Father Pappas graduated in 1962 and was accepted into the master's degree of divinity program at Holy Cross seminary in Massachusetts. While in his senior year at Holy Cross, Father Pappas was accepted for tonsuring as a monk of the Greek Orthodox Church, and on January 2, 1966, Seminarian Pappas became Monk Eugenios Pappas, tonsured by His Grace Bishop Theodosias of Ancona. Thirty days later Monk Eugenios was advanced to the Holy Diaconate by His Eminence Archbishop Iakavos, and on May 30, 1966, he was called to ordination to the holy priesthood by His Grace Bishop Theodosios of Ancona.

Father Eugene's first assignment was as the assistant to the dean of the Archdiocesan Cathedral of the Holy Trinity in New York City. Three years later he was assigned archdiocesan vicar to the Far East for the Orthodox church. He served the next 4 years there as a missionary priest in Japan, Korea, Okinawa, and the Phillipines, and in 1969, he founded the Bethlehem Korean Orthodox Home for Boys in Seoul, Korea. For this missionary initiative, Father Eugene was elevated in rank to the title of archimandrite by His Eminence Metropolitan Dionysios of New Zealand. Before being recalled to the United States, Father Pappas was granted a scholarship to study at the Aristotelian University in Thessalonika, Greece, for a licensiate of orthodox theology, receiving his degree in 1974. Once recalled to the United States, Father Pappas assumed pastoral duties in Omaha, NE, and Wauwatosa, WI, and in 1982, he returned to Three Hierarchs Church in Brooklyn to assume pastoral duties where he continues to serve to this day.

I commend Father Eugenios Pappas on his lifelong commitment to his church and his fellow man, and I congratulate him on this, the 25th anniversary of his ordination to the Greek Orthodox Church.

TRIBUTE TO ROGERS HIGH SCHOOL BASKETBALL TEAM

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. MACHTLEY. Mr. Speaker, I rise today to recognize the Rogers High School basketball team for winning the class A Rhode State basketball title. For the second year in a row Rogers proved that they were the team to beat in Rhode Island, as they turned away a talented Mt. Pleasant team. This latest victory adds to Roger's legacy as one of the finest athletic programs in the State. The Vikings have now won three consecutive State football titles in addition to the two straight basketball titles.

There were many fine individual performances, capped by the MVP of the tournament, Frank Newsome. However, the victory was truly the result of a fine team effort. Rogers High School, representing the all-American city of Newport, put on an all-Rhode Island and all-American performance in capturing the State title. The victory completed a season of commitment and hard work by a Roger's team that had lost a lot of players from the previous year.

It is with great pleasure that I extend my sincere congratulations to the city of Newport, Rogers High School, and all the coaches and players for winning the Rhode State basketball championship.

TRIBUTE TO CHRISTINE BRUNNER: CITIZEN OF THE YEAR

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. LEHMAN of Florida. Mr. Speaker, on March 25, the Spotlite Club in Hialeah, FL will honor Christine Brunner as its "Citizen of the Year." I would like to extend to her my warmest congratulations and thanks for a lifetime of caring and achievement.

Chris has really defined the term "community involvement." For over 30 years, she has been a key mover behind the Hialeah-Miami Springs Board of Realtors and the Hialeah-Miami Springs-Northwest Dade Area Chamber of Commerce. Her own successful business activities led to her selection for the highest award that can be bestowed by her colleagues: The State of Florida's Diamond Jubilee Award as the State's most outstanding realtor and volunteer citizen.

But Chris' career achievements are only a small part of her contribution. She is also secretary to the advisory board of the Salvation Army in Hialeah. In her spare time, she crochets lap blankets for the Salvation Army to give to unwed mothers for their newborn babies or to the frail elderly. For her efforts, she was honored by the Hialeah Women's Club as a Volunteer of Hialeah. She is also a board member of the Hialeah YMCA.

Chris Brunner is a great lady and a good friend who has done much for our community, and I am delighted to join in honoring her as "Citizen of the Year."

RECOGNIZING THE ACHIEVEMENTS OF MARTIN ANTHONY GLEASON, JR.

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mrs. MORELLA. Mr. Speaker, I rise to recognize one of my constituents, Mr. Martin Anthony Gleason, Jr., a Montgomery County Scoutmaster who has attained an extraordinary honor within the Boy Scouts of America. Scoutmaster Gleason is one of only a handful of Scoutmasters in the 80-year history of the organization to award 50 of his Scouts the rank of Eagle Scout.

As you know, Mr. Speaker, Eagle Scout is the highest rank one can attain in the Boy Scouts of America. It takes a great deal of leadership and guidance on the part of a Scoutmaster for even one of his Scouts to achieve this honor. That is why Scoutmaster Gleason's record of success is so outstanding.

Martin Anthony Gleason, Jr., has been a strong role model for hundreds of young men throughout his career in the Boy Scouts of America. He has served not only his Scouts, but his community and his country. On behalf of the citizens of the Eighth District of Maryland, I commend Scoutmaster Gleason on his distinguished record of service in the Boy Scouts of America, and I wish him continued success in his endeavors.

INTRODUCTION OF DOE CONTRACTOR WHISTLEBLOWER PROTECTION ACT

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mrs. SCHROEDER. Mr. Speaker, today I am introducing legislation to protect employees of Department of Energy contractors who blow the whistle on illegality by the contractor. The legislation mirrors section 837 of the defense authorization bill for fiscal year 1991 (Public Law 101–510) which provided protection for employees of DOD contractors.

Whistleblowers have played a vital role in exposing serious health and safety dangers at the Rocky Flats Nuclear Weapons Plant outside of Denver. These courageous individuals revealed what they knew about DOE and Rockwell's poor plant management. As a result, the FBI ran a sting operation which showed just how serious the problems were. Plutonium operations have been suspended at Rocky Flats for the last 18 months to permit DOE and a new contractor, EG&G, to attempt to correct these perils. Had it not been for the Rocky Flats whistleblowers, the people of Denver would be living with increased danger to their health and safety.

The public should not have to rely on the existence of workers who are willing to risk their careers and their livelihoods to disclose dangers to the public. My legislation will provide some insurance for workers who see wrongdoing. It tells them that they can speak freely without fear of reprisal. I see whistleblowers as a vital public resource which we need to protect.

This is good legislation which extends to DOE contractor employees the same protections provided to DOD contractor employees. I hope for speedy action.

A BILL TO PROVIDE RELIEF TO THE VERMEJO CONSERVANCY DISTRICT

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. RICHARDSON. Mr. Speaker, today, I am introducing legislation to clarify a law passed by Congress in 1980 affecting the Vermejo Conservancy District in New Mexico. Public law 96–550 transferred certain project facilities from the Bureau of Reclamation to the Vermejo Conservancy District, and also deferred the Vermejo Conservancy District's repayment obligations for the construction, operation, and maintenance of the district's reclamation project.

Because a difference of opinion has arisen about whether or not a specific lake, lake No. 13, should be transferred to Vermejo under this law, clarification is necessary. Language was included in the 1980 legislation that excluded from transfer certain land and water interests which were deemed to be held by the Secretary of Interior for the enhancement of wildlife at the Maxwell Wildlife Refuge. The exclusionary language was intended to address the acquisition of approximately 3,300 acres of private land from individual landowners for the refuge, and not to any project facilities acquired by the United States for the Vermejo project. My legislation would simply clarify that lake No. 13 was intended to be transferred to the Vermejo Conservancy District and requires the district to continue to honor its contractual agreement with the refuge. I urge my colleagues to support this important clarifying legislation.

HONORING WILLIAM AND VIVIAN YETTER

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. KOSTMAYER. Mr. Speaker, it is my pleasure to rise today to recognize my friends, William and Vivian Yetter, on the occasion of their 60th anniversary.

They were married on February 10, 1926 at Grace Lutheran Church in the city of Altoona, PA. They were married by Rev. Berligh Peters, and they still live in Altoona.

The Yetters have two wonderful sons, Robert and William, Jr., residents of Bucks County, who love them very much. William and Vivian should be proud to have raised children who are such fine, upstanding citizens.

Mr. Speaker, these two extraordinary people have celebrated a very special occasion in their lives. I ask my colleagues in the House of Representatives to join me in saluting William and Vivian Yetter and to wish them continued happiness.

TRIBUTE TO EDGAR E. OETTING

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. SKELTON. Mr. Speaker, today I pay tribute to a dedicated Missourian from the Fourth Congressional District, Edgar E. Oetting. He recently retired after 23 years of service as Lafayette County Clerk. Mr. Oetting held this position of county clerk unopposed since 1967.

Having served in World War II in the Army, his leadership in the community and church cannot go unrecognized. Mr. Oetting served with the community of Concordia, from Cub Master for the Boy Scouts to chairman of the congregation with St. Paul's Lutheran Church.

Edgar Oetting's capacities as an active community member did not stop here. There has been an unequivocal impact on the people and organizations with whom Edgar has lead or participated.

A native of Concordia, MO, Edgar married Mildred Buhlig and has three children and five grandchildren.

I would like to thank Edgar Oetting on behalf of Lafayette County and all its citizens, who have been fortunate to have such an able county clerk. His dedication to the community of Concordia and Lafayette County is a shining example for us all. I congratulate Edgar Oetting on a job well done over the years, and wish him all the best for a happy and healthy retirement.

GRAND RAPIDS BAPTIST COLLEGE AND SEMINARY CELEBRATES 50TH ANNIVERSARY

HON. PAUL B. HENRY

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. HENRY. Mr. Speaker, it is my pleasure to draw to your attention, and that of my colleagues in the House of Representatives, the fact that the Grand Rapids Baptist College and Seminary of Grand Rapids, MI, is celebrating its 50th anniversary of ministry in Christian higher education. The college and seminary is an independent, church-affiliated, coeducational institution administered by supporting churches. It is one of several such institutions which serves the General Association of Regular Baptist Churches and their Christian laity in the Midwest.

Located on a 132-acre campus of modern buildings and facilities, its beginnings were much more humble. On January 7, 1941, 211 students enrolled in Bible courses directed toward training church layworkers for local Baptist and independent churches. Courses were offered in an evening Bible institute program hosted in the educational wing of Wealthy Street Baptist Church in Grand Rapids. Within 3 years, growth and demand was such that the evening program quickly developed into a more traditional 2- to 3-day program of instruction. A year later, a special program for pastoral ministry was established. And by 1955, the Bible institute had grown and matured into a more traditional seminary program admitting only students with baccalaureate degrees.

Meanwhile, the undergraduate program was likewise growing from that of a Bible institute, to a Bible college chartered to offer bachelor of religious education and bachelor of music degrees, to a full-fledged, fully accredited degree-granting liberal arts college by 1972. In 1976, the college received full membership in the North Central Association of Colleges and Schools.

Mr. Speaker, over the years, thousands of graduates of the Grand Rapids Baptist College and Seminary have moved into positions of leadership and responsibility in communities across the Nation. Many also serve in missionary and evangelistic endeavors across the globe. The institution has remained faithful in its original commitment to combining Christian commitment with the intellectual disciplines.

I know that my colleagues join with me in congratulating Grand Rapids Baptist College and Seminary on this milestone in its history, and wish it many more years of successful ministry to its constituency and the Lord whom both seek to honor.

IN SUPPORT OF INFANT MORTALITY AWARENESS DAY

HON. BEN ERDREICH

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. ERDREICH. Mr. Speaker, I would like to voice my strong support for this joint resolution proclaiming May 12, 1991, as "Infant Mortality Awareness Day." This resolution, introduced by my colleague CLAUDE HARRIS, of Alabama, will help draw attention to our country's unacceptably high rate of infant mortality, the high human and financial cost of inadequate prenatal care, and the steps that can be taken to significantly lower the infant mortality rate in the State of Alabama and the Nation as a whole.

It is shocking to learn that a child born in Japan, Finland, Hong Kong, Ireland, Australia, Canada, Singapore, or any twelve of other industrialized nations has a better chance of surviving his or her first year than does a child born in the United States.

Alabama's high infant mortality rate is directly linked to the high percentage of women who receive inadequate or no prenatal care. Every day, millions of dollars are spent across our country to save babies born too small or too sick to have the healthy start they deserve in life. Thousands of infants die at birth, and those who do survive often suffer permanent disabilities.

America currently spends over $2 billion a year on health care for low birthweight babies during their first year of life, and the lifetime costs of caring for a low birthweight infant can reach some $400,000 per child. This cost, by the way, does not include the ongoing expenses that must be shouldered by every community due to unemployment, underemployment, or long-term care for the permanently disabled. Preventive steps, it is estimated, can save $3 for every $1 spent.

We in Alabama are making great strides in reducing the number of low birthweight babies, and Governor Hunt and the State legislature have targeted infant mortality as a top priority for Alabama. Jefferson County is the home of a world-class medical center at the University of Alabama at Birmingham. We have the State's most sophisticated and accessible health care services. Our County Health Department has seven health centers that provide information and referral services to women needing prenatal care. The Department also provides pediatric care for infants and children in the community, and works closely with Cooper Green Hospital and U.A.B.'s medical facility. And, due to a recent Medicaid waiver, the Department is now offering expanded social support and case management to those most in need. Yet surprisingly, with all these services available, Jefferson County's infant mortality rate is still higher than that of Alabama as a whole.

Undoubtedly, the WIC program has significantly reduced infant mortality. According to Alabama State Health Officer Dr. Claude Earl Fox, "The benefits to the participants of WIC are well documented, including fewer premature births, fewer late fetal deaths, better dietary benefits for those most nutritionally at risk, more regular medical care, and better cognitive performance in children." I voted in favor of the fiscal year 1991 appropriation of $2.35 billion for the WIC program and will continue to support this program. While helping to reduce infant mortality, WIC has proven to be a cost-effective safety net for some of the most vulnerable group in our society.

We in Congress must continue to support such efforts to improve the availability of basic health services for infants and pregnant women. I believe that this joint resolution, designating Mother's day as "Infant Mortality Awareness Day," will help draw attention to the problem of infant mortality. I urge my colleagues in the House to support this resolution and to continue the steps being taken by Congress to assure that our Nation's youngest and most vulnerable citizens get off to a healthy start.

LET'S INCREASE PAYMENTS IN LIEU OF TAXES [PILT]

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. WILLIAMS. Mr. Speaker, I rise today to introduce legislation to increase the authorization for the payments in lieu of taxes [PILT] program by the Consumer Price Index. My legislation amends the PILT Act of 1976 which partially compensates local governments for the taxes that they would have received for tax-exempt Federal lands within their boundaries.

The authorization for PILT has been at the same level since 1976, and thus these payments are now worth less than half of their original value. This bill would redress that issue and protect future payments.

More than 1,700 counties and some cities and towns in 49 States benefit from this program. Most of these happen to be rural counties whose boundaries contain our national parks, forests, wildlife refuges, and BLM lands. These payments enable these local governments to provide for education, police, transportation, health care, and other essential services. These funds also help these governments provide services to the users of public lands.

I look forward to working with my colleagues in the House and on the Interior Committee to move this vital legislation.

TRIBUTE TO AMOS BATES

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. DARDEN. Mr. Speaker, the people of Cobb County mourn the passing of Amos H. Bates, who died March 8 at age 79. Today, I would like to take this opportunity to honor the memory of Mr. Bates, and offer my condolences to his family.

I have known the Bates family since I first moved to Marietta, GA, in 1967. Over the years, like so many other Cobb Countians, I have enjoyed the hospitality and friendship of this long-time prominent family. In the tradition of his father, Ray Bates has been exceptionally helpful to me throughout my years in Congress. Ray, a close friend, keeps me apprised on several issues of concern to the people of Cobb County. Other survivors include another son, Gary, of Powder Springs, GA; and three grandchildren.

Amos Bates worked at the Coats & Clark threadmill, and was an outstanding law enforcement officer, having worked later for the Georgia State Patrol and Cobb County Police Department. He retired as an investigator for the State Game and Fish Commission.

Mr. Speaker, I am certain the people of Cobb County share in the loss of Amos Bates, and will remember him always for his leadership abilities and unselfish contributions to their community.

YLA EASON

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. TOWNS. Mr. Speaker, I rise today to commend an outstanding citizen of Brooklyn who has used her creative talent to give children of various ethnic backgrounds the ability to identify with their real life role models, Ms. Yla Eason.

Due to the inspiration of her 3-year-old son and the lack of ethnic dolls, she set out to create a market. Therefore, in 1985, Ms. Eason founded the Olmec Corp. This company was based in Manhattan and manufactured black and Hispanic dolls with genuine features. The Olmec company hopes that these dolls will help to promote positive self images in ethnic children.

As a result of her brilliant idea, the Olmec Corp. has experienced growth in the past 4 years. Although Eason knew that her product would one day be a huge success, in the beginning she ran into many obstacles. Therefore, she initially contributed her own money to get the company started. She invested well over $100,000 in obtaining sketches, prototype molds, product liability insurance, advertisements in major black magazines, and ordered over 100,000 dolls.

At this point, she received immediate denial from major retailers so she had to refocus her ideas. Therefore, she worked with distributors within the ethnic hair care market. Due to their influence in chain stores, Eason convinced them to help her sell Olmec's products within the toy departments.

Once the product got into the chain stores, Olmec became a major contender in the toy market. Some of the most popular figures on the market include: Bronze Bombers which is a troop of figures based on an all-black Army unit that fought in World Wars I and II; Naomi is a fashion doll that has features that actually resemble a black woman, and the Sun People which include Hispanic, Asian, and American Indian superheroes.

Until the Olmec Corp. came along, the major toy producers had not focused their energies to suit children of different races. Although there was a small production of ethnic dolls, there were no dolls that had the actual features of various races of people. This type of toy allows children to gain self awareness and esteem by playing with dolls that look like them.

Today, Olmec is an extremely successful corporation and its products are available in many stores nationwide. In fact, last year the Olmec company made approximately $12.75 million dollars in retail sales. This year the company is branching out with 50 new products and predicts to make additional revenues of $1.5 million. This exemplifies that Eason has indeed made a major impact in the toy industry.

Due to the many negative images of society, it is often difficult for our youth to grow up with positive attitudes toward themselves. Ms. Eason has used her ingenuity to create a market that helps to correct that problem. Her accomplishments have been very effective in creating concern for greater cultural awareness and identity. I commend Ms. Eason because the work she is doing is beneficial to the self-esteem of the youth of our America which is an overall asset to us all.

THE NEED FOR THE ALIEN ENLISTMENT ACT OF 1991

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. GILMAN. Mr. Speaker, I rise today to call the attention of my colleagues to H.R. 107, which I introduced on January 3, 1991. The reasons for this bill are rooted deep in the history of the United States as well as in the current needs of the National Guard in several of our States. We have recently won a war in a far away place, operating in a cultural environment alien to the American experience. Our country needs our support today; to be prepared for tomorrow, we must pass H.R. 107 this year.

H.R. 107, a pilot program to run for only 3 years before reevaluation, would enable the National Guard in a few States where the Guard is noticeably below authorized strength, to make up this deficit through the recruitment of immigrants who are qualified in all other respects save permanent residence status. The purpose here is to fill the needs of the military, not only quantitatively, but qualitatively, with highly qualified natives of dozens of foreign nations which, prior to the change in immigration regulations in the 1960's, had provided a significant part of the National Guard and regular military manpower recruitment pool in many parts of the country, including the Northeast.

A competitive advantage can be gained in the world by understanding that not everyone operates by the same values, world view or methodology as Americans. Understanding leadership requirements for the United States in a world where America no longer enjoys the dominance of the post-World War II era requires that we enfranchise and mainstream people who can provide our military, American business, and our society with a native understanding of these differences. Historically, military service has been the most effective and efficient means of integrating the immigrant into full participation in American society.

Who would have imagined in 1980, that in 1990 it might suddenly become important to have native speakers of Lithuanian, Latvian, Estonian, Polish, Magyar, Romanian, Armenian, or Arabic available in the Armed Forces of the United States—including in the National Guard under the total force concept—to support our intelligence and psychological operations capabilities? Who can anticipate our needs in the year 2000? One thing is certain, and that is as a maritime nation and a world power with global responsibilities, the United States cannot afford to neglect the development of these capabilities.

The United States, as a world power with global responsibilities, still must reach out to natives of other countries to acquire that extra dimension which would enable the Armed Forces of the United States to function that much more effectively "in every clime and place * * *."

In keeping with the recommendations of the Secretary of Labor's Workforce 2000 Report, H.R. 107 (H.R. 5458 in the 101st Congress), would give a limited number of immigrants, a limited number of volunteer nacent Americans, the opportunity to earn permanent residence status through honorable military service. That this is nothing new, and, in the form of this legislation, that this is professionally to be desired is attested to by the support of the adjutants general of a number of States, including New York State, by the Militia Association of New York and by many other military, veterans, and ethnic organizations.

What Mr. MANTON, Mr. SOLOMON, Mr. HORTON, Mr. DORNAN and those others of our colleagues who cosponsored H.R. 5458, sought was to provide for present defense needs and anticipate future national security contingencies; H.R. 107 would do this. Using only manpower already present in our States, we seek to re-implement the principle of the military being able to enlist limited numbers of such immigrants to augment the future effectiveness of the U.S. military.

H.R. 107 is but a realistic reflection of the traditional relationship of the Armed Forces and society in American history. This fact is explained in a most insightful point paper which has been accepted for publication by the U.S. Naval Institute Proceedings, "Recruiting of Foreign Nationals for the U.S. Forces" by Rear Adm. Cathal L. Flynn, immediate past Deputy Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, U.S. Marine Col. Patrick Collins, former company commander in the 3d Recon Battalion in Viet Nam, and Cmdr. William A. Murphy, VMI, 1965, of the U.S. Naval Reserve.

For my colleagues information, I request that their article be inserted at this point in the RECORD:

RECRUITING OF FOREIGN NATIONALS FOR THE U.S. FORCES

(By Rear Adm. Cathal L. Flynn, USN (Ret.), Col. Patrick Collins, USMC (Ret.), and Comdr. William A. Murphy, USNR)

A LOOK AT THE RECORD

The United States, historically, has been truly a nation of immigrants if not THE nation of immigrants. Nowhere has this been better reflected than in the armed forces of the United States and in the militias of the several States. A special exhibit in the museum in the base of the Statue of Liberty in New York harbor makes this point most explicitly in the case of the War for Independence. The Medal of Honor grove at the Freedoms Foundation in Valley Forge, Pennsylvania contains one obelisk per State bearing the names of recipients of the Medal of Honor attributable to that State plus an additional obelisk with the names of 150 Medal of Honor heroes from at least 14 countries who could not be attributed to any State; in most cases these were immigrants who had enlisted in the regular US forces prior to having established a home of record in the United States. (The greatest number of foreign-born Medal of Honor recipients, 254, were born in Ireland, including 65 of the 150 mentioned above. Of nineteen men who hold two Medals of Honor, five were Irish-born and four Irish American, including Sergeant Major Dan Daly of the US Marines.) Two World Wars as well as conflicts/crises in Korea, Berlin, South East Asia, Lebanon, Grenada, Panama and the Persian Gulf have seen varying numbers of non-citizens welcome in the ranks of the US military.

By statute, the US Army and Air Force, and the National Guard, find their recruits among documented, permanent residents and citizens of the United States. By tradition, this has not been the norm, those lacking permanent residence status often being actively recruited into the American armed forces; at times even lawful entry as a prerequisite for military service has been waived.

Although generally conforming to Army practices, the naval service, which may be expected to be operateing overseas or involved in foreign expeditions, has no statutory prohibition against replenishing the ranks of the US Navy and Marine Corps through on-site, overseas recruiting of non-U.S. nationals. This was true when John Paul Jones and John Adams recruited men from the Irish Brigade of the French Army to serve as Marines in the fighting tops of the *Bonhomme Richard*. It has remained true in the twentieth century.

One by-product Ludendorf's 1918 offensive on the Western Front was to find large numbers of the elite of the German Army as prisoners of the United States Second Division, then commanded by Major General John Archer Lejeune of the United States Marine Corps. Anticipating the end of war, General Lejeune kept the cream of these POWs in the custody of the United States Marines; after the Armistice, they were offered the opportunity to continue their military careers in the United States Marine Corps. Enough of these volunteered and became Drill Instructors on Paris Island to have unique consequences for the Marine Corps basic training program, consequences which were to pay big dividends in the Second World War, and subsequently.

The Navy still benefits tremendously from the recruiting of a limited number of Philippine nationals.

CURRENT DEMOGRAPHIC PROBLEMS

Over the past twenty years there has developed a special demographic problem in the American military generally and acutely in the National Guard in the northeast. This problem has manifested itself not only in quantitative terms, but also in the growing absence of personnel with certain foreign language and area knowledge and skills. Fortunately, the solution to the problem is at hand. It lies in re-opening for our military establishment the opportunity to recruit personnel from what had been a traditional manpower pool for the American military, the immigrant population. H.R. 1306, the Special Military Enlistment Bill (introduced 8 March 1989 by New York Congressmen Benjamin A. Gilman, Thomas J. Manton and Gerald B.H. Solomon at the request of the Adjutant General of the State of New York, Major General Lawrence P. Flynn, and subsequently co-sponsored by, among others, Governor (then Congressman) James Florio of New Jersey) is intended to provide legislative relief for the recruiting of limited numbers of foreign nationals not already admitted to permanent residence status in the United States. H.R. 1306 was long overdue.

H.R. 3971

On 21 September 1989, H.R. 1306 was among the bills reviewed at hearings before the House Judiciary Subcommittee on Immigration, Refugees and International Law, chaired by Congressman Bruce Morrison of Connecticut. In response to comments from the Department of Defense, the Department of State and the Immigration and Naturalization Service, the original legislation was revised with its focus narrowed to the National Guard where the need is most immediate. This new legislation is designated House Resolution 3971.

On 7 February 1990, H.R. 3971 was introduced by Congressman Benjamin Gilman of New York and co-sponsored by a number of Representatives including Frank Horton, Tom Manton, Gerald Solomon, George Hochbrueckner of New York, John Rowland of Connecticut and Robert K. Dornan of California.

PILOT PROGRAM—H.R. 5458 (H.R. 107)

Since it seemed by the summer of 1990 that even H.R. 3971 might appear both too revolutionary (historical precedent notwithstanding) and too broadly constructed to gain the necessary support from sufficient quarters in the Department of Defense and the National Guard Bureau in an atmosphere of active duty force drawdown, it was determined to offer the basic concept contained in H.R. 1306 and H.R. 3971 as a pilot program to run for three years in no more than six states. The value of the program could then be assessed for possible future application. This legislation, H.R. 5458, was introduced, at the request of the Adjutant General of the State of New York, on 3 August 1990, by Congressman Benjamin Gilman and most of his original co-sponsors (with additional co-sponsors being added subsequently). (H.R. 107 in 102d Congress)

DEMOGRAPHIC PROJECTIONS

Demographic projections for the remainder of the twentieth century and beyond, indicate a severe and growing shortage of available manpower for military recruiting in the United States (possibly some 20% below current levels). This phenomenon has already manifested itself in recruiting statistics for the National Guard in the states of the northeast and certain other areas. This shortage is due, in part, to a decline in the birthrate among American citizens and, in part, to the absence of an active draft. It is further aggravated by the effects of the Immigration and Nationality Act of 1965, which, since 1967, has virtually eliminated non-preference visas for prospective immigrants to the United States. Historically, immigrants had provided a disproportionately high (for their population) number of recruits for the Armed Forces of the United States and for the militias of the several States (the 69th Regiment of New York being just one case in point).

In the years following the Second World War, the Special Operations, Psychological Operations, and Intelligence Communities of the Armed Forces of the United States had plentiful assets from virtually every nation. This practice was formalized by the Lodge-Philbin Act of 1950 which eventually authorized the enlistment of up to 12,500 aliens (intended primarily for refugees from Eastern Europe). This enabled U.S. Special Operations Forces to operate potentially almost anywhere with native knowledge of language, customs, etc. These assets have since retired, largely to be replaced by American-born personnel who, whatever their good qualities, lack the native abilities of those who preceded them in the OSS, ONI, Special Forces, etc. Potential recruits are, today, walking the streets of New York, Munich, Dublin, Miami, Vienna, Boston or many another city or town. This problem was discussed at length at the Unconventional Warfare/Psychological Operations (UW/PSYOP) Conference held at the John F. Kennedy Center for Military Assistance in Fort Bragg, North Carolina during the fall of 1978. Among the unclassified proposals made, at that time, were legislative relief which would permit all the armed forces to enlist limited numbers of persons not already admitted for permanent residence, as well as interim administrative authorization for the naval service to resume such enlistments in accordance with the needs of the Navy/Marine Corps. The Commander Joint Unconventional Warfare Task Force Atlantic (COMJUWTFA), then located at Fort Bragg, North Carolina conducted a special Unconventional Warfare study ordered by the then Commander-in-Chief, Atlantic, Admiral Isaac Kidd, Jr. This study incorporated much of the work of the UW/PSYOP conference. (By the time the final proposal was delivered to COMJUWTFA, Admiral Kidd, who had been expected by many to become the next Chief of Naval Operations, had retired.)

While it is not suggested that we form a foreign legion, it is suggested that—as a world power—it is in the interest of the United States that there be a foreign leaven in our armed forces (including in the National Guard), consisting of those nacent Americans who wish to earn their citizenship through the most efficient Americanizing experience yet devised, while contributing to our own capabilities to respond to a crisis anywhere around the globe.

The presence of such a foreign leaven in the Fleet Marine Force could only enhance our ability to operate "From the Halls of Montezumas, to the shores of Tripoli.".

MULTIPLE PRECEDENTS

During the American Civil War the Union forces and even the Confederate Navy recruited abroad, and both the United States and the Confederacy had provisions for the naturalization of aliens in military service. (As a consequence of the Civil War and the Fourteenth Amendment to the Constitution, the concept of national citizenship became uniformly defined.) During the First World War, some 191,491 aliens, who had not previously declared an intention to become US citizens, were among the 9% non-citizens who served in the US Armed Forces. In addition to volunteers, some 127,371 aliens were drafted during World War II; aliens were also drafted for the Korean conflict.

The 1971 Selective Service Act imposed a registration requirement on aliens admitted as permanent residents, undocumented aliens and aliens who entered lawfully on nonimmigrant visas and then overstayed. Military service historically has not been a special obligation of "citizens," but an obligation of persons who have chosen to live within the territory and jurisdiction of the United States.

Congress has provided for the naturalization of military personnel who serve honorably in the Armed Forces in different forms since the American Revolution. In World War I, 123,355 aliens achieved US citizenship through military service. During World War II, lawful entry into the United States was not a requirement for eligibility for military service, and over 143,000 aliens were granted citizenship, including some 21,011 who were naturalized abroad.

PROSPECTIVE RECRUITS ALREADY HERE

A separate, but related problem is the tremendous number of "out of status" immigrants, usually those who have entered legally but then overstayed their visitors' visas after being offered employment in the growing US economy. Many, if not most, of these could have entered with legal permanent residence status under regulations in effect prior to 30 June 1967. Many would have been already in the uniform of the United States armed forces, had their status permitted their enlistment.

NEEDS OF THE MILITARY

It must be stressed that the proposed legislation, H.R. 1306—the Special Military Enlistment Bill, H.R. 3971—The Special National Guard Enlistment Bill or H.R. 5458—The Special National Guard Enlistment Pilot Program Bill, would give to the US military the ability to enlist limited numbers of persons in accordance with the military's perception of their own needs; it does not entitle any alien or class of alien, but rather is intended for the short-term and long-term interests of the United States. The most immediate beneficiary of such legislation would be the States of the northeast where the National Guard is perilously under strength (and derivatively the "Total Force" concept; e.g., 27th Brigade, 10th Mountain Division), and those "out of status" immigrants who would qualify to EARN the right to permanent residence status in the United States, bringing them out of the shadows to become more productive contributors to American society.

(The United States Secretary of Labor's Workforce 2000 report calls for an increased utilization of immigrant labor in the US economy. On June 12, 1989, the New York State Assembly unanimously petitioned Congress to pass H.R. 1306 into law; the New York State Senate similarly enacted a Resolution in support of this proposal on June 30, 1989.)

IN EVERY CLIME AND PLACE

A competitive advantage can be gained in the world by understanding that not everyone operates by the same values, world view or methodology as Americans. Understanding leadership requirements for the United States in a world where America no longer enjoys the dominance of the post-World War II era requires that we enfranchise and mainstream people who can provide our military and our society with a native understanding of these differences. Historically, military service has been the most effective and efficient means of integrating the immigrant into full participation in American society.

Who would have imagined in 1980, that in 1990 it might suddenly become important to have native speakers of Lithuanian, Latvian, Estonian, Polish, Magyar, Romanian, Armenian or Arabic available in the Armed Forces of the United States (including in the National Guard under the Total Force concept) to support our intelligence and psychological operations capabilities? Who can anticipate our needs in the year 2000? One thing is certain, and that is as a maritime nation and a world power with global responsibilities, the United States cannot afford to neglect the development of these capabilities.

Ultimately, it is in the area of Special Operations/Special Warfare that the talents of certain immigrants might be of the highest value. Army Special Forces (including Army National Guard Special Forces) and Naval Special Warfare are definitely among the communities which would benefit from the reopening of immigrant enlistment.

Although it is the Special Operations/Psychological Operations community which should be uniquely interested, this legislation is not intended to bear significant fruit in that area until after the first class of such recruits are re-enlisted and thoroughly screened. One of the lessons learned in the Strategy and Policy curriculum at the U.S. Naval War College is that olive trees must grow and mature for forty years before they will bear fruit; the regeneration of the first fruits of the Special Operations assets with the special qualifications mentioned above may take at least six years from the effective date of the legislation in question.

Even if there were enough well-qualified U.S. citizens volunteering for all available military billets (which there were not in 1989, for the National Guard in several states and perhaps soon not for the line of the U.S. Army and Marine Corps), even if we were to bring back the draft (which is not presently a politically viable option), the United States, as a world power with global responsibilities, would still have to reach out to natives of other countries to acquire that extra dimension which would enable the Armed Forces of the United States to function that much more effectively "in every clime and place * * *"

Through the introduction of H.R. 1306, H.R. 3971 and H.R. 5458, in the 101st Congress, Congressmen Gilman, Manton, Soloman and their co-sponsors have performed a valuable public service, providing for present defense needs and anticipating future national security contingencies. On 3 January 1991, Congressman Gilman re-introduced the National Guard Pilot Program bill as H.R. 107 in the 102nd Congress. Whether a bill like H.R. 1306 passes in its original form or is split into a National Guard bill—such as H.R. 3971 or National Guard Pilot Program H.R. 5458—now H.R. 107—(where the need is immediate) and a follow-on Armed Forces of the United States bill to be moved when the Department of Defense acquires enough of a sense of urgency concerning the skills and numbers in question, the principle of the military being able to enlist limited numbers of such immigrants or would-be immigrants is important to the future effectiveness of the United States military as well as being a realistic reflection of the traditional relationship of the armed forces and society in American history.

President George Washington stated that when we took on the soldier, we did not put aside the citizen. One of the duties of the citizen is to give to government the benefit of the citizen's knowledge, insight and experience. The citizen-soldier has a special duty to advise Congress and the administration concerning matters of national security. In the interest of national security, Congress must be persuaded to pass into law a bill like H.R. 1306, H.R. 3971, H.R. 5458 or H.R. 107, or otherwise provide relief to permit the recruiting of individuals without permanent residence status in accordance with the needs of the U.S. military—including the National Guard. (Statistics on alien service and legal precedents drawn from Jacobs, James B. and Hayes, Leslie Anne. "Aliens in the U.S. Armed Forces, A Historico-Legal Analysis." Armed Forces and Society. Vol. 7, No. 2, Winter 1981, 187–208.)

REAR ADMIRAL CATHAL L. FLYNN, USN (RET.)

Rear Admiral Cathal L. Liam Flynn of the U.S. Navy, has most recently served as the Deputy Assistant Secretary of Defense for Special Operations and Low Intensity Conflict. A native of Ireland and a U.S. Naval Special Warfare officer with Viet Nam combat experience, RADM Flynn previously served as Director of Plans, Policy and Doctrine, J–5, for the U.S. Special Operations Command at MacDill Air Force Base.

Admiral Flynn was educated in Ireland, France and Spain and is a graduate of the University of Dublin (Trinity College), Ireland, with a bachelor's degree in arts and engineering. He received a Master's Degree in International Relations, East Asian Affairs, from the American University, Washington, D.C., in 1974. He completed the Command and Staff Course, U.S. Naval War College, in 1970, the National War College in 1977, and the Post Command Course, Naval War College, in 1984.

Admiral Flynn served continuously on active duty in the Navy for over thirty years, from his enlistment and subsequent commissioning in the U.S. Naval Reserve (June 1960) until his retirement on 1 August 1990. Following service as a platoon officer in Underwater Demolition Team (UDT) ELEVEN and SEAL Team ONE and a tour as SEAL Detachment Commander with Naval Advisory Detachment, MACV(SOG), he was assigned to the Office of the Chief of Naval Operations. He then returned to SEAL Team ONE as Executive Officer and Officer in Charge of the team's detachment at Nha Be, Vietnam.

Admiral Flynn commanded UDT TWELVE and had subsequent tours of duty on the Naval Sea Systems Command and on the staff the Commander-in-Chief, U.S. Pacific Fleet. He was Chief Staff Officer of Naval Special Warfare Group ONE, and was assigned to the Assistant Secretary of Defense for International Security Affairs for two years prior to commanding Naval Special Warfare Group ONE. He then served in the Joint Special Operations Command and then as Commander, Naval Security and Investigative Command.

Admiral Flynn's military decorations and awards include the Defense Superior Service Medal, Legion of Merit (two awards), Defense Meritorious Service Medal, Navy Commendation Medal, with Combat "V" (two awards), Navy Achievement Medal, Combat Action Ribbon, Presidential Unit Citation awarded SEAL Team ONE, Meritorious Unit Commendation awarded UDT TWELVE and the Vietnam Service Medal with one silver star.

COLONEL PATRICK G. COLLINS, USMC (RET.)

Raised in an Irish immigrant family on Grosse Isle, on the Canadian border, Patrick Collins enlisted in the United States Marine Corps in 1952 and served in "F" Battery, 2nd Battalion/11th Marines in Korea. After attending Bowling Green University in Ohio on the G.I. Bill, he returned to active duty in the Marine Corps as a Sergeant and was commissioned in 1958. A Marine infantry officer specializing in reconnaissance, Colonel Collins served several tours in South East Asia, including command of "D" Company, 3rd Recon Battalion and CO/XO of 2nd Battalion/9th Marines and as a Battalion Advisor to the 258th Brigade of the Vietnamese Marines.

Colonel Collins holds the Master of Arts in Administration from Chapman College in California and studied for two years, post-graduate, at the University of London. Among his personal decorations are the Silver Star, Navy and Marine Corps Medal, five Bronze Stars, with Combat "V", three Purple Hearts and two Vietnamese Crosses of Gallantry.

Colonel Collins' last active duty assignment was as Special Assistant to the Commandant of the Marine Corps; he continues to lecture occasionally at the Marine Corps Schools, Quantico, Virginia.

Colonel Patrick Collins retired in 1989 after over thirty-seven years with the United States Marine Corps. He is the organizer of the 3rd Recon Battalion Association.

COMMANDER WILLIAM A. MURPHY, USNR

Commander William A. Murphy is a drilling Reservist with Naval Reserve Military Sealift Command Office NORTHERN UK 302.

Commander Murphy saw active duty on the USS *Nicholas* (DD–449) and briefly on swift boats during the South East Asia conflict. He later served as the Assistant Deputy J–2 on the staff of the Commander, Joint Unconventional Warfare Task Force Atlantic where he was involved with special operations and psychological operations planning. Temporary Active Duty assignments have included curriculum development, academic research and war gaming at the US Naval War College, and duty with the staff of the Commander-in-Chief, Atlantic, J–583.

A former United States Marine Reserve rifleman and a 1965 graduate of the Virginia Military Institute, Commander Murphy holds a Master of Arts in History and has passed the Doctoral Comprehensive Exam in American History (with minors in the Geopolitics of the USSR and in British and Irish History) from Fordham University in New York.

Commander Murphy concurrently holds a commission in the New York Naval Militia. He is President of the James F. Burke, Jr. Chapter (Westchester County, New York) of the Naval Reserve Association, and is an active member of the Legislative Committee of the Militia Association of New York. Commander Murphy is originally from Irvington, New York, and is presently the Emergency Preparedness Coordinator for Westchester County, New York and Coordinator of the Four County Nuclear Safety Committee (for the Indian Point Radiological Emergency Preparedness Plan).

HONORING MEMBERS OF AMERICAN ASSOCIATION OF COMMUNITY AND JUNIOR COLLEGES

HON. EARL HUTTO

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1991

Mr. HUTTO. Mr. Speaker, it has been my pleasure Monday and Tuesday, March 18 and 19, to have assisted my retired constituent, Warren H. Jernigan, former Doorman of the House of Representatives, to arrange meetings, tours, staff speakers, and a luncheon for members of an affiliate council of the American Association of Community and Junior Colleges [AACJC]—the National Council of Resource Development [NCRD]. As you are aware, Mr. Speaker, the 91/92 president-elect of NCRD, is Dr. Barbara Bennett, from Spokane Community College, Spokane, WA.

The Resource Development Specialist Training Program, now in its 11th year of leadership training for development personnel of the community and junior colleges, has 25 members in this year's class. The trainees represent 24 of our Nation's community colleges from 16 States.

Florida Community College at Jacksonville, Jacksonville, FL, in the Honorable CHARLES E. BENNETT's district, was selected as the Nation's model college for the 1991 program. This intensive 2-week program spends the first week at the model college and the second week here in Washington, DC.

It has been my pleasure to assist these community college development trainees from many of your districts by facilitating their visit to the Capitol complex in their quest for knowledge and exposure to the legislative process. The Community Colleges of America are responding directly to the academic and vocational needs of their communities and the personnel with us include the 1991 Professional Development Chair Marlene W. Camper, and Christine G. Kemery from Florida Community College at Jacksonville, Jacksonville, FL; Barbara Bebbett, Spokane Community College, Spokane, WA and resource development trainees: Sharon T. Bodrick, York Technical College, Rock Hill, SC; Kathryn A. Crown, Golden West College, Huntington Beach, CA; Debi Domasky, Westmoreland Community College, Youngwood, PA; Sally G. Essin, Northeast State Technical Community College, Blountville, TN; Judith G. Everett, Trident Technical College, Charleston, SC; Sandra N. Harriman, Howard Community College, Columbia, MD; L.C. Harris III, Austin Community College, Austin, TX; Karen B. Holden, Glendale Community College, Glendale, CA; Clement Howton, Calhoun Community College, Decatur, AL; Edna Hull, Tri-County Technical College, Pendleton, SC; James W. Jackson, Lincoln Land Community College, Springfield, IL; Karen L. Jackson, Blue Ridge Community College, Flat Rock, NC; Victoria O. Jaeger, Central Community College—Hastings, Hastings, NE; Jolene Medley, Metropolitan Community College, Omaha, NE; Barbara H. Mehnert, Longview Community College, Lee's Summit, MO; Mary Ann O'Brien, Lakewood Community College, White Bear Lake, MN; Cindy Pauk, Highline Community College, Des Moines, IA; Gail Polansky, Moraine Valley Community College, Palos Hills, IL; Connie R. Romine, College of Lake County, Grayslake, IL; Claire H. Sims II, Orangeburg-Calhoun Technical College, Orangeburg, SC; Dana Stahl, El Centro College, Dallas, TX; Joan Suchorski, Santa Fe Community College, Gainesville, FL; Kathleen Teehan, Bunker Hill Community College, Boston, MA; Ruth J. Watkins, El Centro College, Dallas, TX; and Kathleen A. Wells, Waukesha County Technical College, Pewaukee, WI.

It has been a pleasure to have these fine representatives of community colleges with us this week.

HOUSE OF REPRESENTATIVES—*Wednesday, March 20, 1991*

The House met at 2 p.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We open our hearts, O God, to hear Your voice and to express our petitions. May not the pace of daily life or the urgent concerns that are all about and take so much of our time and attention, keep us from the spiritual realities that are at the center of life. Help us, O God, in our headlong rush to do all that is before us, not to miss the lasting values of life, Your goodness to us or our respect and appreciation one for the other.

This is our earnest prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair will ask the gentleman from New York [Mr. WALSH] to come forward and lead the membership in the Pledge of Allegiance.

Mr. WALSH led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 1316. An act to amend chapter 54 of title 5, United States Code, to extend and improve the Performance Management and Recognition System, and for other purposes.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1175. An act to authorize supplemental appropriations for fiscal year 1991 for military activities of the Department of Defense and for defense activities of the Department of Energy, to improve military personnel benefits and veterans benefits, particularly for members of the Armed Forces who served in Operation Desert Storm, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 1175) "An Act to authorize supplemental appropriations for fiscal year 1991 for military activities of the Department of Defense and for defense activities of the Department of Energy, to improve military personnel benefits and veterans benefits, particularly for members of the Armed Forces who served in Operation Desert Storm, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. NUNN, Mr. EXON, Mr. LEVIN, Mr. KENNEDY, Mr. BINGAMAN, Mr. DIXON, Mr. GLENN, Mr. GORE, Mr. WIRTH, Mr. SHELBY, Mr. BYRD, Mr. WARNER, Mr. THURMOND, Mr. COHEN, Mr. MCCAIN, Mr. WALLOP, Mr. LOTT, Mr. COATS, Mr. MACK, Mr. SMITH, Mr. CRANSTON, Mr. DECONCINI, Mr. ROCKEFELLER, Mr. SPECTER, and Mr. MURKOWSKI, additional conferees from the Committee on Veterans Affairs, solely for matters within that committee's jurisdiction; to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 419) "An act to amend the Federal Home Loan Bank Act to enable the Resolution Trust Corporation to meet its obligations to depositors and others by the least expensive means."

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 213. An act to amend the Federal charter for the Boys' Clubs of America to reflect the change of the name of the organization to the Boys and Girls Clubs of America.

The message also announced that, pursuant to Public Law 101-363, the Chair on behalf of the majority leader, appoints Mr. PRYOR to the National Advisory Council on the Public Services.

GIVE PRESIDENT BUSH THE TOOLS TO DO THE JOB OF PEACE

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, I have just returned from a visit to the Middle East, our third since the war began, and this visit included devastated Kuwait City. I will report on the result of that journey at a later time.

For the moment, however, I want to bring to your attention the failure of the Congress to help the President do the job of peace in the Middle East. I refer to the need to act quickly on the Operation Desert Storm supplemental.

The other body, and to a lesser extent, this one, got tough with our allies for not paying every last dime of the money pledged to Operation Desert Storm. But why are we not just as tough with ourselves?

It is not the Germans and the Japanese holding up the Operation Desert Storm supplemental. It is our own colleagues, primarily in the other body. They are trying to micromanage foreign policy through the supplemental. They are loading the supplemental with something akin to pork-barrel amendments, probably better characterized in this case as milk-can amendments. That is only part of what they are doing.

The President needs our help—now. Our troops need our help—now.

How can we tell our allies that we need the money quickly while we will not take action promptly and quickly ourselves? Let us cut out the politicking and get the Operation Desert Storm supplemental passed—fast and clean.

REPLACE DESERT STORM WITH TRAVEL THUNDER

(Mr. TALLON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TALLON. Mr. Speaker, it is time to start traveling again.

Every person and every sector of our economy have been affected in some way by the gulf war—the tourism industry as much, if not more, than most.

The fear was understandable, but that is over now.

Our Armed Forces placed the ball back in our court when they brought peace, neutralizing the backers of terrorism, and lifting the cloak of fear from our Nation.

The mother of all recoveries is at hand. The travel industry has the ability to lead this Nation's recovery back to normal, prewar, business-as-usual conditions.

Let us join forces to encourage a travel boom and replace Desert Storm with travel thunder.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

JOIN CAMPAIGN TO FIGHT INTRUSIVE REGULATIONS

(Mr. COMBEST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COMBEST. Mr. Speaker, I hold in my hand today "dangerous dirt," according to the EPA. Although this soil nurtures one of the most productive agricultural areas in the Nation, the October 31, 1990, Federal Register carries a notice declaring that Lubbock, TX, is polluted—from blowing dust. The EPA claims the dust from just one March sandstorm is enough to designate the typically blue skies of west Texas as a pollution area.

According to the EPA, this menacing looking soil I hold in my hand is pollution. Because EPA air quality readings were taken during March duststorms, Federal regulations would force the city with normally pristine air quality to comply with a ribbon of redtape. If it can happen to Lubbock, TX, you better check the Federal Register for your town. This is the type of ridiculous Federal regulation which my fair campaign to fight against intrusive regulations will work hard to reduce.

Many of us have also heard horror stories about the severe burden of Federal wetlands regulations on farmers, real estate, construction, and other industries in our district. In some cases, over 65 percent of some cities and 80 percent of some States are subject to wetland permit regulation. The increased costs and delays from Federal wetlands regulations are overburdensome and they stagnate economic development. If you agree that regulations should be issued only when they are prudent and necessary to improve the quality of life for all Americans—I urge you to join my campaign to fight against intrusive regulations.

IRRESPONSIBLE BANK DIVIDENDS MAY SOAK THE TAXPAYERS

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANNUNZIO. Mr. Speaker, the Nation's banks have been telling us for quite some time that they do not have the money to recapitalize the bank insurance fund properly. But statistics released by the FDIC on March 14 indicate that banks have the income, they would just rather spend it elsewhere.

In the same year that their insurance fund was depleted by roughly $4.5 billion, banks paid $13.8 billion in dividends to their shareholders.

That's not the only bad news that the FDIC has for us. In 1990, 354 banks paid dividends to shareholders in spite of the fact that they had negative net income for the year. An additional 1,047 banks paid dividends that exceeded net income for the year, resulting in capital depletion. Another 2,801 banks had dividend payments that exceeded half their net income.

Banks and their shareholders alike benefit from deposit insurance, and they should pay to fix the fund right. Each passing day the bank insurance fund grows weaker, and it becomes increasingly likely that the taxpayers will have to bail out another Federal deposit insurance fund.

Mr. Speaker, Congress must require the banks to recapitalize their insurance fund, before their shareholders get what little is left of their dwindling resources.

INTRODUCTION OF TELECOMMUNICATIONS EQUIPMENT RESEARCH AND MANUFACTURING ACT OF 1991

(Mr. OXLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OXLEY. Mr. Speaker, today I have introduced the Telecommunications Equipment Research and Manufacturing Competition Act of 1991. The bill parallels Congressmen SLATTERY's and TAUZIN's bill except for the omission of the domestic content clause.

I applaud the efforts of my colleagues in introducing their bill. Since the divestiture of AT&T, U.S. trade in telecommunications has deteriorated four times faster than the decline in the Nation's overall trade balance. Yet, a Federal district judge has summarily barred America's seven leading telecommunications companies from competing in the global marketplace. It is time to take the reigns of regulation from Judge Greene and restore them to where they belong—the duly elected U.S. Congress.

At the same time, let us not act in vain. If we are to make any meaningful steps in the promotion of U.S. telecommunications companies in the next century, we cannot leave the telcos fettered to our shores. If they are to truly compete in a global economy, they must be free to act globally. This includes the ability to buy the best components at the cheapest prices, thereby allowing our consumers greater selection.

So let us make a positive step toward the reconstruction of our infrastructure for the 21st century, and let our telcos expand into manufacturing in a global economy.

□ 1410

A RAW DEAL FROM THE IRS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the Office of Management and Budget wants the IRS to do more audits, and OMB says it should do those audits on lower and middle income Americans, and they say so because "the poor and the middle income people are easier to collect from." It is a lot cheaper for the IRS to get that money.

Now, I don't know what is the big surprise. We should face it: The little guy has been getting a raw deal for years. The big guy usually is not hassled, is not audited. When they are, Members, they settle for pennies on the dollars.

I think the IRS has become too powerful. Everybody in America knows it. OMB is right about one thing. Lower and middle income Americans surely cannot afford a Philadelphia attorney. I think Congress should look into it. A raw deal is not the only deal that many Americans should be getting from the IRS.

PASS THE CRIME PACKAGE

(Mr. RAMSTAD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAMSTAD. Mr. Speaker, the front page of this morning's Washington Post tells a truly tragic American story.

One of our Persian Gulf heroes, Army Spec. Anthony Riggs, just safely returned from service in the Persian Gulf—was shot—and killed—right here on the streets of a major American city.

For weeks, we've seen reports that American citizens were more likely to be killed on our streets than on the front lines of Kuwait.

Just 2 weeks ago, President Bush spoke of this irony—and of the need to stop the killing here at home.

President Bush put forward a tough and effective crime package—and called on Congress to pass his package within 100 days.

Mr. Speaker, it is too late to help Specialist Riggs.

He could have walked safely on the liberated streets of Kuwait—but he died on the crime infested streets of America.

Mr. Speaker, Congress must act now to end the violence.

It is time to pass the Bush crime package.

ALL MEMBERS CAN CONTRIBUTE TO SELECT COMMITTEE ON CHILDREN, YOUTH, AND FAMILIES

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, we are going to, on the Select Committee on Children, Youth, and Families, send every Member home over the break with a take-home exam. I think it is very, very important. It will be one of the times this Congress can do something really useful. We hope that every Member of Congress, while they are at home over the break, looks for the most innovative child care proposals in their area, and brings them back. The committee will then compile them and share them with each other, so that somehow we will become a clearinghouse of very creative new ideas where ideas are being used to try and get America's families back into the workplace. The workplace has not been family friendly, but there are some that really stand out.

Therefore, I hope when Members get this little kit in their office explaining what this child care challenge is all about, that the Members will participate, because the results will help everyone when we compile them and get the results back to other Members and America, who I think can use some of the great innovative ideas that we see, once we find out what they are.

AN IRAQI SUICIDE MISSION

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute.)

Mr. BROOMFIELD. Mr. Speaker, the war in the Persian Gulf has just claimed one more victim. That is the guy that Saddam Hussein sent up in a fighter plane today knowing full well he would get shot down.

Since last August, Saddam has been testing America's resolve. You would think by now he would have learned.

He sent that warplane up in clear violation of the temporary cease-fire agreement. He knew what was in the agreement. His generals signed it. He has no excuse.

His Iraqi pilots should know that their fates rest in Saddam's hands. If he insists on sending more of them up on suicide missions, they will suffer the same outcome.

Some of the biggest losers in this whole struggle have been the Iraqi people. Saddam has played fast and loose with their lives. By now they should know who their persecutor has been.

HOMELAND FOR KURDS

(Mr. BILBRAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILBRAY. Mr. Speaker, as we sit here in relative comfort, the people in northern Iraq are suffering from bombardment. The Kurds who, in World War I, were promised a homeland, have been denied that homeland, and are fighting for their independence from a tyrant in Baghdad.

We now waffle whether or not we want to see the Iraqi republic broken into maybe two or three different countries. I say the Kurds, who have suffered so much over the last period of the last few years, need that homeland. They need a homeland where they do not have to worry about being gassed by a tyrant, their children killed, their women killed, and their men killed.

The Kurds have been there long before the Arabs came to Iraq, before the Turks invaded the Anatoly Plateau. As Alexander's armies marched out of Persia, they talked about being fought mile by mile by a tribesman called the Kurd. They have been there for 4,000 years, these people, and they deserve our help.

Mr. Speaker, the President of the United States should give to the Kurds, the people they need, and not only shoot down their fixed wing planes, but the helicopters being used to deliver that massive destruction against the Kurdish tribesmen.

POLICE CHIEF SHOULD RESIGN

(Mr. RAVENEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAVENEL. Mr. Speaker, back home, we know all about "judge not that ye be not judged" and the dangers of fingerpointing. But I have just got to express my folk's disgust and sadness over that two-legged pitbull attack on the man out in Los Angeles. If the victim had been a dog, it would have been an awful crime, but what the whole world is seeing is another terrible case of man's inhumanity to man in our country where it no longer should be, especially when it is practiced by government in which we all are collectively involved. It seems to us that if the chief knew about that streak of darkness and evil in his force, he absolutely should go; and if he did not know, then his ignorance is just as much of a reason for him to be gone.

HONOR COMMITMENT TO DEPOSITORS

(Mr. BARNARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARNARD. Mr. Speaker, I want to urge my colleagues to support the conference report for S. 419, Resolution Trust Corporation funding, when it comes to the House floor tomorrow. The past several weeks have seen much controversy over this issue, but the conference report which has resulted deserves strong bipartisan support.

The conference report provides the $30 billion the RTC requires to pay off depositors and close down over 225 insolvent thrifts which presently serve no purpose other than to drive up the cost of funds for solvent institutions and increase the overall cost of the thrift industry cleanup by $8 million per day.

The conference report also provides vital reforms in the area of accountability and management that will speed up the resolution process which in turn saves taxpayers money.

It is easy to attack the RTC and none of us like to vote for $30 billion, but if we did not have the RTC we would have to invent something like it, just like we invented the Reconstruction Finance Corporation to handle failed institutions after the Depression. If we do not spend $30 billion now, we will spend much more later and all the rhetoric in the world will not hide that reality.

Finally, to those who think that they can partisanize this issue to some short-term political advantage, I think that it is clear that the voters just blame Congress in general, not Republicans or Democrats, which just makes all of our jobs harder.

I urge my colleagues to choose to govern and to honor our commitments to depositors and taxpayers by supporting the conference report.

□ 1420

IT IS TIME TO TRAVEL AGAIN

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, it is time to travel again. The war has been hard on the U.S. travel and tourism industry, but the war is over, and as President Bush said last month, "The American people should have confidence in travel and tourism."

The President is right. In fact, the entire world should have confidence in our tourism industry, because America is the safest place in the world in which to travel.

Congress must now stand shoulder to shoulder with the travel industry, which is launching a multimillion dollar tourism promotion campaign.

It is not only the travel and tourism industry that has a stake in the revival of our tourism industry. Tourism is a major component of our Nation's economy, bringing in some $53 billion last year, and it is not just the famous spots that benefit. Each one of our respective States benefits. In my home State of Wisconsin, tourism produced some $5.4 billion in revenue in 1989, and created some 115,000 jobs. The situation is the same in all our other 49 States.

So increased tourism is good news for all Americans. Now our message to the world must be, "Come to America. There has never been a better time in which to visit America."

INTRODUCTION OF H.R. 1406, RESTORING DEDUCTIBILITY OF IRA's

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, last week I proudly became an original cosponsor of the bill, H.R. 1406, introduced by our friend, the gentleman from Texas [Mr. PICKLE] and our colleague, the gentleman from California [Mr. THOMAS] dealing with the individual retirement account. It was also introduced in the other body by the senior Senator from Texas.

H.R. 1406 would restore the universal deductibility of IRAs. Since 1986, when universal deductibility was dropped, participation in IRA's has dropped accordingly: some 50 percent. That, of course, has deprived us of a great deal of money that we need in the capital pool.

In addition, this bill, H.R. 1406, would establish what we call the Super IRA. Here the contribution is not deductible, but the interest earned if the IRA is held for 5 years is not taxable.

Furthermore, our bill allows the money, the proceeds of an IRA, to be used for medical emergencies without penalty, for tuition payments and for first homebuyers, all of this without penalty.

Mr. Speaker, I think that if we were to reinstitute the deductibility of IRAs, we would do a great favor not only to current Americans, but to future generations as well. It would encourage thrift, encourage savings, and create a capital pool that we very much need to make us competitive in the next century.

Let us do us and everyone a favor. Let us restore the IRA's.

THE REVIVAL OF TOURISM

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, I would like to associate myself with the remarks of my colleague, the gentleman from Wisconsin, who talked about the renewed effort in tourism.

One of the natural dividends that would be paid to the world following the end of the gulf war is a new expansion of tourism by reason of the new freedom that tourists must now feel to travel all across the world.

We know for a fact that airport security, transportation security of all types, antiterrorism efforts that have been successful thus far, a new communion among the nations most visited by tourists across the world, all of that is falling into place in such a wonderful way that now is the time to encourage Americans to take their postponed travel plans again and to invite others to come to our country.

Tourism, as we said by the gentleman from Wisconsin, is part of our economy. It is part of our lives. The wonders of the world which we seek and which we endorse are at our doorstep.

TRIBUTE TO THE LATE JOHN J. DOOLING OF STAFF OF COMMITTEE ON RULES

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOAKLEY. Mr. Speaker, it is with a deep sense of sorrow that I rise to inform Members that Jack Dooling, the staff director of the Rules Committee, passed away this weekend.

Mr. Speaker, during our careers on the Hill, one of the greatest joys and privileges we enjoy is the relationships we develop with our staff. And sometimes we are fortunate enough to have staff that is willing to devote their career to Government service in the House.

One such person was Jack Dooling. Jack worked for me since 1973, first as a legislative assistant in my congressional office, and then as staff director and counsel on my Subcommittee on Rules. In 1989 Jack became the staff director of the Rules Committee.

Jack epitomized the career staff person. A master of the intricacies of parliamentary procedure, there was no major piece of legislation that reached the floor that didn't have Jack's imprint on it.

However skillful Jack was in the legislative process, Mr. Speaker, it was his friendship, his counsel, his caring for people, that made him a truly outstanding person. We will all miss his dedicated professionalism and his deep love for this institution.

Mr. Speaker, I will be holding a memorial service for Jack after the Easter recess and will let Members know of the details as that time draws near.

PROHIBIT SOURCE TAXES, SUPPORT H.R. 431

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, taxes have been the focus of jokes, both good and bad, almost since the dawn of recorded time. But to the average taxpayer the subject is not funny. This is particularly true of a ridiculous little levy called the source tax.

A source tax is a levy imposed on income earned within a State. After an individual changes residence to another State, they are required to pay taxes to the previous State on any income received from a source in the previous State. Retirees who receive pensions are unfairly singled out this way.

There are many retirees who moved to States like Florida that have no income taxed only to find their pensions are taxed by their former State.

It is unfair that these people are being taxed by States where they receive no benefits and cannot vote. Retirees who had their incomes taxed the first time around while they earned them should not be taxed a second time.

I urge my colleagues to cosponsor legislation introduced by our distinguished colleague, Congresswoman BARBARA VUCANOVICH of Nevada.

Her bill, H.R. 431, will prohibit States from taxing the pensions of out-of-State residents. This measure would no longer allow States to impose an income tax on the pensions that retirees earned before moving to another State.

Mr. Speaker, we fought a revolution in this country over taxation without representation. People should not be taxed by States where they receive no benefits and cannot vote.

PROBLEMS CONGRESS MUST ADDRESS

(Mr. SANDERS asked and was given permission to address the House for 1 minute.)

Mr. SANDERS. Mr. Speaker, this Congress must begin, immediately, to address some of the very serious problems facing working people, the middle class, the elderly, and the poor. We cannot continue to ignore them. Let me just briefly mention three issues which must be dealt with in this session of Congress.

First, national health care. The current health care system is disintegrating before our eyes. The cost of health care is escalating far faster than inflation, and tens of millions of Americans no longer have any health insurance, or are only partially insured. The United States cannot be the last industrialized nation on Earth without national health care.

Second, rebuilding American industry. We must stop corporations from fleeing this country, throwing American workers out on the streets, and moving to the Third World where they are hiring desperate workers at starvation wages. It is a national disgrace that today, as the standard of living of American workers continues to decline, there are nine nations where production workers now receive higher wages and benefits than our workers.

Third, campaign finance reform. Wealthy people and large corporations cannot continue the process of buying elections. We cannot call ourselves a real democracy until all candidates play on a level playing field. The current disgrace must end.

VOTE "NO" ON COMMITTEE FUNDING RESOLUTION

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, today the House of Representatives will demonstrate once again that we are our own best constituents. We will reveal the true direction of our loyalties, and we will display our contempt for the American taxpayer, because today we will vote on House Resolution 92, the committee funding resolution.

Under this resolution, the 12 largest House committees will receive an average of a 12-percent increase. Considering the size of the Federal budget and the size of the Federal deficit and the record level of taxes we already impose upon our taxpayers, this increase is unacceptable, it is outrageous.

□ 1230

I urge Members of the House who are concerned about the Federal deficit, who are concerned about excessive Federal spending, to vote against this resolution. I know this is not a partisan issue, that people on my side of the aisle as well as the other side of the aisle will support this, and the reason is, on our side of the aisle, that we are willing to sell out cheaply for the crumbs that fall from the table and willing to say, "Well, now, that is progress; at least we are making progress." But it is not progress when we continue to enlarge our staffs and enlarge the congressional budget.

I support cutting spending, and I think this is the place we should begin to cut spending because this is the place we do not have any constituents lapping at our heels saying, "Please add more staff, please have more money spent on your congressional staff."

THE TRAGIC DEATH OF AN AMERICAN SOLDIER ON THE BATTLEFIELD OF AN AMERICAN CITY

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, this morning we all began our day by reading of the tragic death of an American soldier who fought in the Persian Gulf. That soldier's name is Anthony Riggs. But Anthony Riggs did not die on the battlefields of Iraq or Kuwait. Rather, Anthony Riggs died on a much more dangerous battlefield—the streets of an American city. While loading a moving van that was to move his family to a new apartment, Anthony Riggs was shot to death.

This story fills me with indescribable anguish. If it is safer to be attacked by Scud missiles or to fight the Republican Guard than to walk the streets of an American city, it is obvious that something has gone seriously wrong.

The death of Anthony Riggs is not an isolated incident. It is, rather, a powerful illustration of a story that is repeating itself in cities across our Nation. In New Haven, a city that I represent, Christian Prince, a 19-year-old, was shot to death near Yale University campus, and Darrow Lewis, a 15-year-old, was paralyzed on Eastern Street. Our cities have been besieged by a pathological cycle of poverty, drugs, and violence. Innocent civilians are increasingly becoming victims of drug wars; in military terminology, they would be referred to as "collatoral damage" of a war that knows no morality, and is not fought with "smart bombs." Instead of simply shrugging our shoulders in dismay, let us draw a lesson from the lives of these innocent youths. Let's address the problems of our inner cities—handgun violence, rampant drug use, inadequate education, and lack of economic opportunity—so that Anthony Riggs will not have died in vain.

THE GREAT AMERICAN SPENDING MACHINE

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, the great American spending machine has been turned on, and Congress is about to go into its annual practice of spending more money than we know where to find it.

The Appropriations Committee in the Senate is now working their will, and sometime—probably today—they will complete their bill. Then it will go to a conference committee, and probably sometime around midnight tomorrow night they will come forth with a bill that has a whole bunch of pork and new policy initiatives in it, all being done under the guise of helping the veterans.

Then on Friday, just before we are to go home for recess again, the Congress will be presented with this document, not knowing, again, what is in it. What we are likely to find in it is another Lawrence Welk birthplace and a couple of other items that no one knows that they are there because no one has had a chance to examine the legislation. What we will know is that the spending will be for more than veterans, it will be for a whole series of initiatives that are Congress-related, not people-related.

It is high time the American people begin to focus on the fact that we cannot break the spending habit. We told the American people last year in the Budget Act that we would do something to begin to control spending, and we are right back at our old tricks again. The American people ought to look at that appropriations bill very closely when it comes here on Friday.

ORTON SALUTES HOME-FRONT HEROES

(Mr. ORTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ORTON. Mr. Speaker, Operation Desert Storm has produced countless examples of bravery and sacrifice both on and off the battlefield. I join my fellow Americans in celebrating these wonderful patriots. I pray for their safe return home.

Today I want to share with the House another example of patriotism. On March 18 it was my privilege to present certificates of appreciation to 13 employers in Utah's Third District, 10 private and 3 public.

I am proud to honor the following home-front heroes: Carbon County, Delta Airlines, Deseret Medical, FHP Health Care, Novell, Orem City, Signetics, the city of Springville, Stouffers, U.S. West, West One Bank, and WordPerfect.

Rather than focusing on profits, losses, and accounting ledgers, these employers voluntarily took actions to alleviate the hardships of soldiers and their families. Not only did these employers hold open the jobs of our activated Reserves, but they continued health coverage and fringe benefits for their families and even supplemented military pay so that they would not suffer loss of income.

I want to once again express my appreciation and that of the people of my district to these corporate and public home-front heroes for their exemplary actions on behalf of the men and women of Utah Reserve and National Guard units.

POSTWAR RELATIONS WITH KUWAIT

(Mr. WELDON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON. Mr. Speaker, I had the distinct honor this past weekend of accompanying 12 of my colleagues on the first freedom flight into Kuwait. We went to Kuwait with some specific objectives in mind. We will describe and discuss those objectives in a special order that we will be taking out this afternoon following the close of business.

One of the key things that we were able to do was to reach an agreement with the Kuwaiti Government on the ability and the requirement that every Kuwait contract that is let to rebuild the city of Kuwait as well as the country will contain a percentage requirement of American workers, a percentage requirement of American subcontractors and a percentage requirement of minority contractors.

There has been a lot of sniping around this body and the other body about whether or not the Kuwaitis are really willing to share the fruits of our success in terms of the American people. We got that commitment this past weekend. Now we are in the process of working out the specifics of those agreements that in fact will benefit the American worker, the American small business person, American minority contractors, and the American country in general.

BUY AMERICAN, NOT FROM COUNTRIES SLOW IN PAYING THEIR SHARE OF WAR DEBTS

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, it has taken Japan longer to agree to provide financial support of $9 billion to the allied effort in the gulf war than it did for the American-led coalition to win the war.

The United States bore the greatest share of the burden in fighting for Kuwait's liberation, and it should be United States companies that get the greatest benefit in rebuilding Kuwait.

Rumors are that Kuwait may now be buying Japanese automobiles and vehicles. I certainly hope that this is not true. I have written to the Ambassador of Kuwait urging him to purchase American-made autos and goods.

The rule should be, "Buy American," and not from countries that are slow and reluctant to pay their fair share of the war's costs.

Let me add that all Americans are feeling especially patriotic of late. As we watch events in the Persian Gulf, it is also important to keep tabs on whether the promised allied pledges to buy American products are paid. I urge all the citizens of our Nation to buy American products and boycott goods from those nations who have not paid their bills. I will be posting a weekly grade card on who has paid and who has not.

This week's grade card shows Japan has only paid 6.9 percent of what she owes and Germany 62 percent. I urge Americans to buy American.

UPDATE ON THE SOVIET REFERENDUM

(Mr. RITTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RITTER. Mr. Speaker, Helsinki Commission staff have been deployed in the various republics of the Soviet Union, one of whom has just come back from Latvia. I just wanted to share with my colleagues some of what he found out.

First of all, the Latvian Parliament and Government did not participate in the referendum. Soviet Communist authorities say 500,000 people voted. That is more than a quarter of the population. They say 96 percent of those people voted for union, the Socialist Soviet Union, whereas just a short while ago they voted for independence, to be sovereign in Latvia. It does not make sense.

The vote that had occurred did so under the auspices of the Communist Party, the military, and directors of the all-union factories loyal to Moscow. Eligibility to vote was granted on the basis of any identifiation attesting to Soviet citizenship but not necessarily Latvian residence. Polling places did not have voting lists, in the main. It was possible for one individual to vote many times. Indeed, one reporter said he voted five times in the space of an hour on Saturday, March 16.

There was evidence many people were coerced into voting either at their place of work or, in the case of the military people, at their garrison.

I mean, how many times did these people vote, given the vote stuffing we are hearing about?

Much more needs to be known, Mr. Speaker, about this March 17 referendum. I urge my colleagues to stay tuned before they jump to any conclusions about Mr. Gorbachev's popularity.

□ 1440

THE SUPPLEMENTAL COMPENSATION ACT OF 1991

(Mrs. MINK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MINK. Mr. Speaker, today I have introduced the Supplemental Compensation Act of 1991, legislation to provide 26 weeks of additional unemployment compensation benefits to those workers in States with unemployment rates at or above 6 percent. Over the last year more and more workers in our Nation have been put out of work because of our slumping economy. Unemployment rates have risen from 5.3 percent in June 1990 to 6.2 percent by January 1991. In the midst of an admitted recession where layoffs have affected many sectors of our economy, it is time that we do something to ease the burden on the unemployed in this Nation.

The current program for extended unemployment benefits is not adequate. Under this joint Federal/State program, known as the Extended Unemployment Compensation Program, the calculation for eligibility has prevented many States suffering from high unemployment rates from taking advantage of the additional 13 weeks provided by the program. This is because of the use of the average insured unemployment rate [IUR] to calculate eligibility in the program. The average insured unemployment rate is based upon the number of people receiving State unemployment benefits, while totally excluding those who have exhausted their unemployment benefits or are not eligible for compensation. This results in a much lower unemployment rate.

During an economic downturn the problems of the insured unemployment rate is magnified. As the recession continues people who have exhausted their unemployment benefits will not be counted under the insured unemployment rate system, resulting in the unemployment rate actually decreasing as more people are out of work for a lengthening period.

Under the current system only two States, Alaska and Rhode Island, would be eligible for extended unemployment benefits. Mr. Speaker, as we all have seen in our own districts, the effects of the recession are certainly being felt in more than just two States. Some are worse than others, but with a national unemployment rate of over 6 percent, the majority of the States are being hit hard.

This legislation that I have introduced today would replace the current Extended Unemployment Compensation Program with a new, more fair and equitable program to address the widespread problem of unemployment in the Nation. Eligibility for an additional 26 weeks of compensation will be based on a State's total unemployment rate as reported by the Department of Labor, which takes into account those people out of work who are not receiving unemployment benefits. Those States with an average unemployment rate at or above 6 percent over 3 months would be eligible to participate in this program. To date approximately 20 States and territories in our Nation would qualify. The additional 26 weeks of unemployment compensation, to be funded by the Unemployment Trust Fund, would be administered by the States in accordance with each State's unemployment program.

In previous national economic downturns this body has enacted other legislation to provide supplemental unemployment compensation to its citizens. Today I ask that you support the Supplemental Compensation Act of 1991 and renew our commitment to the great working class of this country that its Government continues to be responsible, responsive, and reliable in the worst of times as well as the best.

SUGGESTION FOR THE EMIR OF KUWAIT

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, this weekend I returned from

Kuwait, where, as part of a bipartisan delegation, I want to assess the devastation in that small Arab nation. The pillaging, the rape, the plunder, the utter destruction of this country boggles the mind. It truly has to be seen to be believed. Every day or hour that we had waited before liberating this country would have meant more inconceivable horror for the poor people who suffered this megalomaniacal attack of a dictator.

Mr. Speaker, all during the 7 months of Desert Shield and Desert Storm we heard "the lessons of Vietnam, the lessons of Vietnam, the lessons of Vietnam." We heard it ad nauseam. Well, the lessons of Vietnam are crammed into refugee camps all over the islands of the Indonesian Archipelago, Malaysia, the Philippines, and Hong Kong. I have suggested to the Emir and to the superb Ambassador that Kuwait has sent to the United States of America that Kuwait take some of these people who are unwanted in the countries of first asylum in Southeast Asia and let them come as guest workers to Southwest Asia to live in Kuwait and help rebuild that country until they can find a permanent home. If the Vietnamese-Americans, Cambodian-Americans, and Laotian-Americans in my district are any example of this type of skilled, hard-working, wonderful people, Kuwait will be lucky to have such guest workers over the next decade to undo the horror wreaked upon them.

PUTTING A WRENCH IN THE CRANKCASE OF FINANCIAL SPECULATORS

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, for a number of years I have been standing in this House warning about the rampant speculation going on in our economy. I've repeatedly warned my colleagues about excesses in hostile takeovers, leveraged buyouts, and the use of risky junk bonds. Over the years, I have introduced legislation to try to put a wrench in the crankcase of these financial speculators who prey on the American public for financial gain and weaken this country's economy. Some of it has passed, but not nearly enough.

Mr. Speaker, we can now see the results. We see the long list of junk bonds that the Federal Government ends up owning.

Many S&L's that participated in this financial game went broke. The Federal Government has taken over those S&L's. Now the taxpayer ends up owning junk bonds in the Taj Mahal casino, Bally's Grand casino, Resorts International, Caesar's, and the list goes on. Well, some of these financial speculators are now doing 2 years of hard tennis in minimum security prisons. But there are others out there still engaging in hostile takeovers, still trying to figure out how they can float worthless junk bonds to finance those takeovers. I am going to once again introduce a package of legislation to try to stop activity that I think weakens the American economy.

Mr. Speaker, we don't need these financial games in this country. What we do need is greater investment in the kinds of economic activities that strengthen this country's economy and provide new opportunities for growth and long-term productivity.

INTRODUCTION OF RESOLUTION AGAINST RACIAL DISCRIMINATION IN COLLEGE ADMISSIONS

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, today I am introducing a resolution with 35 other sponsors. It puts the Congress on record against racial discrimination in college admissions.

Imagine what your children would feel if they received a form letter from a college to which they had applied that said they were on a blank waiting list with a blank filled in with a racial category. Form letters like that were received by an unknown number of Asian-American applicants to the University of California at Berkeley Law School.

Racial decisionmaking and quotas are illegal. Twenty-seven years of civil rights law is clear. Race-specific decisionmaking and quotas are illegal. They must not be allowed to occur for any reason with any motivation.

My bill calls on the colleges to ensure that their admissions policies are not discriminatory, and it calls on the Office of Civil Rights, and the Department of Education, and the Department of Justice to vigorously enforce the civil rights laws in regard to college admissions, especially for Asian-Americans. Unfortunately this has not been the case, and many Asian-Americans have suffered discrimination, especially when it comes to their children's attempts to go to our major universities.

INFANT MORTALITY: PROTECTING THE HEALTH OF AMERICA'S NEXT GENERATION

(Mr. HOAGLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOAGLAND. Mr. Speaker, the Bush administration, in the 1992 budget, proposes to divert funds from 1991 and 1992 community health centers grant program to combat infant mortality. The administration's fiscal year 1992 budget would redirect $24 million for fiscal year 1991 and fiscal year 1992 and target the amount to only 10 cities. I believe this is the wrong approach.

There is no question that infant mortality is a serious problem. Approximately 40,000 infants born in the United States this year will not live to celebrate their first birthdays. The statistics in America are alarming. Each day 105 children will die before reaching their first birthdays; 67 babies die within their first month of life; 689 women who have had inadequate prenatal care give birth; and 848 low birthweight babies are born. In my own district, a baby born to a woman living in an Omaha Housing Authority project is three times as likely to die at birth as babies born to other Omaha women. This is unacceptable for a country with the advantages of ours.

The United States has one of the highest living standards in the world. It spends more money on health care than any other nation. Yet, the infant mortality rate in the United States is among the highest of industrialized nations. To reverse these trends, attention must be given to prevention—prevention during pregnancy and prevention during the first months of the child's life.

It is wrong to take away funding from community centers because community health centers are one of the solutions to the problem. Community health centers serve over 5 million people annually. Of these people, 30 percent are women of childbearing age with nearly 1 in 10 pregnant. Two-thirds of health centers report teen pregnancy is the most urgent problem in their communities. The Charles Drew Health Center located in my district served 218 pregnant mothers in 1990. Pregnancy was their No. 1 diagnosis. More than 250,000 persons nationwide, including thousands of pregnant women, will be affected by the administration's proposal. Taking funds away from the Charles Drew Health Center is no answer.

Community health centers across the country have been providing access and affordable care for young mothers, young mothers who even if insured would remain isolated from traditional forms of medical care because of where they live and who they are. Health centers have been exceptionally effective in reaching at-risk populations throughout the Nation and taking funds aways from these centers will be counterproductive.

Currently, access to prenatal care is exacerbated by the existing budget limitations on community health centers. Waiting lists are averaging 20 to 30 percent of current patient enrollment at most centers as the number of working poor and uninsured persons seeking health care continue to rise. Infant mortality is a problem found in every community in the United States. It does not make sense to take funds away from a program which is successfully reducing infant mortality around the Nation in order to fund a program which will serve a narrower population. This is robbing Peter to pay Paul.

Community health centers deserve our support. What is needed is adequate funding for cost-effective prenatal care in every health care delivery mode. The future of this Nation lies in its children, but words will not save the lives of our children. Actions taken now can insure the health of our future generations.

URGING COSPONSORSHIP OF NATIONAL MILITARY FAMILIES DAY

(Mr. ESPY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ESPY. Mr. Speaker, for the past 3 years I have introduced a bill citing the first Monday before Thanksgiving as National Military Families Day. I rise today once more because we are about to introduce this bill once more, and I rise to invite original cosponsors for this effort.

At this time our Nation is particularly reminded of the fact of the sacrifices our 4 million military families make in times of war, but also, Mr. Speaker, in times of peace they endure separation, they make financial sacrifices, they tolerate frequent moves, and often must postpone education or other career goals. They give of themselves for all of us.

Mr. Speaker, this Congress has already acted to show its support for the men and women of our Armed Forces and their families, but we can never do enough. We can never say, "Thank you," too much. For the past 3 years Congress has marked this occasion, but I know that my colleagues will agree that this year National Military Families Day will be even more special.

□ 1450

DETROIT MURDER UNDERSCORES AGAIN NEED FOR THE BRADY BILL

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, I want to share with my colleagues two names: Those of Jim Brady and Anthony Riggs. Jim Brady is a man we all know. He was press secretary to President Reagan. He was shot by the same handgun that was used in the attempt on the President's life in 1981, and since that awful day Jim Brady and his courageous wife Sarah have fought with all their might to bring sense to this Nation's gun laws.

Anthony Riggs is a name very few of us know, but his story is just as horrific. An Army specialist, Anthony Riggs was ruthlessly gunned down on a quiet street in Detroit just 11 days after he returned from defending freedom in the Persian Gulf. Army Specialist Riggs survived the military confrontation but was not safe in his family's driveway.

What did these men share in common? That if we had the Brady bill as law, they both might have survived their injuries. We must, I say to my colleagues, enact the Brady bill.

The President has declared an analogy between our victory in the Persian Gulf and the war on crime. I would like to extend that analogy. The first thing we did in the Persian Gulf was take the arms away from our enemy. We must do the same thing in our cities, in our suburbs, and in our rural areas. We must take the guns away from felons, from mentally deranged people, from people who do not deserve to have them.

Mr. Speaker, the Brady bill will be a step in that direction. In the name of James Brady and in the name of Anthony Riggs, I urge the House to pass this legislation.

HAWAII'S VISITOR INDUSTRY

(Mr. ABERCROMBIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ABERCROMBIE. Mr. Speaker, I rise today to talk of the importance of the travel and tourism industries to the State of Hawaii. As you know, my State has the enviable position of being located in the middle of the Pacific Ocean. Yet, the recent war in the gulf made many individuals, both foreign and domestic, reconsider their travel plans and as a result caused a downturn in Hawaii's economy. But now that the war is over it's time for America and the rest of the world to start traveling again, especially to Hawaii.

In 1989, over 6.6 million individuals visited the Aloha State, and their expenditures added almost $11 billion to our economy. This amounted to over 44 percent of the State of Hawaii's total gross State product. Hence, I commend the efforts of individuals from the travel and tourism industries, as well as the U.S. Travel and Tourism Administration for their efforts to reassure the American public that it is safe to start traveling again. On top of this I applaud and support wholeheartedly, the Hawaii Visitors Bureau plan to launch a massive ad campaign, both in the domestic and international markets, to lure visitors back to Hawaii.

I look forward to better days for Hawaii's tourist and travel industries, and I invite the whole world to visit Hawaii and experience our aloha spirit.

EXIMBANK SHOULD CONCENTRATE ON CIVILIAN, NOT MILITARY EXPORTS

(Mr. MOODY asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. MOODY. Mr. Speaker, in a speech yesterday, the President of the International Monetary Fund urged that developing countries, especially in the Middle East, concentrate available import credits on productive investments and not on arms imports.

That is why a number of us are opposing the administration's proposal to subsidize arms sales through the U.S. Export-Import Bank. Cutting the Exim's already limited authority for promoting civilian industrial and farm exports by diverting that authority to subsidizing military exports would be foolish and would hurt our domestic industrial and machine tools base.

Furthermore, the production of arms items does nothing to raise the standard of living in those countries or raise the necessary revenue to pay off the loans. Hence, military loans have a higher rate of default overseas than domestic civilian loans. Civilian loans for items such as farm equipment, computers, machine building tools, and mining equipment, to name just a few, raise the buyer's standard of living in those countries and hence raise the demand for U.S. imports, later on increasing jobs in America.

Mr. Speaker, the head of the IMF is right on target. Over 50 of us have already cosigned a letter to Secretary of State Baker opposing this new proposal. I ask the Members to please support our upcoming legislation to prevent Exim bank from becoming an export arm of the Pentagon.

MURDER OF PFC ANTHONY RIGGS POINTS UP PROBLEMS ON THE HOME FRONT

(Mr. BONIOR asked and was given permission to address the House for 1 minute.)

Mr. BONIOR. Mr. Speaker, I rise with a deep sadness and a sense of outrage at the senseless murder of Anthony Riggs in Detroit. Private first class Riggs, as we all have heard in the last few days, came home from defending his country in the Persian Gulf to a neighborhood in Detroit where he was senselessly riddled with bullets and murdered.

Mr. Speaker, as a young boy I used to play on that street in that neighborhood. You could play in the alley there, and you could get a good education in the neighborhood school, and you did not have to worry about your health. But that is not the case any more.

We have 30 million people in this country who are illiterate, and many of them live in Detroit. The infant mortality rate in the city of Detroit is larger than the numbers in the country of Honduras. While we are policing the world, we cannot police our own streets. It is indeed an outrage.

Mr. Speaker, I hope the leadership of this body and our President will use their capital and their political leadership to address these issues here at home. We indeed have to start taking care of our own people here at home before we turn ourselves outward to the rest of the world.

A PLEA FOR A WORKABLE NATIONAL HEALTH POLICY

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, I think most of us have heard these figures before, but there are 38 million working Americans making minimum wage who have no health insurance. There are millions more who have less than adequate health insurance, and 13 million of these people are little children. This is in the United States of America, a nation of, by, and for the people, and yet so many of them are brought down to begging to save their lives because it costs $100,000 or $150,000 for a bone marrow transplant or an organ transplant or even to care for ordinary illnesses. And one cannot go to see a doctor or go to a hospital or a pharmacist unless they plunk down a good portion of that money, or they do not get it.

These people have trouble putting food in their stomachs, clothes on their backs, and a roof over their heads, and yet they are asked to cough up $400 or $500 a month for a health policy.

Mr. Speaker, what we need is a national health policy that is going to be workable. How in God's name can we forget to take care of the very people who are the spirit of this country, the people who make up the United States of America?

THE FORGOTTEN WARRIORS

(Mr. ANDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDERSON. Mr. Speaker, the brave men and women who fought so valiantly in the Persian Gulf deserve our praise not just today but each day in the life of this great Nation. Now that these veterans are returning home, they deserve to be compensated for the sacrifices they have made. The support for our troops should not falter upon the war's conclusion.

Although I am confident that these veterans will be provided for, one group of veterans has continued to be neglected throughout the years, the veterans of World War I. These men who fought in the bloodiest war in modern history seem to have escaped our collective memory. At the beginning of the 101st Congress, there were 119,870 World War I veterans. Now, there are only 77,468 left, and a majority of them reside in convalescent hospitals. Today, even as I speak, 120 World War I veterans will die.

When these men completed the war they received no financial aid to continue their education. There were no programs to foster the veteran's reintroduction into society. While it is not always possible to redress the mistakes of history, it is possible to ease the burden of those who are currently suffering.

My bill, H.R. 1918, would provide a $100 a month pension to the very few remaining World War I veterans. Although this pension might be too little to completely ease their suffering, let us make sure that it is not too late. Not too far into the future, Congress will mourn the death of the last veteran of World War I and celebrate his devotion to our country. Let us not make this an empty gesture. Instead, let us help the veteran now when it can still make a difference in his life. I urge my colleagues to support H.R. 1918 and send a message to all veterans that their sacrifices will never be forgotten.

AMERICA IS INVITED TO WASHINGTON'S CHERRY BLOSSOM FESTIVAL

Ms. NORTON. Mr. Speaker, I have just come from the Persian Gulf, having arrived in Washington at 2 a.m. this morning, from Kuwait, Saudi Arabia, and Israel, where our troops once again have done it for us. Now we must do it for them.

Let normalcy return. If Kuwait City and Baghdad show the signs of war, let Washington, DC reveal the emblems of peace. The best sign that we have won the war would be an outpouring of citizens from every State coming in the traditional way to the Nation's Capital at cherry blossom time.

Washington is not Washington and America is not America without its visitors from every State to this, the Capital City. Both official Washington and hometown Washington are safe and beautiful. We do not want to keep it all to ourselves.

Mr. Speaker, the troops are coming home again; may the visitors to Washington also return, here, and to every part of America.

PROVIDING FOR EXPENSES OF INVESTIGATIONS AND STUDIES BY STANDING AND SELECT COMMITTEES

Mr. GAYDOS. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 92) providing amounts from the contingent fund of the House for the expenses of investigations and studies by standing and select committees of the House in the first session of the 102d Congress, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 92

Resolved, That there shall be paid out of the contingent fund of the House in accordance with this primary expense resolution not more than the amount specified in section 2 for investigations and studies by each committee named in such section, including expenses—

(1) in the case of a committee named in section 3, for procurement of consultant services under section 202(i) of the Legislative Reorganization Act of 1946; and

(2) in the case of a committee named in section 4, for provision of assistance for members of professional staff in obtaining specialized training under section 202(j) of such Act.

SEC. 2. The committees and amounts referred to in the first section are: Select Committee on Aging, $1,585,204; Committee on Agriculture, $2,262,951; Committee on Armed Services, $2,765,100; Committee on Banking, Finance and Urban Affairs, $4,872,880; Select Committee on Children, Youth, and Families, $828,650; Committee on the District of Columbia, $395,722; Committee on Education and Labor, $4,353,264; Committee on Energy and Commerce, $6,314,580; Committee on Foreign Affairs, $4,137,733; Committee on Government Operations, $3,739,197; Committee on House Administration, $1,971,550; Committee on House Administration—House Information Systems, $5,806,000; Select Committee on Hunger, $675,700; Permanent Select Committee on Intelligence, $242,600; Committee on Interior and Insular Affairs, $2,516,500; Committee on the Judiciary, $2,653,060; Committee on Merchant Marine and Fisheries, $2,482,819; Select Committee on Narcotics Abuse and Control, $824,004; Committee on Post Office and Civil Service, $2,084,490; Committee on Public Works and Transportation, $3,186,982; Committee on Rules, $722,497; Committee on Science, Space, and Technology, $3,060,323; Committee on Small Business, $1,055,000; Committee on Standards of Official Conduct, $500,000; Committee on Veterans' Affairs, $739,451; and Committee on Ways and Means, $4,744,000.

SEC. 3. (a) Of the amounts provided for in section 2, each committee named in subsection (b) may use not more than the amount specified in such subsection for consultant services under paragraph (1) of the first section.

(b) The committees and amounts referred to in subsection (a) are: Committee on Agriculture, $40,000; Committee on Armed Services, $40,000; Select Committee on Children, Youth, and Families, $3,000; Committee on the District of Columbia, $10,000; Committee on Education and Labor, $106,785; Committee on Energy and Commerce, $25,000; Committee on Government Operations, $35,000; Committee on House Administration, $175,000; Committee on House Administration—House Information Systems, $400,000; Permanent Select Committee on Intelligence, $5,000; Committee on Interior and Insular Affairs, $5,000; Committee on Post Office and Civil Service, $150,000; Committee on Public Works and Transportation, $50,000; Committee on Science, Space, and Technology, $115,000; Committee on Standards of Official Conduct, $300,000; Committee on Veterans' Affairs, $37,500; and Committee on Ways and Means, $10,000.

SEC. 4. (a) Of the amounts provided for in section 2, each committee named in subsection (b) may use not more than the amount specified in such subsection for specialized training under paragraph (2) of the first section.

(b) The committees and amounts referred to in subsection (a) are: Committee on Agriculture, $9,000; Committee on Armed Services, $8,000; Committee on the District of Columbia, $2,500; Committee on Education and Labor, $10,000; Committee on Government Operations, $2,000; Committee on House Administration, $25,000; Committee on House Administration—House Information Systems, $180,000; Permanent Select Committee on Intelligence, $10,000; Committee on Interior and Insular Affairs, $2,000; Committee on the Judiciary, $1,000; Committee on Post Office and Civil Service, $15,000; Committee on Public Works and Transportation, $30,000; Committee on Rules, $4,500; Committee on Science, Space, and Technology, $16,000; Committee on Standards of Official Conduct, $10,000; and Committee on Veterans' Affairs, $2,500.

SEC. 5. The Committee on House Administration—

(1) shall, through House Information Systems, develop, operate, maintain, and improve computer and information services for the House, including direct computer and information systems support for Members, committees, administrative offices, and other governmental entities, and shall conduct necessary investigations and studies of such services;

(2) is authorized to receive reimbursement for services under paragraph (1) and to expend amounts so reimbursed in accordance with policies of the committee; and

(3) is authorized to provide for professional development programs, office and personnel management consultation services, and periodic publication of handbooks, guides, bulletins, and other items necessary for the House.

SEC. 6. Payments under this resolution shall be made on vouchers authorized by the committee involved, signed by the chairman of such committee, and approved by the Committee on House Administration.

SEC. 7. Amounts shall be available under this resolution for investigations and studies carried out during the period beginning at noon on January 3, 1991, and ending immediately before noon on January 3, 1992.

SEC. 8. Amounts made available under this resolution shall be expended in accordance with regulations prescribed by the Committee on House Administration.

Mr. GAYDOS (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The SPEAKER pro tempore. The Clerk will report the committee amendment in the nature of a substitute.

The Clerk read as follows:

Committee amendment in the nature of a substitute: Strike out all after the resolving clause and insert the following:

That there shall be paid out of the contingent fund of the House in accordance with this primary expense resolution not more than the amount specified in section 2 for investigations and studies by each committee named in such section, including expenses—

(1) in the case of a committee named in section 3, for procurement of consultant services under section 202(i) of the Legislative Reorganization Act of 1946; and

(2) in the case of a committee named in section 4, for provision of assistance for members of professional staff in obtaining specialized training under section 202(j) of such Act.

SEC. 2. The committees and amounts referred to in the first section are: Select Committee on Aging, $1,542,240; Committee on Agriculture, $2,257,937; Committee on Armed Services, $2,464,082; Committee on Banking, Finance and and Urban Affairs, $4,336,240; Select Committee on Children, Youth, and Families, $764,593; Committee on the District of Columbia, $342,035; Committee on Education and Labor, $4,110,649; Committee on Energy and Commerce, $6,287,459; Committee on Foreign Affairs, $3,840,825; Committee on Government Operations, $3,282,875; Committee on House Administration, $1,941,450; Committee on House Administration—House Information Systems, $5,711,100; Select Committee on Hunger, $654,274; Permanent Select Committee on Intelligence, $148,600; Committee on Interior and Insular Affairs, $2,192,434; Committee on the Judiciary, $2,430,018; Committee on Merchant Marine and Fisheries, $2,322,057; Select Committee on Narcotics Abuse and Control, $729,502; Committee on Post Office and Civil Service, $1,910,783; Committee on Public Works and Transportation, $2,893,963; Committee on Rules, $722,479; Committee on Science, Space, and Technology, $2,901,410; Committee on Small Business, $1,055,000; Committee on Standards of Official Conduct, $400,000; Committee on Veterans' Affairs, $739,451; and Committee on Ways and Means, $4,780,000.

SEC. 3. (a) Of the amounts provided for in section 2, each committee named in subsection (b) may use not more than the amount specified in such subsection for consultant services under paragraph (1) of the first section.

(b) The committees and amounts referred to in subsection (a) are: Committee on Agriculture, $40,000; Committee on Armed Services, $40,000; Select Committee on Children, Youth, and Families, $3,000; Committee on the District of Columbia, $10,000; Committee on Education and Labor, $106,785; Committee on Energy and Commerce, $25,000; Committee on Government Operations, $35,000; Committee on House Administration, $225,000; Committee on House Administration—House Information Systems, $400,000; Permanent Select Committee on Intelligence, $5,000; Committee on Interior and Insular Affairs, $5,000; Committee on Post Office and Civil Service, $150,000; Committee on Public Works and Transportation, $50,000; Committee on Science, Space, and Technology, $115,000; Committee on Standards of Official Conduct, $300,000; Committee on Veterans Affairs, $37,500; and Committee on Ways and Means, $10,000.

SEC. 4. (a) Of the amounts provided for in section 2, each committee named in subsection (b) may use not more than the amount specified in such subsection for specialized training under paragraph (2) of the first section.

(b) The committees and amounts referred to in subsection (a) are: Committee on Agriculture, $9,000; Committee on Armed Services, $8,000; Committee on the District of Columbia, $2,500; Committee on Education and Labor, $10,000; Committee on Government Operations, $2,000; Committee on House Administration, $25,000; Committee on House Administration—House Information Systems, $180,000; Permanent Select Committee on Intelligence $10,000; Committee on Interior and Insular Affairs, $2,000; Committee on the Judiciary, $1,000; Committee on Post Office and Civil Service, $15,000; Committee on Public Works and Transportation, $30,000; Committee on Rules, $4,500; Committee on Science, Space, and Technology, $16,000; Committee on Standards of Official Conduct, $10,000; and Committee on Veterans' Affairs, $2,500.

SEC. 5. The Committee on House Administration—

(1) shall, through House Information Systems, develop, operate, maintain, and improve computer and information services for the House, including direct computer and information systems support for Members, committees, administrative offices, and other governmental entities, and shall conduct necessary investigations and studies of such services;

(2) is authorized to receive reimbursement for services under paragraph (1) and to expend amounts so reimbursed in accordance with policies of the committee; and

(3) is authorized to provide for professional development programs, office and personnel management consultation services, and periodic publication of handbooks, guides, bulletins, and other items necessary for the House.

SEC. 6. Payments under this resolution shall be made on vouchers authorized by the committee involved, signed by the chairman of such committee, and approved by the Committee on House Administration.

SEC. 7. Amounts shall be available under this resolution for investigations and studies carried out during the period beginning at noon on January 3, 1991, and ending immediately before noon on January 3, 1992.

SEC. 8. Amounts made available under this resolution shall be expended in accordance with regulations prescribed by the Committee on House Administration.

SEC. 9. The Committee on House Administration shall have authority to make adjustments in amounts for investigations and studies under section 2, if necessary to comply with an order of the President issued under section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 or to conform to any reduction in appropriations for the purposes of such section 2.

Mr. GAYDOS (during the reading). Mr. Speaker, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania [Mr. GAYDOS] is recognized for 1 hour.

Mr. GAYDOS. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Ohio [Mr. GILLMOR], the ranking minority member of the Subcommittee on Accounts, for purposes of debate only, pending which I yield myself such time as I may consume with the understanding that any additional time which I may yield will be subject to the specific limitation, for debate purposes only.

Before explaining this amendment, I wish to thank all of the members of the Accounts Subcommittee for their hard work in considering each budget request from the respective committees. Attendance at each of the sessions was very good. The product which I present to the House has the support of a united subcommittee, it is not perfect, but it does reflect the best possible agreement that could be crafted in the spirit of reasonable compromise among committee members.

In particular, I wish to thank the ranking minority member of the subcommittee, PAUL GILLMOR, and BILL THOMAS, the ranking minority member of the full committee for their diligent and thoughtful work. Additionally, I wish to thank Chairman ROSE for his consultations during the whole budget review process.

Furthermore, I wish to thank all of the chairmen and ranking minority members from the respective committees and their staffs. Their cooperation with the Accounts Subcommittee enabled us to evaluate all the budgetary requests in a thorough and timely manner. In a year in which most committees submitted requests for large budget increases, I wish to salute several chairmen for submitting budgets that were frugal and conservative.

The committee amendment in the nature of a substitute is the product of the deliberations of the Subcommittee on Accounts over each committee's budgetary request. The subcommittee's proposed amendment was subsequently adopted without change by the full Committee on House Administration.

Regarding the subcommittee's work product, the amendment in the nature of a substitute provides a total authorization of $60,761,456 for investigations and studies by all standing and select committees of the House of Representatives with the exception of the Committees on Appropriations and the budget for 1991. The total authorization for 1990 was $56,787,425. Therefore, the amount approved by the subcommittee represents a 6.99-percent increase over the 1990 authorization. In my judgment, this percentage increase is very reasonable when you take into consideration the 1991 pay comparability increase of 4.1 percent for Federal workers, the so-called Federal COLA, the projected inflation rate of 5.2 percent for 1991, and the raising of the cap on congressional staff salaries. Furthermore, it should be noted that the subcommittee cut the sum of all the amounts requested by the committees in their original expense resolutions for 1991 by $3,756,783.

In making its determinations, the subcommittee did not use any set mathematical formula. Instead, it evaluated each budget proposal on its own merits. Proposed spending levels in each of the respective budget categories were examined very closely. The final product attempted to direct most of the large increases to the major legislative standing committees with substantial workloads, such as Armed Services, Ways and Means, Energy and Commerce, Agriculture, Foreign Affairs, Education and Labor, and Judiciary. This year, the subcommittee was, also, able to assist two other committees, that have not received large average increases over the past few years. Specifically, the Committees on House Administration and Interior were granted large increases. In the case of House Administration, over the past 10 years House Administration has ranked 20th in average percentage increases and 18th in average dollar amount increase. The Interior committee during the past 5 years was ranked 16th in both average percentage increases and average dollar amounts. Both committees deserved the recommended increases for 1991.

Most importantly, I wish to emphasize that the subcommittee was very much aware of the pressures for staff salary increases resulting from the Speaker's recent pay order. However, there is just not enough funds to give every committee a large increase this year. The subcommittee over the years under my chairmanship has tried to be fair and to judiciously weigh all factors. If we fund a committee at a lower level in one year, we will try to be responsive to a reasonably large increase if submitted and justified in a subsequent year. However, all of our determinations are subject to the availability of appropriated funds.

On the subject of sexual discrimination in the determination of compensation for committee employees, I wish to indicate that the provisions of clause 9 of House rule 43 govern such determinations. Enforcement of this clause is within the jurisdiction of the Committee on Standards of Official Conduct. Additionally, House employees now have a detailed procedure for making discrimination complaints and resolving disputes. Specifically, the Office of Fair Employment Practices has been established in the House of Representatives to counsel, mediate, investigate and hear alleged violations of the House antidiscrimination policy. However, as chairman of the Subcommittee on Accounts, I have encouraged the committee chairmen and the ranking minority members to review their compensation practices on a continuing basis to assure that there is no prohibited discrimination. This encouragement was made during the hearings and in the preliminary meetings between the staff of the Accounts Subcommittee and the staff directors of the respective committees. During the past 7 years, improvements have been made. More and more women are occupying key policymaking positions at the subcommittee and full committee levels. For example, women hold the position of staff director on the Committee on Education and Labor, the Committee on Agriculture, the Committee on Post Office and Civil Service, and the position of general counsel on the Committee on Armed Services. On the Committee on House Administration, the minority staff director is a woman. These are but a few of many examples indicating substantial progress.

Finally, I urge my colleagues to vote in favor of the committee amendment in the nature of a substitute and the resolution.

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Mr. Speaker, I reserve the balance of my time.

Mr. GILLMOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the amendment in the nature of a substitute to H. Res. 92, the committee funding resolution for 1991. Before I discuss the amendment, I would like to thank the Members which have contributed their time and efforts to producing a reasonable and bipartisan bill.

First, the subcommittee chairman, Mr. GAYDOS, deserves much credit for his leadership in bringing this bill to the floor. I would like to thank the chairman of the committee, CHARLIE ROSE, and the ranking Republican member, BILL THOMAS, for their help and support during consideration of the bill. All of the members of the Subcommittee on Accounts on both sides of the aisle deserve praise for their hard work on the resolution.

The resolution provides $60.8 million for studies and investigations for the standing and select committees for 1991, a slightly less than 7 percent increase over the 1990 funding authorization. House Administration Republicans support the resolution, because it continues the progress we have made over the last 2 years in increasing the Republicans' percentage allocation of committee funds, and the committee has made a commitment to examine reforms of the committee funding process.

In 1989, Republicans comprised approximately 40 percent of the membership of the House, yet were limited to 16.6 percent of standing committee investigative committee staff. Responding to this inequity, the Committee on House Administration agreed in principle in 1989 that at least 20 percent of each committee's investigative staff should be assigned to the Republican members, and that this percentage should increase annually until it reached 33 percent through both attrition and increased funding.

Since that time, we have made progress toward this one-third goal. I will mention a few brief statistics. In January 1989, twelve committees were below the 20-percent floor for minority investigative staff. As of January 1991, only eight committees remained under 20 percent.

From 1989 to 1991, the average committee minority share of the investigative staff percentage increased 1.5 percent. For standing committees, the increase was closer to 2 percent, growing from 16.6 percent in 1989 to 18.5 percent in 1991.

Within this overall total, the minority staff percentage increase varied from committee to committee. The Foreign Affairs Committee deserves particular mention: the minority percentage share of staff grew 8 percent from 1989 to 1991. Several other committees increased by 4 and 5 percent including Merchant Marine and Small Business.

Unfortunately, despite this progress, the Democratic caucus recently adopted a rule which states that committees shall not be required to provide for more than 20 percent of investigative staff for the minority. This language can be interpreted as a ceiling of 20 percent rather than the House Administration policy of a floor of 20 percent.

Despite this negative response from the Democratic caucus, House Administration Republicans continued to press the minority allocation issue during the 1991 committee funding process. The goal was to use treatment of the minority as a factor in determining the relative increases for committees, and to ensure that committee increases were to be used to further the goal of the House Administration 1989 agreement. Generally, Republicans were able to make progress toward these objectives in this funding resolution.

The largest dollar increases were given to Energy and Commerce, Ways and Means, and Foreign Affairs. These committees testified that the additional funds will be used to increase the minority's percentage allocation of committee investigative funds, or have demonstrated their commitment to increasing the minority's allocation.

For example, the Energy and Commerce Committee received the largest dollar increase. Although this committee has a mere 11-percent minority investigative staff ratio, the chairman testified that the minority was slated to receive all of the increase above the current services budget. This allocation would increase the minority's resources to 19 percent of the committee's investigative budget and allow the Republicans to hire eight additional staff.

Progress has been made, but more remains to be done. In fact, for the House as a whole, the Republicans have not yet reached the 20-percent floor of investigative staff. As of January 1991, the minority investigative staff percentage for all standing committees was 18.5 percent. Even adding the select committees, this figure is only 19.3 percent. Within this overall total, the minority percentage on each committee varies widely. The Judiciary and District of Columbia Committees have only 9 percent, while the Veterans and Public Works Committees are above 30 percent.

These kinds of statistics reveal that minority resources should not be solely dependent on the sometimes tenuous relationship between the chairman and ranking member. Rather, the institution should provide adequate protections for the minority. Since 1977, Senate rules have contained a provision allocating committee resources to the minority in proportion to their membership on the committee. It appears that the Senate recognizes the value of a functioning and funded minority for the health of the institution. The House should follow this same standard.

We recognize that lack of adequate protections for the minority is not the only problem with the committee funding system. Funding for committees is from two separate accounts (statutory and investigative). Also, by requiring committees to justify their budgets each year, rather than on a 2-year congressional cycle, the process is cumbersome.

The Republican Policy Committee recently adopted a set of seven proposals which would reform the committee funding process to make it more accountable, equitable, and efficient. I am pleased that the report accompanying this resolution contains language stating that the Committee on House Administration will examine and report on reforms on the funding process, including those mentioned in the Republican policy statement on committee funding reform within the committee's jurisdiction. I would urge my Democratic colleagues on the committee to work with us to adopt these needed reforms.

Mr. Speaker, the resolution before us today deserves the support of my colleagues. It continues the progress we have made over the past 2 years by targeting resources to the minority in an effort to correct glaring inequities in resource allocation. In addition, the report states the intent of the committee to look at overall reform of the committee funding system. I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. GAYDOS. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. ROSE], the distinguished chairman of the full Committee on House Administration.

Mr. ROSE. Mr. Speaker, the funding resolution which Chairman GAYDOS brings to the floor today is an excellent example of the cooperative spirit of bipartisanship, on an issue which should never be partisan, that is, the adequate funding of the committees of the House of Representatives.

In this era of declining resources we must still ensure that our committees have sufficient funds to operate successfully. At the same time, we must be certain that we do not exceed the appropriation. This difficult balancing act was accomplished carefully in an atmosphere of comity and fairness to the needs of both the majority and the minority.

The total aggregate increase which the Committee on House Administration is recommending today is only 6.99 percent over 1990's authorized level. This presents a fiscally responsible budget which is only a few percentage points higher than the 4.1 percent pay comparability increase approved by the President. I must stress that the 6.99-percent increase was approved unanimously by the Subcommittee on Accounts and the full Committee on House Administration.

Some of the major standing committees were funded at requested or higher levels. Some committees did not receive as much of an increase as they wanted. Many of those committees who did not fully receive requested increases, have received generous increases in the recent past. To those who were not completely satisfied, I say, please be patient. If you will today support the hard work and difficult choices made by the Accounts Subcommittee, I am sure they will try to address your needs in the near future.

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Mr. GILLMOR. Mr. Speaker, I yield 2 minutes to the ranking member on the full committee, the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Speaker, I want to rise and compliment the chairman of the full committee, in one of his first major tasks, in making sure that the efforts of the Subcommittee on Accounts move forward. I want to compliment the gentleman from Pennsylvania [Mr. GAYDOS] and the gentleman from Ohio [Mr. GILLMOR] in working in what is sometimes an extremely difficult atmosphere.

For some people, they will never get enough. For others, whatever we agree to will always be too much. The difficult job is pulling all the rest of the Members in the center, together, into an agreement. This package is as good as any I have seen since I have been on the committee, which is over a decade, and it continues to do just that. As a matter of fact, in the 11 years that I have been on the committee, the average increase has been 3.45 percent. I am sure one who is either a freshman or who has not been following this process will look at the single snapshot of this year, and they will say that it is either too much or it is too little. I would ask those who have not focused on this process in terms of the last 4 or 5 years to be slightly restrained in the criticism, in looking at a single year snapshot.

What we have is changing legislative duties, actual or greater demand for one committee over another from year to year. What we have done, I think, in as good a possibility as this committee can do, is blend the various interests over a period of time. So if there are Members who will raise up and say that it appears too much or it is not enough, I would ask most Members to take a look at their particular area and understand, it was last year, it was this year, or it will be next year. This is a process. This is a dynamic aspect of the funding process. I urge all Members to support the resolution.

Mr. GAYDOS. Mr. Speaker, I yield 2 minutes to the distinguished chairman of the Committee on Post Office and Civil Service, the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Speaker, I yield to the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Speaker, having appeared, before the Subcommittee on Accounts for the first time as chairman of the Committee on Education and Labor, I am pleased to support House Resolution 92.

The chairman of the Accounts Subcommittee, the gentleman from Pennsylvania [Mr. GAYDOS], the chairman of the House Administration Committee, the gentleman from North Carolina [Mr. ROSE], and all the members of the committee deserve our appreciation for their skillful handling of some difficult decisions. The funding proposal has strong bipartisan support, received unanimous approval in subcommittee and full committee, and deserves strong bipartisan support in the House as well.

The House Administration Committee has done an excellent job of satisfying the funding needs of individual committees while keeping aggregate spending within a reasonable level. It is noteworthy that the total average increase in funding for all committees is 6.99 percent. This is just a few percentage points above the 4.1-percent change in the cost of living.

With respect to the workload of the Committee on Education and Labor, the funds approved by the House Administration Committee are necessary and most welcome. Our committee has a particularly heavy legislative and oversight agenda in this session of the 102d Congress. In addition to a major rewrite of the Higher Education Act, the committee will act on the family and medical leave legislation, striker replacement legislation, comprehensive reform of the Occupational Safety and Health Act, and the Davis-Bacon Act, and construction safety legislation. In addition, we have more than 15 primarily education statutes requiring reauthorization in this session alone.

In conclusion, I thought my colleagues would be interested to know that there has been an overall improvement in the employment of women in high-level committee staff positions. This is particularly significant in view of the recent action by the Education and Labor Committee in approving a major civil rights bill which calls for increased efforts to eliminate the so-called glass ceiling obstacle to the advancement of women in the workplace hierarchy. My committee's intensive work on the civil rights legislation is another reason we are grateful for the level of funding provided under this resolution. I urge my colleagues to join me in approving this resolution.

Mr. CLAY. Mr. Speaker, I rise in support of House Resolution 92. I want to commend the chairman and ranking member of the Subcommittee on Accounts and the chairman and ranking member of the Committee on House Administration for the leadership they have shown in developing this resolution. This resolution fairly and responsibly addresses the needs of this institution. Speaking for my own Committee on Post Office and Civil Service while we would certainly benefit from greater resources, the funding provided in the resolution is sufficient for the committee to meet its responsibilities to the Members of the House in the first session of the 102d Congress. I want to urge all Members, and specifically those who serve with me on the Post Office and Civil Service Committee, to support passage of House Resolution 92.

Mr. GILLMOR. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I am happy to join in the widespread support for House Resolution 92, the committee funding resolution, which, I am convinced, represents a good-faith effort to be responsive to the needs of the minority on the various committees.

As the ranking minority member on the Post Office and Civil Service Committee, I can attest to the fact that the budget for our committee was developed in a bipartisan atmosphere. All members of the committee, majority and minority, had the opportunity to make their views known before the budget document was submitted to the Committee on House Administration.

I urge a favorable vote for a funding resolution where reason and common sense prevailed in the allocation of committee resources.

Mr. GAYDOS. Mr. Speaker, I yield 2 minutes to the distinguished chairman of the Committee on Foreign Affairs, the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Speaker, I thank the gentleman for yielding time to me.

Let me express my appreciation to the chairman and ranking member of the subcommittee, as well as the chairman and the ranking member of the full committee for their consideration of the budget of the Committee on Foreign Affairs. To say that the gentleman from Michigan [Mr. BROOMFIELD], who is the ranking member, and I have worked very closely together with regard to this budget, and the committee has responded to the best of their ability, considering all the problems they have in allowing Members to retain the same ratio with regard to salaries that we would like to maintain. That was not entirely possible at this point.

However, I agree with the distinguished ranking member who said that this is a continuum. One of the things I noticed about this committee and the subcommittee, particularly under the chairmanship of the gentleman from Pennsylvania, is that they have had a plan that they have worked out, an agreement with the minority party, that they have more or less adhered to over the years, and while we could not in the Committee on Foreign Affairs get everything we wanted at the time we wanted, they have paid attention to our concerns. Over a period of time they have addressed our needs.

Therefore, we see that process continuing. We are very pleased with that. We express our appreciation to the Members for recognizing our problem, our problem because of the lack of funds we have managed to take care of, either by attrition or not putting new people on, but we have managed. I think we have done very well, even with the addition of commitments we have in our work that needs to be done.

I rise in strong support of the amendment in the nature of a substitute, and commend my colleagues. The committee has done an outstanding job, considering the enormous difficulties they have in matching all of these budgets.

Mr. Speaker, I rise in support of House Resolution 92, as amended, which provides funding for the standing and select committees of the House of Representatives in the 1st session of the 102d Congress.

The amount authorized in this resolution for the Committee on Foreign Affairs falls significantly short of our original request. In particular, funds were requested to correct substantial disparities that exist between investigative and statutory salaries as a result of the Speaker's recent pay order. We will, of course, work within the amount allocated to us and hope it will be possible to address this issue at least partially this year.

I do want to express my appreciation to the gentleman from Pennsylvania [Mr. GAYDOS], the members of the Subcommittee on Accounts, and the chairman of the House Administration Committee, Mr. ROSE, for their hard work and perseverance in coming up with a compromise which must balance allocation priorities with the appropriation amount. In addition, the staff of the Subcommittee on Accounts should be recognized and commended for their thoroughness as well as their cooperation and assistance throughout the budget process. I also want to thank the ranking minority member of the Foreign Affairs Committee, Mr. BROOMFIELD, for his support.

Mr. Speaker, now that the military conflict in the gulf is behind us, we must tackle with the same degree of determination the many problems and issues that still remain in this volatile region of the world. There are postwar issues such as a permanent cease-fire, peacekeeping operations, and economic reconstruction assistance that must be addressed in the short term. Just as critical, however, is an assessment of the opportunities and challenges that are aimed at the formulation, development, and implementation of future, long-term U.S. foreign policies toward this region.

Dramatic changes are taking place in other regions of the world at a frenetic pace. Restive populations in the Soviet Republics are clamoring for new economic and political rights, and the policies of President Gorbachev have been put to the test this week in the first democratic referendum in that country's history. Civil war looms perilously over Yugoslavia. Out trade deficit remains high against the background of sporadic progress—and some major setbacks—in the efforts to reform the world trading system. The problems of hunger and disease in the Third World remain as critical as ever. An enhanced awareness and broader understanding has brought about a critical concern and need for addressing environmental issues on a global scale. Other issues dealing with arms control and national security as well as international terrorism must also be dealt with on an equally priority basis.

As a result of a full review of U.S. foreign assistance programs during 1988, the foreign aid bill for fiscal year 1991 amended the basic Foreign Assistance Act to clarify and modify the objectives of U.S. foreign assistance programs. This was the first basic overall assessment and rewrite of the Foreign Assistance Act since 1973. This legislation was not acted upon by the Senate last year. We need to build on this important work, taking account of new discussions in the world's capitals about sharing the responsibility for creating and maintaining the new world order.

The Foreign Affairs Committee has a special and primary responsibility in formulating programs and policies to meet these new challenges and opportunities. I urge my colleagues to support House Resolution 92, as reported from the Committee on House Administration, so that the committees may move forward to discharge the respective responsibilities mandated to them.

Mr. GILMAN. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. BROOMFIELD].

(Mr. BROOMFIELD asked and was given permission to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, I join the gentleman from Florida [Mr. FASCELL] in thanking the chairman of the subcommittee, the gentleman from Pennsylvania [Mr. GAYDOS], and the ranking miniority member, the gentleman from Ohio [Mr. GILLMOR], as well as the chairman of the full committee, the gentleman from North Carolina [Mr. ROSE], and the ranking minority member, the gentleman from California [Mr. THOMAS] for their understanding of the concerns of the minority.

Over the years, the gentleman from Florida [Mr. FASCELL] has been very willing to accommodate the minority and treat us fairly in the allocation of committee funds. A great deal of progress has been made in recent years in reducing the disparity in pay between the majority and minority staffs.

However, I have to call attention to one thing that troubles me very much, Mr. Speaker. It is probably the most frustrating issue I face. That is the assignment of committee office space. This is not really an issue for the gentleman from Pennsylvania [Mr. GAYDOS] to address, but I have to bring it up because I believe it is appropriate. Currently, our minority employees are scattered in offices all over the Hill. In addition, I have been forced to give up two of my personal storage areas in the Rayburn Office Building to house several minority employees. This arrangement is a continuing hindrance to our day-to-day operations, and affects our ability to support the minority members of the committee.

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During my appearance before the Subcommittee on Accounts last month, the committee chairman, the gentleman from Florida [Mr. FASCELL] agreed to assist in trying to obtain more adequate space in the Rayburn House Office Building to house the full committee minority staff.

The gentlewoman from Ohio [Ms. OAKAR], a member of the subcommittee, and the gentleman from California [Mr. THOMAS], the ranking minority member of the full committee, have also indicated their assistance on this problem, which I deeply appreciate.

In closing, Mr. Speaker, I want to join the gentleman from Ohio [Mr. GILLMOR] and others in voicing my support for the Republican policy committee recommendation to reform the committee funding system. I strongly support this resolution and urge Members to support it.

Mr. GAYDOS. Mr. Speaker, very hurriedly, if I may respond to my friend, supposedly in the next year or two there will be some additional space in the Capitol. The problem, as we discussed it at the committee level, lies specifically with the administration leadership on the House side and the Senate, presumably, and I am sure they will be allocating space pursuant to that expansion here in the Capitol.

Mr. BROOMFIELD. Mr. Speaker, I thank the gentleman.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

PROVIDING FOR EXPENSES OF INVESTIGATIONS AND STUDIES BY STANDING AND SELECT COMMITTEES

Mr. GAYDOS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. ROSTENKOWSKI], the chairman of the Committee on Ways and Means.

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in strong support of House Resolution 92, the House committee funding resolution. This resolution provides funding for House committees during the first session of the 102d Congress.

House Resolution 92 provides an overall increase in funding for all House committees of just under 7 percent. For the most part, funding increases for committees are needed in our ongoing effort to retain qualified staff in the House of Representatives. Many of the staff on my committee could command significantly higher levels of pay in the private sector. In order to keep these talented individuals in government service, we need to try to pay them competitive salaries.

The individual members of our committee are also experiencing difficulties retaining qualified staff to handle their Ways and Means workload. The Committee on Ways and Means is currently the only exclusive committee in the House of Representatives which does not have funds available to it for assistant staff positions. I am particularly grateful to Committee Chairman ROSE, ranking minority member BILL THOMAS and Subcommittee on Accounts Chairman GAYDOS for working with us to reach a compromise on the issue of assistant staff positions for the members of the Committee on Ways and Means.

House Resolution 92 includes funds which will allow us to provide an $11,000 salary supplement for a staff person specifically assigned to perform Ways and Means work for each of our members.

The resolution before us today provides necessary funds for the major committees in the House, allowing us to properly conduct committee business and fulfill our legislative obligations. I strongly urge all Members to support this important resolution.

Mr. GILLMOR. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Speaker, I rise in support of House Resolution 92, the committee funding resolution for 1991. I strongly support this resolution and urge my Republican colleagues on the committee to support it, and at the same time I want to compliment Chairman ROSE and Subcommittee Chairman GAYDOS, along with the gentleman from California [Mr. THOMAS] and the gentleman from Ohio [Mr. GILLMOR] for their leadership and consideration.

I am pleased to be able to say that thanks to their leadership, the minority budget request for the Energy and Commerce Committee has been fully funded.

For the first time ever, this funding will provide the minority counsel's office with approximately 19 percent of the total Energy and Commerce Committee funding. This constitutes significant progress toward an equitable allocation for the minority, given the fact that we were locked into an allocation of 12.28 percent for a number of years.

First, Chairman JOHN DINGELL is to be highly commended for submitting my request in its entirety with his strong support to the House Administration Committee.

I also want to commend the Republican leadership for its strong advocacy of the equitable allocation of resources to the minority.

I am pleased to hear that the House Administration Committee will be examining funding process reforms, including the specific reforms mentioned in the Republican policy statement. I am sure that changes can be made which would serve all of us well.

I urge my colleagues to vote "Yes."

Mr. GAYDOS. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. MILLER], the distinguished vice chairman of the Committee on Interior and Insular Affairs.

Mr. MILLER of California. Mr. Speaker, I thank the gentleman for yielding time to me, and rise in support of this resolution and to thank the chairman and other members of the committee for the support that they have shown to the House Interior Committee.

I know that each and every year the House Administration Committee and the Accounts Subcommittee have to struggle with some very difficult choices between all the competing demands on the Members to try to allocate the resources necessary so that the committees of this institution can do their jobs, and I want to thank them for the effort they made on behalf of the Interior Committee.

The Interior Committee is undergoing some changes. We have a number of very difficult issues that are confronting us this year that have not been addressed for some time that came up again in terms of priorities, our national energy policy, the concerns of problems within the Indian nations, ancient forests, the spotted owl; the list goes on and on in the preservation of public resources and to try to develop coherent policies with respect to the resources of this Nation.

The resources that this committee made available to the Interior Committee will allow us to enhance not only a couple of the majority positions, but also minority positions and give the minority greater leeway in the handling of their staff and the resources available to them and give them additional flexibility and independence with respect to their staff and other resource allocations to them.

So I want to thank the chairman of the committee, and I would urge all Members to support this resolution.

I think the committee has been not only very fair with respect to the various committees of the House, but also has been very careful and judicious in its allocation of the public's money with respect to the running of these committees.

Mr. GILLMOR. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois [Mr. MICHEL], the distinguished minority leader.

Mr. MICHEL. Mr. Speaker, and Members of the House, I want to take a few minutes to talk about larger issues than simply committee funding—the need to reform the Congress, our committee structure and our process.

I am encouraged that the chairman of the committee has agreed to look at reform proposals, including the statement adopted by the Republican policy committee.

Some of our ideas for reform include a 2-year funding cycle, combining investigative and statutory accounts, and giving House Administration jurisdiction over both accounts, and providing resources for the minority proportionate to our membership.

Other issues also merit consideration. One of those items is oversight reform.

Under the Republican rules package, committees would be required to formally adopt and submit their oversight plans for that Congress, and at the end of the Congress, committees would be required to include an oversight section in their final activity report at the end of a Congress.

Now, what we have instead is the same oversight agendas year after year. It gets rather ridiculous.

The Banking Committee is just one example. Under economic conversions the world seems to have stood still. Last year's language reads:

> The rapid changes toward world democracy and the lessening of international tensions may provide future opportunities to divert defense funding to social programs.

What does it say this year?

> The rapid changes toward world democracy and the lessening of international tensions provide opportunities to divert defense funding to domestic programs.

Other oversight agenda items are alike, including Government-sponsored enterprises, condition of the depository insurance funds, and funding of the thrift assistance package.

Even more examples. The FIRREA oversight agenda last year reads:

> We will conduct hearings on how well the Financial Institutions Reform, Recovery and Enforcement Act of 1989 has succeeded in resolving the savings and loan crisis.

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This year it reads:

> The subcommittee will conduct hearings on how well the Financial Institutions Reform, Recovery and Enforcement Act of 1989 has succeeded in resolving the savings and loan crisis.

The Resolution Trust Corporation agenda is the same this year as last. Even the travel agenda is the same. Last year, "Hearings on the issue of financial industry restructuring are scheduled for Chicago, Los Angeles, New York and Atlanta." This year, same issues, same cities.

Nothing has changed.

I have picked just one committee, and there are other examples if you really want to go through it line by line. But oversight means work, not words; it means following through on the legislation we pass, not just repeating bureaucratic cliches.

I must say that during the long period I served on the Appropriations Committee, one of the real positive things I thought we did was the yearly review of the appropriations process—we got oversight. But it ought to be the legislative committees who, frankly, are doing their own oversight.

This institution, in its periodic fits of moralizing, chastises public and private institutions for failures. Yet, when it comes to criticizing our own failure of oversight, all we can do is chant some magic words. Well, in my opinion, that is not enough. If this institution is responsible for seeing that the laws we pass actually operate in the public interest, we have failed, big time, in oversight.

It is time for some humility, some hard work and some pride in following through instead of just repeating last year's platitudes.

Mr. Speaker, for all the money we spend on committee budgets and oversight, who oversees the committees? Perhaps we should ask the General Accounting Office to review the operations of the Congress since, after all, we ask them to review the operations of all other Government agencies. That may be a little bit too extreme, because we like to think of ourselves in the legislative branch as somewhat omnipotent. But just a word to the wise ought to be sufficient here.

I thank the committee and its membership for the arduous task that they have to perform in hearing requests on a daily basis, yes, for more and more and more and, from time to time, you all have to take that position, "We can't say 'yes,' we ought to say 'no.'" And it is more difficult, in any case, in the political arena to say "no" than it is to say "yes." I applaud you for what you have done.

Mr. GAYDOS. Mr. Speaker, I yield 2 minutes to the chairman of the Committee on Agriculture, the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I am pleased to support the funding resolution presented for our consideration by the Committee on House Administration and the Subcommittee on Accounts. Chairman GAYDOS and the members of the subcommittee are to be commended for their efforts to ensure that our committees have the resources to support the work we are undertaking in this session of the 102d Congress. I also wish to thank Chairman ROSE and all of the members of the full Committee on House Administration for their recognition of our funding needs.

The Committee on Agriculture will continue its tradition of careful management of the funds allocated by the Congress to support the extensive legislative and oversight responsibilities within our jurisdiction. This year, our agenda includes oversight of the 25-title 1990 farm bill, agricultural trade issues, food safety, alternative fuels from agricultural sources, nutrition, environmental issues, future regulation reform, forest management, farm credit, dairy program reform, crop insurance and disaster funding, income disparity between rural and urban areas, and numerous other important issues.

Through the years, the Committee on Agriculture has met its significant workload with modest but very able and equitably divided. We are fortunate to have a membership both majority and minority which is committed to a conservative use of the committee's resources without sacrificing the quality of our work. We have always endeavored to return funds to the Treasury and these unspent funds result in notable savings during the span of years. We have always endeavored to give, with the continued support of the membership of our committee on both sides of the aisle, and I can assure you that we will give the Congress and the people we represent full value for the money allocated to enable us to meet our legislative and oversight responsibilities.

I urge all of the members of the Committee on Agriculture and all of the rest of the Members of the House to support this funding resolution which is important to the legislative and oversight work of the Congress.

Mr. GILLMOR. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. I thank my colleague from Ohio for yielding this time to me.

Let me say first of all that I do support this, and I urge on the Republican side that everyone vote "yes" this afternoon. I think, on balance, this is a significant continuing step toward a fairer relationship in the process of running the House. I want to single out, among others, the gentleman from California [Mr. MILLER] who did correctly point out that he is going to a much more appropriate method of allowing the Republican side to manage their resources.

We still have a long way to go in this House, I think, to get the full one-third funding that the committees should have for the Republican side. We represent about 40 percent of the seats, 47 percent of the vote. I think it is only fair that we get at least a third of the funding.

But this is a better funding proposal for staff than we have had in past years. It does indicate another step in the direction of fairness on the part of the Democratic majority. I would very strongly urge my colleagues on the Republican side vote "yes" on this proposal.

Mr. GAYDOS. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. RANGEL], chairman of the Select Committee on Narcotics Abuse and Control.

Mr. RANGEL. Mr. Speaker, I rise in support of House Resolution 92, the standing and select committee funding resolution. I would like to commend the committee chairman and the ranking minority member, Mr. ROSE and Mr. THOMAS, for their leadership in crafting this funding package, as well as that of the chairman and ranking member of the Accounts Subcommittee, Mr. GAYDOS and Mr. GILLMOR.

Once again, the Subcommittee on Accounts had numerous committee funding requests in excess of previous-year funding levels. In this time of fiscal restraint, the subcommittee had the difficult task of assessing these requests and recommending funding levels for each committee. Mr. GAYDOS, the subcommittee chairman, and Mr. GILLMOR, the ranking minority member, did an excellent job in leading the subcommittee through this difficult process.

The narcotics problem has been an increasing priority of the American people and the Congress. The select committee's activities and responsibilities have dramatically escalated with few significant increases in resources.

The Select Committee on Narcotics Abuse and Control has a very serious mandate. It is the only congressional committee with comprehensive oversight responsibility for the drug problem. The drug trafficking and abuse crisis in this country has escalated to frightening proportions. A number of our major urban areas are experiencing drug-related violence at levels never seen before. Suburban and rural areas are experiencing drug-related tragedies that are usually associated with urban areas. The costs of drug trafficking and abuse to our society—the lost productivity health care costs, incarceration costs—are conservatively estimated at $60 billion a year, and concern about the drug crisis has been increasing around the world as international leaders have been calling attention to the problem, seeking multinational cooperation in narcotics control efforts.

Mr. Speaker, this funding resolution, while not granting the entire request of our Narcotics Committee, provides adequate funding for the committee to continue its vital work in the upcoming year. I urge my colleagues to support the resolution.

Mr. GILLMOR. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. SANTORUM].

Mr. SANTORUM. Mr. Speaker, I rise in opposition to the 7-percent increase in committee funding. The 7-percent increase is 3 percent above the rate of inflation.

At a time when we are asking our veterans, our senior citizens, and other people in Government entitlement programs to survive at a cost-of-living increase equal to the rate of inflation, we in the Congress tell the American people that we here in the Congress are the truly needy, that we need 3 percent above inflation to pay our committee staffs, to help us do our job.

A 7-percent increase is bad enough, but the actual increase is even more, thanks to one of the famous accounting tricks here in Washington, DC, which shifts over $1 million to another funding stream to make the increase look even smaller.

For those two increases, you need to look at the increase in the individual committee accounts. Those increases are roughly about 12 percent. At a time when we in the Congress should be setting an example for fiscal restraint, we are here again showing an already cynical American public that their cynicism is justified and the talk of fiscal responsibility is relegated to campaign brochures.

I will rise to ask Members to defeat the previous question in order that I may offer an amendment to cut the funding increase from 7 percent to the rate of inflation, which is 4 percent.

Please, let us set an example.

Mr. GAYDOS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER], chairman of the Select Committee on Children, Youth, and Families.

Mrs. SCHROEDER. I thank the gentleman from Pennsylvania for yielding to me.

Mr. Speaker, I wanted to say that I am very honored to be taking over this committee that GEORGE MILLER did such a great job with.

No. 1, I am very proud of the committee because one-third of the staff slots do go to the minority; we have a woman in charge of it; we have one-third of the space being allocated. I think you could not look at a more model committee, and we also got the inflationary increase.

So I think it is a lean, mean, doing-the-right-thing committee. Let me say to Members also, we want to make a pledge that this very, very, very good staff that GEORGE MILLER has assembled are all experts in the areas of children, youth, and families. They are there to serve every one of you on both sides of the aisle because we are way behind in doing things for children in this country.

They are there to bring all sorts of expertise. This morning we talked about the first thing we want to do, which is a congressional challenge on innovative child care that you could find all over America, wherever it is. We hope all of you will participate and the staff will help you with that.

The staff will be getting to you tax tips for America's families that you can hand out in your districts. We want to make Government programs more family friendly, more user friendly, more focused on children and doing whatever they possibly can.

We are very, very proud at the expertise level, and we do not think children, youth, and families should be a partisan issue at all even though we have very carefully and astutely allocated everything across the board equally down to, I think, the last centimeter.

But I thank the gentleman from Pennsylvania [Mr. GAYDOS] and his subcommittee for helping us, and this committee, with its limited resources, wants to do everything it can to help focus this capital city, which gives lots of rhetoric to family and children but the gap between the rhetoric and the action has been great.

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Mr. Speaker, we want to focus on that gap and see if we cannot close it and do everything we can with this staff to serve, not only us, but hopefully, the families of the taxpayers out there. I say to my colleagues, I think you're going to find this is one of the great bargains that Americans get because they really are going to try to work to make some changes, and I thank the gentleman from Pennsylvania [Mr. GAYDOS].

Mr. GILLMOR. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. BARRETT].

Mr. BARRETT. Mr. Speaker, it is my privilege to take the floor today as the only freshman serving on the Committee on House Administration and on its Accounts Subcommittee in the 102d Congress. And I take the floor in support of the 1991 committee funding resolution, House Resolution 92.

I will admit that I was a bit apprehensive when I got the telephone call informing me that the minority leader was asking me to serve on this committee. After all, the work of House Administration is not widely known, nor easily explained to our constituents, and it is certainly not a committee assignment that generates headlines back home in our districts.

But I can rise today after working with the committee for the last few weeks, after watching the resolution before us today come through the process, and I can say to Mr. MICHEL and all my colleagues in the House, thank you for this privilege.

It was immediately evident that the members of House Administration, many of whom have done this duty for several years, care about this institution deeply. They are dedicated to seeing it improve and function fairly and serve the Nation to the best of our abilities and resources.

So I will take this opportunity to thank and commend Chairman ROSE for his leadership, and also Accounts Subcommittee Chairman GAYDOS for so expertly and diplomatically guiding the subcommittee through its hearings and the markup of the funding resolution.

My thanks also goes to the committee's ranking Republican BILL THOMAS: also PAUL GILLMOR, my ranking member on the Accounts Subcommittee. And I would be amiss if I did not recognize minority staffers, particularly Mary Sue Englund, Sarah Goddard, and Karen Parker. Thank you for being so helpful and so patient with this freshman and for the excellent material you provided to me and to my staff.

On the question of the resolution before us this afternoon, House Resolution 92, and the $60.8 million it authorizes for the investigations and studies of standing and select committees of the House, I urge its approval.

I especially want to speak to my freshman colleagues, particularly the Republican freshman. This may be a vote on which you are inclined to vote no. Perhaps no is the easy vote, but yes is the correct vote.

Committees play the central role in the House's discharge of its responsibilities for legislating and overseeing the activities of the Federal Government. Although we have a responsibility to abide by budget constraints we impose on other Federal spending, we cannot jeopardize the quality and professionalism of committee work by short-changing committee resources.

Overall, House Resolution 92, provides a 7-percent increase in funding over the 1990 level. This is more than I would like to see, but as a member of the subcommittee, I can tell you that the agreement brought to the floor was hammered out in full recognition of strict budget constraints. All requests, except those of four committees that happened to come in with very reasonable numbers, were cut, and some cut substantially.

But there is more than numbers to this resolution. Beyond just the dollar amounts, there is the issue of improving the treatment of the minority.

Despite the unfortunate decision this year by the Democratic caucus not to require committee chairman to provide any more than 20 percent of investigative funding to the minority, I am impressed that both majority and minority on House Administration remain committed and sincere in their effort to improve the inequities suffered by the minority and to more fairly allocate committee resources. The goal, of course for this side of the aisle, being an eventual one-third share of staff and budget.

This commitment is reflected in House Resolution 92 and, as such, I think it deserves the support of all Republicans. I strongly urge a yes vote.

Mr. GILLMOR. Mr. Speaker, I yield 1½ minutes to the gentleman from Missouri [Mr. HANCOCK].

Mr. HANCOCK. Mr. Speaker, I thank the gentleman from Ohio [Mr. GILLMOR] for yielding.

Mr. Speaker, at a time when many taxpayers are being forced to reassess their personal budgets in an effort to maintain their standard of living, set aside money to educate their children and save for their retirement, a 7-percent increase, I am sure, would help them get their house in order. It seems to me we in the Congress have an obligation, and this is said repeatedly, to lead by example by holding the line on all expenses of the Federal Government, and I believe the American people want us to get their House in order, the House of the people in order, and hold the line on all expenses.

Therefore, Mr. Speaker, I strongly oppose this increase. The House of Representatives will not collapse. The Union will not collapse. Let us demonstrate to the American people that the rhetoric we heard on the House floor last week, that we truly mean it. Let us quit talking about it. Let us do something about it.

Mr. GILLMOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have no further requests for speakers. Let me make two brief points as to what we were looking at.

First, in terms of the level of spending for committees, we wanted to reach a reasonable level, and that is subject to difference depending on the eye of the beholder, but I think in a bipartisan way we did reach what is a reasonable level of considering the needs that we have at this time.

Second, our major concern was that we get a more equitable distribution of committee resources for the minority, and I want to commend the majority leadership on the committee. We are definitely moving in that direction in this resolution, as in the preceding one.

Mr. Speaker, I urge my colleagues to join me in supporting this resolution.

Mr. Speaker, I yield back the balance of my time.

Mr. GAYDOS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in asking my colleagues, particularly on this side of the aisle, to support this legislation, let me refer to just a few points that I want to make that I think are of grave importance. I think it is important to understand and to note that the committee needs fluctuate. They do not remain constant. In any one particular fiscal year the Committee on Ways and Means; for instance, the year they had the great Tax Code revision, the first in 10 years; they had great need that year, and the gentleman from Illinois [Mr. ROSTENKOWSKI], the chairman, came before our committee, explained the situation, and they received a substantial increase.

On the other hand, we had the Committee on Post Office and Civil Service when they put into place 2 or 3 years ago an entirely new retirement system for every individual Federal employee called FERS, which many of us belong to, and that was an exigency at the time that had to be addressed.

In addition, we also have the savings and loan problem and the housing problem, and those committees need, and rightfully demand, extra staff, and one of the biggest complaints we have before the committee is that, when they go into these very, very specific areas, they lack expertise.

Mr. Speaker, it is well known on the Hill that individuals come here, learn their profession, and then they leave us for higher pay downtown, or out in California, or New York, or wherever, and they learn here on the Hill. That may be well and good, I can accept that, but the fact remains that we have an obligation to keep these committees competitive and functioning. How can the Committee on Ways and Means function if it does not have expert staff to stand up and be equal to all the other staff that belong to all the big companies, small and big taxpayers throughout the whole Nation? So, my colleagues see that is a problem that stays with the committee, and we have to address it.

I want my colleagues to know that throughout all of these fluctuating periods which I referred to that the fact still remains, and the gentleman from Illinois [Mr. MICHEL], the minority leader, made this point: The fact still remains that over the last 11 years, from 1981 to include this year, the standing committees and the select committees on an average, the average annual increase has been 3.45 percent. What is wrong with that? This year happens to be close to 7 percent, 6.9. I do not know what it is going to be next year, but we take an average, and my colleagues can see the dedication of our subcommittee keeping it down to realistic figures. I do not know how we do it because I would challenge anyone to take over this committee, and gather unto themselves any personnel that they wish, and let them try to divide up six-point-some million dollars among all these committees where each one of them feels that their legislation is most important.

□ 1600

It seems to me the task is almost insurmountable, and that is why I have so much inherent respect for the committee for doing its job over the last 11 years. I have been on the committee for 22 years, and I know this job is not heralded in a lot of places. Many Members do not seek this job, for the primary reason that it is a very difficult job. It takes one's time from other things, and it does not get the notoriety that a lot of other committee assignments receive.

I just want to remind my colleagues that we have a 4.1-percent COLA in this year's budget, and everybody seems to forget that. That is 4.1 percent that the committees have a right to expect and that they do deserve.

So, Mr. Speaker, I think what the subcommittee and the committee have brought before the full House is very reasonable. It compares favorably, and it shows a track record of a very conservative consideration of all these various requests.

In closing, I urge my colleagues to think about these elements that I have reminded them of and to vote in favor of this resolution.

Mr. DINGELL. Mr. Speaker, I rise in strong support of House Resolution 92, the committee funding resolution for 1991. I want to thank and commend the chairman of the Subcommittee on Accounts, Mr. GAYDOS, as well as the ranking Republican member of the subcommittee, Mr. GILLMOR for their excellent work in crafting this resolution. The Energy and Commerce Committee is grateful to them, as well as to all members of the subcommittee and the full House Administration Committee, including Chairman ROSE and Mr. THOMAS, for the fairness and courtesy with which we have been treated in this process.

I am also pleased to note that with the resources provided under this resolution, our committee for the first time will be able to fulfill the minority's full request for funding. The Members should understand that virtually all of the real growth in the energy and commerce budget for 1991 will go to the minority. These funds will enable my good friend, Mr. LENT, and his colleagues to make significant progress in obtaining the additional resources needed to carry out their responsibilities.

We have always endeavored to recognize the minority's need for adequate funding. But we have also made the point for several years that this would require an infusion of new funds; that is, enlarging the pie, not enlarging the minority's share of the existing pie. The decision of the Accounts Subcommittee to adopt this approach will, we hope, put an end to the difficulties we have encountered annually on this point.

This resolution was adopted by a bipartisan consensus of the Accounts Subcommittee and the House Administration Committee. Mr. LENT and I have sent a joint letter to our colleagues on the Energy and Commerce Committee urging their bipartisan support for the resolution. I reiterate my support for the resolution today and believe that it warrants the support of every Member.

Mr. HORTON. Mr. Speaker, I rise in support of the resolution. I simply would like to state that, for the Committee on Government Operations, our entire request was accepted by the majority, a request that included the addition of another minority staff slot and a networked computer system for the minority.

I would emphasize, Mr. Speaker, that chairman CONYERS has accommodated every request of the minority this past year with respect to equipment, travel, personnel and salaries. I commend him for helping to improve the allocation of resources between minority and majority.

On the Government Operations Committee budget generally, I would point out to my colleagues that ours is primarily an investigative committee, whose jurisdiction encompasses all Federal departments and agencies and the programs they administer. Our committee's work produces results. We save money. Past Government Operations Committee bills have saved and continue to save billions of dollars: the Inspector General Act, the Brooks Act, and the Paperwork Reduction Act to name a few.

In the 101st Congress, under Chairman CONYERS' leadership, a bipartisan bill creating a Chief Financial Officer structure for the United States was developed and ultimately signed into law by the President. My time is short, but allow me to state this about the CFO legislation—its direct impact in terms of savings and improved Government efficiencies during this, its first year of operation, will exceed the $60 million price tag of the resolution under consideration. Couple this fact, with our ongoing investigative agenda, oversight of the laws mentioned above and the agenda Chairman CONYERS and I have planned for the 102d Congress, and I can assure you our results next year will be at least as impressive.

Mr. Speaker, once again, I support this budget, I commend my chairman and I enjoin my colleagues to support passage of this resolution.

Mr. KOSTMAYER. Mr. Speaker, I rise today in support of the committee funding resolution. I especially want to offer my support for the requested funding for the Energy and Commerce Committee.

This committee has one of the best records of accomplishment in the entire Congress, this is in no small part due to the leadership of our able Chairman JOHN DINGELL. In the last Congress, Energy and Commerce was responsible for the Clean Air Act Amendments of 1990. It brought bills to the House regarding AIDS policy, minority health care improvement, cable television regulation, and securities market reform.

Again this year the committee is working on legislation which will effect all Americans. The importance of the work this committee does can not be overstated.

In the coming year, the Energy and Commerce Committee will be considering several crucial environmental issues. These include the reauthorization of the Safe Drinking Water Act, reauthorization of the Resource Conservation and Recovery Act, legislation to expand the use of recycling, and the interstate transportation of solid waste.

This committee will also be involved in the development of a national energy strategy. The development of alternative fuels, the possibility of a reasonable review of CAFE standards in automobiles, new natural gas pipeline construction, and several other important energy issues will be considered by the committee.

I am sure that under the leadership of Chairman DINGELL, we can expect to see a level of efficiency and productivity which matches that of last year, but only if the committee is funded at an adequate level. It should be noted that in the past 5-year period, the increase in funding for energy and commerce trailed inflation by over 2 percent.

Mr. Speaker, I urge my colleagues to vote yes on this resolution.

Mr. GAYDOS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the committee amendment in the nature of a substitute and on the resolution.

The SPEAKER pro tempore (Mr. McNULTY). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the "ayes" appeared to have it.

Mr. SANTORUM. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 345, nays 76, not voting 10, as follows:

[Roll No. 52]

YEAS—345

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Baker
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Grandy
Gray
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Ireland
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kolbe
Kolter
Kopetski
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Mfume
Michel
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Olin
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Pallone
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Quillen
Rahall
Rangel
Ray
Reed
Rhodes
Richardson
Ridge
Rinaldo
Roberts
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Serrano
Sharp
Shaw
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Solarz
Solomon
Spence
Spratt
Staggers
Stark
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (CA)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Waxman
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—76

Allard
Archer
Armey
Ballenger
Boehner
Bunning
Burton
Camp
Clinger
Coble
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dornan (CA)
Dreier
Duncan
Fawell
Fields
Franks (CT)
Gekas
Gilchrest
Gradison
Green
Gunderson
Hancock
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Hunter
Hyde
Inhofe
James
Johnson (CT)
Kasich
Klug
Kyl
Leach
McCrery
McEwen
Meyers
Miller (WA)
Molinari
Moorhead
Myers
Nichols
Nussle
Packard
Petri
Porter
Pursell
Ramstad
Ravenel
Regula
Riggs
Ritter
Rohrabacher
Roth
Santorum
Sensenbrenner
Shays
Shuster
Snowe
Stearns
Stump
Taylor (NC)
Thomas (WY)
Upton
Walker
Weber
Zeliff
Zimmer

NOT VOTING—10

Bustamante
Jacobs
Kleczka
Levine (CA)
Lewis (FL)
Miller (OH)
Obey
Sanders
Stallings
Udall

Mrs. MEYERS of Kansas and Messrs. PORTER, BURTON of Indiana, MOORHEAD, STEARNS, KYL, and NICHOLS changed their vote from "yea" to "nay."

Messrs. COLEMAN of Missouri, GOODLING, and SLATTERY changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. McNULTY). The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the resolution, as amended.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 363, nays 58, not voting 10, as follows:

[Roll No. 53]

YEAS—363

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Baker
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Byron
Callahan
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Downey
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson

Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Patterson
Paxon
Payne (NJ)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickle
Porter
Poshard
Price
Quillen
Rahall
Rangel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Serrano
Sharp
Shaw
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (TX)
Solarz
Solomon
Spence
Spratt
Staggers
Stark
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Washington
Waters
Waxman
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—58

Allard
Archer
Armey
Ballenger
Boehner
Bunning
Burton
Camp
Campbell (CA)
Coble
Combest
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dornan (CA)
Dreier
Duncan
Fawell
Gekas
Hancock
Hefley
Henry
Herger
Holloway
Hopkins
Hunter
Inhofe
James
Klug
Leach
McEwen
Miller (WA)
Moorhead
Nichols
Nussle
Parker
Payne (VA)
Petri
Pursell
Ramstad
Ravenel
Riggs
Rohrabacher
Roth
Santorum
Sensenbrenner
Shays
Smith (OR)
Snowe
Stearns
Stump
Taylor (NC)
Upton
Weber
Zeliff
Zimmer

NOT VOTING—10

Bustamante
Dymally
Jacobs
Kleczka
Levine (CA)
Lewis (FL)
Miller (OH)
Pickett
Stallings
Udall

☐ 1645

So the resolution as amended was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. LEWIS of Florida. Mr. Speaker, due to an illness in the family, I was unable to participate in the business of the House of Representatives on the days of March 20 through 22, 1991. Had I been present, I would have voted as follows:

March 20, 1991:

Rollcall 52. Ordering the previous question, House Resolution 92, "yea."

Rollcall 53. House Resolution 92, House Committee funding, "yea."

GENERAL LEAVE

Mr. GAYDOS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the resolution just agreed to.

The SPEAKER pro tempore. (Mr. McNULTY). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

HOUR OF MEETING ON THURSDAY, MARCH 21, 1991

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 10 a.m. on tomorrow, Thursday, March 21, 1991.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. GINGRICH. Mr. Speaker, reserving the right to object, I reserve the right to object only to make the observation that if the leadership would appoint the conference committee on the Desert Storm supplemental today and would clean up the Desert Storm supplemental tonight, we could pass it tomorrow; and to make the observation that if, in fact, we wait for the second supplemental and the Senate continues to load up the second supplemental, and we try to rush to conference tomorrow to come back here on Friday, to spend Friday dealing with a second supplemental which will clearly be vetoed in the form that it is likely to go to conference on, that we will be in a muddle.

We have a very clear chance here to pass a supplemental on Desert Storm which everyone can agree to, which can be voted on tomorrow. The House could then go home, and we could come back after the recess and work out the second supplemental with enough time to conference. But if we send a piece of junk downtown, it will be be vetoed, and I do not see any way, by going to conference tomorrow night, that the Committee on Appropriations will clean up the second supplemental in 24 hours, or 16 hours, to be in here late Friday night to try to pass something which I think is very likely to be vetoed in the form it is going to come out of that conference.

I want to draw up a distinction. We could go Desert Storm. The actual supplemental we need. The one that has to be signed, the one that says to our allies that we are going to spend the money and we want them to pay up. That supplemental needs only a very small amount of work in conference. It could be conferenced tonight. We could pass it tomorrow, and Members could go home tomorrow night.

I urge the Democratic leadership to appoint the conferees to Desert Storm supplemental this afternoon and to allow Members to get that particular bill out of here.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

WOMEN'S HISTORY MONTH

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 149) designating March 1991 and March 1992 both as "Women's History Month," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I yield to the gentlewoman from Connecticut, the chief sponsor of this legislation [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I thank the gentleman from Ohio for prompt consideration of this matter.

It is my pleasure today to speak on the House floor about one of the first pieces of legislation I have introduced as a Member of the House of Representatives.

□ 1650

Today the House will vote on Joint Resolution 149, which my distinguished colleague, the gentlewoman from New York [Ms. MOLINARI] and I introduced. This resolution proclaims the month of March 1991 and 1992, as Women's History month.

Women's History provides a new perspective for looking at the past, a perspective which honors the richness and diversity of the lives of the many women who came before us. It also presents a vision for the future, a vision that shows us there are no limits to achievement.

From Susan Brownell Anthony, who led women to the voting booths in 1872, only to be arrested, and while awaiting trial tried to vote again in city elections, to Eleanor Roosevelt, who emerged as a striking symbol of democratic strength and good will during a tumultuous period of our country's history, to Rosa Parks, who defied a racist society and refused to move to the back of a bus, women have been at the forefront of revolution and change.

This is a particularly appropriate time to be honoring women, so many have served so proudly and with such distinction in the Persian Gulf.

I am also proud of the hard work that my mother, who is a senior member of the New Haven Board of Aldermen, having served 24 years in that body, the longest serving member, proud of her work over the years and the path that she paved for me.

I hope that all the avenues of opportunity will be open to my daughters.

I ask my distinguished colleagues to join me in the celebration of Women's History Month and to please vote for House Joint Resolution 149.

Mr. RIDGE. Mr. Speaker, continuing my reservation of objection, I yield to the gentlewoman from New York [Ms. MOLINARI].

Ms. MOLINARI. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I am in fact pleased and honored also to come before the House today to talk about House Joint Resolution 149 and I am delighted to join with my distinguished colleague, the gentlewoman from Connecticut [Ms. DELAURO] at this very special moment.

The House will vote on this resolution today which will designate this March and next March as Women's History Month. This bipartisan resolution has been proclaimed by Congress since 1980 and commemorated in classrooms and school halls throughout this country every March.

Each year the month of March is dedicated to the women of every race, class, and ethnic background who have made historic contributions to this Nation in so many ways, whether it be in securing suffrage rights, equal opportunity, the labor movement, civil rights, nurturing their individual families or fighting the world's wars.

Women's History Month is important because it recognizes these accomplishments, accomplishments that unfortunately have historically been ignored.

It also gives us the time to reflect and recommit ourselves to make sure that some of the omissions of the past will not be repeated in the future.

It is also a joyful celebration, and in that let me just make a personal reference by stating, Mr. Speaker, that a year ago today I was elected to this respected and august body, and I am delighted to celebrate this day of personal achievement by remembering all those women who struggled before me to make this magnificent career with all of you possible.

Mr. RIDGE. Mr. Speaker, on that very special note, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 149

Whereas American women of every race, class, and ethnic background have made historic contributions to the growth and strength of our Nation in countless recorded and unrecorded ways;

Whereas American women have played and continue to play a critical economic, cultural, and social role in every sphere of the life of the Nation by constituting a significant portion of the labor force working inside and outside of the home;

Whereas American women have played a unique role throughout the history of the Nation by providing the majority of the volunteer labor force of the Nation;

Whereas American women were particularly important in the establishment of early charitable, philanthropic, and cultural institutions in our Nation;

Whereas American women of every race, class, and ethnic background served as early leaders in the forefront of every major progressive social change movement;

Whereas American women have been leaders not only in securing their own rights of suffrage and equal opportunity, but also in the abolitionist movement, the emancipation movement, the industrial labor movement, the civil rights movement, and other movements, especially the peace movement, which create a more fair and just society for all; and

Whereas despite these contributions, the role of American women in history has been consistently overlooked and undervalued in the literature, teaching, and study of American history: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 1991 and March 1992 are designated both as "Women's History Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that month with appropriate programs, ceremonies, and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GREEK INDEPENDENCE DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 59) designating March 25, 1991, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Reserving the right to object, Mr. Speaker, I yield to the gentleman from Florida [Mr. BILIRAKIS], the chief sponsor of this resolution.

Mr. BILIRAKIS. Mr. Speaker, as the principal sponsor of the House companion measure to this bill, I would like to express my deep gratitude, particularly to Chairman SAWYER of the Census and Population Subcommittee, for bringing this measure to the floor in such an expeditious manner.

I would also like to thank the gentleman from Pennsylvania [Mr. RIDGE], the ranking Republican on that subcommittee, and Chairman CLAY of the Post Office and Civil Service Committee in this regard.

March 25 is a very special day to Greek-Americans and those who practice the Greek Orthodox faith—as well as freedom loving people everywhere, really. This year, it marks both the 170th anniversary of the independence of Greece and its role as the well-spring of democracy.

Mr. Speaker, it is a magnificent thing to see so many people the world overturning to democratic movements in the wake of fallen or overthrown dictatorships and tyrannies. The practice of democratic government, first seen in Athens in 510 B.C., is being sought out and implemented around the world, expanding the frontier of freedom farther and farther every day. Those democratic movements owe a great debt of gratitude to the ancient Greeks such as Aristotle and Polybius, who were democracy's pioneers, as do we here in this Nation. I am never more proud of my own Greek heritage—or of being an American—than on days such as this one.

As those ancient Greeks forged the very notion of democracy, placing the ultimate power to govern in the hands of the people themselves, the spirit of

March 25, Greek Independence Day, lives on in its defense. Over the course of history, many of the Free world's people have given their lives in that defense.

In fact, this year marks the 50th anniversary of the historic Battle of Crete during World War II, one in which Cretan, Greek, British, and other allied soldiers stood firm in the face of a Nazi airborne invasion. Many of those allied soldiers died defending Crete during that battle, making prophetic the Greek words, "eleftheria i thanatos"—liberty or death.

I thank all of my colleagues here today for passing this legislation in commemoration of the democratic heritage that all of us share and which is shared by the United States and Greece. Later today, I will have a special order in honor of Greek Independence Day, and I invite anyone who wishes to participate to do so.

Mr. RIDGE. Continuing my reservation of objection, Mr. Speaker, I yield to my colleague and friend, the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, the gentleman from Florida, who is the architect every year of this special occasion for all those Americans of Greek descent who celebrate March 25 as a patriotic coreligious American kind of holiday, this becomes a special moment for those of us who share all those cultures.

It is little known and should be pointed out again to the Members of the Congress that back in 1821 when the Greeks began the upheaval against the Ottoman Empire that led to its eventual freedom, when a brave priest in his clerical robes raised the flag of independence, risking his own life, which then began a sweeping set of events that led, as I said, to the liberation from the Ottoman Empire, it became a religious and ethnic holiday which is revered by our very presence here today in the well of the House; but here in the United States in 1821 during the administration of James Monroe, word of these events was coming through to the Members of the Congress, and the great orators of that day made eloquent speeches on the floor of the House and in the Senate echoing the sentiments of the gentleman from Florida, repeated here today back then; so now we have a complete set of CONGRESSIONAL RECORDS from 1821 until the present day of the pride and the drama that is implicit in the celebration of March 25 as Greek Independence Day.

I myself as a youngster going to church found that we were learning poems about independence and we learned that the greatest poet of that time, Lord Byron of England, not only wrote about Greek Independence Day, not only wrote romantic lyrics and verses, but himself appeared and went to Greece and fought on the side of the rebels for the independence of Greece and died from wounds in the Battle of Missolonghi in support of freedom and liberty, which were the keystones of his own literary works.

□ 1700

So here was a poet, who was not simply observing but, as an Englishman who was a Grecophile, went to the very country which he loved so much, fought for the inhabitants thereof, and gave his life in the defense of liberty.

So all of these beauties of history and recollection converge on us here today and allow us ample time, through the good will of the individuals who brought this matter to the floor, to permit us, especially those of us who came up and were raised in the same heritage about which we speak, to have this extra moment of self-proclaimed pride which I know you feel.

I thank the gentleman very much for yielding to me.

Mr. RIDGE. Mr. Speaker, continuing my reservation, I would first like to comment that the two gentlemen who spoke before us keep alive both proudly and beautifully the interests and the feeling of all Greek people toward democracy and participation in government through their presence among us today. But it is not only shared by those of Greek ancestry but by many other colleagues in this Chamber.

Mr. Speaker, I yield to one of them, our friend and colleague, the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Speaker, I am pleased to rise in strong support for House Joint Resolution 58, the Bilirakis resolution designating March 25, 1991, as Greek Independence Day.

On March 25, 1821, the Greek people took arms against four centuries of Ottoman rule, fighting bravely and valiantly to achieve freedom from Turkish domination.

Greek Independence Day has special significance for all Americans. It is the ancient Greeks who formulated the concept of democracy which is the keystone of the American political system. Democracy is but one of the many contributions of the Greek people to the development of civilization. Art, philosophy, science, and law are but a few of the disciplines in which the Greek people have enriched our culture.

The contributions of Greek-Americans to the development of our great Nation are much too numerous to mention. Our distinguished congressional colleagues, GUS YATRON, OLYMPIA SNOWE, PAUL SARBANES, MICHAEL BILIRAKIS, and GEORGE GEKAS are just a few of the current examples of Greek-Americans who have excelled and contributed to our Government.

Through the commemoration of Greek independence, we have the opportunity not only to salute our own Greek-American community for their contributions, but to commemorate the independence of the Greek people.

I commend the gentleman from Florida [Mr. BILIRAKIS] for his work on this important measure and I urge my colleagues to support this important measure.

Mr. RIDGE. Mr. Speaker, I will withdraw my reservation of objection. However, I see the gentleman from Ohio seeks recognition. I yield to the gentleman from Ohio [Mr. SAWYER], our colleague, the chairman of the subcommittee.

Mr. SAWYER. I thank the gentleman for yielding. Mr. Speaker, I understand the gentleman's surprise; I do not often speak on commemorative resolutions. But this one in particular is of enormous importance. I really want to take the opportunity to thank the gentleman from Florida [Mr. BILIRAKIS] for his efforts again this year to bring this to the floor to remind us all that America is in fact not just a piece of land, we are not a distinctive race of people, we are a nation bound together by ideas and ideals, not a family bound together by blood but by belief.

Inasmuch as that belief is grounded for all of us who care about the rule of law and the sanctity of the rights of people, inasmuch as that belief is grounded in the celebration that we all join in together today, that all of us come, as Americans, to celebrate that heritage that is Greek in us all, in our love of this Nation that is ours.

I thank the gentleman very much for the opportunity to join in with those comments today.

Mr. LEVINE of California. Mr. Speaker, I rise today to commemorate Greek Independence Day: a national day of celebration of Greek and American democracy. I am pleased to join my colleagues in using this occasion to recognize the unique contributions to our civilization of Greece, and Americans of Greek descent.

On March 25, 1991, Greece will celebrate the 170th anniversary of its independence from the Ottoman Empire. As Americans, we cannot afford to forget the rich heritage we inherit from Greece or the tremendous contributions made by generations of Greek-Americans.

Greece has enriched our culture through the fields of science, art, medicine, and education, but no contribution was more precious than that of democracy. It was ancient Greece that established the traditions of individual freedom and justice that are the cornerstones of western civilization. The fundamental precepts of modern democracy, such as a belief in the rule of law, the supremacy of the individual as the basis for state power, and the equality of all citizens, originated in the land of Pericles over two millenia ago, and are still dear to us as Americans today. These ideals still provide the inspiration for millions throughout the world who continue to struggle for their basic human freedoms.

Just as the profound political principles of ancient Greece laid the foundation for American democracy, the American Revolution also inspired Greek patriots to fight for their freedom after nearly 400 years of Ottoman domination. Many Americans at the time traveled to Greece to join in the struggle, and Jefferson, Monroe, and Adams all proclaimed their support for the cause of Greek independence. Indeed, when their struggle of the Greeks ended in triumph, they chose our Constitution as a model on which to structure their own. As Americans, we should be grateful for the opportunity to share our democracy with the Greeks after inheriting it from them.

We also take this occasion to celebrate the many contributions of Americans of Greek descent to our Nation and salute them for their many achievements. In the early years of this century our Nation was blessed by the wave of emigration from Greece. The decendants of these immigrants have become leaders in every field of human endeavor, and have made Greek-Americans among the most successful ethnic groups in the United States.

Mr. Speaker, I ask my colleagues to join me in recognizing that, as Thomas Jefferson once wrote, "To the Greeks we are all indebted for the light which led ourselves out of Gothic darkness," and in sharing with them the joy of their independence on March 25, 1991.

Mr. OWENS of Utah. Mr. Speaker, today we celebrate the 170th anniversary of Greek Independence from the Ottoman Empire and the restoration of democracy to the very people who invented it more than 2,000 years ago. The ancient tradition of Greek democracy is enshrined in our monuments and public buildings, and finds expression to this day in the very underpinnings of our constitution and way of life.

I find it truly remarkable that, in spite of centuries of political tumult and occupation, the Greek people retained their national identity, their unique and rich cultural distinction, and their strong devotion to Democratic principles of self rule.

Today, in celebrating Greek democracy, we celebrate our own. For as Aristotle and Pericles handed down the principles of power emanating from the people and equality under law, so was the legacy of Thomas Jefferson and James Madison bestowed to the Greek republic in 1821. Adopting the American Declaration of Independence as their own, the Greeks sealed a bond which has endured between our two peoples ever since.

As comrades in arms during the Second World War and partners today in NATO, both Greeks and Americans have stood together in the face of adversity to preserve our fundamental freedoms and democratic ideals.

Nearly 1 million Greeks have immigrated to these shores and these children of the cradle of democracy have made America a better place to live. No ethnic group has done more to promote the principles of freedom and individual opportunity than has the Greek-American community.

I am honored to pay tribute today to the people of Greece, whose culture adds richness and stability to our country and whose commitment to democracy strengthens us all.

Mr. ROE. Mr. Speaker, I want to thank and commend the gentleman from Florida for organizing this Special Order on the 170th anniversary of Greek independence from the Ottoman Turkish rule and the restoration of democracy to the land in which it was born more than 2,500 years ago. It is indeed a pleasure for me to join with my colleagues in paying respect and homage to both ancient and modern Greece and Greeks, who fought and struggled to make liberty and "democracy"—the rule of the people—the hallmarks and the rallying cries of their civilizations.

In 510 B.C., the citizens of Athens overthrew the last of the tyrants who had ruled that city for years on end, and created a new political leadership, based on a limited democracy. They created an assembly of free male citizens, and elected magistrates to lead their city. These magistrates were fully accountable to the assembly. Shortly the world was to witness what was to become known as the Golden Age of Greece, where art, architecture, drama, literature, music, philosophy, political theory, and science were to flourish. Pericles, Plato, Aristophanes, Aeschylus, Democritus, and Sophocles are just a few of the illustrious Greek masters from that rich age who left their imprint on Western society. Their legacy to America can be seen daily in our monuments and in our public buildings, in our statues and in our theaters, and in our political institutions and in the very fabric of our Constitution.

The model of democracy that Ancient Greece bequeathed to the United States' founding fathers was returned in kind to modern Greece when the struggle for Greek independence occurred during the 1820's. The modern Greeks had been ruled by the Ottoman Turks for 500 years, and it was only toward the end of the 18th century that the fight for independence became a reality. The American revolution was the role model for the Greek one, and the Greek commander in chief, in 1821, made these remarks to America:

> Having formed the resolution to live or die for you, we are drawn toward you, by a just sympathy, since it is in your land that liberty has fixed her abode, and by you that she is prized, as by our fathers.

On March 25, 1821, 170 years ago, the people of Greece declared their independence, and initiated a revolution against their Turkish rulers. After repeated successful battles against the Ottomans, the countries of Europe joined the Greeks in their war against the Turks. On September 14, 1829, through the Treaty of Adrianople, freedom and independence for Greece, after centuries of foreign rule, was regained.

Mr. Speaker, the Greek-American interrelationship has a long and illustrious history. The ancient Greeks left us a rich legacy, and in the modern era, Americans traveled to Greece to fight alongside Greeks against the Turks. The Greeks suffered tremendously under the rule of the Nazis, and United States troops helped liberate them from those tyrants. Following that defeat, we helped Greece stand up against the threat of communism. Today, Greeks and Americans are partners in NATO. Over the years, 1 million Greeks have immigrated to America, enriching and providing many contributions to the American way of life.

On this anniversary of the beginning of the struggle for Greek independence, it is only fitting and proper to pause to reflect on the magnificent achievements of both ancient and modern Greece, and to consider the legacy they have left to all Americans. Every time we think of the democratic way of life, we owe a debt of gratitude to the ancient Greeks, and when we teach our children about the values and ideals of the American Revolution and what they have meant for America, we should also focus on the accomplishments of the modern Greeks and Modern Greece in their struggle to be a free and independent nation.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. McNULTY). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 59

Whereas the ancient Greeks developed the concept of democracy, in which the supreme power to govern was vested in the people;

Whereas the Founding Fathers of the United States of America drew heavily upon the political and philosophical experience of ancient Greece in forming our representative democracy;

Whereas March 25, 1991, marks the one hundred and seventieth anniversary of the beginning of the revolution which freed the Greek people from the Ottoman Empire;

Whereas these and other ideals have forged a close bond between our two nations and their peoples; and

Whereas it is proper and desirable to celebrate with the Greek people, and to reaffirm the democratic principles from which our two great nations sprang: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 25, 1991, is designated as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy," and that the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the designated day with appropriate ceremonies and activities.

AMENDMENT TO THE PREAMBLE OFFERED BY MR. SAWYER

Mr. SAWYER. Mr. Speaker, I offer an amendment to the preamble.

The Clerk read as follows:

Amendment to the preamble offered by Mr. SAWYER: Page 1, insert after the third clause of the preamble the following new clause:

"Whereas 1991 marks the 50th anniversary of the historic Battle of Crete of World War II—one of many wars which have found Greece and the United States allied in the defense of democracy;".

The SPEAKER pro tempore. The question is on the amendment to the preamble offered by the gentleman from Ohio [Mr. SAWYER].

The amendment to the preamble was agreed to.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL FORMER PRISONER OF WAR RECOGNITION DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 53) to designate April 9, 1991 and April 9, 1992, as "National Former Prisoner of War Recognition Day," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so in order to yield to our colleague, the gentleman from Ohio [Mr. APPLEGATE] with whom I serve proudly on the Committee on Veterans' Affairs and in whom I know there is an abiding interest in veterans issues throughout his entire career, including among them an annual reminder that we not forget those who paid a fairly unique penalty in their commitment to this country, serving as prisoners of war. I yield to the gentleman from Ohio [Mr. APPLEGATE].

Mr. APPLEGATE. I thank my friend and colleague on the Committee on Veterans' Affairs, the gentleman from Pennsylvania [Mr. RIDGE], and my colleague from Ohio, [Mr. SAWYER], chairman of the subcommittee, for allowing this resolution to be brought up.

Mr. Speaker, there are approximately 70,000 surviving former prisoners of war in America today, which is less than half the total number of Americans who were taken prisoner in the five major wars plus the Persian Gulf war that we fought during this century. This coming April 9 will once again be a day when we recognize America's surviving prisoners of war, the fifth year that this special honor has been established by Congress as well as the sixth year, April 9 in 1992. April 9, this year, will mark the 49th anniversary of the fall of Bataan in the Philippines during World War II. More than 30,000 American servicemen and civilians were taken prisoner, with many of them never surviving the infamous Bataan death march which followed, or the 4 years of captivity in deplorable prisoner of war camps throughout the Far East.

The survivors of these ordeals and the thousands of others who endured some of the worst treatment and conditions known to mankind deserve the recognition of our Nation as we pay tribute to their sacrifices and their survival. Everyone who wants to learn of the experiences of a prisoner of war should read the book "Chained Eagle" by Edward Alvarez, a former Deputy Administrator of the Veterans' Administration, who was held by the North Vietnamese for over 8½ years during the Vietnam war. And they should also recall the frightening accounts told by our former prisoners of war held in Iraq.

I want to thank my colleague, the gentleman from Ohio, the former vice chairman of my Compensation and Pension Subcommittee, Mr. BOB MCEWEN, for his assistance in helping to get this measure considered by the House.

Again, I want to give sincere thanks to my colleague, the chairman of the subcommittee, the gentleman from Ohio, Mr. TOM SAWYER, and the ranking member of the committee, the gentleman from Pennsylvania, TOM RIDGE, for their efforts, as well as the 218 cosponsors of the bill.

In closing, I want to recognize the American Ex-prisoners of War Association for their hard work in getting this measure passed. I especially want to honor their national commander, Frances Agnes of Everett, WA, as well as their executive director, Charles M. Williams of Maryland, and Dr. Charles Prigmore, the legislative officer of the organization. Their work on getting this measure passed for a fifth consecutive year was paramount to its success.

My everlasting thanks go to the former prisoners of war and all veterans who served in all wars to defend the very freedoms which we enjoy today.

Mr. RIDGE. I thank the gentleman from Ohio.

Mr. Speaker, I would like to commend and thank our colleague from Ohio, Mr. APPLEGATE, for his leadership on this matter and yield to our colleague, the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of Senate Joint Resolution 53 designating April 9, 1991, as "National Former Prisoner of War Recognition Day." This resolution is identical to House Joint Resolution 70, which I was pleased to cosponsor in the House. I commend our distinguished colleague from Ohio, Mr. APPLEGATE, for his tireless efforts to honor those who were held as prisoners of war and to resolve the fate of American servicemen currently held as captives of war in hostile nations.

As we honor our former prisoners of war, let us bear in mind that there is a great deal of evidence that the Governments of Vietnam, Laos, and Cambodia hold information which could help us fully resolve the status of many Americans who are still unaccounted for. Despite the difficulties and complexities of this issue, we are deeply committed to receiving an accounting of our POW's and MIA's. This issue is a humanitarian matter of such great importance that it is pursued without linkage to other issues separating the Government of the United States and the Governments of Indochina.

By supporting Senate Joint Resolution 53, we will be taking an important step in honoring Americans who have served in our Armed Forces, particularly those who were formarly held as prisoners of war, as well as those who may still be held in captivity.

We have recently had the opportunity to welcome those members of our military who were held captive in the Persian Gulf. We were especially pleased that our Nation was able to deliver them safely home to their families. Accordingly, let us observe April 9 as a day to commemorate their courage and determination in upholding the principles of freedom and democracy.

Mr. Speaker, as we honor our former prisoners of war for the courage they have demonstrated, let us not forget our service men and women who are still listed as missing in action in the Persian Gulf, as well as those who are still missing in Vietnam and in Korea. We must do all that we can to support our Government's efforts to reunite all Americans with their families and loved ones. For former and present prisoners who gave so much we can do no less.

Accordingly, I urge my colleagues to support this resolution.

□ 1710

Mr. RIDGE. Mr. Speaker, I thank my colleague, the gentleman from New York [Mr. GILMAN], for his very thoughtful and appropriate statement.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 53

Whereas members of the Armed Forces of the United States have been recently captured by the armed forces of Iraq and have been held as prisoners of war;

Whereas the prisoners of war held by Iraq have endured incredible hardships and the events surrounding the holding of such prisoners remind us of the thousands of members of the Armed Forces of the United States who served in past armed conflicts and were held as prisoners of war;

Whereas many prisoners of war have been subjected to brutal and inhumane treatment by their captors in violation of international codes and customs for the treatment of prisoners of war;

Whereas many former prisoners of war died, or were disabled, as a result of such treatment;

Whereas, in 1985, the United States Congress directed the Department of Defense to issue a medal to former prisoners of war recognizing and commemorating their great sacrifices in service to our Nation; and

Whereas the great sacrifices of prisoners of war and their families deserve national recognition; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 9, 1991 and April 9, 1992, are designated as "National

Former Prisoner of War Recognition Day" in honor of the members of the Armed Forces of the United States who have been held as prisoners of war, and the President is authorized and requested to issue a proclamation calling upon the people of the United States to commemorate such day with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL DAY OF PRAYER AND THANKSGIVING

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 83) entitled "National Day of Prayer and Thanksgiving," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do not reserve the right in order to object, but merely to extend some time to the gentleman from New York [Mr. GILMAN], as well as to make a few comments myself.

Mr. Speaker, I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise in strong support for Senate Joint Resolution 83, which authorizes the President to declare a day of national prayer and thanksgiving for the resolution of the Persian Gulf crisis. I commend our colleague in the other body, the gentleman from Indiana [Mr. COATS], for introducing this important resolution.

Mr. Speaker, every man, woman, and child in this country has been filled with overwhelming gratitude for peace in the Persian Gulf. While we as Americans can take great pride in our courageous service men and women, and in the brilliant strategy of our military leaders and the President, we must not forget the death and destruction that accompanies this victory. The price for fighting tyranny, aggression, and oppression is always great, and our Nation should take pause to reflect on the blessing of peace.

A national day of thanksgiving and prayer would be in the best American tradition, and I urge my colleagues to join in supporting this resolution.

Mr. RIDGE. Mr. Speaker, further reserving the right to object, I want to, first of all, commend our former colleague from the House, Mr. COATS, for the sponsorship of this particular piece of legislation, and I would hope that, when the National Day of Prayer and Thanksgiving is enacted and a specific date is set, that somehow there will be a commemorative service in the Nation's Capital and it would perhaps be fitting that Members of the House and Senate, those very much involved in the decision to use our military, to send our men and women in harm's way, might be able to participate. We have been overjoyed with scenes of our men and women, husbands and wives, sons and daughters, returning from the gulf. I am afraid from time to time that with the emphasis on their return and the incredible and perhaps historic military victory that we achieved, that, as a country, while not willfully neglecting the pain that has been experienced in the homes and communities around this country, we perhaps lose sight of it. It is certainly understandable. But the day we send or commit a single troop or group of troops to combat and the day that combat is over and we have lost but one, we have sustained an enormous loss to the heart and soul of our country.

Mr. Speaker, we are not a militaristic country, but we are a patriotic country, and I am sure all my colleagues believe and understand it. But gold star mothers and gold star fathers who have lost sons and daughters bear a pain that no one, no one but those who have lost men and women in combat in support of their President in promoting and defending the principles and objectives that this country feels so deeply about, and no one can ever truly appreciate that pain. So, I think it is truly appropriate that we in this Congress ask the President to declare a National Day of Prayer and Thanksgiving, if nothing else, to remind us of the enormous sacrifice and burden that is shared, not only by those that have died for us, but is borne by their families, by their wives, by their parents, by their sons and daughters, for the rest of their lives.

Mr. SAWYER. Mr. Speaker, will the gentleman yield?

Mr. RIDGE. I yield to the gentleman from Ohio.

Mr. SAWYER. Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. RIDGE], my friend, and pause only to associate myself with his comments and to recognize that the gentleman from Pennsylvania is not without his own measure of sacrifice. So, he knows whereof he speaks.

The events of this year has bound this Nation together in, first, debate, then common purpose, and now shared thanksgiving and prayer for an effort that has been unprecedented in its support of the highest values of this Nation, and so I particularly want to join in thanking the leadership on both sides of the aisle for their effort to bring this message before us today and to the President subsequently.

Mr. MONTGOMERY. Mr. Speaker, the forces which responded to the brutal occupation of Kuwait left no room for doubt about America's resolve to defend our sovereignty and that of our friends worldwide. The victory was swift, decisive, and resounding. Still, no war is waged without a human toll.

I am pleased to support the joint resolution authored by the distinguished Senator from Indiana, DAN COATS, which calls upon the President to declare a National Day of Prayer and Thanksgiving. The Senate has approved this measure.

The joint resolution would demonstrate our collective gratitude for the magnificent performance of the fine United States and allied military personnel who served in Operation Desert Storm; would express appreciation for the hardships and sacrifices they endured in the process; would remember those who are missing or who gave their lives, and would thank God for watching over our great nation and for sustaining it as a steady and brilliant beacon for freedom and human rights worldwide.

This resolution further calls upon our citizens to develop and participate in appropriate ceremonies and activities that express the nation's deep gratitude for the brilliant leadership and foresight of the President, and the remarkable accomplishments of the members of the Armed Forces of the United States and the other allied nations in liberating Kuwait, whether in combat or support positions.

This day is for the families as well. They too served this just and noble cause.

Mr. Speaker, America and its allies have once again quelled a serious threat of tyranny. It is simply the right thing to do, to pause and give thanks for the blessings, bestowed on our people and our Nation.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 83

Whereas the United States responded decisively to the crisis in the Middle East created by the invasion of Iraqi troops into Kuwait and the unlawful annexation of that sovereign state by Iraq;

Whereas a worldwide coalition was forged to preserve international order and stop Iraqi aggression;

Whereas President Bush pursued his strategy against Iraq with foresight and purpose from the moment Kuwait was invaded;

Whereas our military leaders planned their campaign on air, land and sea, with innovation and precision;

Whereas American troops have served bravely in the Middle East at great personal risk in the defense of freedom;

Whereas we have seen a stunning triumph of American leadership, military strength and technology;

Whereas the families of American military personnel stationed in the Middle East or held captive by the Iraqi government have faced great anxiety;

Whereas the families and friends of those who have fallen bear the greatest, most tragic loss of all;

Whereas Americans have traditionally recognized the importance and strength derived from prayer at such a difficult time;

Whereas our Nation has always trusted in a Providence which vindicates the oppressed and defends the right: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States declare a national day of prayer and thanksgiving to express our gratitude for the heroic efforts of our troops and to offer our thanks to God, the ruler of men and nations, the source of justice, and the author of true peace.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the several joint resolutions just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

ANNUAL REPORT OF THE U.S. ARMS CONTROL AND DISARMAMENT AGENCY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs:

(For message, see proceedings of the Senate of today, Wednesday, March 20, 1991.)

□ 1720

UTAH BLM WILDERNESS BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Utah [Mr. HANSEN] is recognized for 5 minutes.

Mr. HANSEN. Mr. Speaker, today I am introducing a Utah BLM wilderness bill.

Wilderness, and the protection of our Federal lands, is very important to me. In designating Utah's wilderness the Forest Service portion of wilderness was considered first. Through a process of thorough study, deliberation, compromise, and finally, consensus, 744,240 acres were found to fit the true definition of wilderness and were so designated by Congress with the passage of the Hansen/Garn Forest Service wilderness bill in 1984.

Within Utah's boundaries is some of the most spectacular scenery in the world. I believe that all Utahns want to protect for themselves and for future generations these unique and particularly beautiful landscapes found on BLM lands. There is no question that some BLM land in Utah fits the definition of wilderness as defined in the 1964 Wilderness Act, and should be designated as wilderness, but not all designated BLM lands fit the definition of wilderness and therefore, should not be included in a BLM wilderness bill.

Wilderness is widely misunderstood, Congress has the obligatioan to decide which special pieces of the Earth are so beautiful in their unspoiled condition that they should be kept that way for future generations. Quoting from the 1964 Wilderness Act,

> A wilderness, in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the Earth and its community of life are untrammeled by man. An area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation.

Wilderness does change current use. Access is restricted to foot and horse transportation. There can be no temporary road, no use of motor vehicles, no motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation within any such area. Where a rancher was once able to transport his cattle by truck into an area, under wilderness designation he must take the cattle in on foot or use a horse to herd them in. Where someone disabled or less athletic used to drive on unimproved roads to view a scenic area, he must now walk up to 7 miles over treacherous landscape in order to gain the same access.

The question therefore becomes, what areas are truly wilderness? What areas are untrammeled by man?

In 1978, the Bureau of Land Management conducted an initial inventory of over 22 million acres of BLM lands in Utah to determine which of those came closest to fitting the wilderness criteria set by Congress. Over the course of past several years, the BLM has spent countless thousands of hours and more than $7 million reviewing each wilderness study area to determine which lands fully qualified for wilderness designation. Of those original 22 million acres, those BLM lands which obviously lacked these congressionally outlined wilderness characteristics were dropped from consideration.

Each step of the BLM process included extensive public involvement. During the 12-year history of the wilderness review, more than 16,000 written comments were received, 75 formal public meetings or hearings were held, and hundreds of face-to-face discussions were set up by the BLM for interested groups. In addition, a number of formal appeals of various decisions were heard by agency officials in Washington, by the Interior Board of Land Appeals, and the Federal courts. Every U.S. citizen has ample opportunity to give input into the final recommendation. The BLM has completed their study and has determined that 1.97 million acres qualify for wilderness designation.

At the same time the BLM was concluding its study, an interim Utah Joint House/Senate Study Committee has been conducting its own study to determine what wilderness recommendation the legislature should make to Congress. They, too, have completed their study and have made their recommendation that is identical to the bill that I am introducing.

It is my sincere belief that the State legislature is the government closest to the people and best represents the will of the citizens of Utah. The interim study committee has looked not only at hard data in making their recommendation, but has also listened to the people. I believe the recommendation which the State legislature has made is the best representation of what the people of Utah—the people most affected by this decision—want as wilderness. Land that fits the true definition of wilderness.

Now that the facts are on the table and the public and State of Utah have been heard, it is time for Congress to act expediently and judiciously to desginate BLM wilderness in Utah. To do otherwise and ignore the people most affected by the decision is to obstruct and hold hostage the ability of those most affected by wilderness designation to make long-term plans for their communities. It is now time for Congress to squarely face the issue and bring a final resolution to the BLM wilderness issue in Utah.

REAUTHORIZATION OF HIGHWAY TRUST FUND

The SPEAKER pro tempore (Mr. PARKER). Under a previous order of the House, the gentleman from Illinois [Mr. LIPINSKI] is recognized for 60 minutes.

Mr. LIPINSKI. Mr. Speaker, our topic this evening is going to be on the reauthorization of the highway trust fund. I am being joined here tonight by two Members from the State of Illinois, Mr. SANGMEISTER and Mr. POSHARD, who are going to both speak on this very important issue that is facing our Nation.

Mr. Speaker, first I would like to recognize and yield to the gentleman from Illinois [Mr. POSHARD].

Mr. POSHARD. Mr. Speaker, I would like to thank my friend and colleague, Congressman LIPINSKI, for organizing this special order on the reauthorization of Federal surface transportation programs.

When we compare the transportation needs of his urban Chicago district with those of the rural southern Illinois area which I represent there are some similarities, and there are also striking differences.

As a whole, the State of Illinois represents the whole range of transportation needs, and so I am pleased to be here today to give my southern Illinois perspective.

For southern Illinois, one of the most important Federal public transportation programs in section 18, the program which provides Federal funds for rural public transportation. Without section 18 financing, many rural residents would not be able to get around. In my 21-county district, section 18 makes it possible for men and women to get to work, to the grocery store, to a doctor, to town, or to see a friend.

It is easy to forget how much most Americans take their cars for granted. But, for rural residents who either cannot afford a car or are unable to drive, section 18 programs give them the freedom to get to work and go about their daily lives.

Another equally important Federal transportation program is the section 16(b)(2) program which is specifically designed to serve older and disabled citizens. Numerous studies have shown that rural areas have populations of elderly and disabled people at least as high as the national averages.

In rural areas, though, they are far more isolated. In many cases it is very difficult for them to be as mobile as they need to be. Any help with transportation greatly improves their quality of life, and section 16(b)(2) programs can provide those services. For many of the elderly and disabled who are fortunate enough to be served by this program, a ride is only a telephone call away.

For the elderly, the disabled, and all rural residents, public transportation can offer an important service. Although it is a small slice of the total surface transportation funding pie, it is very important for all of us outside the cities and suburbs.

In fact, I have joined my friend and colleague from West Virginia, NICK JOE RAHALL, as a cosponsor of H.R. 1079, the Mobility Assistance Act of 1991. The bill would increase funding for all public transportation programs, including the Urban Mass Transit Program, and programs which serve suburban, rural, and small urban areas.

One program in my district which could certainly use the kind of extra funding which H.R. 1079 would provide is the RIDES transportation project. RIDES currently serves a six-county area in southern Illinois and uses more than a dozen vehicles. The program is fully available to the public, and works in close partnership with a variety of local programs, schools, and services.

Some of those agencies include: the Golconda Job Corps, JTPA, the Illinois Department of Children and Family Services, developmentally disabled centers, Southeastern Illinois College, housing authorities, and nutrition programs. The RIDES program is an excellent model of how transportation can be made available to a wide range of rural residents. The program is successful, but is constantly in need of funding to maintain its services.

Programs which offer transportation to the disabled are also expanded under H.R. 1079. The bill would provide funds to help achieve the transportation accessibility goals which became law last year when the President signed the Americans With Disabilities Act. This increased funding is a firm step in the right direction, and I believe it offers real hope to millions of rural disabled Americans who need to be able to use public transportation.

In southern Illinois, we have several programs which specifically serve the disabled, including one which serves Saline and Franklin Counties in my district. Like all other similar programs, it too is in need of increased funding.

Mr. Speaker, rural public transportation is important to improving the quality of life outside our Nation's large metropolitan areas, but there are other major issues of concern. One of the biggest issues for us is access to the marketplace, and access depends on a high-quality network of roads and bridges.

According to the U.S. Department of Transportation, 42 percent of the Nation's highway bridges are structurally deficient or obsolete and much of our noninterstate highway system is in urgent need of repair. Although my region offers a skilled work force and affordable business locations, the quality of our highways is slowing our economic expansion. I believe that in this year's surface transportation reauthorization, we will have an opportunity to take a comprehensive approach to improving the quality of the country's roads and bridges.

Since we have almost entirely finished the Interstate System, we will have a chance to look at surface transportation from a broad perspective. We will be able to examine how to use the interstates in the most efficient manner possible and see how the highway system can complement our noninterstate highways, State, county, and local roads. A person cannot drive anywhere in the Nation without quickly realizing that we have many unmet infrastructure needs.

Improving our transportation system is on the top of the agenda for the Public Works Committee this year. My colleagues here today and I are working to craft a package which will improve the quality of surface transportation for all Americans.

Mr. Speaker, our committee has a lot of work ahead in the coming months. We also have the opportunity to work for the common good of the Nation. I am confident that we can meet that challenge. I am pleased to have been included in today's discussion and I would like to again thank my friend, Congressman LIPINSKI for organizing this special order.

□ 1730

Mr. LIPINSKI. Mr. Speaker, I want to thank my colleague from Illinois [Mr. POSHARD] for participating in this special order. As he said, we are working on a reauthorization bill at the present time. It is a very important bill to this country, and I want to particularly thank him for talking about mass transportation in rural areas, because I think many people are not aware of the fact that mass transportation is very important to rural areas. People associate it somehow simply with large metropolitan areas. So I am happy that the gentleman has brought that to our attention.

I also want to welcome Congressman POSHARD to the Committee on Public Works and Transportation. He is our most recent arrival, and I know, based upon my past experience with him, that he is a very reflective individual, a very conscientious individual, and he will do an outstanding job on that committee.

Mr. Speaker, I would like to turn now to another member of the Committee on Public Works and Transportation from the State of Illinois, my very good friend, Congressman GEORGE SANGMEISTER, and I yield to him at this time.

Mr. SANGMEISTER. Mr. Speaker, first I would like to thank Representative LIPINSKI for organizing this special order tonight. It couldn't be more timely as we consider the 5-year highway reauthorization proposal in the Committee on Public Works and Transportation. Since my friend and colleague will undoubtedly touch on the importance of mass transit, I'd like to take a few minutes to talk about bridges, and in particular, as they relate to the State of Illinois.

Illinois has a total of 25,572 bridges. Of these, roughly 28 percent or 7,126 are inadequate for current loads. When these figures are broken down, we find 20 percent of Illinois' highway bridges on the Federal-aid Highway System, and 33 percent of State and local bridges off the Federal-aid System, are deficient. Nationally, the number of structurally inadequate bridges is even higher. The newspapers periodically tell the sad stories of major bridge collapses and highlight why these deteriorating bridges should be a National public safety concern. I share their concern.

It's easy to attach substandard labels to these structures but what this means in real terms is perhaps more crucial. Just last September a major bridge in my congressional district was closed for safety reasons with virtually no warning. The 135th Street Bridge, located in Romeoville, IL, was shut down by the Chicago Metropolitan Water Reclamation District due to missing metal and corrosion. This 91-year-old bridge served as the only link between the east and west sides of Romeoville.

I am especially concerned about this bridge closing because emergency teams (including firefighters, police, and rescue squads) are having difficulty responding to calls in a timely fashion. The substitute route for emergency vehicles requires a 9-mile detour across an alternate bridge in Lockport, IL. When traffic is heavy, the trip sometimes takes up to 75 minutes. Put simply, the safety of the residents and businesses on the east side is being compromised.

This problem is compounded by the location of a major oil refinery, also on the east side which would require an immediate response in the event of an emergency. Clearly, the refinery facility is in a vulnerable position.

Coupled with these safety concerns are the tremendous economic consequences of bridge closings. To continue with the example of Romeoville, the Panduit Corp., which employs 218 people, reports that employees are chronically tardy because their commute time has doubled or tripled since the bridge closed. Since most traffic has been shifted to the State Street Bridge, drivers have been reporting up to 35-minute delays just to cross the alternative bridge. Lost time translates into lost money.

The situation in Romeoville is just one small example of the impact our deteriorating infrastructure will have on our economic productivity. We are, without a doubt, moving closer to a crisis stage. There is no question that the state of our bridges affects the operation of our highway network as a whole. Throughout the Persian Gulf war, it came as no surprise that the coalition air forces concentrated many of their efforts on destroying the bridges in Baghdad. They knew this would further incapacitate Saddam Hussein, and it did.

Contained within the President's highway proposal is a separate bridge rehabilitation program. This program funds the replacement or rehabilitation of highway bridges when here is a finding that a bridge is important, that it is unsafe, that it poses a safety hazard to highway users, that its replacement or rehabilitation would improve traffic, or that its replacement or rehabilitation program would improve emergency services.

Currently, the money apportioned from the Federal Government to States for bridges is based on the cost to rehabilitate or replace all deficient bridges in each State. Since the State of Illinois has been aggressively working to correct their bridge deficiency problems by funding bridge projects with State money alone or from other Federal program categories, this system actually works against them in terms of Federal formula money. According to the State of Illinois, "If the regular bridge formula were based 50 percent on bridge extent—the total area of all bridge decks—and 50 percent on bridge usage—vehicle miles of travel on bridges—as opposed to current deficient bridge cost basis, Illinois would receive approximately 136 percent more in Federal bridge funds."

President Bush, in the administration bill, wants to change bridge program eligibility and distribution formula to a level of service approach. Under this kind of approach, bridges would be eligible for Federal funds based on their ability to meet minimum acceptable levels of service for the functional class of service on which it is located. Again, this will hurt Illinois. In this case, the State of Illinois estimates that under this new level of service approach, the number of eligible bridges would be cut by 53 percent compared to the number of bridges that currently qualify under the current formula method. Thus, Illinois would be penalized in terms of formula money in the President's bill because they have consistently invested resources in preventive maintenance.

The discretionary bridge program traditionally has provided supplemental funding for high cost projects in many States. Under President Bush's proposal, the Federal Government will continue to make these discretionary funds available for nonlocal bridges that cost a minimum of $10 million for the National Highway System and $5 million for others.

Another important change in the President's proposal that shouldn't be overlooked is the match ratio maximum. Traditionally, the match ratio for projects on local roads is 80 percent Federal-20 percent State. The President wants to change this to 75 percent Federal-25 percent State with a 10 percent local match minimum.

Ideally, I would like to see a continuation of a separate Federal bridge program that takes into account the total extent of bridges and the degree of use in each State—rather than the cost to replace or rehabilitate deficient bridges. In terms of Federal discretionary spending, I believe the Federal program for high cost bridges should be continued.

□ 1740

Mr. LIPINSKI. Mr. Speaker, I thank the gentleman from Illinois [Mr. SANGMEISTER] for his contribution to this special order, and particularly his insightful comments pertaining to the bridge situation and the bridge program.

As we all know, bridges are of enormous importance to transportation not only in this country but throughout the world as the gentleman so obviously put it when he was talking about Saddam Hussein. I thank the gentleman.

Mr. Speaker, it was only two weeks ago when the President of the United States stood on the floor of this House and addressed a joint session of Congress.

At that time he was delivering his words to the American people on the conclusion of the war in the Persian Gulf. And it was a warm moment—a time when we could feel unified as a nation and thankful that the war had been swift and decisive.

But it was also a moment in which he laid out before this body a challenge on the domestic front.

He included in that challenge the passage of a surface transportation bill that would renew our Nation's infrastructure.

I totally agree with that idea. By infrastructure, we mean, bridges, roads, highways, and other modes of transportation.

There are few political leaders in this Nation who do not agree that more money and more attention must be focused on these neglected needs.

But infrastructure also includes mass transit. And when it comes to the President's transit proposal, especially in cities like the one I represent—Chicago—what Congress is faced with is not a challenge. It is a threat. It is a threat to the viability of mass transit systems across this Nation.

It is a threat to our Nation's energy policy. It is a threat to the thousands of people who rely on mass transit each day to remain mobile in a society that demands mobility.

I am by no means alone in my contention that the President's mass transit proposal is feeble. Far from it. Day after day I have people from across this Nation coming into my office and telling me of the damage the President's proposal would to their community. There is not a mass transit system in this Nation which does not feel that mass transit has once again been treated as an ugly sister to the Federal highway program.

I believe it is appropriate to describe in greater detail what is wrong with the President's mass transit program.

To see the President's lack of commitment to mass transit, one need look no further than his program's bottom line. Let me read you some figures. In 1991, $14½ billion are going to be spent on the Federal highway programs. By 1996, that figure will reach $20 billion, according to the President.

Compare that to mass transit. In 1991, the Federal commitment will be $3 billion. What does the President suggest we spend 5 years from now? Only $3.3 billion. That's right. Over the course of the next 5 years, the President suggests that we do not spend enough money on mass transit to keep up even with inflation. Meanwhile, the President proposes that money for highways increase 39 percent over the next 5 years.

I do not make this point to suggest that less money be spent on our highways, bridges, and roads. In fact, the surplus in the Federal highway trust fund tells us we should be investing more, especially in our urban areas. What I am saying is that mass transit funding is pathetic when compared to what we spend on highways. And when one considers the needs of mass transit and the people who rely on it for transportation, there is simply no excuse.

The President's proposal on mass transit is nothing new. Republican administrations of the past seem to have been aiming at getting out of the mass transit business. Since 1981, Federal assistance to mass transit has been reduced 50 percent when the money is adjusted for inflation. Fifty percent in just 10 years. And in fact, the President's funding proposal for 1996 would not even match the $4.6 billion that was spent when Ronald Reagan took office in 1981.

What is clear is that spending money on mass transit is not a priority for this President, as it was not for his predecessor. What is not clear is, Why not? And the question becomes even more unclear when one considers the experience our country just went through in the Middle East. There is no question that the war in the Persian Gulf was about more than oil. But there is also no question that oil was a factor. Oil in today's world means power, and it was power that Iraq's dictator was after.

The only reasonable conclusion we can draw is that our Nation must reduce its reliance on foreign oil. And that means we should be reducing consumption. What is wrong, I ask, with making mass transit a part of our solution? What is wrong with trying to entice more people to get out of their cars and ride buses and trains to work? The answer, of course, is that nothing is wrong with it. In fact, it makes a great deal of sense. It would help reduce the dangerous habit we have of relying on imported oil. And besides that it would help relieve the traffic congestion which is choking the economic vitality of our Nation's urban and suburban centers.

But there is also another factor to consider. Last year, we spent a great deal of time and effort on passing a Clean Air Act to make our Nation's cities more liveable. We have an opportunity to help make cleaner air a reality with this year's surface transportation bill. Increased use of mass transit would help relieve our Nation's cities of the smog which currently plagues more and more of them.

Mass transit can be part of the solution to several of our Nation's problems. But we must have a commitment that starts at the top. And that is going to take money.

Objections to this bill go beyond the meager funding level. There are, in addition, many provisions within the President's proposal which makes it unacceptable to cities across this Nation. Perhaps the loudest criticism has been created by the proposed elimination of operating assistance for regions over one million in population. That criticism is well-founded.

The administration says that it should not be in the business of providing assistance to help mass transit agencies operate. That philosphy, I believe, is shortsighted and indicative of a lack of commitment to increase mass transit ridership in this Nation. Transit systems have come to rely on Federal operating assistance to help keep fares low and provide a real alternative to the automobile.

Some idealogues in the Republican Party say that transit fares must be raised if those fares are too low. They say the Federal Government's only role is to help purchase expensive equipment. But that argument ignores the fact that transit is not competing on a level playing field with the automobile. Gas prices in this Nation are already remarkably low when compared to other countries. And employers can provide parking spaces worth hundreds of dollars to their workers without it being considered taxable income. In that environment, mass transit fares must be kept as low as possible to encourage people to ride buses and trains. Otherwise, there is no incentive for them to get out of their automobiles. And yet the administration proposes to eliminate operating assistance to those areas which need mass transit the most—regions with over 1 million people.

The President has proposed that the money formerly used by local agencies for operating expenses be shifted for use on capital expenses. He says the proper Federal role in mass transit is to help buy hardware. But I know that within my own community, the elimination of operating assistance is going to hinder the local transit agency's ability to spend more on those very capital needs.

The Regional Transportation Authority, the transit agency in the Chicago area, receives roughly $40 million per year in operating assistance. At the same time the RTA has issued $100 million in debt to help address its tremendous capital needs. The complete and sudden elimination of operating assistance would force the RTA to use its discretionary funds as a replacement. That would hinder the RTA's ability to pay its debt and continue improving its capital—the very same capital improvement the administration says it wants to help fund. At the same time, mass transit in my community is going to have to deal with another cutback proposed by the new Republican Governor of Illinois. His plan calls for the elimination of $36 million which help subsidize student, elderly, and handicapped fares. The result is a double whammy which is going to make mass transit either much more expensive or much less available. And possibly both.

But if the news about the President's proposal on operating assistance is bad, the news on his ideas for capital assistance is not much better. The President has said that the proper Federal role in mass transit is to help pay for capital expenses. But at the same time, he has proposed that the Federal share in capital projects be reduced. The current formula matching ratio for capital costs is 80–20. That is, in projects in which the Federal Government participates, the Federal Government pays 80 percent of the costs, and the locality pays 20 percent. The administration says that the Federal share should be reduced to 60 percent, with the localities making up the difference.

Once again, mass transit systems across the Nation will be forced to absorb the impact. The RTA currently receives $4 for every local dollar contributed to a formula capital project. The President's proposal would reduce that ratio to $1.50 for every dollar contributed. This sharp reduction simply should not be allowed to stand.

What is particularly troublesome is that not all highway programs share the matching-ratio set-aside for transit. This creates a problem because the President has also proposed greater flexibility between transit and highway money. The President has suggested that a portion of highway money be allowed to be used for transit projects, and vice versa. One problem with that idea is that a portion of the Federal highway system would be funded at a 75–25 ratio, while transit would be at a 60–40 ratio. The only incentive the administration would be providing in such a case would be for money to be transferred away from transit and toward highways.

But the discrepancy between matching ratios is not the only problem with the President's co-called flexibility concept. The proposal is tilted toward highways in other ways as well. The administration would allow 100 percent of the transit program to be transferred to highways. But it would allow less than a third of highway funds to be used on transit projects. It seems only fair that there should be an equal percentage of availability if the system is to work on a level playing field.

But the issue of transferability raises another question as well. I can use my own State of Illinois as an example. My State department of transportation has no real stake in funding mass transit in the Chicago area. That is not the State's responsibility. So what is the incentive for Illinois' Department of Transportation to use money on transit projects in Chicago? Why would it possibly want to transfer money away from highway projects when it always has a long list of such projects that need funding. The administration says that it is merely trying to facilitate cooperation—that it is trying to create some reasons for transit and highway interests to work together. But if flexibility is the goal, I must say that the administration must try harder, because its current proposal simply provides no incentives to Illinois and other States across the country. Right now, it seems little more than a diguise behind which the administration can say more money is being made available to mass transit.

Finally, I would like to comment upon the President's suggestion that all Federal money for transit come out of the Federal mass transit account. For years, many of my colleagues and I have been saying that the Federal Government must spend down the multi-billion dollar surplus in the mass transit account. We have been saying that the money must be used for its intended purpose—improving mass transit.

Well, the President's proposal certainly spends down the money. But it does this because it eliminates the other major source of funding for mass transit—general revenues. That means the money in the trust fund will be spent down very rapidly—so rapidly in fact that there is a possibility that by 1996, the total amount of money in the trust fund may be only a little more than $1 billion. That amount of money would not be enough to support even the meager transit program the President requests.

Several times I have described the impact some of the President's proposals would have on the RTA in my community. I would like to mention as well the tremendous number of problems the President's plan would create for the Chicago Transit Authority, the mass transit agency operating only within the city limits.

When combined with cuts planned by the State, the President's proposal would mean the loss of $69 million worth of funds for the CTA. The only way to compensate for those losses is to cut service—and that means an additional loss in farebox revenue. In total, the CTA would have to cut $113 million out of its budget—that is about 45 percent of the segment of the budget which is variable.

What would the cuts mean? An elimination of owl service in many areas, for one. That means people who work at night and depend on the CTA would be out of luck—compliments of the President. For another, it would mean the elimination of entire rail lines which would be too expensive to operate. And it would also mean about 1,500 layoffs—that's 1,500 out of a work force of 12,000.

And still, the cuts would not be enough. Fares would also have to be raised—by about 40 percent. And that higher fare would be to provide the commuter with a lower level of service.

And as I have said, the CTA is far from unique. In fact, its situation may be better than it is for many. The worst off may be Philadelphia, which already has the highest fares in the Nation. And other large cities like New York and San Francisco are going to be hard hit as well.

By now, I hope my point is clear. Mass transit in this Nation cannot afford to have the President's proposal enacted.

I began this speech by reminding us of the President's challenge 2 weeks ago on the domestic front. I say we accept the President's ante, and raise the stakes. I say we challenge him back—challenge him to support a mass transit bill that will help those who rely on transit systems, and will encourage more people to do the same.

The head of the Urban Mass Transit Administration was recently quoted as saying that if people want more money for mass transit, what is needed is a public outcry. I say he is going to get that outcry during the next few months of our debate. And I also say that if we believe in mass transit, we should be providing the leadership. That is why the people elected us, not to sit back and wait for poll results to come in.

We have an opportunity to improve mass transit in this Nation. We have an opportunity to strengthen our energy policy, to reduce congestion, and to make the air cleaner. And we have an opportunity to help those who depend on mass transit every day and who have no alternative. I say we seize the opportunity.

☐ 1800

SALUTE TO U.S. ARMED FORCES IN PERSIAN GULF

The SPEAKER pro tempore (Mr. PARKER). Under a previous order of the House, the gentleman from Georgia [Mr. THOMAS] is recognized for 60 minutes.

GENERAL LEAVE

Mr. THOMAS of Georgia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. THOMAS of Georgia. Mr. Speaker, I yield to the gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. Mr. Speaker, I thank the gentleman for yielding to me and appreciate him having taken out this special order.

I am the ranking member on the Subcommittee on Military Personnel and Compensation of the Committee on Armed Services, and as such feel it is particularly important that I join in paying tribute to those American forces, the Active Forces, as well as the Reserves and the National Guard who were called upon to serve their country in connection with Operation Desert Shield and then Desert Storm.

This country has been benefited and privileged by having people from each generation come forth to protect our freedom and to preserve our national security. It has never been done better than by those people who we called for and sent to the Persian Gulf.

We boast of the tremendous technological capabilities of our armed services, but I hope we will never cease to be mindful that all those Smart bombs, all that wonderful technological capability would be wasted if we did not have the people with the technological capability, the training and the dedication to use it. Never has America been better served than by those forces which we sent to the Persian Gulf.

Those of us in the Congress who on January 12 undertook the awesome responsibility to authorize their deployment in the use of force, I think are especially called upon to say thank you for a job so tremendously well done. From the Commander in Chief to the commander of our forces in the Middle East, General Schwarzkopf, down to the recruit and the private, no one could have served us better.

Mr. Speaker, I thank the gentleman for the time and for his initiative in taking out this special order.

Mr. THOMAS of Georgia. Mr. Speaker, I thank my good friend, the gentleman from Virginia [Mr. BATEMAN] for his comments.

Mr. Speaker, I yield to the gentleman from Minnesota [Mr. RAMSTAD].

Mr. RAMSTAD. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, today I rise to salute the men and women of the U.S. Armed Forces, who so bravely and successfully brought home a resounding victory for the allies over Saddam Hussein's ruthless aggression.

All Americans are proud of our troops for their outstanding service to our country and freedom-loving people throughout the world.

We must also be grateful to the people of the United States, who showed such enthusiastic support for our troops throughout Operation Desert Storm.

The strong, unified support of the American people made possible the quick and decisive victory over Saddam's aggression.

As Army Lt. Steve Lisle, of Plymouth, MN wrote from Saudi Arabia, "Tell the folks back home their support means a lot to all of us over here on the front lines."

A special note of gratitude goes out to the families of our troops, whose love and sacrifices contributed significantly to this great victory.

Throughout Desert Storm, I had the privilege of meeting regularly with families of Minnesota troops in the gulf, thanks to the family support organizations SOCM and BACM [Support Our Country's Military and Back America's Courageous Military]. The leaders and members of these groups deserve our praise for their major role in the war effort.

The pride throughout our Nation can be attributed to the success of our courageous troops, our strong and wise military leaders, and our great President.

Our Nation's renewed spirit of patriotism is also a result of President Bush's effective communication with the Congress and the American people, telling us from the outset that our mission was to repel Saddam's invasion of Kuwait and stop his further aggression.

Now that the war is over, we cannot forget our close friend Israel. In the midst of 39 Scud attacks against her own civilians, Israel refrained from retaliating, and consequently, the Arab coalition united against Saddam held together.

In negotiating a postwar peace settlement, we cannot allow Israel's borders to be more threatened than they already are. This war has shown us how crucial it is that our solid alliance with Israel remain strong. This war has also shown us how important it is to maintain stability in the Middle East.

And this war has shown once again that we are a great nation blessed with brave and strong military men and women. Congratulations to all of our troops for representing the best of America.

□ 1810

Mr. THOMAS of Georgia. I thank the gentleman for his comments.

Mr. Speaker, Mr. FAZIO was scheduled to be here, but was unable to be present and will submit his remarks.

Mr. Speaker, I yield to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. I thank the gentleman for yielding.

Mr. Speaker, I think it is excellent that the gentleman from Georgia [Mr. THOMAS] has taken out this special order, and I am going to follow him with a 1-hour special order of my own on the devastation and the havoc that was wreaked in Kuwait as that country was torn apart.

But the key word that applies to all our young men and women and some not so young, the Vietnam vets and even a few at the highest levels who go back to the Korean war, the word that I heard over and over again was "professionalism."

The decision, the bravery, the glory, that applies to the American fighting men and women in every conflict that we have ever been involved in, and it certainly applied in this one. But there has always been some postmortems about professionalism. "Were our troops trained as well as they could have been?

In 1942 our torpedos were not working, our planes were inferior to the Japanese planes and the best of the Luftwaffe planes. But in this case the American aerospace industry, the naval shipbuilding industry, the electronics industry, everywhere up and down the line, the weapons were so superior that it was awesome. The news media seemed to be enthralled with the fact that in spite of their doomsday talk for years about the defense industry, everything was working. But it was really the training.

In two trips over there, this is what has been brought home to me by the commanding men and women who were over there, over these excellent people, young people in the field.

Red Flag in the Air Force, blue flag, green flag, those other flag operations not as well known as Red Flag at Nellis Air Force Base, training fighter pilots, training the electronic people. Also, the National Warfare Center, the Warrior Preparation Center in Europe, American idea, American-run. The National Training Center at Barstow for our tank troops, integrating them with air.

All of these training programs and the dedication of those young people to get the best they could out of those training programs, it has just been amazing to see how these people performed.

So it is only natural that people would do what the gentleman from Georgia is doing, paying honor to them on the floor of this great deliberative body.

I hope the parades go beyond what our fine President has called for on July 4. I hope there are pre-parades on Memorial Day, I hope building up to Veterans' Day till the end of the year. As Life magazine's latest issue says, "The greatest Thanksgiving in our lifetime was the Thanksgiving of November 1945, V–E Day in Europe, on Harry Truman's birthday, May 8, and then V–J Day on the deck of the *Missouri*, September 2, 1945. A few months later, this was the greatest Thanksgiving of all time. I hope we equal, if not go beyond, that Thanksgiving this coming November and then let us take it right into Christmastime. Let us make it from now on, on this House floor and throughout this country a year of appreciation to these young men and women and their great leaders of prior wars of every age for a superb job that goes beyond the expression "Well done." They seemed to be only to be able to reach out to the words that young people love the best and that sportscasters love the best, like "awesome."

Again, I thank the gentleman for taking this special order.

Mr. THOMAS of Georgia. I thank my colleague from California, Mr. DORNAN, for his as usual comments which were eloquent and well put.

I would point out that the parades have already started. This past Saturday, in my own First District of Georgia, which is the home of the 24th Infantry Division, some 300,000 Irishmen—all were Irishmen on that day—gathered for St. Patrick's Day celebration, one of the largest in the country.

On that day, the highlight of the parade was to have back some of the very first forces to return, the 24th. Let me tell you they were well received.

I was back down somewhere in the parade, and by the time I got there I was convinced that everyone was very tired from having applauded the troops as they came by. But it was a great experience.

So the parades have indeed begun already.

Mr. Speaker, I yield to the gentleman from California.

Mr. DORNAN of California. I thank the gentleman for yielding.

I was not aware, Mr. Speaker, that the point of the spear, as some of the people have called the 24th Infantry Division, mechanized, is in the gentleman's district. The gentleman is one lucky congressman. I visited with them in November with a big bipartisan delegation, about 20 of us. I met their great commanding general, an Irishman, Barry McCaffery. He is still over there with the remainder of his troops; and I will bet he is there in spirit.

But McCaffery fought hard and long in Vietnam as a younger officer. One of his daughters is an officer, one of his sons is an officer over there, another one is about to go to one of the service academies. His daughter just graduated from Bishop O'Connell High School over here in Virginia, because he was at the Pentagon right before he went down there. Last year I had the honor of speaking at her graduation at the National Shrine, America's biggest church.

So he said, "I was in the church that day, and come on, I want to talk to you a second." He talked to me about those young men and women. This is one of those lucky things; people talk about Schwarzkopf, the right man in the right place, Colin Powell, Dick Cheney, everybody, the President himself, right down to our division commanders. Barry McCaffery was the right man at the right time at the right place, and what a point to have on his spear. His father-in-law watches the proceedings of this House regularly, and he is watching this special order right now.

So to the great father-in-law of that great general and Mrs. McCaffery and all of that Army family's gang, beyond "Well done," but simply "Awesome."

Mr. THOMAS of Georgia. I thank the gentleman again. I also point out that we are very proud of the 24th and my comments will lean in that direction in a few moments. But at the same time I would also reminisce that when I first took over the office back in 1982, Gen. Jack Galvin was in charge of this command. He is now the supreme allied commander in NATO. His change of command was turned over to none other than General Schwarzkopf himself, who commanded the 24th. It went right on down to the great succession of outstanding generals to our current commander, General McCaffery, who of course has been recognized in numerous articles as perhaps our finest battlefield commander to date.

I thank the gentleman for his comments. I see others of my colleagues who have joined us at this time.

Mr. Speaker, I yield to the gentleman from Texas [Mr. LAUGHLIN].

Mr. LAUGHLIN. I thank the gentleman for yielding, my good friend, for taking out this special order.

Mr. Speaker, I think it is important that we are here today to pay tribute to the men and women of the U.S. Armed Forces who recently served our country in the Middle East. It is indeed fitting that we recognize their dedication and accomplishments of these brave sailors, soldiers, and airmen. These men and women answered the call of our Commander in Chief to fight for the just cause of liberating a tiny country from the hands of an aggressive neighbor, an aggressive dictator. The military operation to free Kuwait was extremely successful, and much credit must be given to General Schwarzkopf for his excellent leadership during Operation Desert Storm.

As an Army Reserve officer, however, I know that credit for such a successful military operation must ultimately be given to the soldiers who executed the orders of their leaders.

The speed and vigor with which our troops performed exceeded even the expectations of our military commander. Therefore, it is appropriate that the success of Operation Desert Storm be laid squarely at the feet of the military personnel who participated in this most successful operation.

For the bravery and selflessness that the U.S. soldiers, sailors, and airmen displayed in Operation Desert Storm, we in Congress offer a salute.

As the gentleman from Georgia and the gentlemen from California were talking about the 24th Infantry Division, I could not let this moment pass and let them hog, take personal credit for, their connection with the 24th because my classmate from Texas A&M, Brig. Gen. Terry Scott, is the deputy commander of the 24th Infantry Division.

What a thrill it was last week to be sitting in my breaksfast room watching television and to see them interviewing my classmate from my Texas A&M college days and to witness General Scott pay tribute to the service given to our country by the men and women serving under his command.

So that I must tell you, as a Texan and as a graduate of Texas A&M University, I am extremely proud of my classmate from Coleman, TX, who has now risen to the rank of brigadier general. I must say the Defense Department has recognized his leadership ability because he has been notified that he is on the promotion list for a second star to serve in the ranks as a major general.

On that note, I must also add there were over 200 officers who served in Desert Storm who were graduates of Texas A&M, and, as a graduate of that school myself, I must confess I am extremely proud of the continuing dedication of the young Texans who attended Texas A&M and gave of their time and commitment to serve our Nation.

They can talk about all the great generals from West Point, and there have been many who graduated from West Point and I am proud of the service I give to this body as a member of the board of visitors at West Point, but I must note there were more officers served in the military of the United States of America in World War II from Texas A&M University than served from the U.S. Naval Academy or the U.S. Military Academy.

□ 1820

So, we are proud of the commitment and dedication of all Americans that served in our Armed Forces, and I rise and also express some pride in the service by so many young Texans.

Mr. Speaker, I thank the gentleman for including me in this special order.

Mr. THOMAS of Georgia. Mr. Speaker, I thank my colleague, the gentleman from Texas [Mr. LAUGHLIN], and I will just give him an upgraded word on General Scott.

I was there on the Thursday evening when the first forces who had participated in Desert Storm returned here on a Thursday evening and touched down at Hunter Army Airfield, and the first soldier to step off that airplane at 1:41 on that evening was none other than General Scott, and it was a great pleasure to see him embrace his wife and his two young daughters that were there, and then this Saturday morning, again at the St. Patrick's Day celebration, he and I celebrated the start of that day with green eggs and green grits there on that St. Patrick's Day celebration. So, I appreciate the comments of my good friend from Texas.

Mr. Speaker, at this time I yield to my colleague and good friend, the gentleman from Georgia [Mr. RAY].

Mr. RAY. Mr. Speaker, I thank the gentleman from Georgia [Mr. THOMAS] for yielding time to me, and I want to thank him for initiating this special order tonight in honor of our brave, brave soldiers in the Persian Gulf war. I salute the men and women for a job well done, and I rise today to comment then on the superb job, both over in the Middle East and here at home that they accomplished in this magnificent and historic victory. It is my impression that we have sent the Saddam Husseins of the world a message that the Vietnam syndrome has gone and that they better be careful how they initiate any further action such as has just occurred in the Middle East.

Mr. Speaker, this special order takes place on the same House floor that helped the President's victory address to the Nation just 2 weeks ago. In that speech President Bush paid tribute to many of the participants who are responsible for the success of Operation Desert Storm, and I pay tribute tonight to additional participants, and I would like to refer to Robins Air Force Base in Fort Benning, GA, located in the Third Congressional District of Georgia, which I represent, and my colleague, the gentleman from Georgia [Mr. THOMAS], represents Fort Stewart in the First Congressional District and knows firsthand the trauma that affects families and communities when all of a sudden a firing base that is just a beehive of activity is kind of quiet, and we all praying for the return and safety of those loved ones that have gone to the Middle East. These installations, Fort Stewart, Fort Benning, Robins Air Force Base, and others, served important roles in that victory.

Two weeks ago I had the pleasure, such as the gentleman from Georgia [Mr. THOMAS] has mentioned, at Fort Stewart to honor and to welcome home members of the 197th Mechanized Infantry Brigade and the 36th Combat Engineer Group at Fort Benning, GA. Fort Benning, the home of the infantry, has a distinguished history, and its participation in Operation Desert Shield and Desert Storm will continue this prestigious line.

As these infantry soldiers came off of two airplanes on Saturday night about a week ago, this huge crowd of relatives, of family and children were there, about to tear down the fence to get to them, and, when they were forced to form a brigade and march like soldiers due to be honored and as the patriotic music played, I heard three little children singing, crying out, "I want daddy. We want daddy." I will tell my colleagues that it just really got to me.

Each of Fort Benning's tenants served honorably in the gulf, offered the needed support at home. These tenants—I would just like to mention them—include the School of the Americas, the Rangers, the 97th Mechanized

Infantry Brigade, about 4,000 of them, the 36th Combat Engineer Group, the 34th Medical Battalion. All 76 doctors at Martin Army Hospital went to the Middle East, and our reserves filled that void there and took care of the situation, and they are still gone. The military police activity left Fort Benning, the Lawson Army Airfield made a heavy contribution, and the U.S. Army Research Institute did also.

And over on the eastern side of my district, the largest payroll in Georgia, Robins Air Force Base and Robins Air Logistics Center in Robins, GA, helped to organize and carried out much of the logistics support for the massive movement and positioning required for Operation Desert Storm. In just 1 week 17 C–141 loads of F–15 parts took all the supplies for an F–15 wing, just 10 days after the Desert Storm began. Robins Air Force Base is an excellent example of the superb logistics capability that the Air Force has developed and must maintain in the future.

The loved ones left at home also are due a lot of credit. They gave the critical support needed for that campaign; prayers, letters, and gifts from home which made life in the desert just a little bit easier and increased the desire to come home quickly.

Lastly, Mr. Speaker, I salute the American people, and we can be proud of the response which America overwhelmingly gave to the criminal act of Saddam Hussein in his overrunning, raping, and plundering of Kuwait. It gives us a renewed sense of patriotism. Eighty percent of Americans fully backed the President and continue to do so and approve the manner in which the war was conducted. I am pleased to have been on board from the very beginning. I did not have one bit of trouble with my philosophy in that case. The United States came together in this cause, and the spirit of patriotism today is more alive and well in America than it ever has been, and, thank God, we have all these young children, and young people and teenagers who now know what patriotism is all about. The Vietnam syndrome, as I said, I think, is gone. It is behind us, and victory would have been impossible without this deep and nationwide support. It brought this country together. It let us know that we can tackle other problems: The deficit and some of the moral deterioration of this country which can now be dealt with because we know we can come together and deal with these situations.

Mr. Speaker, the gulf crisis and the unrest in the Soviet Union demonstrate that we must always maintain an adequate defense capability. In addition, we must keep in mind that there has never been a single year in our recorded history that there was not a serious conflict brewing or a war under way in the world. So, it is important that America maintain a state of readiness and have the ability to always deter aggression, but war and remaining in a readiness state is very expensive. Sometimes it is not very popular when other programs that are badly needing money are suffering also. The high-technology weapons that were so effective in the Middle East worked well, and, thank God, they saved a lot of lives and prevented casualties. However they are costly and require years of research and development. Many of the weapons which worked so successfully were almost killed time and time again right here on this floor of the House of Representatives, but many of us in Congress and on the defense committees were criticized for supporting the weapons that were so successful, and that tells us that we have got to continue to face up to such criticism, and probably in the next few weeks when we have more controversial weapons systems that have to be discussed and debated on the floor of the House of Representatives and should be approved. In the future adequate military spending will be driven by realistic defense requirements and budget constraints, and I hope it is not by political posturing. Our very serious national debt mandates that we budget our defense dollars very seriously, but the war in the Middle East demonstrates that we cannot be lulled into an imagined world where actually aggression would no longer occur or an adequate defense is no longer needed. Unfortunately such a world will not occur in our lifetimes, and we must be prepared for future dictators as bad or worse, if there can be one any worse, than Saddam Hussein.

Mr. Speaker, I am grateful for the time that has been given to me by the gentleman from Georgia [Mr. THOMAS], and I thank him very much for this special order which he has arranged tonight.

□ 1830

Mr. THOMAS of Georgia. I thank the gentleman from Georgia, and also want to thank him for the leadership he made in defense issues and the role played on the Committee on Armed Services here, as well as thank him for coming to take his time this evening as well.

Mr. Speaker, I now recognize my good friend, the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Speaker, I would like to thank my distinguished colleague from Georgia for yielding me time. While I certainly lend my voice in honoring all the coalition troops who served in the gulf, today I would like to pay tribute to two special individuals.

Much has been said, and rightly so, about the skill and bravery of our troops, the technical wonders of our weapons, and the bold brilliance of our leadership. Let us not forget, however, that although our casualties were miraculously light, there are more than 200 American families grieving the loss of one of their own.

Future historians may indeed mark this conflict as the beginning of an era of lasting peace, of a new world order, but these families will remember it as the war that killed their son or daughter, their father or brother, their wife or husband.

The city of Long Beach, in the 32d Congressional District of California, has suffered the loss of two of its outstanding young people. To the parents and families of Army Sgt. David R. Crumby and Army Sgt. Cheryl L. O'Brien, I wish to offer the gratitude and support of this Congress and of our entire Nation. You have given of yourselves for your country, and in respect for this sacrifice, we now embrace you, sharing both your sorrow and your pride.

Not so many weeks ago I stood in this Chamber and cast my vote to authorize the use of force to restore freedom to a sovereign people. I prayed that force would not be necessary. Today I pray the nations of the world will see how highly Americans value freedom, and that we stand resolutely to defend it wherever it may be threatened. We have always paid dearly for our freedom and the freedom of peoples around the globe. Whether it was on a battleship in Havana Harbor, on the historic battlegrounds of Europe, on the far-flung islands of the South Pacific, in the fields of Korea, in the jungles of Vietnam, or in the deserts of the Persian Gulf, our valiant soldiers have fallen in the name of freedom, just as if they had fallen at Lexington or Valley Forge. If we do not continue to stand fast, the sacrifices of our troops in the gulf, as well as all of our American soldiers who have gone before them, will have been in vain.

Throughout the course of these events, I have often found myself reminded of the words of Winston Churchill. Although spoken in a different time, they hold special meaning for us today: "Never have so many owed so much to so few." We owe much to David and Cheryl.

Mr. Speaker, my wife Lee joins me in offering sincere sympathy to the families and friends of David Crumby and Cheryl O'Brien. Our hearts and prayers go out to the families of all our fallen heroes. We are a greater nation because of them, but a poorer nation because of their loss. God bless them and their memory.

Mr. THOMAS of Georgia. Mr. Speaker, I thank the gentleman from California for his very eloquent and sincere comments. Certainly we all associate ourselves with those comments, with our thoughts and feelings. I have often thought of what we could do for the families and loved ones of those who lost a loved one or relative in the

Desert Storm operation. I guess the best we can do is let them know that we care and share their burdens as best we can, and that those lives, for the future, for those of us who have a role in determining these things, their lives will not have been in vain.

Mr. Speaker, I requested this time to give Members the opportunity to honor the men and women of our Armed Forces for their service to our country and for service in Operation Desert Storm.

I will be the first to admit that our words, no matter how eloquent, cannot measure up to the performance of our troops.

But there are some events in the life of our Nation that demand a special record. And that is our purpose today.

Mr. Speaker, there were thousands of accomplishments in Desert Storm—some were widely noted in the media and some were lost in the cascade of events.

I am very proud of the fact that one of the units that won universal accolades is the 24th Infantry Division—mechanized—from my congressional district.

This is the Nation's heavy infantry Rapid Deployment Force. It is especially trained for the unique dangers of heavy combat in the desert. On only a few days notice, more than 16,000 soldiers of the division and their equipment poured out of Fort Stewart and Hunter Army Airfield. They were deployed by air and through the deep water port of Savannah.

More than 200 longshoremen worked around the clock to load some 130,000 tons of division cargo. Ship loadings that ordinarily take 2 to 3 days were accomplished in 1 day. The ships passed under a new bridge which we built to accommodate just such a contingency.

The calm force in the eye of this storm was Maj. Gen. Barry McCaffrey, the division commander. I had the honor of visiting with him just before his troops were to deploy. He is a man in the mold of Gen. Norman Schwarzkopf, who is himself a former commander of the 24th.

Like General Schwarzkopf, General McCaffrey is no lover of war. He has been wounded in combat three times. He was leaving the United States with the full expectation that the division could be in combat shortly after they arrived in Saudi Arabia.

Even with that expectation, General McCaffrey was a picture of calm determination. Like the men and women of his division, he had a job to do, he knew how to do it, and he was determined to fight and win.

On its arrival, the division was quickly moved to the Kuwait border and made ready to fight. Theirs was to be a long ordeal of training and waiting and more training.

They were the first heavy infantry division to arrive in the area. For many weeks they were the only real ground defense of heavy infantry that stood between the Kuwait border and Saudi Arabia. Until the U.S. buildup reached its peak, the troops of the 24th literally lived under the gun. If an attack came, they would be the target.

We saw very little of the division on television in those days because they were deployed so far forward. But when the time for combat came, it was the Victory Division that was thrust into the heart of the battle.

In just 4 days, the 24th Division conducted what U.S. News and World Report recorded as "the greatest cavalry charge in history."

Their arsenal included 270 Bradley fighting vehicles, 290 Abrams tanks, 72 155-mm howitzers, 9 multiple-launch rocket systems, 18 Apache attack helicopters, and 6,000 wheeled vehicles.

But the most dangerous weapons in that division arsenal were the more than 16,000 soldiers who make up its heart and soul.

The 24th is known as the "Victory Division," and its motto is "First to Fight." The truth of those words were to be burned again into the proud history of the 24th by their actions in Iraq.

Their mission was to race some 250 miles across Iraq in darkness, rain, and sand storms, and then destroy the strongest units in the Iraqi military.

As U.S. News reported, before they were finished, the 24th Division had destroyed two airfields, 200 first-line T-72 tanks, a brigade of special forces, the second-echelon 45th Infantry Division, and at least two divisions of Republican Guards. They even trapped on the ground and destroyed 10 enemy jet fighters and a dozen helicopters.

Mr. Speaker, there are thousands of stories of heroism that will come to light about the exploits of the division. We will learn of those events as our withdrawal from the Persian Gulf is completed.

But for now, it is enough to say that the young men and women of the 24th did everything that was asked of them, and more.

As I said earlier, eloquent words cannot match the courage of the 24th.

But in my district, we have tried hard to match their fighting spirit with our spirit of welcome in their homecoming.

There has been an explosion of human joy in the First District as the division begins its journey home. And the party is just beginning.

Mr. Speaker, we ask God's blessings and mercy for the soldiers who were killed and wounded, and for their families. We thank God that our prayers of a short conflict were answered.

And we thank God that when duty demands it, this country can turn for help to the 24th Infantry Division.

Mrs. PATTERSON. Mr. Speaker, many eloquent words have already been spoken to honor the tremendous courage, performance, and sacrifice of our brave service men and women who participated in Operation Desert Shield and Operation Desert Storm.

I could not hope to surpass those remarks. However, I do rise today to add my heartfelt gratitude to the men and women of all races, backgrounds, ages, and specialties who have made our involvement in the Persian Gulf war a victorious commitment. It is easy for us to stand on the floor of the House and make speeches of praise for the tremendous skill and determination our troops have shown. It is easy for us to go home and be lauded for supporting our military force and to stand gloriously in a receiving line upon their return. However, it has not been easy for the approximately 540,000 men and women who, under combat situations most of us can only imagine, have seen the thrill of a mission accomplished and experienced the horror and devastation that war inevitably brings.

I salute our service men and women, the airmen, seamen, ground troops, active duty, reservists, Guard units, and all persons who have made and continue to make Desert Shield/Desert Storm a success. In addition, I would like to express a tremendous sense of appreciation to Gen. Colin L. Powell, Jr. and Gen. H. Norman Schwarzkopf, whose military prowess is surpassed only by their commitment to protect the life of each soldier to the maximum extent possible.

Finally, Mr. Speaker, I would just like to thank all of my constituents who have conveyed their support for the decisions I have made throughout the Persian Gulf crisis and, more importantly, who have given their unequivocal support to all U.S. troops, many of whom are from South Carolina, who have participated in Operation Desert Shield/Desert Storm.

Before the war began, I urged my colleagues and all persons to pray for peace. We have been blessed with the brevity of a conflict, which though tragic in each life that has been lost or scarred in some way, has been far less worse than any of us could ever have imagined. Let us learn from the lessons of this war and pray that peace can become lasting in the troubled regions of our world and that the light of promising young lives will not again be darkened and extinguished by the terrible perils of war.

Mr. FAZIO. Mr. Speaker, I am honored to rise today to pay tribute to the brave Americans who served our Nation in Operation Desert Shield/Operation Desert Storm. It was a swift and decisive victory, and I am proud to be able to express my gratitude for the courage and dedication exhibited by the men and women of the U.S. Armed Forces. We are particularly heartened by the safe return of many of the troops and we look forward to that day in the near future when all of our Persian Gulf veterans will return home.

We also pause to remember those who died during this war. Our prayers and wishes go out to their family and friends in this difficult time. Their sacrifice was honorable, courageous, and will long be remembered.

There were many heroes in this effort, from the professional soldiers to the Guard and Reserve members who were called up; their families; those civil servants who make up the logistics and support network vital to any military endeavor; and, finally, the American public who came together, united in purpose, to support the troops. It was truly a national effort that led to the overwhelming victory of United States and allied forces.

I do not think it is possible to overestimate the roles played by men and women in local communities throughout the Nation. But today, I want to acknowledge the particular contributions that people from the Fourth Congressional District of California made to Operation Desert Storm. There are two major bases that must be commended for the exceptional operational and support system performance they achieved during the gulf war. McClellan Air Force Base and Travis Air Force Base both played vital roles in Operations Desert Shield and Desert Storm.

From the beginning of the Persian Gulf crisis, the people who work at McClellan contributed significantly in supporting the allied multinational force. The Sacramento Air Logistics Center, based at McClellan, manages the F-111, A-10, and F-117A aircraft, all used extensively in the gulf war.

More than 300 Air Force men and women, Active duty and Reserve, were deployed from McClellan in support of operations in the gulf. Of these, 154 were members of the 2951st Combat Logistics Support Squadron, who performed aircraft battle damage repair on F-111's and A-10's in the gulf region. They also performed various supply and transportation functions. Twenty-six members of the 2852d Security Police Squadron were deployed, as were individuals from other base units. Those units included the 406th Combat Logistics Support Squadron, Headquarters Air Rescue Service, 1400th Military Airlift Squadron, Air Force Commissary Service, Human Resources, Disaster Preparedness, and the Technology and Industrial Support and Aircraft Management Directorates.

Aircraft workers, civilians and reservists—many brought in from around the country—worked around the clock preparing aircraft and spare parts. Center workers produced more than 18,600 items in support of Operation Desert Shield/Desert Storm. The center's worldwide supply function shipped more than 9,600 tons of material, including medical supplies, clothing, food, aircraft parts, and engines. More than 160,000 hours of overtime were used to support gulf operations, in addition to several hundred thousand hours of regular production time.

Travis Air Force Base personnel, both Active duty and Air Force Reserve, were among the first in the Nation to be deployed in August. They provided military airlift support that was vital to the initial and subsequent deployments to Saudi Arabia. Approximately 2,500 Travis personnel were deployed to more than 40 locations around the world. Some of these individuals have been deployed for more than 7 months.

As many as 1,700 support personnel were deployed at any one time, and upward of 140 air crews. The base flew Desert Storm missions as many as four times the normal peacetime rate, with mission capable rates and utilization rates consistently the highest or among the highest in the Military Airlift Command.

The two primary airlift organizations at Travis AFB are the 60th Military Airlift Wing, which flies the gigantic C-5 Galaxy—37 aircraft—and the C-141 Starlifter—33 aircraft—and the 349th Military Airlift Wing, a Reserve unit which also flies the C-5. The 22d Air Force Headquarters is also located at Travis.

Just as the Desert Storm airlift mission required Travis to send people out ahead of the flow, the Travis personnel will be required to remain in the system until the very end to help bring back the troops and cargo that were deployed as part of Operation Desert Shield/Operation Desert Storm.

In addition to the many individuals in the 4th District of California who were directly involved in military operations associated with the Persian Gulf war, there were thousands of people in my district who worked just as hard to support the troops. I am speaking of groups like Operation Desert Support, a locally based support group made up of individuals who wanted the troops to know of the widespread support they enjoyed back home. Operation Desert Support collected goods such as books, food, toothbrushes, toilet paper, and sunscreen, from the general public, packaged these items and shipped them to the troops in Saudi Arabia. The letter writing campaigns that many people undertook were also big morale boosters for our service men and women. Most of these people will never receive recognition for these efforts, but they should know that the time, energy, and care that they demonstrated were a contributing factor in the successful prosecution of the war.

I know I join my colleagues in commending all of our service men and women, their families, the civilian workers who performed vital support functions for the war effort, and the hundreds of thousands of Americans who worked in support of the troops. We can all be proud of the strong national effort that led to the outstanding achievements of the U.S. military in Operation Desert Shield/Desert Storm.

Mr. SCHAEFER. Mr. Speaker, Operation Desert Storm was the first major conflict fought by an All-Volunteer, professional U.S. military force. From the top commanders to the soldiers in the field, professionalism was evident throughout the ranks of our Armed Forces.

I salute the superb political leadership shown by President Bush. He brought together an unprecedented multinational coalition which united against Iraqi aggression. I also salute Secretary Cheney, and Generals Powell and Schwarzkopf. Their planning and execution of the war effort was brilliant.

But this brilliant war effort would have come to nothing without the dedicated, skilled, and courageous men and women who serve in the U.S. Armed Forces. Whether flying combat sorties over the skies of Iraq, running sensitive reconnaissance missions deep behind enemy lines, or cooking for the troops, their professionalism and bravery made Operation Desert Storm a resounding success.

I am thankful that the war produced so few casualties, but mourn the 125 Americans who gave their lives in the line of duty. Their sacrifices were not in vain, though, for brutal aggression was turned back and the prospects for peace in the region are better than ever.

On behalf of the citizens of Colorado's Sixth Congressional District, I want to thank all of the troops who served with Operation Desert Shield and Operation Desert Storm. Your deployment demonstrated American resolve to the world; your actions demonstrated American values.

Welcome home to a proud and grateful country.

Mr. MACHTLEY. Mr. Speaker, I am honored to participate in this very special tribute today to demonstrate the great honor and respect we feel—and all America so deeply feels—for the brave men and women of Operation Desert Storm.

Thanks to the work of these courageous American soldiers, we won this very important battle against unprovoked aggression. And as the President said in his recent address to Congress, Kuwait is once again free.

We as Americans, and certainly the Kuwaitis, recognize that the restoration of Kuwait and the termination of Iraq's ruthless goals could not have been achieved without the amazing endurance, intelligence, and pure spirit of our troops.

Having just returned from Kuwait, I have witnessed the pure environmental devastation of that country, and I have seen firsthand what could have become of that country had not America led the allied coalition to oppose this violent takeover.

Indelible images of commercial clothes dryers used as toture chambers to force confessions from Kuwaiti children;

Iraqi plans to kill all male Kuwaitis;

Hundreds and hundreds of burning oil wells fill a sky so dark, Dante's inferno in daylight;

This is the nightmare Iraq held for Kuwait, and this is the evil that American troops have driven from Kuwait, in a victory for all the free world.

Americans stand united in our profound feelings of gratitude and admiration for the troops who took the greatest of risks and experienced the fierce hardships of both the desert and the enemy to win freedom.

To those who served both abroad and at home, to our Reserve and National Guard Forces, and to the families who have experienced the rigors and uncertainty of the homefront: Thank you. You could not have served your country better.

I have here a list of the many Rhode Island service men and women who participated in making this important victory possible. I ask that their names be made a part of the RECORD.

AMSC Leslie V. Law, Jr., TSgt. Kevin F. Parker, Specialist John Clifford, SSgt. Ronald R. Rapoza, Private Lisa M. Nicholas, SJ G2 Michael Roberge, SSgt. Steven L. Parker, AIC George A. Santos, L/Cpl. David Shifflet, Sergeant Joseph F. Torres.

L/Cpl. Jeffrey M. Martin, Sergeant Pedro L. Ilidan, Corporal David W. Remington, Specialist Sean P. Antaya, E4 James L. Antaya, STG.-3 Michael T. Hodge, Pfc. Brian J. Maloney, SSgt. Ronald H. Cook, Private Raymond Costa, Lieutenant Christopher Fournier.

Edward Scott, SSgt. Robert Sylvester, Sergeant Robert LaFountaine, Airman Appr. Russell J. Masse, SFC. Mark Facha, GSgt. Jose H. Pina, L/Cpl. Kenneth King, Corporal Robert E. Marois, TSgt. Stephen Pelletier, Sergeant David Vary.

Captain Russell P. LaChance, Corporal Steven Stout, USMC, S.A. Joseph Arnold, Jr., Corporal Robert LeFort, Sergeant Francis G. Bergeron, Captain Michael J. Pollitt, CW3 Robert P. Heaton, Jr., SSgt. David Langlois, Jennifer Hanely Earnshaw, Corporal Aldemar Diosa.

Sergeant Jay D. Corry, Pfc. Jeffrey F. Kelaghan, FR. Karen Tetreault, L/Cpl. Mark Brennan, Specialist David Blanchette, L/Cpl. Eduardo A. Guzman, Lt. (jg) James Covington, Pfc. Robert J. Lemieux, Specialist Lisa M. Bergeron, Marvin R. Marshall, Jr.

Corporal Augusto Rojas, Sr., L/Cpl. Robert J. Falvey, Jr., L/Cpl. Frank A. Lussier, L/Cpl. John W. Collins, Jr., Specialist Mark D. Booth, Sergeant Gilles LaPointe, Major Charles A. McWilliams, Sergeant Brian D. Yaghoobian, Sr. Airman Michael Gagnier, Corporal Erik W. Jones.

FC3 Richard H. LaBadie II, AR Jonathan C. Davis, Sergeant Roland J. Levesque, Pfc. Peter Baptista, PV2 Mark J. Fontneau, Sergeant Patrick M. McDermott, L/Cpl. Christopher R. Dion, L/CPl. Scott DiPietro, Sergeant Jerrold Peterson, CWO Ray Grundy.

Mr. Enrique Cortez, SSgt. Virgilio Pires, Corporal Joseph J. Walach, Jr., Sergeant Deborah Yelle, Mr. Ralf Alves, AT2 Michael Fleury, SSgt. Kevin Ziegelmayer, Sergeant Jason Siatkowski, Specialist Michael J. Scovel.

□ 1840

GENERAL LEAVE

Mr. BILIRAKIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of my special order this evening.

The SPEAKER pro tempore (Mr. PARKER). Is there objection to the request of the gentleman from Florida?

There was no objection.

IN CELEBRATION OF GREEK INDEPENDENCE DAY: A NATIONAL DAY OF CELEBRATION OF GREEK AND AMERICAN DEMOCRACY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. BILIRAKIS] is recognized for 60 minutes.

Mr. BILIRAKIS. Mr. Speaker, it is my great privilege to rise today in this, the most democratic of institutions, to honor those ancient and modern Greeks who offered the precious gift of Democracy to the world.

In just 5 days, people of Greek heritage and the Greek Orthodox faith, along with freedom-lovers the world over, will celebrate the 170th anniversary of Greek Independence Day.

On March 25, 1821, the Greek people rose in rebellion, igniting a 7-year struggle for independence from more than 400 years of foreign domination by the Ottoman Turks. The series of uprisings touched off on that historic day soon led to a widespread revolution that quickly attracted international support and respect.

Mr. Speaker, the Greek people sought only the right to govern themselves, to determine their own future, to firmly grasp their destinies. There are few more precious rights than this, and it is one treasured no less highly around the world than it is here today in the United States.

We are seeing a great resurgence of democratic movements around the globe. Unquestionably one of the most significant events of the age was the fall of the Berlin Wall and the reunification of the two Germanys. On every continent we see popular movements calling for the right of self-governance: In Eastern Europe, in Asia, in the Baltics, in Central and South America.

Everywhere we turn, people yearning only to live free are sending for copies of our Constitution. They want a true and proven road map to Democracy.

We share with these people a great debt of gratitude to the ancient Greeks, who forged the very notion of Democracy. Of course, our Founding Fathers drew heavily on this concept—on the political and philosophical experience of ancient Greece—in forming our Government and in drafting our Constitution and Declaration of Independence. These documents now will carry that message abroad again.

In many instances, that message will be delivered to individuals still struggling for freedom, still placing their lives on the line in their quest for Democracy. It is my hope that these individuals will take inspiration not only from the ancient Greeks, but from the Greeks who rose in revolt in 1821 and persevered for 7 arduous years.

Theirs is a perfect example of the ability of mankind to overcome all obstacles—obstacles that often appear insurmountable—if the desire to succeed is strong enough. Theirs is an example that oppressed people throughout the world may look to and gain strength from in their struggle to overcome their oppressors.

The United States, along with a coalition of forces from the community of nations, has only recently concluded a struggle with a modern-day oppressor. Saddam Hussein, bent on domination of his smaller, weaker neighbor, Kuwait, was forced to relinquish his dream of conquest.

It took the point of a gun to ensure freedom from oppression this time. Next time it may not because of the willingness of this coalition of nations to stand firm in defense of the rule of law. Another would-be oppressor at another time may not be so quick to launch his armies knowing the value the international community places on freedom.

Like Operation Desert Storm, the Greek war for independence was filled with remarkable events by many peoples in a common cause. The roles played by the Philhellenes—friends of the Greeks—were instrumental to Europe's recognition of the importance of the struggle.

The legacy of Lord Byron remains indelibly inscribed in the history of the Philhellenes. Byron's name—carved boldly into a column of the Temple of Poseidon at Cape Sounion—is testimony to his brave words that awakened not only his home country of England to the plight of the Greeks, but France, Russia, and other nations, as well.

The pages of history speak as boldly of other Philhellenes, too. The Klephts swept down upon the invaders from their mountain strongholds. The sea captains of Hydra broke the Ottoman naval blockade of the Greek coast, and today, generations of Greek merchant seamen learn their trade appropriately at the Academy of Hydra.

It was all these people—and the Greeks themsevles—this coalition, if you will, of like-minded individuals who saw clearly what was right and who followed the flag of freedom raised by a Greek Orthodox priest that very special March day in 1821.

Mr. Speaker, more than a century later, Greece was again engulfed in conflict—this time along with the rest of the globe during some of the darkest days of World War II. Indeed, in the spring of 1941, Nazi domination of the European continent was nearly complete. Following a valiant struggle against overwhelmingly superior German forces in and among the mountains to the north, Greek forces had been pushed entirely off the Continent and were taking refuge on the Island of Crete.

German forces looked covetously across the sea to Crete. If captured, it would provide them with air and sea bases from which they could dominate the eastern Mediterranean and launch air attacks against Allied forces in northern Africa. In fact, the Nazi high command envisioned the capture of Crete to be the first of a series of assaults leading to the Suez Canal.

On May 20, the largest German airborne attack of the war commenced against Greek, Cretan and British forces, battle-weary and crippled after the withdrawal from the mainland. Waves of bombers pounded the Allied positions followed by a full-scale airborne assault. Elite paratroopers and glider-borne infantry units fell upon the rag-tag Allied soldiers, who valiantly stood firm in the face of certain defeat.

Watching death descend upon them from above, the brave defenders of Crete—having endured hours of vicious bombing—decimated the crack Nazi troops at two key airfields. However, the Germans managed to gain a foothold at a third airfield and soon were being resupplied and reinforced by air.

Seven days later, the defenders of Crete—though clinging to their rocky defensive positions—knew that they would soon be overrun. The evacuation order was given, and nearly 18,000 men were rescued. These valiant survivors had bought the Allies a week's precious time free of Nazi air and sea attacks based from Crete. More importantly, they inflicted severe losses on the German airborne forces, the showpieces of the Nazi Army. Nearly 2,000 German soldiers were killed and more than 4,000 were wounded or missing. So injured were the German units, in fact, that they never again attempted an airborne assault of the magnitude of that launched at Crete.

Mr. Speaker, this year marks the 50th anniversary of the Battle of Crete, a proud day in the defense of liberty and self-rule; when the sons of Greece and Crete along with their British Allies firmly answered the Nazi challenge to freedom.

We in America feel a special closeness to the democratic ideal born in ancient Athens and fought for and secured by the Greeks and their Allies centuries later. Only here in this Nation is this ideal defended so ardently.

Indeed, Operation Desert Storm was but the latest proof of the United States long history of support for foreign nations faced with the threat of losing their independence.

Because of our allies' assistance, we are in a position to help other struggling nations preserve their freedom and home rule. On March 25, we can join our Greek neighbors in celebrating Greek independence.

It is fitting that we do so, Mr. Speaker, for through this act we reaffirm the democratic heritage to which our two nations are so proudly linked.

□ 1850

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

Mr. BILIRAKIS. I am happy to yield to the gentleman from California.

Mr. DORNAN of California. Mr. Speaker, I appreciate the gentleman who is so proud of his Greek heritage setting the record straight on this 50th anniversary, because American and European news sources almost glorified that first major airborne assault.

Our own airborne forces were only founded in 1940, and were still embryonic 50 years ago in 1941.

One of the temptations to glorify this was the only heavyweight fighter who had ever beaten Joe Lewis, Max Schmeling, had met him in a rematch, and Joe Lewis in his very humble and soft-spoken way said the fight would only go a round, and his prediction was correct. He knocked out Schmeling just barely a minute into the first round, and Schmeling went back, and not to take anything away from his courage, went into the German military, qualified as a paratrooper, and bailed out over Crete, but because of Schmeling's honorable participation in the raid, everybody failed to talk about Greek courage and how in most of the battles they did prevail. It was only a shortness of supplies; logistically they were beaten. The Germans did win on one of three airfields. They poured in military and supplies. The British were trying to help. They were, by that point, evacuating people. It added to this feeling that the German military juggernaut was unbeatable, in spite of the Battle of Britain where the English Hurricane fighter pilots and Spitfire fighter pilots had prevailed. It fed on American isolationism, more cuts in our defense budget, more talk about, and misquoting of, President George Washington, our first President to say stay out of world affairs, to shrink back, to become a fortress America, and we were not even doing a good job of that.

If we had helped the Greeks in this moment of air trial and backed up the courage of the Greeks, it was Greek soldiers fighting so well that actually turned the course of the war, and it does not torture logic or have to be a student of military history in a proper way to say that if the Greeks had not fought so well against Mussolini's invasion of Greece, where it required the Germans to put off by 6 or 7 weeks their invasion in June 1941, their invasion of the Soviet Union, because the German Panzer divisions had to come down and save the Italian forces under Mussolini from an ignominious defeat by Greek heroism and Greek military skill and courage, that 6 weeks that the Germans had to come in with massive force and crushed Greece, that 6-week delay in Operation Barbarossa which began 50 years ago this coming June 22, that would have put the Germans literally in binocular distance of the Kremlin 6 weeks before their actual arrival, which was the eve of Pearl Harbor.

On December 6, 1941, advanced German units near the international airport of Sheremetyevo, today when any of us from the Congress and the Senate go in, you can see the big blown-up 10, 15 times, tank memorial exhibits on that north road out to Sheremetyevo Terminal; they could see the Kremlin in their binoculars, and it snowed that next day, and the Germans got bogged down outside of Moscow.

If the Greeks months later had not beaten Mussolini's forces and that German assault had been launched as planned, in spite of the evil Stalin-Hitler pact between these two mass killers, they would have been looking at the Kremlin not on December 6 but the last week in October, and it was a mild fall but a vicious winter. They would have probably taken Moscow, and the whole course of the world would have changed, and by December 7, when we were hit by the Japanese war lords, would we have been so bold to respond if Moscow and Leningrad had both fallen to Hitler's might? So it is proper and fitting that the gentleman call on this anniversary of the Crete airborne invasion, recall to our memory the courage of Greek forces against the Germans in the land war upon Greece itself, first the Italian, Mussolini, forces, and then this courageous stand in Greece where with a little support Greece would have prevailed and the birth place of democracy would not have gone behind a 3-year, 4-year terror campaign where so many thousands of Greece's Jewish citizens were slaughtered and so many died in that brutal Nazi occupation of Greece.

The Greeks today, flying F-104 Starfighters which they have all retired, and then F-4 Phantoms, and now F-16 Falcon fighters, they are working with us as a key member of NATO, finally getting rid of this political tragedy of Papandreou and renewing their friendship with us through Prime Minister Mitsotakis, with his support, and he is a strong friend of America. I met him with one of our friends, Paul Wyrick, back in 1985, when he did not make it on his first try to retire the Andreas Papandreou regime.

Now Greek-American friendship is solid. Greece also did what they could to help in Operation Desert Storm.

I join the gentleman in not setting history straight, because history speaks for itself, if you study it correctly, but in recalling the facts as they were in the battle for Crete that unfortunately went the wrong way and thereby protracted the war and certainly the struggle in the Mediterranean, and gave a lot of time to Rommel to wreak havoc along the north coast of North Africa with his Afrika Corps.

Mr. Speaker, I thank the gentleman for allowing me to participate.

Mr. BILIRAKIS. Mr. Speaker, I certainly thank the gentleman from California, whom we call a walking history book of knowledge, and I guess we can all see why, and for reminding us, for reminding us during these days, of the role that the people, the courageous people, of Greece have played throughout history and certainly during World War II.

Mr. Speaker, because of our allies' assistance, we are in a position now to help other struggling nations preserve their freedom and home rule, and on March 25, we can join our Greek neighbors in celebrating Greek independence.

Mr. Speaker, it is fitting that we do so, for through this act we reaffirm the democratic heritage to which our two nations are so proudly linked.

Mr. FAZIO. Mr. Speaker, I am pleased to support today's special order in recognition of Greek Independence Day. As an original cosponsor of Senate Joint Resolution 59, a joint resolution designating March 25, 1991 as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy," I am proud to join my congressional colleagues in recognition of this important day which marks the 170th anniversary of the beginning of the revolution that freed the Greek people from the Ottoman Empire. This struggle for independence began more than 400 years ago on this historic day when the Greek people began a series of uprisings against the Ottoman Empire, uprisings that soon turned into a revolution that attracted international support and admiration.

Greece and the United States share a rich and commingled history. The ancient Greeks forged the very notion of democracy, placing the ultimate power to govern in the hands of the people, and we are indebted to the Greek nation for bestowing on us such a wise philosophy. America's Founding Fathers, when drafting the Declaration of Independence, drew heavily upon the political and philosophical experience of ancient Greece in forming our Government. And, in the 1820's, it was the United States that served as a role model for Greece during its fight for independence from the Ottoman Empire. The Greeks translated our Declaration of Independence and used it as their own.

Since our pioneering years, Greece and the United States have come to enjoy close, friendly relations which is evident in world affairs and the growth of the Greek-American community in this country. In every walk of life, we find Greek-Americans making invaluable contributions to the advancement of our own society. It is fitting that we celebrate this day together with Greece in order to reaffirm the democratic heritage shared by the United States and Greece.

Mr. Speaker, I look forward to the celebration of Greek Independence Day on March 25 and to the United States' continued and special relationship with the people of Greece.

Mr. RINALDO. It is fitting for this House to pay tribute today to Greek Independence Day. Our democracy is based on a system that the Greeks developed over a thousand years ago.

In the aftermath of the war in the Persian Gulf, it is only proper for us to remember that the great ideals that our Armed Forces fought for were first expressed by Greek philosophers. Although Greece was eventually conquered, and lived under tyranny for several thousand years, the ideals of freedom and democracy continued to be cherished.

In 1821 Alexander Ypsilanti, a patriot, and Archibishop Germanos of Patras, unfurled the standards that sparked the revolt leading to Greek independence. Greek Independence Day, March 25, is a national event celebrated both in Greece and in America.

Although a number of other nations have sought to dominate her, Greece remains free. After fighting off the Nazis in World War II, Greece was the first country to resist Communist domination.

Today, Greece is one of this Nation's strongest allies, a full partner in NATO and a proud participant in the fight to free Kuwait. I am honored to join my colleagues in saluting Greece on her Independence Day.

I also would like to salute all Greek-Americans as they celebrate this special day.

Mr. BATEMAN. Mr. Speaker, one of the most welcome developments in the foreign relations of the United States in the recent past has been the rebirth of the historically warm relations between our Nation and Greece. All of us are pleased that the ties between the two Governments now mirror the affection which the American and Greek people have always felt for one another.

Today, therefore, it is with special delight that I join with my colleagues in saluting the 170th anniversary of the beginning of the successful struggle by the Greeks for liberation from the dominance of the Ottoman Empire.

One of the sources of inspiration for the Greek patriots of the 19th century was the example of the American Revolution. How fitting that was, since it was in the city states of pre-Christian Greece that philosophers and statesmen first enunciated and acted upon the principles of democracy. Those thinkers and leaders first lit the torch which the American colonists were to carry in their own struggle for independence beginning in 1776.

The struggles of the valiant people of Greece did not end with the achievement of independence in 1829. The Greeks suffered heavy casualties in their courageous stand against the Nazi legions in World War II. They were forced to fight once more to turn back communism in the late 1940's—a battle in which President Truman came to the aid of Greece. This American support was the origin of what was to become the Truman Doctrine of containment of communism around the world.

No nation has contributed more to modern Western civilization than Greece, and no nation has had to struggle harder or more often to preserve its liberties. In recognition of all that Greece means to the world, and in tribute to its patriots through the centuries, we salute our friends in Greece—and our many fine Greek-American citizens—on this Independence Day.

Mr. EDWARDS of California. Mr. Speaker, March 25 has been declared as "Greek Independence Day" not only in recognition of Greek and American democracy but also as a celebration of one nation's incredible history linked with our own. Americans may look at Greece and see a mirror image of the qualities that made both countries great. It is a time of celebration for the Greeks' great contributions to the world, one of the most valued of which is the creation of democracy. Our own founding leaders were greatly influenced by the Greek philosophers and Greek democracy when creating our own democratic Government.

Unfortunately, the democracy of Greece that inspired humankind was crushed by the Romans who took power by 146 B.C. Their control soon broke leading to more foreign invasions with the final victors being the Ottoman Turks. Just as Americans declared independence from British rule in 1776, the Greeks cried for their independence from 400 years of Ottoman rule on March 25, 1821.

Their declaration for freedom plunged them into another decade of political struggles. Many Americans, understanding the urgency of this cry, quickly joined Greece's revolution for freedom through political and personal means. Men fought and Presidents supported this fight until freedom by democracy was restored after World War II.

Yet, the peace of the free government was short lived. On the night of April 21, 1967, less than 25 years ago, Greece was pulled into military junta control. A violent dictatorship deprived its own people the freedoms of speech, voting, and assembly; freedom created by its own people.

Being deeply committed to protecting the rights of the individual guaranteed under a democracy, the plight of Greece was of paramount importance to many of us here in Congress. As founder and chair of the "U.S. Committee for Democracy in Greece" I joined with those who fought for the termination of the Nixon administration's program of economic aid and political recognition to the vicious military junta and supported the return of democracy.

Today, I am pleased to say that democracy was victoriously returned to the Greek people. Freedoms once denied them are now secured.

Let us remember this day of celebration should also be a day of reflection. Democracy is every individual's guarantee to freedom. Yet, it is a right that not every man, woman and child possess. Today, as the nations of Eastern Europe strive to take their first steps toward the road of democracy and as people around the globe struggle to obtain the freedoms inherent with a democratic system, let us commemorate the spirits and ideals that have not only made Greece a great nation but have also contributed to making our country a beacon of hope to all those who yearn for democracy.

Ms. ROS-LEHTINEN. Mr. Speaker, on Monday, March 25, the Greek people will be celebrating the 170th anniversary of Greek independence. Inspired and encouraged by freedom-loving Americans such as Samuel Gardley Howe of Massachusetts, George Jarvis of Washington, and Jonathan Peckham Miller of Vermont, a small group of determined people declared their independence from the powerful Ottoman Empire. The Greek Revolution of 1821, and its success, resounded to the four corners of the world. These gallant freedom fighters derived strength from the slogan and song: "It is better to live 1 hour of freedom than 40 years of slavery and imprisonment."

The Primate of the Greek Orthodox Church of the Americas, Archbishop Iakovos, has designated Greek Independence Day as a day to be celebrated in prayer and doxology. The Greek-American community of southeast Florida, under the leadership of Dr. George Palatianos and Dr. Basil Yanankakis, will come together to remember this significant event in human history.

In light of the many changes the world has witnessed during the past few years, the many men and women who have worked so hard for true freedom in Romania, East Germany, Poland, Czechoslovakia and Nicaragua, we should also remember those who so many years ago did the same for Greece.

By their revolution, this small band of Greek patriots renewed the spirit of freedom that so long ago had its earliest beginnings in ancient Greece, the cradle of democracy. The legacy of democracy which began so many years ago in Athens continues today as an inspiration to us all.

Mr. Speaker, it is an honor for me to congratulate the Greek community of southeast Florida during this celebration of the spirit of freedom and justice that March 21, 1821, exemplifies.

Mr. BONIOR. Mr. Speaker, March 25, 1991, marks the 170th anniversary of Greek Independence Day. On this day in 1821, the Greek people declared their independence from the Ottoman Empire after 400 years of foreign domination.

We in America, and freedom-loving people around the world owe a great deal to the ancient Greeks who conceived our democratic principles over 2,500 years ago. The ancient Greek ideals guided our Founding Fathers as they wrote the Constitution. In turn, it is the freedoms that we enjoy in America that provide inspiration for the millions of people who have demanded their rights in Eastern Europe and the Soviet Union.

The remarkable events of the last 2 years illustrate the enduring power of the brilliant ideas that sprang forth from ancient Greece. These ideas are toppling dictators and transforming societies to this day.

But the Greeks have not only given us their ideas, they have made major contributions to communities across America. In Detroit, Greektown is a vital section of the city that attracts a multitude of visitors every year who enjoy the fine food and entertainment available there.

In Macomb and St. Clair County, we are served by St. John's Greek Orthodox Church and Assumption Greek Orthodox Church who perform tremendous service to the community and contribute to the rich diversity of the area.

Mr. Speaker, I join the people of Greece and those of Greek ancestry around the world celebrating Greek Independence Day. I salute all of them for the tremendous contributions to freedom and human dignity that they have made.

Mrs. LOWEY of New York. Mr. Speaker, I rise to join my colleagues in support of Greek Independence Day. This special day commemorates the 170th anniversary of the revolution that freed the Greek people from the Ottoman Empire, and I commend my colleagues for taking time to participate in this special order.

Today, we celebrate the Democratic heritage shared by the United States and Greece and the contributions ancient Greeks made to the concept of democratic government and contemporary Greek-Americans have made to many aspects of our society. I hope every American will take time out on March 25 to appreciate the important role of the heritage we have gained from Greece and the steadfast relations between the United States and Greece.

Certainly there are many significant reminders of the contributions of ancient Greece here in our Nation's Capital. For it was in ancient Greece that democracy was born. What a decisive moment it was for all of mankind when the consent of the governed first became the principle which led to the formation of governments. Every day that the House of Representative meets, we are acting on a concept created in ancient Greece.

Architecture is yet another of the many important contributions that ancient Greece has made to America and the world. The columns outside this very Chamber are from a design developed in ancient Greece. Many of buildings and monuments that we treasure so dearly here in the District of Columbia and throughout the Nation are based on Greek design. One can not help but be reminded of the glorious Parthenon when gazing upon these many symbols of American democracy. Everywhere we look in our Nation's Capital, we see structures that reflect the grace and design of ancient Greece.

It was a tragic time when the democratic government of Greece was toppled, and Greece was conquered by the Turkish Empire. 400 years ago, the Greek people began a series of uprisings against their Turkish oppressors, uprisings that soon turned into a general revolution that attracted international support and respect. Today, oppressed peoples around the world look to the Greek struggle for independence as a success to be emulated. Just as ancient Greece has contributed to our democracy, modern Greece is contributing to the image of democracy that many people around the world are currently striving to attain.

Mr. Speaker, on this day it is fitting that all Americans look back and remember the many contributions that Greece has made to our great Nation. More importantly, it is a time to look forward to many years of cooperation and mutual support between our nations.

Mr. DWYER of New Jersey. Mr. Speaker, I would like to thank my colleague, Mr. BILIRAKIS, for arranging for this special order today so that we may once again reflect on Greek independence and its importance to our own history.

The civilization of ancient Greece is known to all of us; and that our Founding Fathers drew heavily on the principles of democracy espoused by Plato and Pericles, showed the foresight of those charged with setting guidelines for the young Republic.

Greece, and its people, have been closely tied to the United States from those early contributions through the 20th century. Greece has stood as a friend and an ally through war and peace. It has been a leader in the region and an important NATO member. The relationship between Greece and the United States has been strong because it was built on a mutual acceptance of the rights of people to the basic freedoms guaranteed in a democracy. The commitment to these goals will keep the relationship strong for many years to come.

Mr. BROOMFIELD. Mr. Speaker, I commend Congressman BILIRAKIS for this initiative. His special order marks a truly momentous occasion in the history of democracy, both for Greeks around the world and for Americans.

During this country's infancy, Jefferson and other great Americans admired the ancient Greeks and brought many of their philosophical concepts to this new land. America's great Constitution has a strong classical ancestry and today, in this Chamber, we follow a concept of representative government that has its roots in ancient Athens.

Years after the Greek thinkers gave democracy to their people, the Greeks were called upon to fight and die for the freedom that they cherished. In 1821, they finally gained independence from their Turkish overlords. Their quest for freedom was heard throughout the world and inspired others to struggle for democracy.

Today, as democracy spreads around the globe, the inherent strength of our form of government becomes more and more self-evident. As communism and totalitarian systems are rejected around the world, the value of the "gift of the Greeks" becomes more apparent than ever before.

I am honored to be here on this historic occasion and salute the Greek people and all Greek-Americans as we mark this important celebration of freedom.

Mr. KOPETSKI. Mr. Speaker, today it is my great pleasure to join my colleagues in support of Greek Independence Day. In Oregon, we have a proud and active Greek community. Each October the Greek Community in the Portland area, which includes portions of my district, sponsors a Greek Festival to celebrate Greek Culture. This Sunday, March 24, the Greek Orthodox Community of Oregon will sponsor a banquet featuring Greek dancing and poems. University of Oregon Professor of Romance Languages Emmanuel Hatzatonis will be the featured speaker. On March 25, Greek Independence Day, Greek restaurants throughout Portland will mark the event in joyous fashion. I am honored to work with Oregon's Greek Community and take special pride in our relationship.

As we are on the verge of celebrating 170 years of Greek Independence, I would like to make several important observations about Greek-American relations.

Over 2,000 years ago, democracy—the foundation of American Government—was developed in Greece. These ancient ideas have shaped the values of our country and have contributed to the strong bonds between contemporary Americans and Greeks.

On March 25, 1821, after 400 years of Ottoman rule, the Greeks took up arms in the name of freedom. Following the end of Ottoman rule, Greece turned to the Declaration of Independence and modeled a version of its own.

Today, in honor of this independence, we must remember that in World War II, 600,000 Greeks, almost 9 percent of the population, gave their lives in the fight against fascism.

Today, we must remember that Greece is a long-time ally and trusted NATO member. In addition, the strategic location of Greece to world shipping in the Mediterranean, Aegean and Black Sea is a valuable resource to the free world.

Today, we must commit ourselves to maintaining a strong Greece, free from oppressive foreign force and further that people of Greek heritage may live free of oppression, regardless of where they live.

Today I join with my colleagues in saluting Greek-Americans across the country and join you in celebrating Greek Independence Day.

Mr. ANNUNZIO. Mr. Speaker, I rise to join my colleagues in celebrating Greek Independence Day. Today's salute is appropriate because of the tradition of democracy that binds our two countries.

On March 25, the people of Greece will commemorate the 170th anniversary of their declaration of independence from the Ottoman Empire of Turkey.

Greece officially marks its independence day from March 25, 1821, when a series of armed uprisings began against the Sultan of Turkey.

Seven years before the revolt began, a group of Greek patriots had established an organization called the "Society of Friends." The goal of the group was to seek full autonomy for Greece. In 1827, the Greek drive for independence took a major step forward with the defeat of the Turkish fleet in the battle of Navarino. Two years later, the Treaty of Adrianople ended nearly four centuries of Ottoman rule.

A turning point in the struggle for Greek independence came when several European governments lent their aid in the fight against the Ottoman Empire. The Greek revolt against Ottoman rule had enflamed European public opinion, and this helped draw Britain, France and Russia into the war. Volunteers from Europe joined the Greeks in battles such as Missolonghi, where the British poet Lord Byron was killed.

We in Congress can look proudly on the modern struggle for Greek independence, but we also should praise her democratic tradition, which stretches back to ancient Athens in the sixth century before the birth of Christ.

In addition, I would like to commend the many accomplishments of the tens of thousands of Greek-Americans who have enriched the life of our Nation.

In honor of these many contributions, I cosponsored House Joint Resolution 58, which designates March 25, 1991 as Greek Independence Day. Mr. Speaker, as we look to the future, I am confident the tradition of friendship and shared traditions between our two nations will continue to prosper and grow.

Ms. SNOWE. Mr. Speaker, March 25 commemorates the 170th anniversary of the beginning of Greece's struggle for independence from the Ottoman Turks. After 400 years of foreign domination, and after 11 years of struggle against the despotic rule of the Ottoman Empire, Greece's independence was an astounding event in European affairs. Europe was composed mainly of autocratic empires and states whose borders had little relation to their composite nationalities 170 years ago. Outside of Britain and France, the ideals of self-determination and national independence were weak.

The incredible accomplishment of the Greek people acted as a catalyst in transforming the aspirations of Europeans. During the last 170 years, the ideals of national independence and democracy which were first expounded by the ancient Greeks, have spread widely throughout the world. Greece's achievement of independence helped to spread not only the belief in the inherent right of national independence, but the belief that it is possible for a nation to assert its rights, despite seemingly impossible odds. That notion continues to be achieved in our own time in Eastern Europe, and it will continue to be a powerful symbol to those around the world who are still struggling to be free.

I am pleased to support House Joint Resolution 58, which designates March 25 as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy." The finest traditions of our two countries are embodied in this resolution, and symbolized by this day.

Mr. GILMAN. Mr. Speaker, On March 25, 1821, the Greek people took to arms against four centuries of Ottoman rule, fighting bravely and valiantly to achieve freedom from Turkish domination.

Greek Independence Day has special significance to all Americans. It is the ancient Greeks who formulated the concept of democracy which is the keystone of the American political system. Democracy is but one of the many contributions of the Greek people to the development of civilization. Art, philosophy, science and law are just a few of the disciplines in which the Greek people have enriched our culture.

Mr. Speaker, the contributions of Greek-Americans to the development of our great Nation are too numerous to mention. Our distinguished congressional colleagues, GUS YATRON, OLYMPIA SNOWE, PAUL SARBANES, MICHAEL BILIRAKIS, GEORGE GEKAS, and John Brademas are just a few of the current example in the many fields of endeavor in which Greek-Americans have excelled and contributed to our government.

We welcome this opportunity afforded to us through this special order arranged by the gentleman from Florida. [Mr. BILIRAKIS] not only to salute our own Greek-American community for their contributions, but to commemorate the independence of the Greek people.

Ms. PELOSI. Mr. Speaker, I would like to thank my colleague from Florida, Mr. BILIRAKIS, for calling this special order to commemorate Greek Independence Day.

Monday, March 25, marks the 169th anniversary of the beginning of the revolution which ultimately resulted in independence for the Greek people. In 1822, the Greeks bravely rose to free themselves from the shackles of foreign oppression and the reign of terror. Proclaiming independence and declaring a liberal Republican Constitution, they eventually turned the tide on their oppressors by gaining international support and demands for ending the war.

After more than 400 years of foreign domination, democracy was restored to Greece. On this anniversary, it is fitting to reflect on the historical bond between our two countries. Just as our Founding Fathers modeled our democracy on the system of the Greeks, in rebuilding their democracy the Greek people looked to the United States as the model for modern Greek democracy.

The Greek culture is inextricably linked to our own. The development and success of western civilization is rooted in fundamental principles set forth by Greek civilization. In their concept of government, their high regard for the arts, architecture, and philosophy, they provided the foundation on which our culture proudly rests.

The relationship between Greece and America is not bound by history alone. Over 3 million Greek immigrants have come to the United States where they have generously contributed to our culture. The Greek community is a vital part of the city of San Francisco's diverse community. We in San Francisco have a special gratitude because of our mayor and his Greek heritage. I look with pride at the Greek community's successful participation in all facets of American life—cultural, economic, political, and artistic.

Again, I thank my colleague for calling this special order to recognize the significance of Greek Independence Day. On this day it is particularly fitting that we take pride in celebrating the enduring relationship between our two countries.

Mr. COBLE. Mr. Speaker, I rise today to join this commemoration of Greek Independence Day. This year, on March 25, Greeks and Americans should remember that 170 years ago on this date a revolution began that freed the Greek people from the Ottoman Empire, which had ruled Greece for almost 400 years.

Greece and America have shared a natural affinity for centuries. We owe an enormous debt to the Greek cultural traditions of freedom and democracy, expression, and thought. Our Founding Fathers looked to ancient Greece for philosophic guidance in crafting the U.S. Constitution. In fact, Aristotle's influence on Western development predates our republic. Ancient Rome, 18th century England, and the early State constitutions all drew on the early teachings of this great master. In turn, the American Revolution became one of the ideals of the Greeks as they fought for their independence in the 1820's. Our nations and peoples retain strong ties.

Today, there are nearly 3 million Greek-Americans living in the United States. Through their extraordinary compatibility with the people of America, Greek-Americans become very successful in the United States. Many present and former Members of Congress, including one of this resolution's primary sponsors—my friend from Florida, Congressman BILIRAKIS—are proud Greek-Americans. This community not only excels in public service, but in medicine, music, and the arts in particular.

I am honored to serve a strong and vibrant Greek-American community in Alamance, Davidson, and Guilford Counties in North Carolina. These citizens have added greatly to our local way of life, educational system, and economy.

As all Americans are Irish each St. Patrick's Day, so too should all of us celebrate our ties to Greece on Greek Independence Day. Percy Bysshe Shelley once reflected, "We are all Greeks! Our laws, our literature, our religion, our art, have their roots in Greece."

Mrs. VUCANOVICH. Mr. Speaker, March 25 marks the 170th anniversary of the outbreak of the Greek war for independence from the Ottoman Empire. Americans were quick to recognize the Greek's struggle as equivalent to their own struggle against the British Crown only a half century earlier. Therefore, we traditionally observe Greek Independence Day as a time to honor the historically warm relations between the United States and Greece. It is also the time to honor the contributions of Greek-Americans to the development of the United States, and, most of all, the contributions to American ideals made by Greeks throughout history.

The history of the modern world is in many respects simply the application of the great human truths first discovered by the Greeks. It was in the democracy of Athens that mankind first learned of the nobility and majesty that inheres in the individual. For the first time in history, individuals learned that their existence was not simply to serve the needs of the group, the collective, the state. Athenians discovered that they could do the most for their country by concentrating their efforts where their talents and inclinations were greatest.

The result was the flowering not only of the form of government we hold so dear today, democracy, but also of art, architecture, literature, medicine, and science. No people at any time in history ever gave so much to future generations.

Yet there is as much to learn from the darker days of Greek history as there is from the Golden Age of Athens. The decline and eventual fall of Greece to Alexander the Great showed how easy it is for people to take democracy for granted. The real lesson of ancient Greece is that democracy is not a natural state of affairs that automatically comes to exist in absence of a dictatorship. It is not synonymous with freedom. Democracy requires constant effort and commitment on the part of its participants.

Greece fought, 170 years ago, for the great traditions of freedom and liberty. This is a great source of pride and happiness for the people of the United States, and the reason that we celebrate Greek Independence Day every year on March 25. But Greece and Greek freedom means so much more than the independence of a particular country in a particular time and place.

It would be fair to say that today the measure of a nation is the extent to which it has learned the lessons of Greece. The United States, Greece, and the other nations of Western Europe have known these lessons for a long time, and are building on them to lead the world to a brighter future. The nations of Eastern Europe have known these lessons for some time as well, but only recently had the opportunity to put them into practice. The Soviet Union and other nations are learning these lessons at long last.

Some 2,400 years after its invention, Athenian democracy is blossoming around the world. Mr. Speaker, that is something we can all be grateful for as we celebrate Greek Independence Day on March 25.

Mrs. MORELLA. Mr. Speaker, I want to thank the gentleman from Florida for calling this special order to commemorate the brave men and women of Greece who began the fight against 400 years of oppressive rule on March 25, 1821. It is with both pride and gratitude that we remember the many invaluable contributions which Greeks and Greek-Americans have made to our society, not only through the ancients but also through the positive impact which their immigration has had on our country. The magnificent buildings in which we stand, and the laws made here, are testimonials to the importance of Greek culture on America.

Thomas Jefferson once observed that "To the Ancient Greeks, we are indebted for the light which led ourselves out of the Gothic darkness." If Jefferson were with us today, I believe that he would also recognize the debt which we owe to Greek-Americans, whose continued leadership and participation in instrumental roles in our society assists us in developing a representative democracy reflective of the people.

Today, as we are hopeful for the continued success of peace, we look to the cradle of democracy, Greece, to be reminded that justice and right will prevail over those who would rather be a domineering power over the people instead of an instrument of, for and by the people.

So, it is with great pride that I join my colleagues to salute the Greek people who, after 400 years of foreign control, won their liberation from Turkish domination.

Mr. YATRON. Mr. Speaker, I commend the gentleman from Florida, Congressman BILIRAKIS, for initiating this very special order on Greek Independence Day. On March 25, 1821, after four centuries of Ottoman rule, Greeks rose up in arms, fought valiantly, and finally achieved a dream centuries old—freedom from Turkish denomination.

The ancient Greeks created the very notion of democracy, in which the ultimate power to govern was vested in the people. As Aristotle said:

> If liberty and equality, as is thought by some, are chiefly to be found in democracy, they will be attained when all persons alike share in the government to the utmost.

It was this concept that the Founding Fathers of the United States of America drew heavily upon in forming our representative government.

Constitutional democracy has made the American way of life possible. For that contribution alone, we owe a heavy debt to the Greek people. But the contribution of democracy was not the only contribution made by Greek patriots to American society. The ancient Greeks contributed a great deal, both to our cultural heritage, as well as to European culture, in the areas of art, philosophy, science, and law. In the preface to his poem "Hellas" Shelley wrote: "Our laws, our literature, our religion, our arts have their roots in Greece."

Greek-Americans have followed the rich tradition of their ancestors. The have made their mark in many professions including medicine, science, law, and business, among others. The welfare and progress of the Greek community, both here and abroad, is of great importance to all of us.

Mr. Speaker, Greek Independence Day was a model for a new nation, and continues to be an inspiration for all those living in the darkness of oppression.

Mrs. BENTLEY. Mr. Speaker, I thank the gentleman from Florida for yielding, and I want to commend him very much for taking this special order in order to commemorate Greek Independence Day.

Mr. Speaker, it is a pleasure for me once again to join with my colleagues in the Congress to commemorate Greek Independence Day. This is, as my distinguished colleague from Florida, Mr. BILIRAKIS points out the anniversary of the return of democracy to the land that gave the world the very concept of democracy so long ago. I might point out, Mr. Speaker, that Mr. BILIRAKIS is one of the prides of the Greek-American community.

It was on March 25, 1821, that the Greek people, under the banner and leadership of the Bishop of Patras, rose in insurrection against the Ottoman Turks who had held the Greek people in both physical and cultural slavery for nearly 400 years.

This day of revolution was not chosen randomly, Mr. Speaker. In the Greek Orthodox faith, March 25 is the feast of the Annunciation, that holy event for which the Greek Orthodox mother parish in Baltimore, the Cathedral of the Annunciation, was named.

For Orthodox Christians, this feast marks the beginning of the plan of salvation that we celebrate during this Lenten season, culminating in the feast of Easter in 3 weeks.

The Greeks turned this religious feast into a civic one by launching the insurrection that would bring salvation to the country on the day when they also commemorated the Archangel Gabriel bringing his good news to Mary of Nazareth.

It gives me great pleasure to join with our own Greek-American community in this country and with people of Greek descent around the world in celebration of the return of freedom and democracy to the Greek people.

And I send special greetings to the parishioners of the Greek Orthodox Cathedral of the Annunciation in my district, the church in which my husband Bill and I were married, as they celebrate jointly their religious feast day and this feast day for democracy that Greeks the world over will celebrate this weekend.

Mr. GUARINI. Mr. Speaker, on March 25, people of Greek heritage all over the world will celebrate Greek Independence Day. On this day in 1821, the Greek nation began its brave and arduous struggle in pursuit of independence from foreign rule. March 25 also marks the celebration of the annunciation of the Blessed Mother, a day of feasting and celebration for members of the Greek Orthodox religion. Many of my distinguished colleagues have spoken about the political and religious significance of this day to Greek people, however, I wish to point out that March 25 also offers a wonderful opportunity to all Americans to celebrate the important role that persons of Greek origin play in our country.

There are approximately 3 million Americans of Greek origins living in America today. Approximately 245,000 of the 12 million immigrants who passed through Ellis Island during its 62 years of operation were from Greece. Many settled in the New York metropolitan area, drawn by the hope of cultural acceptance and financial success. This pattern continues today, as over 4,000 Greeks, many of them newly arrived, populate the Jersey City area in my district. As Father Karloutsos, of the Greek Orthodox Archdiocese in New York puts it, "wherever you find the marketplace, you will find Greeks."

In fact, Greek immigrants to the United States have always embraced the American dream. Most major American cities boast a thriving Greek community, active in economic, political, and cultural areas. Individually, Greeks rank higher in number of years spent in school than any other ethnic group. Not surprisingly, many prominent Americans are of Greek origin.

In my district on March 25, members of the Evangelismos Greek Orthodox Church, led by Father Paul Koutoukas, and the St. Demetrios Greek Orthodox Church, led by Father George Economos will meet at the old court house building in Jersey City. They will be joined by

Mayor McCann of Jersey City, the consul general from Greece and Cyprus, and members of AHEPA, the American Hellenic Educational and Progressive Association. The group will celebrate Greek Independence Day with a flag raising ceremony at 12 noon, followed that evening by an ethnic festival with traditional Greek food, music, dancing, and poetry recital. The celebration will be highlighted by singing from the children and choirs of the Evangelismos Greek Orthodox Church and St. Demetrious Greek Orthodox Church.

Mr. Speaker, March 25 is a day when Greeks and Greek-Americans celebrate their culture, their religion, and their heritage. Let us join them in celebration, for Greek Independence Day is an opportunity for all Americans, not only those of Greek origin to rejoice.

THE FIRST FREEDOM FLIGHT TO KUWAIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennysilvania [Mr. WELDON] is recognized for 60 minutes.

Mr. WELDON. Mr. Speaker, I rise today to take out this special order, and will be joined by several of my colleagues as we discuss what was a most historic trip for 13 Members of Congress who joined Ambassador al-Sabah and our Commerce Secretary, Bob Mosbacher, in the first freedom flight to Kuwait this past weekend.

We left Andrews Air Force Base on Wednesday evening and flew to Manama, Bahrain, and then we flew into Kuwait City on Friday morning and spent a day touring Kuwait City with some very specific objectives in mind.

While the bulk of the delegation flew back to Manama, Bahrain, Friday evening, I, along with two of my colleagues, stayed over in Kuwait City for an extra evening of meetings with Kuwaiti citizens and a full day on Saturday of additional meetings and briefings and additional efforts to meet the objectives that we had laid out in planning this trip.

The attendees on the first freedom flight to Kuwait were broad and diverse. The 13 Members of Congress included Democrats and Republicans alike, junior Members and senior Members. The entourage included such notable figures as Gen. Alexander Haig, former Ambassador Andrew Young, the former Secretary of Defense, Frank Carlucci, and a number of other notables including Governor Schaefer from Maryland, Mayor Suarez from Miami, and former Member of Congress Tony Coehlo.

The general purpose of the trip to Kuwait was to bring in this broad coalition of leaders from this country to personally assess the devastation that had been wrought upon these innocent people by Saddam Hussein and his military, and that we did on Friday. We will discuss that in great detail this evening.

□ 1900

In addition to the Friday schedule of activities, we spent the additional day following up in several specific areas that I would like to outline briefly here at the beginning, and in doing so, list five specific objectives that I laid out for myself before going to Kuwait on this first freedom flight.

The first step was the whole issue of human rights. As the chairman of the Congressional Ad Hoc Task Force on Occupied Kuwait, a sub-task force of the Human Rights Caucus, my effort and request to Ambassador al-Sabah was to get in as quickly as possible and document the human rights abuses and atrocities that were perpetrated on the Kuwaiti people by the Iraqi military. We did that through a series of visitations to, one instance, the major location, the Yarma Palace, where a lot of the torturing was done to innocent Kuwaiti citizens. We also interviewed several Kuwaiti citizens. One, a young schoolteacher in her early twenties who was taken out of her home to Baghdad and was kept there for 45 days, and repeatedly tortured by a number of Iraqi troops. All the while, her young son was kept back in Kuwait City. She, not knowing the status of his health and well-being. We also had occasion to interview children who had not seen their fathers, and in one case a mother, for extensive periods of time because they, too, had been taken away by the Iraqi forces.

All during our visitations to the torture chambers and the overview of some of the techniques that we visited and we saw and had demonstrated, we documented all of this with extensive media footage that we will hopefully be able to play here in Washington at a to-be-announced human rights hearing, to provide documentation, that hopefully will lead to the evidence that will allow the United States to pursue Saddam Hussein for war crimes.

The second objective I laid out for myself as a member of the Committee on Armed Services, to look at and assess the forces that were in the Kuwaiti theater, my second visit to the region, and to write back and share with my colleagues as a part of the debate and discussion a long-term presence or, exactly what length of time we should maintain our military presence in that theater.

Mr. Speaker, one of the notions I have come back with is that this body should seriously consider maintaining a multinational force in Southern Kuwait to control the Iraqi oil fields, to sell off and bring out some of that Iraqi oil, and use the proceeds for the sale of that Iraqi oil to pay reparations to Kuwait, to pay some of the costs or all of the costs that the allied nations have incurred, and to finally, also, provide limited funding for the Iraqi people in terms of rebuilding their economy, but not for military use.

The third major objective dealt with the issue of the Kuwaiti contracting the extensive amount of rebuilding work that will occur inside of Kuwait. A Wall Street Journal front page story a week or so ago alluded to the fact that several contracting firms in this country who had been given letters of understanding for Kuwaiti contracts were saying that they did not plan on hiring American workers, that it was just going to be the employment of primarily foreign nationals. We confronted Ambassador al-Sabah on this issue on the way into Kuwait City. I had with me the president of the Building and Construction Trade Council for Eastern Pennsylvania, Pat Gillespie, and we received from Ambassador al-Sabah a public commitment that any Kuwaiti contract that is let, and 85 percent of these contracts we expect to go to American firms, but any of these contracts that are let will have four specific provisions contained in each of these contracts. One will require a specific percentage of American workers that will, in fact, be required to perform the work inside of Kuwait. So American workers will benefit. The second will require a specific percentage of the American small businesses to do subcontract work. So American small businesses will benefit. The third point is that the small businesses will be broad and diverse, and across the country, and not in any one geographical area. The fourth provision that was committed to by the Ambassador will, in fact, have a percentage of minority contracting that will be required for any contracts that are let. So despite all the sniping that we have heard primarily from those who oppose the President and his policy, we have, in fact, received solid commitment from the Government of Kuwait that, in fact, our workers, our small businesses, and our American firms are going to benefit substantially from the rebuilding work inside of Kuwait.

Mr. COX of California. Mr. Speaker, will the gentleman yield?

Mr. WELDON. I yield to the gentleman from California.

Mr. COX of California. I would just like to congratulate the gentleman for his personal efforts on this point. I was privileged to travel with the gentleman to Kuwait on that trip with the Ambassador, and I think it is important to point out that, but for the efforts of the gentleman from Pennsylvania, that commitment by the Ambassador to hire American workers specifically on these contracts would not have been made. I think the American people owe the gentleman a debt of gratitude for that work.

Mr. WELDON. Mr. Speaker, I appreciate the gentleman's comments, and I appreciate the fact that the gentleman, too, was a member of the delegation and helped in that effort. There was serious discussion on the plane by all 13

Members involved. Several of my colleagues are in this room, and the delegation was headed, I might say, by our distinguished colleague, the gentleman from Ohio [Mr. WYLIE]. All the Members were committed to seeing that, in fact, the Kuwait Government would, in fact, do what we knew it would do, and that was to hire American workers and to have our work force in this country, and our small businesses benefit from this operation.

The fourth major objective that I had set out, and I think all Members had set out, was to look at the Kuwaiti Government itself, to see what kinds of changes, perhaps, were occurring, and to try to get an assessment as to what the mood was inside of Kuwait toward the Amir, toward the family, and toward the Government and the Constitution that has been in effect in that country for some 25 years. To help accomplish that task, we were able to set up four deuanias, being equivalent in our country to a town meeting, where we met in one case with 80 leaders of the democratic movement inside of Kuwait, including 9 former members of the Kuwaiti Parliament, people who were senators, like Mohammed Al-Risheed, Khalio Al-Sultan, Meshari Al-ojemi, and Ahmed Baqer.

We listened to these people talk about their persons as former members of Parliament, and discussed with them the commitment that the Amir and the Crown Prince have made, as well as the Ambassador of Kuwait, to reinstate the Parliament as quickly as possible, and to live up to the requirements of the Constitution. That issue is also being sniped at by some of the Members of this body, and I think once again, we have gained some firsthand experience that we can share with our colleagues, in terms of what the mood of the Kuwaiti people is in terms of the reinstatement of Parliament.

The fifth major objective I had, and I will turn to some of my colleagues in a moment, deals with the issue of the fires in the oilfields, and the whole issue of how we in this country can assist the Kuwaitis as quickly as possible, control these devastating fires, and rebuild the emergency response network in occupied Kuwait. On this point, I was again able to get a commitment from the Ambassador to bring over some of the leading national experts in this country, including the National Fire Protection Association, including the National Association of Fire Chiefs, the Fire Fighters, and the volunteer accounts of some of our major manufacturers, in what will be a training session in Bahrain to assess the damage from fires, and the emergency response needs to that country, and put together a list of the kinds of services that we can offer from America to assist Kuwait in controlling these devastating fires. Then, perhaps, more importantly in the long term, rebuilding the emergency response network inside of Kuwait, and specifically, Kuwait City.

Mr. Speaker, I would say that all five of those major objectives that we laid out, we accomplished. We came back with some real tangible evidence of some success that we can report to our colleagues, and that hopefully we can build upon to allow Kuwait very quickly to rebuild, to allow America to share in that rebuilding process, and to make sure that we are properly representing the interests of our country, as well as freedom-loving people around the world.

Now that I have gone over those general objectives, I would like to turn to some of my colleagues that were on the trip with me and ask them for some additional thoughts and experiences that they shared from that trip.

Mr. INHOFE. Mr. Speaker, I would like to share with the gentleman from Pennsylvania an experience that I had that the rest of the Members on the trip did not share in. When I was coming back, and we had gotten off at Andrews Air Force Base, I was going back to Tulsa, OK. I shared a ride and sat next to a young captain, Brad Powell, from the 58th Fighter Squadron. I asked the young captain the same question as the other Members asked all the ground troops we saw, and he came back with the same answers.

□ 1910

I said, "What were the three major concerns that you had?"

The first concern, and I will just mention two of them, I know the gentleman is going to get to this and will elaborate, but I have to leave and I did one of these last night and we had a chance to get into a lot of detail. The first one was this fear they had that Congress would not vote to support the President, which would in effect put us in the same situation we were in Vietnam in fighting a war that did not really have the full support of the American people through the Congress.

The second one I thought was really interesting. He said, "My concern that almost rivals that is the concern that our country would have gone along with Gorbachev on February 21 when he wanted to have what I refer to as an extension or a pause for 21 days, giving them time for an orderly withdrawal."

It was when we were over there in that same time frame that they came up with this incredible document that the American people have to know about. It is difficult to talk about and it sounds hysterical, but it was on February 21st that we saw the document signed by Saddam Hussein that called for the extermination of all Kuwaiti males in the country and the raping of all Kuwaiti females in that 21-day period, that same 21-day period and it is obvious that Saddam Hussein was assuming that we in this country were going to go along with the Gorbachev peace initiative, as he called it.

In essence, the only conclusion you can come up with is that he was trying to wipe out an entire nation in 21 days that would fall after the next generation, and that is the day they started the oil fires.

One thing about the oil fires, and I know the gentleman is going to get into that, I am a boy from Oklahoma, and we figure if we get in an oil well and we produce 50 barrels a day, we have cut a fat hog. We watched one well go up that was burning 30,000 barrels a day. The combined cost of this thing is $3 billion a month, and that was such an incredible thing just to destroy a nation. He was not going to do it just with fire, he was going to do it with the population.

Mr. WELDON. The gentleman referred to letters. I assume they are the letters that were on display at the palace which had been the home of the Governor of Kuwait, that Saddam Hussein's brother that turned into the command headquarters for the Iraqi military in Kuwait City. They are the same letters that we have asked to have copies brought over here at an appropriate time so that Members of Congress can see the physical evidence, the signings by Saddam Hussein of the kinds of decrees and actions that the gentleman has just outlined. Am I correct in that?

Mr. INHOFE. That is correct, and it is because there are still a lot of people in this country who do not really understand what a barbaric animal Saddam Hussein is. It is hard for us to think the way they think. Our job as Members of Congress is to be the eyes and ears of about half a million people, and I think we did a good job in that and hopefully we can communicate to the American people what really went on there.

Mr. WELDON. At that same palace, Dr. Hamadi, who is a medical doctor operating out of the largest medical center in Kuwait City, also confirmed to us that he himself would come back to America and testify before appropriate committees as to the physical torture that he saw on bodies that he was able to keep in the morgue that had been abused, people who had been abused by the Iraqi military.

Mr. INHOFE. Mr. Speaker, if the gentleman will yield further, I heard the gentleman invite him to testify before the Human Rights Caucus, and I think that is necessary because for us to say it does not have the impact that they have.

You can read about torture, but when you see the devices they used, how they could split a head open, remove the brain and keep the body alive until the very last minute, the screams that were taking place, the screams that merely provided background music for the generals on the next floor down who were making their decisions, it is an incredible experience that is awfully hard to communicate.

Mr. WELDON. Would the gentleman agree with an assessment that many of us were criticized for making in December and January, that Saddam Hussein was in fact a Hitler in the making. There were many who criticized us saying that was a gross exaggeration.

I came away for one from this trip thinking and believing full well that in fact Saddam Hussein was in some cases worse than Adolf Hitler with some of the atrocities that he perpetrated on the Kuwaiti people.

Mr. INHOFE. I can remember, in response to the gentleman's question, yes, I can remember when in December just the week before Christmas I was over in Saudi Arabia in Riyadh talking to General Schwarzkopf, and he characterized Saddam Hussein as somewhere between Charles Manson and Adolf Hitler; but again, you have to be there and see it to understand that. It is an incredible thing.

I really commend the gentleman, because I would not have had an opportunity to be there if it had not been for the gentleman from Pennsylvania.

Mr. WELDON. I thank the gentleman for his participation in this special order, and also for his substantial contributions to the effort and to the trip itself. I know the gentleman will be an outspoken Member of this body in bringing forth the facts that we witnessed while we were there, and I thank the gentleman.

Mr. Speaker, I now yield to my distinguished friend, the gentleman from California [Mr. COX], who also played a very important role in this mission and was very active on the floor of the House, and as a Member of this body in supporting the President's effort and the path that we took to liberating Kuwait.

Mr. COX of California. Mr. Speaker, I thank the gentleman for yielding to me.

It is perhaps true that the single purpose of our trip was to witness firsthand the extent of this destruction. There were a number of other purposes which the gentleman has ably outlined. Certainly important among those was ensuring that American workers have the opportunity to get a crack at this business of rebuilding Kuwait; but frankly, what impressed me the most, and I know all the other Members of our delegation, were seeing firsthand just how bad the situation is in Kuwait. None of us were prepared for what we saw.

It is one thing to watch the films on television of that two-dimensional TV picture, reading about it in the newspaper, but that does not convey what it looks like when it is spread all around you, when day is turned into night, when that black smoke gets in your nostrils when you sneeze and when it comes out just soot. It is in your eyes. It is in your teeth, all over your clothes.

The health problems that our troops face there and that the people who live in Kuwait face are going to make the agent orange problem pale in comparison, and yet it goes on and on. Each day with these oil fires, 600 of them are ongoing. We have got 6 million barrels of oil every day going up in smoke. Now, that is compared, for a benchmark, to 2 million barrels per day of production when Kuwait was at its peak.

Mr. WELDON. That is a very important point the gentleman makes. He might want to re-emphasize that.

Mr. COX of California. That is 6 million barrels a day going up in smoke. There are these vast lakes of oil that are on fire at random places. It looks for all the world like Dante's Inferno. I felt as if I had died and gone to hell. There is no way to convey this surreal surrounding that we found ourselves in.

One man who is still at large is responsible for all this. It extends beyond, of course, the oil field fires to the dumping of oil into the Persian Gulf, the looting that took place, just absolutely extraordinary.

We flew in, of course, with Kuwaiti citizens, the pilots, the crew, the Ambassador himself, none of whom had been to their homeland since before the occupation and the war. They had not been there since July, so this was called the Freedom Flight, the first commercial flight back into Kuwait.

The gentleman remembers how upbeat everyone was. They were all excited to get back to their freed homeland. At the end of that day after each stewardess and pilot had the opportunity to return to his or her home, they came back, some with tears in their eyes, the pilots were all hangdogged. Their homes had been utterly destroyed and that little vignette was repeated all over Kuwait.

Still one-half of the population are refugees, and when they return they will find that all their furniture has been taken away. They will find that all their clothing is destroyed. They will find that whatever is left behind has been desecrated, and worse.

The Ambassador whose home we visited was shocked to find not only that his entire home had been looted, but that his daughter's bedroom had been turned into a torture chamber.

This is what Saddam Hussein has done, and now what Saddam Hussein continues to do inside Iraq, over 7,000 Kuwaitis are held prisoner in Iraq.

I think more than anything the Kuwaiti people asked us while we were there, "Please do what you can to see that our relatives are returned." Between 7,000 and 8,000 of them are held prisoner right now in Iraq.

I would like to conclude by mentioning how important it is for America to lean on the government of Kuwait, such as it is at this moment, to rebuild Kuwait as soon as possible, to get those oil fires out. To my way of thinking, the process is proceeding too slowly. There are American firms and other firms around the world that are competent to do this task. The Kuwaiti government actually has the assets with which to hire and pay for these kinds of services; but when we visited there, and still today, the first oil well fire has yet to be put out.

This problem requires much more energy and much more attention from all the world. If we have learned anything on this trip it is the vital importance, not just to Kuwait, not just to the region of the Persian Gulf, but to America and the rest of the world that we get this problem under control immediately, not tomorrow, not next month, but today.

□ 1920

Mr. WELDON. I thank the gentleman for his comments. I agree with the gentleman.

I just add to that what we saw as we traveled through the oil fields. It was broad daylight, and yet we had to use the headlights on our buses because of the darkness caused by the intense smoke above us. What we saw in all of the oil wells that we saw on fire, which are obviously under natural pressure—the oil does not have to be pumped out, it just comes out because of the pressure underground in these oil fields. But what Saddam Hussein did so well is he brought his engineers out and they placed the dynamite charges below the valve, the lowest value on each of the wells so that basically we would have no way to shut the supply off, coming out of the ground. So what you have to do is you have to dig around each of those wells, clear the minefields around them in order to get to them, and then we have to be able, before we can put the fire out, to be able to make sure that we have a way of capping that well once that is done, which adds to the difficulty.

So this was no accidental operation. I think the gentleman would agree with me that this was a deliberately well-thought-out plan of mass destruction in terms of these oil wells which occurred during the final days and during the ground war itself.

I yield to the gentleman from California.

Mr. COX of California. If the gentleman would yield further, I will offer one additional vignette that exemplifies what kind of a person we are dealing with.

After the liberation of Kuwait, the Iraqi Embassy in Kuwait City was occupied by American and French soldiers. I had the opportunity to walk through that embassy. It was in tatters. But I noticed that on the walls there were framed pictures, not as we would in our foreign embassies have pictures of Niagara Falls or Mount Rushmore or the Statue of Liberty, but pictures of atrocities, pictures of Iraqi soldiers standing smiling over their kill. One picture showed a victim who did not appear to be a soldier at all but a civilian with blood running out of his mouth and his ear, laying dead on the ground and the soldiers standing over him just like hunters over a lion.

These kinds of pictures, many, many of them, graced the walls of the Iraqi Embassy. One has to ask what kind of an ethic, what kind of a culture, if one could call it that, does Saddam Hussein think he is promoting by glorifying those kinds of atrocities? I do not think there is any question but that his method of governance is terror. He is an armed criminal in charge of a country. He is still at large, and he has got to be stopped.

Mr. WELDON. I thank the gentleman for his comments and for his insights, and would just add that I think the whole issue of the abuses that Saddam Hussein perpetrated on these people have to be brought to the attention of the American people. I think of that palace that we visited, which had been the governor's mansion, which he turned into his headquarters; Saddam Hussein's brother lived there. In the basement, we all went down and saw the operational center for the Iraqi military in Kuwait. That operational center consisted of a large sand map, I guess it would have been approximately 30 feet by 50 feet, laid out very precisely, all of the locations, the entire waterfront area where Saddam Hussein expected an amphibious assault to occur, and a grid system in place that would allow him to place his military very strategically to respond to the attack that he expected from the American military.

But what further bothered me was that on the third floor of that same building, where all of the Iraqi military commanders were headquartered, was the torture chamber, the torture chamber where we saw a metal bedspring that had been placed on four chairs and had two electric wires attached to it. We heard Kuwaitis tell us the very personal stories of Kuwaiti citizens, women and children being laid on this metal frame and then having a rheostat turned up so that the shock would bounce them off of this metal frame as a source of torture.

In an adjacent room on the third floor of this command center we saw two large dryers, the traditional industrial-size dryers that we see in America. We heard stories, very personal stories, of families being brought in, of a father's being seated across from these dryers and their children being placed inside of the dryers while the dryers were turned on to attempt to get that relative to tell some story or to provide some type of information that the Iraqi military wanted, while the children were being tumbled mercilessly in these dryers.

We saw scores of examples of devices that were used to rip skin and salt being poured into the wounds, We saw devices that were used to crimp the neck to gouge the eyes, to slice the ear, devices that were used to provide electric shocks to the head, all of these very real examples.

Mr. Speaker, we have got to get this documentation here in America. We have got to show the world what the American media did not show up until Kuwait City was liberated.

One of the things that offended me most was the coverage by some of the networks in Baghdad, that the American people and the world community was seeing what was happening in Baghdad, yet no one was seeing what was happening inside of Kuwait City.

Now that story has to be told.

One of the most important missions, most important objectives of our trip to Kuwait City, was to make sure that we, Members of Congress, have the documentation visually, we have it through photographs and through the film footage that we took, and we have it through the personal experiences and stories that were told to us.

We have come back with a commitment that we are going to hold this body accountable for all of those stories to understand and then to act upon the atrocities that Saddam Hussein placed upon the Kuwaiti people.

I yield to my friend and also a colleague who went along and provided extensive insight into the entire operation, the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Curt, I will follow this special order with an hour of my own and our good colleague, the gentleman from Ohio [Mr. WYLIE], senior member of the delegation of 2 Democrats and 11 Republicans, the gentleman from the great President-creating State of Ohio. The gentleman has an hour special order following mine. If he wants, depending on his time constraints, maybe we could just continue and mix all three together.

But I want to comment on two things. One, there were many journalists with us on this trip, male and female journalists. Some of them have produced excellent work product in the Washington Times in this city and in other papers around the country. Several of them were syndicated national columnists. One of them was Nate Adelman, who has a column in today's Washington Times which I would like to quote from and get the gentleman's reaction to it.

But let me touch on a rather unfortunate note. I do not know his name, but I will learn it soon; there was an AP reporter with us, a guest of the Kuwaiti Government on the Freedom Flight, who made light of our trip and ridiculed the Freedom Flight. He called us "war gazers." He said we went into the palace—and I would like to, with the gentleman's permission, downgrade the palace. It was more like a large home, a mansion, not the way people think of the Tower of London or even an ancient palace or a modern palace of today, even some of the palaces the wealthy oil people built around the Arabian or Persian Gulf. It was just a big, three-story home.

Mr. WELDON. I think it was the home of Nasser Mubarek Sabah, who was the governor.

Mr. DORNAN of California. Yes, right. And certainly it was no more extensive than any Governor's mansion in any of our 50 States.

Mr. WELDON. The gentleman is correct.

Mr. DORNAN of California. There was one chandelier that they did not have time to trash, but the rest was no different than the model you see in every modern hotel produced today, with its cutglass, brass rails, beautiful marble, some of it imitation marble.

Now, this AP reporter who was with us said that in the lobby as we came in, like in a department store at a sale, we were told, "Step right up, step this way, the torture rooms are upstairs. Here is the photograph. Come in." And that after we were shown these intruments of torture—and I do not know about you, but for months now—and I hope it will fade—I cannot walk into the garage and look at garden tools and normal carpentry tools like hammers and mallets and a plane, which was used to plane the skin off of people's backs. I cannot look at those simple tools, given the way these bestialities were worked out of man's inhumanity to man.

This AP reporter writes that I held up one of the instruments of torture and said—turning to the camera—said, "We must get this back to the Congress." And the gentleman has already said it tonight, and my recollection is that I turned to the gentleman in the well, not the cameras because the gentleman and I are on the Human Rights Caucus, and said, "We must get these protected." And with the kind permission of the government, before they put them in a holocaust museum, which they are certainly entitled to do, we can get them back as exhibit A in a congressional hearing.

Mr. WELDON. The gentleman is correct. Part of our purpose was to provide visual documentation of these devices in case someone would take them. We came back I know in my case we came back, I know, with 10 videotape cartridges of footage of all of the torture devices and all of the inhumane treatment that was done to innocent citizens.

□ 1930

Mr. DORNAN of California. Exactly.

Now I had a call from a reporter tonight from my hometown paper, the Orange County Register, Gary Warner who wanted to apologize to me, that an interview I gave to him by phone about what we had seen. We were all doing that, letting our papers share, because there were many journalists on the trip, and they were filing immediate stories, and we were using AT&T to call home and say, "Here's what we're seeing. This has to be seen to be believed." This was the reaction of all of us.

This reporter, Gary Warner, called to apologize to me that a few of the quotes which I had given to him were fine were worked into this cynical, immature, asinine story by this AP reporter who flew over a guest of the Kuwaiti Government to ridicule us.

Now one of the instruments of torture that I was not familiar with, like garden tools, and hot plates and carpentry tools, was a cleaning device used to clean Soviet RPG rocket-propelled grenade RPG missiles. The gentleman will recall that, when we went up to the Highway to Hell, or what Ken Adelman calls Highway USA Won, only spelled not o-n-e, but w-o-n. I had not heard that. It was what we among ourselves called Looters Ridge. We were cautioned quite properly, "Don't leave the roadway," and you could see unexpended ammo, rocket-propelled grenades and everything all laid out in front of us.

So, we were all very circumspect, and we all obeyed what we were told by our military guides. They had a military peripheral line there of trained soldiers to make sure that we did not hurt ourselves or anyone else, but at my feet, as I stepped off the bus, was an object that is used to clean rocket-propelled grenades, and I would not have known what this thing was, but I would have just kicked it off the road, or moved on by it, but I had learned, not an hour and a half before, that this device was used, and I am going to be very delicate here in the way I describe it, to rip open the body orifices of men and women, and I will leave it at that, and I leaned down and looked at this device. This was a brandnew one lying next to its rocket-propelled grenade, and I looked at this thing, and of course to those, Mr. Speaker, who follow the House by radio and read the proven record, as a lawyer in court, and I am not a lawyer, you have to describe something. It is about 12-13 inches long, and it has a screw device on one end that you put in a bigger tube, and it is constructed, about an inch across the mouth, to go inside a rocket-propelled grenade where three springs with rugged, serrated pieces on them would go in small and expand inside the rocket-propelled grenade to clean it out. You would turn this and grind it out. This devide was held up by this Air Force colonel and doctor saying this was used to torture men, and I asked them, you will recall, "and men?"

"Yes, to tear their bodies apart."

So, they were using Russian-supplied military cleaning equipment, and some seeing it said, "Oh, well, this will be great to tear people apart."

So, I took this back, and I guess that AP reporter would call it a souvenir. It is not a souvenir. It is a vivid memory to me of this horror that left us all just dumbstruck of man's inhumanity to man. I said walking out of there the same thing that Ken Adelman had said. Obviously he has been to Auschwitz. Only in a tour of six German extermination camps: Chelmno, Treblinka, Belzec, Auschwitz, and the bigger camp next door to it, Birkenau, Maidanek; only in these extermination camps of Nazi Germany did I ever see this type of cruelty, and most of the Germans, the Nazis, the SS guard that ran the camps, they were able to bury, destroy, throw in rivers and lakes, most of their weapons of torture. Here we have it all in one house, and to have an AP reporter make light of it is too bad, but it is part of the bigger picture.

I understand the New York Times wrote a cynical story, reserved judgment. My own use of the word is not cynical. That is other's until I read that story. But the resistance that we got to make this trip, as though it were somehow or another a golfing tournament in Hawaii, that Kuwait or Fluor and other corporations who paid for the 13 Members of Congress, as though this were some sort of delightful weekend that we were taking our wives on when we are standing in the middle of this acrid smoke, tears running down our faces, our noses involuntarily running, and looking at these tiny, beautiful children living in oil towns that is sucking in these nightmare pollutants hour, and hour, and hour of every day, and we all recommend that they take the children out of there, which I understand they started doing in 2 days after we left. To look at this nightmare is something that, as I said to everyone when I said that it was like Dante's Inferno, that like very few things in life; I mentioned the Grand Canyon, the Taj Mahal in India, and the Niagara Falls; there are very few things that you have to see that cannot even be captured in three-dimensional image photography or in beautiful color films, Cinemascope, Panavision, Ultra Panavision, Cinerama. There are things that you cannot capture even in sight sound motion on color film. You have to get that surround around sensation, 360 degrees, where we saw over a hundred, some of them disappearing in the black smoke and reappearing again, a hundred burning wells out of the 580-plus that are burning. And we got so close to the roar of the oil coming out of the world's second highest pressure field. It was just almost deafening. You could not get close enough from the heat of the fire, and it would actually hurt your ears to see the black oil coming out of the ground, which only a very few Texans, or Alaskans, or Louisianans get to see in our country. And then it was torching on the side where the air is mixing with the oil, totally on fire about 15 feet up the air, going up in some cases, as the plumes of fire, 22 stories in the air, and to see this surrounding you in the blackness where headlights are on cars at 11 o'clock in the morning, and we arrive. The Sun is an orange orb looking like an autumn moon. This unbelievable, as the gentleman from California [Mr. COX] said, a feeling that you had died and was seeing the fringes of hell.

This had to be seen to be believed, and I was sorry to hear that the smoke got so bad when the delegation of 17 or so Senators arrived, and the gentleman saw them because he stayed overnight, and I admire him and the gentleman from Ohio [Mr. KASICH], also our colleagues on the majority side, Mr. PETE GEREN who knows oil, being a Fort Worth Texan. In fact, you three people stayed overnight, went to the town hall meetings, which I hope you will mention in a second here, and then did a microinvestigation of Looters Ridge, the Highway to Hell, and please tell us about the hotels that we slowly drove past, Meridien with tank shells in the front, the Sheraton, a burned-out hulk, the big Love Boat hotel ship that some entrepreneur businessman had created. I say to the gentleman, "Tell us about what you did the second day after staying overnight to see it in close-up detail what we had seen on that terrible tour of the oilfield hell, the torture chambers that that—I will call it a mansion instead of a palace or a large home—and then the ridge where the looters were caught with the booty that they had stripped from this ripped country and got caught by the Navy A-6's at night and the Air force A-10 Thunderbolts, and Marine F-18 Hornets, and Marine Harriers, and the Army Apaches that the next day talk about justice, and then, if I can, I would like to read a couple of stunning paragraphs by Ken Adelman. But please tell me because I did not get a chance to pick your brain on the flight home. Tell me what you did overnight and the next day."

Mr. WELDON. I thank the gentleman from California [Mr. DORNAN] for his comments, and I would just add to that that I did not see the AP story, but I can just say this. I am not going to comment on what a reporter did or did not write, but I talked to a female AP reporter in Bahrain who called me at the hotel when I got back Saturday evening before we left to come back to America, and she was incensed that the

AP network worldwide—she had written a story and filed a story on the trip and its implication in what she saw happening, and, instead of taking her story, AP made a decision to use the trivial story written by this reporter that the gentleman from California mentioned. So, the criticism that I heard was not from a member of the delegation. It was form another AP story and another AP writer whose name I have back in my office who told me that she was incensed that they picked up this superficial story written by this reporter who used this one instead of the one that she had filed about the trip itself in what she had seen in terms of accompanying the delegates and the attendees on the trip.

Part of what we did after the delegation arrived and spent all day Friday and the delegation left to go back to Bahrain was my colleague mentioned the gentleman from Ohio, Mr. KASICH, and PETE GEREN from Texas and I stayed behind with a film crew and with a constituent of mine, Ernest Alexander, who was a hostage inside of Kuwait City up until mid-December of last year.

□ 1940

Ernest married a Kuwaiti woman. They have two children. The two families that he married into are the al-Sadoun family and the al-Harbi family. They reside in Kuwait City. Up until September, Ernest, his wife, and two children were captives in that city. In September the wife and two children were allowed to leave. They came to America and took residence in my district in Media with Ernest's family. But Ernest was kept inside of his home, confined there, until mid-December, when he was finally able to leave through Baghdad to come back to America.

We had Ernest with us for a very important reason. Ernest knows the city. He knows the country. He speaks the language and was able to help us facilitate a more in-depth trip overnight and through Saturday than the one we were provided as a part of this larger delegation. In fact, we were able to link up with one of Ernest's good friends, Jhukri al-Hashem, who speaks fluent English and fluent Arabic, who is a graduate of I believe Cal Tech, and who is now a businessman inside of Kuwait City.

We spent all the evening of Friday night traveling by bus throughout Kuwait City visiting with Ernest's in-laws, talking with people who were involved in the resistance movement during the Iraqi invasion and Iraqi occupation, and listening firsthand to their stories, one of them told by a brother-in-law of Ernest who had been shot in the back by the Iraqis.

We listened to the story told by the family of having the Iraqis come into their house and threatening to take the 12-year-old son out of the house, and almost did it, except for the two younger daughters who started crying when their brother was about to be taken out of the household.

We went from Ernest's family house to two what are known as Diwaniyahs. The Diwaniyahs was a tradition only evidenced, as far as I know, in Kuwait as a country. It is like a mini town meeting. They are held throughout the country. There are hundreds of them. It is a place where people come together and talk about problems and concerns that they have in their neighborhood, in their country. They talk politics. They talk whatever the issue happens to be at that particular time.

We spent 3 hours in two Diwaniyahs that evening. One of them was in the home of Fahad al-Majed, who is a leader in Kuwait City and has one of the most active Diwaniyahs in the city.

The second was in the home of Mishari Osemi. Mishari Osemi is the chairman of the Lawyers Association for all of Kuwait, which would be the equivalent to our Bar Association. So he held this Diwaniyah in his home, where he brought in ordinary citizens to give us their feelings about what the Iraqis had done to them, and also to allow us to have a better flavor for what was on the mind of the Kuwaitis.

In addition, both men helped set up for us at 1:30 on Saturday afternoon, the next day, a Diwaniyah with 80 leaders from throughout Kuwait. These were the former members of the Parliament, again former senators, two former ministers, and a number of other prominent citizens, where we had a chance to really get an in-depth glimpse of what the Kuwaitis thought about the occupation by Iraq, the democratization of Kuwait, and the reforms necessary to go back to the Constitution and the reinstitution of the Parliament that was disbanded in 1986. So we got a chance to get a substantial amount of information and feeling from ordinary Kuwaiti citizens.

Also on Saturday we had a unique opportunity to witness some of our own troops. All of us on the trip were, as we have always been, extremely pleased and proud of our American forces. We met with troops from the Delaware Air National Guard as they were cleaning up what we referred to as the Killing Fields on the highway that runs from Kuwait City to Basra. We met with groups from CINCOM, including a constituent of mine from Haverstown. We met with individuals from Army units, Navy personnel who were staying in the hotels where we were in Bahrain and also met us at the Embassy compound in Kuwait City, to get a glimpse of our own military.

We had a chance to spend an hour with a detachment of marines from France that was doing a very delicate maneuver of defusing what they estimate to be 1 million land mines that had been placed all along the waterfront of Kuwait City. We could actually see the prongs of these land mines sticking up, and were able to watch and have explained to us by the French marine force the process that was being used to defuse these mines.

We also had a chance to get out among the average Kuwaiti citizens. We visited a gas refilling operation where Kuwaiti men and women were bringing their bottled gas containers to a central facility, and had a chance to interact with them.

Some of them spoke English, but I can tell you the one common feeling that we all came away with was this overwhelming love for America. It seemed as though the ones who could not speak English only knew one word, and that one word was "Bush." They kept chanting, "Bush, Bush, Bush."

One thing that I wish I had taken more of with us on this trip was American flags, because they all wanted American flags. They all wanted to show us their appreciation for America having led the effort to liberate their country.

We also were able to visit a school where we saw evidence of the occupation of the Iraqis living in that school, as they did in every public school throughout Kuwait City. We saw the damage and destruction that was done to classrooms and these public facilities, where the Iraqis just took over these public institutions.

We visited one of the most prestigious museums of its kind in the Arab world, the Kuwaiti National Museum, the cultural center of Islam, where we saw the absolute destruction by the Iraqi military, the burning of historical artifacts, the destruction of plates and artifacts dating back to the 11th and 12th century, and the absolute burning of this monstrous facility in Kuwait City, for no reason, except I think to allow the Iraqi military to just demonstrate their absolute uncontrolled outrage in occupying Kuwait City.

We also were able to visit a cooperative, where we saw evidence of the Kuwaitis distributing food to all of the Kuwaiti families, and allowing them to have the kind of staples that are necessary to maintain their family units, because approximately 40 percent of the Kuwaitis stayed through the occupation and were able to live some type of a life during the time that the Iraqis occupied their nation.

We also saw evidence of Kuwaitis being able to get access to petroleum products to run what few cars were operational. I say what few cars were operational, because all of us were struck by the absolute magnitude of vehicles that were strewn all over the city, in the streets, on the sidewalks, in the parking lots. Every car that we saw, every vehicle that we saw, had all of its wheels and its tires stripped off and had the hood popped open with the engine removed, where the Iraqis just went through like a bunch of common bandits and looters and just took everything they could get their hands on. Much of it was strewn along the highway from Kuwait to Basra as the Iraqis were trying to leave Kuwait City when the land offensive started.

We also were able to visit one of the fire stations in Kuwait City, to see the destruction caused on the emergency response network. Only two apparatuses were still operational, because the Iraqis had confiscated the ambulances and the fire apparatus and used them as vehicles to leave Kuwait City in a mass exodus that occurred in the final 2 or 3 days.

Just a day after we left Kuwait City, we heard the evidence of a massive fire that was burning in a hi-rise building in a downtown area that could not be controlled because the Kuwaitis had lost the bulk of their emergency response equipment.

We also were able to visit the largest medical facility in Kuwait City, Ibn Sina Hospital. At this medical facility on Saturday we met with Dr. Jaleh Abdul Latif al-Ateegi, who was the top medical professional in this hospital. It was an unannounced visit. When we stayed over on Saturday we had no representative of the State Department and no representative of the Kuwaiti Government. We were on our own with the Kuwaiti escorts we had brought over with us.

When we went into the hospital, Ernest Alexander, the hostage from my district, knew the head of the hospital, because his wife had worked there as a medical professional. So we, unannounced, walked into his office and met with him and had him share with us his stories in terms of what the Iraqis did to the medical facilities inside of Kuwait when they occupied the country on August 2.

□ 1950

I heard Dr. al-Ateeji tell the story of three of his top physicians and his top administrative assistants in managing the medical center having been shot in cold blood for no reason except that they had come up with some contrived excuse that they had treated Kuwaiti citizens when they were told not to, shot and killed on the spot, and these were three instances that the doctor had personal knowledge of. And he said there were hundreds of other examples where the Iraqi military came in and just wantonly killed medical personnel, ripped babies from incubators, took patients out of their hospital beds. In one case in a hospital that was specifically designed to handle the invalids and those people who are handicapped, they pushed all the handicapped patients out onto the sand where they were replaced with Iraqi military personnel.

So there is a continuing pattern of evidence and a continuing pattern of abuse that, as BOB DORNAN and other colleagues have said, CHRIS COX and JIM INHOFE have mentioned, are just beyond our comprehension in this country. All of these efforts and all of the actions that we were able to take part in during the 2 days that we were in Kuwait City have all been documented and this information is now being compiled. We will, in fact, prepare and are preparing a written report that we will submit to the Congress by the end of this week that will document much of what we have been talking about. It will contain names, it will contain locations, and it will contain specifics of the kind of thing that we saw and we evidenced while we were in Kuwait City. In addition, we have film footage of all that we will make available to the Human Rights Task Force chaired under the able leadership of TOM LANTOS and JOHN PORTER so that we in fact can follow up on all these horror stories that we were able to bring back from Kuwait City.

Mr. Speaker, at this point I see that my distinguished friend and the ranking member of the delegation who led us into Kuwait City, CHALMERS WYLIE, is here, and I would like to now turn this over to CHALMERS WYLIE and ask him to perhaps make any comments that he would like to at this point in time.

Mr. WYLIE. Mr. Speaker, I thank the gentleman for yielding and appreciate his contribution to what I regard as a very significant moment in the history of Congress.

The trip to Kuwait, billed by the Kuwait Ambassador, Fahd Nasir al-Sabah, as the first freedom flight into Kuwait after the occupation by the Iraqi forces, was one of the most memorable experiences of my entire life. I was on the front lines of an infantry unit in World War II and I saw death and destruction firsthand, and not much phases me. But I will have to say that our trip to Kuwait made a firm imprint on my mind which I will never forget, and I stand in awe of the gentleman from California's ability to describe in such detail what we saw. I want to say also that I admire the gentleman from Pennsylvania, Mr. WELDON, the gentleman from Ohio, my colleague from Columbus, Mr. KASICH, and Mr. GEREN from Texas who stayed all night in Kuwait, and even got a more vivid or more realistic view of what went on in Kuwait than perhaps some of the rest of us did.

But we were a little late in getting out of the House session on that night because I had to manage the bill on the Resolution Trust Corporation, and fortunately for us the Ambassador held up the flight almost an hour, which indicates the importance to this Member that the Ambassador held for Members of Congress being on that First Freedom Flight.

When we arrived in Bahrain on Thursday night, I will take a little different approach here for a minute, I made arrangements to have dinner with John Hall, who is the chairman of the board of Ashland Oil. I wanted to talk to John Hall because Ashland has a big presence in my district with their Ashland Chemical Plant. I also had dinner with Jack Murphy, the chairman of the board of Dresser Industries. Dresser has a big interest and presence in central Ohio. They have an office in Columbus, in my district, and several years ago they bought Jeffrey Manufacturing Co. And I am sure Dresser Industries is going to be directly involved in the rebuilding of Kuwait, and that is the point I want to make here. We did go over with a lot of businessmen whose expertise and experience and background are certainly going to be needed in the rebuilding of Kuwait, and lord knows Kuwait needs rebuilding.

Also at that dinner was the chairman of the board of the largest waste management corporation in the world, Mr. Dean Buntrock, and it was most appropriate that he be invited on the trip because Kuwait has a monumental waste management problem right now.

I also spoke with Mr. Bill Agee, the chairman of Morris Knudson, and John Harbert IV of Harbert Corp. All are going to be involved I think in some way in the rebuilding of Kuwait.

The discussions at the dinner with these important businessmen as to why they were there and what they hoped to be doing was most interesting, fascinating, and informative to this Member.

I might say that evening I had a little happy moment, too. I met Lt. Sandra Even who is a constituent of mine and lives about a mile from where I live in Worthington, OH. She brought some of her Air Force buddies over, and they were absolutely thrilled and pleased that American Congressmen were there to see what was going on, and she said it was most, most exciting indeed for us to be there. So I thought for that reason also it was good that we were there.

Much mention has been made of the 600 oil wells that were on fire, and Mr. COX said it was like Dante's Inferno. I mentioned that at the time I imagined what it might have been like, and what I read as a youngster in school. I remember reading a book at an early age, and others may have mentioned this, but sometimes I believe it is important to repeat because I think others would have a hard time believing what we really saw unless we reaffirmed each other's view of what we saw there. It would be hard to imagine, for example, without seeing it, flames shooting up in the air five and six stories high all over the place, the awful stench and oiliness of the air that goes with this nightmare. Really, it is so unimaginable that you have to see it to believe it.

Kuwait is losing about 6 million barrels of oil a day as a result of this catastrophe, which is almost the total production in the United States in the lower 48 we were told. Experts are talking in terms of up to 2 years before anything resembling normalcy can be achieved.

Oil was blowing out on the ground, as someone else mentioned I think, and we had to go through a lake of oil on the road to get to our destination, just unbelievable.

I think someone mentioned the fact that as we were going into Kuwait on the Kuwaiti Airline 747, the pilot came on and said the air traffic control system was out and that he was going to have to try to find a runway. At that point in time, we went into a very thick cloud, if you will remember.

Mr. WELDON. A cloud of smoke, I believe it was, and we could not even see the ground.

Mr. WYLIE. You could not see anything, you could not see 6 inches out the window at that point in time. It was like midnight, it was like the worst midnight that I have ever seen. There was absolutely no light out the window, absolute jet black darkness.

Mr. WELDON. The Ambassador almost called the flight off at that point in time.

Mr. WYLIE. I know he did.

THE FIRST FREEDOM FLIGHT TO KUWAIT

The SPEAKER pro tempore (Mr. PARKER). Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 60 minutes.

Mr. DORNAN of California. Mr. Speaker, I yield to the gentleman from Ohio [Mr. WYLIE] and the gentleman from Pennsylvania [Mr. WELDON] to continue their discussion.

Mr. WYLIE. As I was saying, but fortunately for us and for the pilot, I guess, at that point in time we were landing, and the first thing we saw on the ground was the runway, and he was right on line. Obviously he had been there many times before.

Another point that I think needs to be made and reemphasized and reemphasized is when we went out to see these oil wells, we were issued surgical masks because of the acrid smell and the fumes which irritated our eyes and nose and throat, and I could not help but be concerned about the long-term effects on the people in that area. We were told that most of the people in the immediate area had been moved out.

□ 2000

But on days when the wind changed, this awful acrid smoke went over the city of Kuwait, and I cannot help but imagine that it will have a long-term health effect on those people living there, and that we are going to have a monumental health problem on our hands.

I think that is a good enough reason for us to try to speed up the process of putting these oil well fires out to try to help these people cope with the long-term possible health effects it is going to have on them and the environmental damage that is obviously taking place. Maybe we can get some people who are concerned with environmental protection to help in this regard.

Mr. WELDON. Mr. Speaker, the gentleman might note for the record that the fields we visited were the Burgan fields at Ahmedi. That was the specific location of where we were, just for the record, so that we have that additional documentation there.

Mr. WYLIE. The gentleman is correct, and we do want to have that available for everybody to see.

I think that it bears repetition that we also went through torture chambers. I was there. I went through the torture chambers and saw some of the instruments of torture which have been so vividly described by our friend, the gentleman from California, and it really takes a sick mind to think up some of these instruments of torture that we saw.

We saw the pictures of the Kuwaitis who had been tortured taken by a Kuwaiti citizen who worked at the morgue as the gentleman mentioned a little earlier. He took the pictures at the danger of his own life actually and brought them out and depicted a horror story one would not believe.

Mr. WELDON. Dr. Hamadi.

Mr. WYLIE. Dr. Hamadi, that is right.

I thought at the time if the Iraqis had spent as much time thinking about ways that they could better fight the war than they did developing these instruments of torture they might have done a better job of fighting the war, but in any event, it depicts the sick mind of the people who thought up these instruments of torture.

I am very apprehensive that there were a lot of people who had to carry these tortures out, a lot of Iraqi soldiers, and what has happened in that nation which has created this kind of an atmosphere where you have many, many people who are living in a country who would inflict this kind of inhumane torture on other human beings.

Well, as we left the torture chambers, as the gentleman mentioned, we saw the huge sandbox layout which was quite dramatic of Saddam's war plan. One can see how completely wrong he was. He was outfoxed by General Schwarzkopf and American fighting men and women.

Then after that we went on through the city, and as the gentleman from California mentioned a little earlier, in an act of final evil, in a final act of evil, I guess is a better way to describe it, we could see the giant holes in the buildings which were put there by artillery shells for no reason, for no apparent reason. I mean, they were leaving town or trying to leave town in their vehicles, but in any event, I thought to myself, "What kind of a man could have the kind of a mentality and what kind of people live in a country where such inhumane treatment is practiced?"

After the meeting there, I went back that night, and the next morning I talked to some other businessmen. I was able to talk to some Kuwaiti citizens firsthand when we visited Kuwait, but I was able to talk to some Kuwaiti citizens at the Kuwaiti Embassy in Bahrain.

I went to the Kuwaiti Embassy in Bahrain to get a Kuwaiti flag, because my granddaughters wanted to be able to take a Kuwaiti flag to school and share it with their fellow students. I was not able to get one when I was in Kuwait, but when I went there to get a Kuwaiti flag for my granddaughters and was identified as an American Congressman, and the place was heavily guarded, but almost immediately, people came around me, and as some of the rest of the Members have said, "God bless George Bush. God bless Americans." They took me inside the Kuwaiti Embassy in Bahrain and there showed me where I could go and get a flag. I offered to pay for it. They kept saying, "Thank Bush. Thank Bush." And they gave me the Kuwaiti flag and asked me if I certainly would take that back to the United States and brag about it and share it with my granddaughters, which I did, of course. They took it to the school and shared it.

But on another point that I wanted to make, as far as the businessmen being there, they had a legitimate concern. Their way was funded by the Kuwaiti Government.

There was some question as to whether the trip for American Congressmen could be funded by the Kuwaiti Government, and I guess there is a rule against that, that a foreign government cannot fund a trip for Members of Congress, so the Fluor Daniel Corp. funded our way. Someone suggested to me that that might be a conflict of interest, and I cannot see where there is any conflict of interest.

How could there possibly be a conflict of interest? We were all there for the same purpose. I mean, we could be a member of the chamber of commerce for American businessmen. And it seems to me, are we not there to try to help American businessmen get some business?

Mr. WELDON. If I am not mistaken, the ethics committee ranking member and chairman both ruled on that before we left and said that the arrangement was, in fact, totally within the guidelines of the ethics act.

Mr. WYLIE. I appreciate the gentleman's contribution in that regard. But the point I wanted to make is: I do not know how the issue could have come up in the first place.

I talked with some Kuwaiti businessmen and some people from Saudi Arabia. I talked to a gentleman who was the chairman of the board of trustees of American University in Beirut, Lebanon, before that fine university was destroyed, and I might say that Manama, the island or the State of Bahrain, is now the banking center of the world in that particular area of the world, I should say, in the Mideast, having replaced Beirut, Lebanon.

But these businessmen were saying that American businessmen are needed to help put this country back together. The Kuwait businessmen that I talked to said, "We do not want grants. We do not want handouts from Americans. We have plenty of financial resources. We might need a little temporary credit," but I also found out that there was a huge Kuwaiti bank in Bahrain which had an enormous amount of assets. I was told that they have assets probably in the neighborhood of $100 billion.

Mr. Robert Mosbacher, I think we should say, the Secretary of Commerce, was also on this trip, and he actually led the delegation for the United States. He was around at various meetings, too, with all of us, and attended and spoke to business leaders in the Arab community as well as business leaders of the United States and gave us information which can be provided to businessmen in the United States as to how they can better put themselves in juxtaposition to try to get some business from that part of the world.

I think it behooves us to try to do something in that regard, too.

But I talked to some Arabs who were about to celebrate Ramadan the next day, which was a Sunday, and they could not understand how a Saddam Hussein could have been created. I mean, they talked to me about it; one of them said he was to be a celebrant the next day, and he indicated that actually their religious upbringing is not too far different from ours, that they believe in the Golden Rule, do unto other as you would have others do unto you, provide for the poor. He said that most people in the Arab world have an underlying belief in a Supreme Deity, and that what happened in Iraq with Saddam Hussein is a aberration. I certainly hope so.

But I think the opportunities for America to intervene to provide stability and lasting peace in that part of the world cannot be overstated. I think we do need to thank President Bush again, thank Dick Cheney, thank Colin Powell, thank General Schwarzkopf and all of our fighting men and women for what they have done to make America a respected country all over the world again and especially in the Middle East.

Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. WELDON. If the gentleman will yield further, I thank the gentleman for those excellent comments and his insights and leadership as a senior member of the congressional delegation and also his insights as the ranking member on the very important Committee on Banking, Finance and Urban Affairs and his role that he played especially in terms of interacting with the corporate leadership that was a part of this delegation.

I am sure the Kuwaitis will benefit substantially from his insights, as will American corporations.

I would just like to reiterate two other objectives that I see for us still on the horizon before I turn it over to my good friend and colleague, the gentleman from California [Mr. DORNAN], things that I think we have to pursue.

I mentioned at the outset of this special order that I had five specific objectives that I went to Kuwait, in the 2 days that I was planning to stay in Kuwait City, which I had arranged prior to leaving America, with the ambassador, and I was able to accomplish all five of those objectives dealing with human rights, and as the chairman of the Kuwaiti task force, Armed Services assessment, as a member of the Committee on Armed Services; the issue of American jobs and small businesses getting a piece of the action which we were able to negotiate with the ambassador, the specific insights of the Kuwaiti citizens and the leaders of the opposition inside of Kuwait that we were able to gain from the attendance at the four gatherings that we were able to set up, especially in terms of listening to the former members of the senate, the Parliament, as well as the foreign ministers and the citizens who want more of a say in their government.

□ 2010

The fact that we have to recognize that, and that we have to in our interactions with the Ambassador and with the al-Sabah family, continue to work with them in their pledge to reinstate the parliament and fully implement the constitution.

The fifth objective being that the response requested by me, by the National Fire Protection Association as the chairman of the Congressional Fire Caucus, to provide assistance from American interests, nonprofit, and corporations, to get in and assist Kuwait in dealing with these terrible fires in the oilfields, and then in the rebuilding of Kuwait from an emergency response standpoint. Two additional things that I think we have to look upon now that are personal feelings of my own, one is that we have to bring the documentation to the forefront of this institution, to pursue an international tribunal that will hold Hussein accountable for the war crimes that he committed. Even some of our POW's that are now telling their stories are talking to the world about some of the very devices that we saw in the facility inside of Kuwait City, the same techniques and devices that were used on Kuwaiti citizens were, in fact, used on American pilots, that became POW's and were under the control of the Iraqi military.

We have to hold Hussein and his military leadership accountable for these atrocities, and even if we have to try him in absentia, it is important that we do that. We did it in the past following World War II in the case of two Nazi leaders, and I think it is imperative that we proceed along this same line in terms of Saddam Hussein.

The second idea that I will pursue with my colleagues is trying to discuss the possibility of maintaining a multinational force and a presence in southern Iraq, much the way we have it there now, to allow the Iraqi oil to be extracted from the oilfields that border Kuwait, to sell off that oil, and to use the proceeds from the sale of Iraqi oil to pay the reparations to the affected countries, especially Kuwait, and to pay pack those nations, primarily America, that spent so much of our resources in going in to liberate Kuwait.

Third, to provide a limited amount of funding to the Iraqi Government to be used for quality-of-life concerns and issues, but not to be used for the Iraqi military machine. I think that is a legitimate request to make. I think the American people would support that kind of initiative. I ask my colleagues to consider that, as we move forward in the rebuilding and the restructuring of Kuwait as an independent and sovereign nation.

Mr. DORNAN of California. As we normally say here, reclaiming my time, before I yield to another distinguished Ohioan who was on the trip with other Members, Mr. OXLEY, and then somebody that should have been with the Members, and wanted to, but he had already committed to something else, another gentleman from Ohio [Mr. MCEWEN], I hope that people enjoy my special orders as much as I enjoy the gentleman from Ohio, Mr. MCEWEN's. We have done a few together, and I look forward to his contribution. I know the first time there is another trip going over there, and I intend to go back, I tell my liberal friends in the news media now. Again, this is not some vacation place in Tahiti or the Hawaiian islands or the Caribbean, not a London-Paris-Rome. This is a hellhole on earth, like Managua or Hanoi. Some Members go to ugly places in the world, around the world, to try to alleviate a little of man's inhumanity to man.

Again, I am thinking about this little weight immature AP reporter, the male reporter, who tried to make light of a deadly serious trip, and how he could do that, standing himself in the midst of this worst ecological nightmare I guess since a meteor or volcanic eruptions or other unknown catastrophe drove the planet Earth's largest mammals from the scene, dinosaurs, 60 million years ago. I don't know of any other ecological nightmare to equal the pollution of the gulf, and 580 burning oil wells, as we speak, polluting the environment.

First I want to start with somebody who also had his problems with liberal press, the greatest Western politician of my lifetime, Winston Churchill. On February 3, 1943, and I meant to read this on that very date, and other aspects of the desert war were pressing in, I neglected to. Churchill, 48 years ago last month, spoke to his desert army, and the words he spoke are so appropos, perfectly applied to what we all are trying to say to our young men and women and their great officers and leaders over there, that all I have to do is change two or three words, and I will put them in as little addendums as I read this. This is Winston Churchill at Tripoli on the Libyan coast, speaking to the great British 8th Army, and, of course, it also applied to Generals Patton and Bradley and all the men that had fought at the Catherine Path landing on November 9, 1942, in Operation Torch, and joining up as the British under Montgomery and formerly the Eighth Army under Alexander, had driven from the actual border of Egypt at Al Alamein to the tremendous victory: When we push the Germans up through Tunisia and off Cape Bond and Basirti, back to Sicily and Italy where General Patton was to land July 10th, 5 months after this, and within a matter of weeks take Sicily and move on to Italy, here is what Churchill says on February 3, 1943: "The days of your victories are by no means at an end, and with forces which march from different quarters"—that's us—"we may hope to achieve the final destruction or expulsion from the shores of Africa"—Kuwait—"every armed German or Italian"—Iraqi. "You must have felt relief when after those many miles of desert you came once more into a green land with trees and grass"—for our American forces that means home, USA—"and I do not think you will ever lose that advantage. As you go forward, on further missions, that will fall to your lot, you will fight in countries which will present undoubtedly serious tactical difficulties, but which nonetheless not have the grim character of desert war which you have come now to endure and how to overcome"—our victory here, my footnote, was so swift, maybe we won't have to do this again, although there are severe killings in northern Iraq, the Kurds claiming they have taken the largest northern oil area in Iraq, and the Shiite Moslems claim they have taken two medium-size cities just south of Baghdad, in middle Iraq, as we speak, and the napalming and helicopter gunship attack, Soviet supplied, are tearing up people still around the Basra area. Here is the part I really treasure, in Churchill's words: "Let me assure you, soldiers and airmen"—and I add sailors of the gulf—"that you fellow countrymen regard your joint work with admiration and gratitude, and that after the war when a man is asked what he did, it will be quite sufficient for him to say, 'I flew, I sailed, I marched and fought with the desert army.'" Our troops will say, "I was part of Desert Shield and then Desert Storm."

"And when history is written and all the facts are known, your feats will gleam and glow and will be a source of song and story long after we who are gathered here have passed away."

When history looks at the debate of the Congress of the United States on January 10, 11, and 12, or reads the RECORD of that momentous debate, I wonder if they will think that it would have been immoral if the Congress of the United States had failed our President, failed the men and women on the battlefront of Desert Shield, and had voted to the left, to the liberal left, far left of the United Nations.

□ 2020

What kind of a situation would we be in now with this man who was passing orders to the south, Saddam Hussein, to continue raping Kuwaiti women and to start killing every male that they could see.

The night we came back from the destroyed and devastated Iraqi countryside and the city of Kuwait, I noticed two young men in the lobby. I was with the gentleman from Rhode Island [Mr. MACHTLEY] at the time and one of our colleagues from across the aisle, the gentleman from Ohio [Mr. LUKEN], and I said, "are you gentlemen Bahraini or Kuwaiti?"

They said, "We are Kuwaiti."

"What are your names?"

Common names. They were Ali and Musab.

I said, "I have a feeling you were in the country the whole 7 months."

They said, "We were."

I said, "Every month must have seemed like a year."

"Precisely," Ali said, "7 years of hell and every night with every corner we turned, we thought it might be the end of our lives, so many of our friends were picked up and are now missing or their tortured dumped bodies were found," not by the way the miraculous way that one of the Kuwaiti doctors had saved the tortured remains of a hundred or so people in the main city hospital morgue. The Iraqi torture masters never dreamed that anybody would want to save the wretched human remains of their victims in a refrigerated drawer somewhere to be brought out and photographed for the whole world to see.

I looked at Musab, he is about 6 foot 2 and very powerfully built, and I said, "Would you travel around with your friend here?"

"Never. The only time I would go outside was with my mother or his mother or our children, younger brothers and sisters. They would be merciful if it was a family unit. Never would we travel with one another at night."

Musab said, "I had a motorcycle. They coveted that motorcycle of mine. Every corner I turned I expected to hear a rifle shot and feel myself killed, knocked off my motorcycle."

They said, "It was terror, but we recognize you and other Congressmen from CNN."

Now, this adds a dimension to this modern world that is unbelievable, out there on the highway to hell, what I call Looters' Ridge, a lawyer, a Kuwaiti lawyer comes up to me and said, "I know you. I know you from television."

I said, "Where were you, down in Bahrain watching CNN or C-SPAN or something?"

"No," he said, "Mr. Congressman," he said, "I watched you for 7 months in the apartments where we would keep some of the dishes hidden on the roofs. They tried to confiscate or destroy one of them."

And as a matter of fact, we go around and see the posts where the Iraqi conquerors had torn off the satellite so they could not communicate with the rest of the world.

He said, "I saw you on the House floor." I could not get my time until about 2 o'clock in the morning, but that is pretty good time over there in the gulf. It is 10 o'clock in the morning.

"No," he said, "I saw you pleading for my country to help us." His name was—not hard to remember, Nader, as in Ralph Nader.

Nader says, "I watched you all the time. I thank all your collegues that we watched for fighting for my country. Where would we be if it were not for President Bush?"

In the Rayburn Room over here on Monday, Mr. Speaker, I told the President of the United States, the Commander in Chief of Desert Shield and Desert Storm, President George Bush, I said, "Mr. President, do you know what the main streets in Kuwait are called? As in Jerusalem, the way they have named the gates, Damascus Gate, Joppa Gate, they have named their cities, Monama Gate from Bahrain, Cairo Gate, Damascus Gate, Amman Street—I mean streets.

And I said, "Do you know what Baghdad Street has been renamed?"

He said, "What is it now?"

I said, "Bush Boulevard."

The President's response was, "Go on."

I said, "No, Mr. President, Bush Boulevard, and I quite seriously beg you to go and visit Kuwait City before the beginning of reconstruction takes place."

And I do not think it is wrong to say hopefully with American dollars from the same families that put their sons and daughters over there to free this country.

I said, "You must go see the oil fields."

As I said earlier, incapable is the normal human being of describing this hellish nightmare from Dante's Inferno and the torture chambers and the road of looters' destruction going out of the city to show vividly the rape of this country.

I said, "Your conviction will never falter. You have known you were right. You have been decisive from day one, but if you want to reinforce it, burn it into your brain, go and see this, Mr. President, before it changes."

Mr. Speaker, I yield to my friend, the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, I thank the gentleman from California for yielding to me and thank him for his leadership in this trip.

I think all of us share a common bond now, having made that trip, to have seen what we saw.

I was particularly interested in the comments about the oil fields. I know my colleague, the gentleman from Pennsylvania, earlier mentioned it, as well as described it as Dante's Inferno, and clearly it was.

It occurred to me that one of the potential loopholes in the Geneva Convention is very little, if any, mention of ecological terrorism. This is really the first time when you think of it that you have had a concerted effort by a country against another country to despoil its own environment, essentially to eliminate that country's wealth and to poison the atmosphere, first with the dumping of oil into the Persian Gulf and then, of course, when they were ready to leave the igniting of over 600 wells. We saw that for ourselves, and it occurred to me that it would be a good idea if the Geneva Convention were to reconvene to take a look at what has developed in these last few weeks and the environmental damage that is not just to Kuwait, not just to the Middle East, but is indeed an environmental crime against all of us as citizens of this globe.

It seems to me that one of the areas that the Geneva Convention can be strengthened is to provide for the kind of outlawing of this activity in the future.

I do not think any thinking person, and obviously we had some very brilliant people working on the Geneva Convention in the past at the times that they have come together, but I do not think even those brilliant people could have envisioned the kind of destruction, the kind of environmental disaster, the kind of environmental terrorism that was wrought on the people of Kuwait in that region. It is just unbelievable, unforgivable, and something that all of us will carry with us for a long, long time.

I hope that when the Geneva Convention does reconvene that our country takes the lead in providing the kind of impetus toward that end. I think it will hopefully deter that kind of thing in the future.

Mr. DORNAN of California. Will the gentleman hold for just one second. I have got an Ohio front in front of me. I have a line from WYLIE to OXLEY to MCEWEN.

The gentleman from Ohio [Mr. MCEWEN] has to go in just a second. I did not realize that. He was walking out the door. Let me catch him before he escapes and get his contribution.

One of the sad things about the trip is that I did not have the gentleman with me, as we will be witnessing the scene in Yugoslavia and Albania over the weekend.

Yes, Liberal Press, I am prattling again. You can find out what I am going to do and listen to my special orders when I get back.

Mr. Speaker, I yield to the gentleman from Ohio [Mr. MCEWEN].

Mr. MCEWEN. Mr. Speaker, I thank the gentleman and I appreciate very much what my colleague, the gentleman from Ohio [Mr. OXLEY] was saying. The gentleman can proceed. I can wait for his contribution. Having been there and having seen it, I am appreciating this time, and please proceed.

Mr. OXLEY. Mr. Speaker, I thank the gentleman.

I guess the point that I would like to make, I sit on the Energy and Commerce Committee. One of the things that I wanted to get in my mind was exactly the extent of the damage over there in the oil fields. They are losing 6 million barrels a day over there with the fires in the oil wells.

Mr. DORNAN of California. They were producing under normal times 2 million barrels.

Mr. OXLEY. Yes.

Mr. DORNAN of California. So they are losing triple what they were trying to take out.

Explain a little bit, too, what our Democratic colleague from Fort Worth, an oil man, knowledgeable on this, about how when that much oil comes out so quickly how it can collapse or damage a field.

Mr. OXLEY. Well, it is important because the threat, obviously, is because of the huge fires, because of that pressure that you are getting now, the potential for brine to come in to mix with the oil and in fact to render that oil field inoperable, even if they are able to put out the fires. A lot of people think that just simply by putting out the fires they can restore the oil fields. Most of the experts over there told us that if they were to put out those fires tomorrow that those fields would have to sit a minimum of 6 months before they could produce the first drop of oil.

It was also interesting because this was not just one of those things that some of the soldiers in Kuwait thought up.

□ 2030

There was clearly a planned effort on the part of Saddam Hussein sending some of his experts in the oil business down to Kuwait to instruct the army down there as to exactly where to put those charges so it would not only ignite the well but would in fact destroy the wellhead and essentially leave nothing but an open pipe gushing oil.

Mr. DORNAN of California. If the gentleman would permit, I would like to relate what their engineer—same name as the younger Kuwaiti man I met in the hotel with Mr. MACHTLEY that night, his name was Mushab, and he said, "U.S.A. with an M at the front and a B at the end."

Well, Mushab said to us that these Iraqi engineers who came down there destroyed the wells in such a way that they are not easily capped. In other words, it was to defy the skill of a Red Adair, who was one of the companies that are going to go over there and survey this damage. He also said that at one point the Iraqi people they were ordering at gunpoint to assist them, and children, went back and defused all of the dynamite devices but left them there to make it look like they were ready to go. They caught it, unfortunately, and made them go back and rewire them. However, there was one source that they are going to use now that goes out to the sea, near the source going out to Sea Island, that they did not know about. It was a contingency for a minor little emergency, and that escaped their attention, the attention of the Iraqi destroyers, or the whole field would be utterly destroyed like the Burdan field.

They took us by the manifolds where F-16F's out of Lakenheath, England, same ones that caught Kadafi's attention and put him off the world scene as a major terrorist, they went in and destroyed these manifolds because they said if they had not done that, the whole area, the northern area of the Arabian or Persian Gulf would be absolutely even more of an ecological nightmare than it is right now.

Mr. OXLEY. I just think that that message clearly has to go out. There are people who find it hard to believe the kind of destruction that has gone on. Perhaps our visit and the media being with us, really showing that and us talking about it, will give people a better understanding of exactly how bad it really was.

I must admit that I have never seen anything like this before.

General Haig, who was with us, who has seen four wars, who was commander, Supreme Allied Powers in Europe, said he never had seen anything like that before. I think that message now is starting to get across.

If there is any justice in this world, someone is going to have to pay for that kind of barbarity throughout Kuwait.

Mr. DORNAN of California. They may be paying reparations. I noticed the Washington Times has a front-page second-section article on "The Nightmare of Versailles," where we broke Germany's back trying to make them pay reparations, which just hardened their will and they came right back for part 2 of the World War within less than a quarter of a century. But certainly there has got to be a way. You know, we spared their ministry of petroleum building up there in Baghdad, a 15-story jackpot Christmas turkey target, and we let it go because out of that building will be managed the reparations, and, hopefully, skillfully. The amazing thing is, since they were giving a third of the sweat off the brow of the Iraqi people to armaments, if we gave 10 percent to the coalition forces to reimburse their expenses and 10 percent to Kuwait, a future Iraqi oil product, the second oil producer in the world, and 10 percent back to the people of the third that they were giving to armaments, they would still be a third off in Iraq better than they are. It is just the politics of envy and greed over there, they are going to have to subside because they are not going to look like Saudi Arabia for the rest of this century and another decade to come; and they are not going to look like a rebuilt Kuwait in 5 years or even Bahrain or the Emirates. They are not even going to look like Iran, because Iran, as it rebuilds, is rebuilding for all of its own self-inflicted wounds from Iraqi terror inflicted upon them on September 22 of 1980, which turned their borders into a killing field for 8 years.

So Iraq is going to have to, unfortunately, stay a Third World nation now, which he has reduced it to for the next 20 years, but they are still going to be better off than they were under him and their young men will not be dying at the same rate.

Mr. OXLEY. Exactly. And the tragedy is that the Iraqi people, in many cases, had to suffer those indignities. The failure of leadership that could have brought them to the kind of wealth and the kind of well-being that many of those countries have enjoyed. The gentleman is absolutely right, it is the politics of envy and greed writ large in this whole context. And it is difficult to understand the cruelty. You hear about the Arab unity and the Arab brotherhood, and then you see what one Arab country and one Arab people did to another. It just shakes you to the very foundation to think what happened over there.

So I appreciate the gentleman taking the time tonight to discuss this. Clearly, the memories of what we saw over there will linger for a long, long time, and it is going to linger a long, long time in America's memory as well.

If we can make something out of this, if we can get that message across of "never again," perhaps the work will not have been in vain.

I suggest that we continue that fight. I thank the gentleman for yielding to me.

I know my friend, the gentleman from Ohio, also has some remarks. We are all so sorry that he was unable to join us because of a previous commitment. I know his commitment has been a strong one. We are very proud, by the way, of our delegation from Ohio which participated and have made this a very, very major issue in our home State. We are very proud of that. I thank the gentleman.

Mr. DORNAN of California. I know that you all got positive coverage. I must admit I envy you because we all have to take the areas in which we grow up or our parents moved us to, just take it and do the best you can.

Before I yield to the gentleman from Ohio [Mr. McEwen], let me tell the people two things that are right in my office and I'll bet, right in your office. I say: How can we get an early history of the war? How can we understand something about this equipment that obviously most newspeople did not educate themselves about, our various air, naval, land assets, or however we were training? Just as an opening—and I have no stock in McGraw-Hill, who owns Aviation Week and Space Technology. Most Congressmen get this in their offices. But if somebody wants to get an initial reading on what transpired over the last 7 weeks, if you write to Aviation Week and Space Technology, they are going to be continuing a series over the next few months, and if you subscribe, I am sure they will send you the last few months and post-date your subscription. They are probably going to come out, as is always their wont, with some excellent monographs where they put together all of their key articles. But this is why I was not shocked at the speed of the land war and why I was not shocked—I had no greater insight from the Armed Services Committee than I could have gotten by subscribing to Aviation Week and Space Technology. I did not learn anything on the Intelligence Committee to cause me to say on the eve of the war that if their knights, their educated, their best, their highest-skilled technological warriors, fighter pilots, if they all flee like cowards to the north, and then when we bring our units from the U.S. Air Force in Europe and pound them, that it would cause them all to flee to Iran, if their fighter pilots would flee, the knights of the sky, why did we believe their army was anything but hollow and hammered unmercifully and that we would blow right through them?

It was the mysterious fact to me through all of this to know that Saddam Hussein was not the cunning, clever desert fox, the expert at chess and brinksmanship who was going to take us right up to the U.N. vote and then cave, going to take us right up to the Bush line in the desert on January 15 and then cave, who was maybe going to wait a few hours, claim victory and then cave, or after the land war started would cave. Maybe he thought the Soviets would bail him out.

But here is one other series I recommend. I feel sorry for the rest of America. They do not have a paper like this excellent Washington Times that Arnaud de Borchgrave is the quarterback of.

This Washington Times newspaper, one of our two local newspapers, has been running something called Desert Hall of Shame, by one of their critics, Don Kowet. And to show the utter class of the Washington Times, they even did not edit out Don Kowet making the Washington Times the subject of some very interesting quotes as the Hall of Shame goes on day after day. Here is my good conservative friend Joe Sobran, my good conservative-liberal or liberal-conservative or moderate Democrat Mark Shields in the Hall of Shame. Here is Barbara Reynolds, unbelievable quotes in the Hall of Shame. This has been going on for 2 weeks. I am going to put these all in the Congressional Record next week if I can get Arnaud de Borchgrave to get them all together for me.

Here is one of the most respected liberal Senators by the liberal media, the New York Times. Listen to this quote. After a series of 10 or 12 quotes, he ends with, in italics, "And the envelope, please. Today's prizewinning Hall of Shame remark." Then he always characterizes them with a little paragraph opening, and this one is called "Nasty, nasty." Here is the quote, the New York Senator: "Nothing large happened. That nasty little country invaded a littler, but just as nasty, country." That was my good friend Daniel Patrick Moynihan, "Nothing happened." All this ecological nightmare, these torture chambers, the death, destruction, the rape that went on there.

□ 2040

It is just one nasty country attacking another nasty country.

Here is today's Hall of Shame: Barbara Boxer and Paul Wellstone. I will let the Senate take care of their own freshman Member and all of his brilliant pre-Desert Shield, and then pre-Desert Storm, remarks. But listen to this. Here are three quotes from my colleague. I hope to engage her in a dialog in the well here. This is January 10, the opening day of the 3-day debate where we could have dropped the ball miserably. The gentlewoman from California [Mrs. BOXER], my colleague and pal:

> What will the casualties be? Civilian? Military? I got some answers from the Israeli intelligence people, who, putting together what they thought could happen in the very-best-case scenario, a two-week war where everything goes right—

And it is this:

> said that we would have about 15,000 American casualties, about 3,000 or 4,000 dead, the rest wounded. That is the best-case scenario."

This is the best-case scenario said Congresswoman BOXER on the 10th. Then later on on the same day she says,

> I had a community meeting in my district. I had two in one day. A thousand people came out. I have never seen anything like it. We voted. The vote was on how they would vote on a resolution to go to war, and 95 percent voted "no." That is my district in California.

Mr. Speaker, I am glad that it is not my district in California, and here is the next day. She got the floor again. Don Choate titles it "raping the truth."

> A woman from Kuwait was in the audience, and she was very effective. She stood up and said, "America, you need to help us. We are already at war. We are a tiny country. You need to help us. Saddam Hussein and his people are hurting my people." She said, "They are raping our women."
>
> Then she sat down and a gentleman in my district stood up with a pain in his face and he said to her, "Ma'am, I feel in my heart for you, I hurt for you, but I want you to understand that people are being raped in this country every day, every hour and we don't have the resources to prevent it or to treat it or to stop it."
>
> Then the place was silent.

What? Is this the kind of American that travels, and, when he sees a rape in London, He goes, "Can't help you, lady. Got raped back in the United States." No, this is the kind of guy that is talking crocodile tears here, that, if he sees somebody being raped in his own district, he is the kind of person, like Kitty Genovese's starting this "I don't want to get involved generation" in America, March 26, 1964, when all the blinds went down as the raper killer sees this and goes back to murder Kitty Genovese who he had just raped and whose screams were not being listened to by anybody. Well, on this delegation we did hear the screams of Kuwait, and we went over there knowing we would.

On our trip was Ken Adelman.

I am going to start to back off here, but I do want to recommend People magazine; I guess it is last week, if you see it around or in the beauty parlor, I have never seen a better picture in any of the more serious news magazines of the Highway to Hell and Looters Ridge than this one in People magazine on March 18, page 41. Check that out, and then I wanted to read from Ken Adelman's column, who was with us, and ask my other friends to share in this special order, and I will wait for the special order of the gentleman from Ohio [Mr. WYLIE] to begin.

Ken Adelman in today's Washington Times—Ken used to be head of the Arms Control Agency, and he is now a nationally syndicated columnist, and he slaved over every word here as word masters will do, and I think it is worthy of being quoted in our special order. He says: "Dateline Kuwait City," so he must have written this just last weekend on the trip.

Ken says, "Seeing evil up close is a chilling yet engrossing experience. Something rivets, yet repulses.

"Coming here on the first 'Freedom Flight'—with top government, business and public policy leaders—opened a window on evil."

Now keep in mind, my colleagues, that "evil" is a word that most liberals reject. They say it is not a scientific word. It is a concept that involves transcendent values, moral, theological values. That is why all these rapists are running around this country loose, because liberals control the court system and the jurisprudence system of this country so long, and since they do not acknowledge evil, everybody is redeemable, and everything is putting killers back out on the street, and rapists, trying to find some good in them and not acknowledging that there is a force in this world called evil.

Ken Adelman continues, "We heard chilling tales of barbarism. We saw the shadows of a jeweled city and a pampered people"—because it had the highest standard of living in the world, traded back and forth with the emirates, Oman, and the Brunei, a little tiny piece of Borneo which also is small, an Islamic country, gifted with great natural resources and oil. I think they are No. 1 now, Brunei of Borneo, said, "This pampered people who, as if in some grade-B horror movie, were thrust into a sudden unimaginable calamity. We smelled the fumes of massive oil fires.

"Evil came first in the form of physical destruction. Kuwaiti streets are ghost-townish—'traffic is usually jammed this time of day,' one local said—and sidewalks void of strollers. Lacking electricity, water and basic services other than centrally distributed food, Kuwait feels dead. Most buildings stand, though many are said to have been ravaged within.

"Soon, we felt evil in the form of ecological devastation. As we drove to the oil fields on the city outskirts, a Kuwaiti engineer"—that is our new friend, Musab. He said, "I spent my whole life working to prevent one oil fire. We knew if one erupted, that would be an ecological disaster."

As we are gathered here, Mr. Speaker, there are still 580 burning, minus one that a brave sergeant went and turned off the valve with his bare hands. That may be the only one out of 580 that was so little destroyed you could do that.

He goes on to say, "The effect is scorching in all senses. 'We are talking about an unprecedented ecological catastrophe, the likes of which the world has never seen.'"

One cannot imagine seeing people with their car lights on at 11 o'clock in the morning when we first entered after we had flown through them and then entered a bright little bit of sunlight on top of the airport as we burst out of final with about 100 yards almost doing a go-around in this giant 747. We landed finally in sunshine, got in our cars and drove right back into this evil-looking cloud, a wall of black fumes.

"The burning oil creates darkness at noon. When the wind blows from the south, oil fumes turn the capital pitch black."

By the way, the day after we left they turned back on the capital. The few rain storms that they had have taken this once-white and shining city; I have been there twice in the last decade, and I was telling my colleagues that, when one looks at Bahrain, that is the way I remember Kuwait. But the black acid has now put smears of black in every hotel, every home, mostly white buildings. The whole city looks trashed and filthy because of this ecological nightmare.

"Still lacking electricity, its citizens need flashlights at 10 a.m."

The three Congressmen we left behind used flashlights to go into the Intercontinental Hotel and sleep in dirty beds with their clothes on, beds that have not been made up in 7 months, except for the few rooms the press used in the Intercontinental Hotel across the street from our Embassy.

"Breathing Kuwait's air is said to be as dangerous as smoking five packs of cigarettes a day."

Maybe Ken and I got a different briefing, but I heard it is like smoking 3 packs a day times 100. In other words, 300 packs a day, Who cares? Five packs a day will kill you.

"Respiratory ailments have risen."

I repeat: All of the Congressmen said to our host, "Get these children out of these little oil towns." They are all there with little American flags like this one that we brought with us and distributed to the children, and they had flags of their own. They are standing there waving the little flags, their eyes red with and choking on these acrid fumes. I hope they are all taken out of there and moved south to Saudi

Arabia to live in some of the tent cities that our military is going to leave behind so that their lives are not shortened and they do not all die of lung cancer 20 to 30 years from now. We know this war is still going to be killing people.

"Here they burn, more than 500 of them, creating a sight never seen on Earth before. Here burns 6 million barrels of oil a day, worth $120 million daily. When flying from Kuwait, passengers can spot from the plane window more than 100 oil field fires, each emitting reams of black smoke.

"Here they burn, set for no military, political or practical reason. Just out of pure spite. Symbols of evil."

□ 2050

Later we felt evil in the form of human annihilation. We toured a home used by Saddam's brother-in-law, that is Majid, the family name, Takriti is the city they come from, they use that as a family name too. Hussein Kamil Majid. He is chief of one of the four Iraqi intelligence units, and he used this place as his local headquarters.

On the basement floor, third floor down, was a huge strategic map of the front, ludicrously featuring children's Lego blocks to represent buildings in the city, some of them troops. He says paper arrows, and I picked one up, wooden arrows, that were to show the route of the expected marine amphibious landing. To represent sand was sand, blue sand was the sea, and so on. It was a very complex operation, as big as this whole well area here, with a grid of cord over it with each grid line intersecting about 6 inches above this sand and village, was 2 kilometers. Very complex thing.

Upstairs, two floors, echoing throughout this marble mansion, you could hear the screams of the tortured people as the generals are planning strategy. A phenomenal thing.

Let me skip forward here. It was all so wrong, our main thrust coming ashore. They did not figure out anything correctly, that we would not hit them with a marine frontal assault, that we would make the end-around that Schwarzkopf talked about. Just as primitive, though far more ludicrous, was the equipment upstairs, tools of human torture, what I mentioned earlier, irons, hotplates, carpenter's planes, screwdrivers, hammers, nails, mallets, springs, electrical devices of every kind. Incredible, simple devices which we see in everyday life, used for torture.

Why did this villain house his strategic headquarters and torture chamber in this same place? Why? Was the torture to amuse him in his spare moments? You know Majid went upstairs. This is the man that was given credit, quote-unquote, in Baghdad for breaking the backs, quite literally after what we saw, of the Iraqi resistance. It is unfathomable, the whole business. Gazing at photographs of torture victims, four big panels, with 50 first generation, I hope they are not destroyed, they are starting to curl up, Polaroid pictures of the mutilated corpses cleverly saved by the main mortician in the main hospital there in Kuwait City.

Looking at all these pictures was worse than the warnings we got on Ted Koppel's "Nightline" or CNN that if you have a weak stomach, do not look at this. They would show you two or three bodies. You would see picture after picture of people's eyes gouged out, ears cut off, noses broken and twisted, heads opened up with cleavers that we had just seen upstairs. Faces gone from acid, bodies burned with acid from the waist up, bodies destroyed with acid from the waist down. Corpse after corpse of people that had been living human beings, yes, in a rich city, high income, all of them just destroyed.

I remember one of the two Kuwaiti young men that worked in the resistance, one was 31, the other about 32, I don't remember if it was Ali or the big tough guy, that said one thing we didn't understand. We never knew they hated us so much. That is puncturing this myth of Arab brotherhood.

The Kuwaitis think, we are Kuwaitis, they are Iraqis. You know, if they did not make war on our Persian brothers, non-Arabs, but still Moslem brothers, across their northern border, at the north end of the gulf, if they did not make war on them, they have as much oil as we have, slightly more. Although they have got 17 million, 5 million Kurds, they are not trying to improve their standard of living, so it would have been 12 million, as opposed to about 12 million in Saudi Arabia, but they have twice as much oil.

But Kuwait and Iraq have about the same amount of oil. So, of course, 2 million people, half of them guest workers, are going to live better, than the 17 million in Iraq. But if they had not engaged in that 8-year horrible killing scheme of this man's ego, then they would look probably about the way Bahrain, Kuwait, the Emirates, or parts of Saudi Arabia look today.

So they squandered all of that. So why do they hate us so much, that they would rip our flesh apart like this?

Gazing at the photos of these tortured victims, Iraqi documents ordering torture preceded a presentation of the torture hardware in the upstairs chamber. We left the building feeling the same way as one feels leaving Auschwitz.

Obviously Ken Adelman and I had the same thought. That is what I said to some of my colleagues. Only at Auschwitz, and Birkenau, and the other five extermination camps, Sobibor, Treblinka, Belzec, Chelmno, Maidanek, only in Poland, and none of the instruments of torture, have survived but some of the whips in Dachau, maybe outside Munich, only there do you feel the enormity of this kind of evil.

Ken Adelman says we freedom fighters were then rejuvenated in a perverse, though satisfying way. We journey up to the highway U.S. Won. I had not heard that name before. Most of the Congressmen called it the Highway to Hell, which we heard our GI's calling it, or what I started to call Looters Ridge.

Chock-a-block were these wrecked vehicles, trucks and tanks, leaving out in bulldozers, small cars, big cars, wealthy cars, all stolen.

By the way, something in the 2 hours none of us have mentioned, but we are observed: We did not see one car starting from the airport, not a single car in the parking lots at the airport, damaged, undamaged, in showroom windows, in gutted showrooms later, on streets, parking lots, outside gutted hospitals, hotels, not a single car did I observe in over 5 hours that had its tires on it. Every single car had been jacked up, rocks put under the four hubs, and all the tires had been taken off.

There must be one whale of a used tire market in Baghdad right now. We ought to make every single prisoner that we have march north, pick up sets of four tires, and come back, and retire, which is a tough job, every single vehicle in this destroyed nation of Kuwait.

Ken Adelman continues, how joyful it was seeing justice done to those barbarians and looters.

Have you ever seen the results of lootings at a big flood in the center of our country, or an earthquake in California, or a natural disaster, a dam breaking, anywhere in their country, and mused to your self, God, if only we could have caught those rioters. Some we see on television, those looters, and still do not get them.

Here the looters got instant justice, courtesy of the U.S. Navy, Intruder A-6's at night, and then Marine Corps and Navy F-18's in the daytime, augmented by Air Force A-10's and F-16 Falcons, and not to leave out what we saw vividly on film the night before last, Army Apaches, and again Marine Cobra helicopter.

The looters were caught in the act, fleeing the scene of the crime with their booty all over their backs. Now it is blown all over Looters Ridge.

Overall, any visitor, and here is the best part and why I am reading Ken's article today.

Overall, any visitor must be reinforced by the justice of our cause, and especially by the morality of its timing. The slow pressure by sanctions approach seems downright immoral, as it would have allowed the lives of Saddam's kin, his brother-in-laws and his son-in-law, to continue using the torture hardware that we saw. It would have allowed yet more oil fields to be burned.

After all, they tried to torch all 900 that were in use and the 200 that are in reserve. They only got to 580 by the time they were driven out by the land part of the war. More Kuwaiti women to be raped, and, as our Ambassador pointed out with documents, Kuwaiti males were to be shot on sight, beginning around February 21, which is when they started torching the wells, which is when our dear buddy, Mr. Gorbachev, was trying to buy them time, and after an hour and 20 minutes on the phone, George Bush and Mikhail Gorbachev, my impression was that Bush said, well, thanks a lot, Gorby, here are your opinions, but we are going to take our own course here. We are going to liberate Kuwait.

The SPEAKER pro tempore (Mr. PARKER). The time of the gentleman from California [Mr. DORNAN] has expired.

THE FIRST FREEDOM FLIGHT INTO KUWAIT

The SPEAKER pro tempore. The gentleman from Ohio [Mr. WYLIE] is recognized for 60 minutes.

Mr. WYLIE. Mr. Speaker, I yield to the gentleman from California.

Mr. DORNAN of California. Mr. Speaker, three short little paragraphs, closing Ken Adelman's column. By the way, we also had Mort Zuckerman with us, the editor in chief of U.S. News & World Report. It is hard to believe it was only 10 months ago, June 4 issue, go get it in your library, Mr. Speaker and anybody that follows the proceedings on this floor, June 4, last year, 1990, U.S. News & World Report, Saddam's evil face, and it says the most dangerous man in the world. Less than 2 months later he hit this poor ravaged country of Kuwait, and I am going to put in the RECORD tomorrow Mort Zuckerman's excellent editorial at the close of the land war and why this was a moral imperative, that we liberate Kuwait. It was a real honor to be traveling around, watching Mort Zuckerman have all of his intellectual insights verified by the extension of our nerve endings in our sight and senses of smell and touch at what we were witnessing that he had written about so brilliantly.

Here is the last few paragraphs of Adelman.

□ 2100

> It would have allowed yet more oil fields to be burned. More Kuwaiti women to be raped. And, according to documents our ambassador has seen, Kuwaiti males were to be shot on sight beginning at the end of February.
>
> This the Kuwaitis keenly appreciate. While these onetime pampered people have been traumatized—with unknowable political and social consequences—they know their savior. Kuwait has become the most pro-American spot on Earth. "This is the only place where walls are filled with graffiti—all pro-Bush and pro-American." exclaimed U.S. Ambassador Edward "Skip" Gnehm.

A Kuwaiti young man in his early twenties I happened across first told his horror story. Then he said that, though lacking power, water, and food at home, he wanted most two items for his house—an American flag," preferably bigger than the one I hold, "and a photo of George Bush," to put on his wall. That's about the way the French people felt at the end of World War II and the way the Polish people wanted to feel until we wrote them off.

I hope that all of the Members of this Chamber, those that found it very difficult to vote for the war, and I think it is the most difficult vote anyone can make in their life, but to those who voted against the President on January 12, I hope they will be courageous enough to come down to the well. I am saying this for the third time now, and I repeat it quite sincerely and with deep affection, I will honor them for doing this, just come down and say you have studied the aftermath, as all of us are doing, and you look forward to duplicating the trip that 2 Democrats, 12 Republicans, and 17 Senators took this last week, and that you concede that sanctions would not have worked with this type of egomaniacal, psychopathic personality that Saddam Hussein is, still killing as we are gathered here today and tonight, and that we do not know what his final fate will be. But if there is a just God in heaven, he will be lucky if he gets blown away quickly and does not suffer the agonizing, incomprehensible end of the sheer pain and horror that all of these victims, many of them gentleman heroes of the resistance, and, yes, just innocent victims swept up in this Gestapo-like move, and having life tortured out of them because they were on the street at the wrong time, or as Ali Musab told us, turning the wrong corner, any day in their life they expected it to be their last day. Seven years of sheer hell is the 7 months that Ali told us they spent under this Gestapo type occupation.

I thank the gentleman from Ohio.

Mr. WYLIE. I thank the gentleman from California for his most significant contribution. I am fascinated by the gentleman's inimitable description of the events that took place over there and the way he expresses himself, which no doubt comes from his training as an actor in his earlier life.

I yield now to the gentleman from Rhode Island [Mr. MACHTLEY], who I am pleased to have been associated with on this trip.

Mr. MACHTLEY. I thank the gentleman for yielding. I want to commend him and the gentleman from California for his very articulate, very expressive, and I think very well documented speech here in the well. As I sat listening to his words and to the words of those who preceded him, and as I heard the very expressive and very thoughtful and very deep emotionally packed words of Ken Adelman, I thought to myself what could I share and lend to this discussion of the horrors and the environmental shock which I experienced as I went into Kuwait.

I think what I can lend to this is another voice. There may be those who watch this and say well, there is exaggeration. There may be those who say I do not believe one or two Congressmen. Somehow we have got to convey to the world that what took place in Kuwait was almost beyond man's ability to articulate.

As I arrived in Kuwait, I frankly thought that I would have the ability to analyze it in a dispassionate, objective, and unemotional context. But as we approached the city of Kuwait and we began to see the smoke, I began to realize that this was a much greater tragedy than I had comprehended by watching on our TV, and watching what had become almost a surreal world in a very faraway land.

When I got to the Bergen Fields, which have been described so eloquently and expressively by Congressman DORNAN, I found there what I consider to be the worst environmental terrorism and tragedy that the world has ever seen, 580-plus wells spewing into the air the remnants of 600 million barrels of oil a day. The first impact was why have not the environmental groups of this country and the world descended on Kuwait to express to the world what a tragedy this is, to get this cleaned up immediately.

I asked one of the engineers how long will it take with the current force and with the technology that you have on scene, how long will it take to stop these oil fires and to cap the pipes which have been severed at the surface. He told me he estimated a year to a year and a half, perhaps 2 years.

This crude oil being burnt. The sulfur content is enormous. The carcinogenic qualities of the air which is being constantly decimated by this smoke is going to have enormous consequences not just to the people in the small villages who are so unfortunate to be immediately adjacent to it, but to the world, and there are no cries from any groups. I ask as a member of many environmental groups where are they, and I hope that perhaps we can encourage them and others to rally, because we must stop this world pollution which this terrorist, Saddam Hussein, and his forces have caused.

It is not only a problem for their country. It is easy for us in the United States to see the pollution in some of our large cities and to equate what might be going on in the early morning hour pollution in Los Angeles or New

York, but that pales compared to this pollution. On the TV we see one or two or perhaps at most four of these fires, and I frankly thought they were all being filmed at night. But when we drove into Bergen Oil Field at 10:30 in the morning and we went from a sunny, blue sky into Dante's Inferno, I can only equate it with what nuclear winter might look like should we be so unfortunate to find ourselves with a nuclear conflict. It was the type of experience that one will never forget, and it is the type of experience that every Member of the House and everyone who is interested in the environment should experience. And it is the type of event in which we must ensure that the world understands and comprehends the enormous tragedy that will befall this world if we are not quick to respond to this environmental disaster.

We drove through pools of 8 inches of thick crude which had spewn out from some of the well fires which had gone out, hundreds of yards of this crude oil soaking into the sand, trying to return from whence it came. This is an enormous problem.

While we watch it on TV we do not taste the sulfur and we do not smell the oil and we do not feel the heat from the fires and see the black clouds everywhere, and look around us and see 580 wells, thousands of square yards of fires which are burning. We do not see and feel and taste and smell with all of our sensitivities, and that is why it is so important to go there. That is one of the reasons I was very happy to have been there.

From there, as was indicated, we went, and this was as a member of the Human Rights Caucus and one of the reasons that I wanted to go on this trip was to see, perhaps I was a doubting Thomas, but I wanted to see with my own eyes what was the extent and what were the stories of human rights violations and how were they conducted, and who was conducting this human rights violation campaign, and were they isolated acts or were they part of an overall scheme of those in power. Unfortunately, I must conclude, having talked to many individuals, civilians, children, ordinary Kuwaitis, that there was a scheme, a pattern, a plan to annihilate the entire Kuwaiti population, from killing every male after the February 21 date, to raping and pillaging the country, to removing all of the semblances of any civilization. It is difficult to believe how cruel man can be as we see some of the miracles of man's ingenuity, but we saw in Kuwait the very baseline, the desperateness, the cruelest, the most barbaric and the most brutal aspects of mankind in the form of human rights violations. And that is something that the world needs to hear about. That is something that the world needs to understand, and it is important that we speak about it and that we in fact lend credibility to that which we saw, because there are still those in this country and around the world who believe the Holocaust did not occur. There are still those who believe that the Jewish people were not persecuted. There are still those who believe that thousnds of people who died during that Holocaust, millions, 7 million people never died.

☐ 2110

We must ensure that the world understands that these sorts of events can continue and that we, as a country of moral muscle, have a fundamental obligation not just to protect our shores from incoming missiles but to ensure that we are providing a world which is free for young Kuwaitis and other citizens of the world to grow free from the tyranny and the torture and the human rights violations which we witnessed and those environmental shocks and human rights shocks which we observed which left an indelible impression on me, and I think all of the Members who attended and went to this brutalized country. It will have an indelible impact on how we view future conflicts, I am sure, and how this country views the justness of what we did.

It was, as we entered this well, a most difficult and agonizing, excruciatingly difficult decision as to how to proceed, but having gone there and having seen the enormousness of the human rights violations and the planned continuation of the annihilation of the Kuwaitis, certainly we have to come to the conclusion that the right steps were taken to avoid the senseless and needless killing and suffering of the Kuwaiti people.

So I come tonight to perhaps not share anything new than what has already been said but to lend additional credibility to what has been said and to impress upon those who might have doubts that, yes, human rights violations were prevalent and that the environmental terrorism was the worst that one can possibly imagine and continues today, and that we have a fundamental obligation not only to take care of the problems in Kuwait but to make sure that these problems do not occur now or in the future.

That certainly is a lesson that this world needs to understand.

I thank the gentleman from Ohio for yielding. I appreciate very much the opportunity to join him on the trip and to share with him these insights.

Mr. WYLIE. I thank the gentleman from Rhode Island for his very significant contribution. Very well done, sir.

The gentleman reemphasized the need to reduce the long-term health problems on the people and on the environmental damage which has taken place.

Mr. Speaker, I really think that we have made the point that we needed to make when we started these special orders. I would end with a hope for the future and, in that regard, we want to wish Secretary of State Jim Baker the best as he is conducting a series of talks on how to provide some sort of stability in that area vis-a-vis the other Arab nations. In my judgment, most of the Arab nations in that part of the world are willing to join to try to provide the stability to see that they do not have another Saddam Hussein, that they do not have another Iraqi war.

I think the reasonable minds in the area, from Saudi Arabia and Egypt and other Arab countries there at the meetings which I attended, seemed to think that they have a glorious opportunity in history right now to unite among themselves to try to provide some stability to that region of the world.

This is a very wealthy region of the world. It could, it seems to me, provide much as far as the quality of life is concerned for other countries in the world, and I think they sense that right now the time is right to do that.

We wish President Bush and Secretary Baker Godspeed on the next long journey to peace in the Middle East.

THE HEARTLAND OF AMERICA NEEDS ASSISTANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas [Mr. ALEXANDER] is recognized for 60 minutes.

Mr. ALEXANDER. Mr. Speaker, I would like to say to all of the loyal and dedicated and weary employees that are here this evening that I, in deference to the long day that you have all endured, will not take the entire 60 minutes, so you can all sigh a breath of relief and start preparing to leave here in a few minutes.

I would like to preface my remarks by saying that I have enjoyed the remarks that were made under several previous special orders, the gentleman from California, the gentleman from Ohio, and others, and I will agree with many of the things that have been said, that it is, indeed, the mark of a great and mighty nation that can amass a military force and project that power halfway around the world. We are all proud of our military and of the decisiveness and the deliberate plan with which the President and all of the military leaders executed those plans that led to a decisive victory over the army, such as it was, of Saddam Hussein.

Mr. Speaker, I think that it is a fine thing to do to travel to other places around the globe and to see conditions for one's self. Because there is no better way to observe the destruction of war than to see it firsthand nor the condition of the people that exists in that place we call Kuwait in the Persian Gulf and to see the plight of those people who have been put upon and to see their plight firsthand.

It just so happens that during the course of the trip of the several hundred persons to Kuwait, I was traveling in my own district of Arkansas, and I would like to describe some of the conditions that I saw that I think are worthy of attention and worthy to be addressed by the various councils of government in Washington.

Mr. Speaker, I saw bridges that are in disrepair and roads that need to be rebuilt and schools that provide conditions for children that can be described as being neglected.

I met with drug enforcement officers who said:

> We do not have near enough drug enforcement in Arkansas to contain the growing problem of drugs in our cities, in our small towns, in a place like Arkansas.

I talked to one sheriff in north central Arkansas who said they do not even serve warrants for arrest unless they are for violent crimes, because there is no room at the jail, and there are no funds to build new jails.

In fact, that is true in the Federal Government. I sit on the appropriation committee that serves the Department of Justice and the Bureau of Prisons, and while we have called for and authorized and appropriated funds with which to build about 50 percent more prison space in our country, the President's budget requests no additional funds to build that space for those jails.

There are people across our country, our own citizens, who paid for the war that are in need of a response from the Nation's Capital, people who have dire needs, who want to become better citizens, who want better lives, who want better jobs, who are in search of those jobs, who have been neglected by their Government.

For the last 10 years we have seen what we call a bicoastal economy develop with both the east and west coasts basking in the glow of economic development and wealth, whereas the States in between in the heartland continue to experience increases in unemployment.

I have five counties with double-digit unemployment, one county with over 20 percent for the third consecutive year, and that is because we have neglected those needs in those States like Arkansas that are crying out for the right kind of leadership from Washington.

I have no immediate expectation that the Federal Government will respond to those needs, because during the last 10 years, in fact, our appropriations show that we have reduced Federal appropriations for services by about 50 percent.

□ 2120

The trend continues that the largest increase in our appropriations has been to increase those amounts of money that go to pay interest on the Federal debt, which has increased by about 50 percent. That is the state of affairs.

I take this time this evening to mention one way that we can provide for development throughout the heartland of America without costing the American people very much, if anything, for that development. That is, to formulate a national energy policy which decreases our dependency on foreign oil. I depart at this time from my remarks to compliment the President for coming forward with a national energy strategy to replace the no energy policy that we have had for the past 10 years. The policy that the President has proposed offers a prospect for improving it so that it will address the needs of economic development in the heartland of America.

Let me just mention a couple of facts and try to wind down with my remarks. During the last decade this Nation paid out in dollars—$1.1 trillion, for foreign oil. That is to say, between 1980 and 1990 we paid $1.1 trillion to foreigners to supply our energy needs. To make it worse, we had to borrow money from foreigners in order to buy oil from foreigners. That is like going to the bank and borrowing money to pay interest on a debt to another bank. We all do it sometimes, but we know it gets a person in trouble, and it has gotten this Nation in trouble.

Our lack of an energy policy has resulted in the greatest transfer of wealth since the Spanish looted the New World, back 400 years ago. That wealth is depleting our vitality, our economic vitality in America. How long will our economy continue to enrich the economies of foreign oil producers? How long will we tolerate a condition where oil money enables the government of Saudi Arabia, for example, to offer free education to their children at their universities, while many of our own children cannot even attend college?

I read a piece in one of the newpapers locally yesterday that applauded the efforts of some young woman that is attending the University of Maryland by holding down three part-time jobs while attending college, three jobs in order to pay her way through college. That is great. I think that will make her a better person, but everyone cannot do that. Everyone cannot attend college in the place where jobs are available. How long will we continue to allow this to persist?

If we had some of the enthusiasm I heard expressed this evening for liberating Kuwait for freeing America from the dependence on foreign oil, just a little of that enthusiasm where we could put it behind a national energy policy to help develop places like Arkansas, we would not have near the task that I am afraid that we face. I believe that as long as we wallow in the complacency and allow the oil to flood our country, and our money to flood into their wallets, that we will continue this erosion, this hemorrhage of our national economy, but we all know that the manipulation of the oil prices by OPEC in association with our own oil companies that own a great part of the production in Kuwait and Saudi Arabia including Texaco, Exxon, Gulf, and all those companies that are American companies have production facilities in the Persian Gulf region. There are many companies that do, but as long as we persist in not developing a national energy policy, this erosion will take place.

We need to get mad about it, I believe. We need to do something about it and take some action, because what we are doing is enriching the people of the Middle East so that their economies can afford new highways and free education and the best health care, and the services that can be afforded to those economies over there that we cannot afford over here, and it is because, I believe, the lack of a national energy policy.

People from my region do not want a handout. They just want a helping hand. One way we can help ourselves is to develop this national energy policy which will put our farmers in the fuel business and attract some of that income back to the heartland of America.

The U.S. Alternative Fuels Council of which I am a member has adopted a resolution calling for a displacement of 25 percent of our dependence on foreign oil by the year 2000. Twenty-five percent of the oil we import from foreign countries is about 2.5 million barrels per day, and that coincidentally equals the amount of oil that we import from the Persian Gulf region. If we should displace 25 percent of the oil that we import from foreign countries with our own natural resources, methanol from coal, ethanol from the farm, compressed natural gas from the reserves in West Virginia, Texas, Oklahoma, Arkansas, and other States, just 25 percent of that would save Americans on an annual basis nearly $15 billion a year that we could recycle into our own economy. Imagine what that would do to our States if we could keep some of that $1 trillion that we spent overseas during the last decade, here at home. I believe we can do it. Maybe we can harness some of the enthusiasm we saw this evening to liberate Kuwait in order to free America.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. STALLINGS (at the request of Mr. GEPHARDT), for today and the balance of the week, on account of personal business.

Mr. MILLER of Ohio (at the request of Mr. MICHEL), for today and the balance of the week, on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HANSEN) to revise and extend their remarks and include extraneous material:)

Mr. RIGGS, for 5 minutes, today.

Mr. DREIER of California, for 5 minutes, today.

Mr. HANSEN, for 5 minutes, today.

(The following Members (at the request of Mr. POSHARD) to revise and extend their remarks and include extraneous material:)

Mr. GLICKMAN, for 5 minutes each day, on today and March 21.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. ALEXANDER, for 60 minutes, today.

Ms. WATERS, for 60 minutes, today.

Mr. REED, for 15 minutes, on March 21.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. HANSEN) and to include extraneous matter:)

Mr. PORTER.
Mr. BEREUTER.
Mr. PAXON.
Mr. IRELAND.
Mr. GALLO in two instances.
Mr. DICKINSON.
Mr. LOWERY of California.
Mr. SPENCE.
Mrs. BENTLEY in two instances.
Mr. LENT.
Mr. COUGHLIN.
Mrs. VUCANOVICH.
Mr. GREEN of New York.
Mr. DUNCAN.
Ms. ROS-LEHTINEN in four instances.
Mr. LAGOMARSINO.
Mr. SUNDQUIST.
Mr. CLINGER.

(The following Members (at the request of Mr. POSHARD) and to include extraneous matter:)

Mr. CLAY.
Mr. EDWARDS of California.
Mr. VENTO.
Ms. HORN.
Mr. DE LUGO in two instances.
Mr. ROYBAL.
Mr. WAXMAN.
Mr. PALLONE.
Mr. ROE.
Mr. DIXON.
Mr. MAZZOLI.
Mr. CLEMENT.
Mr. SLATTERY.
Mr. FAZIO.
Mr. NEAL of Massachusetts.
Mrs. KENNELLY.
Mr. TRAXLER.
Mr. DOWNEY in two instances.
Mr. SKELTON in two instances.
Mr. APPLEGATE.
Mr. ACKERMAN.
Mr. STARK.
Mr. MILLER of California.
Mr. HOCHBRUECKNER.
Mr. HALL of Ohio.
Mr. OWENS of New York.
Mr. ANDREWS of Texas.
Mr. ENGEL.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 213. An act to amend the Federal charter for the Boys' Clubs of America to reflect the change of the name of the organization to the Boys & Girls Clubs of America; to the Committee on the Judiciary.

ADJOURNMENT

Mr. ALEXANDER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 28 minutes p.m.) under its previous order, the House adjourned until Thursday, March 21, 1991, at 10 a.m.

CONTRACTUAL ACTIONS, CALENDAR YEAR 1990 TO FACILITATE NATIONAL DEFENSE

The Clerk of the House of Representatives submits the following report for printing in the CONGRESSIONAL RECORD pursuant to section 4(b) of Public Law 85-804:

NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION,
Washington, DC, March 11, 1991.

Hon. THOMAS FOLEY,
Speaker of the House,
Washington, DC.

DEAR MR. SPEAKER: In accordance with Section 4(a) of Public Law 85-804 (50 U.S.C. 1431-35), I am reporting to the House on all calendar year 1990 actions taken by the National Aeronautics and Space Administration (NASA) under authority of that Act which involve actual or potential cost to the United States in excess of $50,000.

During calendar year 1990, the NASA Contract Adjustment Board did not grant any request for extraordinary contractual relief under P.L. 85-804.

On January 19, 1983, the Administrator made a decision to provide indemnification to certain NASA Space Transportation System contractors for specified risks arising out of contract performance directly related to NASA space activities. The authority of that decision was extended from September 30, 1984, through September 30, 1989, and has been extended again through September 30, 1994. In addition, on July 11, 1990, the Administrator decided to provide indemnification to certain NASA contractors involved in providing commercial Expendable Launch Vehicle launch services for NASA spacecraft or for activities which are carried out by NASA on behalf of the United States. The authority of that decision extends through May 31, 1995. Copies of the Administrator's Memorandum Decisions Under Public Law 85-804 dated November 5, 1989, and July 11, 1990, are enclosed.

During calendar year 1990, one NASA prime contractor was indemnified under the Memorandum Decision dated November 5, 1989. Two other NASA prime contractors were indemnified under separate Memorandum Decisions for the risks set forth therein. Copies of these decisions are enclosed. A summary description of each contract indemnified is also enclosed.

Sincerely,

RICHARD H. TRULY,
Administrator.

Enclosures.

MEMORANDUM DECISION UNDER PUBLIC LAW 85-804

Authority for National Aeronautics and Space Administration Contracting Officers to idemnify certain NASA contractors and subcontractors involved in NASA space activities

1. On July 4, 1982, the Space Transportation System (hereinafter STS) completed its design, development, test and evaluation phase and was declared an operational system of the United States for the transportation of payloads into and out of outer space for governmental and commercial purposes. Except for suspension of STS launches as a result of the Challenger accident, the STS has conducted and will continue to conduct launch, in orbit and landing activities on a repetitive basis and at a prudent frequency.

2. Scheduled STS operations have dictated a continuing examination of the risks in repetitive space activities of the STS and of the present availability of adequate insurance at reasonable premiums to manufacturers and operators of the system. While NASA's STS space activities are designed to be safe, there exists the low statistical probability that a malfunction of either hardware, software or operator error could occur resulting in an accident. This low probability of occurrence cannot be totally removed. In the event that such a malfunction or operator error led to an accident, the potential liability arising from such an accident could be substantially in excess of the insurance coverage NASA contractors could reasonably be expected to acquire and maintain, considering the availability, cost and potential terms and conditions of such insurance at the present time.

3. Pursuant to the authority of Public Law 84-804 and Executive Order 10789, as amended, and notwithstanding any other provisions of the contracts to which this determination may apply, I therefore authorize that certain NASA contractors, as further defined in paragraphs 4 and 5 below, be held harmless and indemnified against certain risks as specifically set forth herein. Accordingly, and subject to the limitations hereinafter stated, cognizant NASA Contracting Officers are authorized to include in prime contracts, described in paragraphs 4 and 5 below, contract provisions for the indemnification of the contractors and their subcontractors at any tier, against claims or losses, as defined in paragraph 1A of E.O. 10789, as amended, arising out of contract performance directly related to NASA's space activities.

4. This authorization is limited to prime contracts which have an effective date before October 1, 1994, by or for NASA for:

a. provision of Space Transportation System and cargo flight elements or components thereof;

b. provision of Space Transportation System and cargo ground support equipment or components thereof;

c. provision of Space Transportation System and cargo ground control facilities and services for their operation; and

d. repair, modification, overhaul support and services and other support and services directly relating to the Space Transportation System, its cargo and other elements used in the NASA's space activities.

5. This authorization is further limited solely to claims or losses resulting from or arising out of the use or performance of the products or services described in paragraph 4 in NASA's space activities. For this purpose, the use or performance of such products or services in NASA's space activities begins solely when such products or services are provided to the U.S. Government at a U.S. Government installation for or in connection with one or more Space Transportation System launches and are actually used or performed in NASA's space activities.

6. The risks for which indemnification is authorized are the risks arising under the contracts described in paragraphs 4 and 5 causing personal injury or death, or loss of or damage to property, or loss of use of property. These risks are considered unusually hazardous risks solely in the sense that if, in the unlikely event, the Space Transportation System, its cargo or other elements or services used in the NASA's space activities malfunctioned causing an accident, the potential liability could be in excess of the insurance coverage that a NASA prime contractor would reasonably be expected to purchase and maintain, considering the availability, cost, and terms and conditions of such insurance. In no other sense are the Space Transportation System, its cargo or other elements or services used in NASA's space activities unusually hazardous.

7. a. This authorization may be applied prospectively, without additional consideration, to existing prime contracts and subcontracts and in new prime contracts and subcontracts which otherwise meet the conditions of this memorandum.

b. Indemnification of prime contractors and subcontractors may be provided under this authorization only when the Government will receive the benefit of all costs savings, if any, to the prime contractor and its subcontractors at every tier.

8. All contract indemnification clauses and procedures shall comply with applicable provisions of Federal Acquisition Regulation (FAR) Subpart 50.4 as supplemented by NASA FAR Supplement (NFS) 18-50.4.

9. This authorization is given upon condition that each prime contractor is approved by me and that such contractor maintains financial protection of such type and in such amounts as may be determined by me in writing to be appropriate under the circumstances. Each prime contractor shall provide a statement of applicable financial protection through the cognizant Contracting Officer for my review and determination. In making this determination, I shall take into account such factors as the availability, cost and terms of private insurance, self-insurance and other proof of financial responsibility and workman's compensation insurance.

10. When indemnification provisions are included in a prime contract pursuant to the authority of this decision, the cognizant Contracting Officer shall immediately submit directly to the Contract Adjustment Board a report referencing this decision and containing the information required by NFS 18-50.403-70, Reporting and records requirements.

11. The actual or potential cost, if any, of the actions hereby authorized is impossible to estimate since it is contingent upon the remote possibility of an occurance and extent of loss resulting from certain space activities which malfunction. Such an event may never occur; however, should a major incident occur, millions of dollars of damage could result.

12. I find that this action will facilitate the national defense. In the remote event that the Space Transportation System, its cargo or other elements or services used in NASA's space activities malfunctioned causing damage in excess of insurance maintained by contractors and subcontractors, the resulting excess liability could place the contractor's and subcontractors' continued existence in jeopardy, making those contractors and subcontractors unavailable to continue to support space activities and the Department of Defense. I note that for purposes of the Defense Production Act of 1950, the term "national defense" is defined as "programs for . . . space, and directly realted activity." (50 U.S.C. App. 2152(d))

RICHARD H. TRULY,
Administrator.

NOVEMBER 5, 1989.

MEMORANDUM DECISION UNDER PUBLIC LAW 85-804

Authority for National Aeronautics and Space Administration contracting officers to indemnify certain NASA contractors and subcontractors involved in providing commercial Expendable Launch Vehicle (ELV) launch services for NASA spacecraft or for activities which are carried out by NASA on behalf of the United States.

1. Prior to the Challenger accident and consistent with national policy, NASA's phase-out of our Expendable Launch Vehicle (ELV) program was near completion and most missions were transitioned to the Shuttle for launch. Up until this time, NASA had total responsibility for the design, development, fabrication, test, and launch of both Government and commercial payloads on the Scout, Delta, and Atlas-Centaur launch vehicles. The President's National Space Policy of November 2, 1989, which reaffirmed the key tenants of earlier national policy statements, directed Federal Agencies to establish a Mixed Fleet Launch Policy utilizing the unique capabilities of the Space Shuttle and ELVs to support Government launch requirements. The policy also precluded NASA from maintaining an ELV adjunct to the Space Shuttle and directed NASA to procure requisite ELV launch services directly from the private sector or through the Department of Defense. In accordance with the Deputy Administrator's Decision Memorandum #22, dated January 27, 1989, NASA will acquire launch services whenever possible directly from commercial operators.

2. Increasing need of launch services with a high degree of mission success has dictated a continuing examination of the risks in repetitive launch activities and the present availability of adequate insurance at reasonable premiums to providers of commercial expendable launch services. While commercial launch activities are designed to be safe, there exists the low statistical probability that a malfunction of either hardware, software, or operator error could occur resulting in an accident. This low probability of occurrence cannot be totally removed. In the event that such a malfunction or operator error led to an accident, the potential liability arising from such an accident could be substantially in excess of the insurance coverage NASA contractors could reasonably be expected to acquire and maintain, considering the availability, cost, and potential terms and conditions of such insurance at the present time.

3. Pursuant to the authority of Public Law 85-804 and Executive Order 10789, as amended, and notwithstanding any other provisions of the contracts to which this determination may apply, I therefore authorize that certain NASA contractors, as further defined in paragraphs 4 and 5 below, be held harmless and indemnified against certain risks as specifically set forth herein. Accordingly, and subject to the limitations hereinafter stated, cognizant NASA contracting officers are authorized to include in prime contracts, described in paragraphs 4 and 5 below, contract provisions for the indemnification of the contractors and their subcontractors at any tier, against claims or losses, as defined in paragraph 1A of Executive Order 10789, as amended, arising out of contract performance directly related to providing NASA commercial ELV launch services.

4. This authorization is limited to prime contracts which have an effective date before June 30, 1995, by or for NASA for provision of commercial ELV launch services.

5. This authorization is further limited solely to claims or losses resulting from or arising out of the use or performance of commercial launch services provided to NASA, where NASA, under its contract, maintains sufficient oversight and approval rights to assess and influence mission risk. For this purpose, the use or performance of such launch service activities begins only after such services are provided to the U.S. Government at a U.S. Government installation for or in connection with one or more ELV launches and are actually used to provide launch services for NASA or NASA-sponsored activities which are carried out by NASA on behalf of the United States. The use or performance referred to is limited to the explosion, detonation, combustion, or impact of a launch vehicle, its payloads, or a component thereof, whether or not the payload is separated from the launch vehicle.

6. The risks for which indemnification is authorized are the risks arising under the contracts described in paragraphs 4 and 5 which result in claims by third persons, including employees of the contractor, for death, personal injury, or loss of, damage to, or loss of use of property; loss of, damage to, or loss of use of property of the Government. These risks are considered unusually hazardous risks solely in the sense that if, in the unlikely event, the ELV, its cargo or other elements or services used in providing NASA launch services malfunctioned causing an accident, the potential liability could be in excess of the insurance coverage that a NASA prime contractor would reasonably be expected to purchase and maintain, considering the availability, cost, and terms and conditions of such insurance. In no other sense is the provision of commercial ELV launch services for NASA spacecraft unusually hazardous.

7. a. This authorization may be applied prospectively, without additional consideration, to existing prime contracts and subcontracts and in new prime contracts and subcontracts which otherwise meet the conditions of this memorandum.

b. Indemnification of prime contractors and subcontractors may be provided under this authorization only when the Government will receive the benefit of all cost savings, if any, to the prime contractor and its subcontractors at every tier.

8. All contract indemnification clauses and procedures shall comply with applicable provisions of Federal Acquisition Regulation (FAR) Subpart 50.4 as supplemented by NASA FAR Supplement (NFS) 18-50.4.

9. This authorization is given upon condition that each prime contractor maintains financial protection of such type and in such amounts as may be determined by me in writing to be appropriate under the circumstances. Each prime contractor shall provide a statement of applicable financial protection through the cognizant contracting officer for my review and determination. In making this determination, I shall take into account such factors as the availability, cost and terms of private insurance, self-insurance and other proof of financial responsibility and workmen's compensation insurance.

10. When indemnification provisions are included in a prime contract pursuant to the authority of this decision, the cognizant contracting officer shall immediately submit directly to the Contract Adjustment Board a report referencing this decision and containing the information required by NFS 18-50.403-70, Reporting and records requirements.

11. The actual or potential cost, if any, of the actions hereby authorized is impossible to estimate since it is contingent upon the remote possibility of an occurrence and extent of loss resulting from commercial launch activities which malfunction. Such an event may never occur; however, should a major incident occur, millions of dollars of damage could result.

12. I find that this action will facilitate the national defense. In the remote event that commercial ELV launch service activities provided for NASA spacecraft cause damage in excess of insurance maintained by contractors and subcontractors, the resulting excess liability could place the contractors' and subcontractors' continued existence in jeopardy, making those contractors and subcontractors unavailable to continue to provide commercial ELV launch services. I note that for purposes of the Defense Production Act of 1950, the term "national defense" is defined as "programs for . . . space, and directly related activity." (50 U.S.C. App. 2152(d))

RICHARD H. TRULY,
Administrator.

JULY 11, 1990.

MEMORANDUM DECISION AND APPROVAL UNDER PUBLIC LAW 85-804

This is the authority and approval for a National Aeronautics and Space Administration contracting officer to indemnify General Dynamics Corporation, (hereinafter referred to as GDC), with respect to the Combined Release and Radiation Effects Satellite (CRRES) Launch Service Associated with NASA's Space Activities.

1. The Atlas/Centaur is an operational high-energy, expendable launch vehicle system designed to place various payloads into low-earth orbits, synchronous-transfer orbits, or interplanetary transfer orbits above the earth. The system has been fully operational since the mid-1960's. Atlas/Centaur was designed to be a safe flight vehicle. However, there exists the remote and low statistical probability that a malfunction of either hardware or software or operator error could occur resulting in an accident. This low probability of occurrence, albeit remote, cannot be totally eliminated. In the event that such a malfunction or operator error led to an accident, the potential liability resulting from such an accident could be substantially in excess of the insurance coverage GDC as a NASA prime contractor could reasonably be expected to acquire and maintain, considering the presently available cost and terms and conditions of such insurance.

2. The actual or potential cost, if any, resulting from any loss related to the launch of an Atlas-Centaur is impossible to precisely estimate, since it is contingent upon the remote possibility of an occurrence and extent of loss resulting from the malfunctioning of the Atlas/Centaur or operator error related to the Atlas/Centaur launch activities. Such an event may never occur; however, should a major incident occur, millions of dollars of damage to persons or property could result.

3. Based on this assessment and pursuant to the authority of Public Law 85-804 and Executive Order 10789, as amended, and notwithstanding any other provision of Contract NAS3-23330 with GDC, I hereby authorize that GDC be held harmless and indemnified against unusually hazardous risks as defined in Paragraph 4 below. This authority permits the cognizant NASA contracting officer to include in Contract NAS3-23330 provisions for the indemnification of GDC against claims or losses, as defined in Paragraph 1A of Executive Order 10789, as amended, arising out of contract performance directly related to NAS3-23330. This authority to hold harmless and indemnify shall apply solely to an incident which occurs after the cognizant contracting officer includes in Contract NAS3-23330 the applicable provisions described in Paragraph 7 below.

4. This authorization to indemnify is limited to claims or losses resulting from unusually hazardous risks. Unusually hazardous risks are risks, beginning on the intentional ignition of the Atlas/Centaur launch vehicle on the launch pad, which result from or in connection with (i) the burning, explosion or detonation of the Atlas/Centaur launch vehicle and (ii) the impact on Earth of the Atlas/Centaur launch vehicle or its components or fragments.

5. The unusually hazardous risks for which indemnification is authorized are the risks arising under Contract NAS3-23330 which result in claims by third persons, including employees of the contractor, for death, personal injury, or loss of, damage to, or loss of use of property; loss of, damage to, or loss of use of property of the contractor; loss of, damage to, or loss of use of property of the Government. These risks, as defined in Paragraph 4 above, are considered unusually hazardous risks solely in the sense that if in the unlikely event the Atlas/Centaur malfunctioned or an operator error occurred during the period defined in Paragraph 4, above, causing an accident, the potential liability could be in excess of the insurance coverage that GDC would reasonably be expected to purchase and maintain. In no other sense is the Atlas/Centaur or the related services provided under Contract NAS3-23330 usually hazardous.

6. I have reviewed the financial protection program to be maintained by GDC. A current summary of insurance applicable to Government contracts was submitted to NASA by J. H. Edwards, Manager of Contracts, by letter No. 711-11-90-185 dated March 27, 1990, with clarification provided by J. A. Rangus, Manager of Contracts, by letter No. 969-12-90-127 dated May 7, 1990. GDC's financial protection program appears to be adequate. This decision and approval is granted on condition that GDC maintains this financial protection program for the Atlas/Centaur launch service provided pursuant to contract NAS3-23330 with one exception, third party liability insurance to cover this launch. GDC has stated that if indemnification is not granted, it would pass on to NASA the entire cost of this insurance for the launch under a relevant NASA contract provision. In my opinion, the quoted premium borders on the excessive. Based on the information provided by GDC, I hereby authorize the indemnification of GDC from the first dollar of liability that may incur arising out of NASA's space activities under contract NAS3-23330.

7. Pursuant to this authority, the contracting officer may include in Contract NAS3-23330, applicable provisions of the Federal Acquisition Regulation (FAR) Part 50.4, NASA FAR Supplement Part 18-504, and the definition of unusually hazardous risks from Paragraph 4, above. The contracting officer, at his discretion, may authorize indemnification of a GDC subcontractor, at any tier, above a reasonable amount of insurance coverage maintained by the subcontractor, although less than that maintained by GDC, without respect to time.

8. Upon inclusion of the applicable provisions in Contract NAS3-23330, the contracting officer shall immediately submit directly to the NASA Contract Adjustment Board a report referencing this decision and approval and containing the information required by NASA FAR Supplement Part 18-50.403-70, Reporting and records requirements.

9. I find that this action will facilitate the national defense. In the remote event that the Atlas/Centaur malfunctioned or an operator error occurred causing damage in excess of any insurance maintained by GDC, the resulting excess liability could place GDC's continued existence in jeopardy, making GDC unavailable to continue to support NASA's space activities and the programs of the Department of Defense. I note that, for purposes of the Defense Production Act of 1950, the term national defense is defined as ". . . programs for . . . space, and directly related activity." (50 U.S.C. App. 2152(d)).

RICHARD H. TRULY,
Administrator,
NATIONAL AERONAUTICS AND SPACE
Administration.

JUNE 27, 1990.

MEMORANDUM DECISION AND APPROVAL DOCUMENT UNDER PUBLIC LAW 85-804

TO INDEMNIFY LOCKHEED MISSILES & SPACE CO., INC., FOR THE ADVANCED SOLID ROCKET MOTOR PROGRAM

Authority is granted to indemnify Lockheed Missiles & Space Co., Inc. (hereinafter LMSC), under Public Law 85-804 for the Advanced Solid Rocket Motor Program (hereinafter ASRM) to the extent provided hereinafter:

1. On July 4, 1982, the Space Transportation System (hereinafter STS) completed its design, development, test and evaluation phase and was declared an operational system of the United States for the transportation of payloads into and out of outer space for government and commercial purposes. Except for suspension of STS launches as a result of the Challenger accident, the STS has conducted and will continue to conduct launch, in orbit and landing activities on a repetitive basis and at a prudent frequency.

2. Scheduled STS operation have dictated a continuing examination of the risks in repetitive space activities of the STS and of the present availability of adequate insurance at reasonable premiums to manufacturers and operators of the system. While NASA's STS space activities are designed to be safe, there exists the low statistical probability that a malfunction of either hardware, software, or operator error could occur resulting in an accident. This low probability of occurrence cannot be totally removed. In the event that such a malfunction or operator error led to an accident, the potential liability arising from such an accident could be substantially in excess of the insurance coverage that STS contractors could reasonably be expected to acquire and maintain, considering the availability, cost, and potential terms and conditions of such insurance at the present time.

3. Pursuant to the authority of Public Law 85-804 and Executive Order 10789, as amended, and notwithstanding any other provisions of the contracts to which this determination may apply, I therefore authorize that LMSC be held harmless and indemnified against certain risks as further defined in paragraphs 4 and 5 below. Accordingly, and subject to the limitations hereinafter stated, cognizant NASA contracting officers are authorized to include in prime Contracts NAS8-37800 entitled, Space Shuttle ASRM Design, Development, Test and Evaluation, and Production Option; NAS8-37900(F) entitled, Space Shuttle ASRM Consolidated Facilities; and NAS13-420 entitled, Space Shuttle ASRM Consolidated Facilities, Site Specific: Stennis Space Center, MS; contract provisions for the indemnification of LMSC and its subcontractors at any tier, against claims or losses, as defined in paragraph 1A of Executive Order 10789, as amended, arising out of contract performance directly related to NASA's space activities.

4. Except as provided in paragraph 5 below, this authorization is limited solely to Contracts NAS8-37800, NAS8-37900(F), and NAS13-420 and to claims or losses resulting from or arising out of the use or performance of the products or services in NASA's space activities along with all risks and claims by third parties against LMSC and its subcontractors at any tier. For this purpose, the use or performance of such products or services in NASA's space activities begins solely when such products or services are provided to the United States Government at a United States Government installation for or in connection with one or more STS launches and are actually used or performed in NASA's space activities.

5. This authorization is also limited to claims by third parties or the United States against LMSC and its subcontractors at any tier arising as a direct consequence of the environmental conditions in existence at the following Government-furnished sites prior to occupation of the subject sites by LMSC and/or its subcontractors at any tier:

Yellow Creek Site near Iuka, Mississippi.
Michoud Assembly Facility, Louisiana.
Marshall Space Flight Center, Alabama.
Stennis Space Center, Mississippi.

The environmental conditions covered by this indemnification will be those pre-existing conditions identified by the surveys required by the clause entitled, "Responsibility For Pre-existing Environmental Conditions" in Contracts NAS8-37800, NAS8-37900(F), and NAS13-420.

6. The risk for which indemnification is authorized are the risks associated with the subject contracts causing personal injury or death, or loss of or damage to property, or loss of use of property. These risks are considered unusually hazardous risks in the sense that if, in the unlikely event, the STS, its cargo or other elements or services used in the NASA's space activities malfunctioned causing an accident, the potential liability could be in excess of the insurance coverage that LMSC would reasonably be expected to purchase and maintain, considering the availability, cost, and terms and conditions of such insurance. Further, the risks pertaining to potential pre-existing environmental contamination at the listed Government-furnished sites are considered unusually hazardous because the magnitude of risk associated with performance of these contracts at these sites has rendered commercial insurance unavailable. In no other sense is performance of these contracts considered unusually hazardous.

7. This authorization will apply prospectively without additional considerations and will only apply to those risks not covered by insurance. It will apply to Contracts NAS8-37800, NAS8-37900(F), and NAS13-420 and to existing and to future subcontracts which meet the conditions of this memorandum.

8. In making this determination, I have taken into account such factors as the availability, cost, and terms of private insurance, self-insurance, and other proof of financial responsibility and worker's compensation insurance. LMSC's Comprehensive General Liability and Aviation Products Liability Insurance policies forwarded to NASA by Mr. R.F. Mazurkiewicz intermittently between October 17 and November 5, 1990, have been reviewed. I have been informed by LMSC that insurance to cover the risks pertaining to pre-existing environmental contamination is unavailable. I have also been informed by LMSC that the cost of flight risk insurance is $650,000 per year plus an additional $450,000 per launch, and I have determined that the cost is prohibitive. Based upon my review of the policies, LMSC's insurance to cover other than unusually hazardous risks appears to be adequate. This approval is granted on the condition that LMSC maintains this insurance coverage currently in force, or in the event that insurance becomes impossible or impractical to maintain, LMSC will immediately notify the contracting officer.

9. The actual or potential cost, if any, of the actions hereby authorized is impossible to estimate since it is contingent upon the remote possibility of an occurrence and the extent of loss resulting from such occurrence. Such an event may never occur; however, should a major incident occur, millions of dollars of damage could result.

10. The cognizant NASA contracting officers may authorize the indemnification of a LMSC subcontractor at any tier. Any request for indemnification from first dollar must be concurred in by the NASA Assistant Administrator for Procurement.

11. I find that this action will facilitate the national defense. In the remote event that liabilities resulting from the use of these products or services or the pre-existing environmental conditions are in excess of the insurance maintained by LMSC and its subcontractors, LMSC and its subcontractors' continued existence could be placed in jeopardy, and could make LMSC and its subcontractors unavailable to continue to support space activities and the Department of Defense. I note that for purposes of the Defense Production Act of 1950, the term "national defense" is defined as "programs for . . . space, and directly related activity." (50 U.S.C. App. 2152(d)).

RICHARD H. TRULY,
Administrator.

DECEMBER 17, 1990.

CONTRACTORS INDEMNIFIED DURING CALENDAR YEAR 1990

Name of contractor: General Dynamics Corporation. Date: June 27, 1990.

Affected NASA contract(s):

NAS3-23330—Launch of Atlas/Centaur AC-68R Carrying Combined Release and Radiation Effects Satellite.

Name of contractor: Thiokol Corporation. Date: August 27, 1990.

Affected NASA contract(s):

NAS8-38100—Redesigned Solid Rocket Motor, Buy Three.

Name of contractor: Lockheed Missiles & Space Company, Incorporated. Date: December 17, 1990.

Affected NASA contract(s):

NAS8-37800—Design, Development, Test, Evaluation, and Production Option of the Advanced Solid Rocket Motor.

NAS8-37900(F)—Advanced Solid Rocket Motor Consolidated Facilities at Yellow Creek, MS; Michoud Assembly Facility, LA; and Marshall Space Flight Center, AL.

NAS13-420—Advanced Solid Rocket Motor Consolidated Facilities at Stennis Space Center, MS.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

904. A letter from the Legislative Liaison, Department of the Army, transmitting notification of the decision to convert to contractor performance the consolidated maintenance services function at Fitzsimons Army Medical Center, pursuant to Public Law 100-463, section 8061 (102 Stat. 2270-27); to the Committee on Appropriations.

905. A letter from the Secretary of Defense, transmitting a copy of the force structure plan for fiscal year 1992, pursuant to 10 U.S.C. 2687nt, Public Law 101-510, section 2903(a) (104 Stat. 1810); to the Committee on Armed Services.

906. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-13, "Youth Rehabilitation Amendment Act of 1985 Temporary Amendment Act of 1991," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

907. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-8, "Assault Weapon Manufacturing Strict Liability Act of 1990 Temporary Repealer Act of 1991," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

908. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-7, "Uniform Disposition of Unclaimed Property Act of 1980 Temporary Amendment Act of 1991," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

909. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-6, "Board of Education Special Election Temporary Amendment Act of 1991," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

910. A communication from the President of the United States, transmitting a report that the operations conducted by Coalition forces to liberate Kuwait have been successful, pursuant to Public law 102-1 (Doc. No. 102-61); to the Committee on Foreign Affairs and ordered to be printed.

911. A letter from the Secretary, Federal Trade Commission, transmitting a report on its activities under the Freedom of Information Act during calendar year 1990, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

912. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

913. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

914. A letter from the Treasurer General, Daughters of the American Revolution, transmitting the report of the audit of the society for the fiscal year ended February 28, 1990, pursuant to 36 U.S.C. 1101(20), 1103; to the Committee on the Judiciary.

915. A letter from the Administrator, National Aeronautics and Space Administration, transmitting the calendar year 1990 report on contractual actions to facilitate the national defense, pursuant to 50 U.S.C. 1431; to the Committee on Science, Space, and Technology.

916. A letter from the Director, Office of Management and Budget, transmitting his certification that the amounts appropriated for the Board for International Broadcasting for grants to Radio Free Europe/Radio Liberty, Inc., are less than the amount necessary to maintain the budgeted level of operation because of exchange rate losses in the first quarter of fiscal year 1991, pursuant to 22 U.S.C. 2877(a)(2); jointly, to the Committees on Foreign Affairs and Appropriations.

917. A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to reform the Federal deposit insurance system, to improve the supervision and regulation of federally insured depository institutions, to reform the financial services industry as to the activities in which that industry may engage, to consolidate the regulatory structure for depository institutions, to recapitalize the Bank Insurance Fund and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs, Energy and Commerce, and Ways and Means.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. GONZALEZ: Committee on Banking, Finance and Urban Affairs. H.R. 26. A bill to require the Federal depository institution regulatory agencies to take additional enforcement actions against depository institutions engaging in money laundering, and for other purposes; with an amendment; referred to the Committees on Foreign Affairs and the Judiciary for a period ending not later than May 23, 1991, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of those committees pursuant to clause 1(i) and (m), rule X, respectively. (Rept. 102-28, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDREWS of Texas:

H.R. 1497. A bill to amend the Internal Revenue Code of 1986 to allow an investment tax credit for vehicles fueled by clean-burning substances, for converting vehicles to be so fueled, and for other purposes; to the Committee on Ways and Means.

By Mr. ARCHER:

H.R. 1498. A bill to amend the Harmonized Tariff Schedule of the United States to clarify the classification of mixed alkylbenzenes; to the Committee on Ways and Means.

H.R. 1499. A bill to provide temporary duty-free treatment for certain digital processing units; to the Committee on Ways and Means.

By Mr. OWENS of Utah (for himself, Mr. POSHARD, Mr. BENNETT, Mrs. BOXER, Mr. NEAL of Massachusetts, Mr. ANDREWS of Maine, Mr. FORD of Michigan, Mr. SIKORSKI, Mr. ESPY, Mr. VALENTINE, Mr. LANCASTER, Mr. DEFAZIO, Mr. KOSTMAYER, Mr. MURTHA, Mr. MACHTLEY, Mr. RAVENEL, Mr. TALLON, Mr. BUSTAMANTE, Mr. BOUCHER, Mr. MCDERMOTT, Mr. MILLER of California, Mr. DELLUMS, Ms. PELOSI, Mr. BERMAN, Mr. SKAGGS, Mr. JACOBS, Mr. STUDDS, Mr. WOLPE, Mr. TOWNS, Mr. SPRATT, Mr. TORRES, Mr. DURBIN, Mr. FALEOMAVAEGA, Mr. SCHEUER, Mr. MRAZEK, Mr. PAYNE of New Jersey, Mr. SMITH of New Jersey, Mr. PALLONE, Mr. HUGHES, Mr. NEAL of North Carolina, Mr. PRICE, Mr. MANTON, Mr. OWENS of New York, Ms. SLAUGHTER of New York, Mr. TRAFICANT, Mr. STARK, Mr. LANTOS, Mr. BEILENSON, Mr. WAXMAN, Mr. LEVINE of California, Mr. BROWN, Mr. MINETA, Mr. DYMALLY, Mr. DARDEN, Mr. KENNEDY, Mr. ANDREWS of Texas, Mr. ROE, Mr. KOLTER, Mr. OLIN, Mr. KILDEE, Mr. SHAYS, and Mr. REED):

H.R. 1500. A bill to designate certain Federal lands in the State of Utah as wilderness, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. ARCHER:

H.R. 1501. A bill to reduce the column 1, general rate of duty on Flurbiprofen; to the Committee on Ways and Means.

By Mrs. BOXER (for herself, Mrs. MORELLA, Mrs. COLLINS of Illinois, Mrs. KENNELLY, Mrs. MINK, Ms. NORTON, Ms. PELOSI, Mrs. SCHROEDER, Ms. SNOWE, Mr. BRYANT, Mr. CARPER, Mr. DYMALLY, Mr. FASCELL, Mr. FUSTER, Mr. KOPETSKI, Mr. LIPINSKI, Mr. OBERSTAR, Mr. OLIN, Mr. RAHALL, Mr. STAGGERS, Mr. WOLPE, Mr. WYDEN, and Mr. YATES):

H.R. 1502. A bill to combat violence and crimes against women on the streets and in homes; jointly to the Committees on the Judiciary, Public Works and Transportation, Interior and Insular Affairs, Energy and Commerce, and Education and Labor.

By Mr. CLAY (for himself and Mr. WHEAT):

H.R. 1503. A bill to facilitate capital financing for historically black colleges and universities; to the Committee on Education and Labor.

By Mr. DOWNEY:

H.R. 1504. A bill to authorize a national conference on aging; to the Committee on Education and Labor.

By Mr. GONZALEZ (for himself and Mr. WYLIE) (both by request):

H.R. 1505. A bill to reform the Federal deposit insurance system, to improve the supervision and regulation of federally insured depository institutions, to reform the financial services industry as to the activities in which that industry may engage, to consolidate the regulatory structure for depository institutions, to recapitalize the Bank Insurance Fund, and for other purposes; jointly to the Committees on Banking, Finance and Urban Affairs, Energy and Commerce, and Ways and Means.

By Mr. DOWNEY:

H.R. 1506. A bill to amend the Internal Revenue Code of 1986 to increase the standard mileage rate deduction for charitable use of passenger automobiles and to index that rate for inflation; to the Committee on Ways and Means.

By Mr. GEKAS:

H.R. 1507. A bill to require as a condition of receiving funds under the Older Americans Act of 1965 that States require that, not later than 60 days after commencing any proceeding to compel the sale of a residence occupied by an older individual or to evict such individual from such residence, notice of such proceeding be given to such individual and to the appropriate area agency on aging if such proceeding is based on the failure of such individual to pay a debt; and for other purposes; to the Committee on Education and Labor.

By Mr. HANSEN:

H.R. 1508. A bill to designate certain public lands in the State of Utah as wilderness, and for other purposes; to the Committees on Interior and Insular Affairs and Agriculture.

By Mr. HEFLEY (for himself, Mr. MONTGOMERY, Mr. BOEHLERT, Mr. HUTTO, Mr. DICKS, Mr. DICKINSON, Ms. OAKAR, Mrs. UNSOELD, Mr. PAXON, Mr. SMITH of Texas, Mr. CRANE, Mr. WOLF, Mr. LENT, Mr. HEFNER, Mr. BURTON of Indiana, Mr. HAMILTON, Mr. GOSS, Mr. DORNAN of California, Mr. LAGOMARSINO, Mr. BENNETT, Mr. REGULA, Mr. MARTIN, Mr. HORTON, Mr. RHODES, Mr. VALENTINE, Mr. SANGMEISTER, Mr. ROE, Mr. HARRIS, Mr. PAYNE of Virginia, Mr. HATCHER, Mr. SCHIFF, Mr. ACKERMAN, Mr. THOMAS of Wyoming, Mr. FROST, Mr. SOLOMON, Mr. DWYER of New Jersey, Mr. HALL of Ohio, Mr. GREEN of New York, Mr. BILIRAKIS, Mr. SKAGGS, Mr. NEAL of Massachusetts, Mrs. VUCANOVICH, Mr. ROBERTS, Mr. IRELAND, Mr. CAMPBELL of Colorado, Mr. SKELTON, Ms. LONG, Mr. BOUCHER, Mr. GALLO, Ms. KAPTUR, Mr. GONZALEZ, Mr. PENNY, Mr. HYDE, Mr. EMERSON, Mr. HOAGLAND, Mr. LANCASTER, Mr. INHOFE, Mr. GILMAN, Mr. MACHTLEY, Mr. DANNEMEYER, Mr. QUILLEN, and Mr. SCHAEFER):

H.R. 1509. A bill to recognize the organization known as the Retired Enlisted Association, Incorporated; to the Committee on the Judiciary.

By Mr. HOCHBRUECKNER (for himself, Mr. ANDREWS of Maine, Mr. GILMAN, Mr. HENRY, Mr. HERTEL, Mr. HUGHES, Mr. LANCASTER, Mr. MFUME, Mr. OWENS of Utah, Mr. RAVENEL, Mr. RAY, Mr. ROE, Mr. SHAYS, Mr. TOWNS, and Mr. WALSH):

H.R. 1510. A bill to amend the Solid Waste Disposal Act to require the recycling of used lead-acid batteries, and to require a study by the Administrator of the Environmental Protection Agency on the disposal of used household dry-cell batteries; to the Committee on Energy and Commerce.

By Mr. HOCHBRUECKNER (for himself, Mr. GEJDENSON, Mr. RAVENEL, Mr. HENRY, Mr. GILMAN, Mr. WALSH, Mr. TOWNS, Mr. ANDREWS of Maine, Mr. HERTEL, Mr. RAY, Mr. ROE, Mr. HUGHES, Mr. LANCASTER, Mr. MFUME, and Mr. OWENS of Utah):

H.R. 1511. A bill to establish an Office of Recycling Research and Information in the Department of Commerce, to require research on the recycling of scrap automotive tires, and for other purposes; jointly, to the Committees on Energy and Commerce and Science, Space, and Technology.

By Mr. HUGHES (for himself, Mr. LAGOMARSINO, Mr. LANCASTER, Mr. RANGEL, Mr. ROE, Mr. TOWNS, Mr. WOLF, Mr. DE LUGO, Mr. HORTON, Mr. OBERSTAR, and Mr. STAGGERS):

H.R. 1512. A bill to amend title 5, United States Code, to include service during World War II in the U.S. merchant marine as military service for purposes of the civil service retirement system; to the Committee on Post Office and Civil Service.

By Mrs. KENNELLY:

H.R. 1513. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income the value of certain transportation furnished by an employer; to the Committee on Ways and Means.

By Mr. LAGOMARSINO:

H.R. 1514. A bill to disclaim or relinquish all right, title, and interest of the United States in and to certain lands conditionally relinquished to the United States under the act of June 4, 1897 (30 Stat. 11, 36), and for other purposes; to the Committees on Interior and Insular Affairs, Merchant Marine and Fisheries, and Agriculture.

By Mr. LEHMAN of Florida (for himself, Mr. WOLF, Mrs. SCHROEDER, and Mr. RANGEL):

H.R. 1515. A bill to amend the Internal Revenue Code of 1986 to provide a deduction for adoption expenses, and for other purposes; to the Committee on Ways and Means.

By Mr. LIGHTFOOT (for himself and Mr. DORGAN of North Dakota):

H.R. 1516. A bill to permit States to waive application of the Commercial Motor Vehicle Safety Act of 1986 with respect to certain farm vehicles; to the Committee on Public Works and Transportation.

By Mr. MINETA:

H.R. 1517. A bill to provide for a critical industries study and report; jointly, to the Committees on Banking, Finance and Urban Affairs, Energy and Commerce, Education and Labor, Foreign Affairs, the Judiciary, and Ways and Means.

By Mrs. MINK:

H.R. 1518. A bill to provide a program of Federal supplemental compensation; to the Committee on Ways and Means.

By Mr. MOLLOHAN:

H.R. 1519. A bill to suspend temporarily the duty on octadecyl isocyanate; to the Committee on Ways and Means.

H.R. 1520. A bill to suspend temporarily the duty on certain carbodiimide masterbatches; to the Committee on Ways and Means.

H.R. 1521. A bill to extend until January 1, 1995, the suspension of duty on certain carbodiimides; to the Committee on Ways and Means.

By Mr. OWENS of New York:

H.R. 1522. A bill to deny funds to educational programs that allow corporal punishment; to the Committee on Education and Labor.

By Mr. OXLEY:

H.R. 1523. A bill to permit the Bell Telephone Cos. to conduct research on, design, and manufacture telecommunications equipment, and for other purposes; jointly, to the Committees on Energy and Commerce and the Judiciary.

By Mr. SAWYER:

H.R. 1524. A bill to establish programs to promote increased access to higher education through early intervention counseling and financial aid information; to the Committee on Education and Labor.

H.R. 1525. A bill to authorize States to regulate solid waste in interstate commerce, to require States to adopt 20-year solid waste management plans, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SENSENBRENNER:

H.R. 1526. A bill to amend the Federal Deposit Insurance Act and the Federal Credit Union Act to establish risk-based premium assessments and depositor premium copayment requirements and to remove the limit on the amount of deposit insurance, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SLATTERY (for himself, Mr. TAUZIN, Mr. BRUCE, Mr. GLICKMAN, Mr. MAZZOLI, Mr. BONIOR, and Mr. HALL of Ohio):

H.R. 1527. A bill to permit the Bell Telephone Cos. to conduct research on, design, and manufacture telecommunications equipment, and for other purposes; jointly, to the Committees on Energy and Commerce and the Judiciary.

By Mr. SLAUGHTER of Virginia:

H.R. 1528. A bill to exempt receipts of the Federal Hospital Insurance Trust Fund from the calculation of revenues for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, and for other purposes; jointly, to the Committees on Government Operations and Ways and Means.

By Mr. TORRICELLI:

H.R. 1529. A bill to extend until January 1, 1995, the suspension of duties on certain chemicals; to the Committee on Ways and Means.

H.R. 1530. A bill to extend duty-free treatment to certain chemicals; to the Committee on Ways and Means.

By Mrs. UNSOELD (for herself, Mr. DICKS, Mr. SWIFT, Mr. DEFAZIO, Mr. GOSS, Mr. OWENS of Utah, and Mrs. VUCANOVICH):

H.R. 1531. A bill to prohibit a State from imposing an income tax on the pension income of individuals who are not residents or domiciliaries of that State; to the Committee on the Judiciary.

By Mr. WAXMAN:

H.R. 1532. A bill to amend the Public Health Service Act to revise and extend the programs of the National Institutes of Health, and for other purposes; to the Committee on Energy and Commerce.

By Mr. BILIRAKIS (for himself, Mr. RAVENEL, Mr. HYDE, Mr. DWYER of New Jersey, and Mr. HORTON):

H.R. 1533. A bill to amend the Older Americans Act of 1965 to require that the number of individuals who are 85 years of age and older be taken into consideration by States for purposes of designating planning and service areas and of distributing funds under such act; to the Committee on Education and Labor.

By Mr. BILIRAKIS (for himself, Mr. HORTON, and Mr. LEWIS of Florida):

H.R. 1534. A bill to require the Secretary of Health and Human Services to submit a report to the Congress regarding the national health care systems of certain industrialized countries; to the Committee on Energy and Commerce.

By Mr. BILIRAKIS (for himself, Mr. RAVENEL, Ms. ROS-LEHTINEN, Mr. HYDE, Mr. INHOFE, and Mr. MACHTLEY):

H.R. 1535. A bill to amend the Internal Revenue Code of 1986 to allow individuals a tax deduction for expenses exceeding 5 percent of adjusted gross income incurred in care of certain elderly individuals, to allow physicians and registered professional nurses a tax deduction for the cost of certain goods and services donated by them to elderly individuals, and to permit tax-free withdrawals from individual retirement accounts to pay certain long-term care expenses or purchase insurance to cover such expenses; to the Committee on Ways and Means.

By Mr. BILIRAKIS (for himself, Mr. LIPINSKI, Mr. WOLF, Mr. SHAYS, Mr. HYDE, Mr. FROST, Mr. TORRES, Mr. BILBRAY, Mr. LEHMAN of Florida, Mr. BUSTAMANTE, and Mr. MILLER of Washington):

H.R. 1536. A bill to amend the Internal Revenue Code of 1986 to allow employers a tax credit for hiring displaced homemakers; to the Committee on Ways and Means.

By Mr. BROOKS:

H.R. 1537. A bill to revise, codify, and enact without substantive change certain general and permanent laws, related to transportation, as subtitles II, III, and V–X of title 49, United States Code, "Transportation", and to make other technical improvements in the code; to the Committee on the Judiciary.

By Mr. BROWN (for himself, Mr. LEWIS of California, Mr. MOORHEAD, Mr. PACKARD, Mr. WISE, Mr. ANDERSON, Mr. BRUCE, Mr. YATES, Mr. SCHEUER, Mr. DELLUMS, Mrs. UNSOELD, Mr. BERMAN, Mr. HENRY, Mr. WOLPE, Mr. LANTOS, Mr. TORRICELLI, Mr. MCMILLEN of Maryland, Mr. ZIMMER, Mr. BOEHLERT, Mr. SWETT, Mr. TORRES, Mr. FAZIO, Mr. WEISS, Mr. KOPETSKI, Mr. VALENTINE, Mr. SHARP, Mr. CAMPBELL of California, Mr. LAGOMARSINO, Mr. MARTINEZ, Mr. LOWERY of California, Mr. SANDERS, Mr. LEVINE of California, Mr. BOUCHER, Mr. ALEXANDER, Mrs. LLOYD, Mr. MATSUI, Mr. WAXMAN, and Mr. GALLEGLY):

H.R. 1538. A bill to establish a national electric vehicle research, demonstration, and commercialization program for the United States, and for other purposes; jointly, to the Committees on Science, Space, and Technology and Energy and Commerce.

By Mr. LIPINSKI:

H.R. 1539. A bill to amend the Internal Revenue Code of 1986 to limit the ability of taxpayers to deduct the cost of cleaning up oil and hazardous substances spills; to the Committee on Ways and Means.

By Mr. RITTER:

H.R. 1540. A bill to direct the Secretary of Transportation to carry out a highway demonstration project to extend Pennsylvania State Route 33 to provide a limited access highway to connect Interstate Routes I–78 and I–80; to the Committee on Public Works and Transportation.

By Mr. SPENCE (for himself and Mr. TALLON):

H.R. 1541. A bill to amend title 38, United States Code, to increase the rate of special pension payable to persons who have received the Congressional Medal of Honor; to the Committee on Veterans' Affairs.

By Mr. FISH (for himself Mr. SCHUMER, and Mr. GREEN of New York):

H.J. Res. 195. Joint resolution expressing the sense of the Congress that the United States and the Soviet Union should lead an effort to promptly repeal United Nations General Assembly Resolution 3379 (XXX); to the Committee on Foreign Affairs.

By Mr. KANJORSKI:

H.J. Res. 196. Joint resolution to designate the week of August 5, 1991, through August 11, 1991, as "National Wrestling Week"; to the Committee on Post Office and Civil Service.

By Mr. LEVINE of California (for himself and Mr. GOODLING):

H.J. Res. 197. Joint resolution to designate the week of April 15 through 21, 1991, as "National Education First Week"; to the Committee on Post Office and Civil Service.

By Mr. LOWERY of California (for himself and Mr. DERRICK):

H.J. Res. 198. Joint resolution to designate the months of November 1991 and November 1992, as "National Alzheimer's Disease Month"; to the Committee on Post Office and Civil Service.

By Mr. MFUME (for himself, Mr. WEISS, Mr. SPRATT, Mr. TOWNS, Mr. WILSON, Ms. LONG, Mr. ROE, Mr. HORTON, Mr. CARDIN, Mr. OWENS of New York, Mr. CLEMENT, Mr. BACCHUS, Mr. LEVIN of Michigan, Mr. BUSTAMANTE, Ms. NORTON, Mr. ESPY, Mr. MCDERMOTT, Mr. SMITH of Florida, Mr. MCNULTY, Mr. MCGRATH, Mr. FROST, Mr. HARRIS, Mr. JONTZ, and Mr. PAYNE of New Jersey):

H.J. Res. 199. Joint resolution designating the week beginning April 21, 1991, as "Big Brothers/Big Sisters Appreciation Week"; to the Committee on Post Office and Civil Service.

By Mr. PANETTA:

H.J. Res. 200. Joint resolution designating the monarch butterfly as the national insect; to the Committee on Post Office and Civil Service.

By Mr. PANETTA (for himself, Mr. KILDEE, and Mr. GREEN of New York):

H.J. Res. 201. Joint resolution designating the week beginning December 1, 1991, and the week beginning November 15, 1992, each as "Geography Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. CLINGER (for himself, Mr. EMERSON, and Mr. RAHALL):

H. Con. Res. 101. Concurrent resolution expressing the sense of the Congress that telephone directories within the Eastern and Midwestern United States should include information relating to natural disaster survival techniques; to the Committee on Energy and Commerce.

By Mr. ROHRABACHER (for himself, Mr. GINGRICH, Mr. FISH, Mr. HUNTER, Mr. HYDE, Mr. ACKERMAN, Mr. BLAZ, Mr. BROOMFIELD, Mr. BUNNING, Mr. CAMPBELL of Califorina, Mr. COLEMAN of Missouri, Mr. COX of California, Mr. DANNEMEYER, Mr. DELAY, Mr. DE LUGO, Mr. DOOLITTLE, Mr. DORNAN of California, Mr. DUNCAN, Mr. DREIER of California, Mr. FROST, Mr. HANCOCK, Mr. HERGER, Mr. KYL, Mr. LAGOMARSINO, Mr. MCCOLLUM, Ms. MOLINARI, Mr. MOORHEAD, Mr. PACKARD, Mr. PALLONE, Mr. PAXON, Mr. REVENEL, Ms. ROS-LEHTINEN, Mr. SENSENBRENNER, Mr. THOMAS of Wyoming, Mr. WALKER, and Mr. WALSH):

H. Con. Res. 102. Concurrent resolution expressing the sense of the Congress regarding admissions of minority students to institutions of higher education; jointly, to the Committee on Education and Labor and the Judiciary.

By Mr. LEVIN of Michigan:

H. Res. 115. Resolution providing for a lighting efficiency program for the House of Representatives office buildings, and a study and report on the economic and environmental effects of such program; to the Committee on Public Works and Transportation.

By Mr. YATRON (for himself, Mr. FASCELL, Ms. SNOWE, Mrs. SCHROEDER, Mr. HAMILTION, Mr. OWENS of Utah, Mr. FEIGHAN, Mr. WEISS, Mrs. MEYERS of Kansas, and Mr. GREEN of New York):

H. Res. 116. Resolution urging the President to complete the review of the Convention on the Elimination of All Forms of Discrimination Against Women in order that the Senate may give its advice and consent to ratification; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

36. By the SPEAKER: Memorial of the House of Representatives of the Commonwealth of Puerto Rico, relative to H.R. 537; to the Committee on Armed Services.

37. Also, memorial of the Legislature of the State of Wyoming, relative to employment and unemployment programs in Wyoming; to the Committee on Education and Labor.

38. Also, memorial of the Legislature of the State of Wyoming, relative to funds for alcohol, substance abuse, and mental health programs; to the Committee on Energy and Commerce.

39. Also, memorial of the Legislature of the State of Wyoming, relative to the highway trust fund; jointly, to the Committees on Public Works and Transportation and Government Operations.

40. Also, memorial of the Legislature of the State of Wyoming, relative to the desecration of the U.S. flag; to the Committee on the Judiciary.

41. Also, memorial of the Legislature of the State of Wyoming, relative to wolves in the Greater Yellowstone Area; to the Committee on Merchant Marine and Fisheries.

42. Also, memorial of the Legislature of the State of Wyoming, relative to drug offenders; to the Committee on Public Works and Transportation.

43. Also, memorial of the Legislature of the State of Wyoming, relative to vehicle weight limits; to the Committee on Public Works and Transportation.

44. Also, memorial of the Legislature of the State of Utah, relative to health insurance premiums; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. HANSEN:

H.R. 1542. A bill for the relief of John Gabriel Robledo-Gomez Dunn; to the Committee on the Judiciary.

By Mr. LIPINSKI:

H.J. Res. 202. Joint resolution to proclaim Lech Walesa as an honorary citizen of the United States; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 25: Mr. ACKERMAN, Mr. ANDREWS of Texas, Mr. ANDREWS of Maine, Mrs. COLLINS of Michigan, Ms. DELAURO, Mr. DYMALLY, Mr. GIBBONS, Mr. MARTINEZ, Mr. MFUME, Mr. TORRICELLI, and Mr. WASHINGTON.

H.R. 87: Mr. COYNE, Mr. GILMAN, Mrs. LOWEY of New York, and Mr. TRAFICANT.

H.R. 88: Mr. BLILEY.

H.R. 108: Mr. OWENS of Utah and Mr. SERRANO.

H.R. 110: Mr. DIXON, Mr. SWIFT, Mr. ANNUNZIO, and Mr. LEWIS of Florida.

H.R. 117: Mr. SANDERS.

H.R. 123: Mr. ROWLAND, Mr. VALENTINE, Mr. DOOLITTLE, Mr. HALL of Texas, Mr. COX of California, Mr. PENNY, and Mr. HUBBARD.

H.R. 141: Mr. EMERSON Mr. TRAFICANT, Mr. BILIRAKIS, and Mr. ROTH.

H.R. 303: Mr. HOAGLAND, Mr. SCHAEFER, Mr. PEASE, Mr. MOLLOHAN, Mr. SISISKY, Mr. DICKS, and Ms. PELOSI.

H.R. 327: Mr. KANJORSKI.

H.R. 330: Mr. HAYES of Illinois.

H.R. 413: Mr. SWETT, Mr. BEREUTER, Mr. ERDREICH, Mr. LUKEN, Ms. WATERS, Mrs. SCHROEDER, and Mr. TRAFICANT.

H.R. 431: Mr. COSTELLO, Mr. HUNTER, Mrs. SCHROEDER, Mr. ABERCROMBIE, Mr. GALLEGLY, Mr. MARTINEZ, Mr. IRELAND, Mr. MOLLOHAN, Mr. CHANDLER, Mr. SCHAEFER, and Mr. LAROCCO.

H.R. 467: Mr. HERGER, Mr. QUILLEN, Mr. TRAXLER, Mr. HUCKABY, Mr. ABERCROMBIE, Mr. KENNEDY, and Mr. SANDERS.

H.R. 534: Mr. HUBBARD, Mr. CLEMENT, Mr. KOPETSKI, Mr. FISH, Mr. BEVILL, Mr. ANDREWS of Maine, Mr. LAUGHLIN, Mr. BLAZ, Mr. BURTON of Indiana, Mr. VOLKMER, Mr. ERDREICH, Mr. SWIFT, Mr. DOWNEY, Mr. KOLTER, Mr. MARLENEE, Mr. SOLOMON, Mr. SPENCE, Mr. MILLER of Washington, Mr. TAYLOR of Mississippi, Mr. COX of Illinois, Mr. HOLLOWAY, Mr. QUILLEN, Mr. MOLLOHAN, Mr. MILLER of Ohio, Mr. STEARNS, Mr. GAYDOS, and Mr. CHAPMAN.

H.R. 565: Mr. CLAY, Mr. TORRES, Mr. MACHTLEY, Mrs. SCHROEDER, Mr. JONES of Georgia, Mr. BOEHNER, Mr. HATCHER, Mr. PRICE, and Mr. MILLER of Ohio.

H.R. 620: Mr. GALLO.

H.R. 648: Mr. WEISS, Ms. KAPTUR, Mr. JEFFERSON, Mr. PETERSON of Minnesota, Mrs. COLLINS of Illinois, Mr. PAYNE of New Jersey, Mr. LAFALCE, Mr. SERRANO, Mr. ABERCROMBIE, Ms. NORTON, Mr. DE LA GARZA, Mr. RICHARDSON, Mr. STOKES, Mr. GONZALEZ, Mr. HAYES of Illinois, Mr. MCNULTY, Mr. MFUME, and Mr. DE LUGO.

H.R. 652: Mr. TAYLOR of Mississippi.

H.R. 672: Mr. LANCASTER.

H.R. 709: Mr. ECKART, Mr. MILLER of Washington, Mr. ENGEL, and Mrs. MINK.

H.R. 710: Mr. DICKINSON, Mr. BEREUTER, Mr. CLINGER, Mr. COYNE, Mr. GUARINI, and Mr. COMBEST.

H.R. 714: Mr. MFUME, Mr. DARDEN, Ms. PELOSI, and Mr. FAZIO.

H.R. 763: Mr. JEFFERSON, Mr. OWENS of Utah, and Mr. STAGGERS.

H.R. 765: Mr. SANDERS, Mr. DWYER of New Jersey, Ms. KAPTUR, Mr. JOHNSTON of Florida, Mr. JEFFERSON, and Mr. WEISS.

H.R. 768: Mr. HYDE, Mr. DORNAN of California, and Mr. OXLEY.

H.R. 776: Mr. WILSON, Mr. LAFALCE, Ms. KAPTUR, Mr. SHAYS, Mr. PEASE, Mr. GEJDENSON, Mr. ENGEL, Mr. BARNARD, Mr. GORDON, Mrs. UNSOELD, Mr. DEFAZIO, Mr. SCHEUER, Mr. FROST, Mr. HAMILTON, Mr. NEAL of North Carolina, Ms. LONG, Mrs. LOWEY of New York, Mr. WEISS, and Mr. SCHUMER.

H.R. 777: Mr. WILSON, Mr. LAFALCE, Mrs. BOXER, Ms. KAPTUR, Mr. ENGEL, Mr. BROOKS, Mr. HUGHES, Mrs. UNSOELD, Mr. DE LUGO, Mr. SCHEUER, Mr. NEAL of North Carolina, and Mr. WEISS.

H.R. 778: Mr. LAFALCE, Mr. MACHTLEY, Mr. PETRI, Ms. KAPTUR, Mr. ENGEL, Mr. BARNARD, Mr. HUGHES, Mr. GORDON, and Mr. SCHEUER.

H.R. 779: Mr. WILSON, Mr. ENGLISH, Mr. RAVENEL, Mr. HUCKABY, Mr. BARNARD, Mrs. UNSOELD, Mr. SCHEUER, Mr. FROST, Ms. KAPTUR, and Mr. NEAL of North Carolina.

H.R. 780: Mr. LEWIS of California, Mr. LAFALCE, Mr. HORTON, Ms. KAPTUR, Mr. RAVENEL, Mr. ENGEL, Mr. PETERSON of Minnesota, Mr. BARNARD, Mrs. UNSOELD, Mr. DEFAZIO, Mr. SCHEUER, Mrs. LLOYD, Mr. HAMILTON, Mr. KILDEE, Mr. NEAL of Massachusetts, and Mr. WEISS.

H.R. 786: Mr. DELLUMS, Mr. RAHALL, and Mr. FAZIO.

H.R. 793: Mr. BREWSTER, Mr. BRUCE, Mr. CAMPBELL of Colorado, Mr. KASICH, Mr. MILLER of Washington, Mrs. MEYERS of Kansas, Ms. NORTON, Mr. OWENS of New York, Mr. RAHALL, Mr. SANGMEISTER, Mr. WISE, Mr. COYNE, Mr. FISH, and Mr. JONES of Georgia.

H.R. 797: Mr. SLATTERY.

H.R. 809: Mr. ANDREWS of Maine, Mr. JONTZ, Mr. WISE, Mr. ZELIFF, Mr. JACOBS, Mr. BRUCE, Mr. BEVILL, Mr. DWYER of New Jersey, and Mr. WASHINGTON.

H.R. 810: Mrs. SCHROEDER, Mr. CHAPMAN, Mr. ROE, Mr. LANCASTER, Mr. YATRON, Mr. STAGGERS, Mr. WILSON, Mrs. BOXER, Mr. JEFFERSON, Ms. KAPTUR, Mr. STALLINGS, and Mr. JONTZ.

H.R. 815: Mr. WOLF, Mrs. COLLINS of Illinois, Mr. POSHARD, Mr. MRAZEK, Ms. MOLINARI, Mrs. MINK, Mr. JONES of Georgia, Mr. MCGRATH, Mr. FROST, Mr. DELLUMS, Mr. ROWLAND, Mr. HORTON, and Mr. HOCHBRUECKNER.

H.R. 832: Ms. KAPTUR.

H.R. 840: Mr. DERRICK and Mr. NEAL of Massachusetts.

H.R. 856: Mr. KANJORSKI, Mrs. KENNELLY, Mr. SANGMEISTER, and Mr. WEISS.

H.R. 865. Ms. KAPTUR and Mrs. LOWEY of New York.

H.R. 866: Ms. KAPTUR.

H.R. 930: Ms. KAPTUR, Mrs. LLOYD, Ms. PELOSI, Ms. MOLINARI, Mr. LAGOMARSINO, Mrs. MORELLA, and Mr. JONTZ.

H.R. 931: Mr. LEWIS of Florida, Mr. APPLEGATE, Mr. RAVENEL, Mr. GILMAN, Mr. SCHEUER, Mr. BILBRAY, Mr. MRAZEK, Mr. WOLF, Mr. NEAL of North Carolina, Mr. ENGLISH, Mr. ECKART, Mr. EVANS, Mr. ACKERMAN, Mr. BILIRAKIS, Mr. COX of California, Mr. HYDE, Mr. HERTEL, Mr. LAGOMARSINO, Mr. SOLOMON, Mr. FRANK of Massachusetts, Mr. BLILEY, Mr. JONTZ, and Mr. RAMSTAD.

H.R. 951: Mr. MCMILLEN of Maryland, Mr. ROTH, and Mr. TAUZIN.

H.R. 967: Ms. PELOSI.

H.R. 977: Mr. EVANS, Mr. MCGRATH, and Mr. WOLF.

H.R. 993: Mr. HUGHES, Mr. GUNDERSON, Mr. KOLTER, Mr. SANDERS, Mr. FAZIO, and Mr. COSTELLO.

H.R. 1030: Mr. SANDERS and Mr. LIPINSKI.

H.R. 1031: Mr. KOLTER.

H.R. 1072: Mr. ECKART, Mr. FROST, Ms. SNOWE, Ms. DELAURO, Mr. RANGEL, Mr. GALLO, and Ms. NORTON.

H.R. 1073: Mr. ECKART, Mr. FROST, Ms. SNOWE, Ms. DELAURO, Mr. RANGEL, Mr. GALLO, and Ms. NORTON.

H.R. 1079: Mr. CLEMENT.

H.R. 1080: Mr. MOAKLEY, Mr. WEBER, Mr. DREIER of California, Mr. SCHIFF, Mr. KOLTER, Mr. MCCANDLESS, Mr. RAMSTAD, Mr. PAXON, Mr. ZELIFF, Mr. BOEHNER, Mr. PACKARD, Mr. SCHAEFER, Mrs. BYRON, Mr. SANTORUM, Mr. BURTON of Indiana, and Mr. SHAYS.

H.R. 1082: Mr. FISH, Mr. MFUME, Mr. DE LUGO, and Mr. FOGLIETTA.

H.R. 1133: Mr. SMITH of New Jersey, Mr. OXLEY, Mr. PACKARD, Mr. GALLEGLY, Mr. MOORHEAD, Mr. FIELDS, and Mr. DORNAN of California.

H.R. 1146: Mr. OXLEY, Mr. DWYER of New Jersey, Mr. LIPINSKI, Mrs. PATTERSON, Mr. RAVENEL, Mrs. MORELLA, Mr. DE LUGO, Ms. NORTON, Mr. DIXON, Mr. ROE, Mr. CARDIN, Mr. EVANS, and Mr. BARTON of Texas.

H.R. 1147: Mr. ENGEL, Mr. WELDON, Mr. TAYLOR of Mississippi, Mr. LEVINE of California, Mr. HERGER, Mr. KENNEDY, and Mr. CHANDLER.

H.R. 1177: Mr. SWETT, Mr. YATES, and Mr. RAHALL.

H.R. 1178: Mr. COYNE, Mr. GAYDOS, Mr. ABERCROMBIE, Mr. OWENS of New York, Mr. MAVROULES, and Mr. DWYER of New Jersey.

H.R. 1185: Mr. DORNAN of California, Mr. THOMAS of Georgia, Mr. OBERSTAR, Mr. HANSEN, Mr. HATCHER, and Mr. EMERSON.

H.R. 1189: Mr. LIPINSKI, Mr. BEREUTER, Mr. JONES of Georgia, Mr. COSTELLO, Ms. HORN, Mr. HERTEL, Mr. BACCHUS, Mrs. BOXER, Mr. MARTINEZ, and Mr. LANTOS.

H.R. 1200: Ms. NORTON, Mrs. BOXER, Mr. WOLPE, Mr. HERTEL, Mr. ROYBAL, Mr. HUGHES, Mr. TORRES, Mr. KENNEDY, Mr. WILLIAMS, Mr. KLECZKA, and Mr. JONTZ.

H.R. 1201: Mr. SANDERS, Mr. BUSTAMANTE, and Mr. HENRY.

H.R. 1212: Ms. KAPTUR, Mr. EMERSON, Mrs. JOHNSON of Connecticut, Mrs. BOXER, Mrs. VUCANOVICH, Mr. GEJDENSON, Mr. STEARNS, Mr. BRUCE, and Mr. ECKART.

H.R. 1213: Ms. KAPTUR, Mrs. EMERSON, Mrs. JOHNSON of Connecticut, Mrs. BOXER, Mrs. VUCANOVICH, Mr. GEJDENSON, Mr. STEARNS, and Mr. BRUCE.

H.R. 1234: Ms. NORTON, Mr. UDALL, Mr. TOWNS, Mr. FASCELL, Mr. ORTON, Mr. DICKS, and Mr. RAHALL.

H.R. 1240: Mr. WEISS, Mr. SANDERS, and Mr. LEWIS of Georgia.

H.R. 1288: Mr. LEHMAN of Florida, Mr. TOWNS, Mrs. UNSOELD, Mr. FRANK of Massachusetts, Ms. PELOSI, Mr. BROWN, Mr. LAFALCE, Mr. HERTEL, Ms. NORTON, Mr. TORRES, Mr. VALENTINE, and Mr. EVANS.

H.R. 1289: Mr. YATRON and Mr. GUNDERSON.

H.R. 1297: Mr. LAUGHLIN, Mr. LENT, and Mr. PALLONE.

H.R. 1300: Mr. TOWNS.

H.R. 1346: Mr. EDWARDS of California, Mrs. SCHROEDER, Mrs. LOWEY of New York, Mr. ENGEL, Mr. BRUCE, Mr. AUCOIN, Mr. PAYNE of New Jersey, Mr. MINETA, Mr. DWYER of New Jersey, and Mr. ANDREWS of Maine.

H.R. 1395: Mr. ABERCROMBIE.

H.R. 1412: Mr. LEWIS of Florida, Mr. MCCRERY, Mr. DICKINSON, Mr. COMBEST, Mr. INHOFE, Mr. LAUGHLIN, Mr. HUBBARD, Mr. SKEEN, Mr. SLATTERY, Mr. BUSTAMANTE, Mr. JOHNSON of South Dakota, Mr. DREIER of California, Mr. GAYDOS, Mr. CAMP, Mr. COLEMAN of Texas, Mr. PARKER, Mr. TAYLOR of Mississippi, Mr. TRAXLER, Mr. ARCHER, Mr. HUNTER, Mr. CONDIT, Mr. WILSON, Mr. ESPY, Mr. CALLAHAN, Mr. KOLTER, Mr. DAVIS, Mr. CUNNINGHAM, and Mr. PAYNE of Virginia.

H.R. 1426: Mr. NEAL of North Carolina and Mr. PRICE.

H.R. 1494: Mr. TOWNS, Mr. GILMAN, Mr. RIDGE, Mr. CLINGER, Mr. KLUG, Mr. KANJORSKI, Mr. STALLINGS, Mr. HOUGHTON, Mr. OBEY, Mr. GEKAS, Mr. SHUSTER, Mr. MCHUGH, Mr. YATRON, Mr. NOWAK, Ms. SNOWE, and Mr. ANDREWS of Maine.

H.J. Res. 1: Mr. DWYER of New Jersey, Mr. ECKART, Mr. FEIGHAN, Mr. FROST, Mr. GEJDENSON, Mr. GILMAN, Mr. GONZALEZ, Mr. GUARINI, Mr. HAMILTON, Mr. KOPETSKI, Mr. LEWIS of Georgia, Ms. LONG, Mr. MARKEY, Mrs. MEYERS of Kansas, Mr. MILLER of Washington, Ms. OAKAR, Mr. OWENS of Utah, Mr. PAYNE of New Jersey, Mr. PERKINS, Mr. SANDERS, Mr. SERRANO, Mr. STAGGERS, Mr. STOKES, Mr. WEISS, and Mr. WOLPE.

H.J. Res. 58: Mr. ROEMER, Mr. LUKEN, Ms. NORTON, and Ms. DELAURO.

H.J. Res. 72: Mr. RAY, Mrs. LLOYD, Mr. EMERSON, Mr. CAMP, Mr. MCNULTY, Mr. JONES of Georgia, Mr. JENKINS, Mr. SOLOMON, Mr. BRUCE, Mr. LIPINSKI, Mr. PURSELL, Mr. JONTZ, Mr. THOMAS of Wyoming, Mr. WAXMAN, Mr. GILCHREST, Mr. BLILEY, Mr. GALLEGLY, Mr. MARTINEZ, Mr. ANDREWS of New Jersey, Mr. LIVINGSTON, Mr. ANDERSON, Mr. MCCLOSKEY, Mr. ACKERMAN, and Ms. KAPTUR.

H.J. Res. 73: Mr. GRANDY, Mr. WEISS, and Mr. SPRATT.

H.J. Res. 87: Mr. DERRICK, Mr. BUSTAMANTE, Mr. MICHEL, Mr. LANCASTER, Mr. LIPINSKI, Mr. CLEMENT, Mrs. MEYERS of Kansas, Mr. HAYES of Louisiana, Mrs. BYRON, Mr. MARTINEZ, Ms. ROS-LEHTINEN, Mr. CRAMER, Mrs. VUCANOVICH, Mr. VALENTINE, Mr. SOLOMON, Mr. COX of California, Mr. REED, Mr. SWETT, Ms. HORN, Mr. NICHOLS, Mr. PAYNE of New Jersey, Mr. DOOLITTLE, Mr. DARDEN, Mr. FAWELL, Mr. BENNETT, Mr. BURTON of Indiana, Mr. KLUG, Mr. SARPALIUS, Mr. STUMP, Mr. SWIFT, Mr. MAZZOLI, Mr. WEISS, Mr. EDWARDS of Texas, Mr. INHOFE, Mr. HAMILTON, Mr. STAGGERS, Mr. OWENS of New York, Mr. JONES of Georgia, Mr. MARTIN, Mr. VOLKMER, Mr. CONYERS, Mr. TOWNS, Mr. PICKETT, Mr. CHANDLER, Mr. HOAGLAND, Mrs. BENTLEY, Mr. SMITH of Florida, Mrs. LLOYD, Mr. MANTON, Mr. TAYLOR of Mississippi, Mr. BROOMFIELD, Mr. PICKLE, Mr. HALL of Ohio, Mr. ESPY, Mr. TORRICELLI, Mr. MRAZEK, Mr. LEHMAN of Florida, Mr. BALLENGER, Mr. COOPER, Mr. JACOBS, Mr. SYNAR, Mr. FAZIO, Mr. MCCOLLUM, Mr. MORAN, Mr. MOORHEAD, and Mr. SHAW.

H.J. Res. 88. Mr. DOOLITTLE, Mr. JONES of Georgia, Mr. RAY, Mr. ROE, Mr. SMITH of Florida, Mr. SOLARZ, and Mr. SPENCE.

H.J. Res. 90: Mr. FASCELL, Mr. WELDON, Mr, CLINGER, Mr. SYNAR, Mr. BUSTAMANTE, and Mr. SABO.

H.J. Res. 92: Mrs. UNSOELD, Mr. FROST, Mrs. BOXER, Mr. ATKINS, Ms. NORTON, and Mr. LEWIS of Georgia.

H.J. Res. 95: Mr. BACCHUS, Ms. PELOSI, Mrs. MORELLA, Mr. VISCLOSKY, Mrs. MEYERS of Kansas, Mr. RAY, Mr. NUSSLE, Mr. COUGHLIN, Mr. STUDDS, Mr. SLATTERY, Ms. KAPTUR, Mr. MAZZOLI, and Mr. NEAL of North Carolina.

H.J. Res. 102: Mr. FISH, Mr. CHAPMAN, Mr. MCMILLEN of Maryland, Mr. YOUNG of Alaska, Mr. TRAFICANT, Mr. BENNETT, Mr. QUILLEN, Mr. GORDON, Mr. COLEMAN of Texas, Mr. GILMAN, Mr. FAZIO, Mr. BILBRAY Mrs. UNSOELD, Mr. TRAXLER, and Ms. NORTON.

H.J. Res. 103: Mr. YOUNG of Alaska, Mr. CAMP, Mr. SYNAR, Mr. KANJORSKI, Mr. QUILLEN, and Mr. HUTTO.

H.J. Res. 109: Mr. BURTON of Indiana, Mr. CARDIN, Mr. COSTELLO, Mr. DARDEN, Mr. DYMALLY, Mr. ESPY, Mr. FISH, Mr. FOGLIETTA, Mr. FROST, Mr. GALLEGLY, Mr. HALL of Texas, Mr. HAYES of Louisiana, Mr. HUTTO, Mr. JONES of North Carolina, Mr. JONTZ, Mr. LEWIS of California, Mr. LEWIS of Florida, Mrs. LOWEY of New York, Mrs. MORELLA, Mr. MURPHY, Mr. PAYNE of New Jersey, Ms. PELOSI, Mr. PICKETT, Mr. QUILLEN, Mr. RAMSTAD, Mr. RICHARDSON, Mr. SCHEUER, Mr. SMITH of Florida, Mr. TRAXLER, Mr. VOLKMER, and Mr. YOUNG of Florida.

H.J. Res. 125: Mr. MARTINEZ, Mr. BATEMAN, Mr. FORD of Tennessee, Mr. GILMAN, Ms. DELAURO, Mr. BENNETT, Mr. SCHEUER, Ms. KAPTUR, and Mr. NUSSLE.

H.J. Res. 149: Mr. ANDERSON, Mr. COX of Illinois, Mr. SWETT, Mr. LANCASTER, Mrs. BENTLEY, Mrs. KENNELLY, Mr. HENRY, Mr. JONTZ, Mr. KASICH, Mr. HAYES of Illinois, Mr. WASHINGTON, Mr. LAFALCE, Mr. EMERSON, Mr. GILLMOR, Mr. COLEMAN of Texas, Mr. CONDIT, Mr. BOEHLERT, Mr. PAYNE of New Jersey, Mr. BROOMFIELD, Mr. LEACH, Mr. SUNDQUIST, Mr. HASTERT, Mr. JONES of Georgia, Mr. OWENS of New York, Mr. QUILLEN, Mr. SAWYER, Mrs. BOXER, Ms. WATERS, Mr. LANTOS, Mr. WHEAT, Mr. SPRATT, Mr. PICKLE, Mr. DANNEMEYER, Mr. FISH, Mr. CAMP, Mr. RINALDO, Mrs. LOWEY of New York, Mr. COX of California, Mr. GUNDERSON, Mr. GALLO, Mr. LIGHTFOOT, Mr. GILMAN, Mr. RHODES, Mr. SAXTON, Mr. THOMAS of Georgia, Mr. JEFFERSON, Mr. MFUME, Mr. FAZIO, Ms. LONG, Mr. SLATTERY, Mrs. BYRON, Mr. MARTIN, Mr. GEKAS, Mr. VANDER JAGT, Mrs. VUCANOVICH, Mr. LEWIS of Georgia, Mr. SOLOMON, Mr. DREIER of California, Mr. OXLEY, Mr. GINGRICH, Mr. BERMAN, and Mr. HUGHES.

H.J. Res. 179: Mr. APPLEGATE, Mr. ROE, Mr. ANNUNZIO, Mr. MOAKLEY, Mr. SCHUMER, Ms. MOLINARI, Mr. SWIFT, Mr. BILBRAY, Mr. MCGRATH, Mr. HENRY, Ms. OAKAR, Mr. CHAPMAN, Mr. MCNULTY, Mrs. BYRON, Ms. HORN, Mrs. JOHNSON of Connecticut, Mr. JONTZ, Mr. COYNE, Ms. ROS-LEHTINEN, Mr. DINGELL, Mr. JONES of Georgia, Mrs. MORELLA, Mr. MFUME, Mr. FROST, Mr. KOLTER, Mr. ERDREICH, Mr. FEIGHAN, and Mr. SCHAEFER.

H.J. Res. 180: Mr. CONYERS, Mr. COSTELLO, Mr. DORGAN of North Dakota, Mr. DWYER of New Jersey, Mr. JEFFERSON, Ms. KAPTUR, Mr. KENNEDY, Mr. KLECZKA, Mr. KOLTER, Mr. LAFALCE, Mr. LAGOMARSINO, Mr. MCHUGH, Mr. MOODY, Mr. MOORHEAD, Mrs. PATTERSON, Mr. ROTH, Mr. SAWYER, Mr. SCHIFF, Mr. STOKES, Mr. TRAFICANT, and Mr. WELDON.

H.J. Res. 189: Mr. FAZIO, Mr. KANJORSKI, Mr. OWENS of Utah, and Mr. QUILLEN.

H. Con. Res. 42: Mr. INHOFE, Mr. BLILEY, Ms. LONG, Mr. SANTORUM, and Mr. QUILLEN.

H. Con. Res. 47: Mrs. VUCANOVICH, Mr. HANCOCK, Mr. RITTER, and Mr. HUTTO.

H. Con. Res. 55: Mr. ZELIFF, Mr. CAMPBELL of Colorado, Mr. BEREUTER, Mr. EMERSON, and Mr. NEAL of North Carolina.

H. Con. Res. 56: Mr. MCNULTY.

H. Con. Res. 58: Mr. JEFFERSON, Mr. GREEN of New York, Mr. SWETT, Mr. SHAW, Mrs. LOWEY of New York, Mr. PORTER, Mr. JOHNSTON of Florida, Mr. KENNEDY, and Mr. MANTON.

H. Con. Res. 67: Mrs. BOXER.

H. Con. Res. 90: Mr. OBERSTAR, Mr. HORTON, Ms. LONG, Mr. MFUME, Mr. FOGLIETTA, Mr. PERKINS, Mr. PAYNE of New Jersey, Mr. HARRIS, Mr. SERRANO, Mr. MACHTLEY, Mr. TOWNS, Mr. RIGGS, Mrs. BOXER, Mr. GUARINI, Mr. CLAY, Mr. KLUG, Mrs. SCHROEDER, Mr. MCNULTY, Ms. PELOSI, Mr. JONES of Georgia, Mr. LEVIN of Michigan, Mr. GREEN of New York, Mrs. BYRON, Mr. STOKES, Mr. LIPINSKI, Mr. DICKINSON, Mr. POSHARD, Mr. WAXMAN, Mrs. MORELLA, Mr. LAFALCE, Mrs. COLLINS of Illinois, Mr. LAGOMARSINO, Mr. ENGEL, Mr. FROST, Mr. SCHEUER, Mr. FUSTER, Mr. ALEXANDER, and Mrs. UNSOELD.

H. Con. Res. 91: Mr. MANTON, Mr. TORRICELLI, Mr. HORTON, Mr. MCNULTY, Mr. ANNUNZIO, Mr. PAXON, Mr. PALLONE, Mr. WAXMAN, Mr. BILBRAY, Mr. HOCHBRUECKNER, Mr. WOLPE, Mr. NEAL of North Carolina, Mr. SCHEUER, Mr. FEIGHAN, Mr. WEBER, Mr. MOODY, Mr. STOKES, Mr. BENNETT, Mr. ARCHER, Mr. MCGRATH, Mr. DOOLITTLE, Mr. BURTON of Indiana, Mrs. MORELLA, Mr. WEISS, Mr. SCHUMER, Mr. REED, Mr. TOWNS, Mr. ACKERMAN, Mr. SWETT, Mr. MRAZEK, Mr. CARDIN, Mr. BRYANT, Mr. OWENS of New York, Mr. BACCHUS, Mr. AUCOIN, Mr. FISH, Mr. YATES, Mr. BORSKI, and Mr. PRICE.

H. Con. Res. 95: Mr. ABERCROMBIE, Mr. PAXON, Mr. SAWYER, Ms. NORTON, Mr. FUSTER, Mr. KOPETSKI, Mr. REED, Mr. CHANDLER, Mr. PERKINS, Mr. SPRATT, Mr. HEFNER, Mr. KANJORSKI, Mr. FALEOMAVAEGA, Mr. PAYNE of Virginia, Mr. JONTZ, Mr. SWETT, Ms. HORN, Ms. PELOSI, Mr. EVANS, Mr. GUARINI, and Mrs. LLOYD.

H. Res. 42: Mr. BILBRAY, Mr. VALENTINE, and Mr. COSTELLO.

H. Res. 97: Mr. HOUGHTON, Mr. CLEMENT, Mr. JONES of Georgia, Mr. DE LA GARZA, Mr. ERDREICH, Mr. MCNULTY, Mr. POSHARD, Mr. LIPINSKI, Mr. GILCHREST, Mr. BUNNING, Mr. JEFFERSON, Mr. LAGOMARSINO, Mr. KOLTER, Mrs. VUCANOVICH, Mr. QUILLEN, Mr. SCHEUER, Mr. FORD of Tennessee, and Mr. SPENCE.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

37. By the Speaker: Petition of the King County Labor Council, Seattle, WA, relative to fair employment principles in Northern Ireland; to the Committee on Foreign Affairs.

38. Also, petition of the board of selectmen, Hopkinton, MA, relative to the desecration of the U.S. flag; to the Committee on the Judiciary.

39. Also, petition of the county council of Sussex County, DE, relative to the desecreation of the U.S. flag; to the Committee on the Judiciary.

40. Also, petition of the board of selectman, Palmer, relative to the desecreation of the U.S. flag; to the Committee on Judiciary.

41. Also, petition of the Governor and Cabinet of the State of Florida, relative to the Cross Florida Barge Canal project; to the Committee on Public Works and Transportation.

42. Also, petition of the Nitijela of the Marshall Islands, relative to compensation for injuries sustained as a result of the Nuclear Testing Program; jointly, to the Committees on Foreign Affairs and Interior and Insular Affairs.

SENATE—*Wednesday, March 20, 1991*

(Legislative day of Wednesday, February 6, 1991)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable EDWARD M. KENNEDY, a Senator from the State of Massachusetts.

The PRESIDING OFFICER. Today's prayer will be offered by the guest chaplain, Rabbi Yechiel Eckstein, president, International Fellowship of Christians and Jews.

PRAYER

Rabbi Yechiel Eckstein, president, International Fellowship of Christians and Jews, Chicago, IL, offered the following prayer:

Our Father in Heaven, we come before You this day and every day in awe, in gratitude, in praise, in humility, and in prayer. This, indeed, is the day the Lord has made, let us rejoice and be glad in it.

O Lord, instill in our hearts a love for You and for all Your creation. May we be ever mindful that it is from You that we derive our strength, our wisdom, our hope, and our conviction.

May we be inspired by Your Word and reminded of Micah's admonition to act justly, love mercy, and walk humbly with the Lord our God. May we never avert our eyes from the pain and suffering of others.

O Lord, on this and every day, we seek Your guidance and direction. Watch over our leaders—indeed, the men and women in this room.

Let us pray for the peace of Jerusalem as Psalms 122:6 urges us to do, and indeed for peace among all people of all nations. So that, instead of finding swords and weapons we will find only plowshares and pruning forks. We, the people, look to God and You to bring that day of peace about.

In the words of the age-old Jewish prayer, "He who brings peace in the Heavens may He bring peace to us and all the world." God bless you and be with you. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 20, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable EDWARD M. KENNEDY, a Senator from the State of Massachusetts, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KENNEDY thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 15 minutes of debate on the Nickles amendment No. 51, to be equally divided by the Senator from Oklahoma [Mr. NICKLES] and the Senator from Massachusetts [Mr. KENNEDY] with a vote following thereon. The clerk will report the bill.

The legislative clerk read as follows:

A bill (H.R. 1281) making dire emergency supplemental appropriations for the consequences of Operation Desert Shield/Desert Storm, food stamps, unemployment compensation administration, veterans' compensation and pensions, and other urgent needs for the fiscal year ending September 30, 1991, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Nickles amendment No. 51, to strike section 303, which prohibits the increased use of semiskilled workers on Federal construction projects and barring implementations of revised apprenticeship regulations.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. NICKLES addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma [Mr. NICKLES].

Mr. NICKLES. Mr. President, I yield myself 3 minutes.

The ACTING PRESIDENT pro tempore. The Senator is recognized for 3 minutes.

AMENDMENT NO. 51

Mr. NICKLES. Mr. President, to bring my colleagues up to date, last night I introduced an amendment that would strike section 303 from the bill we have before us, H.R. 1281. This section would prohibit the Department of Labor from implementing the helper regulations.

These are regulations that go all the way back to the Carter administration. They were originally discussed in an options paper by Secretary Marshall in President Carter's administration. They have been supported by subsequent administrations, including both the Reagan and the Bush administration. Secretary Dole came up and implemented these regulations, along with the present Labor Secretary, Lynn Martin.

Mr. President, the language that is in the appropriations bill would say that not one dime can be spent to implement these regulations. In other words, there can be no helper classification for Federal construction projects. The net result of this would be to waste billions of dollars. The Secretary of Labor estimates that next year alone, if these regulations are not allowed to go forward, it would cost an additional $623 million. That is $623 million that would be wasted if we do not adopt the amendment I have proposed today.

Mr. President, more important than the cost to the taxpayer is the fact that we will be denying thousands upon thousands of disadvantaged, unemployed persons from participating in the workplace. I think that makes no sense. I think we want to open up the doors of economic opportunity.

If we do not implement the helper regulations, we will be mandating that contractors pay journeyman wages to semiskilled workers. Many of these jobs are entry-level jobs, they are learning jobs, and they should command a pay scale of $7 or $8 an hour but instead we are going to mandate that they be paid $20 an hour. It does not make economic sense and it is not fair for the worker because we are going to be denying the unemployed person, the opportunity to get the job.

Mr. KENNEDY addressed the Chair.

The PRESIDENT pro tempore. The Senator from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. President, I yield myself 3 minutes.

The PRESIDENT pro tempore. The Senator is recognized for 3 minutes.

Mr. KENNEDY. Mr. President, during the debate yesterday evening on the Nickles amendment, the Senator from Oklahoma made some statements about what will happen if the Department of Labor is prevented from implementing the new helper regulations which reflect a serious misunderstanding of the way the Davis-Bacon Act works.

I am referring particularly to his statements that if the helper regulations are not put into effect, there will be no jobs for semiskilled workers on

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Federal construction projects and employers will have to pay all their employees journeyman wages.

I believe he used the example that employers would have to pay workers $22 an hour to sweep floors.

Let me set the record straight, because this is really a gross misstatement of the act's requirements.

The Davis-Bacon Act does not require, and has never required, that every worker on a construction site be paid full journeyman wages. The unskilled and semiskilled work on construction projects covered by Davis-Bacon has always been performed by laborers and by apprentices, who are typically paid at rates much lower than the rates for journeymen craft workers—and certainly not at rates that are anything like $22 an hour.

The provision we are debating would in no way prohibit contractors on Federal construction projects from continuing to employ unskilled or semiskilled workers as laborers and apprentices at below-journeyman wage rates. It would however, prevent employers from being able to force those workers into lower-paid helper classifications with reduced wages and benefits and no opportunity to obtain the training necessary to advance to a higher-paid classification.

Contrary to the assertions of the Senator from Oklahoma, implementation of the new helper regulations would not create new opportunities for entry-level workers to climb the economic ladder. In fact, the opposite is true. By allowing contractors to replace laborers and apprentices with lower-wage helpers, the new helper regulations would in effect kick that ladder down.

For those who seek to learn a skilled trade, the building trades apprenticeship system has been the route by which hundreds of thousands of unskilled entrants to the job market, through a combination of on-the-job training and classroom teaching, have been able to acquire the skills to enable them to become fully qualified journeyman craftsmen and craftswomen able to command a journeyman wage.

The beginning apprentice, like an unskilled or semiskilled helper, is paid just a fraction of the journeyman's wage. But unlike the helper, who is permanently consigned to that low-wage classification, the apprentice enrolled in a certified apprenticeship program knows that as she progresses through the program, her wages will increase along with her skill level, and eventually she will be able to graduate to journeyman status.

So let's not pretend that we would be doing entry-level construction workers a service by undermining the apprenticeship system and replacing existing jobs for apprentices with low-paid helper jobs.

And what about the impact of the new regulations on construction laborers, who struggle to earn a decent living digging trenches, hauling materials, moving equipment, and otherwise helping and assisting skilled journeymen on the jobsite?

Like many other workers on the lowest rungs of the economic ladder, a substantial proportion of these workers are women and minorities. If the new helper regulations are implemented, these are the workers who will either be replaced by lower-paid helpers or forced to accept lower-paid helper jobs.

The Senator from Oklahoma claims that the new regulations would enhance minority employment. But that's not what Judge Harold Greene of the U.S. District Court for the District of Columbia concluded when he examined the proposed helper regulations. To the contrary, it was his conclusion that the expanded use of helpers on Federal construction projects was "likely to have the effect of allowing contractors to replace higher wage minority laborers with lower wage minority helpers."

As Norman Hill, president of the A. Philip Randolph Institute has stated, minority workers are "particularly vulnerable to exploitation such as the Davis-Bacon Act is designed to prohibit." Let's ensure that we keep those protections against exploitation intact.

Mr. President, it is interesting to listen to my friend from Oklahoma talk about these regulations and how the Department of Labor is supporting his proposal when just last year under this Republican administration the Department issued some key findings on the training of America's workers. The Department's report on work-based learning states that, "The one area in which opinions are most consistent is in the support for apprenticeship as a method of training and its expansion to skilled occupations throughout American industry. The supporting rationale is that the apprenticeship concept of structured on-the-job training, combined with classroom instruction, is an ideal model for learning the job-specific skills needed by today's workers."

This is a report the Department of Labor published last year. The findings in this report are also supported by former Labor Secretary Ray Marshall and former Senator Brock in the report of the Commission on the Skills of the American Work Force, which they cochaired, which also cites the apprenticeship system as one of the few models we have in this country for systematic, long-term skills training.

The Senator from Oklahoma claims that all kinds of savings will result from implementation of the new regulations. But Dr. John Dunlop, the most thoughtful, knowledgeable construction labor economist in this country—and a Republican, Mr. President—says this about the methodology used by the Office of Management and Budget in concluding that the Government will save money if workers on Government-funded construction projects are paid less: "There is simply no sound basis for gratuitously assuming that lower wage rates in the construction industry generally mean lower cost to the public."

With all due respect, Mr. President, I think what we ought to be about is not destroying the existing apprenticeship system; what we ought to be doing is perfecting that system; what we ought to be doing is trying to find ways that it can be more effective.

I am amazed that at a time when we are trying to find new ways of forging partnerships such as we find in the apprenticeship system between workers and employers, and new ways at the national level to encourage employers to participate in training programs, that the Department is seeking to undermine this kind of partnership effort. The training programs which are available for unskilled and underskilled workers in construction are just the kinds of programs that are necessary for us to develop in other areas.

So I hope the amendment will not be successful. I reserve the remainder of my time.

Mr. ADAMS. Mr. President, I rise today in strong support of the language contained in H.R. 1281 that would direct the Department of Labor to stop wasting tax dollars in its two pronged attack on the rights of workers in our country. Simply stated, the Labor Department is continuing on with a decade long effort to undermine the prevailing wage standard in the Davis-Bacon law that protects the integrity of wages paid on Federal projects. By proposing to expand the definition of helper, DOL would replace up to 40 percent of the current Davis-Bacon work force with lower-paid, unskilled workers who would have little or no formal training.

This new underclass of workers would be disproportionately represented by women and minorities, working in frequently dangerous jobs with little chance for advancement. Proponents of this erosion of Davis-Bacon argue, as always, that we will save money. There is no secret why: exploiting a work force has always been a short-term means of saving money. But is it the right thing to do? Mr. President, I suggest that it is not. And if this administration is so convinced that amending the Davis-Bacon law serves any legitimate interest, let them send us up a bill. Our committee will give it the full hearing it deserves, and then we can vote on it. The administration knows that Congress is not inclined to begin cutting back on workers' wages on Federal projects. And what they cannot accomplish legislatively, they should not be attempting to do through the regulatory process.

The other side of this attack on workers' rights comes through the Labor Department's effort to destroy State apprenticeship programs. In my State, an excellent apprenticeship program exists under State law, with a council appointed by the Governor with representatives of both labor and management. The comments filed on behalf of the Washington State Department of Labor Director Joe Dear which were included following my remarks last night, are typical of the more than 60,000 comments in opposition to the proposed changes in apprenticeship rules filed with the Department of Labor. Quite bluntly, the citizens of my State would not welcome a change in Federal law that would allow an apprenticeship program from some other State to set up shop in Washington State without obtaining approval from Washington State. And once again, I believe the administration should submit a legislative proposal to Congress, for hearings before the proper committees of legislative jurisdiction if it believes the apprenticeship system should be revamped.

Mr. President, I want to compliment Chairman BYRD for maintaining this restriction within H.R. 1281, particularly since this provision received overwhelming support in the House by a 244-to-173 margin. It is particularly noteworthy that in both bodies, the chairmen of the legislative committees of jurisdiction, Education and Labor in the other body, and Labor and Human Resources here, both support this provision. This language provides Congress with an opportunity to put a stop to the regulatory mischief that has been going on at DOL during much of the past decade. This mission of the U.S. Department of Labor is to protect the interests of the working men and women of this Nation. These proposed regulations would be more appropriate coming from a Department of Management, or a Department of Big Business, rather than from a Department of Labor.

Mr. President, I may sound a bit old fashioned when I remind my colleagues that the American labor movement has paid a great price, and made a great contribution to American society down through the years. For the Federal Government to try to erode that progress by a nickle and dime attack on wage rates and training programs would be a disgrace.

Yes; we do need to develop programs and strategies that will help our Nation's work force compete in the changing global economy in which we live.

And yes, we do need to retrain many of our workers to take those jobs that are coming on line.

But Mr. President, we also need to shackle the rogue elephants that are loose at the U.S. Department of Labor who are trying to rewrite the law without congressional approval. This language will accomplish that objective.

To those who claim we could save money by implementing these changes, I say:

We are spending billions to bail out the savings and loan cesspool, working people are picking up that bill;

We are sending billions of dollars in United States aid to countries from Afghanistan to Zaire and hundreds of points in between; American workers pay for those programs; and

We forgive the foreign debts of countries that join us in battle, or who begin to make democratic changes in their societies; American workers bear the cost of those decisions.

Here today, with this language, we have an opportunity to stand up and be counted for the wage levels paid to American workers. I am happy to join with those of my colleagues who support American workers and their wage levels and training needs. I urge a vote against the amendment offered by the Senator from Oklahoma. Now is the time and this is the opportunity to put the U.S. Department of Labor back on course, protecting the American worker.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Who yields time?

Mr. NICKLES. Mr. President, I yield Senator SYMMS from Idaho 1 minute.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I rise in support of the Nickles amendment.

This amendment would strip the bill of irrelevant legislative language preventing the administration from implementing Davis-Bacon regulations.

It is bad enough that we are poised to pass a so-called dire emergency supplemental domestic appropriations bill which will spend $4.7 billion—all only shortly after we raised gas, beer, and tobacco taxes because we had supposedly cut spending to the bone.

It is even worse that a little noticed paragraph was slipped in that would prevent the Secretary of Labor from executing administrative reforms that, when fully phased in about 3 years from now, will save the Government $600 million a year in construction and repair costs.

After a long process of hearings, review, and rulemaking, the Labor Department has finally promulgated regulations which recognize a separate class of helpers for purposes of determining Davis-Bacon prevailing wages on Federal and federally financed construction projects.

These regulations have been subject to extensive litigation. They have been reworked and retooled over 9 long years. A wide panoply of judges from all segments of the political spectrum have determined conclusively that these helper regulations are consistent with the purposes of the Davis-Bacon Act.

The litigants, unable to obtain satisfaction from the courts, are attempting to do an end-run around the regulatory and judicial process—at a cost of $600 million to the American taxpayer.

Mr. President, the regulations which this act seeks to overturn are quite modest. Helpers can only be used where the practice is not just identifiable, but prevailing—according to a complex formula which will mean that most firms, doing most of the work in a locality, already must be using helpers before the Labor Department allows Federal contractors to employ them as well.

Furthermore, a Federal construction contractor could not employ more than two helpers for every three journeymen. In addition, a helper could not be substituted for a skilled journeyman and, in fact, would have to be under the direct supervision of a journeyman. Finally, the work done by a helper would have to be substantially unskilled or semiskilled in nature, involving tasks such as carrying, holding, preparing a work area, and so forth.

These changes, while modest, would nevertheless save $200 million in the first year and $600 million a year later on.

Mr. President, H.R. 1281 will not be viewed as one of the Senate's prouder achievements. But the Senate can at least avoid adding insult to injury through the adoption of the Nickles amendment.

Mr. President, it is bad enough that we are poised to pass a so-called dire emergency supplemental bill which will spend $4.7 billion right on the heels, I might remind my colleague, on raising the taxes of the working American, on gasoline, on beer, on tobacco, on about anything else Congress can think of just last year, and now we are back here asking to spend more money, but even worse this little-noticed paragraph was slipped in that would prevent the Secretary of Labor from being able to execute administrative reforms which, when fully phased in, would save the Government $600 million in construction repair costs.

Mr. President, it is outrageous how antiworker, anticapitalistic the Congress has grown in these recent years when the rest of the world is asking for opportunities for their people to work and save and invest and own property, and we sit in there and rigidly force Government to intervene between the workers and opportunities, at the same time costing these taxpayers more money.

I ask unanimous consent that I be added as a cosponsor of this very fine amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time?

Mr. NICKLES. I yield the Senator from Vermont 1 minute.

Mr. JEFFORDS. Mr. President, few subjects have generated more controversy over the years than proposed changes to the Davis-Bacon Act, a statute that is now some 60 years old but has been largely unchanged in that time.

I had thought there were three schools of thought on this issue—repeal it, leave it alone or reform it. I count myself in the last category. I support the act, and what I consider to be the fundamental purpose of the act—that the Federal Government should not undercut local wages and working conditions.

The helper regulations have been through 9 years of regulatory and judicial pulling and hauling. What has emerged is absolutely true to the purpose of the act.

If a majority of the workers in private construction are working on jobs with helpers, then the Federal Government can use helpers on its jobs, too.

This is hardly a radical concept, in fact, I think this is the only job classification that must show majority status before it is permitted.

This is a reasonable safeguard. These regulations will permit some contractors to use helpers on Federal projects where helpers represent essentially the majority practice in an area.

That saves money. Workers will be paid helper rates for helper work, rather than the journeyman premium now paid. That is why this rider will cost $2 billion over the next 5 years unless the Nickles amendment is adopted.

I do not know of a single union general contractor in the State of Vermont. So far as I know, all of them use helpers. Yet when it comes time to bid on a Federal job, they are forced to conform their practices to the Federal Government's—not the other way around. This is the exact opposite of what I thought Davis-Bacon was supposed to do.

Today we don't have three schools of thought—we have just two. If you agree that the purpose of Davis-Bacon should be to mirror local wages and working conditions, then you should support this amendment.

If you believe that the taxpayers should pay a yearly premium of $500 million in order to preserve the work rules of the minority of workers in an area, then you should vote against this amendment.

It is that simple.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. How much time remains?

The PRESIDING OFFICER. The Senator has 5 minutes.

Mr. KENNEDY. Mr. President, I yield myself 3 additional minutes.

Mr. President, it seems to me that those who want to strike this provision do not understand the importance of apprenticeship training programs. There are over 200,000 Americans participating in apprenticeship programs who are not only getting skills but also getting some educational benefit.

Now, if you are going to undermine these privately funded construction industry programs, where is the Government going to get the money to provide training for construction workers and for other skills?

Since the Department published the proposed new apprenticeship regulations last fall, it has received thousands of negative comments, not just from workers and worker organizations in the construction industry, but also from employers who are committed to work force training and States which are currently playing an important role in carrying out the objectives of the National Apprenticeship Act. The Apprenticeship Council in my own State of Massachusetts has advised the Department that it strongly opposes the proposed regulations because they would prohibit States from establishing minimal apprenticeship standards for programs operated within their jurisdictions.

During her confirmation proceedings, the new Secretary of Labor, Lynn Martin, advised that the Department is attempting to resolve the issues raised by opponents of the new regulations and indicated that she was prepared to work with the Labor and Human Resources Committee to revise the regulations to address those concerns. I appreciate that commitment and I am fully prepared to work with her on this matter.

The provision the Senator from Oklahoma seeks to strike in no way prevents the Secretary from proceeding with efforts to come up with revisions that will achieve the Department's stated goal of expanding the concept of apprenticeship to industries and occupations that do not have an apprenticeship tradition, a goal which I share. It simply ensures that in the meantime, no funds will be expended to implement revisions that would undermine existing, effective apprenticeship programs in the construction industry.

All we are saying is let us preserve the existing regulation and try to find ways to work with the administration. If there are some aspects of the existing regulations that we can improve or strengthen, we will be glad to do it. But why jeopardize existing programs that have been evaluated and reevaluated and each time come up with shining colors.

Mr. President, I hope that the Senate will not accept this amendment, and at the appropriate time I will move for the yeas and nays.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 2 minutes 50 seconds.

Mr. NICKLES. Mr. President, I wish to clarify something my good friend and colleague, Senator KENNEDY, has alleged, that this would undo the apprenticeship program. That is totally false. As a matter of fact, the language that I am trying to strike would throw out revisions to the apprenticeship regulations that the Department of Labor has been working on with organized labor and business groups that have not even been finalized. They throw out those proposed regulations as well. The language says not 1 dime should be spent on implementing regulations dealing with helpers and dealing with apprenticeship programs.

Again, I tell my friend and colleague that this goes all the way back to even President Carter's Labor Secretary who suggested that we need to make some changes in helpers. We need to allow helpers because that is a common practice throughout private construction industry. Contractors have helper classifications except for when they do business with the Federal Government. They are prevented from having a helper classification or a semiskilled classification when they do business with the Federal Government.

The chairman of the Appropriations Committee has worked hard to try to keep us within our spending caps. If we do not adopt this amendment, we are going to waste $523 million next year and over the next 5 years nearly $3 billion.

Again, I say more importantly, we are going to be denying thousands of people the opportunity to get into construction of Federal buildings. Why should we pass a law which mandates they should be paid $20 an hour? The marketplace will not hire them at that level and they will be denied the opportunity to work.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. My good friend ought to understand that if we prevent the Department of Labor from implementing the proposed revisions to the apprenticeship regulations, we leave intact the existing regulations. This does not eliminate the existing regulations.

Finally, Mr. President, there is, I think, no one in this body who does not have respect for John Dunlop. He has reviewed the claim that savings would result from the new helper regulations and this is what he said.

> While * * * the wage costs may be lower, labor costs may be higher because of the greater cost of supervision. Also increased use of helpers quite frequently leads to lower productivity of workers, or inferior products. * * * There is simply no sound basis for gratuitously assuming that lower wage rates in the construction industry generally mean lower costs to the public. * * *

John Dunlop knows this industry; he has spent a lifetime in it. And he is a Republican commenting on regulations proposed under a Republican administration.

Mr. President, as I said, I hope that the Senator's amendment would be defeated and that we would have the opportunity to work with the administration in the months to come.

Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has under 2 minutes.

Mr. KENNEDY. I am prepared to yield back the time if the Senator from Oklahoma is ready.

Mr. NICKLES. Mr. President, I yield the Senator from Kansas such time as he desires.

Mr. DOLE. Mr. President, I rise in strong support of the Nickles amendment.

While I would prefer that we were visiting the issue of Davis-Bacon reform in general, the specific matter we are dealing with today is—in this Senator's opinion—of no less significance.

Mr. President, section 303 of the Dire Emergency Supplemental Appropriations Act prohibits the Department of Labor from spending money to administer Davis-Bacon regulations governing the use of helpers or semiskilled workers on Federal construction contracts.

In addition, the language of section 303 enjoins the Department of Labor from promulgating regulations pertaining to revisions to apprenticeship programs in the construction industry.

While I am none-too-happy about freezing up much-needed changes in the regulations dealing with apprenticeship programs, I am particularly concerned about the backhand way in which the so-called Davis-Bacon helper regulations—which became effective just last month—are being obliterated.

Mr. President, let me tell you something about these regulations.

REGULATIONS HAVE BEEN TESTED IN COURTS

First, they were initially issued in 1982 and since that time all challenges to their scope and validity have been fully reviewed in the courts and decided in the department's favor. Indeed, I can't imagine a set of regulations that have been more carefully or more extensively scrutinized.

REGULATIONS SAVE MILLIONS

Second, Mr. President, these helper regulations will save the Federal Government a substantial amount of money in construction labor costs. I have a letter from Secretary of Labor Lynn Martin in which she says that in fiscal year 1992 alone, the savings in labor costs amount to over $620 million. Even for a spend-happy Congress, that's a lot of bucks.

And in this Senator's opinion, if it could be done, that money would be much better spent on more important domestic programs—such as on our veterans programs or education programs—than on subsidizing union wages and creating artificial economies for Federal construction projects.

Indeed, Mr. President, I bet that if you asked just about any American taxpayer whether they would rather spend $600 million of their hard-earned tax dollars next year on paying inflated wages to semiskilled workers on construction projects or would prefer to spend that money on buying more textbooks and computers for their kids to use in school, their answer would be pretty obvious.

But, Congress has this habit of forgetting whose money they are spending and whose interests they are representing when spending that money.

REGULATIONS MAKE GOOD POLICY SENSE

Finally, Mr. President, the helper regulations are modest in scope and make good sense from a policy standpoint.

These regulations address the arcane requirement under Davis-Bacon that workers be paid skilled wages for unskilled work. While it's a sweet deal for the unskilled worker, it's a rotten deal for the skilled workers, the Federal Government, and the American taxpayer.

The helper regulations cut back on this senseless requirement and permit the employment of semiskilled workers at less than a journeylevel wage on Federal construction projects.

In short, what the regulations do is introduce an element of free market competitiveness back into the Federal construction contract process.

I might add, Mr. President, that the helper regulations are also carefully limited in their application to prevent any abuses.

They set no Government-imposed constraints or conditions on construction contractors or construction workers.

The employment of helpers is permitted only when their use is the prevailing practice in an area.

And finally, the regulations place limitations on the ratio of helpers to journeymen.

CONCLUSION

So here we are faced with an appropriations bill that legislates substantive labor policy by obliterating regulations that make a lot of sense. The regulations save the Federal Government a boatload of money and encourage the employment of semiskilled workers who would otherwise be shut out of such jobs on construction projects.

So I hope, Mr. President, that each Member in this Chamber will carefully consider the important policy considerations behind the helper regulations, the painstakingly careful process that led to the effectiveness of the regulations last month, and the serious consequences of eliminating those regulations, and vote in favor of the Nickles amendment to strike the offending language from the supplemental appropriations legislation.

I might add, Mr. President, that as we keep adding to this bill, I can see a veto looming larger and larger and larger. So I do not know how much we want to test the President of the United States—he is pretty testy himself these days—on how far we can push him on how much money we are going to spend and how we are going to continue to load up this particular piece of legislation.

Mr. President, I repeat, I hope we adopt the Nickles amendment.

Mr. HATFIELD. Mr. President, the administration has opposed provisions contained in the dire emergency supplemental appropriations bill addressing the so-called helper regulations of the Department of Labor. The Department has estimated that $500 million per annum of Federal tax dollars would be saved if we reject the House language and permit the expanded use of helpers on Federal construction projects.

This claim that using untrained, low wage helpers to construct our public buildings has been examined by a leading construction industry economist—Dr. John Dunlop—and has been categorically rejected.

As you know, Dr. Dunlop served at the Department of Labor under President Ford. He has served on virtually every public board that has dealt with construction industry costs.

With regard to the cost impact of using helpers in the construction industry, Dr. Dunlop has performed an economic analysis which demonstrates that no tax dollars will be saved by utilizing these classifications. Dr. Dunlop states:

> Its conclusion was reached by use of simplistic formulation which is wanting from an economist's point of view and which I find to be totally insupportable. Its methodology is based on a formula which utterly fails to take into account all of the real economic factors and forces which contribute to costs on a construction project. It appears that the Department takes the current wage rates and subtracts therefrom the savings to be gained by the cheaper rates when non-prevailing helpers replace prevailing laborers and mechanics.* * * (T)he Department multiplies that wage differentiation by the number of helper substitutes and then arrives at some projected mathematical savings. Such an exercise, in fact proves nothing.* * *

Dr. Dunlop goes on to further explain why the claim of tax savings is wrong and fails to take into account the factors which in fact actually add costs if helpers are used. Dr. Dunlop states again:

> Focusing on the cost savings aspect of the helper issue, in the real world helpers are used in a system which requires more supervisors and uses less journeymen than the system that does not use helpers. While in the former, wage costs may be lower, labor costs may be higher because of the greater costs of supervision. Also, increased use of helpers quite frequently leads to lower productivity of workers, or inferior products.
>
> When more supervisors are needed, that will tend to balance off any assumed helper

> savings. If "helpers" cannot do the job as quickly as a qualified mechanic, then there may be no cost savings in fact. These and myriad other inquiries suggest that cost savings can only be arrived at after a comparative cost determination on the increased use of helpers, taking into account all relevant factors.* * *
>
> There is simply no sound basis for gratuitously assuming that lower wage rates in the construction industry generally mean lower costs to the public without looking at the total costs of the system used.

Let me conclude with one final point. Dr. Dunlop served in a Republican administration. He chaired the Construction Industry Stabilization Committee in the early 1970's. The purpose of the Stabilization Committee was to control costs in the construction industry. Dr. Dunlop is no friend to runaway spending in this industry. He has presented to us a sound analysis of the impact of this new helper regulation and one that casts serious doubt on the Department's proposition that using untrained helpers will create lower wage costs. In fact, it most likely will create higher labor costs on public construction. This will cost the Federal Government and not save it one penny, contrary to the claims we have heard today.

Mr. AKAKA. Mr. President, I rise in opposition to the amendment offered by the Senator from Oklahoma [Mr. NICKLES] to delete language from H.R. 1281, the dire emergency supplemental appropriations bill for fiscal year 1991, prohibiting the Department of Labor from implementing its new helper or apprenticeship regulations.

Mr. President, both of these regulations would seriously weaken the Davis-Bacon Act and would have a detrimental impact upon thousands of construction workers currently protected by Davis-Bacon. The adverse consequences of these regulations would include: widespread job losses for skilled workers employed on Federal and federally assisted construction projects; the creation of a permanent class of poorly trained, unskilled, and low-paid workers; and the serious disruption of existing apprenticeship programs.

Over the past decade, Congress has repeatedly rejected all efforts to weaken the Davis-Bacon Act on the issue of helper regulations. Thwarted in the legislative arena, the U.S. Department of Labor resorted to the regulatory process to accomplish its objectives on this issue. The Department chose to implement its new regulations despite a pending court challenge and the recommendation of the Senate Appropriations Committee to defer any such action until the conclusion of the appeals process.

In a letter emphasizing the administration's strong opposition to the language contained in section 303 of H.R. 1281, the Secretary of Labor writes that the administration also opposes, and I quote, "legislating substantive labor policy in an appropriations bill." Further, the administration asserts that an appropriations bill is inappropriate as a "vehicle for introducing significant reversals in established governmental policies."

Mr. President, drastic measures require drastic responses. I believe the regulatory process is an inappropriate manner in which to circumvent the legislative process and expressed will of the Congress. The defeat of this amendment will reaffirm the objectives of the Davis-Bacon Act which Congress has repeatedly and consistently supported over the course of the past 55 years.

The same holds true for the proposed changes in apprenticeship regulations finalized by the Labor Department. Hawaii is 1 of 30 States and territories that would see its State apprenticeship councils abolished under the proposed regulations. Additionally, these changes would preempt a State's ability to set program standards higher than minimum Federal levels, render the apprenticeship system unenforceable by abolishing ratio requirements of apprentices to journeymen, and reduce the overall quality and standards of instruction and training established by existing State apprenticeship programs.

Mr. President, current regulations have served us well for many years. I stongly oppose any effort by the administration and the Department of Labor to circumvent congressional jurisdiction and weaken the Davis-Bacon Act.

Mr. CHAFEE. Mr. President, I intend to vote against this amendment to strike language from the dire emergency supplemental legislation. Specifically, the amendment offered by my distinguished colleague from Oklahoma would permit the Department of Labor to begin implementing its final regulatory changes regarding the worker category known as helpers.

For more than a decade I have watched and participated in debates regarding the merits of the Davis-Bacon Act. It is clear to me that for this reform to be successful the Senate Labor Committee must put politics aside and take a long, hard look at the inflationary effects of the Davis-Bacon Act.

Last summer, Senator METZENBAUM and Senator KENNEDY joined me in support of an amendment to the National Affordable Housing Act directing the General Accounting Office to put together a study on the strengths and weaknesses of the Davis-Bacon Act. Regrettably, that provision was dropped during the conference committee with the House of Representatives.

Congress should reexamine the Davis-Bacon Act. To what extent does it prevent many small and minority-owned businesses from bidding on federally funded construction projects? To what degree does it distort the prevailing wage scale in parts of the country? Does the act artificially drive up the cost of building and construction for the Federal Government? These are a few questions that must be definitively and authoritatively answered by an independent, nonpartisan, group before we can agree on the need for Davis-Bacon reform. I urge the Labor Committee to make such an effort a priority for this Congress.

The PRESIDING OFFICER. All time of the Senator from Oklahoma has expired.

The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield back the remainder of my time. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The clerk will call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent to speak for 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President.

The year's at the spring
And day's at the morn;
Morning's at seven;
The hillside's dew-pearled;
The lark's on the wing;
The snail's on the thorn:
God's in his heaven—
All's right with the world.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 37, nays 63, as follows:

[Rollcall Vote No. 35 Leg.]

YEAS—37

Bond
Boren
Brown
Burns
Coats
Cochran
Cohen
Craig
Danforth
Dole
Domenici
Garn
Gorton
Gramm
Grassley
Hatch
Helms
Jeffords
Kassebaum
Kasten
Lott
Lugar
Mack
McCain
McConnell
Nickles
Nunn
Pressler
Roth
Rudman
Seymour
Simpson
Smith
Symms
Thurmond
Wallop
Warner

NAYS—63

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bradley
Breaux
Bryan
Bumpers
Burdick
Byrd
Chafee
Conrad
Cranston
D'Amato
Daschle
DeConcini
Dixon
Dodd
Durenberger
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Hatfield
Heflin
Heinz
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Packwood
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Stevens
Wellstone
Wirth

So the amendment (No. 51) was rejected.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I thank the majority leader for his patience and courtesy for our side of the aisle as we were able to obtain all our votes in some extraordinary circumstances. I appreciate that. It was very good of the majority leader to do that.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, this is not only the first day of spring, it is also the first spring day.

I hope that Senators will take on some additional exhilaration and energy inasmuch as it is the first spring day and the first day of spring and spring from their offices and spring to the floor and spring from their chairs and call up amendments.

We have today, which is Wednesday. We could finish by 3 o'clock in the afternoon. We could probably have the first conference meeting with the House and the two chairmen of the conference could then indicate what our differences are with the House, differences between the House and the Senate that have to be resolved, and get the respective staffs working on those differences and set a meeting for tomorrow morning. We could have a fruitful conference, hopefully complete the conference and report back to the respective Houses the results, and have those votes in the two Houses and send the legislation on to the President.

The majority leader has indicated if we complete our work on these two supplemental bills and the conferences that the Senate would not be in session on Friday. So I hope that Senators will work to help make that come about.

I will suggest the absence of a quorum. Before I do, may I ask the Chair what the order is as of yesterday following the disposition of the Nickles amendment anent Davis-Bacon?

The PRESIDING OFFICER. Senator Nickles was authorized to offer an amendment on behalf of Senator DeConcini with respect to Jordan.

Mr. BYRD. I thank the Chair.

Mr. LEAHY. Mr. President, since the Senator from West Virginia is going to put in a quorum call, if we were just waiting for others—I am sorry. I did not realize there was somebody who was about to bring up an amendment.

Mr. President, I will not seek to have someone yield to me if there is an amendment. I think right now we would probably rather see the bill go forward.

Mr. BYRD. I thank the Senator. I yield the floor.

AMENDMENT NO. 53

(Purpose: To prohibit the obligation or expenditure of certain funds for Jordan)

Mr. NICKLES. Mr. President, I send an amendment to the desk on behalf of myself and Senator DeConcini and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. Nickles], for himself and Mr. DeConcini, proposes an amendment numbered 53.

Mr. NICKLES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 56, between lines 13 and 14, insert the following new section:

SEC. 502. PROHIBITION ON CERTAIN ASSISTANCE FOR JORDAN.

(a) Prohibition.—Except as otherwise provided in this section, none of the funds appropriated or otherwise made available by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, may be obligated or expended for assistance for Jordan except pursuant to appropriate congressional notification procedures.

(b) Exceptions.—Subsection (a) shall not apply to—

(1) assistance for refugees; or

(2) assistance to finance the training or studies outside Jordan of students whose course of study or training program began before the date of enactment of this Act.

(c) Waiver.—Notwithstanding subsection (a), funds appropriated or otherwise made available for fiscal year 1991 to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) may only be obligated or expended for Jordan if the President determines and certifies to the appropriate congressional committees that the Government of Jordan has taken steps to advance the peace process in the Middle East.

(d) Definitions.—For purposes of this subsection—

(1) the term "appropriate congressional committees" means the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on Foreign Affairs of the House of Representatives; and

(2) the term "appropriate congressional notification procedures" means—

(A) with respect to the Committees on Appropriations of the House of Representatives and of the Senate, the procedures of section 523 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, and

(B) with respect to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961.

(e) Repeal.—(1) The ninth proviso of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, is hereby repealed.

(2) Any other provision of law that earmarks economic or military assistance for Jordan shall have no force or effect upon the date of enactment of this Act.

Mr. NICKLES. Mr. President, the amendment which I am offering today is not the same amendment as was originally laid down in the Congressional Record, just for the information of my colleagues. The amendment I am offering today on behalf of myself and Senator DeConcini basically would prohibit military and economic assistance to Jordan that was appropriated in 1991. That is the fiscal year that we are in right now. In 1991 we appropriated $20 million of military aid and $35 million of economic aid.

For the information of my colleagues I will tell you, after talking to the President, he said that he has now suspended that aid, so it has not gone forward and I compliment him for that suspension.

Mr. President, the language that we have before us right now would repeal that assistance unless the President certified to Congress, with respect to economic aid, that Jordan was making a good faith effort and positive contribution toward the peace process in the Middle East. If he made that certification to Congress, then the economic assistance could go forward.

Also, pertaining to the military assistance, the amendment that I have introduced would repeal the military assistance, $20 million that we appropriated last year. It would allow the President the authority though, if he wished to make for some reason—and I personally would hope that he would not—but if he wished to go forward with the $20 million of military aid, he could notify the Congress as he does through the reprogramming process, notify the two appropriate committees in both the House and the Senate, the Appropriations and the Foreign Relations Committees, and that money could go forward as well. As I stated, I hope not. I hope that we do not have any military assistance going forward to Jordan because of their past actions in the Persian Gulf war.

Mr. President, I personally have been offended, I think the Senate has been offended, and I think this country has been offended by the actions that Jordan has taken. We have given Jordan, over the past 40 years, billions of dollars of economic and military assistance. In return, Jordan actively opposed the United States and our coalition partners; they opposed all U.N. resolutions that pertained to Iraq; they provided political and moral support to Saddam Hussein. And I will mention some of the quotes that King Hussein of Jordan made in relationship to the war and to the United States and our effort. I am offended. I think all Americans have been offended by those comments.

They attacked our motives. They attacked our actions. Basically the King said the United States was destroying the Iraqi people and, of course, we all know that was not the case.

Mr. President, I might mention as well that I and 16 of our colleagues made a recent trip to Saudi Arabia and to Kuwait and also into Iraq. We saw a lot of boxes that contained ammunition that came from Jordan. Jordanian arms were used against American soldiers. And Jordanian rhetoric was used against the alliance.

Mr. President, I think we have to speak out. I think we are obliged to speak out. It is Congress' responsibility to appropriate money. This is a case where we have appropriated some money that I personally wish that we had not. I happen to serve on the Foreign Operations Appropriations Subcommittee that appropriated $55 million for Jordanian assistance. And what did we get in return? We got more than a slap in the face. We got Jordanian assistance to Iraq verbally, morally, and materially. We had opposition from Jordan almost every step of the way in our efforts not only to liberate Kuwait but also to restore the Persian Gulf area to peace and normalcy in the world today.

Mr. LEAHY. Mr. President, I wonder if the Senator might yield for a couple of questions.

The PRESIDING OFFICER. Will the Senator yield?

Mr. NICKLES. I will be happy to yield.

Mr. LEAHY. Mr. President, I agree with the Senator that Jordan committed real fault in siding with Saddam Hussein in the war. I feel, as I believe most Senators do, that Jordan has no claim on our economic or military aid as a result of that. Especially considering past history and the amount of our aid they have received, I think it would be wrong for them to expect now, based on what they have done, that they have some claim on American economic or military aid.

Indeed, as chairman of the Foreign Operations Subcommittee, I will oppose such a claim. I think President Bush has been absolutely right in suspending economic and military aid. I ask the Senator from Oklahoma if my understanding is correct that since February 6, the President has cut off all aid except for humanitarian aid?

Mr. NICKLES. The Senator is correct.

(Mr. KOHL assumed the chair.)

Mr. LEAHY. And, again, I think President Bush is right. I think he has used appropriate and commendable discretion. I commend the President for doing it.

As I understand from talking with the administration, the President has retained the ability to give refugee aid, disaster assistance, and food aid because of the enormous number of refugees that are going into Jordan.

I believe what the administration has done is shown what is basically the humanitarian nature of the United States, that we do not cut off refugees. That is an entirely different situation than economic and military aid. I would assume the Senator from Oklahoma agrees with the President, with me and others that that is an appropriate gesture?

Mr. NICKLES. The Senator is correct. Actually in our amendment we exempt refugee assistance and we do not touch any agriculture or food assistance going into Jordan.

Mr. LEAHY. I also understand the amendment repeals the fiscal year 1990 earmarks?

Mr. NICKLES. The Senator is correct.

Mr. LEAHY. I think that is appropriate, too. Because if we did not repeal those earmarks the irony is, no matter now President Bush felt about this and no matter how the American people felt about Jordan's action, he would still have to send the fiscal 1990 economic and military aid. So I think that is an appropriate thing.

I also understand that the President, if he felt it was necessary to resume U.S. aid should there be a sudden shift in Jordan's policy, he could do that through the normal notification procedure, through the appropriate authorizing and appropriating committees. Is that also correct?

Mr. NICKLES. The Senator is correct.

Mr. LEAHY. This amendment actually has the benefit of giving the President the flexibility and the foreign policy tools that he needs, carrying out policy in a way that I think reflects the views of the vast majority of both Democrats and Republicans in the Congress. I think it is a good amendment. I think it ought to be accepted.

Mr. NICKLES. I thank my friend and colleague from Vermont. I also appreciate his assistance with this amendment, that of his staff and also Senator KASTEN and his staff for their cooperation. We also had, as the Senator I am sure is aware, some cooperation from the State Department trying to craft this.

Mr. President, it is not our intention to handicap or tie the hands of the President in any way whatsoever. We have given the President flexibility in this amendment. It is my desire and intent to cut off any military assistance for Jordan but we have also given the President flexibility, if it is deemed in the interests of the United States, if he thinks Jordan is making a good-faith effort and a positive contribution toward the Middle East peace process, he can come back to Congress and ask for approval from those committees and receive assistance and basically go through the notification process, which is standard. That is on the military side.

The President is also given flexibility on economic assistance. He can certify to Congress that he thinks Jordan is making a positive contribution toward the peace process and go ahead and release the economic assistance. That is $35 million on the economic assistance and $20 million on the military assistance.

Also, so my colleagues will know, the amendment I originally drafted would have banned all military assistance that is in the pipeline. We have several years of military assistance that has not been totally spent. We did not touch that. You have to abrogate contracts. My original amendment would have done that. That was originally my preference. Again we are trying to give some flexibility to the President but also at the same time send a very strong signal that we do not turn around and just keep giving money to governments that turn around and blast the United States day after day, in their home country, in their home region, but also in the United Nations.

King Hussein, and I have met him, is a very personable fellow. He has married a very lovely American. We have had him as a guest of the Senate a few times, in my 11 years in the Senate. He is an articulate spokesman for his country.

Most of us would like to consider ourselves friends of King Hussein. But I think we have to look at the current situation and say, wait a minute, has his remarks, has his voting record, has his stance on the Persian Gulf crisis been deserving of continued American taxpayer generosity; and I say no.

As a matter of fact, the King's statements have been very unhelpful toward solving this problem. They have generated strife and animosity. They generated hatred. Instead of trying to cool the hatred and the passions and the unrest in the Middle East, in many cases the King's statements have done just the opposite.

Mr. President, I have a copy of King Hussein's speech and I will have that printed in the RECORD. But I will just highlight a couple of his comments which bothered this Senator and I would expect would bother all Senators.

I quote one section of it. It says, quoting King Hussein:

> The alternative to a cease-fire is the destruction of Arabs and Muslims—their humiliation, their exploitation, the trampling of their honor, pride, and legitimate hopes, and hatred and strife between the nations.

Talking about the Iraqis:

> To them, while we send our love and our pride as they defend us all and raise the banner that says, "God is great," the banner of

Arabs and Islam, we salute Iraq and its heroic army, its steadfast people, its glorious women, its brave children, and its aged, who are confronting with faith the bombers, the battleship, and tons of explosives.

He goes on, and I will continue reading.

He is talking about the war

It is also aimed at Iraq's right to a life of freedom and dignity and its determination to fulfill its historic, cultural and human role which started in Babylon, Baghdad and Basra, and which contributed to human civilization, scientific progress and culture.

* * *

Fire rains down upon the Iraqis. Fire rains down upon Iraq from airplanes, from battleships, from submarines and rockets, destroying mosques, churches, schools, museums, hospitals, powdered milk factories, residential areas, bedouin tents, electricity-generating stations and water networks. These bombings started from the first hours and took the form of a war that aims to destroy all the achievements of Iraq and return it to primative life by using the latest technology of destruction.

Mr. President, I could go on and on. His speech is a 6-page speech. I am not going to repeat it. But I look at the record and I see where the United States taxpayers have given Jordan $3.5 billion over the last 40 years. Militarily, we have given Jordan $1,649,000,000.

What did we get in return for all of our generosity for the last 40 years? We had the King of Jordan saying that we were bombing mosques—that is not true; that we were bombing churches—that is not true; that we are bombing residential areas—that is not true; that we are trying to destroy the Iraqi people—that is not true. Our military went to great lengths to preserve the Iraqi people, to safeguard the residential areas, to safeguard the mosques, to safeguard civilian areas. And they achieved that with remarkable success. I compliment our military for their job, which was extremely well done.

Mr. President, I know my colleague from Arizona is temporarily detained but he wishes to speak on this, as I believe other Senators do as well. I am hopeful that we will have administration support for this amendment.

At one time, I will tell the chairman of the Appropriations Committee, we believed that the State Department would support this language. We now understand that maybe they do not. I am not sure, so I will leave that.

Maybe it is yet to be determined whether the administration will sign off on this language. Again, I will restate this Senator's goal. I am not trying to be critical of the administration in any way. I am trying to speak out as a Member of the Senate and a person on the Appropriations Committee, on the Foreign Operations Subcommittee, to say that we should not continue military assistance to Jordan.

This amendment would repeal that military assistance unless the President determined it was in the best interests of the United States. Then he could submit to the appropriate committees for that spending.

Mr. President, I am aware that other of my colleagues wish to speak on this. I ask unanimous consent to print in the RECORD King Hussein's speech.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

REMARKS BY KING HUSSEIN OF JORDAN, FEBRUARY 6, 1991

(King Hussein's comments are made through an interpreter.)

King HUSSEIN: You who are concerned for the present as well as the future generations of your nation, I greet every one of you with all affection.

I choose to address you at this very difficult moment, motivated by Arab honor and religious duty. I address you on the eve of the fourth week of this savage and large-scale war which was imposed on brotherly Iraq and which is aimed at Iraq's existence, its role, its progress and its vitality. It is also aimed at Iraq's right to a life of freedom and dignity and its determination to fulfill its historic, cultural and human role which started in Babylon, Baghdad and Basra and which contributed to human civilization, scientific progress and culture.

Iraq, fellow Arabs and Muslims, now pays the price in pure and noble blood of belonging to its nation. Iraq had always hastened without hesitation to make sacrifices in all the battles which the Arabs fought or which were forced upon them in defense of Arab land in Palestine, Syria, Egypt and Jordan. Arab blood was always dear to Iraq. And shouldn't the blood of Iraqi men, women and children—shouldn't the blood of Iraqi men, women and children be dear to us?

How shamed will be the Arabs who let Arab blood be spilt in this unjust war. The world had known cruel wars, but never one like this that is waged against Iraq and the likes of which may never happen again.

The armies of the biggest and most powerful nations have gathered and unleashed their modern and dangerous weapons on the land, in the sea and in the sky. These weapons had originally been arrayed by the present international military alliance against an opposing alliance led by another super power. They are all now arrayed against the Baghdad of Haroun Al Rashid, the Basra of Islamic Studies and Poetry, the Kufa of Ali, may God's peace be upon him, the Holy Najaf, Karbala, Ad Diwaniyeh, Mosul, Kerkou and every Iraqi city and village.

Fire rains down upon the Iraqis. Fire rains down upon Iraq from airplanes, from battleships, from submarines and rockets destroying mosques, churches, schools, museums, hospitals, powdered milk factories, residential areas, bedouin tents, electricity-generating stations and water networks. These bombings started from the first hours and took the form of a war that aims to destroy all the achievements of Iraq and return it to primitive life by using the latest technology of destruction.

The first victims of this war were justice, righteousness and peace. Its first casualties were the aspirations of all humanity since the end of the Second World War, hoping that that war would be the last human tragedy and that man would no longer be killer or victim.

All the hopes of our nation and the world, the world community, were thwarted the day the land of Iraq was turned into the arena of the Third World War.

Brother citizens, brother Arabs, brother Muslims, the irony of this war is that it is waged under the cloak of international legitimacy and in the name of the United Nations, which was created to preserve peace—to preserve peace, security and justice, and to resolve disputes through dialogue, negotiations and diplomacy.

If this is an example of the further role of the United Nations and the new world order, what an ominous future lies before all nations. What international legitimacy will there be to protect the less powerful against the most powerful who seek to subjugate them, humiliate them, kill them and disturb all their rights that were granted by God and protected by charter of the United Nations?

We now realize fully the real reason why we, the Arabs, were deprived of our right to solve our problems and why the United Nations was prevented from fulfilling its role, and why the doors were shut against any sincere political attempt to resolve the Gulf crisis.

It is claimed that every—that every possible—it is claimed that every effort possible was made to solve the crisis during the five months before the war. This is not true. If the effort that was spent in preparing for the war had been devoted to the quest for a peaceful settlement, this disaster would not have taken place.

Moreover, the ongoing war with its destructive outcome is incompatible with the humanitarian objectives of the United Nations resolutions which were adopted to restore peace and security to the Gulf region.

By contrast, the Arab-Israeli conflict remained far from any honest and real attempt to resolve it justly. The Arab Palestinian people and the Arab nation still await the implementation of a single United Nations resolution which rejects Israeli occupation and calls for an end to it.

Twenty-four years have passed since the occupation of the West Bank, Gaza and the Golan Heights, and nine years have passed since the occupation of South Lebanon. But none of our hopes were fulfilled. Nevertheless, we did not despair of the United Nations. The major powers persisted in assuring us that a peaceful solution was possible.

As regards to the Gulf crisis, the Arab parties concerned chose from the beginning to reject any political Arab dialogue with Iraq and to block any attempt that could prevent the internationalization of the crisis and its resolution by directly dealing with all its causes and results.

All the good officers of Jordan and others who are concerned for the future of our nation were aborted. Why? Because the real purpose behind this destructive war, as proven by its scope and as attested—attested to by the declarations of the parties, is to destroy Iraq and rearrange the area in a manner far more dangerous to our nation's present and future than the Sykes-Picot Agreement. This arrangement would put the nation, its aspirations and its resources under direct foreign hegemony and would shred all ties between its parts, thus further weakening and fragmenting it.

The talk about a new world order whose early feature is the destruction of Iraq and the persistence of this talk as the war continues lead us to wonder about the identity of this order and instill in us doubts regarding its nature. The new world order to which we aspire holds all people equal in their right to freedom, progress and prosperity. It deals with their causes, with the same standards and under the same principles, regardless of any consideration or influence.

The required new order would not mete out injustice to any one nation. It would not discriminate between nations, but draw them together within the framework of mutual respect and fruitful cooperation for the benefit of our planet and all people on it. It must be an order that believes in public freedom and protects private freedoms, respects human rights, and strengthens the principles of democracy. It should not deny the Arab people their right to all this.

The nature of the military alliance against Iraq betrays its near- and long-term objectives. For when Israel supports this alliance, when two countries, one Arab and the other Islamic, both of which have normal political relations with Israel, whose leaders compete for prominence in this alliance and reiterate their desire and enthusiasm for the destruction of Iraq, it becomes easy to realize that this war is a war against all Arabs and Muslims, not only against Iraq.

When Arab and Islamic lands are offered as bases for the allied armies from which to launch attacks to destroy Arab-Muslim Iraq, when Arab money is financing this war with unprecedented generosity unknown to us and our Palestinian brothers while we shoulder our national responsibilities, when this takes place, I say that any Arab or Muslim can realize the magnitude of this crime committed against his religion and his nation.

Proper citizens, from the very beginning, we have shouldered our responsibilities to the Arab nation and Islam as well as towards international peace and security. We have made every effort to fulfill these responsibilities. We are not hurt because our rewards have been successive punishments to our country and people. It has become clear to the world that these punishments are the price which we must pay because we tried to avert the disaster which was planned and premeditated in the dark.

As a new form of punishment, there are now attempts to deprive us of our basic needs, even oil as a new form of punishment and one of the most severe, for no other reason than our principal stand. It is because we are not party to the conflict nor part of the alliance and willing to dance to the tune others play with no will of our own, no right, and no ability to express our free opinion. We would not forsake this right because it is equal in importance to our human right to breathe air that is not yet rationed.

Nevertheless, Jordan's leadership and people will remain firm in their position and belief that the opportunity for peace still exists, recourse to peace remains less costly and would reflect more truly the commitment to principles and values than the continuation of this devastating war.

The voices of millions can be heard in every country, including those of the alliance. The all call for peace and an end to the killing of children, the destruction of homes, and the withholding of medicine from the sick. I know just as you do that against these voices stand political and military leaders, alas with Arabs in their forefront, calling for the continuation of this war. Which voices will win in the end? The voices of reason, peace and justice? Or the voices of war, hatred, and insanity?

We and other brothers who have made a loud call to stop military action and open the way for diplomatic political action to resolve this problem, but the call fell on deaf ears. Many a time before the war had started, we warned against its effects, the deep wounds which it would open and its repercussions which would grow and include human, economic, and ecological tragedies. We warned that war is a measure of last resort launched only after all efforts to avert it have been exhausted. Our calls and warnings were in vain.

Justice will be victorious, God willing, brothers. Our nation will prevail, because, through its victory, humanity will prevail against its enemies. Life will prevail over death. Love among the nations will prevail over hatred. It will become clear to all those who gambled that our nation would be divided like its leaders, that it is a dead nation, they will be proven wrong. Our nation will remain, God willling, a strong, proud, and vibrant nation.

"These, your people, are one people, and I am your God, so worship me." (Interpreter says something in Arabic.)

Let us have fear of God and remember that. If this situation continues, it will only benefit those who covet our lands and resources with Israel at their forefront.

There are already signs that the spoils are being divided—there are already signs that the spoils of—the spoils are being divided. We hear and read every day of plans to control our resources, limit our freedom of decision, strangle our aspirations, and usurp our rights. We cannot imagine that this solution would fulfill the legitimate national rights of the Palestinian people on their national soil.

This is a call from a Hashemite Arab to all honest Arab and Muslim leaders. Let us join our efforts to stop this catastrophe and save the people of Iraq from the fate that is planned for them. Let us save our nation from the plans that are designed for it. Let us bring this war to an end.

The starting point in this—this immediate and serious work to make the alliance accept a cease-fire in preparation for a responsible dialogue between the antagonists, an Iraqi-American dialogue and an Arab-Arab dialogue that resorts to reason and balance international interests—balance interests against international legitimacy, the legitimacy of security, peace, justice, and equality.

By destroying Iraq, this war has exceeded the limits set by the United Nations in its resolutions. This is confirmed by the declarations of the alliance leaders, so where is the United Nations now? The alternative to a cease-fire is the destruction of Arabs and Muslims—their humiliation, their exploitation, the trampling of their honor, pride, and legitimate hopes, and hatred and strife between nations.

We in Jordan will stay the Arabs of all Arabs, the noblest of the noble, the men of all men. We shall always stay united, army and people alert to defend our country. If the fight is forced upon us, we shall be up to it and gain one of God's two favors: victory or martyrdom. Our hearts are full of faith, and we thank God for everything.

From Amman of the Arabs, I send to our people in Palestine our great pride in them, in their steadfastness, in their resilience against their suffering, where a whole nation is under house arrest, without work, without a source of earning, without medicine. But it is a nation that believes in God and stands fast by the Akhsa Mosque and the Church of the Holy Sepulchre.

As for our people in Iraq, what words can describe the great courage and pride, the tenancy—sorry, the tenacity and the ability to face 28 allied countries, 28 armies, headed by the largest, most powerful, and best-armed army of the world? To them, while we send our love and our pride as they defend us all and raise the banner that says, "God is great," the banner of Arabs and Islam, we salute Iraq and its heroic army, its steadfast people, its glorious women, its brave children, and its aged, who are confronting with faith the bombers, the battleships, and tons of explosives.

We send a special salute to this—His Holiness Pope John Paul II for his prayers and continuous calls for peace in the Middle East, and to all people and international figures after—who decry war and call for peace. A salute of pride to all our Arab and Western brothers on the five continents who came out from the first—the first moments of war to make a stand for life and peace against death, destruction, and aggression.

I pay a special debt of thanks to all those who search for truth and who work to spread it, because they respect and care for truth, to all the newsmen, academicians, and politicians who live among us and do their duty in honesty and professionalism.

"Also, the conferrings together are devoid of good except such—except such as enjoin charity or the promotion of public welfare or the public peace, and on him who strives after these, seeking the gratification of God, shall we soon bestow a great reward," from the Koran, make up—(interrupted by announcer)—

Mr. NICKLES. Mr. President, I suggest the absence of a quorum.

Mr. BYRD. Mr. President, will the Senator withhold that suggestion?

Mr. NICKLES. Certainly.

Mr. BYRD. Mr. President, I ask unanimous consent to speak out of order.

The PRESIDING OFFICER. Without objection, it is so ordered.

RENEGOTIATING THEIR PLEDGE

Mr. BYRD. Mr. President, it has come to my attention that even as we are considering the supplemental appropriations bills for the cost of Operations Desert Shield/Desert Storm, reports are emerging suggesting that Germany may ask to renegotiate its pledge of $6.6 billion because that government believes the cost of the war will be less than the total pledge to the United States.

I tried to make it clear in my statement yesterday—and I will emphasize it again now—that the $42.6 billion that we are appropriating in H.R. 1282 does not nearly cover the cost of this war. As I said yesterday, these numbers do not show the hundreds of billions of dollars that the United States has spent maintaining a military establishment capable—capable—of acting as our Military Establishment did act to protect the interests of the free world. Nor do these numbers explain that building and maintaining that military capability has diverted billions of scarce dollars away from vital domestic needs, such as education, infrastructure, and health care.

Beyond the hidden cost of the war, these appropriations bills do not even fully cover the incremental cost of the war. The Department of Defense has not yet calculated the cost of combat.

And although H.R. 1282 attempts to cover some of those costs, it may be months before we have a final figure. There will also be additional costs associated with our withdrawal from the region, costs that are still only rough estimates and will undoubtedly add to the total. If we end up maintaining a long-term presence in the area—I hope we will not do so—the costs will go still higher.

We are not out of the woods yet. A formal cease-fire has not been achieved. We have no assurance that there may not be a reignition, even though it may be small, of the conflagration.

I cannot understand how Germany, a nation that we have defended with hundreds of thousands of United States troops for the last 45 years, could consider reneging on its promise of support to the United States or that it could consider asking that its commitment be renegotiated. Germany, which relies virtually 100 percent on imported oil had far more at risk in the Persian Gulf than the United States had at risk. Yet, now that we have made the sacrifices, we hear reports that they want to renegotiate even their small commitment.

Reports indicate that this effort is being initiated by the opposition party in Germany. I hope that the German Government understands that breaking their promise would be a very unwise decision for the future of United States-German relations, and I hope Chancellor Kohl will not bow to that political pressure. It does not look very good for the German Government to be indicating that it wishes to renegotiate the commitment that it has made. We have worked very hard to structure the $15 billion in the appropriations in such a way as to make it the last resort for the Defense Department.

Mr. CHAFEE. Mr. President, I wonder if the distinguished chairman might yield for a question on that subject?

Mr. BYRD. Yes.

Mr. CHAFEE. I understand you are expressing dismay at some of the reports that have come out of Germany that they might wish to, in effect, renege on the commitments they have made.

Mr. BYRD. Yes. These are reports. I cannot vouch for them.

Mr. CHAFEE. I think it is fair to point out, as I understand it, that these statements were not made by the Government of Germany. These statements were made, as I understand it, by a member of a minority party that is not in the government. Am I correct in that?

Mr. BYRD. I am not sure.

Mr. CHAFEE. That is my understanding. The Secretary of State yesterday addressed that point when it was raised, when he met with a group of us. That very question was asked, and he strongly stated that those statements that have come out of Germany are from a minority party and in no way represent the position of the Government.

So I think it is fair to point that out—and I know the distinguished chairman was not suggesting this is from the government—I think it is not Chancellor Kohl or his government that is making these statements.

Mr. BYRD. I do not think it is Chancellor Kohl. I am glad the distinguished Senator has put upon the record his understanding of the sources, and I hope that he is correct. I just feel that it is good to sound the alarm, as I sounded the alarm on yesterday, and I am glad to see someone is hearing this small voice from the hills of West Virginia.

Mr. CHAFEE. Mr. President, if I might ask the distinguished chairman, first of all, whatever the voice is, it is not a small one and, second, I think he is absolutely correct, and he speaks for all of us in the Senate when he says that we want these commitments observed, whether they are from Japan or Germany or from wherever.

The only reason I interrupted, if I might say, was merely to put the record straight, and the chairman himself pointed out that it was not from the government. There is a lot of difference; in other words, we can get some statements that emerge from A, B, or C in the U.S. Senate or wherever it might be, and it is not necessarily the position of the Government of the United States.

Mr. BYRD. I thank the distinguished Senator.

Mr. President, even though, as I said, it is not Chancellor Kohl, I am disturbed that these commitments are proving to be so slow in their fulfillment, almost across the board, or across the board, as I indicated on the chart yesterday. We are talking about commitments that are supposed to be paid by March 31, and March 31 is not very far off.

So I am rattling the cage a little bit perhaps, but I think it is for a good cause. I want the allies to know that just because the shooting war, hopefully, is over, that this should be no cause for them to feel that their commitments need not be paid.

If our Government were to renegotiate the commitment that has been made by the Germans—and, by the way, Germany is one of my favorite countries, let me say that. And the German people are one of my favorite people, not that that makes any difference here. But if that pledge were to be renegotiated, other contributors would be close behind, and that $15 billion would be gone in the blink of an eye, $15 billion that the American taxpayers are paying through this legislation. As costs continue to accumulate, the United States would end up paying far more than the $15 billion and would end up carrying the bulk of the immediate financial burden, as well as the bulk of the long-term costs.

This would be unacceptable and I hope that the administration will continue to press our allies for prompt payment of the entire amount of their pledges.

So my comments, Mr. President, are not only for the benefit hopefully of the Germans and the other countries that have made these commitments, but also I hope it will not go unnoticed in the halls and corridors of the administration downtown. It is good that the administration might realize that the elected representatives of the people on the Hill are behind them, pushing them, trying to give them strength in their persistence in having the commitments fulfilled.

DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS

The Senate continued with the consideration of the bill.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Illinois.

Mr. SIMON. I will be very brief, I say to my colleague from Rhode Island.

I came over really wanting to take a look at the Nickles-DeConcini amendment, having read a summary that indicated there was very little flexibility. In fact, the Senator does offer flexibility. He says that if the President determines and certifies to the appropriate congressional committees that the Government of Jordan is taking steps to advance the peace process in the Middle East, then aid can continue. He also permits refugee assistance or training for people. So it does seem to me this is not a rigid amendment; it is one that sends a message that I think should be sent.

I came over here thinking I was going to oppose the amendment, I say to my colleague from Oklahoma, but I think it is a good amendment and I am pleased to join in supporting it.

Mr. NICKLES. Mr. President, I wish to thank my colleagues. I will tell the Senator from Illinois our original amendment was more stringent. It did not give the President any amount of flexibility.

After talking to the President and to the Secretary of State, who said, "Give us as much flexibility as possible; do not tie our hands; this is a volatile area," I agreed with them. That is the reason we have added the flexibility both on the economic side and on the reprogramming possibility on the military assistance side.

I appreciate the willingness of my colleague to support this amendment.

Mr. SIMON. I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I would like to address the amendment offered by the distinguished Senator from Oklahoma, for whom I have great respect.

First of all, let us just lay the groundwork. All of us share the dismay at the anti-American and the pro-Iraqi statements made by King Hussein of Jordan. That is a given. All of us were deeply disappointed that an old and trusted friend with whom we have had close relationships over so many, many years, namely King Hussein, should turn his back on our country. So I can understand the frustration Senators feel over the conduct of both the King and his country in so openly embracing Saddam Hussein during the recent conflict.

Also, I think we have to recognize that King Hussein has his problems. This does not justify his actions, but I think we might as well recognize the situation he faces in a country that has 60 percent Palestinians in it, with a population that overwhelmingly supported what Saddam Hussein was doing because of his stated objective, false though it was, that he was out to liberate Palestine and provide a homeland for Palestinians. That clearly was not his principal objective. He did not go into Kuwait to liberate Palestine or Palestinians. He went in to seize a helpless country. But, nonetheless, that was what he was saying publicly.

Now the fighting is over and we have to look toward how we can win the peace, and who so successfully guided us through the intricate diplomatic minefield that existed in trying to put the coalition together? It was the President of the United States. To its credit, Congress stayed out of it. We did not try to micromanage what the President was doing when he was making contact with a person that most of us despised, namely the President of Syria.

The President of the United States went to Syria. He went to Egypt. He negotiated with an extraordinary combination of nations to form a coalition that was so successful. Now that it is over, on this appropriations bill we find the Senate getting back into the act, doing just what the President asked us not to do in that magnificent speech he gave to the joint session about 2½ weeks ago.

In that speech the President said, please, please, Members of the House, Members of the Senate, do not micromanage our efforts. Do not put restraints here and there. We will report to you. We will tell you what we are trying to do. And, indeed, the President has.

I see those who have had more time here than I. For instance, the distinguished chairman of the Appropriations Committee I think would agree with me that never has there been such complete briefings and effort to keep the Congress, and namely the Senate, with which we are more familiar, posted and apprised of what we were trying to do in the Persian Gulf. Could I say that fairly, I ask the distinguished chairman of the Appropriations Committee?

Mr. BYRD. Mr. President, if the Senator will yield, I am no longer the majority leader, no longer the minority leader of the Senate. I cannot answer that question really authoritatively. But, as I understand it, our leadership was kept fairly well abreast of the goings on. But only the majority leader and minority leader and others who were in those conditions can really answer that question.

Mr. CHAFEE. Mr. President, in the period I have been here, we have had nothing compared to meeting with the Chairman of the Joint Chiefs, General Powell, meeting with the Secretary of Defense; when the Secretary of State was available, which was not often, because he was so tied up, he also kept us apprised. Now, that we have won the victory, once again there is an attempt for, regrettably, this Senate to insert itself.

Those who sponsor the amendment will say, well, it is not that bad; as far as the economic assistance, it really is not that painful. All the President has to do is to submit a reprogramming, and it comes back to the respective committees. If the respective committees do not deny it, the President can go ahead.

Mr. President, I do not know why we have to do this. I think one of our distinguished Members said yesterday one of the reasons we won the war was Congress stayed out of it. Well, that may be an exaggeration, but it stresses a point.

That is, let us not get into trying to micromanage the affairs of this country. The President of the United States has said, and so has his Secretary of State, that he is going to devote full effort to try to solve this seemingly intractable problem in the Middle East, to try to do something to get a permanent peace.

The issue here is not who is more angered with the conduct of King Hussein and Jordan. The issue is "How best can we foster a permanent peace in the Middle East?"

Secretaries of State and administration after administration have broken their necks on trying to solve that problem. Our President has said he is going to do it; he is going to try. He does not promise that he is going to succeed, but he is going to try. What more can we ask for? All he says is, "Give me the tools so I can do the job."

If this amendment should be approved, we are restricting the tools that the President can work with. He has to work. Whom has he to work with? He has to work with Syria, Egypt; he has to work with Israel and Jordan; he has to work with all of those countries out there.

To do that, let us have some confidence in him and his officials, those who are in his administration, such as our distinguished Secretary of State. They have a proven track record of success. What I way is let us give them a chance. Let us not restrict him; no matter whether those who support this amendment say it is not that, the administration is opposed to it.

The administration will send up a letter later today, as soon as the President, who is currently busy right at this particular moment greeting foreign dignitaries—they will send up a letter saying the President is against this amendment. So I hope that my colleagues will back off from this.

If we vote against it, it does not mean we approve of what King Hussein did. Of course, we do not. It does not mean we approve of what his country did. Of course, we do not. We have to move ahead. The best way is to have confidence in our President, who guided us so successfully through this intricate diplomatic situation and brought us to the home port safely.

I thank the Chair.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I had come to the floor this morning to oppose the amendment of the distinguished Senator from Oklahoma [Mr. NICKLES] because of my view that we do not have a sufficient record, sufficient factual materials, at this time to restrict foreign aid to Jordan.

I say that because we have not yet had an opportunity to determine what will happen if the government of King Hussein of Jordan is undermined. It may well be that the government we know is the lesser of two evils. We simply do not know.

I share the concern that I think is almost unanimous, if not unanimous, in this body, of great disappointment in the position Jordan took relative to the gulf war. It seems to this Senator incomprehensible that King Hussein and Jordan would side with Saddam Hussein and Iraq.

The first instinct is to say to Jordan, "We are not going to continue to provide financial aid in any respect." The concerns which arise after that first instinctive reaction is what will happen if U.S. aid is not given? Will it destabilize King Hussein's government? Will it cause someone to come into power in Jordan who will be more antithetical to United States interests than is King Hussein?

These are questions to which this Senator does not know the answers at this moment. I agree with what the distinguished Senator from Rhode Island has said about not putting restraints on the hands of the President, who is in a better position to evaluate these questions.

Yesterday at the Republican caucus, we heard informally from Secretary of State Baker who has done an outstanding job. Secretary Baker's request was to leave the administration unfettered for the moment.

I respectfully disagree with my distinguished colleague from Rhode Island when he characterizes this amendment as micromanagement. I do not think it is. The Congress of the United States has the responsibility to decide the issues of foreign aid.

I have served for 11 years now on the Appropriations Subcommittee on Foreign Operations. Each year we hold extensive hearings to determine whether we ought to give foreign aid to a wide variety of countries. I do not consider that micromanagement. I consider that a very important role of the U.S. Senate.

Anybody who has open house town meetings in the United States, certainly in Pennsylvania, knows how unpopular foreign aid is. We vote for foreign aid because it is in the national self-interest of the United States to do so; it is not a humanitarian gift. It is not feeding starving people somewhere. We do that because it is in our national self-interest. That is a congressional determination after advice from the executive branch. Of course, the President has to sign the bill. So I think this is a very important congressional function to examine carefully the provision of aid.

Even after talking to my colleague from Oklahoma, I am not quite sure where this amendment ends up, frankly. It is probable that the President of the United States has the authority now to withhold foreign aid to Jordan if the President decides to do so. We have seen the executive branch withhold many expenditures which have been approved by Congress in legislation, and signed by the President.

If they do not want to spend the money for the V-22 Osprey, they do not spend it. If they do not want to spend the money for the service life extension program of aircraft carriers at the Philadelphia Navy Yard, they do not spend the money. There is a constant congressional-executive battle, or at least tension over what money is going to be spent.

The distinguished Senator from Oklahoma has modified his amendment to give the President discretion to spend this money if the President concludes that Jordan has been helping the peace process. It may be that the President does not want to make that kind of a statement. He may want to hold up the foreign aid without making a statement that Jordan has been helpful or not helpful in the peace process.

Maybe there ought to be a restriction that at least the President has to find that Jordan has been helpful in the peace process to try to put some pressure on Jordan. It is not easy in the Senate Chamber to figure out what is going on in Jordan. Aside from the concern which I have expressed about who King Hussein's replacement might be, I would like to know more about the specific pressures that King Hussein was under in the course of the past several months. It has been reported in the press that King Hussein has written to the President.

I do know that for many years, King Hussein has been a regular visitor at the U.S. Senate, has addressed large groups of Senators and has responded to our questions.

Many of us, including this Senator, have had occasion to visit King Hussein in Amman, and have admired the work which he has done in the past, at least until the gulf war.

But where I come out on this amendment, Mr. President, is with an unwillingness as of this moment to second-guess what the President and the Secretary of State want to do right now. I want to know more about the status of internal events and affairs in Jordan, as to what is likely to happen there.

But I do say this: I cannot see any reason to give Jordan military aid under any circumstances. Economic aid may be of help in maintaining a stable Jordan, which may be in the best interests of the United States. Not so military aid.

If military aid were separated from economic aid, my response to this amendment might be entirely different.

I remember that in a Saturday morning news conference which King Hussein had during the course of the gulf war, he was threatening Israel not to send airplanes over Jordanian airspace in retaliation for the Scud missile attacks coming into Tel Aviv and other parts of Israel. At the same time, however, missiles were being fired by Iraq over Jordanian airspace.

It may be that King Hussein could not intercept those missiles, and it may be that King Hussein could not say to Iraq, "Stop it," for fear of retaliation.

But he certainly could have at least protested in some way to acknowledge the impropriety of Iraq sending missiles over Jordanian air space. Or, at least have the common decency to say that if Iraq is going to violate Jordan's air space, then so could Israel. I listened to that news conference in wonderment as to what King Hussein was doing and why he was doing it.

Military aid to Jordan, to this Senator, is inexplicable at this time, unless that aid is going to be designed to stop an insurrection within Jordan. Even if that is the purpose, I have great reservations about it. If military aid is sent to arm King Hussein and Jordan so they can take a course, as they did in this past gulf war, contrary to United States interests, then I do not think it is a wise course to follow. So my instinct, Mr. President, is not to do anything now that is going to impede Executive decisions, until this Congress knows a good deal more about this subject to be in a position to exercise our judgment based on a knowledge as to what the consequences would be in terms of destabilizing Jordan, and what the effect might be if King Hussein is not in power.

There have been some comments on another subject, which I would like to address briefly. That is on the subject of payments by other nations for the gulf war. We had extensive hearings in the Appropriations Committee several weeks ago on this subject and, at that time, this Senator expressed dissatisfaction with the fact that only $53.5 billion had been pledged by other countries to pay for the war, and that such a small sum of money had been actually collected. At that time, there was a footnote on the Executive papers as to the $9 billion commitment by Japan, which had not yet been approved by the Diet of Japan.

It is my view, Mr. President, that the United States has not done enough to collect in advance the pledges from Saudi Arabia, from Kuwait, and from the other Gulf States when we have saved those countries. It has been hard to comprehend why it was necessary for Secretary of Defense Cheney to spend 14 hours persuading the king of Saudi Arabia that the United States ought to be able to go there and defend Saudi Arabia. So it is understandable if we could not get cash on the barrelhead to pay the costs in advance, that we went ahead and defended Saudi Arabia and liberated Kuwait, even without having the cash in hand. But that would have been the preferable course. When Kuwait responded that Kuwait could not sell securities and pay cash to the United States because it would depress the market, there was an easy answer to that. We will take an assignment of their securities, and we will hold them. That would be cash in hand for the United States.

When you look at how much cash the United States received in hand from Saudi Arabia and from Kuwait, it is just not sufficient. We are dealing with two countries there where the oil reserves are in enormous figures. Kuwait is reputed to have 100 billion barrels of oil reserve. Saudi Arabia's figures are much in excess of that. The United States sacrificed life and limb. Why should we have to give dollars as well? Those countries ought to be paying for the cost of the war, as well as the other Gulf States, such as Oman and Bahrain.

There is the issue of reparations from Iraq, which ought not to be overlooked, Mr. President. There was tremendous cost to the United States and its coalition partners, not to mention the cost to Israel, which was attacked in the atrocious fashion, with Scuds going into civilian populations without any military purpose.

In addition, there is the issue of what Japan is doing. I think their commitment at the present time is insufficient. As well, I think the German commitment is insufficient. When there are rumblings coming out of Germany that they are not going to honor their commitment, that is the predecessor of something more formal coming.

I think the comments made on the Senate floor do have a significant impact on the governments who hear what we Senators are saying, and there has been talk about trade sanctions against Japan, if they do not come forward, and there are concerns expressed as to what Germany is doing. Those other governments, and the Governments of Saudi Arabia and Kuwait, hear our expressions on this floor, as will King Hussein. King Hussein will be listening to what Senator NICKLES and Senator CHAFEE and the rest of us have to say, evaluating where this body is going to be at some point in the future.

I want to register, as loudly and as clearly as I can, my dissatisfaction with what the Gulf States, including Kuwait and Saudi Arabia, and Germany and Japan are doing by way of bearing the cost of the gulf war so that our own executive branch will know that Senators, and this Senator especially, are going to weigh very carefully the intensity with which we collect pledges of financial contributions to the war effort.

I thank the Chair and yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I want to briefly state what this debate is about and what it is not about. The issue before us is not who is most angered with King Hussein and the conduct of Jordan. The issue is: How best can we foster a permanent peace in the Middle East? That is the subject before us. We are all upset with King Hussein and the conduct of Jordan. That is a given. But now what can we do to foster a permanent peace in that area?

As I mentioned before, we all applauded when the President spoke to us. This is what he said when he spoke to us on March 6: "It is time to put an end to micromanagement of foreign and security assistance programs, micromanagement that humiliates our friends and allies and hamstrings our diplomacy." That is what the President of the United States said, and that is exactly what this amendment does today, Mr. President.

A little bit of review of what we are talking about, as far as the aid. The aid has been approved. Economic and military assistance aid has been approved. It is in the pipeline. But the President has put a hold on it. He has put a hold on the economic aid, and he has put a hold on the military aid. What he is saying is, do not interfere with his capability to release that aid, both economic and military assistance, should he feel it is necessary in order to advance a permanent peace in the area.

I do not think we ought to argue with that, and I do not think we have reason to argue with it. He, as I said, has undertaken this extremely difficult task, to try to forge a permanent peace out there, and he needs every tool we can give him.

So, Mr. President, I hope we will not hamstring our President and do just what he pleaded with us, if you will, not to do, to undertake micromanagement, which humiliates our friends and allies and hamstrings our diplomacy. So I hope this amendment will not prevail.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I think we all agree that the position King Hussein took, vis-a-vis Iraq, was wrong, against the general interests of the community and the area, and that it was a result of misjudgment, perhaps, on his part, or maybe good judgment that if he did not take that position, he would be thrown out by the majority of his subjects or citizens, who are Palestinians.

If he is thrown out would we be better off? I do not think we would. I think we would be better off with King Hussein there. We ought to look at his record of more than 30 years, which has been a pretty good record and a record of pretty steady friendship with the United States. We should think of all the times that we in this Chamber have hurled accolades at him and praised him over the years.

It reminds me a little bit of what Al Smith used to say. He said let us look at the record. The record on balance is, I think, pretty good. We have to judge here in the Senate what, on balance, would be best for our country and best for peace in the Middle East.

I think in moving to that conclusion we ought to weigh the past, and the history, as well as the present.

I am also reminded of the phrase of Jeane Kirkpatrick where she once, "Warned against policies that make you feel good but do not do good."

To my mind the policy advocated by this amendment would make us feel great but would not do much good. So viewing the whole thing on balance I am inclined to agree that we should honor the President's request and not agree to this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. NICKLES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. Mr. President, I ask unanimous consent to speak as though in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Idaho is recognized.

Mr. SYMMS. I thank the Chair.

(The remarks of Mr. SYMMS pertaining to the introduction of S. 697 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER: The Senator from Idaho is recognized.

Mr. CRAIG. I thank the Chair.

(The remarks of Mr. CRAIG pertaining to the introduction of S. 698 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DOLE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The amendment of the Senator from Oklahoma with respect to Jordan is the pending amendment.

(Mr. AKAKA assumed the chair.)

Mr. DOLE. Mr. President, I want to speak not so much to the amendment, because I want to commend the Senator from Oklahoma for trying to resolve the problem that we face, but to speak for the President of the United States. I would like to at this point read a letter from President Bush. This letter is not signed. He had to rush out to greet Lech Walesa, but it will be signed. It is addressed to this Senator. I will read the letter.

> I was heartened by your comments yesterday that now is not the time for Congress to micromanage the Administration's efforts to conduct post-war diplomacy in the Middle East, and specifically not the time to tie our hands on aid to Jordan.
>
> As I emphasized yesterday, the Administration strongly opposes legislation which would prohibit U.S. assistance to Jordan. Like members of Congress, the Administration has been deeply disappointed by Jordan's support for Iraq during the recent crisis. We have made our concerns very clear to the Government of Jordan, and have suspended all aid while completing a review of our security assistance programs.
>
> Nevertheless, we need to retain maximum flexibility in the historic task of helping to build a more secure and more peaceful Middle East on the basis of the international coalition's defeat of Iraqi aggression. Jordanian stability remains important to the region and to U.S. interests—and indeed to Israel's interests—and Jordan could play a significant role in post-war diplomacy, especially in the Arab-Israeli peace process.
>
> We must not let our disappointment with Jordan's behavior during the Gulf crisis unnecessarily constrain our post-war diplomacy. We must try to focus on the possibilities for the future, not the disappointments of the past. The challenges in the path of se-

curing the peace are enormous, but so are the opportunities.

Mr. President, I cannot think of anyone who has not praised President Bush for his excellent leadership in holding together the coalition, in successfully completing the gulf crisis, in being decisive and being victorious. Some have said the reason he was so victorious is that Congress did not have time to get into it. The war was over before we could have a hearing or before we could pass some amendment, before we could tie the President's hands or tie General Schwarzkopf's hands, or tie somebody's else's hands. That may or may not be the case. I doubt it.

But the point is this: President Bush, I believe, has conducted himself quite well. Now we are engaged in this very sensitive, very tedious peace process. The Secretary of State has just returned from visiting, I believe, eight countries in 9 days. The President has been off visiting with other members of the coalition in Canada and Bermuda and some other place, Martinique.

What the President would like to do is have some flexibility. This is not a vote in my view against King Hussein. It is a vote against President Bush. If we do not like President Bush's leadership, if we think he has been unsuccessful or has not provided leadership in the gulf crisis, then we ought to tie his hands. There is no aid going to Jordan. Every one of us is disappointed with King Hussein, and I think everyone has spoken out that he should not get anything. I have. He is not getting anything.

I do not quarrel with those who want to make certain it would be very difficult for Jordan to receive any benefits. But this administration is not trying to make it easier for King Hussein or that country.

Let us face it. Jordan has a lot of problems, a lot of poor people and a lot of suffering people. We are very disappointed in what King Hussein said. We understand some of the political pressures he had. He was sort of in a no-win position. He rode the wrong horse. But, that race is over. We won. He lost.

Now in the postwar, the most difficult part has begun. I believe you could ask any of the allies who were disgusted with King Hussein—whether it is Saudi Arabia, or Kuwait, or Egypt, or the United States—and they would all say that, well, as bad as it was, and as much as we disliked what he said and what he did, that he is important in the peace process.

Now there ought to be some way to come together with the administration. I know the Senator from Oklahoma has tried. The administration declined to support what appeared to be a fairly reasonable compromise, because I believe the President sees this as an effort to micromanage his efforts for peace.

Now, if the peace process drags on 6 or 8 months, I can almost see some of my colleagues standing here who might vote for this today blaming President Bush for the slow pace of the peace process. We cannot have it both ways. We tried that on the gulf crisis.

I would just make a plea for the President of the United States. If he does something that we dislike, we can stop it very quickly. We can cut if off. We can terminate it. But let us at least let him get into the process without tying his hands.

I hope that my colleagues on both sides of the aisle would understand that President Bush is serious about peace. He is probably going to break a little china in the process in the Middle East. Not everybody is going to like what he does or what he says, including King Hussein of Jordan.

But if we are going to start trying to micromanage this country, what about other countries in the Mideast? What about the Palestinians? Maybe we ought to have something in there about them, or something about Israel, or something about Saudi Arabia, or something about Egypt that we do not like or disagree with.

So I hope that, particularly on this side of the aisle, we would see this as a vote to support President Bush. We have all proclaimed his brilliance and still do every day.

This letter is from the President, not from the Secretary of State. Let me double check that. He has not signed it yet, but he will. It is from the President of the United States. This is his request.

So I hope that we could withdraw the amendment. I have indicated to the President I will do the best I can to prevail. We may prevail. Because I think we want to show King Hussein that we are serious, and so does the administration.

How do we best demonstrate that? I met with the Ambassador to the United States from Jordan a couple of weeks ago. I told him he had a lot of work to do in the Congress. He better start making house calls, better start seeing Members in both parties, because we did not like what we saw or what we read that King Hussein had said, or the Crown Prince for that matter.

In my view I think there has been an effort to do that. I am not here advocating aid to Jordan. I am only advocating give President Bush a little time, a week, 2 weeks, 30 days. The war has not been over 2 weeks and we are already tying the President's hands. We cannot wait.

It seems to me that he has made a reasonable request. If he starts getting out of line, if the President of the United States starts funding military aid to Jordan—I assume most people would not object to humanitarian aid—then I think we can appropriately respond.

Mr. President, I hope this amendment could be defeated, or deleted, or withdrawn, or however you dispose of it. I would also add—and I know the distinguished chairman of the Appropriations Committee has done a great deal of work on this legislation. I am not threatening anything. I know there is a letter coming up here—oh, it is here. It is here. And I will go into it later. But this is just another burden on this bill.

My view was the administration was going to go along but I am now advised that the administration expressed strong reservations to many provisions that had been added to the bill.

> Among our objections were such issues as: the prospect of sequester; the failure to support the recently-enacted approach to housing policy; the prohibition of helper rules for Federal construction projects; the unconstitutional formulation of the DC payment; the limitation of the ability to proceed with the Enterprise For The Americas initiative; the requirement of unnecessary and inefficient defense expenditures——

These are all discussed in the administration's statement of policy.

I would just say, this is a letter from Richard Darman, Director of the Office of Management and Budget. He said:

> Unfortunately, the improvements we have been seeking have not yet been achieved. But worse, an objectionable dairy amendment has been adopted by the Senate; an ill-advised amendment of Jordan is pending at this moment, and there is evident interest in Congressional micro-management of foreign policy. May I respectfully note that there should be no doubt: The accumulation of undesirable provisions very seriously risks causing the President's senior advisers to recommend veto.

That is not a threat because I know the distinguished executive director of OMB works very closely with the chairman of this committee and with the ranking Republican, Senator HATFIELD. But I would suggest this is just one more, as I indicated, burden we are adding to this bill that many of us would like to complete before the recess, the so-called Easter recess, begins.

So, Mr. President, again I urge my colleagues to support President Bush. This is an opportunity for some who failed in the past to support him today. This is part of the gulf policy. This is an extension of the gulf policy which has been very successful.

To my colleagues on this side of the aisle, again I commend them for trying to raise the objections. It may not make any difference what the President says. But my view is, it should.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, I rise today to join the Senator from Oklahoma [Mr. NICKLES] in offering an amendment to cut the aid to Jordan for fiscal year 1991 in the dire emergency supplemental.

The distinguished Republican leader has pointed out that micromanagement seems to be always used when we attempt to do something that the administration does not want. Imagine if we had micromanaged a little bit more in some of our aid and assistance to Iraq? I think we failed, quite frankly, in not doing more micromanaging, if you want to call it that, but in standing up to that country. We all paid a price for that.

So it seems to me the argument that any restrictions that we put on in any legislation that does not just suit the administration is thrown up as something improper, that you are going against the President, who has been very successful and he has received those accolades, and correctly so, from the Congress and from the American people—and I applaud him. But it does not mean that he is always right, or is the Secretary of State, to continue aid to Jordan under the circumstances that I will go into in a moment which seems a bit shortsighted and, to me, not in the best interests of peace in the Middle East or in the best interests of the United States.

This amendment is simple, Mr. President. It prohibits all aid from being obligated or expended for Jordan. Instead, this assistance would be available to countries which have supported the United States and the coalition policies in that area. The amendment does allow provisions of emergency refugee assistance and does not affect food donations under Public Law 480.

The Agency for International Development, known as AID, estimates the United States plans to obligate $66.15 million in economic support funds and $22.8 million in foreign military financing in international military education and training funds for Jordan in fiscal year 1991.

I wonder how many people realize those kinds of dollars: $88 million in funds to Jordan. The ESF level is as high as it is because it includes $31.15 million of carryover funds from 1990. It is this assistance which would be affected by the amendment offered by the Senator from Oklahoma, and this Senator.

A recent AID document on assistance to Jordan states that:

> Despite Jordan's halting implementation of United Nations Security Council sanctions during the Persian Gulf crisis, the primary U.S. goal remains to help sustain a stable, moderate government committed to peaceful solutions of regional issues.

By openly embracing Saddam Hussein, a man who committed unspeakable atrocities against the people of Kuwait and his own people, King Hussein of Jordan showed the world that he is not interested in "a peaceful solution."

As my colleagues well now, during the 7 long, difficult months of the gulf conflict, King Hussein of Jordan tried to have it both ways. He pretended that he was adhering to the United Nations embargo prohibiting goods from entering Iraq so he would no longer anger the international coalition gathered against Saddam. He also placated Saddam by shipping oil into Iraq—that is undisputed—so that Saddam could maintain his war machine against other nations that caused no aggravation to him or aggression against his own people.

The end result is that King Hussein achieved neither of his goals. He violated the economic embargo against Iraq and he backed a loser. He also lost respect in the eyes of many nations around the world.

Violating the embargo is significant in and of itself. Under the Lautenberg amendment, the amendment of the Senator from New Jersey, to the foreign operations appropriations bill, adopted by this body last fall, no assistance may be provided to any country which is found to have violated the economic embargo.

The State Department has yet to officially state that Jordan violated that embargo. It has yet to terminate the assistance which was planned for Jordan this year.

It was only after King Hussein's violently anti-American, anti-coalition, pro-Saddam Hussein speech on February 6, that the State Department was finally prodded into reviewing aid to Jordan.

It has been more than 5 weeks since that speech in which the King claimed that the coalition was attempting to establish foreign hegemony in the Middle East. The truth is that we are bringing home nearly 5,000 American soldiers every day.

Clearly, we have no desire to establish domination over any country in the Middle East. Yet the State Department refuses to terminate that assistance.

The argument is made that you want to give flexibility to the administration. The flexibility we are asking to be given to the administration is that they can give this $20 million to the King for his army whenever some peace is made. So we are handing it over, saying go ahead and deal with it, offer it out as a carrot to the King. I think that is wrong.

King Hussein's comments were more than just heated rhetoric. He criticized the "savage and large-scale war against brotherly Iraq." He stated that the international coalition's "true aim behind this devastating war * * * is to devastate Iraq * * * to destroy all achievements of Iraq and return it to primitive life."

This is not someone who happens to criticize U.S. foreign policy who is a citizen of the United States. This is the head of state of one of the countries that supposedly supports the effort against Saddam Hussein.

He called it a war "against all Arabs and all Moslems and not against Iraq alone."

The King knows better. This was not against all Arabs. This was a number of Arab nations and people joining in stopping naked aggression.

Hussein tried to link the Israeli-Palestinian issue to the gulf war when he stated that:

> The Palestinian Arab people and their nation wait for the implementation of one of the U.N. resolutions that reject the Israeli occupation and demand its termination.

He went on later in his speech to warn that:

> If matters stay on their current course, the only beneficiary will be those who covet our land and wealth, chief of whom is Israel.

Israel was not even a party to this conflict. It stood by and took hit after hit from Scud missiles—39 of them—from the Iraqi military and showed outstanding restraint in withholding any retaliation. It was not part of the coalition against Hussein, and yet the King of Jordan says this is an Israeli issue. There is no linkage here. In a statement on the floor on March 12, I rejected King Hussein's attempt to do the same. Finally, the King lamented that "there are now attempts to deprive us of our basic needs—even oil—as a new form of punishment, and one of the most severe, for no other reason than our principled stand."

And if this were not enough, Jordan's "principled stand" may also have included shipping arms to Iraq. We all witnessed CNN. I was just at the gulf, and there is ample evidence to lead one to believe that the ammunition recovered by our forces very likely came from Jordan. It is printed on the boxes. We saw it. We cannot tell for certain whether or not it came before the embargo or after, but there is a lot of it there.

I think CNN's film footage of ammunition and weapons found inside Iraqi bunkers with markings indicating that they were from Jordan is very clear evidence of what this country was doing in support of Saddam Hussein.

The possibility that Jordan, a nation to which we have provided military assistance for years, may have shipped weapons to a country at war with our own is reason enough for the termination of any aid to Jordan. Our brave men and women were fighting and dying and prepared to die in the desert while "a friend" was supplying military lethal assistance to the enemy.

I do not think the American public wants our Government to even have the capability of contributing money to the military of Jordan without coming here to the Congress and debating it and seeing what kind of change that country might really make.

Jordan claims the weapons were provided to Iraq during the Iran-Iraq war. We must uncover the truth about the situation. In the meantime, however, Jordan has lost any rights, in my opinion, to have foreign assistance from the United States.

Also, Jordan's technicians reportedly helped train Iraqi soldiers to use United States-made Hawk missile batteries which we had sold to Kuwait and which Iraq had captured. This is another issue for another day: the proliferation of the sophisticated technical weapons that this Nation and other nations have continued to sell to Arab countries and then they turn around and use them against us. These weapons also could have been used against American forces.

The United States has had a long history of involvement with Jordan. Let me state I fully understand the difficult position in which King Hussein found himself during the war. When wars come, nobody is comfortable. There have been times when we felt that King Hussein could have played a pivotal role in the Israeli-Palestinian issue. After all, the vast majority of the Jordanian population is Palestinians. Many of its people demonstrated in support of Saddam and cheered as Iraq Scud missiles fell on civilian populations in Israel and Saudi Arabia.

But there comes a time when we must review old alliances in the bright of day, in a new day, in the day we are in now. For instance, in 1989, Jordan voted against the United States on 12 out of 16 key votes in the United Nations. We let that go. Egypt, however, voted with the United States twice as many times, and Turkey voted twice as many times as did Egypt. So we knew who our friends were, and, unfortunately, they were not Jordan.

The war in the Persian Gulf has brought us to a new day. This time of crisis has clarified who are truly friends who want peace, who are prepared to stand up to aggressors like Iraq. Sadly, Jordan is not among those nations.

For us to continue, even economic aid, except for emergency aid, but certainly military aid, is really out of sort and out of principle with what this Nation has done in the Middle East. We have saved a country. Having just been there, the people are grateful to the United States and they thank the Congress of the United States, as well as the people and President Bush and, of course, the military personnel, for standing and using that power and the willpower to extract the Iraqi military from Kuwait. Yet, we are here asking not to speak up, not to prohibit the transfer of military aid to Jordan.

It is hard to believe this is even debated. The President's caution of micromanaging is always the argument, it seems like. Maybe the American people do not want their tax dollars now to go to a nation that supplied aid and assistance and spoke out forcefully in support of Iraq and Saddam Hussein.

I want to thank the chairman of the Appropriations Committee for allowing me to have a little time this morning. I know he was pressed for time—and I was in some hearings—and he put in some quorum calls. I am most grateful that he could make that arrangement.

I understand, Mr. President, that Senator NICKLES does want to speak briefly before we go to a vote.

Mr. BYRD. Has the Senator yielded the floor?

Mr. DECONCINI. I yield the floor.

Mr. BYRD. I thank the distinguished Senator. I had been well aware of his need to be at another location on the Hill and naturally an important hearing.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD. Mr. President, we have had now an hour and a half debate on this amendment, good debate, and we do have to get on with action on this bill if we want to get to conference today and have any hope whatsoever. So I am going to ask unanimous consent that there be 10 minutes for debate to be equally divided between Mr. DECONCINI and the minority leader or his designee, at the conclusion of which a vote occur on or in relation to the amendment.

Mr. DECONCINI. Mr. President, reserving the right to object. I have not heard from Senator NICKLES. Maybe the Republican leader has.

The PRESIDING OFFICER. Is there an objection to the unanimous-consent request? Without objection, it is so ordered.

Mr. BYRD. I thank all Senators.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Mr. President, will the President yield me 1 minute?

Mr. DECONCINI. I will be glad to yield.

Mr. LEAHY. Mr. President, I am concerned about the letter that came up in the last few minutes from Mr. Darman with a veto threat on the appropriations because of this Jordan amendment. It complains that this is congressional interference in foreign aid. I understand the thinking that goes into people like Boyden Gray and others who engineer such a letter, but I hope they are paying attention to what has happened. I hope they understand what this amendment is. A lot of work went into it last night to give the President of the United States the flexibility the letter says he wants, and I support that flexibility. But they have to understand we are not going to approve $15 billion in foreign aid every year as a lump sum with no strings attached whatsoever.

We could never pass such a bill. The American people would not allow us to pass such a bill. There always will be some restrictions on who gets our aid and how it can be used. We have few of them in this Jordan amendment. But I can tell you right now, the American people do not expect us to just send our money to Jordan without putting some statement of how the American people, the American taxpayers, want their money spent.

That is what this amendment does. It allows the President to send our economic and military aid, if he wants, after the normal notification. It has no restrictions on humanitarian or food aid. But it makes very clear our displeasure in the actions of Jordan.

Mr. President, I would also note that some have incorrectly said we appropriated military aid to Jordan last fall. We did not. The President used his authority to allocate $20 million in military aid in the annual foreign aid allocation report. We received that report on January 26, 10 days after the gulf war started—and he provided $20 million in military aid to Jordan. Congress did not do it.

So, I think this is a good amendment. It is a lot better than it started out. It gives the President a great deal of flexibility, and I think the Senate ought to support the amendment.

I am one of the few here who has argued to give the President more flexibility on foreign aid. In fact, I argued giving him a contingency fund in the last foreign aid bill, and we would have had that if his own administration had not forgotten to provide for it in the budget summit agreement. So I am in favor of that. But this amendment is a good one, and it gives the President flexibility.

Now, maybe lawyers somewhere, in crossing the T's and dotting the I's, not having to be dealing with the realities of the world, think it is not enough flexibility. The fact is it is considerably more than the actions of Jordan would merit. It reflects a lot more faith in President Bush than it does in Jordan, and only because of that is this flexibility going through.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. I just reiterate, as far as I know, Jordan is not getting any aid now. I am not certain they will get any aid. I am suggesting that we ought to let the President make that decision. He has done a pretty good job without Congress in the past 30 to 60 days. I can play back a lot of the statements of my colleagues who supported President Bush.

I think there has been a good-faith effort to try to work out some language. But the President does not like it. He does not want to be hamstrung. He does not want to be micromanaged. He would like to have at least 30 days' grace after the successful conclusion of the war that many fought him on.

I think the American people support President Bush. If we micromanaged the gulf like we are trying to micromanage the postwar, we would not have deployed one person to the gulf by now.

Here comes Congress trying to get in after the fact. My view is we tried, we tried to work it out. I thought it was a reasonable effort. I commend all parties on both sides.

But the President of the United States says: Do not do it to me. He is not giving any aid to Jordan. He is just as disappointed in King Hussein as everybody here. But as I said, you ask any one of our allies: Do you think King Hussein is going to be a player in the peace process, if you are going to have peace in the Middle East, they say yes. They do not like it either. They are disappointed.

But the President of the United States is dealing with heads of state, and if he does something on military aid or economic aid to Jordan we do not like, we will cut it off in a minute; no doubt about it. I am just saying it is probably not going to get many votes; right now the President of the United States is supported by 90 percent of the people, and probably about 20 percent of the Congress, on this vote, which says a lot for people and not much for Congress.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Mr. President, just so there will not be confusion on this, there is aid going to Jordan today, and the amendment by Senator NICKLES and Senator DECONCINI allows the aid to continue to go to Jordan. It is aid supported by the administration. It is humanitarian aid.

I completely concur—in fact I think the President should take note on this—that the President's handling of the question of aid to Jordan is absolutely right. That is why I opposed the earlier proposal to cut off all aid and tie his hands. That is why I support this, which gives him the flexibility.

But just so everybody will understand, there is aid going to Jordan today, humanitarian aid. I support that. The President has held back economic and military aid, and I certainly support him on that.

The PRESIDING OFFICER. Who yields time?

Mr. DECONCINI. How much time does the Senator from Arizona and the Senator from Oklahoma have remaining?

The PRESIDING OFFICER. One minute and 50 seconds.

Mr. DECONCINI. I yield whatever time the Senator from Oklahoma will use. It really is his time.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I thank my friend and colleague from Arizona, and also I appreciate his remarks.

Mr. President, I want to be very clear. My original amendment would strike all aid, including all that is in the pipeline. We were actually striking about $300 million in military and economic assistance to Jordan. The administration indicated some opposition to that. So we reframed our amendment not to affect aid that is already in the pipeline; we will just do it for the aid in 1991. The President's advisers asked for some flexibility; and not to tie the President's hands.

I happen to be a very stong supporter of George Bush. I think he has done an outstanding job in his conduct of Persian Gulf affairs, as well as in foreign policy, as well as in domestic policy. I think he has done an outstanding job.

I also happen to be a member of the Foreign Operations Subcommittee that appropriates money. We appropriated money last year, $20 million for Jordan military aid. I think that was a mistake. I became very convinced that it was a mistake a few days ago when I was in Iraq and I saw boxes containing weapons that came from Jordan. I thought, why in the world are we giving Jordan military aid? So I became convinced we needed to stop it.

Many have said, well, do not tie the President's hands. I do not believe we have. We have given the President discretion on both economic and military assistance. On economic, he can come back to Congress and basically, if he just says Jordan is making positive steps to advance the peace process, release the economic assistance. We have given him flexibility. So if he wants to give economic assistance, he can do so if Jordan is helping to make contributions in the peace process.

Mr. President, I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. NICKLES. Mr. President, we have also given the President—I will tell my colleagues, I did not want to do that, but I also say I respect the President, I respect his advisers. They said, give us some discretion on military aid—$20 million in 1990 in military aid. They said, give us some flexibility on that, as you have in economic.

So what we put in was language, which at one time was what we thought was agreed upon, that would give the President discretion on military aid. He can give Jordan the $20 million. He does have to go through the congressional notification process. They have done that for years, and it has been several years since they have been denied the reprogramming.

So I think we have given him flexibility, both on military and economic. We have not tied the President's hands. That is certainly not this Senator's intention nor desire. But we also eliminated the earmark, and that is something the President wants us to do. He wants us to eliminate the earmark so we do not have to spend the economic military economic money if the President desires not to.

It is important for us to eliminate the earmark. If we do not, he is obliged to spend this money. I think we have helped in that regard. I think it is a good amendment. I urge my colleagues to adopt it.

Mr. DURENBERGER. Mr. President, Jordan's role in the gulf war has clearly provoked a great deal of sentiment, even resentment. Jordan's initial neutrality in the crisis caused considerable disappointment and dismay, much of which I shared. The move toward outward support for Iraq aroused even greater concern.

I am particularly disappointed by Jordan's alignment with Iraq. For all King Hussein's best intentions to foster a peaceful solution to the crisis, I do not believe the position adopted by Jordan was especially helpful in bringing about such a solution. The King made the wrong decision, and I am sorry that he did.

Mr. President, notwithstanding this disappointment, I rise to oppose the amendment offered by my good friend from Oklahoma. President Bush has already suspended the aid, and the administration has made this country's opposition to Jordan's policies very clear to King Hussein. The administration has already sent the signal to Jordan.

It does not appear to this Senator that additional congressional action on this matter is required or warranted. In fact, it could well be very detrimental to our long-term interests. The President requires more flexibility, not less. He needs cooperation, not confrontation.

In recent decades, Jordan has played a key role in the Middle East, and I expect that that will continue in the future. Jordan has the potential to play a very constructive and supportive role in the search for Middle East peace. Ostracizing Jordan with punitive measures of this sort can only hinder the peace process.

It creates fissures where we need bridges. It creates resentment where we need good will and cooperation.

It is essential that we balance all factors—past, current, and future—when considering our future policy and aid structure for Jordan. U.S. interests are best served by maintaining a long-term perspective on how to achieve our objectives and safeguard our interests.

Cutting off aid to Jordan in this manner may satisfy the immediate desire to punish Jordan—and let there be no doubt that this is a punitive measure—but we must take the long-term view.

Does cutting off Jordan promote a peaceful settlement to Middle East regional conflicts? Does it increase the administration's flexibility to pursue evolving developments in a very dynamic environment? Does cutting off

Jordan foster a positive relationship with a key actor in a vitally important region?

Mr. President, the answer to each of these questions is obviously "no." I urge my colleagues to consider the longer-term perspective. I urge my colleagues to resist the temptation to take punitive actions because we're angry. That is not the way to make public policy.

Mr. President, I will vote against this measure, and I urge my colleagues to do the same. I yield the floor.

Mr. LAUTENBERG. Mr. President, I will vote in favor of this amendment.

This amendment is in response to the Government of Jordan's behavior during the gulf conflict. It is an expression of our deep disappointment with King Hussein's support for Saddam Hussein. It is also an expression of our hope that King Hussein will play a more constructive role in the region in the coming months and will play a positive role in the peace process.

King Hussein provided support and comfort to Saddam Hussein during the war and criticized the United States effort. In a passionate speech in Amman, Jordan on February 6, King Hussein accused the Allied coalition of exceeding the limits set by the United Nations resolution and of trying to destroy Iraq. President Bush characterized the King's condemnation of the United States-led war effort to oust Iraq from Kuwait as support of Saddam Hussein.

King Hussein's speech essentially supported Saddam Hussein's efforts to inflame Arab public opinion. It was aimed at splitting the Arab coalition supporting the United States.

Mr. President, this amendment is in line with a provision I sponsored to the fiscal year 1991 Foreign Aid Appropriations Act which bars military and economic aid to any country in violation of the U.N. Security Council sanctions. According to section 586(d) of the fiscal year 1991 Foreign Aid Appropriations Act, aid cannot be provided to a country that violates the U.N. sanctions unless the President certifies to Congress that the aid: First, is in the national interest; second, will directly benefit needy people in the country; or third, will be used to provide humanitarian assistance to refugees in that country.

Secretary Baker stated to the House Foreign Affairs Committee on February 6 that King Hussein of Jordan was violating the embargo by importing Iraqi oil. Referring to the oil imports, Secretary Baker said,

It is our view that * * * the delivery of this oil does violate the U.N. prohibition * * * does violate the sanctions embargo.* * *

Under this amendment, funding that was set aside for military assistance for Jordan in fiscal year 1991 but which has not yet been spent would no longer be available. The administration could submit a reprogramming request to the Appropriations and Foreign Relations and Foreign Affairs Committees for the military funding for Jordan to be available again. So, it provides the administration with flexibility in dealing with Jordan, but also lets King Hussein know of our disappointment in his position during the gulf war.

Economic aid that was appropriated for this year but has not yet been spent would no longer be available to Jordan unless the President certifies to Congress that the Government of Jordan has taken steps to advance the Middle East peace process. Perhaps this will increase the incentive for Jordan to take steps toward the recognition of Israel.

The amendment covers only funds appropriated in fiscal year 1991. It does not speak to the administration's request for fiscal year 1992.

There are a few exemptions under the amendment. Assistance for refugees in Jordan would still be available. So would educational assistance for Jordanian students studying overseas.

Mr. President, this amendment upholds U.S. law and the U.N. sanctions. It provides the administration with flexibility. It is a sign of our disappointment that the Government of Jordan sided with Saddam Hussein. It also includes provisions to encourage King Hussein to participate constructively in the peace process.

Mr. SIMPSON. Mr. President, I would like to add my perspective on this issue. No one should doubt that King Hussein and Jordan took some very deeply disappointing actions during the gulf war, and in the months leading up to it. Jordan was admittedly in a very difficult position, but that does not justify or excuse the lack of support for the international coalition, the United Nations, or the rule of law.

The President has adequately expressed the dismay and disgust of the American people and Congress in suspending the aid authorized for Jordan for this year. That action was entirely appropriate, and I fully support it.

However, now we have a case of Congress trying to put its finger firmly into the pie. The President has handled this entire crisis with the utmost skill, demonstrating to all of us his understanding and mastery of diplomacy. No one can doubt the effectiveness of his actions.

The President must continue to have the flexibility to deal with the issue of aid to Jordan in the full context of the search for peace in the Middle East. Jordan is a part of the larger picture, and Congress must not lock the President into policies that hamper his ability to respond appropriately to changing circumstances in the region.

King Hussein does face his own difficult domestic situation. I do not condone the actions he has taken, but one factor which the President must take into account is what might happen if his Government were to be brought down. Likewise, King Hussein is likely to be an important factor in the search for peace in the region.

The President must not be hindered in his ability to act responsibly and flexibly, as he has so clearly demonstrated he will do.

Mr. DOLE. Mr. President, I will move to table the amendment in just a moment. I agree with the Senator from Vermont there is humanitarian aid. There is no question about that. Economic and military, none of that is going to Jordan.

Again, I do not quarrel with my colleagues, also, who are really frustrated with King Hussein. I think I said on one of the talk shows that he should not get any aid. He is not getting any aid except for humanitarian aid. I get it from good authority the Red Cross may put some aid into Jordan. They have some problems. So there will be humanitarian aid to the people.

But again, notwithstanding all that, I think there are diligent efforts, sincere efforts on both sides to reconcile this.

The letter I received was from President Bush, not somebody else in the bureaucracy; not even anybody at the State Department. It was from the President, the President of the United States, who I think has the support of 85 or 90 percent of the American people for what he has done and what he is doing. I believe we ought to at least get half the Senate to support him. If we do not, this will just be another reason to veto this bill.

As I indicated, the letter that I have just received, which I will have made a part of the RECORD at this point, is from the Director of the Office of Management and Budget, Mr. Darman.

I move to table the amendment and ask for the yeas and nays.

Mr. PRESIDING OFFICER. Is there a sufficient second?

Mr. DOLE. I yield back any remaining time.

Mr. PRESIDING OFFICER. There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I ask unanimous consent to speak for 30 seconds.

Mr. PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NUMBERED 54, 55, AND 56

Mr. BYRD. Mr. President, I have a number of amendments to the VA-HUD supplemental. All of them have been cleared on both sides, and they have no budgetary impact.

First, three technical drafting changes to HUD provisions in the committee-approved bill; and

Second, two amendments that make technical corrections to last year's housing authorization bill:

One would clarify Congress' intent to continue the Supplemental Assistance for Facilities to Assist the Homeless [SAFAH] Program in fiscal 1991.

The other clarifies the effective date for new regulations governing mortgage servicing transfer rights.

I ask unanimous consent that the amendments be considered, agreed to en bloc, and that the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (numbered 54, 55, and 56) considered and agreed to en bloc are as follows:

AMENDMENT NO. 54

Technical corrections to VA-HUD chapter of title II on page 39, strike lines 9 thru 13, and insert the following:

Funds appropriated under this head in Public Law 101-507, 104 Stat. 1362, and all unobligated balances of prior year appropriations under such head, shall be made available for the revised Congregate Housing Services Program under section 802 of the Cranston-Gonzalez National Affordable Housing Act and shall remain available until expended.

On page 41, line 8, strike "said" and insert "such"

On page 41, strike lines 13 thru 22, and insert:

"Section 17(f) of the United States Housing Act of 1937 (42 U.S.C. 1437o(f), as amended by Public Law 101-507 (104 Stat. 1369) is further amended by striking 'or City of West Hollywood, California' and by inserting at the end thereof, the following new sentence: 'This subsection shall also not apply to requirements relating to rents imposed on a structure by the City of West Hollywood, California.'. Section 17(f) as amended by the immediate foregoing amendment shall apply retroactively to any structure assisted with section 17 rental rehabilitation funds in the city of West Hollywood, California."

AMENDMENT NO. 55

(Purpose: To repeal a transition rule)

At the appropriate place, insert the following:

SEC. . ADMINISTRATIVE PROVISION.

Section 837 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11403 note) is amended by striking subsection (c).

AMENDMENT NO. 56

At the end of Title III add the following new section:

SEC. . (a) Section 6 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605) is amended by adding at the end the following new subsection:

"(j) TRANSITION.—

"(1) ORIGINATOR LIABILITY.—A person who makes a federally related mortgage loan shall not be liable to a borrower because of a failure of such person to comply with subsection (a) with respect to an application for a loan made by the borrower before the regulations referred to in paragraph (3) take effect.

"(2) SERVICER LIABILITY.—A servicer of a federally related mortgage loan shall not be liable to a borrower because of a failure of the servicer to perform any duty under subsection (b), (c), (d), or (e) that arises before the regulations referred to in paragraph (3) take effect.

"(3) REGULATIONS AND EFFECTIVE DATE.—The Secretary shall, by regulations that shall take effect not later than August 21, 1991, establish any requirements necessary to carry out this section. Such regulations shall include the model disclosure statement required under subsection (a)(2)."

(b) Section 16 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2614) is amended by striking "section 8 or 9" and inserting "section 6, 8, or 9".

AMENDMENT NO. 53

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Kansas to lay on the table the amendment of the Senator from Oklahoma. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The PRESIDING OFFICER (Mr. BRYAN). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 43, nays 57, as follows:

[Rollcall Vote No. 36 Leg.]

YEAS—43

Bingaman
Bond
Burns
Byrd
Chafee
Cochran
Cohen
Craig
Cranston
Danforth
Dole
Domenici
Durenberger
Exon
Fowler
Garn
Gore
Gorton
Hatch
Hatfield
Heflin
Heinz
Jeffords
Kassebaum
Kerrey
Lugar
McConnell
Mitchell
Nunn
Packwood
Pell
Robb
Roth
Rudman
Sanford
Simpson
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wirth

NAYS—57

Adams
Akaka
Baucus
Bentsen
Biden
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick
Coats
Conrad
D'Amato
Daschle
DeConcini
Dixon
Dodd
Ford
Glenn
Graham
Gramm
Grassley
Harkin
Helms
Hollings
Inouye
Johnston
Kasten
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Mack
McCain
Metzenbaum
Mikulski
Moynihan
Murkowski
Nickles
Pressler
Pryor
Reid
Riegle
Rockefeller
Sarbanes
Sasser
Seymour
Shelby
Simon
Smith
Wellstone

So, the motion to lay on the table was rejected.

The PRESIDING OFFICER. The Chair will inform Senators that all time for debate has expired.

The underlying question, the amendment itself, is now the pending question. The yeas and nays have not been ordered.

The question is on agreeing to the amendment.

The amendment (No. 53) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from West Virginia [Mr. BYRD] has the floor.

Mr. BYRD. Mr. President, I thank the Chair.

Mr. GRAHAM has an amendment which I understand is acceptable on both sides of the aisle, and it should take very brief time for the Senate to act on it.

There are other amendments: An amendment by Mr. COATS, an amendment by Mr. HELMS, an amendment by Mr. BOND, an amendment by Mr. LEAHY, and an amendment by Mr. DOMENICI.

I hope that we can have a volunteer who will be willing to rise in his place now and indicate that he would be ready to call up an amendment following Mr. GRAHAM's amendment.

May I inquire from Senators who are listening as to whether or not they are willing to call up their amendments. May I ask my friend, Mr. HELMS, would he be ready to go? Or Mr. LEAHY, or Mr. BAUCUS?

Mr. President, I have not gotten any responses from Senators as to their willingness to call up amendments following Mr. GRAHAM. I hope that, while his amendment is pending, we can generate some interest in calling up amendments.

I yield the floor.

AMENDMENT NO. 57

Mr. GRAHAM. Mr. President, on behalf of myself, Mr. LAUTENBERG, Mr. MCCAIN, Mr. KASTEN, Mr. DECONCINI, and Mr. LEVIN, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM], for himself, Mr. LAUTENBERG, Mr. MCCAIN, Mr. KASTEN, Mr. DECONCINI, and Mr. LEVIN, proposes an amendment numbered 57.

Mr. GRAHAM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

The successful conclusion of the war in the Persian Gulf provides an opportunity to begin building a lasting peace in the Mideast;

A crucial element of peace in this unstable region is the willingness of Arab states to negotiate with Israel, recognizing her right to live in peace;

The United States should continue to urge Arab states to negotiate peace with the State of Israel;

One of those Arab states, Syria, continues to undermine goodwill and peace in the region by depriving the 4,000 Jews living in Syria the right to emigrate;

Syrian Jews continue to live in a climate of fear and insecurity, still denied fundamental civil and human rights;

A Jew living in Syria, in order to travel, must leave a large sum of money and members of his immediate family as insurance for his return;

Jews suspected of having traveled "illegally" or even of planning to do so have been arrested, interrogated, and subjected to lengthy imprisonment;

Syrian President Hafez Assad continues to deny the basic right of free emigration, a violation of the Universal Declaration of Human Rights to which Syria is a signatory: Now, therefore, be it

The sense of the Senate, that the Senate

(1) Condemns the Government of Syria for continuing the denial of the basic human right of free emigration;

(2) Calls upon the government of Syria—

(A) To allow all Syrian Jews to emigrate freely,

(B) To release from prison Jews suspected of having traveled illegally or of planning to do so;

(3) Urges the administration to continue to make known to Syrian authorities the important role that human rights in the Jewish community, especially the right to emigrate, will play in determining future policy toward Syria.

Mr. GRAHAM. Mr. President, I offer this amendment in the form of a sense-of-the-Senate resolution. It calls upon the Government of Syria to allow all Syrian Jews to emigrate freely, to release from prison Jews suspected of having traveled illegally or planning to do so, urges the administration to continue to make known to Syrian authorities the important role human rights will play in our future negotiations for peace in the Middle East.

Mr. President, the successful end of the Persian Gulf crisis marks a new beginning in our efforts to bring peace to the Mideast.

The United States played the decisive role in winning the war. We must now play the decisive role in winning the peace.

We must take full advantage of our diplomatic opportunities. First, we should urge the Arab States to make peace with Israel. Israel is ready. But it takes two to negotiate.

Mr. President, I am concerned with the apparent impetus to place other issues—issues such as relations with the Palestinian Liberation Organization, the future of the role of Palestinians within Israel—to place these issues in a priority ahead of pursuing a whole array of binational negotiations on longstanding issues between Israel and Arab States.

Mr. President, we should encourage Arab States to begin at least taking confidence-building steps that will signal their commitment to peace.

Syria will be a key player in the process. In the confidence building category, we should urge the Syrians to finally resolve the issue of Jewish emigration.

Mr. President, I am introducing a resolution that calls on Syria to do just that.

Syria continues to deny the basic human right of emigration to Syria's 4,000 Jews. This constitutes a direct violation of the Universal Declaration of Human Rights to which Syria is a signatory.

Jews suspected of having traveled illegally or even of planning to do so have been arrested, interrogated, and subjected to lengthy imprisonment.

The Syrian secret police—the Mukhabarat—engages in 24-hour-a-day surveillance of the Jewish quarter and keeps a file on every Jewish person. The Mukhabarat monitors all contacts between Jews and foreigners. Mail is read and phone conversations are wiretapped.

As a means of reducing the financial liquidity of all Syrian Jews, and thereby, their mobility, Mukhabarat approval is required for the purchase and sale of property by Jews in Syria.

The religious and lay leaders of the Jewish communities must report regularly to the Mukhabarat.

Mr. President, we must convince the Syrians that we are deadly serious about this basic human rights violation, and we must continue to urge the administration to make known to Syrian authorities the important role that human rights in the Jewish community, especially the right to emigrate, will play in determining future policy toward Syria.

I urge my colleagues to send this important message by supporting this resolution.

Mr. SIMON. Mr. President, I ask unanimous consent that I be listed as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, I have had the opportunity to visit the Jewish ghetto in Damascus—and that is what it is, it is like the ghettos were 200 years ago in other cities around the world. It is an unbelievable situation. I think any pressure we can put on Syria to adopt a more enlightened policy is a constructive thing.

Let me add one other thing where the President pro tempore may differ with me. But we have just gone through the process again where you are begging people for amendments. In the House, if you do not have any amendments, you move immediately to final passage. I am not suggesting that we can adopt precisely that but if, after an interim period of maybe 15 or 30 minutes, we do not have amendments prepared, then it seems to me, unless there is unanimous consent to the contrary, we ought to move to final passage. We waste just an incredible amount of time around here in quorum calls. We will be in a quorum call from 2 to 4 in the afternoon or something and then we will be in session tonight passing a bill. I think a modification of the House rule is a desirable thing.

I sympathize with the immediacy the President pro tempore is faced with. I know Senator BYRD likes these very distinctive Senate rules and probably disagrees with me on that. But Senator BYRD retains the right to be wrong once in a while.

The PRESIDING OFFICER. The Senator from West Virginia [Mr. BYRD] is recognized.

Mr. BYRD. Mr. President, the distinguished Senator from Illinois is overly charitable. The Senator from West Virginia is often wrong, but not about the Senate rules.

Mr. President, the two sides are ready to accept the amendment by Mr. GRAHAM.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 57) was agreed to.

Mr. GRAHAM. Thank you, Mr. President.

Mr. BYRD. Mr. President, patience is a virtue. I suppose that is about the only virtue I have. But the motion that the Senator has suggested, the distinguished Senator from Illinois has suggested, is an appealing one on its surface, and I am tempted to move to third reading just to demonstrate how unwise that motion would be right at this point.

I am not saying that there might not come a time that I would move to third reading. I think the last time we moved to third reading was on a motion of mine several years ago when I moved to third reading and I think that was the first time in many, many years that that motion had ever been made here in the Senate.

But if I were to move to third reading, for example, right now, I would catch 10 Senators away from the Hill. They have gone down to the White House and they will not be back until 20 minutes after 1.

So, I have to consider the situation in which our colleagues are currently found. So if I were to move now to go to third reading, those Senators would miss a vote or they would be called back to the Hill. There are situations in which Senators are unavoidably delayed in getting to the floor.

I do not think the Senate rules are our problem, basically. The problem here is the campaign financing situation in which Senators have to be kept away from the Senate—and also it would hold true with the House—kept away from the Senate, from their committee work, from the floor work, from being with their families, but they have to engage in the mad money chasing all around the country to raise funds in order to stay in public service.

That is not the worst part of it. We are in hock to these special interest groups. We are slaves to some of the lobbying groups. I do not have to name names, but I could. There are certain lobbying groups in this country that wield an influence over this Senate greatly out of proportion to the numbers that they represent. That is the problem with the Senate.

I will be happy to yield.

Mr. SIMON. If the Senator will yield, I agree with him completely on the campaign finance reform. We are corroding our system with the present process, and I applaud the Senator's leadership.

Let me just add, in this so-called Keating 5, if we would vote capital punishment for all five but do nothing to change the system, we will have done absolutely nothing for the public.

So I agree with the Senator completely on that. I would differ, with all due respect, on the matter. I think the Senate rules could be modified, and we could improve the situation around here. So I would differ with my distinguished friend from West Virginia on that.

Mr. BYRD. Mr. President, all things—not all things, but I suppose most things could be improved. I do not think we could improve on the Bible. I do not think we could improve on Shakespeare.

Incidentally, since we apparently have a little time right now—I will not take up the time of the Senate except to say that the rules have been tried and tested. And when one starts to change the rules here he must remember that he is going against a great deal of trial and experience. And it takes two-thirds to shut off a filibuster on an amendment to the Senate rules. It does not take two-thirds to amend the rules but it takes two-thirds to shut off a filibuster on amending the rules. And there will always be a filibuster on a change of the Senate rules unless there is unanimous consent to change a certain rule. And that is not very easily gotten.

Perhaps there will not always be a filibuster on changing the Senate rules, but certainly everybody gets into the act. If there were a change of the Senate rules brought to the floor, unless there is unanimity that only that rule will be changed, and only in that fashion, and that there be no other amendments, everybody gets into the act and that is where any changes in the rules will run on the rocks.

But I thank the distinguished Senator. He makes many contributions to this body. He is a very wise Senator. Occasionally he may be wrong. In this one instance I think he is in error.

Mr. President, I wonder if Senators on the other side of the aisle will call up their amendments. I do not believe there are any other amendments on this side, other than that of Mr. LEAHY.

I see on the list here, only these Senators remaining, and perhaps some of them may not call up their amendments: Senator COATS, Senator HELMS—an amendment or a point of order—Senator BOND, Senator LEAHY, Senator DOMENICI. So there are five Senators whose names are on the list, indicating that they might wish to call up amendments.

Mr. HATFIELD. If the Senator would yield, I think Senator SEYMOUR from California is expected to offer an amendment this morning.

Mr. BYRD. Then there is an amendment I did not know about last night, by Mr. SEYMOUR of California. So one additional amendment did crawl out of the woodwork.

Mr. HATFIELD. Perhaps we could go to third reading if the Senators do not indicate an interest in coming to the floor to offer their amendments. It seems as though we waited a reasonable time yesterday for some Senators to arrive. I suggest we go to third reading, Mr. President.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go to third reading.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Yes, there is an objection. I can hear it.

Mr. HATFIELD. Reserving the right to object. I did not expect the chairman would take me up so quickly. If the Senator would withhold that request?

Mr. BYRD. I withhold.

Mr. HATFIELD. We would like to have a few moments just to make one last desperate effort to invite our colleagues to the floor. But I certainly would not object within a reasonable period of time from now.

Mr. BYRD. I withhold the request for the moment.

The PRESIDING OFFICER. Who seeks recognition?

Mr. HATFIELD. If the chairman will yield——

Mr. BYRD. Yes.

Mr. HATFIELD. Mr. SEYMOUR has heard us and said he will not be offering his amendment, so we can cross that one off. I hope if others are watching from their offices, if they would let us know if they plan to offer their amendments? At least give us a little notice for courtesy's sake as well as to expedite the bill, to hear from those who have indicated previously that they want to offer amendments.

Mr. BYRD. Yes, very well.

Mr. President, while awaiting the arrival of a Senator on the floor, there have been a good many things said, and quite appropriately, in applauding our troops and our military leaders, and I want to add my compliments to those that have been so well expressed.

I am a great believer in miracles. Every time I see an individual I think to myself, there goes a miracle. So many billions of things could have happened to prevent that person from having been born a normal human being.

I heard someone say recently—though I did not read it—but I heard that General Schwarzkopf had made some reference to the outcome of the war, or to the brilliance and swiftness with which it was ended, as being miraculous. I am not sure at all that General Schwarzkopf said it, but at least having heard this, I shall use it as a launching pad to make a few comments.

May I say that if any Senator will come to the floor with an amendment, I will sit down. Meanwhile, I shall use a little time.

Mr. President, it was not a miracle, what we saw occur in the Persian Gulf war; we saw that the enemy was rendered blind because of the brilliant strategy on the part of our generals and our military leaders met with the approval of the Commander in Chief, President Bush.

The air war, which was conducted for, give or take a few days, 40 days, blinded the enemy. Hussein could not get his planes up, he had no way of knowing where the allied troops were massing, where they were going, what their movements were.

So General Schwarzkopf—I will refer to him—blinded the enemy. He put out the enemy's eyes. Hussein could not see. Hussein knew not from where to expect an attack.

That reminds me of Hannibal. Hannibal lost an eye early in his campaign in Italy. But the sense in which I am saying now that he was blind, is in a different sense. Hannibal had waged very successful campaigns. He had never been defeated.

He won the Battle of Trebia in 218; he won the Battle of Lake Trasimene in 217; he won the Battle of Cannae in 216. And up to that time, and perhaps even for all time, at the battle of Cannae, he inflicted upon Roman troops the greatest defeat they had ever suffered—certainly up to that time. The Romans got to the point where they would not fight him. Fabius Maximus was elected dictator by the Roman Senate and he decided to follow a strategy of avoiding battle with Hannibal. Hannibal had been destroying so many Roman legions. Fabius Maximus decided just to follow along in sight of Hannibal's forces and observe Hannibal's movements, but never to engage him; but to keep him always apprehensive of an attack. Fabius, in this way, would not allow Hannibal to disengage his troops or to let them forage around the countryside because of fear that they would be attacked by the Romans.

In this way, he caused Hannibal to gradually lose strength because of attrition and the inability to resupply his troops.

Hannibal's brother, Hasdrubal, came across the Alps from Spain in the year 208. Hasdrubal knew that Hannibal was in southern Italy. Hannibal knew that Hasdrubal was somewhere in Italy, but he did not know just where. Hasdrubal sent a message to Hannibal. Hannibal was in Bruttium, which is in the southern part of Italy, or in Apulia. Hasdrubal sent a message telling Hannibal to meet up with him, Hasdrubal, in Umbria, in central Italy.

At that time, the two Roman consuls were Marcus Livius and Caius Claudius Nero; not the Emperor Nero, but a consul. As consul, he was general of an army composed of at least two legions. Nero was facing off Hannibal, tying him up in the south. If the two brothers, Hannibal and Hasdrubal, could bring their forces together, they would pose a serious threat to Rome and carry the day for the Carthaginian cause.

Hasdrubal sent the message by six couriers. The six horsemen made their way without event until they got into southern Italy. But the message was intercepted and it fell into Nero's hands, so that Nero knew where Hasdrubal expected to meet up with Hannibal.

Nero not only knew of the proposed rendezvous where Hasdrubal was hoping to join his brother, Nero also knew that Hannibal did not know the whereabouts of Hasdrubal or his suggestion as to the meeting place at Narnia in Umbria. Nero moved quickly, beginning a forced march at night and taking with him the equivalent of a legion—6,000 infantry and 1,000 horsemen. He marched 7 days, averaging 30 miles a day, and hooked up with Livius, the other Roman consul, who was camped in front of Hasdrubal.

Hasdrubal suddenly learned that there was an additional consul in Livius' camp, as that morning, Hasdrubal's men had heard two trumpets, which indicated that it was not just the trumpet of one consul, Livius, but that there was also another consul's army on the field. Hasdrubal, in panic, prepared for an immediate retreat. At the battle which took place near the Metauro River, referred to as the Battle of the Metaurus, one of the decisive battles of the world, Hasdrubal was defeated and killed, both sides suffering many casualties.

Nero, once the battle was over, moved quickly back to the south and resumed command of the 30,000 legionnaires he had left there facing Hannibal.

The point I am making is, that Hannibal was blind in that he did not know that Nero had intercepted the message, he did not know where Hasdrubal was at that point in time, and he did not even know that Nero had left 30,000 of his men facing him, Hannibal, and gone northward over 200 miles to hook up with Livius, the other Roman general, and that Hasdrubal's army had been destroyed.

The first indication that Hannibal had that a battle had occurred was when the Roman cavalry spurred up to the Carthaginian's outposts at night and threw a dark object toward the Carthaginian sentries. When it was brought to Hannibal in his tent, he looked at it and said, "I see there the fate of Carthage." It was the head of his brother, Hasdrubal.

The point I am making here is that Hannibal was blind as to what was going on. That was also the case with Saddam Hussein and his army.

Mr. President, much has been written and said about U.S. technology, and it has been awesome. I am sure that we all were greatly impressed with the high technology weapons that were used by U.S. forces in the Persian Gulf. Again, I am saying this was not really something that was miraculous. As part of their strategy, the Allied generals simply decided that they would bomb and bomb and bomb before launching their ground attack. That was the brilliant strategy that we saw come to play. They outflanked Hussein's forces because he was blind, and they used their smart weapons. They outflanked Hussein just as the Black Prince, son of Edward III, outflanked the French at the battle of Poitiers in 1356. There the French greatly outnumbered the English, but when suddenly the English horsemen appeared behind the French lines, the French panicked and fled the field, leaving their king to be captured.

The Battle of Crecy occurred in 1346 A.D. There again the French greatly outnumbered the English and the Black Prince, son of King Edward III, was the hero again. On that occasion we saw the high technology weapons of that day when the English used their longbows against the French armored knights and their crossbows. Crossbows had to be stretched on a rack, but the English longbows could be, I will use the word, "fired" at a much faster rate. A longbow could let fly a barrage of arrows at the rate of five or six a minute, much faster than could the Genoese who had been hired by the French to shoot the arrows on crossbows. The French nobility at that time did not regard the longbow as a gentleman's weapon, so they hired the Genoese crossbow men. As I have said, the English longbows would shoot arrows farther and faster, and so, with 3,000 archers, the English shot their arrows, according to one chronicler, with such force and quickness that it was like a snowstorm. The French were devastated.

Anyhow, that was the high technology of the English, at the Battle of Crecy, in 1346. It was a replay at the battle of Agincourt in 1415. The English massacred the French.

It is well, I think, to reflect upon history as we deal with the events of our own time. History never begins a new chapter, only historians do. We can take a leaf out of the book of history, and perhaps to our own benefit, as we did and as the allies did in the Persian Gulf, with their high technology, with their flanking movements, and with their air power, which blinded the enemy.

I see Mr. HELMS is present and is prepared to offer an amendment or make a point of order.

Mr. HELMS. I thank the Senator.

The PRESIDING OFFICER. The Senator from North Carolina [Mr. HELMS] is recognized.

POINT OF ORDER, PAGE 30, LINES 1 THROUGH 5

Mr. HELMS. Mr. President, on page 30, lines 1 through 5, I raise the point of order that this is legislation on an appropriations bill. I am prepared to discuss it at great length, but there is no point in taking up the time of the Senate.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD. Mr. President, before the Chair rules, I ask unanimous consent that the situation with respect to the point of order that has been raised by the distinguished Senator from North Carolina, Mr. HELMS, remain in status quo for the time being until other Senators who might be interested in opposing the point of order, or using whatever rights are available to them, may come to the floor.

In the meantime, I think the Senate could make some progress on an amendment which Mr. BOND apparently is going to offer.

So I ask unanimous consent that the present parliamentary situation remain in status quo; Mr. HELMS has a right to be protected; those who may be opposed to his point of view have rights to be protected, and that Mr. BOND now be recognized to call up an amendment.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request propounded by the Senator from West Virginia? Without objection, it is so ordered.

Mr. BYRD. I thank all Senators. Senator BOND is prepared now to call up his amendment. I will continue to protect the rights of Senators on this side, and the rights of Mr. HELMS.

This will enable the Senate to at least make a little progress. Otherwise, I would have to take the floor and, rather than see the time wasted, talk about the history of the Roman empire, or the history of Persia, or the history of the Punic wars, or American history, or even the history of the Senate.

Mr. President, I yield the floor.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

AMENDMENT NO. 58

(Purpose: To provide adequate funds for the administration's targeted infant mortality initiative)

Mr. BOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. BOND] proposes an amendment numbered 58.

Mr. BOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 28, line 12,

Strike "$25,000,000: *Provided*" and insert in lieu thereof the following: "$57,400,000, *Provided*, That no less than 95 percent of such funds shall be used for expanding patient services, and Provided further,".

Mr. BOND. Mr. President, the infant mortality rate in this country is a disgrace. Among industrialized nations we rank 24th, behind Japan, behind Sweden, behind Finland, behind Switzerland, behind Singapore, Hong Kong, and France, behind East Germany, behind Northern Ireland, Belgium, and Italy. It is a deplorable situation that we must work to correct.

My amendment would provide an additional $32.4 million to fight infant mortality in this country, by funding a new and innovative targeted infant mortality initiative. I believe we need the additional $32.4 million for the program, which would have the effect of restoring funds that have already been redirected for Healthy Start. This means that the MCH block grant, community health centers, and Healthy Start would be funded in fiscal year 1991.

Mr. President, the President has made fighting infant mortality a national priority, and the administration is beginning a program to target areas that have been hardest hit by this terrible plague. However, in its hurry to begin the initiative immediately, the administration did not look far enough to find the necessary funds. This is a terrible problem, because the programs they chose to raid for funds are the maternal and child health block grant and the community health centers.

I am very pleased that the appropriations committee included startup funds of $25 million for the infant mortality initiative, and I commend my good friends, Senator HARKIN and Senator SPECTER, for their efforts in securing those funds.

Having a targeted program to fight infant mortality makes sense. These areas that have been hardest hit by the infant mortality disaster in this country deserve priority attention. We will be using these funds for these hardest hit communities for innovative ways to lower infant death rates, including early prenatal care, deterring teenage pregnancies, and increasing access to drug and alcohol programs. The goal of the program is to slash infant mortality rates by half in these communities—and the lessons learned can then be transferred to other communities.

Every child deserves a healthy start in life, but some children should not benefit at the expense of others. Slashing support for community health centers' and the maternal and child health block grant that funds programs which are on the front lines of care for poor pregnant women and their children, would leave thousands of mothers in Missouri and across the country without much-needed prenatal care.

It is so important that funds not be taken from other programs that already fight infant mortality—that we do not pit one city's babies against another city's babies, or rural babies against other rural and city babies.

In St. Louis at the Grace Hill Neighborhood Health Center, this redirecting of funds is putting their infant care program in jeopardy. It is just unthinkable that we would sit by and let this happen.

The Nation's 550 community health centers only mission is to provide health care in medically underserved areas—these are the areas hardest hit by high poverty and high infant death rates. The bulk of the maternal and child health block grant money helps poor mothers and their babies as well as programs for crippled children, childhood immunizations, health screenings and other vitally important programs.

Mr. President, in order to give a few minutes for any Senators to come forward, I now suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BRYAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRYAN. Mr. President, prior to the distinguished Senator from Missouri offering his amendment, the Senate was being treated to one of those tour de forces of our distinguished President pro tempore, as he was outlining a series of events involving the Punic War between Rome and Carthage.

A question occurred to me as he was talking about Hannibal and Hasdrubal, and I asked him if he might share with us the role that Hamilcar Barca performed during this period of the Punic Wars. If I might inquire of the distinguished President pro tempore, if he might enlighten the Senate further on that aspect of this interesting period of history.

Mr. BYRD. Mr. President, I am delighted that the Senator from Nevada apparently is well ensconced in the history of the Punic Wars. He has inquired about Hamilcar Barca.

Hamilcar Barca a Carthaginian general, was the father of Hannibal. The first Punic War occurred between the years 264 B.C. and 241 B.C. As a result of the first Punic War, Carthage lost Sicily, but Hamilcar Barca was able to keep the Romans tied down for several years in Sicily before the war finally ended.

After the end of that war, Hamilcar, as I recall, was given a command that led him to what was then—later if not then—Mauritania and other parts of the northern African Continent. Hamilcar decided to advance Carthage's interest in the western Mediterranean, and he saw that, in Spain and the Balearic islands, Carthage could experience a rejuvenation of its power, which it was losing in the eastern Mediterranean, with Sardinia and Corsica, and as I have already mentioned Sicily.

Spain supplied the silver to Carthage with which Carthage was able to employ its mercenaries. Carthaginians were traders and they had very important business interests, and for quite a while they, through their navy, were able to rule the eastern Mediterranean. But with the losses of the first Punic War, Hamilcar felt that Carthage's future lay in the western Mediterranean. So he went to Spain, and with him he took his son-in-law, who was also named Hasdrubal, and young Hannibal. And there is a legend that Hamilcar had sworn Hannibal to be eternally the enemy of Rome.

In any event, Hamilcar went to Spain, and after a few years there he drowned, at which time his son-in-law Hasdrubal took over the command of the Carthaginian forces. Hasdrubal was subsequently murdered, at which time Hannibal, who had grown to be 20 years of age or 21 or thereabouts, took over the command. Hannibal feeling that the best defense was a good offense decided to go across the Alps into Italy and carry the war into the heart of Italy.

So he made that trip across the Alps—the authorities do not agree as to what particular pass Hannibal took when he crossed the Alps, but he took with him a sizable number of elephants and many horses. He left the Rhone River with about 46,000 men and he lost about 20,000 of these men in crossing the Alps. He was attacked by the tribes of barbarians, and many of his elephants, horses and men fell off the high and slippery cliffs. One cannot help but be impressed with the courage of this man who crossed the Alps in that day under such difficulties as confronted him. His brother Hasdrubal crossed the Alps 10 years later in about 208 and made the crossing relatively without problems. Apparently, he picked a different time of the year and perhaps a different pass.

Mr. BRYAN. I thank the President pro tempore for responding to the inquiry.

I note several of our colleagues appear to be seeking recognition, so I will yield the floor.

Mr. BYRD. Mr. President, I thank the distinguished Senator. I thank him for his interest in history as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, first, I thank the distinguished chairman of the Appropriations Committee, the President pro tempore, for yielding and also express to him my appreciation for his discussion on some of these very, very interesting historical incidents. I think that all of us benefit from these historic accounts that the distinguished senior Senator from West Virginia gives and to me it is of great interest, whether he is talking about Hannibal crossing the Alps—did I hear a discussion previously of Crecy and perhaps a mention of Agincourt?

Mr. BYRD. Yes.

Mr. CHAFEE. So I begin to think when was Agincourt?

Mr. BYRD. 1415.

Mr. CHAFEE. I was going to say 1415. Now I must say I did run and look in the encyclopedia to check on that, but I am right.

Then, of course, the distinguished Senator sometimes discusses the history of the Senate and those Senators who had such an active role here in many years past and we all have that compilation, that book the distinguished chairman produced, and it is in my library and I am delighted to have it. I appreciate it.

Mr. BYRD. I thank the Senator.

Mr. CHAFEE. Mr. President, what I would like to do early this afternoon is address the amendment by the distinguished Senator from Missouri, which is the pending business before us.

I just want to briefly say that the matter of infant mortality in the United States of America, I think, is a national shame. We rank 19th of all the nations of the world in infant mortality rates. Actually, we ran 20th. There are 19 countries in the world that have lower infant mortality rates than we have in the United States of America. Here are the statistics: For every 1,000 babies born in America today, live born, 10 will die.

For black babies, the outlook is even more grim. For every 1,000 black babies born alive in our country today, 18 will die, nearly twice the national average.

So when you figure what the national average is, obviously, that includes this high number of blacks. So the white infant mortality rate is way lower. If we combine it all, the average is 10, and the average of the blacks is 18. So it probably works out something like a black infant born in the United States probably has three times as great a chance of dying in infancy than a white child does. A black baby born right here in the capital of this Nation, Washington, DC is more likely to die in infancy than if that baby were born in Hungary, Poland, or Cuba.

Mr. President, this is unacceptable. I was pleased, as many of my colleagues were, to see that the President's budget includes a proposal to address this critical situation. Under the budget presented by the administration, $171 million is targeted to reduce infant mortality in 10 cities that the administration selected, 10 cities with very high incidences of infant mortality. Certainly, these cities need that.

However, what concerned me about the administration proposal was that it was going to be financed—and this is a well-intentioned proposal—by taking money from one of the most effective health maintenance organizations we have in the United States today which are the community and the migrant health centers and also some of the money was going to come from the maternal and child health block grant. That is unfortunate because both of these programs provide needed services to low-income patients, many of whom are women of child-bearing age and to their children. In my State, I think there is no more effective organization to care for the low-income individuals in our State than the community health centers of which we have 14.

In effect, the proposal of the administration would provide critical services to these 10 cities, very important, but it would take those moneys from these other areas. And so this is counterproductive.

The supplemental which we have before us, the measure we have before us, today provides $125 million for the infant mortality programs without taking money from the community health centers, or the maternity and child health block grant. Senator BOND's amendment would increase that amount. The underlying bill provides $25 million. Senator BOND would add another $32½ million so that the administration's proposal would be fully funded in the first year. In other words, the effort to fight infant mortality in these 10 cities.

The Bond amendment provides increased funding for the targeted cities without reprogramming the money from the community health centers or from the maternal and child health block grant.

I believe we have to do everything possible to fully fund the President's initiative, so it is my hope our colleagues will support Senator BOND's amendment. But we should not do so at the expense of other equally critical programs which are strained. So I hope the conference committee will include language in its report that would prohibit reprogramming of already limited funds from the community health centers and from the maternal and child health block grant.

These are my thoughts on this subject. I do not know what the distinguished Senator from Missouri plans to do now with this, but I commend him for his efforts. And even if, for example, he should withdraw it because of the financial problems—I am not sure how he proposes to proceed—he has made an oustanding contribution in calling attention to this matter and stressing that we just cannot rob Peter to pay Paul. We cannot take the funds from these very worthwhile programs, namely the community health centers and the maternal and child health block grant in order to fund these other areas.

I thank the Chair.

Mr. BOND. Mr. President, I thank my good friend and distinguished colleague from Rhode Island. I want to join with him in commending the administration and particularly Secretary Louis Sullivan for his initiative in pursuing this mortality reduction initiative.

As Senator CHAFEE has so eloquently outlined, infant mortality is an unacceptable tragedy in the United States.

I also want to say that my distinguished colleague from Rhode Island has played a very key role in the education effort to help many of us on this side of the aisle understand the wide and diverse issues and questions that come under the rubric of assuring adequate health care delivery.

Senator CHAFEE has long been a champion of health care. He has pointed out the vitally important role that community health centers provide. His leadership on this issue is one which has meant a great deal to me and was influential in my pursuing this effort to ensure that the community health center funds are not cut.

I think it might be helpful for my colleagues to understand why I am offering this amendment here today and perhaps this will explain the significance of what we are actually accomplishing with this amendment.

A few months back, we learned of a problem that a community health center in St. Louis—Grace Hill Neighborhood Health Center—was having recruiting an obstetrician for that center. This center only had two of its obstetrician positions filled, but of these two, one was leaving having been lured away by the high salary these physicians can command in the private sector.

Now, this obstetrician who had been lured away from Grace Hill by the lucrative salary of a private practice was a public health service physician so his salary was paid for by the Public Health Service directly—he was not paid from Grace Hill's payroll. This is an important point because Grace Hill didn't have the funds in its community health center grant to pay the salary and malpractice insurance of that obstetrician.

Now, when this obstetrician left, this left this health center with only one of its three obstetricians positions filled. This one obstetrician, Dr. Turner was left to care for 2,200 individual patients. Well, the story doesn't end there. This obstetrician was also a public health service physician, so her salary and malpractice insurance costs were also paid by the public health service and not by Grace Hill. The reason why this is significant is because her commitment with the public health service was ending, so if Grace Hill wanted to keep her, they would need an increase in their community health center grant for her salary and malpractice insurance costs as well.

If that was not enough to put Grace Hill in a tenuous position, add in the fact that, Dr. Turner was pregnant and due in December. The center knew that it would take the most of a year to recruit a new obstetrician to fill the slot vacated by the one who went to private practice and now they were faced with not having any obstetricians while Dr. Turner was caring for her own child.

Fortunately, the Bureau of Health Care Delivery and Assistance at HHS—the department that administers the community health center grant money—recognized that this was a serious problem and approved an increase in Grace Hill's grant to fund the two new obstetricians that would now need to be paid for from Grace Hill's payroll—this was an increase in their grant of roughly $400,000 to $500,000.

Here is where Healthy Start comes in. At the of February, just 3 weeks ago, when funds from the community health centers were frozen at fiscal year 1990 levels so that the administration could redirect the CHC funds for Healthy Start—the community health centers, including Grace Hill received a letter from HHS indicating that,

> The Healthy Start initiative has an immediate impact on your upcoming fiscal year 1991 funding award. * * * As a consequence, the community health centers * * * may only receive funds for the maintenance of current service levels.

This meant that Grace Hill would not get the $400,000 to $500,000 needed to keep Dr. Turner and recruit a second obstetrician to fill the empty slot.

Mr. President, I ask unanimous consent that a copy of a letter from Marilyn H. Gaston of the Bureau of Health Care Delivery and Assistance be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF HEALTH AND HUMAN
SERVICES, BUREAU OF HEALTH
CARE DELIVERY AND ASSISTANCE,
Rockville, MD, February 25, 1991.

DEAR EXECUTIVE DIRECTOR: Although steady progress has been made over the last 10 years in improving infant health in the United States, some cities and communities continue to have exceptionally high infant mortality rates. For that reason, the Department has begun a new targeted initiative directed specifically at some of the places most seriously affected. The Healthy Start initiative will direct resources, beginning this Fiscal Year, to about 10 of these communities.

The intent of the Healthy Start initiative is, in partnership with community residents and state and local governments, to bring about a swift and dramatic reduction in infant mortality rates. The initiative will improve access to early comprehensive prenatal care by building an aggressive program of outreach and case management and provide services tailored to the risk-specific needs of community residents.

The Healthy Start initiative has an immediate impact on your upcoming FY 1991 funding award. A total of $57 million is planned for the Healthy Start initiative in fiscal year 1991, with a proposed $171 million in fiscal year 1992. The source for $23.7 million of the fiscal year 1991 total is the appropriation administered by the Bureau of Health Care Delivery and Assistance.

As a consequence, those Community Health Centers (CHCs) and State Primary Care Associations with budget start dates beginning March 1, 1991 and through the remainder of the fiscal year may only receive funds for the maintenance of current service levels. The targeted maintenance level for your health center for FY 1991 should have already been provided to you by your regional project officer.

The $23.7 million reserved for the new initiative will be awarded in the approximately 10 communities selected for Healthy Start, with funds to be awarded separately later this year. Further guidance to CHCs regarding the availability of these targeted funds, the program's description, and review criteria is now under development and will be distributed to eligible health centers and organizations as soon as possible.

If you have questions regarding the contents of this letter, please contact your regional project officer or Mr. Richard Bohrer of my staff at (301) 443-2260.

Sincerely yours,
MARILYN H. GASTON, M.D.,
Director.

Mr. BOND. Mr. President, this was a most unfortunate situation and probably an unintending consequence of the funding for Healthy Start, but for Grace Hill and for other community health centers and the people they serve who are in similar situations it is a tragedy.

It is very clear that robbing Peter to pay Paul is not working. It is also very clear that we, as a nation, must do something about our terrible infant mortality rate. Our inner cities and rural areas are plagued by infant death. In a country like ours, there's no reason for it. We need to invest our resources in programs that give children an opportunity to start life healthy. It is time the curse of infant mortality was lifted.

Mr. KENNEDY. Mr. President, today we must address an issue of growing importance in our Nation—reduction of the tragedy of infant mortality. Too many newborn children are dying needlessly, and many others begin life with long-term physical and developmental disabilities for lack of early, comprehensive prenatal care. The costs, in human and economic terms, grow yearly in suffering and lost productivity. It is a national disgrace that this country ranks 19th among the countries of the world in overall infant mortality, falling to 30th place for our nonwhite children. We can do better, and we must.

Infant mortality is a national tragedy, affecting families in cities and counties across the land. Our response must be similar in scope, addressing the problem at its roots, and providing every child a healthy beginning and the chance to grow up well and strong. We know what works—early and comprehensive prenatal care markedly reduces the incidence of early deaths and disabilities. Redoubling our commitment to make such care available to all women and their infants is a critical step in reducing the burden borne by the young and vulnerable.

The administration has introduced a targeted initiative to reduce infant mortality in selected cities and rural areas, proposing to redirect funds from community health centers and maternal child health programs for this purpose in fiscal years 1991 and 1992. The intended goal of this initiative deserves high marks. But it is an incomplete plan for addressing this national problem, and it would exacerbate the crisis of infant mortality by reducing the ability of local health care networks to provide accessible prenatal care to all women and their infants. The answer to reducing infant mortality does not lie in shifting resources from one area of need to another, but through strengthening the ability of all communities to prevent tragic deaths.

Community health centers and maternal and child health programs have a strong history of providing health care and support services to pregnant women and children, many of whom have no other source of care. Community health centers, located in underserved areas with high infant mortality rates, have demonstrably reduced rates of infant deaths among those they serve.

Congress recently recognized the importance of this provider network, expanding the National Health Service Corps to increase staffing, and providing ongoing support of MCH programs and community health centers. Further efforts to reduce infant mortality must build upon these networks of service, not weaken them through budgetary maneuvers.

The Appropriations Committee has taken concrete steps on this supplemental appropriations bill to protect the current year funding for community health centers and maternal child health programs. These are essential programs which are already providing prenatal and infant health care to women and children, and our front line defense in the effort to reduce infant mortality. Startup funds have also been appropriated for the administration's targeted initiative for selected areas. Only through coordination and strengthening of our current prenatal health care delivery system can we achieve great gains in all areas of the country. I applaud the Appropriations Committee for taking this action required to eliminate a potential crisis in critically needed ongoing programs.

I hope that the administration will work the Congress to reduce the scourge of infant mortality by increasing access to cost-effective health care, nutrition, and social services for all pregnant women and their children. We must invest in strategies that we know can work, and make them widely available. If we are serious about reducing infant mortality, we will not pit communities against one another in competition for dollars that are all too few. I have introduced legislation that will strengthen our Nation's capacity to address the causes of infant mortality nationwide—by increasing the availability of prenatal health care with outreach to women who are at high risk, providing more substance abuse prevention and treatment services, and ensuring that young children can receive the primary health care and immunizations essential to their health. The opportunity to make substantial gains in reducing infant mortality lies before us, and I look forward to working with the administration to make these goals a reality. Our commitment to all children must remain steady, whatever their place of birth, to ensure their healthy future.

Mr. President, I ask unanimous consent that a letter from the Children's Defense Fund and a letter from the National Association of Community Health Centers be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

CHILDREN'S DEFENSE FUND,
Washington, DC, March 12, 1991.

Re S. 493, The Maternal and Early Childhood Health Care Act of 1991.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR KENNEDY: We want to offer our enthusiastic support for S. 493, the Maternal and Early Childhood Health Care Act of 1991—another example of your strong commitment to improving the health of our nation's children. The Act recognizes the profound need to increase our nation's investment in effective and cost-effective maternal and child health programs.

The Act will expand the Community and Migrant Health Centers programs' capacity to serve pregnant women and children at risk by authorizing additional funds for a new Comprehensive Perinatal Care Programs in places where obstetrical and pediatric care is minimal or nonexistent; an expansion of services for young children up to age 3; and the development of some 40 new community and migrant health centers.

The Community and Migrant Health Centers are a highly effective but seriously underfunded federal program. Located in the most improverished and isolated inner city and rural communities in the U.S., health centers have for 25 years provided high quality comprehensive health care to millions of poor and minority persons. Nearly 600 health centers, operating in more than 2,000 sites throughout the country, serve nearly 6 million low-income patients each year. More than one-third of all health center patients are younger than 14, and 28 percent are women of childbearing age. In 1988, one in 8 births to low-income women in the U.S. was to a health center patient. That year centers cared for 12 percent of all low-income pregnant women and delivered more than 30 percent of all babies born to women younger than 15.

Health centers are often identified as one of the greatest achievements in improving health care for poor Americans. They have been shown to reduce infant mortality, increase immunization rates, improve child health, and increase access to care. However, recent funding increases for the Community and Migrant Health Centers have not kept pace with inflation. For FY 1991, funding for the Community and Migrant Health Centers grew by less than $25 million, to $530 million: $478 million for community health centers, and $52 million for migrant health centers. These increases are so small that the program still will be able to serve only about 20 percent of all people living in communities with health care shortages. Over the next decade the nation will need an additional 2,500 clinics to meet health care needs in all underserved communities.

We also are pleased that the Act will expand and increase immunization opportunities for young children. This expansion is essential if the U.S. is to achieve the Public Health Service Year 2000 Goal of having ninety percent of two-year olds and 95 percent of school-age children complete the basic series of immunizations for measles, mumps, rubella, polio, diphtheria, pertussis, tetanus, and meningitis.

Recent outbreaks of measles underscore that millions of children have lost access to the most basic health care. In the late 1970s measles eradication seemed within reach. By 1983 the United States had brought the number of cases down to an all-time low of 1,500. Five years later, following a significant decline in the proportion of children immunized, a measles epidemic struck communities across the nation, hitting hardest in some of the nation's largest cities. In 1990 the number of reported cases swelled to 25,000. Preliminary figures for 1990 show that 40 children died from measles—the greatest number of measles-related deaths since 1971. About 17,000 cases of measles occurred among preschool-age children and could have been prevented through timely vaccinations.

The Act will increase access to immunizations and thereby reduce vaccine-preventable diseases by establishing an innovative and cost-effective vaccine bulk purchase system. Your bill also will assure a more adequate vaccine supply for communities with centers by providing the Centers for Disease Control with the needed resources to purchase and distribute vaccines to health centers in the same manner as vaccines are purchased and distributed to state health departments. This system will assure that community health centers receive vaccine sufficient to immunize all their pediatric patients at the lowest possible cost to the federal government. We have noted that S. 493 places a fixed limit on the funding authority of the Centers for Disease Control program, a change from the current language authorizing "such sums" as necessary. My staff has discussed this issue with your staff, and your staff has agreed that this program is worthy of continued uncapped funding authority, and that a substitute provision will be offered.

Finally, we are extremely pleased to see that the Act will expand access to substance abuse programs for pregnant women by providing prevention and treatment services at community and migrant health centers and other primary care sites. Recent surveys have documented that pregnant women in need of substance abuse treatment often have nowhere to turn. Obstacles to care are particularly acute for the low-income and uninsured women served by health centers.

The Maternal and Early Childhood Health Care Act of 1991 represents a preventive investment in our next generation that is so essential to assure our nation's future. My staff and I look forward to working with you toward its enactment.

Sincerely yours,

MARIAN WRIGHT EDELMAN.

NATIONAL ASSOCIATION OF
COMMUNITY HEALTH CENTERS, INC.,
Washington, DC, Mar. 14, 1991.

Hon. EDWARD KENNEDY,
Chairman, Senate Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: Our Association wholeheartedly endorses the Comprehensive Perinatal and Early Childhood Health Care Act, S. 493. We urge members of the Senate to pass it and provide full appropriations for its components. This Bill will reduce infant mortality and improve the health status of high-risk, low-income women and children throughout the country by enabling community and migrant health centers to substantially enhance their capacity to provide perinatal and early childhood care. If the new efforts authorized in S. 493 were fully funded by Congress in fiscal year 1992, we estimate that enhanced perinatal services would be provided to some 70,000 additional high-risk pregnant women and infants, and comprehensive early childhood health services would be made available to 200,000 additional young children. In addition, the one million preschool children served by health centers would be assured of the availability of all necessary immunizations; and services would be provided to pregnant women who are addicted to alcohol and other drugs.

Health centers currently serve over three million low-income women and children, representing over 60% of their total patients. Two-thirds of health centers patients have incomes below poverty, between 60 and 70% are minority, and half are medically uninsured. With special supplemental perinatal care funding appropriated by Congress for health centers in the last several years, centers have provided care for more than 10 percent of all low-income pregnant women in the U.S. who give birth, care for one-third of all adolescent women under age 15 who give birth, achieved measurable reductions in low birthweight deliveries and postneonatal mortality, and improved the scope and quality of care for more than 250,000 pregnant women and infants. Yet, the unmet need remains tremendous. This special funding has been insufficient to expand the perinatal care program to a balance of 250 health centers, in both urban and rural areas. Furthermore, health centers in some communities are the primary providers of EPSDT, childhood immunization services, and other early childhood services. This Bill will enhance the capacity of all centers throughout the country to extend a broader scope of care to more children up to age three, to link more effectively with state programs for disabled children, and most importantly, to prevent childhood disability.

We also are painfully aware that there are many medically underserved communities with high need that even today do not have health centers. Therefore, we applaud the Bill's provision to enable the establishment of twenty new health centers in areas of greatest need, which will undoubtedly be areas of high infant mortality as well.

The Bill's provisions for inclusion of migrant and community health centers and homeless health care programs in the vaccine bulk purchase programs of states and health departments will enable more centers to extend immunizations to more children with greater cost-effectiveness than current arrangements allow. While some of this coordination is occurring already, this provision formalizes and strengthens this essential relationship between two important federally supported programs. Additionally, the substance abuse prevention and reduction provisions of the Bill will enable closer linkages between primary health care programs and substance abuse prevention and treatment services for low-income and pregnant women. This is a major need if we are to be more effective in reducing infant mortality and ensuring positive birth outcomes.

Health center base federal grant funding has experienced significant erosion over the last decade, when adjusted for increased patient care costs, and yet health centers today serve nearly one million more low-income, medically underserved people than they did in 1981. In light of this, the Administration's recent Healthy Start proposal, which would further strain the capacity of health centers to continue serving low-income women and children has been disappointing indeed.

On the other hand, your bill will enable centers to extend and broaden the scope of perinatal and early childhood services to more high-risk women and children in many communities, throughout the country, and it will also enable the initiation of health centers in twenty more currently underserved communities. This will be a major step towards even greater reductions in low birthweight babies and infant mortality; and towards healthier low-income women and children who are better able to pursue the American dream.

Senator, we deeply appreciate your leadership in designing legislation to extend health care to the poor and your consistent support for Community Health Centers.

Sincerely,

TOM VAN COVERDEN,
Executive Director.

Mr. HEINZ. Mr. President, I rise today in support of Senator BOND's amendment that provides additional funding for the President's Healthy Start initiative to address the critical issue of infant mortality. The infant mortality rate in this country is a tragic problem. Infants born in the United States have a better chance of survival if they are born in almost any other industrialized nation in the world. Directing additional Federal resources into local programs that reduce infant mortality is a must if we're serious about saving these babies.

The administration's fiscal year 1992 budget proposes "Healthy Start," a targeted infant mortality initiative to reduce infant mortality through improved health and social services in 10 cities with very high mortality rates. However, to fund this 10-city program the President proposes to cut more than $23 million from the community and migrant health centers and $34 million from the title V Maternal and Child Health [MCH] Block Grant. The administration's proposal would cut off the blanket on one end and simply sew it on the other.

Mr. President, Philadelphia's infant mortality rate is appalling. It is 50 percent higher than the national average. We know most of these babies die because they are born too small. Tragically we know there are more low birthweight babies born every day. We can only reverse this trend through early prenatal care. Every day we wait we jeopardize the lives of millions of unborn children.

Philadelphia is responding to the challenge of providing better and more comprehensive care to mothers and babies. However, the President's ill-advised plan proposes a potentially damaging funding mechanism for Philadelphia and other cities across the country. Slashing funds from the Maternal and Child Health Block Grant would mean eliminating prenatal care, specialized services to children with chronic illnesses or disabilities, and many other ongoing, direct health services for women and their infants. The $50 million that the administration wants to take from community health centers in the next 2 years would provide services for 250,000 patients, three-quarters of whom are women of childbearing age and children.

Solving the problems of the lack of prenatal care, substance abuse, and infant mortality will not come cheap, but diverting millions of dollars from effective, critical maternal and child health programs is a mistake.

The dire emergency supplemental bill provides $25 million for Healthy Start. Senator BOND's amendment will provide an additional $32.4 million to the program that provide the necessary resources to implement the initiative while protecting the funding of the community health centers and the Maternal and Child Health Block Grant. I urge my colleagues to join me in support of this important amendment.

Mr. BOND. Mr. President, I have taken to heart our chairman's wise admonition, "Don't rock the boat." He offered that advice when the junior Senator from Washington and I joined the committee. We understand the difficulties this amendment would cause given the committee's 302(b) allocations as well as the overall budget cap.

Thus I am willing to withdraw my amendment if I can get an assurance from the chairman of the Labor/HHS Subcommittee, the Senator from Iowa, that he will do everything to ensure that the conference report language will include a strong statement of the committee's position that funds not be reprogrammed or redirected in any fashion from the community health centers or from the Maternal and Child Health Block Grant or other programs that fight infant mortality. The administration is already withholding funds from the community health centers and we must make sure that those funds are restored immediately.

I would also like the assurance of my distinguished colleague from Iowa that the fight against infant mortality and the fight for the community health centers will not end here—that we can and will do better for these programs in fiscal year 1992.

Mr. HARKIN. Mr. President, I want to assure my colleague Senator BOND that the committee and I as chairman of the subcommittee strongly support the Maternal and Child Health Block Grant and the Community Health Center Program. These are two proven programs that deserve our full support.

The committee also strongly supports an expanded infant mortality initiative and that is why we have included $25 million in the bill for this purpose. We also would like to have included more for this purpose but could not find an offset to finance it.

We will make every effort in conference to have the Senate report language restated denying and prohibiting any reprogramming away from the MCH Block Grant Program or the CHC Program. I am concerned that the administration has created reserves in these two programs in anticipation of such a reprogramming and now that it has been made clear that such a reprogramming will be denied, the Department is directed to release these reserves without delay.

Mr. KENNEDY. Mr. President, I am pleased that the Appropriations Committee has taken clear action to ensure that fiscal year 1991 funds appropriated for Community Health Centers and the Maternal and Child Health Block Grant will not be diminished in any way. As chairman of the committee which authorizes the Community Health Centers, I am a strong supporter of the critical contributions these centers make to reduce infant mortality in medically underserved areas, where access to prenatal health care is limited. Community health centers have demonstrably reduced rates of infant deaths among those they serve. Efforts to reduce infant mortality must build upon these networks of service, not weakening them through a redirection of resources. I thank the chairman for his commitment to safeguarding the funding base for these essential Community Health Center and Maternal and Child Health Programs, and anticipate ongoing support from the Appropriations Committee to ensure no such reprogramming shall take place.

Mr. BREAUX. Mr. President, the administration's fiscal year 1992 budget proposal includes a 10-city initiative to target infant mortality. Unfortunately, this Healthy Start initiative is to be funded with money that has already been appropriated for the 1991 operations of community health centers and maternal and child health block grants.

I could not agree more with the President that we need to address the infant mortality crisis in this, the richest of Nations on Earth. Fourteen million women of childbearing age and 12 million children lack adequate health insurance coverage. Some of the big cities and remote rural counties in this country have infant mortality rates higher than those of Third World countries. Overall, the United States ranks 19th in the world in infant mortality rate.

It is my understanding that, under the President's proposal, my State of Louisiana, which ranks 43 in infant mortality among the 50 States and the District of Columbia, will lose $327,510 from the Community Health Centers Program and $845,782 from the Maternal and Child Health Care Block Grant Program. These programs have existed for years and are providing badly needed services that are not otherwise available in parts of Louisiana.

No city in Louisiana is likely to be among the 10 cities or regions that benefit from the Healthy Start intitiative. I favor a targeting program like Healthy Start, whether or not Louisiana gets any money out of it. I do not support funding this initiative if it means taking services away from children and infants who badly need them. In this country, the most advanced, productive and civilized Nation on Earth, we should not tolerate an infant death rate among the worst of all of the developed nations.

Mr. DANFORTH. Mr. President, I rise today to support both the substance and the intent of the amendment of my friend and colleague from Missouri, Senator BOND. In his 1992 budget, the President showed great concern about an issue which is of central importance to the health and welfare of this Nation: The health of our children. In particular, he proposed increased funding to prevent infant mortality.

The budget increases Federal support for infant mortality prevention activities by $676 million Governmentwide. I have no dispute with that increase. I think it is necessary. It is unfortunate that the United States, which spends more on health care than any other nation in the world, ranks 24th in infant mortality in the world. Fighting infant mortality must become a national priority.

The proposal that concerns me is the Healthy Start initiative, which targets $171 million to the 10 areas with the highest rates of infant mortality. I have no dispute with the targeting of funds to those most in need. I believe that this proposal should be fully funded. Yet, I have serious reservations about the administration's plan to fund this initiative. I believe that the mechanism chosen is unwise and counterproductive. In 1991, the administration proposes to take $24 million from the funds that have already been appropriated for community health centers. The administration also proposes to take $34 million from the funds already appropriated for State maternal and child health block grants.

Why are we going to take funds from programs which are on the front lines fighting infant mortality? This proposal envisions taking money from Missouri's health centers to fund health centers elsewhere. One of the major reasons that none of Missouri's cities and towns fall in the bottom 10 in the country in combating infant mortality is because of our health centers. These health centers do a tremendous job in offering prenatal care to those in need. They provide primary and preventive care, not gold-plated care, and they do so in a cost-effective manner.

The administration's proposal to take funds from those already committed to community health centers across the country will have a devastating impact on their ability to provide services. If the proposal is implemented as planned, Swope Parkway Health Center in Kansas City, which provides comprehensive care for the underprivileged of that city, will lose $250,000. The Grace Hill Neighborhood Health Center in St. Louis will not be able to hire two obstetricians that it has been seeking for years. It needs an increase in funds in order to attract these physicians, and without them, hundreds of women will be deprived prenatal care.

This proposal does not just hit Missouri's cities. It also hits our rural areas. Northwest Health Services in Mound City, MO, will lose $50,000. This is money relied upon by these centers. If you cannot rely on funds already appropriated from Congress, what can you rely on? I strongly oppose taking funds from those already appropriated for community health centers and for the maternal and child health block grant. They are relying on these funds in Missouri and in all of the other areas that do not fall into the bottom 10 in the country.

For all of these reasons, I support Senator BOND's thoughtful and timely amendment. He would add $32 million to the $25 million already included in this appropriations bill to fund the first year of the Healthy Start initiative. This initiative should be fully funded. It represents the President's commitment to the health of our children. But, I will not support this initiative if it is paid for at the expense of those community health centers in Missouri struggling to respond to the health needs of the poorest citizens of our State.

INFANT MORTALITY FUNDS

Mr. BRADLEY. Mr. President, I would like to thank Senator HARKIN for lending very valuable support to expand programs which combat infant mortality. His action recognizes the value of the maternal and child health block grants, as well as community health centers in providing dependable health care to a most vulnerable, yet extremely valuable, segment of this great Nation—pregnant women and children.

All of us who are concerned about children realize that more still remains to be done to remove barriers to health care which compromise our future generations. But, most importantly, common sense tells us that to take two steps back in order to take one step forward is not progress. We cannot strengthen programs in some targeted communities by compromising programs in other communities.

The $25 million to support Secretary Sullivan's program request will not cure the problem, but it will go a long way toward providing additional help to those communities whose infants are not surviving at rates often twice that of the appalling national average of 10 deaths per every 1,000 live births. We should focus on these communities while maintaining and expanding national networks which have been a major contributor in the decreased infant mortality rate from its high in 1960 of 26 to the present level of 10 reached—and stagnant—in the decade of the eighties. This supplemental funding obviates the need to reallocate funds from current appropriations for maternal and child health block grants or community health centers.

The United States remains 21st among the nations of the world in infant mortality. Maternal and infant mortality are preventable. Each infant death represents an estimated $380,000 in lost productivity. This should not be tolerated. This will not be tolerated. I will continue to work to provide all children with the healthy beginning so essential to their future and ours and I thank Senator HARKIN for his invaluable support for these programs. Without his leadership we would not be where we are today.

Mr. HARKIN. I thank the Senator for his kind words. I know we both want to do all we can to reduce infant mortality in this country.

Mr. RIEGLE. Mr. President, I rise today to express my concern with the

President's proposal for combating infant mortality. The United States continues to have one of the worst infant mortality rates—ranking 24th among industrialized countries.

Overall, the United States has far to go but some regions face even greater problems. In Michigan, although the infant mortality rate of almost 11 deaths per live births is consistent with the national average, Detroit's rate is close to 20, almost twice the rate of the Nation. And Genesee County has a rate of close to 18.

Mr. President, our children are simply not getting the care they need and deserve. Michigan had the unfortunate distinction of being listed in the Children's Defense Fund's study listing the top 10 cities with the highest rate of infant mortality. Two cities in my home State of Michigan are listed with the highest rate of infant mortality. Detroit is rated second and my home city of Flint is rated 10th. Michigan is the only State in the Union to have two cities in the top 10. This is a deplorable situation that we must correct, but we cannot do this at the expense of other programs whose overall goal is to promote the health of mothers, infants, and children.

I applaud the President in bringing this tragedy to the forefront of his domestic agenda by creating the Healthy Start program. The program has the immediate goal of reducing infant mortality rates by 50 percent in targeted areas. Unfortunately the administration's approach to funding this program is shortsighted. The program will target the 10 worst areas—urban and rural—with the highest rate of infant deaths. To get this program started, the Senate Appropriations Committee included startup funds of $25 million for the infant mortality initiative in the Dire Emergency Supplemental bill. Sadly, this amount falls short of the amount needed to adequately fund the program. Instead of adding more money to the program the administration is redirecting funds away from community health centers and the maternal and child health services [MCH] block grant—two programs which should not be weakened but strengthened. In effect, we are robbing Peter to pay Paul—and this is a mistake.

Mr. President, I and many of my colleagues have long taken the lead in combating this problem through the maternal and child health block grant and community health centers. Just last year Congress appropriated close to $600 million and $500 million, respectively, for these programs. I chair the Finance Subcommittee on Health for Families and the Uninsured which has jurisdiction over the MCH block grant. These programs have made an enormous contribution by reducing infant mortality, and providing prenatal, obstetric, and pediatric care to millions of low-income families.

This juggling of much needed funds to combat infant mortality underscores the fact that this country needs a national strategy for reforming our health care system. It is a national tragedy that 1 in 5 children, over 12 million, are without a penny of health insurance. In Michigan alone, there are 300,000 children without health insurance. Forty-one percent of our uninsured children, or 5 million, live in families with incomes below the Federal poverty level. Medicaid is an inadequate safety net for low-income children below poverty level.

A more efficient, better designed health care delivery system could provide care to all Americans without utilizing significant additional national resources. I, along with several of my colleagues, have been working to develop a bipartisan plan to provide access to affordable health care for all Americans and control rising health care costs.

Diverse groups, representing all sectors of society, including business, labor, health care professionals, insurers, State/local governments and advocates are all asking for reform of the health care system. Our goal is to develop a proposal to provide universal access to health care and control costs but we need some leadership from the White House. I am convinced that if the administration would lend its genuine concern to the overall issue of access we would not be debating this most tragic problem.

Mr. BOND. Mr. President, I am very pleased that we will protect the community health centers and make fighting infant mortality in our cities and in our rural areas a No. 1 priority.

I would certainly prefer that additional funds be found to start up the President's initiative—but if these dollars cannot be found, community health centers must be protected.

Our inner cities and rural areas are plagued by infant death. In a country like ours, there is no reason for it. We need to invest our resources in programs that give children an opportunity to start life healthy. It is time the curse of infant mortality was lifted.

I thank the Senator from Iowa.

Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn.

Mr. BOND. Mr. President, I yield the floor and I thank our distinguished chairman.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KERREY). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I understand Mr. GRASSLEY, the distinguished Senator from Iowa, is wanting to speak on an unrelated matter. I ask unanimous consent that the pending matter before the Senate, which I believe is a point of order that has been made by the distinguished senior Senator from North Carolina [Mr. HELMS], am I correct?

The PRESIDING OFFICER. The Senator is correct. That is the pending business.

Mr. BYRD. I thank the Chair. I ask unanimous consent that, in regard to that matter, it remain in status quo, which does not prejudice the rights of Mr. HELMS, nor does it prejudice the rights of other Senators who may wish to use their rights on that point of order. I ask unanimous consent that matter remain in status quo until after Mr. GRASSLEY has completed his statement.

I also understand Mr. COATS is on his way to the floor to call up an amendment. I hope that is true.

I ask unanimous consent that that matter remain in status quo for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Iowa is recognized.

THE CRIME VICTIMS' RESTITUTION ACT OF 1991

Mr. GRASSLEY. Mr. President, at this time, I want to speak about the Crime Victims' Restitution Act of 1991.

I want to commend my colleague from Oklahoma, Senator NICKLES, for the dedicated leadership he has provided on the issue of victims' rights.

His perseverance has succeeded in keeping this issue before the Senate, the Congress, and the entire Nation.

We all recall that last summer and fall the Senate considered so-called crime control legislation.

During the debate on this legislation, the Senate was allowed to consider a limited number of amendments.

Of all the amendments allowed to come before the Senate, Senator NICKLES and I offered the only amendment that directly addressed the rights of victims in the Federal criminal justice system.

The Victims Rights and Restitution Act was approved by the Senate; a similar amendment was also approved by the House.

A good portion of the amendment became a part of what eventually was agreed to by a House-Senate conference committee, approved by both Houses of Congress, and eventually signed into law.

However, the conference committee could not come to an agreement on several major provisions of the amendment. Consequently, these were not included in the final version of the crime bill.

The Crime Victims' Restitution Act of 1991 attempts to remedy one of the conference committee's omissions.

The Crime Victims' Restitution Act of 1991 mandates the payment of restitution to victims of crime, when a defendant is tried in Federal court.

Currently, Federal courts have the option to require restitution as part of a criminal sentence. However, it is only right and just that victims be repaid the financial losses suffered during a crime.

Under the act, restitution orders made by Federal judges will be for the full amount of a victims' financial loss. Once an order for restitution is entered, the court will determine the method of payment, taking into account the financial situation and obligations of the offender.

Furthermore, the Crime Victims' Restitution Act of 1991 allows Federal courts to consider the entire course of an offender's criminal conduct when ordering restitution.

This will allow a victim to recover financial losses due to criminal conduct by the offender against him or her, even though the offender may have entered into a plea bargain for a lesser offense.

Mr. President, after victims suffer from unprovoked physical assaults or worse, they still face a very difficult—even hostile—struggle through the maze that is the American criminal justice system in this last decade of the 20th century.

And, that system is centered around providing protection for criminal offenders, not to the victims of their heinous behavior.

No one who supports the rights of victims suggests that criminal defendants should not be accorded the full panoply of constitutional rights.

But, the American criminal justice system, despite the small victories over the last few decades for victims of crime, still virtually ignores victims. This treatment is the result of the traditions of our Anglo-American criminal jurisprudence.

The theory underlying this tradition is that justice is best served when the adversarial process is contested between the criminal dependent and the State, rather than the defendant and the victim.

Again, no one who believes in victims' rights supports taking the law into their own hands. The tradition of requiring that the State prosecute criminal conduct must be upheld if we are to live in and maintain a civilized society.

As many are all too aware, even some of the rights that are enumerated in the first 10 amendments to our Constitution—the Bill of Rights—have been, over the last 200 years, woven into an intricate web of insulation for criminal suspects, all in the name of upholding the rights of individuals.

Over the last three decades—aided and abetted by an all-too-compliant Supreme Court—the rights of criminal defendants have been vastly extended by limiting a police officer's power to question suspects without defense attorneys present, or to seize evidence without warrants.

And, within the last 4 years, the Court has twice rejected informing juries—during the sentencing phase of a capital crime—about a murder victim's background, and how the murder affected the victim's family.

Unfortunately, my provision to allow for a victim impact statement during the sentencing phase in Federal capital cases was dropped in the final version of last year's crime bill that is now law.

I will have more to say to my colleagues about that specific provision at a later date.

The question of punishment is another great concern to victims. These days it seems that a wrongdoer seldom receives a sentence that is either swift or sure.

Reliable statistics indicate that the police are able to solve only 1 in 5 major crimes.

When a criminal suspect is apprehended, it can take more than a year in some urban criminal court systems to dispose of the case.

During the pendency of a criminal case, the defendant who is free on bond has a 1 in 6 chance of being arrested for committing a new crime.

This probably means that a criminal defendant has a 5 out of 6 chance of not being caught committing another crime while he is free on bond.

Meanwhile, the disposition of up to 9 out of 10 cases in some jurisdictions involves plea bargains that reduce the charges against the defendant.

Ultimately, of the cases that are prosecuted, only 1 case in 6 leads to the offender having to serve time in a prison.

The final injustice is that, in most criminal justice systems—even if given a prison sentence—a convicted criminal will never serve the full amount of time of his or her sentence.

Rather, because of the size of many local and State prison facilities—and because of the rulings of many Federal judges, who feel the need to be administrators, or who presume to know what are and what are not cruel and unusual prison living conditions, or who just generally believe that they know what is best for all of us—an offender is released early and allowed to prey upon society once again.

One more threat to potential victims of crime is that some of the country's most vicious criminals are juveniles. And, unfortunately, the Department of Justice reports that nearly half the juveniles picked up for violent offenses are put on probation or released outright.

And even if a juvenile is imprisoned, he or she usually does not stay behind bars beyond the age of 17.

The current assault against the country by those engaged in the trafficking and use of illegal drugs often involves the use of young people by drug dealers; in this way, the juveniles can do the pushers' dirty work because it is well known on the street that young offenders will not do serious time.

Consequently, it is the victims of crime who—along with the rest of the country generally—especially feel a sense of frustration and bitterness toward the country's rate of crime.

Over the years, victims have organized and they have had some successes—both with legislation and with the criminal justice system.

However, many law enforcement officials believe that it is too time consuming and too cumbersome to involve the victim in such proceedings as a criminal's pretrial release or sentencing.

But I believe that victims do have rights.

I have tried, in some small measure, to advance the cause of victims. The main reason for my interest is not to increase the harshness of penalties—although penalties should be increased where need be; nor has my interest been to obtain money for victims—although monetary awards can be beneficial and should be made in some instances.

My interest stems from what crime victims have told me: They want to be involved in the criminal justice system.

I agree with them.

The Crime Victims' Restitution Act of 1991 is another avenue that allows victims to be involved; it takes another step toward restoring balance to the scales of justice by allowing victims of crime to be full participants in the Nation's criminal justice system.

I urge my colleagues to support this very important legislation.

DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS

The Senate continued with the consideration of the bill.

Mr. COATS. Mr. President, I shortly will be offering an amendment to the legislation before us. I want to inquire procedurally to make sure this is the appropriate place and time to do that. As I understand it, we have set aside Senator HELMS' point of order, and I assume that I can go ahead and offer the amendment now.

The PRESIDING OFFICER. The Senator is correct.

Mr. COATS. Mr. President, the amendment that I will be sending to the desk shortly will strike language in section 203, which requires that the aircraft carrier U.S.S. *Kennedy* undergo a service life extension program in the Philadelphia Naval Shipyard. I am offering this for a number of reasons which I will detail in a moment.

As many Members of this body know, I have introduced in the last session, and plan to again bring up in this session, the Legislative Line-Item Veto Act. Senator MCCAIN and I have worked on that for the past couple of years. We had a couple of votes on it in the last session. We came close but did not receive a majority in passing what I think is a very important structural change in the way we do our business.

It seems that almost on a monthly basis the public is apprised of pork barrel spending, spending that is attached to other appropriations bills that appropriate money for projects that have not gone through the regular process. They either have not been the subject of committee hearings or, even if they were, were not the subject of debate and vote on those particular items before this body.

They are attached to, as I said, otherwise popular bills that are designed to be expeditiously moved through the process and often it is only later in reviewing some of these several hundred page bills that we discover that little items have been tucked here and there, that fund specific projects in specific areas for purposes that are often questionable. But whether they are questionable or not, those items have not had to stand the light of legislative debate and a vote by this body.

Regularly, publications throughout the country publish lists of what most of our constituents say is outrageous spending: How did this happen? Why did they happen? Why are we spending the money in this fashion? The legislative line-item veto is a method by which the executive branch, the President, could say back to Congress I did not request this; I do not need this; we do not think this is an appropriate way to spend the taxpayers' dollars; and I am sending a rescission back to you.

The President can do this under current statutory law, but that rescission does not become effective unless Congress takes affirmative action on the rescission.

Of course, what has happened over the years is that these rescissions are referred to the very committee that appropriated the money in the first place, and they never come back. Under current procedure, that rescission does not take effect unless Congress specifically supports the rescission that the President has sent back to us.

Over the past dozen years or so, less than 10 percent, in most years less than 5 percent, of those rescissions have been approved by the Congress. I think the statistic is that over the last 13 years, $35 billion that the President has sent back to this body have not been accepted by the Congress.

What the legislative line-item veto would do is turn that process upside down. It would say that when the President sends a rescission back to Congress, that rescission takes effect unless specifically overturned by a vote of this body within a certain time period.

As Senator MCCAIN and I and others have discussed the legislative line-item veto, it was suggested to us on a number of occasions that rather than give the President this power which some thought was excessive—I think it frankly just balances the scales a little bit better and provides an appropriate check and balance—we ought to look at the appropriations when they come before this body and raise objections and questions. So that is what I am doing today.

Looking through the bill before us, one could raise dozens of objections to specific spending items attached to this bill that have nothing to do with Desert Storm, have nothing to do with providing benefits for those who participated in Desert Storm and, arguably, have nothing to do with an urgent, dire need to fund money at this particular time and in fact are items that are not requested by the administration and in many cases are items that even the department receiving the funds does not want; they do not want to spend it for that specific purpose.

Rather than offer a blanket amendment or an amendment which goes through and picks off each one of those and suggests this did not come through the appropriate authorization process, I have looked at a particular item contained in this legislation, which is relevant to one of the committees on which I sit, the Senate Armed Services Committee. This particular item of spending directs the expenditure of a particular amount of funds for the service life extension of the aircraft carrier U.S.S. *Kennedy*. It not only directs that those funds be spent but it directs that work to be performed will be performed at a particular location. It is distinct in terms of the supplemental items included in this bill under the defense title in that this proposal has not been authorized by the Armed Services Committee and has not been subject to the light of debate, discussion, and a vote, distinct from the other two items in that particular section of the bill which directs the appropriation of money, some of which I agree with, some of which I do not, but at least those items have been debated, are voted on, authorized, and appropriated.

Now the administration or the Department of Defense may not need those items or want those items, but whether we agree with them or not they have at least been subjected to the debate, discussion, and will of the majority of this body.

In this particular instance, this item which I seek to strike with the amendment which I will send to the desk shortly does not do that. It simply slips in an item so that we will not have the opportunity to debate and vote on it, so we will not have the opportunity to examine it, ask the questions about whether or not it is needed.

As I said, this amendment will strike language in section 203 which requires the Service Life Extension Program, or SLEP, be conducted on the U.S.S. *Kennedy* at the Philadelphia Naval Shipyard.

There are several reasons why I think it is important to support this amendment to strike the language and oppose this particular proposal; first of all, is the cost. The Service Life Extension Program is estimated to cost up to $1 billion, some estimates have put it at more than that, at a time of severe budgetary constraint, and at a time when the Department of Defense is facing an extraordinarily limited budget in terms of its mission for the next several years with significant reductions.

We are taking away a very important piece of spending available to the Department relative to their needs. The SLEP program is something that the U.S. Navy does not want. I talked with both Admiral Kelso and Secretary Garrett and the indications from both of them are very clear. They do not want to put the *Kennedy* under a Service Life Extension Program.

It is scheduled for an overhaul in future years. That overhaul is expected to cost around $500 million. So immediately we have a differential of $500 million that we are taking away from the discretion of the Navy to spend. We are designating it here to be spent in a way they do not want to spend it, and in a place they do not want it spent.

The *Kennedy* is the newest of the conventional carriers. It does not need a Service Life Extension Program, even though it is 23 years old. It is in very good condition relative to other conventional carriers, and the Navy believes it does not need the type of work that a Service Life Extension Program would entail. They feel that an overhaul will accomplish virtually all of the needed repairs and upgrades at half the cost.

They estimate that the overhaul will provide a satisfactory condition for this carrier for up to the next 10 years and perhaps even longer. So the first reason is that the cost is significant: $500 million.

Second, as I earlier said, the reason for bringing this up is that the funds have not been authorized. There is another example—many have been raised today—of authorizing under an appropriations bill.

The Senate Armed Services Committee was not involved in this decision. The ability to make major policy decisions on an appropriations bill sheltered from public scrutiny and congressional debate has gotten out of hand. We all know that. That is the reason for the legislative line-item veto. While I am not offering that here today, I am using this as an example to point out why we need it, or at least why we need to go through these appropriations bills and designate those items which are not authorized by committees.

Third, maybe one of the most important reasons why we need to carefully consider this is the fact that we are being asked today to approve legislation which is designed to shield one particular military installation from review by the Base Closure Commission.

We all know how difficult it is to close bases. Yet we also all know that if we are going to ask the Department of Defense to be more efficient with taxpayers' dollars, we have to give them the latitude in closing bases that they do not need.

I have no way of knowing whether or not the next Base Closing Commission under the rules which this body established last year will designate the Philadelphia Naval Shipyard for closing. I think that will get fair consideration under our rules and under the guidelines that we have imposed on the Base Closing Commission.

But the point is that this language in section 203 is designed to circumvent that process because—I will read it. It says:

> None of the funds available to the Department of Defense may be used for advanced procurement of material and other efforts associated with the industrial availability of the U.S.S. *Kennedy* other than the Service Life Extension Program for the U.S.S. *Kennedy* at the Philadelphia Naval Shipyard.

I commend my colleagues from Pennsylvania for their clever drafting of this language. It clearly is a situation where they are, if this is adopted, able to circumvent a possible future decision by the Base Closing Commission to close a particular facility. Because if we have appropriated funds and designated that those funds can only be used at a particular location, then it will be impossible to conduct that work at that location if the base is closed.

So we are hamstringing the Base Closing Commission by designating a certain facility off limits before the Commission even makes their decision. The precedent that would be set here—I am sure it is suddenly dawning on my colleagues as it is dawning on this Senator that this is an ingenious way of protecting each of our facilities in each of our States, because all we need to do is slip some language into the appropriate appropriations bill specifying that a certain amount of funds will be spent for a certain production, or work on a certain piece of equipment at a particular location and, therefore, that location will be exempt from the actions of the Base Closing Commission.

Each one of us can run down here, depending on how many military installations we have in our State, with some language that will allow us to circumvent the decisions of the Base Closing Commission. It is very clever. As I said, I commend the ingenuity of my colleagues for finding this loophole.

I suggest if we do that we are undermining the process that we have set in place. That is very difficult. It is difficult for each of us to accept because it affects installations in our State, but we all know it needs to be done. We cannot have it both ways. We cannot tell the Department of Defense to be more efficient in expending taxpayers' dollars but do not touch my base.

Mr. President, I think it is also important to note that this provision is not accepted by the Navy, that the SLEP Program, or the Service Life Extension Program, is designed as a way to maintain a 15-carrier force that the Navy does not want and that this Congress has agreed we do not need, or at least cannot afford for the future. If we change that decision, that is fine. But the SLEP program was introduced as a way of extending the life of certain pieces of military equipment—in this case aircraft carriers—so that we would not have to build a new carrier but we could extend the life of old carriers.

That is a worthwhile objective. But the point is that in last year's budget DOD authorization we made the very tough decision that we are going to go from 15 to 12 carriers. On the basis of Desert Storm we may come back this year and decide to modify that. I do not know what the Senate Armed Services Committee is going to do or what DOD will recommend. That is not the point.

The point is there is a process established in this body by which we make these decisions. A proposal is sent by this committee, the committee debates it, and they meet with the Commanders in Chiefs and the Secretaries.

We meet with the executive branch and discuss and debate among ourselves what we think our force posture should be for the future, and we make those decisions, and they may come back and reinstate a 15-carrier program, for all I know. If that is the case, we may want to use the Service Life Extension Program to take existing carriers and extend their lives. But that is a decision that will be, and should be, made by the appropriate authorizing committee. It should not be made on an urgent dire supplemental spending bill which circumvents that process.

So we are really dealing with two things here: No. 1, whether or not the SLEP program is necessary, and right now the Department of the Navy says it is not, and it does not want it. I think even more important, what we are dealing with here is a situation where Members are attempting to carve out a special niche for their particular military installation and circumvent the base-closing procedures.

AMENDMENT NO. 59

(Purpose: To eliminate or reduce certain appropriations)

Mr. COATS. Mr. President, I send to the desk this amendment and ask for its immediate consideration.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, reserving the right to object, I want to try to get a handle on what is going on here.

Mr. HELMS. Mr. President, may I clarify the situation?

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. The Senator from Indiana is simply offering an amendment, and the regular order would be that we go back to point of order. I think the Senator ought to have the right.

Mr. President, I ask unanimous consent that he be permitted to offer his amendment.

The PRESIDING OFFICER. Is there objection to the Senator from Indiana offering his amendment under the unanimous-consent request of the Senator from North Carolina?

If not, without objection, it is so ordered. The Senator may offer his amendment.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

> The Senator from Indiana [Mr. COATS], for himself, Mr. HELMS, Mr. SMITH, and Mr. McCAIN, proposes an amendment numbered 59.
>
> On page 22, strike lines 8 through 13.

AMENDMENT NO. 60

(Purpose: To restore previous law)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 60.
>
> In lieu of the language proposed to be stricken by amendment No. 59, insert the following:
>
> "The language on page 30, lines 1-5 are null, void, and of no effect."

Mr. HELMS. Mr. President, I call for the regular order.

The PRESIDING OFFICER. Now the regular order is the point of order raised by Senator HELMS.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I understand the Senator from North Carolina raised a point of order against language on page 30, line 25, and that that language constitutes legislation on the appropriations bill; is that correct?

The PRESIDING OFFICER. The point of order is against the committee amendment.

Mr. HARKIN. Mr. President, I question the germaneness.

The PRESIDING OFFICER. The question before the Senate is, Is the amendment germane?

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 60, nays 40, as follows:

[Rollcall Vote No. 37 Leg.]

YEAS—60

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Breaux
Bryan
Bumpers
Burdick
Byrd
Chafee
Conrad
Cranston
Daschle
DeConcini
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Wellstone
Wirth

NAYS—40

Bond
Brown
Burns
Coats
Cochran
Cohen
Craig
D'Amato
Danforth
Dole
Domenici
Durenberger
Garn
Gorton
Gramm
Grassley
Hatch
Heinz
Helms
Kassebaum
Kasten
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Roth
Rudman
Seymour
Simpson
Smith
Stevens
Symms
Thurmond
Wallop
Warner

The PRESIDING OFFICER. On this vote on germaneness, the yeas are 60, the nays are 40; so the point of order falls, and the amendment is germane.

Mr. HELMS. Mr. President, in a moment I am going to suggest the absence of a quorum. I hope Senators have a nice weekend, because we will talk about this for a while.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, this matter will only take a minute, I hope, and then I will put the quorum back in.

Mr. President, I ask unanimous consent the pending amendments may be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 61

(Purpose: To add an administrative provision)

Mr. BYRD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 61.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 30, between lines 7 and 8, insert the following:

SENATE ADMINISTRATIVE PROVISION

SEC. 502. (a) Upon the written request of the Majority or Minority Leader of the Senate, the Secretary of the Senate shall transfer during any fiscal year, from the appropriations account appropriated under the headings "Salaries, Officers and Employees" and "Offices of the Majority and Minority Leaders", such amount as either Leader shall specify to the appropriations account, within the contingent fund of the Senate, "Miscellaneous Items".

(b) The Majority and Minority Leaders of the Senate are each authorized to incur such expenses as may be necessary or appropriate. Expenses incurred by either such leader shall be paid from the amount transferred pursuant subsection (a) of this section by such leader and upon vouchers approved by such leader.

(c) The Secretary of the Senate is authorized to advance such sums as may be necessary to defray expenses incurred in carrying out this section.

Mr. BYRD. Mr. President, this amendment does not contain any new funding. It is an administrative provision which will enable the Offices of the Majority and Minority Leaders to transfer money from their salary account to an administrative expense account to be used for official purposes. It is consistent with the action which has been taken by the Senate Rules Committee for Members' individual Senate clerk-hire accounts.

Mr. President, this amendment has been agreed to on both sides.

I ask the amendment be considered, agreed to, and the motion to reconsider laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 61) was agreed to.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I just want to call to the attention of my colleagues that as far as I know, there are only four amendments that remain. So we have made a little progress since last evening: A Coats amendment—of course there will be five amendments—no, four amendments. The amendment by Mr. COATS, and the second-degree amendment by Mr. HELMS, and the amendment by Mr. DOMENICI, and a possible amendment by Mr. LEAHY.

So it sounds like we are closer to the goal line than we really are. I hope that Senators will be prepared to act—they are always prepared to act responsibly, but I would hope they would be willing to act soon on these amendments. I think the House may go out before much longer, in which case it will be tomorrow morning before the House can meet and appoint conferees. I just urge my colleagues to let us get on with the action on the bill.

I wonder if the Senate is going to appear to be unable to act with some fair degree of expedition on the two most important supplemental appropriations bills, one making appropriations for Desert Shield-Desert Storm, the other one being dire emergency supplemental. I want the Senate to act as quickly as possible on this bill so we get to conference and hopefully resolve our differences with the House.

I gave Mr. HELMS my promise that he would be protected while he is back in the cloakroom making some calls. I see my friend from Illinois wishing to address the Chair. May I ask unanimous consent that upon the completion of the statement of the Senator from Illinois, assuming that the Chair recognizes him, that there be an automatic quorum, if I am not on the floor to put in a quorum, or would the Senator put in a quorum?

Mr. DIXON. I would be delighted to do that, I say to the President pro tempore.

The PRESIDING OFFICER. The Senator from Illinois.

JIM JOHNSON'S SPEECH TO FANNIE MAE EMPLOYEES

Mr. DIXON. Mr. President, I thank my dear friend, the distinguished senior Senator from West Virginia, for his kind accommodation.

Mr. President, in Congress sometimes we witness change and sometimes we help cause it. Sometimes change occurs dramatically, and other times subtly. Sometimes change occurs by force; sometimes change occurs by evolution.

And although change may occur with fanfare, it more frequently happens quietly, without much notice.

The United States of America has just won a war—dramatically, by force, and with fanfare. As our soldiers return home, to joyful families and appreciative neighbors. We turn our Nation's attention homeward as well. We turn from foreign affairs to domestic policy, from the peace we have achieved abroad, to the domestic tranquility which we seek at home.

By coincidence, or fate, on the final day of the gulf war, the Senate Banking Subcommittee which I chair held a hearing on Fannie Mae and Freddie Mac, the two giants of our housing finance system. The Subcommittee on Consumer and Regulatory Affairs explored concerns over whether these secondary mortgage market institutions contribute to redlining. We asked whether their policies or procedures make it tougher for working families in low- and moderate-income communities, and particularly minority neighborhoods, to get home mortgage loans.

Two weeks after the hearing and 6 weeks into his tenure, the new Chairman of Fannie Mae, Jim Johnson, has initiated change. Last Thursday, he gave a speech to all Fannie Mae employees about their new commitment to delivering on affordable housing and overcoming redlining. The changes he outlined are real and significant. And, I believe that they will hasten the otherwise slow and subtle changes in Community Reinvestment Act lending; they will advance the evolution to fair lending and fair housing in this country; and, they should not go by without notice.

Mr. President, I ask unanimous consent that a copy of Jim Johnson's speech be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DIXON. Mr. President, at our subcommittee hearing we asked not just about the volume of loan commitments for affordable housing but about loans actually purchased by Fannie Mae. Johnson's speech pledges $10 billion in commitments for affordable housing—$10 billion for low- and moderate-income home buyers and multifamily housing—within just over 2 years and that those commitments will be delivered by a date certain.

At our subcommittee hearing witnesses testified that the underwriting guidelines of Fannie Mae and Freddie Mac—although formally neutral and officially flexible—are perceived to be designed for white, middle-class suburban housing. Johnson's speech commits resources for teaching banks how to do community reinvestment lending and for additional outreach to minorities. Further, Fannie Mae will adapt products to inner city neighborhoods and will monitor its progress by reviewing Home Mortgage Disclosure Act and census data regarding underserved communities.

These are meaningful steps forward.

At the hearing, I commented that when it comes to redlining and mortgage discrimination, everyone seems to point a finger at someone else. The regulatory agencies, Fannie Mae, Freddie Mac, private mortgage insurance companies, lenders, realtors, community groups, each point at one another. Mr. President, I asked the witnesses to point their fingers at ourselves, to think about what each of us can do to eliminate redlining and unfair biases against moderate-income Americans in our financial markets.

Leland Brendsel, Chairman of Freddie Mac, responded with the best study of redlining, mortgage discrimination, and the secondary market that I have seen. He showed courage and leadership in commissioning that study and in distributing its findings. And I congratulated him.

This Nation is made great by her diversity, her intelligence, her ambitions, and her sense of justice. Jim Johnson, days ago, made an intelligent and ambitious commitment—by one of the most powerful corporations in America—to serve the diversity of our Nation's housing needs and to assure the fairness of our mortgage finance system.

Today, I salute his leadership. Today, I challenge others active in our housing and financial markets to step up to a higher level of responsibility. Tomorrow, I will watch for their follow-through.

The war on discrimination in lending has not yet been won. The battle has been engaged. Some triumphs have been achieved. But our mission will not be accomplished until working families, of whatever race or modest means, can get mortgages no matter where they choose to live; until whites and blacks have the same access to home mortgage credit; until, for all Americans, Martin Luther King's dream includes home ownership, the "American Dream."

EXHIBIT 1

TRANSCRIPT OF REMARKS DELIVERED BY JAMES A. JOHNSON, CHAIRMAN AND CHIEF EXECUTIVE OFFICER, FANNIE MAE, TO FANNIE MAE EMPLOYEE MEETINGS ON MARCH 14, 1991

Today Fannie Mae is launching a new program to open doors to affordable housing. Our focus is on young families and senior citizens; the homeless and those who can't afford to rent; people who have special housing needs in rural areas and in urban areas; and those who cannot afford to live near where they work.

Our new commitment to low- and moderate-income housing programs, to special housing, needs, is very large and it's very carefully circumscribed in time. We are committing today that, by the middle of 1993, we will do $10 billion of commitments for these special programs and, most importantly, by December of 1994, we will have deliveries of $10 billion for these special programs.

This is a new level of involvement for Fannie Mae. It's a new level of commitment by management and by everyone in this room, and everybody listening to me who works for Fannie Mae around the country. I decided to make this announcement at employee meetings rather than somewhere outside of Fannie Mae for two very simple reasons: 1) none of this will be possible without Fannie Mae's complete and total commitment and, 2) the success in the end depends on you, the employees. You've done some very big things before.

In 1980, we has no Mortgage-Backed Securities program—no program. Today, we have $300 billion of Mortgage-Backed Securities in place.

In 1980, we did a survey of our 1,400 lender-customers and asked them about their level of customer satisfaction with Fannie Mae. Seventy-eight percent of them said they were fully satisfied. So you all have established that you know how to work with the people we need to work with in order for us to have a business.

Over the last decade you have gotten together in the asset and liability group, the finance group, the operations and systems group, and largely taken the interest-rate risk out of our business. We now, except in very extreme cases of interest rates going up and down—four or five hundred basis points—are able to go forward with our program with little effect on our earnings from changes in interest rates.

And beyond that, the employees of Fannie Mae have shown they care, whether it's the March for the Homeless, or other volunteer activities, or our commitment to the students of Woodson High School, this has been an outstanding group of people who have gone well beyond their own concerns to care about others. We have now over 200 students at Woodson who have become part of the Fannie Mae family. We have over 135 people in Washington who are working as mentors with those students to make sure that they have the opportunity to get support for college, to have a chance that they otherwise wouldn't have.

Finally, I want to thank all of those of you who have worked since 1987 in our Office of Low- and Moderate-Income Housing Initiatives, headed by Marty Levine. It's only because of that effort that we are able to do what we are doing today. If we didn't have the programs Marty has launched, if David Maxwell hadn't believed in 1987 that we have to re-engrave on the mind of everybody in Fannie Mae our public mission, then we wouldn't be able to pick a number of $10 billion and be confident that we can meet it.

The needs we are trying to address are very great indeed.

(1) Four or five renters in America, even with a 10 percent downpayment, cannot afford to buy a starter home.

(2) Minority families throughout the country do not have the same access to the housing finance system as other Americans.

(3) There is a real shortage in rental housing. Between 1974 and 1988, there was a 24 percent decline in apartments that rented for $300 a month or less. At the same time, there was a 56 percent increase in those living in poverty who rented.

(4) Last year there were two million Americans who were homeless. The average daily number of homeless was 700,000. Among them were 100,000 children.

(5) One of every seven elderly Americans lives in poverty. Some of those are "house rich and cash poor." Our hope is that through some of our programs we can deal with their special needs.

(6) In rural areas, there are 500,000 more low-income rural families than there are affordable housing units for them to live in.

(7) All across the country, particularly in large metropolitan areas, increasingly nurses, teachers, fire fighters, police officers and others are unable to live near where they work.

Since I have been here at Fannie Mae, I am often asked on Capitol Hill, and elsewhere, whether we are doing enough for low-income housing at Fannie Mae. The answer to that question is: "No, we are not." That's the reason for this program. We are going to do more.

We have a great deal to contribute. We raised very large amounts of money at relatively low cost. We have 1,400 lender-customers across the country who we worked with and have a good relationship with. We have underwritten 12 million mortgages at Fannie Mae.

Beyond that, we are gaining new understanding and experience through the work we have done with special housing initiatives since 1987. We have many new partners in many parts of the country who have experience and a depth of understanding of housing needs which we, over time I hope, can match here at Fannie Mae. We have great people and we have a strong commitment both on the part of the company and the part of our people.

There are four principles that will guide everything we do in the programs I am announcing today.

(1) We are not the Federal government, we are not in a position to offer the missing—all-important in many cases—missing element of subsidy.

(2) We are a private, profit-making company.

(3) We are a financial partner, we are not a solo provider of housing. We are in the wholesale business. What we do best is replicate and set national approaches all over this country where people can come forward and say, "Yes, the new Fannie Mae program is something I can use." And we can do it on a national scale.

(4) We care about credit. It serves absolutely no purpose for us to put people in homes they can't afford or put renters in apartments they can't afford.

So throughout this entire effort, we are going to be very conscious of playing the role that Fannie Mae uniquely can play. We can't do everything, but we can do a lot.

Let me run through the seven initiatives that are part of our announcement today.

First is an effort to make it possible for more people to have the downpayment necessary for affordable housing. That is the "3/2 Option." We will initiate an effort which will allow people all over the country to come forward with 3 percent of the cost of the house and allow the other 2 percent to come from a non-profit source, a government source, a family source, but to be combined in a way that goes beyond what we have done on a large scale before.

Second, we are committing ourselves between now and the end of 1992 to an additional $1.5 billion of mortgage revenue bonds, with $700 million of specialized securities as part of that program.

Third, we are announcing an additional $150 million commitment of low-income housing tax credit investments that we hope, with the leverage that we have been able to achieve, can generate another $400 million for low-income renters.

Fourth, we will soon announce a new employer-assisted housing program. For Fannie Mae employees, when you come to work tomorrow there will be an announcement of Fannie Mae's employer-assisted housing program. That program at Fannie Mae will be characterized by a forgivable loan which will help people get into houses. Around the country, employers increasingly are faced with the fear of labor shortages in many high skill areas and with the need to attract and retain workers. We are going to reach out not only to public employers, but to private employers, and say to them that we are prepared to work with them on products that are designed to meet their objectives of attracting and retaining employees.

Fifth, in the preservation area, we are waiting, as others are, for HUD to come forward with the regulations for that program. But let me say that we are going to do everything we can to provide a financing element that can make the difference for many nonprofit groups in owning existing projects. We are prepared to work with non-profit groups to help them get into a position where they can be the kind of owners they want to be.

Sixth, in the area of the elderly, we are working to expand our programs. We will speed up our demonstration effort on home equity conversion mortgages for the elderly. We are sponsoring a series of conferences with AARP all around the country to further assess housing needs for seniors.

Seven, in rural areas, we are working with the federal government and others to be much more active in providing a secondary market in rural America where it's needed.

Another important dimension of our plan has to do with outreach and education. We cannot succeed unless everybody in the system knows that we are prepared to be their partner; that we are prepared to come forward and try to adapt our programs and our commitment to the particular needs that they have.

The most important element of our outreach will be to minorities around the country. We believe that everyone in the system can do a better job in making the mortgage finance system accessible to minorities. In the past quarter, we assigned additional people in each of our regional offices to work with lenders on their CRA requirements and to adapt our products for reaching out more effectively into the minority community. We will focus on the Home Mortgage Disclosure Act data as it comes out and the census data to make sure that we are doing everything we can do. And let me make a commitment that Fannie Mae will do everything within its power to eliminate discrimination in the mortgage finance system wherever it may exist. And we'll work with everyone concerned to achieve that end.

I would specifically like to compliment Senator Dixon and Senator Bond for their work in this area and for keeping the focus where it belongs, on all of us coming together to be more effective.

As part of our outreach program, in the next 50 days we will meet with all 50 state housing finance agencies. We will work with each of them to try to adapt our products to what they are doing and try to shape our effort in a way that we can combine with their efforts for maximum impact.

In addition to these efforts, there will be information materials, counseling, and other activities which will extend our reach to more and more people to help them own homes and rent homes that are within their reach.

Let me say in conclusion, this is a very ambitious program. It's not going to be easy. We have already made mistakes and we will make more mistakes. Hopefully, we can make fewer mistakes by listening more closely to all of you who have joined us here this morning. It's going to require our entire organization to move to a higher level of performance. But there is a permanent commitment here and a permanent new dimension to our involvement. We won't just measure our contribution in volume, in dollars, and in return. What we are saying here is that Fannie Mae should be judged on our contribution to meeting unmet housing needs. That's the important commitment, contribution, and obligation for all of us.

I met with some reporters earlier this morning and was asked: "How many people in Fannie Mae will be involved in this? "And the answer is: there will be 2,512—everyone of us, at every level, in every office, every day. Hopefully, it's that level of commitment that will make the difference. So thank you again, for all you have done. Let me say that I look forward to working with all of you on this important challenge.

Mr. DIXON. Mr. President, may I say to my friend, the President pro tempore, I am prepared to suggest the absence of a quorum. I do, Mr. President, suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. LIEBERMAN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS

The Senate continued with the consideration of the bill.

AMENDMENT NO. 60

Mr. HELMS. Mr. President, as is so often the case, when a procedural vote occurs in the Senate, Senators come up to these two tables—I cannot speak for that table, but I know about this table, which is the Republican table—and they say "What is this all about?" You try to explain the procedural situation, and it is sort of like explaining the plan of salvation; you have to start from the beginning.

Let me do the best I can to explain what happened and what the issue was when the vote was taken. And then I will have a few comments.

First of all, the administration is totally opposed to the four lines on page 30 of this bill that constitute legislation on an appropriations bill and which would, if this bill should become law as is written presently, cost the taxpayers $5 million a year minimum for the next 4 years. The provision in this bill will result in $5 million of taxpayers' money going to a private organization which ultimately wants to decide who may teach and who may not teach. This is a private organization controlled by a labor union, a labor union that has already demonstrated its intractability. I was told today about one case—and I think the Senator from Mississippi was present—where a teacher, was it in Iowa?

Mr. COCHRAN. Minnesota.

Mr. HELMS. Minnesota. A teacher in Minnesota was declared Teacher of the Year in Minnesota and the school board gave her a pink slip because she was not a member of the union. She got both of them at the same time.

Now, here is what is afoot, Mr. President. You have groups in this country that say this person may teach because they belong to our union—they do not call it a union, but that is what it is—and they say other people may not teach because they do not belong to our union.

Mr. President, here is what the administration said about the National Board for Professional Teaching Standards. "The supplemental"—meaning this legislation before us now, the underlying bill—"would eliminate the requirement that there must be authorizing legislation before a grant of $4.9 million is made to the National Board for Professional Teaching Standards. If this is done, there would be no opportunity for Congress and the administration to consider the form which authorizing legislation should take. In addition, this grant would be noncompetitive; the Government could not select from among the most qualified bidders."

Mr. President, for the past three appropriations bills, an attempt has been made to bypass the authorization process on this issue. As all Senators know, I am sure, in order to spend the taxpayers' money, the procedures of this Senate require that the expenditure of funds first be authorized and then appropriated, but for the past 3 years there has been no authorization for the spending of this money.

So these Senators who favor this turkey, they slip in and say let us take out the words "if authorized" from a previous appropriations bill. I am going to explain the effect of taking out those two words in just a minute.

Mr. President, the last vote was a perfect outrage. It was entirely political. Not one Democrat voted with what the Chair was going to have to rule on my point of order. There was no question about it. The distinguished Parliamentarian, who was sitting earlier this morning, assured me that he was going to uphold my point of order. So, under Senate rules, the only thing that can be done by people who do not want the Senate rules to apply is to raise the defense of germaneness, and then the Chair has no alternative but to submit the question to the Senate. The vote went right down the party lines except for four defectors on our side. But I never anticipate getting their votes on anything anyhow. I like them, but I am telling a fact of how some voted, as I think they should, and it is perfectly OK. They were elected and selected. I do not question that.

Now, then, there is also a bit of political aggrandizement going on. That is what is behind it. And I understand that too.

Mr. President, the National Board for Professional Teaching Standards, which is at issue here, has supporters who have failed for the last 3 years to get authorization for making this noncompetitive grant of $5 million. In other words, they say give us the money and shut up. You are not going to have anything to do with it. That is what they are saying to the taxpayers.

Now, the reason they cannot get an authorization, as I think I made fairly clear at the outset, is due to the opposition of so many, especially the Department of Education and the administration. So, noting their lack of success, the proponents of this $5 million a year—and you can bet it is going to grow and grow in the outyears—decided to circumvent the process by including in this appropriations bill words that reach back into a previous appropriations bill and delete the requirement that this program must be authorized before any of the money may be spent.

The proponents of this $5 million expenditure are seeking now—and they pretty well have succeeded—not only to subvert the rules of the Senate by legislating on an appropriations bill, but also to circumvent Congress' customary process by granting this private national board $5 million without a proper authorization for the expenditure.

Mr. President, it is particularly disturbing that several of the distinguished Senators, whom I admire very much and who are my friends, who have been most persuasive in the past about this business of legislating on appropriations bills voted to declare germane a provision of the bill that is clearly not germane.

So what they have done in one fell swoop is destroy any argument they may have in the future about legislation on appropriations bills. I am going to advise Senators on my side that the rule against legislating on appropriations bills is out the window. It was thrown out the window this very afternoon by the very Senators who, in the past, have been its strongest proponents.

Mr. President, let me say again for the purpose of emphasis, there is no authorization for appropriating any funds to the National Board for Professional Teaching Standards to research a national teacher certification program. None, zilch.

Senators who voted on this matter should know that this National Board is a 64-member board set up—unilaterally—by a foundation that is totally private. Yet this private group comes to Washington with their hands out. There is nothing novel about that. Just about everybody comes to Washington with their hands out. But this foundation is a liberal so-called education think-tank. The National Board's bylaws ensure that two-thirds of its members will always be public school teachers. Of course, most teachers now belong to one or the other, sometimes more than one, of the teachers' unions.

But, Mr. President, what is particularly upsetting about this provision is that the Appropriations Committee stated clearly in writing in its report last year that it could not and would not fund President Bush's $25 million Alternative Teacher Certification Program because—and get this—no "authorizing legislation has been enacted into law."

My point is that the Appropriations Committee—and every member on the committee is a friend of mine, particularly, the chairman, who was born in North Carolina, by the way—should have been consistent. If it could not appropriate money last year to fund the President's teacher certification program because there was no authorization, how could the committee this year in good conscience turn around and attempt to appropriate funds for another teacher certification proposal that is also unauthorized?

Nobody can say that the National Board for Professional Teaching Standards is noncontroversial. The Senator from Connecticut [Mr. DODD] has already introduced legislation seeking a total authorization of $25 million for the National Board over 4 years even though there was strong opposition from the Secretary of Education, Mr. Cavazos, and President Bush last year. As I said before, and I say again, the Department of Education and the President still oppose it.

Let me tell you why I am opposed to this National Board for Professional Teaching Standards. Oh, what a grand and glorious name they gave themselves. It reminds me of the fellow back in North Carolina whose daddy was a preacher. He named his son Amazing G. Jones. Everybody called him "Amazing."

Mr. President, I did not expect from the outset that I would win on this issue, because if I learned anything in grammar school and middle school and high school, it was to count. But I feel and have felt obliged to call this issue to the Senate's attention and to explain my opposition to granting millions of dollars of the taxpayers' money to this National Board for Professional Teaching Standards with no accountability whatsoever for how the money will be spent.

It may be and probably is true that a majority in this body is content to allow a union-dominated national board to set the standards for the public teaching profession. That is what will result if this board has its way because, as I have said earlier, the board's bylaws require that two-thirds of the board will always be teachers who will go along with the union agenda.

So, while the National Board claims publicly that the standards will be voluntary, the teachers' unions themselves—and, yes, I am talking about the National Education Association [NEA]—they are absolutely unabashed about declaring their intent to have the States adopt this National Board's future standards as de facto State licensing standards for teachers.

I am, of course, concerned that the overwhelming influence of organizations like the NEA on the National Board will inhibit the board from promulgating truly rigorous and meaningful standards, particularly in the light of the teachers' unions' steadfast opposition to repeated attempts by the States to implement objective written competency tests for teachers.

Mr. President, let me say parenthetically that all of us are proud of our children and grandchildren. My older daughter was one of those born to be a teacher. She wanted to be a teacher from the time she was 4 or 5 years old. That is all she wanted to play when she was a child. She wanted to pretend that she was a teacher. She is now a school principal. So often she looks at all of these people who are interested not in teaching, not in education, not in children, but only in their own agenda, and Jane Helms Knox says, repeatedly, "What about the children?"

The NEA, for example, has almost 2 million members, and the American Federation of Teachers has 677,476 members at last count. If these two teachers' unions would just kick in $10 per member they would have more than the $25 million this private board is seeking. But, no, this board does not want to cough up its own money; they want to use the taxpayers' money to set up a national teacher certification system, and to heck with the States and what they want. Here we go again.

This, of course, is in direct contravention of the wishes of the President of the United States and the Department of Education. The last time I checked, they were supposed to have something to do with the policies of this country and not just delegate that responsibility to some self-appointed experts.

So the Board's argument has a problem. Its proponents contend on the one hand that they are out to improve education in this country, and the news media dutifully reports that. But what the news media does not report—and I will bet they do not report it this time—is that this board is controlled by the liberal teachers' unions. In fact, the heads of the two major national teachers' unions were original members of the National Board for Professional Teaching Standards.

Let me go further than that. The National Education Association—and you always see the parentheses in the paper—(NEA)—even makes its support of the National Board contingent on the commitment that certification standards will be set by a national board composed of a majority of practicing public school teachers. Of course, the vast majority of them belong to one or the other of the two teachers' unions. Some of them belong to both.

Mr. President, you can see why the NEA insists on such a requirement. They want control. And like Jane Knox says so often: What about the children?

Consequently, there will be no question that the efforts of this National Board for Professional Teaching Standards will dutifully serve to further the agenda of the unions.

They will deny it, but you just watch. Like a ship passing in the night, we will go on to something else, and down the line, we will look back and say, gee whiz, why did Congress permit that.

Thank the Lord the President of the United States is going to veto this turkey, this whole bill, not simply for this, but for other provisions that have a slight odor as well.

Mr. President, the bottom line is that the unions' control over this board will enable the unions to use the taxpayers' money not to professionalize teachers, but to improve and strengthen union control over who does and does not teach in America.

Now, going back to the teacher from Minnesota. How many more times will we have a teacher on the same day receive the award of "Teacher of the Year" and a pink slip saying "You do not qualify under our terms to teach"?

I can go into this business of retired people who are very well educated and qualified, who really want to participate in the teaching process. They are all over the country. To these people the National Board for Professional Teaching Standards will say: "No, you do not meet our specifications."

The overriding purpose behind the National Board is control.

Mr. President, as I pointed out last year, and I say again, the purposes of the Board are in direct contradiction of the education agenda of the President of the United States. He was elected President. This National Board was not. No Senator who voted today was elected President.

Let me tell you what President Bush has as his goal for education. I do not always agree with this President or any other President. But George Bush is right on target when he states that his goal is to open the Nation's school system to free market concepts of competition in order to revitalize the education establishment in this country.

President Bush is exactly right. The basis of our free enterprise system is that competition and freedom—not government-sanctioned monopolies—produce excellence.

It is interesting that that message got through to a lot of places in this world in the last year or two, like the Kremlin, for example. Lech Walesa is here today, and he will tell you that the people of Poland understand it; the people of Czechoslovakia and Hungary and Romania understand it. But we are going the other way in the good old USA.

The President's bill last year included an alternative certification initiative to allow individuals possessing either the knowlege or the experience needed in the schools—for example, retired doctors, lawyers, and professors—to teach in the public schools, even though they may not have teaching degrees.

Mr. President, there are so many hundreds of thousands of these competent and capable citizens around this country, and they have much to contribute, so much to offer to the educational system and our children. The National Board for Professional Teaching Standards, however, says, "No, we want to close the ranks of the teaching profession by excluding individuals who do not have formal training in so-called educational theory or ivory tower "teaching methodology," even when such individuals are experts in the subject matter to be taught.

No, Mr. President, this National Board wants to focus on a teacher's knowledge of the latest fads in the fields of child development and psychology, not on a teacher's knowledge of the subject matter they are supposed to be conveying to their students.

Mr. President, even though the Board is seeking and making an open grab for the taxpayers' money, the Board is adamant, galvanized, that the taxpayers will have no say whatsoever in either the Board's composition or in its policy decisions. "Oh, no; we know best." Where have we heard that before?

This National Board wants to be the sole source for setting the standards by which teachers shall be judged on the national and local levels, and to heck with the States, let alone the local community. The Board's underlying premise is that only the teachers and their unions should decide who may and who may not teach in America.

In case anyone should feel that I am suggesting that union control of the teaching profession will be an overnight result of giving the National Board this money, I am not saying that. But, giving the Board the money will be an enormous step in that direction.

Again, Mr. President, it is one of those ships passing in the night, and when it has gone over the horizon and everybody has forgotten about what the Senate proposed to do this afternoon, then the controls will evolve. The so-called "voluntary" standards will become mandatory, and the test will ultimately be administered to every teacher proposing to enter the teaching profession, not just to those who volunteer to take it as is currently proposed.

No, the unions will first try to get the individual States to adopt the Board's national standards—which the unions will dictate—as mandatory State licensing standards. If that does not work, the unions will be back demanding that Congress impose the national standards on the States.

Mr. President, my hope—and I really did not have any hope insofar as this pending piece of underlying legislation was concerned—was that Senators would take the first step toward restoring the Nation's education system to sanity by supporting my amendment to prevent the National Board for Professional Teaching Standards from getting this $5 million. I reiterate, it is a private entity controlled by people who know what the word "control" means.

Furthermore, to say that this appropriation is a dire emergency—how to put it—George Burns would find this thing laughable, and he could probably make a good joke out of it because it is a joke sitting there waiting to be told.

Mr. President, this provision should be deleted. Authorization legislation should be required, as this Senate has always insisted, at least until the President of the United States and the Secretary of Education can make their recommendations concerning the form that any such authorization should take.

But if the President does not veto this bill—and I have talked to enough people downtown to feel fairly confident that he will veto it—I believe that the requirement that the money be authorized should be retained in this appropriation bill.

Mr. President, in conclusion I want to read the text of the committee amendment on page 30 of the bill.

I wanted lines 1 through 5 stricken from the bill, because that language is definitely legislation on an appropriation bill, and the Parliamentarian advised the Presiding Officer that that was the case. Here is the way this pending piece of legislation reads:

> In the appropriation language under this heading in the Department of Education Appropriations Act of 1991, delete the words "if authorized" and the words "if such a grant is specifically authorized in law."

Mr. President, we should have upheld the Senate's procedures and rules on the point of order I raised earlier. We did not. It was a party-line vote. And, of course, I figured that would happen when I set out. But I could not keep silent in the face of what I regard to be an affront to the taxpayers and to the mothers and fathers of schoolchildren and the schoolchildren themselves.

I may have more to say about this issue. But, inasmuch as my understanding is that this bill is going to be vetoed anyhow, I am going to yield the floor, because I hope I have explained the problem. If I have not, and anybody wants to ask me a question, I will be glad to answer it.

Mr. President, thank you very much. I yield the floor.

Mr. PELL. Mr. President, I rise in support of the provision in the committee-approved bill that would release $5 million in already-approved funds to support the important work of the National Board for Professional Teaching Standards.

The authorizing legislation for the Board was included, as my colleagues will recall, in the President's education initiative passed by the Senate in February of last year. It was also included in the omnibus education bill approved by the House in the closing hours of the session last October. Unfortunately, that legislation failed to pass the Senate.

As chairman of the Education Subcommittee, my hope is that the necessary authorization language will be included as a part of the higher education reauthorization. We have already begun hearings, which we expect to conclude late this spring. Our tentative timetable is to have legislation ready for subcommittee, full committee and eventually floor action sometime this fall.

In the meantime, it would be unfortunate, indeed, if funds approved to support the Board were to lapse. I have long advocated support for the Board's efforts to develop a national program of board certification for classroom teachers. Board certification would thus be similar to the existing practice of board certification for physicians, a practice I believe most of us would agree is most important. To my mind, this process of Board certification would add a strong dose of professionalism to teaching, which today is one of the most undervalued professions in our country.

I would urge my colleagues, therefore, to oppose the amendment before us and to support the legislation as it was approved by the Appropriations Committee.

Mr. GRASSLEY. Mr. President, here we go again. This issue must be a cat with nine lives because it never dies. I never cease to be amazed at where the National Board of Professional Teaching Standards appears in legislation. I had thought that, due to the actions of the Senator from Wyoming in the last days of the previous Congress, those objections which I supported, that this issue was justifiably killed.

Now it has come up in the dire emergency supplemental appropriations bill. Mr. President, how can Congress possibly call the National Board of Professional Teaching Practices a dire emergency? This Board is privately funded. It is comfortably supported by the Carnegie Foundation.

Congress cannot justify funding for the National Board in a Federal emergency funding bill.

Since teachers and the instruction they render is the very heart of education, it is my conviction that regulation, certification, and evaluation of teachers should remain under control of local and State governments. The purposes and objectives of the National Board of Professional Teaching Standards impugn local control of education.

I am firmly committed to the tradition of educational excellence long held by our country. I am also committed to the goal of restoring greatness to our educational systems in other parts of the country which have faltered. But I am not about to support allowing Washington ivory tower academics and consultants to tell Iowa teachers how to teach.

Iowa has the best teachers and the best education system in this great land. I will not sit idly by while some Washington politicians try to undue Iowa's success.

Iowa has the best teachers and educational achievements of any State. Iowa and I am proud of the Iowa teachers who make those achievements possible. Their dedication to teaching young people is evident.

Mr. President, the accomplishments of Iowa students cannot be attributed to acts of Congress. Local education leaders in Iowa should be credited with identifying the needs in their schools. They have taken steps to attain excellence.

Students and teachers in Iowa provide an excellent example of the success of local and State control of elementary and secondary education. Local governments are more aware of the specific educational needs than the Federal Government ever could be. Additionally, local governments are more accessible to people in their local school districts than is the Federal Government. Therefore, licensure and certification of teachers should be left to the State and local government.

Despite the stated intent of the Education Committee that this Board would not infringe on the rights and responsibilities of States to license teachers, the teacher standards board would establish national standards for teachers.

This leads our schools and our teachers in precisely the wrong direction. It should not be the business of the Federal Government to tell schools and teachers "what makes a good teacher."

State licensure has been the domain of State governments for good reason. Those same reasons hold true for this so-called voluntary certification. State licensure would be rendered almost meaningless in the face of the national certification. Any teacher who wanted to be anything would be compelled to seek the national certification—regardless of the rigors of State licensure—regardless of the professional standards those teachers set for themselves—regardless of the local or State recognition a teacher may have received already.

Proponents of Federal involvement of the teacher standards board hope that teachers who obtain this national certification will be able to command higher salaries. However, not all schools have sufficient financial resources available to compete for these teachers. Yet these schools, perhaps even more than those which are able to pay higher salaries, need high quality teachers. The concerns of how low-income school districts would attract high quality teachers have not been addressed.

The National Board for Professional Teaching Standards does not belong in the dire emergency supplemental appropriations bill and the Federal Government does not belong in the National Board for Professional Teaching Standards.

Mr. DODD. Mr. President, as you know, the issue of funding for the National Board for Professional Teaching Standards is not new to us. We have debated whether to provide the Board Federal funds on two previous occasions—on September 21, 1989, and again on February 6 and 7 of last year. The Senator from North Carolina has moved to strike and modify appropriations and authorizing language over the last 2 years and has lost each time.

I find myself in the awkward position of being the author of the bill to authorize Federal funding for the National Board, but uncomfortable with this process. In the last Congress we worked out carefully balanced authorizing language that passed overwhelmingly as part of the President's Educational Excellence Act by a vote of 92 to 8. However, in the lateness of the last session a few Senators chose to block its final passage.

That is why the Appropriations Committees in the House and Senate have chosen to pursue this unusual procedure before us today. I will support the provision because I believe it is vital to move this effort forward. But I would hope for quick action to adopt the authorizing language to strengthen our intentions for the use of the Federal dollars by the Board.

The National Board is doing important work. It intends to match any Federal funds it receives—dollar for dollar—to research and develop state-of-the-art methods of teacher assessment. Once the methods of teacher assessment have been established, the National Board will offer teachers an oportunity to sit for a voluntary national certification that would distinguish them as top in their field of teaching. Certification by the Board will in no way replace State licensing. It will, however, provide teachers the opportunity to have additional credentials much like doctors who chose to become certified by the National Medical Board.

The potential benefits to be derived from the Board's work are great. First, the recognition and esteem with which the profession is held will rise. Teachers who might otherwise have chosen to leave the profession, may remain if the additional credential improves their career opportunities within the teaching profession. Higher professional recognition may attract more of our brightest and best students into teaching and also improve the quality of education in the schools.

While these benefits will take time to accrue, the efforts of the Board are a very important part of the process to bring about educational improvement. And, the Board is committed to forging ahead with the research to be able to launch their first certificates in 1993. A modest Federal commitment to the efforts of the Board would be a worthwhile and important investment in our Nation's teachers and schools. For this reason, I urge my colleagues to join me in fighting any amendments offered to strike the language in the supplemental pertaining to the National Board.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

Mr. SPECTER addressed the Chair.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will call the roll.

The legislative clerk resumed the call of the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I have been trying since last night, when we discussed an amendment that the Senator from New Mexico might offer, to see if I could work something out that would be more accommodating and I have been unable to do that. So, with the distinguished chairman of the Appropriations Committee on the floor, let me suggest what I would like to do, now that I have the floor. I do not want to yield it here to anyone for a moment.

I have an amendment that I want to send to the desk. I believe it is in order to the Helms amendment. I want to do this because I want a vote on the Domenici amendment to the farm price support amendment that has been adopted by the Senate, 60 votes to 40.

I have no illusions that sooner or later, even if I submit the amendment and if my amendment were to pass—which I hope it will—that that still leaves the Senator from Vermont [Mr. LEAHY] with plenty of opportunities to do whatever he would like on this bill. Maybe my amendment, even if it were adopted, might not last when we finally vote on the underlying Helms amendment. But I would rather not delay, knowing that the chairman wants to go to conference. The debate on my amendment is not going to take very long. It might pass and it might not. I do not need over 10 or 15 minutes.

So with that, let me ask the distinguished chairman who is on the floor. In order to discuss this with the Senator from Vermont [Mr. LEAHY] I have the amendment ready. It is exactly the same amendment I was going to offer yesterday, except it is in the form where it would fit in the bill as it stands now. With the concurrence of the Senate, and I ask consent to do so, I would like to yield 15 minutes to Senator SPECTER from Pennsylvania for purposes of arguing on a matter that has, heretofore, been discussed but is pending, without losing my right to the floor so we can discuss with Senator LEAHY whether or not he has any other approaches that might be more accommodating to him and perhaps to the Senate.

I ask unanimous consent that I be permitted to yield the floor, as I have just stated, without losing my right, to the distinguished junior Senator from Pennsylvania.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Chair recognizes the Senator from Pennsylvania [Mr. SPECTER].

AMENDMENT NO. 59

Mr. SPECTER. Mr. President, a number of us have been waiting on the Senate floor for a protracted period of time to work out a procedural morass with the initiation of proceedings on the amendment by the distinguished Senator from Indiana [Mr. COATS], and the second-degree amendment by Senator HELMS, and then an amendment by Senator DOMENICI to Senator HELMS' amendment.

I return now to respond to the argument made by the distinguished Senator from Indiana [Mr. COATS] who offered the original amendment which sought to strike from the supplemental appropriations this language, section 203, which provides that "None of the funds available for Department of Defense may be used for advanced procurement of materiel or other efforts associated with the industrial availability of the U.S.S. *Kennedy*, other than the Service Life Extension Program for the U.S.S. *Kennedy* at the Philadelphia Navy Yard."

Senator COATS has sought to strike that language in order to allow the Navy to proceed with a complex overhaul instead of the Service Life Extension Program.

This is important for a number of reasons. One is that it would curtail the availability of a 14-carrier fleet down to 12 carriers which, I will argue, I think with very substantial weight, would be injurious to the national defense. And a corollary of the reduction from 14 carriers to 12 carriers is the probable closure of the Philadelphia Naval Yard.

My argument is that the Service Life Extension Program is indispensable for the national defense of the United States, and I take a very close look at this issue as a Pennsylvania Senator who is concerned with what happens to the Philadelphia Navy Yard.

Mr. BYRD. May we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order. The aisles will be cleared. The Senator from Pennsylvania has the floor.

Mr. SPECTER. I thank the distinguished chairman of the Appropriations Committee.

As I was saying, the basic intention here is to preserve national defense, but there is an obvious corollary of an important installation for my State. I emphasize that the underpinning of this argument is one of national defense, but I set that parameter.

Mr. President, the defense needs of the United States require at a minimum 14 carriers. This was illustrated in the gulf war where there were six carriers deployed to give the United States indispensable air superiority which led to our victory there. Five of those carriers were conventional carriers like those which have their lives extended under the select program at the Philadelphia Navy Yard, and three of those carriers were, in fact, from the Navy yard.

I make the basic intention, Mr. President, about the indispensable necessity at least for a 14-carrier fleet based on testimony by the experts from the Navy Department.

The distinguished Secretary of the Navy, H. Lawrence Garrett, responded to an editorial in the New York Times with a letter to the editor dated October 1, 1990. I ask unanimous consent this be printed in the RECORD at the conclusion of my presentation.

The PRESIDING OFFICER (Mr. CONRAD). Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. Mr. President, the central point of this letter which is of importance is a statement by the Secretary of the Navy that it is necessary to have at least 18 carriers in order to have 6 which are deployed so that in a period of strain we could get along with 14 carriers and have 6 deployed for a period of time, but there is no doubt that if we were to reduce the number to 12 that only 4 carriers would be deployable.

Last year, in Senate hearings before the Department of Defense Appropriations Subcommittee, there was an extended discussion about how many carriers were needed. The testimony presented by the Navy Department was that they would like to have 22 carriers. If we have fewer than 15, it is imprudent and I asked Admiral Nyquist the questions about what would the risk be if we reduced from 15 to 14 and then to 12? I read extracts from Admiral Nyquist's testimony from page 225 of part 4 and ask unanimous consent that the full response be printed in the RECORD, but at this point read only a selected portion because of limitation of time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Admiral NYQUIST. Yes, sir; and we all are working to that end, Senator. And we will provide that as best we can for the record at this point in that process.

[The information follows:]

The differences between these numbers represent how much risk we are willing to accept, which deployment commitments are met and for what duration, and how contingencies might affect OPTEMPO/PERSTEMPO guidelines.

The difference between 22 and 15 is what would be required in a Global War with the Soviet Union and what we consider to be a prudent carrier force level to meet everyday world-wide deployment commitments and crisis response.

Fifteen is a prudent aircraft carrier force level. What is it that we can't do with one fewer carrier? The difference lies in crisis response, both in timeliness and numbers. We can still meet our forward deployment commitments with 14, but during a crisis we might have to respond with less carrier coverage than desired.

For example, following the Israeli capture of Sheik Obeid and the murder of LCOL Higgins in August 1989, naval forces responded quickly, backing up the President's diplomatic initiatives. In the Mediterranean, the CORAL SEA battle group weighed anchor early from Alexandria, Egypt, and was ready to launch air strikes within twelve hours after receiving orders. The battleship IOWA departed Marseilles, France, steaming east toward Lebanon with a Marine Amphibious Ready Group. Commander Sixth Fleet, embarked in his flagship, the cruiser BELKNAP, took charge as force commander and headed to waters off Lebanon, canceling a port visit to the Soviet Union. As a contingency against Iran, the AMERICA battle group sailed from Singapore to the Arabian Sea. The carriers RANGER, steaming in the South China Sea, and FORRESTAL, operating off Norfolk, prepared for surge contingency operations. The full range of retaliatory response, from "visible on the horizon" presence to carrier air strikes, naval gunfire support and amphibious landings, offered by these naval forces effectively prevented further bloodshed, stabilized the situation, and strengthened the President's diplomatic hand. Any reduction in carrier force level represents some degree of additional risk and could limit the decision makers options during crisis (e.g., a delay in responding to a crisis or lack of a carrier battle group substitute in another theater).

Our current deployable aircraft carrier force level (14) ensures that we can fulfill peacetime presence requirements while retaining some flexibility to surge to meet contingencies or respond to crisis outside our traditional deployment operating areas. With 14 aircraft carriers, we can maintain a continuous presence of one carrier battle group in the Mediterranean, one in the Western Pacific and have the capability to maintain a continuous presence in the Indian Ocean, while still retaining the capability to respond to a crisis. This force level of 14 takes into account training and readiness requirements, transit times, maintenance requirements, and the need to maintain a quality of life. (OPTEMPO/PERSTEMPO) for our personnel.

A carrier force level of 12 would limit our presence in the Indian Ocean for six months out of the year. Commitments in the Mediterranean and Western Pacific would not be affected. Should a crisis develop, we would have less flexibility in responding and would have to gap other commitments. Depending on the threat and duration of the crisis, we would have fewer carriers for a carrier battle force (two or more carriers) to engage in sea control or power projection. A force of less than 12 aircraft carrier battle groups lacks the necessary depth to adequately provide surge capability for sustained high-tempo crisis response.

To respond to a sustained crisis in the Indian Ocean (requiring two aircraft carrier battle groups) similar to that experienced in the 1980's, without breaking current OPTEMPO/PERSTEMPO guidelines, or gapping our presence in another theater, would require a force of twenty-one carriers.

Any further reduction in the number of aircraft carriers and withdrawal of forward deployed carrier battle groups would reduce our ability to deter crisis situations from developing, and could increase the likelihood of combat. With fewer carriers, our forces are more likely to be out of position to respond in a timely manner during contingencies and to influence events ashore.

Mr. SPECTER. Admiral Nyquist provided this answer for the record:

Fifteen is a prudent aircraft carrier force level. What is it that we can't do with one fewer carrier? The difference lies in crisis response, both in timeliness and numbers. We can still meet our forward deployment commitments with 14, but during a crisis, we might have to respond with less carrier coverage than desired.

Continuing further, the answer states:

The full range of retaliatory response, from "visible on the horizon" presence to carrier air strikes, naval gunfire support and amphibious landings, offered by these naval forces effectively prevented further bloodshed, stabilized the situation, and strengthened the President's diplomatic hand.

In a reference to what happened following the capture of Sheik Obeid and the murder of Lieutenant Colonel Higgins in 1989 precipitating a crisis in the Mideast. Admiral Nyquist's answer further specifies:

> A force of less than 12 aircraft carrier battle groups lacks the necessary depth to adequately provide surge capability for sustained high-tempo crisis response.

Mr. President, the other factor which is very much activated with fewer than 14 carriers would be the extreme burden put upon the naval forces. Here I turn to the testimony of Secretary Garrett, which appears at page 363 in testimony before the Defense Appropriations Subcommittee on part 3 where Secretary Garrett refers to the difficulties of sending sailors to sea with fewer than 13 deployable aircraft carriers where they were deployed for in excess of 8 months.

Secretary Garrett testified of the need to maintain a minimum level of 14 deployable carrier battle groups, and having less than 14, you have a situation where the personnel worked 81 hours on average per week and if, as Secretary Garrett puts it "If we lose people, they start working 90 to 100 hours and start getting unsafe."

The Secretary goes on to point out how the Navy is then confronted with a situation where personnel of the Navy is lost.

Mr. President, the thrust of this testimony which has only been summarized but which has been amplified at some substantial length from last year was the indispensable prerequisite that there be at least 14 aircraft carriers and that the prudent number was really 15 but that the Navy might get along on 14.

The Navy has come forward this year with a request because of budget constraints for 12, and it is plain from the experiences as to what has happened in the intervening year, Mr. President, that in the light of the gulf war, where we had 6 carriers in the region at one time, certainly the needs of the United States for national defense are no less in 1991 than they were in 1990, and that in fact the needs are really more extensive than they were in 1990.

The contribution of the Philadelphia Navy Yard, Mr. President, has been really extraordinary for national defense. During the course of the gulf war, when there were six aircraft carriers deployed, five of them being conventional—and the reason that the conventional carriers were deployed is because they are better adapted for that kind of service because the nuclear carriers operate better in deeper water—three of the five conventional carriers had their service life extended at the Navy yard, the U.S.S. *Independence*, *Forrestal*, and *Saratoga*.

Mr. President, the Philadelphia Navy Yard has established a record of being the most cost effective where manday rates there are at the rate of $338.85, which is $50.74 less expensive than the closest competitor, which is the Charleston Navy Yard, and $173.88 less expensive than the most costly yard, which is Mare Island.

When the distinguished Senator from Indiana was advancing his arguments earlier today, Mr. President, he stated five reasons why he sought to strike the language which would compel the Service Life Extension Program from being carried out on the *Kennedy*, saying that the SLEP cost more than a complex overhaul, but the fact is that a SLEP cost $850 million and extends the life of the carrier by 15 to 20 years, whereas a complex overhaul, which costs a minimum of $500 million, extends the life of the carrier for only 5 years. So with the service life expectancy it is obviously much more cost effective than the complex overhaul.

The distinguished Senator from Indiana said that the Navy does not want the SLEP Program. But the fact is that the Navy requested the SLEP Program when it submitted its budget last year.

The third contention advanced by Senator COATS was that the *Kennedy* does not need a SLEP and can survive on a complex overhaul for another 10 years. But that is contrary to fact because there is a need to replace the boilers, the internal electrical systems, hydraulics, and a complex overhaul only repairs existing systems and does not replace used parts.

I ask unanimous consent at this point, Mr. President, that at the conclusion of my statement a fuller description of the difference between a complex overhaul and a SLEP be included in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. SPECTER. The fourth argument advanced by Senator COATS was that the SLEP Program is designed to preserve the Navy Yard, and on that contention he may well be correct as a matter of national defense priority because the Philadelphia Navy Yard is the only yard which is capable of performing these service life extension programs.

His fifth point was that the SLEP money is not authorized, which is factually inaccurate because the SLEP Program was authorized at the Philadelphia Navy Yard for $113 million by the Armed Services Committee and ratified and adopted by the full Senate.

It is true that last year the House added $409 million on the appropriation line which was accepted by the conference committee and is the law of the land. But the language of the appropriations bill does not call for the expenditure of the $409 million.

The language of the appropriations bill precludes spending any money on the complex overhaul. So that in fact the Navy would be required to go ahead with the SLEP Program for which $113 million has been authorized and $113 million has been appropriated, with the addendum, of course, that more than $113 million has been appropriated. But there is no question about the authorization and appropriation of the full sum of money which is in issue here.

I think it is regrettable, Mr. President, that this motion to strike has been offered on this bill. The Appropriations Committee, on which I serve, adopted these amendments unanimously, requiring that the Navy not proceed with the complex overhaul because the decision of the Senate, like the decision of the Congress last year, was that a complex overhaul simply does not make any sense if you are going to spend $500 million for a 5-year extension or $100 million a year. It makes a great deal more sense to spend $850 million and get an extension of some 15 to 20 years so that the cost of each additional year is less than half of what it is for the complex overhaul.

The experience in the gulf war makes it plain that the national security interests of our country require a minimum of 14 carriers. Of course, there is an underlying concern and an underlying issue here that with the 14 carriers the Service Life Extension Program of the Philadelphia Navy Yard has to be maintained. It may well be—and this is an argument for another day—that the Philadelphia Navy Yard may be retained whether or not the SLEP Program is maintained. There are other very important uses for the Philadelphia Navy Yard.

But national defense requires a 14 carrier fleet and a 14 carrier fleet requires the Philadelphia Navy Yard. Focusing on the narrower issue here today, this language ought to be retained, and the SLEP Program on the *Kennedy* ought to go forward.

I thank the Chair and yield the floor.

EXHIBIT 1

DON'T CALL 14 CARRIERS AN EXTRAVAGANCE

To the Editor:

In "Is the Peace Dividend Being Engulfed?" (editorial, Sept. 19), you do readers a disservice with the suggestion that if only four United States aircraft carriers were sent to meet the Persian Gulf crisis, the other 10 must be "an extravagance." You imply that carriers are like snow shovels—you need only one, and then only when it snows.

The President's ability to maintain a responsive and sustained carrier presence in potential trouble spots around the world depends on having a fleet that can support a continuous cycle of maintenance, training and deployment.

At any one time, roughly one-third of the Navy's carriers are fully combat-ready and forward deployed. Another third are in a standdown and maintenance period that follows each deployment. The remainder are training a new team of personnel and exercising hardware—in port and at sea—in preparation for the next six-month deployment.

In a crisis, that cycle can be compressed; but, in the long term, alternatives to a three-cycle simply do not work. To keep the carriers at home until a crisis breaks out is to undermine their ability to be on station, ready to project force within hours of a call from the White House. To keep the carriers continuously at sea for longer periods is to impose an intolerable and debilitating burden of fatigue on men and matériel.

The national interest and treaty obligations of the United States still require deployment of aircraft carriers in numerous key parts of the world. Until that changes (and it doesn't seem likely to very soon) 14 carriers are anything but "an extravagance."

H. LAWRENCE GARRETT 3D,
Secretary of the Navy.

WASHINGTON, *September 24, 1990.*

EXHIBIT 2

SLEP VS. COH

In SLEP, an aircraft carrier is gutted and renovated, a process tantamount to creating a new carrier. SLEP thus extends the service life of aircraft carriers by at least 50 percent. In COH, only regular maintenance is performed, so that the carrier continues to deteriorate in service. COHs are performed about every 5 to 7 years, until service life ends.

In SLEP, ship systems are replaced in order to extend the carrier's life. in COH, ship systems are repaired to maintain their operations until the next COH. After SLEP, as if the carrier were new, COHs are performed to maintain the carrier until its service life ends.

SLEP VS. COMPLEX OVERHAUL

SLEP grew out of an investigation initiated by the Navy to determine alternatives to new construction for maintaining carrier forces through the 21st century. The goal was to extend the service life of the fossil fueled carriers by at least 15 years, ensuring their reliability for effective combat operations with only routine maintenance required through the extended service life. This goal is achievable through execution of an availability stressing long deferred structural and auxiliary system repairs along with replacement of those equipments and systems for which logistics support is no longer available.

SLEP is SCN funded and is scheduled around the normal Complex Overhaul cycle. It includes both repairs that would normally be accomplished during the COH as well as those SHIPALTS normally programmed as a result of the Fleet Modernization Program (FMP). In addition, emphasis is placed on those repairs and SHIPALTS required to extend the service life. The increased scope of repairs include the long deferred structural repairs to the basic hull, power generation, main propulsion and auxiliary systems. The basic support systems are also upgraded to meet present and future weapons systems requirements. This includes Air Conditioning, cooling systems, electrical distribution as well as habitability required to maintain a quality of life on the ship.

Additional emphasis is placed on Aircraft Launch and Recovery systems such as upgraded Arresting Gears, Rotary Retract Engines and Catapults. This results in reduced stress on the propulsion plant.

INSURV trials are completed prior to the completion of SLEP as well as six months after SLEP and has proven SLEP to be a sound, cost effective program.

A study of the work package on SLEP has concluded that a series of shorter availabilities is not a substitute in that the OPNAV objectives could not be met. This is due to the increased scope of work and the fact that SLEP attempts to fully restore the ship's construction baseline to ensure post SLEP readiness for combat operations.

Mr. HEINZ addressed the Chair.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, let me say to my friend, the senior Senator from Pennsylvania, under a consent arrangement, I yielded 15 minutes to Senator SPECTER without losing my right to the floor. I do not want to lose that right, nor do I want to overburden the Senate with yielding of my time, trying to get myself recognized thereafter. If the Senator desires to speak, I am wondering whether it would be accommodating to the Senator to let the Senator from New Mexico proceed with his amendment, at which time in due course the Senator would be able to address the Senate.

Mr. HEINZ. Mr. President, I say to my friend from New Mexico——

Mr. DOMENICI. Mr. President, I yield to the Senator without yielding my right to the floor.

Mr. HARKIN. Mr. President, reserving the right to object.

Mr. DOMENICI. I do not know that I need ask for consent.

Mr. HEINZ. I am inquiring something of the Senator from New Mexico.

The PRESIDING OFFICER. The Senator may certainly yield for a question.

Mr. HEINZ. Will the Senator yield for a question?

Mr. DOMENICI. I yield for a question.

Mr. HEINZ. Mr. President, I want to inquire whether the Senator is aware that the amendment on which Senator SPECTER spoke, and on which I desire to speak, is the pending business of the Senate and whether he also knows that at 4:30, Senator SPECTER and I have a meeting with Secretary Cheney on this subject and whether he would be willing to once again—assuming the other Senators would let him do so—yield 7 minutes to the Senator from Pennsylvania, given that I have to participate in the meeting at 4:30.

Mr. DOMENICI. Mr. President, I will shortly yield.

AMENDMENT NO. 62 TO AMENDMENT NO. 60

Mr. DOMENICI. Mr. President, I sent an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from New Mexico [Mr. DOMENICI] proposes an amendment numbered 62 to amendment No. 60.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Several Senators addressed the Chair.

Mr. BYRD. Objection.

The PRESIDING OFFICER. The Senator from West Virginia has objected. Objection is heard.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Chair asks for regular order.

The assistant legislative clerk read as follows:

> In lieu of the language prepared to be inserted, insert the following:
>
> "The language on Page 30, Lines 1-5 are null, void, and of no effect.
>
> **"SEC. 103. FOOD AND MILK PRICES.**
>
> "The Secretary shall not implement subsections 101 (a) and (b) of amendment No. 43, modified and agreed to by the Senate on March 19, 1991, if the Secretary determines that implementation of those provisions will reduce by at least 50,000 the estimated average monthly participation in, or reduce significantly the benefits received per participant under, the Special Supplemental Food Program for Women Infants and Children established pursuant to section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).
>
> **"SEC. 104. CEREAL PRICES.**
>
> "The Secretary shall not expend, in fiscal year 1991, in excess of $425,000,000 in the aggregate amount of funds and/or commodities to carry out an export enhancement program if the Secretary determines that the expenditure of those funds and/or commodities will reduce by at least 50,000 the estimated average monthly participation in, or reduce significantly the benefits received per participant under, the Special Supplemental Food Program for Women Infants and Children established pursuant to Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).".

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I move to table the Helms amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there sufficient second? There is not a sufficient second.

Mr. LEAHY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that Mr. DOMENICI may speak for 10 minutes, that he may read his horoscope to the Senate. Perhaps that will wear off a little of the tension.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I assume that means that I really have to read this. Last night we had a little discussion about the rules. This morning I wondered what my fight was going to be today after having heard the chairman of the Appropriations Committee, the master of the rules.

As I think about it, it was all in good faith; we were acting in good faith, I hope. But it says in my horoscope today: "Rules bend in your favor." I just saw that when I barely offered my amendment and somebody offered to table it, which meant I will not even get to talk. "Rules bend in your favor." It says "Take charge of your own destiny. Moon in your sign—wear shades of blue, indigo, purple. Stress universal appeal"—I might say I have been trying that very diligently—"wide range of interests."

Then it says "Aries plays key role." Does the Senator from Vermont have a horoscope?

Mr. LEAHY. Yes.

[Laughter.]

Mr. LEAHY. Mr. President, on the same unanimous consent, if the Senator will yield to me from that time.

Mr. DOMENICI. Not out of my time.

Mr. LEAHY. If I could have 4 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. The Senator from New Mexico says under his horoscope, "Aries plays key role." I am an Aries.

[Laughter.]

Mr. LEAHY. Let me say what it says there. It says under Aries: "Minor crisis erupts, boomerangs in your favor. Focus on deadline, pressure, responsibility * * *." "Relationship tense but durable."

I would say to my good friend and fellow Italian-American, it says "Professional appraisal reveals product worth plenty" and then adds—this is hard to read, but it says "The Leahy dairy amendment will survive."

[Laughter.]

Mr. DOMENICI. How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. The Senator has 8 minutes and 39 seconds.

Mr. DOMENICI. Parliamentary inquiry, Mr. President. If the motion to table is agreed to, does the Domenici amendment fail?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. Frankly, let me say to the Senate——

Mr. BYRD. Mr. President, will the Senator yield for 1 minute?

I ask unanimous consent to proceed for 1 minute and that it not be charged against the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. The Senator read his horoscope in which he referred to the Moon.

Mr. DOMENICI. The Moon.

Mr. BYRD. The Moon. Perhaps if Nicias had not been so superstitious, during the Battle of Syracuse, in the year 413 B.C., when the Moon went into a total eclipse, he ultimately with his fellow Athenian, General Demosthenes—not Demosthenes the orator, but Demosthenes the general—would not have paid with their lives.

I just suggest that we not become overly superstitious or dependent on our horoscope, especially when it talks about the Moon.

Mr. DOMENICI. Mr. President, I might say that I am overwhelmed. In fact, I have a difficult time remembering my children's birthdays, much less such history. I am glad I am in the Senator's presence, nontheless.

Mr. President, Senators should now know that the motion to table the underlying amendment is going to—if you vote to table—table an amendment that I believe you do not want tabled.

Let me say what it is. I have titled it, as if it were a bill, because I think it explains it very well. It is called the "Fairness for Low-Income Consumers Amendment." That is what my amendment achieves: fairness for low-income consumers.

The most important low-income consumers that are hurt by the previously adopted subsidy for the dairy farmers are those who are participants in the Women, Infants, and Children [WIC] Nutrition Program.

I do not accuse anybody of hurting anybody. But, it is very simple, for those who wonder if people are really hurt.

What happens is that the price of milk is forced up, so the dairy farmers do not get hurt financially. When we push the price of milk up, the price of the Women, Infants, and Children Nutrition Program also increases as it is significantly based upon the price of milk. By the amendment that we have already adopted, you are going to take up to 112,000 WIC participants off the rolls. In a March 19 memorandum, the Congressional Research Service suggests that they believe it will reduce WIC participants by 112,000.

I ask unanimous consent that this be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL RESEARCH SERVICE,
Washington, DC, March 19, 1991.

To Hon. Richard G. Lugar. Attention: Dave Johnson and Randy Green.

From Jean Yavis Jones, Specialist in Social Legislation, Education and Public Welfare Division, and Geoffrey Becker, Specialist in Agricultural Policy, Environment and Natural Resources Policy Division.

Subject Estimated Effect on WIC Program Costs and Participation of Formula Price Increase for Fluid Milk as Proposed Under S. 671.

This responds to your request for information on the effect that the change in the basic formula price for computing Class I milk prices under milk marketing orders proposed by S. 671 might have on the special supplemental food program for women, infants, and children (WIC). As we have discussed, these estimates are based on assumptions outlined in this memorandum and should be used with caution.

S. 671 would provide that ". . .the basic formula price used for the purpose of computing the price of Class I milk under milk marketing orders may not be less than the basic formula price determined for the month of August 1990. . . ." This price would be effective from the first day of the first month after enactment until December 31, 1991.[1]

The basic formula price (also known as the "M-W price") last August was $13.09 per hundredweight (cwt., or 100 pounds). Thus, this would be the basic formula price used for computing milk prices for farmers under S. 671. The January 1991 price was $10.16 per cwt.; therefore, the proposed formula price would have yielded an increase of $2.93 per cwt. above the January level for fluid milk, a rise of 28.8 percent.

If the M-W price remained at $10.16 and milk processors and distributors passed the entire $2.93 increase on to consumers, a gallon of milk would cost an additional 25.2 cents at the supermarket.[2] (Each cwt. of milk equals 11.63 gallons; therefore, each $1 increase at the farm level would be equivalent to an 8.6-cent-per-gallon increase at the retail level.) Whether the full $2.93 increase would be passed on to consumers is problematical. Supporters of the bill might argue that, because retail dairy prices have not fallen along with farm prices over the past year, the marketing chain has the capacity to absorb the M-W increase. Opportunity may counter that average retail fluid milk prices are in fact declining, and that retail prices tend to rise more readily after a farm price increase than they drop after a farm price decrease—making it more likely that fluid prices would climb if the bill were enacted.

The U.S. Bureau of Labor Statistics (BLS) reported that in January 1991, the national average retail price of a half-gallon of whole milk was nearly $1.38; lowfat milk was just over $1.32. Assuming the M-W price increase cited above were carried forward by processors and retailers to consumers, this means that the changes proposed by S. 671 would have increased charges to consumers to about $1.51 per half-gallon for whole milk and about $1.45 for lowfat milk, or about 13 cents more for each half-gallon of milk.

The WIC program provides a monthly food package consisting of specified food products to low-income mothers, infants, and children who are determined to be at nutritional risk; milk is among the foods that must be contained in packages for mothers and children. In most cases, food benefits are issued to recipients by way of vouchers that allow them to purchase specific types and amounts of foods at retail food stores. In some cases a State or locality may purchase the food and distribute it directly to recipients; this is less common than the use of vouchers. The volume and value of food packages differs by the type of recipients. For example, children receive a package that differs from that of infants, and mothers who are pregnant or breastfeeding receive a different package than nonnursing mothers. Federal regulations specify a maximum amount of specified types of foods that may be paid for by Federal funds. States may provide less than the maximum amount, or recipients may redeem fewer items than are allowed by the vouchers.

According a 1988 study of the WIC program by the U.S. Department of Agriculture

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[1] Under Federal marketing orders (which set minimum farm prices for about 70 percent of all U.S. milk), the Class I price is the minimum farm price that processors must pay for Grade A milk consumed in fluid form. This Class I price is determined by adding a "fluid differential"—which varies by region—to the basic formula price.

[2] The M-W price declined again in February, to $10.04 per cwt., potentially widening the spread between the August 1990 price and the M-W price if the bill were enacted this spring.

(USDA), the average monthly volume of milk or milk products used by a participating pregnant or breastfeeding mother was 26 quarts; for a postpartum, nonnursing mother or a child aged 1 to 5, the average quantity of milk or milk products in a food package was 21 quarts.[3] These fluid milk levels are slightly lower than the maximum amounts allowed by USDA regulations: 28 quarts for pregnant or breastfeeding women, 24 quarts of milk for nonnursing mothers and children aged 1 to 5. Milk products may be offered in the form of equivalent quantities of cheese and nonfat dry or evaporated milk, although fluid milk is the most common item.

Milk products constitute a substantial portion of the WIC food package for participating mothers and children. Consequently, increases in fluid milk prices, if passed on to consumers, increase the cost of providing the WIC food package. Because program funds are limited by appropriations, WIC program operators may adjust for cost increases either by reducing the number of participants served by the program,[4] or by reducing the quantity of foods included in each WIC food package. In general, given the choice, program operators prefer to reduce the caseload rather than the food package since the food packages are based on nutritional needs of program recipients. By and large, program operators try to reduce caseload by attrition rather than by cutting off participating recipients. The extent to which this is possible depends upon the amount of available funds and existing caseload and food costs.

Pursuant to your request, we have provided estimates of the impact that an increase in milk prices might have on the average monthly cost of WIC program benefits. To calculate this, we have had to make a number of assumptions. Data do not exist for FY 1991 distinguishing between pregnant and nursing mothers and nonnursing mothers, and since the quantity of fluid milk in food packages differs between these groups, we had to estimate the numbers of such recipients for FY 1991. This was done by assuming that the proportion of these types of program recipients in FY 1991 would be the same as was reported in the USDA 1988 *Study of WIC Participant and Program Characteristics*. We applied the 1988 study proportions (15.8 percent pregnant and nursing mothers; 5.5 percent postpartum nonnursing mothers, and 47.4 percent children aged 1-5) to the average monthly number of recipients projected by the USDA to be served for FY 1991. Because there are no more recent data than the 1988 study on the quantities of milk or milk products included in food packages, we also had to assume that the same amounts would be included in food packages for mothers and children in FY 1991 (infants receive formula rather than fluid milk and there was no way to estimate how much milk might have been used in this product). Using these updated estimates of participation and milk consumption, we have calculated the cost of milk products contained in each WIC package based on January 1991 BLS retail prices for a half-gallon of milk (showing both whole and lowfat milk prices). To this, we have compared the prices that might have existed in January 1991 if the full impact of the farm price increases proposed by S. 671 had been passed on to consumers through retail price increases.

This methodology has some limitations. First, as has been previously mentioned, we do not know that processors and distributors would pass on the price increase they are charged by farmers. Therefore, we do not know if retail prices would rise as much as projected. Second, we do not know that the proportions of recipients in each of the relevant categories, or the quantities of milk products in their food packages has remained the same since 1988. Additionally, some of the milk products in a food package may consist of cheese or nonfat dry or evaporated milk. Moreover, in those cases where the WIC agency purchases food for recipients rather than providing recipients with a voucher for purchases at retail stores, the price of the product would be wholesale, rather than retail. No data are available on the amount of fluid milk acquired through wholesale versus retail purchases, thus no distinction can be made in the estimates. For these reasons, the average monthly cost of fluid milk shown by these estimates may be overstated. However, we know that the vast majority of WIC foods are provided through voucher redemptions in retail stores. Moreover, cheese price increases in recent years make it unlikely that this product constituted a substantial amount of the milk product in WIC packages. Additionally, we have not counted whatever fluid milk may be used in infant formula for WIC infant packages. This would somewhat understate the estimates, although there are no data upon which to judge the degree.

Column 1 of table 1 shows the categories of food package recipients receiving fluid milk (or milk products) as part of their monthly food package. Column 2 shows the average estimated monthly number of WIC participants (and food packages) for relevant categories of recipients for FY 1991. Column 3 provides the average monthly amount of milk and milk products estimated to be provided in each relevant recipient's food package in 1988. Column 4 estimates the cost of the milk products contained in each package for both whole and lowfat milk based on January 1991 BLS retail prices for a half gallon of fluid milk. Column 5 estimates the cost of the milk products contained in each WIC package if milk processors and distributors passed on to consumers the full increase in prices to farmers required by S. 671. Column 6 shows the increased per package cost based on the difference between the actual January 1991 retail price of the milk included in a package and the projected January 1991 retail price based on estimates of retail price increases shown under column 5.

TABLE 1.—ESTIMATED WIC FOOD PACKAGE MILK PRODUCT COSTS UNDER CURRENT LAW FOR JANUARY 1991 AND PROJECTED FOR JANUARY 1991 UNDER S. 671

Category	Average monthly estimated participation[1] (fiscal year 1991)	Average amount, milk/milk products[2] in WIC package	Jan. 1, 1991, retail price of milk in WIC package[3]	Estimated monthly price of milk in WIC package[4] (S. 671)	Price increase per month of milk in WIC package
Pregnant and nursing mothers	742,600	26 quarts (13 half-gallons).	$17.94 (whole) $17.16 (lowfat).	$19.63 (whole) $18.85 (lowfat).	+$1.69
Nonnursing mothers	258,500	21 quarts (10.5 half-gallons).	$14.49 (whole) $13.86 (lowfat).	$15.86 (whole) $15.23 (lowfat).	+1.37
Children aged 1–5	2,227,800	21 quarts (10.5 half-gallons).	$14.49 (whole) $13.86 (lowfat).	$51.86 (whole) $15.23 (lowfat).	+1.37

[1] Assumes that the proportion of pregnant and nursing mothers and nonnursing mothers participating in the program in FY 1991 will be the same as was the case in 1988.
[2] Assumes fluid milk costs. May include some cheese, nonfat dry and evaporated milk.
[3] Assumes retail prices of $1.38 per half-gallon for whole milk or $1.32 per half-gallon for lowfat milk.
[4] Assumes retail price of $1.51 per half-gallon of whole milk and $1.45 per half-gallon of lowfat milk.

TABLE 2.—ESTIMATED TOTAL MONTHLY INCREASE IN WIC FOOD PACKAGE COSTS BASED ON PROJECTED INCREASES IN RETAIL PRICE OF MILK

Category	Average monthly estimated number of food packages[1]	Average monthly increase in cost of milk in WIC package (est.)[2]	Total average monthly increase in WIC cost (est.)[3]
Pregnant and nursing mothers	742,600	+$1.69	+$1,254,994
Nonnursing mothers	258,500	+1.37	+354,145
Children aged 1 to 5	2,227,800	+1.37	+3,052,086
Total	3,228,900	NA	+4,661,225

[1] Based on estimated participants.
[2] Cost increase is higher for packages provided to pregnant and nursing mothers because greater quantities of milk are included in these packages than in those for nonnursing mothers and children.
[3] Calculated by multiplying the number of food packages by the increased retail price.

Table 2 translates the estimates in table 1 to a total monthly estimated cost increase for WIC program food packages assuming the projected increase in retail prices indicated by table 1. This table shows that the monthly average total cost of WIC food packages would have increased by a total $4.66 million under S. 671 in January 1991 *if*: (1) the proportion of WIC recipients in the relevant categories stayed essentially the same and the quantities of milk products in their food packages remained unchanged between FY 1988 and FY 1991; (2) retail prices were charged for all milk products in the WIC package, and (3) milk processors and distributors passed along to consumers the full price increase for fluid milk charged by farmers.

The USDA projects that in FY 1991 the average monthly cost of serving a WIC recipient will be $41.41. This includes both food and administrative costs. If the average monthly cost of WIC food packages were to increase by the $4.66 million estimated above, and if WIC operators were to absorb this cost increase by cutting caseload, more than 112,500 fewer participants would be served by the program in an average month.

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[3] U.S. Dept. of Agriculture. Food and Nutrition Service. Office of Analysis and Evaluation. *Study of WIC Participant and Program Characteristics, 1988.* Final Report, v. I: Summary of Findings, Apr. 10, 1990. The volumes shown reflect all milk products that might be in a WIC package; they do not differentiate between fluid milk, cheese, nonfat dry or evaporated milk.

[4] A USDA study of WIC eligibles indicated that in FY 1984 the program served about 40 percent of those eligible. Since then, both funding for the program and participation have increased. Although no more recent data are available on the nutritional status of the income eligible population, most experts agree that the program now serves over 50 percent of all eligibles and reaches almost all eligible infants.

Mr. DOMENICI. Mr. President, those who are proponents of the new dairy price support measure will acknowledge, if I understand it, that the price of liquid milk is going to go up. I assume that is the milk as it leaves the dairy farmer. But they suggest it is not going to hurt the consumer, because the middle man is going to absorb the increase.

Well, I do not believe that. That is why I am here. I do not believe the middle man, the one that purifies the milk and puts it in cartons and retails it, or those who make the ice cream, will assimilate that 28-percent price increase from this new dairy price support.

I believe the WIC Program is going to get hurt. This amendment says that if the Secretary of Agriculture finds that if 50,000 WIC participants or more are going to be eliminated from the rolls because of the increase in dairy costs—because we are going to help our dairy farmers by raising the price—then he cancels this new Dairy Program, and it is null and void.

There are some who would say, Senator DOMENICI, you are not being fair, because there is another provision, the so-called Grain Export Program, that might raise the price of grains. So that everyone will know that I am fair, I have included both programs in my amendment.

The second part of the amendment states that if the Export Enhancement Program, which we have increased in this underlying bill, causes 50,000 or more WIC participants to lose their benefits because it raises the price of commodities, that program is canceled, too. I think that is imminently fair.

In its essence, if you vote to table the underlying amendment, you have essentially said that the amendment which I have just offered, the fairness for low-income consumers amendment, is dead. All I wanted was an opportunity to present this. All I wanted was an opportunity to have a vote. I think I am going to get a vote, but it will be very circuitous.

It is a tabling amendment of the underlying Helms amendment. You are not going to have a chance to vote on the Domenici consumer fairness amendment. I wish you would have, and I suggest you ought not vote to table it, because we will have a real opportunity to debate it and perhaps adopt it, or perhaps work out something with those who think to the contrary.

Mr. LEAHY. Will the Senator yield?

Mr. DOMENICI. How much time do I have?

The PRESIDING OFFICER. Three minutes, twenty seconds.

Mr. DOMENICI. I yield for a question.

Mr. LEAHY. Mr. President, is it the intention of the Senator from New Mexico to wipe out the dairy provision passed by a 60-to-40 vote yesterday, or is it his intention to protect the WIC Program?

Mr. DOMENICI. Well, let me say, Mr. President, frankly, I do not believe we should have dramatically increased the Dairy Program.

I believe that, sooner or later, the dairy industry in the United States is going to have to come to its senses. What we have done through congressional action is continue to raise the prices supports until the price of milk is so high that everybody is in the business. There is overproduction everywhere, and everybody is making money.

Then we produce too much milk, the price drops, and they begin to go out of business. I do not want anybody to go out of business, but that happens to thousands of people every day in the United States. And now somebody comes along and says: Let us raise it back up, and it is not going to cost anybody anything. It will. The consumer will pay. I picked out a nice little group of consumers that we are trying to take care of under the WIC Program.

So, honestly, I say to my friend, I want the amendment that the Senator gave to the Senate and which the Senate adopted 60 to 40, to be tested. If it, in fact, hurts the WIC Program the way I think it will, then I want it canceled.

On the other hand, I do not like any amendment that is going to be a "jimmy-up amendment"—one in which we are going to pay a portion of WIC costs out of the dairy farmers by setting money aside, and sending it over to the States every month so the WIC Program does not get hurt.

If that is what my friend from Vermont intends to offer, I do not like that program.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico retains the floor.

Mr. LEAHY. Will the Senator yield?

Mr. DOMENICI. I am pleased to yield. Mr. President, how much time do I have?

The PRESIDING OFFICER. Forty-seven seconds.

Mr. LEAHY. Mr. President, I ask unanimous consent that I be recognized for 2 mintues.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, to begin with, in the 1985 farm bill, the dairy price support was around $13.10 a hundredweight. The Senator from New Mexico speaks of raising these price supports.

In the 1990 farm bill the price support for milk was dropped to $10.10. The Leahy-Jeffords dairy amendment does nothing that increases this support price of milk or the cost to the taxpayers.

I will yield to no one in this body in my support of WIC. In the 17 years that I have been on the Senate Agriculture Committee I have been the lead sponsor or a cosponsor of every WIC bill that has passed this Congress. Nothing is going to take people off a WIC Program with my vote.

The distinguished Senator from Vermont [Mr. JEFFORDS] and I have an amendment. If that is what we want to do, this amendment could be adopted by this body. This amendment guarantees that nobody would go off the WIC Program. It says that if the cost of fluid milk were to increase the cost of the WIC Program, sums equal to such costs would have to be paid to the WIC Program. So if the Senator from New Mexico wants to protect people on WIC, we can do it. In fact, if he wants to really do something of significance for WIC, he should consider making WIC an entitlement program and take the huge amounts of money that will be saved from medicaid to pay for it.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I have 47 seconds remaining; is that correct?

The PRESIDING OFFICER. Forty seconds.

Mr. DOMENICI. Mr. President, I ask unanimous consent I be yielded an additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I did not say that the distinguished Senator from Vermont was anything but the staunchest advocate for the WIC Program. What I have found, however, is that in the American economy things are tied together. They do not just operate in a vacuum.

So in an urgent supplemental that was supposed to deal with the aftermath of the war, we have an amendment to enhance export of grains to make that a better program. That is not the amendment of the distinguished Senator from Vermont. Somebody else put it in the appropriation bill. Then the Senator from Vermont comes in and, because the dairy farmers are hurting—and we all know that, anybody that has a telephone and is in the Senate knows that. They are calling up saying, if we do not do this, they are going to have to sell their dairy cows.

Frankly, neither of these belong on this bill. What I have done here is say, let us leave them both on, but, if they really hurt the WIC Program, let us take them both out. We said to the Secretary of Agriculture if either of those programs are that expensive, not to the Treasury but to the consumers of this country, then render them null and void. That is all I want to do.

I would like a vote. I am not sure I will get one, but I have had my say, and I truly believe however it comes out, the horoscope was right both as to me and as to my friend from Vermont.

Mr. BRADLEY. Mr. President, I rise as cosponsor of the amendment offered by the Senator from New Mexico to ensure that pregnant women, infants, and young children are not the victims of changes adopted yesterday to the milk price support program. This amendment would repeal these modifications if over 50,000 people are forced out of the WIC Program as a result of an increase in milk prices that may result from these changes.

Mr. President, the amendment the Senate adopted yesterday as offered by the Senators from Vermont significantly changed the dairy price support program. it is unlikely that this change will go unnoticed by consumers or by the Government program that buys milk for needy children.

The Leahy-Jeffords amendment raised the price paid for fluid milk by roughly 30 percent. When asked why this increase would not trigger an immediate and proportional increase in consumer prices, the sponsors pointed at price gouging by the middleman. According to the sponsors, consumer prices didn't fall when the price paid to farmers dropped last summer, so consumer prices would not go up now, when the price paid to farmers goes up again.

Mr. President, we do not have any idea what actually will happen to milk prices. There have not been hearings on this proposal. As far as I know, there is no serious economic analysis of the amendment's implications. Retailers and growers have contacted me to indicate they expect milk prices to raise $0.40 per gallon. The bill's sponsors say they would not increase at all. Whom do you believe? I would suggest that the burden of proof is on those who would content that normal economic laws somehow would not apply to this milk price increase. The Senate's action yesterday was based on wishful thinking. If we were wrong, if the sponsors of the bill were wrong, the poor of this country will not only pay more for a product fundamental to a healthy diet, but poor infants will have to be dropped from the WIC Program because its limited funding cannot cover a milk price increase for all its current beneficiaries.

Mr. President, if milk prices increase by the 40 cents or more that some project, as many as 75,000 to 100,000 pregnant women, infants, and young children will have to be dropped from participation in the WIC funding Program. Others contend that there will be no increase in consumer milk prices and the WIC Program will not have to drop anyone. If they are correct, this amendment will have no effect. This amendment is an insurance policy for pregnant women, infants and children dependent on WIC in case they are not correct. If they are wrong, if prices do rise, and if the price increases force WIC to cut off more than 50,000 participants, the dairy modifications adopted yesterday will be repealed and children's health and nutrition will be protected.

Mr. DOLE. Mr. President, I rise in support of the amendment offered by the distinguished ranking member of the Senate Budget Committee. As someone with the longstanding interest and involvement in the Federal nutrition effort, I share his concern about the impact on the WIC Program of the amendment offered earlier by the Senator from Vermont.

The Congressional Research Service estimates that 112,500 fewer women, infants, and children would be served each month by the program under the dairy provisions authored by the Senator from Vermont.

WIC has a proven track record. Study after study has demonstrated the impressive health and nutritional benefits it provides to the women, infants, and children who participate in it. They are among the most vulnerable members of our population, and we should protect them against a measure that could have such a negative effect on their health and nutritional status.

I therefore urge my colleagues to support the amendment offered by the distinguished ranking member of the Senate Budget Committee.

Mr. CHAFEE. Mr. President, I am joining my friend from New Mexico in his effort to ensure that the all-important Special Supplemental Feeding Program for Women, Infants, and Children—or WIC—is not inadvertently caused considerable harm by the Leahy dairy amendment that was approved yesterday by the Senate. Hence, I am voting against the motion to table the Helms, and therefore, Domenici amendment.

First of all, I would like to say that I am sorry to see two well-intentioned efforts—one meant to help dairy farmers now under fiscal pressure, and one meant to preserve important nutrition funding for mothers and children—at loggerheads with one another. There are dairy farmers in my State, and I am concerned about their ability to maintain their farms. Likewise, the WIC Program is extremely important to my State, and I am concerned about making sure the program can reach eligible persons. But I think we acted too hastily on the Leahy amendment.

I did not support the dairy amendment. While it seemed simple on its face, its impact is far from clear. Indeed, should it exacerbate surpluses and reduce demand, it could hurt not only dairy processors and consumers, but also the very dairy farmers that it is intended to help. We simply do not know if the Leahy amendment will help or hurt dairy farmers.

However, one thing that is far clearer is the negative impact that a milk price increase would have on both dairy processors and consumers. That is where the WIC Program comes in, and I would like to focus on this aspect.

Under the dairy amendment approved yesterday, it is very likely that the retail price of milk would go up. It is not unanimous, but that is the conclusion of USDA, dairy processors, and consumer groups. That means consumers—particularly those of low income—would pay more for milk. That also means additional costs for those nutrition programs, such as WIC, that include milk as a basic component of their food package.

As my colleagues know, the WIC Program provides food vouchers to low-income pregnant women, women with infants, and children under 5 who are at risk of serious nutritional deficiencies. As my colleagues also know, WIC is easily one of our best and most cost-effective programs. For every $1 invested in WIC, we save about $3 in long-term health care costs. And with WIC, we reach children at the critical early stages of development.

We recognize the benefits of WIC, and that is why every year when Senator DECONCINI and I spearhead the drive for increased WIC funding, we get an overwhelming, bipartisan response from our colleagues. Last year 82 of us wrote to the Appropriations Committee asking for an increase in WIC moneys, and I am pleased and grateful that the committee did just that.

One more recent event: Five corporate chief executive officers appeared before a House committee to strongly support WIC. They called WIC the health care equivalent of a triple-A rated investment and endorsed full funding for WIC.

I mention this background on WIC because I want to emphasize the overwhelming success of, and support for, the WIC Program.

Milk is an integral part of the WIC food package. According to USDA's Food and Nutrition Service, fluid milk accounts for over 23 percent of WIC food package costs. Indeed, WIC participants consume over 150 million gallons of milk every year. Thus, it should come as no surprise that USDA has noted that "the impact of any significant rise in dairy prices on the WIC Program would be very significant and detrimental."

So the widely-expected increase in the retail price of milk from the dairy amendment would hit WIC hard. A recent analysis by USDA estimates that a milk price increase of 10 cents per gallon would cost the WIC Program $15 million in the next fiscal year. According to USDA, a 10-cent increase would reduce the monthly food packages by 400,000—that means 35,000 fewer women, infants, and children would be served each month.

Keep in mind that a 10-cent increase is a conservative estimate. Should the increase be 25 cents, which many feel is more likely, we could be looking at a loss in WIC participation of anywhere from 40,000 to 100,000 women and children.

Other nutrition programs could also be affected. The USDA analysis showed that Food Stamps, and the School Lunch and Breakfast Programs, would also bear heavy costs from a 10-cent milk price increase: about $95 million for next year.

Food package increases should not be taken lightly. Last year, rises in food prices due to unexpected inflation had a significant negative impact on State WIC Programs. Many States—including my own—had no choice but to drop participants. My point is: Increases in food prices are real threats to State WIC programs.

To those who would argue that these figures are only estimates, and that milk prices would not necessarily go up under the dairy amendment, I would say then let us make sure that that is so. Let us not hastily pass a major change in dairy policy that may or may not help the intended beneficiary—dairy farmers—but almost certainly will have a significant impact upon other groups. Let us let the bill be studied by the committees. And until we are certain that the amendment: First, will help dairy farmers in the long term; and second, won't hurt dairy processors, consumers, and nutrition programs, we should not go forward.

That is why I strongly support and have cosponsored the amendment by Senator DOMENICI. I recognize that the Senate agreed to the dairy amendment yesterday by a clear margin. But the Senate should also ensure that its quick action does not decimate one of the best programs we have ever had: WIC. This amendment will safeguard the WIC Program, and I urge my colleagues to support it.

The PRESIDING OFFICER. The question is on the motion to table.

Mr. DOMENICI. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. DOMENICI and Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The question is on the motion to table.

The Senator from New Mexico.

Mr. HARKIN addressed the Chair.

Mr. DOMENICI. Is the pending question the motion to table?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, what is the pending question?

The PRESIDING OFFICER. The motion to table is the pending business.

Mr. BYRD. Mr. President, I hope that we can get action on this motion quickly. I ask unanimous consent to proceed for 2 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BYRD. Mr. President, we have pretty much taken our time on this bill, almost to the point of taking it unduly. I wonder if Senators understand that in this bill is $150 million for State unemployment insurance operations. I have seen pictures in the press and I have seen on television, waiting lines, individuals who have had to wait 3 or 4 months to fill out their applications and receive their unemployment insurance. I wonder what they may think as they see the Senate piddling along as it has done on this bill.

Senators are entitled to talk, entitled to offer amendments, but I cannot understand why we have to sit here with no action taking place, nobody talking, just sitting out quorum calls.

I hope that we can encourage the people out there, who are waiting in those lines, to believe that the Senate is really taking action and that there is going to soon be an appropriations bill passed that will allow the States to employ the necessary staff, States that need additional funds for the remainder of the year, to hire the staff required to avoid these unnecessary delays that have occurred in the payment of unemployment benefits to an increasing number of unemployed people. The economic and workload forecasts for the Unemployment Insurance Program have been consistently low, and the committee has been concerned that the administration's request is once again too low to adequately fund State administrative costs.

Therefore, in the Senate Appropriations Committee, we added $50 million over and above what the administration requested. And we prevailed on the President, through the Office of Management and Budget, to declare this as an emergency. We all agree that it is an emergency. The administration agrees it is an emergency, and yet we cannot get the bill passed here in the Senate.

If Senators were talking, if they were voting, it would be a different thing. But the Senators are not even on the floor. I see the two managers on the floor; Senator SASSER is on the floor; we have a Senator in the Chair; the Senator from North Dakota; and the Senator from Iowa. Why cannot the Senators come out and vote?

Mr. HATFIELD. Will the Senator yield?

Mr. BYRD. Yes, I yield.

Mr. HATFIELD. I certainly associate myself with the remarks of the chairman of the Appropriations Committee. I am really bothered, bothered badly. I would like to ask the Senator, since he is the historian of the Senate—when I came to the Senate, we were always concerned about protecting the rights of Senators. But there were some responsibilities assumed by the Senators to exercise their rights in due course and within the convenience of the institution. I have a growing sense that we have lost the sense of the institution here in the Senate, that it is all now 100 majority leaders, 100 agendas, and there is no time when the institution should be working its will. It is all now the right of the individual Senator.

Is there a point at which the rights of the individual Senators have to be melded to the benefit and the progression of the institution?

I ask that question because I remember Senator Russell—I was privileged to serve for 2 years when he was here in the Senate. He fought every single civil rights bill. He made no effort to say anything other than, that is my position and this is what I represent. But when a cloture motion was laid down, Senator Russell got up and he said, now the Senate must work its will. And the Senate institution moved because the individual Senator had had his day, he had his rights protected. He had exercised all of his rights of speech and motions and amendments and everything. But, once that cloture motion was laid down, that was it.

Then there was a certain Senator who came here who developed the postcloture filibuster. From that point, I felt a shift of the whole Senate character, because every side of an issue could use that as any one individual could use that kind of approach postcloture.

But here we have for an hour and a half, I say to my leader, this morning an hour and a half the Senator from West Virginia and I sat here, we waited, we pleaded through the television and we sent our staffs to the telephones to call the individual Senators who had indicated they had an amendment, and they would not show up. We have gone through this whole exercise this afternoon, as we did yesterday. And when I suggested this morning that we move to a third reading within a reasonable period of time, the chairman of the Appropriations Committee asked immediate unanimous consent to go to third reading.

And I said I did not expect him to take me up so quickly on my thought. Because we had to protect, again, the interests of the individual Senators.

But there must be some limitations on how far we protect the rights of individual Senators and do the business of the country through the institution of the Senate.

Will the Senator comment?

Mr. BYRD. I absolutely agree with the Senator. Senators do have rights and I try to recognize them and realize they have rights. We often speak of Senators' rights but Senators do have responsibilities. They have responsibilities to the Senate itself as an institution. So often we see Senators who seem to subordinate the welfare and the well-being of the institution—and the country, as a matter of fact—to their own egos. I think that the Senate has lost its soul.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. ROBB). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from North Carolina. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 61, nays 39, as follows:

[Rollcall Vote No. 38 Leg.]

YEAS—61

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Breaux
Bryan
Bumpers
Burdick
Byrd
Cochran
Conrad
Cranston
Daschle
DeConcini
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Heflin
Heinz
Hollings
Inouye
Jeffords
Johnston
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Wellstone
Wirth

NAYS—39

Bond
Brown
Burns
Chafee
Coats
Cohen
Craig
D'Amato
Danforth
Dole
Domenici
Durenberger
Garn
Gorton
Gramm
Grassley
Hatch
Hatfield
Helms
Kassebaum
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Roth
Rudman
Seymour
Simpson
Smith
Stevens
Symms
Thurmond
Wallop
Warner

So the motion to lay on the table amendment No. 60 was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the President pro tempore.

Mr. BYRD. Mr. President, if I may have the attention of the Senate.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD. Mr. President, as far as I can tell, there is only one amendment, possibly two—perhaps I should say likely two—amendments remaining. Pending is the Coats amendment, on which there has been some debate already. I wonder if we can get a time agreement on the Coats amendment.

Mr. LEAHY. Mr. President, may we have order. I am having a little trouble hearing the distinguished chairman and I am standing a foot and a half from him.

The PRESIDING OFFICER. The Senate will be in order.

Mr. COATS. Mr. President, will the Senator from West Virginia yield?

Mr. BYRD. Yes, I yield.

Mr. COATS. I would be very happy to enter into a time agreement. As far as I know, there is only one other Senator who wishes to speak, and he is willing to accept a very limited amount of time. I think I need no more than about 3 or 4 minutes to summarize, and I would be ready to vote. I do not know what the opposition needs.

Mr. SPECTER. Mr. President, on our side we have five Senators who wish to speak. We have my colleague from Pennsylvania, Senator HEINZ; we have Senator BIDEN, who is on his feet; we have Senator LAUTENBERG, who is in the Chamber; and also Senator BRADLEY.

How much time does the Senator from Pennsylvania need?

Mr. HEINZ. Mr. President, I will not consume more than 10 minutes.

Mr. SPECTER. The Senator from Delaware?

Mr. BIDEN. Mr. President, I will not need more than 5 minutes.

Mr. SPECTER. The Senator from New Jersey, Mr. BRADLEY? two minutes. We are up to 18 minutes. I would say 25 minutes on our side.

Mr. BYRD. Mr. President, I ask unanimous consent that the time on the pending amendment be limited to 25 minutes for the opponents and——

Mr. COATS. Why not do 25 minutes a side? I expect we would yield back.

Now I realize there are three or four Senators, who see the opposition is going to mount a defense, who want to speak. So if we could do it equally on both sides with the understanding we would attempt to be brief and yield back whatever we do not use, I would be happy to do that.

Mr. SPECTER addressed the Chair.

Mr. BYRD. Mr. President, I have the floor.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. SPECTER. Will the Senator yield for a question?

Mr. BYRD. Yes.

Mr. SPECTER. My question is will the Senator add an additional 5 minutes to the Senator from New Jersey, who does want to speak?

Mr. BYRD. I understood the Senator counted 18 minutes.

Mr. SPECTER. I had not gotten my time and Senator LAUTENBERG. So I think we need 30 minutes at this point.

Mr. BYRD. Thirty minutes.

Mr. COATS. Why not do 30 minutes a side then?

Mr. BYRD. All right, 30 minutes a side. There are some Senators who have some engagements this evening. This Senator does not have, but he does have to prepare for a conference tomorrow. We have to get busy in the morning because it is too late now to have a conference with the House today because they are out. They would not be able to appoint conferees today. But I hope we can bring this to a conclusion.

Thirty minutes a side?

Mr. SPECTER. That would be acceptable, Mr. President.

Mr. BYRD. Mr. President, I ask unanimous consent there be 1 hour on the amendment, to be equally divided between Mr. SPECTER, et al., and Mr. COATS on that side, and that at the conclusion of that time there be a vote on or in relation to the amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The time will be equally divided.

Mr. BYRD. Mr. President, I ask unanimous consent that there be no amendments to the language proposed to be stricken.

The PRESIDING OFFICER. Is there objection to the unanimous consent request? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that upon the disposition of this amendment, there will only be one amendment remaining, that amendment by Mr. LEAHY. I know of no other amendments. I make that request.

The PRESIDING OFFICER. Is there objection?

Mr. HEINZ. Reserving the right to object, will the distinguished majority leader withhold so I may check?

Mr. BYRD. I withhold the last request, which had to do with Mr. LEAHY's amendment.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HEINZ. Mr. President, will the Senator from Pennsylvania yield?

Mr. SPECTER. I yield 10 minutes to my distinguished colleague from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania [Mr. HEINZ].

AMENDMENT NO. 50

Mr. HEINZ. Mr. President, earlier today the Senator from New Mexico apparently read his horoscope indicating the rules were going to bend in his favor. Thanks to his copy of the Washington Post, I came across my horoscope today. I am a Libra, barely. It says that: "Many will be drawn to you, fascinated by voice, charm, and sense of drama."

Well, I note that nobody erupted here in the Chamber. It goes on to say that: "Scenario highlights discovery, adventure, and unique relationship based on clash of ideas."

Regarding clash of ideas, "Gemini, Virgo, Sagittarius in picture." I do not know what Senators SPECTER, BRADLEY, and BIDEN will be, but chances are they will be one of those.

I hope that horoscope is true, because the Senators that I have just mentioned and I are very strongly opposed to the amendment of the Senator from Indiana. One of the reasons that we are opposed is that if the amendment of the Senator from Indiana were to carry, it would virtually preclude the Congress, as well as the Nation, from revisiting the issue of whether 12 carriers is enough for the U.S. Navy.

It would preclude that because the decision, in effect, to end the SLEP Program, for all intents and purposes, immediately would deprive the Navy of the ability to extend the lives of several other conventional carriers which we would need were we to go above the 12 carriers that are currently projected by the Navy to meet their needs.

In discussions only a moment ago with Secretary Cheney, the Secretary indicated to us that because of the way carriers operate, basically one on station, one in port, and one either on the way or coming back, you can operate effectively only four carrier task groups. Yet the number of critical spots that our military must cover have now been expanded to five, that fifth spot being the Arabian Sea, the Persian Gulf, and the Red Sea, where up until recently we had as many as six carriers operating.

As a result, Secretary Cheney admitted that he would have to rob Peter to pay Paul in order to cover those four areas. What he described to us is a scenario where one carrier has to shuttle back and forth between the Arabian Sea and the Mediterranean, where there is traditionally, due to our commitment to NATO, a carrier on station at all times.

Mr. President, clearly the Secretary of Defense is a good soldier. He is trying to make his forces fit changing circumstances. But in this case, I believe that the reduction in the force of carriers down to 12 carriers, which would in effect be mandated and prejudged by the amendment of the Senator from Indiana, would be a grave mistake.

A second issue that is involved here is that not only would the amendment of the Senator from Indiana preclude our having the additional carriers or carrier, depending on whether you went to 13 or 14, but it would also preclude our ability to visit the issue of whether nuclear carriers, which are essentially all that we have built since commissioned in 1968, are indeed the most cost-effective kind of defense that we can buy.

It turns out, after some research, that the Navy did on several occasions do cost-effective research on nuclear carriers. And in every single study from 1963 to the present, oddly enough, it was determined that nuclear carriers, while very good, are not cost effective as conventional carriers. The main rationale had been for them is that nuclear carriers do not have to refuel, and the conventional carriers do, and that they have this range. But as study after study pointed out, the fact of the matter is that the way you lose a carrier is to send it out without its task group, without its support ships, without its Aegis cruisers, without its screening destroyers, because a carrier must be part of a task group of conventionally fueled vessels in order to be properly defended against both air and marine and submarine threats.

So it would be, in my judgment, a great mistake for us to be forced to choose between conventional carriers and nuclear carriers. That would be one of the other effects of the amendment of the Senator from Indiana, and I think as a result we would be forced to make some decisions, and maybe we should make those decisions anyway, about what is the most cost-effective bang for the buck in the Navy.

Third, and quite directly to the amendment of the Senator from Indiana, he talks about how you can get 10 years of life out of a complex overhaul; and how that, therefore, makes it a very desirable and cost-effective alternative to the service life extension programs that the Philadelphia Naval Yard has carried out on the *Forrestal*, the *Saratoga*, the *Independence*, and other carriers, and hopes to carry out, of course, on the carrier that we are discussing here.

Mr. President, it is a fact that a complex overhaul gets you, at most, 5 years additional life out of a conventional carrier. Even more important, it does not provide the systems upgrade, the up-to-date electronics, fire control, and other interdiction systems that you need and ought to have on any carrier.

So that complex overhaul sounds like it might be a good deal if it were 10 years, and if you did not pay any attention to what you got. But it gets you less than one-third of the life, and it gets you a good deal less than one-half of the capability, not including the life, and not including the fact that to get 15 years additional life out of a complex overhaul, you would have to drive out the carrier three times instead of only once for a service life extension program.

A service life extension program takes 26 months for a complex overhaul. You would have to have a carrier out of commission for about 5 or 6 out of its 15 years.

Finally, Mr. President, there is the issue of the cost efficiency at which the work on the service life extension program is done at the Philadelphia Naval Yard. It is a fact that by every significant rating the Navy makes and can bestow on any of its eight yards in terms of the man-day rate, in terms of the productive ratio, in terms of the net operating result, the Philadelphia Naval Yard is either first best or second best out of eight in every single one of those categories, and indeed it is one of only two yards that returned a profit to the Navy in the last 2 years.

Mr. President, I urge our colleagues to defeat the Coats amendment, to defeat it because it precludes some very necessary flexibility that we may be called upon to utilize in making decisions about the number of carriers.

It prejudges whether the fleet should be all nuclear, instead of a mix of conventional and nuclear. I point out that we never sent a nuclear carrier into the Persian Gulf, for reasons that I assume had something to do with the fact that we did not want a nuclear carrier in a small body of water to hit a nuclear carrier or have a nuclear carrier hit by an Exocet missile. It is simply not the case that a complex overhaul is more cost effective, by any stretch of the imagination, to the program, and, to boot, the chances are that work might be taken away from one of the most, if not the most, efficient yard in the entire United States.

For all those reasons, I urge my colleagues to please read my horoscope and do the best to respect what it says.

The PRESIDING OFFICER. Who yields time?

Mr. SPECTER. Mr. President, I yield 5 minutes to the distinguished Senator from New Jersey.

The PRESIDING OFFICER. Senator LAUTENBERG is recognized.

Mr. LAUTENBERG. Mr. President, I do not think I will need 5 minutes.

First, I want to compliment Senator SPECTER for his work on behalf of the Philadelphia Naval Yard. I joined with him in the full committee markup to add the provision that now, suddenly, the Senator from Indiana would like to strike. The provision is fairly simple. It tells the Navy to spend the money that we have already appropriated. It says, follow the law, spend the funds Congress has previously provided for the Service Life Extension Program of the U.S.S. *Kennedy*. To strike the provision now would be penny-wise and pound-foolish. The SLEP Program is a money saver over the long term. The provision in the bill would require the Navy to do simply what was proposed, and that is to spend the money Congress approved for the revitalization of the SLEP Program of the U.S.S. *Kennedy* at the Philadelphia Naval Shipyard, which is, by the way, the most productive and efficient public yard in the United States, by the Navy's own yardstick for measurement. The Navy supported SLEP of the U.S.S. *Kennedy* last year, and now, to save money in the short term, suddenly the Navy has reversed the field.

The fiscal year 1991 Defense Appropriations Act provided $405 million for the U.S.S. *Kennedy* SLEP advance procurement, 1991–92, with the expectation that the year would begin in fiscal year 1993. The amendment we added in the full committee markup would simply make sure that the Navy moves forward. SLEP is designed to extend the 30-year service life of nonnuclear aircraft carriers by at least 15 years. The alternative would be to overhaul the ship, which would extend the ship's life by only 5 years. On an annualized basis, it would cost over 30 percent more. Moreover, as the amendment proposed, SLEP takes the ship out of commission for even a longer period of time.

The Philadelphia Naval Yard completed the service life extension of the U.S.S. *Saratoga*, the vessel that had a very important role to play in the completed gulf war, and it will soon complete work on the U.S.S. *Kitty Hawk*, and has begun the SLEP Program of the U.S.S. *Constellation* with a completion date of fiscal 1993. It ought to be permitted to begin the program on the U.S.S. *Kennedy*, as well.

Mr. President, a similar provision on the SLEP Program was included in the House-approved version of the dire emergency supplemental.

I urge my colleagues to support these provisions as part of the Senate version of this legislation. It ought to be considered in view of the most recent experience that we had in the Persian Gulf. Thank goodness that we had the aircraft carriers performing as they did in the beginning parts of that war. It made the ground combat effort so much easier and reduced the number of casualties. There is not anybody arguing against the value of the aircraft carriers. In this case, we have a chance to buy a very important advancement at a very reasonable price, and I urge my colleagues to support the striking of the proposal by the Senator from Indiana.

Mr. SPECTER. Mr. President, I yield 5 minutes to the Senator from Delaware.

Mr. BIDEN. Mr. President, I have been here a long time, and it seems I keep fighting the battle of the Philadelphia Naval Yard. The first big battle was with one of the great Senators in this body, Senator John Stennis, and it was about where the SLEP Program should be located. At the time, the State of Virginia, the State of the Presiding Officer, was the single biggest competitor for the program.

Here we are again. What are the arguments? Well, my friend from Indiana makes a persuasive argument. One of his first argument is, hey, the Defense Department does not want this, why are we going to shove it down their throat? He was more articulate than that, but that is the essence of one of his arguments. It is an interesting argument. But I would like to point out that my friend from Indiana is very, very interested in the V–22 Osprey, and one of these days he is going to be here on the floor telling us why we should have that program and how critical it is to our national security. I happen to agree, but the Pentagon does not want it. I assume we can discount his first argument that the Pentagon does not want it, therefore, why should we take it; because, if we accept that argument, then, as we say in the law, he would be estopped from making the argument about the V–22 later. I would not want to do that to him.

Let us go to the second argument. The Senator from Indiana makes the argument that cutting funds for the Service Life Extension Program in Philadelphia is going to save money. But I think he is really being too clever by half. This amendment may save some money now, but it will not save any in the long run. I know we hear that all the time. We hear "this amendment will cost money now and it will save us money down the road." But it is a fact. Currently the Philadelphia Navy Shipyard overhauls aircraft carriers in the SLEP Program, and the carrier is completely gutted. We get virtually a new carrier built, all for less than $1 billion. That sounds astounding, but it is a great deal less than the cost of a new carrier. We extend the carrier service life by 15 years, saving us money at a time when, although we are not increasing the number of aircraft carriers, we have demonstrated how critically important they are to our Armed Forces. Compare the cost of the SLEP Program, of overhauling the existing carrier, to the cost of a brand new carrier. The new one will cost about $3.2 billion. In other words, the SLEP Program gets us one-half the service life of a new carrier at one-third the cost.

The other point I want to make—and there are many to make, and I know my time is running out—is that it is awfully hard to start one of these programs up again. It is a big deal. There is a lot of infrastructure. I do not have to tell the Senator from the State of Virginia, the Presiding Officer, where they do shipbuilding themselves, that if you do not keep the infrastructure in place, and you turn around and think you need it, you are required to exert a great deal of effort and money to get yourself back up to speed.

This is an outfit that has done the job well. No one that I am aware of has made any credible argument to suggest that the assignment that has been given to the Philadelphia Naval Shipyard has not been performed with great efficacy and at costs that were reasonable.

Mr. President, I see the Presiding Officer reaching for the mallet there to tell me my time is about up.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BIDEN. I ask unanimous consent for 20 additional seconds.

Mr. SPECTER. I yield 20 additional seconds.

The PRESIDING OFFICER. The Senator is recognized for an additional 20 seconds.

Mr. BIDEN. Mr. President, this is a valuable program for our national security. I hope my colleagues will join me in opposing the amendment by the Senator from Indiana.

I thank the Chair and I thank my colleagues from Pennsylvania.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. COATS. Mr. President, I have been told that there may be other Senators who want to speak, but they are not here. I am prepared, after yielding myself some time in closing, to yield back whatever time I have. So I guess I will inquire of the Senator from Pennsylvania, if he has additional speakers or wishes time, this will be the time to use it. I will close and we will go to a vote and let Senators get underway.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I am advised that Senator BRADLEY will be on the floor shortly, actually at 6:10. So, we would want to reserve some time for him. I think that we can utilize some time effectively at this point. There was some additional argument and perhaps some discussion between the distinguished Senator from Indiana and myself.

The amendment offered by the distinguished Senator from Indiana seeks to strike the language from the appropriations bill which precludes the Navy from spending money on a comprehensive overhaul. That is because the Navy has requested that there be a Service Life Extension Program in their budget submission for fiscal year 1991. I refer now to page 208 of the proceedings before the Department of Defense Appropriations Subcommittee for fiscal year 1991.

That money was later authorized by the Armed Services Committee and the appropriation has been made for more than that, but at least for the $113 million. My question to the distinguished Senator from Indiana is: In light of the action of the Congress on legislation signed by the President, why should the Department of Defense be permitted to ignore the law of the land and have a comprehensive overhaul?

Mr. COATS. In response to the Senator, it is my understanding that while the Department of Defense at one time was prepared to enter into a Service

Life Extension, commit the *Kennedy* to a Service Life Extension Program, subsequent to that decisions were made, for budgetary reasons, to reduce the number of carriers from 15 to 13—actually 15 to 12 but one of those is a training carrier.

As a result of budgetary pressures on the Department of Defense, and the Department of the Navy, a decision was made that the U.S.S. *Kennedy*, being the newest of the conventional carriers, could have its life extended through an overhaul program which would cost approximately $500 million rather than through a SLEP Program that would cost approximately a billion. I spoke this morning to Secretary Garrett of the Navy who indicated that they can accomplish everything they need to do to extend the life of the U.S.S. *Kennedy* through an overhaul at $500 million and achieve a savings of roughly $500 million and meet the requirements of the authorizations and appropriated amounts that they received for fiscal year anticipated budgets for the 5-year budget plan which we enacted just last year.

Mr. SPECTER. The question I have asked goes to the authority of the Navy and the Department of Defense to make the change on their own after they have come to the Congress and made a request for a Service Life Extension Program. Congress has authorized that. Congress has appropriated the money for that.

Would it therefore be the appropriate practice for the Department of Defense to come back to the Congress and say we want to change the approach, we want to have a deferral, and see if the Congress is going to go along with that?

Mr. COATS. If the Senator will yield for a response to that question, I think that would be entirely appropriate. In fact the very point, the purpose of my amendment is to say that there is a recognized established procedure by which the Department of Defense should come to Congress and request revisions in terms of its plans to meet the security needs of this country.

Mr. SPECTER. But it should not be——

Mr. COATS. If I could finish the answer to the Senator's question. But section 203 which has been placed into this dire emergency supplemental would preclude the Navy from doing the very thing the Senator asked them to do because it takes it out of the authorizing process and it mandates that the Navy have no discretion in the matter. It says they must not spend any funds other than for Service Life Extension Program and that the work must be performed at the Philadelphia Naval Shipyard.

That totally takes away their ability to come before the Armed Services Committee and ask for a revision of plans or a revisit to the question, and it may be that the Armed Services Committee would take the request and reject their request and say no, we think it is more appropriate for this work to be done under a SLEP Program.

Mr. SPECTER. But has such a request been made by the Department of Defense?

Mr. COATS. The Senator is precluding the ability to do that and the Department of Defense—if the Senator will yield for me to respond—the Department of Defense, that is, indicated that is exactly what they would like to do.

Mr. SPECTER. Mr. President, the fallacy with the argument by the distinguished Senator from Indiana is that the Department of Defense has had plenty of time to ask for a deferral or to come to Congress to make some change in the law of the land. But they have not chosen to do so. And it is not a substitute for a telephone conversation between the Secretary of the Navy and the distinguished Senator from Indiana to effectuate that change.

We hear through the back-door rumor that the Navy is going to proceed with the comprehensive overhaul, and that is contrary to the law of the land.

The law of the land is established by an act of Congress, then signed by the President. Congress did not pick this SLEP out of the air; the Congress responded to a specific request by the Department of Defense. That request has been authorized, that request has been appropriated, and the Congress is now saying to the Navy we are tired of dealing with rumor; we want you to follow the law. The Navy has planned—we know it through the rumor mill—to have a comprehensive overhaul and we are simply not going to tolerate the Department of Defense's ignoring the law of the land and going to a comprehensive overhaul.

That is why this language is present and that is why the motion by the Senator from Indiana is premature and inappropriate and wrong. If the Department of the Navy had sent forward a deferral or a formal request to make a change in the law of the United States of America, then it might be appropriate to have this motion to strike.

But I think that the Members of the Congress are really sick and tired of having the laws ignored by the executive branch where the President, the chief executive officer of this country, has signed the bill. That is why a unanimous Appropriations Committee said, perhaps as a matter of principle as much as a matter of concern on the substance here, we are simply not going to allow the Navy to ignore the law. Therefore, they cannot spend the money the way they choose to unilaterally. They have to follow law.

Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator controls 2 minutes and 5 seconds.

Who yields time?

Mr. COATS. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Indiana is recognized for such time as he may use.

Mr. COATS. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 10 minutes.

Mr. COATS. Mr. President, it might be appropriate that I respond at this particular point to some of the statements that have been made both by the Senator from Pennsylvania and the Senator from Delaware. The Senator from Pennsylvania indicates that somehow we are attempting to overturn the established law of the land which mandates that the Navy perform a certain type of overhaul, in this case a service life extension, to one of its aircraft carriers.

It is true that decisions have previously been made in the previous Congress relative to what the Navy should do with the carrier *Kennedy*. It is also true, however, and also the law of the land, that, subsequent to that decision, the Navy has been ordered by this Congress to reduce the number of aircraft carriers it has from 15 to 12.

Mr. SPECTER. Will the Senator yield?

Mr. COATS. I will be happy to yield to the Senator as soon as I finish my statement here.

It is also true that it is the law of the land that the funds available to the Navy to meet its commitments have been drastically reduced. Admiral Kelso this morning addressed the Armed Services Committee and presented a chart showing a drastic reduction in the funds available to the Navy for procurement, for operations and maintenance, for performing all of its functions.

The reality that we face is that we are reducing substantially the amount of funds available for the Department of Defense to perform its functions. So it is only natural that they would come forward with proposals in which they can meet the commitments to secure our national defense with the amount of funds that Congress has provided them. And if they can find ways to meet those commitments by spending less money than what Congress has previously ordered them to do, then that is what we should be encouraging them to do.

So the Navy in this particular instance is simply saying we can meet those commitments and those requirements by spending about a half-billion dollars less than what we previously thought we would have to do, and this is the proposal we would like to bring before Congress.

But again the central point of this amendment that we are dealing with is not whether or not the *Kennedy* should be SLEP'd, or overhauled, nor whether it should be done in Philadelphia or somewhere else. The central point of this amendment is that there is an established process which we ought to go through to make these decisions, that this debate ought to be held where Members can come and debate the merits or demerits of the Navy proposal, and that the authorizing committee can change the decision as to whether or not it is appropriate. The Appropriations Committee then can meet its commitments in providing the necessary funding.

But what we are objecting to here in this particular procedure is the idea of making the decision without debate, making the decision without the Navy having the ability to make a request, making a decision by slipping it into a piece of legislation entitled dire emergency supplemental for the purpose of funding Desert Storm and a few other things that we are saying is so important and so dire and such an emergency that it has to be done in this particular legislation.

This would not even have seen the light of day had this Senator from Indiana not offered this particular amendment. So I am really not even debating the merits or demerits of this particular proposal. I am simply saying this is the wrong way to go about it.

That is why Senator MCCAIN and I have offered the line-item veto, because this happens on every appropriations bill that comes before this body. All kinds of little goodies for our particular area are put in spending programs that have not been debated, have not had an up-or-down vote, have not gone through authorizing committees, but because, for one reason or another, they are attached to these bills knowing that the President needs to sign these very, very quickly, they are labeled emergency dire supplemental appropriations and suddenly we are making decisions affecting the security of this Nation by attaching something in here that completely ties the hands of the very people we are giving the authority to carry out there particular mission.

Now, when Senator MCCAIN and I went down here arguing the line-item veto, the appropriators came down and said, "This is not right. We should not give this authority to the executive branch. If you have a complaint with the way things are being done, come down here when the appropriations bills are on the floor and raise the issue."

So that is what we are doing. And I think it points out the fact that this is a bill, like every other appropriations bill, chock full of things that have not gone through the authorizing committee, that would not be debated, that do not receive a vote, and Members are not held accountable for. They are attached as riders to appropriations bills. And later the public says, "Well, why didn't you debate it? How come you did not have a vote on it? Why is it in there?"

So for all those and other reasons which I will detail a little bit in my closing argument, this amendment from the Senator from Indiana is offered.

I know that my colleague is waiting to ask a question and I would be glad to yield for that purpose.

Mr. SPECTER. I thank my colleague for yielding for a question.

The question has two parts. Is it not true that $113 million has been authorized by the Armed Services Committee, adopted by the Senate, with that authorization still standing? Is it not also true that the fiscal year 1991 budget comprehends the reduction to be 25 percent over the first of the 5 years, so that the reduction has already been taken into account by the Department of Defense in requesting the authorization for a Service Life Extension Program for the *Kennedy*?

I repeat, is it not true, factually, conclusively, absolutely that there is an authorization in existence for $113 million for SLEP?

Mr. COATS. It is my understanding there was an authorization for $113 million. It is also my understanding that, given the budget constraints the Navy and the Department of Defense is now under, they would like to accomplish the purpose for which they need to overhaul the *Kennedy* at a rate much less than that. And of course the $113 million would not begin to perform the SLEP which is estimated to cost $1 billion.

Mr. SPECTER. My second question: after noting that $113 million would at least begin it, is it not true that fiscal year 1991 has the cuts for the Department of Defense budget and within those cuts 25 percent over 5 years, fiscal year 1991 being the first year, acknowledging those cuts, the Department of Defense had asked for the SLEP to start with $113 million, which is authorized?

Mr. COATS. Well, that is also true, if I could respond to the Senator, but the point is that the Senator is saying, as soon as $1 of expenditures is authorized and appropriated on a project, no matter how much it costs and no matter what happens to the budget for the department subsequent to that authorization, that no request for changes can be made and that we will simply deny any ability of the Department of Navy or Department of Defense, or other agency, to ever revise their request, change their opinion, try to adjust to new budget realities.

Mr. President, I wonder if I could inquire how much of my 10 minutes is remaining?

The PRESIDING OFFICER (Mr. BREAUX). Thirty seconds.

Mr. SPECTER. If the Senator would yield for a final part of the question, is it not true that when you assert that the number of carriers has been reduced to 12, the fact of the matter has been a request by the Department of Defense and that reduction has not yet been accepted by the Congress?

Mr. COATS. My understanding is that was authorized in last year's Armed Services authorization.

Mr. SPECTER. I would suggest to the Senator that he is not correct. Last year, the Navy—and I would offer the hearings—14 was the number, and the request for 12 has come in now and it has not been acted on by the authorizers or the appropriators.

Mr. COATS. In response to the Senator, whether the number is 15 or 12 or 20 is really irrelevant to this particular amendment because the point of this amendment is that the decision is being made outside the process by which the decision ought to be made and it precludes the Department of the Navy from coming back and making any change in their initial request to respond to the budget realities that we have imposed upon them by the 5-year budget plan adopted by this Congress in the last session.

Mr. President, unless the Senator from Pennsylvania desires to use some time, I will yield 5 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 5 minutes.

Mr. MCCAIN. Mr. President, in response to the previous question which my friend from Indiana answered very well, let me add the fact that the Secretary of Defense and the Secretary of the Navy have testified consistently that, due to budget constraints, we will be in a 12-carrier battle group Navy. There are many of us who are very, very unhappy about that. Our danger, in all candor, given the budget problems we are facing, is going down to 10, as many in this body have advocated, and many members of the Armed Services Committee have advocated.

So I think our problem is not going down to 12, in all candor. Our problem is maintain it at 12, given the budget constraints we are facing, if we are indeed going to face the significant budget reductions, which I have, so far, seen no effort to be changed.

I have mixed emotions about this issue, in all candor, because I do not think there is a stronger advocate of a maritime strategy than this Senator. I feel very strongly the carrier is the backbone of a maritime strategy, I feel it is our best way to project power, and I feel it is going to be very badly needed in the future.

I have great affection for the *John F. Kennedy*. But let me say at this time of significant budget constraints, it is apparent to me that we are not fighting to keep the *John F. Kennedy* in commission for a number of years, but what seems to be the goal of this amendment is to keep a shipyard in business. Let us face it. Let us look what we are here for.

I would like to see this shipyard and every other shipyard stay in business and every military base in America, including those in my State, stay open. But it is not going to happen because we cannot maintain that infrastructure with a dramatically reduced budget. So let us understand at least to some degree what we are talking about here is not the *John F. Kennedy* but the Philadelphia Naval Shipyard which is a honorable and outstanding shipyard, which has done outstanding work for many, many years, but, unfortunately, has fallen victim to budget reductions.

Let us talk about a SLEP versus an overhaul. Can we really afford—not only a $500 million differential in costs, which is a difference between the overhaul and a SLEP—but I think we should also remember that if this carrier is SLEP'd, it will still require additional overhauls in the future.

In other words, it is not just $500 million, it may be as much as a $2 billion differential. Because if this carrier is SLEP'd, every 5 years or so it will require an additional overhaul of around $400 to $500 million.

I think it is important to recognize that the Secretary of Defense and the Secretary of the Navy, whom we have charged with the responsibilities, have not only not supported this amendment but they strongly oppose it. They have not had the opportunity to appear before this body because this issue did not come before the Senate Armed Services Committee which is the appropriate forum for this kind of very significant action. Certainly, if we are looking at it in terms of cost, approximately, as I say, a $500 million differential or, given the costs of overhaul, closer to $2 billion.

I repeat, I would love to see a 15-carrier battle group. I think I can draw a scenario to this body, and a convincing one, that we need 15-carrier battle groups. But I think the stark reality is that is not possible. Then we have to make some tough choices and the Navy and the Department of Defense made these tough choices and they came up with the result, which was the *John F. Kennedy* would be overhauled rather than SLEP'd.

This amendment that we are seeing also, I think—and I must say in all due respect to the dedication of my colleagues who have brought up this issue—is another testament to going around the process. This should not be in a dire emergency supplemental appropriations bill.

Where is the dire emergency, except to keep the Naval Shipyard open? That is the only dire emergency that I see here. And in the minds of many it is a dire emergency, I am sure; to the residents of the city of Philadelphia and the surrounding area, New Jersey. I have also seen their representatives weigh in, as well as our friends from Delaware. It is very important to them. But the fact is there is no dire emergency here in a global or national or defense context.

I think the *John F. Kennedy* is a fine aircraft carrier. I think it is vital to this Nation's defense. And I would do everything in my power, under the constraints of the budget, to see that we have a large Navy of which the *John F. Kennedy* will remain a part well into the next century.

At this particular time, this particular amendment, in all candor, is not appropriate because of, simply, the decisions made by the Defense Department in partnership with the Senate Armed Services Committee and the Congress.

I yield.

The PRESIDING OFFICER. Who yields time?

Mr. SPECTER. I yield 1 minute as requested to the distinguished Senator from New Jersey.

The PRESIDING OFFICER. The Senator is recognized for 1 minute.

Mr. BRADLEY. Mr. President, the SLEP Program is a cost-effective program. It has long been viewed as such. The choice before us today is an attempt to deny the fact that the SLEP Program is cost effective.

In its place they will put something called complex overhaul. But look at the numbers. With the SLEP Program you get a 15-year overhaul that costs $825 million. With the complex overhaul, you get 5 years for about $500 million. It will cost $1.5 billion over 15 years.

So what you might say is the message that is being sent by the amendment from the distinguished Senator from Indiana is, "you can pay me now or you can pay me more later." I believe the SLEP Program is effective and the payments should be made now and not in 5-year segments, at almost 80-percent increase in cost to the taxpayer.

But an interesting thing is the Navy wants to close the Philadelphia Naval Shipyard. If they do, this is a great amendment to try to do that. Because if you knock out the SLEP Program, you then can slip in and justify closing it because the SLEP Program is gone. That is why this amendment should be rejected.

The PRESIDING OFFICER. Who yields time?

Mr. COATS. Mr. President, may I inquire how much time remains?

The PRESIDING OFFICER. The Senator from Indiana controls 13 minutes, 16 seconds. The Senator from Pennsylvania controls 25 seconds.

Mr. COATS. Mr. President, I yield myself an additional 5 minutes.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 5 minutes.

Mr. COATS. Mr. President, the argument here is not whether or not the SLEP Program is an effective program or whether overhaul is a better program. In some instances, overhaul can save the taxpayers a lot of money and that is all that is needed. In other instances, SLEP is perfectly appropriate and ought to be employed in order to extend the service life of a particular piece of equipment, in this case an aircraft carrier. That is not what this argument is about at all.

This argument also is not about whether or not we ought to have 15 aircraft carriers or 12 aircraft carriers. This Senator from Indiana has a record of supporting national defense that is second to none in this Congress. I, like the Senator from Arizona, wish we were not in a budgetary situation where we had to reduce our national defense.

This amendment by the Senator from Indiana to remove this section has nothing to do with whether or not we should have 12 or 15 carriers. Nor does it preclude, as the junior Senator from Pennsylvania said, any ability to determine whether nuclear carriers are cost effective. I think we are moving toward a total force of nuclear carriers and probably at some point in the future we should.

This argument is not about that at all. This argument is about whether or not this is the proper procedure with which to make these discussions. If it is, then there is no need to have a Senate Armed Services Committee because whatever decisions are made, whatever evaluations are made, are irrelevant, if, through the appropriations process, those can be overturned or those decisions can be made moot.

Let me just counter one more thing. The Senator from Delaware indicated that if we simply rubber stamped everything that the Department of Defense does not want, then we are jeopardizing the ability of Congress to make those decisions and, in fact, he suggested, of course, this Senator from Indiana is a supporter of the V-22 and the Navy does not want that and the Department of Defense does not want that and, therefore, there seems to be some inconsistency here. That is not the case at all.

There are three programs outlined in this particular section under Department of Defense for spending. One is the V-22, which I support, but it has gone through the authorization process; and even though the Department of Defense does not want it, it has been debated, it has been voted on, and it has been authorized, and so providing funds for that is appropriate because it has been subjected to the proper debate in authorization.

There is another program in here to continue the remanufacture of the F-14. That is the program this Senator voted against. This is an area where I agreed with the Department of Defense. But I lost. But I am certainly willing to accept the result because, again, it went through the appropriations authorization process and there was a vote. I happened to come out on the short end on that one.

This particular section is something that has not gone through the process and it does one extremely important thing that I do not think we in this body should allow: It not only directs the type of expenditure, it directs where the expenditure must be made.

Mr. President, if we allow this to happen, there is going to be a rush to this floor led by this Senator to use this process to totally circumvent the base closing process. Every Senator is going to want to come down here and say not only are we going to mandate the Department of Defense spend a certain amount of money, but we are going to mandate where they have to spend it. So if anybody has a base or a shipyard or a program they think might be in jeopardy because the Base Closing Commission might come along and recommend closing it, a very simple way of circumventing that is to simply direct that appropriated funds must be spent only at that particular place.

As this section says, these funds can only be spent at the Philadelphia Naval Shipyard.

The Senator from Delaware said we ought to be concerned about the budget, what is most cost effective. I do not think the most cost effective program is to mandate where those funds are to be spent. We ought to have an evaluation of where the taxpayer can get the best return for his or her dollar.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. COATS. I yield myself 5 minutes.

Mr. SPECTER. Will the Senator yield for a question?

Mr. COATS. As soon as I finish my thought, I will be more than happy to yield to the Senator for a question.

Mr. President, I am deeply concerned that we have found a very clever way to circumvent what the decisions of the Base Closing Commission are going to be.

There are rumors floating around Indiana that Grissom Air Force Base, which is a base that houses KC-31 tankers, may be on the hit list. In fact, we have a meeting this afternoon with a number of officials from Indiana, as well as the Department of Defense, over that very concern.

There is some concern that, in the future, the needs of Grissom Air Force Base may not survive the recommendation of the Base Closing Commission.

It occurs to me if this is the process we are going to use, when the next urgent supplemental or appropriations bill comes along, I might be able to slip a little piece of language in there that requires the Department of Defense, whether they want to or not, to retrofit or upgrade those KC-135's. If I am clever enough, I will add that retrofit can only take place at Grissom Air Force Base in Indiana and, knowing what their schedule is, that retrofit will have to take place at a time after the base closing commission makes its recommendation.

I suggest as soon as the cat is out of the bag here, every Senator of the U.S. Senate is going to be down here or banging on the door of the Appropriations Committee attempting to add language to supplemental appropriations or other appropriations bills which lock in their particular facility or installation. No doubt about it.

This amendment by the Senator from Indiana has nothing to do with SLEP, has nothing to do with how many task force carriers we are going to have, has nothing to do with anything other than the fact that it points out two very important things:

No. 1, we are through this process tying the hands of the Department of Defense in terms of whether or not they can close a particular facility, where they have to do the work, and what work they have to do.

Second, we are going outside the process that has been established for where these decisions ought to be made. We are getting outside of the authorization process, the decisions will not be made on a rational basis and the Navy will be precluded from making any changes in previous years' requests and the authorizing committees will be precluded from making any changes relative to what work should be done and where it should be done.

Finally, we will have found a way to totally circumvent the process of the Base Closing Commission. We might as well fold that thing up before it even starts because we have now found a very clever way to circumvent it.

Mr. President, I know the Senator from Pennsylvania seeks to ask a question. If I can yield briefly for that question.

Mr. SPECTER. I thank my colleague. Mr. President, when the distinguished Senator from Indiana was responding to the question by the distinguished Senator from Delaware on V-22, and the Senator from Indiana made the principal thrust of his argument that this procedure undercuts the authority of the Armed Services Committee, and then the Senator from Indiana says he thinks the V-22 Program is proper and the language of this appropriations bill is proper, where the Appropriations Committee—this is the focus of the question—the Appropriations Committee has ordered the Department of Defense to spend money within 60 days of a V-22 and the Department of Defense has said it does not want to, just as the Senator from Indiana asserts the Department of Defense does not want to spend money for the SLEP Program, is not the authority of the Armed Services Committee being undercut precisely the same on the V-22 as on SLEP Program, and would not the force of the arguments of the Senator from Indiana require striking the V-22 Program as well?

Mr. COATS. In response to the Senator, in one sense the debate here today has made the point this Senator is trying to make relative to line-item veto, and that is these decisions ought to see the light of day. All of these, I think, ought to be initiated in the appropriate authorizing committee.

We do have a procedure whereby Members, through the Appropriations Committee or on this floor through amendment, can bring up an amendment to deal with a particular procurement program or particular appropriation. It is entirely appropriate to debate that, to debate the merits and demerits of a particular proposal, and take a vote up or down and live by the request.

We may not always agree with what the request of the Department of Defense is.

This has now seen the light of day and Members will vote on this and we are doing it on the merits rather than attaching it to a dire emergency supplemental which is never discussed, debated, and goes outside the regular process.

The PRESIDING OFFICER. The Senator has 2 minutes and 15 seconds remaining.

Mr. COATS. I yield 1 minute to the Senator from Arizona.

Mr. McCAIN. Mr. President, I would just like to, first of all, congratulate my friends from Pennsylvania for their hard work and dedication in behalf of the people of Philadelphia and the Philadelphia Naval Shipyard.

The question here is neither their ability, their hard work, nor the efficiency of their shipyard.

I applaud both of my friends from Pennsylvania in this effort. I also would like to applaud my friend from Indiana because sooner or later—and I am sorry this particular part of this bill has to be the primary target—we have to get these kinds of spending under control.

We have to have these issues debated by the Senate and, indeed, by the whole Congress. We need to control get the kind of spending under control which has faced us with an incredible deficit which we have to overcome. The only way, in my view, we can overcome it is by doing away with these kinds of appropriations bills and giving the President the line-item veto.

I thank my colleague from Indiana.

The PRESIDING OFFICER. Who yields time?

Mr. COATS. Mr. President, I yield myself the remainder of the time.

Mr. President, in conclusion, let me also state that I have no objection whatsoever to the Senators from Pennsylvania and Delaware, and wherever else they may want to come from to defend a particular military installation. That is exactly what they should be doing and what this Senator would be doing relative to installations in his State.

As I said, that is not the issue. The issue is whether we will follow the process and procedures which this very body established in terms of how we make these decisions.

I suggest that if we pass legislation which totally removes decisions from the process that has been established whereby we make these decisions, then we are going to continue, whether it is military expenditures or appropriations for any of 1,000 other programs, the practice that the public finds so offensive, and that is not holding debate on issues.

Mr. President, I assume my time has expired.

The PRESIDING OFFICER. The time of the Senator from Indiana has expired. The Senator from Pennsylvania has 45 seconds remaining.

Mr. SPECTER. Mr. President, I think the argument here has shown conclusively that this should not be stricken. The language about the Philadelphia Naval Shipyard is only surplusage, because SLEP can only be done at the Philadelphia Navy Shipyard.

I think, in the final comments by the distinguished Senator from Indiana, he has, in effect, conceded the point when he talks about procedure. The procedure should govern. The law established by Congress and signed by the President is to have this SLEP. It has been authorized. When he says the V-22 was proper on what the Appropriations Committee has done here, the SLEP is exactly the same. It has been authorized and appropriated. The President has signed it to go forward.

Mr. COATS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. All time has expired.

Mr. SPECTER. Mr. President, I move to table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SPECTER. Mr. President, I move to table the Coats amendment.

The PRESIDING OFFICER. There has been a motion to table. The question is on agreeing to the motion to table.

Mr. BUMPERS addressed the Chair.

Mr. SPECTER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays are requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will please call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 44, nays 56, as follows:

[Rollcall Vote No. 39 Leg.]

YEAS—44

Adams
Akaka
Baucus
Biden
Bond
Bradley
Byrd
Chafee
Cranston
D'Amato
DeConcini
Dodd
Dole
Domenici
Ford
Garn
Harkin
Hatch
Hatfield
Heinz
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moynihan
Murkowski
Packwood
Pressler
Pryor
Reid
Rockefeller
Rudman
Sarbanes
Simpson
Specter
Stevens

NAYS—56

Bentsen
Bingaman
Boren
Breaux
Brown
Bryan
Bumpers
Burdick
Burns
Coats
Cochran
Cohen
Conrad
Craig
Danforth
Daschle
Dixon
Durenberger
Exon
Fowler
Glenn
Gore
Gorton
Graham
Gramm
Grassley
Heflin
Helms
Hollings
Kerrey
Kohl
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mitchell
Nickles
Nunn
Pell
Riegle
Robb
Roth
Sanford
Sasser
Seymour
Shelby
Simon
Smith
Symms
Thurmond
Wallop
Warner
Wellstone
Wirth

So the motion to table the amendment (No. 59) was rejected.

Mr. COATS. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair observes that the yeas and nays have been ordered on the underlying amendment.

Mr. COATS. I move to vitiate the order for the yeas and nays.

The PRESIDING OFFICER. Is there objection?

Without objection, the motion to vitiate the yeas and nays is agreed to.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 59) was agreed to.

Mr. COATS. I move to reconsider the vote.

Mr. ROBB. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 63

Mr. LEAHY. Mr. President I send an amendment to the desk on behalf of myself and Mr. JEFFORDS and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself and Mr. JEFFORDS, proposes an amendment numbered 63.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of Title I, add the following:

SEC. 103. MAINTENANCE OF NUTRITION PROGRAMS.

(a) MAINTENANCE OF BENEFITS.—In order to ensure that benefits under the Special Supplemental Food Program for Women, Infants, and Children established pursuant to section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) (hereafter referred to in this section as the "WIC" program) are not significantly reduced as a result of the implementation of section 101(a) of this Act, the Secretary of Agriculture shall distribute as soon as possible at the beginning of the second, third, and fourth quarters of 1991 a portion of the funds described in section 101(a)(2)(A) of this Act to each State agency overseeing the WIC program, as needed to prevent any decline in the average monthly participation in the WIC program as determined in subsection (b) caused as a result of the implementation of section 101(a).

(b) DETERMINATION.—Any determination under subsection (a) by the Secretary of Agriculture of a decline in the average monthly participation in the WIC program as a result of the implementation of section 101(a) of this Act shall—

(1) be based upon any difference between the estimated average monthly participation in the WIC program (as set forth in the Budget of the United States Government for fiscal year 1992 submitted by the President of the United States to the Congress of the United States) and monthly participation levels in such program for each of the last three quarters of 1991 (as estimated by the Secretary of Agriculture on a quarterly basis) that is caused by an increase in the seasonally adjusted cost of fluid milk during the last three quarters of 1991 (as measured by the Retail Price Index for Urban Consumers of Whole Milk issued by the Bureau of Labor Statistics) that is greater than—

(A) for the second quarter of 1991, the seasonally adjusted cost of fluid milk during the first quarter of 1991 multiplied by 1.00925;

(B) for the third quarter of 1991, the seasonally adjusted cost of fluid milk during the first quarter of 1991 multiplied by 1.0185;

(C) for the fourth quarter of 1991, the seasonally adjusted cost of fluid milk during the first quarter of 1991 multiplied by 1.02775; and

(2) be made on the record.

(c) DELAY IN DISTRIBUTION OF FUNDS.—The Secretary shall not delay the distribution of funds to producers of milk under section 101(a) of this Act due to provisions of this section.

(d) FINAL ADJUSTMENTS.—If actual monthly participation levels in the WIC program (determined in accordance with subsection (b)(1)) are different from the Secretary's estimate in subsection (b)(1), the Secretary shall make adjustments, based on actual monthly participation levels, in the distribution of funds under this section or under section 101(a) of this Act to carry out the purposes of subsection (a) of this section and to maintain dairy income under section 101(a) of this Act.

Mr. LEAHY. Mr. President, yesterday, the Senate debated and passed an amendment offered by Senator JEFFORDS and myself that provides emergency assistance to our Nation's dairy farmers.

Some questioned the impact of the amendment on the poor and hungry.

Others questioned its impact on WIC—the Women, Infants, and Children Program.

The debate reminded me of how often a handful of us have stood in this Chamber arguing for full funding of WIC and how often our calls have been ignored.

WIC serves children at some of the most critical times of their lives. It feeds mothers when they are pregnant or breastfeeding. And it feeds children during their important, early development years.

WIC is a proven success story. A 1990 USDA study showed that for every WIC dollar spent on a pregnant woman, between $2.84 and $3.90 was saved in infant Medicaid during the first 60 days after birth.

And, according to the Surgeon General, the average medical cost of a low birthweight baby can exceed $39,000. The average cost of the WIC package is $30 a month.

At retail stores, WIC participants exchange special vouchers for infant formula. The recipients pay nothing; the State reimburses the store for the full retail cost of the formula. The infant formula manufacturers then rebate a portion of the retail price to the State.

To help States get higher rebates from formula companies, I proposed legislation in 1987, which Congress passed, allowing States to obtain higher rebates from infant formula companies through competitive bidding procedures.

Because less than half the States participated, a 1989 law that I sponsored made the competitive bidding procedure mandatory for all States.

By 1991, the average rebate climbed to $1.36 per can. USDA estimates that these two laws have generated $600 million in rebates, allowing WIC to serve 950,000 additional recipients at no extra cost to taxpayers.

Mr. President, as I said before, yesterday, we approved an emergency dairy amendment by a vote of 60 to 40.

Today, the claim is made that the emergency dairy amendment, by raising the price paid by processors for fluid milk, would result in the loss of more than 100,000 participants in the WIC Program or a 30-percent decline in WIC Program benefits.

These numbers are very hard to believe and are not supported by the facts.

The total WIC food benefits request in the President's fiscal year 1992 budget is almost $2 billion. A 30-percent decline in WIC benefits would be approximately $600 million. To support this figure, the price of milk would have to jump by $4 per gallon, $4 per gallon. It should go without saying that the emergency dairy amendment will not raise the price of fluid milk used in the WIC Program by $4 per gallon. This claim should not even need to be addressed on the floor of the Senate.

But that is the argument we are faced with today.

I must repeat what I said yesterday. I do not believe that, as a result of the dairy emergency amendment, there will be substantial or significant changes in WIC benefit levels or WIC Program participation.

But in order to reassure Senator DOMENICI and the other concerned Senators, I am offering today an amendment that will hold WIC Program participants harmless if there are any effects on the WIC Program as a result of the changes in class I prices as a result of the dairy emergency amendment. Dairy farmers will reimburse the WIC Program if there are additional costs to WIC as a result of the emergency dairy amendment.

Senators in this Chamber should be relieved to know that the amendment offered today by Senator DOMENICI would have allowed up to 50,000 WIC participants to leave the program before granting any relief. The amendment I offer now will be of benefit to all WIC participants if it is needed.

Again, I must repeat, the amendment addresses all valid concerns about the WIC consequences of the dairy emergency amendment.

Finally, I want to make clear that the authority provided by this amendment cannot be used to prevent or delay the implementation of the emergency dairy program under section 101.

Mr. President, there was some question yesterday of how the amendment propounded by Senator JEFFORDS, myself and others, which passed 60 to 40, might have affected the WIC Program.

I have tried to assure members that there has not been one piece of WIC legislation that has passed the U.S. Senate in the last 17 years that has not had my name on it. I yield to nobody in this Chamber in my support of WIC. There is some tremendous support of WIC in this Chamber. We want to make absolutely sure, if there are further profits of the dairy farmers, that it does not affect the cost of WIC recipients, by making sure that, under appropriate appropriations, the cost of the WIC Program went up, the profits of the dairy farmers would have to be taken on the formula shown in the amendment to pay for the difference and thus keep people on WIC, not take people off, but guarantee that they stay on. That is the gist of the amendment.

Mr. JEFFORDS. Mr. President, as a strong, longtime supporter of WIC, I am very gratified by the tremendous support the WIC Program is receiving. I hope this support is equally strong during the budget and appropriation processes.

I applaud Senator LEAHY's amendment and support it, as do the Nation's dairy farmers. As I said during the debate yesterday, nobody is going to suceed by trying to pit dairy farmers against consumers. Ironically, dairy farmers themselves are being WIC eligible every day.

Those who are new to WIC Program may assume it is nothing but milk. This is not true. WIC dollars pay for doctors and nurses, eggs and orange juice, cereal and infant formula. Perhaps 15 percent of WIC dollars go to fluid milk.

More to the point, I do not think the amendment adopted yesterday will put any pressure on those dollars. The middleman has increased his price spread 40 cents over the past few months. Any and all of the farm price increases contemplated by our actions can be absorbed in that spread.

But let us use our opponents numbers. They claim a 16-percent price increase will result. What is 16 percent of the 15 percent of WIC costs attributable to fluid milk? Less than 2.5 percent. That, not 30 percent is the outside impact our opponents can claim.

So they are off by a factor of 10. So they assume the middlemen keep their fat price spread. So they assume a passthrough of all costs. Pretty poor assumptions. But—we will put money where their mouths are. We will put an insurance policy in place to make sure no WIC participants will suffer.

People who truly care for WIC will support this amendment. People who want to use WIC as a political football will not.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DOMENICI. Mr. President, in the end, I believe that the chairman of the Agriculture Committee has put to the Senate an amendment that at least indicates what the Senator from New Mexico said about the new dairy program and its potential harm to low-income consumers, and it has some merit.

This amendment which is offered is an effort to let the dairy program reimburse the States for any moneys they might lose and thus to keep the WIC entitlement at its current level.

While I support the idea, and clearly this is better than nothing and I will not oppose it, I doubt very much in the end whether it will do the job because I think it is too cumbersome. I am not at all sure that the way the money will be sent down to the States from the dairy program is going to work.

Nonetheless, I think it is better than where we were yesterday. Let me suggest, however, that it also in my opinion is a clear vindication of another issue. If that dairy amendment has significant impact on the WIC recipients of this country, I guarantee you it is going to have significant impact to all consumers because consumers across America use dairy products, milk, and all the same nutritional items that are in WIC. So what we did with the adoption of the dairy program is to dramatically increase the cost to all consumers of dairy products.

In this amendment we are going to try in a way, albeit less than successful in my opinion, to hold the WIC Program harmless. If if works, if that dairy program becomes law, and I hope it does not, but if it does this will be an effort to see that the lowest-income consumers do not get hurt. What about the rest? All in the name of helping the dairy program.

I thank the Chair and yield the floor.

Mr. LEAHY. Mr. President, I ask unanimous consent that Mr. KOHL be added as a sponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KOHL. Mr. President, yesterday the Senate adopted, on a 60 to 40 vote, an amendment offered by Senator LEAHY, Senator JEFFORDS, Senator KASTEN, and myself to provide emergency price relief to dairy farmers. And I want to thank all of my colleagues who supported us in our efforts to keep thousands of dairy farmers from facing bankruptcy this year.

After yesterday's vote, the Senator from New Mexico [Mr. DOMENICI] voiced concerns about the possible impact of the amendment on participation rates and benefit levels under the WIC Program.

Let me respond. First, I am—as I know the other sponsors of yesterday's amendment are—very willing to take whatever precautions necessary to ensure that WIC participation rates do not suffer as a result of our amendment. We did not include such precautions in yesterday's amendment because we do not believe that it will cause significant changes in WIC benefit levels or program participation.

But we are certainly willing to do so, and we have prepared an amendment that will hold the WIC Program harmless. It ensures that funds collected under our amendment will be used as needed to prevent a decline in WIC Program participation rates caused by any increase in retail milk prices.

Mr. President, our amendment will adequately protect the WIC Program from any possible impact of the emergency dairy legislation adopted yesterday. And I urge colleagues to support it.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I say for the record that I am somewhat troubled with this amendment. I understand that its purpose is to protect the WIC Program, which I support, but the reason that it concerns me is that the amendment could have the effect of providing additional funds for the WIC Program. The WIC Program is a discretionary account funded by appropriations legislation. The amendment offered appears to make mandatory funding changes in this discretionary program.

Because of this concern I will say to the Senator from Vermont that I will agree, and I have conferred with Senator HATFIELD and he associates himself with my remarks, to accept the amendment with the understanding that we are accepting it in order to complete action on the bill and take the bill to conference. But it is also my intention not to use this bill as a method for taking away the discretionary nature of the WIC Program.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is agreeing to the amendment.

The amendment (No. 63) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, while waiting momentarily, I ask unanimous consent that upon the passage of the bill the Senate request a conference with the House of Representatives on the disagreeing votes, that the Senate insist on its amendments, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. BYRD. Mr. President, I have the floor.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. CHAFEE. I wonder if during the conference I might proceed for a few minutes?

Mr. BYRD. I yield to the distinguished Senator 2 minutes.

Mr. CHAFEE. Mr. President, I am a staunch supporter of the WIC program and indeed join every year with the senior Senator from Arizona to push for increases in the WIC funding.

I do not object to the amendment by the Senator from Vermont. However, I do have some concerns about it. Frankly, I regret that we have started down this path at all.

It seems to me that what we have done is approve a dairy price increase for fluid milk. Then, realizing that an increase will almost certainly hurt nutrition programs such as WIC, we are now in the process of adding a very complicated provision to offset any additional costs to the WIC Program.

It seems to me to be needlessly complicated and indeed to be starting down a new, untried policy path.

Some of the problems:

First, this amendment would safeguard WIC, or at least it is intended to, but it leaves the dairy processors and the consumers out in the cold. They still have to pay for the price increase.

Second, with regard to the WIC offset, this sets up a complicated chain of aid: the Government raises prices, that helps dairy farmers, they in turn must subsidize WIC participants.

All this subsidizing—a circle of subsidies—gets extremely complicated, and it is not good policy.

Third, at least with regard to the class 1 milk prices, all this is temporary. All this fuss is for an 8-month change in prices.

In sum, I hope that the conference committee will review these dairy/WIC amendments carefully.

Frankly, all this might have been avoided had this bill been studied in committee, and studied thoroughly. Then we might have been able to evaluate the bill with better information about its impact.

AID TO TURKEY

Mr. INOUYE. Mr. President, I would like to express my continued support for the traditional 10-to-7 ratio of United States military aid to Turkey and Greece. In recent years, this tradition has been embodied in specific earmarkings of military assistance in the foreign assistance appropriations bill.

The bill we are about to pass, H.R. 1281, contains an additional $200 million in aid to Turkey to offset losses due to the Persian Gulf crisis. I wish to make it clear, however, that the provision of this assistance is an exception and does not alter the principle of maintaining the 10-to-7 ratio in annual appropriations.

The principle of the 10-to-7 ratio remains intact and continues to be, in the minds of a great many Senators, the best means for the maintenance of a just American foreign policy toward the Eastern Mediterranean region.

PEACE IN THE MIDDLE EAST

Mr. JEFFORDS. Mr. President, this Nation has just emerged from 6 months of crisis and conflict in the Middle East. Yet I am afraid that some our policies for peace may be sowing the seeds for another war.

Several times during the past decade we have had to send U.S. military forces to the region or lend U.S. military protection to Arab nations. While we were successful in driving Saddam Hussein out of Kuwait, Americans do not want to have to commit lives and resources to a similar battle in the near future. Yet, if we do not seize this short moment of opportunity to advance the cause of peace, chances are great that we will have to send the U.S. military back to the Middle East in the coming decade.

We have seen how Saddam Hussein placed the highest priority upon development of his military, to the detriment of all other aspects of social development. He amassed the fourth largest army in the world and kept it actively involved in waging war for most of the decade. When the 8-year war with Iran ended, he turned his army upon Kuwait. But Saddam didn't develop this army in a vacuum. He was assisted by arms sales and technological assistance from the developed world, including our allies in Operation Desert Storm—France and Germany—and even the United States. Preoccupation with the outcome of the Iran-Iraq war and eagerness to find a market for our goods blinded us and our allies to the true nature of Saddam's rule and ambitions. Over the last 6 months we have paid dearly for that lack of attention.

We must now learn from our past mistakes. There is general international agreement that no military assistance should be provided to Iraq as long as Saddam remains in power. Yet, the rush to rearm the region is in full swing. On February 28, the day after the cease-fire was announced, the administration informed Congress that it plans to go forward with a sale to Egypt of $1.6 billion in new weapons, including 46 F-16 aircraft. Egypt was a dependable ally, both militarily and politically, throughout the gulf conflict and deserves U.S. support for that stand. Last fall, I supported the forgiveness of $6.7 billion in debt incurred from the purchase of military equipment from the United States in prior years. There was general agreement that the poor condition of the Egyptian economy makes it highly unlikely that Egypt would be able to repay this debt in the foreseeable future. So why are we encouraging Egypt to get even further in debt with this new military purchase? How does an Egyptian arms buildup affect the balance in the region?

It has now come to light that the administration is considering selling almost $20 billion in new arms to Turkey and a variety of Arab nations. The argument is being made that if we are to pull our military out of Saudi Arabia and Kuwait, we must beef up the military capabilities of our allies. But I do not buy that. Our role should not be that of permanent policeman of the gulf, nor should we take it upon ourselves to address the military inequities of the region. Both these jobs would best be handled by the United Nations. The causes of instability in the Middle East are many, diverse and ongoing. Simply arming the region today so that we can pull out tomorrow will sow the seeds for another crisis within the decade. The nations of the region would be much better off putting their resources into social and economic development instead of increased military capabilities. And conflicts in the region are best addressed by greater emphasis upon a U.N. role, rather than larger armies and more weapons.

While the administration's request for $650 million for Israel in compensation for military costs incurred during the gulf conflict is different from direct military sales, it could fuel the same fires of militarization. Many of the Arab nations feel intimidated by Israel's military superiority. While Israel considers the total size of Arab armies arrayed against it, the Arab nations tend to compare themselves individually to Israeli military preparedness. The Israeli Government has indicated its willingness to discuss restrictions on arms sales, and we ought to pursue that interest. It is critical that we consider the political and military impact of all arms sales and strive toward greater regional stability.

Israel's fortitude and patience in enduring repeated Iraqi Scud missile attacks without retaliating are very commendable. This, combined with the quick and effective United States response to the threat to Israel have considerably strengthened the United States-Israeli relationship over the past few months. The improved tenor of this relationship is an important condition for any progress toward peace in the region. We should capitalize upon our improved relationship with Israel and our better standing in the Arab community to advance the peace process.

Mr. President, many nations in the Persian Gulf are suffering from the high cost of the war. Beyond the devastation of Kuwait, Saudi Arabia has sustained direct damage and considerable military cost. Turkey is struggling to cope with the sudden losss of a major portion of its foreign trade. Many Arab nations have taken direct and indirect losses because of their participation in the embargo of Iraq. Six gulf nations have also committed troops to the allied effort. Most of these nations are not receiving compensation for these contributions and costs, and a few have pledged additional funds to the Defense Cooperation Account in the U.S. Treasury. We continue to exert considerable pressure on all our allies to follow through on their pledges. Military compensation for only one ally seems to me to make the case for burdensharing more difficult.

Progress toward peace in the Middle East will definitely be slow and grueling. We must be sure that all other aspects of U.S. policy are supportive of this goal. I believe that further arming of the powder keg that is the Middle East is detrimental to that goal. It would be shortsighted of us to get swept up in the short-term political and financial benefit of such sales and ignore their impact upon overall trends in the region and the long-term prospects for peace.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Mr. KERREY. Mr. President, the 1990 farm bill includes a provision authored by the Senator from Arkansas [Mr. PRYOR] and this Senator that directs the Secretary of Agriculture to establish a separate, independent appeals process within USDA's Agricultural Stabilization and Conservation Service.

This independent appeals structure was enacted in response to concerns raised by farmers across the country who believe that the same ASCS people were acting as judge and jury in making final determinations regarding farmers' compliance with our farm programs.

Unfortunately, Mr. President, our efforts to create a separate appeals division at ASCS have been stymied by USDA's determination that a provision in the fiscal year 1991 agriculture appropriations act allows the Department to ignore the farm bill mandate to establish an independent appeals division.

In making its decision, USDA is relying on section 640 of the fiscal year 1991 Agriculture Appropriations Act, which reads as follows:

> None of the funds in the Act may be used to establish any new office, organization or center for which funds have not been provided in advance in Appropriations Acts, except that the Department may carry out planning activities.

Mr. President, as a member of both the Appropriations and Agriculture Committees, I believe that USDA's position on this matter is just plain wrong, for the following reason.

ASCS already has an appeals staff that includes hearing officers, clerks, and so on. Thus we are not asking USDA to create something out of nothing. We are merely asking them to restructure their appeals staff in such way that the system provides farmers an independent and fair means to appeal adverse Farm Program rulings. Congress regularly appropriates money for the existing appeals staff, and we are merely telling USDA to reorganize the appeals staff as a separate structure.

At this time, Mr. President, I would like to ask the senior Senator from North Dakota, the chairman of the Appropriations Subcommittee on Agricutlure, Rural Development and Related Agencies, if he agrees that nothing in the current year's agriculture appropriations act allows USDA to ignore the mandate included in the farm bill to establish a separate ASCS appeals division.

Mr. BURDICK. Mr. President, I have reviewed the provisions cited by the Senator from Nebraska. I agree that the language included in the fiscal 1991 Agriculture Appropriations Act does not allow the Department of Agriculture to ignore the provision of the 1990 farm bill requiring USDA to establish a separate ASCS appeals division.

The farm bill provision cited by the Senator mandates the restructuring of existing agency resources and personnel, and thus does not violate the prohibition included in this year's agriculture appropriations act that precludes the creation of any new office at USDA not supported by an advance appropriation.

Mr. KERREY. I thank the chairman for his interpretation and I urge the Department of Agriculture to adhere to the mandate from Congress.

Mr. BUMPERS. I thank Senator KERREY and Senator BURDICK for raising this important issue and for clarification that section 640 of the fiscal year 1991 agriculture appropriations act should not be interpreted as prohibiting the implementation of the ASCS appeals process as outlined in the 1990 farm bill.

A few years ago, farmers in Arkansas were caught in a nightmare of inaction by the existing ASCS appeals process and although most of the farmers were eventually exonerated, the lengthy delays forced many farmers out of business. The lesson of that example, and others, led me to applaud the work of Senator KERREY and my colleague from Arkansas, Senator PRYOR, for language in the 1990 farm bill to establish an ASCS appeals process that will remove most of the obstacles that farmers have had in obtaining a speedy and procedurally correct means to address any grievance or complaint they may have with an action by ASCS.

During recent hearings before the Appropriations Subcommittee on Agriculture, Rural Development and Related Agencies, I submitted questions to ASCS to determine their intent to implement this program. Although I have not received a formal response to my questions, all indications are that the answer will be no. In fact, a number of farm periodicals have already reported that ASCS plans not to put the new appeals process in place.

Mr. President, I believe that a failure of ASCS to provide this Nation's farmers with the appeals process as outlined in the 1990 farm bill will be seen as a breach of faith by farmers who looked to this new process as a necessary tool to deal with a very large and complicated Federal agency.

Mr. BURDICK. I thank the Senator from Arkansas for his remarks and agree that farmers need an appropriate forum for fair and equitable review of agency actions. As I have stated, the provision of the 1990 farm bill to develop this new procedure should not be read as to apply to section 640 of the fiscal year 1991 agriculture appropriations act. As the Senator points out, the farm bill requires the program be developed and is not so much the creation of a new office as it is the reformation of an existing practice.

Mr. BUMPERS. I thank the chairman and the Senator from Nebraska for their statements and I join with Senator KERREY in urging the Department of Agriculture to adhere to the congressional mandate.

UNEMPLOYMENT INSURANCE ADMINISTRATIVE EXPENSES CONTINGENCY RESERVE FUND

Mr. RIEGLE. Mr. President, I would like to commend the Committee on Appropriations on its effort to include in the supplemental appropriations bill before us additional funding for the administrative expenses of the Unemployment Insurance Program. Due to the recession, unemployment claims have increased far beyond the level anticipated when the fiscal year 1991 appropriations bill was being drafted. Several weeks ago, I initiated a letter, signed by 11 of my colleagues, calling on the committee to provide as much as twice the $100 million which the President had requested. We asked for this higher amount because the state agencies which administer the program believe they may need as much as $200 million to provide benefits on a timely basis to people in need.

Congress has a habit of underfunding the administrative expenses for the Unemployment Program. Supplemental appropriations for unemployment insurance administrative expenses have been required in 10 of the past 18 years. It is difficult to predict the future course of the economy. So it really should not be surprising that the Appropriations Committee have difficulty estimating accurately the amount of administrative funding that will be needed over the course of the year.

For this reason, I and my 11 colleagues asked the committee to consider legislating a contingency reserve fund, to be drawn upon in the event the committees' projections are wrong. I remind Senators that the Unemployment Insurance Program more than pays for its own administrative expenses; last year the administrative account of the UI trust fund generated a surplus of about $1 billion. These revenues are being used to hide the size of the overall fiscal deficit while unemployed people are forced to wait between 4 and 6 weeks before receiving their unemployment checks. This is unacceptable.

So while I was pleased that the committee appropriated $150 million, and the White House has agreed to designate this as emergency funding—indeed I wrote to the President last month to ask him to do just that—I am concerned that the $150 million is on the low range of what the states project their needs to be. Unemployment insurance is the first line of defense in our society's safety net. The Unemployment Insurance Program is not the place to scrimp or cut corners. Companies and workers finance this program directly; the least the Federal Government can do is ensure that the program delivers the benefits when they are needed. During a recession, an unemployment check is sometimes the only thing that stands between a person and foreclosure or even hunger.

For this reason, I continue to believe strongly that Congress should include in this supplemental appropriations bill a contingency reserve fund. The language I propose would provide an additional $30 million in fiscal year 1991 for every 100,000 person increase in the average weekly insured unemployment level—including a pro rata amount for any increment less than 100,000—above the 3.345 million level assumed in the President's fiscal year 1992 budget request. The moneys would be appropriated from the employment security administration account of the unemployment trust fund.

This is similar to the way the Social Security system provides for adequate administrative expenses. I would submit that there is an even greater need for a contingency fund in the UI Program, since it is much harder to predict the number of unemployed persons a year in advance than it is to predict the number of Social Security beneficiaries. The former is a function of the notoriously unpredictable business cycle; the latter is primarily a function of demographics.

It has been my intention to offer an amendment to the supplemental appropriation bill establishing such a contingency reserve; however, it is my understanding that the distinguished chairman of the Appropriations Committee, Senator BYRD, and the distinguished chairman of the Subcommittee on Labor, Health and Human Services and Education, Senator HARKIN, have agreed to pursue this proposal and address it in the fiscal year 1992 appropriations bill. On the basis of these assurances from the distinguished Senators I will withhold my amendment at this time.

Mr. HARKIN. I would like to thank the Senator for his courtesy in this matter. He and his colleagues have identified a legitimate problem area and put forward an interesting and promising proposal. As he knows, in our review of this proposal, we have had favorable consultations with the Congressional Budget Office with respect to how such a contingency reserve fund would be scored as part of the budget. I regret, however, that the administration's lack of support for this provision could slow down the supplemental appropriation bill. Nevertheless, I want to assure the Senator from

Michigan that I intend to pursue this proposal and will attempt to address it in the context of the fiscal year 1992 appropriations bill.

Mr. BYRD. Let me just say that I share the Senator from Michigan's concern about the need to provide for fully adequate administrative funding for the Unemployment Insurance Program. As the Senator knows, I negotiated extensively with OMB to get funding for unemployment insurance declared an emergency. According to the latest data from the Labor Department, a supplemental of $150 million will fully reimburse States for all anticipated costs of processing unemployment claims from April 1, 1991, through the end of fiscal year 1991.

I also want to thank him for his courtesy in withholding his amendment in order to expedite passage of this urgent supplemental appropriation bill. I would like to join my colleague from Iowa in indicating to the Senator from Michigan my support for revisiting this proposal in fiscal year 1992.

Mr. RIEGLE. I thank the Senators for their consideration and assurances.

NAVY REPAIR AND MAINTENANCE OF READY RESERVE FORCE VESSELS

Mr. HOLLINGS. Mr. President, I would like to call to the attention of my distinguished colleague, the chairman of the Defense Appropriations Subcommittee, Senator INOUYE, an issue that is of mutual interest and of national concern.

The workers at our Navy shipyards are a critical national asset that is in jeopardy if current Navy plans continue unabated. According to the latest figures provided by the Navy, reductions in the Navy ship repair and maintenance budget will cause the loss of almost 12,000 workers at our public shipyards by fiscal year 1993. This total represents almost 20 percent of the skilled workers at our shipyards. That is more workers than are employed in many Federal agencies.

These are the same skilled workers whose dedicated contributions to fleet readiness were so evident in the responsiveness and dependability of the fleet during the Persian Gulf conflict. In my own State, the Charleston Navy Shipyard, long recognized for the dedication of its work force and quality of its workmanship, is threatened by a reduction in force in fiscal year 1992 that could affect over a thousand employees.

Mr. INOUYE. Mr. President, my colleague is raising an important issue. I, too, am concerned about the erosion of our industrial base and capability to respond to future situations in which U.S. military forces may need to be deployed. These shipyard workers are highly skilled and have acquired expertise from long years of training and experience.

I am very aware of the reductions that some in the Navy leadership believe will occur during the next few years. As the Senator knows, Pearl Harbor Navy Shipyard also employs a skilled work force with a long and proud tradition of excellence. The Hawaii shipyard also is threatened by the same magnitude of employment reductions that the Senator mentioned.

Mr. HOLLINGS. The question is what to do to avert such a significant degradation in our industrial facilities and manpower. Obviously, the Senate could adopt legislated manpower floors such as the Congress has previously done with the work force at Army depots.

That should not be our course. Rather, I believe, that we should focus on workload and making our Navy shipyards more productive. To this end, I would like to point out to the chairman of the Defense Appropriations Subcommittee that the U.S. Navy is currently operating over 70 maritime administration Ready Reserve Force vessels in support of our forces in the Persian Gulf. With the cessation of hostilities, these ships will return to the United States and the Navy is obligated to repair and refurbish them before placing them back into RRF ports.

It would seem a wise and appropriate course of action to ensure that a substantial number of these ready reserve force deactivations are carried out at our Navy shipyards. I believe it would be fair and in the best interests of the Navy and the Maritime fleet if half of these RRF refurbishments were performed in U.S. Navy shipyards. This would appear to provide the type of diversity and workload to enable our shipyards to become more efficient and retain an adequate workforce.

Mr. INOUYE. I believe that my colleague, the Senator from South Carolina, has made an excellent suggestion. He and I have worked together for many years on sealift and defense issues. This proposal has merit and I will request that it be endorsed by the conferees to the dire emergency supplemental appropriations bill.

JSTARS FISCAL YEAR 1991 FUNDING

Mr. DECONCINI. Mr. President, would the distinguished chairman of the Defense Appropriations Subcommittee yield to this Senator to enter into a colloquy on the joint surveillance target attack radar system [JSTARS] ground station modules funding.

Mr. INOUYE. I would be pleased to yield to the senior Senator from Arizona for that purpose.

Mr. DECONCINI. I thank the chairman. As the chairman may be aware, when the original fiscal year 1991 supplemental was forwarded to Congress, it included a request for $7.9 million in Army research and development funding for the ground station modules to continue the JSTARS Research Program which was interrupted when the JSTARS system, and its ground station modules, were shipped to Saudi Arabia for use in Operation Desert Shield and Desert Storm. By all accounts, the system—even though it is only in the development state—proved its worth beyond the Army and Air Force's expectations.

Mr. MCCAIN. If my colleague from Arizona would yield, I would like to expand on his comments.

Mr. DECONCINI. I am pleased to yield to my colleague from Arizona for a comment.

Mr. MCCAIN. I thank the Senator. Mr. President, there is no question that the Joint STARS equipment deployed during the Persian Gulf war was a highly critical factor in our military achievements. In hearings before Congress in the past 2 weeks, Joint STARS has been given special praise by Pentagon representatives. JSTARS provided the eyes for following Iraqi troops, vehicles, and convoy movements. Its imagery is remarkable. It provided necessary intelligence both before and after an attack. There is no question that it saved allied lives. I thank my colleague for yielding.

Mr. DECONCINI. Because the JSTARS Development Program was interrupted by the gulf war, the Army has already acknowledged that there may be a 3- to 6-month slip in the program without the appropriation of supplemental funds. There may also be valuable operational data which may have been collected during Operation Desert Storm and which may have an impact on this development program.

Mr. President, am I correct that, if the Army and Defense Department provide the Defense Subcommittee accurate and reliable data on the need for, and ability to effectively use, supplemental funds in the current fiscal year, they could submit to Congress an expedited reprogramming request for the Army's Ground Station Module Development Program?

Mr. INOUYE. The Senator is correct. The Defense Department may be able to provide accurate and reliable data on the necessity for an above threshold reprogramming in order to avoid any further delay in the program.

Mr. DECONCINI. I thank the distinguished chairman. If I may ask another question, should the Pentagon provide reliable data as part of a reprogramming request to Congress, would the chairman be willing to consider such a request on an expedited basis? Similarly, if the Defense Department submits a revised list of items—including JSTARS—that it has determined should be made a part of a supplemental appropriations bill, would the chairman be willing to work with me on resolving this issue in conference?

Mr. INOUYE. I can assure the Senator that if reliable and accurate data is provided to this subcommittee in a reprogramming request, that request will be expeditiously considered. Also, if the Defense Department provides the subcommittee with additional information, I can assure both Senators that I will see what we can do in conference.

Mr. DECONCINI. I thank the chairman for his courtesy in considering this request.

Mr. MCCAIN. I join my colleague from Arizona in thanking the chairman.

CHALLENGER CENTER FOR SPACE SCIENCE EDUCATION

Mr. GARN. Mr. President, Senators, ADAMS, MIKULSKI, BOND, and myself wish to enter into a colloquy during consideration of the supplemental appropriations bill today.

Mr. President, in October 1988, Public Law 100–104 was enacted by Congress establishing the Challenger Center for Space Science Education and allowing for its headquarters to be located in the District of Columbia. In April 1989, an exclusive rights agreement was signed by the Challenger Center and the D.C. Redevelopment Land Agency conveying, at no direct cost to the Challenger Center, parcel 76 for purposes of locating their headquarters there. Any minimal negotiated value of the property would be offset by the value of the center's services to the public schools of the District and economic impact on the community.

Mr. ADAMS. Mr. President, if the Senator from Utah will yield for a question. The Senator from Utah indicates a value offset by the center's services to the District's public schools. What are those services?

Mr. GARN. Challenger Center was established as a learning center for everyone, but primarily children, in space science. Its hope is to get children excited about science education by giving them a hands-on experience with life in the 21st century. The center would benefit teachers and students of the District and the broader community. It would benefit Challenger Center as well by providing direct access to those underrepresented minority students which are the heart of its purpose.

Mr. ADAMS. Has the conveyance of the land taken place?

Mr. GARN. Mr. President, the land conveyance has not taken place. The District of Columbia has been dragging their feet on this matter. In fact, in March 1990, the Redevelopment Land Agency erroneously attached a $16,768,000 price tag to parcel 76. Even with this cash payment demand, the Challenger Center Board reaffirmed their intent to build the headquarters in the District of Columbia, and to attempt to negotiate with the Redevelopment Land Agency to convey the land as originally agreed, at no cost. The Challenger Center proposed an exchange of appraisals for comment, after they had an independent appraisal which set the value of parcel 76 at $3,500,000. In January of this year, the Redevelopment Land Agency rejected the Challenger Center's appraisal without comment on technical inadequacies. The Challenger Center continues to attempt to negotiate with the Redevelopment Land Agency, but to no avail.

The Challenger Center has also recently attempted to speak with the Mayor of the District of Columbia, Sharon Pratt Dixon. Although they have been unable to meet with her as of yet, the Challenger Center continues to reaffirm their intent to build their headquarters in the District of Columbia, in keeping with the original intent of Public Law 100–104.

Ms. MIKULSKI. Will the Senator from Utah yield?

Mr. GARN. Yes.

Ms. MIKULSKI. I first wish to express my support for the efforts of the Mayor of the District of Columbia, Sharon Pratt Dixon, in her attempts to get the city back on track. She has a difficult task.

The Challenger Center's Learning Center would be of immeasurable value to the children of the District, and many others as well. The Challenger Center has a learning center in my State, which I have visited many times. It provides a fabulous resource for children and adults as well to learn about life in the future and about space science. I look forward to working with the Mayor in this regard.

Mr. President, I want to know if the Challenger Center is prepared to go ahead with construction if the land conveyance can be secured?

Mr. GARN. Mr. President, the learning center headquarters is ready to be built as soon as they get the property. The designs are finished. We simply await action by the D.C. government. In fact, the Challenger Center, while waiting for the outcome of the land conveyance, has been negotiating with the D.C. Public Schools Administration to pursue use of an empty warehouse, located across the street from parcel 76, on H Street, as an interim facility. In August 1990, Challenger Center signed a preliminary agreement with D.C. Public Schools to use the H Street warehouse as an interim facility. That effort has now been sidetracked as well by the D.C. government, who owns the property. The Challenger Center, to this point, has spent $900,000 in their effort to abide by their decision to locate their headquarters in the District of Columbia. Mr. President, this amount of money could have built three learning centers. That could have benefited numerous children. However, none of the money spent has gone to help children, which is a shame. Afterall, they are the reason the Challenger Center was established.

The Challenger Center Board is extremely frustrated with the government of the District of Columbia, and frankly, Congress should be as well. The Nation's Capitol stands to loose a very valuable learning tool for its children. The Challenger Center has several valid, outstanding offers of alternate locations for their headquarters. They have been extremely patient. The time is now to act to secure this property for the benefit of the children of the District of Columbia.

Mr. BOND. If the Senator from Utah will yield.

Mr. GARN. I will be happy to yield to the Senator from Missouri.

Mr. BOND. Mr. President, I agree with what the Senator from Utah is saying. It is a shame that this much time has gone by, and no one has benefited.

Mr. GARN. Mr. President, I ask that the chairman and ranking minority member of the Subcommittee on the District of Columbia appropriations include language in the D.C. chapter of the conference report on H.R. 1281 reflecting the desire of the subcommittee that the Mayor's office work with the subcommittee and the Challenger Center in securing the conveyance of this property for their headquarters, and that they work in an expedient manner.

Thank you, Mr. President.

SOLID WASTE DISPOSAL

Mr. WARNER. Mr. President, I rise today not to offer an amendment to H.R. 1281, the dire emergency supplemental appropriations bill, but to offer my thoughts on an issue approved by the Senate last year during debate on H.R. 5311, making appropriations for the government of the District of Columbia, fiscal year 1991.

During consideration of the District's fiscal year 1991 appropriations, Senator ROBB and I offered an amendment which was adopted to require that an environmental impact statement be completed prior to the expansion of the I–95 sanitary landfill at Lorton, VA.

Mr. President, in March 1909, the Congress enacted a statute which authorized the Federal Government to begin acquiring property in Lorton, VA, for the purposes of housing a prison workhouse and reformatory for the District of Columbia. The United States continues to hold title to the more than 3,000 acres which comprise the District's Lorton Reformatory Reservation.

In 1971, the District, Fairfax County, Arlington County, and the city of Alexandria entered into an agreement under which 290 acres of this Federal reservation were set aside for use as a municipal waste landfill. Leachate flowing from this landfill into Mills Branch of the Occuoquan River has caused Fairfax County, the operator of the landfill since 1982, to be cited with numerous violations of State and Federal clean water statutes.

While the House and Senate agreed to require an environmental impact statement, the conference committee of the fiscal year 1991 District of Columbia appropriations bill agreed to delete this provision because of good faith commitments by Fairfax County to conduct an environmental impact statement without a Federal mandate.

The ongoing environmental problems at the existing landfill including leachate flowing into Mills Branch and the Occuoquan River, the associated increase in truck and private vehicular traffic from any expansion on the already severely congested Interstate 95 corridor and local arterial roads, the lack of impact mitigation measurs and failure to examine alternatives continues to give me great concern.

In February 1988 the Alexandria-Arlington waste to energy facility opened and in June 1990 Fairfax County's I-95 energy resource recovery facility opened and does process some of the District's solid waste. Because of these facilities, Virginia jurisdictions send less than 220 tons per day of solid waste to the Lorton landfill.

The existing landfill at Lorton receives approximately 1,800 tons per day of waste. Of this amount, about 1,600 tons of solid waste per day is received from the District of Columbia and the Federal Government. A portion of this waste is landfilled and a portion is sent to Fairfax County's incinerator at Lorton because of the available capacity.

In recent actions by the Fairfax County Board of Supervisors, the proposal for a 147-acre expansion of the landfill has been terminated. The current landfill will close either when it reaches its design capacity or as mandated by State regulations.

While it is unclear at this time what the District of Columbia may do to manage their solid wastes. It is my understanding that the District of Columbia could proceed with an expansion of landfill capacity and assume the operations of the new landfill under the District's current rights at Lorton.

Mr. President, I join with my colleagues in wishing the new Mayor of the District of Columbia every success in the formidable tasks ahead of the city. Also, I recognize the legitimate needs of local jurisdictions to effectively manage their solid wastes. However, our first priority must be the protection of the public health and the environment in the Lorton area.

While I have joined in discussions with the affected jurisdictions on improving the management of solid wastes generated by the region, it is my intention to return the Senate's attention to this matter during debate on the fiscal year 1992 District of Columbia appropriations bill.

More effective measures must be implemented to reduce the volume or quantity of waste generated in the District of Columbia and by the Federal Government through improvements and upgrades needed at the District's SWRC facility. And, if any expansion in landfill capacity occurs on the Lorton reservation, regardless of the operator, an environmental impact statement must be completed.

BUREAU OF RECLAMATION FUNDING

Mr. SEYMOUR. Mr. President, the fact that California is in its fifth and worst year of a drought is well known. And it is not just California that is feeling the effects of drought; many Western States are seeing their reservoir levels at all time lows.

In California alone, the State has severely curtailed the allocation of State project water, and has halted deliveries for agricultural users. On the Federal level, the Bureau of Reclamation's Central Valley project [CVP] has reduced its urban and agricultural allocations by approximately 75 percent.

The drought has placed all Californians and many Western State communities in the difficult position of trying to balance the need of our families, our communities and our industries, with the legitimate needs of our precious environmental resources—fish and wildlife.

Commissioner Dennis Underwood of the Bureau of Reclamation has informed the California congressional delegation that despite the recent rains, cumulative precipitation in the State is about 52 percent of average and the storage in major resorvoirs is 53 percent of average. Using these figures, the Bureau estimates that carryover for next year will be only slightly higher than it was in 1977, the driest year on record.

Relief is needed, Mr. President, and I am pleased the bill before us, the urgent supplemental appropriations bill, provides $20 million in supplemental funding for the Bureau of Reclamation to provide for high priority, emergency needs caused by the drought.

I am concerned, the level of funding in the committee's bill is below the House-passed measure which provides $30 million for these purposes, and provides urgently needed relief to California and the other Western reclamation States.

I appreciate the attention and support Senators JOHNSTON and HATFIELD have shown in providing this funding assistance, but I am concerned that it may not be enough. Seeing that the distinguished chairman and ranking member of the Energy and Water Subcommittee are on the floor, I would ask for their commitment to consider and hopefully support the higher appropriation when they meet with the House in conference later this week.

Mr. JOHNSTON. Mr. President, I want to thank Senator SEYMOUR for his kind remarks and the opportunity to discuss California's drought needs. Without a doubt, the subcommittee is aware of the crisis California and the other 16 reclamation States are facing, and we did make an effort to provide for the full funding level, but bumped up against our budget ceiling. We have reviewed the reports out of California and the other Western States and agree that current precipitation will not fully alleviate the burden of the drought. We want to help.

As the Senator has stated, the House did provide $30 million for these purposes, so it is an issue that we will discuss with the House conferees. I hope that agreement can be reached to provide the maximum benefit possible to California and the other drought-stricken States, and I will work to this end in conference.

Mr. HATFIELD. Mr. President, I would like to confirm what the chairman of our subcommittee, Senator JOHNSTON, has said. I am aware of the serious problems facing California and the other 16 reclamation States at this juncture and understand the importance of this Bureau of Reclamation funding to emergency relief efforts. I want to give my friend from California every assurance of my willingness to work with him and the members of the conference committee to see that California's and other Western States' drought needs are adequately addressed.

Mr. SEYMOUR. Mr. President, I thank my distinguished colleagues for the willingness to discuss this matter in conference, and appreciate their support for emergency drought relief funding.

ATMOSPHERIC RESEARCH

Mr. WIRTH. Mr. President, attention to the atmospheric sciences, particularly as it relates to global warming, has reached unprecedented levels. We in Colorado are proud of the role the National Center for Atmospheric Research [NCAR] has played—and will continue to play—in providing more and better information on the changes we have wrought on Earth's biosphere.

For nearly 30 years, NCAR has been one of the world's most important and respected atmospheric research institutions. It is not an overstatement to say that NCAR has credentials—particularly in the computer modeling area—that are superior to any organization in the world.

Unfortunately, as the need for more definitive answers from the atmospheric science community has increased significantly, the resources provided to the Nation's premier research institution have been dwindling. It is apparent that the declining budget trends at NCAR are precipitating a sharp decline in the morale and capabilities of NCAR's scientists.

During the past 5 years, NCAR has met a number of pressing national priorities in the atmospheric sciences—from the deployment of advanced equipment for observing the atmosphere and the oceans to the development of new ocean circulation models. NCAR also conducts programs in atmospheric chemistry, solar variability, climate analysis and modeling, oceanography, cloud systems and the hydrologic cycle, atmosphere-biosphere interactions and climate impacts that are essential to the United States Global Change Program. NCAR provides valuable scientific, computing and experimental support to the entire university atmospheric sciences community.

Advanced global climate change modeling is impossible without the use of supercomputers. NCAR lacks a supercomputer of its own, but has discussed the possibility of sharing supercomputer time with the National Test Facility [NTF] at Falcon Air Force Base in Colorado Springs. They have submitted a proposal to fund this cooperative effort to the DOD's Strategic Environmental Research and Development Program [SERDP]. Would the chairman of the Armed Services Committee, who was the leader in the creation of the SERDP, comment on whether in his view this sort of project would be an appropriate use of SERDP funds?

Mr. NUNN. One of the reasons for creating the Strategic Environmental Research and Development Program was to focus the use of Department of Defense assets for environmental research purposes. The collaborative effort of the National Center for Atmospheric Research with the Strategic Defense Initiative office is exactly the type of work the SERDP was created to encourage.

Mr. WIRTH. I thank the chairman. NCAR has identified an opportunity for the SERDP to accelerate progress toward reliable predictions of global and regional climate changes in the decedes ahead. This proposal solicits supercomputer time on the supercomputers within the SERDP domain, upgrades to the NCAR Mass Storage System [MSS], and money for programming support. These facilities will be dedicated to climate change modeling research, with particular emphasis on defining and reducing model uncertainties and on climate model performance assessment.

The availability of allocated supercomputer time dedicated to climate modeling would accelerate progress in quantifying and reducing major uncertainties associated with current models, particularly those at the regional scale where climate changes are likely to be the largest and have the greatest impact. Focused studies to define better the critical role of the clouds, oceans, greenhouse gasses, ecosystems processes and ice in climate change would be possible. More extensive studies of the regional impacts of global change would also be possible with these additional computational resources available. Perhaps most important, a large number of sensitivity and validation studies could be conducted to identify which research objectives are of the highest priority and to quantify the accuracy of current climate change predictions.

Under this proposal, SERDP would provide allocated supercomputer time over a 2-year period, for the execution of climate models. The vast amount of model output data generated would be transported to the NCAR MSS for archiving and analysis. Various upgrades are requested for the NCAR MSS because of the impact that will be caused by importing an additional one to three terabytes of data per year. In addition, support staff will be needed at NCAR for climate model development and management of the ongoing execution of climate models at the remote SERDP Computer Center. NCAR proposes to contribute many of its existing facilities and support functions to this effort, thus enabling the scientific staff to rapidly make use of the model results. The model output data archived from this effort will contribute to future studies by both NCAR scientists and university researchers to resolve the issues of model sensitivity, validation, and improved model performance.

Mr. President, I believe that NCAR has performed outstanding work in the past. I am convinced that it can play a leading role in the United States and the world on global climate research in cooperation with the NTF in Colorado Springs. But, as I have just explained, NCAR will require funds to implement this cooperative effort. It is this Senator's hope that the DOD will fund this program in the fiscal year 1991 budget for the SERDP.

Mr. NUNN. I too fully support the work of this center, a national consortia of universities actively engaged in global climate research. However, for the SERDP to work as envisioned, we must refrain from earmarking any of these funds for specific projects. The Defense Department must have the flexibility to determine its priorities and its capabilities in making funding decisions under the environmental research program.

Mr. WIRTH. I appreciate and share the chairman's concerns.

Mr. NUNN. I would conclude by saying to my good friend from Colorado that I do hope the Defense Department decides to fund this worthwhile research project proposed by NCAR, and I encourage them to do so.

Mr. INOUYE. Mr. President, the Senator from Colorado wants the Defense Department to allocate $2,500,000 of previously appropriated, fiscal year 1991 funds for the Strategic Environmental Research and Development Program [SERDP] for execution of climate models and upgrading a data storage system by the National Center for Atmospheric Research. This effort would be conducted at the National Test Facility of the Strategic Defense Initiative Organization.

It is our understanding that, upon release of an appropriate amount of SERDP funds, the Office of the Secretary of Defense already intends to make these funds available for this purpose. Our colleague seeks to expedite and ensure this allocation process, and we support him in this endeavor.

U.S. DEPARTMENT OF AGRICULTURE USER FEES

Mr. INOUYE. Will the distinguished chairman of the Senate Agriculture Appropriations Subcommittee engage in a discussion with me regarding the proposed U.S. Department of Agriculture rule to establish user fees for agricultural quarantine and inspection services?

Mr. BURDICK. I would be pleased to discuss this very important matter with the Senator.

Mr. INOUYE. I thank the Senator from North Dakota. I have two major concerns, one of procedure and the other of substance. On the matter of procedure, I am very opposed to USDA's 2 week comment period, rather than the 30 days required by the Administrative Procedure Act, and the April 1, 1991, automatic effective date for the airlines to collect the fees. I see no reason to bypass the APA procedures which are intended to provide all interested parties with a sufficient time to comment and an adequate time for the agency to respond to those comments. In addition, the proposed rule has an automatic effective date of April 1, and would require the retroactive application of the fee to airline tickets sold prior to the effective date. This would mean that a passenger who purchases a ticket before April 1, for travel after that date, would be required to pay the fee at the gate before boarding the plane.

This is further complicated by the fact that a new user fee has been proposed for domestic airline passengers traveling between Hawaii or Puerto Rico and the continental United States. There is no existing mechanism for the airlines to collect such a fee. A specific procedure will have to be developed and shared with the more than 50,000 travel agencies in conjunction with the U.S. airlines. Additionally, a uniform designator must be established to indicate that collection has occurred. I think that the Senator from North Dakota would agree with me that such an elaborate procedure cannot be implemented on April 1—the day the airlines receive the final rule, setting forth exactly what will be required of them.

Would the Senator from North Dakota agree with me that these proposed rules should be reissued in accordance with APA requirements, and that the airline industry be given sufficient lead time to implement the necessary procedures, at least as it relates to the new domestic user fees.

Mr. BURDICK. I would agree with the Senator from Hawaii. It seems to me that adequate time should be given for all interested parties to have input into the new procedures. Furthermore, adequate time must be given to implement the proposed changes. The dates set by USDA at this point are not adequate.

Mr. INOUYE. The second concern I have relates specifically to the new user fee that USDA is proposing for domestic travel between Hawaii or Puerto Rico and the continental United States. The only fee authority approved in the farm bill related to international user fees. USDA relies on another authority, the Independent Offices Appropriations Act, as the justification for this domestic fee, the proceeds of which will go toward deficit reduction. Additionally, it plans to issue a proposed rulemaking at a later date on user fees for domestic agricultural cargo originating from Hawaii and Puerto Rico. I sent a strong letter of opposition to the proposed rule relating to the domestic user fee. In my letter, I put USDA on notice that I plan to move legislation in the very near future to correct the unfairness of its rules which treat Hawaii as an international destination while exempting Canada from international user fees.

This is not the appropriate legislative vehicle to accomplish my goal. However, I am committed to legislatively mandate equity regarding the treatment of Hawaii and Puerto Rico as it relates to domestic passenger fees and agricultural cargo. Accordingly, it would make sense for the USDA to provide a reasonable period of lead time because I intend to pass legislation to correct the unfair system USDA is planning to implement.

Mr. BURDICK. The Senator from Hawaii makes very compelling arguments. And, as I know from our years of service together in this honorable body, the Senator from Hawaii keeps his word.

Mr. INOUYE. I thank the Senator from North Dakota for his gracious comments, and for engaging in this discussion with me on a matter of extreme importance to Hawaii's two major industries—tourism and agriculture.

DROUGHT RELIEF TO WESTERN STATES

Mr. SIMPSON. Mr. President, I rise only briefly today to express my sincere gratitude to my distinguished colleague from West Virginia for his understanding and accommodation on funding for drought relief to the Western States. There is $20 million appropriated in this legislation for that purpose and that will go a long way in helping all the Western States to deal with a water emergency that, if it accelerates, can lead to dire consequences for the entire Nation.

Mr. President, I also want to commend the Bureau of Reclamation for its diligence in working with Congress to deal with the ever increasing drought in a fiscally responsible manner. I would ask unanimous consent that a letter, addressed to me from Commissioner Dennis Underwood, be printed in the RECORD immediately following my remarks. This is further evidence that the Bureau is very sensitive to the needs of all Western States and that they are eager to do whatever they can to help as swiftly as is possible to do so.

This provision of the dire emergency supplemental legislation also includes the much needed authority to finally finish the completion of the raising of a dam and increasing the capacity of a reservoir near my home town of Cody, WY: the Buffalo Bill Reservoir. We have been waiting a very long time in Wyoming to finally finish this worthy project. As my colleagues know, this project has been on a 50–50 cost share with the State of Wyoming and Wyoming has "ponied up" its share long ago. While we have been waiting for the Congress to act on this, people around the area have been suffering a number of construction-related problems.

One of the most troubling is the massive increase in dust levels resulting from the draw down of the reservoir in anticipation of the final construction phase. That work can now begin and those good people will finally have some relief in sight.

So I do sincerely thank the distinguished chairman for his cooperation, his sensitivity, and his objectivity in working so hard in crafting a responsible dire emergency supplemental appropriations bill. This will go a long way towards helping a large portion of our country through some tought, dry, years and will also directly help some very deserving people.

I thank the Chair.

There being no objection, the order to be printed in the RECORD, as follows:

BUREAU OF RECLAMATION,
Washington, DC, March 19, 1991.

Hon. ALAN SIMPSON,
U.S. Senate,
Washington, DC.

DEAR SENATOR SIMPSON: You have requested information on which areas of the West will use the funds included in the Dire Emergency Supplemental bill for drought-related activities to be undertaken by the Bureau of Reclamation of the Department of the Interior.

I have requested the Regional Directors of all five Reclamation Regions to identify projects in the 17 Reclamation States throughout the West which should be placed on a priority list to receive funds to relieve drought problems.

That work is underway at the present time in order to make it possible for Reclamation to be able to specify at an early date exactly what funds are needed in each Region in the West to deal with problems brought on by the prolonged drought.

There will be no effort to have these funds used in just one State or Region because the drought affects several areas that are located great distances from each other, including California, eastern Oregon, and parts of Montana, Idaho and Wyoming.

The Bureau of Reclamation wants to make the very best possible use of the additional funds provided for fiscal year 1992 under the terms of the Dire Emergency Supplemental bill; you may be sure all areas in the Reclamation West now suffering from drought are being studied and every effort will be made to maximize the funds allocated to our programs.

Sincerely,

DENNIS B. UNDERWOOD,
Commissioner.

EMERGENCY FUNDING FOR ISRAEL

Mr. LAUTENBERG. Mr. President, this dire emergency supplemental spending legislation includes emergency funding to help our friend and ally, Israel, pay for the significant costs it incurred as a result of the Persian Gulf war. I strongly support providing this funding to Israel.

Israel was a strong, silent coalition partner in the war to get Saddam Hussein out of Kuwait. Although Israel was not a party to the conflict, Saddam Hussein cynically tried to draw Israel into the conflict in an effort to divide the coalition and undermine the United States' effort in the gulf. Fortunately, he did not succeed. In the face of 39 Scud missile attacks fired by Saddam Hussein, Israel demonstrated remarkable restraint. Israel showed that she is a reliable friend who can be trusted.

Unfortunately, the people of Israel paid a high price for this restraint. Innocent lives were lost. Entire neighborhoods were devastated. Over 8,000 homes and apartments were damaged or destroyed. Nearly 2,000 Israeli families were left homeless.

The war cost the Israeli Government and the people of Israel billions of dollars. Throughout the conflict, the Israeli military was kept on the highest state of alert. Reservists had to be paid for additional service. Extra flight missions, equipment, and ordnance were secured to protect innocent Israeli citizens from Saddam Hussein's aggression. Because the threat that Saddam Hussein would use chemical weapons was very real, gas masks had to be purchased and distributed to Israeli citizens.

Israel needs and deserves assistance to help pay for significant costs she incurred during the war. The international community, acting through the Gulf Crisis Financial Coordination Council, has contributed billions to the frontline Arab States to help ease the pain of the war. Even Jordan's King Hussein, who sided with Saddam Hussein during the war, has received assistance from the international community.

Despite the important role Israel played as the coalition's strong, silent, partner, however, Israel has received very little financial support from the countries of the world. Germany has stepped forward. The European Community is considering an aid package. But those contributions pale in comparison to the billions provided to frontline Arab States.

To help Israel pay for the costs of the war and to show our gratitude for the important role Israel played in the conflict, the United States should provide this emergency funding for Israel immediately.

I am glad the Administration reversed its position on providing emergency assistant to Israel. Despite the fact that I and 21 other members of the Senate Appropriations Committee sent a letter to President Bush urging him to provide emergency assistance for Israel, the administration did not include a dime for Israel in the original version of the emergency spending bill it sent to Congress for consideration. It resisted providing emergency funding. I'm delighted that now, however, the administration has lifted its opposition and has agreed that Israel needs and deserves assistance to help pay for the costs of the war.

Mr. President, Israel was a critical and good friend throughout the gulf war. I urge my colleagues to approve this legislation so we can provide this emergency funding to Israel without delay.

AID TO TURKEY AND GREECE

Mr. D'AMATO. Mr. President, the Congress has a long standing policy of maintaining a 10-to-7 ratio of military aid going to the countries of Turkey and Greece. The existence of this ratio has played a major role in the very positive relations which our country enjoys with that very strategically located nation. In addition to being our long time ally—in World War I and World War II, where one out of every nine Greeks lost their lives for the allied effort, and the Korean war—they were one of the very few nations which contributed manpower and equipment to our efforts in the Persian Gulf.

Greece should understand that the American people greatly value the fact that the Government of Greece recently renewed our American bases on the strategically located island of Crete, Greece, in the Mediterranean and the extraordinary cooperation they have given to American efforts to combat international terrorism.

As a member of the Senate Appropriations Committee I have supported the legislation before us today which contains within it a $200 million grant aid to Turkey because it is a one-time payment in an effort to help Turkey recover some of its economic losses due to the Persian Gulf effort. These monies do not change the American commitment to the 10-to-7 ratio and to maintaining a balance in the eastern Mediterranean which assures our ally, Greece, that the United States is acutely sensitive to its security needs.

REFUGEE RESETTLEMENT AND H.R. 1281

Mr. SEYMOUR. Mr. President, I rise today to voice my concern with a provision the committee included in this fiscal year 1991 supplemental appropriations bill regarding our Nation's refugee resettlement programs.

Specifically, the provision takes $1.7 million from the refugee cash and medical assistance fund and directs it to an expanded private sector initiative sponsored by the Cuban-American National Federation.

I understand the intent behind the provision, and the commitment of members of the Appropriations Committee to promote self-sufficiency among our refugee population.

This funding may be warranted, Mr. President, so I do not come to the floor today to dispute the work and dedication of the Cuban-American National Federation.

What I dispute is the process and the precedent it sets for future refugee resettlement funding allocations.

This provision sets a dangerous precedent because it puts the Congress in the position of earmarking cash and medical assistance funds for one private sector initiative that it is serving one specific refugee group. Cash and medical assistance funding is intended to reimburse State and local government costs.

I am concerned with the precedent this provision sets, and am worried that it could open the flood gates to additional earmarking of this refugee cash and medical assistance account, especially when other refugee groups and certainly the States see how they have been excluded.

States and local governments are the workhorse of our Nation's refugee resettlement program.

Unfortunately, since 1985 States and local governments have seen Federal funding assistance reduced to but a fraction of what the Refugee Act of 1980 intended. In fiscal year 1990, for instance, a majority of the States were forced to absorb shortfalls of over $34 million in the cash and medical assistance program. This fiscal year, it is anticipated that the Office of Refugee Resettlement [ORR] may have to reduce the reimbursement period for cash and medical assistance programs below 12 months.

These funding reductions are already forcing States to make unilateral reductions in their fiscal year 1991 refugee unaccompanied minor programs. Needless to say, the pie is already too small; this diversion of funds, albeit small, harms my State's resettlement efforts, and it sends the message that the Federal Government has little interest in supporting their refugee resettlement needs.

I am also concerned because this provision contradicts the intent of the private sector initiative program. Previously, the admission of refugees under this program was contingent upon the availability of private sector funding sufficient to cover the resettlement costs. Despite this fact, the provision before us provides a Federal funding commitment; again, a precedent will be established that could open the way for future requests from numerous refugee groups for Federal funding commitments. By giving medical assistance funds to this private sector initiative, we are limiting the funds available to the states and other refugees for medical assistance programs.

Mr. President, the Congress established the Fish-Wilson provisions of the Refugee Act to create new methods of resettling refugees, and it did so in such a manner that it ensured coordination between ORR, the sponsoring organization, and the States. The provision in this bill end-runs that process, and, based on the reaction from California, it could end up pitting refugee service providers against each other.

Private sector initiatives may be worthy of our support and funding assistance, Mr. President, but not if it is done in a manner that undermines the States and local governments.

USTF MEDICARE REIMBURSEMENT AMENDMENT

Mr. ADAMS. Mr. President, I rise to engage the distinguished chairman of the Finance Committee, the Senator from Texas, concerning an amendment that I and my colleagues from Washington, Senator GORTON, and Maryland, Senator MIKULSKI, had planned to offer during the Appropriations Committee markup of H.R. 1281, the dire emergency supplemental appropriations bill.

As the Senator understands, the amendment addresses a serious problem facing an important public health care provider in Seattle, as well as institutions in Baltimore and Boston, all three of which have been designated uniformed services treatment facilities [USTF's]. Between the fall of 1986 and the end of 1989, the three USTF's provided health care services to elderly patients eligible for both military and Medicare health care benefits. Because the Department of Defense [DOD] USTF reimbursement agreements in effect at the time did not pay for the care, the facilities, with the knowledge of DOD, billed Medicare for services provided to these patients. DOD and the Department of Health and Human Services subsequently determined that the billings were inappropriate for institutions designated USTF's and directed that they cease. The USTF's stopped billing Medicare promptly upon being directed to do so but now face probably recoupment by Medicare for these evidently mistaken billings. Such recoupment would be very harmful and perhaps even fatal to these facilities. It also would be unjust under the circumstances, requiring, in effect, the facilities to have provided care to beneficiaries of two Government health care programs at no cost to either.

Our amendment would have prevented the recoupment. The distinguished chairman has expressed his interest in this matter and his sympathy for the plight of these facilities; however, he notes that the Finance Committee is the more appropriate venue for its resolution. Accordingly, we have decided against pursuing our amendment to this Appropriations bill.

Mr. BENTSEN. The distinguished Senator from Washington has made a number of compelling points. I appreciate his diligence in calling this important matter to our attention. It is under review, and I am hopeful that we can find an appropriate resolution, either through administrative action or as part of health legislation we plan to report later this year. I appreciate my colleagues' understanding of my preference for handling this matter this way as well as their efforts in bringing this unfortunate problem to my attention. I can assure them that its reasonable resolution will have my attention.

Mr. ADAMS. Mr. Chairman, I know that you are also aware that the Health Care Financing Administration may feel compelled to pursue recoupment in the meantime but I hope you also understand how harmful the actual assertion of any claim against these facilities would be while your committee has the matter under consideration.

Mr. BENTSEN. I certainly do understand and concur with my colleague's assessment that we expect to work with HCFA to resolve this issue before HCFA takes steps to recoup these Medicare billings.

Mr. ADAMS. I thank the Chairman and appreciate his continuing assistance with this matter.

Mr. BENTSEN. I thank the Senator and his colleagues on the Appropriations Committee, Senators MIKULSKI and GORTON.

Mr. GORTON. Mr. President, I rise to join my colleagues from Washington in expressing my appreciation to the distinguished chairman of the Finance Committee. I have always had an abiding interest in the preservation of uniformed services treatment facilities. In 1981, I worked with the late Senator Jackson on an amendment to designate ten former public health services hospitals across the country as USTF's. This amendment authorized USTF's to continue to serve military beneficiaries and their dependents after the public service hospital system ended. Since the passage of the Jackson amendment, these facilities have been exceedingly popular with the patients they service. These facilities offer an excellent innovative approach to assuring that the health care we provide our military and their dependents is the best possible. I am a strong believer in the survival of the uniformed service treatment facilities and will continue to work to remedy this problem. I appreciate the Chairman's interest in resolving the matter as well as the interest and support of his colleagues on the committee.

Mr. GRASSLEY. Mr. President, I would like to commend my colleagues for the action taken yesterday to ban arms sales to allies who have not fulfilled their pledges to the United States to help pay for the Persian Gulf war. As you are aware, the issue of honoring gulf war pledges has been of great interest to me from the very beginning.

The distinguished Senator from New Jersey [Mr. LAUTENBERG] and I were chief sponsors of legislation in the Senate to require detailed reports from the administration on foreign pledges. The legislation would track the pledges made to defray the war's costs, and the progress made by our allies in meeting their commitments. That legislation was strengthened in the Armed Services Committee and later passed the Senate. It has also passed the other body.

As recent events have demonstrated, Mr. President, it was indeed prudent and prescient on the part of the U.S. Senate to take these two steps—the requirements for detailed reports and the ban on arms sales to allies who fail to meet their pledges. At this time, we are right to be concerned about the actions of two of our allies engaging in what I consider to be back-peddling on their financial commitments to the United States. These allies are Germany and Japan.

As recent news reports indicate, Japan has unilaterally changed its 1991 commitment to the war effort from $9 billion to $8.6 billion. This change was accomplished by changing the mode of payment from dollars to yen, hereby losing $400 million through foreign exchange manipulations.

Mr. President, this would be an extra $400 million that the U.S. taxpayer would have to cough up to cover the war's expenses. Not only has Japan unilaterally reduced its pledge, but it has now attached numerous strings as to how the $8.6 billion contribution can be spent.

First of all, the money will not be paid directly to the United States. It will go instead to the Gulf Cooperation Council for eventual disbursement to recipients. The United States is by no means guaranteed to receive all of the $8.6 billion. Furthermore, Japan has restricted what the money can and cannot be used for. For instance, the money cannot be used for weapons; it can, however, be used for food and transportation.

Germany's mode of back-peddling, while different, has the same end-result. As the distinguished chairman of the Appropriations Committee pointed out this morning, the German Government—under pressure from opposition parties—has agreed to send a delegation to Washington to request a reduction in Germany's financial commitment to fight the war. It is yet unclear how much of the $5.5 billion pledge for 1991 Germany would like to take back.

Mr. President, neither of these allies—Germany or Japan—contributed any fighting forces to the Persian Gulf war. I find it particularly troubling—now that the war is over—that even a financial commitment is being reconsidered by our allies. The American people and the international community should take note. They should take note of who fulfilled their commitments during this crisis, and who back-peddled once the worst seemed to be over.

Today, Senator LAUTENBERG and I will send a letter to the White House. In that letter, we ask the President—in his ongoing discussions on this matter with the allies—to send a very strong signal to them. Otherwise, we risk opening a Pandora's box in which all our other allies start back-peddling on their pledges. And before long, the entire burden is shouldered by the American taxpayer once again.

Mr. President, our allies have a moral obligation to fulfill their commitments. It is a moral imperative for them to do so. It is a prerequisite for those countries who wish to be viewed as leaders in the new world community. We must take a resolute stand on this matter to be fair to the American taxpayer, and to those countries who are diligent in fulfilling their commitments.

I would urge the President, when the delegation from Germany arrives next week, to stand firm. Let's not open up Pandora's box. Let's not make it easy for an ally to turn its back on its own moral obligation. Let's not turn our backs on what is fair to the citizens of our own country.

Instead, let us resist these attempts to renegotiate. And let the signal be loud and unmistakable. Indeed, I have confidence that the President will insist on fairness, and will turn down such requests.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. If there be no further debate, the question is, Shall the bill pass. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Mr. GRAHAM). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 92, nays 8, as follows:

[Rollcall Vote No. 40 Leg.]

YEAS—92

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Craig
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Gorton
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Heflin
Heinz
Hollings
Inouye
Jeffords
Johnston
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Specter
Stevens
Symms
Thurmond
Warner
Wellstone
Wirth

NAYS—8

Brown
Helms
Kassebaum
Lugar
Nickles
Roth
Smith
Wallop

So the bill (H.R. 1281), as amended, was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Pursuant to the previous order, the Chair appoints the following conferees on the part of the Senate: Mr. BYRD, Mr. INOUYE, Mr. HOLLINGS, Mr. JOHNSTON, Mr. BURDICK, Mr. LEAHY, Mr. SASSER, Mr. DECONCINI, Mr. BUMPERS, Mr. LAUTENBURG, Mr. HARKIN, Ms. MIKULSKI, Mr. REID, Mr. ADAMS, Mr. FOWLER, Mr. KERREY, Mr. HATFIELD, Mr. STEVENS, Mr. GARN, Mr. COCHRAN, Mr. KASTEN, Mr. D'AMATO, Mr. RUDMAN, Mr. SPECTER, Mr. DOMENICI, Mr. NICKLES, Mr. GRAMM, Mr. BOND, and Mr. GORTON.

Mr. BYRD. Mr. President, I want to thank my friend, the ranking member of the Appropriations Committee, the Senator from Oregon [Mr. HATFIELD] for his usual diligence and cooperation throughout the deliberations on the two supplemental appropriations bills on which the Senate has completed action. As always, he has been most helpful in working with me and with the leadership in expediting consideration of these two important measures.

I thank my colleagues also on the committee and on both sides of the aisle. I thank our two leaders, Mr. MITCHELL and Mr. DOLE, for their fine cooperation and support, and the splendid help which they gave.

As to Mr. HATFIELD, I have been working with him quite a long time on the Appropriations Committee. He was formerly the chairman of the Appropriations Committee, as I stated many times. I not only thank him for his able assistance again, but I also look forward to working with him in the upcoming conference on these measures which we hope to begin on tomorrow.

I certainly would be remiss if I did not also thank the very capable staff of the Appropriations Committee in the Senate; the staff members who have put in many hours of work on these measures, who will continue to do so, and who are doing so even now until the final conference report is passed by both Houses and sent to the President.

These are supplemental appropriations bills. They are usually referred to as Christmas trees in that they gather many amendments on the way through the subcommittee, the full committee, and through the Senate.

But I also want to commend the House of Representatives on their restraint which was shown by the House committee members and House Members in dealing with these two supplemental appropriations bills, as well as my own members of the Senate Appropriations Committee and all of my colleagues in the Senate. There were some amendments added but I believe that as I look back over the years, this seems to be a case to me when our Members did exercise restraint in this body, and I believe that the conference will be made easier thereby.

The entire staff of the Appropriations Committee was involved, and I would like to recognize each member of the staff. I thank the majority and minority clerks, and their assistants for their dedication and professionalism. Without their efforts the work of the committee in the Senate would be, and the Senate would be, much more difficult.

I would like to take a moment to say a special thanks to the full committee staff for their dedication and professionalism: Jim English, staff director; Terry Sauvain, deputy staff director; Mary Dewald, chief clerk; Dick D'Amato, counsel for international and national security policy; Marsha Berry, professional staff member; Jack Conway, professional staff member; Bob Putnam, professional staff member; Anita Skadden, staff assistant; Diana Gourlay, staff assistant; Jodi Capps, staff assistant; Rheda Freeman, telephone operator; Nancy Bradel, telephone operator; Norman Edwards, clerical assistant; Joseph Chase, clerical assistant; and Keith Kennedy, minority staff director.

My appreciation and thanks is also extended to both the majority and minority clerks of our subcommittees:

Agriculture: Rocky L. Kuhn, majority clerk; Irma H. Pearson, minority clerk.

Commerce: Scott B. Gudes, majority clerk; John Shank, minority clerk.

Defense: Richard L. Collins, majority clerk; Keith Kennedy, minority clerk.

District of Columbia: Tim Leeth, majority clerk; Rick Pierce, minority clerk.

Energy and Water: Proctor Jones, majority clerk; Mark Walker, minority clerk.

Foreign Operations: Eric Newsom, majority clerk; Jim Bond, minority clerk.

Interior: Charles Estes, majority clerk; Cherie Cooper, minority clerk.

Labor/HHS: Mike Hall, majority clerk; Craig Higgins, minority clerk.

Legislative: Jerry Bonham, majority clerk; Sean O'Hollaren, minority clerk.

Military Construction: Mike Walker, majority clerk; Rick Pierce, minority clerk.

Transportation: Pat McCann, majority clerk; Anne Miano, minority clerk.

Treasury: Patty Lynch, majority clerk; Rebecca Davies, minority clerk.

VA/HUD: Kevin Kelly, majority clerk; Stephen Kohashi, minority clerk.

I would also like to take a moment to thank my chief of staff, Barbara Videnieks, for her excellent advice and counsel on all matters relating to both supplementals and to thank Melvin Dubee for his special assistance in relation to the issues in connection with the Desert Shield/Desert Storm supplemental, as well as other matters in the dire supplemental appropriation bill.

Mr. CHAFEE. Mr. President, I voted for the legislation we just passed. There was much in it I did not approve of. It is my hope the bill can be cleaned up in conference. Should it not be, I reserve, obviously, the right to not only vote against it but to support a veto of the President, should that become necessary on the President's part.

I wanted to make that clear, Mr. President.

The PRESIDING OFFICER. The Senator from Kentucky [Mr. FORD], is recognized.

ORDER OF PROCEDURE

Mr. FORD. Mr. President, there are several Senators who wanted to speak and I am not going to try to restrict them. But I wonder if we might have some idea how long they will require. I see the Senator from Vermont, 5 minutes; the Senator from Pennsylvania, about 5 minutes; the Senator from Montana?

Mr. BURNS. That is correct, about 5 minutes, sir.

Mr. FORD. So I will give some idea—there will be about half an hour of speeches—to give people an understanding of about how long it is going to be before we close for the evening.

I thank the Chair.

Several Senators addressed the Chair.

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that there be a period for morning business, and that Senators be allowed to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. I thank the Chair.

(The remarks of Mr. BURNS pertaining to the introduction of S. 715 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BURNS. Thank you, Mr. President, and I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

ISRAEL'S RESTRAINT

Mr. HEINZ. Mr. President, I want to take a moment just to reflect on one item in this bill and how it relates to the recent victory in the gulf, because with the victory in the gulf behind and the task of securing a lasting peace before us, the United States is about to embark on a diplomatic odyssey of great and perhaps historic importance. Before we delve into the intricacies of postwar politics in the Middle East, it is appropriate at this time to consider the question of who our friends are.

We are grateful, of course, to the members of the coalition, our old friends, England and France, joined with more recent allies, including Saudi Arabia and Egypt, to stop Saddam Hussein's aggressive rampage in the region.

I wish to pay special tribute, however, to the leaders and the people of the State of Israel, a noncombatant nation. Israel was the target of a cowardly attack designed to pull her into war and shatter the coalition. The cynical calculation employed by Saddam Hussein would have shamed Machiavelli, and many of us thought he would get his way.

I well remember, Mr. President, that first night as I stood watching on television with deep disbelief as reporters in Jerusalem and Tel Aviv donned gas masks and told us that missile warheads were falling in the streets of Israel. Like many, I thought that Israeli retaliation was inevitable. Certainly, it was justifiable. And then what many of us thought the impossible would be actually happened: Israel stayed her hand.

The reward for this restraint was a furious blitzkrieg of Scud attacks, dozens of them, night after night, and still the Israeli sword remained in its scabbard long after virtually anyone in this Chamber, had our Nation been under attack, would have struck back with as devastating a force as we could muster.

I say this, Mr. President, because I personally have experienced exactly those same feelings of rage. I experienced them the day I learned of the death of over a dozen young members of the 14th quartermaster's detachment from Greensburg, PA. They were killed by the last Scud missile to fall in the war, and it fell, unfortunately, on their barracks near the air base in Dhahran.

I can tell you, Mr. President, I felt a fury that would never have allowed me to forswear retaliation the way the Israelis did. I have been amazed ever since by the monumental effort of self-restraint it must have taken for the Israelis to do what so many, including myself, I doubt, could have done.

What guarantees did the Israelis have? The air war raged on, and the United States and its allies tried to assure Israel that we would eliminate the Scuds still left in the field. But still those missiles fell, and still the Israelis waited. Fears that the coalition would unravel would prove groundless as Saudi Arabia, Egypt, and even Syria indicated that they would not object if the Israelis did, indeed, exact their vengeance.

Even Syria, Mr. President, Syria, Israel's most dedicated enemy, made it clear that they would not defect from the coalition or otherwise object if the Israelis did what I think we would all say was their right to do. And still the Israelis waited, even as the Palestinians, in their own nation, cheered the sight of falling warheads, and Jordanian authorities warned that their airspace was not to be violated unless the violator was a bomb-laden Scud.

Mr. President, what was the source of this remarkable restraint? In essence, the Israelis decided to forego vengeance and to do what was best, not necessarily for themselves, but for the international community. This entailed great risk to Israeli security.

It is instructive to consider here the difference between Jordan and Israel. When the chips were down and the Jordanians sensed the dangers of war mounting about them, they panicked and joined forces with the neighborhood bully rather than take the risk of doing what was right.

The Israelis took those risks and the price paid in Israeli lives and property when the flaming remnants of Saddam's Scuds rained down on the homes of Haifa and Tel Aviv.

Mr. President, it is my hope that the Iraqi people will throw off the dictatorship of Saddam Hussein and that he and his henchmen will be brought to justice as the war criminals they most certainly are. The Iraqi people need to know we bear them no ill will. Indeed, I look forward to the day when we can welcome Iraq and Jordan, as well, back into the family of civilized nations, as we did with Germany and Japan before them.

But for Israel, we must show our gratitude, we must make clear that we have understood the awesome nature of the burden they undertook in their patience, and we must be firm in our assurances that we will never forget that Israel chose the path of resolve rather than the path of fear.

In that regard, Mr. President, I am pleased that the legislation that we have just passed, H.R. 1281, reimburses the people of Israel for a portion of the material costs inflicted on them because they chose the course of responsibility and restraint.

EXPLANATION OF SUPPORT OF H.R. 1281

Mr. HEINZ. Mr. President, I do want to make clear that although I did indeed support the final passage of H.R. 1281 for a variety of reasons, there are things in that legislation that I am not in support of.

It is my hope in sending the legislation to conference that some of the decisions made, both in committee and on the floor, will be worked out and will be reversed, and that this will be legislation that the President can sign.

If, however, the bill is not improved and if the bill should be vetoed, I may well decide to support such a veto should it come.

Mr. President, I thank my colleagues, and I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. I thank the Chair.

(The remarks of Mr. JEFFORDS pertaining to the introduction of S. 716 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

NO HOMECOMING FOR HOSTAGES

Mr. DOLE. Mr. President, as we celebrate the return of our POW's and our other forces from the Persian Gulf, we must not forget that, for some Americans, there is still no homecoming.

Six Americans—six totally innocent Americans—remain hostage in Lebanon. In a very real sense, too, their families remain hostage to uncertainty, anxiety, and fear.

Six innocent Americans. By name—Terry Anderson, Thomas Sutherland, Joseph Cicippio, Jesse Turner, Alan Steen, and Edward Austin Tracy.

Terry Anderson has been captive the longest—6 years.

I wonder how often any of us really think about that. Six years. Our term in the Senate; Terry Anderson's term in a living hell.

Think about erasing from your mind all that you have seen, heard, and learned these past 6 years. Do the hostages know that we have won a great victory in Desert Storm? Do they know that there was a Desert Storm?

Do they know of the great leadership of our President, George Bush? Do they even know that our President is George Bush?

Think about what each of us has done, experienced, enjoyed, these past 6 years. By any reasonable guess, Terry Anderson has enjoyed not 1 day of it.

Think about how long just these last 7 or 8 months have been for those Americans who have had family members serving in the gulf; how each day has dragged on, filled with uncertainty and anxiety.

And multiply that period of time by 10 times or more, and those feelings by a hundredfold—and perhaps you can begin to sense the anguish of the hostage families.

Mr. President, in many ways, these are days filled with joy and celebration.

That is as it should be.

But let us never forget, even in those moments of celebration, that our final and full celebration cannot come until all Americans—including our hostages in Lebanon—come home again.

YUGOSLAVIA IN CRISIS

Mr. DOLE. Mr. President, the crisis in Yugoslavia deepens by the hour; it is, in essence, a struggle between democracy and communism—the outcome of which will determine the future of Yugoslavia.

This ongoing struggle was evident in recent anti-Communist demonstrations in Belgrade—demonstrations which were met by brutal force—as well as at the highest levels of the Yugoslav Government. A dramatic vote in the federal presidency last week revealed the battle lines that have been drawn.

In collaboration with the Yugoslav army, the President of Yugoslavia brought forward, to the other members of the collective presidency, a proposal to impose martial law in Yugoslavia. Well, the representatives of the four democratic republics and the representative from the Province of Kosova, saw the proposal for what it really was: A last ditch effort to retain Communist control at the federal level and to bolster the regime of the hardline President of the Republic of Serbia. As a result, the measure failed by a 5-to-3 vote.

In response, the President of Yugoslavia—who is also the representative of the Republic of Serbia—and the Communist representatives from the republic of Montenegro and from the province of Vojvodina, all resigned. The Serbian Government then fired the Kosova representative in retaliation for his refusal to vote for martial law.

So, having failed in their takeover attempt at the federal level, the Communists adopted new tactics—tactics designed to create a pretext for army intervention. The three resignations and the dismissal were intended to undermine the federal presidency, to give the impression that things were out of control and that army intervention was the only option. Nevertheless, the representatives from the democratic republics have continued to meet in order to keep the presidency functioning.

Yesterday, the Yugoslav Army issued a statement that left supporters of Democracy very uneasy. The statement was ambiguous; it did not clarify what the army's plans or intentions were. Although the statement indicated that the army would "not interfere in political talks on the country's future," it left open the possibility of unilateral action in response to "armed interethnic conflicts and civil war in Yugoslavia." This type of excuse was used by the army twice before when it deployed troops in Belgrade against anti-Communist Demonstrators, and, in a small village in Croatia.

Today, there are news reports that the resignation of Yugoslav President Jovic has been rejected by the Serbian Assembly. Does this mean that the other hardliners are coming back, too? If so, what will their next move be? Will the representative from Kosova return? Or will a new representative—A puppet—be chosen by the Serbian hardliners?

Mr. President, I don't have the answers to those questions. The situation in Yugoslavia is very uncertain and very volatile.

However, Mr. President, what is certain is that the democratic republics of Yugoslavia are doing all they can to fight attempts by the military and Serbian hardliners to crush democracy and to spread the oppressive policies of Kosova throughout Yugoslavia. These leaders are meeting with each other continuously and are keeping the channels of communication open with Serbian President Milosevic and with the Serbian opposition—who recognize that Milosevic and his policies are to blame for the problems in Serbia and the crisis in Yugoslavia as a whole.

Mr. President, what we need to do is let these courageous leaders, from the fledgling democracies of Bosnia, Croatia, Macedonia, and Slovenia, know that we support their efforts to keep the peace and to protect the gains made in free elections last year. But, we also need to send a clear message to the Yugoslav army and the hardliners, that if martial law is imposed there will be grave reprecussions for our relations with Yugoslavia. Last week, our Ambassador in Belgrade, indicated in a TV interview, that a military crackdown would lead to a cut-off in United States foreign assistance to Yugoslavia. Mr. President, that is not a hollow threat—there is no doubt that the U.S. reaction to the imposition of martial law in Yugoslavia, would be swift decisive, and punitive.

DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS

Mr. DOLE. Mr. President, the final vote on the appropriations bill was 92 to 8. I commend the distinguished chairman of the Appropriations Committee and also Senator HATFIELD, the ranking Republican, but I do not want anybody to misunderstand that vote. I did insert earlier in the day a letter from the OMB Director, Richard Darman. I also had an opportunity to meet with Chief of Staff John Sununu and briefly with the President at noon. There are a number of provisions in that legislation that are very distasteful to the administration.

I hope that, and I would just say I believe, the bill be improved in conference, but I also want to indicate that I suggest if the bill should be vetoed that the veto will be sustained.

I talked with a number of Members on my side who have indicated they were voting for final passage but they cast individual votes on different provisions, and they were opposed to some of those provisions.

So I hope when the bill comes back from conference it will be one that is acceptable to the administration, to the President of the United States, and one that we can pass very easily.

A TASTE OF IMMORTALITY AND THE FUTURE

Mr. BYRD. Mr. President, I understand that one of our colleagues, the very distinguished senior Senator from New York, DANIEL PATRICK MOYNIHAN, has recently enjoyed the miracle of being presented with his first grandchild. I wish to take this opportunity to be the first Senator to welcome Senator MOYNIHAN publicly into the senatorial grandfathers fellowship, and to extend to our illustrious colleague all of the rights and privileges appertaining thereunto.

Through no merit of my own, over the years I have several times experienced the joy of grandfatherhood, and I can testify that life offers few existential moments more humbling, more marvelous, more awesome, or more stunning than for the first time holding one's grandchild in one's arms.

Erma and I, as grandparents, have often reflected on the blessings of grandchildren. So often a grandchild is a mirror—a speculum— one's self. There I see—in boy child or girl child—my nose, my mouth, my eyes, my chin or my ears, and in a more perfect degree, each in miniature but reflective of their ancestry.

There I witness—in a boy child or girl child—a glimmer of my own immortality, and a glimpse of the future that will be, even when I am no more.

If a father can take pride in his child, how much more can a grandfather take absolute limitless and uncritical pride in his grandchild. A father must be aware of his own child's errors and correct them. A father must be aware of misbehavior and change it. A father must, from time to time, use a light hickory switch on those darling little ones.

But in the fullness of his pride, a grandfather seldom notices any blemish or misstep to correct in his grandchild. To be a grandfather is to love and to revel in this tiny extension of himself.

I welcome Senator MOYNIHAN to that incomparable experience, and Erma and I join in hoping for him and for his dear and wonderful wife, Liz, the fullest portion of the blessings of grandparenthood. They now have reached a new plateau in life, indeed, their first taste of immortality.

Likewise, I welcome young Michael Patrick Avedon into the Senate family, and I hope that right soon young Michael Patrick awakens to an appreciation of the distinguished lineage into which he has been born as the grandson of Senator and Mrs. Patrick Moynihan.

Indeed, without fear of contradiction, I can say that few men in U.S. history have entered the Senate with the credentials and the record that Senator MOYNIHAN brought with him subsequent to his 1976 election. He could well have graced a Senate seat in any Congress beginning with the first and continuing through the beginning of the 102d.

A native of Oklahoma, DANIEL PATRICK MOYNIHAN was educated in the public and parochial schools and the City College of New York City. Following service in the U.S. Navy from 1944 to 1947, PAT MOYNIHAN continued his education at Tufts, from which he earned a B.A. (cum laude) in 1948, an M.A. in 1949, and a Ph.D. in 1961.

Subsequently, Mr. MOYNIHAN served Cabinet and subcabinet positions under Presidents Kennedy, Johnson, Nixon, and Ford. From 1973 to 1975, he was Ambassador to India. From 1975 to 1976, he was our Permanent Representative to the United Nations.

In addition, Senator MOYNIHAN has taught and lectured at Syracuse, Cornell, and Harvard, as well as several other colleges, and has been the recipient of numerous national and international awards.

He has written many books, so many that I cannot recall the names of all, but they are excellent books, and they should be, because PAT MOYNIHAN is an excellent and talented intellectual.

Senator MOYNIHAN's marriage to the former Elizabeth Brennan, a talented, accomplished woman in her own right, has given the Senate one of its most admired and distinguished contemporary pairings.

Mr. President, I know that I speak for all of our colleagues—and most especially for all of our grandfather colleagues—in congratulating Senator and Mrs. Moynihan on the arrival of their first grandchild. To the Moynihan family, I wish every blessing and pleasure that a grandchild can bring, both now and in the years ahead.

And to that fine young grandson, Michael Patrick Avedon, I say:

First, in thy grandfather's arms, a new-born child,
Thou dids't but weep while those around thee smiled;
So live that in that lasting sleep,
Thou mayes't smile while those around thee weep.

SENATOR MOYNIHAN'S GRANDCHILD

Mr. FORD. Mr. President, let me join with the distinguished Senator from West Virginia in his remarks about welcoming our distinguished friend from New York into the grandfatherhood of the Senate.

I want to be a little more practical, maybe, or get practical from experience. Being a grandfather is just what it says. It costs you an extra grand a year. And so he is just beginning the cost of grandchildren. That is another experience, I say to my good friend from West Virginia, that the distinguished Senator from New York will experience.

IN RECOGNITION OF THE 96TH BIRTHDAY OF FREDERICK BENSON OF BLOCK ISLAND, RI

Mr. CHAFEE. Mr. President, it is my honor and privilege to pay tribute to Mr. Frederick Benson of Block Island, RI, in recognition of his 96th birthday on April 14, 1991.

Since his arrival in 1903 on this picturesque island 11 miles off the Rhode Island coast, Mr. Benson has been leaving his mark on generations of Block Islanders. Born in Boston in 1895, he was abandoned by his parents when he was 3 years old and placed in an orphanage. Gordon and Hannah Milliken, who had always cared for foster children, brought Fred to the island, his new home. He lived in the same house for more than 80 years until he recently moved into the new island elderly housing facility.

Many Block Islanders have fond memories of Fred from their school days. His involvement with the Block Island School dates back to his days as the high school baseball coach. However, because he ran the island's only repair garage the principal asked Fred if he could teach auto shop at the school. At the age of 55, Fred returned to school and obtained his high school diploma so he would feel more qualified to teach. He remained as the island's auto shop teacher until he retired at the age of 69, eventually branching out to teach carpentry, machine repair and driver instruction.

Fred has been involved in almost every level of community activity from coaching the island baseball team to his present position as the island registrar of motor vehicles. His list of accomplishments includes service as the island civil defense director for 12 years, police commissioner, first captain of the local rescue squad, president of the chamber of commerce five times, and island man of the year.

Always deeply concerned about the youth of the island, Mr. Benson established a scholarship fund in 1977 for students who graduate from the Block Island High School. This unique generosity helped make possible a college education for many deserving island students.

I commend Mr. Benson for his years of community service and I join with all his many island friends in congratulating him on this happy occasion.

THE LEADERSHIP AMENDMENT TO S. 578

Mr. MURKOWSKI. Mr. President, I am pleased to rise in support of the leadership amendment to S. 578. This amendment would provide additional benefits for our military personnel, some of whom served in the Persian Gulf war. I applaud those who have diligently worked on this amendment—especially Senators DOLE, MITCHELL, MCCAIN, and GLENN.

As former ranking minority member of the Veterans' Affairs Committee and a current member of that committee, I am pleased to have played a role in the development of the veterans portion of this amendment. Our committee will continue to explore the needs of the Persian Gulf war veterans and make necessary adjustments which may be needed in the future.

I am pleased a compromise agreement was reached with respect to the $50,000 death gratuity. Under this package, servicemembers who died after August 2, 1990, and before March 31, 1991, in the performance of military duty will receive a $50,000 death gratuity. The dollar figure is equal to the amount of the proposed increase in the Servicemen's Group Life Insurance Program. I appreciate the leadership's acceptance of the suggestions made by Senator SIMPSON and myself on this provision.

The package does not include a provision to require employers to rehire reservists who had been employed as temporary employees, as had been suggested by Senator KENNEDY. However, I would note that with respect to seasonal employees—like those who work in some Alaska industries such as fishing—the current practice, as provided for under the current law, is that employers would be required to reemploy the reservist during the next season. That is, if the season is over, the employer would not be required to create a new job but rather hire the reservist during the next season.

Again, I take this opportunity to acknowledge the outstanding performance of our troops in the Persian Gulf. We are proud of them and I hope that this benefits package will help to address some of the challenges they will face upon their return to the States.

I urge my colleagues to vote in support of the leadership package.

I ask that a summary of S. 578 be included in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

LEADERSHIP PACKAGE—PERSIAN GULF BILL—S. 578 SUMMARY OF MAJOR PROVISIONS

Total cost $500 million over 5 years.

DOD benefits:

Increases the Servicemen's Group Life Insurance (SGLI) Program from $50,000 to $100,000.

Pays a death gratuity of $50,000 to those who have died in the performance of duty before date of enactment and after 8/2/90.

Provides a $6,000 death gratuity for those who don't have SGLI.

Provides 30 days of DOD health coverage for separated reservists.

Veterans:

Defines Persian Gulf era (needed for VA Pension purposes).

Extends eligibility for these Vets to get counseling at VA's Vet Centers.

Extends presumption of psychosis to these veterans if the illness occurs within 2 years after discharge (automatic service-connected disability compensation).

Requires employers to take steps to retrain employees returning from duty and to make accommodations for their disabilities.

Extends the filing date for reimbursement for burial expenses for two years.

Strengthens reemployment rights for returning disabled Persian Gulf Veterans.

Provides eligibility for Persian Gulf Veterans of other veterans programs (including: home loan) who served for 90 days.

Increases Montgomery GI Bill Education for active duty and reservists.

Other:

Excludes from taxes hazardous duty pay.

Permits federal employees to donate annual leave to be distributed equally among Federal Employee veterans of Desert Storm.

Provides loan repayment deferral under the Stafford loan program for military personnel serving in Desert Storm.

TRIBUTE TO JIM CLAYTON, KNOXVILLE, TN

Mr. SASSER. Mr. President, I rise today to pay tribute to Mr. Jim Clayton of Knoxville, TN, who is 1 of 10 recipients selected from across the country to receive the 1991 Horatio Alger Award. It is with great pride that I recognize Jim on behalf of all Tennesseans. His life typifies the spirit that made the lives of the Horatio Alger characters so inspirational—despite somewhat humble beginnings as the son of a tenant farmer, Jim has achieved great success, and he has shared the fruits of that success with his fellow man.

Jim founded his namesake business—Clayton Homes—in 1966 on a single lot in Knoxville. Since that time, the company has become a multimillion-dollar business and the Nation's largest retailer of manufactured homes. Even in the face of the current recession, Clayton Homes continues to prosper and was one of the top 10 performing companies on the New York Stock Exchange last year.

Jim's accomplishments are not limited to his role as a business leader and leading employer in the Knoxville area. Over the years, he has also been a major benefactor to both the Knoxville Museum of Art and the Knoxville Symphony Society. It is because of this kind of generosity that these organizations can continue to enrich the lives of thousands throughout east Tennessee.

In light of these achievements, it's easy to see why Jim was chosen to receive the Horatio Alger Award. Mr. President, I join my fellow Tennesseans in congratulating Jim for this great honor and expressing our appreciation for his years of corporate leadership and civic commitment to the Knoxville area and the entire State of Tennessee.

LESSONS FROM THE WAR

Mr. BOREN. Mr. President, my distinguished colleague, Senator ROBERT KERREY of Nebraska, visited the State of Oklahoma to address the Jefferson-Jackson Dinner. His remarks were thoughtful, provocative, and eloquent. I ask unanimous consent that the full text of his comments be printed in the CONGRESSIONAL RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR ROBERT KERREY, LESSONS FROM THE WAR, MARCH 9, 1991, OKLAHOMA CITY, OK

The war to liberate Kuwait is over.

From now until the Fourth of July we're going to be welcoming home the men and women who went to the Gulf, and whose lives will always bear the imprint of that sacrifice. For many of us argued against the President, ours is a rather difficult position.

We have one foot in a vote for an alternative course of action and the other, in the joy we feel for this victory and the good America has done. We stand vulnerable to illegitimate as well as legitimate criticism.

The illegitimate criticism is simply grounded in political natures, and threatens to do little damage to this country, except perhaps to our chances for re-election. Perhaps the worst of these kinds of political statements occurred last week when Rep. Newt Gingrich—that great chaser of parked cars—was quoted in the Atlanta Constitution using the example of Desert One—the mission in 1980 to free Americans held hostage by Iranian terrorists—for apparent political expediency.

He gained a headline, and I suppose he got some points for political cleverness. This avoider of military service also gained my permanent enmity, debasing the memory of those men who died in that noble, dangerous, heroic, and—yes, in the end—unsuccessful try to liberate their fellow Americans.

The legitimate criticism that we face focuses upon what we as Democrats stand for, what we will fight for, and as well, what we will die for. The answer, I believe, can be seen in the fact that we gave strong support for this war once it begun. For, in spite of their attempt to say that we tried to obstruct President Bush, after making our case for an alternative, most of us were behind the President all the way.

Ironically, this places us in the uncomfortable position at times of having to explain ourselves in two directions at once. The first is to those who are disappointed stopped our criticism. The second is to those who disapproved of our ever beginning that criticism.

It would be a terrible mistake for us to pay much attention to this temporary discomfort. It would be the height of self-indulgence to fret about the political impact upon the Democratic Party.

Rather, I believe we should examine the events of Desert Storm, and examine them carefully, giving full credit where credit is due, and, most of all, trying to learn from our own mistakes. If we do, if we pay attention to policy, look for mistakes and try to learn from them, America will benefit. And if America is the beneficiary we will be too—even if it's not in time to salvage our political careers.

My own voyage this past seven months has been an interesting one. It reminds me of a similar voyage taken by a friend, John Zier, may he rest in peace. John was a Second Lieutenant in the First Marine Division. John and I met while we were patients in the Philadelphia Naval Hospital in 1969.

Zier led a platoon out one night, a platoon that he was quite convinced he was going to be able to lead out safely and back safely. He had done a great deal of work planning the operation. But he wasn't out long before he realized that he didn't notice any of the things he thought he was going to be noticing. It occurred to him that he was someplace that he wasn't supposed to be and he began to worry that perhaps he had strayed off course.

He called his compass man back. And his compass man said, "Lieutenant don't worry, I know exactly where we are." Zier proceeded on for a couple more minutes before he was certain he was lost.

Then he moved up behind his point man and took charge expecting to lead his platoon to safety. He took over, as all good commanders should when they're in doubt. He took the compass, and he said, "I know what we're doing, son, I'm in charge."

Again he went forward, convinced and knowing where he was going. However, it wasn't long after that that he saw in the path ahead the unmistakable form of men moving right to left perpendicular to his line of movement. In that split second where you have to decide whether or not to engage, he knew they were Americans by the way they walked, by their unmistakable body language.

So he stopped his platoon, and sent his point man ahead. And his point man came back. You could see he was quite upset, he wanted to know who was out there. Who was operating in his area of operation? The point man came back and said, "Lieutenant, they're ours." And John said, "Yes I know they're ours; I can see they're Americans."

And the point man said, "No, Lieutenant, it's our platoon; we've been going in a circle."

Zier—as I think we as Democrats must do—got up, moved out and as he passed the men, he asked who they were with. And they said, "We're with Lieutenant Zier." And he said: "I know him; he's a good man; you're in good hands."

The voyage that I've made the past seven months provides me with more than just a powerful and jolting awakening to the fallibility of my own nature. It awakens me, as well, to many other sides, that have lain in the shadows of my own forgetfulness.

My own war experience affected me throughout. And I say, as I have said to Nebraskans—not always in a constructive fashion. The political lies of Vietnam, and their tragic impact, have put me on constant alert for a battle cry that is tainted with insincerity or evasiveness.

Thus, I reacted against the unwillingness to level with the American people about how we got into this issue about being terrorized by Saddam Hussein. And I still believe it is important to get this full understanding if we're not going to repeat our mistakes in the future. The fact of politicians hiding their own complicity or exaggerating the extent of the danger in a battle situation is not one which should cause the policy to fail all by itself.

Thus, the first awakening that I must declare openly is that President Bush led this nation and the world in a fight against a terrible enemy. He led us—supporters and critics alike—to a successful conclusion because he was committed, he was courageous, and because he was strong. He did not, as he has been known to do on other occasions, put his finger in the changing winds of political polls. He marshalled the forces of Americans who know we must constantly give ourselves to the battle for freedom.

But I also must tell you that my own awakening to the value that Americans place on this thing called freedom did not occur because of President Bush. Indeed, I believe his driving cause all along from the beginning was dominated by a desire and need to protect an economic interest.

Instead, I, as one human being, began to awaken when the Berlin Wall fell, due to the combined weight of millions of people who had a simple, powerful yearning to be free—and the resistance of Americans to tyranny by repressive military police states. The tears of a trusted U.S. ambassador to Germany, Vernon Walters—a man not easily given to such expressions of emotion—at the sight of East Germans' gratitude, said it all.

I began to awaken, as well, to the strong poetry of Vaclav Havel; the honest determination of Lech Walesa; and the proud dignity of Nelson Mandela. They, in appearing before Joint Sessions of Congress to thank the American people for standing for their freedom, opened a skeptical heart and an absent-minded brain to the value of our gift.

We sacrificed much to free them from the jails of their former lives. We influenced their jailers with our opposition and our resolve. And we encouraged, as well as emboldened, the prisoners themselves to revolt.

I believe it happened so quickly that it was easy to miss what it cost. I believe, as well, that while we paid attention to the benefits of freedom for the people who now struggle with the imperfections of self-rule, we missed the benefits for those of us who have enjoyed freedom all our lives obtained as well.

To illustrate that benefit, let me call your attention to Czechoslovakia. Prior to their peaceful revolution they were a haven and a resource for the world's terrorists. Their manufacturing expertise supplied some of violence's best explosives and weapons.

After they became a democracy the transformation was stunning. When they became a government of, by, and for the people, they changed. Not only did Vaclav Havel and other prisoners turned leaders teach us a lot about the Fourth Amendment—about unreasonable search and seizure—and the tangible nature of freedom denied, they asked our help in advancing the benefits of democratic rule.

Most important for our policy in the Middle East, Czechoslovakia became an example of the value of subordinating economic interests to the interests of life. They are no longer an arms merchant in this world. They are no longer providing a safe haven nor are they providing any of the weapons they have been able to produce and sell in the past.

I would also call your attention to East Germany. Two years ago they were a threatening, hard-lined state. But they are no longer. They are part of a larger Germany. And the only threat they pose to us is that the German people are taking consumption today and making productive investments in roads and water systems and communication; and the only threat they pose to us is the threat five years from now they will start to reap the rewards from those productive investments.

Democracy: Something a lot of Americans have taken for granted, or worse, have become to doubt. The rule of laws made by and for the people is a disorderly way of doing business. The emotions which power us can produce intolerance and vindictiveness, as we are seeing in the aftermath of our debate about the wisdom of the war in the Persian Gulf.

Still, democracy offers not only the best hope for protecting and embracing and enhancing the dignity of the weak and the strong. It offers the best hope for a world at peace. Democracy offers the best hope for a world where nations reconcile bitter, hate-filled differences rather than destroying the lives of their children at war.

The importance of this awakening for me is that I now see the origin of the Iraqi government's danger to their own people and their neighbors. It is not the singular person of Saddam Hussein, but a military dictatorship which permits no dissent, disagreement, or opposition. And if we are timid in opposing that dictatorship now; if we are unwilling to be concerned about the repression of Iraqi people that is going on today; if we are blind to Iraqi citizens who are being tortured and abused today by Saddam Hussein; then I believe and fear that we run the risk of once again having to face not only him but others like him.

Thus, I believe as we rejoice at the return of our sons and daughters and as we prepared to make certain their freedom is made more meaningful with the helping hand of jobs, education, and health care, we should not close our eyes to the brutal repression of Iraqi dissidents by Saddam Hussein. It is simply not enough to make certain that he is no longer a threat to our economic interests. If all we do after this war is over is take advantage of construction contracts, cheap oil, and new buyers of military hardware, the sweet taste of victory could become as bitter as the defeat in Vietnam.

And if we respond at home to the stunning superiority of our weapons systems by only building more of the same, we will be judged the biggest fools of all. The people of the Soviet Union are moving in the direction of democracy and private individual ownership of property. Lord help us if we are so intimidated by the reactionary words fo lifetime members of the Soviet Communist Party that we cringe in fear from the opportunity of nuclear and conventional arms reductions treaties.

We should tell the people of the Soviet Union that we understand their fear about the risk of free markets, and the disorderliness of free speech. We should tell them we are by their side as they make the leap to go. It is in their interest, and it is in ours.

Finally, I am moved by the unselfish sacrifice of Desert Storm's participants and the awakening of glory of liberty and freedom which occurs in that moment when I feel a love so strong I am freed from the fear of losing what I have. Do not be so impressed by our technology that you ignore the individual willingness of soldiers to risk it all for something more valuable than their own lives. I tell you the destructive power of our impressive military force simply will not and cannot turn our neighborhoods, schools, businesses, or hospitals into places worthy of the description: the best place on earth.

In war, we are drawn to the heroic performance of the single individual. General Powell. General Schwarzkopf. Fighter pilots. Tank commanders. The brave actions of a single soldier. In doing so, some have been strengthened in their belief in the ideal of the rugged individual operating alone.

My own experience has taught me to believe the opposite. That all individuals derive their strength and achieve the possibility of becoming more as a result of the support of the group. That group may be family. That group may be friends. That group may even be strangers. Whatever I have done in my life, whatever I have accomplished in my life, is in no small measure the result of others—family, friends, strangers, who have helped me every step of the way.

This respect for what I can if I am helped did not remove from me the obligation of listening—listening for God's voice in the midst of the cacophony of today's world. My conscience still creates my responsibilities.

This respect for the help of others leads me to the strong belief as to what we should be doing, what Americans should be doing with the pride we feel as a result of Desert Storm. I'd like to give you some examples. But let me point out at the beginning something which is unifying of the entire list: We will not advance any of it if we worry only about ourselves; and we cannot win this battle by merely trying to please the audience.

First, I believe, and believe so strongly, that we should share much more of our abundance with mothers and children who we serve with Head Start and WIC. I believe that we would be rewarded if we fully funded these Democratic programs for the next 10 years—and we are nowhere near fully funding either one.

In 10 years, the performance of our schools would be improved. The cost of our welfare programs would be reduced. And the productive capacity of our workplace would be enhanced. Some will say we can't afford to do this. They will say that the deficit reduction package of last year dictates restraint. But I tell you these children didn't cause our deficit. Our disregard for them did.

Second, I believe we need to face the rising cost and decreasing access of health care in America with a national plan that guarantees access to health care as a right. A plan that places upon Americans the obligation of deciding how much we will spend and how we will allocate the resources. A plan that moves the basing of health care benefits away from businesses, and preserves the private, diverse system of health care itself. And we will not do this unless we care enough about our country and its future to do something for others now. If we continue to cover our own needs first, we cannot possibly do what is best for all of us.

Third, I believe we need radical change in our public schools. We are squandering human potential every day. We allow this assembly line to stay in operation turning out too high a percentage of defective products.

In the 1980s American businesses awakened to the threat of international competition. The marketplace was no longer as tolerant of poor-quality goods as it was in the 30 years after World War II. Business leaders who saw this began quality control programs which required them to change an entire workplace culture grown accustomed to carelessness. But we have not done this same thing with our schools.

The reason I believe we have not is because we tend to look for someone else to blame, rather than to accept, in a personal way, the responsibility for the million United States students each year who drop out. We blame teachers. We blame school boards. We blame each other. We blame administrators. Sometimes we even blame the students themselves.

I tell you that these students belong to us. They're our responsibility. They do not belong to someone else. They are part of our heart and our soul and we must care for them as if they were our own children.

And I also believe that we, as a people, will suffer the consequences of their inadequate achievement until at least a majority of us accept this. The sad part is, we already know what do to. If we fully funded Head Start and WIC, we'd go a long way toward achieving the President's goal of having every American child ready for school by the year 2000. If we held parents responsible for helping their children, and schools for helping the parents, we would also supply a crucial element. If we recognized, that in a competitive marketplace, it's going to be increasingly difficult to recruit our teachers unless we're willing to pay them what the marketplace will pay them, we would as well stand a chance of getting the best Americans to enter education. If we started earlier to prepare the student for the workplace, I believe we'd also be focusing on the right problem.

In general, as a people, we're simply waiting too long to act. We arrive on the scene after a problem develops, rather than before. Those of you who can put a pencil to a percentage and understand what it means, take seven percent of a million and extend it out for 10 years. We have a million people in jails and prisons all across this country—a million people—and we're growing at seven percent a year. It costs us $50,000 to build us one of those cells, and $20,000 a year to keep them there. That's what it costs.

Some politicians tell us that we need to build more jails; throw them in jail and we'll lock them up and throw away the key. That policy hasn't worked. We need to get there before the problem is created. We know what to do.

Fourth, I believe we are misapplying the technologies of communication. Not only are we damaging the minds of our children and weakening the bonds of families, but we are missing a tremendous opportunity to give our teachers and our students an advanced tool to discovery. Doors are shut simply because we are unable to imagine what is on the other side.

Fifth, I believe—and I am not discouraged by past failure—we can break this cycle of poverty which traps too many of our people and threatens to destroy our cities. And I believe the deficit which must be filled first—first, if we want to succeed—is not a fiscal or a trade deficit. It is quite simply and regrettably a deficit of love: unselfish, non-indulgent love. It is still the lowest-cost, best way to build a better tomorrow for poor Americans. If we begin hating the poor, as is often the case, our world will steadily get worse.

Sixth, and the last item on my short list is this: America needs to relearn the magic of the lesson of compounding interest and the impressive, powerful force of a productive investment. The precursor of sustainable economic growth fueled by increases in our capacity to produce higher quality goods and services is a massive cultural change in America towards production and consumption.

We need to connect today with tomorrow by setting aside some of today's consumptive needs for tomorrow's productive requirements. If we continue to insist on having everything we want today, even if it means borrowing from our children to do it, the sacrifice of Desert Storm will not be viewed as a real turning point in the history of America. Tomorrow's roads, tomorrow's water systems, tomorrow's communications infrastructures, and tomorrow's productive citizens are being built today. And I must tell you what I think you already know, that we are not building them enough.

In this regard, one of the starting awakenings for me in the past seven months is that I now see oil as a productive asset. It was created, it was given to us by God, to use in our lives, and we Americans are using too much. Our profligacy today reduces opportunity for our children tomorrow.

The failure to view oil as an asset affects more than just our future. It also blinds us in this application of its benefit today. Look at the example of what we are going to do in Kuwait—what the rebuilding of Kuwait entails. The short economic and social description of what we will do in Kuwait is this: Over the next five years, we are going to convert two-and-a-half to five billion barrels of that God-given asset to rebuild a city of 1.5 million people that is run by a man with 80 wives. Now, you be the judge.

Finally, I have observed in my short and happy life that the greatest moments of human history occur when a single man or woman saves or improves the life of another. That single man or woman can be you and I. To do so we must overcome deep personal fear and cross dangers capable even of ending our own lives.

I pray, and I pray with the power I have, that Americans will use this great moment of confidence, pride, and thanksgiving to leap across our political, economic, and social fears—to help save the lives and improve the lives of our neighbors. I believe we are capable of it. I believe we have the courage to try. In this hour of triumph, let us summon the desire and the strength to go further.

EDUCATION SECRETARY LAURO CAVAZOS

Mr. HATCH. Mr. President, this week is a new beginning for the Department of Education. However, it is also a good time to pause and reflect on the accomplishments of former Secretary Lauro Cavazos, who served our Nation well.

Education is currently viewed as a major concern by every State, local, and national leader in this country. Much of this increased focus can be attributed to the efforts of former Secretary of Education Lauro Cavazos. I think this Nation owes him a hearty thank you for his dedication and for his accomplishments.

One of the major vehicles for achieving this prominence for education was the educational summit called by the President in Charlottsville. Secretary Cavazos took the lead in organizing that successful summit. Governors are now working together in a bipartisan fashion to ensure that the end result of that summit is a stronger educational system. National goals have been adopted and are being implemented. Experts in education and assessment are working with the Governors to measure our success in reaching those goals. Government and business leaders are uniting to upgrade all programs in education so our children can compete in the international environment in which we find ourselves. Much of this activity was generated by Secretary Cavazos.

Secretary Cavazos worked hard during this tenure to ensure that a quality education was available to all Americans. He has been especially sensitive to the needs of disadvantaged populations. Knowing all too well that dropping out of school spelled failure for our Nation's youth, Secretary Cavazos worked tirelessly together with State and local educators, business, and community leaders to encourage teenagers to stay in school. I am also grateful for the efforts he made to help thwart the traditional turf battle among Federal agencies. He developed and maintained a solid working relationship with the Department of Labor which, if carried on by new Secretaries Alexander and Martin, will continue to insure to the benefit of structually unemployed citizens through greater coordination and more targeted programs.

The former Secretary spoke often of the need for parents to become involved in the education of their children. Supportive families are crucial to the success of our children in school. They are also crucial to our success as a nation. The best teachers, the most sophisticated teaching materials, and the newest facilities will not significantly improve educational achievement if a child does not receive encouragement from home. Encouraging parents to become involved in schools will result in increased communication as well as greater accountability. Parents in this Nation have responded by accepting this challenge. Our Nation will be strengthened by Dr. Cavazos' concern for parental responsibility.

A new emphasis on parental choice and site-based management exists in our schools. Choice programs throughout this Nation have shown remarkable success as one way to increase the competitiveness and quality of our schools. Secretary Cavazos has been a strong advocate of such programs.

Within the Department of Education, and within the educational system, Dr. Cavazos urged accountability on all participants. Students, lenders, schools, and guaranty agencies were called upon to work together to reduce the student loan default problem. Much has been accomplished under his direction. New accountability measures were built into legislation affecting vocational education to ensure that desired outcomes are achieved.

I salute former Secretary Cavazos for his leadership in education and for his commitment to a quality education for all Americans. Students in our schools today have benefited from his dedication to education. The workplace and community of tomorrow will be a better place because of his leadership in shaping the schools of this country.

TRAVEL AND TOURISM EXPORT PROMOTION ACT OF 1991

Mr. HOLLINGS. Mr. President, recently my colleague, the junior Senator from West Virginia [Mr. ROCKEFELLER], introduced the Travel and Tourism Export Promotion Act of 1991. This is important legislation, of which I am pleased to be an original cosponsor.

The tourism industry is critical to our Nation's economy and represents important jobs and revenue. As a leading employer in the United States, it employs 6 million people directly and 25 million people in related industries. In my own State of South Carolina, I have witnessed how tourism has increased exponentially—tourism is now the second largest employer in South Carolina.

It has been 30 years since I helped convince a friend, Commerce Secretary Luther Hodges, to establish the U.S. Travel and Tourism Administration [USTTA]. In the span of these 30 years, thanks in part to the efforts of the USTTA, tourism has grown into this country's largest export industry. Last year the tourism industry posted a $4 billion surplus.

The bill introduced by my distinguished colleague, Senator ROCKEFELLER, is an important step in providing the USTTA with the direction and funding to carry out its mission in promoting the United States. I hope we can move it expeditiously through the Senate.

I also intend to work with our colleagues in the House and pass a tourism bill this year. It is important that we build upon the progress that we have made in promoting this industry.

S. 602—CHILDHOOD HUNGER PREVENTION ACT OF 1991

Mr. DASCHLE. Mr. President, I rise today to express my support for the Childhood Hunger Prevention Act of 1991, introduced by my distinguished colleague from Tennessee, Senator SASSER.

I applaud Senator SASSER's efforts to improve the programs that help nourish our Nation's most valuable resource—children. While this country produces more food, at a lower cost to the consumer, than any other country in the world, we have a deplorable number of children who do not get enough to eat. Nearly 20 percent, or one out of every five, of our country's children live in poverty—a level that is higher than for any other age group. Studies show that a staggering 2 to 5 million children go hungry every day, while nearly twice that number may be at risk of being hungry. Thus, our most fragile citizens, the children of this country who have the highest nutritional requirements, also face the greatest risk.

Many unfortunate children arrive at day care or school hungry. If a free lunch program is not available, they face the possibility that they will come home still hungry. If this child's family is not eligible for food stamps, or if it is the end of the month and the food stamp allotment for that month has already been spent, he or she may go to bed at night without dinner. And with the current recession this Nation is experiencing, more children may soon be swept into this cycle of daily hunger. It is our moral duty to ensure that the children of our country do not lose any more battles in the war against hunger.

Senator SASSER's bill would make significant improvements to a number of valuable programs that are designed to provide relief to hungry children: the WIC Program, the School Lunch Program, and the Food Stamp Program.

The WIC Program has been unanimously hailed as a successful and cost-effective measure to improve pre- and post-natal nutrition, and reduce subsequent health care costs. However, this program is not available to all those that are eligible, and rising food costs are further reducing the number of mothers and infants that can be served by this program. This bill provides a much-needed increase of $250 million for this program, that would provide food for an additional 400,000 participants.

Currently, many children from low-income families attending for-profit child care slip through the cracks, and fail to receive adequate food. By providing needy children with equal access to the Child Care Food Program, regardless of the status of their child care center, this bill would help remove this barrier to proper child nutrition and also provide greater food services to homeless preschool children.

Throughout the 1980's the number of eligible poor who received food stamps steadily shrank. When this trend is combined with the fact that over half of food stamp recipients are children, it is obvious that this program must be improved and made more accessible if we hope to reduce childhood hunger.

Only 18 percent of eligible homeless individuals receive food stamps. Consistently for the past decade, less than half of eligible rural poor families have received food stamps. This bill will make several significant changes to the Food Stamp Program that would remove some of the barriers that face the homeless and rural citizens of this country.

A large number of poor households have averted homelessness only by using a large proportion of their income to pay for housing, resulting in less money to buy groceries. Mr. SASSER'S bill would eliminate the cap on shelter deductions that currently reduces food stamp benefits for over 1 million households.

Currently there is a critical need to raise food stamp benefits so that they match actual food costs. On the thrifty food plan, fewer than one in six households are able to purchase enough food to obtain the recommended daily allowances of the basic nutrients.

Lastly, this bill will help rectify a problem that has long kept many rural families out of the Food Stamp Program. In rural America mass transit does not exist, and, thus, a reliable vehicle is a necessity, not a luxury. The current vehicle allowance of $4,500 has not been changed since 1977, during which time the price of used cars has increased 120 percent. Mr. SASSER's bill would provde a new baseline of $5,500 and allows for indexed adjustments in the vehicle allowance.

In conclusion, Mr. President, while we must remain mindful of the budgetary limitations that we face, we must take action to eliminate the scourge that is childhood hunger. David Packard, board chairman of Hewlett-Packard and a man who obviously knows the value of tight fiscal management, has stated that "we mortgage our future as a nation to a much greater extent by the negligence of child welfare than by our failure to reduce the budget deficit." I commend the distinguished Senator from Tennessee for his continued devotion to this critical issue, and am pleased to lend my support to this legislation.

TRIBUTE TO GYORGY KRASSO

Mr. HEINZ. Mr. President, I have recently learned of the death of Mr. Gyorgy Krasso, a Hungarian economist, activist, and intellectual, with whom I had the fortune to meet in April 1986. I would like to pay tribute to Mr. Krasso, whose experience during the 1956 revolution and the years it earned him in jail helped inspire his deep and unflagging devotion to the dissident movement in Hungary.

In 1979, Gyorgy Krasso was the first person to publicly describe the events of 1956 as a democratic national revolution. His determination to reveal the truth about the 1956 revolution in Hungary, about who its real heroes and victims had been, exposed him to increasing harassment and intimidation from the Communist authorities—including fines, house searches, and refusal of the right to travel, even to other Soviet bloc countries. But his perseverance and courage also won him the respect and trust of many Hungarian citizens.

Gyorgy Krasso was loyal to the Hungarian people throughout his career, embracing their causes as his own. As he wrote in 1981, "There is no more important nor more timely task than for us to sweep away the propaganda lies that have been told against the revolution for the last quarter of a century, and to give back to the people their own, forgotten history." He was among the most vocal and the bravest of dissidents, and for these reasons he was among those who suffered the most.

The past 18 months have witnessed tremendous changes in Hungary's political system and tremendous advances in the area of human rights. As we look hopefully toward the future, we must not forget the important contributions of individuals like Gyorgy Krasso, who stood resolute through far grimmer days. I am honored to have met him and to pay tribute to him here.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,195th day that Terry Anderson has been held captive in Lebanon.

REMARKS OF RABBI ANGEL

Mr. MOYNIHAN. Mr. President, the Rabbinical Council of America recently hosted its midwinter conference in Washington, DC. Dr. Marc Angel, the spiritual leader of the Congregation Shearith Israel in New York City, serves as president of the Rabbinical Council, the largest orthodox rabbinical group in the world. Congregation Shearith Israel was founded in 1654 and is the oldest synagogue in North America. I have visited this synagogue and spoken there on several occasions.

I believe the Members of the Senate will appreciate Rabbi Angel'c thoughtful remarks on the occasion of this conference, and I ask unanimous consent to place excerpts of his address in the CONGRESSIONAL RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

JANUARY 21, 1991.

We congratulate the United States on its leadership in confronting Iraqi aggression. We commend President Bush; our prayers of gratitude and good wishes go to the military personnel who have risked their lives for the good of America.

Following the resolution of this Gulf Crisis, we are hopeful that the United States will use its good offices to work towards a genuine peace in the entire Middle East. With its great stature and power, the United States has the respect of all parties. We hope that President Bush will support diplomatic efforts to bring about direct negotiations between Israel and her Arab antagonists. We are confident that the Palestinian issue can be solved within the context of an overall peace plan between Israel and her neighbors.

Any peace negotiations should include the following stipulations:

1. The United Nations should immediately rescind its heinous resolution equating Zionism with racism. Any country which maintains support for this resolution should be disqualified from any role in the Middle East peace negotiations. Understandably, Israel must reject suggestions and demands from those who are on record for denying the integrity and legitimacy of Israel.

2. Jews, Christians and Muslims should have the right to live in freedom and dignity in all the countries of the Middle East, including Saudi Arabia.

3. The claims of Palestinian Arabs must be addressed as must the claims of the 600–700,000 Jews who were driven out of Arab lands after 1948. The process of negotiations should keep in mind the injustices committed against Arabs and Jews. One must not forget that Arab countries systematically persecuted Jews and confiscated Jewish property.

4. There must be an immediate end to propaganda which vilifies and demonizes Jews or Arabs. A climate of trust and respect must be forstered. Educational materials, popular media, etc. should be purged of materials which lead to hatred. (Vicious attacks on Jews and Israel have been prevalent in the Arab world's media, even in Egypt which has diplomatic relations with Israel.)

Israel does not and has never asked for special treatment. Israel asks only for fairness and justice, for a proper hearing of its needs and concerns.

TRIBUTE TO LUCILLE SIMPSON

Mr. MITCHELL. Mr. President, I rise today to pay special tribute to Lucille Simpson. On February 28, 1991, she celebrated 25 years of service with the York County Community Action Agency in Sanford, ME, and is retiring in her position as director of the Fuel Assistance Program.

To the residents of York County, ME, Lucille is known to all. A former research chemist at Parke-Davis and selectwoman in the town of Shapleigh from 1956 to 1968, Lucille Simpson joined Community Action in February of 1966.

After serving in several positions within the agency, including director of the Outreach Program, Transportation, Operation Health Mobile, the WIC Program, family planning, and as deputy director for 12 years, Lucille Simpson accepted the position of director of the Fuel Assistance Program in 1980 and continued her dedication to this program even after her semiretirement 3 years ago.

During these many years of hard work and dedication, Lucille Simpson has also devoted herself to the betterment of her community through her service with many social service organizations, including the Cumberland-York Council on Aging, the York County Extension Program, the Maine Ambulatory Care Coalition, the New England Public Health Association, and many many more.

Lucille Simpson was recognized for her exemplary service to her community with the Outstanding Citizen of the Year by the Kiwanis, as well as the Jefferson Recognition Award in 1978.

Lucille Simpson is a public servant in the greatest sense of the word. She has used her many talents and abilities to work in behalf of the neediest within her community and State. She is a great leader and a true friend to all. I know that my colleagues join me in commending her on her many years of service with York County Community Action and wishing her well in her retirement.

GONZE LEE TWITTY: FATHER OF SOUTH CAROLINA'S COOPERATIVE MOVEMENT

Mr. HOLLINGS. Mr. President, I rise to pay my very special respect to a distinguished son of South Carolina, Gonze Lee Twitty, who will be inducted into the Cooperative Hall of Fame tomorrow evening here in Washington.

Gonze is a sterling example of the dictum that one does not have to be on the public payroll in order to be an outstanding public servant. For three decades, he has worked tirelessly to found and develop more than 100 cooperatives and credit unions throughout the Southeast. In the process, he has made a positive difference in the lives of countless thousands of poor and low-income rural Americans.

What is more, his leadership of both the Federation of Southern Cooperatives and the Southern Cooperative Development Fund for the last 20-plus years has been nothing short of inspirational. It is fitting and appropriate that, at long last, the man known as "father of the cooperative movement in South Carolina" is receiving national recognition through induction into the Cooperative Hall of Fame. On behalf of the U.S. Senate and the people of South Carolina, I extend congratulations to Gonze Lee Twitty for an honor well earned and richly deserved.

HEARING THE DALAI LAMA

Mr. MOYNIHAN. Mr. President, the Chinese Government has worked tirelessly in an effort to prevent Tibet's tragic story from reaching the world. But its story is being told. In the Dalai Lama the Tibetan people have had a champion for peace, freedom and nonviolence who would not and could not be silenced.

But it has not been easy. On Tuesday, that most eminent commentator, A.M. Rosenthal, wrote an important column describing the efforts of the administration to insure that the Dalai Lama is not given the opportunity to address the Congress. I urge my colleagues to read this column and consider whether we can truly launch a new world order and ignore the situation in Tibet. As the New York Times said in a 1989 editorial:

> Since 1950, China has shown Tibet the rawest face of imperialism—destruction of thousands of monasteries, suppression of the Tibetan langauge and culture and widespread settlement by Chinese colonists. This has resulted in the death of perhaps a million Tibetans.

In 1960, the International Commission of Jurists issued a report on Tibet which concluded that "acts of genocide had been committed in Tibet in an attempt to destroy the Tibetans as a religious group * * *." The report also concluded that "from 1913 to 1950 the conditions of statehood as generally accepted under international law" were present in Tibet.

I ask unanimous consent that the article entitled "One Small Country" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 19, 1991]

ONE SMALL COUNTRY

(By A.M. Rosenthal)

There was no way to escape writing this column. I thought I was going to write about other things, which I knew would interest more people, like the Soviet Union's approaching civil war of Saddam Hussein's approaching annihilation, or those sickening lynching pictures from Los Angeles.

But I could not escape knowing that now was the time to write about Tibet—and how cruel April will be in Washington for one small country unless members of Congress say no, they have had enough.

Every person has certain things about which he feels he must speak now and then, not because people listen but because they don't. Something strong coming out of experience or convictions insists that eventually attention may be paid but even if not, at least speak.

Some of the reasons I cannot escape the Dalai Lama and his countrymen are personal—years spent in Asia as a foreign correspondent, and detestation of Communism and all other forms of dictatorship—all, no picking and choosing.

Another reason has to do with Raphael Lemkin, Raphael Lemkin was a very annoying man. For years he wandered the headquarters of the United Nations, plucking at diplomats, trying to persuade the member countries to sign a convention making it a crime to destroy a whole people or its culture. After a long time they did sign, and he died, almost alone.

Tibet is a victim of a case of genocide as ugly as any since World War II. The country had 6.5 million people when Communist China invaded in 1950. Its Government of monks was tyrannical in its own ways. But its people were united by common history, common language, the common religion of Buddhism.

Nine years later the Dalai Lama, for Tibetans the 14th incarnation of the spirit of godliness and their national leader, escaped to India. In exile, traveling the world, he has grown to be a celebrated international political and religious figure and, ever more, his people's leader.

But in the Himalayas, at least a million Tibetans were murdered or tortured to death, or died of starvation because of Chinese colonialism.

Beijing annexed two-thirds of Tibet. Scores of thousands of children were shipped to China for education and indoctrination. Millions of Chinese were sent into Tibet, a criminal, genocidal attempt to erase Tibet's reality. In the annexed area they outnumber Tibetans.

The United States refuses to recognize the Tibetans. Be sensible—what kind of a market is Tibet compared with China and how many missiles does it have?

The Dalai Lama goes on. He offers to give up foreign and military affairs if Beijing gives Tibetans self-rule. He outlines a Tibetan government based on democracy and nature. And in 1989 this man who cannot get beyond State Department doors, literally, receives the Nobel Peace Prize.

Tibet asks no soldiers from the United States, no Patriots, just attention, and plain words to its oppressors that genocide is as ugly in the mountains as in the desert.

The greatest of all American assets, tested and proved repeatedly, is not that it is a world policeman but that it will give its political support to freedom. There lies American national interest in Tibet.

In Washington are senators and representatives of both parties who believe this. Congress has passed seven resolutions supporting Tibetans. In Tibet they are passed from hand to hand, a secret wheel of prayer.

Last year, members of both Houses tried to organize a joint session of Congress for the Dalai Lama. The White House objected, so they selected a new date—April of this year when the Dalai Lama would again be in the United States.

But just a few days ago the White House was seized by a sudden desire to have President Violeta Barrios de Chamorro of Nicaragua speak to a joint session in April, and of course Queen Elizabeth is coming in May. Congressional leaders said that eliminated the Dalai Lama because after all, how many joint sessions could you have?

Traditionally Congress follows the White House lead on joint sessions for foreigners, but there is no law about it. Representative Charles Rose, the North Carolina Democrat, says he is so mad he may have a meeting on the Capitol steps. Others talk about a meeting in the Rotunda.

Everybody knows it won't be the same thing at all. A joint session, such as Lech Walesa had after he received the Nobel Peace Prize, would be recognition of the captivity and hope of the Tibetan people. It does not seem too much, in the interest of one small country and this large one.

SENATOR MOYNIHAN'S RECEIPT OF THE WOLFGANG FRIEDMANN AWARD

Mr. BIDEN. Mr. President, I rise today to inform the Senate of a prestigious—and very well-deserved—honor that our colleague from New York, Senator MOYNIHAN, has recently received.

The Wolfgang Friedmann Award is given each year by Columbia Law School's Journal of Transnational Law, the most esteemed publication of its kind. The Friedmann Award goes to a distinguished author and scholar who has produced the most important and significant work on international law that year.

Senator MOYNIHAN won that award, for his highly regarded new book, "On the Law of Nations." Anyone who has read Senator MOYNIHAN's book—as I have—knows why it is so deserving of this honor.

For those of you who have not yet read it, I offer the assessment given by Columbia Law School Dean Barbara Black, who called it, "powerful, witty, passionate, eloquent, and reasoned." A fitting description of the work—and a fitting description of our colleague, as we all know.

It should be no surprise that Senator MOYNIHAN has received this honor for his insightful and intelligent analysis of the role of international law in foreign policy. He is the Senate's leading expert on this topic, and in my view, the Nation's foremost thinker in this field.

It is a pleasure to see his work receive the honors it deserves, and I ask unanimous consent that the remarks of Dean Black in presenting the award to Senator MOYNIHAN—and the Senator's remarks at the ceremony where he received it—be printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INTRODUCTION BY DEAN BARBARA ARONSTEIN BLACK ON THE OCCASION OF THE WOLFGANG FRIEDMANN AWARD FOR "ON THE LAW OF NATIONS" TO DANIEL PATRICK MOYNIHAN, COLUMBIA LAW SCHOOL, MARCH 1, 1991

Senator Moynihan, Mrs. Moynihan, Honored Guests:

It is an honor to welcome you to the 1991 Wolfgang Friedmann Memorial Award Dinner. The Friedmann Dinner and the Friedmann Conference (in which many of you participated this afternoon) are special events for Columbia Law School, and particularly so for the students who produce the Journal of Transnational Law and participate in the Society of International Law. Conducted in the memory of Wolfgang Friedmann, a distinguished member of the international law faculty whose life was violently ended, these events remind members of the law school community of Professor Friedmann's unrelenting attention to the welfare of this community, his steadfast principles and his unyielding courage. Those of you who studied under, or knew, Professor

Friedmann will be delighted to know that his legacy in the law school lives on.

A central element of the Friedmann dinner is the presentation of the Friedmann Award, given by the Journal of Transnational Law each year since 1975. Tonight it is my pleasure to introduce to you this year's Friedmann Award recipient, after which I will turn the podium over to Tom Scherer, currently editor-in-chief of the Journal, for the presentation of the award.

In recent years the Columbia Law School Faculty has had a practice, which is by now a tradition, known as the faculty lunch—a regular biweekly gathering of the faculty for the presentation of a paper by a colleague. For the first few years the organizer and leader of this event was my colleague Henry Monaghan. Professor Monaghan introduced the speakers, and his method of doing so was to stand up and say "Our speaker today needs no introduction" and sit down. Well, this year's Friedmann Award recipient certainly needs no introduction—but that won't stop me. (It will, however, produce brevity.)

It is, personally and on behalf of the Columbia Law School, my privilege and my pleasure to introduce to you the senior United States Senator from New York, Daniel Patrick Moynihan.

Senator Moynihan has had a long and distinguished career of service to the public as sailor, scholar, educator, Presidential advisor, diplomat, and, since 1976, United States Senator. Along the way, presumably in his spare time, he has authored or edited fifteen books. That's right, fifteen! How, one asks, has he done it all? And the answer is, of course, brilliantly.

As Senator from New York, Pat Moynihan has, as we would expect, important affiliations with New York's great University, Columbia, including delivering the Feingold Lectures here in 1985 and receiving a Doctor of Law degree, honoris causa, in 1987. He was also, in May '87, commencement speaker for the Columbia Law School graduating class. Indeed that was the occasion on which I first made his acquaintance. This is actually a rather bizarre way to meet someone, since the attention of all concerned is on academic regalia, and conversation in at the level of "Is my hood on straight?" But it was a start, if a curious one, and the Senator and I have, since, shared other occasions, and we have had some opportunity for exchange of views on a variety of subjects—people, politics, policy. And that has been my good fortune.

It is also my good fortune to own a copy of Pat Moynihan's latest book, and to be reading it. This book, titled "On the Law of Nations" is subtitled "a historical and personal account of the role of international law in foreign policy". There is a finite group of people from whom one would expect such an account—historical and personal—to be a treasure, and Pat Moynihan is one of that number. And the work does not disappoint. Erudite, powerful, witty, passionate, eloquent, reasoned—these are the words that readers of this book have used, and will surely use, in commenting on it, these and other equally complimentary words and phrases. And they are the words that capture what the world has come to know as the qualities of our distinguished honoree: Erudition, power, wit, passion, eloquence, reason have marked him in his many roles. I am pleased that I have, in recent years, come to know Senator Moynihan, and most honored to have had this opportunity to say a few words in introduction of this man who certainly needs no introduction.

A WORLD REGAINED? DANIEL PATRICK MOYNIHAN ON THE OCCASION OF RECEIVING THE WOLFGANG FRIEDMANN AWARD FOR "ON THE LAW OF NATIONS," COLUMBIA LAW SCHOOL, MARCH 1, 1991

The honor of receiving the 1991 Wolfgang Friedmann award at Columbia University is exceeded only by my gratitude to those who brought this about. In the first instance, I would thank my friend, the Honorable Richard Gardner, Henry Moses Professor of International Law here at Columbia. We met some 39 years ago in the "press cuttings" room of Chatham House, the home of the Royal Institute of International Affairs in St. James Square in London. We were working on our respective theses, and even then it was evident that he had twice the energy and considerable more natural endowment than I, but also the diplomatic skills to soften these disparities with an unaffected friendship. He was later to employ those diplomatic skills to the great advantage of our nation, with the same composure with which he has sustained our friendship.

My esteem for the Chancellor Kent Professor of Law at this University, President Michael I. Sovern, is boundless, as I hope he knows. And I yield to none save that eminent poet Charles Black in my affection for the Dean of the Law School Barbara Aronstein Black.

Nor should I fail to thank all at the Harvard University Press, and especially my editor, Ann Hawthorne, who is here tonight. As is my associate and mentor Stephen Rickard.

The book begins here at Columbia. More specifically, the opening passage is taken word for word from the opening of Chancellor Kent's enduring classic, Commentaries on American Law.

PART I.—OF THE LAW OF NATIONS

Lecture I.—Of the Foundation and History of the Law of Nations.

When the United States ceased to be a part of the British empire, and assumed the character of an independent nation, they became subject to that system of rules which reason, morality, and custom had established among the civilized nations of Europe, as their public law. During the war of the American revolution, Congress claimed cognizance of all matters arising upon the law of nations, and they professed obedience to that law, "according to the general usages of Europe." By this law we are to understand that code of public instruction, which defines the rights and prescribes the duties of nations, in their intercourse with each other. The faithful observance of this law is essential to national character, and to the happiness of mankind.

The plain purpose of my book was to describe the steady growth of this conviction in at very least the pronouncements of American statecraft, reaching a peak of sorts in the early part of this century, only to recede and finally to be "lost in the fog of the cold war."

I did not write as one proposing a felicific calculus for the greater perfection or pacification of mankind.

To the contrary, I wrote as a United States Senator, sworn to uphold the Constitution of the United States against "all enemies, foreign and domestic." This particular formulation of the oath of office was crafted in 1868 having, obviously, the Civil War in mind. I had a newer conflict in mind. Article I, Section 8 of the Constitution explicitly provides:

"The Congress shall have power * * * To define and punish * * * Offenses against the Law of Nations. * * *

Article VI continues:

* * * Treaties * * * shall be the supreme Law of the Land.

It was clear to me—I hope I am not wrong in this—that whilst customary international law is still relevant in many situations, a very large and growing body of "international law" is now treaty law, including, of course, the Charter of the United Nations. Treaties into which the United States has entered are the "supreme Law of the Land". No less so than Congressional enactments, both having received the approval of the President and the peoples' representatives in Congress. Having sworn to uphold such law, I had become concerned that it was held in such obvious contempt in portions of the executive branch, and general indifference in the legislative and judicial branches.

And so I produced this modest volume, asking, that if we don't believe what we once believed, then surely the question arose as to just what we do believe. I offered the alternative of Wordsworth's Rob Roy:

"The good old rule * * * the simple plan,
That they should take, who have the power,
And they should keep who can."

The book concludes with the invasion of Panama.

Then a funny thing happened, as you could say, on the way to the printer. The fog of the Cold War lifted. But aggression, if anything, resumed. On the Law of Nations was published September 12, 1990. Forty-one days earlier Iraq had invaded and conquered Kuwait.

Of a sudden the United States had turned to the theretofore not unreasonably disparaged United Nations. And, to the U.N. Charter, a document, by contrast, of considerable nobility and honorable lineage. With equal suddenness, the President commenced to invoke principles of international law in expounding and defending American foreign policy. In a press conference of August 23, 1990, he used that term no fewer than six times, added eight references to the United Nations, with three specific citations of Chapter VII of the Charter, and one appeal to the rule of law thrown in for good measure. On the day he launched Operation Desert Storm President Bush gave an address to the nation, stating:

"This is a historic moment. We have, in this past year, made great progress in ending the long era of conflict and Cold War. We have before us the opportunity to forge, for ourselves and for future generations, a new world order—a world where the rule of law, not the law of the jungle, governs the conduct of nations."

As the war coming to an end, last Monday, February 25, the President again invoked the rule of law:

"This was a war thrust upon us, not a war that we sought, but naked aggression such as we have seen must be resisted if it is not to become a pattern. And our success in the Gulf will bring with it not just a new opportunity for peace and stability in a critical part of the world, but a chance to build a new world order based upon the principles of collective security and the rule of law."

Just this morning President Bush had this to say in an exchange at a White House press briefing concerning a report in LeMonde that Saddam Hussein had agreed to go into exile in Algeria if he was assured that he would not be pursued as a war criminal.

"QUESTION. It [is] said the Algerians had worked out a deal whereby the allies including yourself had agreed that Saddam if he came there, he would not be tried for any war crimes. You have said that no one can be absolved. Would you not agree to any deal whereby he got political asylum?

"President BUSH. [W]e cannot absolve anyone from his responsibility under *international law.* * * * The report is simply fallacious if it included that.

"QUESTION. But to get him out of the country, you wouldn't agree to not try him.

President BUSH. I would leave that matter to the *international system of justice.* * * * I cannot wave a wand and absolve somebody from their responsibilities under *international law.* (My emphasis.)[1]

Now what was this all about?

Historians will tell us more; the principles may yet do before long. But let me offer, an hypothesis which I set forth in a 1985 address to the American Bar Association conference on restoring bipartisanship in foreign affairs:

"To the degree that law—the Law of the Charter included—is seen to be, and is, the basis of our international conduct, a bipartisan foreign policy does not require a party out of office to agree with policies of the party in power, but rather simply to agree with the principles of law on which those policies are based.

"Principles prior, as you might say, to whatever is the present emergency, the incumbent president, the prospects for the next election. The same principle applies to allied and non-aligned nations, who can far more readily support (or at least accept) American policies if our conduct is seen to be based on law that binds them as well as us.[2]"

Let no one detract from the immense diplomatic skill President Bush deployed in compiling the Security Council resolutions and assembling the great coalition which ended Iraqi aggression with such thundering finality. Yet, it is also fact that he was able to ask this extraordinary coalition to join in support of the Charter and not of the United States. The latter would have served, in many instances, but not in all. Probably not in most. International law served us well when we needed it. There, still standing in the ruins, were the guideposts of an earlier world, and world that might yet be regained.

Perhaps most importantly, the events in the Gulf have exorcised at least for now and possibly for a long while, the notion that international law is somehow a refuge from reality, more particularly, a way to avoid the use of force. It is nothing of the sort, of course. Or need be nothing of the sort.[3] Law does not eschew force; it defines the circumstances in which force may and will be exercised.

And now we move on to a new world order. On that point, let there be no question. The age of totalitarianism is over. It lasted most of this century, indeed threatened, as The Economist wrote, to take the century by storm.

Well, it didn't. Alright? I would like to make the point—tentatively, even a little defensively—that we might have figured this out a bit earlier. In 1979, Newsweek magazine featured a symposium on what large events might happen in the 1980s. I submitted a brief entry on a simple enough theme:

"The Soviet empire is coming under tremendous strain. It could blow up. The world could blow up with it.[4]"

By 1989, this forecast had just about come to pass.

It is not clear whether the Soviet Union will, in fact, "blow up" or will just disintegrate, but something such is happening. My statement that, "The world could blow up with it," referred to the question of which groups would end up with control of those 10,000 nuclear warheads. The current New Republic has a fine article by Gabriel Schoenfeld, entitled "Loose Cannon: The Scary State of Soviet Nukes," which makes exactly this point:

"As nationalism tears apart the Soviet Union, the chance [emerges] that it could split into fifteen or more states—some of them armed with nuclear weapons. * * *[5]"

(Just yesterday at a coffee hour with the Committee on Foreign Relations, Hans-Dietrich Genscher remarked on the irony, that we have spent what, a generation, since the signing of the Non-Proliferation Treaty seeking to prevent the emergence of new nuclear powers. Little did it occur to us that we might look up one day and find that one old nuclear power had become six new ones!)

Here is my point. In the 1970s, a reasonable person with reasonable access to a decent library could conceive that the Soviet empire might be on the verge of collapse, with all the attendant worries that that might bring about. But the idea was inaccessible to the policy centers of the national government. Hence, we find ourselves at present lurching about, improvising from day to day.

Much the same may be said of our concept of a New World Order. There is going to be one. The President was wholly right to insist on this, to announce it, if you like. But the concept has very little content in Washington just now. This is not the worst thing, We grew perhaps too heady, triumphalist you could say, in the atmosphere of 1918 and 1945. More modest aims may prove more practical ones. We could do worse than simply espousing what the President has called for: the Rule of Law.

Let me put it this way. During most of 1989, as the Soviet hegemony in Eastern Europe collapsed, and it appeared the Cold War had ended—the Cold War in the sense of the Marxist-Leninist claim to be the next stage in history— you could feel the old cold warriors in Washington asking that celebrated question Metternich is said to have posed at the Congress of Versailles. Informed that the Russian Ambassador had just dropped dead, he paused and pondered: "What can have been his motive?" In our case, it was more a question of why were the Soviets pretending to implode. To induce complacency? Ah!

The same may be said of a New World Order. There was no anticipation that we would ever face such a question, still less a question framed in the terms of international organization and international law that President Bush has chosen.

Very well. Let us get to work. For I really do believe the fog is lifting in Washington.

I cite a passage in Haynes Johnston's surpassingly excellent new book, Sleepwalking Through History. It concerns the mining of the Nicaraguan harbors in 1984 at the behest of the Central Intelligence Agency. Now, this clearly was an act contrary to international law. (Or so I and 14 judges on the International Court of Justice believe.) In any event, it was a measure which by statute should have been reported in advance to the Senate Select Committee on Intelligence. This was not done. When, in time, the harbor mining emerged, Senator Goldwater protested in a letter to the head of the CIA, stating among other things, "This is an act violating international law." As I remarked in the introduction to On the Law of Nations, Goldwater and I were effortlessly discredited.

"It was put about that we were merely trying to cover up our own failure, as chairman and vice-chairman respectively of the Senate Intelligence Committee, to pay attention to what we had been told.[6]"

Nor was there the least political protest when soon thereafter the United States renounced the compulsory jurisdiction of the World Court. (I know perfectly well that a case could be made that Nicaragua had never fully accepted the compulsory jurisdiction of the Court. But so what? The Court was our idea, not theirs.) Now Johnson's work has appeared. In five simple pages, he has not the least difficulty explaining what happened. Explaining events that no national newspaper could grasp in 1984. He had no greater access to information. It is just that the fog has lifted.

Haynes Johnson ends this section with a remark I made sometime later:

"What we had here, however unwitting, was an effort to subvert the Constitution of the United States. Such is the fruit of contempt of government.[7]"

The disdain for international law, or its neglect, in recent decades had the effect of encouraging lawlessness in general. Something like a crisis of the regime emerged. It is in this sense that the mining of the harbors led directly to the Iran-Contra scandals. Of which Theodore Draper noted:

"If ever the constitutional democracy of the United States is overthrown, we now have a better idea of how this is likely to be done.[8]"

And this is a point on which I would close. International law is our law, and ought to be our pride. It is no more surety against misfortune than any other law. Wolfgang Friedmann, who escaped Hitler's Germany alive, was murdered on Amsterdam Avenue years later. By three youths. For $95.

Yet, he taught international law to the day he died, and he believed in it. I would ask this question. Is this not the time for the universities of the land, the laws schools of the land to join Columbia in vigorously pursuing his legacy? The nation needs you. It needs men and women trained to international law, it needs journals, it needs faculties, it needs energy of a kind once routine, but preserved only in a few settings such as this one on Morningside Heights. It needs you a damned sight more than it needs experts on mergers and acquisitions.

Seventy-eight years ago, when Woodrow Wilson went to Washington, he took with him for the position of counsellor to the Department of State, John Bassett Moore, professor of international law at Columbia University. In those times it was just assumed that a President would need such an advisor and that such an advisor would be at hand. It is time that assumption returned. It is in the American interest.

We will hear much in the months and years to come of moving forward to a Pax Americana, of moving back to a balance of power, of moving over to isolation. Yet we have a more powerful tradition and prospect than any of these. It is to pursue our national interests in accord with a revived national tradition. Edward C. Banfield of Harvard, not known for his excessive enthusiasms, writes of just this matter:

"That the United States should set the standard of law-abidingness is a proposition that needs shouting from the high places, including the Capitol Dome."

FOOTNOTES

[1] Secretary Baker repeated this point during his appearance on "Meet the Press" on March 3, 1991: "The President spoke to that in his press conference on Friday when he was asked would we agree not to prosecute any war crimes, claims against him if he did that. And the President's response was we are not in a position to absolve anybody of their international responsibilities. They have responsibilities under *international law.* . . ." (My emphasis.)

[2] Daniel Patrick Moynihan, "The Role of International Law in Restoring Bipartisanship in Foreign Affairs," Address to the American Bar Association Conference on Restoring Bipartisanship in Foreign Affairs, May 23, 1985.

[3] Brian Urquhart makes the valid point that Article 42 of the Charter states: "Should the Security Council consider that measures provided for in Article 41 [sanctions] would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security." Clearly, no such determination about the inadequacy of sanctions was ever made by the Council. From the President down, civil and military officials judged that they had been tried and failed. Portions of the Congress argued that a much longer time would have been required to reach this judgment with any certainty. Just as clearly, there had been little thought given the subject within the Executive branch. Brian Urquhart, et al., "The Wake of 'Desert Storm'", *New York Review of Books*, March 7, 1991, p. 35.

[4] Daniel Patrick Moynihan, "Will Russia Blow Up?", Newsweek, November 19, 1979.

[5] Gabriel Schoenfeld, "Loose Cannon: The Scary State of Soviet Nukes", New Republic, March 11, 1990, pp. 16–18.

[6] Daniel Patrick Moynihan, "On the Law of Nations" (Havard University Press: Cambridge, 1990), p.5.

[7] Haynes Johnson, "Sleepwalking Through History: America in the Reagan Years" (W.W. Norton & Company: New York, 1991), p. 279.

[8] Theodore Draper, "Getting Irangate Straight", New York Review of Books, October 8, 1987, p. 47.

SENATOR JOHN HEINZ SPEAKS FOR THE NEEDS OF MASS TRANSIT

Mr. D'AMATO. Mr. President, last Monday, March 11, my colleague from Pennsylvania, Senator HEINZ, gave an eloquent speech before the American Public Transit Association about the need for all Americans to recognize the important role mass transit plays in our Nation's transportation net-work.

Since coming to the Senate in 1977, Senator HEINZ has played a key role in developing the structure and direction of the Federal Transit Assistance Program.

As the Banking and Urban Affairs Committee begins its consideration of the 1991 transit reauthorization legislation, I look forward to working with Senator HEINZ toward strengthening this Nation's transit program.

Mr. President, I urge my colleagues to read this important speech and I ask unanimous consent that a copy of it be printed in the RECORD at this point.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR JOHN HEINZ, AMERICAN PUBLIC TRANSIT ASSOCIATION, WASHINGTON, DC, MARCH 11, 1991

Thank you, it's a pleasure to be here today to discuss mass transit with people who really care about the program. This week marks the beginning of the transit reauthorization process and it's appropriate that I start off this important week before you.

Above all, this week marks the beginning of the toughest job I've had since coming to the Senate in 1977—convincing my colleagues of the importance of transit. All of us in this room have fought many battles over the years and I'm glad to be in the trenches with you again.

The importance of transit is now beyond getting an office worker downtown. Transit is now an important solution to today's problems of smog, traffic congestion, dependence on foreign oil, and improving economic productivity.

Just think where we would be without public transportation. In areas fortunate enough to have heavy rail transit, a subway system can carry up to 34,000 passengers per hour. That means 30,000 automobiles can remain parked at home. More important, that's some 30,000 vehicles that aren't clogging roads and highways, or damaging bridges that are extremely expensive to repair.

Even fixed route bus service has the capability to carry nearly 90 passengers every time a bus makes its rounds. Put another way, that's 90 less vehicles highway engineers, traffic managers, and city planners have to worry about.

And yet, traffic congestion is now a way of life for many commuters even in areas thought to be relatively kinder and gentler in their way of life. In hospitable Charlotte, North Carolina, the number of congested freeways is forecasted to double by the year 2005. In Minneapolis-St. Paul, the miles of congested freeways is forecasted to double by the year 2005.

It isn't only the commuter worried about traffic jams that transit helps. Transit helps all of us who worry about breathing clean air. In my own state, Philadelphia not only fails to meet ozone requirements, but it also fails to meet carbon dioxide requirements. One doesn't have to be an EPA scientist to figure out a solution to Philadelphia's critical problem: Southeastern Pennsylvania must reduce the amount of pollutants it loads into the atmosphere. And that means getting cars off the road and people into mass transit.

The Persian Gulf war should be a reminder to all of us that reducing America's dependence on huge quantities of imported oil should be of paramount priority. We should remind people that transportation accounts for over 65 percent of our petroleum use and the most cost effective way to reduce that use is to substitute mass transit for individual transit.

For my part, I intend to remind my colleagues of these facts of life and work with them to translate these matters of simple common sense into strong Federal support for mass transit. But there will be an aggressive contest during the reauthorization process. The Administration will push its bill to the same Senators that I will push to restore operating assistance, to increase Federal funding of capital projects, and to help you fund the unfunded Federal mandates, like the Americans with Disabilities Act.

While I am still studying the Administration's bill, I would like to share with you some of my impressions about the direction the Administration would like to steer the Federal transit program.

First, the good.

For the first time in a decade an Administration has sent a bill that is not automatically dead on arrival.

Let's give some credit to Brian Clymer, Sam Skinner and President Bush for agreeing with the principle that mass transit needs and deserves federal support. Now, if I can help it, they won't get everything they want, but at least we've got something to talk about.

After a decade of downright miserly Federal budget support for transit, the Bush Administration has proposed an over $3 billion transit program. By contrast, for years we have had to start off with what might have been called—at least for mass transit—"zero-based budgeting."

For years, many of us have said we aren't investing enough in infrastructure. The Administration has given us a plan, a comprehensive look at transportation. One that seeks to create more investment in transportation infrastructure and takes responsible positions on several underutilized modes. Take railroads. The Administration recognizes that there is significant underutilization of railroad capacity. It won't support bigger, heavier trucks unless truckers pay their fair share.

While I can't and don't support lock, stock and barrel where they want transit to go, they've got some good ideas.

Predictability. From spending down the trust fund, to relying more on formula funding, the Administration has some good ideas about addressing the budgetary uncertainties you face every year.

Greater local accountability. The bill's increase in the local share for new start projects generally reflects the trend we have witnessed in recent years. And up to a point there should be greater local funding of new rail projects. We don't need anymore Miami metro movers where the 25% of projected ridership actually attained is the reciprocal of the 75% federal funding share.

Together with strict, cost effective criteria for building new rail projects, I think the Administration is on the right track.

Flexibility. In principle, the proposal enabling shifting of transit and highway dollars is an important new tool for transportation planners. Like you, I've got some very strong concerns about the highway bias in this proposal, but it is at least a good start toward greater local involvement in overall transportation planning.

Having said this, I must admit that this plan still falls short of meeting the needs of transit and of the people who depend on it.

Cutting operating assistance while increasing the local share of projects is a plan to raise fares to a level no one can afford.

Keeping federal transit assistance at current levels for five years, while increasing federal highway aid by almost 40% strengthens America's love affair with the private auto.

The highway bias becomes even more clear considering only 30% of highway funds can be used for transit, while nearly all transit funds can be used for highways.

Don't get me wrong. I'm a big fan of the highway and bridge program. Coming from Pittsburgh, the City of a Thousand Bridges, I know the criticality of the need for greater investment in our roads and bridges.

But that investment must not come at the expense of moving people. It must not come at the expense of your systems.

The Administration's proposal to invest the mass transit account, to spend it down, is a proposal we all support. But to rely solely on the transit penny-and-a-half set aside of the gas tax is a dangerous idea.

The mass transit account, given access to the unobligated balance and all current revenues plus interest, seems to be able to support a $3.3 billion annual spend down from FY 92 to FY 96.

But where will we be five years from now? $900 million in the trust fund and only one cent of the gas tax supporting the program. Not only will even a $3 billion program be impossible under this scenario, but transit will be left high and dry, without any Federal support from general appropriations.

Transit must not be left high and dry. The transit program must remain viable beyond FY 96. It is for this reason, I will continue to fight for general revenue support from appropriations, while fighting for spending the trust fund.

These are tough issues. But the Secretary of Transportation and the head of UMTA both have solid experience in running a major transit system. They do understand your needs.

Last year, I was very involved in reauthorizing the Washington, D.C., Metro system. I heard from many of you—keep Metro out of Section 3! We don't want to compete with America's Subway for dollars! We were able to accomplish just this.

Sam Skinner and Brain Clymer negotiated in better than good faith. They're tough, but fair. They listen. We made a clear case for Metro, and they understood the needs of the transit community. They do understand your needs and I'm confident we can put together a good bill that will take UMTA well into the '90's.

While we have a good chance in convincing the Administration, I don't think we've convinced all the people of transit's importance. And we need to broaden our focus.

We need to support the type of transportation policies that address America's obsession with the car. That means supporting stricter CAFE standards. That means ensuring the tax code doesn't encourage parking while treating transit passes with kid gloves. That means getting gas guzzlers off the road.

Suppose Saddam Hussein had been lucky and burned the Saudi oil fields as well as Kuwaiti. Suppose the President's hands were tied and Saddam captured the entire Gulf's oil resources.

How would people get to work if they couldn't afford to drive? Transit.

Our highways are called the National System of Interstate and Defense Highways. The Federal Government invested in highways for national security reasons. It's time we recognize that transit too plays an important role in our national security, our national well-being.

The day will come when driving is simply too expensive to make it worthwhile. And our transit systems are the only ones who will be there to fill the void.

RELIEF FOR MICHIGAN'S UNEMPLOYED WORKERS

Mr. RIEGLE. Mr. President, I rise today on a subject that affects working men and women across the country, particularly in those areas like my home State of Michigan.

I am both pleased and saddened that we are discussing this matter today. I am pleased that the White House and the distinguished Senator from West Virginia have responded to my requests and the requests of others to consider the increased needs of State unemployment insurance offices. We have a nationwide shortfall of between $150 and $200 million, resulting in waiting lines of half a day or more, and processing delays of 6 to 7 weeks.

A few weeks ago I wrote the Senator from West Virginia and the President asking for more money on an emergency basis. I am pleased that the Appropriations Committee has responded by passing $150 million to cover administrative costs for State offices, and they have given this funding emergency designation.

Working men and women across the country are losing their jobs or facing indefinite layoffs. We owe these people some protection against the hardships of job loss. In fact, while they were working, they paid in a little each month to the unemployment insurance system. Now that they are out of work, they have a right to expect that the system will work when they need it.

But in recent years, the Federal Government has cut back on assistance to the State offices. To some, those cuts made sense when our economy boomed in the 1980's. And as we cut that Federal aid, the States cut budgets and staff at unemployment offices. In my State alone, the total staff in State unemployment offices has dropped from 6,200 to 2,400 in a decade. Now as Michigan workers turn to their State unemployment system that they have paid for, they face a system overwhelmed by an $8 million shortfall, a system that cannot respond to their needs.

I represent a trucker from Sterling Heights, MI, named Tim Peck who lost his job and had to wait 7 weeks to get his first unemployment check. When he called the local unemployment office, the phone was busy or it was not answered. Discouraged with his inability to get any information on his application's status, Mr. Peck finally had to get in line at 7 on a cold winter morning with 30 other people to ask in person why he had not seen any money. Lynn Feehan is another constituent of mine. She lost her job at a photography studio and had to wait 9 weeks, I repeat, 9 weeks for her first unemployment check to arrive.

These cases and the many like them across the country are not statistics. They are real people who cannot pay the mortgage, the grocery bills, the rent, the doctor's bill, or put something away for their children's tuition. We set up a system that promised to help working men and women when times got rough. Well, times have gotten rough. It's time for us to live up to our end of the bargain.

I urge my colleagues to rectify this problem, to get the help to the people in our States who need it. I urge you to vote for this appropriations bill so we can help our State unemployment offices work the way they were intended to.

NOMINATION OF ROBERT MARTINEZ TO BE DIRECTOR OF NATIONAL DRUG CONTROL POLICY

Mr. FORD. Mr. President, as in executive session, I ask unanimous consent that when the Senate proceeds to consider the nomination of Bob Martinez to be Director of National Drug Control Policy, it be considered under a 90-minute time agreement, equally divided between the chairman and ranking member of the Committee on the Judiciary; that following the conclusion or yielding back of time, the Senate vote on the nomination without any intervening action; that the motion to reconsider be laid upon the table; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCATHRAN, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT OF THE ARMS CONTROL AND DISARMAMENT AGENCY—MESSAGE FROM THE PRESIDENT—PM 30

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

I am pleased to transmit the United States Arms Control and Disarmament Agency annual report for 1990. This report deserves your close review.

The year 1990 witnessed the signing of the multilateral Conventional Armed Forces in Europe (CFE) Treaty, which, when satisfactorily implemented, will be a major step in reducing the numbers of deployed weapons in the area bounded by the Ural Mountains and the Atlantic Ocean. The U.S.-U.S.S.R. Chemical Weapons Destruction Agreement was also signed. Significantly, both the Treaty Between the United States and the Soviet Union on Underground Nuclear Weapon Tests (TTBT) and the Treaty on Underground Nuclear Explosions for Peaceful Purposes (PNET) entered into force. Substantial progress was made during 1990 in the Strategic Arms Reductions Talks (START) and in our efforts to curb the worldwide proliferation of weapons of mass destruction.

The Arms Control and Disarmament Agency's 1990 annual report provides details of these and other developments, including the conduct of arms control negotiations, the coordination of treaty implementation procedures, and other activities conducted pursuant to the Arms Control and Disarmament Act.

As the report illustrates, the dramatic changes in Eastern Europe and in U.S.-U.S.S.R. relations have not diminished the importance of effective and verifiable arms control agreements.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1991.*

MESSAGES FROM THE HOUSE

At 4:02 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 751. An act to enhance the literacy and basic skills of adults, to assure that all adults in the United States acquire the skills necessary to function effectively and achieve the greatest possible opportunity in their work and in their lives, and to strengthen and coordinate adult literacy programs;

H.R. 831. An act to designate the Owens Finance Station of the United States Postal Service in Cleveland, Ohio, as the "Jesse Owens Building of the United States Postal Service";

H.R. 902. An act to provide assistance to recipients of loans from the Small Business Administration who are affected by military service as a part of Operation Desert Storm, and for other purposes;

H.R. 971. An act to designate the facility of the United States Postal Service located at 630 East 105th Street, Cleveland, Ohio, as the "Luke Easter Post Office"; and

H.R. 1285. An act to resolve legal and technical issues relating to Federal postsecondary student assistance programs and to prevent undue burdens on participants in Operation Desert Storm, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 57. A concurrent resolution deploring the blatant destruction of the environment in the Persian Gulf region, and declaring that Saddam Hussein and the current Iraqi regime should be held liable under United Nations Security Council Resolution 686 for these cruel acts against the environment.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 831. An act to designate the Owens Finance Station of the United States Postal Service in Cleveland, Ohio, as the "Jesse Owens Building of the United States Postal Service"; to the Committee on Governmental Affairs; and

H.R. 971. An act to designate the facility of the United States Postal Service located at 630 East 105th Street, Cleveland, Ohio, as the "Luke Easter Post Office"; to the Committee on Governmental Affairs.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 57. A concurrent resolution deploring the blatant destruction of the environment in the Persian Gulf region, and declaring that Saddam Hussein and the current Iraqi regime should be held liable under United Nations Security Council Resolution 686 for these cruel acts against the environment; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

Pursuant to the order of the Senate of March 11, 1991, the following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 751. An act to enhance the literacy and basic skills of adults, to ensure that all adults in the United States acquire the basic skills necessary to function effectively and achieve the greatest possible opportunity in their work and in their lives, and to strengthen and coordinate adult literacy programs.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-779. A communication from the Secretary of Agriculture and the Administrator of the Agency for International Development, transmitting jointly, pursuant to law, the seventh quarterly report on progress made in implementing the recommendations of the Agricultural Trade and Development missions; to the Committee on Agriculture, Nutrition, and Forestry.

EC-780. A communication from the Secretary of Defense, transmitting, pursuant to law, the annual report of the Department of Defense Reserve Forces Policy Board for fiscal year 1990; to the Committee on Armed Services.

EC-781. A communication from the Acting Under Secretary of Defense (Acquisition), transmitting, pursuant to law, certification with respect to the Harpoon program; to the Committee on Armed Services.

EC-782. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a "Pay-As-You-Go Status Report"; to the Committee on the Budget.

EC-783. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to amend the National Sea Grant College Program Act, as amended, to authorize appropriations for fiscal years 1992 and 1993; to the Committee on Commerce, Science, and Transportation.

EC-784. A communication from the Administrator of the Federal Aviation Administration, transmitting, pursuant to law, the semiannual report on the effectiveness of the Civil Aviation Security Program for the period July 1 to December 31, 1989; to the Committee on Commerce, Science, and Transportation.

EC-785. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-786. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-787. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-788. A communication from the Commissioner of the Bureau of Reclamation, Department of the Interior, transmitting, pursuant to law, a report stating that it is necessary to construct modifications to the O'Neill Forebay Dam, Central Valley Project, California; to the Committee on Energy and Natural Resources.

EC-789. A communication from the Acting Assistant Secretary of the Interior (Policy, Management, and Budget), transmitting, pursuant to law, the final reports of the Bureau of Land Management and the Fish and Wildlife Service on the implementation of section 318 of the 1990 Department of the Interior and Related Agencies Appropriations Act; to the Committee on Energy and Natural Resources.

EC-790. A communication from the Administrator of General Services, transmitting, pursuant to law, copies of certain lease prospectuses; to the Committee on Environment and Public Works.

EC-791. A communication from the Chairman of the Advisory Committee for Trade Policy and Negotiations, transmitting, pursuant to law, the findings and recommendations of the Committee regarding the President's request that Congress extend fast-track procedures implementing legislation for trade agreements; to the Committee on Finance.

EC-792. A communication from the President of the African Development Foundation, transmitting a draft of proposed legislation to authorize appropriations for the African Development Foundation; to the Committee on Foreign Relations.

EC-793. A communication from the Executive Director of the Board for International Broadcasting, transmitting a draft of proposed legislation to amend the Board for International Broadcasting Act of 1973, as amended, to authorize appropriations for fiscal years 1992 and 1993 for carrying out that Act and the Inspector General Act of 1978, as amended; to the Committee on Foreign Relations.

EC-794. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to March 14, 1991; to the Committee on Foreign Relations.

EC-795. A communication from the Chairman of the National Transportation Safety Board, transmitting, pursuant to law, the annual report of the Board under the Government in the Sunshine Act for calendar year 1990; to the Committee on Governmental Affairs.

EC-796. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, the annual report of the Commission on competition advocacy for fiscal year 1990; to the Committee on Governmental Affairs.

EC-797. A communication from the Secretary of Housing and Urban Development, as Chairman, and the Secretary of Health and Human Services, as Vice-Chairman, of the Interagency Council on the Homeless, transmitting jointly, pursuant to law, the annual report of the Council for 1990; to the Committee on Governmental Affairs.

EC–798. A communication from the Chairman of the Merit Systems Protection Board, transmitting, pursuant to law, the annual report of the Board for fiscal year 1990; to the Committee on Governmental Affairs.

EC–799. A communication from the Chairman of the Federal Reserve Board, transmitting, pursuant to law, the annual report for calendar year 1990; to the Committee on Governmental Affairs.

EC–800. A communication from the General Counsel of the Department of Defense, transmitting, pursuant to law, a draft of proposed legislation to amend the Ethics in Government Act of 1978 to authorize an extension of time for filing financial disclosure reports required by such Act for persons serving in a designated combat zone for up to 180 days after the person returns from such combat zone; to the Committee on Governmental Affairs.

EC–801. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a copy of the report entitled "Review of Receipts and Disbursements of the Office of the People's Counsel Agency Trust Fund"; to the Committee on Governmental Affairs.

EC–802. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a copy of the report entitled "Review of Fiscal Year 1990 Promotions—June 1, 1990–September 30, 1990"; to the Committee on Governmental Affairs.

EC–803. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, the annual report of the Department of Defense under the Freedom of Information Act for calendar year 1990; to the Committee on the Judiciary.

EC–804. A communication from the Assistant Administrator of the Agency for International Development (Legislative Affairs), transmitting, pursuant to law, the annual report of the Agency under the Freedom of Information Act for calendar year 1990; to the Committee on the Judiciary.

EC–805. A communication from the President of the Institute of American Indian and Alaska Culture and Arts Development, transmitting, pursuant to law, the annual report of the Institute for calendar year 1990; to the Committee on the Judiciary.

EC–806. A communication from the Chairman of the National Endowment for the Humanities, transmitting, pursuant to law, the annual report of the Endowment under the Freedom of Information Act for calendar year 1990; to the Committee on the Judiciary.

EC–807. A communication from the Postmaster General, transmitting, pursuant to law, the annual report of the United States Postal Service under the Freedom of Information Act for calendar year 1990; to the Committee on the Judiciary.

EC–808. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1990; to the Committee on the Judiciary.

EC–809. A communication from the Chairman of the Consumer Product Safety Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1990; to the Committee on the Judiciary.

EC–810. A communication from the Attorney General of the United States, transmitting a draft of proposed legislation to amend the Civil Rights Act of 1964 to strengthen protections against discrimination in employment, and for other purposes; to the Committee on Labor and Human Resources.

EC–811. A communication from the Chairman and Members of the Railroad Retirement Board, transmitting, pursuant to law, a report on the Railroad Retirement Account's ability to pay benefits in each of the next five years; to the Committee on Labor and Human Resources.

EC–812. A communication from the Acting Secretary of Education, transmitting, pursuant to law, notice of final funding priorities for the Upward Bound and Talent Search Programs for Fiscal Year 1991; to the Committee on Labor and Human Resources.

EC–813. A communication from the Secretary of Veterans Affairs, transmitting, pursuant to law, the annual report on Department of Veterans' Affairs contract care programs; to the Committee on Veterans' Affairs.

EC–814. A communication from the General Counsel of the Department of the Treasury, transmitting a draft of proposed legislation to provide comprehensive regulatory supervision over stocks and stock derivative instruments, to protect investors and assure the stability of the United States capital markets, to enhance innovation and competition in financial products, and for other purposes; to the Committee on Agriculture.

EC–815. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the report on the taxation of Social Security and Railroad Retirement benefits in calendar years 1987 and 1988; to the Comittee on Finance.

EC–816. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, reports on implementation of the SEED Act of 1989 and the Environment; to the Committee on Foreign Relations.

EC–817. A communication from the Senior Vice President and Chief Financial Officer of the Tennessee Valley Authority, transmitting, pursuant to law, a report on the system of internal accounting and administrative controls in effect for fiscal year 1990; to the Committee on Governmental Affairs.

EC–818. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, a report on all calendar year 1990 actions taken by NASA which involve actual or potential cost to the United States in excess of $50,000; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. FORD, from the Committee on Rules and Administration, without amendment and with a preamble:

H. Con. Res. 45: A concurrent resolution permitting the use of the rotunda of the Capitol for a ceremony to commemorate the days of remembrance of victims of the Holocaust.

By Mr. FORD, from the Committee on Rules and Administration, without amendment:

S. Res. 79: A resolution authorizing printing additional copies of Senate report titled "Developments in Aging: 1990."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY, from a Committee on Labor and Human Resources:

George H. Oberle Jr., of Oklahoma, to be a member of the National Council on Disability for a term expiring September 17, 1992;

Mikiso Hane, of Illinois, to be a member of the National Council on the Humanities for a term expiring January 26, 1996;

Donald Hall, of New Hamsphire, to be a member of the National Council on the Arts for a term expiring September 3, 1996;

Catherine Yi-yu Cho Woo, of California, to be member of the National Council on the Arts for the remainder of the term expiring September 3, 1994;

Marta Istomin, of the District of Columbia, to be a member of the National Council on the Arts for a term expiring September 3, 1996; and

Bernadine P. Healy, of Ohio, to be Director of the National Institutes of Health.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. NUNN, from the Committee on Armed Services:

Duane H. Cassidy, of Virginia, to be a member of the Defense Base Closure and Realignment Commission for a term expiring at the end of the first session of the 102d Congress;

William L. Ball III, of Georgia, to be a member of the Defense Base Closure and Realignment Commission for a term expiring at the end of the first session of the 102d Congress; and

The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Anthony J. Burshnick, xxx-xx-xxxx, U.S. Air Force.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SANFORD:

S. 696. A bill to amend the Bank Holding Company Act of 1956; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SYMMS (for himself, Mr. CRAIG, Mr. COATS, Mr. LOTT, Mr. COCHRAN, Mr. KASTEN, and Mr. WALLOP.

S. 697. A bill to amend the Internal Revenue Code of 1986 to provide for the indexing of certain assets, to restore a capital gains tax differential for small business stock, and for other purposes; to the Committee on Finance.

By Mr. CRAIG (for himself and Mr. Symms):

S. 698. A bill to amend the Internal Revenue Code of 1986 to provide for 50 percent exclusion of long-term capital gains, and for other purposes; to the Committee on Finance.

By Mr. BRYAN (for himself and Mr. Reid):

S. 699. A bill to amend the Nuclear Waste Policy Act of 1982 to allow commercial nuclear utilities that have contracts with the Secretary of Energy under section 302 of that act to receive credits to offset the cost of storing spent fuel that the Secretary is unable to accept for storage on and after January 31, 1998; to the Committee on Energy and Natural Resources.

By Mr. DURENBERGER (for himself, Mr. McCain, Mr. Wallop, and Mr. Jeffords):

S. 700. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on insurance companies not meeting certain requirements with respect to health insurance provided to small employers; to the Committee on Finance.

By Mr. COATS:

S. 701. A bill to amend the Internal Revenue Code of 1986 to increase the amount of the exemption for dependent children under age 18 to $3,500, and for other purposes; to the Committee on Finance.

By Mr. PRESSLER (for himself and Mr. Daschle):

S. 702. A bill to authorize the planning and construction of the Mid-Dakota Rural Water System Project; to the Committee on Energy and Natural Resources.

By Mr. HEINZ (for himself and Mr. Rockefeller):

S. 703. A bill to amend the Harmonized Tariff Schedule of the United States to correct the tariff rate inversion on certain iron and steel pipe and tube products; to the Committee on Finance.

By Mr. HEINZ:

S. 704. A bill to provide for the temporary suspension of duty on certain chemicals, and for other purposes; to the Committee on Finance.

S. 705. A bill to suspend temporarily the duty on certain chemicals, and for other purposes; to the Committee on Finance.

S. 706. A bill to extend the temporary duty suspension on certain knitting machines and parts, and for other purposes; to the Committee on Finance.

S. 707. A bill to extend until January 1, 1995, the existing suspension of duty on certain wools; to the Committee on Finance.

By Mr. NUNN (for himself and Mr. Fowler):

S. 708. A bill to suspend temporarily the duty on fluometuron and IBTF; to the Committee on Finance.

By Mr. HATCH (for himself, Mr. Cochran, Mr. Craig, Mr. Helms, Mr. Levin, Mr. Lott, Mr. Lugar, Mr. McConnell, Mr. Pressler, Mr. Shelby, Mr. Simon, Mr. Symms, and Mr. Thurmond):

S. 709. A bill to amend the Internal Revenue Code to allow a deduction for qualified adoption expenses, and for other purposes; to the Committee on Finance.

By Mr. GRASSLEY (for himself, Mr. Dixon, Mr. Simon, and Mr. Dole):

S. 710. A bill to amend the Internal Revenue Code of 1986 to provide a permanent extension for the issuance of first-time farmer bonds; to the Committee on Finance.

By Mr. SEYMOUR:

S. 711. A bill to authorize the Secretary of the Interior to undertake certain activities to reduce the impacts of drought conditions, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SYMMS (for himself, Mr. Lieberman, Mr. Grassley, Mr. Lott, Mr. Wallop, Mr. Burns, and Mr. Craig):

S. 712. A bill to amend section 411F(2) of the Higher Education Act of 1965 to exclude as an asset the net value of the family's principal place of residence and a family farm on which the family resides; to the Committee on Labor and Human Resources.

By Mr. RIEGLE (for himself and Mr. Garn) (by request):

S. 713. A bill to reform the Federal deposit insurance system, to improve the supervision and regulation of federally insured depository institutions, to reform the financial services industry as to the activities in which that industry may engage, to consolidate the regulatory structure for depository institutions, to recapitalize the bank insurance fund, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. COCHRAN:

S. 714. A bill to provide for the establishment of the Margaret Walker Alexander National African-American Research Center; to the Committee on Labor and Human Resources.

By Mr. BURNS (for himself, Mr. Dole, Mr. Dixon, Mr. Boren, Mr. Symms, Mr. Baucus, Mr. Grassley, Mr. Lott, Mr. Wirth, Mr. Brown, Mr. Conrad, Mr. Nickles, Mr. Pressler, Mr. Cochran, Mr. Shelby, Mr. Mack, Mr. Wallop, Mr. Coats, Mr. Ford, Mr. Smith, Mr. Burdick, Mr. Bond, Mr. Helms, Mr. Kasten, Mr. Gramm, Mr. Simpson, Mr. Lugar, Mr. Fowler, Mr. Pryor, Mr. Stevens, Mr. McConnell, Mr. Daschle, Mr. Kerrey, Mr. Exon, Mr. Heinz, Mr. Domenici, and Mr. Heflin) :

S. 715. A bill to permit States to waive application of the Commercial Motor Vehicle Safety Act of 1986 with respect to vehicles used to transport farm supplies from retail dealers to or from a farm, and to vehicles used for custom harvesting, whether or not such vehicles are controlled and operated by a farmer; to the Committee on Commerce, Science, and Transportation.

By Mr. JEFFORDS (for himself, Mr. Domenici, Mr. Wirth, Mr. Burdick, Mr. Burns, Mr. Daschle, Mr. Conrad, Mr. Shelby, Mr. Craig, Mr. Seymour, Mr. Reid, Mr. Kerrey, Mr. Akaka, and Mr. Bingaman):

S. 716. A bill to establish a replacement fuels and alternative fuels program, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DOMENICI (for himself and Mr. Inouye):

S.J. Res. 97. A joint resolution to recognize and honor members of the reserve components of the Armed Forces of the United States for their contribution to victory in the Persian Gulf; to the Committee on Armed Services.

By Mr. EXON (for himself, Mr. Adams, Mr. Akaka, Mr. Bentsen, Mr. Biden, Mr. Bradley, Mr. Bryan, Mr. Burdick, Mr. Burns, Mr. Byrd, Mr. Coats, Mr. Conrad, Mr. D'Amato, Mr. DeConcini, Mr. Dixon, Mr. Dodd, Mr. Domenici, Mr. Ford, Mr. Fowler, Mr. Glenn, Mr. Gore, Mr. Grassley, Mr. Heinz, Mr. Hollings, Mr. Inouye, Mr. Jeffords, Mr. Kasten, Mr. Kennedy, Mr. Kerry, Mr. Kerrey, Mr. Lautenberg, Mr. Leahy, Mr. Lieberman, Ms. Mikulski, Mr. Pryor, Mr. Reid, Mr. Robb, Mr. Rockefeller, Mr. Sanford, Mr. Sarbanes, Mr. Simon, Mr. Specter, Mr. Warner, and Mr. Wellstone):

S.J. Res. 98. A joint resolution to express appreciation for the benefit brought to the Nation by Amtrak during its 20 years of existence; to the Committee on Commerce, Science, and Transportation.

By Mr. GLENN (for himself, Mr. Bradley, Mr. Reid, Mr. Moynihan, Mr. Conrad, Mr. Sanford, Mr. Warner, Mr. Dixon, Mr. Jeffords, Mr. Cranston, and Mr. Murkowski):

S.J. Res. 99. A joint resolution designating November 24–30, 1991, and November 22–28, 1992, as "National Family Caregivers Week;" to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MACK (for himself and Mr. Graham):

S. Con. Res. 23. A concurrent resolution deploring the blatant destruction of the environment in the Persian Gulf region, and declaring that Saddam Hussein and the current Iraqi regime should be held liable under U.N. Security Council Resolution 686 for these cruel acts against the environment; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SANFORD:

S. 696. A bill to amend the Bank Holding Company Act of 1956; to the Committee on Banking, Housing, and Urban Affairs.

BANK EFFICIENCY ACT

Mr. SANFORD. Mr. President, I rise to introduce an important piece of banking legislation, the Bank Efficiency Act. I am pleased that my colleague from North Carolina, Mr. Neal, is introducing the same legislation in the House of Representatives today as well. I am confident that this legislation, if enacted, would go a long way toward permitting many of our banks to operate more efficiently and more effectively, without costing taxpayers any money, without expanding the powers of banks and without trampling on the rights of our States to regulate State-chartered banks.

Many of our banking laws were enacted during the early 1930's, at a time when few banks expanded beyond their local market. Our laws governing the expansion of banks into other States reflect many of those 1930s concepts. But they do not reflect the world of today, when bank customers often live in one State, work in another and want access to their funds wherever they might be.

Nor do our laws reflect the realities of today. Thirty-three States have voted to permit nationwide interstate banking; 13 others permit interstate banking within regional compacts. But Federal law prohibits branching across state lines. So although changes in state laws have permitted banks to set up operations in a variety of places, these operations must be set up through the more cumbersome and inefficient system of a separate bank. This makes no sense. We do not require industrial companies who sell in all 50 States to set up 50 separate companies, each with their own boards, accounting and reporting requirements and we ought not to require such an inefficient legal structure for banks.

My bill is very simple—it basically says that where institutions are permitted to set up a bank, they are permitted to set up a branch of their bank. This means that banks who already operate in a number of States can consolidate and streamline their operations into branches of their home banks, rather than being forced to set up separate institutions in each State.

Current law prohibits interstate branching. Thus, when a bank wishes to expand into another State, as permitted by State law, the bank can only do so through establishing a separate bank in that new State. The establishment of that bank carries with it substantial operating costs for separate boards of directors, separate regulatory requirements, separate audits, separate legal fees, separate accounting systems and duplicative personnel. My bill would allow banks to save those costs, without expanding their activities beyond those currently permitted and without giving them access to new geographic markets.

The costs that could be saved from permitting such interstate branching are substantial. The Treasury Department, in announcing it financial modernization approach, noted that Bank of America believes it could save $50 million per year, year after year from such an approach. It has been suggested that C&S/Sovran bank could save in the order of $35 million. Numerous other banks with multi-state operations could realize similar savings. All and all, at a time when banks need more capital, it only makes sense to permit banks to streamline their operations into a legal structure that is as efficient as possible, without undermining our current regulatory structure. Given the need to make banks more profitable so that there is less of a demand on the FDIC, we ought not to leave in place a government-mandated inefficiency in operating structure, when it costs the government nothing to change that structure.

Also, many of these savings could be passed on to consumers, making banking more competitive and cost efficient. In addition, interstate branching can create convenience for consumers, especially those who cross State lines for work or other activities. Removing the restrictions on interstate branching would remove the current impediment consumers face who have a bank account in one State but cannot get full-service banking from an affiliated bank in another State without opening a separate account.

Mr. President, I do not introduce this bill because I believe that it is the only approach to this issue. Indeed, I am currently a cosponsor of a bill introduced by my colleague from Connecticut, Mr. DODD, of a bill to permit nationwide interstate branching. I think that is the best approach. The Treasury, with some phase in times, has also suggested nationwide interstate branching. I hope we can achieve that. I would like to see the Congress pass laws that permit banks to diversify their risk and move outside of any narrow geographic regions.

However, I am concerned that there may be resistance to nationwide interstate branching. If that is the case, then I think the Bank Efficiency Act represents a fine compromise. It permits branching wherever interstate banking is already permitted, but does not go as far as nationwide interstate branching. It therefore represents the minimum of what I think the Congress should do this year. We simply must change some outmoded laws to permit our banks to operate in as efficient a manner as possible, particularly when we can do so without cost to the taxpayers and without changing the scope of activities of banks.

I urge my colleagues to take a look at this compromise approach. I welcome their support for the Bank Efficiency Act. I also ask unanimous consent that the text of the Bank Efficiency Act be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 696

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bank Efficiency Act".

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to facilitate the efficient operation of banks that are subsidiaries of multistate bank holding companies;

(2) to enhance the interstate delivery of banking services to both consumers and businesses; and

(3) to strengthen generally the operation of the banking system.

SEC. 3. AMENDMENTS TO THE BANK HOLDING COMPANY ACT.

(a) DEFINITIONS.—Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended by adding at the end the following new subsection:

"(n) APPROPRIATE FEDERAL BANKING AGENCY.—For purposes of this Act, the term 'appropriate Federal banking agency' shall have the same meaning as such term is given in section 3(q) of the Federal Deposit Insurance Act.".

(b) INTERSTATE BANKING.—Section 3(d) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(d)) is amended—

(1) by striking "(d)" and inserting the following:

"(d) LIMITATION BY STATE BOUNDARIES.—

"(1) IN GENERAL.—"; and

(2) by adding at the end the following new paragraph:

"(2) INTERSTATE COMBINATION.—

"(A) A bank holding company having subsidiary banks located in more than one State may combine two or more of such banks into a single bank by means of merger, consolidation, or other transaction.

"(B) Nothing in this paragraph shall be deemed to authorize—

"(i) a national bank to operate branches at locations in a State unless a national bank having offices only in such State could operate branches at such locations;

"(ii) a State-chartered bank to operate branches at locations in a State unless a State-chartered bank having branches only in such State could operate branches at such locations; or

"(iii) a State-chartered bank to operate branches at locations outside its chartering State in contravention of such chartering State's laws.

"(C) This paragraph does not affect any other requirement for regulatory approval or any other procedures that are applicable under Federal or State law to a combination authorized by subparagraph (A).

"(D) A bank resulting from a combination authorized by subparagraph (A) may retain and operate all existing main offices and branches in each bank involved in such combination and in existence at the time of such combination.

"(E) A national bank resulting from a combination authorized under subparagraph (A) may establish additional branches in any State in which it has branches to the same extent and same manner that a national bank having branches only in such State, may establish branches in such State.

"(F) A national bank resulting from a combination authorized by subparagraph (A) shall be entitled to exercise at each of its branches, all powers and privileges conferred by Federal law. To the extent that Federal law references State law, the applicable State law for each branch shall be the law of the State in which the branch is located, except that for purposes of section 5197 of the Revised Statutes, the appropriate State law shall be the law of the State in which the main office named in the bank's organization certificate is located.

"(G) A State-chartered bank resulting from a combination authorized under subparagraph (A) may, subject to the approval of the appropriate State regulatory authority, establish additional branches in any State in which it has branches, to the extent and in the same manner as a State bank chartered in such State and having branches only in such State. For purposes of this subparagraph, the appropriate State regulatory authority is solely the State bank supervisor for the State in which the branch is proposed to be established.

"(H) A State-chartered bank resulting from a combination authorized by subparagraph (A) shall be entitled to exercise at each of its branches, all powers and privileges conferred by the law of its chartering State and Federal law. However, a branch of such bank located in a State other than the chartering State of the bank, may not exercise any power or privilege that is not permitted under the laws of the State in which the branch is located, for a branch located within such State of a bank chartered by such State. The State bank supervisor of the State in which the bank is chartered shall have authority to determine whether an activity of a branch is permissible as a matter of State law. If a branch is located in a State other than the chartering State, the State bank regulator for the State in which the branch is located may independently determine whether an activity of the branch is permissible under the law of such State.

"(I) A State-chartered bank resulting from a combination authorized by subparagraph (A) shall be subject to State supervision only by the State bank supervisor for the State in which the bank is chartered. The State bank supervisor for the State in which a branch is located may enter into a cooperative agreement with the supervisor for the chartering State to facilitate supervision of the bank and its branches. Nothing in this subparagraph shall affect the jurisdiction or authority of the appropriate Federal banking agency to supervise or examine a State chartered bank and all of its branches.

"(J) A bank may not participate in a combination otherwise authorized by subparagraph (A) if, as of the date of the filing with the appropriate Federal banking agency of an application for approval of such combination, the State in which such bank is located has a statute, enacted within 2 years following the effective date of this paragraph, that provides by express language and not merely by implication that no bank located in such State may combine with any other bank pursuant to the authority conferred by subparagraph (A).

"(K) If a bank resulting from a combination authorized by subparagraph (A) ceases to be a subsidiary of a bank holding company, it shall, within 2 years after the date on which it is no longer a subsidiary of a bank holding company, no longer be entitled to the benefits of this paragraph, and shall comply with all provisions of Federal or State law restricting the geographic location of its branches. The appropriate Federal banking agency may, upon application by a bank, extend the 2-year period described in this subparagraph, for not more than one year at a time, if such extension would not be detrimental to the public interest. No such extensions shall, in the aggregate, exceed 3 years.

"(L) If a bank that is combined with another bank pursuant to subparagraph (A) is subject to conditions imposed by State law pursuant to paragraph (1), the resulting bank shall comply with such conditions to the same extent that the bank originally subject to such conditions was obligated to do so.

"(M) For purposes of this paragraph—

"(i) a national bank is located in the State named in its organization certificate, and a State-chartered bank is located in the State in which it is chartered; and

"(ii) when a bank seeks pursuant to this paragraph to operate branches in a State other than the State in which the bank is located, the first location in such other State at which the bank seeks to operate a branch shall be considered to be the main office of the bank located in such other State.".

SEC. 4. NATIONAL BANK ACT AMENDMENTS.

(a) CONVERSIONS TO NATIONAL BANKS.—Section 5154 of the Revised Statutes (12 U.S.C. 35) is amended in the first sentence by inserting before the period "unless said conversion is undertaken in connection with a combination authorized by section 3(d)(2) of the Bank Holding Company Act of 1956".

(b) DIRECTOR QUALIFICATIONS.—Section 5146 of the Revised Statutes (12 U.S.C. 72) is amended in the first sentence by striking "and at least two-thirds" and all that follows through "continuance in office,".

SEC. 5. EMERGENCY ACQUISITION AUTHORITY.

Notwithstanding any other provision of this Act—

(1) the amendments made by this Act shall not be construed to limit or otherwise impair the authority of the Federal Deposit Insurance Corporation to authorize extraordinary or emergency acquisitions under section 11(n)(8)(B) or subsections (f) or (k) of section 13 of the Federal Deposit Insurance Act;

(2) no bank holding company that has acquired a bank in accordance with section 11(n)(8)(B) or section 13(f) of the Federal Deposit Insurance Act shall, by reason of the combination of such bank with any other bank in accordance with section 3(d)(2) of the Bank Holding Company Act of 1956, as amended by this Act, lose or otherwise be deprived of any rights or privileges provided to the bank holding company under Federal law by virtue of the acquisition, including rights or privileges provided under section 13(f) of the Federal Deposit Insurance Act.

By Mr. SYMMS (for himself, Mr. CRAIG, Mr. COATS, Mr. LOTT, Mr. COCHRAN, Mr. KASTEN, and Mr. WALLOP):

S. 697. A bill to amend the Internal Revenue Code of 1986 to provide for the indexing of certain assets, to restore a capital gains tax differential for small business stock, and for other purposes; to the Committee on Finance.

CAPITAL GAINS INDEXING ACT

Mr. SYMMS. Mr. President, I would bet every Senator has had more than his fill of debate over capital gains. It seems we've had to fight this battle every year since the capital gains exclusion was repealed as part of the 1986 Tax Reform Act.

In the last Congress we went through a long and difficult debate over capital gains. As the 102d Congress unfolds, it seems we'll have to go through the debate again. Those of us who support reducing the tax are readying our arguments, as are those on the other side.

And all the time we're debating, long-term investment is suffering and taxpayers are subjected to a tremendously unfair tax.

This year, when President Bush included capital gains reduction in his State of the Union Address there was a near audible sigh of relief in some quarters, and of derision in others.

Some opponents of a capital gains reduction criticized the President for offering up, in their words, "the same old, tired policies of the past."

Perhaps it's not the policies but the politicians who are old and tired.

In any case, I think it's ironic that the President should be accused of bringing back failed proposals when the only thing failed about them is that they couldn't overcome certain powerful interests in the Congress, particularly in this body, while at the same time his accusers are bringing back their own defeated and discredited policies, such as job quotas and higher taxes.

Senators and Congressmen and Congresswomen may be tired of this debate, but the American people are fed-up. They are fed-up with talk. They are fed-up with paying taxes on capital gains that are due solely to inflation.

You know what's really sad? No matter how it turns out, if we continue down the present course we'll be back at it in the 103d Congress, and the 104th, and so on. If we pass a broad, flat exclusion with a 1-year holding period this year, somebody will try to repeal it next year.

And it'll only be a matter of time before they succeed. Maybe it'll be repealed as part of another major tax reform. Maybe it'll be repealed as a simple revenue-raiser. Who knows? What I do know is that it'll be repealed again on some sad day.

And if we cannot pass a simple capital gains exclusion this year we'll try again next year, and the year after that, and the year after that until we succeed.

Whatever happens, as long as we remain stuck on a broad exclusion for 1-year capital gains, the issue will never be settled, and taxpayers and our economy will continue to suffer.

So, what's the solution? How do we get out of this unproductive cycle?

Simple, index capital gains for inflation as the bill I am introducing today along with Senators CRAIG, COATS, COCHRAN, LOTT, and KASTEN proposes. And give an exclusion for all assets that are held for 5 years or more, as the bill introduced by my fellow Idahoan, Senator CRAIG, proposes.

I think a large majority of the Senate could agree to both indexing and a long-term exclusion. This would remove a great unfairness in the Tax Code—the taxation of inflationary capital gains—and would encourage long-term investment.

My bill does two things. First and foremost, it indexes capital gains for inflation. When a taxpayer buys and later resells an asset, he figures his capital gains tax liability. The inflation that occurs between the time he buys the asset and the time he sells it is reflected in the sale price. Part of the capital gain reflects a real increase in its value. But part of the gain reflects the increase in the general price level. This part of the gain isn't real, it's a phantom, and it shouldn't be taxed.

Capital gains indexing would mean a taxpayer would owe tax on the increase in the asset's value, not on its inflation-distorted price.

To see how indexing works, suppose you bought a grocery store for $100,000 and you resold it 20 years later for $250,000. Suppose inflation averaged 4 percent a year over the period, and the statutory tax rate was 28 percent.

Under the current rules, you would owe $42,000 in tax on $150,000 in nominal capital gains.

In fact, however, over 80 percent of the nominal capital gain is due solely to inflation. Under current law, you have to pay $42,000 on just over $130,800 in real capital gains. That's not fair in anybody's book.

With capital gains indexing, the taxpayer would be able to adjust the purchase price to just over $219,000 for calculating taxable capital gain. Subtracting the adjusted price from the sales price leaves this small businessman paying $8,650 in tax on real capital gains.

Even the best solutions sometimes have imperfections, and this is true of capital gains indexing. The one fair criticism of indexing is that it provides too little benefit to companies trying to raise venture capital.

When a company first issues shares to raise capital, the market demands a very high risk premium for those shares, which means the cost of capital to these companies is extraordinarily high. These growing companies have no choice, however, they must raise the equity capital to continue to grow.

One way of expressing the problem is that the price a company gets for its shares when it issues them is very low relative to the price the share purchaser hopes to get some years later if the company is successful. And this is where the criticism of capital gains indexing comes in. Because the basis or purchase price is so low relative to the sales price, and because indexing works by adjusting the basis upward to reflect inflation, indexing does little to reduce the capital gains tax for venture capital.

I believe the ability of small companies to grow is absolutely essential to the health of our economy. Through the energy and creativity of smaller companies comes many of the new products and new processes which raise our standard of living while sharpening our competitive edge in international trade.

To play this part, however, small companies must be able to raise equity capital, and to do this, we must lower their cost of capital.

And so the second part of my bill is a capital gains exclusion directed exclusively to the benefit of venture capital companies. Specifically, when a relatively small company issues shares, and provided the share purchaser holds those shares for at least 4 years, then the investor would be allowed a 33-percent exclusion, thereby reducing his statutory tax on venture capital gains to no more than about 20 percent.

This bill, in combination with Senator CRAIG's bill to encourage long-term investment, will help protect the American dream. By protecting, savers and homeowners, investors and pensioners, family farms and family businesses against being taxed on capital gains due to inflation, this bill removes a very real disincentive to save and to invest for the future.

By giving small businesses access to the capital they need to grow, this bill will bring new life to the hope of starting one's own business and succeeding in commerce.

And by encouraging long-term investment, Senator CRAIG's bill will help our economy to create new jobs, to raise incomes, to increase saving and investment, and to compete through the 1990's and beyond.

I would prefer to reduce the tax rate for assets held for 1 year and to allow indexing for assets held for 1 year. But I doubt we can win that battle. Maybe we could if the American people could vote on it, but not if the U.S. House of Representatives and the U.S. Senate vote on it.

But I think we can all agree that no one should have to pay tax on capital gains due to inflation. It is hard to imagine any tax policy that could be more unfair than taxing phantom capital gains.

And I think all of us accept the need to give small businesses better access to the capital they need to grow.

And I think all of us accept the need to encourage long-term investment and the vast majority of us can accept the idea of allowing an exclusion for assets that are held for at least 5 years.

So I believe it should be possible for an overwhelming majority of the Congress to support both of these bills. Let's pass these bills. Let's stop the unfair policy of taxing inflationary gains. Let's improve our economy's long-term performance. Let's stop holding the taxpayer and our economy hostage to a never-ending debate.

I ask unanimous consent that the full text of my bill be included in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 697

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—INDEXATION OF CERTAIN CAPITAL ASSETS

SEC. 101. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

(a) IN GENERAL.—Part II of subchapter O of chapter 1 of the Internal Revenue Code of 1986 (relating to basis rules of general application) is amended by inserting after section 1021 the following new section:

"SEC. 1022. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

"(a) GENERAL RULE.—

"(1) INDEXED BASIS SUBSTITUTED FOR ADJUSTED BASIS.—Except as provided in paragraph (2), if an indexed asset which has been held for more than 1 year is sold or otherwise disposed of, for purposes of this title the indexed basis of the asset shall be substituted for its adjusted basis.

"(2) EXCEPTION FOR DEPRECIATION, ETC.—The deduction for depreciation, depletion, and amortization shall be determined without regard to the application of paragraph (1) to the taxpayer or any other person.

"(b) INDEXED ASSET.—

"(1) IN GENERAL.—For purposes of this section, the term 'indexed asset' means—

"(A) stock in a corporation, and

"(B) tangible property (or any interest therein), which is a capital asset or property used in the trade or business (as defined in section 1231(b)).

"(2) CERTAIN PROPERTY EXCLUDED.—For purposes of this section, the term 'indexed asset' does not include—

"(A) CREDITOR'S INTEREST.—Any interest in property which is in the nature of a creditor's interest.

"(B) OPTIONS.—Any option or other right to acquire an interest in property.

"(C) NET LEASE PROPERTY.—In the case of a lessor, net lease property (within the meaning of subsection (h)(1)).

"(D) CERTAIN PREFERRED STOCK.—Stock which is fixed and preferred as to dividends and does not participate in corporate growth to any significant extent.

"(E) STOCK IN FOREIGN CORPORATIONS.—Stock in a foreign corporation.

"(3) EXCEPTION FOR STOCK IN FOREIGN CORPORATION WHICH IS REGULARLY TRADED ON NATIONAL OR REGIONAL EXCHANGE.—Paragraph (2)(E) shall not apply to stock in a foreign corporation the stock of which is listed on the New York Stock Exchange, the American Stock Exchange, or any domestic regional exchange for which quotations are published on a regular basis other than—

"(A) stock of a foreign investment company (within the meaning of section 1246(b)), and

"(B) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2).

"(c) INDEXED BASIS.—For purposes of this section—

"(1) INDEXED BASIS.—The indexed basis for any asset is—

"(A) the adjusted basis of the asset, multiplied by

"(B) the applicable inflation ratio.

"(2) APPLICABLE INFLATION RATIO.—The applicable inflation ratio for any asset is the percentage arrived at by dividing—

"(A) the gross national product deflator for the calendar quarter in which the disposition takes place, by

"(B) the gross national product deflator for the calendar quarter in which the asset was acquired by the taxpayer (or, if later, the calendar quarter ending December 31, 1991).

The applicable inflation ratio shall not be taken into account unless it is greater than 1. The applicable inflation ratio for any asset shall be rounded to the nearest one-tenth of 1 percent.

"(3) GROSS NATIONAL PRODUCT DEFLATOR.—The gross national product deflator for any calendar quarter is the implicit price deflator for the gross national product for such quarter (as shown in the first revision thereof).

"(d) SPECIAL RULES.—For purposes of this section—

"(1) TREATMENT AS SEPARATE ASSET.—In the case of any asset, the following shall be treated as a separate asset:

"(A) a substantial improvement to property,

"(B) in the case of stock of a corporation, a substantial contribution to capital, and

"(C) any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

"(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—

"(A) IN GENERAL.—The applicable inflation ratio shall be appropriately reduced for calendar months at any time during which the asset was not an indexed asset.

"(B) CERTAIN SHORT SALES.—For purposes of applying subparagraph (A), an asset shall be treated as not an indexed asset for any short sale period during which the taxpayer or the taxpayer's spouse sells short property substantially identical to the asset. For purposes of the preceding sentence, the short sale period begins on the day after the substantially identical property is sold and ends on the closing date for the sale.

"(3) TREATMENT OF CERTAIN DISTRIBUTIONS.—A distribution with respect to stock in a corporation which is not a dividend shall be treated as a disposition.

"(4) SECTION CANNOT INCREASE ORDINARY LOSS.—To the extent that (but for this paragraph) this section would create or increase a net ordinary loss to which section 1231(a)(2) applies or an ordinary loss to which any other provision of this title applies, such provision shall not apply. The taxpayer shall be treated as having a long-term capital loss in an amount equal to the amount of the ordinary loss to which the preceding sentence applies.

"(5) ACQUISITION DATE WHERE THERE HAS BEEN PRIOR APPLICATION OF SUBSECTION (a)(1) WITH RESPECT TO THE TAXPAYER.—If there has been a prior application of subsection (a)(1) to an asset while such asset was held by the taxpayer, the date of acquisition of such asset by the taxpayer shall be treated as not earlier than the date of the most recent such prior application.

"(6) COLLAPSIBLE CORPORATIONS.—The application of section 341(a) (relating to collapsible corporations) shall be determined without regard to this section.

"(e) CERTAIN CONDUIT ENTITIES.—

"(1) REGULATED INVESTMENT COMPANIES; REAL ESTATE INVESTMENT TRUSTS; COMMON TRUST FUNDS.—

"(A) IN GENERAL.—Stock in a qualified investment entity shall be an indexed asset for any calendar month in the same ratio as the fair market value of the assets held by such entity at the close of such month which are indexed assets bears to the fair market value of all assets of such entity at the close of such month.

"(B) RATIO OF 90 PERCENT OR MORE.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 90 percent or more, such ratio for such month shall be 100 percent.

"(C) RATIO OF 10 PERCENT OR LESS.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 10 percent or less, such ratio for such month shall be zero.

"(D) VALUATION OF ASSETS IN CASE OF REAL ESTATE INVESTMENT TRUSTS.—Nothing in this paragraph shall require a real estate investment trust to value its assets more frequently than once each 36 months (except where such trust ceases to exist). The ratio under subparagraph (A) for any calendar month for which there is no valuation shall be the trustee's good faith judgment as to such valuation.

"(E) QUALIFIED INVESTMENT ENTITY.—For purposes of this paragraph, the term 'qualified investment entity' means—

"(i) a regulated investment company (within the meaning of section 851),

"(ii) a real estate investment trust (within the meaning of section 856), and

"(iii) a common trust fund (within the meaning of section 584).

"(2) PARTNERSHIPS.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners.

"(f) DISPOSITIONS BETWEEN RELATED PERSONS.—

"(1) IN GENERAL.—This section shall not apply to any sale or other disposition of property between related persons except to the extent that the basis of such property in the hands of the transferee is a substituted basis.

"(2) RELATED PERSONS DEFINED.—For purposes of this section, the term 'related persons' means—

"(A) persons bearing a relationship set forth in section 267(b), and

"(B) persons treated as single employer under subsection (b) or (c) of section 414.

"(g) TRANSFERS TO INCREASE INDEXING ADJUSTMENT.—If any person transfers cash, debt, or any other property to another person and the principal purpose of such transfer is to secure or increase an adjustment under subsection (a), the Secretary may disallow part or all of such adjustment or increase.

"(h) DEFINITIONS.—For purposes of this section—

"(1) NET LEASE PROPERTY DEFINED.—The term 'net lease property' means leased real property where—

"(A) the term of the lease (taking into account options to renew) was 50 percent or more of the useful life of the property, and

"(B) for the period of the lease, the sum of the deductions with respect to such property which are allowable to the lessor solely by reason of section 162 (other than rents and reimbursed amounts with respect to such property) is 15 percent or less of the rental income produced by such property.

"(2) STOCK INCLUDES INTEREST IN COMMON TRUST FUND.—The term 'stock in a corporation' includes any interest in a common trust fund (as defined in section 584(a)).

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of chapter 1 of such Code is amended by inserting after the item relating to section 1021 the following new item:

"Sec. 1022. Indexing of certain assets for purposes of determining gain or loss."

(c) ADJUSTMENT TO APPLY FOR PURPOSES OF DETERMINING EARNINGS AND PROFITS.—Subsection (f) of section 312 of such Code (relating to effect on earnings and profits of gain or loss and of receipt of tax-free distributions) is amended by adding at the end thereof the following new paragraph:

"(3) EFFECT ON EARNINGS AND PROFITS OF INDEXED BASIS.—

For substitution of indexed basis for adjusted basis in the case of the disposition of certain assets after December 31, 1991, see section 1022(a)(1)."

SEC. 102. EFFECTIVE DATE.

The amendments made by this title shall apply to dispositions after December 31, 1991, in taxable years ending after such date.

TITLE II—RESTORATION OF CAPITAL GAINS EXCLUSION FOR SMALL BUSINESS STOCK

SEC. 201. RESTORATION OF CAPITAL GAINS EXCLUSION FOR CERTAIN SMALL BUSINESS STOCK.

(a) TAXPAYERS OTHER THAN CORPORATIONS.—

"SEC. 1202. DEDUCTION FOR CAPITAL GAINS ON SMALL BUSINESS STOCK HELD MORE THAN 4 YEARS.

"(a) GENERAL RULE.—If for any taxable year a taxpayer other than a corporation has a qualified small business net capital gain, there shall be allowed as a deduction from gross income an amount equal to 33 percent of such qualified small business net capital gain.

"(b) QUALIFIED SMALL BUSINESS NET CAPITAL GAIN.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified small business net capital gain' means the lesser of—

"(A) the net capital gain for the taxable year, or

"(B) the net capital gain for the taxable year determined by taking into account only gain or loss from qualified small business stock with a holding period of at least 4 years at the time of the disposition.

"(2) QUALIFIED SMALL BUSINESS STOCK.—

"(A) IN GENERAL.—The term 'qualified small business stock' means stock which—

"(i) is issued by a qualified small business after the date which is 6 months after the date of the enactment of this section,

"(ii) is first acquired (whether directly or through an underwriter) by the taxpayer, and

"(iii) is not issued in redemption of (or otherwise exchanged for) stock not issued during the period described in clause (i).

"(B) QUALIFIED SMALL BUSINESS.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The term 'qualified small business' means a corporation the paid-up capital of which immediately after the date of issuance described in subparagraph (A) is $100,000,000 or less.

"(ii) ACTIVE TRADE OR BUSINESS REQUIREMENT.—A corporation shall not be treated as a qualified small business unless such corporation—

"(I) was engaged in the active conduct of a trade or business during the 3-year period ending on the date of issuance described in subparagraph (A) (or if shorter, its period of existence), and

"(II) is so engaged immediately after such date.

"(iii) EXCEPTION FOR PERSONAL SERVICE CORPORATIONS.—The term 'qualified small business' shall not include a personal service corporation (within the meaning of section 269A(b)(1)).

"(c) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction under subsection (a) shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under section 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets."

(b) CORPORATIONS.—Section 1201 of the Internal Revenue Code of 1986 is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) DEDUCTION FOR SMALL BUSINESS NET CAPITAL GAIN.—

"(1) IN GENERAL.—If for any taxable year a corporation has a qualified small business net capital gain—

"(A) there shall be allowed as a deduction from gross income an amount equal to 33 percent of such qualified small business net capital gain, and

"(B) paragraph (2) of subsection (a) shall be applied as if it read as follows:

'(2) a tax equal to the sum of—

'(A) 23 percent of the qualified small business net capital gain, plus

'(B) 34 percent of the net capital gain, reduced by the amount taken into account under subparagraph (A).'

"(2) Qualified small business net capital gain.—For purposes of this subsection, the term 'qualified small business net capital gain' has the meaning given such term by section 1202(b)(1)."

(c) Maximum 21 Percent Rate.—Section 1(h) of the Internal Revenue Code of 1986 is amended to read as follows:

"(h) Maximum Capital Gains Rate.—

"(1) In general.—If a taxpayer has a net capital gain for any taxable year, then the tax imposed by this section shall not exceed the sum of—

"(A) a tax computed at the rate and in the same manner as if this subsection had not been enacted on the greater of—

"(i) taxable income reduced by the amount of the net capital gain, or

"(ii) the amount of taxable income taxed at a rate below 28 percent, plus

"(B) a tax of 28 percent of the amount of taxable income in excess of the amount determined under subparagraph (A).

"(2) Special rule where taxpayer has qualified small business net capital.—

"(A) In general.—If a taxpayer has qualified small business net capital gain for any taxable year, then the tax imposed by this section shall not exceed the lesser of—

"(i) the amount determined under paragraph (1), or

"(ii) the sum of—

"(I) the amount determined under paragraph (1) without taking into account qualified small business net capital gain for purposes of subparagraphs (A) and (B) thereof, plus

"(II) 21 percent of the qualified small business net capital gain.

"(B) Definitions.—For purposes of this paragraph, the term 'qualified small business net capital gain' has the meanings given such term by section 1202."

(d) Conforming Amendments.—

(1) Section 62(a) of such Code is amended by adding after paragraph (13) the following new paragraph:

"(14) Long-term capital gains.—The deduction allowed by section 1202."

(2) Subparagraph (B) of section 170(e)(1) of such Code is amended by inserting "(or, in the case of qualified small business stock under section 1202(b)(2), 67 percent of)" before "the amount of gain".

(3) Section 172(d)(2) of such Code (relating to modifications with respect to net operating loss deduction) is amended to read as follows:

"(2) Capital gains and losses of taxpayers other than corporations.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includible on account of gains from sales or exchanges of capital assets; and

"(B) the deduction for long-term capital gains provided by section 1202 shall not be allowed."

(4) Subparagraph (B) of section 172(d)(4) of such Code is amended by inserting ", (2)(B)," after "paragraph (1)".

(5)(A) Section 220 of such Code (relating to cross reference) is amended to read as follows:

"SEC. 220. CROSS REFERENCES.

"(1) For deduction for long-term capital gains in the case of a taxpayer other than a corporation, see section 1202.

"(2) For deductions in respect of a decedent, see section 691."

(B) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking out "reference" in the item relating to section 220 and inserting "references".

(6) Paragraph (4) of section 642(c) of such Code is amended to read as follows:

"(4) Adjustments.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 4 years, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202. In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(7) Paragraph (3) of section 643(a) of such Code is amended by adding at the end thereof the following new sentence: "The deduction under section 1202 shall not be taken into account."

(8) Paragraph (4) of section 691(c) of such Code is amended by striking out "1(h), 1201, and 1211" and inserting in lieu thereof "1(h), 1201, 1202, and 1211".

(9) Clause (iii) of section 852(b)(3)(D) of such Code is amended by striking out "66 percent" and inserting "the rate differential portion (within the meaning of section 904(b)(3)(E))".

(10) The second sentence of paragraph (2) of section 871(a) of such Code is amended by inserting "such gains and losses shall be determined without regard to section 1202 (relating to deduction for qualified small business net capital gains) and" after "except that".

(11) Section 904(b)(3)(E) of such Code is amended by striking out "1201(a)" in clause (iii)(II) thereof and inserting "1201 (a) or (b)".

(12) Section 1402(i)(1) of such Code is amended to read as follows:

"(1) In general.—In determining the net earnings from self-employment of any options dealer or commodities dealer—

"(A) notwithstanding subsection (a)(3)(A), there shall not be excluded any gain or loss (in the normal course of the taxpayer's activity of dealing in or trading section 1256 contracts) from section 1256 contracts or property related to such contracts, and

"(B) the deduction provided by section 1202 shall not apply."

(13) Section 1445(e)(1) of such Code is amended by striking out "34 percent (or, to the extent provided in regulations, 28 percent)" and inserting "34 percent (or, to the extent provided in regulations, the alternative tax rate determined under section 904(b)(3)(E)(iii))".

(14) The table of sections for part I of subchapter P of chapter 1 of such Code is amended by inserting after the item relating to section 1201 the following new item:

"Sec. 1202. Deduction for capital gains on small business stock held for more than 4 years."

(15)(A) The heading for section 1201 of such Code is amended by inserting "; Deduction for Gain on Qualified Small Business Stock" after "Corporations".

(B) The item relating to section 1201 in the table of sections for part I of subchapter P of chapter 1 of such Code is amended by inserting "; deduction for gain on qualified small business stock" after "corporations".

SEC. 202. EFFECTIVE DATE.

The amendments made by this title shall apply to stock issued after the date which is 6 months after the date of the enactment of this Act.

By Mr. CRAIG (for himself and Mr. Symms):

S. 698. A bill to amend the Internal Revenue Code of 1986 to provide for 50 percent exclusion of long-term capital gains, and for other purposes; to the Committee on Finance.

LONG-TERM GROWTH AND JOB OPPORTUNITY ACT

Mr. CRAIG. Mr. President, first of all, let me associate myself with the remarks of the senior Senator from Idaho, Senator Symms, in the introduction of his capital gains legislation. Today I also introduce capital gains legislation as a companion legislation for this body to begin to consider the variety of capital gains proposals that are currently before it.

What is so fundamentally critical to this country is that in the building and maintaining of the economic vitality of our economy we have to recognize that capital gains treatment is fundamental and foremost in doing so. There are other pieces of legislation of which I am a cosponsor that deal with this issue. This one in particular would encourage long-term investment by allowing taxpayers, whether corporate or individual, to exclude 50 percent of the capital gains for assets held for 5 years or more.

Just yesterday, as this body was debating a need, a recognizable need of treating the dairy industry of this country with some concern as it relates to their market conditions, I had several farmers call me who said they would like to get out of the business now but they simply did not see that they could afford to disinvest or sell their farms and/or their dairies because of the capital gains treatment. Uncle Sam would just be demanding and taking too much of the money, that we would view as their savings and their hard-earned gain that they would retire to, away from them. The kind of legislation that I introduce today and that my colleague from Idaho does, would treat that and other types of gain in the appropriate fashion.

These are the kinds of questions that this body must ask itself in the coming days if we are to continue to encourage and see our economy move in the direction that we would want it to move in. If we are to also encourage all old money that would like to move to new investments, that would like to create new jobs and obviously new opportunity to do so, then we must at some time in the very near future address the appropriate method in dealing with capital gains. We have not done that.

Mr. President, Members of both parties and President Bush have called for a change in the tax treatment of capital gains.

They have spoken about the advantages of such a change—such as jump-starting the economy and creating jobs, making U.S. business more competitive and freeing up dollars for new investment. They have furnished statistics revealing that the change would benefit nearly half of all Americans at some time in their lives. They have even cited studies showing that a change would increase revenues to the Government.

Yet, while they agree on the goal and the benefits of achieving that goal, they have offered more than one legislative proposal that could take us there.

Mr. President, that variety of proposals isn't a weakness. On the Contrary, it reflects the strength of the movement to cut the capital gains tax. It is a testament to the basic soundness of this initiative that such a broad coalition has emerged to champion a capital gains tax cut.

Why does support continue to grow? One important reason is that more and more people are discovering that a working American homeowner's biggest single investment and savings plan is his or her family's home, and a huge tax on the sale of that home is a tax on his or her life's work.

That is why I am pleased today to join with Senator SYMMS to introduce two bills to provide additional avenues to the goal of a capital gains tax cut. With a number of good proposals to choose from—each offering its own advantages—Congress can tailor the change the Nation requires.

My bill today does not offer the only acceptable approach. I also support Senator SYMMS' bill and a number of other capital gains tax cut proposals because there are several alternatives that could work. Congress may well decide the best alternative is a hybrid approach.

But I believe my bill would trigger some additional considerations that should be part of the current debate. In particular, my bill would encourage long-term investment by allowing taxpayers—whether corporate or individual—to exclude 50 percent of a capital gain for assets held 5 years or more.

Mr. President, it is long-term investment that will provide the capital needed for new businesses to form, existing businesses to expand and improve, and research and development to take place. That means more jobs—and better jobs.

My bill offers many of the advantages of other capital gains tax cut proposals with one crucial enhancement: instead of just promoting a temporary economic surge—it will foster long-term economic growth and jobs for the future.

As a side note, several dairy farmers called my office yesterday saying they were ready to retire or sellout if only the capital gains were low enough to allow some personal savings.

The question is not whether it is good for America to cut the tax on capital gains—the question is how. Although I strongly support the efforts of Senator SYMMS and others on this issue, I think my Long Term Growth and Job Opportunity Act offers significant advantages, and I encourage my colleagues to support it and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 698

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT TO 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Long Term Growth and Job Opportunity Act of 1991."

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. REDUCTION IN CAPITAL GAINS TAX.

(a) TAXPAYERS OTHER THAN CORPORATIONS.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by adding at the end thereof the following new section:

"SEC. 1202. CAPITAL GAINS DEDUCTION FOR NONCORPORATE TAXPAYERS.

"(a) IN GENERAL.—If a taxpayer other than a corporation has a qualified net capital gain for any taxable year, there shall be allowed as a deduction an amount equal to 50 percent of such qualified net capital gain.

"(b) QUALIFIED NET CAPITAL GAIN.—The term 'qualified net capital gain' means the lesser of—

"(1) the net capital gain for the taxable year, or

"(2) the net capital gain for the taxable year determined by taking into account only gain or loss from capital assets with a holding period of at least 5 years at the time of disposition.

"(c) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction under subsection (a) shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions, of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets."

(b) CORPORATIONS.—Section 1201(a) is amended—

(1) by striking paragraph (2) and inserting:

"(2) a tax equal to the sum of—

"(A) 17 percent of the qualified net capital gain, plus

"(B) 34 percent of the net capital gain, reduced by the amount taken into account under subparagraph (A).", and

(2) by adding at the end thereof the following new paragraph:

"(3) QUALIFIED NET CAPITAL GAIN.—For purposes of this subsection the term 'qualified net capital gain' has the meaning given such term by section 1202(b)(2)."

(c) TREATMENT OF COLLECTIBLES.—

(1) IN GENERAL.—Section 1222 is amended by inserting after paragraph (11) the following new paragraph:

"(12) SPECIAL RULE FOR COLLECTIBLES.—

"(A) IN GENERAL.—Any gain or loss from the sale or exchange of a collectible shall be treated as a short-term capital gain or loss (as the case may be), without regard to the period such asset was held. The preceding sentence shall apply only to the extent the gain or loss is taken into account in computing taxable income.

"(B) TREATMENT OF CERTAIN SALES OF INTEREST IN PARTNERSHIP, ETC.—For purposes of subparagraph (A), any gain from the sale or exchange of an interest in a partnership, corporation, or trust which is attributable to unrealized appreciation in the value of collectibles held by such entity shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

"(C) COLLECTIBLE.—For purposes of this paragraph, the term 'collectible' means any capital asset which is a collectible (as defined in section 408(m) without regard to paragraph (3) thereof)."

(2) CHARITABLE DEDUCTION NOT AFFECTED.—

(A) Paragraph (1) of section 170(e) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)."

(B) Clause (iv) of section 170(b)(1)(C) is amended by inserting before the period at the end thereof the following: "and section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)".

(d) TREATMENT AS PREFERENCE ITEM FOR MINIMUM TAX.—Section 57(a) is amended by adding at the end thereof the following new paragraph:

"(8) CAPITAL GAINS DEDUCTION DISALLOWED.—An amount equal to the deduction for the taxable year determined under sections 1201(a)(2) and 1202."

(e) REPEAL OF SECTION 1(h).—

(1) IN GENERAL.—Subsection (h) of section 1 is hereby repealed.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (4) of section 691(c) is amended by striking "1(h), 1201, and 1211" and inserting "1201 and 1211".

(B)(i) Subparagraph (D) of section 904(b)(3) is amended to read as follows:

"(D) SPECIAL RULE WHERE CORPORATE CAPITAL GAIN RATE DIFFERENTIAL.—In the case of a corporation there is a capital gains rate differential for any taxable year if any rate of tax imposed by section 11, 511, or 831 (a) or (b) (whichever applies) exceeds the alternative rate of tax under section 1201(a) (determined without regard to the last sentence of section 11(b)(1))."

(ii) Clause (iii) of section 904(b)(3)(E) is amended to read as follows:

"(iii) ALTERNATIVE RATE OF TAX.—For purposes of clause (i), the term 'alternative rate of tax' means, in the case of a corporation, the alternative rate of tax under section 1201(a)."

(f) CONFORMING AMENDMENTS.—

(1) Section 62(a) is amended by inserting after paragraph (13) the following new paragraph:

"(14) CAPITAL GAINS DEDUCTION.—The deduction allowed by section 1202."

(2) Clause (ii) of section 163(d)(4)(B) is amended by inserting ", reduced by the amount of any deduction allowable under

section 1202 attributable to gain from such property" after "investment".

(3) Section 170(e)(1)(B) is amended by inserting "(50 percent in the case of a qualified net capital gain as defined in section 1202(b)(2))" after "the amount of gain".

(4)(A) Section 172(d)(2) (relating to modifications with respect to net operating loss deduction) is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includible on account of gains from sales or exchanges of capital assets; and

"(B) the deduction provided by section 1202 shall not be allowed."

(B) Subparagraph (B) of section 172(d)(4) is amended by inserting ", (2)(B)," after "paragraph (1)".

(5)(A) Section 220 (relating to cross reference) is amended to read as follows:

"SEC. 220. CROSS REFERENCES.

"(1) For deduction for net capital gains in the case of a taxpayer other than a corporation, see section 1202.

"(2) For deductions in respect of a decedent, see section 691."

(B) The table of sections for part VII of subchapter B of chapter 1 is amended by striking "reference" in the item relating to section 220 and inserting "references".

(6) Paragraph (4) of section 642(c) is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 5 years, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to deduction for net capital gain). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(7) Paragraph (3) of section 643(a) is amended by adding at the end thereof the following new sentence: "The deduction under section 1202 (relating to deduction for net capital gain) shall not be taken into account."

(8) The second sentence of paragraph (2) of section 871(a) is amended by inserting "such gains and losses shall be determined without regard to section 1202 (relating to deduction for net capital gain) and" after "except that".

(9) Section 1402(i)(1) is amended to read as follows:

"(1) IN GENERAL.—In determining the net earnings from self-employment of any options dealer or commodities dealer—

"(A) notwithstanding subsection (a)(3)(A), there shall not be excluded any gain or loss (in the normal course of the taxpayer's activity of dealing in or trading section 1256 contracts) from section 1256 contracts or property related to such contracts, and

"(B) the deduction provided by section 1202 shall not apply."

(10) Section 1445(e)(1) is amended by striking "34 percent (or, to the extent provided in regulations, 28 percent)" and inserting "34 percent (or, to the extent provided in regulations, 17 percent)".

(11)(A) Subparagraph (A) of section 7518(g)(6) is amended by striking the last sentence and inserting the following:

"With respect to any portion of any nonqualified withdrawal made out of the capital gain account during any taxable year which involves a qualified net capital gain (as defined in section 1202(b)(2)), the rate of tax taken into account under the preceding sentence in the case of a taxpayer other than a corporation shall not exceed 15.5 percent (or, in the case of a corporation, if section 1201(a) applies to the taxable year, the rate of tax taken into account under the preceding sentence shall not exceed 17 percent)."

(B) Subparagraph (A) of section 607(h)(6) of the Merchant Marine Act, 1936, is amended by striking the last sentence and inserting the following:

"With respect to any portion of any nonqualified withdrawal made out of the capital gain account during any taxable year which involves a qualified net capital gain (as defined in section 1202(b)(2)), the rate of tax taken into account under the preceding sentence in the case of a taxpayer other than a corporation shall not exceed 15.5 percent (or, in the case of a corporation, if section 1201(a) of such Code applies to the taxable year, the rate of tax taken into account under the preceding sentence shall not exceed 17 percent)."

(g) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 1202. Capital gains deduction for noncorporate taxpayers."

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or exchanges after the date of the enactment of this Act in taxable years ending after such date.

By Mr. BRYAN (for himself and Mr. REID):

S. 699. A bill to amend the Nuclear Waste Policy Act of 1982 to allow commercial nuclear utilities that have contracts with the Secretary of Energy under section 302 of that act to receive credits to offset the cost of storing spent fuel that the Secretary is unable to accept for storage on and after January 31, 1998; to the Committee on Energy and Natural Resources.

INDEPENDENT SPENT NUCLEAR FUEL STORAGE ACT

Mr. BRYAN. Mr. President, I rise today to introduce the Independent Spent Nuclear Fuel Storage Act of 1991. This legislation is necessary to protect the utility ratepayers and taxpayers, and to set the Nation on a sound policy course in attempting to deal with the sensitive issue of high-level radioactive waste management.

When President Reagan signed the Nuclear Waste Policy Act on January 7, 1983, less than a week after I became Nevada's Governor, our Nation embarked on a complex strategy to resolve a vexing technological problem—how to manage for hundreds of thousands of years the most toxic and dangerous waste products that man has ever created.

The premise of the 1982 Nuclear Waste Policy Act was to fairly and scientifically evaluate a variety of sites and different geological formations so that the best solution to the high-level commercial radioactive waste disposal problem could be found. That act also contemplated a geographically balanced approach to ensure that no single area of our country would be unfairly burdened with all of the waste products generated by the nuclear utilities.

A regionally balanced approach would also minimize the transportation of these lethal materials over long distances and through communities never before touched by nuclear waste.

In the Nuclear Waste Policy Amendments Act of 1987, signed by President Reagan on December 22, 1987, a political decision was made to abandon the fairness and safety that was the premise of the 1982 act and to shift the national policy away from a scientific approach to solving our Nation's high-level nuclear waste problem.

That legislation targeted only one site—Yucca Mountain, Nevada—for further consideration for a repository location.

This ill-conceived policy—abandoning science for politics when trying to solve a great scientific problem—was tangible evidence of the undue influence the commercial nuclear utility industry has had on the repository program since its inception.

The DOE and nuclear industry policymakers, however, underestimated the resolve of Nevada's citizens to rise up against this injustice. Even more fundamentally, the special interests were blind to the merits of the State's technical arguments that Yucca Mountain was a bad choice for further study.

Years of scientific study by the State has been very revealing about the merits of the Yucca Mountain site. As our technical knowledge increases, Nevada's misgivings about the Yucca Mountain site are being confirmed. At least 32 active geological faults are associated with the site, and recent volcanic activity appears to have occurred—either of which indicate the site cannot and should not be licensed by the NRC.

The geology, hydrology, volcanism, and mineral potential at Yucca Mountain all indicate it is unable to isolate these radioactive wastes from the environment for the tens of thousands of years necessary for the wastes to decay.

The repository program has been paralyzed by management, scientific, and legal deficiencies since the 1987 amendments were adopted. As a result, the target date for repository operations has slipped further with each passing year—first from 1998 to 2003, and now according to DOE's newest revised plan, no repository can open earlier than the year 2010.

As a result, utilities are having to face the reality of solving, at least on an interim basis, their own spent fuel storage needs. This occurs despite the fact that the Nation's utility ratepayers have contributed $6 billion to the nuclear waste fund, the utilities owe an additional $1.6 billion, and $3 billion has been spent on the program.

Fortunately, technology has advanced the options available so that no fuel storage crisis looms. At reactor, dry cask storage has been proven to be safe and to require only minimal ongoing monitoring and maintence when compared to existing spent fuel storage pools. Some reactors have already approached or exceeded their spent fuel storage pool capacity.

A growing number of utilities—out of necessity—are purchasing and planning on using NRC licensed dry cask storage units at reactor sites to meet their interim storage needs.

The Nuclear Regulatory Commission has issued a revision of its waste confidence rule which indicates that all reactor spent fuel storage can be safely and effectively implemented for a period up to 100 years.

Thus the crisis that prompted the 1982 act and its unrealistic deadlines—which DOE was unable to meet—has now vanished with better technological approaches gaining acceptance.

Unfortunately, existing law does not protect utility ratepayers from having to finance both the faltering Federal effort and the interim storage that will be necessary because the Department of Energy will not be able to accept spent fuel for storage in 1998 as was promised in the original act.

The legislation I am introducing today corrects this inequity so that ratepayers only pay once for necessary waste storage efforts.

Currently, ratepayers finance the existing Federal program by paying more than $1 million per day into the nuclear waste fund. This legislation allows a nuclear utility to retain a portion of its existing payments equal to the on-site storage expenses incurred so that the ratepayers receive the waste management and disposal service for which they are already paying. Without such a provision, ratepayers will continue to pay billions for the existing program, and will also have to pay for interim fuel storage needed to allow for continued reactor operations.

The remaining fees paid will accrue in the dedicated nuclear waste fund to finance final storage once DOE has licensed permanent disposal sites.

Since the passage of the Nuclear Waste Policy Act in 1982, nearly $3 billion has been wasted with no progress made toward solving this problem.

In the 8 years the program has operated, it has already required one major legislative revision in 1987. During that time, the target date for repository operations has slipped by 12 years, and DOE itself has characterized the new target date for repository operations to begin—the year 2010—as optimistic.

Now, in the recently released national energy strategy, the administration is again proposing a fundamental legislative change to the act, this time proposing to strip Nevada of its remaining legal rights in the dump location process.

It is time for the Nation to face the fact that expanded on-site storage will become a reality for most nuclear utilities during the 1990's, whatever the outcome of DOE's efforts to build a waste dump at some future time.

On-site storage minimizes transportation risks, allows spent fuel to cool, and allows needed waste management flexibility so that a sound, equitable, and scientifically based disposal policy for the Nation's nuclear waste ultimately may be achieved.

The legislation I introduce today will be a first step in setting the Nation's nuclear waste management policy on a fiscal sound course.

Mr. President, I ask unanimous consent to submit for the RECORD a copy of a letter to the President dated February 14, 1991, from Nevada Governor Bob Miller, the entire Nevada congressional delegation, and Nevada's attorney general, Frankie Sue Del Papa, concerning the administration's proposed legislation. I am also submitting for the RECORD a collection of newspaper editorials from across the country which point out the flaws of the current program, a recent New York Times article about Yucca Mountain entitled "A Mountain of Trouble", and a thoughtful analysis of this topic by a Pennsylvania Public Utility Commissioner, Mr. Joseph Rhodes, Jr., entitled "Pyramids Underground." Finally, Mr. President, I ask unanimous consent that a copy of the bill and the articles I have just mentioned be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 699

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE.

This Act may be cited as the "Independent Spent Nuclear Fuel Storage Act of 1991".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Definitions.
Sec. 4. Findings.
Sec. 5. Amendments to the Nuclear Waste Policy Act of 1982.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the term "Commission" means the Nuclear Regulatory Commission; and

(2) the term "Secretary" means the Secretary of the Department of Energy.

SEC. 4. FINDINGS.

The Congress finds that—

(1) approximately 18,000 tons of spent nuclear fuel are now stored at 111 commercial nuclear reactors in the United States; by 1998, approximately 45,000 tons of spent nuclear fuel will be stored at commercial nuclear reactors;

(2) the deep geologic high level radioactive waste and spent nuclear fuel repository envisioned by the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et. seq.) will not be constructed in time to permit the Secretary to receive and accept high level radioactive waste or spent nuclear fuel as contemplated by sections 123 and 302 of that Act (42 U.S.C. 10143, 10222), with the result that the Secretary will be unable to perform contracts executed pursuant to section 302(a) of that Act with persons who generate or hold title to high level radioactive waste or spent nuclear fuel;

(3) there have been no orders for the development or construction of civilian nuclear power generating facilities since the enactment of the Nuclear Waste Policy Act of 1982; several such facilities that were anticipated when the Act was enacted are not operating now;

(4) it does not now appear that a deep geologic high level radioactive waste and spent nuclear fuel repository will be available before the year 2010 or later;

(5) by the time a deep geologic repository is available many currently operating commercial nuclear reactors will need spent fuel storage capacity beyond the maximum now available in at-reactor spent fuel storage pools; nuclear utilities have spent and will spend major sums to construct facilities, including dry cask spent fuel storage facilities, for use in the interim before a deep geologic repository is available;

(6) the sums spent for the purposes described in paragraph (5) are the same funds that commercial nuclear utilities intended to contribute to the Nuclear Waste Fund established by section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222 (c));

(7) the technology for long term storage of spent nuclear fuel, including the technology of dry cask storage, has improved dramatically since the enactment of the Nuclear Waste Policy Act of 1982;

(8) the existing statutory jurisdiction of the Commission, under the Atomic Energy Act of 1954 (42 U.S.C. 2001 et. seq.), the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et. seq.), Executive Order 11834 (42 U.S.C. 5801 note), the Nuclear Regulatory Commission Reorganization Plan No. 1 of 1980, and the Commission's various authorization Acts includes the jurisdiction to review and evaluate the spent fuel storage capability of commercial nuclear utilities that hold or seek licenses to receive and possess nuclear materials from the Commission;

(9) commercial nuclear utilities that hold licensed to receive and possess nuclear materials are generally well suited to maintain the institutional capability necessary to become stewards of spent nuclear fuel during a period of interim storage;

(10) the increased radioactive decay that will occur in spent nuclear fuel that has been stored for interim periods prior to delivery to the Secretary pursuant to section 123 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10143) will ease and facilitate its subsequent handling, transportation, and final disposal; and

(11) the median estimated cost to commercial nuclear facilities of acquiring or constructing at-reactor dry storage facilities, plus the long term operating cost, is approximately 0.56 mil per kilowatt-hour under average industry fuel burnup rates.

SEC. 5. AMENDMENTS TO THE NUCLEAR WASTE POLICY ACT OF 1982.

Section 302 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a)) is amended by inserting at the end thereof the following new subsection:

"(f)(1) After January 31, 1998, if the Secretary does not have a facility available to accept spent fuel from persons holding contracts under this section, those persons may, through credits on fee payment under subsection (a)(2), offset the expenses of providing storage of spent fuel generated after that date (including expenses reasonably incurred before that date in anticipation of the necessity of providing such storage) and until the date of the Secretary's first acceptance of that person's spent fuel at a storage or disposal facility authorized by this Act.

"(2) The credits described in paragraph (1)—

"(A) shall be deducted from each remittance of a person's fee payments to the Nuclear Waste Fund from the time that the person meets the conditions of paragraph (1) until the time that the Secretary first accepts that person's spent fuel at a storage or disposal facility authorized by this Act; and

"(B) shall be in the amount of 0.56 mil per kilowatt-hour for electricity generated by the person's civilian nuclear power reactor and sold during the period the person is eligible for the credit, or in such other amount as may be certified to the Secretary by the regulatory authority which establishes the rates charged to customers for electricity generated by the person's civilian nuclear power reactor.".

State of Nevada,
Executive Chamber,
Carson City, NV, February 14, 1991.

Mr. President,
The White House,
Washington, DC.

Dear Mr. President: We are writing to convey to you our grave concern regarding the Nuclear Waste Management section of the National Energy Strategy. The energy strategy document proposes that the Nuclear Waste Policy Act be amended to strip the State of Nevada and local governments of their statutory and regulatory authorities as they affect the continuation of the U.S. Department of Energy work at the candidate Yucca Mountain higher-level nuclear waste repository site. The document further proposes that the State's right to challenge the constitutionality of this unprecedented federal action be limited to sixty days of its enactment; further, it prohibits the court in which State action is brought from enjoining the DOE's activities at Yucca Mountain.

The proposed amendment of this nation's nuclear waste policy subverts the democratic process and threatens the foundation of state-federal relations, not only for Nevada, but for all states that may find themselves in a difficult conflict with stated federal purposes in the future.

For sound and widely supported reasons, states have been provided the opportunity to accept delegation of federal regulatory authority under various environmental and other statutes. The proposal to intrude upon this established process for purposes of resolving a unique, statute-driven conflict with a single state sets a precedent that tests for all states the full meaning and intent of the process of federal-state delegation of authorities.

Furthermore, the proposed nuclear waste policy amendment sets a precedent which dangerously imposes federal interference on state and local governmental rights, authorities and jurisdictions. And, it boldly infringes upon the separation of powers which have empowered the courts to fulfill the constitutional adjudication of questions of federalism.

The significance of this matter's treatment in the National Energy Strategy is of such magnitude that it may color and jeopardize the national debate of what some might otherwise consider to be the merits of the approach to providing an energy policy to keep our nation healthy and secure.

It is our most sincere request that the Nuclear Waste Management section of the proposed National Energy Strategy be deleted, and permit the traditional forces of our democratic principles and processes to prevail in this incident of disagreement between a state and the federal government. To do otherwise promotes a dangerously foreboding precedent for future state-federal relations, especially in areas of ongoing national concern over protection of public health and safety and the environment as related to the many already contaminated federal facilities nationwide.

We look forward to your attention to this matter of urgent concern to Nevada and all of the states of our Republic.

Governor Bob Miller, Senator Richard Bryan, Representative Jim Bilbray, Senator Harry Reid, Representative Barbara Vucanovich, Atty. General Frankie Sue Del Papa.

[From the Los Angeles Times, Dec. 11, 1990]

If America Ever Runs Out of Ideas, It'll Run Out of Energy—Time To Put Nuclear Power in Perspective and Develop Other Options

The United States will not soon break petroleum's stranglehold on its way of life because it has nothing to take the place of oil. Why? In large part because political and industrial leaders have refused to level with American voters. Instead, they led Americans to think they can avoid hard energy choices, on nuclear power or any other energy source. Instead, they led them into an energy trap.

Disposing of nuclear waste is just one example. For nearly two decades, the nuclear industry preached that getting rid of nuclear waste was more a matter of political will than technical skill. If politicians would stop pandering to public concerns about where to bury nuclear waste, the message went, safe hiding places would be found in short order.

You don't hear that sermon anymore. Not since Nevada's Yucca Mountain, the sole survivor of a long list of possible waste sites, began sending geological signals that it may not be the perfect place that scientists once said it was.

Not that the bureaucrats were wrong about Washington's lack of backbone.

Congress seized upon the general sentiment among Americans that nuclear power is a good thing—as long as it is being generated far from their neighborhoods. Thus, members wanted to keep government geologists from poking around granite masses in their own Atlantic states or salt domes in states along the Gulf of Mexico. So they effectively put every place but Yucca Mountain off limits.

The Yucca site, northwest of Las Vegas, no longer seems the perfect place, because there is some evidence that ancient earthquakes have let deep ground water force its way to the surface through cracks in the rock. If so, it could happen again. And if canisters of radioactive fuel rods were buried in the mountain, some future earthquake could send water into the Yucca nuclear waste burial site. If the ground water bathed canisters that were still hot, the encounter could cause a steam explosion that would scatter radioactivity around the West. Some scientists say this notion is far-fetched, but it could leach radioactive waste into Nevada's water table and perhaps into California's.

Further study may show that Yucca is as safe as any place, or a better site may turn up. But that could take 20 years.

The 1982 law that narrowed the search to Yucca Mountain also requires scientists to certify that any disposal site the government chooses will stay bone dry for 10,000 years. Science can deliver no such guarantee, the National Academy of Sciences said in July, only the best possible research.

Energy Secretary James D. Watkins had that figured out before the academy report was issued; his team was told to stop trying to find evidence to support Congress' choice of Yucca Mountain and was ordered to prepare a study based solely on science.

What happened at Yucca is a classic example of energy decisions without energy policy. First, Congress picked a desert site so remote from most Americans that few members would get complaints from home. Technicians then tried to prove that burying nuclear waste was simple when politics did not interfere.

Watkins' energy report may be Washington's last chance to level with Americans about their energy future. It must start a free-swinging debate over the real energy choices. It must force the nation to decide whether it can live with only a promise from science that it will do its best to bury nuclear waste safely. If not, does nuclear power have a real future? How much should be spent on alternative energy resources? And what should they be?

Setting energy policy by following the line of least resistance is leading toward a buildup of 400,000 or more American troops in the Middle East, the world's largest treasure of oil. Guarding that treasure may be America's only choice, but the desperate fact is that nobody knows for sure—because nobody asked the hard questions on energy policy. Time is up.

[From the St. Petersburg (FL) Times, December 1990]

Nightmare at Yucca Mountain

There is not one reassuring detail in the United States' plan to build a repository for the nation's most deadly nuclear waste products deep inside Yucca Mountain, a ridge in the southern Nevada desert.

Not, for instance, the fact that pressure is on to keep the project on schedule because there currently is no place to bury this material, which is stacking up in temporary storage at the government's nuclear weapons factories and many nuclear power plants around the country;

And certainly not the notion that the underground repository is intended to protect the earth from the worst radioactive substances for 10,000 years, by which time the items will be merely less hazardous than they are now.

One development in particular, however, is nothing short of alarming. A geologist with the U.S. Department of Energy has been raising serious objections to the Yucca Mountain site since he discovered deposits of calcium carbonate throughout the mountain rock. The deposits are evidence of ground water welling upward from the water table originally thought to be a safe distance below the repository level. An intrusion of water upon the 70,000 metric tons of waste buried in the repository could cause a release of radioactive poison greater than that generated by nuclear war.

According to a compelling report in the New York Times Magazine, Jerry Szymanski has been trying since 1984 to convince his Energy Department superiors that Yucca Mountain is no place to bury nuclear waste.

Yet they remain unconvinced. Szymanski's bosses gathered a team of experts who came up with the theory that the calcium deposits are from rain water, not an underground source, despite the presence of travertine limestone. Travertine, another geologist told the magazine, is a signal to even the most inexperienced in the field of the presence of an ejection of water. "It shouts at you, it screams at you."

Another scientist who concurs with Szymanski's work, Charles B. Archambeau at the University of Colorado, offered the magazine this frightening assessment of the danger: "At the very least, the radioactive material would go into the ground water and spread to Death Valley, where there are hot springs all over the place, constantly bringing up water from great depths. It would be picked up by the birds, the animals, the plant life. It would start creeping out of Death Valley. You couldn't stop it. That's the nightmare. It could slowly spread to the whole biosphere. If you want to envision the end of the world, that's it.

From the moment he discovered the calcium, Szymanski, a Polish immigrant who fled the repression of his country 20 years ago, has persevered courageously. He aptly likens the "banality of thought, absence of depth" that causes people to disregard his findings to the same attitude that allowed the Holocaust to happen. Until the government of Nevada released one of Szymanski's reports at a news conference, the 322-page document had not been read by his own boss.

The state of Nevada opposes the Yucca repository, and filed a suit that has stopped work there for the moment. Officials from the Geologic Survey have toned down criticism of Szymanski's work, admitting that the ground-water effects "probably do occur to some degree" but don't have any implications for the repository because they occurred so long ago. An independent panel is reviewing Szymanski's work, and further research is under way by the Department of Energy.

Szymanski is not an opponent of nuclear energy, and is not trying to derail the industry. Official treatment of his findings so far is appalling. His credible concerns about Yucca Mountain should be more than enough to force another choice for the repository.

The future of nuclear power depends on being able to properly dispose of its byproducts, but then so does our future.

[From the Seattle Post-Intelligencer, July 22, 1990]

U.S. Should Drop Waste Burial Plan

At last, scientists have admitted what any layman could have told them: It is impossible to build an undergound repository for nuclear waste that can be guaranteed safe—as federal law requires—for 10,000 years.

This means we have to face two risky options: Bury it underground anyway and hope for the best, or keep the waste above ground—and hope for the best.

Simply put, it's a choice of whether we assume the risk ourselves, as seems only fitting, or assign it to our descendants, which seems immoral.

Few but the most deluded technocrats ever believed any structure could be built that would keep radioactive wastes from escaping into the human environment for 10,000 years.

But the Department of Energy has clung to the fiction that it could be done. To prove that, it has charged ahead with tests in a deep hole in the Nevada desert. However, the agency's efforts to demonstrate the safety of this disposal method have not gone well.

So now a National Academy of Sciences panel has issued a report calling for a "rethinking" of the safety standards, recommending they be relaxed. Rightly enough the scientists have concluded that present safety requirements are "unrealistic" and impossible to meet, especially since either volanic or earthquake activity might wreck the repository and allow air or waste to breach it.

The advantage of keeping this misbegotten waste above ground at such places as Hanford is that we can watch and control it. The disadvantage is that until new technology offers a better solution, the waste will have to be repackaged into uncontaminated containers every other generation or so for the next 250,000 years which is how long some of the waste will remain deadly.

To be sure, continuing above-ground storage for this dangerous waste is not a cheery economic or political prospect.

But it seems preferable to stuffing it into a dump that—perhaps even before the protective packaging has crumbled away centuries hence—might turn into an uncontrollable nuclear hellhole.

[From the Kansas City State, Reprinted in the Las Vegas Sun, Dec. 5, 1989]

Get That Nuke Dump Rolling Again

More dismal planning now plagues the federal government's attempt to build a disposal facility for high-level nuclear waste from the nation's 110 nuclear power plants.

Energy Secretary James Watkins says he lacks any confidence in preliminary geological evaluations his department made at a site in the Nevada desert. Watkins says a burial spot for the waste won't be completed until 2010, instead of 1998. And that's if everything goes right.

Don't bet on that happening. Until now, the government has failed miserably in carrying out a mandate, delivered by Congress seven years ago, to develop a facility where spent nuclear fuel can be stored for thousands of years without endangering people or the environment.

The government in 1998 has to start accepting the high-level nuclear waste from reactors run by private electric utilities. Included are the Wolf Creek plant in Kansas and the Callaway County plant in Missouri. Utilities, through their customers, are paying the government to construct the storage area.

Now the government probably will have to develop temporary storage facilities for the nuclear waste. Guess how well that's going to go over in most places.

Reactor operators have good reason to be mad and concerned about this arrangement. The effort to develop more nuclear power will be set back. Opponents will have even more evidence that scientists still haven't found the answer to how to best handle nuclear waste, a solution they have been seeking for 30 years in the United States.

Two years ago, Congress ordered the Department of Energy to abandon other potential sites and concentrate on developing the Yucca Mountain disposal facility in Nevada. "It's fair to say we've solved the nuclear waste program," said Sen. J. Bennett Johnston of Louisiana. Right?

Wrong. Worse, $500 million has been spent to crawl this far. Watkins and his department ought to try to avoid throwing away more money and do the job right. That should include looking at other potentially safe sites in the nation, even if political problems crop up in doing that.

[From the New York Times Magazine, Nov. 18, 1990]

A Mountain of Trouble

(By William J. Broad)

Yucca Mountain is a barren flat-topped ridge rising out of the Nevada desert. Located 100 miles northwest of Las Vegas, it stands amid a desolate expanse that is broken every so often by a Joshua tree or yucca plant. The mountain rises some 1,500 feet and runs six miles or so. Within two decades it could hold the most dangerous nuclear facility in the world.

The Government plans to build a dump inside Yucca Mountain for the most highly radioactive nuclear waste in the nation. The job is considered urgent. More than four decades after the start of the nuclear era, there is no permanent place to put the vast and rapidly growing accumulation of the most lethal of America's nuclear refuse—the spent fuel rods and radioactive debris that constitute a largely forgotten legacy of this country's conquest of the atom. The nation has sites for the storage of low-level waste—and one, under construction in Carlsbad, N.M., for some higher-level military byproducts—but none for the most deadly substances of all.

The Government wants a final burial place for these items, now stored at Federal sites for nuclear weapons production and at many of the nation's 111 operating nuclear power plants. It wants a repository that will keep them isolated from the earth's environment for 10,000 years, until radioactive decay has rendered them less hazardous than they are today.

Yucca Mountain is the last candidate, selected after a stormy, decades-long, multibillion-dollar search that criss-crossed much of the nation and eliminated dozens of other potential sites, often for reasons of politics rather than science. Today, the site's 1,800 federal and contract workers feel great pressure to stay on schedule in assessing the site's suitability and planning the repository, which would be a labyrinth of tunnels up to 115 miles long. Its cost is expected to be up to $15 billion, some $1 billion of which has already been spent. If everything goes according to plan, it will open for business in 2010.

At first glance, Yucca Mountain seems perfect for the job. Its main virtue is aridity. The Nevada desert is one of the driest places in the United States. The water table beneath Yucca Mountain is unusually low, a third of a mile down. By contrast, the water table in the East can be within a dozen feet of the surface. In theory, canisters of radioactive waste (which are very hot both physically and radioactively) could be deposited deep inside Yucca Mountain and still be hundreds of feet above the water table, safe and dry for thousands of years, unlikely ever to contact or contaminate ground water, unlikely ever to spread radioactivity.

One scientist, however, has quietly but persistently warned that this vision of a safe repository is little more than a delusion.

Jerry S. Szymanski (pronounced sha-MANski) is a geologist who works on the Yucca Mountain project for the United States Department of Energy, which is in charge of evaluating the site and would run the repository. For years, he has argued that ground water under the mountain could eventually well up, flood the facility and prompt a calamity of vast proportions. The geological action is easy to visualize. Crustal stresses in the area slowly open fractures and faults under and within the mountain. Water seeps into them. An earthquake occurs, compressing the fractures and forcing the ground water upward into the dump. As the inrushing water comes into contact with the hot canisters of nuclear waste, the water is vaporized, threatening to cause explosions, ruptures and the release of radioactivity.

Szymanski has worked for the D.O.E. since 1983. He takes pains to distance himself from foes of nuclear power. "This report is not the act of a disgruntled employee or an antinuclear freak," he wrote in the preface of a study he made on Yucca Mountain. "Rather, it is the act of a deeply concerned scientist, a public servant and a pro-nuclear activist."

He chain-smokes Winstons and drinks Scotch, neither of which seems to impair his ability to take brisk hikes up the mountain with his dog Max, a fierce-looking but friendly creature that is half Labrador, half pit bull. Szymanski's eyes flash when he speaks of those who oppose his view of the evidence. "It's banality of thought," he growls, "absence of depth." That same kind of banality, he says, was responsible for the Holocaust, around which his earliest memories revolve, and for a brutal crackdown in his native Poland, which prompted him to flee that country two decades ago with his wife and 6-month-old son. Today, he says, banality is prompting the Federal Government to court disaster.

Squinting in the bright Nevada sunlight, a cigarette firmly in his mouth, Szymanski walks into Trench No. 8, a deep scar on the side of Yucca Mountain dug at the behest of the Energy Department. It runs across a fault. He bends down to examine a one-yard-wide vein of rock whose creamy color stands in contrast to the dark, surrounding earth tones. His fingers play over its surface. The vein was deposited, he says, by mineral-laden water that welled up and turned this desolate site into an oasis.

"This is above the repository level," he says with studied understatement. The implication is clear and troubling—where water once flowed, it might flow again.

The repository would hold up to 70,000 metric tons of waste. A large release would have an environmental impact that, by some estimates, would exceed that of a nuclear war. For perspective, the explosion of the Chernobyl reactor in the Soviet Union shot into the atmosphere just a few dozen pounds of highly radioactive nuclear waste, one of the most dangerous components of which was cesium 137 (it would also be a significant part of the waste at Yucca Mountain). Various studies say the consequences of Chernobyl will eventually be somewhere between 17,000 and 475,000 deaths from cancer, as well as an alarming number of serious ailments.

For half a decade, Szymanski's was a lone voice. His grim appraisal was opposed by almost everyone else on the Yucca Mountain project, who let their displeasure be known in subtle and not-so-subtle ways. But recently, growing ranks of geologists have backed his view. The dispute is by no means resolved.

If Szymanski is right and his warnings are heeded, it could mark the end of the Yucca Mountain project. The retreat would be a stunning setback for the Government and the nuclear-power industry, which is poised for a revival. If he is right and his warnings go unheeded, some experts say it might be the beginning of the ultimate end.

"You flood that thing and you could blow the top off the mountaih," says Charles B. Archambeau, a geophysicist at the University of Colorado who has reviewed Szymanski's work and found it persuasive. "At the very least, the radioactive material would go into the ground water and spread to Death Valley, where there are hot springs all over the place, constantly bringing water up from great depths. It would be picked up by the birds, the animals, the plant life. It would start creeping out of Death Valley. You couldn't stop it. That's the nightmare. It could slowly spread to the whole biosphere. If you want to envision the end of the world, that's it."

Jerry Szymanski was born, in 1943, to Polish nobility. The family's prosperity ended during the Second World War as waves of invading Germans and Russians swept the area. Born amid the turmoil, Szymanski says his earliest memory is of his grandmother telling a friend about a mass grave in which thousands of Jews were buried, many of them half alive. "Hands were sticking out of the ground," he recalls his grandmother as saying. "The earth was moving." His father, active in organized resistance against the Germans and Russians, was eventually sent to a labor camp in Russia for six years.

Szymanski grew up in Communist Poland, bright, eager to learn, and marked for advancement. He was sent to the University of Warsaw, where he graduated in 1965 with a geology degree. Two years later, he was hard at work on doctoral research and teaching when, in March 1968, he joined students clamoring for economic and social reform. "We wanted a dialogue," he says. "What we saw was brute, bloody force, storm troopers beating people." Students were arrested on charges of "anti-state activities," and hundreds of Jews were fired from newspaper and university posts as the Government blamed them for shortcomings in the Polish economy. Though not Jewish, Szymanski was fed up. The Government was eager to be rid of university agitators. So, in December 1968, he was allowed to board a plane with his wife, baby and two suitcases, bound for the United States.

Penniless, Szymanski went to work as a consultant to the burgeoning nuclear-power industry, helping find and evaluate sites for reactors and related facilities. Paramount in his work was the study of fault lines, breaks in rock strata that can shift and cause earthquakes. In 1972, he landed a job with Dames & Moore, a civil-engineering company with a global reputation for site-selection skill. Within some five years, Szymanski became a senior geologist, advising American companies and foreign governments in places like Iran, Korea, Spain and Chile on the geologic feasibility of setting up nuclear reactors. He also worked extensively with Federal regulators in charge of reactor licensing.

Peers held him in high esteem. "He's brilliant," says James G. McWhorter, the senior geologist at Dames & Moore. "One of his greatest talents is the ability to see the forest and the trees."

In 1977, at an international conference in Stockholm, Szymanski got a severe shock. Attending a session on the geologic disposal of used nuclear fuel, he was astonished to hear that the field was in its infancy, with one speaker after another talking only in theoretical terms. Nowhere in the world was there a permanent disposal site for the growing mountain of high-level nuclear waste. "I had been convinced there was somebody on the other end," Szymanski says. "I was wrong. The fuel cycle was not complete."

In 1982, he switched jobs, intending to address what he considered a looming obstacle to the industry's growth. At Decision Planning Corporation, a private company, he worked on Federal contracts to evaluate the merit of different types of deep geologic disposal. But he found himself only on the periphery of the process. In early 1983, he accepted a job with the Energy Department itself, though it meant a $20,000 cut in annual pay. "I figured I would have some influence," he says. Soon after, the D.O.E. offered him a position at the Yucca Mountain site, which was starting to undergo intense evaluation.

In February 1984, he arrived at the project offices in Las Vegas, blocks from the swirl of casinos, lights and illusion that make up the strip. Szymanski was one of the unit's four officials. He was in charge of gathering and assessing data from teams of scientists (mainly the U.S. Geological Survey and various contractors) whose work was to form the basis for evaluating the mountain. Equally important, he was in charge of packaging that data for the Nuclear Regulatory Commission, the Federal body that would be asked to license the nuclear-waste repository.

Everything went fine until Szymanski took his first field trip that September. It became what he calls "the most incredible three days of my life." He led a party of some 30 Federal and Nevada state officials to the mountain, and as they traveled back and forth across its arms and valleys, he grew increasingly edgy. From atop the mountain he could see 10 volcanic cones. Some showed little erosion, suggesting they were geologically quite young. Also visible were signs of six major fault lines. The area clearly had a history of intense geologic activity.

At Trench No. 14, on the mountain's east side, a scientist from the U.S. Geological Survey, which had done much of the exploratory work, used the word "travertine" to describe a large cream-colored deposit of fine, crystalline calcium carbonate exposed at one end of the ditch. Alarm bells went off in Szymanski's head. Travertine is a type of limestone found in caves (in the form of stalactites and stalagmites) and around springs. It is synonymous with the presence of water and is deposited in bands over long periods of time. Szymanski was no stranger to travertine, which is often associated with fault lines and which he had repeatedly searched for, found and examined all over the world. Its analysis can reveal the age of a fault, a fact that is important in evaluating whether it is likely to shift and damage a nuclear reactor.

Szymanski kept his concerns to himself. He doubted his perceptions, even his sanity. After all, none of the other geologists on the field trip seemed to be worried. The party continued its tour. But then came the evidence that tipped the balance. At Trench No. 8, on the west side of the mountain, was another deposit of travertine, situated, as usual, along a fault line. This time Szymanski examined it closely.

The travertine held many rock fragments in suspension, caught there by the mineral-coating process. Some had been cut in half by bulldozers. Those near the main vein had a shell of discoloration. Those farther away did not.

To Szymanski, the disparity was evidence that a warm spring had formed the travertine, etching rocks near the source but having no effect on those farther away, where the water would have been cooler. Other signs caught his eye. Travertine at the source was laced with vertical bands of minerals, including opal. The spring had definitely been warm, Szymanski concluded, carrying different kinds of water-soluble minerals up from deep within the earth.

The tour group pulled away. Szymanski stayed behind, kicking the tires of his vehicle, blind with rage. For seven years, from 1977 to 1984, he had visualized in ever greater detail what a repository should look like. Yucca Mountain did not come close. In many respects, it was the least likely site he could imagine. Moreover, he could see no means of improvement. Trying to waterproof the dump was hopeless. Barriers could be broken by earthquakes. And diversion channels for water might not be big enough, or last long enough. At best, complex man-made structures survived for hundreds of years, not thousands. In any case, the whole philosophy of the project was to have the site be safe naturally—not made that way.

Yucca Mountain was predicated on dryness—falsely, Szymanski was now convinced. Yet here he was, in charge of the Federal team meant to explain to the Nuclear Regulatory Commission why this site was good. Szymanski knew there was no way he could do it. In that instant, he foresaw the fights, the bureaucratic battles, the personal attacks. "Why me?" he thought to himself. "I'm just an immigrant."

It was Friday. Szymanski drove back to Las Vegas, where a friend from Dames & Moore, Timothy R. Harper, was arriving to spend the weekend. The next day, Szymanski took Harper, a geologist who is now a research scientist with a major British oil company, on a tour of Yucca Mountain, eager for an independent analysis.

"It was so obvious," Harper recalls. "Travertine is well known by the most inexperienced geologist to be a spring deposit. You walk into that trench and it shouts at you, it screams at you: 'This was an ejection of fluid.' Familiarity with a situation sometimes closes your eyes to understanding. It's quite possible that people became too familiar with seeing these deposits all over the place. But an outsider could see it straight away. You just look at the thing and know it's a fluid flow."

Harper was the first of more than a dozen independent geologists Szymanski would take through the site over the next few years. Without exception, they supported his views.

Szymanski told his Energy Department superiors of his concerns. The officials, not being geologists themselves, were in a bind. They had to rely on advice from contractors, the Geological Survey and the nation's nuclear-weapons laboratories: Los Alamos, Livermore and Sandia. Very quickly, these experts, led by the Geological Survey, came up with an explanation that became the standard reply. The deposits were superficial, they said, the result of rain, dating from an age when Nevada's climate was wetter. Calcium dust on certain kinds of exposed rock, this theory went, was picked up by the wind, carried many miles, caught in raindrops over Yucca Mountain and deposited over the course of millions of years in pools, fractures and faults, where it grew ever more concentrated.

This vision was immensely reassuring. It said that while the mountain's surface might once have been wet, the repository area deep underground had always been dry and would stay that way into the distant future. No ground water would rush up from beneath the mountain. Except for Szymanski, no one spoke of travertine any more. * * *

Szymanski pressed his superiors to continue the investigation, to take core samples, to further expose the rein, to resolve the issue once. and for all. "Nothing happened," he says. He pressed the contractors and Federal experts to document the findings and explain what they meant. "They resisted," Szymanski says.

For two years, Szymanski fought a losing battle to try to get the problem addressed. Finally, in frustration, he decided to do it himself.

Szymanski thought the source of the surface deposits was clearly warm water bubbling up from below. So he decided to wrestle with the problem of how the springs got there in the first place, hoping a clear explanation would persuade skeptics and give his science teams an intellectual framework on which to base their work.

Ground-water levels are usually governed by climatic trends. But Szymanski theorized that levels in the Yucca Mountain area could be altered by earthquakes, and sustained that way for hundreds or even thousands of years by the earth's inner heat, through a process known as thermal convection. "It's like water percolating up in a coffee pot," he says.

To test his hypothesis, Szymanski examined the huge amount of data on the geology and hydrology of Yucca Mountain and its environs, which had been accumulated over the years. The evidence, he concluded, was indisputable. Rock samples from the mountain's core showed calcium carbonate deposits extending down many hundreds of yards. Analysis of trace elements in the deposits showed that the water creating them had been warm—again, suggesting it came from below rather than in the form of cool rain.

But the powers that be were still not persuaded by the evidence. "My desk was moved closer and closer to the door," Szymanski recalls. "I was a forgotten man." In November 1987, he submitted a 322-page draft report. It sat in the mail room, untouched by his superior.

Meanwhile, a copy of the report came into the hands of Richard H. Bryan, then Nevada's Governor, who had strongly voiced the state's opposition to the repository. In January 1988, over Szymanski's objections, Bryan released the draft at a news conference. "If the conclusions of the report are accurate—and state scientists have every reason to believe that they are—there can be no doubt that Yucca Mountain should never have been selected as a possible repository site." Bryan told reporters. His comments threw the Federal bureaucracy into action.

More than 40 scientists were now put onto the job of reviewing Szymanski's draft. Their 133-page review, issued in July 1989, said the majority "doubt that there is sufficient technical basis to warrant pursuing the author's hypothesis further," adding that Szymanski's evidence was ambiguous at best. The lead reviewer, William W. Dudley Jr. of the Geological Survey, called the draft "deceitful" and riddled with "violations of scientific ethics."

In an interview last month, Dudley softened his tone, saying Szymanski's effects "probably do occur to some degree" but were blown "out of proportion." He even said that the area around Yucca Mountain may hold examples of calcium carbonate produced by the welling up of ground water but were too old to have any bearing on the repository project.

John S. Stuckless, a Survey geologist on the Yucca Mountain project, also remains unpursuaded. The disputed calcium on Yucca Mountain "cannot be deposited from the ground water," he said in an interview this fall. "That leaves only soil-forming processes." He said such action could account for much of the field data, including deposits of opal, although he conceded that the thickness of the band found in Trench No. 14 is "more than is typical in a soil horizon."

Asked about calcium carbonate found at great depths beneath Yucca Mountain, Stuckless acknowledged the possibility of ground water, but he, too, discounted its relevance. "We have a suspicion, unconfirmed, that we are looking at two different kinds of calcite, one up and one down," he said—one deposited by rain, the other by ground water far below the repository level, too far below to threaten the project.

Szymanski was calm amid the storm. During the yearlong review, he had been listening carefully to the criticism and revising his draft. He was confident. There was no way rainwater could become concentrated enough to produce opal that was as thick, pure and banded as that found here. Only a flowing source of ground water could carry enough of the dissolved minerals. And from careful study of rock cores, Szymanski knew the mountain was riddled with calcium from top to bottom, strengthening his thesis. Moreover, chemical analysis showed these calcium deposits were, for all practical purposes, identical.

Szymanski's final report, 911 pages long, was made public in July 1989. He wrote that evidence for his groundwater model was overwhelming and dismissed the Energy Department plan for Yucca Mountain as "wishful thinking." Privately, he viewed most of his critics as decent men who were blinded to the obvious by bureacratic inertia, a desire for career and financial security and a fear that the nation and the nuclear industry would be thrown into turmoil if Yucca Mountain were to be abandoned.

The report had an introduction written by Gerald A. Frazier, a scientist at the Science Applications International Corporation who had quit the internal-review panel because he felt it was biased. After listening to the criticisms and Szymanski's responses, and after traveling extensively through the desert with Szymanski, Frazier was sure his thesis had merit. "If there is but 1 chance in 10 that his postulates are valid," Frazier wrote, "then we must jointly share his concerns and seek resolution."

The battle between Szymanski and the Federal bureaucracy had by now been going on for five years. In 1989, it was moved to a higher plateau by Carl P. Gertz, a civil engineer who had become head of the Yucca Mountain project two years earlier. After making public the conflicting reports, Gertz announced that Szymanski's work would be reviewed again, this time by experts outside the Federal preserve. A five-member independent panel (with two members picked by Szymanski and three by Gertz) and a 17-member group from the National Academy of Sciences, a prestigious group that advises the Government, would separately review the material.

Gertz says he is openedminded. "We want to ask the hard questions right now," he said in an interview. "My personal view is that it's healthy for a scientific program to have debate at this stage." Even healthier, he says, would be more research to help resolve the ground-water issue. A lawsuit brought by the State of Nevada has stopped much work at the site.

"There are many things we don't know about Yucca," Gertz said. "Until we gather the data, I don't think I'll be surprised about anything out there." However, he said, the consequences of a flooded dump would probably not be as severe as Szymanski fears. The slow corrosion of canisters would be more likely than their explosive rupture, Gertz said, lessening the odds of a massive release.

John Stuckless feels that further research will resolve the ground-water riddles. "We're just starting a three-year study of this whole problem," he noted this fall, referring to a "site characterization" study the D.O.E. is undertaking "It's not like anybody is finished." After the data has been gathered, he said, it will undergo a fairly lengthy period of analysis. By this schedule, the issues Szymanski raised in 1984 might conceivably be answered a decade later.

Meanwhile, the five-member independent panel is expecteed to report near the end of the year. The National Academy of Sciences group is to file an interim report in 1991 and a final one is 1992.

"Max!" Szymanski shouts. The dog bounds out of the desert into the vehicle. As we drive off, Szymanski holds up a yellow butane lighter. "My objective is to make sure we see reality and act accordingly," he says. "I don't really care what the specific actions are. But when a society starts calling a yellow lighter black, that's the end."

He says the waste project needs no more data. It simply needs to examine objectively the huge amount of evidence already in hand.

What are the odds of ground water welling up through the mountain in the next 10,000 years? "It's a sure thing," Szymanski answers, "just like death."

The project has so far failed to weigh seriously the worst-case consequences, he adds—a major release from waste containers.

We leave Yucca Mountain behind, crossing a valley dotted with volcanic cones. At Bare Mountain, we get out and climb its lower elevations, still in sight of Yucca. Gold miners have dug on the mountain's side, exposing layers of rock as they worked their way along a fault line. Clearly evident are the same cream-colored deposits of calcium carbonate, alternating with thick, four-inch bands of opal, some of gem quality. Gold ore lies along the fault, Szymanski says, deposited there in the same manner as the calcium carbonate. "That stuff has uranium in it," he says. "You don't get that from the sky."

He picks up a cream-colored, heavily banded rock. "To say this is the result of rain is preposterous," he asserts. "Take it to Columbia University and say that. They'll throw you out of the office."

We drive away, across the dry, dusty valley toward the state highway. I ask if there are springs around like the ones he is suggesting may someday appear on Yucca Mountain. Yes, Szymanski says, including ones on the sides of mountains.

We pull up to a site known as Devil's Hole. The rocky outcropping is cut by a deep gash. At its bottom is a pool of crystal-clear water, which Szymanski says goes down hundreds of feet. "This is not rainwater," he says. A gorge leading to the gash is obviously a fault, covered with the same calcium deposits we have seen all day long.

We drive down the mountain. The sun is setting, the desert tinged with gold. Ahead is a lake surrounded by dense foliage. It is known as Crystal Pool, Szymanski says. It is spring fed, an oasis in the desert.

Covered with dirt, I pull off my clothes and plunge into the water, swimming far from shore. A flock of birds glides by. Looking back, I see Szymanski sitting on a bank near the shoreline, fully clothed. He is smoking a cigarette, waiting patiently, staring into the distance.

COMMENTS OF JOSEPH RHODES, JR. AT THE 102D ANNUAL CONVENTION OF NARUC, ORLANDO, FL, NOVEMBER 13, 1990

NUCLEAR POWER: WASTE DISPOSAL, NEW REACTOR TECHNOLOGY—"PYRAMIDS UNDERGROUND"

This morning as I look around at this distinguished panel about to address this complex and important pair of subjects, I must confess that the thought that runs through my mind is a rather simple one: "How did I get here?"

How did I get here? I do not sit on the NARUC electricity committee and hence not on the Subcommittee on Nuclear Issues—Waste Disposal. This panel presentation today represents the first challenge I have had as a Pennsylvania commissioner to think about these issues in a detailed and national way. After I'm finished, I hope you won't go away muttering "who was that guy anyway?"

I suspect I received this assignment for a simple reason. At the last meeting of the Finance and Technology Committee in Los Angeles I happened to ask Bruce Morrison of Westinghouse a few technical questions about the AP600. In other words my presence here today is a practical manifestation of the adage: "no good deed should go unpunished." Gerry Gunther, I'm going to get you wherever you are.

As I prepared for this presentation I reflected on the experiences that I have had that have shaped my views on nuclear power. Earlier this year the Pennsylvania commission rendered a decision in the Limerick II rate case, undoubtedly the most recent nuke-going-into-rate-base case in the country and probably one of the last of such cases in this century. Over the past year I have learned more about Mark II containment and crud induced localized corrosion than I ever wanted to know.

The very first issue I took up when I came on the commission in 1988 was the situation at Peach Bottom and the efforts by PECO to "jump start" the reactor long before they were really prepared to do so. As it turned out the schedule was lengthened, and so far things seem much improved at this station forty miles down river from Three Mile Island.

Three Mile Island, now there was a formative experience. I lived through Three Mile Island on a personal level. I was there. The contemplation of nuclear disasters is not an abstract exercise for me. In my last term as a State representative, I heard the sirens in the capital complex go off to warn us to close our windows because another big release has just escaped from the reactor. My home in Pittsburgh was filled with friends from Harrisburg who were only part of the tens of thousands who voluntarily evacuated central Pennsylvania while Governor Thornburgh and the NRC tried to calm everyone down with what turned out to be a gross underassessment of the extent of the accident.

Though you might think otherwise at this point, I don't consider myself either pro- or anti-nuke. The dream of becoming a nuclear engineer was the sustaining vision that got me out of the inner city. I can still see Dr. Williams at the University of Virginia reactor facility in the summer of 1964 drilling us National Science Foundation high school students with two group reactor theory. Late at night I would look down into the reactor pool, and fascinated with the eerie blue glow of the Cherenkov radiation, I would dream of someday running a big power reactor.

I don't believe one should be ideological about technology. I do, however, believe that given the potential for catastrophic and virtually permanent environmental damage from nuclear operations, when in doubt we should err on the side of caution when it comes to nuclear power. In my book, nuclear proponents have a heavy but not insurmountable burden of proof to satisfy before they carry the day.

Now, what about "waste disposal and advanced reactor designs"? Of the two issues, to me, the former is more critical than the latter. If we don't solve the waste problem, it won't matter if a passively safe, standardized nuclear power system is developed. This is true even if the new designs include, as I am led to believe they do, enough on-site storage capacity for the useful life of the station. Eventually the station will be decommissioned and the waste removed to a permanent site. And just how permanent is "permanent"?

It is now the end of 1990. What will life be like in the year 12,000? What was life like in 8,000 B.C.? The time span of 10,000 years encompasses all of recorded human history. All we know from 10,000 years ago we decipher from geologic sediments and waste heaps. The period of 10,000 years is relevant because that's how far out the EPA regulations currently call for a measurable limit of ground water contamination from high level waste stored in the permanent repository. Given probabilistic risk assessment, time horizons of sufficient length and sufficiently unacceptable outcomes, you may not be able to get there from here with known or even imagined technologies and geological sites. To paraphrase the Bard: "That's the rub."

And the problem of time horizons is even worse. When we talk about building a permanent site for high level nuclear waste disposal, we are actually trying to develop a structure before 2010 which will last eons of time longer than known human history and protect the human population from its existence throughout that period. This plan is tantamount to constructing an underground facility with the durability of the pyramids. We are talking about building the modern equivalent of "pyramids underground." Can you imagine the archaeologists of 12,000 A.D. scratching at the hieroglyphics of a nuclear waste repository wondering what the symbols mean?

The question of nuclear waste that must be answered is: Given current technologies, Earth sciences, the law of the land and politics, can a safe, permanent repository for high level waste be built in a reasonable period of time? This is the $64 question for regulators, scientists, the industry, ratepayers and the public.

To a regulator who must set electricity rates, this is more than a curiosity. It is a mega buck calamity. As of June 30, 1990 almost $7 billion had been contributed by utilities and their ratepayers to the nuclear waste fund in the U.S. Treasury. Since its inception, $2.7 billion has been disbursed from the fund for DOE use for research and development, roughly a billion of that having gone into Yucca Mountain. So the remaining $4.3 billion is being used to offset the Federal deficit just like the Social Security funds. In addition, DOE hasn't contributed the $483 million it owes to the nuclear waste fund. Do you think their contributions made it into the deficit reduction package? It is estimated that the total cost to establish that the high level waste depository might approach $40 billion.

And this is the good news. The decision to push back the active date of the permanent repository has necessitated an interim solution: Expanded on-site storage and the Monitored Retrievable Storage Program. The estimates for storing the waste essentially twice vary so much I really couldn't guess how much the mil/kWh charge will rise in the near future.

Are we making ratepayers pay for something that will amount to the utility regulator's nightmare: A phantom facility that costs more and more each year but never gets built or used?

All of us know that time is money. In 1982 we promised to collect the dollars for development, and the Feds promised to have a facility in place to receive the waste in 1998. They have not lived up to their side of the bargain. In the six years from 1983 to 1989 the estimated cost of the nuclear waste program has escalated 60%, of which ⅓ is due to inflation, but DOE's current estimate contains no contingency for future escalation other than inflation.

Will the first permanent repository be built by 2010, the current schedule? And more important: will it be built and licensed in Yucca Mountain, Nevada? This is the real question because the current strategy seems to be Yucca Mountain or bust, an all or nothing bet.

A major factor is the legal question. Two months ago, in Nevada vs. Watkins, the ninth circuit shredded Nevada's claim that Secretary Watkins' decision to proceed with the site characterization of Yucca Mountain was unconstitutional. Furthermore, the court found that Nevada was premature in exercising its veto power. But the legal fight is far from over. There is no doubt that Nevada will appeal this decision and attempt to maintain the district court stay order against DOE implementation of its plan pending Supreme Court disposition of the case.

What about the political dimension? The ninth circuit decision notwithstanding, I can't imagine that there will ever be a usable Yucca Mountain repository if the people of Nevada don't want it. The political barrier is a deal breaker. There are just too many ways to delay the program, even if the site characterization proceeds.

Will the people of Nevada accept a high level waste repository in Yucca Mountain or anywhere else? Regrettably, my conclusion is that they will not. A recent poll commissioned by the "Las Vegas Review Journal" found that 78 percent of Nevadans oppose the siting of any such repository anywhere in Nevada. In addition, 80 percent want State leaders to oppose such siting with any means available. Call out the National Guard.

My rough estimate is that if Nevada exhausts all of its options and wages total political and regulatory war over Yucca Mountain, it would be at least another twenty years before all the other States could gang up on Nevada and force this site down their throats. This might not have been the case if an eastern site had been simultaneously designated with Yucca Mountain, but that would have ignited its own political maelstrom—the proverbial catch 22.

Can a safe repository be built and licensed at Yucca Mountain within a reasonable span of time? The issue of safety is what the characterization is all about. Last year the National Research Council's Board on Radioactive Waste Management issued its report: "Rethinking High-Level Radioactive Waste Disposal." In the body of that report the Board concludes that: "There is no scientific reason to think that an acceptable HLW repository cannot be built and licensed." Case closed? Not quite.

The NAS/NRC report goes on to conclude that "the U.S program, as conceived and implemented over the past decade is unlikely to succeed." In other words, science does not rule out the possibility of siting and constructing a safe repository, but we won't get there the way DOE has chosen to do the job. A principal reason for this is the U.S. having adopted a waste disposal program that "is characterized by a high degree of inflexibility with respect to both schedule and technical specifications."

Let's take this a step further. Even if all that we have reviewed so far is wrong, is it prudent to believe that the DOE can manage a Yucca Mountain once it is built? Given the legacy of Hanford, Fernald, West Valley, Savannah River etc., the answer to that question must be—no. I know that under Admiral Watkin's leadership there is a high level commitment to reverse this dismal record. But we are not there yet. We cannot base our plans on promises, only on past performance.

Time is running out. Much of what I have read and heard from the industry, DOE and even my fellow regulators sounds painfully like whistling past the graveyard. A permanent disposal site won't happen because we want it to, or because we hope it will and maybe not even if well meaning and able managers make every effort for it to happen. At some point—and I would posit that that time is sooner rather than later—we must decide that we just aren't going to make it. Then what?

The options facing us are not pretty. The underlying premise behind any consideration of options is that the current plan for permanent disposal in general, and the specific use of Yucca Mountain, just won't work. Given that assumption, and I am prepared to advance it as the only realistic conclusion to draw, there are five options available to us.

We can: (1) continue along the path we are now following knowing that it won't work but believing that for appearances' sake we ought to spend the billions on a doomed effort in the hope that we are buying time; (2) adopt a permanent on-site storage approach; (3) deploy the monitored retrievable storage program; (4) revisit fuel reprocessing; or (5) delay the siting of the permanent respository for several decades and store onsite in the interim.

Option one—the ostrich approach—is attractive but unconscionable. If the gig is up, we have to admit it. The reason is simple. Without such an admission we will lose critical time to develop an alternative.

What about option two—permanent on-site storage? This too is unacceptable. Option two is expedient in the short term but grossly irresponsible if I remember any of my sophomore physics. As many have pointed out, as bad as a permanent, poorly sited underground repository might be, it is infinitely safer than a program of permanent storage above ground in dry casks or in fuel pools. Unfortunately option two does not constitute a fix of the nuclear waste crisis and will effectively terminate any future expansion of the U.S. nuclear power option. With global warming and acid rain we cannot accept this result.

What about the MRS—option three? The Waste Act calls for the siting of an above ground monitored retrievable storage program. This supposedly would offer an interim solution to delays in the geological permanent repository. However, Congress coupled the MRS with the permanent repository precisely because it thought, and rightly so, that no State would accept an MRS unless a permanent repository had been licensed for fear that the MRS would become the permanent site.

Decoupling the MRS from the permanent repository won't work. Congress will not likely do it, and if Congress did so, no State would accept it. If Congress or DOE tried to force an MRS on a State, we would have Yucca Mountain all over again and we would be back to square one. As the Red Queen said to Alice: "it takes all the running you can do to keep in the same place."

If we cannot build pyramids underground, perhaps we could scale the problem down to size and that might mean recycling and reprocessing spent fuel—option four. The Europeans and Japanese have both recognized this reality of the equation for waste relief. Call it a "bottle bill" for nuclear power.

Now, I said the alternatives to permanent storage of spent fuel are ugly. Establishing a credible nuclear fuel reprocessing program for the American nuclear industry on the scale required would be really ugly. Any such system of facilities would vastly multiply the physical security problem of the current plan. With Saddam Hussein lurking on the horizon, can anyone argue that the nuclear proliferation issue is any less ominous now than it was in 1977 when we abandoned the reprocessing option?

In addition, the residue from such plants would also require permanent disposal albeit at a greatly reduced scale. The economics of yellow cake now seem to make reprocessing the uneconomical choice. But does such an analysis factor in the $40 billion anticipated cost of the current plan?

Reprocessing is no easy option. To develop a credible reprocessing option would take time, and to implement it would take even more time. And time is what we think we don't have. The biggest obstacle to overcome for a reprocessing option would be, in my opinion, the question of the management of the program. The logical choice for this assignment would be the DOE, but the litany of DOE management disasters at existing nuclear material processing plants does not recommend this agency for this role. Again, I didn't say there are any easy choices here. That's why we are paid the big bucks.

Now we come to the final option: Delay the siting of the permanent repository for several decades and store on-site in the interim. What would this option entail? As far as I can determine, option five must include at least four elements. First, it would necessitate the abandonment of the Yucca Mountain site or at least the scaling back of the characterization effort for Yucca to put it in the context of other potential sites. It would most certainly require that Congress and the DOE lift the designation yoke from Yucca's throat.

Second, option five would require that the lead Federal agency charged with the High Level Waste Program launch a thorough national evaluation of potential geological sites with the objective of developing a list of acceptable sites within the next three decades. I left the identity of the designated agency deliberately blank because it is not self-evident to me that DOE should automatically be that agency. Maybe it should be the USGS.

We need to acknowledge that the time of Draconian siting approaches which force States and communities to accept waste facilities is probably over (if it ever really existed). There needs to be an up front commitment to voluntarism in the siting of the repository. That means giving States and local governments full participation rights in the process as well as affording local control in important decisions. This approach is being tried right now, with some success, in Canada with respect to low-level waste sites, and it has promise for affording new, innovative and potentially workable approaches for the high-level waste disposal morass in this country.

It is also not self-evident that we should confine this search to U.S. boundaries. As suggested by Wolf Hafele in a recent "Scientific American" article, this effort might be best accomplished in an international context because the High Level Waste Program is international by its very nature. All nuclear power nations have a stake in solving this problem, and solutions like mid-ocean island storage would become more likely if adopted by an international process.

The third element of option five would be the implementation of a plan of on-site storage of spent fuel for the next 100 years. Karl Cohen, formerly of G.E., has advanced this intermediate solution. We have the technology to accomplish this already at hand. The NRC has certified dry cask storage as safe as geological storage for between 120 and 150 years. Perhaps concrete canisters would meet the same standards.

The fourth element of option five would be the launching of a serious re-examination of the fuel reprocessing option. If it were possible to negotiate the hurdles to this option that I have already enumerated, it would reduce our high level waste disposal problem by roughly a factor of five. We must remember that all this sound and fury about Yucca Mountain is only over the first repository siting. If we continue with nuclear power, we will need to site many more.

Option five has its obvious drawbacks. Unless launched with a clear mandate and commitment, it carries with it all the negative baggage of a pure option two solution: namely, it brings to a halt nuclear power in the U.S. because on-site storage is clearly not a permanent solution. Furthermore, from the utility regulator's point of view it guarantees that our ratepayers will have to pay twice for spent fuel storage. Finally, from the industry's point of view and perhaps even from the viewpoint of Washington policy makers, option five could be construed as going backward in time to a pre-1987 or even 1982 status. Alice, where are you when we need you?

I recognize all of these drawbacks with this proposal, but I don't believe the other options are viable. We most certainly cannot plunge ahead in pursuit of a mirage-like permanent repository at Yucca Mountain. Let's face the truth. It ain't going to happen.

Now, as for the other topic of this panel, I have very little to say. It is undoubtedly a good and proper thing that various vendors are working hard to develop an inherently safer nuclear generating system. To you I can only say: Good luck. No, I have a little more than that to say.

In my opinion, the challenge you have undertaken must take into account two spheres of reality: the safety issue as it animates public opinion about nuclear power and the economics of power generation in this last decade of the century. If you satisfy the one sphere of reality without the other, you will most certainly fail.

In terms of the safety sphere of reality, I will only offer a couple of observations. Credibility will be everything in this game. Be modest. Don't oversell your product. If your emergency water injection systems rely on sensor activation, you don't have a passively safe system. If your physical activation system for any backup water injection can be set for different pressure settings carefully explain that this is a crucial judgment call that must be made by institutions that have little or no credibility. And if your control and safety rods still must defy gravity to operate, try another design. By the way, I personally believe that all of these hurdles can be overcome.

Here I speak only to the light water designs under development. As for the more exotic advanced reactors, I will only observe that if you must eliminate containment to make the numbers work, forget it. People died at Chernobyl and nobody died at TMI. The difference was containment, and I will state categorically that no nuclear power station will ever be built in this country without a containment structure.

As for the economic sphere, nuclear power stations will not be ordered unless they can beat the economic bogeyman. Don't expect any special treatment from regulators because this is clean nuclear power—that is, unless you can come up with some plan to magically transform the costs of the "externalities" into money in ratepayers' pockets.

One of the biggest economic hurdles is the excess capacity disallowance. Given the recent history and current forecasts of load growth, it will be very difficult to even add 600MW chunks of capacity to our systems without triggering excess capacity penalties. The economics of the plant must take this eventuality into account.

Another major hurdle will be the least cost procurement test. Each new unit must be able to compete with other sources of power on a least cost basis at the time of selection of the unit, and the unit will be held accountable for any escalation in cost. The least cost test is becoming a significant early hurdle for any generating unit to clear. Up front hearings on the incorporation of a unit into a production plan places greater risk at the developmental phase but can reinforce the selection during its construction.

I was pleased to hear an estimate of the AP600 at under $1300/kW at the recent summer meetings of NARUC. But a gas-fired combined cycle unit is $800/kW and can be built on a schedule with more flexibility to meet expected load growth. Wake up people! Until you can match that performance, you won't sell a single unit in the U.S.

Finally, a third economic hurdle is the restructuring of the generation side of the electric business. Can you bid the opportunity to provide power for a fixed price within a known time horizon? I believe the only way Westinghouse or GE will get an AP600 or an SBRW to the market is not to be an equipment supplier but to be an electricity supplier. They would be nuclear IPP's bidding to provide energy at such and such a price, at such and such a future date, just as B&W, Wheelabrator, AES, Bechtel, Air Products, Bonneville Pacific, O'Brien Energy, Long Lake Energy and Pyropower all are doing today.

There is very little you can do to make the future nuclear technology more attractive until you come to grips with the industry restructuring which is placing the risks of power development on independent entrepreneurs. These independents will be less likely to take a risk on nuclear technology when they can avoid the hazards of the industry with virtually any other technology on the market and beat nuclear's price.

In conclusion, I believe there is still time to rejuvenate the nuclear power industry in the U.S. To do so, however, will require new thinking and a willingness to hear what is said, not what we want to hear. And now I'd like to follow the admonition of the king to the white rabbit when he said "Begin at the beginning, and go on till you come to the end: then stop." Thank you.

By Mr. DURENBERGER (for himself, Mr. McCAIN, Mr. WALLOP, and Mr. JEFFORDS):

S. 700. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on insurance companies not meeting certain requirements with respect to health insurance provided to small employers; to the Committee on Finance.

AMERICAN HEALTH SECURITY ACT

• Mr. DURENBERGER. Mr. President, it goes without saying that the American people are dissatisfied with their health care. We have problems of access: One in eight Americans have no health insurance protection, public or private. We have problems with costliness: Insurance premiums and benefit costs continue to rise at alarming rates.

As cochair of the Pepper Commission, I can say that the problems of our system are agreed upon and well understood. The challenge now is how to span the gap between where we are today, and where we want to be next year and 10 years from now.

Today, I am introducing legislation which I hope will be the first plank in a crosswalk which will bridge the inadequate system we now have, to the improved system the American people want, and deserve.

I am introducing along with Senator McCAIN and Senator WALLOP the American Health Security Act of 1991. This legislation will help address the issue of America's uninsured by adding essential consumer protection standards into the private health insurance market as it relates to employees of small businesses.

I invite my colleagues on both sides of the aisle to join me in cosponsoring this legislation. This is a bipartisan issue and I believe I have crafted a solution that has great bipartisan appeal.

Today, over 30 million Americans lack health insurance protection. They are vulnerable not only to the high costs of medical care, but their very economic security can be threatened by the expense of a major illness.

Significantly, most of the uninsured are not jobless. It has been estimated that 70 percent of the uninsured, or about 20 million people, are either employed workers or the dependents of workers. Further, three out of every four working uninsured persons are employed in small businesses, with the biggest gap in health insurance coverage occurring in companies with fewer than 25 employees.

Why is this the case? Is it because small employers do not want to offer this important fringe benefit to their employees? No. The fact is that many small firms are interested in securing these benefits, but when they go to the private insurance market to get them, they run into serious obstacles.

Insurers can and do refuse to sell insurance contracts if they don't want to accept the employer's group—for any reason—and can cancel contracts unilaterally. They can and do selectively deny or restrict coverage for specific employees or an employee's dependent child—with preexisting medical conditions. They can and do charge prohibitive risk premiums.

In addition, insurers often low-ball the premiums offered to an employer in the first year, and once they've hooked the account, raise the premiums abruptly in later periods by 20, 30, 40 percent or more.

They also market carefully to attract primarily lower risk groups. Selecting low risks is known as creaming or cherry-picking.

These practices foster enormous instability and turnover, or churning, among small employers who try to buy health benefits, and discourage many employers from even trying.

These are not just run-of-the-mill sharp business practices that we can deplore, but shrug our shoulders over. They have important and negative societal consequences.

For instance, in the Pepper Commission field hearings, we heard testimony from individuals who could not leave dead-end jobs because they had a sick child and could not risk losing their health care coverage.

Reverend Oakes of West Virginia told us about how he was fired from his job when his wife was diagnosed with cancer because his employer feared that the company's health benefit plan premiums would skyrocket or that the plan would be terminated for everyone.

So the question for us as legislators is what can we do to help small employers do the job they'd like to do.

If we want to help expand health benefits through the small business workplace, then we must act to stabilize this market. We must have consumer protection standards that are clear and effective, that insurers can comply with, and whose fairness all small employers can rely upon.

The legislation I am introducing, the American Health Security Act of 1991, will tackle these problems by setting uniform standards nationwide that require the following: Guaranteed issue of policies; limits on insurers' ability to impose coverage restrictions due to preexisting conditions; guaranteed renewability of policies; and restrictions on experience rating and limits on annual increases in premiums.

In addition, the bill includes two benefit packages designed expressly with the needs of small businesses in mind.

Although these are Federal standards, this legislation permits States to regulate these practices provided the State laws are at least as rigorous as the Federal standards.

The No. 1 problem for small employers is the costliness of private health insurance. The high cost of medical care is a major part of this and an issue we cannot continue to neglect.

However, another important cost factor is the trend in State legislatures to mandate that health insurance policies include all manner of costly benefits that are not essential to most people's basic health insurance needs. Yet these State mandates can raise premium costs an estimated 20–30 percent.

To address this problem, I propose to require insurers to make available to small employers, two specially tailored benefit packages called Medplans. One is a core plan, the second is an enriched standard plan. However, both are exempt from State benefit mandates and will give small employers a more affordable alternative.

We estimate that the core Medplan could be marketed at a premium of about $900 to $1,200 per year or as low as $75 per month. The standard Medplan could be marketed at about $1,200–$1,600 per year, or as low as $100 per month. This is much lower than the average cost of $2,000 per year for benefit plans now on the market.

I would be the first to acknowledge that these are not ideal health plans—but, they are ideal income security plans. And that is the main issue for employees who currently get no insurance protection.

Mr. President, if these reforms are enacted, it will be a watershed event in the evolution of the private health insurance industry in this country. Can the private health insurance industry rise to the challenge?

The industry itself acknowledges the need for the basic reforms contained in this legislation. If we work together, there is a real opportunity to preserve the choices, diversity, and potential for innovation that resides in the private sector.

I, for one, believe that insurers can thrive financially by "doing good," so long as all carriers must abide by the same rules. If even one company can undercut these rules, our efforts to perfect America's unique system of mixed public and private benefits will be doomed.

Mr. President, it has been suggested to me that this boils down to two simple tests for the industry:

First, the market test. Can insurance carriers give us what we want at a price the serves the insurer's necessary economic goals of market share and profit margin?

Second, the social test. Can insurance carriers give us what we want—namely access to financial protection, affordable premiums and coverage for the health care services we most need?

The course that we currently are on in the private health insurance market will most assuredly make it fail both these tests. Some carriers will inevitably fail on the market side due to competitive pressures and poor management. However, I'd like to focus now on why many companies are failing the social test.

Insurance plans compete to give buyers what they want, but only within the limits that will produce acceptable financial margins to them as businesses! The very practices companies must engage in to survive and compete on economic terms, are fundamentally at odds with our social objectives of broad-based affordable, comprehensive coverage.

Companies can't survive if their premiums aren't competitive. Therefore, they deny coverage to high-risk groups and individuals to keep their premiums down. The facts are that in today's market, risk selection is a much more powerful tool and generates much greater competitive advantages to companies than does the much harder task of managing people's care and keeping their claims expenses down. It is this dynamic that we must stop.

Mr. President, the industry is in a crisis. It is facing a severe loss of public confidence in its ability to play a viable role in the future. Unless we act now to create a level playing field, the future ability of insurers to provide us with the financial security and services we need will be in grave jeopardy.

And my solutions are geared toward solving the social problems not toward protecting the status quo in the private insurance industry, nor in the regulatory framework that has allowed it to evolve into what it is today.

The challenge for me and others who share these concerns is to put a new framework together that better meets our social needs.

In closing, Mr. President, as I said at the beginning, this is merely the first plank in building a crosswalk to a new order in our health care system. This new order must be a system where protection against the high cost of getting sick is seamless. By that, I mean that there must be no gaps left in the future between private and public programs for indviduals to fall through.

The American Health Security Act of 1991 cannot and will not do the whole job of closing the existing gaps in health insurance coverage. We must also redesign our major public programs like Medicare and Medicaid to achieve seamless protection for all regardless of age, employment or economic circumstances. To this end, I will be introducing major restructuring proposals for these programs later this session to achieve universal access for all Americans.

In addition, we must reexamine the $40 billion in tax subsidies that underlie employer-based health benefits. It is incumbent upon us to make sure that public subsidies of this magnitude support only those health benefit plans that meet social objectives of equity and efficiency. These are large undertakings. But if we are to have a socially just approach to meeting people's basic health care needs, we must tackle these issues. Mr. President, I ask unanimous consent that the complete text of this bill and a section-by-section summary be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 700

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "American Health Security Act of 1991".

SEC. 2. FAILURE TO SATISFY CERTAIN STANDARDS FOR HEALTH INSURANCE PROVIDED TO SMALL EMPLOYERS.

(a) IN GENERAL.—Chapter 47 of the Internal Revenue Code of 1986 (relating to excise taxes on qualified pension, etc. plans) is amended by adding at the end thereof the following new subchapter:

"Subchapter B—Health Insurance Provided to Small Employers

"Sec. 5000A. Failure to satisfy standards for health insurance of small employers.
"Sec. 5000B. General issuance requirements.
"Sec. 5000C. Specific contractual requirements.
"Sec. 5000D. State compliance agreements.
"Sec. 5000E. Definitions and other rules.

"SEC. 5000A. FAILURE TO SATISFY CERTAIN STANDARDS FOR HEALTH INSURANCE OF SMALL EMPLOYERS.

"(a) GENERAL RULE.—In the case of any person issuing applicable accident and health insurance contracts, there is hereby imposed a tax on the failure of such person to meet at any time during any taxable year—

"(1) the general issuance requirements of section 5000B, or

"(2) the specific contractual requirements of section 5000C.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of tax imposed by subsection (a) by reason of 1 or more failures during a taxable year shall be equal to 20 percent of the gross premiums received during such taxable year with respect to all accident and health insurance contracts issued by the person on whom such tax is imposed.

"(2) GROSS PREMIUMS.—For purposes of paragraph (1), gross premiums shall include any consideration received with respect to any accident and health insurance contract.

"(c) LIMITATION ON TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) with respect to any failure for which it is established to the satisfaction of the Secretary that the person on whom the tax is imposed did not know, or exercising reasonable diligence would not have known, that such failure existed.

"(2) TAX NOT TO APPLY WHERE FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) with respect to any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the 1st date any of the persons on whom the tax is imposed knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a).

"(d) LIABILITY FOR TAX.—The person issuing the applicable accident and health contract with respect to which a failure occurs shall be liable for the tax imposed by subsection (a).

"SEC. 5000B. GENERAL ISSUANCE REQUIREMENTS.

"(a) GENERAL RULE.—The requirements of this section are met if a person meets—

"(1) the mandatory policy requirements of subsection (b), and

"(2) the guaranteed issue requirements of subsection (c).

"(b) MANDATORY POLICY REQUIREMENTS.—

"(1) IN GENERAL.—The requirements of this subsection are met if any person issuing accident and health contracts to any eligible small employers makes available to such eligible small employers—

"(A) an accident and health contract which provides benefits which are identical to the benefits under the core Medplan described in subsection (d), and

"(B) an accident and health contract which provides benefits which are identical to the benefits under the standard Medplan described in subsection (d).

A person shall not be treated as failing to meet the requirements of this paragraph if the deductible and copayment requirements are less than those in the core or standard Medplan.

"(2) PRICING AND MARKETING REQUIREMENTS.—The requirements of paragraph (1) are not met unless—

"(A) the price at which the contract described in paragraph (1) is made available is not greater than the price for such contract determined on the same basis as prices for other accident and health contracts within the same class of business made available by the person to eligible small employers, and

"(B) such contract is made available to eligible small employers using at least the marketing methods and other sales practices which are used in selling such other contracts.

"(c) GUARANTEED ISSUE.—

"(1) IN GENERAL.—The requirements of this subsection are met if the person offering applicable accident and health insurance contracts to eligible small employers issues such contracts to any eligible small employer seeking to enter into such a contract.

"(2) FINANCIAL CAPACITY EXCEPTION.—Paragraph (1) shall not require any person to issue a contract to the extent that the issuance of such contract would result in such person violating the financial solvency standards (if any) established by the State in which such contract is to be issued.

"(3) EXCEPTIONS FOR CERTAIN EMPLOYERS.—Paragraph (1) shall not apply to a failure to issue a contract to an eligible small employer if—

"(A) such employer is unable to pay the premium for such contract, or

"(B) in the case of an eligible employer with fewer than 15 employees, such employer fails to enroll at least 60 percent of the employer's eligible employees for coverage under such contract.

"(d) MEDPLAN.—For purposes of this section—

"(1) CORE MEDPLAN.—The term 'core Medplan' means an accident and health plan which provides the core benefits described in paragraph (3).

"(2) STANDARD MEDPLAN.—The term 'standard Medplan' means an accident and health plan which provides—

"(A) the core benefits described in paragraph (3), and

"(B) the supplemental benefits described in paragraph (4).

"(3) CORE BENEFITS.—The term 'core benefits' means benefits for any of the following which are determined to be medically necessary:

"(A) Inpatient and outpatient hospital services.

"(B) Inpatient and outpatient surgical services.

"(C) Inpatient and outpatient physicians' services.

"(D) Diagnostic and screening services.

"(E) Prenatal care.

"(F) Ambulance services.

"(G) Durable medical equipment.

Such term does not include a supplemental benefit.

"(4) SUPPLEMENTAL BENEFITS.—The term 'supplemental benefits' means benefits—

"(A) for inpatient or outpatient treatment for a mental disorder, or

"(B) for inpatient and outpatient treatment of a chemical dependency disorder.

"(5) DEDUCTIBLES AND COPAYMENTS.—A plan shall not be treated as providing the benefits described in paragraphs (3) and (4) unless the following requirements are met:

"(A) The plan does not require—

"(i) a deductible amount for any plan year in excess of $500 per individual and $1,000 per family, and

"(ii) a deductible amount for any plan year for prenatal care.

"(B) The plan does not require out-of-pocket expenses for any plan year in excess of $3,000 per individual and $6,000 per family.

"(C) The amount of any copayment required to be paid by an employee for any core benefits does not exceed—

"(i) 20 percent for core benefits described in subparagraphs (A), (B), (C), (D), and (E) of paragraph (2),

"(ii) 50 percent for core benefits described in subparagraphs (F) and (G) of paragraph (2).

"(D) The amount of any copayment required to be paid by an employee for supplemental benefits does not exceed 50 percent.

"(E) The plan provides benefits of not less than 45 days for supplemental benefits which are provided on an inpatient basis and not less than 25 visits for supplemental benefits provided on an outpatient basis.

"SEC. 5000C. SPECIFIC CONTRACTUAL REQUIREMENTS.

"(a) GENERAL RULE.—The requirements of this section are met if, with respect to any applicable accident and health insurance contract, the following requirements are met:

"(1) The coverage requirements of subsection (b).

"(2) The rating requirements of subsection (c).

"(3) The disclosure and recordkeeping requirements of subsection (d).

"(b) COVERAGE REQUIREMENTS.—

"(1) IN GENERAL.—The requirements of this subsection are met with respect to any applicable accident and health contract if, under the terms and operation of the contract, the following requirements are met:

"(A) GUARANTEED ELIGIBILITY.—No eligible employee (and the spouse or any dependent child of the employee eligible for coverage) may be excluded from coverage under the contract.

"(B) LIMITATIONS ON COVERAGE OF PREEXISTING CONDITIONS.—Any limitation under the contract on any preexisting condition—

"(i) may not extend beyond the 6-month period beginning with the date an insured is first covered by the contract, and

"(ii) may only apply to preexisting conditions which manifested themselves, or for which medical care or advice was sought or recommended, during the 3-month period preceding the date an insured is first covered by the contract.

"(C) GUARANTEED RENEWABILITY.—

"(i) IN GENERAL.—The contract must be renewed at the election of the eligible small employer unless the contract is terminated for cause.

"(ii) CAUSE.—For purposes of this subparagraph, the term 'cause'—

"(I) includes nonpayment of premiums, fraud or misrepresentation, noncompliance with plan provisions (including participation requirements), or misuse of network provisions, but

"(II) does not include any reason related to risk characteristics.

"(2) WAITING PERIODS.—Paragraph (1)(A) shall not apply to any period an eligible employee is excluded from coverage under the contract solely by reason of a requirement applicable to all employees that a minimum period of service with the employer is required before the employee is eligible for such coverage.

"(3) DETERMINATION OF PERIODS FOR RULES RELATING TO PREEXISTING CONDITIONS.—For purposes of paragraph (1)(B), the date on which an insured is first covered by a contract shall be the earlier of—

"(A) the date on which coverage under such contract begins, or

"(B) the first day of any continuous period—

"(i) during which the insured was covered under 1 or more other health insurance arrangements, and

"(ii) which does not end more than 120 days before the date employment for the employer begins.

"(4) CESSATION OF SMALL EMPLOYER HEALTH INSURANCE BUSINESS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, a person shall not be treated as failing to meet the requirements of paragraph (1)(C) if such person terminates the class of business which includes the applicable accident and health insurance contract.

"(B) NOTICE REQUIREMENT.—Subparagraph (A) shall apply only if the person gives notice of the decision to terminate at least 90 days before the expiration of the contract.

"(C) 5-YEAR MORATORIUM.—If, within 5 years of the year in which a person terminates a class of business under subparagraph (A), such person establishes a new class of business which includes contracts within the class of business so terminated, the issuance of such contracts in that year shall be treated as a failure to which this section applies.

"(D) TRANSFERS.—If, upon a failure to renew a contract to which subparagraph (A) applies, a person transfers such contract to another class of business, such transfer must be made without regard to any risk characteristic.

"(c) RATING REQUIREMENTS.—

"(1) IN GENERAL.—The requirements of this subsection are met with respect to any applicable accident and health insurance contract if—

"(A) the premium rate or rates under the contract are within the acceptable premium range, and

"(B) any increase in any premium rate under the renewal contract over the corresponding rate under the contract being renewed does not exceed the applicable annual adjusted increase.

"(2) ACCEPTABLE PREMIUM RANGE.—For purposes of paragraph (1)(A)—

"(A) IN GENERAL.—The acceptable premium range includes premium rates which are not more than 120 percent, or less than 80 percent, of the lowest index rate for all classes of business of the issuer which include applicable accident and health insurance contracts.

"(B) INDEX RATE.—For purposes of subparagraph (A), the term 'index rate' means, with respect to any class of business, 50 percent of the sum of—

"(i) the lowest premium rate, determined under the rating system for the rating period which covers the contract, which may be charged by the person issuing the contract for substantially similar coverage to employers with similar case characteristics (other than risk characteristics) as the employer under the contract to which paragraph (1) is being applied, plus

"(ii) the highest premium rate which may be so charged.

"(C) RANGE MAY BE DETERMINED BY SECRETARY.—In the case of any class of business covering applicable accident and health insurance contracts—

"(i) with respect to which employers who are eligible are not, and have never been, rejected for coverage on the basis of risk characteristics as defined under section 5000C(b)(2)(B),

"(ii) to which business may not be involuntarily transferred from another class of business, and

"(iii) which is currently available for purchase,

the acceptable premium range with respect to such contracts shall be the range (if any) established by the Secretary in accordance with the principles of this subsection.

"(3) APPLICABLE ANNUAL ADJUSTED INCREASE.—

For purposes of paragraph (1)(B)—

"(A) IN GENERAL.—The applicable annual adjusted increase is an amount equal to the sum of—

"(i) the applicable percentage of the premium rate under the contract being renewed, plus

"(ii) any increase in the rate under the renewal contract due to any change in coverage or to any change of case characteristics (other than risk characteristics).

"(B) APPLICABLE PERCENTAGE.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the applicable percentage is the percentage (if any) by which—

"(I) the premium rate for newly issued contracts for substantially similar coverage for an employer with similar case characteristics (other than risk characteristics) as the employer under the applicable accident and health contract (determined on the 1st day of the rating period applicable to such contracts), exceeds

"(II) such rate on the 1st day of the rating period applicable to the contract being renewed.

"(ii) CASES WHERE NO NEW BUSINESS.—If no new contracts are being issued for a class of business during any rating period, the applicable percentage shall be the percentage (if any) by which the lowest premium rate determined under paragraph (2)(B)(i) with respect to the renewal contract exceeds such rate for the contract to be renewed.

"(d) DISCLOSURE AND RECORDKEEPING, ETC. REQUIREMENTS.—The requirements of this subsection are met if—

"(1) DISCLOSURE.—Any person issuing an applicable accident and health insurance contract includes in any sales materials the following:

"(A) The extent to which premium rates are based on risk characteristics and on factors other than risk characteristics.

"(B) The extent to which the person may change the premium rates.

"(C) The class of business within which the contract falls, including a description of the grouping of contracts within a class of business.

"(D) Provisions relating to renewability.

"(2) RECORDKEEPING, ETC.—Any person issuing an applicable accident and health insurance contract—

"(A) maintains at its principal place of business a complete and detailed description of its rating and renewal underwriting practices, and the information on which such practices are based, and

"(B) files with the Secretary each year an opinion of a qualified health actuary, based on a review of appropriate records, that the rating practices of such person for the preceding year are based upon commonly accepted actuarial assumptions and in accordance with the provisions of this section and sound actuarial principles.

For purposes of paragraph (2), the term 'qualified health actuary' means a member of the American Academy of Actuaries who is qualified by reason of prior and continuing education and relevant experience to render the actuarial opinion.

"SEC. 5000D. STATE COMPLIANCE AGREEMENTS.

"(a) AGREEMENTS.—The Secretary may, in his discretion, enter into an agreement with any State—

"(1) to apply the standards set by the laws of such State for applicable accident and health insurance contracts in lieu of the requirements of this subchapter, or

"(2) to provide for the State to make the initial determination as to whether a person is in compliance with the provisions of this subchapter.

"(b) STANDARDS.—An agreement may be entered into under subsection (a)(1) only if—

"(1) the chief executive officer of the State requests such agreement be entered into,

"(2) the Secretary determines that the State standards to be applied under the agreement will apply to substantially all applicable accident and health contracts issued in such State, and

"(3) the Secretary determines that the application of the State standards will carry out the purposes of this subchapter.

"(c) MEDPLAN REQUIREMENT MAY NOT BE WAIVED.—Any agreement entered into under subsection (a)(1) shall not waive the mandatory policy requirement under section 5000B(a)(1) (relating to offering of Medplan).

"(d) TERMINATION.—The Secretary shall terminate any agreement if the Secretary determines that the application of State standards ceases to carry out the purposes of this subchapter.

"SEC. 5000E. DEFINITIONS AND OTHER RULES.

"(a) APPLICABLE ACCIDENT AND HEALTH INSURANCE CONTRACT.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'applicable accident and health insurance contract' means a contract under which a person authorized under applicable State insurance law provides a health insurance plan or arrangement to an eligible small employer. Such term does not include any self-insured plan of an employer.

"(2) CERTAIN CONTRACTS NOT COVERED.—The term 'applicable accident and health insurance contract' does not include any contract—

"(A) which provides for accident only, dental only, or disability only coverage,

"(B) which provides coverage as a supplement to liability insurance,

"(C) which provides insurance arising out of a workmens' compensation or similar law, or automobile medical-payment insurance, or

"(D) which provides insurance which is required by law to be contained under any self-insured plan of an employer.

"(3) EXCEPTION FOR SMALL ISSUERS.—The term 'applicable accident and health insurance contract' shall not include any contract issued during a taxable year by a person which had less than $1,000,000 in gross premiums from accident and health contracts during the preceding taxable year. For purposes of the preceding sentence, the aggregation rules of section 448(c) shall apply.

"(b) OTHER DEFINITIONS.—For purposes of this subchapter—

"(1) CLASS OF BUSINESS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'class of business' means, with respect to accident and health insurance provided to eligible small employers, all accident and health insurance provided to such employers.

"(B) ESTABLISHMENT OF GROUPINGS.—An issuer may establish separate classes of business with respect to accident and health insurance provided to eligible small employers but only if such classes are based on 1 or more of the following:

"(i) Business marketed and sold through persons not participating in the marketing and sale of such insurance to other eligible small employers.

"(ii) Business acquired from other insurers as a distinct grouping.

"(iii) Business provided through an association of not less than 20 eligible small employers which was established for purposes other than obtaining insurance.

"(iv) Business related to managed health care arrangements.

"(v) Business within groupings under clauses (i) through (iv) which is based on risk selection or underwriting criteria expected to produce substantial variations in claims costs.

"(vi) Any other business which the Secretary determines needs to be separately grouped to prevent a substantial threat to the solvency of the insurer.

"(C) MANAGED HEALTH CARE ARRANGEMENT.—For purposes of subparagraph (B)(iv), the term 'managed health care arrangement' means an arrangement which integrates the financing and delivery of health care services to covered individuals by employing the following:

"(i) Contracts with selected health care providers to furnish health care services to members.

"(ii) The adoption of explicit standards for the selection and recertification of providers.

"(iii) An explicit, formal program for ongoing quality assurance and utilization review.

"(iv) Significant financial incentives for members to use the providers and procedures associated with the arrangement.

"(2) CHARACTERISTICS.—

"(A) IN GENERAL.—The term 'characteristics' means, with respect to any insurance rating system, the factors used in determining rates.

"(B) RISK CHARACTERISTICS.—The term 'risk characteristics' means factors related to the health risks of individuals, including health status, prior claims experience, the duration since the date of issue of a health insurance plan or arrangement, industry, and occupation.

"(C) GEOGRAPHIC FACTORS.—In applying geographic location as a characteristic, an insurer may not use for purposes of this subchapter areas smaller than Census Bureau designations of metropolitan statistical areas and nonmetropolitan statistical areas.

"(3) ELIGIBLE EMPLOYEE.—The term 'eligible employee' means any employee other than an employee who works less than 30 hours per week. For purposes of this paragraph, the term 'employee' includes a self-employed individual as defined in section 401(c)(1).

"(4) ELIGIBLE SMALL EMPLOYER.—The term 'eligible small employer' means an employer who normally employed more than 1 but not more than 50 eligible employees on a normal business day. For purposes of the preceding sentence, all employers covered under the same health insurance plan or arrangement covered by a contract shall be treated as 1 employer."

(b) CONFORMING AMENDMENT.—So much of chapter 47 of the Internal Revenue Code of 1986 as precedes section 5000 is amended to read as follows:

"CHAPTER 47—CERTAIN GROUP HEALTH PLANS

"SUBCHAPTER A. Nonconforming group health plans.

"SUBCHAPTER B. Health insurance provided to small employers.

"Subchapter A—Nonconforming Group Health Plans

"Sec. 5000. Certain group health plans."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to contracts issued, or renewed, after the date of the enactment of this Act.

(2) GUARANTEED ISSUE.—The provisions of section 5000B(c) of the Internal Revenue Code of 1986 shall apply to contracts which are issued, or renewed, after the date which is 18 months after the date of the enactment of this Act.

(3) PREMIUM RANGE.—In the case of any contract in effect on the date of the enactment of this Act, the provisions of section 5000C(c)(1)(A) of such Code shall not apply to the premiums under such contract or any renewal contract for benefits provided during the period beginning on such date and ending on the last day of the 2nd plan year beginning after such date.

AMERICAN HEALTH SECURITY ACT OF 1991

SECTION-BY-SECTION SUMMARY

A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on insurance companies not meeting certain requirements with respect to health insurance benefits provided to small employers.

Section 1. Title:

Section 2. Failure to satisfy certain standards for health insurance provided to small employers:

Section 5000 A:

Insurers must satisfy certain mandatory product offering, coverage and rating standards in selling health insurance contracts to small employers.

Failure to meet one or more of these standards during a taxable year shall make the insurer liable for an excise tax penalty equal to 20 percent of gross premium income on accident and health insurance contracts issued by the insurer.

Secretarial discretion on applying the tax penalty is permitted where: insurer did not know or exercising reasonable diligence would not have known the failure existed, and failures are corrected within 30 days, or if failure was due to reasonable cause.

Section 5000 B: This section describes mandatory product offering and guaranteed issue (of contracts) requirements.

Guaranteed issue of contracts: No eligible small employer can be denied issuance of a health insurance contract except for the employer's failure to achieve minimum employee participation rates, where applicable. There is a separate (delayed by 18-months) effective date solely for this requirement, to permit States to enact appropriate enabling legislation for reinsurance.

MANDATORY PRODUCT OFFERING: MEDPLANS

Insurers marketing any health insurance products to small employers must make available (but employers are not required to purchase) a dual product offering known as MEDPLANS, described below. These two products must be priced consistently with the standards employed by the insurer in pricing and marketing their other products in the small group market, and with the requirements of this Act.

MEDPLANS are exempt from state benefit mandates. This preemption does not exempt from state benefit mandates other health insurance products marketed to small employers.

Benefits	Core Medplan	Standard Medplan
Deductible (single/family).	$500 to $1,000	$500 to $1,000.
Out-of-pocket limit (single/family.	$3,000 to 6,000	$3,000 to $6,000.
Hospital services (IP/OP).	20 to 80 percent (EE/ER).	20 percent.
Surgical services (IP/OP).	20 percent	20 percent.
Physician services (IP/OP).	20 percent	20 percent.
Diagnostic and screening services (IP/OP).	20 percent	20 percent.
Prenatal care	20 percent [1]	20 percent.[1]
Mental disorders		
Inpatient		30 days/50 percent.
Outpatient		25 visits/50 percent.
Chemical dependency disorders:		
Inpatient		30 days/50 percent.
Outpatient		25 visits/50 percent.

[1] No deductible.

Section 5000 C. Specific contractual requirements: This section sets standards for coverage, rating, disclosure, and record-keeping.

Limits on preexisting medical conditions: Any limitation on coverage may not extend beyond 6 months after the initial issuance of coverage. This limit can apply only if the preexisting condition manifested itself during the 3-month period prior to issuance of coverage (aka "look-back" provision). No further waiting period for the preexisting condition can be imposed under any circumstances (such as change of carrier, or change to a different plan through switching jobs), unless an individual has had a break in coverage in excess of 120 days.

Guaranteed renewability: Contracts must be renewed at the election of the small employer, unless the contract is terminated for cause, such as non-payment of premiums.

Contracts cannot be canceled due to adverse claims experience.

Rating requirements:

Acceptable premium ranges are defined within classes of business and between classes of business.

Within class range: Premiums must be within 80-120% of the average rate (aka index rate) of the class.

Between classes range: If an insurer has two or more classes of business, the average (or index) rate for any class cannot be more than 20 percent above or below the average (or index) rate for any other class.

Exceptions: The Secretary may develop different ranges, as appropriate, for insurer's who do not underwrite premiums based on health status or claims experience and who offer policies on an open enrollment, basis.

Annual rate change limitation: Within a class, rate increases on existing contracts are capped at the level of rates charged to new businesses, with adjustments for changes in a group's coverage and/or case characteristics.

Disclosure and recordkeeping: These are rules requiring disclosure in sales materials of how premiums are set, the extent to which they can change, and the class into which a contract would fall.

Further, insurers must maintain at their principal place of business detailed descriptions of rating factors and procedures. Insurers must file annually with the Secretary, a qualified actuarial certification that their rating practices are based on commonly accepted actuarial assumptions and principles.

Section 5000 D. State compliance agreements:

The Secretary, at his discretion, may enter into agreements with States to permit State laws to govern instead of the federal standards.

The CEO of the State must request such an agreement, and

The Secretary must determine (1) that the State's standards will carry out the purposes of this Act, and (2) that the State's standards will apply to substantially all small-employer health insurance contracts issued in the State.

Regardless of the above, the mandatory policy offering known as MEDPLANS cannot be waived.

Separately, even if a State does not obtain an agreement permitting State laws to carry out the purposes of this Act, the State may still enter into a separate agreement with the Secretary to make determinations of whether insurers are in compliance with the federal standards.

Section 5000 E. Definitions and other rules: This section defines contracts, classes of business and class groupings, eligible employers and employees, permissible rating factors and other rules.

Important to note:

(1) Exception for small insurers: Insurers who had less than $1 million in gross accident and health premium income during the preceding taxable year are exempt from the requirements of this Act for the subsequent taxable year (aggregation rules apply).

(2) A small employer is defined as an employer who normally employed more than 1 but not more than 50 employees, and self-employed individuals as defined under section 401(c)(1) of the Internal Revenue Code.

(3) Prohibited factors in determining rates (beyond the boundaries permitted within classes) include health status, prior claims experience, industry, occupation or duration since the date of issue of a policy. If geographic location is used, insurers may not use areas smaller than Census Bureau designations of metropolitan statistical areas and non-metropolitan statistical areas.

(4) Effective date is upon enactment for all requirements except guaranteed issue. That requirement will not be effective until 18 months after enactment.

(5) Transition rules permit rates on contracts issued prior to the effective date to exceed the premium ranges within classes and across classes for two years or the second renewal of a contract, whichever is earlier.●

● Mr. McCAIN. Mr. President, I rise today to join my colleague Senator DURENBERGER of Minnesota in introducing the American Health Security Act of 1991. This legislation is needed to help enable more small businesses to provide health insurance coverage to their employees, and to assist in the national effort to make affordable health insurance available to more American families and individuals.

Today, between 32 and 37 million Americans are without adequate health insurance. Because of the continuing escalation of health care costs in this country, many of these people are forced to go without routine and needed medical care. The result is more acute health problems in some individuals, including children. When this happens, government must frequently step in.

Mr. President, contrary to what most of us believe, the bulk of uninsured Americans are not unemployed. Rather, between 70 and 80 percent are employed or are dependents of employed individuals. The vast majority of these work for small businesses. Also, contrary to general opinion, these people are without insurance not because small business owners are unwilling to provide coverage, but in large part because of the business is unable to pay the high cost of health coverage as mandated by most States.

If we are to make significant progress toward filling this need and rectifying this difficult situation, we must look for solutions which are fair and equitable to employees who need insurance coverage, to small firms who may experience difficulty in obtaining and paying for coverage, and to insurance providers as they struggle to keep pace with inflation in health care. This legislation represents what I believe to be the best available solution to this problem.

Mr. President, let me say first that this legislation in no way mandates coverage. While that may be an easy solution, in practice it will not work because mandating coverage in no way addresses the fundamental reasons why many small firms are unable to buy and pay for employee health care plans. Mandates exacerbate the symptom of the problem rather than attacking the root of the problem.

Rather, this legislation seeks to provide alternatives to existing insurance plans, and to ease the cost of buying insurance by providing tax incentives and limitations on premium increases for some types of coverage.

Mr. President, this bill applies to businesses having between 2 and 50 employees, and to insurers who provide health care plans to small business.

We know that a great deal of the cost of small group health policies reflects the many mandates imposed by State governments on insurers. While there may be many good reasons for the practice of mandating certain minimum coverage requirements for group policies, the effect has been to make those policies cost prohibitive to many small businesses. In fact, Mr. President, premium rate increases of 50 to 100 percent are not uncommon for this class of insurance consumer.

To alleviate this problem, this legislation takes five important steps.

First, it guarantees that policies must be issued to small businesses wishing to purchase them.

Second, it places reasonable but not absolute limits on an insurer's ability to impose coverage restrictions due to preexisting conditions of those to be insured.

Third, it guarantees renewability of policies where the contract has not been terminated for cause.

Fourth, it places limitations on annual rate increases, such that increases cannot exceed the percentage increase charged to new businesses plus adjustments for changes in coverage and class characteristics.

And, fifth, it mandates the creation of minimum coverage insurance plans which are exempted from State mandates.

Mr. President, this last point is important. As we know, benefits and coverage mandated by States has become a key factor leading to powerful upward pressure on premium rates. This legislation requires insurers who market to small business to offer a dual product called Medplans. Medplans provide minimum basic coverage and are exempted from State mandated benefits, thus enabling insurers to offer this product at a significantly reduced cost. There is, however, nothing in this legislation that would prohibit a small business' purchase of a more generous plan should that be the desire of the purchaser.

Mr. President, in addition to this legislation, we have offered S. 88 and S. 89 which would make permanent the small business deduction for health insurance premiums, and which would raise the deduction for small businesses from 25 to 100 percent thus bringing small employers into line with IRS regulations governing large businesses. Together, this forms a complete and thorough package that will make real progress toward making health insurance available to more Americans, at a reasonable cost.

But, most importantly, this is fair legislation. It does not seek to penalize employers or insurers. No mandatory coverage is called for, and premium rates are capped within ranges that will reflect the marketplace and actual experience.

Mr. President, this legislation represents a real, working solution for millions of uninsured Americans. I urge my colleagues to look carefully at this bill, along with S. 88 and S. 89.

By Mr. PRESSLER (for himself and Mr. DASCHLE):

S. 702. A bill to authorize the planning and construction of the Mid-Dakota Rural Water System Project; to the Committee on Energy and Natural Resources.

MID-DAKOTA RURAL WATER SYSTEM ACT

Mr. PRESSLER. Mr. President, today I am introducing legislation with my colleague Senator DASCHLE to authorize the Mid-Dakota Rural Water System. This water pipeline system would bring clean drinking water to the citizens of South Dakota.

For many years we have attempted to use Missouri River water in a positive way for the citizens of our State. We are presenting this legislation with the support of Governor Mickelson's office, the electrical power community, and other local groups. Mid-Dakota would provide clean drinking water for a large area of eastern South Dakota. It is another step in our long struggle to get fair treatment for South Dakota.

The proposed Mid-Dakota Rural Water System would provide clean, safe drinking water to 29,000 people and 650,000 head of livestock in a 7,000 square mile, 12-county area in South Dakota. The proposed pipeline project is the only feasible means of providing the area with good quality water. Twenty-three towns within the Mid-Dakota area presently fail at least one EPA drinking water standard. If Congress is at all concerned about protecting human health and environmental protection, then we cannot overlook the tremendous good that would be provided by this proposed project. We have a responsibility to protect the health of the people we represent.

I remind my colleagues once again of the sacrifice South Dakota made for the construction of the four Missouri River mainstem dams in our State. In the 1940's, South Dakota agreed to sacrifice over 500,000 acres of farmland for the construction of these dams. The dams have provided hydroelectric power, flood control, and navigation for downstream States. In return for the sacrifices South Dakota made for the construction of the dams, the Federal Government made a commitment to South Dakota. That commitment was to support water development in the State. Since first coming to Congress, I have continually fought for the development of South Dakota water projects. We have had some success in the area of water development during that time with the construction of the WEB project and the rehabilitation of the Bell Fourche irrigation project, but the Federal commitment to South Dakota is far from being fulfilled. The authorization of the Mid-Dakota Rural Water System is an effort to obtain at least a partial fulfillment of the Federal commitment to South Dakota.

Mr. President, the future of South Dakota depends on responsible water development of Missouri River water resources. My goal is to see South Dakotans from border to border enjoy clean, safe drinking water. This proposed project has been planned carefully and great attention paid to the protection of the environment, as well as to the needs of the citizens in the project area.

Many people have put years of hard work into this much-needed water project. I especially commend Julie Apgar, the project manager, for her tireless efforts and selfless dedication to this project. She and countless other Mid-Dakota Rural Water System supporters deserve to enjoy the fruits of their labors. I urge my colleagues to support this important pipeline project.

Mr. President, I ask unanimous consent that the text of the Mid-Dakota Rural Water System Act be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 702

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mid-Dakota Rural Water System Act of 1991".

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) the term "feasibility study" means the study entitled "Mid-Dakota Rural Water System Feasibility Study and Report" dated November 1988 and revised January 1989 and March 1989, as supplemented by the "Supplemental Report for Mid-Dakota Rural Water System" dated March 1990 (which supplemental report shall control in the case of any inconsistency between it and the study and report);

(2) the term "Foundation" means the South Dakota Game, Fish and Parks Foundation, a nonprofit corporation under the laws of the State of South Dakota with its principal office in South Dakota;

(3) the term "pumping and incidental operational requirements" means all power requirements incident to the operation of intake facilities, pumping stations, water treatment facilities, reservoirs, and pipelines up to the point of delivery of water by the Mid-Dakota Rural Water System to—

(A) each entity that distributes water at retail to individual users; or

(B) each rural use location;

(4) the term "rural use location" includes a water use location—

(A) that is located in or in the vicinity of a municipality identified in appendix A of the feasibility report, for which municipality and vicinity there was on December 31, 1988, no entity engaged in the business of distributing water at retail to users in that municipality or vicinity; and

(B) that is one of no more than 40 water use locations in that municipality and vicinity;

(5) the term "Secretary" means the Secretary of the Interior;

(6) the term "summer electrical season" means May through October of each year;

(7) the term "water system" means the Mid-Dakota Rural Water System, substantially in accordance with the feasibility study;

(8) the term "Western" means the Western Area Power Administration;

(9) the term "wetland component" means the wetland development and enhancement component of the water system, substantially in accordance with the wetland component report;

(10) the term "wetland component report" means the report entitled "Wetlands Development and Enhancement Component of the Mid-Dakota Rural Water System" dated April 1990; and

(11) the term "wetland trust" means a trust established in accordance with section 11(b) and operated in accordance with section 11(c).

SEC. 3. FEDERAL ASSISTANCE FOR RURAL WATER SYSTEM.

(a) IN GENERAL.—The Secretary shall make grants and loans to Mid-Dakota Rural Water System, Inc., a nonprofit corporation, for the planning and construction of the water system.

(b) SERVICE AREA.—The water system shall provide for safe and adequate municipal, rural, and industrial water supplies, mitigation of wetland areas, and water conservation in Beadle County (including the City of Huron), Buffalo, Hand, Hughes, Hyde, Jerauld, Potter, Sanborn, Spink, and Sully Counties, and elsewhere in South Dakota.

(c) TERMS AND CONDITIONS.—The Secretary shall make the grants and loans authorized by subsection (a) on terms and conditions equivalent to those applied by the Secretary of Agriculture in providing assistance to projects for the conservation, development, use, and control of water under section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)), except to the extent that they are inconsistent with this Act.

(d) AMOUNT OF GRANTS.—Notwithstanding the percentage limits that would otherwise apply under section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)), the Secretary shall make a grant or grants under subsection (a) to Mid-Dakota Rural Water System, Inc., in the amount necessary to hold user costs to a reasonable level.

(e) LOAN TERMS.—Interest on a loan made under subsection (a) to Mid-Dakota Rural Water System, Inc.—

(1) shall be at a rate of 5 percent per annum; and

(2) shall not be charged during planning and construction of the water system,

and the first payment on such a loan shall not be due until after completion of construction of the water system.

SEC. 4. FEDERAL ASSISTANCE FOR WETLAND DEVELOPMENT AND ENHANCEMENT.

(a) INITIAL DEVELOPMENT.—The Secretary shall make grants and otherwise make funds available to Mid-Dakota Rural Water System, Inc. and other private, State, and Federal entities for the initial development of the wetland component.

(b) OPERATION AND MAINTENANCE.—The Secretary shall make a grant, providing not to exceed $100,000 annually, to Mid-Dakota Water System, Inc., for operation and maintenance of the wetland component.

(c) NONREIMBURSEMENT.—Funds provided under this section shall be nonreimbursable and nonreturnable.

SEC. 5. WATER CONSERVATION.

(a) WITHHOLDING OF FUNDS.—The Secretary shall not obligate Federal funds for construction of the water system until the Secretary finds that non-Federal entities have developed and implemented water conservation programs throughout the service area of the water system.

(b) PURPOSE OF PROGRAMS.—The water conservation programs required by subsection (a) shall be designed to ensure that users of water from the water system will use the best practicable technology and management techniques to reduce water use and water system costs.

SEC. 6. MITIGATION OF FISH AND WILDLIFE LOSSES.

Mitigation for fish and wildlife losses incurred as a result of the construction and operation of the water system shall be on an acre for acre basis, based on ecological equivalency, concurrent with project construction.

SEC. 7. USE OF PICK-SLOAN POWER.

(a) IN GENERAL.—From power designated for future irrigation and drainage pumping for the Pick-Sloan Missouri River Basin Program, Western shall make available the capacity and energy required to meet the pumping and incidental operational requirements of the water system during the summer electrical season.

(b) CONDITIONS.—The capacity and energy described in subsection (a) shall be made available on the following conditions:

(1) The water system shall be operated on a not-for-profit basis.

(2) The water system shall contract to purchase its entire electric service requirements, including the capacity and energy made available under subsection (a), from a cooperative power supplier which purchases power from a cooperative power supplier which itself purchases power from Western.

(3) The rate schedule applicable to the capacity and energy made available under subsection (a) shall be Western's Pick-Sloan Eastern Division Firm Power Rate Schedule in effect when the power is delivered by Western.

(4) It shall be agreed by contract among—

(A) Western;

(B) the power supplier with which the water system contracts under paragraph (2);

(C) that entity's power supplier; and

(D) Mid-Dakota Rural Water System, Inc.,

that for the capacity and energy made available under subsection (a), the benefit of the rate schedule described in paragraph (3) shall be passed through to the water system, but the water system's power supplier shall not be precluded from including in its charges to the water system for such electric service its other usual and customary charges.

(5) Mid-Dakota Rural Water System, Inc., shall pay its power supplier for electric service, other than for capacity and energy supplied pursuant to subsection (a), in accordance with the power supplier's applicable rate schedule.

SEC. 8. RULE OF CONSTRUCTION.

This Act shall not be construed to limit authorization for water projects in the State of South Dakota under existing law or future enactments.

SEC. 9. WATER RIGHTS.

Nothing in this Act shall be construed to—

(1) invalidate or preempt State water law or an interstate compact governing water;

(2) alter the rights of any State to any appropriated share of the waters of any body of surface or ground water, whether determined by past or future interstate compacts or by past or future legislative or final judicial allocations;

(3) preempt or modify any State or Federal law or interstate compact dealing with water quality or disposal; or

(4) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resources.

SEC. 10. USE OF GOVERNMENT FACILITIES.

The use of and connection of water system facilities to Government facilities at the Oahe powerhouse and pumping plant and their use for the purpose of supplying water to the water system may be permitted to the extent that such use does not detrimentally affect the use of those Government facilities for the other purposes for which they are authorized.

SEC. 11. WETLAND TRUST.

(a) FEDERAL CONTRIBUTIONS.—The Secretary shall make a Federal contribution to a wetland trust that is—

(1) established in accordance with subsection (b); and

(2) operated in accordance with subsection (c),

in the amount of $3,000,000 in the first year in which a contribution is made and $1,000,000 in each of the following 4 years.

(b) ESTABLISHMENT OF WETLAND TRUST.—A wetland trust is established in accordance with this subsection if—

(1) the wetland trust is administered by the Foundation;

(2) the Foundation is under the direction of a Board of Directors that has power to manage all affairs of the Foundation, including administration, data collection, and implementation of the purposes of the wetland trust;

(3) members of the Board of Directors of the Foundation serve without compensation;

(4) the corporate purposes of the Foundation in administering the wetland trust are to preserve, enhance, restore, and manage wetland and associated wildlife habitat in the State of South Dakota;

(5) an advisory committee is created to provide the Board of Directors of the Foundation with necessary technical expertise and the benefit of a multiagency perspective;

(6) the advisory committee described in paragraph (5) is composed of—

(A) 1 member of the staff of the Wildlife Division of the South Dakota Department of Game, Fish and Parks, appointed by the Secretary of that department;

(B) 1 member of the United States Fish and Wildlife Service, appointed by the Director of Region 6 of the United States Fish and Wildlife Service; and

(C) 3 residents of the State of South Dakota who are members of wildlife or environmental organizations, appointed by the Governor of the State of South Dakota; and

(7) the wetland trust is empowered to accept non-Federal donations, gifts, and grants.

(c) OPERATION OF WETLAND TRUST.—The wetland trust shall be considered to be operated in accordance with this subsection if—

(1) the wetland trust is operated to preserve, enhance, restore, and manage wetlands and associated wildlife habitat in the State of South Dakota;

(2) under the corporate charter of the Foundation, the Board of Directors, acting on behalf of the Foundation, is empowered to—

(A) acquire lands and interests in land and power to acquire water rights (but only with the consent of the owner);

(B) acquire water rights; and

(C) finance wetland preservation, enhancement, and restoration programs;

(3)(A) all funds provided to the wetland trust under subsection (a) are invested in accordance with subsection (d);

(B) no part of the principal amount (including capital gains thereon) of such funds are expended for any purpose; and

(C) the income received from the investment of such funds is used only for purposes and operations in accordance with this subsection or, to the extent not required for current operations, reinvested in accordance with subsection (d);

(D) income earned by the wetland trust (including income from investments made with funds other than those provided to the wetland trust under subsection (a)) is used to—

(i) enter into joint ventures, through the Division of Wildlife of the South Dakota Department of Game, Fish and Parks, with public and private entities or with private landowners to acquire easements or leases or to purchase wetland and adjoining upland; or

(ii) pay for operation and maintenance of the wetland component;

(E) when it is necessary to acquire land other than wetland and adjoining upland in connection with an acquisition of wetland and adjoining upland, wetland trust funds (including funds other than those provided to the wetland trust under subsection (a) and income from investments made with such funds) are used only for acquisition of the portions of land that contain wetland and adjoining upland that is beneficial to wetland;

(F) all land purchased in fee simple with wetland trust funds shall be dedicated to wetland preservation and use; and

(G) proceeds of the sale of land or any part thereof that was purchased with wetland trust funds are remitted to the wetland trust;

(ii) management, operation, development, and maintenance of lands on which leases or easements acquired;

(iii) payment of annual lease fees, one-time easement costs, and taxes on land areas containing wetlands purchased in fee simple;

(iv) payment of personnel directly related to the operation of the wetland trust, including administration; and

(v) contractual and service costs related to management of wetland trust funds, including audits.

(4) the Board of Directors of the Foundation agrees to provide such reports as may be required by the Secretary and makes its records available for audit by Federal agencies; and

(5) the advisory committee created under subsection (b)—

(A) recommends criteria for wetland evaluation and selection;

(B) recommends wetland parcels for lease, easement, or purchase and states reasons for its recommendations; and

(C) recommends management and development plans for parcels of land that are purchased.

(d) INVESTMENT OF WETLAND TRUST FUNDS.—(1) The Secretary, in consultation with the Secretary of the Treasury, shall establish requirements for the investment of all funds received by the wetland trust under subsection (a) or reinvested under subsection (c)(3).

(2) The requirements established under paragraph (1) shall ensure that—

(A) funds are invested in accordance with sound investment principles; and

(B) the Board of Directors of the Foundation manages such investments and exercises its fiduciary responsibilities in an appropriate manner.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

(a) WATER SYSTEM.—There are authorized to be appropriated to the Secretary $108,400,000 for the planning and construction of the water system under section 3, plus such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after October 1, 1989, such sums to remain available until expended.

(b) WETLAND COMPONENT.—There are authorized to be appropriated to the Secretary—

(1) $2,756,000 for the initial development of the wetland component under section 4;

(2) such sums as are necessary for the operation and maintenance of the wetland component, not exceeding $100,000 annually, under section 4; and

(3) $7,000,000 for the Federal contribution to the wetland trust under section 11.

By Mr. HATCH (for himself, Mr. COCHRAN, Mr. CRAIG, Mr. HELMS, Mr. LEVIN, Mr. LOTT, Mr. LUGAR, Mr. MCCONNELL, Mr. PRESSLER, Mr. SHELBY, Mr. SIMON, Mr. SYMMS, and Mr. THURMOND):

S. 709. A bill to amend the Internal Revenue Code to allow a deduction for qualified adoption expenses, and for other purposes; to the Committee on Finance.

FAIRNESS FOR ADOPTING FAMILIES ACT

Mr. HATCH. Mr. President, I am introducing today the Fairness for Adopting Families Act, a bill that will greatly assist American families to adopt children. Senators COCHRAN, CRAIG, HELMS, LEVIN, LOTT, LUGAR, MCCONNELL, PRESSLER, SHELBY, SIMON, SYMMS, and THURMOND are joining with me to introduce this legislation.

A tax deduction for adoption expenses is desperately needed, both for its substance as well as its message. It is needed by children who are awaiting to be adopted and it is needed by families who are sacrificing to finance the ever-increasing costs of adopting a child. As lawmakers, we must make sure our laws treat families formed through adoption the same as families formed biologically. As lawmakers, we must also continue to express our support for the family unit. We all agree that strong families are the key to a strong America and our support for their formation must be the cornerstone of our policy.

For many prospective parents, the only way to form their family is through adoption. Our laws must recognize this fact and not discriminate against these families.

To many seeking to adopt a child, the costs associated with such a procedure are simply prohibitive. Prospective parents are often required to pay not only court and attorney fees but also expenses for maternity home services, hospital and physician costs, and at times, prenatal care expenses for the natural mother. Data provided by the National Committee for Adoption shows that the actual costs connected with legal adoptions can exceed $15,000. One family in my home State of Utah illustrates the financial burden an adoption can place on a family. This family was in the process of adopting a foreign infant. All of the paperwork had been filed with the appropriate agencies when they discovered that they were required to pay a lump sum of $13,000 in just a short period of time. This was a significant amount of money for this middle-class family and they concluded that they could not continue to finance the adoption. Their insurance company would reimburse them for $3,000 of this, but only after the adoption was finalized. This was too little, too late. This family just could not afford to continue with the adoption, and had to discontinue the proceeding. This situation should not have to happen. Family wealth should not be the determinative factor in adopting a child. This bill recognizes the importance of the family unit by alleviating many of the cost barriers associated with adoption.

This proposed legislation has three major features. First, it would provide a tax deduction of up to $5,000 for unreimbursed and legitimate adoption expenses. This deduction would be available whether the taxpayer itemizes or not. Second, it would exclude from an employee's gross income up to $5,000 in payments made by an employer for adoption expenses. Third, it would treat any employer contribution to an adoption expense plan as a deductible business expense.

This bill provides that as long as an adoption is in accordance with State and local law, the tax deduction for unreimbursed adoption expenses would be available. Each legal adoption is socially useful and beneficial. Each adopting family deserves our support. This is true whether the child is a healthy infant, a child with special needs, or a child from another country. We cannot arbitrarily support some children and not others. We must support all legal adoptions.

This legislation does not provide, however, a deduction for expenses for adoptions administered through illegal practices, such as through a baby broker. Many adopting parents in my own State of Utah and in other States have been defrauded by such schemes.

The cost of an illegal adoption often exceeds $25,000, most of which goes into the pockets of middlemen. Fees for such unconscionable arrangements should not and would not be deductible.

Two of this bill's provisions deal with the interest in adoption by many of America's employers. Corporations such as Dow Chemical, IBM, Digital Equipment, and Honeywell currently offer adoption benefits. This legislation will encourage more employers to establish such pro-family plans.

The bill addresses two problems now associated with employer-provided adoption benefits. The first problem is that adoption payments made to employees are taxable to the employee as income. The bill excludes from an employee's income those payments. The second problem is that employers may not treat their adoption payments to employees as deductible business expenses. The bill solves this problem by treating employer contributions to an adoption expense reimbursement program as ordinary and necessary business expenses.

This legislation will also save our society money. The National Committee for Adoption has shown savings in two ways. First, the bill would move thousands of children, who might otherwise have lingered in foster care, into loving homes. Second, the tax deduction encourages shifting medical costs to the adopting family and away from the more expensive AFDC and Medicaid systems.

This bill will do a great deal to help children of minority racial or ethnic background who are awaiting adoption. Currently, healthy babies who are of minority racial or ethnic background frequently wait for years in foster care simply because of economic factors. Often, these children do not meet the definition of a special needs child in the State where they reside. Many of the families who want to adopt these children have very modest incomes and need tax breaks to help them form their families and to offer permanent loving homes to these children. Do we want to deny these children our support because they are healthy or under 5 years of age?

I strongly encourage my colleagues to support this legislation. We are representatives of a society that professes a commitment to ensure the success of the family. The Tax Code should demonstrate that commitment by allowing for the deduction of adoption expenses. President Bush has recognized the importance of such a deduction by including a special needs adoption expense deduction in his budget proposal. While the special needs deduction is a necessary and positive move, it is far from adequate. Under the Bush proposal, a state would have the authority to define when a child fits the special needs category. We cannot let even one child remain unadopted because he or she does not fit some State's definition of special needs. How can we discriminate against any child waiting for adoption?

How can we tell a 4-year-old child that he or she is not a special needs child until he or she turns 5? it must be our policy that all children awaiting adoption are special, regardless of sex, race, age, religion, sibling size, or disability.

I urge my colleagues on the Finance Committee to take quick action on this bill. I realize that the Budget Enforcement Act places severe restrictions on tax legislation that is scored as losing revenue. I really believe that this legislation will save the Treasury money—not lose it. However, our cost estimators may not agree with me on this. The Finance Committee will be considering extending several expiring tax provisions this year. Offsets will be found for these provisions. Somehow, the money for this bill can also be found.

The most important resource America has is its families. We must do everything in our power to ensure their continued growth and success. All adoption is good, not just the adoption of children arbitrarily defined as having special needs. This legislation will greatly benefit not only children and families but society as a whole. A relatively small dollar investment in this bill will move us a long way toward strengthening the American family.

Mr. President, I ask unanimous consent that the text of the bill and a summary of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 709

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fairness for Adopting Families Act".

SEC. 2. DEDUCTION FOR ADOPTION EXPENSES.

(a) DEDUCTION FOR ADOPTION EXPENSES.—

(1) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as section 221 and by inserting after section 219 the following new section:

"SEC. 220. ADOPTION EXPENSES.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction for the taxable year the amount of the qualified adoption expenses paid or incurred by the taxpayer during such taxable year.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The aggregate amount allowable as a deduction under subsection (a) for all taxable years with respect to the legal adoption of any single child by the taxpayer shall not exceed $5,000.

"(2) INCOME LIMITATION.—The amount allowable as a deduction under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so allowable (determined without regard to this paragraph but with regard to paragraph (1)) as—

"(A) the amount (if any) by which the taxpayer's taxable income (determined without regard to this section section 134) exceeds $60,000, bears to

"(B) $10,000.

"(3) DENIAL OF DOUBLE BENEFIT.—

"(A) IN GENERAL.—No deduction shall be allowed under subsection (a) for any expense for which a deduction or credit is allowable under any other provision of this chapter.

"(B) GRANTS.—No deduction shall be allowed under subsection (a) for any expenses paid from any funds received under any Federal, State or local program.

"(c) QUALIFIED ADOPTION EXPENSES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified adoption expenses' means reasonable and necessary adoption fees (including agency fees), court costs, attorney fees, and other expenses which—

"(A) are directly related to the legal adoption of a child by the taxpayer but only if such adoption has been arranged—

"(i) by a State or local agency with responsibility under State or local law for child placement through adoption,

"(ii) by a non-profit, voluntary adoption agency which is authorized by State or local law to place children for adoption, or

"(iii) through a private placement, and

"(B) are not incurred in violation of State or Federal law.

"(2) ADOPTION EXPENSES NOT TO INCLUDE CERTAIN AMOUNTS.—The term 'qualified adoption expenses' shall not include any expenses in connection with—

"(A) the adoption by an individual of a child who is the child of such individual's spouse, or

"(B) travel outside the United States, unless such travel is required—

"(i) as a condition of a legal adoption by the country of the child's origin,

"(ii) to assess the health and status of the child to be adopted, or

"(iii) to escort the child to be adopted to the United States.

"(3) CHILD.—The term 'child' means an individual who at the time of adoption under this section has not attained the age of 18."

(2) CLERICAL AMENDMENT.—The table of sections for such part VII is amended by striking the item relating to section 220 and inserting the following:

"Sec. 220. Adoption expenses.
"Sec. 221. Cross reference."

(b) DEDUCTION ALLOWED IN COMPUTING ADJUSTED GROSS INCOME.—Subsection (a) of section 62 of such Code is amended by adding after paragraph (13) the following new paragraph:

"(14) ADOPTION EXPENSES.—The deduction allowed by section 220."

(c) ADOPTION ASSISTANCE PROGRAMS.—

(1) IN GENERAL.—Part III of chapter B of chapter 1 of such Code (relating to items specifically excluded from gross income) is amended by redesignating section 136 as section 137 and by inserting after section 135 the following new section:

"SEC. 136. ADOPTION ASSISTANCE PROGRAMS.

"(a) IN GENERAL.—Gross income of an employee does not include amounts paid or expenses incurred by the employer for qualified adoption expenses in connection with the adoption of a child by an employee if such amounts are furnished pursuant to an adoption assistance program.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATIONS.—The aggregate amount excludable from gross income under subsection (a) for all taxable years with respect to the legal adoption of any single child by the taxpayer shall not exceed the excess (if any) of $5,000 over the amount allowable as a deduction (or amounts taken into account in computing the deduction) under section 220 with respect to such adoption.

"(2) INCOME LIMITATION.—The amount excludable from gross income under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so excludable (determined without regard to this paragraph but with regard to paragraph (1)) as—

"(A) the amount (if any) by which the taxpayer's taxable income (determined without regard to this section and section 220) exceeds $60,000, bears to

"(B) $10,000.

"(c) ADOPTION ASSISTANCE PROGRAM.—For purposes of this section, an adoption assistance program is a plan of an employer—

"(1) under which the employer provides employees with adoption assistance, and

"(2) which meets requirements similar to the requirements of paragraphs (2), (3), and (5) of section 127(b).

"(d) QUALIFIED ADOPTION EXPENSES.—For purposes of this section, the term 'qualified adoption expenses' has the meaning given such term by section 220(c)."

(2) CLERICAL AMENDMENT.—The table of sections for such part III is amended by striking the item relating to section 136 and inserting the following:

"Sec, 136. Adoption assistance programs.

"Sec. 137. Cross reference to other Acts."

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply to taxable years beginning after December 31, 1990.

SUMMARY OF FAIRNESS FOR ADOPTING FAMILIES ACT

Sponsors: Senators Orrin G. Hatch, Thad Cochran, Larry E. Craig, Jesse Helms, Carl Levin, Trent Lott, Richard G. Lugar, Mitch McConnell, Larry Pressler, Richard C. Shelby, Paul Simon, Steven D. Symms, Strom Thurmond.

DATE OF INTRODUCTION

1. Provides a tax deduction for adoption expenses: allowance of a deduction for the costs of an adoption, in accordance with state law, including infant, special needs, or foreign child. The amount allowable is capped at $5,000 and is available whether the taxpayer itemizes or not. Families with taxable incomes up to $60,000 could deduct 100 percent of qualified expenses, with a gradual phaseout of the benefit from $60,000 to $70,000 annual income. Adoption expenses which are not tax deductible include relative adoptions and foreign travel not associated with requirements of a foreign adoption.

2. Excludes from employee's income adoption expenses paid by an employer up to $5,000.

3. Treats employer contribution to adoption expense plan as an ordinary and necessary business expense.

4. Effective date: applies to qualified adoption expenses incurred in taxable years beginning after December 31, 1990.

By Mr. GRASSLEY (for himself, Mr. DIXON, Mr. SIMON, and Mr. DOLE):

S. 710. A bill to amend the Internal Revenue Code of 1986 to provide a permanent extension for the issuance of first-time farmer bonds; to the Committee on Finance.

EXTENSION OF ISSUANCE OF FIRST-TIME FARMER BONDS

• Mr. GRASSLEY. Mr. President, I rise today to reintroduce legislation to extend permanently the Federal tax exemption for agricultural private activity bonds. These aggie bonds are part of a larger package of tax-exempt bonds scheduled to sunset at the end of this year. Joining me in this effort are Senators DIXON, SIMON, and DOLE.

Aggie bonds are used to finance low-interest farm loans targeted to beginning farmers. The borrower must secure a participating private lender, who assumes all of the loan risk. Federal law limits use of the bonds for loans to first-time farm purchases and restricts them to a maximum of $250,000 per family per lifetime. State law may impose additional restrictions, such as net worth and residency requirements.

Unfortunately, State programs could be extinguished if the tax-exempt status is lost, since the tax-exempt status is precisely what enables the finance programs to issue low-interest loans to first-time farmers.

As we all know, Mr. President, there has been a steady flow of people and income from rural to urban America, which has had a detrimental effect on the rural economy. Continuation of the Aggie Bond Program could be a real boon for rural development. The program addresses the one problem admitted by the Task Force on Agricultural Finance—that of accessible and affordable credit to beginning farmers.

To date, over 3,000 loans worth over $250 million have been processed through the Aggie Bond Program nationwide. In my State of Iowa, aggie bonds were first issued in 1981. Under Iowa's beginning farmer program, nearly 1,000 loans worth over $80 million have been approved.

Mr. President, the National Council of State Agricultural Finance Programs, the National Association of Wheat Growers, the National Farmers Union, the National Farmers Organization and Communicating for Agriculture have all strongly endorsed this legislation because they have seen firsthand how the Aggie Bond Program provides necessary support to first-time farmers. It is also important to note that there is absolutely no financial risk to the Federal Government in this program and the cost is minimal.

Fortunately, the aggie bond tax exemption was extended last year through 1991 by the Congress. However, it will be essential to extend the program further to realize the program's full potential.

I urge my colleagues to join me and the cosponsors of this bill by supporting this effort to help America's beginning farmers.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 710

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FIRST-TIME FARMER BONDS EXTENDED PERMANENTLY.

IN GENERAL.—Section 144(a)(12) of the Internal Revenue Code of 1986 (relating to termination dates) is amended by adding at the end thereof the following new subparagraph:

"(D) FIRST-TIME FARMER BONDS.—Subparagraph (A) shall not apply to any bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide any land or property in accordance with section 147(c)(2)."

"(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 144(a)(12) of such Code is amended to read as follows:

"(B) BONDS ISSUED TO FINANCE MANUFACTURING FACILITIES.—In the case of any bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide any manufacturing facility, subparagraph (A) shall be applied by substituting 'December 31, 1991' for 'December 31, 1986'."

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after December 31, 1991.•

By Mr. SEYMOUR:

S. 711. A bill to authorize the Secretary of the Interior to undertake certain activities to reduce the impacts of drought conditions, and for other purposes; to the Committee on Energy and Natural Resources.

RECLAMATION DROUGHT RELIEF ACT

• Mr. SEYMOUR. Mr. President, I rise today to introduce legislation to the Drought Relief Act of 1991 to provide relief to the most pressing emergency facing the State of California—the drought.

The fact that California is in its fifth and worst year of a drought is well known. The State needs help.

Clearly, Mr. President, there is no single solution to our drought crisis, and unfortunately, unless mother nature blesses us with interminable rains, there are no quick fixes. Recognizing this fact, any solution must look to the future and the potential reoccurrences of this drought.

In this regard, let me take a moment to share with the Senate what I learned this past weekend and during recent visits to areas of my State where entire communities have been devastated by the drought. All agree that we must, as Californians from every walk of life, join hands to confront this problem head-on.

We must all utilize water conservation techniques.

We must all share what limited resources that are available.

We must all compromise for the good of the State.

Without this camaraderie and teamwork, without a consensus, each and everyone in the State will lose today and will sacrifice our children's future for many years to come.

Absent a miracle that will produce massive quantities of new water, everyone concerned must focus on viable options to free up existing water resources. This means balancing the needs of our families, our communities, and our industries, with the legitimate needs of our precious environmental resources—our fish and wildlife.

This most recent drought tour has opened my eyes even further to California's urgent needs.

In response, the legislation I am introducing today responds to the concerns expressed by Californians and provides assistance for California and to the other Western reclamation States who are experiencing serious drought conditions as well. Specifically, my bill would do the following:

Grant to the Secretary of the Interior the authority to implement emergency drought relief measures, but only after extensive consultation with the affected States.

Authorize the Secretary of the interior to work in cooperation with State agencies to establish water banks where Federal water and other supplies in a State can be bought and sold consistent with State law.

Allow the use of Federal facilities during drought periods to store and deliver non-Federal project water supplies for nonagricultural purposes such as municipal and industrial, recreational, and for fish and wildlife.

Authorize the Secretary to purchase and facilitate the purchase of water on a "willing-buyer/willing seller basis."

Authorize the appropriation of funds to provide emergency loans for purchase of interim water supplies and for projects that conserve limited water resources.

Allow local water users to defer payment on Federal water loans until the drought crisis is alleviated.

Authorizes the appropriation of Federal funds to assist California in the construction of intrusion barriers at the mouth of the delta; this will protect valuable delta water for saltwater contamination.

Once again, Mr. President what California needs is flexibility from the Federal Government. We need a Federal Government willing to work with us and to assist us, not preempt us. I want to add that in recent testimony before the Subcommittee on Water and Power, Governor Wilson's administration stated that the Department of the Interior should have the authorities my legislation would grant as soon as possible.

In closing, as I mentioned, we are in the fifth year of a drought. The recent rains have helped, but much more is needed and the end of the rainy season is quickly upon us. In fact, the burden of reclamation has informed us that despite this most recent precipitation, the storage in major reservoirs is 53 percent of the average. Using these figures, the Bureau estimates that carryover for next year will be only slightly higher than it was in 1977, the driest year on record.

Before we start reallocating the State's water at the Federal Government's behest, we should be addressing the Westwide drought in a manner that respects State laws. I have tremendous confidence in the people of California and the Western States and the ability of Governor Wilson and his administration to uphold and enforce the public trust.

Mr. President, I have faith in the people of California and I believe the Federal Government should have faith in them as well. As we all know, action to ensure drought relief is urgently needed, and I hope my colleagues will join with me in support of this legislation.•

By Mr. SYMMS (for himself, Mr. LIEBERMAN, Mr. GRASSLEY, Mr. LOTT, Mr. WALLOP, Mr. BURNS, and Mr. CRAIG):

S. 712. A bill to amend section 411F(2) of the Higher Education Act of 1965 to exclude as an asset the net value of the family's principal place of residence and a family farm on which the family resides; to the Committee on Labor and Human Resources.

FAIRNESS FOR FARM FAMILIES IN PELL GRANTS

• Mr. SYMMS. Mr. President, I rise today to introduce legislation which will alleviate a serious inequity for many farm families with respect to education. This inequity denies farmers' children eligibility for student financial aid.

The Pell grant program is the largest of the title IV Higher Education Act student aid programs in terms of Federal appropriations. For academic year 1989–90 the level of funding for the program was $4.48 billion, with approximately 3 million recipients and an average Pell grant award of $1,460 per student.

"Need analysis" is the term used for the process of determining a student's need for financial assistance. The system calculates the total cost of education for a student at the individual's institution of higher education, then it calculates the expected family contribution to that cost, then subtracts this contribution from the total to determine the remaining need to cover costs. There has long been controversy whether or not the Pell grant need analysis is too restrictive for the students it is intended to benefit most: those with the lowest incomes.

Current requirements place many farm families at a considerable disadvantage in qualifying under the need evaluation for Pell grant funding. Rising land values are farmers' primary assets against which they could borrow to finance their children's education. However, because of the continuing farm crisis, they can rarely borrow against the value of their land. Even if they can borrow, they may not be able to repay a student loan during low-income years. Therefore, they not only are ineligible for Pell grant assistance, but also unable to qualify for a loan.

By eliminating consideration of home and farm equity in the need analysis for families with adjusted gross incomes of less than $30,000 we could provide equity in the need evaluation for those famlies and it would allow them to participate in the Pell grant program on a level playing field with nonfarm families.

This bill is very simple. It opens up access, or rather creates opportunities, for more young people who wish to further their education. The legislation will enable many who may not have access to higher education, to achieve a college degree, making them a valuable commodity in today's work force.

I ask unanimous consent that the text of the bill be printed in the RECORD. I would encourage my colleagues to give this bill their support.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 712

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF NONLIQUID ASSETS.

Section 411F(2) of the Higher Education Act of 1965 (20 U.S.C. 1070a–6(2)) is amended—

(1) by inserting "(A)" after "(2)"; and

(2) by adding at the end thereof the following:

"(B) For academic year 1992–1993, and succeeding academic years, the term 'assets' shall not include the net value of—

"(i) the family's principal place of residence; or

"(ii) a family farm on which the family resides.".•

•Mr. GRASSLEY. Mr. President, it is with great pleasure that I join the Senator from Idaho in introducing this most important bill.

Students of middle-class families are increasingly finding themselves shut out of opportunities for financial assistance to attend higher education. These middle-class students from farm families frequently are not able to qualify for financial aid because of the assets their families hold in the farming operation. This is because the current financial aid formula assumes that students' families can either liquidate their assets or borrow against them to acquire the funding to pay the expenses of college tuition, room, and board.

This is not realistic for farm families, however. They cannot liquidate assets—those assets produce the income the family lives on. Selling the farm would have the same effect as quitting a job. Neither are farm families able to borrow against those farm assets. Farm assets are often already leveraged and tight credit conditions that are inherent in agriculture prohibit many farmers from encumbering their farm equity for credit needs unrelated to the farm operation. The effect of the current policy is that young people in moderate-income farm families cannot obtain funding to attend higher education without eroding the income base of their family's farm.

This legislation does not, however, provide any perks to affluent farm families. The equity value of the family farm and the family home would be excluded from students' needs analysis only for families whose incomes are less than $30,000.

This legislation is simple and straightforward. Even more importantly, it is fair. In fact, the Senate has adopted this same provision at least twice before, but the legislation with which it was included was not passed by the House. I applaud the Senator from Idaho in sponsoring this bill and hope that it will be incorporated into the legislation which will reauthorize the Higher Education Act.•

• Mr. WALLOP. Mr. President, I am pleased to join my friend and colleague, Senator SYMMS, in sponsoring legislation to eliminate consideration of home and farm equity in the needs analysis with respect to eligibility for student financial aid. The bill being introduced today will place farm families with adjusted gross incomes of less than $30,000 on a more level playing field with nonfarm families which participate in the Pell Grant Program.

I have received several letters from students in my State of Wyoming complaining that current requirements of the Pell Grant Program put them at a severe disadvantage. Rising property values frequently put their parents over the income threshold for eligibility. Yet more often than not, their parents cannot afford to borrow against their valuable farm property due to the farm crisis and low annual incomes. And, even if those students do borrow money to go to school, they may not be able to repay the loan.

Mr. President, I believe everyone should be given the opportunity to attend college. We would be remiss in our duties if we did not improve access to higher education for those who have the skills and are eager to learn. The main purpose for creating the grant program was to improve student aid delivery and bring more equity and uniformity into the distribution of student financial assistance. This legislation furthers that goal.

At the University of Wyoming during the last school year, there were 2,990 Pell grants awarded. The average grant was $1,509 for two semesters. Among arts and sciences students, 817 of them received an average grant of $1,513. At the colleges of agriculture, English, education, commerce and industry, and health sciences, 1,820 students received an average Pell grant of $1,544. The family incomes of dependent students averaged only $19,206. For independent students, their average income was $7,584 per year. These incomes are very low, yet the average Pell grant is also well below the maximum allowable grant of $3,100. This proposal will ensure that more Wyoming families have access to student financial assistance.

Later in this Congress, we will reauthorize the Higher Education Act of 1965. I anticipate that in that process there will be much debate over the imbalance between loan and grant assistance. In recent years, loans have replaced grants as the main source of student financial assistance due to tight budgets and skyrocketing college costs. As a result students incur significant debt and suffer grave consequences if they default on their loans. This is a universal problem and one which, if unchecked, will only get worse as college costs continue to rise. For that reason and many others, I hope that we will closely review the methodology for assessing the needs analysis for student loans. In that context, I urge my colleagues to give every favorable consideration to this sensible approach to broadening Pell grant eligibility.•

By Mr. RIEGLE (for himself and Mr. GARN) (by request):

S. 713. A bill to reform the Federal deposit insurance system, to improve the supervision and regulation of federally insured depository institutions, to reform the financial services industry as to the activities in which that industry may engage, to consolidate the regulatory structure for depository institutions, to recapitalize the bank insurance fund, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

FINANCIAL INSTITUTIONS SAFETY AND CONSUMER CHOICE ACT

• Mr. RIEGLE. Mr. President, I am pleased to introduce today, at the request of the Treasury Department, the Financial Institutions Safety and Consumer Choice Act of 1991—the administration's proposed banking legislation. Senator GARN joins me in introducing this bill.

I ask unanimous consent that the text of the bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 713

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Financial Institutions Safety and Consumer Choice Act of 1991".

(b) TABLE OF CONTENTS.—

TITLE I—FEDERAL DEPOSIT INSURANCE REFORM

Subtitle A—Federal Deposit Insurance Reform

Sec. 101. Deposit and pass-through insurance.
Sec. 102. Deposit solicitation restricted.
Sec. 103. Least-cost resolution.
Sec. 104. Risk-based assessments.
Sec. 105. Restrictions on federally insured State bank activities.
Sec. 106. Examinations.
Sec. 107. Market value and other disclosure.
Sec. 108. Capital standards and interest rate risk.
Sec. 109. Requirements to expense deposit with National Credit Union Share Insurance Fund.

Subtitle B—Reinsurance Demonstration Project

Sec. 116. Reinsurance demonstration project.

TITLE II—FINANCIAL SERVICES MODERNIZATION

Subtitle A—Financial Services Holding Companies

Sec. 201. Financial services holding companies.
Sec. 202. Acquisition of banks.
Sec. 203. Interests in nonbanking organizations.
Sec. 204. Diversified holding companies.
Sec. 205. Administration.
Sec. 206. Reservation of rights to States; preemption of anti-affiliation provisions.
Sec. 207. Penalties.
Sec. 208. Conforming amendments to judicial review provision.
Sec. 209. Antitrust review.
Sec. 210. Technical amendment.
Sec. 211. Effective date.
Sec. 212. Application of the limitations on tying arrangements and insider lending to financial services holding and diversified holding companies.
Sec. 213. Provisions exempting financial services holding companies from the savings and loan holding company act.

Subtitle B—Financial Activities of National Banks

Sec. 221. Amendments to the Banking Act of 1933.
Sec. 222. Insurance activities of national banks.
Sec. 223. Amendments to sections 23A and 23B of the Federal Reserve Act.
Sec. 224. Customer disclosure.
Sec. 225. Bankers' banks.

Subtitle C—Non-banking Activities of Foreign Banks in the United States

Sec. 231. Amendments to the International Banking Act of 1987.

Subtitle D—Amendments to the Securities Acts

Sec. 241. Amendments to the Securities Act of 1933.
Sec. 242. Amendments to the Securities Exchange Act of 1934.
Sec. 243. Amendments to the Investment Company Act of 1940.
Sec. 244. Removal of the exclusion from the definition of investment adviser for banks that advise investment companies.
Sec. 245. Treatment of bank common trust funds.
Sec. 246. Securities and Exchange Commission study of bank insurance pooled investment vehicles.
Sec. 247. Effective date.

Subtitle E—Prompt Corrective Action

Sec. 251. Prompt corrective action.

Subtitle F—Nationwide Banking and Branching

Sec. 261. Nationwide banking.
Sec. 262. Interstate branching by national banks.
Sec. 263. Interstate consolidation or merger of national banks or State banks with national banks.
Sec. 264. Interstate branching by State banks.
Sec. 265. Interstate branching and banking by foreign banks.
Sec. 266. Interstate acquisitions by savings and loan holding companies.
Sec. 267. Effective dates.

TITLE III—REGULATORY RESTRUCTURING

Subtitle A—Office of Depository Institutions Supervision

Sec. 301. Establishment of the Office of Depository Institutions Supervision.
Sec. 302. Definitions.
Sec. 303. Director of the Office of Depository Institutions Supervision.
Sec. 304. Authority of the Director.
Sec. 305. Personnel.
Sec. 306. Regulations and orders.
Sec. 307. Funding.

Subtitle B—Interim Provisions; Transfer of Functions, Personnel, and Property

Sec. 311. Interim provisions for the Office of Depository Institutions Supervision.
Sec. 312. Office of Thrift Supervision abolished.
Sec. 313. Office of Comptroller of the Currency abolished.

Subtitle C—Regulatory and Supervisory Responsibility

Sec. 321. Transfer of powers and duties.
Sec. 322. Appropriate Federal banking agency.
Sec. 323. Examinations.
Sec. 324. Conforming amendments.
Sec. 325. Appointment of a receiver.

Subtitle D—Transfer of Federal Deposit Insurance Corporation Authority

Sec. 331. Amendments to the Federal Deposit Insurance Act.
Sec. 332. Amendments to the Federal Reserve Act.
Sec. 333. Savings provisions.
Sec. 334. Transfer of personnel and property.

Subtitle E—Litigation Authority

Sec. 341. Litigation authority.

Subtitle F—Reorganization of Boards of Directors

Sec. 351. Federal Deposit Insurance Corporation Board of Directors.
Sec. 352. National Credit Union Administration Board of Directors.

Subtitle G—Savings Provisions for the Transfer of Authority From the Board of Governors of the Federal Reserve System to the Director

Sec. 361. Savings Provisions.

TITLE IV—BANK INSURANCE FUND RECAPITALIZATION

Subtitle A—Federal Deposit Insurance Corporation Borrowing

Sec. 401. Federal Deposit Insurance Corporation borrowing.
Sec. 402. Amendments to the Federal Reserve Act.

Subtitle B—Federal Deposit Insurance Corporation Assessments

Sec. 411. Maximum aggregate assessment.
Sec. 412. Bank insurance fund borrowing assessment.

TITLE V—MISCELLANEOUS PROVISIONS

Subtitle A—Payment System Risk Reduction

Sec. 501. Findings and purpose.

Sec. 502. Definitions.
Sec. 503. Bilateral netting.
Sec. 504. Clearing organization netting.
Sec. 505. Preemption.

Subtitle B—Right to Financial Privacy Act of 1978

Sec. 511. Amendments to the Right to Financial Privacy Act of 1978.

Subtitle C—Reduction in Regulatory Burden

Sec. 521. Home Mortgage Disclosure Act.
Sec. 522. Regulatory burden study.
Sec. 523. Fair housing reporting.

Subtitle D—Expedited Funds Availability

Sec. 531. Amendment to the Expedited Funds Availability Act.

Subtitle E—Final Settlement Payment Procedure

Sec. 541. Final Settlement Payment Procedure.

TITLE VI—TECHNICAL AND CONFORMING AMENDMENTS

Subtitle A—Severability; Transition References

Sec. 601. Severability.
Sec. 602. Transition references.

Subtitle B—Technical and Conforming Amendments

Sec. 611. Amendment to Acts codified in title 2, United States Code.
Sec. 612. Amendments to title 5, United States Code.
Sec. 613. Amendment to Act codified in title 7, United States Code.
Sec. 614. Amendments to title 11, United States Code.
Sec. 615. Amendments to Acts codified in title 12, United States Code.
Sec. 616. Amendments to Acts codified in title 15, United States Code.
Sec. 617. Amendment to Act codified in title 16, United States Code.
Sec. 618. Amendments to title 18, United States Code.
Sec. 619. Amendment to Act codified in title 22, United States Code.
Sec. 620. Amendment to Act codified in title 25, United States Code.
Sec. 621. Amendments to the Internal Revenue Code of 1986.
Sec. 622. Amendments to title 28, United States Code.
Sec. 623. Amendments to title 31, United States Code.
Sec. 624. Amendments to Acts codified in title 42, United States Code.
Sec. 625. Amendments to title 44, United States Code.
Sec. 626. Amendment to title 46, United States Code.
Sec. 627. Amendments to Public Law 101-647.

Subtitle C—Repeal of Obsolete Provisions of Law

Sec. 631. Repeal of obsolete provisions of law.

Subtitle D—Effective Date

Sec. 641. Effective date.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) To return deposit insurance coverage to its original purposes of protecting small depositors and promoting financing stability.

(2) To strengthen the role of capital in insured depository institutions.

(3) To enhance the supervision of insured depository institutions.

(4) To restrict risky activities of insured depository institutions.

(5) To permit nationwide banking and branching.

(6) To authorize the establishment of financial services holding companies to permit companies owning depository institutions to engage in other financial activities with appropriate safeguards.

(7) To promote consumer convenience by permitting banking organizations a broader range of financial products.

(8) To simplify the regulatory structure for depository institutions by establishing a consolidated regulatory agency, the Office of Depository Institutions Supervision.

(9) To recapitalize the Bank Insurance Fund.

TITLE I—FEDERAL DEPOSIT INSURANCE REFORM

Subtitle A—Federal Deposit Insurance Reform

SEC. 101. DEPOSIT AND PASS-THROUGH INSURANCE.

(a) Definitions Relating to Insured Deposits.—

(1) Section 3(m) of the Federal Deposit Insurance Act (12 U.S.C. 1813(m)) is amended—

(A) by amending paragraph (1) to read as follows:

"(1) Subject to the provisions of paragraphs (2) and (3) of this subsection, the term 'insured deposit' means the net amount due to any depositor for deposits in an insured depository institution less any part thereof which is in excess of $100,000 as such net amount is determined in accordance with section 11(a) of this Act."; and

(B) by inserting after paragraph (2) the following new paragraph:

"(3) The term 'insured deposit' shall not include—

"(A) funds obtained or accepted, directly or indirectly, by or through any deposit broker, as defined in subsection (y) of this section, for deposit into one or more deposit accounts; provided, however, that this subparagraph shall not apply to any insured depository institution for which the Federal Deposit Insurance Corporation or the Resolution Trust Corporation has been appointed as conservator or the appropriate Federal banking agency has appointed a conservator and such conservator has determined that the acceptance of such funds—

"(i) is not an unsafe or unsound practice; and

"(ii) either—

"(I) is necessary to enable the institution to meet the demands of its depositors or pay its obligations in the ordinary course of business; or

"(II) is consistent with the conservator's fiduciary duty to minimize the losses of the institution; and

"(B) A depository institution investment contract or similar contract entered into between an insured depository institution and an employee benefit plan as defined in section 3(3) of the Employee Retirement Income Security Act (29 U.S.C. 1002), including a plan described in section 401(d) of the Internal Revenue Code of 1986 (26 U.S.C. 401(d)), which contract is nontransferable and provides for the deposit of funds over an extended period of time at a specified rate of interest whether or not the funds can be withdrawn without penalty prior to maturity.".

(2) Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended by inserting after subsection (x) the following new subsection:

"(y)(1) DEPOSIT BROKER.—The term 'deposit broker' means—

"(A) any person engaged in the business of placing deposits, or facilitating the placement of deposits, of third parties with insured depository institutions or the business of placing deposits with insured depository institutions for the purpose of selling interests in those deposits to third parties; or

"(B) an agent or trustee who establishes a deposit account to facilitate a business arrangement with an insured depository institution to use the proceeds of the account to fund a prearranged loan.

"(2) EXCLUSIONS.—The term 'deposit broker' does not include—

"(A) an insured depository institution with respect to funds placed with that depository institution or any other insured depository institution;

"(B) an employee, as defined in section 29(b), of an insured depository institution, with respect to funds placed with the employing depository institution;

"(C) a trust department of an insured depository institution, if the trust in question has not been established for the primary purpose of placing funds with insured depository institutions;

"(D) the trustee of a pension or other employee benefit plan with respect to funds of the plan;

"(E) a person acting as a plan administrator or an investment adviser in connection with a pension plan or other employee benefit plan provided that such person is performing managerial functions with respect to the plan;

"(F) the trustee of a testamentary account;

"(G) the trustee of an irrevocable trust (other than one described in paragraph (1)(B)), as long as the trust in question has not been established for the primary purpose of placing funds with insured depository institutions;

"(H) a trustee or custodian of a pension or profit sharing plan qualified under section 401(d) or 403(a) of the Internal Revenue Code of 1986; or

"(I) an agent or nominee whose primary purpose is not the placement of funds with depository institutions."

(b) INSURANCE OF DEPOSITS.—

(1) INSURED AMOUNTS PAYABLE.—Section 11(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)) is amended to read as follows:

"(a)(1)(A) The Corporation shall insure the deposits of all insured depository institutions as provided in this Act. The maximum amount of the insured deposit of any depositor shall be $100,000 per insured depository institution as determined in accordance with this Act.

"(B) All deposits shall be registered under the taxpayer identification number or employer identification number of each depositor. For the purpose of aggregating and attributing deposits the Corporation may consider additional information contained in the records of the insured depository institution or made available by the depositor.

"(C) For the purpose of determining the amount due to any depositor under subparagraph (A), the Corporation shall aggregate the amounts of all deposits in the insured depository institution which are maintained by a depositor or by others for the benefit of the depositor. The amount due to a depositor is the lesser of the amount calculated hereunder, or $100,000. For the purpose of aggregating amounts due to a depositor, the following shall apply—

"(i) deposits registered under the same taxpayer identification number or employer identification number of one depositor shall be attributed to that depositor;

"(ii) deposits registered under the taxpayer identification number or employer identification number of more than one depositor shall be attributed equally, unless otherwise specified in the deposit account records, among those depositors;

"(iii) deposits consisting of a revocable trust or similar account shall be attributed to the settlor or grantor of the deposit account;

"(vi) deposits maintained by an individual or entity (including an insured depository institution) acting as an agent, custodian, nominee, conservator or in a similar capacity on behalf of a principal (other than an insured depository institution) shall be attributed to such principal; and

"(v) such other attribution to a depositor as the Board of Directors determines by regulation not to be unduly burdensome and costly to calculate; provided that the depositor has control over the deposit account and that such attribution would be consistent with the insurance purposes of this Act.

"(D) For the purpose of determining the amount of insurance due under subparagraph (A), the Corporation shall not provide deposit insurance coverage on a prorata or pass-through basis to a participant in or beneficiary of an employee benefit plan, as defined in section 3(3) of the Employee Retirement Income Security Act (29 U.S.C. 1002), including a plan described in section 401(d) of the Internal Revenue Code of 1986 (26 U.S.C. 401), other than a participant in or beneficiary of an individual account plan, as defined in section 3(34) of the Employee Retirement Income Security Act (29 U.S.C. 1033) or a plan described in section 401(d) of the Internal Revenue Code of 1986 (26 U.S.C. 401(d)), under which participants and beneficiaries have the right to direct the investment of assets held in individual accounts maintained on their behalf.

"(E) Notwithstanding subparagraph (C)(iv), the Corporation shall provide separate deposit insurance coverage on a pro-rata or pass-through basis if—

"(i) the deposit account is maintained for a business purpose.

"(ii) the principal or beneficiary does not have any control over where the funds are deposited;

"(iii) the deposit account is not maintained for investment purposes; and

"(iv) the deposit account is not maintained principally for the purpose of increasing insurance coverage.

"(F) The Board of Directors may adopt such regulations as may be necessary to implement this subsection and subsection (i)(3) and to clarify the insurance coverage thereunder.".

"(2) CERTAIN RETIREMENT ACCOUNTS.—Section 11(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(3)) is amended to read as follows:

"(3)(A) Notwithstanding paragraph (1)(C) relating to the amount of deposit insurance available for the account of any one depositor, deposits in an insured depository institution made in connection with an individual retirement account, as described in section 408 of the Internal Revenue Code of 1986, and an individual account plan defined in section 3(34) of the Employee Retirement Income Security Act (29 U.S.C. 1033), or plan described in section 401(d) of the Internal Revenue Code of 1986, under which participants and beneficiaries have the right to direct the investment of assets held in individual accounts maintained on their behalf by the plan, shall be aggregated and insured in an amount not to exceed $100,000 per participant per insured depository institution.

"(B) For purposes of subparagraph (A), the amount aggregated for insurance coverage hereunder shall consist of the present vested and ascertainable interest of each participant under the plan, excluding any remainder interest created by, or as a result of, the plan.".

"(3) CERTAIN TRUST FUNDS.—Section 7(i) of the Federal Deposit Insurance Act (12 U.S.C. 1817(i)) is amended to read as follows:

"(i) INSURANCE OF TRUST FUNDS.—Trust funds held on deposit by an insured depository institution as trustee pursuant to irrevocable trusts, established pursuant to statute or written trust agreements, shall be insured in an amount not to exceed $100,000 for each trust estate. When such trust funds are deposited by the fiduciary depository institution in another insured depository institution, such trust funds shall be similarly insured to the fiduciary depository institution according to the trust estates represented. The Board of Directors may adopt such regulations as may be necessary to clarify the insurance coverage under this subsection and to prescribe the manner of reporting and depositing such trust funds.".

"(4) REGULATIONS.—For the purpose of promulgating regulations, during the one-year period beginning on the date of enactment of this Act, the Board of Directors shall review the capacities and rights in which deposit accounts are maintained and for which deposit insurance coverage is provided by the Corporation. At the end of such period, the Board of Directors may promulgate regulations, to be effective not earlier than two years after the date of enactment of this Act, that provide for separate insurance coverage for the different capacities and rights in which deposit accounts are maintained if a determination is made by the Board of Directors that such separate insurance coverage is consistent with the purpose of protecting small depositors and limiting the undue expansion of deposit insurance coverage and is consistent with the insurance provisions of the Federal Deposit Insurance Act.

"(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall be effective two years after the date of enactment of this Act. Such amendments shall not apply to any time deposit that was entered into before the date of enactment of this Act and that matures more than two years after the date of enactment of this Act. Such amendments shall apply, however, to any renewal or rollover of a time deposit that occurs more than two years after the date of enactment of this Act.

"(d) FEASIBILITY STUDY.—

"(1) *In General.*—The Federal Deposit Insurance Corporation, in conjunction with such consultants and technical experts as the Corporation determines to be appropriate, shall conduct a study of the feasibility of implementing a system of deposit insurance based on systemwide limitations on coverage for each depositor. The study shall include detailed, technical analysis of the costs and benefits associated with the least expensive way to implement the system. As part of the study, the Corporation shall investigate, review and evaluate—

"(A) the data systems that would be required to implement the system;

"(B) the reporting burdens of such a system on individual depository institutions;

"(C) the interface with existing data processing systems maintained by depository institutions; and

"(D) the use of a selective audit of depositors for compliance after the resolution of a failed depository institution.

"(2) SURVEY.—As part of the feasibility study, the Board of Governors of the Federal Reserve System shall conduct, in conjunction with other Federal departments and agencies as necessary, a survey of the ownership of deposits held by individuals including the dollar amount of deposits held, the type of deposit accounts held and the type of financial institutions in which the deposit accounts are held. The results of the survey shall be provided to the Federal Deposit Insurance Corporation not later than one year from the date of enactment of this Act for analysis and inclusion in the feasibility study.

"(3) *Report to Congress.*—Not later than 18 months after the date of enactment of this Act, the Federal Deposit Insurance Corporation shall submit to the Congress a report containing a detailed statement of findings made and conclusions drawn from the study conducted under this section, including such recommendations for administrative and legislative action as the Corporation determines to be appropriate.

"(e) CONFORMING AMENDMENTS.—

"(1) Section 11(a)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(2)) is amended by inserting after subparagraph (B) the following new subparagraph:

"(C) Each officer, employee, or agent of the United States, of any State of the United States, of the District of Columbia, of any Territory of the United States, of Puerto Rico, of Guam, of American Samoa, of the Trust Territory of the Pacific Islands, of the Virgin Islands, of the Northern Mariana Islands, of any county, or any municipality, or of any political subdivision thereof, herein called 'public unit', having official custody of public funds and lawfully depositing the same in an insured depository institution shall, for the purpose of determining the amount of insured deposits, be deemed a depositor in such custodial capacity separate and distinct from any other officer, employee, or agent of the same or any public unit having official custody of public funds and lawfully depositing the same in an insured depository institution in a custodial capacity.".

(2) Section 12(c) of the Federal Deposit Insurance Act (12 U.S.C. 1822(c)) is amended by inserting "as provided in section 1821(a)(1)(B) or" after "Except".

SEC. 102. DEPOSIT SOLICITATION RESTRICTED.

(a) IN GENERAL.—Section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f) is amended to read as follows:

"SEC. 29. Deposit Solicitation Restricted.

"(a) IN GENERAL.—No insured depository institution which does not meet the applicable minimum capital requirements, or employee of any such institution, shall engage, directly or indirectly, in the solicitation of deposits by offering rates of interest (with respect to such deposits) which are significantly higher than the prevailing rates of interest on deposits offered by other insured depository institutions in such institution's normal market areas.

"(b) EMPLOYEE.—For purposes of this subsection, the term 'employee' means any employee—

"(1) who is employed on a full-time or part-time basis by the insured depository institution;

"(2) whose compensation is primarily in the form of a salary;

"(3) who does not share such employee's compensation with a deposit broker; and

"(4) whose office space or place of business is used exclusively for the benefit of the insured depository institution which employes such individual.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the date of enactment of this Act.

SEC. 103. LEAST-COST RESOLUTION.

(a) Section 13(c)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(4)) is amended—

(1) by amending subparagraph (A) to read as follows:

"(A) (i) With respect to any insured depository institution, the Corporation shall provide assistance or make payments only in such amounts as are necessary to satisfy the Corporation's obligations to that institution's insured depositors at the least cost to the affected deposit insurance fund whether by insured deposit payout, insured deposit transfer, or such other least-cost method as determined by the Corporation in accordance with subparagraph (B).

"(ii) Nothwithstanding clause (i), the Corporation shall provide assistance or make payments to satisfy, in whole or in part, the institution's liability to its uninsured depositors if such assistance or payments would constitute the least-cost method of resolving the depository institution.";

(2) by redesignating subparagraph (B) as subparagraph (D) and inserting after subparagraph (A) the following new subparagraphs:

"(B) In making determinations under subparagraph (A), the Corporation shall—

"(i) evaluate alternatives on a present value basis, using a realistic discount rate; document that evaluation; retain that documentation for not less than five years; and treat the Federal tax revenues that the Government would forego as the result of a proposed transaction, to the extent reasonably ascertainable, as if they were revenues foregone by the affected deposit insurance fund, and

"(ii) determine and compare the costs of assistance or liquidation as of the date on which the Corporation makes the determination to provide assistance under this Act,

except that the Corporation shall not consider the impact of such a transaction on the financial system.

"(C) Upon a joint determination by the Board of Governors of the Federal Reserve System and the Secretary of the Treasury that the Corporation would be unable to resolve an insured depository institution in accordance with subparagraph (A) without causing a servere adverse impact upon the financial system, the Board of Governors of the Federal Reserve System and the Secretary of the Treasury, in consultation with the Corporation and the Director of the Office of Management and Budget, shall direct the Corporation to provide assistance or make payments to an insured depository institution to satisfy the institution's liability to its depositors or take such other action as determined to be necessary to lessen the risk posed by such depository institution.".

(b) Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended—

(1) in subsection (i)(3)(A), by striking "The Corporation may" and inserting instead "Subject to section 13(c)(4) of this Act, the Corporation may";

(2) in subsection (m)(1), by striking "As soon as possible" and inserting instead "Subject to section 13(c)(4) of this Act, as soon as possible"; and

(3) in subsection (n)(1)(A), by striking "When 1 or more" and inserting instead "Subject to section 13(c)(4) of this Act, when 1 or more".

(c) Section 13(c) or the Federal Deposit Insurance Act (12 U.S.C. 1823(c)) is amended—

(1) in paragraph (1)—

(A) by striking "The Corporation is authorized in its sole discretion and" and inserting instead "Subject to paragraph (4), the Corporation is authorized";

(B) in subparagraph (A), by inserting "or" after the semicolon;

(C) in subparagraph (B), by striking "; or" and inserting instead a period; and

(D) by striking subparagraph (C); (2) in paragraph (2)—

(A) in subparagraph (A), by striking "In order to" and inserting instead "Subject to paragraph (4), in order to";

(B) in subparagraph (B)(i), by inserting "or" after the semicolon;

(C) in subparagraph (B)(ii), by striking "; or" and inserting instead a period; and

(D) by striking subparagraph (B)(iii).

(d) Section 13(i)(7) of the Federal Deposit Insurance Act (12 U.S.C. 1823(i)(7)) is amended to read as follows:

"(7) The assistance provided to a qualified depository institution pursuant to this subsection must result in the least-cost to the affected deposit insurance fund as provided in subsection (C)(4).".

(e) Section 13(i)(1)(A)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1823(k)(1)(A)(i)) is amended by striking "determining that severe" and all that follows through "Corporation" the second time it appears and inserting instead "a determination made in accordance with subsection (c)(4)(C)(i), the Corporation".

(f) EFFECTIVE DATE.—The amendments made by this section shall become effective three years after the date of enactment of this Act.

SEC. 104. RISK-BASED ASSESSMENTS.

(a) ASSESSMENT RATES.-

(1) Section 7(b)(1)(C)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(C)(i)) is amended by striking "the greater of 0.15 percent or"; and

(2) Section 7(b)(1)(D)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(D)(i)) is amended by striking "the greater of 0.15 percent or".

(b) RISK-BASED ASSESSMENTS.—Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended by redesignating paragraph (9) as paragraph (10), and by inserting after paragraph (8) the following new paragraph (9):

"(9) RISK-BASED ASSESSMENTS.—

"(A) IN GENERAL.—Subject to paragraph (1), the Board of Directors shall, by regulation, establish a risk-based assessment system for insured depository institutions.

"(B) Risk-Based Assessment System Defined.—For purposes of this paragraph, the term 'risk-based assessment system' means a system relating insured depository institutions' assessment rates to the risk those institutions pose to the affected deposit insurance fund.

"(C) PROVISIONS APPLICABLE TO ESTABLISHMENT OF SYSTEM.—In establishing an assessment system under subparagraph (A), assessment rates shall be established based upon categories of risk. In determining the categories of risk, the Board of Directors—

"(i) shall use the ratio of capital to risk-weighted assets for the insured depository institutions; and

"(ii) may use the following criteria—

"(I) the activities conducted by insured depository institutions;

"(II) the assets and liabilities of insured depository institutions; and

"(III) such circumstances, conditions, activities or other risk factors that the Board of Directors determines may appropriately be taken into account.".

(b) PROMULGATION OF REGULATIONS.—Not later than 18 months after the date of enactment of this Act, the Board of Directors of the Federal Deposit Insurance Corporation shall promulgate the regulations required by section 7(b)(9) of the Federal Deposit Insurance Act. Such regulations shall become effective not later than two years after the date of enactment of this Act.

SEC. 105. RESTRICTIONS ON FEDERALLY INSURED STATE BANK ACTIVITIES.

(a) The Federal Deposit Insurance Act (12 U.S.C. 1811 *et seq.*) is amended by inserting after section 23 the following new section:

"SEC. 24. ACTIVITIES OF FEDERALLY INSURED STATE BANKS.

"(a) IN GENERAL.—Beginning one year after the date of enactment of the Financial Institutions Safety and Consumer Choice Act of 1991, an insured State bank may not engage as principal in any type of activity that is not permissible for a national bank unless—

"(1) the Federal Deposit Insurance Corporation has determined that the activity would pose no significant risk to the affected deposit insurance fund; and

"(2) the State bank is, and continues to be, in compliance with minimum capital standards prescribed by the appropriate Federal banking agency.

"(b) Equity Investments by State Banks.—

"(1) IN GENERAL.—A State bank may not directly or indirectly acquire or retain any equity investment of a type that is not permissible for a national bank.

"(2) EXCEPTION FOR CERTAIN SUBSIDIARIES.—Paragraph (1) shall not prohibit a State bank from acquiring or retaining an equity investment in a subsidiary of which the State bank is a majority owner.

"(3) TRANSITION RULE.—

"(A) IN GENERAL.—The Federal Deposit Insurance Corporation shall require any State bank to divest any equity investment the retention of which is not permissible under this subsection as quickly as can be prudently done, and in any event not later than five years from the date of enactment of the Financial Institutions Safety and Consumer Choice Act of 1991.

"(B) TREATMENT OF NONCOMPLIANCE DURING DIVESTMENT.—With respect to any equity investment held by any State bank on the date of enactment of the Financial Institutions Safety and Consumer Choice Act of 1991, the bank shall be deemed not to be in violation of the prohibition in this subsection on retaining such investment so long as the bank complies with the applicable requirements established by the Corporation for divesting such investments.

"(c) SUBSIDIARIES OF FEDERALLY INSURED STATE BANKS.—

"(1) IN GENERAL.—Beginning one year after the date of enactment of the Financial Institutions Safety and Consumer Choice Act of 1991, a subsidiary of an insured State bank may no engage as principal in any type of activity that is not permissible for a subsidiary of a national bank unless—

"(A) the Federal Deposit Insurance Corporation has determined that the activity would pose no significant risk to the affected deposit insurance fund; and

"(B) the bank is, and continues to be, in compliance with minimum capital standards prescribed by the appropriate Federal banking agency.

"(2) Notwithstanding paragraph (1), no subsidiary of an insured State bank may engage in securities or insurance underwriting except to the extent such activities are permissible for national banks.

"(d) DETERMINATIONS.—The Federal Deposit Insurance Corporation shall make determinations under this section by regulation and order.

"(e) DEFINITIONS.—

"(1) ACTIVITY DEFINED.—For purposes of this section, the term 'activity' includes acquiring or retaining any investment.

"(2) STATE BANK DEFINED.—The term 'State bank' has the same meaning as provided in section 3(a)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(a)(2)).

"(f) OTHER AUTHORITY NOT AFFECTED.—This section shall not be construed as limiting the authority of the Board of Governors of the Federal Reserve System, the Office of Depository Institutions Supervision, or any State authority to impose more stringent restrictions.".

(b) Section 9 of the Federal Reserve Act (12 U.S.C. 330) is amended by inserting "the Board of Governors of the Federal Reserve System is authorized to restrict the activities of State banks and their subsidiaries consistent with section 24 of the Federal Deposit Insurance Act: *Provided further,*" after "*Provided, however,*".

SEC. 106. EXAMINATIONS.

(a) FEDERAL RESERVE SYSTEM.—

(1) Section 11(a) of the Federal Reserve Act (12 U.S.C. 248(a)) is amended—

(A) by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) of the following new paragraph:

"(2) To conduct annual on-site examinations of each bank, and each branch of a foreign bank for which the Board of Governors of the Federal Reserve System is the appropriate Federal banking agency, except that banks and branches that have total assets of less than $1,000,000,000 as of December 31 of the year preceding an examination and that are in compliance with requried capital standards shall be examined on-site at least once during the following 18-month period."; and

(B) in paragraph (3) (as redesignated), by striking clauses (i) through (iv) and inserting instead:

"appropriate Federal banking agency, the National Credit Union Administration Board in the case of insured credit unions, and such State officer or agency as the Board may designate in the case of State banks, savings associations and credit unions that are not federally insured.".

(2) Section 9 of the Federal Reserve Act (12 U.S.C. 338) is amended in the twenty-third paragraph—

(A) by striking the first sentence and inserting instead:

"In connection with examinations required by section 11(a)(2) of this Act, for which the Board of Governors of the Federal Reserve System is the appropriate Federal banking agency, examiners selected or approved by the Board of Governors of the Federal Reserve System shall examine the affairs of any affiliate, other than those examined pursuant to the Financial Services Holding Company Act of 1991, in the same manner and to the same extent as affiliates are examined by the Director of the Office of Depository Institutions Supervision pursuant to section 323 (d) and (g)(2) of the Financial Institutions Safety and Consumer Choice Act of 1991.";

(B) in the second sentence by—

(i) striking "of any State member bank"; and

(ii) striking "such bank" the first time it appears and inserting instead "the bank affiliated with such affiliate;" and

(C) in the third sentence, by striking "State member".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on January 1, 1993.

SEC. 107. MARKET VALUE AND OTHER DISCLOSURE.

(a) MARKET VALUE DISCLOSURE.—Not later than one year after the date of enactment of this Act, the appropriate Federal banking agencies and the Securities and Exchange Commission, jointly, shall develop a method for banks to provide for the supplemental disclosure of the fair market value of assets and liabilities, to the extent feasible and practicable, in financial statements and reports required to be filed with the appropriate Federal banking agencies and the Securities and Exchange Commission.

(b) AUDIT REPORTS.—Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)) is amended by inserting after paragraph (8) the following new paragraph:

"(9) INDEPENDENT AUDITOR REPORTS.—

"(A) Each insured bank shall provide to the appropriate Federal banking agency copies of audit reports and any qualifications to such reports, management letters and any other reports within 15 days of receipt from the bank's independent auditors.

"(B) Each insured bank shall provide written notification to the appropriate Federal banking agency of the resignation or dismissal of its independent auditor and the engagement of a new independent auditor including a statement of the reasons for such change within 15 calendar days of the occurrence of the event.".

SEC. 108. CAPITAL STANDARDS AND INTEREST RATE RISK.

The appropriate Federal banking agencies shall develop a system to monitor interest rate risk and to adjust risk-based capital standards to reflect interest rate risk. In order to implement this system, the appropriate Federal banking agencies shall promulgate regulations within one year after the date of enactment of this Act, to be effective no later than two years after the date of enactment of this Act.

SEC. 109. REQUIREMENTS TO EXPENSE DEPOSIT WITH NATIONAL CREDIT UNION SHARE INSURANCE FUND.

(a) Section 201(b)(8) of the Federal Credit Union Act (12 U.S.C. 1781(b)(8)) is amended to read as follows:

"(8) to make an initial capitalization payment to the Fund in an amount, as determined by the Board, equalling the current equity ratio of the Fund times the total insurable shares of the applicant credit union, and to pay the annual capitalization adjustment and any premiums imposed by the Board pursuant to this Act: *Provided*, That the initial capitalization payment shall be expensed as prescribed by the Board, over a period not to exceed twelve years, in an amount of not less than one-twelfth each year: *Provided, however*, That amounts expensed in excess of one-twelfth each year shall be credited to amounts due in future years; and".

(b) Section 202 of the Federal Credit Union Act (12 U.S.C. 1782) is amended—

(1) in subsection (b)(1), by striking all that appears after "preceding insurance year" and inserting instead ", the amount of its capitalization adjustment due to the Fund for that year, the amount of its insurance premium, if any, due for that year, and such other information as the Board shall prescribe."; and

(2) by amending subsection (c) to read as follows:

"(c)(1) CAPITALIZATION ADJUSTMENT.—Each insured credit union shall pay to the National Credit Union Share Insurance Fund, in accordance with procedures established by the board, a capitalization adjustment equalling 1 percent of any increase in the credit union's insured shares over the course of the previous insurance year. Any insured credit union experiencing a decline in its insured shares over the course of the previous insurance year shall receive a refund in an amount equalling 1 percent of the decline.

"(2) PREMIUM.—In addition to the capitalization adjustment specified in paragraph (1), each insured credit union shall pay an annual insurance premium, in accordance with procedures established by the Board, in such amount as shall be necessary to maintain Fund equity at its minimum level of 1.25 percent: *Provided*, That the premium shall be determined as the same percentage of insured shares for all insured credit unions: Further provided, that in any year in which the fund's equity level experiences a substantial decline, as determined by the Board, to a level below 1.25 percent, the Board shall have the discretion to allow the replenishment of the Fund to its minimum level of 1.25 percent over a period longer than one year.

"(3) REBATE.—In the event Fund equity exceeds its normal operating level and any loans to the Fund from the Federal Government and the interest thereon have been repaid at the end of a given insurance year, the Board shall provide a rebate for that insurance year to all insured credit unions in an amount sufficient to reduce the equity in the Fund to its normal operating level: *Provided*, That the rebate shall be determined at the same percentage of insured shares for all insured credit unions.";

(3) in subsections (d), (e), and (f), by striking "deposit" each time it appears and inserting instead "capitalization payment or adjustment";

(4) in subsection (g)—

(A) by striking "deposits" and inserting instead "capitalization payment and adjustments";

(B) by striking "payment of any deposit or adjustment thereof" and inserting instead "making of any capitalization payment or adjustment"; and

(C) by striking "deposit" the last time it appears and inserting instead "capitalization payment";

(5) in subsection (h), by amending paragraph (2) to read as follows:

"(2) the term 'normal operating level', when applied to the Fund, means an amount of Fund equity, based on market value accounting, equal to 1.3 percent of the aggregate amount of insured shares in all insured credit unions, or such other level, not less than 1.25 percent and not more than 1.5 percent, as the Board shall establish; and"; and

(6) by adding at the end thereof the following new subsection:

"(i) Over a 12-year transition period beginning one year after the date of enactment of the Financial Institutions Safety and Consumer Choice Act of 1991, insured credit unions shall expense the one percent deposit maintained with the Board pursuant to the Deficit Reduction Act of 1984 (P.L. 98-369); *Provided*, That the deposit, as calculated on the date of enactment of the Financial Institutions Safety and Consumer Choice Act of 1991, shall be expensed, as prescribed by the Board, over a period not to exceed 12 years, in an amount of not less than one-twelfth each year: *Provided, however*, That amounts expensed in excess of one-twelfth each year shall be credited to amounts due in future years.".

(c) Section 203(b) of the Federal Credit Union Act (12 U.S.C. 1783(b)) is amended by striking "deposits" and inserting instead "capitalization payments or adjustments".

Subtitle C—Reinsurance Demonstration Project

SEC. 116. REINSURANCE DEMONSTRATION PROJECT.

(a) DEMONSTRATION PROJECT.—

(1) PURPOSE.—The Federal Deposit Insurance Corporation, in consultation with the Secretary of the Treasury, shall establish a reinsurance demonstration project to determine the feasibility of developing a private reinsurance system.

(2) PROJECT DEFINED.—The demonstration project is to consist of a sample of private reinsurers and insured depository institutions that would simulate the activities required for actual reinsurance. These activities should include but are not limited to: establishing the pricing structure for risk-based premiums, formulating insurance contracts, and identifying and obtaining the information necessary to evaluate and monitor the risks in the subject insured depository institutions. If deemed appropriate by the Corporation, the project may engage in actual reinsurance transactions.

(3) COMMITTEE ESTABLISHED.—There is hereby established a Reinsurance Demonstration Project Committee comprised of the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation and a representative of each of the private reinsurers and insured depository institutions participating in the demonstration project. The committee shall analyze and review the results of the demonstration project and report to Congress as required by subsection (b).

(b) REPORT TO CONGRESS.—Not later than one year after the date of enactment of this Act, the Federal Deposit Insurance Corporation shall submit to the Congress a report on the results of the demonstration project required by subsection (a). The report shall include the conclusions reached regarding the feasibility of a private reinsurance system; whether public policy goals can be satisfied by such a system; and any recommendations for administrative and legislative action that may be necessary for the establishment of such a system. The report also shall include a separate statement of the views of the private participants regarding whether private reinsurers are sufficiently interested, and have the capacity to participate, in such a system.

TITLE II—FINANCIAL SERVICES MODERNIZATION

Subtitle A—Financial Services Holding Companies

SEC. 201. FINANCIAL SERVICES HOLDING COMPANIES.

(a) DEFINITIONS MODIFIED.—Section 2 of the Bank Holding Company Act (12 U.S.C. 1841) is amended—

(1) by amending subsection (a)(1) to read as follows:

"(a)(1)(A) The term 'financial services holding company' means any company (other than a diversified holding company) which has control over any bank.

"(B) The term 'diversified holding company' means any company (other than a bank or a foreign bank) which has control over a bank only through a financial services holding company and which engages in activities or controls any company engaged in activities that are not permissible for a financial services holding company or any subsidiary thereof under this Act.";

(2) in the second sentence of subsection (a)(5)(A), by inserting a period after "thereto" and striking the balance of the sentence;

(3) by amending subsection (f) to read as follows:

"(f)(1) The term 'appropriate Federal banking agency' shall have the same meaning as set forth in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)); and

"(2) the term 'Board' means the Board of Governors of the Federal Reserve System.";

(4) by inserting after subsection (m) the following new subsections:

"(n) SECURITIES AFFILIATE.—The term 'securities affiliate' means any company that is controlled by a financial services holding company and that is engaged in the United States in activities pursuant to section 4(c)(15).

"(o) INSURANCE AFFILIATE.—The term 'insurance affiliate' means any company that is controlled by a financial services holding company and that is engaged in the United States in activities pursuant to section 4(c)(16).

"(p) FOREIGN BANK.—The term 'foreign bank' has the same meaning as in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(7)).

"(q) INSURED DEPOSITORY INSTITUTIONS.—The term 'insured depository institution' means any insured bank as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)) and any insured institution.

"(r) ZONE 1 AND ZONE 2.—The terms 'Zone 1' and 'Zone 2' have the same meaning as in section 35 of the Federal Deposit Insurance Act.

"(s) ZONE 1 FINANCIAL SERVICES HOLDING COMPANY.—The term 'Zone 1 financial services holding company' means any financial services holding company that qualifies as a Zone 1 financial services holding company pursuant to section 35(d)(2) of the Federal Deposit Insurance Act.

"(t) FUNCTIONAL REGULATOR.—The term 'functional regulator' means a Federal or State agency that has supervisory authority concerning the activities of a company (other than an insured depository institution) that are of concern to the appropriate Federal banking agency for purposes of section 6(c)(2).".

"(u) NEW FINANCIAL ACTIVITY.—The term 'new financial activity' means any activity authorized pursuant to sections 4(c)(8), 4(c)(15), or 4(c)(16) other than any activity that, prior to the date of enactment of the Financial Services Safety and Consumer Choice Act of 1991, the Board had determined, by any order or regulation that continued to be in effect on December 31, 1992, to be closely related to banking and a proper incident thereto.

"(v) QUALIFIED FINANCIAL ACTIVITY.—The term 'qualified financial activity' means any activity authorized pursuant to sections 4(c)(8), 4(c)(15), or 4(c)(16).

"(w) FINANCIAL AFFILIATE.—The term 'financial affiliate' means any company that is controlled by a financial services holding company that is engaged in the United States in qualified financial activities and any other company that is controlled by a diversified holding company that is engaged in activities authorized to be engaged in by a subsidiary of a financial services holding company pursuant to sections 4(c)(8), 4(c)(15), or 4(c)(16).".

(b) CONFORMING AMENDMENTS.—Section 2 of the Bank Holding Act of 1956 (12 U.S.C. 1841), as amended by subsection (a), is further amended—

(1) in subsection (c)(2)(J), by striking "Federal Savings and Loan Insurance Corporation insurance to Federal Deposit Insurance Corporation insurance" and inserting instead "Savings Association Insurance Fund to Bank Insurance Fund";

(2) in subsection (h)(5), by striking "bank" the first time it appears and inserting "insured depository institution";

(3) by striking "bank holding company" wherever it appears except in subsection (b) and inserting instead—

(A) in subsections (a)(5)(A), (a)(5)(B), (a)(5)(C), (a)(5)(D), (d), and (g)(1), "financial services holding company and diversified holding company"; and

(B) in all other instances, "financial services holding company"; and

(4) by striking "Board" wherever it appears except in subsection (f) and inserting instead "appropriate Federal banking agency".

SEC. 202. ACQUISITION OF BANKS.

(a) AMENDMENTS TO APPLICATION PROCESS.—Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended—

(1) in subsection (a)—

(A) by amending paragraph (3) to read as follows:

"(3) for any financial services holding company to acquire ownership or control of any voting shares of any insured depository institution or financial services holding company, for any diversified holding company to acquire ownership or control of any voting shares of any financial services holding company, or for a company to acquire ownership or control of a diversified holding company if, after such acquisition, such company will own or control more than 5 per centum of the voting shares of such institution or company;";

(B) by inserting before "Notwithstanding the foregoing" the following new sentence:

"It shall be unlawful for any insured depository institution (other than a foreign bank operating an insured branch as defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) to become a financial services holding company or a diversified holding company.";

(C) by adding at the end thereof the following new sentence: "Notwithstanding paragraph (1), any company that was a bank holding company under the Bank Holding Company Act of 1956 on December 31, 1992, shall be a financial services holding company as of January 1, 1993 without further approval by the appropriate Federal banking agency."; and

(D)(i) in subparagraph (A), by striking "or" at the end thereof;

(ii) in subparagraph (B), by striking the first period and inserting instead "; or"; and

(iii) by inserting after "; or", as added by clause (ii), the following:

"(C) the acquisition by a company of control of a bank in a reorganization in which a person or group of persons exchange their shares of the bank for shares of a newly formed financial services holding company and receive after the reorganization substantially the same proportional share interest in the holding company as they held in the bank except for changes in shareholders' interests resulting from the exercise of dissenting shareholders' rights under State or Federal law if—

"(i) immediately following the acquisition, the bank meets the requirements for Zone 1 or Zone 2;

"(ii) the holding company does not engage in any activities other than those of managing and controlling banks as a result of the reorganization; and

"(iii) the company provides 30 days prior notification to the appropriate Federal banking agency.";

(2) in subsection (b)—

(A) by amending the first sentence to read as follows:

"Upon receiving from a company any application for approval under this section to acquire any interest in an insured depository institution, the appropriate Federal banking agency shall give notice to the other appropriate Federal banking agency, if any, for such bank and, if the institution is State-chartered, to the appropriate supervisory authority of the interested State in order to provide for the submission of the views and recommendations of the other appropriate Federal banking agency and the State supervisory authority, as appropriate.";

(B) by striking the term "Comptroller of the Currency" wherever it appears and inserting instead "the other appropriate Federal banking agency"; and

(C) in the third sentence, by striking "disapproves" and inserting instead "recommends disapproval of";

(3) in subsection (c)—

(A) by striking ", or" at the end of paragraph (1) and inserting instead a semicolon;

(B) by striking the period at the end of paragraph (2) and inserting instead "; or"; and

(C) by inserting after paragraph (2) the following new paragraph:

"(3) any acquisition or merger or consolidation if the appropriate Federal banking agency determines that the insured depository institution to be acquired or any other insured depository institution controlled by the company involved in the proposal is engaging in any unsafe and unsound practice or, following the transaction, will be in an unsafe and unsound condition.";

(4)(A) by redesignating subsections (d) through (g) as subsections (f) through (i), respectively; and

(B) by inserting after subsection (c) the following new subsections:

"(d) Expedited Procedures for Acquisition of Additional Banks by Zone 1 Financial Services Holding Companies.—

"(1) Procedures.—

"(A) Upon receiving from a Zone 1 financial services holding company a complete application for approval under this section to acquire an insured depository institution, the appropriate Federal banking agency shall notify the other appropriate Federal banking agency, if any, and the appropriate supervisory authority of an interested State as provided for in subsection (b). Notwithstanding subsection (b)(1), the views and recommendations of the other appropriate Federal banking agency and the appropriate supervisory authority of an interested State, as appropriate, shall be submitted within 21 days of the date on which notice is given to them by the appropriate Federal banking agency.

"(B) The appropriate Federal banking agency must approve or disapprove the application within 45 days after the date of receipt of such application.

"(C) In the event of the failure of the appropriate Federal banking agency to act on any such application within 45 days after it has been received, the application shall be deemed to have been approved.

"(D) If the appropriate Federal banking agency has found that an emergency exists requiring expeditious action, or that it must act immediately to prevent probable failure, or if the appropriate Federal banking agency receives a certification described in section 13(f)(8)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1823(f)(8)(D)) from the other appropriate Federal banking agency or State chartering authority that a bank is in danger of closing, the appropriate Federal banking agency may waive or shorten the 45-day notice period with respect to any application for an acquisition received pursuant to this subsection.

"(2) EXTENSION OF TIME FOR NOTICE AND HEARING.—The 45-day period may be extended if the other appropriate Federal banking agency or the State supervisory authority recommends disapproval of an application subject to subparagraph (1) in writing based on its consideration of the factors listed in paragraphs (1), (2), or (3) of subsection (c). In the event that the other appropriate Federal banking agency or the State Supervisory authority recommends disapproval, the appropriate Federal banking agency shall follow the review period and procedures for notice and hearing contained in subsection (b)(1).

"(3) GROUNDS FOR DISAPPROVAL.—An application under this subsection shall be disapproved only—

"(A) pursuant to subsections (c)(1), (c)(2) or (c)(3);

"(B) if the financial services holding company does not qualify as, or would not continue to qualify as, a Zone 1 financial services holding company after consummation of the transaction; or

"(C) if the appropriate Federal banking agency determines that the transaction would not be consistent with the convenience and needs of the community to be served.

"(e) ACQUISITION INVOLVING DIVERSIFIED HOLDING COMPANIES.—The appropriate Federal banking agency shall not permit any acquisition or merger or consolidation of a financial services holding company involving a diversified holding company or a company that seeks to become a diversified holding company unless any financial services holding company controlled by the diversified holding company is and remains in Zone 1, and any financial services holding company to be acquired, will be, upon consummation of the transaction, a Zone 1 financial services holding company. An application involving a proposal that meets the requirement of this subsection shall be reviewed in accordance with the procedures and standards under subsection (d).".

(b) CONFORMING AMENDMENTS.—Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842), as amended by subsection (a), is further amended—

(1) by striking "bank holding company" wherever it appears (except in the last sentence of subsection (a) as added by this section or as it appears in the reference to the "Bank Holding Company Act Amendments of 1970") and inserting instead—

(A) in subsections (a)(1), (a)(2), (a)(4), (a)(5), and (d), and in provision (a)(A), "financial services holding company or diversified holding company"; and

(B) in all other instances, "financial services holding company";

(2)(A) by striking "Board" wherever it appears and inserting instead "appropriate Federal banking agency"; and

(B) in subsection (a), by striking "Board's judgment" and inserting instead "judgment of the appropriate Federal banking agency"; and

(3)(A) in subsection (a)(2), by striking "causes a bank" and inserting instead "causes an insured depository institution";

(B) in subsection (a)(4)—

(i) by striking "other than a bank" and inserting instead "other than an insured depository institution"; and

(ii) by striking "assets of a bank" and inserting instead "assets of an insured depository institution";

(C) in provision (a)(A), by striking "acquired by a bank" and inserting instead "acquired by an insured depository institution"; and

(D) in provision (a)(B), by striking "in a bank" and inserting instead "in an insured depository institution".

SEC. 203. INTERESTS IN NONBANKING ORGANIZATIONS.

(a) INTERESTS IN NONBANKING ORGANIZATIONS.—Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended—

(1) in subsection (a), by deleting the last two sentences;

(2) in subsection (a)(2)—

(A) by striking ", or in the case of a company which has been" and all that follows through "December 31, 1980" and inserting instead "or in the case of a company that becomes a financial services holding company as a result of enactment of the Financial Institutions Safety and Consumer Choice Act of 1991, on January 1, 1993";

(B) in subparagraph (A)—

(i) by striking "of banking or"; and

(ii) by inserting at the end thereof the following:

", in the case of a foreign bank, the business of banking, where otherwise permitted through a branch or agency, as those terms are defined in section 1(b) of the International Banking Act of 1987 (12 U.S.C. 3101);";

(C) in subparagraph (B), by striking "those permitted under" and all that follows through "under such paragraph" and inserting instead the following:

"those permitted under subsection (c)(8)(A)(i) subject to all the conditions specified in such subsection or in any order or regulation issued by the appropriate Federal banking agency under such subsection; and

"(C) those permitted under subsection (c)(16) provided that the financial services holding company is a company exclusively owned in a mutual form by holders of contracts of insurance issued by such financial services holding company, or is a company organized as a reciprocal inter-insurance exchange";

(D) in the second sentence, by inserting a period after "practices" and striking the remainder of the sentence; and

(E) by deleting the last sentence. (3) in subsection (c)—

(A) in paragraph (8)—

(i) by redesignating clauses (i) and (ii) in each of subparagraphs (C), (D), and (E) as subclauses (I) and (II); respectively;

(ii) by redesignating subparagraphs (B) through (G) as clauses (ii) through (vii), respectively;

(iii) by redesignating subparagraph (A) as subparagraph (B)(i);

(iv) in subparagraph (B)(vii) (as redesignated), by striking "subparagraph (A), (B), or (C)" and inserting instead "clauses (i), (ii), or (iii)";

(v) by striking "shares of any company" and all that follows through "provide" and inserting instead the following:

"(A) shares of any company the activities of which the appropriate Federal banking agency, after due notice and opportunity for comment, has determined (by order or regulation) with the concurrence of the other appropriate Federal banking agency to be of a financial nature.

"(i) Any activity that the Board of Governors of the Federal Reserve System has determined (by order or regulation that is effective on December 31, 1992) to be closely related to banking and a proper incident thereto shall be deemed to be of a financial nature for purposes of this paragraph.

"(ii) Any company that was a bank holding company on December 31, 1992 and that, on January 1, 1993, becomes a financial services holding company as a result of the enactment of the Financial Institutions Safety and Consumer Choice Act of 1991, may without further approval under this paragraph retain shares of any company engaged in any activity described in clause (i) and continue to engage in any activity described in clause (i), provided that such company lawfully acquired the company or commenced the activity pursuant to approval that was granted by the Board of Governors of the Federal Reserve System prior to January 1, 1993, and was still in effect on December 31, 1992.

"(iii) Notwithstanding clause (ii), no financial services holding company may pursuant to this paragraph engage in, or acquire or retain the shares of any company engaged in, underwriting and dealing in securities that a national bank may not underwrite or deal in under section 5136 of the Revised Statutes (12 U.S.C. 24 (Seventh)), except that a financial services holding company that received approval of the Board of Governors of the Federal Reserve System to underwrite and deal in such securities may continue to do so pursuant to this section subject to all the same conditions and limitations as required by the Board of Governors of the Federal Reserve System on the date of enactment of the Financial Institutions Safety and Consumer Choice Act of 1991 for a period of time not to exceed three years from the date of enactment of that Act.

"(iv) Real Estate investment, management, or development and the purchase and sale of real estate as principal or broker shall not be deemed to be of a financial nature except to the extent authorized pursuant to clause (i).

"(v) Activities described in paragraph (16) shall not be deemed to be of a financial nature, except providing";

(vi) by striking "except" as it appears immediately before subparagraph (B) (as redesignated); and

(vii) by striking the last five sentences;

(B) in paragraph (13), by striking "or" at the end thereof;

(C) by inserting after paragraph (14) the following new paragraphs:

"(15)(A) shares of any company engaged in any of the following activities subject to the provisions of subsection (*l*):

"(i) underwriting, distributing, or dealing in securities;

"(ii) organizing, sponsoring, controlling, or distributing the shares of any registered investment company pursuant to the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*);

"(iii) securities brokerage, private placement, or investment advisory activities; or

"(iv) other securities activities permitted for brokers or dealers registered under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) or for investment advisers registered under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 *et seq.*).

"(B) ACTIVITIES PERMITTED FOR BANK AFFILIATES.—A financial services holding company that acquires control of a securities affiliate under this paragraph shall not, after one year from the date of that acquisition, permit a bank or an insured depository institution that it controls to engage, directly or indirectly, in the United States in activities described in subparagraph (A) except to the extent that these activities are specifically authorized by statute for a national bank (other than underwriting and dealing in obligations issued by a State or political subdivision as permitted by law) or by a regulation or order promulgated by the Office of the Comptroller of the Currency pursuant to that statute before the date of enactment of the Financial Institutional Safety and Consumer Choice Act of 1991: *Provided, however*, That a financial services holding company acquiring control of a securities affiliate under this paragraph shall not permit, after one year from the date of that acquisition, an insured depository institution it controls to underwrite or deal in obligations issued by a State of political subdivision and shall permit these activities to be conducted only by a securities affiliate and not by an affiliate pursuant to subsection (c)(15).

"(C) For purposes of this paragraph, a branch or agency of a foreign bank or a commercial lending company controlled by a foreign bank (as the terms 'agency', 'branch', 'commercial lending company', and 'foreign bank' are defined in section 1 of the International Banking Act of 1978 (12 U.S.C. 3101)), shall be considered a bank.

"(16)(A) shares of any company that provides insurance as principal, agent, or broker subject to the provisions of subsection (*l*).

"(B) A financial services holding company that acquires control of an insurance affiliate may not permit an insured depository institution it controls or a subsidiary thereof to provide insurance—

"(i) as principal; or

"(ii) as agent or broker, including insurance in which an affiliate acts as principal, agent or broker, unless the laws of the State in which the bank is located permit banks chartered by the State to provide insurance as agent or broker in that State and is permitted for national banks.

"(C) Nothing in subparagraph (B) shall be construed to limit the ability of a financial services holding company to sell insurance pursuant to subsection (8).

"(D) For purposes of this paragraph, a branch or agency of a foreign bank (as the terms 'branch' and 'agency' are defined in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101)) shall be considered an insured depository institution."; and

(D) in subsection (c), by striking the last two sentences; and

(4) by striking subsection (i) and inserting instead the following new subsections:

"(i) Notice Procedures for Nonbanking Activities.—

"(1) General Notice Procedure.—

"(A) NOTICE REQUIREMENT.—No financial services holding company may engage in activities or acquire or retain ownership or control of the shares of a company engaged in qualified financial activities without providing the appropriate Federal banking agency with at least 45 days prior written notice of the proposed transaction or expansion.

"(B) CONTENTS OF NOTICE.—The notice submitted to the appropriate Federal banking agency shall contain such information as the appropriate Federal banking agency shall prescribe by regulation or by specific request in connection with a particular notice. The appropriate Federal banking agency may only require such information as may be relevant to the nature and scope of the proposed transaction and to the appropriate Federal banking agency's evaluation of the criteria provided for in paragraph (2) and subsection (j), as appropriate.

"(C) PROCEDURE FOR AGENCY ACTION.—A notice filed under this subsection shall be deemed to be approved by the appropriate Federal banking agency unless, prior to the expiration of 45 days from the receipt of a complete notice, the appropriate Federal banking agency issues an order setting forth the reasons for disapproval. The appropriate Federal banking agency may extend the 45-day period for an additional 30 days.

"(D) EXPEDITED PROCEDURES FOR ZONE 1 FINANCIAL SERVICES HOLDING COMPANIES.—

"(i) COMMENCEMENT OF PERMISSIBLE NONBANKING ACTIVITIES.—Notwithstanding subparagraph (A), any Zone 1 financial services holding company may commence through a subsidiary (other than a depository institution), any activity authorized by subsections (c)(15) and (c)(16) of section 4 of the Financial Services Holding Company Act of 1991 (12 U.S.C. 1843) or that has been determined by regulation by the appropriate Federal banking agency under section 4(c)(8) of such Act to be permissible for such a financial services holding company or subsidiary. The financial services holding company shall provide the appropriate Federal banking agency with written notice of the commencement of such activity not later than 30 days following such action.

"(ii) ACQUISITIONS.—Notwithstanding subparagraphs (B) and (C), a notice filed under this subsection by a Zone 1 financial services holding company that will qualify as a Zone 1 financial services holding company both before and after the proposed transaction shall be deemed to be approved unless prior to the expiration of 30 days after the receipt of a complete notice, the appropriate Federal banking agency issues an order setting forth the reasons for disapproval.

"(E) Any proposal may proceed prior to the expiration of the disapproval period if the appropriate Federal banking agency issues a written notice of approval. The appropriate Federal banking agency may provide for no notice under this paragraph or notice for a shorter period of time with respect to particular activities or transactions.

"(F) In the case of any proposal to engage in, or acquire or retain ownership or control of shares of any company engaged in, any activity pursuant to subsection (c)(8) that has not been previously approved by order or regulation, the appropriate Federal banking agency may extend the notice period under this subsection for an additional 90 days.

"(2)(A) GENERAL STANDARDS FOR REVIEW.—In connection with a notice under this subsection, the appropriate Federal banking agency may consider the following criteria—

"(i) the managerial resources of the companies involved;

"(ii) the adequacy of their financial resources, including their capital, giving consideration to the financial resources and capital of others engaged in similar activities;

"(iii) any material adverse effect on the safety and soundness or financial condition of an affiliated depository institution; and

"(iv) whether, in the case of notice for approval involving activities under subsection (c)(8), performance of the activity by a financial services holding company or a subsidiary of such company can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.

"(B) REQUIREMENTS FOR DISAPPROVAL.—The appropriate Federal banking agency shall not approve any proposed transaction under this subsection if the appropriate Federal banking agency determines that any insured depository institution controlled by the financial services holding company is engaging in any unsafe and unsound practice or is in an unsafe and unsound condition.

"(C) STANDARDS FOR ZONE 1 FINANCIAL SERVICES HOLDING COMPANY.—A notice filed under this section by a Zone 1 financial services holding company or any subsidiary (other than an insured depository institution of such company) may be disapproved only pursuant to subparagraph (B) or if the appropriate Federal banking agency determines that the financial services holding company is not a Zone 1 financial services holding company.

"(j) ADDITIONAL CAPITAL REQUIREMENTS FOR NEW FINANCIAL ACTIVITIES.—The appropriate Federal banking agency shall disapprove a notice to engage in, or acquire or retain the shares of a company engaged in, a new financial activity unless the company filing the notice is a Zone 1 financial services holding company, or the appropriate Federal banking agency finds that—

"(1) the capital of each insured bank controlled by the company is above the mean capital level of the range for insured banks in Zone 2; and,

"(2) the financial services holding company is making substantial progress toward qualifying as a Zone 1 financial services holding company.

"(k) MAINTENANCE OF HIGHER CAPITAL.—Any financial services holding company that—

"(1) engages, directly or indirectly, in any new financial activity, or controls any company engaged in any such activity, and

"(2) fails to qualify as a Zone 1 financial services holding company within the time period specified by the appropriate Federal banking agency, shall be subject to the provisions of section 35(d)(6) of the Federal Deposit Insurance Act.

"(l) LIMITATIONS ON ACTIVITIES OF FINANCIAL SERVICES HOLDING COMPANIES.—

"(1) DISCLOSURE.—A securities affiliate, an insurance affiliate, or an affiliate engaged in securities or insurance activities authorized pursuant to subsection (c)(8) shall each—

"(A) prominently disclose in writing to its customers that such affiliates are not insured depository institutions and are separate from any affiliated depository insured institution;

"(B) prominently disclose in writing to its customers that securities or insurance products sold, offered, or recommended by such affiliates are not deposits, are not insured by the Federal Deposit Insurance Corporation, are not guaranteed by any affiliated insured depository institutions, and are not otherwise obligations of such insured depository institutions unless such is the case; and

"(C) obtain in acknowledgement of receipt of the disclosures including the date of receipt and the customer's name, address, and account number.

"(2) REGULATIONS.—

"(A) The Securities and Exchange Commission is authorized to adopt regulations in consultation with the appropriate Federal banking agencies pursuant to this subsection regarding disclosures by securities affiliates and affiliates engaged in securities activities pursuant to subsection (c)(8);

"(B) The appropriate Federal banking agencies are authorized to adopt regulations pursuant to this subsection regarding disclosures by insurance affiliates or by any affiliates engaged in activities pursuant to subsection (c)(8) (other than securities activities).

"(3) DISCLOSURE OF CUSTOMER INFORMATION.—The appropriate Federal banking agency is authorized to issue regulations limiting disclosures of nonpublic customer information between an insured depository institution and affiliates thereof, including an evaluation of the creditworthiness of an issuer or other customer of that insured depository institution or subsidiary thereof or financial, securities, or insurance affiliate.

"(4) AUTHORITY TO IMPOSE ADDITIONAL SAFEGUARDS.—The appropriate Federal banking agency may by regulation or order adopt limitations or restrictions on the extension of credit or other similar financial support, the purchase or sale of assets, or the issuance of guarantees, letters of credit, or other credit facilities to or for the benefit of an affiliate engaged in any new financial activity or to customers of such affiliate by an affiliate that is an insured depository institution controlled by the financial services holding company. Such restrictions and limitations shall be adopted as the agency deems appropriate to address potential adverse effects, including unfair competition, conflicts of interest, and unsafe banking practices. Transactions or similar arrangements between an insured depository institution and the customers of an affiliate engaged in such activities that are both controlled by the same financial services holding company shall not be used to evade any restrictions or limitations imposed under this paragraph.

"(m) EXCEPTION FOR CERTAIN NONBANKING INVESTMENTS.—

"(1) IN GENERAL.—Notwithstanding subsection (a), a financial services holding company may own or control shares of any company engaged in activities not authorized pursuant to this section if—

"(A) the shares were acquired before January 1, 1993, and the aggregate investment in all such shares does not exceed 5 per centum of the financial services holding company's capital and surplus on a consolidated basis; or

"(B) the shares are acquired and held by a securities affiliate as part of a bona fide underwriting or investment banking activity if such shares are held only for such period of time as will permit the sale thereof on a reasonable basis consistent with the nature of such investment banking activity.

"(2) LIMITATIONS.—The limitations in section 5(c) shall apply to the companies described in paragraphs (1)(A) and (1)(B).

"(3) DIVESTITURE IN CASE OF LOSS OF EXEMPTION.—

"(A) If any financial services holding company loses the exemption provided in paragraph (1)(A), such company shall divest ownership and control of all of the shares of such company within 180 days after the loss of such exemption.

"(B) If any financial services holding company loses the exemption provided in paragraph (1)(B) the financial services holding company shall divest ownership and control of such shares within 15 days of the loss of the exemption.

"(b) CONFORMING AMENDMENTS.—Section 4 of the Bank Holding Company Act (12 U.S.C. 1843), as amended by this section, is further amended—

"(1) by striking "bank holding company" wherever it appears except in subsections (c)(1), (c)(8)(A)(ii), and (c)(8)(B)(vii) and inserting instead "financial services holding company";

"(2) by striking "Board" wherever it appears except in subsections (c)(8)(A)(ii), (c)(8)(B)(iv), (c)(8)(B)(vii) and (c)(13) and inserting instead "appropriate Federal banking agency";

"(3) in subsection (c)(1)(A), by striking "banking subsidiary" and inserting instead "insured depository institution";

(4) in subsections (c)(1)(C) and (c)(1)(D), by striking "banking subsidiaries" wherever it appears and inserting instead "insured depository institution"; and

(5) in subsection (c)(4), by striking "acquired by a bank" and inserting instead "acquired by an insured depository institution".

SEC. 204. DIVERSIFIED HOLDING COMPANIES

Section 5 of the Bank Holding Company Act of 1956 (12 U.S.C. 1844) is amended to read as follows:

"SEC. 5. DIVERSIFIED HOLDING COMPANIES.

"(a) CAPITAL REQUIREMENTS FOR ACQUISITION OF FINANCIAL SERVICES HOLDING COMPANIES.—No diversified holding company may acquire control of a financial services holding company unless, after the acquisition, such company is a Zone 1 financial services holding company.

"(b) NOTICE PROVISION FOR DIVERSIFIED HOLDING COMPANIES.—A diversified holding company that acquires the shares of a financial affiliate, shall file notice with the appropriate Federal banking agency 30 days after the commencement of such activity or the acquisition of such shares.

"(c) LIMITATIONS ON DIVERSIFIED HOLDING COMPANIES AND THEIR AFFILIATES.—

"(1) Except in the case of a foreign bank, no financial services holding company or any of its subsidiaries shall—

"(A) extend credit in any manner to an affiliated diversified holding company or any of its affiliates not otherwise under the control of a financial services holding company;

"(B) purchase for its own account financial assets or any securities of an affiliated diversified holding company or any of its affiliates not otherwise under the control of a financial services holding company;

"(C) issue a guarantee, acceptance or letter of credit, including an endorsement or standby letter of credit, to an affiliated diversified holding company or any of its affiliates not otherwise under the control of a financial services holding company; or

"(D) extend credit to any customer of the diversified holding company or any of its affiliates except on an arms-length basis in compliance with section 23B of the Federal Reserve Act (12 U.S.C. 371c–1).

"(2) To the extent that activities are not prohibited under paragraph (1), the restrictions and limitations issued by the appropriate Federal banking agencies pursuant to section 4(*l*) shall apply to diversified holding companies and their financial affiliates that are not otherwise controlled by an affiliated financial services holding company in the same manner and to the same extent as if the diversified holding company were a financial services holding company.

"(3) A diversified holding company and any of its affiliates that are engaged in the purchase and sale of real property, as principal, agent or broker, may not market such service jointly with any affiliated insured depository institution unless such insured depository institution is permitted under State law to engage in such purchase or sale of property.

"(4) A diversified holding company that either directly or through an affiliate (not otherwise under the control of an affiliated financial services holding company) provides insurance as principal, agent or broker, may not permit an affiliated insured depository institution or a subsidiary thereof to provide insurance as agent or broker, including insurance in which the diversified holding company or such affiliate acts as principal, agent or broker, unless the laws of the State in which the insured depository institution is located permit depository institutions chartered by such State to provide insurance as agent or broker in that State and as permitted for national banks.

"(5) In the case of a foreign bank that is a financial services holding company, the appropriate Federal banking agency shall apply the restrictions in paragraph (1) to the United States affiliates of such foreign bank and the foreign bank in the same manner and to the same extent as they apply to domestic financial services holding companies and their affiliates.".

SEC. 205. ADMINISTRATION.

The Bank Holding Company Act of 1956, is amended by inserting after section 5 the following new section:

"SEC. 6. ADMINISTRATION.

"(a) Registration of Financial Services Holding Company.—Within 180 days after becoming a financial services holding company, each financial services holding company shall register with the appropriate Federal banking agency on forms prescribed by the appropriate Federal banking agency, which shall include such information with respect to the financial condition and operations, management, and inter-company relationships of the financial services holding company and its subsidiaries, and related matters, as the appropriate Federal banking agency may deem necessary or appropriate to carry out the purposes of this Act. The appropriate Federal banking agency may, in its discretion, extend the time within which a financial services holding company shall register and file the requisite information.

"(b) Regulations and Orders.—

"(1)(A) Except as provided in subparagraph (B), the appropriate Federal banking agency is authorized to issue such regulations and orders as may be necessary to enable it to administer and carry out the purposes of this Act and prevent evasions thereof: *Provided, however*, That any capital requirements for diversified holding companies or financial services holding companies shall only be imposed pursuant to subsection (e) of this section or section 35 of the Federal Deposit Insurance Act.

"(B) Any capital requirements for diversified holding companies or financial services holding companies shall be imposed only pursuant to subsection (c) or section 35 of the Federal Deposit Insurance Act.

"(2) Notice and objection.—

"(A) The appropriate Federal banking agencies shall jointly propose and issue regulations for the purpose of implementing this Act. Such regulations shall be adopted and published as final before January 1, 1993.

"(B) Following issuance of the regulations described in subparagraph (A), the appropriate Federal banking agencies shall provide at least 60 days notice to each other with respect to the proposed adoption, modification, or rescission of any rule, interpretation, or policy statement relating to diversified or financial services holding companies and their nonbank affiliates.

"(C)(i) The reviewing appropriate Federal banking agency may, within 60 days, submit comments or written objection to the proposing appropriate Federal banking agency.

(ii) The proposing appropriate Federal banking agency may not proceed to adopt, modify, or rescind any such rule, interpretation, or policy statement if such agency receives written objection from the reviewing appropriate Federal banking agency within 60 days after providing notice to such agency and such objection is not subsequently withdrawn by the reviewing agency.

(c) Records, Reports and Examinations.—

"(1) Records and reports.—

"(A) Records relating to diversified holding companies.—A financial services holding company shall obtain such information and make and keep such records as the appropriate Federal banking agency may prescribe concerning the financial services holding company's policies and procedures for monitoring and controlling financial and operational risks to its insured depository institution subsidiaries from the activities of the diversified holding company or its financial affiliates that are not controlled by the financial services holding company. Such records shall describe the activities conducted by the diversified holding company and such financial affiliates that are likely to have a material impact on the financial or operational condition of the insured depository institution subsidiaries of the financial services holding company, and the customary sources of capital and funding of such activities.

"(B) Reports of financial services holding company and depository institutions.—The appropriate Federal banking agency from time to time may require the financial services holding company and its insured depository institution subsidiaries to file reports under oath to keep it informed as to whether the provisions of this Act and such regulations and orders issued thereunder have been complied with. With regard to insured depository institutions controlled by a financial services holding company, the appropriate Federal banking agency shall consult with and, to the extent possible, use reports obtained by, the other appropriate Federal banking agency for such institutions.

"(C) Reports of financial services holding companies and affiliates.—The appropriate Federal banking agency may require a financial services holding company, and any affiliate it controls, to file reports if such agency reasonably believes that the activities or financial condition of such holding company or affiliate is likely to have a material impact on the financial or operational condition of any insured depository institution subsidiary (and a subsidiary thereof) of the financial services holding company. The appropriate Federal banking agency shall consult with and, to the extent possible, use reports obtained by, the functional regulator of the financial services holding company or affiliate to obtain the necessary information.

"(D) Reports of Diversified Holding Companies and Financial Affiliates.—The appropriate Federal banking agency may require a diversified holding company and any financial affiliate not controlled by a financial services holding company to file reports if such agency reasonably believes that the activities or financial condition of such diversified holding company or financial affiliate is likely to have a material impact on the financial or operational condition of the insured depository institution subsidiaries (and subsidiaries thereof) of the financial services holding company. The appropriate Federal banking agency shall consult with and, to the extent possible, use reports obtained by, the functional regulator of the diversified holding company or financial affiliate to obtain the necessary information.

"(E) Reciprocal Access.—The functional regulator of a diversified holding company or a financial affiliate may have access on a reciprocal basis to reports, other than examination reports, obtained by the appropriate Federal banking agency under this subsection with respect to an affiliated insured depository institution or financial services holding company, if the functional regulator reasonably believes that the activities or financial condition of such institution or financial services holding company is likely to have a material impact on the financial or operational condition of the financial affiliate. The other appropriate Federal banking agency of an insured depository institution may have access on a reciprocal basis to reports, other than examination reports, obtained by the appropriate Federal banking agency under this subsection with respect to any affiliate of the insured depository institution, if the other appropriate Federal banking agency reasonably believes that the activities or financial condition of such affiliate or company is likely to have a material impact on the insured depository institution.

"(F) Restriction on Disclosure.—Any reports obtained from another agency or regulator under this subsection shall not be disclosed to the public by the recipient agency or regulator and shall not be disclosed to any other governmental agency or to the Congress except as otherwise permitted by law. Reports obtained from another agency or regulator under this subsection may be used only to carry out the purposes of this subsection or as otherwise permitted by law.

"(2) Examinations.—

"(A) Financial Services Holding Companies and Depository Institutions.—The appropriate Federal banking agency may make on-site examinations of each financial services holding company, its insured depository institution subsidiaries (and subsidiaries thereof) and, subject to subparagraphs (8) through (E), any of its other affiliates. where appropriate, the appropriate Federal banking agency shall consult with, and to the extent possible, use the report of examination made by the other appropriate Federal banking agency or the appropriate State bank supervisory authority.

"(B) Financial Services Holding Companies and Affiliates.—The appropriate Federal banking agency may examine the financial services holding company and any affiliate it controls—

"(i) to determine whether such holding company or affiliate is engaged in a particular transaction that would violate, directly or indirectly, the restrictions prescribed in sections 4(1) and 5(c);

"(ii) to determine compliance with sections 35(f) and 35(g) of the Federal Deposit Insurance Act, as applicable; or

"(iii) if the agency reasonably believes that such holding company or affiliate is engaged in a particular transaction or course of conduct that directly or indirectly may constitute a material risk to any insured depository institution subsidiary (or a subsidiary thereof).

The appropriate Federal banking agency shall consult with and, to the extent possible, use the report of examinations made by the functional regulator, if any, of an affiliate to obtain the necessary information. If such reports do not contain the necessary information, the appropriate Federal banking agency shall request the functional regulator to conduct an examination to obtain such information. In the event the functional regulator does not conduct an examination within a reasonable period of time, the appropriate Federal banking agency may conduct the examination, but shall notify the functional regulator before doing so.

"(C) DIVERSIFIED HOLDING COMPANIES AND FINANCIAL AFFILIATES.—The appropriate Federal banking agency may examine the diversified holding company and any financial affiliate not controlled by a financial services holding company—

"(i) to determine whether such holding company or affiliate is engaged in a particular transaction that would violate, directly or indirectly, the restrictions prescribed in sections 4(l) and 5(c);

"(ii) to determine compliance with sections 35(f) and 35(g) of the Federal Deposit Insurance Act, as applicable; or

"(iii) if the agency reasonably believes that such holding company or affiliate is engaged in a particular transaction or course of conduct that directly or indirectly may constitute a material risk to any insured depository institution subsidiary (or a subsidiary thereof).

The appropriate Federal banking agency shall consult with and, to the extent possible, use the report of examinations made by the functional regulator, if any, of the diversified holding company or financial affiliate to obtain the necessary information. If such reports do not contain the necessary information, the appropriate Federal banking agency shall request the functional regulator to conduct an examination to obtain such information. In the event the functional regulator does not conduct an examination within a reasonable period of time, the appropriate Federal banking agency may conduct the examination, but shall notify the functional regulator before doing so.

"(D) RECIPROCAL EXAMINATION OF INSURED DEPOSITORY INSTITUTION AFFILIATES CONTROLLED BY FINANCIAL SERVICES HOLDING COMPANIES.—The functional regulator for a financial affiliate may examine an insured depository institution affiliate if the regulator reasonably believes that such institution is engaged in a particular transaction or course of conduct that directly or indirectly may constitute a material risk to the financial affiliate. The functional regulator shall consult with, and, to the extent possible, use the report of examinations made by, the appropriate Federal banking agency to obtain the necessary information. If such report does not contain the necessary information, the functional regulator shall request the appropriate Federal banking agency to conduct an examination to obtain such information. In the event the appropriate Federal banking agency does not conduct an examination within a reasonable period of time, the functional regulator may conduct the examination and shall notify the appropriate Federal banking agency before doing so.

"(E) NONFINANCIAL AFFILIATES OF A DIVERSIFIED HOLDING COMPANY.—The appropriate Federal banking agency may examine any of the nonfinancial affiliates of a diversified holding company in order to determine whether such affiliate is engaged in a particular transaction that would violate, directly or indirectly, the restrictions prescribed in section 5(c).

"(F) COST OF EXAMINATIONS.—The cost of examinations of a diversified holding company and any affiliate of a diversified holding company not controlled by a financial services holding company shall be assessed against, and paid by, the diversified holding company or the affiliate, whichever is the subject of the examination. The cost of examinations of a financial services holding company and its subsidiaries shall be assessed against, and paid by, the financial services holding company.

"(d) TRANSFER OF RECORDS.—No agency or department transferring records as provided by this section shall be deemed to have waived any privilege applicable to those records under law.

"(e) REPORT TO THE CONGRESS; RECOMMENDATIONS.—Each appropriate Federal banking agency shall include in its annual report to the Congress, the results of the administration of this Act, stating what, if any, substantial difficulties have been encountered in carrying out the purposes of this Act, and any recommendations as to changes in the law which in the opinion of the appropriate Federal banking agency would be desirable.

"(f) Cease and desist authority; termination of activities or ownership or control of nonbank subsidiaries constituting serious risk.—

"(1) In addition to any other authority of the appropriate Federal banking agency, the appropriate Federal banking agency may take any action described in paragraph (2) if it has reasonable cause to believe that—

"(A) any financial affiliate of an insured depository institution, or any other affiliate controlled by a financial services holding company, is engaged in activities in such a manner as to constitute a serious risk to the financial safety, soundness, or stability of such insured depository institution; or

"(B) the diversified holding company, the financial services holding company controlled by the diversified holding company, or any affiliate is in significant danger of default and either poses a significant risk to the liquidity or solvency of an affiliated insured depository institution or is likely to cause a significant dissipation of its assets or earnings.

"(2) Subject to paragraph (1), the appropriate Federal banking agency—

"(A) may institute cease and desist proceedings or issue a temporary order requiring the diversified holding company or financial services holding company controlled by the diversified holding company or affiliate thereof engaged in qualified financial activities to cease and desist from such activity and take affirmative action to prevent significant dissipation of assets or earnings, of an insured depository institution as prescribed in section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818);

"(B) may institute cease and desist proceedings or issue a temporary order requiring a financial services holding company described in paragraph (1)(B) to increase its capital; and

"(C) in the event the diversified holding company or the financial services holding company controlled by the diversified holding company or the affiliate thereof does not comply with the order issued pursuant to subparagraph (A) or (B), may order the diversified holding company or such financial services holding company or any such affiliate, after due notice and opportunity for hearing and after considering the views of the insured depository institution's associated Federal banking agency and the appropriate State authority in the case of a State-insured depository institution, to terminate (within 120 days, or such longer period as the appropriate Federal banking agency may direct in unusual circumstances) its ownership or control of any such affiliate either by sale to any third party or by distribution of the shares of the affiliate to the shareholders of the diversified holding company or financial services holding company. Such distribution shall be pro rata with respect to all of the shareholders of the distributing diversified holding company or financial services holding company, and such holding company shall not make any charge to its shareholders arising out of such a distribution.

"(3) The appropriate Federal banking agency may in its discretion apply to the United States district court within the jurisdiction of which the principal office of the holding company is located, for the enforcement of any effective and outstanding order issued under this section, and such court shall have jurisdiction and power to order and require compliance therewith, but except as provided in section 9 of this Act, no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order under this section, or to review, modify, suspend, terminate, or set aside any such notice or order.

"(g)(1) In the course of or in connection with an application, examination, investigation or other proceeding under this Act, the appropriate Federal banking agency, or any member or designated representative thereof, including any person designated to conduct any hearing under this Act, shall have the power to administer oaths and affirmations, to take or cause to be taken depositions, and to issue, revoke, quash, or modify subpoenas including witness subpoenas and subpoenas duces tecum; and the appropriate Federal banking agency is empowered to make rules and regulations to effectuate the purposes of this subsection.

"(2) The attendance of witnesses and the production of documents provided for in this subsection may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place where such proceeding is being conducted. A subpoena issued under this section may be served upon any person who is not found within the territorial jurisdiction of any court in the United States in such manner as the Federal Rules of Civil Procedure prescribe for service of process in a foreign country, except that a subpoena to be served on a person who is not to be found in the United States may be issued only on the prior approval of the appropriate Federal banking agency. Any party to proceedings under this Act may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district or the United States court in any territory in which such proceeding is being conducted or where the witness resides or carries on business, for the enforcement of any subpoena or subpoena duces tecum issued pursuant to this subsection, and such court shall have jurisdiction and power to order and require compliance therewith. Witnesses subpoenaed under this subsection shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States.

"(3) Any service required under this subsection in any State or in any territory or other place subject to the jurisdiction of the United States may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the appropriate Federal banking agency may by regulation or otherwise provide, and all process in any such case may be served in the judicial district wherein such person is an inhabitant or transacts business or wherever such person may be found. Any court having jurisdiction of any proceeding instituted under this subsection may allow to any such party such reasonable expenses and attorneys' fees as it deems just and proper.

"(4) Any person who willfully fails or refuses to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records in obedience to the subpoena of the appropriate Federal banking agency shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for a term of not more than one year or both.".

SEC. 206. RESERVATION OF RIGHTS TO STATES; PRE-EMPTION OF ANTI-AFFILIATION PROVISIONS.

Section 7 of the Bank Holding Company Act of 1956 (12 U.S.C. 1846) is amended to read as follows:

"SEC. 7. RESERVATION OF RIGHTS TO STATES; ANTI-AFFILIATION PROVISIONS.

"(a) No provision of this Act shall be construed as preventing any State from exercising such powers and jurisdiction which it now has or may hereafter have with respect to companies, banks, diversified holding companies, financial services holding companies, and subsidiaries thereof.

"(b)(1) Notwithstanding subsection (a), no provision of law of any State, including, without limitation, any provision relating to the business of insurance, banking (including any law relating to savings associations as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813), real estate, securities, finance, retail or other law regulating the provisions of financial or other services, shall prevent or impede or shall be interpreted or applied by any administrative, executive, or judicial authority with the purpose or effect of preventing or impeding—

"(A) any insured depository institution, any affiliate thereof or any representative of any such institution or affiliate thereof from being acquired, owned or controlled by, or from being affiliated in any manner with, any company which is or becomes a financial services holding company or with any affiliate of such company because of the types of activities engaged in directly or indirectly by such insured depository institution or any affiliate thereof, or by any representative of any such institution or affiliate thereof or because of the types of activities engaged in directly or indirectly by any such company or affiliate thereof, or by any representative of any such company or affiliate thereof;

"(B) any company which is or becomes a financial services holding company or affiliate thereof, or any representative of any such company or affiliate thereof, from acquiring, owning, or controlling or being affiliated in any way with any insured depository institution or affiliate thereof because of the types of activities engaged in directly or indirectly by any such company or affiliate thereof, or any representative of any such company or affiliate thereof, or because of the types of activities engaged in directly or indirectly by any such insured depository institution or affiliate thereof, or by any representative of such institution or affiliate thereof; or

"(C) any insured depository institution or any affiliate thereof, or any representative of any such institution or affiliate thereof, from offering or marketing products or services of any affiliated financial services holding company or affiliate thereof or from having its products or services offered or marketed by any affiliate thereof, or by any representative of such company or affiliate—

"(i) except as provided in sections 4(c)(16)(B) and 5(c)(3) and 5(c)(4); and

"(ii) except with regard to offering and marketing insurance pursuant to section 4(c)(8).

Nothing in this subparagraph shall exempt any company which is or becomes a financial services holding company or an affiliate thereof, or any representative of any such company or affiliate, from complying with, or shall annul, alter, or affect the application of, the laws of any State relating to the examination, supervision, or regulation of providers of financial services or the protection of consumers, except to the extent that the intent, purpose or effect of those laws is inconsistent with this subsection or with the purposes of this Act and then only to the extent of the inconsistency.

"(2) For purposes of this subsection, an insured depository institution includes a branch, agency, or commercial lending company subsidiary of a foreign bank, as those terms are defined in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

SEC. 207. PENALTIES.

Section 8 of the Banking Holding Company Act of 1956 (12 U.S.C. 1847) is amended—

(1) by striking "the Board" wherever it appears and inserting instead "an appropriate Federal banking agency";

(2) by striking "bank holding company" wherever it appears and inserting instead "financial services holding company";

(3) in subsection (a)(2), by striking "profit significantly" and inserting instead "obtain anything of value";

(4) in section (a), by striking "Every officer, director, agent" and all that follows in the undesignated last paragraph;

(5) in subsection (b)(1), by striking "forfeit and"; and

(6) in paragraphs (1) through (4) of subsection (d), by inserting "civil" before "penalty".

SEC. 208. CONFORMING AMENDMENTS TO JUDICIAL REVIEW PROVISION.

Section 9 of the Bank Holding Company Act of 1956 (12 U.S.C. 1848) is amended—

(1) by striking "the Board" wherever it appears and inserting instead "an appropriate Federal banking agency"; and

(2) by striking "Board's order" and inserting instead "order of an appropriate Federal banking agency".

SEC. 209. ANTITRUST REVIEW.

(a) ANTITRUST REVIEW.—Section 11(b) (1) of the Bank Holding Company Act (12 U.S.C. 1849(b) (1)) is amended by inserting ", except that such period may be eliminated or reduced with the concurrence of the Attorney General" before the period at the end of the third sentence.

(b) CONFORMING AMENDMENTS.—Section 11 of the Bank Holding Company Act of 1956 (12 U.S.C. 1849) is further amended—

(1) by striking "Board" wherever it appears and inserting instead "appropriate Federal banking agency";

(2) by striking "bank holding company" wherever it appears and inserting instead "financial services holding company"; and

(3) in subsection (b)(1)—

(A) by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision";

(B) by striking "Board's approval" and inserting instead "approval of the appropriate Federal banking agency"; and

(C) by striking "failure of a bank" and inserting instead "failure of an insured depository institution".

(c) AMENDMENT TO THE FEDERAL DEPOSIT INSURANCE ACT.—Section 18(c)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(6)) is amended by inserting ", except that such period may be eliminated or reduced with the concurrence of the Attorney General" before the period at the end of the third sentence.

SEC. 210. TECHNICAL AMENDMENT.

Section 1 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 note) is amended by striking "Bank Holding Company Act of 1956" and inserting instead "Financial Services Holding Company Act of 1991".

SEC. 211. EFFECTIVE DATE.

Sections 201 through 210 shall become effective on January 1, 1993, except that section 4(c)(8)(A)(ii) of the Bank Holding Company Act of 1956, as added by section 203(a)(3) of this title, shall be effective on the date of enactment of this Act.

SEC. 212. APPLICATION OF THE LIMITATIONS ON TYING ARRANGEMENTS AND INSIDER LENDING TO FINANCIAL SERVICES HOLDING AND DIVERSIFIED HOLDING COMPANIES.

(a) DEFINITIONS.—Section 106(a) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1971) is amended by deleting "bank holding company" and inserting instead "financial services holding company and diversified holding company".

(b) CERTAIN TYING ARRANGEMENTS PROHIBITED.—Section 106(b) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(b)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following:

"(2) (A) A financial services holding company and any subsidiary (other than a bank) of such holding company and a diversified holding company and any subsidiary (other than a bank) of such holding company shall not in any manner extend credit, lease, or sell property of any kind, or furnish any service or fix or vary the consideration for any of the foregoing, on the condition or requirement that the customer shall obtain credit, property or service from an affiliated bank except as provided in subparagraph (B).

"(B) A financial services holding company and any subsidiary (other than a bank) of such holding company and a diversified holding company and any subsidiary (other than a bank) of such holding company may vary the consideration—

"(i) for any extension of credit, lease or sale of property of any kind, or the furnishing of any service on the condition or requirement that the customer shall obtain some credit, property, or service from an affiliated bank provided that the products or services offered to and obtained by the customer are also separately available to such customer on substantially the same terms, including interest rate, collateral, and cost, as those prevailing at the time for comparable transactions that are not subject to such conditions or requirements; or

"(ii) for any loan, discount, deposit, or trust service on the condition or requirement that the customer shall obtain a loan, discount, deposit or trust service from an affiliated bank provided that such products or services described in this subparagraph are also separately available to such customer.

"(C) The Board may adopt such regulations to carry out the purposes of this paragraph which may include such restrictions or limitations regarding subparagraph (B) as it deems necessary or appropriate in the public interest.".

(c) INSIDER LOANS.—Sections 22(h)(6)(C) and (D) of the Federal Reserve Act (12 U.S.C. 375b(6)(C) and (D)) are each amended—

(1) by striking "bank holding company" wherever it appears and inserting instead "financial services holding company and diversified holding company"; and

(2) by striking "Bank Holding Company Act of 1956" wherever it appears and inserting instead "Financial Services Holding Company Act of 1991".

SEC. 213. PROVISIONS EXEMPTING FINANCIAL SERVICES HOLDING COMPANIES FROM THE SAVINGS AND LOAN HOLDING COMPANY ACT.

Section 10(a) of the Home Owners' Loan Act (12 U.S.C. 1467a(a)) is amended—

(1) in paragraph (1), by amending subparagraph (D) to read as follows:

"(D) SAVINGS AND LOAN HOLDING COMPANY.—

"(i) Except as provided in clause (ii), the term 'savings and loan holding company' means any company which directly or indirectly controls a savings association or controls any other company which is a savings and loan holding company.

"(ii) No company which is a financial services holding company or a diversified holding company registered under and subject to the provisions of the Financial Services Holding Company Act of 1991, other than a company described in section 4(f) of such Act (12 U.S.C. 1843(f)), and no company controlled by such company, shall be deemed to be a savings and loan holding company."; and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) EXEMPTION FOR FINANCIAL SERVICES HOLDING COMPANIES AND DIVERSIFIED HOLDING COMPANIES.—The provisions of this section shall not apply to any company that is a financial services holding company or a diversified holding company registered under, and subject to, the provisions of the Financial Services Holding Company Act of 1991, other than companies described in section 4(f) of such Act (12 U.S.C. 1843(f)), or to any company directly or indirectly controlled by such company (other than a savings association).".

Subtitle B—Financial Activities of National Banks

SEC. 221. AMENDMENTS TO THE BANKING ACT OF 1933.

(a) Paragraph Seventh of section 5136 of the Revised Statutes (12 U.S.C. 24 (Seventh)) is amended by adding at the end thereof the following:

"If an association is not an affiliate of a securities affiliate (as the terms 'affiliate' and 'securities affiliate' are defined in section 2 of the Financial Services Holding Company Act of 1991 (12 U.S.C. 1841)), the limitations and restrictions contained in this paragraph as to dealing in, underwriting, and purchasing securities for its own account shall not apply to the distribution of securities issued by investment companies (as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-3)): *Provided*, That, notwithstanding any other provision of law (including this section), an association shall not in the United States, pursuant to any express or incidental power, underwrite, distribute, or sell interests in a pool of assets originated or purchased by the association or its affiliate, and an association shall not continue to engage in such activity pursuant to any order issued by the Comptroller of the Currency: *Provided further*, That no association shall sponsor, organize or control an investment company registered under the Investment Company Act of 1940: *Provided further*, That no association shall engage in the United States in any securities activity except to the extent that such activity is specifically authorized by statute, or authorized by regulation, order, or interpretation issued by the Office of the Comptroller of the Currency or its successor pursuant to that statute, on the date of enactment of the Financial Institutions Safety and Consumer Choice Act of 1991, provided that this shall not authorize the underwriting or distributing by an association of securities backed by or representing an interest in mortgages or other assets originated or purchased by the association or its affiliate.".

(b) Section 20 (12 U.S.C. 377) and section 32 (12 U.S.C. 78) of the Banking Act of 1933 are repealed.

SEC. 222. INSURANCE ACTIVITIES OF NATIONAL BANKS.

(a)(1) In addition to the powers vested by law in national banking associations, any such association located in a place that has a population not exceeding 5,000 (as shown by the preceding decennial census) may sell insurance so long as such insurance activities are confined to that place, and the insurance is sold only to residents of the State in which the association is located or to natural persons employed in that State: *Provided*, That no such association shall in any case assume or guarantee the payment of any premium on insurance policies issued through its agency by its principal: *Provided further*, That the association shall not guarantee the truth of any statement made in any application made for such insurance.

(2) For purposes of this subsection, the term 'residents of that State' includes—

(A) companies incorporated in, or organized under the laws of, the State;

(B) companies licensed to do business in the State; and

(C) companies having an office in the State.

(b) Notwithstanding the limitations in subsection (a), a national banking association organized under the laws of the United States may act as agent in soliciting and selling insurance and collecting premiums in one or more States in which such association or any of its branches is located to the extent to which such activities are permitted by such States for banks located in those States.

(c) Chapter 461 of the Act of September 7, 1916 (39 Stat. 753; 12 U.S.C. 92 note), as amended, is further amended by striking "That in addition to the powers now vested by law in national banking associations" and all that follows through "filing his application for insurance.".

SEC. 223. AMENDMENTS TO SECTIONS 23A AND 23B OF THE FEDERAL RESERVE ACT.

(a) Section 23A of the Federal Reserve Act (12 U.S.C. 371c) is amended—

(1) in subsection (a)—

(i) in paragraph (2), by striking the period at the end thereof and inserting instead ": Provided, however, That notwithstanding the foregoing, a loan or extension of credit shall not be deemed to be made to any affiliate if—

"(A) the member bank approves such loan or extension of credit in accordance with substantially the same standards, procedures, and terms that it has applied to similar loans or extensions of credit the proceeds of which are not transferred to or for the benefit of an affiliate; and

"(B) such loan or extension of credit is not made for purposes of evading any of the requirements of this section."; and

(ii) by inserting at the end thereof the following new paragraph:

"(5) No financial services holding company shall permit an insured depository institution that it controls to engage in any covered transaction if such covered transaction exceeds 5% of the capital stock and surplus of the insured depository institution unless 5 days prior notice is provided to the appropriate Federal banking agency for the financial services holding company and for the insured depository institution, if different;"

(2) in subsection (b)(1)(D), by amending clause (ii) to read as follows:

"(ii) any investment company, commodity pool, or other company engaged in substantially the same activities as an investment company or commodity pool with respect to which a member bank or any affiliate is an investment advisor as defined in section 2(a)(20) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(20)), commodity trading advisor as defined in section 2(a)(1)(A) of the Commodity Exchange Act (7 U.S.C. 2(a)(1)(A)), or performs substantially equivalent activities which are substantially equivalent to those of an investment advisor or commodity trading advisor; and";

(3) in subsection (b)(2)(A), by inserting "and of which the member bank owns at least 80 per centum of the voting stock" after "member bank";

(4) in subsection (b)(5), by inserting "principally engaged in deposit taking or lending activities" after "trust company";

(5) in subsection (b)(7)—

(A) in subparagraph (D), by striking "or" at the end thereof;

(B) in subparagraph (E)—

(i) by inserting "to, or" after "standby letter of credit,"; and

(ii) by striking "or" at the end thereof; and

(C) by inserting after subparagraph (E) the following new subparagraphs:

"(F) the assumption by a member bank of a liability of any affiliate whether directly or through the transfer of such liability to the member bank of any affiliate;

"(G) a loan or extension of credit to any company, or the issuance of or participation in a standby letter of credit, asset purchase agreement, indemnification, guarantee, insurance or other facility with any company, the purpose of which is to enhance the marketability of securities or other obligations or assets, other than those securities that a member bank may underwrite pursuant to section 5136 of the Revised Statutes (12 U.S.C. 24 (Seventh)), that are underwritten or distributed by the affiliate, unless there is substantial participation by other lenders in such loan, extension of credit, letter of credit, agreement, indemnification, guarantee, insurance or other facility; or

"(H) any other financial arrangement that is determined by the Board by regulation to be substantially equivalent to a transaction described in this paragraph;";

(6) in subsection (c)(1)—

(A) by inserting "to, or" after "letter of credit issued"; and

(B) by striking "at the time of the transaction"; (7) in subsection (c)(4)—

(A) by inserting "the member bank or" after "issued by"; and

(B) by inserting "to, or" after "letter of credit"; and

(8) in subsection (d)(5), by inserting "provided that the company provides services solely to affiliated member banks" before the semicolon;

(b) Section 23B(a)(2)(E) of the Federal Reserve Act (12 U.S.C. 371c-1(a)(2)(E)) is amended—

(1) in clause (i), by striking ", or" and inserting instead a semicolon;

(2) in clause (ii), by striking the period and inserting instead "; or"; and

(3) by inserting at the end thereof the following new clause:

"(iii) if the third party is a customer of an affiliate (as defined in section 2 of the Financial Services Holding Company Act of 1991 (12 U.S.C. 1841) unless—

"(I) the member bank approves such transaction in accordance with substantially the same standards, procedures, and terms that it has applied to similar transactions with persons who are not customers of an affiliate; and

"(II) such transaction or series of transactions is not made for the purpose of evading any of the requirements of this section.".

(c) Section 23B(b)(2) of the Federal Reserve Act (12 U.S.C. 371c–1(b)(2)) is amended by inserting "officers, directors, or employees of" after "of the bank or".

SEC. 224. CUSTOMER DISCLOSURE.

Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end thereof the following new subsection:

"(o) CUSTOMER DISCLOSURE REGARDING SECURITIES, INSURANCE AND OTHER NONBANKING PRODUCTS.—

"(1) PRODUCTS OFFERED, RECOMMENDED OR SOLD BY DEPOSITORY INSTITUTIONS.—An insured depository institution shall prominently disclose in writing to its customers pursuant to regulations adopted by the appropriate Federal banking agencies, that securities or insurance products offered, recommended, or sold by the insured depository institution are not deposits, are not insured by the Federal Deposit Insurance Corporation, are not guaranteed by the insured depository institution or an affiliated insured depository institution, and are not otherwise an obligation of an insured depository institution unless such is the case.

"(2) PRODUCTS OFFERED, RECOMMENDED OR SOLD ON BANK PREMISES OR THROUGH JOINT MARKETING ACTIVITIES.—An insured depository institution shall not permit securities or insurance products to be offered, recommended, or sold on bank premises, or to bank customers as part of joint marketing activities with another entity; unless the entity prominently discloses in writing that it is not an insured institution and is separate from the insured depository institution in addition to the disclosures required in paragraph (1).

"(3) CUSTOMER ACKNOWLEDGEMENT OF DISCLOSURES.—No insured depository institution shall permit the sale of securities or insurance products to be consummated unless an acknowledgement of receipt of the disclosures described in paragraphs (1) and (2) including the date of receipt and the customer's name, address and account number is obtained from the customer.

"(4) REGULATIONS.—The appropriate Federal banking agencies may adopt regulations implementing this subsection and applying these provisions to nonbank products sold in a similar manner.".

SEC. 225. BANKERS' BANKS.

(a) Section 5136 (Seventh) of the Revised Statutes (12 U.S.C. 24(Seventh)), as amended by section 221(a), is further amended by inserting "or their holding companies" after "providing services for other depository institutions".

(b) Section 5169(b)(1) of the Revised Statutes (12 U.S.C. 27(b)(1)) is amended by inserting "or their holding companies" after "other depository institutions" the second time it appears.

Subtitle C—Non-Banking Activities of Foreign Banks in the United States

SEC. 231. AMENDMENTS TO THE INTERNATIONAL BANKING ACT OF 1978.

(a) Section 8 of the International Banking Act of 1978 (12 U.S.C. 3106) is amended—

(1) by amending subsection (a) to read as follows:

"(a)(1)(A) Except as otherwise provided in this section, any foreign bank—

"(i) that maintains a branch or agency in the United States, or

"(ii) that directly or indirectly owns or controls a commercial lending company organized under State law,

shall be subject to the provisions of the Financial Services Holding Company Act of 1991 (12 U.S.C. 1841 *et seq.*) and to sections 105 and 106 of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1850, 1971 *et seq.*) in the same manner and to the same extent as a financial services holding company.

"(B) Any company that directly or indirectly owns or controls a foreign bank described in subparagraph (A) shall be subject to the provisions of the Financial Services Holding Company Act of 1991 (12 U.S.C. 1841 *et seq.*) in the same manner and to the same extent as a company that owns or controls a financial services holding company.

"(C)(i) Notwithstanding subparagraphs (A) and (B), no foreign bank or company described in this subsection shall, by reason of this subsection alone, be deemed to be a financial services holding company or a company that controls a financial services holding company for purposes of section 3 of the Financial Services Holding Company Act of 1991 (12 U.S.C. 1842).

"(ii) Notwithstanding clause (i), a foreign bank or company described in this subsection that seeks to acquire, directly or indirectly, more than five percent of the shares of an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) other than a foreign bank, must obtain the prior approval of such acquisition by the appropriate Federal banking agency under section 3 of the Financial Services Holding Company Act of 1991 (12 U.S.C. 1842) as if the foreign bank or company were a financial services holding company or a company that owns or controls a financial services holding company.

"(2) Except as provided in paragraph (3), after January 1, 1993, no foreign bank or company referred to in paragraph (1) shall, directly or indirectly, maintain in the United States a branch, an agency, an insured depository institution, or a commercial lending company, if such foreign bank or company also directly or indirectly engages in the United States in—

"(A) any activity authorized under section 4(c)(8) of the Financial Services Holding Company Act of 1991 (12 U.S.C. 1843(c)(8)) after the date of enactment of that Act, other than any activity that, prior to the date of enactment of that Act, had been determined by the Board to be closely related to banking and a proper incident thereto by an order or regulation that was valid on the date of enactment of that Act, or

"(B) any activity authorized under section 4(c)(15) or 4(c)(16) of such Act (12 U.S.C. 1843(c)(15) or (c)(16)).

"(3) A foreign bank or company subject to the prohibition in paragraph (2) may engage in banking in the United States indirectly through direct or indirect subsidiaries of a single financial services holding company organized under the laws of a State or the District of Columbia, provided that all activities of the foreign bank or company in the United States conducted under the authority of the Financial Services Holding Company Act of 1991 (12 U.S.C. 1841 et seq.), other than those authorized by sections 2(h) or 4(c) (9) of such Act, are carried out directly or indirectly by that financial services holding company."; and (2) in subsection (c)(1)—

(A) by striking the second sentence and inserting instead "Notwithstanding the preceding sentence, no foreign bank or other company referred to in this subsection may retain, pursuant to this subsection, the ownership or control of any company engaged in the business of underwriting, distributing or otherwise buying or selling stocks, bonds, and other securities in the United States after three years from the date of enactment of the Financial Institutions Safety and Consumer Choice Act of 1991.";

(B) in the third sentence, by striking "Except in the case of affiliates described in the preceding sentence, nothing" and inserting instead "Nothing";

(C) in the fifth sentence, by striking "the term 'domestically-controlled affiliate covered in 1978'" and all that follows in such sentence and inserting instead a period; and

(D) by striking the sixth sentence.

(b) The amendments made by subsection (a) shall become effective on January 1, 1993.

SUBTITLE D—AMENDMENTS TO THE SECURITIES ACTS

SEC. 241. AMENDMENTS TO THE SECURITIES ACT OF 1933.

(a) BANK-ISSUED SECURITIES.—Section 3 (a) (2) of the Securities Act of 1933 (15 U.S.C. 77c(a)(2)), is amended—

(1) by striking out "or any security issued or guaranteed by any bank;" and

(2) by striking "a security issued or guaranteed by a bank shall not include any interest or participation in any collective trust fund maintained by a bank".

(b) SAVINGS ASSOCIATION-ISSUED SECURITIES.—Section 3(a)(5) of the Securities Act of 1933 (15 U.S.C. 77c(a)(5)) is amended to read as follows:

"(5) Any security issued by—

"(A) a farmer's cooperative organization exempt from tax under section 521 of the Internal Revenue Code of 1986 (26 U.S.C. 521);

"(B) a corporation described in section 501(c) (16) of such Code and exempt from tax under section 501(a) of such Code;

"(C) a corporation described in section 501(c)(2) of such Code and organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization or corporation described in subparagraph (A) or (C); or

"(D) a savings and loan association of Federal savings bank issued or exchanged in connection with a transaction pursuant to which a savings and loan association or Federal savings bank converts from the mutual stock form of ownership under section 5 of the Home Owners' Loan Act (12 U.S.C. 1464) or section 402 of the National Housing Act (12 U.S.C. 1725(j))

(c) TREATMENT OF CERTAIN BANK AND SAVINGS ASSOCIATION INSTRUMENTS.—Section 3 of the Securities Act of 1933 (15 U.S.C. 77c) is amended by adding at the end thereof the following new subsection:

"(d) (1) Except as hereinafter expressly provided, in those circumstances in which an interest in any of the following is otherwise deemed to be a 'security' within the meaning of section 2, the provisions of this Act shall not apply to—

"(A) a deposit account, savings account, certificate of deposit, or other deposit instrument issued by a bank or savings association,

"(B) a share account issued by a savings association if such account is insured by the Federal Deposit Insurance Corporation,

"(C) a banker's acceptance,

"(D) a letter of credit issued by a bank or savings association, or

"(E) a debit account at a bank or savings association arising from a credit card or other similar arrangement,

except that this paragraph shall not exempt from the provisions of this Act any participation in such an interest, account, certificate, instrument, acceptance, or letter of credit, other than a participation that is a direct obligation of a bank or savings association.

"(2) For purposes of this subsection, the term 'deposit' means the unpaid balance of money or its equivalent received or held by a bank or savings association in the usual course of business—

"(A) for which it has given or is obligated to give credit, either conditionally or unconditionally, to a commercial, checking, savings, time, or thrift account;

"(B) which is evidenced by its certificate of deposit, a check or draft drawn against a deposit account and certified by a bank or savings association, a letter of credit or a traveler's check, or by any other similar instrument on which the bank is liable;

"(C) which consists of nonpooled assets of individual trust funds received or held by such bank or savings association whether held in the trust department or deposited in any other department of such bank or savings association;

"(D) which is received or held by a bank or savings association for a special or specific non-investment purpose, including, without being limited to, escrow funds, funds held in security for any obligation due to the bank or savings association or others (including funds held as dealers' reserves) or for securities loaned by the bank or savings association, funds deposited by a debtor to meet maturing subscriptions to United States Government securities, funds held to meet its acceptances or letters of credit, and withheld taxes; or

"(E) which is insured by the Federal Deposit Insurance Corporation, is subject to deposit reserve requirements adopted by the Board of Governors of the Federal Reserve System, or is regulated by the Office of Depository Institution Supervision or Board of Governors of the Federal Reserve System as a deposit.".

"(3) For purposes of this subsection, the term 'savings association' shall have the meaning given in section 3 of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1813).".

(d) Exemption of Certain Holding Company Formations From Registration Under the Securities Act of 1933.—Section 4 of the Securities Act of 1933 (15 U.S.C. 77d) is amended by adding at the end thereof the following new paragraph:

"(7) transactions involving offers or sales of equity securities, in connection with the acquisition, under section 3(a) of the Financial Services Holding Company Act of 1991 (12 U.S.C. 1842(a)), of a bank by a financial services holding company, or a financial services holding company by a diversified holding company if—

"(A) the acquisition occurs solely as part of a reorganization in which a person or group of persons—

"(i) exchanges shares of a bank for shares of a newly formed financial services holding company, or shares of a financial services holding company for shares of a newly formed diversified holding company; and

"(ii) receives, after such reorganization, substantially the same proportional share interests in the newly formed financial services holding company as they held in the bank or financial services holding company, as the case may be, except for changes in shareholders' interests resulting from the exercise of dissenting shareholders' rights under State or Federal law; and

"(B) the newly formed company has substantially the same assets as its predecessor.".

(e) Technical Amendments.—

(1) Section 12(2) of the Securities Act of 1933 (15 U.S.C. 771(2)) is amended by inserting "or subsection (d)" after "subsection (a)".

(2) Section 304(a) (4) of the Trust Indenture Act of 1939 (15 U.S.C. 77ddd (a)(4)) is amended by inserting "or by section 3(d)" after "section 3(a)".

SEC. 242. AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934.

(a) Regulation of Bank Broker Activities.—Section 3 (a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)) is amended to read as follows:

"(4) Broker.—

"(A) In General.—The term 'broker' means any person engaged in the business of effecting transactions in securities for the account of others.

"(8) Exclusion of Banks.—Such term does not include a bank unless the bank publicly solicits such business or is compensated for such business by the payment of commissions or similar remuneration based on effecting transactions in securities, excluding fees calculated as a percentage of assets under management (hereinafter referred to as 'incentive compensation').

"(C) Bank Activities.—A bank shall not be deemed to be a broker because it engages in one or more of the following activities:

"(i) Enters into contractual or other arrangements with a broker or dealer registered under this Act pursuant to which the broker or dealer will offer brokerage services on or off the premises of the bank if—

"(I) such broker or dealer is clearly identified as the person performing the brokerage services;

"(II) bank employees perform only clerical or ministerial functions in connection with brokerage transactions unless such employees are qualified as registered representatives pursuant to the requirements of a self-regulatory organization;

"(III) bank employees do not receive incentive compensation for any brokerage activities unless such employees are qualified as registered representatives pursuant to the requirements of a self-regulatory organization; and

"(IV) such services are provided by the broker or dealer on a basis in which all customers are fully disclosed.

"(ii) Engages in trust activities (including effecting transactions in the course of such trust activities) permissible for national banks under section 1 of Public Law 87–722 (12 U.S.C. 92a) or for State banks under relevant State trust statutes or law (excluding securities safekeeping, self- directed individual retirement accounts, or managed agency or other functionally equivalent accounts of a bank) unless the bank—

"(I) publicly solicits brokerage business other than by advertising, in conjunction with advertising its other trust activities, that it effects transactions in securities; and

"(II) receives incentive compensation.

"(iii) Effects transactions in exempted securities, other than municipal securities, or in commercial paper, bankers' acceptances, or commercial bills.

"(iv) Effects transactions in municipal securities and does not have a securities affiliate as provided in section 4(c)(15) of the Financial Services Holding Company Act of 1991 (12 U.S.C. 1843(c)(15)).

"(v) Effects transactions as part of any bonus, profit-sharing, pension, retirement, thrift, savings, incentive, stock purchase, stock ownership, stock appreciation, stock option, dividend reinvestment, or similar plan for employees or shareholders of an issuer or its subsidiaries.

"(vi) Effects transactions as part of a program for the investment or reinvestment of bank deposit funds into any no-load open-end investment company registered pursuant to the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.) that attempts to maintain a constant net asset value per share and has an investment policy calling for investment of at least 80 percent of its assets in debt securities maturing in 13 months or less.

"(vii) Effects transactions for the account of any affiliate of the bank, as the term 'affiliate' is defined in section 2 of the Banking Act of 1933 (12 U.S.C. 221a), treating all banks as member banks for purposes of such definition.

"(viii) Effects sales—

"(I) as part of a primary offering of securities by an issuer, not involving a public offering, pursuant to section 3(b), 4(2), or 4(6) of the Securities Act of 1933 and the rules and regulations thereunder; and

"(II) exclusively to: a bank as defined in section 3(a)(2) of the Securities Act of 1933 whether acting in its individual or fiduciary capacity; an insurance company as defined in section 2(13) of the Securities Act of 1933; an investment company registered under the Investment Company Act of 1940 or a business development company as defined in section 2(a)(48) of that Act; a Small Business Investment Company licensed by the Small Business Administration; an insured institution, as defined in section 401 of the National Housing Act; an employee benefit plan within the meaning of title 1 of the Employee Retirement Security Act of 1974, if the investment decision is made by a plan fiduciary, as defined in Section 3(21) of such Act, that is a bank as defined in section 3(a)(2) of the Securities Act of 1933, or an insurance company as defined in section 2(17) of the Investment Company Act of 1940, or an investment adviser registered under the Investment Advisers Act of 1940, or if the employee benefit plan has total assets in excess of $5,000,000; an employee benefit plan as defined in section 3 of the Employee Retirement Income Security Act of 1974, established and maintained by a State, its political subdivisions, or any agency or instrumentality of a State or its political subdivisions exclusively for the benefit of its employees or their beneficiaries that is governed by fiduciary principles comparable to those contained in such Act, if (i) the plan has total assets in excess of $25,000,000, and (ii) investment decisions for the plan are made by a plan fiduciary, as defined in Section 3(21) of such Act, that is a bank as defined in section 3(a)(2) of the Securities Act of 1933, an insurance company as defined in section 2(17) of the Investment Company Act of 1940, or an investment adviser registered under the Investment Advisers Act of 1940; a corporation with total assets in excess of $50,000,000 and net worth in excess of $5,000,000, as reflected on financial statements prepared in accordance with general accepted accounting principles; an organization described in section 501(c)(3) of the Internal Revenue Code with total assets in excess of $5,000,000; a foreign bank, broker, dealer, insurance company, or government or government agency; or a natural person with a net worth exceeding $5,000,000. The dollar limitations in this clause shall be adjusted annually after December 31, 1991, by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers published monthly by the Bureau of Labor Statistics.

"(ix) Effects fewer than 1,000 transactions per year in securities other than transactions described in clauses (i) through (viii), if the bank does not have a subsidiary or affiliate registered as a broker or dealer under this Act.".

(b) Regulation of Bank Dealer Activities.—Section 3(a)(5) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(5)) is amended to read as follows:

"(5)(A) The term 'dealer' means any person engaged in the business of buying and selling securities for his own account through a broker or otherwise.

"(B) Such term does not include—

"(i) any person insofar as that person buys or sells securities for his own account, either individually or in some fiduciary capacity, but not as a part of a regular business; or

"(ii) any bank insofar as the bank—

"(I) buys and sells commercial paper, bankers' acceptances, or commercial bills, or exempted securities other than municipal securities;

"(II) buys and sells municipal securities and does not have a securities affiliate as provided in section 4(c)(15) of the Financial Services Holding Company Act of 1991; or

"(III) buys and sells securities for investment purposes for the bank or for accounts for which the bank, acting as a trustee or fiduciary, is authorized to determine the securities to be purchased or sold.".

(c) Power To Exempt From The Definitions Of Broker or Dealer.—Section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c) is amended by inserting after subsection (d) the following new subsection:

"(e) The Commission, by rule, regulation, or order, upon its own motion or upon application, may conditionally or unconditionally exempt any person or class of persons from the definitions of 'broker' or 'dealer', if the Commission finds that such exemption is consistent with the public interest, the protection of investors, and the purposes of this Act.".

(d) Requirement That Banks Falling Within the Definitions of Broker or Dealer Place Their Securities Activities in a Separate Corporate Entity.—Section 15(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(a)) is amended to read as follows:

"(a)(1) It shall be unlawful for any broker or dealer that is either a person other than a natural person or a natural person not associated with a broker or dealer that is a person other than a natural person (other than such a broker or dealer whose business is exclusively intrastate and who does not make use of any facility of a national securities exchange) to make use of the mails or any means or instrumentality of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of, any security (other than an exempted security or commercial paper, bankers' acceptances, or commercial bills) unless such broker or dealer is registered in accordance with subsection (b).

"(2) It shall be unlawful for any bank to act as a broker or dealer, except in the course of an exclusively intrastate business. This section shall not preclude a subsidiary of a bank or an affiliate of a financial services holding company other than a bank, as those terms are defined in the Financial Services Holding Company Act of 1991 (12 U.S.C. 1841 et seq.), that is registered in accordance with subsection (b) from acting as a broker or dealer to any extent otherwise permissible by law.

"(3) The Commission, by rule or order, as it deems consistent with the public interest and the protection of investors, may conditionally or unconditionally exempt from paragraphs (1) and (2) any broker or dealer or class of brokers or dealers specified in such rule or order.".

(e) Regulation of Transactions in Certain Securities on Bank Premises.—Section 15 of the Securities and Exchange Act of 1934 (15 U.S.C. 78o) is amended by inserting after subsection (e) the following new subsection:

"(f)(1) No bank may permit any evidence of indebtedness of, or ownership interest in, any affiliate of such bank to be sold or offered for sale to the general public in any part of any office (other than an office which is not located within any State) of such bank which is commonly accessible to the general public for the purpose of accepting deposits.

"(2) No bank may permit any evidence of indebtedness of, or ownership interest in, such bank to be sold or offered for sale to the general public in any part of any office (other than an office which is not located within any State) of such bank which is commonly accessible to the general public for the purpose of accepting deposits.

"(3) Exceptions.—

"(A) Registered Brokers and Dealers.—This subsection shall not apply to transactions in shares of investment companies registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) that are affiliated with the bank by or through a broker or dealer registered under this Act, if sales by or through such broker or dealer are subject to sales practice standards of a self-regulatory organization, provided the transactions—

"(i) are consistent with the purposes of this subsection; and

"(ii) are in the public interest.

"(B) Deposits, certain means of payment to third parties and certain other instruments.—This subsection shall not apply to any evidence of indebtedness or ownership interest which—

"(i) is a deposit in an insured depository institution; or

"(ii) constitutes a means of payment to a third party, such as a traveler's check, cashier's check, teller's check or money order.".

(f) Securities Exchange Act Administration Transfer.— Section 12(i) of the Securities Exchange Act of 1934 (15 U.S.C. 781(i)) is repealed.

SEC. 243. AMENDMENTS TO THE INVESTMENT COMPANY ACT OF 1940.

(a) Custody of Investment Company Assets by Affiliate Banks.—

(1) Management companies.—Section 17(f) of the Investment Company Act of 1940 (15 U.S.C. 80a-17(f)) is amended by striking "trusts" the first place it appears and inserting instead "trusts, but where any such bank or an affiliated person thereof is an affiliated person, promoter, sponsor, or organizer of, or principal underwriter for, such registered company, only in accordance with such rules and regulations or orders as the Commission may from time to time prescribe for the protection of investors, after consulting in writing with the appropriate Federal banking agency as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)),".

(2) Unit investment trusts.—Section 26(a)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a-26(a)(1)) is amended by inserting "not affiliated with such underwriter or depositor, or where such bank is so affiliated, only in accordance with such rules and regulations or orders as the Commission may from time to time prescribe for the protection of investors after consulting in writing with the appropriate Federal banking agency as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))," after "bank".

(b) Independent Directors.—

(1) Interested persons.—Section 2(a)(19)(A)(v) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(19)(A)(v)) is amended by striking "1934 or any affiliated person of such a broker or dealer" and inserting instead "1934 or any person that, at any time during the preceding 6 months, has acted as custodian or transfer agent or has executed any portfolio transactions for, engaged in any principal transactions with, or loaned money to, the investment company, or any other investment company having the same investment adviser, principal underwriter, sponsor, or promoter, or any affiliated person of such a broker, dealer, or person".

(2) Affiliation of directors.—Section 10(c) of the Investment Company Act of 1940 (15 U.S.C. 80a-10(c)) is amended by striking "bank, except" and inserting instead "bank and its subsidiaries or any financial services holding company and its affiliates and subsidiaries, as those terms are defined in the Financial Services Holding Company Act of 1991 (12 U.S.C. 1842 et seq.),".

(c) Additional SEC Rulemaking Authority Regarding Bank Affiliated Mutual Funds.—Section 38 of the Investment Company Act of 1940 (15 U.S.C. 80a-37) is amended by inserting after subsection (c) the following new subsection:

"(d) The Commission shall have the authority to promulgate such rules regarding loans, purchases or sales of assets, and other transactions involving a bank, an affiliated person, and an affiliated registered investment company.".

(d) Additional Disclosure Authority.—Section 36(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-35(a)) is amended to read as follows:

"(a) It shall be unlawful for any person, in issuing or selling any security of which a registered investment company is the issuer, to represent or imply in any manner whatsoever that such security or company has been guaranteed, sponsored, recommended, or approved by the United States or any agency or officer thereof or has been insured by the Federal Deposit Insurance Corporation or is guaranteed by or is otherwise an obligation of any bank or insured institution. If a financial services holding company, bank, or separately identifiable division or department of a bank, or any affiliate or subsidiary thereof, is an investment adviser, organizer, sponsor, promoter, principal underwriter, or an affiliated person of a registered investment company, or a bank or an affiliated person of a bank if offering or selling securities of a registered investment company, or the name of an investment company is that of, or similar to that of, a bank, pursuant to regulations adopted by the Commission, after consultation in writing with the appropriate federal banking agency as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), any person in issuing or selling securities of such investment company may be required to disclose prominently that the investment company and any security issued by it are not insured by the Federal Deposit Insurance Corporation, are not guaranteed by an affiliated bank or insured institution, and are not otherwise an obligation of such a bank or insured institution. The Commission may determine by order as provided for in subsection (d), after consultation with the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))) that use of a name similar to that of a bank is deceptive and misleading. In that event, use of such name shall be unlawful as provided in subsection (d) and the Commission shall have the authority to take such actions as provided in that subsection.".

(e) DEFINITION OF BROKER.—Section 2(a)(6) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(6)) is amended to read as follows:

"(6) 'Broker' has the same meaning as in the Securities Exchange Act of 1934, but does not include any person solely by reason of the fact that such person is an underwriter for one or more investment companies.".

(f) DEFINITION OF DEALER.—Section 2(a)(11) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(11) is amended to read as follows:

"(11) 'Dealer' has the same meaning as in the Securities Exchange Act of 1934, but does not include an insurance company or investment company.".

SEC. 244. REMOVAL OF THE EXCLUSION FROM THE DEFINITION OF INVESTMENT ADVISER FOR BANKS THAT ADVISE INVESTMENT COMPANIES.

(a) Section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(11)) is amended—

(1) in subparagraph (A), by striking "investment company" and inserting instead "investment company, except that the term 'investment adviser' includes any bank or financial services holding company to the extent such bank acts as an investment adviser to a registered investment company unless the bank performs such services through a separately identifiable department or division of the bank, in which case the department or division and not the bank shall be deemed to be the investment adviser"; and

(2) by adding at the end thereof the following: "For purposes of this paragraph, a separately identifiable department or division of a bank shall mean a unit that—

"(A) is under the direct supervision of an officer or officers designated by appropriate Federal banking agency or directors of the bank as responsible for the day-to-day conduct of the bank's investment adviser activities for one or more investment companies, including the supervision of all bank employees engaged in the performance of such activities; and

"(B) there are separately maintained in or extractable from such unit's own facilities or the facilities of the bank, all of the records relating to such investment adviser activities and such records are so maintained or otherwise accessible as to permit independent examination thereof and enforcement of the Act and rules and regulations thereunder.".

(b) DEFINITION OF BROKER.—Section 202(a)(3) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(3)) is amended to read as follows:

"(3) 'Broker' has the same meaning as in the Securities Exchange Act of 1934.".

(c) DEFINITION OF DEALER.—Section 202(a)(7) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(7)) is amended to read as follows:

"(7) 'Dealer' has the same meaning as in the Securities Exchange Act of 1934, but does not include an insurance company or investment company.".

(d) NOTIFICATION AND CONSULTATION.—The Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) is amended by inserting after section 210 the following new section:

"SEC. 210A. NOTIFICATION AND CONSULTATION.

"(a) IN GENERAL.—The Commission, prior to the examination of, the entry of an order of investigation of, or the commencement of any disciplinary or law enforcement proceedings against, any financial services holding company, bank, or department or division of a bank that is a registered investment adviser shall give notice to the appropriate Federal banking agency as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), of the identity of such financial service holding company, bank, department or division and the nature of the proposed actions and shall consult in writing with such appropriate Federal banking agency concerning any such proposed action, unless the protection of investors requires immediate action by the Commission and prior notice or consultation is not practical under the circumstances, in which case notice shall be given and the appropriate Federal banking agency shall be notified and consulted as promptly as possible thereafter.

"(b) EXAMINATION RESULTS.—The Commission and the appropriate Federal banking agency shall exchange the results of any examination of any financial services holding company, bank, department or division of a bank that is a registered investment adviser concerning activities subject to this Act.

"(c) EFFECT ON OTHER AUTHORITY.—Nothing herein shall limit in any respect the authority of the appropriate Federal banking agency with respect to such financial services holding company, bank, or department or division under any provision of law.".

SEC. 245. TREATMENT OF BANK COMMON TRUST FUNDS.

(a) SECURITIES ACT OF 1933.—Section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77c(a)(2)) is amended by striking "or any interest or participation in any common trust fund or similar fund maintained by a bank exclusively for the collective investment and reinvestment of assets contributed thereto by a bank in its capacity as trustee, executor, administrator, or guardian" and inserting instead "or any interest or participation in any common trust fund or similar fund excepted from the definition of the term 'investment company' by section 3(c)(3) of the Investment Company Act (15 U.S.C. 80a-3(c)(3))".

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 3(a)(12)(A)(iii) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)(A)(iii)) is amended to read as follows:

"(iii) any interest or participation in any common trust fund or similar fund excepted from the definition of the term 'investment company' by section 3(c)(3) of the Investment Company Act.".

(c) INVESTMENT COMPANY ACT OF 1940.—Section 3(c)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(c)(3)) is amended by deleting the period at the end thereof and inserting the following: "so long as—

"(A) such fund is employed by the bank solely as an aid to the administration of trust, estates, and other accounts created and maintained for a fiduciary purpose;

"(B) except in connection with generic advertising of the bank's fiduciary services, interests in such fund are not—

"(i) advertised; or

"(ii) offered for sale to the general public; and

"(C) a fund is not charged any fees or expenses which, when added to any other compensation charged by the bank to a participant account, exceeds the total amount of compensation which would have been charged to such participant account if no assets of such participant account had been invested in interests in the fund, except that any reasonable and necessary expenses related to the prudent operation of the fund, as determined by the Office of Depository Institutions Supervision shall be permitted to be charged directly to the fund.".

(d) TAX EFFECT.—Section 584 of the Internal Revenue Code of 1986 (26 U.S.C. 584) is amended by inserting after subsection (g) the following new subsection:

"(h) Conversion, Mergers, or Reorganization of Common Trust Funds.—Notwithstanding any other provision of the Internal Revenue Code, any transfer of all or substantially all of the assets of a common trust fund taxable under this section to a registered investment company taxable under subchapter M shall not result in a gain or loss to the participants in such common trust fund where the transfer is a result of a merger, conversion, reorganization, transfer, or other similar transaction or series of transactions.".

SEC. 246. SECURITIES AND EXCHANGE COMMISSION STUDY OF BANK AND INSURANCE POOLED INVESTMENT VEHICLES.

(a) IN GENERAL.—The Securities and Exchange Commission, in consultation with the Secretary of Labor, shall examine—

(1) the appropriate treatment of bank collective investment funds and separate accounts under the securities laws and the Employee Retirement Income Security Act (29 U.S.C. 1001 et seq.); and

(2) the appropriate treatment of common trust funds under the securities laws.

(b) REPORT.—Not later than six months after the date of enactment of this Act, the Securities and Exchange Commission shall transmit to the Congress a final report which shall contain a detailed statement of findings and conclusions, including recommendations for such administrative and legislative action as the Commission deems advisable.

SEC. 247. EFFECTIVE DATE.

This subtitle shall become effective on January 1, 1993, except that section 246 shall become effective on the date of enactment of this Act.

Subtitle E—Prompt Corrective Action

SEC. 251. PROMPT CORRECTIVE ACTION.

(a) SYSTEM OF PROMPT CORRECTIVE ACTION.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 35. PROMPT CORRECTIVE ACTION.

"(a) DEFINITIONS.—

"(1) BANKING LAWS DEFINED.—For the purposes of this section, the term 'banking laws' means this Act, the National Bank Act, the Federal Reserve Act, the Financial Services Holding Company Act of 1991, the Change in Bank Control Act, the Bank Merger Act, the International Banking Act of 1978, any other law codified in title 12 of the United States Code that is applicable to or affects insured banks or persons that own or control insured banks, and any regulations promulgated thereunder.

"(2) CAPITAL DISTRIBUTION DEFINED.—For purposes of this section, the term 'capital distribution' means—

"(A) A dividend or other distribution in cash or in kind made with respect to any shares or other ownership interest of any insured bank, except a dividend consisting only of shares of the bank or any amount paid on the deposits of a mutual savings bank that is determined by the appropriate Federal banking agency not to constitute a dividend;

"(B) A payment made by an insured bank to repurchase, redeem, retire, or otherwise acquire any of its shares, including any extension of credit made to finance an affiliated company's acquisition of such shares; or

"(C) A transaction that the appropriate Federal banking agency determines by order or regulation to be in substance the distribution of capital.

"(3) COMPANY DEFINED.—The term 'company' shall have the same meaning as provided in section 2(b) of the Financial Services Holding Company Act of 1991 (12 U.S.C. 1841(b)).

"(4) COMPENSATION DEFINED.—The term 'compensation' means any payment of money or provision of any other thing of current or potential value in connection with employment.

"(5) DIVERSIFIED HOLDING COMPANY DEFINED.—The term 'diversified holding company' shall have the same meaning as provided in section 2(a)(2) of the Financial Services Holding Company Act of 1991 (12 U.S.C. 1841(a)(2)).

"(6) EXECUTIVE OFFICER DEFINED.—The term 'executive officer' shall have the same meaning as provided in section 22(h) of the Federal Reserve Act (12 U.S.C. 375b).

"(7) FINANCIAL SERVICES HOLDING COMPANY DEFINED.—The terms 'financial services holding company' and 'financial affiliate' shall have the same meaning as provided in section 2 of the Financial Services Holding Company Act of 1991 (12 U.S.C. 1841).

"(8) NEW FINANCIAL ACTIVITY DEFINED.—The term 'new financial activity' means any activity authorized pursuant to subsections (c)(8), (c)(15), or (c)(16) of section 4 of the Financial Services Holding Company Act of 1991 (12 U.S.C. 1843) other than any activity that, prior to the date of enactment of the Financial Institutions Safety and Consumer Choice Act of 1991, the Board of Governors of the Federal Reserve System had determined, by any order or regulation that continued to be in effect on December 31, 1992, to be closely related to banking and a proper incident thereto.

"(9) QUALIFIED FINANCIAL ACTIVITY DEFINED.—The term 'qualified financial activity' means any activity authorized pursuant to subsections (c)(8), (c)(15), or (c)(16) of section 4 of the Financial Services Holding Company Act of 1991 (12 U.S.C. 1843).

"(b) CLASSIFICATION ACCORDING TO CAPITAL SUFFICIENCY.—

"(1) RELEVANT CAPITAL MEASURES.—

"(A) IN GENERAL.—Unless otherwise provided pursuant to subparagraph (B), relevant capital measures for purposes of this section shall include—

"(i) a risk-based capital ratio; and

"(ii) a leverage limit.

"(B) OTHER CAPITAL MEASURES.—The appropriate Federal banking agency may, by regulation or guideline, establish any additional relevant capital measure or measures that are consistent with the purposes of this section, and may determine to eliminate any relevant capital measure established in subparagraph (A) upon a finding, after notice and opportunity for comment, that the measure is no longer an appropriate means for carrying out the purposes of this section.

"(2) CONTENT OF RELEVANT CAPITAL MEASURES.—

"(A) RISK-BASED CAPITAL RATIO.—The risk-based capital ratio shall be the risk-based capital standard adopted by the appropriate Federal banking agency.

"(B) LEVERAGE LIMIT.—The leverage limit shall be the leverage limit adopted by the appropriate Federal banking agency.

"(3) DEFINITIONS RELATING TO RELEVANT CAPITAL MEASURES.—For purposes of this section 'total assets' and 'Tier 1 capital' shall have the meaning given those terms by the appropriate Federal banking agencies in the risk-based capital standards adopted by such agencies.

"(4) DEFINITION OF CAPITAL ZONES.—Unless otherwise reclassified pursuant to paragraph (7), for purposes of this section—

"(A) ZONE 1.—Zone 1 includes any insured bank that—

"(i)(I) maintains a risk-based capital ratio that is significantly in excess of the required minimum ratio and Tier 1 capital that is significantly in excess of the required minimum for Tier 1 capital; or

"(II) meets the required minimum risk-based capital ratio and maintains Tier 1 capital that is substantially in excess of the required minimum for Tier 1 capital; and

"(ii) maintains capital that meets or exceeds the required minimum ratio for each other relevant capital measure.

"(B) ZONE 2.—Zone 2 includes any insured bank that—

"(i) maintains capital in an amount that meets or exceeds the required minimum ratio for each relevant capital measure; and

"(ii) is not within Zone 1.

"(C) ZONE 3.—Zone 3 includes any insured bank—

"(i) that maintains capital that is below the required minimum ratio for any relevant capital measure; and

"(ii) that is not within Zone 4 or Zone 5.

"(D) ZONE 4.—Zone 4 includes any insured bank—

"(i) that maintains capital that is significantly below the required minimum ratio for any relevant capital measure, but that exceeds the applicable critical capital level; or

"(ii) that is otherwise classified within Zone 4 under the provisions of this section.

"(E) ZONE 5.—Zone 5 includes any insured bank that maintains capital at or below the applicable critical capital level.

"(5) REQUIRED MINIMUM RATIO.—For purposes of this section, the required minimum ratio shall be the minimum acceptable capital level adopted by the appropriate Federal banking agency by regulation or guideline for each relevant capital measure.

"(6) CRITICAL CAPITAL LEVEL.—

"(A) IN GENERAL.—The critical capital level shall be a level of capital that will, as a general matter, permit resolution of an insured bank's problems without significant financial loss to the Bank Insurance Fund. The critical capital level shall equal or exceed a ratio of Tier 1 capital to total assets of one and one-half percent.

"(B) SEPARATE CRITICAL CAPITAL LEVELS.—Consistent with subparagraph (A), separate critical capital levels may be established by the appropriate Federal banking agencies for different classes of insured banks according to size, activities, condition of assets, local economic conditions, or any other relevant factor consistent with the purposes of this section.

"(7) RECLASSIFICATION.—Notwithstanding paragraph (1), any insured bank that otherwise falls within Zone 1 or Zone 2 shall be deemed to be within Zone 3 if the appropriate Federal banking agency determines that the bank is in an unsafe and unsound condition. Any such bank, and any other bank within Zone 3 which the appropriate Federal banking agency determines to be in an unsafe and unsound condition, may be reclassified to Zone 4 by the appropriate Federal banking agency.

"(c) REGULATIONS AND OTHER AUTHORITY.—

"(1) IN GENERAL.—Each appropriate Federal banking agency, in consultation with the other appropriate Federal banking agency, shall promulgate regulations and take such other actions as are necessary to implement the provisions of this section. Each appropriate Federal banking agency is authorized to issue orders and take such other actions as are necessary or appropriate to carry out the purposes of this section.

"(2) CAPITAL ZONES.—Consistent with the purposes of this section, each appropriate Federal banking agency shall by regulation specify the applicable minimum capital ratios for each relevant capital measure in each capital zone established by this section.

"(3) CRITICAL CAPITAL LEVEL.—Consistent with subsection (b)(6), each appropriate Federal banking agency shall by regulation specify the critical capital level for each relevant capital measure consistent with the purposes and provisions of this section.

"(4) CONSULTATION.—In promulgating the regulations described in paragraphs (2) and (3), each appropriate Federal banking agency shall consult with the Corporation.

"(d) PROVISIONS APPLICABLE TO BANKS AND COMPANIES WITHIN ZONE 1.—

"(1) EXPANSION BY ZONE 1 BANKS.—

"(A) IN GENERAL.—Notwithstanding any other provision of the banking laws, any insured bank that qualifies under subparagraph (B) may—

"(i) DE NOVO BRANCHES.—Subject to the notice requirement of paragraph (3)(A), establish and maintain a new branch office at any location permitted under the banking laws, so long as the branch office is not the first branch office of the bank in a given State and the bank has an outstanding or satisfactory record of meeting community credit needs as determined pursuant to section 807 of the Community Reinvestment Act of 1977 (12 U.S.C. 2906);

"(ii) COMMENCEMENT OF PERMISSIBLE ACTIVITIES DE NOVO.—Subject to the notice requirement of paragraph (3)(A), commence, either directly or through a subsidiary, any activity that has been determined by the appropriate Federal banking agency under the banking laws to be permissible for such insured bank or such subsidiary; and

"(iii) MERGERS AND ACQUISITIONS BY BANKS.— Subject to any applicable notice, application, and approval requirement of the banking laws as modified by paragraph (3)(B)—

"(I) merge or consolidate with any other insured bank, acquire directly or indirectly the assets of any other insured bank, or assume liability directly or indirectly to pay any deposits made in any other insured bank; or

"(II) acquire, directly or indirectly, the assets (other than assets acquired in the ordinary course of business), or all of the voting shares or control, of any company (other than an insured bank) that is engaged solely in activities that have been determined by regulation by the appropriate Federal banking agency under the banking laws to be permissible for an insured bank.

"(B) QUALIFYING BANKS.—An insured bank qualifies under this subparagraph if, both prior to and following consummation of the transaction or other expansion—

"(i) the insured bank is within Zone 1; and

"(ii) in the event the insured bank is controlled by a financial services holding company, the company qualifies as a Zone 1 financial services holding company as described in paragraph (2).

"(2) FINANCIAL SERVICES HOLDING COMPANIES WITHIN ZONE 1.—

"(A) A financial services holding company qualifies as a Zone 1 financial services holding company if insured depository institutions representing at least 80 percent of the assets of all insured depository institutions controlled by the company are within Zone 1, and the balance of the insured depository institutions controlled by the company are within Zone 2.

"(B) For purposes of subparagraph (A), an insured depository institution other than an insured bank shall be deemed to be within Zone 1 if, based upon the risk-based capital rule and leverage limit applicable to the institution, it meets the capital ratios adopted by the appropriate Federal banking agency of the financial services holding company for purposes of subsection (b)(4)(A).

"(3) PROCEDURES AND STANDARDS FOR REVIEW.—

"(A) SUBSEQUENT NOTICE FOR CERTAIN ACTIONS.—For actions described in paragraphs (1)(A)(i) and (1)(A)(ii), the insured bank shall provide the appropriate Federal banking agency with written notice no later than 30 days following such action.

"(B) LIMITATION ON REVIEW PERIOD FOR PROPOSED TRANSACTIONS.—Notwithstanding any other provision of the banking laws, the appropriate Federal banking agency shall make a decision to approve or disapprove any proposed transaction described in paragraph (1)(A)(iii) no later than 45 days after the date of receipt of the completed notice or application.

"(C) REVIEW STANDARDS.—The appropriate Federal banking agency may disapprove any proposed transaction described in subsection (c)(1)(A)(iii) involving an insured bank within Zone 1 only—

"(i) pursuant to section 18(c)(5)(A) or (B); or

"(ii) if the appropriate Federal banking agency determines—

"(I) that the insured bank or any other insured bank controlled by the same financial services holding company is engaging in an unsafe and unsound practice or will be in an unsafe and unsound condition following the transaction; or

"(II) that the proposed transaction is inconsistent with the convenience and needs of the community to be served.

"(D) FORM OF NOTICES.—Each appropriate Federal banking agency shall by regulation establish the form and content of the notice required under subparagraph (A).

"(4) EFFECT OF NOTICE UNDER THIS SUBSECTION.—

"(A) SUBSEQUENT NOTICE.—Any notice required under paragraph (3)(A) shall supersede any other notice or application requirement under the banking laws imposed on the insured bank in connection with the proposed transaction or other expansion.

"(B) OTHER REQUIREMENTS CONTINUE TO APPLY TO ACTIVITY.—Except as provided in this subsection, nothing in this subsection shall relieve any insured bank or any subsidiary thereof from the provisions of any law or regulation applicable to that institution or subsidiary.

"(5) RESTRICTIONS ON EXPANSION RESULTING IN RECLASSIFICATION BELOW ZONE 2.—

"(A) The appropriate Federal banking agency shall not approve or permit any investment, expansion, acquisition, or other proposal subject to review under any provision of the banking laws that would result in reclassification of an insured bank from Zone 1 to Zone 3 or 4, unless the agency finds that the transaction substantially improves the financial condition of an insured bank involved in the transaction or is consistent with a capital restoration plan approved by the agency and meets the other standards required to be reviewed by the agency in considering such proposals under the banking laws.

"(B) The appropriate Federal banking agency shall not approve or permit any investment, expansion, acquisition, or other proposal subject to review under any provision of the banking laws that would result in reclassification of an insured bank to Zone 5.

"(6) LOSS OF ZONE 1 STATUS AFTER EXPANSION.—

"(A) CAPITAL MUST BE PROMPTLY RESTORED.—Any financial services holding company that—

"(i) engages, directly or indirectly, in any new financial activity, directly or indirectly controls any company engaged in any new financial activity, or is controlled by a diversified holding company, and

"(ii) does not continue to qualify under subsection (d)(2), or does not qualify under such subsection within such time period as is specified by the appropriate Federal banking agency pursuant to section 4(k) of the Financial Services Holding Company Act of 1991 (12 U.S.C. 1843(k)),

must either restore the capital of insured banks controlled by such financial services holding company to at least the levels required for the company to requalify under subsection (d)(2) or take the actions required in subparagraph (B). A financial services holding company shall be given a period of at least 45 days within which to restore such capital.

"(B) REQUIRED ACTIONS.—Any financial services holding company that does not requalify under subsection (d)(2) within the applicable period under subparagraph (A) must—

"(i) immediately post a bond in an amount equal to the amount necessary to restore the capital of the insured depository institutions controlled by such company to at least the level required to permit the company to requalify under subsection (d)(2) as of the date the bond is posted, which bond shall be subject to forfeiture as necessary to reimburse the Corporation for any funds expended for resolution of the insured depository institutions controlled by such company; and

"(ii)(I) within the time period provided in subsection (i), submit to the appropriate Federal banking agency and, after its acceptance, implement a capital plan that meets the requirements of such subsection and will restore the relevant capital measures to the level necessary to requalify under subsection (d)(2); or

"(II) within one year from the date the company originally failed to meet the requirements of subsection (d)(2)—

"(aa) divest any interest in any insured depository institution; or

"(bb) terminate all direct or indirect new financial activities and divest any interest in any company engaged in any such activity.

"(C) If the financial services holding company does not complete the actions required by either clause (i) or (ii) of subparagraph (B), the appropriate Federal banking agency may appoint a conservator for any insured depository institution controlled by such company that maintains capital below the level necessary for the company to requalify under subsection (d)(2).

"(D) ALTERATION OF COMPLIANCE PERIOD.—

"(i) EXTENSION OF COMPLIANCE PERIOD.—The appropriate Federal banking agency may extend the period provided in subparagraph (B)(ii)(II) for up to one year if the agency finds that the financial services holding company has taken significant steps toward restoring the capital of the insured depository institutions controlled by that company to at least the levels required for the company to requalify under subsection (d)(2).

"(ii) SHORTENING OF COMPLIANCE PERIOD FOR FAILURE TO MAINTAIN CAPITAL IN ZONE 1.—The appropriate Federal banking agency may, by regulation, establish shorter divestiture and termination periods under subparagraph (B)(ii)(II) applicable to any financial services holding company that fails to continue to qualify under subsection (d)(2) after having once fallen out of qualification from subsection (d)(2).

"(E) APPLICABILITY TO DIVERSIFIED HOLDING COMPANIES.—If a financial services holding company to which this paragraph applies is controlled by a diversified holding company, and the financial services holding company does not complete the actions under either subparagraph (A) or (B) (other than clause (ii)(II)(bb) of subparagraph (B)), then the diversified holding company must, within the same time period specified in subparagraph (B)(ii)(II), divest any interest in the financial services holding company or terminate all direct or indirect activities not permitted for a financial services holding company.

"(e) MANDATORY SUPERVISORY ACTIONS APPLICABLE TO INSURED BANKS WITHIN ZONE 2.—

"(1) RESTRICTIONS ON EXPANSION.—

"(A) EXPANSION RESULTING IN RECLASSIFICATION.—

"(i) The appropriate Federal banking agency shall not approve or permit any investment, expansion, acquisition, or other proposal subject to review under the banking laws that would result in reclassification of an insured bank to Zone 3 or 4, unless the agency finds that the transaction substantially improves the financial condition of an insured bank involved in the transaction or is consistent with a capital restoration plan approved by the agency and meets the other standards required to be reviewed by the agency in considering such proposals under the banking laws.

"(ii) The appropriate Federal banking agency shall not approve or permit any investment, expansion, acquisition, or other proposal subject to review under the banking laws that would result in reclassification to Zone 5.

"(B) UNSAFE AND UNSOUND PRACTICES OR CONDITION.— The appropriate Federal banking agency shall not approve any investment, expansion, acquisition, or other proposal involving an insured bank within Zone 2 or a financial services holding company which controls an insured bank within Zone 2 if the appropriate Federal banking agency determines that the insured bank involved in the investment, expansion, acquisition, or other proposal, or any other insured bank controlled by the same financial services holding company is engaging in an unsafe and unsound practice or is in an unsafe and unsound condition.

"(2) CAPITAL DISTRIBUTIONS.—

"(A) LIMITATION.—No insured bank within Zone 2 shall make any capital distribution that would cause the bank to be reclassified within Zone 4 or Zone 5. An insured bank within Zone 2 may make a capital distribution that would cause the bank to be reclassified within Zone 3, if the bank provides the appropriate Federal banking agency with 30 days written notice of such distribution and the agency has not issued a notice of disapproval.

"(B) STANDARDS FOR DISAPPROVAL.—The appropriate Federal banking agency shall not disapprove payment of a capital distribution by an insured bank under this subparagraph unless the appropriate Federal banking agency determines that the capital distribution will not enhance the bank's ability to restore its capital to Zone 2 or otherwise determines that the distribution is not in the public interest.

"(3) EXCEPTIONS TO MANDATORY SUPERVISORY ACTIONS.—The appropriate Federal banking agency may modify, defer, or remove any mandatory supervisory action applicable under this section to an insured bank within Zone 2 or a company that controls an insured bank within Zone 2 if the agency determines in writing that such action is in the public interest.

"(f) PROVISIONS APPLICABLE TO INSTITUTIONS WITHIN ZONE 3.—

"(1) MANDATORY SUPERVISORY ACTIONS.—In addition to the supervisory actions applicable under Zones 1 and 2, the following mandatory supervisory actions shall apply with respect to any insured bank within Zone 3:

"(A) CAPITAL RESTORATION PLAN.—Every insured bank within Zone 3 shall, within the time period provided in subsection (i), submit to the appropriate Federal banking agency and, after its acceptance, implement a capital plan that meets the requirements of subsection (i) and will restore the relevant capital measures of the bank to at least the levels required for classification within Zone 2.

"(B) RESTRICTION ON CAPITAL DISTRIBUTIONS.

"(i) PRIOR AGENCY APPROVAL REQUIRED.—No insured bank within Zone 3 shall make any capital distribution, or pay any management fee to a person or affiliate controlling such bank, that would cause the bank to be reclassified within Zone 4 or Zone 5. No insured bank within Zone 3 shall make any other capital distribution or pay any other such management fee unless the bank receives the prior approval of the appropriate Federal banking agency.

"(ii) STANDARDS FOR APPROVAL.—The appropriate Federal banking agency may approve payment of a capital distribution or management fee by an insured bank within Zone 3 only if the agency determines that the capital distribution will enhance the ability of the bank promptly to restore its capital to Zone 2 or is otherwise in the public interest.

"(C) RESTRICTION ON EXPANSION.—The appropriate Federal banking agency shall not approve or permit any investment, expansion, acquisition or other similar action subject to review under the banking laws by an insured bank within Zone 3, by a financial services holding company that controls an insured bank within Zone 3, or by any affiliate of the insured bank unless the agency finds that the transaction furthers achievement of the capital restoration plan approved by the agency for the insured bank and meets the other standards required to be reviewed by the agency in considering such proposals under the banking laws.

"(D) EFFECT ON FINANCIAL SERVICES AND DIVERSIFIED HOLDING COMPANIES.—Any financial services holding company and any diversified holding company that controls an insured bank within Zone 3 shall, after 45 days after the latest of the date on which the bank becomes a Zone 3 bank, the date on which the financial services holding company acquires the bank, or the effective date of this provision, become subject to the following requirements and shall remain subject to such requirements until such time as the capital of the bank is restored to at least Zone 2 or the company divests any interest in the bank:

"(i) CONSOLIDATED CAPITAL REQUIREMENTS.—The financial services holding company and diversified holding company shall maintain capital, for each relevant capital measure, on a consolidated basis, at least equal to the required minimum capital ratio applicable to the principal bank subsidiary of the financial services holding company as defined in section 3(q)(2).

"(ii) RESTRICTION ON CAPITAL DISTRIBUTION.—The diversified holding company may make a capital distribution only with the prior approval of the appropriate Federal banking agency.

"(iii) OTHER PROVISIONS OF THIS SECTION.—The financial services holding company (and any affiliate it controls) and each financial affiliate controlled by the diversified holding company shall be subject to the mandatory supervisory actions of this paragraph as if the company were an insured bank within Zone 3.

"(E) RECLASSIFICATION OF ZONE 3 INSTITUTIONS TO ZONE 4.—Without being relieved of any of the requirements applicable to insured banks within Zone 3, an insured bank within Zone 3 shall immediately be reclassified as within Zone 4, and shall be subject to all of the provisions applicable to insured banks within Zone 4, if—

"(i) the bank does not submit the capital restoration plan required in subparagraph (A) within the time required by the appropriate Federal banking agency; or

"(ii) the appropriate Federal banking agency is not satisfied that the bank is making every effort in good faith to fulfill completely the capital plan within the schedule approved by the agency.

"(2) EXCEPTIONS TO MANDATORY SUPERVISORY ACTIONS.—The appropriate Federal banking agency may modify, defer, or remove any mandatory supervisory action applicable under this section to an insured bank within Zone 3 or a company that controls an insured bank within Zone 3 if the agency determines in writing that such action is in the public interest.

"(3) DISCRETIONARY SUPERVISORY ACTIONS.—Without limiting in any way the existing authority of any appropriate Federal banking agency, the appropriate Federal banking agency may, at any time, based upon a finding that the insured bank is within Zone 3—

"(A) RESTRICT GROWTH.—Restrict or eliminate growth of the bank's assets, or require contraction of the assets of the bank.

"(B) RESTRICT DISTRIBUTIONS.—Restrict the insured bank and any company that controls the insured bank from making any capital distribution.

"(C) LIMIT INCREASE IN LIABILITIES.—Limit any increase in, or order the reduction of, any liabilities of the bank.

"(D) REQUIRE ISSUANCE OF NEW CAPITAL.—Require the bank to issue new capital in any form and in any amount sufficient to restore the bank to at least the capital levels required for Zone 2.

"(E) RESTRICT ACTIVITIES.—Require the bank to terminate, reduce or alter any activity, if the agency determines that the activity creates excessive risk to the bank.

"(F) DISMISS DIRECTORS OR CHIEF OFFICERS.—

"(i) For cause, require the bank to dismiss from office at the bank any or all of the following persons if the person accepted employment, accepted a new position, or renewed any contract for employment in the same position at the insured bank following enactment of the Financial Institutions Safety and Consumer Choice Act of 1991 and the person has been employed in that position at the insured bank for at least 180 days—

"(I) any member of the institution's board of directors;

"(II) the chief executive officer;

"(III) the chief financial officer; or

"(IV) any other executive officer.

"(ii) Dismissal under clause (i) shall not be construed as removal under section 8 of this Act.

"(G) LIMIT EXECUTIVE COMPENSATION.—Require the bank to reduce or eliminate any or all of the following for any executive officer who accepted employment, accepted a new position, or renewed any contract for employment as an executive officer at the bank following enactment of the Financial Institutions Safety and Consumer Choice Act of 1991—

"(i) any bonus;

"(ii) any compensation at a rate exceeding that officer's average rate of compensation during the previous 12 calendar months; and

"(iii) any payment that is or would be due under any employment severance contract.

"(H) REQUIRE NEW ELECTION OF DIRECTORS.—Require a new election of the board of directors of the bank and designate such individuals as the agency deems appropriate to serve on the board of directors.

"(I) REQUIRE DIVESTITURE, LIQUIDATION OR CLOSURE OF AFFILIATE.—The appropriate Federal banking agency may require any insured bank in Zone 3 or any company that controls an insured bank in Zone 3 to divest any affiliate (other than an insured bank) if the appropriate Federal banking agency determines that the affiliate is in danger of default and poses significant risk to the liquidity or solvency of the bank or is likely to cause a significant dissipation of its assets or earnings.

"(4) NOTICE TO THE CORPORATION.—The appropriate Federal banking agency shall give the Corporation prompt notice of any action under this subsection.

"(g) PROVISIONS APPLICABLE TO INSTITUTIONS WITHIN ZONE 4.—

"(I) MANDATORY SUPERVISORY ACTIONS.—In addition to the supervisory actions applicable under Zone 1, and the mandatory supervisory sections under Zones 2 and 3, the following mandatory supervisory actions shall apply with respect to any insured bank within Zone 4:

"(A) CAPITAL RESTORATION PLAN.—Unless an insured bank within Zone 4 has submitted a capital restoration plan acceptable to the appropriate Federal banking agency pursuant to subsection (f), it shall, within the time provided under subsection (i), submit to the appropriate Federal banking agency and, after its acceptance, implement a capital plan that meets the requirements of subsection (i) and will restore the relevant capital measures of the institution to at least the levels required for classification within Zone 2.

"(B) PROHIBITION ON CAPITAL DISTRIBUTIONS.—No insured bank within Zone 4 shall make any capital distribution or pay any management fee to a person or affiliate controlling such bank.

"(C) PROHIBITION ON EXPANSION.—No insured bank within Zone 4, or financial services holding company controlling any insured bank within Zone 4, shall, directly or indirectly—

"(i) acquire any interest in any insured depository institution or any company that is not an insured depository institution;

"(ii) establish or acquire additional branch offices in any State; or

"(iii) engage in any new activity.

"(D) EFFECT ON FINANCIAL SERVICES AND DIVERSIFIED HOLDING COMPANIES.—Any financial services holding company and any diversified holding company that controls an insured bank within Zone 4 shall, until such time as the relevant capital measures of the insured bank are restored to at least the levels required for classification within Zone 2 or the company divests any interest in the bank, be subject to the requirements of clauses (i) and (ii) of subsection (f)(1)(D) and to the mandatory supervisory actions of this paragraph as if the company were an insured bank within the relevant zone.

"(E) LIMITATION ON ASSET GROWTH.—

"(i) An insured bank within Zone 4 shall not increase its total assets, except as permitted under clause (ii).

"(ii) Notwithstanding clause (i), the appropriate Federal banking agency may permit a bank within Zone 4 to increase its total assets by an amount not exceeding the amount of net interest credited to the bank's deposit liabilities, if—

"(I) the agency has accepted the bank's capital restoration plan;

"(II) any increase in assets is accompanied by an increase in capital in an amount not less than the increase in assets multiplied by the respective relevant capital measures for Zone 2 banks; and

"(III) the bank's capital levels increase at a rate sufficient to enable the bank to satisfy the bank's capital restoration plan within a reasonable time.

"(F) LIMITATION ON COMPENSATION.—An insured bank within Zone 4 may not pay to any executive officer who accepted employment, accepted a new position, or renewed any contract for employment as an executive officer at the insured bank following enactment of the Financial Institutions Safety and Consumer Choice Act of 1991—

"(i) any bonus; or

"(ii) any compensation at a rate exceeding that officer's average rate of compensation during the previous 12 calendar months.

"(2) EXCEPTIONS TO MANDATORY SUPERVISORY ACTIONS.—The appropriate Federal banking agency may modify, defer, or remove any mandatory supervisory action authorized by this section from an insured bank within Zone 4 or a company that controls an insured bank within Zone 4 if the agency determines in writing that such action is in the public interest.

"(3) DISCRETIONARY SUPERVISORY ACTIONS.—Without limiting in any way the existing authority of any appropriate Federal banking agency, the appropriate Federal banking agency may, at any time, take any of the following actions based upon a finding that the insured bank is within Zone 4—

"(A) DISCRETIONARY SUPERVISORY ACTIONS PERMITTED UNDER ZONE 2 OR ZONE 3.—Take any discretionary supervisory action authorized under subsection (f)(3) in connection with an insured bank within Zone 4 or a company that controls an insured bank within Zone 4.

"(B) RESTRICT INTERAFFILIATE TRANSACTIONS.—Restrict or eliminate any transaction between the insured bank and any affiliate.

"(C) REQUIRE DIVESTITURE OR LIQUIDATION OF AFFILIATE.—Require the bank or any company that controls the bank to divest any affiliate that is not an insured bank, if the appropriate Federal banking agency determines that the affiliate is in danger of default.

"(D) LIMIT EXECUTIVE COMPENSATION.—Require the bank to reduce or eliminate any compensation to any executive officer who accepted employment, accepted a new position, or renewed any contract for employment as an executive officer at the insured bank following enactment of the Financial Institutions Safety and Consumer Choice Act of 1991 if the appropriate Federal banking agency determines the compensation to be excessive.

"(E) REQUIRE DIVESTITURE OF BANK.—Require any company that controls a bank within Zone 4 to divest the bank, if the appropriate Federal banking agency determines that such divestiture would improve the financial condition and future prospects of the bank.

"(F) DISMISS DIRECTORS OR CHIEF OFFICERS.—

"(i) Require the insured bank to dismiss from office at the bank any or all of the following persons if the person accepted employment, accepted a new position, or renewed any contract for employment in the same position at the bank following enactment of the Financial Institutions Safety and Consumer Choice Act of 1991 and the person has been employed in that position at the bank for at least 180 days—

"(I) any member of the bank's board of directors;

"(II) the chief executive officer;

"(III) the chief financial officer; or

"(IV) any other executive officer.

"(ii) Dismissal under clause (i) shall not be construed as removal under section 8 of this Act.

"(G) CONSERVATORSHIP.—Appoint a conservator for the bank.

"(4) NOTICE TO THE CORPORATION.—The appropriate Federal banking agency shall give the Corporation prompt notice of any action under this subsection.

"(h) PROVISIONS APPLICABLE TO BANKS WITHIN ZONE 5.—

"(1) MANDATORY SUPERVISORY ACTIONS.—The appropriate Federal banking agency shall, not later than 30 days after determining that an insured bank is within Zone 5—

"(A) require the sale or merger of the insured bank; or

"(B) appoint a conservator or receiver for the bank and any such conservator or receiver shall have full authority, in its sole discretion, to liquidate or sell the insured bank, to take any actions authorized under subsections (f) and (g) not inconsistent with the powers of the conservator or receiver, and to take any other actions authorized pursuant to the provisions applicable to conservators and receivers, respectively, under the banking laws.

"(2) EXCEPTIONS TO MANDATORY SUPERVISORY ACTIONS.—The appropriate Federal banking agency may modify, defer, or remove any mandatory supervisory action applicable under this section to an insured bank within Zone 5 or a company that controls an insured bank within Zone 5 if the agency determines in writing, with the concurrence of the Corporation, that such action is in the public interest.

"(i) CAPITAL RESTORATION PLANS.—

"(1) CONTENTS OF PLAN.—A capital restoration plan submitted under this section shall be a feasible plan for promptly restoring the levels of capital for all relevant capital measures of the insured bank to at least the levels required by the subsection pursuant to which the capital restoration plan is ordered. A capital restoration plan must—

"(A) specify the levels of capital the bank will achieve and maintain;

"(B) describe the steps the bank will take to restore each of the relevant capital measures for the bank to the required levels;

"(C) establish a schedule for promptly completing the capital restoration plan;

"(D) specify the types and levels of activities in which the bank will engage during the pendency of the capital restoration plan;

"(E) explain the steps that the bank will take to comply with any mandatory and discretionary requirements imposed under the banking laws; and

"(F) be acceptable to the appropriate Federal banking agency.

"(2) DEADLINES FOR SUBMISSION OF CAPITAL RESTORATION PLAN.—Each appropriate Federal banking agency shall by regulation establish deadlines that provide insured banks a reasonable period of time to submit a capital restoration plan acceptable to the agency. Unless the agency shall determine that a greater amount of time is necessary, the time allowed by regulation should be no greater than 30 days.

"(3) AGENCY REVIEW OF CAPITAL RESTORATION PLANS.—The appropriate Federal banking agency shall review and act on a capital restoration plan not later than 30 days after the plan is submitted, except that such period may be extended by the appropriate Federal banking agency.

"(j) Judicial Review of Agency Action.—

"(1) Jurisdiction.—

"(A) FILING OF PETITION.—A person aggrieved by an action of an appropriate Federal banking agency under this section may obtain review of that action by filing, within ten days after receiving notice of the agency action, a written petition requesting that the action of the agency be modified, terminated or set aside.

"(B) PLACE FOR FILING.—A petition filed pursuant to this subsection shall be filed in the United States Court of Appeals for the District of Columbia Circuit or the United States Court of Appeals for the circuit in which the concerned bank maintains its home office. For purposes of this subparagraph, the 'concerned bank' shall mean the bank whose classification within a particular zone is the basis for the agency action of which the person aggrieved complains.

"(C) PERSON AGGRIEVED DEFINED.—A person aggrieved by the action of an appropriate Federal banking agency under this section shall mean—

"(i) the company ordered to make a divestiture or terminate activities, with respect to an order under this section directing a company to divest an insured bank or other company or to terminate activities pursuant to this section;

"(ii) the insured bank or company that is the subject of a mandatory or discretionary supervisory action and any company that controls such a bank, with respect to a mandatory or discretionary supervisory action taken under this section for banks within Zone 3, Zone 4 or Zone 5;

"(iii) the person dismissed, with respect to an order under this section for the dismissal of a director, chief executive officer, chief financial officer or other executive officer; and

"(iv) the person whose compensation, bonus or severance payment has been reduced or eliminated, with respect to an order under this section reducing or eliminating such payments due an executive officer.

"(2) SCOPE OF REVIEW.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), action taken by an appropriate Federal banking agency under this section shall be modified, terminated, or set aside only if the court finds on the record on which the agency acted that the agency's action was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

"(B) ALTERNATE REVIEW OF CERTAIN AGENCY ACTIONS.—Notwithstanding the provisions of this subsection, a person aggrieved by an order of an appropriate Federal banking agency placing an insured bank into conservatorship or receivership may pursue any judicial review of such an order that is otherwise available under the banking laws.

"(3) UNAVAILABILITY OF INJUNCTIVE RELIEF.—The commencement of proceedings for judicial review pursuant to this subsection shall not operate as a stay of any action taken by the appropriate Federal banking agency. No court shall have jurisdiction to stay, enjoin or otherwise delay agency action taken under this section pending judicial review of that action.

"(4) EXPEDITED REVIEW.—Petitions complaining of agency action under this section shall be given expedited review by the United States Circuit Courts of Appeals.

"(5) WITHDRAWAL OF JURISDICTION.—Except as provided in this subsection, no court shall have jurisdiction to affect by injunction or otherwise the issuance or effectiveness of any action of the appropriate Federal banking agency under this section or to review, modify, suspend, terminate, or set aside such agency action.".

(b) ENFORCEMENT.—Revision of Enforcement Provisions.

Section 8(i) of the Federal Deposit Insurance Act is amended—

(1) in the first sentence of paragraph (1), by inserting "or under section 35" after "section"; and

(2) in paragraph (2)(A)(ii), by inserting ", or final order under section 35" after "section".

(c) JURISDICTION.—

(1) AMENDMENTS TO TITLE 28, UNITED STATES CODE.—Chapter 91 of title 28 of the United States Code is amended—

(A) by adding at the end the following new section:

"SEC. 1510. JURISDICTION FOR CERTAIN CLAIMS AGAINST APPROPRIATE FEDERAL BANKING AGENCIES.

"The United States Claims Court shall have exclusive jurisdiction to render judgment upon any claim for damages against the United States by any person who has petitioned for judicial review of an action of an appropriate Federal banking agency pursuant to section 35 of the Federal Deposit Insurance Act, where such action has been, at the conclusion of judicial review proceedings, modified, terminated or set aside by a court of competent jurisdiction. The claim shall be limited to actual damages caused by the agency action that has been modified, terminated or set aside, and shall be filed within 10 days of the final order granting the relief sought in the petition."; and

(B) in the table of sections, by inserting after the item relating to section 1509 the following new item:

"1510. Jurisdiction for certain claims against appropriate Federal banking agencies.".

(2) WITHDRAWAL OF JURISDICTION.—Except as provided in section 1510 of title 28, United States Code, no court shall have jurisdiction to hear a claim for damages for agency action under section 35 of the Federal Deposit Insurance Act.

(d) ADDITIONAL GROUNDS FOR APPOINTMENT OF FDIC AS CONSERVATOR OR RECEIVER FOR STATE BANK.—Section 11(c)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(5)) is amended by adding at the end thereof the following new subparagraphs:

"(I) For appointment of the Corporation as a receiver, classification of the institution as a Zone 5 institution by the appropriate Federal banking agency pursuant to section 35 of this Act.

"(J) For appointment of the Corporation as a conservator, classification of the institution as a Zone 4 or Zone 5 institution by the appropriate Federal banking agency pursuant to section 35 of this Act.".

(e) ADDITIONAL GROUND FOR APPOINTING CONSERVATOR FOR NATIONAL BANKS.—Section 203(a) of the Bank Conservation Act (12 U.S.C. 203(a)) is amended—

(1) by inserting "or was" after "there is" in paragraph (5);

(2) by striking "or" at the end of paragraph (7);

(3) by striking the period at the end of paragraph (8) and inserting instead "; or"; and

(4) by adding at the end the following new paragraph:

"(9) the bank is classified as a Zone 4 or Zone 5 institution by the appropriate Federal banking agency pursuant to section 35 of the Federal Deposit Insurance Act.".

(f) APPOINTMENT OF CONSERVATORS AND RECEIVERS BY THE BOARD OF GOVERNORS.—Section 9 of the Federal Reserve Act (12 U.S.C. 321 et seq.) is amended by adding at the end the following new paragraph—

"(24) APPOINTMENT OF CONSERVATOR OR RECEIVER.—

"(A) The Board of Governors of the Federal Reserve System may appoint a receiver for an insured State bank (except a District bank chartered by the Director of the Office of Depository Institutions Supervision) in the same manner and to the same extent that the Director of the Office of Depository Institutions Supervision may appoint a receiver for a national banking association pursuant to the first section of the Act of June 30, 1876 (12 U.S.C. 191).

"(B) The Board of Governors of the Federal Reserve System may appoint a conservator for an insured State bank (except a District bank chartered by the Director of the Office of Depository Institutions Supervision) in the same manner and to the same extent that the Director of the Office of Depository Institutions Supervision may appoint a conservator for a national banking association pursuant to section 203 of the Bank Conservation Act (12 U.S.C. 203).".

(g) APPOINTMENT OF CONSERVATORS AND RECEIVERS FOR DISTRICT BANKS.—Section 5(d)(2)(C) of the Home Owners' Loan Act (12 U.S.C. 1464(d)(2)(C)) is amended—

(1) by inserting "a District bank chartered by the Director" after "State savings association";

(2) by striking "or" at the end of clause (v);

(3) in clause (vi)—

(A) by inserting "or was" after "there is"; and

(B) by striking the period and inserting instead "; or"; and

(4) by inserting after clause (vi) the following new clause:

"(vii) in the case of a District bank chartered by the Director—

"(I) for appointment of a receiver, classification of the bank as a Zone 5 institution by the Director pursuant to section 35 of the Federal Deposit Insurance Act; or

"(II) for appointment of a conservator, classification of the bank as a Zone 4 or a Zone 5 institution by the Director pursuant to section 35 of the Federal Deposit Insurance Act.".

(h) APPOINTMENT OF CONSERVATORS AND RECEIVERS FOR INSURED STATE BANKS.—Section 11(c) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)) is amended by inserting after paragraph (9) the following new paragraph:

"(10) The Board of Governors of the Federal Reserve System (the "Board") shall appoint the Corporation as receiver for any insured State bank (other than a District bank chartered by the Office of Depository Institutions Supervision) that the Board classifies as within Zone 5 and for which the Board determines to appoint a receiver authorized by section 35(h).".

(i) EFFECTIVE DATE.—The amendments made by this section shall become effective three years after the date of enactment of this Act, except that such amendments shall become effective January 1, 1993, with respect to financial services holding companies with bank subsidiaries meeting the requirements of Zone 1 or 2 as described in section 35 of the Federal Deposit Insurance Act that wish to engage in any new financial activity.

Subtitle F—Nationwide Banking and Branching

SEC. 261. NATIONWIDE BANKING.

(a) Section 3(f) of the Financial Services Holding Company Act (12 U.S.C. 1842(f)), as redesignated by section 202(a)(4), is amended to read as follows:

"(f) INTERSTATE ACQUISITIONS.—

"(1) IN GENERAL.—The appropriate Federal banking agency may approve an application under this section for a diversified holding company, financial services holding company, or foreign bank to acquire, directly or indirectly, any voting shares of, interest in, or all or substantially all of, the assets of any additional insured depository institution or financial services holding company located in any State.

"(2) STATE LAWS.—Any acquisition described in paragraph (1) that has been approved under this section may be consummated notwithstanding any State law that would prohibit or otherwise limit such acquisition on the basis of—

"(A) the location or size of the acquiring diversified holding company or financial services holding company or foreign bank or any subsidiary of such company or foreign bank;

"(B) the number of insured depository institution subsidiaries of such diversified holding company or financial services holding company or foreign bank; or

"(C) any factor that has the effect, directly or indirectly, of prohibiting or limiting the acquisition of shares or control of an insured depository institution or financial services holding company located in that State by an out-of-State diversified holding company or financial services holding company or foreign bank without such factor having a similar effect on such acquisitions by financial services holding companies located in that State.".

(b) The amendment made by this section shall become effective three years after the date of enactment of this Act.

SEC. 262. INTERSTATE BRANCHING BY NATIONAL BANKS.

(a) LOCATION OF BRANCHES.—Section 5155(c) of the Revised Statutes (12 U.S.C. 36(c)) is amended—

(1) by striking "and" at the end of paragraph (1);

(2) in paragraph (2), by striking the first period and inserting instead "; and";

(3) by inserting after "; and" as added by paragraph (2) the following new paragraph:

"(3) at an initial location within any State in which a financial services holding company having the same home State as such association could acquire a bank pursuant to section 3 of the Financial Services Holding Company Act of 1991 (12 U.S.C. 1842) or at an initial location within any State in which a State bank chartered in the home State of such association could establish a branch, and, thereafter, at any point within those States to the extent permitted in paragraph (1) and paragraph (2) for associations situated in those States."; and

(4) by inserting at the end thereof the following new sentence:

"A State, other than the State in which the principal office of a national banking association is a host State, may require any national banking association establishing a branch within the host State to comply with such filing requirements as are otherwise imposed on a corporation that is incorporated in another State and seeks to engage in business in the host State.".

(b) DEFINITIONS.—Section 5155 of the Revised Statutes (12 U.S.C. 36) is further amended—

(1) by amending subsection (f) to read as follows:

"(f) The term 'branch' as used in this section shall mean any office, agency, or other place of business located in any State or Territory of the United States or in the District of Columbia at which deposits are received, checks paid, or money lent."; and

(2) by inserting after subsection (h) the following new subsections:

"(i) For purposes of this section, the term 'home State' shall mean—

"(1) in the case of a national banking association, the State in which the principal place of business of such association is located; and

"(2) in the case of a financial services holding company, the State in which the total deposits of all bank subsidiaries of such company are largest.

"(j) For purposes of this section, the term 'State' shall include the District of Columbia.

"(k) For purposes of this section, the term 'host State' is the State in which a bank establishes or maintains a branch other than the State in which the bank is located.".

SEC. 263. INTERSTATE CONSOLIDATION OR MERGER OF NATIONAL BANKS OR STATE BANKS WITH NATIONAL BANKS.

(a) CONSOLIDATION OF NATIONAL BANKS OR STATE BANKS WITH NATIONAL BANKS.—Section I of the Act of November 7, 1918 (12 U.S.C. 215) is amended by inserting "or in any other State" after "located in the same State".

(b) MERGER OF NATIONAL BANKS OR STATE BANKS WITH NATIONAL BANKS.—Section 2(a) of the Act of November 7, 1918 (12 U.S.C. 215a(a)) is amended by inserting "or in any other State" after "located within the same State".

(c) DEFINITIONS.—Section 3(4) of the Act of November 7, 1918 (12 U.S.C. 215b(4)) is amended by striking ", located within the same State,".

(d) RETENTION OF BRANCHES FOLLOWING MERGER OR CONSOLIDATION WITH NATIONAL BANKS.—Section 5155(b)(2) of the Revised Statutes (12 U.S.C. 36(b)(2)) is amended to read as follows:

"(2)(A) A national bank resulting from the consolidation of a national bank under whose charter the consolidation is effected with another bank or banks may retain and operate as a branch any office which, immediately prior to such consolidation, was in operation as a main office or branch of any bank participating in the consolidation if the appropriate Federal banking agency approves its continued operation after the consolidation.

"(B) The appropriate Federal banking agency may not grant approval under subparagraph (A) for retention of a main office branch of any bank participating in the consolidation if a State bank (in a situation identical to that of the resulting national bank) resulting from the consolidation into a State bank of another bank or banks would be prohibited by the law of such State from retaining and operating as a branch an identically situated branch of the State bank immediately prior to the consolidation.".

SEC. 264. INTERSTATE BRANCHING BY STATE BANKS.

Section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)) is amended by inserting after paragraph (2) the following new paragraphs:

"(3) STATE LAW.—Except as otherwise provided in this subsection, no State may prohibit any insured bank chartered by another State, and engaged in a banking business in another State from establishing and maintaining one or more branches within the State. A host State may require any insured bank chartered by another State that wishes to establish a branch within the host State to comply with such filing requirements as are otherwise imposed on a corporation that is incorporated in another State and seeks to engage in business in the host State.

"(4)(A) LOCATION OF BRANCHES.—Any insured State bank may, if authorized by the law of the State in which the bank is chartered, establish and maintain:

"(i) a branch at an initial location within any other State or States in which a financial services holding company, whose principal place of operations is the same State in which the insured bank is chartered, could acquire an additional bank pursuant to section 3 of the Financial Services Holding Company Act of 1991 (12 U.S.C. 1842); and

"(ii) additional branches at locations within any State in which the bank has established an initial branch pursuant to clause (i) to the extent permitted for insured State banks located in such State as if the initial branch of the out-of-State insured bank were a State bank chartered in such State with its head office at the location of the initial branch.

"(B) For purposes of this paragraph, 'principal place of operations' means the State in which the total deposits of all bank subsidiaries of such company are largest.

"(5) RESERVATION OF CERTAIN RIGHTS TO STATES.—Nothing in this subsection shall limit in any way the right of a State to determine the authority of State banks chartered in that State to establish and maintain branches, or to supervise, regulate, and examine State banks chartered by that State.

"(6) ACTIVITIES OF BRANCHES.—An insured State bank that establishes a branch or branches pursuant to paragraph (4) may not conduct any activity at such branch that is not permissible for a bank chartered by the host State.

"(7) COORDINATION OF EXAMINATION AUTHORITY.—

"(A) A host State bank supervisory or regulatory authority may examine branches established in the host State by banks chartered by another State for the purpose of determining compliance with the host State law regarding permissible activities and to ensure that the activities of the branch are conducted in a manner not inconsistent with sound banking principles and do not constitute a serious risk to the safety and sound operation of the branch.

"(B) In the event that a host State bank authority as described above determines that there is a violation of host State law concerning the activities being conducted by the branch or that the branch is being operated in a manner not consistent with sound banking principles or in an unsafe and unsound manner, such host State bank authority may undertake such enforcement actions or proceedings as would be permitted under host State law as if the branch were deemed to be a bank chartered by that host State.

"(C) The State bank authorities from one or more States are authorized to enter into cooperative agreements to facilitate State regulatory supervision of State-chartered banks including cooperative agreements relating to the coordination of examinations and joint participation in examinations as long as the participation in the examination of the branch of an out-of-State bank by a host State bank authority is limited as described in subparagraph (B).

"(8) For purposes of this subsection a 'host State' is the State in which a bank establishes or maintains a branch other than the State in which the bank is chartered and engaging in banking business.".

SEC. 265. INTERSTATE BRANCHING AND BANKING BY FOREIGN BANKS.

(a) Section 4(a) of the International Banking Act of 1978 (12 U.S.C. 3102(a)) is amended to read as follows:

"(a) ESTABLISHMENT AND OPERATION OF FEDERAL BRANCHES AND AGENCIES.—

"(1) A foreign bank which engages directly in a banking business outside the United States may, with the approval of the Director, establish and operate a Federal branch or Federal agency at an initial location in the United States in any State in which it is not operating a branch or agency pursuant to State law; provided that during the three-year period beginning on the date of the enactment of the Financial Institutions Safety and Consumer Choice Act 1991, the Director may only authorize such establishment of a branch or agency by a foreign bank, as the case may be, if such establishment is not prohibited by the law of the relevant State.

"(2) A foreign bank which engages directly in a banking business outside the United States may establish and operate additional Federal branches or Federal agencies in any State in accordance with the provisions of subsection (h).".

(b) Section 4(h) of the International Banking Act of 1978 (12 U.S.C. 3102(h)) is amended—

(1) by striking the phrase "in the State in which such branch or agency is located"; and

(2) by adding at the end the following sentence:

"For purposes of section 36(c) of the National Bank Act (12 U.S.C. 36(c)), the home State of a foreign bank shall be its home State as determined under section 5.".

(c) Section 5 of the International Banking Act of 1978 (12 U.S.C. 3103) is amended to read as follows:

"(a) LIMITATIONS.—

"(1) No foreign bank may establish and operate a State branch in any State outside its home State unless a financial services holding company whose principal place of operation under section 3 of the Financial Services Holding Company Act of 1991 (12 U.S.C. 1842) is the same as the home State of the foreign bank would be permitted to acquire a bank in such other State.

"(2) No foreign bank may directly or indirectly establish and operate a State branch, State agency, or commercial lending company subsidiary outside of the foreign bank's home State unless its establishment and operation is approved by the Board and the bank regulatory authority of the State in which the new branch is to be located.

"(3) No foreign bank may directly or indirectly acquire more than five percent of the voting shares of, or all or substantially all of the assets of, a financial services holding company or bank located outside of the foreign bank's home State without the approval of the appropriate Federal banking agency under section 3 of the Financial Services Holding Company Act of 1991 (12 U.S.C. 1842) as if the foreign bank were a financial services holding company located in the foreign bank's home State.

"(4) Notwithstanding paragraph (2), effective three years after the date of enactment of the Financial Institutions Safety and Consumer Choice Act of 1991, no State shall prohibit a foreign bank having a State branch or State agency licensed by another State and engaged in a banking business in that other State, from establishing and maintaining one or more branches or agencies of that foreign bank within the State after approval from the bank regulatory authority of such other State and the Board. Establishment, operation and supervision of any such branches or agencies shall be in accordance with the provisions applicable to an interstate branch of a State bank under section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)) as if the branch in such other State were an insured State bank located in such other State.

"(5) Notwithstanding paragraph (1) and section 4(h), a foreign bank may, with the approval of the Director, establish and operate a Federal branch or Federal agency, or with the approval of the Board and the bank regulatory authority of the State, a State branch or State agency, in any State outside of its home State if—

"(A) establishment and operation of a branch or agency is expressly permitted by the State in which it is to be established; and

"(B) in the case of a Federal or State branch, the branch receives only such deposits as would be permissible for a corporation organized under section 25(a) of the Federal Reserve Act (12 U.S.C. 611 *et seq.*).".

(d) Section 7 of the International Banking Act of 1978 (12 U.S.C. 3105) is amended by inserting after subsection (d) the following new subsection:

"(e)(1) It shall be unlawful for any foreign bank to establish a State branch or State agency, or in the case of a foreign bank that is not subject to the provisions of the Financial Services Holding Company Act of 1991, to establish or acquire control of a commercial lending company in the United States, without obtaining the approval of the Board.

"(2) In acting on any application under paragraph (1), the Board may take into account the effects of the proposal on competition in the domestic and foreign commerce of the United States, the financial prospects of the branch or agency and the applicant foreign bank, including whether such foreign bank engages directly in a banking business outside the United States, and the convenience and needs of the community to be served.".

SEC. 266. INTERSTATE ACQUISITIONS BY SAVINGS AND LOAN HOLDING COMPANIES.

Section 10(e)(3) of the Home Owners' Loan Act (12 U.S.C. 1467a(e)(3)) is amended to read as follows:

"(3) Interstate Acquisitions.—

"(A) In General.—The appropriate Federal banking agency may approve an application under this subsection for a savings and loan holding company or a foreign bank to acquire, directly or indirectly, any voting shares of, interest in, or all or substantially all the assets of, any additional savings association located in any State.

"(B) State Laws.—Any acquisition described in subparagraph (A) that has been approved under this section may be consummated notwithstanding any State law that would prohibit or otherwise limit such acquisition on the basis of the location or size of the acquiring company or foreign bank or any subsidiary of such company or foreign bank, the number of insured depository institution subsidiaries of such company or foreign bank, or any other factor that has the effect directly or indirectly of prohibiting or limiting the acquisition of shares or control of a savings association or savings and loan holding company located in that State by an out-of-State savings and loan holding company or foreign bank without having a similar effect on such acquisitions by savings and loan holding companies located in that State.

"(C) Definitions.—For purposes of this paragraph—

"(i) the term 'State' includes the District of Columbia; and

"(ii) the term 'foreign bank' has the same meaning as in section 1(b)(7) of the International Banking Act (12 U.S.C. 3101(7)).".

SEC. 267. EFFECTIVE DATES.

Except as provided in section 261(b), the provisions of this subtitle shall be effective upon enactment of this Act.

TITLE III—REGULATORY RESTRUCTURING

Subtitle A—Office of Depository Institutions Supervision

SEC. 301. ESTABLISHMENT OF THE OFFICE OF DEPOSITORY INSTITUTIONS SUPERVISION.

Effective January 1, 1992, there shall be established in the Department of the Treasury the Office of Depository Institutions Supervision which shall be a bureau within the Department.

SEC. 302. DEFINITIONS.

As used in this title—

(1) the term "Director" means the Director of the Office of Depository Institutions Supervision;

(2) the term "Office" means the Office of Depository Institutions Supervision; and

(3) the term "Secretary" means the Secretary of the Treasury.

SEC. 303. DIRECTOR OF THE OFFICE OF DEPOSITORY INSTITUTIONS SUPERVISION.

(a) In General.—The Office shall have a Director who shall be the head of the Office.

(b) Appointment.—The Director shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States.

(c) Term.—The Director shall be appointed for a term of five years unless sooner removed by the President.

(d) Vacancy.—A vacancy in the position of Director which occurs before expiration of the term for which a Director was appointed shall be filled in the manner established in subsection (b), and the Director appointed to fill such vacancy shall be appointed only for the remainder of said term.

(e) Service After End of Term.—An individual may serve as Director after the expiration of the term for which appointed until a successor Director has been appointed.

(f) Acting Director.—

(1) Subject to subsection (d)—

(A) the Director may designate who shall act as Director if the Director dies, resigns, or is sick or absent; and

(B) in the event that the Director fails to make such a designation, or is unable to make such a designation due to death or disability, the Secretary shall designate who shall act as Director if the Director dies, resigns, or is sick or absent.

(2) An Acting Director designated under paragraph (1) shall possess the power to perform the duties vested in the Director.

(g) Deputy Directors.—The Secretary shall appoint two Deputy Directors. Each Deputy Director shall perform such duties as the Director may require.

(h) Effective Dates.—

(1) Subsections (a) through (f) shall become effective January 1, 1992;

(2) Subsection (g) shall become effective January 1, 1993.

SEC. 304. AUTHORITY OF THE DIRECTOR.

(a) Exclusive Authority of the Director.—The Director shall have the authority, without any prior review or approval by the Secretary, to make such determinations and to take such actions as are deemed necessary with respect to a specific institution or entity for which the Director is the appropriate Federal banking agency, as defined in section 3(q)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)(1)), regarding—

(1) a grant or denial of a charter or other application;

(2) an examination;

(3) a decision to appoint a conservator or receiver for a depository institution; and

(4) a final decision in a contested administrative enforcement proceeding.

Nothing in this subsection shall be construed to prohibit the Director from consulting with the Secretary on any matter.

(b) Authority of the Secretary.—All other authority vested in the Director shall be exercised by the Director subject to the review and approval of the Secretary.

(c) Delegation of Authority.—The Director may delegate to any employee, representative or agent of the Office any authority of the Director.

(d) Effective Dates.—

(1) Subsection (a) shall become effective January 1, 1993.

(2) Subsections (b) and (c) shall become effective January 1, 1992.

SEC. 305. PERSONNEL.

(a) Appointment.—The Director shall fix the number of, and appoint and direct, all employees of the Office except as provided in section 303(g).

(b) Compensation and Benefits.—

(1) Compensation.—The Director shall fix the compensation of employees of the Office without regard to the provisions of laws (other than this title) applicable to officers and employees of the United States.

(2) Additional Benefits.—The Director may provide additional benefits to employees of the Office if the same type of benefits are then being provided by the Board of Governors of the Federal Reserve System or the

Federal Deposit Insurance Corporation or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation.

(3) COMPARABILITY.—In setting and adjusting the compensation and benefits for employees of the Office, the Director shall consult with, and may seek to maintain comparability with, the Board of Governors of the Federal Reserve System and the Federal Deposit Insurance Corporation.

(c) EFFECTIVE DATE.—This section shall become effective January 1, 1993.

SEC. 306. REGULATIONS AND ORDERS.

The Director may prescribe such regulations and issue such orders as the Director may determine to be necessary or appropriate for carrying out any law within the Director's jurisdiction.

SEC. 307. FUNDING.

(a) AUTHORITY TO IMPOSE AND COLLECT ASSESSMENTS, FEES, AND OTHER CHARGES.—The Director shall have the authority to impose and collect assessments, fees, and other charges on any institution or entity (including subsidiaries and affiliates thereof) for which the Director is the appropriate Federal banking agency, as defined in section 3(q)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)(1)), as necessary or appropriate to carry out the responsibilities of the Office. Such assessments, fees, and other charges shall be set to meet the full cost to the Federal Government of the services provided by the Office.

(b) USE OF FUNDS.—The Director is authorized to use the funds obtained through assessments, fees, and other charges imposed pursuant to this title to pay the full cost to the Federal Government of the services provided by the Office.

(c) EFFECTIVE DATES.—This section shall become effective January 1, 1993.

Subtitle B—Interim Provisions; Transfer of Functions, Personnel, and Property

SEC. 311. INTERIM PROVISIONS FOR THE OFFICE OF DEPOSITORY INSTITUTIONS SUPERVISION.

(a) INTERIM AUTHORITY OF THE DIRECTOR.—Prior to the date upon which the functions of the Office of the Comptroller of the Currency and the Office of Thrift Supervision are transferred to the Director pursuant to this Act, the Director shall—

(1) consult and cooperate with the Director of the Office of Thrift Supervision and the Comptroller of the Currency to facilitate the orderly transfer of functions to the Office;

(2) pursuant to section 6(b)(2)(A) of the Financial Services Holding Company Act of 1991 (12 U.S.C. 1845(b)(2)(A)), jointly issue regulations with the Board of Governors of the Federal Reserve System to be effective on January 1, 1993, to implement the Financial Services Holding Company Act of 1991; and

(3) take such actions as may be necessary to provide for the establishment of the Office and for the orderly implementation of this title.

(b) INTERIM STAFF.—Prior to the date upon which the Office of the Comptroller of the Currency and the Office of Thrift Supervision are abolished, each such Office shall detail to the Office such personnel as the Secretary deems appropriate to assist the Director in carrying out his duties.

(c) INTERIM ADMINISTRATIVE SERVICES.—The Secretary is authorized to provide all administrative services necessary to support the Office prior to the date upon which the Office of the Comptroller of the Currency and the Office of Thrift Supervision are abolished, and obtain reimbursement for the cost of such services pursuant to subsection (d).

(d) INTERIM FUNDING.—Prior to the date upon which the Office of the Comptroller of the Currency and the Office of Thrift Supervision are abolished, each such Office shall pay to the Secretary one-half of the total amount determined by the Secretary to be necessary to fund all direct and indirect salary and administrative expenses of the Office, including the salary of the Director, through January 1, 1993, from the funds obtained by such Offices through assessments, fees, and other charges which they are authorized to impose by law. The Secretary may credit to an appropriation and spend amounts received pursuant to this subsection.

(e) INTERIM AUTHORITY OF THE SECRETARY.—The Secretary is authorized to perform the functions of the Director under this section until the Director is appointed.

(f) EFFECTIVE DATE.—This section shall become effective January 1, 1992.

SEC. 312. OFFICE OF THRIFT SUPERVISION ABOLISHED.

(a) OFFICE OF THRIFT SUPERVISION ABOLISHED.—Effective January 1, 1993, the Office of Thrift Supervision and the position of Director of the Office of Thrift Supervision are abolished.

(b) DISPOSITION OF AFFAIRS.—

(1) IN GENERAL.—In winding up the affairs of the Office of Thrift Supervision, the Director of the Office of Thrift Supervision shall consult and cooperate with the Director of the Office and the Comptroller of the Currency to facilitate the orderly transfer of functions to the Office. Any matter not resolved pursuant to such consultation and cooperation shall be resolved by the Secretary.

(2) CONTINUING AUTHORITY OF DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.—Except as provided in paragraph (1) and section 311, nothing in this title shall affect the authority vested in the Director of the Office of Thrift Supervision before the date of enactment of this Act which is necessary to carry out the duties of his position until the date upon which the position of Director of the Office of Thrift Supervision is abolished.

(3) CONTINUATION OF AGENCY SERVICES.—Any agency, department, or other instrumentality of the United States, or any successor thereto, which was providing support services to the Office of Thrift Supervision on the day before the date the Office of Thrift Supervision is abolished shall—

(A) continue to provide such services on a reimbursable basis, in accordance with the terms of the arrangement pursuant to which such services were provided until modified or terminated in accordance with such terms, except that effective January 1, 1993, the Office shall substitute for the Office of Thrift Supervision as a party to the arrangement; and

(B) consult with the Director to coordinate and facilitate a prompt and reasonable transition.

(c) SAVINGS PROVISIONS.

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—No provision of this title shall affect the validity of any right, duty, or obligation of the United States, the Office of Thrift Supervision, or any person, which existed on the day before the date upon which the Office of Thrift Supervision is abolished.

(2) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Office of Thrift Supervision shall abate by reason of enactment of this Act, except that, effective January 1, 1993, the Director shall be substituted as a party to any such action or proceeding.

(3) Continuation of Administrative Rules.—

(A) All orders, resolutions, determinations, regulations, interpretative rules, other interpretations, guidelines, procedures and other advisory material which—

(1) have been issued, made, prescribed, or permitted to become effective by the Office of Thrift Supervision, and

(2) are in effect on December 31, 1992, or become effective thereafter,

shall continue in effect according to the terms of such orders, resolutions, determinations, regulations, interpretative rules, other interpretations, guidelines, procedures or other advisory material; and shall be administered by the Director; and shall be enforceable by or against the Director until modified, terminated, set aside, or superseded in accordance with applicable law by the Director, by any court of competent jurisdiction, or by operation of law.

(B) No provision of this Act or of any prior Act or agreement, other than agreements entered into after August 9, 1989, shall modify or limit any minimum level of capital established under section 5(s) of the Home Owners' Loan Act (12 U.S.C. 1464(s)) or any capital standard prescribed or maintained under section 5(t) of such Act (12 U.S.C. 1464(t)).

(4) STATUS OF ADMINISTRATIVE RULES.—

(A) Any proposed regulation or rule of the Office of Thrift Supervision which has not been published as a final regulation by the date that the Office of Thrift Supervision is abolished shall be deemed to be a proposed regulation or rule of the Office.

(B) Any final or interim rule published by the Office of Thrift Supervision prior to January 1, 1993, but which shall not become effective prior to such date, shall become effective according to its terms.

(5) APPLICATION.—The provisions of this subsection shall apply except as otherwise expressly provided in this Act.

(d) TRANSFER OF EMPLOYEES.

(1) IN GENERAL.—All employees of the Office of Thrift Supervision on the day before that Office is abolished by this Act shall be transferred to the Office.

(2) RIGHTS OF TRANSFERRED EMPLOYEES.—All employees transferred pursuant to paragraph (1) shall be entitled to the following rights:

(A) TRANSFER OF FUNCTION.—Notwithstanding any other provision of law, section 3503 of title 5, United States Code, shall be applicable to each such transfer.

(B) TRANSFERRED POSITION.—Each transferred employee shall be guaranteed a position with the same status and tenure as that held on the day immediately preceding the transfer. Each such employee holding a permanent position shall not be involuntarily separated or reduced in grade for 1 year after the date of transfer, except for cause. Nothing in this section shall be construed to limit the right of the Director to terminate an appointment to a position excepted from the competitive service because of its confidential policy-making, policy-determining, or policy-advocating character.

(C) COMPENSATION.—Each employee transferred under this section shall be entitled to receive, during the one-year period immediately following the transfer, the same total compensation which such employee received immediately preceding the transfer. This paragraph shall only apply to a transferred employee while such employee remains with the Office.

(D) BENEFITS.—

(i) Each employee transferred under this section may retain for 1 year after the date such transfer occurs, membership in any employee benefit program of the Office of Thrift Supervision, other than a retirement program but including insurance, to which such employee belongs on the day immediately preceding the transfer if—

(I) the employee does not elect to give up the benefit or membership in the program; and

(II) the benefit or program is continued by the Director.

(ii) The difference in the costs between the benefits which would have been provided by the Office of Thrift Supervision and those provided by this section shall be paid by the Office.

(iii) If any employee elects to give up membership in a health or life insurance program or the health or life insurance program is not continued by the Director, such employee may elect to participate in the Office's health or life insurance program notwithstanding health conditions pre-existing at the time of election or enrollment and without regard to any other regularly scheduled open season. Such election shall be made within 120 days of the transfer or discontinuation of the program.

(3) REORGANIZATION OF THE OFFICE OF DEPOSITORY INSTITUTIONS SUPERVISION.—If the Director determines, not less than one year nor more than three years after the date the functions of the Director of the Office of Thrift Supervision are transferred to the Office, that a reorganization of the combined work force is required, that reorganization shall be deemed a "major reorganization" for purposes of affording affected employees retirement under section 8336(d)(2) or 8414(b)(1)(B) of title 5, United States Code. The provisions of chapter 35 of title 5, United States Code, shall govern any reduction in force resulting from such a reorganization.

(4) EQUITABLE TREATMENT.—The Director may take such action as is necessary to ensure that employees transferring under this section continue to receive credit such employees received, if any, under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 for prior service with a Federal entity or instrumentality, or with a Federal Home Loan Bank or joint office of the Banks, with respect to the transferring employees' retirement accounts and the transferring employees' accrued leave or vacation time, in recognition of the transferring employees' service.

(e) TRANSFER OF PROPERTY.—Effective January 1, 1993, all property of the Office of Thrift Supervision shall be transferred to the Office.

SEC. 313. OFFICE OF THE COMPTROLLER OF THE CURRENCY ABOLISHED.

(a) OFFICE OF THE COMPTROLLER OF THE CURRENCY ABOLISHED.—Effective January 1, 1993, the Office of the Comptroller of the Currency and the position of the Comptroller of the Currency are abolished.

(b) DISPOSITION OF AFFAIRS.

(1) IN GENERAL.—In winding up the affairs of the Office of the Comptroller of the Currency, the Comptroller of the Currency shall consult and cooperate with the Director of the Office of Depository Institutions Supervision and the Director of the Office of Thrift Supervision to facilitate the orderly transfer of functions to the Office. Any matter not resolved pursuant to such consultation and cooperation shall be resolved by the Secretary.

(2) CONTINUING AUTHORITY OF THE COMPTROLLER OF THE CURRENCY.—Except as provided in paragraph (1) and section 311, nothing in this Act shall affect the authority vested in the Comptroller of the Currency before the date of enactment of this Act which is necessary to carry out the duties of his position until the date upon which the position of Comptroller is abolished.

(3) CONTINUATION OF AGENCY SERVICES.—Any agency, department, or other instrumentality of the United States, or any successor thereto, which was providing support services to the Office of the Comptroller of the Currency on the day before the date the Office of the Comptroller of the Currency is abolished shall—

(A) continue to provide such services, on a reimbursable basis, in accordance with the terms of the arrangement pursuant to which such services were provided until modified or terminated in accordance with such terms, except that effective January 1, 1993, the Office shall substitute for the Office of the Comptroller of the Currency as a party to the arrangement; and

(B) consult with the Director to coordinate and facilitate a prompt and reasonable transition.

(c) SAVINGS PROVISIONS.

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—No provision of this title shall affect the validity of any right, duty, or obligation of the United States, the Office of the Comptroller of the Currency, or any person, which existed on the day before the date upon which the Office of the Comptroller of the Currency is abolished by this title.

(2) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Comptroller of the Currency or the Office of the Comptroller of the Currency shall abate by reason of enactment of this Act, except that effective January 1, 1993, the Director shall be substituted as a party to any such action or proceeding.

(3) CONTINUATION OF ADMINISTRATIVE RULES.—All orders, resolutions, determinations, regulations, interpretative rules, other interpretations, guidelines, procedures and other advisory material which—

(A) have been issued, made, prescribed, or permitted to become effective by the Comptroller of the Currency; and

(B) are in effect on December 31, 1992, or become effective thereafter,

shall continue in effect according to the terms of such orders, resolutions, determinations, regulations, interpretative rules, guidelines, procedures or other advisory material; shall be administered by the Director; and shall be enforceable by or against the Director until modified, terminated, set aside, or superseded in accordance with applicable law by the Director, by any court of competent jurisdiction, or by operation of law.

(4) STATUS OF ADMINISTRATIVE RULES.—

(A) Any proposed regulation or rule of the Comptroller of the Currency which has not been published as a final regulation by the date that the Office of the Comptroller of the Currency is abolished shall be deemed to be a proposed regulation or rule of the Office.

(B) Any final or interim rule published by the Comptroller of the Currency prior to January 1, 1993, but which shall not become effective prior to such date, shall become effective according to its terms.

(5) APPLICATION.—The provisions of this subsection shall apply except as otherwise expressly provided in this Act.

(d) TRANSFER OF EMPLOYEES.—

(1) IN GENERAL.—All employees of the Office of the Comptroller of the Currency on the day before that Office is abolished by this Act shall be transferred to the Office.

(2) RIGHTS OF TRANSFERRED EMPLOYEES.—All employees transferred pursuant to paragraph (1) shall be entitled to the following rights:

(A) TRANSFER OF FUNCTION.—Notwithstanding any other provision of law, section 3503 of title 5, United States Code, shall be applicable to each such transfer.

(B) TRANSFERRED POSITION.—Each transferred employee shall be guaranteed a position with the same status and tenure as that held on the day immediately preceding the transfer. Each such employee holding a permanent position shall not be involuntarily separated or reduced in grade for 1 year after the date of transfer, except for cause. Nothing in this section shall be construed to limit the right of the Director to terminate an appointment to a position excepted from the competitive service because of its confidential policy-making, policy-determining, or policy-advocating character.

(C) COMPENSATION.—Each employee transferred under this section shall be entitled to receive, during the one-year period immediately following the transfer, the same total compensation that employee received immediately preceding the transfer. This paragraph shall only apply to a transferred employee while such employee remains with the Office.

(D) BENEFITS.—

(i) Each employee transferred under this section may retain for 1 year after the date such transfer occurs, membership in any employee benefit program of the Office of the Comptroller of the Currency, other than a retirement program but including insurance, to which such employee belongs on the day immediately preceding the transfer if—

(I) the employee does not elect to give up the benefit or membership in the program; and

(II) the benefit or program is continued by the Director.

(ii) The difference in the costs between the benefits which would have been provided by the Office of the Comptroller of the Currency and those provided by this section shall be paid by the Office.

(iii) If any employee elects to give up membership in a health or life insurance program or the health or life insurance program is not continued by the Director, such employee may elect to participate in the Office's health or life insurance programs notwithstanding health conditions pre-existing at the time of election or enrollment and without regard to any other regularly scheduled open season. Such election shall be made within 120 days of the transfer or discontinuation of the program.

(3) REORGANIZATION OF THE OFFICE OF DEPOSITORY INSTITUTIONS SUPERVISION.—If the Director determines, not less than one year nor more than three years after the date the functions of the Comptroller of the Currency are transferred to the Office, that a reorganization of the combined work force is required, that reorganization shall be deemed a "major reorganization" for purposes of affording affected employees retirement under section 8336(d) (2) or 8414(b) (1) (B) of title 5, United States Code. The provisions of chapter 35 of title 5, United States Code, shall govern any reduction in force resulting from such a reorganization.

(e) TRANSFER OF PROPERTY.—Effective January 1, 1993, all property of the Office of the Comptroller of the Currency shall be transferred to the Office.

Subtitle C—Regulatory and Supervisory Responsibility

SEC. 321. TRANSFER OF POWERS AND DUTIES.

(a) DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.—Effective January 1, 1993, all powers and duties which were vested in the Director of the Office of Thrift Supervision on December 31, 1992, are transferred to the Director, except as otherwise provided in this Act.

(b) COMPTROLLER OF THE CURRENCY.—Effective January 1, 1993, all powers and duties which were vested in the Comptroller of the Currency on December 31, 1992, are transferred to the Director, except as otherwise provided in this Act.

SEC. 322. APPROPRIATE FEDERAL BANKING AGENCY.

(a) Section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)) is amended to read as follows—

"(q)(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term 'appropriate Federal banking agency' means—

"(A) the Director of the Office of Depository Institutions Supervision in the case of —

"(i) any national banking association and any subsidiary of a national banking association other than a subsidiary chartered or regulated by the Board of Governors of the Federal Reserve System under sections 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et seq.);

"(ii) any District bank chartered by the Director;

"(iii) any Federal branch or Federal agency of a foreign bank;

"(iv) any savings association and any subsidiary of a savings association;

"(v) any savings and loan holding company;

"(vi) any financial services holding company, the principal bank subsidiary of which is a national banking association, a District bank chartered by the Director, or a savings association; and

"(vii) any diversified holding company that controls any financial services holding company, the principal bank subsidiary of which is a national banking association, a District bank chartered by the Director, or a savings association;

"(B) the Board of Governors of the Federal Reserve System in the case of—

"(i) any State member or State nonmember insured bank (except a District bank chartered by the Director) and any subsidiary of any such State bank;

"(ii) any State branch or State agency of a foreign bank;

"(iii) any subsidiary or branch of a depository institution established or operated pursuant to section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et seq.);

"(iv) any commercial lending company;

"(v) supervisory or regulatory proceedings arising from the authority given to the Board of Governors under section 7(b) (1) of the International Banking Act of 1978 (12 U.S.C. 3105(b) (1)), including such proceedings under the Depository Institutions Supervisory Act;

"(vi) any branch or agency of a foreign bank with respect to any provision of the Federal Reserve Act which is made applicable under the International Banking Act of 1978 (12 U.S.C. 3101 et seq.);

"(vii) any financial services holding company, the principal bank subsidiary of which is a State member or State nonmember insured bank (except a District bank chartered by the Director); and

"(viii) any diversified holding company that controls any financial services holding company, the principal bank subsidiary of which is a State member or State nonmember insured bank (except a District bank chartered by the Director);

"(C) for a foreign bank that is not a financial services holding company, the appropriate Federal banking agency shall be the same as the appropriate Federal banking agency for the branch, agency, or commercial lending company controlled or operated by such foreign bank that has the greatest dollar amount of assets on average for the last day of each quarter of the preceding calendar year. Any foreign bank that is not a financial services holding company shall be evaluated by the appropriate Federal banking agency in accordance with paragraphs (3) through (6).

"(2) principal Bank Subsidiary.—The term 'principal bank subsidiary' means—

"(A) the single subsidiary depository institution of a financial services holding company that has the greatest dollar amount of assets on average for the last day of each quarter of the preceding calendar year; and

"(B) in the case of a foreign bank that is a financial services holding company, the single depository institution, branch, agency, or commercial lending company controlled or operated by a foreign bank in the United States that has the greatest dollar amount of assets on average for the last day of each quarter of the preceding calendar year. Paragraphs (3) through (6) shall apply to a foreign bank and its principal bank subsidiary in the same manner and to the same extent as they apply to a domestic financial services holding company and its principal bank subsidiary.

"(3) MULTIPLE BANK SUBSIDIARIES.—In any case in which there are two or more subsidiary depository institutions of a financial services holding company that have substantially equal dollar amounts of assets and such depository institutions are not regulated by the same appropriate Federal banking agency, then the principal bank subsidiary shall be the depository institution with the greatest dollar amount of deposits on average for the last day of each quarter of the preceding calendar year.

"(4) CALCULATION.—All determinations regarding equity capital or assets, as appropriate, shall be made based upon those amounts on the last day of each of the four quarters over the preceding calendar year.

"(5) EVALUATION.—The appropriate Federal banking agency shall evaluate the principal bank subsidiary as defined in paragraphs (2) and (3) every five years for the purpose of determining whether a transfer to the other appropriate Federal banking agency is necessary. The first evaluation shall occur by April 30, 1998.

"(6) TRANSFER.—In any case in which the appropriate Federal banking agency has changed after evaluation, notice shall be given to the new appropriate Federal banking agency within 30 days after evaluation. A copy of the examination reports and any other reports required to be filed by the financial services holding company pursuant to section 6 of the Financial Services Holding Company Act of 1991 (12 U.S.C. 1845) for the prior two years shall be provided to the new appropriate Federal banking agency when notice is provided to such agency. Regulation and supervision of the financial services holding company shall be transferred to the new appropriate Federal banking agency no later than 90 days after notice has been provided.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on January 1, 1993.

SEC. 323. EXAMINATIONS

(a) IN GENERAL.—The Director has the power to conduct examinations of the affairs of each institution or entity for which the Director is the appropriate Federal banking agency, as defined in section 3(q) (1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q) (1)), and such other institution or entity over which the Director has examination authority pursuant to the Financial Services Holding Company Act of 1991.

(b) ANNUAL EXAMINATIONS REQUIRED.—At least once during every 12-month period, the Director shall conduct an on-site examination of each depository institution and branch of a foreign bank for which the Director is the appropriate Federal banking agency, except annual examinations shall not be required for—

(1) any depository institution or foreign bank branch for which a conservator or receiver has been appointed; and

(2) any depository institution or foreign bank branch that has total assets of less than $1,000,000,000 as of December 31 of the year preceding a scheduled examination, and that is in compliance with the capital standards prescribed by the Director. Such depository institution shall be examined on-site at least once during the following 18-month period.

(c) SPECIAL EXAMINATIONS.—In addition to the examinations authorized or required under subsections (a) and (b), the Director may make any special examination of such institution or entity which the Director determines to be necessary.

(d) EXAMINATION OF AFFILIATES.—The Director may examine any affiliate (as defined in section 2 of the Banking Act of 1933 (12 U.S.C. 221a)) of a depository institution, and any other affiliate except those examined pursuant to the Financial Services Holding Company Act of 1991 (12 U.S.C. 1841 *et seq.*), as may be necessary to disclose fully—

(1) the relationship between the depository institution and its affiliate; and

(2) the effect of such relationship on the depository institution.

(e) ASSESSMENT IN CASE OF AFFILIATE'S REFUSAL TO PAY.—

(1) IN GENERAL.—Subject to paragraph (2), if any affiliate of any depository institution, other than an affiliate examined pursuant to the Financial Services Holding Company Act of 1991—

(A) refuses to pay any assessment, or

(B) fails to pay any assessment before the end of the 60-day period beginning on the date of the assessment,

the Director may assess such cost against, and collect such cost from, such depository institution.

(2) AFFILIATE OF MORE THAN ONE DEPOSITORY INSTITUTION.— If any affiliate referred to in paragraph (1) is an affiliate of more than one depository institution, the assessment with respect to the affiliate may be assessed against, and collected from, any affiliated depository institution in such proportions as the Director may prescribe.

(f) CIVIL MONEY PENALTIES FOR AFFILIATE'S REFUSAL TO COOPERATE.—

(1) PENALTY IMPOSED.—If any affiliate of any depository institution referred to in subsection (e)—

(A) refuses to permit any examiner appointed by the Director to make an examination, or

(B) refuses to provide any information required to be disclosed in the course of examination,

the depository institution shall pay a civil penalty of not more than $5,000 for each day that such refusal continues.

(2) ASSESSMENT AND COLLECTION.—Any penalty imposed under paragraph (1) shall be assessed and collected by the Director in the manner provided in section 8(i) (2) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i) (2)).

(g) POWER AND DUTY OF EXAMINERS.—Each examiner appointed by the Director shall have power to conduct—

(1) a thorough examination and prepare a full report of condition of any depository institution for which the Director is the appropriate Federal banking agency, and

(2) an examination pursuant to subsection (d) and prepare a full report of the findings.

(h) Administration of Oaths and Access to Records.—In connection with examinations of depository institutions and their affiliates, the examiner shall—

(1) have access to and power to administer oaths and examine any of the officers, directors, employees, or agents thereof under oath; and

(2) be given prompt and complete access to all relevant books, records or documents of any type.

(i) PUBLICATION OF REPORTS.—The Director is authorized to publish the report of his examination of any national bank or affiliate which, within 120 days after notification, fails to comply, to the satisfaction of the Director, with the recommendations or suggestions made in such examination. The national bank or affiliate shall be given 90 days notice prior to such publication.

(j) LIMITATION ON VISITORIAL POWERS.—

(1) No depository institution chartered under Federal law shall be subject to any visitorial powers except as authorized by Federal law, vested in the courts of justice or such as shall be, or have been, exercised or directed by Congress or by either House thereof or by any committee of Congress or of either House duly authorized.

(2) Notwithstanding paragraph (1), lawfully authorized State auditors and examiners may, at reasonable times and upon reasonable notice to a depository institution chartered under Federal law, review its records solely to ensure compliance with applicable State unclaimed property or escheat laws upon reasonable cause to believe that the depository institution has failed to comply with such laws.

(k) The provisions of subsections (a) through (j) shall become effective on January 1, 1993.

SEC. 324. CONFORMING AMENDMENTS.

(a) Section 5240 of the Revised Statutes, as amended (12 U.S.C. 481 through 485) is revised to read as follows—

"(a) In addition to the examinations made and conducted by the Director of the Office of Depository Institutions, every Federal reserve bank may, with the approval of the Federal reserve agent or the Board of Governors of the Federal Reserve System, provide for special examination of member banks within its district. The expense of such examinations may, in the discretion of the Board of Governors of the Federal Reserve System, be assessed against the banks examined, and, when so assessed, shall be paid by the banks examined. Such examination shall be so conducted as to inform the Federal reserve bank of the condition of its member banks and of the lines of credit which are being extended by them. Every Federal reserve bank shall at all times furnish to the Board of Governors of the Federal Reserve System such information as may be demanded concerning the condition of any member bank within the district of the said Federal reserve bank.

"(b) The Board of Governors of the Federal Reserve System shall, at least once each year, order an examination of each Federal reserve bank, and upon joint application of ten member banks the Board of Governors of the Federal Reserve System shall order a special examination and report of the condition of any Federal reserve bank.".

(b) The Home Owners' Loan Act (12 U.S.C. 1461 et seq.) is amended—

(1) in section 4(d)(1)(B) (12 U.S.C. 1463(d)(1)(B))—

(A) by striking clauses (i) and (ii); and

(B) by redesignating clauses (iii) through (vii) as clauses (i) through (v), respectively;

(2) in section 10(b)(4) (12 U.S.C. 1467a(b)(4)), by striking the first two sentences; and

(3) by repealing section 13 (12 U.S.C. 1486b).

(c) The amendments made by subsections (a) and (b) shall become effective on January 1, 1993.

SEC. 325. APPOINTMENT OF A RECEIVER.

(a) Section 1 of the Act of June 30, 1876 (12 U.S.C. 191), is amended to read as follows:

"(1) General Grounds for Appointment of a Receiver.—A receiver may be appointed by the Director of the Office of Depository Institutions Supervision for any national banking association whenever the Director of the Office of Depository Institutions Supervision determines that one or more of the following circumstances exist:

"(A) Whenever any national banking association shall be dissolved, and its rights, privileges, and franchises declared forfeited, as prescribed in section 5239 of the Revised Statutes, or whenever any creditor of any national banking association shall have obtained a judgment against it in any court of record, and made application, accompanied by a certificate from the clerk of the court stating that such judgment has been rendered and has remained unpaid for thirty days, or whenever the Director of the Office of Depository Institutions Supervision shall become satisfied of the insolvency of a national banking association;

"(B) the bank is not likely to be able to meet the demands of its depositors or pay its obligations in the normal course of business;

"(C) the bank is in an unsafe or unsound condition to transact business, including having substantially insufficient capital or otherwise;

"(D)(i) the bank has incurred or is likely to incur losses that will deplete all or substantially all of its capital; and

"(ii) there is no reasonable prospect for the bank's capital to be replenished without Federal assistance;

"(E) there is or was a violation of laws, rules, or regulations, or any unsafe or unsound practice or condition which is likely to cause insolvency or substantial dissipation of assets or earnings, or is likely to weaken the bank's condition or otherwise seriously prejudice the interests of its depositors;

"(F) there is concealment of books, papers, records, or assets of the bank, or refusal to submit books, papers, records, or affairs of the bank for inspection to any examiner or to any lawful agent of the Director of the Office of Depository Institutions Supervision;

"(G) there is a willful or continuing violation of an order enforceable against the bank under section 18(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i));

"(H) the bank's board of directors consists of fewer than 5 members; or

"(I) the national banking association is classified as a Zone 5 institution by the Director of the Office of Depository Institutions Supervision pursuant to section 35 of the Federal Deposit Insurance Act.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on January 1, 1993.

Subtitle D—Transfer of Federal Deposit Insurance Corporation Authority

SEC. 331. AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.

(a) INSURED DEPOSITORY INSTITUTION.—Section 3(c)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(3)) is amended by striking "any uninsured" and inserting instead "any insured or uninsured".

(b) APPLICATION FOR INSURANCE.—Section 5 of the Federal Deposit Insurance Act (12 U.S.C. 1815) is amended—

(1) in subsection (a), by amending paragraph (1) to read as follows:

"(1) National and State nonmember banks; State savings associations and State savings banks.—

"(A) Any national nonmember bank which is engaged in the business of receiving deposits, other than trust funds as herein defined, upon application by the bank and certification by the Director of the Office of Depository Institutions Supervision in the manner prescribed in subsection (b) of section 4 of this Act, any State nonmember bank, State savings association, and State savings bank, upon application to and examination by the Corporation and approval by the Board of Directors, may become an insured depository institution.

"(B) Before approving the application of any such State nonmember bank, State savings association, and State savings bank, the Board of Directors shall give consideration to the factors enumerated in section 6 of this Act, and shall determine, upon the basis of a thorough examination of such bank or savings association, that its assets in excess of its capital requirements are adequate to enable it to meet all of its liabilities to depositors and other creditors as shown by the books of the bank or savings association.

"(C) In the case of an application by a State savings association, the Board of Directors shall obtain the views of the Director of the Office of Depository Institutions Supervision. In the case of an application by a State nonmember bank or State savings bank, the Board of Directors shall obtain the views of the Board of Governors of the Federal Reserve System.

"(D) The Corporation shall notify the Director of the Office of Depository Institutions Supervision or the Board of Governors of the Federal Reserve System, as appropriate, of its determination with respect to any such application.

"(E) Before approving the application of any industrial bank or similar financial institution, the Board of Directors shall determine that it is chartered and operating under laws providing for examination, supervision, and liquidation substantially comparable to those applicable to banks operating in the same State."; and

(2) in subsection (b), by inserting "shall obtain the views of the Board of Governors of the Federal Reserve System and" before "shall give consideration".

(c) REPORTS OF CONDITION.—Section 7(a)(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(1)) is amended by striking the terms "Corporation" and "Board of Directors" wherever they appear and inserting instead "Board of Governors of the Federal Reserve System".

(d) ENFORCEMENT PROCEEDINGS.—Section 8(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)(3)) is amended to read as follows:

"(3) This subsection and subsections (c) through (s) and subsection (u) of this section shall apply—

"(A) to any financial services holding company, and to any subsidiary (other than a bank) of a financial services holding company, as those terms are defined in the Financial Services Holding Company Act of 1991 (12 U.S.C. 1841 et seq.)—

"(i) in the same manner as they apply to a State member or State nonmember insured bank, in the case of a financial services holding company, the principal bank subsidiary of which is a State member or State nonmember insured bank (except a District bank chartered by the Director); or

"(ii) in the same manner as they apply to a national banking association, in the case of a financial services holding company, the principal bank subsidiary of which is a national banking association, a District bank chartered by the Director or a savings association; and

"(B) to any organization organized and operated under section 25(a) of the Federal Reserve Act (12 U.S.C. 611 et seq.) or operating under section 25 of the Federal Reserve Act (12 U.S.C. 601 et seq.), in the same manner as they apply to a State member insured depository institution.".

(e) EXAMINATIONS.—Section 10(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)(2)) is amended—

(1) by striking subparagraph (A); and

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(f) AMENDMENTS TO SECTION 18 OF THE FEDERAL DEPOSIT INSURANCE ACT.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended—

(1) in subsection (c)—

(A) by striking "responsible agency" wherever it appears and inserting instead "appropriate Federal banking agency";

(B) by striking "responsible agencies" wherever it appears and inserting instead "appropriate Federal banking agencies";

(C) by striking "the other two banking agencies referred to in this subsection" wherever it appears and inserting instead "the other appropriate Federal banking agency";

(D) by striking "the other two banking agencies" wherever it appears and inserting instead "the other appropriate Federal banking agency"; and

(E) in paragraph (2), by striking "written approval" and all that appears thereafter and inserting instead "written approval of the appropriate Federal banking agency for the acquiring, assuming, or resulting institution.";

(2) in subsection (d), by striking "Corporation" wherever it appears and inserting instead "Board of Governors of the Federal Reserve System";

(3) in subsection (g)—

(A) by striking "Board of Directors" wherever it appears and inserting instead "Board of Governors of the Federal Reserve System"; and

(B) in paragraph (1)—

(i) in the first sentence, by striking ", or by regulation of the Board of Governors of the Federal Reserve System";

(ii) in the second sentence, by striking "Board of Governors of the Federal Reserve System and Director of the Office of Thrift Supervision" and inserting instead "Director of the Office of Depository Institutions Supervision"; and

(iii) in the fifth sentence, by striking ", except that the term 'member bank', as used in such section 2(b), shall be deemed to refer to an insured nonmember bank";

(4) in subsection (i)—

(A) in paragraph (1)—

(i) by striking "(except a District bank)" and inserting instead "(except a District bank chartered by the Director of the Office of Depository Institutions Supervision)";

(ii) by striking "Corporation" and inserting instead "Board of Governors of the Federal Reserve System"; and

(B) in paragraph (2), by striking "written consent" and all that appears thereafter in such paragraph and inserting instead "written consent of the appropriate Federal banking agency for the acquiring, assuming or resulting institution.";

(5) by repealing subsection (j); and

(6) in subsection (l)—

(A) by striking the terms "Corporation" and "Board of Directors" wherever they appear and inserting instead "Board of Governors of the Federal Reserve System"; and

(B) by striking "subsection (j) of this section" and inserting instead "sections 23A (12 U.S.C. 371c et seq.), 23B (12 U.S.C. 371c-1 et seq.), and 22(h) (12 U.S.C. 375b et seq.) of the Federal Reserve Act, as amended".

(g) Participation by State Nonmember Insured Banks in Lotteries and Related Activities.—Section 20 of the Federal Deposit Insurance Act (12 U.S.C. 1829a) is repealed.

(h) EFFECTIVE DATE.—The amendments made by subsections (a) through (g) shall become effective on January 1, 1993.

SEC. 332. AMENDMENTS TO THE FEDERAL RESERVE ACT.

(a) The Federal Reserve Act is amended—

(1) in section 1 (12 U.S.C. 221), by inserting at the end of the second undesignated paragraph the following:

"The term 'insured State bank' shall mean a bank for which the Board of Governors of the Federal Reserve System is the appropriate Federal banking agency under the Federal Deposit Insurance Act. The term 'insured nonmember bank' shall mean an insured State bank that has not become a member of one of the reserve banks created under this Act.";

(2) in section 9A (12 U.S.C. 339), by striking "State member bank" wherever it appears and inserting instead "insured State bank";

(3) in section 22(h) (12 U.S.C. 375b), by inserting "or insured nonmember bank" after "member bank" wherever it appears;

(4) in section 23A (12 U.S.C. 371c), by inserting after subsection (e) the following new subsection:

"(f) Applicability to Insured Nonmember Banks.—The provisions of this section shall apply to an insured nonmember bank and any subsidiary thereof in the same manner and to the same extent as such section applies to a member bank and any subsidiary thereof.";

(5) in section 23B (12 U.S.C. 371c–1), by inserting after subsection (e) the following new subsection:

"(f) Applicability to Insured Nonmember Banks.—The provisions of this section shall apply to an insured nonmember bank and any subsidiary thereof in the same manner and to the same extent as such section applies to a member bank and any subsidiary thereof."; and

(6) in section 29 (12 U.S.C. 504)—

(A) by inserting "and any subsidiary thereof" after "member bank" wherever it appears; and

(B) by inserting "and any insured nonmember bank and subsidiary thereof, and any institution-affiliated party with respect to such insured nonmember bank, which violates any provision of section 22(h), 23A, or 23B of this Act, or any regulation issued pursuant thereto," before "shall forfeit".

(b) Effective Date.—The amendments made by subsection (a) shall become effective on January 1, 1993.

SEC. 333. SAVINGS PROVISIONS.

(a) Existing Rights, Duties, and Obligations Not Affected.—No provision of this Act shall affect the validity of any right, duty, or obligation of the United States, the Federal Deposit Insurance Corporation, or any person, which existed on December 31, 1992.

(b) Continuation of Suits.—No action or other proceeding commenced by or against the Federal Deposit Insurance Corporation or the Board of Directors of the Federal Deposit Insurance Corporation with respect to any power or duty of the Corporation that is transferred by this Act to the Board of Governors of the Federal Reserve System shall abate by reason of enactment of this Act, except that effective January 1, 1993, the Board of Governors of the Federal Reserve System shall be substituted as a party to any such action or proceeding.

(c) Continuation of Orders, Resolutions, and Regulations.—All orders, resolutions, determinations, regulations, interpretative rules, other interpretations, guidelines, procedures and other advisory material which—

(1) have been issued, made, prescribed, or permitted to become effective by the Federal Deposit Insurance Corporation with respect to any power or duty of the Corporation that is transferred by this Act to the Board of Governors of the Federal Reserve System, and

(2) are in effect on December 31, 1992, or become effective thereafter,

shall continue in effect according to the terms of such orders, resolutions, determinations, regulations, interpretative rules, other interpretations, guidelines, procedures or other advisory material; shall be administered by the Board of Governors of the Federal Reserve System; and shall be enforceable by or against the Board of Governors of the Federal Reserve System until modified, terminated, set aside, or superseded in accordance with applicable law by the Board of Governors of the Federal Reserve System, by a court of competent jurisdiction, or by operation of law.

(d) Status of Administrative Rules.—

(1) Any proposed regulation or rule of the Federal Deposit Insurance Corporation with respect to any power or duty of the Corporation that is transferred to the Board of Governors of the Federal Reserve System which has not been published as a final regulation by January 1, 1993, shall be deemed to be a proposed regulation or rule of the Board of Governors of the Federal Reserve System.

(2) Any final or interim rule published by the Corporation prior to January 1, 1993, but which shall not become effective prior to such date, shall become effective according to its terms.

(e) Application.—The provisions of this section shall apply except as otherwise expressly provided in this Act.

SEC. 334. TRANSFER OF PERSONNEL AND PROPERTY.

(a) Employees Transferred.—The Chairman of the Board of the Federal Deposit Insurance Corporation and the Chairman of the

Board of Governors of the Federal Reserve System shall jointly determine the employees of the Federal Deposit Insurance Corporation necessary to perform or support the functions or activities which are transferred from the Federal Deposit Insurance Corporation to the Board of Governors of the Federal Reserve System by this Act, and such employees shall be transferred to the Board of Governors of the Federal Reserve System in accordance with this section.

(b) Rights of Transferred Employees.—All employees identified for transfer under subsection (a) shall be entitled to the following rights:

(1) Each employee so identified shall be transferred to the Board of Governors of the Federal Reserve System for employment no later than January 1, 1993. Notwithstanding any other provision of law, section 3503 of title 5, United States Code, shall be applicable to each such transfer.

(2) Each transferred employee shall be guaranteed a position with the Board of Governors of the Federal Reserve System with comparable creditable service, and with pay no lower than the pay to which such employee was entitled on the day immediately preceding the transfer. Each such employee holding a permanent position shall not be involuntarily separated or reduced in grade or compensation for one year after the date of transfer, except for cause.

(3) If the Board of Governors of the Federal Reserve System determines after December 31, 1993, but before December 31, 1995, that a reorganization of the combined work force is required, that reorganization shall be deemed a "major reorganization" for purposes of affording affected employees' retirement under section 8336(d) (2) or 8414(b)(1)(B) of title 5, United States Code, or under any other retirement plan for government employees to which such employees may belong.

(4) Any transferred employee accepting employment with the Board of Governors of the Federal Reserve System as a result of such transfer may retain for one year after the date such transfer occurs membership in any employee benefit program of the Federal Deposit Insurance Corporation, other than a retirement program but including insurance, to which that employee belongs on the day immediately preceding the transfer if—

(A) the employee does not elect to give up the benefit or membership in the program; and

(B) the benefit or program is continued by the Board of Governors of the Federal Reserve System. The excess of the costs of the benefits provided by this section over the costs of benefits which would have been provided by the Board of Governors of the Federal Reserve System shall be paid by the Federal Deposit Insurance Corporation. If any transferred employee elects to give up membership in a health insurance program of the Federal Deposit Insurance Corporation or the health insurance program is not continued by the Federal Deposit Insurance Corporation, such employee may elect to participate in a health insurance program offered by the Board of Governors of the Federal Reserve System within one year after the date of such transfer.

(5) Except as provided in paragraph (6), any transferred employee accepting employment with the Board of Governors of the Federal Reserve System shall remain in any retirement plan established by Chapter 83 of title 5, United States Code, or the retirement plan established by chapter 84 of title 5, United States Code, to which the employee belongs immediately preceding the transfer if—

(A) the employee does not elect to give up membership in the program; and

(B) the program is continued.

After their transfer, the Board of Governors of the Federal Reserve System will make all contributions to such program concerning such transferred employees that would have been made by the Federal Deposit Insurance Corporation if the employee had remained an employee of the Federal Deposit Insurance Corporation.

(6) Any transferred employee accepting employment with the Board of Governors of the Federal Reserve System who, immediately prior to such transfer, is an employee within the meaning of section 8401(11) of title 5, United States Code, may elect to remain in the Federal Employees' Retirement System established under Chapter 84 of title 5, United States Code, in accordance with paragraph (5), or may elect, within one year after the date of transfer, to transfer to the retirement program offered by the Board of Governors of the Federal Reserve System generally to employees whose service with the Board commenced after December 31, 1983. Any transferring employee making such an election shall forego all benefits under the retirement programs established under Subchapters I, II, IV, V and VI of Chapter 84 of title 5, United States Code, but shall receive benefits under the program offered by the Board of Governors of the Federal Reserve System as though such employee had enrolled in the Board of Governors of the Federal Reserve System's retirement program on the same date that such employee enrolled in the retirement programs established under such Subchapters.

(7) All transferring employees shall be placed in positions at the Board of Governors of the Federal Reserve System comparable to the positions from which such employees were transferred.

(8) The Board of Governors of the Federal Reserve System shall take such action as is necessary on a case-by-case basis so that employees transferring under this section receive equitable treatment regarding credit for prior service with a Federal entity or instrumentality, with respect to the transferred employees' retirement accounts, and accrued leave or vacation time, in recognition of the transferring employees' service.

(9) Transferring employees shall receive notice of their position assignments not later than 120 days after the effective date of their transfer.

(10) Except as specifically set forth herein, transferred employees shall have the same rights and entitlements as other similarly situated employees of the Board of Governors of the Federal Reserve System pursuant to sections 10 and 11(l) of the Federal Reserve Act (12 U.S.C. 244 and 248(l)).

(c) TRANSFER OF PROPERTY.—Not later than January 1, 1993, the Chairman of the Board of the Federal Deposit Insurance Corporation and the Chairman of the Board of Governors of the Federal Reserve System shall jointly determine the property of the Federal Deposit Insurance Corporation used to perform the functions and activities transferred from the Federal Deposit Insurance Corporation to the Board of Governors of the Federal Reserve System by this Act, and such property shall then be transferred promptly to the Board of Governors of the Federal Reserve System. The Board of Governors of the Federal Reserve System may hold such property and acquire any such other property as is necessary to perform the transferred functions and activities or related functions or activities with respect to State member banks or financial services holding companies.

(d) CONTINUATION OF AGENCY SERVICES.—Any agency, department, or other instrumentality of the United States, or any successor to any such agency, department or instrumentality, which was providing support services to the Federal Deposit Insurance Corporation immediately before the date of any transfer of functions to the Board of Governors of the Federal Reserve System under this section in connection with such transferred functions shall—

(1) continue to provide such service, on a reimbursable basis, in accordance with the terms of the arrangement pursuant to which such services were provided until modified or terminated in accordance with such terms except that the Board of Governors of the Federal Reserve System shall substitute for the Board of Directors of the Federal Deposit Insurance Corporation as a party to the arrangement; and

(2) consult with the Board of Governors of the Federal Reserve System to coordinate and facilitate a prompt and reasonable transition.

(e) CONFORMING AMENDMENTS TO THE FEDERAL RESERVE ACT.—

(1) Section 10(3) of the Federal Reserve Act, as amended (12 U.S.C. 243), is amended—

(A) by striking "site or building in the District of Columbia" and inserting instead "such sites or buildings"; and

(B) by striking the terms "any sites" and "building" wherever they appear and inserting instead "building or buildings".

(2) Section 10(9) of the Federal Reserve Act, as amended (12 U.S.C. 522), is repealed.

Subtitle E—Litigation Authority

SEC. 341. LITIGATION AUTHORITY.

(a) Notwithstanding any other provision of this Act, the Director, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the National Credit Union Administration may employ attorneys to conduct litigation brought by or against their respective agencies, officers, or employees, in matters affecting such agencies, but such litigation may be conducted only with the prior consent of the Attorney General, and subject to the Attorney General's direction and control.

(b) Section 5(d)(1)(A) of the Home Owners' Loan Act (12 U.S.C. 1464(d)(1)(A)) is amended by striking the second sentence.

(c) Subsections (a) and (b) shall become effective on January 1, 1993.

Subtitle F—Reorganization of Boards of Directors

SEC. 351. FEDERAL DEPOSIT INSURANCE CORPORATION BOARD OF DIRECTORS.

(a) REORGANIZATION.—Section 2 of the Federal Deposit Insurance Act (12 U.S.C. 1812) is amended—

(1) by striking "Comptroller of the Currency" wherever it appears and inserting instead "Director of the Office of Depository Institutions Supervision";

(2) by striking "Director of the Office of Thrift Supervision" wherever it appears and inserting instead "Chairman of the Board of Governors of the Federal Reserve System"; and

(3) in subsection (a), by striking paragraph (2).

(b) Conforming Amendment to the Federal Reserve Act.—Section 11(k) of the Federal Reserve Act (12 U.S.C. 248(k)) is amended by adding at the end thereof the following:

"The Chairman may delegate the authority of the Chairman to serve as a member of the Board of Directors of the Federal Deposit Insurance Corporation to any member or employee of the Board or to any officer of a Federal Reserve bank.".

(c) EFFECTIVE DATE.—The amendments made by this subsection shall become effective January 1, 1993.

SEC. 352. REORGANIZATION OF NATIONAL CREDIT UNION ADMINISTRATION BOARD OF DIRECTORS.

(a) Section 102(b) of the Federal Credit Union Act (12 U.S.C. 1752a(b)) is amended—

(1) in the first sentence—

(A) by inserting "two of whom shall be independent members" after "members,"; and

(B) by inserting ", and one of whom shall be the Director of the Office of Depository Institutions Supervision" after "Senate";

(2) in the second sentence, by inserting "independent" before "members"; and

(3) by striking the third sentence.

(b) The amendments made by subsection (a) shall become effective January 1, 1993.

Subtitle G—Savings Provisions for the Transfer of Authority from the Board of Governors of the Federal Reserve System to the Director

SEC. 361. SAVINGS PROVISIONS.

(a) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—No provision of this title shall affect the validity of any right, duty, or obligation of the United States, the Board of Governors of the Federal Reserve System, or any person, which existed on December 31, 1992.

(b) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Board of Governors of the Federal Reserve System with respect to any authority transferred from the Board to the Director pursuant to this Act shall abate by reason of enactment of this Act, except that, effective January 1, 1993, the Director shall be substituted, as appropriate, as a party to any such action or proceeding.

(c) CONTINUATION OF ORDERS, RESOLUTIONS, DETERMINATIONS, AND REGULATIONS.—All orders, resolutions, determinations, regulations, interpretative rules, other interpretations, guidelines, procedures and other advisory material which—

(1) have been issued, made, prescribed, or permitted to become effective by the Board of Governors of the Federal Reserve System with respect to any function transferred from the Board to the Director pursuant to this Act; and

(2) are in effect on December 31, 1992, or become effective thereafter.

shall continue in effect according to the terms of such orders, resolutions, determinations, regulations, interpretative rules, other interpretations, guidelines, procedures or other advisory material; shall be administered by the appropriate Federal banking agency; and shall be enforceable by or against the appropriate Federal banking agency until modified, terminated, set aside, or superseded in accordance with applicable law by the appropriate Federal banking agency, by any court of competent jurisdiction, or by operation of law.

(d) STATUS OF ADMINISTRATIVE RULES.—

(1) Any proposed regulation or rule of the Board of Governors of the Federal Reserve System relating to any function transferred from the Board to the Director pursuant to this Act, which has not been published as a final regulation by the date that the supervisory and regulatory authority of the Board of Governors of the Federal Reserve System is transferred to the Director pursuant to this Act, shall be deemed to be a proposed regulation of the appropriate Federal banking agency.

(2) Any final or interim rule that would be transferred pursuant to paragraph (1) if it were effective prior to January 1, 1993, but which will become effective subsequent to such date, shall become effective according to its terms.

(e) APPLICATION.—The provisions of this section shall apply except as otherwise expressly provided in this Act.

TITLE IV—BANK INSURANCE FUND RECAPITALIZATION

Subtitle A—Federal Deposit Insurance Corporation Borrowing

SEC. 401. FEDERAL DEPOSIT INSURANCE CORPORATION BORROWING.

Section 15 of the Federal Deposit Insurance Act (12 U.S.C. 1825) is amended—

(1) by inserting after subsection (d) the following new subsection:

"(e) CORPORATION BORROWINGS.—

"(1) AUTHORITY.—The Corporation shall have the authority to borrow funds from any Federal Reserve bank, provided that the Corporation shall have no more than $25,000,000,000 in borrowings outstanding at any one time from all Federal Reserve banks.

"(2) LIMITATIONS.—Any borrowing undertaken by the Corporation pursuant to paragraph (1) shall be undertaken only for the following purposes:

"(A) to maintain or improve the liquidity of the Bank Insurance Fund; or

"(B) to provide financial assistance with respect to any insured depository institution, or receivership or conservatorship of an insured depository institution, pursuant to section 11 or section 13."; and

(2) by amending subsection (c)(6) to read as follows:

"(6) EXCEPTIONS.—

"(A) With the prior approval of the Secretary of the Treasury, the Corporation may issue or incur up to $5,000,000,000 in the aggregate of additional liabilities in excess of the limitations of paragraph (5). The amount which the Corporation may borrow from the Secretary of the Treasury under section 14 shall be reduced by the amount of additional liabilities issued or incurred pursuant to this paragraph.

"(B) Obligations issued and funds received by the Corporation pursuant to section 15(e) shall not be subject to, and shall not be counted in calculating compliance with, the limitations of paragraph (5).

"(C) In calculating compliance with the limitations of paragraph (5), an amount equal to $5,000,000,000 less the amount of outstanding borrowing by the Corporation from the Secretary of the Treasury under section 14, or otherwise borrowed under subparagraph (A) included in net worth.".

SEC. 402. AMENDMENT TO THE FEDERAL RESERVE ACT.

Section 13 of the Federal Reserve Act (12 U.S.C. 342-347d) is amended by adding at the end thereof the following:

"Subject to such restrictions, limitations and regulations as the Board of Governors of the Federal Reserve System shall prescribe, any Federal Reserve bank is authorized to make advances to the Federal Deposit Insurance Corporation, upon its request. Such advances shall bear interest at the current market yield on outstanding marketable obligations of the United States of comparable maturities, as of the date of advance.".

Subtitle B—Federal Deposit Insurance Corporation Assessments

SEC. 411. MAXIMUM AGGREGATE ASSESSMENT.

Section 7(b)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(C) is amended—

(1) by amending clause (iii) to read as follows:

"(iii) MAXIMUM AGGREGATE ASSESSMENT.—Notwithstanding clause (i), the maximum aggregate assessment charged to the members of the Bank Insurance Fund for any semiannual period, shall not exceed 0.15 percent of aggregate assessment base for such semiannual period."; and

(2) by inserting after clause (iii) the following:

"The Corporation shall have the authority to make such estimates and projections as may be appropriate for the purpose of computing assessment rates and aggregate assessment target amounts, and such estimates and projections shall not be subject to review by any court, nor shall any court have authority to stay or enjoin the Corporation from collecting assessments so computed. No action seeking repayment of an assessment collected by the Corporation may be brought later than 60 days after the date on which such assessment is due.".

SEC. 412. BANK INSURANCE FUND BORROWING ASSESSMENT.

Section 7(b)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)) is further amended by inserting after subparagraph (F) the following new subparagraph:

"(G) DEDICATION OF BANK INSURANCE FUND ASSESSMENTS FOR THE REPAYMENT OF BANK INSURANCE FUND BORROWING FROM THE FEDERAL RESERVE BANK.—Subject to the provisions of this paragraph, if the Corporation has borrowed funds from a Federal Reserve bank as authorized by section 15(e), and so long as any such borrowing remains outstanding, the Board of Directors is authorized and directed—

"(i) to determine the amount of semiannual Bank Insurance Fund assessments received by the Corporation necessary to pay interest and principal on such borrowings pursuant to their terms; and

"(ii) to take whatever actions are necessary to dedicate that portion of the semiannual assessments received, determined pursuant to clause (i), to pay interest and principal on such borrowings pursuant to their terms. The amounts so dedicated shall not be available for any purpose other than payment of interest and principal of such borrowings.".

TITLE V—MISCELLANEOUS PROVISIONS

Subtitle A—Payment System Risk Reduction

SEC. 501. FINDINGS AND PURPOSE.

The Congress finds that—

(1) Many financial institutions engage daily in thousands of transactions with other financial institutions directly and through clearing organizations;

(2) The efficient processing of such transactions is essential to a smoothly functioning economy;

(3) Such transactions can be processed most efficiently if, consistent with applicable contractual terms, obligations among financial institutions are netted;

(4) Such netting procedures would reduce the systemic risk within the banking system and financial markets; and

(5) The effectiveness of such netting procedures can be assured only if they are recognized as valid and legally binding in the event of the closing of a financial institution participating in the netting procedures.

SEC. 502. DEFINITIONS.

For Purposes of this subtitle—

(1) "Broker/dealer" means a company that is registered or licensed under Federal or State law to engage in the business of brokering, underwriting, or dealing in securities in the United States.

(2) "Clearing organization" means a clearing house, clearing association, clearing corporation or a similar organization that provides clearing or settlement services for its members and in which all members other than the clearing organization itself are financial institutions.

(3) "Covered clearing obligation" means an obligation of a member of a clearing organization to make payment to another member of that clearing organization.

(4) "Covered contractual payment entitlement" means—

(A) an entitlement of a financial institution to receive a payment, subject to a netting contract from another financial institution; and

(B) an entitlement of a member of a clearing organization to receive payment, subject to a netting contract, from another member of that clearing organization of a covered clearing obligation.

(5) "Covered contractual payment obligation" means—

(A) an obligation of a financial institution to make payment, subject to a netting contract to another financial institution; and

(B) a covered clearing obligation.

(6) "Depository institution" means—

(A) a depository institution as defined in Section 19(b)(1)(A)(i)-(vi) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)(i)-(vi));

(B) a branch or agency as defined in Section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101(b));

(C) a corporation chartered under Section 25(a) of the Federal Reserve Act (12 U.S.C. 611 et seq.); or

(D) a corporation having an agreement or undertaking with the Board of Governors of the Federal Reserve System under section 25 of the Federal Reserve Act (12 U.S.C. 601 et seq.).

(7) "Failed financial institution" means a financial institution that fails to satisfy a covered contractual payment obligation when due, that has commenced or had commenced against it insolvency, liquidation, reorganization, receivership (including the appointment of a receiver), a conservatorship or similar proceedings, or that has generally ceased to meet its obligations when due.

(8) "Failed member" means any member that fails to satisfy a covered clearing obligation when due, that has commenced or had commenced against it insolvency, liquidation, reorganization, receivership (including the appointment of a receiver), conservatorship or similar proceedings, or that has generally ceased to meet its obligations when due.

(9) "Financial institution" means a broker/dealer, a depository institution, or a futures commission merchant, or any other institution as determined by the Board of Governors of the Federal Reserve System.

(10) "Futures commission merchant" means a company that is registered or licensed under Federal or State law to engage in the business of selling futures and options in commodities.

(11) "Members" means a member of or participant in a clearing organization and includes the clearing organization.

(12) "Net entitlement" means the amount by which a financial institution's covered contractual payment entitlements exceeds its covered contractual payment obligations after netting under a contract.

(13) "Net obligation" means the amount by which a financial institution's covered contractual payment obligations exceed its covered contractual payment entitlements after netting under a netting contract.

(14) "Netting contract" means a contract or agreement, including the rules of a clearing organization, between two or more financial institutions that is governed by the laws of the United States or any subdivision thereof or any State thereof and provides that covered contractual payment obligations between and among financial institutions shall be netted and set off against each other.

SEC. 503. BILATERAL NETTING.

(a) Notwithstanding any other provision of law, the covered contractual payment obligations and the covered contractual payment entitlements between any two financial institutions shall be netted in accordance with, and subject to the conditions of, the terms of any applicable netting contract.

(b) The only obligation, if any, of a financial institution to make payment with respect to covered contractual payment obligations to another financial institution shall be equal to its net obligation to such other financial institutions (and no such obligation shall exist if there is no net obligation).

(c) The only right, if any, of a financial institution to receive payments with respect to covered contractual payment entitlements from another financial institution shall be equal to its net entitlement with respect to such other financial institution (and no such right shall exist if there is no net entitlement).

(d) The net entitlement of any failed financial institution, if any, shall be paid to the failed financial institution in accordance with, and subject to the conditions of, the applicable netting contract. The provisions of this section shall be given effect notwithstanding that a financial institution is a failed financial institution.

SEC. 504. CLEARING ORGANIZATION NETTING.

(a) Notwithstanding any other provision of law, the covered contractual payment obligations and covered contractual payment entitlements of a member of a clearing organization to and from all other members of the clearing organization shall be netted in accordance with and subject to the conditions of any applicable netting contract.

(b) The net entitlement of any failed member, if any, shall be paid to the failed member in accordance with, and subject to the conditions of, the applicable netting contract. Such failed member shall have no recognizable claim against any member of such clearing organization for any amount based on such covered contractual payment entitlements other than its net entitlement.

SEC. 505. PREEMPTION.

No stay, injunction, avoidance, moratorium, or similar proceeding or order, whether issued or granted by a court, administrative agency, or otherwise, shall limit or delay application of the netting in accordance with sections 503 and 504.

Subtitle B—Right to Financial Privacy Act Amendments

SEC. 511. AMENDMENTS TO THE RIGHT TO FINANCIAL PRIVACY ACT OF 1978.

The Right to Financial Privacy Act of 1978 is amended—

(1) in section 1112(f)(2) (12 U.S.C. 3412(f)(2))—

(A) by inserting "for civil actions under section 951 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833a), or for forfeiture under sections 981 or 982 of title 18, United States Code" after "purposes"; and

(B) by inserting at the end thereof "No agency or department so transferring such records shall be deemed to have waived any privilege applicable to those records under law."; and

(2) in section 1113(*l*) (12 U.S.C. 3413(*l*)), by inserting at the end thereof "No supervisory agency so transferring such record shall be deemed to have waived any privilege applicable to that record under law.".

Subtitle C—Reduction in Regulatory Burden

SEC. 521. HOME MORTGAGE DISCLOSURE ACT.

The Home Mortgage Disclosure Act is amended—

(1) in section 304 (12 U.S.C. 2803), by striking subsection (i); and

(2) in section 309 (12 U.S.C. 2808)—

(A) by striking $10,000,000" and inserting instead "$50,000,000"; and

(B) by inserting at the end thereof the following new sentence:

"The amount of total assets in the preceding sentence shall be adjusted yearly on January 1 by the annual percentage change in the Consumer Price Index reported for the previous June 1.".

SEC. 522. REGULATORY BURDEN STUDY.

(a) IN GENERAL.—The Secretary of the Treasury, and the head of each appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)) shall each conduct a review of all laws primarily under their respective jurisdictions and all regulations prescribed by them (except with respect to the Internal Revenue Code of 1986, and all regulations, rules and orders issued thereunder) with respect to such laws to determine whether such laws and regulations adversely affect the capital position and profitability of insured depository institutions.

(b) ADDITIONAL REVIEW REQUIRED.—The review required by subsection (a) shall include an evaluation to determine whether such laws and regulations impose duplicative paperwork and compliance requirements.

(c) REPORT REQUIRED.—Not later than one year after the date of enactment of this Act, the Secretary of the Treasury, and the head of each appropriate Federal banking agency shall each submit a report to the Congress containing—

(1) a description of the laws and regulations that should be revised, simplified, repealed or rescinded in order to enhance the capitalization and profitability of insured depositary institutions without adversely affecting safety and soundness and consumer protection;

(2) to the extent practicable, a cost/benefit analysis of such laws and regulations, including those pertaining to corporate applications and filings and other reporting and recordkeeping requirements;

(3) an analysis of the cost impact and effect on safety and soundness of reducing the number of items to be reported on reports of condition of depository institutions with assets of under $50,000,000; and

(4) an evaluation of the appropriateness of "sunsetting" recordkeeping and reporting requirements not directly related to safety and soundness.

SEC. 523. FAIR HOUSING REPORTING.

Effective one year after the date of enactment of this Act, no appropriate Federal banking agency shall require any institution for which it is the appropriate Federal banking agency (as defined in section 3(q) of the

Federal Deposit Insurance Act (12 U.S.C. 1813(q)) to prepare, file, or maintain any form for the purpose of collection, analysis, or maintenance of appropriate data to further the purposes of, or to fulfill the requirements of, the Fair Housing Act (42 U.S.C. 3601 et seq.), other than a form for data collection, analysis, or maintenance prescribed pursuant to the Home Mortgage Disclosure Act (12 U.S.C. 2801 et seq.).

Subtitle D—Expedited Funds Availability

SEC. 531. AMENDMENT OF THE EXPEDITED FUNDS AVAILABILITY ACT.

Section 604(f)(2) of the Expedited Funds Availability Act (12 U.S.C. 4003(f)(2)) is amended by inserting after subparagraph (C) the following new subparagraph:

"(D) After a depository institution has provided notice as required under subparagraphs (A), (B) and (C), no further notice shall be required until the earlier of one year after notice has been provided or such other time as the exception for which the notice was provided ceases to apply.".

Subtitle E—Final Settlement Payment Procedure

SEC. 541. FINAL SETTLEMENT PAYMENT PROCEDURE.

Section 11(d) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)) is amended by redesignating paragraphs (4) through (16) as paragraphs (5) through (17), respectively, and inserting after paragraph (3) the following new paragraph:

"(4) FINAL SETTLEMENT PAYMENT PROCEDURE.—

"(A) IN GENERAL.—In the handling of receiverships of insured institutions, to maintain essential liquidity and to prevent financial disruption, the Corporation may, after the declaration of an insured institution's insolvency, settle all uninsured and unsecured claims on the receivership with a final settlement payment which shall constitute full payment and disposition of the Corporation's obligations to such claimants.

"(B) FINAL SETTLEMENT PAYMENT.—A 'final settlement payment' is the amount equal to the product of the final settlement payment rate and the amount of the uninsured and unsecured claim on the receivership.

"(C) FINAL SETTLEMENT PAYMENT RATE.—The 'final settlement payment rate' shall be—

"(i) a percentage rate reflecting an average of the Corporation's receivership recovery experience, determined by the Corporation in such a way that over such time period as the Corporation may deem appropriate, the Corporation in total will receive no more or less than it would have received in total as a general creditor standing in the place of insured depositors in each specific receivership; and

"(ii) determined and announced annually by the Corporation.

"(C) CORPORATION AUTHORITY.—The Corporation may undertake such supervisory actions and promulgate such regulations as may be necessary to assure that the requirements of this section can be implemented with respect to each insured institution in the event of its insolvency.".

TITLE VI—TECHNICAL AND CONFORMING AMENDMENTS

Subtitle A—Severability; Transition References

SEC. 601. SEVERABILITY.

If any provision of this Act, or application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of any remaining provision to other persons or circumstances, shall not be affected thereby.

SEC. 602. TRANSITION REFERENCES.

Effective on the date of enactment of this Act, and until January 1, 1993, any reference to a financial services holding company or to the Financial Services Holding Company Act of 1991 in any amendment made by, or provision of, this Act that becomes effective prior to such date shall be deemed to include a reference to a bank holding company and the Bank Holding Company Act of 1956, respectively.

Subtitle B—Technical and Conforming Amendments

SEC. 611. AMENDMENT TO ACTS CODIFIED IN TITLE 2, UNITED STATES CODE.

(a) The Federal Election Campaign Act of 1971.—The Federal Election Campaign Act of 1971 is amended effective on the date of enactment of this Act—

(1) in section 301(8)(B)(vii) (2 U.S.C. 431(8)(B)(vii)), by striking ", Federal Savings and Loan Insurance Corporation,"; and

(2) in section 302(h)(1) (2 U.S.C. 432(h)(1)), by striking ", the Federal Savings and Loan Insurance Corporation,".

(b) THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.—The Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in section 255(g)(1)(A) (2 U.S.C. 905(g)(1)(A))—

(A) by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision"; and

(B) by striking "Director of the Office of Thrift Supervision"; and

(2) in section 256(b)(4) (2 U.S.C. 906(b)(4))—

(A) in subparagraph (A), by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision";

(B) by striking subparagraphs (C) and (D); and

(C) by redesignating subparagraphs (E) through (I) as subparagraphs (C) through (G), respectively.

SEC. 612. AMENDMENTS TO TITLE 5, UNITED STATES CODE.

Title 5, United States Code, is amended—

(1) in section 3132(a)(1)(D), by striking "Office of the Comptroller of the Currency, the Office of Thrift Supervision" and inserting instead "Office of Depository Institutions Supervision";

(2) in section 5314—

(A) by striking "Comptroller of the Currency";

(B) by striking "Director of the Office of Thrift Supervision"; and

(C) by inserting at the end thereof "Director of the Office of Depository Institutions Supervision.";

(3) in section 5373(2)—

(A) by sriking "482,"; and

(B) by striking "2A(i) of the Home Owners' Loan Act" and inserting instead "305 of the Financial Institutions Safety and Consumer Choice Act of 1991;";

(4) in section 8438(a)(7)(B), effective on the date of enactment of this Act, by striking "Federal Savings and Loan Insurance Corporation" and inserting instead "Federal Deposit Insurance Corporation"; and

(5) in section 8478(a)(2)(B)(iii), by striking "or the Federal Savings and Loan Insurance Corporation".

SEC. 613. AMENDMENT TO ACT CODIFIED IN TITLE 7, UNITED STATES CODE.

THE FOOD STAMP ACT OF 1977.—Section 10 of the Food Stamp Act of 1977 (7 U.S.C. 2019) is amended effective on the date of enactment of this Act—

(1) by striking "the Federal Savings and Loan Insurance Corporation, or"; and

(2) by striking "the Federal Savings and Loan Insurance Corporation or".

SEC. 614. AMENDMENTS TO TITLE 11, UNITED STATES CODE.

Title 11, United States Code, is amended—

(1) in section 365(o)—

(A) by striking "the Director of the Office of Thrift Supervision, the Comptroller of the Currency," and inserting instead "the Director of the Office of Depository Institutions Supervision,"; and

(B) by striking "its" and inserting instead "their"; and

(2) in section 507(a)(8), by striking "the Director of the Office of Thrift Supervision, the Comptroller of the Currency," and inserting instead "the Director of the Office of Depository Institutions Supervision,".

SEC. 615. AMENDMENTS TO ACTS CODIFIED IN TITLE 12, UNITED STATES CODE.

(a) THE ACT OF JANUARY 3, 1923.—Chapter 22 of the Act of January 3, 1923 (12 U.S.C. 7), is amended by striking "The Comptroller of the Currency may designate a national bank examiner to act as chief of the examining division in his office.".

(b) THE ACT OF MARCH 4, 1923.—The Act of March 4, 1923, is amended—

(1) in section 209(b), as amended (12 U.S.C. 9), by striking "The Comptroller of the Currency is hereby authorized to employ such additional examiners" and all that follows through "the performance of the work of that bureau."; and

(2) in section 209(b), as amended (12 U.S.C. 10), by striking "The salaries of the Deputy Comptrollers and of all national bank examiners and assistant examiners assigned to duty in the office of the bureau in Washington in connection with the supervision of national banks shall be considered part of the expenses of the examinations provided for by section 5240 of the Revised Statutes as amended.".

(c) THE BANK CONSERVATION ACT.—The Bank Conservation Act (12 U.S.C. 201 et seq.) is amended—

(1) by striking "Comptroller of the Currency" wherever it appears and inserting instead "Director of the Office of Depository Institutions Supervision".

(d) THE ACT OF OCTOBER 28, 1974.—Section 111 of the Act of October 28, 1974, Public Law 93-495 (12 U.S.C. 250), is amended by striking "the Director of the Office of Thrift Supervision,".

(e) THE FEDERAL RESERVE ACT.—The Federal Reserve Act is amended—

(1) in section 11, as amended (12 U.S.C. 248)—

(A) in subsection (a)(3)(A) (as redesignated by section 106(a)(1)(A) of this Act), by striking "member" and inserting instead "State"; and

(B) in subsection (d)—

(i) by striking "the bureau under the charge of the Comptroller of the Currency" and inserting instead "the Secretary of the Treasury"; and

(ii) by striking "the Comptroller" after "such notes may be delivered by", and inserting instead "the Secretary of the Treasury";

(2) in section 6, as amended (12 U.S.C. 288), by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision";

(3) in the third undesignated paragraph of section 9, as amended (12 U.S.C. 321, third paragraph), by striking "Comptroller of the

Currency" and inserting instead "Director of the Office of Depository Institutions Supervision";

(4) in the sixth undesignated paragraph of section 9, as amended (12 U.S.C. 324), by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision";

(5) in the fourth and fifth undesignated paragraphs of section 4, as amended (12 U.S.C. 341), by striking "Comptroller of the Currency" wherever it appears and inserting instead "Director of the Office of Depository Institutions Supervision";

(6) in section 24(a), as amended (12 U.S.C. 371(a)), by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision";

(7) in section 23A(d)(5), as amended (12 U.S.C. 371c(d)(5)), by striking "Bank Holding Company Act of 1956" and inserting instead "Financial Services Holding Company Act of 1991";

(8) in section 24A, as amended (12 U.S.C. 371d), by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision";

(9) in section 16—

(A) in the eighth paragraph, as amended (12 U.S.C. 418), by striking "the Comptroller of the Currency shall, under the direction of the Secretary of the Treasury," and inserting instead "the Secretary of the Treasury shall";

(B) in the ninth paragraph, as amended (12 U.S.C. 419), by striking "shall be deposited in the Treasury, or in the subtreasury or mint of the United States nearest the place of business of each Federal reserve bank and shall be held for the use of such bank subject to the order of the Comptroller of the Currency" and inserting instead "shall be delivered to the Board of Governors of the Federal Reserve System subject to the order of the Secretary of the Treasury"; and

(C) in the tenth paragraph, as amended (12 U.S.C. 420)—

(i) by striking "Comptroller of the Currency" and inserting instead "Secretary of the Treasury"; and

(ii) striking "Federal Reserve Board" and inserting instead "Board of Governors of the Federal Reserve System";

(10) in section 19 (12 U.S.C. 461)—

(A) in subsection (b)(1)(F)—

(i) by striking "Board of Directors of the Federal Deposit Insurance Corporation,"; and

(ii) by striking "Office of Thrift Supervision" and inserting instead "Office of Depository Institutions Supervision"; and

(B) in subsection (b)(4)(B)—

(i) by striking "Board of Directors of the Federal Deposit Insurance Corporation," and

(ii) by striking "Office of Thrift Supervision" and inserting instead "Office of Depository Institutions Supervision";

(11) in the sixth paragraph of section 21, as amended (12 U.S.C. 486), by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision";

(12) in the sixth paragraph of section 2, as amended (12 U.S.C. 501a), by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision";

(13) in section 29, as amended (12 U.S.C. 504), by striking "Comptroller of the Currency" wherever it appears and inserting instead "Director of the Office of Depository Institutions Supervision";

(14) in the fourth undesignated paragraph of section 25, as amended (12 U.S.C. 602), by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision";

(15) in the tenth undesignated paragraph of section 25(a), as amended (12 U.S.C. 619), by—

(A) striking "Bank Holding Company Act of 1956" wherever it appears and inserting instead "Financial Services Holding Company Act of 1991";

(B) striking "bank holding companies" and inserting instead "financial services holding companies"; and

(C) striking "bank holding company" and inserting instead "financial services holding company"; and

(16) in the fifteenth undesignated paragraph of section 25(a) (12 U.S.C. 624), by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision".

(f) REVISED STATUTES.—Section 5208 of the Revised Statutes (12 U.S.C. 501) is amended by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision".

(g) THE HOME OWNERS' LOAN ACT.—The Home Owners' Loan Act, as amended (12 U.S.C. 1461 et seq.), is amended—

(1) in section 2 (12 U.S.C. 1462)—

(A) in paragraph (1), by striking "Office of Thrift Supervision" and inserting instead "Office of Depository Institutions Supervision";

(B) by amending paragraph (3) to read as follows:

"(3) Office—

"The term 'Office' means the Office of Depository Institutions Supervision."; and

(C) in paragraph (7), by striking "Office of the Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision";

(2) by repealing section 3 (12 U.S.C. 1462a);

(3) in section 4 (12 U.S.C. 1463)—

(A) in subsection (a)(2), by striking "Office" and inserting instead "Office of Depository Institutions Supervision"; and

(B) in subsection (c), by striking "by the Comptroller of the Currency";

(4) in section 5(t) (12 U.S.C. 1464(t))—

(A) in paragraph (9)—

(i) by striking the phrase "by the Comptroller of the Currency" wherever it appears; and

(ii) in subparagraph (A)—

(I) by striking "Comptroller's"; and

(II) by inserting "for national banks" after "definition of capital"; and

(B) by amending paragraph (10) to read as follows:

"(10) Use of definitions for national banks.—

"The standards prescribed under paragraph (1) shall include all relevant substantive definitions established for national banks.";

(5) by repealing section 9 (12 U.S.C. 1467); and

(6) in section 10 (12 U.S.C. 1467a)—

(A) in subsection (a)(1)(I)—

(i) by striking "bank holding company" and inserting instead "financial services holding company"; and

(ii) by striking "Bank Holding Company Act of 1956" and inserting instead "Financial Services Holding Company Act of 1991";

(B) in subsection (c)—

(i) in paragraph (2)(F)(i)—

(I) by striking "bank holding company" and inserting instead "financial services holding company"; and

(II) by striking "Bank Holding Company Act of 1956" and inserting instead "Financial Services Holding Company Act of 1991"; and

(ii) in paragraph (8)—

(I) by striking "bank holding company" and inserting instead "financial services holding company"; and

(II) by striking "Bank Holding Company Act of 1956" and inserting instead "Financial Services Holding Company Act of 1991";

(C) in subsection (m)(3)(C)—

(i) by striking "bank holding company" wherever it appears and inserting instead "financial services holding company"; and

(ii) by striking "Bank Holding Company Act of 1956" wherever it appears and inserting instead "Financial Services Holding Company Act of 1991";

(D) in subsection (q)(1)(A)(ii), by striking "bank holding company" and inserting instead "financial services holding company"; and

(7) in section 11(c) (12 U.S.C. 1468(c))—

(A) by striking "or 18(j)"; and

(B) by striking ", as appropriate" after "the Federal Deposit Insurance Act".

(h) THE NATIONAL HOUSING ACT.—The National Housing Act is amended—

(1) in section 203(s) (12 U.S.C. 1709(s))—

(A) in paragraph (5), by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision";

(B) in paragraph (6), by striking "or a bank holding company, or a subsidiary of or affiliate of such a company,";

(C) in paragraph (7), by striking "Board of Directors of the Federal Deposit Insurance Corporation; and" and inserting instead "Board of Governors of the Federal Reserve System;";

(D) in paragraph (8), by striking "Director of the Office of Thrift Supervision." and inserting instead "Director of the Office of Depository Institutions Supervision; and"; and

(E) by adding at the end thereof the following new paragraph:

"(9) if the mortgagee is a financial services holding company, or a subsidiary of our affiliate of such a company, the appropriate Federal banking agency as defined by section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).";

(2) in section 255(k)(3), as amended (12 U.S.C. 1715z-20(k)(3))—

(A)(i) effective on the date of enactment of this Act, by striking "Federal Home Loan Bank Board" and inserting instead "Director of the Office of Thrift Supervision"; and

(ii) effective January 1, 1993, by striking "the Director of the Office of Thrift Supervision,"; and

(B) by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision";

(3) in section 303(f) (12 U.S.C. 1718(f)), by striking "State member bank of the Federal Reserve System or any member of the Federal Deposit Insurance Corporation" and inserting instead "State bank"; and

(4) in section 502(12 U.S.C. 1701c)—

(A) effective on the date of enactment of this Act, by striking "Federal Home Loan Bank Board" and inserting instead "Director of the Office of Thrift Supervision"; and

(B) effective January 1, 1993, by striking "The Director of the Office of Thrift Supervision, in consultation with the Comptroller of the Currency and" and inserting instead "The Director of the Office of Depository Institutions Supervision, in consultation with".

(i) THE ACT OF OCTOBER 15, 1982.—Section 341 of the Act of October 15, 1982, as amended (12 U.S.C. 1701j-3), is amended—

(1) in subsection (c)(1)(B), by striking "Comptroller of the Currency" and inserting

instead "Director of the Office of Depository Institutions Supervision"; and

(2) in subsection (e)(1)—

(A) effective on the date of enactment of this Act, by striking "Federal Home Loan Bank Board" and inserting instead "Director of the Office of Thrift Supervision"; and

(B) effective January 1, 1993, by striking "The Director of the Office of Thrift Supervision, in consultation with the Comptroller of the Currency and" and inserting instead "The Director of the Office of Depository Institutions Supervision, in consultation with".

(j) THE DOMESTIC HOUSING AND INTERNATIONAL RECOVERY AND FINANCIAL STABILITY ACT.—Section 469 of the Domestic Housing and International Recovery and Financial Stability Act (12 U.S.C. 1701p-1) is amended—

(1)(A) effective on the date of enactment of this Act, by striking "Federal Home Loan Bank Board" and inserting instead "Director of the Office of Thrift Supervision"; and

(B) effective January 1, 1993, by striking "the Director of the Office of Thrift Supervision,"; and

(2) by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision".

(k) THE FEDERAL DEPOSIT INSURANCE ACT.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(1) in section 3 (12 U.S.C. 1813)—

(A) in subsection (1)(5), by striking "Comptroller of the Currency, Director of the Office of Thrift Supervision" and inserting instead "Director of the Office of Depository Institutions Supervision";

(B) in subsection (u), by striking "bank holding company" wherever it appears and inserting instead "financial services holding company"; and

(C) in subsection (w) by striking "bank holding company" wherever it appears and inserting instead "financial services holding company"; and

(ii) in paragraph (2), by striking "bank holding company" and inserting instead "financial services holding company";

(2) in section 4(b) (12 U.S.C. 1814(b)), by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision";

(3) in section 5 (12 U.S.C. 1815)—

(A) in subsection (a)—

(i) in paragraph (3), by striking "Director of the Office of Thrift Supervision" and inserting instead "Director of the Office of Depository Institutions Supervision";

(ii) in paragraph (6), by striking "Director of the Office of Thrift Supervision" and inserting instead "Director of the Office of Depository Institutions Supervision"; and

(iii) in paragraph (7), by striking "(excluding the Director of the Office of Thrift Supervision)"; and

(B) in subsection (d)(3)—

(i) in subparagraph (A)—

(I) by striking "bank holding company" and inserting instead "financial services holding company"; and

(II) by striking "and the Board of Governors of the Federal Reserve System"; and

(ii) in subparagraph (E)—

(I) by striking "bank holding company" wherever it appears and inserting instead "financial services holding company";

(II) by striking "Board of Governors of the Federal Reserve System" and inserting instead "appropriate Federal banking agency"; and

(III) by striking "Board" and inserting instead "appropriate Federal banking agency";

(4) in section 7 (12 U.S.C. 1817)—

(A) in subsection (a)(2)

(i) in subparagraph (A), by striking "the Comptroller of the Currency, the Director of the Office of the Thrift Supervision" wherever it appears and inserting instead "the Director of the Office of Depository Institutions Supervision"; and

(ii) in subparagraph (B)—

(I) by striking "the Comptroller of the Currency,"; and

(II) by striking ", and the Director of the Office of Thrift Supervision" and inserting instead "and the Director of the Office of Depository Institutions Supervision";

(B) in subsection (a)(3)—

(i) by striking "Comptroller of the Currency,"; and

(ii) by striking "Chairman of the Director of the Office of Thrift Supervision" and by inserting instead "Director of the Office of Depository Institutions Supervision";

(C) in subsection (a)(6) by striking "the Comptroller of the Currency, the Director of the Office of Thrift Supervision" and inserting instead "the Director of the Office of Depository Institutions Supervision";

(D) in subsection (a)(7) by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision"; and

(E) in subsection (n)—

(i) by striking "Office of Thrift Supervision" and inserting instead "Office of Depository Institutions Supervision,"; and

(ii) by striking "under section 1467 of this Act";

(5) in section 8 (12 U.S.C. 1818)—

(A) in subsection (a)(2)(A), by striking "(if the Corporation is the appropriate Federal banking agency)";

(B) in subsection (a)(8)(B)(ii), by striking "Director of the Office of Thrift Supervision" and inserting instead "Director of the Office of Depository Institutions Supervision";

(C) in subsection (b)(4), by striking "bank holding company" and inserting instead "financial services holding company";

(D) in subsection (b)(5), by striking "Comptroller of the Currency" wherever it appears and inserting instead "Director of the Office of Depository Institutions Supervision";

(E) in subsection (e)(4), by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision"; and

(F) in subsection (g)(2), by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision";

(G) in subsection (o)—

(i) by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision"; and

(ii) by striking "Director of the Office of Thrift Supervision" and inserting instead "Director of the Office of Depository Institutions Supervision"; and

(H) in subsection (t), by striking "Director of the Office of Thrift Supervision" wherever it appears and inserting instead "Director of the Office of Depository Institutions Supervision";

(6) in section 11 (12 U.S.C. 1821)—

(A) in subsection (n)(1)(A), by striking "Office of the Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision";

(B) by striking "Comptroller of the Currency" wherever it appears and inserting instead "Director of the Office of Depository Institutions Supervision"; and

(C) by striking "Office of Thrift Supervision" wherever it appears and inserting instead "Office of Depository Institutions Supervision";

(7) in section 13 (12 U.S.C. 1823)—

(A) in subsection (i)(1)(C), by striking "Director of the Office of Thrift Supervision or the Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision"; and

(B) in subsection (k)(1)(A)(iv), by striking "Director of the Office of Thrift Supervision" and inserting instead "Director of the Office of Depository Institutions Supervision";

(8) in section 18 (12 U.S.C. 1828), by striking "Director of the Office of Thrift Supervision" wherever it appears and inserting instead "Director of the Office of Depository Institutions Supervision"; and

(9) by repealing section 26 (12 U.S.C. 1831c).

(l) THE FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989.—The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is amended—

(1) in section 918(b) (12 U.S.C. 1833(b))—

(A) by amending paragraph (1) to read as follows:

"(1) The Director of the Office of Depository Institutions Supervision.";

(B) by striking paragraph (5); and

(C) by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively;

(2) in section 1206 (12 U.S.C. 1833b), by striking "Comptroller of the Currency," and "and the Office of Thrift Supervision," and inserting "and" before "the Farm Credit Administration"; and

(3) in section 1216 (12 U.S.C. 1833e)—

(A) in subsection (a)—

(i) by amending paragraph (1) to read as follows:

"(1) the Director of the Office of Depository Institutions Supervision";

(ii) by striking paragraph (2); and

(iii) by redesignating paragraphs (3) through (6) as paragraphs (2) through (5), respectively;

(B) in subsection (c) by striking "Comptroller of the Currency, the Director of the Office of Thrift Supervision" and inserting instead "Director of the Office of Depository Institutions Supervision"; and

(C) in subsection (d)—

(i) by amending paragraph (2) to read as follows:

"(2) the Director of the Office of Depository Institutions Supervision;";

(ii) by striking paragraph (3); and

(iii) by redesignating paragraphs (4) through (8) as paragraphs (3) through (7), respectively.

(m) THE BANK PROTECTION ACT OF 1968.—Section 2 of the Bank Protection Act of 1968 (12 U.S.C. 1881) is amended—

(1) in paragraph (1), by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision";

(2) in paragraph (2), by adding "and insured nonmember banks" after "Federal Reserve System" the second time that it appears;

(3) by striking paragraph (3);

(4) by redesignating paragraph (4) as paragraph (3); and

(5) in paragraph (3) (as redesignated)—

(i) by striking "Office of Thrift Supervision" and inserting instead "the Office of Depository Institutions Supervision"; and

(ii) by inserting "associations" after "savings".

(n) THE FARM CREDIT ACT OF 1971.—The Farm Credit Act of 1971, as amended, is amended—

(1) in section 5.20 (12 U.S.C. 2255), by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision"; and

(2) in section 5.22 (12 U.S.C. 2257), by strinking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision".

(o) THE REAL ESTATE SETTLEMENT PROCEDURES ACT.—The Real Estate Settlement Procedures Act is amended—

(1) in section 4(a) (12 U.S.C. 2603(a))—

(A) effective on the date of enactment of this Act, by striking "Federal Home Loan Bank Board" and inserting instead "Director of the Office of Thrift Supervision; and

(B) effective January 1, 1993, by striking "Director of the Office Thrift Supervision" and inserting instead "Director of the Office of Depository Institutions Supervision";

(2) in section 8, as amended (12 U.S.C. 2607)—

(A) effective on the date of enactment of this Act, by striking "Federal Home Loan Bank Board" wherever it appears and inserting instead "Director of the Office of Thrift Supervision"; and

(B) effective on January 1, 1993, by striking "Director of the Office of Thrift Supervision" wherever it appears and inserting instead "Director of the Office of Depository Institutions Supervision".

(p) THE HOME MORTGAGE DISCLOSURE ACT OF 1975.—The Home Mortgage Disclosure Act of 1975 is amended—

(1) in sectin 304(h) (12 U.S.C. 2803(h))—

(A) in paragraph (1), by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision";

(B) in paragraph (2), by striking "Office of Thrift Supervision" and inserting instead "Office of Depository Institutions Supervision"; and

(C) in paragraph (3), by striking "Federal Deposit Insurance Corporation" and inserting instead "Board of Governors of the Federal Reserve System";

(2) in section 305(b) (12 U.S.C. 2804(b))—

(A) in paragraph (1)(A), by striking "Comptroller of the Currency" and inserting instead "Office of Depository Institutions Supervision";

(B) in paragraph (1)(C), by striking "Board of Directors of the Federal Deposit Insurance Corporation" and inserting instead "Board of Governors of the Federal Reserve System"; and

(C) in paragraph (2), by striking "Office of Thrift Supervision" and inserting instead "the Office of Depository Institutions Supervision";

(3) in section 306(b) (12 U.S.C. 2805(b))—

(A) by amending the second sentence to read as follows: "Notwithstanding any other provision of this subsection, compliance with the requirements imposed by this subsection shall be enforced under section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) by the Director of the Office of Depository Institutions Supervision in the case of national banks and savings associations the deposits of which are insured by the Federal Deposit Insurance Corporation."; and

(B) by striking paragraphs (1) and (2); and

(4) in section 307 (12 U.S.C. 2806)—

(A) in subsection (a)(1)—

(i) by striking "Office of Thrift Supervision" wherever it appears and inserting instead "Office of Depository Institutions Supervision";

(ii) by striking "Comptroller of the Currency,"; and

(iii) by striking "the Federal Deposit Insurance Corporation";

(B) in subsection (a)(3), by striking "Office of Thrift Supervision" and inserting instead "Office of Depository Institutions Supervision"; and

(C) in subsection (b), by striking "Office of Thrift Supervision" wherever it appears and inserting instead "Office of Depository Institutions Supervision".

(q) THE COMMUNITY REINVESTMENT ACT OF 1977.—Section 803(1) of the Community Reinvestment Act of 1977 (12 U.S.C. 2902(1)) is amended—

(1) in subparagraph (A), by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision";

(2) in subparagraph (B), by striking "which are members of the Federal Reserve System and bank holding companies";

(3) by striking subparagraph (C);

(4) by redesignating subparagraph (D) as subparagraph (C) and amending such subparagraph—

(A) by striking "section 8 of this Act, by"; and

(B) by striking "Office of Thrift Supervision" and inserting instead "Office of Depository Institutions Supervision"; and

(5) by adding at the end of paragraph (1) a new subparagraph to read as follows:

"(D) the appropriate Federal banking agency, as defined by section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), with respect to a financial services holding company;".

(r) THE INTERNATIONAL BANKING ACT OF 1978.—The International Banking Act of 1978 is amended—

(1) in section 1(b) (12 U.S.C. 3101)—

(A) by amending paragraph (4) to read as follows:

"(4) 'Director' means the Director of the Office of Depository Institutions Supervision";

(B) by redesignating paragraphs (13) and (14) as paragraphs (14) and (15), respectively;

(C) by inserting after paragraph (12) the following new paragraph:

"(13) the term 'appropriate Federal banking agency' shall have the same meaning as in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q));"; and

(D) by amending paragraph (14) (as redesignated) to read as follows:

"(14) the terms 'bank', 'financial services holding company', 'company', 'control', and 'subsidiary' have the same meanings assigned to those terms in the Financial Services Holding Company Act of 1991 and the terms 'controlled' and 'controlling' shall be construed consistently with the term 'control' as defined in section 2 the Financial Services Holding Company Act of 1991;";

(2) in section 4 (12 U.S.C. 3102), by striking "Comptroller" wherever it appears and inserting instead "Director";

(3) in section 6(a) (12 U.S.C. 3104(a)), by striking "Comptroller" and inserting instead "Director";

(4) in section 5(c) (12 U.S.C. 3103(c)), by striking "Board" and inserting instead "appropriate Federal banking agency";

(5) in section 7(c) (12 U.S.C. 3105(b)), by striking "Comptroller" and inserting instead "Director";

(6) in section 8 (12 U.S.C. 3106)—

(A) in subsection (c)—

(i) by striking "Board" wherever it appears and inserting instead "appropriate Federal banking agency";

(ii) by striking "Bank Holding Company Act of 1956" wherever it appears and inserting instead "Financial Services Holding Company Act of 1991"; and

(iii) by striking "bank holding company" wherever it appears and inserting instead "financial services holding company"; and

(B) in subsection (d), by striking "bank holding company" wherever it appears and inserting instead "financial services holding company".

(7) in section 9(b)(2) (12 U.S.C. 3106a(2)), by striking "Comptroller" and inserting instead "appropriate Federal banking agency"; and

(8) in section 13(a) (12 U.S.C. 3108(a)), by striking "Comptroller, the Board, and the Federal Deposit Insurance Corporation," and inserting instead "appropriate Federal banking agencies".

(s) THE DEPOSITORY INSTITUTION MANAGEMENT INTERLOCKS ACT OF 1978.—The Depository Institution Management Interlocks Act of 1978 is amended—

(1) in section 202 (12 U.S.C. 3201), by striking "bank holding company" wherever it appears and inserting instead "financial services holding company";

(2) in section 205(9) (12 U.S.C. 3204(9)), by striking "Office of Thrift Supervision" and inserting instead "Office of Depository Institutions Supervision";

(3) in section 207 (12 U.S.C. 3206)—

(A) by amending paragraph (1) to read as follows:

"(1) the Director of the Office of Depository Institutions Supervision with respect to national banks and banks located in the District of Columbia,";

(B) in paragraph (2), by striking "which are members of the Federal Reserve System, and bank holding companies";

(C) by striking paragraph (3) and redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;

(D) in paragraph (3) (as redesignated) by striking "Office of Thrift Supervision" and inserting instead "Office of Depository Institutions Supervision"; and

(E) by inserting after paragraph (4) (as redesignated) the following new paragraph:

"(5) the appropriate Federal banking agency, as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), in the case of a financial services holding company;";

(4) in section 208 (12 U.S.C. 3207)—

(A) in paragraph (1) by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision";

(B) in paragraph (2)—

(i) by inserting "and insured nonmember banks" after "Federal Reserve System" the second time it appears; and

(ii) by striking "and bank holding company,";

(C) in paragraph (4)—

(i) effective on the date of enactment of this Act, by striking "Federal Home Loan Bank Board with respect to institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation" and inserting instead "Director of the Office of Thrift Supervision with respect to institutions the accounts of which are insured by the Federal Deposit Insurance Corporation"; and

(ii) effective January 1, 1933, by striking "Director of the Office of Thrift Supervision" and inserting instead "Director of the Office of Depository Institutions Supervision";

(D) by striking paragraph (3) and redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively; and

(E) by inserting a new paragraph (5) to read as follows:

"(5) the appropriate Federal banking agency, as defined in section 3(q) of the Federal

Deposit Insurance Act (12 U.S.C. 1813(q)), in the case of a financial services holding company.".

(t) THE FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL ACT OF 1978.—The Federal Financial Institutions Examination Council Act of 1978 is amended—

(1) in section 1002 (12 U.S.C. 3301)—

(A) by striking "Comptroller of the Currency"; and

(B)(i) effective on the date of enactment of this Act, by striking "Federal Home Loan Bank Board" and inserting instead "Office of Thrift Supervision"; and

(ii) effective January 1, 1993, by striking "Office of Thrift Supervision" and inserting instead "Office of Depository Institutions Supervision";

(2) in section 1003(1) (12 U.S.C. 3302(1))—

(A) by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision"; and

(B) by striking "the Office of Thrift Supervision";

(3) in section 1004(a) (12 U.S.C. 3303(a))—

(A) in paragraph (1), by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision"; and

(B) by striking paragraph (4) and redesignating paragraph (5) as paragraph (4);

(4) in section 1005 (12 U.S.C. 3304), by striking "One-fifth" and inserting instead "One-fourth";

(5) in section 1121(6) (12 U.S.C. 3350(6))—

(A) effective on the date of enactment of this Act, by striking "Corporations" and inserting instead "Corporation";

(B) by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision"; and

(C) by striking "the Office of Thrift Supervision,".

(u) THE RIGHT TO FINANCIAL PRIVACY ACT OF 1978.—Section 1101 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401) is amended—

(1) in paragraph (6)—

(A) in subparagraph (A), by striking "bank holding company" and inserting instead "financial services holding company"; and

(B) in subparagraph (B), by striking "Bank Holding Company Act of 1956" and inserting instead "Financial Services Holding Company Act of 1991"; and

(2) in paragraph (7)—

(A) in subparagraph (B), by striking "Office of Thrift Supervision" and inserting instead "Office of Depository Institutions Supervision";

(B) by striking subparagraph (E) and redesignating subparagraphs (F) through (H) as subparagraphs (E) through (G), respectively; and

(C) in subparagraph (G) (as redesignated), by inserting "or insurance" after "securities".

(v) THE ALTERNATIVE MORTGAGE TRANSACTION PARITY ACT OF 1982.—The Alternative Mortgage Transaction Parity Act of 1982 is amended—

(1) in section 802(a)(3) (12 U.S.C. 3801(a)(3))—

(A) by striking "Office of Thrift Supervision" and inserting instead "Office of Depository Institutions Supervision"; and

(B) by striking "Comptroller of the Currency"; and (2) in section 804(a) (12 U.S.C. 3803(a))—

(A) in paragraph (1), by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions"; and

(B) in paragraph (3), by striking "Office of Thrift Supervision" and inserting instead "Office of Depository Institutions Supervision".

(w) THE INTERNATIONAL LENDING SUPERVISION ACT OF 1983.—The International Lending Supervision Act of 1983 is amended—

(1) in section 903 (12 U.S.C. 3902), by striking ", except" and all that follows through subparagraph (C) and inserting instead "; and"; and

(2) in section 912 (12 U.S.C. 3911)—

(A) by striking "one of three Federal banking regulatory and supervisory agencies, and as"; and

(B) by striking "Office of the Comptroller of the Currency" and inserting instead "Office of Depository Institutions Supervision".

(x) THE EXPEDITED FUNDS AVAILABILITY ACT OF 1987.—The Expedited Funds Availability Act of 1987 is amended—

(1) in section 609(e) (12 U.S.C. 4008(e))—

(A) by striking "Comptroller of the Currency"; and

(B)(i) effective on the date of enactment of this Act, by striking "Federal Home Loan Bank Board" and inserting instead "Office of Thrift Supervision"; and

(ii) effective January 1, 1993, by striking "Office of Thrift Supervision" and inserting instead "Office of Depository Institutions Supervision";

(2) in section 610(a)(1) (12 U.S.C. 4009(a)(1))—

(A) in subparagraph (A), by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision";

(B) by amending subparagraph (B) to read as follows:

"(B) State insured banks (other than national banks), by the Board of Governors of the Federal Reserve System."; and

(C) by striking subparagraph (C); and

(3) in section 610(a)(2) (12 U.S.C. 4009(a)(2)), by striking "Office of Thrift Supervision" and inserting instead "Office of Depository Institutions Supervision".

(y) THE NATIONAL BANK ACT.—The National Bank Act (12 U.S.C. 38 note) is amended—

(1) by striking "Comptroller of the Currency" wherever it appears and inserting instead "Director of the Office of Depository Institutions Supervision"; and

(2) by striking "Comptroller" wherever it appears and inserting instead "Director of the Office of Depository Institutions Supervision".

(z) REVISED STATUTES.—Sections 5155 (12 U.S.C. 36), 5138 (12 U.S.C. 51), 5205 (12 U.S.C. 55), 5174 (12 U.S.C. 108), 5185 (12 U.S.C. 151), 5186 (12 U.S.C. 152), and 5213 (12 U.S.C. 164) of the Revised Statutes are each amended—

(1) by striking "Comptroller of the Currency" wherever it appears and inserting instead "Director of the Office of Depository Institutions Supervision"; and

(2) by striking "Comptroller" wherever it appears and inserting instead "Director of the Office of Depository Institutions Supervision".

(aa) MISCELLANEOUS PROVISIONS.—Section 13 of the Act of September 8, 1959 (12 U.S.C. 21a); section 2 of the Act of May 1, 1886 (12 U.S.C. 30); section 345 of the Act of August 23, 1935 (12 U.S.C. 51b–1); chapter 58 of the Act of February 25, 1930 (12 U.S.C. 67); section 1 of the Public Law 87–722 (12 U.S.C. 92a); section 12 of the Act of March 14, 1900 (12 U.S.C. 101); section 3 of the Act of October 5, 1917 (12 U.S.C. 103); sections 3 and 5 of the Act of June 20, 1874 (12 U.S.C. 121, 105); section 1 of the Act of June 13, 1933 (12 U.S.C. 121a); section 9 of the Act of July 12, 1882 (12 U.S.C. 178); section 3 of the Act of June 30, 1876 (12 U.S.C. 197); sections 1, 2, and 3 of the Act of March 29, 1886 (12 U.S.C. 198–200); the Act of August 17, 1950 (12 U.S.C. 214 et seq.); the Act of November 7, 1917 (12 U.S.C. 215–215b); and sections 731–735 of Public Law 96–221 (12 U.S.C. 216–216d) are each amended—

(1) by striking "Comptroller of the Currency" wherever it appears and inserting instead "Director of the Office of Depository Institutions Supervision"; and

(2) by striking "Comptroller" wherever it appears and inserting instead "Director of the Office of Depository Institutions Supervision".

(bb) The Emergency Banking and Bank Conservation Act.—Sections 301 and 302 of the Emergency Banking and Bank Conservation Act (12 U.S.C. 51a, 51b) are amended—

(1) by striking "Comptroller of the Currency" wherever it appears and inserting instead "Director of the Office of Depository Institution Supervision", and

(2) by striking "Comptroller" wherever it appears and inserting instead "Director of the Office of Depository Institution Supervision".

(cc) THE BANKING ACT OF 1933.—Sections 22, 29, and 31 of the Banking Act of 1933 (12 U.S.C. 64a, 71a, and 197a) are amended—

(1) by striking "Comptroller of the Currency" wherever it appears and inserting instead "Director of the Office of Depository Institutions Supervision"; and

(2) by striking "Comptroller" wherever it appears and inserting instead "Director of the Office of Depository Institutions Supervision".

SEC. 616. AMENDMENTS TO ACTS CODIFIED IN TITLE 15, UNITED STATES CODE.

(a) THE ACT OF SEPTEMBER 26, 1914.—Section 18 of the Act of September 26, 1914, as amended (15 U.S.C. 57a), is amended—

(1) in subsection (f)(1)—

(A) effective on the date of enactment of this Act, by striking "Federal Home Loan Bank Board" and inserting instead "Director of the Office of Thrift Supervision";

(B) effective January 1, 1993, by striking "Director of the Office of Thrift Supervision" and inserting instead "Director of the Office of Depository Institutions Supervision";

(C) effective on the date of enactment of this Act, by striking "each such Board" and inserting instead "the appropriate Board or the Director";

(D) effective on the date of enactment of this Act, by striking "any such Board" and inserting instead "the appropriate Board or the Director"; and

(E) effective on the date of enactment of this Act, by striking "such Board" and inserting instead "the appropriate Board or the Director";

(2) in subsection (f)(2)—

(A) by striking "Comptroller of the Currency" and inserting instead "Office of Depository Institutions Supervision";

(B) by inserting "and" at the end of subparagraph (A);

(C) by amending subparagraph (B) to read as follows:

"(B) member banks of the Federal Reserve System and banks insured by the Federal Deposit Insurance Corporation (other than banks referred to in subparagraph (A)), by the division of consumer affairs established by the Board of Governors of the Federal Reserve System."; and

(D) by striking subparagraph (C).

(b) THE TRUST INDENTURE ACT OF 1939.—Section 321(h) of the Trust Indenture Act of

1939, as amended (15 U.S.C. 77uuu), is amended by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision".

(c) THE SECURITIES EXCHANGE ACT OF 1934.—The Securities Exchange Act of 1934, as amended, is amended—

(1) in section 3(a)(6) (15 U.S.C. 78c(a)(6)), by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision";

(2) in section 3(a)(34) (15 U.S.C. 78c(a)(34))—

(A) by striking "Comptroller of the Currency" wherever it appears and inserting instead "Director of the Office of Depository Institutions Supervision";

(B) by striking "Director of the Office of Thrift Supervision" and inserting instead "Director of the Office of Depository Institutions Supervision";

(C) by striking "Office of Thrift Supervision" and inserting instead "Office of Depository Institutions Supervision";

(D) in subparagraph (A)—

(i) in clause (ii), by striking ", a bank holding company, a subsidiary of a bank holding company which is a bank other than a bank specified in clause (i) or (iii) of this subparagraph, or a subsidiary or a department or division of such subsidiary";

(ii) in clause (iii)—

(I) by striking "Federal Deposit Insurance Corporation" where it first appears and inserting instead "Board of Governors of the Federal Reserve System"; and

(II) by striking "and" at the end thereof; and

(iii) by redesignating clause (iv) as clause (v) and inserting after clause (iii) the following new clause:

"(iv) the appropriate Federal banking agency, as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813 (q)), in the case of a financial services holding company; and";

(E) in subparagraph (B)—

(i) in clause (ii), by striking ", a bank holding company, a subsidiary of a bank holding company which is a bank other than a bank specified in clause (i) or (iii) of this subparagraph";

(ii) in clause (iii)—

(I) by striking "Federal Deposit Insurance Corporation" where it first appears and inserting instead "Board of Governors of the Federal Reserve System"; and

(II) by striking "and" at the end thereof; and

(iii) by redesignating clause (iv) as clause (v) and inserting after clause (iii) the following new clause:

"(iv) the appropriate Federal banking agency, as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), in the case of a financial services holding company; and' "

(F) in subparagraph (C)—

(i) in clause (ii), by striking ", a bank holding company, or a subsidiary of a bank holding company, or a subsidiary of a bank holding company which is a bank other than a bank specified in clause (i) or (iii) of this subparagraph when the appropriate regulatory agency for such clearing agency is not the Commission";

(ii) in clause (iii)—

(I) by striking "Federal Deposit Insurance Corporation" where it first appears and inserting instead "Board of Governors of the Federal Reserve System"; and

(II) by striking "and" at the end thereof; and

(iii) by redesignating clause (iv) as clause (v) and inserting after clause (iii) the following new clause:

"(iv) the appropriate Federal banking agency, as defined by section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), in the case of a financial services holding company when the appropriate regulatory agency for such clearing agency is not the Commission; and";

(G) in subparagraph (D)(iii), by striking "Federal Deposit Insurance Corporation" and inserting instead "Board of Governors of the Federal Reserve System";

(H) in subparagraph (F)(iii), by striking "Federal Deposit Insurance Corporation" and inserting instead "Board of Governors of the Federal Reserve System";

(I) in subparagraph (G)—

(i) in clause (iii), by striking "Federal Deposit Insurance Corporation" where it first appears and inserting instead "Board of Governors of the Federal Reserve System"; and

(ii) in clause (iv), by striking "Director of the Office of Thrift Supervision" and inserting instead "Director of the Office of Depository Institutions Supervision"; and

(J) in the last sentence by striking "bank holding company" wherever it appears and inserting instead "financial services holding company";

(3) in section 15C—

(A) in subsection (b)(2)(C)(ii) (15 U.S.C. 78o-5(b)(2)(C)(ii)), by striking "section 8 of the Bank Holding Company Act of 1956" and inserting instead "section 8 of the Financial Services Holding Company Act of 1991"; and

(B) in subsection (f)(1) (15 U.S.C. 78o-5(f)(1))—

(i) by striking "Comptroller of the Currency," and inserting instead "Director of the Office of Depository Institutions Supervision,";

(ii) by striking "the Director of the Office of Thrift Supervision,"; and

(iii) effective on the date of enactment of this Act, by striking "the Federal Savings and Loan Insurance Corporation,"; and

(4) in section 17 (15 U.S.C. 78q)—

(A) in subsection (f)(4)—

(i) in clause (A), by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision"; and

(ii) in clause (C), by striking "Federal Deposit Insurance Corporation" and inserting instead "Board of Governors of the Federal Reserve System"; and

(B) in subsection (h)(3)(B), by striking "section 8 of the Bank Holding Company Act of 1956" and inserting instead "section 8 of the Financial Services Holding Company Act of 1991".

(d) THE INVESTMENT COMPANY ACT OF 1940.—The Investment Company Act of 1940, as amended (15 U.S.C. 80a-1 *et seq.*), is amended—

(1) in section (2)(a)(5) (15 U.S.C. 80a-2(a)(5)), by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision"; and

(2) in section 6(a)(3) (15 U.S.C. 80a-6(a)(3)), effective on the date of enactment of this Act, by inserting "or successor thereto" after "Federal Savings and Loan Insurance Corporation".

(e) THE INVESTMENT ADVISORS ACT OF 1940.—Section 202 of the Investment Advisors Act of 1940, as amended (15 U.S.C. 80b-2), is amended—

(1) in subsection (a)(2), by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision"; and

(2) in subsection (a)(11)—

(A) by striking "bank holding company" and inserting "financial services holding company"; and

(B) by striking "Bank Holding Company Act of 1956" and inserting instead "Financial Services Holding Company Act of 1991".

(f) THE SMALL BUSINESS INVESTMENT ACT OF 1958.—The Small Business Investment Act of 1958, as amended (15 U.S.C. 661), is amended—

(1) in section 302(b) (15 U.S.C. 682(b)), effective on the date of enactment of this Act, by striking "Notwithstanding the provisions of section 6(a)(1) of the Bank Holding Act of 1956, shares" and inserting instead "Shares"; and

(2) in section 308(b) (15 U.S.C. 687(b)), by striking "or the Federal Savings and Loan Insurance Corporation".

(g) THE CONSUMER CREDIT PROTECTION ACT.—The Consumer Credit Protection Act, as amended (15 U.S.C. 1601 et seq.), is amended—

(1) in section 108 (15 U.S.C. 1607)—

(A) in subsection (a)(1)(A), by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision";

(B) in subsection (a)(1)(C), by striking "Board of Directors of the Federal Deposit Insurance Corporation" and inserting "Board of Governors of the Federal Reserve System"; and

(C) in subsection (a)(2), by striking "the Director of the Office of Thrift Supervision" and inserting "the Director of the Office of Depository Institutions Supervision";

(2) in section 620(b) (15 U.S.C. 1681s(b))—

(A) in paragraph (1)(A), by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision";

(B) in paragraph (1)(C), by striking "Board of Directors of the Federal Deposit Insurance Corporation" and inserting instead "Board of Governors of the Federal Reserve System"; and

(C) in paragraph (2), by striking "Office of Thrift Supervision" and inserting instead "Office of Depository Institutions Supervision";

(3) in section 704(a) (15 U.S.C. 1691c(a))—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision"; and

(ii) in subparagraph (C), by striking "Board of Directors of the Federal Deposit Insurance Corporation" and inserting instead "Board of Governors of the Federal Reserve System"; and

(B) in paragraph (2), by striking "Office of Thrift Supervision" and inserting instead "Office of Depository Institutions Supervision";

(4) in section 814(b) (15 U.S.C. 1692*l*(b)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision"; and

(ii) in subparagraph (C), by striking "Board of Directors of the Federal Deposit Insurance Corporation" and inserting instead "Board of Governors of the Federal Reserve System"; and

(B) in paragraph (2), by striking "Office of Thrift Supervision" and inserting instead "Office of Depository Institutions Supervision"; and

(5) in section 917(a) (15 U.S.C. 1693o(a))—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision"; and

(ii) in subparagraph (C), by striking "Board of Directors of the Federal Deposit Insurance Corporation" and inserting instead "Board of Governors of the Federal Reserve System"; and

(B) in paragraph (2), by striking "Office of Thrift Supervision" and inserting instead "Office of Depository Institutions Supervision".

(h) THE EXPORT TRADING COMPANY ACT OF 1982.—Section 102(b) of the Export Trading Company Act of 1982 (15 U.S.C. 4001(b)) is amended by striking "bank holding companies" wherever it appears and inserting instead "financial services holding companies".

SEC. 617. AMENDMENT TO ACT CODIFIED IN TITLE 16, UNITED STATES CODE.

THE FEDERAL POWER ACT.—Section 305(c)(2)(A) of the Federal Power Act (16 U.S.C. 825d(c)(2)(A)) is amended by striking "bank holding company" and inserting instead "financial services holding company".

SEC. 618. AMENDMENTS TO TITLE 18, UNITED STATES CODE.

Title 18, United States Code, is amended—

(1) in section 212—

(A) by striking "by the Comptroller of the Currency,";

(B) by striking "by the Office of Thrift Supervision,"; and

(C) by striking "Federal Deposit Insurance Corporation" and inserting instead "Director of the Office of Depository Institutions Supervision";

(2) in section 655, by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision";

(3) in section 657, by striking "Office of Thrift Supervision" and inserting instead "Office of Depository Institutions Supervision";

(4) in section 981(a)(1)(D), by striking "Office of the Comptroller of the Currency or the Office of Thrift Supervision" and inserting instead "Office of Depository Institutions Supervision";

(5) in section 982(a)(3), by striking "Office of the Comptroller of the Currency or the Office of Thrift Supervision" and inserting instead "Office of Depository Institutions Supervision";

(6) in section 1005—

(A) in the third paragraph, by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision"; and

(B) in the sixth paragraph, by inserting in the last sentence ", as amended by the Financial Services Holding Company Act of 1991" before the period.

(7) in section 1006, by striking "Office of Thrift Supervision" and inserting instead "Office of Depository Institutions Supervision";

(8) in section 1014, by striking "Office of Thrift Supervision" and inserting instead "Office of Depository Institutions Supervision";

(9) in section 1032, by striking "Comptroller of the Currency or the Director of the Office of Thrift Supervision" and inserting instead "Director of the Office of Depository Institutions Supervision";

(10) in section 1114, by striking "Comptroller of the Currency, the Office of Thrift Supervision" and inserting instead "Office of Depository Institutions Supervision";

(11) in section 1906, by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision"; and

(12) in section 1908, by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision".

SEC 619. AMENDMENT TO ACT CODIFIED IN TITLE 22, UNITED STATES CODE.

THE FINANCIAL REPORTS ACT OF 1988.—Section 3602 of the Financial Reports Act of 1988 (22 U.S.C. 5352) is amended by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision".

SEC. 620. AMENDMENT TO ACT CODIFIED IN TITLE 25, UNITED STATES CODE.

THE ACT OF JUNE 24, 1938.—Subsection (a) of the first section of the Act of June 24, 1938 (25 U.S.C. 162a(a)) is amended by striking "in the case of member banks, and of the Board of Directors of the Federal Deposit Insurance Corporation in the case of insured nonmember banks".

SEC. 621. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

The Internal Revenue Code of 1986 (26 U.S.C. 1 *et seq.*) is amended—

(1) in section 149(b)(4)(B), effective on the date of enactment of this Act, by striking "the Federal Savings and Loan Insurance Corporation,";

(2) in section 246A(c)(3)—

(A) by striking "bank holding company" wherever it appears and inserting instead "financial services holding company"; and

(B) by amending clause (ii) to read as follows:

"(ii) FINANCIAL SERVICES HOLDING COMPANY.—The term "Financial Services Holding Company" means a financial services holding company (within the meaning of section 2 of the Financial Services Company Act of 1991 (12 U.S.C. 1841)).";

(3) in section 304(b)(3)—

(A) by striking "bank holding companies" and inserting instead "financial services holding companies";

(B) by striking "BHC" wherever it appears and inserting instead "FSHC";

(C) by striking "BHC's" wherever it appears and inserting instead FSHC's"; and

(D) by amending clause (D)(ii) to read as follows:

"(ii) FSHC.—The term "FSHC" means a financial services holding company (within the meaning of section 2 of the Financial Services Holding Company Act of 1991).";

(4) in section 581, by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision";

(6) in section 597(c)(1), effective on the date of enactment of this Act, by inserting "(or any successor thereof)" after "the Federal Savings and Loan Insurance Corporation";

(7) in section 864(e)(5)(D)—

(A) by striking "bank holding companies" and inserting instead "financial services holding companies";

(B) by striking "bank holding company" wherever it appears and inserting instead "financial services holding company"; and

(C) by striking "Bank Holding Company Act of 1956" and inserting instead "Financial Services Holding Company Act of 1991";

(8) in section 3305(c), by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision"; and

(9) in section 7507(a), by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision".

SEC. 622. AMENDMENTS TO TITLE 28, UNITED STATES CODE.

Title 28, United States Code, is amended—

(1) in section 1348, by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision";

(2) in section 1394, by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision";

(3) in section 2001(c), by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision";

(4) in section 2002, by striking "Comptroller of the Currency," and inserting instead "Director of the Office of Depository Institutions Supervision";

(5) in section 2004, by striking "Comptroller of the Currency," and inserting instead "Director of the Office of Depository Institutions Supervision";

SEC. 623. AMENDMENTS TO TITLE 31, UNITED STATES CODE.

Title 31, United States Code, is amended—

(1) in the table of sections of subchapter I of chapter 3 of subtitle I—

(A) by amending the item relating to section 307 to read as follows:*ERR08*

"307. Office of Depository Institutions Supervision.";

(B) by amending the item relating to section 309 to read as follows:*ERR08*

"309. Continuing in Office.";

and

(C) by striking the item relating to section 310;

(2) by amending section 307 to read as follows:*ERR08*

"307. Office of Depository Institutions Supervision

"The Office of Depository Institutions Supervision, established by section 301 of the Financial Institutions Safety and Consumer Choice Act of 1991, is a bureau of the Department of the Treasury.";

(3) by striking section 309 and redesignating section 310 as section 309;

(4) in section 321—

(A) by inserting "and" at the end of subsection (c)(1);

(B) by amending subsection (c)(2) to read as follows:

"(2) vested by the Financial Institutions Safety and Consumer Choice Act of 1991 in the Director of the Office of Depository Institutions Supervision";

(C) by striking subsection (c)(3); and

(D) by striking subsection (e);

(5) in section 714(a), by striking "the Office of the Comptroller of the Currency, and the Office of Thrift Supervision" and inserting instead "and the Office of Depository Institutions Supervision";

(6) in section 718(a), by striking "Office of the Comptroller of the Currency" and inserting instead "Office of Depository Institutions Supervision";

(7) in section 1321(b), by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision";

(8) by amending section 5115(b) to read as follows:

"(b) The amount of United States currency notes outstanding and in circulation may not be more than $300,000,000."; and

(9) in section 5119(b)(2), by adding the following sentence at the end thereof:

"The Secretary shall not be required to reissue United States currency notes upon redemption.".

SEC. 624. AMENDMENTS TO ACTS CODIFIED IN TITLE 42, UNITED STATES CODE.

(a) THE FLOOD DISASTER PROTECTION ACT OF 1973.—Section 3(a)(5) of the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4003(a)(5)), is amended by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Insitutions Supervision".

(b) THE ENERGY CONSERVATION AND PRODUCTION ACT.—Section 303(7) of the Energy Conservation and Production Act (42 U.S.C. 6832(7)) is amended—

(1) effective on the date of enactment of this Act, by striking "the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation" and inserting instead "the Director of the Office of Thrift Supervision"; and

(2) effective January 1, 1993, by striking "Federal Deposit Insurance Corporation, Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision".

(c) THE NEIGHBORHOOD REINVESTMENT CORPORATION ACT.—The Neighborhood Reinvestment Corporation Act, as amended (42 U.S.C. 8101 et seq.), is amended—

(1) in section 604 (42 U.S.C. 8103)—

(A) in subsection (a)—

(i) by striking paragraph (1);

(ii) in paragraph (5), by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision"; and

(iii) by redesignating paragraphs (2) through (6) as paragraphs (1) through (5), respectively; and

(B) in subsection (f), by striking "Comptroller of the Currency, through a duly designated Deputy Comptroller" and inserting instead "Director of the Office of Depository Institutions Supervision, through a duly designated representative"; and

(2) in section 606(c)(3) (42 U.S.C. 8105(c)(3))—

(A) effective on the date of enactment of this Act, by striking "Federal Home Loan Bank Board" and inserting instead "Directory of the Office of Thrift Supervision";

(B) effective January 1, 1993, by striking "the Director of the Office of Thrift Supervision and"; and

(C) effective January 1, 1993, by striking the term "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision".

SEC. 625. AMENDMENTS TO TITLE 44, UNITED STATES CODE.

Title 44, United States Code, is amended—

(1) in section 1111, by striking "Comptroller of the Currency" and inserting instead "Director of the Office of Depository Institutions Supervision"; and

(2) in section 1344, by striking "Office of the Comptroller of the Currency" and inserting instead "Office of Depository Institutions Supervision".

SEC. 626. AMENDMENT TO TITLE 46, UNITED STATES CODE.

Section 10315(a)(3) of title 46, United States Code, is amended, effective on the date of enactment of this Act, by striking "or the Federal Savings and Loan Insurance Corporation".

SEC. 627. AMENDMENTS TO PUBLIC LAW 101-647.

Public Law 101-647 is amended—

(1) in section 2539(c)(2)—

(A) in subparagraph (C), by striking "Office of Thrift Supervision" and inserting instead "Office of Depository Institutions Supervision"; and

(B) by striking subparagraph (F) and redesignating subparagraphs (G) and (H) as subparagraphs (F) and (G), respectively; and

(2) in section 2554(b)(2), by striking "Office of Thrift Supervision" wherever it appears and inserting instead "Office of Depository Institutions Supervision".

Subtitle C—Repeal of Obsolete Provisions of Law

SEC. 631. REPEAL OF OBSOLETE PROVISIONS OF LAW.

The following provisions of law (as they may have been amended) are repealed:

(1) The following sections of the Revised Statutes: 324 (12 U.S.C. 1); 325 (12 U.S.C. 2); 326 (12 U.S.C. 3); 327 (12 U.S.C. 4); 327A (12 U.S.C. 4A); 328 (12 U.S.C. 8); 329 (12 U.S.C. 11); 330 (12 U.S.C. 12); 331 (12 U.S.C. 13); and 333 (12 U.S.C. 14);

(2) title II of the Act of October 28, 1974, Public Law 93-495 (12 U.S.C. 2401 et seq.); and

(3) section 14 of the Act of December 22, 1974, Public Law 93-533 (12 U.S.C. 2612).

Subtitle D—Effective Date

SEC. 641. EFFECTIVE DATE.

Unless otherwise expressly provided, the amendments made by this title shall take effect January 1, 1993.

FINANCIAL INSTITUTIONS SAFETY AND CONSUMER CHOICE ACT OF 1991 SECTION-BY-SECTION ANALYSIS

SECTION 2. PURPOSES

Section 2 provides that the purposes of the Financial Institutions Safety and Consumer Choice Act of 1991 (FISCCA) are to return deposit insurance coverage to its original purposes of protecting small depositors and promoting financial stability; to strengthen the role of capital, enhance the supervision, and restrict risky activities of insured depository institutions; to permit nationwide banking and branching; to authorize the establishment of financial services holding companies to permit companies owning depository institutions to engage in other financial services with appropriate safeguards; to promote consumer convenience by permitting banking organizations a broader range of financial products; to simplify the regulatory structure for depository institutions by establishing a consolidated regulatory agency, the Office of Depository Institutions Supervision; and to recapitalize the Bank Insurance Fund.

Title I—Federal Deposit Insurance Reform

Subtitle A—Federal Deposit Insurance System Reform

SECTION 101. DEPOSIT AND PASSTHROUGH INSURANCE

Section 101 amends provisions in the Federal Deposit Insurance Act relating to the Federal Deposit Insurance Corporation's insurance coverage of deposits at insured depository institutions. Subsection (a) amends and adds new definitions relating to the insurance of deposits and subsection (b) adds new provisions for the determination of the amount of insurance payable to depositors.

Subsection (a)(1)(A) of section 101 amends the definition of "insured deposit" in section 3(m)(1) of the Federal Deposit Insurance Act to provide that "insured deposit" means the net amount due to any depositor for deposits in an insured depository institution less any part thereof which is in excess of $100,000. That net amount is to be determined in accordance with the provisions of section 11(a) of the Federal Deposit Insurance Act. The amended definition eliminates the language in the existing definition which provides for the determination of insurance of deposits based upon the capacities and rights in which deposits are held by depositors. Instead, the amended definition requires that the insurance of deposits be determined in accordance with section 11(a) of the Federal Deposit Insurance Act. The amendment made by subsection (a)(1)(A) will be effective two years after the date of enactment of this Act.

The definition of "insured deposit" is also amended by subsection (a)(1)(B) by adding to that definition a new paragraph (3) that excludes from the meaning of that term, and thus from insurance coverage, certain types of deposits. First, new paragraph (3)(A) provides that "insured deposit" shall not include funds obtained, directly or indirectly, for deposit from a deposit broker. The definition of the term "deposit broker" is discussed below. As provided in new paragraph (3)(A), this exclusion of funds accepted by a deposit broker does not apply to an insured depository institution for which the Federal Deposit Insurance Corporation or the Resolution Trust Corporation has been appointed as conservator or the appropriate Federal banking agency has appointed a conservator and such conservator has determined that the acceptance of such funds (1) is not an unsafe or unsound practice; and (2) either is necessary to enable the institution to meet the demands of its depositors or pay its obligations in the ordinary course of business, or is consistent with the conservator's fiduciary duty to minimize the losses of the institution.

Also excluded from the definition of "insured deposit" are depository institution investment contracts (otherwise known as "BICs") entered into between an insured depository institution and an employee benefit plan as defined in section 3(3) of the Employment Retirement Income Security Act, including a plan described in section 401(d) of the Internal Revenue Code of 1986. For purposes of this exclusion, a depository institution investment contract is defined as a contract that is nontransferable and provides for the deposit of funds over an extended period of time at a specified rate of interest whether or not the funds can be withdrawn without penalty prior to maturity.

Subsection (a)(2) of section 101 amends the definitional section of the Federal Deposit Insurance Act by adding a definition of the term "deposit broker" as subsection (y) to section 3 of the Federal Deposit Insurance Act. This definition is essentially the same definition that is currently contained in section 29 of the Federal Deposit Insurance Act. A "deposit broker" is defined by new subsection (y) as any person engaged in the business of placing deposits, or facilitating the placement of deposits, of third parties with insured depository institutions or engaged in the business of placing deposits with insured depository institutions for the purpose of selling interests in those deposits to third parties. A "deposit broker" also includes an agent or trustee who establishes a deposit account to facilitate a business arrangement with an insured depository institution to use the proceeds of the account to fund a prearranged loan.

The term "deposit broker" does not, however, include the following:

(1) an insured depository institution with respect to funds placed with that depository institution or with other insured depository institutions;

(2) an employee, as defined in section 29(b) of the Federal Deposit Insurance Act, of an insured depository institution with respect to funds placed with the employing depository institution;

(3) a trust department of an insured depository institution if the trust has not been established for the primary purpose of placing funds with insured depository institutions;

(4) the trustee of a pension or other employee benefit plan with respect to funds of the plan;

(5) a person acting as a plan administrator or investment advisor in connection with a pension plan or other employee benefit plan provided that such person is performing managerial functions with respect to the plan;

(6) the trustee of a testamentary account;

(7) the trustee of an irrevocable trust, other than one described above, as long as the trust in question has not been established for the primary purpose of placing funds with the insured depository institution;

(8) a trustee or custodian of a pension or profit sharing plan qualified under section 401(d) or 403(a) of the Internal Revenue Code of 1986; or

(9) an agent or nominee whose primary purpose is not the placement of funds with depository institutions.

Subsection (b) of section 101 provides a new method for the Federal Deposit Insurance Corporation to determine deposit insurance coverage. Subsection (b) amends section 11(a)(1) of the Federal Deposit Insurance Act by specifically providing that the maximum $100,000 insured deposit limitation is applicable on a per insured depository institution basis. This is essentially the same as under current law. The amendments, however, include a new requirement for all deposits to be registered under the taxpayer identification number or employer identification number of each depositor. For individuals the taxpayer identification number will be the individual's social security number. For other depositors the taxpayer identification number or employer identification number are obtained from the Internal Revenue Service. Even though such numbers are required from depositors for the purpose of aggregating and attributing deposits, the Federal Deposit Insurance Corporation is authorized to consider additional information in the depository institution's records or other information made available by the depositor.

For the purpose of determining the amount due to any depositor, the amendments to section 11(a) require the Federal Deposit Insurance Corporation to aggregate the amounts of all deposits in the insured depository institution which are maintained by a depositor or are maintained by others for the benefit of the depositor. The amount due to a depositor is the lesser of the amount calculated under this provision or $100,000.

For the purpose of aggregating amounts to a depositor the following rules apply:

(1) Deposits that are registered under the same taxpayer identification number or employer identification number of one depositor are to be attributed to that depositor.

(2) Depositors that are registered under the taxpayer identification number or employer identification number of more than one depositor are to be attributed equally among those depositors. If, however, the deposit account records clearly provide that amounts are to be attributed other than equally, the Federal Deposit Insurance Corporation is to consider such records in providing insurance coverage.

(3) Deposits consisting of a revocable trust or similar account are to be attributed to the settlor or grantor of the deposit account.

(4) Deposits maintained by an individual or entity (including an insured depository institution) acting as agent, custodian, nominee, conservator, or in a similar capacity on behalf of a principal (other than an insured depository institution) are to be attributed to such principal.

(5) Finally, the Board of Directors of the Federal Deposit Insurance Corporation is authorized to provide for such other attribution as the Board determines by regulation not to be unduly burdensome and costly to calculate, provided that the attribution would be consistent with the insurance purpose of the Federal Deposit Insurance Act.

Section 11(a)(1) of the Federal Deposit Insurance Act is also amended by adding a new subparagraph (D) which provides for the elimination of pass-through insurance coverage for deposits made by certain defined benefit and defined contribution pension plans. Pass-through insurance occurs when a fiduciary deposits fund for a large number of beneficiaries, and $100,000 of deposit insurance "pass through" to each of the beneficiaries.

According to the amendment to section 11(a)(1), the Federal Deposit Insurance Corporation may not provide deposit insurance coverage on a pro-rata or pass-through basis to participants in or beneficiaries of employee defined benefit plans and defined contribution plans. This prohibition, however, is not applicable to self-directed defined contribution plans. This amendment does not apply to pension plans of state and local governments. The elimination of pass-through insurance coverage does not prevent the plan itself from receiving the maximum insurance coverage of $100,000.

Section 11(a)(1) of the Federal Deposit Insurance Act is also amended by adding a new subparagraph (E) which provides for separate deposit insurance coverage on a pro-rata or pass-through basis for accounts meeting certain specified requirements. This is an exception to the subparagraph (C)(iv) requirement of attribution to the principal of certain accounts maintained by an agent, custodian, nominee or conservator. To be entitled to separate pass-through insurance coverage the account must meet the following requirements: the deposit account must be maintained for a business purpose; the principal or beneficiary of the account may not have control over where the funds are deposited; the account may not be maintained for investment purposes; and the deposit account may not be maintained principally for the purpose of increasing deposit insurance coverage. This provision is meant to cover escrow and similar types of accounts.

Finally, a new subparagraph (F) is added to section 11(a)(1) which gives the Board of Directors authority to adopt regulations to implement and to clarify the insurance coverage under sections 11(a)(1) and 11(i)(3). The regulatory authority with respect to section 11(i)(3), related to the rights of creditors other than insured depositors of troubled institutions, is merely a transfer of existing authority with respect to that section from the section 3(m) definition of "insured deposit" to amended section 11(a)(1).

Subsection (b)(2) of section 101 amends section 11(a)(3) of the Federal Deposit Insurance Act which provides for the insurance coverage of deposits (so-called Keogh accounts) made pursuant to plans described in section 401(d) of the Internal Revenue Code of 1986 or made in the form of an individual retirement account described in section 408(a) of the Code. Under current law, time and savings deposits of 401(d) plans and individual retirement accounts are separately insured up to $100,000 per depository institution. Section 11(a)(3) as amended by the Act requires the aggregation of all deposits made in connection with an individual retirement account, as well as self-directed Keogh plans and other self-directed defined contribution plans held in individual accounts maintained on their behalf by the plan.

Thus, for any one depositor, the deposits made by such plans will no longer be separately insured but will be added together and will be entitled to receive up to a total of $100,000 in deposit insurance coverage per institution. As is the case under current law, the amount insured under this provision may only consist of the present vested and ascertainable interest of each participant under a plan, excluding any remainder interest created by, or as a result of, the plan.

Subsection (b)(3) of section 101 amends section 7(i) of the Federal Deposit Insurance Act with respect to the insurance coverage of certain deposits of trust funds. The amendment limits the insurance coverage to $100,000 per trust estate for trust funds held on deposit by an insured depository institution as trustee pursuant to irrevocable trusts. When such trust funds are deposited by the fiduciary depository institution in another insured depository institution, such trust funds will be insured up to $100,000 to the depository institution according to each trust estate. The Board of Directors of the Federal Deposit Insurance Corporation is authorized to adopt regulations as necessary to clarify the insurance coverage under section 7(i) and to prescribe the manner of reporting and depositing the trust funds.

Subsection (b)(4) of section 101 directs the Board of Directors of the Federal Deposit Insurance Corporation, during the one year period beginning on the date of enactment of the Act, to review the present capacities and rights in which deposit accounts are maintained and for which deposit insurance coverage is provided by the Federal Deposit Insurance Corporation. At the end of the one year period, the Board of Directors may promulgate regulations that provide for separate insurance coverage for different capacities and rights in which deposit accounts are maintained, if a determination is made by the Board of Directors that such separate insurance coverage is consistent with the purposes of protecting small depositors and limiting the undue expansion of deposit insurance coverage. In addition, any such regulations must be consistent with the insurance provisions of the Federal Deposit Insurance Act. Any regulations promulgated by the Board of Directors under this paragraph may not be effective earlier than two years from the date of enactment of the Act.

The amendments made under subsections (a) and (b) are to be effective two years from the date of enactment of the Act, except that such amendments will not apply to any time deposit that is entered into before the date of enactment of the Act and that matures more than two years after the date of enactment of the Act. Such deposits will continue to be insured under current insurance provisions until maturity. The renewal or rollover of a time deposit after the new provisions become effective will trigger the new provisions as to the deposit renewed or rolled over.

Subsection (d) of section 101 requires the Federal Deposit Insurance Corporation to conduct a study on the feasibility of implementing a system of deposit insurance based on systemwide limitations in coverage for each depositor. Insurance under this system would be based on $100,000 per depositor with a separate $100,000 for retirement savings.

The study is to be conducted in conjunction with such consultants and technical experts as the Federal Deposit Insurance Corporation determines to be appropriate. The study is to include a detailed, technical analysis of the costs and benefits associated with the least expensive way to implement such a system. As part of the study, the Corporation is required to investigate, review and evaluate the following:

(a) the data systems that would be required to implement the system;

(b) the reporting burdens of such a system on individual depository institutions;

(c) the interface with existing data processing systems maintained by depository institutions; and

(d) the use of a selective audit of depositors for compliance after the resolution of a failed depository institution.

As part of the feasibility study, the Board of Governors of the Federal Reserve System is required to conduct, in conjunction with such other Federal departments and agencies as necessary, a survey of the ownership of deposits held by individuals, including the dollar amount of deposits held, the type of deposit accounts held and the type of financial institution in which the deposit accounts are held. The results of the survey are to be provided to the Federal Deposit Insurance Corporation not later than one year from the date of enactment of the Act for analysis and inclusion in the feasibility study.

Not later than 18 months after the date of enactment of the Act, the Federal Deposit Insurance Corporation is required to submit to the Congress a report on the findings made and conclusions drawn from the feasibility study. This report is to contain recommendations for any administrative and legislative action as the Federal Deposit Insurance Corporation determines to be appropriate.

Subsection (e) of section 101 provides for conforming amendments to the Federal Deposit Insurance Act. Paragraph (1) transfers language now found in section 3(m) of the Federal Deposit Insurance Act to section 11(a)(2) of the Federal Deposit Insurance Act. Paragraph (2) subjects section 12(c) of the Federal Deposit Insurance Act to new section 11(a)(1)(B) of the same Act.

SECTION 102. DEPOSIT SOLICITATION RESTRICTED

Section 102 of the Act amends section 29 of the Federal Deposit Insurance Act to provide that no insured depository institution, which does not meet the applicable minimum capital requirements, or employee of any such institution, may engage, directly or indirectly, in the solicitation of deposits by offering rates of interest, with respect to such deposits, which are significantly higher than the prevailing rates of interest offered by other insured depository institutions in the institution's normal market area. The institution is required to look to other institutions in the market area whether or not they have the same charter.

The amendment essentially retains the definition of "employee" found in current section 29 with one change. The term "employee" will include employees who are employed either full-time or part-time by a depository institution. The amendment made by this section will be effective on the date of enactment of the Act.

SECTION 103. LEAST-COST RESOLUTION

Subsection (a) of section 103 of the Act amends section 13(c)(4) of the Federal Deposit Insurance Act to require the Federal Deposit Insurance Corporation to use the least costly method to resolve insured depository institutions. Subsection (a)(1) of the Act amends section 13(c)(4)(A) of the Federal Deposit Insurance Act to require the Federal Deposit Insurance Corporation to provide assistance and make payments only in such amounts as are necessary to satisfy its obligations to a depository institution's insured depositors at the least-cost to the affected deposit insurance fund whether by insured deposit payout, insured deposit transfer, or such other least-cost method as determined by the Federal Deposit Insurance Corporation. Nevertheless, the Federal Deposit Insurance Corporation is required to provide assistance or make payments to satisfy, in whole or in part, a depository institution's liability to its uninsured depositors if the assistance or payments would be least-cost method of resolving the institution.

Subsection (a)(2) of the Act adds a new subparagraph (B) to section 13(c)(4) which sets forth various factors the Federal Deposit Insurance Corporation is required to consider in making a least-cost determination. New subparagraph (B) requires the Federal Deposit Insurance Corporation to: evaluate resolution alternatives on a present value basis using a realistic discount rate; document that evaluation; retain the documentation for not less than five years; and treat the Federal tax revenues that the Government would forego as the result of a proposed transaction, to the extent reasonably ascertainable, as if they were revenues foregone by the affected deposit insurance fund. In addition, the Federal Deposit Insurance Corporation is required to determine and compare the costs of assistance or liquidation as of the date on which it makes the determination to provide assistance under the Federal Deposit Insurance Act. In making a least-cost determination, however, the Federal Deposit Insurance Corporation is not permitted to consider the impact of a transaction on any part of the financial system other than the institution being resolved.

A systemic risk determination may only be made by the Board of Governors of the Federal Reserve System and the Secretary of the Treasury with respect to any assistance that may be provided by the Federal Deposit Insurance Corporation to an insured depository institution. Under new subparagraph (C) to section 13(c)(4), upon a joint determination by the Board of Governors and the Secretary of the Treasury that the Federal Deposit Insurance Corporation would be unable to resolve an insured depository institution in accordance with a least cost determination under subparagraph (A) without causing a severe adverse impact upon the financial system, the Board of Governors and the Secretary of the Treasury, in consultation with the Federal Deposit Insurance Corporation and the Director of the Office of Management and Budget, will direct the Federal Deposit Insurance Corporation to provide assistance or make payments to an insured depository institution to satisfy the institution's liability to its depositors or take such other action as determined to be necessary to lessen the risk posed by the depository institution.

Subsections (b), (c), (d), and (e) of section 103 amend various provisions of sections 11 and 13 of the Federal Deposit Insurance Act to subject asnd conform those provisions to the least-cost resolution amendments made to section 13(c)(4) of the Federal Deposit Insurance Act.

The amendments made by section 103 are to become effective three years after the date of enactment of the Act.

SECTION 104. RISK-BASED ASSESSMENTS

Subsection (a) of section 104 amends section 7(b) of the Federal Deposit Insurance Act by removing the minimum 0.15 percent assessment rate for both Bank Insurance Fund and Savings Association Insurance Fund members.

Subsection (b) redesignates paragraph 9 of section 7(b) as paragraph 10 and adds a new paragraph 9 requiring the Board of Directors of the Federal Deposit Insurance Corporation to establish by regulation a risk-based assessment system for setting insurance premiums for insured depository institutions. The structure of the risk-based assessment system must provide that the insurance premium paid by an insured depository institution vary according to the degree of risk the institution poses to the relevant insurance fund.

For purposes of developing the assessment system, the Board of Directors is required to establish rates based on categories of risk. These risk categories must use the ratio of capital to risk-weighted assets for the insured depository institutions as the fundamental measure. In defining categories, the Board may also consider the activities, assets, and liabilities of insured depository institutions and any other risk factors the Board of Directors determines to be appropriate. The ability of the Board of Directors to assess members of the Bank Insurance Fund is limited by the provisions of section 7(b)(1)(C)(iii) as amended by this Act.

Subsection (c) of section 104 requires the Board of Directors to promulgate regulations within 18 months of enactment of the Act. The regulations must go into effect no later than two years after enactment.

SECTION 105. RESTRICTIONS ON FEDERALLY INSURED STATE BANK ACTIVITIES

Section 105(a) amends the Federal Deposit Insurance Act by adding a new section 24 regarding permissible activities for federally insured State banks and their subsidiaries. Section 24 retains the authority given to the States under the dual banking system for State bank agency activities but, as in the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 for thrifts, State bank activities as principal may be limited based on risk.

Section 24(a) provides that, beginning one year after enactment of this Act, State banks, with certain exceptions, generally may not engage as principal in any activity impermissible for national banks. The Federal Deposit Insurance Corporation may make exceptions to the rule if the Corporation determines that the activity would not pose a significant risk to the insurance fund and the bank is in compliance with minimum capital standards established by the appropriate Federal banking agency.

Section 24(b) prohibits State banks and their subsidiaries from acquiring or retaining any equity investment of a type not permissible for national banks. An exception is made to this rule to allow State banks to own subsidiaries if the bank's ownership interest in the subsidiary is greater than 50 percent.

Section 24(b) also requires a State bank that holds an equity investment (other than a majority-owned subsidiary) impermissible under this Act to divest as soon as prudently possible, but in no event later than five years after enactment of this Act. However, a bank with a nonconforming equity investment, as a result of this Act, will not be found to be in violation within the five-year divestment period if it complies with the divestment procedures established by the Federal Deposit Insurance Corporation.

Section 24(c) requires, beginning one year after enactment of this Act, subsidiaries of State banks generally to maintain parity of activity engaged in as principal with subsidiaries of national banks. The Federal Deposit Insurance Corporation is authorized to make exceptions for State bank subsidiaries if the Corporation determines that engaging in an activity impermissible for national bank subsidiaries would not pose a significant risk to the insurance fund and that the bank is in compliance with minimum capital standards. No subsidiary of a State bank, however, is permitted to engage in insurance or securities underwriting that is not permissible for a national bank.

Section 24(d) provides that the Federal Deposit Insurance Corporation must make determinations under section 24 through regulations and orders.

Section 24(e) defines the term "activity" to include acquiring or retaining any investment. For purposes of section 24, the term "State bank" is defined as in section 3 of the Federal Deposit Insurance Act to include any bank, banking association, trust company, savings bank, industrial bank, cooperative bank and any other banking association that receives deposits, other than trust funds, and is incorporated under the laws of any State or operating under District of Columbia law (except a national bank).

Section 24(f) clarifies that the Board of Governors of the Federal Reserve System, the Office of Depository Institutions Supervision, and any State authority may impose more stringent activity restrictions than are provided in section 24. Section 105(b) also amends section 9 of the Federal Reserve Act to authorize specifically the Board of Governors of the Federal Reserve System, which will be responsible for regulating all State banks, to impose more stringent activity restrictions on State banks consistent with section 24 of the Federal Deposit Insurance Act.

SECTION 106. EXAMINATIONS

Subsection (a) expands the current examination authority of the Board of Governors of the Federal Reserve System for Federal Reserve banks and member banks by amending section 11(a) of the Federal Reserve Act to include any bank or branch of a foreign bank for which the Board is the appropriate Federal banking agency.

Subsection (a)(1)(A) amends section 11(a) of the Federal Reserve Act by adding a new paragraph (2) and redesignating former paragraph (2) as paragraph (3). New paragraph (2) requires the Board of Governors of the Federal Reserve System to conduct annual onsite examinations of such banks and branches of foreign banks. For banks and foreign bank branches that have assets of less than $1,000,000,000 and are in compliance with required capital standards, the Board must conduct examinations at least once every eighteen months, but may examine them more frequently.

Subsection (a)(1)(B) amends section 11(a) of the Federal Reserve Act at paragraph (3), as redesignated, to require that reports made to the Board of Governors of the Federal Reserve System, other than those for monetary control purposes, be made through the appropriate Federal banking agency, the National Credit Union Administration Board for insured credit unions, and a State officer or agency designated by the Board for State banks and savings associations and credit unions that are not federally insured.

Subsection (a)(2)(A) amends section 9 of the Federal Reserve Act to permit the Board of Governors of the Federal Reserve System to examine affiliates of those banks and foreign bank branches for which the Board is the appropriate Federal banking agency and which are not part of a holding company. The scope of the Board's examination authority for such affiliates parallels the authority of the Director of the Office of Depository Institutions Supervision in section 323(d) and 323(g)(2) of this Act. The Board's authority to examine banks and branches and their affiliates within a holding company structure is set forth in the Financial Services Holding Company Act of 1991.

Subsection (a)(2)(B) amends section 9 of the Federal Reserve Act to allow the Board of Governors of the Federal Reserve System to assess the expense of examinations of affiliates against the affiliated bank or branch. The amendment also permits the Board to require an affiliated bank to surrender its Federal Reserve stock and forfeit its membership in the Federal Reserve System if the affiliate refuses to be examined or to provide requested information in connection with an examination or if the bank refuses to pay its examination assessment.

Subsection (b) provides that the provisions of this section shall become effective on January 1, 1993.

SECTION 107. MARKET VALUE AND OTHER DISCLOSURE

This section provides for supplemental fair market value disclosures and disclosure of audit reports by depository institutions.

Subsection (a) would require the appropriate Federal banking agencies and the Securities and Exchange Commission to develop jointly a method by which banks would include supplemental disclosures of the fair market value of their assets and liabilities (with respect to those assets and liabilities for which a fair market value could reasonably be determined) in financial statements and in reports filed with those agencies. This section only requires supplemental disclosure and does not require a change in accounting standards. This method must be developed within one year of enactment of this Act.

Subsection (b) amends section 7(a) of the Federal Deposit Insurance Act by adding a new paragraph (9) requiring insured depository institutions to supply their appropriate Federal banking agency with copies of their audit reports (including any qualifications to those reports), management letters, and other reports within 15 days after they are received by the banks. Banks are also required to provide written notification to the appropriate Federal banking agency of a change in their independent auditors and the reasons for any change. Notification is required within 15 calendar days of the change.

SECTION 108. CAPITAL STANDARDS AND INTEREST RATE RISK

This section requires the appropriate Federal banking agencies to develop a system to monitor interest rate risk and incorporate interest rate risk into the risk-based capital standards. No later than one year after enactment of this Act, the agencies must issue regulations implementing the system, and the regulations must take effect no later than two years after enactment.

SECTION 109. REQUIREMENT TO EXPENSE DEPOSIT WITH NATIONAL CREDIT UNION SHARE INSURANCE FUND

This section eliminates the double counting of insurance fund assets and credit union assets by requiring the double-counted assets to be expensed over a twelve-year period.

Subsection (a) amends section 201(b)(8) of the Federal Credit Union Act, pertaining to application for insurance of member accounts, to require newly chartered Federal credit unions and credit unions converting to National Credit Union Share Insurance Fund coverage to make an initial capitalization payment (formerly called a "deposit") to the National Credit Union Share Insurance Fund and to pay a capitalization adjustment and the required deposit insurance premium. To avoid diluting the equity ratio for credit unions already in the National Credit Union Share Insurance Fund, the initial capitalization payment will equal the current equity ratio of the Fund times the total insurable shares of the applicant. The initial capitalization must be expensed annually by the credit union over a 12-year period with minimum payments each year in an amount equal to one-twelfth of the total initial capitalization payment. Amounts expensed in a single year in excess of the required amount will reduce the amount due in future years. The National Credit Union Administration Board is authorized to prescribe procedures for expensing the initial capitalization.

Subsection (b)(1) amends section 202(b)(1) of the Federal Credit Union Act to require an insured credit union to include in its annual certified statement the capitalization adjustment amount due to the National Credit Union Share Insurance Fund for the preceding year, the amount of insurance premium due for that year and any other information the National Credit Union Administration Board requests.

Subsection (b)(2) amends subsection (c) of section 202 of the Federal Credit Union Act to provide for annual payments to and rebates from the National Credit Union Share Insurance Fund. Subsection (c)(1) requires insured credit unions to pay to the National Credit Union Share Insurance Fund, under procedures established by the National Credit Union Administration Board, an annual capitalization adjustment (formerly called a "deposit") equal to one percent of any increase in the credit union's insured shares over the prior year. Any insured credit union with a decline in insured shares over those of the prior year will receive a refund equal to one percent of the decline. Amended subsection (c)(1) does not represent a substantive change from former law.

Subsection (b)(2) also amends section 202 of the Federal Credit Union Act at subsection (c)(2) to require that insured credit unions pay to the National Credit Union Share Insurance Fund, in addition to a capitalization adjustment and pursuant to procedures prescribed by the National Credit Union Administration Board, an annual premium in an amount sufficient to maintain the Fund's equity at a minimum level of 1.25 percent. Under former law, the required premium equalled one-twelfth of one percent of total insured shares in the credit union. The premium must be in proportion to the insured shares of each credit union. If the equity level of the National Credit Union Share Insurance Fund substantially declines below 1.25 percent in a given year, the National Credit Union Administration Board may allow replenishment to the minimum level over a period longer than one year.

Subsection (b)(2) further amends section 202 of the Federal Credit Union Act at subsection (c)(3) to provide for rebates to the insured credit unions if the equity of the National Credit Union Share Insurance Fund exceeds its normal operating level (i.e., exceeds 1.5 percent) at the close of a given insurance year and any loans to the Fund from the Federal Government and the interest on those loans have been repaid. The rebate shall bring the Fund down to its normal operating level and be in proportion to each insured credit union's insured shares.

Subsections (b)(3) and (4) make conforming amendments to section 202(d) through (g) of the Federal Credit Union Act.

Subsection (b)(5) redefines, at subsection (h)(2) of the Federal Credit Union Act, the Fund's "normal operating level" to mean a level of Fund equity, based on market value accounting, equal to 1.3 percent of the total amount of insured shares in all insured credit unions, or such other level as determined by the Federal Credit Union Administration Board, but such level may not be below 1.25 percent or exceed 1.5 percent. Current law imposes a ceiling of 1.3 and gives the National Credit Union Administration Board discretion in setting a floor.

Subsection (b)(6) adds a new subsection (i) to section 202 of the Federal Credit Union Act requiring that insured credit unions expense annually their deposits on one percent, maintained with the Federal Credit Union Administration Board pursuant to the Deficit Reduction Act of 1984 (P.L. 98-369), over a period of 12 years after the date of enactment of this Act. At least one-twelfth of the total deposit of each insured credit union, as calculated on the date of enactment of this Act, must be expensed each year, as prescribed by the Board. If more than one-twelfth is expensed in a given year, treatment of further payments will reduce the amount due in future years and will be made in accordance with Board direction.

Subsection (c) makes conforming amendments to section 203(b) of the Federal Credit Union Act.

Subtitle C—Reinsurance Demonstration Project

SECTION 116. REINSURANCE DEMONSTRATION PROJECT.

This section requires the Federal Deposit Insurance Corporation, in consultation with the Department of Treasury, to establish a reinsurance demonstration project to determine whether it would be feasible to develop a private reinsurance system to help price risk-based premiums.

Subsection (a) defines the project as consisting of a sample of private reinsurers and insured depository institutions that would simulate or could even engage in, if deemed appropriate by the Federal Deposit Insurance Corporation, actual reinsurance transactions. To reflect how the system would actually work, the project must include, at a minimum, the following steps that would be taken in an actual reinsurance transaction: establish the pricing structure for risk-based premiums, prepare insurance contracts, and identify and obtain the information needed to evaluate and monitor risk in a given insured depository institution.

Subsection (a) also establishes a Reinsurance Demonstration Project Committee, comprised of the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation and a representative of each of the private reinsurers and depository institutions participating in the project, to analyze and review the results of the project and report those results to Congress.

Subsection (b) requires that the Reinsurance Demonstration Project Committee report to Congress, within one year of enactment of this Act, on the feasibility of a private reinsurance system. The report must include whether the private insurers have sufficient interest and the capacity to participate in such a system, whether public policy goals can be satisified by such a system, and any recommendations for administrative and legislative action necessary to establish such a system.

Title II—Financial Services Modernization

Title II contains the amendments to the Bank Holding Company Act of 1956 and other laws that are necessary to implement the Treasury recommendation to strengthen the financial system and improve the competitiveness of the nation's banks by permitting banks to affiliate with a broad range of financial firms through the formation of financial services holding companies (FSHCs), which in turn will be permitted to be owned or controlled by commercial businesses so long as the subsidiary banks remain well capitalized. Subtitle A, which contains the Financial Services Holding Company Act of 1991 (the FSHCA), amends the Bank Holding Company Act to permit banks to affiliate through FSHCs with securities, insurance, and other companies that engage in activities determined to be of a financial nature. The FSHCA contains a number of safeguards, described in greater detail below, which will assure that the broader range of permitted affiliations does not expose the taxpayer to greater risk through the Federal safety net.

Subtitle B includes amendments to the Banking Act of 1933 and the Federal Reserve Act to conform provisions in these laws relating to permitted activities for banks. Subtitle C covers non-banking activities of foreign banks in the United States.

Subtitle D amends the various securities laws, including the Securities Act of 1933 and the Securities Exchange Act of 1934, to revise applicability of the securities laws to banks. Subtitle E provides for a new system for supervising banks based primarily on their capital levels. In particular, based on the capital level and the financial condition of a given bank, the appropriate Federal banking agencies are authorized to take various mandatory and discretionary supervisory actions with respect to banks and companies that control banks.

Finally, Subtitle F expands the authority of banks to branch interstate.

Subtitle A—Financial Services Holding Companies

Subtitle A provides a new framework for ownership of banks. It creates a new Financial Service Holding Company Act through amendments to the Bank Holding Company Act of 1956 and new provisions. The FSHCA will be effective on January 1, 1993.

The FSHCA is crafted to (1) encourage ownership of well capitalized banks by providing expanded activities and expedited regulatory procedures for holding companies that have such banks and (2) streamline regulatory procedures and reduce regulatory burdens for all holding companies by placing the emphasis of regulation on the insured bank. This is achieved by the integration of the provisions of the FSHCA and the Prompt Corrective Action provisions of the Federal Deposit Insurance Act so that the expansion of activities and the availability of the expedited regulatory procedures under the FSHCA is dependent on the capitalization of the banks in the holding company while any deterioration of bank capital is subject to corrective action which may include imposing requirements on the holding company.

The FSHCA provides for two different types of holding companies. The first, financial services holding companies, will be able to directly own banks and engage in certain activities as defined in the FSHCA. These holding companies replace bank holding companies. Financial services holding companies will be permitted to engage directly in the activities currently permissible for bank holding companies except that a bank will not be able to be a holding company.

In addition, if a holding company is a Zone 1 financial services holding company which means that 80% of the banks it controls are in Zone 1 (the highest Zone of capital) and the remaining 20% of the banks are in Zone 2, the holding company also can engage through subsidiaries (but not bank subsidiaries with certain exceptions) in securities, insurance, and activities deemed by the appropriate Federal banking agencies to be of a financial nature. Holding companies in Zone 2 that have demonstrated that they are making substantial progress in becoming a Zone 1 company also can engage in the expanded securities, insurance, and financial activities. Zone 1 financial services holding companies, but not the Zone 2 companies, also will be able to take advantage of expedited regulatory procedures for approval of bank and savings association acquisitions and of nonbanking activities.

The second type of holding company is a diversified holding company, which can engage in any activity but cannot own or control a bank directly. Diversified holding companies can only own or control a bank indirectly through ownership or control of a financial services holding company.

SECTION 201. FINANCIAL SERVICES HOLDING COMPANIES

This section amends the definitions in section 2 of the Bank Holding Company Act of 1956 to incorporate descriptions of the organizations to which the FSHCA will apply.

Subsection (a)(1) amends section 2(a)(1) of the Bank Holding Company Act to delete the definition of "bank holding company" and replace it with definitions of "financial services holding company" and "diversified holding company". The effect of this amendment is that, after the FSHCA becomes effective, *all* companies that control banks will be known as financial services holding companies rather than bank holding companies. In addition, companies that control financial services holding companies and engage in activities not permitted for financial services holding companies will be known as diversified holding companies.

The definition of "financial services holding company" includes any company which has control over a bank but that is not a diversified holding company. The intent is that financial services holding companies will only be allowed to engage in activities pursuant to the Financial Services Holding Company Act while diversified holding companies can engage in any activity. Companies that control a bank through a financial services holding company and are engaged only in activities permissible for financial services holding companies will themselves be financial services holding companies.

The definition of "diversified holding company" refers to any company, other than a bank or a foreign bank, that has control over a bank through a financial services holding company and is engaged in or controls a company engaged in activities not permissible for financial services holding companies. Consequently, companies engaged in commercial activities can control a bank but only through ownership of a financial services holding company.

Subsection (a)(2) amends section 2(a)(5)(a) of the Bank Holding Company Act of 1956 to delete a provision that by its own terms has expired.

Subsection (a)(3) amends section 2(f) of the Bank Holding Company Act of 1956 to include a definition of appropriate Federal banking agency as that term is defined in section 3(q) of the Federal Deposit Insurance Act. The appropriate Federal banking agencies are the Board of Governors of the Federal Reserve System and the Director of the Office of Depository Institutions Supervision. The determination of which agency will be the appropriate Federal banking agency for a particular holding company is based on the charter of the largest bank subsidiary in the holding company as determined pursuant to Title III of the Financial Institutions Safety and Consumer Choice Act of 1991. The definition of "Board" has not been amended because there are references to the actions taken by the "Board" under the Bank Holding Company Act which will remain in the FSHCA.

Subsection (a)(4) adds eight new definitions to section 2 of the Bank Holding Company Act of 1956. These definitions are as follows:

(1) Securities Affiliate. A securities affiliate is defined as any company controlled by a financial services holding company and engaged in the activities permissible under 4(c)(15). The term does not include companies engaged in activities authorized pursuant to section 4(c)(8).

(2) Insurance Affiliate. An insurance affiliate is defined as any company controlled by a financial services holding company and engaged in activities permitted under 4(c)(16), which includes insurance underwriting and brokerage. The term does not include companies engaged in activities authorized pursuant to section 4(c)(8).

(3) Foreign bank. The term "foreign bank" has the same meaning as the term has under section 1(b)(7) of the International Banking Act. It means any organization organized under the laws of another country or a territory of the United States, Puerto Rico, Guam, American Samoa or the Virgin Islands that is engaged in the business of banking.

(4) Insured depository institution. The term "insured depository institution" includes any insured bank as that term is defined in section 3(h) of the Federal Deposit Insurance Act and any insured institution. The latter term is defined in section 2(j) of the Bank Holding Company Act to mean a Federal savings and loan association, a Federal savings bank, a building and loan association, a Federal savings bank, a building and loan association, savings and loan or homestead association or a cooperative bank, the accounts of which are insured by the Federal Deposit Insurance Corporation. A definition of insured depository institution has been added because in general the provisions of the FSHCA that apply to banks also will apply to savings and loan associations owned by a financial service holding company.

(5) Zone 1 and Zone 2. The terms Zone 1 and Zone 2 refer to the highest capital zones defined in section 35 of the Federal Deposit Insurance Act. These zone classifications generally determine the permissible activities for financial services holding companies.

(6) Zone 1 Financial Services Holding Company. The term Zone 1 financial services holding company means any financial services holding company that qualifies as a Zone 1 financial services holding company pursuant to section 35(d)(2) of the Federal Deposit Insurance Act, that is, holding companies that have well-capitalized banks.

(7) Functional Regulator. The term functional regulator is defined as the Federal or State regulator that has supervisory authority concerning the activities of a non-banking company that is part of a financial services holding company. The functional regulator for a securities affiliate is the Securities and Exchange Commission and for an insurance affiliate is the state insurance commissioner.

(8) New Financial Activity. The term new financial activity means any activity authorized pursuant to section 4(c)(8) after the effective date of the Financial Services Holding Company Act and securities and insurance activities pursuant to section 4(c) (15) or (16) respectively. It does not include any activities authorized by the Board of Governors of the Federal Reserve Board pursuant to the closely related standard under section 4(c)(8) of the Bank Holding Company Act prior to the effective date of the Financial Services Holding Company Act of 1991.

(9) Qualified Financial Activity. The term qualified financial activity means those activities authorized pursuant to section 4(c)(8), (c)(15), and (c)(16). The term qualified financial activities includes those activities authorized by the Board of Governors of the Federal Reserve System pursuant to the closely related standard under 4(c)(8) of the Bank Holding Company Act as in effect prior to the effective date of the Financial Services Holding Company Act of 1991.

(10) Financial Affiliate. The term financial affiliate means any company that is controlled by a financial services holding company that is engaged in the United States in qualified financial activities and any company controlled by a diversified holding company that is engaged in similar activities.

SECTION 202. ACQUISITION OF BANKS

Section 202 amends the application procedures in section 3 of the Bank Holding Company Act of 1956 for bank acquisitions. It also applies to acquisitions of savings and loan associations by financial services holding companies. This represents a different approach than under the Bank Holding Company Act in which the acquisitions of savings and loan associations were included in the provisions of section 4 dealing with nonbanking activities. The amendments add new expedited procedures for acquisitions of insured depository institutions by Zone 1 financial service holding companies and new procedures for acquisitions of financial services holding companies by diversified holding companies.

The grandfather provisions in section 2 of the Bank Holding Company Act that except certain institutions from the definition of bank will remain in the FSHCA. Any loss of the grandfather exception pursuant to the current provisions will result in the parent company becoming a financial services holding company to the same extent as a loss of the grandfather provision would have caused such parent company to become a bank holding company.

Subsection (a)(1)(A) amends section 3(a) to make it unlawful for any bank or savings and loan association to become a financial services holding company or a diversified holding company. This changes current law which permits banks to be holding companies. This does not apply to foreign banks with insured branches in the United States, which would otherwise be subject to the bar because they are defined to be insured banks.

Subsection (a)(1)(B) amends section 3(a)(3) of the Bank Holding Company Act, which prohibits the acquisition of more than 5% of a bank without the prior approval of the appropriate Federal banking agency, to encompass acquisitions of insured depository institutions, financial services holding companies, or diversified holding companies. This is necessary because branches are legally part of the foreign bank and foreign banks that do not take advantage of the new financial activities of the FSHCA are permitted to own banks directly, as under present law.

Subsection (a)(1)(C) amends section 3(a)(3) of the Bank Holding Company Act to provide that companies that were bank holding companies on December 31, 1992 will be financial services holding companies as of January 1, 1993 without obtaining the approval of the appropriate Federal banking agency. This exemption is a one-time exemption for bank holding companies becoming financial services holding companies as a result of the enactment of this legislation. It applies to both companies regulated as bank holding companies and non-bank holding companies which will be financial services holding companies after the effective date of the Financial Services Holding Company Act, but which will maintain their exempt status.

Subsection (a)(1)(D) permits reorganizations of banks into holding companies without obtaining the prior approval of the appropriate Federal bank agency if, after the reorganization, the bank's shareholders will have substantially the same proportional share interest in the holding company as they had in the bank, the bank meets the requirements for Zone 1 or Zone 2 capital, the holding company only engages in managing and controlling banks or insured institutions after the reorganization and the holding company provides 30 days prior written notice.

Subsection (a)(2)(A) makes technical amendments to the notice and hearing requirements in section 3(b) of the Bank Holding Company Act to provide that the appropriate Federal banking agency will notify the other appropriate Federal banking agency and the State banking supervisor, if appropriate, when it receives an application for a bank acquisition. Section 3(b) of the Bank Holding Company Act provides that the Federal Reserve Board is to notify the Comptroller of the Currency and the State banking supervisor upon receipt of an application to acquire a national bank or State bank as appropriate. Under the Financial Services Holding Company Act there may be instances in which the appropriate Federal banking agency for a particular holding company must notify the other appropriate Federal banking agency because an application has been received to acquire a bank subject to the latter's authority. The amendment will insure that such notification is provided.

Subsection (a)(2)(B) makes a technical amendment replacing the reference to Comptroller of the Currency with a reference to the other appropriate Federal banking agency.

Subsection (a)(3) amends the factors that an appropriate Federal banking agency can consider in evaluating a bank acquisition, merger, or consolidation under the FSHCA to include the safety and soundness of the insured depository institution to be acquired or of the insured depository institutions that are currently controlled by the holding company.

Subsection (a)(4)(A) redesignates certain subsections of section 3 of the Bank Holding Company Act to provide for the inclusion of the following new section establishing expedited procedures for acquisitions of additional banks by Zone 1 financial services holding companies and acquisitions involving diversified holding companies.

Subsection (a)(4)(B) establishes expedited procedures for acquisitions of additional insured depository institutions by Zone 1 financial services holding companies. The expedited procedures provide for a shorter time period for consideration of the application. The other appropriate Federal banking agency and the State banking supervisors have 21 days after receipt of notice of the application from the appropriate Federal banking agency to recommend disapproval. The appropriate Federal banking agency has 45 days to act on the application from the date a complete application is received. If the appropriate Federal banking agency fails to act, the application will be considered approved. The 45-day period can be extended if the other appropriate Federal banking agency or the State banking supervisor recommends disapproval for one of the reasons established in the FSHCA. If one of the other agencies recommends disapproval, the appropriate Federal banking agency must follow the regular procedures for a hearing. The time period can also be waived in the event of an emergency acquisition.

The grounds for disapproval are the current anticompetitive provisions and the safety and soundness of the institutions to be acquired and the institutions controlled by the holding company. The application can also be disapproved if the financial services holding company does not or would not continue to qualify as a Zone 1 financial services holding company or if the appropriate Federal banking agency finds that such an acquisition is not consistent with the convenience or needs of the community.

Subsection (a)(4)(B) also provides that the appropriate Federal banking agency may not permit any acquisition, merger, or consolidation of a financial services holding company that involves a diversified holding company, including an application by a company to become a diversified holding company, unless the diversified holding company will become or is in Zone 1 and any financial services holding company that is the subject of the transaction must be a Zone 1 company as a result of the transaction. Consequently, a diversified holding company could acquire a financial services holding company that is not in Zone 1; however, as part of the acquisition, the diversified holding company must take the steps necessary to raise the capital of the financial services holding company to Zone 1. The same factors used to evaluate bank acquisitions are applicable to acquisitions of financial services holding companies.

The limits on the exemption for companies that own non-bank banks in the Bank Holding Company Act will remain in place including the restrictions and limitations on activities. As in the Bank Holding Company Act, if a non-bank bank holding company wants to change or in fact changes its activities in a manner that is not contemplated by its grandfather provisions, it will either have to comply with the provisions of the FSHCA or divest the bank.

Subsection (b) contains conforming amendments.

SECTION 203. INTERESTS IN NONBANKING ORGANIZATIONS

Section 203 replaces the current closely related standard in the Bank Holding Company Act for determining whether an activity is permissible for bank holding companies with a standard that requires a determination of whether the activity is of a financial nature. In addition the section replaces the application procedures concerning nonbanking activities and adds expedited procedures for Zone 1, financial services holding companies that want to take advantage of the securities, insurance, or other activities. The section also authorizes the appropriate Federal banking agencies to adopt funding firewalls.

Paragraph (a)(2)(B) amends subparagraph 4(a)(2)(A) of the Bank Holding Company Act to provide that financial services holding companies cannot be banks. This is accomplished by deleting the phrase "of banking or" from the description of activities that are permissible for holding companies. Foreign banks that are bank holding companies are permitted to carry on banking activity in the United States if they own a bank, if such activity is otherwise permitted through a branch or agency as those terms are defined in the International Banking Act of 1978 (12 U.S.C. 3101 *et seq.*). This is necessary because branches are legally a part of the foreign bank and would be barred from controlling banks without the exception.

Subsection (a)(2)(C) provides that financial services holding companies themselves may only engage directly in activities that were approved by the Board of Governors of the Federal Reserve System pursuant to the closely related standard in section 4(c)(8) of the Bank Holding Company Act. Financial services holding companies themselves will not be permitted to engage directly in any new activities that may be approved under the "financial nature" standard or in the securities or insurance activities authorized pursuant to 4(c)(15) and 4(c)(16) respectively.

However, insurance companies organized in mutual form or as reciprocal inter-insurance exchanges will be able to be financial services holding companies. The reason for the exception for these types of insurance companies is that they are organized in mutual form and therefore cannot be owned by a financial services holding company as a subsidiary pursuant to section 4(c)(16). All of the limitations and restrictions that would apply to the insurance affiliate would apply to a holding company engaged in insurance through these exceptions. Also, holding companies will be permitted to engage in the insurance activities authorized pursuant to section 4(c)(8).

Subsection (a)(3) deletes the provision of section 4(c)(8) of the Bank Holding Company Act that contains the "closely related" standard for determining whether activities are permissible for bank holding companies and replaces it with a "financial nature" standard. Activities that were determined to be "closely related" by regulation under the Bank Holding Company Act will be considered to be activities permissible under the "financial nature" standard. It is anticipated that the appropriate Federal banking agencies will republish or adopt the list of preapproved activities under section 4(c)(8) of the Bank Holding Company Act. Any bank holding company that was engaged in activities pursuant to an order or regulation under section 4(c)(8) may continue to engage in such activity after January 1, 1993 provided that the order or regulation is still in effect on December 31, 1992.

The section specifically addresses the continued ownership and control of companies by financial services holding companies that are engaged in underwriting and dealing in securities that national banks cannot underwrite and deal in (Section 20 subsidiaries). Bank holding companies that control such Section 20 subsidiaries and become financial services holding companies as a result of enactment of the FISCCA can continue to operate such subsidiaries for three years after enactment of the FISCCA. During the three year period, the section 20 subsidiaries will be subject to the conditions and limitations imposed by the Board of Governors in authorizing the activity including the activities that the subsidiaries can engage in, the revenue limitations, and the funding limitations. During the three year period, the holding companies will be exempt from the requirement that they must be in Zone 1 to conduct such underwriting and dealing activities. At the end of the three year period, the holding companies must be in compliance with the requirements of Zone 1 and file a notice to convert the section 20 subsidiary into a section (4)(c)(15) subsidiary if they intend to continue to engage in such activities.

The subsection also amends section 4(c) to provide that holding companies can only engage in insurance activities in a subsidiary authorized pursuant to 4(c)(16), except for those activities authorized for subsidiaries in section 4(c)(8) and directly if the financial services holding company is an insurance company organized in mutual form.

The section amends the Bank Holding Company Act to permit the establishment of securities and insurance affiliates upon the effective date of the Financial Services Holding Company Act. Securities affiliates can engage in a full range of securities activities. These activities include underwriting, distributing, and dealing in any type of securities without limitation. Securities affiliates also can organize, sponsor, control, and distribute shares of any registered investment company. Other permissible activities include full service securities brokerage, private placement, and investment advisory activities as well as other securities activities permitted for brokers or dealers registered under the Securities Exchange Act or for investment advisers registered under the Investment Advisers Act.

A financial services holding company that acquires control of a securities affiliate must not permit a depository institution it controls to engage in any securities activity except to the extent specifically permitted by statute, regulation, or order promulgated by the Comptroller of the Currency as of the date of enactment of the Financial Institutions Safety and Soundness Act. This language, in combination with the restrictions on bank activities as a result of amendments to the Glass-Steagall Act and the Securities Exchange Act of 1934, means that if a financial services holding company establishes a securities affiliate it cannot permit its bank subsidiary to engage in distributing general obligation bonds and mortgage backed securities. Brokerage activities will have to be transferred from the bank to a subsidiary of the bank or a holding company affiliate pursuant to section 4(c)(8) and 4(c)(15) with certain exceptions.

New paragraph (c)(15)(C) makes this requirement equally applicable to branches and agencies of foreign banks, and commercial lending companies owned by foreign banks. This provision will be effective with respect to branches and agencies beginning three years after enactment of this Act. After that time, no foreign bank will be able to maintain in the U.S. both affiliates undertaking new financial activities and branches and agencies of the bank itself.

Financial services holding companies will be able to establish insurance affiliates that provide insurance as principal, agent or broker without any geographic or product limitations pursuant to section 4(c)(16). However, a financial services holding company that establishes an insurance affiliate may not permit an insured depository institution it controls to provide insurance as agent or broker including insurance for which the affiliate acts as principal, agent, or broker unless the laws of the State in which the State bank is located permit State-chartered banks to provide insurance as agent or broker or to the extent permitted by law for national bank subsidiaries. Foreign bank branches, agencies, and commercial lending company subsidiaries are subjected to a similar limitation.

Subsection (a)(4) adds a new notice provision in new subsection (j) to section 4 of the Bank Holding Act. This requires companies that become financial services holding companies to give at least 45 days notice to the appropriate Federal banking agency before engaging in, or acquiring or retaining ownership or control of the shares of a company engaged in, the nonbanking activities described in subsection (c)(8) (activities of a financial nature), (c)(15) (securities activities), or (c)(16) (insurance activities).

The appropriate Federal banking agency must define, by regulation or on a case-by-case basis, the contents of the notice. Only information relevant to the nature and scope of the proposed transaction or activity and to the agency's evaluation of the general standards of review (under paragraph 2) and any additional capital requirements (pursuant to subsection (k)), as appropriate, may be requested by the agency.

The agency may disapprove an activity or transaction by issuing an order to the holding company setting forth the reasons for dissapproval before the end of 45 days following receipt of the notice. The 45-day period may be extended an additional 30 days.

Expedited notice procedures are provided for Zone 1 financial services holding companies. Under the expedited procedures, a Zone 1 financial services holding company that intends to commence de novo through a subsidiary (but not through the acquisition of a company) any activity authorized under section 4(c)(15), 4(c)(16), or an activity that has been determined by regulation to be of a financial nature, must file a notice with the appropriate Federal banking agency 30 days after commencement of the activity. In order to engage in activities pursuant to section 4(c)(15), 4(c)(16) and 4(c)(8) through the acquisition of a company, a Zone 1 financial services holding company must file a notice 30 days before such acquisition. The notice will be deemed to be approved unless, within the 30 day period after receipt of the notice, the agency issues an order stating the reasons for disapproval.

A holding company may proceed with a proposal immediately if it receives written notification of approval from the agency. With respect to particular activities, the agency may eliminate the notice requirement or shorten the notice period. With respect to a proposal to engage in, directly or indirectly, a (c)(8) activity not previously approved, the agency may extend the notice period for an additional 90 days.

In considering a notice under this subsection, the agency must generally evaluate the proposal using the following criteria: managerial resources; financial resources, including capital; any material adverse effect on the safety and soundness or financial condition of an affiliated depository institution; and, as to (c)(8) activities, whether there is any reasonable expectation of a public benefit that would outweight any possible adverse effects.

Notwithstanding the above, an agency must disapprove a proposal under this subsection if any insured bank controlled by the holding company is engaging in an unsafe or unsound practice or is in an unsafe or unsound condition.

An agency may only disapprove a proposal by a Zone 1 holding company under this subsection if the holding company is engaging in an unsafe or unsound practice or is in an unsafe and unsound condition or the agency finds that the holding company does not qualify as a Zone 1 holding company.

Subsection (j) of section 4 of the Bank Holding Company Act provides that bank holding companies that become financial services holding companies may only engage in, or acquire or retain the shares of a company engaged in, new financial activities, as defined in section 2(a)(4) of the Bank Holding Company Act, if the holding company is in Zone 1 or it meets the following capital requirements: (1) the capital of each insured bank controlled by the company is above the mean capital level of the range for insured banks in Zone 2; and, (2) the holding company is making substantial progress toward qualifying as a Zone 1 holding company.

Subsection (k) of section 4 of the Bank Holding Company Act provides that any holding company that engages in, or controls a company engaged in, any new financial activity and does not qualify as a Zone 1 holding company within the time specified by the appropriate Federal banking agency shall be subject to the prompt corrective action provisions of section 35(d)(6) of the Federal Deposit Insurance Act.

Subsection (l) of section 4 of the Bank Holding Company Act places limitations on the activities of securities and insurance affiliates of holding companies. Securities affiliates, affiliates engaged in securities activities under section (c)(8), or insurance affiliates must prominently disclose in writing to their customers that they are not insured institutions and are separate from any insured institution, and that their securities or insurance products are not insured deposits, are not guaranteed by any affiliated insured institution, and are not otherwise obligations of the affiliated institutions (unless such is the case). The affiliates engaged in such insurance or securities activities must obtain from their customers an acknowledgment that such notice has been received and the date of receipt, and name, address, and account number of the customer.

Pursuant to subsection (1), the Securities and Exchange Commission may adopt regulations in consultation with the appropriate Federal banking agencies regarding the disclosures required of securities affiliates and affiliates engaged in securities activities under section 4(c)(8). The banking agencies may adopt regulations under this subsection for disclosures required by insurance affiliates or affiliates engaged in 4(c)(8) activities, other than securities activities.

The appropriate Federal banking agency may adopt regulations to limit disclosure of nonpublic customer information between an insured depository institution and its affiliates (including a creditworthiness evaluation of an issuer or other customer of the insured depository institution or its subsidiaries, or a financial, securities, or insurance affiliate).

The appropriate Federal banking agency also may issue regulations or orders limiting or restricting insured depository institutions owned by holding companies from providing financial support, purchasing or selling assets, or issuing guarantees, letters of credit, or other credit facilities to or for the benefit of an affiliate engaged in new financial activities or a customer of such affiliate. The agency must adopt such limitations or restrictions as it deems appropriate to limit potential adverse effects, such as unfair competition, conflicts of interest, and unfair banking practices. No insured depository institution and customer of an affiliate engaged in such activities may enter into transactions to evade those restrictions.

Subsection (m)(1) of section 4 of the Bank Holding Act permits a holding company to own or control voting shares of a company engaged in activities that are not permitted for financial services holding companies in two circumstances. First, the shares must have been acquired before January 1, 1993, and the total investment in the shares must not exceed five percent of the holding company's capital and surplus on a consolidated basis. Second, the shares must have been acquired and held by a securities affiliate as part of a bona fide underwriting or investment banking activity and will be held only for such period of time as will permit their sale on a reasonable basis consistent with the nature of such investment banking activity.

The effect of the first provision is that companies that become financial services holding companies may keep subsidiaries or investments in companies engaged in activities not permitted for the holding company if the shares were acquired before January 1, 1993, and the percentage limitation is met. The effect of the second provision is that a securities affiliate can engage in investment banking or underwriting activities without limitation. The intent is not to inhibit the usual investment activities of securities firms. This means that a financial services holding company securities affiliate could retain or acquire control of a company engaged in activities not permissible for the holding company. In order to protect the insured depository institution, the firewalls applicable to the diversified holding company will apply to companies in which the financial services holding company or a securities affiliate hold shares pursuant to this provision.

Subsection (m)(2) of section 4 of the Bank Holding Act requires a holding company that loses the exemption in paragraph (1)(A) to divest ownership and control of all companies engaged in activities not authorized by subsection (b) or (c) within 180 days of losing the exemption. If the paragraph (1)(B) exemption is lost, the holding company must divest ownership and control within 15 days of that loss. If the paragraph (1)(C) exemption is lost, the holding company must, within 180 days of that loss, divest ownership and control of a sufficient number of shares so that the aggregate investment of the holding company and its subsidiaries permits the company to requalify for the exemption.

SECTION 204. DIVERSIFIED HOLDING COMPANIES

This section sets out the framework pursuant to which commercial firms can affiliate with banks. Diversified holding companies may only own well-capitalized banks. Strict firewalls prohibit all forms of lending between a financial services holding company, including all its banking and nonbanking subsidiaries, and the diversified holding company. While a diversified holding company may choose to have financial companies either inside or outside the financial services holding company, those that stay outside the financial services holding company will be subject to the most restrictive firewalls plus any discretionary firewalls the appropriate Federal banking agencies may impose on the financial companies inside the financial services holding company.

Thus, the first part of section 204 provides that diversified holding companies can acquire a financial services holding company, but only if, after the transaction, the financial services holding company meets the requirements for Zone 1. The purpose of this provision is to ensure that affiliations between commercial firms and banks will only take place if the banks are well-capitalized.

In addition to the requirement that financial services holding companies be in Zone 1, this section establishes a number of "firewalls" to protect the insured bank or thrift. These firewalls provide that financial services holding companies and their subsidiaries (1) may not extend credit to an affiliated diversified holding company or its affiliates that are not controlled by a financial services holding company; (2) may not purchase for its own accounts the financial assets or securities of an affiliated diversified holding company or its affiliates, that are not controlled by a financial services holding company; (3) may not issue a guarantee, acceptance, or letter of credit to an affiliated diversified holding company or its affiliates, that are not controlled by a financial services holding company; and (4) may not extend credit to any customer of the diversified holding company or its affiliates other than on an arm's length basis, subject to the provisions of Section 23B of the Federal Reserve Act.

Third, unless the transactions are specifically prohibited, the firewalls provided for in section 4(1) of the FSHCA shall apply to diversified holding companies and their affiliates not otherwise controlled by a financial services holding company.

Fourth, a diversified holding company and any of its affiliates that purchase and sell real property as principal, agent, or broker or provide insurance as principal, agent, or broker may market such service jointly with any affiliated insured depository institution, provided the depository institution is permitted to engage in the activity by the State where the service is to be offered.

These restrictions are to be applied to foreign banks and their U.S. affiliates in the same manner and to the same extent as to U.S. organizations. The territorial limitation is necessary so that affiliate operations located outside the U.S. are not adversely affected by these firewalls.

SECTION 205. ADMINISTRATION

Section 205 creates a new section 6 which provides in subsection (a) that financial services holding companies register with the appropriate Federal banking agency within 180 days of becoming a financial services holding company. Registration shall be documented on forms prescribed by the appropriate federal banking regulators, which shall include information concerning the financial condition and operations, management, and inter-company relationships of the registrant and its affiliates, as well as any additional information deemed appropriate by the regulators. The regulators retain the discretion to extend the registration period beyond 180 days.

Subsection (6)(b) requires the Federal banking agencies to adopt and publish final joint regulations implementing this Act by January 1, 1993. After the implementing regulations are adopted, the appropriate Federal banking agencies do not have to issue joint regulations but they do have to provide each other with notice and opportunity to object to proposed rules or other policy changes. The appropriate Federal banking agencies shall provide the other Federal banking agencies with at least 60 days notice with respect to any proposed formal policy changes affecting diversified or financial services holding companies or any of their subsidiaries or affiliates. If one agency objects to the proposed policy change of another agency, the change may not be implemented without the written consent of the objecting agency.

Section 6(c) sets forth the recordkeeping and reporting requirements that may be imposed by the appropriate Federal banking agency on a financial services holding company and a diversified holding company. It also sets forth the examination authority with respect to a financial services holding company and affiliates it controls, a diversified holding company, and affiliates of the diversified holding company that are not controlled by a financial services holding company. Nothing in section 6(c) is intended to limit the sharing of records by banking agencies with appropriate law enforcement authorities.

Subsection (c)(1)(A) contains the authority for the appropriate Federal banking agency to impose recordkeeping requirements on a financial services holding company to enable monitoring of the financial and operational risk to insured depository institutions in a holding company structure from an affiliated diversified holding company and its financial affiliates that are outside the control of the financial services holding company.

Specifically the financial services holding company is required to obtain such information and make and keep such records as the appropriate Federal banking agency may prescribe concerning the policies and procedures for monitoring and controlling financial and operational risks to insured depository institution subsidiaries of the financial services holding company from the activities of a diversified holding company controlling the financial services holding company and from the activities of financial affiliates of the diversified holding company that are not controlled by the financial services holding company. The required records shall describe the activities conducted by the diversified holding company, and its financial affiliates that are not controlled by the financial services holding company, that are likely to have a material impact on the financial or operational condition of the insured depository institution subsidiaries of the financial services holding company. The records shall also describe the sources of capital and funding of any such activities.

Subsection (c)(1)(B) provides that the appropriate Federal banking agency may require a financial services holding company and its insured depository institution subsidiaries to file reports under oath to keep the appropriate Federal banking agency informed as to compliance with the provisions of the Act and regulations and orders issued thereunder. For insured depository institution subsidiaries for which the primary regulator is the other appropriate Federal banking agency, the appropriate Federal banking agency is required to consult with and, to the extent possible, use reports obtained by the other agency.

Subsection (c)(1)(C) provides that the appropriate Federal banking agency may require the financial services holding company, and any affiliate it controls, to file reports if the agency reasonably believes that the activities or financial condition of any such companies are likely to have a material impact on the financial or operational condition of any insured depository institution subsidiary, or a subsidiary of the insured depository institution. This permits the appropriate Federal banking agency to obtain additional information if, based on information obtained from the records and reports described above, the agency has concerns about the impact on any insured depository institution of the activities of the financial services holding company or affiliates it controls.

Where the affiliate or financial services holding company has a functional regulator, as defined in section 2 of the Act, the appropriate Federal banking agency is required to consult with and, to the extent possible, use reports obtained by, that functional regulator. A functional regulator is defined as a Federal or State agency that has supervisory authority over the activities of a company that are of concern to the appropriate Federal banking agency under this subsection. As a result, consultation is only required if the functional regulator examines the specific activities that the appropriate Federal banking agency believes are to have a material impact on the depository institutions.

Subsection (c)(1)(D) provides similar authority to require reports from an affiliated diversified holding company and financial affiliates of the diversified holding company that are not controlled by a financial services holding company.

Subsection (c)(1)(E) provides for reciprocal access to reports, other than examination reports, among the appropriate Federal banking agencies and the functional regulators, if any, for financial affiliates and diversified holding companies, if the agency or regulator reasonably believes that the activities or financial condition of an affiliate could have a material impact on the company for which the agency or regulator has responsibility.

Subsection (c)(1)(F) provides that any reports obtained from another agency or regulator may not be disclosed to the public by the recipient agency and shall not be disclosed to any other agency or the Congress except as permitted by law. Furthermore, reports obtained from another agency or regulator may be used only for purposes of determining if a material impact on a given entity exists, or as otherwise permitted by law. The reports may not be used to carry out other supervisory responsibilities of the recipient agency or regulator. As noted above, however, nothing in subsection (c) is intended to limit the sharing of records by banking agencies with appropriate law enforcement authorities.

Subsection (c)(2) provides for general authority to examine a financial services holding company and its insured depository institution subsidiaries, as well as more limited authority to examine other affiliates controlled by the financial services holding company, a diversified holding company and its financial affiliates. Under subsection (c)(2)(A), the appropriate Federal banking agency is given general authority to examine a financial services holding company, its insured depository institution subsidiaries, and other affiliates under its control. Wherever appropriate, the appropriate Federal banking agency is required to consult with and, to the extent possible, use the report of examination made by the other appropriate Federal banking agency. This is intended to encourage the regulator of a financial serivces holding company to use examination reports made by the other appropriate Federal banking agency with respect to an insured depository institution within the holding company structure for which the other appropriate Federal banking agency is the primary regulator.

Subsection (c)(2)(B) authorizes the appropriate Federal banking agency to examine the financial services holding company and any affiliate under its control to determine whether such company or affiliate is engaged in any transaction that would violate the restriction set forth in sections (4)(1) and 5(c), or to determine compliance with sections 35 (f) and (g) of the Federal Deposit Insurance Act if either is applicable because an insured bank controlled by the financial services holding company is within Zone 3 or Zone 4, as defined in section 35. The appropriate Federal banking agency is also authorized to conduct such examinations if the agency reasonably believes that the company or affiliate is engaged in a particular transaction or a course of conduct that may constitute a material risk to any insured depository institution subsidiary.

The appropriate Federal banking agency is directed to use examination reports prepared by the functional regulator, if any, of the holding company or financial affiliate. If the examination report does not contain the information necessary to identify any violations of sections 4(1) and 5(c), or assure compliance with sections 35 (f) and (g), if applicable, or if it does not contain the information necessary to determine if there is a material risk to an insured depository institution, then the appropriate Federal banking agency may request the functional regulator to conduct an examination to obtain such information. If the regulator does not do so within a reasonable period of time, then the appropriate Federal banking agency may conduct the examination after notifying the functional regulator.

Subsection (c)(2)(C) contains similar examination authority with respect to a diversified holding company and its financial affiliates that are not controlled by a financial services holding company.

Subsection (c)(2)(D) authorizes the functional regulator of a financial affiliate to examine an affiliated insured depository institution if the regulator reasonably believes that such institution is engaged in a particular transaction or course of conduct that may constitute a material risk to the financial affiliate. Similar to the procedure described above, the functional regulator is first required to attempt to obtain the necessary information through the appropriate Federal banking agency for such insured depository institution.

Subsection (c)(2)(E) authorizes the appropriate Federal banking agency to examine any nonfinancial affiliate of a diversified holding company in order to determine whether the affiliate is engaged in a particular transaction that would violate section 5(c).

Subsection (c)(2)(F) provides that the cost of examinations of a diversified holding company and any affiliate not controlled by a financial services holding company shall be assessed against the company that is the subject of the examination. The cost of examinations of a financial services holding company and its subsidiaries shall be assessed against the financial services holding company.

Subsection (d) makes clear that the mere transfer of records pursuant to section 205 of the Act does not in itself constitute a waiver of any privilege that may apply to that record (*e.g.*, attorney-client privilege, attorney work product doctrine).

Section 6(f) provides the appropriate Federal banking agencies with additional enforcement authority. First, an appropriate Federal banking agency may institute cease and desist proceedings or issue a temporary order requiring the holding company to cease and desist engaging in the activity in question to prevent any significant dissipation of assets or earnings of the insured depository institution. This authority applies to a diversified holding company or financial services holding company controlled by the diversified holding company or any of its affiliates. The appropriate Federal banking agency may take such action when it has reasonable cause to believe that (1) any financial affiliate of an insured depository institution is engaged in activities in such a manner as to constitute a serious risk to the financial health of the insured depository institution, or (2) the diversified or financial services holding company controlled by the diversified holding company or any affiliate is in danger of defaulting and thereby causing the insolvency or a significant dissipation of assets of the insured depository institution.

If the diversified or financial services holding company fails to comply with the order discussed above, the appropriate Federal banking agency may order the holding company to divest itself of the offending nonbank affiliate within 120 days. Due notice and an opportunity for hearing must be provided prior to any order to divest. A holding company may divest by selling the affiliate to a third party or by a pro rata distribution of the shares of the affiliate to all of the shareholders of the distributing holding company. The appropriate federal banking agency may enforce any order issued under this subsection in the United States District Court within the jurisdiction of which the principal office of the offending holding company is located.

Section 6(g) provides that the appropriate Federal banking agency may enforce any order issued under this subsection in the United States District Court for the District of Columbia, in the judicial district in which the proceeding is being conducted, or in the district where the witness resides or carries on business. This section also authorizes the appropriate Federal banking agency to issue witness subpoenas and subpoenas duces tecum in the course of any application, examination, investigation, or other proceedings under this chaper. Subpoenas may be issued under regulations adopted by the appropriate banking agency. Service of subpoenas is in accord with the Federal Rules of Civil Procedure, including service outside the jurisdiction of the United States. Witnesses subpoenaed under this subsection are accorded the standard fees and expenses of witnesses.

Subpoenas may be enforced in the United States District Courts. Courts before which enforcement actions are brought are authorized to award attorneys fees as they deem just and proper. Finally, willful failure or refusal to testify or produce documents pursuant to a subpoena can be punishable by up to one year in prison or by a fine of up to $1,000, or both.

SECTION 206. RESERVATION OF RIGHTS TO STATES: PRE-EMPTION OF ANTI-AFFILIATION PROVISIONS

Section 206 amends section 7 to continue the current law's existing requirement that the Bank Holding Company Act not be construed so as to diminish the existing or future powers and jurisdiction of any State regarding companies, banks, diversified holding companies, financial services holding companies, and any of their subsidiaries. The only change in the existing reservation of rights to states substitutes the terms "diversified holding company" for the term "bank holding company."

Subsection 7(b) creates three exemptions from the reservation of rights to the States, whereas existing law includes none. First, no State law shall prevent or impede any insured depository institution (or any related entity) from being or becoming a subsidiary or affiliate of a financial services holding company (or any related entity) because of the activities engaged in by either the depository institution (or the related entity) or the financial services holding company (or the related entity).

Second, no State law shall prevent or impede any financial services holding company (or any related entity) from acquiring, owning, controlling, or affiliating with any insured depository institution (or any related entity) because of the activities engaged in by either the depository institution (or the related entity) or the financial services holding company (or the related entity).

Third, no State law may prevent or impede any insured insured depository institution (or any related entry) from (1) offering or marketing the products or services of any affiliated financial services holding company (or related entity) or (2) having its own products or services offered or marketed by any affiliated financial services holding company (or related entity). However, cross marketing of insurance and real estate products and services in insured depository institution affiliates is permitted only to the extent such activities are permitted for State banks in the particular State in which the products or services are to be offered. The third exemption does not preempt any State law governing the examination, supervision, or regulation of financial service providers or the protection of consumers, unless such a law is inconsistent with the purposes of the Bank Holding Company Act (in which case the State law will be preempted only to the extent of the inconsistency).

The provisions of subsection (b) apply to foreign bank branches, agencies, and commercial lending companies as these terms are defined in the International Banking Act of 1978.

SECTION 207. PENALTIES

Section 207 amends section 8 of the Bank Holding Company Act of 1956, as amended by section 907(j) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (codified as 12 U.S.C. 1847 (1989)), by striking the vague term "profit significantly" and replacing it with the term "obtain anything of value," which is broadly construed to include intangibles as well as tangible items (*e.g., United States v. Girard*, 601 F.2d 69, 71 (2d Cir.), *cert. denied*, 444 U.S. 871 (1979)) (bribery prosecution); and to focus on the worth attached to the item by the defendant rather than its commercial value (*e.g., United States v. Williams*, 705 F.2d 603, 622–23 (2d Cir.), *cert. denied*, 464 U.S. 1007 (1983) (bribery prosecution). This section also would strike the last paragraph from subsection 8(a) of the Bank Holding Company Act, since the subsection addresses conduct best addressed by amending 18 U.S.C. 1005. A conforming amendment to 18 U.S.C. 1005 is made at section 618 of the FISCCA.

The civil penalty provisions in subsection (g) are intended to be in addition to, and not a substitute for, any criminal punishment or administrative sanction that may apply to the same conduct. A civil penalty awarded under this subsection is intended to be compensatory, not punitive, and therefore it avoids any double jeopardy issue under *United States v. Halper*, 490 U.S. 435 (1989). The phrase "forfeit and" has been deleted from the draft provision in order to avoid confusing this civil penalty provision with civil forfeiture for purposes of *Halper* analysis.

SECTION 209. ANTITRUST TRUST REVIEW

Section 209 amends section 11(b)(1) of the Bank Holding Company Act, 12 U.S.C. 1849 (b)(1) and section 18(c)(6) of the Federal Deposit Insurance Act, 12 U.S.C. 1828 (c)(6), to permit, with the concurrence of the Attorney General, elimination or reduction of the special five-day period for consummation of certain mergers and acquisitions.

SECTION 212. APPLICATION OF THE LIMITATIONS ON TYING ARRANGEMENTS AND INSIDER LENDING TO FINANCIAL SERVICES AND DIVERSIFIED HOLDING COMPANIES

Section 212 replaces the term "bank holding company" with "financial services holding company" and "diversified holding company" in that portion of the Bank Holding Company Act Amendments of 1970 governing tying arrangements and in that portion of the Federal Reserve Act governing insider loans. In addition, section 212 adds specific transactions to the prohibited tying arrangements listed in the Bank Holding Company Act of 1970. Generally, a financial services holding company and any of its nonbank subsidiaries and a diversified holding company and any of its subsidiaries may not in any manner provide products or services, or set or vary the cost of such products or services, on the condition or requirement that the customer also obtain products or services from an affiliated bank.

Two exceptions to the general prohibition are provided. First, products and services of a bank and an affiliate of a bank may be offered together and the price of the nonbank product may be varied on the condition that the customer purchases a bank product or service. This can only be offered if both the bank product and the affiliate's product are separately available to the customer at an essentially fair market price. This is to ensure that the price of the products offered on a separate basis are not so exorbitant as to force the customer to purchase both products. Second, if the bank and the nonbank products are both "core banking" products, the price can be varied on the product offered by the affiliate provided both products are separately available. Core banking products include loans, deposit, discount, and trust services. This reflects the position of the Federal Reserve Board in a recent order. Competition in the area of banking products is so strong that it is likely the products will be offered separately at fair market prices. The Federal Reserve Board may adopt any regulations necessary to carry out the purposes of the section, including restrictions on the two exceptions to the section's general prohibition.

SECTION 213. PROVISIONS EXEMPTING FINANCIAL SERVICES HOLDING COMPANIES FROM THE SAVINGS AND LOAN HOLDING COMPANY ACT

This section generally exempts financial services holding companies that own savings associations from the provisions of the Savings and Loan Holding Company Act found at section 10(a) of Home Owners Loan Act, other than financial services holding companies that are defined in section 4(f) of the Financial Services Holding Company Act (companies owning non-bank banks). Consequently, as long as a company is a financial services holding company, it is not subject to the limitations of the Savings and Loan Holding Company Act when it acquires ownership or control of a savings and loan association. It also does not need to form a separate savings and loan holding company structure to make such an acquisition.

Section 212(a) amends section 10(a) of the Home Owners Loan Act (12 U.S.C. 1467a(a)) by adding a new paragraph (5) to generally implement this exemption from the savings and loan holding company regulatory regime. Section 212(b) amends the definition of savings and loan holding company found at section 10(a)(1)(D) of the Home Owners Loan Act (12 U.S.C. 1467a(a)(1)(D)) to incorporate this exemption in the definition.

Subtitle B—Financial Activities of National Banks

SECTION 221. AMENDMENTS TO THE BANKING ACT OF 1933

This section delineates the permissible activities of national banks once the expanded securities and insurance powers of the Financial Services Holding Company Act are effective and repeals certain provisions of the Glass-Steagall Act.

Section 221 amends paragraph Seven of section 5136 of the Revised Statutes (12 U.S.C. 24 (Seven)) by adding new limitations and rights to the powers of national banks.

Subsection (a) allows national banks that do not have a securities affiliate (as that term is defined in section 2 of the Financial Services Holding Company Act) to distribute securities issued by investment companies as that term is defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-3).

Subsection (a) prohibits national banks from underwriting and distributing or selling interests in a pool of assets that are originated or purchased by the national bank itself, or by the bank's affiliates in the United States. This subsection also prohibits a national bank from sponsoring, organizing or controlling an investment company registered under the Investment Company Act that is established or maintained for employee benefit accounts under section 408 of the Internal Revenue Code.

Finally, subsection (a) permits national banks to engage only in those securities activities that were specifically authorized by statute, regulation, order, or interpretation on the date of enactment of this Act. This authority does not include, however, permission to engage in the asset-backed securities activities that were prohibited, as described above.

These amendments, when combined with other provisions of the FSHCA and amendments to the securities laws, require banks to transfer some existing securities activities to an operating subsidiary of the bank or an affiliate as provided. For example, brokerage must be conducted outside the bank in a subsidiary or an affiliate pursuant to section 4(c)(8) or (15). Underwriting and distributing mortgage backed securities must be conducted in a securities affiliate pursuant to section 4(c)(15). Brokerage of affiliate securities can only be conducted in a bank lobby to the bank's retail customer base through a registered broker dealer.

Subsection (a) repeals section 20 (12 U.S.C. 377) and section 32 (12 U.S.C. 78) of the Banking Act of 1933, commonly known as the Glass-Steagall Act. Section 20 prevented any affiliate of a member bank from engaging principally in certain securities activities, and section 32 generally limited common directors, officers, and employees between investment banks and commercial banks.

SECTION 222. INSURANCE ACTIVITIES OF BANKS

This section addresses insurance activities of national banks. First, it strikes the provision in the Act of September 7, 1916, that had been classified in 12 U.S.C. 92 and repeals it as purportedly amended by the Garn-St Germain Act (section 403(b) of P.L. 97-320). This provision authorized national banks to engage in insurance activities if they have an office in towns with populations under 5,000. The provision is re-enacted as subsection (a) to remove any doubt regarding its status and to amend it to provide that a national bank located in such a place may sell insurance in that place so long as: (1) such insurance activities are confined to that place, and (2) the insurance is sold only to residents of the State in which the association is located and natural persons employed in that State.

This section also adds a subsection (b) which allows a national bank to engage in insurance brokerage in any state in which the bank has its headquarters or a branch to the extent insurance brokerage activities are permitted in that State for banks chartered in that State. This provision supersedes any limitations that would prevent exercise of such authority.

SECTION 223. AMENDMENTS TO SECTIONS 23A AND 23B OF THE FEDERAL RESERVE ACT

Section 223 prohibits a financial services holding company from permitting an insured depository institution subsidiary from engaging in any "covered transaction," as defined in 12 U.S.C. 371c(b)(7), that exceeds five percent of the insured depository institution's capital stock and surplus, unless five days' notice has been provided to the appropriate federal banking regulator of the financial services holding company and the insured depository institution.

Section 223 amends the definition of the term "affiliate" in three respects. First, it includes in the definition any mutual fund, commodity pool, or other company engaged in such activities if a member bank or any member bank affiliate is an investment advisor, commodity trading advisor, or performs substantially equivalent activities for the company. Second, under current law, a subsidiary of a member bank, other than a bank, is presumed not to be an affiliate. Section 216 narrows this presumption to encompass only subsidiaries of which the member bank owns at least 80 percent of the voting stock.

Under existing section 23A, the term "bank" includes a trust company. Section 223 restricts this definition to trust companies principally engaged in deposit taking or lending activities.

Three transactions are added to the list of covered transactions under section 23A. First, a member bank's assumption of the liability of any affiliate. Second, any transaction to enhance the marketability of securities, obligations, or assets underwritten or distributed by an affiliate, unless there is substantial participation by other lenders in the transaction. Any transaction concerning securities that a member bank may underwrite under current law is exempt. Third, any financial transaction determined by the Federal Reserve Board by regulation to be the same as any transaction described in the paragraph.

Section 23A also includes as a transaction with an affiliate any transaction by a member bank or its subsidiary with any person if any of the proceeds of the transaction are used for the benefit of, or transferred to, such affiliate. This provision is amended to provide that such a transaction will not be deemed to be with an affiliate if the member bank approves the loan or extension of credit in accordance with substantially the same standards it has used for similar loans or extensions of credit in which the proceeds are not transferred to or for the benefit of an affiliate and the loan or extension of credit is not made for the purpose of evading section 23A.

Current law requires collateral to secure letters of credit issued on behalf of an affiliate. Section 223 ensures that collateral is also required for letters of credit issued to affiliates. Under the existing statute, securities issued by an affiliate are not considered acceptable collateral. Section 223 extends this treatment to securities issued by the member bank. Similarly, letters of credit issued on behalf of an affiliate are not considered acceptable collateral under current law. Section 223 extends this treatment to letters of credit issued to affiliates.

Although current law exempts the purchase of securities issued by bank service corporations from the provisions of section 23A, section 223 qualifies the exemption to apply only to those service corporations that provide services solely to affiliated member banks.

Under existing section 23B, covered transactions include those with a third party in the following two cases: (1) if an affiliate has a financial interest in the third party; or (2) if an affiliate is a participant in such a transaction. Section 216 adds a third case to the list, namely, any third party who is a customer of an affiliate as defined by the Financial Services Holding Company Act of 1991, unless the member bank approves the transaction in accordance with substantially the same standards, procedures, and terms that it has applied to similar transactions with individuals who are not customers of an affiliate and the transaction is not made for the purpose of evading any of the requirements of section 23B.

Existing section 23B prohibits a member bank or its subsidiary from acquiring, during the existence of any underwriting or selling syndicate, any security if a principal underwriter is an affiliate of the bank. The only exception is if the acquisition was approved before the securities were initially offered for sale to the public by a majority of the bank's board of directors, provided those directors are not officers or employees of the bank or any affiliate. Section 223 strengthens the exception by requiring that the majority of directors not be officers, directors, or employees of the affiliate for the exception to be operable.

SECTION 224. CUSTOMER DISCLOSURES

Section 224 requires an insured depository institution to prominently disclose in writing to each of its customers that any securities or insurance products offered, recommended, or sold by the institution are not deposits, are not insured by the Federal Deposit Insurance Corporation, are not guaranteed by the institution or any affiliate, and are not an obligation of the institution, unless such is the case.

An insured depository institution may permit securities or insurance products to be offered, recommended, or sold on the institution's premises or to an institution's customer as part of joint marketing activities with another entity, provided the other entity prominently discloses in writing that it is not an insured institution and is separate from the insured depository institution. The entity must also make the disclosures discussed above regarding the fact that the products are not automatically insured in any way. An insured depository institution must ensure that prior to the consummation of a sale, the customer acknowledges in writing the receipt of the disclosure required by this section.

The appropriate Federal banking agencies shall adopt regulations governing disclosures required by this section.

Subtitle C—Non-Banking Activities of Foreign Banks in the United States

Subtitle C permits foreign banks to enjoy the benefits of the repeal of the Glass-Steagall Act and its related laws on the same basis as domestic banks.

Subsection (a) amends section 8(a) of the International Banking Act of 1978 (IBA). Amended paragraph 8(a)(1)(A) provides that any foreign bank that has a branch, agency, or commercial lending company in the United States is subject to non-banking activity restrictions of the Financial Services Holding Company Act of 1991 (FSHCA) in subtitle A of this Act to the same extent and in the same manner as a financial services holding company. Paragraph 8(a)(1)(B) subjects companies owning the foreign banks described in 8(a)(1)(A) to the FSHCA regulation as well.

A foreign bank that does not own an insured depository institution is not, however, by reason of this subsection alone, subject to the provisions of section 3 of the FSHCA. When and if a foreign bank seeks to acquire an insured depository institution, it will be subject to the FSHCA. In addition, if a foreign bank with a branch, agency, or commercial lending company wishes to acquire a savings association, it shall be treated as a financial services holding company, and not a savings and loan holding company.

The sections also amends paragraph 8(a)(2) of the IBA to prohibit any foreign bank or company that is engaged in banking in the United States from engaging in non-banking securities and insurance activities in any manner other than as set out in amended paragraph 8(a)(3) of the IBA. Paragraph 8(a)(3) requires all foreign banks wishing to engage in the new securities, insurance or other financial activities pursuant to section 4(c) of the FSHCA to conduct their business in the U.S. only through, directly or indirectly, a single financial services holding company established in the United States. This is national treatment.

Subsection (b) of section 231 amends section 8(c) of the IBA to cause the authority under the IBA for the continued operation of certain foreign bank securities subsidiaries operating before 1978 to expire three years after the date of enactment of the FSHCA. These entities can simply apply for approval pursuant to section 4(c)(15) of the FSHCA at the appropriate time.

The net effect of this section, when combined with the phasing out of "section 20" securities affiliates of banks under section 4(c)(8) of the FSHCA, is to require foreign banks to adopt a comparable holding company structure in the U.S. as exists for domestic institutions. A foreign bank will not be entitled to maintain direct branches and agencies in the U.S. if it chooses to undertake securities activities under section 4(c)(15) of the FSCHA, or insurance activities under 4(c)(16) of that Act. Foreign banks that choose not to undertake these new activities may continue to operate their U.S. branches and agencies, and will be fully entitled to engage in interstate banking. The choice will be left to each foreign bank. It is expected that costs of converting existing branches and agencies into subsidiary operations in the U.S. will be alleviated somewhat by the fact that all existing U.S. branches and agencies can be converted into one subsidiary given the interstate branching reforms.

Subtitle D—Amendments to the Securities Acts

SECTION 241. AMENDMENTS TO THE SECURITIES ACT OF 1933

Subsection 3(a)(2) of the Securities Act of 1933 currently exempts any security issued or guaranteed by any bank from the registration provision of that Act. Subsection 3(a)(5) exempts from the registration provisions of that Act securities issued by savings and loan associations. Section 241(a) amends section 3(a)(2) to delete the exemption for bank-issued and bank-guaranteed securities and (b) amends section 3(a)(5) to eliminate the exemption from registration for securities issued by savings and loan associations and similar institutions that are supervised by a State or Federal authority. Section 241(c), which is discussed in greater detail below, also adds a new subsection (d), however, which provides that any deposit instrument which has been deemed to be a security within the definition set forth in section 2(1) of the Securities Act would be exempt from its provisions, as is the case for those classes or securities listed in section 3(a). The new subsection (d) is intended to avoid any suggestion that the language of the exemption reflects an intention that the instruments listed be treated as "securities," under the Act.

The overall purpose and effect of this amendment is to centralize regulation of all public offerings of bank-issued or bank-guaranteed securities in the SEC. Under the current exemption, the bank regulatory agencies generally have jurisdiction over offering disclosure requirements with respect to securities issued by banks under their supervision. The proposed amendment is intended to preclude uneven regulatory treatment of public offerings of bank securities as opposed to the securities of other classes of issuers. The proposed amendment, however, does not modify or alter the existing scope of the Federal securities laws regarding bank instruments, nor does it confer authority on any agency to expand, by interpretation or regulation, the coverage of the Federal securities laws over bank products and instruments.

The elimination of the special exemption for thrift securities offerings will achieve the same purposes of economy of government resources, protection of investors and uniformity of regulation described above for bank securities offerings. In this regard future thrift offerings will be treated in the same manner as already occurs under current law for offerings of thrift holding companies.

The list of banking instruments in new section 3(d) generally is based on the relevant provisions of the Federal Deposit Insurance Act, 12 U.S.C. 1813. For purposes of defining a "deposit," the list includes deposit accounts and certificates of deposit, certified checks, letters of credit, traveler's checks, non-pooled assets of individual trust funds received or held by a bank or savings association and funds held for special or specific non-investment purposes, such as escrow funds, funds held as security, and other special purposes. Further, the list includes a general provision for any bank account or instrument which is insured by the Federal Deposit Insurance Corporation, is subject to the Federal Reserve Board's deposit reserve requirements, or is regulated as a deposit by the Bureau of Financial Institutions Supervision or the Federal Reserve Board.

Subsection (d) adds an exemption under section 4 of the Securities Act of 1933 for the reorganization of a bank into a financial services holding company or the reorganization of a financial services holding company into a diversified holding company. The exemption provides that the interests of the securities holders in the new holding company must be in substantially the same proportion as their interest in the bank or financial services holding company and the newly formed holding company has substantially the same assets as its predecessor.

SECTION 242. AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934

The Securities Exchange Act of 1934 (the "Exchange Act") currently excludes banks from the definition of "broker." As a result, a bank may currently engage in permissible securities activities directly, subject to regulation by the appropriate bank regulator, but is not subject to regulation by the Securities and Exchange Commission under the Exchange Act. The following amendments were adapted in large part from provisions of S. 1886 passed by the Senate in 1988.

Subsection (a) amends the Exchange Act's definition of "broker" to include banks under certain specific circumstances and subject to certain specific exemptions. This is consistent with other sections of the bill that promote functional regulation: the SEC will regulate securities activities as a general rule, but the appropriate Federal banking agencies will continue to regulate certain securities activities that are closely connected to traditional banking activities.

Subsection (a) achieves this result by amending the definition of "broker" to exclude a bank except when the bank "publicly solicits" brokerage business or receives "incentive compensation" for brokerage. A bank covered by either of these exceptions will be subject to broker-dealer registration and regulation under the Exchange Act unless the brokerage activities fall within the exemptions described below.

If the bank is covered, it will be required under subsection (d) to spin off its public brokerage business into a separate corporate entity, which for purposes of this section includes an operating subsidiary of the bank or a subsidiary of the parent financial services holding company established under section 4(c)(8) or 4(c)(15) of the Financial Services Holding Company Act of 1991.

The term "publicly solicits" is to be broadly interpreted, and includes not only general advertisements or public telephone solicitation, but also systematic solicitation of existing customers through such items as materials included with bank statements.

"Incentive compensation" is the payment of commissions or similar remuneration based on effecting transactions in securities in excess of the bank's incremental costs directly attributable to effecting such transactions. "Incentive compensation" does not include fees calculated on a basis unrelated to or unconnected with effecting transactions in securities, such as, for example, an annual administration charge or an hourly charge for fiduciary consulting services, or fees calculated as a percentage of assets under management.

As mentioned above, section 242(a) also includes certain specific exemptions. These recognize that certain bank brokerage activities are closely allied to traditional bank functions that already are subject to extensive regulation and supervision by Federal banking agencies. Specifically, section 242(a) includes nine exemptions that allow a bank to continue engaging in such brokerage activities directly in the bank without being deemed a "broker" under the Exchange Act, and without being subject to SEC regulation.

A. Networking Exemption—A bank will not be deemed a "broker" because of transactions in connection with a "networking arrangement". This occurs where a bank contracts with a registered broker dealer, whether or not affiliated with the bank, to provide brokerage services on bank premises on a fully disclosed basis. However, bank employees engaged in this activity whose functions are other than clerical or ministerial, or who are compensated on a commission basis, must be suitably qualified and regulated as securities registered representatives. Whether or not such employees are so qualified, however, the bank itself could receive commissions without losing the exemption.

B. Trust Activities Exemption—A bank will not be deemed a "broker" because of trust activities, including brokerage, unless the bank receives incentive compensation and publicly solicits brokerage business other than by advertising, in conjunction with advertising its other trust activities, that it affects transactions in securities.

C. Exemption for Transactions in Certain Securities—A bank will not be deemed a "broker" because of transactions in certain specific types of securities. These are: (a) securities that are defined as "exempted securities" under the Exchange Act, but excluding municipal securities, which are subject to the separate exemption described below; (b) commercial paper; (c) bankers' acceptances; and (d) commercial bills.

D. Municipal Securities Exemption—A bank that does not have a securities affiliate under new section 4(c)(15) of the Financial Services Holding Company Act will not be deemed a "broker" because of transactions in municipal securities. The exemption applies to transactions in both general obligation bonds and certain municipal revenue bonds that banks are permitted to underwrite and deal in pursuant to section 16 of the Glass-Steagall Act (12 U.S.C. 24 (seventh)).

A bank that does have a securities affiliate, however, would not receive this exemption. As a result, if it otherwise fell within the definition of "broker" it would be required to spin off its municipal securities brokerage activities into an affiliate established pursuant to section 4(c)(15) of the Financial Services Holding Company Act.

E. Employee Benefit Account Exemption—A bank will not be deemed a "broker" because of transactions for employee benefit accounts. Such accounts include bonus, profit sharing, pension, retirement, thrift, savings, incentive, stock purchase, stock ownership, stock appreciation, stock option, dividend reinvestment, or similar plans.

F. Money Market Sweep Account Exemption—A bank will not be deemed a "broker" because of transactions that sweep depositors' funds into money market accounts.

G. Affiliate Transaction Exemption—A bank will not be deemed a "broker" because of transactions for the account of any affiliate, as that term is defined in the Banking Act of 1933.

H. Private Placement Exemption—A bank will not be deemed a "broker" because of its role in placing primary offerings of securities by an issuer, not involving a public offering, to three classes of purchasers:

(1) specified institutional investors, such as banks, insurance companies, investment companies, thrifts, State and local governments, charitable organizations, and certain foreign entities;

(2) individuals with a net worth exceeding $5 million—an amount which is adjusted annually for inflation; and

(3) employees benefit plans if the investment decision is made by a plan fiduciary as if the plan has assets in excess of $5,000,000; an employee benefit plan established by a State or political subdivision if the plan has an excess of $25,000,000 in assets and the decision is made by a plan fiduciary; a corporation with assets in excess of $50,000,000 and net worth in excess of $5,000,000; and other entities or individuals that have net worth of $5,000,000.

With respect to the second class, a bank would not lose the exemption if a particular purchaser did not meet the net worth requirement so long as the bank reasonably believed that the purchaser met that requirement.

This exemption is intended to preserve certain existing bank private placement functions.

I. Under 1,000 Transactions Exemption—A bank will not be deemed a "broker" if it limits its brokerage activities to fewer than 1,000 transactions per year (other than those transactions described in the other eight exemptions from the "broker" definition) and if it does not have a separate registered broker-dealer, regardless of whether it is a bank operating subsidiary or holding company affiliate established pursuant to either section 4(c)(8) or 4(c)(15) of the Financial Services Holding Company Act of 1991.

J. Effect of Exemptions—The exemptions from the definition of "broker" are concerned with registration and regulation as a broker under the Exchange Act. They are not grants of authority, and do not affect any restrictions applicable under the Federal banking laws. The exemptions should not be used to draw inferences about the Federal banking laws, including the provisions added by the other subtitles of the bill.

Section 242(b) is a complementary amendment to the Exchange Act concerning the definition of "dealer." Lke the current definition of "broker," the current definition of "dealer" in the Exchange Act specifically excludes banks. This section includes banks under the general definition of "dealer"—"any person engaged in the business of buying and selling securities for his own account through a broker or otherwise"—but creates three specific exemptions for banks that are similar to the "broker" exemptions.

A. Exemption for Transactions in Certain Securities—A bank will not be deemed a "dealer" because of transactions in certain specific types of securities. These are: (1) commercial paper; (2) bankers' acceptances; (3) commercial bills; and (4) securities that are defined as "exempted securities" under the Exchange Act, but excluding municipal securities, which are subject to the separate exemption described below.

B. Municipal Securities Exemption—A bank that does not have a securities affiliate under new section 4(c)(15) of the Financial Services Holding Company Act will not be deemed a "dealer" because of transactions in municipal securities. As with the similar "broker" exemption, this applies to transactions in general obligation bonds and certain municipal revenue bonds. However, a bank that does have a securities affiliate will not receive this exemption, and will therefore be required to spin off its municipal securities dealing activities into a registered broker-dealer holding company affiliate authorized pursuant to section 4(c)(15).

C. Trust Activities Exemption—A bank will not be deemed a "dealer" because it engages in trust or fiduciary activities, including buying and selling securities for investment purposes in the course of those activities.

Section 242(b) preserves the existing distinctions between dealer activities on the one hand, and non-dealer principal transactions on the other hand (including bank investment and trading portfolio transactions for its own account or as a trustee or fiduciary), as reflected in current SEC interpretive positions.

D. Effect of Exemptions—The exemptions from the definition of "dealer" are concerned with registration and regulation as a dealer under the Exchange Act. They are not grants of authority, and do not affect any restrictions applicable under the Federal banking laws. The exemptions should not be used to draw inferences about the Federal banking laws. Including the provision added by other subtitles of the bill.

Subsection 242(d) amends section 3 to authorize the SEC to exempt by rule, regulation, or order any person or class of persons from the definition of "broker" or "dealer" if the SEC finds that the exemption is consistent with the public interest, the protection of investors, or the purposes of the Exchange Act.

Subsection (d) amended the general registration requirement for brokers and dealers under the Exchange Act to prohibit a bank from becoming a broker or dealer, except on an exclusively intrastate basis. This change is intended to require banks that come under the revised definitions of "broker" and "dealer" in the Exchange Act to create a separate affiliate or subsidiary to perform these activities. Consistent with the general purposes of this legislation, this section would not restrict the substantive authority of any bank or financial services holding company, under the national banking laws or any State banking law provision, to offer through an affiliate or subsidiary any permitted securities brokerage and dealing services.

Under this section, a bank would engage in activities as a "broker" or "dealer" either through an affiliate or a subsidiary. For those activities not required to be conducted in a securities affiliate pursuant to section 4(c)(15) of the Financial Services Holding Company Act, banking organizations will—insofar as this section is concerned—be allowed the organizational flexibility to select the corporate form through which they would offer brokerage and dealing services. This would include a bank operating subsidiary, a nonbank affiliate established under section 4(c)(8) of the Financial Services Holding Company Act, or a section 4(c)(15) securities affiliate.

It is intended that a bank be permitted, subject to applicable SEC registration and other requirements, to establish an operating subsidiary to engage in broker-dealer activities that are permissible for banks under section 16 of the Glass-Steagall Act but that may not be conducted directly in the bank because of section 242(d) of the bill. Accordingly, the second sentence of section 15(a)(2) of the Exchange Act is amended to provide that the prohibition on a bank's conducting broker-dealer activities directly does not preclude the bank from establishing a subsidiary to conduct those activities. Those activities must, however, be activities that the bank could conduct directly but for section 242(e).

Section 242(e) amends section 15 of the Exchange Act to impose restrictions on the offering or sale of certain securities on bank premises. Generally, shares or debt issued by a bank or any affiliate of a bank may not be offered or sold to the general public in any office of the bank that is commonly accessible to the general public for the purpose of accepting deposits. This restriction does not apply to shares of certain mutual funds affiliated with the bank if such securities are offered for sale by a registered broker and dealer. The restrictions of subsection (e) also do not apply to ownership interests which are deposits or which constitute a means of payment to a third party such as a traveler's check or cashier's check.

Section 242(f) repeals section 12(i) of the Exchange Act of 1934 that requires the bank regulatory agencies to administer and enforce the disclosure requirements under the Exchange Act with respect to banks and thrifts. Deletion of section 12(i) will centralize all administration and enforcement responsibilities for the disclosure requirements under the Exchange Act in the SEC.

SECTION 243. AMENDMENTS TO THE INVESTMENT COMPANY ACT OF 1940

Subsection (a) amends the Investment Company Act of 1940 to provide the SEC with rulemaking authority over certain situations involving banks affiliated with management investment companies (i.e., mutual funds and closed-end investment companies) and unit investment trusts.

Subsection (a)(1) amends section 17(f) of the Investment Company Act to clarify and strengthen the SEC's authority to adopt regulations governing how banks may serve as custodians of affiliated management investment companies. Specifically, an investment company is permitted to place its assets with a bank that is an affiliated person, promoter, sponsor, organizer, or principal underwriter for such a company only in accordance with rules that the SEC may adopt after written consultation with the appropriate Federal banking agencies.

Subsection (a)(2) amends section 26(a) of the Investment Company Act. That provision, among other things, prohibits a principal underwriter or depositor of a unit investment trust from selling securities issued by the trust unless the trust, by appropriate agreement, designates a bank meeting certain qualifications as trustee. The amendment would allow a unit investment trust to designate an affiliated bank as trustee only in accordance with rules that the SEC may adopt after written consultation with the Federal banking agencies.

Subsection (b) amends two provisions of the Investment Company Act to strengthen its requirements for independent directors sitting on the boards of investment companies. Paragraph (1) amends the definition of "interested person" in section 2(a)(19)(A) of the Investment Company Act to include a person (or any affiliate of a person) that acts as custodian or transfer agent or effects portfolio transactions for, engages in principal transactions with, or loans money to, an investment company or any other investment company in the same investment company "complex" within the preceding six-month period.

For example, officers, directors, or employees of a bank or other financial services provider that effects transactions in Government or municipal securities for an investment company without broker-dealer registration would become "interested persons" of that investment company. Such persons would not be prevented from serving as directors of that investment company; rather, they merely would be considered "interested persons" for purposes of the required percentage of disinterested or independent directors of that investment company.

The change also clarifies the status of foreign broker-dealers under section 2(a)(19) that execute portfolio transactions for U.S.-registered investment companies investing in foreign markets, but that are not registered as broker-dealers under the Exchange Act. The current definition of "interested person" refers only to SEC-registered broker-dealers. As a result, officers, employees, and directors of a foreign broker-dealer are not automatically disqualified from serving as independent directors of a registered investment company, even if the broker-dealer effects portfolio transactions for the investment company. This amendment clarifies this situation by including such broker-dealers (and their affiliated person) within the definition of "interested person."

Paragraph (2) amends section 10(c) of the Investment Company Act, which currently provides that no registered investment company may have a majority of its board of directors consisting of persons who are officers, directors, or employees of any one bank. The amendment extends the prohibition to the officers, directors, or employees of any one bank and its subsidiaries, or of any one financial services holding company and its affiliates and subsidiaries. This eliminates the potential to circumvent the legislative intent of section 10(c) by a bank operating under a multiple financial services holding structure. Section 243(c) amends section 38 of the Investment Company Act of 1940 to authorize the SEC to adopt rules regarding transactions between a bank, or an associated person or an affiliated mutual fund. The purpose of this provision is to give the SEC authority to address conflicts that may arise as a result of bank affiliation with investment companies to the same extent as the Investment Company Act of 1940 currently addresses conflicts involving investment companies.

Section 243(d) prohibits an investment company from representing that it or its securities are federally insured or guaranteed by federally insured banks or thrifts. Specifically, section 35(a) of the Investment Company Act is amended to prohibit a registered investment company or persons who sell securities issued by a registered investment company from representing or implying that the company or the securities are insured by the FDIC or is guaranteed by or is otherwise an obligation of any bank or insured institution.

The SEC is also authorized to require persons who issue or sell securities of an investment company, and have specified relationships with a bank or financial services holding company, including a similar name to the bank, to disclose prominently that the company and any security issued by it are not: (1) insured by the FDIC; (2) otherwise guaranteed by an affiliated bank or insured institution; or (3) otherwise an obligation of that bank or institution. In addition, persons who issue or sell securities of an investment company that have such relationships are required to obtain a customer acknowledgment of the receipt of such disclosures. The SEC is required to consult in writing with the Federal banking agencies before adopting such regulations.

Section 243(d) is not intended to affect the Commission's authority under other provisions of the Federal securities laws to require disclosure, such as section 5 of the Securities Act of 1933.

Subsection (e) amends the definition of "broker" in section 2(a)(6) of the Investment Company Act to reflect the bill's amended definition of that term in the Securities Exchange Act. The new definition would, however, continue to exclude any person (including a bank) solely by reason of the fact that such person is an underwriter for one or more investment companies.

Similarly, this subsection (f) amends the definition of "dealer" in section 2(a)(11) of the Investment Company Act to reflect the amended definition of that term in the Securities Exchange Act. The new definition would continue to exclude insurance companies and investment companies.

SECTION 244. REMOVAL OF EXCLUSION FROM THE DEFINITION OF INVESTMENT ADVISER FOR BANKS THAT ADVISE INVESTMENT COMPANIES.

This section amends section 202(a)(11) of the Investment Advisers Act of 1940 ("Advisers Act") to remove the current exclusion from the definition of "investment adviser" for a bank or bank holding company that serves as an investment adviser to a registered investment company. This does not mean, however, that a bank is required to establish a separate subsidiary or affiliate in order to register as an investment adviser (although it would be permitted to do so). Instead, a bank would be permitted to establish a separately identifiable department or division to perform this function, in which case only the department or division, and not the bank or bank holding company, would be required to register. The SEC would have the same regulatory authority over such a bank department or division as it has over other investments advisers. The amendment includes reference to financial services holding companies because the amendments to the securities laws will be effective January 1, 1993, which is the same effective date as that of the FSHCA.

This removal of the bank exclusion is intended to strengthen the SEC's ability to oversee the activities of registered investment companies. It is also intended to subject banks and financial services holding companies that advise investment companies to the Advisers Act restrictions on performance fees, as well as agency cross and principal transactions. As a result, the SEC's regulatory authority over a bank or its departments or divisions would extend only to investment advisory services provided to registered investment companies and not to other advisory services.

Subsection (b) amends the definition of "broker" in section 202(a)(3) of the Advisers Act to make it identical to the definition of "broker" in the Securities Exchange Act, as amended by this Act.

Subsection (c) amends the definitions of "dealer" in section 202(a)(7) of the Advisers Act to make it identical to the definition of "dealer" in the Securities Exchange Act, as amended by this Act, except that the amended definition does not include an insurance company or an investment company.

Subsection (d) requires the SEC to notify the appropriate Federal banking agency before initiating any examination, investigation or enforcement action against any financial services holding company, bank, or department or division of a bank registered or required to be registered under the Advisers Act. The only exception to this requirement would be in a situation in which the protection of investors require immediate SEC action. In addition, regulators are required to share those portions of examination reports covering bank and financial services holding companies' investment advisory functions that are subject to the Advisers Act. The notification and sharing requirements will diminish the possibility of redundant or duplicative regulation.

SECTION 245. TREATMENT OF BANK COMMON TRUST FUNDS.

This section amends the exclusion from the definition of investment company in section 3(c)(3) of the Investment Company Act of 1940 for common trust funds to provide that the exclusion is applicable only under certain conditions. These conditions are designed to ensure that the common trust fund is established only as a vehicle to assist in administering fiduciary accounts and not as an investment vehicle for the general public.

To achieve the purpose of ensuring that common trust funds are not used as investment vehicles for the public, section 3(c)(3) is amended to provide that common trust funds (1) must be established solely for the purpose of administration of fiduciary accounts; (2) that the funds cannot be advertised; and (3) that the bank does not charge the fund fees and expenses that when added to the fees and charges to the participating trusts would exceed the costs to the trust if its assets had not been invested in the fund. However, the bank can charge the fund reasonable and necessary expenses such as the cost of an outside auditor, that are related to the prudent operation of the fund. These conditions reflect current regulations and interpretations. The purpose of incorporating these conditions into the statute is to ensure that common trust funds are only used to assist in the administration of fiduciary accounts.

In the event a common trust fund did not meet the conditions set forth above it would not be exempt from registration as an investment company under the Investment Company Act of 1940. The bank would be required to transfer the fund if it did not comply with the conditions to a mutual fund because banks themselves are not permitted to sponsor investment companies.

In the event a bank decides to transfer a common trust fund to a mutual fund, the section includes a provision that such a transfer would not be a taxable event for the participating trust.

SECTION 246. SECURITIES AND EXCHANGE COMMISSION STUDY OF BANK INSURANCE POOLED INVESTMENT VEHICLES.

Section 246 directs the SEC in consultation with the Department of Labor to study the appropriate treatment of collective investment funds and separate accounts that are organized for the investment of certain pension and employee benefit plans under the securities laws and the Employee Retirement Income Security Act. Collective investment funds and separate accounts are currently exempt from the Investment Company Act of 1940. As part of the study, the SEC should also consider the appropriate treatment of bank common trust funds under the securities laws. The goal is to adopt a regulatory scheme that protects investors in pooled investment funds on an equal basis, regardless of whether the funds are pooled by investment companies, banks, or insurance companies.

Subtitle E—Prompt Corrective Action

SECTION 251. PROMPT CORRECTIVE ACTION

In General. This section would add a new section 35 to the Federal Deposit Insurance Act (12 U.S.C. 1811 *et seq.*) that establishes a new system for supervision of insured banks based primarily on their capital levels. Generally using a risk-based capital standard and a leverage limit, the new section 35 establishes five different capital zones. The section authorizes certain mandatory and discretionary supervisory actions that may be taken by the appropriate Federal banking agency with respect to an insured bank in any of the lower capital zones. Certain actions are also authorized with respect to a financial services holding company and to a diversified holding company. The new prompt corrective actions do not depend exclusively on capital levels, however. The appropriate Federal banking agency has the explicit authority to reclassify institutions into lower zones based on the safety and soundness of a bank wholly apart from its capital levels. In addition, the authority for supervisory actions under section 35 are in addition to the other supervisory powers of the appropriate Federal banking agencies.

Definitions. Subsection (a) contains definitions for terms used in section 35.

The term "banking laws" is defined to include any law codified in Title 12 of the United States Code that is applicable to or affects insured banks and persons that own or control insured banks, and any regulations promulgated pursuant to such law.

The term "capital distribution" generally includes dividends or other distributions in cash or in kind paid with respect to any shares or other ownership interest in any insured bank. The phrase "other ownership interest" includes preferred stock as well as any ownership interest in a mutual savings bank, but does not include debt, whether or not subordinated. The term "capital distribution" does not include dividends consisting only of shares of the insured bank making the dividend, nor does it include any amount paid on the deposits of a mutual savings bank that is determined by the appropriate Federal banking agency not to constitute a dividend. The latter exception permits the appropriate Federal banking agency to determine which amounts paid on the deposits of a mutual savings bank constitute interest and which amounts constitute dividends or other distributions of capital. A capital distribution also includes a payment made by an insured bank to repurchase, redeem, retire, or otherwise acquire any of its shares, including any extension of credit made to finance an affiliated company's acquisition of such shares, or a transaction that the appropriate Federal banking agency determines by order or regulation to be in substance the distribution of capital.

The term "company" has the same meaning as provided in section 2(b) of the Financial Services Holding Company Act of 1991.

The term "compensation" means any payment of money or provision of any other thing of current or potential value in connection with employment.

The terms "diversified holding company," "financial services holding company," and "financial affiliate" have the same meanings as provided in section 2(a) of the Financial Services Holding Company Act of 1991.

The term "new financial activity" includes any activity authorized pursuant to sections 4(c)(8), 4(c)(15) or 4(c)(16) of the Financial Services Holding Company Act of 1991, other than activities determined by other or regulation by the Board of Governors of the Federal Reserve System prior to enactment of this Act to be closely related to banking pursuant to section 4(c)(8). For the exception to apply, the order or regulation must still be in effect on December 31, 1992, the day prior to the effective date of the provisions permitting well-capitalized banks and financial services holding companies to engage in the new financial activities. This definition parallels the definition of "new financial activity" in the Financial Services Holding Company Act of 1991.

The term "qualified financial activity" includes all activities authorized pursuant to sections 4(c)(8), 4(c)(15), and 4(c)(16) including those authorized pursuant to section 4(c)(8) prior to the effective date of this Act. This definition parallels the definition for "qualified financial activity" in the Financial Services Holding Company Act of 1991.

Definitions of Zones. Unless otherwise specified by the appropriate Federal banking agencies, risk-based capital ratios and the leverage limits established by the appropriate Federal banking agencies are the relevant capital measures for purposes of Zones 1 through 4. The appropriate Federal banking agencies are authorized to adopt other relevant capital measures for these zones in addition to the risk-based capital ratio and the leverage limit, and to eliminate the use of the risk-based capital ratio or the leverage limit upon a finding, after notice and opportunity for comment, that the measure is no longer appropriate. The capital ratio, leverage limit, and additional relevant capital measures may include different ratios or minimums for different classes of banks, but section 35 is not intended to incorporate individual minimum capital ratios set by an appropriate Federal banking agency for a specific bank.

Subsection 35(b) also provides for a critical capital level which is the level of capital that will permit resolution of an insured bank's problems without significant financial loss to the relevant insurance fund. The critical capital level, which is to be established by the appropriate Federal banking agencies, must equal or exceed a ratio of Tier 1 capital to total assets of one and one-half percent. "Tier 1 capital" and "total assets" shall be calculated as set forth in the risk-based capital rule or guideline adopted by the appropriate Federal banking agency.

Zone 1 is generally defined to include any insured bank that (1)(A) maintains a risk-based capital ratio that is significantly in excess of the minimum ratio required by the appropriate Federal banking agency under its risk-based capital standard and Tier 1 capital that is significantly in excess of the required minimum for Tier 1 capital, or (B) meets the required minimum risk-based capital ratio and maintains Tier 1 capital that is substantially in excess of the required minimum for Tier 1 capital, and (2) meets or exceeds each other relevant capital measure established by the appropriate Federal banking agency. For purposes of the alternatives described above, Tier 1 capital that is substantially in excess of the required minimum is intended to be a higher standard than Tier 1 capital that is significantly in excess of the required minimum. Alternative (1)(A), which in part requires risk-based capital significantly in excess of the required minimum, is designed to permit banks to issue subordinated debt as a means of raising their capital level to qualify for Zone 1.

Zone 2 includes any insured depository bank that meets or exceeds both the applicable risk-based capital standard and the other relevent capital measure, but is not within Zone 1. Zone 3 includes any insured bank that maintains capital below any of the relevant capital measures but that is not within Zone 4 or Zone 5. Zone 4 includes any insured bank that maintains capital that is significantly below any of the relevant capital measures but is still in excess of the applicable critical capital level. The use of the term "significantly" is not intended to suggest symmetry with Zone 1, which is based in part on a capital level that significantly exceeds the specified minimum. Zone 5 is defined to include any insured bank with capital at or below the applicable critical capital level.

Notwithstanding these general definitions, pursuant to subsection (b)(7), if the appropriate Federal banking agency determines that an insured bank is in an unsafe and unsound condition, the bank may be reclassified to another zone. Any such bank within Zone 1 or Zone 2 is automatically reclassified as Zone 3 and may be further reclassified to Zone 4 by the appropriate Federal banking agency. Any bank in Zone 3 that is determined to be in an unsafe and unsound condition may also be reclassified to Zone 4.

Regulations. Under subsection 35(c), each appropriate Federal banking agency is directed, in consultation with the other appropriate Federal banking agency, to promulgate such regulations and take such other actions as are necessary to implement the provisions of this section. Each appropriate Federal banking agency is also authorized to issue orders and take such other actions as are necessary or appropriate to carry out its purposes. The appropriate Federal banking agencies also are directed to adopt regulations specifying the applicable capital ratios for each relevant capital measure in each of the zones, including the critical capital level described above which defines Zone 5. The appropriate Federal banking agencies are authorized to establish different critical capital levels for different classes of insured banks. Classes may be determined according to size, activities, condition of assets, local economic conditions, or any other relevant factor consistent with the purposes of this section. Establishment of all the capital ratios shall be done in consultation with the Federal Deposit Insurance Corporation.

Zone 1. Subsection 35(d)(1) permits qualifying Zone 1 banks to engage in certain expansions of their activities without prior notice to the appropriate Federal banking agency and to engage in mergers and certain other transactions under expedited procedures. A financial services holding company that qualifies as a Zone 1 company receives similar benefits under the Financial Services Holding Company Act.

To qualify, a bank must fall within Zone 1 both before and after the expansion. In addition, if the depository institution is owned by a financial services holding company, the company must qualify as a Zone 1 financial services holding company both before and after the expansion. A financial services holding company qualifies as within Zone 1 if insured banks representing at least 80 percent of the assets of all insured banks controlled by the company are within Zone 1, and the balance of its insured banks are within Zone 2. This standard will permit a financial services holding company to acquire, for example, a Zone 3 bank, so long as the financial services holding company brings up the capital level of the bank to a level sufficient for the holding company to meet the 80 percent test after the acquisition.

Although the provisions of section 35 generally do not apply to savings associations, both insured banks and savings associations are to be taken into account to determine if a company qualifies as a Zone 1 financial services holding company. A savings association is in Zone 1 if, based on the risk-based capital rule and leverage limit applicable to the savings association, it meets the capital ratio that defines Zone 1 as adopted by regulation by the appropriate Federal banking agency for the lead bank of the financial services holding company.

A Zone 1 bank is permitted without prior notice or approval to open any new branch office at any otherwise permitted location, so long as the branch office is not the first branch office of the bank in a given state and the bank has been rated as outstanding or satisfactory pursuant to the Community Reinvestment Act of 1977. A Zone 1 bank also may, without prior notice or approval, commence, directly or through a subsidiary, any activity determined by Federal statute or by regulation by the appropriate Federal banking agency to be permissible for an insured depository or its subsidiary. Under subsection (d)(3)(A), the bank is required only to give the appropriate Federal banking agency notice of any such expansion within 30 days following the opening of the new branch or other permitted commencement of new activities. Any branch office that is the first branch office of the bank in a given state must be approved in advance pursuant to the procedures applicable under other relevant provisions of Title 12 of the United States Code.

In addition, an insured bank in Zone 1 may merge or consolidate with any other insured bank, acquire the assets or assume the liability to pay any deposits of any other insured bank, or acquire the assets, or all the voting shares or control, of any company other than an insured bank that is engaged solely in activities determined by regulation by the appropriate Federal banking agency to be permissible for an insured bank.

The appropriate Federal banking agency shall by regulation establish the form and content of any subsequent notice required by subsection (d)(3)(A). The notice requirement of subsection (d)(3)(A) supersedes any other notice or application requirement applicable under Title 12 to the bank with respect to the expansion. Proposed transactions not eligible for the subsequent notice provision must still be approved under the applicable provisions of Title 12. However, the appropriate Federal banking agency is required to act within 45 days of receipt of the completed notice or application.

Subsection (d)(3)(C) specifically provides that the appropriate Federal banking agency may not approve any transaction involving a bank within Zone 1 if the agency determines that the bank is engaging in an unsafe and unsound practice or will be in an unsafe and unsound condition following the transaction, notwithstanding its qualification as a Zone 1 bank. An application by a Zone 1 bank may otherwise be disapproved only because it would violate the antitrust laws, as set forth in section 18(c)(5)(A) of the Federal Deposit Insurance Act, or if the appropriate Federal banking agency determines that the bank is not in compliance with the Community Reinvestment Act or that the transaction is otherwise inconsistent with the convenience and needs of the community to be served. Nothing in subsection (d) relieves the bank from any other applicable provisions of law or regulation, including requirements under other provisions of Title 12 of the United States Code. It is expected that the appropriate Federal banking agencies will adopt regulations consistent with the purposes of this Act to allow the best-capitalized foreign banks with branches and agencies in the United States to take advantage of the expedited procedure on a basis similar to domestic institutions.

Paragraph (5) of subsection (d) provides that an appropriate Federal banking agency shall not approve any investment, expansion, acquisiton, or other proposal subject to review under the banking laws that would result in reclassification of an insured bank from Zone 1 to Zone 3 or 4, unless the agency finds that the transaction substantially improves the financial condition of the bank or is consistent with a capital restoration plan approved by the agency. No expansion may be permitted that would result in reclassification to Zone 5.

Finally, paragraph (6) of subsection (d) imposes either capital restoration or divestiture requirements on certain financial services holding companies that cease to qualify as Zone 1 financial services holding companies or that do not to attain Zone 1 status within the period of time specified by the appropriate Federal banking agency pursuant to section 4(j) of the Financial Services Holding Company Act of 1991. In addition to the failure to maintain or attain Zone 1 status, for the requirements of paragraph 6 to apply, the financial services holding company must either be engaged in any of the new financial activities, directly or through a subsidiary, or it must be controlled by a diversified holding company.

Any such financial services holding company is required to promptly restore the capital of insured depository institutions controlled by the company to at least the levels required for the company to requalify under Zone 1 or to take the actions required in subparagraph (B). Under subparagraph (B), the financial services holding company must execute a bond in an amount equal to the amount necessary to restore the capital of the depository institutions to at least the level required for the company to requalify as a Zone 1 financial services holding company. The bond shall be subject to forfeiture in the event resolution of the insured depository institution's problems require an expenditure of funds by the Federal Deposit Insurance Corporation. In addition, the company must either (1) file an acceptable capital plan in accordance with subsection (i), or (2) within one year from the date the company first failed to qualify under Zone 1, divest any interest in any insured depository institution, or terminate all new financial activities, as defined above, or divest any interest in any company engaged in such activities.

If the financial services holding company does not take the required actions, the appropriate Federal banking agency may appoint a conservator for any insured depository institution with capital at a level that causes the company to fail to qualify as a Zone 1 financial services holding company. Because savings associations are taken into account in determining qualification for Zone 1 status, all of the requirements of this subparagraph apply with respect to both banks and savings associations controlled by the financial services holding company.

The appropriate Federal banking agency is authorized to extend the compliance period for up to one year if it finds that the financial services holding company has taken significant steps toward restoring the capital of the controlled depository institutions to at least the levels required for the company to requalify under Zone 1. The period may also be shortened by regulation by the appropriate Federal banking agency. In any case involving a financial services holding company controlled by a diversified holding company, if the financial services holding company does not requalify as a Zone 1 financial services holding company or divest any insured depository institutions, as provided in subparagraph (b), then the diversified holding company must either divest the financial services holding company or terminate all activities not permitted for a financial services holding company. Under the Financial Services Holding Company Act, a diversified holding company may only acquire Zone 1 financial services holding companies. Under the provision just described, the diversified holding company will be required either to cease to be a diversified holding company or to divest a financial services holding company that loses its Zone 1 status and does not requalify.

Zone 2. Subsection (e) specifies certain mandatory supervisory actions that are authorized with respect to banks that fall within Zone 2.

Similar to the restriction on expansion described above for Zone 1 banks, subsection (e)(1)(A) provides that the appropriate Federal banking agency shall not approve or permit any investment, expansion, acquisition, or other proposal subject to review under the banking laws that would result in reclassification of an insured bank from Zone 2 to Zone 3 or 4, unless the agency finds that the transaction substantially improves the financial condition of an insured bank involved in the transaction or is consistent with a capital restoration plan approved by the agency. Expansions that would result in reclassification to Zone 5 are not permitted.

Subsection (e)(1)(B) provides that the appropriate Federal banking agency shall not approve any investment, expansion, acquisition, or other proposal involving any insured bank within Zone 2 or a financial services holding company which controls an insured bank within Zone 2 if the appropriate Federal banking agency determines that such bank, or any other commonly-controlled bank is engaging in an unsafe or unsound practice or is in an unsafe or unsound condition. This provision would not preclude an acquisition involving such a bank provided that the unsafe or unsound practice or condition is corrected as part of the acquisition.

Subsection (e)(2)(B) provides that no insured bank within Zone 2 shall make any capital distribution that would cause the bank to be reclassified within Zone 4 or 5. An insured bank may make a capital distribution that would cause the institution to be reclassified within Zone 3, if the institution provides the appropriate Federal banking agency with 30 days' prior written notice of such distribution and the agency has not issued a notice of disapproval. The agency may permit the distribution only if the agency determines that the capital distribution will enhance the bank's ability to restore its capital to Zone 2 or otherwise determines that the distribution is in the public interest.

Subsection (e)(3) provides that the appropriate Federal banking agency may modify, defer, or remove any mandatory supervisory action applicable under section 35 to an insured depository bank within Zone 2 or to a company that controls an insured bank within Zone 2 if the agency determines in writing that such action is in the public interest.

Zone 3. Subsection (f) authorizes mandatory and discretionary supervisory actions for banks that fall within Zone 3.

Subsection (f)(1)(A) requires every insured bank within Zone 3, within the specified time period, to submit to the appropriate Federal banking agency and implement a capital plan that will restore the relevant capital measures to at least the levels required for classification within Zone 2. The plan must contain all of the information specified in, and meet the other requirements of, subsection (i).

Subsection (f)(1)(B) provides that no insured bank within Zone 3 shall make any capital distribution, or pay any management fee to any person or affiliate controlling the bank, that would cause the bank to be reclassified below Zone 3. No insured depository institution within Zone 3 shall make any other capital distribution or pay any other management fee without receiving the prior approval of the appropriate Federal banking agency. The agency may approve such a payment only if the agency determines that it will enhance the ability of the bank promptly to restore its capital to Zone 3 or is otherwise in the public interest.

Subsection (f)(1)(C) provides that the appropriate Federal banking agency shall not approve or permit any investment, expansion, acquisition or other similar action subject to review under the banking laws by an insured bank within Zone 3, by a company that controls an insured depository bank within Zone 3, or by an affiliate that is engaged in any qualified financial activity, unless the agency finds that the transaction furthers achievement of the capital restoration plan approved by the agency and meets the other standards required to be reviewed by the agency in considering such proposals under the banking laws.

Subsection (f)(1)(D) imposes certain requirements on financial services holding companies and diversified holding companies that control an insured bank within Zone 3. The requirements cease to apply if the company divests any interest in the bank or the bank is restored to at least Zone 2. The first requirement is that the financial services holding company and the diversified holding company must maintain capital, on a consolidated basis, at least equal to the required minimum capital ratio applicable to the lead bank of the financial services holding company for each relevant capital measure. In addition, the diversified holding company may not make any capital distribution without the prior approval of the appropriate Federal banking agency.

Finally, the financial services holding company and each company controlled by the diversified holding company that engages in activities authorized to be engaged in by a subsidiary of a financial services holding company shall be subject to the mandatory supervisory actions of paragraph (1) as if the company were an insured bank within Zone 3. Under section 6(c)(2) of the Financial Services Holding Company Act, the financial services holding company, the diversified holding company and affiliates engaged in qualified financial activities will be subject to examination for compliance with these provisions.

The requirements of subsection (f)(1)(D) begin to apply after 45 days after the latest of the date on which the bank becomes a Zone 3 bank, the date on which the financial services holding company acquires the bank, or the effective date of the subsection.

Subsection (f)(1)(E) provides that an insured bank within Zone 3 shall immediately be reclassified as within Zone 4 if the insured bank does not submit the capital restoration plan required under subparagraph (A) within the time required by the appropriate Federal banking agency, or the appropriate Federal banking agency is not satisfied that the insured depository bank is making every effort in good faith to fulfill completely the capital plan within the schedule approved by the agency.

Subsection (f)(2) provides that the appropriate Federal banking agency may modify, defer, or remove any mandatory supervisory action applicable under section 35 to an insured depository bank within Zone 3 or to a company that controls an insured bank within Zone 3 if the agency determines in writing that such action is in the public interest.

Discretionary Supervisory Actions. Subsection (f)(3) lists the discretionary supervisory actions that are authorized with respect to an insured bank within Zone 3. Subsection (f)(3)(A) authorizes the appropriate

Federal banking agency to restrict or eliminate growth of the bank's assets, or to require contraction of the bank's assets. Subsection (f)(3)(B) authorizes the appropriate Federal banking agency to restrict the insured bank and any company that controls the insured bank from making any capital distribution.

Subsection (f)(3)(C) authorizes the appropriate Federal banking agency to limit any increase in, or order the reduction of, any type of liabilities of the bank. Subsection (f)(3)(D) authorizes the appropriate Federal banking agency to order the insured bank to issue new capital in any form and in any amount sufficient to restore the institution to at least the capital levels required for Zone 2. Subsection (f)(3)(E) authorizes the appropriate Federal banking agency to require the insured bank to terminate, reduce or alter any activity, if the agency determines that the activity creates excessive risk to the institution.

Subsection (f)(3)(F) authorizes the appropriate Federal banking agency, for cause, to require the insured bank to dismiss from office at the bank any or all of the listed persons, if the person accepted employment, accepted a new position, or renewed any contract for employment in the same position at the insured bank following the date of enactment of the Financial Institutions Safety and Consumer Choice Act of 1991 and the person has been employed in that position at the insured depository bank for at least 180 days. The listed persons are any member of the bank's board of directors, the chief executive officer, the chief financial officer, and any other executive officer. Dismissal under this authority shall not be construed to be removal under section 8 of the Federal Deposit Insurance Act.

Subsection (f)(3)(G) authorizes the appropriate Federal banking agency to order the insured bank to reduce or eliminate any or all of the listed types of compensation for any executive officer who accepted employment, accepted a new position, or renewed any contract for employment as an executive officer at the insured bank following enactment of the Financial Institutions Safety and Consumer Choice Act of 1991. The listed types of compensation include any bonus, any compensation at a rate exceeding the officer's average rate of compensation during the previous 12 calendar months, and any payment that is or would be due under any employment severance contract.

Subsection (f)(3)(H) authorizes the appropriate Federal banking agency to order a new election of the board of directors of the insured bank and to designate such individuals as the agency deems appropriate to serve on the board.

Subsection (f)(3)(I) permits the appropriate Federal banking agency to require divestiture of any affiliate of a Zone 3 bank, if the appropriate Federal banking agency determines that the affiliate is in danger of default and it poses a significant risk to the liquidity or solvency of the bank or is likely to cause a significant dissipation of its assets or earnings.

Subsection (f)(4) requires the appropriate Federal banking agency to provide the Federal Deposit Insurance Corporation with prompt notice of any supervisory action taken pursuant to subsection (f).

Zone 4. Subsection (g) lists the mandatory and discretionary supervisory actions authorized with respect to an insured bank within Zone 4.

Mandatory Supervisory Actions. Subsection (g)(1)(A) requires every insured bank within Zone 4 that has not submitted a capital restoration plan under subsection (f), as described above, to submit and implement a plan that meets the requirement of subsection (i) and will restore the relevant capital measures of the bank to at least the levels required for classification within Zone 2.

Subsection (g)(1)(B) provides that no insured bank within Zone 4 shall make any capital distribution or pay any management fee to a person or affilate controlling such bank. Subsection (g)(1)(C) provides that no insured bank within Zone 4, or financial services holding company controlling any insured bank within Zone 4, is permitted, directly or indirectly, to acquire any interest in an insured bank or any company that is not an insured bank, or establish or acquire additional branch offices. The insured bank or financial services holding company is also precluded from engaging in any new activity. This restriction is intended to preclude engaging in any new line of business, but not to preclude expansion of activities already engaged in.

Subsection (g)(1)(D) provides that any financial services holding company and any diversified holding company that controls an insured bank within Zone 4 shall be subject to the requirements of subsections (f)(1)(D)(i) and (f)(1)(D)(ii) (relating to consolidated capital and capital distributions, as described above) and to the mandatory supervisory actions of subsection (f) as if the company were an insured bank within the relevant zone. The financial services holding company or diversified holding company is subject to these requirements until such time as the relevant capital measures of the insured bank are restored to at least the levels required for classification within Zone 2 or the company divests any interest in the insured bank. The companies and their financial affiliates will also be subject to examination pursuant to section 6(c)(2) of the Financial Services Holding Company Act.

Subsection (g)(1)(E) provides that an insured bank within Zone 4 shall not increase its total assets except under specified circumstances. The appropriate Federal banking agency may permit a bank within Zone 4 to increase its total assets by an amount not exceeding the amount of net interest that depositors reinvest in their deposit accounts at the insured bank, if the agency has accepted the bank's capital restoration plan, any increase in assets is accompanied by a specified increase in capital, and the bank's capital levels increase at a rate sufficient to enable the bank to satisfy the bank's capital restoration plan within a reasonable time.

Subsection (g)(1)(F) provides that an insured bank within Zone 4 may not pay excessive compensation to any executive officer who accepted employment, accepted a new position, or renewed any contract for employment as an executive officer at the insured bank following enactment of the Financial Institutions Safety and Consumer Choice Act of 1991. The listed compensation includes any bonus, or any compensation at a rate exceeding the officer's average rate of compensation during the previous 12 calendar months.

Subsection (g)(2) provides that the appropriate Federal banking agency may modify, defer, or remove any mandatory supervisory action authorized by this section to an insured depository bank within Zone 4 or a company that controls an insured bank within Zone 4 if the agency determines in writing that such action is in the public interest.

Discretionary Supervisory Actions. Subsection (g)(3)(A) authorizes the appropriate Federal banking agency to take any discretionary action authorized under Zone 3 with respect to an insured bank within Zone 4 or a company that controls an insured bank within Zone 4. Subsection (g)(3)(B) authorizes the appropriate Federal banking agency to restrict or eliminate any transaction between the insured bank and any other affiliate.

Subsection (g)(3)(C) authorizes the appropriate Federal banking agency to require an insured bank within Zone 4 or a company that controls such an insured bank to divest, liquidate or close any affiliate that is not an insured bank, if the appropriate Federal banking agency determines that the affiliate is in danger of default. Subsection (g)(3)(D) authorizes the appropriate Federal banking agency to order the insured bank to reduce or eliminate any compensation to any executive officer who accepted employment, accepted a new position, or renewed any contract for employment as an executive officer at the insured bank following enactment of the Financial Institutions Safety and Consumer Choice Act of 1991, if the appropriate Federal banking agency determines the compensation to be excessive.

Subsection (g)(1)(E) authorizes the appropriate Federal banking agency to order any company that controls an insured depository bank within Zone 4 to divest the bank, if the appropriate Federal banking agency determines that such divestiture would improve the financial condition and future prospects of the bank. Subsection (g)(1)(F) authorizes the appropriate Federal banking agency to require the insured bank to dismiss from office at the bank any or all of the listed persons, if the person accepted employment, accepted a new position, or renewed any contract for employment in the same position at the insured bank following the date of enactment of the Financial Institutions Safety and Consumer Choice Act of 1991 and the person has been employed in that position at the insured depository bank for at least 180 days. Subsection (g)(1)(G) authorizes the appropriate Federal banking agency to appoint a conservator for the insured bank.

Zone 5. Under subsection (h)(1), the appropriate Federal banking agency shall, no later than 30 days after determining that an insured bank is within Zone 5, require the sale or merger of the insured bank, or appoint a conservator or receiver for the bank. Any conservator or receiver shall have full authority, in its sole discretion, to liquidate or sell the insured bank, to take any actions authorized under subsections (f) and (g) that are not inconsistent with the powers of the conservator or receiver, and to take any other combination of actions authorized pursuant to the provisions applicable to conservators and receivers under the banking laws. As with mandatory supervisory actions under Zone 3 and Zone 4, the appropriate Federal banking agency is authorized to modify, defer, or remove any applicable mandatory supervisory action, if the agency determines in writing that such action is in the public interest. However, with respect to Zone 5 banks, the Federal Deposit Insurance Corporation must concur in such determination.

Capital Restoration Plans. Subsection (i)(1) specifies that a capital plan submitted for purposes of section 35 must be a feasible plan for promptly restoring the levels of capital for all relevant capital measures of the insured bank to at least the levels required by the subsection pursuant to which the capital plan is ordered. Subsection (i)(1) also lists the required contents of the plan and specifies that the plan must be acceptable to the appropriate Federal banking agency.

Subsection (i)(2) provides that each appropriate Federal banking agency shall by regulation establish the deadlines for submission of acceptable capital restoration plans. Unless the agency specifically determines that a greater amount of time is needed, the maximum time allowed shall be no greater than 30 days.

Subsection (i)(3) provides that the appropriate Federal banking agency shall review and act on a capital restoration plan within 30 days after its submission. This period may be extended by the appropriate Federal banking agency.

Judicial Review. Subsection (j)(1) provides that a person aggrieved by action of an appropriate Federal banking agency under section 35 may obtain review of that action by filing a written petition in the United States Court of Appeals for the circuit in which the concerned bank maintains its home office. The "concerned depository institution" means the bank whose classification within a particular zone is the basis for the agency action being complained of.

An aggrieved person is defined to include a company ordered to make a divestiture or terminate activities under section 35; an insured bank or company that is the subject of a mandatory or discretionary supervisory action and any company that controls such a company, with respect to an action taken for an insured bank within Zone 3, 4, and 5; a person dismissed under any provision of section 35; and a person whose compensation, bonus or severance payment has been reduced or eliminated under section 35.

Generally, action taken by an appropriate Federal banking agency under section 35 shall be modified, terminated, or set aside if the court finds that the agency's action under review was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. Subsection (j)(2)(B) contains a savings clause providing that an aggrieved person may pursue any judicial review of the order of the appropriate Federal banking agency appointing a conservator or receiver that is otherwise available under the banking laws. This clause is not intended to expand or diminish any otherwise existing rights to judicial review under the banking laws.

Subsection (j)(3) provides that preliminary or temporary injunctive relief is not available.

Subsection (j)(4) provides that petitions under subsection (j) shall be given expedited review. Subsection (5) provides that, except as provided in subsection (j), no court shall have jurisdiction to effect by injunction or otherwise the issuance or effectiveness of any action of an appropriate Federal banking agency under section 35 or to review, modify, suspend, terminate, or set aside such agency action.

Section 251(b) amends section 8(i) of the Federal Deposit Insurance Act to include references to orders issued under section 35. This permits enforcement of section 35 orders by injunctions issued by a United States district court. It also permits imposition of civil penalties for failure to comply with section 35 orders.

Section 251(c) amends Title 28 of the United States Code to add a new jurisdictional section granting the United States Claims Court exclusive jurisdiction to consider claims for damages based on an agency action that has been modified, terminated, or set aside pursuant to judicial review under subsection 35(j) as described above.

Section 251 (d) and (e) make conforming amendments to certain sections of Title 12 to incorporate appointment of a conservator or receiver pursuant to section 35 as a basis for exercising appointment authority.

Section 251(f) grants the Board of Governors of the Federal Reserve System with general authority to appoint conservators and receivers for insured State banks other than District banks chartered by the Director of the Office of Depository Institutions Supervision. The authority given to the Board parallels the authority of the Director with respect to national banks.

Section 251(g) adds section 35 classification to the grounds for appointment of a conservator or receiver for District banks.

Section 251(h) also amends section 11 of the Federal Deposit Insurance Act to require appointment of the Corporation whenever a receiver is appointed pursuant to section 35.

Section 251(i) provides for the effective date of section 35.

Subtitle F—Nationwide Banking and Branching

SECTION 261. NATIONWIDE BANKING

This section provides that, three years after the effective date of FISCCA, section 3(d) of the Bank Holding Company Act, as redesignated section 3(f) of the Financial Services Holding Company Act of 1991, shall be repealed. At present, section 3(d) prohibits a bank holding company from acquiring a bank in a State other than the company's principal State of business unless the acquisition in question is specifically authorized by the laws of the State in which such bank is located.

Pursuant to the revised section 3(f), which is effective three years from date of enactment, the appropriate Federal banking agency may approve an application of a financial services holding company or foreign bank to acquire, directly or indirectly, any voting shares of, interest in, or all or substantially all of the assets of, any additional insured depository institution.

The new provisions preempt certain State laws by allowing an interstate acquisition that has been approved under section 3 of the Financial Services Holding Company Act of 1991 of an insured depository institution or financial services holding company Holding Company Act of 1991 to be consummated notwithstanding any State law that would have the effect of prohibiting or limiting an acquisition by an out-of-state financial services holding company or foreign bank if the legal standard for denial would not be applied, with similar effect, to the same acquisition by an in-State financial services holding company.

A State will continue to review acquisitions for anticompetitive effects, financial and managerial resources, and other safety and soundness considerations in the same manner as it would review expansion proposals of in-State entities. However, acquisitions cannot be limited on the basis of the location or size of the acquiring company or foreign bank, the number of insured depository institution subsidiaries of such company or foreign bank, or any other factor which has the effect of limiting or preventing the acquisition. State laws will continue to apply to branches just as they do to banks. Such laws include local community investment, consumer protection, and fair lending laws.

SECTION 262. INTERSTATE BRANCHING BY NATIONAL BANKS

Section 252 amends section 5155 of the Revised Statutes (12 U.S.C. 36(c)) by inserting a new provision allowing national banks to establish and operate new branches at an initial location within any State in which: (A) a financial services holding company having the same home State as the national bank could acquire a bank pursuant to section 3 of the Financial Services Holding Company Act of 1991; or (B) a State bank chartered in the home State of the national bank could establish a branch.

It is intended that banks opening branches outside their home State will be treated similarly to other business corporations that engage in business outside the State in which they are chartered or have their principal place of business. As a result, section 36(c) is also amended to provide expressly that a State, other than the home State, in which a bank wishes to establish a branch may impose on the bank such filing requirements as are ordinarily imposed on other corporations that are not chartered in such State but wish to engage in business in such State.

After an initial branch is established, additional branches may be approved at any point within the State to the same extent permitted under paragraphs (1) and (2) of section 36(c). State laws, such as community investment, consumer protection, and fair lending laws, will apply to interstate branches as they do to banks.

The definition of "branch" contained in Revised Statutes section 5155 (12 U.S.C. 36(c)) is amended by substituting "any office, agency, or other place of business" for "branch bank, branch office, branch agency, additional office, or any branch place of business".

The term "home state" is defined for purposes of this section to mean:

(i) in the case of a national bank, the State in which the principal place of business of the bank is located; and

(ii) in the case of a financial services holding company, the State in which the operations of the company's principal bank subsidiary are conducted for purposes of section 3(d) of the Financial Services Holding Company Act of 1991.

The term "State" is defined to include the District of Columbia.

For purposes of section 36 of the National Bank Act, "host State" shall mean the State in which a bank establishes or maintains a branch other than a State which is the bank's home State.

SECTION 263. INTERSTATE CONSOLIDATION OR MERGER OF NATIONAL BANKS OR STATE BANKS WITH NATIONAL BANKS

Section 263 amends provisions of the National Bank Act pertaining to the interstate consolidation or merger of national banks or State banks with national banks. Current law authorizes the Comptroller of the Currency to approve certain consolidations and mergers of national banks or State banks with national banks located in the same State.

This section inserts into sections 215(a) and 215a(a) of the National Bank Act (12 U.S.C. 215(a) and 215a(a)) the phrase "or in any other State", thereby expanding the authority of the appropriate Federal banking agency to approve such interstate consolidations or mergers.

A parallel change is made to the definition of "receiving association" in section 215b(4) by deleting the phrase "located within the same State".

Section 36(b)(2) of the National Bank Act (12 U.S.C. 36(b)(2)) is amended to expand the authority of national banks to retain branches following a merger or consolidation with a national bank.

In section 36(b)(2)(A), the parenthetical "(other than the national bank)" is stricken, and other provisions in paragraph (2) pertaining to certain branches which were in operation on February 25, 1927 are removed.

Section 263(d) of the legislation provides that the appropriate Federal banking agency may not approve the retention of a branch of any bank participating in the consolidation if a State bank (in a situation identical to that of the resulting national bank) resulting from the consolidation with another bank or banks would be prohibited by the law of such State from retaining and operating as a branch of the State bank immediately prior to the consolidation.

SECTION 264. INTERSTATE BRANCHING BY STATE BANKS

This section amends section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)) to provide that no State may prohibit any insured bank chartered by, and engaged in, a banking business in another State from establishing and maintaining one or more branches within the State. Similar to the provision described above for national banks, section 18(d) is amended to provide that a host State may require an out-of-state bank to comply with the same filing requirements that are otherwise imposed on a corporation incorporated in another State and seeking to engage in business in the host State. For purposes of this subsection, "host State" is the State in which a bank establishes or maintains a branch other than the State in which the bank is chartered and engaging in banking business.

If authorized by the law of the State in which the bank is chartered, any insured State bank may establish a branch at an initial location within any other State or States in which a financial services holding company whose principal place of operations is the same State in which the insured bank is chartered could acquire a bank pursuant to section 3 of the Financial Services Holding Company Act of 1991. For purposes of this provision, the principal place of operations means the State in which the total deposits of all bank subsidiaries of such company are largest.

Once an initial branch has been established in a State, additional branches within that same State may be established and maintained to the extent permitted for insured State banks located in such State as if the initial branch of the out-of-state insured bank were a State bank chartered in such State with its head office at the location of the initial branch. Certain rights are reserved to the States under this section. In particular, States retain the right to determine the authority of State banks chartered in that State to establish and maintain branches, or to supervise, regulate, and examine State banks chartered by that State. State laws relating to community investment, fair lending, and consumer protection will apply to interstate branches just as they do to in-State banks.

Activities conducted at a branch are limited to those activities permissible for a bank chartered by the "host State". Branches established and maintained in a State by a bank chartered by another State may be examined by the State bank supervisory or regulatory authority for the purpose of determining compliance with the State law regarding permissible activities, sound banking principles, and safety and soundness considerations.

Enforcement actions or proceedings may be commenced by the State bank authority if such authority determines that the activities being conducted by the branch violate State law or the manner of operations is not consistent with sound banking principles. Such enforcement actions or proceedings are authorized only to the extent that would be permitted under State law if the branch were deemed to be a bank chartered by that State.

Cooperative agreements among State bank authorities from more than one State are authorized to facilitate State regulatory supervision and joint participation and coordination of examinations of State-chartered banks. Nonetheless, the participation by the host State supervisory authority in the examination of a branch of an out-of-state bank is limited to the same examination procedures and principles as would be applied if the branch were deemed to be a bank chartered by that State.

Subtitle F—Foreign Banking Organizations in the United States

SECTION 265. FOREIGN BANKS IN THE UNITED STATES

Section 265 amends the International Banking Act of 1978 (IBA) to extend national treatment to foreign banks conducting banking business in the United States with respect to interstate branching.

Subsection (a) amends section 4(a) of the IBA to allow a Federal branch or agency to be established in any State after licensing by the Director. Until three years after enactment of the Act, however, the States retain the right to prohibit such establishment of a Federal branch or agency if that branch or agency is the initial branch or agency of a foreign bank in the United States. Additional branches can be established according to the provisions of section 4(h) of the IBA.

Subsection (b) amends section 4(h) of the IBA to allow a foreign bank that already has a Federal branch or agency in the United States to branch both within its home state, as defined in the IBA, and outside its home state, to the same extent as national banks (*i.e.*, initially, into any State where a bank holding company with its principal place of business in the foreign bank's home state could acquire a bank, and thereafter subject to the branching laws of the host State).

Subsection (c) provides for interstate banking by foreign banks in addition to that under subsection (a) and (b). In particular, this section amends section 5 of the IBA to (1) limit a foreign bank's branching outside its IBA home state with a State licensed branch to those States where a financial services holding company with the same home State could acquire a bank; (2) require the approval of the Board and the state regulator in order to branch into another State; and (3) require approval of the appropriate Federal banking agency for acquisition by a foreign bank of 5 percent or more of the voting shares of, or all or substantially all the assets of, a bank or a financial services holding company.

Subsection (c) goes on to provide an exception from the requirement that no foreign bank can branch outside its IBA home state without the approval of the regulator of the host State by adding a new paragraph 5(a)(4) to the IBA. This provision allows any State to license foreign banks with State-licensed branches or agencies to branch into an initial location in another State without receiving approval of the host State. This provision is meant to parallel a similar provision for State banks in section 253 of this Act (interstate branching by insured State banks) and applies the same requirements on exercising of powers in that other State, subsequent branches in the host State, and regulatory cooperation.

Finally, subsection (c) continues to permit Federal and State agencies and "limited branches" (entities that can only take deposits that are incident to international and foreign business of the entity) to be established by a foreign bank in any State that permits such interstate establishments after the approval of the appropriate Federal banking agency.

Subsection (d) provides the Board with authority to approve any acquisition by a foreign bank of a commercial lending company where the foreign bank is not subject to the provisions of the Financial Services Holding Company Act. In acting upon any such application, the Board may consider the effects of the proposal on domestic and foreign competition, the financial prospects of the branch, agency and the applicant, and the convenience and needs of the community.

SECTION 266. INTERSTATE ACQUISITIONS BY SAVINGS AND LOAN HOLDING COMPANIES.

This section amends section 10(e)(3) of the Home Owners' Loan Act (12 U.S.C. 1467(e)(3)) by striking the current text and inserting a substitute paragraph authorizing the Director to approve applications for savings and loan holding companies to acquire, directly or indirectly, any voting shares of, interest in, or all or substantially all of the assets of, any additional savings association located in any State. Foreign banks are also entitled to this right.

Section 10(e)(3) is further amended to preempt State laws by allowing, subject to approval by the Director, certain interstate acquisitions by savings and loan holding companies, bank holding companies, and foreign banks to be consummated notwithstanding any State law that would have the effect, directly or indirectly, of prohibiting or limiting an acquisition by an out-of-state company or foreign bank if the standards for denial would include any factor which has the effect of limiting or preventing an acquisition by an out-of-state acquirer when compared to an in-state savings and loan holding company in an identical transaction.

In particular, a State may not limit or prohibit an acquisition on the basis of the location or size of the acquiring company or foreign bank, the number of insured depository institution subsidiaries of such company or foreign bank, or any other factor which has a disparate effect.

A State can continue to review acquisitions for anticompetitive effects, financial and managerial resources, and other safety and soundness considerations in the same manner as it would review expansion proposals of in-state entities.

This provision is parallel to the amendment to section 3(d) as redesignated 3(f) of the Financial Services Holding Company Act of 1991 which is set forth in section 251, *supra*.

Definitional amendments are inserted into section 10(e)(3) of the Home Owners' Loan Act (12 U.S.C. 1467a(e)(3)) which provide that, for purposes of this paragraph, "State" shall include the District of Columbia, and "foreign bank" shall mean any foreign bank as defined in section 1(b)(7) of the International Banking Act of 1978.

SECTION 267. EFFECTIVE DATE.

The amendments contained in this subtitle F shall be effective upon the date of enactment.

Title III—Regulatory Restructuring

Subtitle A—Office of Depository Institutions Supervision

SECTION 301. ESTABLISHMENT OF AN OFFICE OF DEPOSITORY INSTITUTIONS SUPERVISION

Effective January 1, 1992, section 301 establishes the Office of Depository Institutions Supervision which shall be a bureau within the Department of the Treasury.

SECTION 302. DEFINITIONS

Section 302 sets forth definitions for use in this title. "Director" means the Director of the Office of Depository Institutions Supervision. "Office" means the Office of Depository Institutions Supervision. "Secretary" means the Secretary of the Treasury.

SECTION 303. DIRECTOR OF THE OFFICE OF DEPOSITORY INSTITUTIONS SUPERVISION

Section 303 provides for a Director who shall be the head of the Office of Depository Institutions Supervision, and who is appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States. The Director shall be appointed for a five-year term, subject to removal by the President; thus, the Director is an Officer of the United States within the meaning of the Appointments Clause. A vacancy in the position of Director which occurs before expiration of the Director's term shall be filled only for the remainder of that term, and the successor Director shall be appointed by the President, by and with the advice and consent of the Senate. This section provides that the Director may designate who shall act as Director if the Director dies, resigns, or is sick or absent. If the Director fails or is unable to designate who shall act as Director, the Secretary shall designate an acting Director who shall possess the power to perform the duties vested in the Director. An individual may serve as Director after the term for which appointed until a successor Director has been appointed. Effective January 1, 1993, the Secretary may appoint two Deputy Directors.

SECTION 304. AUTHORITY OF THE DIRECTOR

Section 304 provides for exclusive authority of the Director to make certain decisions with respect to particular institutions or entities for which the Director is the appropriate Federal banking agency. These decisions concern a grant or denial of a charter or other application, an examination, a decision to appoint a conservator or receiver for a depository institution and a final decision in a contested administrative enforcement proceeding. These authorities, which are vested in the Director effective January 1, 1993, do not prevent the Director from consulting with the Secretary on any matter. Effective January 1, 1992, all other authority vested in the Director by this title is exercised by the Director subject to the review and approval of the Secretary. The Director may delegate to any employee, representative, or agent of the Office any authority or power of the Director, effective January 1, 1992.

SECTION 305. PERSONNEL

Section 305 provides that the Director appoints, directs and fixes the compensation of all employees of the Office. Such compensation is set without regard to the provisions of laws (other than this title) applicable to officers and employees of the United States. Additional benefits may be provided to the employees of the Office if the Director determines that the same type of benefits are then being provided by the Board of Governors of the Federal Reserve Board or the Federal Deposit Insurance Corporation or if such benefits could be provided by those other agencies under applicable provisions of law, rule, or regulation. In setting and adjusting the compensation and benefits for employees, the Director must consult with and may seek to maintain comparability with the Board of Governors of the Federal Reserve Board and the Federal Deposit Insurance Corporation. This section becomes effective January 1, 1993.

SECTION 306. REGULATIONS AND ORDERS

Section 306 authorizes the Director to prescribe such regulations and orders as the Director determines to be necessary or appropriate for carrying out any law within the Director's jurisdiction.

SECTION 307. FUNDING

Section 307 authorizes the Director to impose and collect assessments, fees and other charges from any institution or entity for which the Director is the appropriate Federal banking agency. The amounts collected are to be set to cover all the Office's expenses. Funds obtained may be used to pay all direct and indirect expenses of the Office, including salary and administrative expenses.

Subtitle B—Interim Provisions; Transfer of Functions, Personnel, and Property

SECTION 311. INTERIM PROVISIONS FOR THE OFFICE OF DEPOSITORY INSTITUTIONS SUPERVISION

Section 311 sets forth provisions, covering the one-year period from January 1, 1992 to January 1, 1993, for the orderly transfer of the functions of the Comptroller of the Currency (OCC) and the Office of Thrift Supervision (OTS) to the Office. During this interim period, the Director must consult and cooperate with the Director of the Office of Thrift Supervision and the Comptroller of the Currency (Comptroller) to facilitate the orderly transfer of functions to the Office. During the interim period, the Director, jointly with the Board of Governors of the Federal Reserve System, may issue regulations governing financial services holding companies which shall become effective on January 1, 1993. Further, during the interim period, the Director is authorized to take such actions as are necessary to provide for the establishment of the Office. The Secretary may detail to the Director of the Office such personnel of the OCC and the OTS as the Secretary deems appropriate to assist in carrying out the Director's interim duties. The Secretary may provide all administrative services necessary to support the Office during the interim period and may obtain, in equal shares from OCC and OTS, and spend, reimbursement for the cost of such services.

SECTION 312. OFFICE OF THRIFT SUPERVISION ABOLISHED.

Section 312(a) abolishes the Office of Thrift Supervision (OTS) and the position of the Director of the Office of Thrift Supervision, effective on January 1, 1993.

Before the OTS is abolished, its Director must consult and cooperate with the Director of the Office of Depository Institutions Supervision and the Comptroller of the Currency to facilitate the orderly transfer of functions to the Bureau. Any matter not resolved through such consultation shall be resolved by the Secretary. Except for the requirements that the Director of the OTS consult and cooperate with the Director of the new Office and the Comptroller regarding transition, any authority which was vested in the Director of the OTS on the day before the date of enactment of this title which is necessary for him to carry out his duties shall continue until his position is abolished. Any agency, department or other instrumentality of the United States that was providing support services to the OTS on the day before the date the OTS is abolished shall continue to provide such services in accordance with the terms of the arrangement, except that, effective January 1, 1993 the new Office shall substitute for OTS as a party to the arrangement. Any such agency, department or other instrumentality of the United States shall consult with the new Office's Director to coordinate a prompt and reasonable transition.

All rights, duties and obligations of the United States, the OTS or any person which exist on the day before the date the OTS is abolished are preserved from being affected by the Act. Any suit or other proceeding commenced by or against the OTS or its Director is unaffected by this act, except that, effective January 1, 1993, the Director of the new Office shall be substituted as a party. All orders, resolutions and regulations of the OTS which are in effect on January 1, 1993 shall continue in effect according to their terms. The Director of the new Office must administer such orders, resolutions and regulations and they are enforceable by or against him until such time as they are modified, terminated, set aside or superseded by him, a court, or operation of law. Any proposed regulations or rules of the OTS are deemed proposed regulations or rules of the new Office. Each of the foregoing provisions applies unless expressly provided otherwise.

All individuals employed by OTS on the day before OTS is abolished are transferred to the new Office.

Each transferred employee has the rights accorded by 5 U.S.C. 3503 and is guaranteed a position in the new Office with the same status and tenure as that held by the employee preceding the transfer. Transferred employees who held permanent positions at OTS may not be involuntarily separated or reduced in grade for one year after the transfer, except for cause and except for those who held positions at OTS that were exempted from the competitive service by reason of the positions' confidential policy-making, policy-determining or policy-advocating character. Each transferred employee who remains with the new Office is to receive for one year after the transfer the same total compensation that the employee received immediately preceding the transfer. Transferred employees also may elect to retain for one year after the transfer membership in any OTS employee benefit program (other than retirement but including insurance) if the Director of the new Office continues the program. The new Office will pay all costs of the continued benefit programs. If an employee elects not to continue membership in such a program, the employee may participate in the new Office's program notwithstanding pre-existing health conditions. However, such an election must be made within 120 days after the transfer or the OTS program's discontinuation.

If the new Office's Director determines between one and three years after the transfer that a reorganization of the combined work force is required, the reorganization is to be treated as a major reorganization for purposes of entitling employees to certain early retirement options under other law. Chapter 35 of title 5, United States Code, shall apply to any reduction in force resulting from such reorganization.

The Director of the new Office is to take necessary action on a case-by-case basis to continue to provide transferring employees with equitable treatment for retirement, and leave and vacation time purposes regarding credit previously received for prior service with a Federal entity or instrumentality or with a Federal Home Loan Bank or a joint office of such Banks. This provision tracks the language of section 722(f) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA). Under section 722(f) of FIRREA, approximately 2,000 employees who were transferred to the OTS from the Federal Home Loan Banks and joint offices of those Banks were grandfathered in a private retirement plan, the Financial Institutions Retirement Fund (FIRF), rather than being compelled to leave the FIRF and enter a Federal retirement program. Accordingly, one purpose of paragraph (d)(4) is to authorize the Director of the new Office to permit OTS employees who participate in FIRF to continue that participation after they transfer to the Office.

All OTS property is to be transferred to the new Office on January 1, 1993.

SECTION 313. OFFICE OF THE COMPTROLLER OF THE CURRENCY ABOLISHED

Section 313(a) abolishes the Office of the Comptroller of the Currency (OCC) and the position of the Comptroller of the Currency, effective on January 1, 1993.

Before the OCC is abolished, the Comptroller must consult and cooperate with the Director of the Office of Depository Institutions Supervision and the Director of the Office of Thrift Supervision to facilitate the orderly transfer of functions to the new Office. Any matter not resolved through such consultation and cooperation shall be resolved by the Secretary. Except for the requirement that the Comptroller consult and cooperate with the Secretary and the Director of the Office of Thrift Supervision regarding transition, any authority which was vested in the Comptroller on the day before the date of enactment of this Act which is necessary for him to carry out his duties shall continue until January 1, 1993. Any agency, department, or other instrumentality of the United States that was providing support services to the OCC on the day before the date the OCC is abolished shall continue to provide such services in accordance with the terms of the arrangement, except that, effective January 1, 1993, the new Office shall substitute for the OCC as a party to the arrangement. Any such agency, department, or other instumentality of the United States shall consult with the Director of the new Office to coordinate a prompt and reasonable transition.

All rights, duties and obligations of the United States, the OCC or any person which exist on the day before the date the OCC is abolished are preserved from being affected by the Act. Any suit or other proceeding commenced by or against the OCC or the Comptroller is unaffected by this Act, except that, effective January 1, 1993, the Director of the new Office shall be substituted as a party. All orders, resolutions and regulations of the Comptroller which are in effect on January 1, 1993 shall continue in effect according to their terms. The Director of the new Office must administer such orders, resolutions and regulations and they are enforceable by or against him until such time as they are modified, terminated, set aside or superseded by him, a court, or operation of law. Any proposed regulations or rules of the Comptroller are deemed proposed regulations or rules of the new Office. Each of the foregoing provisions applies unless expressly provided otherwise.

All individuals employed by OCC on the day before the OCC is abolished are transferred to the new Office.

Each transferred employee has the rights accorded by 5 U.S.C. 3503 and is guaranteed a position in the new Office with the same status and tenure as that held immediately preceding the transfer. Transferred employees who held permanent positions at the OCC may not be involuntarily separated or reduced in grade for one year after the transfer, except for cause and except for those who held positions at the OCC that were exempted from the competitive service by reason of the positions' confidential policy-making, policy-determining or policy-advocating character. Each transferred employee who remains with the new Office is to receive for one year after the transfer the same total compensation that the employee received immediately preceding the transfer. Transferred employees also may elect to retain for one year after the transfer membership in any OCC employee benefit program (other than retirement but including insurance) if the Director of the new Office continues the program. The new Office will pay all costs of the continued benefit programs. If an employee elects not to continue membership in such a program or if the Director of the new Office terminates the program, the employee may participate in the new Office's program notwithstanding pre-existing health conditions. However, such an election must be made within 120 days after the transfer or the discontinuation of the OCC's program.

If the new Office's Director determines between one and three years after the transfer that a reorganization of the combined work force is required, the reorganization is to be treated as a major reorganization for purposes of entitling employees to certain early retirement options under other law. Chapter 35 of title 5, United States Code shall apply to any reduction in force resulting from such a reorganization.

All property of the OCC is to be transferred to the new Office on January 1, 1993.

Subtitle C—Regulatory and Supervisory Responsibility

SECTION 321. REGULATORY AUTHORITY

Section 321 transfers all powers and duties that were vested in the Director of the Office of Thrift Supervision and the Comptroller of the Currency on December 31, 1992 to the Director of the Office of Depository Institutions Supervision, effective January 1, 1993.

SECTION 322. APPROPRIATE FEDERAL BANKING AGENCY

Section 322 provides that the Director of the Office of Depository Institutions Supervision is the appropriate Federal banking agency for all institutions and entities with a national or Federal charter or license and for District banks chartered by the Director, Federal branches and Federal agencies of foreign banks, State savings associations, and savings and loan holding companies. The Board of Governors of the Federal Reserve System is the appropriate Federal banking agency for all other institutions and entities with a State charter or license (including State branches and State agencies of foreign banks) and for commercial lending companies, Edge Act corporations, and agreement corporations.

The appropriate Federal banking agency for a diversified holding company or a financial services holding company is determined by the charter of the principal bank subsidiary. The term "principal bank subsidiary" is defined as the single subsidiary depository institution of a financial services holding company that has the greatest dollar amount of assets on average for the last day of each quarter of the preceding calendar year. The appropriate Federal banking agency for a foreign bank that is not a financial services holding company is the same as the appropriate Federal banking agency for the largest branch, agency, or commercial lending company controlled or operated by the foreign bank.

The appropriate Federal banking agency must evaluate the principal bank subsidiary every five years for the purpose of determining whether a transfer of supervisory authority over the financial services holding company to the other appropriate Federal banking agency is necessary. In order to ensure regulatory and supervisory consistency, the appropriate Federal banking agency for a holding company cannot change more frequently than every five years. This section amends the definition in current law of appropriate Federal banking agency in accordance with the overall scheme for regulatory restructuring set forth in the Act. This section is effective on January 1, 1993.

SECTION 323. EXAMINATIONS

Section 323 authorizes the Director of the Office of Depository Institutions Supervision to examine institutions or entities for which the Director is the appropriate Federal banking agency, and any other institution or entity over which the Director has examination authority pursuant to the Financial Services Holding Company Act of 1991.

At least once during every twelve month period, the Director must conduct an on-site examination of each depository institution and branch of a foreign bank for which the Director is the appropriate Federal banking agency. Depository institutions for which a conservator or receiver has been appointed may be examined less frequently. Any depository institution or foreign bank branch that has total assets of less than $1 billion for the year preceding a scheduled examination and that is in compliance with the capital standards prescribed by the Director must be examined on-site at least once during the following 18-month period.

This section authorizes the Director to examine any institution or entity for which the Director is the appropriate Federal banking agency as frequently as the Director determines to be necessary. This examination authority extends to any affiliate of a depository institution (other than those examined pursuant to the Financial Services Holding Company Act of 1991) to permit the Director to determine the relationship between the depository institution and its affiliate and the effect of such relationship on the depository institution. The Director's authority to examine other affiliates within a holding company structure is set forth in Financial Services Holding Company Act of 1991.

Examiners appointed by the Director have the power to conduct an examination and prepare a full report of condition of any depository institution for which the Director is the appropriate Federal banking agency. Such examiners also have the power to administer oaths and to examine any raise, directors, employees, or agents under oath. Examiners must be given prompt and complete access to all relevant books, records, and documents of any type.

This section retains current law with respect to publication of examination reports of national banks and their subsidiaries that fail to comply with the recommendations or suggestions made in an examination within 120 days after notification. The national bank or subsidiary must be given 90 days notice prior to publication. This section contains a limitation on visitorial powers for depository institutions chartered under Federal law. State auditors and examiners may review such institutions' records solely to ensure compliance with applicable unclaimed property or escheat laws when there is reasonable cause to believe that the institutions have failed to comply with such laws. This section parallels the current limitation on visitorial powers for national banks. This section is not intended to expand or limit the valid exercise of law enforcement.

If any affiliate of any depository institution (other than those examined pursuant to the FSHCA which is subject to examination by the Director refuses to pay any assessment or fails to pay any assessment within 60 days after the assessment, the Director may collect the amount not paid from the depository institution. If such an affiliate is an affiliate of more than one depository institution, the amount not paid may be collected from any affiliated depository institution in such proportions as the Director determines. If any such affiliate of any depository institution refuses to permit the Director to make an examination or refuses to provide information required to be disclosed in the course of examination, the Director is authorized to assess a civil penalty of $5,000 against the depository institution for each day that such refusal continues.

SECTION 324. CONFORMING AMENDMENTS

Section 324 revises section 5240 of the Revised Statutes by deleting those provisions relating to the examination and assessment of national banks and their affiliates since the authority provided in such provisions is duplicative of the Director's authority, and by retaining those provisions relating to the authority of the Federal Reserve banks to examine member banks, with the approval of the Board of Governors of the Federal Reserve System or the appropriate Federal Reserve agent. Section 324 amends the Home Owners' Loan Act by deleting those provisions which provide authority that is duplicative of the Director's examination and assessment authority. This section becomes effective on January 1, 1993.

SECTION 325. APPOINTMENT OF A RECEIVER

Section 325 provides the Director of the Office of Depository Institutions Supervision with authority to appoint a receiver for a national bank based on any of the grounds currently set forth in the Bank Conservation Act (12 U.S.C. 203) and in section 5239 of the Revised Statutes (12 U.S.C. 191). In addition, this section requires the Director of the Office of Depository Institutions Supervision to appoint a receiver for any national bank that is classified by the Director as a Zone 5 institution pursuant to section 35 of the Federal Deposit Insurance Act. The amendments made by this section are effective on January 1, 1993. For savings associations, the grounds for appointment of a receiver as set forth in the Home Owners' Loan Act and transferred by this title to the Director of the Office of Depository Institutions Supervision are unchanged.

Subtitle D—Transfer of Federal Deposit Insurance Corporation Authority

SECTION 331. AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT

Section 331 transfers the Federal Deposit Insurance Corporation's supervisory and regulatory authority over State nonmember insured banks, to the Board of Governors of the Federal Reserve System which is the new appropriate Federal banking agency for such institutions. The amendments made by this section become effective on January 1, 1993.

SECTION 332. CONFORMING AMENDMENTS TO THE FEDERAL RESERVE ACT

Section 332 amends the Federal Reserve Act to include State nonmember insured banks in those provisions of law in the Federal Reserve Act for which there was a parallel provision in the Federal Deposit Insurance Act which was amended or repealed by section 331 of this Act. The amended sections include those dealing with transactions with affiliates, loans to executive officiers, and lotteries.

SECTION 333. SAVINGS PROVISIONS

Section 333 preserves the validity of any right, duty or obligation of the United States, the Federal Deposit Insurance Corporation, or any person which exists on December 31, 1992, the day before the date the Federal Deposit Insurance Corporation's supervisory and regulatory authority over State nonmember banks is transferred to the Board of Governors of the Federal Reserve System. Any suit or other proceeding commenced by or against the Federal Deposit Insurance Corporation with respect to the supervisory and regulatory responsibilities transferred under this Act is unaffected by this Act, except that the Board of Governors of the Federal Reserve System shall be substituted as a party.

All orders, resolutions, and regulations of the Federal Deposit Insurance Corporation which are in effect on December 31, 1992, and which relate to the supervision and regulation of insured State nonmember banks continue in effect according to their terms. The Board of Governors of the Federal Reserve System must administer such orders, resolutions, and regulations and they are enforceable by or against the Board until such time as they are modified, terminated, set aside, or superseded by the Board by a court, or by operation of law. Any proposed regulations or rules of the Federal Deposit Insurance Corporation relating to the supervision and regulation of State nonmember insured banks are deemed proposed regulations or rules of the Board of Governors of the Federal Reserve System. Each of the foregoing provisions applies unless expressly provided otherwise in this Act.

SECTION 334. TRANSFER OF PERSONNEL AND PROPERTY

The Chairman of the Board of the Federal Deposit Insurance Corporation (FDIC) and the Chairman of the Board of Governors of the Federal Reserve System (FRB) shall jointly determine which FDIC employees should accompany the functions transferred by the Act from the FDIC to the FRB, and this section requires that those employees be so transferred.

Employees so identified are to be transferred not later than January 1, 1993 with the protection accorded by 5 U.S.C. 3503 to employees accompanying a transferred function. The transferred employees are guaranteed a FRB position with tenure comparable to what they had at the FDIC and with pay no lower than their most recent FDIC pay level. In addition the transferred employees may not be removed or reduced in pay except for cause for one year after the transfer. If the FRB determines between December 31, 1993, and December 31, 1995, that the combined work force is to be reorganized, the reorganization is treated as a major reorganization for purposes of authorizing certain retirement options under other law.

Employees transferred from the FDIC can elect to retain membership in FDIC benefit programs (other than retirement) for one year after the transfer if the FDIC continues the programs. If the cost of a FDIC program exceeds the cost of the comparable FRB program, the excess cost is to be paid by the FDIC. If a transferred employee does not elect to retain a FDIC health benefit or if FDIC discontinues a health benefit program, the employee may elect to participate in the FRB health benefit program within one year after the transfer.

Transferred employees who are within the definition of employee at 5 U.S.C. 8401(11) may elect to remain in a Federal retirement plan in which they participated while employed at the FDIC, and the FRB will make all contributions to the plan that the FDIC would have made if the employees had not been transferred. The employees also may elect within one year after the transfer to participate in the retirement program offered by the FRB to those commencing service with the FRB after December 31, 1983. Employees electing the FRB retirement program forego all benefits (except for the thrift plan) under the Federal Employee Retirement System (FERS) but receive benefits under the FRB program as if they had enrolled in that system on the same date they enrolled in FERS.

Transferred employees are to be placed in FRB positions comparable to the positions they occupied at the FDIC. The FRB is to take necessary action on a case-by-case basis to provide transferring employees with equitable treatment for retirement, and leave and vacation time purposes regarding credit for prior service with a Federal entity or instrumentality. Transferring employees are to receive notice of their position assignments within 120 days after the effective date of their transfer. Transferring employees have the same rights and entitlements as other, similarly situated FRB employees have under sections 10 and 11(1) of the Federal Reserve Act (12 U.S.C. 244 and 248(1)), except as the Act otherwise specifically provides.

The Chairman of the Board of Governors of the Federal Reserve System and the Chairman of the FDIC shall jointly determine no later than January 1, 1993, the FDIC property that had been used to perform functions transferred to the FRB by this Act, and such property shall be transferred to the FRB promptly. The FRB is authorized to hold such transferred property and acquired any other property necessary to perform the transferred functions or related functions or activities with respect to State member banks or holding companies.

Any agency, department or other instrumentality of the United States that was providing support services to the FDIC on the day before the date functions are transferred from the FDIC to the FRB under this Act shall continue to provide such services in accordance with the terms of the arrangement, except that, effective January 1, 1993, the FRB shall substitute for the FDIC, or, if appropriate, be added, as a party to the arrangement. Any such agency, department or other instrumentality of the United States shall consult with the FRB to coordinate a prompt and reasonable transition.

Conforming amendments are made to the FRB's property authorities.

Subtitle E—Litigation Authority

SECTION 341. LITIGATION AUTHORITY

Section 341 authorizes the Director of the Office of Depository Institutions Supervision, the Board of Governors of the Federal

Reserve System, the National Credit Union Administration, and the Federal Deposit Insurance Corporation to employ attorneys to conduct litigation, but such litigation may be conducted only with the prior consent of the Attorney General and is subject to the direction and control of the Attorney General. Section 341 is intended to permit the Attorney General to allocate federal litigation resources in the manner he deems most efficient.

Under current law, except as otherwise provided, the Attorney General is responsible for conducting litigation involving Federal agencies. See e.g., 28 U.S.C. 516, 519. However, much litigation involving Federal banking agencies and concerning questions of banking law can be conducted most effectively by attorneys employed by the appropriate Federal banking agencies, the National Credit Union Administration and the Federal Deposit Insurance Corporation rather than the Department of Justice. Section 341 therefore permits the Attorney General to delegate authority to conduct litigation to the appropriate Federal banking agency, the National Credit Union Administration, or the Federal Deposit Insurance Corporation when he believes that attorneys from those agencies are able to provide the most efficient and effective representation. Such delegation may be made in individual cases or may be made more generally.

The Home Owners' Loan Act is amended by deleting the Director of the Office of Thrift Supervision's independent litigating authority as of January 1, 1993, the date on which all powers of the Director of the Office of Thrift Supervision transfer to the Director of the Office of Depository Institutions Supervision.

Subtitle F—Reorganization of Boards of Directors

SECTION 351. REORGANIZATION OF BOARDS OF DIRECTORS

Section 351 revises the composition of the Board of Directors of the Federal Deposit Insurance Corporation to conform with the new regulatory structure. The Federal Deposit Insurance Corporation's Board of Directors consists of the Director of the Office of Depository Institutions Supervision, the Chairman of the Board of Governors of the Federal Reserve System, and three independent members. The Director of the Office of Depository Institutions Supervision and the Chairman of the Board of Governors of the Federal Reserve System may delegate their authority to serve as Board members.

SECTION 352. NATIONAL CREDIT UNION ADMINISTRATION BOARD OF DIRECTORS

Section 352 revises the composition of the Board of Directors of the National Credit Union Administration to include the Director of the Office of Depository Institutions Supervision as a Board member. Effective January 1, 1993, the Board of Directors of the National Credit Union Administration will consist of the Director of the Office of Depository Institutions Supervision and two independent members appointed by the President.

Subtitle G—Savings Provisions for Authority Transferred from the Board of Governors of the Federal Reserve System to the Director of the Office of Depository Institutions Supervision.

SECTION 361. SAVINGS PROVISIONS

Section 361 preserves the validity of any right, duty, or obligation of the United States, the Board of Governors of the Federal Reserve System, or any person which exists on December 31, 1992, the day before the Board's supervisory and regulatory authority is transferred to the Director of the Office of Depository Institutions Supervision. Any suit or other proceeding commenced by or against the Board of Governors of the Federal Reserve System with respect to the supervisory and regulatory responsibilities transferred under this Act is unaffected by this Act, except that the Director of the Office of Depository Institutions Supervision, as the appropriate Federal banking agency, may be substituted as a party.

All orders, resolutions and regulations of the Board of Governors of the Federal Reserve System which are in effect on January 1, 1993, and which relate to any function transferred under this Act shall continue in effect according to their terms. The Board of Governors of the Federal Reserve System or the Director of the Office of Depository Institutions Supervision, as appropriate, must administer such orders, resolutions and regulations and they will be enforceable by or against the Board or the Director until such time as they are modified, terminated, set aside or superseded by the Board or by the Director, by a court, or by operation of law.

Any proposed regulations or rules of the Board of Governors of the Federal Reserve System relating to any function transferred under this Act shall be deemed a proposed regulation or rule of the Director of the Office of Depository Institutions Supervision.

Title IV—Bank Insurance Fund Recapitalization

Subtitle A—FDIC Borrowing

SECTION 401. FDIC BORROWING

This amendment provides the FDIC with new borrowing authority under section 15 of the Federal Deposit Insurance Act. Paragraph (1) of the amendment explicitly permits the FDIC to borrow up to $25 billion from the Federal Reserve banks for use as loss funds of the Bank Insurance Fund and to protect the liquidity of the Fund or to deal with a troubled or failed institution. The FDIC is to have no more than $25 billion in borrowing from the Federal Reserve banks outstanding at any one time.

Paragraph (2) of the amendment adds a new subsection (c)(6) concerning exemptions on FDIC obligations. Subsection (c)(6)(A) preserves the existing exception from the obligation limitation for $5 billion in FDIC borrowing. Subsection (c)(6)(B) permits the FDIC to use its authority to borrow from the Federal Reserve banks as intended by explicitly exempting such borrowing from the limitation on FDIC obligations. In addition, funds flowing between the FDIC and the Federal Reserve banks in connection with such borrowing will not be counted in calculating compliance with the limitation on FDIC obligations.

Finally, new subsection (c)(6)(E) provides that the unused portion of the FDIC's existing $5 billion in emergency borrowing authority—which is exempt from the limitation on FDIC obligations under current law—shall be counted as net worth solely in calculating compliance with the limitation on obligations. The purpose of this provision is to permit the FDIC to continue to incur obligations to hold working capital in resolving institutions insured by the Bank Insurance Fund, even if the Fund's accounting net worth is exhausted.

SECTION 402. FEDERAL RESERVE LENDING

This amendment is intended to provide to the Board of Governors of the Federal Reserve System and the Federal Reserve Banks, as directed by the Board, the authority to lend to the FDIC. In addition, the amendment is intended to provide to the Board of Governors wide authority to prescribe the terms under which the funds will be lent.

Subtitle B—FDIC Assessments

SECTION 411. MAXIMUM AGGREGATE ASSESSMENT

This section strikes out a redundant provision in the current Federal Deposit Insurance Act, and replaces it with a provision that the maximum aggregate assessment rate to be charged to the members of the Bank Insurance Fund is 0.30 percent of deposits of the members of the Fund. This aggregate limitation would apply not to individual institutions, but to all institutions insured by the Bank Insurance Fund in the aggregate. The FDIC would retain discretion to assess individual institutions more than 0.30 percent of deposits. This amendment also makes it clear that the Corporation has full discretionary authority to compute the assessment using industry-wide data it has gathered, and may then collect whatever assessment it has computed. Any challenges assessment is due, and may only seek repayment of the amount in question.

SECTION 412. BANK INSURANCE FUND BORROWING ASSESSMENT

This section directs the Board of Directors, so long as funds borrowed from the Federal Reserve banks remain unpaid, to determine the amount of assessments necessary to repay the borrowed funds in accord with the terms of loan. The language further directs the Board of Directors to take whatever actions are necessary to dedicate the amounts of assessments necessary to repay the loans so as to preclude the use of dedicated assessments for any purpose other than repaying the loans.

Title V—Payment System Risk Reduction

Subtitle A—Payment System Risk Reduction

SECTION 501. FINDINGS

This section sets forth the Congress' findings regarding the need for efficient processing of financial transactions and for legal recognition of the validity of netting procedures.

SECTION 502. DEFINITIONS

(1) "Broker/dealer." Broker/dealers are included in the definition of financial institution, which establishes the coverage of the Act. The provisions of the Act apply to all registered or licensed securities brokers, underwriters, and dealers.

(2) "Clearing organization" is defined broadly to include any entity that clears or settles transactions for financial institutions. Section 5 of the Act provides that such transactions shall be netted on an aggregate basis if so provided in the rules of the clearing organization.

(3) "Covered clearing obligation." This definition describes those obligations settled through a clearing organization that are covered by the Act.

(4), (5) "Covered contractual payment entitlement" and "Covered contractual payment obligation." The Act applies to obligations to make payments and entitlements to receive payments if (i) they are covered by a netting contract, and (ii) they are either (a) obligations or entitlements between two financial institutions or (b) obligations or entitlements settled or cleared through a clearing organization.

(6) "Depository institution" is defined to include all domestic depository institutions, U.S. branches and agencies of foreign banks, and Edge and agreement corporations. De-

pository institutions are included in the definition of financial institution.

(7), (8) "Failed financial institution" and "failed member." A failure occurs when a financial institution or member: (i) fails to satisfy its obligations with respect to another financial institution or member; (ii) is subject to, whether voluntary or involuntary, insolvency, liquidation, receivership, or similar proceedings; or (iii) generally fails to meet obligations.

(9) "Futures commission merchant." Futures commission merchants are included in the definition of financial institution. The provisions of the Act apply to all registered or licensed sellers of commodity futures and options.

(10) "Futures commission merchant." Futures commission merchants are included in the definition of financial institution. The provisions of the Act apply to all registered or licensed sellers of commodity futures and options.

(11) "Member" is defined broadly to cover all participants in a clearing organization.

(12) "Net entitlement" and "net obligation" are defined to mean the post-netting amounts a financial institution or member is entitled to receive or obligated to pay under a netting contract.

(13) "Netting contract." The Act applies only when there are contractual netting arrangements between private parties. The Act does not impose a netting requirement in the absence of a contractual arrangement, nor does the Act impose a United States rule of law when the contractual parties elect to apply the law of a foreign jurisdiction. The contractual obligations among members of a clearing organization are normally established by the rules of the clearing organization, thus "netting contract" is defined to include such rules.

SECTION 503. BILATERAL NETTING

This section provides that, in accordance with the terms of the contractual arrangements between two financial institutions, the mutual obligations of such institutions shall be netted and set off. The obligations and entitlements between the parties shall relate only to the remainder after giving effect to netting procedures. Netting may occur without regard to whether the obligations are matured or unmatured.

To illustrate, assume that Bank A has an obligation to make a payment of $10 million to Bank B and that Bank B then incurs an obligation to make a $12 million payment to Bank A. If a netting contract between the two banks so provides, at the time Bank B's obligation is incurred, the two obligations will be netted so that Bank B has a $2 million obligation to Bank A and Bank A has no obligation to Bank B. The $2 million net obligation represents the excess of Bank B's $12 million obligation to Bank A over Bank A's $10 million obligation to Bank B.

Although it is believed that a similar result would be obtained under existing law, some uncertainty exists. The daily volume of trillions of dollars of payments through clearing organizations requires that this uncertainty be eliminated.

SECTION 504. CLEARING ORGANIZATION NETTING

Members of a clearing organization will normally transmit and receive numerous payment orders during the course of a business day. The vast majority of these payments orders will be made for customers of the member rather than for the member's own account.

Under the rules of most clearing organizations, final settlement is made on a "net-net" (sometimes referred to as "multilateral") basis. Each member aggregates all the payment orders received during the day and compares that amount to the aggregate amount of all payment orders sent during the day. The member's obligation to make a settlement payment, or its entitlement to receive a settlement payment, is equal to the differential between the two aggregate amounts. If the aggregate amount of payment orders received by a member exceeds the aggregate amount of payment orders transmitted, the member receives a net settlement amount equal to the differential.

This section addresses the concern that, in the event of a member's bankruptcy, its receiver or liquidator would attempt to negate the net-net settlement rules of the clearing organization. If the receiver or liquidator were successful in that effort, the failed member could be immediately entitled to the gross amount of all payment orders received by it during the day, but all payment orders transmitted by it would represent merely unsecured creditor claims. The recipients of those transmitted payments orders would almost certainly receive less than face amount and would probably be required to wait a substantial period of time before receiving any actual payment. The potential loss to the recipients would be exacerbated if the failed member were subject to a depositor preference or similar statute.

Section 504 is intended to eliminate the risk that the receiver or liquidator of a failed member of a clearing organization could negate the netting rules of the clearing organization. This section provides statutory validation of netting to the extent provided by the clearing organization rules. If a member fails, its claim with respect to payment orders received through the clearing organization would be limited to the excess, if any, of the amount of payment orders received over the amount of payment orders transmitted.

SECTION 505. PREEMPTION

Financial institutions and members of clearing organizations are organized under the laws of numerous jurisdictions, which may differ. These laws may establish a variety of preferences and priorities among creditors in the event of bankruptcy, many of which are not codified and the implications of which are not fully developed.

Consequently, it cannot be determined with certainty whether the netting procedures provided in private contracts would be honored under these various laws. Because certainty of settlement on a net basis is essential to the safety and soundness of the banking system and financial markets, this section provides that the Act preempts any injunction or similar order issued by a court or agency that would interfere with the netting procedures governed by the Act. This preemption is, however, explicitly limited to orders that are inconsistent with the netting procedures and are not intended to affect any other priorities or preferences established by other laws.

Subtitle B—Right to Financial Privacy Act Amendments

SECTION 511. AMENDMENTS TO THE RIGHT TO FINANCIAL PRIVACY ACT OF 1978

Section 1(a) is intended to clarify the language of subsection 1112(f), as amended, of the Right to Financial Privacy Act (RFPA), (12 U.S.C. 3412(f)), which relates generally to transfers of financial records that may be relevant to a violation of federal criminal law. Such transfers are permitted by a Federal agency or department to the Attorney General. As a result of changes in federal statutes since the passage of the RFPA in 1978, the Department of Justice has authority not only to prosecute criminal violations of bank fraud statutes, but also to initiate civil actions under those statutes pursuant to section 951 of FIRREA, (12 U.S.C. 1833a) and to seek civil and criminal forfeitures under 18 U.S.C. 981 and 982.

The current language of subsection 1112(f)(2), however, limits the use of records transferred under subsection 1112(f)(1) to "criminal investigative or prosecutive purposes by the Department of Justice." While this language arguably extends to criminal forfeitures under 18 U.S.C. 982, Federal agencies require an unambiguous source of authority to transfer records to the Department of Justice for use in either civil actions under section 951 of FIRREA or in civil forfeitures under 18 U.S.C. 981. In contrast to subsection 1112(f), subsection 1113(l) of the RFPA, (12 U.S.C. 3413(l)), which exempts from the RFPA's provisions disclosures of certain financial records relating to possible crimes against financial institutions by insiders, contains no language that limits the use of records so disclosed. Accordingly, no amendment of that language appears necessary.

Subsection 1(b) would further amend subsection 1112(f)(2) of the RFPA by adding a new sentence to make clear that when a Federal agency or department transfers records under subsection 1112(f), that transfer does not constitute waiver of any privilege that may apply to those records (e.g., the attorney-client privilege and the attorney work product doctrine). Similarly, subsection (2) would amend subsection 1113(l) of the RFPA by adding a new sentence to make clear that when a Federal supervisory agency transfers a record under that subsection, that transfer does not constitute a waiver of any privilege that may apply to that record (e.g., the attorney-client privilege and the attorney work product doctrine). Federal supervisory agencies have expressed concern that when they transfer financial records to the Department of Justice for use in possible criminal cases, for civil actions under section 951 of FIRREA or for forfeiture cases under 18 U.S.C. 981 and 982, third parties in litigation with those agencies may seek to discover those records and claim that by transferring those records to the Department, the agencies have waived otherwise applicable privileges. If the Department of Justice is to have timely and complete disclosure of all financial records that agencies may view to suggest criminal conduct, the Act should make clear that the mere transfer of records under subsection 1112(f) or subsection 1113(l) does not constitute a waiver of those privileges. This amendment, however, would not bar courts from finding that in a particular case, an agency may have otherwise waived its privilege, as through an explicit written waiver provided at the time of transfer of the records in question.

Subtitle C—Reduction in Regulatory Burden

SECTION 521. HOME MORTGAGE DISCLOSURE ACT

Section 521 increases the exemption in the Home Mortgage Disclosure Act for small depository institutions from $10 million to $50 million in total assets. This section also adds a provision requiring yearly adjustments in the exemption amount of total assets based on the annual percentage change in the Consumer Price Index. Current law exempts depository institutions with total assets of less than $10 million from the provisions of the Home Mortgage Disclosure Act and does not provide for an adjustment to the exemption level due to changes in the Consumer Price Index.

SECTION 522. REGULATORY BURDEN STUDY

Section 522 requires the Secretary of the Treasury and each appropriate Federal banking agency to conduct a review of all laws and regulations primarily enforced by each agency, except tax laws and regulations, giving particular attention to duplicate paperwork and compliance requirements, to determine the effect on insured depository institutions' capital positions and profitability.

The agencies' reports must be submitted to Congress no later than one year after enactment of the Act. The reports must contain a description of all laws and regulations that each agency determines may be modified in order to enhance and protect depository institutions' capitalization and profitability. The report must include a cost benefit analysis of the laws and regulations under study, including applications and other reporting and recordkeeping requirements. In particular the report must analyze the feasibility of reducing the number of items reported on reports of condition for institutions with total assets of under $50 million. The agencies must also report on the effectiveness of the Paperwork Reduction Act and the Regulatory Flexibility Act, including an after-the-fact analysis of the accuracy of agency estimates of the paperwork burden and the overall impact of the rules adopted.

SECTION 523. FAIR HOUSING REPORTING

The data the Federal banking agencies currently require to be disclosed for purposes of the Home Mortgage Disclosure Act and the Fair Housing Act are nearly identical. Section 523 eliminates the necessity to prepare separate forms by prohibiting the Federal banking agencies from requiring any institution that they regulate to prepare, file, or maintain a form to satisfy the Fair Housing Act, other than the form required under the Home Mortgage Disclosure Act. Under current law, the Secretary of Housing and Urban Development is responsible for promulgating rules to carry out the Fair Housing Act, including rules for the collection, analysis, and maintenance of data. The Secretary of Housing and Urban Development's authority under current law is unaffected by this section.

Subtitle D—Expedited Funds Availability

SECTION 531. AMENDMENT OF THE EXPEDITED FUNDS AVAILABILITY ACT

Section 531 amends the Expedited Funds Availability Act regarding the frequency of notices when funds will be held beyond statutory schedules based on the exceptions in the statute. For the exceptions to the statutory schedules for funds availability, no further notice is required after the required notice has been provided to a depositor until the earlier of 1 year after notice has been provided or such other time as the exception for which the notice was provided ceases to apply.

Subtitle E—Final Settlement Payment Procedures

SECTION 541. FINAL SETTLEMENT PAYMENT PROCEDURES

Section 541 amends section 11 of the Federal Deposit Insurance Act to give the Corporation, as receiver, the discretionary authority to use the "final settlement payment" method of resolving failed institutions. Under this method, in resolutions where uninsured depositors are not fully protected, the Corporation would make an immediate payment equal to the weighted average recovery of the Corporation standing in the shoes of depositors. In recent years, the weighted average recovery rate has been over 80 percent.

Title VI—Technical and Conforming Amendments

Subtitle A—Severability; Transition References

SECTION 601. SEVERABILITY

This section provides that if any provision of the Act is held to be invalid, the remainder of the Act will continue in force.

SECTION 602. TRANSITION REFERENCE

This section provides that until January 1, 1993, any references in this Act to financial services holding companies and to the FSHCA encompass bank holding companies and the BHCA, respectively.

Subtitle B—Technical and Conforming Amendments

SECTIONS 611–627. AMENDMENTS TO VARIOUS PROVISIONS OF LAW

This subtitle contains technical and conforming amendments to various provisions of law. Almost all of these amendments result from the abolishment of the Office of the Comptroller of Currency and of the Thrift Supervision and the redistribution of responsibility among the Board of Governors of the Federal Reserve System, the Director of the Office of Depository Institutions Supervision, and the Federal Deposit Insurance Corporation. A number of other provisions amend obsolete references to the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation in order to conform to current law and the substantive provisions of this Act. Amendments are also made to reflect changes in nomenclature and regulatory responsibility made by title II of the Act relating to financial services holding companies. The following additional amendments are also made:

Section 611. Subsection (b) amends the Balanced Budget and Emergency Deficit Control Act of 1985 to provide the Office of Depository Institutions Supervision with the same exemption from the apportionment and sequestration provisions of that Act provided by current law for the Office of Thrift Supervision and the Office of the Comptroller of the Currency.

Section 612. Paragraph (1) amends 5 U.S.C. 3132 to exclude the Office of Depository Institutions Supervision from the provisions of law concerning the Senior Executive Service in the same manner as the Office of Thrift Supervision and the Office of the Comptroller of the Currency are excluded under current law.

Paragraph (2) provides that the Director of the Office of Depository Institutions Supervision will be paid at the rate established for Executive Level III, the same rate at which the Director of the Office of Thrift Supervision and the Comptroller of the Currency are paid under current law.

Section 615. Subsections (a) and (b) repeal portions of the Act of January 3, 1923 (12 U.S.C. 7) and the Act of March 4, 1923 (12 U.S.C. 9–10) that relate to the organization of the Office of the Comptroller of the Currency.

Subsection (d) deletes the Office of Thrift Supervision from section 111 of Public Law 93-495 (12 U.S.C. 250) which exempted from Presidential oversight its legislative program. The same exemption did not apply to the Office of the Comptroller of the Currency and is not extended to the Office of Depository Institutions Supervision.

Subsections (e)(2) and (10) substitute the Secretary of the Treasury for the Comptroller of the Currency in sections 11(d) and 16 of the Federal Reserve Act (12 U.S.C. 248(d), 418 and 419) with regard to certain administrative matters relating to the circulation and cancellation of Federal Reserve notes.

Subsection (g)(2) repeals section 3 of the Home Owners' Loan Act (12 U.S.C. 1462a) which established the Office of Thrift Supervision. Subsection (g)(5) repeals section 9 of the Home Owners' Loan Act (12 U.S.C. 1467) governing the assessment of the cost of examinations against savings associations because this Act authorizes the Director of the Office of Depository Institutions Supervision to recover the costs of examinations from regulated institutions.

Subsection (k)(9) repeals section 26 of the Federal Deposit Insurance Act (12 U.S.C. 1831c), an obsolete provision governing the conversion of mutual savings banks to Federal savings banks prior to October 15, 1982.

Section 618. Paragraph (6) amends 18 U.S.C. 1005 to include financial services holding companies and diversified holding companies within the coverage of the section. This is accomplished by reference to the term "depository institution holding company," which is amended elsewhere in the Financial Services Holding Company Act of 1991, to include the terms "financial services holding company" and "diversified holding company."

Section 623. Paragraphs (1) through (3) amend chapter 3, subchapter I, of title 31, United States Code, to reflect the organizational changes made in the Department of the Treasury by this Act. Paragraph 4 amends 31 U.S.C. 321 to provide that powers and duties vested in the Director of the Depository Institutions Supervision by this Act are not vested in the Secretary of the Treasury. Paragraphs (8) and (9) amend provisions governing United States currency notes.

Subtitle C—Repeal of Obsolete Provisions of Law

SECTION 630. REPEAL OF OBSOLETE PROVISIONS OF LAW

Paragraph (1) repeals various provisions relating to the Comptroller of the Currency that are obsolete or are made obsolete by the Act. Paragraph (2) repeals title II of the Act of October 28, 1974 (12 U.S.C. 2401 et seq.), relating to the National Commission on Electronic Fund Transfer which completed its work more than ten years ago. Paragraph (3) similarly repeals section 14 of the Act of December 22, 1974 (12 U.S.C. 2612), relating to a report submitted to Congress by the Secretary of the Treasury prior to 1980.

Subtitle D—Effective Date

SECTION 641. EFFECTIVE DATE

This section provides that the amendments made by title V are effective on January 1, 1993, unless otherwise provided.•

• Mr. GARN. Mr. President, today I am joining with Senator RIEGLE in introducing, by request, the administration's proposal to reform our deposit insurance system and modernize our banking laws. This proposal is the result of an 18-month study of our financial system mandated by the Financial Institutions Reform, Recovery and Enforcement Act, passed in August 1989. I am very encouraged by the fact that the administration has taken the initiative in developing a comprehensive approach to the problems in our financial services industry, rather than recommending narrow "band-aid" type fixes for these problems. The issues addressed in this proposal are of vital importance to our country, and have already been the focus of an on-going series of hearings in the Banking Committee, under the leadership of Chairman RIEGLE. Following these hearings, I hope that the Banking Committee and the Senate will be able to turn its full attention to completing the necessary legislative action to address these issues in this session of Congress.•

By Mr. COCHRAN:

S. 714. A bill to provide for the establishment of the Margaret Walker Alexander National African-American Research Center; to the Committee on Labor and Human Resources.

MARGARET WALKER ALEXANDER NATIONAL AFRICAN-AMERICAN RESEARCH CENTER

• Mr. COCHRAN. Mr. President, I am introducing legislation to provide for the establishment of the Margaret Walker Alexander National African-American Research Center.

The research center is to be located at Jackson State University in Jackson, MS. Historically, the university has been known for providing education, support, and encouragement for many black students from economically disadvantaged backgrounds by providing the means for young black people to move into America's social and economic mainstream. In 1979, Jackson State University was assigned the role of an urban university, by Mississippi's governing board of public universities. Mississippi has long been a State with a predominately rural population and agriculturally based economy, but the State is now confronting many issues associated with urbanization and modernization. Jackson State University's challenges and opportunities include providing effective programs and services to meet the needs of both black and white populations in the urban area of Jackson, MS. This research center will provide an opportunity for the University to share the African American experience with all Mississippians and with others from across our Nation.

This national research center will be named after Margaret Walker Alexander, professor emeritus in the department of English at Jackson State University and a noted author and poet perhaps best known for her Civil War novel "Jubilee," her volume of verse "For My People," and most recently for her biography about her novelist friend, "The Daemonic Genius of Richard Wright."

The primary purpose of the center will be the preservation of 20th century African-American materials and archival resources. The facility will serve as a national center for the study, research, and teaching of African-American literature and history and as a repository for papers and memorabilia relating to the life of Margaret Walker Alexander and other individuals noted for their work in African-American literature, history, and the civil rights movement.

Since there is currently no national archival oral history research facility focusing exclusively on 20th century African Americans, this center will provide much needed resource materials to inform present and future generations of African-American contributions to our Nation.

Mr. President, I urge other Senators to join me in this effort and to cosponsor my bill establishing the Margaret Walker Alexander National African-American Research Center.•

By Mr. BURNS (for himself, Mr. DOLE, Mr. DIXON, Mr. BOREN, Mr. SYMMS, Mr. BAUCUS, Mr. GRASSLEY, Mr. LOTT, Mr. WIRTH, Mr. BROWN, Mr. CONRAD, Mr. NICKLES, Mr. PRESSLER, Mr. COCHRAN, Mr. SHELBY, Mr. MACK, Mr. WALLOP, Mr. COATS, Mr. FORD, Mr. SMITH, Mr. BURDICK, Mr. BOND, Mr. HELMS, Mr. KASTEN, Mr. GRAMM, Mr. SIMPSON, Mr. LUGAR, Mr. FOWLER, Mr. PRYOR, Mr. STEVENS, Mr. MCCONNELL, Mr. DASCHLE, Mr. KERREY, Mr. EXON, Mr. HEINZ, Mr. DOMENICI, and Mr. HEFLIN):

S. 715. A bill to permit States to waive application of the Commercial Motor Vehicle Safety Act of 1986 with respect to vehicles used to transport farm supplies from retail dealers to or from a farm, and to vehicles used for custom harvesting, whether or not such vehicles are controlled and operated by a farmer; to the Committee on Commerce, Science, and Transportation.

COMMERCIAL DRIVERS LICENSES

Mr. BURNS. Mr. President, I rise today to introduce legislation. Time has run out as harvest season starts to near. It seems like we are in an early spring, but in some sections of our country, the harvest has started.

I introduce this bill for its consideration, along with 36 cosponsors.

Mr. President, this is a bill to give the States the right to waive the commercial driver's license requirement for the part-time young men and women who work in the harvest every year. Where I come from, family members and young workers have always worked on the family farm and in the family businesses, and this addresses part of that problem.

All I am asking is that the States most affected by these requirements, our Nation's farm States, are given the opportunity to exempt not only farmers but farm retailers and custom harvesters.

I think this is a reasonable piece of legislation, and I urge my colleagues to support it.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 715

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in addition to the authority which the Department of Transportation granted to States to waive application of the Commercial Motor Vehicle Safety Act of 1986 with respect to farm vehicles contained in volume 53, pages 37313-37316, of the Federal Register (September 26, 1988), such States may extend such waivers to vehicles used to transport farm supplies from retail dealers to or from a farm, and to vehicles used for custom harvesting, whether or not such vehicles are controlled and operated by a farmer.

Mr. DOLE. Mr. President, last year I was proud to cosponsor this measure, and I am proud to do so again this year. This bill would permit States to waive application of the Commercial Motor Vehicle Safety Act of 1986 with respect to vehicles used to transport farm supplies from retail dealers to or from a farm, to vehicles used for custom harvesting, and to vehicles used to transport livestock feed, whether or not such vehicles are controlled or operated by the farmer.

Nearly 2 years ago, the U.S. Department of Transportation gave States the authority to waive commercial drivers license requirements for farm vehicles under the Commercial Motor Vehicle Safety Act. Unfortunately, DOT did not recognize when granting this waiver that the majority of these particular seasonal agricultural shipments were carried out by agricultural retail outlets, not necessarily by farmers.

DOT failed to recognize the importance of the custom harvesting industry, which many farmers rely upon to harvest a seasonal, perishable crop. The same is true for livestock feed operations which provide a valuable, cost effective service for farmers. These industries are markedly different than the commercial trucking industry. Most of the driving is done offpavement. They differ from other for-hire carriers because they only provide the initial transportation of grain from the field to storage, or to market, or to feedlots. These trucks average 15,000 per year and simply cannot be considered in the same category as commercial, long-haul trucking operations.

Farmers are currently facing serious economic hardship with increasing operation and transportation costs. This bill is not an exemption from commercial drivers license requirements, rather it is a commonsense approach to give States with an excellent safety record in the area the ability to set reasonable requirements for farm vehicles.

Mr. President, last year when I joined in the introduction of this legislation, this bill was cosponsored by

Senators BURNS, GRASSLEY, SYMMS, BURDICK, BOREN, PRESSLER, and NICKLES. Subsequently, upon passage of this bill October 9, 1990, Senators BAUCUS, WALLOP, COATS, FORD, BOND, HELMS, WIRTH, KASTEN, GRAMM, SIMPSON, FOWLER, and LUGAR joined as cosponsors.

The waiver was also unanimously approved by the Senate Commerce Committee on July 31, 1990, gaining Senator EXON'S support, and was included as a provision in the Negotiated Rates Equity Act. The waiver was approved again by the Senate when it was included in the Safe Food Transportation Act of 1990 which was passed by the Senate in September.

Mr. President, it is my firm belief that this measure is desperately needed in farm country. It is quite probable, if this measure is not adopted in Congress, that crops will go unharvested, farmers will find themselves short of needed supplies, and livestock producers will find themselves in trouble when it comes to securing adequate feed supplies as well.

I encourage my colleagues, particularly in the House where this measure has met repeated resistance, to once again pass this needed legislation.

By Mr. JEFFORDS (for himself, Mr. DOMENICI, Mr. WIRTH, Mr. BURDICK, Mr. BURNS, Mr. DASCHLE, Mr. CONRAD, Mr. SHELBY, Mr. CRAIG, Mr. SEYMOUR, Mr. REID, Mr. KERREY, Mr. AKAKA, and Mr. BINGAMAN):

S. 716. A bill to establish a replacement fuels and alternative fuels program, and for other purposes; to the Committee on Energy and Natural Resources.

REPLACEMENT AND ALTERNATIVE FUELS ACT

Mr. JEFFORDS. Mr. President, before our sense of pride and relief over the Mideast conflict fades from our memory, we should reflect on some of the underlying causes of that war. Primary among these is oil and our desire to preserve political stability in a region with huge reserves of this resource.

Today we are introducing a proposal to phase in the replacement of gasoline with domestic, nonpetroleum resources. I am joined by Senators DOMENICI, WIRTH, BURDICK, BURNS, DASCHLE, CONRAD, SHELBY, CRAIG, SEYMOUR, REID, KERREY, AKAKA, and BINGAMAN.

I've long held an interest in energy issues, partly from my upbringing in oil-dependent New England, and partly from my experiences as a young naval officer aboard one of the first U.S. vessels through the reopened Suez Canal in 1957. Each experience taught me the inherent advantages to domestic energy resources, an intuition that has recently been reinforced.

Our recent victory will not end our problems of oil dependence—it only emphasizes how perilous our situation remains. Cultural differences and huge disparities of income cannot help but lead to more oil interdictions.

Recently, I had the opportunity to ask Admiral Crowe, the immediate past Chairman of the Joint Chiefs of Staff, how important it is to become energy independent. He replied, "It is extremely important. We must become energy independent even if it results in a serious reduction in our standard of living." The program I am proposing today will allow us to reach that goal. And, it will do so with no significant change in our standard of living. In fact, it could improve it.

The proposal I will describe today is not new or Johnny-come-lately. I first introduced it in the 96th Congress, it garnered over 100 cosponsers, and was incorporated as title 5 of the House Energy Committee's omnibus energy bill before the bottom fell out of the price of oil.

I've reintroduced it each session of Congress since then, during which time we've reaped the benefits and detriments of cheap foreign oil without taking any significant action in the way of national energy strategy.

In brief, the bill guarantees a market for alternative and replacement fuels independent of the price of oil. It calls on refiners to substitute a fixed percentage of their total motor fuel product with nonpetroleum, domestic fuels. A market credit program, a reversal of sorts to the program under which we eliminated lead from gasoline, is established to ease the transition and encourage the least-cost options. All fuels compete on a level playing field with no new subsidies. Candidate fuels include, but are not limited to, ethanol, methanol, natural gas, electricity, and liquids from coal or oil shale.

Mr. President, scores of studies reveal the extent of our domestic energy resources. Clearly oil production alone, given that our total proven reserves are only equal to about 5-years consumption at current rates, will never bring us to oil independence. For the record, let me review my understanding of those which are potential alternative and replacement transportation fuels.

Biomass alcohols include both ethanol and methanol. A July 1990 GAO report showed that a tripling of today's ethanol capacity can be accomplished with relative ease by the year 2000. Such action would help establish the land base, refinery capacity, and distribution system for a cellulous-based biomass industry, which recent reports estimate will become cost-effective around the turn of the century.

Based on DOE research and projections, and from that which I have personally observed at its research center, all of the requirements of my bill can be met with biomass alcohols, although nothing in my bill dictates such an outcome.

Our most abundant domestic fossil fuel resource is coal, followed by oil shale. My proposal includes liquids from these resources as candidate transportation fuels, either as a refinery-blended crude-equivalent, or as converted methanol or gasoline.

Much progress has been made in improving the conversion efficiency of coal to liquids. A pilot project in Ohio, which I recently visited, achieves a thermal conversion efficiency above 80 percent in a closed system, yielding clean gases for methanol and electricity generation. A clean coal technology demonstration plant in Wyoming will convert coal to two products, one solid and one liquid.

These processes, in addition to improving the efficiency of coal utilization, render clean energy products that help with the sorts of problems we grappled with during Clean Air Act reauthorization last year. The technologies we develop will not only help in meeting clean air targets, but will help other countries, such as China and the Soviet Union, more efficiently use their vast coal reserves.

Natural gas is a promising transportation fuel, as demonstrated by the number of initiatives to encourage its use in private fleets, urban buses, and large trucks. While projections of our domestic resource base of natural gas is somewhat debatable right now, especially considering increasing estimates of coal-bed methane, my bill will encourage efforts to utilize natural gas as a transportation fuel, but will not mandate it.

Progress on battery technologies for electric vehicles has been promising, and with a new public-private research effort having recently been announced, further progress is likely. My program includes the use of electric vehicles.

Other potential candidate fuels include propane, hydrogen, fuel cells, and solar energy.

Allow me to briefly describe our proposal. First, potential nonpetroleum fuels are defined under two broad definitions. "Alternative fuels" are those fuels not suitable for being incorporated into gasoline and for which distinct engines are required. These include natural gas, propane, and the "neat" alcohols.

"Replacement fuels" are those that are capable of being mixed with gasoline and used in today's gasoline engines. These include gasohol, the ether blends, including the methanol or ethanol constituents, and liquids derived from coal, shale, or tar sands.

Under this bill, all of these fuels are treated equally, based on their relative energy content.

Under the program, beginning in 1996, refiners of motor fuels would be required to substitute an increasing percentage of their product with alternative or replacement fuels.

This substitution could take place at the refinery, as is currently being done pursuant to Clean Air Act requirements for oxygenated fuels, or through a credit-trading program with other fuel providers. The credit system also allows a company to average its requirement among its separate refineries.

For refiners who also distribute motor fuel, the substitution could take place at service stations, via blended gasohol or dedicated methanol pumps. Again, this is nothing new as it is currently being done in this area, in the Midwest and in California.

Other options for these alternative and replacement fuels to penetrate the market are created through the establishment of a market credit system, similar to that established under the acid rain title of the Clean Air Act.

Refiners that exeed their quota generate market credits to sell to another refiner who is deficient in volume. Distributors of natural gas as a transportation fuel generate credits which are then available to refiners. The same is true of distributors selling ethanol and methanol into the transportation market.

Under the market credit system, each transportation fuel is given equal opportunity to penetrate the market, because each fuel generates market credits that can be used by refiners in meeting their percentage requirement.

Mr. President, the administration proposes to expand the alternative fuels provisions of the Clean Air Act to include private fleets nationwide. The Johnston-Wallop bill proposes Federal assistance to State and local governments for purchases of alternative fueled vehicles. My State of Vermont has considered converting to natural gas vehicles. Under the Clean Air Act, municipalities will be required to purchase alternatively fueled buses.

The fuels utilized under any of these scenarios would generate market credits, which would be of value to refiners seeking to meet their percentage requirement. The program envisions maximum flexibility in meeting the requirements, it establishes a cost-sharing program, of sorts, which ultimately will be passed on to purchasers of motor fuel. Because the costs will be distributed over the total volume of motor fuel sold, and because the least-costly options are implicitly encouraged, the cost increase per gallon of gasoline should be in the range of 2 to 3 cents.

Now, producing the alternative and replacement fuels is only part of the equation. Vehicles capable of utilizing these fuels must also be phased in.

Our bill builds upon incentives of current law, the vehicle manufacturers CAFE credit for producing dual fuel and dedicated-fuel vehicles—the so-called Rockefeller-Sharp CAFE credit. The current cap of 1.2 mpg would be lifted, but only to the extent to which alternative and replacement fuels are being used as transportation fuels to displace imported oil. The idea is to give both the vehicle makers and the fuel providers timely incentives to encourage a successful and ambitious phase-in of alternative fuels.

And, under this bill, fuel for the existing vehicle fleet will become cleaner and less oil-dependent through the encouragement of alcohols, ethers, and synthetics which are suitable for refinery processing.

A final link, to the distribution network, is established by granting DOE the authority to require fuel availability at large stations in critical areas. The same authority that the State of California already has.

Mr. President, as I pointed out at the beginning of this testimony, our proposal works in harmony with everything else proposed for alternative transportation fuels.

The President's NES estimates that 700,000 barrels per day of gasoline will be displaced by the year 2000 under provisions of the Clear Air Act for reformulated gasoline and oxygenated fuels. Add to this the volume displaced under California's program, under the Fleet Conversion Program and as ethanol capacity is expanded under the GAO scenario, and the target of 10 percent by 2000 is well within reach. Ramping up to 30 percent after two decades of progress should likewise be within our national potential.

Mr. President, our bill is an insurance policy that will enhance the programs others have proposed and indeed bring them further along. Incorporated in the percentage requirements are assumptions for reformulated gasoline, oxygenated fuels, vehicle fleets, municipal buses, dual-fueled and dedicated fuel vehicles. My bill assures the effectiveness of each of these programs.

But the proposal goes further still. Some see it as "technology forcing," but I prefer to describe it as "technology proving." There are plenty of fuel technologies out there in America waiting to jump into the fuel market. Each may be confident of being more cost-effective than the other, but none is prepared to challenge the inherent cost advantages, and the volatile price, of gasoline.

This bill requires each to compete under market conditions, but leaves conventional gasoline out of the game. I see this as the only way, given the fact that OPEC can dictate the price of oil as its wellhead price is only limited by the imagination of the OPEC ministers. The uncontrolled oil gushers in Kuwait clearly proclaim the ease to which oil comes to the surface in the Mideast. As for bringing this oil from the wellhead to our refineries, our commitment here is also now well documented.

Gasoline has other advantages, as well—as well-defined infrastructure for processing and distribution; a huge vehicle fleet designed to consume it; a public accustomed to its convenience.

Unfortunately, our country's oil resources are dwindling. Even the most ambitious of strategies merely attempt to slow the rate at which we are becoming more dependent on imported oil.

Our bill guarantees the introduction of a fixed volume of alternative and replacement fuels. It puts this country in a position to prove the technologies that will allow us to go entirely oil independent later in the century. It does so in a least-cost fashion, with a coordinated introduction of alternatively fueled vehicles, and allows the market to determine the sorts of energy initiatives that the American people desire.

Mr. Chairman, until we break the grip of oil in the transportation sector, we cannot claim to have taken meaningful strides in achieving energy independence. It is not an easy task, but I see this bill as the only comprehensive and cost-effective proposal for the replacement of gasoline.

Mr. President, I ask unanimous consent that the text of the bill and a summary be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 716

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Replacement and Alternative Fuels Act of 1991".

SEC. 2. FINDINGS.

The Congress finds and declares that—

(1) United States national security demands that we reduce our dependency on imported oil;

(2) domestic resources are available to eliminate or substantially reduce our dependency on imported oil;

(3) the transportation sector, currently 95% dependent on oil, accounts for more than 60 percent of our national oil consumption;

(4) a comprehensive energy program, including the stimulation of the production and use of automobiles capable of using alternative fuels, is needed to reduce pollution as well as reduce our dependency on imported oil;

(5) such program should be designed to create a positive impact on the economy, our national trade balance, and our national budget;

(6) such program should allow market forces, within appropriate environmental parameters, to affect the selection of replacement or alternative fuels; and

(7) such program should provide long-term stability to industries producing replacement and alternative fuels.

SEC. 3. PURPOSE.

The purposes of this Act are to—

(1) enhance energy security;

(2) reduce air pollution;

(3) improve our balance of trade;

(4) reduce the budget deficit;

(5) improve the marketability of alternative and flexible fuel vehicles; and

(6) improve the condition of the national economy through the enhancement of the replacement fuel industry and the creation of an alternative fuel industry.

SEC. 4. DEFINITIONS.

For purposes of this Act—

(1) the term "Administrator" means the Administrator of the Environmental Protection Agency;

(2) the term "alcohol" means methanol or ethanol, which is suitable for use by itself or in combination with other fuels as a motor fuel;

(3) the term "conventional petroleum" means petroleum derived from oil wells, including stripper wells, domestic or imported;

(4) the term "domestic" means derived from resources within the 50 States and the territories of the United States;

(5) the term "motor fuel" means any substance suitable as a fuel for self-propelled vehicles designed primarily for use on public streets, roads, and highways;

(6) the term "alternative fuel" means a motor fuel not designed to be mixed with gasoline, including propane, natural gas, "neat" alcohol, hydrogen, and electricity;

(7) the term "replacement fuel" means a motor fuel capable of mixing with gasoline, including alcohol and liquids not derived from conventional petroleum;

(8) the term "commerce" means any trade, traffic, transportation, exchange, or other commerce—

(A) between any State and any place outside of such State; or

(B) which affects any trade, traffic, transportation, exchange, or other commerce described in subparagraph (A);

(9) the term "refiner" means any person engaged in the refining of crude oil to produce motor fuel, including any affiliate of such person, or any importer of motor fuel; and

(10) the term "Secretary" means the Secretary of Energy.

SEC. 5. REPLACEMENT AND ALTERNATIVE FUEL PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish, pursuant to this Act, a program to promote the development and use of domestic-produced replacement and alternative fuels. Such program shall promote the replacement of conventional petroleum motor fuels with replacement and alternative fuels to the maximum extent practicable. Such program shall, to the extent practicable, ensure the availability of those replacement fuels and alternative motor fuels which will have the greatest impact in improving air quality in urban areas, along transportation corridors, and nationwide.

(b) DEVELOPMENT PLAN AND PRODUCTION GOALS.—Under the program established under subsection (a), the Secretary, in consultation with the Administrator, the Secretary of Transportation, the Secretary of Agriculture, the Secretary of Commerce, and the heads of other appropriate agencies, shall review appropriate information and—

(1) estimate the production capacity in the United States for replacement fuel and alternative fuel needed to implement the provisions of this section;

(2) determine the technical and economic feasibility of producing in the United States sufficient replacement fuels and alternative fuels, by the calendar year 2010 to replace 30 percent or more, on an energy equivalent basis, of the projected consumption of motor fuel in the United States for that year;

(3) determine the most suitable raw materials, other than conventional petroleum, for the production in the United States of replacement and alternative fuels;

(4) determine the most suitable means and methods of developing and encouraging the production, distribution, and use of replacement and alternative fuels; and

(5) identify ways to encourage the development of reliable replacement fuel and alternative fuel industries in the United States, and the technical, economic, and institutional barriers to such development.

The Secretary shall prescribe, by rule, a substitute percentage goal for purposes of paragraph (2) upon a determination that 30 percent is unachievable due to technological or cost constraints.

(c) TIMETABLE.—(1) Not later than January 1, 1993, the Secretary shall, by rule, prescribe the minimum percentage of domestic-produced replacement and alternative fuels, on an energy equivalent basis, to be sold in calendar years 1996 and 1997 by any refiner for use as a motor fuel. In establishing such percentages, the Secretary shall—

(A) take into account the availability of reliable sources of replacement fuel and alternative fuel; and

(B) provide that the goal for domestic production of replacement fuel and alternative motor fuels for calendar year 1998 and thereafter shall be not less than 10 percent on an energy equivalent basis of the projected consumption of motor fuel in the United States for each year. The Secretary shall increase the minimum percentage for the years 2005 through 2009 if feasible based on the findings rendered under subsection (b).

(2) Of the total quantity of gasoline, alternative fuel, and replacement motor fuel sold in commerce during any of the following years by any refiner (including sales to the Federal Government), replacement fuel and alternative fuel produced domestically shall constitute the minimum percentage determined in accordance with the following table:*ERR08*

In the calendar year:	The minimum percentage which replacement fuel constitutes, shall be—
1996, 1997	Determined by the Secretary under subsection (c) of this section.
1998 through 2009	10 percent, adjustable by rule after 2005.
2010 and each year thereafter.	The percentage determined feasible under subsection (b).

(3) The Secretary shall, not later than January 1, 1993, promulgate regulations allowing the sale and other exchange of marketable credits among—

(A) refiners;

(B) distributors of alternative motor fuels sold into commerce for transportation purposes; and

(C) manufacturers of electricity powered automobiles;

in order to satisfy the requirements of this section, and to further the purposes of this Act. In determining the value of such credits for the various fuel sources, the Secretary shall consider the relative energy content of the fuel source.

(4)(A) Any domestic refinery of crude oil, whose capacity per calendar day as of the date of enactment is less than 20,000 barrels, shall be granted a 36-month extension by the Secretary from the requirements of this subsection.

(B) The Secretary may, on the application of any person, make adjustments to reduce the minimum percentage requirement as it applies to that person, due to prohibitive costs or an inability to access raw materials.

(d) REPORTING REQUIREMENTS.—(1) Not later than 9 months after the date of the enactment into law of this Act, the Secretary shall complete his review and determinations under this section and prepare and transmit a report thereon to each House of the Congress.

(2)(A) Each refiner shall report annually to the Secretary the percentage of domestic-produced replacement fuel, on an energy equivalent basis, contained in the total quantity of motor fuel that such refiner sold during the preceding calendar year, and the amount of alternative motor fuels, sold or credited to such refiner during such year.

(B) Each distributor of alternative fuel shall report annually to the Secretary the amount of alternative fuel sold into commerce for transportation purposes, and the amount of credits sold to refiners, by such distributor during such year.

(C) The Secretary of Transportation shall report annually to the Secretary of Energy the number of dual fuel and dedicated alternative fuel vehicles manufactured and sold into commerce by each manufacturer each year.

(D) For electricity powered vehicles, the Secretary shall determine the value of credits which shall be available to manufacturers of electricity powered vehicles.

(3) The Administrator shall report to Congress not later than 24 months after the date of the enactment into law of this Act on the environmental impact potential of developing replacement fuels and alternative motor fuels. Such report shall analyze potential benefits and detriments to air and water quality, the ramifications on solid and hazardous waste management, and implications for public land management.

SEC. 6. COORDINATION OF AUTOMOBILES WITH ALTERNATIVE FUELS.

Subsection (g) of section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) is amended by adding at the end the following:

"(3) Notwithstanding any other provision of this section, if the average fuel economy standard applicable to passenger automobiles is increased above 27.5 miles per gallon for any model year, the Secretary may increase the maximum increase in average fuel economy for a manufacturer attributable to dual energy automobiles and natural gas dual energy automobiles to the extent that alternative and replacement motor fuel sales indicate that such fuels are being used to displace the use of conventional petroleum as a motor fuel, provided that the fuel economy standard for gasoline fueled vehicles does not decrease from the level as of the date of enactment of this Act.".

SEC. 7. ENFORCEMENT BY THE SECRETARY.

(a) VIOLATIONS.—Any person who violates any requirement of section (5) is subject to a civil penalty of not more than $1 per gallon for each gallon of fuel sold that is not in compliance with subsection (c). Such penalties shall be assessed by the Secretary.

(b) REVIEW.—Any person against whom a penalty is assessed under this paragraph may, within 60 calendar days after the date of the order of the Secretary assessing such penalty, institute an action in the United States court of appeals for the appropriate judicial circuit for judicial review of such order in accordance with chapter 7 of title 5, United States Code. The court shall have jurisdiction to enter a judgment affirming, modifying, or setting aside in whole or in part, the order of the Secretary, or the court may remand the proceeding to the Secretary for such further action as the court may direct.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary to carry out this Act not to exceed $10,000,000 for each of the fiscal years 1992 through 1996.

SEC. 9. COORDINATION WITH OTHER ACTS.

This Act shall be administered and enforced in coordination with the administration and enforcement of the Energy Security Act, and the Clean Air Act.

SEC. 10. REGULATIONS.

The Secretary shall issue such regulations as may be necessary to require retailers of motor fuel, at service stations which dispense more than 20,000 gallons of motor fuel per month, to have available for sale, in addition to replacement motor fuels, other alternative motor fuels, for the transportation needs of consumers.

SUMMARY OF THE REPLACEMENT AND ALTERNATIVE FUELS ACT OF 1991

Section 1: Title: "Replacement Fuels & Alternative Fuels Act of 1991"

Section 2: Findings: Need for national energy strategy that utilizes domestic resources competing under market conditions.

Section 3: Purpose: To enhance energy security and reduce air pollution, and for other purposes.

Section 4: Definitions:

Alternative Fuel: motor fuel not designed to be mixed with gasoline, including propane, natural gas, "neat" alcohol, hydrogen and electricity.

Replacement Fuel: motor fuel capable of being mixed with gasoline, including alcohol and liquids not derived from conventional petroleum.

Section 5: Program:

Secretary of Energy shall establish program to replace gasoline with the maximum amount of replacement and alternative fuels.

Targets: 10% replacement by 1998 and 30% replacement by 2010.

Credit trading: Allowed between refiners of gasoline and distributors of alternative fuels.

Reporting: Required by refiners, distributors, and manufacturers of vehicles.

Exemptions: Deadline extension allowed for small refiners of domestic oil, and on a case-by-case basis. Year 2010 target may be adjusted by the Administrator.

Section 6: Automobiles: manufacturers may earn credits against Corporate Average Fuel Economy standard for production of alternative fuel vehicle, provided fuel sales indicate that such vehicles utilize alternative fuels.

Section 7: Enforcement: $1 per gallon penalty for non-compliance.

Section 8: Authorizes $10 million annually to administer program.

Section 9: Program to be coordinated with Clean Air Act.

Section 10: Regulations: Secretary may require retailers to make available sales of alternative fuels.

By Mr. DOMENICI (for himself and Mr. INOUYE):

S.J. Res. 97. Joint resolution to recognize and honor members of the reserve components of the Armed Forces of the United States for their contribution to victory in the Persian Gulf; to the Committee on Armed Services.

PERSIAN GULF WAR RESERVIST COMMEMORATIVE LEGISLATION

Mr. DOMENICI. Mr. President, for myself and Senator INOUYE, I send to the desk for proper referral a joint resolution, which would appropriately honor the men and women of the Reserve forces of the United States who were called up for this engagement in the Middle East. I do not believe we have properly set about to thank and honor them, while many of them sacrificed well beyond anything we ever expected. This resolution would properly recognize them in a joint congressional way.

I send to the desk the resolution, and ask that the resolution be properly referred.

Over 200,000 reservists were called to active duty since the beginning of Operation Desert Shield/Storm on August 2, 1991. Mr. President, about half of these Americans were sent to Saudi Arabia to serve in that theatre, but over 120,000 who were called to active duty remained here in the United States to make up the backbone of the line of support that lead to the troops stationed in Saudi Arabia.

We are justifiably proud of our service men and women who took us to victory in the Persian Gulf. However, we must not forget that this victory could not have been possible without the efforts of those members of the Reserve forces called to active duty but who remained here in the United States.

Many of these reservists come from all walks of life. Some of them are engineers, some are doctors, some are small store owners—but they are all dedicated and hard-working Americans. One of these reservists called to active duty is a member of my staff in New Mexico, so I know about what they are going through. It is a credit to them and to our country that such a massive number of people could be called to active duty and serve with such professionalism, skill and pride. One of the lessons we have learned from this war is the value of the professional soldier, who is trained, educated, and well-equipped. That is what these reservists who were called to active duty demonstrated very plainly to the American people and to the world.

It is important to point out that the lives of these reservists and their families were as equally disrupted as the active duty component of our Armed Forces that left for the Saudi Arabian theatre. It doesn't really matter to a 4- or 5-year old whose parent is called to active duty where their mother or father serves. Georgia, Florida, or New Mexico can be as far away in their eyes as Saudi Arabia. All they really know is that mommy or daddy is gone and they don't know for certain when he or she might be coming home again.

Therefore, Mr. President, I rise to call to the attention of this body, the American people, and the rest of the world, the valiant efforts of the Reserve forces called to active duty and remaining in the United States to support the efforts of those deployed elsewhere. Their actions were truly an indispensable contribution in carrying the Nation to victory. They deserve to be honored in this way, and it is my hope that my fellow colleagues will support this resolution. It is but one small way to pay them the thanks they really deserve.

• Mr. INOUYE. Mr. President, I am honored to join with my distinguished colleague from New Mexico, Senator DOMENICI, in sponsoring the Persian Gulf War Reservist Commemorative Act of 1991.

Surely, there is not a person in the Chamber today who has not stood in awe of the magnificent actions taken by the men and women in our armed services during Operation Desert Shield/Desert Storm. An armed force composed of all elements of the total force policy faced an enemy and won.

As we recognize the bravery and gallantry shown by the members of the active-duty Army, Navy, Marine Corps, Air Force, and Coast Guard—of whom we are so rightfully proud—we must not forget the citizen soldiers who served during the Persian Gulf conflict.

The Reserve components who reaped the most renown for their service were those on the front line of battle, and we honor them. But we must not forget—and we must also honor—those units of the Reserves and National Guard who served in supporting roles in the United States.

Without these good Americans, willing to endure disruption of their private lives and to sacrifice self for country, I doubt that the outcome of the battle in the Persian Gulf could have been the same. To all of them, we are grateful.

It is wonderful—and I use that word in its classic sense, I am "full of wonder"—how successfully the members of the activated Reserves and National Guard performed a myriad of complex and often dangerous tasks. Because of their service, ships went to sea quickly, and it was they who expeditiously loaded and unloaded our ships and planes to provide needed supplies to our military on the ground in the Persian Gulf. Without them fewer combat missions would have flown, and the air support our troops on the ground desperately needed would have been lacking.

Medical facilities—both in the Persian Gulf and in the United States—would have been undermanned. Indeed, it is no exaggeration to say that, without medical care professionals brought in from the reserve component, military hospitals in the United States could not have functioned once active duty physicians and nurses had been deployed.

Some reservists made the ultimate sacrifice—their lives—and others will bear the scars of battle forever. They have our respect and gratitude.

I shall not attempt to enumerate all the functions provided by reservists, from the provision of pure water to carrying the mail, from equipment maintenance to medical care. All were necessary, all were performed with professionalism and skill.

When we offer tribute to the Reserves who served so well on the Arabian Peninsula and in the United States, we must not forget to offer a similar tribute to their families who also served their country by enduring the pains of separation, the fear of loss, and who bore their burdens with grace.

I referred earlier to the "citizen soldier." One of the things that has made our Nation great is the partnership between those who choose a life of active military service and those who are prepared to respond when their country calls.

I am glad to join with my friend from New Mexico in offering this tribute to the Reserve components of the United States, and I am sure our colleagues will also join us in honoring them.•

By Mr. EXON (for himself, Mr. ADAMS, Mr. AKAKA, Mr. BENTSEN, Mr. BIDEN, Mr. BRADLEY, Mr. BRYAN, Mr. BURDICK, Mr. BURNS, Mr. BYRD, Mr. COATS, Mr. CONRAD, Mr. D'AMATO, Mr. DECONCINI, Mr. DIXON, Mr. DODD, Mr. DOMENICI, Mr. FORD, Mr. FOWLER, Mr. GLENN, Mr. GORE, Mr. GRASSLEY, Mr. HEINZ, Mr. HOLLINGS, Mr. INOUYE, Mr. JEFFORDS, Mr. KASTEN, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. PRYOR, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. SANFORD, Mr. SARBANES, Mr. SIMON, Mr. SPECTER, Mr. WARNER, and Mr. WELLSTONE):

S.J. Res. 98. A joint resolution to express appreciation for the benefit brought to the Nation by Amtrak during its twenty years of existence; to the Committee on Commerce, Science, and Transportation.

COMMEMORATION OF AMTRAK'S FIRST TRAIN

• Mr. EXON. Mr. President, on October 30, 1970, Congress enacted the Rail Passenger Service Act in an attempt to salvage the Nation's rail passenger system. Now, some 20 years later, the wisdom and vision reflected in passage of the act is demonstrated daily as thousands of travelers board Amtrak trains across the country. I rise today to introduce a joint resolution commemorating the 20th anniversary of the operation of Amtrak's first train, which will occur on May 1, 1991.

Over the years, as chairman of the Senate Subcommittee on Surface Transportation charged with the oversight of Amtrak, I have been involved in several capacities with this federally created corporation charged with saving and revitalizing the Nation's intercity rail passenger system.

While many were skeptical 20 years ago that Amtrak could or would succeed, there were those in this body who believed that it had to succeed for the good of the Nation. While every other major industrialized nation was rapidly developing their rail passenger programs, trains in the United States were on the transportation endangered species list.

Congress recognized that rail passenger service had an important role to play in the Nation's transportation system—both in urban areas and as a link to rural America. As an energy-efficient and environmentally preferable alternative to highway and airport congestion, its role was a unique one.

The convictions of this Congress proved well founded. While the new Rail Passenger Corporation struggled with antiquated equipment, a decentralized and fragmented rail network and a skeptical industry, the public responded with their wallets at the ticket windows. The downtrend in rail passenger ridership reversed itself overnight and Amtrak set its sights on expansion and improvement.

It was anything but smooth sailing for Amtrak in the first decade. The railroad maintained its equipment in outdoor facilities in the dead of winter. It fought breakdowns for lack of parts, and struggled to instill a sense of professionalism and optimism in a work force that had been demoralized by years of neglect of the passenger train business.

Amtrak's success in the face of those early challenges has exceeded the expectations of even its most ardent supporters. Its on-time-performance today rivals that of the airline industry. Rolling stock, though in short supply, is well maintained and in many cases state-of-the-art. Amtrak's track and track maintenance capabilities are unparalleled, and its modern computer reservations and ticketing system is serving as the model for the development of new systems around the world.

No rail passenger system in the world covers a higher percentage of it costs from non-Federal sources than Amtrak, and it has announced that it intends to become the first passenger railroad in the modern age to operate without federal operating support by the year 2000.

Frankly, Mr. President, if Amtrak had announced such a goal 10 years ago, I would have been concerned for its collective sanity. But I have witnessed firsthand the strides the company has made under the capable and steady hand of its president and chairman, W. Graham Claytor, Jr. He has brought a toughmindedness about cost control and a dedication to quality transportation service to Amtrak, with remarkable results.

Indeed, an announcement that would have seemed absurdly unrealistic under another CEO suddenly strikes anyone who knows Graham Claytor as deadly serious. His organization has made it clear that he is not content merely keeping the status quo in today's transportation environment. Amtrak wants to be able to meet the call for new and expanded service, where it makes good business sense.

Amtrak is an important part of our nationwide transportation system. Amtrak serves my home State of Nebraska with stops in Omaha, Lincoln, Hastings, Holdredge, and McCook. Amtrak has also become the Nation's largest rail commuter operator and is expanding its leadership role in that field. With that learning curve behind them, Amtrak is now looking ahead to the development of high-speed rail passenger systems and magnetic levitation systems in the United States. It intends to be an active participant in this repainting of the American transportation landscape.

Mr. President, the support shown for Amtrak in Congress during recent votes on the Amtrak Reauthorization and Improvement Act was impressive. For the first time in a decade, a freestanding Amtrak authorization bill has been signed by the President. I believe Amtrak has a very bright future, and I further believe that the Nation will be better for it.

In light of the dramatic progress Amtrak has made since its inception, and the enthusiasm with which it looks to its future, it gives me great pleasure to introduce this joint resolution to Congress, to commemorate 20 years of good railroading and to applaud those with the vision and conviction to preserve rail passenger service.•

By Mr. GLENN (for himself, Mr. BRADLEY, Mr. REID, Mr. MOYNIHAN, Mr. CONRAD, Mr. SANFORD, Mr. WARNER, Mr. DIXON, Mr. JEFFORDS, Mr. CRANSTON, and Mr. MURKOWSKI):

S.J. Res. 99. Joint resolution designating November 24–30, 1991, and November 22–28, 1992, as "National Family Caregivers Week"; to the Committee on the Judiciary.

NATIONAL FAMILY CAREGIVERS WEEK

• Mr. GLENN. Mr. President, today, along with Senators BRADLEY, REID, MOYNIHAN, MURKOWSKI, CONRAD, SANFORD, WARNER, DIXON, JEFFORDS, and CRANSTON, I am introducing Senate Joint Resolution 99 designating the weeks of November 24, 1991, and November 22, 1992, as "National Family Caregivers Week." Congresswoman OLYMPIA SNOWE has introduced an identical resolution, House Joint Resolution 125, in the House of Representatives.

The fastest growing segment of our population is the age 85 and older group. Although the majority of older Americans enjoy a fulfilling and independent retirement, those fortunate to reach age 85 and beyond face an increased chance of suffering from multiple chronic ailments, and thus requiring help from caregivers. Over 80 percent of this care is provided by family members. The resolution that I am introducing today would both recognize the important work done by America's 7 million family caregivers and highlight the need to provide assistance to these hard-working individuals.

Most of the care received by older Americans comes from wives, daughters, and daughters-in-law. Caregivers are usually between the ages of 30 and 70 and often have many other demands on their time. Caregivers who face the challenge of caring for their children and parents simultaneously—an estimated 1.8 million women—are called the sandwich generation. Many sacrifice employment opportunities because they are unable to meet the demands of their jobs, their families, and their caregiving responsibilities. They are forced to risk not only their careers but also their current and future financial well-being. Also, an increasing number of caregivers are elderly themselves and have taken on the responsibility of caring for their spouses.

The care provided by these people often delays or prevents the receiver's need for institutional care. It can save money and help keep families intact. However, caregiving is very stressful. It is often an around-the-clock responsibility that leaves the caregiver emotionally and physically exhausted.

As our population continues to age, more Americans will provide care to the elderly. We must improve services to assist our Nation's caregivers. Programs such as adult day care, respite care, and counseling and support groups for caregivers are essential and should be expanded. The U.S. Bipartisan Commission on Comprehensive Health Care, also known as the Pepper Commission, has recommended creating a long-term care insurance program for the elderly and disabled which would cover respite, home health, personal, and home- and community-based care. I agree that we need to assure access to these services which would help caregivers take care of themselves and their families.

"National Family Caregivers Week" recognizes the vital role of caregivers in our society and focuses on ways of meeting their needs. I urge my colleagues in the Senate to join me in supporting this important measure.

Mr. President, I request that the text of the joint resolution be printed in the RECORD at this point.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 99

Whereas the number of Americans who are age 65 or older is growing;

Whereas there has been an unprecedented increase in the number of persons who are age 85 or older;

Whereas the incidence of frailty and disability increases among persons of advanced age;

Whereas approximately 5.2 million older persons have disabilities that leave them in need of help with their daily tasks, including food preparation, dressing, and bathing;

Whereas families provide older persons help with such tasks, in addition to providing between 80 and 90 percent of the medical care, household maintenance, transportation, and shopping needed by older persons;

Whereas families who give care to older persons face many additional expenses, including the costs of home modifications, equipment rental, and additional heating;

Whereas 80 percent of disabled elderly persons receive care from their family members, most of whom are their wives, daughters, and daughters-in-law, who often must sacrifice employment opportunities to provide such care;

Whereas the role of the aged spouse as a principal caregiver has generally been understated;

Whereas family caregivers are often physically and emotionally exhausted from the amount of time and stress involved in caregiving activities;

Whereas family caregivers need information about available community resources;

Whereas family caregivers need respite from the strains of their caregiving roles;

Whereas the contributions of family caregivers help maintain strong family ties and assure support among generations; and

Whereas there is a need for greater public awareness of and support for the care that family caregivers are providing:

Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 24–30, 1991, and November 22–28, 1992, are each designated "National Family Caregivers Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such weeks with appropriate programs, ceremonies, and activities.•

ADDITIONAL COSPONSORS

At the request of Mr. BOREN, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 3, a bill to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits for Senate election campaigns, and for other purposes.

S. 28

At the request of Mr. MOYNIHAN, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 28, a bill to amend title 13, United States Code, to remedy the historic undercount of the poor and minorities in the decennial census of population and to otherwise improve the overall accuracy of the population data collected in the decennial census by directing the use of appropriate statistical adjustment procedures, and for other purposes.

S. 50

At the request of Mr. SYMMS, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 50, a bill to ensure that agencies establish the appropriate procedures for assessing whether or not regulation may result in the taking of private property, so as to avoid such where possible.

S. 68

At the request of Mr. THURMOND, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 68, a bill to amend title 10, United States Code, to authorize the appointment of chiropractors as commissioned officers in the Armed Forces to provide chiropractic care, and to amend title 37, United States Code, to provide special pay for chiropractic officers in the Armed Forces.

S. 83

At the request of Mr. SYMMS, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 83, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income payments made by public utilities to customers to subsidize the cost of energy and water conservation services and measures.

S. 106

At the request of Mr. CRAIG, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of S. 106, a bill to amend the Federal Power Act.

S. 144

At the request of Mr. MCCAIN, the names of the Senator from Rhode Island [Mr. PELL], the Senator from Arkansas [Mr. BUMPERS], and the Senator from California [Mr. CRANSTON] were added as cosponsors of S. 144, a bill to protect the natural and cultural resources of the Grand Canyon and Glen Canyon.

S. 178

At the request of Mr. INOUYE, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 178, a bill to amend title 10, United States Code, to authorize the appointment of health care professionals to the positions of the Surgeon General of the Army, the Surgeon General of the Navy, and the Surgeon General of the Air Force.

S. 284

At the request of Mr. LIEBERMAN, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of S. 284, a bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of payments under life insurance contracts for terminally ill individuals.

S. 311

At the request of Mr. ROTH, the names of the Senator from Montana

[Mr. BURNS], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of S. 311, a bill to make long-term care insurance available to civilian Federal employees, and for other purposes.

S. 369

At the request of Mr. WARNER, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 369, a bill to amend title 23, United States Code, to establish a program for expanding the capacity of heavily traveled portions of the National System of Interstate and Defense Highways located in urbanized areas with a population of 50,000 or more for the purposes of reducing traffic congestion, improving safety, and increasing the efficiency of the System.

S. 377

At the request of Mrs. KASSEBAUM, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 377, a bill to amend the International Air Transportation Competition Act of 1979.

S. 391

At the request of Mr. REID, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 391, a bill to amend the Toxic Substances Control Act to reduce the levels of lead in the environment, and for other purposes.

S. 401

At the request of Mr. DOMENICI, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 401, a bill to amend the Internal Revenue Code of 1986 to exempt from the luxury excise tax parts or accessories installed for the use of passenger vehicles by disabled individuals.

S. 448

At the request of Mr. SYMMS, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from Pennsylvania [Mr. HEINZ], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 448, a bill to amend the Internal Revenue Code of 1986 to allow tax-exempt organizations to establish cash and deferred pension arrangements for their employees.

S. 463

At the request of Mr. HATFIELD, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from Washington [Mr. GORTON], the Senator from Hawaii [Mr. AKAKA], the Senator from Mississippi [Mr. LOTT], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 463, a bill to establish within the Department of Education an Office of Community Colleges.

S. 474

At the request of Mr. DECONCINI, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 474, a bill to prohibit sports gambling under State law.

S. 487

At the request of Mr. GLENN, the names of the Senator from Maine [Mr. MITCHELL], and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of S. 487, a bill to amend title XVIII of the Social Security Act to provide for coverage of bone mass measurements for certain individuals under part B of the Medicare Program.

S. 534

At the request of Mr. LOTT, the names of the Senator from Minnesota [Mr. DURENBERGER], the Senator from Maryland [Mr. SARBANES], the Senator from Texas [Mr. GRAMM], the Senator from Iowa [Mr. GRASSLEY], the Senator from Delaware [Mr. ROTH], the Senator from South Dakota [Mr. PRESSLER], the Senator from Rhode Island [Mr. PELL], the Senator from Wisconsin [Mr. KASTEN], the Senator from Montana [Mr. BAUCUS], the Senator from Minnesota [Mr. WELLSTONE], and the Senator from Georgia [Mr. FOWLER] were added as cosponsors of S. 534, a bill to authorize the President to award a gold medal on behalf of the Congress to General H. Norman Schwarzkopf, and to provide for the production of bronze duplicates of such medal for sale to the public.

S. 559

At the request of Mr. SYMMS, the names of the Senator from New York [Mr. D'AMATO], the Senator from Michigan [Mr. LEVIN], the Senator from Indiana [Mr. COATS], the Senator from Massachusetts [Mr. KERRY], the Senator from Idaho [Mr. CRAIG], the Senator from Arizona [Mr. DECONCINI], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Nevada [Mr. BRYAN], the Senator from North Carolina [Mr. HELMS], the Senator from Colorado [Mr. WIRTH], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Tennessee [Mr. SASSER], the Senator from Colorado [Mr. BROWN], the Senator from Connecticut [Mr. DODD], the Senator from Illinois [Mr. DIXON], the Senator from Delaware [Mr. ROTH], the Senator from New Mexico [Mr. DOMENICI], the Senator from Virginia [Mr. WARNER], the Senator from Florida [Mr. MACK], the Senator from Mississippi [Mr. LOTT], the Senator from Oklahoma [Mr. NICKLES], the Senator from Alaska [Mr. STEVENS], the Senator from Wyoming [Mr. SIMPSON], the Senator from Washington [Mr. ADAMS], the Senator from New Hampshire [Mr. RUDMAN], the Senator from Montana [Mr. BURNS], the Senator from Arkansas [Mr. BUMPERS], the Senator from Mississippi [Mr. COCHRAN], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Kentucky [Mr. FORD], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of S. 559, a bill to require the Secretary of the Treasury to mint coins in commemoration of Operation Desert Shield/Desert Storm.

S. 565

At the request of Mr. WARNER, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 565, a bill to authorize the President to award a gold medal on behalf of the Congress to General Colin L. Powell, and to provide for the production of bronze duplicates of such medal for sale to the public.

S. 583

At the request of Mr. ROTH, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 583, a bill to amend the Internal Revenue Code of 1986 to require the recapture of certain losses of savings and loan associations, to clarify the treatment of certain Federal financial assistance to savings and loan associations, and for other purposes.

S. 593

At the request of Mr. CHAFEE, the name of the Senator from Hawaii [Mr. INOUYE] was withdrawn as a cosponsor of S. 593, a bill to amend title 23, United States Code, to control billboard advertising adjacent to Interstate Federal-aid primary highways, and for other purposes.

S. 615

At the request of Mr. LAUTENBERG, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 615, a bill entitled the "Environmental Marketing Claims Act of 1991."

S. 627

At the request of Mr. JOHNSTON, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 627, a bill to designate the lock and dam 1 on the Red River Waterway in Louisiana as the "Lindy Claiborne Boggs Lock."

S. 651

At the request of Mr. GARN, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 651, a bill to improve the administration of the Federal Deposit Insurance Corporation, and to make technical amendments to the Federal Deposit Insurance Act, the Federal Home Loan Bank Act, and the National Bank Act.

S. 654

At the request of Mr. DECONCINI, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 654, a bill to amend title 35, United States Code, with respect to patents on certain processes.

S. 689

At the request of Mr. HATFIELD, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 689, a bill to amend the Internal Revenue Code of 1986 to provide that a taxpayer conscientiously opposed to participation in war may elect to have such taxpayer's income, estate, or gift tax payments spent for nonmilitary purposes; to create the United States Peace Tax Fund to receive such tax payments; to establish a United States Peace Tax Fund Board of Trustees; and for other purposes.

SENATE JOINT RESOLUTION 21

At the request of Mr. SASSER, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of Senate Joint Resolution 21, a joint resolution expressing the sense of the Congress that the Department of Commerce should utilize the statistical correction methodology to achieve a fair and accurate 1990 Census.

SENATE JOINT RESOLUTION 65

At the request of Mr. D'AMATO, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of Senate Joint Resolution 65, a joint resolution designating the week beginning May 12, 1991, as "Emergency Medical Services Week."

SENATE JOINT RESOLUTION 94

At the request of Mr. PACKWOOD, his name was added as a cosponsor of Senate Joint Resolution 94, a joint resolution relative to Iraq.

At the request of Mr. BROWN, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of Senate Joint Resolution 94, supra.

SENATE CONCURRENT RESOLUTION 12

At the request of Mr. LAUTENBERG, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of Senate Concurrent Resolution 12, a concurrent resolution to express the sense of the Congress that the civil rights and civil liberties of all Americans, including Arab Americans, should be protected at all times, and particularly during times of international conflict of war, and for other purposes.

SENATE CONCURRENT RESOLUTION 16

At the request of Mr. BOREN, his name was added as a cosponsor of Senate Concurrent Resolution 16, a concurrent resolution urging Arab states to recognize, and end the state of belligerency with, Israel.

SENATE CONCURRENT RESOLUTION 19

At the request of Mr. CRANSTON, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of Senate Concurrent Resolution 19, a concurrent resolution condemning the People's Republic of China's continuing violation of universal human rights principles.

SENATE CONCURRENT RESOLUTION 22

At the request of Mr. PACKWOOD, his name was added as a cosponsor of Senate Concurrent Resolution 22, a concurrent resolution extending the appreciation of Congress to all American Indian veterans for their service in the Armed Forces of the United States.

SENATE RESOLUTION 72

At the request of Mr. KASTEN, the names of the Senator from Washington [Mr. GORTON], the Senator from South Carolina [Mr. THURMOND], and the Senator from Iowa [Mr. GRASSLEY], were added as cosponsors of Senate Resolution 72, a resolution to express the sense of the Senate that American small businesses should be involved in rebuilding Kuwait.

SENATE RESOLUTION 81

At the request of Mr. DECONCINI, his name was added as a cosponsor of Senate Resolution 81, a resolution commending the Baltic States for their efforts to regain independence and urging measures to support such efforts.

SENATE CONCURRENT RESOLUTION 23—DEPLORING THE BLATANT DESTRUCTION OF THE ENVIRONMENT IN THE PERSIAN GULF REGION BY SADDAM HUSSEIN

Mr. MACK (for himself and Mr. GRAHAM) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 23

Whereas the release of millions of gallons of oil into the Persian Gulf will have a devastating impact on the wildlife and marine life of the Gulf region and endangers the water supplies of several Gulf states;

Whereas the deliberate torching of more than 500 oil wells in Kuwait has created severe atmospheric pollution; and

Whereas Saddam Hussein is responsible for the degradation of the environment: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) deplores Saddam Hussein's vicious attacks against the environment in releasing millions of gallons of oil into the Persian Gulf and torching hundreds of oil wells in Kuwait; and

(2) declares that Saddam Hussein and the current Iraqi regime should be held liable under United Nations Security Council Resolution 686 (1991) for the costs resulting from these deliberate destructive acts, including—

(A) the costs of containment incurred by any nation,

(B) the clean-up costs incurred by any nation,

(C) the costs of restoration of the natural resources, and

(D) any other costs associated with these environmental catastrophes.

• Mr. MACK. Mr. President, the human tragedies for which Saddam Hussein is undeniably responsible are borne by many families throughout the world. These sacrifices are foremost in our minds as the civilized world determines the appropriate recourse against Saddam Hussein.

Even as we mourn these human tragedies which are clearly the greatest tragedies attributable to the "Butcher of Baghdad," we ought to also direct attention to the other destructive events that Saddam Hussein has caused. The Kuwaitis along with their neighbors will be able to resurface roads and rebuild buildings, but they will not be able to replace or refurbish much of the ecological damage that has been done. Saddam Hussein chose not only to wage a military and political war, but an environmental war as well.

We have been steadfast in our resolve that Saddam Hussein must pay reparations for the damage which he has caused. It is only appropriate that these reparations include the devastating environmental damage that has been done to the entire gulf region. This damage has manifested itself in many ways. The oil fires that have made much of Kuwait a "hell on Earth" and the resulting air pollution has led to what the Kuwaiti people call black rain. The intentional release of oil into the gulf has caused severe damage to much of the wildlife that resides within the area.

This resolution which Senator BOB GRAHAM and I are introducing today was first introduced by Congressman PORTER GOSS and passed by the House of Representatives yesterday. It is my hope this resolution will serve as a reminder that Saddam Hussein must be held accountable for all of his actions, and that we along with the rest of the world community will not stand for any form of ecoterrorism. I urge my colleagues to cosponsor this resolution.•

• Mr. GRAHAM. Mr. President, much of the news coming to us today about the Persian Gulf is bright.

The people of Kuwait are struggling to rebuild their war-ravaged country, literally from the ground back up again. Although the challenges are great and the obstacles many, the Kuwaitis are energized by their newly restored freedom and the return of their Emir, and a world coalition of partners is aiding the reconstruction effort.

The despotic rule of Saddam Hussein over Iraq appears to be threatened by those who were once his ardent followers.

More of our brave troops arrive home to the awaiting arms of their families and friends. Again, we express our gratitude and indebtedness for their service to America and the cause of world peace.

My colleagues and I on the Banking Committee voted last week to award congressional gold medals to Generals H. Norman Schwarzkopf and Colin Powell for their leadership in orchestrating this great military victory over the dictator Saddam Hussein.

But, Mr. President, I rise today to remind my colleagues that, amid all this bright news, the Sun is not shining today in the Middle East. An ominous cloud hangs over the Persian Gulf, a cloud thick with black smoke and noxious gases, certain to cause widespread and irreparable damage to the region's ecosystem and to create untold health risks for its citizenry.

The source of that cloud is a seemingly endless series of oil field fires raging out of control, set by Saddam's troops in the immediate wake of Iraq's defeat by the allied coalition. On their way out, the forces blew up or otherwise sabotaged 80 percent of Kuwait's more than 1,000 oil wells; over 500 of these wellheads remain ablaze at this moment. By comparison, the largest oil field fire in history consisted of just five wellheads.

Mr. President, not having personally witnessed this massive fire, I am certain that I cannot accurately portray its impact to my colleagues. In last Thursday's Washington Post, however, a front-page article describes the scene in newly freed Kuwait:

> . . . a wellhead in the al Burgan oil field, one of the world's largest, shoots orange flames at least 50 feet into the air. It is a "dirty burn," in industry parlance, for the well is also filling the sky with monstrous rolling thunderheads of thick black smoke.
>
> When the wind shifts unfavorably, some of the hundreds of oil well fires that are burning around the clock in Kuwait produce a black overcast above Kuwait City and environs that turns day into night, creating a literal darkness at noon. This week, motorists have had to drive with their headlights on at midday. . . .
>
> Kuwait today is an environmental nightmare whose future no one yet knows. Venture outdoors, and the insides of your nostrils soon become coated with thin black soot. Look around after a rain, and there are black puddles of water on the ground that have come to be known as "black rain." The howling winds that blow across the desert this time of year spray a sticky grit over everything.

Clearly, Mr. President, the fire is making what already was a harsh life in Kuwait a greater challenge. Those who have been outside in the oil smog have suffered from stinging eyes and sore throats. Medical professionals expect the incidence of respiratory ailments to increase.

But the true health implications of this blaze are yet unknown. For one thing, no one has been able to measure the toxicity of the gases and smoke billowing into the atmosphere from these fires; in addition, the world has simply never experienced an oil field fire of this magnitude. Experts believe that massive amounts of hydrogen sulfide, a poisonous gas, have been released into the air. In addition, early estimates suggest massive destruction of the upper ozone layer, an effect which will have longlasting health impacts.

As if this unprecedented collection of fires were not enough, the waters of the gulf are polluted by a deliberate oilspill of proportions the world has never seen. The wildlife which has perished and will continue to suffer as a result of the spill is perhaps the most visible effect of this action.

Americans viewing images of the spill's destruction undoubtedly revisited their memories of the devastation following the Valdez, AK, oilspill. The *Exxon Valdez* tanker dumped 11 million gallons of crude into the bay, the most in American history. Saddam Hussein's sabotage has created a spill in the Persian Gulf waters six to eight times the magnitude of the Valdez disaster.

The economic costs of this tragedy are almost incalculable, as a region plagued by more immediate crises struggles to contain this monumental spill. Science is being pushed to its limits in the cleanup and containment efforts.

Most importantly, we must remember that the implications for human health of this willful destruction are tremendous. Water is quickly eclipsing oil as the most precious natural resource in the Persian Gulf. War has greatly heightened demand for fresh water supplies there. The desalination plants near the spill—a vital source of safe drinking water—are operating today, but the long-term consequences of the spill cannot be estimated.

Today, Mr. President, I am introducing with Senator MACK a concurrent resolution expressing the outrage of Congress at these acts of ecological terrorism. We must hold Saddam Hussein morally, legally, and financially responsible for his actions.

Our colleague from Florida, Representative PORTER GOSS, has introduced similar legislation in the House. I am pleased to report that House Concurrent Resolution 57 passed the House of Representatives just yesterday. This resolution, as amended in committee and introduced here today, has been endorsed by the State Department.

Mr. President, I invite my colleagues to join me as cosponsors and supporters of this important expression regarding the environmental tragedy which has occurred at the hand of Saddam Hussein.●

AMENDMENTS SUBMITTED

DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS, FISCAL YEAR 1991

NICKLES (AND DeCONCINI) AMENDMENT NO. 53

Mr. NICKLES (for himself and Mr. DECONCINI) proposed an amendment to the bill (H.R. 1281) making dire emergency supplemental appropriations for the consequences of Operation Desert Shield/Desert Storm, food stamps, unemployment compensation administration, veterans compensation and pensions, and other urgent needs for the fiscal year ending September 30, 1991, and for other purposes, as follows:

On page 56, between lines 13 and 14, insert the following new section:

SEC. 502. PROHIBITION ON CERTAIN ASSISTANCE FOR JORDAN.

(a) PROHIBITION.—Except as otherwise provided in this section, none of the funds appropriated or otherwise made available by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, may be obligated or expended for assistance for Jordan except pursuant to appropriate congressional notification procedures.

(b) EXCEPTIONS.—Subsection (a) shall not apply to—

(1) assistance for refugees; or

(2) assistance to finance the training or studies outside Jordan of students whose course of study or training program began before the date of enactment of this Act.

(c) WAIVER.—Notwithstanding subsection (a), funds appropriated or otherwise made available for fiscal year 1991 to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) may only be obligated or expended for Jordan if the President determines and certifies to the appropriate congressional committees that the Government of Jordan has taken steps to advance the peace process in the Middle East.

(d) DEFINITION.—FOR PURPOSES OF THIS SUBSECTION—

(1) the term "appropriate congressional committees" means the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on Foreign Affairs of the House of Representatives; and

(2) the term "appropriate congressional notification procedures" means—

(A) with respect to the Committees on Appropriations of the House of Representatives and of the Senate, the procedures of section 523 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, and

(B) with respect to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives, the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961.

(e) REPEAL.—(1) The ninth proviso of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, is hereby repealed.

(2) Any other provision of law that earmarks economic or military assistance for Jordan shall have no force or effect upon the date of enactment of this Act.

BYRD AMENDMENT NO. 54

Mr. BYRD proposed an amendment to the bill H.R. 1281, supra, as follows:

On page 39, strike lines 9 thru 13, and insert the following:

Funds appropriated under this head in Public Law 101-507, 104 Stat. 1362, and all unobligated balances of prior year appropriations under such head, shall be made available for the revised Congregate Housing Services Program under section 802 of the Cranston-Gonzalez National Affordable Housing Act shall remain available until expended.

On page 41, line 8, strike "said" and insert "such".

On page 41, strike lines 13 thru 22 and insert:

"Section 17(f) of the United States Housing Act of 1937 (42 U.S.C. 1437o(f)), as amended by Public Law 101-507 (104 Stat. 1369) is further amended by striking "or City of West Hollywood, California" and by inserting at the end thereof, the following new sentence: 'This subsection shall also not apply to requirements relating to rents imposed on a structure by the City of West Hollywood, California.'. Section 17(f) as amended by the immediate foregoing amendment shall apply retroactively to any structure assisted with section 17 rental rehabilitation funds in the City of West Hollywood, California.".

BYRD (FOR LEAHY) AMENDMENT NO. 55

Mr. BYRD (for Mr. LEAHY) proposed an amendment to the bill H.R. 1281, supra, as follows:

At the appropriate place, insert the following:

SEC. . ADMINISTRATIVE PROVISION.

Section 837 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11403 note) is amended by striking subsection (c).

BYRD AMENDMENT NO. 56

Mr. BYRD proposed an amendment to the bill H.R. 1281, supra, as follows:

At the end of title III add the following new section:

SEC. . (a) Section 6 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2605) is amended by adding at the end the following new subsection:

"(j) Transition.—

"(1) ORIGINATOR LIABILITY.—A person who makes a federally related mortage loan shall not be liable to a borrower because of a failure of such person to comply with subsection (a) with respect to an application for a loan made by the borrower before the regulations referred to in paragraph (3) take effect.

"(2) SERVICER LIABILITY.—A servicer of a federally related mortage loan shall not be liable to a borrower because of a failure of the servicer to perform any duty under subsection (b), (c), (d), or (e) that arises before the regulations referred to in paragraph (3) take effect.

"(3) REGULATIONS AND EFFECTIVE DATE.—The Secretary shall, by regulations that shall take effect not later than August 21, 1991, establish any requirements necessary to carry out this section. Such regulations shall include the model disclosure statement required under subsection (a)(2).".

(b) Section 16 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2614) is amended by striking "section 8 or 9" and inserting "section 6, 8, or 9".

GRAHAM (AND OTHERS) AMENDMENT NO. 57

Mr. GRAHAM (for himself, Mr. LAUTENBERG, Mr. MCCAIN, Mr. LEVIN, Mr. KASTEN, Mr. DECONCINI, Mr. SIMON, and Mr. FOWLER) proposed an amendment to the bill H.R. 1281, supra; as follows:

the successful conclusion of the war in the Persian Gulf provides an opportunity to begin building a lasting peace in the Mideast;

a crucial element of peace in this unstable region is the willingness of Arab states to negotiate with Israel, recognizing her right to live in peace;

the United States should continue to urge Arab states to negotiate peace with the State of Israel;

one of those Arab states, Syria, continues to undermine goodwill and peace in the region by depriving the 4,000 Jews living in Syria the right to emigrate;

Syrian Jews continue to live in a climate of fear and insecurity, still denied fundamental civil and human rights;

a Jew living in Syria, in order to travel, must leave a large sum of money and members of his immediate family as insurance for his return;

Jews suspected of having traveled "illegally" or even of planning to do so have been arrested, interrogated, and subjected to lengthy imprisonment;

Syrian President Hafez Assad continues to deny the basic right of free emigration, a violation of the Universal Declaration of Human Rights to which Syria is a signatory: Now, therefore, be it

the sense of Senate, That the Senate—

(1) Condemns the Government of Syria for continuing to deny the basic human right of free emigration;

(2) calls upon the Government of Syria—

(A) to allow all Syrian Jews to emigrate freely,

(B) to release from prison Jews suspected of having traveled illegally or of planning to do so;

(3) urges the administration to continue to make known to Syrian authorities the important role that human rights in the Jewish community, especially the right to emigrate, will play in determining future policy toward Syria.

BOND AMENDMENT NO. 58

Mr. BOND proposed an amendment to the bill H.R. 1281, supra; as follows:

On page 28, line 12

Strike "$25,000,000: *Provided*" and insert in lieu thereof the following: "$57,400,000, *Provided*, That no less than 95 percent of such funds shall be used for expanding patient services, *And Provided further*,".

COATS (AND OTHERS) AMENDMENT NO. 59

Mr. COATS (for himself, Mr. HELMS, Mr. SMITH, and Mr. MCCAIN) proposed an amendment to the bill H.R. 1281, supra, as follows:

On page 22, strike lines 8 through 13.

HELMS AMENDMENT NO. 60

Mr. HELMS proposed an amendment to the bill H.R. 1281, supra, as follows:

In lieu of the language proposed to be stricken, insert the following:

"The language on page 30, lines 1-5 are null, void, and of no effect."

BYRD AMENDMENT NO. 61

Mr. BYRD proposed an amendment to the bill H.R. 1281, supra, as follows:

On page 30, between lines 7 and 8, insert the following:

SENATE ADMINISTRATIVE PROVISION

SEC. 502. (a) Upon the written request of the Majority or Minority Leader of the Senate, the Secretary of the Senate shall transfer during any fiscal year, from the appropriations account appropriated under the headings "Salaries, Officers and Employees" and "Offices of the Majority and Minority Leaders", such amount as either Leader shall specify to the appropriations account, within the contingent fund of the Senate, "Miscellaneous Items".

(b) The Majority and Minority Leaders of the Senate are each authorized to incur such expenses as may be necessary or appropriate. Expenses incurred by either such leader shall be paid from the amount transferred pursuant to subsection (a) of this section by such leader and upon vouchers approved by such leader.

(c) The Secretary of the Senate is authorized to advance such sums as may be necessary to defray expenses incurred in carrying out this section.

DOMENICI AMENDMENT NO. 62

Mr. DOMENICI proposed an amendment to amendment No. 60 proposed by Mr. HELMS to the bill H.R. 1281, supra, as follows:

In lieu of the language proposed to be inserted, insert the following:

"The language on page 30, line 1-5 are null, void, and of no effect.

"Sec. 103. FOOD AND MILK PRICES.

"The Secretary shall not implement subsections 101 (a) and (b) of amendment No. 43, as modified and agreed to by the Senate on March 19, 1991, if the Secretary determines that implementation of those provisions will reduce by at least 50,000 the estimated average monthly participation in, or reduce significantly the benefits received per participant under, the Special Supplemental Food Program for Women Infants and Children established pursuant to section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

"Sec. 104. CEREAL PRICES.

"The Secretary shall not expend, in fiscal year 1991, in excess of $425,000,000 in the aggregate amount of funds and/or commodities to carry out an export enhancement program if the Secretary determines that the expenditure of those funds and/or commodities will reduce by at least 50,000 the estimated average monthly participation in, or reduce significantly the benefits received per participant under, the Special Supplemental Food Program for Women Infants and Children established pursuant to Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).".

LEAHY (AND OTHERS) AMENDMENT NO. 63

Mr. LEAHY (for himself, Mr. JEFFORDS, Mr. KASTEN, and Mr. KOHL) proposed an amendment to the bill H.R. 1281, supra, as follows:

SEC. 103. MAINTENANCE OF NUTRITION PROGRAMS.

(a) MAINTENANCE OF BENEFITS.—In order to ensure that benefits under the Special Supplemental Food Program for Women, Infants, and Children established pursuant to section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) (hereafter referred to in this section as the "WIC" program) are not significantly reduced as a result of the implementation of section 101(a) of this Act, the Secretary of Agriculture shall distribute as soon as possible at the beginning of the second, third, and fourth quarters of 1991 a portion of the funds described in section 101(a)(2)(A) of this Act to each State agency overseeing the WIC program, as needed to prevent any decline in the average monthly participation in the WIC program as determined in subsection (b) caused as a result of the implementation of section 101(a).

(b) DETERMINATION.—Any determination under subsection (a) by the Secretary of Agriculture of a decline in the average monthly participation in the WIC program as a result of the implementation of section 101(a) of this Act shall—

(1) be based upon any difference between the estimated average monthly participation in the WIC program (as set forth in the Budget of the United States Government for fiscal year 1992 submitted by the President of

the United States to the Congress of the United States) and monthly participation levels in such program for each of the last three quarters of 1991 (as estimated by the Secretary of Agriculture on a quarterly basis) that is caused by an increase in the seasonally adjusted cost of fluid milk during the last three quarters of 1991 (as measured by the Retail Price Index for Urban Consumers of Whole Milk issued by the Bureau of Labor Statistics) that is greater than—

(A) for the second quarter of 1991, the seasonally adjusted cost of fluid milk during the first quarter of 1991 multiplied by 1.00925;

(B) for the third quarter of 1991, the seasonally adjusted cost of fluid milk during the first quarter of 1991 multiplied by 1.0185;

(C) for the fourth quarter of 1991, the seasonally adjusted cost of fluid milk during the first quarter of 1991 multiplied by 1.02775; and

(2) be made on the record.

(c) DELAY IN DISTRIBUTION OF FUNDS.—The secretary shall not delay the distribution of funds to producers of milk under section 101(a) of this Act due to provisions of this section.

(d) FINAL ADJUSTMENTS.—If actual monthly participation levels in the WIC program (determined in accordance with subsection (b)(1)) are different from the Secretary's estimate in subsection (b)(1), the Secretary shall make adjustments, based on actual monthly participation levels, in the distribution of funds under this section or under section 101(a) of this Act to carry out the purposes of subsection (a) of this section and to maintain dairy income under section 101(a) of this Act.

NOTICES OF HEARINGS

SUBCOMMITTEE ON ENERGY REGULATION AND CONSERVATION

Mr. WIRTH. Mr. President, I would like to announce for the public that a field hearing has been scheduled before the Subcommittee on Energy Regulation and Conservation of the Committee on Energy and Natural Resources.

The hearing will take place on Wednesday, April 3, 1991, at 9:30 a.m. in the council chambers, room 450, City and County Building, 1437 Bannock Street, Denver, CO 80202.

The purpose of the hearing is to address the implications of proposed national energy policy legislation on natural gas production and consumption in the United States. In particular, the hearing will focus on S. 662, the Natural Gas Policy Reform Act, and pertinent provisions of S. 341, the National Energy Security Act of 1991—(including Senator BINGAMAN'S amendments to title X)—and S. 570, the National Energy Strategy Act.

Testimony will be by invitation only. For further information, please contact Don Santa of the subcommittee staff at (202) 224-4820.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. The Committee on Rules and Administration will meet on Wednesday, April 17, 1991, at 9:30 a.m., in SR-301, Russell Senate Office Building, to markup S. 250, the National Voter Registration Act of 1991. I would also like to remind Members and the public that prior to this markup, the Rules Committee will hold two hearings on this bill. On Thursday, March 21, and Wednesday, April 10, 1991, at 9:30 a.m. on each date, the committee will meet in SR-301 to receive testimony on S. 250.

For further information regarding the markup on April 17, please contact Tom Zoeller of the Rules Committee staff on 224-0279.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON SMALL BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate of Wednesday, March 20, 1991, at 9:30 a.m. The committee will hold a confirmation hearing on the nomination of Patricia F. Saiki to be Administrator of the Small Business Administration. There will also be an ogranizational meeting to approve committee rules and subcommittee assignments for new Members.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, March 20, 1991, at 9 a.m., for an executive session on pending nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. FORD. Mr. President, I ask unanimous consent that the full Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m., March 20, 1991, to receive testimony on S. 341, the National Energy Security Act of 1991, title XI concerning transportation issues, and on the administration's proposal contained in the national energy strategy concerning alternative-fuel fleets.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. FORD. Mr. President, I ask unanimous consent that the full Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., March 20, 1991, to receive testimony on S. 341, the National Energy Security Act of 1991, title XI concerning corporate average fuel economy [CAFE].

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Wednesday, March 20, 1991, at 9:30 a.m., on the subject: status of the FTS 2000 contract.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Wednesday, March 20, beginning at 10 a.m., to conduct a hearing to examine and evaluate global warming and other environmental consequences of energy strategies.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. FORD. Mr. President, I ask unanimous consent that the committee on Finance be authorized to meet during the session of the Senate on March 20, 1991, at 10 a.m., to hold a hearing on President Bush's budget for fiscal year 1992.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, March 20, 1991, at 10 a.m., to hold a hearing on the nomination of Kenneth L. Ryskamp, to be U.S. circuit judge for the 11th circuit.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, March 20, 1991, beginning at 9:30 a.m., to markup pending legislative business. The committee will consider the following: S. 3, to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits for Senate election campaigns, and for other purposes; Senate Resolution 79, authorizing the printing of additional copies of the Senate report titled "Developments in Aging: 1980: and House Concurrent Resolution 45, permitting the use of the Capitol for ceremonies as part of the commemoration of the days of remembrance of victims of the Holocaust.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, March 20, 1991, at 9:30 a.m. in open session to receive testimony on the Defense authorization request for fiscal years 1992 and 1993 and the fiscal year 1992-97 future year defense plan.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet in open session on Wednesday, March 20, 1991, at 2 p.m. to consider the nomination of Gen. Duane H. Cassidy, USAF (retired), to be a member of the Defense Base Closure and Realignment Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science and Transportation, be authorized to meet during the session of the Senate on March 20, 1991, at 2 p.m. on new priorities for U.S. technology.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing and Urban Affairs be allowed to meet during the session of the Senate, Wednesday, March 20, 1991, at 10 a.m. to conduct a hearing on the Treasury proposal on interstate banking and branching, and S. 300, dealing with nationwide banking.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO THE FRANCIS MARION HIGH SCHOOL BASKETBALL TEAM

• Mr. SHELBY. Mr. President, it is an honor to rise today in tribute to one of the great athletic dynasties in the Nation—the Francis Marion High School basketball team of Marion, AL.

The Francis Marion Rams have recently won their fourth consecutive Alabama 2A State Basketball Championship. Their fourth straight State title marks an unprecedented event in Alabama high school athletics.

This outstanding group of student-athletes is ably led by Coach Woodie Jackson. Coach Jackson is one of the most highly respected coaches in America. In addition to his four State championships at Francis Marion, Coach Jackson has also taken two teams to participate in the AAU summer games in Birmingham and compiled a remarkable 115–18 record during his tenure with the Rams. Coach Jackson's dedication to the game and commitment to young people have made him an outstanding mentor to his players.

The Francis Marion High School basketball team is a model of dedication and commitment for individuals and teams everywhere. The example these young men have set, on and off the court, is a tribute to their coaches, their families, their school, and their community. It is my hope that the members of this championship team take the discipline and commitment they have learned under Coach Jackson with them in all of their pursuits.

Mr. President, it has been a privilege to share some of Francis Marion High School basketball team's immense accomplishments with my colleagues in the U.S. Senate.•

AN OFFERING FROM THE INSIDER

• Mr. SIMON. Mr. President, recently, I read a front-page statement by the editor-in-chief of a publication called The Insider that is printed in English and comes from Warsaw, Poland. It is a publication I recommend to give something of an insight in to what is happening in Eastern Europe.

It formerly was called Solidarity and was an arm of that movement in Poland.

I sense that it is now largely independent, and I hope it can survive economically.

On the front page, in an editorial written immediately after the United States and the coalition partners launched our offensive against Iraq, the editor comments about the West's failure to show greater support for the Baltic Republics.

My own feeling is that we can do much more short of formal recognition for Lithuania, Estonia, and Latvia.

We do not formally recognize Taiwan and, yet, there are significant ties between our Government and their Government.

I do not suggest that there are complete parallels between the Taiwan situation and the situation in Lithuania, Latvia, and Estonia, but there are some parallels.

There certainly would be nothing wrong with the U.S. Government having a permanent trade mission, in each of these countries, or a cultural mission to encourage exchanges between the Baltic States and the United States.

I insert into the RECORD the statement by Jane Dobija, editor-in-chief of The Insider.

The statement follows:

AN OFFERING FROM THE INSIDER

As we go to press for the first time, the attention of world leaders, and the military forces they control, are concentrated upon a tiny, oil-rich country, that has been robbed of its independence. Meanwhile, in the Baltic region, small states, which are unlucky enough to have no oil, have been left to struggle alone for their autonomy.

Here in Warsaw, we are acutely aware of the agony our eastern neighbors are suffering. Poland faced a similar tragedy with the declaration of martial law in 1981. Our solidarity with the supporters of democracy in Lithuania, Latvia, and Estonia is motivated, in part, by self-interest. We see strong, democratic neighbors as the best partners for this country's own, very young democratic system.

We recognize the danger which Soviet troops, that President Mikhail Gorbachev claims he no longer controls, might pose to Poland's hard-won freedom.

Western absorption with the Gulf crisis is, in part, a result of the seemingly very different self-interests, which motivate leaders' decisions in another part of the world. But it is also, in our estimation, a result of a lack of information and understanding. In the West, glasnost has been mistakenly interpreted as an irreversible process. The civilian casualties in recent skirmishes with Soviet soldiers on the streets of Riga proved the error of that thinking. The hesitation on the part of Western leaders to declare unequivocal support for the Baltic republics' aspirations to democracy, indicates that those leaders do not appreciate the fragility of perestroika, and the frightening consequences a reversal of that process of change might entail—not only for a small corner of the Soviet Union, not only for the East.•

NANCY RADER'S TESTIMONY BEFORE THE HOUSE AGRICULTURE COMMITTEE VALUABLE TO THE SENATE

• Mr. CONRAD. Mr. President, I would like to enter into the CONGRESSIONAL RECORD an excellent piece of testimony offered by a North Dakotan at the House Committee on Agriculture. Nancy Rader traveled to Washington from Cando, ND, to offer a firsthand account of what farm families are going through with the planting season arriving and many farmers still stationed in the gulf.

Nancy's husband, Gary, was deployed to the Persian Gulf on September 12. Since then, she has worked in a local hospital, given birth to her fourth child, and worked to keep the family farm afloat. All this she has done without her husband.

It has been difficult. And now, Nancy needs to know that our Government will do its best to get our troops home as soon as possible.

Mr. President, as the Pentagon begins the process of bringing our troops home, I hope careful thought and consideration will be given to the civilian responsibilities of our Nation's Guard and Reserve personnel. While we hope that all our soldiers will be home soon, some thought should be given to returning single parents, farmers, small business owners, and others with great responsibilities home as soon as possible.

Nancy Rader is just one of the countless Americans who has done a courageous job since our troops were sent to the Persian Gulf. I commend her for her courage through this ordeal. Let us do our best to bring Gary Rader and others like him home as soon as we possibly can.

The testimony follows:

TESTIMONY OF NANCY RADER

Life in rural America is troubled. As members of a congressional committee whose efforts have a profound effect on the rural population, I would hope that this statement comes as no surprise to any of you. Droughts, high input costs, depressed returns, scarce economic opportunities have all contributed to hard times in our rural States. Now in the past 6 months we have been asked to deal with yet one more hardship. Many men and women, both young and not so young, have been called out of military reserve components to active duty status in support of allied operations in the Persian Gulf. My husband, Gary, is one of these reservists.

Gary has been a so called "part time soldier" with the North Dakota National Guard for the past 14 years. He was put on active duty September 12, 1990. In addition to his involvement in the Guards, Gary and I also farm. During the past 10 years of our marriage there have been many times in our lives that would have been made much easier had he not been in the Guards. In the past years very few excused absences from drill weekends were granted. Come August we would always hope for rain on the scheduled guard drills so that we would not have to shutdown part of our harvesting operation while he practiced being a soldier. The 2 week annual training in June also caused difficulties as Gary had to leave the farming operation during the time when spraying for weeds and the first summer fallow operations were to be done. But despite these difficulties we decided that Gary should stay in the Guards. You see, I believe farm living is among the best lifestyles this country has to offer. In order to stay on the farm though, we had to have more income than our farm generated. It is hard to maintain, let alone increase, a standard of living when the total operation expense increases year after year while the total income per operation steadily declines as it has in the case of our small grains operation. This past fall I sold good quality hard amber durum at $2.35 a bushel. With durum prices at their lowest in 6 years of farming, we continue to rent our portion—440 tillable acres—of the farm from Gary's father instead of buying into it, because we are afraid of the future in farming. We live in a mobile home, too small for our growing family, also because we are unsure if we want to set down a permanent home in an area where the economic future looks so bleak. Still we hold on to the idea that urban America cannot survive without rural America. Therefore Gary stayed in the Guards, building a small retirement pension and enrolling in a reasonably priced life insurance plan for both himself and me through the Guards, in addition to receiving his part-time soldier pay. I also work part-time and full-time as a medical technologist in a local hospital and clinic.

As trying as it has been for us in the past maintaining our life on the farm, we, as a couple, have only recently faced our greatest trials, beginning at the time of Gary's activation in September. We had just completed harvest but had done no fall field work. I was pregnant with our fourth child, and we were in the midst of fall lambing, another venture we have undertaken, with the urging and support of area university extension representatives who say that diversification is yet another way to enhance family farm incomes. I was at least thankful that his activation came at a time when the majority of the field work for the crop year had been completed. Gary left with orders stating he was called to active duty "for a period of 90 days which can be extended for an additional 90 days unless sooner released or later extended." In September, when he left, we prepared ourselves for 90 days plus 90 days—6 months. I was certain he would be back in March 1991 to take care of the spring farming responsibilities (silly me!) I, with the help of Gary's father, brother-in-law, and uncle finished the lambing, sold enough of the grain to pay the year-end expenses, and did what fall work was absolutely necessary. I cut back on one part-time job while trying to juggle the responsibilities of caring for the farm and our three children. For, while Gary is making more in the Army than he made on the farm and we could have done without my income for the time being, I could not give up my job and risk the chance of not having one to come back to as my job normally contributes to at least 30 percent of our total income. I had our baby. I and the children dealt with loneliness. The kids became increasingly watchful and protective of me, in their fears that I too would be taken from them. And as the tensions in the gulf area increased I hoped and prayed I would see Gary in the spring, but I was no longer certain.

Now March is almost here. Gary will not be back for the start of spring's field work. He will likely not be back for the harvesting. We have received orders stating that our soldier's active duty time has been extended for a period of 360 days starting on the day of activation. This could be a very hard year for me, as the wife of a part-time soldier turned fulltime. I am now planning for the new crop year. We will soon be lambing again. All the fields need to be soil tested, fertilized, and tilled before the seedbed is ready for planting. I know I can depend greatly on Gary's father and other family members to help me out, but I may also have to hire custom work to be done so that we can all finish our seeding preparations in an optimal time. This would mean an extra expense added to an already marginally profitable business. If I have to apply for a farm operating loan, I am not eligible for a reduced interest rate, as are other loans that activated soldiers may have had prior to their activation. Yet I may not be able to maintain our family business during my husband's activation without that new loan.

Gary, as are most of the other activated guardsmen from the Cando Area, is a member of a support unit—a quartermaster water supply company to be more specific. I, our children, and Gary's family are now looking forward to being together again with him by mid-September, the end of this 360 days. But I have a real fear that this may not happen. Gary's enlistment contract states that upon enlistment in a Reserve component he "may be ordered to active duty * * * for the duration of a war and for 6 months thereafter * * *" His active duty time has already been extended twice. According to some sources "the troops won't rush out of the gulf." "It will probably take more time to dismantle Operation Desert Storm than it took to set it up * * * the military command will want the reservists to be the last to leave." So, even now as the end of the war may seem to be in sight, I can not allow myself to get excited about seeing the return of my husband anytime soon.

I am here before you today, not to ask for sympathy for my situation—my husband signed a contract, he then reenlisted under the terms of that contract after careful consideration of our personal family situation; we know he has an obligation to fulfill—but to being to you a firsthand scenario of what sacrifices making a commitment to a Reserve component of the military can mean to one rural family, especially upon activation of the military person from that family. I would also like to further describe some scenarios relating the concerns of and sacrifices made by other soldiers, family members and exployers connected with my husband's Guard unit, arising upon activation of the unit. These are likely concerns and sacrifices very similar to those felt by reservists and their family members and employers across the country.

Like my husband, many of these soldiers also enlisted to earn extra money. In one family situation where this was the case the wife has chosen to cutback on the number of hours she works outside her home because she is just otherwise unable to meet the needs of her family while her spouse is away. And, while his military pay is comparable to his civilian pay, she has realized a decrease in income and their family has therefore made a financial sacrifice.

In more than one other case there are single farmers serving. The managers of their affairs are going to have to make decisions with regard to their farm land, and likely, as in my case, these farmers will realize increased farm related operating expenses by having to custom hire to get the farm operations completed for the year.

There are younger soldiers who joined as a means of paying for ongoing college enrollment. If these soldiers are not released from active duty before the start of the fall sessions they will lose additional college time and will likely encounter difficulties in finding a short term job while waiting for the start of the next college session. These soldiers will then be making a financial sacrifice for being a member of a military Reserve component.

Employers and people who accept employment as replacements for reservists also make sacrifices. One of the reservists with the Cando Guard unit is a farm laborer. His employer does not know how to make employment plans. He cannot very easily hire someone to fill in for his soldier/employee without hiring then for some specific length of time, normally the entire farming season. Yet he cannot afford to have two hired laborers, should the soldiers be released from active duty sometime this spring or summer. There is a school system that has had much difficulty keeping the position of their soldier/music teacher filled. In 6 months of school there has been three substitute teachers. The students have made little musical progress in this year of school as there has been little continuity in their class. The teachers who are substituting during this school year may be very hesitant to agree to fill in at the start of the next school year if they fear they may teach only a couple of weeks, then have the regular teachers return to the classroom, as would be the case with those teachers from my husband's unit, if they are indeed discharged at the end of the 360 days of active duty.

I have just enumerated some real concerns of soldiers, family members, employers, and fill-in employees. Had there not been a Reserve component of our military many of these concerns would not exist. But we, as a country, do have an all-voluntary military with Reserves and so we must recognize these concerns and address them. There may be nothing that can be done about some of these problems at this point in the activation, but possibly by looking at them now something could be done if a call-up of reservists to this magnitude ever happens again.

Having only a vaguely defined period of active duty and having to consider the possibility of extension has been a real difficulty for all parties involved to deal with it. The solution for that problem may be hard to develop. But certainly at this time, consideration for early discharge from active duty on a case by case basis of teachers, farmers and agriculture industry employees, self-employed reservists, college students, and others may be necessary following the resolution of our current conflicts in the gulf as a means of reducing the effects of the economic and personal sacrifices made by reservists, their families, and employers.

Another consideration may include establishing new guidelines under the Soldiers and Sailors Civil Relief Act to allow for reduced interest rates for business operating loans on established businesses, and loans to cover other extenuating circumstances within the family unit, even though application for these loans may have been made after activation of a reservist. Increased compensation, financial or otherwise, for the reservist upon activation may also be a consideration, as their lives and the lives of their family members are more profoundly disrupted than the lives of the already active full time military personnel and their families. The majority of reservists' families have difficulties accessing military base facilities and the benefits and services offered through such facilities, therefore compensation in other forms for these families may be appropriate.

There may also be justification of some type of increased compensation to the activated reservists, during their time of activation, when one considers the overall cost savings the Government has realized by having a highly trained and ready Reserve component over having to maintain the same number of full time active military strength.

Because of the activation of the numbers of reservists from the United States in support of allied forces in the gulf our Nation is now having to deal with many new problems and situations never before encountered to such a degree due to war. Addressing these problems early on and openly will hopefully diminish their negative effects. I thank you for your consideration of my concerns. As I said earlier on in my remarks, I consider farm living and the rural way of life that best this country has to offer. I know this now more so than ever because of the love and support given by all the folks in Cando and surrounding communities to me and my family during the difficult days of separation from my husband. It is also because of their monetary support, along with other contributions received, and their support in caring for my children now that I am able to be here. We cannot allow our rural way of life to be lost. We depend on all of you to help see that our standard of living in the rural area is preserved. Please concern yourself with our needs. Thank you.•

PROBATION PROMOTING PUBLIC SAFETY IN THE NINETIES

• Mr. **SIMON**. Mr. President, recently, I had the opportunity to read a presentation of Commissioner Catherine M. Abate, who heads the New York City Department of Probation, before the City Club of New York.

Her call for prevention and constructive efforts seems to me to be so obviously sound it hardly needs to be repeated. And yet, we know we are not paying attention to this.

I thought one of the interesting items in her speech was:

> Over 50 percent of our probationeers come from the City's poorest neighborhoods. The average probationer is a minority male, between the ages of 16 and 25, placed on probation for drug-related felony offense. He is abusing either drugs and/or alcohol. A high school dropout and unemployed, he is functionally illiterate with few, if any, job skills.

Commissioner Abate is the kind of humanitarian leader I would expect from Mayor David Dinkins, a leader for whom I have great respect.

But the practical suggestions of community involvement, sensitivity to the victims, and better monitoring of offenders is a sound recommendation.

I insert her remarks into the RECORD at this point.

The remarks follow:

PROBATION PROMOTING PUBLIC SAFETY IN THE NINETIES

(Remarks by Catherine M. Abate)

Never before has this nation and this City been challenged on so many fronts. We are waging one war across our waters, the results of which will have a profound effect on the City for years to come. With the same determination, resolve and resources, we must fight our war against crime, drug abuse and violence at home. It is time for us to press our cause in Washington and throughout the State. It is time for us to say "Mr. President, you speak of freedom and human rights abroad, then let us speak of the same freedom of each and every citizen to live in their homes and walk through their neighborhoods free from fear and violence." 1991 must mark the time when we in government, joined with communities throughout this City, act with clarity, vigor and conviction. Together we must meet the challenge to restore and maintain public safety.

According to the National Institute of Justice, last year there were more than 1,000,000 Americans aged 18 years and over in prison and jail in the United States, and more than 2,500,000 on parole and probation. The grand total under the control of the criminal justice system exceeded 4 million. That number is nearly 2 percent of the nation's adult population.

We have seen the prison population more than double in the last decade. Among the nations of the world, the United States has surpassed South Africa and the Soviet Union in having the highest per capita ratio of its population in prison.

In New York State alone the number of prison beds has doubled in the 1980's. The City system has grown from 7,000 beds in 1980 to 21,000 today. Unfortunately those incarcerated soon were replaced by too many others on the street who were willing to follow in their footsteps. Too many released from prison returned to their communities no better prepared to live a law-abiding life.

Today more persons are incarcerated in New York State than ever before. Yet crime has not diminished. Arrests for violent crime are ever increasing. The percentage of juveniles arrested for felonies has dramatically increased by 75 percent in the last three years.

We must ask ourselves, how can we meet the challenge of crime's insidious and relentless assault upon the quality of life in our City. We know that not all the solutions are before us. But we have an opportunity to learn from our experiences in the 80's to define an action plan for the 90's. One lesson we have learned is that the focus of our criminal justice system—whether that be corrections, the courts or probation—must involve more than punishment and control. We must be in the business of preventing crime and shaping behavior. Prevention, treatment, and law enforcement must become the co-equal cornerstones of a justice system that can begin to effectively stem the tide of victimization.

Fiscal constraints will define future policy. It costs the City 58,000 dollars per year to maintain a defendant at Rikers Island. To construct an additional 5,500 beds will cost 1 billion dollars. Overtime costs in City Correction are currently at 61 million dollars—or almost equalling the entire budget of the New York City Department of Probation.

With escalating prison costs, jail overcrowding and increasing violence, the role that probation plays in the criminal justice system becomes even more critical. On any given day in New York City, over 60,000 people are under our supervision. That is almost three times the number incarcerated at Rikers Island. In fact, more people are on probation in New York City than are incarcerated in New York State correctional institutions statewide.

Over 50 percent of our probationers come from the City's poorest neighborhoods. The average probationer is a minority male, between the ages of 16 and 25, placed on probation for a drug-related felony offense. He is abusing either drugs and/or alcohol. A high school dropout and unemployed, he is functionally illiterate with few, if any, job skills.

The mission of the Department is to promote public safety by providing community-oriented criminal justice sanctions and by assisting the offender to remain in his community as a law abiding and productive citizen. We must honor our contract with the Courts and the community to violate those individuals who fail to live up to the conditions of their probation. But to effect change, probation must do more than process people. We must offer meaningful services and interventions.

To that end, we have developed a resource delivery concept to enable the probation officer to provide the appropriate services to more fully meet the needs of our probationers. This model will include medical and mental health care, drug treatment, vocational training, job preparation, direct employment referrals, literacy and life skills development. The Department has created a network of community-based services to enhance the quality of supervision to offenders. Other City agencies, as well as not-for-profits, are cooperating in this effort.

We know that we must not only design programs to meet the specific needs of offenders, but that these limited resources must be directed to those who present the highest risk to society. We have strengthened our intensive supervision programs to better monitor high risk juveniles and adults.

We are establishing a Day Treatment Center for those probationers, who despite our best efforts, are on the road to violating the terms of their probation sentence. The Center will provide probationers with an intensive program of rehabilitative and remedial services for up to 12 hours a day, five days a week, for a period of 90 to 120 days. On site, operating within the Center, will be a Board of Education alternative school, a Department of Employment Tap Center, and a Department of Mental Health psychiatric social work clinic. If such a model proves effective—we hope to open similar centers throughout the City.

To address the severe drug crisis facing the City, we have developed a specialized unit of probation officers to supervise "high risk" cocaine abusers. This case management strategy includes reduced caseloads, more frequent reporting requirements and home visits as well as routine drug testing. As a result of a City/State initiative, the Department will be able, for the first time, to contract for 1,100 drug treatment slots dedicated to probationers. And with a grant from the State, special assessment, diagnosis and support referral will be available to those who are developmentally disabled among this substance abuse population.

Mayor Dinkins has stated on numerous occasions that responsible government must be responsive to the communities we serve. This shift in philosophy is reflected in the new direction of the Probation Department. We recognize that the community and victims throughout this City are our primary clients. If we effectively monitor and supervise offenders, our streets and our neighborhoods will become safer. To accomplish this, however, Probation must become a part of the community it serves. We must bring Probation back to the community.

Because probationers pose the largest threat to their own communities, our efforts to establish neighborhood offices have been given high priority. Community probation will improve our ability to monitor offenders and link them to appropriate services in their own neighborhoods. We are returning probation officers to the field to intervene with the probationer and his family before a violation occurs. In FY 92, at least 20 percent of the Probation Officer's time will be spent in the field. Our Field Service Unit, a specially trained unit of armed Probation Officers, will continue to work with the Police Department to execute warrants against probationers wanted for new crimes or for violating the terms and conditions of their probation sentences and just as importantly, to intervene in potentially volatile crisis situations.

We want to send a strong message to the community that we do not condone violence and abuse, and that the rights of the victims of crime are at the forefront of our agenda. We believe that probationers must be accountable to the individual and to the community they victimized.

One way of repaying their debt to society is through community service. Community service acts as a constructive punishment reminding offenders that their actions have consequences and tying them in a positive way into the very neighborhoods that they victimized. The Mayor's "Safe Streets/Safe City" program will allow the Department to expand its community service program well beyond the current 100,000 hours of service. It will mean cleaner parks, food and other services provided to the homeless, cleared vacant lots, graffiti free subways and rehabilitated apartments for the elderly. Community service teaches the probationer respect for his/her community and enables civic leaders to see offenders as potential assets. It will improve the quality of life in the neighborhoods and provide the offender with a positive work experience.

Communities throughout this City face the consequences of crime on a daily basis. Crime affects each and every household. The impact on its victims is severe and lasting. To address the needs of victims, we have created a Victims Advisory Panel made up of the leading advocates and service providers in this City. The Panel is assisting the Department in developing improved victim impact statements within the 53,000 pre-sentence investigation reports we prepare for the Family and Criminal Courts each year. Better impact statements will lead to wider use of restitution to victims. We are automating our restitution program to provide more effective collection and disbursement of these funds. Victim advocates are training our staff to identify child, elder and spouse abuse when making family visits. We are establishing specialized caseloads to better supervise and treat batterers and sex offenders. We are making efforts to ensure that orders of protection are real and not illusory sanctions.

I hope I have dispelled the notion that Probation coddles criminals and is soft on crime. Probation is punitive. It is punishment and it is tough. To many offenders, "doing time" is far less intrusive than being supervised on probation for up to five years. They know if they fail—do not undergo drug treatment—remain unemployed—do not go back to school or pay back their community and the victim—they will be faced with longer terms of imprisonment.

Probation makes sense. Both Govenor Cuomo and Mayor Dinkins speak about investing in our future—in our children. I do not believe children are born to hate. They learn too well—growing up—the ways of violence, denial, and apathy. We must do all we can to stop the vicious cycle once a child enters the criminal justice system. We must see that they graduate from school and on to higher levels of learning and growth and not into Attica, Elmira, and Danemora and higher levels of incarceration and detention.

Probation cannot succeed without your support. Together we must assist probationers to become productive citizens by addressing their needs for an education, a decent job and a stabilized family life. By teaching them to resolve conflicts without violence, to reduce their dependency on alcohol and drugs, to manage family responsibilities and to find resources they need to improve their lives, we hope to restore the probationer to the community. By promoting greater community involvement in Probation practice, by being more sensitive to the almost 30,000 victims of crime we encounter yearly and by better monitoring offenders living in the City's neighborhoods, I believe Probation can have a significant impact on reducing crime.

Adequately staffed, properly equipped and intelligently managed, Probation is the most safety-conscious and cost-effective criminal justice sanction we have. Its unique blend of punishment, prevention and treatment will significantly contribute to a safer New York. That is the mission of the New York City Department of Probation and its commitment to this City.•

TRIBUTE TO THURMAN PARSONS BY KERAK SHRINE TEMPLE

• Mr. BRYAN. Mr. President, I rise today to recognize a Nevadan who has made a difference for the youth of Nevada. Thurman Parsons, who is being honored by Kerak Shrine Temple, has given freely of his time to many worthy causes. Foremost among these is the Shrine Circus and Hospital.

The Shrine Circus is an institution in Nevada that annually entertains thousands of people. The main event in Reno spawns several satellite circuses. These circuses cover northern Nevada, from Ely in the east to Fallon in the south. These people provide valuable entertainment for small towns throughout Nevada. Without the office work and individual fundraising capability of Thurman Parsons and his fellow shriners, this would be a special event lost to many of the people in these smaller communities. Through Thurman Parson and his fellow shriners' efforts, the lives of more than 30,000 people are enriched each year.

Mr. President, many organizations have been the recipient of Thurman's largess. These include Masonic youth groups, International Order of Rainbow for girls, DeMolay for boys, Bethel No. 2, Little League, the ATO fraternity, as well as the YWCA. Whether repairing cabins for the YWCA, or coaching in Little League, he was there for the children of Nevada.

Mr. President, people devoting time to children are not enough in evidence today. The example of people like Thurman Parsons enables us to remember that it is the selfless giving of one generation to another that has helped make this country great. Thurman Parsons is a shining example of the spirit of Nevada and our love of children.•

CHILDREN'S AID INTERNATIONAL IN POLAND

• Mr. SIMON. Mr. President, I have the privilege of serving on the Advisory Committee for a group called American Committee for Aid to Poland.

Our colleague, Senator BOB DOLE, serves as cochairman, and former Security Adviser to President Carter, Zbigniew Brzezinski, is the other cochairman. Serving as president and chief executive officer of the organization is former Ambassador John W. Shirley.

I recently received the minutes of the meeting that took place on February 28 with representatives of private voluntary organizations. All of it is fascinating, but particularly depressing is a report in the minutes of the comments of Dr. T.J. Grosser, president of Children's Aid International. The statement is so eloquent in expressing need that I am simply inserting the two paragraphs from the minutes in the CONGRESSIONAL RECORD at this point. Mr. President, I ask to insert them into the RECORD at this point.

I do not know precisely how we can respond more effectively to this need, but somehow we have to be able to do it.

I am confident that is what the American public would want us to do.

The excerpts follow:

CHILDREN'S AID

Dr. T. J. Grosser, President of Children's Aid International, said that his organization, with a budget of $7 million, is focussed entirely on the private sector and does not seek U.S. government assistance. Dr. Grosser was in Poland last July to set up a program for retarded children in Warsaw and a center for urban poor children in Elk.

He spoke at length about health problems in Poland caused by the Chernobyl disaster. One stop during his visit was a sanatorium in a village near Bialystok, where 125 child victims of Chernobyl are being cared for. The nuns who operate the sanatorium are obliged to turn away 20 children for every one they are able to take. Children's Aid International is currently working to determine the scope of this health problem, the needs of the victims and to identify who can help. Even such basics as the need for pure water and pure food must be addressed. He added that he found Polish technical competence to be high, but there is a shortage of medications and instruments for testing. He said that in Poland today there is only a 50% possibility for cure of leukemia. Simply removing children from contaminated areas for a period of time can help to raise the levels of their immune systems. He is working closely with the Polish Ministry of Health and with people here on this problem, but at the present time even the extent of the problem is not known.•

COSPONSOR PEACE TAX FUND

• Mr. HATFIELD. Mr. President, yesterday I introduced S. 689 the Peace Tax Fund Act. My friend and colleague, Senator HARKIN was inadvertently not listed as an original cosponsor of this important bill. This is unfortunate, because I greatly appreciate the Senator's partnership in this effort this year, as well as in years past. I understand that he will now be listed as the primary cosponsor, and I wish to extend my deep thanks to him for his consistent support.•

THE SENATE FUMBLES ON PUERTO RICO

• Mr. SIMON. Mr. President, if there is one thing the United States has stood for throughout the decades it is self-determination.

And yet, I regret to say, we have failed to apply self-determination to the status of Puerto Rico.

I frequently resent editorials attacking the Senate for decisions we make, the editorial writers frequently not understanding the dimensions of an issue. But when the Chicago Tribune recently headed an editorial, "The Senate Fumbles on Puerto Rico," they hit it right on the head. By a 10–10 vote we have denied the people of Puerto Rico the right to have a plebiscite to determine their future.

The final paragraph of the editorial sums it up well:

> In the past, dissatisfaction with Puerto Rico's status has given rise to occasional violence and terrorism. But that isn't what should motivate Congress or the Puerto Rican legislature. The real motivation ought to be to assure to Puerto Ricans what all Americans treasure: the right of popular self-determination.

The current status is commonwealth status, which is a fancy name for old-fashioned colonialism. Puerto Rico eventually will either become an independent country or it will become a State. That decision should be up to the people of Puerto Rico, and we should not deny them that decision.

Mr. President, I ask to insert into the RECORD the full editorial from the Chicago Tribune.

The editorial follows:

THE SENATE FUMBLES ON PUERTO RICO

A United States Senate committee has deadlocked on legislation to authorize a referendum on Puerto Rico's political future. While the 10-10 tie probably reflects perfectly the ambivalence most Americans feel about the island, it does nothing to advance the nation toward resolution of the so-called "status issue."

Neither, for that matter, does the Puerto Rican Senate's approval last week of a bill to make Spanish the island's sole official language. It's time lawmakers in Washington and San Juan began dealing realistically with the status question. Continued delay is unwise, and it could become dangerous.

Puerto Rico and the mainland U.S. have been locked in an ambiguous embrace since 1898, when Spain ceded the island after the Spanish-American War. Puerto Ricans were granted U.S. citizenship in 1917. In 1952, the island acquired its current status as a commonwealth; residents got all benefits of citizenship except the right to vote in federal elections and the duty to pay income taxes.

In 1967, in a referendum initiated by their own government, Puerto Ricans reaffirmed their backing for commonwealth status.

But things have changed since then. Recent polls have indicated growing support among Puerto Ricans for statehood, and mainland Americans have become increasingly uncomfortable with any relationship that smacks of colonialism.

At the request of Puerto Rican political leaders of all stripes, Congress in 1989 began considering legislation to authorize a new referendum and, potentially, a new status. A bill passed the House last year to authorize a non-binding referendum, with Puerto Ricans to choose among statehood, independence and "enhanced commonwealth" status. But the Senate lagged and now has failed to move a similar bill.

The recent committee action virtually assures that there can be no referendum before 1993 at the earliest. Whether there will be one even then depends on whether, after more than two years of dithering, Congress can summon the will to face this difficult issue head-on and pass the necessary legislation.

That cause won't be helped by things like the Spanish-only bill, which is expected to win quick approval in the Puerto Rican House and the signature of Gov. Rafael Hernandez Colon, a commonwealth proponent. While it is unlikely to have much practical effect, it may have a large political effect on members of Congress who would be concerned about offering the possibility of statehood to a determinedly foreign territory.

In the past, dissatisfaction with Puerto Rico's status has given rise to occasional violence and terrorism. But that isn't what should motivate Congress or the Puerto Rican legislature. The real motivation ought to be to assure to Puerto Ricans what all Americans treasure: the right of popular self-determination.•

TRIBUTE TO HARRY E. (BUD) SMITH BY KERAK SHRINE TEMPLE

• Mr. BRYAN. Mr. President, I rise today to recognize a native Nevadan, Harry E. (Bud) Smith who is being honored by the Kerak Shrine Temple for his contributions to the Nevada community. He is an outstanding member of the Order of the Eastern Star, as well as the Kerak Shrine Temple. The most visible evidence of his involvement is 12 years of devoted service to the Shrine Circus for children, and raising funds for crippled and burned children. Bud is a living example of the spirit to give that is alive and well in Nevada.

The Shrine Circus is an institution in Nevada that annually entertains thousands of people. The 3-day event in Reno is not the end; from this main event there are satellite circuses, which span more than 500 miles from Elko in the East, to Bishop, CA, in the West. These people provide valuable entertainment resources for small towns throughout northern Nevada and into California. Through their efforts the lives of more than 30,000 people are enriched in the region. Without the fundraising capabilities of people such as Harry Smith, the circus would be an experience lost to many of the people of these communities.

Mr. President, laughter is a precious gift, and Harry has proven to be generous with his talent. He was a charter member of the Kerak Shrine Klown Unit, founded on January 11, 1971. He proved so successful in this unit, that eventually he clowned his way to its pinnacle, Chief Klown. He is also a member of the Royal Order of Jesters, Court #33.

Mr. President, Harry may have been a lifetime worker on the Southern Pacific Railroad, but he will always be "Mr. Circus" to Kerak Shrine.•

RECOGNIZING VIETNAM

• Mr. SIMON. Mr. President, on Sunday, the New York Times has an editorial suggesting once again that it is long past time to renew official diplomatic ties with the Government of Vietnam.

The time has long since past.

It should have been done long ago, but we should do it now.

We want to make clear to the Government of Vietnam that we want to work with them to bring peace to Cambodia, but we also have to make clear to Vietnam that any substantial improvement in relationship depends on whether they pay attention to human rights in Vietnam.

Official recognition does not mean approval of their policies any more than it does of the policies of China and Syria and other countries that are mentioned in the New York Times editorial.

Mr. President, I ask to insert the New York Times editorial into the CONGRESSIONAL RECORD at this point.

The editorial follows:

[From the New York Times, Mar. 10, 1991]

GOOD MORNING, VIETNAM

It was as if two wars, not just one, ended with the American-led coalition's quick and decisive victory over Iraq. When the guns fell silent, President Bush proudly proclaimed that "The specter of Vietnam has been buried forever in the desert sands of the Arabian Peninsula."

Postwar diplomacy concerning the Middle East has already begun. But postwar diplomacy concerning Veitnam has been mired in bitterness and recriminations for 16 years. Washington can make constructive use of America's revived international pride by now moving to normalize relations with Vietnam.

Vietnam contributed to its long diplomatic isolation by sending troops into Cambodia late in 1978 and keeping them there for almost 11 years. But Washington is also to blame. The past four Administrations have refused to acknowledge the 1975 Communist triumph in Indochina as a fact of international life.

Hanoi prevailed against American power on the battlefield. Washington has punished this affront by diplomatic ostracism, even to the point of winking at a Chinese invasion of Vietnam and, until last year, aiding a Cambodian resistance coalition incorporating the genocidal Khmer Rouge.

Victory in this new war offers an opportunity to bury the bitter legacy of an old one. True, Vietnam is neither a model democracy nor a model international citizen. Its human rights performance has recently been criticized by Asia Watch and by brave voices from within. And while Hanoi has withdrawn its troops from Cambodia, it still backs hard-liners in Phnom Penh who resist implementing the United Nations peace plan.

Yet Vietnam's policies are no more offensive to Americans than those of many other states. The U.S. rightly maintains ties with Syria, even though it sponsors terrorism and occupies much of Lebanon. The U.S. deals with China despite the massacres in Tiananmen Square and Tibet, and with the Soviet Union despite the brutal crackdown in the Baltics.

Diplomatic relations give Washington the chance to raise vexing issues and exert a moderating influence. The Vietnam War ended 16 years ago. Now it has been officially buried. It's time to banish the ghost.●

McDONALD'S CAPITAL CLASSIC ALL-STARS

● Mr. LUGAR. Mr. President, I would like to take this opportunity to recognize the extraordinary talent that will gather Monday, March 25, 1991, in our Nation's capital during the McDonald's Capital Classic. Indiana is very proud of its tradition of excellence in basketball and I would like to acknowledge two outstanding individuals who will be participating in the Monday night game. They have set an example for others to follow in high school athletics and academics. Their achievements and accomplishments are worthy of our attention.

Six-foot, 8-inch Alan Henderson will participate in this year's all-star game as an all-American basketball player. Alan is a native of Indianapolis, IN, and attends Brebeuf Preparatory High School. He has maintained a 3.7-grade point average despite the enormous time commitment of the basketball season. Alan's intelligence is evident, scoring 1,300 on the SAT test, with high ambitions to study either medicine or law at Indiana University in Bloomington next fall.

Another great Indiana player, Daimon Beathea, attends Memorial High School in Elkhart, IN. He is a solid 6-foot, 7-inch forward with an impressive outside jump shot. Daimon plans to attend Michigan State University in East Lansing, MI next year.

I would also like to take this opportunity to acknowledge the coach of the all-stars, another Hoosier, Mr. Ed Schilling, Jr. Coach Schilling will be assisted by his father, Ed Schilling, Sr. During the regular season, Coach Schilling coaches at Western Boone High School in Thorntown, IN.

I ask my colleagues to join me in saluting all the individuals who will participate in the 1991 Capital Classic.

The Capital All-Stars are Romeo Roach and Johnny Rhodes, from Dunbar High School, District of Columbia; David Vanderpool, from Blair High School, Maryland; Rob Garner, from Potomac High School, Maryland; Nii Nelson-Richards, from Good Counsel High School, Maryland; Avis Willis, from West Potomac High School, Virginia; Wayne Bristol, from High Point High School, Maryland; John Stuckey, from Coolidge High School, District of Columbia; Devin Gray, from St. Francis High School, Maryland; Bart Lammersen, from James Madison High School, Virginia; Don Reid, from Largo High School, Maryland; Luteke Kalombo, from Herndon High School, Virginia. The coach of the Capital All-Stars is Joe Gallagher, from St. John's High School in Washington, DC.

The United States All-Stars include Travis Best, from Springfield Central High School, Maine; Danny Hurley, from St. Anthony's High School, New Jersey; Louis Roe, from Atlantic City High School, New Jersey; Reggie Manuel, from Southwest Macon High School, Georgia; James Scott, from Eastside High School, New Jersey; James Forrest, from Southside High School, Georgia; Tom Kleinschmidt, from Gordon Tech High School, Illinois; Donyell Marshall, from Reading High School, Pennsylvania; Cherokee Parks, from Marina High School, California; and Erik Meek, from San Pasqual High School, California.●

A DEMOCRATIC IRAQ

● Mr. SIMON. Mr. President, it has been my privilege to have the opportunity to come into contact with Dr. Jawad Hashim, who heads a committee for a democratic Iraq that is composed of exiles from Iraq.

Recently, they issued a statement that merits the attention of my colleagues in the Senate and the House and the administration.

I ask to insert this into the RECORD at this point.

The statement follows:

THE COMMITTEE FOR DEMOCRATIC IRAQ

On behalf of the People of Iraq, brutalized by Saddam Hussein for two decades; subjugated by terror to fight two pointless wars; helpless as genocide was committed in their name; facing now their gravest threat, I make this appeal.

The appointment of Saddam's cousin as the new Interior Minister is the latest and most hideous attempt to sustain the regime. It was he who gassed a Kurdish village, and he who committed the atrocities to be witnessed in Kuwait. It will be him who will act now for a regime, which—criminal beyond measure; amoral beyond human recognition—has no flat, no mandate to rule and is by any standard unfit so to do. A regime whose sole purpose, manifest by the appointment, is self-perpetuation and self-preservation. This signals the intent to continue their heinous dominion by force of arms. By terror.

The people cannot fight; have no power, no communications; no vestige of protection by law or civilized code. No Geneva convention; no Hague treaty. Not hopeless but without hope.

They are faced by Saddam's "Special Force" of some 10,000 thugs who are the instrument of suppression.

I implore you to bring this affront to humanity, this villainous regime, to an immediate end.

It is the duty of every civilized nation to succour the people of Iraq by every means possible. A people united by suffering. A duty to end suffering.

For and on behalf of the Committee.

JAWAD HASHIM, Ph.D.

MARCH 7, 1991.●

UP FROM THE GHETTO?

● Mr. SIMON. Mr. President, Anthony Lewis visited Chicago in my State. I wish I could tell my colleagues in the Senate he came away with a glowing report about the fine city of Chicago.

What he did was to visit an area that is too often ignored, like all areas of poverty in this Nation are too often ignored.

We continue to be a nation that is deeply segregated on the basis of economics. We are more economically segregated than at any point in our Nation's history.

That means that those who are less fortunate do not live next to most of us who are not in that category, and we continue to ignore their problems.

That is both inhumane and it is contrary to the long run best interest of the Nation.

I urge my colleagues to read Tony Lewis's column, "Up From the Ghetto?" I ask to insert it into the RECORD at this point.

The column follows:

Up From the Ghetto?

(By Anthony Lewis)

"They are now among the worst places in the world to live." That stark epitaph for the black urban ghetto in America comes at the end of Nicholas Lemann's stunning new book, "The Promised Land." I thought of it as I visited North Lawndale, on Chicago's West Side.

North Lawndale was one of the first parts of Chicago to become home for blacks moving up from the South in the great migration that is the subject of Mr. Lemann's book.

The idea of a city slum brings to mind densely packed buildings, a teeming population. But that is not North Lawndale. What strikes the eye here is empitness: burned-out buildings, vacant lots, stores boarded over. And everywhere the ground littered with shards of glass.

On Roosevelt Road and other main streets, stores were destroyed in the 1968 riots and never rebuilt. On the side streets there are gaps where houses and small apartment buildings decayed or were abandoned: sometimes more gaps than buildings. It is as if the great flat prairie of Illinois were trying to re-emerge.

Drug users filter into a crumbling hotel. A dozen young men hang out in an empty lot, getting through the empty day. A prostitute struts on a street corner.

It is a desolate scene. But something unexpected, and powerful, strikes the visitor. Some people in North Lawndale do not accept the desolation as inescapable. They have not given up on the place. They have not given up on themselves.

Some of the small three-story houses are nicely maintained. One has white pillars in front, freshly painted, with a yellow ribbon for the soldiers in the Persian Gulf.

A boy and girl carrying school books scurry across a vacant lot, neatly dressed. A young man with a college degree in biology, working in the local alderman's office, plans to go to law school so he will be better able to help the community.

Even in this place of lost hope, then, there are those who believe in the promise of American society. And that connects with Nicholas Lemann's message in the final chapter of "The Promised Land," which appears in somewhat briefer form in the March issue of The Atlantic.

"American society in the wider sense is not a presence in the ghettos," he writes, "except on television. Policemen don't walk the beat, most schools don't teach, fathers don't live at home, crime goes unpunished. . . . "

But that can change, Mr. Lemann argues. The ghettos can be brought back into the society. It would be a large undertaking, so comprehensive that it would substantially affect all aspects of life in a ghetto:

"The rather casual official attitude toward street crime, for example, which has existed for as long as there have been ghettos, could finally change; policemen could be put back on the streets, and criminals quickly punished. Welfare could become a temporary program leading to a job . . .

"We could try to insure that every ghetto child is born healthy, learns to read and write in grade school, graduates from high school, has a private or government-created job waiting at the end of the process . . ."

The concept is simple, Mr. Lemann concludes: "The Government should be trying to break the hold of those aspects of the ghetto culture that work against upward mobility, by constantly and powerfully encouraging ghetto residents to consider themselves part of the social structure of the country."

To speak of a comprehensive government effort to rescue the black ghettos is to go against the grain of politics today. For our political system has essentially given up on the problem. We have come to think that government programs don't work, that we have no answers.

But the facts are otherwise, Mr. Lemann persuasively argues. We know that some ideas do work. Head Start works. Job training works. Care for expectant mothers works. We have just not had the will to make the needed effort.

It is easy to understand why those of us who are comfortable tend to write off the afflicted, indeed forget them. Comfortable Chicagoans do not often, or ever, visit North Lawndale. But the existence of this and other ghettos nevertheless affects everyone's quality of life. American society is less safe and less decent while this corruption endures.

And there is the question that nags at us: Why should the richest country in the world have in it some of the worst places in the world to live?●

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 29, 30, 31, 34, 35, 36, 37, 38, 39, 41, 42, 43, 44; all Nominations Placed on the Secretary's Desk in the Air Force, Army, Coast Guard, and Navy.

I further ask unanimous consent that the nominees be confirmed en bloc, that any statements appear in the Record as if read, that the motions to reconsider to be laid upon the table en bloc, that the President be immediately notified of the Senate's action and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, considered and confirmed en bloc, are as follows:

Export-Import Bank of the United States

Cecil B. Thompson, of Virginia, to be a member of the Board of Directors of the Export-Import Bank of the United States for the remainder of the term expiring January 20, 1991.

Cecil B. Thompson, of Virginia, to be a member of the Board of Directors of the Export-Import Bank of the United States for a term expiring January 20, 1995. (Reappointment.)

Securities Investor Protection Corporation

George H. Pfau, Jr., of California, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1993.

National Oceanic and Atmospheric Administration

Capt. Christian Andreasen for appointment to the grade of rear admiral (lower half), while serving in a position of importance and responsibility as Deputy Director, Office of NOAA Corps Operations, National Oceanic and Atmospheric Administration, and

Capt. Freddie L. Jeffries for appointment to the grade of rear admiral (lower half), while serving in a position of importance and responsibility as Director, Atlantic Marine Center, National Oceanic and Atmospheric Administration, under the provisions of title 33, United States Code, section 853u.

Rear Adm. James A. Yeager for appointment to the grade of rear admiral (O–8), while serving in a position of importance and responsibility designated by the Secretary of Commerce as warranting that grade in the National Oceanic and Atmospheric Administration, and

Rear Adm. Raymond L. Speer for appointment to the grade of rear admiral (lower half) (O–7), while serving in a position of importance and responsibility designated by the Secretary of Commerce as warranting that grade in the National Oceanic and Atmospheric Administration, under the provisions of title 33, United States Code, section 853u.

In the Coast Guard

The following officers of the U.S. Coast Guard for appointment to the grade of rear admiral:

Arthur E. Henn.
Peter A. Bunch.
David E. Ciancaglini.
William J. Ecker.

The following officers of the U.S. Coast Guard for appointment to the grade of rear admiral (lower half):

John L. Linnon, Jr.
Rudy K. Peschel.
Gerald F. Woolever.
Richard D. Herr.

National Railroad Passenger Corporation

Carl W. Vogt, of Maryland, to be a member of the Board of Directors of the National Railroad Passenger Corporation for a term of 4 years.

Interstate Commerce Commission

J.J. Simmons III, of Oklahoma, to be a member of the Interstate Commerce Commission for a term expiring December 31, 1995. (Reappointment.)

Department of Transportation

Stanford E. Parris, of Virginia, to be Administrator of the Saint Lawrence Seaway Development Corporation for a term of 7 years.

In The Air Force

The following-named officer for reappointment to the grade of general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be general

Gen. John M. Loh, [redacted] Air Force.

The following-named officer for reappointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 120, United States Code, section 601:

To be lieutenant general

Lt. Gen. Leo W. Smith, II, [redacted] U.S. Air Force.

In the Army

The following-named officers for appointment in the Regular Army of the United States to the grade indicated, under the provisions of title 10, United States Code, section 611(a) and 624:

To be permanent major general

Brig. Gen. Roland Lajoie, [redacted] U.S. Army.

Brig. Gen. William A. Stofft, [redacted] U.S. Army.

Brig. Gen. William W. Crouch [redacted] U.S. Army.
Brig. Gen. Edison E. Scholes [redacted] U.S. Army.
Brig. Gen. Arthur E. Williams [redacted] U.S. Army.
Brig. Gen. Theodore G. Stroup, Jr [redacted] U.S. Army.
Brig. Gen. James A. Musselman [redacted] U.S. Army.
Brig. Gen. James B. Taylor [redacted] U.S. Army.
Brig. Gen. Peter T. Berry [redacted] U.S. Army.
Brig. Gen. Walter J. Bryde, Jr. [redacted] U.S. Army.
Brig. Gen. James T. Scott [redacted] U.S. Army.
Brig. Gen. Dennis V. Crumley [redacted] U.S. Army.
Brig. Gen. Jerry R. Rutherford [redacted] U.S. Army.
Brig. Gen. Jay M. Garner [redacted] U.S. Army.
Brig. Gen. Eugene L. Daniel [redacted] U.S. Army.
Brig. Gen. Alfred J. Mallette [redacted] U.S. Army.
Brig. Gen. Joseph Raffiani, Jr. [redacted] U.S. Army.
Brig. Gen. Thomas W. Robison, [redacted] U.S. Army.
Brig. Gen. John H. Tilelli, Jr. [redacted] U.S. Army.
Brig. Gen. Paul J. Vanderploog [redacted] U.S. Army.
Brig. Gen. John P. Otjen [redacted] U.S. Army.
Brig. Gen. Henry H. Shelton [redacted] U.S. Army.
Brig. Gen. Marvin L. Covault [redacted] U.S. Army.
Brig. Gen. William M. Boice [redacted] U.S. Army.
Brig. Gen. Steven L. Arnold [redacted] U.S. Army.
Brig. Gen. Dennis P. Malcor, [redacted] U.S. Army.
Brig. Gen. John R. Landry [redacted] U.S. Army.
Brig. Gen. Robert S. Frix [redacted] U.S. Army.
Brig. Gen. William M. Matz, Jr. [redacted] U.S. Army.
Brig. Gen. Dennis L. Benchoff [redacted] U.S. Army.
Brig. Gen. John F. Stewart, Jr. [redacted] U.S. Army.
Brig. Gen. Richard S. Siegfried [redacted] U.S. Army.
Brig. Gen. William W. Hartzog, [redacted] U.S. Army.
Brig. Gen. David J. Baratto [redacted] U.S. Army.

IN THE NAVY

The following-named officer for appointment to the grade of Vice Admiral while assigned to a position of importance and responsibilty under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. William C. Bowes, U.S. Navy, [redacted]

STATEMENT ON THE NOMINATION OF STANFORD E. PARRIS ADMINISTRATOR OF THE ST. LAWRENCE SEAWAY CORPORATION

Mr. WARNER. Mr. President, I am pleased that the full Senate has given its consent to the nomination of my friend and former colleague in the Virginia congressional delegation Stanford E. Parris, who is the President's choice to be Administrator of the St. Lawrence Seaway Corporation.

Several of my colleagues served with Stan in the House of Representatives where he represented the Eighth District of Virginia with distinction for 12 years. Stan also has extensive experience in State government where he served in the General Assembly of Virginia and as Gov. John Dalton's Secretary of the Commonwealth and Director of the Governor's Washington office. He began his political career as a member of the Fairfax County Board of Supervisors.

Stan Parris is particularly skilled at working with the Congress, the States, and the local governments because he has been there and he understands the problems being faced at all levels of government.

In addition to his political career, Stan is an attorney and businessman by profession who was a partner in a northern Virginia law firm and owner of a Lincoln-Mercury dealership. He served with courage and dedication as a fighter pilot with the U.S. Air Force during the Korean war.

Stan, along with his lovely wife, Martie, has been a tremendous asset to Virginia, and I know they will continue to serve us well.

Mr. President, Stan Parris has the judgment, the skills, and the experience to be an outstanding Administrator of the St. Lawrence Seaway Corporation and to continue his record of service to this Nation.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

THE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration en bloc of calendar numbers 51 and 52, that the resolutions be agreed to and the motion to reconsider be laid upon the table, and that the preamble, where appropriate, be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I further ask unanimous consent that the consideration of these items appear individually in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZING PRINTING OF THE REPORT "DEVELOPMENTS IN AGING: 1990"

The resolution (S. Res. 79) authorizing printing additional copies of Senate report titled "Developments in Aging: 1990," was considered, and agreed to; as follows:

S. RES. 79

Resolved, That there shall be printed for the use of the Special Committee on Aging the maximum number of copies of volumes 1 and 2 of its annual report to the Senate, entitled "Developments in Aging: 1990", which may be printed at a cost not to exceed $1,200.

PERMITTING USE OF THE ROTUNDA OF THE CAPITOL

The concurrent resolution (H. Con. Res. 45) permitting the use of the rotunda of the Capitol for ceremonies as part of the commemoration of the days of remembrance of victims of the Holocaust, was considered, and agreed to.

The preamble was agreed to.

APPRECIATION OF AMERICAN INDIAN VETERANS

Mr. FORD. Mr. President, I ask unanimous consent that the Indian Affairs Committee be discharged from further consideration of Senate Concurrent Resolution 22, extending the appreciation of Congress to all American Indian veterans, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 22) extending the appreciation of Congress to all American Indian veterans for their service in the Armed Forces of the United States.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. MCCAIN. Mr. President, I am pleased to submit along with Senators INOUYE, KASSEBAUM, SIMON, COCHRAN, BURDICK, DASCHLE, MURKOWSKI, DECONCINI, GORTON, CONRAD, and NICKLES a concurrent resolution to extend the appreciation of the Congress to all American Indian veterans for their service in the Armed Forces of the United States.

Mr. President, as events in the Persian Gulf draw to a close, the attention of the Nation is focused upon the return of the men and women who have courageously served in Operations Desert Shield and Desert Storm. As America honors these brave men and women, I believe it is also important to acknowledge the unparalleled devotion that American Indians have had to the Armed Forces of the United States. In fact, American Indians continue to be the highest percentage of any ethnic group in the United States to serve our country, including Operation Desert Storm.

Ever since colonial times, American Indians have enlisted in the armed services of the United States. Even in pre-Revolutionary wars, American Indians were fighting on the side of the Colonists. Perhaps the most legendary contribution by American Indians occurred during World War II. When communications between Allied Forces were being continuously intercepted by our enemies, the need for a code which could not be broken became of paramount importance to our survival and success. When everything else failed, it was the Navajo code talkers whose native language provided a means of communication that eluded the most expert of codebreakers. Of all the codes developed in World War II, the Navajo language code was the only one not broken during World War II.

In Operations Desert Shield and Desert Storm hundreds of American Indians continued the proud and courageous tradition of service in the Armed Forces. From my own home State of Arizona, the Navajo Nation estimates that it has sent at least 360 men and women to the Persian Gulf. Recently, during a visit to the Tohono O'Odham Nation concerning Indian health issues, Secretary Sullivan and I had the privilege of meeting with the families of the 33 men and women serving in the Persian Gulf. It was a very moving occasion for me, one which showed the pride these families had in their sons and daughters and in the job they had been called to do.

Mr. President, the event I was able to witness in Arizona can be repeated on all, if not most, of the Indian reservations across this country. The young and old have a deep pride in their tribal members who have been or are presently called to duty; they don't take a back seat to anybody in the level of patriotism and love of country. Indeed, it was largely because of the American Indian's record of service in World War I that Congress enacted legislation in 1924 granting U.S. citizenship to all American Indians.

Yet as I reflected on these recent events, I am reminded of the services that we have failed to provide American Indian veterans. This perhaps is all too sadly captured in the life of Ira Hayes. The American public has probably never heard the full story about this American hero. He was a Pima Indian who served in the Marine Corps during the Korean conflict and is depicted in the Iwo Jima Memorial as one of the brave men who planted the American flag. Although that moment is captured in time, Ira Hayes the man was soon forgotten. He eventually died a broken man and a victim of alcoholism.

Another American hero, Senator DAN INOUYE, perhaps said it best:

> Even though a great number of Native American veterans have served this country with incomparable bravery and valor, the recognition and level of services which have been provided to Indian veterans remains largely undocumented. It would appear that in our efforts to mainstream our country's veterans, the needs of America's Indian veterans have been forgotten.

As this concurrent resolution extends the appreciation of the Congress, I can think of no more appropriate subsequent action that the Congress can take than to examine the problems, assess current services, and explore the solutions necessary to fulfill the needs of Native American veterans. I look forward to working with my colleagues to do just that in this Congress.

The PRESIDING OFFICER. Without objection, the concurrent resolution is agreed to, and the preamble is agreed to.

The concurrent resolution (S. Con. Res. 22), with its preamble, is as follows:

S. CON. RES. 22

Whereas, American Indians, of various Indian tribes across the nation, have a long, proud and distinguished tradition of service in the Armed Forces of the United States;

Whereas, American Indians have historically served in the Armed Forces of the United States in numbers which far exceed their representation in the population of the United States;

Whereas, American Indians have lost their lives in the service of their nation, and in the cause of peace, including Operations Desert Storm and Desert Shield; and

Whereas, American Indians currently deployed in the Persian Gulf have continued this proud and courageous tradition of service in the Armed Forces of the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. APPRECIATION.

The Congress expresses its appreciation to:

(1) all American Indian veterans for their long, proud, and distinguished tradition of service in the Armed Forces of the United States;

(2) all American Indian service men and women currently or heretofore deployed in the Persian Gulf region as part of Operations Desert Shield and Desert Storm; and

(3) the families of American Indian service men and women and members of Indian tribes nationwide who have supported their loved ones through traditional ceremonies and have prayed for the safety and continued strength of all American forces and Allied partners.

SEC. 2. CONDOLENCES.

The Congress expresses its condolences to the families whose loved ones have made the ultimate sacrifice in the service of their nation and in the cause of peace.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXTENSION OF DEADLINE FOR FILING REPORTS

Mr. FORD. Mr. President, I ask unanimous consent that the deadline for filing reports of committee activities during the 101st Congress by the standing committees pursuant to rule XXVI 8(b) of the Standing Rules of the Senate be extended from March 31 to April 9, 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

VITIATION OF SENATE ACTION

Mr. FORD. Mr. President, as if in executive session, Calendar 45 was inadvertently forwarded to the floor on March 19 and placed on the Executive Calendar.

I ask unanimous consent that yesterday's action be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, will the acting majority leader yield?

Mr. FORD. Yes, I am glad to yield.

Mr. DOLE. I wonder if I could learn whether or not the nomination of Pat Saiki might be on the calendar tomorrow to be Administrator of the Small Business Administration.

Mr. FORD. If the Senator will let me proceed with these, we will check and notify you in just a few moments.

ORDERS FOR TOMORROW

Mr. FORD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9:30 a.m., Thursday, March 21; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business not to extend beyond the hour of 11:20 a.m., with Senators permitted to speak therein; that the time between 9:30 and 10:30 a.m. be under the control of the Republican leader or his designee; and that the time from 10:30 to 11:30 a.m. be under the control of the majority leader or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 9:30 A.M.

Mr. FORD. Mr. President, if no other Senator wishes to speak this evening and it is all right with the Republican leader, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess as under the previous order until 9:30 a.m. on Thursday, March 21, 1991.

There being no objection, the Senate, at 8:12 p.m., recessed until Thursday, March 21, 1991, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate March 20, 1991:*ERR08*

BOARD FOR INTERNATIONAL BROADCASTING

LANE KIRKLAND, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD FOR INTERNATIONAL BROADCASTING FOR A TERM EXPIRING APRIL 28, 1993. (REAPPOINTMENT)

INTER-AMERICAN FOUNDATION

ANN BROWNNELL SLOANE, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING OCTOBER 6, 1996, VICE LYNDA ANNE BARNESS, TERM EXPIRED.

PEACE CORPS NATIONAL ADVISORY COUNCIL

NIARA SUDARKASA, OF PENNSYLVANIA, TO BE A MEMBER OF THE PEACE CORPS NATIONAL ADVISORY COUNCIL FOR A TERM EXPIRING OCTOBER 6, 1991, VICE JOHN J. PETILLO.

JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

ROBERT W. NAYLOR, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION FOR A TERM OF 4 YEARS, VICE DELBA WINTHROP.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 20, 1991:*ERR08*

EXPORT-IMPORT BANK OF THE UNITED STATES

CECIL B. THOMPSON, OF VIRGINIA TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR THE REMAINDER OF THE TERM EXPIRING JANUARY 20, 1991.

CECIL B. THOMPSON, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR A TERM EXPIRING JNAURY 20, 1995.

SECURITIES INVESTOR PROTECTION CORPORATION

GEORGE H. PFUA, JR., OF CALIFORNIA, TO BE A DIRECTOR OF THE SECURITIES INVESTOR PROTECTION CORPORATION FOR A TERM EXPIRING DECEMBER 31, 1993.

NATIONAL RAILROAD PASSENGER CORPORATION

CARL W. VOGT, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL RAILROAD PASSENGER CORPORATION FOR A TERM OF 4 YEARS.

INTERSTATE COMMERCE COMMISSION

J.J. SIMMONS III, OF OKLAHOMA, TO BE A MEMBER OF THE INTERSTATE COMMERCE COMMISSION FOR A TERM EXPIRING DECEMBER 31, 1995.

DEPARTMENT OF TRANSPORTATION

STANFORD E. PARRIS, OF VIRGINIA, TO BE ADMINISTRATOR OF THE SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION FOR A TERM OF 7 YEARS.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENTS TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

CAPT. CHRISTIAN ANDREASEN FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL (LOWER HALF), WHILE SERVING IN A POSITION OF IMPORTANCE AND RESPONSIBILITY AS DEPUTY DIRECTOR, OFFICE OF NOAA CORPS OPERATIONS, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, AND

CAPT. FREDDIE L. JEFFRIES FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL (LOWER HALF), WHILE SERVING IN A POSITION OF IMPORTANCE AND RESPONSIBILITY AS DIRECTOR, ATLANTIC MARINE CENTER, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, UNDER THE PROVISIONS OF TITLE 33, UNITED STATES CODE, SECTION 853U.

REAR ADM. JAMES A. YEAGER FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL (O–8), WHILE SERVING IN A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE SECRETARY OF COMMERCE AS WARRANTING THAT GRADE IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, AND

REAR ADM. RAYMOND L. SPEER FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL (LOWER HALF) (O–7), WHILE SERVING IN A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE SECRETARY OF COMMERCE AS WARRANTING THAT GRADE IN THE NATIONAL OCEANIC AND ATMOSHPERIC ADMINISTRATION, UNDER THE PROVISIONS OF TITLE 33, UNITED CODE, SECTION 853U.

COAST GUARD

THE FOLLOWING OFFICERS OF THE U.S. COAST GUARD FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL:

ARTHUR E. HENN.
PETER A. BUNCH.
DAVID E. CIANCAGLINI.
WILLIAM J. ECKER.

THE FOLLOWING OFFICERS OF THE U.S. COAST GUARD FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL (LOWER HALF):

JOHN L. LINNON, JR.
RUDY K. PESCHEL.
GERALD F. WOOLEVER.
RICHARD D. HERR.

AIR FORCE

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

GEN. JOHN M. LOH, [redacted] U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. LEO W. SMITH, II, [redacted] U.S. AIR FORCE.

ARMY

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624:

To be permanent major general

BRIG. GEN. ROLAND LAJOIE [redacted] U.S. ARMY.
BRIG. GEN. WILLIAM A. STOFFT [redacted] U.S. ARMY.
BRIG. GEN. WILLIAM W. CROUCH, [redacted] U.S. ARMY.
BRIG. GEN. EDISON E. SCHOLES [redacted] U.S. ARMY.
BRIG. GEN. ARTHUR E. WILLIAMS [redacted] U.S. ARMY.
BRIG. GEN. THEODORE G. STROUP, JR. [redacted] U.S. ARMY.
BRIG. GEN. JAMES A. MUSSELMAN [redacted] U.S. ARMY.
BRIG. GEN. JAMES B. TAYLOR [redacted] U.S. ARMY.
BRIG. GEN. PETER T. BERRY [redacted] U.S. ARMY.
BRIG. GEN. WALTER J. BRYDE, JR. [redacted] U.S. ARMY.
BRIG. GEN. JAMES T. SCOTT [redacted] U.S. ARMY.
BRIG. GEN. DENNIS V. CRUMLEY [redacted] U.S. ARMY.
BRIG. GEN. JERRY R. RUTHERFORD [redacted] U.S. ARMY.
BRIG. GEN. JAY M. GARNER [redacted] U.S. ARMY.
BRIG. GEN. EUGENE L. DANIEL [redacted] U.S. ARMY.
BRIG. GEN. ALFRED J. MALLETTE, [redacted] U.S. ARMY.
BRIG. GEN. JOSEPH RAFFIANI, JR. [redacted] U.S. ARMY.
BRIG. GEN. THOMAS W. ROBISON, [redacted] U.S. ARMY.
BRIG. GEN. JOHN H. TILELLI, JR. [redacted] U.S. ARMY.
BRIG. GEN. PAUL J. VANDERPLOOG, [redacted] U.S. ARMY.
BRIG. GEN. JOHN P. OTJEN [redacted] U.S. ARMY.
BRIG. GEN. HENRY H. SHELTON [redacted] U.S. ARMY.
BRIG. GEN. MARVIN L. COVAULT [redacted] U.S. ARMY.
BRIG. GEN. WILLIAM M. BOICE, [redacted] U.S. ARMY.
BRIG. GEN. STEVEN L. ARNOLD, [redacted] U.S. ARMY.
BRIG. GEN. DENNIS P. MALCOR, [redacted] U.S. ARMY.
BRIG. GEN. JOHN R. LANDRY [redacted] U.S. ARMY.
BRIG. GEN. ROBERT S. FRIX [redacted] U.S. ARMY.
BRIG. GEN. WILLIAM M. MATZ, JR. [redacted] U.S. ARMY.
BRIG. GEN. DENNIS L. BENCHOFF [redacted] U.S. ARMY.
BRIG. GEN. JOHN F. STEWART, JR. [redacted] U.S. ARMY.
BRIG. GEN. RICHARD S. SIEGFRIED [redacted] U.S. ARMY.
BRIG. GEN. WILLIAM W. HARTZOG, [redacted] U.S. ARMY.
BRIG. GEN. DAVID J. BARATTO [redacted] U.S. ARMY.

NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. WILLIAM C. BOWES, U.S. NAVY [redacted]

IN THE COAST GUARD

COAST GUARD NOMINATIONS BEGINNING RALPH A. HOEKSTRA, AND ENDING JOHN A. GAUGHAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 26, 1991.

COAST GUARD NOMINATIONS BEGINNING KARL E. SANDERS, AND ENDING HARDY D. JONES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MARCH 5, 1991.

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING BRIAN D. AFFLECK, AND ENDING RICHARD M. ZWIRKO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 11, 1991.

AIR FORCE NOMINATIONS BEGINNING DONALD H. ANKOV, AND ENDING LYMAN A. ADRIAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 26, 1991.

IN THE ARMY

ARMY NOMINATIONS BEGINNING BENJAMIN M. ADAMS, AND ENDING ANTHONY R. STRICKLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 5, 1991.

ARMY NOMINATIONS BEGINNING RAYMOND P. ORWIG, AND ENDING *RANDAL C. KUMM, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 5, 1991.

ARMY NOMINATIONS BEGINNING JOSEPH H. STRIBRNY, AND ENDING ROCKY L. MCELWAIN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 5, 1991.

ARMY NOMINATIONS BEGINNING MARC A. ABRAMOWITZ, AND ENDING ROBERT J. WYGONSKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 19, 1991.

ARMY NOMINATIONS BEGINNING JOSEPH A. INTILE, JR., AND ENDING KENNETH C. YOHN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 26, 1991.

ARMY NOMINATIONS BEGINNING BARNEY E. CREWS, JR., AND ENDING MICHAEL R. SNOW, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 26, 1991.

ARMY NOMINATIONS BEGINNING RICHARD A. ELLIOTT AND ENDING *DONALD T. ZAJACKOWSKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 26, 1991.

IN THE NAVY

NAVY NOMINATION OF WILLIAM A. MCMANUS, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 31, 1991.

NAVY NOMINATIONS BEGINNING FRANCIS D. HURRY, AND ENDING SYLVIA MAXWELL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 19, 1991.

NAVY NOMINATIONS BEGINNING DAVID D. HINSPATER, AND ENDING ANTHONY A. VEIGA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 26, 1991.

NAVY NOMINATIONS BEGINNING ALAN WILLIAM ABBS, AND ENDING MICHAEL WILLIAM ZUNA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 26, 1991.

NAVY NOMINATIONS BEGINNING MARLON Q. ABREU, AND ENDING MICHAEL S. PINETTE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF FEBRUARY 26, 1991.

EXTENSIONS OF REMARKS

HISTORICALLY BLACK COLLEGES, AND UNIVERSITIES CAPITAL FINANCING ACT OF 1991

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. CLAY. Mr. Speaker, today, Congressman WHEAT and I are introducing the Historically Black Colleges and Universities Capital Financing Act of 1991.

This act provides an opportunity for historically black colleges and universities to have support for institutional improvement and capital projects. It is timely that these colleges and universities will have additional fiscal resources to strengthen and maintain capital projects.

There is a great need for historically black colleges and universities to build and renovate classroom facilities, libraries, dormitories, and other facilities to continue their educational mission and meet the heightened demands of producing the kind of work force necessary for America to successfully compete in the 21st century. These colleges and universities are generally small in size and typically serve students from socially and economically disadvantaged backgrounds; these schools generally experience difficulty in securing private capital.

This legislation authorizes the Secretary of Education to provide insurance on the bonds of a qualified bonding authority to be designated by this Act. The proceeds of the qualified bonds will be loaned to the colleges and universities which are eligible under this legislation. The amount is up to a level of $500 million, of which not less than 70 percent shall be used for loans to private member institutions and not less than 30 percent shall be used for loans to public member institutions.

This act also includes several safeguard provisions which significantly limit any financial risk that the Federal Government may encounter. This legislation serves the objective of facilitating access to the private credit sector. Low cost credit will be available to finance worthy and essential capital projects and enables colleges and universities serving disadvantaged African-American students to continue and expand upon their educational mission and help America meet the demands of the 21st century.

Historically black colleges and universities have, through the years, been severely underfunded, but have rendered monumental service to our Nation through its graduates. From these institutions very inception, the contributions that they have made to our Nation have been immeasurable. It is significant to observe that historically black colleges and universities which enroll 20 percent or 200,000 of the approximately 1 million black students in institutions of higher education have set an enviable record in graduating approximately 40 percent of all black college graduates from these institutions.

I am convinced that this is a major and necessary vehicle to support and extend the capital development of black colleges and universities. These institutions of higher education, as the historical record graphically shows, have suffered from very serious underfunding.

Mr. Speaker, it is clear that without these colleges and universities, thousands of black students will be denied the opportunity of higher education. The historically black colleges and universities have admitted young people who are viewed as nonproductive in our society and have nurtured, sustained, and developed them into productive and resourceful college graduates.

This is an extraordinary record and needs to be expanded.

Moreover, the graduates of these institutions of higher education make a significant contribution to the GNP of our Nation through their specialized knowledge and technical skills. It is most important, as a part of the multiplier effect, that this contribution of service continue to go forward with the support of the Congress. The record of students who have matriculated at these institutions of higher education and who have attained national recognition in the arts and humanities, the natural sciences, medicine, law, teaching, and other professional and technical fields is both highly impressive and inspirational. These institutions have a splendid opportunity to build upon this record through support for capital projects and improvement for historically black colleges and universities.

It is important as you well know, that as we face global competition from abroad in the area of high technology and cybernetics, all of our institutions of higher education should be in the best possible position to add to our economic strength by insuring that we have graduates of high quality.

I believe that in a time of an economic downturn and growing dependence on foreign products, this legislation will serve as a catalyst or a multiplier effect for our economy. In brief, I believe that this legislation is a prudent investment in our Nation's future.

I urge you to join with me in supporting this legislation. It represents an idea whose time has come.

HISTORICALLY BLACK COLLEGE AND UNIVERSITY CAPITAL FINANCING ACT OF 1991

HON. ALAN WHEAT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. WHEAT. Mr. Speaker, today I am pleased to join my distinguished colleague from the State of Missouri, Congressman BILL CLAY, in introducing legislation of critical importance to the future of historically black colleages and universities [HBCU's] in this country.

The bill we are proposing today, the Historically Black College and University Capital Financing Act of 1991, will help HBCU's meet their most pressing need—to secure private capital for long-awaited construction and repair of HBCU campus facilities.

Essentially, the legislation authorizes the Secretary of Education to provide insurance on the bonds of qualified HBCU's, increasing the ability of HBCU's to raise the large amounts of advance money needed to pursue major capital projects.

Because of the small size of HBCU's and the large number of disadvantaged students they serve, HBCU's usually lack the ability to secure private credit to finance major capital projects. This bill would allow HBCU's to enter the bond market by providing them with a Federal guarantee on up to $500 million in bond debt.

Proceeds from the bonds will be made available as loans to HBCU's to finance needed capital improvements to libraries, dormitories, laboratories, special education facilities, and other facilities that will allow HBCU's to fulfill their educational mission in the years ahead. The bill includes a safeguard provision for the Federal Government requiring a reserve fund from which payments would be made on bonds in the case of any delinquency, thus limiting the risk to the Government.

For over 100 years black colleges have served the special needs and interests of aspiring and talented young black Americans. The important role these institutions have played in advancing millions of black Americans and their families into the economic mainstream of American life can hardly be overstated.

Those black Americans with a college degree earn, on average, 86 percent more in annual income than those blacks who possess only a high school diploma. A 1986 survey found that while 85 percent of HBCU alumni came from blue-collar family backgrounds, only 3 percent of the alumni hold blue-collar jobs themselves. About 76 percent of the alumni hold managerial or professional positions.

How important are HBCU's to the mission of providing higher education to black Americans?

While HBCU's represent only 3 percent of the colleges and universities in this country, they are responsible for educating nearly 40 percent of all black graduates from institutions of higher education. It has also been estimated that 46 percent of all black business executives, 50 percent of all black engineers, 75 percent of all black Ph.D.'s, and 80 percent of all black Federal judges received their un-

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

dergraduate or graduate degrees from an HBCU.

These statistics are even more startling when one considers the disadvantaged backgrounds of the majority of students attending HBCU's.

Generally, HBCU's admit those students with the most severely limited family resources. For these students, the parental contributions to the cost of their college education is substantially less than the national average. As a result, HBCU's must work that much harder to help most of their students obtain financial aid to pay for their college education.

At the same time, HBCU's themselves have some of the lowest tuition rates and smallest endowments of all 4-year colleges and universities. The financial resources available to HBCU's across the Nation are increasingly constrained, threatening their continued ability to effectively meet the special higher education needs of young black Americans.

The financial constraints facing HBCU's have been exacerbated over the past decade by a relative decrease in the amount of Federal support for HBCU's. While the Federal share of all college and university revenues nationwide fell by 17.1 percent between 1979 and 1986, the Federal share for HBCU's fell 29.8 percent.

For public HBCU's the drop was even more dramatic. The Federal share of public HBCU revenues plunged 37.7 percent over the same time period, compared to 19.8 percent for all public schools. Since HBCU's are far more dependent on Federal support than their counterparts across the country, this trend is particularly troublesome for the future of all HBCU's.

In short, the financial resources available to HBCU's are shrinking. But we can see the negative consequences of this trend already on the campuses of HBCU's across the country.

From one campus to the next, critical construction and rehabilitation needs are going unmet. Classroom facilities, dormitories, laboratories, libraries, and other facilities crucial to providing a quality education are not being built or repaired because the money is simply not available.

At the private institutions represented by the United Negro College Fund, the highest priority construction and renovation plans currently placed on hold total over $450 million in capital projects. This figure does not include the capital needs of public HBCU's, which account for nearly three-quarters of all HBCU enrollment.

These capital needs must be addressed if our Nation's HBCU's are to maintain and expand their infrastructure to meet the growing numbers of young men and women seeking to enter the work force as trained professionals in the future. This legislation will commit Federal resources to help address those needs in a timely manner with little financial risk to the Federal Government.

Historically black colleges have existed for over 100 years. They have rich traditions of academic achievement, professional success, and cultural development that provide important role models for young black Americans.

Much of the black leadership in this country was educated at HBCU's. The names represent a library of black accomplishment—Supreme Court Justice Thurgood Marshall, former Atlanta Mayor and U.N. Ambassador Andrew Young, former Congresswoman Barbara Jordan, poet Nikki Giovanni, composer and jazz artist Grover Washington, and Rev. Martin Luther King, Jr.

These and countless other HBCU graduates have provided vivid examples of leadership and stimulated intellectual growth in our Nation's youth. Their alma maters have been an important part of the tapestry of institutions of higher education in this country.

HBCU's aspire to continue to provide opportunities to young black Americans who might not otherwise have access to higher education. Passage of this legislation will provide HBCU's the ability to improve their facilities and meet the challenge of educating our young men and women as we enter the next century.

Historically black colleges and universities represent a rich tradition of black achievement in America. Today, It is a tradition that needs and deserves our support.

IN RECOGNITION OF DADE COUNTY'S NEWEST AND BEST TEACHERS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I am proud to recognize the Sallie Mae Teacher Award Program. The American Association of School Administrators [AASA], in cooperation with the Student Loan Marketing Association [Sallie Mae], is sponsoring this award to recognize 100 outstanding first-year elementary and secondary school teachers from throughout the country. Although all our teachers are outstanding, the Sallie Mae Award brings well deserved credit to some of the best new teachers in Dade Country, FL and the country.

As part of a national project, this program starts with nominations at the school level, through the region level, to county nominations. My congratulations go out to this year's Dade County Sallie Mae finalists: Marta Garcia of Ben Shepard Annex Elementary, Gonzalo L. Raventos of Parkway Middle, Cathleen Constantine of W. J. Bryan Middle, Magda Loureiro of Hialeah Elementary, Agnes Pagan of Brownsville Middle, Althea Duren of Dunbar Elementary, Thomas Santino of Holmes Braddock Senior, Michael Kent Sell of Miami Killian Senior, Lori Ann Austen of Redland Middle, and Lourdes Planas of Cutler Ridge Elementary.

The two Dade County nominees honored for national competition are Arva Suzanne Graham, a kindergarten teacher at Joella C. Good Elementary, and Marla Reyes, a third grade ESOL teacher at Miramar Elementary. Suzanne, daughter of our esteemed U.S. Senator BOB GRAHAM, and Marla are both first year teachers, which is a prerequisite for the award.

National award winners, to be announced by the AASA in September 1991, will receive $1,000 and a certificate of recognition.

I would like to take this opportunity to acknowledge the remarkable people who make this inspiring award a reality. The members of the joint Dade County Public Schools [DCPS]/United Teachers of Dade [UTD] Teacher of the Year Task Force include: Carol Iglesias, UTD cochair; Bea Addison, Robert Borsong, Bettye Douglas, Annette Katz, Carol Renick, DCPS cochair; Dr. Richard Artmeier, Bertha Pitt, Daniel Tosado, Dr. Kenneth Walker, and David Wind, Greater Miami Chamber of Commerce representative. The Greater Miami Chamber of Commerce Education Task Force Committee members are: John E. Forta, vicechairperson, Education/Leadership Miami; Seth Gordon, and David R. Wind, Cochairpersons, Education Group Committees; Perry Branyon and Peggy Hurst, cochairpersons, Recognition Committee.

I would like to extend my best wishes to Arva Suzanne Graham, and Marla Reyes as they compete nationally for this prestigious award.

PROLIFERATION PROFITEERS: PART 5

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. STARK. Mr. Speaker, today I am placing into the CONGRESSIONAL RECORD the fifth in a series of 12 case studies on foreign companies that have contributed to nuclear proliferation. Each of these firms has sold nuclear equipment, materials, or technology, or dual-use items without proper safeguards to Iraq. The "dirty dozen" includes six companies from Germany, two from Britain and Switzerland, and one from Chile and Brazil.

To help address this problem, I've introduced the Nuclear Non-Proliferation Enforcement Act, H.R. 830. Under this legislation, any foreign company found selling nuclear weapons technology without the proper safeguards would have its goods barred from entering the United States. We'll hit these proliferation profiteers in the only place they care about—the bottom line.

This legislation is closely modeled on the missile technology sanctions which passed in the Defense bill last fall. Currently H.R. 830 has bipartisan support and 21 cosponsors as well as the endorsement of leading scholars in the field of nonproliferation.

TWELVE FOREIGN FIRMS REPORTEDLY ENGAGED IN NUCLEAR WEAPONS-RELATED TRADE WITH IRAQ[1]

FIRM 5: H & H METALFORM GMBH (GERMANY)

H & H Metalform is a German machine tool manufacturing firm. Since 1987, H & H Metalform has allegedly delivered specialized machinery to Iraq for the production of enriched uranium—a critical nuclear weapons-related material. For instance, in 1988 the company exported to Iraq a high speed lathe or "flow turn" machine useful in building centrifuges and missile nose cones. Although the West German government considered this equipment "dual-use" (i.e., having both military and industrial applications), the transaction was arranged by operatives of Iraq's nuclear procurement network working from Britain and Germany. H & H Metalform earlier exported a similar lathe machine to Brazil for its uranium enrichment program. The company has also sent centrifuge balancing magnets to Iraq in clear violation of German export law and has acted as the go between for other German firms and individuals who assisted Iraq's nuclear weapons program. The firm reportedly agreed to establish an entire uranium enrichment plant in Taji, Iraq. The deal was to be handled through a London-based Iraqi-front company called Nasr Dependence Meed. H & H Metalform is co-owned by Dietrich Hinze and Peter Huetten with a 50 percent share held by the Technology Development Group, a London-based Iraqi front company.

Sources: Nucleonics Week, 8/23/90, p. 13 by Mark Hibbs; Nucleonics Week, 9/9/90, pp. 2-4 by Mark Hibbs; Der Spiegel, 12/19/89, pp. 93-94; Sunday Times, 12/16/90, pp. 1-2, 4-5; Poison Gas Connection, 1990, p. 42 by Kenneth R. Timmerman; U.S. News & World Report, 6/4/90, pp. 50-51.

IT IS TIME FOR A NATIONAL CONFERENCE ON AGING

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. DOWNEY. Mr. Speaker, I am today introducing legislation which may provide an answer to a perplexing question that has plagued many of us for so long—"what has happened to the White House Conference on Aging?" For almost 2 years now, the Subcommittee on Human Services of the House Select Committee on Aging has been trying to find out if the President planned to hold the Conference and when. We have had no success, nor have any other Members who have inquired. The time to act is now.

My legislation, which would create a National Conference on Aging, would take the responsibility of convening a White House Conference on Aging out of the hands of the President, and put it into the hands of Congress and the American people. It would give Congress the authority to call a National Conference on Aging in 1993 which would be carefully planned, broad in scope, bipartisan in nature and would include grassroots concerns generated by State and local forums preceding it. It would be conducted by a joint congressional commission, and would bring together representatives of Federal, State and local governments, service providers, academics, community leaders, and private citizens. Its purpose would be to identify current problems of older individuals, develop recommendations for the coordination of Federal policy with State and local needs and to develop specific and comprehensive recommendations for executive and legislative action as may be appropriate for maintaining and improving the quality of life for older Americans.

Traditionally, White House Conferences on Aging have provided our Nation with a foundation for the decade ahead, pinpointing what issues and concerns should be targeted for special attention and items should be addressed. Since 1951, these Conferences, called by past Presidents and held in Washington, DC, every 10 years, have played a significant and constructive role in improving economic and social policies that support the needs of older citizens and that positively impact on the lives of younger persons. The mission of a White House Conference on Aging is to focus on aging as a lifelong process that is supported by the family as well as the community, in addition to the Government and private sector programs. Past White House Conferences have provided the basis for pivotal recommendations and breakthroughs in the areas of employment, age discrimination, transportation, research, elder abuse, aging women, income, housing, and health care.

When Congress passed the Older Americans Act Amendments of 1987 (public law 100-175) in November of 1987, it authorized the President to convene the White House Conference in 1991.

But for some reason, the Bush administration has not seen fit to announce this Conference. Although we were hopeful when an appropriation of $1 million was included in the fiscal year 1991 budget request to Congress, there has been no action since then. A congressional hearing, letters to the President signed by Members of Congress from both bodies and from both sides of the aisle, countless individual letters and inquiries have only resulted in growing frustration. We have confirmation that the concept of having a Conference has indeed made its way to the White House, only to have it stagnate for almost 2 years.

I know many of my colleagues join me in expressing our confusion and disappointment as to why the Bush administration has chosen not to announce this Conference. Last year, the 1991 White House Conference on Small Business and the 1991 White House Conference on Libraries and Information Services were announced. Both of these issues are commendable ones, and ones deserving of national attention. But what kind of signal does that send to the aging of our Nation? That a White House Conference on Aging is not as important? We are currently preparing to move into the 21st century, with an ever-increasing elderly population. Health care, especially long term care, continues to be a key concern, and one that will not fade away. A comprehensive 1991 White House Conference on Aging is needed to help shape our policy blueprint for the coming decade.

If the Bush administration is not going to assume responsibility for developing a national agenda for older Americans, then it is our responsibility to do so. Our seniors can no longer sit and wait for the administration to decide. While time has steadily ticked away, the President has remained silent.

Mr. Speaker, I would like to commend the many organizations representing and working with the elderly, in particular, the National Association for Home Care, for their continued support for the Conference.

It is my hope that my legislation will provide a platform to address the critical senior issues of the 1990's.

UNITED, WE CAN DO IT

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. BEREUTER. Mr. Speaker, the united effort that brought an early end to fighting in the Persian Gulf has made all Americans proud. With the same dedication and spirit, this Nation can conquer the problems that we face at home.

I commend to my colleagues the following editorial from the Crete (NE) News:

UNITED, WE CAN DO IT

It isn't right to say a war is good for a country. It is right to say the results of a war can be good for a country. And the results of the Middle East war were very good for this country, and probably the world.

From border to border the people of the United States are on a high over the results of the war. Everyone thought it would be much longer and harder and that casualties would be much greater. Such a quick decisive effort to achieve United Nations' and United States' goals was euphoric.

That isn't being callous to the feelings of people who suffered and are suffering from the horrors and destruction of war. It is a feeling of right being accomplished and of a greater conflict months or years hence being avoid.

The effort showed what can be accomplished when this nation and coalition nations pull together. The United States led the effort. It started with division in congress over whether military force should be used. But after a narrow majority, the division melted and it was solid support. Political party motives were forgotten.

During the war alleged problems on the home front lost importance. They received little mention. Before the war we were worrying about the national debt and the savings and loan bailout. Those problems still exist along with others.

This nation can conquer those problems. Pulling together 100 percent with an all-out effort could beat those opponents. It will take some sacrifice. It's not an easy chair job. Neither was the job of the pilots and the service people who advanced across the sand.

ZION ELEMENTARY SCHOOLS FIND PRACTICAL SOLUTIONS TO SOLID WASTE PROBLEMS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. PORTER. Mr. Speaker, early this year two elementary schools in my district took an active role in addressing the solid waste disposal predicament currently facing our Nation. I applaud these schools for setting a precedent for their own community of Zion, for Lake County, for the State of Illinois, and for the Nation.

Alarmed by the amount of solid waste generated at their schools and throughout their community as a whole, Principal Dallas Evans of Beulah Park School and Principal Bob Fink of West School, both located in Zion, IL, formed partnerships with a waste services company to find a practical solution to the solid waste problem.

Small steps like these ultimately fuel broader community mobilization. At a time when waste reduction and recycling are becoming watchwords nationwide, it is becoming more and more important for communities to pull together and rethink their waste disposal habits. Beulah Park and West School in Zion have taken a leadership position in garnering support for such cooperation.

Principal Evans and Principal Fink believe that students must develop conscientious waste disposal habits now, so they can grow up to be tomorrow's responsible adults. At the beginning of the 1990–91 school year, the principals took steps toward integrating solid waste awareness into their school curriculums.

Principal Fink at West School, aided by second-grade teacher Bette Jo Ohmstead, established "Kids CARE [Concerned About Respecting the Environment], an environmental club that meets once a week to discuss issues and also oversees a small-scale recycling program. Principal Evans and some of Beulah Park's teachers met with the Illinois Department of Energy and Natural Resources to learn more about solid waste and recycling.

When Browning-Ferris Industries [BFI], a waste services company that serves the Zion community, approached the two schools in October with an offer to help set up and fund solid waste and recycling programs, both Evans and Fink accepted.

Faculty, administration, and students at Beulah Park and West School worked with BFI to establish two programs that promoted conscientious waste disposal habits. These noteworthy programs encourage student participation and responsibility, and further demonstrate the kind of business and community cooperation that is necessary to resolve the national waste disposal problem.

At Beulah Park School students in kindergarten through sixth grade have had a major responsibility for recycling activities since the launch of their program, the Beulah Park Green-Up. So far, the primary activity for the Green-Up has been a student run cafeteria recycling program that can serve as a model for other schools. Students scrape their trays when they are finished eating, staff and monitor the tray-washing process, and oversee collection of the trays. The goal is to recycle the 500 plastic and aluminum lunch trays, as well as flatware, produced daily, thus reducing the amount of lunchroom garbage by 90 percent.

Across town at West School, West classes challenge each other to see which can collect the most recyclables during the "Trash Bash Challenge." To enhance their familiarity with many kinds of recyclable items, the challenge program asks students to bring a different recyclable from home each week. At the end of the 5 weeks, BFI will award a pizza party to the winning class. The kids' enthusiasm for this activity is evident in the fact that they collected a total of 24,000 aluminum cans during the first week of the contest.

To supplement the primary recycling activities at Beulah Park and West, BFI is also leading assemblies, providing the schools with recycling bins and weekly pickup service, and supplying teachers with solid waste field trip ideas, games, and written materials. These materials include BFI's 6-week MOBIUS curriculum, which features a cartoon character whose body is made from recyclable items—tires, cans, bottles, newspaper, and corrugated cardboard. BFI also helped Beulah Park and West set up schoolwide paper recycling.

For effective solutions to waste disposal problems, waste services businesses need to be integrated as part of a community's plan for long-term waste disposal solutions. Like Evans and Fink, the people at BFI realize the powerful role schools can play in addressing the solid waste issue and in preparing the community to pursue alternative forms of waste disposal. This is why BFI established the MOBIUS curriculum as a resource for schools across the country.

The solid waste/recycling outreach program in Zion builds upon the MOBIUS curriculum by providing faculty and students with easy access to waste services experts, materials, and facilities, and aiding in the development of student-monitored activities that get kids excited about recycling.

Business working hand-in-hand with the community is what will ultimately allow us to solve the burgeoning solid waste problem. I commend Principal Evans, Principal Fink, BFI, and other Zion schools that are incorporating solid waste outreach into their curriculums for having the vision to move forward with these meaningful programs, and I hope the Zion school programs can serve as a model for others across the country.

HAPPY 20TH, LUSO FEDERAL CREDIT UNION

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. NEAL of Massachuetts. Mr. Speaker, today I would like to take time to pay tribute to the Luso Federal Credit Union which is located in my district. As we all know, the New England economy has faced some difficult times lately. This has been evidenced by the Federal Deposit Insurance Corporation takeover of the Bank of New England and the closing of credit unions in Rhode Island. During these turbulent times, the Luso Federal Credit Union has remained strong and solid. Today, I would like to commend the Luso Federal Credit Union on the occasion of their 20th anniversary.

The underlying philosophy of credit unions is "People helping People." The heart of the credit union is the members and to be a successful credit union requires institutions to provide services that are approriate to the needs of the members. Since its inception, the Luso Federal Credit Union has been under the guidance of the dynamic leadership of Joseph Dias, Jr. Mr. Dias has been the president of the credit union for 20 years. Mr. Dias has established a credit union that is synonymous with financial stability, profitability, steady growth, and a clear future.

Twenty years ago, Mr. Dias identified a need for a credit union and took action. When the Luso Federal Credit Union received its Federal charter, it began with seven members and $35 in total assets. Now, Luso Credit Union is proud to announce it has a capital assets ratio of 11.4 percent. The National Credit Union Association recommends the ratio to be around 8 or 9 percent. In addition, the credit union now has assets totaling over $18 million and 2,436 members. And most impressively, the Luso Federal Credit Union has never had foreclosure on a mortgage.

Credit unions are financial cooperatives organized by people with a common bond. The Luso Federal Credit Union began with members of the Germio Lusitano Club and their families. Over the years, membership has expanded to include companies that are members of the Ludlow Chamber of Commerce, town of Ludlow employees, and other associations in the town. This common bond has allowed the credit union to focus on the needs of the individuals it serves. This has been done primarily by encouraging savings and offering services at a low or no fee schedule.

The operation began in a small room donated by the Germio Lusitano Club and the credit union was open for three evenings a week for 2 hours. Now, the credit union is open 6 days a week and has a variety of hours that are convenient for the members. The credit union provides a full range of services such as passbook accounts, checking accounts, certificate of deposits, loans and miscellaneous services. With the expansion of services and the size of the credit union, the credit union has never sidetracked from its original purpose of serving its members.

The credit union has been superbly managed by its manager, Noealla E. Boileau. The Luso Federal Credit Union has been fortunate to have a dedicated board of directors. The members of the board are Alfredo Ribiero, Maria F. Gomes, Mario Cachucho, Albert Sousa, Joaquim Palatino, Armelin Saloio, Joaquim Costa, and William Cabral.

I am proud to have the Luso Federal Credit Union in my district and I am grateful for the services it offers to my constituents. I would like to congratulate the credit union on the occasion of their 20th anniversary. I wish them the best for the future and I know the Luso Federal Credit Union will remain a source of stability during these changing times in the financial services industry.

VICTORY IN THE PERSIAN GULF

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. SKELTON. Mr. Speaker, Kirk Powell, editor of the Holden Progress, wrote an excellent editorial concerning the success of American and coalition forces in the recent gulf war. Mr. Powell's editorial should be made part of this RECORD, as he pays tribute to our troops.

[From the Holden Progress, Mar. 7, 1991]

VICTORY IN THE PERSIAN GULF!

(By Kirk Powell)

The Persian Gulf War is over! American and coalition forces have won a stunning victory.

It was undoubtedly the best-planned and most professional military campaign in modern history. And, as a result, thousands of American lives were saved.

The extensive training and professionalism of Americans in uniform paid dividends far beyond our expectations.

U.S. Congressman Ike Skelton (D-Mo.) says there were three major factors that contributed to American military success in the Gulf:

First, U.S. war colleges and staff colleges trained effective leaders. That leadership, strategy and tactical proficiency paid off in the Persian Gulf.

American forces were prepared. Nothing is more critical to success than readiness. There is no substitute for a highly trained military and well-maintained equipment.

Finally, up-to-date military technology swung the war in America's favor. High-tech weapons are costly and controversial, but there is no doubt that superior U.S. technology like precision-guided missiles and night vision devices gave our forces a tremendous advantage over the Iraqi troops. It worked and it saved thousands of American lives.

"Our pride in our American troops will continue long past their victorious return," Skelton said. "We will not only embrace them when they come home, but we should honor them for their dedication to duty, their stoutheartedness in adversity and their patriotism toward our country in the most frightening hours."

Skelton says because of those brave Americans, there is new hope of establishing the rule of law and order over tyranny—a peaceful new world order.

"We owe these servicemen and women our gratitude and the civilized world owes them its appreciation," Skelton said. "Our soldiers, sailors, airmen, marines and coastguardsmen have been true to the values that make America the bastion of freedom."

"We look forward to their triumphant return," he said, "and at the same time our hearts go out to those families who suffered loss."

We couldn't agree more!

INTRODUCTION OF GEOGRAPHY AWARENESS WEEK

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. PANETTA. Mr. Speaker, today I rise to introduce a bill that would designate December 1–7, 1991, and November 15–21, 1992, as Geography Awareness Week. It is a pleasure to once again be joined by my good friends and esteemed colleagues, Mr. KILDEE and Mr. GREEN, in introducing this resolution for the fifth and sixth consecutive years. I am honored to be an original sponsor of the legislation and to be a part of increasing awareness on the subject of geography in our Nation's schools.

The designations of Geography Awareness Week over the past 4 years have highlighted the importance of geography. However, much more work needs to be done to address student illiteracy in this subject matter, especially in light of all the changes taking place in Eastern Europe and the Persian Gulf. These world events have a significant impact, not just on the physical geography of our globe, but also in terms of economic and national security implications.

In a recent study done in 1988, Americans aged 18–24 ranked last in an international comparison of geographic knowledge, and American adults of all ages scored among the bottom third. One in four Americans surveyed cannot identify the Soviet Union or the Pacific Ocean, and 3 in 4 could not locate the Persian Gulf on a map.

Geography illiteracy puts the United States at a significant disadvantage and weakens our ability to remain a nation with worldwide involvements and aspirations. Continued ignorance of world geography will severely hinder us in competing and participating effectively in the international marketplace. Indeed, as a nation with global influence and responsibilities, we must possess an understanding of other lands and cultures of the world.

It is my hope that Geography Awareness Week will again emphasize the importance of geographic literacy so that our students can effectively compete in global markets and meet global challenges. I urge my colleagues to show their support for this legislation and become a cosponsor. This resolution will focus national attention on the integral role that the knowledge of world geography plays in preparing our citizens for the future of our increasingly interdependent world. Thank you.

The text of the resolution is as follows:

H.J. RES. —

Whereas geography is the study of people and their planet, offering a framework for understanding ourselves, our interdependence with other peoples, our relationship to the Earth, and world events;

Whereas the United States has both worldwide involvement and influence that demand an understanding of geography, different cultures, and foreign languages;

Whereas the credibility of our Nation's foreign policy largely depends on the support of a geographically informed public, a public which understands both the locations and the significance of historic changes occurring around the globe and their impact on the United States;

Whereas an ignorance of geography, different cultures, and foreign languages places the United States at a disadvantage with respect to other nations in matters of business, politics, the environment, and global events;

Whereas, although geography as a distinct discipline has virtually disappeared from the curricula of schools in the United States, it is still being taught as a basic subject in other nations, including the United Kingdom, Canada, Japan, and the Soviet Union;

Whereas our Nation's governors, in their National Goals for Education, explicitly identified geography as one of five subjects in which American students should demonstrate competency;

Whereas a perspective in geography offers a critically needed understanding of the relationship between human activity and the condition of our planet in this time of increasing environmental problems;

Whereas the first federally funded National Assessment of Educational Progress revealed a "disturbing geography knowledge gap" among 12th graders: 58 percent could locate Jerusalem on a regional map, but only 36 percent knew that Saudi Arabia is bounded by the Red Sea and the Persian Gulf;

Whereas in a 1988 Gallup Poll, 75 percent of those surveyed could not locate the Persian Gulf on a map, and fewer than half of those surveyed could name Asia as the place that Christopher Columbus was hoping to reach when he discovered the New World;

Whereas that 1988 Gallup poll also projected that 24,000,000 Americans could not identify the United States on a map of the world, 58,000,000 Americans could not tell direction on a map, and 105,000,000 Americans did not know the population of the United States;

Whereas geography is more than the study of map identification, State capitals, and country names, but geography also gives meaning to location and establishes a context for understanding the connections among peoples, places, and events;

Whereas the success of a democracy relies heavily upon an educated citizenry whose members are aware of both their influence on and connection with the rest of the world; and

Whereas national attention must be focused on the integral role that a knowledge of world geography plays in preparing citizens of the United States to assume a responsible role in the future of an increasingly interconnected and interdependent world: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning December 1, 1991, and the week beginning November 15, 1992, are each designated as "Geography Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

FEMA IN THE VIRGIN ISLANDS

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. de LUGO. Mr. Speaker, I am very pleased to make remarks today to commend the Federal Emergency Management Agency, its staff, and particularly three of its officials, Grant Petersen, Steve Singer, and Gerald Connolly, for their exemplary job assisting the people of the Virgin Islands to recover from the ravages and the horrors of Hurricane Hugo.

FEMA closed its offices in the Virgin Islands last week after nearly a year and a half of work that literally rebuilt the Virgin Islands, especially the island of St. Croix. It is fitting that we take a few moments to acknowledge the herculean task FEMA performed.

Hurricane Hugo was, without doubt, the worst natural disaster to hit an American community in more than a generation.

Winds blew in excess of 150 miles per hour for nearly 12 hours. Gusts to over 200 miles per hour tore roofs from buildings, leveled even reinforced concrete structures, toppled trees and stripped leaves, downed utility lines and poles, crushed huge 10 million gallon fuel storage tanks, and left a community of 110,000 people in a state of disbelief and shock.

Incredibly, only three lives were lost. But the damage to property was catastrophic. Over 90 percent of the buildings on St. Croix suffered damage; 75 percent were destroyed.

Within 36 hours of the passing of the storm, I traveled aboard the first flight to land on St. Croix, a C–131 commandeered by Grant Petersen, FEMA's Associate Director for State and Local Support Programs. Lt. Gov. Derek Hodge was with us. When we arrived we found a community with no electricity, no water, no food, no telephones, and almost no shelter. Entire neighborhoods were leveled. Stunned residents wandered the streets. The island looked as though it had been hit by an atomic blast.

Just 2 hours after our arrival, FEMA established the first communications link with the outside world. From that point on, help was on the way.

For the next year and a half, FEMA directed a recovery that was to total more than half a billion dollars. It included family grants, housing programs, crisis counseling, and public agency grants. It involved participation from the Departments of Defense, Justice, State, and Education, the Environmental Protection Agency, the General Services Administration, the Public Health Service, and others. While it was the combined assistance of all of these Federal agencies as well as the Virgin Islands government, it was FEMA that coordinated it all, and made it work.

And more than just the agencies, it was the outstanding work of many, many people who contributed to the Virgin Islands' recovery.

First and foremost, Grant Peterson. His leadership, his advocacy, his appreciation for the enormity of the tragedy that struck the Virgin Islands, in large part made the FEMA recovery as fast and far reaching as it was.

Steve Singer and Gerald Connolly, Federal Coordinating Officers at FEMA, were the on-the-scene professionals who ensured that the job that needed to be done was done, and done with sensitivity to Virgin Islands ways.

I have made statements to the House Public Works Subcommittee on Investigations and Oversight suggesting ways that FEMA response to a natural disaster of the proportions of Hurricane Hugo can be strengthened. These came as a direct result of my on-the-scene observations and my extensive work with FEMA since September 18, 1989. FEMA did an excellent job and should be empowered to do more. For in the aftermath of a disaster of Hugo-like proportions, every minute counts for both victims and response agencies.

I cannot say enough about the job FEMA did, and for the extraordinary ability and commitment of people like Grant Peterson, Steve Singer, and Gerald Connolly. On behalf of all of the people of the Virgin Islands and again, especially for those on St. Croix, I say, thank you for a job well done.

NEW JERSEY PRIDE HONOR ROLL: SELF-HELP CLEARINGHOUSE

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. GALLO. Mr. Speaker, 10 years ago, a group of dedicated individuals under the direction of Edward Madara identified a real human need in Morris County, NJ, and their effort to solve a local problem has resulted in the creation of a national resource.

Working within the health care profession, Ed and his coworkers came in daily contact with people who did not know where to turn during times of trauma in their lives.

In an effort to guide people with special needs to the best source of help and comfort for them, the founders of the Self-Help Clearinghouse of St. Clares-Riverside Medical Center compiled a list on a single sheet of paper of some two dozen self-help organizations as a service to medical center patients.

As the list was circulated, it grew to include 70 groups and was published, under a corporate grant, as the first self-help directory in New Jersey.

Today, the American Self-Help Clearinghouse is still associated with the medical center, but it is now national in scope, helping people to find mutual aid and support groups for problems ranging from addictions to disabilities, from illness to bereavement.

This model program has a long list of firsts to its credit—the first clearinghouse to be computerized, the first to provide statewide service, the first to add a toll-free number.

Its computer software program, Mutual Aid Self-Help Network [MASHnet], developed by the medical center's research and evaluation department, is used by 15 other clearinghouses in the United States and Canada.

The clearinghouse staff members and volunteers provide information on literally thousands of free, member-run groups to tens of thousands of callers a year, and when there is a need not currently being met by an existing self-help organization, the clearinghouse will help to establish new ones—more than 580 new groups so far.

The Self-Help Sourcebook, published by the clearinghouse, describes more than 600 national and model self-help groups and lists local and regional clearinghouses, helplines, and resources for rare disorders.

Mr. Speaker, on the occasion of the organization's 10th anniversary, I ask my colleagues to recognize the pioneering efforts of Edward Madara and the staff of the American Self-Help Clearinghouse, St. Clares-Riverside Medical Center and, most especially, all of the volunteers who have built this network of self-help and who keep it running effectively for the benefit of all individuals who need help and consolation.

A TRIBUTE TO POLICE OFFICER ALAN C. HALL

HON. JOAN KELLY HORN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Ms. HORN. Mr. Speaker, I rise today to pay tribute to a man who served the people of Florissant, MO, as a police officer. Alan C. Hall had a very distinguished career, receiving commendations from the Florissant Police Chief on at least three occasions in his 5½ years on the force.

Mr. Hall, who was 28 years old, shared his commitment to law enforcement with his father, who is a retired St. Louis city patrolman, and his two brothers who are both police officers. Those who worked with and knew Officer Hall held him in very high esteem. His untimely death has shocked and saddened our community.

I extend my deepest sympathy to his family.

INCREASE CHARITABLE DEDUCTIONS IN AUTOMOBILE USE

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. DOWNEY. Mr. Speaker, today I am introducing legislation to support the efforts of people who volunteer their time in a charitable manner, not for recognition, but for the greater good of all. We must recognize that in recent years, greater numbers of individuals have volunteered their services to help carry out the exempt-purpose activities of charitable organizations, such as Scouting and other youth activities, providing meals to the homeless or elderly, et cetera. In many instances, these volunteers incur actual out-of-pocket expenses in rendering services to charities, such as where an individual uses his or her own car in delivering meals to the homeless or elderly on behalf of a charity, and is not reimbursed for use of the car for this purpose.

To support the efforts of these volunteers, who do not receive any charitable deduction for the value of their contributed services, I believe that the standard mileage rate allowed for computation of the charitable deduction for use of a passenger automobile in providing services to a charity should be increased to 12 cents per mile in order to take into account additional out-of-pocket costs of operation.

As chairman of the Subcommittee on Human Services of the Select Committee on Aging, I have seen countless examples of social service programs for older Americans which could not function without the voluntary support of senior citizens. Many of these people use their cars to give friends and neighbors rides to hospitals, to go to senior centers, or meal programs where they volunteer their services. Others volunteer their time to visit frail elderly people who are unable to leave their homes. This companionship is sometimes the only contact the frail individual has with the outside world. I can assure you that these volunteers are not in it for the money, they give freely of their time. It seems only fair that they are compensated for the wear and tear on their vehicles. Earlier this year the subcommittee held a hearing on transportation services for the elderly and in the course of that hearing it became abundantly clear that transportation is a vital link to assure that people receive services to which they are entitled. This bill is a step in the right direction.

NATIONAL AGRICULTURE DAY AND NEBRASKA BEEF

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. BEREUTER. Mr. Speaker, this Member stands in recognition of the great State of Nebraska which today is celebrating its No. 1 industry—agriculture.

This Member would like to recognize the tremendous work the farm men and women of this Nation do in feeding not only the people of our own country, but millions of others in countries throughout the world. As a member of the Select Committee on Hunger, this Member is proud of the fact that our country takes the lead in alleviating the worldwide problem of hunger. As America's farmers take to the fields this spring we owe them a great deal of thanks.

This Member would also like to proudly declare that Nebraska has finally won a national championship. This time it was won not by the Cornhuskers, but by the cattlemen and beef producers of Nebraska. On March 1, the USDA announced that Nebraska was No. 1 on their cattle-on-feed survey with feedlot inventories of 2.37 million head. We not only lead the Nation by 150,000 head, we also set a new State record eclipsing the old mark by 20,000. Spurred by increased domestic consumption and a growing foreign export market, consumers worldwide recognized that "Nebraska Beef is Best!" This Member invites his colleagues to examine the following article from the March 19, 1991, edition of the Omaha World Herald which refers to the recent USDA announcement.

This Member would like to extend condolences to our friends from the State of Texas as they have lost their title with a respectable second place finish. The State of Nebraska, once commonly referred to as "The Beef State," can now proudly wear that title again.

On this Agriculture Day, celebrate by having a good steak from the great State of Nebraska.

NEBRASKA SCORES FIRST IN FED CATTLE

Nebraska feedlots continued to hold a record high number of cattle, both for the state and the nation, earlier this month.

The March 1 USDA cattle-on-feed survey, released Monday afternoon, showed that Nebraska had 2.37 million head on feed.

Nebraska had the most cattle in feedlots among the seven states that account for about 75 percent of all cattle fed for slaugher in the United States.

The 2.37 million figure—the Cornhusker state's largest total for any month on record, according to the Nebraska Agricultural Statistics Service—eclipsed the previous record, 2.35 million head recorded Feb. 1.

Texas was runner-up in the on-feed category with 2.22 million head, followed by Kansas, 1.74 million; Iowa, 1.07 million; Colorado, 920,000; California, 435,000; and Arizona, 219,000.

Overall, the seven-state total was 8.974 million, up 8 percent from a year ago and the largest seven-states March total since 1974.

Nebraska also led the placements category, starting 440,000 on feed during February, up 10 percent from last year but 4 percent below two years ago.

Iowa's on-feed number, 107 million as of March 1, was up 6 percent from a year ago. Placements, 115,000, were unchanged from a year ago.

The seven-state total placements of 1.465 million head were up 6 percent from a year ago but 9 percent below two years ago.

Observers said the placement total was larger than what the trade had expected.

Marketings of fed cattle in February totaled 1.481 million head, down 1 percent from a year ago and down 3 percent from two years ago.

CATTLE ON FEED

State	Cattle (thousands)	Percent of 1988
Arizona	219	94
California	435	101
Colorado	920	111
Iowa	1,070	106
Kansas	1,740	108
Nebraska	2,370	113
Texas	2,220	106

Note.—State feedlot cattle inventories as of March 1 for the seven states that account for about 75 percent of the nation's beef.

CONGRATULATIONS TO LIBERTYVILLE HIGH SCHOOL WILDCATS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. PORTER. Mr. Speaker, today I would like to congratulate the Libertyville High School Boys Basketball Team for their fourth place finish in the Illinois High School Association Basketball Tournament that was held this past weekend in Champaign, IL. The team's head coach is Max Sanders and assistant coaches, Andy Bitta, Julian Emanuelson, and Jim Goodman played a solid schedule in the tough North Suburban Conference and had a final record of 25 wins against 8 losses.

The team members were: Jon and Andy Bauer, Matt Williams, Brian Davis, John Cimaroli, Chris Majeri, Matt Sriver, Matt Kosowski, Darren Cohen, John Garwal, Frank Walter, Zac Adams, Scott Keegan, and Gregg Wheeler.

The Libertyville team is only the second team from Lake County to reach the final four in Illinois basketball history and competed in the tournament for the first time in their 75-year history. While Libertyville lost to the eventual State champion, Proviso East, which had been highly rated in both Illinois and the Nation, they played an excellent game that will long be remembered. In the consolation game, Libertyville came within only 2 points of capturing third place.

While commending the team in athletics, it is also important to note that Libertyville High School is a leader in academics in my district. The Department of Education has recognized Libertyville as a "Drug Free School" and the school is currently in competition for the prestigious Excellence in Education Award that will be announced later this year.

Whether it is sports or academics, Libertyville High School is to be commended for their commitment to educating the young people of our area. The 10th Congressional District is very proud of the Wildcats and all of the students and faculty of Libertyville High School.

SPRINGFIELD CENTRAL "BESTS" EVERETT FOR MASSACHUSETTS STATE BASKETBALL TITLE

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. NEAL of Massachusetts. Mr. Speaker, I would like to take this opportunity to congratulate Central High School from Springfield, MA, on their impressive victory in the Massachusetts Division I State Boys Basketball Championship.

The Central High Golden Eagles overcame a scrappy Everett, MA, team on Saturday March 16, 1991, to win the championship 70–51, and thereby culminate a season in which they finished with a 25–0 record. The victory marks the second State championship for Central High and Coach Howie Burns since Central began competing in the tourney in 1987.

Central was led by First Team Parade High-School All-American Travis Best, who finished with 22 points despite being the subject of box-and-one defense. Best, who will attend Georgia Tech next fall, led Central to a 69–4 record during his 3 years at the school. Included in his list of accomplishments was an 81-point outburst earlier in the season.

Also contributing to the balanced Central effort were Fred Smith who scored 16 points, Desi Jackson who scored 9 points, pulled down 10 rebounds, and blocked 7 shots, and Edgar Padilla who scored 9 points, and contributed 5 steals and 4 assists.

The individual efforts notwithstanding, Central's unbeaten season and the State championship was the result of a total team effort. Other players contributing throughout the season were Ahmad Sharif, James Price, Gary Gauthier, Moses Makkiya, Luis Sierra, Rudy Smith, Anthony Boyd, John Daughtry, Paul Gosselin, and Anthony Wallace. In addition to Coach Burns, assistant coaches Jeffrey Messer and Wilford "Champ" Godbolt, and manager Abraham Makkiya guided Central throughout the school year.

I think the entire school and community has a right to be proud of the Central Golden Eagles, and I would like to add my congratulations to a job well done.

RETIREMENT OF DEXTER SLAGLE

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. SKELTON. Mr. Speaker, it has come to my attention that a distinguished career in public service is coming to an end in my district.

Dexter Slagle, the dean of the Versailles City Council is retiring after having served the community in that capacity for 20 years.

Councilman Slagle is a graduate of Central Methodist College in Fayette, MO, and moved to Versailles with his wife Joan in 1954. They raised two daughters in Versailles, Wendy, who is now Mrs. William Sheehan; and Amy, who will graduate this spring from the University of Missouri Medical School.

Mr. Slagle was elected to the city council in 1971 and has served continuously on that board for the past 20 years. He served in the terms of four mayors, William Caine, James Scrivner, Milo Salyer, and Charles Pryor.

As a councilman, Slagle is credited with providing invaluable assistance to the community. He is the owner of Slagle Surveying Co., and has used his expertise to the community's benefit repeatedly.

He is a member of the Versailles United Methodist Church and of the Rolling Hills Country Club, where his friends expect to find him using his newly found spare time pursuing his interest in golfing.

It is a pleasure for me to use this vehicle to note his 20 years of public service and to join his community and those who served with him in thanking him.

RESOLUTION TO DESIGNATE MONARCH BUTTERFLY AS THE NATIONAL INSECT

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. PANETTA. Mr. Speaker, I rise today to introduce a House joint resolution designating the monarch butterfly as our national insect.

The majestic monarch butterfly is indeed the "monarch" of all insects and worthy of special acknowledgment. Insects play a crucial, yet often uncelebrated, role in maintaining the ecological balance of our planet. Unfortunately, excessive human intrusion into the environment has threatened the existence of many species of insects. Such is the case with the monarch butterfly.

The monarch butterfly, native to North America, has inhabited this continent for over 1,000 years, long before the Europeans ever set foot on North American soil. The monarch has been able to survive this millennium through its unique ability to sequester the poison from its host plant, the milkweed, thus making the monarch toxic to its predators. Tragically, the urbanization of America has resulted in a great reduction of the milkweed host plant, as well as a reduction of the groves of trees the monarch overwinters upon in California and Mexico. At one time this loss of habitat threatened the very existence of the monarch.

Despite the intrusion of humans on its sensitive environment, the enduring monarch continues to flourish and returns triumphantly every year to its overwintering sites in the central California coast, particularly in Pacific Grove, CA. Each fall millions of monarch butterflies return to the towns of Pacific Grove, Capitola, and others, where they are greeted by annual festivals and parades held in honor of their return.

I believe the monarch butterfly stands as an important reminder to all of us of the beauty of our environment and the need for the protection and conservation of our natural wonders. I urge my colleagues to join me in honoring the monarch by cosponsoring my resolution to designate the monarch as our national insect.

A copy of the resolution follows:

H.J. RES. —

Whereas the monarch butterfly, native to North America, is found throughout the United States;

Whereas the monarch is a unique representative of over 600 species of butterflies and nearly 90,000 other insects that are an integral part of the natural heritage of the United States;

Whereas the great numbers and diversity of insects play a vital role in the daily lives and ecology of the environment;

Whereas the population of monarchs is declining under pressure from urbanization and loss of habitat which results in the reduction of the host plant (milkweed) and overwintering groves of trees in California and Mexico;

Whereas conservation efforts are underway in both California and Mexico to maintain these overwintering sites;

Whereas Pacific Grove, California, holds an annual festival celebrating the return of the monarchs to overwinter until spring when the monarchs begin a northward flight; and

Whereas the monarchs enhance the beauty of the environment and signals the need for protection and conservation of the natural wonders:Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the monarch butterfly is designated and adopted as the national insect of the United States, and the President is authorized and requested to declare such fact by proclamation.

THE CONTRIBUTIONS OF EDWARD WILMOTH BLYDEN

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991S9920

Mr. DE LUGO. Mr. Speaker, I am proud to make a statement today in praise of an outstanding member of the Virgin Islands community, Edward Wilmoth Blyden, who has just celebrated 50 years of service with the Immigration and Naturalization Service.

Ed Blyden has served this agency and this Nation longer than any other active INS employee, beginning in 1941 at the age of 16 as a messenger. After military service in World War II, he returned to INS and later was promoted to clerk and, in 1972, to the position of immigration inspector.

His years of unstinting service and his rise through the ranks stand as an excellent example for young Virgin Islanders to follow. Ed Blyden has proven the worth of the old-time values of hard work, integrity, and dedication.

He has been married to Victorine Blyden for 30 years. He is the father of 21 children, whose lives have been enriched because Ed Blyden worked those 50 years to ensure that his sons and daughters would have the opportunity to obtain higher education. He knows that this is no greater gift that a parent can give.

On behalf of the U.S. Congress, I salute Edward Wilmoth Blyden on the occasion of his 50th anniversary with the Immigration and Naturalization Service.

NEW JERSEY PRIDE HONOR ROLL: LOUISE AND WILLIAM EASTON

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. GALLO. Mr. Speaker, the community newspaper has been the backbone of our democratic system of government since the founding of the Nation.

Without this local source of news and the coverage of civic events, a community cannot survive as a recognizable unit.

Community journalism provides the glue that holds groups of individuals together by giving them a common reference point and an avenue to debate and discuss the problems they must solve together.

The true reward for those who produce these newspapers lies in the knowledge that they are providing the essential links among people—they are the cornerstone of the community.

Owning and operating a community newspaper is also a life consuming experience, which requires long hours and the ability to keep many projects moving forward simultaneously.

In the communities of southeastern Morris County, NJ, including Madison, Chatham, and Florham Park, the keepers of the community conscience since 1973 will be honored for their dedication to the highest principles of community journalism.

Louise and William Easton, who recently decided to step back from this demanding avocation as publishers of the Eagle-Courier newspapers, will be honored on April 24 with the Chamber of Commerce's Distinguished Service Award.

Over the years, the newspapers that they published were honored with countless awards by the New Jersey Press Association. In 1979, Louise's strong commitment to quality community journalism earned her special recognition from the National Newspaper Association for her editorial accomplishments and distinguished service to the community.

Louise and Bill have been tireless contributors to community improvement efforts, supporting downtown revitalization and other civic activities. Together, they founded the annual Christmas walk, which has grown into the downtown Christmas parade.

Mr. Speaker, I ask my colleagues to recognize the important contributions of Louise and William Easton, publishers of the Eagle-Courier newspapers from 1979 to 1991, and to wish them all the best as they step back from this demanding profession and take some time to smell the roses.

MAKING ENGLISH THE OFFICIAL LANGUAGE OF THE UNITED STATES OF AMERICA

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. DICKINSON. Mr. Speaker, Mr. Jack Hagopian, my constituent from the Second District of Alabama, recently wrote a most eloquent letter stating the reason why English should be the official language of the United States of America. It reads as follows:

HON. WILLIAM L. DICKINSON,
Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVE DICKINSON: A concerned first-generation American, veteran of three wars and the Dominican Republic action, a retired regular officer of the United States Air Force, who has the equivalent of a Masters Degree in International Relations, I strongly favor passage of Federal legislation making English the official language of the United States of America.

My parents were immigrants who spoke no English when they first came to this country. They raised and supported nine children, each of whom learned English well, graduated from high school pre-World War II, were never on drugs nor landed in jail, and like myself became productive citizens. While we often spoke my parents' native languages in the home and cherished our culture, it was ingrained into each of us that we were Americans first. We were severely censured if we spoke Armenian or Turkish in public or in the company of others who did not know these languages. My father learned English fluently, while my mother, who needless to say had little outside contact in those days serving the needs of such a large family, spoke broken English (her sentence structures were often direct translations with the subject following the verb. Yet, she did read and comprehend a newspaper, having taught herself to read.

Instead of knuckling under to pressure groups and creating problems similar to those that are splitting the Canadians with their two official languages, we should be reaffirming the "Melting Pot" philosophy that instilled high values in our immigrants and the strong desire to become full-fledged Americans in the greatest country on earth.

Declaration of English as our official language will create and nurture cohesiveness among our citizens. It will eliminate the unnecessary waste and expenditure of funds which can be put to more meaningful, necessary and productive purposes.

I sincerely hope you will vigorously and energetically support legislation making English the official language of the United States—such a law in no way will preclude anyone from speaking other languages or can be considered a "racial slur," it will be in the best interests of all Americans.

Respectfully,

JACK HAGOPIAN.

DON'T TREAD ON MY FLAG

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. CLEMENT. Mr. Speaker, events of recent months have touched an important sentiment in our communities large and small. Americans everywhere are proud of the men and women who served in Operation Desert Storm. They are proud that our people came together to defend freedom against the tyranny of Saddam Hussein.

The unifying symbol of our people is the flag. It is, as we all know, more than a piece of cloth. It is an amalgam of the experiences which have shaped our Nation and our people. It is the banner under which the men and women of our Armed Forces have faced adversity, the streamer for which they have offered up their lives.

The flag is an amazing source of patriotism and inspiration, a fact perhaps no better demonstrated than by the poem written by a friend and constituent, Mr. J.B. Williams of Ashland City, TN. I am pleased to share it with my colleagues.

The text of the poem follows:

DON'T TREAD ON MY FLAG

(By J.B. Williams)

It's only a piece of cloth, red white and blue.
It spells trouble for some, like an I.O.U.
Dont' tread on my flag it's all I want.
It stands for freedom you either do or don't.
It's been around for over 200 years.
Through fortunes of times,
Through blood sweat and tears.
Don't tread on my flag it's all I have
It's asking all people to come and share.
A house divided will not stand
Old glory was there to watch over our land.
After four years of bloodshed in the family
Our flag was waving over the land of the free.
Through wars and wars and rumors of wars
It's waving for freedom though battle scarred.
Don't tread on my flag it's waving today
Bringing freedom to people in a faraway place.
It's only a piece of cloth, red white and blue,
Standing for freedom for people like you.
Giving liberty and freedom and justice for all
From a small town courthouse
To the great justice halls.

KENTUCKY-BASED MILITARY UNITS IN OPERATION DESERT STORM

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. MAZZOLI. Mr. Speaker, I rise today to pay tribute to all the men and women of Operation Desert Storm. Every State was involved in the Operation, but Kentucky was involved in a very dramatic way in the activities in the gulf.

The 101st Airborne Division, the Screaming Eagles, are based at Fort Campbell, KY, and they performed what has been called bold and bodacious action in the air-land campaign in the gulf.

Fort Knox, KY, is the U.S. Army Armor Center and, under the leadership of Maj. Gen. Thomas Foley, trained not only Army but Marine Corps personnel in the tank warfare, which was so dramatically on display in the Kuwait theater. Also, the M1–A1 main battle tank which provided its prowess in the sands of Kuwait and Iraq was developed at Fort Knox.

The 100th Division (Training) is headquartered in Louisville, my hometown, and under the leadership of Maj. Gen. Richard Chegar, deployed many of its personnel to support the various divisions which were activated and deployed as a result of Desert Storm.

Last but not least, in our own family, my nephew, my brother's son, S. Sgt. Steven Mazzoli, is now at Fort Knox, having been activated as a member of the 100th Division's Reception Battalion.

Mr. Speaker, at this time, I commend to the attention of my colleagues as complete a list as I could compile of Kentucky-based military units involved in Operation Desert Storm:

101st Airborne Division.

100th Division (Training).

First Brigade: A and B Company, First Battalion, 398th Regiment, Armor; Headquarters, Second Battalion, 397th Regiment, Armor; Headquarters, Second Battalion, 399th Regiment, Bowling Green, Armor.

Second Brigade: Headquarters, Armor.

Third Brigade: Headquarters, First Squadron, 302d Cavalry, Armor.

Fourth Brigade: Headquarters, Armor.

100th Reception Battalion, Administrative.

149th Division: 137th, Transportation; 217th Quartermaster.

Army Reserve: 3346th Medical Unit; 5010th Army Hospital; 400th Combat Support; 209th Combat Support; 223d Military Police Units.

National Guard (ARMY): 137th Transportation; 217th Quartermaster; 475th Medical Unit; 438th Military Police; 888th Medical Unit; 133d Transportation Company; 623d Field Artillery; 614th Military Police; 199th Detachment; Medical Company.

National Guard (AIR): 123d Transportation Company; 123d TACT, Hospital; 123d CIV, Engineer Squad; 123d Services, Flight; 123d Security, Police; 165th Weather, Flight.

NORTH BAY VILLAGE STANDS BEHIND U.S. TROOPS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, in the President's March 6 speech to a joint session of Congress, he offered well deserved praise to all Americans saying, "Above all, I thank those whose unfailing love and support sustained our courageous men and women: I thank the American people."

The President's praise surely applies to the good people of North Bay Village. On February 12, 1991, the city of North Bay Village passed and adopted Resolution No. 91–03 expressing support for the United States' position in the Middle East. Their heartfelt resolution was the very embodiment of the "unfailing love and support," our President spoke about.

In the words of Resolution No. 91–03, North Bay Village, FL, passed and adopted on February 12, 1991:

Whereas, the City of North Bay Village extends complete support to the policies of the American Administration and the brave Allied Forces who are fighting in the Persian gulf as we pray for peace and the prompt Resolution of this crisis.

Now, therefore, be it resolved by the city commission of the City of North Bay Village, Florida:

That the City of North Bay Village expresses its complete support for the United States political and military position regarding the Persian Gulf Crisis, condemns the Iraq government, Saddam Hussein and Iraq's malicious attacks on Israel and we affirm our solidarity with the state of Israel and the members of our United States Armed Forces who are fighting valiantly to free the nation of Kuwait.

Mr. Speaker, the President's leadership was steadfast and unerring in judgement for many reasons. The President acted with clear and resolute purpose, the liberation of Kuwait and the putting down of aggression; he acted with international support, 12 United Nations resolutions and the military support of 30 nations; and most powerfully, the President acted with the support of the American people.

The city of North Bay Village and many other communities who in spirit stood shoulder to shoulder with our brave men and women in the gulf, should be recognized for their commitment to freedom and justice. In particular, I commend the leadership of North Bay Village for supporting this resolution: Mayor Dr. Paul Vogel, Vice Mayor Irving Leighton, Commissioner Alvin M. Blake, Commissioner Deborah Mas-Geller, Commissioner Irving J. Gurien.

THE BUS STOP KIDS

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mrs. BENTLEY. Mr. Speaker, now that Desert Shield/Storm is over and victory over Iraq's aggression is assured, we in Congress are continuing to praise the millions of men, women, and children who supported our most glorious rout of Iraq in the Persian Gulf war. The strong moral and physical support given to our service men by the caring American people in the home theater was crucial in strengthening our morale and effectiveness of American forces in the Kuwaiti theater.

One of the many support groups mobilized in support of solidiers and their families is the bus stop kids of Hickory Elementary School in Bel Air, MD.

Every day after school, almost from the start of Operation Desert Shield, the 15 boys and girls of bus No. 76 meet at the home of 7-year-old Amanda Melefsky and make stars for service people. The kids take the names of service men and women in the Middle East and write each soldier's information on a paper star and hang the star on a tree in the Melefsky's front yard.

Every star that hangs from their tree is accompanied with a letter written by one of the children to a soldier in the Persian Gulf. Each letter is sent overseas informing the soldier that a star has been hung in his or her honor.

Calls have come from friends and relatives of troops throughout Maryland. Each wanting to make their loved one part of the bus stop kids makeshift monument. The Melefsky's evergreen tree is now blanketed with white stars.

Amanda Melefsky will tell you that "each star means a prayer." I will tell you that each volunteer support group like the bus stop kids is a prayer come true for people who have loved ones who are risking their lives in the Middle East in the gulf war. The bus stop kids and thousands of volunteer groups across America that support our troops are an important reason for the allies' success against Saddam Hussein.

Mr. Speaker, my colleagues in the House of Representatives join with me in acknowledging the dedication to volunteer service the bus stop kids have demonstrated. We extend our deep appreciation to all the bus stop kids and their school and parents who have made the war effort a little easier for both soldiers in the Middle East and the friends and relatives who await their return.

TIME TO TRAVEL AGAIN

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. CLEMENT. Mr. Speaker, I want to join a recently formed coalition of travel and tourism industry executives who are working with the U.S. Travel and Tourism Administration in an effort to assure the American public that travel in America is safe again.

Now that the State Department has lifted most international travel advisories, the price of gasoline is declining, many airlines are offering inexpensive fares and airport security is at the highest level ever, it is a great time to travel in America.

Tourism is our Nation's largest export. Last year more than 40 million foreign visitors came to the United States spending over $53 billion.

America is a great place to visit. I encourage our own citizens as well as our foreign visitors to tour the U.S.A.

And by the way—if you are planning to travel, I know a great place that is the "home of country music," boasts a full size replica of the Parthenon and a statue of the goddess Athena, some of the best fishing in the world and some of the best food you ever tasted—my hometown, Nashville, TN.

ADDRESS OF HON. BENJAMIN GILMAN BEFORE THE 1991 MASONS AND FAMILIES BREAKFAST

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. FISH. Mr. Speaker, on Sunday, March 17, 1991, our colleague Congressman BENJAMIN GILMAN addressed the Free and Accepted Masons of New York. He spoke eloquently about the role Masonic values, such as freedom of religion and separation of church and state, and about our Mason Brothers, such as George Washington and Benjamin Franklin, played in laying the foundation of our great Nation. By contrasting the Masonic tradition with the brutality of Saddam Hussein, Mr. GILMAN highlighted how truly fortunate Americans are to have our country based on the ideals of the "Free Masons."

SPEECH BY REPRESENTATIVE BENJAMIN A. GILMAN

Good morning, my Brother Masons, families and friends—and happy St. Patrick's Day!

Our grand master, most worshipful Richard Thomas, most worshipful brother Ronald Steiner, and brother Robert Singer, our grand secretary, and grand chaplain the right worshipful Herb Groce, the right worshipful Arthur Markeway, Dep. President Chickeno:

I thank you and thank my good friend, Fred Dresdale, for your kind invitation to participate in today's family breakfast.

It gives me great pleasure and it is a privilege to break bread with you this morning and to reflect for a few moments on the rich heritage that we all share as Masons and as Americans.

We gather this morning at an historic juncture in our Nation's history. We have just achieved a significant victory over tyranny and aggression in the Persian Gulf war. A war which, while controversial before hostilities began, became clearly more and more justifiable as it progressed.

Saddam Hussein, the tyrannical dictator of Iraq, deliberately set his nation on a path of ruthless aggression against a weaker neighbor—an aggression which, had it gone unchallenged, would have led to ever further and greater aggression.

The 1930's taught the world an expensive, bloody lesson that appeasement is not a practical policy for any nation.

For forty-five years, the cold war brought a bizzare stability to the world. All nations knew perfectly well that any aggression might lead to involvement by the superpowers and to nuclear holocaust. Unfortunately for the world, Saddam Hussein came to believe that the end of the cold war, with the collapse of communism in Eastern Europe and the chaos in the Soviet Union, meant that checks against aggression no longer existed.

Fortunately for the rest of us, President Bush fully recognized that threat, and, in recognizing the need for a "new world order", immediately grasped that we had a responsibility to form a world-wide coalition that would nip aggression in the bud, and set a precedent for the rest of the post-cold war era.

Throughout Operation Desert Shield and Operation Desert Storm, many of us in Congress reflected on the irony that Saddam Hussein claimed he was fighting a holy war.

Those of us who put our ultimate faith in a "grand architect of the universe," found it profoundly ironic that:

A war of aggression,

A war which saw the hideous torture and murder of innocent women and children,

A war which saw gross violations of the most basic rights of prisoners of war,

A war which saw attacks against civilian populations in non-combatant nations,

A war which, for the first time in history, saw a deliberate effort to pollute the seas and the skys:

How ironic it is that Saddam Hussein claimed that his cause was a "holy" war.

Saddam Hussein's battlefield policies violated not only international law but the most basic tenets of his own Islamic religion.

I ask you to contrast this so-called "holy" war with our own Nation's struggle for independence led by our brother, George Washington, who defined his own efforts in our revolutionary war as follows:

"If my own endeavors to avert the evil with which this country was threatened, by a deliberate plan of tyranny, should be crowned with the success that is wished—the praise is due to the grand architect of the universe." And, in fact, masonic principles were the underpinning of our own struggle for nationhood.

In his book, "Masonic Membership of the Founding Fathers," Ronald F. Heaton notes that 33 general officers in the Continental Army, 8 of Washington's aides and Secretaries, 9 signers of our Declaration of Independence, and 13 signers of the U.S. Constitution all were Masons.

The first Masonic book printed in North America was the one published in 1734—just four years after the founding of the first American Masonic Lodges. That book was published by none other than Brother Benjamin Franklin, a grand master and guiding force behind the Revolution and the Constitution.

The list of Brother Masons at the time of our Revolution reads like a who's who of thought and action:

Paul Revere, John Hancock, John Adams, John Jay, John Marshall, the Marquis de Lafayette, all of these giants of our founding years were Brother Masons.

And their influence was felt, not just on the Revolutionary War battlefields, but in the crafting of the Republic which followed in its wake.

The Constitution itself is replete with Masonic principles, including the separation of church and state, allowing each individual to worship according to the dictates of their own conscience.

Our Founding Fathers had lived under the experience of paying tax monies to support a state church, and wanted to make certain that Americans would never be forced to do this. However, never did our Founding Fathers deny the existence of a supreme being. This is evidenced by the references to the Diety in our national seal, and in the motto, "In God We Trust", which was utilized from our earliest years as a Republic, and made official in 1864.

Since the adoption of the U.S. Constitution, 14 of our Presidents were Brother Masons, from George Washington to Gerald Ford. In 1793, the cornerstone of the U.S. Capitol Building was laid in what is now Washington, D.C. The ceremony was a Masonic event, conducted under the auspices of the Grand Lodge of Maryland. And, to this very day, if you request it on your tour of the Capitol Building, most guides will be pleased to point out the many examples of Masonic imagery which permeate the Halls of the Capitol Building.

And, if you turn your dollar bill to the reverse side, you will note the obverse and the reverse of the great seal of the United States, both of which incorporate the Masonic imagery which was so important to our Founding Fathers.

And, we owe so much to our Brother Mason George Washington, who, is one of the most heroic and significant acts in the history of our Nation (while one of the last known), turned down at the New Windsor Catonment the offer by his fellow officers of a crown.

There is no doubt that the military at the time of the Revolutionary War would have had no problem overthrowing the duly elected Congress: a coup d'etat that would have established a dictatorship here in the United States.

And George Washington, in his Newburgh addresses, cited Masonic principles to decline this offer of complete political power. He reminded his officers that Americans did not fight and bleed and die to exchange one king for another.

And for this selfless act, we owe Brother Washington so much.

For the two hundred plus years of our American Nation, we Masons have consistently supported policies which promote "morality in which all men agree, that is, to be good men and true . . ."

Is it any wonder that one of Hitler's first acts upon gaining power in Germany was to suppress Freemasonary?

And that is why, today, in a time of intense patriotic feeling and national pride, we Masons can feel so proud of our Nation.

Our Masonic predecessors had such an instrumental hand in founding our Nation and in keeping it true to its ideals.

And we Masons can be especially of assistance in pointing out the truth when a Saddam Hussein claims to be conducting a "holy war".

In closing, let us recall the words of another Brother Mason, Theodore Roosevelt, who said:

"The first requisite of a good citizen in this Republic of ours is that he shall be able and willing to pull his own weight . . ."

Thank you, Brother Masons, for pulling your weight in making our Nation and the world a better place in which to live.

And may the great architect of the universe bless you and your loved ones forever.

BIG BROTHERS/BIG SISTERS APPRECIATION WEEK, APRIL 21–27, 1991

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. MFUME. Mr. Speaker, I rise today to introduce a joint resolution designating April 21–27, 1991, as Big Brothers/Big Sisters Appreciation Week. This resolution will commemorate the work of the dedicated volunteers who serve "at risk" children through the Big Brothers/Big Sisters of America affiliated organizations throughout the United States. Each year, thousands of volunteers give of their time to develop and nurture a one-to-one relationship with youth. Big Brothers/Big Sisters are teamed up with youths, unsually from one-parent families, and act as role models, helping them successfully achieve their highest personal potential as they mature into responsible young men and women.

The Big Brothers/Big Sisters movement began at the turn of the century when concerned citizens in many American cities organized programs to stem the rising tide of juvenile delinquency and to help children who had come before the courts. Over the years, however, the focus increasingly shifted from reclamation to prevention.

By 1917, the movement had spread to many cities; and in an effort to coordinate these singular programs on the national level, the Big Brothers/Big Sisters Federation was formed. Falling victim to the Great Depression, however, the federation was dissolved in 1937. The need for outreach to adolescents and teens continued, nonetheless, and spawned the establishment of Big Brothers of America, and Big Sisters International, Inc., in 1945 and 1970, respectively.

In 1977, these two separate national organizations subsequently merged, becoming Big Brothers/Big Sisters of America. Today, this organization, serves thousands of young people through affiliate organizations nationwide. Comprehensive in scope, the national organization develops an array of counseling, referral, and family support services which are available to parents and children in over 110,000 families each year.

For more than 85 years, volunteer Big Brothers and Big Sisters have fostered one-to-one friendships with youth and have helped them through some of the most challenging and pivotal times of their lives. Building on the one-to-one model, volunteers work closely with adolescents and strive to steer them in the right direction by helping them to identify and achieve personal goals, and to overcome seemingly insurmountable obstacles.

Within the context of developing friendships with the youth that they serve, volunteers focus on being instrumental in ameliorating and preventing potentially ruinous behavior. For many adolescents, society offers obstacles and difficult choices; these may seem even more exacting in an environment that offers few chances for achievement.

Many adolescents, for example, fall prey to substance abuse; feel frustrated and drop out of school; or become teenage parents, without benefit of economic stability. Big Brother and Big Sister volunteers provide a support mechanism, showing youth that there is a better way and that there are better choices that can be made. Volunteers fully realize that they do not serve as substitutes for parents; rather they work in a partnership for the benefit of the child.

More than 15 million children in the United States are growing up in single-parent families and their numbers are increasing each year. In fact, 1 in every 4 children today, can expect to live in a single-parent household prior to her/his 18th birthday. Similarly, patterns of instability and upheaval in family life are expected to continue.

Big Brother and Big Sister volunteers offer support to these children of single-parent households. Many times single parents must work long hours to maintain a household and may not have the time or energy to fulfill the many needs of his/her child. Volunteers can provide the friendship and support necessary and can act as a role model or mentor, especially to today's at risk youth.

Mr. Speaker, please join with me in highlighting the tireless efforts of the thousands of Big Brother and Big Sister volunteers to the benefit of our Nation's youth. You are greatly appreciated and contribute much to the spirit of this great Nation.

THE AMERICAN SERBIAN HERITAGE FOUNDATION

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mrs. BENTLEY. Mr. Speaker, I have received a letter from Michael Radenkovich, president of the American Serbian Heritage Foundation.

On October 23, 1990, the House of Representatives overwhelmingly voted down 362 to 55 the Broomfield resolution, House Concurrent Resolution 385, formerly numbered 352, which would have blamed all human rights violations in Kosovo on Serbia.

Now, Congressman WILLIAM BROOMFIELD is accusing the Serbian people again. Mr. BROOMFIELD writes: "Democracy may soon be brutally destroyed in the Republic of Croatia * * * because of Mr. Milosevic's blind drive to rebuild the Serbian kingdom of old."

The enclosed copy of the letter written to Mr. BROOMFIELD provides a credible expose of Mr. BROOMFIELD's unsubstantiated accusations against the Serbian people.

I include it in the RECORD.

AMERICAN SERBIAN
HERITAGE FOUNDATION,
Los Angeles, CA, February 15, 1991.

Hon. WILLIAM S. BROOMFIELD,
2306 Rayburn Building, Washington, DC.

DEAR MR. BROOMFIELD: We just received a copy of your statement, undated, and titled "The End of Democracy in Croatia?," which was released by the Croatian American Association, Washington, D.C., with the notation "To be inserted in Congressional Record as Extension of Remarks." We American Serbs are also greatly concerned about the situation in Croatia, and in subsequent paragraphs of this letter will point out why we believe that our fears of bloodshed are wellfounded, considerations which seem to escape you.

What concerns us the most, however, is the way in which you have manipulated facts, engaged in half-truths and outright falsehoods, and distortions of information—so that if bloodshed came you could put all of the blame on the Serbs. Although multiparty elections were held in all six of the Yugoslav republics last year, you state that they were held only in Croatia, Slovenia, Bosnia-Hercegovina, and Macedonia. The fact is also, Mr. Broomfield, that in Slovenia, Montegegro and Macadonia, the candidates of the Communist parties of these republics, Mr. Kucan, Mr. Bulatovic and Mr. Gilgorov, respectively, were elected presidents of the republics. In Serbia, Mr. Milosevic, former communist and banker, was elected as a candidate of the Socialist Party, while in Croatia, Mr. Tudjman, former communist and partizan general was elected as a candidate of the Croatian National Party. In Bosnia-Hercegovina Mr. Isambegovic was elected as a candidate of the Moslem Political Party.

Most serious is your attempt to identify the Federal Yugoslav authorities with Sebia.

Mr. Broomfield, it is a sad commentary that you seem to know so little about the Yugoslav political system. Under that system, the Federal Cabinet is headed by a prime minister (currently Ante Markovic, a Croat). The Federal Presidency is a collective body of 8 persons, in which each republic is represented. Under the Yugoslav Constitution, these governmental organs are vested with powers for the exercise of which they bear responsibility. They are not under thumb of Serbia or any other republic.

If there are threats to the unity of the state, would you expect these authorities just to set on their collective hands? Is that what President Lincoln should have done?

Now as to our fears of bloodshed in Croatia. First of all, Serbs have not forgotten that nearly one million of their compatriots (men, women and children) were massacred during World War II in what as then Nazi Puppet state of Croatia, together with thousands of Jews and Gypsies. For any student of World War II, genocide in Croatia is an objective fact.

Secondly, the Yugoslav authorities have publicized a covert recording of conversations among present day Croatian leaders, including the Croatian Minister of Defense, Martin Spegelj, detailing plans for massacring of Serbs in Croatia as well as ethnic Serbs, members of the Yugoslav Army.

Recording of October 14, 1990, of Mr. Marting Spegelj, Croatian Minister of Defense: ". . . then we just issue orders to our men to kill extremists, on the spot in the street, on the ground of the barracks, wherever, a bullet in the stomach, that's all. This will not be a war but a civil war in which there is no mercy for anyone. Not even women or children. Simply bombs thrown into family apartments."

On another occasion Mr. Spegelj declares: "We need to organize two or three men to liquidate the most dangerous ones, for their physical liquidation. They go to their flat, they appear at the door, boom!, he goes down the stairs, let them call the police to find out who did it . . . There will be no consideration for women, for children, for anything at all. The question does not arise."

Mr. Broomfield, a transcript in English on this documentary is enclosed for your reference.

It is ironic that in your statement there are references to supposed democratic and pro-American orientation of the Croats, when we remember that during the two world wars, they fought on the losing side and against the Americans. On the other hand, the Serbs were allied with America in both conflicts and shed their blood for freedom and democracy, only to be sold out to the Communists by their World War II allies.

Mr. Broomfield, I believe that we share a common interest in seeing American foreign policy succeed in this complex world of ours. That being the case, with all due respect, sir, I cannot avoid concluding that your ill-considered statement does not advance that goal.

Respectfully yours,
MICHAEL RADENKOVICH,
President.

SITTING ON A BOMB

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. CLINGER. Mr. Speaker, I rise to bring an issue and a resolution to the attention of my colleagues. Right now, in 1991, certain sections of our country are literally sitting on a bomb, one that could explode at any moment; and while I may be speaking metaphorically, the destruction caused by a major earthquake in areas where the population and structures are unprepared could be as devastating as a nuclear explosion.

The Eastern and Midwestern United States may not sit on the Ring of Fire, but that section of the country is still dangerously at risk. Geologists warn there is a 100-percent chance that a damaging earthquake will hit this region in the next 20 years.

Effects of a quake in many regions east of the Rockies would likely result in a high death and injury toll and the devastation of cities. Lack of earthquake-resistant provisions in building codes and little public notice of the danger leaves the region highly vulnerable. In addition, the geology of the east—rigid bedrock—carries the shock to much greater distances than those in California.

Even a moderate earthquake could have damaging effects. The weak, crumbling infrastructure in the region's scores of cities and towns include collapsing bridges, aging sewer systems, and unreinforced concrete. Plainly and simply, our public works in general are wearing out. In New York City, the huge tunnels that supply the metropolis with water could give out at any time, and other major Eastern and Midwestern cities are plagued by similar problems.

Let's face it, east of the Rockies most of the public is unprepared and unconcerned. They've never felt an earthquake and they know little of the potential hazard posed to them by our decaying infrastructure. Improving public awareness and coordination in this vein could easily save thousands of lives. Also, the question of how to reverse the tangible dangers presented by old, weak infrastructure will have to be answered.

To lessen the effect of Eastern or Midwestern earthquakes, certain to come, action is needed now. We need to provide local government with the technical assistance to help develop cost effective means of improving building codes, to educate the population and study ways that old structures can be rebuilt within our economic means. While cost is a concern it should not deter us finding creative ways to improve safety with existing resources.

Educating people about natural disasters and how to react to them is absolutely essential and certain aspects of an educational strategy can be relatively simple. The sense of Congress resolution that I have introduced today can be one step in such a process.

This modest measure would encourage, not mandate, publishers to include earthquake and disaster guidelines in the telephone books they release. These instructions would assist the population of an affected area about what to do and put accessible information into almost every home and business.

In California, similar guidelines have been published in telephone books for many years. During the October 1989, Loma Prieta quake, the first place that people turned for help was to the information in their own homes—the phone book. As soon as local radio and television stations were back on the air, they instructed people to read these disaster guidelines. The entire system worked extraordinarily well.

I encourage your support of this resolution.

MOB JUSTICE

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. ENGEL. Mr. Speaker, I rise today to bring to the attention of my colleagues the 100th anniversary of a sad day of civil injustice. On March 14, 1891 in the city of New Orleans, there was a brutal murder and lynching of 11 prisoners of Italian descent.

According to reports, the prelude to this act was the murder of the New Orleans Police Chief, David C. Hennessey. On October 15, 1890, Hennessy was ambushed and shot by several men as he was entering his New Orleans home. As Hennessey lay on the sidewalk, he stated that a group of Italian-Americans committed the act.

Soon after, there was an eruption of anti-Italian feeling throughout the city. Mayor Joseph A. Shakespeare responded by ordering the police to "arrest every Italian in the city." Hundreds of Italian immigrants were rounded up, most not even having the slightest idea of why they were being arrested. They were kept in close confinement and treated harshly by the police.

Of the hundreds of Italians arrested, all but 19 were eventually released. The trial opened on February 16, 1891, for nine of the Italians. The State claimed to have overwhelming evidence to convict nine of the Italians. On March 13, 1891, the jury announced the acquittal of six and a hung jury for three of the men. Again, the city erupted and rumers of jury tampering ran wild. The New Orleans press ran an announcement for a mass meeting on the following day, Saturday, at 10 a.m. The notice was endorsed by the most prominent citizens of the city of New Orleans, who also allowed their names to be printed on the notice. The meeting, as the newspapers stated, was called for the purpose "* * * to take steps to remedy the failure of justice in the Hennessy case. Come prepared for action."

That morning, a mob of 6,000 to 10,000 people gathered at the base of the statue of Henry Clay. After several speeches from some of the leading citizens, the mob made its way to the parish prison.

The Italian-Americans, who were acquitted the day before were being held in prison to face conspiracy charges. When the oncoming mob began making its way to the prison, the Italian-Americans were let out of their cells and tried to find shelter among the grounds of the prison. The mob, after forcing its way into the prison, cornered six of the men in a prison courtyard, and let loose a barrage of pistol, rifle and shotgun fire into the helpless terrorized victims. All were killed.

Three more men met the same fate within the prison. Two more men, already wounded, were taken by the mob and lynched from lamp posts.

The victims of this outrageous act came to America for the same reasons that many immigrants have come to these shores, to provide for a better life for themselves and their families, and to share in the blessings of liberty. Unfortunately, these 11 men were not afforded this great privilege of liberty and the rule of law, but rather mob justice and the evils therein.

Mr. Speaker, it is for this reason I rise today to bring to the attention of my colleagues this act committed 100 years ago. Throughout history, people have been persecuted because of their race, religion, color, and political beliefs. By creating an awareness of this episode and seeing the dangers of prejudice, discrimination, and the failure of justice, all Americans will benefit, and hopefully a similar tragedy will again never be repeated.

YOUNG CHAMPION OVERCOMES ADVERSITY

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. SUNDQUIST. Mr. Speaker, from time to time, we take the floor of the House to note a significant achievement by young athletes from our districts. I want to briefly share with my colleagues the story of a very special young man, Jeff Loyd, a senior at Northwest High School from Clarksville, TN.

Jeff won the Tennessee State wrestling title in the 103-pound class earlier this month and is likely to go on to the national scholastic championships next month.

What makes this so remarkable is that Jeff Loyd was born without his left leg. He told the Clarksville Leaf-Chronicle that he doesn't consider himself to be handicapped. He is an unfailing pleasant and positive young man, not to mention a great competitor. He never looked at sports as something he could not do. Instead, he took up the challenge of wrestling, where he is 109–19 over three varsity seasons, and he has played baseball and soccer.

Jeff Loyd is a wonderful young man who richly deserves the congratulations of his community. But more than that, I believe he offers an uplifting example of what one can achieve if one puts his or her mind to it. He is an inspiration not only to the many in this country who battle daily with disabilities, but to all of us.

I ask my colleagues to join me in congratulating Jeff Loyd for his championship, but also for his spirit and for his example.

FOREST SERVICE AND BUREAU OF LAND MANAGEMENT IN LIEU SELECTION BILL

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. LAGOMARSINO. Mr. Speaker, I am today reintroducing a bill to begin the process of resolution of land title issues on lands in the States of Arizona, California, Colorado, Idaho, New Mexico, Oregon, South Dakota, Utah, Washington, and Wyoming. This bill addresses an issue which has been outstanding for 93 years.

This issue arose in 1897 with the passage of an act (30 Stat. 11, 36) which was intended to consolidate lands within the newly created National Forest System. This 1897 act was the first of a number of statutes authorizing the exchange of Federal and non-Federal lands to promote more efficient Federal land management. Unfortunately, the wording of the 1897 act suggested that the landowner first had to relinquish the private tract to the United States as a condition of selecting Federal land in exchange—rather than authorizing the simultaneous exchange of deeds, which has become the modern exchange procedure—and the Secretary of the Interior imposed that requirement by regulation.

In any event, many private land owners relinquished their lands to the United States by a formal conveyance as a condition to the selection of the Federal in lieu lands. However, for a variety of reasons—at least in part because subsequent laws restricted the kinds of land available for selection—many private landowners never made a formal selection of the compensating Federal lands, or if they did, their selection was not approved. Since that time, a number of actions by the administration, courts, and Congress have addressed the thousands of outstanding title questions through a variety of solutions. Congress currently deals with the situation on a case-by-case basis through private bills.

It is currently estimated that clouded titles exist on approximately 19,000 acres of land managed by the Forest Service and 8,000 acres of land managed by the Bureau of Land Management. These lands are owned by some 2,300 separate owners. Both agencies are aware of these title problems and desire to resolve them.

The bill I am introducing today reflects several amendments to the bill which passed the House during the last session. These amendments provide for important reduction in the timeframes for implementation of the act and ensure the bill provides for a final resolution to the issue. I look forward to working with my colleagues on this measure which will resolve these title questions both comprehensively and consistently.

THE PENSION TAX EQUITY ACT

HON. JOLENE UNSOELD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mrs. UNSOELD. Mr. Speaker, I am introducing the Pension Tax Equity Act to prohibit States from assessing income taxes on the pension income of nonresidents. Some 5 to 10 States are currently charging such source taxes against former residents. These States contend that pension income based on previous employment within their States should be subject to income taxation, regardless of whether the retiree currently resides within that State.

Source taxes are a clear example of taxation without representation. Individuals subjected to this taxation have no recourse at the ballot box because they are not residents of the State assessing the tax against them. Furthermore, these retirees are paying taxes to provide Government services in a State where they no longer reside and consume such services.

While many States provide various tax credits to their resident taxpayers, nonresident taxpayers subjected to the source tax are denied these credits. The end result is a higher tax rate for the nonresident taxpayer. The injustice is further compounded for such retirees in Washington State—and six other States—where there is no income tax from which they can deduct the source tax they pay elsewhere. The end result is that such retirees are hit particularly hard by taxes.

Many retirees who relocate at retirement have no idea they have this tax obligation from their former State until they receive a notice of liability. Such notices often assess back taxes for a number of years and add onerous late penalties. I have been told that some States are even hiring collection agencies to place liens on the property of these retirees.

Mr. Speaker, justice demands that we put an end to this unfair taxation and lift the financial hardship currently befalling thousands of retirees. I urge my colleagues to enact this legislation.

INTRODUCTION OF THE TELECOMMUNICATIONS EQUIPMENT RESEARCH AND MANUFACTURING COMPETITION ACT OF 1991

HON. JIM SLATTERY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. SLATTERY. Mr. Speaker, I am pleased to join today with Representative BILLY TAUZIN of Louisiana and five of our colleagues in introducing legislation that will allow the Bell Holding Cos. to enter the telecommunications equipment manufacturing business. Virtually identical legislation, S. 173, was approved overwhelmingly yesterday by the Senate Commerce, Science, and Transportation Committee. This legislation will remove the manufacturing restrictions imposed upon the Bell Cos. by the modified final judgment [MFJ] imposed by a Federal court.

Under the MFJ, the Bell Cos. are restricted to offering exchange telecommunications and exchange access services, while their unregulated subsidiaries may market—but not manufacture—telecommunications equipment—such as switches—and customer premises equipment—such as telephone handsets, key systems, and PBX's—to both the business and residential markets. The Federal court decided that the term "manufacture" includes not only the act of fabrication, but also product design and development, including the making of a prototype. The result has been not only more restrictions on Bell Cos. activity, but also the creation of numerous additional areas of uncertainty.

Under the MFJ, the Bell Cos. may engage in the early steps of the process, including research not involving the design of a specific product. They may define generic product features, but may not determine the detailed design specifications, or construct a prototype. This line between "pure" research and "design" research is so unclear that it discourages any research at all.

If the United States is to regain its leadership position in the international telecommunications manufacturing market, we must be willing to make use of all resources available to the telecommunications industry. Over the past decade, the United States has seen foreign companies increase their share of U.S. patents in sophisticated electronics, has watched as foreign companies spent over twice as much as our companies on basic research and development, and has observed as foreign companies have invested heavily in the United States and worldwide.

Seven years ago, for example, there were 10 major equipment manufacturers in the world market—3 of them American. Today there are eight—three from Japan, three from Europe, one from Canada, and only one from the United States—AT&T.

Total U.S. spending on research and development lags far behind other developed nations. According to the National Science Foundation, the United States spent 1.8 percent of our GNP on nondefense R&D last year, while West Germany spent 2.6 percent and Japan spent 2.8 percent. In communications, the largest European and Japanese firms have increased their research and development spending by 22 to 25 percent per year, while AT&T has increased its spending by about 6 percent per year until last year, when its R&D spending actually decreased.

Annual foreign investment in the U.S. high technology industries has increased from $214 million in 1985 to $3.3 billion in 1988. In the 6 years since the divestiture of AT&T, 66 different U.S.-based computer and telecommunications equipment companies have been bought in foreign firms.

Finally, the U.S. Patent and Trademark Office reports that the U.S. share of electrical U.S. patents has declined from 58 percent in 1980 to 46 percent in 1989. The share of United States patents awarded to Japanese companies has increased from 19 to 33 percent in the same time period. Today, more patents in electrical products are awarded to foreign companies than are awarded to U.S. companies.

Unfortunately, as a result of the MFJ restrictions, the Bell Cos., which control one-half of the Nation's telecommunications assets, earn over $77 billion in annual revenues, and employ 1 to 2 percent of this Nation's entire work force, cannot use any of these assets to manufacture communications equipment or to conduct the full range of research and development activities. They are prohibited from turning the results of their permitted research into marketable products; therefore, they have little reason to expend resources to that end. The result has been that, on the average, the Bell Cos. spend 1.4 percent of their revenues on R&D, while the average equipment manufacturer spends 6 to 8 percent.

With freedom from the manufacturing restrictions, Bell Cos. could work closely with high technology U.S. firms to develop new products and services; today, they cannot work closely enough with them to allow efficient product development. Any United States or foreign company can manufacture telecommunications equipment to meet consumer needs—but the Bell Cos. cannot. The current ban denies them the opportunity to do more for consumers, when they have the knowledge to do so. I have included with this statement a listing of recent examples detailing instances in which the Bell Cos. were prohibited by the manufacturing restrictions from developing new products and services.

This manufacturing restriction not only retards domestic investment, but, in fact, actually encourages overseas investment. The restriction does not apply to work carried out beyond the jurisdictional boundaries of the United States. Therefore, the Bell Cos. are completely free to do overseas what they cannot do in the United States. Most Americans, I believe, would rather see the Bell Cos. investing their capital here, rather than in British cable franchises, Soviet cellular franchises, and telephone companies in New Zealand and Mexico.

The Bell Cos. have the expertise, the capital and the desire to enter the telecommunications manufacturing market. I fully understand, however, that the Bell Cos. continue to exercise a substantial share of market power over local telephone services and over the equipment market. Their dominance of these markets, if unchecked, would undoubtedly give them incentives to engage in unlawful cross subsidization and self-dealing. This legislation, therefore, includes strict safeguards designed to prevent unlawful and anticompetitive activity. The Bell Cos. are barred from cross subsidizing their manufacturing activities with ratepayer revenues. Any equipment that a Bell Co. purchases from its manufacturing affiliate must be purchased at the open market price. The Bell Cos. must conduct all their manufacturing out of separate affiliates, and these affiliates must keep books of account separate from the telephone companies. I believe these safeguards are important and necessary, and I look forward to working with Members of Congress who may have ideas on how they can be further strengthened.

This measure also includes language requiring the Bell Cos. to conduct all their manufacturing activities within the United States and to employ a percentage of U.S. domestic components in the products they manufacture. This provision was negotiated by the Bell Cos. and the Communications Workers of America and has the complete support of both groups. I believe that a domestic content provision such as this is essential to ensuring that the Bell Cos. potential manufacturing activities benefit the U.S. workers and our overall economic health.

In a 1989 report, the National Telecommunications and Information Administration of the Department of Commerce declared that reform of the current, very broad manufacturing limitation is likely to stimulate research and innovation, and to accelerate the advent of new service choices. This measure seeks to achieve that goal, so that all American telecommunications consumers will benefit.

I am pleased to report that the Community and Economic Development Steering Committee of the National Association of Counties recently adopted a resolution calling for the removal of the MFJ restrictions on Bell Co. manufacturing. The resolution follows this statement in the RECORD. The National Federation of Independent Business also recently issued a letter welcoming the introduction of S. 173, which also is reproduced here. The RECORD also includes a section-by-section summary of this legislation.

MANUFACTURING EXAMPLES

Concept Communications Corp. designs and develops technology to compress full motion video images so they can be transmitted over the public telephone network. US West purchased a Concept product off the shelf for use in US West in-house video transmissions and improved the product in a way that would be a substantial benefit to Concept and its other customers, but the MFJ prohibits US West from selling Concept the enhancements that US West made.

International Mobile Machines Corp. designs and develops digital radio transmission product for the telephone industry. IMM has recently announced that it will participate in a major venture to make digital cellular equipment with two other companies, one of whom is Siemens/Alcatel, a huge European telecommunications manufacturer. IMM's agreement to enter a venture with Siemens/Alcatel followed an attempt by top management of IMM and BellSouth to structure a IMM/BellSouth venture; although IMM and BellSouth management agreed on the terms of an IMM/BellSouth venture, MFJ lawyers vetoed the plan because of the "no manufacturing" provision in the MFJ. IMM's experience is evidence that the MFJ causes small U.S. manufacturers to form joint business arrangements with foreign companies.

Two years ago, Southwestern Bell Telephone proposed to offer an automatic call completion service to facilitate calls handled by directory assistance. The service would allow a caller to request a number from directory assistance, listen to a reading of the number as is currently provided, and then have the option of being connected to that number simply by pressing one button on a touchtone pad.

Southwestern Bell Telephone determined that such a service would require a different type of directory assistance terminal than was currently available. Although Southwestern Bell Telephone had the knowledge and resources to develop such a terminal, the restriction limited Southwestern Bell Telephone to merely providing a general specification request to Northern Telecom so that they could manufacture the system.

A more general example of the restriction's constraints is the nature in which Southwestern Bell Telecom handles customer service problems with Freedom Phone products. If the problem is a so-called "manufacturing" problem—a defect arising as a function of the metal bending process—Southwestern Bell Telecom can often simply replace or repair the defective part. However, if the defect occurs as a result of the "design or development" process—for instance, the manufacturer installed the wrong part or the intended part does not perform the proper function—then Southwestern Bell Telecom must simply return the defective product to the manufacturer with a general explanation of the problem.

The manufacturing restriction has also delayed the delivery of new services to consumers. Southwestern Bell has begun to offer custom calling features and other services which utilize Northern Telecom's signalling system 7 (SS7). Until recently, however, Northern Telecom's SS7 network was not compatible with AT&T's system.

As early as two years ago, Southwestern Bell Corporation had the resources and the knowledge necessary to design and develop an interface that would have made both systems compatible. However, due to the Court's interpretation of the manufacturing restriction we were not able to develop this software nor communicate the necessary information to either of the manufacturers. Although such an interface has now been developed, had Southwestern Bell Corporation been able to participate in the early design and development of the SS7 systems, or customers would have received the benefits of new services well before now.

Bellcore has devised and tested a new technology which will enable VCR quality video to be transmitted over existing metallic telephone lines. This technology would permit point-to-point viewing of specific user selected and produced television transmissions over the existing local exchange telephone network, thereby bringing the benefits of high quality video transmission technology to practically everyone who owns a telephone. However, for the reasons stated above, Bellcore is unable to deal directly with manufacturers in designing and developing the products needed to deploy technology in the local exchange network.

Southwestern Bell Corporation and the other BOCs are prohibited by the MFJ from designing and developing customer premises equipment (CPE). However, under a 1986 waiver, Southwestern Bell Corporation is permitted to design, develop, and market CPE overseas, so long as such products are not imported into the U.S.

A subsidiary of Southwestern Bell Corporation has been marketing CPE overseas since this waiver was granted. While Southwestern Bell Corporation stated its overseas business with virtually the same residential and business products offered in the U.S., over time new innovations were developed by Southwestern Bell Corporation and have been incorporated into the equipment. However, due to the limitation imposed by the manufacturing restriction, American consumers cannot receive the benefits of these new innovations.

Southwestern Bell Telecom markets CPE which is designed, developed, and fabricated by an unaffiliated manufacturer. Telecom received notice from one particular customer that one of these products was defective in that it produced a humming noise when in use.

Quite understandably, the customer was frustrated with Telecom when it was explained to him that we could do nothing more than pass along notice of this defect to the manufacturer, even though Telecom was aware of a possible solution that would cure the defect. The customer then sought a technological solution from an independent source who was able to identify the problem and recommend a possible solution. However, due to the ambiguity of the Court's interpretation of the manufacturing restriction, Telecom was not able to act as intermediary for the purpose of informing the manufacturer of the independent party's solution.

Another example concerns Southwestern Bell Corporation's paging subsidiary, Metromedia Paging Services. Metromedia provides paging services to a customer who recently requested the ability to receive detailed information on the volume of calls supplied to its pagers. Metromedia determined that such information could physically be provided but the paging units on the market at that time would not support this type of service.

Specifically, a paging unit would need to be developed which had a larger display panel and could handle a larger capacity of data than the units which were being manufactured at that time. Metromedia recognized the solution to the problem and had the technological resources to design and develop the required units. However, once again the Court's interpretation of the manufacturing restriction precluded Metromedia from acting on its internal expertise.

Another company, CXC, Inc., known for making a PBX called the Rose, offered BellSouth an equity position that would allow CXC to gain the capital it needed to expand and increase capacity. BellSouth was interested, but, again, the MFJ wouldn't allow them to take part.

CXC is doing quite well these days. But essentially it's no longer an American-owned company. A consortium of foreign companies has bought a substantial interest in it.

Protocol Engines, Inc., which develops products for increasing speed at which data is transmitted over telecommunications networks, decided in 1990 to discontinue efforts to design and develop products for the public telephone network because MFJ prohibits it from working closely with BOC and Bellcore network design engineers. Rather than developing products for the public telephone network, Protocol Engines now focuses entirely on developing such products for private corporate networks. This anecdote is evidence showing that "no manufacturing" provision in MFJ stifles development of our country's public network infrastructure.

Centigram Corporation develops equipment used in provision of audiotex services. Centigram recently sold a substantial portion of its stock to foreign entities (Telcom) Authority of Singapore, Transtech Ventures, Northern Telecom, and British Petroleum) after two Bell companies (Ameritech and BellSouth) attempted but failed to structure financing that would pass muster under the MFJ. Centigram's experience illustrates the fact that small U.S. telecommunications manufacturing companies are being forced by the MFJ to look overseas for capital to expand their operation.

Eagle Telephonics Corporation manufacturers telephone handsets. Although conventional wisdom is that it's inevitable that all telephone handset manufactures are moving offshore because of cheap foreign labor costs, Eagle is an example of a U.S. handset maker which, while attempting to perform all its manufacturing activities in the U.S., is being hurt by the MFJ's ban against obtaining

R&D financing from the BOCs. Since Eagle is one of only a handful of companies making telephone handsets in the U.S., it often must compete on quality rather than price, but incorporating new features into telephone handsets requires substantial and continual R&D efforts; the BOCs, who are among Eagle's largest distributors, would be a natural source for R&D funding, but BOCs cannot provide R&D funding due to the MFJ ban against BOC participation in the manufacturing process.

RESOLUTION REGARDING THE REMOVAL OF THE MANUFACTURING RESTRICTIONS ON LOCAL TELEPHONE COMPANIES

Whereas, America's international competitiveness and continued economic growth have become extremely dependent upon maximizing domestic research and design, development, manufacture, and marketing from all U.S. companies; and

Whereas, between 1983 and 1988, combined research and development investment by AT&T and the Bell Operating Companies grew at an average annual rate of 9.9 percent, while in Japan and Europe telecommunications research and development investment grew annually at 28 percent and 34 percent, respectively; and

Whereas, it is unacceptable that any foreign company, even those affiliated with state-owned telephone monopolies, can manufacture and sell telecommunications equipment in the United States, but that seven of our leading local telephone companies are prohibited by judicial restrictions from doing so; and

Whereas, the continued imposition of the restrictions of the Modified Final Judgement (MFJ) on the Bell Operating Companies (BOCs) denies to America the benefits of having several of its most knowledgeable and capable domestic telecommunications companies being able to perform domestic research and design, develop, and manufacture software and telecommunications equipment for residential, business and governmental telecommunications users; and

Whereas, removal of the manufactuing restrictions on these local telephone companies would help stimulate domestic investment in research, development, design and manufacture of new and innovative telecommunications technologies and facilitate access of said innovations to all local telephone companies; and

Whereas, domestic telecommunications markets and services, as well as, international telecommunications developments have drastically changed since the original imposition of the 1983 MFJ restrictions upon the BOCs; and

Whereas, adequate accounting and structural safeguards have been developed and are already in place in federal and state jurisdictions to protect against cross subsidization from telephone customers; and

Whereas, it is the responsibility of Congress, rather than the courts, to determine national telecommunications public policy including its effect on economic competitiveness, national security, and foreign trade which are essential elements of a sound national policy:

Therefore, be it resolved that the National Association of Counties calls upon the United States Congress to vigorously support legislation which would, with appropriate consumer and industry safeguards, allow all local telephone companies to perform research and design, development, and manufacture of software and telecommunications equipment; and

Be it further resolved that any actions by Congress regarding the removal of the manufacturing restrictions on local telephone companies, must reflect proper considerations of the local and state responsibilities for local and intrastate telecommunications services; and

Be it further resolved that the staff of the National Association of Counties transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, the President of the Senate and to every member of the Congress of the United States.

NATIONAL FEDERATION OF
INDEPENDENT BUSINESS,
Washington, DC, March 18, 1991.

Hon. ERNEST F. HOLLINGS,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR HOLLINGS: NFIB welcomes the introduction of S. 173. While NFIB has not polled its 500,000 members on S. 173 yet and, therefore, has no official position on this legislation, we believe that it addresses a very important public policy issue that needs to be fully aired. The future success and competitiveness of small business, especially in the developing international marketplace, may well depend on the outcome of your deliberations.

The Bell Holding Companies (BHC) represent an under utilized technological resource. There is a need to closely examine whether it is still necessary to prohibit the BHC from engaging in the manufacture of telecommunications technology and equipment. There is a need to determine whether this prohibition is in the national interest or whether it is artificially holding back our advance on the information age.

Traditionally, NFIB and its members have been deeply concerned about the economic power of regulated companies, with guaranteed streams of income, competing with smaller, more exposed businesses in the markeplace. The ability of the BHC to cross-subsidize commercial ventures with ratepayer revenue has always been at the heart of this concern. S. 173 provides for adequate safeguards or firewalls and reduces our fear of unfair competition.

S. 173 needs to be fully analyzed and debated by the Senate. All sides and arguments need to be heard. To do less would benefit neither small business nor the national interest.

Sincerely,

JOHN J. MOTLEY III,
Vice President,
Federal Governmental Relations.

THE TELECOMMUNICATIONS EQUIPMENT RESEARCH AND MANUFACTURING COMPETITION ACT OF 1991

SECTION-BY-SECTION SUMMARY

Section 1

Short title.

Section 2—Findings

Bell Telephone Company manufacturing will assist American industry's continued economic growth and international competitiveness.

Section 3—Amendments to the Communications Act of 1934

Regulation of Manufacturing by the Bell Telephone Companies

SEC. 227. (a) Notwithstanding the MFJ, Bell Telephone Companies, through an affiliated company, may manufacture and provide telecommunications equipment and may manufacture CPE, except that joint ventures between Bell Holding Companies are prohibited.

(b) Manufacturing and provision may be conducted only through a company that is separate from any Bell Telephone Company.

(c) The FCC must prescribe regulations to ensure that—

(1) the manufacturing affiliate must maintain books, records and accounts separate from its affiliated Bell Telephone Company which identify all financial transactions between the manufacturing affiliate and affiliated Bell Telephone Company. Even if the manufacturing affiliate is not publicly held, it must comply with Federal financial reporting requirements for publicly held companies, file statements with the FCC and make them available to the public;

(2) Bell Telephone Companies and their non-manufacturing affiliates are prohibited from performing sales, advertising, installation, production or maintenance operations for a manufacturing affiliate, except that—

(A) a Bell Telephone Company and its non-manufacturing affiliate may sell, advertise, install and maintain telecommunications equipment and CPE after acquiring such equipment from its manufacturing affiliate;

(B) institutional advertising not related to specific telecommunications equipment is permitted if each party pays its pro rata share;

(3) the manufacturing affiliate must conduct all manufacturing in the U.S. and all components must be manufactured in the U.S., except that foreign-made components may be used under certain limited circumstances. Prior to using foreign-made components, a BOC manufacturing affiliate first must make a good faith effort to obtain equivalent components from a manufacturer in the U.S. at reasonable prices, terms and conditions. Notwithstanding good faith efforts on the part of a BOC manufacturing affiliate, its cost of foreign-made components may not exceed forty percent of the revenue derived from its sale of telecommunications equipment and CPE in the U.S. in any calendar year (or adjusted percent in subsequent years). A BOC manufacturing affiliate may use intellectual property created outside the U.S. in its manufacture of telecommunications equipment and CPE in the U.S.;

(4) debt incurred by the manufacturing affiliate may not be issued by its affiliated Bell Telephone Company; the manufacturing affiliate is prohibited from incurring debt in a way that would permit a creditor, on default, to have recourse to the assets of the affiliated Bell Telephone Company's telecommunications business;

(5) the manufacturing affiliate is not required to operate separately from the other affiliates of its Bell Telephone Company;

(6) Bell Telephone Company affiliates that become affiliated with a manufacturing entity will be treated as a manufacturing affiliate of that Bell Telephone Company and must comply with the requirements of this section; and

(7) the manufacturing affiliate is required to make available to all common carriers providing telephone exchange service, for use in provision of such service, any telecommunications equipment including software integral to the functioning of telecommunications equipment it manufactures for use with the public telecommunications network. It must do so without discrimination or self-preference as to price, delivery, terms or conditions as long as each purchasing carrier—

(A) does not manufacture telecommunications equipment or have an affiliated telecommunications equipment manufacturing entity that does so, or

(B) agrees to make its telecommunications equipment including software integral to the functioning of telecommunications equipment available to the Bell Telephone Company and its affiliates.

(8) the manufacturing affiliate shall not discontinue or restrict sales to other local exchange telephone companies of any telecommunications equipment including software integral to the functioning of telecommunications equipment it manufactures for sale until arrangements are made by the Bell Telephone Company manufacturing affiliate to provide to the local exchange telephone companies specifications, plans, and tooling for such telecommunications equipment, upon financial and other terms satisfactory to the Bell Telephone Company manufacturing affiliate.

(d)(1) The FCC must prescribe regulations that require each Bell Telephone Company to maintain and file with the FCC information regarding interconnection with and use of its telephone exchange service facilities (such information refers to material changes or planned changes to protocols and requirements);

(2) Bell Telephone Companies are prohibited from disclosing such information to their affiliates unless that information is immediately so filed;

(3) When two or more carriers provide local service in the same area, they must tell each other about the deployment of telecommunications equipment;

(4) The FCC may prescribe additional regulations to ensure that manufacturers competing with a Bell Company's manufacturing affiliate have access to information required for competition that the Bell Company makes available to its manufacturing affiliate.

(e) The FCC must prescribe regulations requiring a Bell Company with a manufacturing affiliate to—

(1) provide other manufacturers with opportunities to sell communications equipment and CPE which is functionally equivalent to equipment manufactured by the Bell Telephone Company manufacturing affiliates that are comparable to the opportunities it provides its affiliates;

(2) not subsidize its manufacturing affiliate with regulated telecommunications services revenues; and

(3) only acquire equipment from its affiliate at open market prices.

(f) Bell Telephone Companies and their affiliates may engage in close collaboration with any manufacturer of telecommunications equipment and CPE during design and development of hardware and software relating to that equipment.

(g) The FCC may prescribe additional rules and regulations as may be necessary to carry out the provisions of this section.

(h) To administer and enforce this section, the FCC is granted the same authority it currently has with respect to any common carrier subject to this Act.

(i) The FCC's authority to carry out this section is effective on the date of enactment; regulations must be prescribed within 180 days after enactment; authority to manufacture does not take effect until the regulations in (c), (d) and (e) are in effect.

(j) All manufacturing activities authorized as of the date of enactment are grandfathered for all Bell Telephone Companies and their affiliates.

(k) The following are defined terms—

(1) affiliate; (2) Bell Telephone Company; (3) customer premises equipment; (4) manufacturing; (5) manufacturing affiliate; (6) Modification of Final Judgment; (7) telecommunications; (8) telecommunications equipment; (9) telecommunications service.

Section 4—Effective date

(a) The effective date of the legislation is 30 days after the FCC prescribes final regulations.

(b) Notwithstanding subsection (a) of this section, the authority of the FCC to prescribe regulations is effective upon enactment.

DEMOCRACY—THE VANGUARD OF FREEDOM

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. JONES of North Carolina. Mr. Speaker, each year the Veterans of Foreign Wars of the United States and its Ladies Auxiliary conduct the Voice of Democracy Broadcast Scriptwriting Contest. This year more than 138,000 students participated for 14 national scholarships. I was most delighted to learn that one of my constituents, Michael William Flanagan of Newport, NC, was one of these 14 winners, and it is an honor to present his entry for inclusion in the CONGRESSIONAL RECORD as follows:

DEMOCRACY—THE VANGUARD OF FREEDOM

DECEMBER 2, 1992.

DEAR SON: How's it going Buddy? I hope you're being good for your mom. She needs all the help she can get. While I'm gone, you're going to have to work real hard because you're the man of the house now, and I want you to do a real good job till I get back.

Now, your mamma told me you couldn't understand why I had to be gone and why I couldn't come home for Christmas. Well son, you may be a little too young to understand but I hope you will appreciate the reason that I'm gone later. You see, about twelve years ago I signed a piece of paper that contained an oath. I swore to protect the United States of America and the freedom created by its democracy by joining our United States Armed Forces. You can't understand the privilege you have to live in America. Other parts of the world live in hunger, war, and oppression. These people have to live with the fear that their very own government may simply come in and take their homes, their families, and even their lives.

Here, you can live without the worry of this. Our government is set up on the principles of liberty and freedom. It is set up to protect us and our way of life. It has been like this for over two hundred years. Our founding fathers set up such a model for the world to follow. We are considered the apex of freedom. This height could have only been reached through a single path, and that, son is democracy. Everyone who lives in America believes in this philosophy, and we hold it sacred in our hearts. We want the entire world to be able to live as free as we. And son, that's what I'm doing, helping these people live as we do.

After the invasion of this country six months ago, the people's lives have gone from a heaven to a hell. They can no longer walk the streets for a breath of fresh air without the fear of being shot, and this enrages me. I am here to try and recapture heaven for these citizens. They believe in the same principles as we do, and I want them to live that way again. We are trying to re-establish the democracy. When democracy is re-established, freedom will be restored with it. You see, democracy is the vanguard of freedom, son. One cannot and does not exist without the other. Where you have democracy, you will have freedom. In communist societies, freedoms are little if any, and it goes the same for socialistic societies.

We, as a democracy, must help preserve the democracies of the world. If we help protect and help other nations move towards democratic societies, the world will be a better place. But, if we don't, the anti-democratic societies will begin to take over, taking our homes, jobs, and our entire way of life. So I put my life on the line everyday to protect the democracy of the United States and of the world. With the protection now, when you are my age son, you may never have to worry about a situation like this. But, if you are unfortunately faced with the situation I am, I hope you face it bravely. It is our duty as Americans to protect the democracy of the United States and of the world because democracy is truly the vanguard of freedom.

Well son, I have some drills I have to run so I will end this letter. Help mom and be good, but most of all, think about what I have said in this letter and try to appreciate what we have here in the world of democracy and freedom. I love you!

Signed,

DAD.

SALVATORE DI NELLO RECEIVES 1991 MAN OF THE YEAR AWARD

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. ROE. Mr. Speaker, it is with the greatest pride and admiration that I rise today to salute a truly outstanding and successful businessman from my home State of New Jersey who has made an enormous contribution to his community on a continuing basis for over 30 years.

I am speaking of Mr. Salvatore Di Nello of Paterson, NJ. His numerous contributions to his profession and community, have honored Mr. Di Nello with the Federation of Italian Societies "1991 Man of the Year." To celebrate this special occasion, the Federation of Italian Societies, an affiliation of several Italian organizations: the Charles J. Alfano Association, the Cristoforo Society, the Mother Cabrini Society, the Nineteen Hearts Society, the San Giuseppe Santa Croce Camerina and the organization dearest to Mr. Di Nello and of which he is the president, the Pacentro Club, will honor him at their 21st annual dinner dance on April 5, 1991, at the Princess in Lodi, NJ. I know that this event will bring great pride to Salvatore and his wife Joan and their two children, Linda and Marco.

Mr. Speaker, for the record, I would like to insert a comprehensive biography of Mr. Salvatore Di Nello as compiled by the Federation of Italian Societies of Paterson, NJ:

Salvatore Di Nello hails from the ancient province of L'Aquila, in the historic Italian region of Abruzzi. He was born in Pacentro, a quaint little town at the foot of the mighty Maiella mountains, near the Gran Sasso d'Italia, in the year 1931.

As a boy growing up in a martial nation, Sal was restless and rebellious. At the age of eight, his strict father introduced him to the study music. He acquired a strong musical foundation which led a grateful adult Sal to high achievements. The Second Global Conflict disrupted the boy's education.

Sal came to America in 1947, settling in Paterson, New Jersey, with his family. He met and surmounted formidable obstacles in a society different in language and culture. His successes are evidence of his ability, and his perseverance, energy and ambition, a worthy example to all.

At 15, Sal was placed in the first grade. In two years he completed the elementary grades. At 17, contrary to his parents' wishes, he opted to join the real world and took a job as a machinist apprentice, instead of going on to high school.

In the face of all the difficulties, Sal never forgot music. In it he found comfort and hope. Before coming to America he excelled in the trumpet and, for his exceptional talent, he played for the Pacentro Symphonic Band throughout the province of L'Aquila. In America, in 1948, he appeared on the Ted Mack Amateur Hour with a superb rendition of the Carnevale de Venezia.

In 1950, at the time of the Korean conflict, Salvatore enlisted in the U.S. Air force, serving as staff sergeant.

At the age of 23 Sal's life took a decisive turn: he decided to go to college, even though he did not have a high school diploma. Accepted at Boise Junior College, in Idaho, on a part time basis, he distinguished himself as "Student of the Year" for having directed the first opera ever presented at that college. Shortly after, Sal earned a high school equivalency diploma, having all the while stalled the persistent requests by the college for his high school transcripts.

At San Jose State College, in California, where he had transferred, Sal was selected as student conductor of the band and orchestra, was permitted to teach classes as an assistant, and was selected as musical director of the annual musical production. He was also president of the Band and Orchestra.

These experiences influenced the young man's decision to enter the field of teaching rather than a professional musical career. In 1959 he received his bachelor of arts degree and his teaching certification. And from Montclair State College he received his master's degree in supervision and administration.

Mr. Di Nello began his teaching career with the Saddle Brook school system. He has served as band director and music supervisor. Under his directorship, the Saddle Brook High School Band acquired well deserved acclaim and performed in Canada, Virginia, Maryland, Florida and Massachusetts. Special attention received a cultural concert tour of Italy funded by the entire community and which saw the New Jersey band perform in Siena, Florence, and Rome. Eye witness News featured the event on Channel 7.

Mr. Di Nello served also as Soccer Coach leaving a legacy of skills and victories. He is a past president of the Saddle Brook Teachers Association; was listed in the Who's Who of Teachers in America; and has served in numerous professional organizations.

A resident of West Paterson, Mr. Di Nello has served as Commissioner of the Board of Health and as Commissioner of the Planning Board.

Always deeply proud of his Italian heritage, Mr. Di Nello is president of the Pacentro Club. As its president he was instrumental in opening the membership to women as well. He is also a member of the San Guiseppe Santa Croce Camerina Society and of the Federation of Italian Societies of Paterson.

Among some of the other awards bestowed upon Mr. Di Nello are: Teacher of the Year, Unico Man of the Year, and Coach of the Year.

Mr. Di Nello met and married Joan Ferraro, a native of Sante Croce Camerina, Regusa, Italy. She is a real estate broker, founder of the Gemini Century 21 in West Paterson. They are the proud parents of Linda, a "Magna Cum Laude" graduate of Fairleigh Dickinson University, a C.P.A., and a Ph.D. candidate in Accounting, married to Eric Gaupe, a young entrepreneur, owner of City Erectors Co. of Fairfield; and a son, Marco, a partner in Gemini Realty, married to Nancy Farber, parents of Marco, Jr. and Alyssa.

Mr. Di Nello is as successful at business as he was an educator. His ambition, vitality and tenacity, coupled with the valid partnership of his capable wife Joan, have proven an invaluable formula to progress. In 1971 they were the moving force behind the purchase of Farrell Manufacturing of Wayne, together with brother-in-law Mario and his wife Anne. This union, held together by indissoluble family ties and consensus, has made possible the purchase of two other similar companies. The abnegation of individual personality for the common good is the element that has permitted the achievement of success.

In sports, in music or in business Sal has always strived to go beyond the boundaries of mediocrity, with courage, vision and perseverance. The path was not always covered with roses, nor always free of obstacles.

At home Sal has always been a loving husband and father. Although he has built a successful career in education and business, he admittedly gets his greatest joy from his two grandchildren Marco and Alyssa. As they grow up he will be able to tell the story of how "I did it my way."

Mr. Speaker, I appreciate the opportunity to present a brief profile of an individual who has truly made a difference through his contributions to his profession, his community and his family, and who has made his State and our Nation a better place to live. Mr. Salvatore Di Nello recipient of the Federation of Italian Societies 1991 Man of the Year.

SIMON WIESENTHAL CENTER OF SOUTH FLORIDA PRESENTS ECHOES THAT REMAIN

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, on March 25, the Simon Wiesenthal Center of South Florida is presenting the premiere of Echoes That Remain, a film about Jewish life in Eastern Europe before World War II. The movie is a powerful study of Jewish life before the Holocaust, the film combines hundreds of rare photos and previously unseen film footage to help dramatize the folk stories that comprise the film's narrative.

Playing an important role in the film are a series of enlightening images from the photo biographer of Eastern Europe shtetl life, the late Roman Vishniac. The portrait artist, Burton Silverman, created a series of special oil paintings to illustrate one of the film's sequences.

Echoes That Remain was written by Rabbi Marvin Hier, dean of the Simon Wiesenthal Center and directed by filmmaker Arnold Schwartzman. The two worked together on Genocide which won the 1982 Oscar for best documentary, the first Holocaust film to win that honor. The production was narrated by two-time Academy Award nominee, Martin Landau, and British actress, Miriam Margolyes. Echoes That Remain features original music written and conducted by composer, Carl Davis, and performed by England's Royal Philharmonic Orchestra.

"It was the world from which so many of us came but so few have had the time to study, honor, or remember," said the film's coproducer, Richard Trank, who also serves as the Wiesenthal Center media director. "If Echoes That Remain accomplishes anything, I hope that it will help audiences to remember about that world," added Trank.

Echoes That Remain began a 40-city international tour in Los Angeles with the patronage of Israel's President Chaim Harzog. Some of the other cities included on its 40-city international tour are Toronto, New York, Philadelphia, Boston, Chicago, Las Vegas, and Palm Springs.

I would like to thank Rabbi Marvin Hier, Samuel Belzberg, Robert Novak, Robert Marlin, Harry Gampel, and Don Soffer for being a part of the South Florida Simon Wiesenthal Center. I would also like to thank and congratulate Robert Pascal Escanesy, Marcy Lefton Escanesy, George Barrie, and Dorothy Barrie on an outstanding cultural achievement.

OUTLAW CORPORAL PUNISHMENT

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. OWENS of New York. Mr. Speaker, today I am introducing legislation which would prohibit the use of corporal punishment or the infliction of bodily pain against students in all educational institutions which receive Federal educational funds. It is long past time that we outlawed this barbaric practice in the Nation's classrooms.

This legislation is patterned after similar State and local laws which have banned corporal punishment in that it does not prevent teachers and school personnel from using reasonable physical restraint to protect themselves or others from injury, to obtain a weapon or dangerous object from a child, or to protect property from serious damage. The bill's definition of corporal punishment specifically excludes actions taken under these circumstances. What would be prohibited is the use of the infliction of physical pain as a means of punishment or discipline.

THE BARBARITY OF CORPORAL PUNISHMENT

If you are an adult inmate in a Federal, State, or local correctional institution, you cannot be beaten or physically punished. It is against the law. If you are a patient at a public psychiatric hospital, you cannot be beaten or physically punished. It is against the law. If you are a member of the Armed Forces of the United States, you cannot be beaten or physically punished. If you are a teenager in a juvenile correctional institution, you cannot be beaten or physically punished. It is against the law.

Only if you are a child sitting in a classroom can you be beaten and physically punished. Incredibly, our schools today remain the only public institution in the United States in which battery and assault are legal, accepted forms of discipline.

This must end.

Every year an estimated 3.5 percent of American schoolchildren are subjected to corporal punishment. In some States, as much as 12.6 percent of the student population is corporally punished. These children are beaten, slapped, punched, whipped, paddled, thrown against walls, stuck with pins, locked in closets, forced to eat noxious substances and abused in countless other creatively sadistic ways.

Indeed, some of the horror stories about corporal punishment that regularly emerge from around the Nation sound as though they could have taken place in Kuwait under Iraqi occupation. Students being shocked with battery-operated cattle prods. Burned with tacking irons used to laminate name tags. Chained to the bumper of a car and dragged across a parking lot. Locked in coffin-shaped boxes for hours on end. But this is not happening in Kuwait; it is happening in America. And the victims are our children.

CORPORAL PUNISHMENT DOES NOT WORK

What is most shocking of all about these daily acts of cruelty in our schools is that they are completely and utterly senseless. Corporal punishment simply does not work. All of the research tells us that it does not promote better discipline, result in more orderly classrooms, or more obedient children. An abundance of other disciplinary methods and means of regulating student behavior which do not require physically harming children have been shown to be far more powerful and effective than corporal punishment in maintaining order in the classroom and changing the behavior of disruptive or uncooperative students.

CORPORAL PUNISHMENT: THE PHYSICAL EFFECTS

While corporal punishment is not an effective means of disciplining schoolchildren, it is most certainly an effective means of hurting them. That is, after all, the point. In most cases, fortunately, the physical injuries children experience are relatively minor—some redness and soreness of the skin—and do not require medical treatment. But the vulnerability of young children's bodies is such that the potential for causing more severe injuries is great, including hematomas, ruptured blood vessels, massive fat emboli, sciatic nerve damage, muscle damage, and brain hemorrhage. Every year we hear of students across the United States who are seriously injured and even permanently disabled as a result of corporal punishment. As Prof. John R. Cryan of the Association for Childhood Education International noted in a 1987 article:

> Adults plainly underestimate the amount of force they are capable of producing. Sometimes children are injured during even the mildest punishment when they jerk away and the blow lands off target, or when they fall against the sharp edge of some object. Eyes, ears and brains may be permanently damaged as a result of paddling. Whiplash injuries may result from shaking. Injuries from blows to the chest and abdomen are life threatening. Bones are easily fractured and even the slightest whack may produce a jolt to the brain through the bony spinal column and spinal cord, resulting in significant swelling or bleeding.

A more detailed inventory of the medical effects of corporal punishment and resulting injuries can be found in the book "Think Twice: The Medical Effects of Physical Punishment" by Taylor and Maurer. I commend that work to anyone who doubts the severity of the physical threat that corporal punishment poses to our children.

CORPORAL PUNISHMENT: THE EMOTIONAL AND PSYCHOLOGICAL EFFECTS

The pernicious emotional and psychological effects of corporal punishment on children can be as harmful as any physical effects. Researchers have found that corporal punishment can cause a loss of self-esteem; increased anxiety and fear; impairment of ego functioning; feeling of helplessness and humiliation; negative attitudes toward school; stifled relationships with others; increased aggression at school and at home; self-destructive behavior; sleep disturbances; and a limited attention span and hyperactivity in the classroom, leading to a deficient academic performance. Many of these effects, it should be noted, have been found not only in children who are themselves punished, but also in children who witness the punishment.

Corporal punishment also teaches schoolchildren that violence is the way to resolve problems, a lesson that no child should be taught. Perhaps not surprisingly, researchers have found a direct relationship between school corporal punishment and delinquent and criminal behavior later in life. The more a child is beaten, the more likely he or she is to grow up to become a lawbreaker.

CORPORAL PUNISHMENT IS NOT AN EQUAL OPPORTUNITY ABUSER

As it is practiced in our schools, corporal punishment is not an equal opportunity abuser; it utlizes all the precision and selectiveness of a schoolyard bully in choosing its victims. Numerous studies of the incidence of corporal punishent have found that those children who are the least powerful and the most vulnerable are those students who are most likely to be hit at school. They tend to be the youngest children; the incidence of corporal punishment is highest in grades 1 through 4 and drops dramatically by the later grades. The victims of corporal punishment are also disproportionately poor and minority. African-American students are twice as likely as white students to be hit at school. This inequity only grows as the child ages. In the later grades, the frequency with which white students are hit declines significantly; for African-American students, it does not change at all.

Children with disabilities are also disproportionately the victims of corporal punishment, often because of their disabilities. In his testimony before the Subcommittee on Select Education last year, Kevin Dwyer of the National Association of School Psychologists explained that:

> Their different behaviors are seen by the untrained as defiant behaviors. Children with attention problems, poor motor coordination or poor listening comprehension may appear to be defiantly not paying attention, or not writing neatly or not listening to the teacher. Some children with disabilities may not be cognitively, neurologically, or emotionally able to carry out the correct behavior required by the teacher to avoid corporal punishment.

Mr. Dwyer went on to relate the story of an epileptic student he knew whose seizures caused him to be paddled by his teacher for not paying attention in class.

Studies also indicate that corporal punishment is generally administered arbitrarily and is not used rarely and as a last resort, as some of its proponents claim. Children are beaten in our schools for such offenses as taking too long in the bathroom, talking back, forgetting gym uniforms, and incorrectly pronouncing words in a kindergarten phonics class. One young child, to the horror of his parents, was whipped 30 times by his teacher for crying on the first day of school.

THE GROWING MOVEMENT AGAINST CORPORAL PUNISHMENT

With the evidence of corporal punishment's ineffectiveness as a disciplinary method and its pernicious effects on the minds and bodies of children so resoundingly clear, professionals who work with children have been speaking out for its elimination from our classrooms. The American Academy of Pediatrics, the American Medical Association, the American Orthopsychiatric Association, the American Psychological Association, the American Public Health Association, the Child Welfare League, the Council for Exceptional Children, the National Association of School Psychologists, the National Association of Social Workers, the National Committee for the Prevention of Child Abuse, the National Mental Health Association, and the Society for Adolescent Medicine have all called for the banning of corporal punishment. Other organizations which oppose corporal punishment include: the National PTA, the American Bar Association, the American Civil Liberties Union, the Association of Junior Leagues, the NAACP, the Society of Friends, the Unitarian Universalist Assembly, and Americans for Democratic Action.

Corporal punishment is also outlawed in 20 States, including Alaska, California, Connecticut, the District of Columbia, Hawaii, Iowa, Maine, Massachusetts, Michigan, Minnesota, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Oregon, Puerto Rico, Rhode Island, Vermont, and Virginia. Most major cities in States which permit corporal punishment have also prohibited the practice, including Albuquerque, Atlanta, Baltimore, Chicago, Columbus, Dayton, Little Rock, Miami, New Orleans, Philadelphia, Seattle, Spokane, and St Louis.

WHY FEDERAL LEGISLATION IS NECESSARY

Unfortunately, despite this impressive movement against corporal punishment, many children throughout the United States remain unprotected against physical abuse in the classroom. It is for the sake of these children that Federal legislation is necessary. The opportunity to grow and learn in a positive and supportive school environment, free from the fear of assault, should not be an accident of birth. The evidence against corporal punishment could not be more resounding. The use of violence as a teaching tool in America's classrooms must cease.

The text of my legislation follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION AGAINST CORPORAL PUNISHMENT.

Subpart 4 of part C of the General Education Provisions Act is amended by adding at the end the following:

PROHIBITION AGAINST CORPORAL PUNISHMENT

"SEC. 438A. (a) No funds shall be made available under any applicable program to any educational agency, institution, organization, or other entity that has a policy which allows an individual to inflict corporal punishment or bodily pain upon a child as a form of punishment.

(b) The prohibition described in subsection (a) does not preclude an individual, within the scope of employment, from using and applying such amount of physical restraint as may be reasonable and necessary—

(1) to protect self, a child, or others from physical injury:

(2) to obtain possession of a weapon or other dangerous object upon the person or within the control of the child; or

(3) to protect property from serious damage.".

COALITION OF HISPANIC AMERICAN WOMEN HONORS ENTREPRENEURS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, women have generously contributed to the character of our Nation from the taming of the Western frontier to the frontiers of space. As we recognize National Women's History Month, it is important to remember the legacy of the heroines of the women's suffrage movement through the years. By securing the right to vote for women, the suffragettes made limitless the frontiers of opportunity in our society. This year, the Coalition of Hispanic American Women is using the occasion of National Women's History Month to focus on the unique contribution of women entrepreneurs.

The honorees at the Coalition of Hispanic American Women include four special women from the Miami area who are leaders in their professional fields.

Ms. Aida Briele, CPA, founded Aida E. Briele & Associates, an accounting firm in Miami. In addition to her professional achievements, Ms. Briele has offered her skills to nonprofit organizations as financial adviser to the Coalition of Hispanic American Women and Share Your Gift, a community AIDS patient support group.

Laura Ripoll Dennison is a founder and name partner of the law firm of Dennison & Dennison. Ms. Dennison is a community leader. She is vice president of Hialeah and Miami Springs Bar Association and is involved in the North Bay Chamber of Commerce.

Alma Guerra is the founder and vice president of Santa Clara Television Corp. and is also a producer of telenovelas, or Latin soap operas, in Miami. She was president of the Coalition of Hispanic American Women in 1984–86.

Margarita O'Donnell Weidener is founder of Weidener Surveying and Mapping. Ms. Weidener is a finalist in the Miami Herald's Awards for Small Business for her special contribution to a field which is largely male dominated. She is a candidate for the 1992 president of the American Congress of Surveying and Mapping.

Mr. Speaker, I am proud to have these Hispanic women professionals in my district. I commend them for further expanding the frontiers of professional women in society and for their outstanding contribution to south Florida.

I congratulate the board of directors of the Coalition of Hispanic American Women for their insight in highlighting the achievements of these extraordinary women. The board of directors consists of: Conchy T. Bretos, president; Miriam Singer, president-elect; Yvonne F. Soler, second vice president; Irela Diaz, treasurer; Olga Guilarte, recording secretary; Yillian Coppolechia, corresponding secretary; Olga Febles, Margarita Fernandez, Angie Fleites, Annette Hogan, Elba Pisano, Maria C. De La Roza, Madeleine Rodriguez, Emmy Schwiep.

TRIBUTE TO THURMAN PARSONS AND HARRY E. (BUD) SMITH

HON. BARBARA F. VUCANOVICH

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mrs. VUCANOVICH. Mr. Speaker, I rise today to pay tribute to the lifetime efforts of two men, Thurman Parsons and Harry E. (Bud) Smith, whose tireless work for children through the Kerak Shrine Circus and Shrine Hospitals personifies the spirit of charity and voluntarism that anchor our Nation.

Thurman Parsons is a lifetime Nevada resident and has served as a Shrine Mason for 42 years. For over 12 years he has contributed countless hours of his time to the Shrine Circus to raise funds for the Shrine Children's Hospitals around the country. Children are a huge part of Thurman's life. He has 3 children and 10 grandchildren, and in addition to his tremendous work with the Shrine Children's Hospitals, he is active in many youth groups in the Reno-Sparks area. He also somehow found time to coach Little League baseball and, together with his wife Carol, has spent many summers at the YWCA Girls' Camp in Nevada repairing buildings and serving as a volunteer chaperon. Thurman's personal motto of serving whenever and wherever needed, as well as his lifetime of doing just that, is something we all can learn from.

Bud Smith has served side by side with Thurman Parsons for over 12 years with the Shrine Circus and Shrine Hospitals. He has been a Shrine Mason for 21 years to date. Bud is a devoted family man who, on October 28, 1985, celebrated his 50th wedding anniversary. He has carried this same commitment to family over to his volunteer work with the Shrine Circus. Bud has worked ceaselessly in almost every capacity with the circus, from chief klown of the Kerak Shrine Klown Unit to Shrine Circus committee member, to ensure that children need not lack proper medical care. His efforts were rewarded in 1987, when he received the title of "Mr. Circus" in recognition of his countless years of volunteer service.

Mr. Speaker, Thurman Parsons and Bud Smith are the type of caring and committed individuals which our Nation constantly needs and benefits from. I strongly urge my colleagues in the U.S. House of Representatives to join me in honoring both these men for their countless years of selfless devotion to the Shriners' pursuit of health care for children.

BUSH'S SOAK-THE-MIDDLE-CLASS PLAN

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. MILLER of California. Mr. Speaker, little noted in the budget sent to Congress by the President was a policy initiative that millions of Americans have largely overlooked.

It is an oversight that could cost middle income families billions of dollars in Government assistance and services—at the same time that the Bush administration continues a decade-long policy of heaping greater and greater benefits on the wealthiest of Americans.

As noted by Kevin Phillips, hardly a mouthpiece of liberalism for the Democratic Party, the Bush plan to means-test certain programs should be labeled "The Second Middle-Class Squeeze"—brought to you by the same politicians who presided over the old middle-class squeeze of the 1980's.

And, Phillips reminds us, this "soak the middle class" strategy is being promoted at the same time that "the White House is still proposing the real McCoy of favoritism to the richest 1 percent of Americans—capital gains tax reduction."

The Bush proposals will impose massive benefit losses on the middle class, who have suffered the worst loss of real income and enjoyed the most meager of tax reductions during the past decade. As Kevin Phillips notes, this plan raises again the issue of equity on tax and benefit policy and provides an important subject for political debate in the country which hopefully will be joined during the upcoming budget discussions.

BUSH'S DOMESTIC POLICY? IT'S SOAK THE MIDDLE CLASS

(By Kevin Phillips)

Forget all that malarkey about George Bush not having a domestic policy. During the last few weeks, with national attention preoccupied by the Persian Gulf, the White House has started laying out far-reaching fiscal policies—who's going to play and who's going to pay—that could become a political hand grenade of the 1990s.

Obviously, it's not the "new paradigm," the conservatives' much-bally-hooed mix of enterprise zones and local empowerment ideas such as school vouchers. That's small potatoes next to the Administration's emerging blueprint to means-test—or roll back—middle-class eligibility for a whole range of federal program benefits, from school lunches to college loans.

With orchestrated means-testing, Middle America will lead the sacrifice in the 1990s deficit wars—allowing federal tax policies to retain their 1980s favoritism toward the "top 1%" of Americans. This could allow Democratic orators to start belaboring "The Second Middle-Class Squeeze"—brought to you by the same politicians who presided over the old middle-class squeeze of the 1980s.

The economics of middle-class means-testing have a certain logic—but the politics are incendiary. The principal architect, Budget Director Richard G. Darman, is a man of inherited wealth and no firsthand middle-class sensitivity. Yet, as a shrewd fiscal operator, Darman knows huge sums of federal budget money can be had for other purposes—beefing up programs for the poor or safeguarding existing tax breaks for the rich (or both)—by slashing middle- and upper-middle-class eligibility for federal benefits programs. Darman wants an income-eligibility line drawn somewhere between $200,000 and $125,000 a year, to cut off middle-class beneficiaries.

These ambitions do not appear in the Bush budget, which sets cutoffs for farm subsidies at $125,000 in non-farm income, triples Medicare premiums at $125,000, pegs $21,000 as the subsidized school-lunch limit and breaks college-aid eligibility at $40,000 a year. Darman's 1992 budget is simply an entering wedge, though, because the budget director said in recent congressional testimony that he favored "an important new emphasis for reform: increasing fairness in the distribution of benefits, reducing subsidies for those who do not need them." We can't keep federal benefits going to those sleek, well-fed $22,000-a-year families or those $45,000-a-year fat cats, can we?

It's an interesting gamble. By seeking to recast the fairness image to deny "the rich" their current farm, Medicare or college-aid benefits and thereby "concentrate" them on the poor, the Bush White House is out to counter its "fatcat" protection image gained in last year's fight over capital-gains tax reduction and in beating back the Democrats' proposed income surtax on millionaires. This time, the hope is to be seen as promoting rather than blocking fairness.

Maybe. But not if the Democrats are smart enough to explain what's really going on. Federal program means-testing is collateral to broader fairness for three reasons. First, because nobody can seriously tackle the truly rich—who got the real benefits of the 1980s—by playing around with the eligibility rules of federal benefit programs. This is a ploy, a GOP fiscal equivalent of Air Force planes dropping aluminum foil to fool enemy radars. The idea that Laurence Tisch or David Rockefeller will feel the hot breath of Darman's entitlements reform is patently absurd.

Second, because the White House is still proposing the Real McCoy of favoritism to the richest 1% of Americans—capital-gains rate reduction. And third, because the middle-class Americans quietly being targeted for lighter benefits and thinner wallets have already been squeezed for most of the 1980s, by soaring Social Security taxes, surging property levies, escalating health costs, surging tuition charges and mushrooming auto insurance rates. Pickpocketing these people instead of millionaires is a travesty.

A cynical analyst or a liberal congressman could suggest that Middle America and Upper-Middle America are being targeted so the top 1% of Americans can keep their 31% tax rate. During the 1980s, while the median family income was barely ahead of inflation, the Forbes 400 richest Americans managed to increase their combined net worth from $92 billion in 1982 to $270 billion in 1989. One would think this is the obvious place for 1990s pay-back economics.

This brings us to the politics involved and the possibility that Republicans could be courting another major backlash by blithely framing "fairness" considerations and then clipping the middle- and upper-middle class while protecting the genuinely rich. This was the opprobrium they faced after October's budget debate.

The conservative assumption in means-testing Mr. and Mrs. John Q. Public is: a) Middle America will not get too excited and b) lots of Democrats, academicians and poverty groups will cheer the idea of curbing middle-class eligibility and focusing outlays on the poor. It could work. Most middle-class voters won't pay much attention to a few overhauls in program eligibility, and some congressional Democrats are so low-income fixated they don't care much about the middle class.

What's more likely, though, is that Middle America and its political defenders will correctly identify means-testing as something bigger—as stage two of a painful "politics of unfairness" that began to squeeze the average family during the 1980s, while the rich rode a golden elevator. Federal policy was critical, because the "squeeze" involved combining relative peanuts in federal income-tax cuts for the middle class with significant new burdens: surging and regressive Social Security taxation, the extraordinary federal income-tax "bubbles" (through which the upper-middle class still pays a higher marginal tax rate than millionaires), rising excise taxes, user fees, stepped-up taxation of Social Security benefits and a shift of programs from Washington back to the states that forced up regressive state and local taxes. The result is one that Robin Hood's old enemy, the Sheriff of Nottingham, would envy. By the time the 1980s ended, the top 1% of Americans had 3 to 6 percentage points more of total family income than when the decade started, and the people in the middle saw their relative share decline.

Means-testing the middle class signals another round of this "soak-the-middle" spirit. But it also comes at a time when the larger pattern of "Sheriff of Nottingham" economics is becoming clear enough to mobilize congressional Democrats—as they proved in last October's bruising and, from their point of view, successful budget debate. Equally important, skittish Republican voters see the GOP bias, too. Some 20–30% of GOP voters believe their party favors the rich; one poll revealed 80% of Republicans favored the Democratic surtax on millionaires that Bush keeps working to defeat.

Politically, then, the GOP's October embarrassment may have only been a first act if the White House charges ahead on means-testing. The federal deficit may finally be driving a wedge into the GOP, forcing the White House to sacrifice rank-and-file middle-class economic interests to protect the interests of the top 1%. Last year, when Darman got Bush to break his no-new-taxes vow, the GOP discovered that it opened a Pandora's Box of "fairness" issues—and means-testing could be Darman's second Pandora's Box.

Middle America will doubtless have to make some sacrifices to deal with the nation's debt and shrinking resources. But fairness dictates—and more Democrats understand this—that the middle class should not be sandbagged without considerably larger sacrifices required of those at the top, who grew fat during the 1980s. So if the White House does opt for a thinly disguised "soak-the-middle" fiscal strategy, an important battle will be joined. Bush may yet yearn for the days when the media simply snickered about his not even having a domestic policy.

GEOGRAPHY AWARENESS WEEK 1991

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. GREEN of New York. Mr. Speaker, I am pleased to join once again my distinguished colleagues from California, Mr. PANETTA, and Michigan, Mr. KILDEE in introducing a resolution to declare December 1–7, 1991, and November 15–21, 1992, as Geography Awareness Week.

Over the past 3 three years we have sponsored the Geography Awareness Week resolution in order to bring attention to the crisis of geographic illiteracy in the United States. This crisis has been measured by the National Assessment of Educational Progress survey, which revealed that among 12th-graders in the United States, only 36 percent knew that Saudi Arabia is bounded by the Red Sea and the Persian Gulf. A 1988 Gallup poll revealed that 75 percent of those surveyed could not locate the Persian Gulf on a map. I should imagine that those specific numbers concerning the Persian Gulf would be quite different if a poll were conducted today. However, it should not have to take a war to familiarize Americans with our world. If we expect to maintain our position as a world leader and if we intend to address with sensitivity and understanding the political, economic, environmental, social, and military challenges that face us in the international arena, our citizens must develop a better understanding of the world in which we live.

With the energetic guidance of the National Guidance Society, schools across the country have been encouraged to mark this week with special student projects and events that reinforce the importance of a solid education in geography. I am gratified that the House has been able to play an active role in this endeavor and I hope that this resolution will encourage States, cities, and schools to continue their work in promoting geographic literacy.

ISRAEL'S SECURITY A PRIORITY

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. DREIER of California. Mr. Speaker, Woodrow Wilson once noted that, "The belief that security can be obtained by throwing a small nation to the wolves is a fatal delusion." Many of us would agree that this statement aptly described the situation facing Kuwait during the past several months. We must remember, however, that a similar situation has been facing Israel for every single day of its 43-year existence.

The United States has been a long-time supporter of the nation of Israel. In addition to being a dependable ally in a tumultuous region, Israel's existence serves as a beacon of hope for millions of Jews in Ethiopia, Eastern Europe, and the Soviet Union. Israel remains the only democratic state in the region, and is today accepting tens of thousands of Jewish immigrants fleeing continuing repression in the U.S.S.R.

The gulf war will only strengthen the bonds between our two nations. The United States proved itself a determined and dependable ally in a time of need. And Israel demonstrated a level of restraint that impressed not only the West, but Arab leaders as well.

Unfortunately, the war took a toll on Israel. Military exercises were increased, gas masks purchased, regional commerce reduced, and damage from Scud missiles sustained. Dozens of Israelis were injured and killed and numerous homes damaged by Saddam Hussein's callous attacks against the civilian populations to Tel Aviv, Haifa, and other cities. Ironically, even the Palestinians, who Saddam claimed to be supporting, were victims of Iraq's campaign of terror. Fortunately, United States-supplied Patriot missiles—converted from air defense missiles to antitactical ballistic missiles by President Reagan—prevented further destruction.

We all recognize our perilous budget situation and the responsibility those of us in Congress have to solve this problem. The slumping economy and the cost of the war will certainly not make our task any easier. In spite of all of this, we have a moral responsibility to assist Israel during this difficult time. The administration has already promised, and in some cases delivered, large aid packages for Egypt and Turkey, and we should not forget the important and constructive contributions to the war made by Israel.

As a result, I strongly support the Desert Storm supplemental authorization bill and hope that my colleagues will join me in wishing our small but invaluable ally a speedy recovery from this unfortunate conflict.

INTRODUCTION OF VAN POOL LEGISLATION

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mrs. KENNELLY. Mr. Speaker, today I am introducing legislation designed to promote the use of mass transit and van pools.

My bill would restore Federal tax incentives for employer-sponsored van pools and mass transit subsidies. Prior to 1986, the Tax Code allowed employers to set up van pool programs for employees as a tax-free fringe benefit, as long as the program was available on a nondiscriminatory basis. That provision has now expired.

Therefore, for an employer to continue the program, it must determine the fair market value of the transportation, deduct any payments made by the employee, and report the difference as imputed income to the employee on his or her W–2 form. Not surprisingly, many employers have elected not to continue these subsidies due to the paperwork.

Current law allows employer-provided discounts of up to $15 per month tax free to the employee for mass transit costs. In many communities, however, this is an insufficient amount to encourage employees to use mass transit. In Hartford, CT for instance, the average monthly cost is $86. Yet, under current rules, if the employer provides a larger discount, the entire amount is taxable to the employee.

My bill would reinstate the provision that allowed the value of qualified van pool benefits to be excluded from the income of employees. In addition, the bill would raise the limits on mass transit subsidies to $100 per month in order to promote greater utilization of this benefit in communities with higher transit costs.

I would urge my colleagues support.

TRIBUTE TO THE 8TH AIR FORCE

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. FAZIO. Mr. Speaker, the recent victory in the Persian Gulf should remind us all of the debt and the gratitude that we owe to all of our Nation's veterans. With this in mind, I want to take a moment to recognize a special group of veterans who are quickly approaching an important milestone. In 1992, the "Mighty 8th Air Force," 650,000 members strong since World War II, will be celebrating their 50th anniversary. The brave men who make up the 8th Air Force have served with distinction and honor, and it is my privilege to recognize them on their 50th anniversary by submitting a brief history of the 8th Air Force written by Dr. Eric Hawkinson—a member of the 8th Air Force, the current chairman of the 8th Air Force Historical Society Unit Advisory Committee, and my constituent. I commend the article to my colleagues and congratulate the members of the 8th Air Force on this special occasion.

The article is attached:

WHEN DID WE QUIT—8th Air Force?

(By Eric Hawkinson)

We began as the 8th Army Air Force in 1942, but when did we quit? We didn't. The 8th Air Force lives today with headquarters at Barksdale Air Force Base, Shreveport, Louisiana. Well then, when did we wrap it up in England following World War II?

The mighty Eighth Army Air Force began on 19 January 1942 and was activated on 28 January 1942 at the Chatham Armory in Savannah, Georgia. Located at Hunter Field, Colonel Asa N. Duncan was the first commander. Pearl Harbor had just been bombed about a month and a half earlier.

Brigadier General Ira C. Eaker took the Eighth Air Force Bomber Command Headquarters to England the next month and located at High Wycombe, about 40 miles west of London and on the road to Oxford. In May 1942 Command of the 8th Air Force was assumed by Major General Carl A. "Tooey" Spaatz. He established the 8th Air Force Headquarters at Bushy Park (Teddington, Middlesex), 15 miles west southwest of the center of London on 25 June 1942.

Shortly after the birth of the 8th AAF at Savannah, one of our own, Joseph A. "Joe" Stenglein, 1st Lieutenant and pilot, in the 8th Bomber Command was on the way to the United Kingdom and in charge of 1,000 officers and men making the transition from Georgia into the United Kingdom as staff for the 8th Air Force. Joe knew the High Wycombe Abbey well as the main Headquarters building of the 8th AAF. There were times when socially he was over at Maidenhead in the home of a British governmental minister with Joe's friend, Pleasant J. McNeel. McNeel later, as did Joe, joined the staff of the 325th Recon Wing. Joe served at the *Widewing* headquarters in the London area and then became Commanding Officer of the organization which was to become the 25th Bomb Group at Watton, north of London.

General James H. Doolittle assumed command of the 8th AAF on 6 January 1944.

Before 1945 rolled around and the war in Europe was over (May 7, 1945) with the surrender of the Germans, approximately 350,000 officers and men had served in the 8th AAF during the three year or so period in which the Americans participated in the European Theater of Operations.

The British had suffered the war many more years, having had various degrees of involvement from 1939 on. Many of their men had gone overseas to distant lands, while the Americans had left the United States which had directly seen little war and were now seeing overseas duty in the British homeland. Some of the children took to the Yanks with their familiar comeon of "Any gum chum?" The older Britons complained that the Yanks were "Overpaid, over-fed, oversexed and over here". As the Americans fraternized with the British women, they also retaliated by saying to the Britons, "Britons are underpaid, undersexed and under Eisenhower".

Our brash warm beer drinking, cigar smoking and gum chewing G.I.s were basically a friendly bunch even as they communicated with the hungry Britons living with rationing, war weariness and a longing for their own troops away in the wars. The Britons eventually felt the Yanks to be less of a threat and invited them into their homes. Their daughters dated them and many married them, 50,000 to be nearly exact!

General James H. Doolittle left the U.K. Base for Okinawa with the 8th Air Force flag in July of 1945 with the intent of bringing the 8th Air Force there for the final thrust on Japan. Various combat crews returned to the States following their prescribed number of missions for their tour of duty. The ground crews remained from the time of their arrival to the United Kingdom until it became possible for them to return home. The dropping of the atom bombs (August 6 and 9) on Japan brought the war (Japan accepted terms of surrender on September 2) in the Pacific to a close and the 8th AAF personnel did not have to transfer en mass to the Pacific Theater of Operations.

Major General William E. Kepner, relatively little known probably to many G.I.s was the 8th AAF commander 10 May 1945 and Major General Westside T. Larson assumed command on 21 June 1945. General James H Doolittle returned on 19 July 1945 to assume command.

Units were sent to the States for deactivation, officers and men were temporarily assigned to some units going home as an official means of moving them from the UK to the Zone of the Interior (Army talk for the United States), some stayed for purposes of closing bases or carrying out other assignments, such as housekeeping of base closures. Some units and individual officers and men were sent to the Continent for follow-up chores, such as bomb assessment surveys and photographic details, reproduction and interpretation.

Many 8th AAF officers and men were missing in action and never accounted for as to their whereabouts. The 8th AAF suffered 26,000 deaths out of the 350,000 officers and men. (The U.S. Navy suffered 37,000 deaths out of the 4.1 million in the WW II Navy.) Many bodies were exhumed and returned to the U.S. at the request of families and many families opted to allow their loved ones to remain in U.S. Military and other cemetaries in the United Kingdom and the Continent. A number of prisoners of war from the 8th AAF needed medical treatments both in the European Theater and then in the United States. A considerable number needed various kinds of rehabilitation. Many of the veterans of the ETO chose to remain in the service, some chose to remain in Europe, some with the women they had married and others were employed in that Theater.

Whereas probably the bulk of the living from the original 350,000 chose civilian life, many chose the military as a career. Some upon entering civilian life, opted to return to the military service.

The 8th Air Force just did not quit. When the Army Air Force became a separate service from the Army on 18 September 1947, the 8th Air Force continued and currently remains an effective strategic force. It did not quit. It just changed hands! An estimated 650,000 have served in it since WW II!

THE SHEPPARD AND ENOCH PRATT HOSPITAL CELEBRATES A CENTURY OF CARE

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mrs. BENTLEY. Mr. Speaker, my fellow colleagues, I rise today to recognize the Sheppard and Enoch Pratt Hospital on the occasion of a century of mental health care.

Founders Day, May 7, 1991, will mark the kickoff of the hospital's celebration of this momentous occasion. The story of the Sheppard and Enoch Pratt Hospital is a truly remarkable one. Chartered by the State of Maryland in May 1851, and founded by Baltimore Quaker Moses Sheppard, the Sheppard Asylum, as it was named at that time, accepted its first patient on December 6, 1891.

Upon accepting its first patient, the Sheppard Asylum ushered in a quiet revolution in the humane care for the mentally ill. Moses Sheppard held a deep concern for the misunderstanding and poor treatment of the mentally ill in the mid-1800's. The mentally ill were often the victims of inhuman treatment and simply warehoused without any dignity or comforts.

Moses Sheppard championed the cause of better treatment and care for the mentally ill. His dedication to this cause is clearly evident as he left his entire estate to build the Sheppard Asylum. It was his desire to bring into service all that medical science could offer to treat mental illness.

In September 1896, Enoch Pratt, a wealthy Baltimore merchant, died and made the trustees of the Sheppard Asylum his residuary legatee. A philanthropist, like Moses Sheppard, Enoch Pratt shared the humanitarian concerns of Moses Sheppard.

Enoch Pratt came to Baltimore in 1831 from Massachusetts and established a hardware firm. As his wealth accumulated, he developed various business interests and became the director of steamship companies, railroads, and banks. Aside from his business success, Enoch Pratt is also well known for the world renowned library which he founded and that bears his name, the Enoch Pratt Free Library. Enoch Pratt felt that Baltimore was in need of a free circulating library open to all citizens regardless of race, and in 1886, the library began its sevice to the public.

Unfortunately, we tend to judge individuals by their material or monetary wealth. However, the work of Moses Sheppard and Enoch Pratt is a testimony to their personal wealth of character and concern for their fellow man. Their work continues today thanks to their humanitarian efforts of a century ago.

Mr. Speaker, my fellow colleagues, I am proud to congratulate this fine Maryland institution on the occasion of its 100th anniversary. From its inception, the Sheppard and Enoch Pratt Hospital has been a leader in the care and treatment of the mentally ill and has been a place of healing and a beacon of hope for countless individuals. Our country is greatly indebted to the work of Moses Sheppard and Enoch Pratt. Their insight and concern for the mentally ill is still evident today and will undoubtedly prove evident for another century to come.

RECOGNITION OF THE ORANGEBURG COUNTY SOCIAL SECURITY OFFICE

HON. FLOYD D. SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. SPENCE. Mr. Speaker, for the 2d consecutive year, the Orangeburg, SC office of the Social Security Administration has been recognized for outstanding achievement in efficiency and attention to client needs. Mr. Charles Mathis, Orangeburg Social Security branch manager, proudly accepted the regional "Balance is Best" award. It is quite unusual for the same office to receive this award 2 years in a row and, thus, is a testament to the hard work and dedication of the Orangeburg staff. Budget constraints have necessitated staff consolidation. Still, the office employees continue to attend the citizens in a compassionate and knowledgeable manner while maintaining accuracy. The efforts of the Orangeburg Social Security office in behalf of taxpayers should be officially commended for a job well done. Their excellence is a pinnacle toward which we may all strive as we seek to serve the public.

The local community in Orangeburg has also noted the occasion of this tribute to their local Social Security staff. The Orangeburg Times and Democrat newspaper recently noted the presentation of the award and the text of their article follows:

ORANGEBURG SOCIAL SECURITY OFFICE RECEIVES REGIONAL AWARD FOR SERVICE

By Susan C. Larkin

The Orangeburg Social Security office has received a regional award for the second consecutive year, officials announced Thursday.

Orangeburg Mayor Martin Cheatham declared Thursday Social Security in Orangeburg Day at an office luncheon honoring staff members.

The "Balance is Best" award was presented by officials from the Social Security Administration Atlanta Regional Commissioner's office. The office was nominated by the South Carolina area director based on its performance for the past year, said Charles Mathis, branch manager.

According to the mayor's proclamation, the Orangeburg office "achieved the best balance in workload monitoring and updating individual records of any office in the State of South Carolina."

The Orangeburg branch serves Orangeburg, Calhoun and Bamberg counties and almost 25,000 beneficiaries who receive nearly $10 million a month, Mathis said.

The 16 staff members average about 100 walk-in customers a day, and 75 new customers a week, Mathis said. The office was commended for keeping records up-to-date, which includes all the name and address changes of clients, he said.

Computerization of the office helps one person do the work that used to require two, and utilizing appointments and telephone interviews have helped save time and get the job done quickly and correctly, Mathis said.

"We feel our service is good and every day we try to make it the best it can be," Mathis said.

While Mathis acknowledged his office is not perfect and does make mistakes, Operations Supervisor Gail Perozzi said they receive more complaints about the way the Social Security laws are written than they do about the way in which the office staff handles the clients.

NO GREATER SACRIFICE

HON. RICK SANTORUM

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. SANTORUM. Mr. Speaker, no American has made any greater sacrifice as a result of the Persian Gulf conflict than Bernadine Sulkowski. Ms. Sulkowski was the fiancee of Sgt. Alan Craver, one of the members of the 14th Quartermaster Detachment who died in the Iraqi Scud missile attack on Dhahran, Saudi Arabia.

This tragedy which brought me into contact with the Craver and Sulkowski families has also made me aware of the dedication that marked Alan and Bernadine's relationship and the integrity with which they lived. They had been dating for 5 years and were planning to be married after Alan returned home from his service in the gulf.

Attending Sgt. Craver's memorial service as a Representative of the Congress was certainly one of the most difficult tasks I have had since taking office. But it was made easier by the grace with which Bernadine, the Cravers and the Sulkowskis have dealt with this unspeakable loss. Though they have greatly mourned Alan's passing, they have also shown a special courage that comes from their love for each other, their loyalty to this Nation, and their commitment to the values for which Alan lived and died. Their faithfulness in the face of such great sorrow has been an inspiration to me.

The service Bernadine has offered to this country is every bit as priceless as the service offered by those in uniform. On behalf of all Members of Congress, I would like to express this body's deepest sympathies to Bernadine Sulkowski. Bernadine, each and every one of us recognizes and appreciates what you have given to our country.

FOR RATION WATER ALLOCATION

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. GEJDENSON. Mr. Speaker, during consideration of H.R. 355, the Reclamation Emergency Drought Relief Act of 1991, I plan to offer an amendment to this important legislation.

My amendment is very simple. It will require that water districts pay the full unsubsidized cost for water provided under the authority of this legislation that is used for the irrigation of surplus crops.

This amendment does not prohibit any irrigator or water district from using their own funds to buy water in the free market, from whatever source or for whatever purpose.

It also does not affect water already provided to a water district under an existing contract.

My amendment simply requires that full cost be charged for water used in the irrigation of surplus crops that is provided by virtue of this drought relief measure or by future drought contingency plans developed by the Department of the Interior.

For example, this provision would apply to water that may be used for the irrigation of surplus crops that is provided through a special purchase by the Secretary of the Interior for drought relief, or a special sale by the Secretary to nonreclamation service areas, as provided under this bill.

For the past 4 years of this drought, considered to be the worst in 50 years, California's water distribution system has been able to supplement the lack of rainfall for agricultural uses with other sources. As a result, until this year, irrigators have seen little or no reduction in their supply of irrigation water.

This year, however, we have come to realize that water is a very limited resource. There is no longer an unlimited supply. As a result of this drought, we have come to understand that by providing water to one user we deprive another. By providing a farmer with federally subsidized water to grow monsoon-climate crops, like rice or cotton, we are depriving other users.

What this drought has taught us more than anything is that we must allocate water rationally in time of plenty and even more importantly during times of drought. We are now facing, and have been for the past 4 years, a terrible western drought. How can we justify providing federally subsidized water to irrigate surplus crops, while depriving perennial crop producers, who are already hurting from the freeze of December 1990, fish and wildlife, some species of which are already threatened, and municipal and industrial users who are already facing severe rationing?

The Western States are facing a terrible drought and we have a responsibility to help them. However, while helping to provide relief, that assistance must come in a rational way. We cannot subsidize the irrigation of unneeded surplus crops with supplemental water that we are providing because of a drought emergency. My amendment provides the guidance that is necessary to allocate this precious resource more rationally.

I urge my colleagues to join me in support of this amendment.

My amendment to this legislation would ensure that water provided by this drought measure will not be subsidized to irrigators of unneeded surplus crops.

CONGRATULATIONS TO MICHAEL SUTERA

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. TORRICELLI. Mr. Speaker, it is with great respect and admiration that I address my colleagues in the House today, for I rise to extend my heartiest congratulations and warmest best wishes to Michael Sutera on being chosen as Man of the Year by the Hackensack, NJ chapter of UNICO.

Michael Sutera is a lifetime resident of Hackensack, NJ. He is a product of the Hackensack school system. Michael is a prominent and outstanding citizen of the City of Hackensack. He is active in many community organizations including UNICO which he has been a member of since 1969. He is a member of the Knights of Columbus, Veterans of Foreign Wars, American Legion, Loyal order of Moose, B.P.O. Elks and the Hackensack Troast Athletic Club, Inc. He has served as president of the Italian-American Forum of Lodi where he serves as permanent financial officer and advisor.

Michael is also very active in many charitable civic, athletic and religious organizations. He is a member of St. Francis Roman Catholic Church in Hackensack as well as a member of the Holy Name Society. Michael has served on the Human Rights Committee, the Rent Stabilization Board, and is serving on the Zoning Board of Adjustment in Hackensack at present.

Michael served his country in the United States Army in 1942, including 2 years in Europe as a Sergeant Technician Fourth Grade. When the war ended, Michael served in Germany as acting First Sergeant of a company of 200 men. He received an honorable discharge in 1945.

Michael and his wife, Cira, are the parents of two, and the proud grandparents of four.

Mr. Speaker, I am proud to join in paying tribute to Michael Sutera. I am sure he will continue to provide invaluable service to his community and truly make a difference in society. I extend my best wishes to him on this most special occasion.

THE TIRE RECYCLING PROMOTION ACT AND THE BATTERY RECYCLING AND RESEARCH ACT

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. HOCHBRUECKNER. Mr. Speaker, today I am introducing two bills that would help to alleviate America's worsening solid waste problem. The Tire Recycling Promotion Act and the Battery Recycling and Research Act will create arenas for research and public awareness in regard to the importance of recycling methodology.

Lead is one of the most toxic constituents of solid waste. Each discarded car battery contains about 20 pounds of lead, and over 70 million lead batteries are scrapped each year containing an estimated 630,000 tons of lead. Ridding the waste stream of this toxic substance should be a top priority for Congress. The Battery Recycling and Research Act would require that all used lead-acid car batteries be recycled. Wholesale and retail battery sellers would have to accept used batteries from consumers. In addition, the Environmental Protection Agency (EPA) would be required to conduct a study on the potential for recycling household batteries.

On the tire front, 270 million used tires are scrapped each year nationwide. Most end up in unsightly and hazardous tire piles on the roadside or are landfilled. Some are incinerated with mixed solid waste. In each of these cases, they can create serious health and environmental problems. The Tire Recycling Promotion Act would authorize the creation of a Commerce Department Office of Recycling Research and Information. This Office would work cooperatively with the EPA to support research and development of recycling technologies and markets for reuse of tires.

Mr. Speaker, I urge my colleagues to support these measures as they promise to help our Nation in its fight against a serious garbage crisis.

CODIFICATION OF TITLE 49, UNITED STATES CODE, "TRANSPORTATION"

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. BROOKS. Mr. Speaker, I am today introducing a bill to revise, codify, and enact without substantive change certain general and permanent laws, related to transportation, as subtitles II, IIII, and V—X of title 49, United States Code. This bill has been prepared by the Office of the Law Revision Counsel as a part of the program of the office to prepare and submit to the Committee on the Judiciary of the House of Representatives, for enactment into positive law, all titles of the United States Code.

This bill makes no change in the substance of existing law. It is the final phase in th codification of title 49 and, on its enactment, will complete the codification of that title.

Anyone interested in obtaining a copy of the bill and a copy of the draft committee report (containing reviser's notes and tables) to accompany the bill should contact Edward F. Willett, Jr., Law Revision Counsel, House of Representatives, H2–304, Ford House Office Building, Washington, DC 20515.

Persons wishing to comment on the bill should submit those comments to the committee no later than May 31, 1991.

TIME TO TRAVEL AGAIN

HON. TOM BEVILL

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. BEVILL. Mr. Speaker, I rise today on behalf of the U.S. travel and tourism industry to encourage Americans to start travelling again. The threat of terrorism during the Persian Gulf crisis caused many people to cancel their travel plans.

Now that the war is over, it is time to travel again. And, Americans can go with more confidence. The airlines have demonstrated that they have a very high level of security and it looks like they are offering some good deals on fares as well. In fact, all sectors of the industry are offering discounts and travel packages to get Americans travelling again.

I am optimistic that the tourism industry will bounce back this summer. After all, this is one of the biggest businesses in our Nation. And, it is our largest export, surpassing in sales both agricultural products and auto manufacturing. Six million jobs are at stake in this industry, so when people travel it certainly helps our economy.

Tourism is certainly very important to my home State of Alabama. And, we have a lot to offer vacationers. We have beautiful lakes, mountains, rivers and beaches, as well as other tourist attractions. When you start planning your next vacation, I hope you'll consider Alabama. It would be a good place to start.

NEW SUPPORT PRICE FOR DAIRY FARMERS

HON. THOMAS J. RIDGE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. RIDGE. Mr. Speaker, I rise today to express my support for and join as an original cosponsor of legislation introduced by Congressman JIM WALSH, the dairy farmer emergency relief bill. In the last few months dairy farmers have come under tremendous financial strain due to the collapse in the price of milk, which has fallen sharply since January 1990. While the dairy support price program in the Food and Agriculture Resources Act of 1990 assures an adequate supply of milk and dairy products at reasonable prices, in the long run it does not provide the short term income relief that our beleaguered dairy farmers need. Without this relief, many dairy farmers will be forced out of business.

The dairy farmer emergency relief bill will provide the assistance that is needed. The bill temporarily adjusts the class I basic formula milk price to $13.09 per cwt., an increase of $2.99 over the current price support level. It also pools the funds generated by the increase in prices to ensure that Grade A producers in all the Federal milk marketing areas benefit equally.

The Dairy Prices Support Program, which was established by the Agriculture Act of 1949 is a fundamental component of public food policy. The program provides a degree of assurance to dairy farmers that the price they receive for milk reflects the price support level established by the Congress. It also assures consumers an adequate supply of pure and wholesome milk and diary products at reasonable prices. The bill introduced by Congressman WALSH will maintain this support at a fair market price.

Our Nation's dairy farmers desperately need this legislation if they are to continue to successfully operate their farms. And so today I join several of my colleagues to pledge my support for this legislation, and trust that this issue will receive the full support of the House of Representatives.

THE ALTERNATIVE FUELS INCENTIVE ACT

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. ANDREWS of Texas. Mr. Speaker, two of the greatest problems we must address in the very near future are energy self-sufficiency and protection of the environment. For many years I have advocated the need for increased use of alternative fuels in this country. They are clearly the best way to address these plaguing problems. It is time the Federal Government acknowledge their value and encourage their use.

To this end, I am introducing today the Alternative Fuels Incentive Act of 1991. This bill will provide the initial support needed to start a large-scale alternative vehicle fuel movement in the United States. Last year, I was glad to be joined by 74 of my colleagues among whom were members of both parties from many different regions of the country.

The Alternative Fuels Incentive Act of 1991 will provide tax incentives to encourage the use of clean-burning alternative fuels in vehicles. The switch to such fuels is absolutely essential to improve our national energy security and clean up our air.

Our country has gone without a comprehensive energy policy for too long. The recent war in the Persian Gulf has made the need for such a policy clearly evident ot everyone. Not only is our reliance on foreign oil a threat to our national security, but our domestic oil and gas industry is in shambles and consumers are continually subjected to wild fluctuations in prices.

We simply must encourage further development of our domestic energy resources for the long term. Domestic supplies of clean-burning alternative fuels such as natural gas, ethanol, and methanol are plentiful and have no negative impact on the Nation's trade balance. The Department of Energy estimates that our potential domestic supply of natural gas is 1,188 trillion cubic feet. At present rates of consumption that is a 68-year supply of gas. Methanol is derived from natural gas and coal. Ethanol is derived from corn which is produced in surplus by our farmers every year. I believe it is imperative that we capitalize on these important domestic resources.

In addition to being good energy policy, this legislation has numerous environmental benefits. While much of the environmental debate has focused on ways to reduce stationary source industrial pollution, it has somewhat ignored the fact that nearly half of the ozone pollution problem in many areas like the city of Houston can be attributed to vehicle emissions from the transportation sector. As the number of vehicles on the road increases, so does our air quality problem. This is the problem I have targeted in my bill.

Switching to clean-burning vehicle fuels can greatly reduce smog-forming emissions of reactive hydrocarbons and nitrogen oxides. For example, using natural gas instead of gasoline can reduce reactive hydrocarbon emissions by up to 85 percent and nitrogen oxide emissions by up to 65 percent. Alternative fuels are also an effective tool against acid rain and global warming because they reduce carbon dioxide emissions.

The Alternative Fuels Incentive Act of 1991 provides the needed push to start a large-scale clean-burning alternative fuels movement in this country—"clean burning" is defined as natural gas, liquefied petroleum gas, liquefied natural gas, electricity, or a fuel which is at least 85 percent methanol, ethanol, other alcohol, or ether.

Specifically it would provide:

A 20 percent tax credit for equipment to convert a vehicle so that it may run a clean-burning fuel.

A 20 percent credit for refueling station equipment directly related to delivering a clean-burning fuel into the fuel tank of a vehicle—including tanks for liquid fuels and compressor stations for natural gas.

A 20 percent credit for the fuel system of a new vehicle produced to run only on a clean-burning fuel.

Credit equivalent payments to State and local agencies so that they may take advantage of the credit.

The initial effect of this legislation will be to encourage private and public fleet owners to convert their vehicles to run on an alternative fuel, and it would also encourage the development of a badly needed alternative fuels infrastructure in this country.

We have the technology to make alternative fuels a reality today. Only the initial cost of converting to a system of alternative fuels and natural inertia is holding us back. For example, the cost of converting a vehicle to run on natural gas can be over $1,000. The cost of installing a compressor station for the refueling of natural gas vehicles can run into the hundreds of thousands of dollars. These costs are significant hurdles to the development of an alternative fuels system.

Mr. Speaker, this proposal is an important component of a sound national energy strategy for America. Although people across the country are beginning to recognize the enormous benefits inherent in conversion to alternative fuels, the risks to our national security and our precious environment continue to mount. As Congress works in the coming months to develop a comprehensive energy program, I hope my colleagues will join me in making a serious commitment to the use of alternative fuels.

NATIONAL ALZHEIMER'S DISEASE MONTH

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. LOWERY of California. Mr. Speaker, I rise today with my colleague BULTER DERRICK from South Carolina to introduce a resolution designating the months of November 1991 and November 1992 as "National Alzheimer's Disease Month." I can report progress against this insidious illness in the 8 years since I first presented legislation to the Congress, but the tragedy of Alzheimer's continues to ravage the lives of millions of Americans and their families. Sadly, Alzheimer's has become the fourth leading cause of death in the United States.

In the past 2 years, we have learned that Alzheimer's disease may afflict more than 4 million Americans. This destructive neurological disorder is tragic not because it can cause an untimely death, but because it inflicts cruel mental deterioration and increases dependency on others. To date, we have found neither a reliable means of diagnosis nor an effective treatment. As the disease develops, patients progress from mild speech impairment and memory lapses to more pronounced confusion and loss of muscle coordination. Eventually, victims lose their personalities, suffer complete dementia, and die usually after taking a massive emotional toll on a family member who has acted as a care giver.

Alzheimer's is by no means a simple medical problem. The Alzheimer's Disease Association believes the disease costs the United States more than $90 billion a year in direct and indirect costs and lost productivity. Millions of families spend vast amounts of time and money trying to find proper care for their loved ones. As a recent Office of Technology Assessment report indicated, navigating the maze of health care providers, respite care centers, community agencies, legal and financial counseling, and other social services makes Alzheimer's a burden unlike any other. When one combines our general health care woes with Alzheimer's unique challenges, the outlook for America's aging population is truly frightening.

Still, the news is not all bad. Families and patients now have care alternatives and support groups they can turn to for help, and, we are at last close to developing an early diagnosis test which will identify certain proteins in the blood system. Research has yielded positive evidence that Alzheimer's is not an inevitable consequence of aging but may be associated with a deficiency in the amount of an enzyme which is noramlly found in the brain and nervous system. Other scientific inquiry has been focusing on possible genetic defects, atypical infectious agents, and accumulation of aluminum in the brain and irregularities in calcium regulation. The $100 million increase Congress provided for research last year together with private initiatives will build upon the promise of current work. In 1991, we can declare that an effective treatment is no longer a distant dream.

Mr. Speaker, I introduce this measure today to heighten national awareness, to praise all organizations which have advanced research, support networks, and care with dignity, and to let millions of victims and families know that we sense their pain and we join them in their fight. I appreciate the overwhelming support the House has shown for National Alzheimer's Disease Month in years past and hope my colleagues will once again raise their voices for all those who suffer from and battle this horrible affliction.

THANKS TO SBA ADMINISTRATOR SUSAN ENGELEITER FOR A JOB WELL DONE

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. IRELAND. Mr. Speaker, after 2 years as Administrator of the U.S. Small Business Administration [SBA], Susan Engeleiter is returning to her home State of Wisconsin to accept a job in the private sector. Those of us in Congress who have had the pleasure of working with Ms. Engeleiter will be sorry to see her go, but we wish her well in her pursuits.

Most of us know Susan from our dealings with her here on Capitol Hill. She was a most effective advocate for the interests of America's small business community. She made cogent arguments for reducing capital gains, backing those arguments up with studies performed by SBA clearly demonstrating that a majority of small firms receive financing from informal investors who would directly benefit from a restored capital gains differential.

Last October, Susan hosted a national roundtable in which the representatives of 19 key associations gathered to discuss the small business health insurance problem. Top-level representatives from the insurance industry, the medical industry, insurance regulators, and key research institutions took part in this forum. The group made several major recommendations that were endorsed by SBA's National Advisory Council. Administrator Engeleiter presented these recommendations to the White House and to key officials in the Administration.

Susan also was an effective small business advocate within the Administration, and a respected participant in the Bush administration's policy deliberations. She and other SBA representatives have participated in dozens of working groups and policy committees on topics ranging from product liability to international trade, and from health care to economic empowerment, to help ensure that the needs and concerns of small business were heard and understood.

As Administrator, Susan strengthened programs designed to meet the needs of minority and women-owned businesses. She also stepped up the agency's efforts to increase the number of small and medium-sized businesses that export. At her direction, SBA worked with the Department of Commerce to conduct matchmaker trade missions, which drew nearly 400 small businesses.

Susan took part in a trade mission to newly opened markets in Eastern Europe. She visited Poland and Hungary, where she helped business people and government officials better understand the value of small business to the advancement of a free enterprise economy.

And under Susan's capable direction, the SBA quickly and efficiently dispensed aid programs that were vital to the recovery of millions of people in the wake of Hurricane Hugo, the San Francisco Bay area earthquake and numerous other disasters. Susan personnaly visited many of the sites to ensure the effecitve delivery of assistance programs.

Administrator Engeleiter has increased awareness of small businesses' contributions—and their concerns—in Congress and across the country. It was always a pleasure dealing with Susan, and I am sure that I speak for many in the small business community and Congress when I express our thanks to her for a job well done.

THE NATIONAL INSTITUTES OF HEALTH REVITALIZATION AMENDMENTS OF 1991

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. WAXMAN. Mr. Speaker, I am pleased to introduce H.R. 1532, the National Institutes of Health Revitalization Amendments of 1991. The legislation is similar in many respects to legislation reported by the Energy and Commerce Committee during the last Congress. Unfortunately, final consideration of the legislation was not possible prior to adjournment.

The legislation assures the continued strength of the NIH by extending the authorization of appropriations for the National Cancer Institute, the National Heart, Lung and Blood Institute, the Medical Library Assistance Act, the National Center for Biotechnology Information and the National Research Service Awards Program.

Further, the legislation addresses several issues of critical importance to maintaining America's international preeminence in biomedical research. These include reversing politically inspired restrictions on research into cures and more effective treatments for Alzheimer's disease, juvenile diabetes, and Parkinson's disease which involve the use of fetal tissue.

The legislation would end the practice of excluding women from participation in clinical trials and require additional attention to research on diseases that affect women. In addition, the legislation establishes an Office of Women's Health Research charged with assuring that women are included in NIH-funded clinical trials.

The legislation provides a new authorization of appropriations to strengthen the important programs of the National Institute on Aging and to expand needed research into the causes and treatment of osteoporosis.

New authorities are provided to spur research into chronic fatigue syndrome, contraception and infertility, multiple sclerosis and medical rehabilitation.

The legislation strengthens NIH procedures for dealing with scientific misconduct, protecting whistleblowers and preventing conflicts of interest.

The legislation will help NIH retain and attract senior scientists by expanding the size of the Senior Biomedical Research Service.

Finally, the legislation provides strong Federal criminal penalties to protect research laboratories and scientists from violent attacks by animal rights extremists.

Mr. Speaker, consideration of these issues is critically important to assuring that the Nation's investment in health research continues to yield dividends.

Hearings on H.R. 1532 are scheduled for April 10.

COOL PAPA

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. CLAY. Mr. Speaker, it saddens me to announce that the St. Louis Community has lost Mr. James "Cool Papa" Bell, the legendary former baseball superstar of the Negro Leagues. Hailed by experts in the sporting community as one of the greatest to ever take the field, Bell succumbed to failing health at the age of 87 and died on March 7, 1991, in a St. Louis hospital.

He was a native of Starkville, MS, and began his celebrated career in St. Louis playing with the St. Louis Stars. After 9 years, he moved on to the Kansas City Monarchs, the Pittsburg Crawfords, the Chicago Giants, and the Homestead Grays. During winter months he played in the Dominican Republic and Mexico.

Though James "Cool Papa" Bell was acknowledged as a great batter and fielder, his true claim to fame was speed. His colleagues coined him "the fastest man on base paths." The legendary Satchell Paige was famous for telling the "light switch" story, claiming that Cool Papa was so fast he could turn out the lights in his bedroom and be across the room, in bed and under the covers before it got dark. In Paige's autobiography he compared Cool Papa to Jesse Owens saying that in a race Papa could have made Jesse Owens look like he was standing still.

Though the records of many Negro League players were not fully documented, Bell is recorded to have hit 21 home runs in 1 season and to have stolen 175 bases in the year 1933. It was said that he could circle the bases in a record 13 seconds.

Mr. Bell was one of the highest paid ballplayers in the Negro leagues, but his $90 monthly salary couldn't compare to the high salaries paid to white stars in the major leagues. The first black ballplayer—Jackie Robinson—was admitted to the major leagues one year after Cool Papa ended his 29 year career. Sportswriters contended Cool Papa was born a few years too early. Cool Papa always claimed "The doors were opened a few years too late."

Mr. Bell and his fellow Negro colleagues never received the exposure or the rewards they were entitled because white America insisted on a system of strict racial apartheid. It is also regrettable that many white baseball fans were denied the opportunity to see Cool Papa and his cohorts in action—truly some of the most talented players ever to grace the field.

Mr. Bell made St. Louis his home upon retiring from baseball in 1946, working for the next 27 years as a janitor and watchman at city hall. He resided on a street named after him by the board of aldermen—James "Cool Papa" Bell Avenue.

James "Cool Papa" Bell was a shining star in the legendary Negro Leagues. His legacy opened the doors for the Jackie Robinsons, the Willie Mays, the Hank Aarons, and the Reggie Jacksons. He was a link connecting the past with the present. Please join St. Louis in bidding him farewell.

ACCLAMATION FOR AMY DIANNE LAHNA

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. APPLEGATE. Mr. Speaker, I rise today to pay tribute to Amy Dianne Lahna, a junior at Ridgewood High School in West Lafayette, OH. I am proud to announce that Amy was awarded 10th place honors in the Voice of Democracy Broadcast Scriptwriting Contest. The contest theme this year was "Democracy—The Vanguard of Freedom." More than 138,000 students competed for the 14 national scholarships which were awarded to the top winners. I have the honor to present Ms. Lahna's script to you today:

As I approached the preparation for this speech, I thought to myself, "What do I know about democracy and freedom?" I am 16 years old. I wake up every morning to the sounds of a blaring M.C. Hammer on my stereo beside my nice warm bed. I pop into a hot shower and jump into my Guess jeans and a designer sweatshirt. My concept of freedom is no homework and the family car to cruise around town. What do I know about freedom?

For me, barbed wire fences are what keep the cows in the pastures of our picturesque, rolling hill farms, not a cold fence that confines and prevents people from going where they wish to go. For me, concrete walls are what flowers are planted around to bloom in the spring and bring beauty to the lawn in the summer, not a place where a guard stands duty to shoot those wanting to pass through to another land. For me, hunger means that my 5-minute pizza hasn't arrived yet, not having to stand in line for food rations. What do I know about freedom?

I do know that freedom has been handed down to me like a family heirloom. Our founding fathers of centuries past thought out, worked for and fought for the democratic society which allows you and me to enjoy these freedoms and luxuries * * * and I thank God for being born in America, * * * where a democracy permits us to make today's choices and enjoy the victorious rewards from those who came before us. I thank God for giving me the life that follows the great men and women who created the early government, the Constitution & Bill of Rights, and for our great-grandfathers, and grandfathers who fought in World War I, World War II, Korea, and for my own father who served proudly in Vietnam to protect and defend what our country stands for.

Indeed, democracy is the vanguard of freedom and those who have come before us have placed us on a huge track. Racing to place us in a position to excel. They have handed us the baton to carry on the race, bringing pride to ourselves and insuring that the democracy will continue on to our children and our children's children. They have given us the opportunity to ensure that the next generations will know that barbed wire fences are for keeping cattle—not people, and that stone walls should have flowers—not guards and that they can choose and decide to make a better place on earth for themselves and those around them.

What do I know of freedom and democracy? I know that my freedom from living in a democracy allows me to wake to that blaring radio, free of censorship—it affords me a nice home with nice clothes and plenty of food. It allows me to enjoy the beautiful countryside to study and travel and learn. I, like my friends around me, am waiting in the lane to be handed that baton—not to finish the race, but to add our miles to those who came before us. It is not going to be an easy race with the thoughts of Iraq and Iran staring us coldly in the face, but our forerunners have set the pace. We are the next generation of Senators, businessmen and women, clergy, laborers who will make decisions and run the race for those to follow. Because of our inheritance we do not have to invent a system—we have a solid system to build upon. Our track is the democratic system—our finish line is peace for all nations. As I see it, the challenge put before my generation is to pick up that baton, do what we can do to advance, and then pass it along to the next generation.

What do I know about democracy and freedom? I know not to take them for granted or to take them lightly. I thank God for my freedom and for my democratic country.

Mr. Speaker, it is my distinct honor and privilege to ask my colleagues to join with me in acclamation of Amy Dianne Lahna for her remarkable accomplishment and success in the Voice of Democracy competition.

MEDICARE TRUST FUND INTEGRITY ACT

HON. D. FRENCH SLAUGHTER, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. SLAUGHTER. Mr. Speaker, this morning I reintroduced the Medicare Trust Fund Integrity Act to address the poor financial condition and budgetary misuse of the Medicare trust funds.

Like Social Security, the Medicare trust funds have long been used to mask the true size of the Federal budget deficit. Fortunately, we were able to take Social Security off-budget last year. Let us now take an additional step toward real deficit reduction by removing the Medicare hospital insurance trust fund from deficit calculations.

According to the Medicare trustees, Medicare part A may be broke as early as 1999, and therefore unable to provide critical hospital benefits to millions of beneficiaries. Rather than wait for such a crisis, this bill would require the trustees and the General Accounting Office to study and recommend to Congress ways to avoid the looming Medicare bankruptcy.

Mr. Speaker, I urge my colleagues to join me in sponsoring this important legislation.

TRIBUTE TO CORYELL FAMILY

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. TRAXLER. Mr. Speaker, I rise to honor Charles Coryell and his family for their many contributions to the Boys and Girls Club of Bay County, MI which is located in my district. On April 18, 1991 the Coryell family will receive the annual Helping Hand Award from the Boys and Girls Club. As further recognition of their generosity and support, the club's facility will be renamed the Coryell Building.

The Helping Hand Award is presented to persons who have enhanced the quality of life for community residents. The Coryell family has been involved with the Boys Club, as it was originally known, since its inception in 1957. The first club rooms were located at 714 Adams St., in space donated by the Bay Elks Club; and, the Bay City Police Department was instrumental in providing staff in those early days. The next move was made possible by a sizable donation from the Coryells to renovate two quonset huts that had been donated by the U.S. Navy. This provided the club with its first gymnasium and games room.

The Boys and Girls Club is now permanently located in a beautiful building at 300 West Lafayette. Thanks to the creative fundraising skills of Charles Coryell, Jr. In 1973, he chaired the first capital fund drive for a permanent home for the club. His personal gift, family gift, business gift, and those he secured through personal solicitations accounted for more than half of the total amount raised. Another 30 percent was pledged through the efforts of solicitors Chuck recruited and trained. Then, in 1984, he chaired a second campaign which funded an addition. In recognition of the family's generosity, the building was named for the late John A. Coryell, Sr.

The Boys and Girls Club is more than a place to hang out. There, the kids find caring people who listen to problems. The club provides career training programs, physical education, educational tutoring, citizenship and leadership skills, and delinquency prevention. Team sports are stressed—no one competes to make the team—everyone gets to play. The club has accepted the challenge of guiding its young members through an important stage in their lives when they are pressured by many social ills. The Coryell family has influenced the trend for the Boys and Girls Club—the modeling of our community leaders of tomorrow.

In bestowing the Helping Hand Award and renaming the facility, the Boys and Girls Club of Bay County is expressing its gratitude to the Coryell family for many years of unwavering advocacy and support. Chuck Coryell has served on the board of this fine club since 1961 and continues to champion their cause.

It is indeed a pleasure to pay tribute to Charles Coryell, Jr. and the Coryell family and to thank them for exemplifying the ultimate in giving of one's time and resources. Their compassion and concern have lightened the hearts of many people in our community.

LEGISLATION TO HELP U.S. INDUSTRY

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. MINETA. Mr. Speaker, today I am introducting legislation to require the Secretary of Commerce to identify those industries in the United States that are necessary to support a robust manufacturing infrastructure and vital to the continued development of commercial industry in the United States.

This legislation will require the Secretary to develop a plan outlining the public and private efforts needed to ensure the growth and stability of economically critical industries.

Mr. Speaker, for years, the Federal Government has been successful in supporting the Nation's defense-related industries and promoting sales of military exports. It is time to follow a similar strategy for commercial industry.

Industries such as semiconductors, computers, high definition systems, and machine tools are some of the critical industries that will provide the bulk of employment opportunity and economic growth as the world turns from military conflict to economic competition.

Only our Nation's commercial employment opportunities and industries can ensure that Americans have a high standard of living, a safeguarded environment, housing for the homeless, improved health care, and a strong national defense.

Mr. Speaker, the first step toward a successful economic future is to identify those critical industries and evaluate their health so that government and industry will be able to work together to guarantee their future.

RECOGNITION OF WORLD HOME ECONOMICS DAY

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. DELLUMS. Mr. Speaker, today is World Home Economics Day, an occasion which provides an opportunity for all to celebrate the profession and offer our thanks to home economists for their dedication and service to families and individuals. It is important to us here and to the Nation at large to recognize the day named for the profession that has played an invaluable part in the continuing quest to improve quality of life for us all. Today, March 20, and throughout the week, there will be many special activities and programs to recognize the contributions of home economists.

Here in the United States, home economists serve as teachers in our elementary, secondary, and postsecondary schools. They are also professors and researchers at the university level and cooperative extension agents in both rural and urban areas. And home economists play an important role in the business and service industries working on such issues as product development, nutrition labeling and food safety as well as child and senior care. They also work in foreign lands, assisting with international development.

One national association, the American Home Economics Association, provides a voice for over 24,000 home economists from all of the diverse areas of home economics mentioned above. AHEA's public policy priorities include, but are not limited to, vocational education, nutrition labeling, food safety, higher education, adolescent, as well as international development and development education. The American Home Economics Association also has several special projects to address school age child care, the prevention of teen pregnancy and the recruitment and retention of minorities in the field of home economics.

At the international level, the interests and concerns of home economists are represented by the International Federation for Home Economics which has representatives from over 116 countries. The goal of this international association is to bring together institutions and individuals interested in home economics education and its continuing service to families of many cultures. The International Federation has several United Nations liaison officers and has also operated special programs such as training and technical assistance for women of 13 West and East African countries, an income generating project of women in 12 Latin American countries and family planning workshops in 25 countries in Asia, Africa, and Latin America.

In keeping with AHEA's mission to improve the quality of life for individuals and families, home economists strive to meet the variety of changes that have affected work and family needs. Home economics is a discipline that seeks to promote an educational approach which will prevent crises related to issues such as family stability, resource management and dependent care and to support the enrichment of family life.

Therefore, today, let us thank home economists who are making a difference in our lives. On this, World Home Economics Day, I ask you to join me in thanking the members of the profession dedicated to strengthening the family, our Nation, and the world through education and service.

THE YANKEE TRADER: AN IMPORTANT NEWSPAPER IN THE COMMUNITY

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. HOCHBRUECKNER. Mr. Speaker, it is my pleasure to aquaint you with a newspaper that plays an important role in my district, the Yankee Trader. This newspaper is currently celebrating 25 years of service to its community.

The Yankee Trader carries important information to its readers. Each week more than 400 volunteer programs use this newspaper, gratis, to announce their meetings and events.

The Yankee Trader is also involved more directly in community service; for example, it feeds the homeless during the holidays. However, this newspaper's most impressive work has been with the Special Olympics. The Yankee Trader operated three concession booths for both their fall and spring games, offered a scholarship program, designed the Special Olympics Journal, and printed ongoing news and notices of Special Olympics events and needs. More than 30 of the newspaper's employees and their families volunteered to staff these events. In recognition of such invaluable services, the Yankee Trader was selected as the most outstanding corporate sponsor for Special Olympics in New York State.

Mr. Speaker, I think it is important that we too voice our support for the Yankee Trader during its silver anniversary. Without the community services this newspaper provides, many groups and people would lose essential support. I'm proud that the Yankee Trader serves the people of my district.

TRIBUTE TO EDWARD A. MATTIOLI

HON. BILL PAXON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. PAXON. Mr. Speaker, I rise today to join with the family and friends of Edward A. Mattioli in paying long overdue tribute to this dedicated and tireless public servant on his retirement as Newstead Town attorney.

For 36 years, Ed Mattioli served his community as counsel with distinction, providing expert assistance to the Newstead Town Board in charting the course of progress in that wonderful township.

When Ed retired as town attorney last December, he left a legacy that is unsurpassed in local history; no one has ever served longer in this position.

In addition to his municipal service, Ed has also served as counsel to such institutions as the Akron Central School District, the Bank of Akron, and numerous area businesses.

Ed's legal dedication has not been limited to the public sector, and he has been active and successful in the private sector as part-owner of radio station WXRL and the Dande Farms Country Club.

As a private practitioner, Ed Mattioli's legal expertise continues to benefit many individuals and families throughout western New York, and he has a solid reputation for diligence, compassion and knowledge of the law.

Throughout his lifetime, Ed has been actively involved in many community, charitable and civil matters, ranging from assisting the Akron Volunteer Fire Company to working tirelessly on behalf of his parish church, St. Teresa's in Akron.

On a personal note, the Mattioli and Paxon Families have enjoyed decades of friendship; my father, Leon, and Ed practiced law together; Ed and Natalie Mattioli are my godparents in the Roman Catholic Church.

On Wednesday evening, March 20, 1991, the Akron and Newstead community will honor Ed Mattioli at a dinner at the Akron House, on Main Street in Akron.

Mr. Speaker and my colleagues in Congress, today we pay tribute to Edward A. Mattioli on the occasion of the dinner held to mark his retirement as town attorney. However, there is no doubt that his community, friends, and neighbors will continue to enjoy his good services for many, many years to come.

I congratulate Ed and Natalie, his wife of 43 years, and wish them all the best for continued success in all their future endeavors.

AMERICAN STUDENTS COMMITTED TO CHANGING THE WORLD

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. HALL of Ohio. Mr. Speaker, as chairman of the House Select Committee on Hunger, I am pleased today to recognize the effort of thousands of students who are involving themselves in the fight against hunger by participating in the "Seventh Annual Student Hunger Cleanup" on April 13, 1991. The cleanup is an annual spring event that combines community service and fundraising. It is one of the Nation's most successful student-community events and is invaluable in the struggle against hunger.

The hunger cleanup is a national work-a-thon in which students raise money by signing up sponsors for community improvement work which they perform. Last year's cleanup raised $200,000 through the work of 14,000 students who volunteered in 112 cities. The participants volunteer for such activities as painting and fixing up homeless shelters, working in soup kitchens, senior citizens homes and day care centers, and the general cleaning up of community facilities.

But more than fundraising, the hunger cleanup is an awareness raising event. The community, the contributors, and the volunteers themselves learn about what needs to be done to make a better life for the impoverished in the local area, and around the world. The participating students decide how the money they raise will be spent locally. They educate themselves about local needs, local poverty, and the local structures which need assistance. About 50 percent of the money will be used for this community development.

Another portion of the money is directed toward international grassroots development programs through the International Development Exchange. The countries selected for this year's efforts are Sierra Leone, Kenya, Guatemala, and the Philippines. All of the programs are oriented toward international development and sustainable agriculture.

The cleanup is an activity of the National Student Campaign Against Hunger and Homelessness. The organization was launched in 1985 by the Public Interest Research Groups in cooperation with USA for Africa. The campaign is the assistance and organizing body for students who want to build an activist network to fight hunger and poverty. This is an organization of college and high school students, educators, and other leaders working to fight hunger and homelessness in the United States and around the world. Last fall I had the opportunity to speak to the organization's annual conference in Philadelphia. I was extremely pleased to spend time with such an eager group of students. These are dedicated and concerned young people who are truly making a difference in the world around them. I'm proud to consider them my friends.

Hunger and homelessness are solvable problems. Young people are in a unique position to have an impact on our society. The hunger cleanup is a way for them to turn their social concerns into action while improving communities all over our Nation, and benefiting the entire world.

A CONGRESSIONAL SALUTE TO THE PRIVATE INDUSTRY COUNCIL

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to a remarkable organization. March 22, 1991, will mark the 10th anniversary of successful partnership between southern California cities through the Carson/Lomita/Torrance Private Industry Council.

The Private Industry Council is a private nonprofit group, operating in partnership with local governments to plan, establish policy, and maintain oversight for local job training programs funded under the Job Training Partnership Act [JTPA].

The JTPA continues to be an effective program for assisting school dropouts, unskilled adults, displaced homemakers, laid-off workers, and disadvantaged residents who face serious barriers to employment.

The city of Torrance established the Private Industry Council in 1980, and in 1983, reached out to the surrounding communities of Carson and Lomita to form a consortium in order to serve a greater population.

The council's impact can be seen through the over 14,000 consortium youth, adult, senior, and dislocated workers who have since enhanced their employability through the services and programs offered by the council. Also, the partnership forged between the private sector and government has led to expanded employment activities and has provided JTPA alumni with meaningful careers.

My wife Lee joins me in congratulating the Private Industry Council on a successful first decade, and in wishing it great success in the decades to come. Their members, staff, and participants, deserve special commendation for their considerable achievement and dedication.

TRIBUTE TO TROPHY LODGE'S HARRY OSTER

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. LENT. Mr. Speaker, I rise to recognize and pay special tribute to a constituent, Mr. Harry Oster of Elaine Drive in Oceanside, NY. Mr. Oster is being honored on March 24, 1991 by the Trophy Lodge and Chapter of B'nai B'rith of Oceanside at their annual youth services breakfast.

It is particularly appropriate that Harry Oster be selected for this award. He has worked tirelessly on behalf of Trophy Lodge's youth services programs and has served as chairman of the youth services breakfast for the past 15 years. In fact, in many ways, Trophy Lodge's youth services programs and the youth services breakfast itself have become synonymous with the name Harry Oster.

Mr. Oster has also served as president of Trophy Lodge and the Nassau-Suffolk B'nai B'rith. He remains an active member of the B'nai B'rith district 1 board of governors and is a strong supporter of America's friend and ally in the Middle East, the State of Israel. Clearly, Harry Oster embodies the civic spirit and sense of commitment that President Bush refers to as one of the "Thousand Points of Light."

Mr. Speaker, as a lifelong resident of the village of East Rockaway, a community adjacent to Oceanside, I am well aware of the outstanding work that Harry Oster has done over the years to improve the quality of life in and around the fourth Congressional District. I am pleased to call him a neighbor and proud to have the privilege of representing him in this House.

DAIMLER-BENZ CO. OF GERMANY MEETS PLEDGE OF ASSISTANCE

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. BALLENGER. Mr. Speaker, there has been considerable discussion in the aftermath of Operation Desert Storm about our allies fully meeting their pledges of assistance. Coming from a State where large numbers of German companies have established manufacturing facilities, I have followed this discussion with great interest. I recently had a chance to learn of an extraordinary program of support being undertaken in connection with Desert Storm by the Daimler-Benz Co. of Germany. Daimler-Benz's involvement was of great interest to me because they are the owner of the U.S.-based Freightliner Corp., which employs about 2,200 North Carolinians in my district.

As most of us know, a number of the troops in the Persian Gulf came from our bases in Germany, where they left behind wives and children. For these family members living in a foreign country with a language that they usually do not understand, life has not always been easy. Daimler-Benz who is a neighbor of the U.S. VII Corps in Stuttgart, learned of these difficulties and quickly moved to be of help. In a program costing several hundred thousand dollars, this German company has presented 35 minibuses to the Family Assistance Centers of the U.S. Army in Germany for use while the servicemen are still deployed in the gulf. The buses are to assist the dependents in Germany to move around much more easily not only on military bases themselves, but between the bases and the various locations within the neighboring German communities.

A further action of the Daimler-Benz Group of companies is the establishment of an emergency fund to be administered by the American Red Cross in Germany which will allow quick assistance to Desert Storm soldiers and their dependents in the area of social welfare.

Finally, to underscore the company's solidarity at this important time, Daimler-Benz has just established a prize for American high school students who have shown particular achievement in a subject relating to Germany. The recipients of this award of excellence will be invited to the united Germany for a few weeks.

We, in North Carolina, are most pleased with our close association with quality German companies, and I believe that the recent generous actions by Daimler-Benz are yet another good indication of the warm relationship and close cooperation between us and our friends in Germany.

RECOGNITION OF THE KAUA'I HIGH SCHOOL CHAMPIONSHIP MOCK TRIAL TEAM

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mrs. MINK. Mr. Speaker, I rise today to commend the achievements of the championship Kaua'i High School mock trial team. The young men and women of Kaua'i High School took first place in the Kaua'i District mock trial competition and will now go on to face other champions in the overall state-wide tournament.

In the 5 years that the State competition has been in existence, high schools from the island of Kaua'i have taken the overall championship three times. Waimea High School won the competition twice and Kapa'a High School was last year's winner.

This is a remarkable record for the Garden Island, having faced the powerful teams from Oahu and the Big Island. But in the true spirit of justice, Kaua'i's junior jurists let their arguments, not their size, win the day. Now the students of Kaua'i High School will have their turn before the bar.

Mr. Speaker, the mock trial competition is a good and productive way to introduce our country's fine legal system to the next generation. Among these students may be Hawaii's future lawyers, future judges, and perhaps even a young man or woman who will one day sit in Congress.

I extend my warmest wishes to all the participants in the Hawaii State mock trial competition and I congratulate the members of the Kaua'i District championship team:

Mimosa Jones, Kim Yamasaki, Canaan Blake, Michael Hrnicek, Garrett Maeda, Tricia Miike, Tyler Nekomoto, Jay Sakoda, Jody Sato, Iris Shimauchi, Erica Valoroso, Audrey Yamasaki, Elkie Giem, and their coaches: Mark O'Day, April Shigemoto, Ted Chihara, and Michael Ratcliffe.

ACCOUNT FRAUD AND DECEPTION PREVENTION ACT

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. VENTO. Mr. Speaker, yesterday, I and 31 of our colleagues introduced H.R. 1493, the Account Fraud and Deception Prevention Act of 1991. This legislation is in direct response to a fundraising scheme by one political organization that, to my knowledge, is unprecedented. However, if this new bait and hook gimmick is left unchecked it will become the modus operandi of every fly-by-night con artist to rip-off unsuspecting consumers.

I would like to explain to my colleagues this scam. Under the guise of giving potential donors a $25 check, the National Republican Senatorial Committee used the endorsement of the check as an authorization to hook a sizable donation by automatically withdrawing $12.50 each month from the unsuspecting consumer's banking account. The $25 bait is recovered through mandatory withdrawals for the first 2 months and after that the $12.50 will continue to be withdrawn automatically until the consumer notifies the bank or the political committee to stop the withdrawal.

This issue is not partisan. While a political organization may have been the first organization to use this trickery, my concern is that it will not be the last. Under this scam, the consumers receive a check for $25 that is clearly made out in their names. What is not as obvious is the small print on the back of the check that authorizes the automatic withdrawal of $12.50 per month.

The letter that accompanied the check followed the same type of script. The letter glossed over the true fundraising intent and focused instead on hi-tech voter identification programs, hi-tech voter registration programs, and hi-tech voter turn-out programs. This approach was hi-tech—it was a hi-tech consumer rip-off program.

The Account Fraud and Deception Prevention Act will close the loophole in the law that will let every con artist send out bogus checks to unsuspecting consumers. My bill will amend the Electronic Funds Transfer Act to ensure that the endorsement, deposit or cashing of any check is not sufficient authorization to act as a conduit for the automatic withdrawal from a consumer's account.

I urge my colleagues to support this measure.

IN MEMORY OF GEORGE ATTLETWEED

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. EDWARDS of California. Mr. Speaker, it saddens me today to bring news of the passing of George Attletweed, a widely respected advocate of the deaf community and a dedicated educator of both deaf and hearing students. He devoted his life to understanding and learning and will be deeply missed.

Mr. Attletweed was known for his leadership in many communities. He was active on a national level as an outspoken advocate for the acceptance of American sign language as a language in its own right, in California as both chairman and vice-chairman of the State Commission on Special Education, and in our community as an active parishioner at St. Joseph's Catholic Church and charter member of the Vista Lion's Club. He was truly a man of many accomplishments.

George Attletweed was said to have been able "to bring silence and sound together." Through his participation in the television program Silent Perspective and the Dial News news service, and in his role as professor of counseling at Ohlone College, he reached out to both the hearing and deaf by providing opportunity and understanding.

Our deepest sympathies go out to Mrs. Bernadette Attletweed and to their children Larry and Kathleen. We all share their loss.

THE JUSTICE DEPARTMENT'S RECENT CRIME SUMMIT A GREAT SUCCESS

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. COUGHLIN. Mr. Speaker, I would like to take this opportunity to commend Attorney General Dick Thornburgh and the entire Justice Department for their continued dedication to fighting drugs and violent crime even at a time when our country's concerns were focused on our troops in the Persian Gulf. Recently the Justice Department held its 1991 Crime Summit here in Washington to explore trends in crime and drugs and how those trends will affect law enforcement agencies. Panels discussed innovative programs and incentives to help reduce violent crime. Speakers from the administration, Congress, the Supreme Court, State and local law enforcement, and the private sector discussed a variety of topics including: demand reduction and user accountability programs as they relate to reducing violent crime; Federal, State, and local initiatives in Philadelphia's Violent Traffickers Project; the National Drug Control Strategy; innovations in policing; recent developments relating to violent street gangs; the apprehension and prosecution of armed violent offenders; managing the expanding prison and jail population; and initiatives to assist in combating violent crime through Federal death penalty, habeas corpus, and exclusionary rule reforms.

In the first 2 years of President Bush's administration, the Justice Department has scored successfully on all fronts. Due to the Department of Justice's stepped up efforts, life for those who violate the law has become tougher. The Department of Justice has committed major resources to combatting drug trafficking, money laundering, asset forfeiture, street violence, white collar crime, organized crime, and terrorism. One third of the 1991 drug money goes to the Department of Justice. For 1991, 45 percent of Justice's budget is used to fight drug traffickers.

After reviewing the Justice Department's record and their recent accomplishments, I hope that those who argue otherwise on their success will realize that the Attorney General continues to be out in front in addressing the two major concerns of the American public: violent crimes and drugs.

COMMEMORATION OF THE MARCH 25, 1949 DEPORTATION FROM LATVIA

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. ACKERMAN. Mr. Speaker, I rise today to commemorate a dark and painful moment in the history of Soviet-occupied Latvia. On March 25, 1949, 42 years ago today, 42,076 residents of Latvia were deported to Siberia under Joseph Stalin's forced collectivation of farmlands. Few of these people ever returned to Latvia alive.

The terror and brutality of the Stalinist era were already well known to the people of Latvia, who had lost 15,000 of their citizens to Stalin's terror in June 1941, during Stalin's first deportation of Latvian citizens. The people of Latvia, so viciously taken from their country, were subjected to the most brutal and inhuman conditions in Stalin's now infamous work camps, and many thousands of Latvians were executed.

The world has been inspired by the changes in Eastern Europe and by the birth of democracy in countries long oppressed by the Soviet Union. Mikhail Gorbachev won last year's Nobel Peace Prize for bringing the Soviet Union out of the dark days of Stalin and allowing growing freedom and democracy. But recent events in Latvia and Lithuania have threatened the hopes of the people of the Baltic States who have longed for freedom and democracy for too long.

While the eyes of the world were focused on the gulf war, the Soviet Union returned to its old tactics and began a brutal crackdown against the people of Latvia and Lithuania. Once again the people of Latvia have been victims of Soviet aggression.

American troops fought gallantly in the Persian Gulf to ensure the sovereignty of nations and to prove that aggression will never be rewarded. It is essential that we take these important lessons to heart and help ensure the people of Latvia, and the other Baltic States, the sovereignty that they have sought for so long.

A TRIBUTE TO KAREN JENKINS AND THE REMEMBRANCE QUILT

HON. JOHN G. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. DUNCAN. Mr. Speaker, one of my constituents, Karen Jenkins of Maryville, TN, has done more than her part in showing support for our troops who served in Operation Desert Shield/Desert Storm.

Ms. Jenkins wanted to make sure that our troops did not suffer the same scorn and lack of support as did those returning from Vietnam.

To build support for our troops, Ms. Jenkins completed a quilt with more than 30,000 signatures on it. Known as the Remembrance Quilt, this expression of love bears the signatures and messages of Americans who didn't want the service men and women to feel the least bit forgotten.

The 30-square-foot Remembrance Quilt was presented in November to Maj. Gen. Carl Wallace of the Tennessee National Guard who sent it to Saudi Arabia for the troops to view. It warmed the hearts of the service men and women who saw it over there.

The Remembrance Quilt was returned and is being taken around this country. It has been signed by young and old, famous and unsung, but by Americans who care.

Among the signatures on the Remembrance Quilt are those of First Lady Barbara Bush, former Senator Howard Baker, Tennessee Governor Ned McWherter, country singer Dolly Parton, University of Tennessee football coach Johnny Majors, UT basketball coaches Pat Summitt and Wade Houston, actor David Keith, and Notre Dame football coach Lou Holtz. Many UT and Notre Dame athletes also signed the quilt, along with scores of school children, workers, housewives, and visitors to the Dollywood amusement park in east Tennessee.

I believe that the efforts of Karen Jenkins and people like her around the Nation played a vital role in uniting us all against a common enemy, Saddam Hussein. I commend the hard work, love, and dedication shown by Ms. Jenkins.

She said that she decided on making a quilt because of what it symbolizes: Warmth, home, and comfort. These are the things soldiers need in the midst of war to sustain their morale. They must be assured of support at home—to know that the home fires are burning brightly until they return.

Karen Jenkins deserves due recognition for the Remembrance Quilt. I can think of no greater expression of support than this.

TRIBUTE TO JOSEPH M. FERRAINA

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. PALLONE. Mr. Speaker, on Saturday, March 23, 1991, the Figli di Colombo—Sons of Columbus—of Long Branch, NJ, will honor one of its most distinguished members, Mr. Joseph M. Ferraina, on the occasion of its 24th anniversary dinner and dance. I am proud to add my tribute to this fine educator and very active member of our community.

Mr. Speaker, it would take up an entire page of the CONGRESSIONAL RECORD to simply set forth, in list form, the many associations and achievements of Mr. Ferraina. I would like to offer just a brief overview of some of his public accomplishments.

Since 1982, Joseph M. Ferraina has served with distinction as the principal of the Long Branch Middle School, having previously been an assistant principal. Prior to joining the administrative ranks in the Long Branch public schools, he was a Spanish teacher and an athletic coach.

The list of Mr. Ferraina's community and professional affiliations is nothing less than astounding. In addition to his membership in the Long Branch Figli di Colombo Club, he is affiliated with numerous other Long Branch-based organizations, including the Amerigo Vespucci Society, the Rotary Club, the Knights of Columbus Society, the Elks Club, the Columbus Day Parade Committee, the VFW Post, the Italian-American Memorial Association, the Spanish Fraternity, the NAACP, SAFE Homes, the chamber of commerce, the Municipal Alliance Committee, the Monmouth Medical Center Student Volunteer Program, the Youth Concerns Coalition Committee, the First Aid Squad and the Independence Fire Company. He is also actively involved with such organizations as the Drug and Alcohol Abuse Council, the Junior League of Monmouth County, the Tournament of Champions, the Monmouth County Parks System, and a host of other professional, academic, and philanthropic organizations at the local, county, and State levels.

Mr. Speaker, I believe that Joseph M. Ferraina represents all that we can ask for in a role model for today's youth. With his strong communications skills and fluency in three languages—English, Spanish, and Italian—his effective managerial skills, his commitment to individual growth and knowledge, and, most importantly, his tireless commitment to the betterment of his community, Mr. Ferraina is an exemplary educator and citizen.

THE SUM OF $96 MILLION FOR ALLIED HEALTH PROFESSIONS TRAINING, H.R. 1466, JUSTIFIED BY LACK OF FEDERAL PROGRAMS DURING THE PERIOD OF 1981–89

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. ROYBAL. Mr. Speaker, today I am very pleased to join with my colleague, Representative BRUCE, in his introduction of the Allied Health Professionals Promotion Act of 1991—H.R. 1466—a $96 million legislative commitment to Federal training and education for the allied health professions.

On March 4, 1991, the U.S. House of Representative's Select Committee on Aging, which I chair, held a hearing on "Long-Term Care Personnel: Incentives For Training and Career Development." Several findings concerning the allied health profession were elucidated at the committee hearing. First, no Federal funding programs were authorized to support allied health education during the period of 1981 to 1989. Public Law 100–607, the Health Professions Reauthorization Act of 1988, authorized $6 million, but only $737,000 was appropriated for fiscal year 1990. For fiscal year 1991, $1,659,000 was appropriated for grants and contracts. This amount will make it possible to only provide continuation support for seven grants and fund perhaps another 10 new projects.

Second, the current efforts to incorporate care of the aged into allied health curriculum are inadequate and personnel shortages are likely to persist and worsen unless acted upon. In was reported that the Institute on Medicine [IOM] report, "Allied Health Services: Avoiding Crises," found that the ratio of FTE physical therapists to registered nurses is 1:2 in rehabilitation hospitals compared with 1:43 in acute care hospitals.

Third, the shortage of appropriately trained faculty is a major barrier to curricular reform. The IOM study concluded that improved education in geriatric care would: First, aid in the retention of existing practitioners; second, illuminate the rewards of geriatric career for students and augment recruitment, and third, encourage more faculty to engage in geriatric service and clinical research relevant to long-term care. This study underscores the need to move forward with an initiative that addresses the allied health personnel shortage.

The Allied Health Professional Promotion Act of 1991 will: First, provide project grants to those allied fields determined by the Secretary to be in short supply; second, provide allied health student traineeships; third, provide advanced training of allied health personnel; and fourth, authorize the establishment within the Health Resources and Services Administration an Advisory Council on Allied Health. By the fiscal year 1994, total funding for this initiative will be $96 million.

Unless we are willing to tolerate access and quality problems for Americans of all ages, the current shortage of allied health personnel must be addressed now, and future shortages in several health professions must be addressed before the end of the 102d session of Congress.

RAHALL PAYS TRIBUTE TO THE JOHNSON FAMILY OF WEST VIRGINIA

HON. NICK J. RAHALL

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. RAHALL. Mr. Speaker, as communities through our Nation prepare to welcome home our victorious troops from the Persian Gulf, I wish to take a moment to commemorate the special sacrifices made by a family in my own district. Many families have more than one member serving in the gulf. More than one mother in this country had two sons in harm's way. However, the Johnson family of Huntington, WV is special indeed. The Johnsons have six loved ones who participated in Operation Desert Storm.

The Johnson family members who served with distinction in Desert Storm were: Pfc. Eric Johnson, U.S. Army, Pfc. Mitchell Johnson, U.S. Army, Pfc. Larry D. Wright, U.S. Army, S. Sgt. Carl T. Johnson, U.S. Marine Corps, Sgt. Brian K. Scott, U.S. Marine Corps, and D.M.S.–4 Joseph T. Johnson, U.S. Navy.

For one West Virginia family to give so much is truly commendable. When hearing of the dangers faced by our troops, the Johnsons had not one, but six loved ones over whom to worry, six young men for whom to pray. Thanks to the efforts of our outstanding military leadership, the Johnsons are now looking forward to welcoming home six proud veterans.

Though the extent of the Johnson family's contribution is unequaled in number, it is matched in spirit by similar acts of patriotism made by thousands of other families throughout West Virginia. By honoring the Johnson family, I wish to also pay tribute to the families of the thousands of brave men and women who made Operation Desert Storm such a success. Families throughout the United States deserve and merit our respect just as our troops do, and their collective sacrifice, as they waited in loneliness and fear for the war to end, shall not go unnoticed.

TRIBUTE TO A 13-YEAR-OLD HERO

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. DURBIN. Mr. Speaker, there are very few people who would put their lives on the line for a complete stranger. But Jacob A. Greving, a 13 year-old student from Quincy IL, did just that.

On July 7, 1990, Jacob saved an 8-year-old girl from drowning in the Mississippi River. Erin E. Mason was wading in the river off the south end of an island and stepped into deeper water where she was caught in a swift current. Unable to return to shore, Erin shouted for help. Jacob heard her calling for help from the nearby island and immediately swam to her. Erin grabbed hold of Jacob's neck as he attempted to swim back to shore, but the current pulled them further from shore. Eventually, two boaters saw them and pulled them aboard the boat about 1,200 feet from the island. Exhausted from the rescue, Jacob had to be carried to shore.

This act of courage and selflessness by Jacob Greving has not gone unnoticed. Many friends and neighbors in Quincy recognized his act of heroism as did the Carnegie Hero Fund Commission. Earlier this month Jacob was awarded the Carnegie Medal for risking his life to save the life of another. Jacob was one of 16 persons from 11 States who received the medal for performing a heroic deed.

Established April 15, 1904, by Andrew Carnegie, the Carnegie Hero Fund Commission was created to recognize outstanding acts of selfless heroism performed in the United States and Canada.

This remarkable act of valor by such a young person should serve as an example to us all. Because life is so precious, risking one's life to save another is an act of heroism and love which truly deserves our recognition.

ASSISTANT CHIEF OF POLICE JESSE A. BREWER RETIRES

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. DIXON. Mr. Speaker, I rise today to express my warmest congratulations to former Assistant Chief of Police Jesse A. Brewer who retired February 28th from the Los Angeles Police Department (LAPD), after 39 years of dedicated and distinguished service to the force.

Jess Brewer retired as the LAPD's second highest ranking officer and the highest ranking black officer in the history of the department. His ascension to that post might have seemed an unlikely prospect when Brewer left the Chicago Police Department, discouraged by its discriminatory hiring and promotion practices, in 1952. Indeed, Brewer's LAPD career began only after the department rejected his initial application on a technicality—an event Brewer attributes to racism. With the help of future Los Angeles Mayor Tom Bradley, then an LAPD sergeant, Brewer successfully reapplied to the force. Needless to say, we are all glad that he did.

A native of Dallas, Texas, Jess Brewer was born October 21, 1921. Brewer attended Alabama's Tuskegee Institute where he met his wife, the former Odessa Amond, who was also studying at Tuskegee. However, he was obliged to leave Tuskegee in June 1943, when he was called to military service. He would later complete his undergraduate education at Shaw University. Brewer underwent military training at the Officer Candidate School at Fort Benning, GA and was commissioned as a 2d Lieutenant upon his graduation. Serving a total of 33 years of active and reserve military service, Brewer retired in January 1976 with the rank of Colonel. His decorations include the Legion of Merit, Bronze Star, Purple Heart, Combat Infantry Badge and two campaign ribbons. In 1977, he earned a masters degree in public administration from the University of Southern California.

Brewer's many LAPD assignments reflect his broad experience in the department. These assignments have included patrol, vice, traffic, homicide and burglary investigation, and community relations. As a captain, Chief Brewer commanded the Van Nuys, Metropolitan and Training Divisions. At the rank of commander, Brewer held several other command assignments.

In 1981, Brewer was promoted to deputy chief and served as commanding officer for the area encompassing south-central Los Angeles from 1981–1987. In this capacity, he garnered praise for pioneering several law enforcement innovations. Significantly, Brewer implemented new officer deployments, placing more officers in minority neighborhoods, as the gang crisis intensified. Through these efforts, Brewer helped to forge a more positive and constructive relationship between the department and the primarily African-American residents of a south-central Los Angeles community plagued by drug- and gang-related violence.

Chief Brewer was promoted to the rank of assistant chief on November 19, 1987. As assistant chief, he directed the activities of the Office of Administrative Services where he was responsible for all support functions of the department. He was widely regarded as an ideal candidate to succeed Chief Darryl Gates as the LAPD's top officer.

Jess Brewer's vast knowledge and expertise with respect to law enforcement were such that he was selected as a technical adviser to the Emmy Award-winning television series, "Hill Street Blues"—a series widely praised for its realism and technical accuracy. Over the course of his career, Chief Brewer also served on the board of numerous prestigious public and private organizations, including the President's Commission on Organized Crime and the National Advisory Committee Task Force on Disorder and Terrorism. Most recently, he served as a Governor-appointed member of the Board of Directors of the California Museum of Science and Industry and as a commissioner of the Los Angeles Memorial Coliseum Commission.

Assistant Chief Brewer has received many honors throughout his law enforcement career. He was the 1988 recipient of the NAACP's Judge Thomas L. Griffith Legal Award and the Ricky Bell Humanitarian Award. Chief Brewer was an honoree at the 1990 National Association of the Black Military Officers' dinner and is a lifetime member of the NAACP.

Uniformly described as a gentleman and an articulate spokesperson for the department, and dubbed "the Prince" by his colleagues, Jess Brewer has performed his duties with tremendous dignity and distinction, and has served as an inspirational role model for hundreds of minority and other officers in the Los Angeles Police Department. Moreover, by his fine example and by his firm insistence, Brewer has been instrumental in making the Los Angeles Police Department a fairer and more hospitable place for minority police officers.

I ask you to join me, Mr. Speaker, in paying tribute to a fine officer, a true gentleman and a good friend on the occasion of his well-deserved retirement, and in wishing for Jess and his wife Odessa, their three sons, Jess II, Jonathan and Kenneth, and their grandchildren, good health and good times in the years to come.

TRIBUTE TO AL ERCOLANO

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1991

Mr. GREEN of New York. Mr. Speaker, I should like to share with my colleagues a tribute to an outstanding professional and wonderful human being, Al Ercolano. Friends, family, and colleagues are joining together this week to honor Al on his retirement as director of the Washington office of the College of American Pathologists.

Al Ercolano will continue to be involved with the College of Pathologists as vice president for special projects. He was director of the Washington office from May 1970 to December 1990. In that role, he advised and counseled the board of governors, government relations council, legislative committees and headquarters staff on regulatory and legislative issues affecting pathologists and their practice setting. He was also executive director of the American Nursing Home Association from 1961 through 1970.

Prior to his association with the College of American Pathologists, Al held various positions with Arkansas Blue Cross-Blue Shield. He joined that organization as hospital relations representative, was named professional relations manager—supervising work with hospitals and physicians—in November 1955, and was promoted to relations manager in 1958. In that capacity, he was responsible for the management and supervision of all professional and public relations programs for the organization.

Those of us who had the pleasure of working with Al would agree with the comments made by one of his colleagues that Al Ercolano is a man who takes his work very seriously but never himself.

We wish Al and his wife, Elly, much happiness in their retirement. We know that their five children and ever increasing number of grandchildren will keep them busy.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, March 21, 1991, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 22

9:00 a.m.

Foreign Relations

Western Hemisphere and Peace Corps Affairs Subcommittee

To resume hearings to examine issues relating to a bilateral free trade agreement between the United States and Mexico.

SD-419

10:00 a.m.

Appropriations

Agriculture and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for the Department of Agriculture, focusing on the Food and Nutrition Service, and the Human Nutrition Information Service.

SD-138

Appropriations

Legislative Branch Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for the Legislative Branch, focusing on the Capitol Police Board.

SD-116

Finance

International Trade Subcommittee

To hold hearings on the renewal of the United States-Japan Semiconductor Trade Agreement.

SD-215

MARCH 25

10:00 a.m.

Appropriations

Treasury, Postal Service, General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for the Internal Revenue Service, Department of the Treasury.

SD-116

APRIL 9

10:00 a.m.

Appropriations

Commerce, Justice, State, and Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for the National Oceanic and Atmospheric Administration and the National Institute of Standards and Technology of the Department of Commerce.

S-146, Capitol

2:30 p.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for foreign assistance, focusing on aid to Latin America.

SD-192

APRIL 10

9:30 a.m.

Commerce, Science, and Transportation

Consumer Subcommittee

To hold hearings on proposed legislation authorizing funds for the National Highway Traffic Safety Administration.

SR-253

Environment and Public Works

Superfund, Ocean and Water Protection Subcommittee

To hold hearings to examine lender liability as related to Superfund.

SD-406

Rules and Administration

To resume hearings on S. 250, to establish national voter registration procedures for Federal elections.

SR-301

10:00 a.m.

Appropriations

Agriculture and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for the Department of Agriculture, focusing on the Farmers Home Administration, the Federal Crop Insurance Corporation, and the Rural Electrification Administration.

SD-138

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for energy and water development programs.

SD-192

Appropriations

Treasury, Postal Service, General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for the White House residence, and the Office of Personnel Management.

SD-116

1:30 p.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for the Inter-agency Council on the Homeless, and the Department of Housing and Urban Development.

SD-124

2:00 p.m.

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for energy and water development programs.

SD-192

APRIL 11

9:00 a.m.

Foreign Relations

Terrorism, Narcotics and International Operations Subcommittee

To resume hearings on proposed legislation authorizing funds for foreign assistance, focusing on the Board for International Broadcasting.

SD-419

10:00 a.m.

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for the Research and Special Programs Administration of the Department of Transportation, and the National Transportation Safety Board.

SD-138

1:30 p.m.

Commerce, Science, and Transportation

Communications Subcommittee

To hold hearings on S. 218, to require the Secretary of Commerce to make additional frequencies available for commercial assignment in order to promote the development and use of new telecommunications technologies.

SR-253

2:00 p.m.

Energy and Natural Resources

To hold hearings on S. 343, to provide for continued U.S. leadership in high performance computing.

SD-366

APRIL 12

9:30 a.m.

Select on Indian Affairs

To hold hearings on S. 168, to provide additional financial compensation to the Three Affiliated Tribes (Mandan, Hidatsa, and Arikara Tribes that reside on the Fort Berthold Indian Reservation) and the Standing Rock Sioux Tribe for the taking of reservation lands for the sites of the Garrison Dam and Reservoir and the Oahe Dam and Reservoir.

SR-485

10:00 a.m.

Foreign Relations

Terrorism, Narcotics and International Operations Subcommittee

To resume hearings on proposed legislation authorizing funds for foreign assistance, focusing on the U.S. Information Administration and the Voice of America.

SD-419

APRIL 16

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Departments of Labor, Health and Human Services, Education, and related agencies.
SD-192

Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on the Department of Energy's superconducting super collider program.
SD-366

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Office of the U.S. Trade Representative, and the International Trade Administration of the Department of Commerce.
S-146, Capitol

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on aid to Eastern Europe.
SD-138

APRIL 17

9:00 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the AMVETS, the American Ex-Prisoners of War, the Jewish War Veterans, and the Veterans of World War I.
345 Cannon Building

9:30 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Fish and Wildlife Service, Department of the Interior.
S-128, Capitol

Appropriations
Labor, Health and Human Services, Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Departments of Labor, Health and Human Services, Education, and related agencies.
SD-192

Rules and Administration
Business meeting, to mark up S. 250, to establish national voter registration procedures for Federal elections.
SR-301

10:00 a.m.
Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Office of Management and Budget, and the Executive Office of the President.
SD-116

1:30 p.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the U.S. Court of Veterans Affairs, and the Department of Veterans Affairs.
SD-138

APRIL 18

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Departments of Labor, Health and Human Services, Education, and related agencies.
SD-192

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the U.S. Information Agency and the Board for International Broadcasting.
S-146, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Federal Highway Administration, Department of Transportation.
SD-138

APRIL 19

10:00 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Department of Agriculture, focusing on the Commodity Futures Trading Commission, the Food and Drug Administration, the Farm Credit Administration, and the Farm Credit System Assistance Board.
SD-138

APRIL 23

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings to examine the science education programs of various Federal agencies.
SD-138

Appropriations
Labor, Health and Human Services, Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Departments of Labor, Health and Human Services, Education, and related agencies.
SD-1902

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Forest Service, Department of Agriculture.
S-128, Capitol

Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Federal Bureau of Investigation and the Drug Enforcement Administration of the Department of Justice.
S-146, Capitol

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on security in the post-cold war era.
SD-138

APRIL 24

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Office of Science and Technology Policy, and the National Science Foundation.
SD-124

Appropriations
Labor, Health and Human Services, Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Departments of Labor, Health and Human Services, Education, and related agencies.
SD-192

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for energy conservation programs of the Department of Energy.
SD-116

2:30 p.m.
Select on Indian Affairs
To hold oversight hearings on new school construction, repair, and improvement on Bureau of Indian Affairs' school facilities.
SR-485

APRIL 25

9:30 a.m.
Appropriations
Labor, Health and Human Services, Education Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Departments of Labor, Health and Human Services, Education, and related agencies.
SD-192

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Bureau of Mines and the Office of Surface Mining, Department of the Interior.
S-128, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the U.S. Coast Guard, Department of Transportation.
SD-138

Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Office of National Drug Control Policy, and the Financial Crimes Enforcement Network, Department of the Treasury.
SD-116

APRIL 26

10:00 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Department of Agriculture.
SD–138

MAY 7

1:00 p.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the National Highway Traffic Safety Administration and the Office of Inspector General, Department of Transportation.
SD–138

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for foreign assistance, focusing on AID management issues and reform efforts.
SD–192

MAY 8

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the National Space Council, and the National Aeronautics and Space Administration.
SD–138

MAY 9

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Federal Aviation Administration, Department of Transportation.
SD–138

MAY 14

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for fossil energy and clean coal technology programs.
S–128, Capitol

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on U.S. trade.
SD–138

MAY 15

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Smithsonian Institution and the National Gallery of Art.
SD–116

1:30 p.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Commission on National Service, and the Points of Light Foundation.
SD–138

MAY 16

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Minerals Management Service, Department of the Interior, and the Indian Health Service, Department of Health and Human Services.
SD–116

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the General Accounting Office.
SD–138

MAY 17

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the Departments of Veterans Affairs, Housing and Urban Development, and independent agencies.
SD–138

MAY 21

10:00 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for activities of the Secretary of Energy.
S–128, Capitol

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on international AIDS crisis.
SD–138

3:45 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance, focusing on the Peace Corps expansion and change.
SD–138

MAY 23

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for certain transportation programs.
SD–138

JUNE 4

2:30 p.m.
Appropriations
Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1991 for foreign assistance.
SD–138

JUNE 5

9:30 a.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for activities of the Secretary of the Interior, and Members of Congress.
S–128, Capitol

CANCELLATIONS

MARCH 21

9:30 a.m.
Labor and Human Resources
Children, Family, Drugs, and Alcoholism Subcommittee
To hold hearings on proposed legislation to revise the Child Abuse Prevention and Treatment Act to authorize grants to States for improving child protective service systems.
SD–106

Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs on the proposed Soldiers' and Sailors Civil Relief Act.
334 Cannon Building

APRIL 9

1:00 p.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for certain transportation programs.
SD–138

HOUSE OF REPRESENTATIVES—*Thursday, March 21, 1991*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. HOYER).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker.

WASHINGTON, DC.
March 21, 1991.

I hereby designate the Honorable Steny H. Hoyer to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We hear all the sounds of the world about us, O God—the thunder of anger and violence and suspicion, but we also hear the songs of the angels and the words of kindness and compassion and mercy. May all people turn away from the voices of hatred that lead to destruction and hear instead Your gracious spirit that calls us to faith and to hope and to love. May Your free gifts, O God, that allow us to be the people You made us to be, be found in our hearts and minds and spirits, this day and every day. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. FRANK of Massachusetts. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRANK of Massachusetts. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 280, nays 101, not voting 50, as follows:

[Roll No. 54]

YEAS—280

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Bacchus
Barton
Bateman
Beilenson
Bennett
Berman
Bevill
Borski
Boucher
Boxer
Brewster
Broomfield
Browder
Brown
Bruce
Bryant
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clement
Clinger
Coleman (TX)
Collins (IL)
Combest
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fawell
Fazio
Feighan
Fish
Foglietta
Frank (MA)
Gaydos
Gejdenson
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Luken
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDermott
McEwen
McGrath
McMillen (MD)
McNulty
Miller (CA)
Mineta
Mink
Moakley
Montgomery
Moody
Moran
Morella
Morrison
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Quillen
Rahall
Ravenel
Ray
Reed
Richardson
Rinaldo
Ritter
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sangmeister
Sarpalius
Sawyer
Schaefer
Scheuer
Schiff
Schulze
Schumer
Sharp
Shaw
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (IA)
Snowe
Solarz
Spence
Spratt
Staggers
Stark
Stenholm
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Walsh
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Wylie
Yates
Yatron
Zeliff

NAYS—101

Allard
Armey
Baker
Ballenger
Barrett
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Bunning
Burton
Callahan
Camp
Campbell (CA)
Chandler
Clay
Coble
Coleman (MO)
Coughlin
Crane
Dannemeyer
DeLay
Dickinson
Doolittle
Duncan
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gingrich
Goodling
Goss
Grandy
Hancock
Hastert
Hefley
Henry
Herger
Holloway
Hopkins
Hyde
Inhofe
Ireland
James
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lewis (CA)
Lightfoot
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McDade
McMillan (NC)
Meyers
Michel
Miller (WA)
Molinari
Moorhead
Nussle
Pursell
Ramstad
Regula
Rhodes
Ridge
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schroeder
Sensenbrenner
Shays
Sikorski
Smith (OR)
Smith (TX)
Solomon
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Walker
Weber
Weldon
Wolf
Young (FL)
Zimmer

NOT VOTING—50

Barnard
Bentley
Bilbray
Bonior
Brooks
Bustamante
Collins (MI)
Cox (CA)
Dymally
Edwards (OK)
Fascell
Flake
Ford (MI)
Ford (TN)
Frost
Gephardt
Gillmor
Hunter
Jacobs
Jefferson
Kennelly
Lent
Levine (CA)
Lewis (FL)
Lowey (NY)
Manton
McHugh
Mfume
Miller (OH)
Mollohan
Mrazek
Murphy
Paxon
Rangel
Sanders
Savage
Serrano
Smith (FL)
Smith (NJ)
Stallings
Stokes
Thornton
Towns
Udall
Vander Jagt
Vucanovich
Washington
Waters
Weiss
Young (AK)

□ 1022

Mr. DOOLITTLE changed his vote from "yea" to "nay."

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from Indiana [Ms. LONG] please lead the House in the Pledge of Allegiance.

Ms. LONG led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

> H.R. 1281. An act making dire emergency supplemental appropriations for the consequences of Operation Desert Shield/Desert Storm, food stamps, unemployment compensation administration, veterans compensation and pensions, and other urgent needs for the fiscal year ending September 30, 1991, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 1281), "An act making dire emergency supplemental appropriations for the consequences of Operation Desert Shield/Desert Storm, food stamps, unemployment compensation administration, veterans compensation and pensions, and other urgent needs for the fiscal year ending September 30, 1991, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BYRD, Mr. INOUYE, Mr. HOLLINGS, Mr. JOHNSTON, Mr. BURDICK, Mr. LEAHY, Mr. SASSER, Mr. DECONCINI, Mr. BUMPERS, Mr. LAUTENBERG, Mr. HARKIN, Ms. MIKULSKI, Mr. REID, Mr. ADAMS, Mr. FOWLER, Mr. KERREY, Mr. HATFIELD, Mr. STEVENS, Mr. GARN, Mr. COCHRAN, Mr. KASTEN, Mr. D'AMATO, Mr. RUDMAN, Mr. SPECTER, Mr. DOMENICI, Mr. NICKLES, Mr. GRAMM, Mr. BOND, and Mr. GORTON to be the conferees on the part of the Senate.

INTRODUCTION OF THE TELEPHONE PRIVACY ACT

(Mrs. UNSOELD asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matter.)

Mrs. UNSOELD. Mr. Speaker, today I'm introducing a piece of legislation of interest to every American with a telephone and a desire for peace and quiet once they reach the sanctity of their own home.

The Telephone Privacy Act would outlaw commercial solicitation by computers. No more would you be torn away from the family dinner, only to find yourself listening to a computer offering you some sweetheart deal of the century. No more would you hit the rewind button on your phone-message machine, only to be subjected to a computer-generated spiel urging you to call some number "right now" because you, too, can be a millionaire.

Mr. Speaker, in 1986 my State of Washington passed a law banning the use of automatic dialing-announcing devices for commercial solicitation. But many of these unwanted solicitations cross State borders.

My bill is straightforward: If you are going to be subjected to a sales pitch over the telephone, it can't be by computer.

Mr. Speaker, I urge my colleagues to support their constituents' rights to peace and privacy at home by endorsing the Telephone Privacy Act of 1991.

INTRUSIVE REGULATIONS DROWNING NATION'S ECONOMY

(Mr. COMBEST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COMBEST. Mr. Speaker, this week I have kicked off my FAIR campaign to fight against intrusive regulations. I have heard from my colleagues, voters, and local associations who strongly agree on one thing: We have only touched a drop in the sea of Federal regulations which are drowning our Nation's economy.

We already know that Federal regulations cost our economy $175 billion every year. Take the example of health care: About 22 percent of all health care dollars are spent to just keep up with Federal paperwork. The staff in a doctor's office spends almost 1 full day each week on paperwork alone. We could, and should, spend more of this time and money saving lives, not saving the bureaucracy.

There are many horror stories that each one of us could tell that demonstrates the waste of Government overregulation. The FAIR campaign provides a forum to highlight some of these burdensome problems and find a workable solution. However, the FAIR campaign is not just another meeting for you to attend and there are no dues or fees. By working together we can bring common sense back into the sometimes insane regulatory process.

Mr. Speaker, each of us has been involved in campaigns which allow us to serve in this body. I urge you to get involved today in a true campaign of service to the people, the campaign to fight against intrusive regulations. Let us bring regulatory reform and common sense back to the governmental process.

FOREIGN DEBT FORGIVENESS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, first Egypt's $7 billion debt is forgiven, now $2 billion for Poland.

Do not get me wrong. Lech Walesa has done a great job and Poland deserves a hand, but tell me, Mr. Speaker, who is next?

This is like an American Express Card policy. The foreign countries come over, they put their little credit cards in the gooper, out pops American cash. They go back home and use the money. Then they ask for the loan to be forgiven and it is all forgiven.

Meanwhile, mom and dad in America are picking up the tab. Crazy!

America is borrowing money to give it away overseas and cutting education and housing back home.

Mr. Speaker, we need a brain transplant in Washington, DC, so help me.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCNULTY). Our guests in the Gallery are reminded they are not to respond to statements on the floor.

SENIOR BILLS

(Mr. PACKARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PACKARD. Mr. Speaker, today I am introducing two pieces of legislation which will help to ease the financial burden on many of our senior citizens.

The first bill eliminates the taxation of Social Security benefits. This tax is unneeded. The revenues generated from the unfair tax are returned to the already burgeoning coffers of the Social Security trust fund. Senior citizens have already paid taxes on their earnings. We should not be taxing their Social Security benefits as well.

The second bill repeals the earnings cap which forces many senior citizens out of the workplace.

Senior citizens are one of the most valuable resources in our society. Their experience and training are a priceless commodity which must not be wasted. Those senior citizens who wish to work beyond their retirement age should be permitted to do so without penalty.

If you are interested in helping to stop these injustices, please cosponsor my bills.

HEALTH CARE COVERAGE—THE GREATEST DOMESTIC CRISIS

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, lack of affordable health care for all Americans is a national disgrace that tears at the fiber which unites this land. Unthinkably, there are too many people left out of the system.

Is it not ironic that our Nation, rich in agriculture, has farmers who cannot afford basic care? Our cities, economic centers rich in culture, have millions of unemployed and homeless families with no health care coverage, and our children, the rich future with infinite potential, are often pitted against older Americans for a limited share of health care resources. We are in danger of losing the vast potential of this next generation because their parents cannot afford adequate health care.

□ 1030

This is our greatest domestic crisis. Our health care system is on the verge of collapse. Skyrocketing health care costs are causing millions of Americans to fall through the cracks in coverage. The Government is shouldering an increasing amount of financial burden for health coverage, draining our resources and threatening our ability to compete in the global economy.

Within 5 years this Congress should commit itself to a national health care system insuring that all Americans have access to quality, affordable health care.

REMEMBERING ARMY SPECIALIST JAMES R. MILLER, JR.

(Ms. LONG asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LONG. Mr. Speaker, with hundreds of our fighting men and women returning from the Persian Gulf every day to the warm embraces of family members and friends, I rise to express my deep sorrow at the death of one service member who will not be returning.

Shortly after President Bush announced a cease-fire with Iraqi forces, Army Sp. James R. Miller, Jr., of Decatur, IN, lost his life when he stepped on a land mine while delivering supplies to troops at the front. The father of two children, Marcus and Matthew, James never had the opportunity to see Matthew's face, born only 9 days before his father's tragic accident.

James, who served with the 2d Cavalry Regiment of the Army's 7th Corps, was the second young Hoosier from my congressional district to perish during the Persian Gulf conflict. He joined the Army after his graduation from Bellmont High School in Decatur in 1989 and was stationed in Germany before being deployed to Saudi Arabia in January. Although he greatly missed his wife Susan and son Marcus, James had a strong sense of duty and believed in the importance of the Army's mission to liberate Kuwait.

Mr. Speaker, I am thankful our Nation is blessed with brave men and women such as James, willing to give their lives to protect the United States and freedom loving people throughout the world. Although James Miller, Jr., never knew his infant son, Matthew and his older brother Marcus can grow up proud of their father's dedication and content with the knowledge that this sacrifice for our Nation will forever be remembered.

REPRESENTATIVE HOUGHTON PROMOTES TOURISM IN THE SOUTHERN TIER

(Mr. HOUGHTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOUGHTON. Mr. Speaker, we have recently been witnessing an extraordinary outpouring of appreciation for this military victory in the Persian Gulf; well deserved, extraordinary people doing a wonderful job. There is another victory that's taking place, quite subtle, and that's the victory over terrorism. What the secret service, what the FBI, what the CIA have done has been extraordinary. It now permits people to travel in safety. Sure, there will always be some crazies. But, mostly, the Federal agencies have established a safety network around our travel system. And, if you would permit me a parochial note, I would urge people, not only to travel, but to travel to beautiful upstate New York to the southern tier, where the Finger Lakes, the Corning Museum of Glass, the wineries, the Chautauqua Institution, the Mark Twain Drama, and many other wonderful things are there to be enjoyed.

TRIBUTE TO THE LATE JACK DOOLING

(Mr. ATKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ATKINS. Mr. Speaker, I rise today to mourn the passing last Saturday of Jack Dooling, the staff director for the Committee on Rules. Mr. Speaker, Jack Dooling was one of the best friends and defenders and students that this institution has ever had.

Mr. Speaker, for 20 years he served with the Committee on Rules and served it well. He was there in each and every instance to help and to update and to modernize our rules. He understood the history of that committee and the history and the nuances of the rules process better than anybody in the history, the modern history of this institution.

But more importantly than that, Jack was a compassionate person who was there for each and every Member of the House but also for so many people who had no defender or advocate. When Pol Pot took over in Cambodia, Jack almost singlehandedly was there to reach out to the Cambodians fleeing the terrors of that regime, and today there are many, many successful people, Cambodians in the greater Washington area who are here because of Jack's advocacy on their behalf and his assistance through the immigration and refugee process and the resettlement process.

We all in this institution lost a great friend in Jack Dooling.

HERE WE GO AGAIN WITH PORK-BARREL SPENDING

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, roses are red, violets are blue, when it comes to pork-barrel spending Congress is going to hand the bill to you.

Mr. Speaker, I thought we had learned our lesson last fall during the budget mess. But here we are again, stuck in the old familiar rut.

As we prepare to pass the dire emergency supplemental, it seems some in this Chamber are bound and determined to dismantle any semblance of progress made last year to cut wasteful spending.

Once again Congress is here just hours before the start of a 2-week recess, logging in late hours to finish up work on a supplemental bill. The problem is that no one has a clue as to what is in that supplemental bill. At the last minute, a select few behind the scenes seek to sneak in their favorite wasteful, pork-barrel projects. Then the rest of us spend the next year trying to figure out what it is we voted on in this dire emergency supplemental.

This last-minute sneak-the-pork-in legislating has got to stop. It is not productive for the majority in this body, and it is surely not fair to the hard-working people in the Nation who get stuck paying the tab.

It is high time to quit acting like a bunch of pigs bellying up to the trough. Let us spend our taxpayers' dollars wisely or not spend them at all.

PUT THE BRAKES ON DRUG TRAFFICKING ALONG OUR NATION'S HIGHWAYS

(Mr. CLEMENT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLEMENT. Mr. Speaker, today I am introducing the Drug Free Truck Stop Act of 1991. This bill is designed to put the brakes on drug trafficking at truck stops and highway rest areas along our Nation's highways.

This legislation establishes, for the first time, minimum penalties and increases maximum penalties for distribution or possession with the intent to distribute illegal drugs at, or within 1,000 feet of, a truck stop or highway rest area.

Mr. Speaker, according to the Department of Transportation, from a report last year, in an eight-State area 33 percent of the truckers were under the influence of alcohol, drugs or both at the time that they were driving their trucks on the highway.

The locations where these drugs are distributed, as I discovered during a recent undercover drug stakeout near Nashville, are truck stops and highway rest areas.

Mr. Speaker, nothing is more important than the safety of the motoring public. The Drug-Free Truck Stop Act will send a strong message to those who choose to engage in illegal drug activities, and thereby endanger all of the motoring public, that they will face stiff consequences for their actions.

I urge my colleagues to support the Drug-Free Truck Stop Act.

TRIBUTE TO NORMAN BARCASE AND JOHN ZIELENSKI

(Mr. GILCHREST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILCHREST. Mr. Speaker, we have been giving tribute these past few weeks to brave men and women who have given the ultimate sacrifice in the service of their country—their lives. These people are heroes in the purest sense of the word. We remember them in public forums and in quiet rooms. However, there is another sort of heroism which is not nearly as celebrated, but just as important. Unfortunately, it often takes a tragic accident for us to realize the stature of the people around us. I rise today in tribute to John Zielenski and Norman Barcase, two men who were killed in the line of duty far away from any battle line. Their lives, their careers, and ultimately their deaths epitomize this sort of unsung heroism.

John Zielenski is described as a devoted father, a loving husband, and a seasoned and dedicated employee of the U.S. Army. Norman Barcase, who I am told was a gregarious and fun-loving father of two, was a veteran military civil servant. Both men are excellent examples of the sort of all-American, hard-working individuals that comprise the backbone of our Nation's work force.

However, Mr. Barcase and Mr. Zielenski's jobs were far from ordinary; they were employees of a munitions testing facility at Aberdeen Proving Grounds who worked with high explosives on a regular basis. Virtually all of the ammunition which destroyed the Iraqi Army was tested in such facilities, and most of America will never realize the contribution of these men and many like them to our Persian Gulf victory. Yet even as Norman and John were seeing the fruits of their labor succeed in the gulf, their lives were tragically cut short in a freak explosion. Their deaths in the line of duty were no less tragic than their counterparts who died in the war, and their contribution was no less critical. Accordingly, our Nation is no less indebted to these men.

Mr. Speaker, while we remember the heroism of those who have died in combat, let us also remember the "Heroes behind the heroes," the men and women in civilian clothes who serve our country every day. John Zielenski and Norman Barcase made the greatest sacrifice possible, and the loss to their community and their country is great indeed. Accordingly, I ask this assembly to join me in saluting these two men and grieving for them; perhaps by sharing in the families' grief, we can lessen their loss. John and Norman are examples of the quiet heroism that we should never forget.

□ 1040

DAIRY FARMERS ARE TIRED OF A NEW DAIRY PROGRAM EVERY 6 MONTHS

(Mr. OLIN asked and was given permission to address the House for 1 minute.)

Mr. OLIN. Mr. Speaker, here we go again.

On Tuesday, the Senate amended the dire emergency supplemental appropriation to include a radical change in the dairy program. The proposal is so radical that it never came up during the entire farm bill debate last year. Not once. There have been no hearings in either body on this matter. There are so many things wrong with this plan that it would be impossible to discuss them in only 1 minute.

This amendment would increase the minimum price of fluid milk by 30 percent at a time when surplus purchases of milk are growing. Members who have been around for a while may remember in the late seventies and early eighties when the dairy industry decided that the price was too low and got Congress to raise it through statue. It took us 10 years, a $3 drop in the price and a whole range of gimcrack schemes to get things back in balance. If this amendment is enacted, we will be right back in that mess not 5 months after the passage of the farm bill.

Mr. Speaker, I represent a dairy region and my dairy farmers are tired of a new dairy program every 6 months. Of course, they don't like the current price, but they recognize that artificially raising the price by fiat at a time of surplus production will be catastrophic over the long term.

If we start rigging the market again, it will never stop. I urge the conferees on the dire emergency supplemental to reject this crazy scheme.

PLEASE PRAY FOR OUR HOSTAGES

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, it looks like we will be in tomorrow and then begin our Easter break, and before every break: Christmas, Thanksgiving, Easter period, I have come to this well to ask people to please not forget the 18 hostages, 6 of them American, who are still languishing in rotten little dungeons somewhere in Beirut.

Five days after Gorbachev became the head of state in the Soviet Union seems like a long time ago. It was 5 days after that when Terry Anderson, the bureau chief of Associated Press, was taken prisoner in Beirut. That means he is now, on March 21, 5 days into his seventh, seventh year. That is phenomenal. Terry Anderson, who was to go to the University of Beirut, American University at Beirut, to teach agriculture, he begins his seventh year on June 9.

Mr. Speaker, it is appalling that the world has been unable to find the key to release these European and our six American hostages. Prayer again seems to be the last resort during this holy period coming up. Please pray for our hostages in Beirut, and may they all be out and free, as we got back all of our prisoners of war in the Kuwait-Iraq theater. May they all be free by the time the House comes back after this Easter work period.

THE WAR HERE ON AMERICAN SOIL

(Mrs. COLLINS of Michigan asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. COLLINS of Michigan. Mr. Speaker, a young man in Detroit was brutally shot down this week only 2 days after he returned from serving his country in the Persian Gulf. Army specialist Anthony L. Riggs, 22 years old, was killed during an apparent robbery while he and his wife were loading a truck to move into military housing.

Why is it that Anthony Riggs was safer in the Persian Gulf than he was right here at home? Why is it that some of our soldiers are returning home to neighborhoods which pose a greater threat to their well-being than did fighting on the battleground in the gulf? Why is it that a disproportionate number of our soldiers who are returning to this intercity war are African-American and other people of color.

The Department of Health and Human Services has released a study showing that a black male is 3 times more likely to die from a bullet than a disease and 11 times more likely to be shot down than a white male. The human face to this national tragedy is that of Anthony Riggs and all those other sons and daughters who have died but whose faces won't make the front pages.

I am filled with anguish that a young man, a hero, can honorably serve his country one day, return home full of hope for a bright future and then be so brutally murdered right here on American soil.

The pervasive violence and desperation in our cities has claimed more young lives than the war we just fought on foreign shores. Military officials report that 125 military personnel were killed during the war in the gulf. In Detroit alone, 128 people have been killed so far this year.

It is a horrifying thought, but many of us are fighting our own war right here on American soil. Our young people who struggle day in and day out to survive our domestic wars do not get medals. But we can surely give them the opportunity to receive a good education and skills that will enable them to break away from this vicious cycle.

Certainly, our young men and women who have honorably served their country in the Persian Gulf deserve to come home to a land that values their quality of life, safety, and overall well-being just as much as it values anyone else's.

Mr. Speaker, we must take control of our cities. For far too long too many of us have looked the other way. "As long as it doesn't affect my neighborhood." Well, that attitute is no longer good enough. Because one way or another the crime we are experiencing today will impact us all.

Mr. Speaker, the tragedy of this young soldier should bring home to each and every Member of this House and the other body how urgently we need to devote our leadership to ridding our streets of the drugs and crime which are part of the war here at home. All of the concern, sense of urgency, compassion, and most definitely, most definitely, the resources we used to assist the people of Kuwait regain their freedom must now be used to combat the war we are fighting right here at home.

THE HOUSE REPUBLICAN ENERGY BILL

(Mr. OXLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OXLEY. Mr. Speaker, I commend President Bush for introducing the National energy strategy. This omnibus energy policy represents a fine foundation upon which to build a secure future for our Nation. Today, Mr. LENT will introduce the House Republican energy package, of which I am an original cosponsor, in order to build upon this foundation. This bill is a product of the Republican Task Force on Energy.

We built a consensus and created a compromise bill that adds to the national energy strategy in the areas of conservation and production. The bill provides incentives for the use of renewable and alternative energy. It also encourages the use of clean coal technology. Simultaneously, the bill does not ignore the economic health of our Nation. It provides for natural gas exploration, exploration in the Alaskan National Wildlife Reserve, and encourages streamlining the nuclear power plant licensing process.

Mr. Speaker, the people want a national energy policy. We now have two versions from which to choose. It is now in the hands of the Congress to find the courage, foresight, and ambition to debate the necessary issues. Let us put our partisan differences aside and reach for the creation of a new energy standard for our country.

□ 1050

DON'T USE EXIMBANK TO FUEL A NEW ARMS RACE

(Mr. MOODY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOODY. Mr. Speaker, there is an important editorial in today's New York Times which I urge all my colleagues to read. It starts by saying: "It is a propitious moment to curb arms sales." Indeed it is.

One of the important lessons we must learn from the gulf war is, to quote the same editorial, that "arms have a nasty way of outlasting alliances."

That is why it is so absurd for the administration to propose using the Export-Import Bank—and through it, American taxpayers dollars—to increase arms sales abroad.

But we can and must prevent this from happening. Instead of wondering who next year's Iraq might be, we must act to make sure there is no next Iraq, no Third World dictator highly armed with Western weapons to drag our country into war.

My colleagues, it is our responsibility here in Congress to provide the leadership the administration seems to lack for our country and the rest of the world to end the conventional arms race.

I and others will soon introduce legislation to keep the Export-Import Bank of the United States devoted to the things it knows how to do and does well: Finance civilian exports that produce American jobs, not rearming dangerous tyrants.

AMBASSADOR TO IRAQ REFUTES HUSSEIN CHARGES

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, it came as no surprise over the past several months that a number of our colleagues made an attempt to criticize Operation Desert Shield, which became Operation Desert Storm, by utilizing some statements that had come from our Ambassador to Iraq, April Glaspie.

Many people said that she had been involved in some kind of an attempt to tell Saddam Hussein that we would stand by and take no action whatsoever if he were to move into Kuwait from Iraq.

Mr. Speaker, yesterday we got the report of this very, very fine diplomat, who explained before the Senate Foreign Relations Committee how her testimony was torn apart and fabricated by Saddam Hussein. It is apparent, Mr. Speaker, that we have a fine civil servant who represented the United States of America very well, and I hope that my colleagues on the other side of the aisle who tried to utilize her testimony in the past to oppose President Bush's action will provide her now with the support that she so well deserves.

DISCOUNTING WEAPONS FOR SALE—A BAD IDEA

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, if there are any lessons to be learned from the Persian Gulf, they must include the need for civilized nations of the world to put an end to the senseless proliferation of military weapons.

Like it or not, our young American soldiers faced weaponry and technology sold to Iraq by the United States and its allies, and now the President of the United States has asked for $1 billion in lending authority to sell discounted weapons around the world.

What a senseless idea, discounting the cost of new weapons of war to create tomorrow's Saddam Husseins, to arm tomorrow's madmen, who will threaten the next generation of American soldiers.

Discounted weapons? Is that how the administration intends to bring this Nation out of the recession and improve our trade balance?

REINTRODUCTION OF THE DRUG-FREE TRUCK STOP ACT OF 1991

(Mr. SLAUGHTER of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SLAUGHTER of Virginia. Mr. Speaker, today, my colleague from Tennessee, Mr. CLEMENT, is reintroducing the Drug-Free Truck Stop Act to increase penalties for the distribution of illegal drugs at truck stops and rest areas. Along with 31 Members from both sides of the isle, I have signed on as an original cosponsor of the bill.

During the last Congress, the bill passed the Senate, and was added as an amendment to the House crime bill. Unfortunately, the conference committee considering the crime bill removed the amendment from the final version of the legislation.

The bill would help reduce the flow of illegal drugs to our schools and communities, and it would make our Nation's highways safer for everyone. I urge Members to cosponsor the Drug-Free Truck Stop Act of 1991.

THE CRISIS IN DAIRY FARMING

(Mr. KLUG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLUG. Mr. Speaker, dairy farmers are suffering the lowest prices for milk in 13 years, and my State of Wisconsin will lose at least 3,000 farmers this year in this dairy depression due to milk prices that have plummeted 33 percent. At the same time, I should point out that consumers have seen no corresponding decrease in prices at the store for either cheese or milk.

This year, during the 3 months flush period from April to June, when milk production rises, the average Wisconsin farmer is going to lose over $5,000.

Mr. Speaker, this is a crisis situation. My farmer constituents are working from dawn to dusk just to survive, Mr. Speaker, not to make a profit. This, in my opinion, is an emergency situation, and I hope that the Members of this House will consider upcoming appropriation conference committee action that will stop the hemorrhaging of our dairy economy, both in Wisconsin and other States of the Midwest, and at least give Wisconsin farmers a chance until an effective supply management program is finally in place. That is the long-term solution.

Mr. Speaker, if we intend to help our family farmers and if we intend to save our rural communities across the Midwest, we must adopt emergency legislation to alleviate the situation. Thousands, at least 3,000 to 5,000 farmers in Wisconsin are counting on us.

DELAYED ACTION RECOMMENDED ON SECOND SUPPLEMENTAL AFTER APPROVAL OF DESERT STORM

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, we must pass the Desert Storm appropriations to permit the Government to spend the money on Desert Storm. We cannot leave without passing that appropriation.

However, we can and should leave without rushing through the second supplemental. The Senate added 102 items to the second supplemental. The conferees will not be able to clean up the bill in the next 24 hours. It would be very foolish to rush through a pork-laden special interest bill which the President would veto and we would sustain. It would be far better for the appropriators to slow down, take their time during the break, and clean up the bill so we could actually have a signable supplemental bill.

Mr. Speaker, I would urge the Appropriation Committee members, if they cannot get the second bill done in time, not to keep the House in session until late Friday night trying to pass a bill whose only fate will be to be vetoed by the President. Let us pass the Desert Storm supplemental and let us go home and allow the conferees to work over a reasonable amount of time and clean up the second appropriation bill.

RECLAMATION STATES EMERGENCY DROUGHT RELIEF ACT OF 1991

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 114 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 114

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 355) to amend the Reclamation States Drought Assistance Act of 1988 to extend the period of time during which drought assistance may be provided by the Secretary of the Interior, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and the amendment made in order by this resolution and which shall not exeed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered by title instead of by section and each title shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 7 of rule XVI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1100

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, I yield the customary 30 minutes to the gentleman from California [Mr. DREIER] pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 114 is the rule providing for consideration of H.R. 355, the Reclamation States Emergency Drought Relief Act. This is an open rule, providing for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs.

The rule makes in order the Interior Committee amendment in the nature of a substitute now printed in the bill as original text for purposes of amendment, and it provides that the substitute shall be considered by titles instead of sections, with each title considered as having been read. The rule also waives clause 7 of rule XVI, which prohibits nongermane amendments, against the substitute.

Finally, the rule provides one motion to recommit, with or without instructions.

Mr. Speaker, the bill for which the Rules Committee has recommended this rule, H.R. 355, would authorize the Bureau of Reclamation, on a temporary basis, to take various actions to address the drought conditions in California and other Western States. The bill would also provide permanent authority to take steps to prevent or ameliorate adverse effects of future droughts.

For the last 5 years, the western region of our Nation has suffered from one of the most severe droughts in history. California has been particularly hard hit; water storage in the major reservoirs is at a record low, necessitating substantial cutbacks in water deliveries from the State water project and the Central Valley project. Water supplies in virtually all areas of the State are being rationed.

Some urban areas are predicting that unless alternative water supplies can be found, they will completely run out of water within the next 18 months. The Fish and Wildlife Service predicts that the drought could cause some species to become extinct and others to decline greatly. Farmers, commercial fishermen, and recreation-oriented businesses have and will continue to face economic hardship—severe hardship, in some cases—as a direct result of the drought.

H.R. 355 would provide the Secretary of the Interior with sufficient temporary authority to provide water to those areas which will suffer severe and irreplaceable losses because of the drought, including areas which do not normally receive water from Bureau projects. The Secretary would be authorized to purchase water and assist willing sellers and buyers of water, to convey and store water in Bureau of Reclamation facilities, and to participate in State water banks, such as the one established by the State of California.

The bill would also provide the Secretary with permanent authority to develop drought contingency plans in cooperation with States and other interests so that, in the future, the Federal Government will be able to act early to prevent or at least mitigate the impact that drought conditions may have on water users and natural resources.

H.R. 355 authorizes $30 million for both the temporary and the permanent drought-relief programs. These funds were appropriated in the dire emergency supplemental appropriations bill which passed the House of Representatives on March 7.

Finally, the bill also authorizes $12 million for the design and partial construction of facilities to control the temperature of water releases from Shasta Dam in California to improve the survival of fish downstream of the dam.

Mr. Speaker, to repeat: This is an open rule; any germane amendment is in order; and there will be 1 hour of general debate. I urge adoption of the rule so that the House can proceed to the consideration of this urgently needed legislation.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

I would like to begin by expressing my appreciation to the distinguished ranking Member of the Committee on Rules, the gentleman from New York [Mr. SOLOMON] for giving me the opportunity to manage this rule.

Mr. Speaker, I rise in support of House Resolution 114, providing for the consideration of H.R. 355, the Reclamation States Emergency Drought Relief Act. As my friend and colleague, TONY BEILENSON, explained this is an open rule, and I want to commend the acting chairman of the Interior Committee, GEORGE MILLER, for requesting it.

I want to take this opportunity to urge my colleagues on the other side of the aisle to continue to support unrestrictive rules. Over the last decade, the trend away from open rules has been dramatic, and the 101st Congress was the first Congress in recent history where restrictive rules outnumbered open rules. This is a dangerous trend that I hope can be reversed this year.

Mr. Speaker, reclamation bills have traditionally been controversial. But the extent of the drought emergency facing the Western States, particularly California, has brought about the need for an expedited Federal response. H.R 355 is a bipartisan product of the Interior Commitee, the Bureau of Reclamation, and State of California, and it is my support. The administration does have some concerns with the bill, so I ask unanimous consent to submit the administration's policy statement into the RECORD following my remarks.

California is in the fifth year of a Statewide drought. The year 1991 is the driest year in the State's history. Water supplies are at or near all-time lows. There may not be enough fresh water in 1991 to serve all beneficial, uses. Although the inland valleys, the central coast region, and most of northern California are hit hardest by the drought, southern California is also facing a crisis. Overall water supplies to southern Californians have been reduced 31 percent since the beginning of March.

Although the current drought has brought about a sense of urgency, we need to look at long-term solutions in addition to short-term fixes to the current crises. That's why I commend my colleague from Arizona, JOHN RHODES, for his work on title II of H.R. 355. It authorizes the Interior Secretary to study opportunities to conserve, augment, and make use of water supplies available to Federal reclamation projects.

We should take this one step further by working with the State of California to study ways to increase water supplies under State jurisdiction. Water supply improvement methods worth considering include wastewater recycling, brackish ground water improvement, ocean-water desalting, building water storage facilities, and improving conjunctive operations.

Finally, Mr. Speaker, I want to applaud Governor Wilson for his prompt action to mitigate the impact of the drought. The Governor's drought action plan acknowledges the need for tough decisions and cooperation if California is to survive this disaster.

STATEMENT OF ADMINISTRATION POLICY

The Administration shares Congress' concern over the serious impact of drought in the West. In response, the Department of the Interior submitted legislation, introduced as H.R. 1247, which would provide the Secretary with the authority to address problems arising from temporary droughts. Although many of the same authorities are found in H.R. 355, as reported by the House Interior and Insular Affairs Committee, a number of objectionable provisions have been added. The Administration opposes H.R. 355, unless these provisions are deleted or amended.

The Administration urges the House to delete:

Section 204, which would authorize congressional committees to terminate a 60-day review period for certain drought contingency plans. This violates the separation of powers, *See: Chadha* versus *INS*, 462 U.S. 919 (1983), by subjecting Executive branch action to veto or approval by committees of Congress.

Section 307, which would require the Secretary to submit concurrently a report to Congress and the President. This violates the separation of powers by infringing on the President's authority to control the presentation of Executive branch views to Congress.

Sections 104(a) and 104(c), which would exempt temporary drought actions from the National Environmental Policy Act of 1969 (NEPA) and the Federal Paperwork Reduction Act (FPRA). Existing regulations adequately provide for expedited consideration in emergency situations. Exemption from either act is unnecessary and an undesirable precedent.

Section 304, which would authorize $12 million to begin design and construction of a temperature control device at Shasta Dam in California. Prior to completion of a nearly 2-year-long study, construction of facilities, estimated to cost over $50 million, cannot be justified. Water temperature is being controlled through existing management practices at the dam.

The Administration urges the House to amend:

Sections 101(a), 203(a)(1), 203(a)(3), and 305, to clarify the Secretary's authority to acquire and provide water for purposes not recognized as beneficial in some States.

Section 101(c), to better define which water-saving actions go beyond the efficiencies already required by contract, and which water is available for Secretarial purchase.

Sections 102(d) and 102(e), to require States or project beneficiaries to pay for fish and wildlife resource expenses, as if required under normal conditions.

Section 103, to clarify that cost-sharing requirements for the construction of salt water barriers in the Sacramento-San Joaquin Delta, California, must be consistent with Administration policy.

SCORING FOR THE PURPOSE OF PAY-AS-YOU-GO AND THE CAPS

H.R. 355 would authorize a minimum of $42 million in additional domestic discretionary funding subject to domestic discretionary caps in the appropriation process. In addition, the Shasta temperature control device, for which the bill only authorizes $12 million, would require an estimated $40 million in additional authority to complete construction. H.R. 355 could slightly increase federal receipts; OMB's preliminary scoring estimates of this bill are less than $1 million per year.

Mr. Speaker, California is clearly making enormous sacrifices, and the rest of the country will be detrimentally affected by the increased cost of agricultural foods throughout this Nation if we do not take action now.

I recognize that California is enjoying a great deal of rain at the moment, but many have described the rain we are enjoying now as like getting your Christmas bonus, without having been paid all year long. We do face a crisis, and I believe this bill will address it and help us turn the corner on it. I urge adoption of the rule.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BEILENSON. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and on a division, demanded by Mr. DREIER of California, there were—ayes 6, noes 0.

So the resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 114 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 355.

□ 1008

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 355) to amend the Reclamation States Drought Assistance Act of 1988 to extend the period of time during which drought assistance may be provided by the Secretary of the Interior, and for other purposes, with Mr. TORRES in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from California [Mr. MILLER] will be recognized for 30 mintues, and the gentleman from Utah [Mr. HANSEN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

□ 1100

Mr. MILLER of California. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I am pleased to bring this important bill, the Reclamation States Emergency Drought Relief Act, to the floor on an expedited basis.

I want to thank the members of the Interior Committee—on both sides of the aisle—who worked very hard to put this bill together. All of us have resisted the temptation to use this bill as a vehicle to make substantive changes in water resources policies. Instead, we've brought to you a streamlined bill designed to help alleviate current and future drought conditions.

This bill was favorably reported with bipartisan support by the Interior Committee on March 13, 1991.

This bill will help Federal and State officials deal with the drought in the Western United States, and particularly in California.

It is ironic that it is raining and snowing in California while we are considering legislation to alleviate the impacts of 5 years of drought in that State. State officials have said that the rain has only meant that the drought conditions have gone from critical to bad.

California has taken unprecedented actions to alleviate the more severe and irreversible impacts of the drought. There is a need to provide the Interior Department with additional authority so that the Federal Government will be able to respond to the drought more effectively.

H.R. 355 has two major parts.

The first gives the Secretary temporary authority to take certain immediate drought relief actions. This authority will only last for 1 year. It is similar to the emergency drought legislation Congress enacted in 1977 and 1988. It removes selected restrictions on the Secretary's ability to move water to where it is most needed. It permits the Secretary to assist willing buyers and sellers of water to make transactions. It permits the Secretary to participate in water banks, and purchase water. It allows the Secretary to undertake limited construction activities, such as drilling wells, to make water available.

It is our intention that the Secretary will use these authorities to address the critical and urgent needs in the drought-stricken areas. We did not specify the priorities the Secretary must use when taking actions under this program, because we wanted to give the Secretary some discretion.

It is our intention and expectation, however, that the Secretary shall follow priorities, such as those being followed by the State of California. For example:

He should meet public health and safety needs;

He should take all reasonable steps to prevent irreversible losses to natural resources, including fisheries, waterfowl, and wildlife;

He should do what he can to save orchards, vineyards, and other perennial crops;

He should take steps to alleviate the economic losses suffered by those businesses and enterprises dependent on water resources. These would include the commercial fishermen, recreational interests, farmers, and others.

The second part of the bill authorizes the Secretary to develop drought contingency plans for the Western States. This section was based on legislation introduced earlier this year by Mr. RHODES.

I share his concern that the Secretary should have permanent authority to respond to drought conditions, rather than waiting until Congress provides emergency authority. A more timely response by the Department might reduce the overall impacts of a drought. Right now, the Federal response can be best characterized as too little, too late. Drought contingency plans will improve the quality and the speed of the Federal response.

The bill contains several important California specific provisions. It authorizes the Secretary to undertake limited actions to install a temperature control device at Shasta Dam. The device is needed to provide cold water flows for fish survival below the dam. We believe that beginning construction of the device now, while the reservoirs are at all-time lows, will save the Federal Government money. Full authorization for the device and for a series of related fish-survival measures is contained in H.R. 1306, the California Fish and Wildlife Protection Act.

This bill also permits the Secretary to construct barriers or take other actions to protect the bay/delta from salt water intrusion. We took similar action during the 1977 drought.

Mr. Chairman, at the appropriate time, I will offer two amendments. One will restrict the proposed changes in the Warren Act to California. The second amendment makes minor technical amendments to the bill.

Mr. Chairman, H.R. 355 will provide the Secretary of the Interior with the flexibility he needs to respond to drought conditions in States served by Bureau of Reclamation projects. I urge my colleagues to support this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. HANSEN. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, I stand in support of H.R. 355, legislation to provide emergency relief to States affected by drought.

While it is true that many Western States have had recent heavy rains, California, among other States, is experiencing their 5th year of severe drought. Many experts have testified that notwithstanding the recent rains, California and other Western States may face economic and environmental catastrophe if the drought continues next year.

This underscores the importance of this legislation. This bill will provide the Bureau of Reclamation the authority to:

First, undertake minor construction and drill wells to mitigate drought losses.

Second, it authorizes the Federal Government to participate in water banks set up by individual States.

Third, it allows the Department of the Interior to move water and store water currently not allowed under existing law.

Fourth, the bill authorizes the Secretary of the Interior to construct temporary barriers and take other measures to prevent salt water intrusion in the Sacramento-San Joaquin Delta.

Fifth, the bill authorizes the Secretary of the Interior to conduct studies relating to how the drought can be mitigated and how to make better use of existing water supplies generally. The bill authorizes the preparation of drought contingency plans.

Sixth, the bill authorizes $20 million for these drought activities.

Seventh, the bill also authorizes $12 million for the design and partial construction of facilities to control the temperature of water releases from Shasta Dam.

Eighth, the bill requires that all provisions pertaining to this act be consistent with State law.

I applaud the leadership of Chairman MILLER and the staff who have worked on this bill. The consideration of this legislation has been marked by a cooperative and bipartisan effort with input from the State of California and the Bureau of Reclamation. Congressman LEHMAN and Congressman RHODES should also be commended for their activities on this legislation.

All parties have recognized that the American people do not want our leaders to participate in partisan battles when dealing with emergency measures, much less nonurgent public policy measures. My hope is we can continue to keep the bill focused on true drought relief measures and that we will be able to move swiftly through the amendment process today.

Mr. Chairman, I reserve the balance of my time.

Mr. MILLER of California. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. LEHMAN].

Mr. LEHMAN of California. Mr. Chairman, I want to begin by thanking the vice chairman of our committee and the chairman of the Subcommitee on Water and Power, the gentleman from California [Mr. MILLER], for the job he has done in bringing this bill so quickly to the floor.

Mr. Chairman, this is a modest piece of legislation, but it is sorely needed right now in California. In that regard and with an eye toward bringing this matter to a quick conclusion for the benefit of everyone in California, the gentleman from California [Mr. MILLER], myself, and other members of the committee who from time to time have disagreements about what water policy ought to be or what farming practices ought to consist of have put those differences aside and attempted to develop a consensus approach to this problem in California.

As every Member of the House will be aware of at the time we finish this debate, we are in our fifth year of drought, and as the gentleman from California [Mr. MILLER] indicated, the rains we had over the past week in California have been refreshing, they have nourished us, but they are certainly not going to mark the end of this disaster, and even with adequate rainfall for the rest of the year, it will not undo the previous 4 years we have had. The reservoirs will not be replenished anywhere near what would be substantial enough to head off a measure like this.

In cities and towns, particularly in the San Joaquin Valley but in other parts of the State as well, people have been forced to cut back consumption by as much as 90 percent. Water deliveries to agricultural users have been cut by 100 percent by the State water project and 75 percent by the Federal central valley project.

Fish and wildlife habitat has also been seriously stressed by insufficient water flows.

Allocations of water have been prioritized to protect the health and safety of the citizens, to preserve permanent agriculture crops, and to stave off further decline of our fish and wildlife habitat.

Mr. Chairman, no part of my district has been left unaffected by the drought. Ski areas that rely on adequate snowfall to provide the recreation that they do have had a very difficult time. Other recreational areas that rely on full reservoirs have been hard hit as well. Our national forests are experiencing massive tree kills due to the loss of water and bark beetle infestation, and at present dead trees are not being adequately cleared, presenting an almost certain future fire danger.

We are in serious jeopardy as far as our timber is concerned. Some estimates say that one out of every three trees is either dead or in the process of dying, and that will have long-range dire economic consequences.

The immediate catastrophe is the dry soil, the dry leaves, and dry trees giving us a potential for the most serious fire season we have ever had in our State's history.

Agriculture has been especially hard-hit, not just this year by the drought but by the worst freeze in the history of agriculture in California. Estimates are that the cost of the freeze alone will reach $1 billion. On top of that, the fifth year of drought has brought a cutback in water deliveries in that area, especially so in the central part of the San Joaquin Valley where we have had a billion-dollar freeze and now a shortage of water on top of it.

Agriculture is the economic backbone of the valley, and with that trend fallowing hundreds of thousands of acres of land, it translates into secondary effects on all aspects of the economy and the loss of thousands of jobs.

A recent study said as many as 65,000 children in the San Joaquin Valley are likely to skip meals because their families are unable to feed them.

□ 1120

These are people who have been unemployed because of the freeze and because of the drought taking land out of production.

Two disasters in a matter of a few months, and unfortunately, to date the Federal Government has provided only limited relief. During the 1977–78 drought, the Government provided over $1 billion in relief. During the 1989 Florida freeze, the Government provided over $60 million in relief. President Bush, on February 11 of this year, declared 31 California counties as Federal disaster areas, but limited assistance to disaster unemployment assistance. The Secretary of Agriculture and the Administrator of the Small Business Administration independently declared the availability of the Farmers Home Administration disaster loans and small business disaster loans, but that is not sufficient. Attention has been focused away from our plight in recent months by world events, new budget rules made the assistance nearly impossible, and people are still unemployed with little relief in sight except from the State government and private agencies.

Mr. Chairman, I was prepared today to offer an amendment that would have allowed irrigators suffering severe economic hardships as the result of the drought the opportunity to defer a limited portion of that obligation. In California's central valley project, irrigation districts are required to pay for actual operation and maintenance of the project. This year that is estimated to be $37 million, even though most of those districts will receive only one-quarter of their usual water supply. For an individual district therefore, last year's $100,000 obligation is this year's $100,000 obligation even though district revenues have been reduced by 75 percent. Essentially, this quadruples the cost for every acre-foot of water delivered.

In 1988, the House drought assistance bill included the ability to defer payments, but that was dropped in conference because Interior officials assured the conferees that they were able to defer some amount of an irrigator's obligation during a drought. There was some confusion about this matter as the Committee on Interior and Insular Affairs marked up the bill, and so the vice chairman, the gentleman from California [Mr. MILLER], and I wrote a letter to the Bureau to clarify my concerns. The answers they provided satisfied some of those concerns, mainly that the Bureau already had the ability to defer payments by irrigators to face economic hardships as a result of the drought. I would like to submit that letter for the RECORD at the end of my remarks.

Given the circumstances, to paraphrase from the report of the Committee on Interior and Insular Affairs, I expect the Secretary will use maximum flexibility within existing authority on budgetary limits to defer payments on all or part of any charges owed to the United States by irrigators facing severe economic hardships as a result of the drought. The gentleman from California [Mr. MILLER] and I addressed that committee report in committee, and will continue to work together on it.

I said earlier that this is a modest measure, but it is extremely important. We need it desperately at this time. It gives Members the ability to move forward in places where Federal and State laws have not coincided in the past, and will set up a procedure to purchase water, to get it where it is needed in a short-term basis. We need the bill.

Mr. Chairman, I thank the gentleman from California [Mr. MILLER], as well as the gentleman from Arizona [Mr. RHODES] for their good work.

Letter referred to follows:

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF RECLAMATION,
Washington, DC, March 19, 1991.

Hon. GEORGE MILLER,
Vice Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter dated March 14, 1991, regarding H.R. 355, "An Act to provide emergency drought relief to the reclamation States. * * *." Related to consideration of that bill you posed 7 questions about Reclamation's authority and policy to defer irrigation contract payments. Our response to the questions are as follows:

1. Does the Bureau have the explicit authority to defer all or a portion of a contractor's payment in the case of economic hardship, in the event of declared drought or similar natural calamity, or in any other case? If so, is that authority statutory or administrative?

Generally, reclamation contracts to deliver project water have two separate pricing components: a construction charge repayment component and an operation and maintenance (O&M) charge component. The reclamation laws make separate provisions for each of these components; construction charges are deferrable, but operation and maintenance (O&M) charges and interest charges are not. Section 17(b) of the 1939 Reclamation Project Act, 43 U.S.C. 485b-1, expressly authorizes the Secretary to defer construction charges. The authorization is broad, stating that the Secretary is authorized "to defer the time for the payment of such part of any installments of construction charges under any repayment contract or other form of obligation as he deems necessary to adjust such installments to amounts within the probable ability of the water users to pay." The language used by Congress in this section applies to both section 9(d) repayment contracts and section 9(e) water service contracts.

Certain conditions are set out in section 17(b) if the Secretary elects to grant a deferment. The Secretary is obligated, before deferring a payment, to make findings that "the installments . . . probably cannot be paid on their due date without undue burden of the water users. . . ." Also, if any deferment would affect installments to accrue more than twelve months after the action of deferment, the deferment must be effected by a formal supplemental contract. Further, if a supplemental contract is necessary, it would lengthen the repayment period for the project beyond that permitted by the laws applicable to that project, and the contract must be approved by Congress. Finally, the Secretary is under an obligation to report to the Congress all deferments granted under section 17(b).

Congress has been very clear in requiring the Secretary to collect from contracting project water users the O&M charges incurred to deliver project water for both section 9(d) and 9(e) contracts. *See* Reclamation Extension Act of August 13, 1914, section 5, 43 U.S.C. 492; Omnibus Adjustment Act of 1926, section 46, 43 U.S.C. 423e; Reclamation Reform Act of 1982, section 208, 43 U.S.C. 390hh. In none of these or other related statutes, however, has Congress expressly authorized a deferment of O&M charges.

There has been a de facto deferment of construction, O&M, and interest costs in the Central Valley Project. These deferments have occurred due to the terms of the existing contract. The deficits which have accrued are to be recovered between the time the contracts are renewed and year 2030. Pursuant to Public Law (PL) 99-546, accrual of such deficits on or after October 1, 1985, are subject to interest charges. Prior to passage of P.L. 99-546, the deficits were being capitalized and added to the outstanding construction costs.

2. Has the Bureau exercised such authority? When?

Yes. The following irrigation districts (ID) have taken advantage of the section 17(b) to defer construction cost payments in the years shown:

Casper-Alcova, ID, WY—1962, 1965, 1973.
Glasgow ID, MT—1984.
Mirage Flats ID, NE—1963, 1964.
Almena ID, KS—1982, 1985, 1988.
Bostwick ID, KS—1961.
Cedar Bluff ID, KS—1982, 1983.
Frenchman-Cambridge ID, NE—1961.
Upper Bluff ID, SD—1967.
Kansas-Bostwick ID, KS—1971, 1973, 1974.
Kirwin ID, KS—1982, 1983, 1985.
Loup Basin ID, NB—1966.
Webster ID, KS—1973, 1975, 1979, 1983, 1986, 1987.
Tom Green WCID, TX—1985, 1986, 1987.
Carlsbad ID, NM—1986, 1987.
El Paso County Water ID, TX—1955, 1956, 1957, 1964, 1965.
Okanogan ID, WA—1966.
Post Falls ID, WA—1978.
Vale Oregon ID, OR—1989.
Rosa ID, WA—1989.
P&C Irr. Assoc. Inc., ID—1980.
P.P.R.T. Water System, Inc., ID—1980.

3. If the Bureau can defer payments, does interest accrue on this deferment and how is it repaid? Are there penalties for failure to pay?

Section 17(b) does not authorize the inclusion of interest on deferred constrution payments. In light of the Congressional intent not to charge interest on irrigation construction charges, we conclude that this intent would continue to apply to deferred charges of irrigation contractors. Reclamation water service and repayment contracts all contain penalty clauses addressing delinquent payments.

As noted above, interest is charged on the CVP deficit accounts accruing on or after October 1, 1985.

4. How does this policy differ depending on the various types of contracts (Water Service, Repayment, etc.) in which the Bureau is involved?

To the best of our knowledge, the deferment authority of 17(b) has only been used on deferment of construction cost repayment obligations secured by repayment contracts. However, as indicated above, the authority is applicable to the construction cost components of water service contracts as well.

Accrual of interest and O&M charge deficits is unique to the CVP. The influence of PL 99-546 and the CVP Irrigation Ratesetting Policy should be considered in drafting payment deferment legislation.

5. Assuming adoption of proposed legislative language (see enclosure marked "Proposed Amendment"), how would those irrigators who chose, and qualify (based on hardship) for this option, be affected different from current Bureau practice?

As an initial matter, we note that, as previously stated, the Secretary already has broad authority to defer construction charges, including for situations such as the current drought in California. This raises two concerns. First, although section 104A is written to be tied to the temporary drought authorities of the Bill, there remains the concern that dual authorities to defer construction charges would exist for the California situation if 104A remains applicable to construction charges. At a minimum, if 104A remains applicable to construction charges, the extent of the application of section 17(b) to this situation should be delineated. Second, the approach in 104A differs significantly from that taken in section 17(b) of the 1939 Act. 104A has an arbitrary repayment deadline, while 17(b) permits the Secretary, with concurrence from Congress as necessary, to adjust the repayment as needed. The Bureau prefers the approach in section 17(b). The same point is applicable to O&M charges. While section 17(b) does not apply to O&M, it does set up a framework for Secretarial discretion in determining whether it wishes to propose an alternative to 104A that uses the section 17(b) framework for O&M as well as construction charges, even if the alternative is limited to the California drought situation addressed in H.R. 355.

6. Can you please give comments on the "Proposed Amendment" and how it might be changed to provide assistance to irrigators suffering financial hardship as result of drought with minimum cost to the government?

Eligibility for deferment would be limited to drought-induced economic hardships. The recovery of the deferred payment or payments would be required in a much shorter time frame (a maximum of four years after date of enactment of H.R. 355) than is usually negotiated pursuant to section 17(b). Under that authority, the deferred payment is usually amortized over the remaining life of the contract.

Drought-impacted irrigation districts of western Idaho, and eastern Oregon operate and maintain most of the irrigation project facilities at their own expense. The water users of such districts would not be expected to benefit from the proposed legislation to any substantial degree. Central Valley Project water users have the most potential to benefit if the bill were modified to defer the interest charges that would accrue pursuant to PL 99-546 in addition to water service charges for water delivered. See the response to the next question for elaboration on this point.

Another option, as we mentioned earlier, would be to amend section 17(b) to include O&M charges without the short repayment period requirement. We believe that would accomplish the desired result without the overlapping effect, and substantially relieve the Congress of repetitive emergency drought legislative actions for Reclamation projects.

7. Understanding that the Bureau could at this point only provide a rough estimate, how much might this change in law be expected to cost (for purposes of budget scoring the federal government in fiscal years for which it is applicable)?

Irrigation revenues for FY 1989 from the Central Valley Project amounted to about $29.3 million. That year, related project O&M costs were about $31.4 million leaving about $2.2 million in deficit. As the drought has continued, the deficit condition has worsened. In FY 1990, the revenue has dropped to about $22 million while the O&M costs have increased to $32 million leaving $10 million in deficit. Current estimates for FY 1991 put revenues at about $12 million, costs at $37 million and the deficit at $25 million. What portion of that revenue might be deferred is difficult to judge. If $12 million could be deferred without penalty, the water users may elect to take the deferment. That amount probably could serve as a surrogate estimate of participation for all drought-stricken areas under Reclamations jurisdiction.

Deferral of interest charges on the $25 million deficit would be an attractive option. Some water users have been electing to pay such costs as they occur rather than accumulate additional interest bearing debt. However, the drought may prevent them from continuing this practice until after the drought is over.

Sincerely,

DENNIS B. UNDERWOOD,
Commissioner.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN of California. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I want to thank the gentleman for all of his work on behalf of this legislation. He comes from an area in the central valley of California that has been devastated by this drought, both in the short term and in the long term, and the help that the two gentlemen from California, Mr. CONDIT and Mr. DOOLEY, have provided the committee in terms of telling Members about the impact of the drought on your constituents has helped make this a better piece of legislation. I want to thank the gentleman for his work.

Mr. HANSEN. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Arizona [Mr. RHODES].

Mr. RHODES. Mr. Chairman, we started on the road that has led Members here today sometime early in this session in January when the gentleman from California [Mr. LEHMAN] introduced a piece of legislation that essentially dealt with the drought situation in the West on a short-term, emergency, temporary basis. At the same time I introduced a separate bill that tended to deal with the drought situation in the West more on a long-term basis for the purpose of giving the Secretary of the Interior, through the Bureau of Reclamation, the authority on a permanent basis to enter into contingency planning for future drought with the various States in the West, and also to give him authority to work with the nonreclamation States on a cost-sharing basis, if nonreclamation States were to ask the Department to assist in planning for future droughts.

In conferring with the gentleman from California [Mr. LEHMAN] and committee staff, it seemed to be logical that we try to combine our two bills and to bring them to the floor at once, in one piece of legislation. After quite a little bit of work, and with great assistance from the gentleman from California [Mr. MILLER] and his staff, we were able to accomplish that. That is the bill we are here considering today. The contents of the bill itself have been adequately explained.

I simply want to thank the gentlemen from California, Mr. LEHMAN and Mr. MILLER, and particularly Mr. MILLER for his assistance in assuring Members and keeping this bill as clean as it is. There are great temptations, frankly, dangled in front of many Members for them to attempt to use this as a vehicle to accomplish other goals. The gentleman from California [Mr. MILLER] was greatly helpful in persuading Members that they will have another opportunity in the next several weeks when a broad reclamation reform measure will be brought to the floor where other issues of substance can be dealt with. I am sure the gentleman from California [Mr. LEHMAN] and myself both express our appreciation to Mr. MILLER and the gentleman from Utah [Mr. HANSEN] for helping to keep this bill addressed where it needs to go, where both short- and long-term drought relief and drought assistance is called for.

My colleagues who are not from California do recognize that sometimes Members of Congress from California have the feeling that California is the world. I want to assure the Members of the body that this is not a California drought relief bill, but it is a Western States drought relief bill. The drama of drought is currently in California, and no person can deny that. The California situation is dire, but the other Western States are, likewise, in an extended drought period, and if we continue the weather patterns of the last 3 or 4 years, we will find the drama being played out not just in California but in Arizona, Utah, Nevada, and in various other Western States that are, likewise, in a drought condition.

I would just like to take a moment or so to make an observation about the weather conditions as they exist today and as they have existed in the last 3 or 4 days. The ground in the desert has gotten so dry that rainfall at this point in time is not going to run off. It is simply going to go into the ground and moisten the ground, but it will not go anyplace else. Consequently, the rainfall that we are receiving, while certainly welcome, is not to be perceived as an immediate solution to this problem of ameliorating the effects of the drought and calling into question the importance of this bill. This bill is extremely important to all Members. It is something we have worked hard to put together. We have set aside a lot of differences in accomplishing this piece of legislation. It will be very beneficial not just to California but to all of the States in the West that are now or will be facing a situation similar to this situation.

Again, I would like to express my thanks to the two gentlemen from California [Mr. LEHMAN] and [Mr. MILLER], as well as the gentleman from Utah [Mr. HANSEN] for their assistance in putting it together, and for their assistance in keeping it clean and directed to the point. We earnestly request our colleagues in the House to assist Members in passing this bill here this morning so we can send it to the Senate and get it to the President as soon as possible.

Mr. MILLER of California. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. CONDIT].

Mr. CONDIT. Mr. Chairman, I rise in support of H.R. 355, the Reclamation States Emergency Drought Relief Act of 1991. I would like to thank my colleague, GEORGE MILLER, for his cooperation on the crafting of this bill. I am pleased that the bill that is being considered today is a clean, straightforward drought relief bill and that it does not contain any of the controversial provisions that were discussed. While it is my understanding that some amendments may be offered here today that are considered controversial, Mr. MILLER has been very helpful in bringing this clean bill to the floor.

As you know, California is currently facing its most serious drought in over 10 years. In an effort to deal with the severe drought conditions, the State Department of Water Resources announced that agriculture interests would receive no water in 1991 from State water projects. This was quite a blow to many farmers throughout the State. Then U.S. Bureau of Reclamation announced that water allocations would be cut for all contract holders. Agriculture interests will receive 25 percent of their allocations and urban users will receive cuts based on individual water contracts.

Both of these decisions were made necessary because of the extremely low snowfall and rainfall in California over the past 5 years. While we in Congress have no power to legislate rain and snow, we do have the ability to make changes in current law that would make it possible to decrease the impact of such cutbacks.

I believe that our mission should be two-tiered. First, we must address the very real emergency situation facing California this year. Some experts predict that this is merely the fifth year in a possible 7- or 8-year drought. If this is the case, we must find a way to ensure that water is available to maintain safe and healthy communities and that fairly distributes cutbacks to all water users. Second, we must confront the reality that California will face droughts in the future and that the Federal and State government need to be able to respond quickly to emergency situations.

This bill provides the Bureau of Reclamation with temporary authority to carry out measures that are vitally important to the State of California in addressing the current drought situation. The Bureau of Reclamation would be authorized to carry small construction projects to facilitate water transfers for short-term use. It would also allow the Bureau to arrange sales of water between willing sellers and willing buyers. It allows for the building of temporary barriers to prevent saltwater intrusion. All of these measures will provide much needed assistance to the water districts who are struggling to meet all of the water needs of their customers and protect their water supplies for future use.

The second title of the bill provides for a long-term solution to drought assistance. This title authorizes the Bureau of Reclamation to prepare contingency plans that will be used in future droughts. I believe that these plans may be the answer to the recurring problem of Federal drought assistance being too little, too late. I hope that the Bureau will take quick action to implement this title.

This bill goes a long way in addressing the very real threats to fish and wildlife and the serious situations faced by many cities and towns in California. It will also allow water to be transferred to farmers to save their permanent crops—trees and vines. I hope that my colleagues will support this measure so that the Federal Government can provide some assistance to the areas hard hit by drought.

□1130

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. CONDIT. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, let me again thank the gentleman for his help to the committee on this legislation. I know he attended the initial hearings on this that we had in the committee outlining the problem for California, and I appreciate the effort that he has made.

Mr. CONDIT. Mr. Chairman, I thank the gentleman from California

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Chairman, when it rains, it pours. There are many people who have been over the last several hours watching this tremendous storm which we are experiencing on the west coast.

The fact of the matter is that we must recognize that this is not an overnight drought. It has been a 5-year-long drought, and one storm does not bring an end to this crisis.

We need to remember, as I said during the debate on the rule, some people have argued that this is like getting your Christmas bonus without having been paid all year long.

I would like to commend the Interior Committee. It is wonderful to have an opportunity for me to agree with the gentleman from California [Mr. MILLER] on something.

I also want to commend my friend, the gentleman from Utah [Mr. HANSEN], with whom I regularly agree on issues, for pursuing this clearly in a bipartisan way.

But Mr. Chairman, it is apparent to me that we need to look at a wide range of long-term alternatives. The Los Angeles Times not long ago did a big spread on the prospect of moving toward desalinization. We all have witnessed the plant that was in Jubayl in Saudi Arabia that was utilized, and in fact bombed by Saddam Hussein's forces.

Well, there are tremendous energy costs which are imposed by the utilization of desalinization, but it seems to me that it is something we need to look at and work on.

We also need to look at waste water recycling.

We also need to build water storage facilities and improve the conjunctive operations whereby all levels are involved in dealing with this crisis.

So Mr. Chairman, I think this is a balanced approach. It is good that we have bipartisan support for it, and I hope that we will be able to see this rain that we are enjoying now play an integral role in passage of this legislation and an end to this crisis.

We have got to remember that this is not simply a California issue, as my friend, the gentleman from Arizona said. The entire country is shouldered with the responsibility of paying for increased costs for winter fruit and other nonimported vegetables; so the California problem is clearly a nationwide problem, and I hope this brings about a solution.

Mr. MILLER of California. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. The exact time issues are involved when it comes to a drought. When it rains, we forget about droughts and we forget about the steps that you have to take on a continuing basis if you are concerned about dealing with issues of resources.

We need to focus on conservation and conservation needs to be a continuing policy, and hopefully we will develop that kind of continuing conservation effort in California, as well as other States.

Second, we have got to continue to focus on reclamation, on recycling, on desalinization, the development of alternative sources. That is an essential part of dealing with drought problems.

Third, you develop the resources you have, using good management and using good approaches that make maximum use of the resources that we have.

Those are the steps that we need to take when it comes to a drought on a continuing basis, and I hope in adopting the legislation today that we make the larger commitment that we are going to focus on these other issue areas, so that we can develop a more permanent solution to the continuing droughts that are going to afflict not only California but the rest of the country. This is an important first step, though, and I commend the gentlemen for doing this.

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Chairman, I thank the chairman for yielding me this time.

Mr. Chairman, I understand that tomorrow the House will be considering H.R. 1281, the dire emergency supplemental appropriations bill. That bill will contain the funding for the programs authorized by H.R. 355.

I would appreciate it if the gentleman from California [Mr. MILLER], the chairman of the Interior Committee and the manager of the bill, if we could engage in a colloquy.

Mr. MILLER of California. Mr. Chairman, if the gentlewoman will yield, I would be delighted to engage in a colloquy with the gentlewoman.

Mrs. VUCANOVICH. I would just like to ask if it is the intention of the chairman of the committee and the manager of the bill if the moneys that would be appropriated in H.R. 1281 shall be used to fund all of the programs authorized in H.R. 355, including the Precipitation Management Technology Transfer Program.

Mr. MILLER of California. Mr. Chairman, if the gentlewoman will continue to yield, I would say that the gentlewoman is correct.

I would agree that the precipitation management technology would be eligible for funds made available by H.R. 1281.

Mrs. VUCANOVICH. I thank the chairman.

I would like to carry on and emphasize strong support for section 206 of the Reclamation States Drought Assistance Act. This section authorizes the Secretary of the Interior, through the Bureau of Reclamation, to conduct a Precipitation Management Technology Transfer Program. In recent weeks, my home State of Nevada and our neighbor, California, have received much attention over the amount of rain and snow blanketing the region, but we must not be fooled, Mr. Chairman, Nevada and California are still in desperate need of water modification programs.

For a number of years the Desert Research Institute in Nevada has been conducting research on the effects of weather modification and the results are very encouraging, but we must be allowed to progress to the next step, developing comprehensive watershed plans that include enough sites to fully cover each watershed during a storm. This continued research is imperative to generate the water that is so greatly needed in my State.

I urge my colleagues to support section 206 of the Drought Assistance Act.

Mr. MILLER of California. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. DOOLEY].

Mr. DOOLEY. Mr. Chairman, I rise in strong support of H.R. 355, the Reclamation States Emergency Drought Relief Act of 1991.

The purpose of the legislation is to ensure that Federal water projects are as responsive as possible to the kind of critical drought conditions now afflicting my State and all the Western States. The bill was developed through the cooperative efforts of Members representing both urban and agricultural areas, and a large portion of the legislation is designed to benefit fish and wildlife.

I commend the vice chairman of the Interior Committee, the gentleman from California [Mr. LEHMAN] and also the gentleman from Arizona [Mr. RHODES] who played an integral role in preparing this legislation.

The bill provides for both immediate and long-term responses to drought. In the near term, it gives the Bureau of Reclamation temporary authority to participate in State drought response efforts, such as water banks; to help arrange purchases of water between willing sellers and willing buyers; to use Federal facilities to move water to non-Federal users, such as cities; and to drill wells and undertake other minor construction to provide water for fish and wildlife protection and other uses.

For the long-term, the bill requires the Bureau of Reclamation to establish drought contingency plans that can be implemented in a timely manner in future droughts so that we will not have to rush to enact this time of legislation every time there is an emergency.

Frankly, Mr. Chairman, this bill is a rather modest response to the type of emergency situation we are facing in California. The family farms and small communities in my district are in desperate need of more direct assistance. Because of the drought and a devasting crop freeze in December, unemployment rates among farm workers are as high as 50 percent in my district. Families are losing their homes; children are going hungry. We need much more help than this bill can provide. This legislation does not provide any payments or funding to farmers and farm workers hit by the drought. The $42 million in spending authorized by the bill is aimed almost exclusively at measures to protect fish and wildlife resources. So far, that is about $42 million more than Congress and the President have provided for the human beings who are suffering because of the drought and freeze in California. I hope we rectify that situation in the near future and show ourselves to be as compassionate toward people as we are toward fish and ducks.

I urge my colleagues to support H.R. 355.

Mr. HANSEN. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. PACKARD].

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Mr. PACKARD. Mr. Chairman, I rise in support of H.R. 355, the Emergency Drought Relief Act. As the Representative of California's drought-stricken 43d District, I welcome the measures undertaken in this bill to offer some sorely needed relief. Although recent rains and snowstorms have brought much needed relief to the region, water supplies are still far below normal. Residents of my district are facing their fifth continuous year of drought conditions. Statewide mandatory water conservation has cut water supplies to my district as much as 50 percent. I commend members of the Interior Committee for recognizing the urgency of this issue and getting this legislation through so quickly.

Although I welcome the relief this legislation offers, we must look to the future and act now to ensure adequate water supplies for our children. We cannot solve today's problems at the expense of future generations. That is why I have actively worked for solutions that address California's future water supplies.

Every day, enormous amounts of used water is returned to the ocean, bypassing countless potential users on it's journey downstream. This water can be treated and used again by industry and agricultural users. Increasing our use of reclaimed water could prove to be a valuable and viable element of California's future water supplies. I will shortly reintroduce legislation that will study the feasibility of a reclaimed water use system in southern California.

Again, I commend the Members involved in drafting the Emergency Drought Relief Act and urge all of us to extend our vision and look to the future as we consider legislation that affects our future water supplies.

Mr. MILLER of California. Mr. Chairman, I yield 2 minutes to the gentleman from Idaho [Mr. LAROCCO].

Mr. LAROCCO. I thank the chairman for yielding.

I would like to engage the chairman in a colloquy.

Mr. Chairman, I have a number of questions I would like to address to the chairman of the subcommittee. These questions are based on a letter I have received from the attorney general and director of the Idaho Department of Water Resources.

Our first concern is with section 101(b) that authorizes the Secretary to assist willing buyers in the purchase of water. Is it your understanding that this section does not imply some greater role for the Secretary in water marketing than presently exists?

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. LAROCCO. I yield to the Chairman.

Mr. MILLER of California. I thank the gentleman for yielding. I would say to the gentleman that his interpretation is correct. This section is very limited. It does not provide the Secretary with any additional authority beyond that which he presently has.

Mr. LAROCCO. We are also concerned that section 101(d) might authorize the Secretary to set up a Federal water bank over the objections of a State. Does this section authorize a Federal water bank?

Mr. MILLER of California. This section does not explicitly authorize a Federal water bank. It does authorize the Secretary to participate in a State water bank. In addition, the Federal Government must undertake its activities in compliance with State water laws.

Mr. LAROCCO. Section 102(d) provides that the Secretary may make water from Federal reclamation projects available on a nonreimbursable basis for the purposes of protecting or restoring fish and wildlife. This section goes on to provide for the storage of nonproject water for these purposes and authorizes the use of water outside project boundaries. While the goal of providing relief to fish and wildlife is laudable, this section is inconsistent with Idaho's State water law. Storage of additional nonproject water is inconsistent with project water rights; could affect other downstream water rights; and could create significant problems for fish and wildlife in other portions of the river. Use of water outside the project boundaries would require a change in the place of use of the project water right in most Western States absent some special provision such as a State water bank. Do we have assurance that this section does not supersede Idaho's State water laws?

Mr. MILLER of California. The gentleman's understanding is correct. This section does not supersede Idaho State water laws.

Mr. LaROCCO. I want to thank the chairman for his clarifications.

Mr. HANSEN. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, I rise in strong support of H.R. 355, a bill which will provide emergency drought relief to California and other drought-impacted States in the West.

Mr. Chairman, action authorized in this bill is critical to Santa Barbara and Ventura Counties, which have been impacted about as severely as any region of the country. We have been on a water rationing program for over a year. The current rationing program is designed to achieve a 43 percent reduction below predrought usage levels.

There are a number of important sections in this bill which will and my constituents and others impacted by this drought which has now lasted for 5 years. Such activities as authorizing Federal participation in water banking, authorizing minor construction projects to get the limited water supply to where it is needed most, facilitating conveyance of water between willing sellers and buyers, and participation in long term drought response contingency planning will all prove beneficial. I am also pleased that this bill includes provisions to provide for protection of fish and wildlife values.

It is important that Members recognize the bill provides for both short-term emergency actions and implementation of appropriate permanent solutions. One such permanent fix is the amendment to the Warren Act provided for in section 306 of the bill. This section would permit the Federal Government to use its reclamation facilities to transport and store, non-Federal water used for other than irrigation purposes.

Use of Federal reclamation facilities for transport and storage of non-Federal irrigation water has been authorized for 60 years. Such use was authorized because it was recognized that Federal facilities often had excess capacity, and in order to avoid the costs and environmental impacts of constructing duplicative systems. This same logic applies to use of Federal facilities for nonirrigation water. The city of Santa Barbara, for example, proposes to use Lake Cachuma and Lake Casitas, among other Federal facilities, to store and transfer water. For these reasons, I introduced a bill which would have authorized such activity last session. I am very pleased that the authors of this bill have agreed to include the provisions of my bill in their overall efforts on drought relief.

I would like to recognize the efforts of Mr. MILLER for taking action on this bill in an expeditious and bi-partisan manner. I would also like to thank my colleague, Mr. HANSEN, who has assisted me with ensuring that these critical amendments to the Warren Act are incorporated in this bill.

I am pleased also by the inclusion in the report of language relating to cloud seeding.

I urge my colleagues to join me in supporting H.R. 355.

Mr. MILLER of California. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I would like to engage the chairman in a colloquy.

The city and county of San Francisco is in the midst of a drought crisis which is the worst in recorded history.

San Francisco serves four counties' water needs and some 2½ million customers. However, the water supply situation in San Francisco is in a very precarious situation; one which could mean disaster to the city, its customers, and the State.

Mr. MILLER of California. Mr. Chairman, if the gentlewoman will yield, will she please explain the steps San Francisco has taken to address its serious concerns about the drought?

Ms. PELOSI. To put the situation in context, this is the fifth year of drought and water conditions are equivalent to the previous drought crisis of 1977.

The city's total system storage is lower than in the spring of 1978, the worst recorded year in history.

In response to this dire water emergency, the city has taken more stringent action than any other large urban water supplier in California. San Francisco has already curtailed water deliveries by 45 percent and has imposed severe penalties and drastic restrictions on its customers.

Hetch Hetchy Rerservoir, the major source of supply to the city will be required to reduce its deliveries to the San Francisco Bay Area by as much as 50 percent. Even to stay at the current strict mandatory rationing levels, Hetch Hetchy must receive 150,000 acre-feet of runoff this spring. However, it is likely that much less water will be provided from runoff. Thus, there is a deficit of approximately 100,000 acre-feet.

Is it your understanding that the legislation before us could allow the Bureau of Reclamation to assist in alleviating this type of situation?

Mr. MILLER of California. Will the gentlewoman yield.

Ms. PELOSI. I yield to the gentleman from California.

Mr. MILLER of California. The city provides water to certain customers that are also supplied by the Bureau. If the Bureau could provide additional water supply to these common customers, it would have a beneficial effect on San Francisco and other municipal suppliers having common customers with the Bureau, and, therefore, would be eligible.

Ms. PELOSI. I understand that the city and county of San Francisco would make financial arrangements for offset, to be worked out between the municipal supplier and the common customer with the concurrence of the Bureau, if this were the case.

Mr. MILLER of California. Would the water made available through the Governor of California's emergency water bank arrangements provide adequate supply to the city?

Ms. PELOSI. It is my understanding that, even with the State emergency water bank supply, there will not be adequate water to reduce the city of San Francisco's curtailment from its present 45 percent level to the 25-percent level—the level deemed to be the catalyst to emergency action conceived in the Governor's water bank proposal and in other proposals.

Even with the emergency water bank quantities, San Francisco would still be required to curtail its customers by more than 35 percent.

Mr. MILLER of California. If the gentlewoman would continue to yield, I want to say that this is correct, and I would ask, are there any other suggestions that you wish to make regarding the role of the Bureau of Reclamation?

Ms. PELOSI. Yes. I would recommend that the Bureau should take steps to ease the administrative and other burdens on water transfers in these times of extreme crisis. Creative and responsive solutions are particularly important where municipalities stand to suffer enormous financial loss and where the potential threat to health and safety is great.

Mr. MILLER of California. I thank the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. I want to thank the chairman for his time and for his excellent work in bringing to the floor a drought assistance bill to provide relief from the severe drought conditions in California and other parts of the West.

□ 1150

Mr. HANSEN. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Chairman, I want to compliment the acting chairman of the full committee, the gentleman from California [Mr. MILLER], and the gentleman from Utah [Mr. HANSEN] for the expeditious way in which they have moved this legislation. Oftentimes this type of legislation gets bogged down in narrow partisan bickering, and I have to compliment, as well, my colleague, the gentleman from California [Mr. LEHMAN], and my colleague and friend, the gentleman from Arizona [Mr. RHODES], for putting together, as far as it goes, a package which responds to immediate concerns.

Mr. Chairman, the real difficulty I have is that we have not addressed what I consider to be some of the fundamental underlying problems with water, and that is that this obviously is a piece of Federal legislation. At the Federal level we have a significant number of jurisdictions controlling various aspects of water. It is all the same water, but, depending on how it is used, or where it is placed, or where it was historically, we have different Federal agencies having something to say about water.

Mr. Chairman, when we introduce the Federal-State relationship, we have even a greater complication, and then we have got local municipalities as well. It seems to me that we have got to elevate our conceptual approach to this and begin to talk about not just intrastate or State-Federal, but interstate and indeed international long-term movement of water. At a time when we move our fossil fuels internationally, at a time when international commerce is the way in which we survive, we still look at, for example, the California water project as the in-State significant movement of water.

It seems to me that we do not have enough interstate and international examples to handle situations such as this drought. It is way beyond the period when apparently, as they do on the Beltway around Washington, the rule is, "Leave it where it's hit." We cannot deal with water in terms of, "Leave it where it fell." We have to talk about a new conceptual approach, integrating State, Federal and, in fact, as I said, international.

For example, in my district we have the California water project. The amount they are going to deliver this year has been designated as zero. We have the Bureau of Reclamation. Their amount is 25 percent. The Bureau of Reclamation says 25 percent. In an area which exports 70 percent of the crops produced, which is a significant producer of international currency, which puts a major dent in the balance of payments, the State project is zero. The Federal project is 25 percent. We are not talking about crops that are in surplus. We are talking crops that are in demand, not just across the Nation, but around the world.

Mr. Chairman, it seems to me that this modest proposal should pass and pass immediately but that we should set down then to begin to conceptualize the movement of water for the 21st century, not just for people, not just for fish, not just for economic reasons, but for the reason that we look at all of the other economic and interrelated aspects of man. It is absolutely essential, it is essential for our way of life, and we should not be so provincial about the question of water, but I do want to end by commending those who moved this to the floor as rapidly as they have. It is a modest answer to a problem that needs far more thinking, interfederal, interstate, Federal, intrastate and, in fact, underscoring internationally.

Mr. HANSEN. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Chairman, I would like to engage the vice chairman of the Committee on Interior and Insular Affairs in a brief colloquy for the purpose of clarifying the intent of language contained in the committee report accompanying this bill.

Mr. MILLER of California. Will the gentleman yield?

Mr. UPTON. I yield to the gentleman from California.

Mr. MILLER of California. I would be pleased to assist the gentleman.

Mr. UPTON. I thank the gentleman. I am sure many Members of the House share my concern over increasing Federal deficits and the need to ensure we focus our limited Federal resources on high priority needs. This bill authorizes $12 million for fiscal year 1992 for the design and partial construction of a water temperature control project at the Shasta Dam on the Sacramento River. While I agree with the goal of protecting fish and wildlife resources, I am concerned about the funding of this project.

Section 304 on page 18 of the committee report for this bill says in part:

> The committee intends that the $12 million authorized in H.R. 355 be reimbursable in accordance with reclamation law.

My understanding of this language is that since the Shasta Dam is part of the Central Valley Project in California, users of its water and power would reimburse the Federal Government for the $12 million authorized by H.R. 355 in accordance with reclamation law. Am I correct in my understanding of the committee's intent?

Mr. MILLER of California. The gentleman is correct. The committee does not intend the Federal taxpayer to pay the design and partial construction cost of the temperature control project authorized by H.R. 355 for fiscal year 1992. The committee indeed expects the Federal Government to be fully reimbursed for these funds in accordance with reclamation law.

Mr. UPTON. Section 304 of the committee report continues:

> The committee notes, however, that legislation is pending in Congress (H.R. 1306) that would, if enacted in its present form, allow future expenditures for the temperature control device to be cost-shared among water and power consumers and the State of California.

I understand this language to mean the remaining construction cost of the Shasta Dam project, which I understand is estimated to be $48 million, will be funded by the State of California and the users of the water and power. Am I correct in my understanding of the report's language?

Mr. MILLER of California. The gentleman is correct in that the completion of the Shasta Dam project would be authorized by H.R. 1306 now pending before the committee. However, under H.R. 1306 as proposed, 75 percent of the costs of fish and wildlife projects authorized by the bill, including the remaining construction costs of the Shasta Dam project, would be borne by the water and power users as well as the States. The Federal Government would fund the remaining 25 percent.

Mr. UPTON. Passage today of H.R. 335 would be the first step in constructing the Shasta project. While completion of the project would require additional authorization, our action today most likely guarantees the entire project will ultimately be built. I want to ensure we are aware that today's action likely commits us to additional expenditures tomorrow. The initial $12 million we may authorize today would ultimately be reimbursed, but under H.R. 1306, 25 percent (or $12 million) of the completion cost would be funded by the Federal Government and not be reimbursable.

Mr. MILLER of California. The gentleman is correct.

Mr. UPTON. Personally, I am concerned about this cost allocation formula and the 25-percent Federal share, but I agree this is an issue for a later date, when a different bill, H.R. 1306, is considered.

□ 1200

Mr. MILLER of California. Mr. Chairman, I yield three minutes to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Chairman, I thank the acting chairman of the committee.

Mr. Chairman, I would like to say first how important this bill is and to extend my congratulations to the chairman, to the ranking member, the gentleman from California [Mr. LEHMAN], as well as the gentleman from California [Mr. CONDIT] and the gentleman from California [Mr. DOOLEY], and I would like to say that in my own home county of Marin, where people are now using 50 gallons of water per day, it is just an incredible sacrifice that people are making. I am so pleased that we are beginning to look at getting prepared for these kinds of droughts.

My colleague, the gentlewoman from California [Ms. PELOSI] has pointed out the problems, and I associate myself with her remarks and with the remarks of all my other colleagues from California.

Mr. Chairman, on behalf of the gentleman from Michigan [Mr. CONYERS], chairman of the Committee on Government Operations, I would like to engage in a brief colloquy with the gentleman from California [Mr MILLER].

Mr. MILLER. Mr. Chairman, I will be happy to participate in a colloquy with the gentlewoman from California, if the gentlewoman will yield.

Mrs. BOXER. Mr. Chairman, I understand that this emergency legislation required expedited consideration by the Committee on Interior and Insular Affairs and the House. Nevertheless, on behalf of the gentleman from Michigan [Mr. CONYERS], I wish to point out that section 104(c) of the bill, which provides that actions taken thereunder are not subject to the Federal Paperwork Reduction Act, should have resulted in a referral to the Committee on Government Operations which has jurisdiction over that act. Chairman MILLER has agreed to acknowledge in this colloquy that the Committee on Government Operations has jurisdiction over an exemption from the Paperwork Reduction Act and, for that reason, I will not offer an amendment to strike the provision from the bill.

Mr. MILLER of California. Mr. Chairman, if the gentlewoman will yield, I will say that the gentlewoman from California is correct. The Committee on Government Operations does have jurisdiction over the Paperwork Reduction Act.

Mrs. BOXER. Mr. Chairman, the gentleman from California also has agreed that when the bill goes to conference with the Senate, he will drop the Paperwork Reduction Act exemption from the bill.

Mr. MILLER of California. Mr. Chairman, if the gentlewoman will continue to yield, the gentlewoman from California is correct; however, I have agreed to her request with the understanding that the Paperwork Reduction Act contains procedures designed to address emergency circumstances such as those which this legislation is intended to address. Specifically, the Director of the Office of Management and Budget is authorized to waive the normal collection of information requirements upon the request of the Secretary of Interior and where adhering to the normal requirements could cause public harm.

Mrs. BOXER. Mr. Chairman, again on behalf of the Chairman of the Committee on Government Operations, let me say that the gentleman from California is correct. The Director of OMB has the discretionary authority to waive the normal procedures of the act when to do otherwise could cause public harm. I would fully expect that the circumstances in California which this emergency bill addresses raise precisely the kind of circumstances in which the Director ought to waive such procedures.

Mr. MCCANDLESS. Mr. Chairman, I rise in full support of this bill which will provide short and long term help to reclamation States in times of serious drought. The authorizing language in this bill directs the use of the $30 million provided in H.R. 1281, the Dire Emergency Supplemental Appropriations bill that the House of Representatives is scheduled to vote upon today.

This bill essentially allows the Secretary of Interior to construct facilities, drill wells, transfer water, participate in State water banks and generally provide technical assistance for States experiencing drought. It also directs the Bureau of Reclamation to mitigate the effects of drought and to provide longer term drought contingency plans. These measures are desired by the State of California which has historically worked closely with the Bureau of Reclamation.

Despite the recent rainfalls in California, the drought continues to plague our state. Rationing measures on the part of the State and Federal Government are affecting Californians to varying degrees across the State. Some of the citrus farmers in my district may have their water cut by 90 percent. At that rate, they can't even keep the trees alive, let alone raise any kind of a crop. In Orange Cove, CA, residents have been advised to use no more than 10 gallons a day. That amount is one-tenth of an average American's normal water consumption. It is obvious that this drought is not going to go away overnight. It has been 5 years in the making—I can only pray that it will end much sooner than that.

The measures in this bill will not help to solve the immediate problems of our drought victims, they will also go far to prevent such a serious situation from occurring in the future. By directing the Bureau of Reclamation to study ways to conserve, increase and make use of Federal reclamation water, and prepare technical assistance for contingency plans across the country, future dry spells can be prepared for and avoided.

Because Riverside County is predominantly desert, I have been working on water conservation measures for many years. I have introduced legislation that will authorize a project aimed at reducing the salinity of the Salton Sea. After brines are removed from the saline water of the sea, they are used to generate electricity. Technology such as this can be used around the world to aid in desalinization procedures. In another part of my district I am working closely with local officials to formulate a comprehensive project which will reclaim wastewater and reuse brackish return flows and effluents to conserve and extend local water supplies. This procedure of recycling water as a secondary supply can free-up the scarce primary supplies of water in the area. An additional water conservation measure is taking place along the All-American Canal. Last week I witnessed this amazing technology which lines the canal with plastic and concrete. Once completed, the lining of this canal can conserve 100,000 acre-feet of water annually.

As you can see Mr. Chairman, we are attempting to conserve the precious resource of water in Southern California in many different ways. The provisions in H.R. 355 will only improve our ability to achieve this goal, and I encourage Members to support this bill.

Mr. HANSEN. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair advises the gentleman from California [Mr. MILLER] that he has 1 minute remaining.

Mr. MILLER of California. Mr. Chairman, I yield back the balance of my time.

Mr. HANSEN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the committee amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs, printed in the reported bill, shall be considered by titles as an original bill for the purpose of amendment, and each title is considered as read.

The Clerk will designate section 1.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reclamation States Emergency Drought Relief Act of 1991".

Mr. MILLER of California. Mr. Chairman, I ask unanimous consent that the text of the remainder of the committee amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The text of the remainder of the committee amendment in the nature of a substitute is as follows:

SEC. 2. DEFINITIONS.

As used in this Act:

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "Federal Reclamation laws" means the Act of June 17, 1902 (32 Stat. 388) and Acts supplementary thereto and amendatory thereof.

(3) The term "Federal Reclamation project" means any project constructed or funded under Federal Reclamation law. Such term includes projects having approved loans under the Small Reclamation Project Act of 1956 (70 Stat. 1044).

TITLE I—TEMPORARY DROUGHT PROGRAM

SEC. 101. ASSISTANCE DURING DROUGHT; WATER PURCHASES.

(a) CONSTRUCTION, MANAGEMENT, AND CONSERVATION.—Consistent with existing contractual arrangements and State law, and without further authorization, the Secretary is authorized to undertake construction, management, and conservation activities that will mitigate, or can be expected to have an effect in mitigating, losses and damages resulting from drought conditions. Any construction activities undertaken pursuant to the authority of this subsection shall be limited to temporary facilities designed to mitigate losses and damages from drought conditions and shall be completed no later than one year after the date of enactment of this Act,

except that wells drilled to mitigate losses and damages from drought conditions may be permanent facilities.

(b) ASSISTANCE TO WILLING BUYERS AND SELLERS.—In order to minimize losses and damages resulting from drought conditions, the Secretary may assist willing buyers in their purchase of available water supplies from willing sellers.

(c) WATER PURCHASES BY BUREAU.—In order to minimize losses and damages resulting from drought conditions, the Secretary may purchase water from willing sellers, including water made available by Federal Reclamation project contractors through conservation or other means through which the seller has reduced the consumption of water. The Secretary shall deliver such water pursuant to temporary contracts under section 102.

(d) WATER BANKS.—The Secretary is authorized to participate in water banks established by a State in an affected drought area, to respond to a drought.

SEC. 102. AVAILABILITY OF WATER ON A TEMPORARY BASIS.

(a) GENERAL AUTHORITY.—In order to mitigate losses and damages resulting from drought conditions, the Secretary may make available, by temporary contract, project and non-project water, and the use of facilities at Federal Reclamation projects for the storage or conveyance of project or non-project water, for use both within and outside an authorized project service area.

(b) SPECIAL PROVISIONS APPLICABLE TO TEMPORARY WATER SUPPLIES PROVIDED UNDER THIS SECTION—

(1) TEMPORARY SUPPLIES.—Each temporary contract for the supply of water entered into pursuant to this section shall terminate no later than one year after the date of enactment of this Act, or the termination of the temporary drought program described in section 105, whichever comes first.

(2) OWNERSHIP AND ACREAGE LIMITATIONS.—Lands not subject to Reclamation law that receive temporary irrigation water supplies under temporary contracts under this section shall not become subject to the ownership and acreage limitations or pricing provisions of Federal Reclamation law because of the delivery of such temporary water supplies. Lands that are subject to the ownership and acreage limitations of Federal Reclamation law shall not be exempted from those limitations because of the delivery of such temporary water supplies.

(3) TREATMENT UNDER RECLAMATION REFORM ACT OF 1982.—No temporary contract entered into by the Secretary under this section shall be treated as a "contract" as that term is used in sections 203(a) and 220 of the Reclamation Reform Act of 1982 (Public Law 97-293).

(4) AMENDMENTS OF EXISTING CONTRACTS.—Any amendment to an existing contract to allow a contractor to carry out the provisions of this section shall be a temporary amendment only, not to exceed one year from the date of enactment of this Act, or the termination of the temporary drought program described in section 105, whichever comes first. No such amendment shall be considered a new and supplemental benefit for purposes of the Reclamation Reform Act of 1982 (Public Law 97-293).

(c) CONTRACT PRICE.—The price for water delivered under a temporary contract entered into by the Secretary under this section shall be at least sufficient to recover all Federal operation and maintenance costs and administrative costs, and an appropriate share of capital costs, including interest on project irrigation and municipal and industrial water, except that, for project water delivered to nonproject landholdings in excess of 960 acres, the price shall be full cost (as defined in subsection 202(3) of Public Law 97-293, 96 Stat. 1263; 41 U.S.C. 390bb); Provided, That the interest rate used for computing interest during construction and interest on the unpaid balance of the capital costs shall be at a rate to be determined by the Secretary of the Treasury based on average market yields on outstanding marketable obligations of the United States with remaining periods to maturity of one year occurring during the last month of the fiscal year preceding the date of execution of the temporary contract.

(d) FISH AND WILDLIFE.—The Secretary may make water from Federal Reclamation projects and nonproject water available on a nonreimbursable basis for the purposes of protecting or restoring fish and wildlife resources, including mitigation losses, that occur as a result of drought conditions. The Secretary may store and convey project and non-project water for fish and wildlife purposes, and may provide conveyance of any such water for both State and Federal wildlife refuges and for habitat held in private ownership. The Secretary may make available water for these purposes outside the authorized project service area. Use of the Federal storage and conveyance facilities for these purposes shall be on a nonreimbursable basis.

(e) NONPROJECT WATER.—The Secretary is authorized to store and convey nonproject water utilizing Federal Reclamation project facilities for use outside and inside the authorized project service area for municipal and industrial uses, fish and wildlife, and agricultural uses. Except in the case of water supplied for fish and wildlife, which shall be nonreimbursable, the Secretary shall charge the recipients of such water for such use of Federal Reclamation project facilities at a rate established pursuant to section 102(c) of this Act.

SEC. 103. SALT WATER INTRUSION.

As necessary to protect and improve water quality and to protect fishery resources in the Sacramento-San Joaquin Delta, California, the Secretary is authorized to construct such temporary barriers, and to take other cooperative actions with the State of California, as may be necessary to prevent salt water intrusion in the Delta.

SEC. 104. EXEMPTIONS AND PRIORITIES.

(a) NATIONAL ENVIRONMENTAL POLICY ACT.—Actions taken pursuant to this title are in response to emergency conditions and shall not be treated as major Federal actions significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969.

(b) ENVIRONMENTAL REPORT.—Concurrent with implementation of drought-related activities or projects authorized pursuant to this title, the Secretary shall assess and evaluate the environmental impacts of such activities and projects and take into consideration any adverse effect an action or actions proposed to be taken pursuant to this title may have on existing lawful uses of water and on fish and wildlife resources or other instream beneficial uses. The Secretary shall provide Congress with an interim assessment of the environmental impacts no later than six months after the date of enactment of this Act. The Secretary shall provide Congress with a final report on such impacts at the conclusion of the temporary drought program. The final report shall include the Secretary's recommendations for avoiding or mitigating any adverse environmental impacts in response to future droughts.

(c) FEDERAL PAPERWORK REDUCTION ACT.—Actions taken pursuant to this title are in response to the temporary drought program and shall be undertaken without undue delay and therefore shall not be subject to the requirements or conditions of sections 3504 and 3507 of title 44, United States Code.

SEC. 105. APPLICABLE PERIOD OF TEMPORARY DROUGHT PROGRAM.

The programs and authorities established under this title shall become operative in any Reclamation State only after the Governor or Governors of the affected State or States has made a request for temporary drought assistance and the Secretary has determined that such assistance is merited. The temporary drought authorities authorized by this title shall expire one year after the date of enactment of this Act, or upon a determination by the Secretary, in consultation with the Governor or Governors of the affected State or States, that such authorities are no longer required.

TITLE II—PERMANENT DROUGHT AUTHORITY

SEC. 201. IDENTIFICATION OF OPPORTUNITIES FOR WATER SUPPLY CONSERVATION, AUGMENTATION AND USE.

The Secretary is authorized to conduct studies to identify opportunities to conserve, augment, and make use of water supplies available to Federal Reclamation projects and Indian water resource developments in order to be prepared for and better respond to drought conditions.

SEC. 202. DROUGHT CONTINGENCY PLANS.

The Secretary, acting pursuant to the Federal Reclamation laws, utilizing the resources of the Department of the Interior, and in consultation with other appropriate Federal and State officials, Indian tribes, public, private, and local entities, is authorized to prepare cooperative drought contingency plans (hereinafter in this title referred to as "contingency plans") for the prevention or mitigation of adverse effects of drought conditions.

SEC. 203. PLAN ELEMENTS.

(a) PLAN PROVISIONS.—Elements of the contingency plans prepared pursuant to section 202 may include any or all of the following:

(1) One or more water banks whereby the Secretary and project and nonproject water users may buy, sell, and store water consistent with State law, including participation by the Secretary in water banks established by the State.

(2) Appropriate water conservation actions.

(3) Water transfers to serve users inside or outside authorized Federal Reclamation project service areas for such purposes as the Secretary deems appropriate and which are consistent with Federal and State law.

(4) Use of Federal Reclamation project facilities to store and convey nonproject water for municipal and industrial, fish and wildlife, or other uses both inside and outside an authorized Federal Reclamation project service area.

(5) Use of water from dead or inactive reservoir storage or increased use of ground water resources for temporary water supplies.

(6) Temporary and permanent water supplies for fish and wildlife resources.

(7) Minor structural actions.

(b) FEDERAL RECLAMATION PROJECTS.—Each contingency plan shall identify the following two types of plan elements related to Federal Reclamation projects:

(1) those plan elements which pertain exclusively to the responsibilities and obligations of the Secretary pursuant to Federal Reclamation law and the responsibilities and obligations of the Secretary for a specific Federal Reclamation project; and

(2) those plan elements that pertain to projects, purposes, or activities not constructed, financed, or otherwise governed by the Federal Reclamation law.

(c) DROUGHT LEVELS.—Each contingency plan shall define levels of drought wherein specific elements of the contingency plan may be implemented. The Secretary is authorized to work with other Federal and State agencies to improve hydrologic data collection systems and water supply forecasting techniques to provide

more accurate and timely warning of potential drought conditions and drought levels that would trigger the implementation of contingency plans.

(d) Compliance With Law.—The contingency plans and plan elements shall comply with all requirements of applicable Federal law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321) and the Fish and Wildlife Coordination Act, and shall also be in accordance with applicable State law.

(e) Review.—The contingency plans shall include provisions for periodic review to assure the adequacy of the contingency plan to respond to current conditions, and such plans may be modified accordingly.

SEC. 204. RECOMMENDATIONS.

The Secretary shall submit each plan prepared pursuant to section 202 to the Congress, together with the Secretary's recommendations, including recommendations for authorizing legislation. No approval of the contingency plan by either the Secretary or the Commissioner of Reclamation shall become effective until the expiration of 60 calendar days (which 60 days, however, shall not include days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three days to a date certain) after the submissions of the plan to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives; except that, any such approval may become effective prior to the expiration of the 60 calendar days in any case in which each such committee approves an earlier date and notifies the Secretary in writing of such approval: Provided, That when the Congress is not in session, the Secretary's approval, if accompanied by a finding by the Secretary that substantial hardship to water users or the environment will result, shall become effective when the chairman and the ranking minority member of each such committee shall file with the Secretary their written approval of said findings.

SEC. 205. RECLAMATION DROUGHT RESPONSE FUND.

The Secretary shall undertake a study of the need, if any, to establish a Reclamation Drought Response Fund to be available for defraying those expenses which the Secretary determines necessary to implement plans prepared under section 202 and to make loans for nonstructural and minor structural activities for the prevention or mitigation of the adverse effects of drought.

SEC. 206. TECHNICAL ASSISTANCE AND TRANSFER OF PRECIPITATION MANAGEMENT TECHNOLOGY.

(a) Technical Assistance.—The Secretary is authorized to provide technical assistance for drought contingency planning in any of the States not identified in section 1 of the Reclamation Act (Act of June 17, 1902, 32 Stat. 388), and the District of Columbia, Puerto Rico, the Republic of the Marshall Islands, the Federated States of Micronesia, the Trust Territory of the Pacific Islands, and upon termination of the Trusteeship, the Republic of Palau, the United States Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands. Funds for drought contingency planning activities under this subsection shall be advanced to the Secretary.

(b) Technology Transfer Program.—The Secretary is authorized to conduct a Precipitation Management Technology Transfer Program to help alleviate problems caused by precipitation variability and droughts in the West, as part of a balanced long-term water resources development and management program. In consultation with State and local water, hydropower, water quality and instream flow interests, areas shall be selected for conducting cost-shared field studies to validate and quantify the potential for appropriate precipitation management technology to augment stream flows. Validated technologies shall be transferred to non-Federal interests for operational implementation.

TITLE III—GENERAL AND MISCELLANEOUS PROVISIONS

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

Except as otherwise provided in section 304 of this Act (relating to temperature control devices at Shasta Dam, California), there is authorized to be appropriated not more than $30,000,000.

SEC. 302. AUTHORITY OF SECRETARY.

The Secretary is authorized to perform any and all acts and to promulgate such regulations as may be necessary and appropriate for the purpose of implementing this Act.

SEC. 303. EFFECT OF ACT ON OTHER LAWS.

Nothing in this Act shall be construed as limiting or restricting the power and authority of the United States or—

(1) as expanding or diminishing Federal, tribal, or State jurisdiction, responsibility, interests, or rights in water resources development or control;

(2) as displacing, superseding, limiting, or modifying any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more States or of two States and the Federal Government;

(3) as superseding, modifying, or repealing, except as specifically set forth in this Act, existing laws applicable to the various Federal agencies;

(4) as affecting in any way any law governing appropriation or use of, or Federal right to, water on Federal lands, or the right of any Indian tribe to use its water for whatever purposes it deems appropriate, including fish and wildlife purposes, or the right of a tribe to buy or sell water, or to affect any right enjoyed under license, lease, or other authorization from an Indian tribe;

(5) as affecting the water rights of any Indian tribe or tribal licensee, permittee, or lessee, or diminishing the Indian trust responsibility of the United States;

(6) as affecting in any way the applicability of the National Environmental Policy Act, except as specifically set forth in this Act, the Endangered Species Act, or the Fish and Wildlife Coordination Act, or as otherwise superseding, modifying, or repealing, except as specifically set forth in this Act, existing law applicable to the various Federal agencies;

(7) as modifying the terms of any interstate compact, or Congressional apportionment of water; or

(8) as affecting water rights of any person recognized under State law.

SEC. 304. TEMPERATURE CONTROL AT SHASTA DAM, CENTRAL VALLEY PROJECT.

The Secretary is authorized to commence design and construction of facilities needed to attach to Shasta Dam, Central Valley Project, California, devices for the control of the temperature of water releases from the dam. There is authorized to be appropriated to carry out the authority of this section, not more than $12,000,000.

SEC. 305. CONSISTENCY WITH STATE LAW.

All provisions in this Act pertaining to the diversion, storage, use, or transfer of water shall be consistent with State law.

SEC. 306. EXCESS STORAGE AND CARRYING CAPACITY.

The first sentence of the first section of the Act of February 21, 1911 (43 U.S.C. 523; commonly known as the "Warren Act") is amended

(1) by striking out "lands to be irrigated under any project" and inserting in lieu thereof "water users then entitled to the delivery of water from a Federal Reclamation project";

(2) by striking out "lands and entrymen under the project" and inserting in lieu thereof "users of the Federal Reclamation project, including fish and wildlife purposes"; and

(3) by inserting before the period, "municipal, industrial, domestic, or miscellaneous purposes, including fish and wildlife purposes".

SEC. 307. REPORT.

The Secretary shall submit an annual report to the President and the Congress on his expenditures and accomplishments under the Act.

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Miller of California: On page 17, line 15, strike all of section 306 and insert in lieu thereof the following:

"SEC. 306. EXCESS STORAGE AND CARRYING CAPACITY.

The Secretary is authorized to enter into contracts with municipalities, public water districts and agencies, other Federal agencies, state agencies, and private entities, pursuant to the Act of February 21, 1911 (43 U.S.C. 523), for the impounding, storage, and carriage of water for domestic, municipal, fish and wildlife, industrial, and other beneficial purposes from any facilities associated with the Central Valley Project, Cachuma Project, and the Ventura River Project, California.".

Mr. MILLER of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Chairman, this amendment restricts permanent changes in the Warren Act to California. The Warren Act changes in H.R. 355 give the Secretary permanent authority to use Federal storage and conveyance facilities to transport project and nonproject water and to deliver such water for a variety of uses, including municipal and industrial uses. The restriction to California was made because of concerns that water rights and ongoing litigation might be affected in other States.

Mr. HANSEN. Mr. Chairman, if the gentleman will yield, the minority has examined the gentleman's amendment, and we are pleased to accept it.

Mr. MINETA. Mr. Chairman, I rise in support of the amendment, which parallels legislation I introduced with Bob Lagomarsino earlier this year to help California deal with this water shortage.

Even though the Western United States has received some rain in the past few weeks, the drought continues. The Reclamation States Emergency Drought Relief Act takes concrete steps to enable us to cope with the chronic shortage of water.

The Miller amendment strengthens a provision of the bill that would amend the Warren Act of 1911 and allow the use of Federal aqueducts for the transport of municipal and industrial water owned by States or other agencies.

Throughout California, water districts are searching for water anywhere they can find it.

But because the law governing water transfers is based on the needs of 80 years ago, water is forced to move on a roundabout system of State aqueducts.

Mr. Chairman, California water districts calculate their water supplies day to day to avoid further rationing and cutbacks. They simply cannot afford the delays that the current law forces upon them.

Frankly, Mr. Chairman, current law is out of date. The writers of the Warren Act did not foresee that Western cities would ever require emergency water. They only included irrigation water in their plans.

Recent decades have seen California's cities become some of the most dynamic in the Nation. A region like my own Silicon Valley, is a worldwide leader in technology and innovation.

Northern Californians have shown their willingness to conserve water. Our water suppliers have done their best to ensure a supply of water to the valley.

This bill will let them do their jobs more quickly and more efficiently. It will let them bring water without delay to a thirsty community.

Mr. Chairman, let us bring Federal water law into the 21st century. Let's acknowledge that people and industries are necessary beneficiaries of the benefits of our Bureau of Reclamation system.

I urge my colleagues to support the Miller amendment and to vote for final passage of the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. MILLER].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of California: Page 2, line 23, strike the word "through," and substitute therefore the words "with respect to."

Page 4, line 8, after the words "and the" and preceding the words "use of," insert the words "may permit."

Page 6, line 5, strike the parenthetical phrase and all that follows up to and including the words "Provided, that" on page 6, line 7, and insert therefore the following: "(as defined in section 202(3) of the Reclamation Reform Act of 1982 (P.L. 97-293; 96 Stat. 1263; 43 U.S.C. 390bb)). For all contracts entered into by the Secretary under the authority of this title,".

Page 9, line 12, strike the "." (period) at the end of the sentence and insert therefore the words ", whichever comes first."

Page 9, line 19, after the words "and make," insert the words "more efficient."

Page 17, line 5, after the words "is authorized" insert the following: "for fiscal year 1992".

Mr. MILLER of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Chairman, this is a very technical amendment, making the necessary word changes to make the various sections of the bill consistent with one another. The amendment has been agreed to by the minority, and there is no opposition to it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. MILLER].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. JONTZ

Mr. JONTZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JONTZ: Page 7, strike line 21 and all that follows down through line 2 of page 8 and redesignate subsections (b) and (c) of section 104 as subsections (a) and (b) respectively.

Mr. JONTZ (during the reading.) Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. JONTZ. Mr. Chairman, I would like to engage the vice chairman of the Committee on Interior and Insular Affairs in a brief colloquy for the purpose of clarifying the purpose and intent of my amendment.

Mr. MILLER of California. Mr. Chairman, if the gentleman will yield, I would be pleased to discuss the gentleman's amendment.

Mr. JONTZ. While I completely understand that expedited procedures are needed to effectively respond to genuine drought emergencies, I am offering this amendment because I am concerned that section 104(a) of H.R. 355 would set a dangerous precedent and undermine the purposes of the National Environmental Policy Act. I also believe that procedures may already exist to address this problem. Is the gentleman aware of any such procedures for expediting NEPA reviews in emergencies?

Mr. MILLER of California. Mr. Chairman, if the gentleman will yield, let me say that the gentleman is correct. I have determined that procedures designed to address emergency circumstances have been adopted by the President's Council on Environmental Quality.

Mr. Chairman, at this point in the RECORD, I include an exchange of correspondence between myself and CEQ's general counsel, as follows:

COMMITTEE ON INTERIOR
AND INSULAR AFFAIRS,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 18, 1991.

MS. DINAH BEAR,
Executive Office of the President, Council on Environmental Quality, Washington, DC.

DEAR MS. BEAR: On March 13, 1991, the Committee on Interior and Insular Affairs favorably reported, with an amendment, the bill H.R. 355, the Reclamation States Emergency Drought Relief Act of 1991.

Section 104(a) exempts actions taken pursuant to Title I of the bill from the provisions of the National Environmental Policy Act of 1969 (NEPA). This provision was included in the bill because of the emergency nature of the current drought in the western United States, and the need to take action without further delays. I have enclosed both the language of section 104(a) and an excerpt from the Committee Report on H.R. 355 which addresses the NEPA exemption.

The NEPA exemption issue was debated at some length during the Committee markup of H.R. 355. Questions were raised regarding the possible precedent of this provision and whether or not existing rules and regulations for implementing NEPA addressed the need for emergency actions.

I would appreciate your cooperation in providing additional guidance to the Committee regarding NEPA exemptions for emergency actions. Specifically, the Committee needs to know whether there is currently a mechanism included in the council on Environmental Quality regulations that provides for exemptions from NEPA compliance under certain emergency or urgent circumstances. If so, could you please describe the process which must be used to secure exemptions.

Because H.R. 355 will be considered by the House later this week, your prompt response, via facsimile, would be appreciated. Please fax your response to the Subcommittee on Water, Power and Offshore Energy Resources, at 225-3554.

Thank you very much for your attention to this matter.

Sincerely yours,

GEORGE MILLER,
Vice Chairman.

SEC. 104. EXEMPTIONS AND PRIORITIES.

(a) NATIONAL ENVIRONMENTAL POLICY ACT.—Actions taken pursuant to this title are in response to emergency conditions and shall not be treated as major Federal actions significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969.

FROM COMMITTEE REPORT ON H.R. 355

The Committee notes that the Sacramento-San Joaquin Delta is a vital link in the water supply of the State. The Delta is an important source of drinking water and irrigation water and is critical habitat for fish and waterfowl. Water quality must be maintained in order to protect the important beneficial uses of the Delta. Water quality is threatened during the drought in part because of salinity intrusion into the Delta from San Francisco Bay. This intrusion occurs when freshwater outflow is decreased. Because the quantities of water needed to flush the Delta may not be available during the drought, other measures to prevent salt water intrusion, such as the temporary barriers, may be necessary.

Sec. 104. *Exemptions and priorities.* This section provides that actions taken pursuant to Title I of this Act are exempt from the requirements of the National Environmental Policy Act of 1969 (NEPA). The Committee took this action reluctantly and only because the drought conditions are so severe, particularly in California. Urgent actions are necessary to prevent permanent losses of fish, wildlife, orchards, and other perennial crops, and to ensure that public health and safety needs are met. The NEPA exemption is not to be construed as a precedent for any future such exemptions or waivers of law.

The Secretary is required to conduct, concurrent with the implementation of Title I, an assessment of the environmental impact of the temporary drought program and report such findings to the Congress in six months and again at the conclusion of the temporary drought program. This concurrent assessment is required because the Committee wants to know what environmental impacts occurred as a result of the temporary drought program authorized by this Act. This information is important to provide the basis for mitigation of adverse impacts and to avoid such impacts in any future or permanent drought response programs.

Sec. 105. *Applicable period of temporary drought program.* The programs and actions authorized in Title I of this Act become operative only after the Governor of a State requests this program and the Secretary of the Interior agrees it is merited. This authority terminates one year after the date of enactment of this Act or upon a determination by the Secretary, after consultation with the Governor or Governors of the affected States, that such authority is no longer needed. The Committee recognizes that this is a change from the trigger required to activate the "Reclamation States Drought Assistance Act of 1988".

TITLE II—PERMANENT DROUGHT AUTHORITY

Sec. 201. *Identification of Opportunities for water supply conservation, augmentation and use.* This section authorizes the Secretary to study and identify all opportunities for water conservation, water augmentation, and use of available federal water supplies to prepare for and respond to future drought situations as they occur.

EXECUTIVE OFFICE OF THE PRESIDENT,
COUNCIL ON ENVIRONMENTAL QUALITY,
Washington, DC, March 19, 1991.

Hon. GEORGE MILLER,
Committee on Interior and Insular Affairs, U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN MILLER: I am writing in response to your letter of March 18, 1991, regarding the Committee on Interior and Insular Affair's question about emergency actions under the National Environmental Policy Act (NEPA). Your letter asks whether there is currently a mechanism included in the Council on Environmental Quality's (CEQ) regulations which provides for exemptions from NEPA compliance under certain emergency or urgent circumstances, and, if so, to describe the process which must be used to secure exemptions. Your inquiry arises in the context of certain NEPA exemptions currently in Section 104(a) of Title I of H.R. 355, the Reclamation States Emergency Drought Relief Act of 1991.

The CEQ regulations implementing the procedural provisions of NEPA do provide a mechanism for "emergency circumstances". Specifically, the pertinent regulation states that:

> Where emergency circumstances make it necessary to take an action with significant environmental impact without observing the provisions of these regulations, the Federal agency taking the action should consult with the Council about alternative arrangements. Agencies and the Council will limit such arrangements to actions necessary to control the immediate impacts of the emergency. Other actions remain subject to NEPA review. 40 C.F.R. §1506.11. .

This regulation is not, of course, a waiver of statutory requirements; rather, it provides a mechanism for adaptation of the CEQ NEPA regulations to emergency circumstances. The regulation is triggered by a request to CEQ from a federal agency facing an action prompted by what it deems to be "emergency circumstances". Alternative arrangements are arrived at through consultation with that agency, other federal and state agencies with expertise and, time permitting, outside affected and interested parties. Generally speaking, CEQ has attempted to craft alternative arrangements commensurate with the nature of the environmental impacts, the nature of the emergency and the duration of the federal action. I am enclosing a chart which summarizes the twenty-one instances in which the regulation has been utilized since its promulgation in 1979.

CEQ believes that the emergency circumstances procedure contained in our NEPA regulations is the proper mechanism for the Bureau of Reclamation to use if and when it needs to consider drought relief measures outside of the normal NEPA process. This regulation has a successful track record in dealing with federal actions taken under emergency circumstances. For this reason, the Administration has expressed its opposition to the NEPA exemption contained in section 104(a) of H.R. 355. *See* Statement of Administration Policy, H.R. 355, dated March 19, 1991.

Please let me know if I can be of any further assistance to the Committee.

Sincerely,

DINAH BEAR,
General Counsel.

STATEMENT OF ADMINISTRATION POLICY

The Administration shares Congress' concern over the serious impact of drought in the West. In response, the Department of the Interior submitted legislation, introduced as H.R. 1247, which would provide the Secretary with the authority to address problems arising from temporary droughts. Although many of the same authorities are found in H.R 355, as reported by the House Interior and Insular Affairs Committee, a number of objectionable provisions have been added. The Administration opposes H.R. 355, unless these provisions are deleted or amended.

The Administration urges the House to delete:

Section 204, which would authorize congressional committees to terminate a 60-day review period for certain drought contingency plans. This violates the separation of powers, *See: Chadha v. INS*, 462 U.S. 919 (1983), by subjecting Executive branch action to veto or approval by committees of Congress.

Section 307, which would require the Secretary to submit concurrently a report to Congress and the President. This violates the separation of powers by infringing on the President's authority to control the presentation of Executive branch views to Congress.

Sections 104(a) and 104(c), which would exempt temporary drought actions from the National Environmental Policy Act of 1969 (NEPA) and the Federal Paperwork Reduction Act (FPRA). Existing regulations adequately provide for expedited consideration in emergency situations. Exemption from either act is unnecessary and an undesirable precedent.

Section 304, which would authorize $12 million to begin design and construction of a temperature control device at Shasta Dam in California. Prior to completion of a nearly 2-year-long study, construction of facilities, estimated to cost over $50 million, cannot be justified. Water temperature is being controlled through existing management practices at the dam.

The Administration urges the House to amend:

Sections 101(a), 203(a)(1), 203(a)(3), and 305, to clarify the Secretary's authority to acquire and provide water for purposes not recognized as beneficial in some States.

Section 101(c), to better define which water-saving actions go beyond the efficiencies already required by contract, and which water is available for secretarial purchase.

Sections 102(d) and 102(e), to require States or project beneficiaries to pay for fish and wildlife resource expenses, as if required under normal conditions.

Section 103, to clarify that cost-sharing requirements for the construction of salt water barriers in the Sacramento-San Joaquin Delta, California, must be consistent with Administration policy.

Scoring for the Purpose of Pay-as-you-go and the Caps

H.R. 355 would *authorize* a minimum of $42 million in additional domestic discretionary funding subject to domestic discretionary caps in the appropriation process. In addition, the Shasta temperature control device, for which the bill only authorizes $12 million, would require an estimated $40 million in additional authority to complete construction. H.R. 355 could slightly increase federal receipts; OMB's preliminary scoring estimates of this bill are less than $1 million per year.

ALTERNATIVE ARRANGEMENTS PURSUANT TO 40 CFR 1506.11—EMERGENCIES

Nature of proposed action	Nature of emergency	Requesting agency	Date CEQ contacted	Resolution of request
1. Initiate land acquisition, relocation, site clearing and demolition activities prior to completion of EIS process.	City of Detroit in such an economic crisis that the governor had declared state of emergency and GM threatened to build new plant elsewhere outside the city unless a cleared site was delivered by May, 1981.	City of Detroit, Michigan, under Section 104(h) of Community Development and Housing Act of 1974.	Sept. 19, 1980	CEQ concurred in alternative arrangements proferred by City which included substantial mitigation and notification efforts, and no demolition prior to discussion with Advisory Council on Historic Preservation. Upheld in Crosby v. Young, 512 F.Supp. 1363 (E.D. Mich. 1981).
2. Construct an emergency regulating pond to stop sewage flowing from Tijuana, Mexico into U.S. prior to preparing an EA.	Uncontrolled sewage flowing into US would pose health risks and foul beaches.	International Boundary and Water Commission	Mar. 8, 1983	Approval given after environmental memorandum, and prior to EA (action qualified as a categorically excluded environmental emergency under IBWC's NEPA procedures).

ALTERNATIVE ARRANGEMENTS PURSUANT TO 40 CFR 1506.11—EMERGENCIES—Continued

Nature of proposed action	Nature of emergency	Requesting agency	Date CEQ contacted	Resolution of request
3. Establish boundary to effect an immediate separation between the stone crab fishery and shrimp fishery without first preparing EA.	Resolve conflict which had escalated into physical violence between the two fisheries.	DOC/NOAA	Mar. 9, 1983	CEQ concurred, noting that fishery season would terminate May 15 and boundary issue would be fully addressed in two 1983–84 fishery management plans.
4. Spray for mosquitos with pesticides without first preparing an EIS.	Stop outbreak of encephalitis in Yuma Proving Grounds, Arizona.	DOD/U.S. Army	Aug. 8, 1983	Permission granted to meet clear and present threat to human and animal health, although EA or EIS might be necessary if long-term spraying were required.
5. OSHA published an emergency temporary standard on asbestos without doing an EIS.	Remove harmful material	DOL/OSHA	Dec. 16, 1983	OSHA advised assessment would be done on environmental effects prior to permanent standard hearings.
6. Begin aerial spraying of malathion pesticide in Idaho.	Combat infestations of migratory grasshoppers on Idaho cropland.	USDA/APHIS	Aug. 3, 1984	APHIS notified CEQ of the action, advising that 1979 Programmatic EIS found no adverse environmental effects.
7. Stabilize the structural elements of a historic building prior to completion of EIS process on the renovation.	Prevent collapse of structure, and remove hazardous asbestos.	Albany, NY Urban renewal Agency, under the Urban Development Action Grant program.	Oct. 16, 1984	CEQ agreed with action as it would not cause environmental harm, and asbestos removal qualified as emergency circumstance.
8. Clean up herbicide-contaminated material prior to the preparation of environmental documentation.	Herbicide-contaminated materials discovered at Fort A.P. Hill, Virginia (site of 1981 National Boy Scout Jamboree).	DOD/U.S. Army	Nov. 21, 1984	CEQ was notified that environmental documents would be done concurrently with testing and clean-up at the site.
9. Issue a right-of-way grant and allow State of Utah to begin construction of Great Salt Lake West Desert pumping project prior to projected filing of FEIS with EPA in July, 1986.	Combat rising lake levels which would result in extensive damage to surrounding industries, wildlife habitats, recreation areas, transportation systems, and personal and private property.	DOI/BLM	Feb. 27, 1985	CEQ approved in May 1986, (after Utah legislature authorized construction funds), provided that BLM complete the NEPA process, discuss environmental impacts due to changes from original EIS, and that state mitigate impacts as agreed to through EIS process.
10. Issue a permit to capture the 6 remaining California condors and remove them from the wild.	Precipitous decline of species and likely extinction without enhancement of propagation.	FWS/DOI	Dec. 20, 1985	CEQ agreed to issuance of permit, noting 9/85 EA, 10/85 FONSI, and that efforts were directed toward reentry of species in the wild. Upheld in National Audubon Society v. Hester, 801 F.2d 405 (D.C. Cir. 1986).
11. Destroy 1.3 million steelhead trout at Coleman National Fish Hatchery, California.	Stop spread of incurable whirling disease, classified as emergency by FWS.	FWS/DOI	Jan. 31, 1986	CEQ approved on basis of January, 1986 EA.
12. Begin aerial spraying of pesticide malathion prior to signing of ROD.	Grasshopper infestation on rangeland in Arizona	USDA/APHIS	Apr. 25, 1986	CEQ approval limited to acreage originally specified in request.
13. Destroy 5 million juvenile upright bright fall chinook salmon at Little White Salmon National Fish Hatchery, Washington.	Stop outbreak of untreatable viral Infectious Hematopoietic Necrosis (IHN).	DOI/FWS	May 19, 1987	CEQ approved destruction, noting EA evaluated impacts and alterantives to proposed action.
14. Remove unexploded ordnance near Martha's Vineyard in Massachusetts prior to completion of EA.	Ordnance only recently exposed by natural wave process and is hazard to beach users unaware of it.	DOD/Army	Aug. 29, 1988	Consultation was concurrent with action and prior to completion of EA.
15. License a hydroelectric facility at Milner Dam in Idaho prior to FEIS completion.	Money needed for immediate repairs to prevent dam failure due to seepage or earthquake.	FERC	Oct. 25, 1988	CEQ approved based on FERC's commitment to impose license conditions to mitigate adverse impacts.
16. Destroy 3.42 million Pacific salmon and steelhead eggs and fish at Makah National Fish Hatchery in Washington.	Stop spread of untreatable Viral Hemorrhagic Septicemia (VHS).	DOI/FWS	Mar. 4, 1989	CEQ approved after review of February 1989 EA.
17. Lower the water level behind the Clear Creek Dam and Reservoir in Yakima, Washington to 2970 feet prior to NEPA process.	Avoid dam failure resulting in loss of life and property.	DOI/BLM	Jan. 3, 1990	CEQ approved with understanding that the repairs or reconstructions thereafter would be conducted in compliance with NEPA.
18. Begin aerial spraying of pesticide malathion over residential areas in Los Angeles, California prior to NEPA process.	Eradicate threatened outbreak of Mediterranean fruit fly infestation resulting in economic loss of over $800 million to California agricultural industry.	USDA/APHIS	Jan. 19, 1990	CEQ approved with 5 conditions (strict adherence to EPA quarantine exemption on malathion; vigorously pursue NEPA process; monitor program; monthly status reports to CEQ; and publish notice in affected countries).
19. Issue right-of-way for construction of Upper Flamingo Wash Detention Basin in Las Vegas, Nevada to begin prior to EIS completion.	Avoid frequent flooding that previously resulted in loss of life and millions of dollars in damages.	DOI/BLM	Dec. 4, 1990	CEQ concurred with understanding BLM would complete NEPA process for remainder of project.
20. Allow night flights into, and an increase in the overall number of flights from, Westover Air Force Base in Massachusetts.	Troops and military supplies had to be transported for use in Persian Gulf military operations (Operation Desert Shield).	DOD/Air Force	Nov. 21, 1990	CEQ agreed to the flights in view of the military action occurring in the Persian Gulf.
21. Test aerial deactivation of land mines from the air at Tonopah Test Range in Nevada.	Preparation for war in the Persian Gulf (Operation Desert Shield/Storm).	DOD/Air Force	Jan. 16, 1991	CEQ agreed, due to the relatively short time needed for testing (approximately 2 days), in view of the military action occurring in the Persian Gulf and the service's prior consultation with DOI/FS.

Mr. Chairman, the CEQ has advised me that their regulations for implementing the procedural provisions of NEPA do provide a mechanism for emergency circumstances. This is triggered by a request to CEQ from a Federal agency faced with the need to respond to emergency circumstances. CEQ's letter also states that the Council believes that this regulation is the proper mechanism for the Bureau of Reclamation to use if and when it needs to consider drought relief measures outside of the normal NEPA process.

My interpretation of CEQ's letter and their regulations has convinced me that the NEPA exemption in section 104(a) of the bill is not needed. I am prepared to accept the gentleman's amendment.

Mr. JONTZ. Mr. Chairman, I thank the gentleman.

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. JONTZ. I yield to the gentleman from Utah.

Mr. HANSEN. Mr. Chairman, I would like to add my support to the amendment offered by the gentleman from Indiana. I have also received assurances from the administration and the Council on Environmental Quality that existing CEQ regulations adequately address the need for special NEPA procedures when emergency circumstances exist. I am also prepared to accept the gentleman's amendment on behalf of the minority.

Mr. JONTZ. Mr. Chairman, I thank the gentleman from Utah.

Mr. LEHMAN of California. Mr. Chairman, will the gentleman yield?

Mr. JONTZ. I am pleased to yield to the gentleman from California.

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Mr. LEHMAN of California. I thank the gentleman for yielding. I rise in support of this amendment to remove the National Environmental Protection Act exemption from title I of H.R. 355, but I would like to address a few concerns. I will address them to the gentleman from California [Mr. MILLER].

It is my understanding in reading section 105 of H.R. 355 that the temporary provisions of this bill are triggered when the Governor of a drought-affected State requests assistance and the Secretary of the Interior concurs that such assistance is merited. Is this correct?

Mr. MILLER of California. The gentleman is correct.

Mr. LEHMAN of California. It is also my understanding that the Secretary is then responsible for obtaining approval from the Council on Environmental Quality for each measure performed by the Bureau of Reclamation that may have an environmental impact, and that the Secretary must confirm in his request that the measure is in response to an emergency condition, in this case the drought, and that the measures are a direct attempt to mitigate the impact of the drought.

Mr. MILLER of California. The gentleman is correct.

Mr. LEHMAN of California. Mr. Chairman, I would hope then that the Secretary would make every effort to work closely with the Council on Environmental Quality, and that he stress the importance and emergency necessity of those most essential activities, such as well drilling, water transfers, and construction of temporary salt water intrusion barriers.

Wherever possible, I also hope that the Secretary and the center work in tandem to plan activities that may require an exemption in order to reduce the time necessary to accomplish that exemption. I believe that all parties involved, the Secretary of the Interior, the Bureau of Reclamation, the Congress, and the President must do our utmost to expedite the Federal response to the drought.

I thank the gentleman from Indiana [Mr. JONTZ] for yielding, and I endorse his amendment.

Mr. JONTZ. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. JONTZ].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GEJDENSON

Mr. GEJDENSON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GEJDENSON: Page 18, after line 9 (at the end of title III), add the following:

SEC. 308. FULL COST PRICING OF WATER FOR SURPLUS CROPS.

Notwithstanding section 102(c) of this Act, the price for water made available under title I of this Act, and the price for water made available through the implementation of any drought contingency plan under title II of this Act, shall be full cost (as defined in section 202(3) of the Reclamation Reform Act of 1982 (P.L. 97-293; 96 Stat. 1263; 43 U.S.C. 390bb)) if such water is used in the production of any crop of an agricultural commodity for which an acreage reduction program, or acreage limitation program, is in effect under the provisions of the Agricultural Act of 1949 (7 U.S.C. 1421 and following), unless the Secretary of Agriculture determines, and notifies the Committees on Agriculture and Interior and Insular Affairs of the House of Representatives and the Committees on Agriculture, Nutrition, and Forestry and Energy and Natural Resources of the Senate of such determination, that the stocks of such commodity in Commodity Corporation Credit storage are inadequate to provide for a reserve of such commodity that can reasonably be expected to meet a shortage of such commodity caused by drought, natural disaster, or other disruption in the supply of such commodity.

Mr. GEJDENSON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. GEJDENSON. Mr. Chairman, we are here at a very ironic moment. The rains have started and replenished some of the drought. But we still have a crisis in California. Apparently Santa Barbara has water police driving around the city to make sure the citizens of Santa Barbara are not squandering a precious natural resource. We are in the fifth year of a drought. We are not in the first 6 months of a problem, we are in the fifth year of a drought.

For the previous 5 years, as I and some Members tried to address a process that irrationally used water to grow crops in surplus, we did nothing. So for 4 years, as a precious natural resource was depleted, and as we came here to the floor of the House time and time again and reached out to some Members and said, let us find a way to rationalize this process, let us not have the Federal taxpayers subsidizing crops that are in surplus, and then spending billions of dollars bringing water to grow more of those same crops.

If this was a welfare mother getting 50 cents more in food stamps, we would have three-quarters of the Members of Congress in the well of the House outraged that we were not watching the taxpayers' dollars. If this was a child on the WIC Program, we would come down here and say that we have some kids that deserve it that are not going to get it, because we are in a fiscal crisis, and, therefore, children who need the WIC Program are not going to get it because we cannot afford it.

If this was a Head Start Program, we would say look, we can only afford to provide for 25 percent of the kids in the Head Start Program, even though we know the program works, and even though we know there is a lot greater need than we are providing for.

But this water was going to millionaire farmers, so the political process chugged along. We subsidized the price of cotton, and then we bring in 3 million dollars' worth of water to one farmer to make sure he ends up with a $7 million profit, not a $4 million profit.

I am going to withdraw today's amendment because of the narrow focus of this issue today dealing with the drought. But I think that this Congress has to come to grips with the policy that is wasting Federal tax dollars, wasting a natural resource, and is going to force citizens to spend billions of dollars to bring in new water supplies.

Mr. Chairman, I have worked with the chairman of the committee, the gentleman from California [Mr. MILLER], on this issue before, and I know he is supportive. But to some other Members, I grew up on a dairy farm and my family still lives on one in Connecticut. I do not want to pull the rug out from under farmers in the midst of a bad year. But I do want us to develop a system that will have us use this precious resource in some rational manner, and that we do not squander taxpayer dollars subsidizing multimillionaire farmers.

I think the administration may have taken a courageous step forward. They said there ought to be a needs test for these programs. If one makes more than $125,000, they should not get another subsidy. Whatever the approach is, we need to address that as the reclamation bill comes in the regular order.

Mr. Chairman, I rise today to offer my support for H.R. 355, the reclamation Emergency Drought Relief Act of 1991. This bill provides some much-needed relief for many of our friends in California and the West. It will facilitate the needed transfer of water to fish and wildlife and allows willing sellers to sell their surplus water. I would also like to commend the vice chairman, Mr. MILLER, and others who have worked hard to craft this bill.

For the past 4 years of this drought, considered to be the worst in 50 years, California's water distribution system has been able to supplement the lack of rainfall for agricultural uses with other sources, including ground water pumping and the California State water project. As a result, until this year irrigators have seen little or no reduction in their supply of irrigation water.

This year, however, we have come to realize that water is a very limited resource. There is no longer an unlimited supply. As a result of this drought, we have come to understand that by providing water to one user we deprive another. By providing a farmer with federally subsidized water to grow "monsoon-climate crops" like rice or cotton, we are depriving other users.

Unfortunately, as a result of this worsening drought, some dramatic steps have been taken in California. For example, the State water project announced cutbacks to municipal and industrial users by 90 percent of their normal allocation. The State water project suspended all deliveries to agricultural users, except for what is necessary to keep perennial crops alive. And the Bureau of Reclamation has reduced its water allocation to agricultural irrigators by 75 percent. With such steps and the dire need for drought relief, how can we subsidize that relief water to irrigate surplus crops?

My amendment to this legislation would ensure that water provided by this drought measure will not be subsidized to irrigate unneeded surplus crops. This in hopes that it will be used for other, more necessary purposes.

Mr. Chairman, by providing this precious water resource at a subsidized rate for the irrigation of surplus crops, we are depriving farmers of perennial crops like orchards and vineyards, who are already hurting from the December 1990 freeze.

We would deprive fish and wildlife of this precious water. Many species of fish and waterfowl throughout the region are already considered to be threatened as a result of this drought. If more water is not provided to some of these species they may become endangered and thus federally protected under the

Endangered Species Act, one of the strictest Federal statues on the books. If this is the case, water districts throughout the West will face incredibly strict restrictions on water allocation and prohibitions on construction.

The Fish and Wildlife Service estimates that the Central Valley salmon and steelhead streams have less than 40 percent of their required flow. Last year only 441 adult Sacramento River winter chinook salmon returned to spawn, compared with a normal run of 2,000–3,000.

Additionally, fall chinook salmon in the San Joaquin River System have dropped from a high of 70,000 spawning salmon in 1985 to 600 in 1990.

Finally, providing subsidized drought relief water to support the irrigation of unneeded surplus crops will deprive already water-starved municipal and industrial users.

Residents of urban areas throughout California and the West are facing severe water rationing. The city of Santa Monica has adopted a plan to cut back water delivery by more than 25 percent from 1990 levels.

Water police in Santa Barbara patrol the streets enforcing a ban of the watering of lawns and gardens. Some urban dwellers use "gray water" or household wastewater from washing machines, showers, tubs, and bathrooms to water lawns, shrubs, and plants. This despite warnings from health officials of the possible dangers of the spread of disease by this untreated wastewater.

Additionally, computer chip companies in the silicon valley are faced with severe water rationing which threatens their ability to produce computer chips. Industry officials are worried that because of the potential for cuts in water allocation of more than 35 percent since 1987, they will face production cuts and layoffs. Some are reevaluating expansion plans for the area while others are considering relocating out of the State. This could mean the potential loss of more than 300,000 highly skilled jobs to this region and the State.

What this drought has taught us more than anything is that water is a limited resource. We must allocate it rationally in times of plenty and even more importantly during times of drought. We are now, and have for the past 4 years, been faced with a terrible drought. How can we now justify providing federally subsidized water to produce surplus crops while depriving perennial crop producers, fish and wildlife, urban areas, and industrial users of this essential fluid?

With that said, I rise today to offer an amendment. My amendment will ensure that especially during this time of drought emergency, every ounce of water is allocated for its most urgent use and that we have a rational policy of distributing this very limited resource. My amendment will ensure that water provided for drought relief from the Bureau of Reclamation will not be subsidized for the irrigation of surplus crops.

The amendment that I am offering today is fair. It does not prohibit irrigators from buying water with their own money on the free market. Nor does it take away any farmer's or any water district's right to water already provided under an existing contract. This amendment will allow any farmers or water district to obtain as much water as they are able if they are willing to pay at least full cost for it.

What it does is simply ensure that any additional or supplemental water provided by virtue of this drought relief measure or by future contingency plans developed by the Department of the Interior for future droughts is used for the production of surplus crops, will not be subsidized. This means that water provided by special drought purchases by the Secretary of the Interior or by special sales to districts that are outside of normal reclamation service areas will not be provided at a subsidized rate for the irrigation of surplus agricultural commodities. These users must pay full cost.

This amendment will ensure that other agricultural, municipal, industrial, and environmental users may have an opportunity to compete for this water on the open market, and it will, by the nature of its cost, encourage producers of unneeded surplus crops to simply use less.

In past Congresses, I have offered an amendment to reform the Reclamation Program under normal circumstances and plan to do so again. There is a clear contradiction between the Federal Reclamation Programs which provide subsidized water to encourage farmers to grow surplus crops at the same time as the agriculture programs pay farmers to participate in set-asides and other production limitation programs. Though I plan to pursue this, that is not what my amendment is about today. My amendment today deals with water provided during critical emergencies.

If I had my choice, we would prohibit all provisions of water provided for the production of surplus crops under this act simply because we do not have enough of it. This amendment does not do that. This amendment simply says that we will not subsidize water provided by the drought relief bill for the production of surplus crops.

This issue, though not as broad, is all the more serious. The Western States are in a critical drought emergency and I believe we have a responsibility to help them. However, while helping to provide relief, that assistance must come in a rational way. We cannot subsidize farmers to irrigate unneeded crops with supplemental water that we are providing because of a drought emergency. This amendment provides the guidance that is necessary to allocate this resource more rationally.

Urban dwellers are not allowed to shower; why should we bathe unneeded crops in that water; nor should we subsidize it.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I want to thank the gentleman from Connecticut [Mr. GEJDENSON] for agreeing to withdraw his amendment. I agree with his amendment. I think that his amendment raises one of the very fundamental issues that not only those Members in Congress must address with respect to the allocation of taxpayer dollars, but those of us in California clearly must address with respect to the allocation of water within our State.

I think that as the gentleman from Connecticut [Mr. GEJDENSON] has crafted his amendment, to have it be triggered in a critical dry year, to have that change the use and priorities of not only taxpayer dollars but of the water, is an important step forward in rational resource use. But I would say that this bill addresses the very narrow focus of people in very serious trouble as a result of the drought and trying to provide the efficiencies and the flexibilities so that the Secretary of the Interior can join with the State of California in moving what little water we have to the people that need it the most.

Given the fact that they have already made a decision, the State of California and the bureau, to make dramatic cutbacks in water delivery this year, and I agree, it is too late, but this year, I would hope that the gentleman from Connecticut [Mr. GEJDENSON] would withdraw his amendment, and then certainly agree to protect his rights, as the gentleman knows in the committee we will be addressing reclamation reform. I would hope that the gentleman would then offer his amendment. I would expect to support that amendment. As the gentleman saw last year on the floor of Congress, I think that the Congress is very, very receptive to that type of change in the administration of this program and our resources.

The CHAIRMAN. The time of the gentleman from Connecticut [Mr. GEJDENSON] has expired.

(At the request of Mr. MILLER of California and by unanimous consent, Mr. GEJDENSON was allowed to proceed for 2 additional minutes.)

Mr. GEJDENSON. Mr. Chairman, I yield to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I thank the gentleman from Connecticut [Mr. GEJDENSON] for cooperating. We have very different agendas on the Committee on Interior about water use in the West and how it should be used and under what means. But this is a time to set those differences aside, because none of us can change the fact that we are in the fifth year of a drought, and that there are serious impacts, both in the agricultural community and in the urban community and within the environment and the economics of our State and other areas of the West. So I appreciate the consideration that the gentleman is showing for the other members of this committee and for the people who are in serious trouble as a result of this drought.

Mr. LEHMAN of California. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I yield to the gentleman from California.

Mr. LEHMAN of California. Mr. Chairman, I too want to express my appreciation to the gentleman from Connecticut [Mr. GEJDENSON] for agreeing to withdraw this amendment. I certainly appreciate his sincerity in this regard and the strength with which he holds his opinion.

As the gentleman from California [Mr. MILLER] just said though, to bring it up at this time I think would create a controversy where we really do not need one in the situation we are in, and we do not need to have this committee and this floor deeply divided over this matter of policy.

Mr. Chairman, I would say I have talked to the gentleman from Connecticut [Mr. GEJDENSON] over the past couple of days, and I hope over the next couple of weeks perhaps a few Members on all sides of this issue can get together and try to bring it to some type of conclusion to the greatest degree possible that would satisfy everyone. I appreciate the response of the gentleman here.

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I yield to the gentleman from Utah.

Mr. HANSEN. Mr. Chairman, I appreciate the gentleman from Connecticut yielding. I also appreciate his withdrawing the amendment at this time. I am sure we can look into it at another time.

Mr. Chairman, I include for the RECORD a letter from the U.S. Department of the Interior, from Dennis B. Underwood, Commissioner of Reclamation. I think it will shed a little light on it from the other side.

U.S. DEPARTMENT OF
THE INTERIOR,
Washington, DC, March 21, 1991.

Hon. JAMES V. HANSEN,
Ranking Minority Member, Subcommittee on Water, Power, and Offshore Energy Resources, Washington, DC.

DEAR CONGRESSMAN HANSEN: This letter is in response to a telephone inquiry by a James C. Barker, Minority Counsel for the Water, Power, and Offshore Energy Resources Subcommittee, concerning the impact of the pending Gejdenson amendment to H.R. 355, the "Reclamation States Emergency Drought Relief Act of 1991."

It is my understanding that Congressman Gejdenson intends to offer an amendment, the text of which is attached, when H.R. 355, as amended, is considered by the full House on Thursday, March 21, 1991.

On a preliminary analysis, it is not clear that the scope of the amendment would be limited to additional, temporary water contracts entered into under the provisions of Title I or Title II. The amendment, as currently worded, could potentially affect existing water contracts.

As I stated above, this is a preliminary analysis of the amendment which is being done at the request of Subcommittee staff. This letter does not represent the position of the Department of the Interior regarding the Gejdenson amendment.

Sincerely,
DENNIS B. UNDERWOOD,
Commissioner of Reclamation.

H.R. 355

Amendment to H.R. 355, as reported, offered by Mr. GEJDENSON

Page ____, after line ____ (at the end of title III), add the following:

SEC. 308. FULL COST PRICING OF WATER FOR SURPLUS CROPS.

Notwithstanding section 102(c) of this Act or any other provision of law, the price for water made available under title I of this Act, and the price for water made available through the implementation of any drought contingency plan under title II of this Act, shall be full cost (as defined in section 202(3) of the Reclamation Reform Act of 1982 (P.L. 97-293; 96 Stat. 1263; 43 U.S.C 390bb)) if such water is used in the production of any crop of an agricultural commodity for which an acreage reduction program, or acreage limitation program, is in effect under the provisions of the Agricultural Act of 1949 (7 U.S.C. 1421 and following).

COLLOQUY ON FUNDING OF THE SHASTA DAM PROJECT (H.R. 355)

Mr. UPTON. I would like to engage the Vice Chairman of the Committee on Interior and Insular Affairs in a brief colloquy for the purpose of clarifying the intent of language contained in the Committee Report accompanying this bill.

Mr. MILLER. I would be pleased to assist the gentleman.

Mr. UPTON. Thank you. I am sure many members of the House share my concern over increasing federal deficits and the need to ensure we focus our limited federal resources on high priority needs. This bill authorizes $12 million for Fiscal Year 1992 for the design and partial construction of a water temperature control project at the Shasta Dam on the Sacramento River. While I agree with the goal of protecting fish and wildlife resources, I am concerned about the funding of this project.

Section 304 on page 18 of the Committee report for this bill says in part:

The Committee intends that the $12 million authorized in H.R. 355 be reimbursable in accordance with Reclamation law.

My understanding of this language is that since the Shasta Dam is part of the Central Valley Project in California, users of its water and power would reimburse the federal government for the $12 million authorized by H.R. 355 in accordance with Reclamation law. Am I correct in my understanding of the Committee's intent?

Mr. MILLER. The gentleman is correct. The Committee does not intend the federal taxpayer to pay the design and partial construction cost of the temperature control project authorized by H.R. 355 for Fiscal Year 1992. The Committee indeed expects the federal government to be fully reimbursed for these funds in accordance with Reclamation law.

Mr. UPTON. Section 304 of the Committee report continues:

The Committee notes, however, that legislation is pending in Congress (H.R. 1306) that would, if enacted in its present form, allow future expenditures for the temperature control device to be cost-shared among water and power consumers and the State of California.

I understand this language to mean the remaining construction cost of the Shasta Dam project, which I understand is estimated to be $48 million, will be funded by the State of California and the users of the water and power. Am I correct in my understanding of the Report's language?

□ 1220

Mr. RHODES. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I yield to the gentleman from Arizona.

Mr. RHODES. Mr. Chairman, I want to echo the comments made by the gentlemen from California, Mr. LEHMAN and Mr. MILLER, and express my gratitude to the gentleman from Connecticut for allowing this bill to proceed forward unimpeded.

I just want to make an observation. As the gentleman will recall, when he first presented his proposition last year he and I were able to work together on perfecting his amendment to the point where I was not in opposition to it, and I hope the gentleman understands the difference between not being in opposition and supporting. But I need to observe that the amendment the gentleman was going to offer here today is not the same as the amendment which we worked on last year, and it is not in a form where I could not be opposed to it now, and I would hope in the interim that we could work together to get it back into shape.

The CHAIRMAN. The time of the gentleman from Connecticut [Mr. GEJDENSON] has again expired.

(On request of Mr. RHODES and by unanimous consent Mr. GEJDENSON was allowed to proceed for 1 additional minute.)

Mr. RHODES. If the gentleman will continue to yield, I would hope that we can work together to get back in a position similar to last year.

Mr. GEJDENSON. I certainly hope so.

Mr. ROTH. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I yield to the gentleman from Wisconsin.

Mr. ROTH. Mr. Chairman, I rise in support of the Gejdenson amendment to H.R. 355, the Reclamation Emergency Drought Relief Act of 1991.

Mr. GEJDENSON has presented a good argument on the adverse effects that continued Government-subsidized irrigation would have on fish and wildlife. We should not be supporting water subsidies to farmers who will only add to existing commodity surpluses. It is important for us to protect our fragile natural resources.

People are interested in wildlife and endangered species. More specifically, I want to elaborate on how government water subsidies have helped the California dairy industry to expand and contribute to overproduction and low milk prices.

The price for milk has plummeted over $4 since September. The support price is at $10 per hundredweight, more than a dollar less than the cost of production.

Between January 1990 and January 1991, the number of dairy cows dropped in four of the top five dairy States by as much as 3½ percent. Wisconsin, New York, Pennsylvania, and Minnesota all registered declines. But California increased its number of cows by 3 percent and its total milk production by 5½ percent.

Government subsidized irrigation has permitted California dairy farmers to get up to four more cuts of alfalfa each year than the dairy farmers in Wisconsin and other areas of the country who rely on Mother Nature. Government water subsidies to California have led to more alfalfa, more cows and a surplus of dairy products. As a result, farmers in America's Dairyland are being driven to the brink of bankruptcy.

Wisconsin dairy farmers produce the best dairy products in the world. They work their land as it is given to them and they produce feed with what Mother Nature hands out. Now they are facing tough times because the Government has been dumping money into water for our western neighbor, making it easy for California dairymen to increase production and overproduce.

I support this amendment not only on its environmental merits which the gentleman from Connecticut has expressed, but because it will help to hold back the overproduction of California's dairy industry. By ending Government subsidies for irrigation of alfalfa, I am hopeful that we can stem the flow of surplus cheese, butter, and powder from California.

If the surplus is brought under control then milk prices will begin to rise.

Dairy farmers in Wisconsin produce with what they get from Mother Nature, not the American taxpayer. California farmers should too.

Mr. GEJDENSON. Reclaiming my time, I appreciate the remarks of my friend from Wisconsin. To see us using Government-subsidized water to grow grass, to grow fodder at a time when urban dwellers are using gray water and recovery systems for their own sanitary needs, it does not seem to make a lot of sense. But in an effort to try to resolve the broader issues that are before us, I will withdraw the amendment.

The CHAIRMAN. The time of the gentleman from Connecticut [Mr. GEJDENSON] has again expired.

(On request of Mr. PETRI and by unanimous consent Mr. GEJDENSON was allowed to proceed for 1 additional minute.)

Mr. PETRI. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I yield to the gentleman from Wisconsin.

Mr. PETRI. Mr. Chairman, I thank the gentleman for yielding. I would just like to commend him for this amendment. It is a serious amendment and it addresses a serious problem.

Mr. Chairman, I rise in support of this amendment. When a resource is scarce it makes common sense to allocate that resource for the highest priority uses. Water in the west is a scarce resource even in ordinary times, but now it is dangerously scarce.

While we are considering $42 million in drought relief, it would seem logical to make sure that this scarce resource is used for the highest priorities.

A key to this drought relief legislation is to give the Bureau of Reclamation powers to ease the effects of the drought, by providing greater flexibility to move water where it is needed most. This amendment strengthens that purpose by making sure that water is not wasted to grow surplus crops.

One provision of this bill authorizes the bureau to assist willing buyers and sellers to exchange water. By not providing subsidized water for the purpose of growing surplus crops we are allowing other users to compete for this precious resource, thereby, increasing the chances that it will be used for the highest priorities.

Now, it is my opinion that using subsidized water to grow surplus crops never makes any sense. However, when we are providing emergency drought relief it seems almost criminal to allow even one penny of this $42 million to be used to subsidize farmers growing unneeded crops.

This amendment does not take existing water rights or contracts from farmers. Nor does it stop them from growing surplus crops.

It merely requires that if they want to get more water to grow these crops, they pay at least full cost for it, and compete for it fairly with other buyers.

I urge my colleagues to support this amendment to make sure when we provide water for drought relief, that we actually provide relief to the areas that need it most. I think we all would agree our relief effort would be severely undermined by allowing the use of extra subsidized water for the production of unneeded surplus crops during a time of drought.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I was prepared to offer an amendment to the gentleman's amendment that would have made it conform to the compromise on this issue that we arrived at and was adopted by the House last year. I will not do this at this time for the simple reason that our distinguished friend has adivsed us that he will not finally offer the amendment. Instead, I will commit to work with the gentleman and the distinguished acting chairman of the Committee on Interior and Insular Affairs to develop a workable and equitable compromise to address the gentleman's concerns.

Beyond that, let me say that we do not want to put the issue off to the side and forget it. It needs to be addressed, and there will be a proper time to address it.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I am happy to yield to my friend, the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, I would just like to thank the chairman of the Agriculture Committee for coming down, and I look forward to working with him. He is a very tough negotiator. But I think the chairman senses that there is a problem here that needs to be dealt with and that there is a majority, at least in this Chamber at this point who want to address the issue.

So I look forward to working with my friend, the chairman of the Agriculture Committee, in trying to resolve this, and I thank him for his comments.

Mr. DE LA GARZA. I thank the gentleman and we too look forward to working with the distinguished members of the Interior and Insular Affairs Committee, their acting chairman and every Member of good will that is willing to work with us.

Let me just say as an aside, now that the issue has at this time been resolved so that we may look at it later, we are still the best fed people in the world, in the history of the world for the least amount of disposable income per family of any of the major industrialized countries in the world. That is a fact.

The greater part of American producers, because we do not want to paint with too wide a brush, the greater part of American producers do not receive, do not receive a subsidy or assistance from the Government. More often than not they get harassment from the Government.

In my area in Texas, which is fruit and vegetables, we get nothing from the Government. They go to the open market with supply and demand.

There have been abuses through the years, one here, one there. Those we have addressed directly by the Agriculture Committee. No one will again get their $1 million like happened at one time.

Water is an issue that is not going to leave us. The world is in a water deficit situation. We hear and see on the 10 o'clock news or the 6 o'clock news when there is a flood someplace, but for every flood there are nine areas that are now deficient in normal precipitation, and that is what we have to address, not that a farmer got a double subsidy here or something like that. What we have to address is the conservation, the proper utilization, but for the specific reason that it is needed for the sustenance and the national security of this country of ours and our people, not because some farmer got a little money from the Government. That should not be the issue. The issue should be that we as a people need to use our concerted efforts and expertise to see that we learn how to conserve the water or the rain that the good Lord gives us, which more often than not in recent years has not been sufficient to keep us the best fed nation in the world for the least amount of disposable income.

I did not bring my chart, but I will just graphically describe it. We have this red line about 6 inches high, and that is the total budget, $1 trillion plus. Then at the very bottom, like on the margin where you cannot really see the line in black, that is what we spend from the budget for agriculture; six-tenths of 1 percent of the total budget goes for agriculture.

I wanted to put that in perspective before ending and saying that we will be very happy to work with the distinguished gentleman from California, the acting chairman of the committee, and with our friend from Connecticut and any other Member who is interested in the preservation and conservation of the waters of this great country of ours for the sustenance and for the production of that which we all need, which is nourishment.

PARLIAMENTARY INQUIRY

Mr. MILLER of California. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. MILLER of California. Mr. Chairman, I believe that the Gejdenson amendment is still before us?

The CHAIRMAN. The gentleman is correct.

Mr. MILLER of California. And I believe we have other speakers who desire to speak on the amendment. I know the gentleman from Michigan [Mr. WOLPE] wishes to speak on the amendment.

Mr. WOLPE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I understand that the gentleman from Connecticut [Mr. GEJDENSON] will be withdrawing his amendment which would require that farmers growing surplus crops with subsidized water pay full cost for this water. I am encouraged, however, by the commitment that has been made that this issue will be addressed in the reclamation legislation that will be before the House shortly.

There is no question that this drought assistance legislation is virtually needed for California and other parts of the West. As California suffers through the second longest drought of the century, we must do all we can to provide essential water resources to growers and water-starved cities. However, in providing this emergency assistance we must be absolutely certain that we allocate precious water resources in a wise and fair manner. We need to insure that our important water resources are not wasted and are provided to those who need them most.

Mr. Chairman, providing drought relief water for the production of surplus crops is a blatant waste of water resources. Let me underscore some important facts about California's water situation:

In 1988 irrigated agriculture diverted about 83 percent of all the developed water in the State. By the most generous measure, agriculture represents 10 percent of the $735 billion State economy.

About 35 percent of California's surface water supply is sold to farmers by the Bureau of Reclamation at subsidized rates.

In 1988, 4 of every 10 acres of irrigated California cropland were planted in four relatively low-value, water intensive crops: Alfalfa, pasture, cotton, and rice. Based on calculable rates, the 3.8 million acres raising these four crops as recently as 1988 consumed 13.5 million acre-feet of water. In an urban setting that would be more than enough for a population twice as large as California's.

In this time of crisis we must be certain to use our water resources efficiently. Mark Reisner, a water policy expert, writes this about California's water management system:

> California has enough existing developed water supply for as many people and as much worthwhile agriculture as we should rationally want * * * the whole system, in other words, should be managed more efficiently and conservatively before we get into another EPIC north-south water war. Some improvements in the distribution infrastructure may be needed, particularly in the Delta region, but the top priority by far is to stretch the existing supply. In retrospect, it will seem folly that during the first 4 years of a worsening drought virtually all agricultural water customers received their normal State and Federal allocations.

Mr. Chairman, the issue we are faced with is whether or not we should be building more expensive water projects amid huge budget deficits and very weary taxpayers, or whether we should be working to construct a more rational, effective, and fair distribution of our diminishing water supplies. I hope we will be able to resolve this issue when the legislation comes to the floor shortly dealing with the broader question of reclamation policy.

□ 1203

Mr. HANSEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. HERGER. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. I am happy to yield to the gentleman from California.

Mr. HERGER. Mr. Chairman, I rise in strong opposition to this amendment. The last thing we need to do in responding to one of the worst droughts in California's history is to single out small segments of our rural communities to bear a disproportionate amount of pain. The precedent that this amendment would set would do exactly that.

The gentleman from Connecticut bases his argument on what I feel are misleading, false statements. He has stated that "the Bureau of Reclamation has continued to provide full water allocations to farmers producing surplus crops" during the drought. This is incorrect. In 1990, Federal allocations to California farmers were cut by 50 percent. This year, the Bureau has reduced water supplies to these same farmers by 75 percent.

The gentleman stated that "city dwellers have faced water rationing" over the past 4 years due to the drought. This is misleading. In fact, a recent California Department of Water Resources report on statewide conservation activities stated that "there is a higher ratio of mandatory to voluntary programs in the agricultural industry than in municipalities."

The gentleman also argues that "we don't need" so-called surplus crops. Again, the facts have been obscured. Due to the success of the 1985 farm bill, supplies of cotton and rice are at historically low levels. Thus the term surplus crop is a complete misnomer. Moreover, planted acreage of rice and cotton in California is expected to be reduced by at least one-third due the drought. This will undoubtedly result in tighter supplies nationwide.

This legislation is aimed at providing drought relief for all Californians through a variety of means. This amendment, however, would set a precedent for singling out farmers of certain crops to bear a disproportionate share of the burden. Farmers are already facing a substantial threat to their livelihoods because of the 75-percent cut in their water supplies. Any further reduction in farm activity will result in even more unemployment and hardship for our rural communities.

This amendment is also misguided for economic reasons, as it would begin to dismantle the most productive agriculture in the world. California farmers contribute $18 billion to our economy. It is estimated that one of every three jobs in the State are related to agriculture. Moreover, our trade deficit is reduced by $4 billion every year because of California agricultural exports.

This measure is terribly inequitable and bad policy.

Mr. SMITH of Oregon. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Connecticut.

The gentleman argues that there is something inherently wrong about farmers receiving reclamation water and being enrolled in farm price support programs, particularly when we are in the midst of the fifth year of a drought. I will not deny the fact that the West has a severe drought problem, in fact, where I live we have two kinds of weather. It is either dry or in a drought. But the gentleman is just flat wrong when he says these producers are a part of the drought problem and that we are squandering water to farmers who grow surplus crops.

Cutting the rug from underneath the family farmer is not going to solve the drought problem. In the Pacific Northwest region, particularly Oregon, you cannot make a link between reducing agricultural subsidies and more water for cities. In Oregon, the population centers are on the west side of the State, which usually receives an abundance of water. The farmers involved in the reclamation program are on the east side, separated by a mountain range that will not allow for the transfer of water.

This amendment will not aid water-starved cities nor wildlife, but it may dry up 148,000 farms—53,000 of them in the Northwest—that could be impacted by this proposal. Keep in mind that reclamation projects generate almost $20 million in economic activity and 800,000 jobs each year, which, of course, benefits the Federal Government.

I will submit that the gentleman is not as interested in providing more water for urban areas in the west as he is in doing away with the reclamation program. Let us not kid ourselves. What the gentleman does not like about reclamation is that his State or district do not get any of the benefits.

If it is the gentleman from Connecticut's intention to highlight excessive Government spending—he might look in his own backyard. Connecticut gets 34 times more Department of Defense procurement contracts than the State of Oregon. So I might suggest that when it comes to sopping up Federal dollars, Connecticut is doing very well for itself.

It is my understanding that it has been raining in Connecticut this week, and that their reservoirs are full, and they have adequate ground water. So perhaps the gentleman is not as sensitive to the problems out west as those of us who live there.

I suggest if the gentleman wants to change agricultural policy, he should do it before the Agriculture Committee, instead of forestalling victory for a bill that is essential to California. I urge my colleagues to oppose the amendment offered by the gentleman from Connecticut.

Mr. SHARP. Mr. Chairman, I rise in support of the Gejdenson amendment, which will establish fair priorities and promote free market principles in the allocation of the West's most precious natural resource: water.

Like the drought my State of Indiana and others in the Midwest endured a few years ago, this latest western drought has already inflicted its harsh damage on crops, and on families whose livelihood depends on a good harvest. In 1988, Congress widely determined to help the farmers in my district and the districts of many other Members of this body, and Federal drought relief is no less necessary and justified for the West's farmers now.

Yet it is imperative that any relief should be driven by reason and the setting of basic priorities. A few years ago, farmers in my State had to make some tough but necessary choices—such as taking some land out of production—despite the Congress' emergency drought measures. These choices temporarily decreased my farmers' incomes. Insisting the western farmers make similar tough but necessary choices regarding the drought assistance we are debating today is exactly what the Gejdenson amendment is all about.

The Gejdenson amendment is simple and straighforward: farmers who make the choice to grow crops that are in surplus will not be able to stand at the head of the spigot for scare additional supplies of water that may be provided under this bill—water whose cost is borne largely by the American taxpayer. This drought relief bill also gives Congress an opportunity to tell those who have quenched their thirst at the Federal money spigot that the Federal Government's tap is bone dry as well. Setting reasonable priorities for the use of the taxpayer's money is another goal the Gejdenson amendment achieves.

This is not an attempt to further punish farmers who have been hit hard by the forces of nature. The drought already has dictated that the volume of Federal irrigation water delivered to farmers in Western States be reduced. That is a fact, and adoption of the Gejdenson amendment will not alter reductions already made necessary by the drought.

Make no mistake: those voluntarily growing surplus crops will continue to benefit from commodity price supports administered by the Department of Agriculture. If they want, they can even choose to continue to grow crops that are in surplus. But when western irrigators make such free market choices to get drought-relief water, they will have to pay free market prices for that water.

The Gejdenson amendment sets some very commonsense priorities during this emergency for the use of federally subsidized water. Given the many competing pressures for this scarce resource—from family households, vital municipal services, agriculture, and industry—such priorities simply must be set. Because the Federal Government has long been in the business of developing sources of water for the West, we in Congress have an obligation to establish some fair priorities when water resources cannot adequately satisfy all legitimate users.

Setting some minimum priorities for federally subsidized water is the first step the Congress must take in reforming the way water is developed, delivered, and allocated in the Western States. Despite the welcome rains and snowfall that have recently drenched California, the legislation we consider today is not a boondoggle for the West. Even if this week's rains continue, reservoirs and aquifers and snowpacks are still far below adequate levels. This drought may soon be over—but others will surely follow. In the meantime, population and development pressures will continue, and the legitimate needs for water will increase.

Even with conservation, the economic future of the West will depend upon setting priorities for the use of water. We can take a small but significant step in the right direction today. I urge my colleagues to vote in favor of the Gejdenson amendment.

Mr. GEJDENSON. Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

AMENDMENTS OFFERED BY MR. DE FAZIO

Mr. DEFAZIO. Mr. Chairman, I offer three amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. DEFAZIO: Page 9, line 3, insert "(a) IN GENERAL.—" before "The programs".

Page 9, after line 12, insert:

(b) COORDINATION WITH BPA.—If a Governor referred to in subsection (a) if the Governor of the State of Washington, Oregon, Idaho, or Montana, the Governor shall coordinate with the Administrator of the Bonneville Power Administration before making a request under subsection (a).

Page 12, line 6, after "(42 U.S.C. 4321)" insert ", section 715(a) of the Water Resource Development Act of 1986 (33 U.S.C. 2265(a)),".

Page 12, line 14, insert "(a) APPROVAL.—" before "The Secretary".

Page 13, after line 11, insert:

(b) PACIFIC NORTHWEST REGION.—A contingency plan under subsection (a) for the State of Washington, Oregon, Idaho, or Montana, may be approved by the Secretary only at the request of the Governor of the affected State in coordination with the other States in the region and the Administrator of the Bonneville Power Administration.

Page 16, line 19, before "or the Fish and Wildlife" insert "section 715(a) of the Water Resource Development Act of 1986 (33 U.S.C. 2265(a)),".

Mr. DEFAZIO (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. DEFAZIO. Mr. Chairman, as our colleagues know, the Pacific Northwest has some particular issues with regard to this legislation, because our region has some unique problems in dealing with water allocation and our own drought problems in the Pacific Northwest. Although not as highly publicized as those in California, we are suffering from a drought.

The chairman of the committee and the staff have been very cooperative in working with us to address these particular concerns. In the Northwest, we are attempting to deal with the potential listing of five salmon runs as threatened or endangered in the Columbia Basin.

The Governors of three States along with the National Marine Fisheries Service, the Corps of Engineers, Indian tribes, irrigation and fishing interests and other user groups are working to reach a consensus on how the region can best deal with this problem and we can manage our water.

Mr. Chairman, we want to ensure that nothing jeopardizes this process. Our States also share a river, and through cooperation and understanding, we have been able to avoid major conflicts.

This amendment being offered by myself and the gentleman from Idaho [Mr. LAROCCO] affects only the Pacific Northwest and would address some of our region's unique concerns.

The BPA [the Bonneville Power Administration] provides electricity to customers in Oregon, Washington, Idaho, and western Montana. The BPA markets power from 30 Corps of Engineers and Bureau projects and has been able to manage the system with great efficiency.

Our amendment states that the Governors of Northwest States must coordinate with the Administrator of the Bonneville Power Administration before making a request for emergency assistance under this legislation that might affect that system.

Second, this legislation gives the Secretary permanent authority to prepare drought contingency plans so the regions are better able to deal with serious droughts like that being experienced in California and other parts of the West.

Our amendment states that the Secretary could implement one of these plans only upon the request of the Governor of the affected State and in coordination with the other Governors in the region and the BPA Administrator.

Last, our amendment clarifies that this legislation in no way modifies, supersedes, or affects the 1986 Water Resources Development Act. That act precludes the study of the transfer of water from the Pacific Northwest to California. Anytime that California gets a little bit thirsty and starts looking for water, we get a little bit nervous in the Pacific Northwest.

Contrary to what some people in southern California and other areas might think, we do not have any surplus water in the Pacific Northwest, and we must protect the resources, precious resources, we do have and use it better in the future.

Mr. LAROCCO. Mr. Chairman, will the gentleman yield?

Mr. DEFAZIO. I am happy to yield to the gentleman from Idaho.

Mr. LAROCCO. Mr. Chairman, I rise in support of the DeFazio-LaRocco Amendment. Because we share the Columbia River drainage, our water problems in the Northwest are interdependent. We feel we need involvement and cooperation of all Governors. As we have experienced through the recent Salmon summit, by pulling one thread, we could, essentially, unravel the whole network. Our concern is about overlaying a bill designed to solve California's problems on top of the effort to sort out the water problems in the Northwest. Mr. Chairman, we offer this amendment to give the Northwest Governors, with their intimate knowledge of the regions water problems and users, a chance to participate in the decision to develop and implement a water plan for their State and to trigger the drought relief measures sought in this bill.

In Idaho, water is our life blood. We, like California, are going into our fifth year of drought and, so, are empathetic to emergency action for relief.

Water is not only important for agriculture in the southern part of our State, but is a limiting factor for the recovery of several important species of anadromous fish, including fall chinook and sockeye salmon. As Mr. DEFAZIO said, we are well into a complicated effort to develop a solid regional solution to our water problems—a cooperative solution developed by a broad array of interest groups across the Northwest including Bonneville Power Association and the Corps of Engineers, not under the authority of the Interior Department. And, if the salmon are listed, we will be working closely with the National Marine and Fisheries Service [NMFS], which is under the jurisdiction of the Department of Commerce to restore salmon.

□ 1240

Mr. DEFAZIO. Mr. Chairman, I yield to the gentleman from Oregon [Mr. SMITH].

Mr. SMITH of Oregon. Mr. Chairman, I rise in support of this amendment. As has been pointed out, the Pacific Northwest region is indeed unique. We share one river, several States do, and we are very dependent on that river, of course, for power generation, for agriculture, for fisheries.

This amendment calls for all the Governors of all the States affected on the Columbia River, to become involved in the request to the Secretary of Interior, should there be need to displace, move, or transfer water of any sort. That puts Members at ease simply because the bill, as it came from the Committee on Interior and Insular Affairs, of course, would only refer to one Governor.

Now, all the Governors affected are within it, and we think that is a protection which we absolutely need. It is so true that when we begin discussing water transfers between basins in the West, all people in the West become very nervous. We all know that California is dry. We also ought to know that Oregon is dry as well as part of Idaho, the upper reaches of the Columbia. We want inside the umbrella of this legislation, but we also want the protection that we are not going to allow transfers of water between Oregon and any other State unless our Governor is involved. That goes, of course, to say that other States will involve their Governors. I believe this gives ample protection.

I thank the gentleman from Oregon and the gentleman from Nevada for initiating this amendment. I think it further clarifies and protects water resources in our State. I want to support the original bill to assist California in this drought-stricken situation, as well as other States in the Pacific Northwest.

Mr. MORRISON. Mr. Chairman, will the gentleman yield?

Mr. DEFAZIO. I yield to the gentleman from Washington.

Mr. MORRISON. Mr. Chairman, I thank the gentleman from Oregon for yielding, and also for working with all the Members of the Northwest delegation in perfecting this.

(By unanimous consent, Mr. DEFAZIO was allowed to proceed for 2 additional minutes.)

Mr. DEFAZIO. I yield to the gentleman from Washington.

Mr. MORRISON. I thank the gentleman for his efforts to coordinate this with a number of Members who have concern. We want to keep our friends from California, yet at the same time we need a degree of insulation as far as the Northwest is concerned. I thank him, and thank a number of staff people who have been very instrumental in putting these particular words on paper. I hope that we will have full support of the House in this amendment.

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. DEFAZIO. I yield to the gentleman from Utah.

Mr. HANSEN. The minority has had an opportunity to examine the gentleman's amendment, and they are happy to accept the amendment.

Mr. RHODES. Mr. Chairman, will the gentleman yield?

Mr. DEFAZIO. I yield to the gentleman from Arizona.

Mr. RHODES. Mr. Chairman, Mr. Hansen has basically stated our position. I personally think the language in the bill, as written, takes care of the situation that we are concerned about, but I understand the gentleman's nervousness when California is thirsty. We share a river between Arizona and California. When they are nervous, we are downright paranoid.

If this clarifies the situation, a little bit better, we will accept your amendment.

Mr. MILLER of California. Mr. Chairman, we have had an opportunity to look at the amendment. We have worked with the gentleman from Oregon [Mr. DEFAZIO] as well as the gentleman from Idaho [Mr. LAROCCO] on this amendment. It has been considered by the minority, and as I think we have heard on a bipartisan basis, there is no objection to this amendment to quell the nerves of our neighbors. I would accept the amendment.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Oregon [Mr. DEFAZIO].

The amendments were agreed to.

AMENDMENT OFFERED BY MR. PANETTA

Mr. PANETTA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PANETTA: Page 9, after the period in line 22 (at the end of section 201) add the following: "The Secretary is authorized to provide technical assistance to States and to local government entities to assist in the development, construction, and operation of water desalinization projects, including technical assistance for purposes of assessing the technical and economic feasibility of such projects.".

Mr. PANETTA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. PANETTA. Mr. Chairman, I rise to offer this amendment to this legislation that would authorize the Secretary of Interior to provide technical assistance to State and local governments who are constructing desalinization plants.

Obviously, I want to commend, again, both the chairman and ranking member for the fine work that they have done on this important piece of legislation. The problem we have is that obviously a Bureau of Reclamation of Water does not serve all of the communities that are impacted by the drought, particularly the coastal communities. We have a number of coastal communities now that, as a consequence of the severe drought, are looking at the possibility of constructing desalinization plants to try to augment dwindling supplies.

As I said, when we deal with the drought, we are obviously not only trying to conserve water, but looking to other alternatives to develop water supplies, reclamation, recycling, and for the coastal communities, desalinization is a real possibility.

One of the problems we have right now, however, is there really is a lack of technical assistance of coordination of the information that is needed to try to develop desalinization projects. So what this amendment would do, essentially, is provide the Secretary of Interior the authority to provide that technical assistance to State and to local government entities, to assist in the development, construction, and operation of water desalinization projects, including technical assistance for purposes of assessing the technical and economic feasibility of such projects.

There was a time, obviously, when these kinds of projects were considered prohibitively expensive, and indeed, there are still some concerns about the costs of these projects, but there has been advancement in desalinization technologies, and there is obviously growing concern that this could be a possible alternative for many of the coastal communities.

Therefore, with so many of the communities seeking this out right now, and I have several in my district that are currently looking at the possibility of desalinization, I know Santa Barbara and other communities are also looking at that possibility, what we really need is a coordinating mechanism, and the Federal Government needs to play that kind of coordinating role. For that reason, I would urge that this amendment be part of this package to provide the kind of comprehensive help that is so important to our communities.

Mr. Chairman, I rise to offer an amendment to H.R. 355, the Reclamation States Emergency Drought Relief Act of 1991, that would authorize the Secretary of the Interior to provide technical assistance to States and local governments who are constructing desalinization plants.

I would like to first take this opportunity to commend Acting Chairman MILLER and the members of the Interior and Insular Affairs Committee for their fine work on this critical piece of legislation. I am sure that I speak for the millions of residents of drought-stricken States when I say that your efforts are much appreciated.

While a modest provision, the amendment I am offering will provide significant assistance to coastal communities who are constructing desalinization plants to augment dwindling water supplies. It would provide the Secretary of the Interior with the authority to provide technical assistance to States and to local government entities to assist in the development, construction, and operation of water desalinization projects, including technical assistance for purposes of assessing the technical and economic feasibility of such projects.

Previously thought of as being a prohibitively expensive source of water in the United States, advancements in desalinization technologies and growing concerns with water supplies have made desalinization a viable water resource option for many coastal communities in California and particularly in my own congressional district. Yet with no technical guidance from the Federal Government, many of these communities are operating in the dark.

With so many communities actively pursuing desalinization it makes sense for the Federal Government to play a coordinating role in providing technical assistance to local entities to ensure that research efforts are not wastefully duplicated on the local level. It is my understanding that the Bureau of Reclamation has extensive knowledge on desalinization technologies and would be readily able to provide local communities with the assistance needed.

I would also note, Mr. Chairman, that it is my understanding that Acting Chairman MILLER and the ranking Republican of the subcommittee, Mr. HANSEN, have no objections to this amendment.

Mr. Chairman, the gravity of the situation facing the drought-stricken States demands that Congress and the States not only pursue temporary relief measures but also pursue long-term projects, like desalinization, which will help us to avoid crippling water shortages in the future. I urge my colleagues to join me in this effort by supporting this amendment.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I want to commend the gentleman for offering this amendment. I think he points out a fact that many people are not aware of, that while the Bureau of Reclamation may not be able to physically deliver water to his area of the State of California, clearly the Bureau does have expertise and longtime experience in looking at desalinization as an alternative, and is engaged in a pilot project down in Arizona. I think the extent to which this amendment will allow the Secretary to bring an expertise and resources to the coastal communities of the State of California will be very, very helpful. I would accept the amendment.

I believe that the minority has no problem with the amendment. We would be happy to accept it, and I thank the gentleman for offering it.

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Utah.

Mr. HANSEN. Mr. Chairman, the minority has no objection. We think it is a good amendment. I commend the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I thank the chairman and the ranking member, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. PANETTA].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: Insert the following new section at the end of title III:

SEC. 308. BUY-AMERICAN REQUIREMENT.

(a) DETERMINATION BY THE SECRETARY.—If the Secretary, with the concurrence of the United States Trade Representative and the Secretary of Commerce, determines that the public interest so desires, the Secretary shall award to a domestic firm a contract that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 51 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

In determining under this subsection whether the public interest so requires, the Secretary shall take into account United States international obligations and trade relations.

(b) LIMITED APPLICATION.—This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) the United States Trade Representative determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) LIMITATION.—This section shall apply only to contracts for which—

(1) amounts are authorized by this act (including the amendments made by this act) to be made available; and

(2) solicitation for bids are issued after the date of the enactment of this Act.

(d) REPORT TO CONGRESS.—The Secretary shall report to the Congress on contracts covered under this section and entered into with foreign entities for fiscal year 1991 and shall report to the Congress on the number of Contracts that meet the requirements of subsection (a) but which are determined by the United States Trade Representative to be in violation of the General Agreement or an international agreement to which the United States is a party. The Secretary shall also report to the Congress on the number of contracts covered under this Act (including the amendments made by this Act) and awarded based upon the parameters of this section.

(e) DEFINITIONS.—For purposes of this section—

(1) SECRETARY.—The term "Secretary" means the Secretary of the Department of the Interior.

(2) DOMESTIC FIRM.—The term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States.

(3) FOREIGN FIRM.—The term "foreign firm" means a business entity not described in paragraph (2).

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, I am very glad to see that the drought-stricken California community will get some help. I would like to suggest that they get an extra $13 million by taking the $15 million going to Jordan, and giving them to the farmers in the drought-stricken communities of California, and save everyone some money, and perhaps do something better for the community.

I have a couple of things to mention. It seems ironic in certain parts of the country we are paying for drought problems, and certainly parts of our country up in the Great Lakes, we paid for erosion control and flood control in the Great Lakes. I am starting to wonder, as I question industrial policy and energy policy, and I am starting to wonder what America's water policy is. I think there might be a way to help California out in addition to this. One thing is for sure, I want to say this before I go on, every person left in the Midwest, and all the old steel towns and those communities that made a lot of products before, I think people recognize that they could not eat a Toyota, and it is pretty expensive drinking Perrier all the time, why not come back and look at our communities? The land costs are relatively favorable.

□ 1250

There are all kinds of utilities and infrastructure, and it would be very good for you. We would like to welcome you back.

My amendment is specific and to the point. It gives a little weighted advantage in this act so that American companies may get in fact the awards for these contracts.

The only thing I would like to say is that the American people are not asking for much. I think they are asking for an opportunity for a job, and we as a Congress have got to start figuring in the policies around here, unemployment compensation costs, welfare costs, food stamp costs, job training costs; so I think it is a reasonable amendment. It speaks to the point, and I would appreciate the support of the committee.

Mr. APPLEGATE. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I am glad to yield to the gentleman from Ohio, my neighbor in Ohio.

Mr. APPLEGATE. Mr. Chairman, I thank my colleague from just to the north of me. I want to commend him for offering this amendment. I think it makes eminent good sense that if we are going to let contracts for work to be done to help our friends and neighbors in California or any other part of the United States, that we have Americans do the work.

I think as was pointed out by the gentleman from Ohio [Mr. TRAFICANT] that here we are, we are sticking $55 million more back in to give to a country and a leader of a country that has betrayed us, has called us various and sundry names, and here we are, the President of the United States is going to go ahead and forgive Poland and forgive Egypt the billions of dollars that they owe us. They want to ask to forgive billions of dollars that Israel owes us, and we are continuing to send our jobs overseas.

We are sending all our jobs overseas because we have such an inequity in our trade policies.

How are we going to do anything about a $3½ trillion deficit if we do not have people in the United States who are working and paying taxes into the coffers to help?

And what about American productivity and American jobs?

Now they want to take money out of the Export-Import Bank and send it over to help build Kuwait and Iraq. That does not make sense.

I will say this, that if we do not have some kind of a mandate on these things when they go and send these jobs overseas, is Bechtel going to hire Americans? Are they going to take Americans over there? No, they are not going to. They are going to go over there and hire them themselves.

The gentleman from Ohio [Mr. TRAFICANT] did put in an amendment, a sense of Congress, to say that American jobs be used if American companies are going to be contracted to do that overseas. They are not going to pay any attention to it.

I think what is going to be very important is that the Traficant amendment stay in the bill and that it not be stripped out in a conference committee. American jobs should remain American and take care of American problems. I think it makes eminent good sense.

I would ask that you support this from now all the way through the Senate and through the conference committee.

Mr. TRAFICANT. Mr. Chairman, I would just like to ask the committee for their support. It is a good amendment and I ask if they would support it and keep it in the conference.

Mr. MILLER of California. Mr. Chairman, I move to strike the last word.

I want to say that we have had an opportunity to examine this amendment. We have no real problem with it. It is consistent with the efforts that the gentleman from Ohio has been trying to make in terms of making sure that American jobs and manufacturing processes are considered and protected. We have no problem with the amendment at this time.

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Utah.

Mr. HANSEN. Mr. Chairman, the minority associates itself with the statement of the majority. We feel the same way. We have no problem with the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

Mr. FAZIO. Mr. Chairman, I move to strike the last word.

Mr. Chairman, at this time I would like to engage in a colloquy on behalf of Congressman DOOLEY, Congressman CONDIT and myself, with Chairman DE LA GARZA of the Agriculture Committee, for some clarification.

Mr. Chairman, I have heard concern from some program crop participants that if they must idle their land due to reduced water deliveries because of the drought, their crop acreage base for the farm programs may be reduced. What is the gentleman's understanding of the effect that reduced water deliveries may have on farm program participants?

Mr. DE LA GARZA. Mr. Chairman, if the gentleman will yield, it is my understanding that producers have a number of options under these circumstances. For example, they may elect to enter 0/92 or 50/92 program thus protecting their crop acreage base. A producer could also elect not to plant a program crop and to protect his or her base by zero certifying with their local ASCS office. Finally, it is my understanding that the Department of Agriculture has pledged to address these issues administratively, in recognition of the severe drought situation, and I know that they are.

The Committee on Agriculture is committed to monitoring this matter and to work with the Department and interested Members to ensure that these producers are treated fairly and equitably.

Mr. FAZIO. Mr. Chairman, I thank the gentleman for his comments, and I certainly think they will go a long way toward encouraging the participation of farmers in the central valley of California and the Sacramento Valley to participate to the best of their ability in programs that would share our scarce water resources around the State.

Mr. Chairman, I rise in strong support of H.R. 355, the Reclamation States Emergency Drought Relief Act of 1991.

This is an important bill, Mr. Chairman, and I urge my colleagues to support it.

The recent rainfall has done little to reduce the need for this critical measure. We are in the midst of the fifth consecutive year of drought. Despite the recent rains, the storage levels in California's reservoirs are just slightly higher than they were in 1977—the driest year of record and when the State of California had 7 million fewer residents. And, while 1991 will not be the driest year of record and when the State of California had 7 million fewer residents. And, while 1991 will not be the driest year of record, it will be one of the driest the State has experienced—perhaps, the fourth driest year of record, based on current estimates. That's positive, but our State is still facing a drought emergency.

Since the end of February, before the latest wave of winter storms, total storage within the central valley project has increased just 5 percent, from 49 percent of average storage levels to 54 percent. This is far less than the increase in precipitation, which has increased from 25 percent to 57 percent of average levels. Most of the precipitation has been in the coastal regions and in the south, rather than in the northern part of the State where most of our storage facilities are located and which supplies most of the water needs for California. For example, storage in the San Joaquin River systems is up to nearly 65 percent of the average levels, but storage in the Sacramento system is just barely more than half the average annual storage levels and far less than the storage levels reached last year. Storage in the Sacramento system is at 1.8 million acre feet, compared to a 3.3 million acre feet average and 2.7 million acre feet last year.

And, despite the recent rains, deliveries from the State and Federal water projects for agricultural and municipal and industrial purposes have been severely cut back. Deliveries to the State's farmers have been cut by as much as 75 percent.

Clearly, this measure is a critically needed piece of legislation. It will help integrate water storage and transfer facilities throughout the State so that we can make the most of our limited, existing supply. The bill will also help assist willing buyers and sellers to exchange water, and authorize the Bureau to participate in water banks established by the States.

Very importantly, the bill also directs the Bureau to establish drought contingency plans so that we can be better prepared to respond to future drought situations.

Mr. Chairman, I commend Chairman MILLER, Congressman LEHMAN and Congressman RHODES for their leadership on this issue. Again, this is a good bill, it is essential to an effective response to the dire drought conditions now facing California and several other States in the West. And, it is essential to the effective use of funds that I am advocating that we add to the supplemental appropriations bill for emergency drought relief activities by the Bureau of Reclamation.

Mr. LOWERY of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of H.R. 355, which substantially incorporates the provisions of the Interior Department supported measure I introduced, H.R. 1247.

The measure is important to California because it would provide the bureau greater flexibility to move water where it is needed; would authorize participation in a State water bank; and, would allow the U.S. Department of the Interior to develop drought contingency plans—before we find ourselves 5 years into a drought.

Mr. Chairman, San Diego is at the end of the water pipeline in California. We are the cul-de-sac. Less than 5 percent of San Diego's water is obtained locally, while more than 95 percent must be imported from as far as 600 miles.

Imported water costs San Diego farmers anywhere from $300 to $500 per acre foot due to high delivery costs and pumping. San Diego farmers have become very efficient using drip irrigation methods and efficient sprinkler systems. We are investigating more methods of reclamation and even desalinization.

This bill goes a long way in helping to ensure water can be moved and managed more efficiently. The measure will remove the legal plugs in the plumbing system throughout the State. San Diegans and Californians are living with severe water restrictions. They are willing to bite the bullet and conserve but they need help. The recent rain and snow are making a difference but we are still at only 50 percent of the normal snowpack we need.

This bill has had bipartisan crafting and bipartisan support. It could mean the difference of California becoming the dust bowl of the 1990's, or of California continuing to be America's No. 1 agricultural State.

Mr. Chairman, I want to commend my California colleagues, Representatives MILLER, LEHMAN, and LAGOMARSINO, and Representatives DON YOUNG, JIM HANSEN, and JOHN RHODES for their diligence in crafting this measure. While there may be differences in approach, this measure deserves our support.

Mr. DOOLITTLE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of this important piece of legislation. I commend the author for meeting quickly the needs of California's drought-stricken citizens.

I think this bill does provide the appropriate temporary assistance, and it makes a start at providing and putting in place long-term measures to assist the citizens of California and other western states when conditions of drought are present.

I rise also, Mr. Chairman, to observe that California is a State in need of more water storage. That became quite evident to me in a hearing that was held where it was revealed that we are purchasing or negotiating to purchase about a million acre-feet of water from the Colorado River system.

□ 1300

They also are in drought, as are we, but they are capable still of having surplus water. One of the realities is that in Colorado they have in that river system an average runoff of about 15 million acre-feet per year. In the Sacramento Valley system we have an average runoff of just about the same, 15 million acre-feet per year. However, in the Colorado River system, they have 60 million acre-feet of storage. So when they are in a drought year, they can go for a while and still meet their water needs. The Sacramento Valley, by way of constrast, has no more than 11 million to 12 million acre-feet of storage.

The solution is quite clear; it is more water storage. One component of that solution is something that many of us have fought for for a long time, and that is the completion of the multipurpose Auburn Dam.

This is a solution for which the funding is becoming available which would meet all the water needs of California, because we are a State which ultimately faces flood and drought. Indeed, the great flood of 1986 occurred in a drought year when the ususual effect of El Niño manifested itself, and the snow was melted in just a few days time.

I will be working together with other colleagues in the House trying to meet the water needs of California both temporarily by supporting this bill and for the long term by fighting for the completion of the multi-purpose Auburn Dam.

I appreciate this opportunity to address the Members.

Mr. THOMAS of Wyoming. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the bill but, more specifically, to thank the Chairman for the work that he has done on the bill and specifically his amendment on excess storage and carrying capacity. It addresses a serious problem for Wyoming, and I appreciate his cooperation in working with us.

Mr. RIGGS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to thank the chairman of the Committee on Interior and Insular Affairs for the help he rendered through this bill to a very important and critical part of my constituency, and that is the commercial fishermen of the California north coast and our Indian tribes that also rely on the fishery resource for their very livelihood.

This bill will, through its authorizing language, contain important direction to the Secretary of the Interior and the Bureau of Reclamation asking that flows in the Trinity River be increased and maintained at a sufficient level to sustain that fishery for those fishermen.

This is but a first effort to benefit those groups on the north coast which are a very, very important part of the proud heritage, very important part of our lineage of resource industries on the California north coast.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. RIGGS. I yield to the chairman of the committee.

Mr. MILLER of California. I thank the gentleman for yielding.

Mr. Chairman, I want to thank the gentleman for his support of this legislation and certainly will tell him that we share his concern, as does the committee.

Mr. Chairman, the gentleman referred to the report language in the report on this legislation, where we make it very clear that we are deeply concerned about the impact of the drought on the Trinity River and the responsibilities of the Secretary to meet the Federal trust responsibilities for the Hoppa Valley Indian tribes and also recognizing the importance of these rivers with respect to commercial fishermen and commercial fish assets off the coast of northern California. It was our expectation that the Secretary will make every reasonable effort to provide in-stream fishery releases to the Trinity River of not less than 340,000 acre-feet of water during the 1991 drought year and that he would continue to make those efforts to release that water through 1996.

I think the gentleman raises a very important point that the drought has many, many impacts. In a State as large as California, they are very, very diverse.

But the Trinity River has been under an incredible degree of stress for a whole host of reasons even before the drought occurred, and we share the gentleman's concerns about the maintenance and preservation of the Trinity, its fisheries, our trust responsibilities to the tribes.

I thank the gentleman for his support.

Mr. RIGGS. I thank the chairman for his comments and support, and look forward to working with him to continue to provide for the maintenance of these critical fisheries on the California north coast, and would look forward to collaborating with him in further legislative efforts if that proves necessary.

Mr. Chairman, I strongly support H.R. 355 because of the language included in the report that acknowledges the drastic need for increased water flows in the Trinity River. Several Indian tribes, commercial, and recreational fishermen have suffered tremendously as a result of water diversion to the Central Valley Project.

I wish to thank Chairman MILLER, and the Committee on Interior and Insular Affairs for recognizing the obligation that Congress has to fulfill Federal trust responsibilities to provide adequate streamflows and water quality to the Trinity River. Despite Federal obligations and congressional mandates (Public Law 98–541), that call for restoration of the Trinity "to a level approximating that which existed immediately before the start of the construction of the Trinity River division," the Bureau of Reclamation has persistently managed the Trinity River Division in a manner that thwarts the restoration and maintenance of natural fish populations.

The time is now to begin restoring our fisheries and honoring our obligations to the people whose lives depend on this dwindling resource. I thank the committee for taking this positive first step by introducing this legislation.

The CHAIRMAN. Are there further amendments?

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, earlier in the debate the gentleman from California placed a letter in the record from the Commissioner concerning payment of operation and maintenance expenses. I want to make it clear that I do not share the gentleman's interpretation of the authority of such policy.

The letter, however, does raise a number of questions and, to be somewhat candid, is rather confusing about exactly what is or is not the authority of the Bureau with respect to O&M payments.

It is my intent to seek answers to the questions raised by this letter over the next few weeks and I hope to have this issue resolved before this legislation is enacted.

The CHAIRMAN. Are there further amendments to the bill?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. DE LA GARZA) having assumed the chair, Mr. TORRES, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 355) to amend the Reclamation States Drought Assistance Act of 1988 to extend the period of time during which drought assistance may be provided by the Secretary of the Interior, and for other purposes, pursuant to House Resolution 114, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. RUSSO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 387, nays 23, not voting 21, as follows:

[Roll No. 55]

YEAS—387

Abercrombie
Alexander
Allard
Anderson
Andrews (ME)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis

Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Byron
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Goss
Gradison
Grandy
Green
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Spence
Spratt
Staggers
Stark
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zimmer

NAYS—23

Andrews (NJ)
Archer
Armey
Callahan
Crane
Duncan
Fawell
Fields
Hancock
Henry
Miller (WA)
Nussle
Patterson
Penny
Petri
Ramstad
Ridge
Santorum
Sensenbrenner
Solomon
Stearns
Walker
Zeliff

NOT VOTING—21

Ackerman
Bustamante
Conyers
DeLay
Edwards (OK)
Flake
Goodling
Gray
Guarini
Jacobs
Jefferson
Levine (CA)
Lewis (FL)
Lloyd
Manton
Miller (OH)
Roe
Smith (FL)
Stallings
Tanner
Udall

☐ 1329

Messrs. FIELDS, SOLOMON, and MILLER of Washington changed their vote from "yea" to "nay."

Mr. GEKAS changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "An act to provide emergency drought relief to the Reclamation States, and for other purposes.".

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GOODLING. Mr. Speaker, I was unavoidably detained and regret that I missed vote rollcall No. 55, the vote on final passage of H.R. 355, "to amend the Reclamation States Drought Assistance Act."

Had I been present, I would have voted "aye."

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 355, the bill just considered and passed.

The SPEAKER pro tempore (Mr. DE LA GARZA). Is there objection to the request of the gentleman from California?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 355, RECLAMATION STATES EMERGENCY DROUGHT RELIEF ACT OF 1991

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 355, the Reclamation States Emergency Drought Relief Act of 1991, the Clerk be authorized to make technical and conforming amendments.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

☐ 1330

CONFERENCE REPORT ON S. 419, RESOLUTION TRUST CORPORATION FUNDING ACT OF 1991

Mr. GONZALEZ. Mr. Speaker, pursuant to the order of the House of March 19, 1991, I call up the conference report on the Senate bill (S. 419) to amend the Federal Home Loan Bank Act to enable the Resolution Trust Corporation to meet its obligations to depositors and other by the least expensive means, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

(For conference report and statement, see proceedings of the House of Tuesday, March 19, 1991, at page 6593.)

The SPEAKER pro tempore (Mr. DE LA GARZA). The gentleman from Texas [Mr. GONZALEZ] will be recognized for 30 minutes, and the gentleman from Ohio [Mr. WYLIE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this conference report keeps intact the Federal Government's commitment to depositors at insured financial institutions, the guarantee of the full faith and credit of the Government that those depositors using the insured depository institutions of our country are guaranteed up to $100,000 in their deposits.

The legislation provides $30 billion to meet losses in the resolution of failed savings and loans. This is sufficient to meet the needs of the Resolution Trust Corporation—the bailout agency created in the 1989 FIRREA legislation—through the remainder of this fiscal year.

The consideration of this final version of the funding legislation comes after lengthy debate in both Houses about the need for reforms at RTC. The conference report contains a number of significant improvements which we believe will make RTC a more efficient and responsive agency. There are additional reforms that many in this House wanted, but were forced to give up temporarily so that this essential funding could go forward. The process will remain open, and as we consider the administration's request for additional funds for fiscal year 1992, I, along with others, will insist on a full set of reforms.

Today, it is imperative that the House give final approval to this legislation if RTC is to keep operating. The conference report was approved by the Senate on a voice vote Tuesday night. The conference report was put together on a bipartisan basis and our colleague, CHALMERS WYLIE, the ranking minority member on the Banking Committee, has provided mangificent leadership on his side of the aisle. In fact, the conferees on both the Democratic and Republican sides have worked together beautifully. Everyone understands the critical need to move this legislation as quickly as possible.

The final version provides significant improvements in the accountability of RTC by upgrading the auditing and reporting requirements. Management reforms, recommended by the General Accounting Office and adopted by the House, are incorporated in the conference report.

The legislation adopts the House language on affordable housing, ensuring that housing will be sold and not allowed to rot away or be seized by speculators. The conference report retains the House language insisting that RTC closely monitor its contracts to ensure that minority- and women-owned firms are properly included and that these activities not become the exclusive domain of the good old boy network.

The conference report adopts provisions in the Senate bill which limits the liability of RTC employees in connection with their duties in asset disposition. The immunity, however, was narrowed in language proposed by conferees from the Energy and Commerce Committee to ensure that the provision could not be construed to limit liability for criminal or malicious misconduct, or for underwriters, securities salesmen or other private persons participating in the transactions.

The legislation also adopts Senate language which requires RTC to pursue all legal means to renegotiate and restructure the so-called 1988 deals to achieve the maximum savings for the taxpayers. These are the infamous sweetheart deals entered into by Danny Wall's Federal Home Loan Bank Board in a pell-mell rush to resolve savings and loan failures in late 1988.

Mr. Speaker, I urge adoption of the conference report. It is a vote to maintain the integrity of the deposit insurance system. It is a vote to retain confidence in the Nation's financial system. It is a vote to back our commitment to put the full faith and credit of the U.S. Government behind insurance for individual depositors.

Mr. Speaker, I reserve the balance of my time.

Mr. WYLIE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on S. 419. Last week, the House of Representatives had a very difficult time coming to an agreement on an RTC funding bill. However, after a carefully crafted compromise between the gentleman from Texas [Mr. GONZALEZ], myself, and Secretary Brady, the House was able to act on a bill which I think was a good bill.

Mr. Speaker, the chairman of the committee, the gentleman from Texas [Mr. GONZALEZ], is to be complimented and commended for giving considerably in that regard, and having demonstrated a willingness to act in the best interests of all concerned.

The conference report which we have, as the gentleman mentioned, adopted the House version of this legislation, provides for an additional $30 billion in funding until September 30.

The management reform provisions which were in the bill as they passed the House are in this legislation. The report also has the affordable housing language which we agreed to and which the administration signed off on.

The conference also agreed to keep intact the detailed report on minority contracting. From the Senate bill we added two what I think are good provisions, one to provide immunity for RTC employees from violation of security laws which had already taken place. There is no immunity, of course, for an intentional act on the part of an RTC employee. Also from the Senate bill there is a requirement that the RTC pursue by all legal means the so-called double dipping tax provisions that some buyers were able to receive in the so-called 1988 deals.

□ 1340

Finally, we have provided that the GAO can audit RTC's books without exception. Mr. Speaker, this is not an issue to have before us to vote on, but it is an essential issue.

We have to live up to the commitment that we made to the depositors of this country, and we must keep RTC going. Every day that we delay action on this issue only results in throwing away additional money.

I urge my colleagues to adopt the conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. GONZALEZ. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I rise in support of the conference report. I know it is a very tough vote for Members because of public perception about what this does.

The truth of it is we want to do something that will preserve an industry that is very important for homeownership, and we want to act responsibly in terms of doing that. RTC, I think, has been negligent in the past. I think they are getting their act together, and I think that they need to have that fund replenished for the sake of the future.

What we want to see happen essentially is to have failing institutions be reconciled so that they can reopen. We want to see depositors' savings protected. That is one of the major reasons for this conference report. And we also want to see RTC able to sell off some of the assets it is holding that really belong to the taxpayers.

If they do not have the tools to do this, then we will never really see progress in what has been a crisis in the past.

In addition, and this is largely due to the chairman of the Committee on Banking, Finance and Urban Affairs, and he deserves a lot of credit, and I am delighted that the minority leader agreed, affordable housing is very important in this country. We have many people who do not have access to affordable housing, and that provision alone is reason enough to support this legislation.

So I really urge my colleagues to be courageous in the manner in which they act today and to try to do the responsible thing. Report this bill out, and then let us come back and review it again, because that is the process that is in this bill that we do not have in terms of the previous legislation passed. So I hope we report it out, and I hope we report it out favorably.

Mr. WYLIE. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. MICHEL], the distinguished minority leader who has been most helpful and most responsible in seeing that we came here today in the whole process.

Mr. MICHEL. Mr. Speaker, may I return the compliment to the distinguished gentleman from Ohio for the splended work that he has done along with the chairman.

The fact is that you all stuck to your guns here for this conference report, that, frankly, is essentially the same bill as passed the House on March 13. So we have something to be proud of, our own initiative here on this side of the Capitol.

All Members who voted for that bill last week should be able to vote for this conference report. The longer we delay the process, the higher the ultimate cost that the thrift cleanup will be, and we are all aware of those figures that have been used, whether or not it is exactly right or not. But 8 million bucks a day is a significant amount of money.

A vote for this conference report can stop that loss.

Just one quick reminder: The bulk of that money for the RTC will be used to reimburse persons with guaranteed accounts. Should the Federal Government shirk its duty to make whole depositors, we would be faced with a far greater crisis.

The administration will continue its effort to prosecute the culprits where there was wrongdoing, and that is a very essential part of this whole process. I do not have the figures at hand, but those under indictment, those who have already been salted away, are a significant number.

However, we in the Congress have a responsibility to those depositors who have relied on the Federal guarantee of their accounts, and the other body has acted. The administration has stated it will sign this legislation once it is adopted.

I would strongly urge the House to go along with the leadership that we have here and the chairman and ranking member in adoption of this conference report. I support it wholeheartedly.

Mr. GONZALEZ. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, I rise in opposition to this bill.

It is a curious bill. On one side, we have the President of the United States and the Secretary of the Treasury and the leadership of the Democratic Party and the leadership of the Republican Party all on one side, and on the other side I suspect we have the vast majority of the people of the United States.

The issue, as others have already said, is not whether, in fact, we should raise a significant amount of money, a sufficient amount of money, to make sure that the deposits are covered. That is not the issue. We are all in agreement on that issue.

The issue is: Do we simply raise $30 billion without having any understanding of where that $30 billion is going to come from? Do we simply raise $30 billion and dump it into the deficit which, over a period of 30 years, will become well over $100 billion, or do we have the courage now to say that if we need $30 billion, let us sit down and debate how we are going to raise that $30 billion? Which sector of our society is going to pay that $30 billion?

If we simply dump the $30 billion into the deficit, let me tell the Members exactly where that money is going to come from. In a few months, the President is going to come up to us, and he is going to say, "Boy, do we have a large deficit. It is closing in on $400 billion. We have to deal with that problem, and let us see how we can deal with it."

We can cut back on Medicare, we can cut back on Federal aid to education, we can cut back on Federal aid to health care, Federal aid for cities and towns. We can raise regressive taxes. We can come up with more increases in the gas tax or other taxes which will come down heavily on working people, middle-income people, the elderly and the poor. That is one way of dealing with it.

The other way to deal with it, which to me makes a lot more sense, is if we need the $30 billion, let us raise that money in a fair and progressive way. Let us ask those people who have the money, those people whose incomes have soared in the last 10 years, to start paying their fair share of taxes.

In opposition to this present proposal, I would suggest the following: that if we had a 15-percent marginal surtax on couples earning over $100,000 adjusted gross income, we could raise $15 billion. If we had a 15-percent surtax on corporate income, we could raise $15 billion; 15 plus 15 is $30 billion.

I think that that is a fairer way to raise the $30 billion we need than have working people, middle-income people, poor people, the elderly people have to pay for this bailout.

So the issue is not whether or not we need the money. I will agree that we need the money. The issue is: who is going to pay for it? This bill does not address that.

I will not vote for it.

Mr. GONZALEZ. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today in support of the conference report to accompany S. 419, the Resolution Trust Corporation funding legislation. It seems to be the best compromise we could come to given the circumstances. It is important that depositors know they can continue to have confidence in the Federal deposit insurance system.

I am pleased that the affordable housing provisions and management reforms approved by the House are included in this conference agreement. These will help improve the efficiency of the RTC and save taxpayer dollars.

In particular, I am compelled to comment on the minority contracting provisions of the legislation. There has been extreme resistance to dealing with this issue in this bill. Some have couched it as a civil rights issue. Some have called it a quota provision.

Let me just say in the strongest terms that this is not a civil rights issue; it is not a quota issue. At issue is whether a Federal agency may contract for services worth millions of dollars while paying little or no attention to the diversity of those who provide the services. I thought the Congress decided that question in the 1970's, during the Nixon administration.

For at least the last 15 years, we have required agencies of this Government to be held accountable for their contracting policies. No agency is exempt, not even the RTC—especially not the RTC.

As the author of the original minority outreach provisions contained in FIRREA, and one of the sponsors of the minority contracting amendment which was unanimously approved by the House Banking Committee, I must call attention to the performance of the Resolution Trust Corporation in this area.

We have found, through congressional hearings and oversight, that the RTC has had a poor record of including racial and ethnic groups in their contracting activities. The latest figures supplied by the RTC show that while nonminority men make up 38.1 percent of the total population, they have been awarded 80.2 percent of the total RTC contracts, amounting to 70.3 percent of the total fees.

By comparison, minority men and women make up 23.1 percent of the total population. Minority men have received 5.4 percent of the total RTC contracts amounting to 1.3 percent of the total fees. Minority women have received 2.1 percent of the total RTC contracts amounting to 2.7 percent of the total fees. Clearly, the RTC has a dismal record of contracting with minorities.

The conference report requires the RTC to provide a complete description of all actions taken by the RTC regarding their contracting activities with minorities and women. However, I want to indicate that Congress expects more than just a progress report. As one of the House conferees who worked closely on this issue, I would point out that additional report language has been included in this conference agreement calling on the RTC to utilize, to the maximum practicable extent, minority and women individuals and firms in all of its contracting activities.

I want to make it clear that the intent of the language is to reinforce the statutory minority outreach provisions contained in FIRREA. The language in this conference agreement puts the RTC on notice that Congress expects improvement in its contracting activities with minorities and women, and we will be carefully scrutinizing their record in this area. This issue will be revisited should the record indicate that there has not been significant improvement in assuring equal access to the economic opportunities that resulted from the savings and loan crisis.

□ 1350

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. TORRES. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, let me commend the gentleman from California [Mr. TORRES] for his good work on this particular provision. While I think it is clear the legislative language does not include the objective that he wanted, I think the gentleman from California [Mr. TORRES] has made a tremendous impact and impression on the administration and others that are concerned about the minority contracting, as well as others that obviously have worked on this.

Mr. Speaker, I rise in support of the conference report on S. 419, the funding for the Resolution Trust Corporation. I want to commend Chairman GONZALEZ for his continued efforts to achieve a base of bipartisan support for this measure. Clearly, spending another $30 billion for the S&L bailout is certainly not anyone's idea of popular legislation, but it is necessary. The chairman and his staff have put in long hours and hard work to achieve this compromise legislation.

There is no question that the RTC needs the $30 billion to continue to operate through the current fiscal year and that the administration will likely seek at least an additional $33 billion or more this October to cover future loss funds in 1992. Such funds would be used to pay off the depositors who put their trust in the Federal deposit insurance system.

S. 419 warrants congressional support not only because of the need, but because of the fact that the conference report goes beyond appropriating the $30 billion. As reported by the conference, S. 419 includes needed, if limited, reforms for the RTC.

Since the passage of FIRREA, the House Banking Committee and the RTC task force, which I had the responsibility to chair, have held extensive hearings on the operations of the RTC. These hearings have revealed serious shortcomings in the operation of the RTC. The slow disposition of assets, the lack of timely resolution of failed institutions, inadequate information systems, and problems with the Affordable Housing Program were all discussed within the committee task force. These hearings have resulted in significant proposals for change, some of which are addressed in this measure before the House as reported from the conference committee.

S. 419 sets in place new management directives for the RTC. These managerial changes are intended to expedite the resolution process and standardizing many RTC functions such as asset management and contracting. If implemented these changes could result in cost savings and will positively assist those in the private sector whose efforts to date in working with the RTC have been too often frustrated.

Another important improvement included in the conference report is the change in the Affordable Housing Program for single-family units. These changes are particularly important since it costs the RTC approximately $18 per day for each day that it holds a single-family residence. The expedited process provided in the conference report will allow the RTC to move these properties and to save money.

Among the provisions incorporated into the conference report are changes that will increase the accountability of the RTC to Congress and the American people. The RTC must provide monthly reports on the status of the renegotiations of the 1988 deals and is directed to pursue all legal means to reduce the direct outlays and tax benefits of those deals. As you are aware, the 1988 deals were overly generous to the purchasers of failed thrifts. Tougher renegotiations by the RTC could yield significant savings to the Government.

S. 419 is not nearly as comprehensive a bill as I would favor, but it is what Congress can agree to today within this timeframe. I supported other provisions that would have further expedited the disposal of properties under the Affordble Housing Program and addressed the legitimate environmental concerns that have been raised. In addition, other legitimate issues such as the elimination of the oversight board and the restructuring of the RTC deserve congressional attention.

However, I want to remind my colleagues that S. 419 is not the final word on the RTC. We must consider further funding requests to complete the tasks of the RTC and honor the commitments to the deposit insurance system. The activities of the RTC are not being conducted in a legislative vacuum. Congress, in 1989, passed comprehensive reforms in FIRREA. That 1,000-page-plus legislative measure sets a public policy path for the operations of the RTC and already addresses admittedly imperfectly many of the concerns that have been raised over the recent weeks of RTC funding debate. Thus Congress, through our oversight responsibilities, can and hopefully will continue to highlight many of the shortcomings of the administration in the implementation of the law. It is in that forum that Congress has and will continue to demand the proper enforcement of the law and the development of needed policy changes on a strong bipartisan basis.

It is in that context, that I would urge my colleagues to consider and support S. 419. This conference is not a retreat from the goals that we supported in FIRREA. It is not an open ended endorsement of the administration that seems eager to keep the S&L bailout out of public sight and debate. This bill is a necessary step—an important step—in moving ahead with the savings and loan bailout in a manner that will save the American taxpayer money and will maintain our commitment to the Federal deposit insurance system. I urge my colleagues to support this essential legislation.

Mr. TORRES. Mr. Speaker, I yield back the balance of my time.

Mr. ANNUNZIO. Mr. Speaker, I rise in strong opposition to adoption of the conference report. The American taxpayer is being asked to give the RTC another $30 billion. This $30 billion is on top of $50 billion the RTC got in FIRREA, plus another $18.8 billion that Treasury paid in FIRREA. Later this year, the RTC will ask for an additional $50 billion for next year. And next year, the RTC will be back to ask for yet more money for future years.

That is a total of at least $150 billion in current money. With interest, the bill rises to over $500 billion—a half a trillion dollars.

And where does this money come from? I voted for pay as you go, but the House said no. So, now it comes from Federal borrowing. It is a 30- and 40-year burden on our children and grandchildren. This is a horrible legacy to leave to future generations. It is time we put a halt to this insanity.

The latest $30 billion is supposed to be used to enable the Government to close more failed savings and loans. Let us think about that for a moment.

Chairman Seidman of the FDIC says the Government loses 20 percent of asset value by closing failed institutions. Chairman Seidman of the RTC says that the Government loses money by not closing failed institutions. Only in Washington could Chairman Seidman have it both ways.

The RTC has $144 billion in assets, including cash and marketable securities. If it needs cash to shut down institutions, it should sell assets.

The distinction made between loss funds and working capital is an accounting fantasy. The depositor being paid off does not know, and could not care less, whether he or she was being paid with working capital or loss funds. Yet the RTC claims that it needs $30 billion in loss funds. If it needs funds, let it do its job, which is to sell assets.

The RTC is supposed to dispose of assets, not build an empire. Unfortunately, it is busy creating the nation's largest financial firm, using the taxpayers' money. The RTC has a perverse incentive to hold assets rather than sell them. This bill will give it another $40 billion to enlarge its empire.

It is time for the RTC to stop sitting on its ASS-ets and start selling them. After the RTC has sold its assets and used the money to pay off depositors, let it come back to Congress and show that it needs more money. Then, and only then, will I consider supporting even one more cent for the RTC.

Mr. HOUGHTON. Mr. Speaker, a quick word about the bill authorizing $30 billion for the Resolution Trust Company. I am going to support this bill. The reason is simple. To do otherwise would not only cost the U.S. Government—meaning the taxpayers—an additional $8 million each and every day, but also, we would turn our backs on the innocent depositors who had nothing to do with the disastrous condition in which the savings and loan industry finds itself.

Having said that, however, I am not happy, and this is an understatement, about the bill. I am not happy because there is nothing in it about State accountability or high negligence. Some of us tried to get an amendment on the floor of the House for a vote and it was refused.

The amendment purely and simply asked that States which caused the vast majority of the S&L catastrophe, because of their nonregulation of State chartered thrifts, pay a Federal deposit insurance premium if those State thrifts are to receive continued Federal deposit insurance. Not too much to ask, really, since one State has created about 70 percent of the problem, and New York, which has created none—repeat none—of the problem will pay 9 percent of the damages. This amount would go a long way to helping solve our own State operating deficit. But that is not to be. The Rules Committee will not allow it. I resent this, frankly, and feel personally the inequity it presents to us as a nation, not just New York State.

Suffice it to say, I will be watching this process as it unfolds. Still more money will be needed, and as one lone voice I will once again try to insert a sense of State responsibility for this financial chaos.

Mr. GONZALEZ. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WYLIE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 225, nays 188, not voting 18, as follows:

[Roll No. 56]

YEAS—225

Alexander
Anderson
Andrews (TX)
Anthony
Archer
Armey
Aspin
Atkins
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bereuter
Berman
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Brooks
Broomfield
Brown
Bunning
Burton
Campbell (CA)
Cardin
Carper
Chandler
Clinger
Coleman (TX)
Combest
Cooper
Coughlin
Cox (IL)
Coyne
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeLay
Derrick
Dicks
Dingell
Doolittle
Dornan (CA)
Dreier
Durbin
Dwyer
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Fascell
Fawell
Fazio
Fields
Fish
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Gunderson
Hamilton
Hammerschmidt
Hancock
Hansen
Hastert
Hatcher
Hoagland
Hobson
Holloway
Horn
Horton
Houghton
Hoyer
Huckaby
Hunter
Hyde
Ireland
Jenkins
Johnson (CT)
Johnston
Jones (NC)
Kasich
Klug
Kolbe
Kopetski
Kostmayer
Kyl
Lagomarsino
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lightfoot
Livingston
Lowery (CA)
Markey
Martin
Martinez
Mavroules
McCandless
McCollum
McCrery
McDade
McDermott
McEwen
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Michel
Miller (WA)
Mineta
Moakley
Molinari
Montgomery
Moorhead
Moran
Morella
Morrison
Murtha
Myers
Natcher
Nichols
Oakar
Oberstar
Olin
Ortiz
Orton
Owens (UT)
Oxley
Panetta
Parker
Paxon
Payne (VA)
Pease
Pelosi
Pickett
Pickle
Porter
Price
Ray
Regula
Rhodes
Ridge
Riggs
Ritter
Roberts
Ros-Lehtinen
Rostenkowski
Roukema
Rowland
Roybal
Sabo
Santorum
Sarpalius
Sawyer
Saxton
Schiff
Schumer
Shaw
Shays
Sisisky
Skaggs
Skeen
Skelton
Slaughter (VA)
Smith (IA)
Smith (NJ)
Smith (TX)
Snowe
Solarz
Spratt
Stenholm
Sundquist
Swett
Swift
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Traxler
Unsoeld
Vander Jagt
Vento
Volkmer
Vucanovich
Walker
Walsh
Waxman
Weber
Wilson
Wolf
Wylie
Zeliff
Zimmer

NAYS—188

Abercrombie
Allard
Andrews (ME)
Andrews (NJ)
Annunzio
Applegate
AuCoin
Bacchus
Bennett
Bevill
Bilbray
Boxer
Brewster
Browder
Bruce
Bryant
Byron
Callahan
Camp
Campbell (CO)
Carr
Chapman
Clay
Clement
Coble
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Cox (CA)
Cramer
Crane
DeFazio
DeLauro
Dellums
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Duncan
Dymally
Early
Eckart
Engel
English
Erdreich
Espy
Evans
Feighan
Foglietta
Ford (MI)
Ford (TN)
Gaydos
Gejdenson
Glickman
Gray
Guarini
Hall (OH)
Hall (TX)
Harris
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hochbrueckner
Hopkins
Hubbard
Hughes
Hutto
Inhofe
James
Johnson (SD)
Jones (GA)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
LaFalce
Lancaster
Lewis (GA)
Lipinski
Long
Lowey (NY)
Luken
Machtley
Marlenee
Matsui
Mazzoli
McCloskey
McCurdy
McGrath
McNulty
Mfume
Miller (CA)
Mink
Mollohan
Moody
Mrazek
Murphy
Nagle
Neal (MA)
Neal (NC)
Nowak
Nussle
Obey
Owens (NY)
Packard
Pallone
Patterson
Payne (NJ)
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Poshard
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Reed
Richardson
Rinaldo
Roemer
Rogers
Rohrabacher
Rose
Roth
Russo
Sanders
Sangmeister
Savage
Schaefer
Scheuer
Schroeder
Schulze
Sensenbrenner
Serrano
Sharp
Shuster
Sikorski
Slattery
Slaughter (NY)
Smith (OR)
Solomon
Spence
Staggers
Stark
Stearns
Stokes
Studds
Stump
Synar
Tallon
Tauzin
Taylor (MS)
Thornton
Torricelli
Towns
Traficant
Upton
Valentine
Visclosky
Washington
Waters
Weiss
Weldon
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—18

Ackerman
Bentley
Bustamante
Coleman (MO)
Dickinson
Flake
Jacobs
Jefferson
Levine (CA)
Lewis (FL)
Lloyd
Manton
Miller (OH)
Roe
Smith (FL)
Stallings
Tanner
Udall

□ 1424

The Clerk announced the following pair:

On this vote:

Mr. Stallings for, with Mrs. Lloyd against.

Messrs. HERTEL, NAGLE, DIXON, and SLATTERY changed their vote from "yea" to "nay."

Mr. KASICH and Mr. KLUG changed their vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

EXPLANATION OF MISSED VOTE

Mr. GEKAS. Mr. Speaker, I was not present for rollcall vote No. 56 due to an unavoidable delay. Had I been present I would have voted "yea" for the Desert Storm supplemental appropriations, H.R. 1282.

PERSONAL EXPLANATION

Mr. SMITH of Florida. Mr. Speaker, on roll call No. 56, the RTC vote, I entered my card in the machine, pressed the button, and it failed to record. I was on the floor.

I ask that subsequent to the final vote I may enter a statement that if recorded, I would have been voting yes.

PERSONAL EXPLANATION

Mr. ROE. Mr. Speaker, during roll call vote No. 56, I was unavoidably detained and so missed that vote. I would like the RECORD to reflect the fact that had I voted I would have voted "nay."

APPOINTMENT OF CONFEREES ON H.R. 1282, OPERATION DESERT SHIELD/DESERT STORM SUPPLEMENTAL APPROPRIATIONS ACT, 1991

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1282) making supplemental appropriations and transfers for Operation Desert Shield/Desert Storm for the fiscal year ending September 30, 1991, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi? The Chair hears none, and appoints the following conferees, and reserves the right to appoint additional conferees:

For consideration of the House bill and all Senate amendments: Messrs. WHITTEN, MURTHA, DICKS, WILSON, HEFNER, AUCOIN, SABO, DIXON, DWYER of New Jersey; MCDADE, YOUNG of Florida, MILLER of Ohio, LIVINGSTON, and LEWIS of California.

And as additional conferees solely for the consideration of Senate amendments No. 32 and No. 34: Messrs. OBEY, YATES, and EDWARDS of Oklahoma.

There was no objection.

MOTION TO CLOSE CONFERENCE COMMITTEE MEETINGS TO THE PUBLIC WHEN CLASSIFIED NATIONAL SECURITY INFORMATION IS UNDER CONSIDERATION

Mr. WHITTEN. Mr. Speaker, I offer a privileged motion.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Mr. WHITTEN moves, pursuant to rule XXVIII, clause 6(A) of the House rules, that the conference committee meetings between the House and Senate on H.R. 1282, making supplemental appropriations and transfers for "Operation Desert Shield/Desert Storm" for the fiscal year ending September 30, 1991, and for other purposes, be closed to the public at such times as classified national security information is under consideration; Provided, however, That any sitting Member of Congress shall have a right to attend any closed or open meeting.

The SPEAKER. The question is on the motion offered by the gentleman from Mississippi [Mr. WHITTEN].

Under the rule, the vote must be taken by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 402, nays 0, not voting 29, as follows:

[Roll No. 57]

YEAS—402

Alexander
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Ireland
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Rowland
Roybal
Russo
Sabo
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stark
Stearns
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—29

Abercrombie
Ackerman
Bustamante
Chapman
de la Garza
Dymally
Flake
Hayes (LA)
Hunter
Jacobs
Jones (GA)
LaFalce
Levine (CA)
Lewis (FL)
Lloyd
Manton
McCloskey
McGrath
Miller (CA)
Miller (OH)
Murphy
Pease
Roukema
Sanders
Stallings
Stenholm
Tanner
Udall
Washington

□ 1458

So the motion was agreed to.

The result of the vote was announced as above recorded.

APPOINTMENT OF CONFEREES ON H.R. 991, DEFENSE PRODUCTION ACT EXTENSION AND AMENDMENTS OF 1991

Mr. CARPER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 911) to extend the expiration date of the Defense Production Act of 1950, with Senate amendments thereto, disagree to the Senate amendments and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Delaware? The Chair hears none and appoints the following conferees and, without objection, reserves the right to appoint additional conferees:

From the Committee on Banking, Finance and Urban Affairs, for consideration of the House bill, and title I of the Senate amendment, and modifications committed to conference: Mr. GONZALEZ, Mr. LAFALCE, Ms. OAKAR, and Messrs. VENTO, CARPER, WYLIE, RIDGE, and PAXON.

From the Committee on Banking, Finance and Urban Affairs, for consideration of title II of the Senate amendment, and modifications committed to conference: Messrs. GONZALEZ, ANNUNZIO, NEAL of North Carolina, Ms. OAKAR, Messrs. SCHUMER, CARPER, WYLIE, LEACH, and MCCOLLUM, and Mrs. ROUKEMA.

From the Committee on Energy and Commerce, for consideration of section 8 of the House bill, and sections 203–206 of the Senate amendment, and modifications committed to conference: Mr. DINGELL, Mr. MARKEY, Mrs. COLLINS of Illinois, Mr. LENT and Mr. RINALDO.

From the Committee on the Judiciary, for consideration of section 5 of the House bill, and section 104 of the Senate amendment, and modifications committed to conference: Messrs. BROOKS, EDWARDS of California, and FISH.

From the Committee on Ways and Means, for consideration of sections 202–204 of the Senate amendment, and modifications committed to conference: Messrs. ROSTENKOWSKI, GIBBONS, JENKINS, ARCHER, and CRANE.

There was no objection.

□ 1500

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I was going to propound a parliamentary inquiry to try to find some system to find out where we were.

The SPEAKER. It is the intention of the Chair to, without prejudice to further legislative business, to recognize 1-minute requests and special orders.

Mr. WALKER. If I could inquire of the Chair, is it anticipated we will do further legislative business yet today?

The SPEAKER. It is.

Mr. WALKER. Do we have any idea what time we might be doing that legislative business?

The SPEAKER. As soon as possible, probably within an hour to an hour and a half.

Mr. WALKER. Following the 1-minutes we could be expected to take up special orders until a period of time?

The SPEAKER. The gentleman is correct, without prejudice to further legislative business.

Mr. WALKER. We would then proceed with what further legislation later on today? Can the Chair inform Members?

The SPEAKER. Going to conference on the second supplemental appropriation is a possible matter; the authorization for the Supplemental Desert Storm is another possibility.

Mr. WALKER. On the appropriation bill, that would be the Desert Storm appropriation bill, not the dire emergency? The one we have gone to conference on?

The SPEAKER. The dire supplemental. We have ordered conference on the Desert Storm supplemental appropriation.

Mr. WALKER. I misunderstood. So in other words, it would be a motion to go to conference; we are not expected to bring back any appropriation bill?

The SPEAKER. Not in today's legislative business.

Mr. WALKER. But Members could expect additional votes in the course of the day?

The SPEAKER. The gentleman is correct.

In going to 1-minute requests or special orders, Members should be advised it is specifically without prejudice to further legislative action which is anticipated with votes later this afternoon.

Mr. WALKER. If I may further inquire of the Chair, we are almost assured, then, of a session tomorrow, is that correct?

The SPEAKER. The gentleman is assured of a session tomorrow.

Mr. WALKER. That would be with votes tomorrow?

The SPEAKER. Yes, the gentleman is correct.

POWER DOES INDEED CORRUPT

(Mr. MARLENEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MARLENEE. Mr. Speaker all the dictators of this world are not in Baghdad. Power does indeed corrupt.

At this very moment a hearing is beginning in the Crime and Criminal Justice Subcommittee.

Because this is the chairman's pet topic of "gun control," he has refused to allow opposition witnesses to testify except for the National Rifle Association, and then alone, and after the cameras have gone home.

No other firearms organizations are allowed to testify.

None of the victims of gun control laws are allowed to testify.

Not even Members of Congress are allowed to testify.

The first amendment, as well as the second amendment are being ground into the marbled floors of the Rayburn Building.

Mr. Speaker, I am particularly incensed because Ms. Jacquie Miller is not allowed to testify. She was shot four times by Joseph Wesbecker in the Louisville printing plant massacre 18 months ago. Despite another bone graft surgery last month, she traveled by car all day yesterday to come here hoping to be heard in opposition to the so-called Brady bill.

The nation must be alerted. The ability to protect themselves, their family, their property will be stripped away, piece by piece. Even the opportunity to have their elected representatives present their views are being stripped away.

I will never acquiesce to subjecting myself to a well-armed criminal element while being disarmed myself by the liberals of Congress.

TESTIMONY OF JACQUIE MILLER, MARCH 21, 1991, PREPARED FOR THE HOUSE JUDICIARY COMMITTEE, SUBCOMMITTEE ON CRIME AND CRIMINAL JUSTICE

My name is Jacquie Miller and I live in Louisville, KY. I worked full time at the Standard Gravure printing company until September 14, 1989 when Joseph Wesbecker, doped up on Prozac, entered the building with an AK-47. He shot me four times, killed eight and wounded twelve before killing himself. Had he used any number of standard hunting rifles or a shotgun that day, all 20 would have died.

I am in a wheelchair the same as James Brady, yet Rep. Schumer does not want his committee to hear from me. Do my wounds have less validity because I did not work for the President of the U.S.? When is one person more important than another?

When I saw Joseph Wesbecker out in the hall before he shot me, I knew by the look in his eyes he wanted me dead. He was totally dehumanized by Prozac. He was so far gone that his first choice of destruction was to blow the place up with a model airplane with an explosive attached to it. He changed his mind and used an AK-47 purchased six months before the shooting. A waiting period would not have stopped him.

His psychiatrist could have stopped him but decided not to take him off Prozac until his next session. Even as a diagnosed manic depressive he would have passed any background check. Why isn't this committee investigating the criminal consequences of taking Prozac and other drugs, such as the one Hinckley was on, that have been associated with people who kill? The psychotropic drug situation has become so serious that there is now a Prozac defense being used in courts against murder charges.

The most important thing about the day I was shot was that I was the only one there who had the power to stop Wesbecker. I had a .38 in my purse which I was going for when he shot me. The gun was illegal because Louisville does not allow permits for carrying concealed weapons.

But as things went I was not able to get to my gun quick enough because I stopped to help someone already shot. That took up too much time. I only had ¼ inch left for the gun barrel to be clear of my purse. Another five seconds and history would have been different and I would have been considered a hero instead of a lawbreaker. I am having to wait to buy a gun and all the while being treated like I'm guilty until proven innocent. In the meantime, criminals will continue to get their guns on the street and through illegal channels and we will be totally at their mercy.

The police cannot be everywhere all the time. The Louisville police were heroes and wonderful that day, but they got there after the fact. All they could do is be a cleanup crew.

As for the waiting period, what is that going to do to the criminal? As it is, I cannot picture them going to their neighborhood police station and saying, "Here, officer, here are my guns that are illegal now." Would a waiting period be fair to the Gainsville students who wanted to protect themselves against the serial murderer there? Or would a waiting period have stopped the man who killed 87 people by burning them to death in a nightclub with $1 worth of gasoline.

Since I have been shot I have had seven operations and am facing more before I can ever walk normally again. The pain has been intense, both physically and mentally, and I would not wish this on anyone. I do not think that my tragedy should be imposed on everyone else in the country as the Bradys do. No one is going to take my gun away from me. I need it now more than ever since I have become confined to this wheelchair.

Please vote against the waiting period now before the committee.

GENERAL LEAVE

Mr. SANTORUM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on the subject of the special order today by the gentleman from New York [Mr. LENT].

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

INTRODUCING LEGISLATION PREVENTING REIMBURSEMENT OF DEPOSITS OVER $100,000

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, a 1990 savings and loan report found that 20 cents out of every bailout dollar is going toward reimbursing deposits that are over the Federally insured amount of $100,000. In fact, in seven of the surveyed thrifts, the average jumbo account which received full reimbursement contained more than $1 million. The Committee on Banking, Finance and Urban Affairs has reached similar conclusions.

These numbers refute the belief that the taxpayers are reimbursing only small savers. It is not just the average investor who is being rescued. It also includes the large depositors whose brokers pumped dollars into defunct thrifts that have previously financed their risky investments.

Today I have introduced legislation which will prevent thrift regulators, RTC, from reimbursing larger depositors above the $100,000 figure, per account, except in those situations where to do so is the lowest cost method of meeting the government's obligations in liquidating or selling the thrifts. This would ensure that RTC does what people understand, and that is that the accounts up to $100,000 are insured, this is the reason we appropriate the funds to continue the procedures of RTC. It is the obligation of the Federal Government to make good on its promise to depositors of $100,000 or less.

I welcome your support for this legislation. I think it is important we not expect taxpayers to pay for those who are willing to take the risks on large accounts, and therefore should examine the management of the institutions, to be sure that they are competent.

As long as RTC reimburses accounts of depositors regardless of size there is no incentive for the depositor to demand accountability from the management of thrift institutions.

INTRODUCTION OF RESOLUTION CALLING FOR SOLUTION TO OUR NATIONAL HEALTH CARE CRISIS

The SPEAKER pro tempore (Mr. CARR). Under a previous order of the House, the gentleman from Kansas [Mr. GLICKMAN] is recognized for 5 minutes.

Mr. GLICKMAN. Mr. Speaker, today, I am introducing a resolution to give America our commitment to establish a system providing universal access to health care. I don't need to stand here and recount all of the statistics to support the contention that this country is in a health care crisis. We all know them, and any of us who listen to our constituents know that the problems we face in health care today affect all Americans. I, for one, can no longer respond to my constituents by simply saying we are aware of the problem and we are working on it. Our constituents need a better answer and all Americans deserve our commitment to finding one.

Health care in the United States should be a basic human right, equivalent to food and shelter. Yet untold numbers of Americans go without adequate health care. My questions are these: how in a nation which spends an estimated $650 billion annually for health care, representing 11.5 percent of the annual gross national product and twice the per capita average of other developed countries, are people allowed to go untreated for their most basic health care needs? I also wonder how a nation spending this kind of money on health care can still be ranked 17th among industrialized nations in infant mortality, 15th in male life expectancy, and 8th in female life expectancy?

The health care problem we face in this country is like a cancer, first affecting the poor, and now devouring the middle class working family. We have known the cancer was there, and we have known, like any cancer, it would continue to grow if left untreated. However, given budgetary restraints, we put off treatment. The key to stopping the growth and possible catastrophic consequences is to treat the problem in the early stages.

I believe there is still time to turn this crisis around, and not just achieve remission, but cure the illness itself. We have seen legislation proposed that would completely change the way Americans access health delivery in this Nation and maybe, eventually, that will be the ultimate solution. But in the meantime, let's not resign ourselves to accepting another country's model as a solution. Nor should we accept the notion that the only way to solve the problem is with a new budget-busting program.

Currently, we are faced with problems of inadequate cost containment measures, cost shifting and coverage that is not universal. We must develop a new system which emphasizes preventive care, and ensures all Americans have access to adequate, affordable, primary health care.

Let us not wait any longer to tackle this problem. Further delay will certainly escalate into a crisis that will cost billions of dollars to repair and will jeopardize the health of countless Americans. I ask my colleagues to join me in making a commitment to the American people that we will solve this difficult problem. I urge support for this resolution.

FURTHER REFLECTIONS ON THE PERSIAN GULF

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN of California. Mr. Speaker, I had the privilege of sharing a special order with six of my colleagues who had gone to the Persian Gulf, the Arab Gulf nations call it the Arabian Gulf, over the weekend. As I mentioned that I was part of the Freedom Flight, the first group of people, including many distinguished businessmen and politicians, to go back to Kuwait, to undergo the sad mission of seeing the utter devastation of that once very wealthy, privileged, and beautiful desert nation, or emirate. I said that it was a particular honor to have with us on that journey the editor in chief of U.S. News & World Report, Mr. Mortimer Zuckerman. I had never had a chance to meet him before. He is as delightful a person as he appears when he guests on television or radio shows.

I said I was going to put in the RECORD his editorial in the March 11 issue of U.S. News entitled "The Triumph of Desert Storm." I just want to read a few high points of that editorial.

> Saddam Hussein not only seemed to lack a firm grip on reality, he had an even looser grip on his fantasies. Every judgment he made maximized his losses. The poor, abused Iraqi people, of course, had been fed only a barrage of lies, and when 500,000 vanquished Iraqi troops get home, they will tell of things that prevent the dictator from turning his humiliation into a political victory.

In the 2 weeks, of course, since Mr. Zuckerman wrote those words, that has happened. It appears a fifth of the country in the north is now in the hands of Kurdish rebels and five or six cities in the south are contested by Shiite Muslims.

Mr. Zuckerman continues:

> Americans and the world are in debt to George Bush. He drew the line of his convictions in the sand and kept it. When the going was rough, when the Democrats in Congress rejected any policy that involved the projection of force against Hussein, when the Soviets played mischief maker, George Bush kept his eye on the main objective.

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> Desert Storm was not only an incredible military victory but a triumph of brilliant diplomacy.
>
> Many TV and media grandees must be hoping the American public—steadfast and never in doubt about Saddam Hussein—will soon forget their hand wringing, skepticism, moral torpor and downright misjudgment. Remember how the dust would clog all our high-tech equipment? Remember how we would be getting into another Vietnam, with thousands of dead and America at war with itself? The reality was a military of men and women who showed both physical courage and moral sense in their conduct of the war, making good on Bush's pledge that this would not be another Vietnam. Unlike much of the media, they learned one important lesson from Vietnam: Do not enter a war lightly, but if you do, use massive, overwhelming military power right from the start.

At this point, I would add to Mr. Zuckerman's words this observation: Mr. Robert Strange McNamara was the architect of exactly the opposite policy in Vietnam. In that war he refused to use our overwhelming power, not at the start, not in the middle, not at any point in that conflict. With his almost criminal acts he squandered the lives of thousands of better men. He developed a sickening vocabulary that included strategic hamlets, gradualism, escalated response, free fire zones, body bags, and the one that has the ugliest ring of all, Mig sanctuaries, all of the insanity that tore our country apart.

McNamara resigned from the battlefield in the bloodiest month of the conflict on leap year day, February 29, 1968, his hands dripping with blood. Hundreds of POW's up in the North in Hanoi were being tortured; 12 of them we know were tortured to death. A hundred more who bailed out but were captured never made it into the Hanoi Hilton prison system. What was McNamara's reward from President Johnson for this utter and complete failure? Why, he got to go to the World Bank, where he remained longer than any other president of that Bank, at about $250,000 a year tax free in 1968 dollars. Incredible. And then Mr. McNamara cuts a deal with the liberals in the American media to the effect that on whatever show he appears, whether denigrating our strategic defense or talking about world hunger, he will never ever be called to task on his architecture of the Vietnam war.

President Johnson never had such a deal, nor did President Nixon. Only McNamara, who was able to cut such a deal with the media.

Why was this man, who would have had to resign in disgrace in Great Britain or any other decent country, ever allowed to cut a deal whereby he would never have to defend his disgraceful conduct during the Vietnam war?

Mr. Zuckerman continues:

> The military performance was dazzling. More than 100,000 air sorties were flown so precisely that civilian casualties—even by Iraq's count—were remarkably low. Imagine bombs that were 9,000 times as accurate as those in World War II! Contrary to the skeptics, air power proved decisive. High-tech weapons and precision bombing have changed the face of warfare.
>
> The American public quickly grasped the nature of Saddam Hussein. Here was a classic megalomaniac, driven to conquer and enslave, who would and could never repent or change. His villainy gave Americans a moral clarity about the war, often lacking in media coverage that stressed Hussein's power and political cunning. And Hussein himself never did get it. He ignored every opportunity to gain political capital and completely misjudged the lethality of coalition firepower. The "great soldier" was no more than a terrorist, reduced to taking civilian hostages, brutalizing POWs, sending Scud missiles against innocent civilians, triggering oil spills, wantonly looting and murdering Kuwaitis.
>
> This war was notable as much for what didn't happen as for what did. The Arab streets did not revolt; Hussein did not become the hero for most. Except for Jordan, there was overwhelming opposition to him in most parts of the region, especially in Egypt and Saudi Arabia. The stereotype of the Arab world, monolithic and menacing to the West, has been destroyed.
>
> What now? The demonstration of power will teach regional radicals to avoid confrontation with the United States, as Libya and Iran already do. We must not shy away from supporting those in the Arab world who are moderate, rational and want peace and prosperity without pursuing aggressive dreams of pan-Arab superpower.
>
> Our goals in the region should be modest. Progress in the Arab world must first be self-generated. The hope must be that the shock of this conflict will awaken Arab leaders and divert them from outmoded pan-Arab nationalism. Their governments are inept and undemocratic, their armies ill-trained, their societies riddled by class privilege and corruption, their economies inefficient and backward, their legitimacy underpinned by outmoded codes of honor that often prove destructive and even suicidal in Arab life. Neither Israel nor so-called colonialist conspiracies are responsible for their lot. The problem is systemic: Until they shed their neurotic and outmoded resentment of the rest of the world, they will fail.
>
> As for America, Desert Storm has been a healing and unifying experience. After World War II, we could do anything. After Vietnam, we could do nothing. Today, the renewed patriotism and pride in the moral basis of our authority augur well for our capacity to deal with problems abroad, and hopefully at home.

THE PLIGHT OF THE DAIRY FARMERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. BOEHLERT] is recognized for 5 minutes.

Mr. BOEHLERT. Mr. Speaker, in a March 21, 1991, editorial, "The Senate: Wrong on Milk," the Washington Post labeled Senator PATRICK LEAHY's amendment to the dire emergency supplemental appropriations bill as a "joke" and "a vehicle for increasing farm price supports."

It is important to note that H.R. 1494, the Walsh-Boehlert-Slaughter of New York bill, has near identical provisions. This initiative of the Northeast Agriculture Caucus, like the Leahy amendment, is designed to respond to a dire emergency on dairy farms across America. It is appropriate that it be included where Senator LEAHY has placed it.

The Post editorial has unfairly characterized the main thrust of the legislation. The article also did not recognize important features of the plan and factors in the market that require a response.

The prices dairy farmers now receive are at the lowest level since 1979.

According to Stuart Smith of the Cornell University Economics Department, in my own State of New York, the decline in milk prices could cost New York dairy farmers as much as $250 million this year, and drive up to 1,000 farms, or 10 percent of the total in our State, out of business. If nothing is done, more farms will go out of business all across America, less milk would be produced; the Washington Post's "production" goals will be achieved and many former dairy farmers and their families lives will be ruined.

This legislation is temporary, and it is important to note that. It deals with an emergency situation unprecedented in our history. For the first 2 months of 1991, the price of milk for farmers, not the consumer, for farmers, has gone down 25 percent. First quarter results, which are historically the best time for dairy farmers in the Northeast are 26 percent below last year. Currently, the price of milk is $2 less per hundredweight for dairy farmers than it was at this time last year.

This situation will be addressed in a long-term comprehensive policy approved by Congress last year; however, it has yet to be implemented by the Department of Agriculture. Understandably, they require more time down there, a new Secretary who I am confident will look at it very fairly and very objectively; but time is one thing that is not on the side of the dairy farmers. They need temporary help now.

The article in the Post says the Senate plan would "raise the price to the farmer of the milk you buy in the supermarket by roughly 25 percent." Not only is this misleading, it is wrong. The legislation raises the price to the dairy farmer of the product sold to the processors temporarily. Claiming that this bill will raise the price of milk for consumers is simply not supported by the facts. If that were so, then today's price for milk at the supermarket should be at least 25 percent less than last year's price for milk, and we all know it is not. Why should that happen with this; and it will not.

Over the last few months dairy farmers have come under tremendous financial strain. How can we expect business people in America, small business people, to get a lower price for their product than it costs them to produce that product? That simply does not make sense.

A strong dairy community means healthy competition and a competitive milk price for consumers. We will not have that if dairy farmers are allowed, through our neglect, to become an endangered species.

Dairy farmers are bleeding, and they are bleeding profusely. They require assistance, and they require it now. We have developed an innovative temporary program to do just that, and I urge my colleagues to support it.

POLAND'S PRESIDENT LECH WALESA VISITS THE UNITED STATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. KLECZKA] is recognized for 5 minutes.

Mr. KLECZKA. Mr. Speaker, this week, Lech Walesa, one of the world's great leaders and the leading proponent of democracy in Poland, arrived in the United States. As a Polish-American representing a district proud of its strong Polish heritage and interested in Polish events. I am pleased to welcome President Walesa to the United States.

The United States controls approximately 8 percent of Poland's $33 billion debt to foreign nations. Recently, we agreed with the other major creditors of Poland's debt in the Paris group to forgive almost one-half of the $33 billion. President Walesa has come to the United States to thank us for the prominent role we played in that debt reduction. He will also ask us to continue helping Poland in the future.

The United States has the unique opportunity to play a leading role in future developments in Poland. By forgiving a portion of Poland's debt, we encourage foreign investors to become involved in the Polish economy. We must also now help Poland continue its recovery by assisting in agricultural and infrastructure development, in setting environmental standards, and in improving Poland's health care system.

Since his inauguration as President of Poland on December 22, 1990, Mr. Walesa has pursued sweeping reforms to accelerate economic and political change. He and his administration have made great progress. Inflation rates have dropped, the exchange rate has remained stable, banking reforms have eased the transition to a capitalist market, and foreign investors have begun to help the overall economy.

The future of democracy in Poland is promising and will make it a model for the successful democratization of other Eastern European countries. Mr. Speaker, it is due, in no small part, to the leadership of Mr. Walesa that Poland has been successful thus far. I commend him and his administration for their accomplishments and I welcome him to our country.

BIELARUSIAN INDEPENDENCE DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, on March 25, 1918, the people of Bielarus declared their independence and moved to restore their cultural identity.

Regrettably, as we approach the 73d anniversary of the Bielarusian Independence Day, their dream of independence from the Soviet Union remains unfulfilled.

Like many other captive peoples chafing under the yoke of Soviet domination, tens of thousands of Bielarusians still long for basic human rights and respect for their cultural tradition, which the Soviets have systematically undermined.

The Soviets have tried to russify Bielarus in order to make it appear that the country is nothing more than a province of a single, homogenous nation.

Nothing could be further from the truth. The people of Bielarus have a distinctive Slavic language and a rich tradition of art and folklore.

It saddens me to say, Mr. Speaker, that because of ongoing Soviet oppression, the people of Bielarus must stage independence day celebrations outside their own country.

One such commemoration of Bielarusian culture is scheduled to take place on April 21 in Chicago. Sponsored by the Bielarusian Coordinating Committee of Chicago, IL, the group's official celebration of Bielarusian Independence Day is expected to attract up to 150 people. The celebrants will gather at the Bielarusian Religious and Cultural Center at 3107 West Fullerton Avenue for a program of live music and other activities.

The committee also is sponsoring an exhibit at the Richard J. Daley Center in Chicago from March 18–29 to commemorate the spirit of Bielarusian independence. The exhibit will focus on the cultural heritage of Bielarus. It also will honor the 100th anniversary of the birth of Maksim Bahdanovic, one of the founders of modern Bielarusian poetry.

At this time, I would like to extend my commendation's to Vera Romuk, the Secretary of the Bielarusian Coordinating Committee of Chicago, and to the other committee officers, who have dedicated countless hours to the cause of freedom and independence for Bielarus. The other committee officers include President Michael Machnach, Vice President Anthony Bielenis, Treasurer Leo Sidorewicz and Witold Romuk, who serves as an adviser to the committee.

Dr. Romuk's wife, Vera Romuk, recently conveyed to me her shock and sadness at the fact that a large number of Bielarusians apparently have endorsed the recent referendum on the continuation of the Soviet Union.

I share Mrs. Romuk's concerns that the Bielarusians who voted in favor of continuing the union acted out of fear and a longing for democratic reform. Anyone who reads the question put to the Bielarusians in the referendum can see that it was skewed to produce results favorable to the Soviet regime. The question reads as follows:

> Do you think it is necessary to preserve the Union of Soviet Socialist Republics as a renewed federation of equal, sovereign republics in which the rights and freedoms of individuals of all nationalities will be fully guaranteed?

That question clearly was designed to play on the desires of tens of thousands of Bielarusians who long for a peaceful transition to autonomy and democracy.

Mr. Speaker, I would like to include at this point in the CONGRESSIONAL RECORD a statement from the Bielarusian Coordinating Committee of Chicago, IL, commemorating Bielarusian Independence Day and related activities planned by the committee. The statement follows:

BIELARUSIAN COORDINATING COMMITTEE,
Chicago, IL, March, 1991.

The Bielarusian Coordinating Committee of Chicago, Illinois is an organization which unites Americans with roots in Bielarus (Byelorussia). The Committee was formed in January of 1973 and is the spokesman for the Bielarusian Americans in Chicago and in defense of freedom in Soviet Bielarus.

THE COMMITTEE STATEMENT

Whereas, this year marks the 73rd Anniversary of the Declaration of Independence of Bielarus, and

Whereas, the Bielarusian Coordinating Committee of Chicago, Illinois is sponsoring an exhibit in the Richard J. Daley Center in Chicago from March 18 through 29, 1991, honoring the creators of the Bielarusian spirit of independence; the centenary of the birth of Maksim Bahdanovic, one of the founders of modern Bielarusian poetry; and the Bielarusian cultural heritage, and

Whereas, the Bielarusian Coordinating Committee of Chicago, Illinois is sponsoring a banquet and program at 1:00 p.m. on April 21, 1991 at the Bielarusian Religious and Cultural Center at 3107 West Fullerton Avenue in Chicago to commemorate the Bielarusian Independence, and

Whereas, the Bielarusian American Community in Chicago takes an interest and active part in the life of its own people and other ethnic communities as well, and

Whereas, the Bielarusian American Community in Chicago prefers to be known under the authentic name of Bielarus (pronounced Byeh-lah-roos) for the country and Bielarusian (pronounced Byeh-lah-rooh-see-yan) for the people instead of the Russian name Byelorussia (Belorusseeya in Russian): Now, therefore, be it.

Resolved, That our requests, wishes, and objectives be respected, given proper attention and recognition, and fully realized by those to whom we address ourselves.

Respectfully submitted,

VERA ROMUK,
Secretary.

I also would like to inform my colleagues that I recently received word from Mrs. Romuk regarding an upcoming trip to Washington by a group of Bielarusian parliamentarians. The parliamentarians will include Zenon Pazniak, who leads a group of 100 opposition deputies in the 345-member Supreme Soviet of Bielarus. Mr. Pazniak, who also chairs the Bielarus National Front, is a historian and a member of the Bielarusian Academy of Sciences.

Other parliamentarians accompanying Mr. Pazniak will be Leanid Barsceuski and Uladzimir Zablocki. The parliamentarians are scheduled to meet with members of the Senate Foreign Relations Committee on April 8–9. Dr. Jan Zaprudnik of New York City will act as interpreter.

Now, as the 73d anniversary of Bielarusian Independence Day approaches, I would like to join with people of Bielarusian descent in Chicago and around the world who are seeking autonomy and freedom for their homeland. I will not rest until the day comes when they regain their right to self-determination.

TECHNICAL CORRECTIONS ACT OF 1991

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, I am pleased to introduce today H.R. 1555, the Technical Corrections Act of 1991. The primary purpose of this legislation is to make technical corrections to the provisions of the Omnibus Budget Reconciliation Act of 1990 within the jurisdiction of the Committee on Ways and Means. It includes technical corrections to the 1990 Act which relate to tax, social security, health, human resources and trade. An identical bill is being introduced in the Senate today by the Honorable LLOYD M. BENTSEN, chairman of the Senate Finance Committee.

This legislation is the product of the majority staff of the Ways and Means Committee and the Senate Finance Committee working with the staff of the Joint Committee on Taxation, the two minority staffs, the appropriate Administration departments and agencies, and the Offices of the Legislative Counsel to review and make recommendations for technical corrections and clarifications. In addition, with respect to the relevant Medicare provisions, our staff worked with the staff of the House Committee on Energy and Commerce. Also, with respect to the estate freeze provisions of the 1990 Act, a number of technical issues have been submitted by the tax bar. This bill does not address all of those issues because administrative guidance is expected to be issued by the Treasury Department in the near future. Thus, additional technical corrections may be necessary following the issuance of such guidance.

Mr. Speaker, I want to assure my fellow Members and taxpayers that this bill is not intended or designed to make substantive changes to the 1990 Act or other recent legislation. Like past technical corrections bills, this legislation is anticipated to be revenue neutral. Given the responsibilities of the Committee on Ways and Means with respect to the Federal budget deficit, I do not anticipate making any changes to H.R. 1555 which would cause an overall loss of revenue as measured against last year's legislation.

In order to assist taxpayers and other interested parties in their analysis of this bill, Chairman BENTSEN and I have instructed the staff of the Joint Committee on Taxation and the staff of the Committee on Ways and Means to issue a pamphlet describing the provisions of the bill. I have presented this explanation following this statement.

Mr. Speaker, I wish to thank Chairman BENTSEN for his continued support in developing this legislation. I would also like to thank all the staffs involved for their careful analysis and work on this legislation. I want to assure taxpayers that I intend to have the Committee on Ways and Means process this essential legislation as expeditiously as possible. This is important legislation to which I am fully committed, and which I expect to be enacted later this year.

DESCRIPTION OF THE TECHNICAL CORRECTIONS ACT OF 1991

TITLE I. TAX TECHNICAL CORRECTIONS

I. Technical Corrections to the Revenue Reconciliation Act of 1990

A. Individual Income Tax Provisions

1. Minimum tax rate on certain nonresident aliens (sec. 102(a)(2) of the bill, sec. 11102 of the 1990 Act, and sec. 897 of the Code)

Present law

The Revenue Reconciliation Act of 1990 (the "1990 Act") increased the alternative minimum tax rate on individuals from 21 percent to 24 percent.

Explanation of provision

The bill conforms the rate of the minimum tax on the U.S. real property gains of nonresident aliens to the 24 percent minimum tax rate enacted in the 1990 Act.

2. Tax rate of personal holding companies (sec. 102(a)(4) of the bill, sec. 11101 of the 1990 Act, and sec. 541 of the Code)

Present law

A corporation that is treated as a personal holding company is subject, in addition to the regular corporate tax, to a 28-percent tax on its undistributed personal holding company income for the taxable year. The present-law rate of 28 percent was set by the Tax Reform Act of 1986.[1] This rate reflected the maximum rate of tax on individuals in that Act.

The 1990 Act increased the maximum rate of tax on individuals from 28 percent to 31 percent effective for taxable years beginning after December 31, 1990.

Explanation of provision

The bill provides that the increase in the individual maximum tax rate to 31 percent also applies to the personal holding company tax rate, effective for taxable years beginning after December 31, 1990.

3. Definition of AGI for the earned income credit and the supplemental earned income tax credit for health insurance premiums (sec. 102(a)(5) of the bill, sec. 11111 of the 1990 Act, and sec. 32 of the Code)

Present law

Under present law, a supplemental earned income tax credit (EITC) is available to certain taxpayers for qualified health insurance expenses. Qualified health insurance expenses for which the credit is available are amounts paid during the taxable year for health insurance coverage that includes one or more qualifying children. These expenses include only those expenses relating to the cost of coverage (i.e., premium cost) paid with after-tax dollars. The maximum credit is $428 in 1991. The credit is phased out as adjusted gross income (AGI) (or earned income, if greater) exceeds $11,250 in 1991. Earned income amounts taken into account in computing the maximum credit and the beginning point of the phase-out range are indexed for inflation.

The calculation of this supplemental child health insurance credit is generally the same as the calculation of the basic EITC. Thus, the same eligibility criteria and income phase-in and phase-out requirements apply. There is no family size adjustment with respect to the health insurance credit.

Present law provides that the amount of expenses taken into account in determining the deduction for health insurance costs of self-employment individuals (sec. 162(l)) is reduced by the amount (if any) of the supplemental child health insurance credit allowable to the taxpayer (sec. 162(l)(3)(B)). This so-called "double-dip" provision creates a calculation problem because the amount of the EITC, the supplemental young child credit, and the child health insurance credit cannot be determined until AGI is determined; however, AGI is determined with reference to the deduction for health insurance costs of self-employed individuals. Thus, the operation of the double-dip provision creates a circularity that increases the complexity of the child health credit.

Explanation of provision

Under the bill, for purposes of the EITC, the supplemental young child credit, and the supplemental child health insurance credit, AGI is calculated assuming that the taxpayer is entitled to the full deduction for health insurance costs under section 162(l). Then, after the maximum child health credit is determined, the double-dip rule (sec. 162(l)(3)(B)) operates as it does under present law.

B. Excise Tax Provisions

1. Application of the 2.5-cents-per-gallon tax on fuel used in rail transportation to States and local governments (sec. 102(b)(3) of the bill, sec. 11211(b)(4) of the 1990 Act, and sec. 4093 of the Code)

Present law

The 1990 Act increased the highway and motorboat fuels taxes by 5 cents per gallon, effective on December 1, 1990. The 1990 Act continued the exemption from these taxes for fuels used by States and local governments.

The 1990 Act also imposed a 2.5-cents-per-gallon tax on fuel used in rain transportation, also effective on December 1, 1990. Because of a drafting error in the 1990 Act, the 2.5-cents-per-gallon tax on fuel used in rail transportation incorrectly applies to States and local governments.

Explanation of provision

The bill clarifies that the 2.5-cents-per-gallon tax on fuel used in rail transportation will not apply to such uses by States and local governments.

2. Deposit of certain aviation tax revenues in Airport and Airway Trust Fund (sec. 102(b)(5) of the bill, sec. 11213 of the 1990 Act, and sec. 9502(e)(1) of the Code)

Present law

The 1990 Act increased the aviation excise tax rates (except for the international air departure tax rate) by 25 percent, and extended those taxes for five years, effective December 1, 1990, through December 31, 1995. From December 1, 1990 through 1992, the statement of managers on the 1990 Act indicated that the revenues attributable to the increased portion of the aviation taxes were to be retained in the General Fund; these revenues will be deposited in the Airport and Airway Trust Fund for 1993 through 1995. The statute as enacted in the 1990 Act omitted this agreement with respect to the taxes other than those imposed on aviation fuels (i.e., the revenues attributable to the increase in the air passenger ticket tax and the air cargo tax).

Explanation of provision

The bill clarifies that revenues from all aviation excise taxes attributable to the increased rates imposed by the 1990 Act on taxable events during periods before January 1, 1993, will be retained in the General Fund. The amendment does not affect revenues attributable to the tax rates imposed before enactment of the 1990 Act and extended by that Act.

C. Other Revenue—Increase Provisions of the 1990 Act

1. Deposits of Railroad Retirement Tax Act taxes (sec. 102(c)(3) of the bill, sec. 11334 of the 1990 Act, and sec. 6302(g) of the Code)

Present law

Employers must deposit income tax withheld from employees' wages and FICA taxes that are equal to or greater than $100,000 by the close of the next banking day. Under the Railroad Retirement Solvency Act of 1983, the deposit rules for withheld income taxes and FICA taxes automatically apply to Railroad Retirement Tax Act taxes (sec. 226 of P.L. 98-76).

Explanation of provision

The bill conforms the Internal Revenue Code to the Railroad Retirement Solvency Act of 1983 by stating in the Code that these deposit rules for withheld income taxes and FICA taxes apply to Railroad Retirement Tax Act taxes.

2. Treatment of salvage and subrogation of property and casualty insurance companies (sec. 102(c)(4) of the bill and sec. 11305 of the 1990 Act)

Present law

For taxable years beginning after December 31, 1989, property and casualty insurance companies are required to reduce the deduction allowed for losses incurred (both paid and unpaid) by estimated recoveries of salvage and subrogation attributable to such losses. In the case of any property and casualty insurance company that took into account estimated salvage and subrogation recoverable in determining losses incurred for its last taxable year beginning before January 1, 1990, 87 percent of the discounted amount of the estimated salvage and subrogation recoverable as of the close of the last taxable year beginning before January 1, 1990, is allowed as a deduction ratably over the first 4 taxable years beginning after December 31, 1989. This special deduction was enacted in order to provide such property and casualty insurance companies with substantially the same Federal income tax treatment as that provided to those property and casualty insurance companies that prior to the Revenue Reconciliation Act of 1990 did not take into account estimated salvage and subrogation recoverable in determining losses incurred.

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[1] See P.L. 99-514, sec. 104(b)(8).

Explanation of provision

The bill provides that the earnings and profits of any property and casualty insurance company that took into account estimated salvage and subrogation recoverable in determining losses incurred for its last taxable year beginning before January 1, 1990, is to be determined without regard to the special deduction that is allowed over the first 4 taxable years beginning after December 31, 1989. The special deduction is to be taken into account, however, in determining earnings and profits for purposes of applying section 56, 902, 952(c)(1) and 960 of the Internal Revenue Code of 1986. This provision is considered necessary in order to provide those property and casualty insurance companies that took into account estimated salvage and subrogation recoverable in determining losses incurred with substantially the same Federal income tax treatment as that provided to those property and casualty insurance companies that prior to the 1990 Act did not take into account estimated salvage and subrogation recoverable in determining losses incurred.

3. Information with respect to certain foreign-owned or foreign corporations: Suspension of the statute of limitations during certain judicial proceedings (sec. 102(c)(5) of the bill, secs. 11314 and 11315 of the 1990 Act, and secs. 6038A and 6038C of the Code)

Present law

Any domestic corporation that is 25-percent owned by one foreign person is subject to certain information reporting and recordkeeping requirements with respect to transactions carried out directly or indirectly with certain foreign persons treated as related to the domestic corporation ("reportable transactions") (sec. 6038A(a)). In addition, the Code provides procedures whereby an IRS examination request or summons with respect to reportable transactions can be served on foreign related persons through the domestic corporation (sec. 6038A(e)). Similar provisions apply to any foreign corporation engaged in a trade or business within the United States, with respect to information, records, examination requests, and summonses pertaining to the computation of its liability for tax in the United States (sec. 6038C). Certain noncompliance rules may be applied by the Internal Revenue Service in the case of the failure by a domestic corporation to comply with a summons pertaining to a reportable transaction (a "6038A summons") (sec. 6038A(e)), or the failure by a foreign corporation engaged in a U.S. trade or business to comply with a summons issued for purposes of determining the foreign corporation's liability for tax in the United States (a "6038C summons") (sec. 6038C(d)).

Any corporation that is subject to the provisions of section 6038A or 6038C has the right to petition a Federal district court to quash a 6038A or 6038C summons, or to review a determination by the IRS that the corporation did not substantially comply in a timely manner with the 6038A or 6038C summons (sec. 6138A(e)(4) (A) and (B); sec. 6038C(d)(4)). During the period that either such judicial proceeding is pending (including appeals), and for up to 90 days thereafter, the statute of limitations is suspended with respect to any transaction (or item, in the case of a foreign corporation) to which the summons relates (secs. 6038A(e)(4)(D), 6038C(d)(4)).

The legislative history of the 1989 Act amendments to section 6038A states that the suspension of the statute of limitations applies to "the taxable year(s) at issue."[2] The legislative history of the 1990 Act, which added section 6038C to the Code, uses the same language.[3]

Explanation of provision

The bill modifies the provisions in sections 6038A and 6038C that suspend the statute of limitations to clarify that the suspension applies to any taxable year the determination of the amount of tax imposed for which is affected by the transaction or item to which the summons relates.

4. Rate of interest for large corporate underpayments (secs. 102(c) (6) and (7) of the bill, sec. 11341 of the 1990 Act, and sec. 6621(c) of the Code)

Present law

The rate of interest otherwise applicable to underpayments of tax is increased by two percent in the case of large corporate underpayments (generally defined to exceed $100,000), applicable to periods after the 30th day following the earlier of a notice of proposed deficiency, the furnishing of a statutory notice of deficiency, or an assessment notice issued in connection with a nondeficiency procedure.

Explanation of provision

The bill provides that an IRS notice that is later withdrawn because it was issued in error does not trigger the higher rate of interest. The bill also corrects an incorrect reference to "this subtitle".

D. Expiring Tax Provisions

1. Exclusion for employer-provided educational assistance (sec. 102(d)(1) of the bill, sec. 11403 of the 1990 Act, and secs. 127 and 132 of the Code)

Present law

Employer-provided educational assistance is excludable from gross income if the value of the assistance does not exceed $5,250 and certain other requirements are satisfied (sec. 127). Prior to the 1990 Act, the exclusion did not apply to graduate level courses. The 1990 Act eliminated this restriction. The Omnibus Budget Reconciliation Act of 1989 provided that educational assistance that is not excludable under section 127 due to the dollar limitation on the exclusion and the restriction on graduate level courses is excludable from gross income if and only if it qualifies as a working condition fringe benefit (sec. 132(h)).

Explanation of provision

The bill amends the fringe benefit rules to reflect the fact that the graduate level course restriction has been repealed.

2. Research credit provision: Effective date for repeal of special proration rule (sec. 102(d)(2) of the bill and sec. 11402 of the 1990 Act)

Present law

The Omnibus Budget Reconciliation Act of 1989 effectively extended the research credit for nine months by prorating certain qualified research expenses incurred before January 1, 1991. The special rule to prorate qualified research expenses applied in the case of any taxable year which began before October 1, 1990, and ended after September 30, 1990. Under this special proration rule, the amount of qualified research expenses incurred by a taxpayer prior to January 1, 1991, was multiplied by the ratio that the number of days in that taxable year before October 1, 1990, bears to the total number of days in such taxable year before January 1, 1991. The amendments made by the 1989 Act to the research credit (including the new method for calculating a taxpayer's base amount) generally were effective for taxable years beginning after December 31, 1989. However, this effective date did not apply to the special proration rule (which applied to any taxable year which began prior to October 1, 1990—including some years which began before December 31, 1989—if such taxable year ended after September 30, 1990).

Section 11402 of the Omnibus Budget Reconciliation Act of 1990 extended the research credit through December 31, 1991, and repealed the special proration rule provided for by the 1989 Act. Section 11402 of the 1990 Act was effective for taxable years beginning after December 31, 1989. Thus, in the case of taxable years beginning before December 31, 1989, and ending after September 30, 1990 (e.g., a taxable year of November 1, 1989 through October 31, 1990), the special proration rule provided by the 1989 Act would continue to apply.

Explanation of provision

The bill repeals for all taxable years ending after December 31, 1989, the special proration rule provided for by the 1989 Act.

E. Energy Tax Provisions: Alternative Minimum Tax Adjustment Based on Energy Preferences (secs. 102(e)(2) and (6) of the bill, sec. 11531(a) of the 1990 Act, and sec. 56(h) of the Code)

Present law

In computing alternative minimum taxable income (and the adjusted current earnings (ACE) adjustment of the alternative minimum tax), certain adjustments are made to the taxpayer's regular tax treatment for intangible drilling costs (IDCs) and depletion. A special energy deduction is also allowed. The special energy deduction is initially determined by determining the taxpayer's (1) intangible drilling cost preference and (2) the marginal production depletion preference. The intangible drilling cost preference is the amount by which the taxpayer's alternative minimum taxable income would be reduced if it were computed without regard to the adjustments for IDCs. The marginal production depletion preference is the amount by which the taxpayer's alternative minimum taxable income would be reduced if it were computed without regard to depletion adjustments attributable to marginal production. The intangible drilling cost preference is then apportioned between (1) the portion of the preference related to qualified exploratory costs and (2) the remaining portion of the preference. The portion of the preference related to qualified exploratory costs is multiplied by 75 percent and the remaining portion is multiplied by 15 percent. The marginal production depletion preference is multiplied by 50 percent. The three products described above are added together to arrive at the taxpayer's special energy deduction (subject to certain limitations).

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[2] H.R. Rep. No. 247, 101st Cong., 1st Sess. 1301 (1989); "Explanation of Provisions Approved by the Committee on October 3, 1989," Senate Finance Committee Print (WMCP: 101-37), 101st Cong., 1st Sess. 118 (October 12, 1989).

[3] "Legislative History of Ways and Means Democratic Alternative," House Ways and Means Committee Print (WCMP: 101-37), 101st Cong., 2nd Sess. 58 (October 15, 1990); Report language submitted by the Senate Finance Committee to the Senate Budget Committee on S. 3299, 136 *Cong. Rec.* S 15629, S 15700 (1990).

The special energy deduction is not allowed to the extent that it exceeds 40 percent of alternative minimum taxable income determined without regard to either this special energy deduction or the alternative tax net operating loss deduction. Any special energy deduction amount limited by the 40-percent threshold may not be carried to another taxable year. In addition, the combination of the special energy deduction, the alternative minimum tax net operating loss and the alternative minimum tax foreign tax credit cannot generally offset, in the aggregate, more than 90 percent of a taxpayer's alternative minimum tax determined without such attributes.

Explanation of provisions

Interaction of special energy deduction with net operating loss and investment tax credit:

The bill clarifies that the amount of alternative tax net operating loss that is utilized in any taxable year is to be appropriately adjusted to take into account the amount of special energy deduction claimed for that year. This operates to preserve a portion of the alternative tax net operating loss carryover by reducing the amount of new operating loss utilized to the extent of the special energy deduction claimed, which if unused, could not be carried forward.

In addition, the bill contains a similar provision which clarifies that the limitation on the utilization of the investment tax credit for purposes of the alternative minimum tax is to be determined without regard to the special energy deduction.

Interaction of special energy deduction with adjustment based on adjusted current earnings:

The bill provides that the ACE adjustment is to be computed without regard to the special energy deduction. Thus, the bill specifies that the ACE adjustment is equal to 75 percent of the excess of a corporation's adjusted current earnings over its alternative minimum taxable income computed without regard to either the ACE adjustment, the alternative tax net operating loss deduction, or the special energy deduction.

F. Estate Freezes (sec. 102(f) of the bill, sec. 11602 of the 1990 Act, and secs. 2701-04 of the Code)

Present law

Generally: The value of property transferred by gift or includible in the decedent's gross estate is its fair market value. Fair market value is generally the price at which the property would change hands between a willing buyer and willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts (Treas. Reg. sec. 10.2031). Chapter 14 contains rules that supersede the willing buyer, willing seller standard (Code secs. 2701-04).

Preferred interests in corporations and partnerships.—Valuation of retained interests:

Scope: Section 2701 provides special rules for valuing certain rights retained in conjunction with the transfer to a family member of an interest in a corporation or partnership. These rules apply to any applicable retained interest held by the transferor or an applicable family member immediately after the transfer of an interest in such entity. An "applicable family member" is, with respect to any transferor, the transferor's spouse, ancestors of the transferor and the spouse, and spouses of such ancestors.

An applicable retained interest is an interest with respect to which there is one of two types of rights ("affected rights"). The first type of affected right is a liquidation, put, call, or conversion right, generally defined as any liquidation, put, call, or conversion right, or similar right, the exercise or nonexercise of which affects the value of the transferred interest. The second type of affected right is a distribution right[4] in an entity in which the transferor and applicable family members hold control immediately before the transfer. In determining control, an individual is treated as holding any interest held by the individual's brothers, sisters and lineal descendents. A distribution right does not include any right with respect to a junior equity interest.

Valuation: Section 2701 contains two rules for valuing applicable retained interests. Under the first rule, an affected right other than a right to qualified payments is valued at zero. Under the second rule any retained interest that confers (1) a liquidation, put, call or conversion right and (2) a distribution right that consists of the right to receive a qualified payment is valued on the assumption that each right is exercised in a manner resulting in the lowest value for all such rights (the "lowest value rule"). There is no statutory rule governing the treatment of an applicable retained interest that confers a right to receive a qualified payment, but with respect to which there is no liquidation, put, call or conversion right.

A qualified payment is a dividend payable on a periodic basis and at a fixed rate under cumulative preferred stock (or a comparable payment under a partnership agreement). A transferor or applicable family member may elect not to treat such a dividend (or comparable payment) as a qualified payment. A transferor or applicable family member also may elect to treat any other distribution right as a qualified payment to be paid in the amounts and at the times specified in the election.

Inclusion in transfer tax base: Failure to make a qualified payment valued under the lowest value rule within four years of its due date generally results in an inclusion in the transfer tax base equal to the difference between the compounded value of the scheduled payments over the compounded value of the payments actually made. The Treasury Department has regulatory authority to make subsequent transfer tax adjustments in the transfer of an applicable retained interest to reflect the increase in a prior taxable gift by reason of section 2701.

Generally, this inclusion occurs if the holder transfers by sale or gift the applicable retained interest during life or at death. In addition, the taxpayer may, by election, treat the payment of the qualified payment as giving rise to an inclusion with respect to prior periods.

The inclusion continues to apply if the applicable retained interest is transferred to an applicable family member. There is no inclusion on a transfer of an applicable retained interest to a spouse for consideration or in a transaction qualifying for the marital deduction but subsequent transfers by the spouse are subject to the inclusion. Other transfers to applicable family members result in an immediate inclusion as well as subjecting the transferee to subsequent inclusions.

Minimum value of residual interest:

Section 2701 also establishes a minimum value for a junior equity interest in a corporation or partnership. For partnerships, a junior equity interest is an interest under which the rights to income and capital are junior to the rights of all other classes of equity interests.

Trusts and term interests in property:

The value of a transfer in trust is the value of the entire property less the value of rights in the property retained by the grantor. Section 2702 provides that in determining the extent to which a transfer of an interest in trust to a member of the transferor's family is a gift, the value of an interest retained by the transferor or an applicable family member is zero unless such interest takes certain prescribed forms.

For a transfer with respect to a specified portion of property, section 2702 applies only to such portion. The section does not apply to the extent that the transfer is incomplete.

Options and buy-sell agreements:

A restriction upon the sale or transfer of property may reduce its fair market value. Treasury regulations provide that a restriction is to be disregarded unless the agreement represents a bona fide business arrangement and not a device to pass the decedent's shares to the natural objects of his bounty for less than full and adequate consideration (Treas. Reg. sec. 20.2031-2(h)).

Section 2703 provides that for transfer tax purposes the value of property is determined without regard to any option, agreement or other right to acquire or use the property at less than fair market value or any restriction on the right to sell or use such property. Certain options are excepted from this rule. To fall within the exception, the option, agreement, right or restriction must (1) be a bona fide business arrangement, (2) not be a device to transfer such property to members of the decedent's family for less than full and adequate consideration in money or money's worth, and (3) have terms comparable to similar arrangements entered into by persons in an arm's length transaction.

Explanation of provisions

Preferred interests in corporations and partnerships—Valuation:

The bill provides that an applicable retained interest conferring a distribution right to qualified payments with respect to which there is no liquidation, put, call, or conversion right is valued without regard to section 2701. The bill also provides that the retention of such right gives rise to potential inclusion in the transfer tax base. In making these changes, it is understood that Treasury regulations could provide, in appropriate circumstances, that a right to receive amounts on liquidation of the corporation or partnership constitutes a liquidation right within the meaning of section 2701 if the transferor, alone or with others, holds the right to cause liquidation.

The bill modifies the definition of junior equity interest by granting regulatory authority to treat a partnership interest with rights that are junior with respect to either income or capital as a junior equity interest. The bill also modifies the definition of distribution right by replacing the junior equity interest exception with an exception for a right under an interest that is junior to the rights of the transferred interest. As a result, section 2701 does not affect the valuation of a transferred interest that is senior to the retained interest, even if the retained interest is not a junior equity interest.

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[4] A distribution right generally is a right to a distribution from a corporation with respect to its stock, or from a partnership with respect to a partner's interest in the partnership.

The bill modifies the rules for electing into or out of qualified payment treatment. A dividend payable on a periodic basis and a fixed rate under a cumulative preferred stock held by the transferor is treated as a qualified payment unless the transferor elects otherwise. If held by an applicable family member, such stock is not treated as a qualified payment unless the holder so elects.[5] In addition, a transferor or applicable family member holding any other distribution right may treat such right as a qualified payment to be paid in the amounts and at the times specified in the election.

Inclusion in transfer tax base:

The bill grants the Treasury Department regulatory authority to make subsequent transfer tax adjustments to reflect the inclusion of unpaid amounts with respect to a qualified payment. This authority, for example, would permit the Treasury Department to eliminate the double taxation that might occur if, with respect to a transfer, both the inclusion and the value of qualified payment arrearages were included in the transfer tax base. It would also permit elimination of the double taxation that might result from a transfer to a spouse, who, under the statute, is both an applicable family member and a member of the transferor's family.

The bill treats a transfer to a spouse falling under the annual exclusion the same as a transfer qualifying for the marital deduction. Thus, no inclusion would occur upon the transer of an applicable retained interest to a spouse, but subsequent transfers by the spouse would be subject to inclusion. The bill also clarifies that the inclusion continues to apply if an applicable family member transfers a right to qualified payments to the transferor.

The provision clarifies the consequences of electing to treat a distribution as giving rise to an inclusion. Under the bill, the election gives rise to an inclusion only with respect to the payment for which the election is made. The inclusion with respect to other payments is unaffected.

Trust and term interests in property:

The bill conforms section 2702 to existing regulatory terminology by substituting the term "incomplete gift" for "incomplete transfer." In addition, the bill limits the exception for incomplete gifts to instances in which the entire gift is incomplete. The Treasury Department is granted regulatory authority, however, to create additional exceptions not inconsistent with the purposes of the section. This authority, for example, could be used to except a charitable trust that meets the requirements of section 664 and that does not otherwise create an opportunity for transferring property to a family member free of transfer tax.

Options and buy-sell agreements:

The bill modifies the exception to the rule disregarding an option for transfer tax valuation. The requirement that the option, agreement, right or restriction not be a device to transfer the property to members of the decedent's family is revised to require that the option not be a device to transfer the property to persons who are natural objects of the bounty of the transferor. This revision conforms section 2703 to the Treasury regulations and recognizes that the section applies with respect to all transfer taxes.

G. Miscellaneous Provisions

1. Conforming amendments to the repeal of the General Utilities doctrine (sec. 102(g)(1) and (2) of the bill, sec. 11702(e)(2) of the 1990 Act, and secs. 897(f) and 1248 of the Code)

Present law

As a result of changes made by recent tax legislation, gain is generally recognized on the distribution of appreciated property by a corporation to its shareholders. The Technical Corrections subtitle of the 1990 Act and technical correction provisions in prior acts made various conforming amendments arising out of these changes. For example, the 1990 Act made a conforming change to section 355(c) to state the treatment of distributions in section 355 transactions in the affirmative rather than by reference to the provisions of section 311. In addition, the Technical and Miscellaneous Revenue Act of 1988 (the "1988 Act") made a conforming change to section 1248(f) to update the references to the nonrecognition provisions contained in that subsection. One of the changes was to change the reference to "section 311(a)" from "section 311".

Explanation of provisions

The bill makes three conforming changes to the Code.

First, section 897(f), relating to the basis in a United States real property interest distributed to a foreign person, is repealed as deadwood. The basis of the distributed property is its fair market value in accordance with section 301(d).

Second, section 1248(f) is amended to add a reference to section 355(c)(1), which provides generally for the nonrecognition of gain or loss on the distribution of stock or securities in certain subsidiary corporations. This retains the substance of the law as it existed before the conforming change to section 355(c) made by the 1990 Act.

Third, section 1248 is amended to clarify that, notwithstanding the conforming changes made by the 1988 Act, with respect to any transaction in which a U.S. person is treated as realizing gain from the sale or exchange of stock of a controlled foreign corporation, the U.S. person shall be treated as having sold or exchanged the stock for purposes of applying section 1248. Thus if a U.S. person distributes appreciated stock of a controlled foreign corporation to its shareholders in a transaction in which gain is recognized under section 311(b), section 1248 shall be applied as if the stock had been sold or exchanged at its fair market value. Under section 1248(a), part or all of the gain may be treated as a dividend. Under the bill, the rule treating the distributing for purposes of section 1248 as a sale or exchange also applies where the U.S. person is deemed to distribute the stock under the provisions of section 1248(i). Under section 1248(i), gain will be recognized only to the extent of the amount treated as a dividend under section 1248.

These amendments are not intended to affect the authority of the Secretary to issues regulations under section 1248(f) providing exceptions to the rule recognizing gain in certain distributions (cf. Notice 87-64, 1987-2 C.B. 375).

2. Prohibited transaction rules (sec. 102(g)(3) of the bill, sec. 11701(m) of the 1990 Act, and sec. 4975 of the Code)

Present law

The Code and title I of the Employee Retirement Income Security Act of 1974 (ERISA) prohibit certain transactions between an employee benefit plan and certain persons related to such plan. An exemption to the prohibited transaction rules of title I of ERISA is provided in the case of sales of employer securities the plan is required to dispose of under the Pension Protection Act of 1987 (ERISA sec. 408(b)(12)). The 1990 Act amended the Code to provide that certain transactions that are exempt from the prohibited transaction rules of ERISA are automatically exempt from the prohibited transaction rules of the Code. The 1990 Act change was intended to be limited to transaction exempt under section 408(b)(12) of ERISA.

Explanation of provision

The bill conforms the statutory language to legislative intent by providing that transactions that are exempt from the prohibited transaction rules of ERISA by reason of ERISA section 408(b)(12) are also exempt from the prohibited transaction rules of the Code.

3. Effective date of LIFO adjustment for purposes of computing adjusted current earnings (sec. 102(g)(4) of the bill, sec. 11701 of the 1990 Act, sec. 7611(b) of the 1989 Act, and sec. 56(g) of the Code)

Present law

For purposes of computing the adjusted current earnings (ACE) component of the corporate alternative minimum tax, taxpayers are required to make the LIFO inventory adjustments provided in section 312(n)(4) of the Code. Section 312(n)(4) generally is applicable for purposes of computing earnings and profits in taxable years beginning after September 30, 1984. The ACE adjustment generally is applicable to taxable years beginning after December 31, 1989.

Explanation of provision

The bill clarifies that the LIFO inventory adjustment required for ACE purposes shall be computed by applying the rules of section 312(n)(4) only with respect to taxable years beginning after December 31, 1989. The effective date applicable to the determination of earnings and profits (September 30, 1984) is inapplicable for purposes of the ACE LIFO inventory adjustment. Thus, the ACE LIFO adjustment shall be computed with reference to increases (and decreases, to the extent provided in regulations) in the ACE LIFO reserve in taxable years beginning after December 31, 1989.

4. Low-income housing credit (sec. 102(g)(5) of the bill, sec. 11701(a)(11) of the 1990 Act, and sec. 42 of the Code)

Present law

The amendments to the low-income housing tax credit contained in the Omnibus Budget Reconciliation Act of 1989 generally were effective for a building placed in service after December 31, 1989, to the extent the building was financed by tax-exempt bonds ("a bond-financed building"). This rule applied regardless of when the bonds were issued.

A technical correction enacted in the Omnibus Budget Reconciliation Act of 1990 limited this effective date to buildings financed with bonds issued after December 31, 1989. Thus, the technical correction applied pre-1989 Act law to a bond-financed building placed in service after December 31, 1989, if the bonds were issued before January 1, 1990.

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[5] With respect to gifts made in 1990, the bill provides that this election may be made by the due date (including extensions) of the transferor's 1991 gift tax return.

Explanation of provision

The bill repeals the 1990 technical correction. The bill provides, however, that pre-1989 Act law will apply to a bond-financed building if the owner of the building establishes to the satisfaction of the Secretary of the Treasury reasonable reliance upon the 1990 technical correction.

H. Expired or Obsolete Provisions ("Deadwood Provisions") (sec. 102(h) of the bill and secs. 11801–11816 of the 1990 Act)

Present law

The 1990 Act repealed and amended numerous sections of the Code by deleting obsolete provisions ("deadwood"). These amendments were not intended to make substantive changes to the tax law.

Explanation of provisions

The bill makes several amendments to restore the substance of prior law which was inadvertently changed by the deadwood provisions of the 1990 Act. These amendments include (1) a provision restoring the prior-law depreciation treatment of certain energy property (sec. 168(e)(3)(B)(vi)); (2) a provision restoring the prior-law definition of property eligible for expensing (sec. 179(d)); (3) a provision restoring the prior-law rule providing that if any member of an affiliated group of corporations elects the credit under section 901 for foreign taxes paid or accrued, then all members of the group paying or accruing such taxes must elect the credit in order for any dividend paid by a member of the group to qualify for the 100-percent dividends received deduction (sec. 243(b)); and (4) the provisions relating to the collection of State individual income taxes (secs. 6361–6365).

The bill also makes several nonsubstantive clerical amendments to conform the Code to the amendments made by the deadwood provisions. None of these amendments is intended to change the substance of pre-1990 law.

II. Other tax technical corrections

A. Hedge Bonds (sec. 103(b) of the bill, sec. 11701 of the 1990 Act, and sec. 149(g) of the Code)

Present law

The 1989 Act provided generally that interest on hedge bonds is not tax-exempt unless prescribed minimum percentages of the proceeds are reasonably expected to be spent at set intervals during the five-year period after issuance of the bonds (sec. 149(g)). A hedge bond is defined generally as a bond (1) at least 85 percent of the proceeds of which are not reasonably expected to be spent within three years following issuance and (2) more than 50 percent of the proceeds of which are invested at substantially guaranteed yields for four years or more.

This restriction does not apply to hedge bonds, however, if at least 95 percent of the proceeds are invested in other tax-exempt bonds (not subject to the alternative minimum tax). The 95-percent investment requirement is not violated if investment earnings exceeding five percent of the proceeds are temporarily invested for up to 30 days pending reinvestment in taxable (including alternative minimum taxable) investments.

Explanation of provision

The bill clarifies that the 30-day exception for temporary investments of investment earnings applies to amounts (*i.e.*, principal and earnings thereon) temporarily invested during the 30-day period immediately preceding redemption of the bonds as well as such periods preceding reinvestment of the proceeds.

B. Withholding on Distributions from U.S. Real Property Holding Companies (sec. 103(c) of the bill, sec. 129 of the Deficit Reduction Act of 1984, and sec. 1445 of the Code)

Present law

Under the Foreign Investment in Real Property Tax Act of 1980 (FIRPTA), a foreign investor that disposes of a U.S. real property interest generally is required to pay tax on any gain on the disposition. For this purpose a U.S. real property interest generally includes stock in a domestic corporation that is a U.S. real property holding corporation ("USRPHC"), or was a USRPHC at any time during the previous five years.

A sale of exchange of stock a USRPHC is an example of a disposition of a U.S. real property interest. In addition, provisions of subchapter C of the Code treat amounts received in certain corporate distributions as amounts received in sales or exchanges, giving rise to tax liability under the FIRPTA rules when a foreign person receives such a distribution from a present or former USRPHC. Thus, amounts received by a foreign shareholder in USRPHC in a distribution in complete liquidation of the USRPHC are treated as in full payment in exchange for the USRPHC stock, and are therefore subject to tax under FIRPTA (sec. 331; Treas. Reg. sec. 1.897–5T(a)(2)(iii)). Similarly, amounts received by a foreign shareholder in a USRPHC upon redemption of the USRPHC stock are treated as a distribution in part or full payment in exchange for the stock, and are therefore subject to tax under FIRPTA (sec. 302(a); Treas. Reg. sec. 1.897–5T(a)(2)(ii)). Third, amounts received by a foreign shareholder in a USRPHC, in a section 301 distribution from the USRPHC that exceeds the available earnings and profits of the USRPHC, are treated as gain from the sale or exchange of the shareholder's USRPHC stock to the extent that they exceed the shareholder's adjusted basis in the stock; such amounts are therefore also subject to tax under FIRPTA (sec. 301(c)(3); Treas. Reg. sec. 1.897–5T(a)(2)(i)).

FIRPTA withholding.—The Tax Reform Act of 1984 established a withholding system to enforce the FIRPTA tax. Unless an exception applies, a transferee of a U.S. real property interest from a foreign person generally is required to withhold the lesser of ten percent of the amount realized (purchase price), or the maximum tax liability on disposition (as determined by the IRS) (sec. 1445).

Although the FIRPTA withholding requirement by its terms generally applies to all dispositions of U.S. real property interests, and subchapter C treats amounts received in certain distributions as amounts received in sales of exchanges, the FIRPTA withholding provisions also provide express rules for withholding on certain distributions treated as sales or exchanges. Generally, distributions in a transaction to which section 302 (redemptions) or part II of subchapter C (liquidations) applies are subject to 10 percent withholding.[6] Although a section 301 distribution in excess of earnings and profits is also treated as a disposition for purposes of computing the FIRPTA liability of a foreign recipient of the distribution, there is no corresponding withholding provision expressly addressed to the payor of such a distribution.

Explanation of provision

The bill clarifies that FIRPTA withholding requirements apply to any section 301 distribution to a foreign person by a domestic corporation that is or was USRPHC, which distribution is not made out of the corporation's earnings and profits and is therefore treated as an amount received in a sale or exchange of a U.S. real property interest. (The bill does not alter the withholding treatment of section 301 distributions by such a corporation that *are* out of earnings and profits.) Under the bill, the FIRPTA withholding requirements that apply to a section 301 distribution not out of earnings and profits are similar to the requirements applicable to redemption or liquidation distributions to a foreign person by such a corporation. The provision is effective for distributions made after the date of enactment of the bill. No inference is intended as to the FIRPTA withholding requirements applicable to such a distribution under present law.

C. Treatment of Credits Attributable to Working Interests in Oil and Gas Properties (sec. 103(d) of the bill, sec. 501 of the Tax Reform Act of 1986, and sec. 469 of the Code)

Present law

Under present law, a working interest in an oil and gas property which does not limit the liability of the taxpayer is not a "passive activity" for proposes of the passive loss rules (sec. 469). However, if any loss from an activity is treated as not being a passive loss by reason of being from a working interest, any net income from the activity in subsequent years is not treated as income from a passive activity, notwithstanding that the activity may otherwise have become passive with respect to the taxpayer.

Explanation of provision

The bill provides that any credit attributable to a working interest in an oil and gas property, in a taxable year in which the activity is no longer treated as not being a passive activity, will not be treated as attributable to a passive activity to the extent of any tax allocable to the net income from the activity for the taxable year. Any credits from the activity in excess of this amount of tax will continue to be treated as arising from a passive activity and will be treated under the rules generally applicable to the passive activity credit. The provision will apply to taxable years beginning after December 31, 1986.

D. Exclusion From Income For Combat Zone Compensation (sec. 103(e)(4) of the bill and sec. 112 of the Code)

Present law

The Code provides that gross income does not include compensation received by a taxpayer for active service in the Armed Forces of the United States for any month during any part of which the taxpayer served in a combat zone (or was hospitalized as a result of such service) (limited to $500 per month for officers). The heading refers to "combat pay," although that term is no longer used to refer to special pay provisions for members of the Armed Forces, nor is the exclusion limited to those special pay provisions (hazardous duty pay (37 U.S.C. sec. 301) and hostile fire or imminent danger pay (37 U.S.C. sec. 310)).

Explanation of provision

The bill modifies the heading of Code section 112 to refer to "combat zone compensation" instead of "combat pay". The bill also makes conforming changes to cross-references elsewhere in the Code.

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[6] Under other rules, divided distributions (i.e., distributions to which sec. 301(c)(1) applies) to foreign persons by U.S. corporations, including USRPHCs, are subject to 30-percent withholding under the Code. Under treaties, the withholding on a dividend may be reduced to as little as 5 or 15 percent.

TITLE II. MEDICARE MISCELLANEOUS AND TECHNICAL AMENDMENTS

Subtitle A. Part A

1. Payments for PPS-exempt Hospital Service (sec. 201 of the bill, sec. 4005 of the 1990 Act)

Present law

Certain hospitals and units of hospital are exempt from Medicare's prospective payment system (PPS), including psychiatric hospitals, rehabilitation hospitals, children's hospitals, long-term hospitals, cancer hospitals, and units of general-purpose hospitals providing similar services to the exempted hospitals. These hospitals and units are reimbursed on the basis of reasonable costs, subject to limits known as target amounts.

OBRA '90 included a provision which increases payments to PPS-exempt hospitals whose costs are in excess of the target amounts. Hospitals will receive fifty percent of the amount by which costs exceed the target amount up to 110 percent of the target amount. The provision was not intended to apply to units of general purpose hospitals which are exempt from PPS.

Explanation of provision

The OBRA '90 provision would be corrected to clarify that only exempt hospitals, and not exempt hospital units, will qualify for additional payments above the target amounts.

2. Clarification of DRG Payment Window (sec. 202 of this bill, sec. 4003 of the 1990 Act)

Present law

Services provided to an inpatient of a hospital or an entity wholly owned or operated by a hospital during the three-day period prior to admission are not separately reimbursable under Part B of Medicare.

Explanation of provision

The provision would be clarified to include two other ownership arrangements so that services provided by: (i) a hospital; (ii) an entity wholly owned or operated by the hospital; (iii) an entity which wholly owns the hospital; and, (iv) an entity that is owned by another entity which also owns the hospital, would all not be separately reimbursable under Part B if provided less than three days prior to admission.

3. Miscellaneous and Technical Provisions Pertaining to Part A (sec. 203 of this bill, sec. 4008 of the 1990 Act)

Present law

OBRA '90 included a clerical error in the nursing home reform provisions.

Explanation of provision

The OBRA '90 provision pertaining to the period for resident assessment included in the nursing home reform provisions would be corrected.

Subtitle B. Part B

1. Payments for Physician Services (sec. 211 of the bill, secs. 4101, 4102, 4103, 4105, 4106, 4107, 4108, 4113, 4114, 4117, and 4118 of the 1990 Act)

Present law

(a) Overvalued Services.—OBRA '90 provided for reductions in so-called unsurveyed and technical procedures. These procedures were specified by exception. That is, if they were not specified in the statute by both name and procedure code number, they were reduced by 6.5 percent. The lists included in the statute included certain codes that had been surveyed and were not overpriced, and included certain inconsistencies between the list of names and procedure code numbers.

(b) Radiology Services.—OBRA '87 established a fee schedule for radiology services based on a relative value scale and a local conversion factor. OBRA '90 reduced the conversion factor to a geographically adjusted target amount, but not more than 9.5 percent. Conversion factors below the target were not to be changed. As drafted, the statute would allow conversion factors below the target to be increased.

(c) Anesthesiology Services.—OBRA '87 provided for development and establishment of an anesthesiology fee schedule based on a relative value scale and local conversion factors. OBRA '90 reduced the conversion factor to a geographically adjusted target amount. Conversion factors below the target were not to be changed. As drafted, the statute would allow conversion factors below the target to be increased.

(d) New Physicians and Practitioners.—OBRA '90 provided that the customary charges of new physicians and other practitioners in 1991 would be limited to 80/85/90/95 percent of the customary charges of established physicians and practitioners in the first through fourth years of practice. Beginning on January 1, 1992, these percentage limits would apply to the amounts recognized under the RB RVS.

OBRA '90 defined the first year of practice as the first calendar year in which the individual billed Medicare for services during the first six calendar months. As drafted, established physicians, who had been in full time medical practice but who had not billed Medicare for services, would be treated as new physicians. These physicians could include physicians who had worked on a salary basis in the HMO or who had practiced within the military health care system.

(e) Assistants at Surgery.—OBRA '90 prohibited payments for an assistant at surgery for procedures where an assistant is used in less than 5 percent of cases. The Secretary was required to determine the procedures for which payment for an assistant could not be made based on the most recent data available.

(f) Technical Components of Diagnostic Services.—OBRA '90 provided that the fees for the technical components of certain diagnostic tests were capped at the national median of fees for each such test. The statutory language included reductions for services under this provision that were also reduced under other overpriced provisions in OBRA '90.

(g) Statewide Fee Schedules.—OBRA '90 provided that under certain circumstances, the Secretary would be required to provide that physician fees in the States of Oklahoma and Nebraska were to be determined on a State-wide basis. As drafted, this provision could be construed as allowing for a legislative veto. In signing OBRA '90, the President indicated that he believed the provision, as drafted, to be unconstitutional.

(h) Other Technical Amendments.—Section 4105, 4113, 4114, and 4118 of OBRA '90 provide for the update for physician fees, a study of aggregation of appeals, a study of the release of utilization review screens and other miscellaneous and technical amendments.

Explanation of provision

(a) Overvalued Services.—The bill would correct the names and procedure code lists of the exceptions to the unsurveyed and technical procedure reductions.

(b) Radiology Services.—The bill would correct the statutory language to provide that local conversion factors below the target would not be increased, and makes other technical and conforming changes to the OBRA '90 radiology provision.

(c) Anesthesiology Services.—The bill would correct the statutory language to provide that local conversion factors below the target would not be increased, and makes other technical and conforming changes to the OBRA '90 anesthesiology provision.

(d) New Physicians and Practitioners.—The bill would clarify that, for the purpose of this reduction in payments, the first year for a new physician or other practitioner would be defined as the first calendar year in which the individual was not in an intern or residency training program during the first six calendar months.

(e) Assistants at Surgery.—The bill clarifies that in categorizing procedures by their percentage of use of an assistant, the Secretary would use the most recent data reflecting separate payments for an assistant under Medicare. The bill also clarifies that the actual charge for an assistant at surgery can not exceed 125 percent of the payment for serving as an assistant.

(f) Technical Components of Diagnostic Services.—The bill clarifies that the OBRA '90 provision capping the technical component of the fees of certain diagnostic services does not apply to any services that had their fees reduced under other OBRA '90 provisions.

(g) Statewide Fee Schedules.—The bill amends the OBRA '90 provision to require the Secretary to treat the States of Oklahoma and Nebraska as single areas for the purpose of determining physician fees for services provided on or after January 1, 1992.

(h) Other Technical Amendments.—The bill would provide for other technical and conforming changes to sections 4105, 4113, 4114, and 4118 of OBRA '90 relating to payments to physicians.

2. Services Furnished in Ambulatory Surgical Centers (sec. 212 of the bill, sec. 4151 of the 1990 Act)

Present law

(a) Payment Amounts for Services Furnished in Ambulatory Surgical Centers.—Under current law, the Secretary is authorized to update the rates for payments to free-standing ambulatory surgical centers (ASCs) when appropriate.

The conferees to OBRA '90 agreed to a provision providing for an annual update for these rates. Statutory language reflecting this agreement was not included in OBRA '90.

(b) Adjustments to Payment Amounts for New Technology Intraocular Lenses.—OBRA '90 included a provision capping payments for intraocular lenses (IOLs) at $200 in 1991 and 1992. As drafted, the statutory language could be interpreted as limiting payments for cataract surgery to $200.

The conferees to OBRA '90 also agreed to a provision providing for a process through which the fee could be adjusted in the case of certain new techonogy IOLs. Statutory language reflecting this agreement was not included in OBRA '90.

Explanation of proposal

(a) Payment Amounts for Services Furnished in Ambulatory Surgical Centers.—The bill provides for a survey of the costs of free-standing ASCs, based on a representative sample of procedures. The initial survey is to be completed not later than July 1, 1992, and is to be conducted at least every 5 years thereafter.

If the Secretary does not update the ASC payment rates, the rates would be updated by the percentage change in the Consumer Price Index (CPI-U) for the 12 month period ending with June of the preceding year.

(b) Adjustments to Payment Amounts for New Technology Intraocular Lenses.—The bill clarifies that the $200 limit applies only to the purchase of the IOL, and not the cataract surgery.

The bill also provides that the Secretary shall develop and implement a process for the review of the costs and benefits of so-called "new technology" IOLs. Such process would be intended to determine whether a payment adjustment is warranted for a particular IOL. The review would include consideration of medical benefits of such lenses. Interested parties may request the review of an IOL to determine whether it qualifies for a payment adjustment.

3. Durable Medical Equipment, and Orthotics and Prosthetics (sec. 213 of the bill, secs. 4152 and 4153 of the 1990 Act)

Present law

(a) Updates to Payment Amounts.—Current law provides that the fee schedule amounts for durable medical equipment (DME) are updated annually by the CPI-U. The conference agreement to OBRA '90 provided that the update would be reduced by 1 percent for calendar years 1991 and 1992. As drafted, DME fees would be reduced by 1 percent in 1991 and 1992.

(b) Treatment for Potentially Overused Items and Advanced Determinations of Coverage.—The conference agreement to OBRA '90 included two provisions relating to special carrier review of potentially overutilized items and advance determinations of coverage for certain items. These two provisions were combined in drafting such that they do not reflect the conference agreement.

(c) Study of Variations in DME Supplier Costs.—OBRA '90 provided for a system of upper and lower limits on DME fees. The OBRA '90 conference agreement also includes a study of geographic variations in the cost of providing services by suppliers. This provision was not included in the statutory language.

(d) Other Technical and Conforming Amendments.—Sections 4152 and 4153 of OBRA '90, as drafted, includes several minor and technical drafting errors.

Explanation of provision

(a) Updates to Payment Amounts.—The bill would correct the DME update such that these fees would be updated by the CPI-U minus 1 percent in 1991 and 1992.

(b) Treatment for Potentially Overused Items and Advanced Determinations of Coverage.—The bill would provide that claims for items of DME that are potentially overused would be subject to special carrier scrutiny. The Secretary would publish, and periodically update, a list of such items. The list would include: seatlift mechanism, TENS equipment, power-driven scooters, and such other items of DME as determined appropriate by the Secretary. The Secretary would include items that are either: (1) mass marketed directly to beneficiaries; (2) marketed with offers to waive the coinsurance, or marketed as "free" or "at no cost" to beneficiaries with Medigap coverage or other coverage; (3) subject to a consistent pattern of overutilization; or (4) frequently denied based on a lack of medical necessity.

For customized equipment and for equipment designated by the Secretary as requiring a prior written physician's order, suppliers could request prior approval of the item from a carrier in a form determined by the Secretary. The Secretary would establish standards for the timeliness of carrier responses to such requests, and would incorporate such standards into the evaluations of carriers' performance.

(c) Study of Variations in DME Supplier Costs.—The bill would provide that the Health Care Financing Administration (HCFA) would collect and analyze DME cost data to isolate the proportion of suppliers' costs that are related to the "service" and "product" components of providing different types of DME items and services. In conducting this study, HCFA would consult with appropriate organizations.

HCFA would analyze the geographic variations in the cost of the service component. HCFA would develop an index that reflects geographic variations in suppliers' costs of providing the service component.

HCFA would submit a report on its findings, including recommendations regarding the use of area adjustments for DME items and services, to the Ways and Means, Energy and Commerce and Senate Finance Committees. The report, due on March 1, 1992, would include an impact analysis of the use of the index on suppliers.

(d) Other Technical and Conforming Amendments.—The bill would make certain technical and conforming changes to sections 4152 and 4153 of OBRA '90.

4. Other Part B Items and Services (sec. 214 of the bill, secs. 4154 through 4164 of the 1990 Act)

Present law

(a) Revise Information of Part B Claim Form.—Each Part B claim for which the entity submitting the claim knows or has reason to believe there has been a referral by a referring physician must include the name and provider number of the referring physician and indicate whether the referring physician is an investor in the entity.

(b) Effective Date of Reporting on Part B Claim Forms.—The requirement to submit the information described in subsection (a) is effective January 1, 1992.

(c) Consultation for Social Workers.—OBRA '89 provided for coverage of the services of psychologists and clinical social workers. The Secretary of Health and Human Services was required to develop criteria with respect to psychologists' services under which the psychologist must agree to consult with the patient's attending physician. This requirement was not included for clinical social workers.

(d) Other Technical and Conforming Amendments.—

(1) Beneficiary Enrollment.—Elderly or disabled employees and their spouses who are covered by employer health plans are not required to enroll in the same enrollment period applicable to others. However, they are unable to enroll while enrolled in an employer group health plan. Coverage for such individuals begins generally on the first day of the month in which the individual is no longer enrolled in an employer group health plan.

A modifying provision was agreed to by the conferees but was not included in the statutory language of OBRA '90.

(2) Other Minor Technical and Conforming Amendments.—Sections 4154 through 4164 of OBRA '90 include a number of minor and technical drafting errors.

Explanation of provision

(a) Revise Information on Part B Claim Form.—The bill would require that the claim form include the unique physician identification number, and would delete the requirement that the claim indicate whether the referring physician is an investor in the entity submitting the claim.

(b) Effective Date of Reporting on Part B Claim Forms.—The bill would provide that the reporting requirements would be effective October 1, 1991.

(c) Consultation for Social Workers.—The bill would provide that clinical social workers would be required to consult with a patient's attending physician in the same manner as psychologists.

(d) Other Technical and Conforming Amendments.—

(1) Beneficiary Enrollment.—The special enrollment period would be modified to allow individuals who have employer group health coverage to enroll in Part B at any time that they are enrolled in the group health plan, rather than after they leave the plan.

If an individual enrolled in Part B while enrolled in the group health plan or in the first month after leaving the plan, Medicare coverage would begin on the first day of the month in which the individual enrolled (or, at the option of the individual, on the first day of any of the following three months). These provisions would be effective on the first day of the first month beginning more than 120 days after the date of enactment of this Act.

(2) Other Minor Technical and Conforming Amendments.—The bill would make various technical and conforming amendments.

Subtitle C. Parts A and B

1. Provisions Relating to Parts A and B (sec. 221 of the bill, secs. 4201–4207 of OBRA '90)

Present law

(a) End Stage Renal Disease.—OBRA '90 requries the Prospective Payment Assessment Commission to conduct a study of the costs and services and profits associated with various modalities of dialysis treatments provided to end stage renal disease patients. The study also requires ProPAC to make annual recommendations on payments for services.

(b) Staff-Assisted Home Dialysis Demonstration Project.—The staff-assisted home dialysis demonstration project included in OBRA '90 contained several minor and technical drafting errors.

(c) Extension of Secondary Payer Provisions.—The extension of the Medicare secondary payer provisions included in OBRA '90 contained a number of minor and technical drafting errors.

(d) Health Maintenance Organizations (HMOs).—OBRA '90 required the Secretary of HHS to submit a proposal to the Congress by January 1, 1992 providing for a more accurate payment method for HMOs paid on a risk basis. The Secretary is required to publish a notice of proposed rule making in the Federal Register by March 1, 1992 and the Comptroller General is required to review and report to the Congress by May 1, 1992 on recommendations to modify the proposed methodology.

A number of minor and technical drafting errors were made in the HMO section of OBRA '90.

(e) Peer Review Organizations.—OBRA '90 provided that Peer Review Organizations (PROs) are required to provide notice to State licensing entities when a physician is found to have furnished services in violation of subsection 1154(a) of the Social Security Act. This subsection includes the requirements that PROs review the quality of medical care, and whether certain services are covered under Medicare. As drafted, the provision in OBRA '90 would require the PROs to notify State boards in the case of a variety of administrative findings, or in the case of a single problem regarding quality of care.

(f) Other Miscellaneous and Technical Provisions.—Sections 4201-4207 include a number of minor and technical drafting errors.

Explanation of provision

(a) End Stage Renal Disease.—The bill would delay the effective date for ProPAC's initial recommendations to not later than June 1, 1992. The bill would also correct a number of technical and clerical drafting errors.

(b) Staff-Assisted Home Dialysis Demonstration Project.—The bill would correct a number of minor and technical drafting errors.

(c) Extension of Secondary Payer Provisions.—The bill would correct a number of minor and technical drafting errors.

(d) Health Maintenance Organizations—The Secretary would be required to revise the payment methodology for HMOs for contracts for years beginning with 1993. In making revisions, the Secretary would be required to consider: (i) the difference in costs associated with beneficiaries with differing health status and demographic characteristics; (ii) the effects of using alternative geographic classifications; and, (iii) the difference in costs associated with beneficiaries for whom Medicare is the secondary payer. The Secretary would be required to publish a proposed rule before March 1, 1992 and the Comptroller General would be required to review and report to the Congress by May 1, 1992 on the appropriateness of the proposed rule. On or after August 1992 the Secretary would be required to publish a final rule effective for contract years beginning on or after January 1, 1993.

A number of a number of minor and technical drafting errors in the HMO section would be corrected.

(e) Peer Review Organizations.—The bill would limit the requirement that PROs give notice to State licensing boards to cases when the PRO submits a report and recommendation to the Secretary regarding a physician who has failed in a substantial number of cases to meet his obligations, or grossly and flagrantly violated such obligations in a single instance.

In addition, the bill would correct various drafting errors in the OBRA '90 provisions relating to PROs.

(f) Other Miscellaneous and Technical Provisions.—The bill would make various technical and conforming amendments.

Subtitle D. Medigap Standards

1. Medicare Supplemental Insurance Policies (sec. 231 of the bill, secs. 4351-4361 of the 1990 Act)

Present law

OBRA '90 provides minimum standards for Medicare Supplemental Insurance policies and establishes penalties for non-compliance. The provisions included a number of minor and technical drafting errors.

Explanation of provision

The bill would modify the effective dates for various provisions. In general, effective dates would conform with the earlier of the date the State adopts standards included in OBRA '90 or one year after the National Association of Insurance Commissioners adopts the standards included in OBRA '90. It would also make minor, technical and conforming amendments.

TITLE III. TECHNICAL CORRECTIONS RELATED TO SOCIAL SECURITY, HUMAN RESOURCES AND TRADE

A. Social Security Provisions

1. Security benefits for disabled widows (sec. 301(a) of the bill, sec. 5103 of the 1990 Act, and 42 U.S.C. 432(f)(2))

Present law

The Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508) changed the definition of disability for disabled widows to the same definition that applies to disabled workers.

Explanation of provision

The provision would correct two references to the previous standard for disabled widows which are now obsolete and which were inadvertently left unchanged by OBRA 1990.

2. Respresentative Payee Reform (sec. 301(g) of the bill and sec. 5105 of the 1990 Act)

Present law

The Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508) improved the representative payee system by requiring stricter standards to be used by the Social Security Administration in determining the fitness of the representative payee applicant to manage benefit payments on behalf of the beneficiary.

Explanation of provision

The provision would amend section 5105(d)(1) of the Omnibus Budget Reconciliation Act to redesignate paragraphs in section 205(j) of the Social Security Act.

3. Elimination of Advanced Tax Transfers (301(c) of the bill, sec. 5115 of the 1990 Act, and 42 U.S.C. 401(a))

Present law

The Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508) eliminated the practice of crediting to the social security trust funds, at the start of each month, the full amount of social security tax receipts which were expected to be collected throughout the month. The trust funds are now credited with the receipts as they are collected throughout each month.

Explanation of provision

The provision would amend section 5115 of the Omnibus Budget Reconciliation Act of 1990 to amend the last sentence of section 201(a) of the Social Security Act by eliminating the second "and" where it appears as a duplication.

B. Income Security and Human Resources Provisions

1. Children's Commission Reporting Date (sec. 311 of the bill, sec. 4207(k)(6) and sec. 5057 of the 1990 Act)

Present law

Under section 1139(d) of the Social Security Act, as amended by the Omnibus Reconciliation Act of 1989, the National Commission on Children is directed to study and recommend to the President and the Congress ways to improve the well-being of children. The Omnibus Reconciliation Act of 1990 included two separate amendments to section 1139(d) that were intended to clarify the interim and final reporting dates for the Commission. As enacted, however, the two amendments differ with respect to the reporting date for the interim report.

Explanation of provision

The provision clarifies that the interim reporting date for the Commission is March 31, 1990.

The provision would take effect on the date of enactment.

2. Other income security and human resources provisions (secs. 312 and 313 of the bill)

Present law

The Omnibus Budget Reconciliation Acts of 1989 and 1990 included a number of provisions amending the Supplemental Security Income (SSI) and Aid to Families with Dependent Children (AFDC) programs.

Explanation of provisions

The provisions would make several technical and conforming amendments related to the SSI and AFDC provisions enacted under OBRA 1989 and OBRA 1990, including amendments that redesignate sections of law so that they are appropriately designated and amendments that correct cross references. In addition, the amendments delete a clause in Title XVI of the Social Security Act dealing with representative payee recordkeeping and auditing requirements for parents and spouses that was deleted in Title II of the Social Security Act by section 5105(b)(1)(A)(i) of OBRA 1990, but left inadvertently in Title XVI.

C. Tariff and Customs Provisions

1. Removal of GDR from column 2 rate list (sec. 321(a)(1) of the bill, and General Note 3(b) to the Harmonized Tariff Schedule of the United States)

Present law

General Note 3(b) to the Harmonized Tariff Schedule of the United States (HTS) lists "German Democratic Republic" among the list of countries subject to column 2 rates of duty.

Explanation of provision

Upon German reunification last year, most-favored nation (MFN) column 1 treatment already granted to West Germany was extended automatically to the former East Germany on October 31, 1990. The bill recognizes the reunification of Germany and its MFN status by eliminating reference to the German Democratic Republic from the HTS.

2. Tapestry and upholstery fabrics (sec. 321(a)(2) of the bill; sec. 472(b) of the Customs and Trade Act of 1990; Part II, sec. 10011(a) of the Omnibus Budget Reconciliation Act of 1990; and subheading 5112.19.20 to the HTS)

Present law

The Customs and Trade Act of 1990 (P.L. 101-382, hereafter referred to as "the Trade Act"), added several new HTS subheadings to headings 5111 and 5112 for tapestry fabrics and upholstery fabrics of a weight exceeding 300 grams per square meter. This reduced the tariff rate from 36.1 percent ad valorem to 7 percent ad valorem for these fabrics.

New HTS subheading 5112.19.10 was renumbered as 5112.19.20 in the Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508, hereafter referred to as "the Budget Reconciliation Act").

Explanation of provision

Adding the words "of a weight exceeding 300 g/m^2" to HTS subheading 5112.19.20 inadvertently raised the column 1 duty rate on certain tapestry and upholstery fabrics. Deleting these words restores prior HTS treatment.

The change applies retroactively to allow importers to apply for reassessment of duties levied since October 1, 1990 using the higher rate.

3. Gloves (sec. 321(a)(3) of the bill; Part II, sec. 10011, (a), (b)(2), and (b)(6) of the Budget Reconciliation Act; and Chapter 61 and 62 to the HTS)

Present law

In the Budget Reconciliation Act, the HTS subheading 6216.00.47 was deleted; 6216.00.49 was redesignated as 6216.00.52 and it was indented so that it aligned with 6216.00.46 (which had been redesignated from 6216.00.44). Inadvertently the superior text "Other", placed just above deleted 6216.00.47, was not stricken.

The Budget Reconciliation Act redesignated 6116.10.25 as 6116.10.45.

Explanation of provision

The word "Other", inadvertently kept above the deleted 6216.00.47, is stricken.

New HTS subheading 6116.10.45 is redesignated as 6116.10.48 to avoid reusing a previously used subheading number.

4. Agglomerate stone floor and wall tiles (sec. 321(a)(4) of the bill, sec. 484B and 485(b) of the Trade Act, and subheading 6810.19.12 to the HTS)

Present law

The Trade Act added a new HTS subheading (6810.19.12) for agglomerate marble floor tiles. This reduced the tariff rate from 21 percent ad valorem to 4.9 percent ad valorem for these types of tiles.

The provision as written only applies to geological marble and not to other types of material which may be commonly referred to as "marble" but are not recognized as such by the Explanatory Notes to the HTS.

Explanation of provision

The description for HTS subheading 6810.19.12 is changed from "agglomerate marble tiles" to "floor and wall tiles of stone agglomerated with binders other than cement." The rewording covers tiles produced from chips or dust of various natural stones mixed with a plastic resin binding material.

The change applies retroactively to allow importers to apply for reassessment of duties levied since January 1, 1989 using the higher rate.

5. 2,4-Diaminobenzenesulfonic acid (sec. 321(a)(5) of the bill, sec. 349 of the Trade Act, and subheading 9902.30.43 to the HTS)

Present law

Under HTS 9902.30.43, which grants a duty suspension to 2,4-Diaminobenzenesulfonic acid "2921.51.50" is cited as the HTS subheading that imports of this chemical enter under.

Explanation of provision

The correct HTS subheading that imports of 2,4-Diaminobenzenesulfonic acid enter under, "2921.59.50", is now cited.

6. Machines used in the manufacture of bicycle parts (sec. 321(a)(6) of the bill, sec. 439 of the Trade Act, and subheading 9902.84.79 to the HTS)

Present law

The Trade Act suspended the duty on machines used to manufacture bicycle wheels by adding a new HTS subheading, 9902.84.79. The machines covered include "wheeltruing" and "rim punching" machines. Subheading 9902.84.79 refers only to HTS subheading 8479.89.90 which covers "machines and mechanical appliances."

Explanation of provision

Wheeltruing machines are covered by HTS subheading 9031.80.00 and rim punching machines are covered by HTS subheading 8462.49.00. These two additional subheadings are now referenced in subheading 9902.84.79.

The change applies retroactively to allow importers to apply for reassessment of duties levied since October 1, 1990.

7. Copying machines and parts (sec. 321(a)(7) of the bill, sec. 462(d)(2) of the Trade Act, and subheading 9902.90.90 to the HTS)

Present law

HTS subheading 9902.90.90 provides duty-free treatment for parts and accessories of electrostatic copying machines. The Trade Act amended 9902.90.90 to cover parts and accessories intended for attachment to electrostatic copiers. Subheading 9902.90.90 refers to subheading 8472.90.80 as the provision that covers parts and accessories for attachment to electrostatic copiers.

Explanation of provision

Parts intended for attachment to electronic copiers are covered by HTS subheading 8473.40.40. This additional subheading is now referenced in subheading 9902.90.90.

The change applies retroactively to allow importers to apply for reassessment of duties levied since January 1, 1989 using the higher rate.

8. Clarification regarding the application of customs user fees (sec. 322 of the bill; Title I, Subtitle B, sec. 111(b)(2)(D)(v) of the Trade Act; subparagraph (D) of sec. 13031(b)(8) of the Consolidated Omnibus Budget Reconciliation Act of 1985; and 19 U.S.C. 58c(b)(8)(D))

Present law

An amendment to the Customs User Fee statute as enacted in the Trade Act exempted the domestic value of agricultural products processed and packed in a foreign trade zone from the application of the ad valorem merchandise processing fee (MPF). The Customs Service has interpreted this provision by ruling that, in the absence of an express provision to the contrary, the MPF would be assessed on the domestic value of all other merchandise (i.e., non-agricultural) processed or packed in a foreign trade zone.

Explanation of provision

This technical amendment applies the MPF only to the foreign value of imported merchandise entered from a foreign trade zone, thereby clarifying that the user fee cannot be assessed against the value of domestic content of an entry. The amendment applies to all unliquidated entries from foreign trade zones beginning December 1, 1986.

9. Technical amendments to the Omnibus Trade and Competitiveness Act of 1988 (sec. 323 of the bill, sec. 1102(a) of the Omnibus Trade and Competitiveness Act of 1988, and 19 U.S.C. 2902(a))

Present law

Section 1102(a) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2902) (hereafter referred to as "the 1988 Act") provides the President the authority to proclaim certain tariff reductions pursuant to trade agreements with foreign countries. Paragraph (a)(2) provides the President the authority to reduce tariff rates in existence as of August 23, 1988, at which time the Tariff Schedules of the United States (TSUS) were in effect. Pursuant to Title I, Subtitle B of the 1988 Act, the TSUS were replaced by the HTS effective January 1, 1989. Tariff negotiations in the Uruguay Round of Multilateral Trade Negotiations have been conducted on the basis of U.S. tariff rates under the HTS rather than the TSUS.

Explanation of provision

The correction amends the 1988 Act to reflect the fact that any tariff reductions that might be proclaimed by the President pursuant to Section 1102(a) of the 1988 Act will be based upon the tariff rates under the HTS as of January 1, 1989.

10. Technical Amendment to the Customs and Trade Act of 1990 (sec. 324 of the bill, sec. 484H(b) of the Trade Act, and 19 U.S.C. 1553 note)

Present law

The Trade Act provides for transportation in bond of Canadian lottery material.

Explanation of provision

The phrase "entered or withdrawn from warehouse for consumption" has been replaced in the "Effective date" section with "entered for transportation in bond". This had been done to clarify that Canadian lottery material is not entered into the United States for consumption.

□ 1520

MY ADVICE TO THE PRIVILEGED ORDERS

The SPEAKER pro tempore (Mr. VENTO). Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, I take this opportunity to continue what has been through the years a habit and custom of communicating, mostly because of the fact that this will become an integral part of the RECORD and its proceedings, a practice which from the very inception of my career in the House of Representatives has been more or less a foundation stone of my legislative behavior. In fact, some of the first special orders that I took making use of this great privilege in this forum was the very first month that I was sworn in, just about 30 years ago, into the House of Representatives. At that time it was not necessary at all, in fact very few Members would make use of this forum in actually delivering the special order verbally or in person but would submit in writing. It would then be printed in the RECORD just as if it had been delivered on the House floor.

Well, I read the history of the rules that permitted a Member the privilege of extending his remarks, his thinking and his reactions to some question related to the legislative business in which, during limited debate, as a multi-Member body would have to limit, would give him the opportunity to extend beyond that limited situation in a normal debate in the House of Representatives proceedings, and that opportunity to fully express his thinking.

Of course, limited to 1 hour per session, it was sufficient in my case to express at length some of the pressing issues that were churning and boiling out from the midst of the constituency I was representing.

Incidentally, I was assigned to the Committee on Banking from the very beginning, and in fact I was a privileged member. Three of us were sworn in in the second half of the 82d Congress. I was privileged to be assigned to a full or standing committee. My other two colleagues had to wait until the next Congress to get assigned to a standing committee.

At that time the size of the Banking Committee was 30 members, and I made No. 31. I was also assigned to the Subcommittee on Housing, which consisted of eight members. The chairman of that subcommittee was very reluctant then to even enlarge it by one, but I was favorably considered, and I became a member and have been a member of that subcommittee, and also the Subcommittee on Consumer Affairs and Coinage, and subsequently one other subcommittee that was formed as a result of the 1974 Legislative Act.

So I want to continue and I have, as a matter of fact, on my assumption of the chairmanship of the full committee, which was formally done in January 1989, and I immediately came to the House floor and gave what I considered my initial report and promised from time to time to report to my colleagues through this form on the happenings.

One of the subject matters, if not one or two, that I have discussed for more than 25 years has been the question of our perception, our misperception, of the real world as it was shaping some 15, 20 years after the war. The misperceptions, both domestically and internationally, were twofold. One, there was no fundamental long-range thinking about the need to keep up with the explosive exponential technological breakthrough in instantaneous communication that I said then had to have an immediate and very heavy impact on financial transactions, and the banking system.

I pointed out that we were operating, unlike most other countries, with a dual banking system; the 50 different States with each having its own regulatory setup, and the chartering of financial institutions. And then the overall national banking system.

I pointed out through the years, and this can be verified by just about anybody who wants to go to that trouble of diligently searching the RECORD, and it is there, it is in the permanent journals of the House, and he will see that the underlying and the common thread linking all these subject matters was that we were not developing vision, we were not anticipating, we were not planning. And unlike our European fellow industrial nations, we were not really prepared to meet the challenging needs that I felt—and it was a pretty lonely thought—that would soon, if not later, overwhelm us.

Well, we have reached that point, unfortunately.

It was 24 years ago or more, in fact to be precise, in June 1966, that I took this floor and referred to the first—it was the first time that I have ever heard that expression—credit crunch, as reported by somebody, as a result of the overnight 1 whole percent point increase in the prime rate then.

Since then, a lot of things have happened, including the diversity of interpretations and definitions of the prime interest rate. Today you will hear about real interest rates, you will hear about short, long, and some kinds of differentiation; but interest rates are interest rates and they are fundamental and they have been since time immemorial and since we have written history or other history of mankind's existence.

Interest and interest rates is the mechanism by virtue of which wealth is exchanged or transferred in any given society. I would not hesitate to say what I said in 1966. I said, unknown to the average American, there is no law to prohibit what we have from time immemorial heard as usurious interest rates on a national level. I pointed out the history. I had conducted a history of national interest rate legislation or controls and had pointed out that it was in the 1963 National Currency Act, the second one—the first one was 1863, which was right at the time of the Civil War and the big turmoil, very similar to a point we are going to be reaching pretty soon—where the currency was debauched. You had the greenback, so called, where you almost had to have—except that I do not know if anybody ever used that expression as they did in Germany after the First World War—a wheelbarrow of bills, currency, deutsche marks or dollars or greenbacks at the time, in order to buy a loaf of bread.

The awesome thing is that we seem to have lost, if we ever had any historical memory, so that what happened in 1966 is not only ancient history, it is totally forgotten history. What happened just last year, what happened 6 months ago is telescoped in such a fashion that we just forget what happened the day before yesterday or we do not want to recall it.

Well, this has been fatal in view of the fact that the other countries, on the contrary, have first developed their blueprint, their long range, and then they have stuck to it.

□ 1530

The postwar Marshall plan for instance. Who today even realizes that the reason we have such a conflict, an inability to get together on an international trade or even on this so-called Uruguay, GATT, round is a fact that we imposed, or we agreed, in the Marshall plan to certain things with these European industrialized nations that they have not changed, and we have not expected them or demanded that they change, but which today are way out of context with the world in which those agreements were entered into? Nobody. I have not heard any discussion about that.

Well, in the world of finance what our country reached here at this point is one that in 1966 would have been considered absolutely implausible, if not impossible. But I was disturbed because that overnight 1 percent prime interest rate caused an immediate reaction in the soft underbelly of the financial world, to wit: the so-called savings and loan activities.

Why was that? Because the savings and loan organizations founded in 1933, 1932—as a matter of fact, here is another thing I want to tell my fellow Democratic Members. The Home Loan Bank system which gave rise to S&L's was a Herbert Hoover plan, and it was initiated and founded in 1932. But in 1933, in the midst of the Depression, we had some fundamental revision. We had the birth of the deposit insurance fund system, and in fact that basic law is still prevailing.

However, 1946 and thereon, to 1991, is certainly a radically different world than 1933, and even up to 1941. But we have not been aware of it in our dealings with such things as a regulatory oversight of the financial institutions.

Mr. Speaker, we have a mishmash of regulatory bodies. Some of them are overlapping, some of them are conflicting, but none of them systematically and in an organized fashion are coherent and actually representing the greatest interest of the greatest number or the public interest of the people generally.

So, what we have today is a conjunction of events that are simply overwhelming and no perception at this time that I can see, any more than in 1966, of the seriousness, the depth, the complexity of the crisis.

It is not a problem. It is a crisis that is on us here and now and has been in the making obviously since 1966.

Now in that period of time the S&L's, in order to provide the financial backdrop or framework of reference for the construction and affordable cost of a home and the ability of the average American family to be able to purchase that home developed the S&L's as a financial mechanism to provide long-term, fixed, 30-year mortgages that would enable that little average family to have a down payment, get the mortgage and then a monthly payment that would enable him to ultimately pay out the mortgage on a secure, stable, interest-payment basis.

Naturally within a month we began to get letters, those of us that were on the Committee on Banking, Finance and Urban Affairs and I, particularly from Texas, because Texas has had a very unique history of development. Texas is a pluralistic and a geographically very diversified State. It has and has had 10 percent of the total number of commercial banks up until recently in the Nation.

But what are these banks? These are usually small, rural and neighborhood type of financial institutions that certainly know what is involved in the farm in agricultural producing areas, in the other parts of the State that developed the petrochemical complex, and immediately the pressure on the S&L's became heavy because, in order to allow any financial institution to borrow short and lend long would have to have a subsidy, and the Government provided that subsidy to the S&L's through what became known as regulation Q.

Mr. Speaker, that is a lot of jargon for meaning they got a little subsidy, 1 percent, on their percent interest, on their yields so they could compete with the banks that did not have to deal in home mortgages, did not have to worry about long-term fixed mortgages with low yield of profits, and, therefore, when the prime interest rate went up 1 whole percent, it immediately vitiated that regulation Q advantage. However there was a lot of consternation for a while, but then the President began to have conferences, and he called in the bankers, and he pressed the flesh and what not, and then we had a little resolution and a subtraction of that increase, and it looked like, well, it is leveled off.

What bothered me then was that everybody assumed that there would never be a day when anybody would have to pay on a long-term basis like a fixed mortgage anywhere near 7 percent, much less over 7 percent, and what I was saying, and my colleagues can read it in the speeches I made and in the articles I wrote for several publications, there has been no law to prevent that, and I even said there is nothing to say that one cannot end up with 10 percent. I never dreamed we would reach the point like we did in 1979 and 1980 with 20 and 21 percent prime interest rates. It is astounding. We are still reeling from the shock and the impact of the instability in these money markets and interest rates.

Mr. Speaker, no society in the history of mankind has ever, ever survived usurious actions defined as interest rates. At no time, even in the most primitive of societies.

And of course it has simply been disastrous to our business community. By 1983, we were getting in volume far more bankruptcies of small businesses than had ever peaked at the highest point of the Depression. Well, of course we cannot extrapolate directly because the country was a lot smaller during the Depression, however it certainly was very significant that something was happening.

But then, as now, on the matter I am about to discuss, there was no preception there was a problem. I am sure that maybe perhaps even some of my colleagues in the Congress, but I know that a lot of my constituents back home think they are protected against usury, and when I say "no," there is no law.

Now most countries have limitations. One reason, for instance, that in competing with, say, a country like Japan, some of our manufacturing industries, such as the hardware and tool industry, tooling, could not compete is that every industry has to have a line of credit in order to have an inventory, in order to replace their aging machines, modernize.

□ 1540

But if they borrow at 16 percent, as has been the average up until lately, or at 15 percent or 14 percent, how can they compete with somebody that is in this business in Japan where they have a cap and where up until recently the average interest rate was about 7 or 7½ percent? But they have had a limit of up to 9 percent. There is no way you can compete.

What has happened in our country is that other than for the super-super corporate activities, the average citizen would have to pay back home some points or a percentage over and above the so-called prime. So with that aberration and with the continued instability, there was no jelled opinion, there was no viable perception by anybody beyond a few of us talking or speaking about it. But it was generalized. There was not any concise reporting on a sustained level from either the industry press or the general main line press.

So today what we have is a situation that is still unperceived in its true dimensions and as to its seriousness. For example, the biggest problem or the biggest crisis we have right now is in our system. Oh, we hear all this commotion. In fact, we had this vote, and we still heard the outcry on the so-called bailout of the S&L's, but fundamentally the issue is the system.

What system? The Deposit Insurance Fund system. And on top of that now, there is the absolute point beyond no return to bring it up to snuff to accompany the reform of this system known as the Bank Insurance Fund system or BIF. This involves the regulatory environment, because to me, to say that we are going to go ahead and do business as we have in the 20th century and just patch it up as we reach each crisis is unacceptable at this time. But there is no perception at this point, in or out of the Congress, in or out of the executive branch, or in or out of the general media as to the depth, the complexity, or the difficulty of the crisis that is on us right now. Even with the focusing to the degree and intensity that we had 2 years ago on the S&L's, we do not have that now in the case of the commercial bank crisis.

Of course, it is a crisis. But that is not what worries me the most. I have the faith that given the information, given the knowledge and being charged with that knowledge, the average member of our body, both in the House and the Senate, is going to do the right thing, as difficult as it may be, as great as the tremendous external pressures we have, motivated by the fact that we have here billions of dollars involved. And whenever we have money involved, I do not have to tell anybody that we are going to get a lot of commotion.

But even despite that, if the evidence or if the testimony can be of use, even if time is working against us, to the highest degree humanly possible it can be used, and the Members can have it, I have no doubt as to what will happen. We will have some resolution that will be based on what I would say is a basically wise and happy decision.

However, no matter what we do domestically, we are now in a world that is totally interdependent. Even as I am talking now, we have on a daily basis no less than about three-quarters of a trillion dollars' worth of finances, money, electronically and instantaneously going back and forth between London, Paris, Bonn, New York, and Tokyo.

Now, what is that money? Is it money that is engaged in commercial transactions, trade transactions? No, it is money that is speculating on money. That is what it amounts to. Those are currency transactions.

But in the meanwhile the dollar has dropped or eroded in value not less than 60 percent in just 6 years. Who now remembers that the first devaluation was President Nixon's in 1971, on August 15? I do not remember any American publication saying that it was, number one, a devaluation of 10 percent, and that the United States was withdrawing from the so-called gold exchange system. The French press, the British press, of course, even the Spanish press in Madrid, Spain and the German press, they all called it what it was, but not us.

On the heels of that announcement, on August 15, 1971, when the House was in recess, we came back and we faced the so-called Economic Stabilization Act. It was finally brought forth in the committee in about the first week in October, maybe the last week in September.

What was the Economic Stabilization Act? It was wage and price controls. Now, this may surprise some Members. I was one of the lonely five holdouts. I fought that totally. Those who claim that I am against deregulation ought to know that I fought regulation.

But who were the ones who were for it? The Nixon administration. We had an awesome array in the committee. We had the Secretary of the Treasury, my fellow Texan, the former Governor of Texas, John Connolly. We had the chairman of General Motors, we had the chairman of General Foods, we had the head of the AFL–CIO, George Meany, and we had the head of the

Automobile Workers at that time, and they all said the same thing. They said, "We are here to demand that you immediately pass this bill without changing a comma."

I looked at the bill, and it granted President Nixon the most total powers over our economic and industrial life in the United States that had ever been delegated by the Congress to any President, even President Franklin Roosevelt at the height of World War II.

So I raised the question: How can this be? How are you going to impose this? When the answers did not come back, I did what I always do in those cases—I voted, "no," and I spoke against it. I even had a dissenting opinion.

□ 1550

It is there. It is in writing. And what happened? It was most tragic. In the first place, it did not work, and it was not going to. But the results, in the distortions in our complicated economy in the United States, were such that we are facing some of the ultimate consequences. The word "stagflation" was born out of that failure to impose these partial controls, inaccurately, unjustly.

Then the other question I asked was just as important as asking to consider how you can impose them, how do you intend to remove them? Well, they never did. So we entered into what was then known as phase 1, phase 2, phase 2½, and phase 3. In the meanwhile, we have not recovered from that distortion.

So then came the period of the eighties and the financing of the so-called, really usury prosperity of President Reagan, through foreign investment money, that moved like it never had before in heavy volumes.

For example, by 1984 and the failure of the Continental Illinois, it was obvious to anybody who knew how to read that we had reached the point of no return.

Why did the Continental Illinois fail? Well, there were underlying causes, and there were immediate causes. But the immediate cause was that the Japanese and the German investors principally took out $8.3 billion from that bank in three days.

So what happened? We nationalized it. The Federal Reserve Board came in, and, for the first time, Chairman Volckner announced the too big to fail doctrine, which, of course, I challenged at the time and said there was no law, no statute, and there still is not, that empowered those regulators to do it.

But nobody wanted to challenge it. In fact, and I am not saying this out of braggadocio, for sure, because it was a failure, but I was the only voice asking for hearings on that doctrine, asking to challenge it. And it was accepted. However, Continental Illinois is still in the hands or control of the FDIC. Has it earned profits? What has been the total cost of that sustenance, that life support, by the Government?

If this happened in another country, we would say the bank had been nationalized. That is what we have been doing. We have been nationalizing. The S&L industry in my State of Texas has been a ward of the Federal Government since 1988, pure and simple. So we have got the worst of all possible worlds. We have got an economy in which we say we uphold private initiative, free enterprise, a competitive market.

Mr. Speaker, let me sum up. What has happened is in the meanwhile, in the external world, with the heavy incursion of foreign money, and now the devaluation of the dollar to the point where it has lost 60 percent of its value or more, we are in serious danger for the first time in our national history of having our currency, the dollar, replaced as international reserve unit.

My contention is that it is a clear present danger. If that happens, we will have a catastrophe. Why? Because all of this debt, private, governmental, corporate, will have to be paid back in somebody else's currency. That has never happened in our history.

We have been the only people that have had what de Gaulle called the American arrogant prerogative of being able to pay our debts in our own currency.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 45. Concurrent resolution permitting the use of the rotunda of the Capitol for ceremonies as part of the commemoration of the days of remembrance of victims of the Holocaust.

The message also announced that the Senate had passed a bill and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 725. An act entitled the "Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991."

S. Con. Res. 22. Concurrent resolution extending the appreciation of Congress to all American Indian veterans for their service in the Armed Forces of the United States.

PERSIAN GULF CONFLICT SUPPLEMENTAL AUTHORIZATION AND PERSONNEL BENEFITS ACT OF 1991

Mr. ASPIN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 725) entitled the "Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991," and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. VENTO). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 725

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991".

SEC. 2. TABLE OF CONTENTS

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Definitions.
Sec. 4. Construction with Public Law 101-510.

TITLE I—AUTHORIZATION OF FISCAL YEAR 1991 SUPPLEMENTAL APPROPRIATIONS FOR OPERATION DESERT STORM

Sec. 101. Funds in the Defense Cooperation Account.
Sec. 102. Persian Gulf Conflict Working Capital Account.
Sec. 103. Additional transfer authority.
Sec. 104. Administration of transfers.
Sec. 105. Notice to Congress of transfers.
Sec. 106. Monthly reports on transfers.

TITLE II—WAIVER OF PERSONNEL CEILINGS AFFECTED BY OPERATION DESERT STORM

Sec. 201. Authority to waive end strength and grade strength laws.
Sec. 202. Certification.
Sec. 203. Authorization from Defense Cooperation Account.
Sec. 204. Conforming repeal.
Sec. 205. Relationship to other laws.

TITLE III—BENEFITS FOR PERSONS SERVING IN ARMED FORCES DURING THE PERSIAN GULF CONFLICT

Part A—Military Compensation and Benefits

Sec. 301. Temporary increase in the rate of special pay for duty subject to hostile fire or imminent danger.
Sec. 302. Temporary increase in family separation allowance.
Sec. 303. Determination of variable housing allowance for Reserves.
Sec. 304. Medical, dental, and nonphysician special pays for reserve, recalled, or retained health care officers.
Sec. 305. Waiver of board certification requirements.
Sec. 306. Foreign language proficiency pay.
Sec. 307. Temporary increase in amount of death gratuity.
Sec. 308. Death gratuity for participants who died before the date of enactment.
Sec. 309. Treatment of accrued leave of members who die while on active duty.
Sec. 310. Removal of limitation on the accrual of savings of members in a missing status.
Sec. 310a. Basic allowance for quarters for certain members of reserve components without dependents.

Part B—Military Personnel Policies and Programs

Sec. 311. Grade of recalled retired members.

Sec. 312. Temporary CHAMPUS provisions regarding deductibles and copayment requirements.
Sec. 313. Transitional health care.
Sec. 314. Extension of certain Persian Gulf conflict provisions.
Sec. 315. Study of Department of Defense policies relating to deployment of military servicemembers with dependents or servicemembers from families with more than one servicemember.
Sec. 316. Adjustment in the effective date of changes in mental health benefits as a result of Operation Desert Storm.
Sec. 317. Sense of the House regarding the separation of certain members from their newborn children.

Part C—Veterans Benefits and Programs
Sec. 331. Short title.
Sec. 332. Inclusion of Persian Gulf War within definition of "period of war" for purposes of veterans benefits.
Sec. 333. Pension eligibility for Persian Gulf War veterans and surviving spouses of Persian Gulf War veterans.
Sec. 334. Health benefits.
Sec. 335. Reports by Secretary of Defense and Secretary of Veterans Affairs concerning services to treat post-traumatic stress disorder.
Sec. 336. Life insurance benefits.
Sec. 337. Increase in the amount of Montgomery GI bill educational assistance payments.
Sec. 338. Membership on Educational Benefits Advisory Committee for Persian Gulf War veterans.
Sec. 339. Improved reemployment rights for disabled veterans.
Sec. 340. Requalification of former employees.
Sec. 341. Eligibility for housing benefits.

Part D—Federal Employee Benefits
Sec. 361. Leave bank for Federal civilian employees in reserves who were activated during Persian Gulf War.

Part E—Higher Education Assistance
Sec. 371. Short title.
Sec. 372. Operation Desert Storm waiver authority.
Sec. 373. Tuition refunds or credits.
Sec. 374. Eligibility of student borrowers.
Sec. 375. Termination of sections 372 and 373.
Sec. 376. Coordination with other law.

Part F—Programs for Farmers and Ranchers
Sec. 381. Definitions.
Sec. 382. Base protection.
Sec. 383. Waiver of minimum planting requirement.
Sec. 384. Conservation requirements.
Sec. 385. Farm credit provisions.
Sec. 386. Program administration provisions.
Sec. 387. Administration.
Sec. 388. Outreach projects.

Part G—Budget Treatment
Sec. 391. Authorization of appropriations from Defense Cooperation Account.
Sec. 392. Benefits contingent upon appropriations from Defense Cooperation Account.
Sec. 393. Definition; construction of sections 391 and 392.

TITLE IV—REPORTS ON FOREIGN CONTRIBUTIONS AND THE COSTS OF OPERATION DESERT STORM
Sec. 401. Reports on United States costs in the Persian Gulf conflict and foreign contributions to offset such costs.
Sec. 402. Reports on foreign contributions in response to the Persian Gulf crisis.
Sec. 403. Form of reports.

TITLE V—REPORT ON THE CONDUCT OF THE PERSIAN GULF CONFLICT
Sec. 501. Department of Defense report on the conduct of the Persian Gulf conflict.

TITLE VI—GENERAL PROVISIONS
Sec. 601. Child care assistance.
Sec. 602. Family education and support services.
Sec. 603. Land conveyance, Fort A.P. Hill Military Reservation, Virginia.
Sec. 604. Grassroots efforts to support our troops.
Sec. 605. Extension of time for filing for persons serving in combat zone.
Sec. 606. Sense of Congress concerning businesses seeking to participate in the rebuilding of Kuwait.
Sec. 607. Sense of Congress regarding use of United States funds for rebuilding Iraq.
Sec. 608. Withholding of payments to indirect-hire civilian personnel of nonpaying pledging nations.
Sec. 609. Relief from requirements for reductions in defense acquisition workforce during fiscal year 1991.

TITLE VII—MISCELLANEOUS TECHNICAL AMENDMENTS
Sec. 701. Amendments to title 10, United States Code.
Sec. 702. Amendments to title 37, United States Code.
Sec. 703. Amendments to title 32, United States Code.
Sec. 704. Amendments to Public Law 101-510.
Sec. 705. Other technical amendments.

TITLE VIII—AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS FOR DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS FOR FISCAL YEAR 1991
Sec. 801. Authorization of supplemental appropriations for operating expenses.
Sec. 802. Authorization of supplemental appropriations for environmental restoration and waste management.
Sec. 803. Applicability of recurring general provisions.
Sec. 804. Relocation of Rocky Flats Plant operations.

SEC. 3. DEFINITIONS.

For the purposes of this Act:

(1) The term "Operation Desert Storm" means operations of United States Armed Forces conducted as a consequence of the invasion of Kuwait by Iraq (including operations known as Operation Desert Shield and Operation Desert Storm).

(2) The term "incremental costs associated with Operation Desert Storm" means costs referred to in section 251(b)(2)(D)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(D)(ii)).

(3) The term "Persian Gulf conflict" means the period beginning on August 2, 1990, and ending thereafter on the date prescribed by Presidential proclamation or by law.

(4) The term "congressional defense committees" has the meaning given that term in section 3 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1498).

SEC. 4. CONSTRUCTION WITH PUBLIC LAW 101-510.

Any authorization of appropriations, or authorization of the transfer of authorizations of appropriations, made by this Act is in addition to the authorization of appropriations, or the authority to make transfers, provided in the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510).

TITLE I—AUTHORIZATION OF FISCAL YEAR 1991 SUPPLEMENTAL APPROPRIATIONS FOR OPERATION DESERT STORM

SEC. 101. FUNDS IN THE DEFENSE COOPERATION ACCOUNT.

(a) AUTHORIZATION OF APPROPRIATION.—During fiscal year 1991, there is authorized to be appropriated to the Department of Defense current and future balances in the Defense Cooperation Account established under section 2608 of title 10, United States Code.

(b) USE OF FUNDS.—Amounts appropriated pursuant to subsection (a) shall be available only for—

(1) transfer by the Secretary of Defense to fiscal year 1991 appropriation accounts of the Department of Defense or Coast Guard for incremental costs associated with Operation Desert Storm; and

(2) replenishment of the working capital account created under section 102.

SEC. 102. PERSIAN GULF CONFLICT WORKING CAPITAL ACCOUNT.

(a) ESTABLISHMENT OF ACCOUNT.—There is established in the Treasury of the United States a working capital account for the Department of Defense to be known as the "Persian Gulf Conflict Working Capital Account".

(b) AUTHORIZATION OF APPROPRIATIONS.—During fiscal year 1991, there is authorized to be appropriated to the Persian Gulf Conflict Working Capital Account the sum of $15,000,000,000.

(c) USE OF FUNDS.—Funds appropriated pursuant to subsection (b) shall be available only for transfer by the Secretary of Defense to fiscal year 1991 appropriation accounts of the Department of Defense or Coast Guard for the incremental costs associated with Operation Desert Storm. Such funds may be used for that purpose only to the extent that funds are not available in the Defense Cooperation Account for transfer for such incremental costs.

(d) REPLENISHMENT OF ACCOUNT.—Amounts transferred from the Persian Gulf Conflict Working Capital Account shall be replenished from funds available in the Defense Cooperation Account to the extent that funds are available in the Defense Cooperation Account. Whenever the balance in the working capital account is less than the amount appropriated to that account pursuant to this section, the Secretary shall transfer from the Defense Cooperation Account such funds as become available to the account to replenish the working capital account before making any transfer of such funds under sections 101 and 102.

(e) REVERSION OF BALANCE UPON TERMINATION OF ACCOUNT.—Any balance in the Persian Gulf Conflict Working Capital Account at the time of the termination of the account shall revert to the general fund of the Treasury.

SEC. 103. ADDITIONAL TRANSFER AUTHORITY.

The amount of the transfer authority provided in section 1401 of Public Law 101-510 is hereby increased by the amount of such transfers as the Secretary of Defense makes pursuant to law (other than Public Law 101-511) to make adjustments among amounts provided in titles I and II of Public Law 101-511 due to incremental costs associated with Operation Desert Storm.

SEC. 104. ADMINISTRATION OF TRANSFERS.

A transfer made under the authority of section 101 or 102 increases by the amount of the transfer the amount authorized for the account to which the transfer is made.

SEC. 105. NOTICE TO CONGRESS OF TRANSFERS.

(a) NOTICE-AND-WAIT.—A transfer may not be made under section 101 or 102 until the seventh day after the congressional defense committees receive a report with respect to that transfer under subsection (b).

(b) CONTENT OF REPORT.—A report under subsection (a) shall include the following:

(1) A certification by the Secretary of Defense that the amount or amounts proposed to be transferred will be used only for incremental costs associated with Operation Desert Storm.

(2) A statement of each account to which the transfer is proposed to be made and the amount proposed to be transferred to such account.

(3) A description of the programs, projects, and activities for which funds proposed to be transferred are proposed to be used.

(4) In the case of a transfer from the working capital account established under section 102, an explanation of the reasons why funds are not available in the Defense Cooperation Account for such transfer.

SEC. 106. MONTHLY REPORTS ON TRANSFERS.

Not later than seven days after the end of each month in fiscal years 1991 and 1992, the Secretary of Defense shall submit to the congressional defense committees and the Comptroller General of the United States a detailed report on the cumulative total amount of the transfers made under the authority of this title through the end of that month.

TITLE II—WAIVER OF PERSONNEL CEILINGS AFFECTED BY OPERATION DESERT STORM

SEC. 201. AUTHORITY TO WAIVE END STRENGTH AND GRADE STRENGTH LAWS.

(a) FISCAL YEAR 1991 END STRENGTH.—The Secretary of a military department may waive any end strength prescribed in section 401(a), 411, or 412(a) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1485) that applies to any of the armed forces under the jurisdiction of that Secretary.

(b) GRADE STRENGTH LIMITATIONS.—The Secretary of a military department may suspend, for fiscal year 1991, the operation of any provision of section 517, 523, 524, 525, or 526 of title 10, United States Code, with respect to that military department.

SEC. 202. CERTIFICATION.

The Secretary of a military department may exercise the authority provided in subsection (a) or (b) of section 201 only after the Secretary submits to the congressional defense committees a certification in writing that the exercise of that authority is necessary because of personnel actions associated with Operation Desert Storm.

SEC. 203. AUTHORIZATION FROM DEFENSE COOPERATION ACCOUNT.

(a) AUTHORIZATION.—In addition to authorizations under section 101, there is hereby authorized to be appropriated from the Defense Cooperation Account such sums as may be necessary for increases in military personnel costs for fiscal years 1991 through 1995 resulting from the exercise of the authorities provided in section 201. Such increases in costs are incremental costs associated with Operation Desert Storm.

(b) USE OF FUNDS.—Funds appropriated to the Persian Gulf Conflict Working Capital Account pursuant to section 102(b) may be used for the purposes described in subsection (a) to the extent provided in section 102(c).

(c) REPORTING.—Funds obligated for the purposes described in subsection (a) shall be included in the reports required by section 106.

SEC. 204. CONFORMING REPEAL.

Section 1117 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1637) is repealed.

SEC. 205. RELATIONSHIP TO OTHER LAWS.

(a) RELATIONSHIP TO OTHER WAIVER AUTHORITIES.—The authority provided in section 201(a) is in addition to the waiver authority provided in sections 401(c) and 411(b) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510) and the waiver authority provided in section 115(c)(1) of title 10, United States Code.

(b) RELATIONSHIP TO OTHER SUSPENSION AUTHORITY.—The authority provided in section 201(b) is in addition to the authority provided in section 527 of title 10, United States Code.

TITLE III—BENEFITS FOR PERSONS SERVING IN THE ARMED FORCES DURING THE PERSIAN GULF CONFLICT

PART A—MILITARY COMPENSATION AND BENEFITS

SEC. 301. TEMPORARY INCREASE IN THE RATE OF SPECIAL PAY FOR DUTY SUBJECT TO HOSTILE FIRE OR IMMINENT DANGER.

(a) INCREASED RATE.—In lieu of the rate of special pay specified in section 310(a) of title 37, United States Code, the rate of special pay payable under that section shall be $150 for each month during the period described in subsection (b).

(b) PERIOD OF APPLICABILITY.—Subsection (a) shall apply during the period beginning on August 1, 1990, and ending on the first day of the first month beginning on or after the date 180 days after the end of the Persian Gulf conflict.

SEC. 302. TEMPORARY INCREASE IN FAMILY SEPARATION ALLOWANCE.

(a) INCREASED RATE.—In lieu of the family separation allowance specified in section 427(b)(1) of title 37, United States Code, the family separation allowance payable under that section shall be $75 for each month during the period described in subsection (b).

(b) PERIOD OF APPLICABILITY.—Subsection (a) shall apply during the period beginning on January 15, 1991, and ending on the first day of the first month beginning on or after the date 180 days after the end of the Persian Gulf conflict.

SEC. 303. DETERMINATION OF VARIABLE HOUSING ALLOWANCE FOR RESERVES.

(a) USE OF PRINCIPAL PLACE OF RESIDENCE.—For the purpose of determining the entitlement of a Reserve described in subsection (b) to a variable housing allowance under section 403a of title 37, United States Code, the Reserve shall be considered to be assigned to duty at the Reserve's principal place of residence, determined as prescribed by the Secretary of Defense.

(b) RESERVE DESCRIBED.—A Reserve referred to in subsection (a) is a member of a reserve component of the uniformed services who is serving on active duty under a call or order to active duty in connection with Operation Desert Storm and is assigned to duty away from the Reserve's principal place of residence, determined as prescribed by the Secretary.

SEC. 304. MEDICAL, DENTAL, AND NONPHYSICIAN SPECIAL PAYS FOR RESERVE, RECALLED, OR RETAINED HEALTH CARE OFFICERS.

(a) ELIGIBLE FOR SPECIAL PAY.—A health care officer described in subsection (b) shall be eligible for special pay under section 302, 302a, 302b, 302e, or 303 of title 37, United States Code (whichever applies), notwithstanding any requirement in those sections that—

(1) the call or order of the officer to active duty be for a period of not less than one year; or

(2) the officer execute a written agreement to remain on active duty for a period of not less than one year.

(b) HEALTH CARE OFFICERS DESCRIBED.—A health care officer referred to in subsection (a) is an officer of the Armed Forces who is otherwise eligible for special pay under section 302, 302a, 302b, 302e, or 303 of title 37, United States Code, and who—

(1) is a reserve officer on active duty under a call or order to active duty for a period of less than one year in connection with Operation Desert Storm;

(2) is involuntarily retained on active duty under section 673c of title 10, United States Code, or is recalled to active duty under section 688 of that title, in connection with Operation Desert Storm; or

(3) voluntarily agrees to remain on active duty for a period of less than one year in connection with Operation Desert Storm.

(c) MONTHLY PAYMENTS.—Payment of special pay pursuant to this section may be made on a monthly basis. If the service on active duty of an officer described in subsection (b) is terminated before the end of the period for which a payment is made to the officer under subsection (a), the officer is entitled to special pay under section 302, 302a, 302b, 302e, or 303 of title 37, United States Code (whichever applies), only for the portion of that period that the officer actually served on active duty. The officer shall refund any amount received in excess of the amount that corresponds to the period of active duty of the officer.

(d) SPECIAL RULE FOR RESERVE MEDICAL OFFICER.—While a reserve medical officer receives a special pay under section 302 of title 37, United States Code, by operation of subsection (a), the officer shall not be entitled to special pay under subsection (h) of that section.

(e) PERIOD OF APPLICABILITY.—Subsection (a) shall apply during the period beginning on November 5, 1990, and ending on the first day of the first month beginning on or after the date 180 days after the end of the Persian Gulf conflict.

SEC. 305. WAIVER OF BOARD CERTIFICATION REQUIREMENTS.

(a) CERTIFICATION INTERRUPTED BY OPERATION DESERT STORM.—A member of the Armed Forces described in subsection (b) who completes the board certification or recertification requirements specified in section 302(a)(5), 302b(a)(5), 302c(c)(3), or 302c(d)(4) of title 37, United States Code, before the end of the period established for the member in subsection (c) shall be paid special pay under section 302(a)(5), 302b(a)(5), 302c(c)(3), or 302c(d)(4) of such title (whichever applies) for active duty performed after November 5, 1990, and before the date of that certification and recertification if the Secretary of Defense determines that the member was unable to schedule or complete that certification or recertification earlier because of a duty assignment in connection with Operation Desert Storm.

(b) ELIGIBLE MEMBERS DESCRIBED.—A member of the Armed Forces referred to in subsection (a) is a member who—

(1) is a medical or dental officer or a nonphysician health care provider;

(2) has completed any required residency training; and

(3) was, except for the board certification requirement, otherwise eligible for special pay under section 302(a)(5), 302b(a)(5), 302c(c)(3), or 302c(d)(4) of such title during the duty assignment in connection with Operation Desert Storm.

(c) PERIOD FOR CERTIFICATION.—The period referred to in subsection (a) for completion of board certification or recertification requirements with respect to a member of the Armed Forces is the 180-day period (extended for such additional time as the Secretary of Defense determines to be appropriate) beginning on the date that the member is released from the duty to which the member was assigned in connection with Operation Desert Storm.

SEC. 306. FOREIGN LANGUAGE PROFICIENCY PAY.

(a) CERTIFICATION INTERRUPTED BY OPERATION DESERT STORM.—A member of the Armed Forces described in subsection (b) who obtains a certification of foreign language proficiency before the end of the period established for the member in subsection (c) shall be paid foreign language proficiency pay under section 316 of title 37, United States Code, for active duty performed after August 2, 1990, and before the date of that certification if the Secretary of Defense determines that the member was unable to schedule or complete that certification earlier because of a duty assignment in connection with Operation Desert Storm.

(b) ELIGIBLE MEMBERS DESCRIBED.—A member of the Armed Forces referred to in subsection (a) is a member on active duty who, except for subsection (a)(2) of that section, was otherwise eligible for special pay under that section during the duty assignment in connection with Operation Desert Storm.

(c) PERIOD FOR CERTIFICATION.—The period referred to in subsection (a) for completion of certification of foreign language proficiency with respect to a member of the Armed Forces is the 180-day period (extended for such additional time as the Secretary of Defense determines to be appropriate) beginning on the date that the member is released from the duty to which the member was assigned in connection with Operation Desert Storm.

SEC. 307. TEMPORARY INCREASE IN AMOUNT OF DEATH GRATUITY.

In lieu of the amount of the death gratuity specified in section 1478(a) of title 10, United States Code, the amount of the death gratuity payable under that section shall be $6,000 for a death resulting from any injury or illness incurred during the Persian Gulf conflict or during the 180-day period beginning at the end of the Persian Gulf conflict.

SEC. 308. DEATH GRATUITY FOR PARTICIPANTS WHO DIED BEFORE THE DATE OF ENACTMENT.

(a) PAYMENT OF DEATH GRATUITY.—Subject to subsections (b) and (c), the Secretary of Defense shall pay a death gratuity to each SGLI beneficiary of each deceased member of the uniformed services who died after August 1, 1990, and before the date of the enactment of this Act, and whose death was in conjunction with or in support of Operation Desert Storm, or attributable to hostile action in regions other than the Persian Gulf, as prescribed in regulations set forth by the Secretary of Defense.

(b) AMOUNT AND DISTRIBUTION OF GRATUITY.—The amount of the death gratuity payable to an SGLI beneficiary in the case of a deceased member of the uniformed services under this section shall be equal to the Servicemen's Group Life Insurance paid or payable to such beneficiary under subchapter III of chapter 19 of title 38, United States Code, by reason of the death of such member.

(c) APPLICATION FOR GRATUITY REQUIRED.—A death gratuity shall be payable to an SGLI beneficiary under this section upon receipt of a written application therefor by the Secretary of Defense within one year after the date of the enactment of this Act.

(d) REGULATIONS.—The Secretary shall prescribe in regulations the form of the application for benefits under this section and any procedures and requirements that the Secretary considers necessary to carry out this section.

(e) DEFINITIONS.—In this section:

(1) The term "SGLI beneficiary", with respect to a deceased member of the uniformed services, means a person to whom Servicemen's Group Life Insurance is paid or payable under subchapter III of chapter 19 of title 38, United States Code, by reason of the death of such member.

(2) The term "Secretary concerned" has the meaning given that term in section 101(25) of title 38, United States Code.

SEC. 309. TREATMENT OF ACCRUED LEAVE OF MEMBERS WHO DIE WHILE ON ACTIVE DUTY.

(a) SURVIVORS ELIGIBLE FOR PAYMENT FOR ALL ACCRUED LEAVE OF MEMBER.—In the case of a member of the uniformed services who dies as a result of an injury or illness incurred while serving on active duty during the Persian Gulf conflict, the limitation in the second sentence of subsection (b)(3) of section 501 of title 37, United States Code, and in subsection (f) of that section shall not apply with respect to a payment made pursuant to subsection (d) of that section for leave accrued during fiscal year 1990 or 1991.

(b) TECHNICAL AMENDMENT.—Section 1115(a) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1636) is amended by striking out "section 501(b)(3) of title 37, United States Code, does not apply" and inserting in lieu thereof "subsection (b)(3) of section 501 of title 37, United States Code, and in subsection (f) of that section does not apply".

(c) EFFECTIVE DATE.—The amendment made by subsection (b) shall take effect as of November 5, 1990.

SEC. 310. REMOVAL OF LIMITATION ON THE ACCRUAL OF SAVINGS OF MEMBERS IN A MISSING STATUS.

(a) ADDITION OF PERSIAN GULF CONFLICT.—Subsection (b) of section 1035 of title 10, United States Code, is amended—

(1) by inserting before the period in the second sentence the following: "or during the Persian Gulf conflict"; and

(2) in the last sentence, by striking out "the date designated" and all that follows through the period and inserting in lieu thereof the following: "May 7, 1975, and the Persian Gulf conflict begins on January 16, 1991, and ends on the date thereafter prescribed by Presidential proclamation or by law.".

(b) MISSING STATUS DEFINED.—Such section is further amended by adding at the end the following new subsection:

"(f) In this section, the term 'missing status' has the meaning given such term in section 551(2) of title 37.".

(c) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in subsection (b), by striking out ", as defined in section 551(2) of title 37,"; and

(2) in subsection (e), by striking out "(as defined in section 551(2) of title 37)".

SEC. 310A. BASIC ALLOWANCE FOR QUARTERS FOR CERTAIN MEMBERS OF RESERVE COMPONENTS WITHOUT DEPENDENTS.

(a) IN GENERAL.—A member of a reserve component of the uniformed services without dependents who is called or ordered to active duty in connection with Operation Desert Storm shall be entitled to a basic allowance for quarters under section 403 of title 37, United States Code, if, because of the call or order, the member is unable to continue to occupy a residence—

(1) which is maintained as the primary residence of the member at the time of the call or order; and

(2) which is owned by the member or for which the member is responsible for rental payments.

(b) PERIOD OF APPLICABILITY.—Subsection (a) shall apply during the period beginning on August 2, 1990, and ending on the first day of the first month beginning on or after the date 180 days after the end of the Persian Gulf conflict.

PART B—MILITARY PERSONNEL POLICIES AND PROGRAMS

SEC. 311. GRADE OF RECALLED RETIRED MEMBERS.

(a) IN GENERAL.—A retired member of the Armed Forces ordered to active duty under section 688 of title 10, United States Code, in connection with Operation Desert Storm who had previously served on active duty satisfactorily, as determined by the Secretary of the military department concerned, in a grade higher than that member's retired grade may be ordered to active duty under that section in the highest grade in which the member had so served satisfactorily.

(b) GRADE UPON RELEASE FROM ACTIVE DUTY.—(1) For the purposes of section 688(b) of title 10, United States Code, a member of the Armed Forces ordered to active duty in a grade that is higher than the member's retired grade pursuant to subsection (a) shall be deemed to have been promoted to such higher grade while on such active duty.

(2) A retired member described in subsection (a) who, upon being released from the tour of active duty covered by that subsection, has served on active duty satisfactorily, as determined by the Secretary concerned, for not less than a total of 36 months in a grade higher than the member's retired grade, is entitled, upon that release from active duty, to placement on the retired list in that grade.

(c) EFFECTIVE DATE.—This section shall apply with respect to retired members ordered to active duty on or after August 2, 1990.

SEC. 312. TEMPORARY CHAMPUS PROVISIONS REGARDING DEDUCTIBLES AND COPAYMENT REQUIREMENTS.

(a) DELAY IN THE INCREASE OF ANNUAL DEDUCTIBLES UNDER CHAMPUS.—The annual deductibles specified in subsection (b) of section 1079 of title 10, United States Code (as in effect on November 4, 1990), shall apply until October 1, 1991, in the case of health care provided under that section to the dependents of a member of the uniformed services who serves or served on active duty in the Persian Gulf theater of operations in connection with Operation Desert Storm.

(b) WAIVER OF COPAYMENT REQUIREMENTS.—(1) Any civilian health care provider furnishing health care pursuant to a plan contracted for under the authority of section 1079 or 1086 of title 10, United States Code, may waive, in whole or in part, any requirement for payment under subsection (b) of that section by a patient described in paragraph (2) for health care furnished the patient by such health care provider during the Persian Gulf conflict.

(2) A patient referred to in paragraph (1) is a dependent of a member of the uniformed services who serves on active duty in the Persian Gulf theater of operations in connection with Operation Desert Storm.

(3) If a health care provider waives a payment for health care under paragraph (1), the health care provider shall certify to the Secretary of Defense that the amount charged the Federal Government for such health care was not increased above the amount that the health care provider would have charged the Federal Government for such health care had the payment not been waived. The Secretary of Defense may require a health care provider to provide information to the Secretary to show the compliance of the health care provider with this paragraph.

SEC. 313. TRANSITIONAL HEALTH CARE.

(a) HEALTH CARE PROVIDED.—A member of the Armed Forces described in subsection (b), and the dependents of the member, shall be entitled to receive health care described in subsection (c) upon the release of the member from active duty in connection with Operation Desert Storm until the earlier of—

(1) 30 days after the date of the release of the member from active duty; or

(2) the date on which the member and the dependents of the member are covered by a health plan sponsored by an employer.

(b) ELIGIBLE MEMBER DESCRIBED.—A member of the Armed Forces referred to in subsection (a) is a member who—

(1) is a member of a reserve component of the Armed Forces and is called or ordered to active duty under chapter 39 of title 10, United States Code, in connection with Operation Desert Storm;

(2) is involuntarily retained on active duty under section 673c of title 10, United States Code, in connection with Operation Desert Storm; or

(3) voluntarily agrees to remain on active duty for a period of less than one year in connection with Operation Desert Storm.

(c) HEALTH CARE DESCRIBED.—The health care referred to in subsection (a) is—

(1) medical and dental care under section 1076 of title 10, United States Code, in the same manner as a dependent described in subsection (a)(2) of that section; and

(2) health benefits contracted under the authority of section 1079(a) of that title and subject to the same rates and conditions as apply to persons covered under that section.

(d) DEPENDENT DEFINED.—For purposes of this section, the term "dependent" has the meaning given that term in section 1072(2) of title 10, United States Code.

SEC. 314. EXTENSION OF CERTAIN PERSIAN GULF CONFLICT PROVISIONS.

Title XI of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1634 et seq.) is amended as follows:

(1) The following sections are amended by striking out "Operation Desert Shield" each place it appears and inserting in lieu thereof "the Persian Gulf conflict": sections 1111(b)(1), 1114, and 1115.

(2) Section 1111 is further amended—

(A) by striking out "for fiscal year 1990 and during fiscal year 1991" in subsection (b)(1);

(B) by inserting "or for fiscal year 1992" in subsection (b)(2) after "fiscal year 1991"; and

(C) by striking out subsection (c).

(3) Sections 1114(a) and 1115(a) are amended by striking out "during fiscal year 1990 or 1991".

SEC. 315. STUDY OF DEPARTMENT OF DEFENSE POLICIES RELATING TO DEPLOYMENT OF MILITARY SERVICEMEMBERS WITH DEPENDENTS OR SERVICEMEMBERS FROM FAMILIES WITH MORE THAN ONE SERVICEMEMBER.

(a) STUDY.—The Secretary of Defense shall carry out a study of the policies of the Department of Defense relating—

(1) to activation of units and members of reserve components for active duty (other than for training); and

(2) to deployments overseas of members of the Armed Forces (whether from active or reserve components),

as those policies affect the family responsibilities and interests of members of the Armed Forces who have minor children or who are from families with more than one member in the Armed Forces.

(b) MATTERS TO BE CONSIDERED.—The study under subsection (a) shall examine the family policies of the military departments for consistency among the Armed Forces and shall consider whether these policies adequately address the needs of reserve component personnel. The study shall also assess the responsiveness of current policies to the needs of the all-volunteer Force as it is presently constituted, as reflected by its demographic profile.

(c) REPORT.—Not later than March 31, 1992, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the results of the study under subsection (a). The report shall include an analysis of the effect of deployments made as part of military operations during the Persian Gulf conflict on members of the Armed Forces referred to in that subsection, including the following (which shall be shown separately by service and for active-component and reserve-component personnel):

(1) The number of single parent military personnel who were deployed and the number of children of those parents.

(2) The number of members of the Armed Forces married to another member of the Armed Forces who were both deployed and the number of children of those members.

(3) The number of members of the Armed Forces deployed (or given orders to deploy) who requested exceptions to existing policies respecting family members, categorized by the reasons given for the requests and the dispositions of the requests.

(4) A description of any differences in any of the military departments in policies applicable to active component members and reserve component members and any problems that arose from those differences.

(5) A statement of the incidence of use of military family assistance programs by persons other than parents who provided care for dependent children while parents in the Armed Forces were deployed.

(6) A discussion of the effectiveness of military family assistance programs during the Persian Gulf conflict.

(7) A discussion of the applicability of existing policies with respect to members of the Armed Forces who have dependents other than minor children, including dependent parents and dependent disabled adult children.

(8) A discussion of proposed and actual changes by the Department of Defense in family assistance programs and assignment policies.

SEC. 316. ADJUSTMENT IN THE EFFECTIVE DATE OF CHANGES IN MENTAL HEALTH BENEFITS AS A RESULT OF OPERATION DESERT STORM.

(a) IN GENERAL.—(1) Section 703(d) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1582) is amended by striking out "February 15, 1991" and inserting in lieu thereof "October 1, 1991".

(2) Section 8044 of the Department of Defense Appropriations Act, 1991 (Public Law 101-511; 104 Stat. 1884) is amended (A) in the matter preceding the first proviso, by striking out "this Act" and inserting in lieu thereof "any Act appropriating funds to the Department of Defense for fiscal year 1992 and", and (B) in the fifth proviso, by striking out "February 15, 1991" and inserting in lieu thereof "October 1, 1991".

(b) TRANSITION PROVISION.—Effective as of February 15, 1991, subsections (a)(6) and (i) of section 1079 of title 10, United States Code, as those subsections were in effect on February 14, 1991, are revived.

(c) FUNDS.—Of the amount authorized to be appropriated by section 391, $36,000,000 shall be available for increased costs by reason of the amendments made by this section.

SEC. 317. SENSE OF THE HOUSE OF REPRESENTATIVES REGARDING THE SEPARATION OF CERTAIN MEMBERS FROM THEIR NEWBORN CHILDREN.

It is the sense of the House of Representatives that the Secretary of Defense should strive to develop and implement a uniform policy with respect to the deployment of a member of the Armed Forces who is the mother of a child under the age of six months. Such a policy should provide that, to the maximum extent possible, a member of the Armed Forces who is the mother of a child under the age of six months shall not be—

(1) deployed, in the case of a member of a regular component; or

(2) activated (if such activation requires separation of the member from her child) or deployed in the case of a member of a reserve component.

PART C—VETERANS BENEFITS AND PROGRAMS

SEC. 331. SHORT TITLE.

This part may be cited as the "Persian Gulf War Veterans' Benefits Act of 1991".

SEC. 332. INCLUSION OF PERSIAN GULF WAR WITHIN DEFINITION OF "PERIOD OF WAR" FOR PURPOSES OF VETERANS BENEFITS.

Section 101 of title 38, United States Code, is amended—

(1) in paragraph (11), by inserting "the Persian Gulf War," after "the Vietnam era,"; and

(2) by adding at the end the following new paragraph:

"(33) The term 'Persian Gulf War' means the period beginning on August 2, 1990, and ending on the date thereafter prescribed by Presidential proclamation or by law.".

SEC. 333. PENSION ELIGIBILITY FOR PERSIAN GULF WAR VETERANS AND SURVIVING SPOUSES OF PERSIAN GULF WAR VETERANS.

(a) Section 501 of title 38, United States Code, is amended by inserting "the Persian Gulf War," in paragraph (4) after "the Vietnam era,".

(b) Section 541(f)(1) of such title is amended—

(1) by striking out "or" before (D); and

(2) by inserting before the semicolon at the end ", or (E) January 1, 2001, in the case of a surviving spouse of a veteran of the Persian Gulf War".

(c) CONFORMING AMENDMENTS.—(1) The heading above section 541 of such title is amended to read as follows:

"OTHER PERIODS OF WAR"

(2) The table of sections at the beginning of chapter 15 of such title is amended by striking out the heading between the items relating to section 537 and 541 and inserting in lieu thereof the following:

"Other Periods of War"

SEC. 334. HEALTH BENEFITS.

(a) PERIOD OF SERVICE FOR DENTAL BENEFITS—Section 612(b) of title 38, United States Code, is amended by inserting "or, in the case of a veteran who served on active duty during the Persian Gulf War, 90 days" after "180 days" in paragraphs (1)(B)(ii) and (2).

(b) PRESUMPTION RELATING TO PSYCHOSIS.—Section 602 of such title is amended—

(1) by striking out "or the Vietnam era" and inserting in lieu thereof "the Vietnam era, or the Persian Gulf War";

(2) by striking out "or" after "Korean conflict," the second place it appears; and

(3) by inserting "or before the end of the two-year period beginning on the last day of the Persian Gulf War, in the case of a veteran of the Persian Gulf War," after "Vietnam era veteran,".

(c) COVERAGE OF CERTAIN PRESCRIPTION DRUG BENEFITS.—Section 612(h) of such title is amended in the first sentence by striking out "the Mexican border period" and all that follows through "Vietnam era" and inserting in lieu thereof "a period of war".

(d) READJUSTMENT COUNSELING.—Section 612A(a) of such title is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following new paragraph:

"(2)(A) The Secretary shall furnish counseling as described in paragraph (1), upon request, to any veteran who served on active duty after May 7, 1975, in an area at a time during which hostilities occurred in such area.

"(B) For the purposes of subparagraph (A) of this paragraph, the term 'hostilities' means an armed conflict in which members of the Armed Forces are subjected to danger comparable to the danger to which members of the Armed Forces have been subjected in combat with enemy armed forces during a period of war, as determined by the Secretary in consultation with the Secretary of Defense.".

SEC. 335. REPORTS BY SECRETARY OF DEFENSE AND SECRETARY OF VETERANS AFFAIRS CONCERNING SERVICES TO TREAT POST-TRAUMATIC STRESS DISORDER.

(a) IN GENERAL.—The Secretary of Defense and the Secretary of Veterans Affairs shall each submit to Congress two reports containing, with respect to their respective Departments, the following:

(1) An assessment of the need for rehabilitative services for members of the Armed Forces participating in the Operation Desert Storm who experience post-traumatic stress disorder.

(2) A description of the available programs and resources to meet those needs.

(3) The specific plans of that Secretary for treatment of members experiencing post-traumatic stress disorder, particularly with respect to any specific needs of members of reserve components.

(4) An assessment of needs for additional resources necessary in order to carry out such plans.

(5) A description of plans to coordinate treatment services for post-traumatic stress disorder with the other Department.

(b) TIMES FOR SUBMISSION OF REPORTS.—The first report by each of the Secretaries shall be submitted not later than 90 days after the date of the enactment of this Act, and the second report by each of the Secretaries shall be submitted a year later.

SEC. 336. LIFE INSURANCE BENEFITS.

(a) SERVICEMEN'S GROUP LIFE INSURANCE.—Section 767 of title 38, United States Code, is amended—

(1) in subsections (a) and (c), by striking out "$50,000" each place it appears and inserting in lieu thereof "$100,000"; and

(2) in subsection (d)—

(A) by striking out "January 1, 1986" each place it appears and inserting in lieu thereof "May 1, 1991"; and

(B) by striking out "$50,000" and inserting in lieu thereof "$100,000".

(b) VETERANS' GROUP LIFE INSURANCE.—Section 777(a) of such title is amended by striking out "$50,000" each place it appears and inserting in lieu thereof "$100,000".

(c) EFFECTIVE DATES.—(1) The amendments made by subsection (a) shall apply with respect to deaths on or after the date of the enactment of this Act.

SEC. 337. INCREASE IN THE AMOUNT OF MONTGOMERY GI BILL EDUCATIONAL ASSISTANCE PAYMENTS.

(a) AMOUNT OF BENEFIT PAYMENTS UNDER CHAPTER 30.—Section 1415 of title 38, United States Code, is amended—

(1) in subsection (a), by striking out "and (c)" and inserting in lieu thereof ", (c), (d), (e), and (f)";

(2) in subsection (b), by striking out "In" and inserting in lieu thereof "Except as provided in subsections (c), (d), (e), and (f), in"; and

(3) by adding at the end the following new subsection:

"(f)(1) During the period beginning on October 1, 1991, and ending on September 30, 1993, the monthly rates payable under subsection (a)(1) or (b)(1) of this section shall be $350 and $275, respectively.

"(2) With respect to the fiscal year beginning on October 1, 1993, the Secretary may continue to pay, in lieu of the rates payable under subsection (a)(1) or (b)(1) of this section, the monthly rates payable under paragraph (1) of this subsection and may provide a percentage increase in such rates equal to the percentage by which the Consumer Price Index (all items, United States city average, published by the Bureau of Labor Statistics) for the 12-month period ending June 30, 1993, exceeds such Consumer Price Index for the 12-month period ending June 30, 1992.

"(3) With respect to any fiscal year beginning on or after October 1, 1994, the Secretary may continue to pay, in lieu of the rates payable under subsection (a)(1) or (b)(1) of this section, the monthly rates payable under this subsection for the previous fiscal year and may provide, for any such fiscal year, a percentage increase in such rates equal to the percentage by which—

"(A) the Consumer Price Index (all items, United States city average) for the 12-month period ending on the June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

"(B) such Consumer Price Index for the 12-month period preceding the 12-month period described in subparagraph (A).".

(b) AMOUNT OF BENEFIT PAYMENTS UNDER SELECTED RESERVE PROGRAM.—(1) Section 2131(b) of title 10, United States Code, is amended—

(A) by striking out "(b) Except as provided in" and inserting in lieu thereof "(b)(1) Except as provided in paragraph (2) and";

(B) by redesignating paragraphs (1), (2), (3), and (4), as subparagraphs (A), (B), (C), and (D), respectively; and

(C) by adding at the end the following new paragraph:

"(2)(A) During the period beginning on October 1, 1991, and ending on September 30, 1993, the monthly rates payable under subparagraphs (A), (B), and (C) of paragraph (1) shall be $170, $128, and $85, respectively.

"(B) With respect to the fiscal year beginning on October 1, 1993, the Secretary may continue to pay, in lieu of the rates payable under subparagraphs (A), (B), and (C) of paragraph (1), the monthly rates payable under subparagraph (A) of this paragraph and may provide a percentage increase in such rates equal to the percentage by which the Consumer Price Index (all items, United States city average, published by the Bureau of Labor Statistics) for the 12-month period ending June 30, 1993, exceeds such Consumer Price Index for the 12-month period ending June 30, 1992.

"(C) With respect to any fiscal year beginning on or after October 1, 1994, the Secretary may continue to pay, in lieu of the rates payable under subparagraphs (A), (B), and (C) of paragraph (1), the monthly rates payable under this paragraph for the previous fiscal year and may provide, for any such fiscal year, a percentage increase in such rates equal to the percentage by which—

"(i) the Consumer Price Index (all items, United States city average) for the 12-month period ending on the June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

"(ii) such Consumer Price Index for the 12-month period preceding the 12-month period described in clause (i).".

(2) Section 2131(f)(2) of such title is amended by striking out "$140" and inserting in lieu thereof "amount equal to the amount of the monthly rate payable under subsection (b)(1)(A) for the fiscal year concerned".

(3) Section 2131(g)(3) of such title is amended by striking out "$140" and inserting in lieu thereof "amount equal to the amount of the monthly rate payable under subsection (b)(1)(A) for the fiscal year concerned".

SEC. 338. MEMBERSHIP ON EDUCATIONAL BENEFITS ADVISORY COMMITTEE FOR PERSIAN GULF WAR VETERAN.

Section 1792(a) of title 38, United States Code, is amended by striking out "and the post-Vietnam era" in the second sentence and inserting in lieu thereof "the post-Vietnam era, and the Persian Gulf War".

SEC. 339. IMPROVED REEMPLOYMENT RIGHTS FOR DISABLED VETERANS.

(a) IN GENERAL.—Chapter 43 of title 38, United States Code, is amended by adding at the end the following new section:

"§2027. Qualification for employment position

"(a) For the purposes of this chapter, a person shall be considered qualified to perform the duties of an employment position if such person, with or without reasonable accommodation, can perform the essential functions of the position.

"(b) For the purposes of subsection (a) of this section, an employer shall be required to make reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability, unless the employer can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such employer.

"(c) For purposes of subsections (a) and (b) of this section—

"(1) the term 'employer' means—

"(A) until July 26, 1994, a person engaged in an industry affecting commerce who has 25 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding year, and any agent of such person; and

"(B) on and after July 26, 1994, a person engaged in an industry affecting commerce who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such person;

except that such term does not include the United States, a corporation wholly owned by the Government of the United States, an Indian tribe, or a bona fide private membership club (other than a labor organization) that is exempt from taxation under section 501(c) of the Internal Revenue Code of 1986; and

"(2) the terms 'reasonable accommodation' and 'undue hardship' have the meanings given such terms in paragraphs (9) and (10), respectively, of section 101 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111(9) and (10)).

"(d) Nothing in this chapter shall be interpreted to limit in any way any of the rights conferred by the Americans with Disabilities Act of 1990.".

(b) TECHNICAL AMENDMENT.—The table of sections of such chapter is amended by adding at the end the following:

"2027. Qualification for employment position."

(c) Effective Date.—The amendments made by this section shall take effect as of August 1, 1990.

SEC. 340. REQUALIFICATION OF FORMER EMPLOYEES.

(a) IN GENERAL.—Section 2021(a) of title 38, United States Code, is amended—

(1) in clause (A), by inserting "or able to become requalified with reasonable efforts by the employer" after "perform the duties of such position" each place it appears; and

(2) in clause (B), by inserting "or able to become requalified with reasonable efforts by the employer" after "perform the duties of such position" each place it appears.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as of August 1, 1990.

SEC. 341. ELIGIBILITY FOR HOUSING BENEFITS.

Section 1802(a)(2) of title 38, United States Code, is amended by adding at the end the following new subparagraph:

"(D) Each veteran who served on active duty for 90 days or more at any time during the Persian Gulf War, other than a veteran ineligible for benefits under this title by reason of section 3103A(b) of this title.".

PART D—FEDERAL EMPLOYEE BENEFITS

SEC. 361. LEAVE BANK FOR FEDERAL CIVILIAN EMPLOYEES IN RESERVES WHO WERE ACTIVATED DURING PERSIAN GULF WAR.

(a) CIVIL SERVICE EMPLOYEES.—The Office of Personnel Management shall establish a leave bank program under which—

(1) an employee in any executive agency may (during a period specified by the Office of Personnel Management) donate any unused annual leave from the employee's annual leave account to a leave bank established by the Office of Personnel Management;

(2) the total annual leave that has been donated under paragraph (1) shall be divided equally among the annual leave accounts of all employees who have been members of the Armed Forces serving on active duty during the Persian Gulf conflict pursuant to an order issued under section 672(a), 672(g), 673, 673b, 674, 675, or 688 of title 10, United States Code, and who return to civilian employment with their agencies; and

(3) such Persian Gulf conflict participants who have returned to civilian employment may use such annual leave, after it is credited to their leave accounts, in the same manner as any other annual leave to their credit.

(b) DEFINITIONS.—For purposes of subsection (a), the term "employee" means an employee as defined in section 6361(1) of title 5, United States Code.

(c) DEADLINE FOR REGULATIONS.—Within 30 days after the date of the enactment of this Act, the Office of Personnel Management shall prescribe regulations necessary for the administration of subsection (a).

(d) DEPARTMENT OF VETERANS AFFAIRS HEALTH-CARE PROFESSIONALS.—The Secretary of Veterans Affairs shall establish a program similar to that established under section 332 for the benefit of health-care professionals covered under section 4108(e) of title 38, United States Code. Such program shall be as similar and practicable to the program established under subsection (a).

PART E—HIGHER EDUCATION ASSISTANCE

SEC. 371. SHORT TITLE.

This part may be cited as the "Persian Gulf Conflict Higher Education Assistance Act".

SEC. 372. OPERATION DESERT STORM WAIVER AUTHORITY.

(a) PURPOSE.—It is the purpose of this section to ensure that—

(1) the men and women serving on active duty in connection with Operation Desert Storm who are borrowers of Stafford Loans or Perkins Loans are not placed in a worse position financially in relation to those loans because of such service;

(2) the administrative requirements placed on all borrowers of student loans made in accordance with title IV of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) (hereafter in this section referred to as the "Act") who are engaged in such military service are minimized to the extent possible without impairing the integrity of the student loan programs, in order to ease the burden on such borrowers, and to avoid inadvertent, technical defaults; and

(3) the future eligibility of such an individual for Pell Grants is not reduced by the amount of such assistance awarded for a period of instruction that such individual was unable to complete, or for which the individual did not receive academic credit, because the individual was called up for such service.

(b) WAIVER REQUIREMENT.—Notwithstanding any other provision of law, unless enacted with specific reference to this section, the Secretary of Education shall waive or modify any statutory or regulatory provision applicable to the student financial aid programs under title IV of the Act that the Secretary deems necessary to achieve the purposes stated in subsection (a), including—

(1) the length of, and eligibility requirements for, the military deferments authorized under sections 427(a)(2)(C)(ii), 428(b)(1)(M)(ii), and 464(c)(2)(A)(ii) of the Act, in order to enable the borrower of a Stafford Loan or a Perkins Loan who is or was serving on active duty in connection with Operation Desert Storm to obtain a military deferment, under which interest shall accrue and shall, if otherwise payable by the Secretary of Education, be paid by the Secretary of Education, for the duration of such service;

(2) administrative requirements placed on all borrowers of student loans made in accordance with title IV of the Act who are or were engaged in such military service;

(3) the number of years for which individuals who are engaged in such military service may be eligible for Pell Grants under subpart 1 of part A of title IV of the Act;

(4) the point at which the borrower of a Stafford Loan who is or was engaged in such military service is required to resume repayment of principal and interest on such loan after the borrower completes a period of deferment under section 427(a)(2)(C)(ii) or 428(b)(1)(M)(ii) of the Act;

(5) the point at which the borrower of a Stafford Loan who is or was engaged in such military service is required to resume repayment of principal and interest on such loan after the borrower completes a single period of deferment under section 427(a)(2)(C)(i) or 428(b)(1)(M)(i) of the Act subsequent to such service; and

(6) the modification of the terms "annual adjusted family income" and "available income", as used in the determination of need for student financial assistance under title IV of the Act for such individual (and the determination of such need for the individual's spouse and dependents, if applicable), to mean the sums received in the first calendar year of the award year for which such determination is made, in order to reflect more accurately the financial condition of such individual and such individual's family.

(c) NOTICE OF WAIVER.—Notwithstanding section 431 of the General Education Provisions Act (20 U.S.C. 1232) and section 553 of title 5, United States Code, the Secretary shall, by notice in the Federal Register, publish the waivers or modifications of statutory and regulatory provisions the Secretary deems necessary to achieve the purposes of this section. Such notice shall include the terms and conditions to be applied in lieu of such statutory and regulatory provisions. The Secretary is not required to exercise the waiver or modification authority under this section on a case-by-case basis.

(d) DEFINITIONS.—For purposes of this part—

(1) individuals serving on active duty in connection with Operation Desert Storm include—

(A) any Reserve of the Armed Forces called to active duty under section 672(a), 672(g), 673, 673b, 674, or 688 of title 10, United States Code, for service in connection with Operation Desert Storm, regardless of the location at which such active duty service is performed; and

(B) for purposes of waivers of administrative requirements under subsection (b)(2) only, any other member of the Armed Forces on active duty in connection with Operation Desert Storm, who has been assigned to a duty station at a location other than the location at which such member is normally assigned; and

(2) the term "active duty" has the meaning given such term in section 101(22) of title 10, United States Code, except that such term does not include active duty for training or attendance at a service school.

SEC. 373. TUITION REFUNDS OR CREDITS.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that all institutions offering postsecondary education should provide a full refund to any member of the Armed Forces on active duty in connection with Operation Desert Storm for that portion of a period of instruction such individual was unable to complete, or for which such individual did not receive academic credit, because such individual was called up for such service. For purposes of this section, a full refund includes a refund of required tuition and fees, or a credit in a comparable amount against future tuition and fees.

(b) ENCOURAGEMENT AND REPORT.—The Secretary of Education shall encourage institutions to provide such refunds or credits, and shall report to the appropriate committees of Congress on the actions taken in accordance with this subsection as well as information the Secretary receives regarding any institutions that are not providing such refunds or credits.

SEC. 374. ELIGIBILITY OF STUDENT BORROWERS.

Section 731 of the Public Health Service Act (42 U.S.C. 294d) is amended—

(1) in subsection (a)(2)(C)—

(A) by striking "or" at the end of clause (vi); and

(B) by striking "and any such period" and all that follows through "clause (B) above;" in clause (vii) and inserting the following: "and (viii) in addition to all other deferments for which the borrower is eligible under clauses (i) through (vii) during which the borrower is a member of the Armed Forces on active duty during the Persian Gulf conflict, and any period described in clauses (i) through (viii) shall not be included in determining the 25-year period described in subparagraph (B);"; and

(2) by adding at the end the following new subsection:

"(f) As used in this section:

"(1) The term 'active duty' has the meaning given such term in section 101(18) of title 37, United States Code, except that such term does not include active duty for training.

"(2) The term 'Persian Gulf conflict' means the period beginning on August 2, 1990, and ending on the date thereafter prescribed by Presidential proclamation or by law.".

SEC. 375. TERMINATION OF SECTIONS 372 AND 373.

The provisions of sections 372 and 373 shall cease to be effective on September 30, 1997.

SEC. 376. COORDINATION WITH OTHER LAW.

If the Higher Education Technical Amendments of 1991 is enacted, the provisions of sections 4, 5, and 6 of that Act shall supersede sections 372, 373, and 375.

PART F—PROGRAMS FOR FARMERS AND RANCHERS

SEC. 381. DEFINITIONS.

As used in this part:

(1) ACTIVATED RESERVIST.—The term "activated reservist" means a member of a reserve component of the Armed Forces who served or is serving on active duty during the Persian Gulf conflict pursuant to an order issued under section 672(a), 672(d), 672(g), 673, 673b, 674, 675, or 678 of title 10, United States Code.

(2) FARMER PROGRAM LOAN.—The term "farmer program loan" has the same meaning given such term in section 343(a)(10) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(10)).

(3) RESERVE COMPONENT OF THE ARMED FORCES.—The term "reserve component of the Armed Forces" means a reserve component named in section 261(a) of title 10, United States Code.

(4) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(5) OTHER TERMS.—

(A) AGRICULTURAL ACT OF 1949.—The terms "crop acreage base", "producer", "program crop", and any other terms used in this title have the same meanings specifically given such terms in the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.).

(B) TITLE 10.—The term "active duty" has the meaning given such term in section 101 of title 10, United States Code.

SEC. 382. BASE PROTECTION.

The Secretary shall, with respect to a producer on a farm who is an activated reservist during a crop year, provide for the protection of the producer's crop acreage base for any program crop on the farm to the extent necessary to provide fair and equitable treatment for the producer.

SEC. 383. WAIVER OF MINIMUM PLANTING REQUIREMENT.

The producers on a farm shall be eligible for payments for a crop of rice or upland cotton under sections 101B(c)(1)(D)(i) and 103B(c)(1)(D)(i) of the Agricultural Act of 1949 (7 U.S.C. 1441-2(c)(1)(D)(i) and 1444-2(c)(1)(D)(i), without regard to the minimum planting requirement established in sections 101B(c)(1)(D)(ii) and 103B(c)(1)(D)(ii) of such Act, if—

(1) one or more of the producers on the farm is an activated reservist during any portion of the crop year; and

(2) the producers on the farm satisfy all other requirements determined appropriate by the Secretary for the payments.

SEC. 384. CONSERVATION REQUIREMENTS.

(a) TEMPORARY WAIVER AUTHORITY.—The Secretary may provide for a temporary waiver or modification of the application of subtitles A through E of title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.) with respect to producers on a farm who are activated reservists if—

(1) the temporary waiver or modification is only for the period during which the producer is an activated reservist;

(2) the Secretary determines that the temporary waiver or modification is necessary to prevent undue hardship caused as a result of the producer's service on active duty during the Persian Gulf Conflict or to provide equitable treatment for the activated reservist; and

(3) the temporary waiver or modification will not significantly detract from the purposes and objectives of subtitles A through E of title XII of the Food Security Act of 1985.

(b) REPORT.—The Secretary shall, not later than March 31, 1992, submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate regarding the temporary waivers and modifications granted under subsection (a). Such report shall include—

(1) a summary of the types of waivers and modifications granted under subsection (a);

(2) a summary of the number and the geographical breakdown of the waivers and modifications granted under subsection (a); and

(3) an assessment of the effect of the waivers and modifications granted under subsection (a) on the ability of the programs established under subtitles A through E of title XII of the Food Security Act of 1985 to accomplish the purposes and objectives of such subtitles.

SEC. 385. FARM CREDIT PROVISIONS.

(a) IN GENERAL.—The Secretary shall establish a program to provide relief to any borrower of a farmer program loan if the borrower is an activated reservist.

(b) BORROWER RELIEF.—The Secretary shall modify the terms and conditions of farmer program loans (including loans in which any participant in the loan is an activated reservist) made or insured under the Consolidated Farm and Rural Development Act, or purchased under section 309B of such Act (7 U.S.C. 1926b), to the extent necessary, as determined by the Secretary, to alleviate conditions of distress related to the activation of such reservist and to assist keeping the farm or ranch of an activated reservist borrower in operation for such period of time as the Secretary determines is fair and equitable.

(c) LOAN MODIFICATIONS.—The Secretary may modify farmer program loans, including delinquent loans, by deferring scheduled payments, reducing interest rates or accumulated interest charges, reamortizing or consolidating loans, reducing the amount of scheduled payments, releasing additional income, reducing collateral requirements, or taking any other restructuring actions determined appropriate by the Secretary to assist in maintaining the farm or ranch for such period of time as the Secretary determines is fair and equitable.

(d) NOTICE.—The Secretary shall develop a program to notify any person that has an interest in, or is operating, a farm or ranch of an activated reservist who is a farmer program loan borrower of the borrower relief provisions of this section.

SEC. 386. PROGRAM ADMINISTRATION PROVISIONS.

(a) SIGN-UP PROCEDURES.—The Secretary may provide for procedures by which the spouse or other close relative (as determined by the Secretary) of an activated reservist may participate in, or make decisions related to, a program administered by the Secretary under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), the Conservation and Domestic Allotment Act (16 U.S.C. 590a et seq.), the Food Security Act of 1985 (Public Law 99-198), the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624), the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), or any other Act concerning the operation of the activated reservist's farming or ranching operation.

(b) REQUIREMENTS.—The Secretary may rely on the representation of the spouse or close relative (even in the absence of a power of attorney) made under such procedures if—

(1) The Secretary determines that the reliance is appropriate in order to prevent undue hardship and to provide equitable treatment for the activated reservist; and

(2) the Secretary has reason to believe that the representation of the spouse or close relative is in accordance with the wishes of the activated reservist.

SEC. 387. ADMINISTRATION.

The Secretary shall issue such regulations, and take such other actions, as are necessary to carry out this part. Section 553 of title 5, United States Code, shall not apply with respect to the implementation of this part by the Secretary.

SEC. 388. OUTREACH PROJECTS.

(a) The Secretary shall conduct a sufficient number of outreach projects to inform appropriate households, of which a member is a member of the Armed Forces serving on active duty (other than for training) that they might be eligible for participation in the Food Stamp Program authorized under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

(b) The Secretary shall—

(1) in designing and carrying out projects under subsection (a), consult with the Secretary of Defense, appropriate State agencies, and appropriate military family support groups; and

(2) ensure that the projects under subsection (a) begin no later than July 1, 1991, and end July 1, 1992.

(c) The Secretary shall submit a report, by September 1, 1992, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the effectiveness of each method used under subsection (a) to inform households of food stamp eligibility.

PART G—BUDGET TREATMENT

SEC. 391. AUTHORIZATION OF APPROPRIATIONS FROM DEFENSE COOPERATION ACCOUNT.

(a) AUTHORIZATION.—In addition to the authorizations of appropriations in titles I and II, there is hereby authorized to be appropriated from the Defense Cooperation Account the sum of $655,000,000, to be available only for the payment of title III benefits for fiscal years 1991 through 1995, except that none of the amount appropriated pursuant to such authorization shall be available for (1) payment of Montgomery GI bill rate increases for fiscal years after fiscal year 1993, or (2) for costs under the amendments made by section 334. Of the amount appropriated pursuant to such authorization, $255,000,000 is available only for the costs of benefits under part C of this title, and no more than such amount may be available from such account for those costs.

(b) LONG-TERM COSTS.—The amount of funds in the Defense Cooperation Account on October 1, 1992 (other than funds appropriated pursuant to authorizations in other provisions of this Act), is hereby authorized to be appropriated from that account for costs of title III benefits (other than Montgomery GI bill rate increases and costs under the amendments made by section 334) accruing after fiscal year 1995.

(c) INCREMENTAL COSTS.—The costs of title III benefits (other than Montgomery GI bill rate increases and costs under the amendments made by section 334) for fiscal years 1991 through 1995 and the costs of Montgomery GI bill rate increases for fiscal years 1992 and 1993 are incremental costs associated with Operation Desert Storm.

SEC. 392. BENEFITS CONTINGENT UPON APPROPRIATIONS FROM DEFENSE COOPERATION ACCOUNT.

(a) IN GENERAL.—No person is entitled to, or eligible for, any title III benefit that is payable during fiscal years 1991 through 1995 unless an appropriations Act appropriates funds for such benefit from the Defense Cooperation Account for transfer to applicable appropriations. The preceding sentence does not apply with respect to Montgomery GI bill rate increases or to benefits under section 334.

(b) VETERANS BENEFITS.—No person is entitled to, or eligible for, payment of Montgomery GI bill rate increases during fiscal year 1992 or fiscal year 1993 unless an appropriations Act appropriates funds for the payment of such rate increases from the Defense Cooperation Account for transfer to applicable appropriations.

SEC. 393. DEFINITION; CONSTRUCTION OF SECTIONS 391 AND 392

(a) DEFINITION.—For purposes of this title, the term "Montgomery GI bill rate increases" means increases provided by section 337 with respect to fiscal years 1992 and 1993 in the monthly rates of educational assistance benefits in effect on the day before the date of the enactment of this Act under chapter 106 of title 10, United States Code, and under chapter 30 of title 38, United States Code.

(b) CONSTRUCTION.—For purposes of sections 391 and 392—

(1) a title III benefit is (A) any new payment or benefit provided by this title, or (B) any increase provided by this title in payment amounts or benefits previously provided by law; and

(2) a reference to provisions of this title shall be considered to include reference to provisions of law added by amendments made by this title.

TITLE IV—REPORTS ON FOREIGN CONTRIBUTIONS AND THE COSTS OF OPERATION DESERT STORM

SEC. 401. REPORTS ON UNITED STATES COSTS IN THE PERSIAN GULF CONFLICT AND FOREIGN CONTRIBUTIONS TO OFFSET SUCH COSTS.

(a) REPORTS REQUIRED.—The Director of the Office of Management and Budget shall prepare, in accordance with this section, periodic reports on the incremental costs associated with Operation Desert Storm and on the amounts of contributions made to the United States by foreign countries to offset those costs. The Director shall prepare the reports in consultation with the Secretary of Defense, the Secretary of State, the Secretary of the Treasury, and other appropriate Government officials.

(b) COSTS OF OPERATION DESERT STORM.—

(1) PERIOD COSTS AND CUMULATIVE COSTS.—Each report prepared under subsection (a) shall specify—

(A) the incremental costs associated with Operation Desert Storm that were incurred during the period covered by the report; and

(B) the cumulative total of such costs, by fiscal year, from August 1, 1990, to the end of the period covered by the report.

(2) NONRECURRING COSTS AND COSTS OFFSET.—In specifying the incremental costs associated with Operation Desert Storm that were incurred during the period covered by a report and the total of such costs, the Director shall separately identify those costs that—

(A) are nonrecurring costs;

(B) are offset by in-kind contributions; or

(C) are offset (or proposed to be offset) by the realignment, reprogramming, or transfer of funds appropriated for activities unrelated to the Persian Gulf conflict.

(c) SPECIFIC COST AREAS.—Each report prepared under subsection (a) on the incremental costs associated with Operation Desert Storm shall specify an allocation of the total amount of such costs among the military departments, the Defense Agencies of the Department of Defense, and the Office of the Secretary of Defense, by category, including the following categories:

(1) AIRLIFT.—Airlift costs related to the transportation by air of personnel, equipment, and supplies.

(2) SEALIFT.—Sealift costs related to the transportation by sea of personnel, equipment, and supplies.

(3) PERSONNEL.—Personnel costs, including pay and allowances of members of the reserve components of the Armed Forces called or ordered to active duty and increased pay and allowances of members of the regular components of the Armed Forces incurred because of deployment in connection with Operation Desert Storm.

(4) PERSONNEL SUPPORT.—Personnel support costs, including subsistence, uniforms, and medical costs.

(5) OPERATING SUPPORT.—Operating support costs, including equipment support costs, costs associated with increased operational tempo, spare parts, stock fund purchases, communications, and equipment maintenance.

(6) FUEL.—Fuel costs.

(7) PROCUREMENT.—Procurement costs, including ammunition, weapon systems improvements and upgrades, and equipment purchases.

(8) MILITARY CONSTRUCTION.—Military construction costs.

(d) CONTRIBUTIONS TO THE UNITED STATES.—

(1) AMOUNT OF CONTRIBUTIONS.—Each report prepared under subsection (a) shall specify the amount of contributions made to the United States by each foreign country that is making contributions to defray the cost to the United States of Operation Desert Storm. The amount of each country's contribution during the period covered by each report, as well as the cumulative total of such contributions made before the date of the report, shall be indicated as follows:

(A) Cash payments pledged.

(B) Cash payments received.

(C) Description and value of in-kind contributions pledged.

(D) Description and value of in-kind contributions received.

(2) PLEDGE PERIOD AND USE RESTRICTIONS.—In specifying the amount of each contribution pledged, the Director shall indicate—

(A) the time period, if any, for which that contribution applies; and

(B) any restrictions on the use of that contribution.

(e) SUBMISSION OF REPORTS.—

(1) FIRST REPORT.—The first report required by subsection (a) shall be submitted to the Congress not later than 14 days after the date of the enactment of this Act and shall cover the period beginning on August 1, 1990, and ending on December 31, 1990.

(2) SECOND REPORT.—The second report shall be submitted to the Congress not later than 21 days after the date of the enactment of this Act and shall cover—

(A) January and February 1991, with respect to information required under subsections (b) and (c); and

(B) January, February, and March 1991, with respect to information required under subsection (d).

(3) SUBSEQUENT MONTHLY REPORTS.—A report shall be submitted to Congress not later than the 15th day of each month after April 1991 and shall cover—

(A) the month before the preceding month, in the case of information required under subsections (b) and (c); and

(B) the preceding month, in the case of information required under subsection (d).

(4) FINAL REPORT.—The final report shall be submitted not later than November 15, 1992, and shall include—

(A) the information required under subsection (b) and (c) relating to the month of September 1992; and

(B) a summary of all information that was included in reports submitted under this section.

SEC. 402. REPORTS ON FOREIGN CONTRIBUTIONS IN RESPONSE TO THE PERSIAN GULF CRISIS.

(a) REPORTS REQUIRED.—The Secretary of State and the Secretary of the Treasury shall jointly prepare periodic reports on the contributions made by foreign countries as part of the international response to the Persian Gulf crisis. The Secretaries shall prepare the reports in consultation with the Secretary of Defense and other appropriate Federal Government officials.

(b) INFORMATION TO BE PROVIDED.—Each report required by this section shall include the following information for each foreign country making contributions as part of the international response to the Persian Gulf crisis:

(1) PARTICIPATION IN THE INTERNATIONAL MILITARY COALITION.—In the case of each foreign country whose armed forces are participating in the international military coalition confronting Iraq, a description of the forces committed in terms of personnel, units, and equipment deployed, and any information available regarding the aggregate amount of the incremental costs associated with such country's participation.

(2) CONTRIBUTIONS TO THOSE COUNTRIES SIGNIFICANTLY AFFECTED BY THE PERSIAN GULF CRISIS.—Any information available on—

(A) any additional special assistance (financial, in-kind, or host-country support) pledged as a contribution to each of those countries significantly affected by the Persian Gulf crisis; and

(B) the value and a description of the types of such assistance received by each such country.

The information provided pursuant to this paragraph shall include information on such assistance as reported to the Gulf Crisis Financial Coordination Group.

(3) CONTRIBUTIONS TO OTHER MILITARY FORCES.—The value and nature of any assistance (financial, in-kind, or host-country support) made to each foreign country referred to in paragraph (1), other than the United States, to defray costs of military operations conducted by the armed forces of such foreign country in connection with Operation Desert Storm.

(4) CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS.—Any information available on the value and nature of contributions pledged—

(A) to any United Nations organization,

(B) to the International Committee of the Red Cross, and

(C) to the extent the Secretary of State considers appropriate, to other international or nongovernmental organizations,

for the purpose of dealing with consequences of the Persian Gulf crisis (including contributions for such purposes as furnishing humanitarian assistance for displaced persons or furnishing assistance for responding to oil spills), and the value and nature of such contributions received by each such organization.

(5) OTHER FORMS OF CONTRIBUTIONS.—A description of international agreements entered into by the United States as a result of the Persian Gulf crisis, and a description of prepositioning rights, base or other military facilities access rights, or air transit rights granted to the United States as a result of the Persian Gulf crisis.

(6) CONTRIBUTIONS TO OTHER FOREIGN COUNTRIES.—Any information available on the types of any additional assistance (financial, in-kind, or host-country support) pledged and received as a contribution to other foreign countries as a result of the Persian Gulf crisis.

(7) CUMULATIVE TOTALS.—Each report submitted pursuant to subsection (c) shall include cumulative totals for, and any information available on the aggregate value of, the contributions that have been pledged, and the contributions that have been paid or otherwise delivered, by each foreign country as of the end of the calendar quarter covered by that report.

(c) SUBMISSION OF REPORTS.—

(1) TIME FOR SUBMISSION, PERIOD COVERED.—(A) A report prepared pursuant to subsection (a) shall be submitted to the Congress not later than 30 days after the date of the enactment of this Act with respect to the contributions pledged and the contributions paid or otherwise delivered during the period beginning on August 1, 1990, and ending on December 31, 1990.

(B) A report prepared pursuant to subsection (a) shall be submitted to the Congress not later than 30 days after the date of the enactment of this Act with respect to the contributions pledged and the contributions paid or otherwise delivered during the period beginning on January 1, 1991, and ending on March 31, 1991.

(C) Subsequent reports prepared pursuant to subsection (a) shall be submitted to the Congress not later than the 15th day after the end of each calendar quarter in 1991 with respect to the contributions pledged and the contributions paid or otherwise delivered during that calendar quarter.

(D) A final report shall be submitted to the Congress not later than November 15, 1992, and shall contain a summary of all information relating to the contributions pledged and the contributions paid or otherwise delivered that was included in reports submitted under this paragraph.

(d) DEFINITIONS.—In this section:

(1) The term "countries significantly affected by the Persian Gulf crisis" means Egypt, Jordan, Turkey, and Israel, and any other country whose economy the President determines is significantly affected by the Persian Gulf crisis.

(2) The term "Persian Gulf crisis" means the military conflict, the United Nations Security Council embargo against Iraq, and other consequences associated with Iraq's invasion and occupation of Kuwait and its failure to comply with the resolutions of the Security Council.

(3) The term "Gulf Crisis Financial Coordination Group" means the organization established by the President on September 25, 1990 for coordinating economic assistance in response to the Persian Gulf crisis.

SEC. 403. FORM OF REPORTS.

The reports required to be submitted to the Congress pursuant to this title shall be submitted in unclassified form to the extent practicable, with a classified annex if necessary.

TITLE V—REPORT ON THE CONDUCT OF THE PERSIAN GULF CONFLICT

SEC. 501. DEPARTMENT OF DEFENSE REPORT ON THE CONDUCT OF THE PERSIAN GULF CONFLICT.

(a) REPORT REQUIRED.—Not later than January 15, 1992, the Secretary of Defense shall submit to the congressional defense committees a report on the conduct of the hostilities in the Persian Gulf theater of operations. The Secretary shall submit to such committees a preliminary report on the conduct of those hostilies not later than July 1, 1991. The report (including the preliminary report) shall be prepared in consultation with the Chairman of the Joint Chiefs of Staff and the Commander in Chief, United States Central Command.

(b) DISCUSSION OF ACCOMPLISHMENTS AND SHORTCOMINGS.—The report (and the preliminary report, to the extent feasible) shall contain a discussion, with a particular emphasis on accomplishments and shortcomings, of the following matters:

(1) The military objectives of the multinational coalition.

(2) The military strategy of the multinational coalition to achieve those military objectives and how the military strategy contributed to the achievement of those objectives.

(3) The deployment of United States forces and the transportation of supplies to the theater of operations, including an assessment of airlift, sealift, afloat prepositioning ships, and Maritime Prepositioning Squadron ships.

(4) The conduct of military operations.

(5) The use of special operations forces, including operational and intelligence uses classified under special access procedures.

(6) The employment and performance of United States military equipment, weapon systems, and munitions (including items classified under special access procedures) and an analysis of—

(A) any equipment or capabilities that were in research and development and if available could have been used in the theater of operations; and

(B) any equipment or capabilities that were available and could have been used but were not introduced into the theater of operations.

(7) The scope of logistics support, including support from other nations, with particular emphasis on medical support provided in the theater of operations.

(8) The acquisition policy actions taken to support the forces in the theater of operations.

(9) The personnel management actions taken to support the forces in the theater of operations.

(10) The role of women in the theater of operations.

(11) The effectiveness of reserve component forces, including a discussion of each of the following matters:

(A) The readiness and activation of such forces.

(B) The decisionmaking process regarding both activation of reserve component forces and deployment of those forces to the theater of operations.

(C) The post-activation training received by such forces.

(D) The integration of forces and equipment of reserve component forces into the active component forces.

(E) The use and performance of the reserve component forces in operations in the theater of operations.

(F) The use and performance of such forces at duty stations outside the theater of operations.

(12) The role of the law of armed conflict in the planning and execution of military operations by United States forces and the other coalition forces and the effects on operations of Iraqi compliance or noncompliance with the law of armed conflict, including a discussion regarding each of the following matters:

(A) Taking of hostages.

(B) Treatment of civilians in occupied territory.

(C) Collateral damage and civilian casualties.

(D) Treatment of prisoners of war.

(E) Repatriation of prisoners of war.

(F) Use of ruses and acts of perfidy.

(G) War crimes.

(H) Environmental terrorism.

(I) Conduct of neutral nations.

(13) The actions taken by the coalition forces in anticipation of, and in response to, Iraqi acts of environmental terrorism.

(14) The contributions of United States and coalition intelligence and counterintelligence systems and personnel, including contributions regarding bomb damage assessments and particularly including United States tactical intelligence and related activities (TIARA) programs.

(15) Command, control, communications, and operational security of the coalition forces as a whole, and command, control, communications, and operational security of the United States forces.

(16) The rules of engagement for the coalition forces.

(17) The actions taken to reduce the casualties among coalition forces caused by the fire of such forces.

(18) The role of supporting combatant commands and Defense Agencies of the Department of Defense.

(19) The policies and procedures relating to the media, including the use of media pools.

(20) The assignment of roles and missions to the United States forces and other coalition forces and the performance of those forces in carrying out their assigned roles and missions.

(21) The preparedness, including doctrine and training, of the United States forces.

(22) The acquisition of foreign military technology from Iraq, and any compromise of military technology of the United States or other countries in the multinational coalition.

(23) The problems posed by Iraqi possession and use of equipment produced in the United States and other coalition nations.

(24) The use of deception by Iraqi forces and by coalition forces.

(25) The military criteria used to determine when to progress from one phase of military operations to another phase of military operations, including transition from air superiority operations to operations focused on degrading Iraqi forces, transition to large-scale ground offensive operations, and transition to cessation of hostilities.

(26) The effects on the conduct of United States military operations resulting from the implementation of the Goldwater-Nichols Department of Defense Reorganization Act of 1986.

(c) CASUALTY STATISTICS.—The report (and the preliminary report, to the extent feasible) shall also contain (1) the number of military and civilian casualties sustained by coalition nations, and (2) estimates of such casualties sustained by Iraq and by nations not directly participating in the hostilities in the Persian Gulf area during the Persian Gulf Conflict.

(d) CLASSIFICATION OF REPORTS.—The Secretary of Defense shall submit both the report and the preliminary report in a classified form and an unclassified form.

TITLE VI—GENERAL PROVISIONS

SEC. 601. CHILD CARE ASSISTANCE.

(a) IN GENERAL.—The Secretary of Defense may provide assistance for families of members of the Armed Forces serving on active duty during the Persian Gulf conflict in order to ensure that the children of such families obtain needed child care services. The assistance authorized by this section should be directed primarily toward providing needed child care services for children of such personnel who are serving in the Persian Gulf area or who have been otherwise deployed, assigned, or ordered to active duty in connection with Operation Desert Storm.

(b) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated from the Defense Cooperation Account for fiscal year 1991 under section 101(a), $20,000,000 shall be available to carry out the provisions of this section. The costs of carrying out such provisions are incremental costs associated with Operation Desert Storm.

(c) SUPPLEMENTATION OF OTHER PUBLIC FUNDS.—Funds appropriated pursuant to subsection (b) that are made available to carry out this section may be used only to supplement, and not to supplant, the amount of any other Federal, State, or local government funds otherwise expended or authorized for the support of child care programs for members of the Armed Forces.

SEC. 602. FAMILY EDUCATION AND SUPPORT SERVICES.

(a) IN GENERAL.—The Secretary of Defense may provide assistance in accordance with this section to families of members of the Armed Forces serving on active duty in order to ensure that those families receive educational assistance and family support services necessary to meet needs arising out of Operation Desert Storm.

(b) TYPES OF ASSISTANCE.—The assistance authorized by this section may be provided to families directly or through the awarding of grants, contracts, or other forms of financial assistance to appropriate private or public entities.

(c) GEOGRAPHIC AREAS ASSISTED.—(1) Such assistance shall be provided primarily in geographic areas—

(A) in which a substantial number of members of the active components of the Armed Forces of the United States are permanently assigned and from which a significant number of such members are being deployed, or have been deployed, in connection with Operation Desert Storm; or

(B) from which a significant number of members of the reserve components of the Armed Forces ordered to, or retained on, active duty pursuant to section 672(a), 672(d), 673, 673b, or 688 of title 10, United States Code, are being deployed, or have been deployed, in connection with Operation Desert Storm.

(2) The Secretary of Defense shall determine which areas meet the criteria set out in paragraph (1).

(d) EDUCATIONAL ASSISTANCE.—Educational assistance authorized by this section may be used for the furnishing of one or more of the following forms of assistance:

(1) Individual or group counseling for children and other members of the families of members of the Armed Forces of the United States who have been deployed in connection with, or are casualties of, Operation Desert Storm.

(2) Training and technical assistance to better prepare teachers and other school employees to address questions and concerns of children of such members of the Armed Forces.

(3) Other appropriate programs, services, and information designed to address the special needs of children and other members of the families of members of the Armed Forces referred to in paragraph (1) resulting from the deployment, the return from deployment, or the medical or rehabilitation needs of such members.

(e) FAMILY SUPPORT ASSISTANCE.—Family support assistance authorized by this section may be used for the following purposes:

(1) Family crisis intervention.

(2) Family counseling.

(3) Family support groups.

(4) Expenses for volunteer activities.

(5) Respite care.

(6) Housing protection and advocacy.

(7) Food assistance.

(8) Employment assistance.

(9) Child care.

(10) Benefits eligibility determination services.

(11) Transportation assistance.

(12) Adult day care for dependent elderly and disabled adults.

(13) Temporary housing assistance for immediate family members visiting soldiers wounded during Operation Desert Storm and receiving medical treatment at military hospitals and facilities in the United States.

(f) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated from the Defense Cooperation Account for fiscal year 1991 under section 101(a), $30,000,000 shall be available to carry out the provisions of this section. The costs of carrying out such provisions are incremental costs of Operation Desert Storm.

SEC. 603. LAND CONVEYANCE, FORT A.P. HILL MILITARY RESERVATION, VIRGINIA.

(a) CONVEYANCE AUTHORIZED.—Not later than one year after the date of the enactment of this Act, subject to subsections (b) through (g), the Secretary of the Army shall convey, without consideration, to Caroline County, Virginia, or the Commonwealth of Virginia (hereinafter in this section referred to as the "Commonwealth"), as appropriate, all right, title, and interest of the United States in and to a parcel of land located at Fort A.P. Hill, Virginia, and consisting of approximately 150 acres.

(b) IDENTIFICATION OF PROPERTY.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary shall, after consultation with appropriate representatives of Caroline County, Virginia, and the Commonwealth, identify the exact size and location of the parcel of land to be conveyed pursuant to this section. The Secretary shall, to the maximum extent practicable, identify a parcel of land that—

(A) has soil and topographical conditions suitable for the construction of a low- to mid-rise institutional correctional facility, including recreation, parking, and other necessary support facilities; and

(B) is situated within reasonably close proximity to an existing sewer system.

(2) The cost of any new or expanded sewer system or utilities shall not be the responsibility of the Department of Defense or Caroline County.

(c) CONVEYANCE OF PROPERTY.—(1) Except as provided in paragraph (2), the parcel of land conveyed pursuant to this section shall be conveyed to the Commonwealth and shall be subject to the conditions and limitations on its use as provided in Chapter 3, Article 3.1 of Title 53.1, Code of Virginia.

(2) The Secretary shall convey the parcel of land to Caroline County, Virginia, instead of the Commonwealth, if, within one year after the date of the enactment of this Act, the Secretary receives the written agreement of the participating political subdivisions of the Commonwealth named in paragraph (3) to take, under the laws of the Commonwealth, the following actions:

(A) Establish a governmental entity to construct and operate on such parcel of land a regional correctional facility.

(B) Ensure that such governmental entity constructs and operates such facility.

(3)(A) In order for the agreement referred to in paragraph (2) to be effective for the purposes of such paragraph, it shall be agreed to by Caroline County, Virginia, and at least three of the following political subdivisions of the Commonwealth:

(i) Arlington County.

(ii) Fairfax County.

(iii) Prince William County.

(iv) Stafford County.

(v) The City of Alexandria.

(B) Subparagraph (A) shall not be construed to prohibit any political subdivision not named in such subparagraph to participate in the written agreement referred to in paragraph (2).

(d) USE OF PROPERTY; REVERSION.—(1)(A) A conveyance of land to Caroline County, Virginia, pursuant to this section shall be subject to the conditions that—

(i) construction of a regional correctional facility pursuant to the agreement referred to in subsection (c)(2) commence not later than 24 months after the date of the enactment of this Act;

(ii) such construction be completed and the operation of such facility commence not later than five years after such date; and

(iii) such parcel of land be used only for the construction and operation of such facility.

(B) If the parcel of land conveyed pursuant to this section is conveyed to Caroline County, Virginia, and the entity established pursuant to the agreement referred to in subsection (c)(2) fails to construct and operate a regional correctional facility in accordance with the conditions set out in subparagraph (A), all right, title, and interest in and to such parcel of land (together with the improvements thereon) shall revert to the United States.

(C) In the event of a reversion under subparagraph (B), the Secretary shall promptly convey all right, title, and interest of the United States in the parcel of land referred to in such subparagraph to the Commonwealth, subject to the applicable provisions of paragraph (2) and subsections (e) through (g).

(2)(A) A conveyance of a parcel of land to the Commonwealth pursuant to this section, shall be subject to the conditions that—

(i) an entity be established under the laws of the Commonwealth for the construction and operation of a regional correctional facility on such parcel of land;

(ii) construction of such facility on such parcel of land be completed and the operation of such facility commence not later than seven years after the date of the enactment of this Act;

(iii) such parcel of land be used only for the purpose of construction and operation of such facility;

(iv) Arlington County, Fairfax County, the City of Alexandria, Prince William County, Stafford County, and Caroline County, Virginia, be offered the opportunity for participation in such entity; and

(v) no fee be charged by the Commonwealth for the conveyance to, lease by, or use of such parcel of land by such entity.

(B) If the parcel of land to be conveyed pursuant to this section is conveyed to the Commonwealth and the conditions referred to in subparagraph (A) are not complied with (as determined by the Secretary), all right, title, and interest in and to such land (together with the improvements thereon) shall revert to the United States and the United States shall have the right of immediate entry thereon.

(e) PROHIBITION ON HOUSING CERTAIN PRISONERS.—Except when agreed to in writing by an appropriate representative of Caroline County, Virginia, the regional correctional facility constructed and operated in accordance with this section—

(1) shall have a maximum capacity of not more than 2,400 inmates; and

(2) may not be used to house Federal prisoners or prisoners convicted by, sentenced by, or awaiting trial in the courts of the District of Columbia.

(f) TIME LIMITATION.—The period of any litigation relating to the conveyance or improvement of land under this section shall not be included in a determination of the period for conveyance or improvement, or for the reverter of or right of re-entry onto such land.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance pursuant to this section as the Secretary, in his sole discretion, shall determine appropriate to protect the interests of the United States.

(h) REPEAL.—Section 2839 of the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101-510; 104 Stat 1801) is repealed.

SEC. 604. GRASSROOTS EFFORTS TO SUPPORT OUR TROOPS.

(a) FINDINGS.—The Congress finds the following:

(1) Over 400,000 American servicemen and women risked their lives in defending the interests and principles of the United States in the Persian Gulf region.

(2) These American servicemen and women performed with remarkable success against Iraq and its military-industrial complex.

(3) All Americans should take great pride in the manner in which our brave servicemen and women represented our Nation in the Persian Gulf region.

(4) All Americans eagerly await the safe return of our courageous sons and daughters who served in the Persian Gulf region.

(b) GRASSROOTS SUPPORT.—The Congress—

(1) supports and endorses national, State, and local grassroots efforts to support our servicemen and women who participated in Operation Desert Storm and their families here at home;

(2) encourages Federal agencies (in accordance with applicable law), State and local governments, and private businesses and industry to organize task forces intended to provide support for the families of servicemen and women deployed in the Persian Gulf region and to organize celebrations for the servicemen and women upon their arrival home; and

(3) encourages those grassroots government, business, and industry efforts to include Vietnam Veteran organizations in all activities conducted for the benefit of the troops returning home from Operation Desert Storm.

SEC. 605. EXTENSION OF TIME FOR FILING FOR PERSONS SERVING IN COMBAT ZONE.

(a) IN GENERAL.—Section 101(g) of the Ethics in Government Act of 1978 is amended—

(1) by inserting "(1)" after "(g)"; and

(2) by adding at the end the following:

"(2)(A) In the case of an individual who is serving in the Armed Forces, or serving in support of the Armed Forces, in an area while that area is designated by the President by Executive order as a combat zone for purposes of section 112 of the Internal Revenue Code of 1986, the date for the filing of any report shall be extended so that the date is 180 days after the later of—

"(i) the last day of the individual's service in such area during such designated period; or

"(ii) the last day of the individual's hospitalization as a result of injury received or disease contracted while serving in such area.

"(B) The Office of Government Ethics, in consultation with the Secretary of Defense, may prescribe procedures under this paragraph.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to reports required to be filed after January 17, 1991.

SEC. 606. SENSE OF CONGRESS CONCERNING BUSINESSES SEEKING TO PARTICIPATE IN THE REBUILDING OF KUWAIT.

(a) FINDINGS.—The Congress finds as follows:

(1) The Armed Forces of the United States, together with allied forces, have successfully liberated Kuwait and have restored the independence of that nation.

(2) During the occupation of Kuwait by Iraq, much damage was done to the infrastructure, environment, and industrial capacity of Kuwait, and rebuilding of Kuwait is desperately needed.

(3) The principal test of a nation's commitment to the liberation of Kuwait in the Persian Gulf conflict was its willingness to provide military forces for the liberation of Kuwait.

(4) United States firms, including small and minority-owned businesses, have expressed a significant interest in participating in the rebuilding of Kuwait.

(5) Small and minority-owned businesses face inherent difficulties in competing in foreign markets and in obtaining a share of contracts from foreign governments, particularly those contracts that are performed in distant parts of the world.

(b) SENSE OF CONGRESS CONCERNING SOURCE SELECTION FOR KUWAIT CONTRACTS.—It is the sense of Congress that the Army Corps of Engineers and other Federal agencies should award contracts for the rebuilding of Kuwait, and, in recommending business firms to the Government of Kuwait for the award by it of such contracts, should encourage the Government of Kuwait to award such contracts, in accordance with the following priority:

(1) First, to United States firms, including small and minority-owned businesses, that are committed to employing United States workers under the contract.

(2) Second, to other United States firms.

(3) Then, to firms from allied nations that committed military forces to the liberation of Kuwait during the Persian Gulf conflict.

(c) SENSE OF CONGRESS CONCERNING SELECTION OF SUBCONTRACTORS FOR KUWAIT CONTRACTS.—It is the sense of Congress that, when making recommendations to any contractor awarded a contract referred to in subsection (b) concerning the selection of firms for subcontracts under such contract, the Army Corp of Engineers shall encourage the contractor to select a firm or firms for the subcontract in accordance with the priority set out in subsection (b).

(d) SENSE OF CONGRESS CONCERNING EMPLOYEES UNDER KUWAIT REBUILDING CONTRACTS.—It is the sense of Congress that any United States firm that receives a contract pertaining to the rebuilding of Kuwait—

(1) should employ United States citizens to carry out the contract; and

(2) should provide a preference to veterans of the Armed Forces in hiring for work on the contract.

(e) SENSE OF CONGRESS CONCERNING SMALL AND MINORITY-OWNED BUSINESS PARTICIPATION IN KUWAIT REBUILDING CONTRACTS.—It is the sense of Congress that—

(1) the President, acting through the appropriate Government agencies (including particularly the agencies that will be engaged in source selections or source recommendations as described in subsection

(b)), should take steps to provide assistance to United States small and minority-owned businesses seeking to be awarded contracts as part of the rebuilding of Kuwait;

(2) the Administrator of the Small Business Administration and other appropriate Federal officials should conduct a public information campaign to advise small and minority-owned business firms with respect to contracts for the rebuilding of Kuwait; and

(3) United States firms that are awarded contracts pertaining to the rebuilding of Kuwait should, to the maximum extent practicable, seek to award subcontracts for such contracts to United States small and minority-owned business firms.

(f) PROGRESS REPORTS.—(1) The President shall submit to Congress a report every four months with respect to contracting for the rebuilding of Kuwait. Each such report shall show, as of the submission of the report, the country of origin of all business firms awarded Kuwait rebuilding contracts by the Corps of Engineers and other Federal agencies and the country of origin of all business firms awarded subcontracts under such contracts and the other information specified in paragraphs (2) and (3).

(2) The President shall include in each such report the same information (to the extent reasonably available) with regard to all business firms awarded Kuwait rebuilding contracts by the Government of Kuwait and all business firms that are subcontractors under those contracts. The President shall request the Government of Kuwait to provide to the United States, on an ongoing basis, information with respect to the country of origin of business firms to which it awards rebuilding contracts, the country of origin of firms awarded subcontracts under those contracts, and the information with respect to those contracts and subcontracts described in paragraph (3).

(3)(A) Information in reports under paragraph (1) shall be shown by the number of firms from each such country and by the dollar value of contracts and subcontracts awarded to firms from each such country.

(B) Each such report shall also show (to the extent reasonably available) the number and percentage of contractors that are small businesses, and the number and percentage that are minority-owned businesses, among the total number of contracts awarded to the United States. Each such report shall also show (to the extent reasonably available), with respect to each contract awarded to a United States firm, the number and percentage of persons employed (or expected to be employed) under the contract who are United States citizens, the number and percentage of all persons so employed (or expected to be so employed) who are United States citizens and are veterans, and the number of subcontractors under the contract that are small businesses and the number that are minority owned businesses.

(4) The first report under paragraph (1) shall be submitted not later than two months after the date of the enactment of this Act. The last such report shall be submitted 36 months after the first report.

SEC. 607. SENSE OF CONGRESS REGARDING USE OF UNITED STATES FUNDS FOR REBUILDING IRAQ.

It is the sense of Congress that none of the funds appropriated or otherwise made available by any provision of law may be obligated or expended, directly or indirectly, for the purpose of rebuilding Iraq while Saddam Hussein remains in power in Iraq.

SEC. 608. WITHHOLDING OF PAYMENTS TO INDIRECT-HIRE CIVILIAN PERSONNEL OF NONPAYING PLEDGING NATIONS.

(a) GENERAL RULE.—Effective as of the end of the six-month period beginning on the date of the enactment of this Act, the Secretary of Defense shall withhold payments to any nonpaying pledging nation that would otherwise be paid as reimbursements for expenses of indirect-hire civilian personnel of the Department of Defense in that nation.

(b) NONPAYING PLEDGING NATION DEFINED.—For purposes of this section, the term "nonpaying pledging nation" means a foreign nation that has pledged to the United States that it will make contributions to assist the United States in defraying the incremental costs of Operation Desert Shield and which has not paid to the United States the full amount so pledged.

(c) RELEASE OF WITHHELD AMOUNTS.—When a nation affected by subsection (a) has paid to the United States the full amount pledged, the Secretary of Defense shall release the amounts withheld from payment pursuant to subsection (a).

(d) WAIVER AUTHORITY.—The Secretary of Defense may waive the requirement in subsection (a) upon certification to Congress that the waiver is required in the national security interests of the United States.

SEC. 609. RELIEF FROM REQUIREMENTS FOR REDUCTIONS IN DEFENSE ACQUISITION WORKFORCE DURING FISCAL YEAR 1991.

(a) The Secretary of Defense, in allocating to various installations and facilities the defense acquisition workforce reductions required for fiscal year 1991, should use the considerable flexibility concerning the manner in which those reductions are to be made that was provided to the Secretary by section 905 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1621) in order to respond properly and efficiently to the influx of work expected to come into the defense acquisition system resulting from Operation Desert Storm.

(b) The Secretary should allocate those reductions for fiscal year 1991 in a manner that ensures that any Department of Defense installation or facility that will experience a significant increase in workload during fiscal year 1991 (compared to its workload during fiscal year 1990) as a direct result of activities undertaken in support of Operation Desert Storm is not required to make defense acquisition workforce reductions during fiscal year 1991 that would adversely affect the ability of that installation or facility to perform its mission.

(c) For purposes of this section, the term "defense acquisition workforce reductions" means the reductions in the defense acquisition workforce required by section 905 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1621).

TITLE VII—MISCELLANEOUS TECHNICAL AMENDMENTS

SEC. 701. AMENDMENTS TO TITLE 10, UNITED STATES CODE.

(a) CLARIFICATION OF WAIVER AUTHORITY.—Section 2331(c)(1) of title 10, United States Code, as added by section 834(a) of Public Law 101-510 (104 Stat. 1613), is amended—

(1) by striking out "on a case-by-case basis";

(2) by striking out "considers necessary the use of master agreements" and inserting in lieu thereof "considers the use of master agreements necessary"; and

(3) by striking out "of this section" before the period at the end.

(b) CLARIFICATION OF TRUTH-IN-NEGOTIATION ACT AMENDMENTS.—Section 2306a(a)(1) of title 10, United States Code, as amended by section 803(a) of Public Law 101-510 (104 Stat. 1589), is amended—

(1) in subparagraph (B), by striking out "$500,000" and all that follows through "$100,000" and inserting in lieu thereof "the dollar amount applicable under subparagraph (A) to that contract";

(2) in subparagraph (C)(i), by striking out "$500,000" and all that follows through "$100,000" and inserting in lieu thereof "the dollar amount applicable under subparagraph (A) to the prime contract of that subcontract"; and

(3) in subparagraph (D), by striking out "$500,000" and all that follows through "$100,000" and inserting in lieu thereof "the dollar amount applicable under subparagraph (A) to the prime contract of that subcontract".

(c) CLARIFICATION OF IR&D AMENDMENTS.—Section 2372(d)(2)(B) of title 10, United States Code, as added by section 824(a)(1) of Public Law 101-510 (104 Stat. 1603), is amended by striking out "or" after "subsection (b)" and inserting in lieu thereof ", including".

(d) DEFINITION OF SMALL PURCHASE THRESHOLD.—Title 10, United States Code, is amended as follows:

(1) Section 2302 is amended by adding at the end the following new paragraph:

"(7) The term 'small purchase threshold' has the meaning given that term in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).".

(2) Section 2304 is amended—

(A) in subsection (g)—

(i) by striking out "chapter" in paragraph (2) and inserting in lieu thereof "subsection"; and

(ii) by striking out paragraph (5), as added by section 806(b)(3) of Public Law 101-510; and

(B) in subsection (j)(3)(A), by striking out "$25,000" and inserting in lieu thereof "the small purchase threshold".

(3) Section 2306(e)(2)(A) is amended by striking out "the small purchase amount under section 2304(g) of this title" and inserting in lieu thereof "the small purchase threshold".

(4) Section 2307(d)(3) is amended by striking out "contracts for amounts less than the maximum amount for small purchases specified in section 2304(g)(2) of this title" and inserting in lieu thereof "any contract for an amount not in excess of the amount of the small purchase threshold".

(5) Section 2326(g)(1)(B) is amended by striking out "of less than $25,000" and inserting in lieu thereof "in an amount not in excess of the amount of the small purchase threshold".

(6) Section 2397(a)(1) is amended—

(A) by striking out "awarded"; and

(B) by striking out "involves at least $25,000" and inserting in lieu thereof "is in an amount in excess of the small purchase threshold (as defined in section 2302(7) of this title), as in effect at the time that contract is awarded".

(e) TABLES OF CHAPTERS AND SECTIONS.—Title 10, United States Code, is amended as follows:

(1) The tables of chapters at the beginning of subtitle A, and at the beginning of part II of subtitle A, are amended by inserting after the item relating to chapter 83 the following new item:

"85. Procurement Management Personnel.........1621".

(2) The items relating to chapter 108 in the tables of chapters at the beginning of sub-

title A, and at the beginning of part III of subtitle A, are amended to read as follows:

"108. Department of Defense Schools...........2161".

(3) The table of sections at the beginning of chapter 39 is amended by transferring the item relating to section 687, as added by section 559(a)(2) of Public Law 101-510 (104 Stat. 1571), to appear after the item relating to section 689 and redesignating that item so as to relate to section 690.

(4) The item relating to section 1584 in the table of sections at the beginning of chapter 81 is amended to read as follows:

"1584. Employment of non-citizens.".

(5) The table of sections at the beginning of chapter 139 is amended by inserting a period at the end of the item relating to section 2366.

(6) The item relating to section 2706 in the table of sections at the beginning of chapter 160 is amended to read as follows:

"2706. Annual reports to Congress.".

(7) The item relating to section 6082 in the table of sections at the beginning of chapter 557 is amended to read as follows:

"6082. Rations.".

(8)(A) The headings of sections 1053 and 1594 are amended by striking out "mandatory".

(B) The item relating to section 1053 in the table of sections at the beginning of chapter 53, and the item relating to section 1053 in the table of sections at the beginning of chapter 81, are amended by striking out "mandatory".

(f) CROSS-REFERENCE CORRECTIONS.—Title 10, United States Code, is amended as follows:

(1) Section 2318(c) is amended by striking out "section 21" and inserting in lieu thereof "section 23".

(2) Section 2344(c) is amended by striking out "chapter" and inserting in lieu thereof "subchapter".

(3) Paragraph (5) of section 2432(c), as added by section 1407(c) of Public Law 101-510 (104 Stat. 1681), is amended by striking out "section 2432(a)" and all that follows through "subsection (a)(2)," and inserting in lieu thereof "subsection (a)".

(4) Section 2503(3) is amended by striking out "as defined in section 4(4) of the Office of Federal Procurement Policy Act" and inserting in lieu thereof "issued pursuant to section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1))".

(5) Section 4343 is amended by striking out "clauses (2)-(9)" and inserting in lieu thereof "clauses (2) through (8)".

(6) Section 2132(d) is amended by striking out "section 115(b)(1)(A)(ii)" and inserting in lieu thereof "section 115(a)(1)(B)".

(7) Section 2414(b) is amended by striking out "section 2411(a)(1)(D)" and inserting in lieu thereof "section 2411(1)(D)".

(8) Section 2306a(e)(1)(A)(i) is amended by striking out "Internal Revenue Code of 1954" and inserting in lieu thereof "Internal Revenue Code of 1986".

(g) U.S.C. REFERENCES.—Title 10, United States Code, is amended as follows:

(1) Section 2368(a) is amended by inserting "(42 U.S.C. 6683)" before the period at the end.

(2) Sections 2394a(c)(2) and 2857(c)(2) are amended by inserting "(42 U.S.C. 8254(a))" after "section 544(a) of the National Energy Conservation Policy Act".

(3) Section 2508(a)(2) is amended by inserting "(42 U.S.C. 6681 et seq.)" before the period at the end.

(h) DATE OF ENACTMENT REFERENCES.—Title 10, United States Code, is amended as follows:

(1) Section 1595(c) is amended by striking out "after the end of the 90-day period beginning on the date of the enactment of this section" and inserting in lieu thereof "after February 27, 1990".

(2) Section 2903(d)(2) is amended by striking out "two years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1991" and inserting in lieu thereof "on November 5, 1992".

(i) DEFINITIONS.—Title 10, United States Code, is amended as follows:

(1) Section 645 is amended—

(A) by inserting "The term" in paragraphs (1), (2), and (3) after the paragraph designation; and

(B) by revising the first word after the open quotation marks in each of such paragraphs so that the initial letter of such word is lower case.

(2) Section 2196, as added by section 247(a) of Public Law 101-510 (104 Stat. 1523), is amended by inserting "the term" after "In this chapter,".

(j) OTHER AMENDMENTS.—

(1) Section 1721(c) of title 10, United States Code, as added by section 1202 of the Defense Acquisition Workforce Improvement Act (title XII of Public Law 101-510), is amended by striking out "Activities,' dated" in the last sentence and inserting in lieu thereof "Activities', dated".

(2)(A) Subsection (f) of section 2307 of title 10, United States Code, as added by section 836(a) of Public Law 101-510 (104 Stat. 1615), is redesignated as subsection (e).

(B) Section 836(c) of Public Law 101-510 (104 Stat. 1616) is amended to read as follows:

"(c) EFFECTIVE DATE.—The provisions of section 2307 of title 10, United States Code, that are added by the amendments made by subsections (a) and (b) shall apply with respect to contracts entered into on or after May 6, 1991.".

(3) Section 2391(b)(3) of title 10, United States Code, as added by section 4102(b)(3) of Public Law 101-510 (104 Stat. 1851), is amended—

(A) by striking out "publicly-announced" and inserting in lieu thereof "publicly announced"; and

(B) by inserting a comma after "only if the reduction".

(4) Section 2409a(c) of title 10, United States Code, as added by section 837(a) of Public Law 101-510 (104 Stat. 1616), is amended—

(A) by aligning that part of paragraph (5) preceding subparagraph (A) so as to be indented two ems;

(B) by aligning subparagraphs (A), (B), and (C) of paragraph (5) so as to be indented four ems; and

(C) by aligning paragraph (6) so as to be indented two ems.

(5) Section 2411(1)(D) of title 10, United States Code, is amended by striking out "for-profit and nonprofit" and inserting in lieu thereof "for profit purposes or nonprofit".

(6) Sections 3446 and 8446 of title 10, United States Code, are amended by striking out "as" before "provided by law".

(7) Section 6223(b) of title 10, United States Code, is amended by striking out "MARINE CORPS BANDS" and inserting in lieu thereof "THE UNITED STATES MARINE CORPS BAND".

(8) Section 1095(a)(1) of title 10, United States Code, is amended by inserting "a" before "covered beneficiary".

(9) Section 2822(b) of title 10, United States Code, is amended by realigning paragraph (4) so as to be indented two ems.

(10) Section 2704(f) of title 10, United States Code, is amended by striking out "Agency of Toxic" and inserting in lieu thereof "Agency for Toxic".

(k) EFFECTIVE DATE CLARIFICATION.—

(1) Section 2409 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) EFFECTIVE DATE.—This section shall not be in effect during the period when section 2409a of this title is in effect.".

(2) Section 2409a of such title, as added by section 837(a) of Public Law 101-510 (104 Stat. 1616), is amended by adding at the end the following new subsection:

"(f) EXPIRATION OF SECTION.—This section shall cease to be in effect on November 5, 1994.".

(3) Section 837(b) of Public Law 101-510 (104 Stat. 1619) is amended by striking out the second sentence.

SEC. 702. AMENDMENTS TO TITLE 37, UNITED STATES CODE.

(a) TABLES OF SECTIONS.—Title 37, United States Code, is amended as follows:

(1) The item relating to section 301d in the table of sections at the beginning of chapter 5 is amended by striking out "Retention" and inserting in lieu thereof "Multiyear retention".

(2)(A) The heading of section 302c is amended to read as follows:

"§302c. Special pay: psychologists and nonphysician health care providers".

(B) The heading of section 302e is amended to read as follows:

"§302e. Special pay: nurse anesthetists".

(b) STYLISTIC AMENDMENTS.—Title 37, United States Code, is amended—

(1) by striking out "of this section" each place it appears (other than as provided in subsection (c));

(2) by striking out "of this subsection" each place it appears (other than in sections 305a(d)(3), 431(a), and 501(f));

(3) by striking out "of this paragraph" each place it appears (other than in section 301(c)(2)(B)); and

(4) by striking out "of this subparagraph" in section 558(c)(3)(A)(i).

(c) EXCEPTIONS.—Subsection (b)(1) does not apply to the following provisions of title 37, United States Code:

(1) Section 204(d).

(2) Section 302(g).

(3) Section 302b(g).

(4) Section 305a(d)(2).

(5) Section 308e(b)(3).

(6) Section 312(e).

(7) Section 312a(e).

(8) Section 312b(c).

(9) Section 312c(d).

(10) Section 314(a)(2).

(11) Section 314(a)(3).

(12) Section 401.

(13) Section 402(e)(1), the first place "of this section" appears.

(14) Section 403(j)(1).

(15) Section 403(k).

(16) Section 403a(c)(4).

(17) Section 403a(e)(1).

(18) Section 404a(b), the second place "of this section" appears.

(19) Section 405a(a).

(20) Section 406(h), the third place "of this section" appears.

(21) Section 406(m).

(22) Section 407(e).

(23) Section 411c(a).

(24) Section 552(d).

(25) Section 907(c), the first place "of this section" appears.

(26) Section 1011(b).

SEC. 703. AMENDMENTS TO TITLE 32, UNITED STATES CODE.

Section 112(c)(2) of title 32, United States Code, is amended by striking out "in consultation with—" and all that follows and inserting in lieu thereof "in consultation with the Director of National Drug Control Policy.".

SEC. 704. AMENDMENTS TO PUBLIC LAW 101–510.

(a) General Amendments.—The National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510) is amended as follows:

(1) Section 217(d)(1) (104 Stat. 1511) is amended by striking out "amounts of" and all that follows through "applicable" and inserting in lieu thereof "amounts of authorizations provided for the Department of Defense in this Act, subject to applicable".

(2) Section 406(b) (104 Stat. 1546) is amended by striking out "Such section" and inserting in lieu thereof "Such subsection".

(3) Section 559 (104 Stat. 1571) is amended—

(A) in subsection (a), by striking out "inserting after section 686" and inserting in lieu thereof "adding at the end";

(B) by redesignating as section 690 the new section to be added to title 10, United States Code, by the amendment made by subsection (a); and

(C) in subsection (b), by striking out "Section 687" and inserting in lieu thereof "Section 690".

(4) Section 803(a)(2) (104 Stat. 1590) is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) contracts entered into after December 5, 1990;

"(B) subcontracts under contracts covered by subparagraph (A); and

"(C) modifications or changes to such contracts and subcontracts.".

(5) Section 822(g) (104 Stat. 1600) is amended—

(A) in paragraph (1)—

(i) by striking out "available for the Department of Defense" and inserting in lieu thereof "appropriated pursuant to this Act"; and

(ii) by striking out "in the first fiscal year in which the Institute begins operations"; and

(B) in paragraph (2), by striking out "for each fiscal year after the fiscal year referred to in paragraph (1)".

(6) Section 832 (104 Stat. 1612) is amended by inserting "of subsection (a)" in paragraph (2) after "by adding at the end".

(7) Section 903(b)(1) (104 Stat. 1620) is amended by striking out "all forces" and all that follows through "Army Reserve Command" and inserting in lieu thereof "to the Army Reserve Command all forces of the Army Reserve in the continental United States other than forces assigned to the unified combatant command for special operations forces established pursuant to section 167 of title 10, United States Code".

(8) Section 1407(d) (104 Stat. 1681) is amended by striking out "section 2342" and inserting in lieu thereof "section 2432".

(9) Section 1451(b)(2) (104 Stat. 1693) is amended by inserting "of subchapter II" after "at the beginning".

(b) Acquisition Workforce Act Amendments.—The Defense Acquisition Workforce Improvement Act (title XII of Public Law 101–510) is amended as follows:

(1) Section 1202(a) (104 Stat. 1638) is amended by striking out "the following new section" and inserting in lieu thereof "the following new chapter".

(2) Section 1208 (104 Stat. 1665) is amended—

(A) in subsection (a)(1), by striking out "this Act" and inserting in lieu thereof "this title";

(B) in subsection (b)(1)—

(i) by striking out "this title" and inserting in lieu thereof "title 10, United States Code (as added by section 1202)"; and

(ii) by striking out "this chapter" and inserting in lieu thereof "chapter 87 of such title (as added by section 1202)"; and

(C) in subsection (b)(2)—

(i) by striking out "this chapter" the first place it appears and inserting in lieu thereof "chapter 87 of title 10, United States Code (as added by section 1202),"; and

(ii) by striking out "this chapter" the second place it appears and inserting in lieu thereof "such chapter".

(3) Section 1209 (104 Stat. 1666) is amended—

(A) in subsection (a)—

(i) by striking out "Effective during the three-year period beginning on the date of the enactment of this Act" and inserting in lieu thereof "Before November 6, 1993"; and

(ii) by striking out the comma after "section 1202)";

(B) in subsection (b), by inserting a comma after "(as added by section 1202)";

(C) in subsection (f), by striking out the comma after "shall include" in the last sentence; and

(D) in subsection (i), by inserting a comma after "section 1732(c)(1) of such title".

(c) Mentor-Protege Program.—Section 831 of the National Defense Authorization Act for Fiscal Year 1991 (104 Stat. 1607) is amended—

(1) in subsection (c)(2)—

(A) by striking out "Disadvantaged small business concerns" and inserting in lieu thereof "A disadvantaged small business concern";

(B) by striking out "one or more mentor firms" and inserting in lieu thereof "a mentor firm";

(C) by striking out "or firms"; and

(D) by inserting after the first sentence the following new sentence: "A disadvantaged small business concern may not be a party to more than one agreement to receive such assistance at any time.";

(2) in subsection (e)(3), by striking out "mentor firm or"; and

(3) in subsection (k)—

(A) by striking out "673(d)" and inserting in lieu thereof "637(d)"; and

(B) by striking out the period at the end of the second sentence and inserting in lieu thereof "and shall prescribe procedures by which mentor firms may terminate participation in the program.".

(d) DOE Amendments.—Section 3165 of Public Law 101–510 (104 Stat. 1841) is amended—

(1) in subsection (a), by redesignating subparagraphs (J), (K), (L), and (M) as paragraphs (10), (11), (12), and (13), respectively; and

(2) in subsection (b), by inserting "such" in the second sentence before "education activities".

(e) Effective Date.—The amendments made by this section shall apply as if included in the enactment of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510).

SEC. 705. OTHER TECHNICAL AMENDMENTS.

(a) Continued Applicability of Certain Provision.—The subsection added by the amendment made by paragraph (2) of section 814(d) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1498) is hereby reinstated as originally enacted, effective as of January 1, 1991.

(b) Missing Paragraph Designation.—Effective as of November 29, 1989, section 703(f) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1470) is amended by inserting "(1)" before "In the case of".

(c) Title 38.—(1) Section 1418A(a)(1) of title 38, United States Code, as added by section 561(a) of Public Law 101–510, is amended by striking out "section 1142 of title 10" and inserting in lieu thereof "section 1141 of title 10".

(2) Section 1404(b)(2) of Public Law 101–189 (103 Stat. 1586) is amended by striking out "of subchapter I or II" in the matter in quotation marks and inserting in lieu thereof "subchapter I or II of".

(d) Cross-Reference Corrections.—(1) Section 21(g) of the Arms Export Control Act (22 U.S.C. 2761(g)) is amended by striking out "section 1105 of the National Defense Authorization Act of fiscal year 1987" and inserting in lieu thereof "section 2350a(i)(3) of title 10, United States Code".

(2) Section 65(d) of such Act (22 U.S.C. 2796d(d)) is amended by striking out "section 1105 of the National Defense Authorization Act for Fiscal Year 1987 (22 U.S.C. 2767a)" and inserting in lieu thereof "section 2350a(i)(3) of title 10, United States Code".

(e) Section 1207.—Subparagraph (A) of section 1207(a)(1) of Public Law 99–661 (10 U.S.C. 2301 note), as amended and redesignated by sections 811 and 832(1)(B) of Public Law 101–510 (104 Stat. 1596, 1612), is amended by inserting a close parenthesis after "637(d)".

(f) Public Law 85–804.—(1) Effective as of November 6, 1990, the first section of Public Law 85–804 (50 U.S.C. 1431) is amended by inserting "and 60 days of continuous session of Congress have expired following the date on which such notice was transmitted to such Committees" before the period at the end of the third sentence.

(2) Such section is further amended in the fourth sentence—

(A) by inserting "at the end of a Congress" after "sine die"; and

(B) by inserting ", or because of an adjournment sine die other than at the end of a Congress," after "to a day certain".

(g) Capitalization Correction.—Paragraph (2) of section 12(d) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)) is amended by striking out "Naval" and inserting in lieu thereof "naval".

(h) Expenditures for Uniformed Services Treatment Facilities.—Section 1252(f) of the Department of Defense Authorization Act, 1984 (42 U.S.C. 248d(f)), is amended by inserting "by the Secretary of Defense" after "expenditures".

(i) Additional Cross Reference Correction.—Section 27(p)(8) of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended by striking out "has the same meaning as" and all that follows through the end and inserting in lieu thereof the following: "has the meaning given such term by section 109(3) of the Ethics in Government Act of 1978 (5 U.S.C. App.).".

TITLE VIII—AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS FOR DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS FOR FISCAL YEAR 1991

SEC. 801. AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS FOR OPERATING EXPENSES.

There is hereby authorized to be appropriated for fiscal year 1991 for operating expenses incurred in carrying out national security programs (including scientific research and development in support of the Armed Forces, strategic and critical materials necessary for the common defense, and military applications of nuclear energy and related management and support activities) for weapons activities production and surveillance, $283,000,000.

SEC. 802. AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS FOR ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.

There is hereby authorized to be appropriated for fiscal year 1991 for carrying out the environmental restoration and waste management programs necessary for national security programs as follows:

(1) For operating expenses:

(A) For environmental restoration, $100,000,000.

(B) For waste operations, $74,300,000.

(C) For waste research and development, $30,000,000.

(2) For plant projects:

Project 91-D-172, high-level waste tank farm replacement, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $30,000,000.

Project 90-D-178, TSA retrieval containment building, Idaho National Engineering Laboratory, Idaho Falls, Idaho, $19,500,000.

Project 89-D-142, reactor effluent cooling water thermal mitigation, Savannah River, South Carolina, $17,600,000.

Project Project 89-D-172, Hanford environmental compliance, Richland, Washington, $27,700,000.

Project 89-D-174, replacement high-level waste evaporator, Savannah River, South Carolina, $14,000,000.

Project 83-D-148, nonradioactive hazardous waste management, Savannah River, South Carolina, $10,000,000.

Project 77-13-f, waste isolation pilot project, Delaware Basin, southeast New Mexico, $16,900,000.

SEC. 803. APPLICABILITY OF RECURRING GENERAL PROVISIONS.

The provisions contained in part B of title XXXI of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1829) shall apply with respect to the authorizations provided in this title in the same manner as such provisions apply with respect to the authorizations provided in title XXXI of such Act.

SEC. 804. RELOCATION OF ROCKY FLATS PLANT OPERATIONS.

(a) RELOCATION PROGRAM.—From funds authorized and appropriated for production and surveillance for fiscal year 1991, the Secretary of Energy shall develop a program to relocate, within 10 years after the date of the enactment of this Act, operations performed at the Rocky Flats Plant in Golden, Colorado, to a replacement facility (or facilities) on a site (or sites) where public health and safety can be assured.

(b) REPORT.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Energy shall submit to Congress a report describing the program developed under subsection (a), a plan to implement such program, and the activities to be undertaken during fiscal year 1991 pursuant to the plan.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. ASPIN] is recognized for 1 hour.

Mr. ASPIN. Mr. Speaker, I yield 30 minutes to the gentleman from Alabama [Mr. DICKINSON], pending which I yield myself such time as I may consume.

Mr. Speaker, the bill before us is the Persian Gulf conflict supplemental authorization and personnel benefits bill S. 725. It represents the agreement on the part of both the Armed Services Committee and other interested committees of the House with their Senate counterparts on authorizing payment for the Persian Gulf war and taking care of the men and women who fought and won that war.

The bill has three main parts:

First, a core supplemental authorization of appropriations to pay for the cost of the war. These provisions are very similar to those in the House-passed bill, H.R. 1175.

Second, the bill provides a comprehensive package of military personnel and veterans' benefits to provide adequate compensation for our Desert Storm heroes, to help their families, and to ease their transition back to a more peaceful world. Chief among the veterans' benefits in the bill is an increase in the Montgomery GI bill benefits for both active duty and Reserve personnel. These benefits would be paid from the defense cooperation account. As incremental costs of the Persian Gulf war, funding of these benefits is consistent with last year's budget agreement.

And finally, the bill contains a number of other provisions, most of them originating in the House bill, including the Schumer-Panetta language, additional incentives for our allies to pay their pledges, and the DOE supplemental authorization.

Mr. Speaker, this bill represents a sound package that will take care of our men and women in uniform; our veterans; and establish a firm, accountable basis for paying the costs of the Persian Gulf war. I have included in my statement a comprehensive explanation of the bill.

Mr. Speaker, I strongly urge the approval of this package, I reserve the balance of my time.

JOINT EXPLANATORY STATEMENT

This statement explains the provisions of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991.

On February 22, 1991, the General Counsel of the Department of Defense forwarded to the Congress a proposed supplemental authorization bill for fiscal year 1991. On March 13, 1991, the House of Representatives approved H.R. 1175, the National Defense Supplemental Authorization Act for Fiscal Year 1991. On March 14, 1991, the Senate passed S. 578, the Department of Defense Desert Storm Supplemental Authorization and Military Personnel Benefits Act for Fiscal Year 1991. On March 19, 1991, the Senate received H.R. 1175, amended it with the text of S. 578, passed it, and returned it to the House.

The following joint explanatory statement explains the compromise agreement that has been reached by the Senate and House Armed Services Committees and other committees on the differences between the texts of H.R. 1175 and S. 578.

In this joint explanatory statement, the phrase "the House bill" refers to H.R. 1175, as passed by the House on March 13. The phrase "the Senate amendment" refers to H.R. 1175, as passed and amended by the Senate with the text of S. 578 on March 19. The phrase "the final bill" refers to the compromise agreement.

TITLE I—AUTHORIZATION OF FISCAL YEAR 1991 SUPPLEMENTAL APPROPRIATIONS FOR OPERATION DESERT STORM

The House bill contained a series of provisions (secs. 101–107) that would authorize supplemental appropriations for Operation Desert Storm for fiscal year 1991. Section 101 would authorize, during fiscal year 1991, the appropriation of the balances contributed to the Defense Cooperation Account to pay for the incremental costs associated with Operation Desert Storm or the replenishment of the working capital account established in section 102. Section 102 would establish the Persian Gulf Working Capital Account and would authorize $15 billion to be appropriated to the account during fiscal year 1991. This section would specifically limit the availability of appropriations for transfer to pay for the incremental costs of Operation Desert Storm to the extent that funds are not available for transfer from the Defense Cooperation Account. Section 103 would authorize the transfer of amounts appropriated from the Defense Cooperation Account and appropriated to the Persian Gulf Working Capital Account to appropriation accounts as necessary to meet the costs of Operation Desert Storm. Section 104 would authorize the transfer authority necessary to make adjustments in the military personnel and operation and maintenance accounts to pay for the incremental costs associated with the military operations in the Persian Gulf. Section 105 would establish certain notification and reporting requirements to be followed by the Secretary of Defense before implementing any transfer of funds from the Defense Cooperation Account, the Persian Gulf Working Capital Account, or between the military personnel and operation and maintenance accounts. Section 106 would require the Secretary of Defense to provide monthly reports of transfers made pursuant to the authority in this title to the congressional defense committees.

The Senate amendment contained similar provisions (secs. 101–102).

The final bill contains the House provisions with technical amendments.

The authorization of transfers provided in the final bill is based on the understanding that the Secretary of Defense will develop a process for the resolution of any concerns that may be raised by the congressional defense committees with respect to transfers authorized by this title. This process should involve the four congressional defense committees, but should be more streamlined than the process currently used with respect to approval of transfers. It is expected that the four congressional defense committees will expedite consideration of all transfer requests and will register any concerns with DoD over any proposed transfer within seven days. The traditional paperwork used by DoD to report transfers to the Congress is not necessary in the case of transfers for the incremental costs of Operation Desert Storm. This approach will preserve the congressional oversight role over the expenditure of funds to pay the incremental costs of Operation Desert Storm.

TITLE II—WAIVER OF PERSONNEL CEILINGS AFFECTED BY OPERATION DESERT STORM

The House bill contained provisions (sec. 211 and sec. 212) that would: (1) authorize the Secretary of Defense to waive the active duty, selected reserve, and reserve active duty end strengths prescribed for fiscal year 1991 in the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510); and (2) authorize the President to waive the strength ceilings applicable to senior enlisted grades for the duration of the Persian Gulf conflict.

The Senate amendment contained a similar provision (sec. 201), except the authority to waive the end strengths and grade ceilings would be vested in the Secretaries of the Military Departments, and the grade ceiling waivers would include not only the senior enlisted grades, but the active duty and full-time reserve officers field grades, and the general and flag officer grades as well.

The final bill contains the Senate provision.

TITLE III—BENEFITS FOR PERSONS SERVING IN ARMED FORCES DURING THE PERSIAN GULF CONFLICT

Part A—Military Compensation and Benefits

Legislative Provisions Adopted

Increase in imminent danger pay (sec. 301)

The House bill contained a provision (sec. 222) that would permanently increase the rate of imminent danger pay from $110 per month to $150 per month, effective January 16, 1991.

The Senate amendment contained a similar provision (sec. 301), except the authority for the increase would be temporary and the effective date would be retroactive to August 1, 1990.

The final bill contains the Senate provision.

Family separation pay (sec. 302)

The House bill contained a provision (sec. 223) that would: (1) increase family separation pay from $60 to $75 per month, effective January 16, 1991; and (2) authorize family separation pay to dual military couples without dependents, effective January 16, 1991.

The Senate amendment contained no similar provision.

The final bill contains the House provision amended to delete the portion on dual military couples without dependents.

Use of home of record for determination of variable housing allowance for reservists (sec. 303)

The House bill contained a provision (sec. 225) that would require that the variable housing allowance being paid to members of reserve components called to active duty in connection with the Persian Gulf conflict be calculated using the rates to which the members are entitled in the areas of the members' home of record in lieu of permanent duty location.

The Senate amendment contained no similar provision.

The final bill contains the House provision amended to substitute the principal place of residence for home of record.

Medical, dental, and non-physician special pays for reserve, recalled, or retained health care officers (sec. 304)

The House bill contained a provision (sec. 226) that would provide authority for payment of active duty special pays to reserve optometrists, veterinarians, nurse anesthetists, and other non-physician health care providers called or ordered to active duty in conjunction with the Persian Gulf conflict. In addition, section 226 would authorize payment of those special pays to physicians, dentists, optometrists, veterinarians, nurse anesthetists, and other non-physician health care providers who (1) are involuntarily retained on active duty under section 673(c) of title 10, United States Code, (2) are recalled to active duty under section 688 of title 10, United States Code, or (3) voluntarily agree to remain on active duty for a period of less than one year in connection with the Persian Gulf conflict.

The Senate bill contained a similar provision (sec. 302).

The final bill contains the House provision.

Waiver of board certification requirements (sec. 305)

The House bill contained a provision (sec. 227) that would authorize continued payment of board certification pay to physicians, dentists, and other health care providers who have completed residency training and were scheduled for board certification, or re-certification, but were unable to complete the certification process due to a duty assignment in connection with the Persian Gulf conflict.

The Senate amendment contained no similar provision.

The final bill contains the House provision amended to condition the payment of these pays on the completion of certification requirements by affected personnel within 180 days of their release from their duty assignments in connection with the Persian Gulf conflict or such additional time after that period as determined to be necessary by the Secretary of Defense.

Foreign language proficiency pay (sec. 306)

The House bill contained a provision (sec. 228) that would require that foreign language proficiency pay be paid to members of the armed forces assigned to duty in connection with the Persian Gulf conflict who meet all eligibility criteria for such pay except that they have not been certified by the Secretary concerned to be proficient in a foreign language necessary for national defense purposes.

The Senate amendment contained no similar provision.

The final bill contains the House provision amended to condition the payment of these pays on the completion of certification requirements by affected personnel within 180 days of their release from their duty assignments in connection with the Persian Gulf conflict.

Increase in the amount of death gratuity (sec. 307)

The House bill contained a provision (sec. 231) that would amend section 1478(a) of title 10, United States Code, to establish a standard death gratuity rate of $6,000 for all grades, effective August 2, 1990.

The Senate amendment contained a similar provision (sec. 306), except the authority for the $6,000 death gratuity rate would be temporary and effective January 16, 1991.

The final bill contains the House provision amended to make the provision temporary.

Servicemen's Group Life Insurance gratuity (sec. 308)

The Senate amendment contained a provision (sec. 332) that would authorize the payment of a gratuity to the survivors of service members who died after August 1, 1990 and the effective date of the SGLI increase equal to twice the amount of SGLI coverage of the deceased at the time of death. The gratuity would apply only to service members whose deaths were in conjunction with or in support of Operation Desert Storm, or attributable to hostile action in regions other than the Persian Gulf designated by the Secretary of Defense.

The House bill contained no similar provision.

The final bill contains the Senate provision.

Payment for accrued leave (sec. 309)

The Senate amendment contained a provision (sec. 303) that would ensure that survivors of military members are entitled to the payment for the unused accrued leave of a member who dies while on active duty on the same basis as provided for members in section 1115 of the National Defense Authorization Act for Fiscal Year 1991.

The House bill contained no similar provision.

The final bill contains the Senate provision.

Removal of limitation on the accrual of savings of members in a missing status (sec. 310)

The House bill contained a provision (sec. 232) that would amend section 1035(b) of title 10, United States Code, to remove the ceiling on savings deposits for service members carried in a missing status as defined in section 551(2) of title 37, United States Code, during the period of the Persian Gulf conflict.

The Senate amendment contained a similar provision (sec. 304).

The final bill contains the House provision.

Basic allowance for quarters for certain members of the reserve components without dependents (sec. 310A)

The House bill contained a provision (sec. 224) that would require payment of basic allowance for quarters to reserve component members without dependents called to active duty in connection with the Persian Gulf conflict who are unable to occupy their primary residence that is owned by the member, or for which the member is responsible for rent.

The Senate amendment contained no similar provision.

The final bill contains the House provision amended to clarify the intent of the House provision.

Legislative Provisions Not Adopted

Repeal wartime and national emergency prohibitions on the payment of certain pay and allowances

The House bill contained a provision (sec. 221) that would repeal the prohibition on the payment of imminent danger pay and family separation allowance during times of war or national emergency declared by the Congress.

The Senate amendment contained no similar provision.

The final bill does not contain the House provision.

Foreign duty pay

The House bill contained a provision (sec. 229) that would increase the current foreign duty pay for enlisted personnel to a flat rate of $25 per month.

The Senate amendment contained no similar provision.

The final bill does not contain the House provision.

Transitional commissary and exchange benefits

The House bill contained a provision (sec. 245) that would require the Secretary of Defense to prescribe regulations allowing a member of a reserve component called or ordered to active duty in connection with the Persian Gulf conflict to use commissary and exchange stores during the 180-day period beginning on the date of the release of the member from active duty. Use of these stores would be authorized in the same manner and to the same extent as authorized for service members on active duty.

The Senate amendment contained no similar provision.

The final bill does not contain the House provision.

Benefits explanation for reserve members upon demobilization

The House bill contained a provision (sec. 246) that would require the Secretaries of the Military Departments to provide individual pre-separation counseling on a variety of subjects to service members upon their discharge or release from active duty. The Secretary of Defense would be required to ensure that the Service Secretaries, in carrying out section 1142 of title 10, United States Code, provide particular attention to the needs of members of the reserve components who were called or ordered to active duty for service in connection with the Persian Gulf conflict.The Secretary of Veterans Affairs would be required to detail personnel of the Department of Veterans Affairs for service at each principal site at which such service members will be released from active duty.

The Senate amendment contained no similar provision.

The final bill does not contain the House provision. However, the Secretary of Defense is expected to carry out the intent of the House provision.

Part B—Military Personnel Policies and Programs

Legislative Provisions Adopted

Grade in which retired officers are recalled to active duty (sec. 311)

The House bill contained a provision (sec. 242) that would authorize the Secretaries of the Military Departments to recall retired military officers to active duty in the highest grade they held while on previous active duty.

The Senate amendment contained a similar provision (sec. 305).

The final bill contains the Senate provision amended to clarify the intent of the Senate provision.

Temporary CHAMPUS provisions regarding deductibles and copayment requirements (sec. 312)

The House bill contained a provision (sec. 243) that would delay the implementation of the increase in the CHAMPUS deductible mandated by section 712 of the National Defense Authorization Act for Fiscal Year 1991 from April 1, 1991 to October 1, 1991, in the case of dependents of active duty personnel who are serving or have served in the Persian Gulf theater in connection with the Persian Gulf conflict.

The Senate amendment contained no similar provision.

The final bill contains the House provision.

The Senate amendment contained a provision (sec. 331) that would allow CHAMPUS health care providers to waive any requirement for payment by the patient of copayment charges during the Persian Gulf War period, provided that CHAMPUS health care providers who grant such waivers do not increase the amount charged to the federal government for the service for which the waiver is granted.

The House bill contained no similar provision.

The final bill contains the Senate provision amended to specify that this provision would apply to dependents of military personnel serving in the Persian Gulf and require certification by the health care provider on cost.

Transitional health care (sec. 313)

The House bill contained a provision (sec. 244) that would extend transitional health benefits to reservists called or ordered to active duty in connection with the Persian Gulf conflict and to active duty personnel involuntarily retained on active duty under section 673c of title 10, United States Code. Section 244 would authorize eligibility for two months of medical care in military medical treatment facilities or under CHAMPUS unless the former service members and dependents are covered by an employer-sponsored health insurance plan.

The Senate amendment contained a similar provision (sec. 307), except that the transitional health coverage would be for 30 days and would not include involuntarily retained personnel.

The final bill contains the Senate provision amended to include involuntarily retained personnel under the transitional health coverage being authorized.

Extension of certain Persian Gulf conflict provisions (sec. 314)

The House bill contained a provision (sec. 247) that would remove fiscal year constraints on spending in support of the Persian Gulf conflict established in title XI of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1634 et seq.).

The Senate amendment contained no similar provision.

The final bill contains the House provision.

Study of Department of Defense policies relating to deployment of military service members with dependents or service members from families with more than one service member (sec. 315)

The House bill contained a provision (sec. 248) that would require the Secretary of Defense to carry out a study of departmental policies relating to the family interests and responsibilities of reserve component members called or ordered to active duty and of active and reserve component service members deployed overseas. The study would examine the responsiveness of such policies to the needs of service members and the consistency of existing policies among the Military Departments. The Secretary of Defense would be required to submit a report to Congress on the findings of the study no later than March 31, 1992.

The Senate amendment contained no similar provision.

The final bill contains the House provision.

Adjustment in the effective date of changes in mental health benefits as a result of Operation Desert Storm (sec. 316)

The Senate amendment contained a provision (sec. 308) that would delay the effective date of certain changes in CHAMPUS mental health benefits required by section 703 of the National Defense Authorization Act for Fiscal Year 1991, and the companion provision of the Department of Defense Appropriations Act, 1991, from February 15, 1991 to February 15, 1992.

The House bill contained no similar provision.

The final bill contains the Senate provision amended to change the effective date of the changes in CHAMPUS mental health benefits from February 15, 1991 to October 1, 1991. The Office of CHAMPUS is directed to not absorb any of the costs associated with the change in benefits made by this section which exceed the $36 million budgeted for these benefits by this Act.

Sense of House on the separation of certain members from their infant children (sec. 317)

The House bill contained a provision (sec. 241) that would amend chapter 41 of title 10, United States Code, by inserting a new section that would preclude female members with a child under six months of age from being (1) called to active duty, if a member of a reserve component, or (2) assigned to a duty location or circumstance that requires the child to live at a different location, if a member of the armed forces on active duty. Section 241 would provide the same exemptions to male service members who have sole custody of a child under the age of six months.

The Senate amendment contained no similar provision.

The final bill contains the House provision amended to express the sense of the House on this issue.

Legislative Provisions Not Adopted

Sense of Congress regarding the provision of medical care by Germany to dependents of members living in Germany

The House bill contained a provision (sec. 249) that would express the sense of Congress that the President should request the Government of Germany to provide without reimbursement medical care to military dependents living in Germany in order to replace military medical personnel and equipment deployed to the Persian Gulf region to treat casualties resulting from the Persian Gulf conflict.

The Senate amendment contained no similar provision.

The final bill does not contain the House provision.

Morale telephone calls

The House bill contained a provision (sec. 250) that would express the sense of Congress that the Secretary of Defense should contract with private telephone companies, or establish alternative telephone arrangements, to provide at least ten minutes of free telephone calls a month for each member of the armed forces serving in the combat zone designated in connection with the Persian Gulf conflict.

The Senate amendment contained no similar provision.

The final bill does not contain the House provision. However, the Secretary of Defense is expected to carry out the intent of the House provision.

Sense of Congress regarding the need for increased participation of civilian health care providers in CHAMPUS

The Senate amendment contained a provision (sec. 332) that would express the sense of Congress urging civilian health care providers in the United States to participate or increase their participation in the CHAMPUS health delivery system.

The House bill contained no similar provision.

The final bill does not contain the Senate provision. However, the Secretary of Defense is expected to take initiatives to encourage civilian health care providers to participate or increase their participation in the CHAMPUS health delivery systems consistent with the Senate provision.

Part C—Veterans Programs and Benefits

Legislative Provisions Adopted

Definition of period of war (sec. 332)

Section 101(11) of title 38, United States Code, defines the term "period of war" as including the Spanish American War, the Mexican border period, World War I, World War II, the Korean conflict, the Vietnam era, and the period beginning on the date of any future declaration of war by Congress and ending on the date prescribed by presidential proclamation or concurrent resolution of Congress.

The House bill contained a provision (sec. 301(a)) that would add to the definition of periods of war the "Persian Gulf War", the period beginning on August 2, 1990, and ending on the date thereafter prescribed by Presidential proclamation or by law.

The Senate amendment contained a similar provision (sec. 362).

The final bill contains this provision.

Pension eligibility (sec. 333)

Section 501(4) of title 38, defines certain periods of war for purposes of eligibility for the VA need-based pension programs for nonservice disabled, wartime veterans, and the surviving spouses and dependent children of deceased wartime veterans. Under section 541(f) of title 38, for a surviving spouse to be eligible for a pension, he or she must have married the veteran by a specified date, i.e., not later than 10 years after the termination of the period of war in the cases of veterans of periods of war after World War I.

The House bill contained a provision (section 301(b)) that would (1) add the "Persian Gulf War" to the definition of periods of war for pension eligibility purposes, and (2) provide for pension eligibility for a surviving spouse of a Persian Gulf War veteran if the spouse marries the veteran before January 1, 2001.

The Senate amendment contained a similar provision (sec. 363) which would provide pension eligibility for a surviving spouse if the marriage occurred not later than 10 years after the termination of the Persian Gulf War.

The final bill contains the substance of the House provision.

Period of services for dental benefits (sec. 334(a))

Section 612(b)(1) of title 38 requires VA to furnish outpatient dental services for a dental condition or disability which is service-connected but not compensable in degree if (1) the condition or disability is shown to have been in existence at the time of the veteran's discharge from active duty service, (2) the veteran had served on active duty for a period of not less than 180 days immediately prior to discharge or release, (3) the veteran applied for treatment within 90 days after discharge or release; and (4) the veteran was not provided, within the 90-day period immediately before the date of discharge or release, a complete dental examination and all appropriate dental services indicated by the examination as needed. Under section 612(b)(2), the Service Secretary concerned is required to furnish each individual, at the time of discharge or release from active duty, written notice of this benefit and record the number's receipt of the notice.

The House bill contained a provision (sec. 303(c)) that would reduce from 180 days to 90 days the minimum active-duty service requirement for eligibility for this benefit (as well as for the notice provision) for veterans of the Persian Gulf War.

The Senate amendment contained no similar provision.

The final bill contains the House provision.

Presumption Relating to Psychosis (Sec. 334(b))

Under section 602 of title 38, an active psychosis developed by any veteran of World War II, the Korean conflict, or the Vietnam era within two years after discharge is deemed to be a service-connected condition for the purposes of entitlement to VA health care if the psychosis was developed before July 26, 1949, in the case of a World War II veteran, before February 1, 1957, in the case of a veteran of the Korean conflict, or before May 8, 1977, in the case of a Vietnam-era veteran.

The House bill contained a provision (sec. 303(d)) that would make this presumption applicable to a veteran of the Persian Gulf War who develops a psychosis within two years after the veteran's discharge and the end date of the Persian Gulf War.

The Senate amendment contained a similar provision (sec. 364(a)).

The final bill contains this provision.

Eligibility for Medicines for Veterans Who Are Housebound or in Need of Aid and Attendance (Sec. 334(c))

Under section 612(h) of title 38, veterans of the Mexican Border period, World War I, World War II, the Korean conflict, or the Vietnam era who receive additional VA service connected disability compensation, or increased VA non-service connected disability pension, by reason of being permanently housebound or in need of regular aid and attendance, are entitled to be furnished such drugs and medicines as may be prescribed for the treatment of any illnesses or injuries from which they may suffer. VA is also required to continue furnishing drugs and medicines to any such veteran whose pension payments have been discontinued solely because the veteran's annual income exceeds the applicable maximum for pension payments, if the veteran's annual income does not exceed that maximum by more than $1,000.

The House bill contained a provision (sec. 303(e)) that would extend this entitlement to drugs and medicines to veterans of any "period of war", rather than veterans of the periods specified in present section 612(h) of title 38, who meet the requirements of section 612(h). In conjunction with the amendment proposed to be made in the definition of "period of war" by section 301(a) of the bill, this provision would provide eligibility to Persian Gulf War veterans, and veterans of subsequent war periods, who meet those requirements.

The Senate amendment contained a provision (sec. 364(b)) that would add service during the Persian Gulf War to the war service periods on which eligibility under section 612(h) may be based.

The final bill contains the House provision.

Expansion of Readjustment Counseling Eligibility (Sec. 334(d))

Section 612A of title 38 provides that, upon the request of any veteran who served on active duty during the Vietnam era, the Secretary of Veterans Affairs shall furnish counseling to assist the veteran in readjusting to civilian life. The counseling must include a mental and physical assessment. A veteran who is furnished readjustment counseling under this section is also entitled to receive follow-up mental-health services to complete treatment indicated by the assessment. Immediate family members are also eligible for consultation, professional counseling, training, and mental health services if such services are determined to be essential to the effective treatment and readjustment of the veteran. In addition, VA has authority to provide the counseling and related mental health services by contract.

Section 612B of title 38 authorizes the Secretary to establish a program to furnish VA counseling to veterans who are former prisoners of war to assist such veterans in overcoming the psychological effects of detention or internment as a prisoner of war.

The House bill contained a provision (sec. 303(b)) that would amend section 612B to authorize the Secretary to furnish counseling services in any VA facility to any veteran who (a) is a former prisoner of war, or (b) served on active duty in a theater of combat (as defined by the Secretary of Defense) after August 2, 1990, to assist the veteran in overcoming any psychological problems of the veteran associated with such service.

The Senate amendment contained a provision (sec. 364(c)) that would amend section 612A to expand entitlement and eligibility for readjustment counseling and other services under that section to include veterans who served on active duty after May 7, 1975, in areas in which United States personnel were subjected to danger from armed conflict comparable to that occurring in battle with an enemy during a period of war (as determined by the Secretary of Veterans Affairs in consultation with the Secretary of Defense).

The final bill contains the Senate provision.

Reports by Secretary of Defense and Secretary of Veterans Affairs Concerning Services to Treat Post-Traumatic Stress Disorder (Sec. 335)

The House bill contained a provision (sec. 303(g)) that would require the Secretary of Defense and the Secretary of Veterans Affairs each to submit to the Congress two reports providing (1) an assessment of the need for rehabilitative services for members of the armed forces who participated in the Persian Gulf conflict who experience post-traumatic stress disorder (PTSD); (2) a description of the available programs and resources to meet those needs; (3) the specific plans of each Secretary for treatment of PTSD, particularly with respect to any specific needs of members of reserve components; (4) an assessment of needs for additional resources in order to carry out such plans; and (5) a description of plans to coordinate treatment services for PTSD with the other department. The first reports would be due not later than 90 days after enactment of this measure and the second, a year later.

The Senate amendment contained no provision.

The final bill contains the House provision.

Increase in Servicemen's Group Life Insurance and Veteran's Group Life Insurance Maximums (Sec. 336)

Subchapter III of chapter 19 of title 38 sets forth the Servicemen's Group Life Insurance (SGLI) and Veterans' Group Life Insurance (VGLI) programs. Under that subchapter, the Secretary of Veterans Affairs is authorized to purchase from commercial life insurance companies a policy or policies of group life insurance to insure against death any active-duty service member and certain members of the Ready Reserve and Retired Reserve. Eligible service members and reservists are automatically covered in the amount of $50,000 but may elect coverage of less than $50,000 or to not participate in the program at all. Premium payments for SGLI are deducted each month from the basic pay of service members and are calculated without regard to the extra hazards of active duty service. SGLI coverage is provided free of charge for 120 days following separation from active duty. After separation from active duty, veterans who participated in the SGLI program may participate in the Veterans' Group Life Insurance (VGLI) program.

VGLI provides five-year term group life insurance in amounts ranging from $5,000 to $50,000. A veteran may not obtain more insurance under VGLI than the veteran had under the SGLI program. At the end of the five-year term, the veteran has the right to obtain an individual life insurance policy at a standard rate from any company participating in the SGLI program.

The Senate amendment contained a provision (sec. 336) that would increase from $50,000 to $100,000 the maximum amount of Servicemen's Group Life Insurance (SGLI) and Veterans' Group Life Insurance (VGLI) and provide that, effective on the date of enactment, the amount of SGLI be increased to the amount equal to twice the amount provided for on the day before enactment. The Secretary of Veterans Affairs, in consultation with the Service Secretaries, would be required to take such action as is necessary to ensure that each person affected by the increase in SGLI is notified of the increased insurance coverage and is afforded the opportunity to make an election, within 120 days after the date of enactment, not to be insured in the increased amount.

The House bill contained no similar provision.

The final bill contains the Senate provision.

Amounts of Benefit Payments Under the Chapter 30 Program for Active-Duty Service Members (Sec. 337(a))

Section 1415 of title 38 establishes the amounts of monthly educational assistance under the chapter 30 Montgomery GI Bill (MGIB) program for active-duty service members as follows: (1) $300 for full-time study for those serving on active duty for three years or more, (2) $250 for full-time study for those serving two years on active duty, and (3) in both cases, appropriately reduced rates determined by VA for part-time study.

The House bill contained a provision (sec. 304(a)) that would increase the monthly chapter 30 payments for full-time study to (1) $400 for those serving on active duty for three years or more, and (2) $300 for those serving two years on active duty.

The Senate amendment contained a provision (sec. 366(a)) that would increase the monthly chapter 30 payments for full-time study to (1) $310 for those serving on active duty for three years or more, and (2) $259 for those serving two years on active duty.

The final bill contains a provision that would increase, in fiscal years 1992 and 1993, the monthly chapter 30 payments for full-time study to (1) $350 for those serving on active duty for three years or more, and (2) $275 for those serving two years on active duty. After fiscal year 1993, the Secretary of Veterans Affairs would have authority to continue the increased rates and to increase the rates to reflect increases in the cost of living.

Amounts of Benefit Payments Under the Chapter 106 Program for Reservists (Sec. 337(b))

Section 2131 of title 10 establishes the amounts of monthly educational assistance under the chapter 106 MGIB program for individuals serving at least 6 years in the Selected Reserve as follows: (1) $140 for full-time study, (2) $105 for three-quarter-time study, and (3) $70 for half-time study.

The House bill contained a provision (sec. 304(b)) that would increase the amount of monthly chapter 106 payments to (1) $200 for full-time study, (2) $150 for three-quarter-time study, and (3) $100 for half-time study.

The Senate amendment contained a provision (sec. 366(b)) that would increase the amount of monthly chapter 106 payments, but only for reservists who are ordered to active duty during the Persian Gulf War, to (1) $145 for full-time study, (2) $108.75 for three-quarter-time study, and (3) $72.50 for half-time study.

The final bill contains a provision that would increase, in fiscal years 1992 and 1993, the amount of monthly chapter 106 payments to (1) $170 for full-time study, (2) $128 for three-quarter-time study, and (3) $85 for half-time study. After fiscal year 1993, the Secretary of Defense would have authority to continue the increased rates and to increase the rates to reflect increases in the cost of living.

Membership on Educational Benefits Advisory Committee (Sec. 338)

Section 1792 of title 38 requires membership on the Veterans' Advisory Committee on Education (VACE) to include veterans representative of World War II, the Korean conflict era, the post-Korean conflict era, the Vietnam era, and the post-Vietnam era.

The Senate amendment contained a provision (sec. 370) that would add veterans of the Persian Gulf War to those who must be represented in the membership of the VACE.

The House bill contained no similar provision.

The final bill contains the Senate provision.

Reasonable Accommodations for Disabled Veterans (Sec. 339)

Section 2021 of title 38 provides that, in the case of a person who is eligible for reemployment rights under chapter 43 of title 38, who has applied for reemployment under the provisions of that chapter, and who is no longer qualified to perform the duties of his or her previous position by reason of a disability sustained during reserve training or active-duty service, he or she shall be offered any other position in the employ of the employer for which he or she is qualified and which will provide like seniority, status, and pay, or the nearest approximation, of the previous position.

The Senate amendment contained a provision (sec. 373) that would require an employer to make reasonable accommodations to requalify an individual to perform the duties of his or her previous position. For the purposes of this provision, the term "reasonable accommodation" would have the meaning provided in section 101(9) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111(9)).

The House bill contained no similar provision.

The final bill contains the Senate provision amended to clarify that (1) an employer would not be required to make accommodations if the employer can demonstrate that the accommodation would impose an undue hardship on the operation of the employer's business, and (2) exclude certain small employers from this requirement. Until July 26, 1994, the requirement would apply to employers who have 25 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding year. After that date, the requirement would apply to those who have 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

Retraining of Former Employees (Sec. 340)

Section 2021 of title 38 (in conjunction with section 2024) generally requires an employer to restore to employment a person who leaves employment for active-duty service, active duty for training, or inactive-duty training, and who applies for reemployment within a prescribed period after release from service if that person is still qualified to perform the duties of the position.

The Senate amendment contained a provision (sec. 372) that would require that an employer make reasonable efforts to requalify the individual to perform the duties of his or her previous position.

The House bill contained no similar provision.

The final bill contains the Senate provision.

Entitlement for VA-Guaranteed Loans (Sec. 341)

Under section 1802(a) of title 38, basic entitlement for VA home loan benefits is authorized for (a) veterans who served on active duty at any time during World War II, the Korean conflict, or the Vietnam era and whose total service was for 90 days or more, and (b) veterans of only peacetime service who served at least 181 days on active duty. Generally with respect to those who enter active duty service after September 7, 1980, section 3103A of title 38 imposes a minimum service requirement under which title 38 benefits are available only to those who serve at least two years on active duty, or the full period for which they were ordered to active duty, or who were discharged early by reason of hardship or service-connected disability or in certain other circumstances.

The House bill contained a provision (sec. 308) that would extend eligibility to Persian Gulf War veterans whose total service is for 90 days or more.

The Senate amendment contained a provision (sec. 371) that would extend home loan eligibility to Persian Gulf War veterans whose total service is for 90 days or more and who also meet the minimum service requirements of section 3103A of title 38 (primarily reservists whose period of activation is between 89 and 180 days).

The final bill contains the Senate provision.

LEGISLATIVE PROVISIONS NOT ADOPTED

Dependency and Indemnity Compensation

Under chapter 13 of title 38, dependency and indemnity compensation (DIC) is paid to the surviving spouse and children of a veteran who dies of service-connected causes. The rate of DIC, set forth in section 411 of title 38, is based on the deceased veteran's rank when the veteran was in the military.

The House bill contained a provision (sec. 302) that would (1) revise the basis on which DIC is paid so as to base the rates on the age of the veteran at the time of the veteran's death, with the amount paid decreasing with the veteran's age, and (2) in three increments, on October 1 of 1992, 1993, and 1994, increase from $68 to $200 the amount paid to a surviving spouse or each dependent child.

The Senate amendment contained no similar provision.

The final bill does not contain the House provision.

Authority to Contract for Inpatient Care Unavailable at VA Facilities Because of Emergency Care Requirement

During a period in which the Secretary of Veterans Affairs is furnishing medical care and services to members of the armed forces to meet emergency requirements, section 5011A(b)(2)(B) of title 38 authorizes the Secretary to contract with private facilities for the provision of hospital care for a veteran who is receiving VA hospital care, or is eligible for VA hospital care and requires care in a medical emergency posing a serious threat to the veteran's life and health, if VA facilities are not capable of furnishing the care the veteran requires because they are furnishing care to members of the armed forces.

The House bill contained a provision (sec. 303(a)) that would authorize the Secretary to contract with private facilities for hospital care for all veterans entitled to hospital care under section 610(a)(1) of title 38 (known as "Category A" veterans).

The Senate amendment contained no similar provision.

The final bill does not contain the House provision.

Improved Educational Assistance for Members of the Selected Reserve Who Serve on Active Duty During the Persian Gulf War

Section 2131 of title 10 establishes the amounts of monthly educational assistance under the chapter 106 MGIB program as follows: (1) $140 for full-time study, (2) $105 for three-quarter-time study, and (3) $70 for half-time study.

The House bill contained a provision (sec. 304(b)) that would increase the amount of monthly chapter 106 payments to (1) $200 for full-time study, (2) $150 for three-quarter-time study, and (3) $100 for half-time study. This provision would apply to all reservists training under the chapter 106 program.

The Senate amendment contained a provision (sec. 367) that would provide for payment to each member of the Selected Reserve who serves on active duty during the Persian Gulf War and who is entitled to chapter 106 benefits a monthly educational assistance allowance in the amount of (1) $270 for each month of active-duty service for full-time study, (2) $202.50 for each month of service for three-quarter-time study, (3) and $135 for each month of service for half-time study.

The final bill does not contain the House or Senate provision.

Eligibility of Requirements for MGIB Benefits for Members of the Selected Reserve

Section 2132(a) of title 10 provides eligibility for chapter 106 educational assistance benefits to those (1) who enlist, reenlist, or extend an enlistment in the Selected Reserve for at least six years; and (2) who, before completing initial active duty for training, have completed the requirements of a secondary school diploma.

The House bill contained a provision (sec. 305(a)) that would extend chapter 106 eligibility to members of the Selected Reserve, without regard to the length of their enlistments, if they were called or ordered to active duty in connection with the Persian Gulf War and released from active duty upon completion of the period of service required by their call or order to active duty.

The Senate amendment contained no similar provision.

The final bill does not contain the House provision.

Chapter 30 Program for Active-Duty Service Members

Under section 1413 of title 38, active-duty MGIB participants who complete the basic service requirements are entitled to 36 months of full-time educational assistance (or the equivalent in part-time assistance). Section 1795 limits to 48 months the aggregate period for which any person may receive assistance under two or more VA-administered programs.

The House bill contained a provision (sec. 306(a)) that would provide that, in the case of a reservist or service member who, as a result of having to discontinue the pursuit of a course because of orders issued for duty in connection with the Persian Gulf War, failed to receive credit or training time toward completion of an approved educational, professional, or vocational objective, the payment of chapter 30 benefits for the interrupted semester or other term would not be charged against the entitlement of the individual or counted toward the aggregate period for which the individual may receive assistance.

The Senate amendment contained a similar provision (sec. 369(a)).

The final bill does not contain the House or Senate provision.

Chapter 32 Educational Assistance Program

Section 1631 of title 38 provides that individuals who are eligible for the Post-Vietnam Era Veterans' Educational Assistance Program (VEAP) under chapter 32 are entitled to 36 months of full-time educational assistance (or the equivalent in part-time assistance). Section 1795 limits to 48 months the aggregate period for which any person may receive assistance under two or more VA-administered programs.

Section 1622 provides that funds contributed by a participant or the Secretary of Defense to this educational benefits program with respect to the participant are to be deposited into a fund referred to as the Post-Vietnam Era Veterans Education Account (VEAP Account).

The House bill contained a provision (sec. 306(b)) that would provide, in the case of a reservist or service member who, as a result of having to discontinue the pursuit of a course because of orders issued in connection with the Persian Gulf War, failed to receive credit or training time toward completion of an approved educational, professional, or vocational objective, that (1) the payment of VEAP benefits for the interrupted semester or other term would not be charged against the entitlement of the individual or counted toward the aggregate period for which the individual may receive assistance; and (2) the amount in the VEAP Account for that individual would be restored to the amount that would have been in the fund for him or her if the payment had not been made.

The Senate amendment contained a similar provision (sec. 369(b)).

The final bill does not contain the House or Senate provision.

Chapter 35 Educational Assistance Program

Section 1711 of title 38 provides that individuals who are eligible for the Survivors' and Dependents' Educational Assistance Program under chapter 35 are entitled to 45 months of full-time educational assistance (or the equivalent in part-time assistance). Section 1795 limits to 48 months the aggregate period for which any person may receive assistance under two or more VA-administered programs.

The House bill contained a provision (sec. 306(c)) that would provide that, in the case of a reservist who, as a result of having to discontinue the pursuit of a course because of being called to active duty in connection with the Persian Gulf War, failed to receive credit or training time toward completion of an approved educational, professional, or vocational objective, the payment of chapter 35 benefits for the interrupted semester or other term would not be charged against the entitlement of the individual or counted toward the aggregate period for which the individual may receive assistance.

The Senate amendment contained a similar provision (sec. 369(c)).

The final bill does not contain the House or Senate provision.

Chapter 106 Program for Reservists

Section 2131 of title 10(a) provides that individuals who are eligible for the chapter 106 MGIB program for members of the Selected Reserve are entitled to 36 months of full-time educational assistance (or the equivalent in part-time assistance), and (b) by reference to section 1795 of title 38, limits to 48 months the aggregate period for which any person may receive assistance under two or more VA-administered programs.

The House bill contained a provision (sec. 306(d)) that would provide that, in the case of a reservist who, as a result of having to discontinue the pursuit of a course because of being called to active duty in connection with the Persian Gulf War, failed to receive credit or training time toward completion of an approved educational, professional, or vocational objective, the payment of chapter 106 benefits for the interrupted semester or other term would not be charged against the entitlement of the individual or counted toward the aggregate period for which the individual may receive assistance.

The Senate amendment contained a similar provision (sec. 369(d)).

The final bill does not contain the House or Senate provision.

Extension of Delimiting Date for Educational Assistance Entitlement

Section 2133 of title 10 provides that an individual's entitlement to the chapter 106 program of educational assistance for members of the Selected Reserve expires (1) at the end of the 10-year period beginning on the date of entitlement, or (2) on the date the person is separated from the Selected Reserve, whichever occurs first.

The House bill contained a provision (sec. 307) that would provide that any period of active duty served by a reservist in connection with the Persian Gulf War would not be considered as either a part of the 10-year eligibility period or a separation from the Selected Reserve for eligibility purposes.

The Senate amendment contained a similar provision (sec. 368).

The final bill does not contain the House or Senate provision.

Direct Loan Benefits

Under section 1811 of title 38, the Secretary of Veterans Affairs is authorized to make direct loans to veterans living in areas where housing credit is not generally available to veterans for financing home loans which may be guaranteed under the VA home loan guaranty program.

The House bill contained a provision (sec. 309) that would authorize the Secretary to make direct loans under section 1811 to certain reservists who have been unable to obtain home loans from private lenders at an interest rate not in excess of the rate authorized for VA-guaranteed loans. Eligible reservists would include those who are creditworthy and either (1) are denied credit because of the possibility of their being activated in connection with a war or action potentially involving the use of military force, or (2) were activated in connection with a war or such an action and served at least 90 days on active duty.

The Senate amendment contained no similar provision.

The final bill does not contain the House provision.

Burial and Funeral Expenses

Section 902 of title 38 authorizes VA to pay up to $300 for the funeral and burial expenses of (1) veterans who were receiving compensation or pension when they died, and (2) veterans who had wartime service or were discharged for injuries incurred in the line of duty if there is no next of kin claiming the body and there are insufficient resources to cover the burial and funeral expenses. Pursuant to section 904 of title 38, a claim for such expenses must be filed within a two-year period following the death of a veteran.

The Senate amendment contained a provision (sec. 365) that would amend section 904 of title 38 to provide that applications for burial and funeral expenses for Persian Gulf War veterans who died prior to the date of enactment of this measure could be filed within the two-year period following the date of enactment.

The House bill contained no similar provision.

The final bill does not contain the Senate provision.

Reemployment of retirees

Section 108 of the Federal Employees Pay Comparability Act of 1990 (Public Law 101-509) amended sections 8344 and 8468 of title 5, United States Code, to permit the Director of the Office of Personnel Management, at the request of the head of an Executive branch agency, to waive the provisions of sections 8344 and 8468 of title 5, pertaining to the reduction of retirement annuities for reemployed retirees, on a case-by-case basis in emergency situations involving a direct threat to life or property or other unusual circumstances.

The Senate bill contained a provision (sec. 374) that would (a) permit the Secretary of Veterans Affairs to waive the requirements in sections 8344 and 8468 of title 5 of reductions in annuity payments to reemployed retirees in cases in which the Secretary determines that the granting of waivers is necessary to recruit sufficient healthcare specialists (1) to replace VA health-care specialists who have been ordered to active duty during the Persian Gulf War, or (2) to enable VA to respond to the health-care needs of military personnel (pursuant to section 5011A of title 38) during the Persian Gulf War; (b) permit any such waiver to extend for the duration of the Persian Gulf War and a period of not more than two years after the termination of the war; and (c) provide that any such waiver would take effect upon receipt by the Director of the Office of Personnel Management of a written notice from the Secretary. For the purposes of this provision, the term "healthcare specialist" is defined as including a physician, dentist, podiatrist, optometrist, nurse, physician assistant, expanded function dental auxiliary, medical technician, or other medical support personnel.

The House bill contained no similar provision.

The final bill does not contain the Senate provision.

Part D—Federal Employee Benefits

Federal civilian employee leave provisions (sec. 361)

The Senate amendment contained a provision (sec. 332) that would require the Office of Personnel Management to establish a leave bank program which would allow a federal employee to allocate any unused annual leave to the bank for the purposes of allowing federal civilians who are activated for service in connection with the Persian Gulf War to draw leave from such a bank upon their return to civilian employment.

The House bill contained no similar provision.

The final bill contains the Senate provision.

Part E—Higher Education Assistance

The Senate amendment contained provisions (secs. 341, 342, 343, 344, 345, and 346) that would provide for the waiver of certain government loan requirements and other educational assistance requirements for military personnel serving on active duty in connection with Operation Desert Storm.

The House bill contained no similar provisions.

The final bill contains the Senate provisions.

Part F—Programs for Farmers and Ranchers

The Senate amendment contained provisions that would provide certain farm loans, base protection, minimum planting requirement, conservation requirement, and other waivers for farmers or ranchers activated for or who have served in the Persian Gulf War.

The House bill contained no similar provisions.

The final bill contains provisions similar to the Senate provisions.

Part G—Budget Treatment

The House bill contained a provision (sec. 503) which would authorize appropriations from the Defense Cooperation Account for the personnel benefits in the bill.

The Senate amendment contained a similar provision (sec. 381).

The final bill contains three provisions (secs. 391-93) which would provide the funding for the personnel benefits and related matters in title III of the bill.

Section 391(a) states that in addition to the authorization of appropriations from the Defense Cooperation Account in titles I and II of the bill, $655 million is authorized to be appropriated from that Account. The $655 million would be available only for the payment of benefits authorized by title III (i.e., new benefits established by title III or increases or enhancements in existing benefits.).

The bill makes it clear that no more than $225 million in appropriations would be available for the veterans benefits authorized in Part C of title III. The bill also makes it clear that funds appropriated from the Defense Cooperation Account are available for payment of Montgomery GI Bill rate increases only for fiscal year 1992 and 1993. After fiscal year 1993, any Montgomery GI Bill rate increases made under the authority of Part C could not be funded from the Defense Cooperation Account. Section 391 also makes it clear that the health benefits provided under section 334 are excluded from this funding mechanism, and may not be funded from the Defense Cooperation Account.

Section 391(b) authorizes funds from the Defense Cooperation Account to be appropriated for the long-term costs of the benefits in title III (i.e., costs accruing after fiscal year 1995). This does not include the costs of the Montgomery GI Bill rate increases and the health benefits provided in section 334. Funds would be available from the Defense Cooperation Account under this provision for long-term costs only from the amounts remaining in the Defense Cooperation Account on October 1, 1992 (minus any funds appropriated pursuant to other authorizations in this Act).

Section 391(c) provides that the costs of the benefits authorized by title III for fiscal years 1991 through 1995 are incremental costs associated with Operation Desert Storm. This does not include Montgomery GI Bill rate increases after fiscal year 1993, nor does it include the health benefits provided in section 334.

Section 392 makes it clear that all benefits authorized by title III are discretionary for budgetary purposes. No entitlement or eligibility arises with respect to any benefit in title III unless an appropriations Act appropriates funds for such benefits (with two exceptions discussed below). As a general matter, personnel benefits are established through legislation as entitlements, and eligibility is not contingent upon enactment of an appropriation Act. However, because the benefits in title III are funded through the unique mechanism of the Defense Cooperation Account, which requires both an authorization and an appropriation, the entitlement and eligibility for the benefits in title III are subject to an appropriation. Section 392 provides that the requirement for an appropriation does not apply to the Montgomery GI Bill rate increases after fiscal year 1993 and the health benefits provided in section 334; this is because such benefits are discretionary with the VA and will not be funded through the Defense Cooperation Account.

Section 393 defines the term "Montgomery GI Bill rate increases." It also provides a rule of construction, stating that the benefits referred to in sections 391 and 392 are those involving a new payment or benefit provided by title III or any increase in payments or benefits previously provided by law. This makes it clear that the authorization to fund benefits and payments from the Defense Cooperation Account under this title does not apply to benefits authorized by laws in effect on the date of enactment.

TITLE IV—REPORTS ON FOREIGN CONTRIBUTIONS AND THE COSTS OF OPERATION DESERT STORM

The House bill contained a provision (sec. 107) that would incorporate by reference the provisions of H.R. 586, which passed the House of Representatives on February 21, 1991. H.R. 586 would require the Director of the Office of Management and Budget to submit monthly reports on the costs of U.S. military operations connected with the war in the Persian Gulf. The costs would be displayed in eight different categories: airlift, sealift, personnel costs, personnel support, operating support, fuel, procurement, and military construction.

H.R. 586 would also require monthly reports on allied pledges and contributions of support, either cash or in-kind, to offset the costs of U.S. military operations.

H.R. 586 would also require reports on related burdensharing not directly involving the United States. The Secretary of State and the Secretary of Treasury would be required to report on participation in the military coalition as well as on assistance (financial, in-kind, or host country support) to frontline states, other states, and international organizations.

Title IV of the Senate amendment contained similar provisions.

The final bill contains the House provision with technical changes.

TITLE V—REPORT ON THE CONDUCT OF THE PERSIAN GULF CONFLICT

The Senate amendment contained a provision (sec. 501) that would require the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff and the

Commander in Chief, United States Central Command, to submit a report on the conduct of the Persian Gulf war to the congressional defense committees not later than 180 days after the cessation of hostilities.

The House bill contained no similar provision.

The final bill contains the Senate provision amended to require the report by January 1, 1992, with a preliminary report no later than July 1, 1991. In these instances in the preliminary report in which a discussion is not possible by July 1, 1991, the Secretary is requested to explain why such a discussion is not possible.

TITLE VI—GENERAL PROVISIONS

Legislative Provisions Adopted

Child care assistance (sec. 601)

The Senate amendment contained a provision (sec. 321) that would provide that of the funds authorized to be appropriated to the Department of Defense from the Defense Cooperation Account for fiscal year 1991, $20 million would be available to provide for child care assistance to military personnel serving on active duty. The assistance authorized by this section would be directed primarily toward providing needed child care services for children of military personnel who are serving in the Persian Gulf area or who have been otherwise deployed, assigned or ordered to active duty in connection with Operation Desert Storm.

The House bill contained no similar provision.

The final bill contains the Senate provision.

Family education and support services (sec. 602)

The Senate amendment contained a provision (sec. 322) that would provide that of the funds authorized to be appropriated to the Department of Defense from the Defense Cooperation Account for fiscal year 1991, $30 million would be available to provide education and family support services to families of military personnel serving on active duty in order to ensure that such families can deal with needs arising out of the Persian Gulf war. This section would allow the Secretary to provide such assistance directly to families of military personnel or through grants, contracts, or other forms of assistance to private or public entities.

The House bill contained no similar provision.

The final bill contains the Senate provision.

Land conveyance, Fort A. P. Hill Military Reservation, Virginia, (sec. 603)

The House bill contained a provision (sec. 501) that would direct the Secretary of the Army to convey to either Caroline County, Virginia, or the Commonwealth of Virginia, approximately 150 acres of land for the purpose of establishing a regional prison.

The Senate amendment contained no similar provision.

The final act contains the House provision with minor technical corrections.

Grassroots efforts to support our troops (sec. 604)

The House bill contained a provision (sec. 502) that would indicate that Congress supports and endorses national, state and local grassroots efforts to support our servicemen and women who participated in Operation Desert Storm, and their families here at home; encourages federal, state and local governments and private businesses and industry to organize task forces to provide support for the families of servicemen and women deployed in the Persian Gulf region and to organize celebrations for the servicemen and women upon their arrival home; and encourages those grassroots government, business, and industry efforts to include Vietnam veteran organizations in all activities conducted for the benefit of the troops returning from Operation Desert Storm.

The Senate amendment contained no similar provision.

The final bill contains the House provision.

Extension of time for filing for persons serving in combat zone (sec. 605)

Under the Ethics in Government Act of 1978, certain senior officials are required to file financial disclosure statements by May 15 of each year, and within 30 days of leaving their positions. The Act permits extensions of up to 90 days. The Department of Defense has requested legislation to permit an additional extension for persons serving in a combat zone, similar to the authorized extension of time for filing a tax return.

Section 605 of the final bill authorizes a person serving in a combat zone to obtain an extension of 180 days after the later of: (1) the last day of service in an area designated by the President as a combat zone for purposes of the International Revenue Code; or (2) the last day of hospitalization as a result of an injury received or disease contracted while serving in such an area.

Kuwait reconstruction (sec. 606)

The House bill contained three provisions (secs. 504–506) that would express the sense of Congress regarding the award of contracts to rebuild Kuwait. One provision would express preference for U.S. firms employing American workers; another for firms employing veterans; and a third that contracts and subcontracts should be awarded to small and minority-owned firms. The President would be required to submit periodic reports to the Congress on the operation of these provisions.

The Senate amendment contained no similar provisions.

The final bill contains these preferences but consolidates them into one provision.

Use of U.S. funds to rebuild Iraq (sec. 607)

The Senate amendment contained a provision (sec. 801) that would express the sense of the Senate that none of the funds appropriated or otherwise made available by any provision of law may be obligated or expended, directly or indirectly, for the purpose of rebuilding Iraq while Saddam Hussein remains in power in Iraq.

The House bill contained no similar provisions.

The final bill contains a provision expressing the sense of the Congress that none of the funds appropriated or otherwise made available by any provision of law may be obligated or expended, directly or indirectly, for the purpose of rebuilding Iraq while Saddam Hussein remains in power in Iraq.

Withholding of payments to indirect-hire civilian personnel of nonpaying pledging nations (sec. 608)

The House bill contained a provision (sec. 109) that would require the Secretary of Defense to withhold payments to any nonpaying pledging nation that would otherwise be paid as reimbursements for expenses of indirect-hire civilian personnel of the Defense Department in that nation at the end of the six month period following the date of enactment of this act. The term "nonpaying pledging nation" means a foreign country that has pledged to the United States in defraying the incremental costs of Operation Desert Shield and which has not paid to the United States the full amount so pledged.

The Senate amendment contained no similar provisions.

The final bill contains the House provision amended to give the Secretary of Defense the authority to waive the requirements to withhold payment for expenses of indirect-hire civilian nation if the Secretary certifies that it is in the national security interest of the United States.

Relief from requirements for reductions in defense acquisition workforce during fiscal year 1991 (sec. 609)

Section 905 of the National Defense Authorization Act for Fiscal Year 1991 mandated a 20 percent reduction in acquisition personnel, to be achieved by annual 4 percent reductions from fiscal year 1991 through fiscal year 1995. The House bill contained a provision (sec. 507) that would exempt from the fiscal year 1991 reductions any installation which experienced an increase of 4 percent or more in its workload as a result of Operation Desert Storm.

The Senate amendment contained no similar provisions.

The final bill contains a provision stating that the Secretary should use the flexibility provided in last year's legislation to ensure that any installation or facility that experiences a significant increase in workload resulting from Operation Desert Storm should not be required to make a defense acquisition workforce reduction during fiscal year 1991 that would adversely affect the ability of that installation to perform its mission.

Legislative Provision Not Adopted

Cost estimate

The House bill contained a provision (Sec. 3) which contained specific estimates of outlays in the bill for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

The Senate amendment contained no similar provisions.

The final bill does not contain the House provision.

TITLE VII—MISCELLANEOUS TECHNICAL AMENDMENTS

The Senate amendment contained provisions (title VI) that would correct provisions in the National Defense Authorization Act for Fiscal Year 1991 and related provisions of law.

The House bill contained no similar provisions.

The final bill contains the Senate provisions with a clarifying amendment.

TITLE VIII—AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS FOR DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS FOR FISCAL YEAR 1991

Authorization of supplemental appropriations for operating expenses (sec. 801)

The House bill contained a provision (sec. 401) that would authorize $283 million for operating expenses at the Rocky Flats plant in Golden, Colorado.

The Senate amendment contained no similar provision.

The final bill contains the House provision.

Authorization of supplemental appropriations for environmental restoration and waste management (sec. 802)

The House bill contained a provision (sec. 402) that would authorize $340 million for environmental restoration and waste management to accelerate certain high priority environmental compliance and cleanup activities, and to implement new state agreements.

The Senate amendment contained no similar provision.

The final bill contains the House provision with technical amendments.

Applicability of recurring general provisions (sec. 803)

The House bill contained a provision (sec. 403) that would provide that general provisions contained in part B of title 31 of the National Defense Authorization Act for Fiscal Year 1991 shall apply to this act.

The Senate amendment contained no similar provision.

The final bill contains the House provision with technical amendments.

Relocation of Rocky Flats plant operations (sec. 804)

The House bill contained a provision (sec. 404) that would direct the Secretary of Energy to establish a program to relocate, within 10 years, operations performed at Rocky Flats to a site or sites where public health and safety can be assured. The Secretary of Energy would be required to submit to Congress, within 60 days, a report describing the program for relocation.

The Senate amendment contained no similar provision.

The final bill contains the House provision. The program and report required by section 804 should be in addition to the ongoing complex-wide review that is set forth in the Department of Energy Nuclear Weapons Complex Reconfiguration Study. The program and plan should focus on accelerating the relocation of the Rocky Flats facility, including early partial relocation of segments of the operations currently conducted at the facility. The report should include the program milestones and schedule needed to identify a suitable site or sites, complete construction, and transfer operations to a new facility within a ten-year period. In addition, the program should address workforce management during the transition of work away from Rocky Flats, and assistance for Department of Energy and contractor employees and affected communities during the transition.

Mr. DICKINSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me say that I rise in strong support of the Persian Gulf supplemental authorization. There are any number of reasons that make this bill an excellent piece of legislation. Let me mention a few.

It establishes a mechanism to pay the incremental costs of Operation Desert Shield that minimizes the payout of U.S. funds and draws first on the money provided by foreign contributors to the defense cooperation account.

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It preserves the integrity of the budget agreement while providing $655 million in personnel and veterans benefits that are closely tied to the needs of our soldiers, sailors, airmen, and marines resulting from service during the Persian Gulf war.

It represents a good faith, bipartisan effort by both the House and Senate, and by Congress and the administration to pay the costs of Desert Storm in a fiscally responsible manner.

Finally, the bill recognizes the outstanding men and women of our armed services for the job that they have done so well, and I too urge adoption of this bill.

Let me say, Mr. Speaker, that recently the chairman and I returned from Saudi Arabia, Iraq, and Kuwait. Without exception, we were impressed everywhere we went with the quality and the caliber of our men and women in service, and with their willingness to do whatever was necessary to get the job done.

I was also very impressed and pleased with the administration's position in all of this. As General Schwarzkopf told us when we met with him, he would like to keep in place a policy of first in, first out. That is, those who have been there the longest will be brought back first. I think that is fair and equitable, and that is how the administration is proceeding.

Another question that has been uppermost in everybody's mind is, If there is no formal cease-fire agreement, will the United States be tied down and will our soldiers and sailors and other military personnel be tied down and not allowed to be brought home pending the signing of a formal cease-fire agreement? We were told that that was not the case. While we will exercise all means to bring the Iraqis to the bargaining table to sign whatever is formal and necessary, the problem is, until there is some assurance as to who is in charge of the Iraqi government, we will have some trouble in getting anything signed.

General Schwarzkopf and the administration certainly do not want to keep our service men and women in suspense without any assurance of when they are coming home. So, as the chairman and I have been told, the administration will continue bringing our troops home regardless of the formal signing of a cease-fire agreement. I applaud that, and I am sure all of the Members here do, too.

So, Mr. Speaker, I think that the legislation on which we are now focused is a good piece of legislation and I would urge its adoption.

Mr. ASPIN. Mr. Speaker, I yield 5 minutes to the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, with one exception which I will discuss, part C of title III of the Senate bill contains the compromise we have reached with the White House and the Senate Veterans' Affairs Committee on the veterans' appreciation package for the men and women who served their country so well in the Persian Gulf. The benefits will also apply to those who served in support of Operation Desert Storm throughout the world.

I share the joy we see on the faces of our troops on TV almost every evening when they return home to join their loved ones. They did their job and we must now make certain that they have tangible benefits that will help them readjust to civilian life.

Let me briefly discuss the major provisions of the veterans package.

Section 332 of the compromise agreement would amend section 101 of title 38, United States Code to designate the crisis in the Persian Gulf as the "Persian Gulf war" for VA benefits purposes. The war period would be defined as the period beginning on August 2, 1990 and ending on the date designated by Presidential proclamation or by law to that effect.

Designation of this conflict as a period of war would establish a new group of wartime veterans. While most veterans benefits do not require service during a period of war, there are some programs where wartime status either is required to establish basic eligibility, such as the non-service-connected Disability Pension Program under chapter 15 of title 38—specially intended for wartime veterans—or will result in application of less restrictive eligibility criteria, such as the Loan Guaranty Program under chapter 37 of title 38—minimum of 90 days of service required versus a minimum of 181 days during peacetime.

It is our intent that veterans of the Persian Gulf war be entitled to the same type of benefits and services to which other veterans may be entitled due to their status as wartime veterans.

Section 333 of the compromise would amend pertinent sections in chapter 15 of title 38, United States Code, to create eligibility for non-service-connected disability pension, and death pension, for veterans of the Persian Gulf war and their surviving spouses. As provided by current law, service of at least 90 days on active duty would be required to establish basic eligibiity under the Pension Program.

It is regrettable that the compromise does not contain the House provision that would have restructured and improved the DIC Program. The approach taken in the House-passed bill would have benefited the survivors of most of the personnel who were killed during the Persian Gulf war and it would certainly have helped many of the surviving spouses that are now on the DIC rolls. We have certainly provided other forms of death gratuities in the compromise, but a change in the structure of the DIC Program is still badly needed. We will continue to explore ways to make this program more equitable, and I would expect that the committee will conduct hearings on this subject later in the session.

The provision in the House-passed bill would have amended section 411 of title 38, United States Code, to restructure the Dependency and Indemnity Compensation [DIC] Program to provide for a more equitable means for determining the rate of benefits to be paid to surviving spouses of veterans whose deaths are service connected.

It is projected that, during fiscal year 1992, DIC benefits will be paid to a total of 306,500 beneficiaries, including 257,105 surviving spouses and 27,000 dependent children, as well as an additional 8,000 payments directly to children alone. Monthly benefits under the current rate structure range from $594 for the widow of an E-1, to $1,633 for the widow of the Chairman of the Joint Chiefs of Staff. Of the 257,105 spouses, approximately 81 percent, or 208,013, will be paid monthly benefits ranging from the E-1 rate of $594 to the E-9 rate of $811. As of January 1, 1991, the average monthly benefit rate is the E-5 level of $686.

Under the House-passed reform, with respect to deaths occurring on or after October 1, 1991, four payment rates would have been applied. The highest monthly rate would have been $750; the lowest rate would have been $600. Determinations regarding the payment rate would have been based on age at the time of the veteran's death rather than rank while on active duty. Four age ranges and payment levels would have been established—under 35, $750; 35 to 49, $700; 50 to 64, $650, and 65 and over, $600. As a result, the lower the veteran's age at time of death, the greater the benefit payable. Current benefit recipients would have been grandfathered at current levels, but beneficiaries would have been paid under the new rate structure if that would have resulted in a greater monthly benefit.

The death of a veteran at an earlier age has a greater economic impact—as to loss of future earnings capacity—on the lives of his or her survivors. In the case of a young man killed on active duty, the individual's entire career has been lost to his family. It is very unlikely that much, if any, of an estate would have been accumulated. Conversely, it is believed that, by the time an individual has reached retirement age, there is a much greater likelihood that an estate has been accumulated and that the loss in future earnings capacity has been diminished. Finally, other Federal benefits, including those available under Social Security, the Survivor Benefit Plan [SBP], the Federal Employees Retirement System [FERS], the Civil Service Retirement System [CSRS], as well as Government life insurance programs, are likely to be fully available to the surviving spouse. Therefore, a lower benefit rate was provided at the higher age level—65 and over.

In addition to restructuring the DIC rate schedule, the House provision would also have achieved a 3-year phased in increase, from $68 to $100 in fiscal year 1992, $150 in fiscal year 1993, and $200 in fiscal year 1994, in additional amounts of DIC paid for children of veterans whose deaths are service connected. This was consistent with the basic compensation scheme in that it recognized the greater need of the family of a veteran who has young children.

Let me now turn to the provision which contains an increase in the maximum coverage available under the Servicemen's Group Life Insurance [SGLI] Program and the Veterans' Group Life Insurance [VGLI] Program. The maximum coverage would be increased from $50,000 to $100,000, effective on the date of enactment. Just as under the current law, the $100,000 coverage under SGLI would be automatic unless the servicemember elects to purchase a lesser amount of coverage. This coverage was last increased 5 years ago from $35,000 to the current level.

As I previously indicated, coverage under the SGLI Program is automatic unless the servicemember declines to participate. Only a very few servicemembers choose not to purchase this coverage. In fact some 99.7 percent of all servicemembers participate and, of those, over 99 percent choose full coverage. The cost of SGLI coverage at $50,000 is $4 per month, or 8 cents per $1,000. This is a very good deal. Coverage under the VGLI Program at similar rates is available for veterans in the form of a 5-year term policy which can be converted to commercial insurance after that time. Normally, the SGLI Program is self-supporting through the premiums collected and interest earned on such amounts, and only when there are excess mortalities than would be expected is there a cost to the Government. At 8 cents per $1,000 of coverage, the maximum premium would be $6 per month.

The House bill, H.R. 1175, contained no increase in SGLI coverage. The Senate amendment increased the maximum coverage to $100,000, and that is what this bill includes. In negotiations between the Senate and House Armed Services and Veterans' Affairs Committees, we thought that a compromise increase of $75,000 would be appropriate, given the $15,000 increase we enacted in 1985. However, the authors of the Senate provision also drafted a confusing and unfair gratuity payment to the beneficiaries of those who died after August 2, 1990. This is a misguided approach to compensation, particularly as compared to the House DIC reform proposal.

The Senate provision will be unfair to some families of those who died during this period. The families of servicemembers who die in line of duty not related to Operation Desert Storm will not be eligible for the death gratuity. Should we tell the family of the young servicemember killed on the streets of Detroit recently that the circumstances of his death do not merit increased governmental benefits? In addition, because the provision is tied to the level of SGLI coverage in effect at the time of the servicemember's death, some families will receive a $50,000 gratuity, while other families may only receive $10,000 or $20,000. This is unfair; it is the wrong approach. Is one servicemember's death worth five times that of another? If a private or corporal has $20,000 of insurance and he loses his life, his wife or family will get $20,000 insurance plus another $20,000 death gratuity, totaling $40,000. On the other hand, if an officer has $50,000 life insurance and he loses his life, his wife or family will get $50,000 insurance and $50,000 death gratuity, a total of $100,000. We have no way of knowing how many might be affected but even a few would be too many. It is a bad precedent for the House and for the Committees on Veterans' Affairs of both the House and Senate.

Mr. Speaker, section 334 of the compromise would provide certain health care and readjustment benefits as well.

First, it would reduce from 180 days to 90 days the minimum active-duty service requirement in the case of veterans of the Persian Gulf war for eligibility for outpatient dental treatment for a condition deemed to have been incurred in service.

Other provisions would achieve "benefits equity" for these veterans. The bill would amend section 602 of title 38. Under that section, an active psychosis developed by any veteran of World War II, the Korean confict, or the Vietnam era within 2 years after discharge is deemed to be a service-connected condition for the purposes of eligibility for VA health care if the psychosis was developed before July 26, 1949 in the case of a World War II veteran, before February 1, 1957 in the case of a veteran of the Korean conflict, or before May 8, 1977 in the case of a Vietnam era veteran. The compromise agreement would make this presumption applicable to a veteran of the Persian Gulf war who develops a psychosis within 2 years after the veteran's discharge and the end date of the Persian Gulf war.

The compromise agreement would also amend section 612(h) of title 38. Under that provision, veterans of the Mexican border period, World War I, World War II, the Korean conflict, or the Vietnam era who receive additional VA service-connected-disability compensation, or increased VA nonservice-connected-disability pension, by reason of being permanently housebound or in need of regular aid and attendance, are eligible to receive from VA such drugs as may be prescribed by any licensed physician for the treatment of any illnesses or injuries from which they may suffer. The bill would extend this eligibility to veterans of any period of war. In conjunction with the bill's amendment of the definition of "period of war," this provision would provide eligibility to Persian Gulf war veterans, and veterans of subsequent war periods, who meet those requirements.

The compromise would also amend section 612A to expand eligibility for readjustment counseling and required followup mental health services to any veteran who served on active duty after May 7, 1975, in areas in which U.S. personnel were subjected to danger from armed conflict comparable to that occurring in battle with an enemy during a period of war—as determined by the Secretary of Veterans Affairs in consultation with the Secretary of Defense.

The VA has long provided readjustment counseling services to Vietnam era veterans—the only veterans heretofore eligible for this benefit—in vet centers. It is important to underscore, however, that VA may provide readjustment counseling in any of its facilities. In underscoring that latitude, it is also important to note that although this provision is intended to extend to Persian Gulf veterans, among others, the kind of counseling support made available to Vietnam era veterans, we do not envision that such services would necessarily be provided exclusively or even primarily in so-called vet centers. Vet centers were established to assist veterans of a war that did not enjoy the same popular support as the gulf war. Many Vietnam era veterans expressed hostility to the VA, and the establishment of a program operated out of storefront centers in the community was a response to the unique needs of a unique war experience.

We recognize that some veterans of this conflict may be at risk of suffering from a disorder which has troubled substantial numbers of Vietnam veterans—posttraumatic stress disorder [PTSD]. Section 335 of the bill, accordingly, would require the Secretary of Defense and the Secretary of Veterans Affairs each to submit to the Congress two reports addressing this concern. The reports are to provide: First, an assessment of the need for rehabilitative services for members of the Armed Forces who participated in the Persian Gulf conflict who experience PTSD; second, a description of the available programs and resources to meet those needs; third, the specific plans of each Secretary for treatment of PTSD, particularly with respect to any specific needs of members of Reserve components; fourth, an assessment of needs for additional resources in order to carry out such plans; and fifths, a description of plans to coordinate treatment services for PTSD with the other Department. The first reports would be due not later than 90 days after enactment of this measure, and the second, a year later.

Section 337 of the compromise would provide for an increase in the amount of benefits paid under the GI bill. Under the GI Bill Program for those serving on active duty 3 years or longer, the benefit for full-time study would increase from the current level of $300 per month to $350 per month. Individuals serving on active duty for 2 years, who currently receive $250 per month, would be paid $275 per month. For those going to school under the program for members of the Selected Reserve, the monthly benefit would increase from $140 to $170.

Mr. Speaker, I am very pleased that section 337 is included in the package related to Desert Shield and Desert Storm. In interview after interview, the young men and women serving in the Persian Gulf cited the opportunity to earn education benefits—while serving their country—as their primary reason for enlisting in the Armed Forces.

These bright, motivated servicemembers served with distinction and honor during the Persian Gulf war. Much has been said about the success of the sophisticated technology and weaponry used during Desert Storm, but more must be said about the smart people needed to operate and maintain those smart weapons. The All Volunteer Force is made up of the men and women the Armed Forces need—the best and the brightest—and a principal reason these young people chose to enter the armed services was to earn education assistance.

Our military personnel have kept their commitment to us. They have done their job, and they have done it very, very well. We promised these men and women that, in exchange for honorable service in the All Volunteer Force, we would provide them the funds necessary to further their education. With the enactment of section 337 of the amended bill, we will be keeping that promise.

Although I regret the benefit increase could not be more, I am satisfied with the compromise. This is a modest first step, and I intend to do everything I can to ensure this increased benefit level is not only maintained but increased in the future. The costs of education rise steadily every year, and I know all of you share my concern that the GI bill provide sufficient assistance to enable our Nation's newest wartime veterans to obtain the best possible education. They have more than earned a benefit which will enable them to go to school, to further their education, and to achieve their dreams. Unfortunately, neither the current administration, nor the previous administration, has included an increase in GI bill benefits in its budget request since the program was enacted in 1984—this in spite of the soaring costs of education. Nonetheless, I am certain that, working together, we will continue to provide the men and women who serve in the Armed Forces a meaningful education benefit.

Section 338 of the compromise would require that membership on the Veterans' Advisory Committee on Education include a veteran of the Persian Gulf war. Currently, the advisory committee members include representatives of World War II, the Korean conflict era, the post-Korean conflict era, the Vietnam era, and the post-Vietnam era. Persian Gulf war representation will enhance the ability of the committee to advise the Secretary of Veterans Affairs on education-related matters of importance to our newest wartime veterans.

Section 339 would provide additional employment and reemployment rights for disabled members of the uniformed services. Since 1940, protection has been extended to the citizen soldier who leaves employment to serve in our Nation's Armed Forces by preserving the former servicemember's right to return to his or her preservice employment. Subsequent to the enactment of legislation pertaining to veterans of active duty service, employment protection was established for members of the National Guard and Reserves. This provision would improve existing protections by requiring that a person be considered qualified for an employment position if that individual, with or without reasonable accommodation, can perform the essential functions of the position. Additionally, section 339 would require certain employers to make reasonable accommodations to the physical and mental limitations of an otherwise qualified disabled person.

Section 340, which further improves current employment and reemployment rights for service members, would require an employer to make reasonable efforts to requalify an individual to perform the duties of his or her previous position. For example, in the event that technological advances have been made in a certain field during the individual's absence from employment related to military service, it would be expected that an employer would make reasonable efforts to provide restraining which would provide the returning employee the skills necessary to perform his or her previously held job.

I am pleased that the compromise—section 341—would extend eligibility to the Department of Veterans Affairs Home Loan Guaranty Program to Persian Gulf war veterans whose total service is for 90 days or more.

The Home Loan Guaranty Program administered by the Department of Veterans Affairs [DVA] was established under the Servicemen's Readjustment Act of 1944—Public Law 78-349. As World War II drew to a close, Congress sought ways to ease the economic and sociological readjustment of returning service men and women to civilian life. The program was an innovative means of affording veterans favorable credit which would allow them to purchase a home. Many of these veterans, because of their service in the Armed Forces, had missed an opportunity for establishing personal credit or for accumulating enough money for a substantial downpayment on a home. By substituting the guaranty of the United States, with little or no downpayment, these veterans were better able to enter the home buying market on a competitive level with their nonveteran counterparts.

Although the objectives of the legislation were designed to assist in the readjustment of returning veterans, rather than to influencing the economy as a whole, the Home Loan Guaranty Program was perceived as a means of stimulating the economy and averting to some degree the possibility of postwar depression.

Over the years, Congress has enacted many changes to the program to enhance its viability and to respond to developments in the economy and to changes in the needs of veterans. There is now no delimiting date for a veteran to make use of this benefit, and entitlement may be regained once the veteran has paid off the initial loan in full. The Department may presently guaranty a no-downpayment loan up to $184,000.

Historically, wartime veterans were eligible for this benefit if they had served at least 90 days. With the advent of the All Volunteer Force during peacetime, eligibility requirements were changed to require completion of 24 months of continuous active duty or the full period—at least 181 days—for which the person was called or ordered to active duty.

The compromise does not change current law on the amount of time a person must have served on active duty to be considered a veteran; however, it does provide DVA guaranteed home loan eligibility for service in the Persian Gulf war after 90 days on a similar basis as other wartime veterans.

Mr. Speaker, there follows a detailed explanation of the compromise agreement, the House-passed bill and the Senate amendment:

PART C OF TITLE III—VETERANS BENEFITS AND PROGRAMS

The Committees on Veterans' Affairs of the Senate and the House of Representatives have prepared the following explanation of part C of title III of S. 725, which reflects a compromise agreement on H.R. 1175 as passed by the two bodies. Differences between the provisions contained in title III–C (hereinafter referred to as "Compromise agreement"), the related provisions in the House-passed version of H.R. 1175 (hereinafter referred to as the "House bill"), and the related provisions in the Senate amendment of H.R. 1175 (hereinafter referred to as the "Senate amendment") are noted in this document, except for clerical corrections, conforming changes made necessary by the compromise agreement, and minor drafting, technical, and clarifying changes.

DEFINITION OF PERIOD OF WAR

Current law: Section 101(11) of title 38, United States Code, defines the term "period of war" as including the Spanish-American War, the Mexican border period, World War I, World War II, the Korean conflict, the Vietnam era, and the period beginning on the date of any future declaration of war by Congress and ending on the date prescribed by Presidential proclamation or concurrent resolution of Congress.

House bill: Section 301(a) would add to the definition of periods of war the "Persian Gulf War", the period beginning on August 2, 1990, and ending on the date thereafter prescribed by Presidential proclamation or by law.

Senate amendment: Section 362 is substantively identical to the House provision.

Compromise agreement: Section 332 contains this provision.

PENSION ELIGIBILITY

Current law: Section 501(4) of title 38 defines certain periods of war for purposes of eligibility for VA's need-based pension programs for non-service disabled, wartime veterans and the surviving spouses and dependent children of deceased wartime veterans. Under section 541(f) of title 38, for a surviving spouse to be eligible for a pension, he or she must have married the veteran by a specified date, *i.e.*, not later than 10 years after the termination of the period of war in the cases of veterans of periods of war after World War I.

House bill: Section 301(b) would (1) add the "Persian Gulf War" to the definition of periods of war for pension eligibility purposes, and (2) provide for pension eligibility for a surviving spouse of a Persian Gulf War veteran if the spouse marries the veteran before January 1, 2001.

Senate amendment: Section 363 is substantively identical to the House provision, but would pension eligibility for a surviving spouse if the marriage occurred not later than 10 years after the termination of the Persian Gulf War.

Compromise agreement: Section 333 follows the House bill.

PERIOD OF SERVICES FOR DENTAL BENEFITS

Current law: Section 612(b)(1) of title 38 requires VA to furnish outpatient dental services for a dental condition or disability which is service-connected but not compensable in degree if (1) the condition or disability is shown to have been in existence at the time of the veteran's discharge from active-duty service, (2) the veteran had served on active duty for a period of not less than 180 days immediately prior to discharge or release, (3) the veteran applied for treatment within 90 days after discharge or release, and (4) the veteran was not provided, within the 90-day period immediately before the date of discharge or release, a complete dental examination and all appropriate dental services indicated by the examination as needed. Under section 612(b)(2), the Secretary of the service branch concerned is required to furnish each individual, at the time of discharge or release from active duty, written notice of this benefit and record the member's receipt of the notice.

House bill: Section 303(c) would reduce from 180 days to 90 days the minimum active-duty service requirement for eligibility for this benefit (as well as for the notice provision) for veterans of the Persian Gulf War.

Senate amendment: No provision.

Compromise agreement: Section 334(a) follows the House bill.

PRESUMPTION RELATING TO PSYCHOSIS

Current law: Under section 602 of title 38, an active psychosis developed by any veteran of World War II, the Korean conflict, or the Vietnam era within two years after discharge is deemed to be a service-connected condition for the purposes of entitlement to VA health care if the psychosis was developed before July 26, 1949, in the case of a World War II veteran, before February 1, 1957, in the case of a veteran of the Korean conflict, or before May 8, 1977, in the case of a Vietnam-era veteran.

House bill: Section 303(d) would make this presumption applicable to a veteran of the Persian Gulf War who develops a psychosis within two years after the veteran's discharge and the end date of the Persian Gulf War.

Senate amendment: Section 364(a) of the Senate amendment is substantively identical to the House bill.

Compromise agreement: Section 334(b) contains this provision.

ELIGIBILITY FOR MEDICINES FOR VETERANS WHO ARE HOUSEBOUND OR IN NEED OF AID AND ATTENDANCE

Current law: Under section 612(h) of title 38, veterans of the Mexican border period, World War I, World War II, the Korean conflict, or the Vietnam era who receive additional VA service-connected disability compensation, or increased VA non-service-connected disability pension, by reason of being permanently housebound or in need of regular aid and attendance, are entitled to be furnished such drugs and medicines as may be prescribed for the treatment of any illnesses or injuries from which they may suffer. VA is also required to continue furnishing drugs and medicines to any such veteran whose pension payments have been discontinued solely because the veteran's annual income exceeds the applicable maximum for pension payments, if the veteran's annual income does not exceed that maximum by more than $1,000.

House bill: Section 303(e) would extend this entitlement to drugs and medicines to veterans of any "period of war", rather than veterans of the periods specified in present section 612(h) of title 38 who meet the requirements of section 612(h). In conjunction with the amendment proposed to be made in the definition of "period of war" by section 301(a) of the bill, this provision would provide eligibility to Persian Gulf War veterans, and veterans of subsequent war periods, who meet those requirements.

Senate bill: Section 364(b) would add service during the Persian Gulf War to the war service periods on which eligibility under section 612(h) may be based.

Compromise agreement: Section 334(c) follows the House bill.

EXPANSION OF READJUSTMENT COUNSELING ELIGIBILITY

Current law: Section 612A of title 38 provides that, upon the request of any veteran who served on active duty during the Vietnam era, the Secretary of Veterans Affairs shall furnish counseling to assist the veteran in readjusting to civilian life. The counseling must include a mental and physical assessment. A veteran who is furnished readjustment counseling under this section is also entitled to receive follow-up mental-health services to complete treatment indicated by the assessment. Immediate family members are also eligible for consultation, professional counseling, training, and mental health services if such services are determined to be essential to the effective treatment and readjustment of the veteran. In addition, VA has authority to provide the counseling and related mental health services by contract.

Section 612B of title 38 authorizes the Secretary to establish a program to furnish VA counseling to veterans who are former prisoners of war to assist such veterans in overcoming the psychological effects of detention or internment as a prisoner of war.

House bill: Section 303(b) would amend section 612B to authorize the Secretary to furnish counseling services in any VA facility to any veteran who (a) is a former prisoner of war or (b) served on active duty in a theater of combat (as defined by the Secretary of Defense) after August 2, 1990, to assists the veteran in overcoming any psychological problems of the veteran associated with such service.

Senate amendment: Section 364(c) would amend section 612A so as to expand entitlement and eligibility for readjustment counseling and other services under that section to include veterans who served on active duty after May 7, 1975, in areas in which United States personnel were subjected to danger from armed conflict comparable to that occurring in battle with an enemy during a period of war (as determined by the Secretary of Veterans Affairs in consultation with the Secretary of Defense).

Compromise agreement: Section 334(d) follows the Senate amendment.

REPORTS BY SECRETARY OF DEFENSE AND SECRETARY OF VETERANS AFFAIRS CONCERNING SERVICES TO TREAT POST-TRAUMATIC STRESS DISORDER

House bill: Section 303(g) would require the Secretary of Defense and the Secretary of Veterans Affairs each to submit to the Congress two reports providing (1) an assessment of the need for rehabilitative services for members of the Armed Forces who participated in the Persian Gulf conflict who experience PTSD; (2) a description of the available programs and resources to meet those needs; (3) the specific plans of each Secretary to provide treatment for PTSD, particularly with respect to any specific needs of members of reserve components; (4) an assessment of needs for additional resources in order to carry out such plans; and (5) a description of plans to coordinate treatment services for PTSD with the other Department. The first reports would be due not later than 90 days after enactment of this measure and the second, a year later.

Senate amendment: No provision.

Compromise agreement: Section 335 follows the House bill.

INCREASE IN SERVICEMEN'S GROUP LIFE INSURANCE AND VETERANS' GROUP LIFE INSURANCE MAXIMUMS

Current law: Subchapter III of chapter 19 of title 38 sets forth the Servicemen's Group Life Insurance (SGLI) and Veterans' Group Life Insurance (VGLI) programs. Under that subchapter, the Secretary of Veterans Affairs is authorized to purchase from commercial life insurance companies a policy or policies of group life insurance to insure against death any active-duty servicemember and certain members of the Ready Reserve and Retired Reserve. Eligible servicemembers and reservists are automatically covered in the amount of $50,000 but may elect coverage of less than $50,000 or to not participate in the program at all. Premium payments for SGLI are deducted each month from the basic pay of servicemembers and are calculated without regard to the extra hazards of active duty service. SGLI coverage is provided free of charge for 120 days following separation from active duty. After separation from active duty, veterans who participated in the SGLI program may participate in the Veterans' Group Life Insurance (VGLI) program.

VGLI provides five-year term group life insurance in amounts ranging from $5,000 to $50,000. A veteran may not obtain more insurance under VGLI than the veteran had under the SGLI program. At the end of the five-year term, the veteran has the right to obtain an individual life insurance policy at a standard rate from any company participating in the SGLI program.

House bill: No provision.

Senate amendment: Section 336 would increase from $50,000 to $100,000 the maximum amount of Servicemen's Group Life Insurance (SGLI) and Veterans' Group Life Insurance (VGLI) and provide that, effective on the date of enactment, the amount of SGLI be increased to the amount equal to twice the amount provided for on the day before enactment. The Secretary of Veterans Affairs, in consultation with the Secretaries of the service branches, would be required to take such action as is necessary to ensure that each person affected by the increase in SGLI is notified of the increased insurance coverage and is afforded the opportunity to make an election, within 120 days after the date of enactment, not to be insured in the increased amount.

Compromise agreement (as developed by the House and Senate Veterans' Affairs Committees): Section 336 follows the Senate amendment with an amendment to provide that the maximum amount of SGLI and VGLI would be increased from $50,000 to $100,000 and making the increase effective on date of enactment.

The Committees expect that the Secretary, in consultation with the Secretaries of the service branches, will take steps to ensure that each person affected by the increase is notified of the increased insurance coverage and is afforded the opportunity to make an election, within 120 days after the date of enactment, not to be insured in the increased amount.

[Note—The bill as it came before the Senate would increase the maximum to $100,000]

INCREASES IN MONTGOMERY GI BILL (MGIB) EDUCATIONAL ASSISTANCE PAYMENTS

Amounts of Benefit Payments Under the Chapter 30 Program for Active-Duty Servicemembers

Current law: Section 1415 of title 38 establishes the amounts of monthly educational assistance under the chapter 30 Montgomery GI Bill (MGIB) program for active-duty servicemembers as follows: (1) $300 for full-time study for those serving on active duty for three years or more, (2) $250 for full-time study for those serving two years on active duty, and (3) in both cases, appropriately reduced rates determined by VA for part-time study.

House bill: Section 304(a) would increase the monthly chapter 30 payments for full-time study to (1) $400 for those serving on active duty for three years or more and (2) $300 for those serving two years on active duty.

Senate amendment: Section 366(a) would increase the monthly chapter 30 payments for full-time study to (1) $310 for those serving on active duty for three years or more and (2) $259 for those serving two years on active duty.

Compromise agreement: Section 337(a) would increase, in fiscal years 1992 and 1993, the monthly chapter 30 payments for full-time study to (1) $350 for those serving on active duty for three years or more, and (2) $275 for those serving two years on active duty. After fiscal year 1993, the Secretary of Veterans Affairs would have authority to continue the increased rates and to increase the rates to reflect increases in the cost of living.

Amounts of Benefit Payments Under the Chapter 106 Program for Reservists

Current law: Section 2131 of title 10 establishes the amounts of monthly educational assistance under the chapter 106 MGIB program for individuals serving at least 6 years in the Selected Reserve as follows: (1) $410 for full-time study, (2) $105 for three-quarter-time study, and (3) $70 for half-time study.

House bill: Section 304(b) would increase the amount of monthly chapter 106 payments to (1) $200 for full-time study, (2) $150 for three-quarter-time study, and (3) $100 for half-time study.

Senate amendment: Section 366(b) would increase the amount of monthly chapter 106 payments, but only for reservists who are ordered to active duty during the Persian Gulf War, to (1) $145 for full-time study, (2) $108.75 for three-quarter-time study, and (3) $72.50 for half-time study.

Compromise agreement: Section 337(b) would increase, in fiscal years 1992 and 1993, the amount of monthly chapter 106 payments to (1) $170 for full-time study, (2) $128 for three-quarter-time study, and (3) $85 for half-time study. After fiscal year 1993, the Secretary of Defense would have authority to continue the increased rates and to increase the rates to reflect increases in the cost of living.

Effective Date

House bill: Section 304(c) would make the increases in MGIB benefits effective October 1, 1991.

Senate amendment: Section 366 (a)(2) and (b)(2) would make the increases effective October 1, 1991.

Compromise agreement: Section 337 would make the increases effective October 1, 1991.

Availability of Appropriations

House bill: No provision.

Senate amendment: Section 366(b)(3) would ratably adjust the MGIB increases proposed in section 366 of the Senate amendment (discussed above) so that the appropriations necessary for fiscal years 1991 through 1995 do not exceed $500 million less the total of the amounts appropriated for fiscal years 1991 through 1995 for the military personnel and veterans programs and benefits that would be authorized by the title III of the Senate amendment other than those for increases in MGIB payments.

Compromise agreement: Section 337 would make the MGIB increases in fiscal years 1992 and 1993 subject to the enactment of appropriations out of the Defense Cooperation Account.

MEMBERSHIP ON EDUCATIONAL BENEFITS ADVISORY COMMITTEE

Current law: Section 1792 of title 38 requires membership on the Veterans' Advisory Committee on Education (VACE) to include veterans representative of World War II, the Korean-conflict era, the post-Korean-conflict era, the Vietnam era, and the post-Vietnam era.

House bill: No provision.

Senate amendment: Section 370 would add veterans of the Persian Gulf War to those who must be represented in the membership of the VACE.

Compromise agreement: Section 338 follows the Senate amendment.

VETERANS' REEMPLOYMENT RIGHTS

Reasonable Accommodations for Disabled Veterans

Current law: Section 2021 of title 38 provides that, in the case of a person who is eligible for reemployment rights under chapter 43 of title 38, who has applied for reemployment under the provisions of that chapter, and who is no longer qualified to perform the duties of his or her previous position by reason of a disability sustained during reserve training or active-duty service, he or she shall be offered any other position in the employ of the employer for which he or she is qualified and which will provide like seniority, status, and pay, or the nearest approximation, of the previous position.

House bill: No provision.

Senate amendment: Section 373 would require an employer to make reasonable accommodations to qualify an individual to perform the duties of his or her previous position. For the purposes of this provision, the term "reasonable accommodation" would have the meaning provided in section 101(9) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111(9)).

Compromise agreement: Section 339 follows the Senate amendment with amendments which would (1) clarify that an employer would not be required to make accommodations if the employer can demonstrate that the accommodation would impose an undue hardship on the operation of the employer's business, and (2) would exclude certain small employers from this requirement. Until July 26, 1994, the requirement would apply to employers who have 25 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding year. After that date, the requirement would apply to those who have 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

Retraining of Former Employees

Current law: Section 2021 of title 38 (in conjunction with section 2024) generally requires an employer to restore to employment a person who leaves employment for active-duty service, active duty for training, or inactive-duty training, and who applies for reemployment within a prescribed period after release from service if that person is still qualified to perform the duties of the position.

House bill: No provision.

Senate amendment: Section 372 would require that an employer make reasonable efforts to requalify the individual to perform the duties of his or her previous position

Compromise agreement: Section 340 follows the Senate amendment.

ENTITLEMENT FOR VA-GUARANTEED LOANS

Current law: Under section 1802(a) of title 38, basic entitlement for VA home-loan benefits is authorized for (a) veterans who served on active duty at any time during World War II, the Korean conflict, or the Vietnam era and whose total service was for 90 days or more, and (b) veterans of only peacetime service who served at least 181 days on active duty. Generally with respect to those who enter active-duty service after September 7, 1980, section 3103A of title 38 imposes a minimum-service requirement under which title 38 benefits are available only to those who serve at least two years on active duty, or the full period for which they were ordered to active duty, or who were discharged early by reason of hardship or service-connected disability or in certain other circumstances.

House bill: Section 308 would extend eligibility for home-loan benefits to Persian Gulf War veterans whose total service is for 90 days or more.

Senate amendment: Section 371 would extend home-loan eligibility to Persian Gulf War veterans whose total service is for 90 days or more and who also meet the minimum-service requirements of section 3103A of title 38 (primarily reservists whose period of activation is between 89 and 180 days).

Compromise agreement: Section 341 follows the Senate amendment.

BURIAL AND FUNERAL EXPENSES

Current law: Section 902 of title 38 authorizes VA to pay up to $300 for the funeral and burial expenses of (1) veterans who were receiving compensation for pension when they died, and (2) veterans who had wartime service or were discharged for injuries incurred in the line of duty if there is no next of kin claiming the body and there are insufficient resources to cover the burial and funeral expenses. Pursuant to section 904 of title 38, a claim for such expenses must be filed within a two-year period following the death of a veteran.

House bill: No provision.

Senate amendment: Section 365 would amend section 904 of title 38 to provide that applications for burial and funeral expenses for Persian Gulf War veterans who died prior to the date of enactment of this measure could be filed within the two-year period following the date of enactment.

Compromise agreement: No provision.

ELIGIBILITY REQUIREMENTS FOR MGIB BENEFITS FOR MEMBERS OF THE SELECTED RESERVE

Current law: Section 2132(a) of title 10 provides eligibility for chapter 106 educational assistance benefits to those (1) who enlist, reenlist, or extend an enlistment in the Selected Reserves for at least six years; and (2) who, before completing initial active duty for training, have completed the requirements of a secondary school diploma.

House bill: Section 305(a) would extend chapter 106 eligibility to members of the Selected Reserve, without regard to the length of their enlistments, if they were called or ordered to active duty in connection with the Persian Gulf War and released from active duty upon completion of the period of service required by their call or order to active duty.

Senate amendment: No provision.

Compromise agreement: No provision.

RESTORATION OF MGIB ENTITLEMENT

Chapter 30 Program for Active-Duty Servicemembers

Current law: Under section 1413 of title 38, active-duty MGIB participants who complete the basic service requirements are entitled to 36 months of full-time educational assistance (or the equivalent in part-time assistance). Section 1795 limits to 48 months the aggregate period for which any person may receive assistance under two or more VA-administered programs.

House bill: Section 306(a) would provide that, in the case of a reservist or servicemember who, as a result of having to discontinue the pursuit of a course because of orders issued in connection with the Persian Gulf War, failed to receive credit or training time toward completion of an approved educational, professional, or vocational objective, the payment of chapter 30 benefits for the interrupted semester or other term would not be charged against the entitlement of the individual or counted toward the aggregate period for which the individual may receive assistance.

Senate amendment: Section 369(a) is substantively identical to the House provision.

Compromise agreement: No provision.

Chapter 32 Educational Assistance Program

Current law: Section 1631 of title 38 provides that individuals who are eligible for the Post-Vietnam Era Veterans' Educational Assistance Program (VEAP) under chapter 32 are entitled to 36 months of full-time educational assistance (or the equivalent in part-time assistance). Section 1795 limits to 48 months the aggregate period for which any person may receive assistance under two or more VA-administered programs.

Section 1622 provides that funds contributed by a participant or the Secretary of Defense to this educational benefits program with respect to the participant are to be deposited into a fund referred to as the Post-Vietnam Era Veterans Education Account (VEAP Account).

House bill: Section 306(b) would provide, in the case of a reservist or servicemember who, as a result of having to discontinue the pursuit of a course because of orders issued in connection with the Persian Gulf War, failed to receive credit or training time toward completion of an approved educational, professional, or vocational objective, that (1) the payment of VEAP benefits for the interrupted semester or other term would not be charged against the entitlement of the individual or counted toward the aggregate period for which the individual may receive assistance; and (2) the amount in the VEAP Account for that individual would be restored to the amount that would have been in the fund for him or her if the payment had not been made.

Senate amendment: Section 369(b) is substantively identical to the House provision.

Compromise agreement: No provision.

Chapter 35 Educational Assistance Program

Current law: Section 1711 of title 38 provides that individuals who are eligible for the Survivors' and Dependents' Educational Assistance Program under chapter 35 are entitled to 45 months of full-time educational assistance (or the equivalent in part-time assistance). Section 1795 limits to 48 months the aggregate period for which any person may receive assistance under two or more VA-administered programs.

House bill: Section 306(c) would provide that, in the case of a reservist who, as a result of having to discontinue the pursuit of a course because of being called to active duty in connection with the Persian Gulf War, failed to receive credit or training time toward completion of an approved educational, professional, or vocational objective, the payment of chapter 35 benefits for the interrupted semester or other term would not be charged against the entitlement of the individual or counted toward the aggregate period for which the individual may receive assistance.

Senate amendment: Section 369(c) is substantively identical to the House provision.

Compromise agreement: No provision.

Chapter 106 Program for Reservists

Current law: Section 2131 of title 10 (a) provides that individuals who are eligible for the chapter 106 MGIB program for members of the Selected Reserve are entitled to 36 months of full-time educational assistance (or the equivalent in part-time assistance), and (b) by reference to section 1795 of title 38, limits to 48 months the aggregate period for which any person may receive assistance under two or more VA-administered programs.

House bill: Section 306(d) would provide that, in the case of a reservist who, as a result of having to discontinue the pursuit of a course because of being called to active duty in connection with the Persian Gulf War, failed to receive credit or training time toward completion of an approved educational, professional, or vocational objective, the payment of chapter 106 benefits for the interrupted semester or other term would not be charged against the entitlement of the individual or counted toward the aggregate period for which the individual may receive of assistance.

Senate amendment: Section 369(d) is substantively identical to the House provision.

Compromise agreement: No provision.

IMPROVED EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE SELECTED RESERVE WHO SERVE ON ACTIVE DUTY DURING THE PERSIAN GULF WAR

Current law: Section 2131 of title 10 establishes the amounts of monthly educational assistance under the chapter 106 MGIB program as follows: (1) $140 for full-time study, (2; $105 for three-quarter-time study, and (3) $70 for half-time study.

House bill: As discussed above under the heading "Increases in Montgomery GI Bill (MGIB) Educational Assistance Payments—Amounts of Benefit Payments Under the Chapter 106 Program for Reservists", section 304(b) would increase the amount of monthly chapter 106 payments to (1) $200 for full-time study, (2) $150 for three-quarter-time study, and (3) $100 for half-time study. This provision would apply to all reservists training under the chapter 106 program.

Senate amendment: Section 367 would provide for payment to each member of the Selected Reserve who serves on active duty during the Persian Gulf War and who is entitled to chapter 106 benefits. A monthly educational assistance allowance in the amount of (1) $270 for each month of active-duty service for full-time study, (2) $202.50 for each month of service for three-quarter-time study, (3) and $135 for each month of service for half-time study.

Compromise agreement: No provision.

EXTENSION OF DELIMITING DATE FOR EDUCATIONAL ASSISTANCE ENTITLEMENT

Current law: Section 2133 of title 10 provides that an individual's entitlement to the chapter 106 program of educational assistance for members of the Selected Reserve expires (1) at the end of the 10-year period beginning on the date of entitlement, or (2) on the date the person is separated from the Selected Reserve, whichever occurs first.

House bill: Section 307 would provide that any period of active duty served by a reservist in connection with the Persian Gulf War would not be considered as either a part of the 10-year eligibility period or a separation from the Selected Reserve for eligibility purposes.

Senate amendment: Section 368 is substantively identical to the House provision.

Compromise agreement: No provision.

REEMPLOYMENT OF RETIREES

Current law: Section 108 of the Federal Employees Pay Comparability Act of 1990 (Public Law 101-509) amended sections 8344 and 8468 of title 5, United States Code, so as to permit the Director of the Office of Personnel Management, at the request of the head of an Executive branch agency, to waive the provisions of sections 8344 and 8468 of title 5, pertaining to the reduction of retirement annuities for reemployed retirees, on a case-by-case basis in emergency situations involving a direct threat to life or property or other unusual circumstances.

House bill: No provision.

Senate bill: Section 374 would (a) permit the Secretary of Veterans Affairs to waive the requirements in sections 8344 and 8468 of title 5 of reductions in annuity payments to reemployed retirees in cases in which the Secretary determines that the granting of waivers is necessary to recruit sufficient health-care specialists (1) to replace VA health-care specialists who have been ordered to active duty during the Persian Gulf War, or (2) to enable VA to respond to the health-care needs of military personnel (pursuant to section 5011A of title 38) during the Persian Gulf War; (b) permit any such waiver to extend for the duration of the Persian Gulf War and a period of not more than two years after the termination of the war; and (c) provide that any such waiver would take effect upon receipt by the Director of the Office of Personnel Management of a written notice from the Secretary. For the purposes of this provision the term "health-care specialist" is defined as including a physician, dentist, podiatrist, optometrist, nurse, physician assistant, expanded-function dental auxiliary, medical technician, or other medical support personnel.

Compromise agreement: No provision.

Paragraph (to follow).

DEPENDENCY AND INDEMNITY COMPENSATION

Current law: Under chapter 13 of title 38, dependency and indemnity compensation (DIC) is paid to the surviving spouse and children of a veteran who dies of service-connected causes. The rate of DIC, set forth in section 411 of title 38, is based on the deceased veteran's rank when the veteran was in the military.

House bill: Section 302 would (1) revise the basis on which DIC is paid so as to base the rates on the age of the veteran at the time of the veteran's death, with the amount paid decreasing with the veteran's age, and (2) in three increments, on October 1 of 1992, 1993, and 1994, increase from $68 to $200 the amount paid to a surviving spouse for each dependent child.

Senate amendment: No provision.

Compromise agreement: No provision.

DIRECT LOAN BENEFITS

Current law: Under section 1811 of title 38, the Secretary of Veterans Affairs is authorized to make direct loans to veterans living in areas where housing credit is not generally available to veterans for financing home loans which may be guaranteed under VA's home-loan guaranty program.

House bill: Section 309 of H.R. 1175 would authorize the Secretary to make direct loans under section 1811 to certain reservists who have been unable to obtain home loans from private lenders at an interest rate not in excess of the rate authorized for VA-guaranteed loans. Eligible reservists would include those who are creditworthy and either (1) are denied credit because of the possibility of their being activated in connection with a war or action potentially involving the use of military force, or (2) were activated in connection with a war or such an action and served at least 90 days on active duty.

Senate amendment: No provision.

Compromise agreement: No provision.

TECHNICAL AMENDMENT RELATING TO CARE IN TIME OF WAR OR NATIONAL EMERGENCY INVOLVING ARMED CONFLICT

Current law: Section 5011A(b)(2)(A) of title 38 contains an outdated reference to section 612(f) and (g) relating to eligibility for outpatient care during and immediately following a period of war, or a period of national emergency declared by the President or the Congress that involves the use of the Armed Forces in armed conflict.

House bill: No provision.

Senate amendment: Section 375 would replace the outdated reference in section 5011A(b)(2)(A) to section 612(f) and (g) with a reference to the correct provision, section 612(a).

Compromise agreement: No provision.

AUTHORITY TO CONTRACT FOR INPATIENT CARE UNAVAILABLE AT VA FACILITIES BECAUSE OF EMERGENCY CARE REQUIREMENT

Current law: During a period in which the Secretary of Veterans Affairs is furnishing medical care and services to members of the Armed Forces to meet emergency requirements, section 5011A(b)(2)(B) of title 38 authorizes the Secretary to contract with private facilities for the provision of hospital care for a veteran who is receiving VA hospital care, or is eligible for VA hospital care and requires care in a medical emergency posing a serious threat to the veteran's life and health, if VA facilities are not capable of furnishing the care the veteran requires because they are furnishing care to members of the Armed Forces.

House bill: Section 303(a) would authorize the Secretary to contract with private facilities for hospital care for all veterans entitled to hospital care under section 610(a)(1) of title 38 (known as "Category A" veterans).

Senate amendment: No provision.

Compromise agreement: No provision.

BUDGET TREATMENT

Current law: Section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (BBEDCA) provides a mechanism for the Congress and the President to designate certain direct spending as "emergency requirements" not subject to the "pay-as-you-go" restrictions contained in section 252. Section 251(b)(2)(D)(i) provides a similar mechanism for exempting discretionary spending for "emergency requirements" from the discretionary-spending caps enacted in the Omnibus Budget Reconciliation Act of 1990 (OBRA). Under OBRA, if direct spending is not designated as being for "emergency requirements," the costs must be offset by an equal reduction in direct spending or increase in receipts. OBRA requires total discretionary spending in three categories to fall within spending limits (caps) specified in OBRA. Legislation violating either rule would trigger a sequestration.

Section 251(b)(2)(D)(ii) of BBEDCA exempts the "incremental costs" of Operation Desert Shield from the military discretionary-spending cap in OBRA.

House bill: Section 503 would (1) make Congressional designations of costs in titles II (Military Personnel and Compensation Matters) and III (Veterans' Benefits and Programs) as "emergency requirements", exempting the direct spending for these provisions from the pay-as-you-go rule and exempting the discretionary spending in these titles from the caps in OBRA; (2) provide that titles II (except sections 211 and 212) and III would not take effect unless the President (in a single designation) designates each direct-spending provision as an "emergency requirement" for purposes of section 252(e) of the BBEDCA and each appropriation that is not direct spending or an incremental cost associated with Operation Desert Storm as an "emergency requirement" for purposes of section 251(b)(2)(D)(i) of the BBEDCA; and (3) prohibit expenditures during FY 1991 or 1992 for the provisions of title II from any source other than the Defense Cooperation Account or the Persian Gulf Working Capital Account pursuant to an appropriations Act.

Senate amendment: No provision.

Conference agreement: Part G (Budget Treatment) contains three sections.

Section 391 would authorize appropriations of $655,000,000 from the Defense Cooperation Account (DCA) for payment of (1) the Montgomery GI Bill (MGIB) rate increases for FYs 1992 and 1993, and (2) title III benefits (other than MGIB rate increases) for FYs

1991–1995. Funds from the DCA would not be available for the costs of section 334 (Health Benefits). Section 391 also would (1) authorize appropriations from the funds in the DCA on October 1, 1992 (other than funds already appropriated pursuant to the authorizations in other provisions of the Conference agreement) for the costs of title III benefits, other than MGIB rate increases and costs of section 334, accruing after FY 1995, and (2) declare as "incremental costs associated with Operation Desert Storm" (A) the costs of title III benefits (other than MGIB rate increases and costs of section 334) for FYs 1991–1995, and (B) the costs of the MGIB rate increases for FYs 1992 and 1993.

Section 392 would (1) make the benefits in title III (other than the MGIB rate increases and section 334) contingent on appropriations from the DCA during FYs 1991–1995, and (2) make the MGIB rate increases in FYs 1992 and 1993 contingent on an appropriations Act either appropriating funds for the rate increases or providing for payment of the rate increases from the DCA for transfer to applicable appropriations.

Section 393(a) defines "MGIB rate increases" as the increases specified by section 337 in the monthly rates of educational assistance benefits in effect on the day before the date of enactment of the conference agreement under chapter 106 of title 10, and chapter 30 of title 38, United States Code.

Section 393(b) sets forth rules of construction for sections 391 and 392.

Mr. Speaker, I think overall this is a fair package. It is an appreciation package for those veterans who served in the Persian Gulf for the great job that they did and I urge my colleagues to support the bill.

Mrs. BYRON. Mr. Speaker, the bill before you today is a compromise between the House and Senate that incorporates many of the most important features of the House-passed bill. This legislation is a comprehensive package of benefits to assist the outstanding young men and women who have so successfully defended freedom halfway around the globe. To name only a few items, his legislation:

Increases imminent danger pay for $110 to $150 per month;

Increases the family separation allowance from $60 to $75 per month;

Corrects an inequity in current housing allowances to pay basic allowance for quarters to enlisted reservists called to active duty for the Persian Gulf war;

Ensures the payment of special pays physicians, dentists, nurses, and other health care providers who are reservists activated for Operation Desert Storm or who were involuntarily retained on active duty because of wartime requirements;

Provides a health care benefits safety net for reservists and involuntarily retained active duty personnel by providing 30 days of continuing coverage in the DOD medical care system following separation;

Increases death benefits for the families of those who made the ultimate sacrifice; and

Provides for payment of certification pays to health care providers and others unable to complete testing requirements before of deployment to the gulf.

We have attempted to tailor this package as closely as possible to personnel serving in the Persian Gulf conflict and have authorized payment out of the defense cooperation account—which is made up of the contributions by our allies to the cost of the war.

Having just returned from the gulf very early Wednesday morning, I can tell you—firsthand—how proud our servicemen and women are of themselves and the incredible job they have done. Those of us in the manpower business have been stressing for some time the top quality young people serving in the Nation's Armed Forces. When put to the test in Operation Desert Storm, they passed with flying colors.

The legislation before you today is a package of benefits targeted specifically to their needs and the needs of their families. Its cost is modest and I urge my colleagues' strong support.

Mr. DICKINSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ASPIN. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the Senate bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 396, nays 4, not voting 31, as follows:

[Roll No. 58]

YEAS—396

Abercrombie
Alexander
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
DeFazio
DeLauro
DeLay
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Foglietta
Ford (MI)
Ford (TN)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodling
Gordon
Goss
Gradison
Grandy
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hunter
Hutto
Inhofe
Ireland
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murtha
Myers
Nagle
Natcher
Neal (NC)
Nichols
Nowak
Oberstar
Obey
Olin
Ortiz
Orton
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stark
Stearns
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky

Vucanovich
Walker
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—4

Gonzalez
Nussle
Owens (NY)
Savage

NOT VOTING—31

Ackerman
Bilbray
Bustamante
Carr
de la Garza
Dellums
Dymally
Flake
Frank (MA)
Gekas
Hughes
Hyde
Jacobs
Kaptur
LaFalce
Levine (CA)
Lewis (FL)
Lloyd
Manton
Miller (OH)
Murphy
Neal (MA)
Oakar
Schaefer
Slaughter (NY)
Smith (NJ)
Stallings
Stenholm
Tanner
Udall
Volkmer

□ 1627

Mr. QUILLEN changed his vote from "nay" to "yea."

So the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. BYRON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore (Mr. GRAY). Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

PERSONAL EXPLANATION

Ms. OAKAR. Mr. Speaker, inadvertently I missed the vote on S. 725. Had I been here, I certainly would have voted yes.

PERSONAL EXPLANATION

Ms. KAPTUR. Mr. Speaker, on rollcall 58 on S. 725, the Persian Gulf Conflict Supplemental Authorization and Personal Benefits Act of 1991, I would like the RECORD to show my vote would have been aye. I was on the floor at the time with my card, but the machine did not register my vote.

APPOINTMENT OF CONFEREES ON H.R. 1281—DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR CONSEQUENCES OF OPERATION DESERT SHIELD/DESERT STORM; FOOD STAMPS, UNEMPLOYMENT COMPENSATION ADMINISTRATION, VETERANS COMPENSATION AND PENSIONS, AND OTHER URGENT NEEDS ACT OF 1991

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1281) making dire emergency supplemental appropriations for the consequences of Operation Desert Shield/Desert Storm, food stamps, unemployment compensation administration, veterans compensation and pensions, and other urgent needs for the fiscal year ending September 30, 1991, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

MOTION TO INSTRUCT CONFEREES

Mr. McDADE. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. McDADE moves that the managers on the part of the House, at the conference on the disagreeing votes of the two Houses on H.R. 1281, be instructed to take no action that would cause the discretionary budget authority totals for domestic, international or defense programs to violate last year's budget agreement by exceeding the spending caps for the Fiscal Year ending September 30, 1991 enacted in P.L. 101-508, the Omnibus Budget Reconciliation Act of 1990, and thereby cause a categorical sequester to come into effect under the provisions of that Act.

□ 1630

The SPEAKER pro tempore (Mr. GRAY). The gentleman from Pennsylvania [Mr. McDADE] will be recognized for 30 minutes, and the gentleman from Mississippi [Mr. WHITTEN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. WHITTEN].

Mr. McDADE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, both the House and the Senate-passed dire emergency supplementals are close to staying within the discretionary spending caps passed as part of last year's budget deal. But because both of them contain spending that the administration does not believe to be emergency and therefore is not exempt from the caps, both exceed the domestic discretionary caps by a small amount. As a result, the Office of Management and Budget has indicated that if the House bill was enacted in its current form, it would result in an across-the-board cut hitting all domestic programs of approximately $50 million, and the Senate bill would result in an across-the-board cut of $17 million.

Hopefully, that will be cured in conference. But if it is not, then last year's Budget Enforcement Act requires a categorical sequester to come into play 15 days after the bill is signed into law. I don't think anyone wants to see that outcome, because it will serve as a sign that Congress is having trouble sticking to the path of spending restraint.

For that reason I offer this motion to instruct conferees. It says the House conferees should take no action to cause the fiscal year 1991 spending caps to be breached. If you have to cut back by a small amount, cut back. But do not breach the spending caps. That would send the wrong signal at the wrong time.

Given the choice between staying within the spending limits, or exceeding those limits, I ask my colleagues to vote to stay within the spending limits. It is the fiscally responsible thing to do.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may require.

We have no opposition to this motion, but along that line we are going to have to give some attention to taking care of the country.

I repeat again that our Committee on Appropriations since 1945 has been $180.8 billion below the recommendations of our Presidents.

Our financial situation has come from backdoor spending and entitlements.

I say insofar as the current year, and that is what this bill applies to, we have kept the 13 appropriation bills below the recommended amount; but I say again and I said it at the time, when we try to control expenditures for 4 years in advance, it amounts to a target. You are going to be faced with waiving it from time to time in order to look after the country—for emergency needs such as earthquakes, drought, flood control and all the rest. Insofar as this motion is concerned, I have no objection, but I am pointing out that in the future in order to look after our country you are going to have to give some thought to what we do.

Mr. McDADE. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding this time to me.

I just wanted to raise a couple questions. I certainly rise in support of this motion. I think it is something which is very important, given the budget agreement that we did last year.

Is it the gentleman's information that the appropriation measures coming out of the Senate are somewhat over the spending caps?

Mr. McDADE. Mr. Speaker, if the gentleman will yield, the gentleman is correct.

Mr. WALKER. So this particular motion does have some practical effect in that if complied with would force the conference to stay within the spending caps of last year's budget, despite the fact that the Senate bill is pesently over those caps, is that right?

Mr. McDADE. Mr. Speaker, if the gentleman will yield further, the gentleman if correct.

Mr. WALKER. We would hope then to bring back to the House a measure fully in compliance with last year's budget actions under the motion of the gentleman?

Mr. McDADE. That is the hope of the motion to instruct and the will of the body, we hope.

Mr. WALKER. Well, Mr. Speaker, I thank the gentleman. I certainly do want to endorse the gentleman's motion to instruct.

If in fact we are dealing with bills that have exceeded the budget limits, it is clear that this is something that we do need to act on. Last year we had a budget process that produced a final document. It was not one that I was wholly happy with, largely because of the taxes, but the taxes have now been imposed. We are paying the taxes.

The question is whether Congress is going to comply with the spending caps. This particular motion says then that we are going to live up to that part of the bargain in this bill as well. I think we ought to support the motion of the gentleman from Pennsylvania unanimously.

Mr. WHITTEN. Mr. Speaker, I yield such time as she may require to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I want to support the gentleman from Mississippi [Mr. WHITTEN], the committee chairman.

Mr. WHITTEN. Mr. Speaker, I yield back the balance of my time.

Mr. McDADE. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. McDADE].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 398, nays 2, not voting 31, as follows:

[Roll No. 59]

YEAS—398

Abercrombie
Alexander
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
DeFazio
DeLauro
DeLay
Derrick
Dickinson
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Foglietta
Ford (MI)
Ford (TN)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hunter
Hutto
Inhofe
Ireland
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murtha
Myers
Nagle
Natcher
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Olin
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stark
Stearns
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—2

Obey
Yates

NOT VOTING—31

Ackerman
Berman
Boxer
Bustamante
Carr
Cox (CA)
de la Garza
Dellums
Dicks
Flake
Frank (MA)
Hughes
Hyde
Jacobs
LaFalce
Levine (CA)
Lewis (FL)
Lloyd
Manton
Marlenee
McCurdy
Miller (OH)
Murphy
Neal (MA)
Schaefer
Shuster
Smith (NJ)
Stallings
Stenholm
Tanner
Udall

☐ 1656

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. GRAY). Without objection, the Chair appoints the following conferees: Messrs. WHITTEN, NATCHER, SMITH of Iowa, YATES, OBEY, ROYBAL, BEVILL, MURTHA, TRAXLER, LEHMAN of Florida, DIXON, FAZIO, HEFNER, McDADE, MYERS of Indiana, COUGHLIN, PURSELL, EDWARDS of Oklahoma, GREEN, and ROGERS.

PERSONAL EXPLANATION

Mr. LEWIS of Florida. Mr. Speaker, due to an illness in the family, I was unable to participate in the business of the House of Representatives on the days of March 20 through 22, 1991. Had I been present, I would have voted as follows:

March 21, 1991:

Rollcall 54. Approving the Journal, "no."

Rollcall 55. H.R. 355, Drought Assistance Act, "yea."

Rollcall 56. S. 419, Resolution Trust Corporation funding, "no."

Rollcall 57. Motion to close conference on H.R. 1282, "yea."

Rollcall 58. S. 725, Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act, "yea."

Rollcall 59. Motion to instruct conferees on H.R. 1281 to remain within budget guidelines, "yea."

HOUR OF MEETING ON FRIDAY, MARCH 22, 1991

Mr. HOYER. Mr. Speaker, I ask unanimous consent that when the

House adjourns today it adjourn to meet at 10 a.m. on tomorrow, March 22, 1991.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

Mr. GINGRICH. Mr. Speaker, reserving the right to object, I will not object, and on our side we are willing to go in at 10 in the morning, but I would make the point to the Democratic leadership that, if we could get a signable Desert Storm supplemental finished and out of here early tomorrow so Members could leave as they had planned, it would make a great deal more sense than to come in with a large number of motions in disagreement and having a very long process, possibly going well into the evening, involving the second bill. As I understand it, the second supplemental, the dire emergency supplemental, is not necessarily dire and emergency and, in fact, does not have to get through tomorrow. The administration does not need that money until after we get back, and it just seems to our side that it would be foolish to keep the Members sitting around here for hours all day, all afternoon, on Friday while the conferees went to work. There are a lot of differences between the House and the Senate on that bill, so I would urge the Democratic leadership to consider bringing in the relatively clean Desert Storm supplemental that is voted out of here by about noon, and then let Members go on their way and come back after the session.

Mr. Speaker, I withdraw my reservation of objection.

Mr. HOYER. Mr. Speaker, I thank the gentleman from Georgia [Mr. GINGRICH] for withdrawing his reservation and would tell the gentleman that some of our Members on this side, I am sure the gentleman would not be shocked to hear, are also interested in a timely conclusion of tomorrow's session.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

□ 1700

GENERAL LEAVE

Mr. RANGEL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

HONORING WOMEN WHO SERVED IN THE PERSIAN GULF WAR

The SPEAKER pro tempore (Mr. GRAY). Under a previous order of the House, the gentleman from New York [Mr. RANGEL] is recognized for 60 minutes.

Mr. RANGEL. Mr. Speaker, each year during the month of March, women of this country are honored in a special way with the commemoration of Women's History Month. This time the honor is especially fitting in light of the historic action from which our Nation has recently emerged in the Persian Gulf.

Each war has its heroes and each war has its forgotten heroes. Today I rise in the belief that the women of our military have played a special heroic role in the Persian War that will forever change our perception of the military capabilities of the gentler sex, and, hopefully, the attitude of our society toward all women.

To those women who fell during this brief, but terrible war, I offer my prayers, and to their families, my deepest sympathies. The memory of these brave women will forever be etched in our military history, for they have made the ultimate sacrifice, as have their families and loved ones.

Mr. Speaker, our rollcall of honor:

First, those killed in action:

Adrienne Mitchell, 20, of Moreno Valley, CA, killed by an Iraqi Scud missile.

Cindy Beaudoin, 19, of Plainfield, CT, killed by a land mine.

Beverly Clark, 23, of Armagh, PA; and Christine Mayes, 23, of Rochester Mills, PA; both killed by Scuds.

Cheryl O'Brien, 24, of Long Beach, CA, killed in action.

Those killed in nonhostile circumstances:

Cindy Bridges, 20, of Trinity, AL.

Marie Rossi, 32, of Oradell, NJ.

Kathleen Sherry, 23, of Tonawanda, NY.

Pamela Gay, 19, of Surrey, VA.

There were two prisoners of war:

Melissa Nealy, 20, of Grand Rapids, MI.

Rhonda Cornum, 36, of Freeville, NY.

Thankfully, both have been freed, along with our men who were prisoners of war.

Nineteen other women were among the 350 U.S. troops who were wounded in the war.

These women are important, not only because they gave their lives, shed their blood, or gave up their freedom for their country. They are also unique in that Operation Desert Storm provided the first experience in our history with casualties among fighting women.

In Operation Desert Storm, women piloted some of the 300 helicopters that airlifted men and equipment more than 50 miles inside Iraqi territory.

The Persian Gulf war is not the first experience with women in combat situations, but it indicates the extent to which women have become an integral part of the armed services. 600 women also were among the forces that invaded Panama, including Capt. Linda Bray, who was awarded an Army Commendation Medal.

Today, women represent almost 11 percent of our total Armed Forces, and the 32,000 women deployed to the Persian Gulf made up 6 percent of the total U.S. force. I would also mention that approximately 48 percent of the women deployed to the gulf were members of minority groups.

Women who served in the Persian Gulf, because there is no more intimate relationship than that between mother and child, made some of the greatest emotional sacrifices we have ever asked our women to endure. In the Persian Gulf deployment, more than 16,000 single parents were deployed; most of them were women. In addition, more than 1,200 military couples with children were deployed.

The Persian Gulf war is likely to permanently change the image of American women in the Armed Forces, married and single. Not only fathers and husbands, but mothers and wives are now leaving loved ones at home.

We rejoice in the accomplishments of women in the military—from the two highest ranking who are brigadier generals to the thousands of other officers and enlisted women.

To quote Army Lt. Col. O.J. Williams of Monticello, MI, who left her 12-year-old adopted son at home to serve in Saudi Arabia, "I'm here because I can do it."

Mrs. MORELLA. Mr. Speaker, it is an honor to pay tribute to the many women who served their country so courageously in Operation Desert Storm. Through their service, these women did more than contribute to one military operation; they spurred a dramatic reshaping of society's perception of women in our Armed Forces.

Never before have so many women in the military been deployed, so close to combat. About 32,700 women—6 percent of the Armed Forces—have served in the Persian Gulf. They served on the front lines preparing fighter jets for missions, managing supply lines during the ground assault, and staffing crucial military hospitals. Women chopper pilots flew airborne troops into Iraqi territory. Women joined their male counterparts in virtually all aspects of Operation Desert Storm.

I am especially proud to acknowledge the service of Lt. Cheryl Peterson, a former member of my staff who is serving as a head nurse in the 350th Evacuation Hospital in Saudi Arabia. Cheryl arrived in the Persian Gulf shortly after Christmas and immediately began her duties at the hospital. I know that Cheryl's parents have missed her greatly, as we have missed her in my office. But they know, as we all know, that without the participation of servicewomen like Cheryl, Operation Desert Storm could not have been the success that it was.

We in the United States eagerly await the homecoming of all of our servicewomen in the gulf. As a nation we must remember that, just as these women pledged their lives in defending their country, we at home must pledge our commitment to them—to their concerns not only as women in the military, but as women in society. Honoring this commitment would be the greatest tribute of all.

Mr. SWETT. Mr. Speaker, I am honored to join my colleagues in paying tribute to the brave women who are such an integral part of our modern military forces. I commend my distinguished friend from New York, Mr. RANGEL, for calling this special order to celebrate the honorable employment of women in our modern military structure. Recognizing that March is Women's History Month, that yesterday a hearing was held on this issue by the Armed Services Committee and that the Persian Gulf war has ended, it is highly appropriate and necessary to honor the women who have given their time, energy and in some tragic cases, even their lives for the United States of America.

Mr. Speaker, in 1943 the capability of women to serve in the Armed Forces was eloquently recognized by Lt. Gen. Thomas Holcomb, Commandant of the Marine Corps, when he stated:

> There's hardly any work at our Marine stations that women can't do as well as men. They do some work far better than men . . . What is more, they're real Marines. They don't have a nickname, and they don't need one. They get their basic training in a Marine Atmosphere, at a Marine Post. They are Marines.

Over the last 11 years the percentage of women serving in our Armed Forces has increased by 90 percent. In 1970 less than 2 percent of our Armed Forces were women. In 1990 there were 230,000 women on active duty—10.8 percent of our total forces. By 1995 that number will rise to 15 percent. Women are truly making their mark in our Nation's armed services.

For too many years the abilities of women have been underestimated and overlooked. Today, women are finally receiving the recognition they so richly deserve. The time has arrived for society to push aside the remaining barriers to women and to promote their full integration into our Armed Forces. Although we have made much progress, much bias remains to be overcome.

Mr. Speaker, I am proud to commend the 32,000 women who served in the Persian Gulf. Their presence was invaluable for the success of our forces. During this time of celebration as our troops return home, it is appropriate that we pay special homage to these brave and valiant women who put their lives on the line for our great country.

Mr. Speaker, I urge my colleagues to join me in saluting the outstanding women of our Armed Forces. Their courage and strength is absolutely essential to the combat readiness and power of the greatest military might in the world, the Armed Forces of the United States of America.

Mr. STOKES. Mr. Speaker, I want to commend my colleague, Mr. RANGEL, for reserving this time to recognize the significant contributions of our Nation's women in military service.

Mr. Speaker, since the turn of the century, women have served in the Armed Forces of the United States. However, until the Persian Gulf war, their participation was relatively restricted. Until the early seventies, women comprised less than 2 percent of our total military strength and were often relegated to health care, administrative, and communications duties.

Military historians tell us that in every war prior to the 20th century, a number of women resorted to disguising themselves as men, in order to participate in military action. The best known of these women is Deborah Sampson, who enlisted in the 4th Massachusetts Regiment during the Revolutionary War, under the name of Robert Shurtleff. She served courageously and was wounded in battle. It was not until she was hospitalized that it was discovered that she was a woman.

Despite tremendous obstacles, women continued to fight to overcome barriers preventing their full participation in the Armed Forces. Mr. Speaker, today, women constitute almost 11 percent of our All Volunteer Force, the highest number of women in any armed forces in the world. Unlike the women who were restricted to all-women's corps during World War II, women are now directing missiles, arming attack planes, driving trucks, and guarding supply depots. Although women still cannot serve in combat units, they do fill a number of combat-support slots.

Women in the Persian Gulf conflict served in more diverse assignments than in any other war, serving side-by-side with their male counterparts. Over 32,000 women were deployed to the Persian Gulf; almost half of which were African-Americans. In the Persian Gulf, women found that Saddam Hussein's Scud missiles did not discriminate. Three women were killed in the Scud missile attack on their barracks in Dhahran, Saudi Arabia. Furthermore, women found that the line between direct combat and support missions became blurred when it came to the prisoners of war. Army Specialist Melissa Rathburn-Nealy was the first American female prisoner of war since World War II.

For the first time in any war, as a matter of policy, women were deployed to a combat zone with weapons which they were trained to use. Moreover, women like Army Maj. Marie Rossi piloted cargo-carrying Chinook helicopters into Iraqi territory on a mission carrying fuel and ammunition to advancing U.S. Forces in the opening hours of the ground war. Unfortunately, we mourn the loss of Major Rossi, who was one of the first female casualties of the war, when her helicopter crashed near a base camp in northern Saudi Arabia. A total of six brave women reportedly lost their lives in service to their country during Operation Desert Storm.

Major Rossi will long be remembered for her statement to reporters, which was televised nationwide after her mission into Iraq on February 24. She said, "I think if you talk to the women who are professionals in the military, we see ourselves as soldiers * * *. What I am doing is no greater or less than the man who is flying next to me."

Women in our military service have demonstrated that it is possible to achieve success despite great odds. Today's All Volunteer Force is known as the best and brightest in history. We pay tribute, today, Mr. Speaker, to all of the women in military service. They deserve this special commendation and our Nation's eternal gratitude.

Ms. LONG. Mr. Speaker, I commend my colleague, the gentleman from New York [Mr. RANGEL] for calling this special order. It is only appropriate that we take a moment to recognize the growing presence and increasingly critical role that women have assumed in the U.S. military. The unprecedented numbers of women participants in Operation Desert Storm reflects this new military.

Women comprise more than 10 percent of the total Department of Defense force. They serve in more nontraditional roles now than ever before in the history of our Armed Forces, ranging from crew chiefs in charge of loading ordnance onto fighter jets to officers commanding forward maintenance units that repair tanks to military police charged with securing safe routes for convoys moving to the front. This is evidenced by the fact that more than 28,000 women were assigned to Saudi Arabia for the Desert Shield and Desert Storm operations. Women performed their jobs with the risks that come with being assigned to a combat theater and sadly, like many American soldiers before them, six women performed the ultimate duty by sacrificing their lives. Two women were taken prisoner of war and to a grateful Nation's relief, were returned safely. Women played an unparalleled and historic military role in Operation Desert Storm and Desert Shield and they served distinctively, reflecting great pride and professionalism on our nation.

There is no denying that the makeup of our Nation's Armed Forces has changed dramatically over the years. Not only were there very few women in the military prior to the termination of the draft, but the number of dual-married military couples, single-parent military personnel, and the number of dependents was very low. Gone are the days when service members had to get permission from their commanding officer before they got married. Gone are the days when we relied solely on young males to defend our country.

With the advent of the All Volunteer Force, and marketplace incentives, the composition of our military has changed dramatically. Now, our military services are comprised of more than 55,000 dual-married military couples. Now, over 91,000, or 3 percent, of our service personnel are single parents. More than 45 percent of junior enlisted and more than 85 percent of the officer corps are married. Now, there are more than 1.6 million dependents of our military service personnel.

The question before us is: Can we strike a reasonable balance between the new realities of our force composition and the primary responsibilities of our service personnel to defend our country?

Because of the major buildup of forces required for Operation Desert Storm and Desert Shield, coupled with the unique composition of today's military families, the Congress continues to hold hearings on the issue of military families. Along with other Members, I have introduced legislation addressing military family policy. Although the legislation we introduced was not incorporated into the Desert Storm/Shield authorization bill, two very worthy provisions with regard to new parents had been a part of the original bill passed by the House. Unfortunately, these two provisions were removed from the authorization bill we passed earlier today.

The first provision would have prohibited the assignment of a female member of the active duty Armed Forces with a child under 6 months, without her consent, to duty at a location where the child cannot reside. The second, but similar, provision would have provided that a female reservist with such a child may not be activated without her consent. These provisions would have applied to male single parents, only if they have sole custody of a child under 6 months.

I feel these provisions are critical to the immediate and long-term development of a sound military family policy. I am very disappointed that these provisions were removed from the bill. I strongly encourage members of the Armed Services Committee to incorporate these provisions into the Department of Defense authorization bill for fiscal year 1992 to reflect a sound policy that is critical to the readiness of our Armed Forces.

Some of us in Congress believe we should go even further than adopting these provisions with respect to military families. In fact, I believe the legislation I introduced, the Military Family Presentation Act, H.R. 738, although not passed, if it had been adopted, would have gone a long way in developing an effective family policy to account for the military's readiness and mission concerns, while equally balancing the family responsibilities and emotional needs of service members. Nonetheless, the 102d Congress is discussing and recognizing as never before, the growing, not diminishing role and vital importance of women in the military.

Again, I thank the gentleman from New York [Mr. RANGEL] for calling for this special order and creating an opportunity to discuss the important issue of women in the military.

Mrs. SCHROEDER. Mr. Speaker, I applaud the more than 27,000 women who served and continue to serve in the Persian Gulf. They join a long list of unsung war heroines that deserve our recognition and gratitude.

Deborah Sampson passed herself off as Robert Shirtliffe in order to fight in the Massachusetts regiment of the Continental Army. Mary Ludwig went down in history as Molly Pitcher for taking her husband's place at his cannon when he was wounded during the Battle of Monmouth. Women also contributed significantly to war efforts during the War of 1812, the Civil War, and the Spanish-American War.

In World War I, 2 of the 10,000 women serving overseas as nurses received the Distinguished Service Cross; 350,000 women served in the Armed Forces between 1941 and 1945. Of those women four received the Silver Star, 82 were captured by the Japanese, and 200 lost their lives overseas. Army, Navy, and Air Force nurses served in Korea. Eight of the 7,500 female soldiers who served in Vietnam lost their lives in the conflict.

The tradition of women serving in the military is as old as our country. According to one female pilot in the gulf: "What I am doing is no greater or less than the man who is flying next to me or in back of me." The point is, however, that she was there and performing just as well as her male colleagues. This time around let's not let anyone forget it.

Mr. LAFALCE. Mr. Speaker, I would like to join today with my colleagues in paying a special tribute to the women who served their country in Operations Desert Storm and Desert Shield.

As chairman of the Small Business Committee I can readily attest to the growing importance of women entrepreneurs. Women already own 30 percent of all U.S. companies. Between 1983 and 1987, the number of women-owned firms grew 57 percent and, by all estimates, the number is continuing to grow.

Given the past and growing success of American women in small business, it was only a matter of time before American women proved themselves in military conflict. And women, as we know, did just that in Operations Desert Storm and Desert Shield. Women served in a wide variety of supporting roles, doing everything from technical repairs to flying helicopters. Time after time, women proved themselves the equal of men in the performance of their jobs; something which no one should ever have doubted.

A little over 6 years ago, it was my great pleasure to nominate a young woman from Sweet Home Senior High School in suburban Buffalo to West Point. That woman, Kathleen Marie Sherry, graduated in the top 5 percent of her high school class and later graduated from the military academy in 1989. Lieutenant Sherry was assigned to a signal corps unit based in Germany and last August was married to Army Lt. James A. Buck.

Last fall, she was assigned to the Persian Gulf as part of Operation Desert Shield. At the conclusion of Operation Desert Storm, Kathleen was scheduled to soon leave the Persian Gulf. Tragically, however, her family was notified last week that she had been shot while still on assignment in Kuwait and had died of her injuries.

While the incident is currently under investigation, I have extended my personal condolences to her mother, Mary Ann Sherry, a nurse at Sweet Home High School and to her father, Kenneth, a teacher at Kenmore West High School. It is a sad and untimely loss that is felt deeply by her family, friends, and community.

Kathleen's tragic death is a reminder to me of the risks encountered and the sacrifices made by the men and women who serve in our Armed Forces. And while I would not wish to overlook the sacrifices made by the men of Operation Desert Storm, I do want to join today with my other colleagues in expressing deep appreciation to the women who served their country in Operations Desert Storm and Desert Shield.

H.R. 1543, THE COMPREHENSIVE ENERGY POLICY ACT OF 1991

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. LENT] is recognized for 60 minutes.

Mr. LENT. Mr. Speaker, as ranking Republican member of the Committee on Energy and Commerce, I am pleased to introduce the Comprehensive Energy Policy Act of 1991 on behalf of a distinguished group of House Republicans. This legislation is the product of months of work by the Republican Leader's Energy Task Force under the leadership of JERRY LEWIS, the chairman of the House Republican Conference, without whose direction we could not have completed our work in a timely manner.

The Republican leader, BOB MICHEL, is to be commended for putting this task force together back in the latter months of 1990. The task force brought together House Republicans from the key energy-related committees and Members from various regions of the country. Those who follow energy issues know that regional considerations and the jurisdiction of multiple House committees have been key factors on energy issues in the past. The task force provided a forum to discuss and examine various energy options and work out consensus positions for further consideration as the legislative process moves forward. It is one thing to talk about energy, it is another to show the leadership needed to craft a comprehensive energy plan. Through this bill, House Republicans have demonstrated that leadership.

The task force coordinated its work with that of the President in his efforts on a national energy strategy. President Bush is to be commended for having had the foresight way back in July 1989, long before the Iraqi invasion of Kuwait put energy back on the front pages, to direct Secretary of Energy James Watkins to coordinate efforts to develop a National Energy Strategy.

The Republican Leader's Energy Task Force carefully considered the elements of the national energy strategy issued on February 20, 1991. The task force decided that the national energy strategy is a solid foundation on which to build a comprehensive energy plan. As a result, the legislation we are introducing today adopts all but a handful of the President's recommendations. The task force also decided that additional steps, over three dozen in all, should be added to complement the national energy strategy in terms of bringing about even more energy conservation, efficiency, and production. Those measures are summarized in the section-by-section summary of the legislation which I will ask be inserted at the conclusion of my remarks.

House Republicans are serious about taking action on energy issues in the 102d Congress. Last year, I introduced a bill on behalf of Energy and Commerce Committee Republicans, H.R. 5735, which was referred to no less than seven committees. On March 6, 1991, I joined in introducing the President's National Energy Strategy Act, by request, which was referred to no less than nine committees. While the Energy and Commerce Committee demonstrated during consideration of the Clean Air Act amendments last year that we can work well with other committees which have a piece of a complex bill largely within our jurisdiction, we need the cooperation of the majority leadership to bring a comprehensive energy bill to the House floor. The task force sent a letter to the Speaker back in January on this point, but has yet to receive a reply.

The measures in the national energy strategy which are not included in the bill include issues which should be carefully considered as we continue to work on energy legislation and other bills in this Congress. For example, in my view, nuclear waste matters must be resolved. We look forward to continuing to work with the administration on appropriate measures in this area. Similarly, the administration has proposed abolishing the Federal Energy Regulatory Commission and transferring its functions to the Department of Energy. We need to learn more about how this would work and whether it is more important to concentrate on reform of the statutes administered by FERC than on the organizational structure of the agency which implements them.

In conclusion, Mr. Speaker, we look forward to working with you and others in the House on energy legislation. The bill we introduce today is broad in scope, but balanced between conservation, efficiency, and production, and balanced in terms of its impact on regions of the country. A second energy policy is too important to a growing economy, a cleaner environment, and a safer world for us to miss this opportunity to act. The President provided the basic direction we should take with his national energy strategy. Today, the members of the House Republican Leader's Energy Task Force and other House Republicans are adding our constructive additions to the President's recommendations.

Mr. Speaker, I ask permission to insert the section-by-section summary of the Comprehensive Energy Policy Act of 1991 at this point in the RECORD:

COMPREHENSIVE ENERGY POLICY ACT OF 1991—SECTION-BY-SECTION ANALYSIS

TITLE I—CONSERVATION AND ENERGY EFFICIENCY IN THE ELECTRICITY SECTOR

Subtitle A—Electricity and Utilities

Section 101—Least Cost Planning

Encourages State public utility commissions to consider revising their ratemaking practices for electric utilities so that investments in conservation, energy efficiency, and other demand-side measures are rewarded to the same extent as are utility investments in new generating capacity.

Section 102—TVA Least Cost Planning

Requires the Tennessee Valley Authority to do least cost planning so that it considers conservation, energy efficiency, and other demand-side measures when it makes electricity supply decisions.

Section 103—Federal Utility Least Cost Planning

Requires all new contracts for supply of Federal power to a utility be predicated on that utility conducting a least-cost plan, and promoting cost-effective conservation and efficiency in its service territory.

Section 104—Least Cost Planning Grants

Authorizes grants to State regulatory authorities (no more than $100,000 per authority; authorization thus totals $5 million) to encourage conservation, energy efficiency, and other demand side measures as means of meeting electricity supply needs.

Subtitle B—Residential, Commercial, and Federal Energy Use

Section 111—Residential and Commercial Building Energy Efficiency Codes

Directs DOE to provide technical assistance to States to update residential and commercial building codes.

Section 112—Home Energy Rating System

Directs DOE to develop a uniform, voluntary home energy rating system for use by States, local governments and others.

Section 113—Federal Energy Management Amendments

Directs Federal Agencies to install energy conservation measures with a payback of 10 years.

Also sets up a fund administered by DOE to finance, on a competitive basis, energy saving projects in facilities run by other agencies. This is to help overcome institutional barriers to the financing of such improvements. Agencies are also encouraged to participate in utility efficiency programs. Also sets up a cash bonus program to reward agency personnel that do outstanding jobs of improving energy efficiency.

Also authorizes Federal agencies to participate in utility incentive programs.

Section 114—Performance Standards For Federal Buildings

Extends deadlines from 1984 to two years after date of enactment.

Subtitle C—Standards and Information

Section 121—Labeling For Windows and Window Systems

Energy efficiency labeling for windows and window systems.

Section 122—Industrial Insulation Voluntary Standard

Requires DOE to develop testing and labeling requirements for industrial insulation guidelines.

Section 123—Procedures For Energy Audits In Commercial, Agricultural, and Industrial Sectors

Requires DOE to review or develop energy auditing procedures in the commercial, agricultural, and industrial sectors.

Section 124—Energy Conservation Standards for Lamps, Motors, and Certain Air-Conditioners

Requires DOE to set minimum energy efficiency standards for a limited number of lamps (lights bulbs and flourescent tubes), small package commercial air conditioners, and electric motors. These products come in various levels of efficiency and, due to market imperfections, the most efficient are not widely used. Amends existing appliance efficiency law. This provision is estimated by one conservation group to save the energy equivalent of twenty-seven, 1,000 megawatt powerplants.

Section 125—Transformer Efficiency Study

Study of efficiency standard for transformers.

Section 126—Utility Contributions to Equipment Manufacturers for Efficient Equipment

Authorizes program whereby DOE coordinates utility contributions to equipment manufacturers to produce more efficient equipment.

Subtitle D—Tax Provisions

Section 131—Utility Rebates for Energy Efficient Equipment

Excludes from Federal taxable income any rebates from utilities to residential, commercial and industrial consumers for purchase of energy efficient equipment.

Section 132—Conservation Retrofits of Existing Oil-Heated Homes

Establishes a tax credit for conservation retrofits of existing oil-heated homes.

TITLE II—CONSERVATION IN THE TRANSPORTATION SECTOR

Subtitle A—Alternative Fuels

Part I—Alternative and dual fuel vehicle credits

Section 201—Alternative and Dual Fuel Cap Removal

Repeals the cap in the Alternative Motor Fuels Act on the fuel economy credit which manufacturers of alternative fuel vehicles may earn.

Part II—Alternative transportation fuels

Section 211–217—Alternative Transportation Fuels in Fleets

Expands the use of alternative fuels in fleet vehicles, as proposed by the President, beyond the requirements of the Clean Air Act Amendments of 1990.

Subtitle B—Natural Gas as a Transportation Fuel

Sections 221–224—Removing Regulatory Impediments to Natural Gas as a Transportation Fuel

Amends the Natural Gas Act, the Public Utility Holding Company Act, and preempts state laws in order to remove regulatory impediments to the entry into the marketplace of companies which desire to sell compressed natural gas as a transportation fuel at retail outlets.

Subtitle C—Fuel Economy

Section 231–234—Amendments Relating to Corporate Average Fuel Economy

Requires the Secretary of Transportation to conduct a rulemaking to determine the maximum feasible corporate average fuel economy (CAFE) levels for passenger cars and light trucks effective after model year 1996. Within 18 months of enactment, DOT will set a level or levels effective with the fourth full model year after enactment and the tenth full model year after enactment. DOT is provided flexibility to determine the approach to use—i.e., the current approach of a set number applicable to all manufacturers, a percentage approach, or some other approach selected by DOT. In addition, the impact of fuel economy levels on highway safety is added as a factor for DOT to consider. The role of the Secretary of Energy in commenting on fuel economy issues is enhanced. Propane-fueled vehicles are added to the list of those for which manufacturers receive a CAFE credit. The Secretary of Transportation is also directed to determine an appropriate credit for electric vehicles.

Subtitle D—Miscellaneous

Section 236—Employer-Provided Mass Transit Benefits

Raises from $15.00 to $75.00 the monthly employer-provided mass transit benefit which is not subject to federal income tax.

Section 237—Scrapping Of Older Less Fuel Efficient Vehicles

Requires DOE, in consultation with DOT, to provide guidance to the States on setting up programs to encourage the scrappage of older, less fuel efficient vehicles. Requires EPA and DOE to do a rulemaking on providing Clean Air Act credits to firms which operate old car scrapping programs.

Section 238—Unnecessary Use of Premium Gasoline

Requires DOE, in consultation with EPA, to carry out a study to determine whether consumers use automotive fuel with an octane rating higher than the rating needed to operate their vehicles. If DOE determines that there is such excess use, DOE/EPA would, with the FTC, etablish by rule a label of gasoline pumps and other appropriate consumer education to reduce such excess use.

Section 239—Conservation Requirements For Large Employers in Urban Areas

Extend Clean Air Act mandates for employers of 100 or more in severe ozone nonattainment areas to reduce vehicle miles travelled (VMT) and commuting trips, etc., to such employers in all areas with a 1980 population in excess of 250,000.

Section 240—Alternative Fuel Use Goal

Establish federal policy of having at least 10 percent of the nation's vehicle transportation needs derived from domestic non-petroleum fuels by the year 2000. Require DOE to determine by 6-30-94 whether that level will be achieved by that deadline under current law (Clean Air amendments, new energy law, etc.). If DOE determines that the level will not be achieved, DOE is required to take reasonable steps to make certain that this level will be achieved and report to Congress on additional steps to meet this goal.

Section 241—Electric Vehicle Research and Development

Requires DOE to establish an electric vehicle research and demonstration grant program. Under this program, DOE would provide $20 million over two years to fund joint venture demonstrations on a 50/50 cost share basis to develop electric vehicle infrastructure.

Section 242—Vehicular Natural Gas

Amends the Natural Gas Act to clarify that the interstate movement of a vehicle fueled with compressed natural gas will not subject a utility which sold the natural gas to such an interstate vehicle to regulation by FERC.

Section 243—Use Of MMT in Unleaded Gasoline

Require EPA to approve MMT as an oil-saving fuel additive.

TITLE III—RENEWABLE ENERGY

Subtitle A—PURPA Size Cap and Co-Firing Reform

Section 301—PURPA Size Cap and Co-firing Reform

Lifts the size cap off solar, wind, waste, geothermal, biomass, and hydroelectric powerplants contingent upon the State of the purchasing utility determining the price of such power by competitive bidding.

Also permits natural gas to provide up to 50 percent of emergency backup power for such renewable energy powerplants contingent upon the State of the purchasing utility determining the price of such power by competitive bidding.

Subtitle B—Hydroelectric Power Regulatory Reform

Section 311—Amendments To The Federal Power Act On Hydroelectric Licensing

Streamlines FERC hydroelectric licensing procedure and eliminates FERC jurisdiction over five megawatt or less hydroelectric facilities.

Subtitle C—Credit For Electricity Generated Using Solar, Wind, Or Geothermal Energy

Section 321—Tax Credit For Electricity Generated Using Solar, Wind, Or Geothermal Energy.

Option of one year extension of existing solar and geothermal 10 percent investment tax credit on year you place in service or 2.5 cent kilowatthour tax credit for electricity generated by solar, wind, or geothermal energy for first five years after enactment and 1 cent kilowatthour tax credit for such electricity for two more years, for a total of seven years.

Subtitle D—Study of Tax and Rate Treatment

Section 331—Study of Tax and Rate Treatment For Renewable Energy Projects

Requires DOE, in conjunction with State utility regulators, to study tax and rate treatment of renewable energy projects.

Subtitle E—Energy Recovery From Waste

Section 341—Encourage Energy Conservation Through Energy Recovery From Waste

Requires each Federal agency to pursue energy recovery from the burning of high-BTU secondary materials as a substitute for conventional fossil fuels.

TITLE IV—GENERATION OF ELECTRICITY

Subtitle A—Public Utility Holding Company Act Reform

Section 401—Public Utility Holding Company Act Reform

Exempts certain electric power generators from the Public Utility Holding Company Act (PUHCA) in order to increase competition. Also contains consumer protections against utility self dealing and cross subsidies and codifies existing Federal/State jurisdiction over purchases of electricity.

Subtitle B—Miscellaneous

Section 411—Compliance with Least-Cost Planning

Authorizes FERC to require purchasing utility self certification of compliance with least-cost planning or if no such plan exists, of conformance with avoided cost.

Section 412—Electronic Switching Research

Authorizes $500,000 for the research and development of electronic equipment and computer software designed to increase the speed and responsiveness of electric transmission switching and control systems.

Section 413—Reliability Council Study

Requires DOE to study legislative and regulatory reforms which could be implemented to provide greater and more reliable electric transmission transfer capability within and between the reliability councils of the North American Electric Reliability Council.

TITLE V—NATURAL GAS REGULATORY REFORM

Section 501—Expediting Pipeline Certification Rules

Requires the Federal Energy Regulatory Commission, within 12 months of enactment, to issue regulations to expedite the administrative procedures used to consider applications under section 7 of the Natural Gas Act.

Section 502—NEPA Compliance

The environmental impact statement prepared by the Federal Energy Regulatory Commission is the only EIS required for natural gas facilities.

Section 503—Amendment To NGPA Section 311

Amends section 311 of the Natural Gas Policy Act of 1978 to make it clear that transportation of natural gas can be performed on behalf of any person as well as other pipelines and local distribution companies. In addition, this section expressly authorizes construction of facilities incidental to the provision of transportation service under section 311.

Section 504—Optional Certificate Producers

Provides a process by which an applicant who elects not to put the costs of the proposed project in the rate base may obtain approval on a faster timetable.

Section 505—Nonjurisdictional Option

Provides a basis to construct a project without prior approval if the sponsor gives up the benefits of doing so as a regulated natural gas company.,

Section 506—Natural Gas Act Rehearing Time Limits

Requires FERC to take action on rehearing petitions within 60 days, unless an extension is granted, but no later than 90 days after the petition is filed.

Section 507—Utilization Of Rulemaking Procedures

Make it clear that FERC can use rulemaking procedures as well as adjudicatory processes to consider and act on natural gas projects.

Section 508—Certificate Not Required For Replacement Facilities

States that the replacement or repair of certain natural gas facilities may proceed without prior FERC approval.

Section 509—Unopposed Projects

Requires approval of natural gas projects as to which no objection is made.

Section 510—Procedures For Priority Natural Gas Facilities

Establishes procedures by which the Secretary of Energy or the Chairman of FERC may designate priority natural gas projects for expedited consideration.

TITLE VI—OIL AND GAS PRODUCTION

Subtitle A—Arctic Coastal Plain Domestic Energy Leasing

Sections 601-607—Arctic National Wildlife Refuge (ANWR)

Directs the Secretary of the Interior to lease the Coastal Plain of the Arctic National Wildlife Refuge (ANWR) with appropriate environmental and other terms and conditions.

Subtitle B—Tax Incentives For Oil and Natural Gas Exploration and Production

Part I—National energy security tax credits

Section 611—Crude Oil And Natural Gas Exploration Credit

Provides a 15 percent tax credit for qualified expenditures incurred in drilling exploratory oil and gas wells. The credit would apply against the regular and the alternative minimum tax.

Section 612—Marginal Production Credit

Provide a 15 percent tax credit for the costs of operating marginal wells. Marginal wells include stripper wells (10 barrels or less per day), heavy oil wells, and "harsh environment" oil (Alaska and deep offshore).

Part II—Additional exploration and production incentives

Section 621—Intangible Drilling Costs Include Geological, Geophysical, and Surface Casing Costs

Provide for the expensing of geological, geophysical, and surface casing costs.

Section 622—Repeal Of Taxable Income Limitation On Percentage Depletion

Repeal the 65 percent of taxpayer of income limitation on sustainable depletion.

Section 623—Internal Revenue Code Definition Of Tar Sands

Replace out-dated definition of tar sands production to qualify for section 29 credit for fuels produced form non-conventional sources.

Part III—Amendments to the alternative minimum tax

Section 631—Amendments To Alternative Minimum Tax (AMT)

Eliminate intangible drilling costs and percentage depletion as preference items under the Alternative Minimum Tax.

Part IV—Miscellaneous tax and administrative amendments

Section 641—Repeal Of Revenue Ruling 877-176

Repeal IRS Revenue Ruling 77-176 relating to "demand" income resulting from certain farm-out agreements where oil and gas acreage is earned outside the drill site.

Subtitle D—Oil Pipeline Deregulation

Sections 661-666—Oil pipeline deregulation

Lift economic regulation on common carrier oil pipeline in competitive markets as proposed by the President.

Subtitle E—Leasing of Naval Petroleum Reserve

Sections 671-679—Naval Petroleum Reserve Leasing

Authorizes the President to lease Naval Petroleum Reserve Number 1 located at Elk Hills, California, if the President determines that the reserve is not needed for national defense purposes.

Subtitle F—OCS Local Impact Assistance

Sections 681-685—Local Impact Assistance In New OCS Development Areas

Establish an OCS impact assistance fund and program for local communities with new OCS oil or natural gas development off their coastlines.

Subtitle G—Western Hemisphere Energy Policy

Section 691—Western Hemisphere Energy Policy

Declares U.S. policy to be to focus attention in trade negotiations on the desirability of investment policies that expand production capacity and diversity of oil suppliers to the United States and requires an annual report thereon.

TITLE VII—COAL AND COAL TECHNOLOGY

Section 701—Coal Research, Development and Demonstration Program

Authorizes a research, development and demonstration program for advanced coal-based technologies that are capable of controlling sulphur oxides and nitrogen oxides at levels greater than commercially available at the present time.

Section 707—Restoration of Investment Tax Credit For Pollution Devices

Restores the investment tax credit (repealed in 1986) for pollution control equipment, but limits it to equipment installed pursuant to the Clean Air Act Amendments of 1990.

TITLE VIII—NUCLEAR POWER

Section 801—Nuclear Power Plant Standardization and Licensing Reform

Encourages the development and use of pre-approved standardized designs for nuclear powerplants and streamlines the nuclear powerplant licensing process. Provides for a second hearing, legislative rather than adjudicatory, prior to plant operation.

Section 821—Amendment of PUHCA

Amends the Public Utility Holding Company Act to allow utilities with superior nuclear operating histories to form subsidiaries to operate, on a contract basis, nuclear powerplants owned by other utilities.

Section 831—Fast Flux Test Facility

Establishes Hanford's Fast Flux Test Facility as an international research and development center which will produce industrial and medical isotopes, provide irradiation services, and produce steam for power production or other purposes. Authorizes DOE to charge non-Federal customers for use of the plant. A study by the State of Washington and Westinghouse estimates potential revenues of $164 million per year to the Federal Treasury by the year 2000.

Mr. SCHAEFER. Mr. Speaker, today, I am joined by many of my colleagues on the Energy and Commerce Committee and the full House in sponsoring the Comprehensive Energy Policy Act. For those of us who have long stressed the need for a national energy plan, it is an occasion as welcome as it is overdue.

A comprehensive energy strategy must be an action, not a reaction. It should be the result of careful planning and the thorough study of many alternatives, focusing on their collective impact on energy security, the environment and the economy. It should serve as a blueprint for the future, preparing for, rather than responding to, the challenges of tomorrow. But most importantly, a successful strategy must rely on industry, Government, science and the American people to share in the responsibility of bringing about national energy security.

The legislation we are introducing today meets each of these important criteria. And it does so by encouraging the American ingenuity and spirit of enterprise so prevalent in a market not overburdened with Government regulation. As we've proven so many times in the past, incentives—not controls—are the way to produce desired results.

That was certainly the message of the President's recently released national energy strategy. The administration should be commended for putting the NES together, providing the Congress with the framework on which to build a sound energy policy. It is our role to take advantage of the momentum the White House has created, incorporating many of our priorities into a final energy package. That is the goal of H.R. 1543.

As with any comprehensive legislation of this magnitude, there are elements which I support without hesitation and provisions that warrant further thought. The issue of Public Utility Holding Company Act Reform, for example, must be thoroughly examined for its actual impact on the electric ratepayer. As a package, however, H.R. 1543 is unquestionably a positive step toward an America far less dependent on foreign—and too often unstable—sources of energy.

As a member of the Energy and Commerce Committee, I look forward to considering the critical issue of energy security in great detail. H.R. 1543 highlights many of my priorities, expecially its positive impact on oil and gas production in the Lower 48 States. I encourage its adoption.

Mr. LEWIS of California. Mr. Speaker, as chairman of the Republican leader's energy task force, I am pleased that the task force has today released its omnibus legislative package. The 19 member task force, established by the Republican leader Mr. Michel, represents several committees of the House and all regions of the country.

H.R. 1543, the Comprehensive Energy Policy Act of 1991 results from 6 months of study and research. It is an innovative package encouraging conservation, greater use of alternative fuels, and expanded use of renewable energy resources. The bill sets the direction for a balanced approach to environmentally sound and efficient use of U.S. energy resources.

At the Republicans' annual issues-retreat in Princeton the Republican conference recently discussed the need to encourage more energy conservation, increase production of domestic energy resources and diversify foreign sources of supply. The proposed package encompasses all these elements of a long-term energy policy. It builds on the bill introduced by the Republicans on the Energy and Commerce Committee last September, and the President's national energy strategy released at the end of February. The bill encourages conservation and efficiency in the electricity and transportation sectors. It takes an innovative approach to renewable energy resources and encourages the sound and safe use of our nuclear and coal resources. It will allow expedited approval of natural gas pipeline projects. The bill also encourages production of domestic oil and gas resources.

Much of what we can do is to get outdated restrictions out of the way of individuals, businesses and local and State government. If we won't rely on the ingenuity of these sectors—where real improvements have occurred during the 1980's—then we will be taking a step backwards.

The Persian Gulf war focused heightened attention on U.S. energy policy. The Congress has a window of opportunity to act on energy policy. House Republicans and the administration are making oral proposals that deserve open and urgent debate in the house. The Congress has a window of opportunity, a responsibility to act and to leap over the constraints of business as usual.

The formulation of a national energy policy will be one of the most difficult tasks we face in the 102d Congress and our task force has already asked the Democratic leadership to expedite procedures for consideration of omnibus energy legislation.

President Bush has an energy package on the table. House Republicans have an energy package on the table. House Democrats have nothing on the table. Unfortunately, around here it is their table.

During the recent crisis in the gulf, the executive branch showed that it could move quickly and wisely. Now it is Congress' turn to show the country that we can move quickly and wisely, too.

LEAVE OUR PEANUT PROGRAM ALONE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. RAY] is recognized for 5 minutes.

Mr. RAY. Mr. Speaker, I have taken out this special order to bring to the attention of the Members of this House a very serious problem facing our agricultural sector.

On Friday, March 15, the International Trade Commission voted on a proposal to increase the allotment of peanuts being imported into this country by an additional 300 million pounds. The vote, taken by four ITC Commissioners, was not unanimous. All of the Commissioners based their findings on data provided by the U.S. Department of Agriculture. Two Commissioners recommended that the current import quota on peanuts be immediately raised to 300 million pounds for a period ending on July 31 of this year. The Acting chairman recommended an indefinite suspension of the import quota. However one Commissioner after reviewing the same set of data, said,

> The U.S. Department of Agriculture did not pursue the clear statutory route provided for emergency action on this quota, nor did it recommend an increase in this investigation. I am unpersuaded that there is a shortage of peanuts sufficient to warrant any action on current quota levels.

Mr. Speaker, this morning I, along with my colleagues Congressman LINDSAY THOMAS and Congressman CHARLES HATCHER, visited our new Secretary in the U.S. Department of Agriculture, Secretary Ed Madigan. According to the ITC Commissioners one might expect the Secretary to be an advocate of increased peanut importation. Nothing could be further from the truth. Secretary Madigan clearly understands the peanut industry, and the adverse effect that importation at this time in the growing season will have. Toying with the Peanut Program will have very serious, negative implications for the American peanut producers and the American taxpayer. The Peanut Program, which operates at virtually no cost to taxpayers, is one of the most efficient, well-crafted farm programs we have. Moreover, there is no indication that there is a shortage of peanuts in the United States. Importing foreign peanuts into the United States, especially in mid-season, disrupts the delicate planting and contracting balance upon which the livelihood of our producers depends. The mere mention of an importation of this magnitude at this date has brought contracting to a standstill. In addition, importing peanuts from such areas as China will significantly increase the risk of infecting American peanuts with stripe virus. If infected peanuts were to enter the U.S. seed market, yields could be reduced by as much as 20 percent. American peanut farmers have worked too hard, and invested too much of their time, their money, and their expertise to have an ill-conceived recommendation by the International Trade Commission destroy their business.

Mr. Speaker, we cannot stand by and watch a sound American business be destroyed. The American peanut producers, processors, consumers and taxpayers have a stake in preserving the Peanut Program. The policy recommended by the International Trade Commission has the potential to cost taxpayers thousands of dollars, and if the reaction to the proposed recommendation is any indication, implementation of the ITC's proposal will have a severe impact on the American peanut industry.

Mr. Speaker, I urge the President to disregard this misguided recommendation and leave our Peanut Program alone.

INTRODUCTION OF THE 1991 AGRICULTURE DISASTER ASSISTANCE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, today I am introducing legislation to provide much needed assistance to farmers and others in agriculture-related industries who have suffered severe losses due to the consecutive disasters farmers have been recently faced with. Representatives CONDIT, DOOLEY, FAZIO, HERGER, and RICK LEHMAN and I have together formed a comprehensive bill which addresses the unique needs of California farmers. I would like to take this opportunity to thank these Members for their assistance in this collaborative effort. The bill I am introducing, the Agriculture Disaster Assistance Act of 1991, will help to fill a void in Federal assistance programs currently helping those in need in California, and provide a means to help our farmers, their families, and their communities get back on their feet.

Nearly every American has been made aware of the 1989 Loma Prieta Earthquake, the 1990 December freeze, and now the fact that California is facing its fifth year of drought. Media coverage has most recently switched from its coverage of the freeze to the seriousness of the drought. Much of this new attention is focused on blaming farmers for hoarding precious water away from municipalities. However, the majority of farmers have been working hard to conserve water and do their part in this crisis. Unfortunately, the various drought relief bills that have recently been introduced leave out our Nation's farmers once again. Farmers in over half of California's counties have been left hurting, and although I have introduced agriculture disaster assistance legislation before, my colleagues and I are trying to meet the additional needs of our farmers.

On February 11, the President determined that the damage in 31 California counties, which resulted from the December 19, 1990, through January 3, 1991, freeze, warranted a major disaster declaration. The total estimated losses to this date for these counties is over $852 million. Unemployment and food and nutrition assistance has been directed by the President, and Farmers Home Administration [FmHA] and the Small Business Administration have low-interest emergency loan programs to provide assistance as well. The only assistance program available to farmers are FmHA emergency loans. The way these loans stand now, it is hard to call them "assistance," as there are several serious problems with these not only in California, but throughout the Nation.

Legislation is sorely needed for the severe damage and loss caused by the freeze and the continuing drought. The request of a Presidential disaster declaration for the hardships farmers face because of the drought has not been initiated by the Governor of California at this time. However, this does not mean help is not needed or that we should put off legislation to expand and reauthorize disaster assistance programs to prepare for a possible declaration.

The bill I am introducing provides extended needs for various types of farmers and agriculture-related operations. Three provisions amend the Food, Agriculture, Conservation, and Trade Act of 1990. The first of these provisions amends the disaster coverage of Valencia oranges so that oranges considered as 1990 crops would be covered as such even though part of the damage was done to the trees and fruit in January 1991. Valencia oranges go across calendar years and so cannot be covered if they are included as a 1990 crop affected strictly by a 1990 disaster. Citrus growers experienced some of the heaviest damage of all California crops.

The second provision amends the list of crops considered "nonprogram" to include food and nonfood crops grown in nurseries. Nurseries suffered severe damage in the freeze, and the status of these important agriculture commodities has been vague in the recent wave of disasters California has experienced.

The third provision amends the amount of assistance given to orchardists to include tree rehabilitation. Tree restoration is extremely valuable when you consider the expense of replanting. If trees cannot be rehabilitated, it often means the orchardists must start their groves from scratch, which in previous natural disasters has led many to bankruptcy.

Another key provision in amending the Farm, Agriculture, Conservation, and Trade Act of 1990 is the expansion of the existing emergency grant program to assist low-income farmworkers. Currently, the farm bill provides up to $20 million to public agencies and nonprofit organizations to provide assistance grants to migrant workers. My bill provides for an additional $10 million and an expansion to include permanent farmworkers and packinghouse laborers in areas declared as emergencies. This provision would help to insure that the Government not only helps the farmers and businesses, but takes care to address the needs of those who have a harder time securing their livelihood outside of farm-related labor.

Rural businesses are another victim of disasters and my bill amends the Disaster Assistance Act of 1989 to include the effective year of eligibility for disasters to include 1989, 1990, or 1991. So often in a disaster when a farming community collapses due to farm foreclosures and agriculture-related business failures, the remaining businesses are hurt as well. This provision would enable rural businesses to recover losses and help rebuild the community.

Drought-related assistance for farmers has been a point of contention among my colleagues. However, my district relies almost exclusively on groundwater wells for its water supply. A lot of the wells are experiencing salt water intrusion and can be of no use to either farmers or municipalities. Conservation measures have been developed and new wells are being dug as often as is fiscally feasible. While some areas of California are green and plush because of the particular water availability in those areas many of our districts are simply running dry with no help in sight. My bill establishes a revolving drought relief fund so that the Secretary of Agriculture, if he designates an area as drought stricken, can assist such producers to plan and carry out projects to improve water availability. As it is only my intent to supply water to those who truly need it, the Secretary shall be in charge of this fund and deem appropriate interest rates for any loans granted.

The Federal Crop Insurance Act of 1980 was enacted with the objective of permanently replacing direct disaster payments. Assurance of crop coverage is the primary and key factor concerning how farmers decide whether or not to purchase crop insurance. Federal crop insurance has always been interpreted by agents, growers, and lenders that they would be covered if the water supply failed after the insurance policy attached. Crop insurance policy also states that the Federal Crop Insurance Corporation [FCIC] will cover uncontrollable events that happen within the insurance period. A recent bulletin by the Federal Crop Insurance Corporation has indicated very differently.

The February 12 bulletin, in essence, states that California growers who purchased crop insurance will not be covered for failure of the irrigation water supply in 1991, since the announced reduction of water supplies in the State was not defined as a failure of the irrigation water supply. This is an outrage and a radical departure from current interpretation and practices of Federal crop insurance. The FCIC is completely responsible and obligated to provide coverage for those farmers who purchased crop insurance for the current crop year and fulfilled all policy requirements.

I have included a provision in the bill to ensure that those who purchased crop insurance will be covered should their irrigation supply fail for the designated policy year. This is a gross inequity being handed to the farmers of California by the FCIC. The Federal Crop Insurance Corporation must know that it cannot renege on its responsibilities and obligations to its policyholders.

The waiver and the extension of the crop insurance requirement under the Consolidated Farm and Rural Development Act for those who suffered extensive damage to an annual crop planted for harvest in 1991 is another important provision in my bill. Not only does it provide for the waiver of insurance, but also extends the Federal Crop Insurance multiperil purchase deadline date for citrus crops so they are better able to qualify for emergency assistance programs. Only around 10 percent of California growers had purchased crop insurance prior to the freeze. To ignore this number would simply leave too many growers, their families, laborers, businesses, and communities in serious hardship.

One of the largest problems with disaster assistance loans for farmers across the country, and especially with family farms in California, has been that of Farmers Home Administration [FmHA] emergency loans. For 10 years, not one farmer in my district or the three counties surrounding it has qualified for a FmHA emergency loan. My district was one of the hardest hit from the 1989 Loma Prieta earthquake, and family farmers were among the largest group affected. Still, they did not qualify. My district is in the same situation with the freeze. Crop damage alone was over $35 million and family farmers are again not qualifying. I do not want this situation to happen yet another time if there is a drought disaster declaration. In order to insure that farmers hit by the freeze are able to qualify for FmHA emergency loan provision amendments in my bill, I have allowed for a grandfather clause of February 11, 1991, the day of the Presidential disaster declaration for the freeze.

My bill contains amendments to the Consolidated Farm and Rural Development Act to provide for an expansion of eligibility of FmHA emergency loans. The first amendment is to clear up any confusion on the labor requirements for what constitutes a family farm under the act. Although much of the decision to determine eligibility of a family farm is left up to a FmHA local country committee, the regulations state that two outside full-time employees should be seen as a base guideline for determining what constitutes a family farm. I have extended this to four, as most family farms in California have at least four full-time outside employees due to the many labor intensive crops grown. Another qualification requirement is that the applicant of the loan must manage his or her farm. Unfortunately, again, due to the labor intensive crops in much of California, an outside manager is not uncommon for family farms. I have extended the eligibility so that the applicant can jointly manage his or her farm.

The last provision would amend the act so that applicants are not required to sell their nonessential assets prior to being approved for a loan. Currently, the FmHA loan process takes 60 to 90 days. This amendment would eliminate any unnecessary sale of an asset prior to qualifying for a loan and the time involved in the sale. These farmers are already facing the loss of their farms and should not have to lose their dignity as well. I feel there is room for a little compassion in this situation. However, if the farmer fails to make a payment on the loan, FmHA should be able to sell his or her nonessential assets.

Mr. Speaker, most of the farmers in my district do not benefit from Federal price supports and subsidies. They have never asked for Government support in the past, and I sincerely doubt they would seek it today if it were not really needed. Natural disasters are in themselves a painful event for the people involved. Expanding the law to address the unique needs of today's farmers is sorely needed to help the agriculture industry and all those affected by it.

I urge my colleagues to join me in supporting the Agriculture Disaster Assistance Act of 1991. The text of the legislation is as follows:

H.R. 1550

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as "Agricultural Disaster Assistance Act of 1991".

TITLE I—DISASTER ASSISTANCE

SEC. 101. COVERAGE OF VALENCIA ORANGES DAMAGED IN 1990.

Section 2244 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421 note) is amended by adding at the end the following new subsection:

"(e) SPECIAL RULE FOR VALENCIA ORANGES.—For purposes of this section, the 1990 crop of valencia oranges shall include any crop of valencia oranges, regardless of the year in which those oranges would be harvested, that was destroyed or damaged by damaging weather or related condition in 1990.".

SEC. 102. NONPROGRAM CROPS TO INCLUDE NURSERY GROWN CROPS.

Section 2244(d)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421 note) is amended by striking "and sweet potatoes" and inserting ", sweet potatoes, and food and nonfood crops while grown in nurseries".

SEC. 103. EMERGENCY CROP LOSS ASSISTANCE FOR ORCHARDISTS.

(a) Rehabilitation Expenses Covered.—Section 2256(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421 note) is amended by inserting after "replanting trees lost" the following: "and rehabilitating or restoring trees damaged".

(b) Limitation on Assistance.—Section 2257(a) of such Act is amended by striking "$25,000" and inserting "$75,000".

SEC. 104. APPLICATION FOR ASSISTANCE.

(a) Producers Affected by Amendments.—In the cast of agricultural producers who are affected by the amendments made by this title, the Secretary of Agriculture shall allow those producers to submit applications for initial or additional assistance under chapter 3 of subtitle B of title XXII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421 note) until the later of—

(1) the date established by the Secretary under section 2267(a) of such Act for final submission of applications; and

(2) the end of the 60-day period beginning on the date of the enactment of this Act.

(b) Notice of Determination.—Not later than 60 days after the date on which the Secretary receives an application for assistance under subsection (a), the Secretary shall inform the producer submitting the application of the Secretary's determination with regard to the application.

TITLE II—CROP INSURANCE

SEC. 201. CROP LOSSES RESULTING FROM A FAILURE OF THE IRRIGATION WATER SUPPLY.

The Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) is amended by inserting after section 508A the following new section:

"SEC. 508B. FAILURE OF IRRIGATION WATER SUPPLY.

"In the case of acreage irrigated for at least three out of the previous five crop years, the Corporation may not reject a claim (or any portion of a claim) under a multiperil crop insurance policy provided to a producer under this Act on the grounds that the losses occurred as a result of a failure of the irrigation water supply or that the producer failed to follow good irrigation practices with respect to that acreage, if—

"(1) on the date that the insurance attached—

"(A) in the case of a producer receiving irrigation water through an irrigation district, the producer had not been officially notified by the irrigation district that the producer would not be allocated adequate water to irrigate that acreage; or

"(B) in the case of a producer receiving irrigation water from wells under the control of the producer, the wells were capable of pumping at normal capacity; and

"(2) the producer made all reasonable efforts to prevent and limit damage to the insured crop caused by a subsequent reduction in water allocation by the irrigation district or by a drop in the water table that adversely affected the producer's wells.".

SEC. 202. WAIVER OF AVAILABILITY OF CROP INSURANCE AS A CONDITION ON ELIGIBILITY FOR EMERGENCY LOANS.

Section 321(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(b)) shall not apply to persons who otherwise would be eligible for an emergency loan under subtitle C of such Act, if such eligibility is the result of damage to an annual crop planted for harvest in 1991.

SEC. 203. EXTENSION OF DEADLINE FOR PURCHASE OF CROP INSURANCE FOR CITRUS CROPS.

(a) Extension.—In the case of producers of citrus crops who failed to purchase multiperil crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) for those crops before the November 30, 1990, deadline for the insurance period that began on December 1, 1990, the Secretary of Agriculture shall provide those producers with an additional opportunity to purchase that insurance during the 60-day period beginning on the date of the enactment of this Act.

(b) Effect of Purchase.—The purchase of multiperil crop insurance for a citrus crop pursuant to subsection (a) shall be considered to satisfy the purchase requirement specified in section 2247(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421 note) for purposes of eligibility for the assistance programs specified in that section.

TITLE III—EMERGENCY LOANS

SEC. 301. REAUTHORIZATION OF DISASTER ASSISTANCE FOR RURAL BUSINESS ENTERPRISES.

(a) Reauthorization.—Section 401(a) of the Disaster Assistance Act of 1989 (7 U.S.C. 1929a note) is amended—

(1) by striking "the drought" in paragraph (1) and inserting "drought"; and

(2) by striking "or 1989" both places it appears and inserting ", 1989, 1990, or 1991".

(b) Rulemaking.—In implementing the amendments made by subsection (a), the Secretary of Agriculture may waive any comment period required by section 553(c) of title 5, United States Code.

SEC. 302. LOANS FOR WATER DEVELOPMENT PROJECTS.

(a) Establishment of Revolving Fund.—There is hereby established in the Treasury of the United States a revolving fund to be known as the "Drought Relief Fund", hereinafter in this section referred to as the "Fund". The Fund shall consist of—

(1) such amounts as may be appropriated to the Fund;

(2) interest from, and repayments of, loans made under subsection (b)(1); and

(3) interest from investments made under subsection (c).

(b) Use of Fund.—(1) The Secretary of Agriculture shall make loans, in such aggregate amount as is provided in advance in appropriation Acts, from the Fund to agricultural producers in areas designated by the Secretary as drought stricken to assist such producers to plan and carry out projects to improve water availability and use on the farms of such producers. Projects assisted under this section may include projects to drill wells to increase water availability for agricultural use.

(2) For each area designated as drought stricken, loans made under this section shall bear interest at a rate determined by the Secretary, but not to exceed the average rate charged in the area by commercial establishments for similar loans.

(c) Investments.—The Secretary of the Treasury may invest in obligations issued or guaranteed by the United States any monies in the Fund that the Secretary of Agriculture determines are not currently needed to make loans under this section.

SEC. 303. CLARIFICATION OF MEANING OF FAMILY FARM FOR PURPOSES OF FMHA EMERGENCY LOANS.

(a) In General.—Section 322 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1962) is amended by adding at the end the following:

"(c) The farm of an applicant under this subtitle who is described in section 321(a)(1) shall not be treated as larger than a family farm solely because the farm meets 1 or more of the following:

"(1) The farm is jointly managed by the applicant and an employee of the applicant.

"(2) The farm uses 4 or less individuals for labor on the farm at all times.".

(a) Effective Date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to applications submitted on or after February 11, 1991.

SEC. 304. LIMITATION ON AUTHORITY TO REQUIRE FARMERS RECEIVING EMERGENCY LOANS FROM FMHA TO SELL ASSETS NOT ESSENTIAL TO OPERATE THE FARM.

(a) Section 324(d) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1964(d)) is amended by adding at the end of the following: "The Secretary may not require a borrower to whom a loan has been made under this subtitle to sell any asset that is not essential to the operation of the borrower's farm unless the borrower has failed to make a payment due on the loan.".

SEC. 305. EMERGENCY GRANTS TO ASSIST LOW-INCOME FARMWORKERS AND PACKINGHOUSE WORKERS.

(a) Expansion of Program.—Section 2281 of the Food, Agriculture, Conservation, and Trade Act of 1990 (42 U.S.C. 5177a) is amended—

(1) by inserting ", permanent," after "migrant" each place it appears;

(2) in subsection (a)—

(A) by striking "$20,000,000" and inserting "$30,000,000"; and

(B) by inserting the period at the end of the second sentence and inserting ", including assistance for the payment of housing costs."; and (3) in subsection (b)—

(A) by inserting "(including a packinghouse worker)" after "an individual"; and

(B) by inserting "or packinghouse work" after "farm work" both places it appears.

(b) Clerical Amendments.—(1) The section heading of such section is amended to read as follows:

"SEC. 2281. EMERGENCY GRANTS TO ASSIST LOW-INCOME FARMWORERS AND PACKINGHOUSE WORKERS.".

(2) The item relating to such section in the table of contents at the beginning of such Act is amended to read as follows:

"Sec. 2281. Emergency grants to assist low-income farmworkers and packinghouse workers.".

BANK EFFICIENCY ACT HELPS CONSUMERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. Neal] is recognized for 5 minutes.

Mr. NEAL of North Carolina. Mr. Speaker, I have introduced H.R. 1480, the Bank Efficiency Act, to permit banks operating in more than one State to consolidate their operations as branches of their home State bank. Senator Terry Sanford has introduced the same legislation in the other body.

Mr. Speaker, current law prohibits interstate branching. If a bank wishes to expand into another State, it must establish a wholly separate institution within that State. The new bank must be separately capitalized and regulated, with a redundant corporate structure at every level.

H.R. 1480 would not permit banks to enter States where interstate banking is prohibited, but would help multistate banking organizations streamline their operations, saving hundreds of millions of dollars. Spreading risk geographically would improve the safety and soundness of the banking system, and would help build capital by permitting greater efficiencies. Perhaps most importantly, a safer, more efficient banking system would provide consumers banking services at a lower cost.

Like the Treasury proposal on bank restructuring, Mr. Speaker, H.R. 1480 would allow banks to branch in States where they are permitted to operate. In recent testimony before the House Banking Committee, Treasury Secretary Brady said that "authorizing nationwide banking and branching * * * will make banks safer through diversification and more efficient through substantially reduced operating costs."

Likewise, the General Accounting Office [GAO], in its March 4, 1991, report, "Deposit Insurance, a Strategy for Reform" noted that:

> Restrictions on interstate banking make it harder for well-capitalized, well-managed banking organizations to diversify and meet customer needs. Improved diversification * * * should reduce FDIC's exposure to deposit insurance losses.

FDIC Chairman Bill Seidman, Comptroller of the Currency Bob Clarke, Federal Reserve Chairman Alan Greenspan and Securities and Exchange Commission Chairman Richard Breeden have all indicated their support for expanded interstate banking.

Mr. Speaker, interstate banking is good for consumers. By lowering the cost of doing business, banks would be able to offer lower interest rates to borrowers or reduced fees for transactions. Greater efficiency should also improve profitability and increase capital, lessening the likelihood of a taxpayer bailout. Consumers transacting business could do so more quickly and easily, with immediate access to their funds over broader geographic areas. H.R. 1480 would in no way permit banks to escape their responsibilities under the Community Reinvestment Act [CRA].

There is no conclusive evidence that interstate banking would force smaller banks out of business or siphon deposits out of local communities. Indeed, the GAO report concludes that despite the competition interstate banking may bring the "evidence appears to be strong that adequately capitalized, well-managed smaller banks are able to compete successfully in markets where larger banks also have a presence." Furthermore, a large interstate bank is not likely to place a branch in a small community where it will not be able to make loans.

Mr. Speaker, our banking laws need to be updated. Advances in transportation and communication technology have made arbitrary geographical barriers to banking obsolete and dangerous. H.R. 1480 represents a modest change that will go a long way toward making the banking industry more efficient and hence safer, sounder, and more beneficial to consumers.

IRVIN "OBIE" OBERMAN RETIRES FROM DOORKEEPER'S OFFICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. HOYER] is recognized for 5 minutes.

Mr. HOYER. Mr. Speaker, I rise today to pay tribute to Irvin "Obie" Oberman, who will soon retire after 35 years here on Capitol Hill.

Obie started working on the Hill in 1954, in the House Post Office, under the sponsorship of Congressman Samuel Friedel of Baltimore. Two years later, on April 5, 1956, he started work for Doorkeeper William "Fishbait" Miller as a House doorman.

Obie worked in most of the galleries around the House Chamber, and then became the Assistant Chief Doorman. He's been a very valuable asset to Chief Doorman Jim Jenkins and Bill Simms, and to the Doorkeeper, Jim Molloy.

As Assistant Chief Doorman, Obie was responsible for planning and organizing many events on the floor of the House, including numerous State of the Union Addresses by the President.

Obie is retiring to spend more time with his wife of 52 years, Frances, his daughter Susan and her husband Joe, his grandchildren Gina, Todd, and Geary, and his great-granddaughter Gabrielle.

Obie and Frances will be retiring to their home city of Baltimore, where he will be involved in local politics as an elections judge.

We will all miss Obie, his sense of humor, assistance, and, most of all, his leadership. Our best wishes and prayers go with him and his family.

HONORING "OBIE" OBERMAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. GILMAN] is recognized for 5 minutes.

Mr. GILMAN. Mr. Speaker, I rise today to pay tribute to Irvin "Obie" Oberman who has announced his retirement from the Doorkeepers office. Obie has been a fixture here on Capitol Hill for 35 years. He started working in the House Post Office in 1954. He changed jobs on April 5, 1956, when he went to work for the Doorkeeper, Fishbait Miller as a doorman. Obie worked in most of the galleries around the House Chamber and then became the Assistant Chief Doorman. He was a valuable asset to Chief Doormen, Jim Jenkins and Bill Simms as well as to the Doorkeeper, Jim Molloy. As Assistant Chief Doorman Obie helped to plan and organize many events on the floor of the House. The most important of which were the President's State of the Union Addresses.

Obie has announced his retirement so that he would be able to spend more time with his lovely wife of 52 years, Frances, his daughter Susan and her husband Joe, his grandchildren Gina, Todd, and Geary and his great-grand daughter Gabrielle. He will be retiring to his home city of Baltimore, MD, where he will be able to pursue his love of local politics.

We will all miss Obie, his sense of humor, his winning assistance, and most of all, his leadership. We all wish him good health and happiness in his retirement. Our best wishes and our prayers go with him and his family.

RULES OF PROCEDURE OF THE JOINT ECONOMIC COMMITTEE FOR THE FIRST SESSION OF THE 102D CONGRESS

(Mr. HAMILTON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. HAMILTON. Mr. Speaker, the Joint Economic Committee held its organizational meeting on March 14, 1991, elected Senator PAUL S. SARBANES as chairman, and adopted committee rules.

I am submitting herewith for the RECORD a copy of the committee's rules, as follows:

RULES OF THE JOINT ECONOMIC COMMITTEE*

RULE 1. The rules of the Senate and House, insofar as they are applicable, shall govern the committee and its subcommittees. The rules of the committee, insofar as they are applicable, shall be the rules of any subcommittee of the committee.*

RULE 2. The meetings of the committee shall be held at such times and in such places as the chairman may designate, or at such times as a quorum of the committee may request in writing, with adequate advance notice provided to all members of the committee. Subcommittee meetings shall not be held when the full committee is meeting. Where these rules require a vote of the members of the committee, polling of members either in writing or by telephone shall not be permitted to substitute for a vote taken at a committee meeting, unless the ranking minority member assents to waiver of this requirement.

RULE 3. Ten members of the committee shall constitute a quorum. A majority of the members of a subcommittee shall constitute a quorum of such subcommittee.

RULE 4. Written or telegraphic proxies of committee members will be received and recorded on any vote taken by the committee, except at the organization meeting at the beginning of each Congress, or for the purpose of creating a quorum.

RULE 5. The chairman may name standing or special subcommittees. Any member of the committee shall have the privilege of sitting with any subcommittee during its hearings or deliberations, and may participate in such hearings or deliberations, but no such member who is not a member of the subcommittee shall vote on any matter before such subcommittee.

RULE 6. The chairmanship and vice chairmanship of the committee shall alternate between the House and the Senate by Congresses. The senior member of the minority party in the House of Congress opposite to that of the chairman shall be the ranking minority member of the committee. In the event the House and Senate are under different party control, the chairman and vice chairman shall represent the majority party in their respective Houses.

RULE 7. Questions as to the order of business and the procedure of the committee shall in the first instance be decided by the chairman, subject always to an appeal to the committee.

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*As amended, originally approved Dec. 6, 1955.

RULE 8. All hearings conducted by the committee or its subcommittees shall be open to the public except where the committee or subcommittee, as the case may be, by a majority vote orders an executive session. Whenever possible, all public hearings shall include some sessions held on the Senate side and some on the House side. House and Senate Members shall alternate in order of seating and interrogation.

RULE 9. So far as practicable all witnesses appearing before the committee shall file advance written statements of their proposed testimony, and their oral testimony shall be limited to brief summaries. Brief insertions of additional germane material will be received for the record, subject to the approval of the chairman.

RULE 10. An accurate stenographic record shall be kept of all testimony and each witness provided with a copy thereof. Witnesses may make changes in testimony for the purpose of correcting grammatical errors, obvious errors of fact, and errors of transcription. Brief supplemental materials when required to clarify the transcript may be inserted in the record subject to the approval of the chairman. Witnesses shall be allowed 3 days within which to correct and return the transcript of their testimony. If not so returned, the clerk may close the record whenever necessary.

RULE 11. Each member of the committee shall be provided with a copy of the hearings transcript for the purpose of correcting errors of transcription and grammar, and clarifying questions or remarks. If another person is authorized by a committee member to make his corrections, the clerk shall be so notified.

Members who have received unanimous consent to submit written questions to witnesses shall be allowed 2 days within which to submit these to the executive director for transmission to the witnesses. The record may be held open for a period not to exceed 1 week awaiting response by witnesses.

RULE 12. Testimony received in executive hearings shall not be released or included in any report without the approval of a majority of the committee.

RULE 13. The chairman shall provide adequate time for questioning of witnesses by all members, and the rule of germaneness shall be enforced in all hearings.

RULE 14. None of the hearings of the committee shall be telecast or broadcast, whether directly or through such devices as recordings, tapes, motion pictures, or other mechanical means, if in conflict with a rule or practice of the House on the side of the Capitol where hearings are being held. If no general rule or practice prevails in regard to such telecasts or broadcasts, none of the hearings of the committee shall be telecast or broadcast unless approved by a majority of the members of the committee.

Telecasts or broadcasts of any such portion of hearings of the committee as may include testimony of a witness, shall not be authorized if such witness objects to such telecast or broadcast: *Provided*, That such witness shall be afforded the opportunity to make such objection, if any, to the committee at a time when the proceedings are not being telecast or broadcast.

RULE 15. No committee report shall be made public or transmitted to the Congress without the approval of a majority of the committee except that when the Congress has adjourned, subcommittees may by majority vote and with the express permission of the full committee submit reports to the full committee and simultaneously release same to the public: *Provided*, That any member of the committee may make a report supplementary to or dissenting from the majority report. Such supplementary or dissenting reports should be as brief as possible. Factual reports by the committee staff may be printed for the distribution to committee members and the public only upon authorization of the chairman of the full committee either with the approval of a majority of the committee or with the consent of the ranking minority member.

RULE 16. No summary of a committee report, prediction of the contents of a report, or statement of conclusions concerning any investigation shall be made by a member of the committee or of the committee staff prior to the issuance of a report of the committee.

RULE 17. There shall be kept a complete record of all committee proceedings and action. The clerk of the committee, or a designated member of the committee staff, shall act as recording secretary of all proceedings before the committee and shall prepare and circulate to all members of the committee the minutes of such proceedings. Minutes circulated will be considered approved unless objection is registered prior to the next committee meeting. The records of the committee shall be open to all members of the committee.

RULE 18. The committee shall have a professional and clerical staff under the supervision of an executive director. The committee shall appoint and remove the executive director with the approval of not less than ten members of the committee. Staff operating procedures shall be determined by the executive director, with the approval of the chairman of the committee, and after notification to the ranking minority member with respect to basic revisions. The executive director, under the general supervision of the chairman, is authorized to deal directly with agencies of the Government and with non-Government groups and individuals on behalf of the committee.

The professional members of the committee staff shall be appointed and removed on the recommendation of the executive director with approval by majority vote of the committee. The professional staff members, including the executive director, shall be persons selected without regard to political affiliations who, as a result of training, experience, and attainments, are exceptionally qualified to analyze and interpret economic developments and programs. The clerical and temporary staff shall be appointed and removed by the executive director with the approval of the chairman, and after notification to the ranking minority member. The committee staff shall serve all members of the committee in an objective, nonpartisan manner. From time to time, upon request, the executive director shall designate individual members of the staff to assist subcommittees, individual committee members, and the minority members. The staff, to the extent possible, shall be organized along functional lines to permit specialization.

RULE 19. Attendance at executive sessions shall be limitd to members of the committee and of the committee staff. Other persons whose presence is requested or consented to by the committee may be admitted to such sessions.

RULE 20. Selection of witnesses for committee hearings shall be made by the committee staff under the direction of the chairman. A list of proposed witnesses shall be submitted to the members of the committee for review sufficiently in advance of the hearings to permit suggestions by the committee members to receive appropriate consideration.

RULE 21. The chairman of the committee shall have the overall responsibility for preparing and carrying out the committee's program, including staff studies, subject to prior approval of each item on the program by a majority of the committee or, alternatively, by the ranking minority member. Prior to and during the transition from one Congress to another, the outgoing committee shall prepare and have ready a plan for the consideration of the President's Economic Report and the preparation of the committee's report thereon in order to meet the March 1 deadline established by Public Law 304 (79th Cong.), as amended. (See historical note at top of p. 14.)

RULE 22. Proposals for amending committee rules shall be sent to all members at least 1 week before final action is taken thereon, unless the amendment is made by unanimous consent. Approval by at least 11 members of the committee shall be required to amend these rules.

RULE 23. The information contained in any books, papers, or documents furnished to the committee by any individual, partnership corporation, or other legal entity shall, upon the request of the individual, partnership, corporation, or entity furnishing the same, be maintained in strict confidence by the members and staff of the committee, except that any such information may be released outside of executive session of the committee if the release thereof is effected in a manner which will not reveal the identity of such individual, partnership, corporation, or entity: *Provided*, That the committee by majority vote may authorize the disclosure of the identity of any such individual, partnership, corporation, or entity in connection with any pending hearing or as a part of a duly authorized report of the committee if such release is deemed essential to the performance of the functions of the committee and is in the public interest.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MANTON (at the request of Mr. GEPHARDT) for today on account of illness in the family.

Mrs. LLOYD (at the request of Mr. GEPHARDT) for today afternoon on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SANTORUM) to revise and extend their remarks and include extraneous material:)

Mr. DORNAN of California, for 5 minutes, today.

Mr. LENT, for 60 minutes, today.

Mr. FAWELL, for 60 minutes, on April 10.

Mr. BALLENGER, for 60 minutes, on April 10.

Mr. REGULA, for 5 minutes, today.

(The following Members (at the request of Mr. PAYNE of Virginia) to revise and extend their remarks and include extraneous material:)

Mr. RAY, for 5 minutes, today.

Mr. ESPY, for 5 minutes, today.

Mr. KLECZKA, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. ROSTENKOWSKI, for 5 minutes, today.

(The following Member (at the request of Mr. GONZALEZ) to revise and extend his remarks and include extraneous material:)

Mr. PANETTA, for 5 minutes, today.

(The following Members (at the request of Mr. DREIER of California) to revise and extend their remarks and include extraneous material:)

Mr. MCEWEN, for 60 minutes, today.

Mr. DREIER of California, for 60 minutes, today.

(The following Member (at the request of Mr. HOYER) to revise and extend his remarks and include extraneous matter:)

Mr. NEAL of North Carolina for 5 minutes, today.

(The following Member (at the request of Mr. RANGEL) to revise and extend his remarks and include extraneous material:)

Mr. REED, for 15 minutes, on tomorrow, March 22.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. STENHOLM, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $3,735.00.

(The following Members (at the request of Mr. SANTORUM) and to include extraneous matter:)

Mr. FIELDS.
Mr. SCHULZE.
Mr. RIGGS.
Mr. ARCHER.
Mr. RINALDO.
Mr. VANDER JAGT.
Mr. LEWIS of California in two instances.
Mr. DICKINSON.
Mr. CRANE.
Mr. HYDE.
Mr. DOOLITTLE.

(The following Members (at the request of Mr. PAYNE of Virginia) and to include extraneous matter:)

Mr. DORGAN of California.
Mr. TRAFICANT.
Mr. ROWLAND.
Mr. SWETT in two instances.
Mr. HAMILTON.
Mr. ROE.
Mr. NEAL of Massachusetts.
Mr. GRAY.
Mr. PAYNE of New Jersey.
Mr. CLEMENT.
Mr. DE LUGO.
Mr. MINETA.
Mr. YATRON.
Mr. SMITH of Florida in four instances.
Mr. VENTO.
Mr. MANTON in two instances.
Mr. DWYER of New Jersey.
Mr. PENNY.
Mr. RANGEL.
Mrs. KENNELLY.
Mr. KLECZKA.
Mr. KOLTER.
Mr. GUARINI.

SENATE CONCURRENT RESOLUTION REFERRED

A concurrent resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. Con. Res. 22. Concurrent resolution extending the appreciation of Congress to all American Indian veterans for their service in the Armed Forces of the United States; to the Committees on Armed Services and Interior and Insular Affairs.

ENROLLED BILL SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 1316. An act to amend chapter 54 of title 5, United States Code, to extend and improve the Performance Management and Recognition System, and for other purposes.

SENATE ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to an enrolled bill and joint resolutions of the Senate of the following titles:

S. 419. An act to amend the Federal Home Loan Bank Act to enable the Resolution Trust Corporation to meet its obligations to depositors and others by the least expensive means;

S.J. Res. 53. Joint resolution to designate April 9, 1991 and April 9, 1992, as "National Former Prisoner of War Recognition Day"; and

S.J. Res. 83. Joint resolution entitled "National Day of Prayer and Thanksgiving."

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ROSE, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, bills and a joint resolution of the House of the following title:

On October 20, 1991:

H.J. Res. 133. Authorizing and requesting the President to designate the second full week in March 1991 as "National Employ the Older Worker Week";

H.R. 1284. To authorize emergency supplemental assistance for Israel for additional costs incurred as a result of the Persian Gulf conflict; and

H.R. 1176. To provide authorizations for supplemental appropriations for fiscal year 1991 for the Department of State and the Agency for International Development for certain emergency costs associated with the Persian Gulf conflict, and for other purposes.

ADJOURNMENT

Mr. RANGEL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 8 minutes p.m.), under its previous order, the House adjourned until tomorrow, Friday, March 22, 1991, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

918. A letter from the Deputy Director for Administration, Central Intelligence Agency, transmitting a report on its activities under the Freedom of Information Act during calendar year 1990, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

919. A letter from the Secretary of Labor, transmitting the first report on compliance by State Prison Industry Enhancement Projects with section 1761(c) of title 18, United States Code, pertaining to prisoner compensation, pursuant to Public Law 101-647, section 2908; to the Committee on the Judiciary.

920. A letter from the Acting General Counsel, Federal Emergency Management Agency, transmitting a draft of proposed legislation to authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974, as amended; to the Committee on Science, Space, and Technology.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. LENT (for himself, Mr. LEWIS of California, Mr. MICHEL, Mr. EDWARDS of Oklahoma, Mr. GINGRICH, Mr. HUNTER, Mr. VANDER JAGT, Mr. ARCHER, Mr. YOUNG of Alaska, Mr. MOORHEAD, Mr. DANNEMEYER, Mr. RITTER, Mr. BLILEY, Mr. FIELDS, Mr. OXLEY, Mr. SCHAEFER, Mr. BARTON of Texas, Mr. CALLAHAN, Mr. MCMILLAN of North Carolina, Mr. HASTERT, Mr. HOLLOWAY, Mr. UPTON, Mr. RHODES, Mrs. VUCANOVICH, Mr. INHOFE, Mr. HANSEN, Mr. MCCRERY, Mr. ZELIFF, Mr. GEKAS, Mr. HOUGHTON, and Mr. THOMAS of California):

H.R. 1543. A bill to encourage cost effective energy conservation and energy efficiency, and to permit the exploration, development, production, purchase, and sale of domestic energy resources to the maximum extent practicable and in a manner consistent with, and in furtherance of, environmental values, and for other purposes; jointly, to the Committees on Energy and Commerce, Ways and

Means, Science, Space, and Technology, Interior and Insular Affairs, Merchant Marine and Fisheries, Public Works and Transportation, and Armed Services.

By Mr. BRUCE (for himself, Mr. COSTELLO, Mr. POSHARD, Mr. INHOFE, Mr. DELLUMS, Mr. WILSON, and Mr. RAHALL):

H.R. 1544. A bill to amend title XIX of the Social Security Act to assure minimum payment adjustments for disproportionate share hospitals; to the Committee on Energy and Commerce.

By Mr. ANTHONY:

H.R. 1545. A bill to amend the Internal Revenue Code of 1986 to prohibit the retroactive application of Treasury Department regulations; to the Committee on Ways and Means.

By Mr. BARNARD:

H.R. 1546. A bill to amend the Congressional Budget Act of 1974 to minimize the impact on State and local governments of unexpected provisions of legislation proposing the imposition of large unfunded costs on such governments, and for other purposes; to the Committee on Rules.

H.R. 1547. A bill to reduce the growing costs imposed on State and local governments by unfunded Federal mandates; jointly, to the Committees on Government Operations, the Judiciary, and Rules.

By Mr. BARRETT:

H.R. 1548. A bill to amend the Wild and Scenic Rivers Act to designate a certain portion of the Niobrara River in the State of Nebraska for study for potential addition to the wild and scenic rivers system; to the Committee on Interior and Insular Affairs.

By Mr. BATEMAN:

H.R. 1549. A bill to amend the Internal Revenue Code of 1986 to allow individuals to transfer separation pay from the Armed Forces into eligible retirement plans; to the Committee on Ways and Means.

By Mr. PANETTA (for himself, Mr. CONDIT, Mr. DOOLEY, Mr. FAZIO, Mr. LEHMAN of California, and Mr. HERGER):

H.R. 1550. A bill to provide certain authorizations to the Secretary of Agriculture to relieve agricultural producers and other persons in the United States who are suffering economic hardship as a result of drought conditions; to the Committee on Agriculture.

By Mr. CLEMENT (for himself, Mr. SLAUGHTER of Virginia, Mr. WYDEN, Mr. BLILEY, Mr. GORDON, Mr. SHUSTER, Mr. OXLEY, Mr. MANTON, Mr. BACCHUS, Mr. LIPINSKI, Mr. JONTZ, Mr. WALSH, Mr. SKELTON, Mr. DE LUGO, Mr. KLUG, Mr. LEWIS of Florida, Mr. JENKINS, Mr. HATCHER, Mr. ZELIFF, Mr. EMERSON, Mrs. MEYERS of Kansas, Mr. NEAL of Massachusetts, Mr. MFUME, Mr. TANNER, Mr. RICHARDSON, Mr. JEFFERSON, Mr. LEACH, Mr. STUMP, Mr. HERGER, Mr. UPTON, Mr. GILMAN, Ms. KAPTUR, and Mr. SANTORUM):

H.R. 1551. A bill to amend the Controlled Substances Act to increase penalties for the distribution of controlled substances at truck stops and rest areas; jointly, to the Committees on Energy and Commerce and the Judiciary.

By Mr. DONNELLY:

H.R. 1552. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for fees for sewer and water services to the extent such fees exceed 1 percent of adjusted gross income, and for other purposes; to the Committee on Ways and Means.

By Mr. DOOLITTLE:

H.R. 1553. A bill to authorize the conveyance of the addition to the Lassen Memorial Hospital in Susanville, CA, and to waive any debt relating to the conveyance owed to the Federal Government by Lassen County, CA; to the Committee on Public Works and Transportation.

By Mr. DORGAN of North Dakota:

H.R. 1554. A bill to amend the Internal Revenue Code of 1986 to deny any deduction for interest incurred on junk bonds used in hostile takeovers, to provide that the deemed sale rules shall apply in the case of hostile stock purchases, and to provide for the treatment of certain high yield discount obligations; to the Committee on Ways and Means.

By Mr. ROSTENKOWSKI:

H.R. 1555. A bill to make technical corrections relating to the Revenue Reconciliation Act of 1990, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. DORGAN of North Dakota (for himself and Mr. CHANDLER):

H.R. 1556. A bill to amend the Internal Revenue Code of 1986 to allow individuals who do not itemize deductions a deduction for charitable contributions to the extent in excess of $100 per year; to the Committee on Ways and Means.

By Mr. DOWNEY (for himself, Mr. GRADISON, Mr. JACOBS, Mr. GUARINI, Mr. MATSUI, Mr. ANDREWS of Texas, Mr. ARCHER, Mr. CRANE, Mr. SHAW, Mr. SUNDQUIST, Mrs. JOHNSON of Connecticut, Mr. BOUCHER, Mr. NEAL of North Carolina, Mr. BUSTAMANTE, Mr. DERRICK, and Mr. DICKINSON):

H.R. 1557. A bill to amend the Internal Revenue Code of 1986 to provide that charitable contributions of appreciated property will not be treated as an item of tax preference; to the Committee on Ways and Means.

By Mr. FIELDS:

H.R. 1558. A bill to amend the Panama Canal Act of 1979 to provide for a Chairman of the Board of the Panama Canal Commission, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. GIBBONS (for himself, Mr. RUSSO, Mr. GUARINI, Mr. COYNE, Mr. MOODY, Mr. STARK, Mr. RANGEL, and Mr. FORD of Tennessee):

H.R. 1559. A bill to prohibit the importation of semiautomatic assault weapons, large capacity ammunition feeding devices, and certain accessories; to the Committee on Ways and Means.

By Mr. GREEN of New York (for himself and Mr. NEAL of North Carolina):

H.R. 1560. A bill to reestablish the Solar Energy and Energy Conservation Bank, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. GUARINI (for himself, Mr. SCHULZE, Mr. GIBBONS, Mr. MOODY, Mr. RANGEL, Mr. LIPINSKI, Ms. KAPTUR, Mr. FROST, Mr. JONTZ, Mr. DWYER of New Jersey, Mr. VENTO, Mr. BUSTAMANTE, Mr. HUGHES, Mr. SCHEUER, Mr. MACHTLEY, Mr. SANTORUM, and Mr. NEAL of North Carolina):

H.R. 1561. A bill to amend the Internal Revenue Code of 1986 to deny any deduction for certain oil and hazardous substance cleanup costs; to the Committee on Ways and Means.

By Mr. HAMMERSCHMIDT:

H.R. 1562. A bill to repeal the provisions of the Revenue Reconciliation Act of 1989 which require the withholding of income tax from wages paid for agricultural labor; to the Committee on Ways and Means.

By Mr. HERGER (for himself, Mr. LEHMAN of California, Mr. RIGGS, Mr. CONDIT, Mr. DOOLITTLE, Mr. DOOLEY, Mr. DANNEMEYER, Mr. DYMALLY, Mr. YOUNG of Alaska, Mr. DAVIS, and Mr. JONES of North Carolina):

H.R. 1563. A bill to establish an Upper Sacramento River fishery resources restoration program; to the Committee on Merchant Marine and Fisheries.

By Mr. HOPKINS:

H.R. 1564. A bill to place contingencies on the divestiture of certain locks and dams; to the Committee on Public Works and Transportation.

By Mrs. JOHNSON of Connecticut (for herself, Mr. CHANDLER, Mr. GOSS, Mr. SHAYS, and Mr. THOMAS of Wyoming):

H.R. 1565. A bill to increase to health care and affordable health insurance, to contain costs of health care in a manner that improves health care, and for other purposes; jointly, to the Committees on Energy and Commerce, Ways and Means, Education and Labor, and the Judiciary.

By Mrs. KENNELLY (for herself, Mr. SCHULZE, Mr. MOODY, Mr. NAGLE, Mr. BARNARD, Mr. MAZZOLI, Mr. NOWAK, Mr. BRYANT, Mr. LEWIS of Georgia, and Mrs. MINK):

H.R. 1566. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of the low-income housing credit and the rehabilitation credit under the passive activity limitations; to the Committee on Ways and Means.

By Mr. LEVINE of California:

H.R. 1567. A bill to suspend temporarily the duty on certain machined electronic connector contact parts; to the Committee on Ways and Means.

By Mr. LEVINE of California (for himself and Mr. BOEHLERT):

H.R. 1568. A bill to direct the Administrator of the Federal Aviation Administration to initiate a rulemaking proceeding for the purpose of improving access to overwing emergency exits of aircraft; to the Committee on Public Works and Transportation.

By Mr. LIPINSKI:

H.R. 1569. A bill to amend the Internal Revenue Code of 1986 to provide a credit against tax for employers who provide onsite, daycare facilities for dependents of their employees, and to restrict the credit for dependent care services to taxpayers with adjusted gross incomes of $50,000 or less; to the Committee on Ways and Means.

By Mr. MATSUI (for himself, Mr. JACOBS, Mr. VANDER JAGT, Mr. JENKINS, Mr. CRANE, Mr. MOODY, Mr. SCHULZE, Mr. CHANDLER, Mr. MCGRATH, Mr. SUNDQUIST, Mr. GRANDY, Mr. HARRIS, Mr. WOLF, Mr. BEREUTER, Mr. TALLON, Mr. PETRI, Mr. ROE, Mr. GUNDERSON, Mr. RAHALL, Mr. SMITH of Florida, Mr. DICKINSON, Mr. HOAGLAND, Mr. ALEXANDER, Mr. ERDREICH, Mr. SLATTERY, Mr. DERRICK, Mr. QUILLEN, Mr. WOLPE, and Mr. ECKART):

H.R. 1570. A bill to amend the Internal Revenue Code of 1986 to clarify portions of the Code relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes; to the Committee on Ways and Means.

By Mr. MILLER of Washington (for himself, Mr. ROSE, Mr. PORTER, Mr. GILMAN, Mr. LANTOS, and Ms. PELOSI):

H.R. 1571. A bill to encourage liberalization inside the People's Republic of China and Tibet; to the Committee on Foreign Affairs.

By Mr. OLIN (for himself, Mr. Roberts, Mr. Espy, Mr. McEwen, Mr. Stenholm, Mr. Combest, Mr. Penny, Mr. Rohrabacher, Mr. English, Mr. Petri, Mr. LaFalce, Mr. Hammerschmidt, Mr. Payne of Virginia, Mr. Sundquist, Mr. Montgomery, Mr. Martin, Mr. Bruce, Mr. Hansen, Mr. Stallings, Mr. Herger, Mr. Skeen, Mr. Livingston, Mr. Duncan, Mr. Horton, Mr. Lightfoot, Mr. Young of Alaska, and Mr. Solomon):

H.R. 1572. A bill to ensure that agencies establish the appropriate procedures for assessing whether or not regulation may result in the taking of private property, and to direct the Secretary of Agriculture to report to the Committee on Agriculture of the House and Senate with respect to such takings under programs of the Department of Agriculture; jointly, to the Committees on the Judiciary and Agriculture.

By Mr. OWENS of Utah (for himself, Mr. Orton, and Mr. Hansen):

H.R. 1573. A bill to amend the amount of grants received under chapter 1 of title I of the Elementary and Secondary Education Act of 1965; to the Committee on Education and Labor.

By Mr. PACKARD (for himself, Mr. Crane, Mr. Quillen, and Mr. Rohrabacher):

H.R. 1574. A bill to amend the Internal Revenue Code of 1986 to repeal the taxation of Social Security and tier 1 railroad retirement benefits; to the Committee on Ways and Means.

By Mr. PACKARD (for himself, Mr. Hunter, Mr. Petri, Mr. Frost, Mr. Lagomarsino, Mr. Inhofe, Mr. Dannemeyer, Mr. Roe, Mr. Rohrabacher, Mr. Kolter, and Mr. Parker):

H.R. 1575. A bill to amend title II of the Social Security Act so as to eliminate the earnings test; to the Committee on Ways and Means.

By Mr. PANETTA:

H.R. 1576. A bill to equalize the retired pay of persons who served during World War II as Philippine scouts with the retired pay of other members of the Armed Forces of the United States of corresponding grades and length of service; to the Committee on Armed Services.

By Mr. PENNY:

H.R. 1577. A bill to amend the Fair Labor Standards Act of 1938 to permit nurses to make additional arrangements respecting the overtime requirement of such act; to the Committee on Education and Labor.

By Mr. PENNY (for himself, Mr. Smith of New Jersey, Mr. Montgomery, and Mr. Stump):

H.R. 1578. A bill to amend title 38, United States Code, with respect to employment and reemployment rights of veterans and other members of the uniformed services; to the Committee on Veterans' Affairs.

By Mr. PICKETT:

H.R. 1579. A bill to amend the Merchant Marine Act, 1920, to redefine rebuilding of vessels permitted to engage in coastwise trade, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. REGULA:

H.R. 1580. A bill to require the lowest possible cost resolution with respect to any insured depository institution and the implementation of limits on reimbursement for loss to uninsured portions of deposits; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ROWLAND:

H.R. 1581. A bill to provide for establishment of a revolving loan fund for the development of wayports and to establish a commission to propose areas suitable for the location of such wayports; jointly, to the Committees on Public Works and Transportation and Rules.

By Mr. ROYBAL:

H.R. 1582. A bill to amend title XVIII of the Social Security Act to require institutions to include a rotation in geriatric medicine for residents as a condition for payment of direct medical education costs under the Medicare Program; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. SCHEUER:

H.R. 1583. A bill to require the Administrator of the Environmental Protection Agency to take certain action for the purpose of encouraging the purchase of fuel-efficient new motor vehicles through a revenue-neutral rebate and fee system based on the carbon dioxide emissions levels of those vehicles, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SCHIFF (for himself and Mr. Skeen):

H.R. 1584. A bill to increase Federal payments in lieu of taxes to units of general local government, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SMITH of Oregon:

H.R. 1585. A bill to amend section 303 of Public Law 96-451 to authorize the Secretary of the Interior to expend funds from the Reforestation Trust Fund for the reforestation of certain lands in the State of Oregon, and for other purposes; jointly to the Committee on Interior and Insular Affairs and Agriculture.

By Mr. SPRATT:

H.R. 1586. A bill to extend the existing suspension of duty on tetraamino biphenyl; to the Committee on Ways and Means.

By Mr. STOKES:

H.R. 1587. A bill to amend the Internal Revenue Code of 1986 to provide that certain distributions to unemployed individuals will not be subject to the additional tax on early distributions from qualified retirement plans; to the Committee on Ways and Means.

By Mr. TRAFICANT (for himself, Mr. Rangel, Mr. Murphy, Mr. Applegate, Mr. Foglietta, Mr. Kolter, Mr. Hayes of Illinois, Mr. Jones of North Carolina, Mrs. Lloyd, Mr. Kennedy, Mr. Riggs, Mr. Lancaster, Mr. Bustamante, Mr. Poshard, Mr. Towns, Mr. Frank of Massachusetts, Mr. Espy, Mr. Dymally, Mr. Martinez, and Mr. Mfume.):

H.R. 1588. A bill to authorize the Secretary of Housing and Urban Development to carry out a demonstration program to make grants to community development corporations for reducing interest rates on loans for economic development activities in five federally designated enterprise zones; to the Committee on Banking, Finance and Urban Affairs.

By Mrs. UNSOELD:

H.R. 1589. A bill to amend the Communication Act of 1934 to regulate the use of telephones in making commercial solicitations with the use of automatic dialing and announcing devices and to protect the privacy of telephone subscribers; to the Committee on Energy and Commerce.

By Mr. VENTO (for himself, Mr. Udall, Mr. Kostmayer, Mr. de Lugo, Mr. Rahall, Mrs. Byron, Mr. Darden, Mr. Visclosky, Mr. Owens of Utah, Mr. Lewis of Georgia, Mr. Hoagland, Mr. Blaz, Mr. McDermott, Mr. Bonior, Mr. Beilenson, Mr. Pease, Ms. Norton, Mr. Lancaster, Mr. Guarini, Mr. Weiss, and Mr. Bereuter):

H.R. 1590. A bill to provide for designation by the Secretary of the Interior and the Secretary of Agriculture of an ancient forest reserve system, including lands managed by the Bureau of Land Management and portions of national forests established by reservations from the public domain; to require the Secretary of the Interior and the Secretary of Agriculture to enhance economic stability in the Pacific Northwest; and for other purposes; jointly, to the Committees on Agriculture, Interior and Insular Affairs, and Education and Labor.

By Ms. WATERS:

H.R. 1591. A bill to amend the Internal Revenue Code of 1986 to include veterans participating in Operation Desert Storm and other veterans as eligible for veterans' mortgage bond financing; to the Committee on Ways and Means.

By Mr. WILSON:

H.R. 1592. A bill to increase the size of the Big Thicket National Preserve in the State of Texas by adding the Village Creek Corridor unit, the Big Sandy Corridor unit, the Canyonlands unit, the Sabine River Blue Elbow unit, and addition to the Lower Neches Corridor unit; to the Committee on Interior and Insular Affairs.

By Mr. WISE:

H.R. 1593. A bill to provide for the increased use by the Federal Government of alternative fuel vehicles, and for other purposes; jointly, to the Committees on Government Operations, Energy and Commerce, and Armed Services.

By Mr. PANETTA:

H.J. Res. 203. Joint resolution designating October 20, 1991, as "Leyte Landing Day"; to the Committee on Post Office and Civil Service.

By Mr. PORTER:

H.J. Res. 204. Joint resolution noting the findings of the commission of inquiry into aspects of the forest industry in Papua, New Guinea, and calling for appropriate actions; to the Committee on Foreign Affairs.

By Mr. SCHEUER (for himself, Mr. AuCoin, Mr. Aspin, Mr. Mrazek, and Mr. Waxman):

H.J. Res. 205. Joint resolution to designate May 1991 as "Neurofibromatosis Awareness Month"; to the Committee on Post Office and Civil Service.

By Mr. STENHOLM:

H.J. Res. 206. Joint resolution entitled "National Day of Prayer and Thanksgiving"; to the Committee on Post Office and Civil Service.

By Mr. CRANE (for himself, Mr. Applegate, Mr. Spence, Mr. Anderson, Mr. Hancock, Mr. Stump, Mr. Hammerschmidt, and Mr. Dannemeyer):

H. Con. Res. 103. Concurrent resolution expressing the sense of the Congress that the President should seek to negotiate a new base rights agreement with the Government of Panama to permit the United States Armed Forces to remain in Panama beyond December 31, 1999, and to permit the United States to act independently to continue to protect the Panama Canal; to the Committee on Foreign Affairs.

By Mr. SCHULZE:

H. Con. Res. 104. Concurrent resolution recognizing and commending the bill of responsibilities of the Freedoms Foundation at Valley Forge; to the Committee on Post Office and Civil Service.

By Mr. YATRON:

H. Con. Res. 105. Concurrent resolution calling for a U.S. policy of strengthening and maintaining indefinitely the current International Whaling Commission moratorium on the commercial killing of whales, and otherwise expressing the sense of the Congress with respect to conserving and protecting the world's whale, dolphin, and porpoise populations; to the Committee on Foreign Affairs.

By Mr. GLICKMAN:

H. Res. 117. Resolution expressing the sense of the House of Representatives respecting the establishment of a system providing universal access to health care; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. HERTEL:

H. Res. 118. Resolution amending the rules of the House of Representatives to grant floor and speaking privileges to former Presidents of the United States (other than a former President who resigned from office); to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXI,

45. The Speaker presented a memorial of the Senate of the State of West Virginia, relative to the desecration of the U.S. flag; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BILBRAY:

H.R. 1594. A bill for the relief of Peter J. Montagnoli; to the Committee on the Judiciary.

By Mr. YOUNG of Alaska:

H.R. 1595. A bill to clear certain impediments to the licensing of a vessel for employment in the coastwise trade and fisheries of the United States; to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 2: Mr. de Lugo and Mr. Klug.

H.R. 5: Mr. Bevill, Mr. Volkmer, Mr. Smith of New Jersey, and Mr. McGrath.

H.R. 14: Mr. Schaefer, Mr. Kolter, Mr. Skaggs, Mr. de Lugo, Mr. Abercrombie, Mr. McGrath, Mr. Boehlert, Mr. Durbin, Mr. Kopetski, Mr. Martinez, and Mr. Parker.

H.R. 33: Mr. Rowland, Mr. Wyden, Mr. Eckart, Mr. Slattery, Mr. Sikorski, Mr. Bryant, Mr. Scheuer, Mrs. Collins of Illinois, Mr. Richardson, Mr. Bruce, Mr. Towns, Mr. Kostmayer, Mr. Harris, Mr. Berman, Mr. Coleman of Missouri, Mr. Coleman of Texas, Mr. Dellums, Mr. de Lugo, Mr. Dwyer of New Jersey, Mr. Frost, Mr. Fazio, Mr. Foglietta, Mr. Gallo, Mr. Gilman, Mr. Guarini, Mr. Hertel, Mr. Hochbrueckner, Mr. Horton, Mr. Jefferson, Mr. Jones of Georgia, Ms. Kaptur, Mr. Kleczka, Mr. Klug, Mr. Levin of Michigan, Mr. Lipinski, Ms. Long, Mrs. Lowey of New York, Mr. Machtley, Mr. Martinez, Mr. McGrath, Mr. McDermott, Mr. Olin, Mr. Payne of New Jersey, Ms. Pelosi, Mr. Rahall, Mr. Rangel, Mr. Roe, Mr. Santorum, Mr. Sisisky, Mr. Walsh, and Mr. Weiss.

H.R. 77: Mr. Tauzin, Mr. Quillen, and Mr. Sensenbrenner.

H.R. 78: Mr. Boehner, Mr. Kolbe, Mr. Lewis of Florida, Mr. Zeliff, Mr. Quillen, Mr. Lent, and Mr. Spence.

H.R. 102: Mr. Neal of North Carolina, Mr. Gallo, Mrs. Lowey of New York, Mr. Inhofe, and Mr. Ramstad.

H.R. 103: Mr. Rinaldo and Mr. AuCoin.

H.R. 105: Mr. Ramstad.

H.R. 107: Mr. Manton and Mr. Frank of Massachusetts.

H.R. 118: Mr. Kyl, Mr. Vander Jagt, Mr. Anthony, and Mr. Fazio.

H.R. 127: Mr. Boehlert, Mr. AuCoin, Mr. Upton, Mr. Bryant, Mr. Tallon, Mr. Derrick, Mr. Weiss, Mr. Lipinski, Mr. Schaefer, Mr. Spratt, Mr. Ravenel, and Mr. Kildee.

H.R. 179: Mr. Neal of Massachusetts, Mr. Schiff, Mr. Barnard, and Mr. Wilson.

H.R. 341: Mr. Lent, Mr. Huckaby, and Mr. Volkmer.

H.R. 394: Ms. Norton, Mr. Yatron, Mr. Ramstad, Mr. Foglietta, Mr. Boucher, Mr. Gejdenson, Mr. Jefferson, Mr. Kanjorski, and Mr. Parker.

H.R. 413: Mr. Hubbard, Mr. Moody, Mr. Parker, Mr. Ramstad, Mr. Bonior, Ms. Snowe, Mr. Stallings, and Mr. Flake.

H.R. 418: Mr. Hutto.

H.R. 500: Mr. AuCoin, Mr. Clay, Mr. Coleman of Texas, Mr. Cox of Illinois, Mr. Coyne, Mr. Flake, Mr. Gordon, Mr. Henry, Mr. Hoagland, Mr. Hyde, Mr. Kasich, Mr. Luken, Mr. Moakley, Ms. Oakar, Mr. Sarpalius, Mr. Schaefer, Mr. Sikorski, Mr. Skaggs, Mr. Slaughter of Virginia, Mr. Torricelli, Ms. Waters, and Mr. Zeliff.

H.R. 516: Mr. Wilson, Mr. Sanders, Mr. Williams, and Mr. Torricelli.

H.R. 524: Mr. Quillen and Mr. Doolittle.

H.R. 572: Mr. Hastert.

H.R. 582: Mr. Abercrombie and Mr. Lowery of California.

H.R. 632: Mr. Weiss.

H.R. 647: Mr. Eckart.

H.R. 670: Mr. Neal of North Carolina, Mr. Dwyer of New Jersey, Mr. Valentine and Mr. Parker.

H.R. 673: Mr. Johnson of South Dakota, Mr. Gordon, Mr. Payne of Virginia, Mr. Bryant, Mr. Scheuer, Mr. Lewis of Florida, Mr. Valentine, Mr. Volkmer, Mr. Frank of Massachusetts, Mr. Costello, Ms. Norton, Mr. Kildee, and Mr. Jefferson.

H.R. 677: Mr. Ford of Michigan Mr. Kolter, Mrs. Unsoeld, Mr. Lent, Mr. Ford of Tennessee, Mr. Wilson, Mr. Smith of New Jersey, Mr. Penny, Mr. Oberstar, Mr. Hefner, Mr. McCloskey, Mr. Quillen, Mr. Owens of New York, Mr. Owens of Utah, Mr. Cardin, Mr. Perkins, Mr. Machtley, Mr. Guarini, Mr. Kanjorski, Mr. Anderson, Ms. Slaughter of New York, Mr. Sanders, and Mr. Fields.

H.R. 699: Mr. Weiss.

H.R. 713: Mr. Roe, Mr. Moakley, Mr. Carper, Mr. Hatcher and Mr. Parker.

H.R. 741: Mr. Hertel, Mr. Lipinski, and Mr. Solomon.

H.R. 747: Mr. Shaw and Mr. Ramstad.

H.R. 766: Ms. Norton.

H.R. 784: Mr. Eckart, Mr. Upton, Mr. Gekas, Mr. Costello, Mr. Jacobs, Mr. Bryant, Mr. DeFazio, Mr. Miller of Ohio, Mr. Mazzoli, Mr. Stearns, and Mr. Jones of Georgia.

H.R. 812: Mr. Murphy, Mr. Kostmayer, Mr. English, Mr. Hall of Ohio, Mr. Fish, Mrs. Unsoeld, Mr. Gilman, Mr. Shays, Mr. Penny, Mr. Roe, Mr. Bereuter, Mr. Towns, Mr. Miller of California, Mr. Dickinson, Mr. Lehman of Florida, Mr. Rangel, Mr. Lipinski, Mrs. Schroeder, Mr. Hoagland, Mr. Mfume, Mr. Frost, Mr. Bevill, Mr. Gordon, Mr. Torres, Mr. Ramstad, and Mr. Wolpe.

H.R. 828: Mr. Espy, Mr. Kildee, Mr. Sanders, Mr. Sangmeister, and Mr. Spratt.

H.R. 841: Mrs. Boxer, Mrs. Kennelly, Mr. Price, and Mr. Williams.

H.R. 842: Mr. Jefferson.

H.R. 863: Mr. Rinaldo and Mr. Quillen.

H.R. 945: Mr. Baker, Mr. Hastert, Mr. Bruce, Mr. Espy, Mr. Luken, Mr. Wilson, and Mr. Cox of California.

H.R. 961: Mr. Wilson, Mr. Sisisky, Mr. Jacobs, Mr. Fields, Mr. Yatron, and Mr. Berman.

H.R. 976: Ms. Slaughter of New York, Mr. Aspin, Mr. Borski, Mr. Roe, Mr. Bonior, Ms. Oakar, and Mr. Moakley.

H.R. 1001: Mr. Rohrabacher.

H.R. 1063: Mr. Lantos, Mr. Dicks, Mr. Bonior, Mr. Manton, Mr. Mineta, and Ms. Slaughter of New York.

H.R. 1066: Mr. Markey, Mrs. Collins of Illinois, and Mr. Weiss.

H.R. 1093: Mr. Owens of Utah.

H.R. 1107: Mr. Conyers, Mr. Davis, Mr. DeFazio, Mr. Dooley, Mr. Downey, Mr. Edwards of Texas, Mr. English, Mr. Fascell, Mr. Kildee, Mr. Levin of Michigan, Mr. McHugh, Mr. Mavroules, Mr. Nowak, Mr. Panetta, Mr. Russo, Mr. Sabo, Mr. Sanders, and Mr. Wolpe.

H.R. 1113: Mr. Sanders.

H.R. 1114: Mr. Sanders.

H.R. 1135: Mr. Abercrombie, Mr. Livingston, Mr. Luken, Mr. Stallings, and Mr. Fazio.

H.R. 1144: Mr. Rangel, Mr. Rogers, Mr. Lagomarsino, and Mr. Valentine.

H.R. 1145: Mr. Swift, Mr. Gordon, Mr. Chandler, Mr. Engel, and Mr. Moran.

H.R. 1181: Mr. AuCoin, Mr. Frost, Mr. Jontz, Mr. Kennedy, Mr. Dellums, Mr. Lancaster, Mr. LaFalce, Mr. Gejdenson, Mr. Wolpe, Mr. Mfume, Mr. Wheat, Mr. Martinez, and Mr. Stark.

H.R. 1184: Mr. DeLay and Mr. Parker.

H.R. 1188: Mr. Kildee.

H.R. 1190: Mrs. Lowey of New York, Mr. Owens of Utah, Mr. Kanjorski, and Mr. Flake.

H.R. 1200: Mr. Kopetski, Mr. Dwyer of New Jersey, Mr. Schiff, Mr. Boucher, and Mr. Valentine.

H.R. 1205: Mr. Frank of Massachusetts, Mr. Tallon, Mr. Dooley, Ms. Pelosi, Mr. Inhofe, Mr. Frost, Mr. Bilbray, and Mr. Horton.

H.R. 1212: Mrs. Meyers of Kansas.

H.R. 1213: Mrs. Meyers of Kansas.

H.R. 1233: Mrs. Lloyd.

H.R. 1234: Mr. Dooley and Ms. Kaptur.

H.R. 1239: Mr. Blaz, Mr. Bereuter, Mr. Payne of Virginia, Mr. Hefner, Mr. Hochbrueckner, Mr. Green of New York, Mr. de Lugo, Mr. Faleomavaega, Ms. DeLauro, Mr. Guarini, Mr. Martinez, Mr. DeFazio, Mr. Andrews of Maine, and Mr. Costello.

H.R. 1240: Mr. Fazio.

H.R. 1241: Mr. Burton of Indiana, Mrs. Byron, Mr. Coble, Mr. Dannemeyer, Mr. Dornan of California, Mr. Emerson, Mr. Henry, Mr. Jefferson, Mrs. Johnson of Connecticut, Mr. Johnston of Florida, Mr. Klug, Mr. LaFalce, Mr. Lipinski, Mr. McGrath, Mr. Manton, Ms. Molinari, Mrs. Morella, Mr. Olin, Mr. Sangmeister, Mr. Smith of New Jersey, Mr. Smith of Texas, Mr. Dwyer of New Jersey, Mr. Valentine, Mr. Fields, and Mr. Parker.

H.R. 1244: Mr. PERKINS, Mrs. BOXER, Mr. FRANK of Massachusetts, Mr. RANGEL, Mr. NEAL of North Carolina, Mrs. JOHNSON of Connecticut, Mr. OWENS of Utah, Mr. JEFFERSON, Mr. EVANS, Mr. WEISS, and Ms. PELOSI.

H.R. 1250: Mr. DELLUMS and Mr. FAZIO.

H.R. 1296: Mr. ATKINS, Mr. SOLARZ, Mr. RANGEL, Mr. THOMAS of Georgia, Mrs. VUCANOVICH, Mr. BATEMAN, Mr. TORRES, Mr. ANNUNZIO, Mr. STARK, Mr. RIGGS, Mr. FRANK of Massachusetts, Mr. PACKARD, Mr. BRYANT, Mrs. LLOYD, Mr. CAMP, Mr. ZIMMER, and Mr. ESPY.

H.R. 1308: Mrs. BOXER and Mr. HOCHBRUECKNER.

H.R. 1326: Mr. EVANS and Mr. COSTELLO.

H.R. 1343: Mr. MACHTLEY.

H.R. 1348: Mr. EVANS, Mrs. COLLINS of Illinois, Mr. SARPALIUS, Mr. BRYANT, Mr. DWYER of New Jersey, Mr. COUGHLIN, Mr. ALEXANDER, Mr. STUDDS, Mr. CUNNINGHAM, Mr. HAMMERSCHMIDT, Mr. KANJORSKI, Mr. WYLIE, Mr. SMITH of Florida, Mr. CLAY, Mr. BUNNING, Mr. BUSTAMANTE, Mr. SAWYER, Mr. WILSON, Mrs. MINK, Mr. SMITH of Texas, Mr. KOSTMAYER, Mr. JEFFERSON, Mr. LUKEN, Mr. SUNDQUIST, and Mr. BARTON of Texas.

H.R. 1375: Mr. WYLIE and Mr. DREIER of California.

H.R. 1386: Ms. NORTON, Mr. WEISS, and Mr. ENGEL.

H.R. 1387: Mr. BILBRAY, Mrs. BOXER, Mr. DOOLEY, Mr. FALEOMAVAEGA, Mr. KOPETSKI, Ms. NORTON, Mr. PETERSON of Minnesota, Mr. RAHALL, Mr. TOWNS, Mr. WOLPE, and Mr. YATES.

H.R. 1388: Mr. BILBRAY, Mrs. BOXER, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. KOPETSKI, Ms. NORTON, Mr. PETERSON of Minnesota, Mr. RAHALL, Mr. WOLPE, and Mr. YATES.

H.R. 1400: Mr. DREIER of California, Mr. VANDER JAGT, Ms. ROS-LEHTINEN, Mr. DICKINSON, Mr. IRELAND, and Mr. BOEHNER.

H.R. 1430: Mr. PANETTA, Mr. ANDREWS of New Jersey, and Mr. KOPETSKI.

H.R. 1443: Ms. NORTON and Mr. FAWELL.

H.R. 1445: Mr. PETERSON of Minnesota.

H.R. 1472: Mr. GRANDY and Mr. THOMAS of California.

H.R. 1494: Mr. SOLOMON, Mrs. BYRON, Mr. JOHNSON of South Dakota, and Mr. FISH.

H.R. 1510: Mrs. KENNELLY.

H.R. 1511: Mrs. KENNELLY.

H.J. Res. 56: Ms. HORN, Mr. LAFALCE, Mr. THOMAS of California, Mr. FAZIO, Mr. COUGHLIN, and Mr. PAYNE of New Jersey.

H.J. Res. 66: Mr. MOORHEAD, Mr. ECKART, Mr. PRICE, Mr. KOPETSKI, Mr. PAXON, Mr. MAVROULES, Mr. SMITH of New Jersey, Mr. ORTON, Mr. NATCHER, Mr. GILCHREST, Mr. CHAPMAN, Mr. BOUCHER, Mr. CARPER, Mr. ANDREWS of New Jersey, Mr. HAYES of Louisiana, Mr. MRAZEK, Mr. OXLEY, Mr. JONES of Georgia, Mr. MFUME, Mr. PAYNE of New Jersey, Mr. HERTEL, Mr. PANETTA, and Mr. COX of California.

H.J. Res. 83: Mr. MORRISON, Mr. BLILEY, Mr. DUNCAN, Mr. DICKINSON, and Mr. LEWIS of Florida.

H.J. Res. 134: Mr. ABERCROMBIE, Mr. BONIOR, Mr. CRAMER, Mr. FAZIO, Mr. FEIGHAN, Mr. GOODLING, Mr. GORDON, Mr. INHOFE, Mr. KENNEDY, Mrs. KENNELLY, Ms. NORTON, Mr. PALLONE, Mr. REED, Mr. SPENCE, Mr. THOMAS of Georgia, Mr. TRAFICANT, Mr. VANDER JAGT, and Mr. WILSON.

H.J. Res. 140: Mr. BENNETT, Ms. SLAUGHTER of New York, Mr. KASICH, Mr. HAMMERSCHMIDT, Mr. GALLO, Mr. DYMALLY, Mr. DANNEMEYER, Mr. SHAW, Mrs. VUCANOVICH, Mr. JONTZ, Mr. CALLAHAN, Mr. CRANE, Mr. BATEMAN, Ms. KAPTUR, Mr. RITTER, Mr. EMERSON, Mr. RAMSTAD, Mr. LANCASTER, Mr. MANTON, and Mr. QUILLEN.

H.J. Res. 164: Mr. APPLEGATE, Mr. BILIRAKIS, Mr. EMERSON, Mr. FROST, Mr. GILCHREST, Mr. HOCHBRUECKNER, Mr. LIPINSKI, Mr. RAMSTAD, Mr. TRAFICANT, and Mr. SCHAEFER.

H.J. Res. 166: Mr. MCNULTY, Mr. CLEMENT, Mr. APPLEGATE, and Mr. LIPINSKI.

H.J. Res. 171: Mr. BENNETT, Mr. MCDERMOTT, Mr. GOODLING, Mr. MILLER of Washington, Mr. HOYER, Mr. REGULA, Mr. SCHEUER, Mr. SPENCE, Mr. COUGHLIN, Mr. TRAFICANT, Mr. MCMILLEN of Maryland, Mr. JONES of Georgia, and Mr. NOWAK.

H.J. Res. 175: Mrs. JOHNSON of Connecticut, Mr. MCDERMOTT, Mr. KENNEDY, Mr. THOMAS of Georgia, Mr. SMITH of Florida, Mr. GORDON, Mr. TANNER, Mr. SOLOMON, Mr. TOWNS, Mr. FUSTER, Mr. SLATTERY, Mr. WOLPE, Mr. SAXTON, Mr. CLEMENT, Ms. LONG, Mr. CARPER, Mr. STEARNS, Mr. BARNARD, Ms. NORTON, Mr. NICHOLS, Mr. GUARINI, Mr. MCNULTY, Mr. NEAL of Massachusetts, Mr. MCGRATH, Mr. LEVIN of Michigan, Mr. ROE, Mr. BROWN, Mr. KOPETSKI, Mr. HORTON, Mr. HARRIS, Mr. WOLF, Mr. GRADISON, Mr. COUGHLIN, Mr. BILBRAY, Mr. WILSON, Mr. ROYBAL, Mr. MCDADE, Mr. MCMILLEN of Maryland, Mr. JONTZ, and Mr. COSTELLO.

H.J. Res. 183: Mr. RAMSTAD, Mr. YATRON, Mr. CHAPMAN, Mr. TRAFICANT, Mr. QUILLEN, Mr. FAZIO, Mr. PANETTA, Mr. BLILEY, and Mr. PORTER.

H. Con. Res. 23: Mr. NEAL of Massachusetts.

H. Con. Res. 50: Mr. JEFFERSON, Mrs. MEYERS of Kansas, Mr. ERDREICH, and Mr. RANGEL.

H. Con. Res. 66: Mr. SANDERS.

H. Con. Res. 88: Mr. RAMSTAD, Ms. HORN, Mr. DEFAZIO, Mr. FRANK of Massachusetts, Mr. CUNNINGHAM, Mr. BERMAN, Mr. BRUCE, Mr. KOSTMAYER, Mr. ZIMMER, Mr. FAWELL, Mr. ANDERSON, Mr. ATKINS, Mr. DWYER of New Jersey, Mr. SCHEUER, Mr. PALLONE, Mr. ABERCROMBIE, Mr. OWENS of Utah, Mr. SISISKY, Mr. LEWIS of Georgia, Mr. MILLER of Washington, Mr. UDALL, Mr. DICKS, Mr. WISE, Mrs. UNSOELD, Mr. CARR, Mr. MATSUI, Mr. MCDERMOTT, Mr. NEAL of Massachusetts, Mr. TAUZIN, Mr. MILLER of California, Ms. PELOSI, Mr. INHOFE, Mr. RICHARDSON, and Mr. STALLINGS.

H. Con. Res. 91: Mr. FASCELL, Ms. ROS-LEHTINEN, Mr. LIGHTFOOT, Mr. RAMSTAD, Mr. SCHIFF, Mr. DWYER of New Jersey, Mr. KYL, Mr. DURBIN, Mr. REGULA, Mr. FAZIO, Mr. ENGEL, Mr. GOSS, Mr. GLICKMAN, Mr. SMITH of Florida, Mr. LEVIN of Michigan, and Mr. LOWERY of California.

H. Con. Res. 96. Mr. GALLEGLY and Mr. FAWELL.

H. Con. Res. 102: Mr. IRELAND, Mr. GILMAN, Mr. GUNDERSON, and Mrs. BENTLEY.

H. Res. 99: Mr. MOORHEAD, Mr. BATEMAN, and Mr. QUILLEN.

H. Res. 106: Ms. LONG, Mr. FROST, Mr. KOLTER, Mr. MACHTLEY, Mr. GUARINI, Mr. DE LUGO, Mr. SKAGGS, Mr. SWETT, Ms. KAPTUR, Mr. MCNULTY, Mr. RAVENEL, Mr. HEFNER, Mr. BERMAN, Mr. DONNELLY, Mr. FORD of Tennessee, Mr. BEVILL, Mr. ABERCROMBIE, Mr. ATKINS, Mrs. BOXER, Mr. KENNEDY, Mr. PALLONE, Mr. ANDREWS of Maine, Mr. KOPETSKI, Mr. JONTZ, and Mr. PERKINS.

H. Res. 113: Mr. MILLER of Washington, Mr. SCHEUER, Mr. GUARINI, Mr. HUGHES, Mr. JONES of North Carolina, and Mr. WEISS.

PETITIONS, ETC.

Under clause 1 of rule XXII,

43. The Speaker presented a petition of the Lieutenant Governor, State of Alaska, relative to Operation Desert Storm; to the Committee on Armed Services.

SENATE—*Thursday, March 21, 1991*

(Legislative day of Wednesday, February 6, 1991)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable JOHN F. KERRY, a Senator from the State of Massachusetts.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

* * * *For there is no power but of God: the powers that be are ordained of God.* * * * *For rulers are not a terror to good works, but to the evil.* * * * *For he is the minister of God.* * * * *for good.* * * *—Romans 13:1,3,4.

Eternal God, Creator of Heaven and Earth, Lord of history, Ruler of the nations, we thank Thee for government which Thou hast ordained to restrain evil in the world. Grant to Thy servants on Capitol Hill a constant reminder that authority comes from Thee, and that they rule by virtue of divine appointment. Grant to the Senators, their administrative assistants, their chiefs of staff, and the directors of committee staffs a daily awareness that their power is from Thee, and that they are accountable to Thee how they exercise that power.

Gracious God, help us all to conduct ourselves, that our lives are well pleasing to Thee. In His name who is Lord of Lords and Servant of Servants. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD]

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 21, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN F. KERRY, a Senator from the State of Massachusetts, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KERRY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The distinguished majority leader is recognized.

SCHEDULE

Mr. MITCHELL. Mr. President, under the previous order, there will now be a 2-hour period for morning business, running until 11:30 this morning, with the first hour under the control of the Republican leader or his designee, and the second hour under my control or that of my designee.

Last night, a 90-minute time agreement was entered with respect to the Martinez nomination, and it is my intention that the Senate will proceed to that nomination at or about 11:30 a.m. this morning, with a vote to occur when all time is used or yielded back with respect to that nomination.

Senators should be aware that, barring some factor which causes me to alter this proposed schedule, we will take up the Martinez nomination at 11:30 and vote on it at 1 p.m., or sometime prior to 1 p.m., if time is yielded back prior to the vote.

It still is my hope and my expectation that we will complete action on the appropriations bills conference reports, the two measures which we dealt with earlier this week. And I will have a further statement on that matter later in the day.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time, and I reserve all of the leader time of the distinguished Republican leader. I assume the Senator from Oklahoma has been designated to control time for the Republican leader, and I accordingly yield to him.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE ACTING REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. The acting Republican leader is recognized.

Mr. NICKLES. Mr. President, I yield 8 minutes to the Senator from Oregon.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The Senator from Oregon is recognized for 8 minutes.

FAST-TRACK TRADE NEGOTIATIONS

Mr. PACKWOOD. Mr. President, I would like to speak this morning about the President's request to extend what is commonly called fast-track negotiating authority—although that name is a misnomer. It is certainly not fast. It is often not on track.

What the President is asking for is a 2-year extension of his authority to negotiate multilateral and bilateral trade agreements and have those agreements come back to the Congress and be voted on, up or down, without amendment, in a certain time period.

The fast-track authority does not guarantee that you get a good agreement or bad agreement. That will come in the negotiations, and I think the President full well knows, as does Ambassador Carla Hills, our Trade Representative, that if a bad agreement comes back, Congress will turn it down.

The argument is made, though, that we should not give the President an extension of this fast-track authority. That instead we should just let him go ahead and negotiate an agreement and then have it brought back for our review and we can amend it as we want or treat it as a normal piece of legislation.

There are two who have negotiations that are going on now. One is called the Uruguay round, which is multinational, 107 nations of the world involved in an effort to lower tariffs and trade barriers; the other is the North American Free Trade Agreement that the President wants to negotiate with Canada and Mexico. In those two agreements, we are talking about thousands of issues—not hundreds; thousands of issues—and thousands of compromises that we are asking countries on all sides to make.

Let me give an example of the problem if the United States does not have the authority to bring the agreement back to the Congress and ask for a vote on it up or down. Let us say we are negotiating with Germany. Germany has very protective agricultural practices. We regard ourselves as the most efficient agricultural country in the world, and we are. And we would like freer access to the German market. Germany's highly protected farmers to not like that. They are a potent political bloc. It is a political problem for the German Government to give us market access.

Let us say, also, that we would like freer access on telecommunications.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

We are also excellent in the manufacture of telecommunications and the installation of systems.

But in dealing with Germany and most other European countries, most other countries of the world for that matter, they have a State-owned telecommunications system, and the entire bureaucracy of the country does not like to let another country come in and compete with their state-owned system. If Germany gives on that, they have another bloc of voters who are mad.

So we are saying to Germany, you give on agriculture, you give on telecommunications. Let us say Germany says to us, "we will consider it, but we want you to give on cameras and optics and textiles. You have a quota system and highly protect your textiles, and we think we are good at making textiles. We want into the United States, and we maybe will exchange that and let you into telecommunications, and we will let you into agriculture, if you let us into cameras and optics and textile."

The experience in negotiating agreements is as follows. Those industries and sectors whom you help really do not appreciate it. They expect they should have been helped, and they do not give you much credit or much support when you have negotiated an agreement that helps them.

The people who do not like the agreement are very mad. In Germany, it would be the farmers of Germany, if they give on agriculture, and it would be the state telecommunications system if they give on telecommunications. They are livid about this agreement. They will do everything they can to kill it.

What the German Government has to be able to do and what the United States has to be able to do is to come back to our respective legislative bodies and say, "Overall, we know this is a good agreement for the entire country. We have had to give something to get something, but on balance it is a good agreement." And the German Government has to be able to say the same thing.

But, if in negotiating with the United States, another government knows that this agreement is going to come back to Congress and can be amended—we can vote it down if we want—but can be amended, the power of those who want to kill the part of the agreement they do not like is so overwhelming they would probably succeed, because those who benefit would not fight nearly as hard for it as those who think they are hurt by the agreement.

Therefore, no government in its right mind is going to negotiate with us—let us use Germany as an example—and give what we want in agriculture and make their farmers mad; give what we want in telecommunications and make their entire state telecommunications monopoly mad. Because they know that in the next election those people are probably going to vote against them in the election, and then have this come back to the United States and have the entire trade agreement defeated. And all Germany has is a loss and all our President has is a loss and no one wins.

The fast-track negotiating authority simply allows the President to negotiate an agreement and bring it back, and we will vote on it up or down. That is all. Congress maintains the right to turn the agreement down.

There is a genuine case to be made by labor. They are strongly opposed to one fast-track extension, and I sympathize with them and I fully understand their concerns. It does not relate to Germany and Europe and the Uruguay round; it relates to the so-called North American Free-Trade Agreement which brings Mexico into the United States-Canada Free-Trade Agreement.

Labor is afraid that if we have a free-trade agreement with Mexico, a fair portion of American industry will simply move south of the border where the wages are less, and all the manufacturing will be done there and Americans will lose jobs.

I want to say right now so it's perfectly clear, if we get an agreement with Mexico that is going to lead to that, I am not going to support it. I will not support it and will urge my colleagues to do the same.

But I think in the longrun, and in the shortrun, if there is a North American free-trade agreement with the United States, Canada, and Mexico, American labor will benefit.

But labor's concerns are legitimate and have to be taken into account. If any agreement comes back that deprecates and damages American labor in the aggregate, that agreement ought to be defeated. The points they raise are certainly valid. I hope as we are negotiating these agreements, our Trade Representative Carla Hills will take labor's concerns into account. I know she will, but I think I can assure her that if she does not, I, for one, will not support the agreement.

But without the fast-track authority, Mr. President, we need not even have to worry about it. There will be no agreement; no good agreement; no bad agreement; no agreement. And with it we will have lost our one great chance in the remainder of this century for America to break down barriers overseas to our products. I am afraid we will not stay where we are, but will move backwards into an era of protectionism, higher tariffs, and quotas that will serve the world badly, serve America badly, and will especially serve badly American labor and American consumers. I thank the Chair.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. NICKLES. I yield 5 minutes to Senator DANFORTH.

The ACTING PRESIDENT pro tempore. The Senator from Missouri is recognized for 5 minutes.

FAST-TRACK AUTHORITY

Mr. DANFORTH. Mr. President, I am pleased to follow the comments of my friend Senator PACKWOOD. I think he had it exactly right. My analogy would be to riding a bicycle. I think in international trade, you either move forward or you fall off. I do not think you can afford to do nothing and stand pat. I think this is really the issue we are facing with respect to negotiating authority.

I know that the idea of fast-track authority is something that causes concern to people who say, well, this really is not the appropriate method of conducting business in the Senate: to have something proceeding on a fast track reach the floor without amendments. But the fact of the matter is that without the fast-track concept, the fast-track procedure, there really is no possibility of multilateral trade negotiations.

Prior to the 1960s, most of the trade negotiations that our country had were mainly tariff-reduction agreements, one on one with other countries. Those are agreements that are manageable. But beginning in the 1960s, we started to get into multilateral trade agreements involving not tariffs but so-called nontariff barriers. Those agreements became much more complex. They involved a number of countries at the same time. As a matter of fact, the experience that we had in 1967 with the Kennedy Round was that Congress ended up aborting the process because we did not have the fast-track authority at that point. The implementing legislation reached the floor of the House and the floor of the Senate. It was amended so badly that it really ruined the deal.

With that as a background, in 1974, Congress developed the concept of fast-track, and it was at that time a compromise-type of procedure which involved a quid pro quo, a tradeoff with the administration. The administration was to have a formal consultative mechanism with Congress, and with the private sector as well, in exchange for a process by which, when the legislation finally comes to the floor of the House and the Senate, it is not amendable. Because of this new process, first of all, there was, in fact, greater congressional input than in virtually anything else I can imagine that the executive branch does.

Second, it made it possible in 1979 for Congress to approve the Tokyo round even though a lot of people thought at that time it was not possible for us to approve something that is as complex as this. We did it.

Now we are engaged in the Uruguay round of negotiations. These have been going on since 1986. They have involved 15 different areas. They have involved 107 different countries. They have been very complicated negotiations extending over a very long period of time. It is the testimony of Carla Hills, our U.S. Trade Representative, that if Congress can undo it or unravel the complex negotiations in floor debate, then the negotiations will simply come to an end.

Mr. President, what has happened is that the fast-track authority has effectively expired, and the administration allowed it to expire with respect to the Uruguay round even though we could have agreed to a deal last year. In Brussels last year, the administration was very tough with respect to agriculture, walked away from the table on agriculture, and took the position that we were not going to sign on to just any deal. And now, because of the toughness of the administration, we have the possibility of making real strides in the field of agriculture. It would be an irony, indeed, if Congress would say that our reward to Carla Hills for taking a tough approach in agricultural negotiations for the Uruguay round would be to strip her of her negotiating authority. To me that is no way to have a tough and consistent U.S. trade policy.

I would make only one other point, Mr. President, and it is this. I think that the real issue that is before the Congress with respect to trade is a kind of a follow-on to what we have been talking about over the last few months with respect to America's role in the world in foreign policy issues. There are those who say that America is really a country that is not very competent; we cannot do the job, whether it is involving ourselves in messy things in the Middle East or whether it is involving ourselves in international trade. We are all thumbs; we foul things up and, therefore, let us not do anything at all. Let us bail out of the world around us and bail out of our international responsibilities.

To me, to say that we cannot even negotiate, that we do not even have the power to enter into meaningful negotiations with other countries is to say that we have such a dim view of America's prospects in the world that we do not even want to try to get anything done, we do not even want to try to work things out with other countries in international trade. That kind of pessimism, I think, is not in keeping with the can-do experience of America's past. I believe that we can compete in international markets. I believe that if we are going to be the world leader, we must compete in international markets. The key to that is opening up international markets, and that is what trade agreements are all about. It is possible that we will decide to turn down the fruits of these negotiations, but to say that we are not even going to negotiate in the first place is a degree of pessimism which I think is not really fitting for our country.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. NICKLES. Mr. President, I yield the Senator from Washington 5 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Washington is recognized for 5 minutes.

WISEST ACTION IS NO ACTION AT ALL

Mr. GORTON. Mr. President, "fast track" is a phrase that stands for authority granted by Congress to the President to enter into trade agreements under a set of rules by which Congress will vote on those trade agreements within a fixed period of time, will vote the agreements up or down without amendment, but will have done so only after extensive statutorially required consultation among the President, his representatives, and Congress.

Fast-track authority with respect to present negotiations with Mexico and with most of the rest of the world through the GATT talks would have expired on the 1st of June of this year except for an extension authorized by the President. That extension may be repudiated by a resolution passing either this body or the House of Representatives by June 1.

This is a case, Mr. President, in which the wisest action for the Congress of the United States is no action at all. All trade agreements in recent decades which have liberalized rules relating to foreign trade have taken place under fast-track authority. The Tokyo round of GATT negotiations, a free-trade agreement with Israel, and a highly successful free-trade agreement with Canada are the most striking examples of that success.

Mr. President, we cannot say, of course, that the extension of fast track authority necessarily will result in increased international trade or increased exports for American manufacturers and producers. We simply do not know what agreements may be negotiated in the future under that fast track authority.

As a consequence, we cannot be certain that we will succeed if we take the proper nonaction here in Congress and allow fast track authority to continue.

On the other hand, Mr. President, we do know that this country will suffer if we cancel or restrict the President's fast track authority. No other nation will negotiate with our Trade Representative and reach a final agreement with full knowledge that Congress can amend or change that agreement. We cannot have members of our executive branch negotiating when they do not have the power to reach a deal. Congress cannot engage in those negotiations on a day-by-day basis, though under fast-track authority it can and should and does consistently advise the administration on what is acceptable and what is not.

Growth in the American economy, Mr. President, has been fueled by international trade and by its expansion, especially by expansion of our exports over the last decade. Growth in the decade of the 1990's will result largely from increases in international trade.

As a nation with one of the freest trading systems in the world, we particularly benefit from free international trade and by removing restrictions among our trading partners. That can be done only through bilateral or multilateral negotiations. Those negotiations are possible only when the other parties to those negotiations can act in the belief that when they make a deal with the United States, the United States is likely to keep that agreement. That knowledge will be present only if fast track negotiating authority is extended.

This country will gain by freer trade, Mr. President, and will gain almost certainly by the extension of this fast-track authority. America certainly will lose if we should repudiate it. In this case, as in some others, the best action the Congress of the United States can take is no action at all. We in Congress can and should rely on the President and the Trade Representative to negotiate treaties. We will have every opportunity to examine and to vote either in favor of those agreements, if they are in the interest of the United States, or against them, if we determine that they are not. The time to do that is after agreements are signed, not at this stage when we do not know what we can reach through negotiations.

Mr. President, I thank my colleague, the Senator from Oklahoma.

Mr. NICKLES. Mr. President, I yield Senator DURENBERGER from Minnesota 3 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota is recognized for 3 minutes.

Mr. DURENBERGER. I thank my colleague.

THE SUFFERING OF SUDAN

Mr. DURENBERGER. Mr. President, I rise to express my deep concern for the dire humanitarian situation in the Sudan. The drought and the ongoing civil war have combined to affect up to 9 million Sudanese, fully one-third of the country's population. It appears that the 1990 drought has been worse even than that of 1984 and 1985.

The scale of human suffering in Sudan should concern and alarm each of us. The United States, United Nations, other governments, and a number of private organizations have made enormous efforts to deliver food aid and other assistance. And more aid will likely be required as this year progresses.

United States humanitarian efforts in the Sudan are long standing and extensive. I want to commend not only the current United States Embassy and AID teams in Khartoum, but also former Assistant Secretary of State McCormick for his great work in the past in Sudan. He has gone far out of his way to try to bring about help to the Sudanese people.

This year alone, Mr. President, the United States has already committed to delivering some 250,000 tons of grain to Sudan. And we could provide as much as $10 to $12 million in other nonfood emergency aid. We continue to cooperate with the U.N.-sponsored Operations Lifeline Sudan Program, which is designed to help feed and care for over 3 million people displaced by Sudan's ongoing civil war. Depending on other countries' contributions, the United States could provide anywhere from one-fourth to one-third of all food aid to the Sudan.

Mr. President, even with this extensive aid response, the desperate suffering of the Sudanese people cannot be alleviated sufficiently without the active cooperation of the Government of Sudan. It was only 2 months ago that the Government even acknowledged that it required assistance and formally requested it from the United Nations.

Even such a basic and fundamental matter as recognizing there is a problem and accepting international assistance has become a major achievement. Mr. President, there is a great deal more that the Government of Sudan must do to alleviate the suffering of its own people. No matter how much aid the international community donates, the people of Sudan require the cooperation of their Government in order to benefit from that aid.

Once the food arrives at Port Sudan, it must be off-loaded from the ships and transported throughout the country. The voluntary organizations who distribute the aid must be given permission to operate in the country. Import duties on the equipment and materiel have to be reduced or eliminated in order to make it possible to bring in the supplies needed to operate.

Even under the best of circumstances, the logistical problems of distributing food aid throughout a desperately poor, remote, and undeveloped country are daunting. Without the host government's cooperation, it becomes impossible.

If the political will exists, a great deal more can be done to alleviate the misery. The Government of Sudan has yet to demonstrate a sustained willingness to address fundamental issues of human suffering.

Let us also recognize, Mr. President, that the hunger and deprivation will persist as long as the civil conflict in Sudan continues. War and peace do not affect the rainfall, but they do affect efforts to overcome natural disasters such as drought. No matter how much aid is provided, no matter how many tons of food are distributed throughout the country, people will continue to suffer more than otherwise as long as the war persists.

Mr. President, drought would exist without war. But famine can be averted if there is peace. There is one consistent thread in famine suffering: Wherever one finds famine, one finds conflict; wars; battles. It is the conflicts that push the drought suffering over the edge to famine.

We must recognize this reality as one of the root causes of famine, particularly in Sudan. We should call on the international community, especially the United Nations, to exert its influence to achieve a peaceful and rapid solution to Sudan's civil war. The drought and crop failures are bad enough, but the war is destroying the country and its people.

Mr. President, in conclusion, I urge my colleagues to remember the suffering of Sudan. To take every opportunity to urge the Government of Sudan to cooperate with international relief efforts. To encourage a peaceful settlement to the civil war. Sudan is a remote and desolate land. But its people are our brothers. They need our efforts. They deserve our compassion.

Mr. President, I yield the floor.

Mr. NICKLES. Mr. President, I yield the Senator from Kansas 3 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Kansas is recognized for 3 minutes.

FAMINE IN SUDAN

Mrs. KASSEBAUM. Mr. President, I rise today to join with my colleague, Senator DURENBERGER, to express my great concern about the emergency famine situation in Sudan. Senator DURENBERGER has laid out, I think, very clearly the tragic situation that exists there.

With the dramatic events taking place in the Persian Gulf and the Soviet Union, the issue of famine in Africa has received scant attention in the United States over the past 6 months.

We all remember the 1984–85 African famine, with the pictures of starving women, and children with bloated bellies. Those tragic images shocked the consciousness of the entire world community.

The famine we face this year is one of much greater proportions than that of 1985. Unless urgent and coordinated action is taken, we will soon look at the same shocking pictures, asking: How could this happen again?

In Sudan alone, the reality of the numbers is difficult to comprehend: 9 million Sudanese are at risk of malnutrition and death, of a total population of 26 million; 1.2 million metric tons of food will be needed to avert this crisis; and several experts predict that at least 200,000 Sudanese will die this year due to hunger—even if relief efforts begin to work effectively from this point onward.

The famine in Sudan has been caused by the deadly combination of a severe drought—worse than that of 1984—and continuing civil conflict between the Government of Sudan and the Sudanese People's Liberation Movement.

Despite the tremendous food shortages in Sudan caused by this combination, the problem of the famine is not primarily one of the quantity of food. The resources from the international community are available to avert this crisis. For example, the United States alone has committed over 331,000 metric tons of food.

The real problem has been distributing the food to those in need. Over the past 6 months, the Sudanese Government has been extremely uncooperative, refusing to recognize the severity of the impending crisis. The regime in Khartoum has repeatedly delayed or canceled relief efforts.

However, the Government of Sudan has made some progress in the past month. In late February, United Nations Undersecretary General James Jonah traveled to Sudan to meet with President Bashir. For the first time, the Sudanese Government recognized that the drought was an urgent matter. President Bashir also agreed that the United Nations should coordinate famine relief operations. These steps should facilitate, and accelerate, relief efforts. However, it is still unclear to what extent these words will be translated into concrete actions.

For example, despite the new agreement, the Government continues to suspend many United Nations-sponsored flights to southern Sudan. These flights are essential for the continuation of relief efforts at this point. All International Committee of the Red Cross flights have been canceled by the Government.

On March 7, United States Ambassador Jim Cheek returned to Khartoum to resume United States diplomatic activity on relief efforts. Because of the gulf crisis, Ambassador Cheek, as well as almost all of the United States Embassy personnel, had been forced to leave Sudan in mid-January. Because of the urgency of this food crisis, Ambassador Cheek was anxious to return and, I believe it was important that he do so.

Over the coming months, I fervently believe that the international community must focus on the crisis in Sudan. Several actions are essential:

First, we must strongly support the United States Embassy in Khartoum and the private voluntary organizations working in Sudan. The efforts of Ambassador Cheek to coordinate and mobilize relief efforts in Sudan are crucially important. Assistant Secretary

Hank Cohen has been very active on this issue. Because of the critical nature of the famine in Sudan—as well as the problems of hunger in the rest of Africa—I urge President Bush and Secretary Baker to become actively involved in this issue.

Second, the United Nations has a key role to play on famine relief, particularly in the Sudan. Fifty colleagues recently joined me in a letter to United Nations Secretary General de Cuellar urging him to personally make famine in Africa an item of the highest priority. The recent, successful visit of United Nations Under Secretary General Jonah to Khartoum is an example of the type of active and energetic action the United Nations should be taking to relieve the food shortages.

Third, all efforts should be made to hold the international donor community together. The intransigence of the Sudanese Government has frustrated and demoralized many of the donor nations and private voluntary organizations over the past year. Yet, because of the magnitude of the crisis, the United States cannot go it alone. We need the active participation of the entire donor community.

Fourth, we should urge the Sudanese Government to be as cooperative as possible. The recent, improved position reached at the meeting with Undersecretary General Jonah is encouraging, but much remains to be done. For example, the critically important U.N. flights remain suspended.

Finally, and perhaps most importantly, we must continue to draw public attention to this crisis. Last November, we held hearings in the Senate African Affairs Subcommittee on the emergency in Sudan, and I call upon the committee to hold hearings in the near future on the problems of famine in Africa.

Mr. President, 4 months from now, the pictures of the starving children will appear on our television screens. We will all be upset, calling for ways to move food as quickly as possible. Yet, because of the logistical problems of moving food, at that time it will be too late to avert the suffering and death of hundreds of thousands of innocent Sudanese civilians.

Mr. NICKLES. Mr. President, I compliment the Senator from Kansas, and also Senator DURENBERGER for their attention to a very critical problem.

I wish to associate myself with their remarks, and I hope to work toward some positive constructive solutions to the very desperate problems.

Mr. President, I yield the Senator from New Hampshire [Mr. SMITH] 5 minutes.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire is recognized for 5 minutes.

Mr. SMITH. I thank the Senator from Oklahoma for yielding the time.

CRIME IN THE STREETS OF OUR AMERICAN CITIES

Mr. SMITH. Mr. President, on the night of March 21, 1962, 29 years ago today—convicted rapist Booker Hillery killed 15-year-old Marlene Miller. After attempting to rape the young girl, Hillery stabbed her through the throat with the sewing scissors, monogrammed with her name, that she had been using to sew a dress for her 16th birthday party. Then he dumped her body in an irrigation ditch.

Hillery, who was out on parole from an earlier rape conviction, was arrested, convicted, and sentenced to death. But this sentence was merely the beginning of a 29-year legal struggle which has still not been resolved.

In 1965, having once upheld Hillery's murder conviction, the California Supreme Court ordered a new trial with respect to the sentencing phase. The reason for the reversal is that the jury that sentenced Hillery to death had been erroneously told that, if it gave Hillery a life sentence, he could be released on parole. Although this was correct at the time of Hillery's trial, a subsequent case created a new rule.

Hillery was again tried and sentenced to death. He filed a habeas corpus petition and again the sentence was thrown out. This time the reason was that a potential juror had been excused because she had stated that she thought she could not sentence anyone to death.

So Hillery was tried a third time and, once again, sentenced to death. This time he contended that the death penalty was unconstitutional under the California constitution. His sentence was reduced to life imprisonment.

Later that year, Hillery filed another petition for habeas corpus, demanding to be released on the grounds that blacks had been excluded from the grand jury which indicted him. There was no evidence that there was any discriminatory intent. In fact, the judge responsible for grand jury selection had asked Hillery's lawyer to identify potential black jurors, declining to include a potential black juror only because jury service would have conflicted with the juror's employment.

Nevertheless, after 5 years of litigation, a U.S. district court granted Hillery's petition and ordered him released or retried. That decision was affirmed by the U.S. Court of Appeals and the U.S. Supreme Court.

On December 18, 1986, Hillery was again convicted of murdering Marlene Miller in 1962, and sentenced to life imprisonment. Within hours of the conviction, Hillery filed a notice of appeal, which is still pending. Twenty-nine years after Booker Hillery rammed a pair of scissors through Marlene Miller's throat, the case is not even close to being resolved.

Mr. President, the case of Booker Hillery is only another pathetic example of the ways in which the high level of crime in our Nation's cities are the direct result of the criminal justice—or better stated injustice—policies of our courts and legislatures. While each of these cases is heart-rending in itself, an examination of crime statistics helps us realize that this case is not an isolated instance.

In April 1990, the Department of Justice published a profile of felony defendants in large urban counties for calendar year 1988. That study showed that two-thirds of the felony defendants were known to have been arrested previously. Seventy-nine percent of those with a previous arrest record had at least one prior felony arrest. One quarter of all defendants had four or more prior felony arrests.

The study also found that the average number of prior arrest charges for all defendants was three felony arrest charges and three misdemeanor arrest charges. When including only defendants who were known to have at least one prior arrest, the average number of prior arrests went up to four arrest charges for felonies and five arrest charges for misdemeanors.

The study found that about one-third of the defendants already had some type of status with the criminal justice system at the time of their arrest; 41 percent of these were on probation, 34 percent were on pretrial release for a previous case that was still pending.

Finally, the study found that 59 percent of defendants charged with violent offenses were released before case disposition, and 46 percent of all released defendants were released on the day of their arrest or the following day. Only one-third of those defendants originally arrested on felony assault charges were ultimately convicted of felonies.

Mr. President, it does not take a rocket scientist to figure out what all this means: First, the major part of our violent crime in American cities is the result of a relatively small number of career criminals who commit crimes over and over again; second, these career criminals are in a position to commit violent crimes because our criminal justice system processes them and turns them loose on the streets.

I agree with the President that the key to taming crime in our cities is to take the career criminals off the street. This means curbing frivolous prisoner petitions, insuring that dangerous criminals are not set free on innocent technicalities, and imposing tough mandatory minimum sentences including the death penalty where the crime is particularly hideous.

Mr. President, the American people are far ahead of Congress on this issue. They realize that violent crime is both a serious problem and an avoidable one. Unless Congress begins to take a leadership role in this area, I am convinced that our constituents will find leaders who will. This Senator intends to work with the American people, not against them, to put violent criminals where they belong—behind bars and away from the innocent people they prey upon.

The PRESIDING OFFICER (Mr. FOWLER). The Senator from Wyoming is recognized.

Mr. SIMPSON. Mr. President, I thank the Senator from New Hampshire.

I yield to the Senator from Idaho [Mr. SYMMS].

The PRESIDING OFFICER. The Senator from Idaho [Mr. SYMMS] is recognized for such time as he may use.

Mr. SYMMS. Thank you very much, Mr. President.

FAST TRACK MUST BE LOOKED AT CAREFULLY

Mr. SYMMS. Mr. President, there is a lot to be said for negotiating trade agreements that offer the prospect of significantly increasing trade between nations. I believe open borders benefit the countries involved and I have always been supportive of efforts to expand trade.

Let me quote from Winston Churchill:

> We say that every [citizen] shall have the right to buy whatever he wants, wherever he chooses, at his own good pleasure, without restriction or discouragment from the State. That is our plan. * * * In pursuit of this simple plan there came last year into [our country], from every land and people under the sun, millions' worth of merchandise, so marvelously varied in its character that a whole volume could scarcely describe it. Why did it come? Was it to crush us, or to conquer us, or to starve us, or was it to nourish and enrich our country? It is a sober fact that every single item, however inconsiderable, in all that vast catalogue of commodities came to our shores because some [citizen] desired it, paid for it, and meant to turn it to his comfort or profit.

What Winston Churchill said so well, I say simply: free trade in a free society provides the maximum benefit to our citizens.

The question is: How do we get there? How do we get free trade and still have fair trade? Mr. President, I am a supporter of fast track, but a cautious supporter of fast track. We will not get anywhere if our trading partners know that an agreement negotiated by our trade team will be bent and twisted by the Senate. They simply will not negotiate with us. They will not deal with us if, in fact, they think that whatever they agree to, the Senate will change it, and modify it, and make arrangements to suit every parochial interest that any one of us might have.

In fact, our trading partners have made it clear that they will not get involved in a negotiation with the United States without fast track. In other words, no fast track, no new agreements, no new opportunities for us, no new opportunities for the engines of production in the United States. It is that simple.

But problems do come up, and we need to look at them squarely at the outset. I want to cite two or three of these problems that I see that we need to be able to handle. I have confidence that our trade team will look out for and work on these issues. I think it cannot be overlooked.

One of the problems is the recent attempt by the provincial Government of British Columbia to withdraw from the memorandum of understanding for timber products. This is no small matter. This memorandum was central to the support of many Senators for the United States-Canada Free-Trade Agreement, myself included. I have joined with Senator PACKWOOD to urge the USTR to work toward the preservation of that memorandum.

Mr. President, at the time that the United States-Canada Agreement passed the Finance Committee, it was a tie vote, until we were able to extract the agreement, and I happen to be the Senator that did that extracted agreement from former President Reagan, that he personally would set aside the timber issue, so that it would be separately negotiated.

That memorandum of understanding was agreed to, and I think that the Canadians need to understand, and the American trade team needs to understand, that this is not the first time that memorandum has been under attack. Some Canadian firms have failed to pay the full export tax or have misclassified lumber exports as other wood products.

After the agreement was signed in 1986, for example, there was a significant increase in remanufactured wood product exports into the United States. These products are not subject to the 15-percent surtax. I do not think there is much question that much of this increase resulted from misclassification.

There is another good example where we are having problems with the United States-Canada Free-Trade Agreement. The situation that comes to mind is the Saferco fertilizer project in Saskatchewan, which the provincial government is subsidizing by providing significant equity and is guaranteeing the owners' commercial debt.

This is a huge, state-of-the-art nitrogen processing complex. It will cost $435 million to build, and it will increase Canadian production by about 20 percent in a nitrogen market already fully served by existing facilities. The plants now in operation are sufficient to serve the market and industry. Analysts do not foresee any need for any additional supply in the future. It is difficult for domestic fertilizer producers to gauge their markets and profit margins when a massive increase in subsidized product is on the horizon.

Fortunately, there are dispute settlement procedures in place to remedy these problems. How this situation is resolved will be very important to how this Senator will view any future agreement.

Another concern we have in Idaho, of course, is the prospect of dumping a lot of sugar product into the United States. I know a lot of industries are concerned about the antidumping provisions in the GATT. The sugar industry, of course, is very concerned that the USTR is not going to be able to protect the sugar producers from dumping.

Finally, there is the current pork dispute. Currently, there is a Binational Commission to resolve the dispute. However, the Binational Commission and the U.S. International Trade Commission do not see eye to eye on some things. They do not agree.

There are a lot of pork producers, not only in Idaho but across the country, very little of which are the Federal variety. The pork producers that I talk to are very upset about the recent verdict by the binational Commission, implying that there is no injury or threat of injury to domestic production by subsidized—repeat, subsidized—Canadian fresh and chilled pork producers. From what I have seen, the Idaho producers I have talked with make a pretty good case. I know Senator GRASSLEY and others have talked about this in the Finance Committee. They, too, come from other pork producing States.

I was leery about the binational panels when they were debated in the Senate on the United States-Canadian trade agreement. As I say, we cannot win all the disputes, but it is something we have to look at.

A supranational dispute settlement panel can effectively resolve problems only if everything—hearings, notice, analysis, and so forth—is done exactly right. It seems to me that the system may not be working in this case. What we should do is be cautious that we do not catch producers—in this case pork producers—in an interagency struggle for power, which leaves them mired, as some of my friends from Idaho said, "in a pigpen of indecision." I think it is unfair, and I sincerely hope we can resolve this matter quickly, and that we do not face this in the future.

I have asked Ambassador Carla Hills to look into this and to respond to some questions about the binational panel, and I am looking forward to those answers. I do think, as we move forward to a long-term dream of former President Reagan, that North America will become an open trading zone.

I recall that in 1976 he came to Boise, ID, in his, at that time, unsuccessful bid for the Presidency, and I was working on his behalf in my State at that time, and he unveiled his dream and vision of a North American trade zone.

We have taken a big step by getting a Canadian Free-Trade Agreement. I hope we will have another successful step by getting one with Mexico. We must remember that we must have fair trade, and we have to have fair rules that we go by. We need to move on these free trade agreements, both on the North America Free-Trade Agreement and the Uruguay round. Our economy and the American consumer will benefit tremendously if those agreements can be successfully concluded.

WHY WE SHOULD CUT THE PAYROLL TAX AND LEAVE THE WAGE BASE ALONE

Mr. SYMMS. Mr. President, in my opinion, reducing the payroll tax as has been suggested by Senator MOYNIHAN and Senator KASTEN is good tax policy, it is good economics, and it is good politics. That is why I am an original cosponsor of their bill, S. 11, the Social Security Tax Cut Act of 1991.

When the majority leader, Senator MITCHELL, and the rest of the Democratic leadership in the Senate embraced the idea of a payroll tax cut, I had great hopes that we might actually enact some good economic policy without a bruising political fight.

You know, Mr. President, it is hard to be an optimist in this town sometimes. Apparently, my colleagues on the other side of the aisle are going to try to exact a price for supporting good economic policy.

Apparently, they are going to try, once again, to soak the rich by raising the wage cap for Social Security contributions from $53,400 to $125,000 or more.

It was just last year that the wage cap for the hospital insurance part of the FICA tax was raised to $125,000. I predicted at the time that it would not take long before the folks who believe higher taxes produce economic prosperity would be back to raise the rest of the FICA tax base.

Well, it did not take them long. Just 5 months later and my prediction has come true.

Mr. President, there is a lot to be said on this, and I see no need to say it all now. But much of what needs to be said was explained with great clarity by Senator KASTEN in an article published in the Washington Times yesterday. I ask unanimous consent that this article be printed in the RECORD following my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Mar. 20, 1991]

TO THE RESCUE OF PAYROLL TAX CUTS

(By Robert Kasten)

Senate Majority Leader George Mitchell's recent decision to support the Moynihan-Kasten payroll tax cut plan is a significant political development. But his suggestion to increase the amount of income subject to the tax to soak the "rich" in order to make up the revenue loss will kill it—leaving America's workers and retirees in the lurch.

Raising the taxable wage cap from the current $53,400 to $125,000—or eliminating the cap altogether—is bad policy, bad economics and bad politics. Not only would this action perpetuate the charade of using the Social Security surplus funds to pay for other government programs, it would reduce economic growth and convert Social Security into the world's largest welfare program.

The current taxable maximum upon which the 7.65 percent payroll tax rate is levied (6.2 percent for Social Security, 1.45 percent for Medicare) is seven times higher than it was in 1970—and it continues to rise rapidly because it's tied to the growth of average wage rates in the economy. Last year's tax-increase budget plan raised the wage cap for the Medicare tax rate to $125,000. It was only a matter of time before this served as an excuse to raise the wage cap for the Social Security tax.

The bill Sen. Daniel Patrick Moynihan, New York Democrat, and I have proposed would cut the Social Security tax from 6.2 percent to 5.2 percent for both employees and employers over the next six years, saving businesses and workers a whopping $160 billion. Although our legislation proposes a slight increase in the wage cap compared to current law (Mr. Moynihan argues that the percentage of wages in the U.S. economy covered by the taxable maximum has fallen below the traditional 90 percent to 86 percent today), every taxpayer would receive a tax cut.

In addition to boosting take-home pay and reducing labor costs, the Moynihan-Kasten proposal would return the Social Security program to its traditional pay-as-you-go financing. Taxpayers were told that the payroll-tax surpluses would be placed in a "trust fund" to finance future benefits. But these surpluses aren't really saved at all. Rather, they are immediately spent on other federal programs.

Judging from past comments by his fellow Democrats, Mr. Mitchell may find very little support from his own party for eliminating the wage base. During last fall's floor debate on payroll tax cuts, Sen. Ernest Hollings, South Carolina Democrat, referred to use of the surplus to finance other federal spending as "embezzlement." Sen. Brock Adams, Washington Democrat, put it best when he said, "We are masking the federal deficit with Social Security. And, in the eyes of the American public, whom we represent, this is criminal."

This "criminal" practice would continue under the Mitchell proposal, since there would be little or no net tax cut—and the government would continue generating and spending huge Social Security surpluses.

That's not all. Lifting the wage cap would also cause serious harm to the economy. We ought to remember that there are two goals that are important—fairness and economic growth. If we strive for a spurious fairness and fail to consider the need to promote real growth as well, we will be striking a fatal blow at our future prosperity.

The Dallas-based Institute for Policy Innovation calculates that while a combined 2 percentage point cut in the payroll tax would create 650,000 new jobs by the year 2000, even the modest increase in the cap called for in Moynihan-Kasten wipes out half of this job gain. Lifting the cap entirely, or raising it to $125,000, would wipe out all the extra jobs, and maybe even lose jobs.

The reason is clear: Eliminating the cap would increase the marginal tax rates on affected workers by up to 13.3 percent—thus raising the top rate on wages from 31 percent to 44.3 percent. This rise in marginal tax rates powerfully and directly reduces the incentive to work, invest and produce.

Perhaps the greatest danger of eliminating the cap is the threat it poses to the long-term health of Social Security. This irresponsible move would break the link between what workers pay into the Social Security and what they get out in benefits. There are essentially two choices for policymakers: Either give the wealthy massive Social Security checks commensurate with their payroll-tax contributions over the years or explicitly make Social Security an income-redistribution program.

Social Security is not a welfare program; it is a retirement program. Lifting the wage cap is, indeed, "messing" with Social Security. In the process of socking it to the rich, the "pro-envy" crowd will derail our effort to provide tax relief to 132 million workers by imperiling Social Security and economic growth.

Mr. SIMPSON. Mr. President, I thank the Senator from Idaho, and I will yield 5 minutes to the Senator from Oklahoma [Mr. NICKLES].

The PRESIDING OFFICER. The Senator from Oklahoma [Mr. NICKLES] is recognized for 5 minutes.

S. 3 WILL COST A BILLION DOLLARS—AND MORE

Mr. NICKLES. Mr. President, yesterday the Rules Committee reported out S. 3, the so-called Campaign Reform Act.

Mr. President, in looking at this bill I think, instead of being called campaign reform, it should be called politicians' pork barrel bill, because that is exactly what it is.

I testified before the Rules Committee and said the estimated public subsidy in S. 3 is about $1 billion over a 6-year cycle, $1 billion on taxpayers and on the general public, to subsidize politicians. I do not think that is campaign reform.

Some people have asked me, where did I get those figures? I am going to put in the RECORD an analysis done by the Republican Policy Committee tabulating the cost. I will go through it very quickly.

In 1994 the cost in Senate elections alone would be about $131 million. Over a 6-year cycle, if we would include all Senators, we would be talking about $358 million.

I will also say if you are going to have public financing for the Senate you are going to have public financing for the House. The House generally spends 1½ times what the Senate does. Over a 6-year election cycle that cost would be about $550 million. Over the 6 years that totals about $908 million for both Senate and House races.

I will tell the Presiding Officer, that does not include third party candidates, it does not include very much for independent expenditures. It is very conservative on the so-called discount for broadcasting, and it does not include administrative expenses. We found out from FEC they anticipate they will have to hire something like 2,500 auditors just to comply with this bill.

So the subsidies are enormous; up to $1 billion, maybe well over $1 billion for taxpayers and the general public to subsidize politicians for the next 6 years. I do not think that is what taxpayers are asking for. I do not think politicians should be at the public trough to finance their campaigns.

Mr. President, I will submit all of this background work to substantiate these figures. But again, my colleagues and all American people should know what these subsidies are we are talking about.

Automatically an eligible candidate would be given communications vouchers, communications vouchers that are in the hundreds of thousands of dollars, depending on the size of your State. An eligible candidate could buy broadcast time at one-half the rate of anybody else.

Why should politicians be able to buy time cheaper than other organizations, even charitable organizations? And certainly if we are going to mandate that U.S. Senators get broadcast time at one-half the rate, that has to apply not only to House candidates but I would expect to gubernatorial, maybe county commissioners, city commissioners, as well. Why should we get a rate one-half the rate of other politicians?

Then S. 3 goes so far as to say politicians should be able to mail at one-fourth the cost of regular taxpayers. Most taxpayers are paying 29 cents for a first-class stamp. The politicians would be able to get the same stamp for 7.25 cents. That makes no sense. It is not fair. But that is in S. 3.

Mr. President, yesterday the Rules Committee ordered S. 3 favorably reported. S. 3 is the campaign finance reform bill of the Democratic leadership.

I oppose S. 3 for several reasons, mostly because I find its costs staggering and unacceptable. When I testified on S. 3 last week, I estimated that it would cost $1 billion over a 6-year election cycle. These costs, which are conservatively estimated, will be borne by the private sector and the public section, which, of course, gets its money from taxpayers in the private sector.

S. 3 provides politicians with a billion dollars of subsidies over 6 years. It should be opposed for that reason alone—but the sober facts of the Federal budget provide plenty of other reasons. This year the Treasury of the United States will borrow hundreds of billions of dollars to meet the country's financial obligations. I can hardly believe that the Senate of the United States is now bringing to the floor a bill that will set up an entitlement program for our own political campaigns and then take borrowed money to pay for it. S. 3's proponents appear committed to using taxes for political campaigns, however. In this morning's markup, a McConnell amendment to strip out all taxpayer subsidies was defeated on a party line vote.

So that taxpayers may be apprised of the billion dollar tab they are going to get stuck with, I ask unanimous consent that my letter to the chairman of the Rules Committee and a paper prepared by the Republican Policy Committee be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, March 18, 1991.

Hon. WENDELL H. FORD,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: In my testimony to the Committee last week, I estimated that S. 3 could cost $1 billion over a 6-year election cycle. These costs will be borne by the private sector and the public sector (which, of course, gets its money from taxpayers in the private sector). The basis for my estimate is a study done by the Republican Policy Committee, a copy of which is enclosed.

As the study shows, if S. 3 is enacted and all Senate candidates in 1994 avail themselves of the benefits of the bill, costs for that one Senate election will be about $131 million. Over the six-year Senate election cycle, costs for major party Senate candidates will total about $358 million. If similar subsidies are extended to the House, subsidies for major party House candidates will cost about $550 million. (This assumes that the costs for subsidizing House races will bear the same relationship to Senate costs as 1990 receipts for House candidates bore to 1990 receipts for Senate candidates.) The sum of more than $900 million (which is probably understated because of extremely conservative assumptions for broadcast purchases and independent expenditures) does not include payments to minor party candidates and does not include additional administrative costs. (The Federal Election Commission testified that 2500 auditors would be required to administer S. 3. The Commission now employs 25 auditors.)

The Policy Committee assumed 100 percent participation rates. This assumption may prove to be too high; however, 100 percent participation rates appear justified by the nation's experience with the Presidential Election Campaign Fund (only one candidate has turned down Federal money, and his campaign was a costly failure) and by the intentions of S. 3's sponsors (who intend the benefits of S. 3 to be so valuable that no candidate will turn them down). Additionally, it is possible to halve the estimate of the participation rate and not substantially change the $1 billion estimate: If one candidate (rather than two) will be eligible for S. 3's benefits and if the noneligible opponent raises or spends 134 percent of S. 3's spending limit then the eligible candidate is entitled to an additional taxpayer-subsidized payment equal to 100 percent of the general election expenditure limit. This payment, the "excess expenditure amount," is not available when both candidates are eligible for S. 3's benefits. (The threat of a noneligible candidate triggering payment of the excess expenditure amount to his or her eligible opponent provides another reason for thinking that participation rates under S. 3 will be very high indeed.)

S. 3 provides politicians with a billion dollars of subsidies over six years. It should be opposed for that reason alone—but the sober facts of the Federal budget provide plenty of other reasons. This year the Treasury of the United States will borrow hundreds of billions of dollars to meet the country's financial obligations. I can hardly believe that the Senate of the United States is preparing to vote on a bill that will set up an entitlement program for our own political campaigns and then take borrowed money to pay for it.

I appreciate the hearings you held on S. 3. Those hearings will help explain the bill to the American people. To that purpose, I ask that this letter and the accompanying study prepared by the Republican Policy Committee be placed in the hearing record together with my testimony of March 13.

Sincerely,

DON NICKLES.

Enclosure: U.S. Senate Republican Policy Committee Policy Analysis, "The Five Major Financial Benefits of S. 3: How They Work and Who Will Pay" (March 12, 1991).

THE FIVE MAJOR FINANCIAL BENEFITS OF S. 3: HOW THEY WORK AND WHO WILL PAY

(By Lincoln C. Oliphant, Policy Committee Legislative Counsel)

SYNOPSIS

If S. 3 is enacted, candidates for the United States Senate who agree to limit their campaign spending will be eligible for five financial subsidies. This paper analyzes and explains those subsidies and estimates their costs. Our cost estimates are preliminary and incomplete, but it appears that the subsidies will cost about 180 percent of the spending limit. For example, in a State where the general election expenditure limit would be $1 million, an eligible candidate (running against an ineligible candidate) would be entitled to various subsidies worth about $1.8 million. These subsidies will be paid for by taxpayers, by broadcasters, and by others who the sponsors of S. 3 have yet to identify. There is a substantial likelihood that the unidentified party also is the American taxpayer.

The subsidies will amount to hundreds of millions of dollars. If S. 3 is in force for the 1994 elections, the subsidies will amount to about $105 million if one Senate candidate in each race participates and to about $131 million if both Senate candidates participate. If the House of Representatives gets involved, add another couple of hundred million dollars.

I. INTRODUCTION

S. 3 is the leading campaign finance reform proposal of the 102d Congress because it is sponsored by the Democratic leadership and because it is similar to a bill that passed the Senate last year (S. 137). This month, the Rules Committee is holding three hearings on S. 3 and other campaign reform bills, and a bill can be expected on the Senate floor this spring.

The bill's Democratic sponsors say the key (and nonnegotiable) feature of S. 3 is its spending limits. Under S. 3, candidates for the United States Senate who (1) agree to limit their campaign spending,[1] (2) raise a relatively small amount in contributions of $250 or less,[2] and (3) comply with other requirements of the act[3] will be entitled to five major financial benefits, viz.

Half-price broadcast media rates.

Footnotes at end of article.

Low cost mailing rates,

Funds to respond to independent expenditures (the "independent expenditure amount"),

Funds to match "excessive" spending by an opponent (the "excess expenditure amount"), and

Vouchers to buy broadcast air time ("voter communication vouchers").

This paper considers each of these benefits to "eligible candidates"[4] in the order that the bill bestows them.

II. THE GENERAL ELECTION EXPENDITURE LIMIT AND A HYPOTHETICAL "MILLION DOLLAR STATE"

The general election expenditure limits under S. 3 run from $950,000 (for about 20 States) to $5.5 million for California.[5] These general election limits, which the Appendix lists for each of the fifty States, are used to determine three of the five financial subsidies of S. 3. Still, the value of the subsidies can only be estimated after various assumptions are made.

We have tried in every case to state our assumptions openly. If our assumptions are valid, the subsidies to a major party candidate for a seat in the United States Senate (when his or her opponent is not eligible for the subsidies) will amount to about 180 percent of the general election expenditure limit. If both major party candidates are eligible for subsidies, the benefits to each will be about 112 percent of the expenditure limit (for a total subsidy of 224 percent).

Readers who disagree with our assumption can assign other values and reach their own conclusions—which may be either higher or lower than our own. We are fully aware that our estimates are entirely dependent on our assumptions. Nevertheless, we hope to demonstrate that both the assumptions and the estimates are sound and helpful.

In the Appendix, we estimate the value of the subsidies only for those States that will have Senate races in 1994. With the numbers in the Appendix we do provide a basis for estimating S. 3's total costs for one election. However, this paper's primary purpose is not to "cost out" S. 3 but to explain S. 3's financial benefits in a typical Senate race. To help us achieve that purposse we use one State where the general election expenditure limit is an even $1 million. That spending limit is hypothetical, but it is close to S. 3's actual limits for about one-half of the 50 States.[6] The rules and ratios for our "million dollar State" may be applied to Senate races in every State, however.

III. THE SUBSIDY PROVIDED BY THE PRIVATE SECTOR: HALF-PRICE BROADCAST MEDIA RATES

Under current law, for the 45 days before a primary or run-off election and for the 60 days before a general or special election, a broadcaster may not charge political advertisers more than the "lowest unit charge" for "the same class and amount of time for the same period."[7] S. 3 will amend current law[8] so that an "eligible candidate" who is running for the Senate will be entitled to (1) the "lowest unit charge" during the 45 days preceding the primary or run-off election, and (2) *one-half* of the "lowest unit charge" during the period (of whatever length) beginning the day after the primary or runoff election (whichever is later) and ending on the day of the general election.[9] The half-price rates are available only to an eligible candidate.

Unlike the other benefits of S. 3, this subsidy is provided directly to Senate candidates by the private sector (here, the owners and employees of broadcast stations and their advertisers) without first filtering the money through the Department of the Treasury or some other agency or instrumentality of the United States Government.[10]

The rationale for the broadcast subsidy seems to be that campaigns cost too much and that broadcasters are rich enough to subsidize them. For example, in his introductory remarks on S. 3, the Senate Majority Leader said:

"The cost of campaign advertising on television has skyrocketed in recent years—growing more than 10 fold between 1974 and 1988. In the typical competitive Senate campaign more than 50 percent of the cost is attributed to television advertising. Many candidates spend the last few weeks of the campaign in nonstop fundraising simply to turn the money over to television stations. . . .

"The proposal in this legislation is . . . modest. It attempts to maintain market factors by relating the cost of election advertising to the cost of commercial time so that candidates still must pay based on the viewership of the programming. I expect this proposal will be resisted by many in the broadcast industry but campaign advertising is a very minor part of their overall advertising—less than 1 percent of total television ad revenues."[11]

Even if campaign advertising does constitute less than one percent of total television advertising revenue, political advertising on broadcast television totalled $203.3 million in 1990.[12] Presumably, the industry will indeed resist this subsidy; an industry that is being ordered to sell its product at one-half the going rate is unlikely to be comforted by a claim that "market factors" are being "maintained."[13]

The half-price broadcast rate will constitute a subsidy of at least one-half million dollars to an eligible Senate candidate where the general election expenditure limit is $1 million. This is so because the eligible candidate gets $500,000 in broadcast vouchers (explained below), and that $500,000 plus any other funds the eligible candidate spends on broadcasting will be matched, dollar-for-dollar, by the half-price subsidy that broadcasters are being compelled to provide.

In truth, the eligible candidate will get $1 million in advertising, and he will pay . . . absolutely nothing. In a State with a $1 million general election limit, an eligible candidate will receive $500,000 in vouchers which he or she will then use to buy $1 million in broadcast time (because the time must be sold at one-half the regular rate). Therefore, an eligible candidate gets $1 million in advertising and spends no cash. (Presumably, a good portion of that unspent cash also will be spent on broadcast purchases, and those additional purchases of time will be matched, dollar-for-dollar, by the subsidy required of the broadcast industry.) The noneligible candidate, on the other hand, will find himself or herself in the outdated and curiously capitalistic position of having to pay $500,000 for half-a-million dollars of broadcast time.

There may be a tendency to think that the broadcast subsidy (one-half regular rates) and the broadcast vouchers (equal to one-half the general election limit) combine to give the eligible candidate a fourfold benefit whereby $4 of advertising can be purchased for $1. But the benefits are infinitely more valuable than that: An eligible candidate will receive broadcast benefits equal to the general election expenditure limit without spending a single dollar bill. One-half of those benefits will be paid for by the broadcast industry, and one-half will be paid for from the still-mysterious Senate Election Campaign Fund (see below).

We summarize the value of this subsidy in the following table. (We repeat this table for each of the subsidies that follow.)

Estimated value of subsidies to eligible candidates under S. 3 in State where general election spending limit is $1 million

General election expenditure limit	$1,000,000
Subsidies:	
Half price broadcast rates	500,000
Reduced mail rates	
Independent expenditure amount	
Excess expenditure amount	
Voter communication vouchers	

This subsidy is worth at least 50 percent of the spending limit. We emphasize that this estimate is rock solid because it sits on the rock bottom. Our estimate for the value of this subsidy will be too high if and only if an eligible candidate does not spend all of his or her broadcast vouchers. Since the vouchers are free to the eligible candidate and can only be spent on broadcast time to tout the candidate, we hold firmly to the thought that this estimate is cheap.

IV. THE SUBSIDY PROVIDED BY THE TAXPAYERS: LOW COST MAIL

Under current law, certain diplomats,[14] blind persons and others who "cannot use or read conventionally printed material because of a physical impairment,"[15] persons overseas who are posting ballots for elections in the United States,[16] and nonprofit or political or other qualified organizations,[17] receive substantial mail subsidies. These subsidies are paid for out of the general revenues of the United States[18] unless Congress fails to appropriate the amount authorized.[19] In the case of a failure to appropriate, the rate is to be increased to make up for the amount "that the Congress was to appropriate."[20]

S. 3 will give eligible candidates preferential rates for mail. The preferential rates will be (1) for first-class mail, one-fourth of the regular rate, and (2) for third-class mail, two cents per piece less than the first-class rate. This subsidy comes to an end when the total amount paid for reduced-rate mail (i.e., the sum of first-class postage and third-class postage at the reduced-rate prices) exceeds five percent of the general election expenditure limit for the candidate.[21]

Up to the 5 percent cap, therefore, eligible Senate candidates will be able to mail a first-class letter for 7.25 cents (i.e., one-fourth of the regular rate which is now 29 cents) and a third-class letter for 5.25 cents (i.e., 2 cents less than S. 3's reduced rate for first class mail). Postal rate structures are complicated and it is somewhat difficult to compare rates, but we are informed by the Postal Service that, with respect to first class rates, there is no comparable rate reduction for any other group; with respect to third class rates for non-profit organizations, the average rate per piece is 9.5 cents.

We estimate the value of the mail subsidy at 10 percent of the general election expenditure limit. This subsidy apparently is to be paid for by taxpayers, not stamp buyers per se, because section 104(b) of the bill provides permanent authorizing authority for an appropriation.[22]

The eligible candidate's spending and not the subsidy is capped at 5 percent of the general election limit. In a state where the general election limit is $1 million, an eligible candidate could buy $200,000 of first-class postage before reaching the $50,000 spending limit because each letter costs only one-fourth of the regular rate. Therefore, if all of the postage were used on first-class mail the subsidy would be $150,000 ($200,000 received minus $50,000 paid). If the $50,000 were spent on third-class postage, our eligible candidate would receive a subsidy of about $50,000 because the third-class subsidy is roughly 100 percent ($100,000 of third-class postage could be purchased for $50,000).[23]

In measuring the cost of this subsidy we assume that an eligible candidate with a $1 million general election limit will divide his or her use of the postal subsidy so that $150,000 of postage will be procured with the candidate's $50,000. Therefore, the subsidy is $100,000 ($150,000 received minus $50,000 paid), or 10 percent of the general election limit.

Estimated value of subsidies to eligible candidates under S. 3 in State where general election spending limit is $1 million

General election expenditure limit	$1,000,000
Subsidies:	
Half price broadcast rates	500,000
Reduced mail rates	100,000
Independent expenditure amount	
Excess expenditure amount	
Voter communication vouchers	

We estimate that this subsidy is worth 10 percent of the spending limit, although it could range from about 5 percent of the spending limit (if only third-class postage is purchased) to 15 percent (if only first-class postage is purchased). We place our estimate at the midpoint. By doing so we knowingly discount the incentive to use more first-class mail (and receive additional subsidies worth tens of thousands of dollars).

V. SUBSIDIES TO CANDIDATES THROUGH THE SENATE ELECTION CAMPAIGN FUND TO BE PROVIDED BY PERSONS AS YET UNIDENTIFIED

A. The Senate Election Campaign Fund

The three subsidies discussed in this section will come out of a Senate Election Campaign Fund. Unfortunately, S. 3 does not say who will put money into the Fund. In part, it is said, that silence is in deference to the House's constitutional prerogatives on taxation. In part, that silence is intended to obscure the prospect that taxpayers are about to be told to pick up the tab for Senators' campaigns. Some of our reasons for thinking that taxpayers will be handed the bill—over the objections of Republican Senators—are given below in subsection E, "Who Will Pay for the Senate Election Campaign Fund?"

There are some things about S. 3 that its sponsors are not revealing (such as the detail of who pays), but there are other things that we do know: We know, for example, that S. 3 establishes "on the books of the Treasury of the United States a special fund to be known as the 'Senate Election Campaign Fund'," and we know that S. 3 appropriates to the Fund for each fiscal year an amount equal to "any contributions by persons which are specifically designated as being made to the Fund."[24] We do not know who will be assigned to make these "specifically designated" "contributions," but we do know that S. 3 will offer the following benefits to be paid out of that phantom fund:

B. The Independent expenditure amount

Under S. 3, an eligible candidate will receive a payment from the Senate Election Campaign Fund to counteract independent expenditures that are made or obligated to be made during the general election period (1) in opposition to the eligible candidate or (2) on behalf of the eligible candidate's opponent.[25] This benefit, the "independent expenditure amount," is not limited to eligible candidates facing noneligible opponents. If an election involved two eligible candidates, each would be entitled to a payment of the independent expenditure amount.[26] Current law does not, of course, provide any comparable benefit.

Relatively small independent expenditures would not trigger the payment of the independent expenditure amount from the Senate Election Campaign Fund. Under the bill, independent expenditures that are made or obligated to be made during any general, primary, or runoff election period must be reported to the Federal Election Commission if they exceed $10,000.[27] Only reported amounts trigger a payment. Therefore, an independent expenditure of exactly $10,000 would not be reported and would not be matched by a payment of the independent expenditure amount. This is the case even if there are hundreds of separate, truly discrete independent expenditures of $10,000. However, any independent expenditure above $10,000 must be reported and would be matched if it was made during the general election period.[28]

The independent expenditure amount is unlimited, but we value it at 2 percent of the general election expenditure limit. Our estimate is based on F.E.C. numbers showing that in the 1987–88 election cycle independent expenditures equaled about 2 percent of all spending on Senate campaigns.[29] We have not attempted to apportion that spending to the general election period.

Estimated value of subsidies to eligible candidates under S. 3 in State where general election spending limit is $1 million

General election expenditure limit	$1,000,000
Subsidies:	
Half price broadcast rates	500,000
Reduced mail rates	100,000
Independent expenditure amount	20,000
Excess expenditure amount	
Voter communications vouchers	

We estimate this subsidy to be worth 2 percent of the spending limit. Surely we are low. Many observers believe that when direct spending is limited independent expenditures will increase greatly. There is perhaps an indication of this likelihood in the history of the presidential system, which of course has public financing and spending limits. In the 1988 election, presidential candidates received $213.8 million, and independent expenditures totalled $14.1 million or 7 percent.[30]

C. The excess expenditure amount

Under S. 3, an eligible candidate will receive a payment from the Senate Election Campaign Fund to counteract his or her (noneligible) opponent's (1) spending, (2) obligation to spend, or even (3) receipt of contributions, that is in excess of the bill's general election expenditure limit. This payment is the "excess expenditure amount." Unlike the independent expenditure amount, the excess expenditure payment doesn't just equal that spending which the bill's proponents find objectionable, it often exceeds it.[31] Current law does not, of course, provide any comparable benefit.

For a major party candidate,[32] the excess expenditure amount is two-thirds of the general election spending limit payable whenever the noneligible opponent spends or raises more than 100 percent of the general election limit but less than 133.33 percent of that limit. Therefore, in a race for U.S. Senate where the general election expenditure limit is $1 million, as soon as the noneligible candidate raises, spends, or obligates to spend $1,000,000-plus-one-dollar the eligible candidate is entitled to a check drawn on the Senate Election Campaign Fund for $666,667. Once the noneligible candidate in our hypothetical State spends or raises more than $1,333,333 (133.33 percent of the general election spending limit), the eligible candidate is entitled to another check for $333,333. Hence, if the noneligible candidate raises or spends $333,334 above the million dollar limit, he or she triggers a payment of $1 million to his or her eligible opponent. If the noneligible candidate raises or spends more than 133.3 percent of the general election spending limit then all spending limits are removed for the eligible candidate.[33]

In the table, we value the excess expenditure amount at only two-thirds of the maximum allowable amount, i.e., an amount equal to two-thrids of the general election expenditure limit. Remember, this amount becomes available to an eligible candidate when the noneligible candidate raises or spends one dollar above the general election limit.

Estimated value of subsidies to eligible candidates under S. 3 in State where general election spending limit is $1 million

General election expenditure limit	$1,000,000
Subsidies:	
Half price broadcast rates	500,000
Reduced mail rates	100,000
Independent expenditure amount	20,000
Excess expenditure amount	666,667
Voter communication vouchers	

This value is particularly difficult to assess even though we have only three choices 100 percent, 66.6 percent, and zero. We assume that a noneligible candidate will raise, spend, or obligate to spend at least one dollar over the general election limit. That one dollar decision will, of course, trigger a two-thirds of a million dollars windfall to his or her eligible opponent. Our difficulty with the estimate vanishes, however, when we assume that both candidates are eligible. In that case, neither candidate is entitled to an excess expenditure amount and we can safely say that the subsidy disapears. Estimates for Senate races where both candidates are eligible can be found in the Appendix.

D. Voter communication vouchers

An eligible, major party candidate is entitled to "voter communication vouchers" in the amount of 50 percent of the general election expenditure limit. These vouchers may be used only to purchase broadcast time of at least one minute but not more than five minutes during the general election period.[34] After the F.E.C. certifies that a candidate is eligible, the Secretary of the Treasury issues voter communication vouchers. These are in turn used to purchase broadcast time and then turned back to the Secretary by the broadcaster for payment at face value.[35] Funds for the payment are to come from the Senate Election Campaign Fund.[36] Current law does not, of course, provide any comparable benefit.

Estimated value of subsidies to eligible candidates under S. 3 in State where general election spending limit is $1 million

General election expenditure limit	$1,000,000
Subsidies:	
Half price broadcast rates	500,000
Reduced mail rates	100,000
Independent expenditure amount	20,000
Excess expenditure amount	666,667
Voter communication vouchers	500,000

Voter communication vouchers may be valued with precision; they are equal to 50 percent of the general election expenditure limit.

E. Who will pay for the Senate Election Campaign Fund?

In his introductory remarks on S. 3, the Majority Leader said:

"I recognize there will be those who will be concerned that taxpayers could be asked to help pay for cleaner[,] more competitive campaigns. But this isn't a novel idea; we have been doing it in Presidential elections since 1976. The cost of this is quite minor and like the presidential system would be financed by the voluntary checkoff on the tax return." [37]

If a checkoff system is used, as the Majority Leader suggests it will be, all taxpayers are handed the bill, not just those who check a box on their form 1040. Those who check that box determine how much money is transferred from the general fund to the election fund, but they do not themselves pay the bill, and neither do they increase their tax liability nor reduce the size of their refund. (The current Form 1040 reminds taxpayers that, "Checking 'Yes' will not change your tax or reduce your refund.") The same design is in prospect for S. 3.

Senate Republicans oppose using tax funds to pay for the political campaigns of Members of Congress. During last year's debate on a campaign finance reform bill, S. 137, Senate Republicans led a fight to eliminate all taxpayer-financed subsidies from the bill. Republicans lost that battle—but not the war, which rages on—when a McConnell amendment was defeated by only three votes. Not one Republican voted against that amendment. By contrast, 49 of 51 Democrats voted against it.[38]

After defeat of the McConnell amendment, Senator Exon proposed that the bill's benefits be paid by individual taxpayers who would redirect a part of their income tax *refund* to a campaign finance fund. Unlike the current checkoff system, the Exon plan would have reduced a taxpayer's refund. That amendment failed 39-to-60.[39] Senator Boren's sense-of-the-Senate amendment to the same effect as the Exon amendment was then adopted, 55-to-44.[40] Amendments expressing the sense of the Senate do not, of course, bind the Senate or the House or anyone else, and the idea that taxpayers will designate enough of their tax refunds to a Senate Election Campaign Fund so that Senators can finance their re-election campaigns is, to say no more, improbable.

Improbability is indicated by the current plight of the Presidential Election Campaign Fund, which is not funded by payments that reduce refunds but which nevertheless is facing serious financial difficulties. "There will be a shortfall in the [Presidential] Fund," says the Chairman of the F.E.C. "This may occur as early as next year's Presidential election. It will occur in the 1996 elections absent corrective legislative action." [41] As costs have risen, participation has dropped off. In 1989, the percentage of tax returns showing a "check off" fell below 20 percent for the first time.[42]

VI. CONCLUSION

Under our assumptions, an eligible candidate in a State with a $1 million general election expenditure limit is entitled to an estimated $1,787,000 in subsidies if his or her opponent is not an eligible candidate. This ratio of 1 to about 1.80, which may be too high or too low, will hold for every State. If both candidates are eligible major party candidates, the combined subsidy for both campaigns will equal about $2,240,000, or 2.24 times the general election expenditure limit for one candidate. (The subsidy for an election when both candidates are eligible candidates is calculated by omitting the excess expenditure amount and then doubling the result.) Estimates for the 1994 Senate elections can be seen in the Appendix.

Three of the five subsidies will be paid for by persons as yet undisclosed. Taxpayers and broadcasters have already been assigned to pay for the other two subsidies.

This paper does not purport to provide a comprehensive estimate of costs. We make no estimate for administrative costs, for example.[43] Our estimate for the independent expenditure amount is probably far too low; nearly everyone expects independent expenditures to balloon if direct campaign spending is capped. Costs for minor party candidates are sure to climb, perhaps steeply.[44] Our estimate of the subsidy for the half-price broadcast rates may be far too low because it accounts only for the eligible candidate's voter communication vouchers. Our estimate for the cost of the excess expenditure amount is an honest guess. How can it be anything else when the value of that benefit is either 100 percent or 67 percent of the general election expenditure limit or zero? And, of course, all aggregate estimates—ours and everyone else's—are functions of participation rates, which are unknowable. Based on the presidential model, however, we believe that participation rates will be very high. (John B. Connally is the only presidential candidate, among dozens during a generation, who has refused money from the Treasury.)

We look forward to a more comprehensive estimate of the costs of S. 3.

APPENDIX.—SPENDING LIMITS AND ESTIMATED SUBSIDIES UNDER S. 3

State	1990 voting age population	General election expenditure limit	1994 Senate elections	1994 estimated subsidy for one eligible candidate	1994 estimated subsidy for two eligible candidates
Alabama	3,010,000	$1,303,000			
Alaska	362,000	950,000			
Arizona	2,575,000	1,172,500	$1,172,500	$2,110,500	$2,626,400
Arkansas	1,756,000	950,000			
California	21,350,000	5,500,000	5,500,000	9,900,000	12,320,000
Colorado	2,453,000	1,135,900			
Connecticut	2,479,000	1,143,700	1,143,700	2,058,660	2,561,888
Delaware	504,000	950,000	950,000	1,710,000	2,128,000
Florida	9,799,000	3,049,750	3,049,750	5,489,550	6,831,440
Georgia	4,639,999	1,759,750			
Hawaii	825,000	950,000	950,000	1,710,000	2,128,000
Idaho	710,000	950,000			
Illinois	8,678,000	2,769,500			
Indiana	4,133,000	1,633,250	1,633,580	2,940,444	3,659,219
Iowa	2,132,000	1,039,600			
Kansas	1,854,000	956,200			
Kentucky	2,760,000	1,228,000			
Louisiana	3,109,000	1,332,700			
Maine	917,000	950,000	950,000	1,710,000	2,128,000
Maryland	3,533,000	1,459,900	1,459,900	2,627,820	3,270,176
Massachusetts	4,576,000	1,744,000	1,744,000	3,139,200	3,906,560
Michigan	6,829,000	2,307,250	2,307,250	4,153,050	5,168,240
Minnesota	3,224,000	1,367,200	1,367,200	2,460,960	3,062,528
Mississippi	1,852,000	955,600	955,600	1,720,080	2,140,544
Missouri	3,854,000	1,556,200	1,556,200	2,801,160	3,485,888
Montana	588,000	950,000	950,000	1,710,000	2,128,000
Nebraska	1,187,000	950,000	950,000	1,710,000	2,128,000
Nevada	833,000	950,000	950,000	1,710,000	2,128,000
New Hampshire	828,000	950,000			
New Jersey [1]	5,903,000	4,932,100	4,932,100	8,877,780	11,047,904
New Mexico	1,074,000	950,000	950,000	1,710,000	2,128,000
New York	13,600,000	4,000,000	4,000,000	7,200,000	8,960,000
North Carolina	4,929,000	1,832,250			
North Dakota	481,000	950,000	950,000	1,710,000	2,128,000
Ohio	8,090,000	2,622,500	2,622,500	4,720,500	5,874,400
Oklahoma	2,371,000	1,111,300			
Oregon	2,123,000	1,036,900			
Pennsylvania	9,199,000	2,899,750	2,899,750	5,219,550	6,495,440
Rhode Island	767,000	950,000	950,000	1,710,000	2,128,000
South Carolina	2,558,000	1,167,400			
South Dakota	519,000	950,000			
Tennessee	3,685,000	1,505,500	1,505,500	2,709,900	3,372,320
Texas	12,038,000	3,609,500	3,609,500	6,497,100	8,085,280
Utah	1,076,000	950,000	950,000	1,710,000	2,128,000
Vermont	425,000	950,000	950,000	1,710,000	2,128,000
Virginia	4,615,000	1,753,750	1,753,750	3,156,750	3,928,400
Washington	3,545,000	1,463,500	1,463,500	2,634,300	3,278,240
West Virginia	1,394,000	950,000	950,000	1,710,000	2,128,000
Wisconsin	3,612,000	1,483,600	1,483,600	2,670,480	3,323,264
Wyoming	339,000	950,000	950,000	1,710,000	2,128,000

APPENDIX.—SPENDING LIMITS AND ESTIMATED SUBSIDIES UNDER S. 3—Continued

State	1990 voting age population	General election expenditure limit	1994 Senate elections	1994 estimated subsidy for one eligible candidate	1994 estimated subsidy for two eligible candidates
Total		79,932,050	58,509,880	105,317,784	131,062,131

[1] A unique formula applies to New Jersey. Sec. 101–"503(b)(2)."

FOOTNOTES

[1] The spending limits for the general election are explained in section II of this paper. Spending limits for a primary election are 67 percent of the general election limit or $2,750,000, whichever is less. The limit for a runoff election is 20 percent of the general election expenditure limit. Sec. 101–"502(d)". [This form of citation, which is used throughout this paper, signifies a reference to that part of section 101 of S. 3 that proposes to add new subsection 502(d) to the Federal Election Campaign Act of 1971 ("FECA," which is codified at 2 U.S.C. 431

[2] To become eligible, a candidate must raise 10 percent of the general election expenditure limit in contributions of $250 or less from individuals. One-half of those individuals must reside within the candidate's State. The contributions must be made by "written instrument identifying" the contributor and must be made after January 1 of the calendar year preceding the year of the general election. Sec. 101–"502(e)".

[3] For example, the filing requirements of subsecs. 101–"502(b)-(c)", the recordkeeping and audit requirements of sec. 101–"507", and the limitation on the use of personal or family funds of sec. 101–"503".

[4] This is the term to denominate a candidate who has agreed to the requirements of the bill and is therefore eligible for its benefits. See, sec. 101–"501(2)".

[5] S. 3 provides that the general election expenditure limit is, ". . . [T]he aggregate amount of expenditures for a general election by an eligible candidate and the candidate's authorized committees shall not exceed the lesser of— (A) $5,500,000; or (B) the greater of— (i) $950,000; or (ii) $400,000; plus (I) 30 cents multiplied by the voting age population not in excess of 4,000,000; and (II) 25 cents multiplied by the voting age population in excess of 4,000,000." Sec. 101–"503(b)(1)". New Jersey gets its own formula. Sec. 101–"503(b)(2)". Despite the name of the term, an eligible candidate can spend substantially more in the general election than the formula allows. For example, an eligible candidate can spend up to 25 percent above his or her limit if that amount is raised from individuals within his or her State in amounts of $100 or less, sec. 101–"503(b)(4)", and can spend up to 15 percent above the limit (or $300,000 plus an amount the F.E.C. approves, whichever is less) for qualified legal and accounting fees, sec. 101–"503(c)".

[6] The limit likely will be $950,000 for Alaska, Arkansas, Delaware, Hawaii, Idaho, Maine, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Dakota, Rhode Island, South Dakota, Utah, Vermont, West Virginia, and Wyoming, and about $1 million for Arizona, Colorado, Connecticut, Iowa, Kansas, Mississippi, Oklahoma, Oregon, and South Carolina.

[7] 47 U.S.C. 315(b) (1988). In the summer of 1990, the Federal Communications Commission conducted an audit of television and radio stations to measure compliance with the rules requiring the lowest unit charge for political advertisements. Sixteen of 20 television stations and four of eight radio stations were found to be in noncompliance. Broadcasters have complained for years that the F.C.C.'s rules are complex, confusing, and costly. In September, 1990, the Commission issued new guidelines requiring broadcasters to disclose all rates and the availability of package options available to commercial advertisers and prohibiting broadcasters from creating new classes of time that result in higher rates for candidates. "FCC Issues New Lowest Charge Guidelines," 119 *Broadcasting 30 (Sept. 10, 1990).*

[8] Section 315 of the Communications Act of 1934, 47 U.S.C. 315, will get a thorough going over if S. 3 is enacted. Section 103(a) of the bill amends subsection 315(b) to require the 50 percent rates; section 103(b) adds to section 315 two new subsections on preemption and vouchers; and section 202 rewrites subsection 315(a), the equal time requirements.

[9] Sec. 101–"504(a)(1)" & Subsec. 103(a). In each case, the lowest unit charge is "determined at the rate applicable to broadcasts of 30 seconds for the same time of day and day of week." Subsec. 103(a). During any period in which the rules on "lowest unit charge" are in effect (whether for eligible or noneligible candidates), the broadcaster may not preempt the air time that a candidate has purchased unless preemption is "unavoidable." Subsec. 103(b).

[10] The major campaign finance reform bills sponsored by Republicans also would regulate broadcast rates, but generally just by guaranteeing that non-preemptible time could be purchased at preemptible rates. See, sec. 501 of S. 6 (non-preemptible time must be sold at the lowest unit rate for preemptible time during the final weeks of an election) & title III of S. 143 (same). However, title V of S. 7 requires that non-preemptible time must be sold at the lowest unit rate for preemptible time and also requires broadcasters to provide 5 hours of free time (most of it during the last few weeks before the election) during every 2-year election cycle.

[11] 137 Cong. S. 479 (daily ed. Jan. 14, 1991) (remarks of Sen Mitchell).

[12] This number is from the Television Bureau of Advertising (telephone interview). In 1988 the National Association of Broadcasters testified before a Congressional committee that political advertising accounts for one percent of total revenues in large markets and four percent in small markets. "Subcommittee Bashes Broadcasters on Lowest Unit Rate," 115 *Broadcasting* 48 (Sept. 19, 1988).

[13] From the industry's point of view, half-price rates are being piled on lowest unit rates, which apparently they don't like either: "Lowest unit charge is 'a flat-out, politician-ordered, broadcaster subsidy for politicians,' [former F.C.C. Chairman Mark Fowler told a cheering audience [of the National Association of Broadcasters]. He said there's nothing wrong with broadcasters making cheap advertising time available for candidates: 'The difference—indeed the rub—is that government put its big, thick thumb on the scales of justice by ordering all this to occur.' * * * Fowler, who was interrupted repeatedly by applause. * * * received 30-second standing ovations at the beginning and conclusion of his speech. * * *" "Record 40,388 in Dallas," 7 *Communications Daily* 2 (April 1, 1987).

[14] 39 U.S.C. 3217 (1988).

[15] 39 U.S.C. 3403 (1988).

[16] 39 U.S.C. 3406 (1988).

[17] 39 U.S.C. 3626 (1988).

[18] 39 U.S.C. 2401(c) (1988) (permanent authorization).

[19] 39 U.S.C. 3627 (1988).

[20] *Id.*

[21] Sec. 101–"504(a)(2)" & sec. 104(a).

[22] The bill does not appear to amend 39 U.S.C. 3627. Therefore, unlike the other classes of subsidized mail listed in the text, if Congress fails to appropriate funds to cover the costs of the subsidy the shortfall may have to be made up by all stamp buyers and not just by those using the class of mail that is being subsidized, which otherwise is the requirement of section 3627. On the other hand, the failure of the bill to amend section 3627 may mean that the subsidy will end if Congress does not make an annual appropriation. Conversations with members of the Rules Committee staff lead us to the conclusion that there is some unintentional ambiguity in the mail subsidy provisions and that an amendment may be forthcoming.

[23] For third-class mail, we are comparing the subsidized rate under S. 3 with a rate that is already being subsidized. Neither rate reflects the actual cost of delivering a letter. In short, we understate the value of the subsidy.

[24] Sec. 101–"506(a)".

[25] Here, Sec. 101–"506(d)", and elsewhere throughout the bill, if the Senate Election Campaign Fund does not have enough money to provide a full payment, the candidate is given a pro rata share.

[26] Sec. 101–"504(a)(3)" & sec. 101–"504(b)".

[27] Sec. 106–"304A(b)".

[28] Sec. 101–"504(b)(2)". The section-by-section summary of S. 3 says, "Eligible candidates would receive public funds to respond to independent broadcast ads exceeding $10,000 from any source during the general election period." 137 Cong. Rec. S 478 (daily ed. Jan. 14, 1991) (remarks of Sen. Ford). We see no evidence, however, that the independent expenditure amount is available only if the independent expenditure is for "broadcast ads." Any independent expenditure, whether for broadcast ads or not, will trigger the payment of the independent expenditure amount if the expenditure is above $10,000.

[29] Net receipts (not expenditures) for Senate candidates in the 1987–88 cycle were $199.3 million. Independent expenditures in Senate campaigns totalled $4.2 million (84 percent of which were *for* not *against* a candidate). "FEC Final Report on 1988 Congressional Campaigns Shows $459 Million Spent," F.E.C. press release Oct. 31, 1989, pp. 5, 13.

[30] "FEC Releases Final Report on 1988 Presidential Primary Campaign," F.E.C. press release Aug. 25, 1989 at 1.

[31] Sec. 101—"504(a)(3)", sec. 101—"504(b)(1)(B)", & sec. 101—"504(b)(3)".

[32] Here, sec. 101—"504(b)(3)(B)", and elsewhere throughout the bill, different rules apply to minor party candidates.

[33] Sec. 101—"504(d)(2)".

[34] Sec. 101—"504(a)(4)" & sec. 101—"504(c)".

[35] Sec. 101—"506(c)".

[36] *Id.*

[37] 137 Cong. Rec. S. 479 (daily ed. Jan. 14, 1991) (remarks of Sen. Mitchell).

[38] 136 Cong. Rec. S. 11100 (daily ed. July 30, 1990) (amendment no. 2433). See also, 136 Cong. Rec. S 11229 (daily ed. July 31, 1990) (Kerry amendment no. 2443).

[39] 136 Cong. Rec. S. 1187 (daily ed. Aug. 1, 1991) (amendment no. 2448).

[40] 136 Cong. Rec. S. 11493 (daily ed. Aug. 1, 1991) (amendment no. 2449).

[41] Statement of John Warren McGarry, Chairman, F.E.C., before the U.S. Senate Comm. on Rules and Administration at 1 (Mar. 6, 1991) (mimeo).

[42] *Id.* See also, "Campaign Fund Faces Shortfall As More Taxpayers Check No," 49 Cong. Q. Weekly Rpt. 558, 559 (Mar. 2, 1991).

[43] Cf., S. Rpt. 101–253 [to accompany S. 137], 101st Cong., 2d Sess. 23 (1990) (C.B.O.'s estimate for additional F.E.C. administrative costs).

[44] In 1988, of the fifteen presidential candidates who received Federal funds there was one minor party candidate (Ms. Fulani) and one other candidate (Mr. LaRouche) who ran as a Democrat but whose bona fides were questioned.

Mr. NICKLES. I thank my colleagues and friend from Wyoming.

Mr. SIMPSON. Mr. President, I thank the Senator from Oklahoma for his powerful explanation of that proposal which indeed will confront us all. I think the American public is demanding we do campaign reform and demanding we do it in a sensible way, and we will not escape that obligation.

I see my friend from Delaware is present and I yield 4 minutes to the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware [Mr. ROTH] is recognized for 4 minutes.

Mr. ROTH. I thank the Chair.

The remarks of Mr. ROTH pertaining to the introduction of S. 721 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. ROTH. Mr. President, I yield back the floor and thank my friend and distinguished colleague from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming has 2 minutes remaining.

EXTENSION OF MORNING BUSINESS

Mr. SIMPSON. Mr. President, I ask unanimous consent that we be permitted to proceed for an additional 7 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, therefore in view of that, I yield to my friend from Montana 4 minutes.

The PRESIDING OFFICER. The Senator from Montana [Mr. BURNS] is recognized.

THE MIDDLE EAST

Mr. BURNS. Mr. President, last weekend about 17 Senators, bipartisan, visited the Middle East. We all came away with different impressions and different thoughts of the Middle East and the activities and the actions that were taken there.

We tend to forget sometimes that Saddam Hussein was the man who made the first move. There was a time when we wrenched with our decisions that had to be made here in the U.S. Senate, and those decisions were made and they were made in the right direction and we proceeded.

But as I visited Kuwait City last weekend, it reminded me of some things we are doing in this Congress I think we ought to be mindful of or be reminded of every now and again.

What Saddam Hussein did to a city in 7 months might be happening to our country and our cities, only spread over a longer time, maybe in 70 years. When you go into a city that you have visited just 4 years ago and see its vitality and its modern conveniences and the amenities that Americans are used to completely trashed and destroyed—it was a ghost city, and we in the West know what ghost cities look like: no people, no utilities, such as water or power, the ability to handle sewage or waste. None of those amenities or necessities to run a city was evident, and with the fires from those oil wells outside and the rain in cities on the buildings that were once white, that were dingy and streaked from the rains of the spring.

I got to thinking, do we invest in this country, in our infrastructure called transportation, called communications, called utilities, such as electricity and water and all these things that it takes, that we have to provide for our society—completely destroyed, a city taken to its knees.

I would remind our colleagues here, not only in the Federal Government, but also in our State and county governments, that the investments that we make in infrastructure, such as bridges, such as roads, such as electricity, such as water and power, how important they are to us in our ability to compete with the rest of the world.

Sometimes we move our priorities, and I have moved mine. We respond to reactions and kneejerk reactions of some social programs that do not work.

I am always reminded of a comic strip I saw a couple of weeks ago. I think it was Shoe. This guy says, "I react to my problems. I throw money at them. And the only thing that disappears is my money. The problem remains."

So as we start to allocate dollars working in this budget—and the American people have told us that this national debt and deficit spending is the No. 1 priority. But they also have another priority, called the maintenance of infrastructure.

All you have to do, Mr. President, is go and look at Kuwait City. What was done in 7 months, we are doing to ourselves, also, over a period of years. It is happening before our eyes, and we are not realizing it.

That is what I brought back from the Middle East, other than a force that was moved in short time, present positions, and an operation that went off without a hitch. Those young men and women of our country should be congratulated for a job well done. What we want to do is bring them home.

But I just want to remind my colleagues that we should take a look at our infrastructure.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BURNS. I thank the Chair and I thank my leader, and I yield the floor.

Mr. SIMPSON. I thank the Senator from Montana for his graphic description of his visit to Kuwait.

How much time remains, Mr. President?

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

SUPPORT OF THE EXTENSION OF THE FAST-TRACK AUTHORITY

Mr. SIMPSON. Mr. President, I want to express my strong support of the President's request to extend the fast-track past the May 31, 1991, deadline set by the Congress in the Omnibus Trade and Competitiveness Act.

We really have before us two great opportunities to improve the slowing of the United States economy—specifically, the Uruguay round of GATT and the North America Free-Trade Agreement. Historically, Congress and the executive branch have recognized that the negotiation of and the implementation of free-trade agreements requires a very special kind of cooperation. This relationship has worked very successfully over the years. The proof of this is the inclusion of the fast-track procedures in the trade legislation in 1974, 1979, and the 1988 Omnibus Trade and Competitiveness Act.

Fast-track provides two essential guarantees for us: A vote on the implementing legislation within a fixed time period; and, two, no amendments to the final agreement. These guarantees are absolutely essential to negotiating any agreement. Without them, the final package will be unraveled by every single special-interest group in the United States, every single one that comes down the pike. More importantly, many countries will not commence trade negotiations without an assurance of the fast-track procedure. We must be able to ensure that the final agreement reached can be voted on intact.

The Uruguay round of GATT and the North American Free-Trade Agreement represents good policy—good trade policy, good economic policy, and good foreign policy.

Over the last decade, we have become increasingly aware of the critical role that international competition and trade play in our economy. From 1982 to 1989, imports increased from $254 billion to $430 billion, while exports increased from $212 billion to $364 billion. This $178 billion expansion accounted for 40 percent of the 4-year growth in the U.S. gross national product. The balance of trade during that same time period increased from $42 billion to $129 billion. Despite our international trade efforts, imports continue to greatly exceed exports. We must realize that domestically, we just are not going to be able to consume a great deal more than we currently are. We cannot. Without actively pursuing all avenues to increase exports, the balance of payments will continue to deteriorate.

The so-called Hollings resolution aiming to derail the executive branch's ability to negotiate trade agreements is not appropriate. The language of the disapproval resolution makes it so very clear that fast-track authority would be eliminated for both multilateral and bilateral agreements. If that passes, we will not have either the NAFTA or the Uruguay round. Essentially, a vote against fast track is a vote against trade.

We cannot fool ourselves by thinking that any final agreement on the proposed trade agreements will be welcomed globally. Yet, if we were to eliminate the fast-track procedure, we will irreparably damage prospects for a favorable conclusion to trade agreements and the international competitiveness of the United States.

We cannot deceive ourselves by diminishing the importance of the fast-track provision. We have before us a decision which will determine the direction, as well as the strength, of U.S. trade policy in the future.

I urge my colleagues to support the President's request to extend the fast track, and commend Carla Hills for her superb work in this effort.

Mr. President, I thank the majority leader for this opportunity of a special order to express some of the views and observations and feelings of those of us on our side of the aisle. The majority leader is always the most courteous about that, and we appreciate it.

The PRESIDING OFFICER. The Chair thanks the Senator from Wyoming.

The Senate continues in a period of morning business until 11:30 this morning, in which Senators are permitted to speak. The time between now and 11:30 will be under the control of the majority leader or his designee.

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LIEBERMAN). Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. GRAHAM. Mr. President, I also request unanimous consent that Mr. Richard Legatski, a congressional fellow serving on my staff, be granted the privilege of the floor during my remarks this morning and during any future floor consideration of the bills I am about to introduce.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. GRAHAM pertaining to the introduction of S. 733 through S. 737 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DODD. Mr. President, I ask unanimous consent to speak for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE SUBMARINE INDUSTRIAL BASE

Mr. DODD. Mr. President, I requested time this morning to talk about a serious problem that threatens to endanger the national security of the United States. I am talking about our declining defense industrial base and the long-term consequences of decisions made today about the procurement of weapons systems. More specifically, my subject is the serious threat to one of our most important assets, our submarine construction capability.

It seems to me that our Nation in this century is bound to make the same error after every major war: to disengage, to disarm too much too soon. Our premature pullback from European affairs after World War I doomed the League of Nations system and allowed the rise of Adolf Hitler. After World War II, our fast disarmament was taken as a signal by Stalin that he could complete his seizure of central Europe and disregard the Yalta provisions on free elections.

Compounding the error, the Nation's defense industry was left to decay—forcing us to take extraordinary measures to prepare for the Korean war. It was in fact the lack of military readiness that, 3 months after the beginning of the Korean war, prompted Congress to pass the Defense Production Act. Parts of this act are still in force today.

In an article in the April–June 1953 issue of the Federal Bar Journal, Robert Finley of the Office of Defense Mobilization presented an Army estimate that if $10 million had been made available only for maintenance during each of the 5 years preceding Korea, between $200 and $300 million would have been saved in subsequent rehabilitation costs.

Finley wrote:

> The great expense and delay which could have been avoided in the period of buildup since Korea, had more of the facilities of World War II been retained and maintained, requires no elaboration. In the years following the war * * * large numbers of plants were sold and many of those retained were permitted to deteriorate. It is evident that these mistakes must not be repeated.

One widely cited example is the case of machine tools. In his book "Industrial Mobilization: The Relevant History," Roderick L. Vawter points out that an excess of machine tools after the war caused them to be dumped by the War Assets Administration at 15 cents on the dollar. This drove 34 machine tools companies out of business, leaving the United States in 1951 with one-third the machine tool capacity that had existed at the start of World War II.

My speech here is a warning that something even worse than what happened to the machine tool industry may befall our submarine industry, unless we make wise decisions with respect to the future of that industry.

Let me be more specific. Our principal submarine builder, the Electric Boat Shipyard in Groton, CT, in 1 recent year received construction awards for five new submarines. Now, Congress and the Pentagon face decisions that may result in a few years in Electric Boat having no more than one submarine to build every 2 years, far less then what is necessary to keep this vital national asset in business. If we lose Electric Boat, we will lose a crucial component of our defense industrial base.

When I called Electric Boat our submarine builder I did not mean to slight the other still functioning submarine yard in Newport News, VA. It is also a tremendous asset of our Nation. The fact is, however, that Electric Boat is dedicated exclusively to submarine construction, it has no other business to survive on, and only Electric Boat is qualified to build every class of submarine we have in our inventory. Of the three classes presently in construction, Electric Boat is building all three at the same time, the other shipyard, Newport News, only one.

The question at hand is the impending decision on the procurement strategy of the new Seawolf-class attack submarine. Originally, this program was planned to launch a fleet of 29 Seawolfs. After repeated cutbacks we are now down to 9 ships planned and even this figure is not immune to further reductions; 29 Seawolfs could have kept 2 shipyards working in healthy competition, just as was done with the previous Los Angeles class of attack submarines. A program of merely nine submarines, however, will probably call for a different procurement strategy.

Electric Boat is now constructing the lead ship of the class. It won the award in genuine competition. Instead of continuing with a competitive strategy, though, the Navy is now prepared to direct the award for the second ship to Newport News, presumably to preseve the option for a competitive acquisition strategy.

A little explanation is in order here. Anticipating a directed award to Newport News, last year's Defense Appropriation Act ordered that the contract for the second Seawolf be awarded competitively. The act also provided that the Secretary of the Navy may consider "all applicable factors" in making his award. This language is, of course, so broad that you could pilot a Trident through it and the Secretary now faces the decision whether to make the award based on price or to direct the award to the higher bidder—and justify the decision on the basis of some other applicable factor.

Mr. President, it is my firm belief that if Electric Boat's bid is lower than that of Newport News, it would be a mistake to direct this award to the higher bidder for several reasons. It would be unfair, extremely costly, and would lead to the opposite of its intended effect, the preservation of our submarine industrial base.

It would be unfair, because Electric Boat won the lead ship award in fair competition and is entitled to the advantages that come with that victory. That is the name of the competitive game. To direct the second award to Newport News would negate those advantages fairly won, and would de facto award a second lead ship to Newport News which it did not win in fair competition. With the 1-year pause that was built into the program between SSN-21 and SSN-22, an at least 3-year break between two ships would be forced upon Electric Boat, enough to wipe out most of its fairly gained advantages and its descent on the learning curve.

Such a directed award would be extremely costly on at least two accounts. The first premium we would pay is the price difference the Secretary of the Navy may be willing to overlook. The second premium would be the approximately $230 million in extra cost that would result from the 3-year construction break at Electric Boat.

Mr. President, at this point, I ask unanimous consent to have printed in the RECORD those cost differentials.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

These costs include:

$84 million in unabsorbed overhead, which directly impacts existing construction contracts.

$126 million due to loss of savings, resulting from the inability to efficiently roll over trades from the lead ship to the next follow ship. Key experience developed on the lead ship would be lost due to at least a three-year production gap.

$20 million in increased vendor material costs, resulting from a break in production as well as additional certification.

Mr. DODD. Far from preserving the submarine industrial base, such a directed award would, in its long-term consequences, actually undermine it by driving Electric Boat out of business. It simply cannot survive on less than one submarine per year. That is the real threat, it simply cannot survive on less than one submarine a year. Any realistic student of the business knows that competition with this small number of units—nine ships or fewer—will actually mean alternating directed awards to the two shipyards. This would bring Electric Boat at most five submarines in 10 years, which is simply not enough to carry its overhead, skilled work force and its technological and design superstructure—the best in the world.

It is important to emphasize that all Electric Boat builds is submarines, while Newport News has a huge backlog of noncompetitively awarded contracts for new construction of aircraft carriers and aircraft carrier overhauls and expects further carrier awards in the following years. Mr. President, the Seawolf contract for Newport News means more; for Electric Boat it means survival.

I strongly hope that our future submarine construction will support two capable shipyards. If that will be the case, we can always pay the premium later to bring in Newport News as the second producer who, Electric Boat, will be able to survive on its other business while keeping its submarine skills.

Mr. President, we must now allow the errors of the past to be repeated. The cold war may have eased, but we arm ourselves against the capabilities of our adversaries, not against their declared or putative intentions. At a time when the Soviets have launched 19 submarines in the past 2 years and have double the number of attack submarines we have, and 50 percent more ballistic missile submarines, it is imperative that we safeguard this tremendous asset we have in our submarine industry. I call on all my colleagues, the Secretary of Defense, and the Secretary of the Navy, to unite in an effort to save our submarine industrial base with a well-considered long-term policy.

Mr. President, 2 days ago the Defense Appropriations Subcommittee, under the leadership of Senator INOUYE, held a very constructive hearing, in which it invited both yards, Newport News as well as the Electric Boat Division, to provide testimony as to their thoughts on the present Seawolf award and their future capabilities of providing a long-term consistent industrial base for submarine construction. The Secretary of the Navy, Mr. Garrett, testified as well. A number of Senators attended that hearing. Senator RUDMAN, Senator STEVENS, and Senator SPECTER participated in those hearings.

I strongly urge our colleagues who have any interest at all in this industrial base question to review that testimony and to listen to the questions that were raised.

It was an extremely valuable and worthwhile hearing, to cast light on exactly this problem.

My intention is, over the coming weeks, to discuss the broader issue of industrial base policy. While we all appreciate the tremendous good news over the last several years and the prospects for arms controls with the Soviet Union, I think it is vitally important to recognize that while those talks are going forward, and glasnost and perestroika seem to still be surviving—barely, I point out—they have a tremendous program underway in the Soviet Union.

As I mentioned earlier, they have some 19 new submarines in the last 2 years to our 1 that has been launched. You do not have to have a Ph.D in industrial base policy to understand what is going on here. If we lose the premier submarine contractor in this country, then this Nation will have suffered a major loss.

We are not talking about a sewer contract team. We are talking about something that goes to the very heart of this Nation's ability to provide for its national security with the most defensible leg of our triad.

Mr. President, I hope our Pentagon, and those responsible for reviewing these matters, will consider the seriousness of this issue and what is at hand here. It is not the interest of just one particular State or region of that State. That is hard enough to understand. We can accept that. We understand with base closings and mergers of various labs and so forth that is going on, and some of that is going to be necessary. All I ask is that there be consideration of maintaining the industrial base in this country.

My fear is that we are not giving enough consideration to that policy, and we are shutting down these facilities and consolidating and merging to save dollars because of the budget constraints, but little or no thought is being given to the long-term industrial base needs of this Nation as it applies to its national security.

As I said, Mr. President, this has gone on in every single case. We have paid a dear price in every single instance because we did not pay attention to industrial base policy.

I urge my colleagues to look at the testimony from the hearing conducted by Senator INOUYE the other day. It was a very worthwhile and important hearing on this issue.

STATEMENT ON SEAWOLF

Mr. LIEBERMAN. Mr. President, I agree with my distinguished colleague from Connecticut about the importance of a fair and objective competition for the second Seawolf. The upcoming decision is of enormous importance for a number of reasons. First, this decision will have a major impact on southeastern Connecticut. I have recently met with the workers of Electric Boat [EB] and have felt their anxiety. I realize that thousands of jobs may be on the line in the most economically vulnerable part of our State. And these workers are also located in the part of the country that is suffering the most from the current recession, New England. This is not an abstract decision to be made in a vacuum. People's livelihoods are at stake.

But it is also a vital issue for the U.S. taxpayer. Real cost savings are best achieved in a stable production environment and the most cost-effective way to fund the Seawolf Program is to ensure a steady production rate at EB. If the fiscal year 1991 Seawolf is not awarded to EB, there will be a 3-year production gap at the Connecticut shipyard. EB therefore will have to lay off much of its newly trained Seawolf work force and halt its production line. The Seawolf Program will sacrifice significant production and learning curve improvements.

To be more precise, Electric Boat and the Navy itself have estimated that there would be an immediate loss to the Government of $335 million due to the following negative repercussions:

The lost learning curve would result in a $140 million loss.

Unabsorbed overhead would cost the Government $120 million.

The disruption of vendor supplies would result in a $40 million loss.

Rehiring and training costs would end up costing $35 million.

I repeat, all told, this comes to $335 million.

Nor do these numbers include the price differential between the two competitors' bids for the second Seawolf. Logic supports the belief that Electric Boat has submitted the lowest bid. No doubt, this is in large part due to its mastery of the new modular system of construction. The modular system, which EB pioneered when constructing Trident submarines, involves building a submarine in intact sections rather than from the keel up. Newport News has yet to implement this new and cheaper method.

Some have asserted that the second Seawolf must go to Newport News to preserve an industrial base of two nuclear submarine yards. However such an award will likely have the opposite effect, leading to the elimination of EB.

EB must have at least one submarine a year in the budget to survive because it has a significantly smaller backlog of work than Newport News and only builds submarines. Newport News is currently building 10 submarines and three carriers through 1997. It was recently awarded the multiyear carrier *Enterprise* nuclear refueling overhaul and expects more such carrier major overhauls later in the decade. It will begin building another carrier in 1995. Thus, Newport News will have a stable work force at least through 1997.

In contrast, EB has a workload 40 percent smaller than Newport News and is currently laying off workers. EB will lose half its work force if it only gets one submarine a year. Its future will be even more tenuous if it is awarded only one submarine every other year. This is the expected outcome if Newport News receives the second Seawolf and awards alternate between yards at the Navy's planned construction rate of one Seawolf a year.

Mr. President, I would like to salute the fine work performed by the Senator from Hawaii, chairman of the Defense Subcommittee of the Appropriations Committee. Last Tuesday, he held an excellent hearing in which Jim Turner, head of Electric Boat, made many of these same arguments.

Senator INOUYE has also directed in last year's appropriations bill a fair and objective competition based on price and quality. He knows that political pressures and bureaucratic inertia should not drive the decision. I want to compliment the senior Senator from Hawaii for insisting on a fair competition. The taxpayers owe him a vote of thanks.

I also intend to remain vigilant in order to assure that a fair competition takes place. I expect that the taxpayers will insist that all of us in Congress be vigilant as well. At a time of declining defense budgets, this is no time to throw away money on poor procurement practices. This is a time to think of the national interest.

ON U.S. SUBMARINE INDUSTRIAL BASE

Mr. DODD. Mr. President, this week your Defense Appropriations Subcommittee took testimony on the acquisition strategy of the new Seawolf-class submarine. Through this hearing, was the chairman of the subcommittee apprised of the status of the industrial mobilization base for submarine construction and does he have any conclusions in this regard?

Mr. INOUYE. The testimonies of the heads of the two shipyards engaged in submarine construction and the Secretary of the Navy leaves me with grave concerns as to our ability to maintain the current industrial mobilization base of two shipyards and the suppliers of critical components within the acquisition levels projected at present. It is my intention to ask the Secretary of Defense for a more detailed review of this matter. The current instability of the international environment and the lack of any reduction in Soviet submarine construction indicate that it may not be in the interest of our national defense to allow a significant degradation of our industrial mobilization base at this time.

Mr. DODD. Following up on that, Mr. President, did the Senator receive testimony on the proposed acquisition strategy for the Seawolf Attack Submarine Program?

Mr. INOUYE. The Secretary of the Navy is presently reviewing proposals in response to a competitive solicitation for the fiscal year 1991 ship. There is a serious question, however, whether the projected acquisition level will be sufficient to maintain a long-term competitive acquisition strategy for the program. The Electric Boat shipyard builds only submarines and has stated that it requires one submarine per year to stay in business. The Newport News shipyard builds both attack submarines as well as carriers and has stated that it would need a half ship per year to maintain its attack submarine construction activity. If one result of competition is potentially losing one of the nuclear capable submarine construction yards entirely and reducing the capability of the other significantly, this is not the time to take that path.

The PRESIDING OFFICER. The Chair recognizes the Senator from Delaware, [Mr. BIDEN]{S3838}.

Mr. BIDEN. Mr. President, I ask unanimous consent I be able to proceed for 10 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CRIMINAL JUSTICE SYSTEM

Mr. BIDEN. Mr. President, I rise for two purposes today.

POLICE BRUTALITY

One is to discuss very briefly the issue that has riveted the attention of the Nation, and that is the subject of police brutality.

I have spent the entirety of my professional life as both a practicing attorney and as a Member of the U.S. Senate over the last 24 years dealing with the criminal justice system. And it falls to me the responsibility as chairman of the Judiciary Committee, and having worked on that committee for years and years, to deal with the issues relating to the criminal justice system, including the issue of police brutality.

Mr. President, I have turned on the television every morning, and on every morning show I watched, since the dreadful incident, we have all observed a home videotape machine replayed 1,000 times, as it should be, in Los Angeles.

I have now listened and heard with equal anger and horror about the prospect of a similar circumstance having occurred in the city of New York—without video—but the allegation that a young man, a car thief, may have been suffocated. We are going to hear more, as we should, about incidents and alleged incidents of outrage that have occurred at the hands of some police.

What I am starting to hear now disturbs me almost as much. Every time I turn on the television, there is a psychologist on talking about the pressures on police, the implication being that all police engage in this kind of activity, that this is somehow a widespread phenomenon throughout the Nation.

Mr. President, I am labeled one of those people on civil rights and civil liberties issues as being on the left. I am labeled as one of those people, and often criticized for being too concerned about civil liberties and too outspoken about civil rights issues.

So I do not come at this from the perspective of someone who is automatically expected to be supportive of the police whenever anything happens. But it does disturb me, and therefore I feel compelled to speak this morning. I have had the opportunity, as I said, for the last two decades, to learn more about the criminal justice system than I ever wanted to know, quite frankly. And the fact of the matter is the overwhelming—the overwhelming—majority of the police in this Nation do not engage in such activity.

Let me put it in perspective for just a moment, and I am not going to take much of the Senate's time this morning. According to the Justice Department's most recent accounts, there are about a half million police officers in America, about 500,000 law enforcement officers in this country. And according to Attorney General Thornburgh, there were about 2,500 incidents of reported police brutality this year.

That is horrible and we should ferret it out; we should go after those who engage in that brutality, and they should be given the strictest measure of the law applied to them. But this is equal to about one reported incident of police brutality for every 200 police officers there are in the Nation, and every reported incident does not necessarily mean it occurred.

But let us assume it did; that every reported incident, I say to the Presiding Officer, who was attorney general of his State, and had probably—each State attorney general has slightly different jurisdictions and authority, but I expect he had jurisdiction over such matters.

And I would also note that there were about 14,300,000 arrests in the year 1989 by these half million police officers. So let us put this in perspective. A half million police officers, over 14 million arrests made by those police officers, and 2,500 reported cases of police brutality. That means that in 99.9 percent of all the arrests made in this country—99.98 percent of all the arrests made in this country—there was no allegation of brutality.

I am not a fan of the man who heads the Los Angeles Police Department. I have said publicly that although that is a local responsibility to determine whether or not he stays, were I the mayor, were I one of the commissioners, I would be pleased to see him hand in his resignation. And I contend that were I there, that would be my position.

We have no authority, the Presiding Officer and I, to determine who is going to be the presiding chief of police in any city or municipality, nor should we.

But the fact remains, notwithstanding what we saw on that video—and it was horrible, inexcusable—it is hard to believe that not only the people who were engaged in, but those who were watching, in authority, are not culpable for that activity. Again, that is for juries to decide, not for me to decide, as a trier. I am no trier of fact, and/or the jury in this case. But they should be prosecuted, and people should be made to pay for what happened.

I can assure you and assure my colleagues that for every citizen who watched that videotape and felt a sense of anger and rage, there were 10 times as many police officers who watched the video and felt a genuine sense of rage, because they knew what would come next; that notwithstanding the fact they put themselves in a circumstance more dangerous than they have ever been placed as a group in the history of this Nation, with 23,000 murders last year, tens of thousands of crimes committed, that notwithstanding that fact, they knew what would happen once that was put on the screen, as it should have been. The people would look at them and say: You wear a blue uniform; are you like that? And they are not, Mr. President.

So I just rise from my seat today to try to put it in perspective; put both the beating in perspective—it is inexcusable, and it should be prosecuted. And we should look to see if any more of it is occurring. We should be forever vigilant, because it does occur and will occur and has occurred and will continue to occur because of the nature of the business and the nature of human nature.

But it is not only not the majority, it is not even close to a representation, in this Senator's view, of how police officers operate in this country.

Again, 500,000 police officers, roughly 14,300,000 arrests, and 2,500 incidents. All of them are bad, the incidents, but 99.9 times out of 100 is without incident.

COMMITTEE REPORT

Mr. BIDEN. A second subject, Mr. President, and very briefly: I am very proud of the Judiciary Committee's staff, and we have been issuing on a fairly regular basis reports that have been greeted by the professional community, by those who know the issues on which we speak, almost uniformly if not uniformly, with praise.

I rise for two purposes today on this matter. A, to praise the staff for the report that we are releasing today: Violence Against Women; the Increase of Rape in America in 1990. Not unlike the report we recently released showing that America had the highest murder rate in its history, and the highest of almost any industrialized country in the world: 23,000 murders on a per capita basis.

If we had the same murder rate that Britain had, we would have had 2,300 murders, not 23,000, in this country.

But today, we are releasing the findings of the majority staff report, which reveals that the extent of the rape epidemic that has spread across this country is real. And here are some of the conclusions. In 1990, more women were raped than in any year in U.S. history. In 1990, the number of rapes in this country reported to authorities exceeded 100,000 for the first time. There was over a 6-percent increase in the number of rapes from last year, an increase of 5,929 attacks, the largest in over a decade; 1990 continued a 3-year trend of increases in the number of rapes, and, further, the 1990 increases grew nearly three times greater than 1989. Last year half of the States, 29, set all-time records in the number and rate of rapes.

What do all these things tell us? Well, the simple but horrible fact is American women are in greater peril now from attack than they have ever been in the history of this Nation. Unfortunately, it has taken these findings to again prove that our society and the laws must change to address the problem.

Mr. President, it is in the spirit of trying to deal with this problem that I have introduced once again this year the Violence Against Women Act in this Congress. I hope my colleagues, in considering the details of that legislation, which I will be speaking to at length at a future date, will consider the report on rape as well as other factual data which will point out that American women are more at risk today than they have been at any time in our history, and we must do something about it.

I thank the Chair and I thank my colleagues.

Mr. CHAFEE. Mr. President, I ask unanimous consent that I might proceed as in morning business for 6 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. First, Mr. President, I wish to thank the distinguished senior Senator from South Carolina for permitting this. I know that he was prepared to go ahead with another matter.

THE AWARDING OF THE SEAWOLF SUBMARINE CONTRACT

Mr. CHAFEE. Mr. President, I would like to address a matter which is of great importance to the Nation and to my home State. Sometimes we have a juxtaposition where a parochial concern also coincides with a national concern, and that is the situation we have before us today; namely, the awarding of the contract for the second SSN-21 class submarine. This contract to be awarded would be for the second one; namely, SSN-22, the Seawolf attack submarine.

The Secretary of the Navy is currently considering competing bids for the second Seawolf submarine. The bids have come in from General Dynamics' Electric Boat Division, which has its principal facility in New London, CT, and the other facility in Quonset Point, RI, and Newport News Shipbuilding of Virginia.

Originally, it was expected that a significant number of Seawolf-class submarines would be built and that the two yards could compete effectively for the business and, through the competition, there would be savings for the U.S. Government.

The Navy awarded Electric Boat the contract for the first Seawolf. It was a competed contract. Electric Boat won it, and it was anticipated that the second one might go to Newport News. The two yards would then compete thereafter for the subsequent submarines.

There are several factors why this strategy might result in significant losses to the American taxpayer and our national security interests. The first factor relates to the possible loss of a critical industrial base. The second relates to the actual cost of the program itself. Both of these factors argue in favor of a decision to award the second Seawolf to Electric Boat.

Recent cutbacks in defense spending has reduced the number of Seawolfs to be built to as few as five or six vessels over the next 5 years. In other words, at a rate of one per year. This number is insufficient to allow two yards to produce the ships.

I think we also should be aware of the fact that Newport News produces surface ships—principally aircraft carriers, the only builder of aircraft carriers in our country, and also the only builder of nuclear-powered surface ships. Also, Newport News produces submarines. And that yard has a significant backlog of business, which is expected to keep that yard busy well into the current decade and probably into the next century as well. Electric Boat, on the other hand, produces only submarines and has a much smaller backlog. Newport News is thriving with its present submarine and surface ship contracts, but without the Seawolf contract, Electric Boat most likely would shut its doors in the mid to late 1990's. If the United States is going to retain two nuclear-capable shipyards able to build nuclear-powered submarines, then this contract, in my judgment, should go to Electric Boat.

Another factor, Mr. President, which is paramount is the bottom line cost to the American taxpayer. It is my understanding that the bid for the second Seawolf submitted by Electric Boat is approximately $80 to $100 million less than the bid submitted by Newport News for the second submarine, for the Seawolf SSN-22. It is only logical that this would come about because Newport News never built a Seawolf and would have significant first-time startup costs.

There are also substantial costs associated with an interruption of production at Electric Boat should this number two submarine go to Newport News. These costs are estimated to amount to about $230 million in additional costs that the Navy would incur if there was an interruption in production at Electric Boat. In other words, by keeping a continuous flow of production at Electric Boat, by making Electric Boat the builder of the Seawolf submarine, there would be not only savings for the second boat, as I have pointed out, but additional savings in the future.

Mr. President, in closing, I will point out that there are great savings achieved even though one yard is the sole source of supply for a particular boat; for example, the Trident program. The Trident submarine has only been built at Electric Boat.

Now, some say the only way to get reduced cost is through competition. That is not necessarily so. I will point out that if you take a basis of 100 man-hours—in the construction of the first Trident submarine we will use the figure of 100 for the total number of man-hours for the construction of that first Trident submarine. As a result of the continuous construction that Electric Boat has had for the Trident submarine, when they built the 12th vessel, they were not spending a factor of 100 man-hours in the construction of the Trident; they were spending 54. In other words, there had been a 46-percent reduction in the number of man-hours for the construction of submarine No. 12, as opposed to the construction of submarine No. 1. Each year, Mr. President, each year, with each successive submarine, there was a decline in the number of man-hours spent in the construction of that submarine. The beneficiary was the taxpayers of the United States of America.

So, Mr. President, I believe it is in the Nation's best interest that that second *Seawolf* be awarded to Electric Boat.

I thank the Chair and I thank the distinguished junior Senator from Delaware, the chairman of the Judiciary Committee and the manager of the bill coming up, for permitting me to proceed.

V-22 WINNER OF THE COLLIER TROPHY

Mr. GLENN. Mr. President, I rise to bring to the attention of the Senate a very significant event involving the Bell Boeing V-22 Osprey tiltrotor development team.

As you know, Mr. President, every year the National Aeronautic Association [NAA] presents an award, the Collier Trophy, for what it views as "the greatest achievement in aeronautics or astronautics in America." The NAA makes its determination based on "demonstrated actual use in the previous year."

I am delighted to report the selection of the V-22 Osprey tiltrotor team as the recipient of this year's Collier Trophy. As I said, Mr. President, this marks a very significant event for the V-22 team as the Collier Trophy is widely considered the most prestigious award of its kind in the United States. Without objection, Mr. President, I ask that the text of the NAA's award announcement be placed in the RECORD.

There being no objection, the announcement was ordered to be printed in the RECORD, as follows:

BELL BOEING V-22 OSPREY TILTROTOR TEAM WINS COLLIER TROPHY

The National Aeronautic Association (NAA) has named the Bell Boeing V-22 Osprey Tiltrotor Team winner of the coveted 1990 Collier Trophy.

The V-22 Osprey is a tiltrotor aircraft that can takeoff, hover and land like a conventional helicopter. However, by tilting its engine nacelles forward, the V-22 can fly like a turbo prop aircraft—swiftly, comfortably and efficiently. The V-22 can fly at speeds in excess of 300 knots; or it can hover or it can also fly with its rotors at any angle, from zero degrees through 90 degrees.

The Collier Trophy is awarded by NAA "for the greatest achievement in aeronautics or astronautics in America demonstrated by actual use in the previous year."

The selection committee of more than forty aviation leaders selected the V-22 from among ten nominations submitted by the aviation community. The Collier Trophy is widely considered the most prestigious aviation award made in the United States. It was first awarded in 1911 to Glenn Curtis for his achievements in developing a seaplane.

The citation accompanying the trophy reads:

"To the Bell Boeing Team for the development of the V-22 Osprey Tiltrotor, the world's first large-scale tiltrotor aircraft."

The Committee selected the V-22 because of its belief that tiltrotor technology has long-term significance for meeting objectives of both military and civil aviation. The V-22's combat capabilities include: speeds twice as fast as a helicopter; twice the range of helicopters; increased payload; increased survivability; self-deployability; increased reliability and improved maintainability. The V-22 provides the U.S. military a major advance in vertical lift capability and can fulfill mission requirements for all services including diverse military combat readiness roles; such as, troop assault, long-range search and rescue, anti-submarine warfare and many other highly specialized missions.

The potential inherent in the V-22 also represents a major advance for the nation's civil transport needs and is a key to easing currently congested airports. The ability of tiltrotor to move commuter passenger traffic and freight with only minimal investment in landing site infrastructure can lead to rapid development of civil tiltrotor aircraft and their integration into the national transport infrastructure. The rise of a tiltrotor industry in this country also has major implications for our nation's balance of trade since tiltrotor technology remains as American technology and one with considerable potential.

The V-22 represents a major step forward in use of digital electronic flight controls, advanced composite materials and state-of-the-art transmissions, cross-connecting shafting and associated gear boxes. The aircraft's flight control systems cost less, weight less and are more reliable than conventional mechanical control systems found in helicopters. The system is triply redundant, virtually eliminating the possibility of the controls becoming inoperable. The V-22 is constructed of advanced composite materials, primarily carbon epoxy laminates and fiberglass. Lighter and stronger than metal and less susceptible to corrosion, composities allow the V-22 to carry heavier payloads, improve its survivability in combat, and significantly reduce its maintenance costs. A V-22 can operate on a single engine because its cross-connecting shaft allows one engine to drive both rotor systems.

The V-22 is being developed under the auspices of the U.S. Naval Sir Systems Command by the industry team of Bell Helicopter Textron, Fort Worth, Texas, and Boeing Helicopters, Philadelphia, PA. In additional a nationwide network of over 1,800 suppliers provided the components and systems for this advanced all-composite aircraft.

The National Aeronautic Association is the National Aero Club of the United States. Its primary mission is the advancement of the art, sport, and science of aviation and space flight by fostering opportunites to participate fully in aviation activities and by promoting pubic understanding of the importance of aviation and space flight to the United States.

Mr. GLENN. The V-22 Osprey is a tiltrotor aircraft that can takeoff, hover, and land like a conventional helicopter. However, by tilting its engine nacelles forward, the V-22 can fly like a turboprop aircraft—swiftly, comfortably, and efficiently. The V-22 can fly at speeds in excess of 300 knots; or it can hover or it can also fly with its rotors at any angle, from zero degrees to 90 degrees.

I have long been a proponent of the continued development of the V-22 Tiltrotor Program. Indeed, I believe the V-22's unique technology is not only a ready replacement for the Marine Corps' aging helicopter fleet, more importantly, it also will fill critical vertical lift requirements for all the services.

Mr. President, I am, of course, very happy and gratified to see that an esteemed committee of leaders in aviation share my, as well as many of my Senate colleagues', views and decided to honor the V-22 tiltrotor team. Competing in a field of 40 nominees, the V-22 team rose to the top because the selection committee recognized the tremendous potential embodied by tiltrotor technology.

Mr. President, I have often spoken on this floor about the unprecedented advances the tiltrotor technology offers to both military and civil aviation. Indeed, I have often come to this floor and extolled the V-22's capabilities in a shorthand way which underscores just what the V-22 program offers us: The V-22, as a replacement for conventional helicopter uses and capabilities, goes twice as far, twice as fast, with one-third more payload.

The simplicity of that statement, Mr. President, belies the revolutionary technology the V-22 represents. Militarily, the V-22 is one of the greatest advances we have for conventional warfare enhancement. It meets flexible readiness strategy needs by providing increased mobility, allowing for rapid deployment, with breakthrough or leapfrogging potential.

In terms of increased combat capability, the formula I used before, when translated, means the V-22 will provide roughly twice the range that our best helicopter has to project troops rapidly and converge on target areas. It will accomplish this not only twice as fast, but from twice as far. Obviously, this increases our combat capability tremendously.

With tiltrotor technology, the V-22 can land on ships at sea and in forward landing zones. In addition to the tiltrotor technology, the V-22 has greatly increased survivability, better night flying capability, under the weather capability, and a better navigation system than our current helicopters. It also has the capability to refuel in the air, contributing to its extensive range.

Its construction takes advantage of recent technological developments. The V-22 uses composite materials, making it a lighter structure, which, in turn, reduces the weight penalty of the tiltrotor's wing. The composite materials, when used in building the rotors themselves, produce a greatly increased hover efficiency when compared to current rotors. Its digital electronic flight controls offer the pilot increased reliability, triple redundancy, and fly-by-wire capabilities.

In sum, I agree with the NAA's assessment that the V-22 represents one of our Nation's greatest achievements in aeronautics. However, Mr. President, I feel I need to stress how important it is that the tiltrotor technology remain one of our Nation's highest priorities. The V-22 program, while approved year after year by Congress again requires congressional support, because its existence has again been threatened by the administration.

I believe the Department of Defense should continue the V-22's full scale development. It must also continue support for the program so that we avoid developing this groundbreaking technology only to have it sold back to us by another country with greater foresight.

Moreover, Mr. President, while the need for the V-22's tiltrotor technology is most immediate for military application, it is not difficult to envision its almost unlimited application for civil aviation. I would go so far as to say that it will radically change the face of civil aviation.

Our national transportation system is a key to our Nation's economic development and growth. We have what appear to be insoluble problems with congestion and air traffic flow in virtually every metropolitan area. I believe civilian use of tiltrotor technology would go a long way toward providing a solution.

The tiltrotor can be independent of large airports and long runways. Helicopter-style terminals or vertiports, constructed at a fraction of the cost of airports and requiring significantly less space, appear to offer an efficient short haul national transportation and distribution system for both passengers and cargo.

I would bet there are not too many of us, Mr. President, who did not wish we had a system like that today. Continued recognition of the advancement tiltrotor technology offers us and continued congressional support will go a long way toward having it tomorrow. As I have said before, Mr. President, I strongly believe the V-22 is an excellent investment for our country.

Mr. President, I congratulate the Bell Boeing V-22 Osprey Tiltrotor Team for its great achievement in winning the 1990 Collier Trophy.

Thank you, Mr. President. I yield the floor.

NAMIBIA'S FIRST YEAR OF INDEPENDENCE

Mr. SYMMS. Mr. President, in today's Wall Street Journal is an article I encourage all my colleagues to read. The article by Margaret Calhoun, titled "Namibia's First Democratic Government May Be Its Last," provides an excellent overview of Namibia's first year of independence under the SWAPO government.

Ms. Calhoun has had great experience working in this area. I know her personally. I highly recommend this for my colleagues to read.

We all remember the extensive negotiations and work done by this Government and others to secure Namibia's independence. A number of Senators, including myself, have paid particularly close attention to this region of the world for several years. We have recognized the importance Namibia, in particular, plays in securing peace and freedom in southern Africa.

As Ms. Calhoun states:

> If Namibia's fragile democratic construction begins to unravel, it could have a negative impact on the delicate negotiations toward more democratic government under way in neighboring Angola and South Africa.

Ms. Calhoun also points out the need for the United States to take a more active interest in Namibia's push for democracy. She notes, "After spending $100 million to supervise Namibia's spending $100 million to supervise Namibia's elections, it is surely worthwhile for the United States Government to invest a little more time and resources to give Namibia's neighbors a needed example of what unhappily is a rarity in Africa—a functioning and prosperous democracy.

Again, I commend this article to my colleagues for their edification and I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Mar. 21, 1991]

NAMIBIA'S FIRST DEMOCRATIC GOVERNMENT MAY BE ITS LAST

(By Margaret Calhoun)

Namibia, once a hot item on the world agenda, seems to have been forgotten. Today, Namibia celebrates the first anniversary of the adoption of its remarkably democratic constitution, the culmination of its independence from South Africa.

Namibia elected the assembly that wrote its constitution in November 1989, under the supervision of election monitors from the United Nations. The outcome was a government dominated by the Soviet-backed guerilla movement, Swapo (the South West Africa People's Organization). At the end of Swapo leader Sam Nujoma's first year as president, political experts are beginning to question whether democracy will in fact take root in Namibia, or whether Swapo is returning to its Marxist predilections. If Namibia's fragile democractic construction begins to unravel, it could have a negative impact on the delicate negotiations toward more democratic government under way in neighboring Angola and South Africa.

The appointment of Swapo's former chief of security, the notorious Solomon "Jesus" Hawala, known as the "Butcher of Lubango," to the post of commander of the Namibian Defense Force, was deeply unsettling to many Namibians. Mr. Hawala was implicated in the mass detention, torture, killing and disappearance of thousands of Namibians in camps in Angola and Zambia during the guerrilla war against South African occupation. The Council of Churches in Namibia expressed its alarm at the appointment.

The real test of Swapo's intentions, however, is the economy. Will Swapo succumb to the totalitarian temptation? Namibia, a country of 1.5 million citizens with a land mass almost as large as France and Germany combined, is heavily dependent on mining, which accounts for 40% of its gross domestic product of $2.55 billion. Namibia is Africa's fourth-largest exporter of non-fuel minerals, and the world's fifth-largest uranium producer. The country has substantial coal resources and diamond deposits that rank among the world's richest. Because Namibia is a desert—only 1% of its land is arable—its only hope for development is to maintain a competitive economic environment for its extractive industries, and to foster secondary industries, such as tourism. But Swapo has already begun to set a tone that is dismaying foreign investors, visitors and aid donors.

Namibia has been pressing for direct grants from foreign governments rather than investment—so long as those grants are available for use at Swapo's complete discretion. When the German government proposed a $100 million 30-year loan at 2% interest and with a 10-year grace period last fall, Swapo rejected even those mild conditions. Although Swapo has failed to welcome private investors, it is generating many new jobs in the public sector—jobs that are available only to Swapo party members.

With 40,000 school graduates expected this year, and an estimated 40,000 exiles returning to Namibia to seek gainful occupation, Swapo has been hard-pressed to meet its campaign slogans of employment for everyone. Public sector job creation for the Swapo faithful may be intended to swell Swapo's voter rolls in time for the upper chamber elections next year. A two-thirds majority in the upper chamber, or National Council, combined with its present two-thirds majority in the Assembly would permit Swapo to rewrite the Constitution if it chose to do so. Omninously, in a recent radio interview Moses Garoeb, Swapo's party boss, said the country's first elections were "contrived," and that "the multi-party democracy prevailing in Namibia is not necessarily the true choice of the Namibian people."

Swapo may well secure that two-thirds upper chamber majority, thanks to its control of the electronic media. While the print media remain largely free, the majority of Namibians obtain their news from the state-owned radio network. The government has started to restrict religious broadcasting, an alternative to its programming. Some programs have been canceled, and new editorial guidelines against "evangelism" or "divisiveness" are strictly enforced.

To complicate Namibia's domestic political problems, rumors have begun to circulate in Windhoek of covert collaboration with Angola's Marxist MPLA government. On Oct. 16, the Namibian, the Windhoek paper most sympathetic to Swapo, conceded that units of the Angolan army had crossed into Namibia and abducted 18 men for service in the Angolan military. It is an open secret in Namibia that the MPLA and Swapo signed a security pact in May that permitted the NPLA to use military bases in Namibia's north.

These connections are highly dangerous to Namibia's political stability, because of the tribal sympathies between northern Namibia's Owambo people and the Ovimbundu, the tribal base of the rebel Unita movement. But Swapo appears to be putting its ideology ahead of its domestic political needs. Nor does international pressure seem to make a difference: Swapo has been warned by a U.S. Senate amendment that the $10 million aid package would be jeopardized by any involvement in the Angolan war.

It would be easy to dismiss Namibia as a minor player in Africa. The real significance of the developments in Namibia, however, lies in its strategic placement between Angola and South Africa. Angola's ruling communists, the MPLA, will be more wary of entering into an electoral process that empowers the armed resistance, Unita, if Swapo demonstrates an intolerance for its legal opposition and maneuvers to alter its constitution. Similarly, right-wing parties in South Africa could point to Namibia and argue that democratic elections only serve to empower dictators, who then proceeded to undo the system of multi-party democracy which gave them their power. If Swapo behaves, it could dispel the assertion of South Africa's Conservative Party that "power sharing without domination" does not work in the Third World. If not, it will justify it.

Swapo has claimed that Namibia's "model democratic state" "will make the biggest contribution against apartheid." But if the Swapo government cannot preserve Namibia's fragile political consensus, stimulate economic growth, reassure private investors and establish law and order, it faces the fate of too many decolonized African states, and will stand little chance of competing with Eastern European countries for development aid it is so anxious to procure. Namibia will not have a second chance.

President Bush, upon meeting Mr. Nujoma when he came to Washington in July, praised the Namibian president for his "pragmatic" political and economic politicies. Mr. Nujoma issued an urgent plea that Americans not forget Namibia. After spending $100 million to supervise Namibia's elections, it is surely worthwhile for the U.S. government to invest a little more time and resources to give Namibia's neighbors a needed example of what unhappily is a rarity in Africa—a functioning and prosperous democracy.

PRIVATE PROPERTY RIGHTS ACT

Mr. SYMMS. Mr. President, I would like to note that today in the House, in the other body, a large bipartisan group of Congressmen, Congressmen OLIN, MCEWEN, ESPY, ROBERTS, STENHOLM, and a couple of dozen others, are introducing companion legislation to the Senate bill 50, the Private Property Rights Act.

I would like to take this oppotunity to discuss that legislation and why it is so important to this Nation, and so timely at this time.

Rather than list down all the many reasons why the Private Property Rights Act ought to become law, I would rather list the reasons someone might give for not supporting S. 50, and then tell you why those reasons do not hold water.

Reason No. 1: We do not need the Private Property Rights Act because, when compared with the problems of hunger, housing, crime, unemployment, and other issues, property rights is just not that important.

Mr. President, anyone who makes that argument does not understand that these other issues—hunger, housing, et cetera—cannot be solved without private property. Furthermore, they are probably forgetting some of their American history.

In 1772, the Boston Town Meeting called together a committee. Because they were feeling especially harassed by King George that day, they asked this committee to "state the rights of the Colonists * * * as men, and as subjects; and to communicate the same to the several towns and to the world."

The chairman of that committee was a great American patriot, Samuel Adams. Sam Adams took 2 weeks to write his treatise on the Rights of Man, and he began his task with the declaration that:

> The absolute rights of Englishmen and all freemen, in or out of civil society, are principally personal security, personal liberty, and private property.

Throughout the succeeding revolutionary period, these three rights were time and again recalled—life, liberty, and property. They appeared in article 1 of the Bill of Rights of Virginia, and in that same article in the Bill of Rights of Massachusetts. They eventually were written that way in the fifth amendment of the U.S Constitution.

It was only in drafting the Declaration of Independence that Thomas Jefferson slightly altered the phrase to read, "life, liberty, and the pursuit of happiness."

In later years, he explained why he chose those words. It was not because he felt that the right to pursue happiness was somehow more important than the right to private property. Rather, he explained, "A right to property, is founded in our natural wants, is the means with which we are endowed to satisfy those wants." To Jefferson, the pursuit of happiness, and the right to private property, were inextricably linked. You could not obtain one without the other. I would imagine that, to President Jefferson, Monticello was his ideal of a "pursuit of happiness."

Two centuries later, the institution of private property has lived up to Jefferson's expectations. America's agricultural productivity, leadership in medical and engineering technology, and wealth of entreprenurial opportunity can all be traced to the incentives inherently created by private property rights. It is truly the means through which we pursue happiness.

So, I put it to you, Mr. President, that it would be foolhardy to say that private property rights are just "not as important" as the many other issues pressing in Congress today.

Reason No. 2: We do not need the Private Property Rights Act because no one's private property is really being threatened.

Considering that in 1990 alone the Federal Government issued 63,000 pages of fine print regulation on the use of private property, it is not hard to imagine some of this regulation placing severe limitations on property use. If property owners feel that a regulation has "gone too far," that their property rights have been taken without compensation, they may sue the Government under the fifth amendment.

The U.S. Government is currently facing well over a billion dollars in such outstanding takings claims. Just in 1990, several of the largest takings judgments in the history of the United States were handed down by the U.S. Claims Court, with the single largest judgment of all time, the Whitney Benefits case, totaling near $120 million, being affirmed by the Federal circuit as recently as February 1991.

In California, property owners who can afford legal costs are winning about 50 percent of their takings claims before the intermediate appeals courts. And according to a recently released report by the Congressional Research Service, property owners won regulatory taking cases before the Federal courts in 1990 more often than not—astonishing when you consider that the Federal Government wins 9 out of 10 times in other areas of law.

As you can see, Mr. President, it is simply not accurate to say that "no one's private property is being taken." At least the Federal courts disagree with that statement.

That leads us to:

Reason No. 3: We do not need the Private Property Rights Act, because we already have the fifth amendment.

The CRS report I just mentioned made this finding:

> Plaintiff property owners were vindicated—that is, a taking was found—in just under one-half of the cases. Looking solely at the regulatory taking decisions, however, takings were found somewhat more often.

It has always been the case that, when Americans feel the Government has failed to respect a basic constitutional right, they may sue, demanding that their rights be honored. As a matter of equity, however, we have never held that rights should only be extended to those who can afford to sue the Government for them. The cost of legal action is not small, $40,000 to $50,000 up front. The disturbing fact brought out by the CRS report is this: Those property owners who can afford this cost, win more often than not. Those who cannot afford to sue, currently have no protection.

That is why the Private Property Rights Act is so important. By building property rights considerations into the regulatory process in the first place, the rights of all Americans, not just the wealthy, are protected.

No, Mr. President, it is not enough to say, "but we have the fifth amendment, isn't that enough." The duty of protecting and preserving the constitutional rights of Americans does not fall on the shoulders of the individual, it is a duty of the government.

Reason No. 4: If private property rights are respected, vital protections for public health and the environment will be undermined.

Actually, those who propose this argument do not really understand property rights. No one's property right allows them to jeopardize someone else's life, liberty or property.

As Justice William Henry Moody, a Franklin Roosevelt appointee to the Supreme Court, noted, "Our social system rests largely upon the sanctity of private property; and that state or community which seeks to invade it will soon discover the error in the disaster which follows."

That disaster may well include the destruction of our environment, for, as surprising as it may sound, private property is the world's most powerful force for environmental protection. The current EPA Administrator, Bill Reilly, recently noted upon returning from a trip assessing environmental damage in Eastern Europe, "Many environmental principles are undefendable in the absence of private property."

Administrator Reilly's observation can be easily explained by the proverbial saying:

> Give a man the secure possession of a bleak rock, and he will turn it into a garden; give him a nine years lease of a garden, and he will convert it to a bleak rock.

The principle is true. It is private property ownership that makes an owner care about the quality of his environment, that creates a true sense of stewardship for the land and its resources. The American environmental community, at its grassroots level, is nothing more than a coalition of private property owners who want to defend their private property rights from the pollution and degradation of their neighbors and their Government. Undermining private property rights through excessive regulation will not foster greater environmental protection.

Reason No. 5: Last, Mr. President, there are those who argue that the Private Property Rights Act is just too much hassle for our Federal agencies. That it will force them to spend too much time considering the impact of their regulations on private property, and not enough time on regulating.

First, let me say that the administration has reviewed the text of S. 50, and argues strongly against that statement.

But for me, Mr. President, this just brings us full circle back to the question, "are private property rights important," or in other words, "is the hassle worth it."

I would like to call my colleagues' attention to a poll recently conducted by the Soviet Academy of Sciences, asking young Russians what it is they really want, what rights and freedoms they are most eagerly seeking. Here is what resulted:

> WHAT THE NEW GENERATION OF RUSSIANS REALLY WANT
>
> The Institute of Sociology at the Soviet Academy of Sciences recently conducted a poll of 1050 Russians between the ages of 18 and 25. The poll covered six regions of the Russian Republic, constituting a majority of the population and three-quarters of the territory. The respondents were selected from all basic social and professional categories. Here is what that survey revealed:
>
> Do you want complete freedom of press, radio and TV? yes, 58 percent; no, 36 percent; remainder, undecided.
>
> Do you want Russia to be able to govern itself, and secede from the U.S.S.R.? Yes, 70 percent; no, 19 percent; remainder, undecided.
>
> Do you want a form of government other than socialism? Yes, 74 percent; no, 17 percent; remainder, undecided.
>
> Do you want private ownership of land? Yes, 85 percent; no, 10 percent; remainder, undecided.

As you can tell, Mr. President, the millions of citizens in the Russian Republic want, above all else, to simply own their property, their farm, their car, their apartment, they want something that is theirs, to care for, to prosper, to build.

Even if the administration did not believe that the Private Property Rights Act does not impose too much burden on regulatory agencies, I would say, "So What?" We are sworn to defend the constitutional rights of Americans, not the convenience of the regulatory agencies. If it takes a little more hassle to get respect for constitutional rights, then that hassle is certainly well deserved.

So I hope you can see, Mr. President, why a bipartisan group of Senators and Congressmen, supported by small business, farm and civil rights groups have proposed the Private Property Rights Act. The act requires that Federal agencies adopt administrative procedures to "assess the potential for taking private property in the course of regulatory activity, with the goal of minimizing such where possible." These procedures may be similar to those required by current Executive orders, but must reflect the court's current interpretation of what constitutes a "taking of private property." This assessment enables agencies to draft regulations that impose on property rights as little as possible, while still achieving their goals. As a result, the public interest is served, individual property rights are protected without costly court battles, and taxpayers need not pay compensation for takings that could have been avoided.

I ask unanimous consent that a letter from the Vice President of the United States encouraging this bipartisan group to move this legislation be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE VICE PRESIDENT,
Washington, March 21, 1991.

Hon. STEVE SYMMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR SYMMS: I am writing to assure you that we welcome your important efforts to protect private property rights. The Administration supports your legislative initiative in The Private Property Rights Act to protect private property owners from unintentional government intervention, and to encourge the Federal agencies to avoid unnecessary expenditures.

Proper management of Federal regulatory programs and effective program implementation require thoughtful analysis before action is taken. Executive Order No. 12630 requires a Federal agency to ask itself, before it acts, whether a proposed government regulatory policy or action would "take" individual rights in property and trigger the Constitution's obligation to pay just compensation. The legislation which you, Sen. Boren, and others are sponsoring would strengthen the management of Federal programs to prevent inadvertent Federal encroachment on private property.

Recent judicial decisions finding that the government has taken property have resulted in financial judgment obligations in excess of $120 million for "regulatory takings." As the courts focus increasingly on the consequences of Federal regulation on private property rights, these constitutionally-required Federal payments and the consequent burden on the taxpayer are likely to increase. Financial responsibility argues for evaluating the risks of these costs before, rather than after, the obligation occurs.

Your bill, S. 50, is vitally important both to improve Federal management, and to reduce government liability. The Administration looks forward to working with you to secure prompt passage of this critical legislation.

Sincerely,

DAN QUAYLE.

HONORING JOHN DEGEORGE

Mr. KASTEN. Mr. President, I rise today to recognize a true hero—the late John R. DeGeorge of Milwaukee, WI.

John DeGeorge was a naval chief petty officer. He was a man of noble spirit—a man willing to risk his life to ensure the safety of others.

In 1989, during a canoe training exercise, one of John's shipmates was swept overboard and toward dangerous rapids. With no thought of his own safety, John rescued his fallen friend—but was himself swept to his death.

Last week, the Navy honored John's heroism with the Navy Marine Corps Medal. I can think of no more appropriate tribute to a man who embodies the highest virtues of our country. I ask my colleagues to join me in expressing gratitude for his example—and sincere condolences to his family.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

The Chair recognizes the Senator from Delaware [Mr. BIDEN].

EXECUTIVE SESSION

NOMINATION OF BOB MARTINEZ, OF FLORIDA, TO BE DIRECTOR OF NATIONAL DRUG CONTROL POLICY

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate go to executive session to consider the nomination of Bob Martinez, of Florida, to be Director of National Drug Control Policy.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senate will move to the nomination. The clerk will report.

The legislative clerk read the nomination of Bob Martinez, of Florida, to be Director of National Drug Control Policy.

Mr. BIDEN. Mr. President, parliamentary inquiry, how much time is available on this nomination?

The PRESIDING OFFICER. Under the previous order there is 90 minutes, equally divided. The Senator from Delaware is recognized.

Mr. BIDEN. Before I begin, I have a slight bit of housekeeping, Mr. President. For the 45 minutes under the control of the Senator from Delaware, I have requests that amount to 43 minutes at this moment. So any Senator who is seeking an opportunity to speak to this nomination, I would respectfully request, come to the floor as soon as possible to let us know of that request so I can reallocate the time, if need be, among Members who have a little more time now.

Mr. President, at the outset of the hearings on the nomination of Gov. Bob Martinez—and I say Bob Martinez as opposed to Robert since that is how he refers to himself, not to be disrespectful—to be Director of the National Drug Control Policy, I stated that before we should confirm him we needed the answers to several questions.

First, did he have the personal and ethical qualifications for the job? Second, did he have the experience and background for this position? And, third, what did he believe were the drug director's responsibilities and what role did he believe the drug director should play? In other words, what did he think his job was? Finally, what was his vision for our Nation's struggle against the drug epidemic?

On the question of the nominee's ethical qualifications which were put into some additional question just before the hearing began by a nationally televised program containing some allegations, I asked him about these allegations that were leveled against him. Governor Martinez flatly denied any wrongdoing relating to these issues.

Based on his answers, the FBI background report, and the committee's independent investigative efforts which began long before the allegation resurfaced just prior to the hearing—all of these issues have been and had been investigated by the majority and minority staff investigators and by the FBI—nothing emerged that is in any way, in my view, sufficient to disqualify the nominee from holding this drug director's post. He is an honest and ethical man and on that basis he should not be denied the post.

Second, regarding the nominee's background and experience, particularly his record as the Governor of the State of Florida and mayor of one of its largest cities prior to that, I believe that his answers and responses were somewhat less reassuring. His antidrug record in Florida in the early days of his administration demonstrated, in my view and in the view of many of the witnesses who appeared before us, a poor understanding about the effectiveness of drug education and treatment efforts in the fight against drug abuse and the drug plague.

As a matter of fact, it was alleged there was an outright hostility toward the notion of education and treatment. However, a thorough review of the Governor's record—which was reinforced by the testimony of outside witnesses, some of whom came to criticize the Governor—painted a picture of an evolution of the Governor's philosophy on these points, in my view. By the time he completed his tenure as Governor, he had begun to conclude that education and treatment were absolutely necessary elements in fighting the drug problem in this country. And, by the end of his tenure, the nominee supported efforts to expand drug abuse education and treatment efforts in the State of Florida.

More important still, he testified that he currently believes—and I personally asked him this question—that education and treatment do work in reducing drug abuse.

You might say why did you have to ask him the question? It was not merely his background, but the former Drug Director at the outset of his tenure indicated he did not think education worked. This Drug Director is on the record, and his record as Governor indicates that he believes that that is the case. Though I do not believe that Governor Martinez currently places a sufficiently high priority on drug education and treatment, it is clear that he thinks prevention efforts should play a critical role in the national drug strategy. And I am hopeful, quite frankly, that the evolution in his philosophy while Governor will continue during his tenure as Drug Director.

Third, on the question of the nominee's views about the duties and powers of the Drug Director, again here his answers were mixed. Quite frankly, I believe he failed at the outset, at least, to appreciate the extensive powers that Congress has given to the national Drug Director. Still, on balance, the nominee seemed to understand the responsibility of the Drug Director to develop a national drug control strategy and a budget. And I believe he has been further educated to the powers that he has and the desire of the Congress for him to exercise those powers, particularly through the budget process and the mechanisms that he has available at his disposal to, very bluntly, make other Federal agencies from the Treasury Department to the State Department and so on understand that national drug policy is our highest domestic priority.

This brings me to the fourth and most important issue confronting the committee in giving our advice and consent to this nomination. What is Governor Martinez' vision for the national drug strategy? What is his vision for the Nation's struggle against the drug epidemic?

As I stated at the outset of these hearings, I was particularly interested in three critical areas where I believed the administration's strategy is deficient: Hard core cocaine addiction, which fuels the demand side of the drug equation and, I might add, also fuels the brutality and the crime side of the equation where they create more victims, not only of consumption, but of abuse at the hands of the drug abuser stealing your car, your television, your wallet, and anything else that may be in sight.

Second, preventing the cultivation of coca in the Andean nations, the supply route of our drug problem. I believe the administration has been somewhat deficient there as well.

The third deficiency is in providing comprehensive drug education in more than one State in this country. There is only one State in this country—and I might say it is the State of the Presiding Officer, the Senator from Connecticut—where there is comprehensive drug education. Absent that comprehensive drug education, I believe this leaves the door open for this generation of children to become the next generation of addicts.

In each of these areas, the area of drug education, the area of cultivation of the coca leaf in the Andean nations, and in dealing with hard core cocaine addiction, Governor Martinez agreed that we need to do more to make a significant dent in the drug epidemic.

To the extent there were differences between the nominee's testimony and my views on how forcefully we must move in these three areas, our disagreements may stem more from the nominee's need to support the policies of the President than from a fundamental dispute between Governor Martinez and myself on these issues. And, quite frankly, even if there is a root dispute, it is not sufficient reason at this point for me to vote against the Governor, because I am convinced he wishes to attempt to work out, as I sincerely do, a cooperative effort to arrive at a consensus national drug strategy.

I still have some questions about Governor Martinez' understanding of the power of the office he is about to assume and about his ability and willingness to confront powerful Cabinet members and the Office of Management and Budget over policy and funding issues.

This is one of the reasons why I still lament the fact the President has not, as was intended by the Congress, although we cannot demand it, made the national Drug Director a Cabinet member.

But, frankly, the President made the Drug Director's job a great deal harder back in 1989 when he decided to exclude the Director from the Cabinet. That sends a signal to other Cabinet members that the Director's clout with the President and his clout generally, and it is hard to influence Cabinet decisions when you are not at the Cabinet table.

However, Governor Martinez' most important qualification may in fact be his personal relationship with the President of the United States. I hope that he is willing to use this relationship and the authority he has to make a forceful case in what is obviously a number of turf wars that occur within this giant bureaucracy that every administration is compelled to attempt to deal with.

Despite the concerns I have raised, I have pledged that I would work with the President and with Governor Martinez to draft a truly bipartisan national strategy. And I have the clear and distinct impression that Governor Martinez truly, personally feels committed to this war and, further, that he is truly willing and able to understand the need to have cooperative relationships with the Congress in order to come along with a consensus so that we can all rally behind the national drug strategy and funding.

The fact that he was Governor of a State with such a large problem also, I believe, gives him some additional insight into the need for this cooperation.

So, Mr. President, I am going to urge, and I do urge my colleagues to support the nomination of Governor Bob Martinez to assume this important post.

Now I yield the floor, and yield to my colleague, Senator THURMOND.

The PRESIDING OFFICER (Mr. KERREY). The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise today to voice my strong support for President Bush's nominee, Governor Robert Martinez, to be the Director of the National Drug Control Policy Board.

President Bush nominated governor Martinez on January 22, 1991. The Judiciary Committee held 2 days of confirmation hearings on February 26 and 27. Governor Martinez testified before the committee, as well as several other witnesses, who appeared to express their views regarding his nomination. On March 7, the Judiciary Committee favorably reported his nomination to the full Senate by a vote of 11 yeas and 3 nays.

Mr. President, upon careful review of Governor Martinez' background and experience, I find that he is well prepared to lead our Nation's antidrug effort. He is a 1957 graduate of the University of Tampa where he earned a bachelor of science degree in social science. Governor Martinez continued his education and obtained a master's degree in labor and industrial relations from the University of Illinois in 1964. Following his studies, he was a school teacher, labor relations consultant, and businessman before entering a life of public service. Governor Martinez has an impressive record of public service in the State of Florida where he was Governor from 1987 to 1991, and mayor of the city of Tampa from 1979 until 1986. During his terms as mayor and Governor, he gained valuable hands-on experience in dealing with the scourge of drugs at the local and State level.

Governor Martinez' record consistently illustrates his commitment and desire to work toward eliminating the problem of illicit drugs in our society. In 1987, President Reagan recognized Governor Martinez' interest in this area and appointed him to the White House Conference on a Drug-Free America. In 1988, Governor Martinez earned the distinction of being the first Governor in our Nation to appoint a State "drug czar" to coordinate State level antidrug activities. Governor Martinez also created a Governor's Drug Policy Task Force in Florida to study drug fighting activities in his State. He unified the efforts of the National Governors Association to combat drugs more effectively by creating a special task force to fight drugs at the national level.

Governor Martinez also proposed and implemented several innovative methods to combat drugs in his home State.

He implemented our Nation's first comprehensive drug-free workplace program for State workers, and he worked with the Florida Chamber of Commerce to discuss ways private business could implement drug free work policies. Governor Martinez proposed and fought for vital initiatives, such as drug-free school zones to keep drug dealers and pushers away from children. He successfully fought for enactment of mandatory prison terms for anyone selling, buying, or delivering drugs within 1,000 feet of a schoolyard. Additionally, he recognized the growing need to help drug addicted women and their cocaine-exposed infants to recovery by launching educational and treatment programs.

Mr. President, several distinguished individuals and organizations have voiced their strong support of Governor Martinez for the position of Director of the National Drug Control Policy Board. It is important to note that he has the bipartisan endorsement of his home State Senators: Senator MACK and Senator GRAHAM. As well, Gov. Lawton Chiles of Florida, formerly a distinguished Member of this body, wrote in support stating:

> As Director of the Office of National Drug Control Policy, Governor Martinez can bring a unique perspective. His service as teacher, Mayor and Governor afford him an experience level that will assist in developing a national strategy for dealing with drug policy issues: a policy that recognizes the value of a state-federal partnership and emphasizes education, prevention, treatment and law enforcement strategies. For these reasons, I support Governor Martinez. * * *

Others who recommend his confirmation include, Congressman LAWRENCE COUGHLIN, Congressman CLAY SHAW; Gov. Michael Castle of Delaware and Gov. John Ashcroft, of Missouri; and the Honorable Robert Butterworth, attorney general for the State of Florida. A number of law enforcement groups including the National Troopers Coalition, Fraternal Order of Police, and the Florida Department of Law Enforcement have endorsed his nomination. As well, numerous individuals and organizations who work to treat and prevent substance abuse support Governor Martinez's confirmation. Father Sean O'Sullivan, who has been involved in the treatment and prevention of substance abuse for the past 22 years, testified at Governor Martinez's confirmation hearing and stated:

> In my estimation, if Governor Martinez could do nationally what he accomplished in Florida, the people of this Nation would be in his debt. I believe * * * that Governor Martinez has a very balanced approach to understanding the tensions between the demand and the supply side * * * I believe he has come a long way in understanding the value of prevention.

Ms. Shirley Coletti, founder of Operation PAR, an acronym for Parental Awareness and Responsibility, the largest most comprehensive substance abuse program in the southeast specializing in education, prevention, research, treatment and rehabilitation, also testified in strong support of Governor Martinez.

Mr. President, in closing, I believe that Governor Martinez has a proven record that demonstrates he is highly qualified, and that he possesses the hands-on experience and knowledge to serve in an exemplary manner as Director of the National Drug Control Policy Board. He has a reputation as one who is tough, but fair, when it comes to addressing drug problems. I believe that, once confirmed, he will diligently work to insure that our Nation's battle against illicit drugs is effectively waged to rid our society of the scourge of drugs and the harm that they cause.

For these reasons, I strongly support his confirmation and urge my colleagues to vote in favor of this nominee.

Mr. BIDEN. Mr. President, I yield 3 minutes to my friend from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. SIMON. Mr. President, I do not question that Governor Martinez is a fine, decent person. Almost everything that my colleague, Senator THURMOND, just said, I agree with completely.

When Governor Martinez came into my office to visit with me, I said the one thing that I think is essential is an agreement by the drug czar to restrict himself and not participate in partisan politics. We do not permit that for the Director of the FBI or the CIA by tradition, and by tradition we should not do that for the drug czar.

I was one of two who voted in this body against Bill Bennett for drug czar. It turned out to be one of the best votes I ever cast in this body. When Bill Bennett, as drug czar, went around the Nation campaigning at Republican rallies and Republican dinners, and so forth, somehow we just did not convey the message that that is not the proper thing to do.

And so after his position as drug czar, he was designated to become chairman of the Republican National Committee. It turned out to be a very natural transition from being drug czar to being chairman of the Republican National Committee. As it turned out, he has declined that opportunity.

But Governor Martinez has declined to say, "I am not going to participate in partisan politics." Just as we have in the Director of the CIA and Director of the FBI someone who refrains from that kind of participation, the drug czar of this Nation ought to do the same. It seems to me that is basic if we are serious about this drug war.

And so, Mr. President, I am going to vote "no." I am aware it is going to be approved, but it is the same vote I am going to cast if we have a Democratic administration and we do not get that kind of commitment from whoever the Democratic President would designate. I am going to vote against that nominee, too.

We have a good tradition with the FBI and the CIA: you refrain from partisan politics. We ought to have that same kind of tradition for the drug czar. I am going to continue to vote no on any nominees until we get that kind of a commitment from the nominee.

I yield back the remainder of my time.

Mr. KOHL. Mr. President, I rise today to cast my vote in support of Robert Martinez to be Director of National Drug Control Policy. I am hopeful that, as Director, Mr. Martinez will follow through with the assurances he gave to me, and other members of the Judiciary Committee, during his confirmation hearings.

Before receiving his testimony I had concerns regarding the nomination of Governor Martinez. I was concerned that he would over-emphasize the criminal justice side of the antidrug effort. However, during the hearing, in response to questioning from Senator KENNEDY, Senator THURMOND and others, Governor Martinez indicated that he believed a more balanced approach was in order. On one occasion he stated he believes "that everyone who wants treatment ought to have it * * * [E]veryone that wants treatment that is there for the purpose of freeing himself and herself from addiction or staying on a program ought to have treatment." According to the nominee, that will be part of his policy recommendation. (Transcript, February 26, at 86–87.)

In addition to recognizing the need to treat drug abusers, Governor Martinez spoke to the issue of education, and especially education of our youth. When asked about the effectiveness of drug education, Martinez said:

> I have a tremendous amount of faith that education will work, it is working, and the proof of it will be when these primary youngsters reach those middle school years. (Transcript, February 26, at 245.)

And when queried about drug education programs in the classroom, Governor Martinez again indicated his support, saying "the earlier, the better." (Transcript, February 26, at 141.) These and other statements on the treatment, education and prevention aspects of the drug war have assisted me in reaching my decision. But I also had concerns in two additional areas.

Prior to hearing testimony on the issue of political campaigning while Director of the Drug Policy Office, I had concerns that the office would be used as a pulpit for partisan politics. Chairman BIDEN and Senator SIMON shared my concerns. But upon specific inquiries on this matter, Governor Martinez assured the committee that he would refrain from political activity, and that he would not partake in partisan activities involving congressional elections. Specifically, he said that he "will never mix politics, with this office." And in support of his remark, expressed hope that he could devote himself full-time to the Office of Director. (Transcript, February 26, at 69.) This promise—Governor Martinez saying that he will not degrade the Director's office by engaging in partisan politics—reduced my concern in this area.

Finally, and perhaps most important, I was greatly disturbed by the short tenure of Governor Martinez' predecessor. During the confirmation of William Bennett, Mr. Bennett indicated to the committee that he was "committed" to the drug war. We now see by his early departure, after less than 2 years as Director, that he was not as committed as he appeared. Therefore, I sought assurance from Governor Martinez that he would not leave as quickly if confirmed.

I believe that true success in the drug war will only result from many years of effort. And, as in the private sector, a long-term commitment from top management is a key to long-term success. I do not believe that the Director of National Drug Policy can combat the drug problem for 2 years, resign the position, and then claim victory. That simply is not enough time for achieving the long-term goals of the national strategy, or simply learning the job. But Governor Martinez gave me a personal commitment to stay in the office of Director until asked to step down by the President, or until there is a change in the White House. Without this long-term commitment by the nominee, I could not have supported his confirmation.

Mr. President, I assure you that I will closely monitor Governor Martinez' progress as we work together on issues involving drug control. But Robert Martinez' experience as Governor of Florida, and especially his statements before the Judiciary Committee, indicate that he has the potential to become an effective Director. I look forward to his confirmation, and wish him much success in his new job.

Thank you, Mr. President.

LEGISLATIVE SESSION

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Martinez nomination be temporarily laid aside, and that the Senate go into legislative session to consider a resolution which I will shortly send to the desk, and that upon disposition of the resolution, the Senate return to executive session to resume consideration of the nomination of Governor Martinez.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENDING A WARM WELCOME TO PRESIDENT LECH WALESA

Mr. MITCHELL. Mr. President, on behalf of myself and Senator DOLE, Senators MIKULSKI, MURKOWSKI, SIMON, BIDEN, and THURMOND, I send a resolution to the desk, and I ask that it be stated and immediately considered.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 90) extending a warm welcome to His Excellency, President Lech Walesa of the Republic of Poland, and for other purposes.

Mr. DOLE. Mr. President, I wonder if the clerk might read the resolution.

Mr. MITCHELL. I ask that the resolution be stated in its entirety.

The PRESIDING OFFICER. The clerk will read the resolution.

The assistant legislative clerk read as follows:

S. RES. 90

Whereas Poland has made an historic transition from communism to democracy;

Whereas Poland has held the first free and direct elections for President in its history;

Whereas Lech Walesa, internationally recognized as a leader of the struggle for democracy and human rights, was elected President of Poland on December 9, 1990;

Whereas, under President Lech Walesa's leadership, Poland is continuing on its courageous course of fundamental economic and political reform; and

Whereas President Lech Walesa is making his first State Visit to the United States since his election: Now, therefore, be it

Resolved, That the Senate hereby—

(1) extends a warm welcome to His Excellency Lech Walesa, President of the Republic of Poland, upon the occasion of his State Visit to the United States;

(2) recalls the special and historic ties between the people of the United States and the people of Poland;

(3) applauds the continued commitment of President Lech Walesa and his government to fundamental economic and political reform;

(4) reaffirms the strong support of the Senate and the people of the United States for the independence and security of Poland;

(5) looks forward to continued close consultation and cooperation with the Government of Poland on issues relating to security and stability in Europe; and

(6) commends the decision of the Bush Administration to reduce substantially the debt owed by Poland to the United States, applauds the decision of the Paris Club to reduce substantially Poland's burden of foreign debt, and urges Poland's private creditors to respond in a similar fashion.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President of the United States with the request that he further transmit such copy to His Excellency Lech Walesa, President of the Republic of Poland.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. HATCH. Mr. President, will the Senator yield? Will the Senator add me as a cosponsor?

Mr. DOLE. Mr. President, I ask unanimous consent we add all Republicans as cosponsors.

Mr. MITCHELL. I ask unanimous consent that all Members of the Senate be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, We are honored to welcome to the Senate the Honorable Lech Walesa, President of Poland. President Walesa has visited us previously in his private capacity. Today he represents the people of Poland as their democratically elected leader.

Through his inspirational leadership and tireless dedication to the causes of freedom and democracy, President Walesa has been a pioneer in the effort to transform the former Communist dictatorships in Central Europe into parliamentary democracies. His willingness to undertake the burdens of the Presidency of Poland during this difficult time of transition and reform is testimony to his recognition that the effort to create democracy does not end with the elimination of one-party rule. Rather, the difficult struggle to build a free and open society, with economic and political opportunities for all, must be pursued with increased energy during the difficult transition period.

In passing this resolution, the Senate expresses its welcome to President Walesa and the strong support of the Senate and of the American people for the courageous and difficult steps being taken in Poland. The Polish example should serve as a model for other countries in Central Europe as they pursue economic reform. The Polish people must know, and we hope they will know, that America is ready and willing to provide assistance and support for their efforts.

Mr. DOLE. Mr. President, I am pleased to join with the distinguished majority leader, Senator MITCHELL; with our colleagues, Senators MIKULSKI and MURKOWSKI, the two Polish-American Members of the Senate, and with many other Senators in cosponsoring this resolution.

We are very honored to have President Walesa with us today in the Senate.

When the history of the past 2 years is written—2 years of momentous change around the world—one of the first chapters will be about Lech Walesa.

I had the very exciting experience of visiting Poland on the very day that the Polish Parliament elected the first non-Communist government in more than a half century. A couple of days later, I went to the city of Gdansk, where Poland's democratic revolution was spawned. I met there with Lech

Walesa, and found out for myself that—in this age when public relations experts fabricate most of our so-called heroes—Lech Walesa was the real thing.

He has been with us before as the leader of the democratic revolution in Poland and a Nobel Prize winner. He is here today as the first democratically elected President in the history of Poland.

So today we greet him with a new title: Mr President. But at the same time we greet him still, and foremost, as a friend of the United States, and a friend of freedom.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Sentaor from Illinois is recognized.

Mr. SIMON. Mr. President, I simply want to very briefly join in saying I think this is an appropriate resolution.

Senator DOLE properly called him the real thing. Poland has made incredibly courageous decisions.

I was particularly pleased that President Walesa is keeping Mr. Balcerowicz on as the Finance Minister there.

I join in praise for President Bush for the steps he has taken. Let me just add my appreciation to the Secretary of the Treasury, Nick Brady, and to the Assistant Secretary of the Treasury Mulford, for their hard work in this whole question of Polish debt.

It is extremely important to the future of Poland and the administration. I do not hesitate to criticize them when I think they are wrong, as I did a few minutes ago on this floor. But on this occasion they have acted responsibly and well. I commend them for what they are doing. I am pleased to be a cosponsor of the resolution.

Mr. BIDEN. Mr. President, back in June of 1990, four of us, Senators BRADLEY and myself, and Congressman LEACH and Congressman ROSTENKOWSKI, sent a very strong letter to the President of the United States strongly urging him to deal with the Polish debt question.

We believed then, and we believe now, that Poland's external debt of something in excess of $38 billion had to be dealt with for Poland to have any chance at all of progressing economically.

I just want to publicly compliment President Bush for two things. We asked him to take two actions when we wrote him last year. One was to ask the Paris Club, a group of industrialized nations, to whom the Poles owed a great deal of money, to relieve a significant portion of that debt.

Quite frankly, at the end of World War II, Mr. President, the Germans owed a great deal of money, and we, the United States and other nations, concluded that we were not going to make the same mistake we made at the end of World War I, when we had helped to create an environment where we seemed to demonstrate to people in Germany that democracy was synonymous with economic failure.

So we concluded that it was critical to forgive the German debt, even though we had just been in a bitter war. We did it for our own safety's sake.

I am delighted to see that the President has moved to convince the other nations to whom the Poles owe a great deal of money to forgive a significant portion of that debt. And now we, the United States, are engaged in a similar operation, the second action we hoped the President would take. Without that taking place, I see little possibility of the bold economic plans that the Poles are making now coming to fruition.

As I have said on many occasions, I do not want my sons, who are soon to graduate from college, to have their sons studying in college what they studied about the period of European governments between the end of the World War I and the beginning of World War II. I do not want my grandchildren learning about a period where there was an opportunity for democracy to survive—and it can only survive where there is economic prosperity—and democracy having failed because there was no economic prosperity.

There can be no prosperity, in my view, in Poland, absent debt forgiveness. That is underway now, and it gives Poland a serioujs chance for success. If Poland makes it, I believe the rest of Eastern Europe also has a real chance.

Mr. KASTEN. Mr. President, I rise today to welcome the freely elected President of Poland, Lech Walesa. This is his first visit to the United States as President of Poland.

It is a historic event that should be marked with an equally historic gesture on our part. That is why I support the resolution introduced by Mr. LIEBERMAN forgiving a major share of Polands' debt.

By reducing Poland's debt, the American people would be helping that country move from communism to a free-market economy. We must encourage this positive movement toward democracy.

The Polish people must be commended for leading the revolution of economic and political change in Central Europe over the last 2 years. The people and the Government of Poland have committed themselves to a dramatic transformation of their economy from a command economy to one based on free market principle. But unfortunately, this change has come at a very high price.

The process of change in Poland has been difficult, causing the Polish people great hardship. The burden of foreign debt has made the process of economic transformation more difficult for the people and the Government of Poland.

Mr. President, it is my belief that the people and the Government of Poland should not have to bear the burden of debt accumulated by the former Communist regime. A reduction in Polish foreign debt would be an important way to help the people and the Government of Poland.

I urge my colleagues to support this resolution. The Polish people have had to cope with 45 years of Communist oppression. Let us not make this historic transformation from tyranny to freedom any harder.

Let us relieve the Polish people of this economic burden and reward them for their courageous fight for liberty.

Mr. BRADLEY. Mr. President, I rise today to join my colleagues in welcoming Lech Walesa, the President of Poland, to the United States. On his last visit here, he was just an electrician, albeit an electrician who had changed his country and the world. Today he is the President of his country.

I would also like to commend the multilateral efforts to reduce Poland's debt. Poland's transition to democracy and free markets is one of the most important historical processes of our era, and debt reduction will play an important role in encouraging that process.

I do not need to remind my colleagues that the process of transition which is underway in Eastern and Central Europe is far from complete. Poland, Czechoslovakia, and Hungary have made the fundamental commitment to change, and are now struggling with the practical realities of the transition. The ultimate success of that transition depends to a great degree on how the governments and people of this region manage to rebuild the economy of their countries.

The boldest and most sweeping reform program has been undertaken in Poland. It includes banking, currency, and tax reform, strict wage control, the reduction and elimination of subsidies, privatization of state enterprises, and dissolution of uneffective ones. The other nations in Central Europe—and perhaps the Soviet Union as well—are watching Poland's progress very closely, and gauging their own reform efforts according to the results there. Therefore, helping Poland means helping all Eastern and Central Europe make the changes necessary to bring democracy and free markets to the region.

One of Poland's most urgent problems is its debt burden. Poland currently owes about $33 billion to foreign governments and about $11 billion to commercial banks. Without a significant reduction, Poland will probably not be able to complete her bold and radical program. The steps taken so far by the Polish Government have shown positive results. The currency is stable, Government spending is restricted, and hyperinflation has been stopped. But as a result of the drastic economic measures which were necessary to transform an economy ruined by 40 years of communism, new problems have emerged. Recession is severe, unemployment has risen, and a standard of living has fallen.

Negotiators from the major industrial countries recently completed their talks on Polish debt relief. The United States, pursuant to a resolution I introduced in October 1990 calling for greater efforts to provide debt relief, took the lead in calling for meaningful cuts, not just token measures and further rescheduling. The creditor countries should cut Poland's debt burden in half. This is good news and will go far in helping Poland. Individual countries can and should go further than the general agreement. Poland deserves it. Furthermore, I hope that the commercial banks will follow the lead of their governments and take similar measures to reduce Poland's debt.

Poland will not become a free market democracy as long as the debt built up by the Communist government slow its growth. The best investment this country can make is an investment in democracy. Poland has made the commitment to democracy, and I am glad that we are following through with our commitment to help Poland.

Mr. MITCHELL. Mr. President, I believe there is no further debate.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 90) was agreed to.

The preamble was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order the Senate now returns to executive session to resume consideration of the Martinez nomination.

Mr. MITCHELL. Mr. President, may I inquire of the Chair how much time remains for debate on that nomination?

The PRESIDING OFFICER. There remains 1 hour and 10 mintutes.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that upon the completion of the debate, either through the use of the full 1 hour and 7 minutes or the yielding back of time, that there then be a period for morning business until 2 p.m., and that the vote on the Martinez nomination occur at 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, Senators should be aware then that we are going to complete the debate on the Martinez nomination. Then there will be a period for morning business. Then there will be a vote on the Martinez nomination at 2 p.m. Senators should be aware of that. There will be a rollcall vote on the Martinez nomination at 2 p.m.

I thank the distinguished managers and other Senators for their cooperation enabling us to act on this matter.

Mr. HATCH. Mr. President, I rise in support of the nomination of Robert Martinez to be the National Drug Control Policy Director. After an extensive review of this nominee's background, I believe that the President has made an excellent selection in Governor Martinez. I thought that he handled himself very well at his confirmation hearing. He answered all of our questions in a straight-forward, forthright manner, and I am convinced that he demonstrated a real commitment to the fight against the war on drugs.

As a Senator of a predominantly rural State—a State with a lot of little airstrips, a kind of crossroads of the West—I have a particular concern about what the Federal Government can do to assist in the interdiction of drugs in these areas. I believe that this nominee shares those concerns.

During the Judiciary Committee hearings, we learned that Governor Martinez brings a wealth of experience to this important position. As the Governor of the State of Florida, he has firsthand experience in dealing with drug trafficking and abuse. Drug pushers have used Florida, because of its location, as a main point of entry into the United States for illegal drugs.

Throughout his tenure, Governor Martinez continually fought this scourge through innovative as well as time-tested interdiction techniques.

Let me touch on some of the highlights of his drug fighting efforts. During his tenure, Florida was named by Federal agencies as a role model State in the drug battle. It is listed among the top 10 States for per capita spending on drug treatment. Between 1987 and 1989, Florida increased its spending in support of drug treatment by 33 percent, an increase in spending greater than the increase experienced by many of the other States during the same time period.

Governor Martinez served as the National Governors Association lead Governor on substance abuse and drug trafficking issues. He implemented the Nation's first comprehensive statewide Drug-Free Workplace Program. He has been a leader in developing comprehensive plans and promoting interagency coordination of prevention services at the State and local level. He was also one of the first Governors to employ the services of the National Guard in the interdiction efforts of his State.

And let us not forget that Governor Martinez is a Spanish-speaking public official who has direct experience in dealing with the leaders of Central and South American countries. He has met with many such leaders while promoting Florida business and trade. This experience and familiarity will serve him well in his new role.

I am particularly impressed with his commitment to fight drug trafficking on the demand side of the equation. As a prior school teacher, he knows firsthand the need for strong antidrug education programs. Indeed, while Governor, once or twice a month he would travel around his State to a student's home, accompany the student to school, sometimes on the schoolbus, and teach the student's class. One of the subjects was drug education. I believe that he will truly be a leader in this area of our efforts.

Governor Martinez comes highly recommended by such groups as the National Federation of Parents for Drug-Free Youth and Informed Families of Dade County. They are particularly impressed with his efforts in the area of drug prevention, focusing on the home and the individual.

Mr. President, it is clear that Governor Martinez' experience has prepared him for the challenges of this important national office. I believe that he will fulfill his role in an honorable and highly successful manner. This is an office that should not remain vacant for any length of time. I urge all of my colleagues to vote in favor of this nomination.

Last, I want to pay tribute to the distinguished chairman of this committee, the Judiciary Committee, Senator BIDEN, the Senator from Delaware, and the distinguished ranking minority leader on the committee, Senator THURMOND, from South Carolina. Both of them have been foremost leaders in the fight against drug abuse in this country, not only on the supply side of the equation but on the demand side.

I have to say Senator BIDEN in particular has spent as much time on this issue as any Member in Congress. He has done a terrific job. He has been concerned about all aspects of drug pushing, drug abuse, and drug rehabilitation, all other aspects of the issues involved in the whole panoply of drug issues. I want to say he has been a foremost leader in the Congress in helping us to try to resolve some of these problems.

Naturally the administration, naturally other Members of Congress, naturally myself, want to listen to him and want to work with him in trying to help in any way we possibly can.

Senator THURMOND has himself been an effective and wonderful leader on the Judiciary Committee. These two gentlemen have worked hand in hand together in so many good efforts in the best interests of country. I want to pay special tribute to both of them as one who works rather closely with both of them and who thinks very highly of both of them.

I would feel bad if I did not at least say a few words about the great efforts both of them have made in this particular battle.

I wish Bob Martinez well. I hope everybody will vote for him. I think a strong, substantial vote will help him in the work he is going to do. I think we are all going to be very proud of him as the ensuing months occur.

I thank you, Mr. President, I yield the floor.

Mr. LEAHY. Mr. President, I want to emphasize my reservations about Governor Martinez' nomination to be Director of the Office of National Drug Control Policy.

Congress passed legislation to create a Cabinet-level drug czar because we need the best available talent to lead us in our war against drugs. The drug czar coordinates all of the Federal, State, and local agencies with antidrug responsibilities, he oversees international initiatives to decrease drug production at the source, and he makes sure that our criminal justice system keeps pace with the Nation's quickly changing needs.

The drug czar is our voice when it comes to defining goals and leading the charge. An effective drug czar must understand that a "war on drugs" means more than rhetorical tough talk and glitzy political slogans. Ending this Nation's drug crisis will take time and it will take money.

We need a leader who can look the President or his fellow Cabinet members in the eye and say "no," or "that is not good enough," or "we need more funding." We need a creative, open-minded coordinator—someone who can balance punishment for drug pushers with programs to prevent young people from turning to drugs and programs to help those who have already been taken in by the scourge. And we need someone who will fight this battle on a bipartisan front, without politicizing his important office.

The President has the prerogative to nominate competent officials to carry out his policies. Thus far, the administration's drug control policy has been a lot of tough talk without the muscle to back it up. The nominee's record as Governor of Florida reflects the same approach. Governor Martinez focused on punitive measures—at the expense and neglect of treatment and prevention—and after 4 years in the statehouse with drug control as his major goal, Florida's drug problems got worse, not better.

In voting for Governor Martinez' nomination I am granting the President his prerogative. I am only sorry that the administration did not take this opportunity to show a serious commitment to ending this Nation's drug crisis. The office which Governor Martinez will assume has great potential—to mobilize the American people, to mobilize government at every level, and to fight effectively against the drugs that are destroying the very fabric of our society. The office deserves more credit, and more respect, than the administration gives it.

Finally, I impress upon Governor Marinez my hope that he will encourage a more balanced national drug control strategy. At his confirmation hearings, Governor Martinez seemed to embrace the need for increased treatment and prevention programs. In his testimony he stated, "if confirmed, I will continue to request increased appropriations for expanded treatment capacity. This is an area of great importance." I am taking Governor Martinez at his word. I hope he does not let the American people down.

Mr. BIDEN. Mr. President, I have a good deal to say about Governor Martinez. But let me speak for a moment, while we are waiting for some of our colleagues who wish to speak to arrive. Let me speak to the policy that Governor Martinez is going to be saddled with at the outset.

The President's national drug policy, obviously, is well intended. I believe it is seriously deficient. The President has concluded, and its former Director concluded, that we should focus on casual drug users more than any other aspect of the problem, although they do focus on all aspects of the problem.

This is a matter of proportion when, in fact, casual drug use among particularly our young people is going down and down and down, and the administration can and should, and the Congress can and should, claim some credit for that. But the fact of the matter is that in the 4 preceding years prior to there even being an existing drug czar, there was a genuine precipitous and steep decline among the casual users in this Nation.

The picture we are missing, Mr. President, is that there has been an increase in the number of hardcore users, or what we would term in the street: The addict.

Mr. President, I have had an ongoing debate with the administration. They use a statistic that indicates that last year there were 862,000, or thereabouts, hardcore cocaine addicts in America, when in fact, Mr. President, our studies show that there were over 2.3 million hardcore cocaine addicts.

Mr. President, in this year's drug strategy, submitted to us for the consideration of my committee in the Senate, the President said: "We have made gains; we now only have 660,000 hardcore cocaine addicts." It had gone down almost 200,000, according to their reports, based on a household survey, which I think we were able to point out was fatally flawed, as they say. Every expert in the field acknowledges that it is flawed, by the nature of its methodology.

So, Mr. President, the President put in place a drug strategy, calling for certain weapons in that strategy, from treatment, to police, and based on the notion that there were 660,000 hardcore cocaine addicts in America.

During the first hearing that I held on this matter, the administration acknowledged that they were off; that number was not accurate. They said: We knew it was inaccurate all the time, but that survey was the only basis we had on which to make the judgment. So they said, during the course of the hearing: We will now stipulate, Senator BIDEN, that there are at least 1.7 million hardcore cocaine addicts in America.

I believe, and I think our studies show—and it was greeted uniformly by the so-called experts in the community as being accurate—that there are closer to 2.2 to 2.4 million. They said, OK; let us assume that the number is only 1.7.

Now you have just, in a matter of 3 days, from the time you submitted your report to me, which said 660,000 hardcore cocaine addicts, within a week's period, you said, "All right, Biden, there were really not 660,000; there are 1.7 million." I compliment you for the increased recognition of that side of the problem.

I said, "Now that you have told me that, how are you going to amend your drug strategy to accommodate this acknowledged significant change in your thinking?"

They said, "We are not going to."

I said, "I do not understand."

They said, "There is no need for us to change our strategy."

I said, "I am somewhat bewildered. I thought the strategy for attacking the drug problem in America bore some relationship to your assessment of the extent of the problem."

I suspect we would all say, if we thought there were only 100 cocaine so-called crack babies going to be born next year instead of 300,000 going to be born next year, we would have a different strategy relative to dealing with addicted mothers; 100, well, that does not mean we are going to go out and put out 1 billion dollars' worth of resources to deal with 100, as bad as it is. We might decide to put that $1 billion into health care or other things.

But, if we think there are 300,000 then it is a problem requiring a different input.

Well, I said I am confused now. At the outset, you said, here is my strategy and my strategy is at least in part premised on the fact there are 660,000 hardcore addicts. Now you say 1.7 million hardcore addicts, and you do not change your strategy.

Mr. President, we are, by everyone's admission, in a very, very difficult area. We are attempting to deal with a second epidemic—I say second because the first one was at the turn of the century—the second drug epidemic in this Nation. The consequences are obvious. Cocaine addiction brings on cocaine-induced psychoses and paranoia. Wherever there is cocaine there is violence. I sometimes say facetiously to make a point, if you have to live in an apartment complex full of cocaine addicts or you have to live in an apartment complex full of heroin addicts, go with the heroin addicts, not because they are better, but because heroin takes you down; it does not cause you to go running around knocking down doors and shooting people.

But cocaine has the exact opposite effect on the brain. Cocaine, to use the phrase of a leading researcher from Yale University, creates a "lightning storm in the brain." That is why so many people die when cocaine is introduced into an area, not just because of the trafficking in cocaine, but because the people who are hooked on it do strange antisocial things, and many times they are violent.

Mr. President, all the crimes we have out there now that are being committed related to drug addiction are not in large part as a consequence of the casual user, who should be stopped because he will become a hardcore user if we do not in many instances; they are the consequence of somebody who is hooked on, to use the vernacular, a drug, and these cocaine addicts are the ones who are going out shooting people and mugging people and, in their domestic quarrels, turning around and hitting people with everything from hammers to whatever is near them, and they are our most important problem now. We do not direct nearly enough attention to that in the President's drug strategy.

That is why, on behalf of myself and the Democrats, I offered an alternative strategy, not to be obstreperous, not to disagree with the President, but because I truly believe that we have to do one of three things with those hardcore addicts.

One, we have to turn around, put them in jail, and while in jail treat them for their problem; otherwise—we put last year, and I have to yield to my staff for a moment here, the estimate that, nationwide, over 3.6 million folks last year were released from jails and prisons who were still drug users, who still had a problem. So we either have to lock them up and treat them or get them into treatment before they are locked up or we are going to shoot them or they are going to shoot us. I mean, you do not have to be a rocket scientist to understand that. So, if you have a couple million people walking around the streets with a serious problem—I am not suggesting we treat them merely because it is the Christian thing to do, the noble thing to do, the human thing to do, but out of our naked self-interest, either lock them up for the rest of their lives, execute them, or treat them, or they will be back.

So, Mr. President, the administration's position is one that has to be altered, in my opinion.

I see one of my good friends and the chief sponsor of our nominee has made it to the floor, the distinguished Senator from Florida. I am delighted to yield the floor to him, if he wishes at this moment to speak on behalf of the nominee, and I ask unanimous consent that his time be yielded from the time controlled by the Senator from South Carolina.

Mr. MACK. Mr. President, I so make that request.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Florida is recognized.

Mr. MACK. Thank you Mr. President. I thank the Senator for yielding the time.

Mr. President, I rise in strong support of the Honorable Bob Martinez, nominee as Director of the National Drug Control Policy Office.

As a fellow Floridian and friend of Governor Martinez, I am well aware of his eminent qualifications for this position. As I indicated to the Senate Judiciary Committee, I am pleased President Bush has chosen an outstanding candidate to serve as this country's next drug czar.

Bob Martinez is a seasoned veteran of the drug war. With Bob's combined background as educator, mayor, businessman, and Governor of the State of Florida, he has initiated and implemented innovative strategies to respond to Florida's drug crisis. Bob's strong record is reflected through his commitment to clean up Florida's cities and streets.

As Governor, Bob appointed this Nation's first State "drug czar" to coordinate antidrug efforts in Florida. He created the first Drug-Free Workplace Program for State government workers and provided for formal training of teachers in substance abuse education. Bob introduced Florida's drug-free zones for our schoolchildren. In addition, he also imposed mandatory minimum sentences for individuals convicted of drug activity near public parks and playgrounds, public housing facilities, colleges and universities, again in an effort to protect our youth. Furthermore, Bob Martinez kept Florida's streets free from career criminals by successfully seeking passage of a tough repeat-offender law.

During Bob's tenure as Governor, Florida was among the top 10 States for per capita spending on drug treatment. In fact, between 1987 and 1989, spending on drug treatment in Florida rose nearly 50 percent faster than the average of all other States.

As a direct result of Bob's strong stand against drugs, Florida was "evaluated by Federal agencies as one of the Nation's role models in the drug battle" in November 1990.

In addition to Bob's accomplishments within our State, he was involved in the National Governors Association, where he served as lead Governor on substance abuse and drug-trafficking issues. In this capacity, he presented President Bush with a plan for antidrug efforts on behalf of the National Governors Association.

Governor Martinez also coordinated drug information exchanges with other State Governors and traveled extensively abroad to promote and secure cooperation of the international community in the war on drugs.

Prior to introducing Bob Martinez to the Senate Judiciary Committee, I asked myself the question what type of person would make an ideal Director of the National Drug Control Policy Office. It seems to me this person should have experience with the drug war at the local and State level, experience working with children in our schools to teach them the evils of drugs and an overall proven record in the area of drug control. With these points in mind, I am confident the ideal person for this job is Gov. Bob Martinez. With Bob's unique experiences, he will be effective in uniting Federal, State, and local governments in shaping an effective and well-balanced antidrug strategy.

I urge my colleagues to follow the lead of the Senate Judiciary Committee and to act favorably on Gov. Bob Martinez' nomination.

Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be equally charged.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quroum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I oppose the nomination of Robert Martinez to be Director of National Drug Control Policy.

A President is entitled to considerable discretion in appointing his top officials. On occasion, however, an executive branch nominee is identified with a policy so contrary to the public interest that the nominee should be rejected.

Governor Martinez favors a fundamentally flawed approach to the Nation's efforts to combat substance abuse. Unless we modify that approach, we will never be able to deal effectively with this worsening national problem.

Surveys indicate that casual drug use has dropped over the past 5 years. But hard core use—the kind that causes crime and violence—remains a national epidemic. Two years after President Bush held up a bag of crack on national television, our streets are no safer.

The administration continues to believe that if they just increase sentences, build more prisons, and jail more addicts, drug crime will decline. Police, prosecutors, and prisons are indispensable, but we must reinforce efforts with treatment and prevention.

We must treat addicts before they commit crimes, and educate children about drug abuse before they turn to addiction and criminal activity.

Under Governor Martinez, however, Florida became a case study of the imbalance in our Nation's war on drugs.

The State had the highest crime rate in the Nation. It also ranked first in the Nation in its rate of incarceration. But it ranked 21st in the funding of substance abuse treatment programs, and 32d in the funding of prevention programs.

Only one out of every four citizens of Florida who needed treatment received it during the Martinez years. Nothing in his record or his testimony before the Judiciary Committee convinces me that the nominee possesses a genuine commitment to reducing the demand for drugs through treatment and education.

The situation in Florida was especially bleak for women. The State's 10,000 pregnant substance abusers stood a 15-percent chance of finding treatment for their addiction. If they found treatment, it was after an average wait of 61 days.

Otherwise, they were likely to join the list of tens of thousands of Floridians arrested every year for possession of drugs. Once arrested, they joined the army of addicts marching through the revolving doors of the State criminal justice system, only to be put back on the streets as addicts with criminal records.

The State's drug strategy was a public safety failure in another major respect. Because the courts and prisons were flooded with nonviolent addicts, thousands of violent offenders had to be released before their sentences had expired.

During the Martinez years, the average murder sentence actually served in Florida decreased by 40 percent. The average robbery sentence served decreased by 42 percent. Overall, the average sentence served decreased by 38 percent.

At the end of the Martinez administration, Florida inmates served, on average, only a third of their sentences, the lowest rate in the Nation. The bottomline on these drug policies is clear: Law enforcement cannot do the job alone.

The Martinez administration contributed to a worsening cycle of addiction, arrest, and the return of violent criminals to the streets. That cycle might have been broken if the State had made more treatment available to more substance abusers in the first place.

The nominee's law enforcement credentials are also called into question by his views on gun control. Drug-related violence in our cities is escalating. The 102d Congress must take reasonable steps to halt the proliferation of guns in our society. Yet at this confirmation hearing, Governor Martinez expressed his opposition to Federal legislation to deal with this critical aspect of the drug problem.

It is time for the Nation to develop a new and more effective strategy to combat drug abuse and drug crime.

The best way for us to begin is to vote against this nomination, and I urge the Senate to do so.

I hope my colleagues, prior to the vote, will take a look at the report on the nomination prepared by the Judiciary Committee. At the back of the report are various charts which reflect the points that I made earlier in my comments about the number of treatment opportunities for adults in Florida, the number that need treatment and the number that are actually receiving it. The other chart is the treatment opportunities for women in Florida; for all women and then for pregnant women.

Of 10,000 pregnant women who are substance abusers, 1,500 are actually receiving treatment. The State of Florida actually prosecuted a woman in Florida for distributing drugs to her unborn child—in other words for being a pregnant addict. We found that she had actually asked for treatment during her pregnancy, was unable to get treatment, then was subsequently arrested after she gave birth.

Included in the report is a chart showing the spending priorities in Florida. It gives a clear reflection of the explosion of spending on prisons and jails; from approximately $500 million in 1987, up to $850 million by the year 1991.

For substance abuse treatment, the chart is virtually flat. I think it went from $35 to $42 million. The point has been made during the debate about the significant increase in Florida's treatment budget. When you go from $37 to $42 million, that might reflect some percentage increase, but in terms of real dollars and purchasing power, it is woefully inadequate.

Then the final chart shows the revolving door in Florida, which I think is enormously interesting. You had 50 percent of a Florida sentence being served in 1987, but in 1988, it is 41 percent of the sentence served.

What is interesting here is the relationship between percent of sentence served and the failure rate, which reflects recidivism. This chart demonstrates that the percent of time actually being served is constantly going down during the Martinez years. It goes from 53 percent of the sentence in 1987 to 41 percent in 1988, to 34 percent in 1989, to 33 percent in 1990. The total amount of time that is spent in jail is gradually going down. Then if you look at the other part of the chart, you see that the recividism rate for those released from jail goes from 30 percent in 1987 to 43 percent in 1990. That is because they are flooding the system with nonviolent addicts and letting out murderers, burglars, rapists, and those that are committing other crimes of violence.

No one is suggesting that this problem is not complex and difficult. There are no easy solutions. But it is clear that we must deal with the demand side as well as the supply side. Going back to 1988, the Congress gave a very clear indication, after a long, very considerable debate and discussion in a bipartisan way, that we ought to have approximately 50-50 expenditures in terms of the demand side and the supply side.

We know we have interdiction, we have prosecution, we have education, we have rehabilitation, and we know that there has to be a balance. The Congress made that clear. But the Reagan administration and the Bush administration have put about 71 in supply side programs, and the demand side gets the 29 percent that remains. And that demand-side percent would have been a lot less if the Congress did not include the Byrd amendment in 1989 which added $800 million to the demand side. This money was added with the reluctance of the administration, quite frankly, and Senator BYRD overcame that reluctance to win support in this body and in the Senate-House conference. So some adjustment was made.

Mr. President, it seems to me that looking back on the Martinez record, there is very, very little in terms of his service as Governor that would indicate a real understanding of the importance of both education and treatment. When we see what the bottom line is of the nominee's push for mandatory sentences and his lack of support for treatment, it seems to me that he has displayed an insufficient understanding of the drug issue.

So for those reasons, and the reasons I have outlined here and in the report, I will vote against the nomination.

The PRESIDING OFFICER. The Senator from Florida is recognized. Who yields time?

Mr. GRAHAM. Mr. President, I ask unanimous consent that my time be equally charged to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, I rise to speak in favor of the nomination of Gov. Bob Martinez to the position of Director of the National Drug Control Policy. Mr. President, I know Bob Martinez. I have worked with him as a teacher, as a leader of teachers, as a mayor of a large city, and as Governor of the fourth largest State in America. That background prepares a person to provide the coordination of the variety of programs that have been established by this Congress in order to lead America's efforts against drugs.

As a teacher he has demonstrated his understanding of the importance of education as a strategy in terms of our overall drug policy. As mayor of a large city, he has dealt with the failures of adequate treatment and prevention programs. As Governor he had the responsibility to lead our State in terms of law enforcement. Those are the dimensions of the job of the national drug coordinator. I believe that Bob Martinez is well prepared to carry out this responsibility and I urge the Congress to confirm the nomination of President Bush.

The directorship is one of the most important positions in the Federal Government. He is dealing with an issue that has been identified for over a decade as one of the key concerns of America. It is one of the key challenges to the realization of America's future. We cannot afford to lose the war on drugs. The director will be a key general in assuring that we score a victory.

Bob Martinez is a former teacher, leader of teachers, mayor and Governor of the fourth largest State. Some of my colleagues have reviewed this nomination and have asked what kind of person should we have as our national drug coordinator? Some have suggested what we need is a creator of new programs, an innovator, a person who would add to our arsenal of tactics in the war on drugs. My position is that we have spent the better part of 10 years developing those programs. What we need now is not a person who will have as his primary job the development of new programs, but rather to effectively make the existing programs work.

Some have suggested that what we need is a cheerleader, a promoter, someone who can raise the national consciousness as it relates to our war on drugs. We have had that kind of person for the last 2 years, Mr. President. I do not believe this Nation needs to be convinced that drugs are a serious problem. I do not believe this Nation needs to be convinced it is going to take a multiple set of tactics in order to achieve our strategic goal.

No, I believe that we need a person who can make the existing programs work; one who will have the hands-on background and hands-on commitment to that definition of the job of director.

It has been suggested that Bob Martinez is to be discounted because he has a close relationship with the White House. Many of us would have preferred the office of director of our Nation's war on drugs to have been more like the shorthand characterization of czar that is so frequently used. The fact is we did not pass a czar. We passed a director who depends on the often voluntary compliance of many other people in order to be effective.

In the final analysis that voluntary compliance is going to be tested by the ability of the director to pick up the phone and call the White House and ask for that support from our Commander in Chief in the war on drugs. I believe the very fact that Governor Martinez has a close relationship with President Bush and with the White House will be one of his greatest assets in terms of accomplishing the purpose of the directorship.

Bob Martinez is equipped to carry out this role. He is prepared to provide the style of management that this job requires today.

Bob Martinez taught school at Hillsborough County, FL, and was selected to be the leader of the teachers of that community. As a teacher, Bob Martinez understands the power of education in the war on drugs. He understands the balance between education and enforcement. He is a former mayor of one of the fastest growing cities in our Nation, Tampa FL. As a big city mayor, he understands the impact of cocaine; he understands the effect of crack on the spiraling rate of crime. He knows what the needs of the local police are. And, perhaps more important, he has seen the Federal Government from the perspective of local government.

As Governor of the fourth largest State in the Nation, Bob Martinez understands the vulnerability of our Nation's coastlines. He knows the need for effective local, State, and Federal partnership in cooperation in law enforcement, education, prevention, and treatment.

Bob Martinez is prepared. He is ready to serve our country. He is equipped to do the job. I ask my colleagues to join me in supporting President Bush's nomination of Bob Martinez for Director of the office of national drug control.

The PRESIDING OFFICER (Mr. AKAKA). Who yields time?

Mr. GRAHAM. Mr. President, I suggest the absence of a quorum, and ask the time for the quorum call be equally charged to the two sides.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

All time on the majority side has expired.

Mr. MOYNIHAN. Then I ask there be an additional 5 minutes permitted the majority.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I will vote for Governor Martinez to be the Director of National Drug Control Policy, but with no enthusiasm; indeed, with a sense of what a failed opportunity, and perhaps what a mistake in judgment we made when we created the position in the first instance. And, in any event, the potential of the position, if it did exist, has certainly not been realized.

It has been a failure and at some levels a disgrace. We have politicized a public health problem, a problem of law enforcement, of societal standards. We have done everything the 1988 legislation intended not be done. Nothing more painfully illustrates this than the fact that the original incumbent of this office was evidently desiring to leave it and become head of a political party, in this case, the President's party.

In 1988, the record will show, I was much involved in the drafting of the legislation. Senator NUNN and I were appointed by the distinguished President pro tempore to deal with the matter. We were cochairs of a task force.

I tried to address the question of treatment. On the House side there had been very powerful legislation directed to law enforcement.

As much as one understands the instinct of lawyers—law enforcement—it was necessary to think of a public health problem also in public health terms. The particular advent of crack, Mr. President, was not reported in law enforcement journals. It was reported in a lead article in the Lancet, the publication of the British Medical Association, published by a Dr. Allen and associates from the Sandilands Rehabilitation Hospital in the Bahamas where, in 1983, a new form of free-base cocaine appeared. It was the most powerful euphoriant the world yet encountered.

Dr. Allen, who has a degree from the Harvard School of Public Health, said it would be the reality. As he described in some of his clinical notes in Comprehensive Psychiatry: One day in 1984, a man appeared who, the previous day, had cut the head off his dog, drank its blood, and then stabbed his cousin to death—a man who had not previously exhibited violent behavior. What Dr. Allen learned was the advent of something called crack cocaine.

As I recall, the paper, which I will print in the RECORD, was called "Epidemic Free-Base Cocaine Abuse: Case Study from the Bahamas." Dr. Allen said it will spread to the United States. We paid no heed. The Centers for Disease Control in Atlanta was deaf to this warning. It failed utterly to see what was coming, and so in the legislation that created the Office of National Drug Control Policy, under the Director we created two deputies, and we tried to conceptualize between the terms supply and demand.

Supply is what comes into the country; supply is what is available. Demand is when one purchases it for a price. We thought they would be given equal allocations of resources. We made the first deputy for demand a medical position, obviously, and we thought we would get a response out of the epidemiologists of the country, out of the medical profession.

Mr. President, I would like to make a point about which I can only speak with a measure of tentativeness but with a long experience, which is to say that there is very little prestige in science, and specifically in medical science, for dealing with drug addiction and abuse. Why prestige in science comes and goes, I do not know. There is a shelf of Nobel Prizes awaiting those scientists who crack the AIDS virus, virology being one of the most advancing of current fields—full of prestige, full of achievement.

Anyone who finds a blocking agent for crack cocaine might find himself or herself under suspicion.

Dr. Vincent Dole, a distinguished professor at Rockefeller University in New York, and Marie Nyswander producted a blocking agent for heroin and got precious little credit, if that, Mr. President. A Lasker Award was finally given to Dr. Dole, after Dr. Nyswander passed on.

There is a problem here. The medical profession probably does not understand it because they do not investigate things like this and others who do have not bothered.

The fact is that very little attention was paid to our insistence in legislation that said treatment had to be given equal priority. It was not. Even, to be very blunt, having found that there was a good epidemiologist, a doctor at Yale who was working in the field who happened to be a Republican, and having got the job, he said, in effect, what am I supposed to do?

So we went on to our ritual incantation of frying the kingpins, and such like avoidance of a problem which is, in the first case, a public health problem as well as a law enforcement problem. Behavior problem, yes, but behavioral in the context of a new environment, existence of an addictive euphoriant that did not exist before; a mutant, a new strain to which the species was suddenly exposed.

There was very little comment on this. There was no attempt to teach, not much effort to learn. It was baffling. Perhaps we will not, in fact, ever do much about this subject; it will run its own course. Epidemics run their own course. Epidemics crash. They do not go on forever. They sometimes end when everybody susceptible has died, and sometimes not. We know the epidemic curve.

In the meantime, the only event that has happened about treatment in the period since the creation of this job that I am aware of is the very energetic initiative of Gail Wilensky, the head of the Health Care Financing Administration, to make treatment for cocaine addiction eligible for Medicaid reimbursement. It was not under the bureaucratic structure that said, let us see, heroin addiction, we have a treatment called methadone; yes, come in, we will give you the treatment; we will charge you according to the rule book here. But there will be no treatment for cocaine addiction. You could not charge it to anything so, therefore, you were not eligible for reimbursement. Therefore, no research went on, the kind of clinical research we hope to see happening in the urban hospitals around the country.

We brought that to the attention of Dr. Wilensky and she responded very well. We now have Medicaid reimbursement. Pregnant women ferociously addicted to crack cocaine were appearing in New York hospitals and being told there is nothing we can do for you. Even as we know that this particular euphoric, as most will, becomes aversive after a while and you would like to get off it.

In the meantime, Mr. President, having heard almost nothing from the deputy Director, much less the Director of National Drug Control Policy. Neither have we heard anything, Mr. President, from the Director of the National Institute of Drug Abuse that will spend almost $446 million in the coming fiscal year, $416 million this year; nearly half a billion dollars. What they do with it I dare not imagine. They do not teach. They do not teach us.

If it were in order, I would stand here and propose the abolition of the National Institute of Drug Abuse as an example to others; but we are in executive session. They have a real problem on their hands, and what they do with their money or their time no one can say.

They do not try to reach out to those of us who live with this problem, as a New York Senator has to do. Not at all.

Why are we spending this money? Can they offer any explanation? Can they show you anything they have achieved, anything they expect to achieve, anything that will in any way respond to our initiative in creating a Director of National Drug Control Policy?

That word "control" is a suspicious word. It speaks of law enforcement. You are dealing with a health epidemic. That child in utero with a mother using crack cocaine has not broken any laws but will very likely lead a broken life.

We hear nothing from them. What do they do? Where do they go? Where are they?

It is a form of avoidance. It is a reflection of the problem on this subject in medicine. The medical profession has never been easy with this issue. I have never understood fully why. Partly because all these drugs begin as medicines.

Morphine began in the 1840's as a distillate of opium, and it was a painkiller, and God bless. Anyone with Irish teeth such as mine would rue the day that he lived in an age before morphine was available. The hypodermic needle was invented in the same era. It was massively used in the Civil War. Morphine addiction became known as "soldier's disease." It had an aura that you had been at Antietam.

Heroin came along, a further intensification, as a treatment for morphine addiction. Heroin is a trade name. You can see it advertised at the turn of the century. People who made Bayer aspirin tried this out on their employees. A German firm, of course. It made them feel heroic. Thus, heroin.

Cocaine was a distillate of coca leaves. It appeared during the 1880's. Sigmund Freud first wrote on the use of cocaine to treat morphine addiction, as I recall.

But somehow the problems of addiction have never held the attention of the medical profession in any way proportionate to the problem.

If this was a very rare disease, well, perhaps few people would deal with it. The disease model would be undeveloped. But this is a common disease. This is a disease of children in utero.

In the city of New York we are beginning to get the first first-grade class of children who could have been born to mothers who were using or had used crack cocaine, and the journalistic accounts are very disturbing, indeed.

If there are any accounts of the National Institute of Drug Abuse, Mr. President I do not know about them.

What in the hell are they doing with this $416 million? What are they doing? I hope they are watching. I hope they are listening because this Congress consciously sought to give drug treatment equal status, rank and funding, with law enforcement. We need a blocking agent of some kind for the brain, which is one organ we still do not seem to really understand. We got with it heroin in the form of methadone.

Silence since we passed the bill; indifference on the part of the Director.

I do not know whether anybody asked Governor Martinez about his views. I do not hold any brief against Governor Martinez. I wish him well. I hope he might hear some of these remarks. In the meantime, I do ask the National Institute of Drug Abuse, what is their justification for continuing their existence?

The Congress made a very important decision in creating the position of Director of National Drug Control Policy, known as drug czar. I have never associated the term "czar" with good government particularly. I associated "czar" with Siberia and punishments and revolutions and God knows what. But, in any event, I do think it was a disappointment this position was politicized early.

I trust Governor Martinez will know better than to continue that practice. I hope he will attend to the statute that says treatment is to have equal rank and prestige with law enforcement; not neglecting treatment but attending to it. That is what the statute says. That is what Congress expected. That expectation has not been fulfilled at all at this time.

Mr. President, I ask unanimous consent that the earlier mentioned article by Mr. Allen be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Lancet, Mar. 1, 1986]

EPIDEMIC FREE-BASE COCAINE ABUSE

(Case Study from the Bahamas)

James F. Jekel, Henry Podlewski, Sandra Dean-Patterson, David F. Allen, Nelson Clarke, Paul Cartwright, Department of Epidemiology and Public Health, Yale University, School of Medicine, New Haven, Connecticut, USA; Community Psychiatry Clinic, Nassau, Bahamas; National Drug Council, Nassau; and Sandilands Rehabilitation Hospital and Sandilands Hospital Drug Clinic, Nassau.

SUMMARY

Beginning in 1983, a sharp increase was noted in the number of new admissions for cocaine abuse to the only psychiatric hospital and to the primary outpatient psychiatric clinic in the Bahamas. For the two facilities combined, new admissions for cocaine abuse increased from none in 1982 to 69 in 1983 and to 523 in 1984. Although there was some evidence for a rise in cocaine use during this time, as the drug became cheaper and more available, a primary cause of this medical epidemic seemed to be a switch by pushers from selling cocaine hydrochloride, which has a low addictive potential, to almost exclusive selling of cocaine free base, which has a very high addictive potential and causes medical and psychological problems. Although the use of free cocaine base is rising around the world, this is the first report of a nationwide medical epidemic due almost exclusively to this form of the drug, although similar problems are reported with smoking coca paste in South America.

INTRODUCTION

The past decade has seen an increase in the use of cocaine in the United States and UK. This drug is not generally perceived as being as harmful as herion.[1] [4] However, data are accumulating to suggest that cocaine is, indeed, a very dangerous drug.[5] [8]

Data from the US National Institute on Drug Abuse point to a 91 percent increase in cocaine-related deaths between 1980 and 1983.[9] Kleber and Gawin[7] have suggested that certain drugs have a low proclivity for producing compulsive-addictive behaviour, so that, say, less than 15% of people using such drugs become addicted; examples are alcohol and marijuana.

At the other extreme are drugs such as heroin and nicotine that lead to a compulsive-additive use pattern in most users. Cocaine may lie at either of these extremes, depending on the methods of use.[7] For example, nasal inhalation of cocaine ("snorting") or chewing coca leaves is unlikely to lead to addiction while smoking ("Freebasing") or injecting ("shooting") the drug is. A switch in the pattern of cocaine use from snorting to freebasing could thus produce a big increase in the number of addicts without a change in the prevalence of cocaine use.

Some are talking now of a cocaine "epidemic" because use of the drug seems to be rising steadily.[2] It would be more accurate to talk of a "long-term secular trend" because "epidemic" suggests a sudden imbalance between the forces that promote and retard a disease. However, a change in cocaine use in the Bahamas does not meet the criteria for an epidemic of cocaine abuse.

Our study was initiated by physicians in the Bahamas who were concerned about an apparent rapid increase in cocaine abuse in clinical settings. Several sources were examined retrospectively to see if this clinical perception of a recent large increase in cocaine-related admissions to psychiatric facilities was accurate.

METHODS

The only psychiatric hospital in the Bahamas is the government-run Sandilands Rehabilitation Hospital (SRH) on New Providence. Patients are referred there from the other islands. In 1980, almost two-thirds of the Bahamian population lived on New Providence, most of them in Nassau. The other three hospitals in the Bahamas (two on New Providence and one on Grand Bahama) seldom accept drug abuse patients and have few psychiatric patients.

The main community mental health clinic in the Bahamas is the Community Psychiatry Clinic (CPC) in Nassau. Most patients who do not go to private psychiatrists or other private physicians use the SRH outpatient services or the CPC. The two small government clinics in Freeport and Eight Mile Rock saw 47 cocaine addicts in 1984, only 14% of the total seen by Bahamian mental health clincs and only 9% of those seen at all government facilities. Drug abuse patients seen in emergency rooms are referred to SRH. Data from the CPC and the SRH on psychiatric cases provide a more complete picture than could be obtained in most areas of the world. Unfortunately, age and sex specific population data from the 1980 census were not yet available so we could not calculate incidence rates. However, because the population was stable over the period of this study, data on trends of new cases are almost as interpretable as rates. An incident case of cocaine abuse was defined as the first admission to the CPC or the SRH for cocaine abuse, even if other diseases were present. If the predominant drug in a polydrug user was cocaine, the case was considered a cocaine abuse admission.

Data sources

The CPC publishes a monthly summary of cases. We focused on new patients. Alcoholism, non-cocaine-related drug abuse, and cocaine-related drug abuse were studied from the beginning of adequate records in 1982 up to June 30, 1985. Monthly admissions to the SRH were available for 1980–84 and these data indicated the number admitted for alcoholism and/or drug dependence (and whether or not cocaine was the primary drug) and distinguished first from repeat admissions. Admissions to CPC and SRH for alcoholism showed a slow, steady increase and will not be discussed further.

Drug abuse patients among the wealthy minority on the Bahamas will usually seek care outside the CPC or SRH (including the United States) and some cases from the family islands are treated by local physicians. However, there is no evidence of a change in the accessibility of care or the referral patterns in the Bahamas so changes in the pattern of new admissions reported here do reflect changes in the scale of cocaine abuse in the community. Some patients may have been admitted to both the CPC and the SRH, there being no central data system to exclude such duplicate entries. However, doctors who work at both places feel that overlap will have been very small. During the study period, only 4 drug patients admitted to the SRH were referred from the CPC. Likewise, in discussion with most of the few private psychiatrists on New Providence, it was clear that few of the Bahamian drug abusers they see are not referred to the CPC or the SRH. We conclude that the combined incidence data on new drug abusers from the CPC and the SRH cover most people in the Bahamas whose use of cocaine or other drugs caused problems severe enough for them to seek medical assistance.

RESULTS

Community Psychiatry Clinic

The CPC opened in 1980 but new and returning patients were not distinguished in the clinic statistics until 1982. Fig. 1 shows how quarterly numbers of new cocaine-related admissions have risen from none in 1982 to 299 in 1984, there being a probable decline in 1985. During the early phases of cocaine appearance in the CPC, some of the cocaine use may have been recorded only as "drug abuse" or "drug dependence", but the number of such cases would have been small. If the patient used several drugs (as most did), the drug that seemed to have precipitated the problems for which they sought help was recorded.

Drug abuse increased from 1% of the clinic's patients in 1982 to 9% in 1983 to 39% in 1984, and was 31% in the first 6 months of 1985. The big increase in 1984 was due almost entirely to cocaine dependence. Cocaine-related new admissions really began in the third quarter of 1983. New cases of depression and/or schizophrenia have been fairly stable over time, suggesting that the increase in drug patients was not primarily due to increased clinic awareness.

Sandilands Rehabilitation Hospital

SRH has a long tradition of treating acutely ill alcoholics and drug addicts from the whole of the Bahamas. 86% of the 1984 drug admissions were from New Providence.

Although there were a few cocaine-related admissions during the first three quarters of 1983, a marked increase began in the last quarter of 1983. The number of first drug admissions for which cocaine was the primary cause increased sharply from 1 in 1980 to 224 in 1984 (fig. 2). The number of first admissions due primarily to other drugs was more stable. So great was the increase in admissions for cocaine abuse that recording of admission numbers became less complete after November, 1984; numbers for the last quarter of 1984 are estimated from those for October and November.

Often a patient would be admitted with drug abuse and symptoms suggestive of underlying psychiatric disease. Usually the paranoia, hallucinations, and so on were due to the drug use, so whenever cocaine or other drug abuse was indicated as being important, the patient was considered a drug admission.

Footnotes at end of article.

Mode of cocaine use

Smoking (freebasing) accounted for 98 percent of cocaine-related referrals in 1984. Cocaine base (known in the Eastern USA as "crack") is produced when cocaine hydrochloride powder is treated with alkali. It is volatile with modest heating and is easily absorbed through the lungs and rapidly transmitted to the brain. Some experienced addicts made their own freebase cocaine in the early 1980s but most did not know how to do it or did not bother, and the predominant form used to be snorting. By 1984 the pushers were selling only the freebase form, smoked using a home-made pipe ("camoke"). When cocaine is smoked up to 80 percent of it reaches the brain, and the "rush" can begin in 8–12 s, producing a short period of ecstasy. This fleeting sensation is most powerful on the first use of cocaine and though addicts seek to repeat it the same sensation is not experienced again.

The most common pattern of usage varies from a few hours, during which time the user may consume 4–5 g cocaine, to a few days of intermittent use, usually over a weekend, during which time up to 10 g may be consumed. Most patients report using the drug at freebasing parties or "base houses".

Clinical spectrum

Cocaine-dependent individuals usually seek help during or after some crisis, financial, social, medical, or psychological. For example, an addict whose money had gone might seek help on his own initiative or under pressure from family, friends, or employers. Others, who had had to steal to support the habit or whose addiction had made them violent, were referred by the courts.

The most common physical were seizures, severe itching ("the cocaine bug"), loss of consciousness ("tripping out"), cardiac arrhythmia, vertigo, pneumonia, gastro-intestinal symptoms, and avitaminosis associated with severe malnutrition. Several addicts were referred from maternity wards.

The cocaine addicts often presented with severe depression, manifest by unkempt appearance, insomnia, anorexia, withdrawal, and suicidal ideation. There were at least 10 cocaine-associated deaths, 5 of which were suicides. Cocaine psychosis was common; the patient would present with severe agitation, impaired judgment, paranoid ideation, intense denials, violent behaviour, threats of suicide or homicide, and hallucinations. In periods of lucidity they would try to mislead the physician, and a relative or friend was needed to confirm the psychotic state.

Demographic characteristics

For 1984, 81 percent of cocaine admissions to SRH were males and male drug abusers in general were aged 11–56 years (mean 25). Cocaine users tended to be slightly older than other drug users (26 vs 22.5 years). Female drug addicts were aged 15–39 years (mean 24 years). Almost all patients were Bahamian.

Other forms of surveillance

Most patients seen at the Sandilands Hospital drug clinic were referred after discharge from the SRH so data from this clinic were not included. About 60 percent of the patients seen were using both cocaine and cannabis, although it had usually been cocaine that had precipitated the hospital admission. Neither suicide nor drug-related death is usually recorded on death certificates in the Bahamas so we decided not to use vital statistics as a surveillance method. Police statistics showed some increase in street drug arrests in 1984, but not of the magnitude suggested by the clinic and hospital admission data. In 1980–83 drug arrests averaged 1094 a year with no clear trend over time. There were 1501 arrests for 1984, an increase of 37 percent.

DISCUSSION

In the Bahamas, data from public psychiatric services demonstrate an epidemic of cocaine abuse requiring medical care. Cannabis and alcohol were often used to control adverse symptoms from cocaine use. In early 1983 something—a major change in the incidence of new drug users, especially cocaine users, or in the method of use—upset the previous drug-use equilibrium, suddenly forcing hundreds of people to seek treatment for complications of drug abuse.

The most obvious explanation is that cocaine was suddenly introduced to the islands or that its price fell. Former addicts, who were on cocaine in the 1970s, confirm that cocaine powder had been available, if expensive, for years, but that in late 1982 or early 1983 the drug suddenly became much more plentiful as production in South America increased. The street price of cocaine in Nassau fell to one-fifth of its former level.

Ex-addicts also told us that at about the time that cocaine became more plentiful and cheaper drug pushers switched from selling powdered cocaine ("snow") for nasal inhalation or injection to the pure alkaloid form ("Rocks" or "freebase") which is used exclusively for smoking. It suddenly became very difficult to obtain powder in Nassau. By making this change, the drug pushers were forcing all cocaine users to become addicts. Many pushers are themselves addicts and have to sell the drug to feed their own habits. Selling freebase guarantees an eager market for the increasingly available cocaine.

Smith[10] claims that an important reason for the increase in cocaine deaths in the San Francisco area was higher potency cocaine. Siegel[1] reported that the recovery of cocaine free base from pure cocaine hydrochloride, using various street kits, ranged from 41% to 72% and, although the kits removed some of the adulterants, some lignocaine and ephedrine, for example, was often left with the cocaine. Ex-addicts indicated that the street cocaine powder in Nassau had usually been "cut" (diluted) about 50% before sale. Although we have no direct data about cocaine purity, the sources for the cocaine remained similar; nor is the extraction process perfect. Changes in levels of purity seem to be an inadequate explanation for our findings.

We conclude that the medical epidemic of cocaine-related physical and psychiatric problems in the Bahamas was related to the interaction of the availability of cheaper cocaine and a switch from powder to free base.

Monitoring the method of selling may be critical both for Western nations, the targets of the cocaine market, and for developing nations such as the Bahamas via which the drug is shipped and those South American countries that produce it. We found surveillance of medical services to be a quick and effective way of monitoring some aspects of the drug situation in the Bahamas, and it could be in the self-interest of target nations to assist producer and trans-shipment countries not only to control drug abuse but also to maintain an intensive surveillance system. As cocaine freebasing becomes more popular and particularly if the vending pattern switches to the freebase form (as is starting to happen in some US cities), emergency rooms, mental health clinics, and psychiatric hospitals will need to prepare for an unprecedented influx of drug addicts.

Supported in part by grant from Council for International Exchange of Scholars, US Information Agency. J.F.J. is a Fulbright faculty research fellow. We thank Dr. Norman Gay, Minister of Health, Commonwealth of the Bahamas: Ms. Barbara McKinley Coleman, National Drug Council; and Mr. Mozes Deveaux, Sandilands Rehabilitation Hospital for their support. And we pay tribute to the memory of Chrysostom Finlayson who, besides providing critical insight for this paper, gave his life in the war against drugs.

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Mr. MOYNIHAN. Mr. President, the hour of 1:30 has appeared. I respectfully yield the floor, my colleague from New Mexico having arisen.

Mr. DOMENICI. Mr. President, is there any time remaining?

The PRESIDING OFFICER. There are 23 minutes on the side of the Senator.

Mr. DOMENICI. Mr. President, I assume there will be others who desire to use some of the time.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. I yield myself 2 minutes.

Mr. President, I rise today to support President George Bush's nominee for National Drug Control Policy Director. That is actually his title. I do not know the former Governor of the State of Florida very well. I have met with him and acquainted myself with him since he was nominated. I knew him from a distance. I have now had an opportunity to look into his background and his efforts both before he was Governor and after he was Governor. I have no doubt he will do a good job for this President and our people.

Many in Congress remain very concerned about the drug problem in this country. We have put a lot of new laws in place, a lot of new funding. We have created this new policy position with Secretary and Cabinet status.

We have seen some statistics which would indicate we are gaining in some respects in this war on drugs. But they are very, very paradoxical because, on the other hand, we are losing. While we are gaining in terms of fewer participants in illegal drugs overall, and fewer high school students, those who are staying in school, the hard drugs, the crack, and that type of drug, which has such enormous potential for harm, seems to be gaining in use.

So we still have a very big job in front of us. It is a war. This is a big enough one to ruin America's society, if it continues at the pace that is currently in the streets of the United States, in our homes, and in our schools.

So I am very hopeful that this nominee is going to do a good job.

Mr. President, on November 23, 1990, President George Bush announced his intention to nominate Florida Gov. Bob Martinez as the second National Drug Control Policy Director. The President called the appointment, a battlefield promotion for a leader who has earned his stripes on the front lines. As former Governor and mayor, Bob Martinez will be especially effective in joining hands with local leaders. As a teacher who spent 7 years in the classroom, he knows the long-term key to winning this effort to stop drug abuse before it starts.

I rise today in support of the President's nomination of Governor Martinez to this important position. He has a strong record of experience in fighting the plague of drugs. As the southernmost point of the continental United States, Florida has been besieged by illegal drug smuggling and the problems resulting from drug-related crime and use. As Governor, Martinez vigorously responded to the crisis in Florida with some of the Nation's most innovative antidrug policies. His hands-on experience at both the State and local levels make him uniquely qualified to tackle the problem at a national level.

Mr. President, standing on a strong and committed record, Governor Martinez will be a challenging national commander in the fight against drugs, a leader capable of uniting Federal, State, and local governments behind an effective and balanced antidrug policy.

There are many examples of his strong leadership. Bob Martinez was the first Governor to appoint a State drug czar to coordinate antidrug activities and agencies in Florida.

He was appointed by President Reagan to the White House Conference on a Drug-Free America in 1987, where national leaders gathered to discuss the fight against drugs. Among other initiatives proposed by the conference, their recommendations to increase capacity and accountability in the treatment system, drug test in the throughout the criminal justice system, and enforce drug-free schools policy with clear sanctions were subsequently included in President Bush's national drug control strategy.

Governor Martinez led Florida in implementing the Nation's first comprehensive Drug-Free Workplace Program for State government workers. He inaugurated the program by taking the first drug test himself.

Understanding drugs as a security threat, Governor Martinez was one of the first State leaders to bring the resources of the National Guard into the drug fight to assist other agencies in cargo inspections, air reconnaissance, observation, and transportation.

He coordinated drug information exchanges with other Southern State Governors and New York Governor Cuomo, went to Florida to seek guidance because of the extraordinary success of Florida's drug laws.

The Spanish speaking Governor traveled to Colombia, Bolivia, and Panama to meet with their leaders and support their efforts, especially the Colombian crackdown against the drug lords. He encouraged President Bush to lend full United States assistance to the Colombian effort.

Mr. President, he also has a strong record in the area of criminal justice and drug testing. Governor Martinez doubled the State's prison capacity, constructing more beds than the previous 20 years and increasing the prison budget from $417 million to $1 billion.

The Governor encouraged using prisoners to build over 14,000 new prison beds, raze crack houses, and maintain highways and parks. This program saved the Florida taxpayers over $359 million.

The Governor proposed the expansion of the death penalty provision to include major drug traffickers. This penalty, similar to the Bush administration's proposal, permits the use of the death penalty for traffickers of large amounts of cocaine and heroin.

Mr. President, I believe that Gov. Bob Martinez will prove to be a very fine leader as National Drug Control Policy Director. I am very pleased that President Bush has chosen him to fill this position, and I intend to support his nomination.

I thank the Chair. From our side, we are prepared to put in a quorum call unless there is something else.

I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I ask for the yeas and nays on the Martinez nomination.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. AKAKA. Mr. President, I rise with some reluctance to support the nomination of Robert Martinez to be Director of the Office of National Drug Control Policy. Governor Martinez embodies an approach toward the drug crisis that is nearly 180 degrees counter to my own. Only my respect for the President's traditional right to choose the members of his leadership team and my hope that Governor Martinez is capable of learning from the stark realities of his prospective job compel me to vote to confirm him as the Nation's second drug czar.

Mr. President, I have strong reservations about the nominee. I am fearful that Governor Martinez will continue the Bush administration's misguided overemphasis on enforcement as opposed to rehabilitation, on supply as opposed to demand. This policy is reflected in the fiscal year 1992 drug budget request which, while adding $1 billion to the war on drugs, unwisely continues to provide 70 percent of funds to law enforcement activities and only 30 percent to treatment efforts.

There is little in Martinez' record as Governor of Florida to suggest that he has plans to deviate from this formula. As my distinguished colleagues Senators KENNEDY, METZENBAUM, and SIMON note in their minority opinion in the Judiciary Committee's report on this nomination, during Governor Martinez' tenure in Tallahassee, the State ranked 21st in the Nation in substance abuse treatment funding and 32d in prevention funding. When he took office in 1986, Florida was spending about $35 million in substance abuse treatment; by 1990, that level had risen to only $42 million. In contrast, he boosted spending on corrections from $514 million to $859 million. As a result of Governor Martinez' supply oriented policy, more than 45,000 Floridians in 1987 alone were arrested on drug possession charges, the majority of whom were not hardened criminals and thus could probably have been rehabilitated at much less financial and social cost than it did to arrest, prosecute, and imprison them.

This wild imbalance in priorities may reflect a troubling predisposition on Governor Martinez' part to view drug addicts as criminals beyond redemption, as individuals who warrant no further consideration beyond night arrests and a cold jail cell. If so, this is a shallow and pessimistic view of the human condition, and a shortsighted one as well. By focusing on catching, prosecuting, and incarcerating drug offenders, he ignores the fact that most of the thousands arrested on drug possession charges during his tenure were not violent criminals, but troubled individuals who, if they had access to drug education and treatment programs, could have been given an opportunity to turn their lives around. Without addressing this possibility, it is far more likely that these individuals will remain addicted, continue to break the law, and cost the taxpayers hundreds of millions of dollars in enforcement costs. Paradoxically, by crowding the prisons with nonviolent offenders, Martinez also forced the early release of violent criminals, a counterproductive policy if ever there was one.

Mr. President, no one understands better than I the importance of a law enforcement component to any effective drug program. I have authored legislation—included in modified form as part of last year's crime package—to increase criminal penalties for sale and distribution of crystal methamphetamine, or ice as it is known on the streets. I have supported Federal law-enforcement grants for my State to beef up the ability of our police authorities to arrest drug pushers and drug abusers. I have encouraged additional funding for the Coast Guard in their drug interdiction efforts.

But I also recognize that these are essentially stopgap solutions. This Nation must attack the root causes of drug abuse—poverty, alienation, and ignorance. If we are serious about this crisis, we will attack drugs through prevention and education programs in homes, in classrooms, in workplaces, as well as in the streets. We need to refocus antidrug efforts and marshal our national resources to provide greater access to more effective treatment for those seeking it. We particularly need to protect drug-exposed infants and preserve families. Women are bearing drug-addicted children because there are no treatment slots available—much less ones that will allow them to keep their families intact.

Mr. President, these are the types of programs that we need to emphasize. I am not sure that Governor Martinez is up to this challenge, particularly as he is apparently unwilling to forego using the drug policy office as a bully pulpit for political messages. Senators SIMON and METZENBAUM raised this particular concern at the recent Judiciary Committee hearings, in which the nominee could not absolutely assure then that he would refrain from politicizing the office of drug czar of from making campaign speeches. It is ironic, and perhaps tragic, that our first two drug policy directors have been political rather than professional appointments.

Mr. President, these are harsh words. But I say them in the hope that Governor Martinez, a reasonable and honorable man I am sure, will heed them in his new office after he is confirmed. I hope that the Governor understands that addressing an entire Nation's drug problem requires a larger perspective and deeper understanding than he has hitherto demonstrated as a State official. I hope that he finds time to listen to those of us who call for a more balanced approach to a national crisis—one that it is no exaggeration to say threatens our social, economic, and political institutions. It is only this hope, and the respect I hold for the executive branch's traditional prerogatives, that allows to me to set aside my reservations and support Governor Martinez for this important position.

Mr. GRASSLEY. Mr. President, the individual who becomes the next Director of National Drug Control Policy has a unique opportunity to build on recent successes.

Since September 1989, the Federal Government has implemented a multipronged national strategy to attack the use and the trafficking in illegal drugs.

This comprehensive strategy—involving not only governments at all levels but the private sector as well—has helped to change the country's attitude toward illegal drugs and those who use and traffick in them—especially toward those who are casual or recreational drug users.

And, after decades of hoping that the problem would "just go away," the American people—the vast majority of whom are lawabiding citizens—are finally speaking with one voice: drug use is wrong; it will no longer be tolerated; and it must stop.

This unambiguous message—reflected in most reputable national polls—is probably more important than any government initiative. And it is getting through loud and clear.

So, as I view it, we are at a critical juncture in the war against drugs.

And that is where the Office of National Drug Control Policy and its Director come in.

As I have stated before, the one thing that the Director of national drug control policy can do best is to be the tough "voice" of a coordinated campaign against those who—because of their disregard for the rights of law-abiding citizens—are at war with our communities.

Another role is to be an advocate for antidrug education and drug treatment, as well.

But education and treatment-on-demand programs—although appealing—should not be supported blindly, without any accountability and actual reduction in the drug using population.

Because it is utopian to suggest that we know how to educate the whole population against using drugs, or know how to successfully treat every drug addict, and simply lack more money to do so.

No one can say how well Governor Martinez will exercise the bully pulpit as drug czar.

Nor, can anyone say to what extent he will resist the urge to simply spend more money.

But—based on his appearance before our committee and his private meeting with me—I support his nomination to become the next Director of the Office of National Drug Control Policy.

My support is based on my expectation that Governor Martinez will continue the successful strategies that have marked our recent national drug control policy.

Mr. ADAMS. Mr. President, when the Bush administration took office over 2 years ago, this Nation was told that our most urgent national priority would be a war on drugs. In his inaugural address, President Bush promised to rid this Nation of the plague of cocaine, and to commit the resources of his administration to a successful strategy of interdiction, tough criminal sentences for drug offenders, and treatment and education.

The President's first drug czar, William Bennett, came to the position with no background at all in either law enforcement or drug treatment and prevention. The Bennett era was marked by high visibility speech-making, talk show appearances, and one liners that served primarily to make William Bennett a household word, but had little discernable impact on drug use in this country. I well recall Mr. Bennett's promise to make the District of Columbia a litmus test of his national strategy. Despite Mr. Bennett's hectic, campaign-style, public appearance schedule, he could never find the time to testify before the District of Columbia Appropriations Subcommittee, which I chair. Despite his personal promise delivered to the citizens of Yakima County, WA that "help is on the way" he never took the time to revise his "high intensity drug trafficking" strategy to include that beleaguered community in his plan.

Now we are presented with a second drug czar with a demonstrated lack of appreciation for the urgent need for a strategy that will work. Nothing speaks more eloquently of Governor Martinez' failure to grasp the nature of the problem than does his own record as Governor of Florida. During that time, Florida ranked 1st in the Nation in incarcerations, 21st in substance abuse treatment funding, and 32d in prevention funding.

Mr. President, this Nation already leads the entire world in the rate of incarceration of citizens. The entire Federal budget could be devoted to building more prisons, and we would still have a drug problem. I want to see a national drug policy that commits funds to prosecuting and imprisoning. We need early intervention through programs like DARE. I want to see cities and towns, and counties like Yakima, WA, get a fair share of the Federal resources devoted to this war on drugs.

This war is being fought, not just in courtrooms, but in schoolrooms, and in rehabilitation and treatment programs, and through outreach efforts that keep pregnant women from turning the next generation of children into cocaine-abused infants.

If President Bush is to succeed as our Commander in Chief in the domestic war on drugs, he should find the best expert available for this crucial position. He should be nominating "the Norman Schwarzkopf of Drug Strategies" to this post. With all due respect to Governor Martinez, there is very little evidence that he has the experience, the vision, or the commitment, to be that kind of a leader. Therefore, I withhold my consent on this nominee.

Mr. SANFORD. Mr. President, I would like to make a statement regarding the nomination of Bob Martinez to become the director of the Office on National Drug Control Policy. I am aware of the debate that occurred during his nomination hearing in the Labor Committee and I regret I was not able to participate in the discussions. I share the concern of the Senators who are in opposition to Mr. Martinez' appointment as drug czar because of his strong focus on law enforcement and supply-side policies. The administration needs to recognize the importance of treatment and rehabilitation programs in the drug war efforts and it needs to make funding of those programs a priority.

This country is facing a crisis. The debilitating effects of drug abuse have reached all parts of our society. We desperately need to develop a new and effective national drug strategy.

The administration in the past has been successful in deflecting attention from the persistence of heavy drug use in our inner cities. It was cited that drug use has gone down, but I would argue as would many others that drug addictions have increased. If the administration continues to underestimate the size of the addict population, there will continue to be a lopsided drug war and a lack of balance between supply and demand efforts.

No one disputes the fact that the war on drugs is a multifaceted battle. Substance abuse is a disease which must be treated, just as drug dealers are criminals who must be arrested and jailed. Demand reduction efforts must receive as much attention as supply reduction efforts if drug abuse is truly to be controlled. Education components must work in unison with enforcement measures. Treatment must be a part of our program to stop the proliferation of drugs.

I challenge Mr. Martinez to be sensitive to the various facets of drug abuse control and to promote policies that bring parity to the administration's efforts in controlling the demand and supply of illicit drugs. I also challenge him to craft policies which would allow Federal programs to work with those that are developed in communities to fight drug use. We must encourage communities to fight back, for without the cooperation and coordination of our communities, the drug war is war against the poor, the uneducated, minorities, and rural folks.

I am aware that the State of Florida is believed to be the entry point for over 70 percent of the cocaine smuggled into the United States, thus interdiction programs are essential. However, should Mr. Martinez nomination be confirmed, I challenge him to remember that he is now leading the campaign against drugs in respect to the entire country. I trust that he will reflect considerably on his 7 years as an educator, and teach America the vital role that education must play if we are to win this war. It is through education and improved social conditions that we must show our citizens not to turn to drugs in despair.

In the wake of our successful military campaign in the Persian Gulf, we must now turn our attention to the domestic campaign that needs to be waged at home. I implore Mr. Martinez and the administration to carefully consider all facets of the drug war in crafting their drug policies and have vision enough to recognize the importance in providing adequate treatment, rehabilitation, and education programs in fighting the war on drugs. Our most precious resources, our citizens, must not be forgotten in our efforts to control illicit substances.

Mr. DURENBERGER. Mr. President, I rise today to support the President's nomination of Bob Martinez to be the next Director of the Office of National Drug Control Policy. The Martinez nomination has been endorsed by an impressive array of political and civic leaders, drug treatment and prevention organizations, and law enforcement officials. I am pleased to add my name to that list. Bob Martinez is an excellent choice to lead America's war on drugs.

Henry Ford once remarked, "The question, 'Who ought to be boss?' is like asking 'Who ought to be the tenor in the quartet?' Obviously, the man who can sing tenor." I believe that President Bush has chosen the right "tenor" for the job. Bob Martinez has already proven that he is an innovative, effective leader in the war on drugs.

When he served as the mayor of Tampa, Martinez played a key role in forging the national drug policy recommendations of the U.S. Conference of Mayors. And during his 4 years as Governor of Florida, Martinez made the battle against drug importation and abuse a high priority. He galvanized public support and initiated several successful innovative programs in Florida to combat drugs. In a State that was believed to be the entry point for over 70 percent of the cocaine that is smuggled into the United States, the leadership of Bob Martinez brought about Florida's first drop in drug related crimes in years.

Bob Martinez believes in a holistic strategy to fight drug abuse, through education, enforcement, and treatment. As a former educator, Martinez is especially supportive of programs that educate America's youth to the dangers of drugs. He is committed to the expansion of treatment programs for the victims of drug abuse. He will be a tough, but fair, enforcer of our Nation's drug laws. And as a former mayor and Governor, Bob Martinez will be especially sensitive to the need for a State-Federal partnership in combating drugs.

Mr. President, I hope that my colleagues will join me in confirming Bob Martinez, the President's outstanding choice for the next Director of the Office of National Drug Control Policy.

Mr. DECONCINI. Mr. President, President Bush's nomination of Gov. Bob Martinez for Director of the Office of National Drug Control Policy comes at a crucial point in this Nation's effort to fight drugs. When Congress created this position, it did so in response to a crisis which threatened our country's future. Under the direction of the first Director, William J. Bennett, the Office of National Drug Control Policy took the first step toward developing a coordinated drug strategy, and the War on Drugs began.

Since that time, progress has been made. There are encouraging signs that our efforts are paying off. But the drug crisis is still a reality. In many ways, we have just begun to realize how strong an impact illegal drugs have on all levels of our society. Drug use has had a startling influence on our communities, from the State and local law enforcement officers who hold the line on crime and violence in the streets, to health care professionals who struggle to meet the special needs of drug dependent mothers and their children. The War on Drugs has not been won and it will be up to the next Director of this Nation's drug policy to see that it is fought with all the power and wisdom this Nation can muster.

I supported the nomination of Governor Martinez in committee, and will vote for his confirmation. As Governor of Florida, a State which has experienced its own drug crisis, he is well aware of the problems that illegal drug traffic creates. Miami is one of the five designated high intensity drug trafficking areas, and Governor Martinez knows how important cooperation between the Federal Government and State and local agencies is to implementing an effective drug strategy. His involvement in developing a plan on substance abuse and drug trafficking for the National Governors' Association will be helpful in developing and implementing our Nation's plan to fight drugs.

As I stated earlier, this is a critical time in our country's War on Drugs. Governor Martinez will have to exercise strong leadership to continue the progress achieved thus far. With a critical eye, he will have to define which programs outlined in the drug strategies of the past have yielded the most positive results, and fight for their continuation. He will also have to eliminate those initiatives which have not been successful and determine what can be done in their place. I hope that he will take the time to visit each of the high intensity drug trafficking areas to see first hand how accurately the priorities of our Nation's drug control policy reflects the needs of the communities hardest hit by the War on Drugs.

We place in his hands a tremendous responsibility—to respond to the needs of Federal, State, and local agencies, to ensure the continued vigilance and commitment by the administration to the War on Drugs, and to work with members of the appropriate committees to forge a sound drug policy that adequately addresses the problems of today while anticipating the problems of the future. As a member of the Appropriations Subcommittee which oversees the funding of the Office of National Drug Control Policy, I will be especially interested in the priorities set forth by Governor Martinez as he defines the agenda for drug control efforts in the 1990's.

It will not always be easy. It will require the same thoughtfulness and commitment that our country exhibited in declaring a military victory in the Persian Gulf. If we truly are waging a war on drugs, I hope that Governor Martinez will step forward and demonstrate the leadership necessary for us to win. I wish him the best of luck in this endeavor and look forward to working closely with him upon his confirmation.

Mr. DOLE. Mr. President, few jobs in the Government are more difficult—and more important—than that of Director of the Office of National Drug Control Policy.

And few Americans are more qualified to serve in this position than Bob Martinez.

As a public school teacher, as mayor of Tampa, and as Governor of Florida, Bob Martinez has fought on the front lines against the drug traffickers who poison our communities and our children.

Governor Martinez knows what works and what doesn't. He knows we can't moollycoddle drug dealers and kingpins. He knows the necessity for drug treatment centers. He knows that our children must continue to be educated about the dangers of drugs.

Mr. President, under the leadership of President Bush, we are making progress in the war against drugs. Public attitudes are turning against those who use or sell narcotics. Studies show that drug use seems to be decreasing. Resources for law enforcement and treatment are at record levels. And our Central and South American allies are working with us to put drug cartels out of business.

There is, however, much more work to be done. More criminals to be locked up, more victims to be treated, more cartels to close down, more children to save.

In closing, let me ask my colleagues to give Governor Martinez the time to do his job. Over 70 committees in the House and Senate exercise some authority over narcotics. Sometimes it seemed that former Director Bennett was up here everyday for one hearing or another.

The gulf war was a success because, once the war started, Congress didn't micromanage or second guess our generals.

Let's do the same here. Let's resist the temptation to micromanage the war against drugs. Governor Martinez has the experience, the skills, and the support of the President needed to get the job done. Let's allow him to do just that.

Mr. BROWN. Mr. President, I rise to express my strong support for the confirmation of Bob Martinez as drug czar of the United States.

Governor Martinez will bring to this position a wealth of experience and knowledge. The Governor's testimony before the Judiciary Committee last month was further testament to his dedication to the war against drugs and his ability to lead the Nation in this fight.

As mayor and Governor of a State beseiged by illegal drug smuggling, drug abuse, and drug-related crime, Governor Martinez brings a unique perspective which is invaluable to implementing a nationwide strategy involving all levels of government.

As a junior high and high school teacher for 7 years, he is fully aware of the pressures our young people face during their most vulnerable years, and the support they need to steer clear of drugs. Educating kids about the dangers and real-life consequences of drug use is key to putting drug dealers out of business and winning the drug war.

Governor Martinez has been a leader in the drug war both on the State and national level. He was the National Governor's Association's spokesman on drug issues, traveled to a number of South American drug producing countries to support antidrug efforts, including the Colombian crackdown against the drug lords, and was appointed by President Reagan to the White House Conference on a drug-free America in 1987.

Among his accomplishments as Governor, Governor Martinez led Florida in implementing the Nation's first comprehensive drug-free workplace program for State government workers; expanded the concept of drug-free zones in Florida by imposing mandatory minimum sentences on individuals convicted of drug activity near public parks and playgrounds, public housing facilities, colleges and universities; developed alternative forms of incarceration for nonviolent offenders, including boot camps; doubled the State's prison capacity, constructing more beds than in the previous 20 years; supported a program which saved the Florida taxpayers over $359 million by using prisoners to build prison beds, raze crack houses and maintain highways and parks; and successfully pursued a plan to target career criminals by imposing stiffer penalties for repeat offenders.

Governor Martinez has the knowledge, experience and initiative to lead the Nation in the fight against drugs. Bob is an excellent choice for the job and I hope that the Senate will give its full support for his nomination.

Mr. BAUCUS. Mr. President, I will support this nomination.

Most Americans think of illegal drug use as an almost exclusively urban problem. There is no doubt drugs plague all our big cities; it is a problem of tragic proportions.

Yet some Americans think of rural America, places like Montana, as an oasis—a place free from the scourge of drugs.

I wish this were the case. Unfortunately it is not:

Earlier this year, nine people were charged with conducting a sophisticated scheme to launder Colombian drug money in northwest Montana;

Last year, I joined with Senator PRYOR in requesting a General Accounting Office study of the rural drug problem. GAO found that the prevalence of substance abuse in rural America is roughly the same as that in urban America;

According to testimony by Pete Dunbar, the former U.S. district attorney for Montana, before the Senate Judiciary Committee, Montana is a major center for the production of methamphetamine—a deadly drug sometimes called Crank.

Mr. President, last year, with the leadership of the distinguished chairman of the Judiciary Committee, this body passed a rural drug initiative as part of the crime bill. I am proud to have helped draft this important piece of legislation.

However, as the above examples point out, much work remains to be done. We cannot walk away from this problem; we cannot turn our backs on rural Amercia.

As drug policy czar, Governor Martinez must make eliminating the scourge of rural drugs a top priority.

I have personally brought this matter to the Governor's attention. From our discussion, I am satisfied he will be responsive to this urgent need of rural America.

For this reason, I am pleased to support his nomination. I look forward to working with Governor Martinez in the years ahead.

Mr. COATS. Mr. President, I am pleased to lend my strong support to Gov. Bob Martinez as Director of the National Drug Control Policy.

As a nation, we have clearly demonstrated our ability to successfully shore our resolve and commit our resources and effectively and decisively wage war. With this same strength of purpose, we must continue to battle the scourge of drugs. One child born addicted to crack, one teenager slain, is a price our society can ill afford to bear.

In my travels throughout my State of Indiana, I have visited neonatal units overwhelmed by drug addicted babies. I have listened to children increasingly fearful of violence in the schools, I have heard mothers anxious about the intrusion of gangs, I have talked to police chiefs and prosecutors about a criminal justice system overwhelmed.

And yet, I have also sensed a new resolve to do the hard work of recapturing our schools and neighborhoods, of cleansing our communities from the plague of drugs. Drug use in any form is no longer tolerable to the socially responsible. We cannot in good conscience divorce the violence we see on our streets from each individual's decision to abuse drugs. Among the heartening successes of our efforts to date—first time drug use among high school students is at its lowest point in over a decade and casual drug use has declined by more than 30 percent.

Former drug czar, William Bennett, thoughtfully has drawn the battle lines. We must consistently apply stiff social sanctions to discourage drug use and we must compassionately help those seeking treatment and assistance. I was pleased to sponsor legislation last session allowing schools to institute random drug testing for those students engaging in extracurricular activities. Our young people must learn that drug abuse has consequences.

Finally, we have a message to the drug terrorists of the world. Do not provoke the wrath of this great Nation. Our military has demonstrated its unparalleled ability to precisely pinpoint targets and to effectively protect our shores. We are serious and we are committed. We are determined to prevail.

Governor Martinez has been on the front lines of the drug battle. The State of Florida has been a testing ground for interdiction efforts and crackdowns on distribution networks. I am confident that he will demonstrate the same commendable leadership as his predecessor, and I commend the President on his nomination.

Mr. CHAFEE. Mr. President, I would like to express my support for the President's nomination of Gov. Bob Martinez to be the National Drug Control Policy Director. This is a vitally important position, and I believe the President has chosen his nominee well.

As we all know so well, the war on drugs calls for a three-pronged approach. First, we must increase our efforts to control drug trafficking so that less drugs will be available. Second, we must ensure that there are enough programs for treatment and rehabilitation of people who currently use drugs. Third, and certainly as important, we must educate your youngsters so that they will not become drug users. Governor Martinez, who is also a former mayor and teacher, understands the need for all three facets of this program. Moreover, he has already responded to the challenge.

Due to its proximity to many of the drug producing countries in Latin America, Florida has been inundated with drug smuggling drug-related crime and drug use. In response, in 1988, Governor Martinez was the first Governor to appoint a State drug czar whose mandate was to oversee and coordinate antidrug activities and agencies in Florida. While Governor, he enlisted the help of the National Guard to assist other agencies with cargo inspections, air reconnaissance, and transportation. During his governorship, Florida was evaluated by Federal agencies as one of the Nation's role models in the drug battle.

During his governorship, Florida ranked among the top 10 States for per capita spending on drug treatment. While other States increased government support for drug treatment by an average of 23 percent, Florida increased such support by 33 percent. As a result, in his last year in office, Florida drug treatment operated at 91.6 percent of capacity, compared to the nationwide rate of 79.4 percent. Governor Martinez created drug free zones in Florida to ensure a safer environment for school children.

Mr. President, these are just a few of the many accomplishments of Gov. Bob Martinez. Governor Martinez has been in city government, he has been a teacher and he has served as Governor of one of the Nation's largest and most populous States. He will bring with him the perspective of each of these positions to his job as Director of the Office of Drug Control Policy. I welcome his leadership in this area and hope that my colleagues will vote in favor of his nomination.

Mr. SIMPSON. Mr. President, I am pleased to voice my support for the President's choice to head the Office of National Drug Control Policy. And once again, I would like to take this opportunity to commend the chairman of the Judiciary Committee for his swift action in scheduling hearings on this nomination and for his leadership in the manner in which the hearings were conducted. As always, he was fair and patient during those hearings. The chairman and our distinguished ranking member were both tireless and thorough during the long hours of testimony.

We have a fine nominee here—as is usual from our President. Governor Martinez has had real hands on experience in fighting the drug war. He has shown us signs of winning the war in Florida. He has at least won quite a few battles—he has some very good "firsts" to his credit, too.

He was the first—as Governor—to appoint a drug czar to lead the fight against drugs at the State and local level and he led Florida into becoming the first State to implement a Drug-Free Workplace Program for State government workers—this included drug testing—and he took the first test himself.

He was appointed by President Reagan to the White House Conference on a Drug-Free America in 1987. There, he led the Nations' Governors in presenting recommendations which were later incorporated into President Bush's drug strategy—increase accountability and capacity in treatment systems, drug testing throughout the criminal justice system, drug free workplaces and drug free schools, to name but a few.

As Governor of Florida, he led the fight for licensing of more effective and reliable drug testing techniques. He is also a strong advocate of alternative forms of incarceration for criminals. His State was one of the first to implement alternative forms of incarceration, such as boot camps, for first time and nonviolent offenders.

Governor Martinez implemented teacher training for substance abuse education and channeling of asset forfeiture funds back into law enforcement activities: He supports the policy of letting the criminals pay the costs of law enforcement. He is also a leader in the effort to involve other countries in the war on drugs and has traveled to Colombia, Bolivia, and Panama and was a leading advocate behind the President's effort to lend full U.S. assistance to the war on drug lords in Colombia. His fluency in Spanish has been of great benefit in dealing with our fine South American neighbors. He has all of the tools for the job. He will do it well.

So indeed, the Governor comes before the Senate with a splendid record. He is certainly highly qualified to assume the post as Director of the Nation's drug control strategy.

I urge his confirmation.

Mr. BINGAMAN. Mr. President, today I will vote against the confirmation of Robert Martinez, to be the new Director of National Drug Control Policy. I regret to cast such a vote, because I genuinely respect the President's right to considerable discretion in appointing his advisers. I am convinced, however, that the continuing problem of drug abuse in our country poses far too serious a threat to our future, and our children's future, to vote any other way.

The devastation wrought by drug abuse, to families, communities and our entire society, is tremendous; and although we have made some progress in our effort to combat illicit drug use, much remains to be done. The task at hand demands strong, yet balanced, leadership, both from Congress and from the administration. We simply cannot continue the status quo. We must make a renewed and serious commitment to providing our Nation with the type of leadership we need to get us out of the mess that drug abuse has gotten us into. Unfortunately, I do not believe that Robert Martinez will provide that leadership.

The legislative mandate to the Director of National Drug Control Policy is clear: The Director is to head a comprehensive national campaign against illicit drug use. The Director must resolve the difficulties that necessarily will arise when so many different agencies of the Federal Government—and State governments—are involved in a unified effort of this magnitude. The Director must balance the fiscal demands of interdiction, law enforcement, education, and treatment.

The Director, with duties such as these, must be determined and aggressive. He must be committed to the issue, and he must be experienced. This is where I fear Governor Martinez fails. I believe this for two reasons.

First, as Governor of Florida, Robert Martinez showed very little regard for the value of drug abuse treatment and education. Instead, he focused almost entirely on law enforcement, and on incarceration in particular. During his tenure, Florida led the country in per capita incarceration, and he increased spending on corrections from $514 million to $859 million. At the same time, according to a study by the National Association of State Alcohol and Drug Abuse Directors, Florida ranked 21st in the United States in substance abuse treatment funding and 32d in prevention funding. When he left office, Florida possessed the highest crime rate in the country.

It is painfully apparent that incarceration alone will not solve our Nation's drug problems. An effective drug strategy demands a balanced approach: We simply must make a serious commitment to both supply and demand reduction. Unfortunately, I do not believe that Governor Martinez is committed to supporting and improving our drug abuse education and treatment efforts.

I am also concerned that Governor Martinez, who will be responsible for establishing Federal policy regarding international and domestic drug enforcement, lacks "hands-on" experience in managing law enforcement agencies. Before being elected Florida's Governor in 1986, it is my understanding that Governor Martinez was a teacher, a small business owner, and the mayor of Tampa.

The job of Director of National Drug Control Policy is not conducive to on-the-job-training. The Director must be able to deal effectively with the law enforcement aspects of illicit drug use. There is nothing in the Governor's background to support a conclusion that he has the necessary expertise, and this troubles me.

Mr. President, I will conclude by stating again that I regret having to cast a vote against this nomination. But drug abuse is one of the most serious problems we face. It threatens to destroy an entire generation, and all the talk in the world will not bring us one step closer to arresting that threat.

We need action, and we need it now. We need a leader committed to the entire fight. We need a leader willing to embrace a comprehensive battle strategy. Thank you.

Mr. KERRY. Mr. President, according to public opinion polls the war on drugs is not the priority issue that it used to be with American public. The former National Director of Drug Policy, William Bennett, claims the reason is because we are on the verge of victory. The truth, however, is that other issues, including the Persian Gulf and the domestic economic issues have lately occupied the attention of the American people.

Make no mistake about it: the drug war has not been won. In many ways, it still has not begun. The declaration of war may be 10 years old, but the President still has not laid out a thoughtful, long-term strategy that mobilizes the resources of our Nation against the use of drugs.

The President's nomination of former Gov. Bob Martinez of Florida raises questions about how the administration plans to fight the war on drugs.

I intend to vote for the confirmation of Governor Martinez, but I do so with serious reservations.

Governor Martinez is a decent and capable public servant. However, his approach to the drug war in Florida is proof that he is not a man of vision on this issue.

The Governor spearheaded one of the most aggressive crackdowns on drugs and crime in the United States during the 1980's. He implemented strict prison time for casual drug use, but just listen to what the Washington Post said about the Governor's tough approach:

> Overwhelmed by a seemingly endless number of drug offenders pouring into prisons, Florida's corrections department has been forced to slash the sentences of inmates at ever more rapid rates—and it is releasing them in droves.

As a result this conservative law-and-order State is now the Nation's leader in the early release of convicted felons and punishment for crime is declining precipitously.

This happened despite the fact that the Governor invested more than $350 million in building new prison space. The Governor was so preoccupied with locking people up that he neglected the treatment side of the equation.

While the Governor was slamming the door on casual drug users, less than one out of every four Floridians who needed substance abuse treatment was receiving it. While the prison system in Florida overflowed, only one in six adolescents in Florida who needed substance abuse treatment was receiving it. While Florida was one of the first States to criminally prosecute a woman for maternal substance abuse—a woman who had unsuccessfully sought treatment—substance abuse treatment was only available for 15 percent of all pregnant addicts.

During the Martinez years, Florida ranked 21st in the Nation in terms of funding for treatment and 31st in terms of funding for prevention.

The point is that in fighting the war on drugs, Governor Martinez has proved to be a supply sider. Using that strategy he has not been very successful in fighting the war on drugs in the State of Florida. I have read nothing in Governor Martinez' testimony before the Senate Judiciary Committee that would lead me to believe that he would change his approach on the national level.

We need a new Federal strategy. The current one, which allocates nearly 70 percent of our resources to the supply is simply not working. The inner cities of our Nation are drug invested killing zones. Despite the tough talk coming from the administration on drugs, violent crime, 70 percent of which is drug related, has increased 5 percent across the country.

The trend of violent crime is especially disturbing among the young black male population. The Federal Center for Disease Control has said that homicide was the leading cause of death for black males of ages 15 to 24. Among factors contributing to the rising number of killings, the CDC listed "immediate access to firearms, alcohol and substance abuse and drug trafficking. * * *"

No one is suggesting that we don't want to provide more resources to our law enforcement agencies. I have been a proponent of increased resources for law enforcement since I came to the Senate. I authored legislation last year doubling the amount of funding for State and local law enforcement.

But I also recognize that the only way to actually win the war on drugs is curb America's drug habit, and the only way to accomplish that is through treatment and education. Currently, we are only treating 20 percent of those who seek and want treatment. We are only educating 55 percent of our kids. We can do much better than that.

We need a National Director of Drug Policy who will make a commitment to treatment on demand and to educating all of our children about the dangers of drugs. I am hopeful that once Governor Martinez fully appreciates the breadth of the problem, that he will make such a commitment.

Mr. HARKIN. Mr. President, I rise today to support the nomination of Bob Martinez to be Director of National Drug Control Policy. In doing so, I also wish to express my deep concerns about the direction taken by our national drug policy and my hope that under the direction of Bob Martinez, we will see a more active as opposed to reactive drug control strategy.

As chairman of the Labor, Health and Human Services, Education and Related Agencies Appropriations Subcommittee, I strongly believe that there must be more of an emphasis on drug education, treatment and prevention in this country's national drug control strategy. Unfortunately, only 30 percent of current funds allocated to the war on drugs goes for prevention and treatment programs.

We must ensure that our drug control policy contains adequate funds to educate our young people of the dangers of drugs and drug abuse, to take steps to prevent the use of and the addiction to drugs, and to treat those in our society who have fallen at the hands of these dangerous and violent drugs.

The answer is not and will never be to simply build more prisons in order to simply lock these people away without the benefit of drug education and treatment, only to eventually set them free at the end of their sentence, still addicted to and not educated about the dangers of drug use.

There have been reservations surrounding nominee Gov. Bob Martinez's ability to recognize the importance of drug education and treatment programs in the war against drugs. While I believe that this country is in no position to allow on-the-job training to the Director of our National Drug Control Policy, I also think that Governor Martinez will recognize, support, and come to believe in the importance of drug education and treatment programs.

The war on drugs is entering a critical phase. The easy victories have been won. While casual drug use and drug use among the middle class is down, hardcore drug use remains constant. While the Nation's attitude towards drugs has changed, the Nation still needs someone who will be able to communicate and coordinate a national drug strategy. It is my hope that Mr. Martinez will be that person this country so desperately needs. I am optimistic that Mr. Martinez' experiences as an educator and a leader in Florida's fight against drugs will permit him to identify the current deficiencies in our national drug control strategy and take immediate and swift actions to correct them.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Bob Martinez to be Director of National Drug Control Policy? The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER (Mr. DODD). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 88, nays 12, as follows:

[Rollcall Vote No. 41 Ex.]

YEAS—88

Akaka
Baucus
Bentsen
Biden
Bond
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Craig
Cranston
D'Amato
Danforth
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Fowler
Garn
Glenn
Gorton
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Heflin
Heinz
Helms
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Seymour
Shelby
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wirth

NAYS—12

Adams
Bingaman
Daschle
Ford
Gore
Kennedy
Metzenbaum
Pryor
Sarbanes
Sasser
Simon
Wellstone

So, the nomination was confirmed.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

Mr. BIDEN. Mr. President, I suggest the absence of a quourm.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BIDEN. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Tennessee [Mr. GORE] is recognized.

Mr. GORE. I thank the Chair.

(The remarks of Mr. GORE pertaining to the introduction of Senate Joint Resolution 101 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senate is presently in morning business.

UNITED STATES-JAPANESE RELATIONS

Mr. BUMPERS. Mr. President, I will only take 60 seconds.

I want to add my voice to the chorus of outrage that has been expressed, especially in the agriculture community of this country, about what happened in Japan last Sunday when rice, and I think it was Arkansas rice, displayed in a trade show in Japan was ordered removed.

When there was some hesitancy by the displayers who were exhibiting these rice packages, it is my understanding the police were brought in, and they said: Either you remove this rice from display or we are taking you to the slammer.

I wish I had been there. I have never spent any time in a Japanese jail, and I do not have any such desire. But I promise you, if I had been there, I would have allowed them to escort me to their jail. It is one of the most insulting, outrageous things that has ever happened in American-Japanese relations.

It is not just because it is rice. It is that we have a $50 billion trade deficit against the Japanese annually, every year; that we open our markets, automobiles, everything else, to the Japanese, and some of us from rice-producing States have fought for years to get our rice sent there.

They subsidize their rice farmers to the tune of about $900 a ton, and we will sell them all the rice they want for about $200 a ton. Think about the disparity in the price, with the kind of subsidies they are providing for their rice farmers. Then tell us: We do not even want the Japanese people to see your rice and demand it be removed.

I hope the President will get involved in this, Mr. President, and say to the Japanese people, to the Japanese Government, and especially those in charge of their trade relations with the United States, we are offended to the core about this unseemly event.

Mr. President, I yield the floor.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. Senator from Michigan.

UNFAIR JAPANESE TRADE BARRIERS

Mr. LEVIN. Mr. President, on that same subject, let me say that when I read those reports, I shared the same outrage as my good friend from Arkansas. We have seen evidence of unfair trade practices against American products across the board. Very few of us represent States which have not been negatively impacted by unfair barriers in Japan to our products.

In Michigan, it is agricultural products; it is automobile parts; it is telecommunications equipment; on and on. We have been talking about this now for a decade. We go back in quotations all the way to President Nixon saying that we are turning the corner on trade with Japan; they are opening up their markets.

Mr. President, we have had rhetoric now for about two decades, and this recent incident is nothing short of an outrage. For Japan to threaten to put in jail an American who simply wants to display an American product, in this case rice, is something which is so offensive that our President ought to get on the telephone to the Prime Minister of Japan and tell him to modify that law or somebody is going to go to prison, and make a point of it. We cannot tolerate a one-way street in trade any longer. It is intolerable.

Mr. President, a lot of folks get upset at Japan, and I am one of them. But I am more upset at our own Government. If Japan wants to keep our products out, that is their decision. If they want to put quotas and tariffs and barriers on American goods, that is their decision. If we tolerate it, that is our decision. But we should not tolerate it. We have had a weak trade policy for too long. This recent incident in Japan over rice is only the most dramatic evidence of a very weak trade policy which has resulted in a one-way street. We are not perfect. People say, well, gee, we have quotas and we have tariffs, too. We are not perfect. But compared to Japan and other countries, we are very much better than they are.

Mr. President, I am glad that my friend from Arkansas raised this subject. It is our current plan in the subcommittee that I chair on Governmental Affairs to hold a hearing into what happened in Japan last Sunday. We are not going to let this one rest.

This did not end with that threat to put an American in jail because he or she wanted to display Arkansas rice. This incident did not end in Japan last Sunday. We are going to drive home to our trade representatives and our administration that American policy is weak, and the product of that weakness is what happened in Tokyo. We have to change our policies here to respond to what they are doing to us over there.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

DESERT STORM SUPPLEMENTAL AUTHORIZATION AND MILITARY PERSONNEL BENEFITS ACT

Mr. NUNN. Mr. President, in a moment, I would like to lay before the Senate the Persian Gulf Supplemental Authorization and Personnel Benefits Act of 1991. This bill, when it is introduced, will represent the agreement between the House and the Senate on the Desert Storm Supplemental Authorization and Military Personnel Benefits Act for fiscal year 1991, which we passed in the Senate last week, and which the House also passed last week.

We worked very hard this week with a number of committees in the Senate and the House to complete work on this bill. The Veterans' Affairs Committees, the Governmental Affairs Committees, the Agriculture Committees, the Labor Committees, as well as the Armed Services Committees, have all been involved in working out this compromise. The Senate leadership has also been very involved.

Mr. President, I express my thanks to all of these committees for the spirit of cooperation which has allowed us to complete work on this important bill in such a brief and timely fashion. I particularly want to thank the leadership and their very competent staff, because without their leadership in this matter, we could not have done it in this timeframe.

With the need to complete the bill this week, we have worked out this compromise bill without a formal conference. When it is adopted by the Senate, it will go to the House for final action later today. And then, if passed by the House, to the President for his signature.

Mr. President, I ask unanimous consent that a joint explanatory statement in the nature of a conference report statement of the managers explaining this compromise bill be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. NUNN. Mr. President, this bill provides additional funds during fiscal year 1991 to pay for the costs of the Persian Gulf war. It gives the Defense Department increased flexibility to manage military personnel levels in the aftermath of the war. It authorizes certain benefits for the military men and women involved in the war. It establishes certain reporting requirements of Department of Defense to keep Congress informed on the cost of the war, and to provide Congress with an after-action report on the conduct of the war; and it authorizes additional funds during fiscal year 1991 for the Department of Energy.

AUTHORIZATION OF FUNDS FOR THE COSTS OF THE PERSIAN GULF WAR

There was very little difference between the House and Senate bills in the authorization of funds to pay the costs of the Persian Gulf war. Like the version adopted by the Senate, this compromise bill establishes a mechanism to ensure that foreign contributions in the defense cooperation account are used to pay for the costs of the war to the maximum extent possible. The $15 billion in U.S. taxpayer funds authorized for the new Persian Gulf conflict working capital account may be used to pay for the costs of the Persian Gulf conflict only to the extent that foreign contributions are not available to pay these costs.

The bill includes important safeguards to maintain appropriate congressional oversight over the transfer of funds in the defense cooperation account and the Persian Gulf conflict working capital account to pay for the cost of the Persian Gulf conflict. The transfer authority in the bill can be used only after the Secretary of Defense provides the Congress with a notification and a period of 7 days elapses.

The notification must include: First, a certification that the amounts proposed to be transferred will be used only to fund the incremental costs of Operation Desert Shield/Storm; second, a list of the amounts to be transferred and the accounts to which the transfer will be made; and third, a description of the programs, projects, and activities to which the funds are proposed to be transferred. If the transfer is from the working capital account, the notification must also explain why foreign contributions have not provided sufficient funds to permit transfers from the defense cooperation account.

On a monthly basis, the Secretary of Defense will provide an accounting of transfers in a report to the Congress and the General Accounting Office.

These notification, certification and reporting requirements ensure that Congress will continue to oversee the expenditure of funds to pay for the costs of the Persian Gulf war in the months ahead.

WAIVER OF PERSONNEL CEILINGS

The committee bill also includes important authority requested by the Defense Department to waive certain military personnel end strength and grade ceilings for fiscal year 1991 because of requirements resulting from Operation Desert Shield and Operation Desert Storm. These waivers are necessary to minimize personnel turbulence and involuntary separations as the military services draw down their strength as projected in their budgets in the aftermath of the Persian Gulf war.

PERSONNEL BENEFITS

Mr. President, we had a very good discussion during the Senate floor debate on the personnel benefits in this bill for the military members serving in Operation Desert Shield and Desert Storm and their families. Senator MITCHELL and Senator DOLE appointed a task force under the capable leadership of Senator GLENN and Senator MCCAIN, and this task force developed a consensus package of benefits that was included in the Senate-passed bill.

I am pleased to report to my colleagues that almost all of the benefits in the Senate bill are in this compromise bill. These include:

An increase in imminent danger pay from $110 per month to $150 per month;

An increase in the servicemen's group life insurance benefit from $50,000 to $100,000;

Medical special pay for activated reservists;

An increase from $3,000 to $6,000 in the death gratuity;

Family assistance and child care enhancements;

Transitional health care for reservists;

A delay in the reduction of CHAMPUS mental health benefits;

Assistance for reservists who are farmers and ranchers and who were activated for the Persian Gulf war; and

Authority to waive certain requirements for Government student loans.

In addition to these Senate provisions, this bill includes several provisions from the House-passed bill. These include:

An increase from $60 to $75 in the family separation allowance;

Authority to pay basic allowance for quarters to certain activated single reservists; and

A delay in the proposed increase in the deductible for military families under the CHAMPUS program.

In addition to these benefits for military members and their families, this bill contains increases in certain veterans' benefits. The bill provides wartime veterans' benefits to military members who served on active duty during the Persian Gulf war. The monthly benefits under the Montgomery GI bill for active and reserve military personnel are also increased.

In developing the Senate package of benefits, Mr. President, the bill reported by the Senate Armed Services Committee contained $358 in benefits to which $142 was added by the Senate leadership package. In our negotiations with the House, we agreed on a total package of $655 million, of which $255 million would be for veterans' benefits and $400 million for benefits for Active and Reserve military members and their families.

Mr. President, this is a good benefit package that recognizes the sacrifices of our dedicated men and women in uniform and their families. I want to again acknowledge the hard work of Senator GLENN and Senator MCCAIN, the chairman and ranking minority member of the Manpower and Personnel Subcommittee, for their extraordinary efforts in this area over the last 3 months.

DEFENSE DEPARTMENT REPORTING REQUIREMENTS

This compromise bill also contains the two important reporting requirements related to the Persian Gulf war that were adopted in the original Senate bill.

The first reporting requirement includes procedures for ensuring that there will be a complete accounting of all expenditures and sources of funding related to Operation Desert Shield and Desert Storm. This provision is similar to H.R. 586 which was recently passed by the House of Representatives.

The second reporting requirement calls for a comprehensive assessment of the conduct of the war by the Defense Department.

The lessons learned from the strategy, tactics, logistics, personnel policies, and other aspects of the Persian Gulf conflict will have a major impact on the decisions in this and future years about our national defense posture. This bill includes the Senate provision that requires the Department of Defense to make an assessment, after the cessation of hostilities, on the conduct and "lessons learned" of Operation Desert Shield and Desert Storm.

SUPPLEMENTAL AUTHORIZATION FOR THE DEPARTMENT OF ENERGY

Finally, Mr. President, this bill includes a supplemental authorization of $623 million for the Department of Energy in fiscal year 1991. $283 million of this amount is for operating expenses at the Rocky Flats plant at Golden, CO. The remaining $340 million is for high-priority environmental compliance and cleanup activities in the Department of Energy.

CONCLUSION

Mr. President, I am hopeful that the Congress will be able to complete action on this important legislation this week. This bill authorizes funds to pay for the costs of Operation Desert Shield and Operation Desert Storm, and recognizes the sacrifices of the military members and their families who served in this conflict.

In closing I want to express my appreciation to the leaders, Senator MITCHELL and Senator DOLE, and their staffs for their help on this legislation; to the Members of the other Senate and House committees who cooperated in getting a compromise bill; and of course to Senator WARNER and the other members of the Armed Services Committee and to Chairman ASPIN, Congressman DICKINSON, and the members of the House Armed Services Committee for their help and cooperation. This is a good bill, Mr. President. I urge my colleagues to support it.

Mr. President, there is one provision in this bill which the House still does not completely agree with, although I hope they will accept it. This issue involves one that Senator WARNER from Virginia, my colleague and ranking Republican on the Armed Services Committee, has worked on very hard, along with a number of other members of the committee. It involves the Servicemen's Group Life Insurance Program, known as SGLI.

The Senate bill increased the maximum amount of coverage under the SGLI Program from the current $50,000 to $100,000. Beyond the war period itself, this increase will not cost the Federal taxpayers anything, because the SGLI Program is financially self-sustaining with premiums in peacetime. Military members currently pay 8 cents per $1,000 of coverage.

The Senate bill also provides a retroactive gratuity to the survivors of military members who died since the start of the Persian Gulf conflict, that is, since August 2, 1990, equal to the amount of the military member's SGLI coverage at the time of death. This retroactive gratuity would be paid to survivors of military members whose death was in conjunction with or in support of Operation Desert Storm, or attributable to hostile actions in regions other than the Persian Gulf, as prescribed by the Secretary of Defense.

If a military member died during Operation Desert Shield or Desert Storm, for example, and had $50,000 coverage under the SGLI Program, his or her survivor would get an additional $50,000, for a total benefit of $100,000. The cost of this retroactive benefit would be approximately $25 million, and would be paid for by Department of Defense funds.

Mr. President, the House has agreed to the retroactive increase in the SGLI program, but they are reluctant at this time to agree to the prospective increase in the SGLI benefit to $100,000 that is in this bill.

Mr. President, I hope the House will agree to this increase.

In the first place, increasing future SGLI benefits will not cost the Government any more money in peacetime. This is life insurance for the troops, and the troops pay the premiums. The average term life insurance policy in the United States today is over $100,000, and the maximum SGLI benefit should be raised to $100,000 also.

More importantly, Mr. President, the House readily agreed to the retroactive gratuity which in effect doubles the SGLI benefit to $100,000 for some military members, so it is important that the future maximum benefit be $100,000. We do not want to create a situation where the widow of a military member killed in hostile action before this bill is enacted gets $100,000 in SGLI benefits, but the widow of a military member killed after this bill is enacted gets a lesser amount.

Mr. President, the retroactive and prospective increases in SGLI coverage to $100,000 in this bill are important benefits for military members and their families particularly those who have been hit so hard with grief during this conflict. I hope these increases will be agreed to by the House.

I hope this will be agreed to by the House.

EXHIBIT 1

JOINT EXPLANATORY STATEMENT—PERSIAN GULF CONFLICT SUPPLEMENTAL AUTHORIZATION AND PERSONNEL BENEFITS ACT OF 1991

This statement explains the provisions of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991.

On February 22, 1991, the General Counsel of the Department of Defense forwarded to the Congress a proposed supplemental authorization bill for fiscal year 1991. On March 13, 1991, the House of Representatives approved H.R. 1175, the National Defense Supplemental Authorization Act for Fiscal Year 1991. On March 14, 1991, the Senate passed S. 578, the Department of Defense Desert Storm Supplemental Authorization and Military Personnel Benefits Act for Fiscal Year 1991. On March 19, 1991, the Senate received H.R. 1175, amended it with the text of S. 578, passed it, and returned it to the House.

The following joint explanatory statement explains the compromise agreement that has been reached by the Senate and House Armed Services Committees and other committees on the differences between the texts of H.R. 1175 and S. 578.

In this joint explanatory statement, the phrase "the House bill" refers to H.R. 1175, as passed by the House on March 13. The phrase "the Senate amendment" refers to H.R. 1175, as passed and amended by the Senate with the text of S. 578 on March 19. The phrase "the final bill" refers to the compromise agreement.

TITLE I—AUTHORIZATION OF FISCAL YEAR 1991 SUPPLEMENTAL APPROPRIATIONS FOR OPERATION DESERT STORM

The House bill contained a series of provisions (secs. 101–107) that would authorize supplemental appropriations for Operation Desert Storm for fiscal year 1991. Section 101 would authorize, during fiscal year 1991, the appropriation of the balances contributed to the Defense Cooperation Account to pay for the incremental costs associated with Operation Desert Storm or the replenishment of the working capital account established in section 102. Section 102 would establish the Persian Gulf Working Capital Account and would authorize $15 billion to be appropriated to the account during fiscal year 1991. This section would specifically limit the availability of appropriations for transfer to pay for the incremental costs of Operation Desert Storm to the extent that funds are not available for transfer from the Defense Cooperation Account. Section 103 would authorize the transfer of amounts appropriated from the Defense Cooperation Account and appropriated to the Persian Gulf Working Capital Account to appropriation accounts as necessary to meet the costs of Operation Desert Storm. Section 104 would authorize the transfer authority necessary to make adjustments in the military personnel and operation and maintenance accounts to pay for the incremental costs associated with the military operations in the Persian Gulf. Section 105 would establish certain notification and reporting requirements to be followed by the Secretary of Defense before implementing any transfer of funds from the Defense Cooperation Account, the Persian Gulf Working Capital Account, or between the military personnel and operation and maintenance accounts. Section 106 would require the Secretary of Defense to provide monthly reports of transfers made pursuant to the authority in this title to the congressional defense committees.

The Senate amendment contained similar provisions (secs. 101–102).

The final bill contains the House provisions with technical amendments.

The authorization of transfers provided in the final bill is based on the understanding that the Secretary of Defense will develop a process for the resolution of any concerns that may be raised by the congressional defense committees with respect to transfers authorized by this title. This process should involve the four congressional defense committees, but should be more streamlined than the process currently used with respect to approval of transfer. It is expected that the four congressional defense committees will expedite consideration of all transfer requests and will register any concerns with DoD over any proposed transfer within seven days. The traditional paperwork used by DoD to report transfers to the Congress is not necessary in the case of transfers for the incremental costs of Operation Desert Storm. This approach will preserve the congressional oversight role over the expenditure of funds to pay the incremental costs of Operation Desert Storm.

TITLE II—WAIVER OF PERSONNEL CEILINGS AFFECTED BY OPERATION DESERT STORM

The House bill contained provisions (sec. 211 and sec. 212) that would: (1) authorize the Secretary of Defense to waive the active duty, selected reserve, and reserve active duty end strengths prescribed for fiscal year 1991 in the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510); and (2) authorize the President to waive the strength ceilings applicable to senior enlisted grades for the duration of the Persian Gulf conflict.

The Senate amendment contained a similar provision (sec. 201), except the authority to waive the end strengths and grade ceilings would be vested in the Secretaries of the Military Departments, and the grade ceiling waivers would include not only the senior enlisted grades, but the active duty and full-time reserve officers field grades, and the general and flag officer grades as well.

The final bill contains the Senate provision.

TITLE III—BENEFITS FOR PERSONS SERVING IN ARMED FORCES DURING THE PERSIAN GULF CONFLICT

Part A—Military Compensation and Benefits

Increase in imminent danger pay (sec. 301)

The House bill contained a provision (sec. 222) that would pemanently increase the rate of imminent danger pay from $110 per month to $150 per month, effective January 16, 1991.

The Senate amendment contained a similar provision (sec. 301), except the authority for the increase would be temporary and the effective date would be retroactive to August 1, 1990.

The final bill contains the Senate provision.

Family separation pay (sec. 302)

The House bill contained a provision (sec. 223) that would: (1) increase family separation pay from $60 to $75 per month, effective January 16, 1991; and (2) authorize family separation pay to dual military couples without dependents, effective January 16, 1991.

The Senate amendment contained no similar provision.

The final bill contains the House provision amended to delete the portion on dual military couples without dependents.

Use of home of record for determination of variable housing allowance for reservists (sec. 303)

The House bill contained a provision (sec. 225) that would require that the variable housing allowance being paid to members of reserve components called to active duty in connection with the Persian Gulf conflict be calculated using the rates to which the members are entitled in the areas of the members' home of record in lieu of permanent duty location.

The Senate amendment contained no similar provision.

The final bill contains the House provision amended to substitute the principal place of residence for home of record.

Medical, dental, and non-physician special pays for reserve, recalled, or retained health care officers (sec. 304)

The House bill contained a provision (sec. 226) that would provide authority for payment of active duty special pays to reserve optometrists, veterinarians, nurse anesthetists, and other non-physician health care providers called or ordered to active duty in connection with the Persian Gulf conflict. In addition, section 226 would authorize payment of those special pays to physicians, dentists, optometrists, veterinarians, nurse anesthetists and other non-physician health care providers who (1) are involuntarily retained on active duty under section 673(c) of title 10, United States Code, (2) are recalled to active duty under section 688 of title 10, United States Code, or (3) voluntarily agree to remain on active duty for a period of less than one year in connection with the Persian Gulf conflict.

The Senate amendment contained a similar provision (sec. 302).

The final bill contains the House provision.

Waiver of board certification requirements (sec. 305)

The House bill contained a provision (sec. 227) that would authorize continued payment of board certification pay to physicians, dentists, and other health care providers who have completed residency training and were scheduled for board certification, or recertificationu, but were unable to complete the certification process due to a duty assignment in connection with the Persian Gulf conflict.

The Senate amendment contained no similar provision.

The final bill contains the House provision amended to condition the payment of these pays on the completion of certification requirements by affected personnel within 180 days of their release from their duty assignments in connection with the Persian Gulf conflict or such additional time after that period as determined to be necessary by the Secretary of Defense.

Foreign language proficiency pay (sec. 306)

The House bill contained a provision (sec. 228) that would require that foreign language proficiency pay be paid to members of the armed forces assigned to duty in connection with the Persian Gulf conflict who meet all eligibility criteria for such pay except that they have not been certified by the Secretary concerned to be proficient in a foreign language necessary for national defense purposes.

The Senate amendment contained no similar provision.

The final bill contains the House provision amended to condition the payment of these pays on the completion of certification requirements by affected personnel within 180 days of their release from their duty assignments in connection with the Persian Gulf conflict.

Increase in the amount of death gratuity (sec. 307)

The House bill contained a provision (sec. 231) that would amend section 1478(a) of title 10, United States Code, to establish a standard death gratuity rate of $6,000 for all grades, effective August 2, 1990.

The Senate amendment contained a similar provision (sec. 306), except the authority for the $6,000 death gratuity rate would be temporary and effective January 16, 1991.

The final bill contains the House provision amended to make the provision temporary.

Servicemen's Group Life Insurance gratuity (sec. 308)

The Senate amendment contained a provision (sec. 332) that would authorize the payment of a gratuity to the survivors of service members who died after August 1, 1990 and the effective date of the SGLI increase equal to twice the amount of SGLI coverage of the deceased at the time of death. The gratuity would apply only to service members whose deaths were in conjunction with or in support of Operation Desert Storm, or attributable to hostile action in regions other than the Persian Gulf designated by the Secretary of Defense.

The House bill contained no similar provision.

The final bill contains the Senate provision.

Payment for accrued leave (sec. 309)

The Senate amendment contained a provision (sec. 303) that would ensure that survivors of military members are entitled to the payment for the unused accrued leave of a member who dies while on active duty on the same basis as provided for members in section 1115 of the National Defense Authorization Act for Fiscal Year 1991.

The House bill contained no similar provision.

The final bill contains the Senate provision.

Removal of limitation on the accrual of savings of members in a missing status (sec. 310)

The House bill contained a provision (sec. 232) that would amend section 1035(b) of title 10, United States Code, to remove the ceiling on savings deposits for service members carried in a missing status as defined in section 551(2) of title 37, United States Code, during the period of the Persian Gulf conflict.

The Senate amendment contained a similar provision (sec. 304).

The final bill contains the House provision.

Basic allowances for quarters for certain members of the reserve components without dependents (sec. 310A)

The House bill contained a provision (sec. 224) that would require payment of basic allowance for quarters to reserve component members without dependents called to active duty in connection with the Persian Gulf conflict who are unable to occupy their primary residence that is owned by the member, or for which the member is responsible for rent.

The Senate amendment contained no similar provision.

The final bill contains the House provision amended to clarify the intent of the House provision.

Legislative Provisions Not Adopted

Repeal wartime and national emergency prohibitions on the payment of certain pay and allowances

The House bill contained a provision (sec. 221) that would repeal the prohibition on the payment of imminent danger pay and family separation allowance during times of war or national emergency declared by the Congress.

The Senate amendment contained no similar provision.

The final bill does not contain the House provision.

Foreign duty pay

The House bill contained a provision (sec. 229) that would increase the current foreign duty pay for enlisted personnel to a flat rate of $25 per month.

The Senate amendment contained no similar provision.

The final bill does not contain the House provision.

Transitional commissary and exchange benefits

The House bill contained a provision (sec. 245) that would require the Secretary of Defense to prescribe regulations allowing a member of a reserve component called or ordered to active duty in connection with the Persian Gulf conflict to use commissary and exchange stores during the 180-day period beginning on the date of the release of the member from active duty. Use of these stores would be authorized in the same manner and to the same extent as authorized for service members on active duty.

The Senate amendment contained no similar provision.

The final bill does not contain the House provision.

Benefits explanation for reserve members upon demobilization

The House bill contained a provision (sec. 246) that would require the Secretaries of the Military Departments to provide individual pre-separation counseling on a variety of subjects to service members upon their discharge or release from active duty. The Secretary of Defense would be required to ensure that the Service Secretaries, in carrying out section 1142 of title 10, United States Code, provide particular attention to the needs of members of the reserve components who were called or ordered to active duty for service in connection with the Persian Gulf conflict. The Secretary of Veterans Affairs would be required to detail personnel of the Department of Veterans Affairs for service at each principal site at which such service members will be released from active duty.

The Senate amendment contained no similar provision.

The final bill does not contain the House provision. However, the Secretary of Defense is expected to carry out the intent of the House provision.

Part B—Military Personnel Policies and Programs

Legislative Provisions Adopted

Grade in which retired officers are recalled to active duty (sec. 311)

The House bill contained a provision (sec. 242) that would authorize the Secretaries of the Military Departments to recall retired military officers to active duty in the highest grade they held while on previous active duty.

The Senate amendment contained a similar provision (sec. 305).

The final bill contains the Senate provision amended to clarify the intent of the Senate provision.

Temporary CHAMPUS provisions regarding deductibles and copayment requirements (sec. 312)

The House bill contained a provision (sec. 243) that would delay the implementation of the increase in the CHAMPUS deductible mandated by section 712 of the National Defense Authorization Act for Fiscal Year 1991 from April 1, 1991 to October 1, 1991, in the case of dependents of active duty personnel who are serving or have served in the Persian Gulf theater in connection with the Persian Gulf conflict.

The Senate amendment contained no similar provision.

The final bill contains the House provision.

The Senate amendment contained a provision (sec. 331) that would allow CHAMPUS health care providers to waive any requirement for payment by the patient of copayment charges during the Persian Gulf War period, provided that CHAMPUS health care providers who grant such waivers do not increase the amount charged to the federal government for the service for which the waiver is granted.

The House bill contained no similar provision.

The final bill contains the Senate provision amended to specify that this provision would apply to dependents of military personnel serving in the Persian Gulf and require certification by the health care provider on cost.

Transitional health care (sec. 313)

The House bill contained a provision (sec. 244) that would extend transitional health benefits to reservists called or ordered to active duty in connection with the Persian Gulf conflict and to active duty personnel involuntarily retained on active duty under section 673c of title 10, United States Code. Section 244 would authorize eligibility for two months of medical care in military medical treatment facilities or under CHAMPUS unless the former service members and dependents are covered by an employer-sponsored health insurance plan.

The Senate amendment contained a similar provision (sec. 307), except that the transitional health coverage would be for 30 days and would not include involuntarily retained personnel.

The final contains the Senate provision amended to include involuntarily retained personnel under the transitional health coverage being authorized.

Extension of certain Persian Gulf conflict provisions (sec. 314)

The House bill contained a provision (sec. 247) that would remove fiscal year constraints on spending in support of the Persian Gulf conflict established in title XI of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1634 et seq.).

The Senate amendment contained no similar provision.

The final bill contains the House provision.

Study of Department of Defense policies relating to deployment of military service members with dependents or service members from families with more than one service member (sec. 315)

The House bill contained a provision (sec. 248) that would require the Secretary of Defense to carry out a study of departmental policies relating to the family interests and responsibilities of reserve component members called or ordered to active duty and of active and reserve component service members deployed overseas. The study would examine the responsiveness of such policies to the needs of service members and the consistency of existing policies among the Military Departments. The Secretary of Defense would be required to submit a report to Congress on the findings of the study no later than March 31, 1992.

The Senate amendment contained no similar provision.

The final bill contains the House provision.

Adjustment in the effective date of changes in mental health benefits as a result of Operation Desert Storm (sec. 316)

The Senate amendment contained in provision (sec. 308) that would delay the effective date of certain changes in CHAMPUS mental health benefits required by section 703 of the National Defense Authorization Act for Fiscal Year 1991, and the companion provision of the Department of Defense Appropriations Act, 1991, from February 15, 1991 to February 15, 1992.

The House bill contained no similar provision.

The final bill contains the Senate provision amended to change the effective date of the changes in CHAMPUS mental health benefits from February 15, 1991 to October 1, 1991. The Office of CHAMPUS is directed to not absorb any of the costs associated with the change in benefits made by this section which exceed the $36 million budgeted for these benefits by this Act.

Sense of House on the separation of certain members from their infant children (sec. 317)

The House bill contained a provision (sec. 241) that would amend chapter 41 of title 10, United States Code, by inserting a new section that would preclude female members with a child under six months of age from being (1) called to active duty, if a member of a reserve component, or (2) assigned to a duty location or circumstance that requires the child to live at a different location, if a member of the armed forces on active duty. Section 241 would provide the same exemptions to male service members who have sole custody of a child under the age of six months.

The Senate amendment contained no similar provision.

The final bill contains the House provision amended to express the sense of the House on this issue.

Legislative Provisions Not Adopted

Sense of Congress regarding the provision of medical care by Germany to dependents of members living in Germany

The House bill contained a provision (sec. 249) that would express the sense of Congress that the President should request the Government of Germany to provide without reimbursement medical care to military dependents living in Germany in order to replace military medical personnel and equipment deployed to the Persian Gulf region to treat casualties resulting from the Persian Gulf conflict.

The Senate amendment contained no similar provision.

The final bill does not contain the House provision.

Morale telephone calls

The House bill contained a provision (sec. 250) that would express the sense of Congress that the Secretary of Defense should contract with private telephone companies, or establish alternative telephone arrangements, to provide at least ten minutes of free telephone calls a month for each member of the armed forces serving in the combat zone designated in connection with the Persian Gulf conflict.

The Senate amendment contained no similar provision.

The final bill does not contain the House provision. However, the Secretary of Defense is expected to carry out the intent of the House provision.

Sense of Congress regarding the need for increased participation of civilian health care providers in CHAMPUS

The Senate amendment contained a provision (sec. 332) that would express the sense of Congress urging civilian health care providers in the United States to participate or increase their participation in the CHAMPUS health delivery system.

The House bill contained no similar provision.

The final bill does not contain the Senate provision. However, the Secretary of Defense is expected to take initiatives to encourage civilian health care providers to participate or increase their participation in the CHAMPUS health delivery systems consistent with the Senate provision.

Part C—Veterans Programs and Benefits

Legislative Provisions Adopted

Definition of period of war (sec. 332)

Section 101(11) of title 38, United States Code, defines the term "period of war" as including the Spanish American War, the Mexican border period, World War I, World War II, the Korean conflict, the Vietnam era, and the period beginning on the date of any future declaration of war by Congress and ending on the date prescribed by presidential proclamation or concurrent resolution of Congress.

The House bill contained a provision (sec. 301(a)) that would add to the definition of periods of war the "Persian Gulf War", the period beginning on August 2, 1990, and ending on the date thereafter prescribed by Presidential proclamation or by law.

The Senate amendment contained a similar provision (sec. 362).

The final bill contains this provision.

Pension eligibility (sec. 333)

Section 501(4) of title 38 defines certain periods of war for purposes of eligibility for the VA need-based pension programs for non-service disabled, wartime veterans, and the surviving spouses and dependent children of deceased wartime veterans. Under section 541(f) of title 38, for a surviving spouse to be eligible for a pension, he or she must have married the veteran by a specified date, i.e., not later than 10 years after the termination of the period of war in the cases of veterans of periods of war after World War I.

The House bill contained a provision (section 301(b) that would (1) add the "Persian Gulf War" to the definition of periods of war for pension eligibility purposes, and (2) provide for pension eligibility for a surviving spouse of a Persian Gulf War veteran if the spouse marries the veteran before January 1, 2001.

The Senate amendment contained a similar provision (sec. 363) which would provide pension eligibility for a surviving spouse if the marriage occurred not later than 10 years after the termination of the Persian Gulf War.

The final bill contains the substance of the House provision.

Period of services for dental benefits (sec. 334(a))

Section 612(b)(1) of title 38 requires VA to furnish outpatient dental services for a dental condition or disability which is service-connected but not compensable in degree if (1) the condition or disability is shown to have been in existence at the time of the veteran's discharge from active duty service, (2) the veteran had served on active duty for a period of not less than 180 days immediately prior to discharge or release, (3) the veteran applied for treatment within 90 days after discharge or release; and (4) the veteran was not provided, within the 90-day period immediately before the date of discharge or release, a complete dental examination and all appropriate dental services indicated by the examination as needed. Under section 621(b)(2), the Service Secretary concerned is required to furnish each individual, at the time of discharge or release from active duty, written notice of this benefit and record the member's receipt of the notice.

The House bill contained a provision (sec. 303(c)) that would reduce from 180 days to 90 days the minimum active-duty service requirement for eligibility for this benefit (as well as for the notice provision) for veterans of the Persian Gulf War.

The Senate amendment contained no similar provision.

The final bill contains the House provision.

Presumption relating to psychosis (sec. 334(b))

Under section 602 of title 38, an active psyshosis developed by any veteran of World War II, the Korean conflict, or the Vietnam era within two years after discharge is deemed to be a service-connected condition for the purposes of entitlement to VA health care if the psychosis was developed before July 26, 1949, in the case of a World War II veteran, before February 1, 1957, in the case of a veteran of the Korean conflict, or before May 8, 1977, in the case of a Vietnam-era veteran.

The House bill contained a provision (sec. 303(d)) that would make this presumption applicable to a veteran of the Persian Gulf War who developed a psychosis within two years after the veteran's discharge and the end date of the Persian Gulf War.

The Senate amendment contained a similar provision (sec. 364(a).

The final bill contains this provision.

Eligibility for medicines for veterans who are housebound or in need of aid and attendance (sec. 334(c))

Under section 612(h) of title 38, veterans of the Mexican border period, World War I, World War II, the Korean conflict, or the

Vietnam era who receive additional VA service connected disability compensation, or increased VA non-service connected disability pension, by reason of being permanently housebound or in need of regular aid and attendance, are entitled to be furnished such drugs and medicines as may by prescribed for the treatment of any illnesses or injuries from which they may suffer. VA is also required to continue furnishing drugs and medicines to any such veteran whose pension payments have been discontinued solely because the veteran's annual income exceeds the applicable maximum for pension payments, if the veteran's annual income does not exceed that maximum by more than $1,000.

The House bill contained a provision (sec. 303(e)) that would extend this entitlement to drugs and medicines to veterans of any "period of war", rather than veterans of the periods specified in present section 612(h) of title 38, who meet the requirements of section 612(h). In conjunction with the amendment proposed to be made in the definition of "period war" by section 301(a) of the bill, this provision would provide eligibility to Persian Guld War veterans, and veterans of subsequent war periods, who meet those requirements.

The Senate amendment contained a provision (sec. 364(b)) that would add service during the Persian Gulf War to the war service periods on which eligibility under section 612(h) may be based.

The final bill contains the House provision.

Expansion of readjustment counseling eligibility (sec. 334(d))

Section 612A of title 38 provides that, upon the request of any veteran who served on active duty during the Vietnam era, the Secretary of Veterans Affairs shall furnish counseling to assist the veteran in readjusting to civilian life. The counseling must include a mental and physical assessment. A veteran who is furnished readjustment counseling under this section is also entitled to receive follow-up mental-health services to complete treatment indicated by the assessment. Immediate family members are also eligible for consultation, professional counseling, training, and mental health services if such services are determined to be essential to the effective treatment and readjustment of the veteran. In addition, VA has authority to provide the counseling and related mental health services by contract.

Section 612B of title 38 authorizes the Secretary to establish a program to furnish VA counseling to veterans who are former prisoners of war to assist such veterans in overcoming the psychological effects of detention or internment as a prisoner of war.

The House bill contained a provision (sec. 303(b)) that would amend section 612B to authorize the Secretary to furnish counseling services in any VA facility to any veteran who (a) is a former prisoner of war, or (b) served on active duty in a theater of combat (as defined by the Secretary of Defense) after August 2, 1990, to assist the veteran in overcoming any psychological problems of the veteran associated with such service.

The Senate amendment contained a provision (sec. 364(c)) that would amend section 612A to expand entitlement and eligibility for readjustment counseling and other services under that section to include veterans who served on active duty after May 7, 1975, in areas in which United States personnel were subjected to danger from armed conflict comparable to that occurring in battle with an enemy during a period of war (as determined by the Secretary of Veterans Affairs in consultation with the Secretary of Defense).

The final bill contains the Senate provision.

Reports by Secretary of Defense and Secretary of Veterans Affairs concerning services to treat post-traumatic stress disorder (sec. 335)

The House bill contained a provision (sec. 303(g)) that would require the Secretary of Defense and the Secretary of Veterans Affairs each to submit to the Congress two reports providing (1) an assessment of the need for rehabilitative services for members of the armed forces who participated in the Persian Gulf conflict who experience post-traumatic stress disorder (PTSD); (2) a description of the available programs and resources to meet those needs; (3) the specific plans of each Secretary for treatment of PTSD, particularly with respect to any specific needs of members of reserve components; (4) an assessment of needs for additional resources in order to carry our such plans; and (5) a description of plans to coordinate treatment services for PTSD with the other department. The first reports would be due not later than 90 days after enactment of this measure and the second, a year later.

The Senate amendment contained no provision.

The final bill contains the House provision.

Increase in Servicemen's Group Life Insurance and Veteran's Group Life Insurance maximums (sec. 336)

Subchapter III of chapter 19 of title 38 sets forth the Servicemen's Group Life Insurance (SGLI) and Veterans' Group Life Insurance (VGLI) programs. Under that subchapter, the Secretary of Veterans Affairs is authorized to purchase from commercial life insurance companies a policy or policies of group life insurance to insure against death any active-duty service member and certain members of the Ready Reserve and Retired Reserve. Eligible service members and reservists are automatically covered in the amount of $50,000 but may elect coverage of less than $50,000 or to not participate in the program at all. Premium payments for SGLI are deducted each month from the basic pay of service members and are calculated without regard to the extra hazards of active duty service. SGLI coverage is provided free of charge for 120 days following separation from active duty. After separation from active duty, veterans who participated in the SGLI program may participate in the Veterans' Group Life Insurance (VGLI) program.

VGLI provides five-year term group life insurance in amounts ranging from $5,000 to $50,000. A veteran may not obtain more insurance under VGLI than the veteran had under the SGLI program. At the end of the five-year term, the veteran has the right to obtain an individual life insurance policy at a standard rate from any company participating in the SGLI program.

The Senate amendment contained a provision (sec. 336) that would increase from $50,000 to $100,000 the maximum amount of Servicemen's Group Life Insurance (SGLI) and Veterans' Group Life Insurance (VGLI) and provide that, effective on the date of enactment, the amount of SGLI be increased to the amount equal to twice the amount provided for on the day before the enactment. The Secretary of Veterans Affairs, in consultation with the Service Secretaries, would be required to take such action as is necessary to ensure that each person affected by the increase in SGLI is notified of the increased insurance coverage and is afforded the opportunity to make an election, within 120 days after the date of enactment, not to be insured in the increased amount.

The House bill contained no similar provision.

The final bill contained the Senate provision.

Amounts of benefit payments under the chapter 30 program for active-duty servicemembers (sec. 337(a))

Section 1415 of title 38 establishes the amounts of monthly educational assistance under the chapter 30 Montgomery GI Bill (MGIB) program for active-duty service members as follows: (1) $300 for full-time study for those serving on active duty for three years or more, (2) $250 for full-time study for those serving two years on active duty, and (3) in both cases, appropriately reduced rates determined by VA for part-time study.

The House bill contained a provision (sec. 304(a)) that would increase the monthly chapter 30 payments for full-time study to (1) $400 for those serving on active duty for three years or more, and (2) $300 for those serving two years on active duty.

The Senate amendment contained a provision (sec. 366(a)) that would increase the monthly chapter 30 payments for full-time study to (1) $310 for those serving on active duty for three years or more, and (2) $259 for those serving two years on active duty.

The final bill contains a provision that would increase, in fiscal years 1992 and 1993, the monthly chapter 30 payments for full-time study to (1) $350 for those serving on active duty for three years or more, and (2) $275 for those serving two years on active duty. After fiscal year 1993, the Secretary of Veterans Affairs would have authority to continue the increased rates and to increase the rates to reflect increases in the cost of living.

Amounts of benefit payments under the chapter 106 program for reservists (sec. 337(b))

Section 2131 of title 10 establishes the amounts of monthly educational assistance under the chapter 106 MGIB program for individuals serving at least 6 years in the Selected Reserve as follows: (1) $140 for full-time study, (2) $105 for three-quarter-time study, and (3) $70 for half-time study.

The House bill contained a provision (sec. 304(b)) that would increase the amount of monthly chapter 106 payments to (1) $200 for full-time study, (2) $150 for three-quarter-time study, and (3) $100 for half-time study.

The Senate amendment contained a provision (sec. 366(b)) that would increase the amount of monthly chapter 106 payments, but only for reservists who are ordered to active duty during the Persian Gulf War, to (1) $145 for full-time study, (2) $108.75 for three-quarter-time study, and (3) $72.50 for half-time study.

The final bill contains a provision that would increase, in fiscal years 1992 and 1993, the amount of monthly chapter 106 payments to (1) $170 for full-time study, (2) $128 for three-quarter-time study, and (3) $85 for half-time study. After fiscal year 1993, the Secretary of Defense would have authority to continue the increased rates and to increase the rates to reflect increases in the cost of living.

Membership on educational benefits advisory committee (sec. 338)

Section 1792 of title 38 requires membership on the Veterans' Advisory Committtee on Education (VACE) to include veterans representative of World War II, the Korean conflict era, the post-Korean conflict era, the Vietnam era, and the post-Vietnam era.

The Senate amendment contained a provision (sec. 370) that would add veterans of the Persian Gulf War to those who must be represented in the membership of the VACE.

The House bill contined no similar provision.

The final bill contains the Senate provision.

Reasonable accommodations for disabled veterans (sec. 339)

Section 2021 of title 38 provides that, in the case of a person who is eligible for reemployment rights under chapter 43 of title 38, who has applied for reemployment under the provisions of that chapter, and who is no longer qualified to perform the duties of his or her previous position by reason of a disability sustained during reserve training or active-duty service, he or she shall be offered any other position in the employ of the employer for which he or she is qualified and which will provide like seniority, status, and pay, or the nearest approximation, of the previous position.

The Senate amendment contained a provision (sec. 373) that would require an employer to make reasonable accommodations to requalify an individual to perform the duties of his or her previous position. For the purposes of this provision, the term "reasonable accommodation" would have the meaning provided in section 101(9) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111(9)).

The House bill contained no similar provision.

The final bill contains the Senate provision amended to clarify that (1) an employer would not be required to make accommodations if the employer can demonstrate that the accommodation would impose an undue hardship on the operation of the employer's business, and (2) exclude certain small employers from this requirement. Until July 26, 1994, the requirement would apply to employers who have 25 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding year. After that date, the requirement would apply to those who have 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

Retraining of former employees (sec. 340)

Section 2021 of title 38 (in conjunction with section 2024) generally requires an employer to restore to employment a person who leaves employment for active-duty service, active duty for training, or inactive-duty training, and who applies for reemployment within a prescribed period after release from service if that person is still qualified to perform the duties of the position.

The Senate amendment contained a provision (sec. 372) that would require that an employer make reasonable efforts to requalify the individual to perform the duties of his or her previous position.

The House bill contained no similar provision.

The final bill contains the Senate provision.

Entitlement for VA-guaranteed loans (sec. 341)

Under section 1802(a) of title 38, basic entitlement for VA home loan benefits is authorized for (a) veterans who served on active duty at any time during World War II, the Korean conflict, or the Vietnam era and whose total service was for 90 days or more, and (b) veterans of only peacetime service who served at least 181 days on active duty. Generally with respect to those who enter active duty service after September 7, 1980, section 3103A of title 38 imposes a minimum service requirement under which title 38 benefits are available only to those who serve at least two years on active duty, or the full period for which they were ordered to active duty, or who were discharged early by reason of hardship or service-connected disability or in certain other circumstances.

The House bill contained a provision (sec. 308) that would extend eligibility for home loan benefits to Persian Gulf War veterans whose total service is for 90 days or more.

The Senate amendment contained a provision (sec. 371) that would extend home loan eligibility to Persian Gulf War veterans whose total service is for 90 days or more and who also meet the minimum service requirements of section 3103A of title 38 (primarily reservists whose period of activation is between 89 and 180 days).

The final bill contains the Senate provision.

Legislative Provisions Not Adopted

Dependency and indemnity compensation

Under chapter 13 of title 38, dependency and indemnity compensation (DIG) is paid to the surviving spouse and children of a veteran who dies of service-connected causes. The rate of DIG, set forth in section 411 of title 38, is based on the decreased veteran's rank when the veteran was in the military.

The House bill contained a provision (sec. 302) that would (1) revise the basis on which DIG is paid so as to base the rates on the age of the veteran at the time of the veteran's death, with the amount paid decreasing with the veteran's age, and (2) in three increments, on October 1 of 1992, 1993, and 1994, increase from $68 to $200 the amount paid to a surviving spouse or each dependent child.

The Senate amendment contained no similar provision.

The final bill does not contain the House provision.

Authority to contract for inpatient care unavailable at VA facilities because of emergency care requirement

During a period in which the Secretary of Veterans Affairs is furnishing medical care and services to members of the armed forces to meet emergency requirements, section 5011A(b)(2)(B) of title 38 authorizes the Secretary to contract with private facilities for the provision of hospital care for a veteran who is receiving VA hospital care, or is eligible for VA hospital care and requires care in a medical emergency posing a serious threat to the veteran's life and health, if VA facilities are not capable of furnishing the care the veteran requires because they are furnishing care to members of the armed forces.

The House bill contained a provision (sec. 303(a)) that would authorize the Secretary to contract with private facilities for hospital care for all veterans entitled to hospital care under section 610(a)(1) of title 38 (known as "Category A" veterans).

The Senate amendment contained no similar provision.

The final bill does not contain the House provision.

Improved educational assistance for members of the Selected Reserve who serve on active duty during the Persian Gulf War

Section 2131 of title 10 establishes the amounts of monthly educational assistance under the chapter 106 MGIB program as follows: (1) $140 for full-time study, (2) $105 for three-quarter-time study, and (3) $70 for half-time study.

The House bill contained a provision (sec. 304(b)) that would increase the amount of monthly chapter 106 payments to (1) $200 for full-time study, (2) $150 for three-quarter-time study, and (3) $100 for half-time study. This provision would apply to all reservists training under the chapter 106 program.

The Senate amendment contained a provision (sec. 367) that would provide for payment to each member of the Selected Reserve who serves on active duty during the Persian Gulf War and who is entitled to chapter 106 benefits a monthly educational assistance allowance in the amount of (1) $270 for each month of active-duty service for full-time study, (2) $202.50 for each month of service for three-quarter-time study, (3) and $135 for each month of service for half-time study.

The final bill does not contain the House or Senate provision.

Eligibility of requirements for MGIB benefits for members of the selected reserve

Section 2132(a) of title 10 provides eligibility for chapter 106 educational assistance benefits to those (1) who enlist, reenlist, or extend an enlistment in the Selected Reserve for at least six years; and (2) who, before completing initial active duty for training, have completed the requirements of a secondary school diploma.

The House bill contained a provision (sec. 305(a)) that would extend chapter 106 eligibility to members of the Selected Reserve, without regard to the length of their enlistments, if they were called or ordered to active duty in connection with the Persian Gulf War and released from active duty upon completion of the period of service required by their call or order to active duty.

The Senate amendment contained no similar provision.

The final bill does not contain the House provision.

Chapter 30 program for active-duty service members

Under section 1413 of title 38, active-duty MGIB participants who complete the basic service requirements are entitled to 36 months of full-time educational assistance (or the equivalent in part-time assistance). Section 1795 limits to 48 months the aggregate period for which any person may receive assistance under two or more VA-administered programs.

The House bill contained a provision (sec. 306(a)) that would provide that, in the case of a reservist or service member who, as a result of having to discontinue the pursuit of a course because of orders issued for duty in connection with the Persian Gulf War, failed to receive credit or training time toward completion of an approved educational, professional, or vocational objective, the payment of chapter 30 benefits for the interrupted semester or other term would not be charged against the entitlement of the individual or counted toward the aggregate period for which the individual may receive assistance.

The Senate amendment contained a similar provision (sec. 369(a)).

The final bill does not contain the House or Senate provision.

Chapter 32 educational assistance program

Section 1631 of title 38 provides that individuals who are eligible for the Post-Vietnam Era Veterans' Educational Assistance Program (VEAP) under chapter 32 are entitled to 36 months of full-time educational assistance (or the equivalent in part-time assistance). Section 1795 limits to 48 months the aggregate period for which any person may receive assistance under two or more VA-administered programs.

Section 1622 provides that funds contributed by a participant or the Secretary of Defense to this educational benefits program with respect to the participant are to be deposited into a fund referred to as the Post-Vietnam Era Veterans Education Account (VEAP Account).

The House bill contained a provision (section 306(b)) that would provide, in the case of a reservist or service member who, as a result of having to discontinue the pursuit of a course because of orders issued in connection with the Persian Gulf War, failed to receive credit or training time toward completion of an approved educational, professional, or vocational objective, that (1) the payment of VEAP benefits for the interrupted semester or other term would not be charged against the entitlement of the individual or counted toward the aggregate period for which the individual may receive assistance; and (2) the amount in the VEAP Account for that individual would be restored to the amount that would have been in the fund for him or her if the payment had not been made.

The Senate amendment contained a similar provision (sec. 369(b)).

The final bill does not contain the House or Senate provision.

Chapter 35 educational assistance program

Section 1711 of title 38 provides that individuals who are eligible for the Survivors' and Dependents' Educational Assistance Program under chapter 35 are entitled to 45 months of full-time educational assistance (or the equivalent in part-time assistance). Section 1795 limits to 48 months the aggregate period for which any person may receive assistance under two or more VA-administered programs.

The House bill contained a provision (sec. 306(c)) that would provide that, in the case of a reservist who, as a result of having to discontinue the pursuit of a course because of being called to active duty in connection with the Persian Gulf War, failed to receive credit or training time toward completion of an approved educational, professional, or vocational objective, the payment of chapter 35 benefits for the interrupted semester or other term would not be charged against the entitlement of the individual or counted toward the aggregate period for which the individual may receive assistance.

The Senate amendment contained a similar provision (sec. 369(c)).

The final bill does not contain the House or Senate provision.

Chapter 106 program for reservists

Section 2131 of title 10 (a) provides that individuals who are eligible for the chapter 106 MGIB program for members of the Selected Reserve are entitled to 36 months of full-time educational assistance (or the equivalent in part-time assistance), and (b) by reference to section 1795 of title 38, limits to 48 months the aggregate period for which any person may receive assistance under two or more VA-administered programs.

The House bill contained a provision (sec. 306(d)) that would provide that, in the case of a reservist who, as a result of having to discontinue the pursuit of a course because of being called to active duty in connection with the Persian Gulf War, failed to receive credit or training time toward completion of an approved educational, professional, or vocational objective, the payment of chapter 106 benefits for the interrupted semester or other term would not be charged against the entitlement of the individual or counted toward the aggregate period for which the individual may receive assistance.

The Senate amendment contained a similar provision (sec. 369(d)).

The final bill does not contain the House or Senate provision.

Extension of delimiting date for educational assistance entitlement

Section 2133 of title 10 provides that an individual's entitlement to the chapter 106 program of educational assistance for members of the Selected Reserve expires (1) at the end of the 10-year period beginning on the date of entitlement, or (2) on the date the person is separated from the Selected Reserve, whichever occurs first.

The House bill contained a provision (sec. 307) that would provide that any period of active duty served by a reservist in connection with the Persian Gulf War would not be considered as either a part of the 10-year eligibility period or a separation from the Selected Reserve for eligibility purposes.

The Senate amendment contained a similar provision (sec. 368).

The final bill does not contain the House or Senate provision.

Direct loan benefits

Under section 1811 of title 10, the Secretary of Veterans Affairs is authorized to make direct loans to veterans living in areas where housing credit is not generally available to veterans for financing home loans which may be guaranteed under the VA home loan guaranty program.

The House bill contained a provision (sec. 309) that would authorize the Secretary to make direct loans under section 1811 to certain reservists who have been unable to obtain home loans from private lenders at an interest rate not in excess of the rate authorized for VA-guaranteed loans. Eligible reservists would include those who are creditworthy and either (1) are denied credit because of the possibility of their being activated in connection with a war or action potentially involving the use of military force, or (2) were activated in connection with a war or such an action and served at least 90 days on active duty.

The Senate amendment contained no similar provision.

The final bill does not contain the House provision.

Burial and funeral expenses

Section 902 of title 38 authorizes VA to pay up to $300 for the funeral and burial expenses of (1) veterans who were receiving compensation or pension when they died, and (2) veterans who had wartime service or were discharged for injuries incurred in the line of duty if there is no next of kin claiming the body and there are insufficient resources to cover the burial and funeral expenses. Pursuant to section 904 of title 38, a claim for such expenses must be filed within a two-year period following the death of a veteran.

Senate amendment contained a provision (sec. 365) that would amend section 904 of title 38 to provide that applications for burial and funeral expenses for Persian Gulf War veterans who died prior to the date of enactment of this measure could be filed within the two-year period following the date of enactment.

The House bill contained no similar provision.

The final bill does not contain the Senate provision.

Reemployment of retirees

Section 108 of the Federal Employees Pay Comparability Act of 1990 (Public Law 101-509) amended sections 8344 and 8468 of title 5, United States Code, to permit the Director of the Office of Personnel Management, at the request of the head of an Executive branch agency, to waive the provisions of section 8344 and 8468 of title 5, pertaining to the reduction of retirement annuities for reemployment retirees, on a case-by-case basis in emergency situations involving a direct threat to life or property or other unusual circumstances.

The Senate bill contained a provision (sec. 374) that would (a) permit the Secretary of Veterans Affairs to waive the requirements in sections 8344 and 8468 of title 5 of reductions in annuity payments to reemployed retirees in cases in which the Secretary determines that the granting of waivers is necessary to recruit sufficient healthcare specialists (1) to replace VA health-care specialists who have been ordered to active duty during the Persian Gulf War, or (2) to enable VA to respond to the health-care needs of military personnel (pursuant to section 5011A of title 38) during the Persian Gulf War; (b) permit any such waiver to extend for the duration of the Persian Gulf War and a period of not more than two years after the termination of the war; and (c) provide that any such waiver would take place upon receipt by the Director of the Office of Personnel Management of a written notice from the Secretary. For the purpose of this provision, the term "healthcare specialist" is defined as including a physician, dentist, podiatrist, optometrist, nurse, physician assistant, expended function dental auxiliary, medical technician, or other medical support personnel.

The House bill contained no similar provision.

The final bill does not contain the Senate provision.

Part D—Federal Employment Benefits

Federal civilian employee leave provisions (sec. 361)

The Senate amendment contained a provision (sec. 332) that would require the Office of Personnel Management to establish a leave bank program which would allow a federal employee to allocate any unused annual leave to the bank for the purposes of allowing federal civilians who are activated for service in connection with the Persian Gulf War to draw leave from such a bank upon their return to civilian employment.

The House bill contained no similar provision.

The final bill contains the Senate provision.

Part E—Higher Education Assistance

The Senate amendment contained provisions (secs. 341, 342, 343, 344, 345, and 346) that would provide for the waiver of certain government loan requirements and other educational assistance requirements for military personnel serving on active duty in connection with Operation Desert Storm.

The House bill contained no similar provisions.

The final bill contains the Senate provisions.

Part F—Programs for Farmers and Ranchers

The Senate amendment contained provisions that would provide certain farm loans, base protection, minimum planting requirement, conservation requirement, and other waivers for farmers or ranchers activated for or who have served in the Persian Gulf War.

The House bill contained no similar provision.

The final bill contains provisions similar to the Senate provisions.

Part G—Budget Treatment

The House bill contained a provision (sec. 503) which would authorize appropriations from the Defense Cooperation Account for the personnel benefits in the bill.

The Senate amendment contained a similar provision (sec. 381).

The final bill contains three provisions (secs. 391-93) which would provide the funding for the personnel benefits and related matters in title III of the bill.

Section 391(a) states that in addition to the authorization of appropriations from the Defense Cooperation Account in titles I and II of the bill, $655 million is authorized to be appropriated from that Account. The $655 million would be available only for the payment of benefits authorized by title III (i.e., new benefits established by title III or increases or enhancements in existing benefits).

The bill makes it clear that not more than $255 million in appropriations would be available for the veterans benefits authorized in Part C of title III. The bill also makes it clear that funds appropriated from the Defense Cooperation Account are available for payment of Montgomery GI Bill rate increases only for fiscal years 1992 and 1993. After fiscal year 1993, any Montgomery GI Bill rate increases made under the authority of Part C could not be funded from the Defense Cooperation Account. Section 391 also makes it clear that the health benefits provided under section 334 are excluded from this funding mechanism, and may not be funded from the Defense Cooperation Account.

Section 391(b) authorizes funds from the Defense Cooperation Account to be appropriated for the long-term costs of the benefits in title III (i.e., costs accruing after fiscal year 1995). This does not include the costs of the Montgomery GI Bill rate increases and the health benefits provided in section 334. Funds would be available from the Defense Cooperation Account under this provision for long-term costs only from the amounts remaining in the Defense Cooperation Account on October 1, 1992 (minus any funds appropriated pursuant to other authorizations in this Act).

Section 391(c) provides that the costs of the benefits authorized by title III for fiscal years 1991 through 1995 are incremental costs associated with Operation Desert Storm. This does not include Montgomery GI Bill rate increases after fiscal year 1993, nor does it include the health benefits provided in section 334.

Section 392 makes it clear that all benefits authorized by title III are discretionary for budgetary purposes. No entitlement or eligibility arises with respect to any benefit in title III unless an appropriations Act appropriates funds for such benefits (with two exceptions discussed below). As a general matter, personnel benefits are established through legislation as entitlements, and eligibility is not contingent upon enactment of an appropriation Act. However, because the benefits in title III are funded through the unique mechanism of the Defense Cooperation Account, which requires both an authorization and an appropriation, the entitlement and eligibility for the benefits in title III are subject to an appropriation. Section 392 provides that the requirement for an appropriation does not apply to the Montgomery GI Bill rate increases after fiscal year 1993 and the health benefits provided in section 334; this is because such benefits are discretionary with the VA and will not be funded through the Defense Cooperation Account.

Section 393 defines the term "Montgomery GI Bill rate increases." It also provides a rule of construction, stating that the benefits referred to in sections 391 and 392 are those involving a new payment or benefit provided by title III or any increase in payments or benefits previously provided by law. This makes it clear that the authorization to fund benefits and payments from the Defense Cooperation Account under this title does not apply to benefits authorized by laws in effect on the date of enactment.

TITLE IV—REPORTS ON FOREIGN CONTRIBUTIONS AND THE COSTS OF OPERATION DESERT STORM

The House bill contained a provision (sec. 107) that would incorporate by reference the provisions of H.R. 586, which passed the House of Representatives on February 21, 1991. H.R. 586 would require the Director of the Office of Management and Budget to submit monthly reports on the costs of U.S. military operations connected with the war in the Persian Gulf. The costs would be displayed in eight different categories: airlift, sealift, personnel costs, personnel support, operating support, fuel, procurement, and military construction.

H.R. 586 would also require monthly reports on allied pledges and contributions of support, either cash or in-kind, to offset the costs of U.S. military operations.

H.R. 586 would also require reports on related burdensharing not directly involving the United States. The Secretary of State and the Secretary of Treasury would be required to report on participation in the military coalition as well as on assistance (financial, in-kind, or host country support) to frontline states, other states, and international organizations.

Title IV of the Senate amendment contained similar provisions.

The final bill contains the House provision with technical changes.

TITLE V—REPORT ON THE CONDUCT OF THE PERSIAN GULF CONFLICT

The Senate amendment contained a provision (sec. 501) that would require the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff and the Commander in Chief, United States Central Command, to submit a report on the conduct of the Persian Gulf War to the congressional defense committees not later than 180 days after the cessation of hostilities.

The House bill contained no similar provision.

The final bill contains the Senate provision amended to require the report by January 1, 1992, with a preliminary report no later than July 1, 1991. In those instances in the preliminary report in which a discussion is not possible by July 1, 1991, the Secretary is requested to explain why such a discussion is not possible.

TITLE VI—GENERAL PROVISIONS

Legislative Provisions Adopted

Child care assistance (sec. 601)

The Senate amendment contained a provision (sec. 321) that would provide that of the funds authorized to be appropriated to the Department of Defense from the Defense Cooperation Account for fiscal year 1991, $20 million would be available to provide for child care assistance to military personnel serving on active duty. The assistance authorized by this section would be directed primarily toward providing needed child care services for children of military personnel who are serving in the Persian Gulf area or who have been otherwise deployed, assigned or ordered to active duty in connection with Operation Desert Storm.

The House bill contained no similar provision.

The final bill contains the Senate provision.

Family education and support services (sec. 602)

The Senate amendment contained a provision (sec. 322) that would provide that of the funds authorized to be appropriated to the Department of Defense from the Defense Cooperation Account for fiscal year 1991, $30 million would be available to provide education and family support services to families of military personnel serving on active duty in order to ensure that such families can deal with needs arising out of the Persian Gulf War. This section would allow the Secretary to provide such assistance directly to families or military personnel or through grants, contracts, or other forms of assistance to private or public entities.

The House bill contained no similar provision.

The final bill contains the Senate provision.

Land conveyance, Fort A. P. Hill Military Reservation, Virginia, (sec. 603)

The House bill contained a provision (sec. 501) that would direct the Secretary of the Army to convey to either Caroline County, Virginia, or the Commonwealth of Virginia, approximately 150 acres of land for the purpose of establishing a regional prison.

The Senate amendment contained no similar provision.

The final act contains the House provision with minor technical corrections.

Grassroots efforts to support our troops (sec. 604)

The House bill contained a provision (sec. 502) that would indicate that Congress supports and endorses national, state and local grassroots efforts to support our servicemen and women who participated in Operation Desert Storm, and their families here at home; encourages Federal, state and local governments and private businesses and industry to organize task forces to provide support for the families of servicemen and women deployed in the Persian Gulf region and to organize celebrations for the servicemen and women upon their arrival home; and encourages those grassroots government, business, and industry efforts to include Vietnam veteran organizations in all activities conducted for the benefit of the troops returning from Operation Desert Storm.

The Senate amendment contained no similar provision.

The final bill contains the House provision.

Extension of time for filing for persons serving in combat zone (sec. 605)

Under the Ethics in Government Act of 1978, certain senior officials are required to file financial disclosure statements by May 15 of each year, and within 30 days of leaving their positions. The Act permits extensions of up to 90 days. The Department of Defense has requested legislation to permit an additional extension for persons serving in a combat zone, similar to the authorized extension of time for filing a tax return.

Section 605 of the final bill authorizes a person serving in a combat zone to obtain an extension of 180 days after the later of: (1) the last day of service in an area designated by the President as a combat zone for purposes of the Internal Revenue Code; or (2) the last day of hospitalization as a result of an injury received or disease contracted while serving in such an area.

Kuwait reconstruction (sec. 606)

The House bill contained three provisions (secs. 504–506) that would express the sense of Congress regarding the award of contracts to rebuild Kuwait. One provision would express preference for U.S. firms employing American workers; another for firms employing veterans; and a third that contracts and subcontracts should be awarded to small and minority-owned firms. The President would be required to submit periodic reports to the Congress on the operation of these provisions.

The Senate amendment contained no similar provisions.

The final bill contains these preferences but consolidates them into one provision.

Use of U.S. funds to rebuild Iraq (sec. 607)

The Senate amendment contained a provision (sec. 801) that would express the sense of the Senate that none of the funds appropriated or otherwise made available by any provision of law may be obligated or expended, directly or indirectly, for the purpose of rebuilding Iraq while Saddam Hussein remains in power in Iraq.

The House bill contained no similar provision.

The final bill contains a provision expressing the sense of the Congress that none of the funds appropriated or otherwise made available by any provision of law may be obligated or expended, directly or indirectly, for the purpose of rebuilding Iraq while Saddam Hussein remains in power in Iraq.

Withholding of payments to indirect-hire civilian personnel of nonpaying pledging nations (sec. 608)

The House bill contained a provision (sec. 109) that would require the Secretary of Defense to withhold payments to any nonpaying pledging nation that would otherwise be paid as reimbursements for expenses of indirect-hire civilian personnel of the Defense Department in that nation at the end of the six month period following the date of enactment of this act. The term "nonpaying pledging nation" means a foreign country that has pledged to the United States that it will make contributions to assist the United States in defraying the incremental costs of Operation Desert Shield and which has not paid to the United States the full amount so pledged.

The Senate amendment contained no similar provision.

The final bill contains the House provision amended to give the Secretary of Defense the authority to waive the requirement to withhold payment for expenses of indirect-hire civilian personnel of the Department of Defense in any nonpaying pledging nation if the Secretary certifies that it is in the national security interest of the United States.

Relief from requirements for reductions in defense acquisition workforce during fiscal year 1991 (sec. 609)

Section 905 of the National Defense Authorization Act for Fiscal Year 1991 mandated a 20 percent reduction in acquisition personnel, to be achieved by annual 4 percent reductions from fiscal year 1991 through fiscal year 1995. The House bill contained a provision (sec. 507) that would exempt from the fiscal year 1991 reductions any installation which experienced an increase of 4 percent or more in its workload as a result of Operation Desert Storm.

The Senate amendment contained no similar provision.

The final bill contains a provision stating that the Secretary should use the flexibility provided in last year's legislation to ensure that any installation or facility that experiences a significant increase in workload resulting from Operation Desert Storm should not be required to make a defense acquisition workforce reduction during fiscal year 1991 that would adversely affect the ability of that installation to perform its mission.

Legislative Provision Not Adopted

Cost estimate

The House bill contained a provision (Sec. 3) which contained specific estimates of outlays in the bill for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

The Senate amendment contained no similar provision.

The final bill does not contain the House provision.

TITLE VII—MISCELLANEOUS TECHNICAL AMENDMENTS

The Senate amendment contained provisions (title VI) that would correct provisions in the National Defense Authorization Act for Fiscal Year 1991 and related provisions of law.

The House bill contained no similar provisions.

The final bill contains the Senate provisions with a clarifying amendment.

TITLE VIII—AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS FOR DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS FOR FISCAL YEAR 1991

Authorization of supplemental appropriations for operating expenses (sec. 801)

The House bill contained a provision (sec. 401) that would authorize $283 million for operating expenses at the Rocky Flats plant in Golden, Colorado.

The Senate amendment contained no similar provision.

The final bill contains the House provision.

Authorization of supplemental appropriations for environmental restoration and waste management (sec. 802)

The House bill contained a provision (sec. 402) that would authorize $340 million for environmental restoration and waste management to accelerate certain high priority environmental compliance and cleanup activities, and to implement new state agreements.

The Senate amendment contained no similar provision.

The final bill contains the House provision with technical amendments.

Applicability of recurring general provisions (sec. 803)

The House bill contained a provision (sec. 403) that would provide that general provisions contained in part B of title 31 of the National Defense Authorization Act for Fiscal Year 1991 shall apply to this act.

The Senate amendment contained no similar provision.

The final bill contains the House provision with technical amendments.

Relocation of Rocky Flats Plant operations (sec. 804)

The House bill contained a provision (sec. 404) that would direct the Secretary of Energy to establish a program to relocate, within 10 years, operations performed at Rocky Flats to a site or sites where public health and safety can be assured. The Secretary of Energy would be required to submit to Congress, within 60 days, a report describing the program for relocation.

The Senate amendment contained no similar provision.

The final bill contains the House provision.

The program and report required by section 804 should be in addition to the ongoing complex-wide review that is set forth in the Department of Energy Nuclear Weapons Complex Reconfiguration Study. The program and plan should focus on accelerating the relocation of the Rocky Flats facility, including early partial relocation of segments of the operations currently conducted at the facility. The report should include the program milestones and schedule needed to identify a suitable site or sites, complete construction, and transfer operations to a new facility within a ten-year period. In addition, the program should address workforce management during the transition of work away from Rocky Flats, and assistance for Department of Energy and contractor employees and affected communities during the transition.

Mr. NUNN. Mr. President, with the permission of the leaders, I will propound a unanimous-consent request that I understand has been cleared on both sides.

PERSIAN GULF CONFLICT SUPPLEMENTAL AUTHORIZATION AND PERSONNEL BENEFITS ACT OF 1991

Mr. NUNN. On behalf of the two leaders, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 725, the Persian Gulf authorization and personnel benefits bill, introduced today by Senators MITCHELL, DOLE, NUNN, WARNER, GLENN, and MCCAIN.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 725) entitled "Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991".

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. WARNER. Mr. President, the bill is cleared on this side. The Senator from Virginia will await enactment before making his statement.

Mr. DOLE. Mr. President, I am pleased to join my colleagues in supporting this important legislation.

As we know, the bill before us accomplishes two purposes.

First, it authorizes the funds necessary to pay for the defense related costs of Operations Desert Shield and Desert Storm.

And second, it provides a package of benefits for those who served in the Persian Gulf.

All major differences between the House and the Senate were resolved in conference committee, and the bill before us today is very similar to the legislation which was passed by this body last week.

The total price tag for this legislation has increased from $500 million to $655 million—an amount which OMB assures can be covered by the contributions made by our allies to the defense cooperation account.

As I said last week, Mr. President, in the final analysis, no price tag can be put on the debt we owe to the men and women who put their lives on the line in the Persian Gulf.

Through provisions such as authorizing double indemnity life insurance for those killed in Desert Shield and Desert Storm, as well as for the courageous American soldiers brutally killed late last year in El Salvador, we will ensure that the families of those who gave their life do not have to face hardships because of their sacrifice.

And by increasing the education benefits in the Montgomery GI bill, we will help our soldiers in the transition from the best trained military force in the world to the best trained workforce in the world.

Mr. President, the troops of Operations Desert Shield and Desert Storm were there when America needed them. By passing this bill, we will ensure that they and their families receive the benefits they so richly deserve.

Mr. THURMOND. Mr. President, on March 12, just 9 days ago, I spoke before this body in strong support of the Desert Storm Supplemental Authorization Act. At that time, I challenged the Congress to act swiftly on the legislation and demonstrate its support to our men and women who delivered us to victory over Saddam Hussein's forces. Mr. President, I am delighted to see that the Congress met my challenge.

The Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 that we are considering is the culmination of a great cooperative effort, reminiscent of the coalition that fought in the Persian Gulf. It took the cooperation of both Republicans and Democrats, several committees and the leadership of both Chambers to craft what is a comprehensive bill to pay for the cost of Desert Storm and provide the benefits for our current force and for veterans benefits as this force ages.

Mr. President, I strongly support the waiver of the personnel ceiling for fiscal year 1991. After a virtually flawless performance on the battlefield, it would be nothing short of a tragedy to force out thousands of servicemen and women immediately after their return from the battlefield. We should all remember that our fighting forces are composed of volunteers who view the military as a career. They are not the draftees of World War II who were eager to resume their civilian lives.

Mr. President, this legislation addresses many of the difficulties that surfaced during the call up of our reserve component forces. I am especially pleased that the bill provides for medical specialty pay for activated medical personnel who in my judgment have been disproportionately impacted by the call up.

The bill also provides support for military families who were left behind by increasing family separation pay, deferring the increase in CHAMPUS deductible and cuts in CHAMPUS mental health care. The bill also provides $50 million for child care assistance and family education and support services. This funding is especially critical for the families of reserve component soldiers who do not have the support structure found in the active component community.

Mr. President, this is a comprehensive and fair legislative package to assist our service members and their families. It deserves our unanimous backing. I urge my colleagues to support it.

Mr. President, before I close I want to recognize Senator MITCHELL, the majority leader, Senator DOLE, the minority leader, Senator NUNN, the chairman of the Armed Services Committee and Senator WARNER, the ranking member, for their good work in putting together this piece of legislation. They have done a superb job and deserve our gratitude.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

S. 725

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991".

SEC. 2. TABLE OF CONTENTS

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Definitions.
Sec. 4. Construction with Public Law 101-510.

TITLE I—AUTHORIZATION OF FISCAL YEAR 1991 SUPPLEMENTAL APPROPRIATIONS FOR OPERATION DESERT STORM

Sec. 101. Funds in the Defense Cooperation Account.
Sec. 102. Persian Gulf Conflict Working Capital Account.
Sec. 103. Additional transfer authority.
Sec. 104. Administration of transfers.
Sec. 105. Notice to Congress of transfers.
Sec. 106. Monthly reports on transfers.

TITLE II—WAIVER OF PERSONNEL CEILINGS AFFECTED BY OPERATION DESERT STORM

Sec. 201. Authority to waive end strength and grade strength laws.
Sec. 202. Certification.
Sec. 203. Authorization from Defense Cooperation Account.
Sec. 204. Conforming repeal.
Sec. 205. Relationship to other laws.

TITLE III—BENEFITS FOR PERSONS SERVING IN ARMED FORCES DURING THE PERSIAN GULF CONFLICT

Part A—Military Compensation and Benefits

Sec. 301. Temporary increase in the rate of special pay for duty subject to hostile fire or imminent danger.
Sec. 302. Temporary increase in family separation allowance.
Sec. 303. Determination of variable housing allowance for Reserves.
Sec. 304. Medical, dental, and nonphysician special pays for reserve, recalled, or retained health care officers.
Sec. 305. Waiver of board certification requirements.
Sec. 306. Foreign language proficiency pay.
Sec. 307. Temporary increase in amount of death gratuity.
Sec. 308. Death gratuity for participants who died before the date of enactment.
Sec. 309. Treatment of accrued leave of members who die while on active duty.
Sec. 310. Removal of limitation on the accrual of savings of members in a missing status.
Sec. 310A. Basic allowance for quarters for certain members of reserve components without dependents.

Part B—Military Personnel Policies and Programs

Sec. 311. Grade of recalled retired members.
Sec. 312. Temporary CHAMPUS provisions regarding deductibles and copayment requirements.
Sec. 313. Transitional health care.
Sec. 314. Extension of certain Persian Gulf conflict provisions.
Sec. 315. Study of Department of Defense policies relating to deployment of military servicemembers with dependents or servicemembers from families with more than one servicemember.
Sec. 316. Adjustment in the effective date of changes in mental health benefits as a result of Operation Desert Storm.
Sec. 317. Sense of the House of Representatives on the separation of certain members from their infant children.

Part C—Veterans Benefits and Programs

Sec. 331. Short title.
Sec. 332. Inclusion of Persian Gulf War within definition of "period of war" for purposes of veterans benefits.
Sec. 333. Pension eligibility for Persian Gulf War veterans and surviving spouses of Persian Gulf War veterans.
Sec. 334. Health benefits.
Sec. 335. Reports by Secretary of Defense and Secretary of Veterans Affairs concerning services to treat post-traumatic stress disorder.
Sec. 336. Life insurance benefits.
Sec. 337. Increase in the amount of Montgomery GI bill educational assistance payments.
Sec. 338. Membership on Educational Benefits Advisory Committee for Persian Gulf War veteran.

Sec. 339. Improved reemployment rights for disabled veterans.
Sec. 340. Requalification of former employees.
Sec. 341. Eligibility for housing benefits.

Part D—Federal Employee Benefits

Sec. 361. Leave bank for Federal civilian employees in reserves who were activated during Persian Gulf War.

Part E—Higher Education Assistance

Sec. 371. Short title.
Sec. 372. Operation Desert Storm waiver authority.
Sec. 373. Tuition refunds or credits.
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Sec. 381. Definitions.
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Sec. 388. Outreach projects.

Part G—Budget Treatment

Sec. 391. Authorization of appropriations from Defense Cooperation Account.
Sec. 392. Benefits contingent upon appropriations from Defense Cooperation Account.
Sec. 393. Definition; construction of sections 391 and 392.

TITLE IV—REPORTS ON FOREIGN CONTRIBUTIONS AND THE COSTS OF OPERATION DESERT STORM

Sec. 401. Reports on United States costs in the Persian Gulf conflict and foreign contributions to offset such costs.
Sec. 402. Reports on foreign contributions in response to the Persian Gulf crisis.
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TITLE V—REPORT ON THE CONDUCT OF THE PERSIAN GULF CONFLICT

Sec. 501. Department of Defense report on the conduct of the Persian Gulf conflict.

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TITLE VII—MISCELLANEOUS TECHNICAL AMENDMENTS

Sec. 701. Amendments to title 10, United States Code.
Sec. 702. Amendments to title 37, United States Code.
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TITLE VIII—AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS FOR DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS FOR FISCAL YEAR 1991

Sec. 801. Authorization of supplemental appropriations for operating expenses.
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Sec. 803. Applicability of recurring general provisions.
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SEC. 3. DEFINITIONS

For the purposes of this Act:

(1) The term "Operation Desert Storm" means operations of United States Armed Forces conducted as a consequence of the invasion of Kuwait by Iraq (including operations known as Operation Desert Shield and Operation Desert Storm).

(2) The term "incremental costs associated with Operation Desert Storm" means costs referred to in section 251(b)(2)(D)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(D)(ii)).

(3) The term "Persian Gulf conflict" means the period beginning on August 2, 1990, and ending thereafter on the date prescribed by Presidential proclamation or by law.

(4) The term "congressional defense committees" has the meaning given that term in section 3 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1498).

SEC. 4. CONSTRUCTION WITH PUBLIC LAW 101-510

Any authorization of appropriations, or authorization of the transfer of authorizations of appropriations, made by this Act is in addition to the authorization of appropriations, or the authority to make transfers, provided in the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510).

TITLE I—AUTHORIZATION OF FISCAL YEAR 1991 SUPPLEMENTAL APPROPRIATIONS FOR OPERATION DESERT STORM

SEC. 101. FUNDS IN THE DEFENSE COOPERATION ACCOUNT

(a) AUTHORIZATION OF APPROPRIATION.—During fiscal year 1991, there is authorized to be appropriated to the Department of Defense current and future balances in the Defense Cooperation Account established under section 2608 of title 10, United States Code.

(b) USE OF FUNDS.—Amounts appropriated pursuant to subsection (a) shall be available only for—

(1) transfer by the Secretary of Defense to fiscal year 1991 appropriation accounts of the Department of Defense or Coast Guard for incremental costs associated with Operation Desert Storm; and

(2) replenishment of the working capital account created under section 102.

SEC. 102. PERSIAN GULF CONFLICT WORKING CAPITAL ACCOUNT

(a) ESTABLISHMENT OF ACCOUNT.—There is established in the Treasury of the United States a working capital account for the Department of Defense to be known as the "Persian Gulf Conflict Working Capital Account".

(b) AUTHORIZATION OF APPROPRIATIONS.—During fiscal year 1991, there is authorized to be appropriated to the Persian Gulf Conflict Working Capital Account the sum of $15,000,000,000.

(c) USE OF FUNDS.—Funds appropriated pursuant to subsection (b) shall be available only for transfer by the Secretary of Defense to fiscal year 1991 appropriation accounts of the Department of Defense or Coast Guard for the incremental costs associated with Operation Desert Storm. Such funds may be used for that purpose only to the extent that funds are not available in the Defense Cooperation Account for transfer for such incremental costs.

(d) REPLENISHMENT OF ACCOUNT.—Amounts transferred from the Persian Gulf Conflict Working Capital Account shall be replenished from funds available in the Defense Cooperation Account to the extent that funds are available in the Defense Cooperation Account. Whenever the balance in the working capital account is less than the amount appropriated to that account pursuant to this section, the Secretary shall transfer from the Defense Cooperation Account such funds as become available to the account to replenish the working capital account before making any transfer of such funds under sections 101 and 102.

(e) REVERSION OF BALANCE UPON TERMINATION OF ACCOUNT.—Any balance in the Persian Gulf Conflict Working Capital Account at the time of the termination of the account shall revert to the general fund of the Treasury.

SEC. 103. ADDITIONAL TRANSFER AUTHORITY

The amount of the transfer authority provided in section 1401 of Public Law 101-510 is hereby increased by the amount of such transfers as the Secretary of Defense makes pursuant to law (other than Public Law 101-511) to make adjustments among amounts provided in titles I and II of Public Law 101-511 due to incremental costs associated with Operation Desert Storm.

SEC. 104. ADMINISTRATION OF TRANSFERS

A transfer made under the authority of section 101 or 102 increases by the amount of the transfer the amount authorized for the account to which the transfer is made.

SEC. 105. NOTICE TO CONGRESS OF TRANSFERS

(a) NOTICE-AND-WAIT.—A transfer may not be made under section 101 or 102 until the seventh day after the congressional defense committees receive a report with respect to that transfer under subsection (b).

(b) CONTENT OF REPORT.—A report under subsection (a) shall include the following:

(1) A certification by the Secretary of Defense that the amount or amounts proposed to be transferred will be used only for incremental costs associated with Operation Desert Storm.

(2) A statement of each account to which the transfer is proposed to be made and the amount proposed to be transferred to such account.

(3) A description of the programs, projects, and activities for which funds proposed to be transferred are proposed to be used.

(4) In the case of a transfer from the working capital account established under section 102, an explanation of the reasons why funds are not available in the Defense Cooperation Account for such transfer.

SEC. 106. MONTHLY REPORTS ON TRANSFERS

Not later than seven days after the end of each month in fiscal years 1991 and 1992, the Secretary of Defense shall submit to the congressional defense committees and the Comptroller General of the United States a detailed report on the cumulative total amount of the transfers made under the authority of this title through the end of that month.

TITLE II—WAIVER OF PERSONNEL CEILINGS AFFECTED BY OPERATION DESERT STORM

SEC. 201. AUTHORITY TO WAIVE END STRENGTH AND GRADE STRENGTH LAWS

(a) FISCAL YEAR 1991 END STRENGTH.—The Secretary of a military department may waive any end strength prescribed in section 401(a), 411, or 412(a) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1485) that applies to any of the armed forces under the jurisdiction of that Secretary.

(b) GRADE STRENGTH LIMITATIONS.—The Secretary of a military department may suspend, for fiscal year 1991, the operation of any provision of section 517, 523, 524, 525, or 526 of title 10, United States Code, with respect to that military department.

SEC. 202. CERTIFICATION

The Secretary of a military department may exercise the authority provided in subsection (a) or (b) of section 201 only after the Secretary submits to the congressional defense committees a certification in writing that the exercise of that authority is necessary because of personnel actions associated with Operation Desert Storm.

SEC. 203. AUTHORIZATION FROM DEFENSE COOPERATION ACCOUNT

(a) AUTHORIZATION.—In addition to authorizations under section 101, there is hereby authorized to be appropriated from the Defense Cooperation Account such sums as may be necessary for increases in military personnel costs for fiscal years 1991 through 1995 resulting from the exercise of the authorities provided in section 201. Such increases in costs are incremental costs associated with Operation Desert Storm.

(b) USE OF FUNDS.—Funds appropriated to the Persian Gulf Conflict Working Capital Account pursuant to section 102(b) may be used for the purposes described in subsection (a) to the extent provided in section 102(c).

(c) REPORTING.—Funds obligated for the purposes described in subsection (a) shall be included in the reports required by section 106.

SEC. 204. CONFORMING REPEAL

Section 1117 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1637) is repealed.

SEC. 205. RELATIONSHIP TO OTHER LAWS

(a) RELATIONSHIP TO OTHER WAIVER AUTHORITIES.—The authority provided in section 201(a) is in addition to the waiver authority provided in sections 401(c) and 411(b) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510) and the waiver authority provided in section 115(c)(1) of title 10, United States Code.

(b) RELATIONSHIP TO OTHER SUSPENSION AUTHORITY.—The authority provided in section 201(b) is in addition to the authority provided in section 527 of title 10, United States Code.

TITLE III—BENEFITS FOR PERSONS SERVING IN THE ARMED FORCES DURING THE PERSIAN GULF CONFLICT

PART A—MILITARY COMPENSATION AND BENEFITS

SEC. 301. TEMPORARY INCREASE IN THE RATE OF SPECIAL PAY FOR DUTY SUBJECT TO HOSTILE FIRE OR IMMINENT DANGER

(a) INCREASED RATE.—In lieu of the rate of special pay specified in section 310(a) of title 37, United States Code, the rate of special pay payable under that section shall be $150 for each month during the period described in subsection (b).

(b) PERIOD OF APPLICABILITY.—Subsection (a) shall apply during the period beginning on August 1, 1990, and ending on the first day of the first month beginning on or after the date 180 days after the end of the Persian Gulf conflict.

SEC. 302. TEMPORARY INCREASE IN FAMILY SEPARATION ALLOWANCE

(a) INCREASED RATE.—In lieu of the family separation allowance specified in section 427(b)(1) of title 37, United States Code, the family separation allowance payable under that section shall be $75 for each month during the period described in subsection (b).

(b) PERIOD OF APPLICABILITY.—Subsection (a) shall apply during the period beginning on January 15, 1991, and ending on the first day of the first month beginning on or after the date 180 days after the end of the Persian Gulf conflict.

SEC. 303. DETERMINATION OF VARIABLE HOUSING ALLOWANCE FOR RESERVES

(a) USE OF PRINCIPAL PLACE OF RESIDENCE.—For the purpose of determining the entitlement of a Reserve described in subsection (b) to a variable housing allowance under section 403a of title 37, United States Code, the Reserve shall be considered to be assigned to duty at the Reserve's principal place of residence, determined as prescribed by the Secretary of Defense.

(b) RESERVE DESCRIBED.—A Reserve referred to in subsection (a) is a member of a reserve component of the uniformed services who is serving on active duty under a call or order to active duty in connection with Operation Desert Storm and is assigned to duty away from the Reserve's principal place of residence, determined as prescribed by the Secretary.

SEC. 304. MEDICAL, DENTAL, AND NONPHYSICIAN SPECIAL PAYS FOR RESERVE, RECALLED, OR RETAINED HEALTH CARE OFFICERS

(a) ELIGIBLE FOR SPECIAL PAY.—A health care officer described in subsection (b) shall be eligible for special pay under section 302, 302a, 302b, 302e, or 303 of title 37, United States Code (whichever applies), notwithstanding any requirement in those sections that—

(1) the call or order of the officer to active duty be for a period of not less than one year; or

(2) the officer execute a written agreement to remain on active duty for a period of not less than one year.

(b) HEALTH CARE OFFICERS DESCRIBED.—A health care officer referred to in subsection (a) is an officer of the Armed Forces who is otherwise eligible for special pay under section 302, 302a, 302b, 302e, or 303 of title 37, United States Code, and who—

(1) is a reserve officer on active duty under a call or order to active duty for a period of less than one year in connection with Operation Desert Storm;

(2) is involuntarily retained on active duty under section 673c of title 10, United States Code, or is recalled to active duty under section 688 of that title, in connection with Operation Desert Storm; or

(3) voluntarily agrees to remain on active duty for a period of less than one year in connection with Operation Desert Storm.

(c) MONTHLY PAYMENTS.—Payment of special pay pursuant to this section may be made on a monthly basis. If the service on active duty of an officer described in subsection (b) is terminated before the end of the period for which a payment is made to the officer under subsection (a), the officer is entitled to special pay under section 302, 302a, 302b, 302e, or 303 of title 37, United States Code (whichever applies), only for the portion of that period that the officer actually served on active duty. The officer shall refund any amount received in excess of the amount that corresponds to the period of active duty of the officer.

(d) SPECIAL RULE FOR RESERVE MEDICAL OFFICER.—While a reserve medical officer receives a special pay under section 302 of title 37, United States Code, by operation of subsection (a), the officer shall not be entitled to special pay under subsection (h) of that section.

(e) PERIOD OF APPLICABILITY.—Subsection (a) shall apply during the period beginning on November 5, 1990, and ending on the first day of the first month beginning on or after the date 180 days after the end of the Persian Gulf conflict.

SEC. 305. WAIVER OF BOARD CERTIFICATION REQUIREMENTS

(a) CERTIFICATION INTERRUPTED BY OPERATION DESERT STORM.—A member of the Armed Forces described in subsection (b) who completes the board certification or recertification requirements specified in section 302(a)(5), 302b(a)(5), 302c(c)(3), or 302c(d)(4) of title 37, United States Code, before the end of the period established for the member in subsection (c) shall be paid special pay under section 302(a)(5), 302b(a)(5), 302c(c)(3), or 302c(d)(4) of such title (whichever applies) for active duty performed after November 5, 1990, and before the date of that certification and recertification if the Secretary of Defense determines that the member was unable to schedule or complete that certification or recertification earlier because of a duty assignment in connection with Operation Desert Storm.

(b) ELIGIBLE MEMBERS DESCRIBED.—A member of the Armed Forces referred to in subsection (a) is a member who—

(1) is a medical or dental officer or a nonphysician health care provider;

(2) has completed any required residency training; and

(3) was, except for the board certification requirement, otherwise eligible for special pay under section 302(a)(5), 302b(a)(5), 302c(c)(3), or 302c(d)(4) of such title during the duty assignment in connection with Operation Desert Storm.

(c) PERIOD FOR CERTIFICATION.—The period referred to in subsection (a) for completion of board certification or recertification requirements with respect to a member of the Armed Forces is the 180-day period (extended for such additional time as the Secretary of Defense determines to be appropriate) beginning on the date that the member is released from the duty to which the member was assigned in connection with Operation Desert Storm.

SEC. 306. FOREIGN LANGUAGE PROFICIENCY PAY

(a) CERTIFICATION INTERRUPTED BY OPERATION DESERT STORM.—A member of the Armed Forces described in subsection (b) who obtains a certification of foreign language proficiency before the end of the period established for the member in subsection (c) shall be paid foreign language proficiency pay under section 316 of title 37, United States Code, for active duty performed after August 2, 1990, and before the date of that certification if the Secretary of Defense determines that the member was unable to schedule or complete that certification earlier because of a duty assignment in connection with Operation Desert Storm.

(b) Eligible Members Described.—A member of the Armed Forces referred to in subsection (a) is a member on active duty who, except for subsection (a)(2) of that section, was otherwise eligible for special pay under that section during the duty assignment in connection with Operation Desert Storm.

(c) Period for Certification.—The period referred to in subsection (a) for completion of certification of foreign language proficiency with respect to a member of the Armed Forces is the 180-day period (extended for such additional time as the Secretary of Defense determines to be appropriate) beginning on the date that the member is released from the duty to which the member was assigned in connection with Operation Desert Storm.

SEC. 307. TEMPORARY INCREASE IN AMOUNT OF DEATH GRATUITY

In lieu of the amount of the death gratuity specified in section 1478(a) of title 10, United States Code, the amount of the death gratuity payable under that section shall be $6,000 for a death resulting from any injury or illness incurred during the Persian Gulf conflict or during the 180-day period beginning at the end of the Persian Gulf conflict.

SEC. 308. DEATH GRATUITY FOR PARTICIPANTS WHO DIED BEFORE THE DATE OF ENACTMENT

(a) Payment of Death Gratuity.—Subject to subsections (b) and (c), the Secretary of Defense shall pay a death gratuity to each SGLI beneficiary of each deceased member of the uniformed services who died after August 1, 1990, and before the date of the enactment of this Act, and whose death was in conjunction with or in support of Operation Desert Storm, or attributable to hostile action in regions other than the Persian Gulf, as prescribed in regulations set forth by the Secretary of Defense.

(b) Amount and Distribution of Gratuity.—The amount of the death gratuity payable to an SGLI beneficiary in the case of a deceased member of the uniformed services under this section shall be equal to the Servicemen's Group Life Insurance paid or payable to such beneficiary under subchapter III of chapter 19 of title 38, United States Code, by reason of the death of such member.

(c) Application for Gratuity Required.—A death gratuity shall be payable to an SGLI beneficiary under this section upon receipt of a written application therefor by the Secretary of Defense within one year after the date of the enactment of this Act.

(d) Regulations.—The Secretary shall prescribe in regulations the form of the application for benefits under this section and any procedures and requirements that the Secretary considers necessary to carry out this section.

(e) Definitions.—In this section:

(1) The term "SGLI beneficiary", with respect to a deceased member of the uniformed services, means a person to whom Servicemen's Group Life Insurance is paid or payable under subchapter III of chapter 19 of title 38, United States Code, by reason of the death of such member.

(2) The term "Secretary concerned" has the meaning given that term in section 101(25) of title 38, United States Code.

SEC. 309. TREATMENT OF ACCRUED LEAVE OF MEMBERS WHO DIE WHILE ON ACTIVE DUTY

(a) Survivors Eligible for Payment for All Accrued Leave of Member.—In the case of a member of the uniformed services who dies as a result of an injury or illness incurred while serving on active duty during the Persian Gulf conflict, the limitation in the second sentence of subsection (b)(3) of section 501 of title 37, United States Code, and in subsection (f) of that section shall not apply with respect to a payment made pursuant to subsection (d) of that section for leave accrued during fiscal year 1990 or 1991.

(b) Technical Amendment.—Section 1115(a) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1636) is amended by striking out "section 501(b)(3) of title 37, United States Code, does not apply" and inserting in lieu thereof "subsection (b)(3) of section 501 of title 37, United States Code, and in subsection (f) of that section does not apply".

(c) Effective Date.—The amendment made by subsection (b) shall take effect as of November 5, 1990.

SEC. 310. REMOVAL OF LIMITATION ON THE ACCRUAL OF SAVINGS OF MEMBERS IN A MISSING STATUS

(a) Addition of Persian Gulf Conflict.—Subsection (b) of section 1035 of title 10, United States Code, is amended—

(1) by inserting before the period in the second sentence the following: "or during the Persian Gulf conflict"; and

(2) in the last sentence, by striking out "the date designated" and all that follows through the period and inserting in lieu thereof the following: "May 7, 1975, and the Persian Gulf conflict begins on January 16, 1991, and ends on the date thereafter prescribed by Presidential proclamation or by law.".

(b) Missing Status Defined.—Such section is further amended by adding at the end the following new subsection:

"(f) In this section, the term 'missing status' has the meaning given such term in section 551(2) of title 37.".

(c) Conforming Amendments.—Such section is further amended—

(1) in subsection (b), by striking out ", as defined in section 551(2) of title 37,"; and

(2) in subsection (e), by striking out "(as defined in section 551(2) of title 37)".

SEC. 310A. BASIC ALLOWANCE FOR QUARTERS FOR CERTAIN MEMBERS OF RESERVE COMPONENTS WITHOUT DEPENDENTS

(a) In General.—A member of a reserve component of the uniformed services without dependents who is called or ordered to active duty in connection with Operation Desert Storm shall be entitled to a basic allowance for quarters under section 403 of title 37, United States Code, if, because of the call or order, the member is unable to continue to occupy a residence—

(1) which is maintained as the primary residence of the member at the time of the call or order; and

(2) which is owned by the member or for which the member is responsible for rental payments.

(b) Period of Applicability.—Subsection (a) shall apply during the period beginning on August 2, 1990, and ending on the first day of the first month beginning on or after the date 180 days after the end of the Persian Gulf conflict.

Part B—Military Personnel Policies and Programs

SEC. 311. GRADE OF RECALLED RETIRED MEMBERS

(a) In General.—A retired member of the Armed Forces ordered to active duty under section 688 of title 10, United States Code, in connection with Operation Desert Storm who had previously served on active duty satisfactorily, as determined by the Secretary of the military department concerned, in a grade higher than that member's retired grade may be ordered to active duty under that section in the highest grade in which the member had so served satisfactorily.

(b) Grade Upon Release From Active Duty.—(1) For the purposes of section 688(b) of title 10, United States Code, a member of the Armed Forces ordered to active duty in a grade that is higher than the member's retired grade pursuant to subsection (a) shall be deemed to have been promoted to such higher grade while on such active duty.

(2) A retired member described in subsection (a) who, upon being released from the tour of active duty covered by that subsection, has served on active duty satisfactorily, as determined by the Secretary concerned, for not less than a total of 36 months in a grade higher than the member's retired grade, is entitled, upon that release from active duty, to placement on the retired list in that grade.

(c) Effective Date.—This section shall apply with respect to retired members ordered to active duty on or after August 2, 1990.

SEC. 312. TEMPORARY CHAMPUS PROVISIONS REGARDING DEDUCTIBLES AND COPAYMENT REQUIREMENTS

(a) Delay in the Increase of Annual Deductibles Under CHAMPUS.—The annual deductibles specified in subsection (b) of section 1079 of title 10, United States Code (as in effect on November 4, 1990), shall apply until October 1, 1991, in the case of health care provided under that section to the dependents of a member of the uniformed services who serves or served on active duty in the Persian Gulf theater of operations in connection with Operation Desert Storm.

(b) Waiver of Copayment Requirements.—(1) Any civilian health care provider furnishing health care pursuant to a plan contracted for under the authority of section 1079 or 1086 of title 10, United States Code, may waive, in whole or in part, any requirement for payment under subsection (b) of that section by a patient described in paragraph (2) for health care furnished the patient by such health care provider during the Persian Gulf conflict.

(2) A patient referred to in paragraph (1) is a dependent of a member of the uniformed services who serves on active duty in the Persian Gulf theater of operations in connection with Operation Desert Storm.

(3) If a health care provider waives a payment for health care under paragraph (1), the health care provider shall certify to the Secretary of Defense that the amount charged the Federal Government for such health care was not increased above the amount that the health care provider would have charged the Federal Government for such health care had the payment not been waived. The Secretary of Defense may require a health care provider to provide information to the Secretary to show the compliance of the health care provider with this paragraph.

SEC. 313. TRANSITIONAL HEALTH CARE

(a) Health Care Provided.—A member of the Armed Forces described in subsection (b), and the dependents of the member, shall be entitled to receive health care described in subsection (c) upon the release of the member from active duty in connection with Operation Desert Storm until the earlier of—

(1) 30 days after the date of the release of the member from active duty; or

(2) the date on which the member and the dependents of the member are covered by a health plan sponsored by an employer.

(b) Eligible Member Described.—A member of the Armed Forces referred to in subsection (a) is a member who—

(1) is a member of a reserve component of the Armed Forces and is called or ordered to active duty under chapter 39 of title 10, United States Code, in connection with Operation Desert Storm;

(2) is involuntarily retained on active duty under section 673c of title 10, United States Code, in connection with Operation Desert Storm; or

(3) voluntarily agrees to remain on active duty for a period of less than one year in connection with Operation Desert Storm.

(c) Health Care Described.—The health care referred to in subsection (a) is—

(1) medical and dental care under section 1076 of title 10, United States Code, in the same manner as a dependent described in subsection (a)(2) of that section; and

(2) health benefits contracted under the authority of section 1079(a) of that title and subject to the same rates and conditions as apply to persons covered under that section.

(d) Dependent Defined.—For purposes of this section, the term "dependent" has the meaning given that term in section 1072(2) of title 10, United States Code.

SEC. 314. EXTENSION OF CERTAIN PERSIAN GULF CONFLICT PROVISIONS

Title XI of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1634 et seq.) is amended as follows:

(1) The following sections are amended by striking out "Operation Desert Shield" each place it appears and inserting in lieu thereof "the Persian Gulf conflict": sections 1111(b)(1), 1114, and 1115.

(2) Section 1111 is further amended—

(A) by striking out "for fiscal year 1990 and during fiscal year 1991" in subsection (b)(1);

(B) by inserting "or for fiscal year 1992" in subsection (b)(2) after "fiscal year 1991"; and

(C) by striking out subsection (c).

(3) Sections 1114(a) and 1115(a) are amended by striking out "during fiscal year 1990 or 1991".

SEC. 315. STUDY OF DEPARTMENT OF DEFENSE POLICIES RELATING TO DEPLOYMENT OF MILITARY SERVICEMEMBERS WITH DEPENDENTS OR SERVICEMEMBERS FROM FAMILIES WITH MORE THAN ONE SERVICEMEMBER

(a) Study.—The Secretary of Defense shall carry out a study of the policies of the Department of Defense relating—

(1) to activation of units and members of reserve components for active duty (other than for training); and

(2) to deployments overseas of members of the Armed Forces (whether from active or reserve components),

as those policies affect the family responsibilities and interests of members of the Armed Forces who have minor children or who are from families with more than one member in the Armed Forces.

(b) Matters To Be Considered.—The study under subsection (a) shall examine the family policies of the military departments for consistency among the Armed Forces and shall consider whether these policies adequately address the needs of reserve component personnel. The study shall also assess the responsiveness of current policies to the needs of the all-volunteer Force as it is presently constituted, as reflected by its demographic profile.

(c) Report.—Not later than March 31, 1992, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the results of the study under subsection (a). The report shall include an analysis of the effect of deployments made as part of military operations during the Persian Gulf conflict on members of the Armed Forces referred to in that subsection, including the following (which shall be shown separately by service and for active-component and reserve-component personnel):

(1) The number of single parent military personnel who were deployed and the number of children of those parents.

(2) The number of members of the Armed Forces married to another member of the Armed Forces who were both deployed and the number of children of those members.

(3) The number of members of the Armed Forces deployed (or given orders to deploy) who requested exceptions to existing policies respecting family members, categorized by the reasons given for the requests and the dispositions of the requests.

(4) A description of any differences in any of the military departments in policies applicable to active component members and reserve component members and any problems that arose from those differences.

(5) A statement of the incidence of use of military family assistance programs by persons other than parents who provided care for dependent children while parents in the Armed Forces were deployed.

(6) A discussion of the effectiveness of military family assistance programs during the Persian Gulf conflict.

(7) A discussion of the applicability of existing policies with respect to members of the Armed Forces who have dependents other than minor children, including dependent parents and dependent disabled adult children.

(8) A discussion of proposed and actual changes by the Department of Defense in family assistance programs and assignment policies.

SEC. 316. ADJUSTMENT IN THE EFFECTIVE DATE OF CHANGES IN MENTAL HEALTH BENEFITS AS A RESULT OF OPERATION DESERT STORM

(a) In General.—(1) Section 703(d) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1582) is amended by striking out "February 15, 1991" and inserting in lieu thereof "October 1, 1991".

(2) Section 8044 of the Department of Defense Appropriations Act, 1991 (Public Law 101–511; 104 Stat. 1884) is amended (A) in the matter preceding the first proviso, by striking out "this Act" and inserting in lieu thereof "any Act appropriating funds to the Department of Defense for fiscal year 1992 and", and (B) in the fifth proviso, by striking out "February 15, 1991" and inserting in lieu thereof "October 1, 1991".

(b) Transition Provision.—Effective as of February 15, 1991, subsections (a)(6) and (i) of section 1079 of title 10, United States Code, as those subsections were in effect on February 14, 1991, are revived.

(c) Funds.—Of the amount authorized to be appropriated by section 391, $36,000,000 shall be available for increased costs by reason of the amendments made by this section.

SEC. 317. SENSE OF THE HOUSE OF REPRESENTATIVES ON SEPARATION OF CERTAIN MEMBERS FROM THEIR INFANT CHILDREN

It is the Sense of the House of Representatives that—

(1) The armed services shall strive to devise and implement a uniform policy with respect to the deployment of mothers of newborn children.

(2) Such policy should provide that to the maximum extent possible, mothers of new born children under the age of 6 months shall not be:

(A) deployed in the case of a mother on active duty; or

(B) activated, if activation requires separating the mother and child, or deployed in the case of a mother serving in a reserve component.

Part C—Veterans Benefits and Programs

SEC. 331. SHORT TITLE

This part may be cited as the "Persian Gulf War Veterans' Benefits Act of 1991".

SEC. 332. INCLUSION OF PERSIAN GULF WAR WITHIN DEFINITION OF "PERIOD OF WAR" FOR PURPOSES OF VETERANS BENEFITS

Section 101 of title 38, United States Code, is amended—

(1) in paragraph (11), by inserting "the Persian Gulf War," after "the Vietnam era,"; and

(2) by adding at the end the following new paragraph:

"(33) The term 'Persian Gulf War' means the period beginning on August 2, 1990, and ending on the date thereafter prescribed by Presidential proclamation or by law.".

SEC. 333. PENSION ELIGIBILITY FOR PERSIAN GULF WAR VETERANS AND SURVIVING SPOUSES OF PERSIAN GULF WAR VETERANS

(a) Section 501 of title 38, United States Code, is amended by inserting "the Persian Gulf War," in paragraph (4) after "the Vietnam era,".

(b) Section 541(f)(1) of such title is amended—

(1) by striking out "or" before (D); and

(2) by inserting before the semicolon at the end ", or (E) January 1, 2001, in the case of a surviving spouse of a veteran of the Persian Gulf War".

(c) Conforming Amendments.—(1) The heading above section 541 of such title is amended to read as follows:

"OTHER PERIODS OF WAR".

(2) The table of sections at the beginning of chapter 15 of such title is amended by striking out the heading between the items relating to section 537 and 541 and inserting in lieu thereof the following:

"Other Periods of War".

SEC. 334. HEALTH BENEFITS

(a) Period of Service for Dental Benefits.—Section 612(b) of title 38, United States Code, is amended by inserting "or, in the case of a veteran who served on active duty during the Persian Gulf War, 90 days" after "180 days" in paragraphs (1)(B)(ii) and (2).

(b) Presumption Relating to Psychosis.—Section 602 of such title is amended—

(1) by striking out "or the Vietnam era" and inserting in lieu thereof "the Vietnam era, or the Persian Gulf War";

(2) by striking out "or" after "Korean conflict," the second place it appears; and

(3) by inserting "or before the end of the two-year period beginning on the last day of the Persian Gulf War, in the case of a veteran of the Persian Gulf War," after "Vietnam era veteran,".

(c) Coverage of Certain Prescription Drug Benefits.—Section 612(h) of such title is amended in the first sentence by striking out "the Mexican border period" and all that follows through "Vietnam era" and inserting in lieu thereof "a period of war".

(d) Readjustment Counseling.—Section 612A(a) of such title is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following new paragraph:

"(2)(A) The Secretary shall furnish counseling as described in paragraph (1), upon request, to any veteran who served on active duty after May 7, 1975, in an area at a time during which hostilities occurred in such area.

"(B) For the purposes of subparagraph (A) of this paragraph, the term 'hostilities' means an armed conflict in which members of the Armed Forces are subjected to danger comparable to the danger to which members of the Armed Forces have been subjected in combat with enemy armed forces during a period of war, as determined by the Secretary in consultation with the Secretary of Defense.".

SEC. 335. REPORTS BY SECRETARY OF DEFENSE AND SECRETARY OF VETERANS AFFAIRS CONCERNING SERVICES TO TREAT POST-TRAUMATIC STRESS DISORDER

(a) IN GENERAL.—The Secretary of Defense and the Secretary of Veterans Affairs shall each submit to Congress two reports containing, with respect to their respective Departments, the following:

(1) An assessment of the need for rehabilitative services for members of the Armed Forces participating in the Operation Desert Storm who experience post-traumatic stress disorder.

(2) A description of the available programs and resources to meet those needs.

(3) The specific plans of that Secretary for treatment of members experiencing post-traumatic stress disorder, particularly with respect to any specific needs of members of reserve components.

(4) An assessment of needs for additional resources necessary in order to carry out such plans.

(5) A description of plans to coordinate treatment services for post-traumatic stress disorder with the other Department.

(b) TIMES FOR SUBMISSION OF REPORTS.—The first report by each of the Secretaries shall be submitted not later than 90 days after the date of the enactment of this Act, and the second report by each of the Secretaries shall be submitted a year later.

SEC. 336. LIFE INSURANCE BENEFITS

(a) SERVICEMEN'S GROUP LIFE INSURANCE.—Section 767 of title 38, United States Code, is amended—

(1) in subsections (a) and (c), by striking out "$50,000" each place it appears and inserting in lieu thereof "$100,000"; and

(2) in subsection (d)—

(A) by striking out "January 1, 1986" each place it appears and inserting in lieu thereof "May 1, 1991"; and

(B) by striking out "$50,000" and inserting in lieu thereof "$100,000".

(b) VETERANS' GROUP LIFE INSURANCE.—Section 777(a) of such title is amended by striking out "$50,000" each place it appears and inserting in lieu thereof "$100,000".

(c) EFFECTIVE DATES.—(1) The amendments made by subsection (a) shall apply with respect to deaths on or after the date of the enactment of this Act.

SEC. 337. INCREASE IN THE AMOUNT OF MONTGOMERY GI BILL EDUCATIONAL ASSISTANCE PAYMENTS

(a) AMOUNT OF BENEFIT PAYMENTS UNDER CHAPTER 30.—Section 1415 of title 38, United States Code, is amended—

(1) in subsection (a), by striking out "and (c)" and inserting in lieu thereof ", (c), (d), (e), and (f)";

(2) in subsection (b), by striking out "In" and inserting in lieu thereof "Except as provided in subsections (c), (d), (e), and (f), in"; and

(3) by adding at the end the following new subsection:

"(f)(1) During the period beginning on October 1, 1991, and ending on September 30, 1993, the monthly rates payable under subsection (a)(1) or (b)(1) of this section shall be $350 and $275, respectively.

"(2) With respect to the fiscal year beginning on October 1, 1993, the Secretary may continue to pay, in lieu of the rates payable under subsection (a)(1) or (b)(1) of this section, the monthly rates payable under paragraph (1) of this subsection and may provide a percentage increase in such rates equal to the percentage by which the Consumer Price Index (all items, United States city average, published by the Bureau of Labor Statistics) for the 12-month period ending June 30, 1993, exceeds such Consumer Price Index for the 12-month period ending June 30, 1992.

"(3) With respect to any fiscal year beginning on or after October 1, 1994, the Secretary may continue to pay, in lieu of the rates payable under subsection (a)(1) or (b)(1) of this section, the monthly rates payable under this subsection for the previous fiscal year and may provide, for any such fiscal year, a percentage increase in such rates equal to the percentage by which—

"(A) the Consumer Price Index (all items, United States city average) for the 12-month period ending on the June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

"(B) such Consumer Price Index for the 12-month period preceding the 12-month period described in subparagraph (A).".

(b) AMOUNT OF BENEFIT PAYMENTS UNDER SELECTED RESERVE PROGRAM.—(1) Section 2131(b) of title 10, United States Code, is amended—

(A) by striking out "(b) Except as provided in" and inserting in lieu thereof "(b)(1) Except as provided in paragraph (2) and";

(B) by redesignating paragraphs (1), (2), (3), and (4), as subparagraphs (A), (B), (C), and (D), respectively; and

(C) and by adding at the end the following new paragraph:

"(2)(A) During the period beginning on October 1, 1991, and ending on September 30, 1993, the monthly rates payable under subparagraphs (A), (B), and (C) of paragraph (1) shall be $170, $128, and $85, respectively.

"(B) With respect to the fiscal year beginning on October 1, 1993, the Secretary may continue to pay, in lieu of the rates payable under subparagraphs (A), (B), and (C) of paragraph (1), the monthly rates payable under subparagraph (A) of this paragraph and may provide a percentage increase in such rates equal to the percentage by which the Consumer Price Index (all items, United States city average, published by the Bureau of Labor Statistics) for the 12-month period ending June 30, 1993, exceeds such Consumer Price Index for the 12-month period ending June 30, 1992.

"(C) With respect to any fiscal year beginning on or after October 1, 1994, the Secretary may continue to pay, in lieu of the rates payable under subparagraphs (A), (B), and (C) of paragraph (1), the monthly rates payable under this paragraph for the previous fiscal year and may provide, for any such fiscal year, a percentage increase in such rates equal to the percentage by which—

"(i) the Consumer Price Index (all items, United States city average) for the 12-month period ending on the June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

"(ii) such Consumer Price Index for the 12-month period preceding the 12-month period described in clause (i).".

(2) Section 2131(f)(2) of such title is amended by striking out "$140" and inserting in lieu thereof "amount equal to the amount of the monthly rate payable under subsection (b)(1)(A) for the fiscal year concerned".

(3) Section 2131(g)(3) of such title is amended by striking out "$140" and inserting in lieu thereof "amount equal to the amount of the monthly rate payable under subsection (b)(1)(A) for the fiscal year concerned".

SEC. 338. MEMBERSHIP ON EDUCATIONAL BENEFITS ADVISORY COMMITTEE FOR PERSIAN GULF WAR VETERAN

Section 1792(a) of title 38, United States Code, is amended by striking out "and the post-Vietnam era" in the second sentence and inserting in lieu thereof "the post-Vietnam era, and the Persian Gulf War".

SEC. 339. IMPROVED REEMPLOYMENT RIGHTS FOR DISABLED VETERANS

(a) IN GENERAL.—Chapter 43 of title 38, United States Code, is amended by adding at the end the following new section:

"§2027. Qualification for employment position

"(a) For the purposes of this chapter, a person shall be considered qualified to perform the duties of an employment position if such person, with or without reasonable accommodation, can perform the essential functions of the position.

"(b) For the purposes of subsection (a) of this section, an employer shall be required to make reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability, unless the employer can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such employer.

"(c) For purposes of subsections (a) and (b) of this section—

"(1) the term 'employer' means—

"(A) until July 26, 1994, a person engaged in an industry affecting commerce who has 25 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding year, and any agent of such person; and

"(B) on and after July 26, 1994, a person engaged in an industry affecting commerce who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such person;

except that such term does not include the United States, a corporation wholly owned by the Government of the United States, an Indian tribe, or a bona fide private membership club (other than a labor organization) that is exempt from taxation under section 501(c) of the Internal Revenue Code of 1986; and

"(2) the terms 'reasonable accommodation' and 'undue hardship' have the meanings given such terms in paragraphs (9) and (10), respectively, of section 101 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 (9) and (10)).

"(d) Nothing in this chapter shall be interpreted to limit in any way any of the rights conferred by the Americans with Disabilities Act of 1990.".

(b) TECHNICAL AMENDMENT.—The table of sections of such chapter is amended by adding at the end the following:

"2027. Qualification for employment position.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of August 1, 1990.

SEC. 340. REQUALIFICATION OF FORMER EMPLOYEES

(a) IN GENERAL.—Section 2021(a) of title 38, United States Code, is amended—

(1) in clause (A), by inserting "or able to become requalified with reasonable efforts by the employer" after "perform the duties of such position" each place it appears; and

(2) in clause (B), by inserting "or able to become requalified with reasonable efforts by the employer" after "perform the duties of such position" each place it appears.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as of August 1, 1990.

SEC. 341. ELIGIBILITY FOR HOUSING BENEFITS

Section 1802(a)(2) of title 38, United States Code, is amended by adding at the end the following new subparagraph:

"(D) Each veteran who served on active duty for 90 days or more at any time during the Persian Gulf War, other than a veteran ineligible for benefits under this title by reason of section 3103A(b) of this title.".

PART D—FEDERAL EMPLOYEE BENEFITS

SEC. 361. LEAVE BANK FOR FEDERAL CIVILIAN EMPLOYEES IN RESERVES WHO WERE ACTIVATED DURING PERSIAN GULF WAR

(a) CIVIL SERVICE EMPLOYEES.—The Office of Personnel Management shall establish a leave bank program under which—

(1) an employee in any executive agency may (during a period specified by the Office of Personnel Management) donate any unused annual leave from the employee's annual leave account to a leave bank established by the Office of Personnel Management;

(2) the total annual leave that has been donated under paragraph (1) shall be divided equally among the annual leave accounts of all employees who have been members of the Armed Forces serving on active duty during the Persian Gulf conflict pursuant to an order issued under section 672(a), 672(g), 673, 673b, 674, 675, or 688 of title 10, United States Code, and who return to civilian employment with their agencies; and

(3) such Persian Gulf conflict participants who have returned to civilian employment may use such annual leave, after it is credited to their leave accounts, in the same manner as any other annual leave to their credit.

(b) DEFINITIONS.—For purposes of subsection (a), the term "employee" means an employee as defined in section 6361(1) of title 5, United States Code.

(c) DEADLINE FOR REGULATIONS.—Within 30 days after the date of the enactment of this Act, the Office of Personnel Management shall prescribe regulations necessary for the administration of subsection (a).

(d) DEPARTMENT OF VETERANS AFFAIRS HEALTH-CARE PROFESSIONALS.—The Secretary of Veterans Affairs shall establish a program similar to that established under subsection (a) for the benefit of health-care professionals covered under section 4108(e) of title 38, United States Code. Such program shall be as similar and practicable to the program established under subsection (a).

PART E—HIGHER EDUCATION ASSISTANCE

SEC. 371. SHORT TITLE

This part may be cited as the "Persian Gulf Conflict Higher Education Assistance Act".

SEC. 372. OPERATION DESERT STORM WAIVER AUTHORITY

(a) PURPOSE.—It is the purpose of this section to ensure that—

(1) the men and women serving on active duty in connection with Operation Desert Storm who are borrowers of Stafford Loans or Perkins Loans are not placed in a worse position financially in relation to those loans because of such service;

(2) the administrative requirements placed on all borrowers of student loans made in accordance with title IV of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) (hereafter in this section referred to as the "Act") who are engaged in such military service are minimized to the extent possible without impairing the integrity of the student loan programs, in order to ease the burden on such borrowers, and to avoid inadvertent, technical defaults; and

(3) the future eligibility of such an individual for Pell Grants is not reduced by the amount of such assistance awarded for a period of instruction that such individual was unable to complete, or for which the individual did not receive academic credit, because the individual was called up for such service.

(b) WAIVER REQUIREMENT.—Notwithstanding any other provision of law, unless enacted with specific reference to this section, the Secretary of Education shall waive or modify any statutory or regulatory provision applicable to the student financial aid programs under title IV of the Act that the Secretary deems necessary to achieve the purposes stated in subsection (a), including—

(1) the length of, and eligibility requirements for, the military deferments authorized under sections 427(a)(2)(C)(ii), 428(b)(1)(M)(ii), and 464(c)(2)(A)(ii) of the Act, in order to enable the borrower of a Stafford Loan or a Perkins Loan who is or was serving on active duty in connection with Operation Desert Storm to obtain a military deferment, under which interest shall accrue and shall, if otherwise payable by the Secretary of Education, be paid by the Secretary of Education, for the duration of such service;

(2) administrative requirements placed on all borrowers of student loans made in accordance with title IV of the Act who are or were engaged in such military service;

(3) the number of years for which individuals who are engaged in such military service may be eligible for Pell Grants under subpart 1 of part A of title IV of the Act;

(4) the point at which the borrower of a Stafford Loan who is or was engaged in such military service is required to resume repayment of principal and interest on such loan after the borrower completes a period of deferment under section 427(a)(2)(C)(ii) or 428(b)(1)(M)(ii) of the Act;

(5) the point at which the borrower of a Stafford Loan who is or was engaged in such military service is required to resume repayment of principal and interest on such loan after the borrower completes a single period of deferment under section 427(a)(2)(C)(i) or 428(b)(1)(M)(i) of the Act subsequent to such service; and

(6) the modification of the terms "annual adjusted family income" and "available income", as used in the determination of need for student financial assistance under title IV of the Act for such individual (and the determination of such need for the individual's spouse and dependents, if applicable), to mean the sums received in the first calendar year of the award year for which such determination is made, in order to reflect more accurately the financial condition of such individual and such individual's family.

(c) NOTICE OF WAIVER.—Notwithstanding section 431 of the General Education Provisions Act (20 U.S.C. 1232) and section 553 of title 5, United States Code, the Secretary shall, by notice in the Federal Register, publish the waivers or modifications of statutory and regulatory provisions the Secretary deems necessary to achieve the purposes of this section. Such notice shall include the terms and conditions to be applied in lieu of such statutory and regulatory provisions. The Secretary is not required to exercise the waiver or modification authority under this section on a case-by-case basis.

(d) DEFINITIONS.—For purposes of this part—

(1) individuals serving on active duty in connection with Operation Desert Storm include—

(A) any Reserve of the Armed Forces called to active duty under section 672(a), 672(g), 673, 673(b), 674, or 688 of title 10, United States Code, for service in connection with Operation Desert Storm, regardless of the location at which such active duty service is performed; and

(B) for purposes of waivers of administrative requirements under subsection (b)(2) only, any other member of the Armed Forces on active duty in connection with Operation Desert Storm, who has been assigned to a duty station at a location other than the location at which such member is normally assigned; and

(2) the term "active duty" has the meaning given such term in section 101(22) of title 10, United States Code, except that such term does not include active duty for training or attendance at a service school.

SEC. 373. TUITION REFUNDS OR CREDITS

(a) SENSE OF CONGRESS.—It is the sense of the Congress that all institutions offering postsecondary education should provide a full refund to any member of the Armed Forces on active duty in connection with Operation Desert Storm for that portion of a period of instruction such individual was unable to complete, or for which such individual did not receive academic credit, because such individual was called up for such service. For purposes of this section, a full refund includes a refund of required tuition and fees, or a credit in a comparable amount against future tuition and fees.

(b) ENCOURAGEMENT AND REPORT.—The Secretary of Education shall encourage institutions to provide such refunds or credits, and shall report to the appropriate committees of Congress on the actions taken in accordance with this subsection as well as information the Secretary receives regarding any institutions that are not providing such refunds or credits.

SEC. 374. ELIGIBILITY OF STUDENT BORROWERS

Section 731 of the Public Health Service Act (42 U.S.C. 294d) is amended—

(1) in subsection (a)(2)(C)—

(A) by striking "or" at the end of clause (vi); and

(B) by striking "and any such period" and all that follows through "clause (B) above;" in clause (vii) and inserting the following: "and (viii) in addition to all other deferments for which the borrower is eligible under clauses (i) through (vii) during which the borrower is a member of the Armed Forces on active duty during the Persian Gulf conflict, and any period described in clauses (i) through (viii) shall not be included in determining the 25-year period described in subparagraph (B);"; and

(2) by adding at the end the following new subsection:

"(f) As used in this section:

"(1) The term 'active duty' has the meaning given such term in section 101(18) of title 37, United States Code, except that such term does not include active duty for training.

"(2) The term 'Persian Gulf conflict' means the period beginning on August 2, 1990, and ending on the date thereafter prescribed by Presidential proclamation or by law.".

SEC. 375. TERMINATION OF SECTIONS 372 AND 373

The provisions of sections 372 and 373 shall cease to be effective on September 30, 1997.

SEC. 376. COORDINATION WITH OTHER LAW

If the Higher Education Technical Amendments of 1991 is enacted, the provisions of sections 4, 5, and 6 of that Act shall supersede sections 372, 373, and 375.

PART F—PROGRAMS FOR FARMERS AND RANCHERS

SEC. 381. DEFINITIONS

As used in this part:

(1) ACTIVATED RESERVIST.—The term "activated reservist" means a member of a reserve component of the Armed Forces who served or is serving on active duty during the Persian Gulf conflict pursuant to an order issued under section 672(a), 672(d), 672(g), 673, 673b, 674, 675, or 678 of title 10, United States Code.

(2) FARMER PROGRAM LOAN.—The term "farmer program loan" has the same meaning given such term in section 343(a)(10) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(10)).

(3) RESERVE COMPONENT OF THE ARMED FORCES.—The term "reserve component of the Armed Forces" means a reserve component named in section 261(a) of title 10, United States Code.

(4) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(5) OTHER TERMS.—

(A) AGRICULTURAL ACT OF 1949.—The terms "crop acreage base", "producer", "program crop", and any other terms used in this title have the same meanings specifically given such terms in the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.).

(B) TITLE 10.—The term "active duty" has the meaning given such term in section 101 of title 10, United States Code.

SEC. 382. BASE PROTECTION

The Secretary shall, with respect to a producer on a farm who is an activated reservist during a crop year, provide for the protection of the producer's crop acreage base for any program crop on the farm to the extent necessary to provide fair and equitable treatment for the producer.

SEC. 383. WAIVER OF MINIMUM PLANTING REQUIREMENT

The producers on a farm shall be eligible for payments for a crop of rice or upland cotton under sections 101B(c)(1)(D)(i) and 103B(c)(1)(D)(i) of the Agricultural Act of 1949 (7 U.S.C. 1441-2(c)(1)(D)(i) and 1444-2(c)(1)(D)(i), without regard to the minimum planting requirement established in sections 101B(c)(1)(D)(ii) and 103B(c)(1)(D)(ii) of such Act, if—

(1) one or more of the producers on the farm is an activated reservist during any portion of the crop year; and

(2) the producers on the farm satisfy all other requirements determined appropriate by the Secretary for the payments.

SEC. 384. CONSERVATION REQUIREMENTS

(a) TEMPORARY WAIVER AUTHORITY.—The Secretary may provide for a temporary waiver or modification of the application of subtitles A through E of title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.) with respect to producers on a farm who are activated reservists if—

(1) the temporary waiver or modification is only for the period during which the producer is an activated reservist;

(2) the Secretary determines that the temporary waiver or modification is necessary to prevent undue hardship caused as a result of the producer's service on active duty during the Persian Gulf Conflict or to provide equitable treatment for the activated reservist; and

(3) the temporary waiver or modification will not significantly detract from the purposes and objectives of subtitles A through E of title XII of the Food Security Act of 1985.

(b) REPORT.—The Secretary shall, not later than March 31, 1992, submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate regarding the temporary waivers and modifications granted under subsection (a). Such report shall include—

(1) a summary of the types of waivers and modifications granted under subsection (a);

(2) a summary of the number and the geographical breakdown of the waivers and modifications granted under subsection (a); and

(3) an assessment of the effect of the waivers and modifications granted under subsection (a) on the ability of the programs established under subtitles A through E of title XII of the Food Security Act of 1985 to accomplish the purposes and objectives of such subtitles.

SEC. 385. FARM CREDIT PROVISIONS

(a) IN GENERAL.—The Secretary shall establish a program to provide relief to any borrower of a farmer program loan if the borrower is an activated reservist.

(b) BORROWER RELIEF.—The Secretary shall modify the terms and conditions of farmer program loans (including loans in which any participant in the loan is an activated reservist) made or insured under the Consolidated Farm and Rural Development Act, or purchased under section 309B of such Act (7 U.S.C. 1926b), to the extent necessary, as determined by the Secretary, to alleviate conditions of distress related to the activation of such reservist and to assist keeping the farm or ranch of an activated reservist borrower in operation for such period of time as the Secretary determines is fair and equitable.

(c) LOAN MODIFICATIONS.—The Secretary may modify farmer program loans, including delinquent loans, by deferring scheduled payments, reducing interest rates or accumulated interest charges, reamortizing or consolidating loans, reducing the amount of scheduled payments, releasing additional income, reducing collateral requirements, or taking any other restructuring actions determined appropriate by the Secretary to assist in maintaining the farm or ranch for such period of time as the Secretary determines is fair and equitable.

(d) NOTICE.—The Secretary shall develop a program to notify any person that has an interest in, or is operating, a farm or ranch of an activated reservist who is a farmer program loan borrower of the borrower relief provisions of this section.

SEC. 386. PROGRAM ADMINISTRATION PROVISIONS

(a) SIGN-UP PROCEDURES.—The Secretary may provide for procedures by which the spouse or other close relative (as determined by the Secretary) of an activated reservist may participate in, or make decisions related to, a program administered by the Secretary under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), the Conservation and Domestic Allotment Act (16 U.S.C. 590a et seq.), the Food Security Act of 1985 (Public Law 99-198), the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624), the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), or any other Act concerning the operation of the activated reservist's farming or ranching operation.

(b) REQUIREMENTS.—The Secretary may rely on the representation of the spouse or close relative (even in the absence of a power of attorney) made under such procedures if—

(1) The Secretary determines that the reliance is appropriate in order to prevent undue hardship and to provide equitable treatment for the activated reservist; and

(2) the Secretary has reason to believe that the representation of the spouse or close relative is in accordance with the wishes of the activated reservist.

SEC. 387. ADMINISTRATION

The Secretary shall issue such regulations, and take such other actions, as are necessary to carry out this part. Section 553 of title 5, United States Code, shall not apply with respect to the implementation of this part by the Secretary.

SEC. 388. OUTREACH PROJECTS

(a) The Secretary shall conduct a sufficient number of outreach projects to inform appropriate households, of which a member is a member of the Armed Forces serving on active duty (other than for training) that they might be eligible for participation in the Food Stamp Program authorized under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

(b) The Secretary shall—

(1) in designing and carrying out projects under subsection (a), consult with the Secretary of Defense, appropriate State agencies, and appropriate military family support groups; and

(2) ensure that the projects under subsection (a) begin no later than July 1, 1991, and end July 1, 1992.

(c) The Secretary shall submit a report, by September 1, 1992, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the effectiveness of each method used under subsection (a) to inform households of food stamp eligibility.

PART G—BUDGET TREATMENT

SEC. 391. AUTHORIZATION OF APPROPRIATIONS FROM DEFENSE COOPERATION ACCOUNT

(a) AUTHORIZATION.—In addition to the authorizations of appropriations in titles I and II, there is hereby authorized to be appropriated from the Defense Cooperation Account the sum of $655,000,000, to be available only for the payment of title III benefits for fiscal years 1991 through 1995, except that none of the amount appropriated pursuant to such authorization shall be available for (1) payment of Montgomery GI bill rate increases for fiscal years after fiscal year 1993, or (2) for costs under the amendments made by section 334. Of the amount appropriated pursuant to such authorization, $255,000,000 is available only for the costs of benefits under part C of this title, and no more than such amount may be available from such account for those costs.

(b) LONG-TERM COSTS.—The amount of funds in the Defense Cooperation Account on October 1, 1992 (other than funds appropriated pursuant to authorizations in other provisions of this Act), is hereby authorized to be appropriated from that account for costs of title III benefits (other than Montgomery GI bill rate increases and costs under the amendments made by section 334) accruing after fiscal year 1995.

(c) INCREMENTAL COSTS.—The costs of title III benefits (other than Montgomery GI bill rate increases and costs under the amendments made by section 334) for fiscal years 1991 through 1995 and the costs of Montgomery GI bill rate increases for fiscal years 1992 and 1993 are incremental costs associated with Operation Desert Storm.

SEC. 392. BENEFITS CONTINGENT UPON APPROPRIATIONS FROM DEFENSE COOPERATION ACCOUNT

(a) IN GENERAL.—No person is entitled to, or eligible for, any title III benefit that is payable during fiscal years 1991 through 1995 unless an appropriations Act appropriates funds for such benefit from the Defense Cooperation Account for transfer to applicable appropriations. The preceding sentence does not apply with respect to Montgomery GI bill rate increases or to benefits under section 334.

(b) VETERANS BENEFITS.—No person is entitled to, or eligible for, payment of Montgomery GI bill rate increases during fiscal year 1992 or fiscal year 1993 unless an appropriations Act appropriates funds for the payment of such rate increases from the Defense Cooperation Account for transfer to applicable appropriations.

SEC. 393. DEFINITION; CONSTRUCTION OF SECTIONS 391 AND 392

(a) DEFINITION.—For purposes of this title, the term "Montgomery GI bill rate increases" means increases provided by section 337 with respect to fiscal years 1992 and 1993 in the monthly rates of educational assistance benefits in effect on the day before the date of the enactment of this Act under chapter 106 of title 10, United States Code, and under chapter 30 of title 38, United States Code.

(b) CONSTRUCTION.—For purposes of sections 391 and 392—

(1) a title III benefit is (A) any new payment or benefit provided by this title, or (B) any increase provided by this title in payments amounts or benefits previously provided by law; and

(2) a reference to provisions of this title shall be considered to include reference to provisions of law added by amendments made by this title.

TITLE IV—REPORTS ON FOREIGN CONTRIBUTIONS AND THE COSTS OF OPERATION DESERT STORM

SEC. 401. REPORTS ON UNITED STATES COSTS IN THE PERSIAN GULF CONFLICT AND FOREIGN CONTRIBUTIONS TO OFFSET SUCH COSTS

(a) REPORTS REQUIRED.—The Director of the Office of Management and Budget shall prepare, in accordance with this section, periodic reports on the incremental costs associated with Operation Desert Storm and on the amounts of contributions made to the United States by foreign countries to offset those costs. The Director shall prepare the reports in consultation with the Secretary of Defense, the Secretary of State, the Secretary of the Treasury, and other appropriate Government officials.

(b) COSTS OF OPERATION DESERT STORM.—

(1) PERIOD COSTS AND CUMULATIVE COSTS.—Each report prepared under subsection (a) shall specify—

(A) the incremental costs associated with Operation Desert Storm that were incurred during the period covered by the report; and

(B) the cumulative total of such costs, by fiscal year, from August 1, 1990, to the end of the period covered by the report.

(2) NONRECURRING COSTS AND COSTS OFFSET.—In specifying the incremental costs associated with Operation Desert Storm that were incurred during the period covered by a report and the total of such costs, the Director shall separately identify those costs that—

(A) are nonrecurring costs;

(B) are offset by in-kind contributions; or

(C) are offset (or proposed to be offset) by the realignment, reprogramming, or transfer of funds appropriated for activities unrelated to the Persian Gulf conflict.

(c) SPECIFIC COST AREAS.—Each report prepared under subsection (a) on the incremental costs associated with Operation Desert Storm shall specify an allocation of the total amount of such costs among the military departments, the Defense Agencies of the Department of Defense, and the Office of the Secretary of Defense, by category, including the following categories:

(1) AIRLIFT.—Airlift costs related to the transportation by air of personnel, equipment, and supplies.

(2) SEALIFT.—Sealift costs related to the transportation by sea of personnel, equipment, and supplies.

(3) PERSONNEL.—Personnel costs, including pay and allowances of members of the reserve components of the Armed Forces called or ordered to active duty and increased pay and allowances of members of the regular components of the Armed Forces incurred because of deployment in connection with Operation Desert Storm.

(4) PERSONNEL SUPPORT.—Personnel support costs, including subsistence, uniforms, and medical costs.

(5) OPERATING SUPPORT.—Operating support costs, including equipment support costs, costs associated with increased operational tempo, spare parts, stock fund purchases, communications, and equipment maintenance.

(6) FUEL.—Fuel costs.

(7) PROCUREMENT.—Procurement costs, including ammunition, weapon systems improvements and upgrades, and equipment purchases.

(8) MILITARY CONSTRUCTION.—Military construction costs.

(d) CONTRIBUTIONS TO THE UNITED STATES.—

(1) AMOUNT OF CONTRIBUTIONS.—Each report prepared under subsection (a) shall specify the amount of contributions made to the United States by each foreign country that is making contributions to defray the cost to the United States of Operation Desert Storm. The amount of each country's contribution during the period covered by each report, as well as the cumulative total of such contributions made before the date of the report, shall be indicated as follows:

(A) Cash payments pledged.

(B) Cash payments received.

(C) Description and value of in-kind contributions pledged.

(D) Description and value of in-kind contributions received.

(2) PLEDGE PERIOD AND USE RESTRICTIONS.—In specifying the amount of each contribution pledged, the Director shall indicate—

(A) the time period, if any, for which that contribution applies; and

(B) any restrictions on the use of that contribution.

(e) SUBMISSION OF REPORTS.—

(1) FIRST REPORT.—The first report required by subsection (a) shall be submitted to the Congress not later than 14 days after the date of the enactment of this Act and shall cover the period beginning on August 1, 1990, and ending on December 31, 1990.

(2) SECOND REPORT.—The second report shall be submitted to the Congress not later than 21 days after the date of the enactment of this Act and shall cover—

(A) January and February 1991, with respect to information required under subsections (b) and (c); and

(B) January, February, and March 1991, with respect to information required under subsection (d).

(3) SUBSEQUENT MONTHLY REPORTS.—A report shall be submitted to Congress not later than the 15th day of each month after April 1991 and shall cover—

(A) the month before the preceding month, in the case of information required under subsections (b) and (c); and

(B) the preceding month, in the case of information required under subsection (d).

(4) FINAL REPORT.—The final report shall be submitted not later than November 15, 1992, and shall include—

(A) the information required under subsections (b) and (c) relating to the month of September 1992; and

(B) a summary of all information that was included in reports submitted under this section.

SEC. 402. REPORTS ON FOREIGN CONTRIBUTIONS IN RESPONSE TO THE PERSIAN GULF CRISIS

(a) REPORTS REQUIRED.—The Secretary of State and the Secretary of the Treasury shall jointly prepare periodic reports on the contributions made by foreign countries as part of the international response to the Persian Gulf crisis. The Secretaries shall prepare the reports in consultation with the Secretary of Defense and other appropriate Federal Government officials.

(b) INFORMATION TO BE PROVIDED.—Each report required by this section shall include the following information for each foreign country making contributions as part of the international response to the Persian Gulf crisis:

(1) PARTICIPATION IN THE INTERNATIONAL MILITARY COALITION.—In the case of each foreign country whose armed forces are participating in the international military coalition confronting Iraq, a description of the forces committed in terms of personnel, units, and equipment deployed, and any information available regarding the aggregate amount of the incremental costs associated with such country's participation.

(2) CONTRIBUTIONS TO THOSE COUNTRIES SIGNIFICANTLY AFFECTED BY THE PERSIAN GULF CRISIS.—Any information available on—

(A) any additional special assistance (financial, in-kind, or host-country support) pledged as a contribution to each of those countries significantly affected by the Persian Gulf crisis; and

(B) the value and a description of the types of such assistance received by each such country.

The information provided pursuant to this paragraph shall include information on such assistance as reported to the Gulf Crisis Financial Coordination Group.

(3) CONTRIBUTIONS TO OTHER MILITARY FORCES.—The value and nature of any assistance (financial, in-kind, or host-country support) made to each foreign country referred to in paragraph (1), other than the United States, to defray costs of military operations conducted by the armed forces of such foreign country in connection with Operation Desert Storm.

(4) CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS.—Any information available on the value and nature of contributions pledged—

(A) to any United Nations organization,

(B) to the International Committee of the Red Cross, and

(C) to the extent the Secretary of State considers appropriate, to other international or nongovernmental organizations,

for the purpose of dealing with consequences of the Persian Gulf crisis (including contributions for such purposes as furnishing humanitarian assistance for displaced persons or furnishing assistance for responding to oil spills), and the value and nature of such contributions received by each such organization.

(5) OTHER FORMS OF CONTRIBUTIONS.—A description of international agreements entered into by the United States as a result of the Persian Gulf crisis, and a description of prepositioning rights, base or other military facilities access rights, or air transit rights granted to the United States as a result of the Persian Gulf crisis.

(6) CONTRIBUTIONS TO OTHER FOREIGN COUNTRIES.—Any information available on the types of any additional assistance (financial, in-kind, or host-country support) pledged and received as a contribution to other foreign countries as a result of the Persian Gulf crisis.

(7) CUMULATIVE TOTALS.—Each report submitted pursuant to subsection (c) shall include cumulative totals for, and any information available on the aggregate value of, the contributions that have been pledged, and the contributions that have been paid or otherwise delivered, by each foreign country as of the end of the calendar quarter covered by that report.

(c) SUBMISSION OF REPORTS.—

(1) TIME FOR SUBMISSION, PERIOD COVERED.—(A) A report prepared pursuant to subsection (a) shall be submitted to the Congress not later than 30 days after the date of the enactment of this Act with respect to the contributions pledged and the contributions paid or otherwise delivered during the period beginning on August 1, 1990, and ending on December 31, 1990.

(B) A report prepared pursuant to subsection (a) shall be submitted to the Congress not later than 30 days after the date of the enactment of this Act with respect to the contributions pledged and the contributions paid or otherwise delivered during the period beginning on January 1, 1991, and ending on March 31, 1991.

(C) Subsequent reports prepared pursuant to subsection (a) shall be submitted to the Congress not later than the 15th day after the end of each calendar quarter in 1991 with respect to the contributions pledged and the contributions paid or otherwise delivered during that calendar quarter.

(D) A final report shall be submitted to the Congress not later than November 15, 1992, and shall contain a summary of all information relating to the contributions pledged and the contributions paid or otherwise delivered that was included in reports submitted under this paragraph.

(d) DEFINITIONS.—In this section:

(1) The term "countries significantly affected by the Persian Gulf crisis" means Egypt, Jordan, Turkey, and Israel, and any other country whose economy the President determines is significantly affected by the Persian Gulf crisis.

(2) The term "Persian Gulf crisis" means the military conflict, the United Nations Security Council embargo against Iraq, and other consequences associated with Iraq's invasion and occupation of Kuwait and its failure to comply with the resolutions of the Security Council.

(3) The term "Gulf Crisis Financial Coordination Group" means the organization established by the President on September 25, 1990 for coordinating economic assistance in response to the Persian Gulf crisis.

SEC. 403. FORM OF REPORTS

The reports required to be submitted to the Congress pursuant to this title shall be submitted in unclassified form to the extent practicable, with a classified annex if necessary.

TITLE V—REPORT ON THE CONDUCT OF THE PERSIAN GULF CONFLICT

SEC. 501. DEPARTMENT OF DEFENSE REPORT ON THE CONDUCT OF THE PERSIAN GULF CONFLICT

(a) REPORT REQUIRED.—Not later than January 15, 1992, the Secretary of Defense shall submit to the congressional defense committees a report on the conduct of the hostilities in the Persian Gulf theater of operations. The Secretary shall submit to such committees a preliminary report on the conduct of those hostilities not later than July 1, 1991. The report (including the preliminary report) shall be prepared in consultation with the Chairman of the Joint Chiefs of Staff and the Commander in Chief, United States Central Command.

(b) DISCUSSION OF ACCOMPLISHMENTS AND SHORTCOMINGS.—The report (and the preliminary report, to the extent feasible) shall contain a discussion, with a particular emphasis on accomplishments and shortcomings, of the following matters:

(1) The military objectives of the multinational coalition.

(2) The military strategy of the multinational coalition to achieve those military objectives and how the military strategy contributed to the achievement of those objectives.

(3) The deployment of United States forces and the transportation of supplies to the theater of operations, including an assessment of airlift, sealift, afloat prepositioning ships, and Maritime Prepositioning Squadron ships.

(4) The conduct of military operations.

(5) The use of special operations forces, including operational and intelligence uses classified under special access procedures.

(6) The employment and performance of United States military equipment, weapon systems, and munitions (including items classified under special access procedures) and an analysis of—

(A) any equipment or capabilities that were in research and development and if available could have been used in the theater of operations; and

(B) any equipment or capabilities that were available and could have been used but were not introduced into the theater of operations.

(7) The scope of logistics support, including support from other nations, with particular emphasis on medical support provided in the theater of operations.

(8) The acquisition policy actions taken to support the forces in the theater of operations.

(9) The personnel management actions taken to support the forces in the theater of operations.

(10) The role of women in the theater of operations.

(11) The effectiveness of reserve component forces, including a discussion of each of the following matters:

(A) The readiness and activation of such forces.

(B) The decisionmaking process regarding both activation of reserve component forces and deployment of those forces to the theater of operations.

(C) The post-activation training received by such forces.

(D) The integration of forces and equipment of reserve component forces into the active component forces.

(E) The use and performance of the reserve component forces in operations in the theater of operations.

(F) The use and performance of such forces at duty stations outside the theater of operations.

(12) The role of the law of armed conflict in the planning and execution of military operations by United States forces and the other coalition forces and the effects on operations of Iraqi compliance or noncompliance with the law of armed conflict, including a discussion regarding each of the following matters:

(A) Taking of hostages.

(B) Treatment of civilians in occupied territory.

(C) Collateral damage and civilian casualties.

(D) Treatment of prisoners of war.

(E) Repatriation of prisoners of war.

(F) Use of ruses and acts of perfidy.

(G) War crimes.

(H) Environmental terrorism.

(I) Conduct of neutral nations.

(13) The actions taken by the coalition forces in anticipation of, and in response to, Iraqi acts of environmental terrorism.

(14) The contributions of United States and coalition intelligence and counterintelligence systems and personnel, including contributions regarding bomb damage assessments and particularly including United States tactical intelligence and related activities (TIARA) programs.

(15) Command, control, communications, and operational security of the coalition forces as a whole, and command, control, communications, and operational security of the United States forces.

(16) The rules of engagement for the coalition forces.

(17) The actions taken to reduce the casualties among coalition forces caused by the fire of such forces.

(18) The role of supporting combatant commands and Defense Agencies of the Department of Defense.

(19) The policies and procedures relating to the media, including the use of media pools.

(20) The assignment of roles and missions to the United States forces and other coalition forces and the performance of those forces in carrying out their assigned roles and missions.

(21) The preparedness, including doctrine and training, of the United States forces.

(22) The acquisition of foreign military technology from Iraq, and any compromise of military technology of the United States or other countries in the multinational coalition.

(23) The problems posed by Iraqi possession and use of equipment produced in the United States and other coalition nations.

(24) The use of deception by Iraqi forces and by coalition forces.

(25) The military criteria used to determine when to progress from one phase of military operations to another phase of military operations, including transition from air superiority operations to operations focused on degrading Iraqi forces, transition to large-scale ground offensive operations, and transition to cessation of hostilities.

(26) The effects on the conduct of United States military operations resulting from the implementation of the Goldwater-Nichols Department of Defense Reorganization Act of 1986.

(c) CASUALTY STATISTICS.—The report (and the preliminary report, to the extent feasible) shall also contain (1) the number of military and civilian casualties sustained by coalition nations, and (2) estimates of such casualties sustained by Iraq and by nations not directly participating in the hostilities in the Persian Gulf area during the Persian Gulf Conflict.

(d) CLASSIFICATION OF REPORTS.—The Secretary of Defense shall submit both the report and the preliminary report in a classified form and an unclassified form.

TITLE VI—GENERAL PROVISIONS

SEC. 601. CHILD CARE ASSISTANCE

(a) IN GENERAL.—The Secretary of Defense may provide assistance for families of members of the Armed Forces serving on active duty during the Persian Gulf conflict in order to ensure that the children of such families obtain needed child care services. The assistance authorized by this section should be directed primarily toward providing needed child care services for children of such personnel who are serving in the Persian Gulf area or who have been otherwise deployed, assigned, or ordered to active duty in connection with Operation Desert Storm.

(b) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated from the Defense Cooperation Account for fiscal year 1991 under section 101(a), $20,000,000 shall be available to carry out the provisions of this section. The costs of carrying out such provisions are incremental costs associated with Operation Desert Storm.

(c) SUPPLEMENTATION OF OTHER PUBLIC FUNDS.—Funds appropriated pursuant to subsection (b) that are made available to carry out this section may be used only to supplement, and not to supplant, the amount of any other Federal, State, or local government funds otherwise expended or authorized for the support of child care programs for members of the Armed Forces.

SEC. 602. FAMILY EDUCATION AND SUPPORT SERVICES

(a) IN GENERAL.—The Secretary of Defense may provide assistance in accordance with this section to families of members of the Armed Forces serving on active duty in order to ensure that those families receive educational assistance and family support services necessary to meet needs arising out of Operation Desert Storm.

(b) TYPES OF ASSISTANCE.—The assistance authorized by this section may be provided to families directly or through the awarding of grants, contracts, or other forms of financial assistance to appropriate private or public entities.

(c) GEOGRAPHIC AREAS ASSISTED.—(1) Such assistance shall be provided primarily in geographic areas—

(A) in which a substantial number of members of the active components of the Armed Forces of the United States are permanently assigned and from which a significant number of such members are being deployed, or have been deployed, in connection with Operation Desert Storm; or

(B) from which a significant number of members of the reserve components of the Armed Forces ordered to, or retained on, active duty pursuant to section 672(a), 672(d), 673, 673b, or 688 of title 10, United States Code, are being deployed, or have been deployed, in connection with Operation Desert Storm.

(2) The Secretary of Defense shall determine which areas meet the criteria set out in paragraph (1).

(d) EDUCATIONAL ASSISTANCE.—Educational assistance authorized by this section may be used for the furnishing of one or more of the following forms of assistance:

(1) Individual or group counseling for children and other members of the families of members of the Armed Forces of the United States who have been deployed in connection with, or are casualties of, Operation Desert Storm.

(2) Training and technical assistance to better prepare teachers and other school employees to address questions and concerns of children of such members of the Armed Forces.

(3) Other appropriate programs, services, and information designed to address the special needs of children and other members of the families of members of the Armed Forces referred to in paragraph (1) resulting from the deployment, the return from deployment, or the medical or rehabilitation needs of such members.

(e) FAMILY SUPPORT ASSISTANCE.—Family support assistance authorized by this section may be used for the following purposes:

(1) Family crisis intervention.

(2) Family counseling.

(3) Family support groups.

(4) Expenses for volunteer activities.

(5) Respite care.

(6) Housing protection and advocacy.

(7) Food assistance.

(8) Employment assistance.

(9) Child care.

(10) Benefits eligibility determination services.

(11) Transportation assistance.

(12) Adult day care for dependent elderly and disabled adults.

(13) Temporary housing assistance for immediate family members visiting soldiers wounded during Operation Desert Storm and receiving medical treatment at military hospitals and facilities in the United States.

(f) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated from the Defense Cooperation Account for fiscal year 1991 under section 101(a), $30,000,000 shall be available to carry out the provisions of this section. The costs of carrying out such provisions are incremental costs of Operation Desert Storm.

SEC. 603. LAND CONVEYANCE, FORT A.P. HILL MILITARY RESERVATION, VIRGINIA

(a) CONVEYANCE AUTHORIZED.—Not later than one year after the date of the enactment of this Act, subject to subsections (b) through (g), the Secretary of the Army shall convey, without consideration, to Caroline County, Virginia, or the Commonwealth of Virginia (hereinafter in this section referred to as the "Commonwealth"), as appropriate, all right, title, and interest of the United States in and to a parcel of land located at Fort A.P. Hill, Virginia, and consisting of approximately 150 acres.

(b) IDENTIFICATION OF PROPERTY.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary shall, after consultation with appropriate representatives of Caroline County, Virginia, and the Commonwealth, identify the exact size and location of the parcel of land to be conveyed pursuant to this section. The Secretary shall, to the maximum extent practicable, identify a parcel of land that—

(A) has soil and topographical conditions suitable for the construction of a low- to mid-rise institutional correctional facility, including recreation, parking, and other necessary support facilities; and

(B) is situated within reasonably close proximity to an existing sewer system.

(2) The cost of any new or expanded sewer system or utilities shall not be the responsibility of the Department of Defense or Caroline County.

(c) CONVEYANCE OF PROPERTY.—(1) Except as provided in paragraph (2), the parcel of land conveyed pursuant to this section shall be conveyed to the Commonwealth and shall be subject to the conditions and limitations on its use as provided in Chapter 3, Article 3.1 of Title 53.1, Code of Virginia.

(2) The Secretary shall convey the parcel of land to Caroline County, Virginia, instead of the Commonwealth, if, within one year after the date of the enactment of this Act, the Secretary receives the written agreement of the participating political subdivisions of the Commonwealth named in paragraph (3) to take, under the laws of the Commonwealth, the following actions:

(A) Establish a governmental entity to construct and operate on such parcel of land a regional correctional facility.

(B) Ensure that such governmental entity constructs and operates such facility.

(3)(A) In order for the agreement referred to in paragraph (2) to be effective for the purposes of such paragraph, it shall be agreed to by Caroline County, Virginia, and at least three of the following political subdivisions of the Commonwealth:

(i) Arlington County.

(ii) Fairfax County.

(iii) Prince William County.

(iv) Stafford County.

(v) The City of Alexandria.

(B) Subparagraph (A) shall not be construed to prohibit any political subdivision not named in such subparagraph to participate in the written agreement referred to in paragraph (2).

(d) USE OF PROPERTY; REVERSION.—(1)(A) A conveyance of land to Caroline County, Virginia, pursuant to this section shall be subject to the conditions that—

(i) construction of a regional correctional facility pursuant to the agreement referred to in subsection (c)(2) commence not later than 24 months after the date of the enactment of this Act;

(ii) such construction be completed and the operation of such facility commence not later than five years after such date; and

(iii) such parcel of land be used only for the construction and operation of such facility.

(B) If the parcel of land conveyed pursuant to this section is conveyed to Caroline County, Virginia, and the entity established pursuant to the agreement referred to in subsection (c)(2) fails to construct and operate a regional correctional facility in accordance with the conditions set out in subparagraph (A), all right, title, and interest in and to such parcel of land (together with the improvements thereon) shall revert to the United States.

(C) In the event of a reversion under subparagraph (B), the Secretary shall promptly convey all right, title, and interest of the United States in the parcel of land referred to in such subparagraph to the Commonwealth, subject to the applicable provisions of paragraph (2) and subsections (e) through (g).

(2)(A) A conveyance of a parcel of land to the Commonwealth pursuant to this section, shall be subject to the conditions that—

(i) an entity be established under the laws of the Commonwealth for the construction and operation of a regional correctional facility on such parcel of land;

(ii) construction of such facility on such parcel of land be completed and the operation of such facility commence not later than seven years after the date of the enactment of this Act;

(iii) such parcel of land be used only for the purpose of construction and operation of such facility;

(iv) Arlington County, Fairfax County, the City of Alexandria, Prince William County, Stafford County, and Caroline County, Virginia, be offered the opportunity for participation in such entity; and

(v) no fee be charged by the Commonwealth for the conveyance to, lease by, or use of such parcel of land by such entity.

(B) If the parcel of land to be conveyed pursuant to this section is conveyed to the Commonwealth and the conditions referred to in subparagraph (A) are not complied with (as determined by the Secretary), all right, title, and interest in and to such land (together with the improvements thereon) shall revert to the United States and the United States shall have the right of immediate entry thereon.

(e) PROHIBITION ON HOUSING CERTAIN PRISONERS.—Except when agreed to in writing by an appropriate representative of Caroline County, Virginia, the regional correctional facility constructed and operated in accordance with this section—

(1) shall have a maximum capacity of not more than 2,400 inmates; and

(2) may not be used to house Federal prisoners or prisoners convicted by, sentenced by, or awaiting trial in the courts of the District of Columbia.

(f) TIME LIMITATION.—The period of any litigation relating to the conveyance or improvement of land under this section shall not be included in a determination of the period for conveyance or improvement, or for the reverter of or right of re-entry onto such land.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance pursuant to this section as the Secretary, in his sole discretion, shall determine appropriate to protect the interests of the United States.

(h) REPEAL.—Section 2839 of the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101-510; 104 Stat. 1801) is repealed.

SEC. 604. GRASSROOTS EFFORTS TO SUPPORT OUR TROOPS

(a) FINDINGS.—The Congress finds the following:

(1) Over 400,000 American servicemen and women risked their lives in defending the interests and principles of the United States in the Persian Gulf region.

(2) These American servicemen and women performed with remarkable success against Iraq and its military-industrial complex.

(3) All Americans should take great pride in the manner in which our brave servicemen and women represented our Nation in the Persian Gulf region.

(4) All Americans eagerly await the safe return of our courageous sons and daughters who served in the Persian Gulf region.

(b) GRASSROOTS SUPPORT.—The Congress—

(1) supports and endorses national, State, and local grassroots efforts to support our servicemen and women who participated in Operation Desert Storm and their families here at home;

(2) encourages Federal agencies (in accordance with applicable law), State and local governments, and private businesses and industry to organize task forces intended to provide support for the families of servicemen and women deployed in the Persian Gulf region and to organize celebrations for the servicemen and women upon their arrival home; and

(3) encourages those grassroots government, business, and industry efforts to include Vietnam Veteran organizations in all activities conducted for the benefit of the troops returning home from Operation Desert Storm.

SEC. 605. EXTENSION OF TIME FOR FILING FOR PERSONS SERVING IN COMBAT ZONE

(a) IN GENERAL.—Section 101(g) of the Ethics in Government Act of 1978 is amended—

(1) by inserting "(1)" after "(g)"; and

(2) by adding at the end the following:

"(2)(A) In the case of an individual who is serving in the Armed Forces, or serving in support of the Armed Forces, in an area while that area is designated by the President by Executive order as a combat zone for purposes of section 112 of the Internal Revenue Code of 1986, the date for the filing of any report shall be extended so that the date is 180 days after the later of—

"(i) the last day of the individual's service in such area during such designated period; or

"(ii) the last day of the individual's hospitalization as a result of injury received or disease contracted while serving in such area.

"(B) The Office of Government Ethics, in consultation with the Secretary of Defense, may prescribe procedures under this paragraph.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to reports required to be filed after January 17, 1991.

SEC. 606. SENSE OF CONGRESS CONCERNING BUSINESSES SEEKING TO PARTICIPATE IN THE REBUILDING OF KUWAIT

(a) FINDINGS.—The Congress finds as follows:

(1) The Armed Forces of the United States, together with allied forces, have successfully liberated Kuwait and have restored the independence of that nation.

(2) During the occupation of Kuwait by Iraq, much damage was done to the infrastructure, environment, and industrial capacity of Kuwait, and rebuilding of Kuwait is desperately needed.

(3) The principal test of a nation's commitment to the liberation of Kuwait in the Persian Gulf conflict was its willingness to provide military forces for the liberation of Kuwait.

(4) United States firms, including small and minority-owned businesses, have expressed a significant interest in participating in the rebuilding of Kuwait.

(5) Small and minority-owned businesses face inherent difficulties in competing in foreign markets and in obtaining a share of contracts from foreign governments, particularly those contracts that are performed in distant parts of the world.

(b) SENSE OF CONGRESS CONCERNING SOURCE SELECTION FOR KUWAIT CONTRACTS.—It is the sense of Congress that the Army Corps of Engineers and other Federal agencies should award contracts for the rebuilding of Kuwait, and, in recommending business firms to the Government of Kuwait for the award by it of such contracts, should encourage the Government of Kuwait to award such contracts, in accordance with the following priority:

(1) First, to United States firms, including small and minority-owned businesses, that are committed to employing United States workers under the contract.

(2) Second, to other United States firms.

(3) Then, to firms from allied nations that committed military forces to the liberation of Kuwait during the Persian Gulf conflict.

(c) SENSE OF CONGRESS CONCERNING SELECTION OF SUBCONTRACTORS FOR KUWAIT CONTRACTS.—It is the sense of Congress that, when making recommendations to any contractor awarded a contract referred to in subsection (b) concerning the selection of firms for subcontracts under such contract, the Army Corps of Engineers shall encourage the contractor to select a firm or firms for the subcontract in accordance with the priority set out in subsection (b).

(d) SENSE OF CONGRESS CONCERNING EMPLOYEES UNDER KUWAIT REBUILDING CONTRACTS.—It is the sense of Congress that any United States firm that receives a contract pertaining to the rebuilding of Kuwait—

(1) should employ United States citizens to carry out the contract; and

(2) should provide a preference to veterans of the Armed Forces in hiring for work on the contract.

(e) SENSE OF CONGRESS CONCERNING SMALL AND MINORITY-OWNED BUSINESS PARTICIPATION IN KUWAIT REBUILDING CONTRACTS.—It is the sense of Congress that—

(1) the President, acting through the appropriate Government agencies (including particularly the agencies that will be engaged in source selections or source recommendations as described in subsection (b)), should take steps to provide assistance to United States small and minority-owned businesses seeking to be awarded contracts as part of the rebuilding of Kuwait;

(2) the Administrator of the Small Business Administration and other appropriate Federal officials should conduct a public information campaign to advise small and minority-owned business firms with respect to contracts for the rebuilding of Kuwait; and

(3) United States firms that are awarded contracts pertaining to the rebuilding of Kuwait should, to the maximum extent practicable, seek to award subcontracts for such contracts to United States small and minority-owned business firms.

(f) PROGRESS REPORTS.—(1) The President shall submit to Congress a report every four months with respect to contracting for the rebuilding of Kuwait. Each such report shall show, as of the submission of the report, the country of origin of all business firms awarded Kuwait rebuilding contracts by the Corps of Engineers and other Federal agencies and the country of origin of all business firms awarded subcontracts under such contracts and the other information specified in paragraphs (2) and (3).

(2) The President shall include in each such report the same information (to the extent reasonably available) with regard to all business firms awarded Kuwait rebuilding contracts by the Government of Kuwait and all business firms that are subcontractors under those contracts. The President shall request the Government of Kuwait to provide to the United States, on an ongoing basis, information with respect to the country of origin of business firms to which it awards rebuilding contracts, the country of origin of firms awarded subcontracts under those contracts, and the information with respect to those contracts and subcontracts described in paragraph (3).

(3)(A) Information in reports under paragraph (1) shall be shown by the number of firms from each such country and by the dollar value of contracts and subcontracts awarded to firms from each such country.

(B) Each such report shall also show (to the extent reasonably available) the number and percentage of contractors that are small businesses, and the number and percentage that are minority-owned businesses, among the total number of contracts awarded to United States. Each such report shall also show (to the extent reasonably available), with respect to each contract awarded to a United States firm, the number and percentage of persons employed (or expected to be employed) under the contract who are United States citizens, the number and percentage of all persons so employed (or expected to be so employed) who are United States citizens and are veterans, and the number of subcontractors under the contract that are small businesses and the number that are minority-owned businesses.

(4) The first report under paragraph (1) shall be submitted not later than two months after the date of the enactment of this Act. The last such report shall be submitted 36 months after the first report.

SEC. 607. SENSE OF CONGRESS REGARDING USE OF UNITED STATES FUNDS FOR REBUILDING IRAQ

It is the sense of Congress that none of the funds appropriated or otherwise made available by any provision of law may be obligated or expended, directly or indirectly, for the purpose of rebuilding Iraq while Saddam Hussein remains in power in Iraq.

SEC. 608. WITHHOLDING OF PAYMENTS TO INDIRECT-HIRE CIVILIAN PERSONNEL OF NONPAYING PLEDGING NATIONS

(a) GENERAL RULE.—Effective as of the end of the six-month period beginning on the date of the enactment of this Act, the Secretary of Defense shall withhold payments to any nonpaying pledging nation that would otherwise be paid as reimbursements for expenses of indirect-hire civilian personnel of the Department of Defense in that nation.

(b) NONPAYING PLEDGING NATION DEFINED.—For purposes of this section, the term "nonpaying pledging nation" means a foreign nation that has pledged to the United States that it will make contributions to assist the United States in defraying the incremental costs of Operation Desert Shield and which has not paid to the United States the full amount so pledged.

(c) RELEASE OF WITHHELD AMOUNTS.—When a nation affected by subsection (a) has paid to the United States the full amount pledged, the Secretary of Defense shall release the amounts withheld from payment pursuant to subsection (a).

(d) WAIVER AUTHORITY.—The Secretary of Defense may waive the requirement in subsection (a) upon certification to Congress that the waiver is required in the national security interests of the United States.

SEC. 609. RELIEF FROM REQUIREMENTS FOR REDUCTIONS IN DEFENSE ACQUISITION WORKFORCE DURING FISCAL YEAR 1991

(a) The Secretary of Defense, in allocating to various installations and facilities the defense acquisition workforce reductions required for fiscal year 1991, should use the considerable flexibility concerning the manner in which those reductions are to be made that was provided to the Secretary by section 905 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1621) in order to respond properly and efficiently to the influx of work expected to come into the defense acquisition system resulting from Operation Desert Storm.

(b) The Secretary should allocate those reductions for fiscal year 1991 in a manner that ensures that any Department of Defense installation or facility that will experience a significant increase in workload during fiscal year 1991 (compared to its workload during fiscal year 1990) as a direct result of activities undertaken in support of Operation Desert Storm is not required to make defense acquisition workforce reductions during fiscal year 1991 that would adversely affect the ability of that installation or facility to perform its mission.

(c) For purposes of this section, the term "defense acquisition workforce reductions" means the reductions in the defense acquisition workforce required by section 905 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1621).

TITLE VII—MISCELLANEOUS TECHNICAL AMENDMENTS

SEC. 701. AMENDMENTS TO TITLE 10, UNITED STATES CODE

(a) CLARIFICATION OF WAIVER AUTHORITY.—Section 2331(c)(1) of title 10, United States Code, as added by section 834(a) of Public Law 101–510 (104 Stat. 1613), is amended—

(1) by striking out "on a case-by-case basis";

(2) by striking out "considers necessary the use of master agreements" and inserting in lieu thereof "considers the use of master agreements necessary"; and

(3) by striking out "of this section" before the period at the end.

(b) CLARIFICATION OF TRUTH-IN-NEGOTIATION ACT AMENDMENTS.—Section 2306a(a)(1) of title 10, United States Code, as amended by section 803(a) of Public Law 101–510 (104 Stat. 1589), is amended—

(1) in subparagraph (B), by striking out "$500,000" and all that follows through "$100,000" and inserting in lieu thereof "the dollar amount applicable under subparagraph (A) to that contract";

(2) in subparagraph (C)(i), by striking out "$500,000" and all that follows through "$100,000" and inserting in lieu thereof "the dollar amount applicable under subparagraph (A) to the prime contract of that subcontract"; and

(3) in subparagraph (D), by striking out "$500,000" and all that follows through "$100,000" and inserting in lieu thereof "the dollar amount applicable under subparagraph (A) to the prime contract of that subcontract".

(c) CLARIFICATION OF IR&D AMENDMENTS.—Section 2372(d)(2)(B) of title 10, United States Code, as added by section 824(a)(1) of Public Law 101–510 (104 Stat. 1603), is amended by striking out "or" after "subsection (b)" and inserting in lieu thereof ", including".

(d) DEFINITION OF SMALL PURCHASE THRESHOLD.—Title 10, United States Code, is amended as follows:

(1) Section 2302 is amended by adding at the end the following new paragraph:

"(7) The term 'small purchase threshold' has the meaning given that term in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).".

(2) Section 2304 is amended—

(A) in subsection (g)—

(i) by striking out "chapter" in paragraph (2) and inserting in lieu thereof "subsection"; and

(ii) by striking out paragraph (5), as added by section 806(b)(3) of Public Law 101–510; and

(B) in subsection (j)(3)(A), by striking out "$25,000" and inserting in lieu thereof "the small purchase threshold".

(3) Section 2306(e)(2)(A) is amended by striking out "the small purchase amount under section 2304(g) of this title" and inserting in lieu thereof "the small purchase threshold".

(4) Section 2307(d)(3) is amended by striking out "contracts for amounts less than the maximum amount for small purchases specified in section 2304(g)(2) of this title" and inserting in lieu thereof "any contract for an amount not in excess of the amount of the small purchase threshold".

(5) Section 2326(g)(1)(B) is amended by striking out "of less than $25,000" and inserting in lieu thereof "in an amount not in excess of the amount of the small purchase threshold".

(6) Section 2397(a)(1) is amended—

(A) by striking out "awarded"; and

(B) by striking out "involves at least $25,000" and inserting in lieu thereof "is in an amount in excess of the small purchase threshold (as defined in section 2302(7) of this title), as in effect at the time that contract is awarded".

(e) TABLES OF CHAPTERS AND SECTIONS.—Title 10, United States Code, is amended as follows:

(1) The tables of chapters at the beginning of subtitle A, and at the beginning of part II of subtitle A, are amended by inserting after the item relating to chapter 83 the following new item:

"85. Procurement Management Personnel .... 1621".

(2) The items relating to chapter 108 in the tables of chapters at the beginning of subtitle A, and at the beginning of part III of subtitle A, are amended to read as follows:

"108. Department of Defense Schools . 2161".

(3) The table of sections at the beginning of chapter 39 is amended by transferring the item relating to section 687, as added by section 559(a)(2) of Public Law 101–510 (104 Stat. 1571), to appear after the item relating to section 689 and redesignating that item so as to relate to section 690.

(4) The item relating to section 1584 in the table of sections at the beginning of chapter 81 is amended to read as follows:

"1584. Employment of non-citizens.".

(5) The table of sections at the beginning of chapter 139 is amended by inserting a period at the end of the item relating to section 2366.

(6) The item relating to section 2706 in the table of sections at the beginning of chapter 160 is amended to read as follows:

"2706. Annual reports to Congress.".

(7) The item relating to section 6082 in the table of sections at the beginning of chapter 557 is amended to read as follows:

"6082. Rations.".

(8)(A) The headings of sections 1053 and 1594 are amended by striking out "mandatory".

(B) The item relating to section 1053 in the table of sections at the beginning of chapter 53, and the item relating to section 1594 in the table of sections at the beginning of chapter 81, are amended by striking out "mandatory".

(f) CROSS-REFERENCE CORRECTIONS.—Title 10, United States Code, is amended as follows:

(1) Section 2318(c) is amended by striking out "section 21" and inserting in lieu thereof "section 23".

(2) Section 2344(c) is amended by striking out "chapter" and inserting in lieu thereof "subchapter".

(3) Paragraph (5) of section 2432(c), as added by section 1407(c) of Public Law 101-510 (104 Stat. 1681), is amended by striking out "section 2432(a)" and all that follows through "subsection (a)(2)," and inserting in lieu thereof "subsection (a)".

(4) Section 2503(3) is amended by striking out "as defined in section 4(4) of the Office of Federal Procurement Policy Act" and inserting in lieu thereof "issued pursuant to section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1))".

(5) Section 4343 is amended by striking out "clauses (2)-(9)" and inserting in lieu thereof "clauses (2) through (8)".

(6) Section 2132(d) is amended by striking out "section 115(b)(1)(A)(ii)" and inserting in lieu thereof "section 115(a)(1)(B)".

(7) Section 2414(b) is amended by striking out "section 2411(a)(1)(D)" and inserting in lieu thereof "section 2411(1)(D)".

(8) Section 2306a(e)(1)(A)(i) is amended by striking out "Internal Revenue Code of 1954" and inserting in lieu thereof "Internal Revenue Code of 1986".

(g) U.S.C. REFERENCES.—Title 10, United States Code, is amended as follows:

(1) Section 2368(a) is amended by inserting "(42 U.S.C. 6683)" before the period at the end.

(2) Sections 2394a(c)(2) and 2857(c)(2) are amended by inserting "(42 U.S.C. 8254(a))" after "section 544(a) of the National Energy Conservation Policy Act".

(3) Section 2508(a)(2) is amended by inserting "(42 U.S.C. 6681 et seq.)" before the period at the end.

(h) DATE OF ENACTMENT REFERENCES.—Title 10, United States Code, is amended as follows:

(1) Section 1595(c) is amended by striking out "after the end of the 90-day period beginning on the date of the enactment of this section" and inserting in lieu thereof "after February 27, 1990".

(2) Section 2903(d)(2) is amended by striking out "two years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1991" and inserting in lieu thereof "on November 5, 1992".

(i) DEFINITIONS.—Title 10, United States Code, is amended as follows:

(1) Section 645 is amended—

(A) by inserting "The term" in paragraphs (1), (2), and (3) after the paragraph designation; and

(B) by revising the first word after the open quotation marks in each of such paragraphs so that the initial letter of such word is lower case.

(2) Section 2196, as added by section 247(a) of Public Law 101-510 (104 Stat. 1523), is amended by inserting "the term" after "In this chapter,".

(j) OTHER AMENDMENTS.—

(1) Section 1721(c) of title 10, United States Code, as added by section 1202 of the Defense Acquisition Workforce Improvement Act (title XII of Public Law 101-510), is amended by striking out "Activities,' dated" in the last sentence and inserting in lieu thereof "Activities', dated".

(2)(A) Subsection (f) of section 2307 of title 10, United States Code, as added by section 836(a) of Public Law 101-510 (104 Stat. 1615), is redesignated as subsection (e).

(B) Section 836(c) of Public Law 101-510 (104 Stat. 1616) is amended to read as follows:

"(c) EFFECTIVE DATE.—The provisions of section 2307 of title 10, United States Code, that are added by the amendments made by subsections (a) and (b) shall apply with respect to contracts entered into on or after May 6, 1991.".

(3) Section 2391(b)(3) of title 10, United States Code, as added by section 4102(b)(3) of Public Law 101-510 (104 Stat. 1851), is amended—

(A) by striking out "publicly-announced" and inserting in lieu thereof "publicly announced"; and

(B) by inserting a comma after "only if the reduction".

(4) Section 2409a(c) of title 10, United States Code, as added by section 837(a) of Public Law 101-510 (104 Stat. 1616), is amended—

(A) by aligning that part of paragraph (5) preceding subparagraph (A) so as to be indented two ems;

(B) by aligning subparagraphs (A), (B), and (C) of paragraph (5) so as to be indented four ems; and

(C) by aligning paragraph (6) so as to be indented two ems.

(5) Section 2411(1)(D) of title 10, United States Code, is amended by striking out "for-profit and nonprofit" and inserting in lieu thereof "for profit purposes or nonprofit".

(6) Sections 3446 and 8446 of title 10, United States Code, are amended by striking out "as" before "provided by law".

(7) Section 6223(b) of title 10, United States Code, is amended by striking out "MARINE CORPS BANDS" and inserting in lieu thereof "THE UNITED STATES MARINE CORPS BAND".

(8) Section 1095(a)(1) of title 10, United States Code, is amended by inserting "a" before "covered beneficiary".

(9) Section 2822(b) of title 10, United States Code, is amended by realigning paragraph (4) so as to be indented two ems.

(10) Section 2704(f) of title 10, United States Code, is amended by striking out "Agency of Toxic" and inserting in lieu thereof "Agency for Toxic".

(k) EFFECTIVE DATE CLARIFICATION.—

(1) Section 2409 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) EFFECTIVE DATE.—This section shall not be in effect during the period when section 2409a of this title is in effect.".

(2) Section 2409a of such title, as added by section 837(a) of Public Law 101-510 (104 Stat. 1616), is amended by adding at the end the following new subsection:

"(f) EXPIRATION OF SECTION.—This section shall cease to be in effect on November 5, 1994.".

(3) Section 837(b) of Public Law 101-510 (104 Stat. 1619) is amended by striking out the second sentence.

SEC. 702. AMENDMENTS TO TITLE 37, UNITED STATES CODE

(a) TABLES OF SECTIONS.—Title 37, United States Code, is amended as follows:

(1) The item relating to section 301d in the table of sections at the beginning of chapter 5 is amended by striking out "Retention" and inserting in lieu thereof "Multiyear retention".

(2)(A) The heading of section 302c is amended to read as follows:

"§302c. Special pay: psychologists and nonphysician health care providers".

(B) The heading of section 302e is amended to read as follows:

"§302e. Special pay: nurse anesthetists".

(b) STYLISTIC AMENDMENTS.—Title 37, United States Code, is amended—

(1) by striking out "of this section" each place it appears (other than as provided in subsection (c));

(2) by striking out "of this subsection" each place it appears (other than in sections 305a(d)(3), 431(a), and 501(f));

(3) by striking out "of this paragraph" each place it appears (other than in section 301(c)(2)(B)); and

(4) by striking out "of this subparagraph" in section 558(c)(3)(A)(i).

(c) EXCEPTIONS.—Subsection (b)(1) does not apply to the following provisions of title 37, United States Code:

(1) Section 204(d).

(2) Section 302(g).

(3) Section 302b(g).

(4) Section 305a(d)(2).

(5) Section 308e(b)(3).

(6) Section 312(e).

(7) Section 312a(e).

(8) Section 312b(c).

(9) Section 312c(d).

(10) Section 314(a)(2).

(11) Section 314(a)(3).

(12) Section 401.

(13) Section 402(e)(1), the first place "of this section" appears.

(14) Section 403(j)(1).

(15) Section 403(k).

(16) Section 403a(c)(4).

(17) Section 403a(e)(1).

(18) Section 404a(b), the second place "of this section" appears.

(19) Section 405a(a).

(20) Section 406(h), the third place "of this section" appears.

(21) Section 406(m).

(22) Section 407(e).

(23) Section 411c(a).

(24) Section 552(d).

(25) Section 907(c), the first place "of this section" appears.

(26) Section 1011(b).

SEC. 703. AMENDMENTS TO TITLE 32, UNITED STATES CODE

Section 112(c)(2) of title 32, United States Code, is amended by striking out "in consultation with—" and all that follows and inserting in lieu thereof "in consultation with the Director of National Drug Control Policy.".

SEC. 704. AMENDMENTS TO PUBLIC LAW 101-510

(a) GENERAL AMENDMENTS.—The National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510) is amended as follows:

(1) Section 217(d)(1) (104 Stat. 1511) is amended by striking out "amounts of" and all that follows through "applicable" and inserting in lieu thereof "amounts of authorizations provided for the Department of Defense in this Act, subject to applicable".

(2) Section 406(b) (104 Stat. 1546) is amended by striking out "Such section" and inserting in lieu thereof "Such subsection".

(3) Section 559 (104 Stat. 1571) is amended—

(A) in subsection (a), by striking out "inserting after section 686" and inserting in lieu thereof "adding at the end";

(B) by redesignating as section 690 the new section to be added to title 10, United States Code, by the amendment made by subsection (a); and

(C) in subsection (b), by striking out "Section 687" and inserting in lieu thereof "Section 690".

(4) Section 803(a)(2) (104 Stat. 1590) is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) contracts entered into after December 5, 1990;

"(B) subcontracts under contracts covered by subparagraph (A); and

"(C) modifications or changes to such contracts and subcontracts.".

(5) Section 822(g) (104 Stat. 1600) is amended—

(A) in paragraph (1)—

(i) by striking out "available for the Department of Defense" and inserting in lieu thereof "appropriated pursuant to this Act"; and

(ii) by striking out "in the first fiscal year in which the Institute begins operations"; and

(B) in paragraph (2), by striking out "for each fiscal year after the fiscal year referred to in paragraph (1)".

(6) Section 832 (104 Stat. 1612) is amended by inserting "of subsection (a)" in paragraph (2) after "by adding at the end".

(7) Section 903(b)(1) (104 Stat. 1620) is amended by striking out "all forces" and all that follows through "Army Reserve Command" and inserting in lieu thereof "to the Army Reserve Command all forces of the Army Reserve in the continental United States other than forces assigned to the unified combatant command for special operations forces established pursuant to section 167 of title 10, United States Code".

(8) Section 1407(d) (104 Stat. 1681) is amended by striking out "section 2342" and inserting in lieu thereof "section 2432".

(9) Section 1451(b)(2) (104 Stat. 1693) is amended by inserting "of subchapter II" after "at the beginning".

(b) Acquisition Workforce Act Amendments.—The Defense Acquisition Workforce Improvement Act (title XII of Public Law 101-510) is amended as follows:

(1) Section 1202(a) (104 Stat. 1638) is amended by striking out "the following new section" and inserting in lieu thereof "the following new chapter".

(2) Section 1208 (104 Stat. 1665) is amended—

(A) in subsection (a)(1), by striking out "this Act" and inserting in lieu thereof "this title";

(B) in subsection (b)(1)—

(i) by striking out "this title" and inserting in lieu thereof "title 10, United States Code (as added by section 1202)"; and

(ii) by striking out "this chapter" and inserting in lieu thereof "chapter 87 of such title (as added by section 1202)"; and

(C) in subsection (b)(2)—

(i) by striking out "this chapter" the first place it appears and inserting in lieu thereof "chapter 87 of title 10, United States Code (as added by section 1202),"; and

(ii) by striking out "this chapter" the second place it appears and inserting in lieu thereof "such chapter".

(3) Section 1209 (104 Stat. 1666) is amended—

(A) in subsection (a)—

(i) by striking out "Effective during the three-year period beginning on the date of the enactment of this Act" and inserting in lieu thereof "Before November 6, 1993"; and

(ii) by striking out the comma after "section 1202)";

(B) in subsection (b), by inserting a comma after "(as added by section 1202)";

(C) in subsection (f), by striking out the comma after "shall include" in the last sentence; and

(D) in subsection (i), by inserting a comma after "section 1732(c)(1) of such title".

(c) Mentor-Protege Program.—Section 831 of the National Defense Authorization Act for Fiscal Year 1991 (104 Stat. 1607) is amended—

(1) in subsection (c)(2)—

(A) by striking out "Disadvantaged small business concerns" and inserting in lieu thereof "A disadvantaged small business concern";

(B) by striking out "one or more mentor firms" and inserting in lieu thereof "a mentor firm";

(C) by striking out "or firms"; and

(D) by inserting after the first sentence the following new sentence: "A disadvantaged small business concern may not be a party to more than one agreement to receive such assistance at any time.";

(2) in subsection (e)(3), by striking out "mentor firm or"; and

(3) in subsection (k)—

(A) by striking out "673(d)" and inserting in lieu thereof "637(d)"; and

(B) by striking out the period at the end of the second sentence and inserting in lieu thereof "and shall prescribe procedures by which mentor firms may terminate participation in the program.".

(d) DOE Amendments.—Section 3165 of Public Law 101-510 (104 Stat. 1841) is amended—

(1) in subsection (a), by redesignating subparagraphs (J), (K), (L), and (M) as paragraphs (10), (11), (12), and (13), respectively; and

(2) in subsection (b), by inserting "such" in the second sentence before "education activities".

(e) Effective Date.—The amendments made by this section shall apply as if included in the enactment of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510).

SEC. 705. OTHER TECHNICAL AMENDMENTS

(a) Continued Applicability of Certain Provision.—The subsection added by the amendment made by paragraph (2) of section 814(d) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1498) is hereby reinstated as originally enacted, effective as of January 1, 1991.

(b) Missing Paragraph Designation.—Effective as of November 29, 1989, section 703(f) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1470) is amended by inserting "(1)" before "In the case of".

(c) Title 38.—(1) Section 1418A(a)(1) of title 38, United States Code, as added by section 561(a) of Public Law 101-510, is amended by striking out "section 1142 of title 10" and inserting in lieu thereof "section 1141 of title 10".

(2) Section 1404(b)(2) of Public Law 101-189 (103 Stat. 1586) is amended by striking out "of subchapter I or II" in the matter in quotation marks and inserting in lieu thereof "subchapter I or II of".

(d) Cross-Reference Corrections.—(1) Section 21(g) of the Arms Export Control Act (22 U.S.C. 2761(g)) is amended by striking out "section 1105 of the National Defense Authorization Act of fiscal year 1987" and inserting in lieu thereof "section 2350a(i)(3) of title 10, United States Code".

(2) Section 65(d) of such Act (22 U.S.C. 2796d(d)) is amended by striking out "section 1105 of the National Defense Authorization Act for Fiscal Year 1987 (22 U.S.C. 2767a)" and inserting in lieu thereof "section 2350a(i)(3) of title 10, United States Code".

(e) Section 1207.—Subparagraph (A) of section 1207(a)(1) of Public Law 99-661 (10 U.S.C. 2301 note), as amended and redesignated by sections 811 and 832(1)(B) of Public Law 101-510 (104 Stat. 1596, 1612), is amended by inserting a close parenthesis after "637(d)".

(f) Public Law 85-804.—(1) Effective as of November 6, 1990, the first section of Public Law 85-804 (50 U.S.C. 1431) is amended by inserting "and 60 days of continuous session of Congress have expired following the date on which such notice was transmitted to such Committees" before the period at the end of the third sentence.

(2) Such section is further amended in the fourth sentence—

(A) by inserting "at the end of a Congress" after "sine die"; and

(B) by inserting ", or because of an adjournment sine die other than at the end of a Congress," after "to a day certain".

(g) Capitalization Correction.—Paragraph (2) of section 12(d) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)) is amended by striking out "Naval" and inserting in lieu thereof "naval".

(h) Expenditures for Uniformed Services Treatment Facilities.—Section 1252(f) of the Department of Defense Authorization Act, 1984 (42 U.S.C. 248d(f)), is amended by inserting "by the Secretary of Defense" after "expenditures".

(i) Additional Cross Reference Correction.—Section 27(p)(8) of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended by striking out "has the same meaning as" and all that follows through the end and inserting in lieu thereof the following: "has the meaning given such term by section 109(3) of the Ethics in Government Act of 1978 (5 U.S.C. App.).".

TITLE VIII—AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS FOR DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS FOR FISCAL YEAR 1991

SEC. 801. AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS FOR OPERATING EXPENSES

There is hereby authorized to be appropriated for fiscal year 1991 for operating expenses incurred in carrying out national security programs (including scientific research and development in support of the Armed Forces, strategic and critical materials necessary for the common defense, and military applications of nuclear energy and related management and support activities) for weapons activities production and surveillance, $283,000,000.

SEC. 802. AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS FOR ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

There is hereby authorized to be appropriated for fiscal year 1991 for carrying out the environmental restoration and waste management programs necessary for national security programs as follows:

(1) For operating expenses:

(A) For environmental restoration, $100,000,000.

(B) For waste operations, $74,300,000.

(C) For waste research and development, $30,000,000.

(2) For plant projects:

Project 91-D-172, high-level waste tank farm replacement, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $30,000,000.

Project 90-D-178, TSA retrieval containment building, Idaho National Engineering Laboratory, Idaho Falls, Idaho, $19,500,000.

Project 89-D-142, reactor effluent cooling water thermal mitigation, Savannah River, South Carolina, $17,600,000.

Project 89-D-172, Hanford environmental compliance, Richland, Washington, $27,700,000.

Project 89-D-174, replacement high-level waste evaporator, Savannah River, South Carolina, $14,000,000.

Project 83-D-148, nonradioactive hazardous waste management, Savannah River, South Carolina, $10,000,000.

Project 77-13-f, waste isolation pilot project, Delaware Basin, southeast New Mexico, $16,900,000.

SEC. 803. APPLICABILITY OF RECURRING GENERAL PROVISIONS

The provisions contained in part B of title XXXI of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1829) shall apply with respect to the authorizations provided in this title in the same manner as such provisions apply with respect to the authorizations provided in title XXXI of such Act.

SEC. 804. RELOCATION OF ROCKY FLATS PLANT OPERATIONS

(a) RELOCATION PROGRAM.—From funds authorized and appropriated for production and surveillance for fiscal year 1991, the Secretary of Energy shall develop a program to relocate, within 10 years after the date of the enactment of this Act, operations performed at the Rocky Flats Plant in Golden, Colorado, to a replacement facility (or facilities) on a site (or sites) where public health and safety can be assured.

(b) REPORT.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Energy shall submit to Congress a report describing the program developed under subsection (a), a plan to implement such program, and the activities to be undertaken during fiscal year 1991 pursuant to the plan.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, the outstanding performance of our military forces in the Persian Gulf is a tribute to their professionalism and courage, to the capability and the vision of the military leadership. The superior training and effectiveness of our forces directly contributed to the early end of this conflict.

The fiscal year 1991 supplemental authorization bill before us today provides the Congress the opportunity to fulfill our obligation to the men and women in uniform and pay for the costs of this war. The final agreement on this bill includes several important sections which would provide in-strength flexibility to the services which is badly needed in view of the prior actions taken in connection with the authorization and appropriations bills of the fiscal year 1991 cycle. That flexibility is needed as well as increased benefits to military personnel, both Active and Reserve, who served in the gulf region.

In addition, several sections of the bill provide increased veterans' benefits, higher education assistance, assistance performance, and other provisions providing a measure of relief for Americans, and most particularly, Mr. President, those who paid the ultimate, loss of life, whose service in the gulf resulted in financial hardship to the families and loved ones here at home.

Mr. President, in the course of several trips to the gulf region recently to visit men and women of the Armed Forces, I and the other Members of the Senate delegation time and time again were told by all ranks from four-star to private that the support at home from the families and the loved ones and all others on the village greens of America was as important to them as anything else in their ability to undertake the risks and the hardships of this military operation.

Mr. President, in the personnel area, our committee—and I had a role in the authorship, but basically our committee—sponsored a provision which was included in the Senate-passed authorization bill to increase to $100,000 payments made under the servicemen's group life insurance and the veteran's group life insurance program. This provision is included in the conference agreement before the Senate today in sections 308 and 336.

In view of the strong support for this provision in the Senate and expressions of support received from the widows of servicemen who died in the gulf conflict, I strongly urge the House of Representatives not to attempt to reduce the amounts of benefits under this important military personnel program.

Mr. President, I wish to acknowledge that the genesis of this piece of legislation was from the wife of an active duty service person as she presently is assigned to my staff, Mrs. Nancy Pomerleau, on leave from another Government department, and I wish to commend her for the thought process which eventually led to this particular portion of our bill.

Mr. President, this bill provides the authorization to pay the incremental costs of Operation Desert Shield/Desert Storm, those costs which are in addition to the normal operating and other costs of the Department of Defense in peacetime. The bill would authorize expenditure of both U.S. funds and foreign contributions to meet the incremental U.S. costs of this military operation. Our partners in the coalition have pledged to the United States over $54 billion in cash and materiel assistance in support of U.S. forces in the gulf crisis.

Mr. President, I used the term "coalition," but I want to be careful to point out that it was both the coalition of nations which supplied troops as well as other nations who did not send troops to the immediate gulf area which, combined, provided the overall contribution of $54 billion. I am especially pleased that in large measure these financial contributions which have been made available will offset most, hopefully, if not all, of the costs of Operation Desert Shield and Operation Desert Storm.

The bill would require the administration to report periodically to the Congress on the value of cash and other assistance pledged provided to the United States as well as other nations in the region and those involved in the multinational coalition. Today I am advised that we have received almost 40 percent of the funds and assistance pledged by our friends and allies with indications that additional contributions may be forthcoming in the next few days.

The bill would also authorize the appropriation of $15 billion in new budget authority for a total of approximately $68 billion in total authorization appropriations for the operation. Any portion of the $15 billion of U.S. taxpayer funds that is not required to pay for the war after all foreign contributions are used will be returned to the U.S. Treasury.

The administration provided a preliminary estimate of approximately $42 billion for the cost of the United State presence in the gulf since the invasion of Kuwait on August 2, 1990. The supplemental appropriations bill for Operation Desert Storm currently in conference will provide for the appropriation of foreign contributions and U.S. funds to pay the amounts specifically identified by DOD. However, the cost estimate may change substantially depending on the actual phasedown and troop withdrawal schedule, as well as the completion of final accounting of the extra costs of combat operations. The flexible authorization provisions of this bill should be sufficient to cover all costs of the operation, assuming that all foreign pledges are honored, while allowing DOD the flexibility to refine its accounting for these costs. In addition, the bill requires the Department of Defense to advise the Congress 7 days before actually using either foreign contributions or U.S. funds to pay for specific programs or costs of the Persian Gulf crisis. This provision is, I believe, sufficient to ensure continued congressional oversight over expenditures for the war.

The final bill also includes a provision that was included in the Senate bill which would require the Secretary of Defense to report promptly to the Congress on the lessons learned from Operations Desert Shield and Desert Storm with respect to military operations and strategy, as well as acquisition policy, environmental issues, the law of armed conflict, the role of the media, and several other issues. This report will assist the Armed Services Committee in its review of the fiscal year 1992 and future years defense budgets and in assessing the revised national military strategy.

Mr. President, the costs of the U.S.-led military operation in the Persian Gulf are not insignificant, but neither are they unexpected. The agreement before us provides the Secretary of Defense the authority to pay only the actual incremental costs for our personnel and their support, operations and transportation, and other activities directly associated with Operation Desert Shield and Operation Desert

Storm. We in the Congress should take swift action on this measure and fulfill our obligation to ensure the continued full support of our military forces as they return from the Persian Gulf.

I wish at this time to acknowledge the very special contributions to this legislation made by my good friend and fellow colleague on the Armed Services Committee, the Senator from Ohio [Mr. GLENN], and correspondingly, on our side, the distinguished Senator from Arizona [Mr. MCCAIN], who will shortly address the Senate in connection with this important measure. These two Senators have the background and knowledge with respect to personnel matters in the military, in large measure derived from distinguished, lengthy careers on active duty.

And they are continuing their work with the military now as members of the U.S. Senate. I am sure Chairman NUNN and I wish to single them out for their speical contributions in the formation of this legislation.

Senator GLENN was with the group of Senators that I was a part of in the gulf just a few days ago, and together we saw firsthand the really extraordinary accomplishments of these young men and women. We brought back, firsthand, their needs. I think this piece of legislation will, in large measure, reflect their knowledge that was conveyed to us by those who took part in this gulf operation.

I yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, are we in morning business?

The PRESIDING OFFICER. We are in morning business.

CRIME IN AMERICA

Mr. KERREY. Mr. President, I rise to talk about a slightly different side of the Operation Desert Storm victory, and I want in no way to take away from what the distinguished Senator from Virginia just addressed. There is a problem, and we want to make certain that we take care of those individuals' families who sacrificed so much on our behalf.

Mr. President, yesterday's Washington Post carried a story on the front page that I suspect the distinguished Senator from Virginia saw as well. That was the story of the death of an Army specialist, Anthony Riggs, who was a veteran of Operation Desert Storm. He was killed in Detroit where he arrived home before his own letters to his mother. The story reported that "witnesses heard 5 rapid shots and the sounds of a car screeching down the street." Spc. Tony Riggs was one of the heroes whose operation of Patriot missiles kept the successful military operation on track.

Another young man shot to death on America's streets, and I feel personally terrible about it. I am tempted to let the feeling go, Mr. President, but this particular incident will not leave me. It does not feel as if it is out there. It feels, for me, as if it is here.

I am tempted to let the feeling go, Mr. President, but the needless death of any youth like this affects me deeply. When I hear about a soldier who manned a Patriot missile battery in Saudi Arabia being gunned down and destroyed as he was unloading a moving van, I think of a young man from Nebraska, Dan Hotz, from Omaha, who was shot and killed here in Washington in July 1989, 7 months after I was sworn into office.

Perhaps I should let the feeling go, because I wonder if other Nebraskans will feel I should not be spending my time on such things. I wonder, with some weariness, if anything can be done to reduce the level of violence in this country that I love so much.

I think of a woman I met recently by the name of Miss Fields, who is a wonderful second-grade teacher working at Walnut Hill Elementary, a city school in Omaha, and other teachers, parents, and community leaders who are trying, with love and attention, to cut this chain of violence, and I press on.

A disproportionate number of today's young murder victims are black, but I do not believe this is primarily a problem of race. It is not merely a consequence of white racism or isolated black anger. It is a community problem which affects all of us. Mr. President, the glue which should be holding us together simply is not.

This is also a problem that I do not believe is going to be solved simply by passing gun control legislation or civil rights legislation. The case for these cannot be made with the belief that violence on our streets will end if they are enacted. It is a problem which will only be solved if we have a committed willingness to address the short list of economic problems faced by a growing number of Americans.

For an astonishing number of us, what is taken home in pay will not cover the costs of housing, health care, transportation, and education. The problem we face is that in America, for many of us, hope is being eroded from within. Our school system is simply leaving too many people unprepared for a world changed by new technologies and new demands. The most difficult task facing our schools today in America is a rising number of children who are arriving unprepared for the relatively mild rigors of kindergarten. Thus, the problem of street violence will not be solved, unless we have a committed willingness to simply take better care of our children.

We have just finished the 1980's described by many as a decade of personal greed and avarice. It was a decade of increasing violence, much of which has been projected onto our youth through television, videos, and most recently the appalling commercial side of Operation Desert Storm.

Buried deep in Sunday's New York Times was a short story about a speech given last Friday by a courageous man. Addressing the Black Family Conference at Hampton University in Hampton, VA, the speaker, a middle-aged black man, dared to say what many are thinking:

> During every 100 hours on our streets we lose more young men than were killed in 100 hours of ground war in the Persian Gulf. Where are the yellow ribbons of hope and remembrance for our youth dying in the streets? This is a war against ourselves, and it is devastating our communities.

He had just read, Mr. President, the study by the National Center for Health Statistics, a branch of the Centers for Disease Control. The study found that 48 percent of black male Americans from 15 to 19 years of age who died in 1988 were killed by guns. In 1984 the percentage was 24 percent. In 1987 it was just 35. The number is three times the rate for white youths of the same age.

The speaker went on to personalize the numbers. He said:

> As a black man and a father of three, this really shakes me to the core of my being. What we need is a return to culture of character.
>
> A culture in which parents invest time and attention in their children and the children of their neighborhood, a culture in which children growing up without a father are a small minority, not the majority, and a culture in which neighbors become actively involved in making their neighborhoods a safe haven for children.

Mr. President, the speaker was Dr. Louis Sullivan, Secretary of Health and Human Services. I dearly wish that more of us were shaken to the core of our being by these numbers. Then maybe we would advance toward the culture of character envisioned by Dr. Sullivan. Perhaps then we would make the public investments needed if this vision is to become a reality.

Mr. President, our black neighborhoods are simply too run down, personal income and job skills are too low, and families too shattered to expect a reversal without a major investment of capital in housing, health care, and education with a focus on the family unit and emphasis on personal responsibility.

We must invest by fully funding WIC and Head Start. In Nebraska we must come to the principals of Omaha schools like Marrs, Walnut Hill, Kellum, Fontenelle, and Field Club to say: What can we do to help with your students? What do you need now? What do you need now to prevent the damage to these young people?

The investment is needed the most in our urban or troubled neighborhoods, but, by any means, it is not the only case of neglect. If we continue drawing a boundary line around poverty, our response will be inadequate. We will make the problem worse, and we will create more, not less, division among Americans.

If we felt the intense anxiety of many working American families about the cost of health care, education, and the decreasing opportunity for their children, we would quit our haggling over the irrelevant and get to work on the things that matter to a child in America today. We would insist on solutions which affect all of us and not just a few.

We, who do not live in the environment where these young people are dying, can talk about the problem in a cold detached manner. We can blame the welfare system or wonder why they do not just work a little harder or, worse, we can merely look for ways to keep their violence away from us.

Political leaders propose solutions we would never propose if we were closer to the subject. The crime package which the President wants Congress to pass in 100 days could not have been presented to the same audience Dr. Sullivan addressed. They would have greeted with skepticism the irrelevance of one of its key points. The death penalty for treason and spying.

We have no difficulty in understanding the value of private public investment when we are struggling to keep our State university well-funded, or to get special highway allocations for our States, or some other project designed to stimulate our economy. We understand the value of equity when we are trying to pay our own mortgages with salaries 20 times higher than 25 percent of America's children, who live in poverty today.

Sometimes we understand, but do not act, when we face the problems faced by the poor because we fear being accused of making liberal expenditures. The political playing field has never been level for liberal and conservative expenditures. We constantly act upon the almost tragic absence of fear felt when we make conservative expenditures. Thus, we are able to give away large amounts of money to wealthy people so they can continue to live unencumbered with excessive obstacles.

The feelings of Dr. Sullivan must guide up to overcome the unlevel nature of the political landscape, because every day we wait we see the earth splitting between those who have and those who have not in America. The chasm which separates them from us widens every day.

And, unlike many things of this life, we are definitely not powerless to stop it. We could if we wanted to.

We will want to if we see this violence as a seamless web from which we cannot escape. On July 30, 1989, Bill Hotz gave us good advice when he talked about his feelings after his son, Dan, had been killed a few blocks from the Capitol in Washington, DC, by another youth who was desperate for money:

> There is something so seriously wrong with our country. How are we going to turn this around? We can't go on like this * * * we're 200 years old and we're going down the drain. I tried to call the President to talk to him about the killing of my son, about Violence in America, about guns, drugs, poverty and homelessness.

The violence in America is growing, not receding. We are feeding the supply by neglecting our children and the demand by ignoring the impact of the technologies of communication. We have the power to do something about both.

To act, we would have to look beyond the crush of corporate and special interest representatives who approach us feverishly looking for their little slice of the budget or tax pie. We would have to look them in the eye and say: "We're mad as hell about what is going on in America and we're not going to take it any more! We don't care what you say about us in your next newletter or at our next election! We are going to pay attention to the children of this country before it is too late!"

To act, we cannot allow ourselves to walk away from our feelings when we read about another casualty of our streets. To act, we cannot see the violence as a consequence of liberal or conservative failures; or the simple result of racism, insensitivity, and abuse.

To act, we must see a common agenda for those who are dying from the violence—poor youth, disproportionately black, but all races—and those who fear they will become innocent victims—all the rest of us. That common agenda includes a health care system which does not deny us care simply because we do not earn more than $100,000 a year as do Members of Congress, for example. It also includes a school system which takes responsibility for its failure to educate our children rather than merely blaming us for the failure. It includes a broad-based effort to increase the attention we pay to all our babies. It includes a tax system which is at least as sensitive to the difficulty of saving money if your income is $15,000 a year as it is when your income is $115,000 a year.

To act, we must read the statistics, look out our windows, glance at the world of our streets, and like Dr. Sullivan allow what we see to "shake us to the core of our being." If that core gets shaken, we will move. Otherwise, we will not.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona [Mr. McCAIN].

Mr. McCAIN. Mr. President, we have pending business, very important legislation. But I would like to make a comment on the statement which was in many ways very excellent and compelling by my colleague from Nebraska. Let me point out that he said that he is mad about what is going on in America.

I am very glad about what is going on in America. I am glad to see a resurgence of patriotism and pride in America, and the performance of men and women, and by minorities, many minorities who served so well from the top to the very bottom of our military. I am very proud of the engagement in which they just fought, which my colleague from Nebraska so steadfastly opposed.

I am very proud that in the military we have men and women who are minorities, including those from the Indian reservations all over my State, who are now reflections of that pride. If there is anything that the young men and women in this country need it is role models; role models like Gen. Colin Powell, role models like the Marine captain I met who was in the lead tank breaching the lines of the Iraqis. It is Native Americans from the Navajo reservation like I met also on my visit to Iraq who have been sitting out there in the desert for 7 months, and were glad to do so, Mr. President, glad to do so because they know they were fighting for someone else's freedom.

As a young Navajo walked up to me and said, "No, Senator, it was not blood for oil; it was blood for freedom." It was blood for freedom of the people of Kuwait who were being raped and pillaged, tortured and murdered on a daily and incessent basis by their cruel and heartless Iraqi capitors.

Mr. President, I am proud of America. I am proud of the men and women who are minorities in America in their service. There are no quotas in the military. You get ahead and you succeed and you get responsibility and leadership because of the fact that you have the qualities that I am so proud of in these minority men and women who have served our Nation with such great pride.

They have pride in themselves. I would urge any of my colleagues to go to one of our Nation's Indian reservations in our State, and see the incredible pride that those native Americans feel in the men and women of the reservation who have served. In the Hispanic community in the southern part of Phoenix where I live, and others because, I say to my friend, this is a great thing for America, a great thing that they have done. I have some hope for the minorities in America because of their outstanding service and the example that they have provided to all of us in this country of service and sacrifice, and I am very proud of them. I am also proud to be associated with my friend, Senator GLENN.

Mr. KERREY. Mr. President, will the Senator yield?

Mr. McCAIN. I went with him to see these young men and women who served with us with such great skill, and which frankly was one of the most uplifting experiences that I have had visiting the men and women who were there and the pride that they felt in themselves and in their country and the service that they performed in freeing an oppressed and frankly indescribably brutally treated people of Kuwait.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, as our troops were building up over in the desert and we did not know what length the war would be, there were a number of pieces of legislation that were introduced on both ends of the Capitol building to provide certain benefits to them, here in the Senate and over there in the House. Some of them did not amount to much. Some of them, I might add, were as much press releases as anything else, I hate to say that, but some of them were.

So we formed a task force under the leadership of the majority leader, Senator MITCHELL, who asked me to head up a task for on our side. We wound up on the Democratic side with 16 Senators. Senator McCAIN headed up a task force on the Republican side.

Mr. KERREY. Mr. President, I wonder if the Senator from Ohio would allow me to respond very briefly, to take only 2 minutes to respond to the Senator from Arizona?

Mr. GLENN. If the Senator can keep it short, I am glad to yield for that purpose without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nebraska is recognized for 2 minutes.

Mr. KERREY. Mr. President, I appreciate that very much.

First of all, let me say to my friend from Arizona that at the start of my remarks I made it clear that I too am very proud, and that this was not intended to isolate as a consequence of the violence on the streets this pride that I feel from the concern that I also feel on what is going on in America.

I find that the statements the distinguished Senator from Arizona has made were not only provocative but incorrect. And I find as well that it is a sort of thing that tends to divide the country that says if you are not with the President, if you were not with the President, somehow you are on the wrong side, and somehow as a consequence you are not entitled to stand up and be concerned about the growing violence in America and propose some suggestions for it.

I regret very much the remarks that the distinguished Senator from Arizona made just recently and I would look forward to the opportunity when I have more time to engage more fully on the floor of the Senate to discuss them.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. McCAIN. Mr. President, will the Senator yield? I will be very brief, I promise.

The PRESIDING OFFICER. The Senator from Ohio has the floor.

Mr. McCAIN. Will the Senator yield for 1 minute?

Mr. GLENN. I yield.

Mr. McCAIN. My remarks did not mean to intentionally denigrate the Senator from Nebraska. In fact, I said I associated myself with his remarks. I agree with him. I think this is a decision we should know that Americans are proud of their performance and very proud of the performance of many of those who are minorities and those minorities are role models to all of us in this country.

I am sorry that the Senator from Nebraska took this as some criticism. It certainly was not. I stood solely on the virtues of the men and women who participated in Desert Storm. I cannot account for any reason for that.

I thank my colleague from Ohio and yield.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, as the buildup continued, there were many bills put in and we had to consider those, all of them. The task forces on both sides of the aisle, working together in a bipartisan fashion, put together a package that also had to pass each one of the committees of jurisdiction. We did not exempt them. That has been done and that is what S. 725 is.

I believe the bill we just passed, S. 725, is good legislation. It provides the authority our military services' need to take care of expenses resulting from the Persian Gulf conflict.

Mr. President, it also provides certain authorities to the Department of Defense to make adjustments in fiscal year 1991 strength levels so that military personnel who were needed for Operation Desert Shield and Operation Desert Storm do not have to be involuntarily separated just to hit a strength limit that was established before they knew the extent of their involvement in the Persian Gulf. Most importantly, this bill provides a very good set of personnel benefits for our men and women in uniform and their families who served us so well and so bravely throughout the crisis.

So, Mr. President, we have passed this bill. It will now be sent over to the House so they can take it up and pass it, we hope, before we go into our 2-week nonlegislative work session. I think all of us want a very strong signal to our men and women in uniform and their families that we have not forgotten about them now that the bullets have stopped flying.

For example, I know there are survivors of military personnel out there who will be helped by the survivor benefits provisions in this bill; namely, the increase in death gratuity pay from $3,000 to $6,000 and the servicemen's group life insurance benefit from $50,000 to $100,000, both of which are retroactive to the start of Operations Desert Shield/Desert Storm, August 2, 1990.

Mr. President, I know that those who served us in the Persian Gulf and those who still serve us there deserve the increases in imminent danger pay and family separation allowances we have provided for in this bill.

We visited just a few days ago with Big Red One, the 1st Division, Army infantry, still deployed. Senator McCAIN here on the floor was with me when we visited the 1st and 2d Marine Divisions who are still deployed. Let me say that going out in the field with those divisions, particularly the 2d Division which is still deployed out there, battalions deployed, patrols out, they are still in a combat mode.

Mr. President, we heard just yesterday, as we were briefed over there, that the Air Force still had authority to shoot down fixed-wing combat aircraft that were going to take off and were running combat air patrols over Iraq. Yet one of those Iraqi planes, contrary to the agreement, did try to take off and an Air Force pilot shot it down.

So that reemphasizes what I mean by they are still serving, still serving us there. So as far as I am concerned, they certainly deserve the increases in imminent danger pay and family separation allowances that we have provided for in this bill.

Mr. President, I know that our National Guard and Reserve personnel who were activated for Operations Desert Shield and Desert Storm deserve the pay adjustments we provide for in this bill so that they will be treated in the same manner as their active component peers. Then when they come home and are deactivated, we provide a safety net of benefits including transitional medical coverage, wartime veterans' benefits, and other readjustment benefits.

I know that some of our National Guard and Reserve personnel, who were farmers and students before they were activated, can use the relief that we provide in this bill for the repayment of loans and the relief from certain planting requirements and conservation requirements in the case of farmers and ranchers.

Mr. President, we have worked hard on the Armed Services Committee to reach agreement with the House on the companion bill they have passed with similar measures. As I understand it, there was only one provision in the final bill that we have in front of us that gives the House some concern. It is the provision that would increase the service group life insurance benefit.

Mr. President, in our bill, we increase the SGLI benefit from $50,000 to $100,000 to update the benefit to the average term-life insurance coverage in this country.

The SGLI, however, is not a raid on the Treasury. The SGLI benefit is paid for by the military personnel themselves. They pay premiums every month on this insurance. The premium is currently 8 cents per $1,000 of coverage and they pay that every single month. So it is a self-liquidating program. It is not something that is a great raid on the Treasury. So this program is cost neutral to the Government in peacetime.

It seems to me this increase is eminently reasonable, especially since the House agreed to a provision in our bill that would in effect double the amount of benefit for survivors who died since August 2, 1990, in conjunction with or in support of Operation Desert Shield/Desert Storm or attributable to hostile actions in regions other than the Persian Gulf. So the survivors of such personnel would receive a $100,000 SGLI benefit.

The House has suggested the SGLI benefit in our bill be reduced to $75,000. Mr. President, frankly, I am a bit mystified by our friends over in the House. I hope some of them are watching this on television over there who are considering this legislation today, because I do not see the point in cutting this back to $75,000.

I heard through the grapevine that perhaps they have some other proposal they want to make. I guess they want to make this a halfway deal because they really have some other idea in mind.

But I want to stand here on the floor and say this package is ready to go. For those writing for our service publications that cover this sort of thing on the Senate floor, let it be known to our military personnel that this package is ready to go. It will be in effect if we pass it right now at least 2 weeks or 3 weeks sooner than it would otherwise, rather than having it held up by reasons we cannot even discern by talking to the people in the House.

Let us get this thing out. It is self-liquidating. It is not a raid on the Treasury.

If there are other proposals to be made with life insurance later, or whatever benefits, let us consider them later on. But let us not let this be a stumbling block to getting this benefits package passed.

The $100,000 coverage we provide in our bill approximates the average of term insurance in this country. I repeat, the average for all insurance. And it is provided at no cost to the Government. It is a self-liquidating program. How can we possibly be against something like that?

I hope our House counterparts understand this and do not think we are trying to raid the Treasury. This is putting into law an authorization for an increase in insurance that people self-liquidate by their own premiums. So I hope this explanation will allay some of the concerns and set to rest those over in the House. I hope they will act this afternoon and pass this bill in its current form.

I want to conclude by thanking all Senators who worked so hard on the task force that I chaired on our side in developing these benefits for our men and women in uniform and their families. In particular, the staff has worked very hard on this. I know how particularly helpful to me Fred Pang was, and who is with me here on the floor this afternoon. He is the staff director for our Manpower Subcommittee on the Senate Armed Services Committee. John Hilley of the majority leader's office, Kim Wallace, and Phil Upschulte of my staff, all worked on this and did yeomen's service on this over the past several weeks. It has been a big, big job putting this whole thing together and I want to give them full credit.

In particular, I want to thank Senator McCAIN, the Republican task force leader, for his help and cooperation; and the majority leader and Republican leader for bringing our work to fruition. Our men and women in uniform and their families certainly deserve the result. I am glad we have passed it in the Senate. I urge our colleagues over in the House to pass it without change so it can go directly to the President and be signed without waiting over the next couple of weeks.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Before my friend from Ohio leaves the floor, I will be brief. I wish all my colleagues could have been with me when I accompanied him to visit Marine squadron VMA-311, a squadron that Senator GLENN was the operations officer of some 40 years ago during the Korean war.

He was greeted by the members of that squadron with what I describe as not only respect, but affection and adulation. The respect and esteem which the members of the U.S. Marine Corps and the military hold for our colleague from Ohio is a wonderful and uplifting thing to observe. I think that respect and affection is obviously well deserved and, frankly, it is a great pleasure and privilege for me to accompany him as we visit the men and women in the service and particularly those who have served and sacrificed in the Desert Storm operation.

I also am grateful for his continued bipartisanship in shaping this package, which is viewed by those men and women as extremely important, and I am sure to the other Members of this body as well.

By the way, the efficiency and operational capability of VMA-311 has improved dramatically since Senator GLENN was the operations officer, I might add.

Mr. GLENN. I deserved that.

Mr. McCAIN. Very briefly, Senator GLENN has described the details of this package. I think it is a very important one. I think it is a product of thousands of hours of effort by staff and Members. I do not know of a piece of legislation that has had more membership involvement, 20 or 30 Senators from this side of the aisle, and the same on the other side of the aisle.

I also extend my appreciation to the staff, Ken Johnson, Pat Tucker, Fred Pang, Arnold Punaro, and so many others.

I would also like to express our appreciation to the majority leader and Republican leader for setting up this entire mechanism which I think is testimony to the fact that we are probably passing a larger package of legislation in a shorter period of time than any piece of legislation with this many facets to it at any time in recent history.

I will conclude by saying do not underestimate the importance of this legislation to the men and women in the active forces, in the Guard and Reserve, and the message that we are sending them by passing this legislation.

Yes, there will be more in the future. But it is important the Congress of the United States, the people of the United States who we represent, send them an immediate message that we are going to make sure we do everything in our power to correct any imbalance, to provide any benefit, to provide any reward within reason that we can for the magnificent performance they have just achieved in the Desert Storm operation.

That is not only the men and women who served there, but all of the thousands of men and women in the service, both here in the United States and around the world, who made this operation possible.

I think this is a good moment for the U.S. Senate and all of us should be proud not only of our performance but that of the American people.

I yield the floor.

The PRESIDING OFFICER. The Senator from California [Mr. CRANSTON] is recognized.

VETERANS PROGRAMS

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I urge my colleagues to give their unanimous approval to title III, C—the proposed Persian Gulf War Veterans' Benefits Act of 1991—of the pending measure. This part of this measure, which I will refer to as the compromise agreement, embodies provisions within our committee's jurisdiction which are derived from H.R.

1175 as passed by the House on March 13, and section 336 and part G of title III of S. 578, the proposed Persian Gulf War Veterans' Assistance Act of 1991, which, as an amendment to the text of H.R. 1175, passed the Senate on March 14.

The provisions of the compromise agreement include provisions derived from S. 386 as reported by the committee on February 26, which in turn were derived from S. 336 as introduced by the Senator from Massachusetts [Mr. KENNEDY] on January 31 and S. 386 as introduced for me by the Senator from Arizona [Mr. DECONCINI] on February 6.

Mr. President, as I indicated in my remarks regarding S. 578 on March 13, this measure reflects the Senate's deep concern that the Nation fully honor its obligations to the brave men and women in uniform who so brilliantly and effectively fought in and supported Operation Desert Storm. It is now our responsibility to ensure that we express in meaningful, tangible, and appropriate ways to those who served our Nation so well our gratitude and commitment to carrying out our responsibilities to them.

As I pointed out in my March 13 statement, beginning on page S3168, however, this measure does not complete our efforts with regard to veterans' programs this year. Although this measure is a good step forward, there is much more on the veterans' agenda this year to be accomplished for Persian Gulf veterans and all other veterans. For example, the agenda must include adequate funding for VA health care and benefits administration services for fiscal year 1992—with both areas requiring increases above the President's request. Other important matters include the reform of the disability and indemnity compensation for survivors of those who die from service-connected causes, an updating of the Veterans Reemployment Rights law, and a further review of the Soldiers' and Sailors' Civil Relief Act of 1940, attention to the needs of veterans with post traumatic stress disorder, and the plight of homeless veterans. Those and other issues will command our attention this year as we seek to ensure that the Nation fulfills its obligations both to the new veterans of the Persian Gulf period and to the veterans who have fought earlier wars and kept America free and strong over the past decades.

In this spirit, I am very pleased to bring before the Senate today the veterans' benefits provisions in part C of title III of the pending measure.

Mr. President, because each of the provisions of the compromise agreement is described authoritatively in the explanatory statement accompanying the compromise agreement, and because I elaborated on many of the provisions being considered today in my statement in the March 13 RECORD—as corrected on March 17 in my statement beginning on page S3340—I will provide only a summary of those provisions at this point and then discuss certain key elements of this measure.

SUMMARY OF VETERANS' PROVISIONS

Mr. President, this measure contains provisions which would extend to veterans of service during the Persian Gulf conflict the same eligibility for benefits and services as are available to the veterans of other periods of war; increase the amounts of Montgomery GI bill education assistance benefits; improve laws related to the reemployment rights of reservists called to active duty; and increase the maximum amount of servicemen's group life insurance.

Specifically, Mr. President, title III, C contains substantive provisions that would:

First, add to defined periods of war for title 38 purposes the Persian Gulf war, which would be defined as the period beginning August 2, 1990, the date that Iraq invaded Kuwait, and ending on a date to be determined by Presidential proclamation or by law.

Second, provide that service during the Persian Gulf period satisfies the service requirements for eligibility for the VA pension program—a needs based benefit for wartime veterans who have non-service-connected disabilities rated totally disabling and the needy survivors of wartime veterans.

Third, make applicable to Persian Gulf period veterans the presumption, for VA medical care purposes, that an active psychosis occurring within 2 years after a veteran's discharge or release from active military service that included service during a period of war is service connected.

Fourth, for Persian Gulf period veterans, reduce from 180 days to 90 days the minimum active duty service requirement for eligibility for outpatient dental services for treatment of a dental condition or disability which is service connected but not compensable in degree.

Fifth, provide Persian Gulf period veterans with the same eligibility for medicines for VA that veterans of other periods of war have when they are receiving additional VA service-connected disability compensation, or increased VA non-service-connected disability pension, by reason of being permanently housebound or in need of regular aid and attendance.

Sixth, extend entitlement to VA readjustment counseling to post-Vietnam era veterans who served on active duty in areas in which, as determined by the Secretary of Veterans Affairs in consultation with the Secretary of Defense, members of the Armed Forces are subjected to danger from armed conflicts comparable to the dangers of combat with enemy armed forces during a period of war.

Seventh, require that the Secretary of Defense and the Secretary of Veterans Affairs each submit to the Congress two reports containing an assessment of the need for rehabilitative services for members of the Armed Forces who participated in the Persian Gulf conflict and experience post traumatic stress disorder and the furnishing of treatment to those individuals.

Eighth, increase from $50,000 to $100,000 the maximum amount of servicemen's group life insurance and veterans' group life insurance.

Ninth, provide for an increase in Montgomery GI bill educational assistance benefits for active duty servicemembers and for reservists.

Tenth, provide for VA's Veterans' Advisory Committee on Education to include a representative of Persian Gulf period veterans.

Eleventh, require employers to take affirmative steps to provide necessary retraining for persons being reinstated to employment under the veterans' reemployment rights [VRR] law, codified in chapter 43 of title 38.

Twelfth, generally require employers to make reasonable accommodations for disabled persons being reinstated under the VRR law.

Thirteenth, provide eligibility for VA housing loan benefits to veterans who served on active duty at any time during the Persian Gulf conflict and whose total service was for 90 days or more (which is the same period required for veterans of other war periods), provided that those veterans meet the minimum active duty service requirements in section 3102A of title 38.

INCREASE IN MONTGOMERY GI BILL BENEFITS

Mr. President, most active duty servicemembers and reservists who participated in Operation Desert Storm are entitled to educational benefits under the Montgomery GI bill. There has been no increase in the MGIB rates since the program was enacted in 1984. The cost of education at 4-year public colleges has increased by 43.2 percent over the last 6 years and overall inflation as measured by the Consumer Price Index has been 36.5 percent.

On March 12, I introduced legislation, S. 633, to provide an increase of approximately 40 percent in these benefits. Those who have worn the uniform in recent years and those who served in the Persian Gulf certainly deserve to have a GI bill rate increase so that their benefits are not so seriously eroded by inflation as they are becoming.

Due to budgetary constraints, the Senate leadership amendment to H.R. 1175 that passed the Senate on March 14 would have increased the MGIB benefits by only 3.4 percent.

I am pleased, Mr. President, that the compromise agreement contains a provision that will bring the 1984 educational assistance closer to the level in current dollars that was originally intended by Congress. To help address the diminished purchasing power of MGIB benefits, the compromise agreement would, effective October 1, 1991, increase from $300 to $350 the monthly MGIB benefit for full-time study for those serving on active duty for 3 years or more (or for 2 years on active duty and 4 years in the reserves) and from $250 to $275 for full-time study for those who serve just 2 years on active duty.

A comparable benefit increase would be provided in the rates for GI bill benefits under chapter 106 of title 10 for reservists. This legislation would increase the monthly rate from $140 to $170 for full-time study under chapter 106.

The increases for both active duty members and reservists would be for fiscal years 1992 and 1993, would be subject to appropriations from the defense cooperation account. In subsequent years, the Secretary of Veterans Affairs would have the authority to continue the increased rates and to provide for cost-of-living increases. Funding for any increased rates in those years would come from the traditional source.

ADDITION OF PERSIAN GULF WAR TO DEFINITION OF PERIOD OF WAR

Mr. President, the compromise agreement would establish the Persian Gulf war as a period of war for the purpose of determining a veteran's eligibility for various VA benefits. These benefits include need-based pensions, the presumption relating to psychosis, the furnishing of drugs and medicines to certain veterans, outpatient dental services, and certain home loan and burial benefits. As I noted in my remarks in the RECORD on March 13, the brave men and women who served during the Persian Gulf period deserve all of the benefits and services that this grateful Nation has extended to the veterans of other wars. Defining the Persian Gulf period for the purposes of the above-mentioned title 38 purposes is an essential part of recognizing the sacrifices made by these veterans.

The definition of period of war does not constitute a declaration of war on the part of the Congress. It is used to determine eligibility for the VA programs described above.

READJUSTMENT COUNSELING

Mr. President, I am very pleased that the compromise agreement contains the Senate provision, which I authored, to expand eligibility for readjustment counseling to veterans of the Persian Gulf war and other post-Vietnam era combat area veterans, such as those who served in Beirut, Grenada, Libya, and Panama. I have long sought to expand eligibility for readjustment counseling—which is currently limited to Vietnam era veterans—to combat-theater veterans of all wars.

Section 364(c) of the Senate amendment is similar to legislation that I introduced and which the Senate passed in the last two Congresses—in section 605 of S. 2011 as reported by the committee in August 1, 1988, and passed by the Senate on October 18, 1988, in H.R. 4741, and section 202 of S. 13 as reported by the Senate on September 13, 1989, and passed by the Senate on October 3, 1989, in H.R. 901. The administration also requested congressional action on such legislation in a January 29, 1991, letter from Secretary Derwinski. I am very pleased that the administration has recognized both the need among combat veterans for readjustment counseling and the value of the services provided at vet centers.

Readjustment counseling is provided primarily in 195 community based vet centers, which are small, easily accessible, and staffed to a great extent by combat veterans. The vet center model of easy accessibility and peer counseling has proven highly effective in attracting veterans who may need some psychological counseling but who would be reluctant to go the route of a mental hygiene clinic or psychiatric care at a VA facility.

Though some have questioned the appropriateness or usefulness of opening up the vet centers to veterans of wars or eras other than Vietnam on the basis that the centers are a unique response to a unique, unpopular war, I strongly believe that the need for readjustment counseling exists among many veterans of other conflicts and that the vet centers provide an appropriate setting for them. The fact that approximately 7,000 World War II and Korean war veterans per year come to vet centers seeking help, as I am advised by VA is the case, certainly indicates that there is an unmet need among those veterans for the services provided at the vet centers. I believe that it would be most misguided, based on differences between Vietnam and other wars, to fail to recognize the basic value of vet centers and readjustment counseling to combat veterans.

Providing access to needed mental health care is particularly important in light of the current understanding, as noted in VA's testimony at the Veterans' Affairs Committee's July 14, 1988, oversight hearing on issues related to post traumatic stress disorder [PTSD], that early intervention can ameliorate the severity and persistence of PTSD symptoms in an individual following exposure to a traumatic event. The vet centers provide the best VA opportunity for outreach and early intervention.

Mr. President, Secretary Derwinski, in his January 30, 1991, letter transmitting the administration's proposed legislation stated,

> The effectiveness of these unique [counseling and outreach] services, provided in community based "vet centers" is reflected in the high regard for them that has been expressed by veterans, family members, local community institutions, and the media.

Also, as the Secretary noted, vet centers—

> Are expert in assisting veterans in finding the services they need, whether in the vet center itself, at another VA health care facility, or elsewhere in the community.

Secretary Derwinski also noted that readjustment counseling had been provided to over a million veterans and family members.

In VA's press release accompanying the Secretary's request for expanded readjustment counseling eligibility, Deputy Secretary Tony Principi, a Vietnam combat veteran, pointed out an additional advantage to Persian Gulf veterans of the expansion:

> Many of the vet center counselors are themselves combat veterans. They have the experience, compassion, and dedication to help these veterans early on during the sometimes difficult readjustment to civilian life.

Mr. President, the views offered by the leadership of VA regarding this issue are very much in line with my own and those of the Senate, which, as I mentioned, has passed similar legislation twice before. I look forward to the enactment of this provision.

IMPROVED REEMPLOYMENT RIGHTS FOR DISABLED VETERANS

Mr. President, the Veterans Reemployment Rights [VRR] law (chapter 43 of title 38, United States Code) provides that men and women who leave their civilian jobs to serve on active duty generally have the right to be rehired by their former employers. Under current law, if a veteran is no longer qualified to perform the duties of his or her previous position by reason of a disability sustained during reserve training or active duty service, he or she must be offered any other position in the employ of the employer for which he or she is qualified and which will provide like seniority, status, and pay, or the nearest approximation, of the previous position.

To improve protections for disabled veterans, the Senate Committee on Veterans' Affairs adopted a provision—originally proposed by the Senator from Massachusetts [Mr. KENNEDY] and included in the Senate passed bill—to require employers to make "reasonable accommodation" for the reemployment of such veterans. For purposes of this provision, the term "reasonable accommodation" would have the meaning provided in the Americans with Disabilities Act of 1990 [ADA].

In House-Senate negotiations regarding this provision, the House was willing to accept it with two amendments. The first would clarify, as under the ADA, that an employer would not be required to make accommodations that would impose an "undue hardship" on the operation of the employer's business.

The second amendment would exempt, in the same way that the ADA does, certain small employers, Federal agencies, and tax-exempt membership organizations. I would prefer not to have these exemptions. I believe that the "undue hardship" exception deals adequately with the concerns of small employers because it requires employer size and resources to be taken into account in determining whether the making of an accommodation to the veteran's disability would cause an undue hardship. However, the House was adamant and I was unable to convince the House to yield on this point. Ultimately, in order to have the reasonable accommodation provision enacted in this measure, we had to incorporate the limitations of the ADA on the scope of this provision.

As under the ADA, until July 26, 1994, the requirement of reasonable accommodation would apply only to employers who have 25 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding year. After that the requirement would apply to those who have 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

Mr. President, by including this provision in the compromise agreement, even with these limitations, we are now obtaining for many disabled Persian Gulf veterans and others covered by the VRR the right to reasonable accommodation, which does not go into affect under the ADA for 16 more months—until July 1992.

Nevertheless, Mr. President, I am concerned that disabled veterans seeking to return to jobs with small employers will not have the clear right to reasonable accommodation even where it would not result in an undue hardship. It is my intention to revisit this issue in the development of VRR revisions this spring. I have scheduled Veterans' Affairs Committee hearings on this subject for April 16, 1991.

LIFE INSURANCE BENEFITS

Mr. President, the compromise agreement would increase the maximum amount of coverage under the servicemen's group life insurance and veterans' group life insurance—the SGLI and VGLI Programs. These programs provide low-cost group life insurance to active duty servicemembers and veterans, and well over 90 percent of active duty servicemembers participate in the SGLI Program. These programs are generally self supporting. In times of peace, the premiums paid by insured servicemembers, which are based on actuarial calculations, cover the cost of benefits. In times of war, the Department of Defense bears the cost of death benefits that are due to the extra hazards of conflict.

The pending measure would increase the maximum amount of servicemen's group life insurance from $50,000 to $100,000, effective on the date of enactment. That is the amount by which the Senate bill would have increased this insurance. The House bill contained no such increase. This program is clearly within the jurisdiction of the Veterans' Affairs Committees.

A related provision, in the jurisdiction of the Armed Services Committee, would provide for a retroactive death gratuity, payable by the Department of Defense to the survivors of certain servicemembers who died between August 1, 1990, and the date of enactment. The amount of the gratuity would equal the amount of the individual's insurance coverage at the time of death. Thus, the maximum gratuity would be $50,000.

In the bill now before the Senate there is symmetry in that, regardless the date of the servicemember's death, the maximum total payment will be $100,000.

There is, however, one regrettable aspect of this outcome. It breaches an agreement that the Veterans' Affairs Committees of the House and Senate reached in negotiations regarding the programs within our committees' jurisdiction. The Veterans' Affairs Committees had split the difference between the $50,000 insurance increase in the Senate bill and the absence of an increase in the House. Thus, our proposed compromise increase was $25,000—from $50,000 to $75,000. The pending measure does not reflect that agreement; rather, it increases the maximum to $100,000.

Mr. President, in our negotiations with the House, we worked out a fair compromise on a range of issues. Although not totally pleased with all outcomes, I am satisfied that the overall result vindicated the Senate's position.

However, this one issue is being taken out of the Veterans' Affairs Committee control and the agreement we reached with the House is not being honored. I understand the leadership's reason for doing this—which is to make the two related benefits consistent. But, I regret the process of disregarding our committee's jurisdiction and our agreement with our House counterpart. Moreover, Mr. President, I sincerely hope that this process does not imperil the swift enactment of this measure, which we all desire. Failure of the Congress to send this bill to the President before the 2-week recess begins would be a travesty.

CONCLUSION

Mr. President, in closing I express my deep appreciation to the distinguished chairman and ranking minority member of the House Committee on Veterans' Affairs, Mr. Montgomery and Mr. Stump, as well as the ranking minority member of the Senate committee, Mr. Specter, for their cooperation on this measure.

I also extend congratulations to Senators GLENN and MCCAIN for their leadership of the bipartisan task force on Persian Gulf servicemembers and veterans benefits, on which I was pleased to serve.

Mr. President, I also note the very fine work of the staff of the House Committee on Veterans' Affairs—Jill Cochran, Greg Matton, Ralph Ibson, John Brizzi, Kingston Smith, Pat Ryan, and Mack Fleming—on this measure.

I am also grateful for the contributions of the Senate Veterans' Affairs Committee staff members who have worked on this legislation—on the minority staff, Todd Mullins, Carrie Gavora, Scott Waitlevertch and Doug Loon; and on the majority staff, Janet Coffman, Brett Hansard, Kim Morin, Shannon Phillips, Michael Cogan, Chuck Lee, Susan Thaul, Thomas Tighe, Michael Burns, Bill Brew, and Ed Scott.

Our two committees received excellent assistance from staff of the offices of legislative counsel—Charlie Armstrong and Gregg Scott in the Senate and Joe Womack and Bob Cover in the House.

Mr. President, it is important to our dedicated men and women in uniform, many of whom were civilians before recently being activated as reservists, that we show our support and that we do all we can to provide them with benefits equal to those provided service personnel in other periods of war and appropriate to the circumstances of the Persian Gulf conflict. Thus, I urge the Senate to give its unanimous approval to the pending measure.

Mr. President, the Armed Services Committee leadership has developed an overall explanatory statement on the compromise measure, which includes materials on the veterans provisions that were derived from material developed by the two Veterans' Affairs Committees. However, so that the record will include the specific views of the two Veterans' Affairs Committees, I ask unanimous consent that an explanatory statement on the provisions in title III–C that was developed by the two Veterans' Affairs Committees appear at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

EXPLANATORY STATEMENT ON TITLE III–C: VETERANS PROGRAMS

The Committees on Veterans' Affairs of the Senate and the House of Representatives have prepared the following explanation of title III–C of the compromise agreement reflected in S. 725. Differences between the provisions contained in title III–C (hereinafter referred to as "Compromise agreement"), the related provisions in the House-passed version of H.R. 1175 (hereinafter referred to as the "House bill"), and the related provisions in the Senate amendment of H.R. 1175 (hereinafter referred to as the "Senate amendment") are noted in this document, except for clerical corrections, conforming changes made necessary by the compromise agreement, and minor drafting, technical, and clarifying changes.

DEFINITION OF PERIOD OF WAR

Current law: Section 101(11) of title 38, United States Code, defines the term "period of war" as including the Spanish-American War, the Mexican border period, World War I, World War II, the Korean conflict, the Vietnam era, and the period beginning on the date of any future declaration of war by Congress and ending on the date prescribed by Presidential proclamation or concurrent resolution of Congress.

House bill: Section 301(a) would add to the definition of periods of war the "Persian Gulf War", the period beginning on August 2, 1990, and ending on the date thereafter prescribed by Presidential proclamation or by law.

Senate amendment: Section 362 is substantially identical to the House provision.

Compromise agreement: Section 332 contains this provision.

PENSION ELIGIBILITY

Current law: Section 501(4) of title 38 defines certain periods of war for purposes of eligibility for VA's need-based pension programs for non-service disabled, wartime veterans and the surviving spouses and dependent children of deceased wartime veterans. Under section 541(f) of title 38, for a surviving spouse to be eligible for a pension, he or she must have married the veteran by a specified date, *i.e.*, not later than 10 years after the termination of the period of war in the cases of veterans of periods of war after World War I.

House bill: Section 301(b) would (1) add the "Persian Gulf War" to the definition of periods of war for pension eligibility purposes, and (2) provide for pension eligibility for a surviving spouse of a Persian Gulf War veteran if the spouse marries the veteran before January 1, 2001.

Senate amendment: Section 363 is substantially identical to the House provision, but would provide pension eligibility for a surviving spouse if the marriage occurred not later than 10 years after the termination of the Persian Gulf War.

Compromise agreement: Section 333 follows the House bill.

PERIOD OF SERVICES FOR DENTAL BENEFITS

Current law: Section 612(b)(1) of title 38 requires VA to furnish outpatient dental services for a dental condition or disability which is service-connected but not compensable in degree if (1) the condition or disability is shown to have been in existence at the time of the veterans's discharge from active-duty service, (2) the veteran had served on active duty for a period of not less than 180 days immediately prior to discharge or release, (3) the veteran applied for treatment within 90 days after discharge or release, and (4) the veteran was not provided, within the 90-day period immediately before the date of discharge or release, a complete dental examination and all appropriate dental services indicated by the examination as needed. Under section 612(b)(2), the Secretary of the service branch concerned is required to furnish each individual, at the time of discharge or release from active duty, written notice of this benefit and record the member's receipt of the notice.

House bill: Section 303(c) would reduce from 180 days to 90 days the minimum active-duty service requirement for eligibility for this benefit (as well as for the notice provision) for veterans of the Persian Gulf War.

Senate amendment: No provision.

Compromise agreement: Section 334(a) follows the House bill.

PRESUMPTION RELATING TO PSYCHOSIS

Current law: Under section 602 of title 38, an active psychosis development by any veteran of World War II, the Korean conflict, or the Vietnam era within two years after discharge is deemed to be a service-connected condition for the purpose of entitlement to VA health care if the psychosis was developed before July 26, 1949, in the case of a World War II veteran, before February 1, 1957, in the case of a veteran of the Korean conflict, or before May 8, 1977, in the case of a Vietnam-era veteran.

House bill: Section 303(d) would make this presumption applicable to a veteran of the Persian Gulf War who develops a psychosis within two years after the veteran's discharge and the end date of the Persian Gulf War.

Senate amendment: Section 364(a) of the Senate amendment is substantively identical to the House bill.

Compromise agreement: Section 334(b) contains this provision.

ELIGIBILITY FOR MEDICINES FOR VETERANS WHO ARE HOUSEBOUND OR IN NEED OF AID AND ATTENDANCE

Current law: Under section 612(h) of title 38, veterans of the Mexican border period, World War I, World War II, the Korean conflict, or the Vietnam era who receive additional VA service-connected disability compensation, or increased VA non-service-connected disability pension, by reason of being permanently housebound or in need of regular aid and attendance, are entitled to be furnished such drugs and medicines as may be prescribed for the treatment of any illnesses or injuries from which they may suffer. VA is also required to continue furnishing drugs and medicines to any such veteran whose pension payments have been discontinued solely because the veteran's annual income exceeds the applicable maximum for pension payments, if the veteran's annual income does not exceed that maximum by more than $1,000.

House bill: Section 303(e) would extend this entitlement to drugs and medicines to veterans of any "period of war", rather than veterans of the periods specified in present section 612(h) of title 38 who meet the requirements of section 612(h). In conjunction with the amendment proposed to be made in the definition of "period of war" by section 301(a) of the bill, this provision would provide eligibility to Persian Gulf War veterans, and veterans of subsequent war periods, who meet those requirements.

Senate bill: Section 364(b) would add service during the Persian Gulf War to the war service periods on which eligibility under section 612(h) may be based.

Compromise agreement: Section 334(c) follows the House bill.

EXPANSION OF READJUSTMENT COUNSELING ELIGIBILITY

Current law: Section 612A of title 38 provides that, upon the request of any veteran who served on active duty during the Vietnam era, the Secretary of Veterans Affairs shall furnish counseling to assist the veteran in readjusting to civilian life. The counseling must include a mental and physical assessment. A veteran who is furnished readjustment counseling under this section is also entitled to receive follow-up mental-health services to complete treatment indicated by the assessment. Immediate family members are also eligible for consultation, professional counseling, training, and mental health services if such services are determined to be essential to the effective treatment and readjustment of the veteran. In addition, VA has authority to provide the counseling and related mental health services by contract.

Section 612B of title 38 authorizes the Secretary to establish a program to furnish VA counseling to veterans who are former prisoners of war to assist such veterans in overcoming the psychological effects of detention or internment as a prisoner of war.

House bill: Section 303(b) would amend section 612B to authorize the Secretary to furnish counseling services in any VA facility to any veterans who (a) is a former prisoner of war or (b) served on active duty in a theater of combat (as defined by the Secretary of Defense) after August 2, 1990, to assist the veteran in overcoming any psychological problems of the veteran associated with such service.

Senate amendment: Section 364(c) would amend section 612A so as to expand entitlement and eligibility for readjustment counseling and other services under that section to include veterans who served on active duty after May 7, 1975, in areas in which United States personnel were subjected to danger from armed conflict comparable to that occurring in battle with an enemy during a period of war (as determined by the Secretary of Veterans Affairs in consultation with the Secretary of Defense).

Compromise agreement: Section 334(d) follows the Senate amendment.

REPORTS BY SECRETARY OF DEFENSE AND SECRETARY OF VETERANS AFFAIRS CONCERNING SERVICES TO TREAT POST-TRAUMATIC STRESS DISORDER

House bill: Section 303(g) would require the Secretary of Defense and the Secretary of Veterans Affairs each to submit to the Congress two reports providing (1) an assessment of the need for rehabilitative services for members of the Armed Forces who participated in the Persian Gulf conflict who experience PTSD; (2) a description of the available programs and resources to meet those needs; (3) the specific plans of each Secretary to provide treatment for PTSD, particularly with respect to any specific needs of members of reserve components; (4) an assessment of needs for additional resources in order to carry out such plans; and (5) a description of plans to coordinate treatment services for PTSD with the other Department. The first reports would be due not later than 90 days after enactment of this measure and the second, a year later.

Senate amendment: No provision.

Compromise agreement: Section 335 follows the House bill.

INCREASE IN SERVICEMEN'S GROUP LIFE INSURANCE AND VETERANS' GROUP LIFE INSURANCE MAXIMUMS

Current law: Subchapter III of chapter 19 of title 38 sets forth the Servicemen's Group Life Insurance (SGLI) and Veterans' Group Life Insurance (VGLI) programs. Under that subchapter, the Secretary of Veterans Affairs is authorized to purchase from commercial life insurance companies a policy or policies of group life insurance to insure against death any active-duty servicemember and certain members of the Ready Reserve and Retired Reserve. Eligible servicemembers and reservists are automatically covered in the amount of $50,000 but may elect coverage of less than $50,000 or to not participate in the program at all. Premium payments for SGLI are deducted each month from the basic pay of servicemembers and are calculated without regard to the extra hazards of active duty service. SGLI coverage is provided free of charge for 120 days following separation from active duty. After separation from active duty, veterans who participated in the SGLI program may participate in the Veterans' Group Life Insurance (VGLI) program.

VGLI provides five-year term group life insurance in amounts ranging from $5,000 to $50,000. A veteran may not obtain more insurance under VGLI than the veteran had under the SGLI program. At the end of the five-year term, the veteran has the right to obtain an individual life insurance policy at a standard rate from any company participating in the SGLI program.

House bill: No provision.

Senate amendment: Section 336 would increase from $50,000 to $100,000 the maximum amount of Servicemen's Group Life Insurance (SGLI) and Veterans' Group Life Insurance (VGLI) and provide that, effective on the date of enactment, the amount of SGLI be increased to the amount equal to twice the amount provided for on the day before enactment. The Secretary of Veterans Affairs, in consultation with the Secretaries of the service branches, would be required to take such action as is necessary to ensure that each person affected by the increase in SGLI is notified of the increased insurance coverage and is afforded the opportunity to make an election, within 120 days after the date of enactment, not to be insured in the increased amount.

Compromise agreement (as developed by the House and Senate Veterans' Affairs Committees): Section 336 follows the Senate amendment with an amendment to provide that the maximum amount of SGLI and VGLI would be increased from $50,000 to $75,000 and making the increase effective on date of enactment.

The Committees expect that the Secretary, in consultation with the Secretaries of the service branches, will take steps to ensure that each person affected by the increase is notified of the increased insurance coverage and is afforded the opportunity to make an election, within 120 days after the date of enactment, not to be insured in the increased amount.

[Note—the bill as it came before the Senate would increase the maximum to $100,000]

INCREASES IN MONTGOMERY GI BILL (MGIB) EDUCATIONAL ASSISTANCE PAYMENTS

Amounts of Benefit Payments Under the Chapter 30 Program for Active-Duty Servicemembers

Current law: Section 1415 of title 38 establishes the amounts of monthly educational assistance under the chapter 30 Montgomery GI Bill (MGIB) program for active-duty servicemembers as follows: (1) $300 for full-time study for those serving on active duty for three years or more, (2) $250 for full-time study for those serving two years on active duty, and (3) in both cases, appropriately reduced rates determined by VA for part-time study.

House bill: Section 304(a) would increase the monthly chapter 30 payments for full-time study to (1) $400 for those serving on active duty for three years or more and (2) $300 for those serving two years on active duty.

Senate amendment: Section 366(a) would increase the monthly chapter 30 payments for full-time study to (1) $310 for those serving on active duty for three years or more and (2) $259 for those serving two years on active duty.

Compromise agreement: Section 337(a) would increase, in fiscal years 1992 and 1993, the monthly chapter 30 payments for full-time study to (1) $350 for those serving on active duty for three years or more, and (2) $275 for those serving two years on active duty. After fiscal year 1993, the Secretary of Veterans Affairs would have authority to continue the increased rates and to increase the rates to reflect increases in the cost of living.

Amounts of Benefit Payments Under the Chapter 106 Program for Reservists

Current law: Section 2131 of title 10 establishes the amounts of monthly educational assistance under the chapter 106 MGIB program for individuals serving at least 6 years in the Selected Reserve as follows: (1) $140 for full-time study, (2) $105 for three-quarter-time study, and (3) $70 for half-time study.

House bill: Section 304(b) would increase the amount of monthly chapter 106 payments to (1) $200 for full-time study, (2) $150 for three-quarter-time study, and (3) $100 for half-time study.

Senate amendment: Section 366(b) would increase the amount of monthly chapter 106 payments, but only for reservists who are ordered to active duty during the Persian Gulf War, to (1) $145 for full-time study, (2) $108.75 for three-quarter-time study, and (3) $72.50 for half-time study.

Compromise agreement: Section 337(b) would increase, in fiscal years 1992 and 1993, the amount of monthly chapter 106 payments to (1) $170 for full-time study, (2) $128 for three-quarter-time study, and (3) $85 for half-time study. After fiscal year 1993, the Secretary of Defense would have authority to continue the increased rates and to increase the rates to reflect increases in the cost of living.

Effective Date

House bill: Section 304(c) would make the increases in MGIB benefits effective October 1, 1991.

Senate amendment: Section 366(a)(2) and (b)(2) would make the increases effective October 1, 1991.

Compromise agreement: Section 337 would make the increases effective October 1, 1991.

Availability of Appropriations

House bill: No provision.

Senate amendment: Section 366(b)(3) would ratably adjust the MGIB increases proposed in section 366 of the Senate amendment (discussed above) so that the appropriations necessary for fiscal years 1991 through 1995 do not exceed $500 million less the total of the amounts appropriated for fiscal years 1991 through 1995 for the military personnel and veterans programs and benefits that would be authorized by the title III of the Senate amendment other than those for increases in MGIB payments.

Compromise agreement: Section 337 would make the MGIB increases in fiscal years 1992 and 1993 subject to the enactment of appropriations out of the Defense Cooperation Account.

MEMBERSHIP ON EDUCATIONAL BENEFITS ADVISORY COMMITTEE

Current law: Section 1792 of title 38 requires membership in the Veterans' Advisory Committee on Education (VACE) to include veterans representatives of World War II, the Korean-conflict era, the post-Korean-conflict era, the Vietnam era, and the post-Vietnam era.

House bill: No provision.

Senate amendment: Section 370 would add veterans of the Persian Gulf War to those who must be represented in the membership of the VACE.

Compromise agreement: Section 338 follows the Senate amendment.

VETERANS' REEMPLOYMENT RIGHTS

Reasonable Accommodations for Disabled Veterans

Current law: Section 2021 of title 38 provides that, in the case of a person who is eligible for reemployment rights under chapter 43 of title 38, who has applied for reemployment under the provisions of that chapter, and who is no longer qualified to perform the duties of his or her previous position by reason of a disability sustained during reserve training or active-duty service, he or she shall be offered any other position in the employment of the employer for which he or she is qualified and which will provide like seniority, status, and pay, or the nearest approximation, of the previous position.

House bill: No provision.

Senate amendment: Section 373 would require an employer to make reasonable accommodations to qualify an individual to perform the duties of his or her previous position. For the purpose of this provision, the term "reasonable accommodation" would have the meaning provided in section 101(9) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111(9)).

Compromise agreement: Section 339 follows the Senate amendment with amendments which would (1) clarify that an employer would not be required to make accommodations if the employer can demonstrate that the accommodation would impose an undue hardship on the operation of the employer's business, and (2) would exclude certain small employers from this requirement. Until July 26, 1994, the requirement would apply to employers who have 25 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding year. After that date, the requirement would apply to those who have 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year.

Retraining of Former Employees

Current law: Section 2021 of title 38 (in conjunction with section 2024) generally requires an employer to restore to employment a person who leaves employment for active-duty service, active duty for training, or inactive-duty training, and who applies for reemployment within a prescribed period after release from service if that person is still qualified to perform the duties of the position.

House bill: No provision.

Senate amendment: Section 372 would require that an employer make reasonable efforts to requalify the individual to perform the duties of his or her previous position.

Compromise agreement: Section 340 follows the Senate amendment.

ENTITLEMENT FOR VA-GUARANTEED LOANS

Current law: Under section 1802(a) of title 38, basic entitlement for VA home-loan benefits is authorized for (a) veterans who served on active duty at any time during World War II, the Korean conflict, or the Vietnam era and whose total service was for 90 days or more, and (b) veterans of only peacetime service who served at least 181 days on active duty. Generally with respect to those who enter active-duty service after September 7, 1980, section 3103A of title 38 imposes a minimum-service requirement under which title 38 benefits are available only to those who serve at least two years on active duty, or the full period for which they were ordered to active duty, or who were discharged early by reason of hardship or service-connected disability or in certain other circumstances.

House bill: Section 308 would extend eligibility for homeloan benefits to Persian Gulf War veterans whose total service is for 90 days or more.

Senate amendment: Section 371 would extend home-loan eligibility to Persian Gulf War veterans whose total service is for 90 days or more and who also meet the minimum-service requirements of section 3103A of title 38 (primarily reservists whose period of activation is between 89 and 180 days).

Compromise agreement: Section 341 follows the Senate amendment.

BURIAL AND FUNERAL EXPENSES

Current law: Section 902 of title 38 authorizes VA to pay up to $300 for the funeral and burial expenses of (1) veterans who were receiving compensation or pension when they died, and (2) veterans who had wartime service or were discharged for injuries incurred in the line of duty if there is no next of kin claiming the body and there are insufficient resources to cover the burial and funeral expenses. Pursuant to section 904 of title 38, a claim for such expenses must be filed within a two-year period following the death of a veteran.

House bill: No provision.

Senate amendment: Section 365 would amend section 904 of title 38 to provide that applications for burial and funeral expenses for Persian Gulf War veterans who died prior to the date of enactment of this measure could be filed within the two-year period following the date of enactment.

Compromise agreement: No provision.

ELIGIBILITY REQUIREMENTS FOR MGIB BENEFITS FOR MEMBERS OF THE SELECTED RESERVE

Current law: Section 2132(a) of title 10 provides eligibility for chapter 106 educational assistance benefits to those (1) who enlist, reenlist, or extend an enlistment in the Selected Reserves for at least six years; and (2) who, before completing initial active duty for training, have completed the requirements of a secondary school diploma.

House bill: Section 305(a) would extend chapter 106 eligibility to members of the Selected Reserve, without regard to the length of their enlistments, if they were called or ordered to active duty in connection with the Persian Gulf and released from active duty upon completion of the period of service required by their call or order to active duty.

Senate amendment: No provision.

Compromise agreement: No provision.

RESTORATION OF MGIB ENTITLEMENT

Chapter 30 Program for Active-Duty Servicemembers

Current law: Under section 1413 of title 38, active-duty MGIB participants who complete the basic service requirements are entitled to 36 months of full-time educational assistance (or the equivalent in part-time assistance). Section 1795 limits to 48 months the aggregate period for which any person may receive assistance under two or more VA-administered programs.

House bill: Section 306(a) would provide that, in the case of a reservist or servicemember who, as a result of having to discontinue the pursuit of a course because of orders issued in connection with the Persian Gulf War, failed to receive credit or training time toward completion of an approved educational, professional, or vocational objective, the payment of chapter 30 benefits for the interrupted semester or other term would not be charged against the entitlement of the individual or counted toward the aggregate period for which the individual may receive assistance.

Senate amendment: Section 369(a) is substantively identical to the House provision.

Compromise agreement: No provision.

Chapter 32 Educational Assistance Program

Current law: Section 1631 of title 38 provides that individuals who are eligible for the Post-Vietnam Era Veterans' Educational Assistance Program (VEAP) under chapter 32 are entitled to 36 months of full-time educational assistance (or the equivalent in part-time assistance). Section 1795 limits to 48 months the aggregate period for which any person may receive assistance under two or more VA-administered programs.

Section 1622 provides that funds contributed by a participant or the Secretary of Defense to this educational benefits program with respect to the participant are to be deposited into a fund referred to as the Post-Vietnam Era Veterans Education Account (VEAP Account)

House bill: Section 306(b) would provide, in the case of a reservist or servicemember who, as a result of having to discontinue the pursuit of a course because of orders issued in connection with the Persian Gulf War, failed to receive credit or training time toward completion of an approved educational, professional, or vocational objective, that (1) the payment of VEAP benefits for the interrupted semester or other term would not be charged against the entitlement of the individual or counted toward the aggregate period for which the individual may receive assistance; and (2) the amount in the VEAP account for that individual would be restored to the amount that would have been in the fund for him or her if the payment had not been made.

Senate amendment: Section 369(b) is substantively identical to the House provision.

Compromise agreement: No provision.

Chapter 35 Educational Assistance Program

Current law: Section 1711 of title 38 provides that individuals who are eligible for the Survivors' and Dependents' Educational Assistance Program under chapter 35 are entitled to 45 months of full-time educational assistance (or the equivalent in part-time assistance). Section 1795 limits to 48 months the aggregate period for which any person may receive assistance under two or more VA-administered programs.

House bill: Section 306(c) would provide that, in the case of a reservist who, as a result of having to discontinue the pursuit of a course because of being called to active duty in connection with the Persian Gulf War, failed to receive credit or training time toward completion of an approved educational, professional, or vocational objective, the payment of chapter 35 benefits for the interrupted semester or other term would not be charged against the entitlement of the individual or counted toward the aggregate period for which the individual may receive assistance.

Senate amendment: Section 369(c) is substantively identical to the House provision.

Compromise agreement: No provision.

Chapter 106 Program for Reservists

Current law: Section 2131 of title 10(a) provides that individuals who are eligible for the chapter 106 MGIB program for members of the Selected Reserve are entitled to 36 months of full-time educational assistance (or the equivalent in part-time assistance), and (b) by reference to section 1795 of title 38, limits to 48 months the aggregate period for which any person may receive assistance under two or more VA-administered programs.

House bill: Section 306(d) would provide that, in the case of a reservist who, as a result of having to discontinue the pursuit of a course because of being called to active duty in connection with the Persian Gulf War, failed to receive credit or training time toward completion of an approved educational, professional, or vocational objective, the payment of chapter 106 benefits for the interrupted semester or other term would not be charged against the entitlement of the individual or counted toward the aggregate period for which the individual may receive assistance.

Senate amendment: Section 369(d) is substantively identical to the House provision.

Compromise agreement: No provision.

IMPROVED EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE SELECTED RESERVE WHO SERVE ON ACTIVE DUTY DURING THE PERSIAN GULF WAR

Current law: Section 2131 of title 10 establishes the amounts of monthly educational assistance under the chapter 106 MGIB program as follows: (1) $140 for full-time study, (2) $105 for three-quarter-time study, and (3) $70 for half-time study.

House bill: As discussed above under the heading "Increases in Montgomery GI Bill (MGIB) Educational Assistance Payments—Amounts of Benefit Payments Under the Chapter 106 Program for Reservists", section 304(b) would increase the amount of monthly chapter 106 payments to (1) $200 for full-time study, (2) $150 for three-quarter-time study, and (3) $100 for half-time study. This provision would apply to all reservists training under the chapter 106 program.

Senate amendment: Section 367 would provide for payment to each member of the Selected Reserve who serves on active duty during the Persian Gulf War and who is entitled to chapter 106 benefits a monthly educational assistance allowance in the amount of (1) $270 for each month of active-duty service for full-time study, (2) $202.50 for each month of service for three-quarter-time study, (3) and $135 for each month of service for half-time study.

Compromise agreement: No provision.

EXTENSION OF DELIMITING DATE FOR EDUCATIONAL ASSISTANCE ENTITLEMENT

Current law: Section 2133 of title 10 provides that an individual's entitlement to the chapter 106 program of educational assistance for members of the Selected Reserve expires (1) at the end of the 10-year period beginning on the date of entitlement, or (2) on the date the person is separated from the Selected Reserve, whichever occurs first.

House bill: Section 307 would provide that any period of active duty served by a reservist in connection with the Persian Gulf War would not be considered as either a part of the 10-year eligibility period or a separation from the Selected Reserve for eligibility purposes.

Senate amendment: Section 368 is substantively identical to the House provision.

Compromise agreement: No provisions.

REEMPLOYMENT OF RETIREES

Current law: Section 108 of the Federal Employees Pay Comparability Act of 1990 (Public Law 101-509) amended sections 8344 and 8468 of title 5, United States Code, so as to permit the Director of the Office of Personnel Management, at the request of the head of an Executive branch agency, to waive the provisions of sections 8344 and 8468 of title 5, pertaining to the reduction of retirement annuities for reemployed retirees, on a case-by-case basis in emergency situations involving a direct threat to life or property or other unusual circumstances.

House bill: No provision.

Senate bill: Section 374 would (a) permit the Secretary of Veterans Affairs to waive the requirements in sections 8344 and 8468 of title 5 of reductions in annuity payments to reemployed retirees in cases in which the Secretary determines that the granting of waivers is necessary to recruit sufficient health-care specialists (1) to replace VA health-care specialists who have been ordered to active duty during the Persian Gulf War, or (2) to enable VA to respond to the health-care needs of military personnel (pursuant to section 5011A of title 38) during the Persian Gulf War; (b) permit any such waiver to extend for the duration of the Persian Gulf War and a period of not more than two years after the termination of the war; and (c) provide that any such waiver would take effect upon receipt by the Director of the Office of Personnel Management of a written notice from the Secretary. For the purposes of this provision the term "health-care specialist" is defined as including a physician, dentist, podiatrist, optometrist, nurse, physician assistant, expanded-function dental auxiliary, medical technician, or other medical support personnel.

Compromise agreement: No provision.

Paragraph (to follow).

DEPENDENCY AND INDEMNITY COMPENSATION

Current law: Under chapter 13 of title 38, dependency and indemnity compensation (DIC) is paid to the surviving spouse and children of a veteran who dies of service-connected causes. The rate of DIC, set forth in section 411 of title 38, is based on the deceased veteran's rank when the veteran was in the military.

House bill: Section 302 would (1) revise the basis on which DIC is paid so as to base the rates on the age of the veteran at the time of the veteran's death, with the amount paid decreasing with the veteran's age, and (2) in three increments, on October 1 of 1992, 1993, and 1944, increase from $68 to $200 the amount paid to surviving spouse for each dependent child.

Senate amendment: No provision.

Compromise agreement: No provision.

DIRECT LOAN BENEFITS

Current law: Under section 1811 of title 38, the Secretary of Veterans Affairs is authorized to make direct loans to veterans living in areas where housing credit is not generally available to veterans for financing home loans which may be guaranteed under VA's home-loan guaranty program.

House bill: Section 309 of H.R. 1175 would authorize the Secretary to make direct loans under section 1811 to certain reservists who have been unable to obtain home loans from private lenders at an interest rate not in excess of the rate authorized for VA-guaranteed loans. Eligible reservists would include those who are creditworthy and either (1) are denied credit because of the possibility of their being activated in connection with a war or action potentially involving the use of military force, or (2) were activated in connection with a war or such an action and served at least 90 days on active duty.

Senate amendment: No provision.

Compromise agreement: No provision.

TECHNICAL AMENDMENT RELATING TO CARE IN TIME OF WAR OR NATIONAL EMERGENCY INVOLVING ARMED CONFLICT

Current law: Section 5011A(b)(2)(A) of title 38 contains an outdated reference to section 612 (f) and (g) relating to eligibility for outpatient care during and immediately following a period of war, or a period of national emergency declared by the President or the Congress that involves the use of the Armed Forces in armed conflict.

House bill: No provision.

Senate amendment: Section 375 would replace the outdated reference in section 5011A(b)(2)(A) to section 612 (f) and (g) with a reference to the correct provision, section 612(a).

Compromise agreement: No provision.

AUTHORITY TO CONTRACT FOR INPATIENT CARE UNAVAILABLE AT VA FACILITIES BECAUSE OF EMERGENCY CARE REQUIREMENT

Current law: During a period in which the Secretary of Veterans Affairs is furnishing medical care and services to members of the Armed Forces to meet emergency requirements, section 5011A(b)(2)(B) of title 38 authorizes the Secretary to contract with private facilities for the provision of hospital care for a veteran who is receiving VA hospital care, or is eligible for VA hospital care and requires care in a medical emergency posing a serious threat to the veteran's life and health, if VA facilities are not capable of furnishing the care the veteran requires because they are funishing care to members of the Armed Forces.

House bill: Section 303(a) would authorize the Secretary to contract with private facilities for hospital care for all veterans entitled to hospital care under section 610(a)(1) of title 38 (known as "Category A" veterans).

Senate amendment: No provision.

Compromise agreement: No provision.

Mr. LOTT. Mr. President, I rise to offer my strong support for this very important legislation. I want to commend the chairman of the Armed Services Committee, Senator NUNN, and the ranking member, the Republican ranking member, Senator WARNER, and also Senator GLENN and Senator MCCAIN for the outstanding job they have done on the benefits package, putting this entire package together in an expeditious manner, getting it through the Armed Services Committee, taking it through the Senate, and to the conference.

I think they have done an outstanding job. Certainly we need this legislation. It is the very least we could do for our men and women that have done such an outstanding job in the conflict of Desert Storm.

I also want to urge our colleagues in the other body not to delay or attempt to block passage of this bill. I understand there is some opposition to the provision that is intended to protect the survivors of our deceased service members.

Section 336 of S. 578 as passed by the Senate authorized an increase in the service group life insurance and veterans group life insurance to a maximum of $100,000. We took this position because it would bring these life insurance programs into line with the approximate national average. There is no cost to the Government because the premiums finance the program. In addition, this coverage is optional. Service men and women are not required to carry it.

I hope all Members of Congress will join me and join the Senate in supporting the men and women—who have served this country—with this benefit. The other body did have funding at $75,000 but the Senate has the $100,000 level.

There is actually the situation here where some members actually one day could get $100,000, and the day after they would actually get a lesser amount of $75,000 the way the legislation section is written. We cannot have that kind of inequity. I am certainly very positive that no one would understand the fairness of that because it is not fair.

So I urge the House and the members of the Veterans' Affairs Committee to support the $100,000 level. It is not excessive. It is the right amount. It would also help us avoid the unfortunate distinction of having people get more on one hand than on the following day if they should be faced with a disaster some of our members had to face.

So I once again support this legislation. I urge the conferees on behalf of the House to move it along.

Mr. MURKOWSKI. Mr. President, I am pleased to support S. 725, the House-Senate compromise on the benefits package for troops who served in the Persian Gulf. This benefits package will assist our military personnel who sacrificed a great deal in support of U.S. action in the Persian Gulf.

Mr. President, I do wish to express my concerns about certain provisions contained in the veterans' portion of the bill which relate to the Montgomery GI bill. Let me explain my concerns.

This bill will increase monthly educational benefit payments under the Montgomery GI bill for active duty from $300 to $350 per month. This increase is provided to all participants in the program, not just those who served in the Persian Gulf. Therefore, I fail to see how this increase is related to the Persian Gulf war.

Further, under this program the beneficiaries are currently receiving exactly what they expected to receive and it's a pretty good deal. Under current law, a service member participating in the program has his/her pay reduced by $100 for 12 months. The Government then pays $300 per month for 36 months in educational benefits. This program was established in 1985 as a recruitment tool. No hearings have been held on the proposed increase and there is no evidence to indicate that such an increase is necessary to help recruitment efforts.

In addition, the bill increases the Montgomery GI bill benefit for reservists who serve for 6 years in the Reserves. Currently reservists receive $140 per month for full-time study if they participated in the program and under this bill they will receive $170 per month for full-time study.

Again, with respect to reservists the same arguments apply. In order to receive the increase the reservist did not have to serve in the gulf nor even be called to active duty during the gulf crisis.

Mr. President, I am further troubled by these provisions because in order to pay for them certain other provisions which are specifically designed to help troops who served in the gulf are not included in the bill. For example, the House and Senate had passed provisions which provide that if a reservist was in a VA-paid educational program and was called to active duty in mid-semester, that the semester would not be counted against the number of months the individual was eligible to receive the benefit. This seems to me a fair and just provision which would help those directly affected by Desert Storm. However, these provisions were dropped because we could not afford to pay for them due to the increase in the Montgomery GI bill benefit mentioned above.

I also object to the process by which this compromise was reached. I am disappointed that this agreement was reached without input from the Republican members of the Senate Veterans' Committee. I intend to work with my Democratic colleagues in the House and Senate as well as officials at the Office of Management and Budget to ensure that this does not occur again in the future.

Thank you, Mr. President.

Mr. SPECTER. Mr. President, as ranking minority member of the Commitee on Veterans' Affairs and as a member of the Appropriations Committee, I would like to lend my full support to S. 725, a bill authorizing supplemental appropriations for Operation Desert Storm. This legislation is the result of a bipartisan effort of both the House and Senate. Congress has worked diligently to address the many issues brought to our attention during this remarkable time in history. This comprehensive legislation deals with these wide-ranging issues in a thoughtful and thorough manner.

Veterans' programs make up a significant portion of S. 578; $255 million of the total $655 million of this bill are allocated for veterans' benefits and programs. Included in the veterans portion of S. 578 is an increase in the benefits provided by the Montgomery GI bill Education Program, eligibility for VA pension, home loan benefits, certain VA medications, and readjustment services. These are but some of the benefits provided to veterans. I am greatly encouraged that Congress was able to provide these important benefits, and am proud of our men and women in uniform.

It is reassuring to know that this legislative body could provide such a comprehensive and meaningful set of assurances and benefits to our brave service members. Not only will this bill provide benefits administered by VA, but it will increase the maximum amount of servicemen's group life insurance available to future service men and women. In addition, the survivors of those individuals who lost their lives serving in connection with Operation Desert Storm will receive increased compensation similar to the increases in life insurance. The new level of SGLI available to our men and women in military service will be $100,000, up from the previous level of $50,000. I feel this increased level of SGLI is very important given the current cost of living in America. This increased level of life insurance will bring our military community up to a more equitable level of coverage, and I believe the increased compensation to survivors will help ease the tremendous burden these individuals must bear.

Another important portion of S. 578 is improved reemployment rights for service members returning from active duty to their former jobs. Among these strengthened reemployment rights is a provision protecting disabled service members and requiring employers to retrain employees if it does not present a significant burden to the employer. By protecting the jobs of returning military personnel and providing adequate adaptations for disabled employees, this portion of S. 578 is an important step toward providing equality for our returning service members.

I am greatly encouraged to see this legislation move forward and am proud to have played a part in its passage. I congratulate our President, Armed Forces, and the American people for their sacrifices and participation in a successful campaign to stop a very dangerous individual. Freedom is once again alive in Kuwait and America has played the leading role in seeing that this freedom was reborn.

S. 534—AWARDING OF CONGRESSIONAL GOLD MEDAL TO GEN. H. NORMAN SCHWARZKOPF

S. 565—AWARDING OF CONGRESSIONAL GOLD MEDAL TO GEN. COLIN L. POWELL

Mr. NUNN. Mr. President, on behalf of the majority leader, I ask unanimous consent that the Senate proceed to the immediate consideration en bloc of Calendar Nos. 40 and 41, S. 534 and S. 565, bills to authorize the President to award gold medals to General Schwarzkopf and General Powell; that they be deemed read a third time and passed; that the motions to reconsider be laid upon the table; that any statements thereon appear at the appropriate place in the RECORD as if read; and that the consideration be shown separately in the RECORD.

Mr. McCAIN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I would ask if the distinguished chairman would allow statements of Senator WARNER and the Senator from Arizona to be printed in the RECORD.

Mr. NUNN. Yes. That was included in the request.

Mr. McCAIN. I withdraw my objection.

Mr. WARNER. Mr. President, at such time as appropriate, the Senator from Virginia desires to give his statement from the floor of the Senate in full, and I shall defer to the leadership of the Senate to determine at what time would be most convenient. But I do not intend to insert it in the RECORD as if read. I look forward to the opportunity of reading it, every single word.

The PRESIDING OFFICER. The Senator has that right.

Mr. WARNER. This is a very special moment, I think, in the history of the U.S. Senate. I believe my distinguished chairman joins me in the significance of it. I anticipate the eventual conferring of these medals upon these two distinguished Americans, and I further anticipate that a number of Senators may join in, I would be hopeful, because it is very much a bipartisan effort.

The PRESIDING OFFICER. The Chair would inform Senators that what we have pending is a unanimous-consent request by the distinguished chairman of the Armed Services Committee, Mr. NUNN.

Is there objection? Without objection, the request is agreed to.

The bills, deemed read a third time and passed en bloc are as follows:

AWARDING OF CONGRESSIONAL GOLD MEDAL TO GEN. H. NORMAN SCHWARZKOPF

The bill (S. 534) to authorize the President to award a gold medal on behalf of the Congress to Gen H. Norman Schwarzkopf, and to provide for the production of bronze duplicates of such medal for sale to the public, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 534

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) General H. Norman Schwarzkopf, Commander-in-Chief, United States Central Command, has valiantly directed United States and coalition armed forces in Operation Desert Storm, culminating in the successful liberation of the nation of Kuwait pursuant to United Nations resolutions;

(2) the United States and coalition forces under the command of General Schwarzkopf quickly, decisively, and completely defeated

the fourth largest ground army in the world, while minimizing coalition casualties and collateral civilian damage;

(3) the United States and coalition forces under the command of General Schwarzkopf achieved the correct and justified objectives established by the President and the heads of State and governments of coalition forces;

(4) the victor of United States and coalition forces successfully liberated the people of Kuwait, leading to greater stability and order in the region;

(5) the logistics train established to support Operation Desert Storm was fundamental to the success of the coalition effort; and

(6) General Schwarzkopf, together with his able staff and subordinate commanders, has led the men and women of the Armed Forces of the United States in an achievement unparalleled in United States military history.

SEC. 2. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—The President is authorized to present, on behalf of the Congress, to General H. Norman Schwarzkopf a gold medal of appropriate design in recognition of his exemplary performance as a military leader in coordinating the planning, strategy, and execution of the United States combat action and his invaluable contributions to the United States and to the liberation of Kuwait as Commander-in-Chief, United States Central Command.

(b) DESIGN AND STRIKING.—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury (hereafter referred to in this Act as the "Secretary") shall strike a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary.

SEC. 3. DUPLICATE MEDALS.

The Secretary may strike bronze duplicates of the gold medal struck pursuant to section 2, under such regulations as the Secretary may prescribe, and may sell such bronze duplicates at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

SEC. 4. NATIONAL MEDALS.

Medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS; PROCEEDS OF SALE.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated not to exceed $30,000 to carry out section 2.

(b) PROCEEDS OF SALES.—Amounts received from sales of duplicate bronze medals under section 3 shall be credited to the appropriation made pursuant to the authorization provided in subsection (a).

Mr. NUNN. Mr. President, this is a bipartisan effort.—I think almost every member of the Armed Services Committee either cosponsored or sponsored this legislation giving the Banking Committee, really, in effect, a petition in our committee, asking the Banking Committee to consider these bills to authorize the awarding of gold medals to outstanding Americans, to outstanding generals, General Schwarzkopf and General Powell.

The Banking Committee acted very promptly on this and these bills came out of the Banking Committee. So we really have cleared this with the Banking Committee, the Armed Services Committee as well as the Budget Committee.

I think it is a very special award. It is the highest award Congress can bestow on any individual. Very seldom in our history have we had these awards bestowed on any individual, and these are very deserving recipients, outstanding individuals and outstanding military leaders.

Mr. President, I am delighted to support these two bills, S. 534 and S. 565, that would award Congressional Gold Medals to Gen. Colin Powell, the Chairman of the Joint Chiefs of Staff, and Gen. H. Norman Schwarzkopf, the commander in chief of the U.S. Central Command. I am pleased to have been an original cosponsor of both bills.

During the past few weeks, we have heard a great deal of well-deserved praise for the courage, skill, and professionalism of the men and women in our military services who served in Operation Desert Shield and Desert Storm. I would like to take just a few minutes at this time to commend the leadership of General Powell and General Schwarzkopf—the two senior military officers most responsible for leading our Armed Forces during the Persian Gulf war.

The entire nation recognizes that General Powell and General Schwarzkopf made decisive contributions to the stunning success of Operation Desert Shield and Storm.

As the Chairman of the Joint Chiefs of Staff, General Powell serves as the principal military adviser to the President, the National Security Council, and the Secretary of Defense. On many occasions during the last 7 months, President Bush and Secretary Cheney have praised General Powell for his outstanding service in this demanding role. The same qualities of professionalism, integrity, and good judgment that have been evident to the President and the Secretary of Defense have been appreciated by Members of Congress as well.

Gen. Norman Schwarzkopf, the commander in chief of the U.S. Central Command, also deserves our deepest thanks and admiration for his service in the Persian Gulf. He and his subordinate commanders were responsbile for planning and leading the execution of an extremely demanding operation. With the benefit of his experience in the Middle East and his personal determination to achieve the coalition's objectives, General Schwarzkopf's forces quickly and completely defeated Iraq with minimal coalition casualties and collateral civilian damage.

Mr. President, I would like to point out that both General Powell and General Schwarzkopf have served in significant assignments in the State of Georgia. Prior to becoming Chairman of the Joint Chiefs, General Powell served as commander in chief of the U.S. Forces Command, which is headquartered at Fort McPherson in Atlanta. Earlier in his Army career, General Schwarzkopf commanded the 24th Mechanized Infantry Division at Fort Stewart, GA. Of course, that unit just played a significant role in Operation Desert Storm.

When the Armed Services Committee met to consider the Desert Storm supplemental authorization bill, the committee unanimously adopted a resolution urging the Senate Banking Committee to authorize Congressional Gold Medals for General Powell and General Schwarzkopf. Mr. President, I am very pleased that the Banking Committee and the full Senate have decided to take this action.

Since 1776, the Congress has authorized Congressional Gold Medals for more than 100 individuals and the American Red Cross. Many of these recipients have been military officers, including Gen. Matthew Ridgway, Adm. Hyman Rickover, Gen. Douglas MacArthur, and Gen. George C. Marshall. I believe that it is most appropriate that General Powell and General Schwarzkopf join this distinguished list of military heroes.

Mr. President, in authorizing these medals for General Powell and General Schwarzkopf, the Congress intends that these officers accept them on behalf of the thousands of military men and women who, under their leadership, planned and carried out Operation Desert Shield and Storm so successfully.

AWARDING THE CONGRESSIONAL GOLD MEDAL TO GENERAL NORMAN SCHWARZKOPF

Mr. WARNER. Mr. President, I enthusiastically join with Senator LOTT and my other colleagues in support of this bill to award the Congressional Gold Medal to Gen. H. Norman Schwarzkopf, the commander of our forces in the Persian Gulf and the architect of Operations Desert Shield and Desert Storm.

I believe that all my colleagues in the Senate agree that General Schwarzkopf's exemplary performance as our theater commander in the Persian Gulf merits special recognition. I have had the opportunity to meet with General Schwarzkopf on three trips to the Persian Gulf.

Despite the intensity of his responsibilities, General Schwarzkopf always found time to carefully and fully brief Members of Congress, who, designated by the leadership of the Senate and House, made trips to the Persian Gulf. This is an important added reason that Congress initiates this recognition.

These briefings, together with those held in Washington, set a new precedent for the consultative process between the executive and legislative branches that Congress has been seeking in furtherance of its constitutional responsibilities with the men and women of the Armed Forces.

After thorough research, I am convinced that the Congressional Gold Medal provided for in this bill is the most appropriate and fitting tribute we can bestow on this outstanding military commander.

General Schwarzkopf conceived a strategy, devised a plan and, through the extraordinary execution of his subordinate commanders and the troops under his command, achieved all the military objectives outlined by the President.

Iraqi military forces were crushed and driven from Kuwait, with United States and allied casualties so low that the battle can only be described as miraculous. In fact, the victory was so complete that I am certain this military operation—Operation Desert Storm—will be analyzed and studied for years to come and will be recorded in the annals of military history as one of the most decisive of all time.

It could be said that Suddam Hussein entered the war with the fourth largest army in the world, but upon the cessation of hostilities, he may now have the second largest army in Iraq.

General Schwarzkopf has, in addition to planning and executing this memorable military victory, endeared himself to the American people. His genuine and sincere concern for the welfare and safety for the troops under his command and their families at home was continually evident throughout the campaign.

His wife, Brenda, should be recognized also for her efforts in assisting the military families back home, in the finest traditions of the military community.

General Schwarzkopf's ability to deal with our allied forces was also exceptional and contributed greatly to the extraordinary allied victory. In fact, we had better be careful. Based on some of their comments, I believe the British would like to steal our "Stormin' Norman" from us.

So I heartily concur in this bill to award the Congressional Gold Medal to Gen. Norman Schwarzkopf and urge all my colleagues to do the same.

I want to thank the distinguished chairman who was a cosponsor of these bills and full partner throughout in the work of our committee in the preparation of these bills.

Mr. NUNN. I thank my colleagues.

Mr. LOTT. Mr. President, I am proud, today, to say that I and 56 of my colleagues, on both sides of the aisle, have sponsored this bill to award the Congressional Gold Medal to Gen. Norman Schwarzkopf.

In the over 200-year history of this award, few military leaders have been so honored—General of the Army, George Marshall; Gen. John J. Pershing; Gen. Douglas MacArthur and Adm. Hyman Rickover.

As I stated when introducing this bill, the outstanding performance of General Schwarzkopf certainly puts him on the scale with these other heroes.

The efforts of General Schwarzkopf and the coalition forces under his command decisively crushed the Iraqi forces. Forty of forty-two Iraqi army divisions were destroyed, the Iraqi Navy was rendered useless, and the Iraqi Air Force was destroyed in the air, on the ground, and the remainder is now beyond Iraqi control.

General Schwarzkopf is currently overseeing the administration of a temporary cease-fire—assuring that the gains made on the battlefield are brought home to the Iraqi high command and are used to our greatest advantage.

General Schwarzkopf's strategy, planning, and execution of the war and the cease-fire have been responsible for the impressive successes we have enjoyed and the very light casualties we have endured.

General Schwarzkopf is a hero. The Congressional Gold Medal is a national award for a national hero. I urge my colleagues to join me in voting to award this honor to a most deserving and heroic American.

Mr. DOLE. Mr. President, I am proud to support Senate bill 565 and its companion, Senate bill 534. The awarding of the Congressional Gold Medal to Gen. Colin Powell and Gen. Norman Schwarzkopf is an opportunity for the U.S. Senate, to express its appreciation for the exemplary performance of our Nation's Armed Forces overall and the contribution of Generals Powell and Schwarzkopf in particular.

Through the tragedy of Vietnam and the misdirected blame placed upon them, our military professionals fulfilled their duty. Through the years of budget cuts, and when many did not care, the brave men and women of our officer and noncommissioned officer corps kept the faith. The victory in the gulf is a testament to each and every one of them. For those of us that knew them, and knew what they were capable of, this victory, that has stunned the world, did not surprise us. All they ever needed was the freedom to do their duty.

Today, we honor the two men who led our forces to this stunning victory. They are representatives of the best of our Nation, and examples of the highest traditions of honor. They kept their sense of duty through the years when few in this country cared. They kept their people well trained and cared for when funds were scarce. Through the years they worked long hours, and accepted heavy responsibility, without recognition or added compensation. It was not status, or money that motivated General Powell and General Schwarzkopf, it was their sense of honor, and the fulfillment of their oath of office. General Powell and General Schwarzkopf were heros long before Desert Storm.

As history records the genius of our Armed Forces in Desert Storm, many testbooks on strategy will be rewritten. There will the comparisons of General Powell to General Marshall and General Schwarzkopf to General Eisenhower. The brilliance of the tactics in Desert Storm and the deft handling of the most intricate diplomacy that kept a fragile coalition together will be discussed and dissected. That is right and proper, Generals Powell and Schwarzkopf have indeed showed the world how to win a war with incredible speed, and an incredibly low casualty figures. These generals have shown the world how to combine the most modern technology with the most ancient of leadership principles. They have shown the world how to defeat an enemy while under the watchful eye of an often suspicious world. They have shown the importance of the art of diplomacy and how to combine it with the art of war in the modern world. General Powell and General Schwarzkopf are well deserving of the honors we do them today, but not just for this short event. We thank them today for courage and their duty to their Nation. We honor them today for the long years of work and sacrifice they have endured to be ready when the United States needed them.

AWARDING OF CONGRESSIONAL GOLD MEDAL TO GEN. COLIN L. POWELL

The bill (S. 565) to authorize the President to award a gold medal on behalf of the Congress to Gen. Colin L. Powell, and to provide for the production of bronze duplicates of such medal for sale to the public, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 565

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that:

(1) General Colin L. Powell, the Chairman of the Joint Chiefs, the principal military adviser to the President, the National Security Council, and the Secretary of Defense has displayed an extraordinary degree of leadership, competence and professionalism fulfilling his statutory responsibilities throughout Operation Desert Shield and Operation Desert Storm.

(2) The leadership, competence and professionalism of General Powell and his subordinates, officers and noncommissioned officers, have instilled great confidence and pride in the Armed Forces of the United States which contributed significantly to the successful prosecution of the Persian Gulf War.

(3) General Powell and his subordinates brilliantly planned and coordinated at the national level the highly rapid and successful mobilization and deployment of more than one-half million men and women of the

Armed Forces of the United States to the Persian Gulf region.

(4) General Powell's leadership and foresight were directly responsible for insuring that sufficient military forces and logistics were committed to the foregoing operations in a timely manner to bring about a swift and decisive military victory with casualties and loss of life at levels so low as to be unprecedented in the annals of military operations by any nation.

(5) The superb coordination among allied forces and the unique and exceptional command arrangements which produced the highly effective chain of command within the allied coalition is directly responsible to the military competence, and extraordinary leadership of General Powell.

(6) As the principal military advisor to the President of the United States, the National Security Council, and the Secretary of Defense, General Powell's clear and farsighted assessments, judgments and recommendations were invaluable and instrumental in the timely and decisive military actions directed by the President which resulted in Iraqi compliance with all United Nations resolutions related to the Iraqi invasion and occupation of Kuwait.

SEC. 2. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—The President is authorized to present, on behalf of the Congress, to General Colin L. Powell a gold medal of appropriate design in recognition of his exemplary performance as a military leader and advisor to the President in planning and coordinating the military response of the United States to the Iraqi invasion of Kuwait and the ultimate retreat and defeat of Iraqi forces and Iraqi acceptance of all United Nations Resolutions relating to Kuwait.

(b) DESIGN AND STRIKING.—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury (hereafter referred to in this Act as the "Secretary") shall strike a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary.

SEC. 3. DUPLICATE MEDALS.

The Secretary may strike bronze duplicates of the gold medal struck pursuant to section 2, under such regulations as the Secretary may prescribe, and may sell such bronze duplicates at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

SEC. 4. NATIONAL MEDALS.

Medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 3, United States Code.

SEC. 5. AUTHORIZATIONS OF APPROPRIATIONS; PROCEEDS OF SALE.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated not to exceed $30,000 to carry out section 2.

(b) PROCEEDS OF SALES.—Amounts received from sales of duplicate bronze medals under section 3 shall be credited to the appropriation made pursuant to the authorization provided in subsection (a).

Mr. WARNER. Mr. President, I rise to join many other Senators in making a statement on behalf of General Powell, the Chairman of the Joint Chiefs of Staff, who will be awarded the Congressional Gold Medal.

There are now 51 cosponsors to the bill I was privileged—and I underline privileged—to introduce on behalf of these cosponsors, a truly bipartisan representation in the U.S. Senate.

A separate bill has been introduced by Senator LOTT which I, indeed, was privileged to cosponsor and both bills now have been favorably reported by the Banking Committee which has primary jurisdiction and, of course, were passed today by the Senate.

After research, I am convinced the Congressional Gold Medals to be awarded on behalf of the Congress are the most appropriate form of recognition for these distinguished American military citizens, Generals Powell and Schwarzkopf.

Congress has awarded the gold medal in the past, Mr. President, beginning with the first going to Gen. George Washington and, subsequently, John Paul Jones, and in more recent times, General Pershing of World War I fame, Generals Marshall, Eisenhower, and McArthur, just to name a few of the great Americans throughout the history of our country who have received this high recognition.

General Powell is an extraordinary soldier. He has fully earned the accolade paid to only a few of his predecessors. He is truly a soldier's soldier. He is a commander who has risen to his present position by displaying at every single level unique leadership, perseverance, and toughness.

By his side has been his most loyal and faithful wife, Alma. I remember her very well at the time the Senate Armed Services Committee held hearings in connection with his current post as Chairman of JCS.

Mr. President, General Powell was born in New York City on April 5, 1937, and was raised in the South Bronx section of New York City. He graduated from the City College of New York in 1958 and was commissioned a second lieutenant in the regular Army through the Reserve Officer Training Corps Program.

That is a very interesting footnote in history. It indicates that the Army today gives full and equal opportunity to the entire officer corps. Their ability to rise through the ranks is predicated solely on their ability to lead and instill confidence in others and to otherwise meet the very high requirements of military professionalism.

I recall reminiscing once with General Powell about how proud he was of his parents, who had instilled in him the confidence that he could succeed, and indeed he has succeeded.

I remember his saying that when he became a second lieutenant in the Army his salary was higher than the salary his father was then earning. Nevertheless, he was very proud of his parents. He came from a very fine family background.

I have had the opportunity to work very closely with General Powell, particularly during this Persian Gulf operation. On several occasions, my distinguished colleague and friend, Senator NUNN, and I have had breakfast with General Powell and the Secretary of Defense. He has been present at a number of the briefings where the President has sent either the Secretary of Defense, General Powell, or others to brief the Senate.

As I have watched him, he is always very conscious of the family role in the military professional life—be it officer's or enlisted man's. It has been, throughout this conflict in the gulf, the steadfast resolution and support of the families back here at home, and loved ones and others, which has meant so much to those who have been sent abroad in this military operation. I know that from firsthand experience, having visited with many of these young men and women during the course of my visits to the gulf in the past few months.

General Powell has had an illustrious military career. He chose the infantry, which in many respects is the most challenging of the specialties offered by a military career. He had two combat tours in Vietnam. He commanded units from the company level all the way up to U.S. Forces command. He is truly the kind of example we have long sought for the youth of our country to emulate.

He is a decorated combat soldier, very modest about his combat decorations, including the award of the Purple Heart. In addition, because of his calm but decisive manner, he has helped increase the confidence of the American people in our Armed Forces at this particularly critical time of the gulf operation.

Under the leadership of our President, we brought together 27 other nations who led the effort in the United Nations, so that this was truly a multinational defense force dedicated solely to liberating the Kuwaiti people who were attacked and oppressed by Saddam Hussein, people who asked only that their freedom be restored. This has been achieved. This man was the leader.

In many ways, it is almost providential that at the time of this conflict, we had in place—from the President to the Secretary of Defense, General Powell, General Schwarzkopf, and all the subordinate commanders—these fine, outstanding Americans to lead this combat force.

But, in addition to leading the combat force, they instilled a sense of confidence in the American people that if our military were given the opportunity to exercise their professional judgment, that we could succeed. And, indeed, we did.

The President, in this operation—and I said this on the floor of the Senate early in the fall—made a key decision, a decision that was influenced by the passage of the Goldwater-Nichols Act, that he had in place the finest of military commanders. He relied on their professional skills and knowledge to a greater degree than any President, I think, in the history of this country. Not that he surrendered, in any way his role as Commander in Chief, the traditional role of civilian control of the military. Throughout, that was maintained. I witnessed it firsthand in many meetings in the White House, and a number of meetings in the office of the Secretary of Defense throughout this conflict.

But the decision was made to let the commanders, from General Powell and General Schwarzkopf, down to the last corporal, to the seaman petty officer, to make those decisions, because they were well-trained and well-equipped. And in the end, it was that professionalism, together with the support at home, that carried the day.

General Powell has said of himself:

> I just try to do my job, and that is all I ever tried to do from the day I was commissioned until the day I became Chairman of the Joint Chiefs of Staff.

One of my principal aides, former military officer, a combat decorated officer from Vietnam, had a son who served in the gulf in the enlisted ranks. He once said to me: "I have less concern because General Powell is the Chairman of the JCS—less concern about my son." And I think that feeling was instilled in many military families.

An award of the Congressional Gold Medal is currently pending, for General Matthew Ridgeway, as a result of an amendment introduced by Senator NUNN and myself and others to last year's defense authorization bill. I mention that solely because it is in that category of military leadership that we place General Powell and General. Schwarzkopf.

I hope all my colleagues will join in supporting this proper recognition. The Congressional Gold Medal is most appropriate because it is unprecedented in history: the relationship between the executive branch and the legislative branch; the cooperation that we have had at all times during this conflict; the consultative process instituted by the President; the briefings instituted by the Secretary of Defense and General Powell for the Congress.

So, in part, this is a recognition by Congress of their establishing new precedents in terms of relationships of the two branches.

In drafting this legislation and in working with Senator LOTT on the companion bill for General Schwarzkopf, we were very careful to point out that these two officers accepted these recognitions on behalf of everyone: The Department of the Army, the Department of the Navy, the Department of the Air Force, the Marine Corps, the Coast Guard, and all others who served under their command.

The deputy commander of Central Command was Lt. General Calvin Waller; the Army commander, Lt. Gen. John J. Yeosock; the naval commander, Vice Adm. Stanley R. Arthur; the Air Force commander, Lt. Gen. Charles Horner; the Marine Corps commander, Lt. Gen. Walter E. Boomer.

I should also mention Lt. Gen. Gus Pagonis, who displayed an extraordinary brilliance, together with his subordinates, in providing for the logistics.

But I mention each because this is an award that will be accepted by these two outstanding Americans on behalf of all who served in the gulf under their command.

Mr. President, I ask unanimous consent to have printed in the RECORD General Powell's biographical resumé and an article from the Washington Post of February 25, 1991, entitled "Colin Powell, Before History Tapped."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GENERAL COLIN L. POWELL, CHAIRMAN OF THE JOINT CHIEFS OF STAFF

General Colin L. Powell was appointed the twelfth Chairman of the Joint Chiefs of Staff, Department of Defense, by President George Bush on October 1, 1989. In this capacity, he serves as the principal military advisor to the President, the Secretary of Defense, and the National Security Council. Prior to his current assignment, General Powell served as Commander in Chief, Forces Command, headquartered in Atlanta, Georgia. He also served as Assistant to the President for National Security Affairs from December 1987 to January 1989.

General Powell was born in New York City on April 5, 1937, and was raised in the South Bronx section of New York. He graduated from the City College of New York in 1958, and was commissioned a Second Lieutenant in the Regular Army through the Reserve Officer Training Corps program.

After finishing Infantry Officer's Basic Training, and Airborne and Ranger Schools, he was assigned to Germany, where he served as a Platoon Leader, Executive Officer and Rifle Company Commander. General Powell went to Vietnam in late 1962, and served as an Advisor to a Vietnamese Infantry Battalion.

General Powell returned to Vietnam in 1968, serving as an Infantry Battalion Executive Officer and Assistant Chief of Staff, G-3, 23rd Infantry Division (Americal). In 1971, he earned a Master of Business Administration Degree from George Washington University. In 1972, General Powell was selected to be a White House Fellow, and served his fellowship year as Special Assistant to the Deputy Director of the Office of the President.

In 1973, he assumed command of the 1st Battalion, 32d Infantry in Korea. Upon completion of the National War College in 1976, he assumed command of the 2d Brigade, 101st Airborne Division (Air Assault) at Fort Campbell, Kentucky.

In 1977, General Powell returned to Washington to serve in the Immediate Office of the Secretary of Defense. Over the next three years, he served as Senior Military Assistant to the Deputy Secretary of Defense. For a brief period in 1979, he served as Executive Assistant to the Secretary of Energy.

In 1981, General Powell became the Assistant Division Commander for Operations and Training, 4th Infantry Division (Mechanized), Fort Carson, Colorado. In 1983, he returned to Washington to serve as Senior Military Assistant to Secretary of Defense Caspar W. Weinberger. In July 1986, he assumed command of the V U.S. Corps in Frankfurt, Federal Republic of Germany.

His military awards and decorations include the Defense Distinguished Service Medal with two Oak Leaf Clusters, the Distinguished Service Medal (Army), the Defense Superior Service Medal, the Legion of Merit with Oak Leaf Cluster, the Soldier's Medal, the Bronze Star Medal, the Air Medal, the Joint Service Commendation Medal, the Army Commendation Medal with two Oak Leaf Clusters and the Purple Heart. General Powell has received the President's Citizens Medal, the Secretary of State Distinguished Service Medal, and the Secretary of Energy Distinguished Service Medal.

General Powell is married to the former Alma Vivian Johnson, and they have three children: Michael, Linda, and Annemarie.

[From the Washington Post, Feb. 25, 1991]

COLIN POWELL, BEFORE HISTORY TAPPED

(By Jacqueline Trescott)

It was a bitterly cold November in 1958 and the young soldiers had just finished eight weeks of a grueling Ranger course. They had climbed rocks, established a perimeter defense, chased chickens for dinner, and showed their superiors they had the grit for the Army. A camera caught them as they were boarding their H-4 helicopter back to Fort Benning, Ga., in a moment of youthful exhaustion and relieved accomplishment.

They looked very young with their proud smiles and their filthy fatigues and the rifles slung casually at their sides. They were just another group of second lieutenants going through a rite of military manhood, untested in real battle. But in their ranks were two future three-star generals and two future four-star generals. And standing in the rear row was Colin Luther Powell, now chairman of the Joint Chiefs of Staff and the country's highest-ranking military officer. Then he was lugging around a .30-caliber machine gun because he was one of the biggest guys in the patrol.

Gen. Powell is part of our collective psyche now, a looming figure in medals or fatigues, a constant and authoritative voice in the Persian Gulf War. The men he served with in 1958—and later, in an infantry course in 1964—are scattered around the country in retirement or posted around the world on active duty. They watch their old colleague on television and recall when they huddled in their ponchos with only a candle for warmth in the Chattahoochee National Forest.

These men remember those years with fondness. They speak of the Powell they knew then as an outstanding leader who still was a regular guy, yet with a healthy quotient of intelligence, charisma and spunk. He was further set apart, remember some, by his bearing, his candor and his friendliness. Maj. Gen. William A. Roosma, now deputy commanding general at Fort Bragg, N.C., recalls arriving at Fort Benning a day before class started, newly minted from West Point, and sitting alone on his bed. "It seems like yesterday. Colin looked in the door, introduced himself and we have been friends ever since," says Roosma.

Many of these men knew the Army would be their lives. Not so Powell. A native of New York City, he was 21 years old in August 1958 when he reported to Fort Benning. He had a bachelor's degree in geology from the City University of New York and joined the Reserve Officer Training Corps (ROTC) when the Pershing Rifles Club caught his attention. "At that time I never even thought seriously about staying in the Army. My parents expected that, like most young men going in the Army, I would serve for two years . . . and then come home and get a real job," he has said.

In these years before the buildup for the Vietnam War, Fort Benning was a massive, hectic place. And there was a universal outlook and look among the 186 soldiers reporting for basic. "We had a white name tag, black and yellow 'U.S. Army' over our heart, the golden cross rifles and second lieutenant bars, all starched and spiffy," says Harold Van Meter, one of the flattops in the Ranger photo and now a management consultant in Buena Vista, Ga.

Yet there were some differences for Powell. He was one of the few blacks, and the Deep South provided many contrasts to the South Bronx. He had spent his teen years in an industrious neighborhood that was a polyglot of racial groups; he had even learned Yiddish, which he can still reel off today. "I was stationed at Fort Benning before I ever saw what is referred to as a White Anglo-Saxon Protestant," Powell has written.

Also, Georgia held fast to the practices of segregation. When Powell returned to Fort Benning in 1964, he and his wife, Alma, were refused service at Buck's Barbeque, a restaurant on a main road of Columbus, Ga. Now the avenue is named for Martin Luther King Jr. and Powell is a man who advises the President.

William J. McCaffrey, a member of that basic and Ranger course, remembers how bartenders wouldn't serve Powell in Columbus. "We would intimidate the bartender . . . we threatened him—'this is our Ranger partner, you have to serve him.' And they would," recalls McCaffrey, a retired lieutenant colonel and chairman of an insurance brokerage firm in Detroit.

In the infantry group, people stood out for a number of reasons. One was reputation—Peter Dawkins, who was there with Powell but in another section, had been president of the West Point class of 1959, co-captain of the football team, an All-American, winner of the 1958 Heisman Trophy and a Rhodes Scholar. Everyone thought that one day Dawkins would be the Army chief of staff. He did go on to become a decorated paratropper in Vietnam, a brigadier general and a Pentagon strategist.

Another reason was experience. There was an aura attached to the men who had already been to Vietnam. Powell had been assigned to Europe for two years, Fort Devens, Mass., for two years and then Vietnam from December 1962 to November 1963. "It was like 'they have already been, gosh,'" says retired Lt. Col. Robert A. Smith, a stockbroker with Merrill Lynch in Kingwood, Tex.

The infantry career course required long classroom hours and tough preparation. Powell belonged to a study group with three other men and finished the course in the honors section. He is remembered, not as a star, but as someone who didn't show off. "He wasn't a springbud, the one who always wanted to jump up and answer the question. Or, when the rest of us wanted to get out of class, would ask a question," remembers retired Col. Kenneth Montgomery, a defense industry analyst in Huntsville, Ala.

This time at Benning also provided a break from the pressures of the front lines. There were sports teams; Powell played soccer. Families were reunited. Many were started. "It was the kind of place that caused young men to form pretty good friendships," recalls Lt. Gen. Thomas N. Griffin Jr., chief of staff, Allied Forces/Southern Europe.

On the ground floor of Building 4, where they spent most of their time, was a coffee shop, and here Powell and two friends debated the changing world around them. "That fall was the Goldwater-Johnson election. Colin talked about how he and his wife were not able to find a place to stay. And he had particularly strong feelings about Johnson getting elected because he felt that was the best route . . . for civil rights," recalls retired Col. James G. Garvey, now an instructor for Rice Aviation in Phoenix. Garvey laughs, pointing out that he and Powell always paid for the coffee because Tom Griffin always won the coin toss. "And we constantly talked about the war and read the teletype," says Garvey.

Powell has told a story about those days and how out of sync he was with the mindset of the South. Going back to Fort Benning one day, he was driving 70 miles an hour and was stopped by an Alabama patrolman who was handing out "Goldwater for President" stickers. Powell was driving a Volkswagen beetle, equipped with an "All the Way With LBJ" bumper sticker and New York license plates. He told Ebony magazine in 1988 that the patrolman "looked at me, the German car, the New York license plate and the LBJ slogan. There was a moment of suspense. He finally said, 'Boy, get out of here. You are not smart enough to hang around.'"

After the infantry course was completed in 1965, retired Lt. Col. Earl Adams of Everett, Wash., chairman of the base's operations committee, asked Powell and another officer to help him revamp a package of instructions. "He has great organizational ability," says Adams. "I have to smile now, the title was 'Unit Readiness.' It embodied tactics, logistics, maintenance. And he had to coordinate with colonels all over the place."

As Powell moved from assignment to assignment, he frequently reunited with the officers of Benning.

His friends say he continued to display a blunt seriousness about soldiering but also had a healthy irreverence for authority. When Joseph Schwar, a retired colonel, now an account excutive for IBM in Gaithersburg, was assigned 20 miles from Powell in Vietnam in 1968 and 1969, Schwar heard a report that Robert McNamara had said the war was over. He called Powell and told him the news, and recalls that "Colin said, 'You tell Mr. McNamara to come and see where I am, because someone is shooting at me.'" In his career, Powell was awarded five combat medals, including a Bronze Star and a Soldier's Medal for pulling soldiers out of a burning helicopter, and a Purple Heart after he fell into a trap near the Laotian border and his foot was pierced by a sharpened stick.

In the early '80s, Dawkins and Powell caught up with one another in the Pentagon. Powell was military assistant to the secretary of defense; Dawkins was deputy director of the Army's strategy, plans and policy unit. "As is the reality in a big organization like that, Colin could and did speak for the secretary in some areas. I would meet him in his office and I would feel I had just been to the schoolmaster," says Dawkins. "He displayed the kind of virtuoso mastery of the political complexities of the Pentagon that is rare."

In other ways, as he has risen to the top, Powell has demonstrated that Benning ties are still important. Just a couple of years ago William McCaffrey attended a speech Powell gave to the Detroit Economic Club. "There were all these security people, a mob of folks; 1,000 people were at the lunch. He hugged me and said, 'Mac, how are you?' It made me feel good. Then we started talking about Ranger Patrol and how the two of us always had to carry the machine gun because we were 6-2 and 6-3."

As Powell's career switched from commanding troops to shaping policy, some of the old friends have wondered if he's happy with that side of the Army. Retired Lt. Gen. Gerald T. Bartlett says that "he has always been in a pressure cooker. The fun of the Army is the tactical units. When he was finally sent over to the V Corps . . . they drug him out again. They couldn't live without him."

Thirty years later Powell is intruding on their lives in a unique way. When the men from his early Army days watch their colleague on television, they are filtering his words through the spectrum of friendship and an intimacy with the military's words and inventory. For example, Bartlett is watching the use of sight units on the Bradley Fighting Vehicle and the goggles worn by the soldiers, all developed when he was at Fort Ord, Calif. The Bradley itself is one of his projects as a program manager for FMC Corp, in Campbell, Calif.

At home in Conyers, Ga., retired Col. Terry Gordy watches for the news of equipment he worked on as an officer and as a civilian. He now works at Rockwell International. And he monitors his friend, thinking, "Go, Go, Go, we are all proud of you, Colin."

Four weeks ago when Powell was urging a skeptical group of reporters, "Trust me. Trust me," Joseph Schwar was walking through Dulles International Airport. He stopped to watch the broadcast. "When he said 'trust me' I said, 'Damn right. I know I can trust you. And as I looked around people were nodding and saying, 'If he says it, I can believe it.' That impressed me."

Mr. SMITH. I would like to associate myself with the remarks of the Senator from Virginia regarding General Powell, and certainly General Schwarzkopf, two outstanding Americans. It is in their character to accept those gold medals on behalf of all those who served.

Mr. LOTT. Mr. President, I am proud today to say that I have 56 cosponsors of this legislation. We moved it in less than 2 weeks. It has very strong bipartisan support.

There is no question that men and women in the continental United States, throughout the world, and particularly in the Persian Gulf, all did an outstanding job in Desert Storm. We had outstanding leadership, but the success really reaches down to the lowest enlisted man or woman. We cannot award every one of those men and women proper recognition or a gold medal, but on their behalf we can recognize the leadership that did such a magnificent job.

There is a counterpart bill sponsored by the distinguished Senator from Virginia [Mr. WARNER] that would also give the Congressional Gold Medal to Gen. Colin Powell, the Chairman of the Joint Chiefs of Staff. He is very deserving of that, and we will hear more about that.

S. 534 is directed particularly to Gen. H. Norman Schwarzkopf. In over 200 years we have had a few men that have been recognized with this award in the military: General of the Army, George Marshall; Gen. John J. Pershing, Gen. Douglas MacArthur, and Adm. Hyman Rickover.

Certainly, what we have seen accomplished in Desert Storm under the leadership of Norman Schwarzkopf would entitle him to the recognition commensurate with these military leaders of the history of this country. I have been so impressed with the planning, the carrying out of this mission, the way that General Schwarzkopf spoke in his press conferences explaining the situation, the messages he conveyed to the American people, certainly make him one of the true heroes that we have in America today.

We need some recognition of his effort. For us to have the Congressional Gold Medal awarded to General Schwarzkopf is appropriate, and it is a way of recognizing what he has done; but it is also a way of saying to all of our military men and women that we are proud of what you did, and we recognize it as a unique accomplishment in the recent history of this country.

I am very pleased with this legislation, and I know that all of the Members of the Senate, and the other body also working on this legislation, will pass it very quickly, and the President, on behalf of America will present this award to Gen. H. Norman Schwarzkopf.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. WIRTH. I thank the Chair.

(The remarks of Mr. WIRTH pertaining to the introduction of S. 741, S. 742 and S. 743 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. Who seeks recognition? The Senator from Arkansas [Mr. PRYOR].

CONSULTING SERVICES

Mr. PRYOR. Mr. President, it is spring, finally, and it is that time of the year when we in Washington once again begin turning our attention to the subject of the Federal budget.

The Appropriations Committee and subcommittees are meeting to begin working with administration officials on what the spending levels will be for the next fiscal year. The Budget Committee is crunching numbers. Economists from everywhere are coming out of the woodwork, appearing before the proper committees, to prognosticate on what the fiscal situation is going to be in the coming year.

Mr. President, I urge my colleagues this afternoon to consider one component of the Federal budget that I think receives far too little attention; namely, how much is our Government spending on consulting services?

Mr. President, for 12 years, I have asked that question; for 12 years I have gotten the answer: We do not know. The Office of Management and Budget does not know that figure. The Congressional Budget Office does not know that figure. The General Accounting Office does not know that figure. And yet agencies go on spending and spending and spending on private consultants and consulting firms from a seemingly open money sack.

Mr. President, let me give you one example, just one of the type of activity that is going on every day throughout the entirety of the Federal Government.

Last summer, the Peace Corps, a fine institution, and the Agency for International Development, decided they really needed to begin cooperating more in their efforts, since they both worked in the less developed countries and often do similar work, similar jobs, similar missions. And it only makes sense, they decided, for them to better cooperate.

Mr. President, did the Director of the Peace Corps and the Administrator of the Agency for International Development pick up the phone and call each other to set up a meeting to see how this new spirit of cooperation might be implemented? The answer is "no." Did anyone from either staff of the Agency for International Development or the Peace Corps, Mr. President, decide maybe we should get together and at least talk by phone to see how we might best coordinate our efforts? That answer, Mr. President, is "no."

What actually resulted and what actually happened is very simple, and it is what a lot of agencies in our Government do today, and they do it because it is so easy and no one looks at them; very few people audit them.

What they did was each of these agencies did go together on a joint venture, and they hired a consulting firm to act as a liaison between the Peace Corps and the Agency for International Development.

The cost of that contract, Mr. President, to get these two agencies talking to each other was $100,000. Was there any competition in that bid? We do not know. But we do know that the Agency for International Development and the Peace Corps had never even thought of hiring a consulting firm to perform this liaison or go-between service until a consulting firm walked in one day and said, "Do you know what you people need? You need to hire us, and for $100,000, we will get you talking to each other and better coordinating your activities." So they wrote them a check, Mr. President, for $100,000, and today I assume that the Peace Corps and the Agency for International Development are now talking to each other. But I find it impossible to understand why the American taxpayer had to fork over $100,000 to a private consultant so that two Federal agencies committed to the same tasks could talk to each other. It is beyond this Senator's comprehension.

Mr. President, we went a little further into this contract. This is just a $100,000 contract. In fact, there are hundreds and hundreds and perhaps thousands of contracts that are worse than this. But we decided we would take this contract and look at it. They decided to have some meetings between the Agency for International Development and the Peace Corps officials. Who prepared the agenda for the joint meetings of these two agencies? Of course, the consulting firm did. That was part of the way they earned their fee of $100,000. Who got up to tell everyone the purpose of these two Government agencies having a meeting? The private consulting firm.

Mr. President, we found some interesting memos to high-ranking agency officials going back and forth between these two agencies to tell them what to say to their counterparts at the other agency. Who prepared all of those memoranda that were circulated between these two agencies? The answer is simple. The consulting firm.

I cannot believe this is an appropriate and judicious role for a private consultant. Senior level administration officials certainly ought to be able to sit down with one another and talk, plan their objectives, and coordinate their services. They do not need to write a check for $100,000 to a private consultant to tell them what to say or what to do. They do not need to prepare memoranda to say what the policy of those agencies might be because, if these officials do not know what the policy is, in my opinion, those officials need to find another job. I think that Federal officials can arrange their own meetings, set their own agenda with other Federal agencies, and they do not need a consulting firm to do that job for them.

Finally, Mr. President—and here is where we really have to look at the danger of private contractors in this field—did either agency, AID or the Peace Corps, check one time to see who else this private consulting firm happened to be working for? The answer is, I doubt it. If they had checked, they would have discovered that this private company also works for less-developed countries. In fact, one of the principals of this particular private consulting firm is a registered foreign agent for a textile concern in Latin America. How are the taxpayers going to ever believe that the other interests of this consulting firm will not influence their work for these two agencies?

Mr. President, I think all of us know the answer to that question.

I am convinced that the best way to avoid these potential conflicts of interest and to avoid the contracting out of work that can and should be performed by Government employees is for all of us to exercise some common sense.

Mr. President, the cycle is about to begin—the authorization committees and the appropriations committees, the budget resolutions and reconciliation. I am only hoping, before we appropriate money for any agency or any department or any function of Federal Government, we will exercise the good judgment to simply ask how much they are spending on consultants, why do they need to hire consultants in the first place, and is this contract really necessary. Before agency officials call down to the contract office and order a consulting contract to be written, they could and should ask: Is this a job we can do ourselves?

Mr. President, some contracting out may save money for the taxpayer, and that is good. However, I am not convinced that contracting out like this AID-Peace Corps type of contract ultimately saves money or is a good idea at all. Today I am urging agency officials and the proper committees in the Senate and the House involved with contracting to ask: Is this contract really necessary? This simple step may well save the taxpayers some dollars, and I think it will save our Government some additional embarrassment.

UNITED STATES-JAPAN TRADE RELATIONS

Mr. PRYOR. Mr. President, I have heard two eloquent statements this afternoon in this chamber relative to the recent decisions in Japan to remove American-produced rice from a food fair in Japan. This was an official position taken by officials of the Japanese Government, to remove American rice from this particular exhibit.

Mr. President, this is not the first time this has happened. If my memory serves me correctly, about 18 months or 2 years ago, Japan removed American-produced rice from a food exhibit in Tokyo. In my opinion, this whole situation has reached the point of such absurdity that our Government, I truly believe, should transmit in the strongest terminology our total revulsion to what has happened with this particular episode.

Mr. President, I am proud to state, as I have stated several times, along with my colleagues, Senator BUMPERS, and Senator LEVIN of Michigan, that our State of Arkansas leads this country and all other States in rice production. I see my friend from the State of Mississippi, Senator LOTT, my distinguished colleague, on the other side of the aisle. I might state, Mr. President, that Mississippi is one of those great five States leading our country to a fulfilled crop of rice production in America that supplies much of the world population. We are proud of the fact that this crop is exported. We are proud of the fact that rice has helped in the overall balance-of-payments deficits, because most rice, as I know all of us know, is sent abroad.

Mr. President, in recent days, since this episode in Tokyo, there has been an outstanding editorial in the Washington Post on that issue as of this morning. I ask unanimous consent that other articles, including the Post editorial of this morning, an Arkansas Gazette story of March 18, an Arkansas Democrat story of March 17, a New York Times story of March 18, a Washington Post story of March 16, a New York Times story of March 13, and a Journal of Commerce story of March 13 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 21, 1991]

THE GREAT TOKYO FOOD FIGHT

As outrages go, the Japanese government's prohibition against imported rice is a familiar one. But Japanese officialdom outdid itself last weekend when it forced Americans—under the threat of arrest, they charge—to remove several small bags of their rice from a food exhibition in Tokyo. This incident is an unpleasantly clear illustration of what's going wrong in the politics of world trade and what's happening to the world trade negotiations.

Japan's case for banning foreign rice begins with a lot of dubious anthropology about the mystical role of rice in Japanese culture, and goes on to allege a national yearning to be self-sufficient in basic foodstuffs in the event its enemies surround the country with a naval blockade. Intellectually, that is roughly on the same level as the case for, say, the American quotas on sugar from the Caribbean. Both are merely devices by which governments, for internal political reasons, transfer money from the pockets of consumers to those of certain well-organized and influential farmers.

Perhaps the Japanese government would prefer not to have the public even reminded of the availability of foreign rice. It might lead people to brood about the fact that it costs one-seventh the domestic Japanese price. In any event, after a squad of Japanese policemen arrived to inspect and photograph the American rice exhibit, an embassy official swept the offending bags out of sight.

In the world trade talks, the rich countries want trade concessions and patent protection in the Third World. In return, Third World governments have said that their people want to be able to sell what they produce, mainly agricultural products, in the markets of the rich countries—otherwise no deal. Japan's rice ban is a good example. If the Japanese dropped the ban, most of the new sales would go not to American growers but to the producers of Southeast Asia.

Because it is politically inconvenient for them, the European Community and Japan have shown little willingness to open up their agricultural trade more widely to foreigners. As a result the world trade talks—known as the Uruguay Round—have broken down, possibly beyond rescue. Because Japan has grown wealthy as one of the world's great trading nations, its rice policy has become increasingly offensive. By calling the cops at the Tokyo exhibition, Japan has given a clear signal of resistance to the open and forthcoming give-and-take that will be required for progress in trade in the 1990s.

[From the Arkansas Gazette, Mar. 18, 1991]

JAPAN MOVE ANGERS RICE COUNCIL MEMBER

U.S. FORCED TO PULL ENTRY FROM FOOD EXHIBITION

(By Lisa Pevtzow)

Rice growers should burn Japanese cars on the steps of the nation's Capitol in Washington, a member of the U.S. Rice Council from Arkansas advocated Sunday.

Thomas M. Coyne of McGehee said he was infuriated with the Japanese government for forcing council members Saturday to pull an American rice exhibit from an international food exhibition in Tokyo.

Citing the Japanese Food Control Law that prohibits the importing of nearly all commercial rice, Japan threatened the council members with jail unless they removed the exhibit of about 10 pounds of the staple crop from the exhibition, entitled Foodex.

The council members complied. "If the Rice Council members had any red American blood, they should have said, 'Take me to your jail,' said Coyne, who is the president of Brown Rice Co. and said he built rice mills worldwide. "I would have preferred that we go to jail than give up the rice samples."

Americans need to demonstrate the courage of their convictions when it comes to rice, Coyne said.

"We should trash some Toyotas on the steps of the Capitol. This is a public relations problem and someone ought to hit them over the head," Coyne said. "It really gets me irritated. We should be doing precisely what the Japanese do: If you reject our rice, we should reject your automobiles."

Coyne ultimately blamed the United States government for giving in to Japan's closed-door policy for so many years.

"Their government sets up rules of import. You just don't break those," he said. "As a result there's no rice import. But still the State Department have their nice little teas with them: Clink teacups."

Richard Bell, chief executive officer at Riceland Foods in Stuttgart, pronounced Coyne's suggestion a little extreme, but said the United States must keep pressing the Japanese to open their trade doors.

"Eventually, we will get access to their markets," he said.

Calling the arrest threat petty and narrow-minded, Bell added: "I don't see how it helps them. All it does is give them bad publicity on worldwide basis."

The Japanese have gone backward in the last couple of months, after they had begun talking about giving some access to foreign rice producers, he said.

Saturday's incident was a repeat of last year when Arkansas rice growers tried to exhibit rice in Japan, said Bill Reed of Stuttgart, assistant vice president for corporate development at Riceland Foods.

"I think they're drawing more attention to the issue by the action," Reed said.

Recently, the Japanese people have begun wanting to buy American rice because it's cheaper, he said. Threatening to arrest Rice Council officials could reinforce that desire by bringing the issue into the public domain, Reed added.

[From the Arkansas Democrat, Mar. 17, 1991]

JAPAN MAKES FEDERAL CASE OF U.S. RICE DISPLAY

TOKYO.—A U.S. agricultural group removed a display of American rice from a food exhibition Saturday after officials threatened to arrest the exhibitors for violating Japan's nationwide restrictions on rice imports.

The U.S. Rice Millers' Association removed the rice after Japan's Foreign Ministry warned the U.S. Embassy that the display violated Japan's federal Food Control Law and the exhibitors would be jailed unless they removed it.

"Having now been threatened with arrest, we will remove the rice . . . to help publicize this very regrettable behavior by the Japanese government," said David Graves, president of the association.

Japan's Food Control Law bans nearly all commercial imports of rice. Japanese officials say restrictions on imports of the staple grain are needed to protect Japanese rice farmers and guarantee food security, and that even displaying foreign rice violates the law.

"It is severely disappointing to us that the Food Control Law was interpreted by the Food Agency in such a manner," Graves said.

"It is ridiculous that Japan's 10 million-ton rice industry should feel threatened by 10 pounds of American rice in a plastic display case," said USA Rice Council Vice President Jim Willis.

In displaying the rice last week at the Foodex international food exhibition, which ended Saturday, the American rice millers cited a clause in the law which allows rice to be imported for educational purposes.

[From the New York Times, Mar. 18, 1991]

JAPAN SHUTS U.S. RICE EXHIBITION

(By David E. Sanger)

TOKYO, March 17.—The United States Rice Council reluctantly withdrew its exhibition here on Saturday after Japan's Agriculture Minister threatened the exhibitors with an arrest for displaying 10 pounds of American rice.

This latest twist in the continuing trade disputes between the United States and Japan began as an amusing standoff, but turned serious as Japanese threats mounted during the week.

Each day, Japanese Government agents arrived at the Foodex international exhibition here and with a perfunctory bow and the look of highway patrolmen who had a speeder where they wanted him, studied the contraband: a few sealed bags of American rice and some plastic containers containing samples of different American varieties.

HAVING A RICE DAY

Not only was the rice in plain view, but the United States Rice Council was also handing out bumper stickers that said, "Have a Rice Day."

Each day the agents from Japan's Food Agency demanded that the Americans remove the rice. Each day, the Rice Council listened politely and ignored them.

For decades, Japan has enforced a ban against selling imported rice, but to the Americans it hardly seemed a violation of the law to invite Japanese to look at rice—under glass.

Then, on Saturday morning, the Minister of Agriculture, Forestry and Fisheries, Motoji Kondo, notified the American Embassy that everyone associated with the exhibit would be arrested if the rice was not taken off display

I THINK WE MADE OUR POINT

At noon, the Americans reluctantly removed their rice.

"We removed it under threat of arrest, but I think we made our point," David Graves, the president of the United States Rice Millers Association, said Saturday. "It is ridiculous that Japan's 10-million-ton rice industry should feel threatened by 10 pounds of American rice. I hope the Japanese feel pretty foolish."

Parts of the Japanese bureaucracy are likely to feel that way. For months Japanese politicians have been trying to come up with ways to relax the ban on imported rice without angering Japan's weekend farmers, who make up a key constituency for the ruling Liberal Democratic Party.

These farmers reap enormous tax benefits from growing rice—even on small, inefficient plots in the middle of some of Japan's most overcrowded cities.

The issue has become particularly intense in recent weeks because Japan is afraid it will receive part of the blame if efforts to revive the global trade talks collapse.

Those talks broke off in December, deadlocked by a dispute between food-exporting nations, led by the United States, Australia and Canada and the European Community. The food exporters wanted to slash farm subsidies, saying they led to closed markets and inefficiency; the Europeans refused, saying they needed to protect their farmers.

JAPAN'S JUSTIFICATION

Japan came in for its share of criticism as well, and Japanese trade negotiators acknowledged that the nation's justification for the trade barrier—that its security would be imperiled if it did not produce all its own rice—was convincing no one.

So a senior official of the Ministry of International Trade and Industry Noboru Hatakeyama, suggested Japan would be wise to ignore the Rice Council's exhibit. "It would be strange to remove something which is not dangerous to national security," he said.

But the Food Agency, which is responsible for distributing the nation's rice at fixed prices, found the exhibit too much, especially after the Japanese press began playing up the fact that consumers here pay two and a half times more for their rice than Americans do.

American officials had armed themselves with a copy of Japan's Food Control Law, which allows educational displays of rice.

"We asked the Japanese to show us the language in the law that makes it illegal to show people rice and teach them about it," Jim Parker, the minister-counselor for agricultural affairs at the United States Embassy said. "We're still waiting."

But one embassy official said this weekend, "It's not our job to ask people to subject themselves to arrest."

At the Food Agency, officials said the exhibit did not look like education to them. "This fair is for market development and sales promotion," Tetsuro Yakushiji, the deputy director of the policy division, said Saturday.

[From the Washington Post, Mar. 16, 1991]

AT TOKYO FAIR, U.S. BOOTH SPARKS RIFT OVER RICE

(By Paul Blustein)

TOKYO, March 16.—The Cold War and the Persian Gulf War may be over, but the Great Rice War is heating up.

This week, the United States and Japan have been nose to nose over the display of a few bags of American rice at an international food fair here. The Japanese Agriculture Ministry contends that the exhibit violates Japan's strict ban on foreign rice—imposed to keep Japan self-sufficient in rice production.

Today, shortly before noon, U.S. officials removed the rice from display because, according to rice industry representatives, the Japanese authorities had threatened to "prosecute and arrest" the people associated with the exhibit.

Yesterday, before the alleged arrest threats had been made, James Parker, the U.S. Embassy's top agricultural affairs official, declaring that the rice—which had been on display since Tuesday, when the fair opened—would remain there until the fair closed this afternoon.

As the Americans see it, the samples of uncooked rice being displayed were for "educational purposes" and not for sale, and therefore legal under Japanese law.

Japanese officials, however, didn't accept the American view and the Agriculture Ministry demanded that the rice be removed, reflecting the near-mystical importance of the grain to the Japanese—and the powerful political clout of rice farmers.

The confrontation appears to be a small but revealing sign of rising tension in the U.S.-Japan trade relationship in the wake of the gulf war.

Today, as dozens of Japanese television cameramen and photographers swarmed around, Laverne E. Brabant, director of the Agricultural Trade Office of the U.S. Embassy, ceremoniously donned an apron emblazoned with the words "Great American Food." He then removed several packages of white and brown rice from the booth's table and scooped some lose grains of rice from clear plastic display bind into bags for removal.

At the same time, the U.S. Rice Millers Association and the USA Rice Council issued a joint press release carrying the headline "U.S. Rice Industry Officials Threatened With Jail by Japanese Gov't."

Top officials of the Japanese Agriculture and Foreign ministries insisted that they never considered arresting or prosecuting the rice promoters for exhibiting the samples.

"This is not in our mind at all," said one Agriculture Ministry official. A Foreign Ministry official agreed: "It would be inconceivable" that the Japanese government would order anybody's arrest.

However, U.S. Embassy officials said that on Friday evening, after the food show had closed for the day, four members of the local police came to inspect the exhibit and asked Brabant who he was and whether he planned to stay in Tokyo for a while.

The police, who also took photographs and measured the exhibit, were evidently acting in response to a complaint filed by a local rice farmers' organization against the U.S. exhibit.

The fact that the rice remained on display for so long in defiance of the Agriculture Ministry is a symbol of what many Japanese fear postwar America will be like. The Japanese press has been full of predictions that, in the aftermath of the triumph by U.S.-led forces over Iraq, Washington will become more strident—especially in its trade battles with Tokyo.

In an article in the current Monthly Hoseki magazine, for example, Sakuji Yoshimura, an assistant professor at Waseda University, warned that the United States wants "exclusive dominance" in the post-Cold War world, the Associated Press reported. "After Iraq, Japan. Make no mistake about it, for the United States, Japan is the 'hateful eyesore,'" Hoseki wrote.

In the pantheon of bold U.S. foreign policy initiatives, the statement "The rice will stay on exhibit" hardly ranks with, say, "This aggression will not stand," or "First we're going to surround it, then we're going to kill it."

But the posture on the rice exhibit this year seems to contrast markedly with last year, when U.S. rice promoters and embassy officials agreed to remove the samples from exhibit—as "a courtesy," they said—following Japanese insistence that the display violated the law.

Since last year, not only has American pride been bolstered as a result of the war, but rice has become a more emotionally charged issue. U.S. officials accuse Japan of having contributed to the breakdown of global trade negotiations late last year by insisting on keeping its prohibition on imported rice.

As the rice battle was unfolding in Tokyo, the National Association of Manufacturers urged President Bush this week to undertake "a reassessment of America's relationship with Japan," contending that the framework that has existed since the end of World War II may be outdated.

The group proposed "a comprehensive rethinking" of the relationship because "Japan, more than any other major ally, calls into question some longstanding premises governing America's postwar economic policies," NAM President Jerry Jasinowski said in a letter to President Bush.

Earlier last week, Richard L. Lesher, chairman of the U.S. Chamber of Commerce, told a Tokyo audience that he has "never been more discouraged about U.S.-Japan trade relations than I am today."

Furthermore, he said, the United States "sees the world through an economic prism" and will no longer push aside economic issues in favor of Cold War geopolitical concerns.

Yesterday, the U.S. Embassy's Parker had sought to dispel any suggestion that Washington was trying to be confrontational over the rice. "This is a couple of mid-level bureaucrats in the food agency who say it's illegal; our reading is, it's perfectly legal," Parker said.

Late yesterday afternoon, before the rice was removed, Parker said the samples would definitely not be withdrawn from exhibit. If a "senior member" of the Japanese government had made such a request directly, he said, the embassy would have asked Washington for instructions, but nothing had been heard on the subject from any senior Japanese official.

Parker acknowledged that he had heard about a statement by Agriculture Minister Motoji Kindo, who told a press conference yesterday that the samples were illegal and should be removed. But the farm minister had not contacted the embassy, Parker said.

[From the New York Times, Mar. 13, 1991]

JAPAN OBJECTS TO U.S. RICE

TOKYO, March 12.—Officials of Japan's Agriculture Ministry have angrily demanded that United States trade officials remove rice samples from a food trade show.

"That's a clear violation of the Staple Food Control Law, which bans commercial imports of rice," a ministry official said today. "Their behavior is childish."

A United States trade official, who declined to be identified said, "Our purpose in exhibiting American rice at the fair is to educate potential consumers, not to do business."

Japan bans commercial rice imports, saying it must be self-sufficient in its staple food on the ground of national security.

Under Japanese law, anyone found guilty of importing rice without ministry permission could be sentenced to a prison term of up to two years or face a fine of up to 3 million yen (about $22,000), another ministry official said.

The U.S.A. Rice Council, an industry group, displayed the rice on the opening day of an annual international food fair in Chiba, east of Tokyo.

Agriculture Ministry officials sent to the show angrily told American officials that the samples had to be removed, the Japanese official said.

"The American side said they would answer our claim after consultation with the U.S. Government," he said. "But we haven't received any reply yet."

[From the Journal of Commerce, Mar. 13, 1991]

JAPAN BIDS U.S. REMOVE RICE FROM TRADE DISPLAY

TOKYO.—Officials from Japan's Agriculture Ministry angrily demanded Tuesday that U.S. trade officials remove rice samples from a food trade show here.

"That's a clear violation of the Staple Food Control Law, which bans commercial imports of rice. Their behavior is childish," a ministry official said.

"Our purpose in exhibiting American rice at the fair is to educate potential consumers, not to do business," said a U.S. trade official who declined to be identified.

Japan bans commercial rice imports, saying it needs self-sufficiency in the staple food on national security grounds.

Under Japanese law, anyone found guilty of importing rice without ministry permission is liable to a prison term of up to two years or a find of up to 3 million yen ($22,000), another ministry official said.

The USA Rice Council, an industry promotional group, displayed the rice on the opening day of an annual international food fair in Chiba just east of Tokyo.

Agriculture Ministry officials sent to the site angrily told U.S. officials that the samples had to be removed, the ministry official said.

"The American side said they would answer our claim after consultation with the U.S. government. But we haven't received any reply yet," he said.

USA Rice Council officials told a news conference in Chiba that the purpose of the display was to show Japanese people what products it had, not to promote business.

The council exhibited rice at last year's fair, but later removed it after complaints from the Agriculture Ministry.

Mr. PRYOR. Mr. President, I thank the Chair, and I yield the floor.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana [Mr. BAUCUS] is recognized.

AN ENVIRONMENTAL AGENDA FOR THE 102D CONGRESS

Mr. BAUCUS. Mr. President, last weekend, I, along with a number of my colleagues, traveled to the Persian Gulf to see first hand the consequences of the war. We are all greatly pleased that the war is over and Kuwait is free of Iraqi domination.

But I was deeply disturbed by the environmental destruction loosed upon the areas by Saddam Hussein. The devastation to the environment, to Kuwait, and to the people of the area is astounding. Worse still, we are just beginning to appreciate the environmental aftermath.

The local and regional impacts from the hundreds of oil well fires set by the retreating Iraqis and the oil deliberately spilled in the gulf are obvious and immediate.

But less obvious, and probably more dangerous, are the consequences of years of environmental neglect.

Look at Eastern Europe. Years of disdain for the environment have left a massive toll. Air so dirty it is unsafe to breathe. Water so polluted it is unsafe to drink. And land so contaminated it is virtually uninhabitable.

Our country has been fortunate to have had the foresight to make environmental protection a key ingredient of our domestic policies. The past 20 years have seen numerous landmark environmental laws enacted.

And we have not rested on our laurels. Last year, we updated and broadened legislation to protect our waters from oilspills. And in a landmark achievement, we passed the first comprehensive revision of the Clean Air Act in 13 years.

We can be proud of our accomplishments. But we cannot be content.

Serious problems remain, such as garbage, water pollution, and the extinction of endangered species.

Fortunately, we can build on our successes of last year. We can use this Congress to expand our vision of environmental programs. We can explore new ideas, such as the Emissions Trading Program adopted in the Clean Air Act.

That concept evolved from the need to reduce air pollutants in the most cost effective manner. Acting alone, neither government regulation nor private markets would have done the job. But together, they set the stage for a truly efficient path to cleaner air.

This is the kind of benefit we can realize if we expand our vision. Regulation combined with economic incentives can work with other environmental problems, too.

AN ENVIRONMENTAL AGENDA

The Environmental Protection Subcommittee will be active this year on a number of fronts, including the Resource Conservation and Recovery Act and the Clean Water Act. Shortly after the recess, I will introduce legislation to reauthorize both programs, and begin a series of hearings.

I intend to focus much of our attention on the search for creative and innovative solutions. And there is fertile ground to explore.

CLEAN WATER ACT

This year marks the 20th anniversary of the Clean Water Act. Since then, our waters have improved in many areas.

But there also have been several shortcomings.

We need to put more emphasis on preventing water pollution in the first place. We need better control of toxic water pollutants and pollution from nonpoint sources. And we need improved monitoring and better pollution prevention research.

The bill I will introduce will have initiatives in each of those areas.

RCRA

Some 15 years ago we passed the first Resource Conservation and Recovery Act. Since then, the focus of the program has been on managing our waste. It sounds responsible. And it is. It has helped us rid the land of open garbage dumps.

But that act misses a larger point. If we simply continue to manage our waste, we will never solve our waste problems.

The Resource Conservation Recovery Act bill that I will submit after the recess will establish new priorities for the program.

First, to reduce the generation of waste. Second, to recycle and compost as much as possible.

It also will include authority for States to impose restrictions on out-of-State waste shipments, an issue that I know is of great concern to a number of my colleagues.

Taken together, the provisions of this bill will initiate a comprehensive redirection of the solid waste program.

ENERGY

A major priority for the Congress this year is a comprehensive energy policy. And we need one.

The Environmental Protection Subcommittee has already held two hearings to explore the implications of various energy strategies. These hearings have confirmed a basic wisdom.

Energy and environmental policy must be complimentary. To ignore one, is to court disaster with the other. A wise energy policy will protect the environment and, thus, can be sustained.

A specific example of such complimentary action is the waste reduction and recycling provisions in the RCRA bill. The energy savings from recycling can be as much as 95 to 98 percent in some industries, compared to the use of virgin materials.

And those savings contribute directly to increased efficiency which, in turn, leads to greater competitiveness for our industries.

Mr. President, adding a new vision to our environmental agenda will require creativity and innovation. And it will require determination not to fall back on the easy way out when the going gets tough.

I ask my colleagues on the subcommittee and in the Senate to join me in this endeavor.

And I ask the President to join us, too. So far, the administration has seemed unwilling to engage in our efforts with their help on the Clean Air Act. I hope they will help in in our efforts with the Clean Water Act.

Next month we will celebrate the 21st anniversary of the original Earth Day. So it is an appropriate time to renew our commitment to the environment and to an agenda benefiting our world today and our children's tomorrow.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. PELL. Mr. President, I ask that I be permitted to proceed as in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ELECTRIC BOAT: A UNIQUE NATIONAL ASSET

Mr. PELL. Mr. President, in considering the future of the Seawolf submarine program—and the broader question of the submarine industrial base—I urge all who are concerned to take special note of the unique national asset which exists in the facilities of the Electric Boat Division of General Dynamics, and of the critical importance of this facility to the economy of the State of Rhode Island.

At Quonset Point, RI, Electric Boat operates an automated frame and cylinder manufacturing facility which is the only one of its kind. This $287 million facility has the capability of fabricating sections of steel cylinders up to 42 feet in diameter which become the basic building blocks of a nuclear submarine hull.

The machinery used to mold these sections is not duplicated anywhere in the world, and the skills needed to weld and fabricate the sections reflect the special training and experience needed to operate this unique facility.

The sectional construction process made possible by this facility has been developed in the Trident Program and will be used to its fullest advantage in the Seawolf Program. The process permits installation of prefabricated modules of machinery, piping and structural components into the open cylindrical sections before they are joined to form the submarine hull. Substantially improved productivity results since much complicated installation work does not have to be performed within the limited confines of the completed hull.

More than 4,000 Rhode Islanders work at this facility and the annual payroll is some $135 million. Another 3,000 residents of our State cross into Connecticut each day to work at Electric Boat's Groton facility, where the cylindrical sections are joined into completed submarine hulls. So all told, Electric Boat employs over 7,000 Rhode Islanders, making it the largest private sector employer of Rhode Island workers.

I cannot emphasize too strongly the importance of Electric Boat to the Rhode Island economy, which is already reeling under the effects of a regional recession and a State banking crisis. In addition to the total Electric Boat payroll of $248 million to Rhode Island workers at Quonset Point and Groton, Electric Boat does business with some 900 suppliers in the State and purchases goods and services amounting to $25 million annually. The Quonset Point facility generates State income taxes of $8.5 million and sales taxes of over $40 million. In a State as small as Rhode Island, such an enterprise is a giant presence indeed.

But I come back to the point that, in addition to these drastically important local considerations, there is a factor of urgency and importance for the national interest, and that is whether this unique manufacturing facility is to continue to operate or gradually fall into disuse. The loss of the next Seawolf contract, combined with fitful competition for minimal submarine production in the future could well lead to the latter result.

To my mind, the logic is inescapably in favor of keeping Electric Boat in business, and that means designating it as the Navy's sole source for the foreseeable future. I hope the Navy will reach the same conclusion.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WIRTH. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. MIKULSKI). Without objection, it is so ordered.

The Senator from Colorado is recognized.

Mr. WIRTH. I thank the Chair.

(The remarks of Mr. WIRTH pertaining to the introduction of S. 741, S. 742, and S. 743 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

PORK AND THE DIRE EMERGENCY

Mr. SMITH. Madam President, yesterday, this body passed a dire emergency supplemental appropriations bill that, should it become law, will spend more than $1 billion over the amount requested by the President, George Bush. Was all this additional funding for dire emergencies? Of course it was not. All of us in this body know it was not.

Page 9 of that very bill included $351,000 for the Library of Congress, for furniture and furnishings. I have a little difficulty explaining how that might be described as dire emergency, unless there is no furniture there to sit on.

There is no language in the legislation specifying how that money is going to be spent, or what those furnishings will be if they are furnishings. The bill also allows for $5 million to be spent on an unauthorized teacher certification study, which Senator HELMS of North Carolina spent a great deal of time talking about yesterday on the floor.

Are these isolated examples? I wish they were. But my colleagues know they are not. The American people, I believe, know they are not. These projects are common examples of business as usual, the attitude that today prevails in Washington.

The amount of pork barrel spending enacted even in the face of supposedly bare-bones budget agreements is virtually incomprehensible. This wasteful spending seriously undermines the public confidence in the elected officials who serve here, and calls into question the effectiveness of the whole congressional budget process.

It is unfortunate that last year's budget agreement focused so much on taxes, while even the most rudimentary calls for spending austerity went totally unnoticed.

The American people were told last year that the budget deal was the best that could be had. They were told that Congress was cutting spending to the bone. They were also told the changes in the budget rules would achieve real reform. Because of these great sacrifices, the argument went, new taxes were necessary. I did not believe it then and, after reviewing last year's regular appropriations acts, I do not believe it now. The appropriations acts for fiscal year 1991 contain more porkbarrel projects than could ever be included in one speech.

The free spenders said that tough choices were made. I found about 500 that did not qualify for the kind of things that we would say were dire emergencies, but let me cite just a few. Let my colleagues decide for themselves: $320,000 for the Saxon House in Ohio, to purchase President McKinley's in-laws' house and donate it to the State; unauthorized, noncompetitively awarded, of no national or regional importance; $15 million for a program of natural resources development, which consists of grants to States to contract with small businesses to plant trees on land owned by State or local governments. The project was previously rejected in small business legislation. It was added in conference. It was noncompetitively awarded, and it was previously unauthorized by law; $94,000 for apple quality research in Michigan to evaluate factors affecting apple quality, including surface, color, shape, ripeness, sugar-to-acid ratio, and firmness. No hearing, no floor debate, noncompetitively awarded, unauthorized; $4.5 million for the restoration of a theater in Huntington, West Virginia, noncompetitively awarded, unauthorized.

Here is one my colleagues might like: $2.7 million for the construction of an experimental catfish station in Arkansas, noncompetitively awarded, outside of an explicit Federal program authorizing spending for that purpose, no national, no regional importance; $1 million for the study of bicycling and walking safety, to determine current levels of bicycling and walking and to identify the reasons why they are not better used as a means of transportation; $2 million for a native Hawaiian cultural and arts center, no national importance, unauthorized, noncompetitively awarded, no hearing, no floor debate; $25,000 to study the location of a new House of Representatives staff gym; unauthorized, noncompetitively awarded, no hearing, no floor debate.

I have 500 of them on the list, but I will stop there.

Madam President, the American people have a right to expect that our stewardship over their money will be better than this. Time and time again in town meetings, in my mail, throughout my State, people legislatively question why their taxes go to finance projects like this. If Members of this body were forced to pay for apple quality research out of their own pockets, does anybody seriously believe it would go forward?

I, for one, am sick of it. I am sick of seeing the taxpayers' hard-earned dollars squandered on projects that would not see the light of day if they were debated in a public forum. It is embarrassing and shameful. It has to stop. How do we look our constituents in the eye, a senior citizen who is looking for an increase in Social Security, or a homeless person, or any other person who might be in need, how can we look them in the eye and say apple quality research and all of the other things are more important than you, much more important than you?

My intention today is not to single out individual Members—I have not done that—or their projects. There is a tendency for many Members of Congress to apply the out-of-State rule to pork projects. That is, if it is in my State, it is a great project; if it is in your State, it is pork. That philosophy is clearly hypocritical. The examples I have cited are symptoms of a larger, more serious problem, and that problem is with the congressional budget process.

Contrary to the proponents of last year's budget deal, I do not believe that we achieved either budget austerity or budget process reform. If we did, we would not be hearing about Lawrence Welk's birthplace for $500,000. That is another one that I did not list. If Congress had achieved real reform, we would not have spent $2 million to develop and stimulate the sale of native Hawaiian handicrafts either.

We need a substantive debate on the merits of a budget process that allows billions of tax dollars to be wasted on these items while we run up a $3.5 trillion national debt. This debate should begin with proposals which would achieve real reform.

First, the President needs a line-items veto. At the very least, this body should take up legislation such as S. 196, the Legislative Line-Item Veto Act, introduced by Senators COATS and McCAIN. That bill would give the President enhanced rescission power. It would force this body to vote up or down on some of these projects that mysteriously find their way into appropriations bills. Is that too much to ask on behalf of the people who pay the taxes in this country? I do not think so. If we spend millions of dollars on a project, we ought to be willing to vote for it. If we cannot, we should not spend the money. It is pure and simple.

Madam President, these proposals will not be enacted overnight. So while we continue to work for more far-reaching change, I have decided to supplement these efforts with a more immediate campaign to curtail porkbarrel spending. My approach would take an objective look at this issue. There is a natural tendency to view porkbarrel spending subjectively. "I know it when I see it," is a popular refrain. Defining these projects objectively, however, is a much more difficult task. Working in conjunction with several other Senate and House offices, Democrats and Republicans, with the Office of Management and Budget, and with several outside groups, including Citizens Against Government Waste, Citizens for a Sound Economy, and Americans for a Balanced Budget, to name a few, we have developed a working definition of pork.

Madam President, I ask unanimous consent that the entire definition be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TESTS TO IDENTIFY WASTEFUL SPENDING

(1) Spending appropriated by Congress that was never the subject of a Congressional hearing or floor debate;

(2) Unauthorized spending, or spending authorized in the same appropriation act rather than by a separate law.

(3) Spending placed in a conference report when neither bill going to conference originally contained such a provision;

(4) Spending earmarked when earmarking is not the mandated method;[1]

(5) Appropriations that take place outside of an explicit federal program authorizing spending for that purpose;

(6) Spending for projects that was noncompetitively awarded, failed in a competitive test, or the competitive test was waived;

(7) Appropriations for projects of purely local interest, without national or regional importance;

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[1] Certain programs, such as UMTA (Urban Mass Transportation Administration) awards, require that projects be earmarked.

(8) Appropriations that do not meet policy criteria set by an executive agency or Congress.

Projects meeting three or more of the criteria are considered to be "pork."

Mr. SMITH. Madam President, the concept could be more appropriately called a litmus test. Some of the criteria used to determine whether or not a project qualifies as pork are: whether or not the project was authorized by law. Surely, that is not unreasonable. We are a body that writes laws, we make laws; we ought to be able to operate by them.

Second point: Whether or not it was competitively awarded. Did everybody have a fair shot at the contract?

Third: Whether it was added in conference for the first time; that is, it just appeared when two committees got together to discuss a piece of legislation.

These are just a few of eight points in the working definition. The test is very flexible: Any given project needs to meet three or more of the eight points to qualify. If it meets three of eight, it is pork. Many worthy programs have not been authorized for years, and our test would not affect most of them. Similarly, there are many programs where no competitive process exists to award projects, and this fact alone would not make them pork under our standard.

What we are trying to address are blatant abuses. For example, using these three points, is it fair to say that if a local project was never authorized by law, was never subjected to a competitive process, and was added in conference, then it is pork? If all three of these conditions exist, and often they do, we have to step back and say it is time for a change.

The test is not perfect. Many of my colleagues will take issue with one point or another, especially if it is in their State. To those colleagues, I say the following: Come to me with your constructive criticism. If it is helpful, it will be welcomed. Certainly there is no simple solution. I have consulted with the Congressional Budget Office, the General Accounting Office, and the Office of Management and Budget. No one has any easy answers.

Madam President, my staff is currently in the process of finalizing a list of projects included in the 1991 appropriations acts that fail the pork litmus test. It is my purpose to rescind the funding for each and every one of these projects. The list will not make distinctions between Democrat and Republican projects. It will not make distinctions between New Hampshire and West Virginia projects. If a given project fails the test, it will be placed on the list. It is as simple as that. We are talking about large sums of money where I come from. I anticipate that the sum total will be near $1 billion on just these projects I have identified.

Let me take a moment to put that into proper perspective. We are borrowing this $1 billion. Remember, we are $3.5 trillion in debt.

So when we fund apple quality research we are borrowing the money to do it. And the Government pays roughly, give or take a quarter of a percent, 8-percent interest on that debt. In 1 year, the interest alone on $1 billion of pork projects, just the $1 billion in pork, is $80 million. Would any Senator like to have $80 million in interest in his State just in savings. That is not small change. That would look real nice saved on the debt and deficit in his country.

I wish to serve notice to my colleagues there is a real problem with Government waste. There are real problems with the congressional budget process, and I intend to pursue this problem on the next appropriate legislative vehicle.

The American people are fair and decent, Madam President. They have common sense. They often put the good of the many ahead of the good of the few, and they do it more often than we think. They often place national concerns ahead of their local or parochial concerns. If Members of Congress decided to forego pork projects for just 1 year, their constituents would understand.

I would like to provide an example, a personal one. A few years ago, when I was a Member of the House of Representatives, Congress created a commission—that is what we do when we cannot face a tough situation, we create a commission and have them do it—to determine which military bases in America should be closed.

Why did we need a commission? Because nobody would close any base in their States. It was another case of elected officials again failing to make the tough choices.

So we set up the commission. Well, much to my surprise and chagrin, one of the bases they recommended foreclosure on was Pease Air Force Base smack in the middle of my congressional district in New Hampshire.

After carefully reviewing the recommendations and determining that the base was not needed for our national security as was recommended by the Secretary of Defense, I supported the commission's findings and I voted to close the base. At that time it was a tough vote. After explaining that vote to the people of New Hampshire, a large majority supported it and understood my position. I was elected to the Senate with 67 percent of the vote. So it is not impossible to be honest with the people of your State.

There is an important lesson to be learned from this story. Good policy should be and is good politics. The idea that the only way to gain support back home is to dole out the special interest projects is a misguided one. The American people are smarter than that. They want change. They want an end to unfair pork-barrel politics and business as usual in Washington. They want fairness. When you fund $95,000 for apple quality research, how many children in the ghetto could be immunized against measles or polio? It is not fair. We need to change it. I intend to do it, Madam President. I intend to do it.

I thank the Chair.

THE STATUS OF PUERTO RICO

Mr. MOYNIHAN. Madam President, I rise in a mood of distress and near despair to speak to the understanding the United States Congress appeared to have made in the last Congress at the behest of the President and resumed in this Congress to provide the Commonwealth of Puerto Rico, the people of Puerto Rico, an opportunity to choose by vote, by referendum, the status which they wish to have within the context of the American Union.

Going as far back as the Presidency of Harry S. Truman, the United States has informed the United Nations, where the issue was a very real one in the context of decolonialization, that the people of Puerto Rico were free to choose by vote which of three statuses—a technical term—they wish. These are, in no particular order, commonwealth, which is the present status; statehood, which has been the successor condition of many territories—37 States were in some sense territories before they became States—or independence.

These are options that arose in the aftermath of the American occupation of Puerto Rico in the Spanish-American War in 1898, what our Secretary of State, John Hay, called that "splendid little war." In the course of it we occupied as a colonial power that splendid island of Puerto Rico and commenced to govern it as a colony at a time when more than a third of the population of the world was in such a condition, from India, you might say, to the Maldives. That condition continued until the Second World War, when it clearly became unacceptable to the United States. Well, first of all to Puerto Rico; second, to the United States; third, to the world.

I speak this afternoon to this issue as I have done on this floor from the mid-1970's. It is not just as someone who has the honor to represent a very large population in New York State which is Puerto Rican by birth or ancestry, but also as someone who came to the Senate almost directly from the United Nations where, as United States Representative, I had to speak to the Cuban charges of colonialism. Asserting over and again that the people of Puerto Rico were free to choose.

The last Congress began in effect with the new President's first address to a joint session on the 9th of February 1989. He had this to say, having had a long interest in the subject himself, which I can personally attest to, having been a member of his delegation to the General Assembly in 1971. He said:

> There is another issue I decided to mention here tonight. I have long believed that the people of Puerto Rico should have the right to determine their own political future. Personally, I favor statehood but I ask the Congress to take the necessary steps to let the people decide in a referendum.

With that, U.S. Congress began once again to discuss the question of status.

These discussions go back a long way. They had a happy beginning, you could say, in 1952 when the present commonwealth status was established after a series of congressional enactments and two popular referendums and a conference held in Puerto Rico to establish and ratify a Puerto Rican Constitution. The commonwealth status thereby established was very much along the lines proposed by that most extraordinary man, Luis Munoz Marin, who in his youth had, as youth should, spent some time on the Island of Manhattan. He returned to his own island and became head of the Popular Democratic Party. The commonwealth status envisioned by Munoz Marin was not fully established in 1952, but commonwealth to Munoz was nonetheless not an interim condition, but a permanent alternative to statehood and to independence.

The development of the commonwealth idea was very much in the air at that time. It partook of a notion of the British experience with Canada, Australia, and other provinces as they had been evolved into independent nations yet with an association to the British Commonwealth. As we know Pakistan just rejoined. It is still a vital relationship.

In an effort to perfect the commonwealth arrangement, Munoz Marin in 1963 developed a strategy with President John F. Kennedy to establish a commission to draft a compact of permanent union. The compact was then to be submitted to a referendum in Puerto Rico along with the choice of statehood or independence.

I make the point, Madam President, that the union was to be permanent, the commonwealth status permanent. To reinforce my earlier remark, this has never been seen by those involved as an interim condition, a makeshift arrangement pending some final status. Indeed, the Spanish translation for commonwealth has been designated "Estado Libre Asociado," which literally means "Free Associated State," obviously an extinct meaning, as evidenced by the existence of the Puerto Rican Olympic team. That competes very well.

I can recall those times from personal experience. I was then an Assistant Secretary of Labor, and was involved with the Alliance for Progress, as President Kennedy had proclaimed it. I traveled in Latin America in the company of Teodoro Moscoso and associates and learned their views on these matters. I spoke in countries as diverse as Colombia and Brazil about our relationship with Puerto Rico. I would say, well, here, let Ted Moscoso describe the matter to you. He will be more authoritative than I, and more informed than I.

The 1963 arrangement between President Kennedy and Munoz Marin was not consummated as such. Instead, the Congress by statute established a joint United States-Puerto Rico Commission to study the relationship. My dear friend, Harry C. McPherson, then counsel to President Johnson, was involved with that commission, as others were.

I followed the matter. It did not come to any large conclusion, but rather ended with what had become a litany of American rhetoric in this matter. It said the people of Puerto Rico were free to choose commonwealth status, statehood, or independence. Time and again we have restated that option.

In 1979, I offered here on the floor a resolution that again reaffirmed our position.

This was Senate Concurrent Resolution 35, which I offered on July 26 of that year, 1979. Senator Jackson, the late beloved Scoop Jackson, our revered Senator HATFIELD, and Senator McGovern joined me. Joining as cosponsors within a few days were the then minority leader Senator Baker, and Senators BRADLEY, MATSUNAGA, KENNEDY, and DOLE. The then junior Senator from Louisiana, now chairman of the Committee on Energy and Natural Resources, Senator JOHNSTON, spoke to the matter at length. We adopted the measure unanimously by a voice vote.

I recorded at that time that the 1976 platforms of both the Democratic and the Republican Parties called for such a referendum. Ambassador Young, our distinguished Ambassador, had also repeatedly stated that this was an option open.

At that time I took to the floor because the position of the then Permanent Representative from Tanzania to the United Nations, Mr. Salim Salim, was head of the Committee of 24, the committee dealing with decolonization. I recorded myself at that time, sir, because it has been the practice of Tanzania to treat with very little interest what the United States said on this matter.

When I was the Permanent Representative, this issue came up and I said to vote to refer this matter to the committee on decolonization at the behest of Cuba would be regarded by our Nation as an unfriendly act. That is strong language in diplomacy. For the first time the vote failed. Mr. Salim wanted to bring it up again.

(Mr. LAUTENBERG assumed the chair.)

Well, Mr. President, 2 years ago, in February, the President said let us have a referendum. He did so at the behest of the three principal parties in Puerto Rico—the Commonwealth Party, the Statehood Party, and the Independence Party. They have specific names of course. But that is their view on the referendum. With that unity, the President said, let us go forward.

Well, sir, we made an effort in the 101st Congress, and we did not succeed. The distinguished chairman of the Committee on Energy and Natural Resources drafted a very comprehensive bill. He was courteous enough to ask me to join him in San Juan for hearings there.

And let me say that any of us would find it an exhilarating experience just being on television in San Juan on the occasion of such a hearing. Two-thirds of the adult population of the island was watching. Thereafter, you could not turn a corner in the city without someone greeting you and saying good morning, good afternoon, good evening, suggesting a good coffeehouse, or a particularly interesting view, or just wishing you a good morning and thanking you for being on hand, and saying how interesting they thought your views had been. Courtesy is a notable quality of the "Puerto Ricanios" and not their least attractive one.

Despite the efforts of the Committee on Energy and Natural Resources, which were followed up by the Committee on Finance, where many of the major present details are dealt with. These are tax issues, including section 936, which gives tax exemption to American mainland companies manufacturing there, pharmaceuticals in large print, a source of about one-third of the employment on the island—Social Security arrangements, benefit levels, things like that.

The Finance Committee under our able chairman, Senator BENTSEN of Texas, reported out the bill but nothing further was done. The House did, in fact, pass a much different bill. The Senate as a whole failed to act.

Now, sir, that was not a small matter. This goes to the issue of citizenship. It goes to matters to which the men in Philadelphia in 1776 pledged "their lives, their fortunes, and their sacred honor." We by contrast did nothing. But it was assumed we would resume the matter in this Congress. This obviously ought to be done in time for a referendum this year, as I think it is generally agreed that a referendum ought not to take place next year, which is a gubernatorial election year in Puerto Rico.

Well, sir, Senator JOHNSTON faithfully resumed his duties. He is an experienced legislator and has dealt with such matters in Micronesia and elsewhere. But on February 21, we learned in the press—those who had not been present at the committee session—that the legislation appeared to be in very serious trouble. The committee which in the previous Congress had reported a bill now seemed ready to refuse to do so. One week later the committee in fact declined to do so, voted not to do so.

But we had promised. We promised two or three generations of Puerto Ricans that they would have their choice. The President asked us, to do this and now we said, no, we think not. The press reports were grim. Martin Tolchin, one of the most experienced and able observers of this body, wrote in the New York Times of February 21, with the headlines "Hopes Wane on Bill for Puerto Rico Referendum. A Roadblock to Resolving the Island's Status."

When the legislation failed, the Washington Post ran an article by Mr. Bill McAllister, headed "Puerto Rico Referendum Killed; Senate Panel Rejects Plan To Let Islanders Vote on Political Status."

I, for one, read those stories and was shaken. I could not believe we would have so casual an understanding of the commitment we have made before the world, as well as to the people of Puerto Rico, that we would give them their choice. And I read comments by individual Senators, which shook me, which just plain shook me. I did not recognize my colleagues and friends, and they are colleagues and friends.

I read one statement that "the vision was a cruel hoax," the Senator adding that Puerto Rico's cultural and language differences were critical—that is the text of Mr. McAllister's story. And then, this: "I fear we may be creating a Quebec if we bring Puerto Rico in as a State."

This is the Quebec to be resolved by our neighbors in Canada, our neighbors and friends, and no one—certainly not this Senator—is going to say it is an easy matter to resolve, but it is certainly not an issue being ignored in Ottawa. It is not something the Parliament in Ottawa has not gotten around to thinking about, not something Prime Minister Trudeau and Prime Minister Mulroney and a whole series of eminent Canadians have not thought about, agonized over, prayed over, discussed, debated. And they continue to do.

Another friend in this body said, and I quote from Mr. McAllister: "What kind of marriage would this be," suggesting that the Island's high poverty rate and the likelihood the current capped Federal welfare payments would soar under statehood were great issues.

I went to the floor, Mr. President, and I used a word for which I probably should apologize, for which I do apologize. I said I sensed nativism in these remarks. I apologize because I do not think it added to anybody's disposition to join in this discussion and I apologize in particular because it troubled my friend and acquaintance of many years, a man I admire as much as any person writing of our politics and that is George F. Will.

George Will wrote a column in which he observed I appeared to have spotted an old serpent in today's political garden, nativism. If I did—and I did—I want to be clear I did not mean to give offense. I meant to describe an attitude which is often unconscious. When I hear people talking about welfare benefits and poverty, I get nervous. That may be hypersensitivity on my part. I apologize, as I say, once again.

I would also like to say it is typical of George Will that he wrote that Puerto Rico's religious and political values represent no obstacles to statehood. That is the man. Choose your politics. That is what it means to be part of this country.

However, he continued, language which is the carrier and conditioner of all culture is another matter.

He is clearly of the view a State can only be a State in this country if it is committed to English as its official language. He notes bilingualism is being institutionalized in our own country as in other places. He could have mentioned my State of New York where the ballot is printed in Spanish as well as English. He is not encouraged by this development and he says so, as is not only his right but his reason for being as a political commentator.

I would have to acknowledge that if I had a disposition, if I were forced to choose, I would side with George Will. But I would not be in any great hurry in the matter.

I was raised in a city in which probably a third of the population did not speak English as a native tongue. That is to say, New York City. That will not have changed that much today. It has never changed. Around 1660 a French Jesuit counted some 18 languages spoken within a mile of Fort Amsterdam. Today in the archdiocese of New York, as I again recall, Mass is said in 26 different languages. When I was young, Mass was said in one language, which language however, I did not understand, so I cannot take great umbrage at the advent of a liturgy which I can follow. But this is a permanent condition of people who arrive in our country speaking a native language and acquiring English.

The press has always been multilingual. In 1900, there were more newspapers published in the language of central Europe in New York City than were published in central Europe. Today El Diario is one of the great papers of our city, a Spanish language paper. Many of the old Yiddish papers have gone. The Italian language papers are fewer than they once were. But I believe at least two Korean papers have taken their place. And so it goes.

The plain fact is we are multilingual. But I acknowledge that becoming English-speaking has always been part of the terms of full participation in American public life.

My friend, Norman Podhoretz, an editor and commentator for these last 30 years, has spoken to this issue. There is no thing people value quite so much as their language. The Marxists never understood this. The 19th century liberals never understood it. People will die for language before they will die for just about any other abstract purpose. They are attached to their language. We watch the Czechs and the Slovaks in tense difficulties today. The instant the cold war, the Russian dominance, was over, that issue rose. We see in the Caucasus the rise of suppressed nationalities in say Georgia, asserting their independence in Moscow, only to assert their dominance over one yet smaller minority, the Ossetians.

But Podhoretz wrote of the "brutal bargain" Americans make. You can be anything you want in this country but you had best speak the English language. Indeed, you could only be that if you speak the language, even if you don't speak it idiomatically.

From Sam Goldwyn to Yogi Berra, our language has been enriched by colloquialisms that are derived from other languages. But it is still English.

I acknowledge that. On the other hand, I do not find the subject in the Constitution. The Constitution is written in English. The Federalist Papers are written in English. Not to have that language is not to have the political tradition that ought to be part of citizenship.

But I do not know how institutionalized this cultural reality has been. As a matter of fact, if you are disturbed about the bilingual ballot, give a moment's thought that our present ballot was once known as the Australian ballot. It is about a century old in our experience. The secret ballot was imported largely for the purposes of seeing that the immigrant masses of the time were not voted by their political machines.

I do not know when literacy became a requirement for voting. I would doubt that the ballots were printed until well into the 19th century. Previously, people simply announced their vote as they went to a poll.

Literacy, printing, they came, and secret ballots came much later, as did the bilingual ballot. But Mr. Will deserves to be heard on this matter, and deserves to be heard carefully. It would be a great mistake to discount his views.

Still, Mr. President, it would be a far greater mistake to allow this question, or other such questions as widespread poverty—I do not recall that the State of Oklahoma was flourishing at the time it became a State, nor yet that English was the language of its native inhabitants—to prevent these questions from being addressed as they can only be addressed, in a referendum. This was not Mr. Will's purpose at all; I want to make that clear. But it begins to seem to be our unstated intent.

That I believe raises the question of the honor of this body. I wish I could describe the letters I have received from Puerto Rico in the aftermath of my remarks in February, albeit they may have been more emotional than was useful. Puerto Ricans wrote to say that they thought they were Americans, in that they were going to have a choice in these matters, that they were born understanding this.

It is the case that most persons, Mr. President, are younger than you and I. And it would not be hard to be a fully mature citizen and have been born during the Presidency of Harry S. Truman, to have known no other United States, and say that it was the President who asserted before the world, to the island, and the Congress, that Puerto Rico was free to choose.

To deny this choice would be an ominous event. It puts at risk the honor of this institution. I say that with great reservation, but equal conviction.

I would close by asking two things, with one prefatory remark. We must act quickly. If we do not get this matter done by the Fourth of July, it is not likely to happen in this Congress. And then the President's undertaking, and the undertaking of the 101st Congress, will all be for naught. And for the first time, we will have specifically failed to keep our promise. In the past, we have not gotten around to it; now we will have said no to free choice.

I hope, Mr. President, that President Bush, who brought the issue to us in good faith, would resume his effort, find the time to tell us what he asks of us and what he has a right to expect from us. I hope that the leaders of the two parties in the Senate, will speak to the matter.

Silence is assent. Silence is assent to the denial of a right which we have for decades, asserted belongs to, inheres in the citizenry of Puerto Rico. We can say to them: If you want this, you will have to give that. I do not object to that. We can set out issues such as language in greater or lesser detail. There is also the question of whether one Congress can bind a future Congress; I know all that. But we have to act. If we fail, we fail in one of the most solemn of constitutional purposes, one which at this point stands unresolved, unattended, and apparently unheeded.

I hope this will not be the case. I respectfully yield the floor.

Mr. President, I ask unanimous consent that Mr. Wills' article be printed in the RECORD, as well as the debate on the 1979 resolution.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 17, 1991]

PUERTO RICO'S DIFFERENCE

(By George F. Will)

Sen. Pat Moynihan (D-N.Y.) thinks he has spotted an old serpent in today's political garden. "Nativism!" he exclaimed when a Senate committee killed a bill that would have authorized a Puerto Rican referendum on that island's political future.

Every president since Truman has affirmed Puerto Rico's right to choose to retain commonwealth status or opt for independence or statehood. The 1988 Republican platform endorsed statehood.

In the resistance to a referendum, Moynihan sees "nativism, the close-associate of racism." But not all resistance should be so stigmatized.

Nativism is, with reason, an epithet. Nativist movements proliferated in reaction against the waves of immigration in the 1840s and 1850s. Most immigrants then were Germans and Irish and Catholics (Moynihan's ancestors). Xenophobia and religious bigotry (many Protestant immigrants quickly became violent nativists) fueled the growth of the Know-Nothing Party. (Members were supposedly sworn to answer all political questions by saying, "I know nother about it." Clearly nativists always have had uneasy consciences in this nation of immigrants.) In 1854, several governors and 75 congressmen were elected with Know-Nothing affiliation.

There were anti-immigrant urban riots and attempts to legislate a 21-year residency requirement for naturalization. Liquor, thundered Horace Greeley's New York Tribune, "fills our prisons with Irish culprits, and makes the gallows hideous with so many Catholic murderers." A recrudescence of nativism in the 1920s coincided with the revival of the Ku Klux Klan and resulted in the National Origins Act, severely limiting immigration, especially from southern Europe and Asia.

But the ugly passions of the past are not dominating today's thinking about Puerto Rico. Today's question is not whether Puerto Ricans belong in American society. Of course they do. Several million live on the mainland. The quite different question is, Does Puerto Rico, a distinct cultural entity, belong in the federal union?

It was thrilling to read recent Census reports that by 1990 one in four Americans had an African, Asian, Hispanic or American Indian ancestry. That is up from one in five in 1980. It marks the most pronounced change in America's racial composition in this century.

Furthermore, because 19th-century immigration was overwhelmingly European, whereas today's immigrants come primarily from Latin American and Asian nations (the Asian component of America's population soared 107.8 percent in the 1980s), the 1980s brought more cultural diversity than any other decade in American history. America still welcomes invigorating infusions of immigrants who are eager to become Americans.

American citizenship is a citizenship of ideas. For immigrants, it flows from an act of individual affirmation. Immigrants become citizens by personal assets. But a collective choice by a distinct cultural community like Puerto Rico is problematic.

Diversity—e pluribus unum—is America's boast. But from the Soviet Union to Yugoslavia to Lebanon to Canada and elsewhere, the world is replete with cautionary examples of kinds of diversities that are incompatible with the unity requisite for happy nationhood.

Puerto Rico's religious and political values present no obstacles to statehood. However, language, which is the carrier and conditioner of all culture, is another matter.

Puerto Rico is a Spanish-speaking community. Sixty percent of Puerto Ricans do not speak English. An America with Puerto Rico as a state would be bilingual in a way that, in spite of various accommodations for today's immigrants, America today is not.

Bilingualism would inevitably be institutionalized to a new degree and in new ways within this nation. Bilingualism denies the link between citizenship and a shared culture. Already we have gone too far, even to bilingual ballots, which proclaim that people can exercise the most public of rights while being apart from public life.

Americans should say diverse things, but should say them in a common language that allows universal participation in the conversion. Most immigrants want to learn English. Nativists have generally been wrong: Immigrants want to become as American as possible as quickly as possible. But would an entire island people hasten to make secondary the Spanish language that is central to their 400 years of experience as a Spanish and Caribbean community?

Puerto Rico's per capita income is $5,825, half that of the poorest state (Mississippi, $11,724) and a quarter that of the richest (Connecticut, $25,001). Perhaps half—the poorest half—of Puerto Rico's population would gain from statehood because of enhanced access to federal welfare services. But statehood would nullify the tax break that subsidizes many U.S. corporations that operate there. Such considerations matter, but if this issue comes to a vote, there or here, the hands raised for or against statehood should not hold calculators on which the material benefits have been finely computed. The important calculations are of cultural costs and benefits.

[From the CONGRESSIONAL RECORD, July 26, 1979]

SENATE CONCURRENT RESOLUTION 35—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO SELF-DETERMINATION FOR PUERTO RICO

Mr. MOYNIHAN (for himself, Mr. Jackson, Mr. Hatfield, and Mr. McGovern) submitted the following concurrent resolution, which was referred to the Committee on Energy and Natural Resources:

"S. CON. RES. 35

"Whereas, the people of Puerto Rico freely chose the present form of their association with the United States in a popular referendum in 1952; and

"Whereas, successive United States administrations since that time have continued to be publicly committed to the fundamental principle of self-determination for the people of Puerto Rico; and

"Whereas, certain other governments lacking in a clear understanding of the U.S. relationship with Puerto Rico have questioned the status of Puerto Rico and the extent to which its citizens enjoy the right to self-determination: Now, therefore, be it

"*Resolved by the Senate (the House of Representatives concurring)*, That the Congress takes this opportunity to reaffirm its commitment to respect and support the right of the people of Puerto Rico to determine their own political future and to change their relationship with the United States, through peaceful, open and democratic processes".

Mr. MOYNIHAN. Mr. President, I am submitting today a concurrent resolution which would reaffirm the view of the Congress that the people of Puerto Rico retain their right to self-determination, and that the Congress continues to respect and will respect, such decisions as Puerto Ricans properly make about their own political future.

It may seem odd that we would undertake to reaffirm what is to us an obvious point, but it is made necessary by the continuing efforts of the totalitarian states to distort and to defame the nature of the relationship between the citizens of Puerto Rico and their fellow citizens on the American mainland. And it is made necessary, too, by the commitment of the Democratic Party and the Republican Party—as expressed in both our national platforms in 1976—to the principles of self-determination and democratic process.

On September 12, 1978, the so-called Committee on Decolonization of the General Assembly of the United Nations voted 10 to 0, with 12 abstentions and 2 absent, to condemn, in effect, the relationship between the United States and the Commonwealth of Puerto Rico. The resolution, in effect, called for the separation of our two peoples. Now, of the 10 nations which voted against us, all were dictatorships of one form or another, all guilty of the violation of political and civil rights which they allege the United States to have committed in Puerto Rico.

When I served as Permanent Representative to the United Nations, we had confronted the same measure, and were able to kill a similar Cuban initiative by a vote of 11 to 9. Our failure to do so in 1978 obliged me to urge upon the administration a more vigorous defense not merely of America's interests in this matter, but of America's reputation. I consider the resolution I submit today to be part of that effort—but something more. For it is not merely the United States which is slandered by such egregious distortions of reality at the United Nations, but the people of Puerto Rico especially. They, who have attained to a level of self-governance and civil liberty which all those states which condemned ought properly to envy and respect, are entitled to a renewed congressional demonstration of praise and support.

I stress that this is not the responsibility of either of our political parties, but of both. This resolution has the support of Senator Jackson, chairman of the Energy and Natural Resources Committee which has jurisdiction of these matters, and of Senator Hatfield, the ranking Republican Member. Its simple and straightforward support for the right of the people of Puerto Rico "to determine their own political future and to change their relationship with the United States, through peaceful, open, and democratic processes" is the position of the President of the United States, unequivocally stated in his proclamation of July 25, 1978, upon the 80th anniversary of the association between Puerto Rico and the United States.

Mr. President, I believe it important that the Congress, in a demonstration of solidarity with our own principles and with the people of Puerto Rico take the simple step of once again endorsing this proposition. It must be made plain to the Cubans and the Soviets, that we remain unshaken in our conviction, and increasingly angered by their efforts to meddle in our affairs. It is more than past time for the United Nations to return to real abuses of political rights in this world—and they will be found in abundance in the totalitarian system of Cuba, surely not in the democratic system of Puerto Rico.

Mr. MOYNIHAN subsequently said: Mr. President, earlier today I submitted for myself, Senator Jackson, Senator McGovern, and Senator Hatfield a concurrent resolution calling attention to the fact that once again this year the United Nations Committee on Decolonization, as it is called, will take up a resolution to be introduced by the Government of Cuba condemning the relationship between the United States and Puerto Rico.

Mr. President, a year ago this resolution was passed by the Decolonization Committee, the Committee of 24 as it is sometimes called, by a vote of 10 to nothing, with 12 abstentions and 2 absentees. We face the prospect that a similar outcome could take place this year.

This year the tenor of the resolution and the votes for it are even stronger in the case of the tone, and larger in the case of the supporters. It is my purpose, and the purpose of like-minded persons in the House of Representatives, to put those concerned on notice that the U.S. Congress severely disapproves of this farce, this travesty, whereby each year, with the one exception of 1975, the totalitarian nations of the world have gathered to condemn the democratic relations between the United States and Puerto Rico.

Every President in the United States since Dwight D. Eisenhower has asserted the commitment of the American people to self-determination for the people of Puerto Rico. This resolution merely restates that commitment.

Mr. President, there is a further fact this year. This year for the first time the nonalined nations, as they continue to call themselves, will be meeting in a Communist capital, in Havana. The resolutions of the nonalined, which will turn up in the coming General Assembly in New York, and the draft platform, are already circulating in the world. They have been drafted by the Cubans, no doubt in the closest consultation with their Soviet masters. We are going to face the prospect of an ostensibly nonaligned caucus, doing the most explicit will of the Soviet Union in the United Nations, and it is time for the United States to say, "We don't have it."

In particular, Mr. President, I ask the attention of the Senate to the fact that the Committee of 24 this year, as for some years past, is chaired by Tanzania, represented there by a most distinguished Tanzanian diplomat, Mr. Salim Salim.

In the past it has been the practice of Tanzania to treat with very little interest what the United States might think on this matter. But I wonder if it would not be possible on this occasion to draw the attention of, both of the Department of State, which supports this resolution—Secretary Vance is altogether in favor of our adopting it—and the Government of Tanzania, to say that we regard this as an unfriendly act. We have so stated in the past, in 1975, and we shall state it again.

If the Government of Tanzania goes forward with the sponsorship of this Cuban resolution, does it really believe that it can then come to the Congress of the United States and ask the Congress of the United States to help pay for its invasion of Uganda?

We read every week that the finances of Tanzania are in the most desperate condition, that because of its wars they have extended themselves and they have not been able to extricate themselves, and that they therefore are asking the help of the international community. That means they are asking the United States to pay for their war. It may well be that the international community owes a certain attention to this question. But if the country of Tanzania is going to associate itself with the totalitarian Communist effort to misrepresent and to condemn the relationships between the free peoples of Puerto Rico and the United States, then Tanzania should get its aid from Cuba.

Cuba seems to have an excess of resources, sending its armies here and there around the world to do the bidding of the Soviet Union. Perhaps if it saved on its military activities in Africa, it could provide the deficit which Tanzania needs so desperately to be made up.

The governments of the United Nations should understand that we take democracy seriously; and because they perhaps do not, because perhaps they do not understand it, because perhaps they are violently opposed to it, they should not be allowed to think we consider this resolution anything but an affront to our honor and that we will act accordingly.

The Department of State is capable of doing this, as it demonstrated in 1975; and if the honor of the American people means anything, it will do so again this year.

Mr. President, I ask unanimous consent that I be permitted to include in the RECORD a series of statements from the National Democratic Platform of 1976 and the National Republican Platform of 1976, and statements by President Carter and Ambassador Young concerning the American commitment to self-determination for Puerto Rico.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

APPENDIX

The proposed concurrent resolution on Puerto Rican self-determination is based upon the following excerpts:

National Democratic Party Platform, 1976: "We are committed to Puerto Rico's right to enjoy full self-determination and a relationship that can evolve in ways that will most benefit U.S. citizens in Puerto Rico . . ."

National Republican Party Platform, 1976: "The principle of self-determination . . . governs our positions . . . on Puerto Rico . . . as it has in past platforms. We again support statehood for Puerto Rico, if that is the people's choice in a referendum, with full recognition within the concept of a multicultural society of the citizens' right to retain their Spanish language and traditions. . . ."

Question and Answer, Press Conference of President Carter, September 17, 1977:

"Q. Mr. President, I'm from San Juan, Puerto Rico. Buenas tardes.

"The President. Muchas gracias.

"Q. Would you object to a U.N. fact-finding team going to Puerto Rico to look into the idea, the charges that have been raised, that we are a colony of the United States?

"The President. Yes, I would object to that. I don't have any objection to any analysis of the question, but I think my own statement and the statement of all the leaders of our country that whatever Puerto Rico's people want to do is acceptable to me. If the Puerto Rican people want to be a commonwealth, I will support it. If the Puerto Rican people want to be a State, I will support it. If the Puerto Rican people want to be an independent nation, I would support it.

"Q. But the U.N. has no jurisdiction?

"The President. I don't think the U.N. has any jurisdiction. And particularly when this question is raised by Cuba, a government that has no respect for individual freedom or individual liberty and permits no vote of any kind in their own country, to accuse us of trying to subjugate the people of Puerto Rico, to me, is absolutely and patently ridiculous."

Proclamation of President Carter, on the 80th Anniversary of Puerto Rico's association with the United States: Commonwealth of Puerto Rico, July 25, 1978:

". . . I would like to emphasize that the United States remains fully committed to the principle of self-determination for the people of Puerto Rico. President Eisenhower made that commitment in 1953, and this has been the position of all U.S. administrations since that time. We continue to regard it as the fundamental principle in deciding Puerto Rico's future.

"My administration will respect the wishes of the people of Puerto Rico and your right to self-determination. Whatever decision the people of Puerto Rico may wish to take—statehood, independence, Commonwealth status, or mutually agreed modifications in that status—it will be yours, reached in accordance with your own traditions, democratically and peacefully.

"Governor Romero Barcelo has called for a referendum after the 1980 elections in Puerto Rico to decide Puerto Rico's future status. Should the government of Puerto Rico decide to hold a referendum, I will support, and urge the Congress to support, whatever decision the people of Puerto Rico reach . . ."

Statement of Ambassador Andrew Young, United States Representative to the United Nations, preceding consideration of Puerto Rico's "status as a non-self-governing territory" by the United Nations Committee of 24, August 28, 1978:

". . . The United States will respect and support the rights of the Puerto Rican people to determine again their political course through a free and democratic referendum. . . . Its present relationship with the United States was freely chosen by the people of Puerto Rico."

"Any change in this relationship will also be freely chosen. This has been the position of successive U.S. administrations. . . ."

[From the CONGRESSIONAL RECORD, July 31, 1979]

PUERTO RICO AND DEMOCRACY

Mr. MCGOVERN. Mr. President, a few days ago, the distinguished Senator from New York, Mr. Moynihan, introduced Senate Concurrent Resolution 35, which calls upon the U.S. Congress: "to reaffirm its commitment to respect and support the right of the people of Puerto Rico to determine their own political future and to change their relationship with the United States, through peaceful, open and democratic processes."

At the time Senator Moynihan came forward with this resolution, I asked that my name be added as a cosponsor. Briefly, I want to explain why.

Mr. President, it is no secret that a good deal of discussion is going on at the present time about the political future of Puerto Rico and its relationship with the United States. Where this discussion leads and what decisions come as a result of it are impossible to foresee at this juncture. But of this we can and must be sure—that this is a matter for the people of Puerto Rico to decide openly, honestly, and fairly. It is their choice and well it should be, for they are the ones who will have to live with it for better or worse. In other words, Mr. President, whether the people of Puerto Rico choose at some point down the road the course of statehood, independence, or commonwealth—whichever they select—we must be prepared to accept their judgment.

The democratic imperative requires it. And this is the standard we honor.

Mr. President, regarding the issue of Puerto Rico, it is important at this time to reaffirm our adherence to this standard because of a number of allegations that have recently surfaced concerning FBI activities on the island, particularly during Mr. Hoover's tenure. I do not know whether those allegations are accurate, but I do know that when we deviate from democratic norms and our stated public position, we do great moral and political damage to ourselves and invite condemnation from others. This is as shortsighted as it is foolhardy because we can be sure that such invitation, as the case of Puerto Rico indicates, will be readily accepted, if not exploited, by Cuba and her Communist friends. And so they have and so we can expect Cuba and others to raise the issue of Puerto Rico again this year during the United Nations General Assembly meeting.

In anticipation of this meeting and the renewed Cuban effort to denounce our policy toward Puerto Rico, I think it is especially important to have Congress on record in support of the resolution offered by Senator Moynihan. I am hopeful that strong congressional support for this resolution will undercut Cuba's determination to obtain U.N. action on this issue.

The Cuban effort deserves our strong condemnation and one way of expressing that is by quick and decisive action on Senate Concurrent Resolution 35. Congress should give this resolution its overwhelming endorsement.

[From the Congressional Record, Aug. 2, 1979]

SELF-DETERMINATION FOR PUERTO RICO

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 301.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

"A concurrent resolution (S. Con. Res. 35) reaffirming the commitment of Congress to the right of the people of Puerto Rico to determine their own political future."

The Senate proceeded to consider the concurrent resolution which had been reported from the Committee on Energy and Natural Resources with an amendment on page 2, line 5, strike "and to change their relationship with the United States,".

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the names of the Senator from Tennessee (Mr. Baker) and the Senator from New Jersey (Mr. Bradley) be added as cosponsors of this concurrent resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATSUNAGA. Mr. President, has the Senator honored my request that my name be added as a cosponsor?

Mr. MOYNIHAN. I had thought this was done. If it has not, Mr. President, I ask unanimous consent that the names of the Senator from Hawaii (Mr. Matsunaga) and the Senator from Massachusetts (Mr. Kennedy) be added as original cosponsors of the concurrent resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the name of the Senator from Hawaii (Mr. Inouye) be added as an original cosponsor of the concurrent resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, this is a concurrent resolution which reaffirms the commitment of Congress to the right of the people of Puerto Rico to determine their own political future. It comes before us in the context of the pending debate and consideration by the so-called Committee on Decolonization of the General Assembly of the United Nations, on a resolution that will be introduced there by the Cuban Government, which once again will seek to misrepresent, to defame, and to denounce the relationship between the people of Puerto Rico and of the United States. This is a matter, in our judgment, of the internal affairs of the United States and in no way appropriate for consideration by the United Nations, much less for interference by the totalitarian Government of Cuba.

Mr. President, I see that my distinguished friend, the junior Senator from Hawaii (Mr. Matsunaga)—with whom I have worked closely and whom I admire greatly—is in the Chamber. I know he wishes to address himself to this subject, a matter on which he had made himself an expert. I look to him with respect and regard in this area, and I am happy to yield him such time as he may wish.

Mr. MATSUNAGA. I thank the Senator from New York for yielding.

Mr. President, I congratulate the Senator from New York for the leading role he has taken in the pending matter. I must congratulate him also for having pushed this resolution through the Energy and Natural Resources Committee with incredible expeditiousness. The feat is even more amazing in view of the fact that the Senator from New York is not even a member of the Committee on Energy and Natural Resources.

Mr. President, this resolution merely restates our basic and long-standing policy of self-determination. We recognize that a society of people has a right to determine for itself how it should be governed and under what form of government it should be governed—no more than that.

So, Mr. President, I rise to express my unequivocal support for the resolution introduced by the distinguished Senator from New York (Mr. Moynihan), Senate Concurrent Resolution 35, which is designed to reaffirm the commitment of the U.S. Congress to self-determination for the people of Puerto Rico.

Mr. President, as the Senator from New York has so eloquently stated, it has been the position of the U.S. Government since 1952 that the people of Puerto Rico have the right to determine their own political future. Every Presidential administration since that of Dwight D. Eisenhower has confirmed that commitment, including the Carter administration. President Carter, speaking last year on the 80th anniversary of Puerto Rico's association with the United States emphasized that our Nation remains fully committed to the principle of self-determination for the people of Puerto Rico. The President made it very clear that whatever decision the people of Puerto Rico wish to make with respect to their future political status—statehood, independence, commonwealth status, or mutually agreed modifications of that status—it will be their decision, reached in accordance with their own traditions, democratically, and, above all, peacefully.

Unfortunately, Mr. President, even though it is abundantly clear that the U.S. Government will respect and support the rights of the Puerto Rican people to determine their political future, certain nations of the world have, in a United Nations resolution, declared that Puerto Rico is a non-self-governing territory—in effect condemning the United States for practicing colonialism.

I am sure that the Members of this body will agree that nothing could be further from the truth.

The pending resolution was introduced by the Senator from New York, who has served as our Nation's Ambassador to the United Nations, in the strong belief that the Congress should respond to the United Nations resolution by again reaffirming its view that the people of Puerto Rico retain their right to self-determination, and that the Congress will respect such decisions as Puerto Ricans may properly make in public referendum about their future political status.

Mr. President, I strongly agree that the 96th Congress should reaffirm its commitment to self-determination for Puerto Rico. I support the passage of this resolution as it is now worded because it is a simple reaffirmation of this country's long-standing commitment to self-determination for all of our territories. It does nothing more than that, Mr. President, and I would readily oppose it if it did.

Mr. President, as a former member of the Hawaii Territorial Legislature, I know very well what they are thinking and feeling in Puerto Rico right now. There are those advocating statehood; there are those calling for independence; there are those supporting continued commonwealth status; and there are those calling for combinations of these political relationships. When Hawaii was still in territorial status, its citizens engaged in similar debate; and, of course, they chose statehood by an overwhelming majority nearly 20 years ago. But the fact of the matter is, Mr. President, that we in Hawaii did have a choice about our political future, one that was decided through peaceful, open, and democratic processes, and one that was respected by the U.S. Government.

Mr. President, I ask my colleagues: Can we in good conscience provide the U.S. citizens in Puerto Rico with anything less than that? I think not. Puerto Ricans must be given the same free choice which we in Hawaii were granted and the U.S. citizens in other U.S. territories have had, to determine for themselves what type of political relationship they want with the United States.

Mr. President, as I have said, the Moynihan resolution is based on the commitment made by six Presidents to self-determination for Puerto Rico. It is based on the 1976 national party platforms of both the Democratic and Republican parties. And, most importantly, it is based on the fundamental principles of democracy vested in our Constitution. It gives the Congress the opportunity to express its unequivocal support for self-determination for the people of Puerto Rico. I, therefore, strongly urge favorable consideration of this important resolution.

Mr. MOYNIHAN. Mr. President, I am happy to yield to the distinguished minority leader. He is an original cosponsor of this resolution, and I look forward to his observations on this matter, which I know to be of central concern to him.

Mr. BAKER. I thank the distinguished Senator from New York for yielding.

Mr. President, it is a privilege for me to join Senator Moynihan in cosponsoring Senate Concurrent Resolution 35, which reaffirms the long-held view of Congress that the people of Puerto Rico have an inalienable right to self-determination.

The ability of Puerto Ricans to exercise that right has been questioned by foreign powers who themselves are not governed by democratic principles. This issue is continuously raised in the United Nations Committee on Decolonization; and last year, for the first time, enough votes were mustered to officially "condemn" the United States/Puerto Rico relationship on the grounds that Puerto Rico does not have the right to self-determination.

Therefore, Congress must take this step this year in order to reemphasize the obvious, to restate a basic tenet of our relationship with Puerto Rico, and to meet head-on the misguided criticisms of nations which do not even practice the concept of self-determination themselves.

As both major party platforms have stressed and as every President since President Eisenhower has affirmed, the United States fully and whole-heartedly supports the right of the people of Puerto Rico to determine for themselves their political destiny.

I understand that Resident Commissioner Corrado of Puerto Rico has introduced this resolution in the House.

I commend him for his initiative, as I commend my colleagues on this side and in the Senate for their initiatives in bringing this matter to the Senate at this time.

Mr. President, this is a matter of extraordinary importance not only in its significance to the people of that commonwealth but also as a restatement of a fundamental commitment of the people of the United States and the Senate to the inalienable right of self-determination of a fine group of citizens of this country.

Mr. MOYNIHAN. Mr. President, I hope that the emphatic, unmistakable point made by the minority leader will be heard not simply in the halls of the United Nations, to which we, in a sense, address ourselves, but in the corridors of the Department of State as well.

This matter is coming up, and I am happy to say that Secretary Vance has indicated his full support for this measure. But it will take not only the support of the Secretary but also of his Department and of the bureaus specifically concerned.

It should be made clear to our friends in the United Nations, and those with whom we cannot always agree, that we regard this to be an internal affair of the United States having to do with the nature of our democratic processes, and the free choices made under them. We do not propose to be lectured by dictatorships on how to run a democracy. Most importantly, we expect the democratic nations in the United Nations to stand with us in this matter, or we are going to find ourselves asking how much we should stand with them.

We are going to expect the nonalined to stay nonalined. We shall have in September the spectacle of the nonalined nations meeting in Havana. To be nonalined means to accept the leadership of the Soviet satellite of Castro Cuba. What an appalling point for a movement begun in a high idealism and an intelligent assessment of the interests of many of the new nations in the world order, beginning in the Bandung Conference of 1954.

Mr. President, I am reluctant to raise this point, but I think it is necessary to do so. The chairmanship of the Committee on Decolonization continues to be held by the Government of Tanzania. That government is ably represented in the United Nations by their permanent representative, Ambassador Salim-Salim. It will be the Government of Tanzania which will give the lead to the response of the nonalined nations to this resolution. As it considers what it might do, I hope it will not be considered offensive to say that this is also the moment when the Government of Tanzania is looking to the world community to help defray the costs of its invasion of its neighbor, Uganda. This indeed was an invasion that was certainly provoked, there can be no question of this. But nonetheless Tanzania did it on its own. Now it is asking the world community, which means the United States in very considerable portion, to pay for the cost of that invasion.

Mr. JOHNSTON. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. MOYNIHAN. I yield.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that Jim Beirne and Laura Hudson, of my staff, be accorded the privilege of the floor during this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I hope as we take this action those in the United Nations who may be looking to us for assistance will pay heed to our remarks.

Mr. President, I observe that my distinguished friend, the Senator from Louisiana, is in the Chamber. Few men in this Chamber have so closely involved themselves with the matter before us. The junior Senator from Louisiana, Senator Johnston, was at one time chairman of the Subcommittee on Territories and Insular Affairs on the then Committee on Interior and Insular Affairs, which dealt with Puerto Rican matters. If I recall correctly, he was also a member of the President's Commission on the Status of Puerto Rico. Am I correct in that?

Mr. JOHNSTON. The Senator is correct. The ad hoc Status Commission was the title.

Mr. MOYNIHAN. The ad hoc Status Commission, as it came to be known, did the distinguished job of constitutional inquiry that one would expect from any body with such a distinguished member as my friend from Louisiana.

I understand that the Senator from Louisiana has some questions which he wishes to raise in connection with this.

Mr. JOHNSTON. The Senator is correct.

Mr. President, in its original form I frankly was opposed to this resolution because in its original form the resolution stated in its resolving clause that:

"The Congress take this opportunity to reaffirm its commitment to respect and support the right of the people of Puerto Rico to determine their own political future and to change their relationship with the United States through peaceful open and democratic processes."

Mr. President, in the committee the phrase "and to change their relationship with the

United States" was stricken. The committee report was then written to reflect the meaning and implications of that change. Questions which I will shortly ask will, I think, place in proper perspective what the meaning of this resolution is. I hope that the answers to the questions which I am about to propound will assuage my opposition to this, although I must say I still have misgivings.

May I say that my misgivings with respect to the instant resolution are not based upon a lack of support for the principle of self-determination. Not at all. Indeed, as the distinguished Senator from New York pointed out, we worked over a period of months, holding hearings in Puerto Rico, having meetings with distinguished representatives of the government and the Legislature of Puerto Rico, with respect to perfecting the relationship of commonwealth.

We were, I thought, at that time, very close to achieving an agreement which was not only workable and acceptable to this Congress but also acceptable fully to the people of Puerto Rico.

In 1981 there will be a plebiscite in which the issues of independence, a more perfected status of commonwealth, as well as statehood will be put to the people of Puerto Rico.

Mr. President, I wish to make clear that this resolution if passed in no way takes away from the constitutional right and constitutional duty of this Congress to pass upon the question of independence, the question of statehood, or the question of the nature of the improved or modified position of the Commonwealth in Puerto Rico.

In other words, I did not want this resoluton to be taken as a blank check to the plebiscite process by which we would be obligated to accept whatever that plebiscite approves either in its details or indeed in the fact that we would have to accept, for example, independence or statehood, or any particular form of commonwealth.

If I may just state, for example, that with respect to independence, the people of Puerto Rico are American citizens. If Puerto Rico should choose independence, it would be a very challenging job to work out a formula whereby the citizenship of the people of Puerto Rico would be protected, whereby the national defense of this country would not be weakened, whereby American property, including the Roosevelt Roads Naval Base, would be provided for. All of those are not just mere details, Mr. President, they are major issues which the Congress of the United States should not be called upon to say yea or nay with reference to right now; nor simply on the basis of this resolution, should we feel even a moral obligation to accept whatever interpretation of a formulation of a rationale or a solution for those problems that should be worked out in the plebiscite.

So I ask my distinguished friend from New York in Puerto Rico were to choose "statehood" in a future plebiscite, what would be the obligation or commitment of Congress under the terms of Senate Concurrent Resolution 35?

Mr. MOYNIHAN. May I first state what the distinguished Senator well knows, which is that no present Congress can commit a future Congress to any course of action, and this, of course, is true of all matters.

In this particular matter, of course, we have a constitutional provision with respect to such proceedings. If, for example, as was the case with all 37 States that were admitted to the Union after the original 13, under article IV, section 3 of the Constitution, congressionally approved legislation is necessary to grant statehood. Statehood invariably implies provisions, special provisions. We heard in the committee consideration of this matter by our distinguished chairman, Senator Jackson. He noted that when the State of Washington applied for statehood, it was turned down because they had woman's suffrage in Washington in those days and they would not have it in Washington, D.C.

But the resolution before us would not, could not, bind the Congress either explicitly or implicitly to pass any particular form of statehood legislation or, indeed, to pass any legislation at all.

I believe the resolution would imply a duty on the part of Congress to negotiate with the Commonwealth of Puerto Rico in good faith to attempt to accommodate the wishes of the people of Puerto Rico as we have in the past for the people of 37 States. But Congress would fully reserve its powers and obligations under the Constitution.

I might make a further point, which I am sure the Senator would agree with, and that is that when we refer to the powers of self-determination for the people of Puerto Rico that extends, of course, to the power to leave the present arrangements in place. It was the thought of many members of the committee that to have the word "change" in the resolution would indicate a preference for one political position in Puerto Rico as against another. We have no preference for any. We believe in self-determination.

Mr. JOHNSTON. As a matter of fact, the record of the United States, Mr. President, with respect to Puerto Rico and its citizens, who are citizens of the United States, has been rather good in perfecting the commonwealth status and, indeed, the commonwealth status is the status which was some years ago chosen by a plebiscite, through the process of self-determination, as being that status which they wished.

So we are operating right now under a self-determination plan.

Mr. MOYNIHAN. The Senator is exactly right, and self-determination has determined the existing status.

Mr. MATSUNAGA. Mr. President, will the Senator from New York yield?

Mr. MOYNIHAN. I would be happy to yield.

Mr. MATSUNAGA. I would like to add my remarks in response to the question of the Senator from Louisiana, because Hawaii's experience may give some indication as to what could happen in the case of Puerto Rico.

When Hawaii first became a territory of the United States, it was annexed as an incorporated territory, with an implicit promise that Hawaii, if the people so decided, would be admitted as a State into the Union of States. That was in the year 1900.

The citizens of Hawaii, Americans all, myself included, journeyed to Washington and knocked at the doors of Congress for 59 years before we were finally admitted to statehood.

I do hope Puerto Rico will not suffer the same fate, if and when the Puerto Ricans decide they would want to become a State of the Union, that it will not take them 59 years as it took the people of Hawaii to gain the full status of statehood.

Mr. JOHNSTON. Mr. President, I hope that whatever changes a plebiscite should indicate are the wishes of the people of Puerto Rico would not take a similar 59 years to fulfill.

At the same time, I think what the Senator from New York is saying is that this resolution in itself does not constitute an implicit promise that Puerto Rico would be admitted as a State simply because a plebiscite might so state.

Mr. MATSUNAGA. That is precisely the point I was trying to make by stating Hawaii's experience, that while one Congress had made its commitment, other Congresses on their own refused to admit Hawaii until the senior Senator from Louisiana (Mr. LONG) finally led the South in supporting statehood for Hawaii. I note the presence of the senior Senator from Louisiana on the floor, and I wish to take this opportunity to thank him for the leadership he exercised in admitting Hawaii to statehood, for had it not been for his leadership I doubt that I would be standing here on the floor of the Senate addressing this august body. As we say in Hawaii, Mahalo—thank you—Senator LONG. Your leadership will also be essential to helping the Puerto Ricans in determining their future as citizens of this great country.

Mr. JOHNSTON. I thank the Senator.

Mr. President, a further question of the distinguished Senator from New York. If Puerto Rico were to choose "independence" in a future plebiscite, what would be the obligation or commitment, as that word is used in this resolution, of Congress under the terms of Senate Concurrent Resolution 35?

Mr. MOYNIHAN. I will give to the distinguished Senator an answer exactly parallel to the one I gave to his first question. As with the case with the Philippines under article IV, section 3 of the Constitution, it would require congressionally approved legislation to grant independence.

Independence would, of necessity, require conditions and special provisions, particularly with regard to defense, Government property, citizenship, and other aspects of our relationship with the people of Puerto Rico.

This resolution would not bind the Congress either explicitly or implicitly to pass any particular form of independence legislation or, again, to pass any legislation at all. Again I say, I believe the resolution would imply a duty on the part of Congress to negotiate in good faith with the Commonwealth of Puerto Rico to attempt to accommodate the wishes of the people of Puerto Rico, as we did with the people of the Philippines. Congress would reserve its powers and obligations under the Constitution, as necessarily it must do with respect to all future actions.

Mr. JOHNSTON. Would the Senator's response be similar with respect to a revised form of commonwealth?

Mr. MOYNIHAN. Precisely.

Mr. JOHNSTON. So what this resolution is saying is that whatever the people of Puerto Rico decide in their plebiscite in 1981, we will take that as being an expression of the wishes of the people of Puerto Rico, where that initiative should begin. Based upon that choice we will negotiate in good faith to try to give full life and viability to that expression consistent with the fact that there is no implication of an obligation on the part of Congress to accept that particular formulation or, indeed, to accept a particular status. We have the obligation to perform as we have in the past, to negotiate in absolute good faith to try to give full expression to their wishes.

Mr. MOYNIHAN. I would say to my distinguished friend that I think I can summarize my view on this matter and, I think, the view of the rest of this body. What is being said is simply that the Puerto Rican people, as American citizens, have their rights, we in the Congress have our duty, and we shall look forward to exercising both.

(Mr. TSONGAS assumed the chair.)

Mr. JOHNSTON. Mr. President, based upon these assurances, even though I continue to have misgivings, I will not object to this resolution.

I want to make it perfectly clear that my reservations and my misgivings have nothing to do with any objection to any particular form of status that the people of Puerto Rico may wish for; it has nothing to do with any lack of commitment on my part to self-determination, but because of my dealings with these very complicated and difficult problems, which involve everything from national defense to minimum wage, to communications, to trade, to emigration, to citizenship, to taxes, to block grants, to Federal benefits—all extremely complicated questions, involving an egg, in effect, which is already scrambled. I want to make it perfectly clear, Mr. President, that we do not allow this resolution to be used as an implication that these complicated problems can be solved simply by a yes or no vote for independence, a yes or no vote for statehood, or a yes or no vote for any particular formulation of commonwealth. These are indeed complicated problems, and Congress has a responsibility, under the Constitution of the United States, and a right under the Constitution which cannot be legally abrogated. This resolution does not constitute a moral commitment to the abrogation of those rights and responsibilities under the Constitution.

Mr. President, although I will not ask for a rollcall vote on this resolution, it is with deep regret and a grave sense of foreboding that I have misgivings over the enactment of this resolution. I have misgivings over this resolution not because I am opposed to the principle of consent of the governed or the concept of self-determination. I wholeheartedly endorse and support self-determination for all peoples. I have misgivings over this resolution because I believe that it is mischievous.

It is mischievous because it is premature, because it may give rise to false hopes in Puerto Rico, and because the text of the resolution is at variance with the purpose of its introduction.

First, this resolution was not introduced nor considered in order to allay any concerns in Puerto Rico that we in the Congress were insensitive to their aspirations or were not knowledgeable of the deep divisions among the Puerto Rican people concerning various status options or were not sympathetic to their efforts to develop Puerto Rico within the American family. This resolution was introduced solely and simply as a reaction to the 1978 Cuban resolution in the U.N. and the efforts of Cuban and other totalitarian regimes to interfere in the international affairs of the United States. Why? Why do we even care what Cuba says? Why must we respond like some puppet every time some country which has forsaken any concept of democracy, human rights, or self-determination choose to criticize the United States? The relationship between Puerto Rico and the United States was freely chosen by Puerto Rico in the 1950–52 period by four referendums and agreed to by the U.S. Congress pursuant to the authority and responsibility or article IV, section 3 of the U.S. Constitution. The people of Puerto Rico and the Congress of the United States negotiated a compact which has governed our relationship for almost three decades. It can be modified by mutual consent—and I want to emphasize the word "mutual"—but whether it is modified or not is not the concern or business of anyone except the people of Puerto Rico and the Members of Congress. I reject in principle the idea of passing a resolution of self-determination because Cuba or any other country makes absurd comments in the U.N. or any other forum. I reject the waste of time in even acknowledging the carping of demagogic regimes, much less elevating their ill-informed hypocracy to the level of congressional consideration. If we are really bothered by the inane comments of Cuba, the so-called nonalined nations, and the Soviet dominated bloc, then let us pass a resolution stating exactly what we think of the true imperialistic and colonial countries interfering in the peaceful, open, and democratic process which govern the relationship of the U.S. Government to the States, the Commonwealth, the trust territory, and the other insular areas which are part of the U.S. family. That would be an honest resolution—this is not.

Second, this resolution is premature. The people of Puerto Rico have not requested any change or alteration in their present status. Certainly the "Statehood" party has shown increasing strength in recent years, but that may in fact be due more to is urban constituency and the growth of the urban population than to a movement to statehood as a status. I do not know, and neither does anyone else. On Commonwealth Day, July 25, former Governor Hernandez Color issued a "New Thesis" on commonwealth. I have not seen the details of that proposal, but neither that proposal nor statehood nor independence has been requested by the people of Puerto Rico. Why should this Congress with no proposal before it and no idea of the details of any alternative pass a resolution which seems to indicate that we think Puerto Rico should alter its status?

If and when the people themselves indicate that they desire a change, then and only then does this resolution have relevance. The people of Puerto Rico in four referendums adopted the Commonwealth and although there was a major study commission in 1965–66 and a subsequent study, on which I served, in 1973–75, the people themselves have not requested any change. This point is closely tied to my final concern.

Third, the resolution seems to say something which is manifestly untrue and clearly unconstitutional. The resolution seems to say that by an exercise of popular will, the people of Puerto Rico can unilaternally alter their political future and relationship with the United States. That implication is extremely mischievous. I hate to resort to the Constitution, but it seems that everyone has forgotten that article IV, section 3, states, quite clearly, that "New States may be admitted by the Congress into this Union."

I have read the language several times and I fail to see any provision for new States being created by local referendum, or action of the local legislature, or by straw vote, or by inference from interpretations of local election returns, and certainly no reference to creation of States by resolution of the United Nations. The Constitution quite clearly vests plenary and exclusive authority to admit or deny admittance in Congress. This resolution does not recognize that and to the extent that it does not recognize that any change in status must necessarily involve the consent and approval of Congress, it is mischievous.

I do not know whether Congress would approve statehood or not I do not know whether Congress would approve the "New Thesis" or not. I do not know whether the Congress would approve independence or not. I honestly do not know what "Statehood," "New Thesis," and "Independence" mean in all their details. Without that knowledge, it would be dishonest on my part to vote for a resolution indicating I would approve a proposal I have not seen. I am not willing to do that with administration proposals sight unseen and I am certainly not going to do it with the future of 3½ million people. What is worse, the people of Puerto Rico do not know what these alternatives mean. They do not know and have not requested any change, we do not know but seem to be agreeing to some unstated change. This has nothing to do with selfdetermination, this is semantic-gamesmanship—a game in which the only winners will be the Cubans, not the United States or Puerto Rico.

Mr. President, in the history of this country, we have admitted 37 new States into the Union, and provided independence to the Phillippines. We have provided complete local autonomy to the Northern Marianas and Puerto Rico, and offered local autonomy to the Virgin Islands, which rejected their locally developed constitution in referendum, and Guam. American Samoa has been the subject of exhaustive effort to reconcile organic legislation with traditional rights and customs. The recognition of selfdetermination and consent of the governed which has guided all of these actions does not mean that this 200 years of history has not been without controversy. On the contrary, virtually every State has in its statehood history debate, sometimes acrimonious and violent, and sometimes extremely protracted.

Have we so casually forgotten the slavery question which dominated statehood considerations throughout the first half of the last century? The first bitter and heated debate came in 1811 over the admission of Louisiana because some elements of Congress were not sure that a territory with a French heritage and culture should be admitted. A similar debate raged for over a quarter of a century before Hawaii was admitted in 1959. We still have not finished the land settlement in Alaska which was part of the statehood debate then. Independence was not easy either. Both Cuba and the Philippines achieved independence after lengthy and occasionally heated debate, although Cuba was never, strictly speaking, a territory. Only 4 years ago we debated the Northern Mariana Commonwealth and if anyone has forgotten the infighting and struggle, I suggest they review the RECORD. Even with extensive congressional involvement, the Commonwealth of the Northern Mariana Islands came close to being rejected.

Mr. President, I have always been willing to devote as much time as necessary to territorial affairs. I served on the advisory group on Puerto Rico, I handled the creation of the Commonwealth of the Northern Mariana Islands, and I handled the legislation authorizing the Virgin Islands and Guam to develop and adopt constitutions of their own choosing. I am willing to devote as much time and effort as is necessary to frame alternatives for the people of Puerto Rico to vote on. I sincerely believe that in lieu of this resolution, we should develop the precise terms and conditions for statehood, independence, and commonwealth with all the social, economic, and cultural implications, and lay those alternatives before the Congress.

Once the Congress has indicated either the precise terms or parameters for consideration of each status, then the people of Puerto Rico can vote with full assurance that their vote will be implemented by the Congress. To this end I have requested several studies by the Congressional Research Service and a comprehensive study by the GAO of the implications specifically of statehood, but also of the "New Thesis" and independence. From that information base I hope that the Congress and the people of Puerto Rico will be able to consider status in a fully informed and intelligent manner. With that information, we in the Congress can present the people of Puerto Rico with real and viable alternatives.

Mr. President, I object to the haste in which this is being considered. I object to the fact that the real reasons are not explicit. I object to the implication that the people of Puerto Rico should modify their status, and I object to the failure to specifically note the necessary and constitutionally required role of Congress. I do not object to self-determination nor to the principle of consent of the governed. Therefore, it is with considerable regret that I have misgivings over this resolution.

Mr. President, there are two final points I wish to make. The first is that I do not think this is going to be of the least help or effect in the United Nations. Frankly, I do not really care what Cuba and its allies think, but this resolution is not going to help. Cuba is not interested in self-determination and certainly not in freedom. They are solely interested, at the behest of their Soviet dominated colleagues, in embarrassing the United States and in spreading their own pernicious brand of revolution. A little history might be helpful.

During the 15th session of the General Assembly in the context of the cold war, the Soviet and Cuban delegations in 1960 charged the United States with colonialism in regard to Puerto Rico.

Also at the 15th Assembly two resolutions were adopted which continue to relate to this matter. One, Resolution 1514 (XV), declared that—

"Immediate steps shall be taken, in Trust and Non-Self-Governing Territories or all other territories which have not yet attained independence, to transfer all powers to the peoples of those territories, without any conditions or reservations, in accordance with their freely expressed will and desire. * * * in order to enable them to enjoy complete independence and freedom."

This resolution forms part of the basis of the Cuban position. The other resolution, Resolution 1541 (XV), set forth principles which should guide members in determining whether or not an obligation exists to transmit the information called for in article 73(e) of the charter. Principle VI states that a non-self-government by: First, emergence as a sovereign independent State; second, free association with an independent state; or third, integration with an independent State.

In November 1961, the Assembly established the Special Committee on the Situation with Regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples.

In 1965 Cuba requested the inclusion of the question of Puerto Rico in the agenda of the special committee. Cuba said it was making the request in accordance with the final communique of the Conference of Heads of State or government of Non-Aligned Countries, held at Cairo in October 1964. Cuba said it was being guided by the principles underlying its foreign policy and was also "giving a brotherly echo to the appeal on this subject made by the Partido Nacionalista, the Partido Independentista the Cruzadoa Patriotica Cristiana and the Movimiento Pro-Independencia of Puerto Rico." This request was circulated as a committee document but no action was taken. The United States protested the circulation of the request as irrelevant to the work of the committee.

In 1971, Cuba requested inclusion in the agenda of the 26th General Assembly of an item entitled "The Colonial Case of Puerto Rico." Its request was not approved and subsequent attempts by Cuba to include a similar item on subsequent Assembly agendas have also been unsuccessful.

Most recently in 1978, Cuba was successful in having the special committee adopt the following resolution:

THE SPECIAL COMMITTEE

Having heard and considered the statements of the petitioners, whose views reflect the major trends of political opinion in Puerto Rico.

Recalling its resolutions of 28 August 1972 and 30 August 1973, as well as its decision of 7 September 1976, concerning Puerto Rico.

Bearing in mind the decision, on Puerto Rico adopted by the Conference of Foreign Ministers of the Co-ordinating Bureau of Non-Aligned Countries, held at Belgrade in 1978, and by the Fifth Conference of Heads of State or Government of Non-Aligned Countries, held at Colombo from 16 to 19 August 1976.

Conscious of the right of the people of Puerto Rico to modify the present status of Puerto Rico and aware that proposals for such modification have been made in the past by official organs of Puerto Rico.

Bearing in mind the Declaration on the Granting of Independence to Colonial Countries and Peoples, contained in General Assembly resolution 1514 (XV) of 14 December 1960.

Conscious also that all peoples have an inalienable right to self-determination and independence, to the exercise of their national sovereignty, to respect for integrity of their national territory and to the exercise of complete control over their natural wealth and resources in the interest of their development and well-being.

Bearing in mind the fact that in their statements the petitioners have demonstrated that the major parties in Puerto Rico favour a change in the present status of Puerto Rico or modification of aspects thereof.

Recalling the statement on Puerto Rico made on behalf of the President of the United States of America by the Permanent Representative of the United States to the United Nations at the eighth session of the General Assembly on 27 November 1953.

Noting the public statements on Puerto Rico made by the President of the United States on 25 July 1978 and by the Permanent Representative of the United States to the United Nations on 28 August 1978.

1. Reaffirms the inalienable right of the people of Puerto Rico to self-determination and independence in accordance with General Assembly resolution 1514 (XV);

2. Reaffirms that by virtue of that right the people of Puerto Rico should freely determine their future political status and pursue their further economic, social and cultural development;

3. Affirms that self-determination by the people of Puerto Rico in a democratic process should be exercised through mechanisms, freely selected by the Puerto Rican people in complete and full sovereignty, in accordance with resolution 1514 (XV) which inter alia provides for the full transfer of all powers to the people of the Territory, and that all determinations concerning status should have the approval of the Puerto Rican people;

4. Considers that the persecutions, harassments and repressive measures to which the organizations and persons struggling for independence have been continuously subjected constitute violations of the national right of the Puerto Rican people of self-determination and independence;

5. Deems that, in the event the Puerto Rican people decide to form an independent republic, they have the right to recover the totality of their territory, including all lands now used by the authorities of the Government of the United States of America;

6. Deems also that any form of free association between Puerto Rico and the United States must be in terms of political equality in order to comply fully with the provisions of the relevant resolutions and decisions of the General Assembly and of applicable international law, and must recognize the sovereignty of the people of Puerto Rico;

7. Urges the Government of the United States to release unconditionally the four Puerto Rican political personalities who have been incarcerated for more than 24 years;

8. Urges the Government of the United States to abide by the principles of resolution 1514 (XV) with respect to Puerto Rico;

9. Decides to keep under review the question of Puerto Rico and requests the Rapporteur, with the assistance of the Secretariat, to update information on this question in order to facilitate consideration of appropriate follow-up steps by the Special Committee in 1979.

Resolutions 1514 (XV) and 1541 (XV) state:

1514 (XV). Declaration on the granting of independence to colonial countries and peoples.

The General Assembly,

Mindful of the determination proclaimed by the peoples of the world in the Charter of the United Nations to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small and to promote social progress and better standards of life in larger freedom,

Conscious of the need for the creation of conditions of stability and well-being and peaceful and friendly relations based on respect for the principles of equal rights and self-determination of all peoples, and of universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Recognizing the passionate yearning for freedom in all dependent peoples and the decisive role of such peoples in the attainment of their independence,

Aware of the increasing conflicts resulting from the denial of or impediments in the way of the freedom of such peoples, which constitute a serious threat to world peace,

Considering the important role of the United Nations in assisting the movement for independence in Trust and non-Self-Governing Territories,

Recognizing that the peoples of the world ardently desire the end of colonialism in all its manifestations.

Convinced that the continued existence of colonialism prevents the development of international economic cooperation, impedes the social, cultural and economic development of dependent peoples and militates against the United Nations ideal of universal peace.

Affirming that peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law.

Believing that the process of liberation is irresistible and irreversible and that, in order to avoid serious crises an end must be put to colonialism and all practices of segregation and discrimination associated therewith,

Welcoming the emergence in recent years of a large number of dependent territories into freedom and independence, and recognizing the increasingly powerful trends towards freedom in such territories which have not yet attained independence,

Convinced that all peoples have an inalienable right to complete freedom, the exercise of their sovereignty and the integrity of their national territory,

Solemnly proclaims the necessity of bringing to a speedy and unconditional end colonialism in all its forms and manifestations:

And to this end

Declares that:

1. The subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations and is an impediment to the promotion of world peace and co-operation.

2. All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

3. Inadequacy of political, economic, social or educational preparedness should never serve as a pretext for delaying independence.

4. All armed action or repressive measures of all kinds directed against dependent peoples shall cease in order to enable them to exercise peacefully and freely their right to complete independence, and the integrity of their national territory shall be respected.

5. Immediate steps shall be taken, in Trust and Non-Self-Governing Territories or all other territories which have not yet attained independence, to transfer all powers to the peoples of those territories, without any conditions or reservations, in accordance with their freely expressed will and desire, without any distinction as to race, creed or colour, in order to enable them to enjoy complete independence and freedom.

6. Any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations.

7. All States shall observe faithfully and strictly the provisions of the Charter of the United Nations, the Universal Declaration of Human Rights and the present Declaration on the basis of equality, noninterference in the internal affairs of all States, and respect for the sovereign rights of all peoples and their territorial integrity.

947th plenary meeting, 14 December 1960.

1541 (XV). Principles which should guide Members in determining whether or not an obligation exists to transmit the information called for under Article 73e of the Charter.

The General Assembly,

Considering the objectives set forth in Charter XI of the Charter of the United Nations.

Bearing in mind the list of factors annexed to General Assembly resolution 742 (VIII) of 27 November 1953.

Having examined the report of the Special Committee of Six on the Transmission of Information under Article 73e of the Charter, appointed under General Assembly resolution 1467 (XIV) of 12 December 1959 to study the principles which should guide Members in determining whether or not an obligation exists to transmit the information called for in Article 73e of the Charter and to report on the results of its study to the Assembly at its fifteenth session.

1. Expresses its appreciation of the work of Special Committee of Six on the Transmission of Information under Article 73e of the Charter;

2. Approves the principles set out in section V. part B, of the report of the Committee, as amended and as they appear in the annex to the present resolution;

3. Decides that these principles should be applied in the light of the facts and the circumstances of each case to determine whether or not an obligation exists to transmit information under Article 73e of the Charter.

948th plenary meeting, 15 December 1960.

ANNEX

Principles which should guide Members in determining whether or not an obligation exists to transmit the information called for in article 73e of the Charter of the United Nations.

Principle I

The authors of the Charter of the United Nations had in mind that Chapter XI should be applicable to territories which were then known to be of the colonial type. An obligation exists to transmit information under Article 73e of the Charter in respect of such territories whose people have not yet attained a full measure of self-government.

Principle II

Chapter XI of the Charter embodies the concept of Non-Self-Governing Territories in a dynamic state of evolution and progress towards a "full measure of self-government". As soon as a territory and its peoples attain a full measure of self-government, the obligation ceases. Until this comes about, the obligation to transmit information under Article 73e continues.

Principle III

The obligation to transmit information under Article 73e of the Charter constitutes an international obligation and should be carried out with due regard to the fulfillment of international law.

Principle IV

Prima facie there is an obligation to transmit information in respect of a territory which is geographically separate and is distinct ethnically and/or culturally from the country administering it.

Principle V

Once it has been established that such a prima facie case of geographical and ethnical or cultural distinctness of a territory exists, other elements may then be brought into consideration. These additional elements may be, inter alia, of an administrative, political, juridical, economic or historical nature. If they affect the relationship between the metropolitan State and the territory concerned in a manner which arbitrarily places the latter in a position or status of subordination, then support the presumption that there is an obligation to transmit information under Article 73e of the Charter.

Principle VI

A Non-Self-Governing Territory can be said to have reached a full measure of self-government by:

(a) Emergence as a sovereign independent State;

(b) Free association with an independent State; or

(c) Integration with an independent State.

Principle VII

(a) Free association should be the result of a free and voluntary choice by the peoples of the territory concerned expressed through informed and democratic processes. It should be one which respects the individuality and the cultural characteristics of the territory and its peoples, and retains for the peoples of the territory which is associated with an independent State the freedom to modify the status of that territory through the expression of their will by democratic means and through constitutional processes.

(b) The associated territory should have the right to determine its internal constitution without outside interference, in accordance with due constitutional processes and the freely expressed wishes of the people. This does not preclude consultations as appropriate or necessary under the terms of the free association agreed upon.

Principle VIII

Integration with an independent State should be on the basis of complete equality between the peoples of the erstwhile Non-Self-Governing Territory and those of the independent country with which it is integrated. The peoples of both territories should have equal status and rights of citizenships and equal guarantees of fundamental rights and freedoms without any distinction or discrimination; both should have equal rights and opportunities for representation and effective participation at all levels in the executive, legislative and judicial organs of government.

Principle IX

Integration should have come about in the following circumstances:

(a) The integrating territory should have attained an advanced stage of self-government with free political institutions, so that its peoples would have the capacity to make a responsible choice through informed and democratic processes;

(b) The integration should be the result of the freely expressed wishes of the territory's peoples acting with full knowledge of the change in their status, their wishes having been expressed through informed and democratic processes, impartially conducted and based on universal adult suffrage. The United Nations could, when it deems it necessary, supervise these processes.

Principle X

The transmission of information in respect of Non-Self-Governing Territories under Article 73 e of the Charter is subject to such limitation as security and constitutional considerations may require. This means that the extent of the information may be limited in certain circumstances, but the limitation in Article 73 e cannot relieve a Member State of the obligations of Chapter XI. The "limitation" can relate only to the quantum of information of economic, social and educational nature to be transmitted.

Principle XI

The only constitutional considerations to which 73 e of the Charter refers are those arising from constitutional relations of the territory with the Administering Member. They refer to a situation in which the constitution of the territory gives it self-government in economic, social and educational matters through freely elected institutions. Nevertheless, the responsibility for transmitting information under Article 73 e continues, unless these constitutional relations preclude the Government or parliament of the Administering Member from receiving statistical and other information of a technical nature relating to economic, social and educational conditions in the territory.

Principle XII

Security considerations have not been invoked in the past. Only in very exceptional circumstances can information on economic, social and educational conditions have any security aspect. In other circumstances, therefore, there should be no necessity to limit the transmission of information on security grounds.

The point is that what the Cubans want is for the United States, in complete disregard for the wishes of the people of Puerto Rico, to unilaterally impose independence. Without the consent of the people, we should ignore the Constitution and their rights as U.S. citizens, deliberately violate the understanding and pledge of Public Law 600 and impose independence so the people can decide their future. In short we must decide their future so they can decide their future. This is insanity. In 1976, in the general elections, 45.3 percent of the people in Puerto Rico voted for the "Commonwealth" party, while 48.3 percent voted for the "Statehood" party, and 6.4 percent voted for the "Independence" parties.

We should impose the desires of 6.4 percent on the other 93.6 percent to satisfy Cuba? This is Alice in Wonderland, Mr. President. This resolution, in even acknowledging Cuba does a disservice to the 94 percent of the people of Puerto Rico who support permanent ties to the United States in one form or another.

The second point is that I think we should clearly understand the purpose of the amendment adopted by the committee. The committee report is very clear and I ask unanimous consent that the "Background and Need" and the "Committee Amendment" sections be printed in the RECORD at the conclusion of my remarks. There should be no misunderstanding over what this resolution does and does not do. The choice of a future status and the decision to request any change or modification in status rests with the people of Puerto Rico. Congress will not unilaterally impose any status on the people of Puerto Rico without their consent and approval. However, although the people of Puerto Rico may request a change in status, and indeed they must make such a request before Congress will act, only Congress can give effect to that request.

Background and Need

The principle of self-determination has been an integral and inviolable element of U.S. policy since the Declaration of Independence. The first measure adopted for the western lands to be ceded by the original States to the United States was a resolution adopted in 1780 by the Congress that such lands should "be settled and formed into distinct republican States, which shall then become members of the Federal Union and have the same rights of sovereignty, freedom, and independence, as the other States." The principle was explicitly stated and incorporated in the Northwest Ordinance of 1787 which set forth its provisions "as articles of compact, between the original States and the people and States in the said territory, and forever remain unalterable, unless by common consent." In recognition of the fact that portions of the Northwest Territory were inhabited almost exclusively by people of French descent, Congress specifically provided that French and Canadian inhabitants who had professed allegiance to Virginia which had ceded the area in 1781—could be governed by their own laws and customs relative to the conveyance and descent of property and thus be exempt from the provisions of the ordinance regarding inheritance.

Recognition of the principle of self-determination and self-government has led to the creation of 37 new States, independence for the Phillipines, and self-governing Commonwealth for both Puerto Rico and the Northern Mariana Islands—upon termination of the trusteeship over the Trust Territory of the Pacific Islands—as well as authorizations for the people of the Virgin Islands and Guam to develop and adopt constitutions of their own design—the Virgin Islands has rejected its proposed constitution in referendum while Guam has not yet voted on its constitution. The Congress has also, at the specific request of the people of American Samoa, refrained from enacting an organic act nor conferred U.S. citizenship to avoid any abridgement of the traditional rights and customs guaranteed under the treaties of cession.

Puerto Rico was discovered by Columbus on his second voyage in 1493 and was administered by Spain from that time until it was ceded to the United States in 1898 following the conclusion of the Spanish-American War. Puerto Rico as an unincorporated territory was organized first under the Foraker Act of 1900 and then under the Jones Act of 1917 which also extended U.S. citizenship to the residents of Puerto Rico. Through a variety of measures Puerto Rico was accorded an ever increasing measure of self-government, including popular election of the Governor, until 1950 when full local autonomy was provided by Public Law 81–600.

Public Law 600 provided, in language similar to that of the Northwest Ordinance, that "fully recognizing the principle of government by consent, this act is now adopted in the nature of a compact so that the people of Puerto Rico may organize a government pursuant to a constitution of their own adoption." The constitution was drafted and approved by the people of Puerto Rico and then approved by the Congress by Public Law 82–447 with modifications which were subsequently ratified by Puerto Rico. The Senate report on the joint resolution approving the constitution stated:

"Approval of this constitution will make the historic American concept of "government by consent of the governed" a reality for the 2¼ million American citizens in the American territory of Puerto Rico. This concept is set forth in our Declaration of Independence and has been realized through our State constitutions within the Federal system.

"The Commonwealth of Puerto Rico is not a State of the United States. Neither is it an independent republic. It is a self-governing community bound by the common loyalty and obligations of American citizens living under the American flag and the American Constitution and enjoying a republican form of government of their own choosing.

"In accordance with their express wishes the people of Puerto Rico are establishing self-government in the security and dignity of continued union with the United States on the basis of relationships which have developed through many years (S. Rept. 82–1720)."

Following the approval of the compact and the constitution by both the Congress of the United States and the people of Puerto Rico, the Commonwealth constitution was promulgated on July 25, 1952, and the Commonwealth of Puerto Rico came into being.

Article 73(e) of the Charter of the United Nations provides that:

"*Article 73*

"Members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government recognize the principle that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligation to promote to the utmost, within the system of international peace and security established by the present Charter, the well-bring of the inhabitants of these territories, and, to this end:

"a. to ensure, with due respect for the culture of the peoples concerned, their political, economic, social, and educational advancement, their just treatment, and their protection against abuses;

"b. to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement;

"c. to further international peace and security;

"d. to promote constructive measures of development, to encourage research, and to cooperate with one another and, when and where appropriate, with specialized international bodies with a view to the practical achievement of the social, economic, and scientific purposes set forth in this Article; and

"e. to transmit regularly to the Secretary General for information purposes, subject to such limitation as security and constitutional considerations may require, statistical and other information of a technical nature relating to economic, social, and educational conditions in the territories for which they are respectively responsible other than those territories to which Chapters XII and XIII apply."

Pursuant to Article 73(e) of the Charter of the United Nations, the United States transmitted information on Puerto Rico—as well as Alaska, Hawaii, the Virgin Islands, Guam, and American Samoa—as a nonself-governing entity to the Secretary-General of the United Nations from 1946 to 1952.

Upon the establishment of the Commonwealth of Puerto Rico the United States, in response to a suggestion from the Governor of Puerto Rico, concluded it would no longer be appropriate to continue to submit information on Puerto Rico as if it were nonself-governing. The Governor's letter, dated January 17, 1953, stated that Puerto Rico was a Commonwealth in free and voluntary association with the United States and its people had attained a full measure of self-government. He asked that the United States take the necessary steps to notify the U.N. of the status of Puerto Rico, that it was no longer a nonself-governing area and that reports concerning it were no longer appropriate under article 73(e) of the Charter.

The United States informed the UN of its cessation of the transmission of information and submitted appropriate documentation to the Secretary-General for the information of United Nations members. These communications dated January 19 and March 20, 1953, were considered first by the General Assembly's Committee on Information from Non-Self-Governing Territories which approved a resolution noting that the people of Puerto Rico had achieved a new constitutional status after expressing their will in a free and democratic way and noted that the information indicated that Puerto Rico was outside the scope of article 73(e) of the Charter. The 8th General Assembly, on November 27, 1953, adopted resolution 748 (VIII) which noted the conclusions of the Committee on Information from Non-Self-Governing Territories, recognized that the people of Puerto Rico had achieved a new constitutional status, that in choosing this status the people of Puerto Rico had effectively exercised their right to self-determination, considered that the declaration regarding Non-Self-Governing Territories and the provisions established under it in chapter XI of the Charter no longer applied to Puerto Rico and considered it appropriate that transmission of information on Puerto Rico should cease.

On the same day, Ambassador Henry Cabot Lodge, Jr., stated:

"I am authorized to say on behalf of the President that if at any time the Legislative Assembly of Puerto Rico adopts a resolution in favor of more complete or even absolute independence, he will immediately thereafter recommend to Congress that such independence be granted."

Successive administrations have affirmed the commitment of the executive branch to support before the Congress any change of status chosen by the people of Puerto Rico.

The committee wishes to make clear that this resolution means precisely what it says—that the Congress respects the right of the people of Puerto Rico to determine their own political future within the free, open, and democratic processes provided by the Constitution of the United States. This resolution is not intended nor should it be construed to favor one particular status—Commonwealth, statehood, or independence—over another, nor to foreclose the constitutional processes by which the Congress gives effect to any decision by the people of Puerto Rico.

As the United States-Puerto Rico Commission on the Status of Puerto Rico concluded in its 1966 report:

"*Conclusions*

"Before presenting its conclusions and recommendations, the Commission wishes to record its satisfaction that the bonds which unite Puerto Rico and the United States have been reaffirmed in the course of the Commission's work.

"Both Puerto Rico and the United States share a common commitment to individual freedom, to fundamental human rights, and to the traditions of democratic, representative government. Both are vitally interested in the economic growth and in the political development of the Caribbean area, within which Puerto Rico has provided a worthy example of progress and stability. Finally, both Puerto Rico and the United States have pledged their resources and their efforts to the success of the Alliance for Progress in its historic mission for hemispheric development.

"These mutual interests of Puerto Rico and the United States are the product of a history of increased understanding out of which has grown a creative association. The foundation for both the mutual interests as well as the creative association has been the common U.S. citizenship. In 1952, 77 percent of the people of Puerto Rico voted for their two principal political parties that advocated, although in different forms, a permanent union between Puerto Rico and the United States based upon common U.S. citizenship; and this percentage has since increased steadily with each election, reaching 94 percent in 1964.

"Throughout its deliberations the Commission has been particularly aware of the intimacy of the relationship between the United States and Puerto Rico and of the obligation which the association imposes for the consideration of the wishes of the people of Puerto Rico. In full appreciation of the importance of the maintenance of a mutually satisfactory relationship between Puerto Rico and the mainland, the Commission presents the following conclusions from its study of the factors bearing on the present and future relationship between the United States and Puerto Rico.

"The Commission's major conclusion is that all three forms of political status—the Commonwealth, Statehood, and Independence—are valid and confer upon the people of Puerto Rico equal dignity with equality of status and of national citizenship. Any choice among them is to be made by the people of Puerto Rico, and the economic, social, cultural, and security arrangements which would need to be made under each of the three status alternatives will require the mutual agreement and full cooperation of the Government of the United States. A first step toward any change in political status must be taken by the Puerto Rican people acting through constitutional processes.

"From the examination of the legal and constitutional factors affecting the status question, the Commission concludes:

"1. The policy governing the relationship between the United States and Puerto Rico is and should continue to be based on the principles of mutual consent and self-determination.

"2. In accordance with this policy and these principles, it is essential to any change in political status that Congress fully understand the wishes of the people of Puerto Rico in order that it can be properly guided in working with the people of Puerto Rico to carry out their wishes.

"3. The right of the U.S. citizens of Puerto Rico to participate effectively in decisions affecting their present and future welfare is protected by the Constitution of the United States and the Constitution of Puerto Rico.

"4. All three status alternatives—the Commonwealth, Statehood, and Independence—are within the power of the people of Puerto Rico and the Congress to establish under the Constitution.

"5. As a form of political status, each alternative confers equal dignity and equality of status.

"From the examination of the sociocultural factors affecting the status question, the Commission concludes:

"6. Each of the three status positions contains an ideological dimension: Each involves a concept of the identity of the people of Puerto Rico, an interpretation of history, a way of life, and an aspiration for the future.

"7. Each of the status alternatives is committed to the growth of Puerto Rico's culture and the preservation of the Spanish language. Each alternative would require a different form of adjustment to fulfill its commitment.

"8. Insofar as the questions of ideology and of culture and language are involved in arriving at a consensus regarding their future political status, it is the people of Puerto Rico themselves who must resolve these questions."

Although the committee is aware that the present Governor of Puerto Rico, Carlos Romero Barcelo has advocated statehood as a preferred status for Puerto Rico and the former Governor Rafael Hernandez Colon has advocated a "New Thesis" proposing alterations in the present Commonwealth arrangement, no alteration nor change has been approved by the people of Puerto Rico of the United States Congress. The necessary and indispensable first step in any such proposal is the expression of the desire of the people of Puerto Rico. The details and terms of any such proposal will then be before the Congress for consideration pursuant to article IV, section 3 of the Constitution.

Committee amendments

The committee adopted an amendment by Senator BUMPERS to delete the phrase "and to change their relationship with the United States," in order to prevent any possible misinterpretation of the intent of the resolution. Puerto Rico, like the States of the Union, and the Federal Government is bound by the requirements and provisions of the Constitution of the United States. Under article IV of the Constitution, the Congress must necessarily be involved in may change or alteration in the status of Puerto Rico and its relationship to the United States, but the initial decision for any such change or alteration properly resides in the people of Puerto Rico.

The relationship of the Federal Government to the several States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, upon termination of the Trusteeship, and the territories of Guam, American Samoa, and the Virgin Islands is governed and controlled by the U.S. Constitution which binds us together, guarantees our freedom, protects our rights, and provides the free, open peaceful, and democratic process for the growth of the Union. The right to choose their political future resides in the people of Puerto Rico. The fact that the Constitution requires the Congress to enact legislation to give effect to that choice does not in any manner diminish nor denigrate the basic right of self-determination. The choice of status is up to the people of Puerto Rico and we in the Congress have a responsibility and obligation to insure that the choice is an informed choice and then to respect that choice in the exercise of our Constitutional responsibilities to work sympathetically with the people of Puerto Rico in framing and drafting the specific language and provisioins to give effect to their choice. Those deliberations may be very brief or they may be lengthy, I do not know. I am certain, however, that this Congress, and any subsequent Congress, will execute our responsibilities with the full involvement of the people of Puerto Rico and respect for the expressed desires of our fellow U.S. citizens there.

I would say to the Senator from New York that I think he has spelled out very clearly that this country continues to be committed to the principle of self-determination, a principle which I support; but I think the terms of this particular resolution are now sufficiently clear that I would not have any opposition to it, and I thank the distinguished Senator from New York for making so clear and concise what the meaning of the resolution is.

Mr. MOYNIHAN. Mr. President, I think the Senate is indebted to the Senator from Louisiana for his scholarship and learnings on this matter, and the care with which he has stated the position we now have reached.

Mr. President, I see the distinguished Senator from Kansas has risen. I believe he wishes to address himself to this subject, on which he has previously established a reputation for fair-mindedness and sagacity.

Mr. DOLE. And brevity. I thank my distinguished colleague for New York for yielding.

On Wednesday, July 25, I did discuss the general issue with reference to the 27th anniversary of the Commonwealth of Puerto Rico. At that time I had the same reservations expressed by the distinguished Senator from Louisiana about some of the wording in the concurrent resolution. I declined at that time to cosponsor the concurrent resolution; but, having listened very carefully to the colloquy between the distinguished Senator from New York and the distinguished Senator from Louisiana, the reservation I had has now, I think, been satisfied, and I ask that my name be added as a cosponsor of the resolution.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the name of the Senator from Kansas be added as an original cosponsor of the concurrent resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I am proud to be an original cosponsor of the resolution, as amended and as clarified, which reaffirms the commitment of Congress to the right of the people of Puerto Rico to determine their own political future.

Mr. President, the consideration of this significant sense of the Congress comes 8 days after the 27th anniversary of the Commonwealth of Puerto Rico.

July 25, 1952, a Great Day for Puerto Rico

On July 25, 1952, the people of Puerto Rico adopted a commonwealth status and established a new relationship with the U.S. Congress, an imaginative experiment in democratic self-government; an experiment which over time has proven that a people committed to preserving their own particular cultural roots can yet maintain their relationship with a political entity differing in geographic scale, history, and power. In commemorating this event we pay tribute to the contributions and important roles that citizens of Puerto Rico have played in America's progress.

A Progressive Puerto Rico

The fruition of what may be called modern Puerto Rico has emerged over the last 40 years, as Puerto Ricans have made energetic progress in their efforts at improving health, education and job opportunities for all their citizens. Political ideals, as varied as they may be, have joined, through history, a rich heritage, America's contributions, and Puerto Rico's own unique characteristics to achieve a well-established and successful means for enacting change and yet maintaining continuity through democratic processes. We have a common commitment, as Americans, to individual freedom and the democratic tradition of representative government. Our common concern for economic growth and political development binds us in a unique relationship with our fellow Americans from Puerto Rico.

U.S. Commitment to the Principle of Self-Determination for the People of Puerto Rico

The nature of a commonwealth status carries with it the inherent obligation to examine, and if necessary, re-interpret the political aspects of that relationship.

The relationship between Puerto Rico and the United States is long overdue for a thorough evaluation and revision. The question of political status in Puerto Rico has sometimes been a source of confusion, yet we remain committed to the fundamental principle of self-determination for the people of Puerto Rico, whatever decision the people may make.

I commend the distinguished Senator from New York and particularly the distinguished Senator from Louisiana, because we were in an area we did not have time to explore, and having made some calls to Puerto Rico with reference to the concurrent resolution, I found that some of the same questions raised by the leaders in Puerto Rico were raised by the Senator from Louisiana.

Mr. President, I urge my colleagues to support passage of this important resolution.

Mr. MOYNIHAN. Mr. President, I appreciate the statement of the Senator from Kansas, who, with the minority leader, has stood for firm bipartisan support of the position we enunciate today. It is a matter of which both parties can be proud.

Mr. President, I do not believe there are other Senators who wish to speak. That being the case, I move the adoption of the resolution.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question now recurs on agreeing to the concurrent resolution, as amended.

The concurrent resolution, as amended, was agreed to.

The preamble was agreed to.

SENATOR MOYNIHAN'S FIRST GRANDCHILD

Mr. HEINZ. Mr. President, before I begin, I want to commend the Senator from New York on something that he can ultimately take responsibility for, and that is yesterday, as I understand it, the birth of his first grandchild, who I am sure will be at least as talented, at least as articulate, at least as intelligent—and that is saying quite a lot—as the senior Senator from New York.

Mr. MOYNIHAN. I do very much thank the distinguished Senator from Pennsylvania. The President pro tempore has done the same. May I say, I had very little to do with this epic event, but I am happy to be congratulated.

CONGRESS AND DESERT STORM

Mr. HEINZ. Mr. President, I rise this afternoon because over the past few weeks there has been a lot of debate, a lot of discussion, and frankly I have heard, we have all heard, repeated efforts by many of my colleagues on the other side of the aisle to discuss, and I have to say to evade, the implications of their refusal, back on January 12 of this year, to grant the President's request that he be authorized to use force against Iraq.

Last week, the distinguished minority leader, Senator DOLE, responded quite forcefully to these attempts in the pages of the Wall Street Journal. But I am sorry to report those on the other side who refused to support the President, in my judgment, have done nothing but continue the campaign to obfuscate the issue.

Mr. President, I had not intended to make a statement on this subject today, but I cannot remain silent in the face of continuing attempts to rewrite history. Some of our Democratic colleagues have treated us to some genuinely desperate explanations of their actions, including informal comments, I might add, that I have encountered, that many Senators were somehow misled: If only they had known, they say, that Iraq was so weak and we were so strong; If only they had known about the devastating potential of allied air power. If only they had known about the instability and the incompetence of the Iraqi Army and its poor leadership.

All I can say is that the rest of us do not think we were misled. We took seriously the estimates of our intelligence services and our professional military planners and acted accordingly. Moreover, if there was a campaign to mislead anybody, including any Democrats, then it was a very efficient conspiracy indeed, for it would represent the first time that the Defense Deaprtment, the defense intelligence agency, the CIA, the State Department, and the White House all agreed on something.

We have been told that this war was the result of bungled diplomacy, In this view, Saddam Hussein would never have had to be confronted with force, if only the United States had been diplomatically tougher in the few days or few weeks before he invaded Kuwait. And many of our colleagues have attempted to draw fire away from themselves and instead direct it at Ambassador April Glaspie, who many were led to believe had somehow given the go-ahead to Saddam Hussein's invasion. The transcript that supposedly confirmed such a conversation between the Ambassador and Saddam has since been revealed as a Iraqi fabrication, and April Glaspie herself testified before the Senate yesterday to set that record straight. But this effort to make the Ambassador the scapegoat for the invasion of Kuwait has nonetheless revealed the extent to which so many in the Congress wish to shift the responsibility from themselves to the administration.

Some would say that these are diversions and, indeed, they are. For they are meant to draw our attention away from the flawed judgment of those who opposed the President, not only on January 12, but all along the way, in an effort to fix blame for the war itself on the President and his Ambassador. What I am saying, and I want to make this very clear indeed, has nothing to do with anybody's patriotism. I do not question that. It is the consistently erroneous judgment of too many of my colleagues that I question now. I realize that the vote to authorize the President to use force against Iraq was an agonizing and searching choice for all of us. Those who voted to deny that request were no doubt as concerned and anxious as the rest of us, and I am certain that the safety of our servicemen and women was uppermost in their minds, as it was in ours.

However, the fact remains that Saddam's rampage in the Middle East was brought to a quick end by the foresight and determination of President Bush, and it is due to the President's decisiveness and courage that we are now in the midst of a national celebration of homecoming for our victorious men and women in uniform.

The consistency, the singular concentration of purpose represented in the President's policy towards the invasion of Kuwait are worth reflecting upon for a moment. Consider the immense task of building an international coalition to surround Iraq with economic sanctions enforced on land, at sea, and in the air. Consider the spectacular task of moving over half a million soldiers and thousands of tons of military equipment to the far reaches of the Saudi desert, and consider the final most difficult effort, to convince our allies to join in one of the largest and most successful multinational military actions since World War II.

We must also consider how difficult the President's tasks were made by the prophets of doom who dogged his steps at every turn. The Democratic leader, the spokesman for many of his colleagues on his side of the aisle, made the case against the President's request, and it is worth considering a moment several of his concerns as he stated them to us.

War, the majority leader told us, would result in the spending of billions of American dollars. In fact, the nations of the world have made large commitments to the funding of Desert Storm.

He told us it would cause a disrupted oil supply. In fact, even with the destruction of the Kuwaiti wells no such disruption has occurred.

He told us that military action would result in a wider war involving Israel and Turkey. In fact, Israeli restraint and Turkish firmness have amazed the world.

He told us that it would lead to the long-term occupation of Iraq. In fact, we are already bringing troops home from the region.

More ominously we were warned that a vote to support the President could result in longstanding Arab enmity to the United States and a return to American isolationism. In fact, America's defeat of Iraq has increased our prestige and authority, not only in the Middle East but thoughout the world. And America, in 1991, stands not only as a great power but literally the only superpower on the planet. This is no exaggeration, Mr. President, because yesterday even the Minister of Defense of the Soviet Union himself praised General Schwarzkopf and paid due tribute to the abilities of the United States on the fields of both battle and diplomacy.

I said it before. I say it again, reiterating that I do not question the intentions, patriotism, the credentials of the distinguished majority leader or the clear majority of his party, who followed him in opposing the President's request. But it is precisely because those on the other side of the aisle exhibited what I can only describe as poor judgment in their estimation of the risk involved, of the efficacy of the means available, and the potential outcome of this crisis, that the American people ought to be concerned about the direction of the Congress under the stewardship of the current leadership of the other party. If the American people are indeed worried about the poor judgment of those who opposed the President at every turn, they should in turn express that concern at the ballot box on the first Tuesday of November in 1992.

Although the predictions of many in the other party, many of the so-called experts, and most of the pundits were wrong, I have to tell you they weighed very heavily on those of us who voted to support the President's request. Those of us who voted to support the President knew we took a great risk, that we bore a great burden, that our decision carried for us a very high price if it failed to turn out well, or right. But whatever concerns about the risk of Desert Storm, those of us who supported the President felt even more strongly that it was simply imperative to support the principles of standing against aggression. The price of failure would be high, but it is clear that the price of inaction might have been even higher.

Many things gave us hope that America would succeed in her endeavor to stop this aggression. One was the outstanding talent and the qualities of the men and women of the U.S. Armed Forces. The performance of the U.S. military, from the privates in the field to the generals in the headquarters, has been outstanding, and beyond. But, even good soldiers need good weapons, Mr. President. If many of our collegues had had their way in the past decade, our pilots would not have flown Stealth fighters or Apache helicopters, driven M1A1 tanks or manned Patriot batteries. These weapons, all of which performed beyond expectation, were the right tools in the right hands for the right job.

Many of us who had voted with the President on January 12 have been told we should refrain from bringing the votes of those who opposed the President to the attention of the Nation. When has there ever been a general amnesty extended to Senators for their votes? I recall no such courtesy extended to Republican Senators, or to any others for that matter. In any case, such an amnesty would be undemocratic.

As the majority leader himself told us on January 12, "The essence of democracy is accountability, and those who voted with the President must share that accountability." I cannot believe that the Democratic leader would expect any less of those who voted against the President. If the war had gone badly, I am quite certain that those of us who supported the President's request would now stand in the Chamber after being called upon to explain ourselves and our votes. I, for one, would have felt compelled to account for my decision, in any case, and I fail to understand why so many of my colleagues on the other side do not feel a similar responsibility.

We have been told that we should now turn to the pressing domestic agenda that awaits the decision of the Congress. I heartily agree. But one agenda does not exclude the other. It would be a failure of our democratic system of government if other issues of national importance are merely used to camouflage previous votes on so paramount an issue as war and peace.

In any event, it is too early to curtail our celebration.

Our returning soldiers richly deserve the outpouring of affection and respect that was denied to so many of their colleagues after Vietnam. They have earned their place in the spotlight and the fact that the success of this war is a discomfort to some whose judgment was lacking on January 12 should not serve to deny these young heroes the glory and the honor that is rightfully theirs.

Mr. President, I would like to close with an excerpt from a letter that I received from a constituent in Pennsylvania, a lifelong Democrat who told me that he was deeply saddened by the turn in foreign policy taken by a party that had once been led by shining heroes such as Franklin Delano Roosevelt, Harry Truman and John Fitzgerald Kennedy. He suggested that President Kennedy's inaugural address, if given today, might be different, and I would like to read to my colleagues my constitutent's revised version:

> Let the word go forth to friend and foe alike, but especially to our foes, that the torch has been passed to a new generation of Democrats, born in this century but still living in the past, fearful of war but embittered by peace, ashamed of our heritage and willing to watch the undoing of those rights to which our Nation has always been committed.
>
> Let every nation know, whether it wishes us good or ill, that we are no longer willing to bear any burden, or to pay any price, to meet any hardships, to support any friend or to oppose any foe, to assure the survival and success of liberty.

Mr. President, I hope that that is an unduly harsh judgment, but only time and history will tell.

Mr. President, I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I came over to speak on the Puerto Rican question when I heard my colleague from New York speaking, but I want to respond briefly to my colleague from Pennsylvania whose remarks I think are, frankly, inappropriate.

Let history judge who was right. Let history make that judgment, and I think we would all be wise. Those who were over in Saudi Arabia were Republicans and Democrats. That decision was made by the narrowest margin in the history of our country that we would use force, despite the advice of two immediate past Chairmen of the Joint Chiefs of Staff and despite the advice of eight of the nine living former Secretaries of Defense, and when my friend from Pennsylvania said we used poor judgment on the risk involved, I remember visiting with General Schwarzkopf on his estimate on the length of the war and the risks involved. They were appreciably different from what happened. No one—no one—thought we were going to have the kind of good fortune that we did. And I have to add, when I took my Army basic training, I remember one of the things we did was a smokescreen. There is a smokescreen on what has happened in the Middle East, and our failure to attend to what is happening here.

My friend from Pennsylvania talked about the great courage it took to vote as he did. I think it took courage on both sides. I do not think there was a monopoly of courage on either side. But when he says the price of failure was high, let me tell my colleagues, the price of failure is high when we do not meet the needs of education in our country, and we are doing nothing about it, almost nothing.

The President of the United States says, "I want to be the education President." Let us put our money there. Let us do something about it. The price of failure is high. Right now I am trying to save the life of a man who needs a lung transplant. He has Blue Cross-Blue Shield insurance, but it does not cover it. If he lived in Canada, he could get that operation. He cannot get it here.

Mr. HEINZ. Will the Senator yield?

Mr. SIMON. We have health care needs; we have education needs. Let us not ignore these needs as we talk about this. I will yield just for purpose of a question.

Mr. HEINZ. Without losing the right to the floor——

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. SIMON. I will yield for the purpose of a question, but I want to move on to a speech for 5 minutes.

Mr. HEINZ. Let me begin my question with an observation, if I may, which is I want to commend the Senator from Illinois for saying what I believe to be the truth. The truth is that we should not let the Middle East divert us from attending to the needs of this country domestically. The Senator from Illinois is absolutely correct. I hope I made it clear, indeed I think I did make it clear in my remarks, the one agenda does not exclude and should not exclude the other.

Just to make clear, I heartily agree that we have an enormous agenda in health care, in education, in crime, and in fighting drugs. My comment is, I hope the Senator from Illinois understands that I agree with him.

Mr. SIMON. I hope that we do agree, and I hope the Senator from Pennsylvania will join the Senator from Illinois in voting for programs that really move on this problem.

THE STATUS OF PUERTO RICO

Mr. SIMON. Mr. President, let me address the question that Senator MOYNIHAN was discussing, and that is the status of Puerto Rico.

Frankly, the United States cannot say we favor self-determination for people in Eastern Europe and everywhere around the world, but we do not tolerate and by a 10-to-10 vote we refused to authorize a plebescite in Puerto Rico so the people of Puerto Rico could make a determination whether they should be independent, whether they should continue as a Commonwealth, or whether they should become a State. I think we ought to permit the people of Puerto Rico to have that plebescite. They are American citizens. They have had among the very highest rates of casualties of the top three or four States, if they were considered a State, in all the recent wars that we have been involved in. They want to be treated as first-class citizens, and we are not permitting them to do that.

We face the choice of three things: Independence—very few there want independence—statehood or Commonwealth status, which is just old-fashioned colonialism; that is all it is.

Who opposes the plebescite? This is very interesting. We have something called section 936 that costs the Government of the United States a great deal of money but gives a break to a lot of companies, particularly pharmaceutical companies and they are strongly opposed to changing the present status. They also, incidentally, oppose having Puerto Rico covered by the minimum wage law. We simply cannot continue this status indefinitely. Let me tell my colleagues, there is going to be an explosion down in Puerto Rico if we do not recognize the rights of these citizens. We simply cannot have second-class citizens.

On the question of language, when New Mexico was admitted as a State, the majority of the people of New Mexico did not have English as their mother tongue. I heard Senator MOYNIHAN refer to Oklahoma in the same regard. But somehow or another, we are going to have to face up to this Puerto Rican question, and we should do it before there is an explosion down there. We should not have second-class citizens.

I might add, that applies to Washington, DC, too. The capital of every city that has a free election, free system, the capital of every city is represented in their Parliament, to my knowledge, with one exception and that is the United States of America. That should not continue.

Mr. President, I commend my colleague, Senator MOYNIHAN, for his remarks. I think I have some colleagues now who wish to speak, so I will yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

WE ARE RIGHT, YOU ARE WRONG

Mr. KERREY. Mr. President, I earlier got into a colloquy on the floor with the Senator from Arizona after giving a speech talking about my feelings upon reading about a young army specialist who had come back to Detroit, who had been a hero in operating Patriot missile systems in the Operation Desert Storm, had come back to Detroit and was killed on the streets of Detroit before his mail even arrived home.

Not wishing to take away any of the pride I feel for anyone who participated in Operation Desert Storm and, in fact, not wishing to take away any of the due credit deserving President Bush for being very resolute throughout all of this, expressing only my concern for the way that I felt knowing that here is a young man who had fought in Operation Desert Storm, had come back and had died in the streets of Detroit.

I was responding as well to some statements made by Secretary Sullivan asking about whether or not we were going to be able to remember casualties that were being taken here at home.

I did not intend to come back. I am sorry the distinguished Senator from Pennsylvania has left the floor because whether it was the tone of his presentation or the detail of the presentation, I am provoked by the message that I received. Indeed, I have done a considerable amount of personal soul searching about the things that I have said and my attitude towards what the President was saying in the last 7 months. I am perfectly aware of how the people of Nebraska feel: 94 percent support what he has done; 54 percent support what I have done.

I still have the capacity to add and subtract, and I know that I need to spend a great deal of time talking to people in my State, and I have attempted to do that. But I must say that I am again alarmed by the tone that I heard and, in particular, the appearance of the delivery, an attitude that we are right, you are wrong, that suggests somehow that Republicans are right and the Democrats are wrong.

Mr. President, I ask unanimous consent to insert in the RECORD an article that appeared this morning in the Wall Street Journal by Mark Siegel.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From The Wall Street Journal, Mar. 21, 1991]

SADDAM HUSSEIN'S OTHER REPUBLICAN GUARDS

(By Mark A. Siegel)

Sen. Robert Dole, writing in The Wall Street Journal of March 13, indicated that the Gulf war was fair game in political warfare between Republicans and Democrats. But the GOP may yet find some reasons to pause before making Gulf policy the 1992 election issue. At some point, the administration will have to explain its political support for, and arming of, Iraq throughout the 1980s.

Sen. Dole and his colleagues may be asked to explain repeated efforts by the GOP not to criticize Saddam Hussein's use of poison gas against Iraqi Kurds, and the Reagan-Bush policies of coddling the Iraqi dictator with the Commerce Department's approval of high-tech sales to buttress Saddam's chemical, biological and nuclear potential. The GOP might be called on to justify U.S. Ambassador April Glaspie's green light to Saddam's invasion of Kuwait.

A transcript of Sen. Dole's meeting with Saddam Hussein in Baghdad on April 12 of last year, reveals a minority leader on bended knee before Iraq's dictator. Sen. Dole assured the Iraqi president that George Bush was against the use of sanctions against Iraq, and would probably veto such an action by the U.S. Congress. (Mr. Bush does not come out looking so good here, either.) April Glaspie chimed in with "I can confirm this is the U.S. government policy."

Sen. Dole repeatedly stated that he was sympathetic to the security needs of Iraq, obsequiously acknowledged Saddam's might ("I would like to say we know the importance of Iraq. You are the second country in oil reserves, your country is the second-largest country in the region . . ."). Sen. Dole gratuitously reminded Saddam that "we [the Republican administration] condemned the Israeli attack in 1981" on Iraq's Osirik nuclear station. That is, "we" condemned an event that prevented Saddam from entering the Gulf war with 12 20-kiloton nuclear warheads.

A bit later in the year came the unfortunate incident of Sen. Phil Gramm (R., Texas), the Genghis Khan of the politicization of Operation Desert Storm, acting just six days before Saddam's invasion of Kuwait to lift U.S. credit and agricultural restrictions to Iraq. One of the chief co-sponsors and supporters of Sen. Gramm's amendment was the sanctimonious minority leader himself, Robert Dole.

Sen. Gramm, chairman of the National Republican Senate Campaign Committee, sees the war as the GOP's big chance to recapture the Senate in 1992, and already has staff working on negative research on incumbent Senate Democrats who voted against the "use of force" Gulf War resolution.

The Gramm hit list is led by Brock Adams (Wash.), Terry Sanford (N.C.), Wyche Fowler (Ga.), Tom Daschle (S.D.), Kent Conrad (N.D.), and Fritz Hollings (S.C.). New Republican National Committee Chairman Clayton Yeutter, who, as Secretary of Agriculture, was, like Sen. Gramm, a prime Saddam fan as late as last July, also believes Republicans can capitalize on the war at every level.

The great irony, of course, is that Sen. Gramm is the least credible Republican to lead a partisan charge against the Democrats on Iraq. On July 27, with Saddam's troops massing on Kuwait's border, the Gramm amendment on agricultural trade with Iraq provoked fellow Republican Bill Cohen of Maine into charging, on the floor of the U.S. Senate, that Sen. Gramm's actions were like Neville Chamberlain's appeasement of Hitler in the 1930s. Sen. Cohen's words—which were made minutes before the Gramm amendment was defeated—are so uplifting and prescient they deserve to be quoted in full:

"Mr. President, I have just a few seconds left and let me say that at one point in our history we heard the tap tap tap of Neville Chamberlain's umbrella on the cobblestones of Munich. Now we are about to hear the rumble of the farm tractor on the bricks of Baghdad.

"Make no mistake about it, we are following a policy of appeasement and we are never going to lead in the fight against terrorism. We are never going to lead in the fight against the spread of chemical weapons, or that of high military technology, because of the arguments that our allies are unwilling to follow our example. Therefore, we are left with the argument that we must follow the herd, follow it right down the path of feeding Saddam Hussein while he continues to terrorize, attack, gas or simply threaten to do so. This is a policy of appeasement that will go on unchallenged for years to come if we accept the arguments of the Senator from Texas."

Republicans voting along with Sen. Gramm to appease Saddam Hussein six days before his invasion of Kuwait were: Kit Bond of Missouri, Conrad Burns of Montana, John Chafee of Rhode Island, Dan Coats of Indiana, Thad Cochran of Mississippi, Jack Danforth of Missouri, Bob Dole of Kansas, Pete Domenici of New Mexico, Slade Gorton of Washington, Chuck Grassley of Iowa, Mark Hatfield of Oregon, Jim Jeffords of Vermont, Trent Lott of Mississippi, Dick Lugar of Indiana, Jim McClure of Idaho (now retired), Mitch McConnell of Kentucky, Larry Pressler of South Dakota, William Roth of Delaware, Steve Symms of Idaho, Strom Thurmond of South Carolina and Alan Simpson of Wyoming.

Indeed Sen. Simpson, the wielder of the witty rapier into CNN's Peter Arnett, also comes off looking terrible in general. At least Mr. Arnett can never be accused of having given public-relations advice to the Iraqi dictator, as the senator did when he accompanied Sen. Dole on the Baghdad visit last April. The discussion was monitored by Iraqi radio, and Sen. Simpson has since claimed Iraqis manipulated his words. But we can hear the Alan Simpson we know clearly in the quote the Iraqis reported: "I believe your problem is with the Western media, not with the U.S. government, because you are isolated from the media and the press. The press is spoiled and conceited."

The deeper problem here was a decade of Republican administrations catering to Iraq. Now, Sen. Dole and the President are selling patriotism. It may be wise to obfuscate 10 years of domestic neglect behind the yellow bunting and flag, but this little game has its limits, too.

The Bush administration is now moving on from Iraq to peace in the Mideast and has designated Syria's Hafez Assad, the butcher of Hama, "dictator of the month." The GOP is even canonizing the master-mind behind Pan Am 103. Maybe the GOP should read its own State Department's Human Rights Report on Syria: "Syria is ruled by an authoritarian regime which does not hesitate to use force against its citizens when it feels it is threatened. . . . Major human rights abuses—including torture, arbitrary arrest and detention, and denial of freedom of speech, press, association and the right of citizens to change their governments—continued to characterize the regime's record of 1990."

Or better yet, maybe the GOP should just ask April Glaspie for advice.

(Mr. Siegel, formerly executive director of the Democratic National Committee publishes the Washington Insider, a political newsletter.)

Mr. KERREY. Frankly, I am not going to read it. It simply says what we all know, and that is that Republicans and Democrats underestimated Saddam Hussein, underestimated him and what he would likely do in Kuwait, Republicans and Democrats. This article identifies many comments and statements made, amendments offered to try to protect Iraq not a week before they invaded Kuwait.

American foreign policy toward Iraq was wrong. It was wrong. It was misguided. Many things that we have learned since that invasion have, I hope, laid the foundation for improved policy in the future. What I hope as well occurs is that Republicans and Democrats will understand that there was almost unanimous support for this effort once it began.

You say, well, that does not take away from our vote. Indeed, it does not. I still, as I indicated earlier, had a lot of soul searching to do about my own attitude toward this effort right from the beginning.

I admit, and have done so to Nebraskans, that my own involvement in the Vietnam war perhaps put too much emotion in my voice at times when I was debating. I have had the experience of having Government mislead me, of not leveling entirely, and I have had the experience of just being in a war and then discover you get halfway into it and Americans stop supporting it. It influenced my judgment about what we should do, perhaps too much.

But I have also said that in the past 2 years many other things have happened in this world that have influenced my attitude towards foreign policy in many ways far more than the success of Desert Storm, not the least of which is the phenomenal occurrence in Poland. We passed a resolution earlier, a resolution where every Member of the Senate is an original cosponsor, praising President Lech Walesa—remarkable events in Eastern Europe.

I had a great deal of skepticism about the cold war, Mr. President, as a consequence of my own experience, and it caused me as a result to underestimate the importance of American's resolve on behalf of freedom, freedom for people. I still have a great deal of reservation about a war effort that began with a cause of oil and economic gain and protection of economic interests. Indeed, I hope we make sure that this war is on behalf of the freedom of the Kuwaiti people and that we stand for democracy in Kuwait.

I hope we do the same thing in Iraq as well, that freedom is the cry of this country, not economic interest, as, indeed, we have discovered in Czechoslovakia, Poland, in East Germany of all places, and, I might point out to my friends on the other side, in South Africa. We had Nelson Mandela before a joint session of Congress, and he said, "Thank you, Americans, for standing up for my freedom, for setting aside economic interests, for being willing to stand for the freedom of all South Africans. We now have the hope of being free."

Freedom, indeed, has a much more tangible ring to me as a consequence of visiting Cambodia and Vietnam last year.

I confess I was a bit skeptical as I arrived here in January of 1989 about what America could do in foreign policy areas. That skepticism has almost entirely vanished, and I pray it does not recur as a consequence of an attempt on the part of some to simply gain political advantage. Whatever political advantage will occur.

The people of Nebraska may, indeed, choose not to return me if I choose to run for reelection in 1994. That is their judgment and their determination. That may happen. But I hope the division that occurred in foreign policy for too long in this country does not reopen as a consequence of people attempting to gain political advantage by coming to the fore saying Democrats are talking privately and admiting that they were wrong. No such thing has happened.

Mr. President, this country's policy toward Iraq was wrong prior to the invasion. It was moral relativism. It was a desire for economic gain. Blinded by the need for money, we sold them weapons. Blinded by the need for money, we did some things to encourage Saddam Hussein and we paid a terrible price for it.

I hope my country will remember how we got in this mess, I believe we will welcome the soldiers with great pride. I have enormous pride for those soldiers, enormous pride for General Schwarzkopf and General Powell and, indeed, for President Bush as well. But I am proud for this country because we stand for freedom and are willing to put our lives and our wealth and our children on the line for it. And this world is better as a consequence.

Mr. President, I hope that this Senate does not deteriorate into a "you're wrong," body, trying to figure out who holds the highest ground. If we do, our foreign policy will suffer and the people of the world will suffer. I pray that we come out of this war with the understanding of this Nation's greatness and its potential.

I yield the floor.

VOTES OF CONSCIENCE

Mr. SPECTER. Mr. President, I had come to the floor to make some comments on the 100th anniversary of the birth of former Chief Justice Earl Warren. In the meantime I listened intently to the speech by my distinguished colleague from Pennsylvania, Senator HEINZ, and the reply by the distinguished Senator from Nebraska, Senator KERREY. Senator KERREY commented that he wished Senator HEINZ had stayed to hear the response.

I believe that there will be a great deal of debate on this floor, as there will be a great deal of debate in many halls, on the subject matter of the vote on the use of force in the Persian Gulf. If I were to choose someone to debate on this subject, the last person to debate would be the distinguished Senator from Nebraska. Not that I am unduly concerned about any sort of debate but because of his record and because of his background.

Nevertheless, I do believe that it is not inappropriate for my colleague, Senator HEINZ, to have made a comment on the issue of judgment. Senator HEINZ was very explicit about the issue of judgment as opposed to patriotism. When some have said that the vote is out of bounds because it is a vote of conscience, the question which comes to my mind is, what votes in this Chamber are not votes of conscience?

The concern that this Senator had on January 12 when we voted on this subject was that had it been a secret ballot, the vote would have been 90 to 10 in favor of the resolution for the use of force.

I would say, however, that I know the distinguished Senator from Nebraska [Mr. KERREY] would have voted against the resolution under any circumstance, had it been secret or open. I would say the same for the Presiding Officer, Senator HARKIN of Iowa, whom I praised on the floor of this body for having stood up on January 3 raised the issue in a courageous way by calling for a vote.

The vote of the Senator from Iowa was different from the vote of this Senator. However, I thought the Senator from Iowa was exactly right in saying the U.S. Senate and the U.S. Congress should take a position on the issue. This Senator was very concerned after a hearing from the Judiciary Committee that week which raised the question of an impeachment process against the President if he were to proceed to use force without a resolution by the Congress.

I was very concerned about the constitutional responsibility and constitutional authority of the Congress. If we were to sit back and allow the President to proceed to use force without the Congress having taken a position, the constitutional authority of the Congress would have been seriously eroded, if not eliminated, since we had been on notice for so many weeks that the President had an intention to proceed with the use of force pursuant to United Nations Security Council Resolution 678.

I argued on the floor that the Senate should have taken up the issue earlier, as Senator LUGAR first suggested in early November. An unusual provision of the resolution of adjournment allowed the majority leader of the Senate and the Speaker of the House the authority to call the Congress back into session. It is customarily a power that remains with the President and not the leaders of the two Houses.

Had there been reservations about the buildup of U.S. forces in early November or reservations about the action of the United States in proceeding to get U.N. Security Council Resolution 678 adopted, the Congress had the responsibility and the authority to consider the matter of that time. The Congress was on notice, as the world was on notice that the President and the Secretary of State sought to get the United Nations to adopt a resolution authorizing the use of force on January 15.

So that when a political argument is made on the question of judgment, it seems to me that that is an argument that can be made on the street corner, can be made in the townhalls, and not an inappropriate argument for the floor of the U.S. Senate.

CHIEF JUSTICE EARL WARREN'S BIRTHDAY

Mr. SPECTER. Mr. President, now I wish to speak on the subject for which I came to the floor, that is, the commemoration of the 100th anniversary of Earl Warren's birth. I had the unique opportunity to work with Chief Justice Warren as one of the young lawyers on the Warren Commission.

On November 29, 1963, President Johnson appointed a commission to investigate the assassination of President John F. Kennedy. Chief Justice Warren agreed to serve as the chairman of that commission, and it immediately became known as the Warren Commission.

I believe that when the Chief Justice took on that job, he demonstrated the qualities of the quintessential public servant. He took on that job in addition to his other responsibilities as Chief Justice.

The Warren Commission rented space in the VFW Building which is caddy corner to the Supreme Court Chamber, a building that I look at out of my office window at Hart now. The Chief Justice would put in a full day at the Supreme Court, and would then walk across the street a few hundred yards to the VFW Building, ascend to the fourth floor and then put in another day's work as Chairman of the Commission.

Many people wondered why Earl Warren became the Chairman of the Commission. On the first day that the full staff was assembled, the Chief Justice called us together and told us that our only client was the truth. He then proceeded to describe his reasons for taking the job as Chairman of the Commission.

Archibald Cox, the Solicitor General, came to the Chief Justice and told him that the President wanted him to assume the chairmanship of the Commission. There were many rumors surrounding President Kennedy's death that needed to be put to rest. Many alleged that the Soviets and the Cubans were responsible for the assassination because Lee Harvey Oswald, who was the chief suspect at the time, had been in the Soviet Union, had been to Cuba, and had a curious trip to Mexico City. The Chief Justice told the Solicitor General that he thought it inappropriate to take on the job.

Then the Deputy Attorney General, Nicholas Katzenbach, came to talk to Chief Justice Warren. Again, the Chief Justice declined. Then, the Chief Justice was asked by President Johnson to come to the Oval Office. President Johnson asked Chief Justice Warren, after he had initially refused the job again, if he would refuse to put on the uniform of his country at a time of national peril. As Chief Justice Warren told us, he said, "No, of course, I would not decline to do so." Earl Warren finally agreed to serve as Chairman of the Commission.

The Chief Justice was a prodigious worker. When the staff in the Senate complained—although very infrequently—about the Senate taskmasters they should have had an opportunity to work for Earl Warren.

I cite only one day. In June, the Chief Justice told Lee Rankin, the general counsel, that he wanted to go to Texas and visit the Texas School Book Depository building to trace the steps allegedly taken by Lee Harvey Oswald to the Texas theater. He also wanted to meet with the attorney general of the State of Texas to take the testimony of Jack Ruby, who was convicted of murder in the first degree and in a Dallas jail. Lee Rankin responded that he could get that done in the course of a week.

The Chief Justice replied that he could not take off that much time. "I have to serve on the court." Lee Rankin said, "Well, we can leave Friday after the court is over and get you back in Monday in time for the session to reconvene." The Chief Justice replied, "I want to do it on Sunday, cram it all into one day." Which he did.

I was one of the staff members assigned to go with Chief Justice Warren to explain to him the single bullet theory. It is now the single bullet conclusion. I think that is a fair categorization, its having withstood investigations too numerous to mention over the intervening 27 years.

At 7 a.m., the Chief having arisen around 5, we took off on a Jet Star and went to Dallas. We visited the Texas School Book Depository Building, retraced the alleged steps of Oswald, met with the attorney general of Texas, took the testimony of Jack Ruby, and then flew back late at night to arrive past midnight.

On the way back, Chief Justice Warren was going through papers, discussing the case, issuing instructions, working hard all the time. He possessed a phenomenal degree of energy and insight although he was in his mid-seventies at that time.

I was given 5 minutes with the Chief Justice at the sixth floor of the Texas School Book Depository Building to go over the evidence of the single bullet theory. I shall not do that now because my colleagues are waiting to speak.

The Chief Justice did not say a word during the presentation. When I finished, the Chief Justice agreed, I am pleased to say, with the single bullet theory.

Just one more vignette from what I saw of Chief Justice Warren on the Commission, and that was his compassion as a human being. Jack Ruby was convicted of murder in the first degree and was under the death sentence in the Dallas jail when his testimony was taken. At one point Jack Ruby's lawyer handed Gerald Ford, then a Commissioner, a note. Ruby insisted on seeing the note.

The note was handed to him, and he tried to read it but could not. The Chief Justice of the United States took off his glasses and handed them to the convicted murderer so Ruby could read the note. This certainly was a unique moment.

On the legal side, of course, the Chief Justice was extraordinary in Brown versus Board, the desegregation case. There was also Reynolds versus Symms, the one man, one vote case.

Others have spoken eloquently about his work as Chief Justice. He tackled questions of enormous importance and enormous controversy. Obviously, not all of us agreed with all of the decisions which he handed down, but they were done with a searching scope of inquiry and a tremendous integrity. His tenure on the Supreme Court, from 1953 to 1969, is a very extraordinary period in judicial history in this country.

I yield the floor.

Mr. HATFIELD. Mr. President, I want to thank the Senator from Pennsylvania for sharing this vignette, and for his comments about the former Chief Justice in whom we took great pride in having as Governor of the neighboring State of California, and who later served as Chief Justice.

I too, have warm memories of my days at the graduate school of the Stanford University and accompanying Gov. Earl Warren to a California gubernatorial conference on the problems facing the youth culture of that day, and getting acquainted with him, even in that very casual relationship at that conference, and later becoming friends with him, not only with the Chief Justice but with his wife, who is still living, and with a number of his daughters.

I appreciate very much the very rich experience the Senator had with the Chief Justice in serving on this Commission.

Mr. SPECTER. If the Senator will yield for a reply. I thank my colleague from Oregon for those very nice comments. I think it not inappropriate to say under these circumstances that several years ago I said he should be on the Supreme Court of the United States.

The Supreme Court consists of nine lawyers. It is not generally known, however, that there is no requirement that the Justices of the Supreme Court of the United States be a member of the bar or a lawyer. If you want to be a judge of most courts, I think perhaps all courts, certainly the common pleas courts of Pennsylvania, or the Supreme Court of Pennsylvania, or even U.S. district court, and courts of appeals, you must be a member of the bar. But that does not attach to the Supreme Court of the United States.

Notwithstanding the fact that I am a lawyer, I think jurisprudence would be well served if some on the Supreme Court of the United States were not lawyers. Perhaps someone who had a background as a distinguished professor, or perhaps who had been a Governor, or someone who had been a distinguished U.S. Senator like Senator HATFIELD.

COLUMBIA RIVER BASIN SALMON

Mr. HATFIELD. Mr. President, the Pacific Northwest continues to be the focal point for national environmental controversies. While people who live in the Northwest appreciate the benefits of our abundant natural resources, these resources can be both a blessing and a curse. Those of us from the Northwest who have served in the Congress over the last decade remember those years in terms of which natural resource debates were happening when. For example, 1982, 1983, and 1984 were the Oregon Wilderness Act years; 1985 and 1986 were the Columbia River Gorge National Scenic Area Act years; and 1987 and 1988 were the years of the Omnibus Oregon Wild and Scenic Rivers Act debate. Since then, we have been embroiled in the midst of the longest and most publicized environmental era of all—an era which has captured the attention of the entire Nation for nearly 3 years. Of course I am talking about the northern spotted owl/old growth forest debate.

While all these issues have received a significant amount of my personal attention and time over the years—much of it is heated and often acrimonious discussion with various interest groups—these years also have been a time of learning. I have learned the facts of the issues. I have learned the different viewpoints of the constituent groups. I have learned the operations and procedures of the Federal agencies involved. And most importantly, I have learned that these environmental controversies can be solved reasonably and equitably only when the opposing interest groups come to the table in a civilized manner, in good faith, acknowledging the legitimacy of all the different views being proposed.

The filing of endangered species petitions on five runs of Columbia and Snake River salmon last spring signaled the beginning of yet another era in the Pacific Northwest's string of natural resource controversies. Having learned our lessons from the past, however, I hoped that the region could avoid making the same mistakes we have made during the spotted owl debacle. Accordingly, I asked the governors of the four involved States—Oregon, Washington, Idaho, and Montana—to work with me to establish a process which would allow all affected parties in the Pacific Northwest to develop a management plan for the salmon runs in the Columbia River Basin.

This process was not intended to supersede the petitioning process established under the Endangered Species Act. Instead, it was envisioned as a parallel process which, if successful, would provide the Secretary of Commerce with solid, scientifically supportable data to be used in the development of a recovery plan should any of the salmon species be listed as threatened or endangered.

The result of this desire to let people in the Pacific Northwest have a say in deciding their own future led us to convene a salmon summit. The summit began its deliberations last October and just concluded its work on March 4. While the written report outlining the measures agreed to by the summit participants has not been completed and forwarded to me, I know that there are areas of general agreement, and am eager to receive the official document.

While opinions to saving the Columbia Basin's salmon runs vary, nearly everyone agrees on one point: That dams on the river system are almost single-handedly responsible for the decline in the salmon runs.

Mr. President, the Army Corps of Engineers plays a major role in managing the Columbia River system. In addition to its involvement in navigation and flood control efforts, the corps operates several of the hydroelectric dams that make up the Columbia River Federal Power System. In other words, the fate of the Columbia and Snake River salmon is, to an unusually large extent, in the hands of the Army Corps of Engineers.

As the former chairman and current ranking member of the Energy and Water Development Appropriations Subcommittee, I have had the pleasure of working with the corps for many years.

I can attest to the fact that the corps is, to an extent greater than many other Federal agencies, a can-do operation. The corps is action-oriented, and often solves difficult and complex problems quickly and effectively. For example, the corps' quick action a decade ago in dealing with the eruption of Mount Saint Helens literally saved a major portion of the economy of my State by ensuring that the navigational channel in the Columbia River was dredged of volcanic ash and other debris. The corps' work during that crisis was nothing short of heroic.

Unfortunately, however, there is a flip side to the Corps of Engineers—a darker side that did not show its full colors until recent years when former Senator Jim McClure and I began insisting upon appropriations for fish bypass facilities for the federal Columbia and Snake River dams. While I am pleased that the corps' fiscal year 1992 budget does request $32 million for fish bypass facilities, it has taken several years of persistent arguments from Senator McClure, me, and other members from the Northwest delegation to get the message across to the corps that fish bypass facilities are critically important.

Moreover, when our Salmon summit convened last October, the corps was initially reluctant to acknowledge that it had any administrative flexibility to begin immediately addressing the problem of declining salmon runs. Although I hoped that the corps' position would modify during the course of the summit, recent events prove me wrong.

Last Friday in Portland, the corps announced its decision regarding a Snake River Reservoir drawdown test that was proposed during our summit. The corps' decision not to proceed with the test is very disturbing to me, and makes me wonder if the corps will ever get the message that the decline in the salmon in the region is a very serious matter—a matter which, if current attitudes prevail, eventually may take considerable authority and control away from that agency.

Mr. President, over the last 5 months, thousands of hours have been expended in this summit process by private citizens, environmental groups, electric utilities, Indian tribes, navigational interests, the four Governors, the Federal agencies, and others as we've tried to develop an acceptable salmon management plan. The vast majority of these individuals and organizations have participated in the process in good faith. These people have learned from past events that stubbornness, ignorance, bad faith bargaining, and just plain passing the buck do not lead to real and effective solutions to complex problems.

Imagine how these people feel when the key Federal agency—the Corps of Engineers—continues to hide behind a bureaucratic curtain and pretend that it has no responsibility to change the very operations which are killing these fish? They feel outraged and so do I.

Summit participants asked the corps to help design and implement a test drawdown of the Lower Granite Reservoir on the Snake River between March 26 and April 6 of this year. The purpose of this proposed drawdown was to compile data on how the mechanics of such an action would work, how the resulting increased river flows would change the operation of the river system, and how these flows would help migrating juvenile salmon. Furthermore, the dates suggested for this test were selected to coincide with existing corps plans to conduct maintenance activities on the Lower Granite lock. In short, the proposal was both useful and well timed. But, instead of proceeding with this experiment—an experiment which would have exhibited the corps' desire to bargain in good faith at a minimum—the agency dug in its heels and proved to people in the region that it is not a progressive, 1990's problem-solving agency.

Sadly, Mr. President, I must conclude from his episode that this can-do agency is becoming the don't know agency.

The Pacific Northwest has a long way to go before the salmon issue is resolved. Our salmon summit was established in the hope that we could find a new and better way of resolving contentious environmental issues. If the involved federal agencies cannot be induced to participate actively and creatively in the process, however, how can we expect others will come to the bargaining table in that spirit?

It is my sincere hope that decision and policy makers in the Corps of Engineers and the other Federal agencies will wake up and realize that the time is running out. they can either seize the initiative and help shape the future of the Pacific Northwest, or have the future imposed upon them. It really is up to them.

MRS. WINT SMITH—1893-1991: REMEMBERING A VERY SPECIAL LADY FROM JEWELL COUNTY

Mr. DOLE. Mr. President, earlier this week one of the great ladies of Kansas passed away in Jewell County, and I would like to take this moment to express my deepest sympathies to her family and friends.

On March 17, Blanche Glennis Kingsley Smith died in her beloved town of Mankato after 97 years of vigor, dedication and love.

I had the honor of knowing her, and the privilege of visiting her in the hospital several weeks ago. To the end, she was a fighter, an inspirational spirit that says much about the rugged men and women that make our State so special.

Her husband was a political legend in western Kansas, Wint Smith, the Congressman for the Big Sixth District for many years. He was my Congressman. He was also my friend.

When I campaigned for his seat after Wint retired in 1960, Mrs. Smith was one of my most loyal campaigners. It was the kind of support I came to rely on through many, many more campaign seasons.

She was tireless, not only in her politics, but in every phase of her life: whether it was hunting, fishing, helping the disabled, training pilots in World War II, or dedicating herself to her community, Mrs. Smith was a vibrant personality, always giving something back, always caring for her neighbors.

She will be missed. I know Kansas join me in expressing our pride in calling Blanche Smith one of our own—we will never forget her.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,196th day that Terry Anderson has been held captive in Lebanon.

HONORING IMPACT SEVEN

Mr. KASTEN. Mr. President, I rise today to inform my colleagues about a real community-service success story.

For 21 years, Impact Seven, Inc., of Turtle Lake, WI, has been developing housing for low-income and special needs populations. One of their projects—the West Central Wisconsin Housing Renewal project—has been honored with an Award of Excellence by the Fannie Mae Foundation.

Impact Seven did a great job in finding housing sites that were both easily accessible and sheltered from harsh weather conditions. All Wisconsinites ought to be proud of their accomplishment.

NATIONAL AGRICULTURE DAY, 1991

Mr. DOLE. Mr. President, I join my colleagues today in a heartfelt salute to this Nation's farmers and ranchers. Today is National Agriculture Day, a day set aside by the Congress and the President to pause, to reflect, and to pay tribute to the hard-working men and women who comprise the largest and most remarkable industry in the country. As we welcome the first day of spring, we also welcome that time of the year when farmers return to their fields to perform their miraculous tasks, reaping Nature's bounty for every man, woman, and child.

We celebrate today in order to increase public awareness and to express our gratitude for the achievements and the contributions that American agriculture has given to all of us. We also celebrate the fact that, as citizens of the United States of America, we are all beneficiaries of the most abundant, the safest, and the most diversified food supply ever—a food supply that is merely a utopian dream in most countries of the world. And the American consumer can take that food home at a cost—as a percent of disposable income—that is lower than in any other developed nation.

But this tribute would be incomplete if we just stopped with those facts. Agriculture is the dominant positive factor in the U.S. balance of trade, annually closing the trade deficit margin established by other sectors of the economy. Numerous industries and services are encompassed by the agricultural industry, as farmer dollars maintain and enhance the prosperity of businesses that provide energy and other inputs, as well as the enormous marketing, transportation, and food handling concerns which put the food on our plates. One would naturally assume that such a complex and dynamic machine plays a dominant role in providing jobs for American workers—in fact, more than 1 in 5 persons employed work as a part of this many-faceted industry.

Farmers and ranchers are also on the front line of efforts to conserve and enhance our natural resources. They are the pioneer environmentalists of the world, the ones who were committed to the task long before being "green" entered the public mainstream. And they will remain in the forefront long after the hysteria wears off. It is a day-to-day practice in farm country to reduce erosion, to protect the groundwater, and to conserve our other finite natural resources—their livelihoods and the safety of their families depend on it.

In return for what our farmers have given us and our country, we must in turn recognize their needs and priorities. In recent years, we have embarked upon a market-oriented course for agricultural policy. Allowing the market to direct managerial decisions is much preferable to bureaucratic control, but to make it work we must commit ourselves to provide access to the markets which will carry American agriculture into the 21st century. It is equally important that we caution against saddling the producer with undue regulations and program-policing mechanisms that deny individual decisionmaking and hinder diversification. In short, knowing what agriculture doesn't need can be as important as knowing what it does need. Farmers seem to have longer memories than most Congressmen, so it is important to listen and to be reminded of how our actions in Washington affect the people and the communities at the grassroots level.

Again, I would like to extend a personal note of gratitude to the American agriculture community. To the men and women in the fields, to the rural communities and the businesses which they support, we all owe you our thanks.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

THE EXECUTIVE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations Calendar Nos. 21, 22, 23, 33, 40, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, and all nominations reported today as follows: Patricia F. Saiki, to be Administrator of the Small Business Administration; Renato Beghe, to be a judge of the U.S. Tax Court; Robin J. Cauthron, to be U.S. district judge; Richard W. Goldberg, to be a judge of the U.S. Court of International Trade; and Oliver W. Wanger, to be U.S. district judge; and all nominations placed on the Secretary's desk in the Foreign Service; I further ask unanimous consent that the nominees be confirmed en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

Mr. DOLE. The nominations include Patricia F. Saiki, Renato Beghe, Robin

J. Cauthron, Richard W. Goldberg, and Oliver W. Wanger.

Mr. FORD. The Senator is correct.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

DEPARTMENT OF STATE

Jon David Glassman, of the District of Columbia, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Paraguay.

EXECUTIVE OFFICE OF THE PRESIDENT

William A. Geoghegan, of Maryland, to be a member of the Advisory Board for Cuba Broadcasting for a term expiring October 27, 1992.

BOARD FOR INTERNATIONAL BROADCASTING

Kenneth Y. Tomlinson, of New York, to be a member of the Board for International Broadcasting for a term expiring April 28, 1993.

EXECUTIVE OFFICE OF THE PRESIDENT

Donald A. Henderson, of Maryland to be an Associate Director of the Office of Science and Technology Policy.

DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION

The following named persons to be members of the Defense Base Closure and Realignment Commission for terms expiring at the end of the first session of the 102d Congress.

James C. Smith II, of South Carolina.

Howard H. Callaway, of Colorado.

James A. Courter, of New Jersey.

James A. Courter, of New Jersey, to be Chairman of the Defense Base Closure and Realignment Commission.

DEPARTMENT OF STATE

Charles R. Baquet III, of Maryland, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Djibouti.

Katherine Shirley, of Illinois, a career member of the Senior Foreign Service, class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Senegal.

Michael T. F. Piston, of Arizona, a career member of the Senior Foreign Service, class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Malawi.

Jennifer C. Ward, of the District of Columbia, a career member of the Senior Foreign Service, class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Niger.

AFRICAN DEVELOPMENT FOUNDATION

Edward Johnson, of Michigan, to be a member of the Board of Directors of the African Development Foundation for a term expiring September 22, 1995, vice William F. Pickard, term expired.

U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY

Lewis W. Douglas, Jr., of California, to be a Member of the U.S. Advisory Commission on Public Diplomacy for a term expiring July 1, 1993, vice Hershey Gold, term expired.

NATIONAL COUNCIL ON DISABILITY

George H. Oberle, Jr., of Oklahoma, to be a member of the National Council on Disability for a term expiring September 17, 1992. (Reappointment.)

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Mikiso Hane, of Illinois, to be a member of the National Council on the Humanities for a term expiring January 26, 1996, vice Leon Richard Kass, term expired.

Donald Hall, of New Hampshire, to be a member of the National Council on the Arts for a term expiring September 3, 1996, vice Jacob Neusner, term expired.

Catherine Yi-yu Cho Woo, of California, to be a member of the National Council on the Arts for the remainder of the term expiring September 3, 1994, vice Marvin Hamlisch.

Marta Istomin, of the District of Columbia, to be a member of the National Council on the Arts for a term expiring September 3, 1996, vice Carlos Moseley, term expired.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Bernadine P. Healy, of Ohio, to be Director of the National Institutes of Health, vice James B. Wyngaarden, resigned.

DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION

Duane H. Cassidy, of Virginia, to be a Member of the Defense Base Closure and Realignment Commission for a term expiring at the end of the first session of the 102nd Congress. (New position.)

William L. Ball III, of Georgia, to be a member of the Defense Base Closure and Realignment Commission for a term expiring at the end of the first session of the 102nd Congress. (New position.)

IN THE AIR FORCE

The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Anthony J. Burshnick, 193-26-5025, U.S. Air Force.

NOMINATIONS REPORTED TODAY

Patricia F. Saiki, to be administrator of the Small Business Administration;

Renato Beghe, to be a judge of the U.S. Tax Court;

Robin J. Cauthron, to be U.S. district judge;

Richard W. Goldberg, to be a judge of the U.S. Court of International Trade; and

Oliver W. Wanger, to be U.S. district judge.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE FOREIGN SERVICE

Foreign Service nominations beginning Henry H. Bassford, and ending Paul B. Thorn, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 4, 1991.

Foreign Service nominations beginning William A. Rugh, and ending John Treacy, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 4, 1991.

Foreign Service nominations beginning Chas. W. Freeman, Jr., and ending Anthony J. Walters, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 4, 1991.

Foreign Service nominations beginning William Charles Montoney, and ending Dale Tasharski, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 4, 1991.

Foreign Service nominations beginning James V. Parker, and ending Richard T. Mcdonnell, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 23, 1991.

STATEMENTS ON THE NOMINATION OF PATRICIA F. SAIKI

Mr. BUMPERS. Mr. President, I am pleased to support the nomination of Mrs. Patricia F. Saiki of Hawaii to be Administrator of the Small Business Administration. This nomination may set a record or near record for Senate consideration. She was nominated by the President on March 12, 1991. The Small Business Committee held a hearing on March 20, 1991, and immediately voted to approve her confirmation.

We have high hopes for Mrs. Saiki's tenure at SBA. During her hearing, I made the point to her that the agency has suffered from the revolving door syndrome over the last decade—six administrators from 1980 to 1990. While I am impressed with Mrs. Saiki's background both in business and especially in public service, it is only fair to point out that she is the third consecutive failed Senate candidate to be appointed by two successive Republican Presidents. The appearance is unfortunately developing that Republicans who lose Senate races can count on SBA as a consolation prize.

Mr. President, I am impressed with Pat Saiki's positive attitude and her personal charm. She served 14 years in the Hawaii Legislature before being elected to serve 4 years in the U.S. House of Representatives—from a very heavily Democratic district in Honolulu, I might add. Moreover, she raised five children during this time, three of whom hold doctoral degrees. Additionally, she served on the boards of directors of Hawaiian Airlines and AMFAC, Inc., which is one of Hawaii's oldest and largest corporations. Frankly, there was an outpouring of support for her by Republicans and Democrats alike.

SBA needs sustained and experienced leadership with vigor and common sense. I wrote to President Bush several weeks ago and asked that he make every effort to find someone with an impeccable record of accomplishment in business to manage SBA. For much too long, both Democratic and Republican Presidents have filled the agency's important posts with political appointees who have little or no experience in business or government. If this trend is not reversed soon, the aim of those who wanted to abolish SBA a few years ago will be accomplished as surely as President Reagan had hoped.

I want to point out, Mr. President, that two important posts at SBA remain vacant. The job of Chief Counsel for Advocacy has been open for almost 2 years and small business groups are beginning to wonder if it will ever be filled. Also, the Deputy Administrator's post was made subject to Senate approval last year, and it is also now vacant. At the risk of stating the obvious, the counsel's job should be filled by a lawyer, and the No. 2 person in the Small Business Administration should be a business person. I simply cannot imagine that the White House can't find qualified people who meet these two very basic tests.

The Deputy Administrator's post should also be filled only in close consultation with the new Administrator. And, as I told Mrs. Saiki at her hearing yesterday, if she is not consulted about this appointment and if the nominee does not have an impressive record in business, the prospects for that nomination will not be very good.

All of the members of the Senate Small Business Committee and I join in wishing her a successful tenure as administrator. I hope she will be an active and aggressive manager for the agency. SBA has many diverse and complex programs which, at times, are difficult to administer. The agency has gone from about 6,000 employees 10 years ago to about 4,000 today, with its responsibilities even larger now than they were then. The economy is in a recession, at least, and some parts of the country are quite depressed and getting worse. SBA can and should play an essential role in economic recovery. Mrs. Saiki has some large challenges facing her.

I urge my colleagues to support Pat Saiki's nomination.

Mr. DOLE. Mr. President, it is no secret that Pat and I are old friends, and I am delighted that President Bush has nominated her to be Administrator of the Small Business Administration.

You mention Pat Saiki's name—whether inside the beltway or in her home town of Honolulu, HI, or for that matter anywhere in between—and all kinds of words jump to mind like dedicated, hardworking, experienced, smart, insightful, and innovative.

And I think probably everyone in this Chamber will agree that the former Congresswoman's background makes her particularly well-suited to head up the SBA.

Having been a junior and high school teacher for 12 years and through her membership on a number of prominent committees and commissions focusing on educational issues, Pat has gained a profound appreciation for the importance of education in preparing our youth for the workplace.

Certainly, a business is only as good and only as strong as the people it employs. Pat knows the in's and out's of this Nation's educational system and how its strengths and weaknesses affect the business community. With small business creating roughly two out of three new jobs and producing 40 percent of the gross national product, I believe that this insight and experience will serve her well in fulfilling her responsibilities at the SBA.

In addition, Pat's 14 years as a member of the Hawaii State Legislature and 4 years as a Member of the House of Representatives, where she served with distinction, have helped prepare her for the important job that lies ahead. While in Congress, Pat was a member of the Banking, Finance and Urban Affairs Committee handling a wide range of issues that concern small businesses, such as trade, financial institutions, and economic stability.

Indeed, during those years of public service Pat was an ardent supporter of partnerships between government and business. In addition, her voting record at the State and Federal levels shows a strong understanding of—and commitment to—those issues that really matter to small businesses.

Finally, Mr. President, Pat Saiki's 14 year membership on the board of directors of Amfac, Inc., and 13 years on the board of directors of Hawaiian Airlines have rounded out her public service experience with a private sector understanding of the problems that business faces and the role that government can and should play in helping to solve those problems.

With the challenges that lie ahead for the Small Business Administration—and we know there are many with an economy in a recession, a credit crunch gripping our financial industry, bankruptcy filings hitting new recrods, and the many other issues and events which have made the last year a difficult one for small business men and women, we can rest assured that the helm is being put in the hands of a very skilled and very effective Administrator.

I hope all of my colleagues will join me in supporting this nomination, and I look forward to working with Pat Saiki in the near future on promoting a bright and prosperous future for this Nation's small businesses, which are the backbone of its economy.

Mr. KASTEN. Mr. President, I rise today on behalf of myself and all the members of the Small Business Committee in expressing our strong support for President Bush's nominee to Administrator of the SBA, Congresswoman Pat Saiki.

Pat Saiki brings a wealth of experience, energy, intelligence, and integrity to the SBA.

During her career in Congress, Pat Saiki demonstrated a strong, pro-small-business voting record. She has been awarded the U.S. Chamber of Commerce's Spirit of Enterprise, the NFIB's Guardian of Small Business, and the Watchdog of the Treasury Awards.

And as a former member of the House Banking Committee, Pat is very knowledgeable about a wide range of economic and business-related issues.

Mr. President, I would like to enter into the RECORD letters of support for Mrs. Saiki's nomination from several business groups, including the NFIB, the National Association of Wholesale Distributors, the U.S. Chamber of Commerce, the Association of Women Business Owners, and the National Women's Economic Alliance Foundation.

I would also like to bring to the attention of the Senate an extraordinary endorsement for Pat Saiki from both the Hawaii House of Representatives and the Hawaii State Senate, which unanimously approved resolutions commending President Bush for nominating her to the SBA's top post—and strongly urging the U.S. Senate to expenditiously confirm her nomination.

I ask unanimous consent to print these letters and resolutions in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL FEDERATION OF
INDEPENDENT BUSINESS,
Washington, DC, March 19, 1991.

Hon. ROBERT KASTEN, Jr.,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR KASTEN: On behalf of the over 500,000 members of the National Federation of Independent Business (NFIB), I urge you to support the confirmation of Patricia Saiki as the next Administrator of the Small Business Administration.

NFIB, America's largest small business advocacy organization, has had a close working relationship with Pat Saiki, both during her tenure in the Hawaii State Senate and during her years in the U.S. Congress. During her legislative career, she has proven herself a worthy advocate for the Main Street business owner.

Even though Mrs. Saiki does not have personal experience as a business owner, she nevertheless has worked so closely with Hawaiian business owners that she truly understands the real problems they face on a daily basis. Moreover, she has been able to apply that knowledge directly to legislative proposals while serving in the House of Representatives. Her interest in financial markets, employee benefits, health care and tax issues is thorough and results-oriented.

Pat Saiki will be an excellent Administrator at the SBA. She is goal-directed, pragmatic and capable of managing individuals to perform above their own expectations. The NFIB strongly supports her immediate confirmation.

Sincerely,

JOHN J. MOTLEY III,
Vice President,
Federal Governmental Relations.

NATIONAL ASSOCIATION OF
WHOLESALER-DISTRIBUTORS,
Washington, DC, March 18, 1991.

Hon. ROBERT W. KASTEN, Jr.,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR BOB: While we already know that you concur with our views, we write to let you know formally of our strong endorsement of Pat Saiki to be the next Administrator of the Small Business Administration.

Pat has been a close friend for many years and words cannot adequately express the high esteem in which NAW holds her. She will bring intelligence, energy, skill and savvy to the Administrator's position and will bring credit to the President for making such an exemplary nomination. We hope that the Committee will be able to approve her expeditiously, so that the small business community will once again have a strong advocate in the policy-making levels of the Administration.

Cordially,

DIRK VAN DONGEN,
President.
ALAN M. KRANOWITZ,
Senior Vice President-Government Relations.

NATIONAL WOMEN'S ECONOMIC ALLIANCE FOUNDATION,
Washington, DC, March 18, 1991.

Hon. DALE BUMPERS,
U.S. Senate, Washington, DC.

DEAR SENATOR BUMPERS: On behalf of the National Women's Economic Alliance Foundation, a nonprofit, nonpartisan organization comprising men and women leaders from business and industry, I would like to add our support for the nomination of Pat Saiki as head of the Small Business Administration.

As we have come to appreciate, small business success is critical to the economic wellbeing of this country and our ability to thrive in the global marketplace.

Pat Saiki will bring to the position outstanding leadership skills and an ability to communicate to key publics that the nation's small businesses are critical to U.S. competitiveness in the global marketplace. It is with very good reason she has been called a "pro-business problem solver." Probusiness means pro-entrepreneurs and now, more than ever, the country's entrepreneurs represent one of America's most valuable resources.

Innovative and pragmatic, she will be a positive force for small business and the free enterprise system.

On behalf of the Alliance, I thank you for the opportunity to express our support of Pat Saiki.

Sincerely,

PATRICIA HARRISON,
President.
BERYL DIGNEY,
Chairman.

NATIONAL ASSOCIATION OF WOMEN BUSINESS OWNERS,
Chicago, IL, March 18, 1991.

Hon. DALE L. BUMPERS,
Chairman, Senate Small Business Committee, Russell Senate Building, Washington, DC.

Hon. BOB KASTEN,
Senate Small Business Committee, Russell Senate Building, Washington, DC.

DEAR CHAIRMAN BUMPERS AND SENATOR KASTEN: We have just learned that the Honorable Patricia Saiki will be appearing before your Committee on Wednesday, March 20, 1991, concerning her appointment to become the Administrator of the United States Small Business Administration. We applaud President Bush's nomination of Mrs. Saiki and encourage your Committee to act expeditiously on her confirmation.

As we see every day, the small business community faces numerous hurdles in our daily struggle for survival. Mrs. Saiki hails from a state where small business is the primary employer, and where she has worked side-by-side with small business owners to address the problems they face. As a Member of the U.S. Congress, the Hawaii state legislature, and as a respected teacher, she has proven herself to be a pragmatic problem solver. The Small Business Administration (SBA) is a unique agency that plays a vital role in the success of our nation's small businesses. Mrs. Saiki will bring leadership and a bright, energetic mind to her role as SBA's Administrator.

We would like to publicly endorse the selection and confirmation of Pat Saiki as the Administrator of the Small Business Administration. We appreciate the opportunity to register our perspective.

Sincerely,

TERRY NEESE,
President.
CAREY STACY,
Immediate Past President.
JANET HARRIS-LANGE,
President-Elect.

CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA,
Washington, DC, March 19, 1991.

Hon. DALE BUMPERS,
Chairman, Senate Committee on Small Business, Russell Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: It is my understanding that the Senate Small Business Committee will shortly consider the nomination of former Congresswoman Pat Saiki to be Administrator of the Small Business Administration. Representative Saiki has had a cumulative voting record of 69 percent on issues of interest to the U.S. Chamber of Commerce, based on House floor votes. As a business organization, our confidence in Ms. Saiki was expressed by our endorsement of her candidacy in her 1990 Senate race.

We recognize that a complete evaluation of the positions of lawmakers should be made by examining their votes in the committees and subcommittees on which they serve as well as their votes on the floor. We have always found Congresswoman Saiki to be extremely courteous and receptive in considering business viewpoints as they have been brought to her attention. I have no doubt that as Administrator of the SBA Pat Saiki would continue to be open and willing to listen to the concerns that are brought to her.

I am pleased that the Committee is acting so quickly on this nomination.

Sincerely,

RICHARD L. LESHER,
President.

AFRICAN-AMERICAN CHAMBER OF COMMERCE OF HAWAII,
March 19, 1991.

Re confirmation of Pat Saiki for Director of SBA.

Senator ROBERT W. KASTEN, Jr.,
U.S. Senate, Hart Senate Building, Washington, DC.

DEAR SENATOR KASTEN: Our Senator from Hawaii, Senator Daniel K. Inouye, will be introducing Pat Saiki for Senate Confirmation as the Director of the Small Business Administration. We wish to inform you of our support for her Confirmation.

As you know, Pat Saiki comes from the State that has more small business per capita than any other state. Ms. Saiki has always been very supportive of small businesses, of minority businesses and of women-owned businesses as well. Hawaii is composed of 70% ethnic minorities. It should also be noted that Hawaii has more women-owned businesses per capita than any other state. Ms Saiki understands, and has had to deal with, minority issues and prespectives perhaps all of her life. As a woman and a member of a minority herself, she knows the concerns of minority businesses.

In my capacity as a Consultant with the Honolulu Minority Business Development Center and in my capacity as President of the African-American Chamber of Commerce of Hawaii and in my capacity as President of the Hawaii Chapter of the National Contract Management Association, I come in contact with many of Hawaii's small businesses and advocates thereof. I have learned what "sensitivity to small businesses" means. I confirm that Ms. Pat Saiki has this sensitivity and an approach to business that is straightforward and supportive.

Small businesses need a leader like Ms. Saiki. The African-American community, the National Contract Management community, and many other minority businesses and small businesses in Hawaii support and endorse Pat Saiki as the new Director of the Small Business Administration. Please convey our enthusiastic support for Pat Saiki's confirmation to your fellow Senators.

Sincerely,

JEROME JOHNSON,
President.

U.S. SENATE,
Washington, DC, March 13, 1991.

Hon. ROBERT KASTEN, Jr.,
Ranking Member, Committee on Small Business, U.S. Senate, Washington, DC.

DEAR BOB: I was pleased to learn that the President has forwarded to you the nomination of Mrs. Patricia Saiki for the post of Administrator of the Small Business Administration. I will have the honor of introducing Mrs. Saiki at her confirmation hearing before your Committee.

For obvious reasons, I wholeheartedly supported the candidacy of then Congressman Danny Akaka when he and Mrs. Saiki vied for Spark Matsunaga's Senate seat. They are both very capable and effective representatives of the State of Hawaii.

Although Mrs. Saiki is a member of the Republican Party, and incidentally an exceptionally good one, I have known her for many years. Our relationship dates back to 1950 when Mrs. Saiki was a student at the University of Hawaii. Since then, I worked with her during her 24-year tenure in the Hawaii State Legislature. Additionally, during Mrs. Saiki's 4 years in the U.S. House of Representatives, we worked together as members of the Hawaii Congressional Delegation on numerous issues of mutual concern.

I understand that the present Administrator, Susan Engeleiter, will be leaving her post on or about April 1st to pursue other interests in the private sector. Furthermore, I also learned that presently there is no deputy administrator to handle matters and make decisions affecting the Small Business Administration (SBA) during the period between Ms. Engeleiter's departure and Mrs. Saiki's appointment, if the Committee and the Senate see fit to approve her confirmation. I am concerned that there would be a void at SBA if Mrs. Saiki's nomination is permitted to sit during the upcoming March recess. Accordingly, I would respectfully request that the Committee expeditiously consider Mrs. Saiki's confirmation and proceed to Senate approval before the recess.

In all her years of public service, Mrs. Saiki has represented the interests of the people of Hawaii to the best of her ability. We have had our disagreements over the years. However, I believe that we share a mutual respect for one another, and have never waivered in our unified belief that the best interests of Hawaii should be foremost in our representation. I am not aware of any allegation or conflict of interest which would disqualify Mrs. Saiki for this post. Her reputation in the State is an exemplary one. I am confident that she will withstand the close scrutiny mandated by the Federal Bureau of Investigation, as well as the financial disclosure requirements.

I would appreciate any assistance you could provide to expedite Mrs. Saiki's confirmation to ensure that an able Administrator is at the helm of the SBA at the time of Administrator Engeleiter's departure, or as soon thereafter as possible. I look forward to appearing before you in the near future to introduce to the Committee Mrs. Patricia Saiki for the post of SBA Administrator.

Aloha,

DANIEL K. INOUYE,
U.S. Senator.

THE SMALL BUSINESS COUNCIL OF THE CHAMBER OF COMMERCE OF HAWAII,
Honolulu, HI, March 14, 1991.

Senator ROBERT W. KASTEN, Jr.,
Hart Office Building, SH 110, Washington, DC.

SIR: To say that I was overjoyed at the news of Pat Saiki's appointment as Administrator of the Small Business Administration would be an understatement. Seldom, if ever, have I had the opportunity to so wholeheartedly endorse someone for a position. The choice of Mrs. Saiki is ideal. During her years as a local legislator, she proved repeatedly her willingness to give her utmost in energy to further the causes of small business.

Honolulu is essentially a small business community, and Mrs. Saiki's long experience and familiarity with the complexities and hardships faced by small business owners has provided her with a valuable background.

Every new business owner is a pioneer in a special way, taking tremendous risks and accepting enormous responsibilities. There is no question but that under Mrs. Saiki's guidance, the Small Business Administration will be more able than ever before to forge ahead in its efforts to help small business owners attain their dreams.

Respectfully submitted,

CHARLES F. HOWARD,
Chairman, Small Business Council.

AMERICAN TRUCKING ASSOCIATIONS, INC.,
Alexandria, VA, March 14, 1991.

Hon. ROBERT W. KASTEN, Jr.
U.S. Senate, 110 Senate Hart Office Building, Washington, DC.

DEAR SENATOR KASTEN: I write in support of the President's nomination of the Honorable Patricia F. Saiki as Administrator of the Small Business Administration (SBA).

There are more than 45,000 Class III motor carriers registered with the Interstate Commerce Commission. Class III, as you know, are companies with annual revenue of $1 million or less, and as such, they are small businesses.

Naturally, they have a keen interest in SBA and its leadership. These entrepreneurs, by their nature, look for openness, an equal willingness to work on small as well as big problems and a "can do" attitude.

Clearly, in our four-year association with Representative Saiki; these are traits we have found to be most evident.

In my view, she has the qualities of leadership needed to continue to move SBA forward in a way which takes into full account the concerns and initiatives of interested Members of Congress.

I would urge that the Committee act favorably on this excellent nomination.

Sincerely,

THOMAS J. DONOHUE

HOUSE OF REPRESENTATIVES,
STATE OF HAWAII,
Honolulu, HI, March 13, 1991.

Hon. ROBERT KASTEN,
Ranking Minority Member, Senate Committee on Small Business, 428 A Russell Senate Office Building, Washington, DC.

DEAR SENATOR KASTEN: I transmit herewith a copy of House Resolution No. 130, which was adopted by the House of Representatives of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1991.

Very respectfully,

GERALD I. MIYOSHI,
Clerk, House of Representatives.

H.R. NO. 130

Whereas, on March 13, 1991, the President of the United States, George Bush, nominated Patricia F. Saiki of Honolulu, Hawaii, to be the Administrator of the U.S. Small Business Administration; and

Whereas, this nomination requires the advice and consent of the United States Senate; and

Whereas, Patricia F. Saiki served the people of Hawaii with distinction for fourteen years as a member of the Hawaii State Legislature, and served with equal distinction for four years as a Member of Congress from Hawaii's First Congressional District; and

Whereas, her many years of service on the Board of Directors of both Amfac, Inc. and Hawaiian Airlines and her membership while in Congress on the Banking, Finance, and Urban Affairs Committee dealing with housing, international development, financial institutions, trade, and economic stabilization, makes her eminently qualified; and

Whereas, she has consistently and effectively supported our state's and nation's small business community—the foundation of our country's economic growth and prosperity; and

Whereas, the fundamental purpose of the U.S. Small Business Administration is to counsel, assist, and protect the interests of America's small businesses and, further, to implement national policy encouraging women and minorities, as well as those who may be socially and economically disadvantaged, to succeed in small business; and

Whereas, Patricia F. Saiki will serve effectively as Administrator of the U.S. Small Business Administration, fostering its goals and implementing its policies on behalf of a sound and prosperous national small business community; Now, therefore, be it

Resolved by the House of Representatives of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1991, That President George Bush be commended for the nomination of Patricia F. Saiki as Administrator of the U.S. Small Business Administration; and be it further

Resolved, that the Hawaii State Legislature does hereby strongly recommend the confirmation by the U.S. Senate of the nomination of Patricia F. Saiki to the post of Administrator of the U.S. Small Business Administration; and be it further

Resolved, that certified copies of this Resolution be transmitted to the President of the United States, the President of the United States Senate, the Majority and Minority Leaders of the Senate, and the Chairman and ranking Minority member of the Senate Committee on Small Business.

HONOLULU, HI,
March 13, 1991.

Re S.R. No. 55.

Hon. RICHARD S.H. WONG,
President of the Senate, Sixteenth State Legislature, Regular Session of 1991, State of Hawaii.

SIR: Your Committee on Transportation and Intergovernmental Relations, to which was referred S.R. No. 55 entitled: "supporting the nomination and confirmation of Patricia F. Saiki as Administrator of the United States Small Business Administration, Washington, D.C.," begs leave to report as follows:

The purpose of this resolution is to support the nomination and urge confirmation of Patricia F. Saiki as administrator of the United States Small Business Administration.

Patricia Saiki has been a public servant to Hawaii for nearly twenty-five years, beginning with her election to the 1968 Constitutional Convention, as a legislator for fourteen years, and as an able and effective Congresswoman for four years. During that time she was capable, conscientious, and well-respected by her colleagues. She is eminently qualified to head the United States Small Business Administration by virtue of her many years of experience on the Boards of Directors of Amfac, Inc. and Hawaiian Airlines, as well as her tenure on the House Committee on Banking, Finance and Urban Affairs.

Small business is the backbone on both Hawaii's economy, and that of our nation, and your Committee feels that both will be well-served with Patricia Saiki at the helm of the United States Small Business Administration.

Your Committee on Transportation and Intergovernmental Relations concurs with the intent and purpose of S.R. No. 55, and recommends its adoption.

Respectfully submitted,

Lehua Fernandes Salling, Chair; Steve Cobb, Vice Chair; excused James Aki, Member; Russell Blair, Member; Dennis M. Nakasato, Member; Mamoru Yamasaki, Member; Mary George, Member.

Whereas, on March 12, 1991, the President of the United States, George Bush, nominated Patricia F. Saiki of Honolulu, Hawaii, to be the Administrator of the U.S. Small Business Administration; and

Whereas, this nomination requires the advice and consent of the United States Senate; and

Whereas, Patricia F. Saiki served the people of Hawaii with distinction for fourteen years as a member of the Hawaii State Legislature, and served with equal distinction for four years as a Member of Congress from Hawaii's First Congressional District; and

Whereas, her many years of service on the Board of Directors of both Amfac, Inc. and Hawaiian Airlines and her membership while in Congress on the Banking, Finance, and Urban Affairs Committee dealing with housing, international development, financial institutions, trade, and economic stabilization, makes her eminently qualified; and

Whereas, she has consistently and effectively supported our state's and nation's small business community—the foundation of our country's economic growth and prosperity; and

Whereas, the fundamental purpose of the U.S. Small Business Administration is to counsel, assist, and protect the interests of America's small businesses and, further, to implement national policy encouraging women and minorities, as well as those who may be socially and economically disadvantaged, to succeed in small business; and

Whereas, Patricia F. Saiki will serve effectively as Administrator of the U.S. Small Business Administration, fostering its goals and implementing its policies on behalf of a sound and prosperous national small business community; now, therefore,

Be it resolved by the Senate of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1991, that President George Bush be commended for the nomination of Patricia F. Saiki as Administrator of the U.S. Small Business Administration; and be it further

Resolved that the Hawaii State Legislature does hereby strongly recommend the confirmation by the U.S. Senate of the nomination of Patricia F. Saiki to the post of Administrator of the U.S. Small Business Administration; and be it further

Resolved that certified copies of this Resolution be transmitted to the President of the United States, the President of the United States Senate, the Majority and Minority Leaders of the Senate, the Chairman and ranking Minority member of the Senate Committee on Small Business.

Mr. KASTEN. Mr. President, America's small businesses need a strong advocate—they need a voice in the policymaking levels of the Administration. That's why I believe it's important for the SBA to have an able administrator in place at the time of Mrs. Engeleiter's departure on April 1.

Our committee acted expeditiously and on a unanimous vote favorably reported Mrs. Saiki's nomination to the full Senate.

I commend and thank the distinguished chairman of the Small Business Committee, Senator BUMPERS, for his expeditious consideration of this nomination. In closing, I'd like to congratulate President Bush for this excellent nomination—and I urge the Senate to confirm tonight Patricia Saiki to be the next administrator of the SBA.

Mr. THURMOND. Mr. President, I rise today to support President Bush's nomination of Representative Patricia F. Saiki to be Administrator of the Small Business Administration.

Representative Saiki, a native of Hawaii, has had extensive legislative and Government experience on both the Federal and State levels.

On the Federal level, she represented the First Congressional District of Hawaii in the House of Representatives from 1986 to 1990. While in the House, she served as a member of the Committee on Banking, Finance and Urban Affairs, the Committee on Merchant Marine and Fisheries, and the Select Committee on Aging.

On the State level, she served as chairman of the Republican Party of Hawaii from 1983 to 1985 and in the Hawaii legislature as a State senator from 1974 to 1982 and as a State representative from 1968 to 1974. Prior to her political activities, she taught junior and senior high school for 12 years in Hawaii.

Representative Saiki has also been involved in business. She served for 14 years as a member of the board of directors of AMFAC, Inc. and for 13 years as a member of the board of Hawaiian Airlines. In both cases, she was the first woman to serve as a Director.

Representative Saiki graduated from the University of Hawaii in 1952. She is married and has five children.

Mr. President, if confirmed as Administrator, Representative Saiki will be charged with protecting the interests of small business. I believe she will bring great credit to the Small Business Administration and fulfill well the great responsibility imposed upon her by this important appointment. Mrs. Saiki is well qualified to meet the challenges that await her at the Small Business Administration, and I am pleased to support her nomination.

Mr. BAUCUS. I rise today in support of the confirmation of Patricia Saiki to become Administrator of the Small Business Administration.

I would like to reiterate, however, a concern I raised with her yesterday during her confirmation hearing in the Small Business Committee.

That concern is a recent proposal by the Small Business Administration to transfer region 8's loan portfolio to the Fresno, CA, Center in Region 10. Region 8 includes Montana, North Dakota, South Dakota, Utah, Wyoming, and Colorado.

I am strongly opposed to this proposal and urge Mrs. Saiki to put an end to consideration of it as soon as she takes over as Administrator.

Under the proposal, 13,500 direct and guaranteed loans will be transferred from region 8 to Fresno with no corresponding job loss!

Now I ask you, how can 13,500 loans be transferred without a single job loss? I don't believe it can be done.

I do know, however, that the proposal estimates that Fresno will have to hire 16 additional people to serve region 8's portfolio.

In Montana alone, our Helena office employs from 5 to 7 people to service approximately 4,000 such loans. What are these people going to do without the loans to service?

I am concerned that they will lose their jobs.

Aside from the job loss, the logic of this proposal escapes me.

As of January 31, 1991, region 8's loan currency rate was 88.2 percent. The rate for Helena and Sioux Falls offices, which have 51 percent of the portfolio, is 90.9 percent. By this year's end, region 8's overall currency rate is expected to reach 90 percent.

In other words, the SBA is asking region 8 to give up control of its current loans; and adding 16 people to Fresno's staff, for no significant improvement in portfolio quality.

If the purpose of this proposal is to cut down on costs, the SBA ought to be moving its operations out of high cost areas like California, and into low cost areas like Montana.

There is no reason why Montana can't service all the loans from region 8 and 10 and any other region you decide to throw in.

Clearly, with a currency rate of 90 percent, I would be willing to bet that Montana does a better job of making better loans and keeping them current than any other region in this country.

We would be happy to do it.

Again, this proposal makes no sense—economic or otherwise.

And there is more.

Recently, my staff spoke with an official at the SBA about the effect this proposal to consolidate services in California would have on Montana bankers. She was assured by that official that there would be none.

Well, Mr. President, I received a letter from Hal Fraser, senior vice president of the First Security Bank of Missoula, MT, which tells a different story.

Hal, who is also chairman of Montana's SBA advisory council, currently services over 110 guaranteed loans, totaling over $16 million. He has worked with SBA programs for over 25 years.

According to Hal, the network of relationships which he and other Montana bankers have built up over the years with businesses and the SBA will break down if this proposal goes through.

In his opinion, "the end loser is the small business person for whom the SBA is to be an advocate." He believes that centralizing functions will impersonalize the present service and hurt the overall effort of the SBA.

In closing, I just want to reemphasize that I am strongly opposed to this proposal and urge that Mrs. Saiki put an end to consideration of it as soon as she takes office.

I ask unanimous consent to include a copy of Mr. Hal Fraser's letter in the RECORD immediately following my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

FIRST SECURITY BANK OF MISSOULA,
March 15, 1991.

Re Small Business Administration Loan Servicing.

Senator MAX BAUCUS,
Missoula, MT.

THE HONORABLE SENATOR BAUCUS: This letter is for the purposes of addressing any proposed movement of SBA Loan Servicing from Helena, Montana to Fresno, California. Because I disagree strongly with such a proposal, I feel the need to tell you why!

I have been a banker for 27 years. I am currently the Chief Loan Officer and Administrator for a $25,000,000 Community Bank that serves part of Western Montana. Our bank has been one of the top 5 SBA lenders in the state for the past several years. We currently service over 110 SBA Guaranteed Loans, totalling over $16 million. Also, I am the current Chairman of the Montana SBA Advisory

Council. I have worked with SBA and SBA programs, for over 25 years.

I can guarantee you that the use of SBA lending programs by banks, or the lack of use by banks, is primarily due to the attitude bankers have regarding the SBA and the extra steps involved in servicing SBA credits. The extra steps are condoned if the banker has a relationship with the individuals at the SBA office. The servicing relationships are also built up over many years of communications between individuals at the SBA and individuals in the banks. This network of relationships will breakdown if the servicing is moved out of state. At best, only a part of the good relationships may be rebuilt with individuals in Fresno, CA., but it will take a lot of time and is really unnecessary.

In my opinion the end loser is the small business person for whom the SBA is to be an advocate. Montana is a small populated state that currently has an extremely successful SBA program. Centralizing functions will begin to impersonalize the present service, and hurt the overall effort of the SBA. Hopefully, that is not what we all want.

The bankers and small business people of Montana ask your help in maintaining the ongoing service of SBA by supporting the Helena SBA staff. Please don't let Washington cut their abilities to serve us.

Thanks very much for your usual good help.

Sincerely,

HAROLD J. FRASER,
Senior Vice President.

Mr. MACK. Mr. President, I rise today in support of the nomination of Patricia Saiki of Hawaii as Administrator of the Small Business Administration.

Just yesterday, I had the opportunity to vote with the Senate Small Business Committee that unanimously reported Pat's nomination to the Senate floor.

Throughout the hearing yesterday, Pat's outstanding credentials as Administrator were discussed. Not only her previous experience, but her dedication to every position she has held throughout her lifetime makes her a fine candidate. From the Senate senate in Hawaii to the House of Representatives, she has served with distinction, and I know she will be a respected Administrator at SBA.

I am concerned about the problems facing the greatest jobs-producing machines in the United States today—small businesses. The disincentives for the start-up of small businesses, the lack of a tax policy that encourages growth among small businesses, and the excessive amount of paperwork that inhibits businesses today are issues which we must address at the Small Business Committee. I look forward to working with Pat to solve these problems and stimulate our most promising sector for future economic growth—small businesses.

I encourage my colleagues to follow the lead of the Small Business Committee and unanimously approve of President Bush's nominee as Administrator of the SBA.

STATEMENT ON THE NOMINATION OF BERNADINE P. HEALY

Mr. KENNEDY. Mr. President, it is my pleasure to recommend to the Senate the confirmation of Dr. Bernadine Healy to be Director of the National Institutes of Health.

Dr. Healy has a distinguished record of service to the scientific community and to the Government as a teacher, researcher, physician, and administrator. She has demonstrated excellence in the public, private, and voluntary sectors. She has held positions of high visibility and major responsibility in the Federal policy arena, and she is well qualified to fill the job of NIH Director. She is an excellent choice to lead the Agency during a time when many serious problems demand attention.

This is an important point in history for the National Institutes of Health and for the Nation's biomedical research enterprise. NIH is the most significant medical research institution in the world. Its record is one of unprecedented achievement in science for the United States. Anyone who questions whether Government can work should spend a day at the NIH seeing how Government works at its best.

Because of its outstanding record of support for biomedical research, the United States is the world leader in basic and clinical research in the life sciences. Even in the face of mounting budget deficits and other social needs, Congress and the administration have strongly supported the continued growth of these research capabilities.

But such success should not lull us into complacency. At the present time, a sense of crisis is felt by many of our Nation's leading scientists, and that crisis is breeding poor morale throughout the scientific community.

After 30 years of expanded training opportunities in biomedical science and medicine, remarkable scientific talent has been developed. The question now is, how best to retain and utilize that talent.

In recent years, the proportion of grants funded has fallen to the lowest level ever—23 percent. Such low rates of funding mean that too many established scientists will not get the chance to pursue their important research, and too many talented younger scientists will be driven from the profession. We have invested wisely in developing their abilities and creating an extraordinary national resource for achieving needed new advances in medicine. Yet, that scientific talent cannot simply be turned on and off at will. We cannot afford to allow our extraordinarily farsighted long-term investment in science to be wasted by shortsighted budget cuts.

Despite the increased budget for the NIH, the Agency has been unable to stabilize the grant funding process. Last year, the Appropriations Committees called for a long-range financial management plan to provide more stability and predictability, and end the current volatile grant funding environment.

The lack of first class research facilities has also limited the extent to which we can take advantage of the scientific talent we have developed.

Strong leadership is required to guide the NIH and the research community through these difficult budget times. Dr. Healy is the person to exercise that leadership.

She has distinguished herself throughout her career. She was a valedictorian at Hunter College High School, a summa cum laude graduate of Vassar College, and a cum laude graduate from Harvard Medical School. Following her residency training at Johns Hopkins Medical School in internal medicine, cardiology, and pathology, she became the director of the cardiac care unit and associate dean of the Hopkins Medical School.

Dr. Healy has managed large multicenter clinical trials of the type which confirm important medical breakthroughs. She has published hundreds of excellent papers which have reported those results. She has served in an editorial capacity for a number of our Nation's finest medical journals. And she is the recipient of numerous awards and honors.

In her current position as chairman of the Cleveland Clinic Foundation's Research Institute, Dr. Healy has expanded and invigorated the research program, especially basic science research, resulting in a doubling of the number of grants in the last few years. She has even served with the National Institutes of Health—as a staff fellow in the early 1970's, as a member of the Advisory Council for the Heart, Lung, Blood Institute, and most recently as a member of the Advisory Council to the NIH Director.

In addition to her broad experience in scientific research and administration, Dr. Healy has had other leadership roles in public policy. Prior to joining the Cleveland Clinic Foundation, she was Deputy Director of the White House Office of Science and Technology Policy under President Reagan. Currently, she chairs the Advisory Panel for Basic Research for the 1990's at the Office of Technology Assessment, where she has done an excellent job. In addition, she has continued to serve in an advisory capacity to the Bush administration.

Dr. Healy has also served as president of both the American Heart Association and the American Federation for Clinical Research and has contributed her time and efforts to other professional organizations. In addition, she has provided leadership in the areas of combating conflict of interest and providing more opportunities for women in research—two issues that are of great concern to the Congress. With her high qualifications, it is especially appropriate that she will become the first woman to hold this leadership position in American science.

Dr. Healy's nomination comes at an important time for the NIH. It has now been without a permanent Director for a year and a half. Many of us in Congress, and probably the entire biomedical research community, have been distressed over the administration's long, embarrassing, and demeaning search for a new NIH Director.

Dr. James Wyngaarden announced nearly 2 years ago that he was stepping down as Director. The selection process that ensued was debased by inappropriate litmus tests, and many highly qualified candidates rejected the position or refused to be considered. Fortunately, in the end, this insulting process failed, and scientific and administrative standards of excellence have prevailed.

During this unnecessarily protracted and difficult transition period, the Acting Director of NIH, Dr. William Raub, has distinguished himself by the outstanding leadership he has provided. Our Nation owes him a debt of gratitude for the skill and grace with which he guided NIH safely through this period.

The demands that will be placed upon Bernadine Healy may well be unprecedented in the history of the NIH. Because of the outstanding reputation of the Agency as the leading biomedical research institute in the world, expectations for its research capability are at an all-time high. Remarkable progress has been made on cancer and other diseases, yet they continue to take their high toll and demand increased attention. We've learned a great deal about the HIV virus, yet the AIDS epidemic continues to spread, while millions of infected citizens wait for the medical breakthrough that could well save their lives.

Dr. Healy is well qualified to meet and master these challenges. She has the research, administration, and public policy experience, and she is dedicated to improving our Nation's medical research and health care system. The scientists on the Bethesda campus and at institutions throughout the country which receive NIH support can look forward to a cooperative and supportive environment under her leadership, and so does the Congress.

Mr. President, I urge the Senate to confirm Bernadine Healy's nomination and I look forward to working with her.

STATEMENT ON THE NOMINATION OF DONALD HENDERSON

Mr. GORE. Mr. President, I am very pleased today to urge the Senate to confirm the nomination of Dr. Donald A. Henderson to be an Associate Director of the White House Office of Science and Technology Policy [OSTP]. When confirmed, he will be Director Allan Bromley's chief deputy for life sciences and biotechnology.

On March 5, I chaired the Commerce Committee's confirmation hearing on Dr. Henderson. Based on that hearing and on the nominee's overall record, I believe that this is an exceptional nomination.

Dr. Henderson has accomplished a great deal during his career—successful physician, Federal expert on communicable diseases and vaccines, and for 13 years dean of the Johns Hopkins University School of Hygiene and Public Health. He remains a senior professor at Johns Hopkins, currently on leave so that he can take the OSTP position. But in addition to these other accomplishments, this is the man who led the World Health Organization's successful 1966–77 campaign to eradicate smallpox from the face of the Earth. He searched through Bangladesh, Afghanistan, Ethiopia, and many other places, looking for smallpox victims, vaccinating children and adults, controlling and gradually eradicating this awful scourge. Few people in our time have made such a significant contribution to humanity.

To no one's surprise, Dr. Henderson has won many of the world's top medical honors, including the U.S. National Medal of Science, the Albert Schweitzer International Prize for Medicine, and the World Health Organization's Health for All Medal.

As I saw at this confirmation hearing, he also remains an engaging, likeable, and committed physician, one who cares deeply about finding new vaccines to combat illness and one who continues to seek effective ways to get those vaccines to the people who need it. He has a particularly strong vision of how biotechnology and the other new tools of medicine can make major contributions to treating illness.

In my judgment, Donald Henderson will make an outstanding Associate Director at OSTP, and I enthusiastically support his nomination. My colleagues on the Commerce Committee agree, for on March 19 the Committee unanimously voted to approve his nomination. I very much look forward to Dr. Henderson's confirmation.

In closing, Mr. President, I also want to complement Dr. Bromley, the Director of OSTP. Along with his own personal contributions to national science and technology policy, which are considerable, Dr. Bromley continues to recommend outstanding people for OSTP's associate director positions. He has brought new energy, credibility, and effectiveness to OSTP. His ability to persuade Donald Henderson to join his team will make OSTP—and the nation's science and technology programs—even stronger.

STATEMENT ON THE NOMINATION OF ROBIN J. CAUTHRON

Mr. NICKLES. Mr. President, I rise today in strong support of Robin J. Cauthron, President Bush's nominee for the U.S. District Court for the Western District of Oklahoma. I am pleased at the unanimous approval Judge Cauthron's nomination received this morning by the Judiciary Committee and urge the full Senate's confirmation of her nomination this evening.

A graduate of the University of Oklahoma College of Law, Judge Cauthron has served as U.S. magistrate for the Western District since 1986 and, before that, served as a special district judge in Oklahoma. She has had a distinguished legal career and has participated in several organizations and activities related to her work, shouldering leadership positions in many. Judge Cauthron has also remained active in continuing legal education both as student and instructor.

Judge Cauthron is also active in the community. She is involved in the Juvenile Diabetes Foundation, her church, and was named one of the "Outstanding Young Women of America" in 1984.

Throughout her time on and around the bench, Judge Cauthron has exemplified the characteristics necessary of the Federal judiciary. I am pleased to endorse her nomination before the Senate and urge swift confirmation.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume legislative session.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 9:38 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following joint resolutions, each without amendment:

S.J. Res. 53. Joint resolution to designate April 9, 1991 and April 9, 1992, as "National

Former Prisoner of War Recognition Day"; and

S.J. Res. 83. Joint resolution entitled "National Day of Prayer and Thanksgiving."

The message also announced that the House has passed the joint resolution (S.J. Res. 59) designating March 25, 1991, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy", with an amendment, in which it requests the concurrence of the Senate.

At 12:46 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 149. Joint resolution designating March 1991 and March 1992 both as "Women's History Month."

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 4:10 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following bills and joint resolutions:

S. 419. An act to amend the Federal Home Loan Bank Act to enable the Resolution Trust Corporation to meet its obligations to depositors and others by the least expensive means;

H.R. 1316. An act to amend chapter 54 of title 5, United States Code, to extend and improve the Performance Management and Recognition System, and for other purposes;

S.J. Res. 53. Joint resolution to designate April 9, 1991 and April 9, 1992, as "National Former Prisoner of War Recognition Day"; and

S.J. Res. 83. Joint resolution entitled "National Day of Prayer and Thanksgiving."

The enrolled bills and joint resolutions were subsequently signed by the President pro tempore [Mr. BYRD].

At 6 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 725. An act entitled the "Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991".

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 419) to amend the Federal Home Loan Bank Act to enable the Resolution Trust Corporation to meet its obligation to depositors and others by the least expensive means.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 991) to extend the expiration date for the Defense Production Act of 1950, and for other purposes; it asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Banking, Finance and Urban Affairs, for consideration of the House bill, and title I of the Senate amendment, and modifications committed to conference: Mr. GONZALEZ, Mr. LAFALCE, Ms. OAKAR, Mr. VENTO, Mr. CARPER, Mr. WYLIE, Mr. RIDGE, and Mr. PAXON.

From the Committee on Banking, Finance and Urban Affairs, for consideration of title II of the Senate amendment, and modifications committed to conference: Mr. GONZALEZ, Mr. ANNUNZIO, Mr. NEAL of North Carolina, Ms. OAKAR, Mr. SCHUMER, Mr. CARPER, Mr. WYLIE, Mr. LEACH, Mr. MCCOLLUM, and Mrs. ROUKEMA.

From the Committee on Energy and Commerce for consideration of section 8 of the House bill, and section 203 to 206 of the Senate amendment, and modifications committed to conference: Mr. DINGELL, Mr. MARKEY, Mrs. COLLINS of Illinois, Mr. LENT, and Mr. RINALDO.

From the Committee on the Judiciary, for consideration of section 5 of the House bill, and section 104 of the Senate amendment, and modifications committed to conference: Mr. BROOKS, Mr. EDWARDS of California, and Mr. FISH.

From the Committee on Ways and Means, for consideration of section 202 to 204 of the Senate amendment, and modifications committed to conference: Mr. ROSTENKOWSKI, Mr. GIBBONS, Mr. JENKINS, Mr. ARCHER, and Mr. CRANE.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 1281) making dire emergency supplemental appropriations for the consequences of Operation Desert Shield/Desert Storm, food stamps, unemployment compensation administration, veterans compensation and pensions, and other urgent needs for the fiscal year ending September 30, 1991; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House: Mr. WHITTEN, Mr. NATCHER, Mr. SMITH of Iowa, Mr. YATES, Mr. OBEY, Mr. ROYBAL, Mr. BEVILL, Mr. MURTHA, Mr. TRAXLER, Mr. LEHMAN of Florida, Mr. DIXON, Mr. FAZIO, Mr. HEFNER, Mr. MCDADE, Mr. MYERS of Indiana, Mr. COUGHLIN, Mr. PURSELL, Mr. EDWARDS of Oklahoma, Mr. GREEN of New York, and Mr. ROGERS.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 1282) making supplement appropriations and transfers for "Operation Desert Shield/Desert Storm,' for the fiscal year ending September 30, 1991, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

For consideration of the House bill and all Senate amendments: Mr. WHITTEN, Mr. MURTHA, Mr. DICKS, Mr. WILSON, Mr. HEFNER, Mr. AUCOIN, Mr. SABO, Mr. DIXON, Mr. DWYER of New Jersey, Mr. MCDADE, Mr. YOUNG of Florida, Mr. MILLER of Ohio, Mr. LIVINGSTON, and Mr. LEWIS of California.

As additional conferees solely for the consideration of Senate amendments numbered 32 and 34: Mr. OBEY, Mr. YATES, and Mr. EDWARDS of Oklahoma.

MEASURES REFERRED

The following joint resolution was read the first and second times by unanimous consent, and referred as indicated:

H.J. Res. 149. Joint resolution designating March 1991 and March 1992 both as "Women's History Month."

MEASURES PLACED ON THE CALENDAR

The following bill, previously received from the House of Representatives for concurrence, was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 902. An act to provide assistance to recipients of loans from the Small Business Administration who are affected by military service as part of Operation Desert Storm, and for other purposes.

ENROLLED BILL AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on today, March 21, 1991, he had presented to the President of the United States the following enrolled bill and joint resolutions:

S. 419. An act to amend the Federal Home Loan Bank Act to enable the Resolution Trust Corporation to meet its obligations to depositors and others by the least expensive means;

S.J. Res. 53. Joint resolution to designate April 9, 1991, and April 9, 1992, as "National Former Prisoners of War Recognition Day"; and

S.J. Res. 83. Joint resolution entitled "National Day of Prayer and Thanksgiving."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–819. A communication from the President of the United States, transmitting, pursuant to law, notification that military operations to liberate Kuwait have been successfully completed; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 134. A bill to establish a United States Marshals association.

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment and with a preamble:

S.J. Res. 77. Joint resolution relative to telephone rates and procedures for Operation Desert Storm personnel.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BUMPERS, from the Committee on Small Business:

Patricia F. Saiki, of Hawaii, to be Administrator of the Small Business Administration.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BENTSEN, from the Committee on Finance:

Renato Beghe, of New York, to be a Judge of the United States Tax Court for a term expiring fifteen years after he takes office.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BIDEN, from the Committee on the Judiciary:

Oliver W. Wagner, of California, to be United States District Judge for the Eastern District of California;

Robin J. Cauthron, of Oklahoma, to be United States District Judge for the Western District of Oklahoma; and

Richard W. Goldberg, of North Dakota, to be a Judge of the United States Court of International Trade.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SYMMS (for himself and Mr. CRAIG):

S. 717. A bill to amend title XVIII of the Social Security Act to provide for the exclusion of all rural areas from medicare payment reductions for the services of new physicians provided in such areas; to the Committee on Finance.

By Mr. INOUYE (for himself, Mr. AKAKA, Mr. PELL, and Mr. KENNEDY):

S. 718. A bill to amend the U.S. Institute of Peace Act to honor the memory of the late Spark M. Matsunaga, U.S. Senator from the State of Hawaii, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. HEINZ:

S. 719. A bill to temporarily suspend the duty on certain lead fuel test assemblies; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mr. METZENBAUM, Mr. PELL, Mr. SIMON, Mr. DODD, Mr. WELLSTONE, Mr. AKAKA, Mr. KOHL, Mr. CRANSTON, Mr. WIRTH, and Mr. RIEGLE):

S. 720. A bill to provide financial assistance to eligible local educational agencies to improve urban education, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ROTH:

S. 721. A bill to facilitate the dissemination of patent information; to the Committee on the Judiciary.

By Mr. ROTH (for himself and Mr. KASTEN):

S. 722. A bill to amend the Internal Revenue Code of 1986 with respect to the requirement that an S corporation have only 1 class of stock; to the Committee on Finance.

By Mr. DOMENICI:

S. 723. A bill to amend section 1738A of title 28, United States Code, relating to child custody determinations, to modify the requirements for court jurisdiction; to the Committee on the Judiciary.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 724. A bill to clarify cost-share requirements for the floor control project, Rio Grande Floodway, San Acacia to Bosque del Apache unit, New Mexico; to the Committee on Energy and Natural Resources.

By Mr. MITCHELL (for himself, Mr. DOLE, Mr. NUNN, Mr. WARNER, Mr. GLENN, Mr. MCCAIN, Mr. CRANSTON, and Mr. LAUTENBERG):

S. 725. A bill entitled the "Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991"; considered and passed.

By Mr. COHEN:

S. 726. A bill to award grants for aspirations research, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DODD:

S. 727. A bill to amend the Higher Education Act of 1965 to improve access to financial assistance for low- and middle-income students; to the Committee on Labor and Human Resources.

By Mr. SEYMOUR:

S. 728. A bill to establish an Upper Sacramento River fishery resources restoration program; to the Committee on Environment and Public Works.

By Mr. BURDICK (for himself, Mr. BAUCUS, Mr. MOYNIHAN, Mr. BRADLEY, Mr. MITCHELL, Mr. BENTSEN, Mr. ROCKEFELLER, Mr. FORD, Mr. REID, Mr. SYMMS, Mr. BRYAN, Mr. CONRAD, Mr. SARBANES, Mr. JEFFORDS, Mr. D'AMATO, Mr. KASTEN, Mr. DECONCINI, Mr. DASCHLE, Mr. WIRTH, Mr. COHEN, Mr. INOUYE, and Mr. SANFORD):

S. 729. A bill to assist small communities in construction of facilities for the protection of the environment and human health; to the Committee on Environment and Public Works.

By Mr. LAUTENBERG (for himself, Mr. CHAFEE, Mr. GLENN, Mr. LIEBERMAN, Mr. JEFFORDS, Mr. MITCHELL, Mr. BRADLEY, Mr. KENNEDY, Mr. PELL, Mr. DECONCINI, Mr. LEVIN, Mr. HARKIN, Ms. MIKULSKI, and Mr. METZENBAUM):

S. 730. A bill to provide for the reduction of metals in packaging; to the Committee on Environment and Public Works.

By Mr. PACKWOOD (by request):

S. 731. A bill to provide incentives for research and energy production, and for other purposes; to the Committee on Finance.

By Mr. BIDEN (for himself, Mr. METZENBAUM, Mr. LUGAR, Mr. GORE, Mr. KERRY, and Ms. MIKULSKI):

S. 732. A bill to amend the Energy Reorganization Act of 1974 to create an independent Nuclear Safety Board; to the Committee on Environment and Public Works.

By Mr. GRAHAM (for himself, Mr. JEFFORDS and Mr. MACK):

S. 733. A bill to amend the Federal Water Pollution Control Act; to the Committee on Environment and Public Works.

By Mr. GRAHAM (for himself and Mr. MACK):

S. 734. A bill to permanently prohibit the Secretary of the Interior from preparing for or conducting any activity under the Outer Continental Shelf Lands Act on certain portions of the outer continental shelf off the State of Florida, to prohibit activities other than certain required environmental or oceanographic studies under the Outer Contiental Shelf Lands Act within the part of the Eastern Gulf of Mexico Planning Area lying off the State of Florida, and for other purposes; to the Committee on Energy and Natural Resources.

S. 735. A bill to establish certain requirements related to the planning and management, and the determination of economic and other benefits and costs, of U.S. Army Corps of Engineers civil works projects for the conservation and development of water and related resources, and for other purposes; to the Committee on Environment and Public Works.

By Mr. GRAHAM (for himself, Mr. LAUTENBERG, and Mr. MACK):

S. 736. A bill to amend the Outer Continental Shelf Lands Act; to the Committee on Energy and Natural Resources.

By Mr. GRAHAM (for himself and Mr. MACK):

S. 737. A bill to require a comprehensive analysis of long-term requirements of Federal, State, and local regulators and resource managers for scientific data and information about the Nation's coastal and marine environment and the conditions and phenomena affecting the quality of that environment; to require an evaluation of federally conducted or supported coastal and marine scientific research programs and activities on light of those requirements; and to require the preparation and submission to Congress of a report of the results of the analysis and evaluation, including recommendations for legislation, if appropriate, to restructure or otherwise enhance the performance of those programs and activities; to the Committee on Commerce, Science, and Transportation.

By Mr. PELL:

S. 738. A bill to designate the Architect of the Capitol as the Director of the U.S. Botanic Garden; to the Committee on Rules and Administration.

S. 739. A bill to authorize the Architect of the Capitol to accept certain gifts on behalf of the U.S. Botanic Garden; to the Committee on Rules and Administration.

By Mr. GRASSLEY (for himself and Mr. HEFLIN):

S. 740. A bill to provide a new civil cause of action in Federal law for international terrorism that provides extraterritorial jurisdiction over terrorist acts abroad against U.S. nationals; ordered held at the desk.

By Mr. WIRTH (for himself Mr. HATFIELD, Mr. DASCHLE, Mr. JEFFORDS, Mr. BRYAN, Mr. FOWLER, Mr. BINGAMAN, and Mr. ADAMS):

S. 741. A bill to promote cost effective energy efficiency improvements in all sectors of the economy, promote the use of natural gas and encourage increased energy production, thereby reducing the Nation's dependence on imported oil and enhancing the Nation's environmental quality and economic competitiveness; to the Committee on Finance.

By Mr. WIRTH:

S. 742. A bill to promote cost effective energy efficiency improvements in all sectors of the economy, promote the use of natural gas and encourage increased energy production, thereby reducing the Nation's dependence on imported oil and enhancing the Nation's environmental quality and economic competitiveness; to the Committee on Energy and Natural Resources.

S. 743. A bill entitled the "National Energy Efficiency and Development Tax Act of 1991"; to the Committee on Finance.

By Mr. DANFORTH:

S. 744. A bill to extend the temporary suspension of duty on 0,0-dimethyl-S-{(4-oxo-1,2,3-benzotriazin-3-(4H)-yl)methyl} phosphorodithioate; to the Committee on Finance.

S. 745. A bill to extend the temporary suspension of duty on 4-fluoro-3-phenoxy benzaldehyde; to the Committee on Finance.

S. 746. A bill to extend the duty reduction on certain unwrought lead for a period of two years; to the Committee on Finance.

By Mr. PRYOR (for himself, Mr. BURDICK, Mr. HOLLINGS, Mr. SHELBY, Mr. INOUYE, Mr. LEVIN, Mr. CHAFEE, Mr. BOREN, Mr. COCHRAN, and Mr. BREAUX):

S. 747. A bill to amend the Internal Revenue Code of 1986 to clarify portions of the Code relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes; to the Committee on Finance.

By Mr. CRANSTON (for himself, Mr. KENNEDY, Mr. KERRY, Mr. D'AMATO, and Mr. WIRTH):

S. 748. A bill to assist indigenous peoples of Central and South America to take meaningful and representative roles in their nations' democratic institutions and practices, as well as to assist them in protecting their land and cultures; to the Committee on Foreign Relations.

By Mr. METZENBAUM:

S. 749. A bill to rename and expand the boundaries of the Mound City Group National Monument in Ohio; to the Committee on Energy and Natural Resources.

By Mr. BENTSEN (for himself and Mr. PACKWOOD):

S. 750. A bill to make technical corrections relating to the Revenue Reconciliation Act of 1990, and for other purposes; to the Committee on Finance.

By Mr. BURNS (for himself and Mr. BAUCUS):

S. 751. A bill to authorize the Secretary of the Interior to provide funds for the repair and enlargement of the Tongue River Dam for the purposes of settlement of water rights claims of the Northern Cheyenne Tribe, for fish and wildlife enhancement, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CHAFEE (for himself, Mr. BAUCUS, Mr. DANFORTH, Mr. ROTH, Mr. RIEGLE, Mr. PACKWOOD, Mr. DURENBERGER, Mr. SYMMS, Mr. GORTON, Mr. MCCAIN, Mr. LIEBERMAN, Mr. HATFIELD, Mr. LAUTENBERG, Mr. COCHRAN, Mr. CRANSTON, Mr. BOREN, Mr. GRASSLEY, Mr. HEINZ, and Mr. MOYNIHAN):

S. 752. A bill to amend the Internal Revenue Code of 1986 to make the allocation of research and experimental expenditures permanent; to the Committee on Finance.

By Mr. DASCHLE (for himself, Mr. SIMON, and Mr. WELLSTONE):

S. 753. A bill relating to Indian health care; to the Committee on Finance.

By Mr. DASCHLE (for himself, Mr. INOUYE, Mr. MCCAIN, Mr. BURDICK, Mr. DECONCINI, Mr. SIMON, and Mr. WELLSTONE):

S. 754. A bill to provide that a portion of the income derived from trust or restricted land held by an individual Indian shall not be considered as a resource or income in determining eligibility for assistance under any Federal or federally assisted program; to the Select Committee on Indian Affairs.

By Mr. HATCH (for himself, Mr. GARN, and Mr. COATS):

S. 755. A bill to amend the amount of grants received under chapter 1 of title I of the Elementary and Secondary Education Act of 1965; to the Committee on Labor and Human Resources.

By Mr. DECONCINI (for himself and Mr. HATCH):

S. 756. A bill to amend title 17, United States Code, the copyright renewal provisions, and for other purposes; to the Committee on the Judiciary.

By Mr. LEAHY (for himself, Mr. HARKIN, Mr. PRYOR, Mr. KERREY, and Mr. SASSER):

S. 757. A bill to amend the Food Stamp Act of 1977 to respond to the hunger emergency afflicting American families and children, to attack the causes of hunger among all Americans, to ensure an adequate diet for low-income people who are homeless or at risk of homelessness because of the shortage of affordable housing, to promote self-sufficiency among food stamp recipients, to assist families affected by adverse economic conditions, to simplify food assistance programs' administration, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DECONCINI (for himself and Mr. HATCH):

S. 758. A bill to clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of patents and plant variety protections, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private entity; to the Committee on the Judiciary.

S. 759. A bill to amend certain trademark laws to clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of trademarks, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private entity; to the Committee on the Judiciary.

By Mr. PELL (by request):

S. 760. A bill to amend the Board for International Broadcasting Act of 1973, as amended, to authorize appropriations for Fiscal Years 1992 and 1993 for carrying out that Act and the Inspector General Act of 1978, as amended; to the Committee on Foreign Relations.

By Mr. LIEBERMAN (for himself, Mr. DURENBERGER, and Mr. LAUTENBERG):

S. 761. A bill to reduce hazardous pollution; to the Committee on Environment and Public Works.

By Mr. REID:

S. 762. A bill to amend title II of the Social Security Act to provide for an increase of up to 5 in the number of years disregarded in determining average annual earnings on which benefit amounts are based upon a showing of preclusion from remunerative work during such years occassioned by need to provide child care or care to a chronically dependent relative; to the Committee on Finance.

By Mr. LUGAR:

S. 763. A bill to suspend temporarily the duty on certain composite diagnostic or laboratory reagents; to the Committee on Finance.

By Mr. PELL (by request):

S. 764. A bill to authorize appropriations for Fiscal Years 1992 and 1993 for the African Development Foundation; to the Committee on Foreign Relations.

By Mr. BREAUX (for himself, Mr. DURENBERGER, Mr. JOHNSTON, Mr. GORTON, Mr. BRYAN, Mr. KASTEN, Mr. REID, Mr. HARKIN, Mr. SHELBY, Mr. EXON, Mr. HELMS, Mr. GRASSLEY, and Mr. BURNS):

S. 765. A bill to amend the Internal Revenue Code of 1986 to exclude the imposition of employer social security taxes on cash tips; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 766. A bill to govern the transfer of spoils of war to foreign governments, groups, and persons; to the Committee on Foreign Relations.

By Mr. KOHL (for himself and Mr. KASTEN):

S.J. Res. 100. Joint resolution designating January 5, 1992 through January 11, 1992 as "National Law Enforcement Training Week"; to the Committee on the Judiciary.

By Mr. GORE:

S.J. Res. 101. Joint resolution noting the finding of the Commission of Inquiry Into Aspects of the Forest Industry on Papua, New Guinea, and calling for appropriate actions; to the Committee on Foreign Relations.

By Mr. ROCKEFELLER (for himself, Mr. BURNS, and Mr. HOLLINGS):

S.J. Res. 102. Joint resolution designating the second week in May 1991 as "National Tourism Week"; to the Committee on the Judiciary.

By Mr. THURMOND:

S.J. Res. 103. Joint resolution to authorize the National Committee of American Airmen Rescued by General Mihailovich to erect a monument to General Draza Mihailovich in Washington, District of Columbia, or its environs, in recognition of role he played in saving the lives of more than five hundred United States airmen in Yugoslavia during World War II; to the Committee on Rules and Administration.

By Mr. D'AMATO:

S.J. Res. 104. Joint resolution to designate April 7-13, 1991, as "National Manufacturing Week"; to the Committee on the Judiciary.

By Mr. D'AMATO:

S.J. Res. 105. Joint resolution to designate April 14, 1991, to April 21, 1991, and May 3 to May 10, 1992, as "Jewish Heritage Week"; to the Committee on the Judiciary.

By Mr. KERRY:

S.J. Res. 106. Joint resolution to designate the week of April 15 through 21, 1991, as "National Education First Week"; to the Committee on the Judiciary.

By Mr. MOYNIHAN (for himself and Mrs. KASSEBAUM):

S.J. Res. 107. Joint resolution to designate October 15, 1991, as "National Law Enforcement Memorial Dedication Day"; to the Committee on the Judiciary.

By Mr. ADAMS (for himself, Mr. PELL, Mr. DODD, Mr. COCHRAN, and Mr. DURENBERGER):

S.J. Res. 108. Joint resolution to designate the week of May 13, 1991, through May 19, 1991, as "National Senior Nutrition Week"; to the Committee on the Judiciary.

By Mr. DECONCINI (for himself and Mr. D'AMATO):

S.J. Res. 109. Joint resolution designating August 12 through August 18, 1991, as "National Parents of Murdered Children Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for himself, Mr. DOLE, Ms. MIKULSKI, Mr. MURKOWSKI, Mr. ADAMS, Mr. AKAKA, Mr. BAUCUS, Mr. BENTSEN, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mr. BOREN, Mr. BRADLEY, Mr. BREAUX, Mr. BROWN, Mr. BRYAN, Mr. BUMPERS, Mr. BURDICK, Mr. BURNS, Mr. BYRD, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. CRAIG, Mr. CRANSTON, Mr. D'AMATO, Mr. DANFORTH, Mr. DASCHLE, Mr. DECONCINI, Mr. DIXON, Mr. DODD, Mr. DOMENICI, Mr. DURENBERGER, Mr. EXON, Mr. FORD, Mr. FOWLER, Mr. GARN, Mr. GLENN, Mr. GORE, Mr. GORTON, Mr. GRAHAM, Mr. GRAMM, Mr. GRASSLEY, Mr. HARKIN, Mr. HATCH, Mr. HATFIELD, Mr. HEFLIN, Mr. HEINZ, Mr. HELMS, Mr. HOLLINGS, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KASTEN, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. KOHL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LOTT, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Mr. METZENBAUM, Mr. MOYNIHAN, Mr. NICKLES, Mr. NUNN, Mr. PACKWOOD, Mr. PELL, Mr. PRESSLER, Mr. PRYOR, Mr. REID, Mr. RIEGLE, Mr. ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. RUDMAN, Mr. SANFORD, Mr. SARBANES, Mr. SASSER, Mr. SEYMOUR, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr. SMITH, Mr. SPECTER, Mr. STEVENS, Mr. SYMMS, Mr. THURMOND, Mr. WALLOP, Mr. WARNER, Mr. WELLSTONE, and Mr. WIRTH):

S. Res. 90. Resolution extending a warm welcome to His Excellency Lech Walesa, President of the Republic of Poland, and for other purposes; considered and agreed to.

By Mr. METZENBAUM:

S. Res. 91. Resolution expressing the sense of the Senate regarding human rights violations against the people of Kashmir, and calling for direct negotiations among Pakistan, India and Kashmir; to the Committee on Foreign Relations.

By Mr. CRAIG (for himself, Mr. SYMMS, Mr. DOLE, and Mr. SMITH):

S. Con. Res. 24. Concurrent resolution expressing the sense of the Congress that the President should seek to negotiate a new base rights agreement with the Government of Panama to permit the United States Armed Forces to remain in Panama beyond December 31, 1999, and to permit the United States to act independently to continue to protect the Panama Canal; to the Committee on Foreign Relations.

By Mr. HATCH:

S. Con. Res. 25. Concurrent resolution to express the sense of the Congress that the civil rights and civil liberties of all Americans, including Arab-Americans, should be protected at all times, and particularly during times of international conflict, and for other purposes; to the Committee on the Judiciary.

STATEMENT OF INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SYMMS (for himself and Mr. CRAIG):

S. 717. A bill to amend title XVIII of the Social Security Act to provide for the exclusion of all rural areas from Medicare payment reductions for the services of new physicians provided in such areas; to the Committee on Finance.

EXCLUSION FOR RURAL MEDICAL CARE

Mr. SYMMS. Mr. President, I am introducing today, joined by my colleague from Idaho, Senator CRAIG, a bill to eliminate yet another disincentive for health care professionals to provide services in rural American.

During the budget debate for fiscal year 1991, a provision was included in the package which would limit reimbursement under the Medicare program for new doctors just out of school. This provision reduces the normal reimbursement rate, which all doctors would otherwise receive, by 80 percent for their first year of practice. For the second year, new doctors will receive 85 percent of their Medicare reimbursement, then 90 and 95 percent for the third and fourth years, respectively.

This provision does exclude health professional shortage areas; however, this does not cover many areas which have a serious problem with lack of health care providers. In this time of crisis with the health care system, there is a desperate need for incentives, not disincentives for physicians to set up practice, especially in rural areas.

My State of Idaho, in particular, has a desperate problem attracting health care professionals. Idaho has the fewest doctors per capita in the country. Where the national average ratio of physicians to population is 240 to 100,000—Idaho has 138 doctors to 100,000 citizens. This number includes the Boise area, which is the only urban area in the State and many doctors are concentrated there. In the very rural areas, there are only 74 doctors for every 100,000 citizens.

Idaho is a large State—the 13th largest in the Union and the population is spread throughout. It is not inconceivable for an Idahoan to travel over 100 miles for a simple doctor visit.

To add to the problem, Medicare reimbursement for Idaho is much less than the reimbursement levels of the surrounding States—20-30 percent less. This creates a further disincentive for setting up a practice in the State.

Idaho also has a large population of senior citizens—approximately 15 percent. These are individuals who need the Medicare program, yet the current system has so many disincentives already that the few doctors in the State are refusing to take any more Medicare patients. With 2,000 to 3,000 people turning 65 every year, the Medicare population is growing at a startling rate, while the means to provide these individuals with quality health care is steadily decreasing.

With the net dollar reimbursement levels in Medicare constantly going down and the cost of health care rising rapidly, Congress must create incentives for providers. The problem of access will not go away. This bill is a small step, but it is definitely in the right direction and I would encourage my colleagues to give it their support.

I ask unanimous consent that the text of the bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 717

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RURAL AREAS EXCLUDED FROM MEDICARE PAYMENT REDUCTIONS FOR THE SERVICES OF NEW PHYSICIANS.

(a) IN GENERAL.—Section 1842(b)(4)(F) (42 U.S.C. 1395u(b)(4)) of the Social Security Act, as amended by section 4106 of the Omnibus Budget Reconciliation Act of 1990, is further amended by striking "that is designated" and inserting "or in a rural area that is designated".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective as if included in the provisions of the Omnibus Budget Reconciliation Act of 1990.

Mr. CRAIG. Mr. President, today I join my colleague from Idaho, Senator SYMMS, in introducing legislation to amend section 4106 of the Omnibus Act of 1990. This bill will extend the exclusion from the reduced reimbursement rate of 80 percent to new physicians working in rural areas.

Rural health care is facing a financial crisis. In Idaho, three hospitals were forced out of business over the last 2 years and others are struggling to survive. The main cause of this crisis is inequitable reimbursement rates from Medicare. That number may not sound so terrible until you consider how many lives are affected by those hospitals, and the great distances that must be traveled to obtain health care without them.

The financial crisis has also hurt access to care. There are shortages of physicians and other health care providers. Idaho has the fewest doctors per capita in this country. Health care professionals working in rural areas now work long, hard hours. These people are dedicated to their work and the rural communities they serve, but relief is desperately needed.

The provision in OBRA 1990, cutting new physician reimbursement rates to 80 percent, will have a devastating effect on rural States like Idaho. Rural States are having a difficult time as it is, recruiting qualified physicians. Further cutting the reimbursement rates received in Idaho will only deepen the physician shortage. Under the current law, cuts are not applicable in areas designated as health care manpower shortage areas. However, if rural America is going to maintain access to care, then the exclusion must be extended to all new physicians in rural practice. Our ability to recruit new physicians to combat shortages hangs in the balance.

Idaho is worse off than most rural States; without this legislation Idaho will be further disadvantaged. In Idaho we have a large population of seniors the Medicare Program has a big impact on our health care system. Fifteen percent of Idaho's population is over the age of 65, and that number increases by 2,000 to 3,000 people a year. Not only do we need to recruit new physicians, but we need them to take Medicare patients.

Mr. President and my colleagues, rural health care providers are more than just health care centers—they are an important thread in the fabric of rural society. America's rural doctors are facing an economic crisis—one that threatens not only their existence, but also the existence of the communities they serve. I hope you will join Senator SYMMS and myself in supporting this legislation.

By Mr. INOUYE (for himself, Mr. AKAKA, Mr. PELL, and Mr. KENNEDY):

S. 718. A bill to amend the United States Institute of Peace Act to honor the memory of the late Spark M. Matsunaga, U.S. Senator from the State of Hawaii, and for other purposes; to the Committee on Labor and Human Resources.

SPARK M. MATSUNAGA MEMORIAL PEACE EDUCATION ACT

• Mr. INOUYE. Mr. President, I am pleased to introduce the Spark M. Matsunaga Memorial Peace Education Act in honor of our late and beloved colleague, Spark M. Matsunaga.

Spark served as a distinguised Member of Congress for 28 years. He will always be respected for his outstanding legislative record, and as a crusader for world peace. Spark has seen firsthand the horrors of war as a World War II veteran. Once in Congress, he fought another battle, for international peace, in hopes that war would never again soil a chapter in our history. Spark was determined that our Nation devote itself, if even a fraction, to the pursuit of peace. Throughout this fight he knew that peace was more than the cessation of violence and healing of wounds. It is the expression of human dignity; it is a state of inner freedom and serenity.

Spark worked diligently for over 20 years to establish the United States Institute of Peace in 1984. He adamantly believed that people could learn the art of peace. Men and women, he thought, could learn about peace and peacemaking as easily as they could learn about war and killing. His lasting vision of international cooperation, global security, and nonviolent conflict resolution is embodied in this institution.

The Spark M. Matsunaga Memorial Peace Education Act requires the Institute to continue and to expand its scholarship and educational programs in peace and conflict management, such as the currently sponsored peace essay contest for high school students. Additionally, the measure would provide scholarships to outstanding undergraduate students, who would be "Spark M. Matsunaga Scholars."

During the 101st Congress, Spark's colleagues approved the Spark M. Matsunaga Medal of Peace. The Medal of Peace will be annually awarded by the Institute to a person or organization that has extraordinarily contributed to world peace without recourse to violence. It will be given in recognition of outstanding contributions that advance society's knowledge and skill in peace-making and conflict management.

The United States Institute of Peace was established to carry forward the goal of a world at peace where conflicts are resolved, not by the force of arms but through diplomatic negotiations. With the conclusion of the war in the Persian Gulf and the beginning of negotiations to provide for economic and political stability in the Middle East, support for the United States Institute of Peace cound not be more timely.

Mr. President, we must not fall short of Spark Matsunaga's ideals of global unity and diplomatic relations. While they are high standards, I believe we can afford to do no less. Having experienced first-hand bloodshed, and the pain and sorrow of human tragedy inherent in any war, this was Spark's dream of a more perfect world.

We were victorious in Operation Desert Storm, and we now begin the arduous process of diplomatic negotiations to bring about a lasting peace in the Middle East. It is most fitting that we reflect on Spark's goals for world peace at this juncture. I take great pride in introducing the Spark M. Matsunaga Memorial Peace Education Act to pay a lasting tribute to my dear friend, Spark.

Mr. President, I ask unanimous consent that the full text of my bill be printed in the RECORD following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 718

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress makes the following findings:

(1) United States Senator Spark M. Matsunaga of the State of Hawaii served his country for 40 years as a soldier and statesman, including service in the United States Senate and House of Representatives for a period of 28 years.

(2) Senator Matsunaga had a distinguished record in Congress, including service as a deputy majority whip and as a member of the Committee on Rules, the Committee on Agriculture, and the Committee on Post Office and Civil Service while a Member of the House of Representatives. Senator Matsunaga's distinguished career as a Senator included service as chief deputy whip and as a member of the Committee on Finance, the Committee on Labor and Human Resources, the Committee on Energy and Natural Resources, and the Committee on Veterans' Affairs.

(3) Senator Matsunaga long maintained a special interest in the promotion of international peace and the peaceful resolution of conflicts among the nations and peoples of the world, having served as the Chairman of the Commission on Proposals for the National Academy of Peace and Conflict Resolution and having sponsored legislation which resulted in the establishment of the United States Institute of Peace.

(4) The United States Institute of Peace was established to carry forward the goal of a world at peace where conflicts are resolved, not by the force of arms but through diplomatic negotiations. With the conclusion of the Persian Gulf War and the beginning of negotiations to provide for economic and political stability in the Middle East, support for the United States Institute of Peace could not be more timely today.

SEC. 2. SPARK M. MATSUNAGA SCHOLARS PROGRAM.

Section 1705(b) of the United States Institute of Peace Act (22 U.S.C. 4604(b)) is further amended—

(1) by striking out "and" at the end of paragraph (8);

(2) by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and"; and

(3) by inserting at the end thereof the following new paragraph:

"(10) establish the Spark M. Matsunaga Scholars Program, which shall include the provision of scholarships and educational programs in international peace and conflict management and related fields for outstanding high school students and scholarships to outstanding undergraduate students, with progam participants and recipients of such sholarships and fellowships to be known as 'Spark M. Matsunaga Scholars'.".

SEC. 3. PRIVATE GIFTS AND CONTRIBUTIONS.

Section 1705(h)(3) of the United States Institute of Peace Act (22 U.S.C. 4604(h)(3)) is amended by inserting after "individual" the following: ", except—

"(1) for the purpose of purchasing, leasing for purchase, or otherwise acquiring, constructing, improving, furnishing, and maintaining a suitable permanent headquarters, any related facility, or any site or sites for such facilities, for the Institute and the legal entity described in section 1704(c), or

"(2) for providing program-related hospitality, including that connected with the presentation of the Spark M. Matsunaga Medal of Peace".•

By Mr. KENNEDY (for himself, Mr. METZENBAUM, Mr. PELL, Mr. SIMON, Mr. DODD, Mr. WELLSTONE, Mr. AKAKA, Mr. KOHL, Mr. CRANSTON, Mr. WIRTH, and Mr. RIEGLE):

S. 720. A bill to provide financial assistance to eligible local educational agencies to improve urban education, and for other purposes; to the Committee on Labor and Human Resources.

URBAN SCHOOLS OF AMERICA [USA] ACT OF 1991

Mr. KENNEDY. Mr. President, along with Senators METZENBAUM, PELL, SIMON, DODD, WELLSTONE, AKAKA, KOHL, CRANSTON, WIRTH, and RIEGLE, I am introducing the Urban Schools of America [USA] Act of 1991.

It has been over a year since the President and the Governors set ambitious new goals for improving the Nation's schools by the year 2000. This consensus marks a new era in educational potential for the Nation. But little has been done at the Federal level to assist States and localities in meeting the goals. And time is slipping away. Unless we succeed, the United States is in serious danger of falling farther behind in addressing the critical challenges we face at home and around the world.

Report after report has been issued since the Department of Education's landmark "A Nation At Risk" study sounded the alarm in 1983. Nowhere is the challenge of improving education more difficult or more important than in the Nation's inner cities. Urban public schools continue to suffer from lower achievement rates, higher dropout rates, more difficulty in recruiting teachers, less access to early childhood development programs, older school buildings, greater health problems, and higher concentrations of children in need than other schools.

America's future domestic and global strength depends on these children and the success of their schools. Consider this: If the graduation rate in 1988 of the Nation's urban schools had equaled the national average, they would have graduated another 86,000 students. The Federal income tax on the total additional lifetime earnings of those 86,000 citizens would be large enough to double the present congressional appropriation for elementary and secondary education, or boost drug prevention efforts by a factor of 10—efforts that benefit the whole Nation, not just the cities.

The Federal Government must address the Nation's educational challenges where the needs are greatest and where we can do the most good. That is why I urge Senators to join me in sponsoring this legislation.

The USA bill does four things: First, it authorizes formula grants to hard-pressed city school systems—at least one in every State—to conduct programs that would move them closer to meeting our national education goals.

These grants will be different from any other Federal education program. Each year, school districts will commit in advance to the specific progress toward the national education goals they intend to make by year's end. Working closely with the community, local educational agencies will have broad flexibility to design whatever programs they believe will bring them closest to the goals. Progress will be measured by preset criteria, and subsequent grant payments will be contingent on their success in reaching the agreed goals. The Secretary of Education will also be authorized to make incentive awards to schools which make exceptional progress.

Second, the bill authorizes funds to renovate and repair the aging facilities of urban schools. According to a report by the Council of Great City Schools, one-third of America's inner-city schools are over 50 years old, with a cumulative backlog of repairs estimated at $5 billion.

Third, the bill authorizes additional Federal research on urban education and provides city schools with resources to strengthen their own research capabilities. Dollars will be focused on assessing programs and monitoring progress toward meeting the national goals.

Finally, the bill calls for a thorough overhaul of the current range of confusing Federal regulations, in order to simplify them and enhance student learning.

The bill authorizes "such sums as are necessary" to implement these provisions over the next 6 years, starting in fiscal year 1992. Our intention is to include specific amounts as the bill moves through the Congress, consistent with the realities of the Federal budget. There is no question that the needs are large, and we must do all we can to meet them. Few dollars we spend will be better spent.

I intend to use the USA bill as a basis for a comprehensive elementary and secondary reform initiative to be developed over the next several months. This will address a wide range of educational problems, including the needs of disadvantaged rural school districts. I invite all Members to participate, and I look forward to effecting action by Congress and the administration of this critical issue.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 720

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Urban Schools of America (USA) Act of 1991".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Statement of purpose.

TITLE I—URBAN SCHOOL IMPROVEMENT

Sec. 101. Authorization.
Sec. 102. Allocation of funds.
Sec. 103. Application required.
Sec. 104. Planning period.
Sec. 105. Uses of funds.
Sec. 106. Accountability.
Sec. 107. Incentive awards to exemplary programs.
Sec. 108. Regulatory assessment.
Sec. 109. Local advisory group.
Sec. 110. Special rules.

TITLE II—SCHOOL BUILDING REPAIR AND RENOVATION

Sec. 201. Purpose; authorization of appropriations.
Sec. 202. Allocation of funds.
Sec. 203. Application.
Sec. 204. Repair and renovation.
Sec. 205. Environment and safety.
Sec. 206. Waiver.

TITLE III—URBAN SCHOOL RESEARCH

Sec. 301. Authorization.
Sec. 302. Assistant Secretary for Urban Education.
Sec. 303. Reservation, allotment, allocation.
Sec. 304. National Institute of Urban Education.
Sec. 305. Application.
Sec. 306. Uses of funds.

TITLE IV—GENERAL PROVISIONS

Sec. 401. Interagency council on urban schools.
Sec. 402. White House Conference on Urban Education.
Sec. 403. Augustus F. Hawkins National Commission on Urban Education.
Sec. 404. Federal funds to supplement not supplant non-Federal funds.
Sec. 405. Definitions.

SEC. 2. FINDINGS.

The Congress finds that—

(1) the ability of the Nation's major urban school systems to meet the Nation's educational goals will determine the country's economic competitiveness and academic standing in the world community;

(2) the quality of public education in the Nation's major urban areas has a direct effect on the economic development of the Nation's inner cities;

(3) the success of urban schools in boosting the achievement of its minority youth attending such schools will determine the ability of the Nation to close the gap between the "haves and have-nots" in society;

(4) the cost to America's businesses to provide training to America's employees is approximately $30,000,000,000 per year;

(5) approximately one-third of the Nation's work force will be minority by the year 2000;

(6) urban schools enroll a disproportionately large share of the Nation's poor and "at-risk" youth;

(7) urban schools enroll approximately one-third of Nations's poor, 40 percent of the Nation's African-American children, and 30 percent of the Nation's Hispanic youth;

(8) nearly 20 percent of the Nation's limited-English proficient children and 15 percent of the Nation's disabled youth are enrolled in urban schools;

(9) the academic performance of students in the average inner-city public school system is below that of students in most other kinds of school systems;

(10) urban school systems have higher dropout rates, more problems with health care and less parental participation than other kinds of school systems;

(11) urban preschoolers have one-half the access to early childhood development programs as do other children;

(12) shortages of teachers in urban school systems are 2.5 times greater than such shortages in other kinds of school systems;

(13) declining numbers of urban minority high school graduates are pursuing postsecondary educational opportunities;

(14) urban school systems have greater problems with teen pregnancy, discipline, drug abuse and gangs than do other kinds of school systems;

(15) 75 percent of urban school buildings are over 25 years old, 33 percent of such buildings are over 50 years old, and such buildings are often in serious disrepair and create poor and demoralizing working and learning conditions;

(16) solving the challenges facing our Nation's urban schools will require the concerted and collaborative efforts of all levels of government and all sectors of the community;

(17) State and Federal funding of urban schools has not adequately reflected need; and

(18) Federal funding that is well targeted, flexible and accountable would contribute significantly to addressing the comprehensive needs of inner-city schools.

SEC. 3. STATEMENT OF PURPOSE.

It is the purpose of this Act to provide financial assistance for those urban schools most in need to—

(1) assist urban schools in meeting national education goals;

(2) improve the educational and social well being of urban public school children;

(3) close the achievement gap between urban and nonurban school children, while improving the achievement level of all children nationally;

(4) renovate and repair urban school buildings and facilities;

(5) conduct coordinated research on urban education problems, solutions and promising practices;

(6) improve the Nation's global economic and educational competitiveness by improving the country's urban schools;

(7) encourage community, parental and business collaboration in the improvement of urban schools; and

(8) review regulations whose simplification might improve the achievement of urban school children.

TITLE I—URBAN SCHOOL IMPROVEMENT

SEC. 101. AUTHORIZATION.

There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 to carry out the provisions of this title.

SEC. 102. ALLOCATION OF FUNDS.

(a) RESERVATIONS.—From the amount appropriated or otherwise made available to carry out the provisions of this title for any fiscal year after the first fiscal year in which the Secretary awards allotments to eligible local educational agencies under this title, the Secretary shall reserve 5 percent of such funds to provide competitive awards in accordance with section 107.

(b) ALLOTMENTS.—From the remainder of the sums not reserved under subsection (a), the Secretary shall allot to each eligible local educational agency with an approved application in each fiscal year an amount which bears the same relationship to such funds as the amount such eligible local educational agency was allocated under sections 1005 and 1006 of the Elementary and Secondary Education Act of 1965 in the preceding fiscal year bears to the total amount received under such sections in such preceding fiscal year by all eligible local educational agencies.

(c) RESERVATION FOR COMMUNITY-BASED ORGANIZATIONS AND NONPROFIT PARTNERSHIPS.—

(1) IN GENERAL.—From the amounts allotted under subsection (b) of this section for any fiscal year, each eligible local educational agency shall reserve not more than 5 percent to make as many grants as practicable for the activities described in section 105 to—

(A) community-based organizations; or

(B) nonprofit partnerships between the eligible local educational agency and a citywide collaborative of private sector businesses.

(2) SPECIAL RULE.—Grants awarded pursuant to paragraph (1) shall be of sufficient size, scope and quality to be effective.

(d) PAYMENTS.—

(1) IN GENERAL.—The Secretary shall annually pay to each eligible local educational agency having an application approved under section 103 the costs of the activities described in the application.

(2) PAYMENT REQUIREMENTS.—The Secretary shall only make annual payments to eligible local educational agencies which—

(A) comply with the provisions of section 106(c); and

(B) demonstrate to the satisfaction of the Secretary that the data submitted pursuant to section 106(c) shows progress toward meeting national education goals.

(e) ADMINISTRATIVE COSTS.—Not more than 5 percent of any allotment or grant made under this title may be used for administrative costs.

SEC. 103. APPLICATION REQUIRED.

(a) APPLICATION REQUIRED.—

(1) LOCAL EDUCATIONAL AGENCIES.—

(A) IN GENERAL.—Any eligible local educational agency desiring to receive an allotment from the Secretary to carry out the provisions of this title shall—

(i) develop and prepare an application with the local advisory group in accordance with section 109 of this Act;

(ii) submit to the State educational agency the application for review and comment; and

(iii) submit the application described in clause (i) to the Secretary for approval.

(B) DURATION.—Except as provided in section 106, the application described in clause (i) may be for a period of not more than 3 years.

(2) COMMUNITY-BASED ORGANIZATIONS AND NONPROFIT PARTNERSHIPS.—Any community-based organization or nonprofit partnership described in section 102(c) desiring to receive a grant from an eligible local educational agency pursuant to section 101(c) shall—

(A) prepare an application for approval by the local advisory group described in section 109 and submit such application to the eligible local educational agency;

(B) describe in the application the collaborative efforts undertaken with the local educational agency in designing a program to meet the purposes of the Act; and

(C) describe in the application how funds will be used to help meet the education goals selected by the local educational agency pursuant to subsection (b) of this section.

(b) CONTENTS OF LOCAL EDUCATIONAL AGENCY APPLICATION.—Each application submitted by an eligible local educational agency pursuant to paragraph (1) of subsection (a) shall include a description of—

(1) the ranking of all schools in the eligible local educational agency by achievement, poverty, and racial isolation and how such schools will be served in accordance with section 110(a);

(2) the community served by the eligible local educational agency and the effects of the community on the educational conditions within the schools served by the eligible local educational agency;

(3) the collaboration in program planning with the local advisory group described in section 109;

(4) the goals selected by the eligible local educational agency pursuant to section 106(b), the rationale for choosing such goals over others, and a description of whether the goals selected differ between elementary and secondary schools in the district;

(5) how funds received under this title will be used to meet the national educational goals selected by the eligible local educational agency;

(6) how promising or successful models or programs will be replicated in designing activities assisted under this title; and

(7) the statistical indicators and other criteria that the eligible local educational agency will use to measure progress toward meeting national education goals, and a description of what the local educational agency has done to ensure that any assessments used to measure such progress will not have a negative effect on minority or language minority students.

SEC. 104. PLANNING PERIOD.

Any eligible local educational agency requiring additional planning efforts to meet the provisions of this title may use the first 6 months of the initial program year for planning purposes, subject to approval by the Secretary, except that no more than 15 percent of the first year's allotment shall be used for such purposes. A written report of the results of the plan shall be submitted to the Secretary.

SEC. 105. USES OF FUNDS.

(a) IN GENERAL.—Funds allotted under this title shall be used by eligible local educational agencies, or community-based organizations or nonprofit partnerships described in section 103(b) to meet national education goals through programs designed to—

(1) increase the academic achievement of urban school children to at least the national average, including—

(A) effective schools programs;

(B) tutoring, mentoring, and other activities to improve academic achievement directly;

(C) activities designed to increase the participation of minority and female students in entry level and advanced courses in mathematics and science;

(D) supplementary academic instruction;

(E) efforts to improve problem-solving and higher-order thinking skills;

(F) programs to increase student motivation for learning; and

(G) efforts to lengthen the school day, school year or reduce class sizes;

(2) ensure the readiness of all urban children for school, including—

(A) full workday, full calendar-year comprehensive early childhood development programs;

(B) parenting classes and parent involvement activities;

(C) activities designed to coordinate prekindergarten and child care programs;

(D) efforts to integrate developmentally appropriate prekindergarten services into the overall school program;

(E) upgrading the qualifications of early childhood education staff and standards for programs;

(F) collaborative efforts with health and social service agencies to provide comprehensive services and to facilitate the transition from home to school;

(G) establishment of comprehensive child care centers in high schools for student-parents and their children; and

(H) augmenting early childhood development programs to meet the special educational and cultural needs of limited-English proficient preschool children;

(3) increase the graduation rates of urban students to at least the national average, including—

(A) dropout prevention activities and support services for students at-risk of dropping out of school;

(B) re-entry, outreach and support activities to recruit students who have dropped out of school to return to school;

(C) development of systemwide policies and practices that encourage students to stay in school;

(D) efforts to provide individualized student support, such as mentoring programs;

(E) collaborative activities between schools, parents, community groups, agencies and institutions of higher education aimed at preventing individuals from dropping out of school;

(F) programs to increase student attendance; and

(G) alternative programs for students, especially bilingual and special education students, who have dropped out of school or are at-risk of dropping out of school;

(4) prepare urban school graduates to enter higher education, pursue careers and exercise their responsibilities as citizens, including—

(A) activities designed to increase the number and percentages of students, particularly minority students, enrolling in postsecondary educational institutions after graduation from secondary schools;

(B) in-school youth employment, vocational education, and career education programs that improve the transition from school to work;

(C) activities designed in collaboration with colleges and universities to assist urban school graduates in completing higher education;

(D) efforts to increase voter registration among eligible high school students;

(E) activities designed to promote community service and volunteerism among students, parents, teachers, and the community; and

(F) civic education and other programs designed to enhance responsible citizenship and understanding of the political process;

(5) recruit and retain qualified teachers, including—

(A) school-based management projects and activities;

(B) programs designed to test efforts to increase the professionalism of teachers or to bring teachers up to national voluntary standards;

(C) alternative routes to certification for qualified individuals from business, the military and other fields;

(D) efforts to recruit and retain teachers in critical shortage areas, including early childhood teachers, mathematics and science teachers, and special education and bilingual teachers;

(E) upgrading the skills of teacher aides and paraprofessionals to assist such individuals in becoming certified teachers;

(F) efforts specifically designed to increase the number of minority teachers in urban schools;

(G) programs designed to "grow your own" teachers;

(H) incentives for teachers to work in inner-city schools; and

(I) collaborative activities with urban universities to revise and upgrade teacher training programs; and

(6) decrease the use of drugs and alcohol among urban students, and to enhance the physical and emotional health of such students, including—

(A) activities designed to improve the self-esteem and selfworth of urban students;

(B) the provision of health care services and other social services and the coordination of such services with other health care providers;

(C) programs designed to improve safety and discipline and reduce in-school violence, vandalism and gang activity;

(D) activities that begin in the early grades and are designed to prevent drug and alcohol abuse and smoking among students and teachers;

(E) collaborative activities with other agencies, businesses, and community groups to discourage the advertisement and glorification of drugs and alcohol;

(F) efforts to enhance health education and nutrition education; and

(G) alternative schools, and schools-within-schools programs, including bilingual and special education programs for students with special needs.

(b) SPECIAL RULE.—Funds allotted under this title may be used for the planning, development, operation or expansion of programs and activities which are designed to assist urban schools in meeting national education goals, and may include—

(1) training of teachers and other educational personnel in subject areas, or instructional technology and methods that would improve the delivery of services in urban settings in any of the national education goal areas, including staff development efforts which emphasize multicultural and gender and disability bias-free curricula;

(2) coordination and collaboration with other municipal agencies, child care organizations, universities or the private sector;

(3) parental involvement and outreach efforts and other activities designed to enhance parental encouragement of student learning;

(4) guidance counseling, psychological, social work, and other support services that contribute to progress in achieving national education goals;

(5) efforts to acquire and improve access to educational technology;

(6) programs to serve homeless children, desegregating children, immigrants, migrants, or other highly mobile populations, even if such individuals do not attend a school assisted under this title; and

(7) efforts to improve and strengthen the curriculum and coordinate services across grade levels.

(c) PRIORITY.—Each local educational agency submitting an application under this section shall give priority in designing the program assisted under this title to activities that replicate successful efforts in other local educational agencies or expand successful programs within the eligible local educational agency.

SEC. 106. ACCOUNTABILITY.

(a) IN GENERAL.—The Secretary may award an allotment under this title to an eligible local educational agency to enable such an agency to operate a program under this title for a period of not more than 3 years. If an eligible local educational agency receiving an allotment under this title meets the accountability requirements described in subsection (b) at the end of 3 years and the requirements described in subsection (c) at the end of each year, as determined by the Secretary, such agency shall be eligible to continue the project with funds under this title for an additional 3 years if such agency so desires.

(b) REQUIREMENTS TO MOVE TOWARD NATIONAL EDUCATION GOALS.—

(1) PROGRAM CONTINUATION.—If, after 3 years, an eligible local educational agency receiving an allotment under this title is able to demonstrate to the satisfaction of the Secretary that it has increased the achievement level of the lowest 2 quartiles of students in schools assisted under this title as measured by the statistical indicators and other criteria specified in the application in excess of the average such achievement of such agency in the 3 years prior to the initiation of the project, then such agency shall be eligible to continue the project with funds under this title for an additional 3 years upon reapplication under section 103.

(2) SPECIAL RULE.—If, after 3 years, an eligible local educational agency receiving an allotment under this title is able to demonstrate progress on meeting at least 3 other national education goals as measured by the criteria described in paragraph (3), then such agency shall be deemed to have met the requirements of paragraph (1) so long as the achievement level of the schools assisted under this title did not decline in any of the 3 previous school years.

(3) CRITERIA.—For purposes of paragraph (2), the criteria are:

(A) The number or percentage of preschool children served by the eligible local educational agency is greater than the average such number or percentage in the 3 previous school years.

(B) The secondary school graduation rate in the eligible local educational agency is greater than the average such rate for the 3 previous school years.

(C) The percentage of secondary school graduates in the eligible local educational agency enrolled in postsecondary education is greater than such percentage for the 3 previous school years.

(D) The percentage of the teaching force in the eligible local educational agency who are minorities is greater than the average such percentage for the 3 previous school years.

(E) The incidence of discipline, drug-related or in-school crime in the eligible local educational agency is less than the average such incidence in the 3 previous school years.

(c) COLLECTION OF DATA.—Each eligible local educational agency, community-based organization, or nonprofit partnership described in section 102(c)(2) receiving an allotment under this title shall annually collect and submit to the Secretary data based on the statistical indicators and other criteria described in the application submitted by such eligible local educational agency for the purposes of monitoring progress in achieving national education goals. Such data shall include multiple measures or indicators of each variable, and may take into consideration the mobility of students in the schools served under this title.

SEC. 107. INCENTIVE AWARDS TO EXEMPLARY PROGRAMS.

From amounts reserved pursuant to section 102(a) or otherwise made available, the Secretary is authorized to make competitive awards to individual schools participating in a program assisted under this title which demonstrate to the satisfaction of the Secretary at least 3 of the following:

(1) Unusual or exemplary progress in achieving the national education goals through programs described in section 105.

(2) Exemplary or unusually effective collaborative arrangements between the schools, community-based organizations, agencies, parent groups, colleges and businesses.

(3) Identification, review and removal of potential barriers to student performance in the national education goal areas, such as suspensions and expulsions, in-grade retentions, ability grouping, and lack of access to course offerings in pre-algebra and introductory algebra.

(4) Substantial expansion of the hours schools assisted under this title remain open for community use or student after-school recreation.

SEC. 108. REGULATORY ASSESSMENT.

(a) Report on Urban Public Schools.—In order to assist eligible local educational agencies under this Act in improving the performance of urban school children, the Secretary shall, not later than January 1, 1993, prepare a report on the impact of Federal regulations, guidelines and policies on urban public schools.

(b) Contents of Report.—The report shall analyze the impact of Federal legal, regulatory, policy and organizational requirements on the time and resources that eligible local educational agencies assisted under this Act have for educating students, including fiscal resources, staff time, facilities, instructional equipment, and services. The report shall make recommendations on how best to simplify Federal regulations, guidelines and policies so that more resources can be devoted to improving urban school performance. The report shall also identify the regulations whose waiver might be used as incentives or rewards for unusual progress toward meeting national education goals.

(c) Specific Issues for Analysis.—In preparing the report required by subsection (a), the Secretary shall analyze—

(1) the effect of regulatory requirements on local program flexibility and management within eligible local educational agencies;

(2) the effect of regulatory requirements on the size, cost and composition of administrative practices within eligible local educational agencies;

(3) the extent to which regulatory requirements are duplicative or contradictory;

(4) the amount of time and resources that school administrators and teachers must spend responding to data requests and reporting requirements pursuant to Federal law;

(5) the extent to which regulatory requirements are related to instructional rather than noninstructional practices in eligible local educational agencies;

(6) the relationship between specific regulatory requirements and the educational performance of urban students; and

(7) how the waiver or simplification of regulatory requirements could enhance the performance of urban school children and the progress of urban schools in meeting national education goals.

(d) Sample Data.—The Secretary may, in developing the report described in subsection (a), use appropriate sampling techniques.

(e) Consultation With Congress.—The Secretary shall consult with the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate concerning the design of the report described in this section.

SEC. 109. LOCAL ADVISORY GROUP.

(a) Establishment.—Any local educational agency desiring to receive an allotment under this Act shall form a local advisory group.

(b) Composition.—

(1) In general.—Each local advisory group described in subsection (a) shall be composed of representatives of groups such as—

(A) local government agencies;

(B) community-based organizations;

(C) service providers;

(D) teachers;

(E) parents;

(F) colleges and universities;

(G) businesses;

(H) principals and other school administrators;

(I) counselors, school psychologists and social workers;

(J) students;

(K) State educational agencies and State boards of education;

(L) labor;

(M) Offices of the mayor;

(N) religious leaders; and

(O) organizations with an interest in improving urban education and expertise in the delivery of services needed by the schools selected to participate in a program assisted under this Act.

(2) Appointment.—The superintendent of schools and the president of the board of education of the eligible local educational agency applying for funds under this title shall appoint the members of the local advisory group. The local advisory group may contain as many members as is necessary to ensure a comprehensive community-wide program to improve urban education.

(3) Representation.—The local advisory group shall be representative of the community and shall be balanced according to the race, ethnicity, native language background, and gender of its members, to the extent practicable.

(c) Functions.—The local advisory group shall—

(1) advise the eligible local educational agency on the design and conduct of a needs assessment for all schools expected to participate in the program assisted under this title;

(2) assist in planning for community-wide collaboration in service delivery for students in schools expected to be served by the program assisted under this title;

(3) advise the eligible local educational agency and the community on how they can work together to use multiple service providers;

(4) advise and assist the eligible local educational agency on the implementation of the program assisted under this title and review evaluations of such program's success;

(5) review and approve applications submitted to the eligible local educational agency by community-based organizations pursuant to section 103(b);

(6) advise the eligible local educational agency on strategies for increasing parent involvement and the number of school volunteers and role models in schools; and

(7) review the success of community-based programs assisted under this title for progress on the national education goals.

(d) Use of Existing Local Advisory Group.—To the extent that an eligible local educational agency has established a broadly representative local advisory group before enactment of this Act that is comparable to the local advisory group described in this section, such existing local advisory group shall be considered to be in compliance with the provisions of this section.

SEC. 110. SPECIAL RULES.

(a) Ranking of Schools To Determine Relative Need.—

(1) In general.—Each eligible local educational agency desiring to receive an allotment under this title shall, in order to determine which schools are most in need of services under this title, separately rank all schools under the jurisdiction of such agency on the basis of—

(A) achievement;

(B) poverty; and

(C) racial isolation.

(2) Percentage of schools to be served.—Each eligible local educational agency that receives an allotment under this title shall serve at least 10 percent, but not more than 20 percent, of the schools under the jurisdiction of such agency.

(3) Criteria for schools to be served.—Subject to the provisions of paragraph (2) of this section, each eligible local educational agency that receives an allotment under this title—

(A) shall serve any school that is determined to be most in need with respect to all 3 rankings described in paragraph (1);

(B) may serve any school that is determined to be most in need with respect to any 1 or more of such rankings; and

(C) may serve any school that received assistance under this title in a previous fiscal year.

(b) Flexibility.—Each eligible local educational agency shall have the flexibility to serve homeless children, desegregating students, immigrants, migrants or other highly mobile populations within the program assisted under this title.

(c) Chapter 1 School Improvement Plan.—The approved program for any school served under sections 1020 and 1021 of the Elementary and Secondary Education Act of 1965, may be considered sufficient to meet the requirements of the provisions of section 106(b)(1) of this Act.

TITLE II—SCHOOL BUILDING REPAIR AND RENOVATION

SEC. 201. PURPOSE; AUTHORIZATION OF APPROPRIATIONS.

(a) Purpose.—It is the purpose of this title to provide assistance to eligible local educational agencies to assist such agencies in repairing, and renovating, instructional facilities in city schools.

(b) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, 1995, 1996, and 1997, to carry out the provisions of this title.

SEC. 202. ALLOCATION OF FUNDS.

(a) Reservation.—From the amount appropriated or otherwise made available to carry out the provisions of this title for any fiscal year, the Secretary shall reserve 1 percent of such amount to monitor activities assisted under this title.

(b) Allotments.—From the remainder of sums not reserved under subsection (a), the Secretary shall allot to eligible local educational agencies with an approved application—

(1) 33 percent of such funds on the basis of the number of children in the eligible local educational agency between the ages of 5 and 17 who are members of families whose income does not exceed the income official poverty line (as defined by the Office of Management and Budget), according to the most recent decennial census, divided by the number of all such children in all eligible local educational agencies;

(2) 33 percent of such funds on the basis of the number of school buildings used for instructional purposes in the eligible local educational agency, divided by the number of all such buildings in all eligible local educational agencies; and

(3) 33 percent of such funds on the basis of the number of school buildings in the eligible local educational agency which are used for instructional purposes and which are more than 25 years old, divided by the number of all such buildings in all eligible local educational agencies.

SEC. 203. APPLICATION.

(a) APPLICATION.—

(1) IN GENERAL.—Any eligible local educational agency desiring to receive an allotment to carry out the provisions of this title shall submit to the Secretary an application at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

(2) DURATION.—Each application submitted pursuant to paragraph (1) shall be for a period of not more than 3 years.

(3) ANNUAL REVIEW.—Each application submitted pursuant to paragraph (1) shall be subject to annual review.

(b) CONTENTS.—Each application submitted pursuant to subsection (a) shall contain—

(1) an assessment of needs for building repair, renovation and construction;

(2) the name and location of all sites scheduled for repair, renovation or construction and a description of the activities planned at each site; and

(3) a description of accounting procedures used to assure proper disbursement of Federal funds.

SEC. 204. REPAIR AND RENOVATION.

Each eligible local educational agency receiving an allotment under section 202(b) shall use 50 percent of such allotment to conduct programs for—

(1) repair and renovation of school buildings used for instruction;

(2) installation or upgrading of school security and communications systems;

(3) construction of new buildings that will serve to replace old facilities that are most cost effectively torn down rather than renovated;

(4) alterations to buildings to meet special program, curricula, or school-site management needs;

(5) alterations to buildings to meet certain special population needs, such as the needs of homeless children and preschool children;

(6) alterations to school buildings to enable such buildings to serve as one-stop family support centers;

(7) facilities' costs associated with lengthening the school day or school year; and

(8) upgrading of and alterations to buildings to accommodate new instructional technology.

SEC. 205. ENVIRONMENT AND SAFETY.

Each eligible local educational agency receiving an allotment under section 202(b) shall use 50 percent of such allotment to conduct programs for—

(1) energy conservation;

(2) removal or containment of environmentally hazardous material, such as asbestos, lead and radon;

(3) meeting the requirements of section 504 of the Rehabilitation Act of 1973; and

(4) meeting local, State or Federal laws or regulations enacted or promulgated since the initial construction of a building related to fire, air, light, noise, waste disposal, building height or other.

SEC. 206. WAIVER.

The Secretary may waive the 50 percent requirements described in sections 204 and 205 for any eligible local educational agency that demonstrates to the satisfaction of the Secretary a greater need for services described in section 204 or 205.

TITLE III—URBAN SCHOOL RESEARCH

SEC. 301. AUTHORIZATION.

There are authorized to be appropriated to the National Institute for Urban Education such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, 1995, 1996, and 1997, to carry out the provisions of this title.

SEC. 302. ASSISTANT SECRETARY FOR URBAN EDUCATION.

(a) AMENDMENT TO THE DEPARTMENT OF EDUCATION ORGANIZATION ACT.—Title II of the Department of Education Organization Act (20 U.S.C. 3401 et seq.) is amended—

(1) in section 202(b)(1) by—

(A) striking "and" at the end of subparagraph (F);

(B) striking the period at the end of subparagraph (G) and inserting a semicolon and "and"; and

(C) inserting at the end thereof the following new subparagraph:

"(H) an Assistant Secretary for Urban Education."; and

(2) inserting at the end thereof the following new section:

"SEC. 215. NATIONAL INSTITUTE FOR URBAN EDUCATION.

"There shall be in the Department a National Institute for Urban Education, established in accordance with title III of the Urban Schools of America (USA) Act of 1991.".

(b) AMENDMENT TO TITLE V.—Section 5315 of title 5, United States Code is amended by by striking "Assistant Secretaries of Education (6)" and inserting "Assistant Secretaries of Education (7)".

SEC. 303. RESERVATION, ALLOTMENT, ALLOCATION.

(a) RESERVATION FOR NATIONAL INSTITUTE OF URBAN EDUCATION.—From the amount appropriated or otherwise made available to carry out the provisions of this title in any fiscal year, the Assistant Secretary for Urban Education (hereafter in this title referred to as the "Assistant Secretary") shall reserve 20 percent of such funds for the operation of the National Institute for Urban Education (hereafter in this title referred to as the "Institute").

(b) ALLOTMENTS TO ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—From the remainder of sums not reserved under subsection (a), the Assistant Secretary shall make allotments to eligible local educational agencies in an amount which bears the same relation to such remainder as the number of students enrolled in the eligible local educational agency bears to the total number of students enrolled in all eligible local educational agencies.

SEC. 304. NATIONAL INSTITUTE OF URBAN EDUCATION.

(a) ESTABLISHMENT.—From amounts reserved under section 303(a), the Assistant Secretary shall establish an institute to be known as the National Institute of Urban Education.

(b) FUNCTIONS.—The Institute shall—

(1) assist eligible local educational agencies under this Act, or consortia of such agencies, in developing research and evaluation activities to assess progress toward meeting the national education goals;

(2) provide for the conduct of research which will assist urban schools in enhancing learning, teaching, and system management;

(3) provide training in research and evaluation methods and techniques that meet the purposes of this Act;

(4) evaluate and disseminate among eligible local educational agencies results of activities conducted pursuant to title I of this Act;

(5) design and coordinate, in consultation with eligible local educational agency activities, a comprehensive and cohesive research and evaluation strategy for assessing progress under this Act;

(6) serve as a clearinghouse on urban education research and evaluation findings, policies, and practices;

(7) design, test, define, and promote common indicators of progress toward the national education goals; and

(8) design, develop, and test new multiple-measures of school progress toward the national education goals.

(c) GOVERNANCE.—The Institute shall have a Governing Board.

(1) COMPOSITION AND APPOINTMENT.—

(A) COMPOSITION.—The Governing Board shall consist of 22 members, selected from a pool of candidates nominated by the superintendent and the president of the Board of Education of the eligible local educational agencies.

(B) APPOINTMENT.—The Majority Leader of the House of Representatives and the Majority Leader of the Senate shall each appoint six members to the Governing Board from individuals nominated pursuant to subparagraph (A). The Minority Leader of the House of Representatives and the Minority Leader of the Senate shall each appoint 3 members to the Governing Board from individuals nominated pursuant to subparagraph (A). The Secretary shall appoint 4 members to the Governing Board from individuals nominated pursuant to subparagraph (A).

(2) TERMS OF OFFICE.—

(A) IN GENERAL.—Members of the Governing Board shall be appointed for a period of 3 years.

(B) REAPPOINTMENT.—Members of the Governing Board may be reappointed to the Governing Board.

(3) DUTIES.—The Governing Board shall—

(A) establish the national research and evaluation program for the Institute;

(B) review the programs and activities of the Institute; and

(C) issue an annual report to the Congress and the public on the progress of urban schools in meeting the goals of this Act.

(4) LEADERSHIP.—The Assistant Secretary shall be the primary individual responsible for the daily operation of the Institute.

(5) STAFF.—Such personnel as the Institute deems necessary may be appointed to carry out the functions of the Institute.

(d) CONTRACTS AND GRANTS.—

(1) IN GENERAL.—The Institute may award grants to or enter into contracts with eligible local educational agencies, universities, research and development centers, private corporations, or regional educational laboratories to carry out the duties of the Institute.

(2) COMPETITIVE AWARDS.—Grants and contracts awarded under paragraph (1) shall be awarded on a competitive basis.

SEC. 305. APPLICATION.

(a) IN GENERAL.—Any eligible local educational agency desiring to receive an allotment under section 303(b) shall—

(1) submit an application to the Assistant Secretary;

(2) consult with the Department of Education, local universities, research institutes, laboratories, or centers for purposes of planning and implementing a plan of research and technical assistance for the eligible local educational agency and schools of the local educational agency participating in programs assisted under title I; and

(3) describe in the application a research and technical assistance plan and how assistance provided under this title will be used to assess progress on the national education goals.

(b) CONSORTIA.—Eligible local educational agencies may pool their allotments under section 303(b), in whole or in part, to design and conduct cooperative data collection, evaluation and information dissemination activities.

SEC. 306. USES OF FUNDS.

Funds allotted to eligible local educational agencies under section 303(b) may be used for—

(1) collaborative and coordinated research and evaluation of educational techniques or approaches used in multiple eligible local educational agencies;

(2) evaluation of projects assisted under title I;

(3) collection and dissemination of information on successful projects and approaches assisted under title I;

(4) design and implementation of extension service programs to allow an eligible local educational agency to provide technical assistance to individual schools and teachers involved in projects assisted under title I;

(5) provision of data and information management services to individual schools assisted under title I;

(6) provision of staff training in schools assisted under title I;

(7) evaluation of progress made by eligible local educational agencies assisted under this Act in meeting national education goals;

(8) provision of staff training in test interpretation and use for diagnostic purposes;

(9) provision of information to parents on test results and test interpretation;

(10) provision of technology and training in its research and evaluation uses;

(11) development of assessment tools of students in individualized instruction;

(12) research on school policies and practices which may be barriers to the success of students in school; and

(13) development and testing of new multiple, alternative assessments of student progress toward the national education goals which are race and gender bias-free and sensitive to limited-English proficient and disabled students.

TITLE IV—GENERAL PROVISIONS

SEC. 401. INTERAGENCY COUNCIL ON URBAN SCHOOLS.

(a) ESTABLISHMENT.—There is established the Interagency Council on Urban Schools (hereafter in this section referred to as the "Council").

(b) COMPOSITION.—

(1) IN GENERAL.—The Council shall consist of—

(A) the Secretary of Education who shall serve as Chairperson of the Council;

(B) the Secretary of Labor;

(C) the Secretary of Health and Human Services;

(D) the Secretary of Agriculture;

(E) the Attorney General of the United States;

(F) the Secretary of Energy;

(G) the Director of the Environmental Protection Agency;

(H) the Director of the Commission on Civil Rights;

(I) the Chairperson of the Advisory Commission on Intergovernmental Relations;

(J) the Chairpersons of the National Endowments on the Arts and the Humanities;

(K) the Director of the National Science Foundation;

(L) the Secretary of Housing and Urban Development; and

(M) such other officers of the Federal Government as may be designated by the President or the Chairperson of the Council to serve wherever matters within the jurisdiction of the agency headed by such an officer are to be considered by the Council.

(2) REPRESENTATION.—Each individual described in paragraph (1) may designate a person to represent such individual on the Council.

(3) DURATION.—Each member shall be appointed for as long as such member serves as the head of the appropriate department or agency.

(4) PRINCIPAL ADVISOR.—The Chairperson of the Council shall be the President's principal advisor on urban schools.

(c) QUORUM.—Seven members of the Council shall constitute a quorum for the purposes of transmitting recommendations and proposals to the President, but a lesser number may meet for other reasons.

(d) MEETINGS.—The Council shall meet at least 2 times each year. When a Council member is unable to attend a meeting, the Council member shall appoint an appropriate Assistant Secretary or an equivalent individual from the department or agency of the member to represent the member for that meeting.

(e) DUTIES OF THE COUNCIL.—The Council shall—

(1) review programs and activities conducted by each department or agency represented on the Council to determine the effects of such programs and activities on the ability of urban schools to meet national education goals;

(2) track progress of urban schools in meeting national education goals;

(3) solicit information and advice from experts in urban education and representatives of urban schools on how the Federal Government could improve the programs and activities of the Federal Government which serve urban school students;

(4) review regulations across various departments or agencies of the Federal Government for duplication or contradiction;

(5) issue an annual report to Congress and the President on the progress urban schools are making in meeting national education goals, and on how Congress might change Federal programs to improve the effectiveness of such programs in urban schools;

(6) review and make recommendations regarding ways to improve or streamline various Federal data collection activities in urban schools; and

(7) conduct such research as may be helpful to urban school practitioners in improving the performance of students attending urban schools.

SEC. 402. WHITE HOUSE CONFERENCE ON URBAN EDUCATION.

(a) AUTHORIZATION TO CALL CONFERENCE.—

(1) IN GENERAL.—The President is authorized to call and conduct a White House Conference on Urban Education (hereafter referred to as the "Conference") which shall be held not earlier than November 1, 1992, and not later than October 30, 1993.

(2) PURPOSE.—The purpose of the White House Conference on Urban Education shall be to—

(A) develop recommendations and strategies for the improvement of urban education;

(B) marshal the forces of the private sector, governmental agencies at all levels, parents, teachers, communities, and education officials to assist urban schools in achieving national education goals; and

(C) conduct the initial planning for a permanent national advisory commission on urban education.

(b) COMPOSITION OF CONFERENCE.—

(1) IN GENERAL.—The Conference shall be composed of—

(A) representatives of urban public school systems, including board of education members and school superintendents;

(B) representatives of the Congress, the Department of Education and other Federal agencies;

(C) State elected officials and representatives from State educational agencies; and

(D) individuals with special knowledge of and expertise in urban education.

(2) SELECTION.—The President shall select one-third of the participants of the Conference, the Speaker of the House of Representatives shall select one-third of such participants, and the President pro tempore of the Senate shall select the remaining one-third of such participants.

(3) REPRESENTATION.—In selecting the participants of the Conference the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate shall ensure that the participants are as representative of the ethnic, racial, and language diversity of cities as is practicable.

(c) REPORTS.—

(1) IN GENERAL.—A final report of the Conference, containing such findings and recommendations as may be made by the Conference, shall be submitted to the President not later than 120 days following the termination of the Conference. The final report shall be made public and, within 90 days after receipt by the President, transmitted to the Congress together with a statement of the President containing recommendations for implementing the report.

(2) PUBLICATION AND DISTRIBUTION.—The Conference is authorized to publish and distribute the report described in this section. Copies of the report shall be provided to the Federal depository libraries and made available to local urban school leaders.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated for fiscal year 1993 such sums as may be necessary to carry out the provisions of this section.

(2) AVAILABILITY.—Amounts made available pursuant to the authority of paragraph (1) shall remain available until expended.

SEC. 403. AUGUSTUS F. HAWKINS NATIONAL COMMISSION ON URBAN EDUCATION.

(a) ESTABLISHMENT.—There is established a National Commission on Urban Education (referred to hereafter as the "Commission").

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 12 members. Four of the members shall be appointed by the President. Four of the members shall be appointed by the Speaker of the House, including two Members of the House, of which 1 shall be

from each political party. Four of the members shall be appointed by the President pro tempore of the Senate, including 2 members of the Senate, of which 1 shall be from each political party.

(2) CHAIRPERSON.—The Chairperson of the Commission shall be elected by the members of the Commission and shall continue to serve for the duration of the Commission.

(3) VACANCIES.—Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(c) STUDY.—The Commission shall make a study of the following issues:

(1) DEMOGRAPHIC CHANGES.—Demographic changes in student enrollment and classroom teachers in the 10-year period prior to the date of enactment of this Act.

(2) SPECIAL NEEDS.—Numbers and types of special needs of students in urban schools.

(3) UNSERVED OR UNDERSERVED STUDENTS.—Number of unserved or underserved students in urban schools eligible for assistance under the Head Start Act, chapter 1 of title I of the Elementary and Secondary Education Act of 1965, School Dropout Demonstration Assistance Act of 1988, Drug Free Schools and Communities Act of 1986, Carl D. Perkins Vocational and Applied Technology Education Act, Education of the Handicapped Act and other Federal programs.

(4) STUDENT PERFORMANCE.—Program and management efforts in urban schools designed to enhance student performance, and reasons for the effectiveness of such efforts.

(5) FINANCIAL SUPPORT.—Financial support and funding needs of urban schools from local, State, and Federal sources.

(6) COLLABORATIVE EFFORTS.—Collaborative efforts and programs between urban schools, the private sector, and community groups.

(7) SUPPLY NEEDS.—Supply needs for teachers in urban schools in the 10-year period beginning on the date of enactment of this Act.

(d) REPORTS.—

(1) IN GENERAL.—The Commission shall prepare and submit a report and recommendations to the President and to the appropriate committees of the Congress on the findings of the study required by this section. The report shall be submitted as soon as practicable.

(2) PROPOSAL FOR CHANGES IN FEDERAL LEGISLATION.—The report submitted under this section shall include proposals for changes in Federal legislation.

(e) STAFF.—Such personnel as the Commission deems necessary may be appointed by the Commission without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subtitle III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authorized for level III of the Executive Schedule.

(f) COMPENSATION.—

(1) IN GENERAL.—Members of the Commission who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States. Such members may be allowed travel expenses and per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

(2) SPECIAL RULE.—Members of the Commission who are not officers or full-time employees of the United States may receive such per diem and travel allowance as is provided by the United States Code for persons in the Government service employed intermittently.

(g) ADMINISTRATION.—

(1) IN GENERAL.—The Commission or, on the authorization of the Commission, any committee thereof, may, for the purpose of carrying out the provisions of this section, hold such hearings and sit and act at such times and such places within the United States as the Commission or such committee may deem advisable.

(2) CONSULTATION.—In carrying out its duties under this section, the Commission shall consult with other Federal agencies, representatives of State and local governments, and private organizations to the extent feasible.

(3) INFORMATION.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality, information, suggestions, estimates, and statistics for the purpose of this section, and each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request by the Chair.

(4) CONTRACTS.—The Commission is authorized to enter into contracts to secure the necessary data and information to conduct its work and to obtain the services of experts and consultants.

(5) COOPERATION.—The heads of all Federal agencies are, to the extent practicable, directed to cooperate with the Commission in carrying out this section.

(6) SPECIAL RULE.—The Commission is authorized to utilize, with the consent of such agencies, the services, personnel, information, and facilities of other Federal, State, local, and private agencies with or without reimbursement.

(h) TERMINATION.—The Commission shall terminate 3 years after the date of its first meeting.

(i) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated for fiscal year 1993 such sums as may be necessary to carry out the provisions of this section.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authority of paragraph (1) shall remain available until expended or until the termination of the Commission, whichever occurs first.

SEC. 404. FEDERAL FUNDS TO SUPPLEMENT NOT SUPPLANT NON-FEDERAL FUNDS.

An eligible local educational agency may use funds received under this Act only so as to supplement and, to the extent practicable, increase the level of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of students participating in activities assisted under this Act and in no case may such funds be used to supplant such funds from such non-Federal sources.

SEC. 405. DEFINITIONS.

Except as otherwise provided, for the purposes of this Act—

(1) the term "central city" has the same meaning as that used by the United States Census Bureau;

(2) the term "community-based organization" means a private nonprofit organization which is representative of a community or significant segments of a community and which has a proven record of providing effective educational or related services to individuals in the community;

(3) the term "eligible local educational agency" means a local educational agency which—

(i) serves the largest central city in a State; or

(ii) enrolls 30,000 or more students and serves a central city with a population of at least 200,000 in a metropolitan statistical area;

(4) the term "institution of higher education" has the meaning given to such term in section 1201(a) of the Higher Education Act of 1965;

(5) the term "local educational agency" has the meaning given to such term in section 1421(12) of the Elementary and Secondary Education Act of 1965;

(6) the term "metropolitan statistical area" has the same meaning as that used by the United States Census Bureau;

(7) the term "poverty level" means the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census for a family of 4 in such form as those criteria have been updated by increases in the Consumer Price Index for All Urban Consumers;

(8) the term "Secretary" means the Secretary of Education.

(9) the term "State" means each of the several States and the District of Columbia, but does not include Guam, American Samoa, the Commonwealth of Puerto Rico, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau; and

(10) the term "State educational agency" has the meaning given to such term in section 1471(23) of the Elementary and Secondary Education Act of 1965.

Mr. KOHL. Mr. President, I am pleased to join our distinguished colleagues from the Senate Labor and Human Resources Committee as a cosponsor of S. 720, the Urban Schools of America [USA] Act of 1991.

I cannot think of a single area of greater need in this Nation than investment in education. A 1989 report on the National Association of Student Financial Aid Administrators and the American council on Education Early Awareness of Postsecondary Education gave, by way of background, these disturbing facts:

Today, there are significantly fewer youth to support our aging population. In 1950, there were 17 Americans working to support each retired person. By 1992, the ratio will be only three to one, and one of the three workers will be black, Hispanic, Asian, or Native American. Of the 3.6 million children who entered kindergarten in 1988 (the high school class of 2001), about one-third are minority students. One-quarter of the children were born in poverty. Some 15 percent fit in one or more of the following categories: mentally or physically handicapped, non-native speakers of english, children of teen mothers, or children of unmarried parents. As a result of these sweeping demographic changes, the high percentages of school dropouts—already about half of students entering ninth grade in urban areas—are likely to increase. Unless there are serious, comprehensive, coordinated interventions at early stages in the lives of at-risk students, a significant percentage of the class of 2001 will be alienated from school by 6th grade and on the street by age 16.

The report goes on to quote Henry Levin's of Stanford University estimates that the cost of school dropouts, amounted conservatively to $77 billion every year: $71 billion in lost tax revenues; $3 billion for welfare and unemployment; and $3 billion for crime prevention.

USA is an investment that would help to stem those costs. Through direct federal investment in urban school improvement, school building repair and renovation and urban school research, we can provide a desperately needed IV to our ailing inner city schools.

As a Senator who represents a largely rural State, I know all too well that the problems plaguing public elementary and secondary education are not limited to urban areas. In my own State, the city of Milwaukee faces tremendous challenges in improving public education, but there are many other local education agencies across the State who could benefit from a "Rural" USA. In fact, there are over 50 school districts with lower per capita incomes than the city of Milwaukee. I cosponsor this proposal with the understanding that it is our intent to focus on the rural schools as well.

A second concern that I have is that of the role of the chief State school officers. While I do believe that we must infuse funding directly into the local education agencies, I would hope that as this legislation winds its way through the process that we can achieve some balance between the LEA's and the State education agencies.

Finally, I believe that we must be prepared to invest generously in education. Whether this proposal is worthy of a $1 billion investment or $3 billion investment, I am not sure. I do think that we are going to have to balance incredible domestic demands—ironically at a time when we need to be doing more in most all the areas. It is my sincere hope that critical initiatives like USA are not pitted against programs like Pell grants and title I programs. Somehow, we must continue to invest in education, health care and the social needs of our children and families as we proceed with deficit reduction. In the long term, I am convinced that that is where the real savings to our Nation will be gained.

Mr. President, I once again thank the chairman of the Labor and Human Resources Committee for his outstanding leadership in the field of education. He has once again given us a vision for positive change, for growth and investment in our people. I look forward to working with him on this legislation to make that vision of better education for our children a reality.

By Mr. ROTH:

S. 721. A bill to facilitate the dissemination of patent information; to the Committee on the Judiciary.

PATENT INFORMATION DISSEMINATION ACT OF 1991

• Mr. ROTH. Mr. President, I rise today to introduce legislation designed to enhance our Nation's technological competitiveness and innovative abilities. It accomplishes this vital goal by establishing a program to effectively and efficiently disseminate the largest, most comprehensive collection to technical information available in the United States—the 28 million documents of patent information at the U.S. Patent and Trademark Office [PTO].

Our national economic interest lies in the ability of U.S. business enteprises to manufacture new products and substantially improve existing products on a competitive basis. Devising more efficient methods of production is of equal importance. These technological advances are the inventions which are protected by patents. As such, patents are an important determinant of a nation's competitive and economic strength.

In 1989 alone, the Patent and Tademark Office [PTO] granted 95,831 utility patents protecting chemical, mechanical, and electrical inventions. Of these grants, 55 percent were given to U.S. inventors and 45 percent were given to foreign inventors. All of these patents describe the inventions in detail. Each includes drawings or chemical formulae, technical specifications, and a legally required description of the best manner known to the inventor to practice the invention.

These technical blueprints cover the complete range of commercial innovation. They are indexed in 125,000 specific classes of technology from aircraft parts to biotechnologically engineered plants to computer equipment to mousetraps. Each class consists of a wealth of commercially valuable information relating directly to industrial innovation. In recent years, nearly one-half of this informtion is the product of foreign research, therefore representing the blueprints of our competitors.

Promoting efficient and effective access to patent information is a strategically important function in many respects. It can be, for example a key resource for directly and successfully accomplishing research and development activities. Moreover, because patents represent products which will reach the market in future years, the analysis of patent information can be a valuable management tool in assessing foreign and domestic competitors. And of course, patent information is a critical resource for obtaining and enforcing inventor's rights. Clearly, patent information is integrally linked to our ability to create new patents and enforce existing patent rights.

Mr. President, it is truly unfortunate that this valuable U.S. Government information resource remains virtually inaccessible in usable form to U.S. industry. In the past, there was a legitimate excuse why patent information in classified form could exist only at the PTO in Arlington, VA. However, under the automated patent system [APS], the massive paper files have now been transformed into machine readable form, at a cost to the Government of more than $150 million to date. There is, therefore, absolutely no reason why this patent information cannot now be made widely available at low cost through the use of compact-disc, read-only-memory [CD-ROM] technology. The legislation I am introducing today calls upon the PTO to pursue such a program, which will maximize the PTO's resources to effectively and efficiently support industrial innovation.

The dimensions of the problem come into focus quite clearly when ones compares our lack of effective dissemination of patent information to the advanced dissemination activities of our two fiercest global competitors—Japan and the European Community [EC]. Japan is, unsurprisingly, the furthest ahead in providing public access to patent information in electronic form. The Japanese Patent Office is already providing Japanese industry on-line computer access to all published Japanese patent applications, and all United States patents since 1974, at five locations in Tokyo, with plans to do the same at 21 additional remote locations throughout the rest of the country. This information is searchable or retrievable by technology, inventor or words in the abstract of the invention, and includes both the images and text of the patent. Moreover, a specialized agency of the Japanese Government, JAPIO, is providing and selling CD-ROM's containing published Japanese applications since 1987.

Clearly, the Japanese Government understands all too well the competitive implications of providing public access to a comprehensive database of patent information, particularly in image form. This may be one reason why the top four United States patent holders in 1989 were from Japan, not the United States. The EC, while not as far along as Japan, is further along than we are in that they have been selling CD-ROM's containing European patent information since January 1989.

The measure I am introducing today aims to redress this situation. It requires the PTO to take full advantage of the new automated patent system by utilizing CD-ROM technology, for the express purpose of providing the effective dissemination throughout the United States, Japanese, and European patent information. This would, for the first time, provide for on-line computerized viewing of U.S. and key worldwide patent images and texts in a classified format. It would broaden the PTO's current automation efforts to take into account the needs of patent applicants and users, instead of focusing solely on the needs of patent examiners. In so doing, it would establish an efficient and vastly improved process for disseminating patent information, which is urgently by the U.S. patent professionals, the engineering and scientific community, industry and the PTO itself.

The PTO would not be required to expend enormous resources on this CD-ROM program because it already has at its fingertips digitized patent image data on United States patents and, as a result of patent information exchange agreements, similar data on Japanese and European patents. The PTO is not, however, making this available to interested public parties. Mounting such patent information onto CD-ROM's provides the best means for disseminating it because it would allow actual patent images to be easily viewed at remote locations. Moreover, CD-ROM's can efficiently store approximately 300,000 patent text pages. Using such technology is also cost effective, requiring only a personal computer with a CD-ROM reader, rather than a more expensive mini or main-frame computer which is needed for magnetic computer tapes.

The main and most costly task in implementing this program will be creating the initial master CD-ROM's. Estimated start-up costs for this function are provided for in the legislation. Once the master CD-ROM's are made, the PTO will charge whatever fees may be appropriate to cover the marginal costs of producing and processing the purchase orders for copies of the master CD-ROM's.

It is notable that our Government already recognizes the benefits of CD-ROM technology as an effective dissemination vehicle. This is underscored by the fact that the Commerce Department has just issued its first monthly CD-ROM product in relation to its National Trade Data Bank [NTDB]. As stated by Undersecretary of Commerce Michael Darby in a recent letter to Members of the Senate in announcing this new program: "In order to make this—export—data as accessible as possible to the largest audience, the Economic and Statistics Administration is using state-of-the-art electronic data dissemination technology."

I applaud this effort to help America compete through export promotion. Now the Commerce Department, through the PTO, should accomplish the same goal of helping American competitiveness by stimulating U.S. innovative and technological abilities through a similar CD-ROM dissemination effort on patent information. The "Patent Information Dissemination Act" will help achieve this very objective.

I ask unanimous consent that a section-by-section summary of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION SUMMARY OF THE PATENT INFORMATION DISSEMINATION ACT OF 1991

SECTION 1. SHORT TITLE

The Patent and Information Dissemination Act of 1991.

Section 2. Findings and purposes

Finds that U.S. competitiveness is dependent on achieving and maintaining a preeminent level of industrial innovation and that such innovation is linked to basic and applied R&D. Further finds that patent information contains detailed technical information in all fields of innovative activity and technology, and that this information has not been effectively or widely used. Additional findings include that the U.S. is falling behind Japan and the EC in recognizing the critical linkage between patent information dissemination and industrial innovation and competitiveness, and that it is in our national economic interest to utilize CD-ROM technology to promote the effective and efficient dissemination of worldwide patent information.

The purposes of the legislation are to fully recognize and utilize the potential value of the significant amount of information in applied research at the U.S. Patent and Trademark Office (PTO), and to provide patent information in a useful, inexpensive and efficient form to public users in order to contribute to improving U.S. industrial innovation and competitiveness.

Section 3. Definitions

Defines "CD-ROMs" as compact discs formatted with read-only-memory, including such discs that make use of advanced optical storage. Defines "patent information" as a complete and exact facsimile of a patent or patent application including the text and all images contained therein. "Classified patent information" is defined as patent information organized both sequentially and by the subject matter of the claimed invention, and "sequential patent information" is defined as patent information organized progressively by the date the patent was issued or the date the patent application was published.

Section 4. Information Dissemination Program

Requires the Commissioner of the PTO to produce master CD-ROMs containing sequential and classified patent information, and provide copies of them to the public for purchase and to the public for use at the PTO's public patent search library and designated Patent Depository Libraries. The Commissioner shall also provide the necessary equipment and instructional information for public use of the CD-ROMs.

Sets forth specific time frames in which to make available the CD-ROMs. The PTO is required to provide CD-ROMs containing sequential patent information patented after January 1, 1989 within 180 days of enactment of the Act. Within one year of enactment, the PTO is required to provide CD-ROMs of classified patent information for the past 17 years, which is the length of a U.S. patent term. Sequential and patent information patented after enactment of the Act shall be made available as soon as possible after new patents are issued. The Commissioner is required to consult with patent users in determining the extent to which older sequential patent information should be provided on CD-ROMs.

Section 5. Information to be disseminated

Provides that the Commissioner shall disseminate on CD-ROMs patent information currently in the PTO's possession in computer readable form, including all U.S. patents and all foreign patents issued and patent applications published. Further expresses the sense of the Senate that the Secretary of Commerce should modify any agreement between the U.S. and a foreign government that contains a provision that precludes or severely limits the dissemination of patent information in accordance with the Act's provisions.

Section 6. Fees

Requires the Commissioner to establish fees for the purchase of CD-ROMs, at a rate sufficient to recover the estimated marginal production and processing costs of CD-ROM copies and paper facsimiles of CD-ROM patent information.

Section 7. Report

Within one year after date of enactment, the Commissioner must submit to Congress a report on implementation of the CD-ROM program.

Section 8. Authorization of appropriations

Based on the estimated costs of producing the master CD-ROMs, $2,000,000 is authorized to be appropriated.•

By Mr. ROTH (for himself and Mr. KASTEN):

S. 722. A bill to amend the Internal Revenue Code of 1986 with respect to the requirement that an S corporation have only one class of stock; to the Committee on Finance.

SUBCHAPTER S "ONE CLASS OF STOCK" REQUIREMENTS

• Mr. ROTH. Mr. President, I rise today to introduce a bill that I wish I did not have to introduce—because this bill is aimed at limiting the IRS's ability to destroy thousands of small businesses across the country; a bill that I have to introduce for the mere fact that the IRS has overreached its bounds, and it is time for the Congress to step in and assert its intentions; intentions that should have been carried out by the IRS through the normal regulation process—a process that has now run amuck because of the IRS' desire to push its weight around by subjecting small businesses to a potential tax that bodes a death knell for those the IRS pursues. I hope other Senators will join me and a broad coalition of small businesses, including the two largest small business associations—the National Federation of Independent Businesses [NFIB] and the National Small Business United [NSBU]—as well as the National Retail Federation [NRF], the National Association of Wholesaler/Distributors [NAW] and the Associated General Contractors [AGC]. I expect that there will be many more groups that come to endorse this bill in the near future.

I believe it is important that the Members of Congress come to the rescue of these small businesses because small business is the backbone of our economy; it is where we must turn in order to provide growth to our economy and economists agree that small businesses provide the bulk of new jobs in this country. Congress introduced the idea of subchapter S corporations so that small business would have a beneficial tax treatment under a corporate form of doing business. This was intended to encourage small business growth, and in 1982 with the passage of the Subchapter S Revision Act Congress worked to make it even easier for small businesses to elect and retain their subchapter S status. Now the IRS is attempting to override Congress' clear intent to encourage growth in small businesses, and we must overturn them.

I am speaking of the IRS regulations under section 1361 of the Internal Revenue Code. That part of the Code defines a "small business corporation," and includes a requirement that the corporation not have more than one class of stock. This "one class of stock" requirement provides that the outstanding shares of stock of a sub-S corporation must continue to be identical as to the rights of the shareholders in the profits and assets of the corporation. In fact, the 1982 Revision Act loosened the "one class of stock" requirement because it provided that differences in voting rights among shares of common stock would be permitted. In addition the committee report from the 1982 Revision Act includes assurances so that a corporation's sub-S election will not terminate in certain circumstances. The reason for these changes, you might ask? It's because Congress wanted to encourage small business to elect subchapter S status, and insure them that their election, once made, would not be terminated for some inadvertent reason.

Now comes the beef. The IRS has proposed regulations that most likely will result in an overwhelming number of subchapter S terminations as a result of unintended distributions made by the companies. So what's so bad about this? It means that the sub-S company will lose its status as an S corporation and instead become a C corporation. This will result in a new level of tax at the corporation, as well as a dividend for any distributions to the shareholders. These small businesses will end up paying their taxes twice, and no longer will there be such an incentive to become a subchapter S company, clearly overriding the Congress' clear intention to encourage companies to elect S status and pay their taxes much like a partnership does—only at the shareholder level.

Why would the IRS issue such regulations clearly obviating the congressional intent? The simple answer is they want to take a position that will result in a great deal of new taxes being collected. Another might be that they are frustrated with the fact that individuals now pay taxes at a lower rate than corporations, which resulted in an incredible incentive to elect subchapter S status, and now the IRS is trying to discourage the S elections in spite of Congress' intent. Whatever the reason, it clearly violates our intentions, and quick action is needed to clarify the law. In fact, even if the IRS should revoke these regulations, I believe it is still important for the Congress to pass legislation similar to this so that small corporations might have assurances as to unintended distributions.

You might also ask why it is important that this legislation be passed? Especially since the IRS has changed its position so that the regulations are prospective only, as opposed to being retroactive to 1982? My response is the following example, which actually occurred:

A subchapter S corporation had several shareholders who were employees of the corporation and had company owned cars. The corporation's tax advisor suggested that changes in the tax law made this arrangement less desirable, and the cars were sold to the employee-shareholders. Because of a miscommunication with the S corporation's bookkeeper, the corporation continued to pay the insurance premium of approximately $5,000 on the cars. Following the proposed regulations, the IRS examining agent, under a directive from Washington, raised this issue on audit and claimed the insurance premium was a nonpro rata distribution that should cause a termination of the taxpayer's S corporation status. This retroactive termination of the taxpayer's S corporation status would have subjected the corporation to tax on $5 million of income, that otherwise would have only been subject to tax at the shareholder level. Under my bill, rather than having this situation cause a termination of the taxpayer's subchapter S status, the taxpayer can choose from numerous ways to equalize the distribution to the shareholders and correct the situation.

Another common example where the proposed regulations could result in a non pro rata distribution and a termination of the companies S election results when one of several equal shareholders is an employee of the subchapter S corporation. If in a calendar year that employee receives $75,000 in compensation for services performed, and the employee, along with other shareholders of the corporation, each receives $50,000 in dividend distributions for the given year, an IRS agent might deem the employee's compensation unreasonable and recharacterize part of it as a dividend. If the IRS agent does so, which is a common situation, there would be a nonpro rata distribution to that employee and the IRS regulations would cause the subchapter S status of the corporation to be terminated. Again, my bill would allow the taxpayer to equalize distributions rather than causing them to have a termination of their subchapter S status.

I would urge my colleagues to join me in this effort to protect America's small businesses, and I ask unanimous consent that the text of the bill and a summary be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 722

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RULES RELATING TO REQUIREMENT THAT S CORPORATIONS HAVE ONLY 1 CLASS OF STOCK.

(a) IN GENERAL.—Section 1361(c)(4) of the Internal Revenue Code of 1986 (relating to special rules for applying subsection (b)) is amended to read as follows:

"(4) SPECIAL RULES FOR DETERMINING 1 CLASS OF STOCK.—For purposes of subsection (b)(1)(D)—

"(A) DIFFERENCES IN COMMON STOCK VOTING RIGHTS DISREGARDED.—A corporation shall not be treated as having more than 1 class of stock solely because there are differences in voting rights among the shares of common stock.

"(B) IDENTICAL DISTRIBUTION AND LIQUIDATION RIGHTS.—A corporation shall be treated as having 1 class of stock if all outstanding shares of stock of the corporation confer identical rights as to distribution and liquidation proceeds.

"(C) TREATMENT OF OPTIONS, WARRANTS, ETC.—An option, warrant, or similar instrument to acquire stock of a corporation shall not be treated as stock until such option, warrant, or similar instrument is exercised."

(b) TERMINATIONS BASED ON FAILURE TO HAVE 1 CLASS OF STOCK.—

(1) IN GENERAL.—Section 1362 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subsection:

"(h) CERTAIN TERMINATIONS FOR FAILURE TO HAVE 1 CLASS OF STOCK.—

"(1) IN GENERAL.—If—

"(A) an election by any corporation was terminated under subsection (d)(2), and such termination was due to such corporation having more than 1 class of stock because all outstanding shares of stock of such corporation did not confer identical rights as to distribution and liquidation proceeds, and

"(B) such corporation, within a reasonable period of time after discovery of the terminating event, takes such corrective actions as the Secretary may prescribe to assure that all outstanding shares of stock of such corporation confer identical rights as to distribution and liquidation proceeds,

then, notwithstanding the terminating event, such corporation shall be treated as continuing to be an S corporation during any period which, but for this subsection, such status would be treated as terminated.

"(2) ADJUSTMENTS.—Paragraph (1) shall not apply to any terminating event unless the corporation, and each person who was a shareholder at any time during the period specified in paragraph (1), agrees to make such adjustments (consistent with the treatment of the corporation as an S corporation) as may be required by the Secretary with respect to such period."

(2) CONFORMING AMENDMENT.—Section 1362(f) of such Code is amended by striking

"If" and inserting "Except as provided in subsection (h), (if".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1982.

(2) TERMINATIONS.—The amendment made by subsection (b) shall apply to terminating events discovered on or after the date of the enactment of this Act.

LEGISLATIVE SUMMARY

PRESENT LAW

A corporation may elect to be taxed as a subchapter S corporation if it is a "small business corporation." Section 1361(b) defines a "small business corporation" as a domestic corporation that is not an ineligible corporation and that does not (1) have more than 35 shareholders, (2) have as a shareholder a person (other than an estate and certain types of trusts) who is not an individual, (3) have a nonresident alien as a shareholder, and (4) have more than one class of stock. Section 1361(c)(4) provides that a corporation shall not be treated as having more than one class of stock solely because there are differences in voting rights among the shares of common stock, and section 1361(c)(5) provides that "straight debt" shall not be treated as a second class of stock.

REASONS FOR CHANGE

The IRS issued proposed regulations relating to the requirement that a small business corporation have only one class of stock, which were published in the Federal Register on October 5, 1990. Although these regulations were proposed to be effective for taxable years beginning after December 31, 1982, the IRS later announced that regulations in this area would be prospective. Because these regulations will treat differences in timing or amount of distributions, in addition to differences in rights, as a second class of stock, many taxpayers will inadvertently terminate their Subchapter S status. In enacting the Subchapter S rules, Congress did not intend that small businesses be required to monitor day-to-day activities in order to ensure, for example, that a difference in timing of distribution to different shareholders not cause a termination of their Subchapter S status.

I believe that a difference in the timing of a distribution should not create a second class of stock so long as at the close of taxable year shareholders have received identical distributions. Furthermore, I believe that taxpayers should be given the opportunity to cure an uneven distribution prior to termination of Subchapter S status.

EXPLANATION OF PROPOSAL

The bill clarifies that outstanding shares of a corporation must be identical as to rights of the holders in the profits and assets of the corporation. Thus, a corporation will be considered to have one class of stock if pursuant to the corporate charter, articles or bylaws all of the outstanding shares of stock confer identical rights to distributions and liquidation proceeds.

If, as a result of an administrative action or agreement, the outstanding shares of stock do not confer identical rights to distributions and liquidation proceeds, the Secretary may determine that a corporation has more than one class of stock on a prospective basis, only. However, prior to making a determination that the corporation has more than one class of stock, the Secretary shall provide the corporation with notice and a reasonable period of time to take such action as the Secretary may require to cause all of the outstanding shares of stock to confer identical rights to distribution and liquidation proceeds.

The Secretary shall not make a determination that a corporation has more than one class of stock if the difference in rights to distribution and liquidation proceeds is deemed to occur pursuant to the operation of state law.

For purposes of making the determination as to whether the outstanding shares of stock of a corporation confer identical rights to distributions and liquidation proceeds, options, warrants, and other similar rights shall not be considered stock of the corporation until exercised.•

By Mr. DOMENICI:

S. 723. A bill to amend section 1738A of title 28, United States Code, relating to child custody determinations, to modify the requirements for court jurisdiction; to the Committee on the Judiciary.

CHILD CUSTODY JURISDICTION REFORM ACT

• Mr. DOMENICI. Mr. President, I rise also to introduce a bill that makes a very small but important change to our laws that govern the way child custody orders are modified in this country. Some might wonder, What are you doing involving yourself in that?

I happened to have a small task force in my State made up of New Mexico Bar, the bar association. They are working on family law sections. They find that we attempted to make the law of custody more accommodating interstate. We made a slight error of omission.

Now the orders that accommodate to these custody orders and make it more fluid so we do not have so many State boundaries is not quite working. This amendment would make it work much better.

I hope that the Judiciary Committee will take a look at it and see the value of it, and make this very minor change.

Entitled the "Child Custody Reform Act of 1991," this bill would modify provisions of the Parental Kidnaping Prevention Act [PKPA] of 1980 to eliminate costly, drawn-out jurisdiction battles that unnecessarily inflict pain upon the children and families involved.

My bill would clarify how States retain and lose jurisdiction in child custody modification cases. It would correct a flaw in the current law, and help fulfill the original intent of the PKPA.

This legislation was developed through my work with a small task force from the New Mexico Bar Association's family law section. They have identified this issue as one of their key problems facing family law right now. I truly appreciate and share their commitment to improve conditions for children and their families.

The section of the PKPA that my bill will amend was originally designed to prevent jurisdictional conflict between State courts with respect to child custody cases. It sets forth specific conditions under which a State may establish and retain jurisdiction to make a child custody ruling. Once a State has issued a custody decree consistent with provisions of the PKPA, no other State may exercise concurrent jurisdiction over the custody dispute.

Unfortunately, Mr. President, there is a slight defect in the PKPA that still allows some jurisdictional competition to persist; that is, States may modify custody rulings made by other States if a child has resided in the new State for at least 6 months. This action has the effect of negating or superseding the intent of the original ruling, as well as altering the jurisdictional authority.

The language of the PKPA is vague in certain critical elements: It is possible for a second State to modify another State's decree by determining on its own that the first State no longer has jurisdiction under its State laws—even if the modification is inconsistent with that first State's decree and law.

If you think this sounds confusing you ought to try and live your life in compliance with the inevitable conflicts the defective law can cause.

This defect depends upon your point of view and contributes to the kind of forum shopping that the PKPA was intended to prevent. Forum shopping encourages a parent, unhappy with one court's decision, to move the children to another State, hoping to get a more favorable decree. This is particularly problematic since the Supreme Court, in a 1988 child custody case, Thompson versus Thompson, ruled that there is no Federal court jurisdiction to determine which of the two conflicting States has proper jurisdiction.

This defect, Mr. President, is causing numerous problems across the Nation right now. Let me briefly describe the type of situation that is the result of this defect in the PKPA. A first State issues a custody decree giving the mother custody of the children and the father certain visitation rights. The mother, not happy with this arrangement, then moves herself and the children to a neighboring State, hoping to get a decree with more restrictive visitation rights.

After living in the new State for 6 months, the mother finds a judge who rules that the original State no longer has jurisdiction, and visitation rights are subsequently modified. The father, who still retains certain visitation rights in his own State, is denied those rights when he tries to visit his children. The parents and lawyers continue to fight, and the children are caught in the middle of a tug of war that can drag from one State to the next, and across the country innumerable times.

The pain that custody battles cause for both children and parents is tragic enough, and we should do what we can to curb legal loopholes that create even more legal battles and distress.

We should promote an atmosphere for our children that permits them the lighthearted joy of playing on a playground—not forcing upon them the misery of being footballs in a courtroom.

My bill will eliminate this competition by clarifying that a State making an original custody decree retains jurisdiction as long as that State remains the residence of the child or of either parent named in the decree. The original State could determine on its own that it no longer has jurisdiction under its own laws—thereby transferring jurisdiction—but another State could not act until the original State declines jurisdiction.

This bill will ensure that one State, and one State only, will have jurisdiction under Federal law to resolve a child dispute issue, and it will also relieve Federal courts from any need to resolve such disputes.

In closing, Mr. President, I would like to thank members of the New Mexico Bar's Family Law Division who helped me with this bill. In particular, I would like to give special thanks to Tom Montoya, who is with the Albuquerque law firm of Atkinson & Kelsey, for his work on this issue.

I think this is a reasonable solution to the problem. I hope my colleagues will support it. I look forward to working with the relevant committees to see that this bill can be considered quickly.•

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 724. A bill to clarify cost-sharing requirements for the flood control project, Rio Grande Floodway, San Acacia to Bosque del Apache Unit, New Mexico; to the Committee on Energy and Natural Resources.

COST-SHARING ON FLOOD CONTROL PROJECT

• Mr. DOMENICI. Mr. President, I am introducing two measures here that will be appropriately referred. One has to do with my State, the State of New Mexico. I am introducing legislation to clarify a local cost-share requirement for an important flood control project. We have a flood control project in our State that is imperative.

Mr. President, what has happened is the way we wrote the cost-sharing laws when we put in the reform measures for water projects, which I happen to have been a part of, and I am proud of them, we did not make room for a project for the Government itself. The U.S. Government was a big beneficiary; it is assumed they owned a lot of the potentially flooded properties. We did not make room for the Federal Government to either pay its share or to reduce the cost share of the local government.

This does not attempt to change it generically, although I believe it should be, for the country. It merely attempts to change it for this project, where it is so obvious, with the Government having 60 percent of the benefits, that you cannot ask the local units of government to pay their usual cost share because they are paying for a very big portion of the Federal Government's benefits. This would change that for that project.

The Rio Grande Floodway, San Acacia to Bosque del Apache Unit, is a project to address serious flooding that has occurred along a 55-mile stretch of the Rio Grande, a stretch from the San Acacia Diversion Dam to the headwaters of Elephant Butte Lake.

Fourteen major floods have occurred in the past 60 years along this section of the Rio Grande. While significant private property damage has occurred during that time, Federal facilities in that area have been particularly hard hit.

I am prompted to introduce this legislation because the project will offer significant benefits to two Federal facilities involved: a Bureau of Reclamation conveyance channel and the Bosque del Apache Wildlife Refuge.

In fact, it is estimated that these Federal facilities will receive 60 percent of the project's benefits.

But the project is not going forward because the local sponsors—the State of New Mexico and the Middle Rio Grande Conservancy District—are being asked to contribute the entire non-Federal share of 25 percent of the project's benefits. In other words, the local participants are being told they must contribute money toward protecting the Federal facilities.

As one would expect, Mr. President, these local sponsors question the fairness of this.

Consequently, the legislation I am introducing today modifies the cost sharing requirements of the project, reducing the non-Federal requirements to 25 percent of those benefits attributable to non-Federal benefits.

Mr. President, I was one of the chief sponsors of the legislation passed by the Congress in 1986 that raised local cost-sharing requirements for Federal water projects. I still strongly support the concept of a greater local presence.

However, I believe sincerely that this requirement is not appropriate in the case of this project. It seems only fair that the cost-sharing requirement be modified to more accurately reflect who the primary beneficiaries of this project will be.

This important project is ready to move forward, Mr. President. Therefore, it is my hope that the Congress will quickly consider this legislation. I ask unanimous consent that the text of this bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 724

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Notwithstanding any other provision of law, the project for flood control, Rio Grande Floodway, San Acacia to Bosque del Apache Unit, New Mexico, authorized by Section 203 of the Flood Control Act of 1948 (P.L. 80–858) and amended by Section 204 of the Flood Control Act of 1950 (P.L. 81–516), is modified to more equitably reflect the non-Federal benefits from the project in relation to the total benefits of the project by reducing the non-Federal contribution for the project by that percentage of benefits which is attributable to the Federal properties: *Provided, however*, That the Federal property benefits exceed 50 per centum of the total project benefits."•

By Mr. COHEN:

S. 726. A bill to award grants for aspirations research, and for other purposes; to the Committee on Labor and Human Resources.

GRANTS FOR ASPIRATIONS RESEARCH

Mr. COHEN. Mr. President, the crisis of opportunity, aspiration, and hope among adolescents and young families in America is reaching epidemic proportions. Nearly one-fifth of America's children now live in poverty. Nearly one-third of our children face educational and even lifelong failure. This year alone, 1 million marginally literate young people will drop out of high school. Faced with such an uncertain future, it is not surprising that so many children lack the ambition or motivation to break out of this cycle.

Comparisons among schools, even within the same city, raise interesting questions. In urban settings, one school may have a much lower drop-out rate, a higher percentage of college-bound seniors, and a student body with higher overall aspirations than a school a few blocks away. In different regions of Maine, which may vary widely in cultural, socioeconomic, and population standards, students face obstacles that may be quite particular to their community.

The downward trend in our children's aspirations can be reversed, however, with the coordinated efforts of the sectors of our society which have a direct stake in the welfare of our Nation's young people. It is widely agreed that education is important not only to our children, but to our Nation's economic well-being as well. In this regard, businesses across the Nation are recognizing their stake in education, and are investing in their communities through the local schools.

In Maine, the office of the Governor, the University of Maine, and a number of business leaders have embraced the aspirations movement in education, and have signed on to the Maine Aspirations Compact, which directly involves businesses in schools. The commitment has paid off, and a number of successful business-school partnerships are currently in operation all over the State.

For example, Geiger Bros., a printing and advertising company in Lewiston and publishers of the Farmers' Almanac, has instituted a special relationship with the Montello Elementary School through the Adopt-a-School Program. Geiger Bros. has donated its resources to establish several programs which give the Montello students special attention that has made a significant difference in their lives.

One of these programs, the Writing/Illustration Group, uses the resources of Geiger Bros.' Communications Director and art department to assist teachers in stimulating their students' interest in writing and illustration. The recognition of excellence group rewards high achievement through special events and material awards. Some of the best writings by Montello students were assembled and printed in a booklet entitled "Montello's Anthology," and some of those writings will appear in the 1992 Farmers' Almanac. The students' artwork was displayed on Geiger Bros.' premises in the Geiger Gallery.

Geiger Bros. employees have also donated their own time to special one-on-one relationships with Montello students. Perhaps the most successful among these is the Job Shadowing Program, through which students have the opportunity to see first-hand what a working day entails. Sixth graders are paired with a Geiger Bros. employee who has volunteered to participate in the Adopt-A-School Program, whose job description matches the student's interests, and the student follows the employee through his or her tasks for a half day. The students ask good, probing questions, and when they return to school in the afternoon, they are quite eager to discuss what they have seen and learned.

While these programs are very instrumental in stimulating and motivating the children to learn, the Geiger Bros. volunteers have also benefited from their exposure to the children and the educational process. One Geiger Bros. employee and "Job Shadowee" remarked that she was "Pleasantly surprised at how well prepared the kids have been to ask intelligent, relevant questions."

The news of the success of aspirations-styled partnerships is spreading. In February, Geiger Bros. participated in a forum discussion with business and community leaders in the Lewiston-Auburn area to describe the fundamentals involved in establishing an adopt-a-school program. Geiger Bros. is not alone in its efforts to build business/school partnerships to raise student aspirations, as similar programs are working equally well across the State. The Bangor Education Foundation has designed a newsletter entitled "Partners in Progress," which shares news about the activities of business-school partnerships in the area. Recently, the UNUM Corp., in Portland chose five school districts to target in a 5-year, $440,000 effort, which will be administered by the Maine Aspirations Foundation. The program will seek to raise the career sights of the students and better prepare them for a changing econony.

These examples show the tremendous impact that direct business involvement can have on the education of our children. However, the goal of raising the student levels of achievement and motivation can be achieved within the school environment itself. The Piscataquis Community High School's commitment to this goal is a telling example.

In 1980, only 10 percent of the seniors at Piscataquis Community High School were accepted into some type of postsecondary educational institution. The high school is located in Guilford, ME, a small community where many of the school's students are first generation high school graduates.

But in 1985, under the leadership of the newly appointed principal, Norm Higgins, Piscataquis High School headed in a new direction. An aspirations committee was formed with the working philosophy that "education is for all kids and is everyone's responsibility."

The committee developed a number of programs to address the problem of low aspirations. A college outreach program now allows each interested student to visit any college or vocational school in the State. On these trips, the students are accompanied by parents, faculty advisors, and the school's support staff, so that everyone becomes involved in the student's interest in higher education. This program is supported by a decentralized college guidance system, in which five to six administrators and teachers work with groups of students to develop higher education goals. The result of this structure, as Principal Higgins points out, is a sort of "adult peer pressure" in which each advisor becomes personally concerned over the success of the students in his or her group.

Many of the school's ideas that have worked the best have cost the least amount of money. For example, the school has constructed a large scoreboard, which tracks each student's acceptance into a postsecondary education program. The scoreboard has come to represent the future for Piscataquis students, a daily reminder of the new opportunities available to them.

The Guilford community has embraced the high school's efforts. In 1985, just $8,400 was made available in local scholarship money for students to pursue postsecondary education. In 1990, $52,000 in local scholarship money was raised. The scholarships have made it possible for many young people to turn their scoreboard acceptances into a reality.

Principal Higgins expects that between 72 to 78 percent of Piscataquis' seniors will be accepted into some type of postsecondary educational institution this year. Fifteen percent will be able to attend college outside of Maine, several at Ivy League institutions. Focusing on student aspirations has made a great difference. "We have not invested a lot of money, it's just a change in mindset," says Principal Higgins. "It's become a part of the culture of our school and our community."

For students at Montello School, or college-bound seniors at Piscataquis Community High School, aspirations-styled thinking has given their lives a brighter future. Unfortunately, for the rest of America's youth, the future is not as promising. Aspirations research can be the key to finding the most appropriate incentives for children in different communities to believe in themselves and work hard to succeed.

Committing ourselves to aspirations research will provide us with two important ways to put the grim statistics behind us and to better understand how we can serve our Nation's youth. First, aspirations research can focus on the root causes of low student achievement. Factors such as poverty, isolation, and a general lack of opportunity play an important part in low aspirations. Research can provide us with means of understanding the impact of these factors in order to develop programs that either overcome such obstacles or are successful in spite of them.

Second, aspirations research can identify the successful components of programs like the ones I have described so that their achievements can be replicated throughout the Nation. Aspirations research and programs have flourished in the last 5 years, but there are few forums in which aspirations educators can exchange ideas, learn from past mistakes, and set goals for the future.

The legislation that I introduce today will provide educators throughout the Nation with the benefits of aspirations research that has already changed the lives of many of our Nation's young people. This bill would provide for five annual competitive grants, of no more than $200,000 each, to be awarded to institutions engaged in aspirations research. It authorizes a total of $1 million per year to be appropriated for this purpose over the next 5 years. With the funding provided by these grants, these institutions will be able to make a more rapid and comprehensive contribution to the education field. Perhaps the most important outcome of this legislation would be that through a relatively small financial commitment, we can send the message that we support these important research efforts, and that the Federal Government truly cares about its children's goals and aspirations.

Equality of opportunity is the foundation upon which our values as a nation are based. Americans have always believed that every child has the capacity to attain his or her highest goals. Let us now recommit ourselves to placing those ideals back in the hands of all of our Nation's children. I urge my colleagues to support this legislation.

By Mr. DODD:

S. 727. A bill to amend the Higher Education Act of 1965 to improve access to financial assistance for low- and middle-income students; to the Committee on Labor and Human Resources.

BETTER ACCESS TO STUDENT AID ACT

Mr. DODD. Mr. President, I rise today to introduce the Better Access to Student Aid Act of 1991—a bill to make deserving low- and middle-income families more eligible for Federal student assistance.

Each year, millions of low- and middle-income families struggle to afford the costs of higher education. Since 1981, while families have watched tuition costs climb by as much as 59 percent, the Federal share of available financial aid has dropped from 83 to 75 percent. Moreover, since the mid-seventies, the percent of Federal aid to students in the form of grants has dropped drastically from 76 percent to 29 percent as loans have replaced grants as the major source of student aid.

When the Higher Education Act was first authorized in 1965, its purpose was to make postsecondary education opportunities accessible to every student—regardless of family income, gender or ethnicity. Unfortunately rising tuition costs, high loan defaults costs and the tightening of Pell grant and Stafford student loan eligiblity requirements are making it harder, if not impossible, for many families to afford higher education costs.

In 1980 the average Pell grant covered 41 percent of tuition costs. A decade later, Pell grants only cover, on average, 26 percent of tuition costs. More of the neediest students are now forced to borrow guaranteed student loans to supplement their grant awards.

The Stafford Student Loan Program was originally designed to assist middle-income students and families with the financing of higher education. However, with the passage of Gramm-Latta in 1981, legislation implementing Reaganomics, families earning over $30,000 were required to prove need to be eligible for a guaranteed student loan. While $30,000 is a lot of money in some parts of this country, it is not in my own State of Connecticut. Furthermore, needs testing was required of all income levels with the passage of the 1986 reauthorization of the Higher Education Act. As a result, middle-income families have been squeezed out of the Federal aid programs.

The inclusion of nonliquid assets—such as homes and businesses—in the calculation of need, has compounded the problem for students and families. Even assets that are not easily converted to cash are counted. Low- and middle-income families alike are expected to borrow against their home to meet their expected family contribution. This is a particularly onerous requirement for families who, over the last 20 years, have seen the value of their homes dramatically outstrip increases in their income. They simply could not afford to make payments on home equity loans from their incomes.

Moreover, students who are employed, prior to or during school, have 70 percent of their earnings included in the calculations to determine the expected student contribution. To meet these contribution expectations, many students are forced to work two and three jobs during school to pay for basic living expenses. Other students must stretch their programs beyond the traditional 2 or 4 years.

Simply put, access and choice is diminishing for low- and middle-income students alike. The prospects of sizable loan burdens discourage even the best students. Imagine what it is like to be an 18- or 24-year-old deciding what a postsecondary education is worth—$10,000 or $40,000 of debt. Not only are students' choices of a postsecondary institution influenced by the cost and aid availability, so are their career decisions.

Parents, low- and middle-income alike, are forced to leverage themselves to the hilt to help give their children educational or training opportunities beyond high school. To give you an idea of how demanding the needs testing is—it only allows a family of four, with one child in college, $14,930 a year, plus a few modest deductions, to meet essential living costs. A single parent with one child applying for Federal aid is expected to live on $9,700 a year.

These are just a few, but telling, examples of why families and students are having more difficulty seeking higher education opportunities. While postsecondary education opportunities in the United States still far surpass those in other industrialized nations and over 6 million Americans receive some form of Federal student aid, it is vital that we take this opportunity during the reauthorization of the Higher Education Act to strengthen and improve the delivery of the Federal student aid. Today, more than ever before, our economic competitiveness and national security depend on an educated and trained workforce.

The Better Access to Student Aid Act would amend the Higher Education Act to correct some of the inequities I have outlined and provide students and families greater access to Federal student aid.

First, to lower the expected family contribution and to make more low- and middle-income families eligible for Federal assistance, the bill would eliminate home and farm equity from the calculations, for Pell grant and guaranteed student loan eligibility, for families with an adjusted gross income of $40,000 or less.

Families earning between $40,000 and $70,000—who could better afford to apply for a home equity loan-would only have a percentage of their net home value, ranging from 10 to 100 percent, included in the needs calculations.

Second, students are presently required to contribute 70 percent of their total income or a minimum amount of $700 to $900, whichever is greater. This measure would leave the existing floors in place, but would lower the alternative formula from 70 percent to 45 percent.

Third, independent students with dependents currently may deduct certain allowances from total income to determine eligibility for Federal aid. This act would simply permit such students also to deduct reasonable child care costs paid by the student, or student's spouse, for each dependent child to determine student aid eligibility.

The percentage of "nontraditional" students in our system of higher education has been steadily rising over the last few years. With this in mind, we must understand that the costs associated with their attending school may differ considerably from the traditional student. For single or married students with young children, a higher education may not be accessible if they cannot afford child care costs.

Fourth, the income ceiling cap for the simplified needs test would be raised from $15,000 to $25,000 to make more students and/or families eligible to avoid the undo complexity of the longer financial aid forms.

Fifth, for students in families with a recently dislocated worker or displaced homemaker, this measure would clarify the process by which a student would be given special consideration for the purposes of applying for new or additional Federal aid.

Mr. President, with the reauthorization of the Higher Education Act now underway, the Congress, including myself, must give serious consideration to some of the more sweeping proposals for change—to renew the Federal commitment to improving rather than impairing access to education opportunities. I hope—and anticipate—that the proposals I am offering today will be part of that final product.

I ask unanimous consent that the full text of the bill and a summary be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 727

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Better Access to Student Aid Act of 1991".

SEC. 2. FINDINGS; TABLE OF CONTENTS.

(a) Findings.—The Congress finds that—

(1) by the year 2000, at least 75 percent of jobs will require education and training beyond high school;

(2) the Federal share of available financial aid has dropped from 83 to 75 percent since 1980;

(3) the balance between Federal loans and grants has shifted since the mid-1970s as loans have replaced grants as the major source of student financial aid;

(4) Federal financial assistance has not kept pace with rising tuition costs;

(5) twice as many youth from families in the highest family income quintile participate in postsecondary education opportunities than youth in families in the lowest family income quintile;

(6) the neediest students are relying more heavily on loan programs to pay for postsecondary education costs; and

(7) over the decade of the 1980s middle-income students have been squeezed out of the student loan programs.

(b) Table of Contents.—The table of contents is as follows:

Sec. 1. Short title.
Sec. 2. Findings; table of contents.
Sec. 3. Treatment of a family home as a nonliquid asset.
Sec. 4. Modification of student contribution.
Sec. 5. Child care allowance for independent students.
Sec. 6. Expanded eligibility for the simplified needs test.
Sec. 7. Expanded financial aid officer discretion.

SEC. 3. TREATMENT OF A FAMILY HOME AS A NONLIQUID ASSET.

(a) Pell Grant Needs Analysis.—Section 411F(2) of the Higher Education Act of 1965 (hereafter in this Act referred to as the "Act") (20 U.S.C. 1070a–6(2)) is amended—

(1) by inserting "(A)" after "(2)"; and

(2) by adding at the end thereof the following:

"(B) For academic year 1992–1993 and succeeding academic years, the term 'assets' shall not include, in the case of a family with an adjusted gross income which is equal to or less than $40,000, the net value of—

"(i) the family's principal place of residence; or

"(ii) a farm on which the family resides.".

(b) Evaluation of Parental Net Worth.—Section 475(d)(2)(B) of the Act (20 U.S.C. 1087oo(d)(2)(B)) is amended by amending subparagraph (B) to read as follows:

"(B) the net value of investments and real estate, including the net value of the principal place of residence (hereafter referred to as 'NVPPR') determined in accordance with the following table (or a successor table prescribed by the Secretary under section 478):

"Adjusted Net Worth of the Principal Place of Residence

"If the parents' total income is	Then the net value of the principal place of residence is—
$40,000–$45,000	10 percent of such NVPPR
$45,000–$50,000	25 percent of such NVPPR
$50,000–$55,000	40 percent of such NVPPR
$55,000–$60,000	55 percent of such NVPPR
$60,000–$65,000	70 percent of such NVPPR
$65,000–$70,000	85 percent of such NVPPR
$70,000 or more	100 percent of such NVPPR;".

(c) General Need Analysis.—Section 480(g) of the Act (20 U.S.C. 1087vv(g)) is amended—

(1) by inserting "(1)" after "Assets.—"; and

(2) by adding at the end thereof the following:

"(2) For academic year 1992–1993 and succeeding academic years, the term 'asset' shall not include, in the case of a family with an adjusted gross income which is equal to or less than $40,000, the net value of—

"(A) the family's principal place of residence; or

"(B) a farm on which the family resides.".

SEC. 4. MODIFICATION OF STUDENT CONTRIBUTION.

Section 475(g)(1)(C) of the Act (20 U.S.C. 1087oo(g)(1)(C)) is amended by striking out "70 percent" and inserting in lieu thereof "not less than 45 percent".

SEC. 5. CHILD CARE ALLOWANCE FOR INDEPENDENT STUDENTS.

Section 477(b) of the Act (20 U.S.C. 1087 qq(b)) is amended—

(1) in paragraph (1)—

(A) by striking "and" at the end of subparagraph (F);

(B) by inserting "and" at the end of subparagraph (G); and

(C) by inserting before the matter following subparagraph (G) the following new subparagraph:

"(H) an allowance for reasonable child care costs determined in accordance with paragraph (8)."; and

(2) by inserting at the end thereof the following new paragraph:

"(8) Allowance for Reasonable Child Care Costs.—The allowance for reasonable child care costs is equal to the amount paid by the student or to the student's spouse, or both, for each dependent child receiving child care services.".

SEC. 6. EXPANDED ELIGIBILITY FOR THE SIMPLIFIED NEEDS TEST.

Section 479(a)(1) of the Act (20 U.S.C. 1087ss(a)(1)) is amended by striking out "$15,000" and inserting in lieu thereof "$25,000".

SEC. 7. EXPANDED FINANCIAL AID OFFICER DISCRETION.

(a) In General.—Section 479A(a) of the Act (20 U.S.C. 1087tt(a)) is amended to read as follows:

"Sec. 479A. (a) In General.—Nothing in this title shall be interpreted as limiting the authority of the student financial aid administrator, on the basis of adequate documentation, to make necessary adjustments to the cost of attendance and expected student or parent contribution (or both) to allow for treatment of individual students with special circumstances. In addition, nothing in this title shall be interpreted as limiting the authority of the student financial aid administrator to use supplementary information about the financial status or personal circumstance of eligible applicants in selecting recipients and determining the amount of awards under subparts 1 and 2 of part A and parts B, C, and E of this title.".

(b) Special Rule.—Section 479A of the Act (20 U.S.C. 1087tt) is amended—

(1) by redesignating subsection (c) as subsection (d), and

(2) by inserting immediately after subsection (b) the following new subsection:

"(c) Special Adjustments.—

"(1) Adjustment for Dislocated Worker.—A student financial aid administrator shall be considered to be making a necessary adjustment in accordance with subsection (a) if, in the case of dislocated workers—

"(A) the administrator uses the income for the year in which the determination is made (the award year) rather than the income reported in the preceding tax year; and

"(B) the administrator excludes the net value of investments and real estate, including the primary residence in the calculation of the family contribution for the Pell Grant Program and the expected family contribution under part F.

"(2) Adjustment for Displaced Homemaker.—A student financial aid administrator shall be considered to be making a necessary adjustment in accordance with subsection (a) if, for displaced homemakers, the administrator excludes the net value of investments and real estate, including the primary residence, from the calculation of the Pell Grant family contribution and from the expected family contribution under part F.".

(c) Conforming Amendments.—

(1) Asset Adjustment Example.—Section 479A(d) of the Act (as amended by subsection (a)) is amended by striking out "subsection (b) is an example" and inserting in lieu thereof "subsections (b) and (c) are examples".

(2) Contributions from Assets.—(A) Section 411B(g)(1) of the Act (20 U.S.C. 1070a–2(g)(1)) is amended by striking out ", except that in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act), the net value of a principal place of residence shall be considered to be zero".

(B) Section 411B(l) of the Act (20 U.S.C. 1070a–2(1)) is amended by striking out ", except that in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act), the net value of a principal place of residence shall be considered to be zero".

(C) Section 411C(f)(1) of the Act (20 U.S.C. 1070a–3(f)(1)) is amended by striking out ", except that in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act), the net value of a principal place of residence shall be considered to be zero".

(D) Section 411D(f)(3) of the Act (20 U.S.C. 1070a–4(f)(3)) is amended by striking out ", except that in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act), the net value of a principal place of residence shall be considered to be zero".

(E) Section 475(h) of the Act (20 U.S.C. 1087oo(h)) is amended by striking out

", except that in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act), the net value of a principal place of residence shall be considered to be zero".

(F) Section 476(c)(2)(B) of the Act (20 U.S.C. 1087pp(c)(2)(B)) is amended by striking out "except in the case of a displaced worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act)".

(G) Section 477(c)(2)(B) of the Act (20 U.S.C. 1087qq(c)(2)(B)) is amended by striking out "except in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act)".

(c) REPEALERS.—

(1) INCOME OF A DISLOCATED WORKER.—Section 411F(1)(G) of the Act (20 U.S.C. 1070a-5(1)(G)) is repealed.

(2) UNEMPLOYMENT COMPENSATION RECEIVED BY A DISLOCATED WORKER.—Section 411F(9)(E) of the Act (20 U.S.C. 1070a-5(9)(E)) is repealed.

SUMMARY OF THE BETTER ACCESS TO STUDENT AID ACT OF 1991

Section 1—Title.

Section 2—Findings.

Section 3—To reduce the expected family contribution and to make more low and middle income families eligible for federal assistance, the bill would eliminate home and farm equity from the calculations, for Pell Grant and Guaranteed Student Loan eligibility, for families with an adjusted gross income of $40,000 or less.

The percentage of the home equity used in the calculations to determine eligibility and the amount of the family contribution, for families with an adjusted gross income over $40,000, would increase from 10 percent for those with income between $40,000-45,000 to 100 percent for families with income over $70,000.[1]

Section 4—Currently, students are expected to contribute as much as 70 percent of their total income towards the costs associated with higher education. This measure would leave the mandatory self-help amounts at $700 for first-year undergraduates and $900 for any other student, while lowering the contribution from income to 45 percent.

Section 5—Independent students with dependents are currently allowed to deduct certain allowances from total income to determine eligibility for federal aid. This measure adds a provision to also allow such students to deduct reasonable child care costs paid by the student, or student's spouse, for each dependent child.

Section 6—The income ceiling cap is raised from $15,000 to $25,000 to make more students and/or families eligible to use the Simplified Needs Test to apply for federal financial aid.

Section 7—For students in families with a recently dislocated worker or displaced homemaker, this measure would clarify the process by which a student would be given special consideration for the purposes of applying for new or additional federal aid.

Note: Sections 3-7 of this act amend Title IV of the Higher Education Act of 1965.

By Mr. SEYMOUR:

S. 728. A bill to establish an Upper Sacramento River fishery resources restoration program; to the Committee on Environment and Public Works.

UPPER SACRAMENTO RIVER FISHERY RESOURCES RESTORATION ACT

• Mr. SEYMOUR. Mr. President, today I am introducing the Upper Sacramento River Fishery Resources Restoration Act.

The Upper Sacramento River is the largest spawning ground for salmon in the State of California. It is responsible for 70 percent of all the salmon caught in California's coastal waters.

Over the last 40 years salmon population in the river have declined between 50 and 90 percent. The steelhead population in the same river system also been devastated, now comprising only 10 percent of the river's pre-World War II stocks.

The scale of this tragedy is enormous. In 1960 over 300,000 adult salmon and steelhead spawned in the Sacramento River. At last count, the number had fallen to under 100,000.

The loss of the Sacramento River's valuable fishery resources can be traced to the construction of dams, and diversions. Over the years a series of dams, levies and diversions have been built along the river to supply water to Californians. In all, two-thirds of the State's population, almost 20 million people, use water from the Sacramento River and its tributaries.

The two largest projects along the Upper Sacramento River are the Shasta and Keswick Dams. Unfortunately, these two dams have blocked off hundreds of miles of prime spawning ground. Further, the dams cut off the supply of spawning gravel needed by both the steelhead and salmon for the continued successful reproduction of their species.

Allowing the further decline of these fish species in the Sacramento River will not only be an environmental tragedy, but also an economic one. The rapid decline in the river's fisheries has already led to the listing of the winter run chinook salmon as a threatened species by the U.S. Fish and Wildlife Service. More such listings are sure to come if measures are not taken to curtail the precipitous decline of the river's fish populations.

Thousands of Californians rely on the river's fisheries and the recreational dollars that they bring in. Further, if more species are listed as threatened or endangered, current water use patterns may have to be radically altered, bringing severe hardship to the State's agricultural community.

The Upper Sacramento River Fisheries Resources Restoration Act is a measure built from consensus. In 1986 Governor Deukmejian authorized a comprehensive study of the declining fish stocks in the Upper Sacramento River. The recommendations to restore the river's chinook salmon and steelhead trout populations were incorporated into legislation introduced by Senator Pete Wilson and Congressman Doug Bosco.

Congressman WALLY HERGER and I are now reintroducing this vital legislation.

The bill will authorize $185 million—over 10 years—in Federal funds for: Building fish ladders; improving gravel beds used for spawning; limiting damage to stocks by manmade obstacles; constructing new fish hatcheries and improving the Coleman National Fish Hatchery; constructing control devices for Shasta Dam to control the temperature of downstream river flow; decreasing the volume of silt in the river and its tributaries; reducing flow of toxins from Iron Mountain Mine; and improving fish screening at Glenn-Colusa Irrigation District Diversion Headworks.

This is not solely a federally funded effort, though. A full 75 percent of the $185 million Federal appropriation will be reimbursed to the Treasury. Half the sum will be repaid by the river's water and power users such as local electric utilities, water districts and other direct purchasers of water and power from the Central Valley project. Secretary Lujan will make the determination on the appropriate distribution of these repayments. The State of California will pick up the remaining 25 percent of the cost.

The bill also establishes the Upper Sacramento River Fisheries Task Force to assist the Secretary of the Interior in implementing and coordinating the mitigation activities it outlines. The Governor will appoint representatives from: California fish and game; California Department of Water Resources; California State Water Resources Control Board; California State Lands Commission; California Department of Forestry and Fire Prevention; California State Reclamation Board; California Water Commission; California Wildlife Conservation Board; California Department of Food and Agriculture; California State Fish and Game Commission; Sacramento Valley Landowners Association; Sacramento River Water Contractors Association; Sacramento River Preservation Trust; Pacific Coast Federation of Fishermen's Association; Golden Gate Fisherman's Association; the fishery resources and conservation community; Pacific Processors Association; and Butte, Colusa, Glenn, Shasta, Sutter, and Tehama Counties.

The Secretary of the Interior will appoint representatives from the Bureau of Land Management, Bureau of Reclamation, and the U.S. Fish and Wildlife Service. The National Marine Fisheries Service, the U.S. Army Corps of Engineers, the Soil Conservation Service, the Forest Service, and the Central

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[1] The language of section 3 would lower the family contribution expected of low and middle-income families an average of $200-$1000 for families earning between $5,000-$60,000.

Valley project preference power customers will also be represented.

The drought has given new urgency to the measure. Everyone agrees that the steps outlined by the 1986 study are necessary to prevent a further decline in the Sacramento steelhead trout and chinook salmon populations. The Upper Sacramento River Fishery Resource Restoration Act will allow for the implementation of these strategies. I encourage my colleagues to join me in supporting this vital measure.•

By Mr. BURDICK:

S. 729. A bill to assist small communities in construction of facilities for the protection of the environment and human health; to the Committee on Environment and Public Works.

SMALL COMMUNITY ENVIRONMENTAL INFRASTRUCTURE ASSISTANCE ACT

• Mr. BURDICK. Mr. President, today I am reintroducing legislation to help small communities finance facilities for the protection of the environment and human health.

Many of my colleagues agree that we must do more to help small towns to meet pressing environmental needs. I am pleased that over 20 of my colleagues have joined me introducing this legislation including the majority leader, Senator MITCHELL and chairman of the Finance Committee, Senator BENTSEN.

There is growing evidence that small communities, including many communities in my home State of North Dakota, have a significant need to improve or expand their environmental protection facilities, including sewage treatment plants, drinking water systems, solid waste facilities, and underground storage tanks. Needed improvements to environmental facilities in these small communities are estimated to cost from $6 to $8 billion.

Small communities face special problems in financing environmental facilities. Late in 1988, the Environmental Protection Agency published a report assessing the impact of existing and proposed environmental requirements on municipalities, small business and agriculture, "Municipalities, Small Business, and Agriculture—The Challenge of Meeting Environmental Responsibilities" which concluded—

> Most municipalities will be able to meet the expected increase in environmental expenses and still remain financially sound. The municipalities most likely to experience difficulties will be those with populations of 2,500 or less.

EPA also assessed the expected increases in environmental user fees and concluded—

> Most of the municipalities that would experience the largest overall percentage increase in fees are the smallest municipalities . . . The user fees of 20% of the municipalities under 2,500 persons may rise over 100% above current levels by 1996 . . . Many of the households that are expected to experience initial "rate shocks" when confronted with rising user fees are in communities having fewer than 2,500 persons.

In addition, EPA examined the relative access of small and large communities to various financing options. The study concluded—

> Between 21% and 30% of communities under 2,500 persons may have difficulty using revenue bonds, general obligation bonds, and loans because of the high cost of some individual regulations and the cumulative costs of recent legislative requirements . . . and the limited margin for expanding financial obligations in small communities due to existing demands for environmental and other infrastructure services. . . .

EPA noted that small communities may face additional problems in financing environmental projects, including lack of economies of scale, poor management, and limited access to technical services.

In March of this year, the Congressional Office of Technology Assessment issued a report titled "Rebuilding the Foundations: A Special Report on State and Local Public Works Financing and Management." The report confirms the basic analysis in the EPA report that lack of environmental infrastructure is a serious problem and that small communities face special problems in financing public works facilities.

OTA concludes that—

> . . . benefit based and private sector strategies are not appropriate or workable in most small, rural and low growth areas. This is an especially severe problem for funding environmental public works, since they lack substantial Federal or State support . . . Many such communities need additional technical and management expertise as well.

OTA further concludes that—

> . . . without stepped up State and Federal assistance, noncompliance with EPA standards is a likely outcome for districts which cannot generate adequate funds.

Several other studies identify or address the problem of financing environmental services in small communities. The National Council on Public Works Improvement addressed the issue of small drinking water systems as part of a February 1988 report, "Fragile Foundations: A Report on America's Public Works." The report states—

> A national problem does exist for small water systems. . . . Small water systems operate on a marginal basis, with inadequate resources—operational and managerial—to correct existing deficiencies.

A 1987 report by the National Council "Problems in Financing and Managing Small Public Works" concluded—

> There is an abundant supply of information on the problems and successes of large urban water systems. However, there is relatively little knowledge about the plight of small, rural water systems . . . The small system problem in the United States is probably more severe since many small systems lack adequate water treatment equipment of the necessary operational skills to protect public health.

A report by the Congressional Budget office, "Financing Municipal Water Supply systems"; May 1987, indicates that the per capita costs of water systems are seven times greater for small communities than for large communities.

Lack of financial resources for environmental services in small communities shows up in compliance data. EPA reports that small drinking water systems serve only 8 percent of the population, but account for 93 percent of drinking water standards violations and 94 percent of monitoring/reporting violations.

An EPA study of drinking water system compliance "Ensuring the Viability of Small Drinking Water Systems"; May, 1989, concluded—

> Plagued by personnel and infrastructure problems, many small systems are unable to meet the challenges of regulations mandated by the 1986 Safe Drinking Water Act amendments. Underlying their difficulties are a lack of financial capacity, technical and management capacity, and information about the regulations.

This problem can be expected to become more significant as new regulations required by the 1986 amendments to the Safe Drinking Water act, including requirements for disinfection and filtration, take effect in the next few years. Safe drinking water is crucial to public health and we cannot ignore the needs of small communities which cannot afford needed water system improvements.

Late in the last Congress, the Environment and Public Works Committee held hearings on several bills related to small community environmental financing including bills introduced by Senators BAUCUS, BRADLEY, BENTSEN, and MOYNIHAN.

These bills were consolidated into a single bill and reported as the Small Community Environmental Assistance Act—S. 2184; Committee Report 101-528. The bill we are reintroducing today is virtually identical to the Committee reported bill.

This legislation will assist States in establishing revolving funds to help small communities—under 2,500 population finance environmental projects through low interest loans and, in the case of poorer communities, grants. This effort will be a valuable complement to the wastewater treatment assistance provided under the Clean Water Act and the assistance available through the Farmers Home Administration.

In addition, communities under 25,000 population facing the most serious financial constraints will be eligible for construction assistance from the Army Corps of Engineers. The bill directs the corps to work with EPA and the States to identify the most needy communities and to build needed public health facilities with 90 percent Federal funding. Many of our very poor communities lack the management structure and financial capacity to repay a loan or match a grant. In these cases, full Federal assistance is the only alternative to correct serious and continuing public health problems.

The bill will also increase opportunities for public/private partnerships in financing sewage facilities through several technical amendments to the Clean Water Act.

Mr. President, I ask unanimous consent that a section-by-section description of the bill and the bill itself be printed at an appropriate place in the RECORD.

I look forward to working with my colleagues to advance this important legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 729

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.—(a) This Act may be cited as the "Small Community Environmental Infrastructure Assistance Act of 1991".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.
Sec. 2. Findings.
Sec. 3. Purposes.
Sec. 4. Definitions.

TITLE I—SMALL COMMUNITY ENVIRONMENTAL INFRASTRUCTURE ASSISTANCE

Sec. 101. Grants to States for establishment of small community environmental infrastructure revolving funds.
Sec. 102. Small community environmental infrastructure revolving funds.
Sec. 103. Intended use plan.
Sec. 104. Audits, reports, and fiscal controls.
Sec. 105. Small community environmental infrastructure technical assistance and outreach.
Sec. 106. Authorization of appropriations.

TITLE II—ENVIRONMENTAL INFRASTRUCTURE FACILITIES FOR ECONOMICALLY DISTRESSED AREAS

Sec. 201. Administration.
Sec. 202. Eligible environmental infrastructure projects.
Sec. 203. State environmental infrastructure priority project plans.
Sec. 204. Economically distressed area environmental infrastructure assistance plan.
Sec. 205. Local cooperation agreements.
Sec. 206. Project design guidelines.
Sec. 207. Economically distressed area technical assistance and outreach.
Sec. 208. Authorization.

TITLE III—FINANCING OF PUBLICLY OWNED TREATMENT WORKS

Sec. 301. Financing of publicly owned treatment works.
Sec. 302. Authority of State revolving funds to guarantee local debt obligations.

FINDINGS

SEC. 2. FINDINGS.—The Congress finds that—

(1) small communities face special problems in providing for infrastructure facilities to protect the environment and human health, including sewage disposal, safe drinking water, and environmentally sound solid waste disposal;

(2) small communities often lack economies of scale necessary to provide an adequate financial base for construction and operation of environmental infrastructure facilities;

(3) small communities often have limited access to financial markets due to limited management capability and limited access to financial and technical services;

(4) the Environmental Protection Agency estimates that between 21 percent and 30 percent of small communities will have difficulty using revenue bonds for environmental infrastructure facilities because of limited financial resources;

(5) many small communities have not benefitted from existing environmental infrastructure financing and assistance programs of the Federal Government because such assistance programs are often focused on the largest environmental problems caused by larger municipalities (e.g., only 8 percent of the Federal sewage treatment plant grant funds have been devoted to small communities);

(6) existing Federal grant assistance programs for waste water treatment have been phased out in favor of State loan funds and some small communities will have limited access to such funds and some disadvantaged small communities may be unable to comply with pollution control requirements without grant assistance;

(7) residents of small communities often spend a larger portion of household income for environmental services than do residents of large communities;

(8) recent amendments to Federal environmental laws will require additional efforts by small communities to address environmental problems and devote a larger percentage of resources to this effort;

(9) the Environmental Protection Agency estimates that small community households may face an average increase of $170 for environmental user charges and fees as a result of new environmental requirements;

(10) many rural water supply systems are inadequate or insufficient to provide for existing and future needs and have deteriorated to the degree that a reliable supply of water is in jeopardy and large quantities of water are being or may be wasted;

(11) the National Council on Public Works Improvement recently concluded that "A national problem does exist for small water systems . . . and . . . these small water systems operate on a marginal basis, with inadequate financial resources to correct existing deficiencies . . ."

(12) the Environmental Protection Agency reports that small water systems serve 8 percent of the United States population, but account for over 90 percent of the violations of the Safe Drinking Water Act;

(13) the Environmental Protection Agency reports that 80 percent of the communities in violation of sewage treatment requirements are rural communities and that rural community sewage treatment needs exceed $28,000,000,000;

(14) it is essential that the Federal Government play a more active role in providing financial assistance to small communities for construction of environmental infrastructure facilities;

(15) it is essential that the Federal Government make a special effort to provide financial assistance, including grant assistance, to small communities which are economically disadvantaged; and

(16) it is essential that the Federal Government expand and strengthen technical assistance and outreach programs to assist small communities in complying with environmental requirements and the construction, operation, maintenance, and rehabilitation of environmental infrastructure facilities.

PURPOSE

SEC. 3. PURPOSE.—The purposes of this Act are to—

(1) provide for the creation of State loan and grant funds to assist small communities in financing of wastewater treatment, drinking water, and solid waste disposal facilities and projects;

(2) direct the United States Army Corps of Engineers to construct essential wastewater treatment, drinking water, and solid waste disposal facilities in economically distressed areas;

(3) to expand and strengthen Federal programs for providing technical assistance and outreach to small communities on issues relating to environmental protection and the construction operation, maintenance, and rehabilitation of environmental facilities and projects; and

(4) to clarify requirements with respect to publicly owned treatment works that have received grants pursuant to the Clean Water Act.

DEFINITIONS

SEC. 4. DEFINITIONS.—For the purposes of this Act—

(1) the term "Administrator" refers to the Administrator of the Environmental Protection Agency;

(2) the term "Secretary" means the Secretary of the Army;

(3) the term "State" has the same meaning as established in section 502(3) of the Federal Water Pollution Control Act;

(4) the term "wastewater treatment works" shall have the same meaning as established in section 212(2) of the Federal Water Pollution Control Act;

(5) the term "solid waste management facility" shall have the same meaning as that established in section 1004(29) of the Solid Waste Disposal Act;

(6) the term "sanitary landfill" shall have the same meaning as that established in section 1004(26) of the Solid Waste Disposal Act;

(7) the term "public water system" has the same meaning as that established in section 1401(4) of the Safe Drinking Water Act;

(8) the term "construction" has the same meaning as that established in section 1004(2) of the Solid Waste Disposal Act;

(9) the term "small community" refers to a municipality in which—

(A) the population is less than 2,500 individuals, as determined by the latest decennial census of the United States; or

(B) the environmental facility for which assistance is sought has fewer then one thousand service connections;

(10) the term "disadvantaged small community" refers to a small community in which the median household income of the residents of such community is less than 75 percent of the national median household income, as determined by the latest decennial census of the United States;

(11) the term "underground storage tank" has the same meaning as that established in section 9001(1) of the Solid Waste Disposal Act;

(12) the term "municipality" refers to a city, town, township, borough, county, parish, district, association, cooperative, or other public body created by or pursuant to State law;

(13) the term "economically distressed area" means—

(A) a county with—

(i) a per capita income that is less than or equal to 70 percent of the national average, as determined by the Bureau of Statistics, Department of Labor; and

(ii) an unemployment rate that is greater than or equal to 130 percent of the national average, as determined by such Bureau; and

(B) any Federal Indian reservation; and

(C) any colonia;

(14) the term "Federal Indian reservation" shall have the same meaning as that established in section 518(h)(1) of the Federal Water Pollution Control Act, as amended, except that such term shall include former reservations in the State of Oklahoma and village corporations established pursuant to the Alaskan Native Claims Settlement Act; and

(15) the term "colonia" means an organized settlement which, in the judgment of the Administrator, is generally lacking in drinking water, sewage treatment, and waste disposal facilities, and is within one hundred fifty miles of the United States border with Mexico.

TITLE I—SMALL COMMUNITY ENVIRONMENTAL INFRASTRUCTURE ASSISTANCE

GRANTS TO STATES FOR ESTABLISHMENT OF SMALL COMMUNITY ENVIRONMENTAL INFRASTRUCTURE REVOLVING FUNDS

SEC. 101. (a) GENERAL AUTHORITY.—Subject to the provisions of this title, the Administrator shall make grants to each State for the purpose of establishing a small community environmental infrastructure revolving fund.

(b) PURPOSE.—State small community environmental infrastructure revolving loan funds shall be available for providing financial assistance to small communities for—

(1) construction of waste-water treatment works;

(2) construction of public water systems;

(3) construction of solid waste management facilities; and

(4) assuring that undergound storage tanks which are owned and operated by small communities are in compliance with section 9003(c) of the Solid Waste Disposal Act, as amended.

(c) SCHEDULE OF GRANT PAYMENTS.—The Administrator and each State shall jointly establish a schedule of payments under which the Administrator will pay to the State the amount of each grant to be made to the State under this title. Such schedule shall be based on the State's intended use plan under section 103 of this title, except that—

(1) such payments shall be made in cash in quarterly installments, and

(2) such payments shall be made as expeditiously as possible, but in no event later than the earlier of—

(A) 8 quarters after the date such funds were obligated by the State, or

(B) 12 quarters after the date such funds were allotted to the State.

(d) FORMULA.—Sums authorized to be appropriated to carry out this section shall be allotted by the Administrator in accordance with a formula, established by the Administrator, which reflects the need for construction of facilities for wastewater treatment, drinking water supply, and solid waste disposal in small communities and the proportion of such need in each State in disadvantaged small communities.

(e) MINIMUM ALLOTMENT.—Notwithstanding any other provision of law, the Administrator shall ensure that each State receives a minimum allotment of not less than one percent of the funds appropriated pursuant to this title in each fiscal year.

(f) PERIOD OF AVAILABILITY FOR GRANT AWARD.—(1) Sums allotted to a State under this section for a fiscal year shall be available for obligation by the State during the fiscal year for which sums are authorized and during the following fiscal year.

(2) The amount of any allotment not obligated by the State by the last day of the 2-year period of availability established by paragraph (1) shall be immediately reallotted by the Administrator on the basis of the same ratio as is applicable to sums allotted under subsection (d) of this section. None of the funds reallotted by the Administrator shall be reallotted to any State which has not obligated all sums allotted to such State in the first fiscal year of such 2-year period.

SMALL COMMUNITY ENVIRONMENTAL INFRASTRUCTURE REVOLVING FUNDS

SEC. 102. (a) GENERAL RULE.—To receive grant funds made available under this Act, a State shall first establish a small community environmental infrastructure revolving fund which complies with the requirements of this section.

(b) SPECIFIC REQUIREMENTS.—The Administrator shall enter into an agreement under this section with a State only after the State has established to the satisfaction of the Administrator that—

(1) the State shall accept grant payments with funds to be made available under this Act in accordance with a payment schedule established pursuant to section 101(c) of this Act and will deposit all such payments in the small community environmental infrastructure revolving fund established by the State in accordance with this Act;

(2) the State will deposit in the fund from State moneys an amount equal to at least 25 percent of the total amount of all grants which will be made to the State with funds to be made available under this Act on or before the date on which each quarterly grant payment will be made to the State under this Act;

(3) the State will enter into binding commitments with small communities to provide assistance in accordance with the requirements of this Act in an amount equal to 125 percent of the amount of each such grant payment within 1 year after the receipt of such grant payment;

(4) all funds in the fund will be expended in an expeditious and timely manner;

(5) in addition to complying with the requirements of this Act, the State will commit or expend each quarterly grant payment which it will receive under this title in accordance with laws and procedures applicable to the commitment or expenditure of revenues of the State;

(6) in carrying out the requirements of this Act, the State will use accounting, audit, and fiscal procedures conforming to generally accepted government accounting standards;

(7) the State will require as a condition of making a loan or providing other assistance from the fund that the recipient of such assistance will maintain project accounts in accordance with generally accepted government accounting standards; and

(8) the State will make annual reports to the Administrator on the actual use of funds in accordance with section 103(b) of this Act.

(c) TYPES OF ASSISTANCE.—Except as otherwise limited by State law, a small community environmental infrastructure revolving fund of a State under this section may be used only—

(1) to makes loans to small communities, on the condition that—

(A) such loans are made at or below market interest rates, including interest free loans, at terms not to exceed 30 years;

(B) annual principal and interest payments will commence not later than 3 years after completion of a project and all loans will be fully amortized not later than 30 years after project completion;

(C) the recipient of a loan will establish a dedicated source of revenue for repayment of loans; and

(D) the recipient of the loan agrees to repay the loan and the fund will be credited with all payments of principal and interest on all loans.

(2) to make grants to small communities, on the condition that—

(A) such grants do not exceed 75 percent of the costs of eligible projects; and

(B) the municipality receiving a grant is a disadvantaged small community.

(3) to guarantee, or purchase insurance for, small community obligations where such action would improve credit market access or reduce interest rates;

(4) as a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the State if the proceeds of the sale of such bonds will be deposited in the fund;

(5) to earn interest on fund accounts; and

(6) for the reasonable costs of administering the fund and conducting activities under this Act, except that such amounts shall not exceed 4 percent of the balance of such fund.

(d) ADMINISTRATION.—Each State loan fund shall be administered by an instrumentality of the State with such powers and limitations as may be required to operate the fund in accordance with the requirements of this Act.

(e) CONSISTENCY WITH PLANNING REQUIREMENTS.—(1) A State may provide financial assistance from its small community environmental infrastructure revolving fund only with respect to a wastewater treatment project which is consistent with plans, if any, developed under sections 205(j), 208, 303(e), 319, and 320 of the Federal Water Pollution Control Act.

(2) A State may provide financial assistance from its small community environmental infrastructure revolving loan fund only with respect to a public water system which is approved by the chief executive officer of the State agency with primary enforcement authority pursuant to section 1413 of the Safe Drinking Water Act.

(3) A State may provide financial assistance from its small community environmental infrastructure revolving loan fund only with respect to a solid waste management facility which is consistent with a plan approved pursuant to section 4007 of the Solid Waste Disposal Act.

INTENDED USE PLAN

SEC. 103. (a)(1) IN GENERAL.—Prior to the beginning of each fiscal year, each State shall prepare and submit to the Administrator a plan identifying the intended uses of the amounts available to its small community environmental infrastructure revolving fund. Such intended use plan shall include, but not be limited to—

(A) a list of those projects for construction of waste-water treatment works, water supply systems, and solid waste management infrastructure facilities which are pending;

(B) a description of the short- and long-term goals and objectives of the fund;

(C) information on the activities to be supported, including a description of project categories, terms of financial assistance, and communities served;

(D) assurances and specific proposals for meeting the requirements of subsection (b) of section 102 of this Act; and

(E) the criteria and method established for the allocation of funds to proposed projects.

(2) The Administrator shall review the plan developed pursuant to this subsection and shall not make grant payments pursuant to section 101 of this Act unless it is determined that such plan is consistent with the requirements and objectives of this Act.

(3) The State shall provide for public review and comment on the plan developed pursuant to this section.

(b) RESERVATION OF FUNDS FOR PLANNING.—Each State shall reserve each fiscal year 1 percent of the sums in the fund, or $100,000, whichever amount is greater, to carry out planning and related activities pursuant to this section.

AUDITS, REPORTS, AND FISCAL CONTROLS

SEC. 104. (a) FISCAL CONTROL AND AUDITING PROCEDURES.—Each State electing to establish a small community environmental infrastructure revolving fund under this Act shall establish fiscal controls and accounting procedures sufficient to assure proper accounting during appropriate accounting periods for—

(1) payments received by the fund;

(2) disbursements made by the fund; and

(3) fund balances at the beginning and end of the accounting period.

(b) ANNUAL FEDERAL AUDITS.—The Administrator shall, at least on an annual basis, conduct or require each State to have independently conducted reviews and audits as may be deemed necessary or appropriate by the Administrator to carry out the objectives of this section. Audits of the use of funds deposited in the pollution revolving fund established by such State shall be conducted in accordance with the auditing procedures of the General Accounting Office, including chapter 75 of title 31, United States Code.

(c) ANNUAL REPORT.—Beginning 60 days after the end of the first fiscal year after the receipt of payments under this Act, the State shall submit an annual report to the Administrator describing how the State has met the goals and objectives for the previous fiscal year, as identified in the plan prepared for such year pursuant to subsection (a), including identification of loan and grant recipients, loan and grant amounts, and terms and similar details on other forms of financial assistance provided from the fund.

(d) NONCOMPLIANCE.—(1) If the Administrator determines that a State has not complied with the requirements of this Act, the Administrator shall notify the State of such noncompliance and the necessary corrective action.

(2) WITHHOLDING OF PAYMENTS.—If a State does not take corrective action within 60 days after the date a State receives notification of noncompliance under paragraph (1), the Administrator shall withhold additional payments to the State until the Administrator is satisfied that the State has taken the necessary corrective action.

(3) REALLOTMENT OF WITHHELD PAYMENTS.—If the Administrator is not satisfied that adequate correction actions have been taken by the State within 12 months after the State is notified of noncompliance, the payments withheld from the State by the Administrator shall be made available for reallotment in accordance with the formula for allotment of funds under this Act.

SMALL COMMUNITY TECHNICAL ASSISTANCE AND OUTREACH

SEC. 105. (a) OFFICE OF SMALL COMMUNITY ENVIRONMENTAL INFRASTRUCTURE ASSISTANCE.—(1) The Administrator shall establish an Office of Small Community Environmental Infrastructure Assistance.

(2) FUNCTIONS.—The functions of the Office of Small Community Environmental Infrastructure Assistance shall be to—

(A) manage grants pursuant to subsection (b) of this section;

(B) manage and oversee the operation of State small community environmental infrastructure revolving funds;

(C) provide information and guidance to small communities in financial analysis, financial planning, and assessment of project feasibility;

(D) provide small communities with information and guidance concerning compliance with environmental protection requirements of Federal statutes;

(E) provide information and guidance to small communities on issues including regionalization of environmental infrastructure facilities, reform of existing rate structures, and operation of special management districts; and

(F) in cooperation with the Secretary, provide information and guidance to communities on issues relating to construction, operation, maintenance, and rehabilitation of environmental infrastructure facilities.

(b) SMALL COMMUNITY ASSISTANCE GRANTS.—(1) In implementation of the functions identified in subsection (a) the Office of Small Community Environmental Assistance may provide grants to appropriate State agencies and not-for-profit organizations, including organizations operating at a multistate level to assist in the dissemination of information to small communities and to assist small communities in assessment of issues relating to financing of environmental infrastructure facilities, compliance with environmental laws and the construction, operation, maintenance, and rehabilitation of environmental infrastructure facilities.

(2) Grants pursuant to this section shall be in an amount determined by the Administrator and shall be matched by non-Federal funds in an amount equal to not less than 25 percent of the program cost in a given fiscal year.

(3) In awarding grants pursuant to this section the Administrator shall, to the fullest extent practicable, assure that communities in all States have access to assistance pursuant to this subsection, that award of grants is on a competitive basis, and that past performance of an applicant is considered in awarding future grants.

(4) Recipients of grants pursuant to this section shall provide such information as the Administrator deems appropriate in applications for grant assistance and in reports of program activities.

(c) COORDINATION WITH OTHER FEDERAL AGENCIES.—The Administrator shall work with the Secretary of the Army, the Secretary of Agriculture, and other Federal agencies in the implementation of this section.

AUTHORIZATION OF APPROPRIATIONS

SEC. 106. (a) GENERAL AUTHORIZATION.—There is authorized to be appropriated to make grants pursuant to section 101 $200,000,000 for fiscal year 1993, $300,000,000 for fiscal year 1994, $500,000,000 for fiscal years 1995, 1996, and 1997.

(b) SET-ASIDE.—Of funds appropriated pursuant to this section, there shall be reserved for the implementation section 105(b) of this Act, 2 percent of funds authorized pursuant to this section in fiscal year 1993, 1.5 percent of funds authorized in fiscal year 1994, and 1 percent of funds authorized in fiscal years 1995, 1996, and 1997.

TITLE II—ENVIRONMENTAL INFRASTRUCTURE FACILITIES FOR ECONOMICALLY DISTRESSED AREAS

ADMINISTRATION

SEC. 201. (a) AUTHORITY.—The Secretary shall act as the administrator of the authorities of this title.

(b) To implement the authorities of this title, there shall be established, within 180 days of the date of enactment of this title, an Office of Community Environmental Infrastructure Assistance within the Directorate of Civil Works of the Office of the Chief of Engineers.

ELIGIBLE ENVIRONMENTAL INFRASTRUCTURE PROJECTS

SEC. 202. (a) GENERAL ELIGIBILITY.—Funds provided for the implementation of this title shall be available for construction of—

(1) wastewater treatment works;

(2) public water systems; and

(3) solid waste management facilities.

(b) FINANCIAL CAPABILITY.—Funds provided for the implementation of this title shall be available only for environmental infrastructure projects located in an economically distressed area.

(c) COMMUNITY SIZE.—Funds provided for the implementation of this title shall be available only for environmental infrastructure projects serving less than 25,000 persons.

STATE ENVIRONMENTAL INFRASTRUCTURE PRIORITY PROJECT PLANS

SEC. 203. (a) GENERAL AUTHORITY.—The Governor of any State may submit to the Secretary a State Priority Project Plan pursuant to the requirements of this section.

(b) PLAN ELEMENTS.—A plan developed pursuant to this section shall include, at a minimum—

(1) a list of counties in the State qualified as economically distressed, including such information qualifying such areas as the Secretary determines to be necessary and appropriate;

(2) a list of specific environmental infrastructure projects eligible for financial assistance pursuant to this title including such information concerning the nature, benefits, costs, and expected long-term operations of the projects; and

(3) a list of eligible environmental infrastructure projects ranked in priority order for the fiscal year in which assistance is sought.

(c) REGULATIONS.—The Secretary shall establish by regulation such additional requirements for State Priority Project Plans as he determines to be appropriate and shall provide for public review and comment on such regulations.

ECONOMICALLY DISTRESSED AREA ENVIRONMENTAL INFRASTRUCTURE ASSISTANCE PLAN

SEC. 204. (a) GENERAL AUTHORITY.—Within one year of the date of enactment of this title and annually thereafter, the Secretary shall develop and submit to the Congress a national Economically Distressed Area Environmental Infrastructure Assistance Plan for implementing projects eligible pursuant to this title.

(b) The plan required pursuant to this section shall include, at a minimum—

(1) a general description of the efforts of the Secretary to implement the provisions of this title in the preceding year;

(2) a list of all environmental infrastructure projects listed by States pursuant to paragraph 203(b)(3);

(3) a list of environmental infrastructure projects listed pursuant to paragraph (2) ranked in an order which, in the judgment of the Secretary, is consistent with the following criteria—

(A) the public health and environmental benefits to be accomplished by the project;

(B) the degree of financial hardship experienced by the community to be served by the project; and

(C) the ranking of the project pursuant to section 203(b)(3); and

(4) a status report of any projects in progress or under construction.

(c) Verification.—The Secretary may not list an environmental infrastructure project pursuant to paragraph (b)(3) if, in the judgment of the Secretary, the project does not meet the eligibility requirements of this title.

(d) Coordination.—The Secretary shall consult with the Administrator in the development of the plan required pursuant to this section.

LOCAL COOPERATION AGREEMENTS

Sec. 205. (a) General Authority.—The Secretary may, subject to the availability of funds pursuant to section 206 of this title, enter into local cooperation agreements to provide for the planning, design, and construction of environmental infrastructure projects listed pursuant to section 204(b)(3) of this title.

(b) Requirements.—Each local cooperation agreement shall provide for—

(1) the payment of a local share of the total project of not less than 10 percent;

(2) the provision of necessary lands, easements, and rights of way owned or controlled by the local sponsor which may be part of the local contribution required by paragraph (1);

(3) the development of a facilities plan, including appropriate engineering plans and specifications, which is consistent with the project design guidelines developed pursuant to section 206; and

(4) such other arrangements as are deemed necessary by the Secretary for the timely completion of the project.

(c) National Priorities.—(1) The Secretary shall enter into local cooperation agreements giving first priority to environmental infrastructure projects ranked first pursuant to paragraph 204(b)(3).

(2) To the extent practicable, the Secretary shall assure that, in any given fiscal year, local cooperation agreements are signed for a project or projects from each State submitting a Priority Project Plan pursuant to section 203 of this title.

(d) Project Management.—(1) Local cooperation agreements shall be signed by the local sponsor of such project, the proper representative of the State, and a designated representative of the Secretary, in consultation with a representative of the Administrator.

(2) In a case where these is a signed local cooperation agreement, the Secretary shall provide for construction of the project.

(e) Consistency With Planning Requirements.—Notwithstanding any other provision of law, the Secretary may not sign a local cooperation agreement under this title for any environmental infrastructure project which is—

(1) a wastewater treatment project which is inconsistent with plans developed under sections 205(j), 208, 303(e), 310 and 320 of the Federal Water Pollution Control Act;

(2) a public water system for which the project has not been approved by the chief executive officer of the agency with primary enforcement authority under the Safe Drinking Water Act; and

(3) a solid waste management facility which is inconsistent with the plan approved pursuant to section 4007 of the Solid Waste Disposal Act.

PROJECT DESIGN GUIDELINES

Sec. 206. (a) General Authority.—The Administrator shall, within 24 months of the date of enactment of this title, publish guidelines for design of wastewater treatment, public water supply, and solid waste disposal facilities pursuant to this title.

(b) Guideline Contents.—Guidelines published pursuant to this section shall, at a minimum—

(1) describe the basic design standards to be applied in the planning of environmental infrastructure facilities;

(2) identify appropriate engineering specifications for construction of environmental infrastructure facilities based on an expected operational life of 20 years;

(3) establish such minimum standards of planning, engineering, design and construction as are deemed appropriate by the Administrator; and

(4) assure that any facility constructed will comply with all applicable Federal and State environmental laws.

(c) Review and Revision.—The Administrator shall review and revise the guidelines published pusuant to this section not less often than every five years.

ECONOMICALLY DISTRESSED AREA TECHNICAL ASSISTANCE AND OUTREACH

Sec. 207. (a) Office of Environmental Infrastructure Assistance.—(1) The Secretary shall establish an Office of Environmental Infrastructure Assistance.

(2) Functions.—The functions of the Office of Environmental Infrastructure Assistance shall be to—

(A) manage projects pursuant to this title;

(B) provide information and guidance to economically distressed area communities in financial analysis, financial planning, and assessment of project feasibility;

(C) provide information and guidance to economically distressed area communities on issues including regionalization of environmental infrastructure facilities, reform of existing rate structures, and operation of special management districts; and

(D) in cooperation with the Administrator, provide information and guidance to communities in issues relating to construction, operation, maintenance, and rehabilitation of environmental infrastructure facilities.

(b) Coordination With Other Federal Agencies.—The Secretary shall work with the Administrator, the Secretary of Agriculture, and other Federal agencies in the implementation of this section.

AUTHORIZATION

Sec. 208. There is hereby authorized to be appropriated to the Secretary for the purpose of carrying out this title the amount of $500,000,000 for each of the five fiscal years beginning with fiscal year 1993.

TITLE III—FINANCING OF PUBLIC OWNED TREATMENT WORKS

FINANCING OF PUBLICLY OWNED TREATMENT WORKS THAT HAVE RECEIVED GRANT FUNDS

Sec. 301. (a) In General.—Section 201 of the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act) (33 U.S.C. 1281) is amended by adding at the end thereof the following subsection:

"(q)(1) Notwithstanding any requirement of this Act, any regulation, or any condition of any grant or financial assistance under this Act, the owner of a publicly owned treatment works may, directly or by means of a public authority created for the purpose, acting in accordance with the provisions of this subsection, issue debt with respect to a publicly owned treatment works that has received financial assistance of any kind under this Act and may pledge, as security for repayment of such debt obligation, revenues realized from the operation of the publicly owned treatment works, subject to the prior payment of the costs of proper operation and maintenance thereof. Such debt issued in accordance with this subsection shall not be considered (A) to commingle Federal and private interests in the publicly owned treatment works; (B) to disturb public use and possession thereof; (C) to improperly dispose of public interests therein; or (D) otherwise to breach the terms of the grant or financial assistance made thereto or to necessitate the repayment of same (or any portion thereof) to the United States Government.

"(2) This subsection shall apply only if at least 95 percent of the proceeds of the debt issuance will be used for: (A) the construction portion of a program for the rehabilitation or expansion of the publicly owned treatment works, provided that such treatment works, as rehabilitated or expanded, will conform to or exceed any design specifications and effluent limitations made applicable to it by any statute, regulation or agreement, including those contained in the original grant agreement and in the permit issued pursuant to section 402 of this Act for such works; or (B) the establishment of dedicated funds, trust accounts or other financial mechanisms to subsidize or stabilize rates, provide for equipment repair or replacement or for such other uses as may have demonstrable benefit to the rate payers of the treatment works.

"(3) This subsection shall not apply unless the owner of the treatment works with respect to which debt issuance is contemplated pursuant to this subsection obtains, from the chief administrative officer of the agency or department of the State responsible for administering the State water pollution control revolving fund pursuant to section 603(b) of this Act (hereinafter referred to as the "State Administrator") in the State in which such treatment works is located, a prior determination that such issuance will be in compliance with the requirements of paragraph (2) of this subsection.

"(4) The owner of a treatment works with respect to which debt issuance is contemplated pursuant to this subsection shall submit for the approval of the State Administrator, a statement describing the project or activities to which the contemplated financing will be applied, in detail sufficient to demonstrate that the contemplated debt issuance will be in compliance with the requirements of paragraph (2) of this subsection. The owner of the treatment works may thereafter file an amended plan of financing to comply with such notice.

"(5) The Administrator shall promulgate such regulations and guidelines as are necessary to carry out this subsection.".

(b) Effective Date.—Except as otherwise provided, the amendments made by this section shall become effective on the date of enactment of this title.

AUTHORITY OF STATE REVOLVING FUNDS TO GUARANTEE LOCAL DEBT OBLIGATIONS

Sec. 302. (a) In General.—Section 603(d) of the Clean Water Act (33 U.S.C. 138(d)) is amended by deleting the "and" at the end of paragraph (6), deleting the period at the end of paragraph (7), and inserting in lieu thereof a semicolon and the word "and", and by adding at the end thereof the following:

"(8) to guarantee, or purchase insurance or letters of credit for, local obligations for equipment, facilities or plants to be used in conjunction with or in proximity to treatment works in operation at the time such a guarantee is made, provided such equipment, facilities, or plants are procured pursuant to a purchase contract, lease or service contract arrangement with a term at least equal to the estimated life of the subject equipment, facilities, or plants, and the full cost thereof is amortized during said term.".

(b) AMENDMENT.—Section 603 of the Clean Water Act (33 U.S.C. 1383) is amended by adding at the end thereof the following:

"(i) Nothing in this Act, or any regulation or any condition of any grant or financial assistance thereunder, shall prohibit the owner of a publicly owned treatment works from granting a security interest in any equipment, facilities, or plants procured pursuant to obligations which have been guaranteed or insured under the authority of paragraph (8) of subsection (d). Arrangements made in compliance with such paragraph (8) shall not be considered (1) to commingle Federal and private interests in publicly owned treatment works; (2) to disturb public use and possession thereof; (3) to improperly dispose or encumber public interests therein; or, (4) otherwise to breach the terms of any grant or other financial assistance (including, without limitation, assistance pursuant to this Act) to publicly owned treatment works of the type hereinabove referred to.".

(c) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall become effective on the date of enactment of this Act.

SEC. 303. SECURITY.—Nothing in this title shall be construed to provide any new authority for the owner of a federally-funded, publicly-owned wastewater treatment works to offer the physical plant, facilities, or equipment of such treatment works as security for any debt obligation issued pursuant to this Act.

SECTION-BY-SECTION DESCRIPTION OF SMALL COMMUNITY ENVIRONMENTAL ASSISTANCE

Section 1: Short Title and Table of Contents—This Act may be called the "Small Community Environmental Infrastructure Assistance Act of 1991."

Section 2: Findings—The Congress finds that small communities face special problems in financing environmental facilities, that residents of small communities spend a larger share of income for environmental services than do residents of large communities, and that the Federal government should take a more active role in providing financial and technical assistance to small communities in construction environmental infrastructure.

Section 3: Purpose—The purposes of this Act are to create State revolving funds to provide loans and grants assist small communities in financing environmental infrastructure, to direct the U.S. Army Corps of Engineers to construct environmental facilities for economically distressed communities, to expand Federal technical assistance to small communities, and to facilitate private investment in wastewater treatment facilities.

Section 4: Definitions—Key terms used in the Act are defined.

TITLE I—SMALL COMMUNITY ENVIRONMENTAL INFRASTRUCTURE ASSISTANCE

Section 101: Grants to States—The EPA is to make grants to States to establish pollution control revolving funds to assist small communities in financing sewage, drinking water, and solid waste facility construction, and compliance with underground tank regulations. Payment schedules, allotment formula, and procedures for reallotment are specified.

Section 102: Small Community Environmental Infrastructure Revolving Funds—States are to establish revolving funds which meet the conditions of this Act, including provision of a 25 percent State match for Federal funds, obligation of funds promptly, and assurance of proper accounting. Assistance to be provided by the fund may include loans, 75 percent grants to disadvantaged communities, purchase of insurance, and other assistance.

Section 103: Intended Use Plan—States are to develop an annual plan identifying the intended uses of monies in the fund.

Section 104: Audits, Reports and Fiscal Controls—States are to provide for appropriate fiscal controls and audits and provide reports to the EPA.

Section 105: Small Community Environmental Infrastructure Technical Assistance and Outreach—EPA is to establish an Office of Small Community Environmental Assistance to provide technical assistance to small communities in financing of environmental projects and, in conjunction with the Corps of Engineers, assist small communities in improving systems operations.

Section 106: Authorizations—A total of $2 billion is authorized over 5 years ($200, $300, $500, $500, and $500 million) to carry out this title. A small percentage of such funds are set-aside to support technical assistance programs.

TITLE II—ENVIRONMENTAL INFRASTRUCTURE FACILITIES FOR ECONOMICALLY DISTRESSED AREAS

Section 201: Administration—The U.S. Army Corps of Engineers is to establish an Office of Community Environmental Infrastructure Assistance and administer the authorities of this title.

Section 202: Eligible Environmental Infrastructure Projects—Projects eligible for assistance under this title include construction of wastewater treatment facilities, safe drinking water systems, and solid waste disposal facilities. Projects are to be located in economically distressed areas and serve less than 25,000 persons.

Section 203: State Environmental Infrastructure Priority Project Plans—Governors may submit to the Secretary an annual plan identifying economically distressed areas in the State, identifying eligible projects in the State, and providing a priority ranking of such projects.

Section 204: Economically Distressed Area Environmental Infrastructure Assistance Plan—The Secretary is to develop an annual plan describing activities to implement this title and listing projects submitted by States in priority order for funding in that year.

Section 205: Local Cooperation Agreements—The Secretary may enter into local cooperation agreements with communities to provide for the planning, design, and construction of eligible environmental infrastructure projects. Communities are to pay 10 percent of project costs. Projects are to be designed to be consistent with requirements of other environmental statutes and project design guidelines developed by the EPA.

Section 206: Project Design Guidelines—The Administrator of EPA is to develop, within 24 months of the date of enactment of this Act, guidelines for the design, engineering and construction of environmental infrastructure projects.

Section 207: Economically Distressed Area Technical Assistance and Outreach—The Corps of Engineers is to establish and Office of Environmental Infrastructure Assistance to assist small communities in managing pursuant to this title and assisting communities in development of environmental facilities.

Section 208: Authorization—There is authorized to be appropriated to implement this title a total of $2.5 billion for the five year period beginning in fiscal year 1993.

TITLE III—FINANCING OF PUBLICLY OWNED TREATMENT WORKS

Section 301: Financing of Publicly Owned Treatment Works That Have Received Grant Funds—This section would facilitate the role of the private sector in financing sewage treatment facilities by allowing the issuance of debt backed by future POTW operating revenues without requiring the repayment of prior Federal grants.

Section 302: Authority of State Revolving Funds to Guarantee Local Debt Obligations—This section would permit a State revolving loan fund to guarantee or purchase insurance or letters of credit in order to secure payment of local obligations incurred in connection with certain types of public-private partnerships.•

• Mr. BAUCUS. Mr. President, I am pleased to join in introducing legislation to assist small communities throughout the Nation in the construction of facilities for the protection of the environment and human health.

This is legislation we reported from the Environment and Public Works Committee last year. The bill includes legislation I introduced in the last Congress, S. 2184, providing for loans and grants to assist very small communities with environmental projects.

Small communities around the Nation are fighting an uphill battle to provide up-to-date environmental protection facilities. In my discussions of this problem with community officials from my home State of Montana and other parts of the country, I have heard three concerns.

First, small communities, by which I mean communities under 2,500 population, have a significant need for improved or expanded environmental protection facilities, including sewage treatment plants, drinking water systems, solid waste facilities, and underground storage tanks.

Second, small communities face special problems in financing environmental facilities including reduced economies of scale, limited access to financing, and modest managerial resources.

Finally, the Federal Government needs to do more to assist these communities in financing the construction of basic environmental facilities and projects.

The legislation we are introducing today, will assist States in establishing loan and grant funds to help small communities finance essential environmental projects, will direct the Federal Government to provide direct assistance to the most financially pressed communities, and will provide for substantially increased technical assistance to small communities.

We have clear evidence that small communities face significant demands for new and expanded environmental facilities and that these communities are seriously handicapped in addressing these needs.

Without expanded financial assistance from the Federal Government, many of our smaller communities may be unable to attain the environmental goals we have set for the country as a whole.

We must act now to assure that environmental services and facilities in small communities do not become second class services and facilities.

The legislation we are introducing today is intended to assure that large and small communities throughout the Nation have the benefit of first class environmental facilities.

In conclusion, Mr. President, I look forward to working with all my colleagues in advancing this important legislation.•

• Mr. SYMMS. Mr. President, as a cosponsor of this legislation, I would like to stand and thank the chairman and senior Senator from North Dakota for his leadership on this vitally needed piece of legislation.

As the chairman and I have served together on the Senate Environment and Public Works Committee, one thing we have both observed is that often, when we enact stringent environmental standards, we fail to recognize the burden that those standards will place on local communities, especially those small towns located in rural areas such as we have in Idaho and North Dakota.

I, for one, have always advocated that standards be written to be as flexible as possible, since the necessary environmental protection can often be achieved at less cost than what is imposed from on high by the Federal Government, by an agency located here in Washington. The principle is this: the people who live on the banks of the Snake River know better how to protect their environment than the people who live on the banks of the Potomac.

But Congress has, at times, ignored my advice, and imposed Federal standards on these cities and towns, forcing them into costly water and sewer developments that may achieve no public health benefit, but that merely reflect an aribitrary mandate out of Washington. If we are going to ask our small communities to pick up that burden, it is only fair that we provide them some assistance in doing.

The protection of drinking water and treatment of waste are critical functions of local government. They do not need any added harassment. For example, the Environmental Protection Agency recently singled out 13 municipalities in Idaho for "safe drinking water violation" notices. Upon further examination, it appears that some of those towns may very well be innocent of the violation being charged. Now that is the last thing these communities need. They need a helping hand from the Federal Government, not a kick in the pants.

That is why the legislation we are introducing today is so important. It will help the States establish revolving funds from which low interest loans and grants can be made to assist small communities. Communities facing the most serious financial constraints would also be eligible for contruction assistance from the Army Corps of Engineers. The bill also increases opportunities for public/private partnerships in financing sewage treatment. It is a timely bill, and I encourage my colleagues to join us in moving the bill to quick enactment.•

• Mr. CONRAD. Mr. President, I am pleased to be an original cosponsor of the Small Community Environmental Assistance Act of 1991. I would like to thank my distinguished colleague, the senior Senator from North Dakota, for his leadership in drafting this legislation and in focusing the attention of Congress on the needs of rural areas. this bill is desperately needed. I strongly support the concept of providing loans to small communities to finance environmental facilities. In addition, I believe the idea of providing grants to economically disadvantaged small communities is a good one.

Studies by the Environmental Protection Administration indicate that small communities pay more per capita than larger cities for services such as drinking water, sewage treatment, and solid waste disposal. These higher costs are especially difficult for small communities to absorb. The average income of residents in small communities is below the national average. EPA concluded that communities of less than 2,500 are the most likely to face problems implementing the changes called for in new environmental regulations. The measure we are introducing today responds to these concerns.

I have received numerous letters from local officials in North Dakota. They don't see how their communities can afford the costs of compliance with standards for drinking water and landfills. Some of these localities are already at the limit of their ability to borrow, and cannot afford the improvements already deemed necessary. The new regulations on landfills expected shortly will only increase the burden.

North Dakota is particularly hard hit for several reasons. More than 95 percent of the communities have fewer than 2,500 people. Most are farming communities, where people work hard and are proud of their accomplishments. The local economies of many areas have been devastated by several years of drought, with no sign of relief this year.

Another major problem is the cost of providing adequate drinking water. Particularly in eastern North Dakota, these higher costs are due in part to the Federal Government's failure to follow through on commitments to complete the Garrison Diversion Project. In return for the flooding of over half a million acres of fertile farmland, the Sate was promised adequate funding to divert Missouri River water for water supply and other uses. Water supplies from Garrison will assist dozens of small communities. But because the Administration has failed year after year to recommend adequate funding for the Garrison Diversion, the project is still not complete and many communities' water supply needs go unmet. Congress has recognized the commitment made previously to North Dakota, and has restored funding for the project. I am optimistic it will do so again this year.

The people in small cities and rural communities are willing to do their part to protect the environment, and they want to do their part. They need regulations which are reasonable and take into account their unique conditions. They don't need regulations with elaborate and expensive requirements to solve problems they don't have. One thing everyone agrees on is that the cost and difficulty of cleaning up our environment after it is contaminated is too great. So some improvements in waste disposal are essential. This puts most small communities in a severe financial bind. This bill is one step in the process of assuring the burden is shared fairly.

I urge my colleagues to consider this measure and join us in addressing these pressing needs.•

By Mr. LAUTENBERG (for himself, Mr. CHAFEE, Mr. GLENN, Mr. LIEBERMAN, Mr. JEFFORDS, Mr. MITCHELL, Mr. BRADLEY, Mr. KENNEDY, Mr. PELL, Mr. DECONCINI, Mr. LEVIN, Mr. HARKIN, Ms. MIKULSKI, and Mr. METZENBAUM):

S. 730. A bill to provide for the reduction of metals in packaging; to the Committee on Environment and Public Works.

REDUCTION OF METALS IN PACKAGING ACT

• Mr. LAUTENBERG. Mr. President, today I am introducing the Reduction of Metals in Packaging Act. This bill is based on the efforts of the Source Reduction Council of the Coalition of Northeast Governors [CONEG], which is comprised of the Governors of nine States—Connecticut, Maine, Massachussetts, New Jersey, New Hampshire, New York, Pennsylvania, Rhode Island,

and Vermont—and nearly two dozen environmental and industry groups. This legislation will phase down the use of four metals—cadmium, mercury, lead, and hexavalent chromium—in packaging in favor of more benign alternatives. This will tackle waste at the source, before it is generated and before it is released into the air, soil, and water.

Mr. President, lead, mercury, cadmium, and chromium are among the most harmful substances found in packaging today. A 1989 report by the Office of Technology Assessment identifies cadmium, mercury, and lead as the principal toxic metals in municipal solid waste. The medical community has concluded that these metals can damage the nervous system and cause mental retardation. As part of our solid waste stream, these metals pose significant threats to the environment and public health. When disposed of in landfills, these metals can leach into groundwater and poison our drinking water supplies or migrate into surface waters where they harm fish and wildlife. Humans and wildlife can also inhale or injest these toxic metals when they are incinerated, either through air emmissions or landfill disposal of the incineration ash.

Hexavalent chromium can cause lung cancer. Last year, the Environmental Protection Agency banned the use of hexavalent chromium in certain heating and air-conditioning systems because they release dangerous amounts of chromium into the air.

A few weeks ago, EPA announced a program to reduce releases of 17 toxic chemicals that present both significant risk to human health and the environment and opportunities to reduce such risks through pollution prevention. All four of the metals which are the subject of this bill are included in the list of 17 pollutants EPA is targeting for reduction.

Sources of lead in packaging include solder in steel cans, paint pigments, ceramic glazes and inks, and plastics. Cadmium is found in metal coating and plating, in pigments for some plastics, and in some printing inks. Chromium is also used to plate metal products and appears in paints, pigments, and dyes. Mercury too is found in certain paints.

Mr. President, alternatives to these harmful materials in packaging are available. For example, the National Association of Printing Ink Manufacturers has noted that the use of lead-based orange and yellow inks can be further reduced by using organic pigment substitutes. Progress is already being made in many areas. The use of lead in soldering food cans declined 77 percent between 1979 and 1986.

Mr. President, packaging comprises nearly one-third of all municipal solid waste. It is about time that we stop using these dangerous metals in packaging when safe alternatives are readily available.

The bill I am introducing today requires that manufacturers reduce the total concentration of cadmium, mercury, lead, and chromium in packaging to 600 parts per million in 2 years, 250 parts per million in 3 years, and 100 parts per million in 4 years. It does allow exemptions for packaging that either is made from recycled materials or where the metals are needed to protect its contents, such as medical products used in radiation and x-rays. Further, this legislation requires that manufacturers present certificates showing that they are complying with these reductions. Finally, this bill calls for the EPA to report on how effective these steps prove to be and whether other toxic materials should be reduced as well.

This legislation complements bills introduced by Senators BAUCUS and CHAFEE in the last Congress. Both these bills address toxic materials in products and their packaging and ban the disposal and incineration of batteries, which account for the bulk of lead, cadmium, and mercury in municipal solid waste. The bill I am introducing today will also complement S. 391, the Lead Exposure Reduction Act of 1991 introduced by Senators REID, LEIBERMAN, BRADLEY, myself and others to reduce exposure to the harmful effects of lead. Together, my legislation and these other bills will help prevent harmful materials from harming our soil, air, water, and ultimately ourselves and our children.

Mr. President, the bill I am offering today reflects the hard work of CONEG, industry, and environmental organizations. I commend all of the organizations involved for their effort to protect the environment and these toxic materials.

Since CONEG developed this model legislation, eight States have adopted legislation to reduce toxic metals in packaging including: Connecticut, Maine, New Hampshire, New York, Rhode Island, Vermont, Iowa, and Wisconsin. Other States, including my own State of New Jersey, currently have similar legislation pending.

Mr. President, the swift action on behalf of the States to enact this legislation indicates that getting toxic metals out of packaging is a pressing problem, and one that can be solved efficiently and effectively under this bill. We have waited much too long to control these dangerous metals. CONEG's Source Reduction Council realizes that the time is ripe for a national effort and has endorsed this legislation. The Congress now needs to build on the pathmaking efforts of the States and enact this bill.

I urge my colleagues to support this legislation.

I ask unanimous consent that the bill, a section-to-section analysis, a list of CONEG members who support the Federal bill, and letters of support be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 730

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reduction of Metals in Packaging Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the management of solid waste can pose a wide range of hazards to public health and safety and to the environment;

(2) packaging comprises a significant percentage, of the overall solid waste stream;

(3) the presence of heavy metals in packaging is a part of the total concern in light of their likely presence in emissions or ash when packaging is incinerated, or in leachate when packaging is landfilled;

(4) lead, mercury, cadmium, and hexavalent chromium, on the basis of available scientific and medical evidence, are of particular concern;

(5) it is desirable as a first step in reducing the toxicity of packaging waste to eliminate the addition of these heavy metals to packaging; and

(6) the intent of this Act is to achieve this reduction in toxicity without impeding or discouraging the expanded use of post-consumer materials in the production of packaging and its components.

SEC. 3. DEFINITIONS.

As used in this Act, the term—

(1) "packaging" means a container providing a means of marketing, protecting, or handling a product and includes a unit package, an intermediate package, and a shipping container as defined in ASTM D996, and unsealed receptacles such as carrying cases, crates, cups, pails, rigid foil and other trays, wrappers and wrapping films, bags, and tubs;

(2) "distributor" means any person, firm, or corporation who takes title to goods purchased for resale; and

(3) "packaging component" means any individual assembled part of a package such as, but not limited to, any interior or exterior blocking, bracing, cushioning, weatherproofing, exterior strapping, coatings, closures, inks, and labels.

SEC. 4. PROHIBITION/SCHEDULE FOR REMOVAL OF INCIDENTAL AMOUNTS.

(a) The Administrator of the Environmental Protection Agency shall issue such regulations as may be necessary to require, not later than 2 years after the date of the enactment of this Act, that no package or packaging component shall be offered for sale or for promotional purposes by its manufacturer or distributor in any State of the United States, which includes, in the package itself or in any packaging component, inks, dyes, pigments, adhesives, stabilizers, or any other additives, any lead, cadmium, mercury, or hexavalent chromium which has been intentionally introduced as an element during manufacturing or distribution as opposed to the incidental presence of any of these elements.

(b) Such regulations shall further provide that not later than 2 years after the date of the enactment of this Act, no product shall be offered for sale or for promotional purposes by its manufacturer or distributor in any State of the United States, in a package which includes, in the package itself or in any of its packaging components inks, dyes, pigments, adhesives, stabilizers, or any other additives any lead, cadmium, mercury, or hexavalent chromium which has been intentionally introduced as an element during manufacturing or distribution as opposed to the incidental presence of any of these elements.

(c) For purposes of such regulations, the sum of the concentration levels of lead, cadmium, mercury, hexavalent chromium present in any package or packaging component shall not exceed the following—

(1) 600 parts per million by weight (0.06%) effective two (2) years after the date of the enactment of this Act;

(2) 250 parts per million by weight (0.025%) effective three (3) years after the date of the enactment of this Act; and

(3) 100 parts per million by weight (0.01%) effective four (4) years after the date of the enactment of this Act.

SEC. 5. EXEMPTIONS.

(a) Such regulations shall be applicable to all packages and packaging components except the following—

(1) those packages or package components with a code indicating date of manufacture that were manufactured prior to the effective date of this statute;

(2) those packages or packaging components to which lead, cadmium, mercury, or hexavalent chromium have been added in the manufacturing, forming, printing, or distribution process in order to comply with health or safety requirements of Federal law or for which there is no feasible alternative, except that the manufacturer of a package or packaging component must petition the Environmental Protection Agency for any exemption from the provisions of this subsection for a particular package or packaging component based upon either criterion. The Administrator of the Environmental Protection Agency may grant a 2-year exemption if warranted by the circumstances. Such an exemption may, upon meeting either criterion of this subsection, be renewed for 2 years. For purposes of this subsection, a use for which there is no feasible alternative is one in which the regulated substance is essential to the protection, safe handling, or function of the package's contents; or

(3) packages and packaging components that would not exceed the maximum contaminant levels set forth in subsection (c) of section 4 of this Act but for the addition of post-consumer materials.

(b) The provisions of subsection (a) shall be of no effect on and after the expiration of the 72-month period following the date of the enactment of this Act.

SEC. 6. CERTIFICATE OF COMPLIANCE.

(a) Such regulation shall require, not later than 2 years after the date of the enactment of this Act, a Certificate of Compliance (stating that a package or packaging component is in compliance with the requirements of this Act) be furnished by the manufacturer or supplier of such package or component to its purchaser. Where compliance is achieved under the exemptions provided in subsection (b) or (c) of section 5, the Certificate shall state the specific basis upon which the exemption is claimed. The Certificate of Compliance shall be signed by an authorized official of the manufacturing or supplying company. The purchaser shall retain the Certificate of Compliance for as long as the package or packaging component is in use. A copy of the Certificate of Compliance shall be kept on file by the manufacturer or supplier of the package or packaging component. Certificates of Compliance, or copies thereof, shall be furnished to the Environmental Protection Agency upon its request and to members of the public in accordance with section 9.

(b) If the manufacturer or supplier of the package or packaging component reformulates or creates a new package or packaging component, the manufacturer or supplier shall provide an amended or new Certificate of Compliance for the reformulated or new package or packaging component.

SEC. 7. FEDERAL ENFORCEMENT.

Whenever on the basis of any information the Administrator of the Environmental Protection Agency determines that any person has violated or is in violation of this Act, the Administrator may issue an order assessing a civil penalty in an amount not to exceed $25,000.

SEC. 8. REVIEW BY THE ENVIRONMENTAL PROTECTION AGENCY.

The Administrator of the Environmental Protection Agency shall review the effectiveness of this Act no later than 42 months after the date of its enactment and shall report to the Congress the results of such review. The report may contain recommendations to add other toxic substances contained in packaging to the list set forth in this Act in order to further reduce the toxicity of packaging waste, and shall contain a recommendation whether to continue the recycling exemption as it is provided for in subsection (c) of section 5 of this Act, and a description of the nature of the substitutes used in lieu of lead, mercury, cadmium and hexavalent chromium.

SEC. 9. PUBLIC ACCESS.

Any request from a member of the public for copy of any Certificate of Compliance from the manufacturer or supplier of a package or packaging component shall be—

(1) made in writing with a copy provided to the Administrator of the Environmental Protection Agency;

(2) made specific as to package or packaging component information requested; and

(3) responded to by the manufacturer or supplier within 60 days.

SEC. 10. NON-PREEMPTION.

Nothing in this Act shall be construed so as to prohibit a State from enacting and enforcing a standard or requirement with respect to toxic metals in packaging that is more stringent than a standard or requirement relating to toxic metals in packaging established or promulgated under this Act.

SECTION-BY-SECTION ANAYLSIS OF THE REDUCTION OF METALS IN PACKAGING ACT

Section 1—Provides that the Title of the bill is the Reduction of Metals in Packaging Act.

Section 2—States that the intent of this Act is to reduce toxicity found in solid waste by reducing the amount of lead, mercury, cadmium, and hexavalent chromium in packaging.

Section 3—Defines the terms "package," "distributor," and "packaging component."

Section 4—Requires that the total concentration of lead, cadmium, mercury, and hexavalent chromium not exceed 600 parts per million in two years, 250 parts per million in three years, and 100 parts per million in four years.

Section 5—Allows exemptions for packaging that is either made from recycled materials or needed to protect the package's contents.

Section 6—Requires that manufacturers present a certificate that their packaging complies with these reductions.

Section 7—Establishes civil penalties for manufacturers that do not comply with the Act.

Section 8—Requires the EPA to review the effectiveness of this Act.

Section 9—Grants public access to any certificate of compliance.

Section 10—Allows states to adopt more stringent standards.

FEBRUARY 1, 1991.

Hon. FRANK R. LAUTENBERG,
U.S. Senate, Hart Building, Washington, DC.

DEAR SENATOR LAUTENBERG: On behalf of the Source Reduction Council (SRC) of the Coalition of Northeastern Governors (CONEG), I am writing to you to express our support for the introduction of the Reduction of Metals in Packaging Act. The Source Reduction Council believes your bill will complement similar bills already signed into law in at least eight states around the country.

As you know, the state laws as well as your bill are based on the model legislation developed by our organization. In drafting the model, not only states but, a wide range of industries and non-profit groups, looked at all aspects of this complicated issue. The result was a model that addressed a wide range of concerns and truly represents a consensus. Because of this consensus, the SRC has rejected attempts to amend the original model and to change its intent.

The members of the SRC collectively and individually will continue to support the model when introduced as originally drafted and will oppose amendments to the legislation, including additional exemptions, that would weaken the original intent of the bill. In addition, the SRC would be opposed to any federal legislation pre-empting any past or future activities of states in the area of toxics in packaging.

Possible amendments that the SRC would be opposed to are:

Requiring the utilization of a nationally recognized risk assessment protocol to apply to additional substances in packaging under future consideration for regulation.

Exemptions for ceramic decorated glass or ceramic packaging.

Exemptions for wine and liquor bottles with tin/lead wrappers.

Exemptions for cans with lead solder.

Requiring certificates of compliance to be retained by farmers' markets, roadside stands, "mom and pop" stores and supermarkets.

Finally, as a point of clarification, the SRC intended that finished tinplated steel be considered as one packaging component rather than two. The SRC urges you to include this clarification directly in your bill or mandate it to be part of the regulations.

Attached for your information are additional details on the above possible amendments and background on the model. If you or your staff have additional questions on our position, please contact Chip Foley, Project Director of the Source Reduction Council at 202-783-6674, or 624-8450.

Thank you for your interest in this vital national issue.

Sincerely,

CHRIS SIMMERS, *Chairman,*
Board of Directors, Source Reduction Council of CONEG.

ENVIRONMENTAL DEFENSE FUND,
Washington, DC, February 24, 1991.
Hon. FRANK R. LAUTENBERG,
Senate Hart Office Building,
Washington, DC.

DEAR SENATOR LAUTENBERG: On behalf of the Environmental Defense Fund (EDF), I wish to express our strong support for your legislative efforts to reduce the serious environmental problems associated with the use of toxic heavy metals in consumer packaging. Specifically, your introduction of the "Reduction of Metals in Packaging Act of 1991" represents an important step forward in recognizing the need to increase the safety of all methods of waste management by eliminating non-essential uses in packaging of heavy metals known to be detrimental to human health and the environment.

The Act is closely modeled after similar legislation developed by the Coalition of Northeast Governors' Source Reduction Council, on which EDF serves. While such legislation has already been adopted in a number of states, it is critical that its protections be extended to the nation as a whole. Packaging accounts for fully a third of all municipal solid waste generated in the United States, and the presence in this packaging of the metals that would be restricted through this Act (lead, cadmium, mercury.and hexavalent chromium) greatly complicates its safe management—whether through landfilling, incineration, or recycling.

The "Reduction of Metals in Packaging Act of 1991" represents an appropriate balance between aggressive reductions in the use of heavy metals and allowance for reasonable exemptions in two areas: packages where the presence of the heavy metal is needed to protect either those handling the product or the product itself from harm or damage; and packages where the heavy metal is present solely due to the incorporation of recycled content which may have itself contained the regulated metal.

It is essential that we scrutinize uses of metals known to be toxic to humans and the environment with the aim of reducing their use to the maximum degree possible. Significantly, the benefits of reducing the use of such metals will extend well beyond municipal waste management to their entire lifecycle, including reductions in both occupational exposures and the major environmental impacts arising from metals mining, processing, and manufacturing.

EDF applauds your initiative in this important area, and will do its part to ensure that the "Reduction of Metals in Packaging Act of 1991" becomes law.

Sincerely,
RICHARD A. DENISON, PH.D.,
Senior Scientist.

NATURAL RESOURCES DEFENSE COUNCIL,
New York, NY, February 25, 1991.
Hon. FRANK R. LAUTENBERG,
U.S. Senate, Hart Building, Washington, DC.

DEAR SENATOR LAUTENBERG: On behalf of the Natural Resources Defense Council (NRDC), I am writing to express our support for the Reduction Of Metals In Packaging Act. The NRDC believes that your bill will compliment similar bills already signed into law in at least eight states around the country.

As you know, the state laws are based, as your bill is, on the model legislation developed by our organization in collaboration with a coalition of environmental and state groups. In drafting the model, not only states but, a wide range of industries and non-profit groups, looked at all aspects of this complicated issue. The result was a model that addressed a wide range of concerns and truly represents a consensus. Because of this consensus, the NRDC has rejected attempts to amend the original model and to change its intent.

NRDC will continue to support the model legislation when introduced as originally drafted and will oppose amendments to the legislation, including additional exceptions, that would weaken the original intent of the bill. In addition, NRDC would be opposed to any federal legislation pre-empting any past or future activities of states in the area of toxics in packaging.

Possible amendments that the NRDC would be opposed to are:

Requiring the utilization of a nationally recognized risk assessment protocol to apply to additional substances in packaging under future consideration for regulation.

Exemptions for ceramic decorated glass or ceramic packaging.

Exemptions for wine and liquor bottles with tin/lead wrappers.

Exemptions for cans with lead solder.

Requiring certificates of compliance to be retained by farmers' markets, roadside stands, "mom and pop" stores and supermarkets.

Finally, as a point of clarification, the NRDC intended that finished tinplated steel be considered as one packaging component rather than two. The NRDC urges you to include this clarification directly in your bill or mandate it to be part of the regulations.

If you or your staff have additional questions on our position, please contact me at (212) 727-4466.

Thank you for your interest in this vital national issue.

Sincerely,
ALLEN HERSHKOWITZ,
Senior Scientist.

LIST OF CONEG MEMBERS VOTING TO SUPPORT A FEDERAL REDUCTION OF METALS IN PACKAGING ACT

State of Connecticut.
State of Massachusetts.
State of New Jersey.
State of New York.
State of Pennsylvania.
State of Rhode Island.
Scott Paper Company.
Procter & Gamble.
American National Can.
Digital Equipment Corporation.
Pennsylvania Resources Council.
New York Public Interest Research Group.
Vermont Public Interest Research Group.
The Conservation Foundation.
Environmental Action Foundation.
Conservation Law Foundation of New England.
Natural Resources Council of Maine.
Natural Resources Defense Council.

MARCH 20, 1991.
Hon. FRANK R. LAUTENBERG,
Senate Hart Office Building,
Washington, DC.

DEAR SENATOR LAUTENBERG: We the undersigned are writing you to express our strong support—both collectively and individually, for your proposed legislation to prohibit the use of certain heavy metals in packaging as contained in the "Reduction of Metals in Packaging Act of 1991."

It is our understanding that your legislation is based upon the model toxics legislation drafted by the Source Reduction Council (SRC) of the Coalition of Northeastern Governors (CONEG).

As members of the Board of Directors of the Council, we are encouraged and pleased that you and your committee are giving this legislation serious consideration. We would like to convey to you that the Source Reduction Council unanimously approved the model legislation including its content and intent.

We were motivated to draft the model legislation because the presence of heavy metals in incinerator ash, as leachate in landfills, and as a recycling residue pose a potential hazard to the environment. While toxicity in packages and packaging represent only a small part of the total amount of toxics in the waste stream, we have concluded, and hope that you concur, that this legislation would be a good step to alleviating this serious problem.

As you can see by the wide range of organizations that the Source Reduction Council represents, including the nine northeast states, this bill truly reflects a consensus agreement. This agreement was based upon widely accepted technical and scientific standards and requiring the tough but achievable goal of effective elimination of heavy metals from packaging. We believe that we have considered all the implications that this bill has—many of which you will hear about during your deliberations. We would be glad to answer any of your questions concerning the legislation.

We urge that your committee and the U.S. Senate give the bill favorable consideration and quick passage which would signify a large step forward reducing the toxicity of the solid waste stream.

Sincerely,

Robert J. Barnett, General Manager, Solid Waste Management Solutions, Mobil Chemical Company. Ruth Becker, Executive Director, Pennsylvania Resources Council. Denis O'Sullivan, Principal Packaging Engineer, Digital Equipment Corporation. Dr. Richard Denison, Senior Scientist, Environmental Defense Fund. Christine Ervin, The Conservation Foundation. Charles Beck, Manager, Communications & Environmental Issues, James River Corporation. Dr. Jan Beyea, Senior Scientist, National Audubon Society. Frank J. Consoli, Manager, Packaging Technology, Scott Paper Company. Judi Enck, New York Public Interest Research Group. Thomas Fitzpatrick, Chairman, Petroleum Council. Dr. Allen Hersnkowitz, Senior Scientist, Natural Resources Defense Council. Joan Mulhern, Vermont Public Interest Research Group. Jeanne Wirka, Policy Analyst, Environmental Action Foundation. Dr. Daniel F. Toner, Senior Research Fellow, Campbell Soup Company. Wally Wentworth, Director of Research, INFORM. Jeff Lane, Associate Director, State & Local Government Relations, Proctor & Gamble. Sal Porrazzo, Director, Environmental Affairs, Pepsi-Cola Company. Keith Tice, National Director, Packaging and Labeling, Sears, Roebuck & Company. Sharon Treat, Staff Attorney, Natural Resources Council of Maine.•

• Mr. GLENN, Mr. President, I rise today as an original cosponsor of the Reduction of Metals in Packaging Act. This bill is an important step in reducing the environmental and health threats posed by toxic metals in municipal solid waste.

Disposal of solid waste is one of the most urgent and fundamental environmental problems facing Federal, State and local governments today. Nationwide, over 3,500 landfills have closed since 1979; only 6,000 landfills remain, 45 percent of which have the capacity to hold less than 5 years' worth of waste. For example, of the 88 counties in my own State of Ohio, 28 have no landfills and 35 have 5 years or less capacity.

Mr. President, I recently introduced a sense-of-the-Senate resolution stating that source reduction in packaging is favorable to the environment and should be promoted. Senator LAUTENBERG'S bill which will reduce the use of four toxic metals—cadmium, mercury, lead, and hexavalent chromium—used in packaging is a vital component in both lowering the overall volume of solid waste and in curtailing the environmental and health dangers of solid waste.

The reduction of toxics in packaging means that the solid waste management measures that we take, including incineration, landfill disposal and even recycling, will be cleaner and safer for the environment. As co-chair of the Senate Great Lakes task force, I am especially supportive of this bill because it will further reduce inputs of persistent toxic chemicals into the Great Lakes. All of the chemicals targeted by this bill are identified as priority concerns by the International Joint Commissions. In fact, the Great Lakes Water Quality Agreement with Canada lists them and urges virtual elimination of any new inputs of these substances into the environment.

Mr. President, I am pleased to cosponsor this legislation and I urge my fellow members of the Great Lakes task force to join me in supporting it.•

By Mr. PACKWOOD (by request):

S. 731. A bill to provide incentives for research and energy production, and for other purposes; to the Committee on Finance.

NATIONAL ENERGY STRATEGY TAX ACT

• Mr. PACKWOOD. Mr. President, I rise today to introduce the National Energy Strategy Tax Act of 1991, the tax component of the President's national energy strategy.

The bill does two things. First, it makes the research and experimental tax credit permanent. Second, the bill extends the business energy tax credits for solar and geothermal facilities for one year. Both of these credits are currently scheduled to expire at the end of this year.

These proposals are an important step toward ensuring alternative energy sources will be available in the future. Personally, I hope we will go the further step and make the buisness energy tax credits permanent. I have cosponsored legislation earlier this year to do just that. Solar and geothermal energy are renewable and environmentally safe forms of energy production. And the technology is cost efficient—for example, a geothermal facility is the primary source of heat and power for the municipal buildings in the city of Klamath Falls, OR.

In addition to these legislative proposals, the President's national energy strategy contemplates administrative action in two areas to promote conservation of energy—clarifying the tax rules for employer-provided mass transit and for energy conservation payments by utilities. This administrative action should be forthcoming in the near future.

I commend the President for making these incentives for development of alternative energy sources and energy conservation part of his comprehensive energy proposal. I hope we can expand on them as Congress formulates a comprehensive energy strategy this year.

Now is the time for us to reorder our energy priorities. Developing technology for clean, safe, renewable energy sources should be at the top of the list. So should energy conservation.

Our Nation has become much too dependent on imported oil. In 1990, we imported 45 percent of the oil consumed in the United States, which in turn accounted for 52 percent of our trade deficit. This increased dependence on imported oil could jeopardize our national security and create a permanent deficit in our balance of payments. Although fossil fuels are a cost effective source of energy, they bring with them environmental problems. We will have to rely more and more on renewable energy sources to fill the gap in the future.

I hope my colleagues will join me and support this bill.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 731

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Energy Strategy Tax Act".

SEC. 2. ENERGY CREDIT EXTENDED 1 YEAR.

(a) IN GENERAL.—Subparagraph (B) of section 48(a)(2) of the Internal Revenue Code of 1986 (relating to energy percentage) is amended by striking "1991" and inserting "1992".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to periods beginning after December 31, 1991.

SEC. 3. RESEARCH CREDIT MADE PERMANENT.

(a) IN GENERAL.—Section 41 of the Internal Revenue Code of 1986 (relating to credit for increasing research activities) is amended by striking subsection (h).

(b) CONFORMING AMENDMENT.—Section 28(b)(1) of the Internal Revenue Code of 1986 is amended by striking subparagraph (D).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.•

By Mr. BIDEN (for himself, Mr. METZENBAUM, Mr. LUGAR, Mr. GORE, Mr. KERRY, and Ms. MIKULSKI):

S. 732. A bill to amend the Energy Reorganization Act of 1974 to create an independent Nuclear Safety Board; to the Committee on Environment and Public Works.

INDEPENDENT NUCLEAR SAFETY BOARD ACT

• Mr. BIDEN. Mr. President, today I am joined by Senators GORE, LUGAR, KERRY, METZENBAUM, and MIKULSKI in introducing a bill to establish an independent safety board for the Nuclear Regulatory Commission.

The need for independent, credible review of accidents and operating conditions at commercial nuclear reactors has been evident for years. Accidents that were considered statistically impossible have happened, operating conditions that have contributed to accidents remain unchanged, and plant designs that are known to be inadequate remain unmodified. The public is led to believe that standards on paper are met in the plant, when in fact there are many examples where that is not the case.

NRC efforts to address those problems, or at least appear to address them, have not worked. There is no reason to accept business as usual in nuclear regulation while industry flirts with disaster and the public remains so dubious of nuclear energy's safety.

While the long-term decline of nuclear energy make the point that something is amiss in the industry, there is now another reason to establish an independent safety board. That reason is the alternative that has been proposed by the administration as part of its national energy strategy.

The administration and other nuclear supporters can no longer deny that nuclear power has such weak public support that construction of a new plant is virtually impossible. After a decade of fretting and complaining about the public's rejection of nuclear power, they have hit upon a means to fix their problem—get rid of the public. That is the gist of the proposals that have been made for nuclear regulation in the energy strategy and in other efforts.

When the public insists that nuclear reactors meet promised safety standards gets in the way of a reactor's operation, the administration's solution is to block the public from being able to ask the questions.

When the nuclear industry can't develop complete designs for a so-called standardized reactor, one proposed fix is to allow incomplete designs to be approved as if they were complete.

When operating licenses for reactors approach expiration, the administration wants to set it so the licenses are extended for two decades without any requirement that safety standards be met.

To handle the difficulty of finding a dump site for high-level nuclear waste, the administration would make sure that those with legitimate concerns could not be heard.

I disagree with the basic approach espoused by the Administration. I do not believe that the way to convince the public that safety standards are being met in the nuclear industry is by preventing the public from asking questions. The nuclear industry and the public are much better served by a system that fully airs problems that do arise, and provides greater assurance that serious problems are fixed.

That is why I believe an independent safety board is needed. The foundation of an expansion of nuclear energy in this country, if it is ever to happen, must be built upon greater credibility and responsiveness of the nuclear industry. But long before we consider construction of new nuclear plants, we must make sure that existing nuclear reactors meet the highest safety standards. Under the existing regulatory system, the public has too little assurance those standards are established and met.

There is also a question of exactly why nuclear energy is being promoted as it is in the national energy strategy. If it is to reduce imported oil, nuclear energy will have little, if any impact. That is because only 5 percent of oil consumption in our Nation is used for electricity generation.

While we need to make savings wherever we can, nuclear energy can only replace the portion of that oil-fired generating capacity that is used for so-called base load plants, or those that run day and night. That means full use of the nuclear option will only replace about 3 percent of current domestic oil consumption.

But the effect on imported oil is reduced even further because oil-fired base load plants use residual oil, or that product which is left over after other, lighter products have been taken out of the barrel. The residual oil used in those plants is a thick, tar-like substance that is not a factor in determining the level of oil imports. So claims that nuclear energy will have an important role in cutting oil imports are not as strong as industry advertisement claims would have us believe.

If the administration's nuclear policies are premised on the belief that changing nuclear regulations will allow the American nuclear industry to match the level of public support in foreign countries, the administration should look again at how the nuclear option is faring in those countries.

As nuclear experts from the West get close looks at Soviet-designed reactors in Eastern Europe, they have often been horrified at the conditions. Shortly after the reunification of Germany, a number of the Soviet-designed reactors were shut down as safety hazards. Austria has offered to pay Czechoslovakia to shut down several of its reactors. Bulgaria might be well-advised to close its reactors, but since the reactors supply 40 percent of that country's electricity with no alternative sources in sight, Bulgarians can only cross their fingers and hope for the best.

Conditions in nuclear reactors in the Soviet Union and Eastern Europe are the extreme, but even countries that use Western designs are backing away from this technology. Italian voters adopted a national policy of prohibiting new nuclear plants or the expansion of existing ones. Swiss voters approved a referendum banning new reactor construction for the next decade. Britain, when Margaret Thatcher was in charge, put nuclear construction starts on hold until it can be proven that the technology can be cost effective.

And the two examples often cited by nuclear supporters, Japan and France, have both witnessed a weakening of support for increased reliance on nuclear energy. Polls show over half the Japanese public oppose the Government's policy to build additional nuclear plants. In France, over 80 percent of respondents to a public opinion survey thought that a serious nuclear accident was possible in their country. Forty percent would like to stop completely use of nuclear powerplants.

If the public in those countries where nuclear energy is supposed to be so successful are dubious of its role, why should Americans be expected to embrace it? And why should the American public be asked to accept this technology under the terms proposed by the administration, in which public input and analysis is precluded? Does anyone believe that blocking the public's role will increase confidence in nuclear energy?

We have before us a tremendous opportunity with regard to energy policy. History shows that if we do not take advantage of this opening, it will take another energy disaster, an embargo or a price spike for example, before the political and public will to make profound long-term changes can be mustered.

For nuclear energy, we have the opportunity to insist that the nuclear industry meet its professed safety standards, fix recognized hazards in reactors, solve its long-term problems in waste disposal, build public confidence in the technology. Instead of continuing the policy of covering up its problems, through this bill we are advocating that the industry adopt a new approach to its future. It is an approach that is needed to raise the public's protection in the near term, and is the only way to settle outstanding safety issues in the long term.

I urge my colleagues to join us in support of establishing an independent safety board for the Nuclear Regulatory Commission. I ask unanimous consent that the text of our bill be reprinted at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 732

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Independent Nuclear Safety Board Act of 1991".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that there is a great need for—

(1) vigorous investigation of events at facilities, or involving materials, licensed or otherwise regulated by the Nuclear Regulatory Commission; and

(2) continual review and assessment of licensing and other regulatory practices of the Nuclear Regulatory Commission, which assessment may result in conclusions critical of the Nuclear Regulatory Commission or its officials.

(b) The purpose of this Act is to establish an Independent Nuclear Safety Board which shall promote nuclear safety by—

(1) conducting independent investigations of events at facilities, or involving materials, licensed or otherwise regulated by the Nuclear Regulatory Commission;

(2) reviewing and assessing the licensing and other regulatory practices of the Nuclear Regulatory Commission;

(3) recommending to the Nuclear Regulatory Commission improvements in licensing and related regulatory practices; and

(4) informing the Congress of its investigation findings and recommendations.

ESTABLISHMENT OF NUCLEAR SAFETY BOARD

SEC. 3. Title II of the Energy Reorganization Act of 1974 (Public Law 93-438; 42 U.S.C. 5841 et seq.) is amended by adding at the end thereof the following new section:

"INDEPENDENT NUCLEAR SAFETY BOARD

"SEC. 212. (a) There is established an Independent Nuclear Safety Board (hereafter in this section referred to as the 'Board').

"(b)(1) The Board shall be composed of 3 members appointed by the President, by and with the advice and consent of the Senate, from among respected experts in the field of commercial nuclear energy with a demonstrated competence and knowledge relevant to the independent investigative and prescriptive functions of the Board. No more than 2 members of the Board shall be of the same political party. Not later than 90 days after the date of the enactment of this section, the President shall submit such nominations for appointment to the Board.

"(2) Any vacancy in the membership of the Board shall be filled in the same manner in which the original appointment was made.

"(3) No member of the Board shall have any significant financial relationship in any firm, company, corporation, or other business entity engaged in activities regulated by the Commission either as licensee or contractor, or have such a relationship within the two years preceding his appointment.

"(c)(1) The Chairman and Vice Chairman of the Board shall be designated by the President. The Chairman and Vice Chairman may be reappointed to such offices.

"(2) The Chairman shall be the chief executive officer of the Board and shall, subject to such policies as the Board may establish, exercise the functions of the Board with respect to—

"(A) the appointment and supervision of personnel employed by the Board;

"(B) the organization of any administrative units established by the Board; and

"(C) the use and expenditure of funds.

The Chairman may delegate any of the functions under this paragraph to any other member or to any appropriate employee or officer of the Board.

"(3) The Vice Chairman shall act as Chairman in the event of the absence or incapacity of the Chairman or in case of a vacancy in the office of Chairman.

"(d)(1) Except as provided under paragraph (2), the members of the Board shall serve for terms of 6 years. Members of the Board may be reappointed.

"(2) Of the members first appointed—

"(A) one shall be appointed for a term of 2 years;

"(B) one shall be appointed for a term of 4 years; and

"(C) one shall be appointed for a term of 6 years;

as designated by the President at the time of appointment.

"(3) Any member appointed to fill a vacancy occurring before the expiration of the term of office for which such member's predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of the member's term until a successor has taken office.

"(4) Any member of the Board may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

"(e) Two members of the Board shall constitute a quorum, but a lesser number may hold hearings.

"(f) The Board shall have the following functions and authorities:

"(1)(A)(i) The Board shall investigate those events at any facility, or involving any materials, licensed or otherwise regulated by the Commission, which the Board determines to be significant because of possible adverse effects on the health or safety of the public or because such events could be the precursors of events that may adversely affect the health or safety of the public.

"(ii) The Board may request the Commission to make an investigation of the events described in division (i) and to report its findings to the Board in a timely fashion. Whenever the Commission concludes such an investigation, the Board may analyze the findings of the Commission for the purpose of making its own conclusions and recommendations.

"(B) The purpose of any Board investigation under this paragraph shall be—

"(i) to ascertain information concerning the circumstances of the event involved, and its implications for the public health and safety;

"(ii) to determine whether such event is part of a pattern of similar events at facilities, or involving any materials, licensed or otherwise regulated by the Commission which could adversely affect the public health or safety or which could be the precursor of events which could adversely affect the public health or safety; and

"(iii) to provide such recommendations to the Commission for changes in licensing, safety regulations and requirements, and other regulatory policy as may be prudent or necessary.

"(C) For the purpose of this paragraph, the term 'event' shall include an action or failure to act by any person, including the Commission as an organization and its staff, or a continuing series of actions or failures to act by any such person, including operational failures, that the Board determines to have a potentially adverse effect on public health as provided in this paragraph.

"(2) The Board shall have access to and may systematically analyze—

"(A) operational data from any facility, or involving any materials, licensed or otherwise regulated by the Commission to determine whether there exist certain patterns of events that indicate safety problems; and

"(B) operational data of the Commission including personnel and files.

"(3) The Board may conduct special studies pertaining to the nuclear safety at any facility, or involving any materials, licensed or otherwise regulated by the Commission.

"(4) The Board may evaluate suggestions received from the scientific and industrial communities, and from the interested public, on specific measures to improve safety at facilities, or involving materials, licensed or otherwise regulated by the Commission.

"(5)(A) The Board shall recommend to the Commission those specific measures that should be adopted to minimize the likelihood that events will occur at any facility, or involving materials, licensed or otherwise regulated by the Commission which could adversely affect the public health or safety. The Commission shall respond in writing to the recommendations of the Board within 120 days of receipt of such recommendations. Such written response shall detail specific measures adopted by the Commission in response to such recommendations, and explanations for its inaction on recommendations it chose to reject.

"(B) The recommendations of the Board made pursuant to subparagraph (A) shall also be sent to Congress.

"(6)(A) For purposes of investigations, the Board shall establish reporting requirements which shall be binding upon—

"(i) persons who operate, design, supply, maintain, or are otherwise involved with the operation or construction of, facilities licensed or otherwise regulated by the Commission; and

"(ii) persons who process, store, transport, use, or possess materials licensed or otherwise regulated by the Commission.

"(B)(i) The information which the Board may require to be reported under this paragraph may include any materials designated as classified material pursuant to the Atomic Energy Act of 1954, or any materials designated as safeguards information and protected from disclosure under section 147 of the Atomic Energy Act of 1954.

"(ii) Information received by the Board shall be made available to the public in accordance with the applicable provisions of subsections (a) and (b) of section 306 of the Independent Safety Board Act of 1974 (49 U.S.C. 1905).

"(7)(A) The Board or, on the authorization of the Board, any member thereof, may, for the purpose of carrying out the provisions of this section, hold such hearings and sit and act at such times and places, administer such oaths, and require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such evidence as the Board or an authorized member may find advisable.

"(B)(i) Subpoenas may be issued only under the signature of the Chairman or any member of the Board designated by him and shall be served by any person designated by the Chairman or any member. The attendance of witnesses and the production of evidence may be required from any place in the United States at any designated place of hearing in the United States.

"(ii) Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board.

"(iii) Any person who willfully neglects or refuses to qualify as a witness, or to testify, or to produce any evidence in obedience to any subpoena duly issued under the authority of this paragraph shall be fined not more than $5,000, or imprisoned for not more than 6 months, or both. Upon certification by the Chairman of the Board of the facts concerning any willful disobedience by any person to the United States attorney for any judicial district in which the person resides or is found, the attorney may proceed by information for the prosecution of the person for the offense.

"(8) The Board shall issue periodic reports which shall be made available to the Congress, and to Federal, State, and local government agencies concerned with safety at facilities, or involving materials, licensed or otherwise regulated by the Commission. Upon request, such reports shall be made available to other interested persons. Such reports shall contain the major findings of Board investigations, recommendations of specific measures to reduce the likelihood of a reoccurrence of nuclear events similar to those investigated by the Board and of corrective steps implemented or required by the Commission to enhance or improve safety conditions at such facilities investigated by the Board and other facilities as considered appropriate by the Board.

"(9) In accordance with the Civil Service laws and regulations, the Chairman of the Board is authorized to hire staff and employ consultants for the purpose of carrying out the functions and duties of the Board.

"(g)(1) There are hereby transferred to the Board—

"(A) all functions of the Office for the Analysis and Evaluation of Operational Data relating to the functions of the Board described in subsection (f); and

"(B) such personnel from the Office for the Analysis and Evaluation of Operational Data as the Director of the Office of Management and Budget determines are necessary to carry out the functions described in subsection (f).

"(2) There are hereby authorized to be appropriated for each of the fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 the sum of $8,000,000.

"(3) The Board shall terminate at the end of fiscal year 1997.".•

• Mr. LUGAR. I am pleased to join with Senator BIDEN in sponsoring legislation to establish an Independent Nuclear Safety Board.

The theory underlying a Nuclear Safety Board is that accidents such as the one at Three Mile Island are preceded by one or more incidents which, if identified and analyzed, could provide the basis for preventive measures. Three Mile Island was preceded by several incidents which indicated the existence of design and procedural flaws requiring corrective actions. Had the significance of these incidents been appreciated and appropriate corrective measures taken, it is likely that the Three Mile Island accident would not have occurred.

Why is an independent board necessary to study nuclear incidents, analyze operational data, and make recommendations for improving nuclear safety? Why cannot such a function be carried out solely by offices within the Nuclear Regulatory Commission?

First, an analysis of significant incidents might well reveal defects in the NRC's own set of regulations or in their method of enforcement. When the NRC analyzes reactor problems, the adequacy of its own previous actions to ensure nuclear safety is often at issue. An independent board is more likely to thoroughly investigate or to ensure that the NRC thoroughly investigates inadequacies in its own regulations and procedures.

Second, the recommendations of an independent board would carry more weight with the public and would be more likely to be acted upon by the NRC. Under this bill, the NRC is not bound to accept any of the recommendations made to it by the Nuclear Safety Board, but it is bound to respond to them.

Third, the recommendations of an independent board would have greater public acceptance.

The Nuclear Safety Board is modeled on the National Transportation Safety Board, with appropriate modifications to account for the differences between nuclear and transportation safety. The Nuclear Safety Board would focus upon significant events—not only accidents in which damage occurs—and upon analyzing the implications of these events.

The threat of global warming has reminded us once again of the strong case for maintaining nuclear power as an energy option. But the public needs assurance that we have established the best possible system for regulating nuclear power. I believe that nuclear power has a future and that we should act now to enhance the system for assuring its safe operation. The Nuclear Safety Board could be an important part of that effort.•

• Mr. KERRY. Mr. President, I rise in support of the bill being introduced today by my colleague Senator BIDEN which will establish an Independent Nuclear Safety Board to promote nuclear safety. I further rise to add an amendment to this measure which will require the Independent Safety Board to review safety conditions at any commercial nuclear powerplant requesting an extension of its original operating license.

Mr. President, as the 112 nuclear powerplants across this Nation begin to reach middle age, the questions of safety for the millions of our citizens living around these nuclear powerplants is an issue that needs to be addressed. As parts wear out, reactor material become brittle and pipes corrode, the likelihood of unfortunate mishaps are increased. The need to develop a comprehensive and vigorous maintenance and monitoring program essential if we are to keep these aging nuclear powerplants on line. While monitoring of nuclear powerplants is always important, the frequency, detail and nature of such activities must be intensified as the plants age. The question of who should oversee this extensive program is equally important.

In 1954 the Atomic Energy Act set up a time frame of 40 years as the life span for America's nuclear powerplants. In the year 2000, in my own State, the Yankee Rowe plant in Rowe, MA, will have its 40th birthday. This plant located in western Massachusetts nestled in the majestic foothills of the Berkshires, has had an impressive safety record to date. Yankee Rowe has successfully operated far more than the national average of nuclear powerplants and has supplied Massachusetts with over 1 billion kilowatthours of electricity per year.

The issue I am addressing today, is not how do we stop Yankee Rowe from being relicensed, and the issue is not what epitaph do we write on the Yankee Rowe tomb stone when it reaches the age of 40 years. No. The critical issue I am raising today, is can Yankee Rowe be relicensed in a manner that provides safe nuclear power for Massachusetts citizens. And how do we assure ourselves that the safety issues associated with this and other aging nuclear plants are fully, regularly and rigorously assessed in the interest of all of us. A myriad of questions exist surrounding aging facilities. To date no set maintenance or monitoring program has successfully been implemented to decide the life span of aging power facilities. No crystal ball has determined whether there is a safe life after 40 years or not. What my amendment seeks to do, is to ensure that a knowledgeable independent and unbiased board determine whether or not nuclear power facilities when they come of age, on a case by case basis can safely be relicensed or not. Those that can will, and those that can not will not be permitted to continue operating.

In addition, based on past history my amendment focuses on the issue of whether the Nuclear Regulatory Commission is capable of making such independent safety assessments as part of the process necessary to relicense Yankee Rowe and other aging facilities or whether an inherent conflict of interest exists for the NRC on this subject.

My experience with the NRC strongly suggests that they may not be capable of making safety based decisions when they hinder the licensing and operation of powerplant. They may not be able to achieve the balance that the public interest requires when the issue of public safety and nuclear energy production come into conflict. The NRC's record as protector of the public's safety, in both the licensing of the Seabrook Nuclear Powerplant and the emergency evacuation and operation of the Pilgrim Nuclear Powerplant, has been woefully inadequate. Since becoming an elected official in Massachusetts in 1982, I and local citizens in the region have continually raised important safety concerns about these two plants. And we have been consistently ignored, the problems glossed over, by those in charge of nuclear safety for the American people—the Nuclear Regulatory Commission. Two years ago I asked the Inspector General to get involved in with emergency evacuation issues at Seabrook and Pilgrim because the NRC had showed blatant disregard to very real concerns of emergency specialists and local citizens who live and work in the shadow of both of these nuclear powerplants.

The NRC which is clearly responsible for the oversight and regulation of nuclear power facilities relating to these two plants in my opinion, abdicated its responsibility for health and safety and basically failed in its job. For example, the NRC pushed ahead to license Seabrook, despite the extensive evidence that questions the feasibility of being able to evacuate the area quickly and safely in the case of a nuclear mishap. In addition, the NRC for the past few years has sidestepped questions raised regarding the quality of the welds at the Seabrook plant. Last fall the Inspector General issued a report that found the NRC had poorly reviewed emergency evacuation plans for Pilgrim. And yet another example of their callous disregard for safety can be seen in the findings at the beginning of this year by the Inspector General that the NRC did not accurately take into account dose savings in relationship to emergency planning or utilize FEMA appropriately in determining emergency evacuation plans. In just the past year the Inspector General has made 44 findings bearing on inadequate attention to safety by the NRC and called on the NRC to make specific improvements in areas such as defective part reporting, emergency planning, financial management and contracting practices. Mr. President these facts are of great concern to me and to the people of Massachusetts who I represent.

It is for these reasons Mr. President that I not only commend my colleague Senator BIDEN for introducing legislation that establishes a watch dog review board on all safety issues for the NRC but feel the need to ensure that the independent Board is also key in the decisionmaking process regarding the safety issues surrounding relicensing of our aging nuclear powerplants.

Yankee Rowe the oldest plant in the Nation will be the test case with regard to the relicensing process. Although exemplary in its operations to date, worn parts and aging equipment have raised some serious concerns about its life in this decade let alone the next century. After three decades of extensive radiation bombarding the walls of Yankee Rowe, the vessel has begun to weaken. The plant faces embrittlement of its reactor vessel. In essence the metal in the walls have become less able to give way to pressure, thus creating a situation in which cracks and breaks in the wall itself are more likely to occur. At a hearing last fall scientists from the NRC testified on their concern for safety at Yankee Rowe. One scientist stated that if it were up to him he would close it down immediately because it did not meet current safety standards. Despite this starting conclusion, the Chairman of the NRC Mr. Carr recently stated that relicensing of the existing plants is "our highest priority." Again Mr. President based on actual experience, I question the ability of members of the NRC to make sound balanced and independent safety decisions regarding relicensing decisions that fully reflect the public interest in assured safety of nuclear powerplants.

The NRC and nuclear plant operators have raised the issue of high cost in replacing our aging facilities with new ones and the billions of dollars in savings to be realized by extending the license of aging plants. We must take into account however the cost to run these aging facilities. The current cost of production of electricity at Yankee Rowe is higher than any other nuclear power facility in New England and Yankee Rowe's operation and maintenance cost is the highest in the Nation. None the less, operators at Yankee Rowe have said that they would spend up to $100 million to replace the aging vessel reactor instead of building a new plant. The chairman of the Nuclear Power Oversight Committee said last year that each plant relicensed would save up to $1 billion in construction cost for new nuclear plants. If relicensing can be achieved by replacing aging equipment and ensure safety while saving consumers costs at the same time, then I am all for it. But if relicensing is merely a way to save the nuclear industry billions of dollars while risking the lives of citizens, then that is totally unacceptable. Regardless, based on the track record of the NRC regarding financial issues, it is imperative that an independent entity make the safety determination based on an independent evaluation by the board we are proposing today.

Last, with regard to the actual level of the safety standards to be applied in relicensing, I must express my concern over attempts by the NRC to streamline relicensing and to minimize safety standards. Many experts have urged that relicensed plants be required to meet the same safety standards as newly built plants. It would be foolish and irresponsible to allow older plants to remain in operation if it could not be issued a license were it built today. The NRC has rejected the higher standard citing cost as an issue and saying, instead, that plants need only meet the same requirements that were in effect when the plant was originally licensed and those requirements imposed in intervening years.

In closing, Mr. President, let me say that much is still to be learned about the quality of our aging nuclear power facilities and their ability to continue to operate well into the next century in a manner that provides safety to the citizens who live nearby. But what is certain, is the track record of the NRC which has too often considered safety as a second tier issue when carrying out its nuclear regulation responsibilities. Their zeal to cut corners in order to promote nuclear power, even at the expense of greater safety risks to our citizens, has been, unfortunately, displayed too often. Today, Senator BIDEN and I are expressing our shared view that an independent safety board designed to act as a watchdog over the NRC is imperative to ensure that nuclear power facilities operate safely into the 21st century.●

By Mr. GRAHAM (for himself, Mr. JEFFORDS, and Mr. MACK):

S. 733. A bill to amend the Federal Water Pollution Control Act; to the Committee on Environment and Public Works.

By Mr. GRAHAM (for himself and Mr. MACK):

S. 734. A bill to permanently prohibit the Secretary of the Interior from preparing for or conducting any activity under the Outer Continental Shelf Lands Act on certain portions of the Outer Continental Shelf off the State of Florida, to prohibit activities other than certain required environmental or oceanographic studies under the Outer Continental Shelf Lands Act within the part of the Eastern Gulf of Mexico Planning Area lying off the State of Florida, and for other purposes; to the Committee on Energy and Natural Resources.

S. 735. A bill to establish certain requirements related to the planning and management, and the determination of economic and other benefits and costs, of U.S. Army Corps of Engineers civil works projects for the conservation and development of water and related resources, and for other purposes; to the Committee on Environment and Public Works.

By Mr. GRAHAM (for himself, Mr. LAUTENBERG, and Mr. MACK):

S. 736. A bill to amend the Outer Continental Shelf Lands Act; to the Committee on Energy and Natural Resources.

By Mr. GRAHAM (for himself and Mr. MACK):

S. 737. A bill to require a comprehensive analysis of long-term requirements of Federal, State and local regulators and resource managers for scientific data and information about the Nation's coastal and marine environment and the conditions and phenomena affecting the quality of that environment; to require an evaluation of federally conducted or supported coastal and marine scientific research programs and activities on light of those requirements; and to require the preparation and submission to Congress of a report of the results of the analysis and evaluation, including recommendations for legislation, if appropriate, to restructure or otherwise enhance the performance of those programs and activities; to the Committee on Commerce, Science, and Transportation.

COASTAL AND MARINE ENVIRONMENT LEGISLATION

Mr. GRAHAM. Mr. President, I rise to introduce legislation to improve protection and management of America's coastal and marine resources and environment. I would also like to take this opportunity to express my sincere appreciation to the chairman and ranking member of the Committee on Commerce, Science, and Transportation for inviting me to become a member of the National Ocean Policy Study. I am delighted to accept this invitation, and look forward to working with them.

The United States depends on its coastal areas and the adjacent ocean waters for many uses including human habitation, food, energy and mineral resources, recreation, and maritime transportation, The coastal part of our population is growing rapidly, and that trend will continue. Clearly, our demands on—and resulting threats to—our coasts and the oceans also will continue to grow.

We owe it to our children and following generations to take a thoughtful look at how we manage and protect the coastal and marine environment and its resources. We must resist shortsighted policies that stress development and resource extraction over stewardship and environmental protection.

Mr. President, while there have been significant advances in protection and management of our coastal and marine environment in recent years, several matters remain to be effectively addressed, including:

Limits on the ability of States to influence decisions on designation of offshore disposal sites for dredge spoil, and concern over contaminants in dredge spoil disposed of at sea;

Uncertainty about the authority of a downstream State regarding upstream permitting decisions and other actions that may degrade water quality or impair designated uses in the downstream part of a river basin or other water body shared by those States;

Inadequate consideration of coastal States' concerns in management of the Offshore Oil Leasing Program, with the result that leases sales produce more litigation than oil;

A sequence of events in offshore leasing that just does not make sense, with companies spending millions of dollars to buy leases before completion of environmental studies that will determine if drilling will be allowed on those leases;

Widespread concern among Floridians that an offshore drilling accident could cause massive and irreversible damage to the State's exceptionally fragile and valuable coastal and marine environment and its nationally important resources including the everglades, the Florida keys, and habitat vital to the survival of many species of fish and shellfish;

Corps of Engineers procedures for planning and conducting navigation and beach nourishment projects that do not fully take into account beach erosion and resulting costs that result from navigation projects, and that do not provide for coordinated long-term planning to ensure the most efficient allocation of Federal and State resources; and

A fragmented approach to planning and management of coastal and marine scientific research programs that does not always provide the right information at the right time to meet the needs of environmental regulators and resource managers, and does not make the best use of limited resources.

To address these problems, this package of legislation will:

Strengthen the Clean Water Act by providing greater protection for coastal water quality and giving States that share a river basin or other water body with an adjacent State the authority to prevent actions in the upstream State from harming downstream water quality;

Reduce environmental hazards from offshore oil drilling by making the Federal Offshore Oil and Gas Leasing Program more environmentally sensitive and more responsive to the concerns of coastal States, and by permanently prohibiting drilling south of 26 degrees off the Florida Keys and the Everglades, and everywhere within 100 miles of Florida;

Improve quality and protection of beaches by establishing a new planning and management process for Corps of Engineers navigation, and beach nourishment projects; and

Promote more effective management and protection of our coasts by requiring a review—and restructuring if appropriate—of the role of the Federal Government in scientific research on the coastal and marine environment and threats to that environment, to be sure that in years to come we will have the scientific information we need to understand, protect and manage the Nation's coastal and marine resources.

STRENGTHENING THE CLEAN WATER ACT

The Clean Water Act amendments will give States more effective powers to prevent threats to the quality and integrity of their waters, and to the resources and activities that depend on clean water—from habitat vital to many species of fish and wildlife, to swimming and other recreational activities. These amendments will:

Raise minimum water quality standards for all States;

Apply effluent limitations to a discharge that would degrade water quality or impair designated uses of a water body even if the source of the discharge is in another State; and

Give coastal States authority to review, and if necessary restrict, proposed Federal actions, and actions that require Federal licenses or permits, within 12 miles of the coast.

REDUCING HAZARDS FROM OFFSHORE OIL DRILLING

The offshore oil and gas leasing bills will provide new protection for Florida's fragile coastal environment, and make the Federal Leasing Program more environmentally sensitive and more responsive to the concerns of coastal States. They will:

Permanently prohibit offshore drilling within 100 miles off Florida's coast, and off southwest Florida in the area south of 26 degrees north and east of 86 degrees west;

Declare that national policy supports "orderly" offshore development, in place of the present policy supporting "expeditious and orderly" development;

Revise standards for cancellation of existing leases to facilitate decisions that will protect the environment;

Give Governors of coastal States greater authority over decisions on whether or not their offshore areas should be included in the Federal Leasing Program;

Require the Secretary of the Interior to make protection of the environment as important as producing oil and gas in determining the national interest in leasing and development;

Require the Secretary of the Interior to accept the views of the adjacent State's Governor on whether a proposed lease sale provides a reasonable balance between the national interest and the well-being of the citizens of that State; and

Require that all appropriate environmental studies be completed, peer-reviewed by independent experts, and published at least 6 months before any lease sale is announced for the area covered by those studies.

IMPROVING QUALITY AND PROTECTION OF BEACHES

The proposals for improving Corps of Engineers planning and management of navigation and beach nourishment projects will:

Require the corps, in planning navigation projects, to consider benefits to a State of placing beach-quality sand on eroded or eroding beaches, and potential savings from restoring or nourishing beaches during a navigation project instead of doing restoration or nourishment later as a separate project;

Ensure that beach nourishment or restoration costs are borne by the Federal Government, where the erosion results directly from a Federal navigation project;

Require the corps to consider basing navigation and beach nourishment project decisions on natural boundaries instead of basing those decisions on political boundaries; and

Establish a process for the corps to develop, jointly with each affected State, a long-range plan for financing and execution of beach nourishment projects.

PROMOTING MORE EFFECTIVE COASTAL MANAGEMENT AND PROTECTION

Effective management and protection of the Nation's coastal environment requires that Federal, State and local agencies have access to high-quality information about that environment, and about the activities, conditions and phenomena that threaten its quality and integrity. As the technologies for coastal and marine activities evolve, so do the potential environmental hazards that must be addressed.

It is appropriate from time to time to take a fresh look at where we are going, to determine if our actions today are being taken with due regard to the needs of tomorrow. One area that deserves a fresh look is the management of coastal and marine science. The proposal directs the Administrator of the National Oceanic and Atmospheric Administration to conduct a study of, and report to Congress on:

Coastal and marine environmental information requirements of Federal, State and local regulators and resource managers between the present time and the year 2025;

Evaluation of existing coastal and marine science activities based on their adequacy to meet those requirements;

Recommendations for legislation as appropriate to improve the ability of coastal and marine science programs to meet new and evolving requirements; and

The views of selected reviewers on the validity of the contents of and recommendations in the report.

Mr. President, I ask unanimous consent that a summary of the legislation be printed in the RECORD.

SECTION-BY-SECTION SUMMARY OF THE FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS

Effluent Limitations.—Clarifies that effluent limitations apply to a discharge that will degrade water quality or impair designated uses recognized under the laws of a State, whether the discharge occurs in that State or an "upstream" State.

Water Quality Standards and Implementation Plans.—Provides that, when a State has not adopted a water quality standard applicable to a particular pollutant, or has adopted a standard that is less stringent than the Federal criteria applicable to that pollutant, the Federal criteria shall provide the presumptively applicable standard for that pollutant within that State.

Certification.—Extends States' certification authority to 12 nautical miles from the coast, in place of the present 3-mile limit on that authority. Extends certification protection to designated uses of a water body, to protect both water quality per se and those environmental and resource values that are dependent on water quality. Applies certification to direct federal actions and federally-sponsored actions, in addition to actions that are federally-licensed or permitted.

Enforcement of Certification Provisions.—Directs EPA to enforce the expanded certification provisions through cease-and-desist orders or civil actions.

Ocean Discharge Criteria.—Provides a State government with authority to impose conditions or limitations on point-source discharges into ocean waters within 12 miles of the State's coast, and requires EPA to adopt those conditions or limitations, or to reject the permit application. Nullifies an EPA regulation that established an unwarranted exception to the ocean discharge prohibition.

CORPS OF ENGINEERS PROJECT PLANNING AND MANAGEMENT

Matters to be Addressed in Planning.—Requires that the Corps factor into its cost-benefit analyses for inlet dredging or other navigation projects (1) economic costs to a State of not placing beach-quality sand on eroded or eroding beaches, and (2) savings that may be achieved by restoring or renourishing beaches during a dredging or navigation project instead of doing the restoration or renourishment later as a separate project.

Placement on State Beaches of Sand Dredged in Constructing and Maintaining Navigation Inlets and Channels.—Requires that the Corps consider placement of beach quality sand on beaches as being in "the public interest" when that sand would otherwise be disposed of offshore.

Cost Sharing.—Clarifies beach project cost-sharing formulas to ensure that the Federal government pay the costs for beach nourishment to the extent that the need for nourishment is a direct result of a Federal navigation project.

Long-Range Planning for Beach Nourishment Project.—Directs the Corps to establish a process for development, jointly with each affected State, of long-range plans for financing and execution of beach nourishment projects. Requires analysis of merits of basing project decisions on natural boundaries that consider physical oceanographic, meteorological and other processes and phenomena affecting beach erosion and accretion, in lieu of basing decisions on political boundaries. Plans would extend a minimum of ten years, and would be subject to amendment and renewal. Once approved by the Secretary, plans would be submitted to Congress for authorization for implementation. Upon authorization, plans would govern the Federal-State relationship for beach nourishment in the affected State.

LONG-TERM PLANNING FOR COASTAL AND MARINE ENVIRONMENTAL RESEARCH

Directs the Administrator of the National Oceanic and Atmospheric Administration (NOAA) to conduct a set of analyses and report back to Congress within three years. The report will include:

An analysis from the user's perspective of the requirements Federal, State and local regulators and resource managers anticipate between the present time and the year 2025;

An evaluation of existing federally conducted or sponsored coastal and marine science activities based on their adequacy to meet users' requirements;

Recommendations for legislation as appropriate to improve the ability of coastal and marine science programs to meet new and evolving requirements; and

Comments on the validity of the analysis, evaluation and recommendations by the Council on Environmental Quality, the National Science Foundation, the Office of Science and Technology Policy, the General Accounting Office, the Congressional Research Service and the Office of Technology Assessment.

OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS

Congressional Declaration of Policy.—Eliminates current policy that supports "expeditious" development of offshore oil and gas, but preserves policy favoring "orderly" development.

Administration of Leasing.—Revises standards that guide the Department of the Interior (DOI) in deciding when an existing lease ought to be canceled and provides that any compensation for a canceled lease may be in any combination of cash, forgiveness of rents or royalties, or credits against future bonus bids.

Outer Continental Shelf Leasing Program.—Strengthens the degree to which a coastal State's Governor can influence decisions on whether or not to include tracts off that State in a five-year leasing plan being developed by DOI.

Coordination and Consultation with Affected State and Local Governments.—Requires DOI, in determining the "national interest" in OCS leasing, to give environmental protection equal weight alongside oil and gas production. Requires DOI to accept a Governor's recommendations as to whether a particular lease sale will provide a reasonable balance between the national interest and the well-being of the citizens of the affected State.

Environmental Studies.—Requires that all basic environmental studies related to a lease sale be completed, peer-reviewed and published at least 180 days before that lease sale is announced.

OIL AND GAS LEASING RESTRICTIONS OFFSHORE FLORIDA

Prohibition of Preleasing and Leasing Activity.—Permanently bars oil and gas activity in the areas south of 26 degrees north and east of 86 degrees west, and elsewhere within 100 miles of Florida's coast.

Cancellation of Leases.—Requires that all existing leases in the areas described in the previous section be cancelled, and that the Secretary of the Interior report to Congress annually on the cancellation process.

Compensation.—Establishes that any compensation a lessee may be entitled to as a result of lease cancellation will be paid by the Federal Treasury, and that Florida shall incur no costs or other liability as a consequence of cancellation of leases.

Prohibition of Activities other than Environmental or Oceanographic Studies.—For the part of the Eastern Gulf of Mexico outside the permanent prohibition areas (i.e., north of 26 degrees and seaward of 100 miles) places a moratorium on oil and gas activity until the year 2002, or until a comprehensive set of environmental and other studies are completed, whichever is later.

By Mr. PELL:

S. 738. A bill to designate the Architect of the Capitol as the Director of the U.S. Botanic Garden; to the Committee on Rules and Administration.

APPOINTMENT OF ARCHITECT OF THE CAPITOL AS DIRECTOR OF THE U.S. BOTANIC GARDEN

Mr. PELL. Mr. President, in my capacity as chairman of the Joint Committee on the Library, I introduce a bill to designate the Architect of the Capitol as the Director of the U.S. Botanic Garden.

This bill is in the nature of a formal technical clarification of the official status of the Architect in relation to the Botanic Garden. It would correct a tentative arrangement, dating back to 1934, when the Architect of the Capitol, as an officer of the legislative branch, was designated the "Acting Director" of the U.S. Botanic Garden.

While there has never been any formal change in the "acting" title of the Architect, specific legislative action has been taken over the years to extend the Architect's management over the Botanic Garden by providing administrative support. As a result, accounting, personnel, payroll, and budgeting activities for the Botanic Garden are provided as a continuing function of the Architect's central office.

It seems clear that the Architect of the Capitol has been the de facto director of the Botanic Garden for almost 60 years, and this bill would simply let the legal title of the position conform to the facts. It would also assure benefactors of the Botanic Garden that they are dealing with an officer vested with legal authority.

The bill would not change in any way the Architect's relationship with the Joint Committee on the Library, which is responsible for supervision of the Botanic Garden under 40 U.S.C. 216, or with any other congressional committees to which the Architect is accountable.

It should also be noted that the Architect does not receive and has never received any additional compensation for duties in connection with the Botanic Garden, and the bill would make no changes in this regard.

By Mr. PELL:

S. 739. A bill to authorize the Architect of the Capitol to accept certain gifts on behalf of the U.S. Botanic Garden; to the Committee on Rules and Administration.

ACCEPTANCE OF GIFTS ON BEHALF OF THE BOTANIC GARDEN

Mr. PELL. Mr. President, acting in my capacity as chairman of the Joint

Committee on the Library, I am introducing a bill to authorize the Architect of the Capitol to accept gifts on behalf of the U.S. Botanic Garden.

This bill is intended to clarify and amplify existing statutory authority enacted as part of the Legislative Branch Appropriation Act of 1989 which authorizes the Architect to accept gifts and volunteer time for the purpose of constructing the National Garden, created by that legislation, as an adjunct to the Botanic Garden.

This bill would extend that authority to permit the Architect to accept gifts and volunter time for the Botanic Garden as a whole rather than limiting the authority to acceptance of gifts for the narrow purpose of "construction" of the National Garden. The bill also would clarify the range of gifts which could be accepted. I am advised that similar existing statutory authority provides such authority to other Federal agencies.

Under the existing limited authority, a nonprofit organization has already come into being called the national fund for the U.S. Botanic Garden, to assist the Architect in the solicitation of gifts. Its trustees include Mrs. Hale (Lindy) Boggs, a former Member of the House of Representatives, who has a long-standing interest in the National Garden. Enactment of this legislation would further facilitate the program of the national fund.

By Mr. WIRTH (for himself, Mr. HATFIELD, Mr. DASCHLE, Mr. JEFFORDS, Mr. BRYAN, Mr. FOWLER, Mr. BINGAMAN, Mr. ADAMS, and Mr. LIEBERMAN):

S. 741. A bill to promote cost-effective energy efficiency improvements in all sectors of the economy, promote the use of natural gas and encourage increased energy production, thereby reducing the Nation's dependence on imported oil and enhancing the Nation's environmental quality and economic competitiveness; to the Committee on Finance.

By Mr. WIRTH:

S. 742. A bill to promote cost-effective energy efficiency improvements in all sectors of the economy, promote the use of natural gas and encourage increased energy production, thereby reducing the Nation's dependence on imported oil and enhancing the Nation's environmental quality and economic competitiveness; to the Committee on Energy and Natural Resources.

S. 743. A bill entitled the "National Energy Efficiency and Development Tax Act of 1991"; to the Committee on Finance.

COMPREHENSIVE ENERGY LEGISLATION

Mr. WIRTH. Madam President, today I and Senator MARK HATFIELD, my distinguished Republican colleague from Oregon, are introducing a major, broad-sweeping energy policy bill, along with Senators DASCHLE, JEFFORDS, BRYAN, FOWLER, BINGAMAN, ADAMS, and LIEBERMAN.

Energy policy is now near the top of the country's agenda. And it should be. Our appetite for energy is consuming our future. As we have just seen in the war against Iraq, it already drives our calculations of vital national interest, making Persian Gulf oil literally a life-or-death commodity.

Imported oil may have a low price, but it has a high cost. There is grave economic danger in allowing our economy to depend so heavily on a resource whose price can triple, or be cut in half, at the whim of foreign potentates. Even at stable prices, oil imports are adding a heavy burden to our trade deficit. And of course, imported oil has an environmental cost—in pollution in our cities, on the high seas, and in warming our globe.

To many, myself included, the administration's long-awaited energy program turned out to be a surrender to the hands-off, short-term thinking of the 1980's. It does not deserve to be called a strategy unless our strategy is to delay and evade.

Such tactics just won't do the job. They are unequal to the emergency we face and to the new-found sense of shared national purpose that the last weeks have brought us.

As we mobilized and united to protect a vital national interest in the Persian Gulf, we should mobilize and unite ourselves and our allies for a new and urgent campaign to protect our common future.

What we need is a real battle plan to defend the global environment and enhance our energy security.

That battle plan has to stick to a few basic concepts: priority for energy efficiency and conservation; support for the development of renewable energy sources; promoting alternative fuels for our cars and trucks; promoting increased use of natural gas, an abundant, inexpensive, clean-burning alternative to imported oil; and, promoting increased domestic production of oil and natural gas, without relying on windfalls from frontier areas.

The Wirth-Hatfield bill follows that battle plan. It addresses what we can do in the short term, what is possible in the midterm, and what we should be doing to prepare for the future.

Much of this legislation was initially in the administration's national energy strategy [NES] before the White House staff whittled it down. Now, there is no comparison. The NES does next to nothing to increase the efficiency with which we use energy in the United States. It actually prohibits the Secretary of Energy from setting efficiency standards. Yet 2 years ago, the major home appliance manufacturers begged the Congress and the Secretary to set standards—because if we didn't the states would.

This legislation deals with product standards; it also provides utilities, State governments, and others incentives to go out and find ways to save energy. A penny saved is a penny earned; the same is true with energy. The energy we save by insulating homes, by using more efficient motors and lights, and by careful management, is energy we have for economic growth.

This legislation includes the strong CAFE standards authored by Senators BRYAN and GORTON, to make cars more efficient. Our cars and trucks use 50 percent of our oil, and if we neglect auto efficiency, as the administration does, we won't do the job we need to do.

The efficiency provisions of this legislation alone can save 14.4 quads of energy a year in the United States by 2010. That's the energy equivalent of 7 million barrels of oil a day. The additional provisions to require the use of alternative fuels, to increase the use of natural gas, and to improve the efficiency of oil-heated homes, can cut our oil consumption by an additional 3.5 million barrels a day.

On the positive side, the NES does add new requirements to the Clean Air Act Program Congress passed last year, to require commercial vehicle fleets—cabs, delivery vans, et cetera. I applaud those, and with now Governor Wilson of California, I advocated similar proposals during debate of the Clean Air Act last year. Today's legislation goes much further, however, by requiring the use of nonpetroleum fuels. My bill includes Senator JEFFORDS' proposal to ensure that American farmers—who can produce ethanol—and U.S. natural gas are given a place in the auto fuel market, a place that can't be undercut by OPEC.

This bill also provides incentives to bring more natural gas to market. We must reverse a perverse trend in America's energy picture: We have been using less domestic natural gas, and more imported oil. This trend must stop particularly since we have such significant reserves of natural gas in the United States.

The tax measures in this bill could result in more than 4,000 additional oil wells in the United States over the next 4 years. And they could keep thousands of stripper wells from being shut down if oil prices drop.

That's oil we know is there. This legislative package does not depend on opening up the Arctic National Wildlife, or sensitive coastal areas that Congress has protected in the past. The Arctic Refuge should remain just that—a refuge for the caribou, polar bear, musk ox, and for all living things. It is a special preserve that should be kept for future generations.

In summary, Mr. President, there is a great deal we can and should do to put our energy policy house in order. This is an issue on which we must respond.

Good energy policy can be—and must be—good environmental policy, and good economic policy, if it is to be successful.

The American people want a balanced energy policy. They understand that there is an enormous potential to use energy more efficiently, and they strongly support doing that. They also believe that we can do more to spur our own domestic energy production, not only in renewable energy resources of the future, but also in the natural gas, ethanol, and oil that can help us now. They also believe we should do this without sacrificing the quality of our environment, or opening up areas like the Arctic National Wildlife Refuge to development.

That is the kind of policy I have tried to set out in this bill.

When we return from the upcoming recess, the Energy Committee will begin marking up energy policy, preparing to report out energy policy legislation. I hope all the Members of the Senate will give my bill serious study, as I believe this is the type of package that this Congress ought to produce.

Mr. President, I ask unanimous consent that a summary of the bill S. 741, a side-by-side comparison of its provisions with the national energy strategy and with S. 341—the bill introduced by Senators JOHNSTON and WALLOP—be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL ENERGY EFFICIENCY AND DEVELOPMENT (NEED) ACT PROPOSED BY SENATOR TIM WIRTH

Sec. 1—Short Title. "National Energy Efficiency and Development Act of 1991."

Sec. 2—Table of Contents.

Sec. 3—Findings—This section states the importance of an aggressive program to increase energy efficiency in the U.S., the potential role of renewable energy resources in our future, the potential for natural gas to displace petroleum use in the U.S. economy, the potential for displacing energy imports with domestic oil and gas production, and that development of the Arctic National Wildlife Refuge is not needed to assure access to adequate supplies of energy for the U.S.

Sec. 4—Purposes.

Sec. 5—Carbon Dioxide Goals and Planning—The goal of this section is to foster the identification and submission to Congress of an appropriate mix of policies that have the potential, if fully implemented, to stabilize or reduce the generation of carbon dioxide and other greenhouse gases. Such policies are directed to be consistent with the achievement of other domestic energy, economic, social and environmental goals.

Sec. 101—Least-Cost National Energy Strategy—This section would require the Department of Energy to develop a "Least-Cost National Energy Strategy" as part of the national energy planning process. This strategy would be designed to meet the aforementioned CO_2 goals and assign priorities among the energy resources that the Secretary determines to be the most cost-effective, taking into consideration the impact of the production and use of these energy resources on global climate change and other environmental problems, as well as the nation's economic, energy and societal objectives.

Sec. 102—Conforming Amendments.

Sec. 111—Director of Climate Protection—This section would require the Secretary of Energy to appoint a Director of Climate Protection to develop policy recommendations for and represent DOE in all interagency and multilateral policy discussions on global climate change.

TITLE II—MEASURES TO IMPROVE THE ENERGY EFFICIENCY OF THE AMERICAN ECONOMY

SUBTITLE A—RESEARCH AND DEVELOPMENT

Sec. 201—Energy Efficiency Research and Development Authorizations—This section increases the authorizations for energy efficiency research and development. Currently, appropriations for the research and development program exceed the amounts authorized by P.L. 101-218. This section raises aggregate energy efficiency authorizations to $300 million in FY'92; $375 million in FY'93; and $450 million in FY'94. (These increases reflect the rate of growth proposed by the Administration in its FY'92 budget).

SUBTITLE B—INDUSTRIAL ENERGY EFFICIENCY

Sec. 211-212—Joint Ventures With Energy-Intensive Industries—This section would require the Secretary to pursue a research and development program and enter into cost-shared joint ventures to improve efficiency in energy intensive industries (such as steel, chemicals, glass, paper and aluminum). Authorizes $5, $15 and $25 million for FY'92, 93, 94, respectively.

Sec. 213—Industrial Auditing Program—This section would require the Secretary, in cooperation with utilities and major industrial energy consumers, to establish voluntary guidelines for the conduct of energy audits and the installation of insulation in industrial facilities.

Sec. 214—Industrial Reporting Requirements—This section would institute a reporting system for industry to supply annual energy use and energy intensity information to DOE. This information will be used to expand EIA's demand-side data base. In addition, this section will require DOE to develop with industry voluntary energy-efficiency goals for energy-intensive industries.

Sec. 215—Energy Efficiency Information—This section requires the Energy Information Administration to expand the collection of energy efficiency information.

SUBTITLE C—RESIDENTIAL AND COMMERCIAL BUILDING EFFICIENCY

Sec. 221—Residential Building Codes—This section directs DOE to provide technical assistance to States in order to bring State codes up to existing DOE standards or those of the Council of American Building Officials Model Energy Code (CABO-MEC). At the end of 4 years, states shall have upgraded to the national standard or provide an explanation of why it has not. DOE is directed to periodically review and update these codes.

Sec. 221—Commercial Building Codes—This section directs DOE to develop and recommend to the States improved commercial building energy efficiency standards. Technical assistance will be provided to the States, by DOE, to help promote the adoption of these standards. At the end of 4 years, states shall have upgraded to the national standard or provide an explanation of why it has not. DOE is directed to periodically review and update these codes.

Sec. 222—Home Energy Efficiency Ratings—This section directs the Secretary to provide financial assistance to support a 4-year voluntary national program that helps States develop consumer-oriented energy rating systems for residential homes at least in accordance with the most recent Council of American Building Officials Model Energy Code (CABO-MEC). At the end of 4 years, all homes must be rated prior to sale and the purchaser notified of the homes energy rating and all federal energy efficient mortgage programs. No new home that does not meet at least the CABO-MEC standard shall be eligible for federally guaranteed or insured mortgages. DOE will be given the authority to institute similar requirements on existing homes.

Sec. 223—Manufactured Housing Standards—This section directs DOE to assist HUD develop energy standards for manufactured housing in accordance with section 943 of P.L. 101-625, the Cranston-Gonzalez Housing Bill. DOE shall recommend energy efficiency standards based on life-cycle cost, and shall test the performance and cost-effectiveness of manufactured housing prototypes constructed to the required standards.

Sec. 224—Fund for Upgrading Energy Efficiency of State and Locally-Owned Buildings—This section creates a fund to provide grants to eligible States to undertake energy efficiency projects in State and locally-owned buildings.

Sec. 225-226—Electrical Product Standards—This section requires DOE to set minimum energy efficiency standards for a limited number of incandescent and fluorescent lamps, commercial heating and air conditioning equipment, electric motors and electric utility transformers. This section also requires DOE to establish standards for table lamps in order to ensure that they can utilize compact fluorescent lamps. In addition, DOE will assist industry in developing testing and labelling procedures for windows, commercial office equipment and fluorescent light fixtures. Authorizes $15 million a year and directs DOE to increase staff capability to accommodate these standard requirements.

Sec. 227—Training and Certification of Contractors—This section establishes a DOE program to train and certify energy efficiency contractors in accordance with its programs to establish residential and commercial building codes.

Taxation of Fuel Efficient Oil Burners (see Title VIII)

SUBTITLE D—FEDERAL ENERGY EFFICIENCY

Sec. 231—Federal Energy Management Programs—This section amends NECPA to direct the federal government to install all energy efficiency measures which are cost-effective on a 10-year life-cycle cost basis. In addition, it creates financial incentives for federal agencies to contract for energy efficiency improvements. This section establishes a fund to finance energy efficiency improvements. No leased office space could be renewed or acquired unless the facility met the efficiency standards for commercial office space established by CABO-MEC. In addition, this section directs the GSA to develop and implement a program to identify products that have the potential to save energy and reduce costs in federal government purchasing programs.

Sec. 232—Vehicle Purchase Program—This section requires agencies to purchase fuel efficient vehicles.

Sec. 233—Performance Standards for Federal Buildings—This section requires the General Services Administration to provide information in its product schedule of the most cost-effective (on a life-cycle cost basis) energy equipment.

Sec. 234—Plan for Demonstration of New Technology—This section requires DOE to submit a plan to Congress for demonstrating energy efficiency and renewable energy technologies in Federally-owned facilities.

Sec. 235—Fuel Cells—This section authorizes $15 million for DOE to conduct a program to promote the early commercial application of fuel cell systems through demonstration in Federal buildings.

Sec. 236—Study of Federal Purchase Incentives for Technology Development—This section directs DOE to prepare a study on energy efficient products that the federal government could purchase to encourage commercial development of technology.

SUBTITLE E—UTILITY ENERGY EFFICIENCY

Sec. 241—Utility Regulatory Reform—This section reformulates certain ratemaking standards in Title I of PURPA applying to regulated electric utilities in order to encourage public utility commissioners to ensure that utility investments in energy efficiency are as profitable as supply-side investments. In addition, this section will encourage all states to undertake least-cost planning programs for regulated utilities and consider the external costs of energy use. After a specified period, energy efficiency measures will be considered a qualified facility in states that have failed to consider these regulatory reforms and that do not have competitive bidding programs.

In addition, this section encourages states to consider regulatory reforms that would encourage energy efficiency improvements in power generation and supply. Fuel adjustment clauses and other ratemaking provisions are to be considered, as are incentives that would increase the average efficiency of power generation and supply, both through better maintenance and through investment in more efficient power generation, transmission and distribution technologies.

Sec. 242—Energy Efficiency at TVA and Power Marketing Authorities—This section would require a least-cost plan to be developed prior to the approval of a long-term purchase from the PMAs. In addition, the PMAs are authorized to implement programs to acquire cost-effective energy efficiency resources. The TVA is instructed to develop a least-cost plan.

Sec. 243—Energy Efficiency at FERC—This section directs the Federal Energy Regulatory Commission to develop an office of energy efficiency. In addition, this section proposes expedited review for purchases of electricity made in accordance with a least-cost plan.

Removal of Taxation of Utility Rebates (See Title VIII)

SUBTITLE F—USED OIL ENERGY PROGRAM

Sec. 251-255—Waste Oil Recycling—(S. 399—Heinz-Wirth) Gives EPA authority to set a mandatory "recycling ratio" for used oil. It would require the producer of the original lubricating oil to annually increase the percentage of oil being recycled either by putting the collected used oil back through the refinery or by purchasing "oil recycling credits" or by purchasing rerefined oil. Used oil recyclers (permitted rerefiners or reprocessors) would generate credits for every unit of used oil recycled. The price of the credits would be set by market forces.

SUBTITLE G—TIRE RECYCLING INCENTIVES

Sec. 261-263—Waste Tires Recycling—(S. 396—Wirth-Heinz) Producers and importers of tires would be required to annually increase the amount of used tires recycled either by retreading, making tire-derived fuel, processed tire products, or whole tire products. They can either recycle the tires themselves, or purchase "tire recycling credits" from approved and licensed recyclers. The price of the credit would be set by market forces.

Sec. 271—Insular Areas Energy Assistance—This section establishes a program of financial assistance for Insular area governments to carry out energy efficiency and renewable energy projects.

Title III—Measures to Promote the Development of Renewable Energy

Sec. 301—Renewable Energy Research and Development Programs—This section increases the authorizations for renewable energy research and development. Currently, appropriations for the research and development program exceed the amounts authorized by P.L. 101-218. This section raises aggregate renewable energy authorizations to $250 million in FY '92; $290 million in FY '93; and $360 million in FY '94.

Sec. 302-304—Renewable Energy Technology Transfer—This section promotes cooperative arrangements among the public and private sector to transfer technology developed by the federal government to the marketplace. Specifically, this program would support innovative State programs demonstrating renewable energy technology. In addition, technology transfer programs from State and federal agencies will be supported.

Sec. 305—Solar Energy Development Fund—This section would promote the commercialization of utility-scale solar electric generating capability by establishing a fund to contribute to utility investments in solar energy generating stations.

Sec. 306—Removal of PURPA Requirements—This section would extend indefinitely technical changes to PURPA designed to encourage the production of renewable energy. Last year, Congress enacted such changes for a 2 year period.

Sec. 311-313—Renewable Energy Exports—This section develops additional programs, carried out by the Committee on Renewable Energy Commerce and Trade (CORECT) to enhance economic development in less-developed countries through the transfer of energy efficient and renewable energy technology. This program also authorizes funds to assist U.S. manufacturers of renewable energy and energy efficient technology in exporting their goods to less-developed countries.

Renewable Energy Production Tax Credit (see Title VIII)

Title IV—Measures to Promote the Use of Alternative Motor Vehicles and Fuels

Sec. 401—Alternative Fuel Mass Transit Program—This section provides for cooperative agreements and financial assistance to municipal, county or regional transit authorities in large urban areas to demonstrate the feasibility of using natural gas or other alternative fuels as fuels for mass transit. Authorizes $30 million for each of fiscal 1992-94.

Sec. 402—Alternative Fuel Fleet Commercialization Program—This section established a joint program to provide financial assistance to encourage the development and commercialization of natural gas and other alternative fuel use in passenger fleets, light duty trucks and heavy duty trucks. Authorizes $30 million for each of fiscal 1992-94.

Sec. 403—Alternative Fuel Training Program—This section establishes a training and certification program at DOE for technicians who install equipment that converts gasoline or diesel powered vehicles to those capable of operating on natural gas or other alternative fuels. Authorizes $5 million for each of fiscal 1922-94

Sec. 404—Vehicle RD&D Program—This section establishes a program of research, development and demonstration on techniques related to improving natural gas or other alternative-fueled vehicle technology.

Sec. 405—Federal Programs To Promote Alternative Fuel Use—This section requires DOE to promote the use of alternative fuels by distributing information to the public, identifying barriers to government purchase of alternative fuel vehicles, identifying ways in which preferential treatment of alternative fuel vehicles under tarffic control measures may help adoption of alternative fuel vehicles, and designing federal and state loan programs to aid the conversion of existing vehicles to operation on alternative fuels, repaying such loans out of savings on fuel costs.

Sec. 406—Federal Regulation of the Sale of Alternative Fuels—This section clarifies that sale of natural gas as a vehicle fuel shall be not be construed to be an interstate sale of natural gas subject to price regulation by the FERC and shall not trigger regulation of the seller under the Public Utilities Holding Company Act.

Sec. 407—State Regulation of Alternative Vehicle Fuels—This section exempts sellers of alternative vehicle fuels from regulation as public utilities (unless they are a utility by virtue of other activities).

Sec. 408—Matching Funds for State Programs—This section provides up to $40 million annually in matching funds for the establishment of state programs to aid in increasing the use of alternative vehicle fuels.

Sec. 409—Alternative Fuel Use in Non-Road Vehicles—This section requires DOE to study the potential contribution toward reducing oil imports of converting non-road vehicles to alternative fuels, and authorizes DOE to require use of alternative fuels by non-road vehicles where feasible. This covers industrial and commercial vehicles including airport vehicles, trains, etc. Farm vehicles are excluded.

Sec. 411-417—Alternative Fuel Fleet Requirement—This subtitle would require certain motor vehicle fleets to operate on alternative fuels. In non-attainment areas, fleets of 10 or more vehicles are required to include alternative fuel vehicles as an increasing percentage of new vehicle purchases. In all cities, fleets of 20 or more must meet these requirements.

Sec. 421-429—Electric Vehicle Demonstration Program—This subtitle authorizes a $50 million program to help industry develop electric vehicles. The program is designed to overcome technical and economic barriers to widespread use of electric vehicles.

Title V—Transportation Energy Efficiency

Sec. 501-513—Corporate Average Fuel Economy Standards—This section is entitled the "Bryan-Gorton Motor Vehicle Fuel Efficiency Act of 1991." Identical to the language contained in S. 279, this bill would require that CAFE standards be improved by 40 percent over the next decade.

Feebates for Energy Efficient Automobile Purchases (See Title VIII)

Tax Incentives for Mass Transit (See Title VIII)

Title VI—Measures To Displace Petroleum as a Vehicle Fuel

Sec. 601-610—Tradeable Alternative Fuels Credit Program—This title is based on the text of S. 3263—Jeffords (101st Cong.), which provides that a set percentage of all automotive fuels sold in the United States consist of non-petroleum fuels. Refiners and other covered fuel wholesellers can accumulate credits by selling alternative fuels, by blending alcohol or ether components into the gasoline they sell, or by purchasing credits from other sellers or alternative fuels (or manufacturers of electric vehicles). Requires 10% use of alternative fuels by 1998, and 30% (or the maximum feasible percentage, as determined by DOE) by 2010.

TITLE VII—MEASURES TO PROMOTE THE USE OF NATURAL GAS

SUBTITLE A—PROMOTING NEW USES FOR NATURAL GAS

Sec. 704—Co-Firing R&D—Conduct 3-year, $30 million program to research, develop, and demonstrate use of natural gas in co-firing applications, to achieve near-term reduction in NOx, SO_2 and particulates from coal. Federal funding should support 50 percent of program.

Sec. 704—Natural Gas Air Conditioning Demonstration—Provide Federal funding to support 25 percent to 75 percent of cost of gas air-conditioning installation or conversion from electric. Help overcome initial capital-cost problem to realize operating cost and environmental benefits.

SUBTITLE B—PROMOTING ADDITIONAL CAPACITY TO TRANSPORT NATURAL GAS TO MARKET

Sec. 706—Incentive Ratemaking—Directs FERC to experiment with incentive rate designs which achieve the dual objective of allowing pipelines to earn a fair rate of return and simultaneously provide the correct price signals to the marketplace.

Sec. 707—Rehearing Requirements—Eliminates FERC's ability to delay decisionmaking on ratemaking orders beyond the 30-day rehearing requirement without cause.

Sec. 708—One-Stop Shopping—Provides a limited exemption from antitrust laws and amends Natural Gas Act to allow pipelines to cooperate to post a single rate for a wellhead-to-market route, with one of the pipelines acting as agent to execute contracts.

Sec. 709—Fair Return—Provides for pipeline rate orders to reflect the useful value of pipeline facilities, rather than depreciated cost. A substantial portion of the interstate pipeline industry was built during the 1940's, 50's and 60's. Much of this pipe is highly depreciated. Rates designed on the base of these values result in artificially low rates and represent prohibitive competitive barriers to new capacity.

Sec. 710—Deregulated Sales Function—Provides for FERC to use a finding of competitive market conditions, under which pipeline sales rates would be presumed to be just and reasonable.

Sec. 711—Deregulated Competitive Services—Allows pipelines to offer new services without regulatory review provided that the customer has a competitive alternative which has been certificated by the FERC.

Sec. 712—Abandonment Policy—Amends section 7(b) of the Natural Gas Act to provide automatic abandonment of the sales obligation upon contract expiration, subject to a pipeline right to extend. The statutory service obligation for the underlying firm transportation would continue, subject to FERC rules.

SUBTITLE C—PROMOTING ADDITIONAL SUPPLIES OF NATURAL GAS

Sec. 713—Producer Demand Charges—Allows "as-billed" flow-through by pipelines of demand charges paid to producers, subject to such reasonable competitive standards as the FERC shall prescribe.

Sec. 714—Competitive Impact of Imports—Makes the competitive impact on U.S. producers a statutory criterion in the approval of any natural gas imports. If the rate design of the imported supply is found to cause significant competitive distortion, the Secretary or FERC are directed to take steps to correct the distortion.

Sec. 715—Research for New Exploration, Development and Production Technologies—Directs additional federal support of geology and development technologies for recovery of natural gas.

Tax Incentives for Independent Oil and Gas Exploration—(See Title VIII)

SUBTITLE D—ACCELERATING NEW PIPELINE CONSTRUCTION

Sec. 716—Eliminate "On Behalf Of" Test for NGPA Section 311 Facility Authorization—Opens up approval of pipeline facilities without a full Section 7 determination to all pipelines not requiring eminent domain and willing to forgo putting the financial risk of the new facilities into their rate base, subject to environmental review.

Sec. 717—Tiering of Environmental Review—Directs FERC to prepare programmatic EIS for pipeline construction in existing corridors, so that FERC can approve such projects on the basis of an Environmental Analysis.

Sec. 718—Designate FERC as Lead Agency for NEPA Review—Provides statutory authority for FERC to lead in the preparation and approval of EISs for natural gas facilities.

Sec. 719—Codify FERC's Two-Phase Certificate Process—Amends Natural Gas Act to provide for issuance of non-environmental issue certificates, to allow rate and financial work to proceed on pipeline projects prior to final approval.

Sec. 720—Applicant Submission of Environmental Data—Requires FERC to specify a format for environmental assessments to permit pipeline applicants to submit their own EA with their application, as recommended by CEQ guidelines.

Sec. 721—Contract Out NEPA Work—Allows FERC to contract out environmental review at the expense of the applicant, as provided for in CEQ guidelines.

SUBTITLE E—STUDIES

Sec. 722—Study of Global Natural Gas Production Trends and Their Impact on the U.S.

Sec. 723—Study of Regulatory Policies—Directs DOE to identify institutional barriers to increased utilization of natural gas, including state and local regulatory barriers to open access transportation of natural gas.

TITLE VIII—TAX TREATMENT OF ENERGY RESOURCES

SUBTITLE A—ENERGY EFFICIENCY

Sec. 801—Renewable Energy Performance Tax Credit—This section would provide a two and one-half cent per kilowatt hour tax credit for power plants that run on solar, wind and geothermal energy. This credit would be tied to production and apply only to power plants built in the first six years after enactment.

Sec. 811—Employer Provided Parking—This section would classify employer provided parking subsidies as taxable income and make employer provided mass transit vouchers non-taxable up to $75 per month.

Sec. 821—Conservation Tax Credit for Oil Heated Homes—A tax credit not to exceed $100 will be provided to residential consumers who install qualified oil retrofit conservation measures, including: Installation of flame retention burners; insulation measures and water-heater wraps; thermostat controls (setback thermostats); improved window efficiency.

Sec. 831—Utility Rebates—This section would remove from taxable income, utility rebates to residential and commercial customers who install energy efficient equipment.

Sec. 840—Feebates—This section establishes a revenue-neutral system to provide rebates to purchasers of the most safe and energy efficient vehicles and to assess fees on the purchase of less safe and less energy efficient vehicles.

Measures to Promote Domestic Oil and Gas Production

Sec. 841—Removal of Net Income Limitation on Percentage Depletion—Removing the limitation on depletion allowance to no greater than net income. That limit effectively denies percentage depletion on marginal wells, particularly in times of low oil prices.

Sec. 842—Tax Credit for Maintaining Stripper Well Production—Allows a tax credit for a percentage of costs incurred in maintaining production from marginal properties and oil produced from tertiary recovery methods.

Sec. 843—Tax Credit for New Exploration and Development—Allows a tax credit for a percentage of investment for costs incurred in drilling new exploratory and development wells.

Sec. 844—Changes in Calculation of Alternative Minimum Tax for New Exploration and Development—Allows deduction of most drilling costs from the Alternative Minimum Tax calculation.

Sec. 845—Repeal of Taxable Income Limit on Percentage Depletion—Allows producers with low incomes to benefit from percentage depletion.

Sec. 846—Election to Carry Forward Depletion Deductions—Allows producers to fully utilize depletion deductions by carrying them over to future years.

Sec. 847—Repeal of Revenue Ruling 77-176—Changes requirements of tax code now avoided through partnerships, to reduce transaction costs.

Sec. 848—Section 29 Credit Modifications—Allows the Section 29 credit for production of nonconventional fuels (tight sands gas, etc.) to be credited against the Alternative Minimum Tax (which is the income tax alternative most independent oil and gas producers are forced to pay). This section also would make the Section 29 credits permanent.

SIDE-BY-SIDE COMPARISON

Wirth-Hatfield	Johnston-Wallop	National Energy Strategy
Least-cost nat'l energy plan	None	None.
Carbon dioxide reduction goals	None	None.
Director of Climate Protection	None	None.

SIDE-BY-SIDE COMPARISON—Continued

Wirth-Hatfield	Johnston-Wallop	National Energy Strategy
	ENERGY EFFICIENCY	
Increased R&D authorizations	None	None.
Energy-intensive industry joint ventures	Same	None.
Industrial auditing	Same	None.
Industrial reporting program	None	None.
Industrial energy efficiency targets	None	None.
Improve State residential building standards	None	None.
Energy efficiency in public housing	Same	None.
Improve State commercial building standards	None	None.
Fund to upgrade State/locally-owned building energy efficiency	None	None.
Home energy rating systems (HERS) program; implements HERS eligibility requirement Federal finance programs.	Establishes HERS program	None.
Manufactured housing program based on lifecycle costing	None	None.
Window labelling program	Same	None.
EIA data collection	Same	None.
Authorizes standards for lamps, electric motors, heating and air conditioning equip, utility transformers, showerheads, office equipment.	DOE to establish labels for lamps	Specifically prohibits DOE from setting standards for such products.
Training of energy efficiency contractors and lighting designers	None	None.
Federal energy management program outline	Same	None.
Utility incentives	Same	Same.
Shared savings	Same	None.
GSA product schedule	Same	None.
Federal vehicle purchases	Same	None.
New technology demonstration	Same	None.
Fund for Federal energy efficiency improvements	Similar	None.
Fuel cells in government facilities	None	None.
	UTILITY INCENTIVES	
Amends PURPA, states to consider	Amends PURPA, States to consider that rates charged are such that investments in energy efficiency are as profitable as investments in supply; authorizes incentive funding for States to consider such changes.	None.
A. mandatory least-cost planning		
B. rates charged are such that investments in energy efficiency are as profitable as investments in supply		
C. external costs of energy use		
D. incentives that encourage efficiency improvements in the generation and transportation of energy.		
Authorizes incentive funding for States to consider such changes		
If A–D are not considered in a State w/out competitive-bidding, then energy efficiency is considered a "QF" under PURPA.		
TVA/PAM efficiency	None	None.
FERC energy efficiency program	None	None.
Used oil recycling	Same	None.
Tire recycling	None	None.
Insular areas energy efficiency	Same	None.
	RENEWABLE ENERGY PROGRAMS	
Increased R&D authorizations	None	None.
State/local renewable/efficiency projects	None	None.
Tech transfer from state renewable/efficiency research programs	None	None.
Federal laboratory tech transfer	None	None.
Tech transfer pilot programs	None	None.
Computer network for state/local governments	None	None.
Solar energy development fund	None	None.
International renewable energy tech transfer and trade program	Same	None.
None	Joint ventures for biofuels and geothermal; PV/wind diesel displacement; Solar water heat; Fuel cell/biomass diesel displacement.	None.
None	Waste minimization in industry	None.
None	Hydropower regulatory reform: exempts certain dams from FERC licensing	Similar.
	TRANSPORTATION EFFICIENCY	
CAFE standards	CAFE standard setting program—set by DOT based on maximum feasible improvement by vehicle class considering: technological feasibility economic practicality need to conserve.	None.
20 percent improvement by 1996		
40 percent improvement by 2000		
	Program introduces CAFE credit trading; credits for air bags; excessive consumption fee and program for scrappage of old cars.	None.
	ALTERNATIVE FUEL VEHICLES	
Alternate fuel joint-ventures for mass transit	Same	None.
Training program	Same	None.
Alternative fuel joint ventures for fleets	None	None
Federal programs to promote alternative fuels	None	None.
Federal regulation of alternative fuel sales: keeps FERC from regulating retail sales of natural gas for vehicle fueling and precludes PUHCA regulation from being triggered by such sales.	Federal regulation of alternative fuel sales: keeps FERC from regulating retail sales of natural gas for vehicle fueling. No provision on PUHCA regulation.	None.
State regulation of alternative fuel sales: prohibits regulation of vehicle fuel sales as a utility activity.	None	None.
Matching funds for State alternative fuel programs	None	None.
Alternative fuel use in nonroad vehicles	None	None.
Purchase requirements for fleets	None	Same.
Electric vehicle research research and development	Same	None.
None	None	Removal of CAFE credit cap for dual-fueled vehicles.
	TRADEABLE ALTERNATIVE FUELS CREDIT PROGRAM	
Requires minimum percentage of motor fuel sold in United States to be non-petroleum fuel: 10 percent by 1998, up to 30 percent in 2010. Tradeable credits for sale of non-petroleum fuels go to all users of alcohol or ether blending agents, methanol, or natural gas, and to manufacturers of electric vehicles.	None	None.
	MEASURES TO PROMOTE THE USE OF NATURAL GAS	
Powerplant cofiring R&D	None	None.
Natural gas hearing and cooling R&D	None	None.
Incentive ratemaking: directs FERC to provide flexible ratesetting to pipelines.	None	None.
Rehearing requirements: prohibits delay of appeals of FERC rulings beyond 30 days.	Similar provision: Prohibits delay of appeals of FERC rulings beyond 120 days.	None.
Allows pipelines to develop joint rates for multipipeline transportation routes	None	None.
Fair return: allows FERC to consider value of used and useful facilities in setting rates.	None	None.
Deregulated sales: allows FERC to presume rate proposals fair and reasonable if they are in a competitive market.	None	Similar provision in Sec. 205.
Deregulated services: allows FERC to presume rate proposals fair and reasonable if they are in a competitive market.	None	Similar provision in Sec. 205.
Abandonment policy: pipelines would not be obligated to continue to sell gas to buyers who do not renew their contracts.	None	None.
Producer demand charges: allows producers to charge for gas storage	None	None.
Competitive impact of imports: requires FERC to examine the impact of rate designs of imports on domestic producers.	None	None.
RD&D on exploration, development and production technologies for natural gas.	Similar provision Sec. 6004	None.

SIDE-BY-SIDE COMPARISON—Continued

Wirth-Hatfield	Johnston-Wallop	National Energy Strategy
Eliminate "on behalf of" test for NGPA Sec. 311 facility authorization: allows greater use of simplified approval process which doesn't confer eminent domain.	Similar provision	Similar provision.
Tiering of environmental review: provides process for shortening review of noncontroversial pipeline projects.	None	None.
Designate FERC lead agency for NEPA review	Similar provision	Similar provision.
Codify FERC two-phase certificate process: allows two track process for simultaneous work on price/financial and environmetal aspects of pipeline applications.	None	None.
Applicant submission of environmental data: allows project applicant to provide environmental data in standardized format at time of application.	None	None.
Contract out NEPA work: allows FERC to contract out environmental study at expense of applicant.	Similar provision	Similar provision.
Study of global natural gas production trends	None	None.
Study of state and local regulatory barriers to gas transportation	None	None.
None	Antitrust relief for gas producer co-ops	None.
None	None.	Deregulation of natural gas imports/exports.
None	None	Replacement of Federal Energy Reg. Commission with single Administrator.
	TAX INCENTIVES	
Renewable energy production tax credit—$.02/kwh	None	None.
Extension of business energy investment tax credit for solar/geothermal	None	Similar.
Solar Thermal tax credit	None	None.
Limit on exclusion from gross income on parking	None	None.
Oil retrofit credits	None	None.
Exclusion from gross income for energy and water conservation rebates	None	None.
Rebates for purchase of safe, fuel-efficient cars and trucks, taxes on less safe, inefficient cars/trucks.	None	None.
Removal of net income limit on percentage depletion	None	None.
Tax credit for maintaining stripper well production	None	None.
Tax credit for new oil and gas development	None	None.
Changes in alternative minimum tax to consider drilling costs	None	None.
Repeal of taxable income limit on percentage depletion	None	None.
Election to carry forward depletion deductions	None	None.
Repeal of revenue ruling 77–176	None	None.
Section 29 credit modifications	None	None.
	OTHER MEASURES NOT IN THE WIRTH BILL	
None	Arctic National Wildlife Refuge leasing	Similar to JW.
None	Strategic Petroleum Reserve (9 percent oil import fee)	None.
None	OCS leasing program (revenue sharing)	None.
None	WEPCO (Clean Air Act amend.)	None.
None	Public Utility Holding Company Act: deregulates ownership of electric generation facilities.	Similar to JW.
None	Advanced Nuclear Reactor Commercialization	None.
None	Nuclear Reactor licensing	Similar to JW.
None	Uranium Enrichment Program Restructure	None.
None	Coal R&D	None.
None	Non-fuel uses of coal	None.
None	Clean coal tech export council	None.
None	Data base and study of coal transportation rates	None.
None	None	Leasing of Naval Petroleum Reserve.
None	None	Deregulation of oil pipeline rates.
None	None	Restructuring of Power Marketing Administration Payments.
None	None	Revoking State power for permits to characterize High-Level Nuclear Waste Site.
None	None	Computer software royalties.

Mr. WIRTH. Let me explain to my colleagues that the Wirth-Hatfield bill includes not only provisions in the jurisdiction of the Energy Committee, but also various tax provisions. These include incentives for domestic oil and gas production, and incentives for conservation and renewable resources.

For example, if an employer provides his employees with parking, that parking is given as a nontaxable benefit. But if the employer gives to his employees incentives to ride-share or reimburses them to take a bus downtown, those are taxable. That is just the opposite, probably, of what we want to do. We do not want to encourage more driving and parking and less use of mass transit.

So Mr. President, I am introducing the overall bill so everybody could see what the overall fabric is and how it is put together. For purposes of allowing the Energy Committee the opportunity to consider the nontax matters in this bill, I will also introduce a version of this bill which does not have in it title 8 of the overall bill—the tax matters. And to simplify the work of the Finance Committee, I will introduce title 8 as an independent bill that goes to the Finance Committee for its consideration.

For anybody who does not know the procedures of the Congress, that issue of jurisdiction is a very important one, and I think will help us to speed the process of consideration of this bill.

It is my hope the Finance Committee will review these energy-related issues and have that opportunity to do so while the Energy Committee is looking at matters in its jurisdiction so that when we get to the floor we will have the opportunity again to cobble all of this back together into the overall national framework that we want to see.

Mr. President, I appreciate having so much time to do this. I thank my colleagues who have cosponsored this bill, and I hope that other Senators will join us after their staffs have the opportunity over the break to review the Wirth-Hatfield bill.

Mr. President, I thank you very much for your consideration and for including all of those documents in the RECORD.

I also would like to submit for appropriate referral the overall energy bill and then two companion pieces of my own.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 741

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be referred to as the "National Energy Efficiency and Development Act of 1991".

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TITLE VIII—TAX TREATMENT OF ENERGY RESOURCES

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Sec. 801. Amendments to Internal Revenue Code.

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Sec. 851. Net Income Limitation on Percentage Depletion Not to Apply to Oil and Gas Wells.
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Sec. 856. Election to Carry Forward Depletion Deduction in Excess of Basis.
Sec. 857. Repeal of Revenue Ruling 77-176.
Sec. 858. Modifications of Section 29 Credit.

SEC. 3. FINDINGS.

Congress finds that:

(1) the Nation's dependence on imported oil currently exceeds 50 percent, and this reliance is anticipated to increase unless corrective measures are taken;

(2) more recently, political instability, and war in the Persian Gulf, have underscored the Nation's vulnerability to oil supply disruptions and unstable oil prices;

(3) trends in the concentration of greenhouse gases in the atmosphere may result in global changes in climate, with potentially significant economic, social, and environmental implications for man-kind;

(4) the formulation of domestic and international energy and natural resource policies are necessary in order to reduce the generation of carbon dioxide and other greenhouse gases and mitigate or adapt to potential adverse consequences of human-induced global climate change;

(5) significant cost-effective opportunities exist to increase the Nation's efficiency of energy use and thus reduce reliance on imported oil and decrease the generation of greenhouse gases into the atmosphere;

(6) increases in the efficiency of the Nation's energy use will provide significant environmental, economic, and energy security benefits to the Nation;

(7) increases in the use of domestic supplies of natural gas have the potential to reduce the Nation's reliance on imported oil and to reduce the generation of environmentally harmful emissions;

(8) increases in domestic oil and gas production has the potential to reduce the need for imported oil; and

(9) the development of the Arctic National Wildlife Refuge is not necessary to assure access to adequate supplies of energy for the United States.

SEC. 4. PURPOSES.

The purposes of this Act are to enhance national security, improve economic competitiveness and improve environmental quality by reducing the Nation's demand for oil and increasing the efficient use of energy resources in the industrial, commercial, residential and governmental sectors of the U.S. economy.

SEC. 5. GOALS FOR REDUCTION IN THE GENERATION OF CARBON DIOXIDE.

(a) The goals of this Act are to—

(1) foster the identification of an appropriate mix of policies referred to in subsection (b) that have the potential, if fully implemented, to stabilize the generation of carbon dioxide and other greenhouse gases in the United States;

(2) identify an appropriate mix of policies referred to in subsection (b) that have the potential, if fully implemented to achieve a 20 percent reduction in the generation of carbon dioxide by the year 2005 as recommended by the 1988 Toronto Scientific World Conference on the Changing Atmosphere;

(3) assess the feasibility of further limiting, or reducing, the generation of carbon dioxide and other greenhouse gases not controlled by the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer; and

(4) evaluate the potential social, economic, energy, and environmental implications of implementing the policies mentioned in paragraphs (1), (2), and (3) in order to enable the United States to comply with any obligations under an international global climate change framework convention or agreement.

(b) Policies to be considered in section 5(a) for the stabilization or reduction in the generation of carbon dioxide and other greenhouse gases include, but are not limited to, policies that—

(1) implement standards for more efficient use of fossil fuels;

(2) increase the energy efficiency of existing technologies;

(3) encourage technologies, including clean coal technologies, that generate lower levels of carbon dioxide and other greenhouse gases;

(4) promote the use of renewable energy resources, including solar, geothermal, sustainable biomass, hydropower, and wind energy;

(5) affect the development and consumption of energy and energy efficiency resources and electricity through tax policy; and

(6) encourage investment in energy efficient equipment and technology.

(c) In order to promote international cooperation in addressing potential global climate change, it is the goal of the United States to establish by 1992, an international framework convention on global climate change through the activities of the Intergovernmental Panel on Climate Change of the United Nations International Environmental Program and the World Meteorological Organization and secure the commitment of the community of nations to such convention.

SEC. 6. DEFINITIONS.

For the purposes of this Act, the term—

(1) "Department" means the Department of Energy;

(2) "energy efficiency resource" means energy saved through improvements in the efficiency of energy production, transportation, or utilization (including spot-pricing);

(3) "energy resources" includes, but is not limited to, supplies of natural gas, crude oil and petroleum products, coal, nuclear energy, and renewable energy;

(4) "lesser-developed countries" shall include, but not be limited to, Eastern Europe and the Soviet Union;

(5) "Secretary" means the Secretary of Energy, unless otherwise provided;

(6) "spot-pricing" means the use by electric utilities of a two-way telecommunications system to charge rates to industrial, commercial, or residential customers that vary so that the customer can pay the true cost of electricity used at the time it is used;

(7) "global climate change" means changes in the climate of the earth that result from increases in the atmospheric concentrations of greenhouse gases;

(8) "greenhouse gases" means carbon dioxide and other gases such as chlorofluorocarbons, methane, ozone, and nitrous oxides that contribute to global climate change;

(9) "United States" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States; and

(10) "joint venture" has the same meaning as set forth in section 3 of the Renewable Energy and energy Efficiency Technology Competitiveness Act of 1989 (P.L. 101-218), and joint ventures authorized herein shall be conducted pursuant to that Act.

TITLE I—ENERGY POLICY INITIATIVES

Subtitle A. National Energy Strategy

SEC. 101. LEAST-COST ENERGY STRATEGIES.

(a) The first National Energy Policy Plan (the "Plan") under section 801 of the Department of Energy Organization Act (42 U.S.C. 7321) prepared and submitted by the President to Congress after the date of the enactment of this Act, and each subsequent such Plan, shall include a least-cost energy strategy prepared by the Secretary.

(b)(1) The least-cost energy strategy shall identify Federal priorities for the encouragement of the use of energy and energy efficiency resources. In developing the least-cost energy strategy, the Secretary shall take into consideration the economic, energy, social, and environmental consequences of the Secretary's choices. Such strategy shall be designed to achieve to the maximum extent practicable and at least-cost to the Nation—

(A) the energy production, utilization, and conservation objectives of the Plan; and

(B) the stabilization and reductions in the generation of carbon dioxide and other greenhouse gases mentioned in section 5(a).

(2) The least-cost energy strategy shall include—

(A) a comprehensive inventory of available energy and energy efficiency resources and their projected costs, taking into account all costs of production, transportation, and utilization of such resources, including—

(i) coal, clean coal technologies, coal seam methane, and underground coal gasification;

(ii) energy efficiency, including existing technologies for increased efficiency in production, district heating and cooling, transportation, utilization energy, and other technologies that are anticipated to be available through further research and development; and

(iii) other energy resources, such as renewable energy, solar energy, fusion, geothermal, biomass, fuel cells, and hydropower.

(B) a proposed two-year program for assuring adequate supplies of energy and energy efficiency resources under paragraph (1), and an identification of actions that can be undertaken within existing Federal authority; and

(C) recommendations for any new Federal authority needed to achieve the purposes of this Act.

(c)(1) The relative costs of energy and energy efficiency resources under this section shall be determined based upon a comparison of the estimated system costs of other similarly reliable and available resources.

(2) System costs under paragraph (1) are all direct and quantifiable net costs for the resource over its available life, including the cost of production, transportation, utilization, waste management, environmental degradation, and, in the case of imported energy resources, maintaining access to foreign sources of supply.

(3) When comparing an energy efficiency resource to an energy resource, a higher priority shall be assigned to the energy efficiency resource whenever its estimated sys-

tem cost is equal to the estimated system cost of the energy resource.

SEC. 102. CONFORMING AMENDMENT.

(a) Section 801 of Public Law 95-91 is amended in subsection (c)(1) by inserting "cost estimates," after "whatever data and analysis are necessary to support the".

(b) Title III of the Energy Security Act (42 U.S.C. 7361, et seq.) is hereby repealed.

Subtitle B.—Director of Climate Protection

SEC. 111. APPOINTMENT.

(a) Within six months after the date of the enactment of this Act, the Secretary shall appoint within the Department, a Director of Climate Protection (the "Director"). The Director shall:

(1) in the absence of the Secretary, serve as the Secretary's representative for interagency and multilateral policy discussions of global climate change;

(2) monitor domestic and international policies for their effects on the generation of carbon dioxide and other greenhouse gases; and

(3) have the authority to participate in the planning activities in relevant Departmental programs.

(b) Beginning 18 months after the date of the enactment of this Act, and annually thereafter, the Director shall participate in the formulation of the least-cost energy strategy under section 101.

TITLE II—MEASURES TO IMPROVE THE ENERGY EFFICIENCY OF THE UNITED STATES ECONOMY

Subtitle A.—Research and Development

SEC. 201. ENERGY EFFICIENCY RESEARCH AND DEVELOPMENT AUTHORIZATIONS.

Section 5 of the Renewable Energy and Energy Efficiency Technology Competitiveness Act (P.L. 101-218) is hereby amended by striking all after the first paragraph and inserting in lieu thereof the following:

"(1) not to exceed $300,000,000 for fiscal year 1992;

"(2) not to exceed $375,000,000 for fiscal year 1993; and

"(3) not to exceed $450,000,000 for fiscal year 1994.".

SEC. 202. REPORT.

The Secretary, in consultation with the Council of Economic Advisors, shall submit to the Congress within one year after the date of the enactment of the National Energy Efficiency and Development Act of 1991, and every three years thereafter through the year 2004, a report setting forth energy efficiency policy options that would decrease domestic oil consumption and overall domestic energy consumption by one, two, three, and four percent, per-year per-unit of GNP, through the year 2005, below the projected consumption for 2005. The Secretary shall evaluate, describe, and rank these policy options according to their cost-effectiveness and their feasibility of implementation.

Subtitle B.—Industrial Energy Efficiency

SEC. 212. IMPROVING EFFICIENCY IN ENERGY-INTENSIVE INDUSTRIES AND INDUSTRIAL PROCESSES.

(a) SECRETARIAL ACTION.—The Secretary, acting in accordance with authority contained in the Federal Nonnuclear Energy Research and Development Policy Act of 1974 (42 U.S.C. 5901-5920) and other applicable laws shall—

(1) pursue a research and development program intended to improve energy efficiency and productivity in energy-intensive industries and industrial processes; and

(2) in accordance with the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (P.L. 101-218), undertake joint ventures to encourage commercialization of technologies developed under paragraph (1).

(b) JOINT VENTURES.—

(1) The Secretary shall in accordance with the procedures set forth in the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (P.L. 101-218)—

(A) conduct a competitive solicitation for proposals from specialized private firms and investors for joint ventures under subsection (a)(2); and

(B) provide financial assistance to at least five such joint ventures.

(2) The purpose of the joint ventures shall be to design, test and demonstrate changes to industrial processes that will result in improved energy efficiency and productivity. The joint ventures may also demonstrate other improvements of benefit to such industries so long as demonstration of energy efficiency improvements is a principal objective of the joint venture.

(3) In evaluating proposals for financial assistance and joint ventures under this section, the Secretary shall consider—

(A) whether the research and development activities conducted under this section (i) improve the quality and energy efficiency of industries or industrial processes, and (ii) reduce the generation of carbon dioxide and other greenhouse gases into the atmosphere;

(B) the regional distribution of the energy-intensive industries and industrial processes; and

(C) whether the proposed joint-venture project would be located in the region which has the energy-intensive industry and industrial processes that would benefit from the project.

(c) AUTHORIZATION.—There is authorized to be appropriated to the Secretary $5,000,000 for fiscal year 1992, $15,000,000 for fiscal year 1993, and $25,000,000 for fiscal year 1994, to carry out the purposes of this Act.

SEC. 213. VOLUNTARY STANDARDS FOR IMPROVEMENT OF INDUSTRIAL AUDITS AND STANDARDS FOR INDUSTRIAL INSULATION.

(a) RECOMMENDATIONS FOR IMPROVEMENTS OF INDUSTRIAL AUDITS.—Not later than December 31, 1992, the Secretary shall review the status of industrial auditing procedures and make recommendations for improvement as appropriate.

(b) VOLUNTARY STANDARDS FOR INSULATION.—(1) The Secretary shall, with funds available to carry out this section, develop, directly or by contract, a voluntary national program to devise standards for the proper levels of industrial insulation.

(2) The standards shall be developed in consultation with manufacturers, suppliers, and installers of insulation, utilities and major industrial energy users, and non-profit organizations.

(3) The Secretary shall issue such standards not later than December 31, 1992.

(c) OTHER ASSISTANCE.—The Secretary shall conduct a program of education and technical assistance concerning the standards under subsection (b) and auditing procedures under subsection (a).

(d) REPORT.—The Secretary shall transmit, by December 31, 1994, a report to the Congress detailing—

(1) standards developed and recommended changes in audit procedures; and

(2) the educational and technical assistance provided under this section, an evaluation of its effectiveness, and the responsiveness of the industrial sector to the standards.

(e) AUTHORIZATIONS.—There is authorized to be appropriated for purposes of this section not more than $750,000 for each of the fiscal years 1992, 1993, and 1994.

SEC. 214. INDUSTRIAL REPORTING REQUIREMENTS AND VOLUNTARY EFFICIENCY TARGETS.

(a)(1) REPORTING.—The Secretary shall establish a program to compile a report on the energy consumed by corporations in major energy consuming industries. The report shall contain information on the amount of energy consumed per unit of output, by fuel type, by the reporting corporation. In addition, the report shall contain comparative information based on energy consumption from a representative reference year that will allow the corporation to determine, in its report, any energy efficiency improvements. The report shall be structured to enable a determination of the energy conservation measures that led to the efficiency improvements.

(2) For purposes of the report, major energy consuming industries shall include:

(i) food products;

(ii) textiles;

(iii) lumber;

(iv) paper;

(v) chemicals;

(vi) petroleum;

(vii) stone;

(viii) primary metals;

(ix) fabricated metals; and

(x) transportation equipment.

Only those corporations that consume at least 500 billion Btu's of energy in a calendar year within an energy consuming industry shall be required to file a report under the program. The Secretary may define additional industries and major energy consumers and lower the minimum energy consumption requirements for corporate reporting.

(3) Secretary shall ensure that no trade secrets or other proprietary information are disclosed as part of this program. The information compiled as part of this section shall be published in the Federal Register during the year in which corporate reports are received, and as part of a comprehensive report on energy efficiency improvements submitted to Congress as required under section 215(c) of this Act.

(b) VOLUNTARY ENERGY EFFICIENCY IMPROVEMENT TARGETS.—(a)(1) Within 18 months after the enactment of this Act, the Secretary shall establish voluntary energy efficiency improvement targets for each of the major energy consuming industries specified under subsection (a). The targets shall represent a percentage reduction in energy consumption per unit of production that the Secretary determines may be achieved by each energy consuming industry between calendar years 1992 and 1997.

(2) The Secretary shall modify the targets described in paragraph (1) every five calendar years, beginning in 1998.

(c) The Secretary shall submit a report to Congress describing the results of the information and targets established under this section.

SEC. 215. ENERGY EFFICIENCY INFORMATION.

(a) DATA ON ENERGY EFFICIENCY.—Pursuant to section 52(a) of the Federal Energy Administration Act of 1974 (P.L. 93-275), and after consultation with State and Federal energy officials, representatives of energy producing and energy-using classes and sectors, and representatives of energy policy public interest or research organizations, the Administrator of the Energy Information Administration shall expand the scope and frequency of the data it collects and reports on energy use in the United States with the objective of significantly improving the ability to evaluate the effectiveness of the Nation's energy efficiency policies and programs. The Administrator shall take into account reporting burdens and the protection of proprietary information as required by law. In expanding the collection of such data to meet this objective, the Administrator shall consider—

(1) expanding data collection to include energy intensive sectors not presently covered in Energy Information Administration surveys;

(2) increasing the frequency with which the Energy Information Administration conducts end-use energy surveys among households, commercial buildings, and manufacturing;

(3) expanding the survey instruments to include questions regarding participation in government and utility conservation programs, the energy efficiency of existing stocks of equipment and structures, and recent changes in the technical efficiency and operating practices that affect energy use;

(4) expanding the time period for which fuel-use data is collected from individual survey respondents;

(5) expanding the sample sizes for fuel-use surveys in order to improve the accuracy of subgroups of energy users; and

(6) expanding the scope and frequency of data collection on the energy efficiency and load-management programs operated by electric and gas utilities.

(b) ANNUAL REPORT.—The Administrator shall report annually to Congress on the energy efficiency in classes and sectors of the economy and on the data resulting from the requirements of this section.

Subtitle C.—Efficiency in Commercial and Residential Buildings and Other Products

SEC. 221. RESIDENTIAL AND COMMERCIAL BUILDING ENERGY EFFICIENCY CODES AND STANDARDS.

(a) IN GENERAL.—Title II of the National Energy Conservation Policy Act is amended by adding at the end the following new part:

"PART 6—RESIDENTIAL AND COMMERCIAL BUILDING ENERGY EFFICIENCY CODE AND STANDARDS.

"SEC. 271. UPDATING OF ENERGY EFFICIENCY CODE AND STANDARDS.

"(a) TECHNICAL ASSISTANCE.—Not later than 12 months after the date of the enactment of this part, the Secretary shall establish a program to provide technical assistance to States and localities for the purpose of updating energy efficiency provisions of residential and commercial building codes. In establishing and carrying out such program, the Secretary shall provide assistance to building code officials in reviewing and analyzing current model codes and standards for residential and commercial building energy efficiency, in designing appropriate code amendments, and in developing code administration, compliance, and enforcement methods.

"(b) CERTIFICATION OF RESIDENTIAL BUILDING ENERGY CODE UPDATES.—(1) Not later than four years after the date of the enactment of this part, each State or locality shall certify that it has reviewed and updated its residential building code provisions affecting energy efficiency. This certification shall include a demonstration that the State's building energy efficiency code provisions meet or exceed the requirements of the then current version of the Council of American building Officials' Model Energy Code.

"(2) At the end of the three year period beginning on the date on which a State makes the certification described in paragraph (1), the State shall certify to the Secretary that all of the new residential buildings constructed in the State during such period meet the requirements of the updated building code referred to in such paragraph.

"(c) CERTIFICATION OF COMMERCIAL BUILDING ENERGY CODE UPDATES.—(1) Not later than four years after the date of the enactment of this part, each State or locality shall certify to the Secretary that it has reviewed and updated its commercial building code provisions affecting energy efficiency. This certification shall include a demonstration that the State's code provisions meet or exceed the requirements of the then current versions of the Department of Energy's Commercial Building Standards as required under section 304 of the Energy Policy and Conservation Act (P.L. 94-385, as amended).

"(2) At the end of the three-year period beginning on the date on which a State makes the certification described in paragraph (1), the State shall certify to the Secretary that all of the new commercial buildings constructed in the State during such period meet the requirements of the update building code referred to in such paragraph.

"(d) EXTENSIONS.—The Secretary shall permit extensions of the deadlines for the certification requirements of subsections (b) and (c) if a State can demonstrate that it has made a good faith effort to comply with such requirements and that it has made significant progress in doing so but that it cannot meet the deadlines set forth in such subsections.

"(e) TASK FORCE.—(1) The Secretary shall establish a task force to advise in the development of the program described in subsection (a) and to review the results of such program.

"(2) The task force shall include representatives from the following groups: building construction industry; building scientists; nonprofit groups concerned with energy efficiency in buildings; utilities; manufacturers and installers of energy efficient materials and systems; the financial community; code officials; State governments; and commercial building owners, operators and managers.

"SEC. 272. AUTHORIZATION.

"There is authorized to be appropriated to carry out this part not more than $500,000 for fiscal year 1992, $1,000,000 for fiscal year 1993, and $1,500,000 for fiscal year 1994.".

(b) CLERICAL AMENDMENT.—The National Energy Conservation Policy Act (P.L. 95-619, as amended) is amended by adding in the table of contents at the end of title II the following items:

"Part 6—Residential and Commercial Building Energy Efficiency Codes and Standards.

"Sec. 271. Updating of Energy Efficiency Codes and Standards.

"Sec. 272. Authorization.".

SEC. 222. RESIDENTIAL ENERGY EFFICIENCY RATINGS.

(a) AMENDMENT TO NECPA.—Title II of the National Energy Conservation Policy Act (P.L. 96-1619) is hereby amended by adding a new part 6 as follows:

"PART 6—RESIDENTIAL ENERGY EFFICIENCY RATINGS

"SEC. 271.—RATINGS.

"(a) Within twelve months after the date of the enactment of the National Energy Efficiency and Development Act of 1991, the Secretary, in consultation with the Secretary of Housing and Urban Development, shall, by rule, promulgate guidelines for procedures to be implemented by State governments that would enable the assignment of an energy efficiency rating to residential buildings.

"(b) The guidelines under subsection (a) shall;

"(1) provide for a numerical rating of the efficiency with which any residential building may be supplied with heating and cooling energy on an annual basis, and evaluate the practicality of including major energy consuming appliances in such rating;

"(2) provide that all residential buildings can receive a rating at the time of sale;

"(3) ensure that the rating is prominently communicated to potential buyers and renters;

"(4) ensure that the rating system is designed to facilitate its use by lenders and the secondary mortgage markets to promote energy efficiency; and

"(5) ensure that the rating system is consistent with, and supportive of, the uniform plan for mortgage financing incentives required under section 946 of the Cranston-Gonzales National Affordable Housing Act (P.L. 101-625).

"(c) SPECIAL RULE.—In promulgating the procedures under this section, the Secretary shall provide that the supply of energy to any residential building from solar energy shall be credited toward the energy efficiency rating of such building.

"SEC. 272.—TECHNICAL ASSISTANCE.—Within twelve months after the date of the enactment of the National Energy Efficiency and Development Act of 1991, the Secretary shall establish a program to provide technical assistance for State and local organizations adopting residential energy efficiency rating systems or building codes.

"SEC. 273.—FEDERAL FINANCING AND INSURANCE.—Beginning five years after the date of the enactment of the National Energy Efficiency and Development Act of 1991, all residential buildings must have numerical ratings of their energy efficiency. Potential purchasers of residential buildings shall be informed of the residential building's energy efficiency rating and all applicable information regarding Federal energy efficient mortgage programs in both real-estate listings and mortgage application information. Any residential building that does not meet the standards established under section 221 of the National Energy Efficiency and Development Act of 1991, and that does not include an energy efficiency mortgage provision to finance the improvements necessary to meet such standards, shall not be eligible for mortgage financing programs of the Federal government.

"SEC. 274.—AUTHORIZATION.—There is authorized to be appropriated $1,000,000 for each of fiscal years 1992, 1993, and 1994.".

(b) CONFORMING AMENDMENT.—The National Energy Conservation Policy Act (P.L. 95-619) is further amended by adding in the table of contents at the end of Title II, the following items:

"PART 6—RESIDENTIAL ENERGY EFFICIENCY RATINGS

"Sec. 271. Ratings.

"Sec. 272. Technical Assistance.

"Sec. 273. Federal Financing and Insurance.

"Sec. 274. Authorization.".

SEC. 223. MANUFACTURED HOUSING ENERGY EFFICIENCY STANDARDS AND TRAINING.

(a) Section 943 of the Cranston-Gonzalez Housing Bill, (P.L. 101-625), is amended by—

(1) striking the phrase "thermal insulation, energy efficiency" in subparagraph (d)(1)(D); and

(2) inserting a new subparagraph (E) as follows, and relettering the existing subparagraphs accordingly:

"(E) consult with the Secretary of Energy and make recommendations regarding additional or revised standards for thermal insulation and energy efficiency applicable to manufactured housing;"

(b) The Secretary shall test the performance and determine the cost-effectiveness of manufactured housing constructed to the standards established under section 943 (d)(1)(E) of Public Law 101-625.

SEC. 224.—INCENTIVES FOR THE ADOPTION OF COMMERCIAL BUILDING STANDARDS.

(a) CREATION OF THE FUND.—There is hereby created in the United States Treasury, the State Energy Efficiency Project Fund (hereinafter referred to as the "Fund").

(b) IN GENERAL.—Not later than one year after the date of the enactment of the National Energy Efficiency and Development Act of 1991, the Secretary shall establish guidelines for the operation of the Fund to provide grants to eligible States for the purpose of undertaking energy efficiency projects in State and locally owned buildings.

(c) PROJECT SELECTION.—Each quarter the Secretary shall accept proposals from Governors of eligible States for grants to undertake cost-effective energy efficiency improvement projects in buildings owned and operated by such State, or eligible political subdivisions of such State. The Secretary shall consider and provide grants of up to $1,000,000 for such projects based upon the following factors:

(1) the cost-effectiveness of the project;

(2) the amount of energy and cost savings anticipated as a result of the project;

(3) the amount of funding committed to the project by the State or political subdivisions of such State;

(4) the extent that a proposal leverages financing from non-Federal sources; and

(5) any other factor which the Secretary determines will result in the greatest amount of energy and cost savings to the Federal government.

(d) DEFINITIONS.—For the purposes of this section:

(1) "eligible State" means any State, territory, or the District of Columbia, in which 50 percent of the population lives within political subdivisions which have jurisdiction over energy performance standards for new buildings, and which subdivisions have adopted energy performance standards for new commercial buildings at least as stringent as the voluntary Federal performance standards for new commercial buildings promulgated pursuant to Title III of the energy Conservation and Production Act (42 U.S.C. 6831);

(2) "eligible political subdivision" means a county, city, town, or other local government which has jurisdiction over commercial building energy efficiency standards and which has adopted building energy efficiency standards at least as stringent as the voluntary Federal building efficiency standards for commercial buildings promulgated pursuant to Title III of the Energy Policy and Conservation Act (42 U.S.C. 6831);

(3) "cost-effective energy efficiency project" means any energy conservation, energy efficiency or renewable energy project which the Secretary determines has a payback period of ten years or less; and

(4) "building" means any building, collection of buildings, structure or facility which is owned and operated by the State, or political subdivisions of such State, and which includes a heating system, a cooling system, or both.

(e) REPORT.—The Secretary shall report annually to Congress on the activities of the Fund, including: the projects funded; the balance in the Fund; and the projected energy and cost savings from projects receiving grants under this section.

(f) AUTHORIZATION.—For purposes of this subsection, there is authorized to be appropriated into the Fund, and to remain available until expended, not more than $100 million.

SEC. 225. ENERGY EFFICIENCY LABELING FOR WINDOWS AND WINDOW SYSTEM.

(a) DEVELOPMENT OF PROGRAM.—Not later than one year after the date of the enactment of this Act, the Secretary shall, in consultation with the National Fenestration Rating Council, industry representatives, and other appropriate groups provide financial and technical assistance to support the voluntary development of a national window rating program to establish energy efficiency ratings for windows and window systems. Such program shall set forth information and specifications that will enable purchasers of windows or window systems to make more informed purchasing decisions based upon the potential cost and energy savings of alternative window products.

(b) SECRETARIAL ACTION.—If a national window rating program, consistent with the objectives of subsection (a), is not established within two years of the date of enactment of this Act, then the Secretary shall, in consultation with the National Institute of Standards and Technology, develop, within one year, a rating program to establish energy efficiency ratings for windows and window systems under section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293).

(c) FEDERAL TRADE COMMISSION RULES.—The Federal Trade Commission (hereinafter in this section, the "Commission") shall prescribe labeling rules for the rating program established pursuant to either subsection (a) or (b), under section 324 of the Energy Policy and Conservation Act (42 U.S.C. 6294) unless, the Commission determines that labeling in accordance with subsections (a) or (b) of this section is not technologically or economically feasible or is not likely to assist consumers in making purchasing decisions with respect to any type of window or window system (or class thereof).

(d) COVERED PRODUCTS.—For purposes of sections 323 and 324 of the Energy Policy and Conservation Act, windows and window systems shall be considered covered products under section 322 of such Act (42 U.S.C. 6292) unless excluded by the Commission.

(e) AUTHORIZATION.—There are authorized to be appropriated to the Secretary $750,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of this section.

SEC. 226. ENERGY CONSERVATION STANDARDS FOR LAMPS, MOTORS, COMMERCIAL AIR CONDITIONING AND HEATING EQUIPMENT, UTILITY DISTRIBUTION TRANSFORMERS, SHOWERHEADS, AND COMMERCIAL OFFICE EQUIPMENT.—

(a) DETERMINATION OF TYPES.—(1) The Secretary shall, within 18 months after the date of the enactment of this Act, determine the types of lamps, appliance motors, commercial air conditioning and heating equipment, utility distribution transformers, showerheads, and commercial office equipment for which energy conservation standards would be technologically feasible and economically justified.

(2) For purposes of this section, the term "energy conservation standard" means—

(A) a performance standard that prescribes a minimum level of energy efficiency or a maximum quantity of energy use for a product; or

(B) a design requirement for a product.

(b) STANDARDS.—(1) The Secretary shall, within 18 months after the date on which the determination is made under subsection (a), establish test procedures, and develop an energy conservation standard for each type of lamp, appliance motor, commercial air conditioning and heating equipment, utility distribution transformers, showerheads, and commercial office equipment identified in such determination.

(2) In establishing such standards, the Secretary shall take into consideration the criteria contained in section 325(1) of the Energy Policy and Conservation Act.

(c) LABELING.—(1) The Federal Trade Commission shall, within twelve months after the date on which an energy conservation standard is developed for a product under subsection (b), prescribe a labeling rule for such product.

(d) REQUIREMENT OF MANUFACTURERS.—Beginning on the date which occurs six months after the date on which a labeling rule is prescribed for a product under subsection (c), each manufacturer of the product shall provide a label which meets, and is displayed in accordance with, the requirements of such rule.

(e) ENFORCEMENT.—(1) After the date on which a manufacturer must provide a label for a product pursuant to subsection (d)—

(A) each product shall be considered, for purposes of paragraphs (1) and (2) of section 332(a) of the Energy Policy and Conservation Act, a new covered product to which a rule under section 324 of such Act applies; and

(B) it shall be unlawful for any manufacturer or private labeler to distribute in commerce any new product to which a labeling rule is applicable under subsection (c) which is not in conformity with the applicable energy conservation standard prescribed for it under subsection (b).

(2) For purposes of section 333(a) of the Energy Policy and Conservation Act, paragraph (1) of this subsection shall be considered to be a part of section 332 of such Act.

SEC. 227. TRAINING AND CERTIFICATION OF DESIGNERS AND CONTRACTORS.

(a) PROGRAM.—Within one year after the date of the enactment of the Act, the Secretary shall establish, for a five-year period, a training and certification program for contractors involved in the sale, installation and maintenance of energy efficiency systems and equipment, including heating, cooling and ventilating equipment, building insulation, lighting, building design and other technical areas deemed appropriate by the Secretary. The Secretary shall enlist appropriate trade and professional organizations in the development and administration of this program. The program shall include training workshops, practice manuals, and certification testing for each area of energy efficiency technology and practice, consistent with sections 221 through 226 of the National Energy Efficiency and Development Act of 1991. After five years of operation, the Secretary is authorized to transfer and funding of the program to the private sector.

(b) AUTHORIZATIONS.—There are authorized to be appropriated for the purposes of this section, $1,000,000 in fiscal year 1992; $1,500,000 in fiscal year 1993; and $2,000,000 in fiscal year 1994.

Subtitle D.—Federal Energy Management

SEC. 231. FEDERAL ENERGY MANAGEMENT AMENDMENT.

Part 3 of Title V the National Energy Conservation Policy Act (NECPA) (42 U.S.C. 8251 et seq.), as amended, is further amended as follows:

(a) in section 543:

(1) Strike subsection (a) and insert the following new text in lieu thereof:

"(a) ENERGY MANAGEMENT REQUIREMENT FOR FEDERAL BUILDINGS.—(1) Not later than January 1, 2000, each Federal agency shall, to the maximum extent practicable, install in Federal buildings under the control of such agency in the United States, all energy conservation measures with payback periods of less than ten years as calculated using the methods and procedures developed pursuant to section 544. In cases where it is possible to install alternative conservation improvements that provide the same energy service, the improvement with the greatest net present value will be selected. Within two years of after the date of the enactment of this Act, each agency shall submit to the Secretary a list of projects meeting the ten-year payback criterion, the energy that each project will save and total energy and cost savings involved. Subject to the availability of appropriated funds, each Federal agency shall have substantially completed at least 25 percent of the projects on the list or projects on the list that would account for 25 percent of total energy savings, by January 1, 1995. If any agency has not met this requirement, such agency shall spend no funds in States where this requirement has not been met for the construction or acquisition of a Federal building except to meet the requirements of this section. If any agency has not met any requirement of this section. If any agency has not met any requirement of this section for the year 2000, then such agency shall spend no funds in States where this requirement has not been met for the construction or acquisition of a Federal building except to meet the requirement of this section. The Secretary may waive any requirement of this section if the Secretary finds that an agency is taking all practicable steps to meet the requirement and that the sanctions of this section will pose an unacceptable burden upon the agency. If the Secretary waives any requirement of this section, he shall notify Congress promptly.

"(2) An agency may exclude from the requirements of paragraph (1) any Federal building or collection of Federal buildings, and the associated energy consumption and gross square footage, if the head of such agency finds that compliance with the requirements of paragraph (1) would be impracticable. A finding of impracticability shall be based on the energy intensiveness of activities carried out in such Federal buildings or collection of Federal buildings, the type and amount of energy consumed, the technical feasibility of making the desired changes, or the unique character of many facilities operated by the Department of Defense and the Department of Energy. Each agency shall identify and list in each report made under section 548, the Federal buildings designated by it for such exclusion. The Secretary shall review such findings for consistency with the impracticability standards set forth herein, and may within 90 days after receipt of the findings, reverse a finding of impracticability, in which case, the agency shall comply with the requirements of paragraph (1). This section shall not apply to an agency's facilities that generate or transmit electric energy, nor to the uranium enrichment facilities operated by the Department of Energy.";

(2) In subsection (b):

(A) after the words "subsection (a)," insert the following:

"The Secretary of Energy shall consult with the Secretary of Defense and the Administrator of the General Services Administration in developing guidelines for the implementation of this Part, and";

(B) strike the phrase "Federal Energy Management Improvement Act of 1988," in paragraph (1) and insert in lieu thereof "National Energy Efficiency and Development Act of 1991, and submit to the Secretary of Energy";

(C) after the words "high priority projects;" insert the following: "and such plan shall include steps to take maximum advantage of contracts authorized under title VIII of this Act (42 U.S.C. 8287 et seq.), financial incentives, and other services provided by utilities for efficiency investment and other forms of financing to reduce the direct costs to the government;";

(D) at the end of paragraph (2), strike the semicolon and insert the following: ", and update such surveys periodically, but not less than every three years;";

(E) replace paragraph (3) with the following new paragraph:

"(3) using such surveys, determine the cost and payback period of energy conservation measures likely to achieve the goals of this section;"; and

(F) insert a new paragraph (4) as follows, and renumber paragraph (4) as "(5)"'

"(4) install those energy conservation measures that will attain the requirements of this section in a cost-effective manner as defined in Section 544, and".

(b) in section 544:

(1) Strike "National Bureau of Standards," in subsection (a) and insert in lieu thereof "National Institute of Standards and Technology,"; and

(2) strike all after the word "each", in paragraph (b)(2) and insert in lieu thereof: "agency shall, after January 1, 1994, fully consider the energy efficiency of all potential building space at the time of renewing or entering into a new lease. Further, all government leased space constructed after January 1, 1994, shall meet model Federal building standards for energy efficiency."

(3) insert a new subsection (d) as follows:

"Renewable energy systems shall be specifically included as energy efficiency measures if they are cost-effective on a 10 year life-cycle cost basis, or, if they are owned and maintained by a third-party contractor so that the Federal government bears no construction or maintenance costs but instead purchases the solar-produced energy from the third party contractor at a cost that produces savings to the Federal government on a life-cycle cost basis.".

(c) in section 545, add after the word "measures" the following: "as needed to meet the requirements of section 543.".

(d) in section 546, designate the existing text as "(a)" and insert a new subsection "(b)" as follows:

"Two-thirds of the portion of the funds appropriated to an agency for a fiscal year that is equal to the amount of energy cost savings realized by the agency, including financial benefits resulting from shared energy savings contracts and financial incentives described in paragraph (3)(B) for any fiscal year beginning after fiscal year 1991 shall remain available for obligation under paragraph (2) through the end of the fiscal year following the fiscal year for which the funds were appropriated without additional authorization or appropriation.

"(2) The amount that remains available for obligation under paragraph (1) shall be utilized by the Secretary as follows:

"(A) One-half of the amount shall be used for the implementation of additional energy conservation measures at such buildings, facilities, or installations of the Agency as the head of the department, agency, or instrumentality that realized the savings may designate in accordance with regulations prescribed by the Secretary of Energy.

"(B) One-half of the amount shall be used at the installation at which the savings were realized, as determined by the Secretary or Administrator or by the Commanding Officer of such installation consistent with applicable laws and regulations, for—

"(i) improvements to existing military family housing units;

"(ii) any unspecified minor construction project that will enhance the quality of life or personnel;

"(iii) any morale, welfare, or recreation facility or service.".

(e) At the end of Part 3, add the following new sections:

"SEC. 552. UTILITY INCENTIVE PROGRAMS.—Federal agencies are permitted and encouraged to participate in programs conducted by any gas or electric utility for the management of energy demand or for energy conservation in federally owned or leased facilities. Federal agencies may accept incentives designed to encourage energy demand management or energy conservation, generally available from any such utility to its customers, to adopt technologies and practices that are determined to be cost-effective.

"SEC. 553. SHARED ENERGY SAVINGS.—(a) The Secretary shall develop a simplified method of contracting for shared energy savings contract services that will accelerate the use of these contracts and will reduce the administrative effort and cost on the part of the government as well as the private customers.

"(b)(1) In carrying out subsection (a), the Secretary may:

"(A) request statements of qualifications, including financial and performance information, from firms engaged in providing shared energy savings contracting;

"(B) designate from the statements received, with an update at least annually, those firms that are presumptively qualified to provide shared energy savings services;

"(C) select at least three firms from the qualifying list to conduct discussions concerning a particular proposed project, including requesting a technical and price proposal from such selected firms for such project; and

"(D) select from such firms the most qualified firm to provide shared energy savings services pursuant to a contractual arrangement that the Secretary determines is fair and reasonable, taking into account the estimated value of the services to be rendered and the scope and nature of the project.

"(2) In carrying out subsection (a), the Secretary may also provide for the direct negotiation by departments, agencies, and instrumentalities, of contracts with shared energy savings contractors that have been selected competitively and approved by any gas or electric utility serving the department, agency, or instrumentality concerned.

"SEC. 554. FEDERAL PRODUCT SCHEDULE.—Not later than two years after the date of enactment of the National Energy Efficiency and Development Act of 1991, the Administrator of the General Services Administration, in consultation with the Secretary, shall conduct an analysis of significant energy consuming products in the Federal Supply Schedule and develop and implement a method to identify those products which offer cost-effective opportunities to reduce energy consumption and costs. The Administrator shall also issue guidelines for users of the Federal Product Schedule to encourage the purchase of identified energy efficient models.

"SEC. 555. Federal Energy Efficiency Projects Funding.—

"(a) Funding.—Not later than one year after the date of the enactment of the National Energy Efficiency and Development Act of 1991, the Secretary shall establish guidelines for the transfer of up to $1 million per project to encourage Federal agencies to undertake energy efficiency projects in Federally owned facilities.

"(b) Project Selection.—The Secretary shall accept established procedures for the receipt of proposals from agencies under this section. The Secretary shall consider the following factors in determining whether to provide such funding under subsection (a):

"(1) the cost-effectiveness of the project;

"(2) the proportion of energy and cost savings anticipated to the Federal government;

"(3) the amount of funding committed to the project by the agency requesting financial assistance;

"(4) the extent that a proposal leverages financing from other non-Federal sources; and

"(5) any other factor which the Secretary determines will result in the greatest amount of energy and cost savings to the Federal government.

"(c) Reports.—The Secretary shall report annually to Congress in the supporting documents accompanying the President's budget, on the activities under this section. The report shall include: the projects funded and the projected energy and cost savings from installed measures.

"(d) Authorization.—For purposes of this subsection, there is authorized to be appropriated into the Fund, and to remain available until expended, not more than $75,000,000 for fiscal year 1992, $125,000,000 for fiscal year 1993, and $200,000,000 for fiscal year 1994.".

"SEC. 556. Financial Incentive Program for Facility Energy Managers.—(1) The Secretary shall establish a financial bonus program to reward outstanding facility energy managers in Federal agencies.

"(2) Not later than June 1, 1992, the Secretary shall issue procedures for the bonus program, including the criteria to be used in selecting outstanding energy managers. Such criteria shall include, but not be limited to, evident success in generating utility incentives and shared energy saving contracts and in the amount of energy saved by conservation projects.

"(3) Each year the Secretary shall publish and disseminate to Federal agencies a report highlighting the achievements of bonus award winners.

"(4) There is authorized to be appropriated to carry out this subsection not more than $250,000 for each of the fiscal years 1992, 1993, and 1994.".

Sec. 232. Purchase of Federal Vehicles.—(a) In General.—Section 510(a) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2010) is amended to read as follows:

"(a)(1) Except as provided in paragraph (2), not later than 180 days after the date of the enactment of the National Energy Efficiency Act of 1991, the President shall promulgate rules prohibiting each executive agency from acquiring any automobile with a fuel economy that is not greater than the average fuel economy for that particular model type for the previous model year.

"(2) The rules promulgated under paragraph (1) shall not apply to automobiles designed to perform combat related missions for the Armed Forces or to be used in law enforcement or emergency rescue work.".

(b) Definition.—Section 510(b) of such Act is amended by striking out paragraph 91) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

Sec. 233. Performance Standards for Federal Buildings.—Section 306 of the Energy Conservation and Production Act (42 U.S.C. 6835) is amended by striking "April 1, 1984," in the second sentence and inserting in lieu thereof "two years after the date of the enactment of the National Energy Efficiency Act of 1991,".

Sec. 234. Demonstration of New Technology.—(a) Within one year after the date of the enactment of this Act, the Secretary shall submit a plan to Congress for the demonstration in Federally owned facilities, of energy efficiency and renewable energy resource technologies. The technologies shall be those, as determined by the secretary, that are ready for commercial demonstration. The Plan shall include:

(1) a listing of those technologies with specific candidate sites for the demonstration;

(2) the energy, environmental, cost savings or other expected benefits;

(3) a timetable for implementation; and

(4) a process for evaluation of the performance of the technologies.

(b) The Plan shall be updated every two years.

SEC. 235. FUEL CELLS.

(a) Subsection 6(c) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (P.L. 101-218) is amended by adding a new paragraph (6) as follows:

"(A) The Secretary shall solicit proposals for, and provide financial assistance to, at least one joint venture for the demonstration of fuel cell technology in accordance with the provisions of this paragraph.

"(B) The purpose of joint ventures supported under this paragraph shall be to design, test, and demonstrate critical enabling technologies for the production of electric energy from fuel cells in order to accelerate commercial application of fuel cells.

"(C) There are authorized to be appropriated to the Secretary, not to exceed $3,000,000 for each of the fiscal years 1992, 1993, and 1994 for purposes of this paragraph.".

(b) Definitions.—For purposes of this subtitle the term:

(1) "Federal building" shall mean "Federal building" as defined by section 549(6); and

(2) "Task Force" shall mean the Interagency Energy Management Task Force established pursuant to section 547, except that, for purposes of this subtitle, the term "Task Force" shall include the Environmental Protection Agency.

(c) Fuel Cell Program.—The Secretary, in consultation with the Task Force, shall conduct a program to promote the early commercial application of fuel cell systems for the production of electricity by the demonstration of such systems in Federal buildings.

(d) Purposes.—The purposes of this program are to:

(1) improve the efficiency and reduce the environmental consequences of the Nation's electric generation capability;

(2) stimulate the creation of new industries and job opportunities in efficient and environmentally sound energy technologies; and

(3) develop cost, efficiency, performance, environmental, and reliability data on fuel cell systems used in the production of electricity.

(e) Implementation and Acquisition.—(1) In preparing or updating the plan required by section 543(b)(1), each agency on the Task Force shall identify at least two potential projects for the demonstration of the application of fuel cell systems for the production of energy to satisfy electrical and other energy requirements of such buildings.

(2) Not later than six months after the submission to the Secretary of such plan, including the list of potential projects required under subsection (a), the Secretary, in consultation with the Task Force, shall identify a minimum of ten projects for implementation pursuant to subsection (c) and shall make a report of his selection including the basis therefor, to the Congress.

(3) The Secretary may provide financial assistance to agencies sponsoring projects, identified under subsection (b), to acquire and install fuel cell systems manufactured in the United States and any associated equipment which may be necessary for the implementation of any of the listed projects. In order to receive financial assistance from the Secretary, a project identified under subsection (b) must meet the ten-year payback criterion of section 543. The calculation of such ten-year payback period shall take account of cost benefits associated with cogenerated energy to the extent provided under section 544. In selecting qualified projects for financial assistance, the Secretary, in consultation with the Task Force, shall also consider the cost of the electricity to be generated; the extent of cost-sharing provided by other agencies for the acquisition of new equipment; the appropriateness of the locations, sites, and structures in question; the adaptability of facilities to program requirements; whether Federal buildings undergoing new construction or renovation offer advantages of cost-efficiency or ease of installation over existing Federal buildings; and such other factors that, in the judgment of the Secretary and the Task Force, may affect the benefits or costs of the fuel cell program.

(4) Not later than January 1, 1996, the Secretary, in consultation with the Task Force, shall submit a report to Congress on the program authorized by this subtitle, which shall include information comparing the cost, efficiency, performance, environmental advantages, and reliability of fuel cells to other existing technological means of generating electricity, using data obtained from the operation of fuel cells acquired under this program. Such report shall also contain a discussion of all technical and economic issues which, in the judgment of the Secretary, might prevent the commercial use of fuel cells or restrict the use of fuel cells in certain applications and an analysis, including recommendations, of the steps needed to overcome such restrictions. A copy of such report shall be provided to each agency for further implementation of fuel cell projects consistent with the provisions of section 543(a), as appropriate.

(f) Authorization.—There is authorized to be appropriated to carry out the provisions of this subtitle a total of $15,000,000 for fiscal years 1992 through 1994.

SEC. 236. STUDY OF FEDERAL PURCHASING POWER INCENTIVES.

(a) STUDY.—The Secretary shall conduct a study evaluating the use of the Federal purchasing power to encourage the development of more efficient products. The study shall identify target products, including their specifications, and detail potential purchasing commitments or other incentives for the development of these efficient products. The study shall be conducted in consultation with nonprofit organizations concerned with energy efficiency, the utility industry, and product manufacturers.

(b) REPORT.—The Secretary shall issue a report on the study within 18 months of the enactment of this Act.

(c) AUTHORIZATION.—There is authorized to be appropriated to carry out the provisions of this section $250,000 for fiscal year 1992.

Subtitle E.—Utility Energy Efficiency

SEC. 241. ENCOURAGEMENT OF CHANGES IN REGULATORY TREATMENT OF INVESTMENTS IN ENERGY EFFICIENCY RESOURCES AND STUDY OF CERTAIN STATE REGULATORY POLICIES.

(a) AMENDMENT TO PURPA.—The Public Utility Regulatory Policies Act of 1978, as amended, is further amended by inserting the following new paragraphs at the end of section 111:

"(7) Encouragement of Investments in Conservation and Energy Efficiency Resources.—

"(a) Least-cost Planning and Implementation.

"(1) States shall require state-regulated utilities to employ a planning and selection process for new energy resources that evaluates the full range of existing and incremental resources, including new power supplies, energy conservation and efficiency, and renewable energy resources, in order to meet expected future demand at the lowest possible cost to society. The process shall take into account necessary features for system operation, such as diversity, reliability, dispatchability, and other factors of risk, and shall treat demand and supply resources on a consistent and integrated basis.

"(2) All plans or filings before a commisson to meet the requirements of subsection (a)(1) must be updated on a regular basis, must provide the opportunity for public participation and comment, and contain a requirement that the plan be implemented to the maximum extent possible after commission approval.

"(b) The rates allowed to be charged by a State regulated utility shall be such that the utility's investments in and expenditures for energy conservation, energy efficiency resources, and other demand side management resources are at least as profitable, including compensation for income lost from sales lost due to investment in conservation or efficiency as its investments in and expenditures for the construction of new generating equipment or the acquisition of other new supply-side resources.

"(8) CONSIDERATION OF THE EXTERNAL COSTS OF ENERGY RESOURCES.—

"(a) The full cost of an energy resource shall include the external costs associated with its use. These costs shall include all direct and quantifiable costs of the resource over its available life, including the costs of production, transportation, utilization, waste management, environmental degradation, compliance with environmental laws, and in the case of imported resources, maintaining access to foreign sources of supply.

"(9) ENCOURAGEMENT OF ENERGY EFFICIENCY IMPROVEMENTS IN POWER GENERATION AND SUPPLY.—

"(a) The rates allowed to be charged by a State-regulated electric utility shall be such that the utility is encouraged to make investments and expenditures for all cost-effective improvements in the energy efficiency of power generation and supply.

"(b) In considering regulatory changes to achieve the objectives of paragraph (9)(a), State shall consider the disincentives caused by fuel adjustment clauses and other ratemaking barriers, as well as incentives that would encourage better maintenance and investment in more efficient power generation, transmission and distribution technologies.".

(b) REPORT AND CERTIFICATION.—The Secretary shall submit annually to the Congress a report detailing which States have complied with the requirements for consideration in paragraphs (7), (8), and (9) of section 111 of the Public Utilities Regulatory Policy Act of 1978. The report shall detail the changes in State regulations made as a result of such consideration, or the reasons for the failure to make changes in regulations or procedures. In the report, the Secretary shall make a finding and certify which States have implemented the substantive changes required to be considered in paragraphs (7) (a) and (b).

(c) EFFICIENCY AND CONSERVATION ELIGIBILITY.—Beginning four years from the date of the enactment of this Act, measures to increase the efficiency of energy use shall be considered as "qualifying facilities" and be considered eligible for the programs established by the Public Utility Regulatory Policies Act of 1978 in those States that have not adopted procedures that meet the requirements of paragraphs (7) (a) and (b). These States shall be all States which the Secretary has not yet certified in a report to the Congress pursuant to paragraph (b) as having implemented the substantive changes.

SEC. 242. IMPROVEMENTS IN THE ENERGY EFFICIENCY AND RENEWABLE ENERGY PROGRAMS OF THE FEDERAL POWER MARKETING ADMINISTRATIONS.

(a) RESPONSIBILITIES OF THE POWER MARKETING ADMINISTRATIONS.—The Western, Southwestern, and Southeastern Power Marketing Administrations (PMAs) shall ensure that all cost-effective energy-efficiency and renewable-energy resources are acquired by themselves and their customer utilities. To that end, each long-term firm power contract between a PMA and a customer utility shall contain an article requiring the customer utility to develop and implement an energy-efficiency and renewable-energy program. Each such contract article shall:

(1) contain time schedules for meeting program goals and delineat actions to be taken in the event such goals are not met. Such actions shall include reductions in the allocation of capacity and/or energy to such purchaser as would otherwise be provided under such contract;

(2) contain provisions that ensure that the purchaser of power is actively acquiring all the cost-effective energy-efficiency and renewable-energy opportunities in its service area, where cost effectiveness includes both the direct economic costs and benefits of such actions as well as their environmental effects;

(3) provide for review and modification of such programs not less than once every three years.

(b) TECHNICAL ASSISTANCE.—The Power Marketing Administrations, using revenues collected from customer utilities through normal ratemaking processes, shall provide technical assistance to, and oversight of, these customer utility programs. Technical assistance may include publications, workshops, conferences, one-on-one assistance, equipment loans, technology-assessment studies, marketing studies, and other mechanisms to transfer information on energy-efficiency and renewable-energy options and programs to customer utilities. In addition, the Power Marketing Administrations shall, in cooperation with the customer utilities, establish data collection and analysis systems to monitor the benefits and costs of these new resources. Finally, the Power Marketing Administrations shall consider provisions of financial incentives to purchase the outputs from energy-efficiency programs and renewable-energy projects undertaken by customer utilities. Such financial incentives may include billing credits, provision of nonfirm power, and additional allocations of Federal hydropower.

(c) PROGRAMS.—The Power Marketing Administrations shall implement programs directly to acquire cost-effective conservation and renewable energy resources in the region in conjunction with programs conducted by utilities. The costs of such programs shall be recovered through the costs charged to a utility.

(d) ANNUAL REPORT.—The Power Marketing Administrations, in their annual reports to the Secretary, shall discuss their progress in acquiring energy-efficiency and renewable-energy resources and the amount of funds expended by both the Power Marketing Administration and their customer utilities on such programs.

(e) REGULATIONS.—Within six months after the date of the enactment of this Act, the Power Marketing Administrations shall amend their existing regulations to reflect the provisions of subsection (a).

(f) TENNESSEE VALLEY AUTHORITY LEAST COST PLANNING AND IMPLEMENTATION.—(1) The Tennessee Valley Authority shall employ a planning and selection process for new energy resources that evaluate the full range of existing and incremental resources, including new power supplies, energy conservation and efficiency, and renewable energy resources, in order to meet expected future demand at the lowest possible cost to society. The process shall take into account necessary features for system operation, such as diversity, reliability, dispatchability, and other factors of risk, and shall treat demand and supply resources on a consistent and integrated basis.

(2) The plan shall be updated every two years provided the opportunity for public participation and comment is implemented to the maximum extent possible.

(3) Each long-term firm power contract between the Tennessee Valley Authority and a customer utility shall contain an article requiring the customer utility to develop and implement an energy-efficiency and renewable energy program. Each such contract article shall:

(A) contain time schedules for meeting program goals and delineate actions to be taken in the event such goals are not met. Such actions shall include reductions in the allocation of capacity and/or energy to such purchaser as would otherwise be provided under such contract;

(B) contain provisions that ensure that the purchaser of power is actively acquiring all the cost-effective energy-efficiency and renewable-energy opportunities in its service area, where cost effectiveness includes both the direct economic cost and benefits of such actions as well as their environmental effects; and

(C) provides for review and modification of such programs not less than once every three years.

(4) The Tennessee Valley Authority, using revenues collected from customer utilities through normal ratemaking processes, shall provide technical assistance to, and oversight of, these customer utility programs. Technical assistance may include publications, workshops, conferences, one-on-one assistance, equipment loans, technology-assessment studies, marketing studies, and other mechanisms to transfer information on energy-efficiency and renewable-energy options and programs to customer utilities. In addition, the Tennessee Valley Authority shall, in cooperation with the customer utilities, establish data collection and analysis systems to monitor the benefits and costs of these new resources. Finally, the Tennessee Valley Authority shall consider provisions of financial incentives to purchase the outputs from energy-efficiency programs and renewable-energy projects undertaken by customer utilities. Such financial incentives may include billing credits and provisions of non-firm power.

(5) The Tennessee Valley Authority shall implement programs directly to acquire cost-effective conservation and renewable energy resources in the region in conjunction with programs conducted by utilities. The cost of such programs shall be recovered through the cost charged to a utility.

SEC. 243. FEDERAL ENERGY REGULATORY COMMISSION ENERGY EFFICIENCY PROGRAM.

The Federal Energy Regulatory Commission (hereafter, the "Commission"), in consultation with the Secretary, shall develop an office of energy efficiency to coordinate the Commission's activities on energy conservation and efficiency.

The Commission shall establish procedures that would allow expedited review of any interstate power sales conducted in accordance with the purchasing utility's least-cost energy plan.

Subtitle F.—Used Oil Energy Production Act of 1991

SEC. 251. SHORT TITLE.

This subtitle may be cited as the "Used Oil Energy Production Act of 1991".

SEC. 252. PURPOSES.

To amend title III of the Energy Policy and Conservation Act to promote the refining, re-refining and reprocessing of used lubricating oil into fuels and other petroleum products, and for other purposes.

SEC. 253. REQUIREMENTS FOR ENERGY PRODUCTION FROM USED OIL.

Section 383 of the Energy Policy and Conservation Act (42 U.S.C. 6363) is amended—

(1) in subsection (c) by—

(A) striking "As soon as practicable after the date of enactment of this Act" and inserting "Not less than 15 months after the date of enactment of the Used Oil Energy Production Act of 1991"; and

(B) striking "National Bureau of Standards" each place it appears and inserting "National Institute of Standards and Technology"; and

(2) by adding at the end thereof the following new subsection:

"(g) MARKET INCENTIVES FOR THE REUSE OF USED OIL.—

"(1) REQUIREMENTS—(A) Beginning not later than 18 months after the date of enactment of this section, a producer or importer of 100,000 gallons or more per year of lubricating oil shall each year either refine, re-refine, or reprocess into petroleum products, including fuels, using a method described in subparagraph (B), an amount of used oil equal to at least that amount of oil determined by—

"(i) multiplying the lubricating oil produced or imported that year by such person, by

"(ii) the percentage established by the Secretary under paragraph (2).

"(B) A producer or importer of lubricating oil may comply with this paragraph by—

"(i) refining, re-refining, or reprocessing used oil for purposes of producing petroleum products, including fuels; or

"(ii) purchasing credits under the credit system established pursuant to paragraph (3).

"(2) ESTABLISHMENT OF REUSE PERCENTAGE—The Secretary shall establish, on an annual basis, a percentage for use under paragraph (1). The percentage applicable during the first year that the requirement established by paragraph (1) is in effect, shall be a percentage that is equal to the reuse rate for lubricating oil that exists on the date of the enactment of the Used Oil Energy Production Act of 1991. Such rate shall be determined by using data for the most recent year for which data are available. Through the year 2000, the percentage shall be an additional two percentage points higher than the actual percentage for the previous year as determined by the Secretary.

"(3) REGULATIONS—

"(A) IN GENERAL.—Not later than 18 months after the date of the enactment of this subsection, the Secretary shall promulgate regulations to implement these requirements. These regulations shall cover:

"(i) producers or importers of lubricating oil;

"(ii) generators or collectors of used oil;

"(iii) a system, including permits, by which refiners, re-refiners and reprocessors of used oil may create credits which may be purchased by producers and importers of lubricating oil for the puprose of complying with subparagraph (1)(B);

"(iv) enforcement;

"(v) record-keeping;

"(vi) any other requirement which the Secretary considers necessary for administering the program set forth by this subsection; and

"(vii) prohibitions on the mixing of used oil with hazardous wastes or other physical or chemical impurities not associated with its use as a lubricating oil, and the creation of credits from such mixed used oil.

"(B) DEFINITIONS.—For purposes of this subsection, the term:

"(i) 'credit' means a legal record of used oil refined, re-refined or reprocessed in accordance with this subsection for purposes of complying with paragraph (1);

"(ii) 'producer' with respect to lubricating oil means any person who produces a lubricant base stock from crude oil. Such production does not include the re-refining of used oil;

"(iii) 'importer' with respect to lubricating oil means any person who imports a lubricant base stock or lubricating oil, except for lubricating oil contained in transportation vehicles or other machinery;

"(iv) 'lubricant base stock' means oil from which lubricating oil is made after introduction of additives;

"(v) 'generator' and 'collector' means any person who collects, stores, accumulates, or otherwise generates used oil. Such terms do not include an individual who generates used oil by removing such oil from the engine of a light duty motor vehicle or household appliance owned by that individual;

"(vi) 're-refiner' and 'reprocessor' means any person who produces lubricating oils, fuels, or other petroleum products through processing of used oil; and

"(vii) 'refiner' means any owner or operator of a facility that is classified as an S.I.C. 2911 facility under the Office of Management and Budget Standard Classification Manual.

"(C) Exemptions.

"(i) This subsection and the regulations promulgated under this subsection shall not apply to a facility:

"(I) that is classified as an S.I.C. number 2911 facility under the Office of Management and Budget Standard Classification Manual and that refines used oil into fuel or other petroleum products, amount of which is equal to no more than the amount of used oil that the owner of the facility is required to refine or otherwise reuse under paragraph (1)(A).

"(II) that is classified as an S.I.C. number 2899, or S.I.C. number 2992 facility under the Office of Management and Budget Standard Classification Manual and that compounds or blends lubricating base oil into finished lubricant products as its principal activity, provided that such facility has a contract to reprocess a customer's used lubricant, and does not take title to such lubricant, and such reprocessed lubricant product is returned to the customer.

"(ii) This subsection and the regulations promulgated hereunder shall not apply to used oil that is generated on-site for on-site energy production activities, including storage, use, and transportation, carried out at a facility that is classified as an S.I.C. number 4911 facility under the Office of Management and Budget Standard Classification Manual.

"(iii) The Secretary shall promulgate regulations establishing requirements for exempt refineries that refine used oil. The regulations shall cover record-keeping, testing, and such other matters as the Secretary determines are necessary and appropriate for refining used oil at exempt refineries.

"(4) AUTHORIZATIONS.—There is authorized to be appropriated to the Secretary of Energy $2,000,000 to carry out this subsection. There is authorized to be appropriated to the Secretary of Commerce for use by the National Institute of Standards and Technology $3,000,000 to carry out its responsibilities under this section.

"(5) REPORT.—One year after the date of enactment of this subsection, and annually thereafter, the Secretary of Energy shall submit a report to the House of Representatives and the Committee on Energy and Natural Resources of the Senate on the implementation and operation of this subsection.".

SEC. 254. LISTING OR IDENTIFICATION OF USED OIL.

Section 3001 of the Solid Waste Disposal Act is amended by adding at the end the following:

"(j) USED OIL.—Notwithstanding any other provision of law, the Administrator shall not list or identify used oil as a hazardous waste under this subtitle, nor shall used oil otherwise be deemed to be a hazardous waste under this subtitle."

SEC. 255. SUNSET PROVISION.

The authority of this Act expires five years after the date of enactment of the National Energy Efficiency and Development Act of 1991.

Subtitle G.—Tire Recycling Incentives

SEC. 261. SHORT TITLE.

This subtitle may be cited as the "Tire Recycling Incentives Act".

SEC. 262. FINDINGS.

The Congress finds the following:

(1) The generation of solid and hazardous waste has grown to alarming proportions in the United States, with per capital disposal having increased by 80 percent from 1960 to 1989. Each person in the United States throws away 3.6 pounds of garbage every day—enough annually to fill a convoy of 10-ton garbage trucks 145,000 miles long, which is the equivalent of half-way to the moon or roughly 7 times around the Equator.

(2) Frequently, economic incentives are not sufficient to encourage waste minimization and responsible environmental behavior, and such incentives actually may favor increased waste generation and improper behavior.

(3) A system of economic incentives targeted at waste reduction and recycling together with responsible regulation of recycling activity can reduce both the amount and toxicity of materials entering the environment.

(4) The Administrator of the Environmental Protection Agency requires additional statutory authority to establish appropriate management and recycling requirements and to address situations in which economic incentives to encourage waste reduction and responsible environmental behavior are not adequate.

(5) There is a need to encourage greater recycling of scrap tires. Americans generate more than 250 million scrap tires annually. Such scrap tires, piled one on top of another, would be 98,000 Empire State Buildings. Less than 30 percent of the currently generated scrap tires are recycled. Currently 2½ to 3 billion scrap tires are stockpiled across America and these scrap tire dumps grow larger every year. Such stockpiling is, itself, a potential health concern.

(6) While worn out tire casings currently represent only 1.2 percent of the solid waste stream, scrap tires present a special disposal/reuse challenge because of their size shape and physical/chemical nature.

(7) Scrap tires, when disposed of whole in a landfill, have a unique tendency to rise back to the surface, thus disrupting the landfill cap and allowing water to infiltrate the landfill.

(8) Of the more than 250 million scrap tires generated in the United States every year, 84.5 percent are landfilled, stockpiled, or illegally dumped.

(9) The whole scrap tires which are stockpiled represent not only a waste of resources but also a health hazard because they serve as an ideal breeding ground for mosquitoes. According to the Environmental Protection Agency, mosquito borne diseases, like encephalitis and yellow fever, as a result of stockpiled tires, cost an estimated $5,400,000 a year.

(10) Further, fire hazards as a result of fire stockpiles are both severe and wide-ranging. Such scrap tire fires frequently result in air, surface, and ground water pollution. The major problem of a scrap tire fire hazard is the difficulty in extinguishing the fire due to the fact that 75 percent of tire space is void. This void space makes it difficult to put out fires or quench the oxygen supply.

(11) In addition to the difficulty in putting tire fires out, such fires represent a potential health and environmental risk in the form of both liquid and gaseous emissions from the tires. Burning tires emit solvents and polynucleic aeromatic hydrocarbons (PAHs)—many of which are carcinogenic. The tires also melt while burning, releasing both sooty smoke and oily liquids. The water used to extinguish the fire mobilizes these chemicals into the surface and ground water.

(12) Estimated direct annual expenditures for extinguishing tire fires are greater than $2,000,000. One tire fire alone, in Winchester, Virginia, required more than $5,000,000 for cotnrol and containment. These estimates say nothing of the environmental damage that must ultimately be paid for.

(13) The best way of eliminating the environmental and health hazards associated with tire piles is to minimize and ultimately eliminate the stockpiling of tires.

(14) While adequate technology exists to significantly reduce tire stockpiles, scrap tires are underutilized because of adverse economics. It is simply cheaper to throw them away than to recycle. Until economic forces are reversed, tire stockpiling will be the option of choice. Producers and importers of tires are responsible for introduction of such tires into commerce and therefore need to assure that such tires are ultimately managed in a responsible fashion.

SEC. 263. REQUIREMENTS TO RECYCLE SCRAP TIRES.

(a) IN GENERAL.—(1) Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) is amended by adding at the end the following new sections:

"SEC. 4011. RECYCLING REQUIREMENTS FOR SCRAP TIRES.

"(a) GENERAL REQUIREMENT.—(1) During the period beginning not later than 24 months after the date of the enactment of the Tire Recycling Incentives Act and ending 10 years after such date, a producer or importer of tires each year shall recycle, using a method described in paragraph (2), an amount of scrap tires equal to at least that amount of tires determined by—

"(A) multiplying the tires produced for domestic use or consumption or imported that year by such person, by

"(B) the recycling percentage established by the Administrator under subsection (b).

"(2) A producer or importer of tires may comply with this subsection by either or both of the following methods:

"(A) By recycling scrap tires in compliance with the requirements of section 4012 and regulations promulgated pursuant to such section through reintroducing the recovered rubber into a manufacturing process for purposes of producing new tires or by retreading old tire casings.

"(B) By purchasing recycling credits under the recycling credit system established pursuant to subsection (c).

"(3) A producer or importer of tires shall submit to the Administrator, under regulations promulgated by the Administrator, a report on the amount of tires produced or imported in each calendar year by such person. The report shall be submitted at least once a year, but the Administrator also may require such interim reports under this paragraph as he considers necessary.

"(b) RECYCLING PERCENTAGE.—The Administrator each year shall establish a recycling percentage for use under subsection (a). The percentage applicable during the first year that the requirement established by subsection (a) is in effect shall be a percentage that is 5 percentage points higher than the recycling rate for tires that exists on the date of the enactment of the Tire Recycling Incentives Act. Such recycling rate shall be determined by using data for 1989 or the most recent year for which data are available. For each of the 10 years thereafter, the recycling percentage shall be an additional 5 percentage points higher than the percentage of the previous year. Such recycling percentage shall go into effect automatically and shall be published in the Federal Register.

"(c) CREDIT SYSTEM FOR RECYCLING SCRAP TIRES.—(1) Not less than 18 months after the date of the enactment of the Tire Recycling Incentives Act, the Administrator shall promulgate regulations to establish a system under which (A) recyclers may create credits for scrap tire recycling, and (B) producers or importers of tires may purchase such recycling credits from such recyclers, for purposes of complying with subsection (a). No person may create such credits, and no producer or importer of tires may purchase such credits, except in accordance with this subsection and the regulations promulgated under this subsection. In developing the regulations, the Administrator shall, to the maximum extent feasible, allow for the use of records kept in the ordinary course of business or other approaches that facilitate the simple, rapid generation and exchange of credits without a case-by-case approval.

"(2) At a minimum, the regulations under paragraph (1) shall include each of the following requirements:

"(A) The owner or operator of any tire sale and installation facility or any scrap tire collection facility shall keep receipts issued by any transporters who take delivery of the scrap tires. The receipts shall be kept at least 3 years and shall show the date, the quantity of scrap tires taken, and the transporter's identification number. The owner or operator shall show such receipts to the Administrator or to any State enforcing this section and section 4012 upon demand. The owner or operator also shall keep on file a copy of the contract or written agreement between the owner or operator and the transporter under which the transporter agrees to take the scrap tires to a recycling facility.

"(B) The owner or operator of a scrap tire recycling facility who obtains a permit in accordance with section 4012(d) is the only person who may create a recycling credit for the recycling credit system. Recycling credits may be created through shredding scrap tires, burning scrap tires for energy recovery in a manner approved under Federal or State law, reusing scrap tires through retreading, utilizing crumb rubber made from scrap tires in an asphalt road paving mix, recycling scrap tires by recovering rubber from the tires, or such other means as may be identified by the Administrator. The amount of recycling credit that may be created for one scrap tire handled at a scrap tire recycling facility is as follows:

"(i) One-fourth of a credit for one tire shredded.

"(ii) One-fourth of a credit for one tire burned after shredding.

"(iii) One-half of a credit for one whole tire burned in an approved manner.

"(iv) Three-fourths of a credit for one tire reused or recycled after shredding.

"(v) One credit for one whole tire reused or recycled. Methods of reuse may include retreading, and methods of recycling may include recovering rubber from the tire to produce tires or an asphalt road paving mix. If the method of recovery involves shredding or crumbling of the whole tire, an additional one-fourth of a credit may not be claimed under clause (i) or (ii).

"(C) Each year a producer or importer of tires shall keep records of the quantity of tires produced or imported, the recycling of scrap tires carried out to comply with subsection (a), the amount of recycling credits purchased, the names of recyclers from whom the credits were purchased and the dates of the purchases, the price paid for the credits, and the amount, if any, of recycling credits sold or carried over from previous years. The regulations shall allow for a two-year carryover of credits.

"(3) The Administrator may include such other requirements in the regulations under paragraph (1) with respect to qualifications for recyclers, importers, and producers, methods for auditing compliance with the system, and enforcement of the system as the Administrator considers necessary or appropriate for administering the recycling credit system established under this subsection.

"(d) REPORTS.—(1) Not later than six years after the date of enactment of the Tire Recycling Incentives Act, the Administrator shall submit to Congress an interim report on the implementation of this section. The report shall include, at a minimum—

"(A) a discussion of the effects of the requirements of this section on the tire industry, the scrap tire recycling industry, and the environment, including the extent of improper tire storage and disposal; and

"(B) an evaluation of the level of the recycling percentage under subsection (b) and recommendations on whether, and at what rate, the percentage should be increased in future years above the percentage applicable under subsection (b).

"(2) Not later than 10 years after such date, the Administrator shall submit to Congress a final report on the implementation of this section. The report shall include an updated version of the discussion and evaluation required in the interim report, as well as such other findings and recommendations with respect to the implementation of this section as the Administrator consider appropriate.

"(3) Each year the Attorney General shall determine the effects of the credit system established under subsection (c) on competition within the tire industry and the scrap tire recycling industry and shall submit to Congress a report on such determination. With respect to any calendar year occurring after the system is established, the determination shall be made, and the report submitted to Congress, not later than 6 months after completion of an audit of compliance with the system carried out by the Administrator during that calendar year, or 6 months after the end of that calendar year, whichever is earlier. The report shall include recommendations for remediating an anti-competitive effects of the credit system, including effects that may be violations of the Sherman Act or the Clayton Act.

"(e) REGULATIONS.—The Administrator shall promulgate regulations to implement this section not later than 18 months after the date of the enactment of the Tire Recycling Incentives Act. If the Administrator fails to promulgate such regulations by that date, the recycling percentage under subsection (b) shall be 60 percent until such time as the regulations are promulgated and shall apply retroactively for each year the regulations are not in effect.

"(f) CIVIL PENALTY.—(1) Whoever violates this section shall be liable to the United States for a civil penalty in an amount not to exceed $2500 for each such violation. Such civil penalty shall be assessed by the Administrator of the Environmental Protection Agency by an order made on the record after opportunity for a hearing in accordance with section 554 of title 5, United States Code. Before issuing such an order, the Administrator shall give written notice to the person to be assessed a civil penalty and provide such person an opportunity to request, within 15 days of the date the notice is received by such person, a hearing on the order.

"(2) In determining the amount of a civil penalty, the Administrator shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior violations under this section, the degree of culpability, and such other matters as justice may require.

"(3) The Administrator may compromise, modify, or remit, with or without conditions, any civil penalty which may be imposed under this subsection. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owning by the United States to the person charged.

"(4) Any person who requested in accordance with this subsection a hearing respecting the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business. Such a petition may only be filed within the 30-day period beginning on the date the order making such assessment was issued.

"(5) If any person fails to pay an assessment of a civil penalty—

"(A) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with this section, or

"(B) after a court in an action brought under this section has entered a final judgment in favor of the Administrator.

the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the 30-day period referred to in paragraph (4) or the date of such final judgment, as the case may be) in an action brought in any appropriate district court of the United States. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

"(g) RELATIONSHIP TO OTHER LAW.—The creation of any recycling credits by the owner or operator of a scrap tire recycling facility in accordance with this section shall not alter the status of scrap tires as a waste that may be used as fuel in a qualifying small power production facility or a qualifying cogeneration facility under the Federal Power Act (16 U.S.C. 791a et seq.).

"(2) For purposes of section 142(a)(6) of the Internal Revenue Code of 1986 (26 U.S.C. 142(a)(6)), a scrap tire recycling or disposal facility shall be considered to be a solid waste disposal facility.

"SEC. 4012. MANAGEMENT STANDARDS FOR SCRAP TIRES AND SCRAP TIRE COLLECTION AND RECYCLING FACILITIES.

"(A) GENERAL REQUIREMENTS.—(1) Not later than 18 months after the date of enactment of the Tire Recycling Incentives Act, the Administrator shall take each of the following actions:

"(A) The Administrator shall publish in the Federal Register a set of minimum requirements, together with a model program for the purposes of use by States implementing and enforcing the provisions of this section. Such minimum requirements and model program shall include provisions for collection, transport, storage, financial assurance, and management of scrap tires. In developing such provisions, the Administrator's first priority shall be to protect public health and the environment, but in adhering to that priority, he should not discourage environmentally beneficial reuse, recovery, or recycling of scrap tires.

"(B) The Administrator shall publish in the Federal Register a procedure under which such minimum requirements shall be incorporated in the solid waste management plan submitted to the Environmental Protection Agency by such State under this title. The Administrator may not approve a State plan (or, if a State plan has already been approved in a State, the portion of the plan for that State incorporating the minimum requirements under this section) unless (i) the State has adopted all elements of the model program developed under this section, and (ii) the State has designated an agency or entity to implement such program. In the case of a State that adopts a program that is identical to the model program developed under this section and that contains a designation of an agency or entity to implement the program, the portion of the plan required under this section shall be deemed to be approved by the Administrator upon receipt by the Administrator of written notification of the adoption of such a program.

"(C) The Administrator shall publish enabling regulations under which States may implement and enforce this section by adoption of the model program and regulations. Such enabling regulations shall specify the percentage of paving materials described in subparagraph (D)(i) necessary for a State to acquire in order to qualify for expedited review under that subparagraph.

"(D) In reviewing and approving the State Plan, the Administrator shall provide expedited review to any State which does one of the following in its plan:

"(i) Encourages the recycling of scrap tires by requiring the relevant State highway authority to use paving materials made from crumb rubber from scrap tires for use in asphalt or roadbed construction. Under the plan the State highway authority (or its paving contractor) would be encouraged to acquire such paving materials from a permitted tire recycler. In any such case, the State may enter into contractual arrangements to share in the revenue from the sale of recycling credits under section 4011.

"(ii) Provides for directly acquiring and recycling scrap tires for such paving materials in the same manner as may be done directly by the State highway authority. In any such case, the State may obtain a permit to recycle such tires and may generate and sell tire recycling credits.

"(iii) Encourages the reuse of tires by requiring that at least 20 percent of the tires purchased each year by the State for motor vehicles are retread tires.

"(b) MANAGEMENT STANDARDS.—Not later than 18 months after the date of enactment of the Tire Recycling Incentives Act, the Administrator shall promulgate regulations establishing standards for the purpose of minimizing potential health and environmental damages from the improper storage and disposal of scrap tires. States shall adopt such standards in implementing and enforcing this section. At a minimum, such standards shall provide for each of the following:

"(1) BANS.—(A) Not later than 24 months after the date of enactment of the Tire Recycling Incentives Act, the Administrator shall ban the disposal of whole tires in land disposal facilities. As part of the ban, the Administrator shall allow for the land disposal of shredded tires, but only in a monofill.

"(B) Not later than 12 months after the date of enactment of the Tire Recycling Incentives Act, the Administrator shall promulgate regulations to ban the intentional infliction of damage on tire casings that is done to preclude a tire casing from being used in retreading, including slashing of tire casings. The ban shall apply to importers and manufacturers of tire casings, owners and operators of tire sale and installation facilities, and transporters covered by paragraph (5). An importer or manufacturer of tire casings shall not be held liable in any court of law for damages resulting from subsequent failure of retreaded tires if such a tire is retreaded by a recycler creating recycling credits through retreading under section 4011(c).

"(2) INVENTORY; TIRE ADVISORY BOARD.—(A) Not later than 12 months after the date of enactment of the Tire Recycling Incentives Act, each State shall conduct an inventory of scrap tire collection facilities, including existing tire piles, dumps, and landfills with above-ground storage of old tires, or any other scrap tire storage of more than 1,000 tires. Such inventory shall be provided to the Administrator and shall be made available by such State to the public for comment. At a minimum, the inventory shall include an estimate of the number of tires in each scrap tire pile, an estimate of the total amount of scrap tires at the site, a description of the site characteristics, including proximity to the 100-year flood plain, and surface water run-on/run-off characteristics, along with current management practices at the site. The inventory shall include the name of the owner or operator of each such site.

"(B) Not later than 12 months after the date of the enactment of the Tire Recycling Incentives Act, each State shall convene a tire advisory board of public and private interests. Such board shall have at least 3 members and shall help coordinate the State's efforts under this section.

"(3) ABATEMENT.—In consultation with the owner or operator of the scrap tire collection facility, the tire advisory board, and the State public health authorities, the State shall, within 18 months of the date of enactment of the Tire Recycling Incentives Act, develop a scrap tire abatement plan. The overall abatement plan for the State inventory of sites shall reflect the following parameters in such priorities as determined by the State:

"(A) Overall size of tire collection site.

"(B) Risk to public health or the environment, including fire hazard.

"(C) Proximity to populated areas.

"(D) Other factors.

In developing an abatement strategy for individual sites, the States may use the enforcement authorities of section 4013.

"(4) SALE AND INSTALLATION FACILITIES.—Any facility which distributes more than 1,000 tires annually into commerce for final installation onto motor vehicles shall enter into an agreement with a licensed tire hauler. No person operating such tire sale or installation facilities shall give, sell, donate or otherwise provide scrap tires to any other person or entity than a licensed tire hauler.

"(5) TRANSPORTATION IDENTIFICATION NUMBER.—(A) Except as provided in subparagraph (B), no person may transport scrap tires from a tire sale or installation facility or scrap tire collection facility unless that person has obtained a scrap tire Transportation Identification Number for the authority designated by the State in its State plan. The Administrator shall promulgate such standards and recordkeeping requirements as are appropriate to assure that scrap tires which are collected, transported, and ultimately stored, recycled or disposed of can be correctly accounted for under this section and section 4011.

"(B) The prohibition in subparagraph (A) does not apply to any of the following:

"(i) A trash hauler, such as a municipal solid waste collection truck, carrying fewer than 50 scrap tires.

"(ii) A recyclables hauler, such as an auto dismantling yard, carrying fewer than 50 scrap tires.

"(iii) An individual transporting fewer than 10 scrap tires.

"(iv) A person transporting products derived from tires.

"(v) A person transporting scrap tires for appropriate agricultural purposes, as defined by the Administrator.

"(vi) A business that generates and transports its own scrap tires.

"(c) SCRAP TIRE COLLECTION FACILITIES.—

"(1) PERMIT GUIDELINES.—The Administrator shall publish guidelines for the State to use to issue permits to scrap tire collection facilities. Permit guidelines shall provide for effective regulatory control of scrap tires from the point of origination to final disposition. Permit guidelines shall also provide examples of cases in which class permits and permits for mobile equipment are appropriate.

"(2) OPERATION REQUIREMENTS.—The Administrator shall promulgate regulations or publish guidelines that shall include each of the following requirements for the operation of such facilities:

"(A) The regulations or guidelines shall limit the maximum size of both existing and future scrap tire piles at scrap tire collection facilities. For existing tire piles subject to the requirements of the inventory and abatement plan, the maximum square area of such existing piles shall be 10,000 square feet, with a height limit of 40 feet and provision for adequate fencing, as determined by the Administrator, to prevent additions to the pile. For such new tire piles as may be required in the abatement program or until recycling facilities are in operation, any new tire piles shall be limited to 5,000 square feet, with a maximum height of 20 feet.

"(B) The regulations or guidelines shall require a ban on open burning within 50 feet of a scrap tire pile, along with a requirement that a 50-foot fire lane be maintained around each pile.

"(C) The regulations or guidelines shall include guidance on vegetation, rodent, and mosquito control at such facilities as may be appropriate.

"(3) FLOOD PLAIN, WETLAND, SHORELINE, AND RAVINE REQUIREMENTS.—The Administrator shall establish different requirements in regulations or guidelines for scrap tire collection facilities located in a 100-year flood plain and such other areas where water resources are critical, such as wetlands, shorelines, and ravines.

"(4) EMERGENCY PLANNING REQUIREMENTS.—The Administrator shall publish guidelines for States to follow in making plans for emergencies involving scrap tire collection facilities. The guidelines shall require States to establish contingency plans for handling an emergency. Such plans shall be developed in consultation with the tire advisory board, the State fire marshal, and local fire departments.

"(5) EMERGENCY MANUAL.—The owner or operator of a scrap tire collection facility shall prepare and maintain at the facility an emergency preparedness manual containing the following elements:

"(A) A list of names and numbers of persons to be contacted in the event of a fire, flood, or other emergency involving the tire facility.

"(B) A list of the emergency response equipment present at the facility, its location, and how it should be used in the event of a fire or other emergency.

"(C) A description of the procedures that should be followed in the event of a fire at the facility, including procedures to contain and dispose of the oily material generated by the combustion of large numbers of tires.

The procedures in the emergency preparedness manual shall be followed in the event of an emergency at the facility. The emergency preparedness manual shall be updated once a year, upon changes in operations at the facility, or if required by the State.

"(6) EMERGENCY NOTIFICATION AND REPORTS.—The owner or operator of a scrap tire collection facility shall immediately notify the State in the event of a fire or other emergency at the facility with potential offsite impacts. Within 2 weeks of any emergency involving potential off-site impact, the owner or operator of the facility shall submit to the State a report on the emergency. This report shall set forth the origins of the emergency, the actions that were taken to deal with the emergency, the results of the actions that were taken, and an analysis of the success or failure of the actions.

"(7) OPERATIONAL RECORD.—The Administrator shall promulgate regulations or publish guidelines requiring the owner or operator of a scrap tire collection facility to maintain Records of the number of scrap tires received at the facility, stored at the facility, and shipped from the facility. Records shall also be kept of the amount of tire-derived products received, stored, or shipped from the facility. At the completion of an abatement increment, or a reporting period, the responsible owner or operator shall submit to the State a record of the approximate number of scrap tires remaining in the facility; the amount of tire-derived products stored at the facility; and the number of scrap tires or amount of tire-derived products received at the facility and shipped from the facility during the abatement increment or reporting period. For scrap tires and tire-derived products shipped to another location, the date and the amount shipped must be included.

"(8) INSPECTION.—At the completion of each abatement increment or reporting period the owner or operator of a scrap tire collection facility shall notify the State so that an inspection of the tire facility may be conducted to certify the completion of the required abatement or permit operating conditions.

"(9) OPERATION, CLOSURE, AND POST-CLOSURE.—The Administrator shall publish guidelines for adoption by the State regulatory authority requiring that all facilities regulated under this section have appropriate financial responsibility or insurance to maintain the facility for at least five years after the facility is closed.

"(10) EXEMPTIONS.—The permitting requirements of this section shall not apply to any of the following:

"(A) A tire retailer who stores no more than 500 scrap tires on the business premises.

"(B) A retreading business that stores no more than 15 percent of the amount of used tires retreaded annually on the business premises.

"(C) A business such as an auto dismantling facility that does not remove tires from vehicles as its main activity, if no more than 1,500 unmounted scrap tires are kept on the business premises in any month.

"(D) A permitted sanitary landfill that stores no more than 10,000 scrap tires at the landfill site.

"(E) A person using scrap tires on an agricultural site for legitimate agricultural purposes.

"(F) A person who has entered into a scrap tire facility cleanup agreement and is doing work specified by the agreement.

"(d) SCRAP TIRE RECYCLING FACILITIES.—The Administrator shall promulgate regulations for the State to use to issue permits to scrap tire recycling facilities. The regulations shall include requirements with respect to the operation of such facilities and shall include such recordkeeping requirements as are necessary to implement this section and section 4011.

"(e) FEDERAL RESPONSIBILITY.—

"(1) REMEDIATION OF TIRE PILES ON PUBLIC LANDS.—The Secretary of the Interior, together with the heads of all Federal departments and agencies with responsibilities for public lands or military installations, shall determine the extent of scrap tire piles on such lands or installations and shall develop and implement a plan within 18 months after the date of enactment of the Tire Recycling Incentives Act to remediate such tire piles. The requirements developed in the plan shall also apply to the National Railroad Passenger Corporation.

"(2) PROCUREMENT GUIDELINE.—(A) The Administrator, in consultation with the Secretary of Energy, the Secretary of Defense, the Secretary of Transportation, the Administrator of the Federal Highway Administration, and the Administrator of General Services (as appropriate), shall develop a guideline for procuring items that make use of rubber from scrap or used tires, including asphalt made from crumb rubber from scrap tires, retread tires, and tires made utilizing crumb rubber from scrap tires.

"(B) Such procurement guideline shall require that, in the procurement of such items, the heads of the Federal departments covered by the guideline shall procure such an item if the item is available at the same (or lower) cost as alternative items made from rubber other than rubber from scrap or used tires. The cost of such an item shall be determined in accordance with standards developed by the National Institute for Standards and Technology under paragraph (3).

"(C) If the Administrator fails to issue the procurement guideline within 24 months after the date of the enactment of the Tire Recycling Incentives Act, then the head of each Federal department shall procure items containing 75 percent or more of postconsumer scrap rubber from scrap tires if such postconsumer scrap rubber is reasonably available within a reasonable period of time at a reasonable price and meets reasonable performance standards of the department.

"(3) COST STANDARDS.—The Secretary of Commerce, acting through the Director of the National Institute of Standards and Technology, shall develop and publish standards for determining, for purposes of complying with the procurement guideline under paragraph (2), the life-cycle costs and benefits of asphalt made from crumb rubber from scrap tires, retread tires, tires made utilizing crumb rubber from scrap tires, and other items that make use of rubber from scrap or used tires, as compared with items that make use of rubber other than rubber from scrap or used tires. The standards shall be used by Federal departments covered by the procurement guideline developed under paragraph (2) and by States in the portion of the State plan incorporating the requirements under this section. The standards under this paragraph shall be developed in consultation with the Secretary of Transportation not later than 18 months after the date of the enactment of the Tire Recycling Incentives Act.

"(4) DETERMINATIONS BY SECRETARY OF TRANSPORTATION.—(A) The Secretary of Transportation, in consultation with the Administrator and through the use of data available from the Environmental Protection Agency, the Department of Transportation, and States, shall determine each of the following:

"(i) Whether there are any direct worker environmental health effects relating to asphalt made from crumb rubber from scrap tires, and what those health effects are.

"(ii) The recyclability of asphalt road surfaces made from crumb rubber from scrap tires.

"(iii) The estimated life of existing asphalt road surfaces made from crumb rubber from scrap tires.

"(B) Not later than 6 months after the date of the enactment of the Tire Recycling Incentives Act, the Secretary of Transportation shall submit to Congress a plan for making the determinations required by subparagraph (A). Not later than 18 months after such date, the Secretary shall complete the determinations and submit to Congress a report on the determinations.

"(C) Unless and until the Secretary of Transportation determines otherwise, the estimated life of asphalt road surfaces made from crumb rubber from scrap tires is deemed to be twice that of conventional asphalt road surfaces.

"SEC. 4013. ENFORCEMENT AND PENALTIES FOR SCRAP TIRE REQUIREMENTS.

"(a) ABATEMENT AUTHORITIES.—For the purposes of enforcing the scrap tire abatement provisions of section 4012, States are authorized to enter into consent agreements with the owner or operator of any scrap tire collection facility for proper management and abatement of scrap tires. If the owner or operator of a scrap tire collection facility does not agree to enter into a consent agreement, the State or a county government, acting with the consent of the State, is authorized to obtain an abatement order from a court of competent jurisdiction for the purposes of taking temporary control of the scrap tire facility and conducting the cleanup and collecting the abatement costs through the United States Claims Court. A court may not issue an abatement order if the owner or operator or such a facility shows justifiable cause for refusing to enter into a consent agreement. States are also authorized to levy fines of $1,000 per day on scrap tire facilities not complying with sections 4011 and 4012. Notwithstanding any other provision of law, in the case of an abandoned scrap tire collection facility, the State or a county government may seize the property, perform the cleanup, and dispose of the property.

"(b) TIRE SALES AND INSTALLATION FACILITIES PENALTIES.—Any tire sale or installation facility which is not exempt under sections 4011 and 4012 may be fined up to $100 per day for managing scrap tires in violation of such sections.

"(c) LANDFILLS.—Any landfill which is found to knowingly violate the prohibition on land disposal by land-filling more than 100 whole tires in any month shall be subject to a $5,000 fine for each 100 tires (or increment thereof) over that limit disposed of in a month.

"(d) TIRE COLLECTION AND RECYCLING FACILITIES PENALTIES.—Any tire collection or recycling facility determined to be in noncompliance with section 4011 or section 4012 shall be subject to fines of $1,000 per day for each violation.".

(2) The table of contents for subtitle D (contained in section 1001) is amended by adding at the end the following new items:

"Sec. 4011. Recycling requirements for scrap tires.
"Sec. 4012. Management standards for scrap tires and scrap tire collection and recycling facilities.
"Sec. 4013. Enforcement and penalties for scrap tire requirements".

(b) DEFINITIONS.—Section 1004 of the Solid Waste Disposal Act is amended by adding the following at the end thereof:

"(41) The term 'producer' with respect to tires means any person who produces tires for an automobile, motorcycle, truck, trailer, semitrailer or combination, or truck tractor. Such production does not include retreading tires.

"(42) The term 'importer' with respect to tires means any person who imports tires, either individually or as part of an automobile or other vehicle.

"(43) The term 'scrap tire' means a tire from an automobile, motorcycle, truck, trailer, semitrailer or combination, or truck tractor, that is no longer usable for the original purpose.

"(44) The term 'scrap tire collection facility' means any facility or entity that voluntarily or involuntarily collects, stores, or otherwise accumulates scrap tires in amounts in excess of 1,000 tires a year, including an auto parts retailer or municipality.

"(45) The term 'recycler' means with respect to tires the owner or operator of a tire recycling facility who has a permit under section 4012.

"(46) The term 'recycling credit' means with respect to tires a legal record of a recycling activity undertaken in accordance with section 4012 that represents scrap tires recycled for purposes of complying with that section and section 4011.

"(47) The term 'tire sale and installation facility' means any facility which sells or installs more than 1,000 tires for operation on the highways of the United States.

"(48) The term 'tire-derived product' means a product made from the usable materials produced from the chemical or physical processing of a scrap tire. Such term does not include ash from burning a scrap tire.

"(49) The term 'tire fuel' means tires used to produce heat in an energy recovery combustion device designed to burn fossil fuels (including coal, oil, and natural gas), regardless of the size or shape of the tire upon entering the combustion device.

"(50) The term 'tire-derived fuel' means tire fuel that is composed of shredded tires from which 95 percent of the metal has been removed.

"(51) The term 'abatement increment' means a period of time not greater than six months and not less than one month, as specified in an abatement plan, during which a specified number of scrap tires will be removed from a scrap tire collection facility and processed in accordance with section 4011.

"(52) The term 'shredded tire' means a scrap tire reduced to chips no larger than 2 inches by 2 inches.

"(53) The term 'crumb rubber' means rubber from a scrap tire that is separated from the steel fabric and other contaminants of the tire, and reduced, with or without processing agents, into particles of specified sizes and shapes.

"(54) The term 'asphalt road paving mix' includes surface treatments, interlayers, and crack sealants.".

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the amendments made by this subtitle.

Subtitle H.—Insular Areas Energy Assistance

SEC. 271. INSULAR AREAS ENERGY ASSISTANCE PROGRAM.

(a) FINANCIAL ASSISTANCE.—(1) The Secretary, pursuant to the Federal Nonnuclear Energy Research and Development Policy Act of 1974 (42 U.S.C. 5901, et. seq.), may grant financial assistance to Insular area governments to carry out projects to evaluate the feasibility of, develop options for, and encourage the adoption of energy efficiency and renewable energy measures which reduce the dependency of the Insular area on imported fuels and promote development in the Insular area.

(2) Any applicant for financial assistance under this section must evidence coordination and cooperation with, and support from, the affected local energy institutions.

(3) In determining the amount of financial assistance to be provided for a proposed project, the Secretary shall consider—

(A) whether the measure will reduce the relative dependence of the Insular area on imported fuels;

(B) the ease and costs of operation and maintenance of any facilities contemplated as a part of the project;

(C) whether the project will rely on the use of conservation measures or indigenous, renewable energy resources that were identified in the 1982 Territorial Energy Assessment or are identified by the Secretary as consistent with the purpose of this section;

(D) whether the measure will contribute significantly to development or the quality of the environment in the Insular area; and

(E) any other factors which the Secretary may determine to be relevant to a particular project.

(4) The Secretary shall require at least 20 percent of the costs of any project under this section to be provided from non-Federal sources. Such cost sharing may be in the form of inkind services, donated equipment, or any combination thereof.

(b) DEFINITIONS.—For the purpose of this section, the term—

(1) "Insular area government" means American Samoa government, Commonwealth of the Northern Mariana Islands, Commonwealth of Puerto Rico, Federated States of Micronesia, Government of Guam, Republic of the Marshall Islands, Republic of Palau, and United States Virgin Islands;

(2) "1982 Territorial Energy Assessment" means the assessment prepared by the Departtment of Energy pursuant to the Omnibus Territorial Act. (P.L. 96-597, 94 Stat. 3480; as amended by P.L. 99-213, 97 Stat. 1460)

(c) AUTHORIZATION.—There is hereby authorized to be appropriated for each fiscal year $500,000 to carry out the purpose of this section.

TITLE III—MEASURES TO PROMOTE THE USE OF RENEWABLE ENERGY

Subtitle A.—Renewable Energy Technology Transfer

SEC. 301. RENEWABLE ENERGY RESEARCH AND DEVELOPMENT PROGRAMS.

Section 4 of the Renewable Energy and Energy Efficiency Technology Competitiveness Act (P.L. 101-218) is hereby amended by striking all after the (c)(1) and inserting in lieu thereof the following:

(a) not to exceed $250,000,000 for fiscal year 1992;

(b) not to exceed $290,000,000 for fiscal year 1993; and

(c) not to exceed $360,000,000 for fiscal year 1994.

Each of the President's annual budget requests submitted to Congress after the date of enactment of this Act shall include as separate line items each of the categories of renewable energy programs described in this subsection.

SEC. 302. STATE AND LOCAL GOVERNMENT ASSISTANCE.

(a) STATE CONSERVATION PROGRAMS.—There are authorized to be appropriated for purposes of funding innovative State programs, and to be equally divided between renewable energy and energy efficiency under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321-6327):

(1) $5,000,000 for fiscal year 1992;

(2) $5,750,000 for fiscal year 1993; and

(3) $6,600,000 for fiscal year 1994.

(b) The Secretary shall fund no more than 20 State programs annually with the funds authorized under this subsection. Programs shall be selected on the following criteria:

(1) relative short-term benefit;

(2) evidence of cooperation with the renewable energy and energy efficiency industries; and

(3) the ability to provide facilitation of Government/industry joint venture projects.

(c) AUTHORIZATIONS FOR TECHNOLOGY TRANSFER PROGRAMS.—There are authorized to be appropriated, to be divided equally for the purposes of renewable energy and energy efficiency State research and applied technology transfer programs in existence on January 1, 1990, including the Florida Solar Energy Center, the Massachusetts Photovoltaic Center, the Alternative Energy Institute at West Texas State University, and the National Center for Appropriate Technology:

(1) $3,500,000 for fiscal year 1992;

(2) $4,050,000 for fiscal year 1993; and

(3) $4,750,000 for fiscal year 1994.

SEC. 303. AUTHORIZATIONS FOR FEDERAL LABORATORY TECHNOLOGY TRANSFER.

(a) INFORMATION AND PUBLICATIONS.—There are authorized to be appropriated for purposes of enabling the national laboratories of the Department, in cooperation with State and local government and industry, to provide up-to-date information and publications on renewable energy and energy efficiency to industry, Federal, State and local governments, and the general public:

(1) $5,000,000 for fiscal year 1992;

(2) $5,750,000 for fiscal year 1993; and

(3) $6,600,000 for fiscal year 1994.

(b) AUTHORIZATIONS FOR PILOT PROGRAMS.—There are authorized to be appropriated to the Secretary, for the Department to establish four pilot programs, two of which shall emphasize renewable energy and two of which shall emphasize energy efficiency, to demonstrate new or successful model technology transfer and design assistance programs:

(1) $1,500,000 for fiscal year 1992;

(2) $1,750,000 for fiscal year 1993; and

(3) $2,250,000 for fiscal year 1994.

(c) STRATEGIC TECHNOLOGY TRANSFER IMPLEMENTATION PLAN.—Within six months after the date of the enactment of this Act, the Secretary, in consultation with appropriate State governments and representatives from the renewable energy and energy efficiency industries, shall develop a Strategic Technology Transfer Implementation Plan for the national and international transfer of renewable energy and energy efficiency technology information.

SEC. 304. AUTHORIZATIONS FOR MARKET ACCEPTANCE AND INNOVATION.

(a) RESEARCH AND DEVELOPMENT INFORMATION COMPUTER NETWORK.—There are authorized to be appropriated for the purposes of establishing an advanced research and development information computer network to provide to local governments, technology and business entities, and consumers with information on advances in renewable energy and energy efficiency research and development that have export potential, such as solar detoxification, solar desalinization, hydrogen electrolysis, water pumping and water purification:

(1) $1,500,000 for fiscal year 1992;

(2) $1,750,000 for fiscal year 1993; and

(3) $2,250,000 for fiscal year 1994.

SEC. 305. SOLAR ENERGY DEVELOPMENT FUND.

Section 4(c) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (P.L. 101-218) is amended by adding a subparagraph (4) as follows:

"(4) In addition, the Secretary is authorized to enter into at least ten photovoltaic demonstration projects of at least ten megawatts in size to supply electric power to a power grid.

"There are authorized to be appropriated to the Secretary for purposes of this subparagraph, $100,000,000. Provided that the Federal cost-share shall be no greater than 25 percent: *Provided further*, That none of the funds authorized under this subparagraph shall be available to a State unless that State's regulatory commission allows the utility to rate-base the utility share of the investment.".

SEC. 306. AMENDMENTS TO THE FEDERAL POWER ACT.

Section 3(17) of the Federal Power Act (16 U.S.C. 796(17)) is amended—

(1) by amending paragraph (A) to read as follows:

"(17)(A) "small power production facility" means a facility which—

"(i) is an "eligible solar, wind, waste, biomass, hydropower, or geothermal facility";

"(ii) is an "alternative power production facility"; or

"(iii)(I) produces electric energy solely by the use, as a primary energy source, of biomass, waste, renewable resources, geothermal resources, or any of those energy sources; and

"(II) has the power production capacity which, together with any other facilities located at the same site (as determined by the Commission), is not greater than 80 megawatts;";

(2) in paragraph (E)—

(A) by inserting ", biomass, hydropower," after "waste" each time it appears; and

(B) by striking "and which would otherwise not qualify" and all that follows in such subparagraph down to but not including the period; and

(3) by adding the following paragraph:

"(F) "alternative power production facility" means a facility, regardless of power production capacity, which produces electric energy by using solar energy, wind energy, waste resources, biomass energy, hydroelectric power, or geothermal resources, but only if:

"(i) either an application for certification of the facility as a qualifying small power production facility or a notice that the facility meets the requirements for qualification is submitted to the Commission;

"(ii) the output of the facility is sold to an electric utility subject to the ratemaking authorization of a State regulatory agency is acquired by such electric utility according to acquisition procedures, or under a contract, approved by such State regulatory agency; and

(4) If at least 50 percent of the energy input to an alternative power production facility, as such term is defined in section 3(17)(F) of the Federal Power Act, is obtained from the use of solar, wind, waste, biomass, hydropower, geothermal resources, or any combination of those resources, such alternative power production facility shall be deemed to comply with the criteria for fuel use established pursuant to section 3(17)(c) of the Federal Power Act, unless, after the date of the enactment of this Act, the Commission shall otherwise prescribe by rulemaking.

SEC. 307. UTILITY PURCHASING AND EXEMPTIONS.

Section 210 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a-3) is amended—

(1) in subsection (a) by striking "and to encourage geothermal small power production facilities of not more than 80 megawatts capacity,";

(2) in subsection (e)(2) by striking "other than a qualifying small power production facility which is an eligible solar, wind, waste, or geothermal facility as defined in section 3(17)(E) of the Federal Power Act" and inserting "other than a qualifying small power production facility which is an alternative power production facility or an eligible solar, wind, waste, biomass, hydropower, or geothermal facility" in its place; and

(3) in subsection (l) by inserting "alternative power production facility", "eligible solar, wind, waste, biomass, hydropower, or geothermal facility", "competitive acquisition"," after ""qualifying small power producer",".

Subtitle B.—Amendments to the Committee on Renewable Energy Commerce and Trade (CORECT)

SEC. 311. DUTIES OF CORECT.

Section 256 of Title II Part B of the Energy Policy and Conservation Act is amended by striking subsection (d) and inserting the following in lieu thereof:

"(d)(1) Duties.—There shall be established an interagency working group (hereafter in this subsection referred to as the Committee on Renewable Energy Commerce and Trade (CORECT)) which, in consultation with the representative industry groups and relevant agency heads, shall make recommendations to coordinate the actions and programs of the Federal government to promote the export of U.S. renewable energy and energy efficiency products and technologies. The Secretary of Energy shall be the Chairman of such group. The heads of appropriate agencies may detail such personnel and may furnish such services to such working group, with or without reimbursement, as may be necessary to carry out its functions.

"(2) Additional duties.—CORECT shall promote the development and application in lesser-developed countries of renewable energy and energy efficiency resource technologies that—

"(A) promote hybrid fossil-renewable energy systems;

"(B) reduce dependence on the importation of fossil fuels by encouraging the use of sustainable biomass, wind power, hydropower, solar, geothermal and other renewable energy and energy efficiency resource technologies;

"(C) foster rural and urban energy development and energy self-sufficiency through the use of reliable and economical renewable energy and energy efficiency resource technologies;

"(D) explore mechanisms for assisting in the domestic manufacturer, particularly by small business manufacturers, of energy efficiency and renewable energy resource technologies, for export; and

"(E) increase staffing to support the new authority and responsibilities described in this section.

"(3) Training and assistance.—In furthering the purposes of this section, CORECT shall—

"(A) provide aggressive in-country technical training for local users and international development personnel;

"(B) provide financial assistance to support nonprofit institutions that support the efforts of domestic renewable energy and energy conservation companies to market their products, and to develop environmentally responsible projects in developing nations;

"(C) establish feasibility and loan guarantee programs to facilitate access to capital and credit; and

"(D) support, through financial incentives, private sector efforts to commercialize and export renewable energy and energy efficiency resource technologies.

"(4) Outreach.—CORECT may establish renewable energy industry outreach offices in the Pacific Rim and in the Caribbean Basin for the purpose of providing information concerning U.S. energy efficiency and renewable energy resource technologies and industries to governments, industries, and others outside of the continental United States.".

SEC. 312. INFORMATION AND TECHNICAL PROGRAM.

Section 256(c)(2)(D) of Title II Part B of the Energy Policy and Conservation Act is amended by striking clause (ii) and inserting in lieu thereof the following new clause:

"(ii) information on the specific energy technology needs of lesser-developed countries, the technical and economic competitiveness of various renewable energy and energy efficiency resource technologies, and the status of ongoing technology assistance programs shall be provided. Information from this program shall be made available to industry, Federal and multilateral lending agencies, nongovernmental organizations, host-country and donor-agency officials, and such others as the Secretary deems necessary.".

SEC. 313. COMPREHENSIVE ENERGY TECHNOLOGY EVALUATION.

Section 256 of Title II Part B of the Energy Policy and Conservation Act is amended by adding at the end new subsections (e) and (f) as follows:

"(e)(1) Not later than June 1, 1991, and biennially thereafter, the Secretary shall prepare and submit to Congress, a report evaluating the range of energy efficiency and renewable energy technologies available to meet the energy needs of lesser-developed countries. This report also shall provide information on the specific energy needs of lesser-developed countries, an inventory of U.S. technologies and services to meet those needs, and an update on the status of ongoing bilateral and multilateral technology assistance and renewable energy resource programs.

"(2) The report also should include an evaluation of current programs and their priority for meeting program objectives as well as recommendations, for future programs that:

"(A) develop and promote sustainable use of indigenous renewable energy resources in lesser-developed countries;

"(B) given the credit and capital restrictions in lesser-developed countries, focus on technologies that are both appropriate and economically viable;

"(C) meet the needs of lesser-developed countries for energy rather than creating new needs, in order to ensure immediate income-generating use of the power generated;

"(D) work with local individuals to assure that programs and projects meet specific national and local needs;

"(E) use indigenous materials and asociated hardware, wherever possible, in order to reduce costs and ensure project duplication;

"(F) provide examples of cost-effective systems and applications for in-country nongovernmental organizations and project technical personnel;

"(G) provide mechanisms for assisting U.S. manufacturers, particularly smaller manufacturers, of energy-efficient and renewable energy technologies, in exporting their goods and services;

"(H) expand technical and administrative training programs, as well as distribution of multilingual technical training manuals and related materials; and

"(I) examine the potential for using economic incentives to promote technology transfer (e.g. shared savings contracts, loan guarantees, tax incentives, etc.) to lesser-developed countries.

"(f) Authorizations.—(1) There is authorized to be appropriated for purposes of carrying out the programs under sections (d) and (e) $10,000,000 for fiscal year 1992, including $2,000,000 to carry out the purposes of subparagraph (d)(2), and such sums as may be necessary for fiscal year 1993 and 1994 to carry out the purposes of this subtitle except for subparagraph (d)(4).

"(2) There is authorized to be appropriated for the purposes of subparagraph 256(d)(4), in addition to the amount specified in the previous sentence, $2,750,000 for fiscal year 1992, and such sums as may be necessary for fiscal years 1993 and 1994.".

TITLE IV—MEASURES TO PROMOTE THE USE OF ALTERNATIVE MOTOR VEHICLES AND FUELS

Subtitle A.—Alternative Transportation Fuels

SEC. 401. MASS TRANSIT PROGRAM.

(a)(1) The Secretary, consistent with this Act, in consultation with the Administrator of the Urban Mass Transit Administration, may, consistent with the Alternative Motor Fuels Act of 1988 (P.L. 100-494), enter into cooperative agreements and joint ventures proposed by any municipal, county, or regional transit authority in an urban area with a population over 100,000 (according to latest available census information) to demonstrate the feasibility, including safety of specific vehicle design, of using natural gas or other alternative fuels for mass transit.

(2) The cooperative agreements and joint ventures under paragraph (1) may include interested or affected private firms willing to provide assistant in cash, or in kind, for any such demonstration.

(b)(1) The Secretary may not enter into any cooperative agreement or joint venture under subsection (a) with any municipal, county or regional transit authority unless such government body agrees to provide at least 25 per centum of the costs of such demonstration.

(2) The Secretary, at his discretion, may grant such priority under this section to any entity that demonstrates that the use of natural gas or other alternative fuels used for transportation would have a significant effect on the ability of an air quality region to comply with applicable regulations governing ambient air quality.

(c) There is authorized to be appropriated not more than $30,000,000 for each of fiscal years 1992, 1993, and 1994 for purposes of this section.

SEC. 402. NATURAL GAS AND OTHER ALTERNATIVE FUEL USE IN FLEET VEHICLES.

(a) The Secretary, consistent with the Alternative Motor Fuels Act of 1988 (P.L. 199-494), and in consultation with the Administrator of the U.S. Environmental Protection Agency and the Secretary of Transportation, shall establish and carry out a program, and provide financial assistance to encourage the development and commercialization of natural gas and other alternative fuels for use in passenger fleets, light-duty trucks, and heavy-duty trucks consistent with the purposes of this Act. Such assistance shall provide for the purchase and construction of vehicles dedicated to the use of natural gas or other alternative fuels and of vehicles dually fueled by natural gas or other alternative fuels and gasoline or diesel, and associated refueling equipment.

(b) Public and private fleets may be eligible for financial assistance under this section.

(c) The Secretary, at his discretion, may grant such priority to those fleets where the use of natural gas and other alternative transportation fuels would have a significant effect on the ability of an air quality region to comply with applicable regulations governing ambient air quality.

(d) To facilitate the use of natural gas and other alternative fueled vehicles, the conversion of a vehicle from either gasoline or diesel alone to natural gas or other alternative fuels alone, or to natural gas or other alternative fuels and either gasoline or diesel, shall not be considered a violation of any anti-tampering provisions of the Federal law and implementing regulations, provided that the conversion complies with emissions standards issued by the Administrator of the Environmental Protection Agency.

(e) Any program established under this section that applies to existing vehicles shall take into consideration the safety of specific vehicle design and the compatibility of natural gas or other alternative fuel use with the original components of such existing vehicles.

(f) There is authorized to be appropriated not more than $30,000,000 for each of fiscal years 1992, 1993, and 1994, for purposes of this section.

SEC. 403. TRAINING PROGRAM.

(a) The Secretary of the Department of Labor shall establish and carry out a training and certification program for technicians who are responsible for vehicle installation of equipment that converts gasoline or diesel-fueled vehicles to the capability to run on natural gas or other alternative fuels alone, or on natural gas or other alternative fuels and either diesel fuel or gasoline, and for the maintenance of such converted vehicles. Such training and certification programs shall provide these technicians with instruction on the correct installation procedures and techniques, adherence to specifications, vehicle operating procedures, emissions testing, and other appropriate mechnical concerns applicable to these vehicle conversions.

(b) The Secretary, may under this section, enter into cooperative agreements with, and provide financial assistance to appropriate parties to provide training programs that will ensure the proper operation and performance of conversion equipment.

(c) The program under this section shall be consistent with the Alternative Motor Fuels Act of 1988 (P.L. 100-494).

(d) There is authorized to be appropriated not more than $5,000,000 for each of the fiscal years 1992, 1993, and 1994 for purposes of this section.

SEC. 404. VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAM.

(a) The Secretary shall carry out a program of research, development, and demonstration on techniques related to improving natural gas and other alternative fueled vehicle technology including, but not limited to, the following areas—

(1) fuel injection;

(2) carburetion;

(3) mainfolding;

(4) combustion;

(5) power optimization;

(6) efficiency;

(7) lubricants and detergents;

(8) engine durability;

(9) ignition, including fuel additives to assist ignition;

(10) multifuel engines;

(11) emissions control, including catalysts;

(12) novel gas compression concepts;

(13) advanced storage systems;

(14) advanced gaseous fueling technologies; and

(15) the incorporation of advanced materials in these areas.

(b) The Secretary, consistent with the Alternative Motor Fuels Act of 1988 (P.L. 100-494), may under this section, enter into cooperative agreements with, and provide financial assistance to, pulbic entities or interested or affected private firms willing to provide 50 per centum of the costs of such programs to perform the research and development necessary to improve natural gas vehicle and other alternative fuel vehicle technology.

(c) There is authorized to be appropriated not more than $10,000,000 for each of the fiscal years 1992, 1993, and 1994 for purposes of this section.

SEC. 405.—FEDERAL PROGRAMS TO PROMOTE VEHICULAR NATURAL GAS USE.—Within six months following enactment of this Act, the Secretary shall:

(a) institute a government-sponsored awareness program for alternative fuels designed to educate potential purchasers of the costs of such fuels as well as their emission characteristics and other features;

(b) identify and report to Congress on purchasing policies of the Federal Government which inhibit or prevent the purchase by the Federal Government of alternative-fueled vehicles;

(c) report to Congress on federal, state and local traffic control measures and policies and how the use of alternative-fueled vehicles could be promoted by granting such vehicles exemptions or preferential treatment under such measures; and,

(d) develop a plan for the establishment of trust funds by the Federal Government and by the states to provide loans to convert vehicles to operate on alternative fuels or to purchase vehicles which operate on alternative fuels, with such loans to be repaid by the borrower from the cost differential between gasoline and the alternative fuel on which the vehicle operates.

SEC. 406. FEDERAL REGULATIONS OF THE SALE OF ALTERNATIVE FUELS

(a) Section 1 of the Natural Gas Act is amended to add a new subsection (d) as follows:

"(d) the provisions of this Act shall not apply to the sale or transport of natural gas for subsequent use as a fuel in motor vehicles."

(b) Non-applicability of the Public Utility Holding Company Act of 1935.

(1) A company shall not be considered to be a gas utility company under section 2(a)(4) of the Public Utility Holding Company Act of 1935 solely because it distributes or sells natural gas as a fuel for motor vehicles.

(2) Notwithstanding section 11(b)(1) of the Public Utility Holding Company Act of 1935, a company registered under such Act solely by reason of direct or indirect ownership of voting securities of one or more gas utility companies, or any subsidiary of such company, may acquire or retain, in any geographic area, any interest in any company involved in the sale of natural gas for motor vehicle use or in the manufacture, sale, installation or servicing of equipment to allow the use of natural gas in a motor vehicle.

(3) A company's activities with respect to the sale of natural gas for motor vehicles use shall not be considered in determining whether such company is subject to regulation under section 3 of the Public Utility Holding Company Act of 1935.

(c) Section 401(f)(2) of the Natural Gas Policy Act of 1978 is amended to read as follows:

"(1) High Priority User—the term "high priority user" means any person who—

(A) uses natural gas in a residence;

(B) uses natural gas in a commercial establishment in amounts of less than 50 McF on a peak day;

(C) uses natural gas in any school, hospital, or similar institution;

(D) uses natural gas as a fuel in motor vehicles; or

(E) uses natural gas in any other use the curtailment of which the Secretary of Energy determines would endanger life, health, or maintenance of physical property.

(d) Vehicular Natural Gas Jurisdiction.

(1) DEFINITIONS.—For the purposes of this section—

(A) the term "VNG" means natural gas for ultimate use as a fuel in a motor vehicle, and includes compressed natural gas.

(B) the term "Motor Vehicle" includes any automobile, truck, bus, van, or other on-road or off-road motor vehicle, including a boat.

(2) PERSONS WITH HINSHAW EXEMPTIONS.—

(A) PLACE OF ULTIMATE CONSUMPTION.—For purposes of section 1(c) of the Natural Gas Act, in the case of any sale of VNG, such VNG shall be deemed to be "ultimately consumed" within the State in which physical delivery of such VNG occurs, whether or not physical combustion of such VNG occurs in another State.

(B) STATE REGULATION.—For purposes of section 1(c) of the Natural Gas Act, certification from a State commission to the Federal Energy Regulatory Commission that such State commission has regulatory jurisdiction over the rates, services and facilities of a person (who receives natural gas from another person within or at the boundary of a State all of which natural gas so received is ultimately consumed within such State) and is exercising such jurisdiction shall constitute conclusive evidence of such regulatory power or jurisdiction even in cases where such State commission does not have jurisdiction by reason of State law, or is not exercising jurisdiction, over the sale for resale or transportation of VNG.

(3) Persons with service area determinations.—For purposes of the Natural Gas Act:

(A) Sale for resale.—In the case of a sale for resale of VNG by the holder of a service area determination under section 7(f) of the Natural Gas Act, such sale for resale shall be subject to the exclusive jurisdiction of the State commission in the State in which physical delivery of such VNG occurs, whether or not physical combustion of such VNG occurs in another State.

(B) Transportation.—In the case of transportation of VNG by the holder of a service area determination under section 7(f) of the Natural Gas Act, such VNG shall for purposes of section 7(f)(2) of the Natural Gas Act be deemed to be "consumed" within the State in which physical delivery of such VNG occurs, whether or not physical combustion of such VNG occurs in another State.

(C) State regulation.—In case of sale for resale of VNG, or the transportation of VNG, by a holder of service area determination under section 7(f) of the Natural Gas Act, such sale for resale or transportation shall be deemed to be subject to the exclusive jurisdiction of the State commission of the State in which such sale for resale or transportation occurs whether or not the sale for resale or transportation of VNG is subject to the jurisdiction of the State commission under State law.

SEC. 407. STATE REGULATION OF THE SALE OF ALTERNATIVE FUELS BY SELLERS OF TRANSPORTATION FUELS.

(a) Exemptions.—Any person or entity transporting or making sales of alternative fuels, as defined by this Act, shall not be deemed to have made a sale for resale and shall not by such transporatation or the making of such sale, whether at wholesale or retail, be subject to regulation as a public utility so long as such person or entity is not otherwise primarily engaged in the business of a public utility.

(b) Curtailment.—Within 12 months of enactment of this Act, or upon petition to the State Public Utility Commission, each State shall study the potential impact of existing curtailment policies on alternative fuels. Prior to the issuance of such report or response upon petition, for purposes of curtailment, alternative fuel supply and distribution to wholesalers or retailers for sale to the public shall be given the same supply priority as residential customers.

(c) For purposes of this section and section 102, the term "alternative fuels" includes natural gas, liquefied petroleum gas, any fuel the content of which is at least 85 percent by volume methanol, ethanol or other alcohol, and electric power.

SEC. 408. CREATION OF MATCHING FUND FOR STATE ALTERNATIVE FUEL OFFICES AND PROGRAMS.

(a) Alternative Fuel Fund.—The Secretary of the Department of Energy shall establish a fund to assist State governments in establishing an office of alternative fuels within such governments or in establishing an office of alternative fuels within an existing energy office of such State governments. The fund shall also be available for funding alternative fuel programs established by such alternative fuel offices within State governments.

(b) Eligible Offices and Programs.—To qualify for funding under this section, an alternative fuel office or an alternative fuel program must have as its central responsibility the development of increased reliance on alternative fuels within the State. Alternative fuel programs include, but are not limited to, programs that purchase or convert State vehicles that run exclusively on an alternative fuel or vehicles that are dually fueled by an alternative fuel and gasoline or diesel fuel, and associated refueling equipment. Such programs also include State alternative fuel office programs to encourage or require fleet vehicles, airport vehicles (such as maintenance, baggage handling, passenger ground transportation, or traffic control vehicles), and other vehicles located within the State to operate on alternative fuels. Alternative fuel programs also include programs designed to identify and eliminate unnecessary regulatory obstacles to the sale, transport and use of alternative fuels within the State.

(c) Definition of State.—For purposes of the State alternative fuel offices, "State" means any State or the District of Columbia. For purposes of alternative fuel programs "State means any State or the District of Columbia, or any political subdivision thereof, that is responsible for administering an alternative fuel program approved or authorized by a State alternative fuel office.

(d) Definition of Alternative Fuels.—For purposes of this section, "alternative fuels" means natural gas, liquefied petroleum gas, a fuel the composition of which is at least 85 percent methanol or ethanol, hydrogen, or electric power.

(e) Matching Funds.—No funds shall be made available to a State under this section unless such State agrees to provide at least 50 percent of the cost of establishing a State alternative fuel office or each alternative fuel project.

(f) Energy Security Funding.—Within six months of the date of enactment, the Secretary must make a finding as to whether increased use of the various alternative fuels would have the effect of displacing imported energy supplies. If such a finding is not made with respect to any of the alternative fuels, any such fuel for which such a finding is not made is not eligible for inclusion in the offices or programs established by this section.

(g) Authorization.—There is authorized to be appropriated not more than $20,000,000 in fiscal year 1992 and $40,000,000 in each of fiscal years 1993 and 1994.

SEC. 409. ALTERNATIVE FUEL USE IN NON-ROAD VEHICLES AND ENGINES.

(a) Non-Road Vehicles and Engines.—

(1) The Secretary of the Department of Energy shall conduct a study to determine whether the use of alternative fuels in non-road vehicles and engines would contribute substantially to reduced reliance on imported energy sources. Such study shall be completed within 18 months of the date of enactment.

(2) The study must assess the potential of non-road vehicles and engines to run on alternative fuels. Taking into account the non-road vehicles and engines for which running on alternative fuels is feasible, the study must assess the potential reduction in reliance on foreign energy sources that could be achieved if such vehicles were to run on alternative fuels.

(3) After notice and opportunity for public hearing, the Secretary shall determine within 12 months of the completion of the study under paragraph (1), based upon the results of the study, whether reliance on imported energy sources could be reduced by at least 10 percent nationwide within a 10-year period.

(4) If the Secretary makes an affirmative determination under paragraph (3), the Secretary shall, within 12 months of such determination, promulgate (and from time to time revise) regulations that require non-road vehicles and engines for which running on alternative fuels is feasible to run on alternative fuels.

(b) Definition of Non-Road Vehicles and Engines.—Non-road vehicles and engines, for purposes of this section, shall include, but not be limited to, non-road vehicles and engines used for surface transportation or principally for industrial or commercial purposes, vehicles used for rail transportation, vehicles used at airports, vehicles or engines used for marine purposes, and other vehicles or engines at the discretion of the Secretary. Farm vehicles are excluded from the study required under paragraph (a)(1) and the regulations under paragraph (a)(4).

(c) Definition of Alternative Fuels.—Alternative fuels, for purposes of this section, shall include natural gas, liquefied petroleum gas, fuels the composition of which is at least 85 percent methanol, ethanol or other alcohol, and electric power.

(d) Effective Date.—The regulations under subsection (a)(4) shall take effect at the earliest possible date considering the lead time necessary for the affected non-road vehicles and engines to begin operating on alternative fuels.

Subtitle B.—Alternative Fuel Fleet Requirement

Sec. 411. Definitions.—For the purposes of this subtitle—

(1) "alternative fuel" means methanol, ethanol, and other alcohols; mixtures containing 85 percent or more by volume of methanol, ethanol, or other alcohol with gasoline or other fuels; natural gas; liquid petroleum gas; hydrogen; and electricity;

(2) "alternative fuel vehicle" means a motor vehicle that—

(A) operates solely on alternative fuel, or

(B) is a flexi-fueled vehicle;

(3) "covered person" means a person to whom section 412 of this subtitle applies;

(4) "fleet" means a number of motor vehicles, all or a part of which are centrally fueled or capable of being centrally fueled, that are owned, operated, leased, or otherwise controlled by a person. This term does not include—

(A) motor vehicles held for daily lease or rental to the general public;

(B) motor vehicles held for sale by motor vehicle dealers, including demonstration vehicles;

(C) motor vehicles used for motor vehicle manufacturer product evaluations of tests;

(D) law enforcement vehicles;

(E) emergency vehicles;

(F) military tactical vehicles; or

(G) non-road vehicles, including farm and construction vehicles;

(5) "flexi-fueled vehicle" means a motor vehicle that can operate on alternative or non-alternative fuel;

(6) "person" has the meaning given that term in section 1 of title 1, United States Code, but also includes a State government and a local government; and

(7) "urban bus" has the meaning given that term in section 219 of the Clean Air Act (42 U.S.C. 7554).

Sec. 412. Acquisition of Alternative Fuel Vehicles.—(a)(1) This subsection applies to a person who owns, operates, leases, or otherwise controls a fleet that:

(A) (i) contains at least:

(I) 10 automobiles;

(II) 10 trucks, except multi-unit trucks over 26,000 pounds gross vehicle weight; or

(III) 10 buses, except intercity passenger buses and urban buses; or

(IV) a combination of at least 10 motor vehicles of these types; and

(ii) is located in a metropolitan statistical area or consolidated metropolitan statistical area, as established by the Bureau of the Census, with a 1980 population of more than 250,000, which has been classified by the Environmental Protection Agency under part D of title I of the Clean Air Act as a serious, severe or extreme nonattainment area for ozone based on 1987, 1988, and 1989 data; or

(B)(i) contains at least—

(I) 20 automobiles;

(II) 20 trucks, except multi-unit trucks over 26,000 pounds gross vehicle weight;

(III) 20 buses, except intercity passenger buses and urban buses; or

(IV) a combination of at least 20 motor vehicles of these types; and

(ii) is located in a metropolitan statistical area or consolidated metropolitan statistical area, as established by the Bureau of the Census, with a 1980 population of more than 250,000.

(2) When a person to whom this subsection applies under paragraph (1) purchases, leases, or otherwise acquires vehicles for the fleet described in paragraph (1), in the years specified in this paragraph, the following percentage of the vehicles purchased, leased, or otherwise acquired shall be alternative fuel vehicles in the respective years—

(A) in 1995, 10 percent;

(B) in 1996, 15 percent;

(C) in 1997, 25 percent;

(D) in 1998, 50 percent;

(E) in 1999, 75 percent; and

(F) in 2000, and afterwards, 90 percent.

(b)(1) This subsection applies to a person who owns, operates, leases, or otherwise controls a fleet that—

(A)(i) contains at least 10 urban buses, except intercity passenger buses, and

(ii) is located in an area described in subsection (a)(1)(A)(ii) of this section, or

(B)(i) contains at least 20 urban buses, except intercity passenger buses, and

(ii) is located in an area described in subsection (a)(1)(B)(ii) of this section.

(2) When a person to whom this subsection applies under paragraph (1) purchases, leases, or otherwise acquires vehicles for the fleet described in paragraph (1), in the years specified in this paragraph, the following percentage of the vehicles purchased, leased, or otherwise acquired shall be alternative fuel vehicles in the respective years—

(A) in 2000, 50 percent;

(B) in 2001, 75 percent;

(C) in 2002, 80 percent; and

(D) in 2003, and thereafter, 90 percent.

SEC. 413. EXCEPTION.—This subtitle does not apply to a covered person if the Secretary determines that no alternative fuel vehicles meeting the fleet requirements for that person are available for purchase, lease, or acquisition by other means when the subtitle becomes applicable to the covered person. This subtitle applies to that covered person when alternative fuel vehicles become available. This subtitle does not apply to a person subject to section 712(b) if the Secretary determines that no alternative fuel vehicle that is an urban bus complies with the warranty standards for urban buses.

SEC. 414. CREDITS.—(a) The Secretary shall allocate a credit to a covered person if that person purchases an alterntive fuel vehicle in excess of the number that person is required to purchase under this subtitle or purchases an alternative fuel vehicle before the date that person is required to purchase an alternative fuel vehicle under this subtitle.

(b) In allocated credits under subsection (a), the Secretary shall allocate one credit for each alternative fuel vehicle the covered person purchases that exceeds the number of alternative fuel vehicles that person is required to purchase under this subtitle or that is purchased before the date that person is required to purchase an alternative fuel vehicle under this subtitle. The credit shall be allocated for the same type vehicles, including an urban bus, automobile, or other vehicle subject to the requirements of this subtitle, as the excess vehicle or earlier purchased vehicle.

(c) At the request of a covered person allocated a credit under this section, the Secretary shall treat the credit as the purchase of one alternative fuel vehicle of the type for which the credit is allocated in the year designated by that person when determining whether that person has complied with this subtitle in the year designated. A credit may be counted toward compliance for only one year.

(d) A covered person allocated a credit under this section or whom a credit is transferred under this section, may transfer freely the credit to another person who is required to comply with this subtitle. At the request of the person to whom a credit is transferred, the Secretary shall treat the transferred credit as the purchase of one alternative fuel vehicle of the type for which the credit is allocated in the year designated by the person to whom the credit is transferred when determining whether that person has complied with this subtitle in the year designated. A transferred credit may be counted toward compliance for only one year.

SEC. 415. REPORTS.—The Secretary may require a person to file with the Secretary the reports the Secretary determines necessary to implement this subtitle.

SEC. 416. ENFORCEMENT.—(a) A person who violates a requirement or prohibition of this subtitle is subject to a civil penalty of not more than $100,000 per violation. Each month in which a violation occurs constitutes a separate violation, unless the violator establishes that the vehicle necessary to comply with this subtitle could not be purchased, leased, or otherwise acquired in that month. The first month of a violation of the yearly acquisition requirements of section 412 is the month in which a person purchases, leases, or otherwise acquires vehicles that result in noncompliance with the yearly alternative fuel vehicle purchase requirement under that section. Each month in which compliance has not been achieved after the first month is a separate violation.

(b) The Secretary may request the Attorney General to commence a civil action for a permanent or temporary injunction or to assess and recover any civil penalty under subsection (a) of this section. An action under this subsection may be brought in the district court of the United States for the district in which the violation is alleged to have occurred or in which the defendant resides or has his principal place of business. The court in which the action has been brought may restrain a violation, require compliance, assess a civil penalty, collect any noncompliance assessment and nonpayment penalty owed the United States, and award any other appropriate relief. In such an action, subpoenas for witnesses who are required to attend a district court in any district may run into any other district.

(c)(1) Instead of commencing a civil action under subsection (b), the Secretary may assess an administrative penalty in the amount prescribed in subsection (a) of this section: The maximum amount of penalty sought against each violator in a proceeding under this subsection may not exceed $200,000, unless the Secretary and the Attorney General jointly determine that a larger amount is appropriate. A determination by the Secretary and the Attorney General on the appropriateness of a larger amount is not subject to judicial review.

(2) The Secretary shall assess an administrative penalty under this subsection by an order made on the record after opportunity for a hearing in accordance with sections 554 and 556 or title 5 of the United States Code. Before issuing such an order, the Secretary shall give the person to be assessed an administrative penalty written notice of the Secretary's proposal to issue an order. That person has 30 days from the date the notice is received to request a hearing on the order. The Secretary shall issue rules for procedures for hearings under this subsection. The Secretary may compromise, modify, or remit, with or without conditions, an administrative penalty that the Secretary imposes under this subsection.

(3) An order issued under this subsection becomes final 30 days after its issuance unless a petition for judicial review is filed under paragraph (4).

(4) Within 30 days following the date an administrative penalty is issued under this subsection, a person against whom the administrative penalty is assessed may seek review of the assessment in the United States District Court for the District of Columbia or for the district in which the violation is alleged to have occurred, the person resides, or the person's principal place of business is located. That person shall send a copy of the filing seeking review by certified mail to the Secretary and the Attorney General on the day of the filing. Within 30 days of the date the Secretary receives a copy of the filing, the Secretary shall file in the court a certified copy, or certified index, as appropriate, of the record on which the order was issued. The court shall not set aside or remand the order unless there is not substantial evidence in the record, taken as a whole, to support the finding of a violation or unless the Secretary's assessment of the penalty constitutes an abuse of discretion. In a proceeding under this subsection, the United States may seek to recover administrative penalties assessed under this subsection.

(5) If a person fails to pay an assessment of an administrative penalty imposed by the Secretary under this subsection–

(A) after the order making the assessment has become final, or

(B) after a court in an action brought under paragraph (4) has entered a final judgment in favor of the Secretary, the Secretary shall request the Attorney General to bring a civil action in an appropriate district court to recover the amount assessed, plus interest at rates established under section 6621(a)(2) of the Internal Revenue Code of 1986 from the date of the final order or the date of the final judgment, as the case may be. In this action, the validity, amount, and appropriateness of the penalty is not subject to review. A person who fails to pay on a timely basis the amount of an assessment of an administrative penalty under this section shall be required to pay, in addition to the amount and interest, the United States' enforcement expenses, including but not limited to, attorneys fees and costs for collection proceedings, and a quarterly nonpayment penalty for each quarter during which the failure to pay persists. This nonpayment penalty shall be in an amount equal to 10 percent of the aggregate amount of that person's penalties and nonpayment penalties which are unpaid as of the beginning of the quarter.

(d) In the determining the amount of a penalty to be assessed under this section, the Secretary or the court, as appropriate, shall take into consideration, in addition to other factors justice may require, the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence, payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation.

SEC. 417. IMPLEMENTATION.—The Secretary shall issue regulations to implement this subtitle.

Subtitle C.—Electric Vehicle Technology Development and Demonstration

SEC. 421. SHORT TITLE.—This subtitle may be cited as the "Electric Vehicle Technology Development and Demonstration Act of 1991".

SEC. 422. FINDINGS.—The Congress finds that:

(1) electric vehicles may be recharged primarily during times of nonpeak use of electricity, which will permit the most efficient utilization of electrical generating capacity, produce economic benefits for purchasers and producers of electricity, and improve the quality of air;

(2) the development, demonstration, and commercialization of electric vehicles in the United States will enhance the energy security of the United States and will encourage electric vehicle production in the United States;

(3) the use of electric vehicles rather than vehicles powered by conventionally fueled internal combustion engines could significantly improve the quality of air by allowing areas of the country that have not attained a quality of air that meets minimum health standards to meet such standards;

(4) because initial production of electric vehicles will not have economies of scale associated with mass production, the price to a user or owner may be so high as to discourage vehicle purchase and use; and

(5) because the substantial potential environmental and domestic energy security benefits that will result from the commercialization of electric vehicles are so great for the United States, it is in the public interest for the United States Government to assist in the development demonstration, and commercialization of domestically produced, cost competitive, electric vehicles.

SEC. 423. DEFINITIONS.—For purposes of this Act, the term—

(1) "Administrator" means the Administrator of the Environmental Protection Agency;

(2) "conventionally fueled vehicle" means a vehicle powered by an internal combustion engine that utilizes gasoline or diesel fuel as its fuel source;

(3) "electric vehicle" means a vehicle powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other portable sources of electrical current, and that may include a nonelectrical source of power designed to charge batteries and components;

(4) "eligible nonattainment area" means a nonattainment area that the Secretary designates as an eligible nonattainment area under section 424(b);

(5) "life cycle costs" means all costs associated with the purchase, operation, maintenance, and disposal of a vehicle; and

(6) "nonattainment area" means a nonattainment area identified by the Administrator pursuant to section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

SEC. 424. IDENTIFICATION OF NONATTAINMENT AREAS.—(a) The Secretary, in consultation with the Administrator, shall identify, not later than thirty days after the date of the enactment of this Act, the nonattainment areas in the United States in which the use of conventionally fueled vehicles contributes significantly to that nonattainment and in which the use of electric vehicles could contribute to attainment of applicable National Ambient Air Quality Standards. The Secretary shall provide notification to those nonattainment areas so identified under this section.

(b) The Secretary, after consultation with the Administrator and not later than thrity days after notification of the nonattainment areas identified under subsection (a), shall designate nonattainment areas eligible to participate in the program authorized by this subtitle.

SEC. 425. APPLICATIONS FROM MANUFACTURERS.—(a) Not later than thirty days after the Secretary designated the eligible nonattainment areas under section 424(b), the Secretary shall make an initial request for applications from manufacturers to develop, demonstrate, certify, manufacture, sell, warranty, and service electric vehicles in one or more eligible nonattainment areas. Additional requests for applications may be made if the Secretary determines that the responses to the initial request are inadequate.

(b) The request for applications shall require a manufacturer to identify the following:

(1) Sales Area—Any eligible nonattainment area in which the electric vehicles will be sold;

(2) Quantity—The quantity of vehicles that will be available for sale in each area;

(3) Distribution—The dealership network or other means to be used by a manufacturer to distribute, market, and sell vehicles;

(4) Type—The type of vehicle (which may include light to medium duty cargo or passenger vehicles);

(5) Characteristics—The specifications and performance characteristics of each vehicle;

(6) Service—The maintenance and other support services that will be available to a purchaser;

(7) Price—The selling price of manufacturer for varying volumes of production of each type of vehicle;

(8) Life Cycle Costs—Information regarding the life cycle costs, including projected costs of operating and maintaining an electric vehicle in comparison with operating and maintaining a conventionally fueled vehicle;

(9) State and Local Involvement—The level of involvement (cost-sharing or otherwise), if any, that State or local government entities shall have in the manufacturer's proposal, and now that involvement will affect the level of Federal cost-sharing required; and

(10) Other—Other information that the Secretary deems necessary.

SEC. 426. SELECTION OF MANUFACTURERS.—(a) After consulting with the Secretary of Commerce, the Secretary of Transportation, and the Administrator, and not later than one hundred eighty days after the initial request for application is made under section 425, the Secretary may select one or more manufacturers eligible to receive reimbursement payments for the development, demonstration, manufacture, and sale of electric vehicles.

(b) The Secretary shall select a manufacturer based upon the overall quality of the proposal, including the following:

(1) Capability—The ability of a manufacturer, directly or indirectly, to develop, demonstrate, manufacture, distribute, sell and service a significant number of electric vehicles;

(2) Geographic Diversity—The commitment of the manufacturer to distribute, sell and service electric vehicles in various regions of the country.

(3) Suitability—The suitability of the vehicles for use as a cargo or passenger vehicle;

(4) Safety and Environmental Benefit—The quality of the vehicle with respect to safety and environmental considerations;

(5) Viability—The long-term technical viability of the vehicle, and the ability of the manufacturer to incorporate subsequent advancements, modifications, and technology;

(6) Life Cycle Cost Reduction—The ability and commitment of a manufacturer to reduce the life cycle costs of electric vehicles over a period of five years or less after selection to a level at least equal to comparable conventionally fueled vehicles;

(7) Price—The selling price of a manufacturer for varying volumes of production of vehicles, the proposed discount (as defined in section 377), and life cycle costs of the electric vehicles;

(8) State and Local Support—The extent to which the involvement of state or local government in the program will permit the reduction of the Federal cost share per vehicle to be supported or will otherwise be used to leverage the federal cost-sharing to be provided among a greater number of vehicles;

(9) Other.—Other criteria that the Secretary deems necessary.

SEC. 427. DISCOUNTS TO PURCHASERS.—(a) A manufacturer selected by the Secretary shall offer a purchaser a discount equal to either:

(1) LIFE-CYCLE COST DIFFERENTIAL.—An amount which represents the excess of the estimated life cycle costs of the electric vehicle over the life cycle costs of a conventionally fueled vehicle of comparable type; or

(2) PURCHASE PRICE COST DIFFERENTIAL.—An amount by which the selling price of the electic vehicle exceeds the suggested retail price of a conventionally fueled vehicle of comparable type.

In no case shall the discount be greater than 50 per centum of the selling price by varying volumes of production.

(b) The Secretary, not later than thirty days after a manufacturer has provided notice in the form and manner specified by the Secretary of the sale of an electric vehicle, shall pay a manufacturer a payment not to exceed the discount for each electric vehicle sold.

(c) To be eligible for payment under subsection (b), a manufacturer shall certify to the Secretary the following:

(1) PURCHASER DISCOUNT LIMITATION.—The discount to the purchaser does not lower the selling price of each electric vehicle below the suggested retail price of a conventionally fueled vehicle of comparable type;

(2) DISCOUNT PASSTHROUGH.—The actual selling price of the vehicle is equal to the selling price specified in the manufacturer's proposal to the Secretary reduced by the full amount of the discount received, calculated as specified above, unless the Secretary

agrees to a request by the manufacturer to adjust the selling price as specified in the contract to reflect higher costs actually incurred in production;

(3) Nonattainment area use.—The vehicle will be used primarily in the eligible nonattainment area in which the vehicle will be purchased;

(4) Information from purchaser.—The purchaser has agreed to provide the manufacturer with information regarding operation, maintenance, and usability of the vehicle for five years after purchase; and

(5) Information from manufacturer.—The manufacturer will provide such information regarding the development, demonstration, manufacture, sale, and maintenance of electric vehicles that the Secretary requests for a period of five years, beginning in fiscal year 1992.

(d) The Secretary may enter into contracts with manufacturers of electric vehicles for purposes of carrying out this Act.

Sec. 428. Reports to Congress.—The Secretary shall report to Congress in fiscal years 1992 and 1994 on the programs and projects supported under this subtitle and the progress being made toward accomplishing the goals of this subtitle.

Sec. 429. Authorizations.—There is authorized to be appropriated for purposes of this subtitle $10,000,000 for each of the three fiscal years following the date of enactment of this Act.

TITLE V—TRANSPORTATION AND ENERGY EFFICIENCY

Section 501. Average Fuel Economy Standards.—(a) Section 502(a)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(a)(1)) is amended by striking:

"1985 and thereafter .... 27.5."

and inserting in lieu thereof the following:

"1985 through 1995 .... 27.5.
"1996 and thereafter ....
"As provided in accordance ....
with section 514 of this Act.". ....

(b) Section 502(a)(4) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(a)(4)) is amended by striking "The Secretary" and inserting in lieu thereof "Except in the case of standards established by section 514, the Secretary".

Sec. 502. Light Trucks.—Section 502(b) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(b)) is amended by inserting "and which ends before model year 1996" immediately after "after the date of enactment of this title".

Sec. 503. Exemptions for Limited Production.—Section 502(c)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C 2002(c)(1)) is amended:

(1) by striking "passenger" each place it appears;

(2) by inserting "or (b), or section 514 or 515" immediately before the period at the end of the first sentence; and

(3) by inserting "or (b), or section 514 or 515," immediately before "is more stringent".

SEC. 504. EMERGENCY VEHICLES.

Section 502(g)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(g)(1)) is amended by inserting "or section 514 or 515" immediately before the period at the end of the first sentence.

SEC. 505. CONSULTATION.

Section 502(i) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(i)) is amended by inserting "and sections 514 and 515" immediately before the period in the first sentence

SEC. 506. NOTIFICATION.

Section 502(j) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(j)) is amended by inserting "and sections 514 and 515" immediately before "or any modification".

SEC. 507. NEW STANDARDS.

(a) Title V of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001 et seq.) is amended by adding at the end the following new sections:

"PASSENGER AUTOMOBILES

"Sec. 514. Notwithstanding any other provision of this Act, the average fuel economy for passenger automobiles manufactured by any manufacturer in model year 1996 and each model year thereafter shall not be less than the number of miles per gallon established for such model year pursuant to the following:

"Model year:

"1996 through 2000 . . . For each such manufacturer, the average fuel economy required shall be an amount determined by the Secretary to be equal to the average fuel economy achieved by that manufacturer for passenger automobiles in model year 1988, plus an amount equal to 20 percent (as measured in miles per gallon) of such average fuel economy achieved for model year 1988, unless such standard is modified under section 516; except that such standard shall not be less than 27.5 miles per gallon and shall not exceed 40 miles per gallon.

"2001 and thereafter . . . For each such manufacturer, the average fuel economy required shall be an amount determined by the Secretary to be equal to the average fuel economy achieved by that manufacturer for passenger automobiles in model year 1988, plus an amount equal to 40 percent (as measured in miles per gallon) of such average fuel economy achieved for model year 1988, unless such standard shall not be less than 33 miles per gallon and shall not exceed 45 miles per gallon.

"AUTOMOBILES OTHER THAN PASSENGER AUTOMOBILES

"Sec. 515. Notwithstanding any other provision of this Act, commencing with model year 1996 and each model year thereafter, the average fuel economy for automobiles other than passenger automobiles manufactured by any manufacturer in any such model year shall not be less than the number of miles per gallon established for such model year pursuant to the following:

"Model year:

"1996 through 2000 . . . For each such manufacturer, the average fuel economy required shall be an amount determined by the Secretary to be equal to the average fuel economy achieved by that manufacturer for light trucks in model year 1988, plus an amount equal to 20 percent (as measured in miles per gallon) of such average fuel economy achieved for model year 1988, unless such standard is modified under section 516; except that such standard shall not be less than 20 miles per gallon and shall not exceed 30 miles per gallon.

"2001 and thereafter . . . For each such manufacturer, the average fuel economy required shall be an amount determined by the Secretary to be equal to the average fuel economy achieved by that manufacturer in model year 1988, plus an amount equal to 40 percent (as measured in miles per gallon) of such average fuel economy achieved for model year 1988, unless such standard is modified under section 516; except that such standard shall not be less than 24 miles per gallon and shall not exceed 35 miles per gallon.

"MODIFICATIONS OF STANDARDS

"Sec. 516. (a)(1) The Secretary may modify any average fuel economy standard established under this Act for model year 1996 and thereafter in accordance with this section. In response to a petition from any person; that is filed at least 12 months in advance of the model year to which it is applicable, the Secretary shall conduct a rulemaking proceeding to determine whether to increase or decrease such standard to the level which the Secretary determines is the maximum feasible average fuel economy for that model year (taking into consideration the factors listed in section 502(e) and the need to reduce carbon dioxide emissions). The Secretary may also conduct such a rulemaking proceeding on the Secretary's own initiative.

"(2)(A) Under such proceeding, the Secretary shall not reduce any such standard below a level equal to the average fuel economy achieved by the manufacturer involved for the appliable type (or class) of vehicles for model year 1988, as multiplied by the applicable percentage set forth in subparagraph (B).

"(B) The applicable percentage referred to in subparagraph (A) is—

"(i) 115 percent, for model years 1996 through 2000; and

"(ii) 130 percent, for model years 2001 and thereafter.

"(b)(1) In determining the maximum feasible average fuel economy during a rulemaking proceeding under this section, the Secretary shall weigh equally each factor listed in section 502(e) and the need to reduce carbon dioxide emissions.

"(2) In evaluating the technological feasibility of the standard, the Secretary shall exclude consideration of vehicles whose power-to-weight ratio exceeds the average power-to-weight ratio of the model year 1988 fleet, as defined and determined by the EPA Administrator and furnished to the Secretary.

"(3) In evaluating the economic practicability of the standard, the Secretary shall consider—

"(A) the economic impact of the standard on the manufacturers and on the consumers of the vehicles subject to such standard;

"(B) the savings in operating costs throughout the estimated average life of the vehicle compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the vehicles which are likely to result from the imposition of the standard;

"(C) the total projected amount of energy savings likely to result directly from the imposition of the standard and the economic impact of such energy savings;

"(D) any lessening of the utility or the performance of the vehicles likely to result from the imposition of the standard;

"(E) the impact of any lessening of competition or any change in foreign trade that is likely to result from the imposition of the standard;

"(F) the total projected amount of reduction in carbon dioxide emissions and the economic impact of such reduction; and

"(G) other factors the Secretary considers relevant.".

(b)(1) Section 503(a)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(a)(1)) is amended by inserting "and section 514" immediately after "and (c)".

(2) Section 503(a)(2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(a)(2)) is amended by adding at the end the following: "Average fuel economy for purposes of section 515 shall be calculated in

accordance with rules of the EPA Administrator that are based upon the method required in paragraph (1) for calculation of average fuel economy of passenger automobiles.".

SEC. 508. FUEL ECONOMY TESTING.

(a) The Administrator of the Environmental Protection Agency shall conduct—

(1) an ongoing examination of the accuracy of fuel economy testing of passenger automobiles and light trucks by the Administrator performed in accordance with procedures in effect as of the date of enactment of this Act, as compared to the actual performance of such passenger automobiles and light trucks when driven by average drivers under average driving conditions in the United States; and

(2) an assessment of the extent to which fuel economy deteriorates during the life of such passenger automobiles and light trucks.

Information on actual performance may be obtained through a survey of current vehicle owners.

(b) The Administrator shall, within 12 months after the date of the enactment of this Act and annually thereafter, submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the results of the study required by subsection (a) of this section. The report shall include—

(1) a comparison between (A) fuel economy measured, for each model in the applicable model year, through testing procedures in effect as of the date of enactment of this Act and (B) fuel economy of such passenger automobiles and light trucks during actual on-road performance, as determined under subsection (a) of this section;

(2) a statement of the percentage difference, if any, between actual on-road fuel economy and fuel economy measured by test procedures of the Environmental Protection Administration; and

(3) any recommendations for legislative or other action.

SEC. 509. EXPLANATORY BOOKLET DISTRIBUTED BY SECRETARY OF ENERGY.

(a)(1) Paragraph (1) of section 506(b) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006(b)) is amended by adding at the end the following new sentence: "The Secretary of Energy shall distribute no less than 100 booklets each year to each dealer and shall distribute as many in addition to 100 booklets as are reasonably requested by dealers from time to time.".

(2) The amendment made by paragraph (1) of this subsection shall apply to the 12-month period beginning on the first day of the first month after the date of enactment of this Act and corresponding 12-month periods thereafter.

(b) Section 506(e) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006(e)) is amended by striking "Federal Energy Administrator" and inserting in lieu thereof "Secretary of Energy".

SEC. 510. STUDIES.

(a) The Secretary of Transportation shall provide for a review to be undertaken by the National Academy of Sciences, in consultation with vehicle manufacturers, representatives of environmental and consumer groups, appropriate State and local officials, representatives of labor, and others as appropriate, of the current state of research and development in light truck fuel economy and passenger automobile fuel economy and an assessment of the remaining potential for improving the fuel efficiency and reducing the energy consumption of passenger automobiles and light trucks. The assessment shall include all aspects of vehicle design, including engines, drive train, component parts, auto body, tires, and any other aspect contributing to the reduction of energy consumption. The National Academy shall, not later than 2 years after the date of enactment of this Act, submit a report to the Congress on the results of the review and assessment and in the report recommend research and development priorities that could result in the commercialization of fuel economy technology through the early years of the next century. The National Academy shall update the report every 5 years, beginning not later than 7 years after the date of enactment of this Act, and shall submit each updated report to the Congress.

(b) The Secretary, in consultation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall undertake a study of future options for regulating the fuel efficiency of passenger automobiles and light trucks beyond the year 2001. Such study shall utilize the results of the review and assessment required by subsection (a), and shall examine alternative forms of fuel economy regulations. The study shall determine—

(1) the ability of each regulatory strategy to ensure continued future fleet fuel economy improvements;

(2) the economic efficiency of each such strategy; and

(3) the impact of each such strategy on the competitiveness of the United States economy.

The Secretary of Energy shall, not later than 3 years after the date of enactment of this Act, submit a report to the Congress on the results of the study required by this subsection.

SEC. 511. JUDICIAL REVIEW.

Section 504(a) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2004(a)) is amended by striking "or 506" and inserting in lieu thereof "506, 514, 515, or 516".

SEC. 512. VIOLATIONS OF AVERAGE FUEL ECONOMY STANDARD.

(a) Section 508(b)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2008(b)(1)) is amended by adding at the end the following new subparagraph:

"(C) Any civil penalty assessed under this subsection for a violation of section 507(a)(1) or (2) in model year 1996 or thereafter against a manufacturer shall be doubled if—

"(i) the manufacturer violated section 507(a)(1) or (2) in the two model years immediately proceeding the model year involved in the assessment; and

"(ii) during each of such preceding years and the year involved in the assessment, the applicable average fuel economy standard exceeded the average fuel economy of the vehicles manufactured by such manufacturer by five tenths of a mile per gallon or more.".

(b) Section 507(a)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2007(a)(1)) is amended by inserting "and section 514" immediately after "section 502(b)),".

(c) Section 507(a)(2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2007(a)(2)) is amended by striking "section 502(b)" and inserting in lieu thereof "sections 502(b) and 515".

(d) Section 507(b) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2007(b)) is amended by adding at the end the following new paragraph:

"(7)(A) The maximum penalty amounts authorized in paragraphs (1) and (2) shall be adjusted for inflation as provided in this paragraph.

"(B) No less than 3 months prior to model year 1992, and no less than 3 months prior to each model year thereafter, the Secretary shall prescribe and publish in the Federal Register a schedule of maximum authorized penalties that shall apply for violations that occur with respect to the model year immediately following such publication.

"(C) The schedule of maximum authorized penalties shall be prescribed by increasing each of the amounts referred to in paragraphs (1) and (2) by the inflation adjustment for the preceding model year, as calculated by the Secretary on the basis of the Consumer Price Index.

"(D) For purposes of this paragraph, the term 'Consumer Price Index' means the Consumer Price Index for all-urban consumers published by the Department of Labor.".

SEC. 513. DEFINITIONS.

As used in this Act, the term "passenger automobile" has the meaning given that term under section 501 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001), and the term "light truck" shall have such meaning as the Secretary of Transportation prescribes.

TITLE VI

To establish a replacement fuels and alternative fuels program, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 601. SHORT TITLE.

This Act may be cited as the "Replacement Fuels and Alternative Fuels Act of 1991".

SEC. 602. FINDINGS.

The Congress finds and declares that—

(1) United States national security demands that we reduce our dependency on imported oil;

(2) domestic resources are available to eliminate or substantially reduce our dependency on imported oil;

(3) transportation uses account for more than 60 percent of our national oil consumption;

(4) a comprehensive energy program, including the stimulation of the production and use of automobiles capable of using alternative fuels, is needed to reduce pollution as well as reduce our dependency on imported oil;

(5) such program should be designed to create a positive impact on the economy, our national trade balance, and our national budget;

(6) such program should allow market forces, within appropriate environmental parameters, to affect the selection of replacement or alternative fuels; and

(7) such program should provide long-term stability to industries producing replacement and alternative fuels.

SEC. 603. PURPOSE.

The purposes of this Act are to—

(1) enhance energy security;

(2) reduce air pollution;

(3) improve our balance of trade;

(4) reduce the budget deficit;

(5) improve the marketability of alternative and flexible fuel vehicles; and

(6) improve the condition of the national economy through the enhancement of the replacement fuel industry and the creation of an alternative fuel industry.

SEC. 604. DEFINITIONS.

For purposes of this Act—

(1) the term "Administrator" means the Administrator of the Environmental Protection Agency;

(2) the term "alcohol" means methanol or ethanol, which is suitable for use by itself or in combination with other fuels as a motor fuel;

(3) the term "conventional petroleum" means petroleum derived from oil wells, including stripper wells, domestic or imported;

(4) the term "domestic" means derived from resources within the 50 States and the territories of the United States;

(5) the term "motor fuel" means any substance suitable as a fuel for self-propelled vehicles designed primarily for use on public streets, roads, and highways;

(6) the term "alternative fuel" means a motor fuel not designed to be mixed with gasoline, including propane, natural gas, "neat" alcohol, hydrogen, and electricity;

(7) the term "replacement fuel" means a motor fuel capable of mixing with gasoline, including alcohol and liquids not derived from conventional petroleum;

(8) the term "commerce" means any trade, traffic, transportation, exchange, or other commerce—

(A) between any State and any place outside of such State; or

(B) which affects any trade, traffic, transportation, exchange, or other commerce described in subparagraph (A);

(9) the term "refiner" means any person engaged in the refining of crude oil to produce motor fuel, including any affiliate of such person, or any importer of motor fuel; and

(10) the term "Secretary" means the Secretary of Energy.

SEC. 605. REPLACEMENT AND ALTERNATIVE FUEL PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish, pursuant to this Act, a program to promote the development and use of domestic-produced replacment and alternative fuels. Such program shall promote the replacement of conventional petroleum motor fuels with replacement and alternative fuels to the maximum extent practicable. Such program shall, to the extent practicable, ensure the availability of those replacement fuels and alternative motor fuels which will have the greatest impact in improving air quality in urban areas, along transportation corridors, and nationwide.

(b) DEVELOPMENT PLAN AND PRODUCTION GOALS.—Under the program established under subsection (a), the Secretary, in consultation with the Administrator, the Secretary of Transportation, the Secretary of Agriculture, the Secretary of Commerce, and the heads of other appropriate agencies, shall review appropriate information and—

(1) estimate the production capacity in the United States for replacement fuel and alternative fuel needed to implement the provisions of this section;

(2) determine the technical and economic feasibility of producing in the United States sufficient replacement fuels and alternative fuels, by the calendar year 2010 to replace 30 percent or more, on an energy equivalent basis, of the projected consumption of motor fuel in the United States for that year,

(3) determine the most suitable raw materials, other than conventional petroleum, for the production in the United States of replacement and alternative fuels;

(4) determine the most suitable means and methods of developing and encouraging the production, distribution, and use of replacement and alternative fuels; and

(5) identify ways to encourage the development of reliable replacement fuel and alternative fuel industries in the United States, and the technical, economic, and institutional barriers to such development.

The Secretary shall prescribe, by rule, a substitute percentage goal for purposes of paragraph (3) upon a determination that 30 percent is unachievable due to technological or cost constraints.

(c) TIMETABLE.—(1) Not later than January 1, 1993, the Secretary shall, by rule, prescribe the minimum percentage of domestic-produced replacement and alternative fuels, on an energy equivalent basis, to be sold in calendar years 1996 and 1997 by any refiner for use as a motor fuel. In establishing such percentages, the Secretary shall—

(A) take into account the availability of reliable sources of replacement fuel and alternative fuel; and (B) provide that the goal for domestic production of replacement fuel and alternative motor fuels for calendar year 1998 and thereafter shall be not less than 10 percent on an energy equivalent basis of the projected consumption of motor fuel in the United States for each year. The Secretary shall increase the minimum percentage for the years 2005 through 2009 if feasible based on the findings rendered under subsection (b).

(2) Of the total quantity of gasoline, alternative fuel, and replacement motor fuel sold in commerce during any of the following years by any refiner (including sales to the Federal Government), replacement fuel and alternative fuel produced domestically shall constitute the minimum percentage determined in accordance with the following table:

In the calendar year:	The minimum percentage which replacement fuel constitutes, shall be—
1996, 1997	Determined by the Secretary under subsection (c) of this section.
1998 through 2009	10 percent, adjustable by rule after 2005.
2010 and each year thereafter.	The percentage determined feasible under subsection (b).

(3) The Secretary shall, not later than January 1, 1993, promulgate regulations allowing the sale and other exchange of marketable credits among—

(A) refiners;

(B) distributors of alternative motor fuels sold into commerce for transportation purposes; and

(C) manufacturers of electricity powered automobiles;

in order to satisfy the requirements of subsection (i), and to further the purposes of this Act. In determining the value of such credits for the various fuel sources, the Secretary shall consider the relative energy content of the fuel source.

(4) (A) Any domestic refinery of crude oil, whose capacity per calendar day as of the date of enactment is less than 25,000 barrels, shall be granted a 36-month extension by the Secretary from the requirements of this subsection.

(B) The Secretary may, on the application of any person, make adjustments to reduce the minimum percentage requirement as it applies to that person, due to prohibitive costs or an inability to access raw materials.

(d) REPORTING REQUIREMENTS.—(1) Not later than 9 months after the date of the enactment into law of this Act, the Secretary shall complete his review and determinations under this section and prepare and transmit a report thereon to each House of the Congress.

(2)(A) Each refiner shall report annually to the Secretary the percentage of domestic-produced replacement fuel, on an energy equivalent basis, contained in the total quantity of motor fuel that such refiner sold during the preceding calendar year, and the amount of alternative motor fuels, sold or credited to such refiner during such year.

(B) Each distributor of alternative fuel shall report annually to the Secretary the amount of alternative fuel sold into commerce for transportation purposes, and the amount of credits sold to refiners, by such distributor during such year.

(C) The Secretary of Transportation shall report annually to the Secretary of Energy the number of dual fuel and dedicated alternative fuel vehicles manufactured and sold into commerce by each manufacturer each year.

(D) For electricity powered vehicles, the Secretary shall determine the value of credits which shall be available to manufacturers of electricity powered vehicles.

(3) The Administrator shall report to Congress not later than 24 months after the date of the enactment into law of this Act on the environmental impact potential of developing replacement fuels and alternative motor fuels. Such report shall analyze potential benefits and detriments to air and water quality, the ramifications on solid and hazardous waste management, and implications for public land management.

SEC. 606. COORDINATION OF AUTOMOBILES WITH ALTERNATIVE FUELS.

Subsection (g) of section 513 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2013) is amended by adding at the end the following:

"(3) Notwithstanding any other provision of this section, if the average fuel economy standard applicable to passenger automobiles is increased above 27.5 miles per gallon for any model year, the Secretary may increase the maximum increase in average fuel economy for a manufacturer attributable to dual energy automobiles and natural gas dual energy automobiles to the extent that alternative and replacement motor fuel sales indicate that such fuels are being used to displace the use of conventional petroleum as a motor fuel, provided that the fuel economy standard for gasoline fueled vehicles does not decrease from the level as of the date of enactment of this Act.".

SEC. 607. ENFORCEMENT BY THE SECRETARY.

(a) VIOLATIONS.—Any person who violates any requirement of subsection (c) is subject to a civil penalty of not more than $1 per gallon for each gallon of fuel sold that is not in compliance with subsection (i). Such penalties shall be assessed by the Secretary.

(b) REVIEW.—Any person against whom a penalty is assessed under this paragraph may, within 60 calendar days after the date of the order of the Secretary assessing such penalty, institute an action in the United States court of appeals for the appropriate judicial circuit for judicial review of such order in accordance with chapter 7 of title 5, United States Code. The court shall have jurisdiction to enter a judgment affirming, modifying, or setting aside in whole or in part, the order of the Secretary, or the court may remand the proceeding to the Secretary for such further action as the court may direct.

SEC. 608. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary to carry out this Act not to exceed $10,000,000 for each of the fiscal years 1992 through 1996.

SEC. 609. COORDINATION WITH OTHER ACTS.

This Act shall be administered and enforced in coordination with the administration and enforcement of the Energy Security Act, and the Clean Air Act.

SEC. 610. REGULATIONS.

The Secretary shall issue such regulations as may be necessary to require retailers of gasoline fuel to have available for sale, in addition to replacement motor fuels, other alternative motor fuels, for the transportation needs of consumers.

TITLE VII—MEASURES TO PROMOTE THE USE OF NATURAL GAS

SEC. 7001. FINDINGS.

The Congress finds that:

(1) Natural gas is the cleanest-burning fossil fuel, producing less pollutants and less carbon dioxide per unit of energy than any other fossil fuel;

(2) Natural gas is capable of displacing use of imported oil in a wide variety of uses including as an industrial boiler fuel, in the heating of buildings, and as a vehicle fuel;

(3) Natural gas is an abundant resource in the United States and North America, with proven reserves adequate to supply the economy for 60 years, and great potential for additional reserves still outstanding;

(4) Natural gas is currently less expensive than oil on an energy equivalent basis;

(5) Over the past two decades, natural gas use in the United States has dropped approximately 15% while oil imports have increased dramatically.

(6) It is clearly in the national interest to promote the use of natural gas as an energy source, in order to reduce our balance of trade deficit, reduce our dependence on foreign oil, improve the cost-effectiveness of our economy, and reduce emissions of air pollutants and of carbon dioxide, a prime agent of global climate change.

SEC. 7002. PURPOSE.

The purpose of this title is to make it possible to increase the use of natural gas in the United States by researching and developing new uses for natural gas as an energy source, by improving access for natural gas supplies to new markets, and by correcting the lack of financial incentives to develop and pursue new gas transportation projects.

DEFINITIONS

SEC. 7003. DEFINITIONS.

As used in this Act, the term—

(a) "Commission" means the Federal Energy Regulation Commission, or any successor agency, unless otherwise provided.

(b) "Cost-Based Rates"—Rates for services that remain subject to Commission review based upon a traditional cost-of-service determination.

(c) "Department" means the Department of Energy, unless otherwise provided.

(d) "Just and Reasonable"—Shall be defined by these amendments notwithstanding any conflict between these amendments and Commission or court precedent.

(e) "Merchant Service" means the purchase and sale for resale of natural gas in interstate commerce.

(f) "Secretary" means the Secretary of Energy, unless otherwise provided.

(g) "Used and Useful" means a determination by the Commission as defined by Commission and court precedent that plant is used and useful.

(h) "Workable Competition" means a finding by the Commission that sufficient competition exists to allow rates and other terms and conditions of service to be established by market conditions.

NEW USES FOR NATURAL GAS

SEC. 7004. NATURAL GAS COFIRING RESEARCH DEVELOPMENT AND DEMONSTRATION.

(a) DEFINITIONS.—For the purposes of this section, the term—

(1) "cofiring" means the injection of natural gas and pulverized coal into the primary combustion zone of an electric utility unit or an industrial boiler and shall include gas reburn technologies; and

(2) "gas reburn" means the injection of natural gas into the upper furnace region of an electric utility unit or an industrial boiler to produce a fuel-rich zone thereby reducing nitrogen oxide emissions.

(b) The Secretary shall conduct a program of research, development and demonstration of cofiring in electric utility units and large industrial boilers in order to determine optimal natural gas injection levels for both environmental and operational benefits.

(c) The Secretary may provide financial assistance under this section to public entities or interested or affected private firms to perform the research, development and demonstration of cofiring technologies.

(d) The Secretary may enter into cooperative agreements with, and provide financial assistance under this section to, public entities or interested or affected private firms willing to provide at least 50 percent of the costs of such programs to perform the research, development and demonstration of cofiring technologies.

(e) For purposes of this section, there is authorized to be appropriated to the Secretary not more than $9,000,000 for each of the fiscal years 1992, 1993 and 1994.

SEC. 7005. NATURAL GAS AND ELECTRIC HEATING AND COOLING TECHNOLOGIES.

(a) The Secretary shall expand the program for research, development, and demonstration for natural gas and electric heating and cooling technologies for residential and commercial buildings.

(b) The natural gas heating and cooling program shall increase research on thermally-activated heat pumps including:

(1) absorption heat pumps; and

(2) engine-driven heat pumps.

(c) The electric heating and cooling program shall increase research on:

(1) advanced heat pumps;

(2) thermal storage; and

(3) Advanced electrically-driven HVAC (heating, ventilation, and cooling) and refrigeration systems that utilize replacements for cholorofluorocarbons, including HCFC-22.

(d) There is authorized to be appropriated to the Secretary, not more than $15,000,000 for each of the fiscal years 1992, 1993, and 1994 for purposes of this section in addition to current authorizations.

REGULATORY ISSUES

SEC. 7006. INCENTIVE RATEMAKING OPTIONS.

(a) Section 4(a) of the Natural Gas Act (15 U.S.C. 717c(a)) is amended by adding the following at the end thereof:

"Rates shall be designed to efficiently allocate capacity, maximize throughput, eliminate cross-subsidies among customer classes and between merchant and transportation services, reflect any material distance-related variation in the cost of providing service, and appropriately unbundle distinct services. Such rates shall be deemed just and reasonable if (1) they are designed to provide a reasonable opportunity to recover prudently incurred costs and to earn a fair rate of return on the natural gas company's investment, or (2) they are determined pursuant to an incentive formula approved by final and nonappealable Commission order, the original term of effectiveness of which formula has not expired at the time of rate review, or (3) they fall within a Commission-prescribed zone of reasonableness, the upper limit of which shall be the rates yielded by incorporating a current market valuation of the natural gas company's investment and lower limit of which shall provide for the minimum return on investment necessary to attract and retain capital. The Commission is directed to develop an incentive formula as used in subparagraph (2) herein, with the goals of allowing natural gas companies to earn a fair rate of return, providing proper price signals to the marketplace, and rewarding pipeline efficiency."

(b) Section 5(a) of the Natural Gas Act (15 U.S.C. 717d(a)) is amended by deleting "or are not the lowest reasonable rates" and adding: "exceed the rates established by formula pursuant to 15 U.S.C. 717c(a)(2), or, in the absence of such formula, exceed the upper limit of the zone of reasonableness prescribed at 15 U.S.C. 717c(a)(3)."

SEC. 7007. REHEARING TIME LIMITS.

Section 19(a) of the Natural Gas Act (15 U.S.C. 717r(a)) is amended by striking the fourth sentence and inserting in lieu thereof the following: The Commission shall take final action on the merits of the application for rehearing within 60 days after such application is filed, and the Commission may not defer action on the merits of the application through issuance of an order during that 60 day period. Unless the Commission takes final action on the merits of such application within 60 days after it is filed, the application for rehearing shall be deemed to have been denied.

SEC. 7008. FILING OF JOINT RATES.

Section 4 of the Natural Gas Act (15 U.S.C. 717c) is amended by adding the following new Section 4(f): "Under such rules and regulations as the Commission may prescribe, natural gas companies subject to the Commission's jurisdiction under this Act, may file with the Commission for its approval, joint rates which have been negotiated by them for the transportation of natural gas through each of their pipelines in sequence on the way to market. Neither the provisions of Sections 1 and 2 of the Sherman Antitrust Act, 15 U.S.C. 1 and 2, nor any other antitrust law, whether federal or state, shall preclude the development or utilization of such joint rates."

SEC. 7009. FAIR RETURN ON INVESTMENT.

Section 4(a) of the Natural Gas Act (15 U.S.C. 717c(a)) is amended by adding at the end thereof the following: "Notwithstanding the specific methodology used to set the rates of the natural gas company, to the extent that the dollar value or cost of the natural gas company's investment utility plant is a determinant of the allowed rate level, all such plant shall be recognized so long as it is used and useful in discharging the utility business of the natural gas company."

SEC. 7010. COMPETITIVE SALES SERVICES.

Title VI of the Natural Gas policy Act (15 U.S.C. 3431) is amended by adding new Section 15 U.S.C. 3431(b)(1)(F), as follows:

"SALES FOR RESALE BY INTERSTATE PIPELINES.—For purposes of Sections 4 and 5 of the Natural Gas Act, any amount charged for a sale for resale by an interstate pipeline shall be deemed just and reasonable if—

(i) such amount is charged pursuant to rates approved by the Commission, or

(ii) the Commission has made and not revoked a finding that workably competitive alternatives exist for such sale for resale, subject to such rules and standards for determining such workable competition as the Commission may prescribe, including but not limited to adequate comparability between the sale services and the transportation services of the seller. If such charges are deemed just and reasonable pursuant to this paragraph, profits and losses occasioned by such sale for resale shall not be taken into consideration in any way in setting the seller's rates for other services, and the rates for such sale for resale are exempt from the tariff posting authority of the Commission pursuant to 15 U.S.C. 717c(c)."

SEC. 7011. COMPETITIVE SERVICES.

(a) Services provided by facilities constructed under Section 311 of the Natural Gas Policy Act shall not require a certificate of public convenience and necessity.

(b) Any new service proposed and implemented by a natural gas company which does not require the construction of major new facilities shall be authorized by the acceptance of tariff sheets and shall not require a certificate of public convenience and necessity.

(c) Any new service offered by a natural gas company which can be fully supplanted with other pre-existing services subject to tariff and rate review under Sections 4 and 5 of the Natural Gas Act shall be exempt from the tariff and rate review provisions of Sections 4 and 5 of the Natural Gas Act.

(d) Notwithstanding the above, the Commission may consider the impact of any new services offered under this subsection in subsequent rate cases, in setting rates for other services.

SEC. 7012. PIPELINE ABANDONMENTS.

Section 7(b) of the Natural Gas Act (U.S.C. 717f(b)) is amended by adding the following at the end of the section: "A natural gas company may abandon jurisdictional sales services to customers upon the expiration of underlying sales contracts with such customers, without approval by the Commission. If a customer of a natural gas company has previously converted all or a portion of jurisdictional sales' service provided by a natural gas company to jurisdictional transportation service, and such customer pays the just and reasonable non-discriminatory rate established by the natural gas company for such service, then such transportation service shall not be abandoned by the natural gas company without approval of the Commission as provided in this section."

WELLHEAD PRICES

SEC. 7013. PRODUCER DEMAND CHARGES.

Title VI of the Natural Gas Policy Act (15 U.S.C. 3431)) is amended by adding new section (15 U.S.C. 3431(c)(3)), as follows:

"RECOVERY OF DEMAND CHARGES.—Any fixed charge paid by an interstate pipeline to a first seller for gas supply security shall be recoverable on an "as-billed basis" in the interstate pipeline's demand charges, unless the Commission determines, after a hearing, that the interstate pipeline does not offer a reasonably competitive alternative to its sales service."

SEC. 7014. REGULATION OF NATURAL GAS IMPORTS.

Section 3 of the Natural Gas Act [15 U.S.C. 717(b)] is amended by adding at the end of the section the following language: "The Secretary shall condition the approval of any import application pursuant to this section upon action by the Commission to redress any anticompetitive impacts on U.S. gas producers including, but not limited to, competitive disparities resulting from different rate designs applied to the transportation of domestic gas and imported supplies."

SEC. 7015. NATURAL GAS RECOVERY, RESEARCH, DEVELOPMENT AND DEMONSTRATION PROGRAM.

(a) The Secretary shall expand and continue a program of research, development, and demonstration on techniques to increase the availability of natural gas from—

(1) intensive recovery of natural gas in place in discovered reservoirs or formations; and

(2) economic recovery of nonconventional sources of natural gas, including gas from tight formations, Devonian shales, gas from less permeable formations coalseams, and geopressured brines.

(b) The Secretary shall seek to enter into joint ventures with persons engaged in the production, transportation, distribution, or major use of natural gas to implement the program under subsection (a).

(c) There is authorized to be appropriated not more than $25,000,000 for each of the fiscal years 1992, 1993, and 1994 for purposes of this section.

ACCELERATED PIPELINE CONSTRUCTION

SEC. 7016. PIPELINE CONSTRUCTION WITHOUT EMINENT DOMAIN.

Section 311 of the Natural Gas Policy Act of 1968 (15 U.S.C. 3371) is amended to add the following:

"(d)(1) The provisions of the Natural Gas Act and the jurisdiction of the Commission, except as specifically provided herein, shall not apply to the construction or operation of any facilities constructed by a natural gas company subject to the Commission's jurisdiction under the Natural Gas Act by virtue of such construction or operation, if the natural gas company constructing such facilities: (a) holds a certificate of public convenience and necessity issued by the Commission pursuant to Section 7 of the Natural Gas Act and pursuant to which the natural gas company has agreed to provide open access transportation service; and (b) the natural gas company agrees that the provisions of such certificate shall apply to transportation service provided through facilities constructed under this Section.

"(d)(2) All facilities constructed under this Section shall be constructed in accordance with applicable laws and regulations governing environmental and safety factors; provided, however, the provisions of the National Environmental Policy Act of 1978, 42 U.S.C. 437, *et seq.*, shall not apply to the construction or operation of facilities provided for in this Section.

"(d)(3) Nothing in this Section shall preclude a natural gas company from filing for and/or preclude the Commission from issuing a certificate of public convenience and necessity pursuant to Section 7 of the Natural Gas Act for the operation of the facilities constructed under this section."

SEC. 7017. REBUTTABLE RESUMPTION OF NO SIGNIFICANT IMPACT.

The Commission shall create an environmental review process under the National Environmental Policy Act which will provide, to the greatest degree possible under that Act, that pipeline construction projects which are confined to existing utility or highway corridors and do not involve construction in high value wetland areas shall be afforded a rebuttable presumption of a finding of no significant impact.

SEC. 7018. LEAD AGENCY.

In cases where Federal Energy Regulatory Commission authorization of the construction or operation of facilities or projects under the Natural Gas Act may be deemed a major Federal action under the National Environmental Policy Act ("NEPA"), or requires the preparation of other environmental documents, the Commission shall be the lead agency and shall have primary authority for compliance with NEPA. The Commission may set reasonable time limits for consultation with other Federal agencies which participate in the review of a proposed facility or project pursuant to NEPA to complete their review of any potential environmental impacts of the construction or operation of such facility or project, and for such other agencies to consult and submit comments to the Commission.

SEC. 7019. TWO-PHASE CERTIFICATION PROCESS.

Section 7(e) of the Natural Gas Act (15 U.S.C. 717f(e)) shall be amended to add the following language at the end of the section: "The Commission shall have the power to issue certificates of public convenience and necessity in a two-phase process. The first phase certificate shall involve all matters requiring Commission review and approval other than environmental matters, and shall address only required environmental matters, and approvals and shall constitute a final order on such matters."

SEC. 7020. PIPELINE SUBMISSION OF ENVIRONMENTAL ASSESSMENTS.

The Commission shall revise its environmental review procedures to allow pipelines to submit Environmental Assessments ("EA") at the time of filing for approval of proposed facilities, utilizing general standards specified by the Commission. The revised procedures shall provide that such EAs will be presumed valid subject to Commission review for compliance with its standards. Nothing in this subsection shall affect the Commission's responsibility to comply with the National Environmental Policy Act of 1969.

SECTION 7021

Section 16 of the Natural Gas Act (15 U.S.C. 7170 is amended by inserting "(a)" after "SEC. 16."; and by adding at the end of the existing section the following new subsection:

"(b) Where the Commission by rule or order requires the preparation of an environmental assessment of an environmental impact statement on connection with an application for authority to construct or extend facilities for the transportation of natural gas under this Act, the Commission shall permit the applicant to elect a contractor, consultant, or other person designated by the Commission for such purpose to prepare the environmental impact statement at the applicant's expense. The Commission shall establish procedures to ensure that the contractor, consultant, or other person has no financial or other potential conflict of interest in the outcome of the proceeding. Nothing in this subsection shall affect the Commission's responsibility to comply with the National Environmental Policy Act of 1969."

STUDIES

SEC. 7022. GLOBAL PRODUCTION TRENDS.

The Office of Technology Assessment, in conjunction with the Department, shall study and report to Congress on the global trends of production, usage, and transportation of natural gas and the ways in which these trends can affect domestic energy policy and the U.S. natural gas industry.

SEC. 7023. REMOVAL OF STATE AND LOCAL BARRIERS.

The Office of Technology Assessment, in conjunction with the Department, shall identify, study and report to Congress on State- and locally-imposed institutional and regulatory barriers to increase national natural gas usage, and make recommendations as to the establishment of a uniform national policy to enhance the use of natural gas.

TITLE VIII—TAX TREATMENT OF ENERGY RESOURCES

Subtitle A.—Renewable Energy Production Incentive

SEC. 801.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to foreign tax credit, etc.) is amended by adding at the end thereof the following new section:

"SEC. 30. RENEWABLE ENERGY PRODUCTION CREDIT.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to—

"(1) the applicable amount, multiplied by

"(2) the kilowatt hours of electricity produced with qualified technologies property—

"(A) sold by the taxpayer to an unrelated person during the taxable year,

"(B) the production of which is attributable to the taxpayer.

"(b) APPLICABLE AMOUNT.—

"(1) IN GENERAL.—For purposes of subsection (a)(1), the applicable amount shall be determined under the following table:

"Taxable year qualified technologies property placed in service:	The applicable amount is:
1992–1996	2.0 cents
1991	1.6 cents
1998	1.2 cents
1999	0.9 cents
2000	0.6 cents
2001	0.3 cents.

"(2) REDUCED APPLICABLE AMOUNT FOR GEOTHERMAL PROPERTIES.—In the case of qualified technologies described in subsection (e)(1)(D), the applicable amount for any taxable year shall be equal to 50 percent of the applicable amount otherwise determined under paragraph (1).

"(3) CREDIT ADJUSTMENT BASED ON INFLATION.—

"(A) IN GENERAL.—The applicable amount in paragraph (1) shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the sale occurs.

"(B) PUBLICATION.—The Secretary shall, not later than April 1 of each calendar year, determine and publish in the Federal Register the inflation adjustment factor for the proceding calendar year in accordance with this paragraph.

"(C) INFLATION ADJUSTMENT FACTOR.—The term 'inflation adjustment factor' means, with respect to a calendar year, the fraction the numerator of which is the GNP implicit price deflator for the calendar year 1992. The term 'GNP implicit price deflator' means the first revision of the implicit price deflator for the gross national product as computed and published by the Department of Commerce.

"(c) APPLICATION OF SECTION.—This section shall apply with respect to electricity:

"(1) produced with qualified technologies property:

"(A) placed in service after December 31, 1991, and before January 1, 2002,

"(B) for which an energy credit has not been allowed, and

"(2) sold after December 31, 1991, and before January 1, 2009.

(d) LIMITATIONS.—

"(1) CREDIT REDUCED FOR GRANTS, TAX-EXEMPT BONDS, AND SUBSIDIZED ENERGY FINANCING.—The amount of the credit allowable under subsection (a) with respect to any qualified technologies property for any taxable year shall be reduced by an amount determined under rules of section 29(b)(3).

"(2) APPLICATION WITH OTHER CREDITS.—The credit allowed by susection (a) for any taxable year shall not exceed the excess (if any) of:

"(A) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and section 27, 28, and 29, over

"(B) the tentative minimum tax for the taxable year.

"(e) QUALIFIED TECHNOLOGIES DEFINED.—For the purposes of this section:

"(1) QUALIFIED TECHNOLOGIES.—The term 'qualified technologies' means:

"(A) solar thermal;

"(B) photovoltaic;

"(C) wind;

"(D) geothermal (other than dry steam geothermal);

"(E) biomass; and

"(F) any other technology identified by the Secretary, after consultation with the Secretary of Energy, within 1 year of the date of the enactment of this section.

(2) BIOMASS.—The term 'biomass' means any organic material, including wood and other agricultural crops, which:

"(A) is available on a renewable basis; and

"(B)(i) is produced by a facility used exclusively for growing biomass for energy purposes on a sustained basis; or

"(ii) converted to electricity by a conversion technology with a net heat rate of 10,500 Btu's per kilowatt hour less.

"The term 'biomass' shall not include aquatic plants and waste residues from wood, animal, municipal, agricultural, or other sources.

"(3) DRY STEAM GEOTHERMAL.—The term 'dry steam geothermal' means geothermal produced from a dry steam goethermal reservoir which:

"(A) has no mobile liquid in its natural state;

"(B) has steam quality of 95 percent water or more; and

"(C) has an enthalpy for the total produced fluid at least equal to 1,200 Btu's per pound.

"(f) ADDITIONAL DEFINITIONS AND SPECIAL RULES.—

"(1) ONLY PRODUCTION WITHIN THE UNITED STATES TAKEN INTO ACCOUNT.—Sales shall be taken into account under this section only with respect to electricity produced within:

"(A) the United States (as defined in section 7701(a)(9), or

"(B) a possession of the United States.

"(2) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a qualified technologies property in which more than one person has an interest, except to the extent provided in regulation prescribed by the Secretary, production from such property shall be allocated among such persons in proportion to their respective interests in the gross sales from such property.

"(3) RELATED PERSONS.—Persons shall be treated as related to each other if such persons would be treated as a single employer under the regulations prescribed under section 52(b). In the case of a corporation which is a member of an affiliated group of corporations filing a consolidated return, such corporation shall be treated as selling electricity produced with qualified technologies property to an unrelated person if such electricity is sold to such a person by another member of such group.

"(4) PASS-THROUGH IN THE CASE OF ESTATES AND TRUSTS.— Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(5) FOLLOW-THROUGH FOR PUBLIC UTILITIES.—

"(A) IN GENERAL.—The Secretary, after consultation with the Secretary of Energy, shall prescribe regulations within one year of the date of the enactment of this section for the flow-through of credits allowed under this section for public utilities.

"(B) PUBLIC UTILITY.—For the purposes of subparagraph (A), the term 'public utility' means a person, State agency, or local unit of government engaged in the sale of electricity.

"(6) CREDITS FOR SOLAR THERMAL.—Solar energy systems that produce thermal energy for commercial and industrial applications will be provided with a performance tax credit of $0.65 cents per thermal kilowatt-hour. This credit would be tied to production and apply only to solar thermal energy systems metered for thermal energy delivery, where the energy is for commercial and industrial use, and apply only to systems installed in the first six years after enactment of this Act.".

(b) EXTENSION OF SOLAR AND GEOTHERMAL ENERGY CREDITS.—Section 48 (a)(2)(B) of the Internal Revenue Code of 1986 (relating to termination) is amended by striking "1991" and inserting "1996".

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new item:

SEC. 30. Renewable Energy Production Credit.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

Subtitle B.—Transportation

SEC. 811. LIMITATION ON EXCLUSION FROM GROSS INCOME FOR PARKING; ALLOWANCE OF EXCLUSION FOR EMPLOYER SUBSIDIES FOR MASS TRANSIT AND VAN POOLING.

(a) IN GENERAL.—Paragraph (4) of section 132(h) of the Internal Revenue Code of 1986 (relating to special rule for parking) is amended to read as follows:

"(4) WORKING CONDITION FRINGE INCLUDES CERTAIN TRANSPORTATION SUBSIDIES AND PARKING.—

"(A) IN GENERAL.—For purposes of this section, the term 'working condition fringe' includes:

"(i) parking provided to an employee at a parking facility:

"(I) which is located on the premises of the employer,

"(II) which is operated by the employer, and

"(III) substantially all the use of which is by employees of the employer, and

"(ii) qualified transportation provided by the employer between the employee's residence and place of employment.

"(B) LIMITATION.—Subparagraph (A)(ii) shall only apply to the extent the qualified transportation provided during any calendar month does not exceed $75.

"(C) QUALIFIED TRANSPORTATION.—For purposes of this paragraph, the term 'qualified transportation' means:

"(i) transportation furnished in a commuter highway vehicle operated by or for the employer, and

"(ii) transportation provided by the employer (whether by payment or reimbursement) on buses, trains, boats, or subways but only if such transportation—

"(I) is available to the general public, and

"(II) is scheduled and along regular routes.

"(D) COMMUTER HIGHWAY VEHICLE.—For purposes of subparagraph (C), the term 'commuter highway vehicle' means any highway vehicle—

"(i) the seating capacity of which is at least eight adults (not including the driver), and

"(ii) at least 80 percent of the mileage use of which can reasonably be expected to be (I) for purposes of transporting the taxpayer's employees between their residences and their place of employment, and (II) on trips during which the number of employees transported for such purposes is at least ½ the adult seating capacity of such vehicle (not including the driver)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to parking and transportation provided after December 31, 1991, in taxable years ending after such date.

Subtitle C.—Buildings and Housing Tax Credits

SEC. 821. TAX CREDIT FOR RETROFIT OF HOME OIL HEATERS.

(a) AMENDMENT OF INTERNAL REVENUE CODE.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to non-refundable personal credits) is amended by inserting after section 22 the following new section:

"SEC. 23. OIL RETROFIT CONSERVATION CREDIT.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the qualified oil retrofit conservation expenditures.

"(b) DOLLAR LIMITATION.—The amount of the credit under subsection (a) shall not exceed the excess (if any) of:

"(1) $100 ($50 in the case of a married individual filing a separate return), over

"(2) the aggregate amount of the credits allowed under subsection (a) for all preceding taxable years.

"(c) QUALIFIED OIL RETROFIT CONSERVATION EXPENDITURE.—For purposes of this section:

"(1) IN GENERAL.—The term 'qualified oil retrofit conservation expenditure' means an expenditure by the taxpayer for the installation of an oil retrofit component in or on a selling unit which:

"(A) is located in the United States; and

"(B) which is used as a principal residence by the taxpayer.

"(2) OIL RETROFIT COMPONENT.—The term 'oil retrofit component' means an item:

"(A) which is a flame retention replacement burner for an oil burner or a similar item specified by the Secretary as using comparable conservation technologies;

"(B) which increases the insulation value in or on a selling unit, including the insulation value on a water heater;

"(C) which is an automatic thermostat control;

"(D) which increases the insulation value of a window;

"(E) the original use of which begins with the taxpayer; and

"(F) which can reasonably be expected to remain in operation for at least 3 years.

"(3) SPECIFICATION OF ITEMS.—The Secretary, after consultation with the Secretary of Energy, shall prescribe performance and quality standards, and procedures, for the specification of items as oil retrofit components.

"(d) SPECIAL RULES.—For purposes of this section:

"(1) WHEN EXPENDITURES MADE; AMOUNT OF EXPENDITURES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when original installation of the item is completed.

"(B) AMOUNT.—The amount of any expenditure shall be the cost thereof.

"(2) PRINCIPAL RESIDENCE.—The determination of whether or not a dwelling unit is a taxpayer's principal residence shall be made under principles similar to those applicable to section 1034, except that:

"(A) no ownership requirement shall be imposed; and

"(B) the period for which a dwelling is treated as the principal residence of the taxpayer shall include the 30-day period ending on the first day on which it would (but for this subparagraph) be treated as his principal residence.

"(3) PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—

"(A) REDUCTION OF QUALIFIED EXPENDITURES.—For purposes of determining the amount of qualified oil retrofit conservation expenditures made by any individual with respect to any dwelling unit, these shall not be taken into account expenditures which are made from subsidized energy financing.

"(B) SUBSIDIZED ENERGY FINANCING.—For purposes of subparagraph (A), the term 'subsidized energy financing' means financing provided under a Federal, State, or local program a principal purpose of which is to provide subsidized financing for projects designed to conserve or produce energy.

"(4) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a principal residence by 2 or more individuals—

"(A) the amount of the credit allowable under subsection (a) by reason of expenditures make during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as one taxpayer whose taxable year is such calendar year; and

"(B) there shall be allowable with respect to such expenditures to each of such individuals a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

"(5) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

"(6) CONDOMINIUMS.—

"(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which he owns, such individual shall be treated as having made his proportionate share of any expenditures of such association.

"(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For the purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirement of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

"(7) JOINT OWNERSHIP OF ENERGY ITEMS.—Any expenditure other wise qualifying as a qualified oil retrofit conservation expenditure shall not be treated as failing to so qualify merely because such expenditure was made with respect to 2 or more dwelling units.

"(e) BASIC ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(f) TERMINATION.—No credit shall be allowed under this section for taxable years beginning after December 31, 1995.".

(b) TECHNICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of Chapter 1 of such Code is amended by inserting after the item relating to section 22 of the following new item:

"Sec. 23. Oil Retrofit Conservation Credit.".

(c) EFFECTIVE DATE.—The amendments make by this section shall apply to taxable year beginning after December 31, 1991.

Subtitle D.—Utilities

SEC. 831. EXCLUSION FROM GROSS INCOME FOR ENERGY AND WATER CONSERVATION SUBSIDIES PROVIDED BY PUBLIC UTILITIES.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to amounts specificially excluded from gross income) is amended by redesignation section 136 as section 137 and by inserting after section 135 the following new section:

"SEC. 136. ENERGY AND WATER CONSERVATION SUBSIDIES.

"(a) GENERAL RULE.—Gross income shall not include the amount (if in cash) or the value (if in kind) of any subsidy provided by a public utility to a customer in connection with the purchase, installation, use, or maintenance of any energy of water conservation measure or for energy savings delivered by such measurers.

"(b) DENIAL OF DOUBLE BENEFIT.—Notwithstanding any other provisions of this subtitle, no deduction or credit shall be allowed for, or by reason of, any expenditure to the extent of any subsidy excluded under subsection (a) which was provided with respect to such expenditure. The adjusted basis of any property shall be reduced by the amount of any subsidy excluded under subsection (a) which was provided with respect to such property.

"(c) ENERGY OF WATER CONSERVATION MEASURE.—For purposes of this section, the term 'energy or water conservation measure' means—

"(1) any residential energy conservation measure described in section 219(11) of the National Energy Conservation Policy Act (42 U.S.C. 8211(11),

"(2) any commercial energy conservation measure describd in section 710(b)(5) of the National Energy Conservation Policy Act (as in effect on the day before the date of the enactment of the Conservation Service Reform Act of 1986),

"(3) any specially defined energy property (as defined in section 48(1)(5) (as in effect before its repeal by the Revenue Reconciliation Act of 1990), and

"(4) any other measure designed to reduce energy or water consumption.

"(d) PUBLIC UTILITY.—For purposes of this section, the term 'public utility' means any person, corporation, State agency, or local unit of government, or Federal agency engaged in the sale of electrical energy, gas, or water.

"(e) EXCEPTION.—This section shall not apply to any payment to a qualiifed cogeneration facility or qualifying shall power production facility pursuant to section 210 of the Public Utilities Regulation Policy Act of 1978.'.

(b) CLERICAL AMENDMENT.—The table of section for part III of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 136 and inserting:

"Sec. 136. Energy and Water Conservation Subsidies.

"Sec. 137. Cross Reference to Other Acts."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act.

Subtitle E

§ 841. This Act Shall Be Known as "The Safe and Effective Vehicles Incentives Act of 1991"

Title 28 of the United States Code is amended to insert a New Subchapter, as follows:

§ 842. Definitions

For the purposes of this subchapter—

(a) The term "Secretary" shall mean the Secretary of the Treasury.

(b) The term "Secretary of Transportation" shall mean the Secretary of Transportation.

(c) The term "EPA Administrator" shall mean the Administrator of the Environmental Protection Agency.

(d) For the pruposes of this subchapter, there shall be two classes of motor vehicles. The "light-duty class" shall include all light-duty vehicles and all light-duty trucks up to and includng 4,500 lbs. gross vehicle weight rating. The "medium-duty class" shall include all light-duty trucks between 4,501 and 8,500 lbs. gross vehicle weight rating.

(e) The term "model year" shall have the same meaning as in 15 U.S.C. section 2001(12).

(f) The term "sale" shall include any sale or lease of a motor vehicle subject to this subchapter, but shall not include a rental of less than one month in duration.

§ 843. Motor Vehicle Fuel Economy and Safety Taxes and Rebates

(a) There are established, as determined according to section 4,

(1) A tax on the sale of each new motor vehicle sold in the United States whose fuel economy is less than the sales-weighted average fuel economy of all new motor vehicles within the same class, and

(2) A rebate for the purchase of each new motor vehicle purchased in the United States whose fuel economy is greater than the sales-weighted average fuel economy of all new motor vehicles within the same class.

(b) There are established, as determined according to section 5,

(1) A tax on the sale of each new motor vehicle sold in the United States whose composite safety factor is greater than the sales-weighted average composite safety factor of all new motor vehicles within the same class, and

(2) A rebate for the purchase of each new motor vehicle purchased in the United States whose composite safety factor is greater than the sales-weighted average composite safety factor of all new motor vehicles within the same class.

§ 844. Fuel Economy Tax and Rebate Formula

(a) The fuel economy tax or rebate for each new motor vehicle shall be determined according to the following formula.

Tax/Rebate = $10 × [M − M'], where:

(1) "M" means estimated annual fuel consumption of such vehicle and shall be equal to 10,000 divided by the MPG rating of such motor vehicle, as determined by the EPA Administrator under 15 U.S.C. section 2003(d).

(2) "M'" means the sales-weighted average fuel consumption of all motor vehicles in the same class, as determined by the EPA Administrator and reported to the Secretary under 15 U.S.C. section 2003(d).

(b) If the result of the calculation is a positive number, it shall be a tax. If the result of the calculation is a negative number, it shall be a rebate.

§ 845. Vehicle Safety Tax and Rebate Formula

(a) The safety tax or rebate for each new motor vehicle shall be determined according to the following formula:

Tax-Rebate = $10 × [S − S'], where:

(1) "S" means the "composite safety factor" for such vehicle, based on the formula established by 15 U.S.C. section 1392(i).

(2) "S'" means the sales-weighted average composite safety factor of all motor vehicles in the same class, as determined by the Secretary of Transportation and reported to the Secretary under 15 U.S.C. section 1392(i).

(b) If the result of the calculation is a positive number, it shall be a tax. If the result of the calculation is a negative number, it shall be a rebate.

§ 846. Publication of Tax and Rebate Formulae; Duty to Calculate and Display

(a) Not later than July 31, 1992, and not later than July 31 of each year thereafter, the Secretary shall publish in the Federal Register and send to each manufacturer or importer of motor vehicles subject to this subchapter the formulae applicable for the calculation of fuel economy and safety taxes and rebates for each class of motor vehicles in the next model year.

(b) The manufacturer or importer of each new light-duty or medium-duty motor vehicle shall calculate the fuel economy tax (or rebate) and the safety tax (or rebate) applicable to each such vehicle according to the applicable formulae published by the Secretary under subsection (a).

(c)(1) The manufacturer or importer of each new motor vehicle subject to this subchapter shall include in the label required to be affixed to such vehicle under 15 U.S.C. section 2006 and in any proposed or final sales contract the following information.

(A) The fuel economy tax or rebate, as applicable,

(B) The safety tax or rebate, as applicable, and

(C) The net tax or rebate, as applicable. The label shall also include graphic figures showing the relative rank of such motor vehicle to other vehicles in the same class, displayed separately for fuel economy and safety.

(2) Any person who offers such vehicle for sale shall assure that the required information is prominently displayed on such sticker in bold figures at least the same size as the EPA mileage estimate and in such proposed or final sales contract in bold figures at least twice the size of other dollar figures displayed on such sticker or in such contract. Such information shall also be prominently displayed in any advertisement for such vehicle which includes information on fuel economy.

§ 847. Collection of Taxes and Disbursement of Rebates

(a) Whenever any person sells a new motor vehicle for which a net tax is due under this subchapter, such person shall collect from the purchaser of such vehicle at the time of purchase the net tax due.

(b) Whenever any person sells a new motor vehicle for which a net rebate is due under this subchapter, such person shall give to the purchaser of such vehicle at the time of purchase a voucher for the net rebate due.

(c) On a quarterly basis, each person who has sold a new motor vehicle subject to this subchapter in the preceding quarter shall submit to the Secretary (1) all taxes collected from purchasers during such period, and (2) an accounting of all rebate vouchers issued to purchasers during such period. The Secretary shall place all receipts of such taxes in a special account dedicated exclusively to the purposes of this subchapter.

(d) Whenever any purchaser presents a rebate voucher to the Secretary, the Secretary shall pay to such purchaser within thirty days the rebate amount due. Such payments shall be drawn from the special account established under subsection (c). If at any time funds in the special account are not sufficient to meet rebate obligations, the Secretary shall transfer to the account such funds as are necessary to meet such obligations. Such transfers shall be promptly repaid when the special account balance is in surplus. Except to repay any such transfers, the Secretary may not apply funds in the special account to any purpose other than the payment of rebates.

(e) The Secretary shall publish such forms and issue such regulations as are necessary to carry out this subchapter.

(f) Any rebate issued under this subchapter shall be considered an adjustment to the purchase price of the motor vehicle and shall not be considered income for the purposes of Chapter I of the Internal Revenue Code.

(g) There are authorized to be appropriated such sums as are necessary to carry out the provisions of this subchapter.

§ 3. Sales-weighted average fuel consumption

(a) Subsection (d) of section 2003 of Title 15 of the United States Code is amended to add the following new paragraphs:

(4) For the purposes of determining fuel economy taxes and rebates due under subchapter of Title 28 of the United States Code, not later than July 1, 1992, and each July 1 thereafter, the EPA Administrator shall, for each vehicle class as defined in this paragraph—

(A) calculate the sales-weighted average fuel consumption of all new motor vehicles sold in the United States in the twelve-month period covering the first half of the current model year and the last half of the prior model year;

(B) adjust the result of such calculation by the percentage change in sales-weighted average fuel consumption as compared with the next prior twelve-month period; and

(C) report the resulting value to the Secretary of the Treasury for use as the term "M'" in the formula set forth in 28 U.S.C. section 4.

(5) For the purposes of the preceding paragraph there shall be two vehicle classes. The "Light-duty class" shall include all light-duty vehicles and all light-duty trucks up to and including 4,500 lbs. gross vehicle weight rating. The "medium-duty class" shall include all light-duty trucks between 4,501 and 8,500 lbs. gross vehicle weight rating.

(6) For any vehicle that is powered by a fuel other than gasoline, the Administrator shall determine an MPG rating which reflects the amount of carbon dioxide emissions produced by such vehicle, taking into account the total fuel cycle, as compared to gasoline-powered vehicles.

(7) Beginning the first year that fuel economy and safety taxes and rebates come into effect, the EPA Administrator shall include a complete schedule of such fees and rebates for each vehicle model in the fuel economy booklet required to be published each year under section 2006(b).

§4. Composite safety factor and sales-weighted average composite safety factor

(a) Section 1392 of Title 15 of the United States Code is amended to add the following new subsection:

(i)(1) For the purposes of determining safety taxes and rebates due under subchapter of Title 28 of the United States Code, there is hereby established a "composite safety factor" to be calculated for each model of motor vehicle within the vehicle classes defined in this subsection. The composite safety factor shall be based on injury criteria specified in regulations of the Secretary codified at 49 CFR §571.208, using crash test data from tests conducted according to the test protocol set forth in such regulations, except that such crash testing shall be conducted at 35 miles per hour. The formula for the composite safety factor shall be—

0.1 × [Driver's Injury Factor + (0.5 × Passenger's Injury Factor)], where

"Driver's Injury Factor" = H + (12.525 × T) + (0.11 × L) + (0.11 × R), as measured for a dummy positioned in the driver's seat, and

"Passenger's Injury Factor" = H + (12.525 × T) + (0.11 × L) + (0.11 × R), as measured for a dummy positioned in the front passenger's seat, and where

"H" is the head acceleration as specified in 49 CFR §571.208.S6.1.2 of such regulations,

"T" is the thorax acceleration as specified in 49 CFR §571.208.S6.1.3 of such regulations, and

"L" and "R" are the left and right leg force, respectively, as specified in 49 CFR §571.208.S6.1.4 of such regulations.

(2) The composite safety factor shall be calculated as specified in paragraph (1) unless the Secretary determines by rule that overall safety would be more accurately reflected by a different formula and establishes a revised formula on or before April 1 of the year before the model year to which the revised formula will be first applied. In establishing any revised formula the Secretary may alter the relative weight of the terms specified in paragraph (1) or add terms to account for other safety factors (including, but not limited to, side impact collisions and collision avoidance equipment such as antilock breaking systems), *Provided*, That, the total value of safety taxes collected under the new formula does not differ by more than 10 per cent from the total value of safety taxes that would have been collected under the formula specified in paragraph (1).

(3) Not later than July 1, 1992, and each July 1 thereafter, the Secretary shall, for each vehicle class as defined in this paragraph—

(A) calculate the sales-weighted average composite safety factor of all new motor vehicles sold in the United States in the twelve-month period covering the first half of the current model year and the last half of the pior model year;

(B) adjust the result of such calculation by the percentage change in sales-weighted average composite safety factor as compared with the next prior twelve-month period; and

(C) report the resulting value to the Secretary of the Treasury for use as the term "S+" in the formula set forth in 28 U.S.C. section 5.

(4) If crash test data necessary to determine the composite safety factor for any new motor vehicle are not available as the result of tests conducted by the Secretary of Transportation, the manufacturer or importer of such vehicle shall conduct such tests as are necessary to determine such factor before such vehicle is offered for sale. Any such tests shall be conducted according to test protocol specified in 49 CFR §571.208 (except that they shall be carried out at 35 miles per hour) and shall be verified by confirmatory tests conducted by the Secretary before the end of the model year. The Secretary may determine that data from a previous model year may be used if the structural specifications of a model have not been altered.

(5) For the purposes of this subsection there shall be two vehicle classes. The "light-duty class" shall include all light-duty vehicles and all light-duty trucks up to and including 4,500 lbs. gross vehicle weight rating. The "medium-duty class" shall include all light-duty trucks between 4,501 and 8,500 lbs. gross vehicle weight rating.

TITLE VIII

Subtitle F

SEC. 851. NET INCOME LIMITATION ON PERCENTAGE DEPLETION NOT TO APPLY TO OIL AND GAS WELLS.

(a) IN GENERAL.—The second sentence of subsection (a) of section 613 of the Internal Revenue Code of 1986 (relating to percentage depletion) is amended by striking out "Such allowance" and inserting in lieu thereof "Except in the case of an oil or gas well, such allowance".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 852. CRUDE OIL PRODUCTION CREDIT FOR MAINTAINING ECONOMICALLY MARGINAL WELLS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new section:

SEC. 30. CRUDE OIL PRODUCTION CREDIT FOR MAINTAINING ECONOMICALLY MARGINAL WELLS.

(a) ALLOWANCE OF CREDIT.—There shall be allowed as credit against the tax imposed by this chapter for the taxable year to the producer of eligible crude oil an amount equal to 10 percent of the qualified cost of each barrel of such oil (or fractional part thereof) produced during the taxable year.

"(b) QUALIFIED COST.—For purposes of this section, the term 'qualified cost' means, with respect to each barrel of eligible crude oil, the sum of—

"(1) such barrel's pro rata share of—

"(A) the lease operating expenses (other than business overhead expenses) paid or incurred by the producer of such barrel during the taxable year in which such barrel was produced,

"(B) the amount allowed to such producer for such taxable year for depreciation under sections 167 and 168 with respect to the property used in the production of such barrel,

"(C) the amount allowed to such producer for such taxable year for depletion under section 611 (but not in excess of the adjusted basis of the property), and

"(D) the business overhead expenses paid or incurred during such taxable year by such producer, plus

"(2) the amount of severance tax paid or incurred by such producer with respect to such barrel.

"(c) DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE CRUDE OIL.—The term 'eligible crude oil' means domestic crude oil which is—

"(A) from a stripper well property within the meaning of the June 1979 energy regulations,

"(B) heavy oil, or

"(C) oil recovered through a tertiary recovery method.

"(2) OTHER DEFINITIONS.—

"(A) CRUDE OIL.—The term 'crude oil' has the meaning given to such term by the June 1979 energy regulations.

"(B) BARREL.—The term 'barrel' means 42 United States gallons.

"(C) DOMESTIC.—The term 'domestic' when used with respect to crude oil, means crude oil produced from a well located in the United States or in a possession of the United States.

"(D) UNITED STATES.—The term 'United States' has the meaning given to such term by paragraph (1) of section 638 (relating to Continental Shelf areas).

"(E) POSSESSION OF THE UNITED STATES.—The term 'possession of the United States' has the meaning given to such term by paragraph (2) of section 638.

"(F) HEAVY OIL.—The term 'heavy oil' means all crude oil which is produced from a property if crude oil produced and sold from such property during—

"(i) the last month before July 1979 in which crude oil was produced and sold from such property, or

"(ii) the taxable year had a weighted average gravity of 20 degrees A-PI or less (corrected to 60 degrees Fahrenheit).

"(G) TERTIARY RECOVERY METHOD.—The term 'tertiary recovery method' means—

"(i) any method which is described in October 1979 energy regulations, or

"(ii) any other method to provide tertiary enhanced recovery which is approved by the Secretary for purposes of this section.

"(H) SEVERANCE TAX.—The term 'severance tax' means a tax imposed by a State or political subdivision thereof with respect to the extraction of crude oil."

(I) ENERGY REGULATIONS.—

"(i) IN GENERAL.—The term 'energy regulations' means regulations prescribed under section 4(a) of the Energy Petroleum Allocation Act of 1973 (15 U.S.C. 753(a))—

"(ii) JUNE 1979 ENERGY REGULATIONS.—The June 1979 energy regulations shall be the terms of the energy regulations as such terms existed on June 1, 1979.

"(iii) OCTOBER 1979 ENERGY REGULATIONS.—The October 1979 energy regulations shall be the terms of the energy regulations as such terms existed on October 30, 1979.

"(iv) CONTINUED APPLICATION OF REGULATIONS AFTER DECONTROL.—Energy regulations shall be treated as continuing in effect without regard to decontrol of oil prices or any other termination of the application of such relations.

"(d) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) LIABILITY FOR TAX.—The credit allowable under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(A) the sum of—

"(i) the taxpayer's tentative minimum tax liability under section 55(b) of such taxable year determined without regard to this section, plus

"(ii) the taxpayer's regular tax liability for such taxable year (as defined in section (b)), over

"(B) the sum of the credits allowable against the taxpayer's regular tax liability under part IV (other than section 43 and this section).

"(2) APPLICATION OF THE CREDIT.—Each of the following amounts shall be reduced by the full amount of the credit determined under paragraph (1):

"(A) the taxpayer's tentative minimum tax under section 550) for the taxable year, and

"(B) the taxpayer's regular tax liability (as defined in section 26(b)) reduced by the sum of the credits allowable under part IV (other than section 43 and this section).

If the amount of the credit determined under paragraph (1) exceeds the amount described in subparagraph (B) of paragraph (2), then the excess shan be deemed to be the adjustednet minimum tax for such taxable year for purposes of section 53.

"(3) CARRYBACK AND CARRYFORWARD OF UNUSED CREDIT.—

"(A) IN GENERAL.—If the amount of the credit allowed under subsection (a) for any taxable year exceeds the limitation under paragraph (1) for such taxable year (hereinafter in this paragraph referred to as the 'unused credit year'), such excess shall be—

"(i) an oil production credit carryback to each of the 7 taxable years preceding the unused credit year, and

"(ii) an oil production credit carryforward to each of the 15 taxable years following the unused credit year,

and shall be added to the amount allowable as a credit under subsection (a) for such years. If any portion of such excess is a carryback to a taxable year beginning on or before the date of the enactment of this section, this section shall be deemed to have been in effect for such taxable year for purposes of allowing such carryback as a credit under this section. The entire amount of the unused credit shall be carried to the earliest of the taxable years to which such credit may be carried, and then to each of the other 21 taxable years to the extent that, because of the limitation contained in subparagraph (B), such unused credit may not be added for a prior taxable year to which such unused credit may be carried.

"(B) LIMITATIONS.—The amount of the unused credit which may be taken into account under subparagraph (A) for any succeeding taxable year shall not exceed the amount by which the limitation provided by paragraph (1) for such taxable year exceeds the sum of—

"(i) the credit allowable under subsection (a) for such taxable year, and

"(ii) the amounts which, by reason of this paragraph, are added to the amount allowable for such taxable year and which are attributable to taxable years preceding the unused credit year.

"(e) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply."

(b) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 30. Crude oil production credit for maintaining marginally economic wells.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to oil produced in taxable years beginning after the date of enactment of this Act.

SEC. 853. CRUDE OIL AND NATURAL GAS EXPLORATION AND DEVELOPMENT CREDIT.

(a) CRUDE OIL AND NATURAL GAS EXPLORATION AND DEVELOPMENT CREDIT.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986, as amended by section 9, is amended by adding at the end thereof the following new section:

"SEC. 30A. CRUDE OIL AND NATURAL GAS EXPLORATION AND DEVELOPMENT CREDIT.

"(a) GENERAL RULE.—For purposes of section 38, the crude oil and natural gas exploration and development credit determined under this section for any taxable year shall be an amount equal to the sum of—

"(1) 20 percent of so much of the taxpayer's qualified investment for the taxable year as does not exceed **$1,000,000**, plus

"(2) 10 percent of so much of such qualified investment for the taxable year as exceeds **$1,000,000**.

"(b) QUALIFIED INVESTMENT.—For purposes of this section, the term 'qualified investment' means amounts paid or incurred-

"(1) for the purpose of ascertaining the existence, location, extent, or quality of any crude oil or natural gas deposit, including core testing and drilling test wells,

"(2) for the purpose of developing a property on which there is a reservoir capable of commerical production and such amounts are paid or incurred in connection with activities which are intended to result in the recovery of crude oil or natural gas on such property, or

"(3) for the purpose of performing secondary or tertiary recovery technique on a well located in the United States or in a possession of the United States as defined in section 638.

"(c) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) LIABILITY FOR TAX.—The credit allowable under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(A) the sum of—

"(i) the taxpayer's tentative minimum tax liability under section 55(b) for such taxable year determined without regard to this section, plus

"(ii) the taxpayer's regular tax liability for such taxable year (as defined in section 26(b)), over

"(B) the sum of the credits allowable against the taxpayer's regular tax liability under part IV (other than section 43 and this section).

"(2) APPLICATION OF THE CREDIT.—Each of the following amounts shall be reduced by the full amount of the credit determined under paragraph (1):

"(A) The taxpayer's tentative minimum tax under section 55(b) for the taxable year, and

"(B) the taxpayer's regular tax liability (as defined in section 26(b)) reduced by the sum of the credits allowable under part IV (other than section 43 and this section).

If the amount of the credit determined under paragraph (1) exceeds the amount described in subparagraph (B) of paragraph (2), then the excess shall be deemed to be the adjusted net minimum tax for such taxable year for purposes of section 53.

"(3) CARRYBACK AND CARRYFORWARD OF UNUSED CREDIT.—

"(A) IN GENERAL.—If the amount of the credit allowed under subsection (a) for any taxable year exceeds the limitation under paragraph (1) for such taxable year (hereinafter in this paragraph referred to as the 'unused credit year'), such excess shall be—

"(i) an oil production credit carryback to each of the 7 taxable years preceding the unused credit year, and

"(ii) an oil production credit carryforward to each of the 15 taxable years following the unused credit year,

and shall be added to the amount allowable as a credit under subsection (a) for such years. If any portion of such excess is a carryback to a taxable year be on or before the date of the enactment of this section, this section shall be deemed to have been in effect for such taxable year for purposes of allowing such carryback as a credit under this section. The entire amount of the unused credit shall be carried to the earliest of the 22 taxable years to which such credit may be carried, and then to each of the other 21 taxable years to the extent that, because of the limitation contained in subparagraph (B), such unused credit may not be added for a prior taxable year to which such unused credit may be carried.

"(B) LIMITATIONS.—The amount of the unused credit which may be taken into account under subparagraph (A) for any succeeding taxable year shall not exceed the amount by which the limitation provided by paragraph (1) for such taxable year exceeds the sum of—

"(i) the credit allowable under subsection (a) for such taxable year, and

"(ii) the amounts which, by reason of this paragraph, are added to the amount allowable for such taxable year and which are attributable to taxable years preceding the unused credit year.

(b) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 of such Code, as amended by section 8, is amended by adding at the end thereof the following new item:

"Sec. 30A. Crude oil and natural gas exploration and development credit.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures paid or incurred in taxable years beginning after the date of the enactment of this Act.

SEC. 854. REMOVAL OF INTANGIBLE DRILLING COSTS FROM THE ALTERNATIVE MINIMUM TAX AND CORPORATE PREFERENCE REDUCTIONS.

(a) ALTERNATE MINIMUM TAX.—

(1) Sections 57(a)(2) and 57(b) of the Internal Revenue Code of 1986 are hereby repealed.

(2) Subparagraph (A) of section 56(h)(1) of such Code is amended to read as follows:

"(A) 50 percent of the marginal production depletion preference, or".

(3) Subsection (h) of section 56 of such Code is amended by striking paragraphs (3), (4), and (6) and by redesignating paragraphs (5), (7), and (8) as paragraphs (3), (4), and (5), respectively.

(4) Paragraph (4) of section 56(h) of such Code (as redesignated by paragraph (3)) is amended to read as follows:

"(4) SPECIAL RULE.—For purposes of paragraphs (1)(B) and (3), alternative minimum taxable income shall be determined without regard to the deduction allowable under this subsection and the alternative tax net operating loss deduction under subsection (a)(4)."

(b) CORPORATE PREFERENCE ITEMS.—

"(1) IN GENERAL.—Paragraph (1) of section 291(b) of such Code is amended to read as follows:

"(1) IN GENERAL.—The amount allowable as a deduction for any taxable year under section 616(a) or 617(a) (determined without regard to this section) shall be reduced by 30 percent."

(2) CONFORMING AMENDMENTS.—

(A) Paragraphs (2) and (3) of section 291(b) of such Code are each amended by striking out "263(c), 616(a)," and inserting in lieu thereof "616(a)".

(B) Section 291(b) of such Code is amended by striking out paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(C) The heading of section 291(b) of such Code is amended by striking out "INTANGIBLE DRILLING COSTS AND"

(D) Clause (i) of section 56(g)(4)(D) of such Code is hereby repealed.

(E) Section 59(e)(2) of such Code is amended by striking out subparagraph (C) and by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D).

(F) Section 263(c) of such Code is amended by striking out the last sentence.

(c) EFFECTIVE DATE.—The repeal made by this section shall apply to costs paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 855. REPEAL OF TAXABLE INCOME LIMITATION ON PERCENTAGE DEPLETION.

(a) IN GENERAL.—Section 613(A)(d)(1) of the Internal Revenue Code of 1986 is amended by deleting "65 percent" and inserting in lieu thereof "100 percent".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to the taxable years beginning after the date of the enactment of this Act.

SEC. 856. ELECTION TO CARRY FORWARD DEPLETION DEDUCTION IN EXCESS OF BASIS.

(a) IN GENERAL.—Section 59 of the Internal Revenue Code of 1986 (relating to other definitions and special rules for minimum tax) is amended by adding at the end thereof the following new subsection:

"(k) OPTIONAL CARRYFORWARD OF EXCESS DEPLETION ALLOWANCES.—

(1) IN GENERAL.—For purposes of this title, a taxpayer may elect to treat any portion of the excess amount described in section 57(a)(1) for any taxable year as a deduction arising in the succeeding taxable year.

"(2) NO OTHER DEDUCTION ALLOWED.—No deduction shall be allowed under any other section for any amount to which an election under this subsection applies for the taxable year.

"(3) ELECTION; PREFERENCE ITEMS.—Rules similar to the rules of paragraph (4) and (6) of subsection (e) shall apply to amounts to which this subsection applies."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of the Act.

SEC. 857. REPEAL OF REVENUE RULING 77-176.

(a) With respect to mineral sharing arrangements, the application of chapter 1 the Internal Revenue Code of 1986 shall be determined—

(1) without regard to Revenue Ruling 77-176 (and without regard to any other regulation, ruling, or decision reaching the same result as, or a result similar to, the result set forth in such Revenue Ruling; and (2) with his regard to the rules in effect before Revenue Ruling 77-176.

SEC. 858. NONCONVENTIONAL SOURCE FUELS CREDIT ALLOWED TO OFFSET ALTERNATIVE MINIMUM TAX LIABILITY AND MADE PERMANENT.

(a) IN GENERAL.—

(1) ALLOWED TO OFFSET ALTERNATIVE MINIMUM TAX LIABILITY.—Paragraph (5) of section 29(b)(5) of the Internal Revenue Code of 1986 is amended to read as follows:

"(5) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for any taxable year shall not exceed the greater of—

(A) the regular tax liability for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27 and 28, or

(B) the tentative minimum tax liability under section 55(b) for the taxable year determined without regard to this section."

(2) CREDIT MADE PERMANENT.—

(A) The heading of section 29(f) of such Code is amended by striking out "APPLICATION OF SECTION—."

(B) Section 29(f) of such Code is amended by striking paragraph (1) and by redesignating paragraph (2) as subsection (f) in its entirety.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

NATIONAL ENERGY EFFICIENCY AND DEVELOPMENT (NEED) ACT PROPOSED BY SENATOR TIMOTHY WIRTH AND MARK HATFIELD

Sec. 1—SHORT TITLE.—"National Energy Efficiency and Development Act of 1991".

Sec. 2—TABLE OF CONTENTS.

Sec. 3—FINDINGS.—This section states the importance of an aggressive program to increase energy efficiency in the U.S., the potential role of renewable energy resources in our future, the potential for natural gas to displace petroleum use in the U.S. economy, the potential for displacing energy imports with domestic oil and gas production, and that development of the Arctic National Wildlife Refuge is not needed to assure access to adequate supplies of energy for the U.S.

Sec. 4—PURPOSES.

Sec. 5—CARBON DIOXIDE GOALS AND PLANNING.—The goal of this section is to foster the identification and submission to Congress of an appropriate mix of policies that have the potential, if fully implemented, to stabilize or reduce the generation of carbon dioxide and other greenhouse gases. Such policies are directed to be consistent with the achievement of other domestic energy, economic, social and environmental goals.

Sec. 101—LEAST-COST NATIONAL ENERGY STRATEGY.—This section would require the Department of Energy to develop a "Least-Cost National Energy Strategy" as part of the national energy planning process. This strategy would be designed to meet the aforementioned CO_2 goals and assign priorities among the energy resources that the Secretary determines to be the most cost-effective, taking into consideration the impact of the production and use of these energy resources on global climate change and other environmental problems, as well as the nation's economic, energy and societal objectives.

Sec. 102—CONFORMING AMENDMENTS.

Sec. 111—DIRECTOR OF CLIMATE PROTECTION.—This section would require the Secretary of Energy to appoint a Director of Climate Protection to develop policy recommendations for and represent DOE in all interagency and multilateral policy discussions on global climate change.

Title II—Measures to Improve the Energy Efficiency of the American Economy

SUBTITLE A—RESEARCH AND DEVELOPMENT

Sec. 201—ENERGY EFFICIENCY RESEARCH AND DEVELOPMENT AUTHORIZATIONS.—This section increases the authorizations for energy efficiency research and development. Currently, appropriations for the research and development program exceed the amounts authorized by P.L. 101-218. This section raises aggregate energy efficiency authorizations to $300 million in FY '92; $375 million in FY '93; and $450 million in FY '94. (These increases reflect the rate of growth proposed by the Administration in its FY '92 budget).

SUBTITLE B—INDUSTRIAL ENERGY EFFICIENCY

Sec. 202—DOE AND COUNCIL ON ECONOMIC ADVISORS REPORT.—This section requires DOE and the Council on Economic Advisors to submit a report to Congress on efficiency options to reduce the energy required to produce a unit of GNP.

Sec. 212—JOINT VENTURES WITH ENERGY-INTENSIVE INDUSTRIES.—This section would require the Secretary of pursue a research and development program and enter into cost-shared joint ventures to improve efficiency in energy intensive industries (such as steel, chemicals, glass, paper and aluminum). Authorizes $5, $15 and $25 million for FY '92, '93, '94, respectively.

Sec. 213—INDUSTRIAL AUDITING PROGRAM.—This section would require the Secretary, in cooperation with utilities and major industrial energy consumers, to establish voluntary guidelines for the conduct of energy audits and the installation of insulation in industrial facilities.

Sec. 214—INDUSTRIAL REPORTING REQUIREMENTS.—This section would institute a reporting system for industry to supply annual energy use and energy intensity information to DOE. This information will be used to expand EIA's demand-side data base. In addition, this section will require DOE to develop with industry voluntary energy-efficiency goals for energy-intensive industries.

Sec. 215—ENERGY EFFICIENCY INFORMATION.—This section requires the Energy Information Administration to expand the collection of energy efficiency information.

SUBTITLE C—RESIDENTIAL AND COMMERCIAL BUILDING EFFICIENCY

Sec. 221—RESIDENTIAL BUILDING CODES.—This section directs DOE to provide technical assistance to States in order to bring State codes up to existing DOE standards or those of the Council of American Building Officials Model Energy Code (CABO-MEC). At the end of 4 years, states shall have upgraded to the national standard or provide an explanation of why it has not. DOE is directed to periodically review and update these codes.

Sec. 221—Commercial Building Codes—This section directs DOE to develop and recommend to the States improved commercial building energy efficiency standards. Technical assistance will be provided to the States, by DOE, to help promote the adoption of these standards. At the end of 4 years, states shall have upgraded to the national standard or provide an explanation of why it has not. DOE is directed to periodically review and update these codes.

Sec. 222—Home Energy Efficiency Ratings—This section directs the Secretary to provide financial assistance to support a 4-year voluntary national program that helps States develop consumer-oriented energy rating systems for residential homes at least in accordance with the most recent Council of American Building Officials Model Energy Code (CABO-MEC). At the end of 4 years, all homes must be rated prior to sale and the purchaser notified of the homes energy rating and all federal energy efficient mortgage programs. No new home that does not meet at least the CABO-MEC standard shall be eligible for federally guaranteed or insured mortgages. DOE will be given the authority to institute similar requirements on existing homes.

Sec. 223—Manufactured Housing Standards—This section directs DOE to asssist HUD develop energy standards for manufactured housing in accordance with section 943 of P.L. 101-625, the Cranston-Gonzalez Housing Bill. DOE shall recommend energy efficiency standards based on life-cycle cost, and shall test the performance and cost-effectiveness of manufactured housing prototypes constructed to the required standards.

Sec. 224—Fund for Upgrading Energy Efficiency of State and Locally-Owned Buildings—This section creates a fund to provide grants to eligible States to undertake energy efficiency projects in State and locally-owned buildings.

Sec. 225-226—Electrical Product Standards—This section requires DOE to set minimum energy efficiency standards for a limited number of incandescent and fluorescent lamps, commercial heating and air conditioning equipment, electric motors and electric utility transformers. This section also requires DOE to establish standards for table lamps in order to ensure that they can utilize compact fluorescent lamps. In addition, DOE will assist industry in developing testing and labelling procedures for windows, commercial office equipment and fluorescent light fixtures. Authorizes $15 million a year and directs DOE to increase staff capability to accommodate these standards requirements.

Sec. 227—Training and Certification of Contractors—This section establishes a DOE program to train and certify energy efficiency contractors in accordance with its programs to establish residential and commercial building codes.

Taxation of Fuel Efficient Oil Burners (see Title VIII)

SUBTITLE D—FEDERAL ENERGY EFFICIENCY

Sec. 231—Federal Energy Management Programs—This section amends NECPA to direct the federal government to install all energy efficiency measures which are cost-effective on a 10-year life-cycle cost basis. In addition, it creates financial incentives for federal agencies to contract for energy efficiency improvements. This section establishes a fund to finance energy efficiency improvements. No leased office space could be renewed or acquired unless the facility met the efficiency standards for commercial office space established by CABO-MEC. In addition, this section directs the GSA to develop and implement a program to identify products that have the potential to save energy and reduce costs in federal government purchasing programs.

Sec. 232—Vehicle Purchase Program—This section requires agencies to purchase fuel efficient vehicles.

Sec. 233—Performance Standards for Federal Buildings—This section requires the General Services Administration to provide information in its product schedule of the most cost-effective (on a life-cycle cost basis) energy equipment.

Sec. 234—Plan for Demonstration of New Technology—This section requires DOE to submit a plan to Congress for demonstrating energy efficiency and renewable energy technologies in Federally-owned facilities.

Sec. 235—Fuel Cells—This section authorizes $15 million for DOE to conduct a program to promote the early commercial application of fuel cell systems through demonstration in Federal buildings.

Sec. 236—Study of Federal Purchase Incentives for Technology Development—This section directs DOE to prepare a study onenergy efficient products that the federal government could purchase to encourage commercial development of technology.

SUBTITLE E—UTILITY ENERGY EFFICIENCY

Sec. 241—Utility Regulatory Reform—This section reformulates certain ratemaking standards in Title I of PURPA applying to regulated electric utilities in order to encourage public utility commissioners to ensure that utility investments in energy efficiency are as profitable as supply-side investments. In addition, this section will encourage all states to undertake least-cost planning programs for regulated utilities and consider the external costs of energy use. After a specified period, energy efficiency measures will be considered a qualified facility in states that have failed to consider these regulatory reforms and that do not have competitive bidding programs.

In addition, this section encourages states to consider regulatory reforms that would encourage energy efficiency improvements in power generation and supply. Fuel adjustment clauses and other ratemaking provisions are to be considered, as are incentives that would increase the average efficiency of power generation and supply, both through better maintenance and through investment in more efficient power generation, transmission and distribution technologies.

Sec. 242—Energy Efficiency at TVA and Power Marketing Authorities—This section would require a least-cost plan to be developed prior to the approval of a long-term purchase from the PMAs. In addition, the PMAs are authorized to implement programs to acquire cost-effective energy efficiency resources. The TVA is instructed to develop a least-cost plan.

Sec. 243—Energy Efficiency at FERC—This section directs the Federal Energy Regulatory Commission to develop an office of energy efficiency. In addition, this section proposes expedited review for purchases of electricity made in accordance with a least-cost plan.

REMOVAL OF TAXATION OF UTILITY REBATES (see Title VIII)

SUBTITLE F—USED OIL ENERGY PROGRAM

Sec. 251-255—Waste Oil Recycling—(S. 399—Heinz-Wirth) Gives EPA authority to set a mandatory "recycling ratio" for used oil. It would require the producer of the original lubricating oil to annually increase the percentage of oil being recycled either by putting the collected used oil back through the refinery or by purchasing "oil recycling credits" or by purchasing rerefined oil. Used oil recyclers (permitted rerefiners or reprocessors) would generate credits for every unit of used oil recycled. The price of the credits would be set by market forces.

SUBTITLE G—TIRE RECYCLING INCENTIVES

Sec. 261-263—Waste Tires Recycling—(S. 396—Wirth-Heinz) Producers and importers of tires would be required to annually increase the amount of used tires recycled either by retreading, making tire-derived fuel, processed tire products, or whole tire products. They can either recycle the tires themselves, or purchase "tire recycling credits" from approved and licensed recyclers. The price of the credit would be set by market forces.

SUBTITLE H—INSULAR AREAS EFFICIENCY

Sec. 271—Insular Areas Energy Assistance—This section establishes a program of financial assistance for Insular area governments to carry out energy efficiency and renewable energy projects.

Title III—Measures to Promote the Development of Renewable Energy

Sec. 301—Renewable Energy Research and Development Programs—This section increases the authorizations for renewable energy research and development. Currently, appropriations for the research and development program exceed the amounts authorized by P.L. 101-218. This section raises aggregate renewable energy authorizations to $250 million in FY '92; $290 million in FY '93; and $360 million in FY '94.

Sec. 302-304—Renewable Energy Technology Transfer—This section promotes cooperative arrangements among the public and private sector to transfer technology developed by the federal government to the marketplace. Specifically, this program would support innovative State programs demonstrating renewable energy technology. In addition, technology transfer programs from State and federal agencies will be supported.

Sec. 305—Solar Energy Development Fund—This section would promote the commercialization of utility-scale solar electric generating capability by establishing a fund to contribute to utility investments in solar energy generating stations.

Sec. 306-307—Removal of PURPA Requirements—This section would extend indefinitely technical changes to PURPA designed to encourage the production of renewable energy. Last year, Congress enacted such changes for a 2 year period.

Sec. 311-313—Renewable Energy Exports—This section develops additional programs, carried out by the Committee on Renewable Energy Commerce and Trade (CORECT) to enhance economic development in less-developed countries through the transfer of energy efficient and renewable energy technology. This program also authorizes funds to assist U.S. manufacturers of renewable energy and energy efficient technology in exporting their goods to less-developed countries.

RENEWABLE ENERGY PRODUCTION TAX CREDIT (see Title VIII)

Title IV—Measures to Promote the Use of Alternative Motor Vehicles and Fuels

Sec. 401—Alternative Fuel Mass Transit Program—This section provides for cooperative agreements and financial assistance to municipal, county or regional transit authorities in large urban areas to demonstration the feasibility of using natural gas or other alternative fuels as fuels for mass transit. Authorizes $30 million for each of fiscal 1992-94.

SEC. 402—ALTERNATIVE FUEL FLEET COMMERCIALIZATION PROGRAM—This section established a joint program to provide financial assistance to encourage the development and commercialization of natural gas and other alternative fuel use in passenger fleets, light duty trucks and heavy duty trucks. Authorizes $30 million for each of fiscal 1992-94.

SEC. 403—ALTERNATIVE FUEL TRAINING PROGRAM—This section establishes a training and certification program at DOE for technicians who install equipment that converts gasoline or diesel powered vehicles to those capable of operating on natural gas or other alternative fuels. Authorizes $5 million for each of fiscal 1992-94 for such purposes.

SEC. 404—VEHICLE RD&D PROGRAM—This section establishes a program of research, development and demonstration on techniques related to improving natural gas or other alternative-fueled vehicle technology.

SEC. 405—FEDERAL PROGRAMS TO PROMOTE ALTERNATIVE FUEL USE—This section requires DOE to promote the use of alternative fuels by distributing information to the public, identifying barriers to government purchase of alternative fuel vehicles, identifying ways in which preferential treatment of alternative fuel vehicles under traffic control measures may help adoption of alternative fuel vehicles, and designing federal and state loan programs to aid the conversion of existing vehicles to operation on alternative fuels, repaying such loans out of savings on fuel costs.

Sec. 406—Federal Regulation of the Sale of Alternative Fuels—This section clarifies that sale of natural gas as a vehicle fuel shall be not be construed to be an interstate sale of natural gas subject to price regulation by the FERC and shall not trigger regulation of the seller under the Public Utilities Holding Company Act.

Sec. 407—State Regulation of Alternative Vehicle Fuels—This section exempts sellers of alternative vehicle fuels from regulation as public utilities (unless they are a utility by virtue of other activities).

Sec. 408—Matching Funds for State Programs—This section provides up to $40 million annually in matching funds for the establishment of state programs to aid in increasing the use of alternative vehicle fuels.

Sec. 409—Alternative Fuel Use in Non-Road Vehicles—This section requires DOE to study the potential contribution toward reducing oil imports of converting non-road vehicles to alternative fuels, and authorizes DOE to require use of alternative fuels by non-road vehicles where feasible. This covers industrial and commercial vehicles including airport vehicles, trains, etc. Farm vehicles are excluded.

Sec. 411-417—Alternative Fuel Fleet Requirement—This subtitle would require certain motor vehicle fleets to operate on alternative fuels. In non-attainment areas, fleets of 10 or more vehicles are required to include alternative fuel vehicles as an increasing percentage of new vehicle purchases. In all cities, fleets of 20 or more must meet these requirements.

Sec. 421-429—Electric Vehicle Demonstration Program—This subtitle authorizes a $50 million program to help industry develop electric vehicles. The program is designed to overcome technical and economic barriers to widespread use of electric vehicles.

Title V—Transportation Energy Efficiency

Sec. 501-513—Corporate Average Fuel Economy Standards—This section is entitled the "Bryan-Gorton Motor Vehicle Fuel Efficiency Act of 1991." Identical to the language contained in S. 279, this bill would require that CAFE standards be improved by 40 percent over the next decade.

Feebates for Energy Efficient Automobile Purchases (See Title VIII)

Tax Incentives For Mass Transit (see Title VIII)

Title VI—Measures to Displace Petroleum as a Vehicle Fuel

Sec. 601-609—Tradeable Alternative Fuels Credit Program—This title is based on the text of S. 3263—Jeffords (101st Cong.), which provides that a set percentage of all automotive fuels sold in the United States consist of non-petroleum fuels. Refiners and other covered fuel wholesellers can accumulate credits by selling alternative fuels, by blending alcohol or ether components into the gasoline they sell, or by purchasing credits from other sellers of alternative fuels (or manufacturers of electric vehicles). Requires 10% use of alternative fuels by 1998, and 30% (or the maximum feasible percentage, as determined by DOE) by 2010.

Title VII—Measures to Promote the Use of Natural Gas

SUBTITLE A—PROMOTING NEW USES FOR NATURAL GAS

Sec. 701-703—Findings, Purposes, Definitions

Sec. 704—Co-Firing R&D—Conduct 3-year, $30 million program to research, develop, and demonstrate use of natural gas in co-firing applications, to achieve near-term reduction in NO_x, SO_2 and particulates from coal. Federal funding should support 50 percent of program.

Sec. 705—Natural Gas Air Conditioning Demonstration—Provide Federal funding to support 25 percent to 75 percent of cost of gas air-conditioning installation or conversion from electric. Help overcome initial capital-cost problem to realize operating cost and environmental benefits.

SUBTITLE B—PROMOTING ADDITIONAL CAPACITY TO TRANSPORT NATURAL GAS TO MARKET

Sec. 706—Incentive Ratemaking—Directs FERC to experiment with incentive rate designs which achieve the dual objective of allowing pipelines to earn a fair rate of return and simultaneoulsy provide the correct price signals to the marketplace.

Sec. 707—Rehearing Requirements—Eliminates FERC's ability to delay decision-making on ratemaking orders beyond the 30-day rehearing requirement without cause.

Sec. 708—One-Stop Shopping—Provides a limited exemption from antitrust laws and amends Natural Gas Act to allow pipelines to cooperate to post a single rate for a wellhead-to-market route, with one of the pipelines acting as agent to execute contracts.

Sec. 709—Fair Return—Provides for pipeline rate orders to reflect the useful vale of pipeline facilities, rather than depreciated cost. A substantial portion of the interstate pipeline industry was built during the 1940's, 50's, and 60's. Much of this pipe is highly depreciated. Rates designed on the base of these values result in artificially low rates and represent prohibitive competitive barriers to new capacity.

Sec. 710—Deregulated Sales Function—Provides for FERC to use a finding of competitive market conditions, under which pipeline sales rates would be presumed to be just and reasonable.

Sec. 711—Deregulated Competitive Services—Allows pipelines to offer new services without regulatory review provided that the customer has a competitive alternative which has been certificated by the FERC.

Sec. 712—Abandonment Policy—Amends section 7(b) of the Natural Gas Act to provide automatic abandonment of the sales obligation upon contract expiration, subject to a pipeline right to extend. The statutory service obligation for the underlying firm transportation would continue, subject to FERC rules.

SUBTITLE C—PROMOTING ADDITIONAL SUPPLIES OF NATURAL GAS

Sec. 713—Producer Demand Charges—Allows "as-billed" flow-through by pipelines of demand charges paid to producers, subject to such reasonable competitive standards as the FERC shall prescribe.

Sec. 714—Competitive Impact of Imports—Makes the competitive impact on U.S. producers a statutory criterion in the approval of any natural gas imports. If the rate design of the imported supply is found to cause significant competitive distortion, the Secretary or FERC are directed to take steps to correct the distortion.

Sec. 715—Research for New Exploration, Development and Production Technologies—Directs additional federal support of geology and development technologies for recovery of natural gas.

Tax Incentives for Independent Oil and Gas Exploration (See Title VIII)

SUBTITLE D—ACCELERATING NEW PIPELINE CONSTRUCTION

Sec. 716—Eliminate "On Behalf Of" Test for NGPA Section 311 Facility Authorization—Opens up approval of pipeline facilities without a full Section 7 determination to all pipelines not requiring eminent domain and willing to forgo putting the financial risk of the new facilities into their rate base, subject to environmental reivew.

Sec. 717—Tiering of Environmental Review—Directs FERC to prepare programmatic EIS for pipeline construction in existing corridors, so that FERC can approve such projects on the basis of Environmental analysis.

Sec. 718—Designate FERC as Lead Agency for NEPA Review—Provides statutory authority for FERC to lead in the preparation and approval of EISs for natural gas facilities.

Sec. 719—Codify FERC's Two-Phase Certificate Process—Amends Natural Gas Act to provide for issuance of non-environmental issue certificates, to allow rate and financial work to proceed on pipeline projects prior to final approval.

Sec. 720—Applicant Submission of Environmental Data—Requires FERC to specify a format for environmental assessments to permit pipeline applicants to submit their own EA with their application, as recommended by CEQ guidelines.

Sec. 721—Contract Out NEPA Work—Allows FERC to contract out environmental review at the expense of the applicant, as provided for in CEQ guidelines.

SUBTITLE E—STUDIES

Sec. 722—Study of Global Natural Gas Production Trends and Their Impact on the U.S.

Sec. 723—Study of Regulatory Policies—Directs DOE to identify institutional barriers to increased utilization of natural gas, including state and local regulatory barriers to open access transportation of natural gas.

Title VIII—Tax Treatment of Energy Resources

SUBTITLE A—ENERGY EFFICIENCY

Sec. 801—Renewable Energy Performance Tax Credit—This section would provide a two and one-half cent per kilowatt hour tax credit for power plants that run on solar, wind and geothermal energy. This credit would be tied to production and apply only to power plants built in the first six years after enactment.

Sec. 811—Employer Provided Parking—This section would classify employer provided parking subsidies as taxable income and make employer provided mass transit vouchers non-taxable up to $75 per month.

Sec. 821—Conservation Tax Credit for Oil Heated Homes—A tax credit not to exceed $100 will be provided to residential consumers who install qualified oil retrofit conservation measures including:

Installation of flame retention burners;

Insulation measures and water-heater wraps;

Thermostat controls (setback thermostats);

Improved window efficiency.

Sec. 831—Utility Rebates—This section would remove from taxable income, utility rebates to residential and commercial customers who install energy efficient equipment.

Sec. 841–848—Feebates—This section establishes a revenue-neutral system to provide rebates to purchasers of the most safe and energy efficient vehicles and to assess fees on the purchase of less safe and less energy efficient vehicles.

Measures to Promote Domestic Oil and Gas Production

Sec. 851—Removal of Net Income Limitation on Percentage Depletion—Removing the limitation on depletion allowance to no greater than net income. That limit effectively denies percentage depletion on marginal wells, particularly in times of low oil prices.

Sec. 852—Tax Credit for Maintaining Stripper Well Production.—Allows a tax credit for a percentage of costs incurred in maintaining production from marginal properties and oil produced from tertiary recovery methods.

Sec. 853—Tax Credit for New Exploration and Development—Allows a tax credit for a percentage of investment for costs incurred in drilling new exploratory and development wells.

Sec. 854—Changes in Calculation of Alternative Minimum Tax for New Exploration and Development—Allows deduction of most drilling costs from the Alternative Minimum Tax calculation.

Sec. 855—Repeal of Taxable Income Limit on Percentage Depletion—Allows producers with low incomes to benefit from percentage depletion.

Sec. 856—Election to Carry Forward Depletion Deductions—Allows producers to fully utilize depletion deductions by carrying them over to future years.

Sec. 857—Repeal of Revenue Ruling 77–176—Changes requirements of tax code now avoided through partnerships, to reduce transaction costs.

Sec. 858—Section 29 Credit Modifications—Allows the Section 239 credit for production of nonconventional fuels (tight sands gas, etc.) to be credited against the Alternative Minimum Tax (which is the income tax alternative most independent oil and gas producers are forced to pay). This section also would make the Section 29 credits permanent.

Questions and Answers About the Wirth-Hatfield Bill

This bill is good energy policy, good environmental policy, and good economic policy. That is the kind of balance we need to have in order to pass an energy policy bill in this Congress.

HOW MUCH ENERGY SAVED?

The Alliance to Save Energy and the American Council for an Energy Efficient Economy estimate that the efficiency initiatives in this bill can save 14.4 Quads (quadrillion British Thermal Units) by the year 2010. Total U.S. energy use is about 80 Quads annually.

Those savings are the energy-equivalent of 7 million barrels of oil per day (but it isn't oil—much of the savings are in electricity, and only about 4 percent of U.S. electricity is produced from oil).

By 2000, this legislation saves 6 Quads—or 3 million barrels oil per day equivalent. Cumulatively, the bill saves 131 Quads over the period 1993–2010).

HOW MUCH OIL IS SAVED?

CAFE saves approximately 2.8 million barrels a day by 2005.

The oil-heating improvement tax breaks could save 25,000 barrels a day within the next few years.

The alternative fuels program backs out 700,000 barrels/day by 1998, and perhaps as much as 2.1 million barrels/day by 2010 (those are the targets of the legislation introduced by Senator Jeffords—all the other provisions just help us get there).

The natural gas measures will displace additional oil. Over the last two decades gas use has dropped by 3 trillion cubic feet a year. Much of that was replaced by oil. That's 1.3 million barrels of oil a day.

The total could be 6 million barrels/day by 2010, or about 40% of our oil use.

The Wirth-Hatfield bill also increases oil production. We estimate that the tax measures in this bill could result in more than 4,000 additional oil wells in the U.S. over the next four years, and will keep thousands of stripper wells from being shut down if oil prices drop.

HOW MUCH DOES THIS COST?

The programs in this bill increase spending authority $342 million over the Administration's budget for FY 92. Over the next 3 years, it is perhaps a $1.9 billion increase.

We have yet to receive the estimates for the tax items in the bill, but they are bigger—perhaps $2.1 billion each year. Of that, there are about $330 million a year in tax incentives for conservation and renewables; perhaps $500 million a year in new income from removing some tax subsidies for auto use (parking subsidies); and about $2.3 billion in tax incentives for domestic energy production, focused on independent oil and gas producers.

HOW DO YOU PAY FOR ALL THIS?

Most of the cost can be paid for out of existing energy programs at DOE. The legislation will save the government perhaps as much as $800 million on its annual $3.5 billion energy bill for buildings. The government pays $310 million a year for gasoline. A 20% increase in fuel efficiency means saving $60 million a year.

How much does it cost not to do this? The more dependent we are on oil, the more we are politically and economically at the mercy of the Middle East—because that's where the world's oil is.

It may be that we may have to find some additional funding for this bill. We can do that, once the Congress confronts the fact that these are things we must do for the benefit of our economy and our national security.

HOW MUCH OIL PRODUCED?

The tax measures in this bill could result in more than 4,000 additional oil wells in the U.S. over the next four years. And they could keep thousands of stripper wells from being shut down if oil prices drop.

DOESN'T SOME OF THIS CHANGE ENVIRONMENTAL LAWS?

The bill includes some changes in procedures, but it does not change the substance of any environmental law. We do not have to do that to have an effective energy policy.

Some people in the environmental community are worried about the incentives we have included for new oil production. But we need to do that, and we examine the overall effect; this is a very good bill for the environment. For one thing, it sets up a process for addressing the greatest environmental challenge we face—controlling carbon dioxide emissions to fight global warming.

HOW DOES THIS COMPARE WITH THE N.E.S.?

Much of what is in this bill was in the N.E.S. before the White House staff whittled it down. Now, there is no comparison. The N.E.S. does next to nothing to increase the efficiency with which we use energy in the U.S. It acutally prohibits the Secretary of Energy from setting efficiency stand-ards. Yet 2 years ago, the mjaor home appliance manufacturers begged the Congress and the Secretary to set standards—because if we didn't the states would.

The Wirth-Hatfield bill directs the Secretary to set standards. It also gives utilities, state governments, and others incentives to go out and find ways to save energy. A penny saved is a penny earned; the same is true with energy. The energy we can save by insulating homes, by using more efficient motors and lights, and by careful management, the more energy we have for economic growth.

This bill includes a very strong CAFE standard (Senators Bryan and Gorton's bill), to make cars more efficient. Cars are where we burn 50% of our oil, and if we neglect cars—as the Administration does—we won't do the job we need to do.

The N.E.S. adds new requirements to the Clean Air Act program Congress passed last year, to require commercial vehicle fleets (cabs, delivery vans, etc.). We applaud those, and advocated them last year; the Administration shot them down in the Clean Air Conference. This bill goes much further, by requiring the use of non-petroleum fuels, including Senator Jeffords' bill to provide American farmers (who can produce ethanol) and U.S. natural gas a place in the auto fuel market.

The N.E.S. provides some good things to get more natural gas to market. But rather than go further, the N.E.S. says the Administration will fix everything when they replace the Federal Energy Regulatory Commission with a single political appointee.

That's just shuffling the chairs. This bill goes further to make the changes that will reverse one of the most perverse trends in America's energy picture—that we have been using less domestic natural gas and replacing it with imported oil. We have to totally reverse that.

The N.E.S. says there will be lots of new oil produced from existing fields in the U.S.—but provides nothing to get that oil out of the ground. This bill does.

HOW DOES THIS BILL COMPARE WITH SENATOR JOHNSTON'S?

We have worked closely with Senator Johnston and his staff in the development of this bill. The Johnston-Wallop bill is, in many ways, a better program than the Administration's. It includes some very good things.

We go further, especially on alternative fuels and energy efficiency. The Wirth-Hatfield bill provides far more on conservation; we estimate that our bill provides 20 times the energy savings.

Mr. HATFIELD. Mr. President, today I am pleased to join Senator Wirth as an original cosponsor of his National Energy Efficiency and Development Act of 1991. As some of my colleagues may recall, I have been a strident supporter of energy conservation, energy efficiency, and renewable energy measures throughout my tenure in the Senate. Senator Wirth's legislation would further advance the Nation's commitment to conservation and alternative energy sources and I am pleased to be associated with this effort.

My support of this bill is a reaffirmation of my commitment to reducing the U.S. dependence on imported oil. The need to diversify our Nation's energy mix and generating capabilities has never been more apparent than in the wake of the Persian Gulf War, which at least in part, was fought over world access to Middle Eastern oil. In effect, this legislation is a comprehensive energy package that focuses on our vital need to enhance efficiency, conversation, and renewable energy measures.

Mr. President, I would like to clarify that my support of this bill in no way will prevent me from supporting other energy strategy bills or amendments that may come before the Senate for consideration. For example, Senators JOHNSTON's and WALLOP's comprehensive energy legislation contains many provisions of which I am very supportive. The Administration's National Energy Security Act of 1991 also includes serveral provisons that would make our Nation much less dependent on imported oil, and I am supportive of many of these.

While I am predominantly interested in advancing conservation and renewable energy resources, I also realize that any comprehensive national energy package must contain a variety of provisions to effectively reduce our dependence on foreign oil—including provisions to increase the production of our own domestic oil resources. If we continue to rely predominantly on imported oil to meet our energy needs, the day will come once again when we will send our military into battle in the sands of the Persian Gulf region.

Clearly, Mr. President, the time has come for us to work toward developing an energy policy that will ensure our Nation's future security, and I believe the legislation I am cosponsoring today will, if passed, contribute significantly to that goal.

Mr. ADAMS. Mr. President, today I am pleased to be an original cosponsor of the National Energy Efficiency and Development Act—a bill that presents a significant alternative to the administration's National Energy Strategy. Unlike the administration bill, this bill does not call for the development of nuclear energy or the exploitation of the Arctic National Wildlife Refuge, nor does it seek to squeeze the last drops of oil out of the earth.

This bill seeks instead to reign in the U.S. appetite for oil. The United States is far and away the greatest consumer of fossil fuels in the world—and this is not a fact we should be proud of. We are also heavily dependent on foreign countries for the oil we consume. If U.S. citizens are willing to go to war over oil they should be happy to embrace conservation as another path toward energy security. This bill would provide that path.

I am pleased to join with Senator WIRTH in sponsoring it.

The bill that I join with Senator WIRTH in sponsoring today would establish tough fuel economy standards for our cars. Mr. President, I started on that program 20 years ago, and you kind of hope that after that period of time, we would begin to get results. Instead we have started to slide back the other way. Because more than half of U.S. oil consumption is used in transportation, with the auto being the largest factor. For this reason, fuel economy standards are essential to any energy plan and, frankly, it is unconscionable that the administration omitted them from its plan. If enacted, this section of the Wirth bill could conserve 15 billion barrels of oil in the United States by the year 2020.

This bill would also make the global environment a factor in our energy planning. With the United States being the single largest contributor of carbon dioxide emissions in the world, it is time to take greenhouse gas generation into account in our energy strategy. This would be a leadership position worthy of the United States in this new world order.

The Wirth bill also requires Federal Power Marketing Administrations to do what the Bonneville Power Administration has been doing for years—promote the acquisition of efficient and renewable energy resources for themselves and their customers. In a big bow to Bonneville, BPA is not even included in the list of PMAs that must adopt conservation measures. It is gratifying to see the Pacific Northwest leading the way on this legislation.

The National Energy and Efficiency Act calls on the Department of Energy to guide consumers into energy efficient homes; it would promote the development of alternative energy sources, like wind and solar energy; it would allow for tax-exempt mass transit vouchers.

The United States must move forward with its energy plan. It is time to apply our technical know-how toward reducing our energy consumption as we continue to grow. This bill moves us toward lower pollution levels and reduced dependence on foreign oil without great national sacrifice. We all need this kind of improvement in our standard of living. I am proud to join with Senator WIRTH in introducing this bill today.

We were doing all of this up until a few years ago, and then things became plentiful again, and we forgot the lessons of the oil embargo. So I hope that this bill will pass, and I hope it will improve the adminstration's policy on energy.

Mr. LIEBERMAN. Mr. President, I am pleased to be a co-sponsor of the National Energy Efficiency and Development Act introduced by my colleague from Colorado, Senator WIRTH. This legislation goes far in promoting the type of energy policy this country needs. I believe it is very appropriate the legislation's acronym is "NEED."

This country needs a balanced energy policy that reduces our country's dependence on oil and is environmentally sound. This legislation begins to move our country in this direction. It calls for least-cost planning so that utilities companies will be encouraged to use conservation measures rather than build new electrical generating plants. The bill also fills a void in the area of energy conservation in homes and industries. The standards to be developed for industrial appliances in this legislation will save companies millions of dollars in energy costs while at the same time reducing demand on electrical generating systems thereby reducing pollution from these systems. Millions of homeowners have benefited from similar standards on home appliances such as dish washers and refrigerators. It is now time for industry to have these same advantages. I think it is disgraceful that the administration's National Energy Strategy prohibits the Secretary of Energy from developing the standards proposed in Senator WIRTH'S legislation.

The act is the most comprehensive to date in encouraging research, development and demonstration of alternative and renewable energy technologies. These new technologies will be the electrical generating source of the very near future that will move us away from polluting forms of energy generation.

While this bill is the type of energy legislation the Senate should be considering, I do have concerns about titles VII and VIII. Of course this country needs domestic sources of energy, but giving tax incentives to oil companies and deregulating natural gas pipelines are questionable means for achieving this. While these two alternatives are preferable to the shortsighted policies of opening the Arctic National Wildlife Refuge and the Outer Continental Shelf to drilling, I am hopeful that in the debate to follow we can develop better means to securing or creating domestic energy sources.

Senator WIRTH's bill is solid. It is comprehensive. It requires the private sector, but most importantly, the Federal Government itself to conserve energy and be more energy wise. I am pleased that Senator WIRTH included provisions from legislation I have sponsored this year requiring the Federal Government to implement energy saving devices in all Federal buildings. If the government reduces its light bill by 25 percent it can save the taxpayers nearly a billion dollars. I am also pleased that the legislation calls for demonstration of fuel cells in Federal buildings. These efficient and clean sources of electricity will be an important power source for our country next century. This demonstration by the Federal Government will go far to make this type of power a reality.

I am pleased to join Senator WIRTH in introducing this legislation. It is the type of energy legislation that the Senate should be focusing. It moves us a long way toward an energy policy that will make the United States truly energy independent and environmentally sound.

By Mr. DANFORTH:

S. 744. A bill to extend the temporary suspension of duty on 0,0-dimethyl-S-[(4-oxo-1,2,3,-benzotriazin-3-(4H)-yl)methyl] phosphorodithioate; to the Committee on Finance.

S. 745. A bill to extend the temporary suspension of duty on 4-fluoro-3-phenoxy benzaldehyde; to the Committee on Finance.

TEMPORARY SUSPENSION OF CERTAIN DUTIES

Mr. DANFORTH. Mr. President, today I am introducing two miscellaneous tariff bills. The first would extend the temporary suspension of duty on 0,0-dimethyl-S-[(4-oxo-1,2,3-benzotriazin-3-(4H)-yl)methyl] phosphorodithioate. The second bill would extend the temporary suspension of duty on 4-fluoro-3-phenoxy benzaldehyde.

I ask unanimous consent that the texts of these bills be printed in full in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 744

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. 0,0-DIMETHYL-S-[(4-OXO-1,2,3-BENZOTRIAZIN-3-(4H)-YL)METHYL] PHOSPHORODITHIOATE.

Heading 9902.31.09 of subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) is amended by striking out the date in the effective period column and inserting "12/31/94".

S. 745

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. 4-FLUORO-3-PHENOXY BENZALDEHYDE.

Heading 9902.30.54 of subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) is amended by striking out the date in the effective period column and inserting "12/31/94".•

By Mr. DANFORTH:

S. 746. A bill to extend the duty education on certain unwrought lead for a period of 2 years; to the Committee on Finance.

TARIFF EXTENSION

Mr. DANFORTH. Mr. President, today I am introducing a miscellaneous tariff bill to extend the current import duty arrangement on unalloyed, unwrought lead for a period of 2 years. This temporary arrangement was put into place on January 1, 1980, and has had the effect of stabilizing the effective tariff on these lead imports. The arrangement reduced the previously existing ad valorem tariff rate from 3.5 percent to 3 percent but also established as a specific duty floor a minimum tariff of 2.3424 cents per kilogram of lead content.

The underlying purpose of the extension is to ensure the continued operation of this lead duty arrangement pending the conclusion of the Uruguay round tariff negotiations. In these negotiations, the U.S. industry has proposed the elimination of U.S. and foreign import duties on this product. However, in the event that these multilateral negotiations are not concluded by the time of the scheduled expiration of the current duty arrangement on December 31, 1992, the extension would continue the duty arrangement for a period during which the U.S. industry hopes that negotiations can be completed.

The duty arrangement aids both the domestic producers and consumers of primary lead by contributing to stability in the primary lead market. During periods of relatively high lead prices, the reduction in the ad valorem rate reduces the duty cost for consumers, while the specific rate duty floor assists the domestic producers when lead prices are relatively low and the domestic industry is vulnerable to cyclical pressures.

I ask unanimous consent that the text of this bill be printed in full in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 746

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. UNWROUGHT LEAD.

Heading 9902.78.01 of the Harmonized Tariff Schedule of the United States is amended by striking out "12/31/92" from the effective date column and inserting "12/31/94".•

By Mr. PRYOR (for himself, Mr. BURDICK, Mr. HOLLINGS, Mr. SHELBY, Mr. INOUYE, Mr. LEVIN, Mr. CHAFEE, Mr. COCHRAN, and Mr. BREAUX):

S. 747. A bill to amend the Internal Revenue Code of 1986 to clarify portions of the Code relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes; to the Committee on Finance.

CHURCH RETIREMENT BENEFITS SIMPLIFICATION ACT OF 1991

• Mr. PRYOR. Mr. President, I am pleased to introduce today the Church Benefits Simplification Act of 1991—the act—legislation which I also introduced and held hearings on in the 101st Congress. The act provides much needed clarification of the rules that apply to church retirement and welfare benefit plans and brings consistency to those rules. In addition, the act resolves significant problems churches face in administering their retirement and welfare benefit programs under current law. In developing this important legislation, we have worked closely with leaders of the pension boards of 28 mainline Protestant and Jewish denominations. The employee benefit programs of these mainline denominations are among the oldest programs in our country. Several date from the 1700's, and their median age is in excess of 50 years. These programs provide retirement and welfare benefits for several hundred thousand ministers and lay workers employed by thousands of churches and church ministry organizations serving the spiritual needs of over 66 million members.

Church retirement benefits programs began in recognition of a denomination's mission to care for its church workers in their advanced years. Several church retirement and welfare benefit programs were initially formed to provide relief and benefits for retired, disabled, or impoverished ministers and families as particular cases of need were identified. As time passed, church denominations began to provide for the retirement needs of their ministers and lay workers on a current and systematic basis. Today, church retirement and welfare benefit programs provide benefits for ministers and lay workers employed in all forms of pastoral, healing, teaching, and preaching ministries and missions, including, among others, local churches, seminaries, old-age homes, orphanages, mission societies, hospitals, universities, church camps, and day care centers.

The goal of the act is to clarify the rules that apply to church employee benefit plans. Under current law, these rules are generally lengthy and complex and are, for the most part, designed for for-profit, commercial employers. Most denominations are composed of thousands of work units, each having only a few employees, and the budgets of these work units are marginal at best. These organizations rely almost completely on contributions from the offering plate to support their missions, including the salaries and retirement and welfare benefits of their ministers and lay workers. Unlike for-profit business entities, churches cannot pass operating costs on to customers by raising prices. Churches are also much more loosely structured than most for-profit business organizations, and many denominations cannot impose requirements on their constituent parts. For example, hierarchically organized denominations may be able to control the provision of employee benefits to ministers and lay workers, while in congregational denominations, such control is typically more difficult. In addition, churches are tax-exempt and, unlike for-profit business organizations, have no need for tax deductions. Churches and church ministry organizations therefore lack the incentive of for-profit employers to maximize either the amount of the employer's tax deduction or the amount of income which the highly-compensated employees who control a for-profit business can shelter from current taxation through plan contributions and tax-free fringe or welfare benefits.

Retirement and employee benefit tax laws do not always take the difference between churches and for-profit employers into account, with the result that churches have had to divert a significant amount of time and resources from their religious mission and ministries in attempting to identify and comply with rules that in many instances are unworkable or simply not needed for church employee benefit plans.

If the act becomes law, the reduction in administrative burdens and consequent savings in related costs now imposed on churches and church ministry organizations will outweigh any possible gain from an employee benefits policy perspective. Unlike the for-profit sector where costs savings result in a better bottom line for shareholders, savings in the church sector will find their way into missions and ministries that help people who need help.

A study by Independent Sector, a national membership organization composed of over 600 tax-exempt organizations and corporate philanthropy departments, indicated that approximately half the funds contributed to churches is used in service to others. Religious congregations are the primary voluntary service providers for neighborhoods. Ninety-three percent of religious congregations have one or more programs in human services. Four-fifths of all religious congregations offer family counseling, and one-third give means or shelter to the poor. Some 78 percent donate for international relief or missionary activity, and two-thirds sponsor hospices, health programs, hospitals, or provide for the disabled, retarded or people in crisis. The Independent Sector study indicated that religious congregations made $8.5 billion in direct grants to other groups and paid $10.7 billion for education, human services and health programs. These figures are double the giving of all U.S. foundations and corporations combined.

It is my view that the Congress should do everything possible to ensure that churches can continue to maximize their contributions toward these important missions and ministries, rather than paying for costs of complying with rules that are unworkable or not needed for church employee benefit plans.

The cornerstone of the act is a recodification of the rules applicable to church retirement plans so that all of such rules in the Internal Revenue Code are identified, simplified, and separated from the rules that apply to for-profit employers. Retirement plan issues unique to churches will thus not be inadvertently affected when Congress is considering future code changes which are applicable to for-profit employers but not appropriate for churches.

The act would also ensure that church retirement plans, whether described in the new section 401a—applicable only to these church section 401(a) plans that want to be subject to it—or section 403(b), are subject to the same coverage and related rules. In 1986, Congress determined that the section 403(b) plans of churches and so-called qualified church controlled organizations should not be subjected to the expense of complying with coverage and related rules. The act would extend this same relief to church section 401a plans and would also eliminate the troublesome qualified church controlled organization approach in favor of a provision that only subjects church-related hospitals and universities to applicable coverage and related rules. The act, consistent with the law that now applies to church section 401(a) plans, would also clarify that the coverage rules that will apply to the section 403(b) programs of church-related hospitals and universities are those that were applicable prior to the enactment of the Employee Retirement and Income Security Act of 1974.

The act also would resolve a number of other problems many church pension boards face under current law. For example, under present law there is a question as to whether self-employed ministers and chaplains who work for nonchurch employers are able to participate in their denomination's retirement and welfare benefit programs. The act would make it clear that such ministers may participate in such programs.

The act would also:

Restore QVEC's for church plans;

Solve several church employee aggregation problems: for the first time, subject church plans to ERISA vesting schedules;

Provide relief that will result in better retirement income for foreign missionaries;

Simplify the required distribution rules that apply to church retirement plans;

Eliminate an unworkable requirement under the so-called section 403(b) catchup contribution rules; and

Make relief granted under section 457 consistent with coverage relief proposed for church retirement and welfare benefit plans.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 747

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Church Retirement Benefits Simplification Act of 1991".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. NEW QUALIFICATION PROVISION FOR CHURCH PLANS.

(a) IN GENERAL.—Part I of subchapter D of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by adding after section 401 the following new section:

"SEC. 401A. QUALIFIED CHURCH PLAN.

"(a) GENERAL RULE.—For purposes of the United States Code, including this title, a qualified church plan shall be treated as satisfying the requirements of section 401(a), and all references in (or pertaining to) this title and such Code to a plan described in section 401(a) shall include a qualified church plan. Except as otherwise provided in this section, no paragraph of section 401(a) shall apply to a qualified church plan.

"(b) DEFINITION OF QUALIFIED CHURCH PLAN.—A plan is a qualified church plan if such plan meets the following requirements:

"(1) CHURCH PLAN REQUIREMENT.—The plan is a church plan (within the meaning of section 414(e)), and the election provided by section 410(d) has not been made with respect to such plan.

"(2) EMPLOYEE CONTRIBUTIONS ARE NONFORFEITABLE.—An employee's rights in his accrued benefit derived from his own contributions are nonforfeitable.

"(3) VESTING REQUIREMENTS.—The plan satisfies the requirements of subparagraph (A) or (B).

"(A) 10-YEAR VESTING.—A plan satisfies the requirements of this paragraph if an employee who has at least 10 years of service has a nonforfeitable right to 100 percent of his accrued benefit derived from employer contributions.

"(B) 5- TO 15-YEAR VESTING.—A plan satisfies the requirements of this paragraph if an employee who has completed at least 5 years of service has a nonforfeitable right to a percentage of his accrued benefit derived from employer contributions which percentage is not less than the percentage determined under the following table:

Years of Service	Nonforfeitable percentage
5	25
6	30
7	35
8	40
9	45
10	50
11	60

12	70
13	80
14	90
15 or more	100.

"(C) YEARS OF SERVICE.—For purposes of this paragraph, an employee's years of service shall be determined in accordance with any reasonable method selected by the plan.

"(4) FUNDING REQUIREMENTS.—The plan meets the funding requirements of section 401(a)(7) as in effect on September 1, 1974.

"(5) ADDITIONAL REQUIREMENTS.—

"(A) The plan meets the requirements of paragraphs (1), (2), (8), (9), (16), (17), (25), (27), and (30) of section 401(a).

"(B) If the plan includes employees of an organization which is not a church, either the plan or such organization, at the option of the plan, meets the requirements of sections 401(a)(3) and 401(a)(6) as in effect on September 1, 1974, 401(a)(4), 401(a)(5), and section 401(m).

"(c) DEFINITIONS AND SPECIAL RULES.—

"(1) CHURCH.—For purposes of this section, the term 'church' means a church or a convention or association of churches, including an organization described in section 414(e)(3)(A) and an organization described in section 414(e)(3)(B)(ii), other than—

"(A) an organization described in section 170(b)(1)(A)(ii) above the secondary school level (other than a school for religious training), or

"(B) an organization described in section 170(b)(1)(A)(iii)—

"(i) which provides community service for inpatient medical care of the sick or injured (including obstetrical care); and

"(ii) not more than 50 percent of the total patient days of which during any year are customarily assignable to the categories of chronic convalescent and rest, drug and alcoholic, epileptic, mentally deficient, mental, nervous and mental, and tuberculosis, and care for the aged.

"(2) SATISFACTION OF TRUST REQUIREMENT.—A plan shall not fail to be described in this section merely because such plan is funded through an organization described in section 414(e)(3)(A), rather than through a trust.

"(3) CERTAIN SECTIONS APPLY.—Sections 401(b), 401(c), and 401(h) shall apply to a qualified church plan.

"(4) FAILURE OF ONE ORGANIZATION MAINTAINING PLAN NOT TO DISQUALIFY PLAN.—If one or more organizations maintaining the church plan fails to satisfy the requirements of subsection (b), such plan shall not be treated as failing to satisfy the requirements of this section with respect to other organizations maintaining such plan.

"(5) CERTAIN EMPLOYEES NOT CONSIDERED HIGHLY COMPENSATED AND EXCLUDED EMPLOYEES.—For purposes of this section, no employee shall be considered an officer, shareholder, person whose principal duties consist in supervising the work of other employees, or highly compensated employee if such employee during the year or the preceding year received compensation from the employer of less than $50,000. For purposes of this section, there shall be excluded from consideration employees described in section 410(b)(3)(A). The Secretary shall adjust the $50,000 amount under this paragraph at the same time and in the same manner as under section 415(d).

"(6) TIME FOR DETERMINATION OF APPLICABLE LAW.—Except where otherwise specified, the determination of whether a plan meets the requirements of subsection (b) shall be made in accordance with the provisions of this title as in effect immediately following enactment of the Church Retirement Benefits Simplification Act of 1991.".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall be effective for years beginning after December 31, 1990, except that the provisions of section 401A(b)(3) of the Internal Revenue Code of 1986 shall be effective for years beginning after December 31, 1993. No regulation or ruling under section 401(a) of such Code issued after December 31, 1990, shall apply to a qualified church plan described in section 401A of such Code unless such regulation or ruling is specifically made applicable by its terms to qualified church plans.

(2) PRIOR YEARS.—A church plan (within the meaning of section 414(e) of such Code) shall not be deemed to have failed to satisfy the applicable requirements of section 401(a) of such Code for any year beginning prior to January 1, 1991.

SEC. 3. RETIREMENT INCOME ACCOUNTS OF CHURCHES.

(a) IN GENERAL.—Section 403(b)(9) is amended to read as follows:

"(9) RETIREMENT INCOME ACCOUNTS PROVIDED BY CHURCHES, ETC.—

"(A) AMOUNTS PAID TREATED AS CONTRIBUTIONS.—For purposes of this title—

"(i) a retirement income account shall be treated as an annuity contract described in this subsection, and

"(ii) amounts paid by an employer described in paragraph (1)(A) or by a church or a convention or association of churches, including an organization described in section 414(e)(3)(A) or an organization described in section 414(e)(3)(B)(ii), to a retirement income account shall be treated as amounts contributed by the employer for an annuity contract for the employee on whose behalf such account is maintained.

"(B) RETIREMENT INCOME ACCOUNT.—For purposes of this paragraph, the term 'retirement income account' means a program established or maintained by a church, a convention or association of churches, including an organization described in section 414(e)(3)(A), to provide benefits under section 403(b) for an employee described in paragraph (1) or an individual described in paragraph (13)(F), or his beneficiaries.".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall be effective for years beginning after December 31, 1990.

(2) PRIOR YEARS.—A church plan (within the meaning of section 414(e)) shall not be deemed to have failed to satisfy the applicable requirements of section 403(b) for any year beginning prior to January 1, 1991.

SEC. 4. CONTRACTS PURCHASED BY A CHURCH.

(a) CLARIFICATION OF APPLICABLE NONDISCRIMINATION REQUIREMENTS.—Subparagraph (D) of section 403(b)(1) is amended to read as follows:

"(D) except in the case of a contract purchased by a church, such contract is purchased under a plan which meets the nondiscrimination requirements of paragraph (12)(A), and".

(b) CERTAIN COVERAGE RULES APPLY.—Subparagraph (B) of section 403(b)(12) is amended to read as follows:

"(B) CERTAIN REQUIREMENTS.—If a contract purchased by a church is purchased under a church plan (within the meaning of section 414(e)) by—

"(i) an organization described in section 170(b)(1)(A)(ii) above the secondary school level (other than a school for religious training), or

"(ii) an organization described in section 170(b)(1)(A)(iii),

"(I) which provides community service for inpatient medical care of the sick or injured (including obstetrical care), and

"(II) no more than 50 percent of the total patient days of which during any year are customarily assignable to the categories of chronic convalescent and rest, drug and alcoholic, epileptic, mentally deficient, mental, nervous and mental, and tuberculosis, and care for the aged,

either the plan or such organization, at the option of the plan, shall meet the requirements of sections 401(a)(3) and 401(a)(6) as in effect on September 1, 1974, 401(a)(4), 401(a)(5), 401(a)(17), and 401(m).".

(c) SPECIAL RULES FOR CHURCHES.—Section 403(b) is amended by adding the following new paragraph at the end thereof:

"(13) DEFINITIONS AND SPECIAL RULES.—

"(A) CONTRACT PURCHASED BY A CHURCH.—For purposes of this subsection, the term 'contract purchased by a church' includes an annuity described in section 403(b)(1), a custodial account described in section 403(b)(7), and a retirement income account described in section 403(b)(9).

"(B) CHURCH.—For purposes of this subsection, the term 'church' means a church or a convention or association of churches, including an organization described in section 414(e)(3)(A) and an organization described in section 414(e)(3)(B)(ii).

"(C) VESTING.—In the case of a contract purchased by a church under a church plan (within the meaning of section 414(e))—

"(i) sections 403(b)(1)(C) and 403(b)(6) shall not apply;

"(ii) such contract is not described in this subsection unless an employee's rights in his accrued benefit under such contract which is attributable to contributions made pursuant to a salary reduction agreement are nonforfeitable; and

"(iii) such contract is not described in this subsection unless the plan satisfies the requirements of either of the following:

"(I) The plan provides that an employee who has at least 10 years of service has a nonforfeitable right to 100 percent of his accrued benefit derived from employer contributions.

"(II) The plan provides that an employee who has completed at least 5 years of service has a nonforfeitable right to a percentage of his accrued benefit derived from employer contributions which percentage is not less than the percentage determined under the following table:

Years of Service	Nonforfeitable percentage
5	25
6	30
7	35
8	40
9	45
10	50
11	60
12	70
13	80
14	90
15 or more	100.

For purposes of clause (iii), an employee's years of service shall be determined in accordance with any reasonable method selected by the plan.

"(D) FAILURE OF ONE ORGANIZATION MAINTAINING PLAN NOT TO DISQUALIFY PLAN.—In the case of a contract purchased by a church under a church plan (within the meaning of section 414(e)), if one or more organizations maintaining the church plan fails to satisfy the requirements of this section, such plan shall not be treated as failing to satisfy the requirements of this section with respect to other organizations maintaining such plan.

"(E) CERTAIN EMPLOYEES NOT CONSIDERED HIGHLY COMPENSATED AND EXCLUDED EMPLOYEES.—For purposes of this subsection, no employee for whom a contract is purchased by a church shall be considered an officer, shareholder, person whose principal duties consist in supervising the work of other employees, or highly compensated employee if such employee during the year or the preceding year received compensation from the employer of less than $50,000. For purposes of this subsection, there shall be excluded employees described in section 410(b)(3)(A). The Secretary shall adjust the $50,000 amount under this subparagraph at the same time and in the same manner as under section 415(d).

"(F) CERTAIN MINISTERS MAY PARTICIPATE.—For purposes of this subsection, the term 'employee' shall include a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry who is a self-employed individual (within the meaning of section 401(c)(1)(B)) or any duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry who is employed by an organization other than an organization described in section 501(c)(3). Such self-employed minister shall be treated as his own employer which is an organization described in section 501(c)(3) and which is exempt from tax under section 501(a) for the purpose of applying the provisions of this subsection. Such an employee who is employed by an organization other than an organization described in section 501(c)(3) shall be treated as employed by an organization described in section 501(c)(3) and which is exempt from tax under section 501(a) for the purpose of applying the provisions of this subsection. In determining the compensation of such self-employed minister for purposes of this subsection, the earned income (within the meaning of section 401(c)(2)) of such minister shall be substituted for 'the amount of compensation which is received from the employer' under section 403(b)(3). In determining the years of service of such self-employed minister for purposes of section 403(b)(4), there shall be included years and fractions of years in which such minister is a self-employed individual (within the meaning of section 401(c)(1)(B)) acting in the exercise of his ministry.

"(G) TIME FOR DETERMINATION OF APPLICABLE LAW.—Except where otherwise specified, the determination of whether a contract purchased by a church meets the requirements of this subsection shall be made in accordance with the provisions of this title as in effect immediately following enactment of the Church Retirement Benefits Simplification Act of 1991.".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall be effective for years beginning after December 31, 1990, except that the provisions of section 403(b)(13)(C)(iii) of the Internal Revenue Code of 1986 shall be effective for years beginning after December 31, 1993. No regulation or ruling issued under section 401(a) or 403(b) of such Code after December 31, 1990, shall apply to a contract purchased by a church unless such regulation or ruling is specifically made applicable by its terms to such contracts. For purposes of applying the exclusion allowance of section 403(b)(2) of such Code and the limitations of section 415 of such Code, any contribution which is forfeitable pursuant to section 403(b)(13)(C) of such Code shall be treated as an amount contributed to the contract in the year for which such contribution is made and not in the year the contribution becomes nonforfeitable.

(2) PRIOR YEARS.—A church plan (within the meaning of section 414(e) of such Code) shall not be deemed to have failed to satisfy the applicable requirements of section 403(b) of such Code for any year beginning prior to January 1, 1991.

SEC. 5. CHANGE IN DISTRIBUTION REQUIREMENT FOR RETIREMENT INCOME ACCOUNTS.

(a) IN GENERAL.—Section 403(b)(11)(A) is amended to read as follows:

"(A) when the employee attains age 59½, separates from service, dies, or becomes disabled (within the meaning of section 72(m)(7) or, in the case of a retirement income account described in section 403(b)(9), within the meaning of section 401(k)(2)), or".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective for years beginning after December 31, 1988.

SEC. 6. REQUIRED BEGINNING DATE FOR DISTRIBUTIONS UNDER CHURCH PLANS.

(a) IN GENERAL.—The second sentence of section 401(a)(9)(C) is amended to read as follows: "In the case of a governmental plan or church plan (within the meaning of section 414(e)), the required beginning date shall be the later of the date determined under the preceding sentence or April 1 of the calendar year following the calendar year in which the employee retires.".

(b) Section 401(a)(9)(C) is amended by striking out the third sentence thereof.

(c) EFFECTIVE DATE.—The amendment made by this section shall be effective as if included in the provision of Public Law 99-514 to which such amendment relates.

SEC. 7. PARTICIPATION OF MINISTERS IN CHURCH PLANS.

(a) IN GENERAL.—Section 414 is amended by adding the following new subsection:

"(u) SPECIAL RULES FOR MINISTERS.—Notwithstanding any other provision of this title, if a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry participates in a church plan (within the meaning of section 414(e)), then—

"(1) such minister shall be excluded from consideration for purposes of applying sections 401(a)(3), 401(a)(4), and 401(a)(5) as in effect on September 1, 1974, 401(a)(4), 401(a)(5), 401(a)(26), 401(k)(3), 401(m), 403(b)(1)(D) (including section 403(b)(12)), and 410 to any stock bonus, pension, profit-sharing, or annuity plan (including an annuity described in section 403(b) or a retirement income account described in section 403(b)(9)) described in this part. For purposes of this part, the church plan in which such minister participates shall be treated as a plan or contract meeting the requirements of section 401(a), 401A, or 403(b) (including section 403(b)(9)) with respect to such minister's participation; and

"(2) such minister shall be excluded from consideration for purposes of applying an applicable section to any plan providing benefits described in an applicable section.

For purposes of paragraph (2), the term 'applicable section' means section 79(d), section 105(h), paragraphs (1), (2), and (3) of section 120(c), section 125(b), section 127(b)(2), and paragraphs (2), (3), and (8) of section 129(d).".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective for years beginning before, on, or after December 31, 1990.

SEC. 8. CERTAIN RULES AGGREGATING EMPLOYEES NOT TO APPLY TO CHURCHES, ETC.

(a) IN GENERAL.—Section 414 is amended by adding the following new subsection:

"(v) CERTAIN RULES AGGREGATING EMPLOYEES NOT TO APPLY TO CHURCHES, ETC.—

"(1) IN GENERAL.—If the election provided by paragraph (3) is made, for purposes of sections 401(a)(3), 401(a)(4), and 401(a)(5) as in effect on September 1, 1974, 401(a)(4), 401(a)(5), 401(a)(17), 401(a)(26), 401(h), 401(m), 410(b), 411(d)(1), and 416, subsections (b), (c), (m), (o), and (t) of this section shall not apply to treat the employees of church-related organizations as employed by a single employer, except in the case of employees of church-related organizations which are not exempt from tax under section 501(a) and which have a common, immediate parent.

"(2) DEFINITION OF CHURCH-RELATED ORGANIZATION.—For purposes of this subsection, the term 'church-related organization' means a church or a convention or association of churches, an organization described in section 414(e)(3)(A), an organization described in section 414(e)(3)(B)(ii), or an organization, the employees of which would be aggregated with the employees of such organizations but for the election provided by paragraph (3).

"(3) ELECTION TO DISAGGREGATE.—The provisions of this subsection shall apply if a church-related organization makes an election for itself and other church-related organizations (in such form and manner as the Secretary may by regulations prescribe) on or before the last day of the plan year beginning on or after January 1, 1994.".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective as if included in the provisions of Public Law 93-406, Public Law 98-369, and Public Law 99-514 to which such amendment relates.

SEC. 9. QUALIFIED RETIREMENT CONTRIBUTIONS TO INCLUDE VOLUNTARY CONTRIBUTIONS PURSUANT TO CHURCH PLANS.

(a) IN GENERAL.—Section 219(e) is amended to read as follows:

"(e) DEFINITION OF QUALIFIED RETIREMENT CONTRIBUTION.—For purposes of this section—

"(1) QUALIFIED RETIREMENT CONTRIBUTION.—The term 'qualified retirement contribution' means—

"(A) any amount paid in cash for the taxable year by or on behalf of an individual to an individual retirement plan for such individual's benefit,

"(B) any amount contributed on behalf of any individual to a plan described in section 501(c)(18), and

"(C) any qualified voluntary employee contribution paid in cash by the individual for the taxable year.

"(2) QUALIFIED VOLUNTARY EMPLOYEE CONTRIBUTION.—

"(A) IN GENERAL.—The term 'qualified voluntary employee contribution' means any voluntary contribution—

"(i) which is made by an individual as an employee under a church plan, which plan allows an employee to make contributions which may be treated as qualified voluntary employee contributions under this section, and

"(ii) with respect to which the individual has not designated such contribution as a contribution which should not be taken into account under this section.

"(B) VOLUNTARY CONTRIBUTION.—For purposes of subparagraph (A), the term 'voluntary contribution' means any contribution which is not a mandatory contribution (within the meaning of section 411(c)(2)(C)).

"(C) DESIGNATION.—For purposes of determining whether or not an individual has made a designation described in subparagraph (A)(ii) with respect to any contribution during any calendar year under a church plan, such individual shall be treated as having made such designation if he notifies the plan administrator of such plan, not later than the earlier of—

"(i) April 15 of the succeeding calendar year, or

"(ii) the time prescribed by the plan administrator,

that the individual does not want such contribution taken into account under this section. Any designation or notification referred to in the preceding sentence shall be made in such manner as the Secretary shall by regulations prescribe and, after the last date on which such designation or notification may be made, shall be irrevocable for such taxable year.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) CHURCH PLAN.—The term 'church plan' means any plan, within the meaning of section 414(e), described in section 401(a), 401A, or 403(b) (including section 403(b)(9)).

"(B) EMPLOYEE.—The term 'employee' shall include a self-employed individual (within the meaning of section 401(c)(1)(B)) who is a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry.".

(b) REPORTS TO BE CONSISTENT.—Section 219(f)(4) is amended to read as follows:

"(4) REPORTS.—The Secretary shall prescribe regulations which prescribe the time and the manner in which reports to the Secretary and plan participants shall be made by the plan administrator of a plan receiving qualified voluntary employee contributions. Such reports shall be consistent with those required of the administrator of an individual retirement plan.".

(c) AMENDMENT CONFORMING SECTION 72(o) WITH SECTION 219(e).—Section 72(o)(5)(A) is amended to read as follows:

"(A) DEDUCTIBLE EMPLOYEE CONTRIBUTIONS.—The term 'deductible employee contributions' means any qualified voluntary employee contribution (as defined in section 219(e)(2)) made after December 31, 1981, in a taxable year beginning after such date (other than contributions for taxable years beginning after December 31, 1986, and before January 1, 1991) and allowable as a deduction under section 219(a) for such taxable year.".

(d) CONTRIBUTION TO INDIVIDUAL RETIREMENT PLAN INCLUDES A QUALIFIED VOLUNTARY EMPLOYEE CONTRIBUTION.—Section 219(f) is amended by redesignating paragraph (7) as paragraph (9) and by adding after paragraph (6) the following new paragraph:

"(7) QUALIFIED VOLUNTARY EMPLOYEE CONTRIBUTIONS.—For purposes of this subsection, a contribution to an individual retirement plan shall be deemed to include a qualified voluntary employee contribution.".

(e) ROLLOVERS FROM INDIVIDUAL RETIREMENT ACCOUNTS TO QUALIFIED VOLUNTARY EMPLOYEE CONTRIBUTIONS AND VICE VERSA.—Section 219(f) is amended by adding the following new paragraph:

"(8) ROLLOVER AMOUNTS.—

"(A) GENERAL RULE.—If—

"(i) any portion of the balance to the credit of an employee in a plan described in subparagraphs (A), (B), or (C) of subsection (e)(1) is paid to him,

"(ii) the employee transfers any portion of the property he receives in such distribution to another plan described in such subparagraphs of subsection (e)(1), and

"(iii) in the case of a distribution of property other than money, the property so transferred consists of the property distributed,

then such distribution (to the extent so transferred) shall not be includible in gross income for the taxable year in which paid.

"(B) TRANSFER MUST BE MADE WITHIN 60 DAYS OF RECEIPT.—Subparagraph (A) shall not apply to any transfer of a distribution made after the 60th day following the day on which the employee received the property distributed.

"(C) REQUIRED DISTRIBUTIONS NOT ELIGIBLE FOR ROLLOVER TREATMENT.—Subparagraph (A) shall not apply to any distribution to the extent such distribution is required under section 401(a)(9) or 403(b)(10).".

(f) ANNUAL ADDITIONS NOT TO INCLUDE QUALIFIED VOLUNTARY EMPLOYEE CONTRIBUTIONS.—The second sentence of section 415(c)(2) (relating to annual additions) is amended to read as follows: "For the purposes of this paragraph, employee contributions under subparagraph (B) are determined without regard to any rollover contributions (as defined in sections 402(a)(5), 403(a)(4), 403(b)(8), and 408(d)(3)), without regard to employee contributions to a simplified employee pension which are excludable from gross income under section 408(k)(6), and without regard to deductible employee contributions within the meaning of section 72(o)(5).".

(g) EFFECTIVE DATE.—The amendments made by this section shall be effective for taxable years beginning after December 31, 1990.

SEC. 10. SELF-EMPLOYED MINISTERS TREATED AS EMPLOYEES FOR PURPOSES OF CERTAIN WELFARE BENEFIT PLANS AND RETIREMENT INCOME ACCOUNTS.

(a) IN GENERAL.—Section 7701(a)(20) is amended to read as follows:

"(20) EMPLOYEE.—For the purpose of applying the provisions of section 79 with respect to group-term life insurance purchased for employees, for the purpose of applying the provisions of sections 104, 105, and 106 with respect to accident or health insurance or accident or health plans, for the purpose of applying the provisions of section 101(b) with respect to employees' death benefits, and for the purpose of applying the provisions of subtitle A with respect to contributions to or under a stock bonus, pension, profit-sharing, or annuity plan, and with respect to distributions under such a plan, or by a trust forming part of such a plan, and for purposes of applying section 125 with respect to cafeteria plans, the term 'employee' shall include a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry who is a self-employed individual (within the meaning of section 401(c)(1)(B)) or a full-time life insurance salesman who is considered an employee for the purpose of chapter 21, or in the case of services performed before January 1, 1951, who would be considered an employee if his services were performed during 1951.".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective for years beginning before, on, or after December 31, 1990.

SEC. 11. DEDUCTIONS FOR CONTRIBUTIONS BY CERTAIN MINISTERS TO RETIREMENT INCOME ACCOUNTS.

(a) IN GENERAL.—Section 404(a) is amended by adding the following new paragraph:

"(10) CONTRIBUTIONS BY CERTAIN MINISTERS TO RETIREMENT INCOME ACCOUNTS.—In case contributions are made by a minister described in section 403(b)(13)(F) to a retirement income account described in section 403(b)(9) and not by a person other than such minister, such contributions shall be treated as made to a pension trust which is exempt from tax under section 501(a) forming part of a plan which is described in section 401(a) and shall be deductible under this subsection to the extent such contributions do not exceed the exclusion allowance of such minister, determined under section 403(b)(2).".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective for years beginning after December 31, 1990.

SEC. 12. MODIFICATION FOR CHURCH PLANS OF RULES FOR PLANS MAINTAINED BY MORE THAN ONE EMPLOYER.

(a) IN GENERAL.—Section 413(c) is amended by adding the following new paragraph:

"(8) CHURCH PLANS MAINTAINED BY MORE THAN ONE EMPLOYER.—A church plan (within the meaning of section 414(e)) maintained by more than one employer and with respect to which the election provided by section 410(d) has not been made, which commingles assets solely for purposes of investment and pooling for mortality experience to provide to participants annuities computed with reference to the balance in the participants' accounts when such accounts become payable, shall not be treated as a single plan maintained by more than one employer under this subsection. The rules provided by this paragraph shall apply for purposes of applying section 403(b)(12) to such church plan.".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective for years beginning before, on, or after December 31, 1990.

SEC. 13. SECTION 457 NOT TO APPLY TO DEFERRED COMPENSATION OF A CHURCH.

(a) IN GENERAL.—Paragraph (13) of section 457(e) is amended to read as follows:

"(13) SPECIAL RULE FOR CHURCHES.—The term 'eligible employer' shall not include a church (within the meaning of section 401A(c)(1)).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1978.

SEC. 14. CHURCH PLAN MODIFICATION TO SEPARATE ACCOUNT REQUIREMENT OF SECTION 401(h).

(a) EXCEPTION TO SEPARATE ACCOUNT REQUIREMENT.—Section 401(h) is amended by adding the following new sentence at the end thereof: "Notwithstanding the preceding sentence, in the case of a pension or annuity plan that is a church plan (within the meaning of section 414(e)) which is maintained by more than one employer, paragraph (6) shall not apply to an employee who is a key employee for purposes of section 416 solely because such employee is described in section 416(i)(1)(A)(i) (relating to officers having an annual compensation greater than 150 percent of the amount in effect under section 415(c)(1)(A)).".

(b) APPLICATION OF SECTION 415(l).—Section 415(l) is amended by modifying paragraph (1) thereof to read as follows:

"(1) IN GENERAL.—For purposes of this section, the following shall be treated as an annual addition to a defined contribution plan for purposes of subsection (c):

"(A) contributions allocated to any individual medical account which is part of a pension or annuity plan; and

"(B) the actuarially-determined amount of prefunding for the insurance value of benefits which are—

"(i) described in section 401(h);

"(ii) paid under a pension or annuity plan that is a church plan (within the meaning of section 414(e));

"(iii) paid under a plan maintained by more than one employer; and

"(iv) payable solely to an employee who is a key employee for purposes of section 415 solely because such employee is described in section 416(i)(1)(A)(i) (relating to officers having an annual compensation greater than 150 percent of the amount in effect under section 415(c)(1)(A)), his spouse, or his dependents.

Subparagraph (B) of section (c)(1) shall not apply to any amount treated as an annual addition under the preceding sentence.".

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after March 31, 1984.

SEC. 15. RULE RELATING TO INVESTMENT IN CONTRACT NOT TO APPLY TO FOREIGN MISSIONARIES.

(a) IN GENERAL.—The last sentence of section 72(f) is amended to read as follows: "The preceding sentence shall not apply to amounts which were contributed by the employer, as determined under regulations prescribed by the Secretary, to provide pension or annuity credits, to the extent such credits are attributable to services performed before January 1, 1963, and are provided pursuant to pension or annuity plan provisions in existence on March 12, 1962, and on that date applicable to such services, or to provide pension or annuity credits for foreign missionaries (within the meaning of section 403(b)(2)(D)(iii)).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 16. REPEAL OF ELECTIVE DEFERRAL CATCH-UP LIMITATION FOR RETIREMENT INCOME ACCOUNTS.

(a) IN GENERAL.—Clause (iii) of section 402(g)(8)(A) is amended to read as follows:

"(iii) except in the case of elective deferrals under a retirement income account described in section 403(b)(9), the excess of $5,000 multiplied by the number of years of service of the employee with the qualified organization over the employer contributions described in paragraph (3) made by the organization on behalf of such employee for prior taxable years (determined in the manner prescribed by the Secretary).".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective as if included in the provision of Public Law 99-514 to which such amendment relates.

SEC. 17. CHURCH PLANS MAY ANNUITIZE BENEFITS.

(a) IN GENERAL.—A retirement income account described in section 403(b)(9) of the Internal Revenue Code of 1986, a church plan (within the meaning of section 414(e) of such Code) that is a plan described in section 401(a) or 401A of such Code, or an account comprised of qualified voluntary employee contributions described in section 219(e)(2) of such Code shall not fail to be described in such sections merely because it pays benefits to participants (and their beneficiaries) from a pool of assets administered or funded by an organization described in section 414(e)(3)(A) of such Code, rather than through the purchase of annuities from an insurance company.

(b) EFFECTIVE DATE.—This provision shall be effective for years beginning before, on, or after December 31, 1990.

SEC. 18. CHURCH PLANS MAY INCREASE BENEFIT PAYMENTS.

(a) IN GENERAL.—A retirement income account described in section 403(b)(9) of the Internal Revenue Code of 1986, a church plan (within the meaning of section 414(e) of such Code) that is a plan described in section 401(a) or 401A of such Code, or an account comprised of qualified voluntary employee contributions described in section 219(e)(2) of such Code shall not fail to be described in such sections merely because it increases benefit payments to participants (and their beneficiaries) pursuant to a method not described in section 401(a)(9) of such Code or the regulations prescribed under such section.

(b) EFFECTIVE DATE.—This provision shall be effective for years beginning before, on, or after December 31, 1990.

SEC. 19. RULES APPLICABLE TO SELF-INSURED MEDICAL REIMBURSEMENT PLANS NOT TO APPLY TO PLANS OF CHURCHES.

(a) IN GENERAL.—Section 105(h) is amended by adding the following new paragraph:

"(11) PLANS OF CHURCHES.—This subsection shall not apply to a plan maintained by a church (within the meaning of section 401A(c)(1)).".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective for years beginning before, on, or after December 31, 1990.●

By Mr. CRANSTON (for himself, Mr. KENNEDY, Mr. KERRY, Mr. D'AMATO, and Mr. WIRTH):

S. 748. A bill to assist indigenous peoples of Central and South America to take meaningful and representative roles in their nations' democratic institutions and practices, as well as to assist them in protecting their land and cultures; to the Committee on Foreign Relations.

PAN-AMERICAN CULTURAL SURVIVAL ACT

● Mr. CRANSTON. Mr. President, I rise today to introduce the Pan-American Cultural Survival Act of 1991, a bill designed to assist the indigenous peoples of Central and South America to take part in the emerging democracies of the region, as well as to help them protect their lands and our common environment.

I am accompanied in this effort by the two distinguished Senators from Massachusetts [Mr. KENNEDY and Mr. KERRY]; the distinguished Senator from New York [Mr. D'AMATO]; and my good friend and distinguished colleague from Colorado [Mr. WIRTH].

Next year, we in the American hemisphere will be marking the 500th anniversary of the arrival of Europeans to our common shores. For most of us, it will be a time of celebration.

It will also be a time of special significance, given the fact that in recent years nearly all of our Latin American neighbors have joined the community of democratic nations.

The Pan-American Cultural Survival Act of 1991 seeks to strengthen democracy in the hemisphere as well as protect our common natural inheritance from depletion, by assisting indigenous peoples take meaningful and representative roles in their own democracies.

The bill makes explicit that the policy of the U.S. Government shall include support for indigenous peoples, particularly in countries in which they are numerically significant but still largely disenfranchised.

It also underscores the need for the inclusion of native peoples in sustainable development strategies where these would significantly enhance protection of rain forests or other environmental treasures.

Key to this effort are strategies that include the political empowerment of indigenous peoples, and their inclusion in ongoing U.S. aid efforts.

This bill, I might add, does not require the expenditure of additional funds but rather mandates that existing programs take into account cultural survival criteria.

Mr. President, 1992 will not be a time of celebration for the indigenous peoples of the Americas. The date it commemorates was not a happy historical moment, a time of adventure and new horizons, but rather the beginning of a tragic onslaught against a people, a culture, and a way of life.

Mr. President, in addressing the problems of indigenous peoples in Central and South America, I do not mean to suggest that the United States cannot itself make vast improvements in its treatment of native American peoples in our own country.

The plight of native Americans in this country has long been a great source of embarrassment. In recent years, we have sought to remedy some of these problems through enactment of legislation to promote the well-being of native Americans. We still have a long way to go.

Indeed, the unique political history of Indian tribes continues to effect their rates of participation in the electoral system. Special problems posed by the rural and remote location of many reservations are compounded by language barriers and low-income levels of many tribes, particularly in the Southwest. There have also been complaints of intimidation of native American voters by election officials. As a recent statement by the National Indian Youth Council, in hearings held by the Citizens Commission on Civil Rights on barriers to voting in the United States, noted:

> While Indians are citizens of the United States, the blessings of the Constitution have been slow in coming to us. Although Indians have a history of perhaps 50,000 years of habitation in this land with functioning governments and communities, we were not made citizens of the United States until 1924. Indians could not vote by law in Arizona and New Mexico until 1948. Also, the last recorded sale of an Indian slave was in 1939 in Taos, NM. It also appears, too, that these formal barriers to Indian political participation are not yet torn down forever. In 1978, a bill was introduced in New Mexico Legislature to disenfranchise all Indians living on the reservation. It failed to pass by only one vote. This was in 1978.
>
> However, while we as a people now enjoy basically the same political rights as other people, many informal barriers to our politi-

> cal participation have been erected. These informal barriers in reality are just as encumbering as the more formal barriers we experienced less than 50 years ago.

While much remains to be done to enhance the rights of native Americans in this country, it is important to recognize the indigenous peoples of Latin America are faced with threats to their very existence. And, in a real sense, our own fate—as human beings and as democrats—is linked to their plight.

We are linked, as fellow humans, to the fate of indigenous peoples because the areas in which many of them live—the rainforests of Central and South America—are vital sources of oxygen and a biological diversity, the importance of which modern science is only beginning to understand.

And, we are linked as democrats because the revolution of freedom and liberty sweeping our hemisphere will always be incomplete without the incorporation—on their own terms—of the indigenous peoples into democratic institutions and practices.

This is particularly true in countries such as Guatemala, Bolivia, Ecuador, and Peru, where indigenous peoples comprise either a majority, or an important minority, of the population. In each of these nations, indigenous communities find themselves marginalized from the political mainstream, with their numbers finding scant echo in the makeup of legislatures, courts, municipal councils, and other institutions of democratic governance.

Mr. President, today many of the indigenous peoples of our hemisphere are trying to incorporate themselves into the newly emerging democracies in which they live, even as they confront enormous threats to their very existence.

In Bolivia, indigenous groups have begun massive mobilizations, the largest in recent memory, protesting their marginalization from that country's democratic life.

In Peru, the savage and lunatic Sendero Luminoso guerrillas have gained a foothold among indigenous people shut out for centuries from their own nation's political life. Unlike Peru's democratic parties, Sendero teaches the Quichua language of that country's Inca ancestors to those under its control—giving the otherwise frightened peasantry a sense of belonging and cultural identity they do not find in other forms of political expression.

In Ecuador, that country's political elite is finding that the national debate is no longer dominated by a left-right axis. Rather, it revolves increasingly around those sectors who want to include indigenous peoples in that nation's democratic life, and those who want their centuries-long exclusion to continue. In Ecuador's Amazon region, indigenous peoples' existence is threatened by continuous oil exploration and exploitation—which have created both widespread environmental damage and the brutalization of native peoples. According to Judith Kimerling of the Natural Resources Defense Council:

> The industry poses a grave threat to the physical and cultural survival of the region's indigenous peoples. Their traditional economies, which depend on forest products and small-scale shifting agriculture, are being undercut by deforestation and contamination.
>
> For example, the oil-producing areas of the northern Oriente are home to the Quichua, Siona, Secoya, and Cofan peoples. Once a zone of pristine rain forest, the northern Oriente is now the site of an industrial corridor, several boom towns, uncontrolled colonization, extensive pollution, and severe poverty.

In Brazil, illegal gold-diggers called garimpeiros continue to plunder the territory of the Yanomami people, bringing disease and exploitation in their wake.

In Costa Rica, one of the hemisphere's most stable democracies, some 5,000 Guaymi Indians, direct descendants of that country's original inhabitants, do not hold Costa Rican citizenship papers. Rather, they can only hold a temporary residency permit. This has had a far-reaching impact on their well-being, as they thus cannot purchase land, receive bank credits or social security benefits, or participate in Costa Rica's nationalized health services.

In Guatemala, one of the nations which counts among its people a majority indigenous population, less than a half a dozen indigenous people sit in that nation's parliament. In recent years, repression against indigenous people by the military has reached levels of savagery virtually unequalled in our hemisphere in recent times.

And in Colombia, according to Amnesty International, a brutal campaign is being waged against the large indigenous population of Caldas Department.

"Over the centuries, indigenous minorities have been pushed back or have retreated under pressure into some of the world's most remote, inhospitable regions—thick tropical forests, barren deserts, and harsh mountain slopes," cultural anthropologist Mac Chapin wrote recently:

> We have now reached the point where most of the world's remaining wilderness has run out and the backlands into which these groups formerly retreated have vanished. Gone are the days when they could retreat and redraw their territories beyond the periphery of the modernized world. With their living spaces shrinking, their escape routes are blocked, bringing them face to face with forces with which they cannot compete.

Yet, despite the bleakness of the overall picture, Chapin and others find some reasons for hope:

> First, with their backs to the void and chain saws and tractors moving closer, many indigenous groups have begun to organize and fight back. * * * Another trend * * * is the convergence of interest of indigenous groups and conservationists. On one hand, many of the areas that have been singled out for conservation efforts are inhabited by indigenous groups—a fact that runs counter to the popular notion of "virgen" jungles and "uninhabited" deserts. Over centuries they have evolved production systems and ways of life that serve to maintain the integrity of the natural environment; certainly they are in a much better position to carry out conservation measures than groups of trained biologists. Above and beyond this, they are committed to the cause of conservation over the long haul, since their very existence as people depends on the stability of the territories in which they live.

Mr. President, increasingly the challenges faced by our hemisphere's indigenous peoples are being met by a coalition of indigenous groups themselves and environmental activists.

In November 1989, the First Interamerican Indigenous Congress on Natural Resources and the Environment was organized by the Kuna Indians of Panama. Uniting some 70 indigenous representatives from 17 countries, the primary concern of the meeting was the protection of native-held lands. The participants were interested in marking off and securing territories from the seemingly endless stream of loggers, ranches, and landless peasants who were stampeding onto their lands.

And last year, two important events took place. One was a meeting of the Interamerican Indigenous Parliament in Guatemala City, sponsored by the respected Center for Democracy. The meeting brought together elected officials from indigenous communities to discuss their common problems and to prepare strategies for their empowerment in their own nations' democratic systems.

The other event was a meeting held in Iquitos, Peru, by the Coordinadora de las Organizaciones Indigenas de la Cuenca Amazonica [COICA]. An umbrella organization representing 1.2 million Indians belonging to 327 tribes in Peru, Bolivia, Colombia, Ecuador, and Brazil, COICA reaffirmed indigenous demands that their voices be heard in the debate over the future of the Amazon.

As Joe Kane, a representative of the San Francisco-based Rainforest Action Network noted, the meeting "established a true alliance between indigenous peoples and conservationists. To help save the Amazon, we will now make securing land rights for indigenous peoples a priority."

The Pan-American Cultural Survival Act of 1991 seeks to build upon existing efforts to ensure a fair shake for indigenous peoples and a new partnership between nations in efforts to foster sustainable development.

It will help further to consolidate democracy in the hemisphere by assisting indigenous peoples to take meaningful and representative roles in their nations' democratic institutions and practices.

It will also assist them to protect their land and cultures.

The bill would require the Secretary of State, together with the Director of the Agency for International Development, to issue a report to Congress on the status of indigenous peoples in Central and South America. It would also mandate the inclusion of the plight of indigenous people as a topic in and of itself in the State Department's yearly human rights report.

It will also require AID to create, where appropriate, the position of cultural survival officers. Modeled after the recently created women-in-development posts, the cultural survival officers will work with indigenous peoples to develop strategies for their political empowerment and cultural survival.

The bill also directs the Secretary of State and the Secretary of the Treasury to include, where appropriate, the question of cultural survival in all bilateral or multilateral debt reduction efforts and in other developmental initiatives.

Mr. President, I urge my colleagues in the strongest possible terms to support this bill. It is an important step in making the protection of indigenous peoples and the lands where they live an integral part of U.S. foreign policy. It will also help make more effective—through the empowerment of people still shut out of the political process—the emerging democracies of Latin America.

Mr. President, I ask unanimous consent for a copy of the bill to be printed in the RECORD, as well as various articles and excerpts from letters I have received in support of this initiative.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 748

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pan-American Cultural Survival Act of 1991".

SEC. 2. STATEMENT OF FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) in 1992, the nations of the American Hemisphere will be marking the 500th anniversary of the arrival of Europeans to our common shores;

(2) in the past 15 years, the nations of Latin America have been in the forefront of the trend towards democratic rule by the developing nations;

(3) the indigenous peoples of Latin America are underrepresented in their nations' democratic institutions and are marginalized for the social and economic benefits of democratic rule and emerging free-enterprise systems;

(4) many indigenous peoples live in areas whose economic and strategic significance is overshadowed by their importance and contribution to the environment, and thus an effort to save the land must necessarily take into account both the indigenous peoples' tradition of protecting the land and their interest that these fast-depleting natural resources are not despoiled; and

(5) the first step to the empowerment of the indigenous peoples within the new democratic context of Latin America is the ability of native peoples to protect their land and their cultures, and to acquire and utilize the political skills necessary to preserve their land and cultures.

(b) PURPOSE.—Recognizing that strengthening democracy and the self-determination and human rights of all peoples is fundamental to United States foreign policy, as is protecting the Western Hemisphere's natural inheritance from depletion, it is the purpose of this Act to help further consolidate democracy in the Western Hemisphere by assisting indigenous peoples to take meaningful and representative roles in their nations' democratic institutions and practices, as well as assisting them to protect their land and cultures.

SEC. 3. POLICY.

It shall be the policy of the United States Government to support indigenous peoples in the Western Hemisphere.

SEC. 4. REPORTING REQUIREMENT.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of State, together with the Administrator of the Agency for International Development, shall submit to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives a report which describes—

(1) the numbers, relative to the entire national population, of indigenous peoples in each of the Western Hemisphere's republics;

(2) the extent to which indigenous peoples are currently represented within the Western Hemisphere's democratic institutions, such as the number of indigenous peoples who are members of cabinets, political party leaders, parliamentary representatives, members of the diplomatic service, provincial or territorial governors, military officers, ranking members of the judiciary, and representatives of local government;

(3) all current United States Government initiatives designed to promote the well-being of native peoples as such, and those meant to safeguard their property, cultures, and languages;

(4) the extent to which current initiatives, both private and governmental, have sought to promote the preservation of the environment by safeguarding the rights of indigenous peoples;

(5) specific actions which may be taken to empower indigenous peoples politically, as well as to safeguard their property, cultures, languages, and physical well-being;

(6) the solicitation of nongovernmental organizations such as Cultural Survival, Inc., the National Endowment for Democracy, and the Inter-American Foundation, for help in drawing up strategies for achieving these goals; and

(7) on a nation-by-nation basis, the laws and covenants concerning the status of native peoples.

(b) INCLUSION IN ANNUAL HUMAN RIGHTS REPORT.—Section 116(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d)) is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period and inserting in lieu thereof "; and" at the end of paragraph (3); and

(3) by adding at the end thereof the following new paragraph:

"(4) the treatment and status of indigenous peoples in all foreign countries of the Western Hemisphere.".

SEC. 5. CULTURAL SURVIVAL OFFICERS.

(a) ESTABLISHMENT OF POSITIONS.—The Administrator of the Agency for International Development (AID) shall establish the position of cultural survival officer in the AID mission in any country in which the Administrator determines that indigenous peoples—

(1) are underrepresented in that country's political life; or

(2) could benefit from the development of measures designed to preserve areas of ecological or environmental significance.

(b) DUTIES OF OFFICERS.—The duties of the cultural survival officers, who shall have relevant experience in democratic development or cultural survival issues, shall be to develop, in consultation with the affected indigenous peoples, strategies described in section 4(5).

SEC. 6. REQUIREMENT OF RAISING THE CULTURAL SURVIVAL QUESTION.

(a) IN GENERAL.—The Secretary of State, together with the Secretary of the Treasury, shall include, where appropriate, the principle of cultural survival of indigenous peoples in all bilateral or multilateral debt reduction efforts, and efforts should be made to design debt-for-nature exchanges (as defined in section 461 of the Foreign Assistance Act of 1961), in which the role of indigenous peoples in protecting and safeguarding the environment is recognized and fostered.

(b) WITHIN THE ENTERPRISE FOR THE AMERICAS INITIATIVE.—Is the sense of the Congress that the President, in determining whether to conduct any program, project, or activity of environmental protection assistance for a country in Latin America, should consider the value of that activity in promoting cultural survival of indigenous peoples.

SEC. 7. DEFINITION.

For the purposes of this Act, the term "indigenous peoples" means those nations, tribes, bands, or people thereof—

(1) who are native to the Western Hemisphere;

(2) who are listed as "Indian" in national records; or

(3) who are recognized as Indian by the indigenous communities themselves.

LA RUTA MAYA
CONSERVATION FOUNDATION,
Great Falls, VA, February 5, 1991.
Senator ALAN CRANSTON,
Senator Hart Building,
Washington, DC.

DEAR SENATOR CRANSTON: Your proposed legislation to assist the indigenous people of Central and South America is most appropriate and timely. As democracy seems to be taking root slowly in these areas it is important to emphasize that democracy be extended to all elements of society.

In many ways the segregation practiced in some countries to the south is similar to our own racial segregation of the past but with an even more violent edge. My particular concern and knowledge is of the Maya people of Mexico, Guatemala, Belize, Honduras and, to a smaller extent, El Salvador.

From my personal viewpoint the problem is not just cultural survival but cultural evolution. But that is more a semantic differentiation than a legal point.

In Guatemala more than half the population is of Mayan origin but these people have little stake in the overall economic or political picture. Because indigenous people tend to be subsistence farmers with little land of their own they are often the people who are forced to "slash and burn" the tropical forests to survive. At the same time large land holdings sit idle that could prevent this destruction of the environment. More sophisticated agricultural and sylvacultural practices would save forest and make for a better life for these people. An improved economic base will permit the luxury of educating the children instead of pushing them into the fields as soon as they are old enough to work. Or, they are abandoned on the streets as homeless and hungry outcasts.

* * * * *

Thanks for the opportunity to review this much needed piece of legislation.

Sincerely,

BILL GARRETT.

CREATIVE ASSOCIATES INTERNATIONAL, INC.,
Washington, DC, February 11, 1991.

Hon. ALAN CRANSTON,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR CRANSTON: I appreciated very much the opportunity to review the "Pan American Cultural Survival Act of 1991" which you are planning to introduce.

As Chief Executive Officer of Creative Associates International, Inc., a technical and professional services organization with many years of experience in international development activities, I am in full support of the proposed legislation. On a personal level, I am a native Bolivian of indigenous heritage, and can fully appreciate the necessity of the legislation which you are about to introduce.

As stated in Section 3, (5), one of the key indices of successful democratization will be the inclusion of actions "to empower indigenous peoples politically, as well as safeguard their property, culture, language and physical well-being." Particularly worthy of consideration is the provision contained in Section 5 that directs AID to establish the position of cultural survival officer in AID missions * * *.

Finally, I would like to commend you for linking the environmental goals of the Enterprise for the Americas Initiative with the promotion of the cultural survival of indigenous peoples.

In conclusion, please accept my heartfelt thanks for this initiative.

Sincerely,

M. CHARITO KRUVANT,
President, CEO.

[From Hemisphere, Fall 1990]

POISONING ECUADOR'S ORIENTE

(By Judith Kimerling and the Natural Resources Defense Council)

Since the early 1970s, Ecuador's Oriente—an Amazonian region of vast tropical rain forests and a diverse indigenous population—has yielded a wealth of oil export earnings to both the government and multinational firms. The damage inflicted on the Oriente, however, has been massive. An estimated 1 million hectares of rain forest have been opened to colonization by incoming settlers. Spills from the Trans-Ecuadoran Pipeline have dumped an estimated 16.8 million gallons of oil—compared to the 10.8 million-gallon Exxon disaster in Valdez, Alaska. To make matters worse, the Oriente's oil wells generate more than 4 million gallons of toxic waste every day. Nearly half of Ecuador's oil reserves have been extracted: at the current rate, the Oriente has only 15 years of oil left.

ECUADORAN POLICY

Neither Petroecuador, the state oil company, nor the Ministerio de Energía y Minas has the capacity or will to establish meaningful environmental regulation. Their weakness is particularly worrisome in view of the pressures on Ecuador to service its bloated foreign debt and the current oil exploration and development initiatives by multinational firms. Petroecuador and nine multinational firms are exploring more than 3 million hectares; Conoco; Oryz (a subsidiary of Sun Oil), and British Gas are already negotiating terms of production.

Much of the area of proposed production overlaps the boundaries of Yasuni National Park, Cuyabeno Wildlife Reserve, and Limoncocha Biological Reserve, as well as traditional indigenous lands. All the more troubling are three other matters. First, the World Bank is preparing a loan to Ecuador of $100 million, which would be substantially increased by anticipated co-financing, for expanded oil activities. Second, in the near future the government is expected to grant millions of hectares of new concessions spanning the entire Oriente. And third, contracts specify that the foreign companies relinquish their local production facilities to Petroecuador after a 20-year period, thereby leading them to extract reserves as quickly as possible and to invest little in maintenance.

Regarding the latter problem, Conoco, which is preparing to extract oil from the lands of the Huaorani Indians, predicts production will peak at 50,000 barrels per day and then decline to less than 8,000 per day when transferred to Petroecuador. Similarly the facilities Petroecuador recently took over from Texaco are antiquated, in bad repair, and severely contaminated. No oil company has complied with a new requirement by the Ministerio de Energía y Minas that environmental impact statements be submitted and approved before the initiation of exploration or production activities. Some companies, such as Conoco, Petroecuador, and Occidental, have made efforts to appear sensitive to environmental concerns, promising more stringent controls than those required by either Petroecuador or the newly created Sub-secretario de Medio Ambiente. These promises, nonetheless, fall short of the minimum requirements in the U.S. and Canada.

LOCAL IMPACT

The petroleum industry damages the ecology of the Ecuadoran Amazon at every stage of development—from seismic exploration and exploratory drilling through production, transport, and refining. Furthermore, the industry poses a grave threat to the physical and cultural survival of the region's indigenous peoples. Their traditional economies, which depend on forest products and small-scale shifting agriculture, are being undercut by deforestation and contamination.

For example, the oil-producing areas of the northern Oriente are home to the Quichua, Siona, Secoya, and Cofan peoples. Once a zone of pristine rain forest, the northern Oriente is now the site of an industrial corridor, several boom towns, uncontrolled colonization, extensive pollution, and severe poverty. The opening of an oil road has even spread these conditions into the Cuyabeno Wildlife Reserve, which was previously set aside for the Siona and Secoya peoples and for the conservation of its striking diversity of plant and animal life. The colonists of the northern Oriente, who migrate to the Amazon region from impoverished coastal and mountain areas, find rain forest soil is generally unsuitable for the cultivation of cash crops such as coffee, naranjilla, and cocoa. In addition, they find the petroleum industry generates few employment opportunities.

Tens of thousands of such colonists live in the shadows of oil production facilities, where pollution worsens their plight. For one thing, it has killed the fish that used to serve as a major source of protein, a key reason for estimated malnutrition rates of 65–98%. Colonists claim pollution is also linked to cancer, birth defects, and various other skin, gastrointestinal, and respiratory diseases. According to the World Bank, the zone's public services in general are woefully inadequate.

A SUSTAINABLE ENVIRONMENT?

Ecuador's Oriente is clearly on a course toward ecological and sociocultural disaster. Such disaster cannot be prevented unless the domestic and foreign groups responsible take decisive action now to establish a sustainable environment.

The Ecuadoran government should declare an "environmental emergency" in the Oriente and a moratorium on the development of new oil fields. In so doing it should create a broad-based independent commission, including representatives of the indigenous peoples and colonists of the Oriente as well as nongovernment experts. The purpose of the commission would be the formulation and management of a plan to mend the region's ecological and sociocultural damage and to minimize further destruction.

Texaco—since the early 1970s, the dominant oil company in the Oriente—should establish a $50-million fund for initial environmental cleanup and remediation in the region. Such a fund, which amounts to a minute fraction of Texaco's two decades of profits in Ecuador, should be administered by another broad-based independent committee.

The oil companies in the Oriente must revamp their operations to prevent further contamination and to maximize the efficiency of already tapped reserves. They should begin detailed chemical sampling to provide a reliable accounting of the composition, quantity, and fate of all waste streams and emissions, and to develop waste handling and other operational procedures to ensure that production activities do not threaten human health or the environment.

The international community should ease Ecuador's debt burden so that the country can dedicate its limited capital to the diversification of the economy, the improvement of living standards, and the clean-up of oil-producing areas. A starting point is Ecuador's proposal to commercial bank creditors to buy back a portion of its debt based on secondary market prices and to restrict service payments to amounts consistent with the goal of sustained real growth. More comprehensive debt reduction packages should include environmental terms, developed in consultation with local nongovernmental organizations and representatives of local communities. The US government should do its part by reducing its share of Ecuador's debt and by allowing the funding of environmental projects in lieu of interest payments.

Finally, the US—the world's largest consumer of oil and the largest importer of Ecuadoran oil—should conserve oil at home. For instance, by the year 2010 the US could save the equivalent of seven times the oil reserves of Ecuador by implementing programs to insulate buildings and replace furnaces and water heaters. By the same year the US could save the equivalent of 13 times the oil reserves of Ecuador by boosting the fuel efficiency of cars to 40 miles per gallon and light trucks to 30 miles per gallon.

[From Cultural Survival Quarterly, Vol. 14, 1990, No. 4]

INTRODUCTION: THE VALUE OF BIOLOGICAL AND CULTURAL DIVERSITY

(By Mac Chapin)

Seemingly everywhere, populations are growing and the amount of land used to feed the planet is shrinking. In the Third World, especially, economics are fraying, losing strength; with an increasing tempo, individual families scramble to meet subsistence needs and governments desperately search for foreign exchange to pull themselves out of hock. To meet these needs, rain forests are being plundered, cut down, and burned off; oceans are being dredged and poisoned; soils are being broken down and washed away through unchecked erosion—to the point where many of our so-called "renewable" natural resources are simply no longer renewable.

With this litany of destruction has come a furious assault on *the frontier areas*, which have become catch basins for population overflow and the targets of short-term money-generating ventures such as intensive logging, cattle ranching, and export crop agriculture. It is in these frontier areas that many of the world's indigenous people make their home, and it is here that they are now being threatened. Tropical forests—where large numbers of indigenous people live—are being converted into lateritic wastelands at a horrifying rate and as this process accelerates, so, too, does the disappearance of native societies and cultures.

Over the centuries, indigenous minorities have been pushed back or have retreated under pressure into some of the world's most remote, inhospitable regions—thick tropical forests, barren deserts, and harsh mountain slopes. As the colonizing front of the dominant society advanced, they fell back and moved farther into the wilderness, where they maintained their cultures through isolation.

No longer. We have now reached the point where most of the world's remaining wilderness has run out and the backlands into which these groups formerly retreated have vanished. Gone are the days when they could retreat and redraw their territories beyond the periphery of the modernized world. With their living spaces shrinking, their escape routes are blocked, bringing them face to face with forces with which they cannot compete.

It is disquieting to see the same tragic picture unfolding along similar lines throughout the world. While the details differ from country to country, the pattern is invariably the same monotonous catalogue of plunder, pillage, and destruction. Indigenous groups sitting on a heap of precious metals or deposits of petroleum are particularly vulnerable. This has recently occurred among the Yanomami in northern Brazil [see CSQ 13(1):45-47], the Indian groups of the Amazonian region of Brazil and Ecuador [see CSQ 13(1): various articles; CSQ 10(2): 46-47], and the native peoples of Papua New Guinea (Gault-Williams, this issue), to name just a few. Logging operations and cattle ranches, two other examples of cash-generating enterprises with disastrous social and environmental consequences, have been equally disruptive to native societies.

The colonization of frontier areas, spontaneous and directed, is also taking a heavy toll. Not only are such indigenous people as the Mbuti of the Ituri Forest in Zaire (Peterson) and the Sumu of the Honduran Mosquitia (Herlihy and Leake) being overrun by hordes of land-hungry colonists; their habitats, two of the largest and most diverse forests of their respective regions, are being leveled and despoiled. In both cases, the colonists have come from different ecological zones and are ill equipped to exploit tropical forests in nondegrading fashion. And in both cases, the result is environmental and economic tragedy for indigenous inhabitants and colonists alike.

The picture is bleak, yet a few signs of hope should be signalled. First, with their backs to the void and the chain saws and tractors moving closer, many indigenous groups have begun to organize and fight back. Since the 1970s, and picking up steam through the 1980s, numerous groups have formed at the local, national and international levels—and the issues that have brought them together are invariably land, natural resources, and cultural autonomy. These are the primary concerns of the Confederation of Indigenous Nationalities of Ecuador (Field), Mopawi in the Mosquitia of Honduras (Herlihy and Leake), and the O'Odham of the US-Mexican Sonoran Desert (Flores, Valentine, and Nabhan). Even the Paipai of Jamau, a virtually invisible tribal group in Baja California that has lost nearly all of its land, are now coming forth with demands for redress (Alvarez). Most of these groups are new and lack self-confidence and organizational capacity. Yet at least they have made the decision to stand firm and defend their rights.

In November 1989, the Kuna Indians of Panama organized the First Interamerican Indigenous Congress on Natural Resources and the Environment. This event united some 70 indigenous representatives of groups from 17 countries, from the Yukon Territories down through Argentina and Chile. The overwhelming concern of all participants was how to mark off and secure their territories from the stampede of loggers, cattle ranchers, and landless peasants streaming onto their lands.

Recently the Coordinating Body of Indigenous Peoples of the Amazon Basin (COICA; see p. 82), made up of groups from Brazil, Bolivia, Peru, Ecuador, and Colombia, proposed to the bilateral and multilateral funders that development of the Amazon region be reoriented toward the needs of its inhabitants. The groups want the funders to understand the region and its people before venturing forth with financial support of projects. They want a hand in designing and implementing all projects in the region. And they want to establish a relationship of collaboration between international funders and indigenous people, one founded on mutual respect.

Another trend worldwide is the convergence of interest of indigenous groups and conservationists. On the one hand, many of the areas that have been singled out for conservation efforts are inhabited by indigenous groups—a fact that runs counter to the popular notion of "virgin" jungles and "uninhabited" deserts. Over centuries they have evolved production systems and ways of life that serve to maintain the integrity of the natural environment; certainly they are in a much better position to carry out conservation measures than groups of trained biologists. Above and beyond this, they are committed to the cause of conservation over the long haul, since their very existence as people depends on the stability of the territories in which they live.

Alliances of this sort are noted in the articles in this issue on the Mbuti of Zaire, the O'Odham of the Sonoran Desert, the Pehuenche of Chile (Quarto), Mopawi of Honduras, COICA of the Amazon Basin; and to this list we must add the Kuna of Panama. This is a good beginning, but it must be said that these indigenous group/conservationist arrangements are still the exception rather than the rule.

In our search for alternative strategies to save the global ecosystem, we would be well advised to work with local populations instead of bulldozing them under and pushing them aside. Put more bluntly, we need their help; with it we may be able to put the brakes on our slide into ecological chaos. And on their side, they desperately need our help; without it they are doomed to extinction. If we manage to establish some sort of mutual respect and understanding, and in the process learn to work together toward a set of common goals, we may just succeed in salvaging some of the earth's precious biological and cultural diversity.●

By Mr. METZENBAUM:

S. 749. A bill to rename and expand the boundaries of the Mound City Group National Monument in Ohio; to the Committee on Energy and Natural Resources.

RENAMING OF THE MOUND CITY GROUP NATIONAL MONUMENT IN OHIO

● Mr. METZENBAUM. Mr. President, today I am introducing a bill to save ancient cultural and archeological treasures from imminent destruction. One of the four sites that this bill will protect is currently scheduled to be bulldozed for a gravel pit.

My bill will protect four sites recommended by the Park Service midwest region for addition to the Mound City Group National Monument in southern Ohio.

Mound City was established in 1923 and is the only Federal area preserving and interpreting remains of the Ohio Hopewell, a culture which archeologists tell us thrived in eastern north America between 200 B.C. and A.D. 500.

Part of the Hopeton Earthworks site is within the national historic landmark but outside the current boundary of the monument. It is still in private ownership. The owner—a gravel company—recently began removal of a 6-foot layer of topsoil to prepare for the gravel mining season.

In the process they uncovered human bones at the site. Park Service and State officials were notified and the bones verified as ancient. Native Americans removed and reinterred the bones elsewhere.

Further mining operations have been halted—for the moment—while representatives of the Park Service, the trust for public land, the Archeological Conservancy, the private owner, and others work to prevent the landmark from further destruction.

Mr. President, this legislation is necessary to protect these ancient cultural resources. If the gravel company resumes mining the area, this ancient site will be destroyed.

I am proud of this unique part of North America's pre-Columbian history that we in Ohio and the United States have the privilege, the opportunity, and the obligation to preserve.

I am confident that the bill will pass and that the site will be protected. The important thing is to get that word to the gravel company and those working to preserve the site. With the help of my colleagues on the Senate Committee on Energy and Natural Resources we can send that message by setting this bill for a hearing at the earliest possible time.

The Hopewell culture of southern Ohio was characterized by a highly developed prehistoric goods exchange system that linked populations throughout much of eastern North America in its day. The Hopewell culture is best known from southern Ohio where earthwork and mound sites are particularly abundant. Archeological investigations of these mortuary and ceremonial sites have produced substantial data on the ritual components of Hopewellian life. The culture is characterized by elaborate burial ritual and the presence of exotic mortuary offerings. Much less is known about the daily life of these people.

My bill will protect four of the best preserved, diverse, and archeologically rich sites chosen by archeologists from among over 100 sites in Ross County, OH. Many other sites of cultural importance have been identified in this area through archeological investigations dating back to the early 19th century. Unfortunately, many of these important archeological resources have been destroyed through the years by railroads, highways, and agricultural and commercial development.

In recognition of these factors and the significance of the remaining Hopewellian resources, the National Park and Recreation Act of 1980, Public Law 96-607, authorized up to 150 acres at the nearby Hopeton Earthworks to be added to the Mound City Group Monument. This law also required that the Secretary of the Interior investigate other sites in the region which contain archeological data illustrating the prehistoric Hopewellian civilization and identify those sites which he determines should be protected as part of the Mound City Group National Monument.

Pursuant to the 1980 act, the midwest region of the Park Service conducted a study that recommended the addition of 4 additional sites of 112 Hopewellian sites in Ross County, OH. My bill follows the Park Service midwest region's recommendation and protects the four sites—Hopeton Earthworks, High Banks Works, Hopewell Mound Group, and the Seip Earthworks.

The sites recommended for addition by the Park Service and included in my bill were selected because they represent major Hopewell earthwork complexes which still retain a reasonable degree of integrity. There is also sufficient data from earlier surface collections and excavations at these sites to document that the sites contain significant Hopewellian remains. Each of the sites included in the study represents a ceremonial center which contains a great deal of informatrion about the culture. Each of the ceremonial centers is unique in its configuration of mounds and earthworks, and it is likely that the role each site played in the Hopewell culture was somewhat different. While it would be desirable to also preserve Hopewell sites other than mounds or earthworks, and it is very likely that significant sites of this type are present in the study area, the Park Service found that there is insufficient data to justify a recommendation to preserve such other sites at this time.

My bill authorizes the Park Service to study two additional sites for possible future inclusion in the historical park that the Park Service suggested needed additional study—the Spurce Hill Works and the Harness Group—as well as a third site, the Cedar Bank Works, that is currently listed on the National Register of Historic Places and which because of its unique design, good state of preservation, its association with protected sites, and the threat of possible destruction should be studied and considered for possible future inclusion. My bill would also rename the monument to the Hopewell Culture National Historical Park to more accurately reflect its full scope and purpose.

Since the first Europeans entered the Ohio Valley the unique remains of a great prehistoric culture has mystified and intrigued Americans. While a great deal of excavation was carried out in the 19th and early 20th century on some of these great moundbuilder sites, it is still a mystery as to who the Hopewellians were, where they came from, and where they went. The great trade networks that collected exotic materials from across the continent are unexplained. The villages and habitations of the people are virtually unknown.

Scholars know little of the technology or use of the building of vast and accurate circles, squares, and hexagons. In the future, perhaps archeologists will be able to use new techniques including carbon-14 dating, obsidian hydration, aerial and other remote sensing to unravel the mysterious legacy that remains from ancient times. Future research could provide much new information to the visiting public and scholars, and greatly improve interpretation at the park.

My bill will preserve some of these unique ancient sites today for present education and enjoyment and for future research. Among those groups supporting my bill are the Archeological Conservancy, the National Parks and Conservation Association, the Wilderness Society, the Nature Conservancy, the Ohio Historical Society, and the Ohio State Historic Preservation Office. I urge my colleagues to support this bill.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 749

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RENAMING.

The Mound City Group National Monument established by proclamation of the President (Proclamation No. 1653, 42 Stat. 2298) and expanded by section 701 of Public Law 96-607 (94 Stat. 3540), shall, on and after the date of enactment of this Act be known as the "Hopewell Culture National Historical Park". Any reference to the Mound City Group National Monument in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Hopewell Culture National Historical Park.

SEC. 2. EXPANSION OF BOUNDARIES.

(a) IN GENERAL.—The boundaries of the Hopewell Culture National Historical Park (referred to as the "park") are revised to include the lands within the areas marked for inclusion in the monument as generally depicted on—

(1) the map entitled "Hopeton Earthworks" numbered 353-80025 and dated July 1987;

(2) the map entitled "High Banks Works" numbered 353-80027 and dated July 1987;

(3) the map entitled "Hopewell Mound Group" numbered 353-80029 and dated July 1987; and

(4) the map entitled "Seip Earthworks" numbered 353-80033 and dated July 1987.

(b) PUBLIC INSPECTION OF MAPS.—Each map described in subsection (a) shall be on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior.

(c) ADJUSTMENT OF BOUNDARIES.—The Secretary of the Interior (referred to as the "Secretary") may, by notice in the FEDERAL REGISTER after receipt of public comment, make minor adjustments in the boundaries of areas added to the park by subsection (a) and other areas of the park except to the extent that an adjustment would cause the total acreage of the park to exceed by more than 10 percent the total acreage of the park as of the date of enactment of this Act.

(d) ACQUISITION OF LANDS.—Subject to paragraph (2), the Secretary may acquire lands and interests in land within the areas added to the park by subsection (a) by donation, purchase with donated or appropriated funds, or exchange.

(2)(A) Lands and interests in land owned by the State of Ohio or a political subdivision thereof may be acquired only by donation or exchange.

(B) Lands and interests in land may be acquired by purchase at a price based on the fair market value thereof as determined by independent appraisal, consistent with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

SEC. 3. COOPERATIVE AGREEMENTS.

The Secretary may enter into a cooperative agreement with the Ohio Historical Society, the Archeological Conservancy, and other public and private entities for consultation and assistance in the interpretation and management of the park.

SEC. 4. STUDIES.

(a) Areas Added By This Act.—The Secretary shall conduct archeological studies of the areas added to the park by section 2(a) and adjacent areas to ensure that the boundaries of those areas encompass the lands that are needed to provide adequate protection of the significant archeological resources of those areas.

(b) Other Areas.—The Secretary shall conduct archeological studies of the areas described as the "Spruce Hill Works", the "Harness Group", and the "Cedar Bank Works", and may conduct archeological studies of other areas significant to Hopewellian culture, to evaluate the desirability of adding them to the park, and shall report to Congress on any such areas that are recommended for addition to the park.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary for the acquisition of lands and interests in land within the park, the conduct of archeological studies on lands within and adjacent to the park, and the development of facilities for interpretation of the park.•

By Mr. BENTSEN (for himself and Mr. Packwood):

S. 750. A bill to make technical corrections relating to the Revenue Reconciliation Act of 1990, and for other purposes; to the Committee on Finance.

TECHNICAL CORRECTIONS ACT OF 1991

• Mr. BENTSEN. Mr. President, today I am introducing the Technical Corrections Act of 1991. This bill makes technical changes to the revenue, Medicare/Medicaid, and income security provisions of the Omnibus Budget Reconciliation Act of 1990. It also makes several technical changes in the trade area, mainly to provisions of the Customs and Trade Act of 1990, enacted last summer. I am joined in this effort by the distinguished ranking minority member of the Finance Committee, Senator Packwood. The chairman of the Ways and Means Committee, Mr. Rostenkowski, is introducing an identical bill today in the House of Representatives.

Last year's budget reconciliation bill was made up of over 1200 pages of statutory and report language. Many provisions were drafted under great time pressure. Not surprisingly, clerical and technical errors were made.

This bill represents a joint product. It was assembled as a cooperative effort of the majority and minority staffs of the Finance, Ways and Means and Energy and Commerce Committees, the Joint Committee on Taxation, and the Department of the Treasury. On the trade items, the Finance and Ways and Means Committee staffs worked closely with officials of the International Trade Commission, Customs Service, Department of Commerce, and Office of the U.S. Trade Representative. The staffs were directed to include only those provisions that were truly technical in nature.

This bill is not intended to make policy changes. Instead, it is intended to correct mistakes and eliminate uncertainties about certain provisions in last year's bills, to make sure that the policy decisions made last year are correctly implemented.

The bill is intended to provide important and necessary clarifications to taxpayers, who are seeking guidance in interpreting last year's bills, and to help ensure a smoother administration of the tax, Medicare and income security provisions enacted last year.

In the trade area, the bill clarifies the proper tariff treatment on several products. In addition, it makes a small number of other technical changes that we believe are appropriate.

The introduction of this bill is the first step in putting those corrections into law. The bill is not intended to be the final word on necessary corrections. Instead, it is intended to generate discussion and comments from the public about the proposed corrections in this bill, as well as other necessary corrections that may have been overlooked. In the tax area, I'd like to point out in particular that a number of technical issues concerning chapter 14, the estate freeze reform provisions in last year's legislation, have been raised in comments by the tax bar. This bill does not address all of those issues because administrative guidance is expected to be issued by the Treasury Department in the near future. Additional technical corrections to these provisions may be necessary following the issuance of such guidance.

I ask unanimous consent that the full text of the bill and an explanation prepared by the Joint Committee on Taxation and the Finance, Ways and Means and Energy and Commerce Committee staffs be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 750

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Technical Corrections Act of 1991".

TITLE I—REVENUE PROVISIONS

SEC. 101. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 102. AMENDMENTS RELATED TO REVENUE RECONCILIATION ACT OF 1990.

(a) Amendments Related to Subtitle A.—

(1) Subparagraph (B) of section 59(j)(3) is amended by striking "section 1(i)(3)(B)" and inserting "section 1(g)(3)(B)".

(2) Paragraph (2) of section 897(a) is amended by striking "21" in the heading of such paragraph and in subparagraph (A) and inserting "24".

(3) Clause (ii) of section 32(b)(1)(B) is amended by inserting a comma after "greater".

(4) Section 541 is amended by striking "28 percent" and inserting "31 percent".

(5) Subsection (c) of section 32 is amended by adding at the end thereof the following new paragraph:

"(4) Treatment of deduction for medical insurance of self-employed.—In determining the amount of adjusted gross income for purposes of this section, the amount of the deduction under section 162(l) shall be determined without regard to section 162(l)(3)(B)."

(6) Clause (i) of section 151(d)(3)(C) is amended by striking "joint of a return" and inserting "joint return".

(b) Amendments Related to Subtitle B.—

(1) Paragraph (1) of section 11212(e) of the Revenue Reconciliation Act of 1990 is amended by striking "Paragraph (1) of section 6724(d)" and inserting "Subparagraph (B) of section 6724(d)(1)".

(2) Subsection (b) of section 4082 is amended to read as follows:

"(b) Tax on Certain Uses.—If any person uses gasoline (other than in the production of gasoline or special fuels referred to in section 4041), such use shall for purposes of this chapter be considered a removal."

(3)(A) Subparagraph (B) of section 4093(c)(2) is amended by inserting before the period "unless such fuel is sold for exclusive use by a State or any political subdivision thereof".

(B) Paragraph (4) of section 6427(l) is amended by inserting before the period "unless such fuel was used by a State or any political subdivision thereof".

(4) Paragraph (1) of section 6416(b) is amended by striking "chapter 32 or by section 4051" and inserting "chapter 31 or 32".

(5) Paragraph (1) of section 9502(e) is amended to read as follows:

"(1) Increases in tax revenues before 1993 to remain in general fund.—In the case of taxes imposed before January 1, 1993, the amounts required to be appropriated under paragraphs (1), (2), and (3) of subsection (b) shall be determined without regard to any increase in a rate of tax enacted by the Revenue Reconciliation Act of 1990."

(6) Section 7012 is amended—

(A) by striking "production or importation of gasoline" in paragraph (3) and inserting "taxes on gasoline and diesel fuel", and

(B) by striking paragraph (4) and redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(c) Amendments Related to Subtitle C.—

(1) Paragraph (4) of section 56(g) is amended by redesignating subparagraph (I) as subparagraph (H).

(2) Subparagraph (B) of section 6724(d)(1) is amended—

(A) by striking "or" at the end of clause (xi),

(B) by striking the period at the end of the clause added by section 11212(e) of the Revenue Reconciliation Act of 1990 and inserting ", or", and

(C) by redesignating the clause added by section 11323(c)(2) of such Act as clause (xiii).

(3) Subsection (g) of section 6302 is amended by inserting ", 22," after "chapters 21".

(4) The earnings and profits of any insurance company to which section 11305(c)(3) of the Revenue Reconciliation Act of 1990 applies shall be determined without regard to any deduction allowed under such section; except that, for purposes of applying sections

56, 902, 952(c)(1), and 960 of the Internal Revenue Code of 1986, such deduction shall be taken into account.

(5) Subparagraph (D) of section 6038A(e)(4) is amended—

(A) by striking "any transaction to which the summons relates" and inserting "any affected taxable year", and

(B) by adding at the end thereof the following new sentence: "For purposes of this subparagraph, the term 'affected taxable year' means any taxable year if the determination of the amount of tax imposed for such taxable year is affected by the treatment of the transaction to which the summons relates."

(6) Subparagraph (A) of section 6621(c)(2) is amended by adding at the end thereof the following new sentence:

"The preceding sentence shall be applied without regard to any such letter or notice which is withdrawn by the Secretary."

(7) Clause (i) of section 6621(c)(2)(B) is amended by striking "this subtitle" and inserting "this title".

(d) AMENDMENTS RELATED TO SUBTITLE D.—

(1) Paragraph (9) of section 132(h) is amended by striking "or the last sentence of subsection (c)(1) thereof".

(2) Notwithstanding section 11402(c) of the Revenue Reconciliation Act of 1990, the amendment made by section 11402(b)(1) of such Act shall apply to taxable years ending after December 31, 1989.

(3) Clause (ii) of section 143(m)(4)(C) is amended—

(A) by striking "any month of the 10-year period" and inserting "any year of the 4-year period",

(B) by striking "succeeding months" and inserting "succeeding years", and

(C) by striking "over the remainder of such period (or, if lesser, 5 years)" and inserting "to zero over the succeeding 5 years".

(c) AMENDMENTS RELATED TO SUBTITLE E.—

(1) Subsection (d) of section 39 is amended—

(A) by redesignating the paragraph added by section 11511(b)(2) of the Revenue Reconciliation Act of 1990 as paragraph (1), and

(B) by redesignating the paragraph added by section 11611(b)(2) of such Act as paragraph (2).

(2)(A) Subsection (h) of section 56 is amended—

(i) by striking "subsection (g)(4)(G)" in paragraph (5) and inserting "subsection (g)(4)(F)", and

(ii) by striking "section 613(e)(3)" in paragraph (7)(B) and inserting "section 613(e)(2)".

(B) Clause (ii) of section 56(d)(1)(B) is amended to read as follows:

"(ii) appropriate adjustments in the application of section 172(b)(2) shall be made to take into account the limitation of subparagraph (A).".

(C) Subparagraph (B) of section 56(g)(1) is amended by striking "and the alternative tax net operating loss deduction" and inserting ", the alternative tax net operating loss deduction, and the deduction under subsection (h)".

(3) Clause (i) of section 613A(c)(3)(A) is amended by striking "the table contained in".

(4) Section 6501 is amended—

(A) by striking subsection (m) (relating to deficiency attributable to election under section 44B) and by redesignating subsections (n) and (o) as subsections (m) and (n), respectively, and

(B) by striking "section 40(f) or 51(j)" in subsection (m) (as redesignated by subparagraph (A)) and inserting "section 40(f), 43, or 51(j)".

(5) Paragraph (2) of section 55(c) is amended by striking "29(b)(5)" and inserting "29(b)(6)".

(6) Subparagraph (C) of section 38(c)(2) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) is amended by inserting before the period at the end of the first sentence the following: "and without regard to the deduction under section 56(h)".

(7) Clauses (iii) and (iv) of section 53(d)(1)(B) are each amended by striking "section 29(b)(5)(B)" and inserting "section 29(b)(6)(B)".

(8) Subparagraph (B) of section 56(h)(4) is amended by striking "For purposes of subparagraph (A), the" and inserting "The".

(f) AMENDMENTS RELATED TO SUBTITLE F.—

(1)(A) Section 2701(a)(3) is amended by adding at the end thereof the following new subparagraph:

"(C) VALUATION OF QUALIFIED PAYMENTS WHERE NO LIQUIDATION, ETC. RIGHTS.—In the case of an applicable retained interest which is described in subparagraph (B)(i) but not subparagraph (B)(ii), the value of the distribution right shall be determined without regard to this section."

(B) Section 2701(a)(3)(B) is amended by inserting "CERTAIN" before "QUALIFIED" in the heading thereof.

(C) Sections 2701(d)(1) and (d)(4) are each amended by striking "subsection (a)(3)(B)" and inserting "subsection (a)(3)(B) or (C)".

(2) Clause (i) of section 2701(a)(4)(B) is amended by inserting "(or, to the extent provided in regulations, the rights as to either income or capital)" after "income and capital".

(3)(A) Section 2701(b)(2) is amended by adding at the end thereof the following new subparagraph:

"(C) APPLICABLE FAMILY MEMBER.—For purposes of this subsection, the term 'applicable family member' includes any lineal descendant of any parent of the transferor or the transferor's spouse."

(B) Section 2701(e)(3) is amended—

(i) by striking subparagraph (B), and

(ii) by striking so much of paragraph (3) as precedes "shall be treated as holding" and inserting:

"(3) ATTRIBUTION OF INDIRECT HOLDINGS AND TRANSFERS.—An individual".

(C) Section 2704(c)(3) is amended by striking "section 2701(e)(3)(A)" and inserting "section 2701(e)(3)".

(4) Clause (i) of section 2701(c)(1)(B) is amended to read as follows:

"(i) a right to distributions with respect to any interest which is junior to the rights of the transferred interest,".

(5)(A) Clause (i) of section 2701(c)(3)(C) is amended to read as follows:

"(i) IN GENERAL.—Payments under any interest held by a transferor which (without regard to this subparagraph) are qualified payments shall be treated as qualified payments unless the transferor elects not to treat such payments as qualified payments. Payments described in the preceding sentence which are held by an applicable family member shall be treated as qualified payments only if such member elects to treat such payments as qualified payments."

(B) The first sentence of section 2701(c)(3)(C)(ii) is amended to read as follows: "A transferor or applicable family member holding any distribution right which (without regard to this subparagraph) is not a qualified payment may elect to treat such right as a qualified payment, to be paid in the amounts and at the times specified in such election."

(C) The time for making an election under the second sentence of section 2701(c)(3)(C)(i) of the Internal Revenue Code of 1986 (as amended by subparagraph (A)) shall not expire before the due date (including extensions) for filing the transferor's return of the tax imposed by section 2501 of such Code for calendar year 1991.

(6) Section 2701(d)(3)(A)(iii) is amended by striking "the period ending on the date of".

(7) Subclause (I) of section 2701(d)(3)(B)(ii) is amended by inserting "or the exclusion under section 2503(b)," after "section 2523,".

(8) Section 2701(e)(5) is amended—

(A) by striking "such contribution to capital or such redemption, recapitalization, or other change" in subparagraph (A) and inserting "such transaction", and

(B) by striking "the transfer" in subparagraph (B) and inserting "such transaction".

(9) Section 2701(d)(4) is amended by adding at the end thereof the following new subparagraph:

"(C) TRANSFER TO TRANSFERORS.—In the case of a taxable event described in paragraph (3)(A)(ii) involving a transfer of an applicable retained interest from an applicable family member to a transferor, this subsection shall continue to apply to the transferor during any period the transferor holds such interest."

(10) Section 2701(e)(6) is amended by inserting "or to reflect the application of subsection (d)" before the period at the end thereof.

(11)(A) Section 2702(a)(3)(A) is amended—

(i) by striking "to the extent" and inserting "if" in clause (i),

(ii) by striking "or" at the end of clause (i),

(iii) by striking the period at the end of clause (ii) and inserting ", or", and

(iv) by adding at the end thereof the following new clause:

"(iii) to the extent that regulations provide that such transfer is not inconsistent with the purposes of this section."

(B)(i) Section 2702(a)(3) is amended by striking "incomplete transfer" each place it appears and inserting "incomplete gift".

(ii) The heading for section 2702(a)(3)(B) is amended by striking "incomplete transfer" and inserting "incomplete gift".

(12) Section 2703(b)(2) is amended by striking "members of the decedent's family" and inserting "natural objects of the bounty of the transferor".

(g) AMENDMENTS RELATED TO SUBTITLE G.—

(1)(A) Subsection (a) of section 1248 is amended—

(i) by striking ", or if a United States person receives a distribution from a foreign corporation which, under section 302 or 331, is treated as an exchange of stock" in paragraph (1), and

(ii) by adding at the end thereof the following new sentence: "For purposes of this section, a United States person shall be treated as having sold or exchanged any stock if, under any provision of this subtitle, such person is treated as realizing gain from the sale or exchange of such stock."

(B) Paragraph (1) of section 1248(e) is amended by striking "or receives a distribution from a domestic corporation which, under section 302 or 331, is treated as an exchange of stock".

(C) Subparagraph (B) of section 1248(f)(1) is amended by striking "or 361(c)(1)" and inserting "355(c)(1), or 361(c)(1)".

(D) Paragraph (1) of section 1248(i) is amended to read as follows:

"(1) IN GENERAL.—If any shareholder of a 10-percent corporate shareholder of a foreign corporation exchanges stock of the 10-percent corporate shareholder for stock of the foreign corporation, such 10-percent corporate shareholder shall recognize gain in the same manner as if the stock of the foreign corporation received in such exchange had been—

"(A) issued to the 10-percent corporate shareholder, and

"(B) then distributed by the 10-percent corporate shareholder to such shareholder in redemption or liquidation (whichever is appropriate).

The amount of gain recognized by such 10-percent corporate shareholder under the preceding sentence shall not exceed the amount treated as a dividend under this section."

(2) Section 897 is amended by striking subsection (f).

(3) Paragraph (13) of section 4975(d) is amended by striking "section 408(b)" and inserting "section 408(b)(12)".

(4) Clause (iii) of section 56(g)(4)(D) is amended by inserting ", but only with respect to taxable years beginning after December 31, 1989" before the period at the end thereof.

(5)(A) Paragraph (11) of section 11701(a) of the Revenue Reconciliation Act of 1990 (and the amendment made by such paragraph) are hereby repealed, and section 7108(r)(2) of the Revenue Reconciliation Act of 1989 shall be applied as if such paragraph (and amendment) had never been enacted.

(B) Subparagraph (A) shall not apply to any building if the owner of such building establishes to the satisfaction of the Secretary of the Treasury or his delegate that such owner reasonably relied on the amendment made by such paragraph (11).

(h) AMENDMENTS RELATED TO SUBTITLE H.—

(1)(A) Clause (vi) of section 168(e)(3)(B) is amended by striking "or" at the end of subclause (I), by striking the period at the end of subclause (II) and inserting ", or", and by adding at the end thereof the following new subclause:

"(III) is described in section 48(l)(3)(A)(ix) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).".

(B) Subparagraph (K) of section 168(g)(4) is amended by striking "section 48(a)(3)(A)(iii)" and inserting "section 48(l)(3)(A)(ix) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)".

(2) Clause (ii) of section 172(b)(1)(E) is amended by striking "subsection (m)" and inserting "subsection (h)".

(3) Sections 805(a)(4)(E), 832(b)(5)(C) (ii)(II), and 832(b)(5)(D)(ii)(II) are each amended by striking "243(b)(5)" and inserting "243(b)(2)".

(4) Subparagraph (A) of section 243(b)(3) is amended by inserting "of" after "In the case".

(5) The subsection heading for subsection (a) of section 280F is amended by striking "INVESTMENT TAX CREDIT AND".

(6) Clause (i) of section 1504(c)(2)(B) is amended by inserting "section" before "243(b)(2)".

(7) Paragraph (3) of section 341(f) is amended by striking "351, 361, 371(a), or 374(a)" and inserting "351, or 361".

(8) Paragraph (2) of section 243(b) is amended to read as follows:

"(2) AFFILIATED GROUP.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'affiliated group' has the meaning given such term by section 1504(b), except that for such purposes sections 1504(b)(2), 1504(b)(4), and 1504(c) shall not apply.

"(B) GROUP MUST BE CONSISTENT IN FOREIGN TAX TREATMENT.—The requirements of paragraph (1)(A) shall not be treated as being met with respect to any dividend received by a corporation if, for any taxable year which includes the day on which such dividend is received—

"(i) 1 or more members of the affiliated group referred to in paragraph (1)(A) choose to any extent to take the benefits of section 901, and

"(ii) 1 or more other members of such group claim to any extent a deduction for taxes otherwise creditable under section 901.".

(9) The amendment made by section 11813(b)(17) of the Revenue Reconciliation Act of 1990 shall be applied as if the material stricken by such amendment included the closing parenthesis after "section 48(a)(5)".

(10) Paragraph (1) of section 179(d) is amended—

(A) by striking "in a trade or business" and inserting "a trade or business", and

(B) by adding at the end thereof the following new sentence: "Such term shall not include any property described in section 50(b) and shall not include air conditioning or heating units and horses".

(11) Subparagraph (E) of section 50(a)(2) is amended by striking "section 48(a)(5)(A)" and inserting "section 48(a)(5)".

(12) The amendment made by section 11801(c)(9)(G)(ii) of the Revenue Reconciliation Act of 1990 shall be applied as if it struck "Section 422A(c)(2)" and inserted "Section 422(c)(2)".

(13) Subparagraph (B) of section 424(c)(3) is amended by striking "a qualified stock option, an incentive stock option, an option granted under an employee stock purchase plan, or a restricted stock option" and inserting "an incentive stock option or an option granted under an employee stock purchase plan".

(14) Subsections (a)(45), (b)(14), and (c)(21) of section 11801 of the Revenue Reconciliation Act of 1990 are hereby repealed, and the Internal Revenue Code of 1986 shall be applied and administered as if such subsections (and the amendments made by such subsections) had not been enacted.

(i) EFFECTIVE DATE.—Any amendment made by this section shall take effect as if included in the provision of the Revenue Reconciliation Act of 1990 to which such amendment relates.

SEC. 103. MISCELLANEOUS PROVISIONS.

(a) APPLICATION OF AMENDMENTS MADE BY TITLE XII OF OMNIBUS BUDGET RECONCILIATION ACT OF 1990.—Except as otherwise expressly provided, whenever in title XII of the Omnibus Budget Reconciliation Act of 1990 an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(b) TREATMENT OF CERTAIN AMOUNTS UNDER HEDGE BOND RULES.—

(1) Clause (iii) of section 149(g)(3)(B) is amended to read as follows:

"(iii) AMOUNTS HELD PENDING REINVESTMENT OR REDEMPTION.—Amounts held for not more than 30 days pending reinvestment or bond redemption shall be treated as invested in bonds described in clause (i)."

(2) The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 7651 of the Omnibus Budget Reconciliation Act of 1989.

(c) TREATMENT OF CERTAIN DISTRIBUTIONS UNDER SECTION 1445.—

(1) IN GENERAL.—Paragraph (3) of section 1445(e) is amended by adding at the end thereof the following new sentence: "Rules similar to the rules of the preceding provisions of this paragraph shall apply in the case of any distribution to which section 301 applies and which is not made out of the earnings and profits of such a domestic corporation."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to distributions after the date of the enactment of this Act.

(d) TREATMENT OF CERTAIN CREDITS UNDER SECTION 469.—

(1) IN GENERAL.—Subparagraph (B) of section 469(c)(3) is amended by adding at the end thereof the following new sentence: "If the preceding sentence applies to the net income from any property for any taxable year, any credits allowable under subpart B (other than section 27(a)) or D of part IV of subchapter A for such taxable year which are attributable to such property shall be treated as credits not from a passive activity to the extent the amount of such credits does not exceed the regular tax liability of the taxpayer for the taxable year which is allocable to such net income."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

(e) MISCELLANEOUS CLERICAL AMENDMENTS.—

(1) Subclause (II) of section 56(g)(4)(C)(ii) is amended by striking "of the subclause" and inserting "of subclause".

(2) Paragraph (2) of section 72(m) is amended by inserting "and" at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

(3) Paragraph (2) of section 86(b) is amended by striking "adusted" and inserting "adjusted".

(4)(A) The heading for section 112 is amended by striking "COMBAT PAY" and inserting "COMBAT ZONE COMPENSATION".

(B) The item relating to section 112 in the table of sections for part III of subchapter B of chapter 1 is amended by striking "combat pay" and inserting "combat zone compensation".

(C) Paragraph (1) of section 3401(a) is amended by striking "combat pay" and inserting "combat zone compensation".

(5) Clause (i) of section 172(h)(3)(B) is amended by striking the comma at the end thereof and inserting a period.

(6) Clause (ii) of section 543(a)(2)(B) is amended by striking "section 563(c)" and inserting "section 563(d)".

(7) Paragraph (1) of section 958(a) is amended by striking "sections 955(b)(1)(A) and (B), 955(c)(2)(A)(ii), and 960(a)(1)" and inserting "section 960(a)(1)".

(8) Subparagraph (B) of section 4092(b)(1) is amended by striking "or" at the end of clause (i).

(9) Subsection (g) of section 642 is amended by striking "under 2621(a)(2)" and inserting "under section 2621(a)(2)".

(10) Section 1463 is amended by striking "this subsection" and inserting "this section".

(11) Subsection (k) of section 3306 is amended by inserting a period at the end thereof.

(12) The item relating to section 4472 in the table of sections for subchapter B of chapter 36 is amended by striking "and special rules".

(13) Paragraph (2) of section 4978(b) is amended by striking the period at the end of subparagraph (A) and inserting a comma,

and by striking the period and quotation marks at the end of subparagraph (B) and inserting a comma.

(14) Paragraph (3) of section 5134(c) is amended by striking "section 6662(a)" and inserting "section 6665(a)".

(15) Paragraph (2) of section 5206(f) is amended by striking "section 5(e)" and inserting "section 105(e)".

(16) Paragraph (1) of section 6050B(c) is amended by striking "section 85(c)" and inserting "section 85(b)".

(17) Subsection (k) of section 6166 is amended by striking paragraph (6).

(18) Subsection (e) of section 6214 is amended to read as follows:

"(e) CROSS REFERENCE.—

"For provision giving Tax Court jurisdiction to order a refund of an overpayment and to award sanctions, see section 6512(b)(2)."

(19) The section heading for section 6043 is amended by striking the semicolon and inserting a comma.

(20) The item relating to section 6043 in the table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the semicolon and inserting a comma.

(21) The table of sections for part I of subchapter A of chapter 68 is amended by striking the item relating to section 6662.

(22)(A) Section 7232 is amended—

(i) by striking "LUBRICATING OIL," in the heading, and

(ii) by striking "lubricating oil," in the text.

(B) The table of sections for part II of subchapter A of chapter 75 is amended by striking "lubricating oil," in the item relating to section 7232.

(23) Paragraph (1) of section 6701(a) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "subclause (IV)" and inserting "subclause (V)".

(24) Clause (ii) of section 7304(a)(2)(D) of such Act is amended by striking "subsection (c)(2)" and inserting "subsection (c)".

(25) Paragraph (1) of section 7646(b) of such Act is amended by striking "section 6050H(b)(1)" and inserting "section 6050H(b)(2)".

(26) Paragraph (10) of section 7721(c) of such Act is amended by striking "section 6662(b)(2)(C)(ii)" and inserting "section 6661(b)(2)(C)(ii)".

(27) Subparagraph (A) of section 7811(i)(3) of such Act is amended by inserting "the first place it appears" before "in clause (i)".

(28) Paragraph (10) of section 7841(d) of such Act is amended by striking "section 381(a)" and inserting "section 381(c)".

(29) Paragraph (2) of section 7861(c) of such Act is amended by inserting "the second place it appears" before "and inserting".

TITLE II—MEDICARE MISCELLANEOUS AND TECHNICAL AMENDMENTS

SEC. 200. REFERENCES TO OBRA-1990; EFFECTIVE DATE.

(a) REFERENCES TO OMNIBUS BUDGET RECONCILIATION ACT OF 1990.—In this title, the term "OBRA-1990" means the Omnibus Budget Reconciliation Act of 1990.

(b) EFFECTIVE DATE.—Except where otherwise provided, the amendments made by this title and the provisions of this title shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1990.

Subtitle A—Amendments Relating to Part A of the Medicare Program

SEC. 201. EXCLUDING DISTINCT PSYCHIATRIC AND REHABILITATION UNITS FROM ADJUSTMENT TO PAYMENT AMOUNTS FOR PPS-EXEMPT HOSPITALS (SECTION 4005 OF OBRA-1990).

(a) IN GENERAL.—Section 1886(b)(1)(B)(ii) of the Social Security Act (42 U.S.C. 1395ww(b)(1)(B)(ii)), as amended by section 4005(a)(1) of OBRA–1990, is amended by striking "(ii) in the case of" and inserting "(ii) for a hospital that is not a subsection (d) hospital (other than a unit of a hospital described in subsection (d)(1)(B)(ii)), in the case of".

(b) CONFORMING AMENDMENT.—Section 1886(d)(1)(B) of such Act (42 U.S.C. 1395ww(d)(1)(B)) is amended—

(1) in clause (i), by striking "1861(f))," and inserting "1861(f)) or a rehabilitation hospital (as defined by the Secretary),";

(2) by amending clause (ii) to read as follows:

"(ii) in accordance with regulations of the Secretary, a psychiatric or rehabilitation unit of the hospital which is a distinct part of the hospital (as defined by the Secretary),"; and

(3) by striking the semicolon at the end of clause (v) and all that follows and inserting a period.

SEC. 202. CLARIFICATION OF DRG PAYMENT WINDOW EXPANSION.

The first sentence of section 1886(a)(4) of the Social Security Act (42 U.S.C. 1395ww(a)(4)), as amended by section 4003(a) of OBRA–1990, is amended by striking "hospital)" and inserting "hospital, an entity that wholly owns the hospital, or an entity owned by another entity that also wholly owns the hospital)".

SEC. 203. TECHNICAL CORRECTION RELATING TO NURSING HOME REFORM.

Section 1819(b)(3)(C)(i)(I) of the Social Security Act (42 U.S.C. 1395i–3(b)(3)(C)(i)(I)), as amended by section 4008(h)(2)(C) of OBRA–1990, is amended by striking "not later than" before "14 days".

Subtitle B—Amendments Relating to Part B of the Medicare Program

SEC. 211. PHYSICIAN PAYMENT PROVISIONS (SECTIONS 4101 THROUGH 4118 OF OBRA-1990).

(a) OVERVALUED PROCEDURES (SECTION 4101 OF OBRA–1990).—

(1) Section 1842(b)(16)(B)(iii) of the Social Security Act, as added by section 4101(b) of OBRA–1990, is amended—

(A) by striking ", simple and subcutaneous",

(B) by striking "; small" and inserting "and small",

(C) by striking "treatments;" the first place it appears and inserting "and",

(D) by striking "lobectomy;",

(E) by striking "enterectomy; colectomy; cholecystectomy;",

(F) by striking "; transurerethral resection" and inserting "and resection", and

(G) by striking "sacral laminectomy;".

(2) Section 4101(b)(2) of OBRA–1990 is amended—

(A) in the matter before subparagraph (A), by striking "1842(b)(16)" and inserting "1842(b)(16)(B)", and

(B) in subparagraph (B)—

(i) by striking ", simple and subcutaneous",

(ii) by striking "(HCPCS codes 19160 and 19162)" and inserting "(HCPCS code 19160)", and

(iii) by striking all that follows "(HCPCS codes 92250" and inserting "and 92260).".

(b) RADIOLOGY SERVICES (SECTION 4102 OF OBRA–1990).—

(1) Section 1834(b)(4) of the Social Security Act is amended by redesignating subparagraphs (E) and (F) (as previously redesignated by section 4102(a)(1) of OBRA–1990) as subparagraphs (F) and (G), respectively.

(2) Section 1834(b)(4)(D) of the Social Security Act, as inserted by section 4102(a)(2) of OBRA–1990, is amended—

(A) in the matter before clause (i), by striking "shall be determined as follows:" and inserting "shall, subject to clause (vii), be reduced to the adjusted conversion factor for the locality determined as follows:",

(B) in clause (iv), by striking "LOCAL ADJUSTMENT.—Subject to clause (vii), the conversion factor to be applied to" and inserting "ADJUSTED CONVERSION FACTOR.—The adjusted conversion factor for", and

(C) in clause (vii), by striking "under this subparagraph", and

(D) in clause (vii), by inserting "reduced under this subparagraph by" after "shall not be".

(3) Section 4102(c)(2) of OBRA–1990 is amended by striking "radiology services" and all that follows and inserting "nuclear medicine services".

(4) Section 4102(d) of OBRA–1990 is amended by striking "new paragraph" and inserting "new subparagraph".

(5) Section 1834(b)(4)(E) of the Social Security Act, as inserted by section 4102(d) of OBRA–1990, is amended by inserting "RULE FOR CERTAIN SCANNING SERVICES.—" after "(E)".

(6) Section 1848(a)(2)(D)(iii) of the Social Security Act, as added by section 4102(g)(2)(B) of OBRA–1990, is amended by striking "that are subject to section 6105(b) of the Omnibus Budget Reconciliation Act of 1989" and by striking "provided under such section" and inserting "provided under section 6105(b) of the Omnibus Budget Reconciliation Act of 1989".

(c) ANESTHESIA SERVICES (SECTION 4103 OF OBRA–1990).—

(1) Section 4103(a) of OBRA–1990 is amended by striking "REDUCTION IN FEE SCHEDULE" and inserting "REDUCTION IN PREVAILING CHARGES".

(2) Section 1842(q)(1)(B) of the Social Security Act, as inserted by section 4103(a)(2) of OBRA–1990, is amended—

(A) in the matter before clause (i), by striking "shall be determined as follows:" and inserting "shall, subject to clause (iv), be reduced to the adjusted prevailing charge conversion factor for the locality determined as follows:", and

(B) in clause (iii), by striking "Subject to clause (iv), the prevailing charge conversion factor to be applied in" and inserting "The adjusted prevailing charge conversion factor for".

(d) NEW PHYSICIANS AND PRACTITIONERS (SECTION 4106 OF OBRA–1990).—

(1) Section 1842(b)(4)(F) of the Social Security Act, as amended by section 4106(a)(1) of OBRA–1990, is amended—

(A) in clause (i), by striking "prevailing charge" the first place it appears and inserting "customary charge",

(B) in clause (ii)(III), by striking "second, third, and fourth" and inserting "first, second, and third".

(2) Section 1842(b)(4)(F)(ii)(I) of the Social Security Act, as amended by section 4106(a)(1) of OBRA–1990, is amended by striking "respiratory therapist,".

(3)(A) Section 1842(b)(4)(F)(ii)(II) of the Social Security Act, as amended by section 4106(a)(1) of OBRA–1990, is amended by striking "for which payment is made under this part" and inserting "while the physician or practitioner is not in an internship or residency training program".

(B) Section 1848(a)(4) of the Social Security Act, as added by section 4106(b)(1) of OBRA–1990, is amended by striking "the end of the physician's first full calendar year of furnishing services for which payment may be made under this part" and inserting "the end of the first calendar year during the first 6 months of which the physician has furnished professional services while the physician or practitioner is not in an internship or residency training program".

(4) Section 4106(c) of OBRA–1990 is amended by inserting "of the Social Security Act" after "1848(d)(1)(B)".

(e) ASSISTANTS AT SURGERY (SECTION 4107 OF OBRA–1990).—

(1) Section 1848(i)(2)(B) of the Social Security Act, as added by section 4107(a)(1) of OBRA–1990, is amended—

(A) by inserting "from carriers on separate payments for assistants-at-surgery made under this part" after "most recent data available", and

(B) by striking "performed under this part" and inserting "paid under this part".

(2) Section 4107(c) of OBRA–1990 is amended by inserting "(a)(1)" after "subsection".

(3) Section 4107(a)(2) of OBRA–1990 is amended by adding at the end the following: "In applying section 1848(g)(2)(D) of the Social Security Act for services of an assistant-at-surgery furnished during 1991, the recognized payment amount shall not exceed the maximum amount specified under section 1848(i)(2)(A) of such Act (as applied under this paragraph in such year).".

(f) TECHNICAL COMPONENTS OF DIAGNOSTIC SERVICES (SECTION 4108 OF OBRA–1990).—Section 1842(b) of the Social Security Act is amended by redesignating paragraph (18), as added by section 4108(a) of OBRA–1990, as paragraph (17) and, in such paragraph, by inserting ", tests specified in paragraph (14)(C)(i)," after "diagnostic laboratory tests".

(g) STATEWIDE FEE SCHEDULES (SECTION 4117 OF OBRA–1990).—Section 4117 of OBRA–1990 is amended—

(1) in subsection (a)—

(A) by striking "IN GENERAL.—", and

(B) by striking ", if the" and all that follows through "1991, "; and

(2) by striking subsections (b), (c), and (d).

(h) OTHER MISCELLANEOUS AND TECHNICAL AMENDMENTS (SECTION 4118 OF OBRA–1990).—

(1)(A) Section 4105(b) of OBRA–1990 is amended—

(i) in paragraphs (2), by striking "amendments" and inserting "amendment", and

(ii) in paragraph (3), by striking "amendments made by paragraphs (1) and (2)" and inserting "amendment made by paragraph (1)".

(B) Section 1848(f)(2)(C) of the Social Security Act, as added by section 4105(c)(2) of OBRA–1990, is amended by inserting "PERFORMANCE STANDARD RATES OF INCREASE FOR FISCAL YEAR 1991.—" after "(C)".

(C) Section 4105(d) of OBRA–1990 is amended by inserting "PUBLICATION OF PERFORMANCE STANDARD RATES.—" after "(d)".

(2) Section 4113 of OBRA–1990 is amended by inserting "of the Social Security Act" after "1869(b)(2)".

(3) Section 4114 of OBRA–1990 is amended by striking "patients" the second place it appears.

(4) Section 1848(e)(1)(C) of the Social Security Act, as added by section 4118(c)(2) of OBRA–1990, is amended by inserting "date of the" after "since the".

(5) Section 4118(f)(1)(D) of OBRA–1990 is amended by striking "is amended".

(6) Section 4118(f)(1)(N)(ii) of such Act is amended by striking "subsection (f)(5)(A)" and inserting "subsection (f)(5)(A))".

(7) Section 4118(j)(2) of OBRA–1990 is amended by striking "In section" and inserting "Section".

(8)(A) Section 1848(i)(3) of the Social Security Act, as added by section 4118(k) of OBRA–1990, is amended by striking the space before the period at the end.

(B) Section 1834(a)(10)(B) of the Social Security Act is amended by striking "as such provisions apply to physicians' services and physicians and a reasonable charge under section 1842(b)".

SEC. 212. SERVICES FURNISHED IN AMBULATORY SURGICAL CENTERS (SECTION 4151 OF OBRA–1990).

(a) PAYMENT AMOUNTS FOR SERVICES FURNISHED IN AMBULATORY SURGICAL CENTERS.—

(1)(A) Section 1833(i)(2)(A)(i) of the Social Security Act (42 U.S.C. 1395l(i)(2)(A)(i)) is amended by striking the comma at the end and inserting the following: ", as determined in accordance with a survey (based upon a representative sample of procedures) taken not later than July 1, 1992, and every 5 years thereafter, of the actual audited costs incurred by such centers in providing such services,".

(B) Section 1833(i)(2) of such Act (42 U.S.C. 1395l(i)(2)) is amended—

(i) in the second sentence of subparagraph (A) and the second sentence of subparagraph (B), by striking "and may be adjusted by the Secretary, when appropriate,"; and

(ii) by adding at the end the following new subparagraph:

"(C) Notwithstanding the second sentence of subparagraph (A) or the second sentence of subparagraph (B), if the Secretary has not updated amounts established under such subparagraphs with respect to facility services furnished on or after July 1, 1992, such amounts shall be increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the preceding year.".

(C) The second sentence of section 1833(i)(1) of such Act (42 U.S.C. 1395l(i)(1)) is amended by striking the period and inserting the following: ", in consultation with appropriate trade and professional organizations.".

(2) Section 4151(c)(3) of OBRA–1990 is amended by striking "for the insertion of an intraocular lens" and inserting "for an intraocular lens inserted".

(b) ADJUSTMENTS TO PAYMENT AMOUNTS FOR NEW TECHNOLOGY INTRAOCULAR LENSES.—(A) The Secretary of Health and Human Services (hereafter referred to as the "Secretary") shall develop and implement a process under which interested parties may request review by the Secretary of the appropriateness of the reimbursement amount provided under section 1833(i)(2)(A)(iii) of the Social Security Act with respect to a class of new technology intraocular lenses. For purposes of the preceding sentence, an intraocular lens may not be treated as a new technology lens unless it has been approved by the Food and Drug Administration.

(B) In determining whether to provide an adjustment of payment with respect to a particular lens under paragraph (1), the Secretary shall take into account whether use of the lens is likely to result in reduced risk of intraoperative or postoperative complication or trauma, accelerated postoperative recovery, reduced induced astigmatism, improved postoperative visual acuity, more stable postoperative vision, or other comparable clinical advantages.

(C) The Secretary shall publish notice in the Federal Register from time to time (but no less often than once each year) of a list of the requests that the Secretary has received for review under this subsection, and shall provide for a 60-day comment period on the lenses that are the subjects of the requests contained in such notice. The Secretary shall publish a notice of his determinations with respect to intraocular lenses listed in the notice within 120 days after the close of the comment period.

SEC. 213. DURABLE MEDICAL EQUIPMENT (SECTION 4152 OF OBRA–1990) AND ORTHOTICS AND PROSTHETICS (SECTION 4153 OF OBRA–1990).

(a) UPDATES TO PAYMENT AMOUNTS.—Subparagraph (A) of section 1834(a)(14) of the Social Security Act, as added by section 4152(b)(4) of OBRA–1990, is amended to read as follows:

"(A) for 1991 and 1992, the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year reduced by 1 percentage point; and".

(b) TREATMENT OF POTENTIALLY OVERUSED ITEMS AND ADVANCED DETERMINATIONS OF COVERAGE.—(1) Effective on the date of the enactment of this Act, section 1834(a)(15) of the Social Security Act, as added by section 4152(e) of OBRA–1990, is amended to read as follows:

"(15) SPECIAL TREATMENT FOR POTENTIALLY OVERUSED ITEMS.—

"(A) DEVELOPMENT OF LIST OF ITEMS BY SECRETARY.—The Secretary shall develop and periodically update a list of items for which payment may be made under this subsection that are potentially overused, and shall include in such list seat-lift mechanisms, transcutaneous electrical nerve stimulators, motorized scooters, and any such other items determined by the Secretary to be potentially overused on the basis of any of the following criteria—

"(i) the item is marketed directly to potential patients;

"(ii) the item is marketed with an offer to potential patients to waive the costs of coinsurance associated with the item or is marketed as being available at no cost to policyholders of a medicare supplemental policy (as defined in section 1882(g)(1));

"(iii) the item has been subject to a consistent pattern of overutilization; or

"(iv) a high proportion of claims for payment for such item under this part may not be made because of the application of section 1862(a)(1).

"(B) ITEMS SUBJECT TO SPECIAL CARRIER SCRUTINY.—Payment may not be made under this part for any item contained in the list developed by the Secretary under subparagraph (A) unless the carrier has subjected the claim for payment for the item to special scrutiny or has followed the procedures described in paragraph (11)(C) with respect to the item.".

(2) Effective January 1, 1992, section 1834(a)(11) of such Act (42 U.S.C. 1395m(a)) is amended by adding at the end the following new subparagraph:

"(C) CARRIER DETERMINATIONS FOR CERTAIN ITEMS IN ADVANCE.—A carrier shall determine in advance whether payment for an item may not be made under this subsection because of the application of section 1862(a)(1) if—

"(i) the item is a customized item (other than inexpensive items specified by the Secretary); or "(ii) the item is a specified covered item under subparagraph (B).".

(3) Section 1842(c) of such Act (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

"(4) Each contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B), shall require the carrier to meet criteria developed by the Secretary to measure the timeliness of carrier responses to requests for payment of items described in section 1834(a)(11)(C).".

(4) Section 1834(h)(3) of such Act, as added by section 4153(a) of OBRA–1990, is amended by striking "paragraph (10) and paragraph (11)" and inserting "paragraphs (10) and (11)".

(c) STUDY OF VARIATIONS IN DURABLE MEDICAL EQUIPMENT SUPPLIER COSTS.—

(1) COLLECTION AND ANALYSIS OF SUPPLIER COST DATA.—The Administrator of the Health Care Financing Administration shall, in consultation with appropriate organizations, collect data on supplier costs of durable medical equipment for which payment may be made under part B of the medicare program, and shall analyze such data to determine the proportions of such costs attributable to the service and product components of furnishing such equipment and the extent to which such proportions vary by type of equipment and by the geographic region in which the supplier is located.

(2) DEVELOPMENT OF GEOGRAPHIC ADJUSTMENT INDEX; REPORTS.—Not later than July 1, 1992—

(A) the Administrator shall submit a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the data collected and the analysis conducted under subparagraph (A), and shall include in such report the Administrator's recommendations for a geographic cost adjustment index for suppliers of durable medical equipment under the medicare program and an analysis of the impact of such proposed index on payments under the medicare program; and

(B) the Comptroller General shall submit a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate analyzing on a geographic basis the supplier costs of durable medical equipment under the medicare program.

(d) OTHER TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 4152(a)(3) of OBRA–1990 is amended by striking "amendment made by subsection (a)" and inserting "amendments made by this subsection".

(2) Section 4152(c)(2) of OBRA–1990 is amended by striking "1395m(a)(7)(A)" and inserting "1395m(a)(7)".

(3) Section 1834(a)(7)(A)(iii)(II) of the Social Security Act, as inserted by section 4152(c)(2)(D) of OBRA–1990, is amended by striking "clause (v)" and inserting "clause (vi)".

(4) Section 1834(a)(7)(C)(i) of the Social Security Act, as added by section 4152(c)(2)(F) of OBRA–1990, is amended by striking "or paragraph (3)".

(5) Section 1834(a)(3) of the Social Security Act (42 U.S.C. 1395m(a)(3)), as amended by section 4152(c)(3) of OBRA–1990, is amended by striking subparagraph (D).

(6) Section 4153(c)(1) of OBRA–1990 is amended by striking "1834(a)" and inserting "1834(h)".

(7) Section 4153(d)(2) of OBRA–1990 is amended by striking "Reconiliation" and inserting "Reconciliation".

(8)(A) Section 1834(a) of the Social Security Act (42 U.S.C. 1395m(a)) is amended by striking paragraph (6).

(B) Section 1834 of such Act (42 U.S.C. 1395m) is amended—

(i) by striking "(2) through (7)" and inserting "(2) through (5)" each place it appears in subparagraphs (A) and (B) of subsection (a)(1) and in subparagraph (A) of subsection (a)(7);

(ii) by striking "paragraphs (6) and (7)" and inserting "paragraph (7)" each place it appears in the matter preceding subparagraph (A) and in subparagraph (C) of subsection (a)(8);

(iii) in subsection (a)(8)(A)(i), by striking "described—" and all that follows and inserting "described in paragraph (7) equal to the average of the purchase prices on the claims submitted on an assignment-related basis for the unused item supplied during the 6-month period ending with December 1986.".

SEC. 214. OTHER PART B ITEMS AND SERVICES (SECTIONS 4154 THROUGH 4164 OF OBRA–1990).

(a) REVISION OF INFORMATION ON PART B CLAIMS FORMS.—Section 1833(q)(1) of the Social Security Act (42 U.S.C. 1395l(q)(1)) is amended—

(1) by striking "provider number" and inserting "unique physician identification number"; and

(2) by striking "and indicate whether or not the referring physician is an interested investor (within the meaning of section 1877(h)(5))".

(b) EFFECTIVE DATE OF REPORTING ON PART B CLAIMS FORMS.— Effective as if included in the enactment of section 6204 of the Omnibus Budget Reconciliation Act of 1989, subsection (c) of such section is amended—

(1) in paragraph (1), by striking "paragraph (2)," and inserting "paragraphs (2) and (3),"; and

(2) by adding at the end the following new paragraph:

"(3) The amendment made by subsection (b) shall apply with respect to claims submitted on or after October 1, 1991.".

(c) CONSULTATION FOR SOCIAL WORKERS.—Effective with respect to services furnished on or after January 1, 1991, section 6113(c) of the Omnibus Budget Reconciliation Act of 1989 is amended—

(A) by inserting "and clinical social worker services" after "psychologist services"; and

(B) by striking "psychologist" the second and third place it appears and inserting "psychologist or clinical social worker".

(d) OTHER TECHNICAL AND CONFORMING AMENDMENTS.—

(1) IMMEDIATE ENROLLMENT IN PART B BY INDIVIDUALS COVERED BY AN EMPLOYMENT-BASED PLAN.—(A) Subparagraphs (A) and (B) of section 1837(i)(3) of the Social Security Act (42 U.S.C. 1395p(i)(3)) are each amended—

(i) by striking "beginning with the first day of the first month in which the individual is no longer enrolled" and inserting "including each month during any part of which the individual is enrolled"; and

(ii) by striking "and ending seven months later" and inserting "ending with the last day of the eighth consecutive month in which the individual is at no time so enrolled".

(B) Paragraphs (1) and (2) of section 1838(e) of the Social Security Act (42 U.S.C. 1395q(e)) are amended to read as follows:

"(1) in any month of the special enrollment period in which the individual is at any time enrolled in a plan (specified in subparagraph (A) or (B), as applicable, of section 1837(i)(3)) or in the first month following such a month, the coverage period shall begin on the first day of the month in which the individual so enrolls (or, at the option of the individual, on the first day of any of the following three months), or

"(2) in any other month of the special enrollment period, the coverage period shall begin on the first day of the month following the month in which the individual so enrolls.".

(C) The amendments made by subparagraphs (A) and (B) shall take effect on the first day of the first month that begins after the expiration of the 120-day period that begins on the date of the enactment of this Act.

(2) CLINICAL DIAGNOSTIC LABORATORY TESTS (SECTION 4154 OF OBRA–1990).—Section 4154(e)(5) of OBRA–1990 is amended by striking "(1)(A)" and inserting "(1)(A),".

(3) NURSE PRACTITIONERS IN RURAL AREAS (SECTION 4155 OF OBRA–1990).—

(A) Section 1833(a)(1) of the Social Security Act, as amended by section 4155(b)(2) of OBRA–1990, is amended—

(i) by striking "and" before "(N)", and

(ii) with respect to the matter inserted by section 4155(b)(2)(B) of OBRA–1990—

(I) by striking "(M)" and inserting ", and (O)", and

(II) by transferring and inserting it (as amended) immediately before the semicolon at the end.

(B) Section 1833(r)(1) of the Social Security Act, as added by section 4155(b)(3) of OBRA–1990, is amended—

(i) by striking "ambulatory" each place it appears and inserting "or ambulatory"; and

(ii) by striking "center," and inserting "center".

(C) Section 1861(aa)(3) of the Social Security Act, as amended by section 4155(d) of OBRA–1990, is amended by striking "this Act" and inserting "this title".

(4) SEPARATE PAYMENT UNDER PART B FOR CERTAIN SERVICES (SECTION 4157 OF OBRA–1990).—Section 4157(a) of OBRA–1990 is amended by striking "(a) SERVICES OF" and all that follows through "Section" and inserting "(a) TREATMENT OF SERVICES OF CERTAIN HEALTH PRACTITIONERS.—Section".

(5) CERTIFIED REGISTERED NURSE ANESTHETISTS (SECTION 4160 OF OBRA–1990).—Section 1833(l)(4)(B)(ii)(VII) of the Social Security Act, as inserted by section 4160(3) of OBRA–1990, is amended by striking "1997" and inserting "1996".

(6) COMMUNITY HEALTH CENTERS AND RURAL HEALTH CLINICS (SECTION 4161 OF OBRA–1990).—Section 4161(a)(7)(B) of OBRA–1990 is amended by inserting "and to the Committee on Finance of the Senate" after "Representatives".

(7) SCREENING MAMMOGRAPHY (SECTION 4163 OF OBRA–1990).—

(A) Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended—

(i) in subsection (s)(13), as added by section 4163(a)(1) of OBRA–1990, by striking "subsection (jj)" and inserting "subsection (kk)"; and

(ii) in the subsection (jj) inserted by section 4163(a)(2) of OBRA–1990, by striking "(jj) The term" and inserting "(kk) The term".

(B) Section 1834(c)(1) of the Social Security Act, as added by section 4163(b) of OBRA–1990, is amended in the matter preceding subparagraph (A) by striking "1861(jj)" and inserting "1861(kk)".

(C) Section 4163 of OBRA–1990 is amended—

(i) by adding at the end of subsection (d) the following new paragraph:

"(3) The amendment made by paragraph (2)(A)(iv) shall apply to screening pap smears performed on or after July 1, 1990."; and

(ii) in subsection (e), by striking "The amendments" and inserting "Except as provided in subsection (d)(3), the amendments.".

(8) INJECTABLE DRUGS FOR TREATMENT OF OSTEOPOROSIS.—The section 1861(jj) of the Social Security Act inserted by section 4156(a)(2) of OBRA–1990 is amended—

(A) in the matter preceding paragraph (1), by striking "a bone fracture related to"; and

(B) in paragraph (1), by striking "patient" and inserting "individual has suffered a bone fracture related to post-menopausal osteoporosis and that the individual".

(9) OTHER MISCELLANEOUS AND TECHNICAL CORRECTIONS (SECTION 4164 OF OBRA–1990).—

(A) OWNERSHIP DISCLOSURE REQUIREMENTS.—(i) Section 1124A(a)(2)(A) of the Social Security Act, as inserted by section 4164(b)(1) of OBRA–1990, is amended by striking "of the Social Security Act".

(ii) Section 4164(b)(4) of OBRA–1990 is amended by striking "paragraph" and inserting "paragraphs".

(B) DIRECTORY OF UNIQUE PHYSICIAN IDENTIFIER NUMBERS.—Section 4164(c) of OBRA–1990 is amended by striking "publish" and inserting "publish, and shall periodically update,".

Subtitle C—Provisions Relating to Parts A and B

SEC. 221. PROVISIONS RELATING TO PARTS A AND B (SECTIONS 4201 THROUGH 4207 OF OBRA–1990).

(a) ESRD (Section 4201 of OBRA–1990).—

(1) Section 4201(b)(3) of OBRA–1990 is amended by striking "The Commission" and all that follows through "1993)" and inserting 'Not later than June 1, 1992 (in the case of fiscal year 1993), and not later than March 1 before the beginning of each fiscal year thereafter, the Commission".

(2) Section 1881(b)(1)(C) of the Social Security Act, as inserted by section 4201(d)(2) of OBRA–1990, is amended by striking "1861(s)(2)(Q)" and inserting "1861(s)(2)(P)".

(3) Section 4201(d)(2) of OBRA–1990 is amended by striking "(B) by striking", "(C) by striking", and "(3) by adding" and inserting "(i) by striking", "(ii) by striking", and "(B) by adding", respectively.

(b) Home Dialysis Demonstration Project (Section 4202 of OBRA–1990).—Section 4202 of OBRA–1990 is amended—

(1) in subsection (b)(1)(A), by striking "home hemodialysis staff assistant" and inserting "qualified home hemodialysis staff assistant (as described in subsection (d))"; and

(2) in subsection (c)(1)(E), by striking "(b)(4)" and inserted "(b)(2)".

(c) Extension of Secondary Payor Provisions (Section 4203 of OBRA–1990).—

(1) The sentence in section 1862(b)(1)(C) of the Social Security Act added by section 4203(c)(1)(B) of OBRA–1990 is amended—

(A) by striking "on or before January 1, 1996," and inserting "before January 1, 1996"; and

(B) by striking "clauses (i) and (ii)" and inserting "this subparagraph".

(2) Section 4203(c)(2) of OBRA–1990 is amended—

(A) by striking "the application of clause (iii)" and inserting "the second sentence";

(B) by striking "on individuals" and all that follows through "section 226A of such Act";

(C) in clause (ii), by striking "clause" and inserting "sentence";

(D) in clause (v), by adding "and" at the end; and

(E) in clause (vi)—

(i) by inserting "of such Act" after "1862(b)(1)(C)", and

(ii) by striking the period at the end and inserting the following: ", without regard to the number of employees covered by such plans.".

(3) Section 4203(d) of OBRA–1990 is amended by striking "this subsection" and inserting "this section".

(d) Health Maintenance Organizations (Section 4204 of OBRA–1990).—

(1) Section 4204(b) of OBRA–1990 is amended to read as follows:

"(b) Revisions in the Payment Methodology for Risk Contractors.—(1)(A) The Secretary of Health and Human Services shall revise the payment method for organizations with a risk-sharing contract under section 1876(g) of the Social Security Act for years beginning with 1993.

"(B) In making the revisions required under subparagraph (A) the Secretary shall consider—

"(i) the difference in costs associated with medicare beneficiaries with differing health status and demographic characteristics;

"(ii) the effects of using alternative geographic classifications on the determinations of costs associated with beneficiaries residing in different areas; and

"(iii) the difference in costs associated with medicare beneficiaries 65 years of age or older for whom medicare is the secondary payor under section 1862(b)(1)(A) of the Social Security Act and beneficiaries for whom medicare is the primary payor.

"(2) Not later than March 1, 1992, the Secretary shall cause to have published in the Federal Register a proposed rule describing the proposed revisions in the payment methodology.

"(3) Not later than May 1, 1992, the Comptroller General shall review the proposal made pursuant to paragraph (1), and shall report to Congress on the appropriateness of the proposed modifications.

"(4) Taking into account the recommendations in the report made pursuant to paragraph (3), on or after August 1992, the Secretary shall issue a final rule implementing the revised payment methodology, effective for contract years beginning on or after January 1, 1993.".

(2) Section 1876(a)(3) of the Social Security Act (42 U.S.C. 1395mm(a)(3)) is amended by striking "subsection (c)(7)" and inserting "subsections (c)(2)(B)(ii) and (c)(7)".

(3) Section 4204(c)(3) of OBRA–1990 is amended by striking "for 1991" and inserting "for years beginning with 1991".

(4) Section 4204(d)(2) of OBRA–1990 is amended by striking "amendment" and inserting "amendments".

(5) Section 1876(a)(1)(E)(ii)(I) of the Social Security Act, as added by section 4204(e)(1)(B) of OBRA–1990, is amended by striking the comma after "contributed to".

(6) Section 4204(e)(2) of OBRA–1990 is amended by striking "(which has a risk-sharing contract under section 1876 of the Social Security Act)".

(7) Section 4204(f)(4) of OBRA–1990 is amended by striking "final".

(8) Section 1862(b)(3)(C) of the Social Security Act, as added by section 4204(g)(1) of OBRA–1990, is amended—

(A) in the heading, by striking "PLAN" and inserting "PLAN OR A LARGE GROUP HEALTH PLAN;

(B) by striking "group health plan" and inserting "group health plan or a large group health plan";

(C) by striking ", unless such incentive is also offered to all individuals who are eligible for coverage under the plan"; and

(D) by striking "the first sentence of subsection (a) and other than subsection (b)" and inserting "subsections (a) and (b)".

(e) Peer Review Organizations (Section 4205 of OBRA–1990).—

(1) The third sentence of section 1156(b)(1) of the Social Security Act, as inserted by section 4205(a)(1)(B) of OBRA–1990, is amended by striking "whehter" and inserting "whether".

(2) Section 1154(a)(9)(B) of the Social Security Act, as added by section 4205(d)(1)(A)(ii) of OBRA–1990, is amended to read as follows:

"(B) The organization shall notify the State board or boards responsible for the licensing or disciplining of any physician when the organization submits a report and recommendations to the Secretary with respect to such physician under section 1156(b)(1).".

(3) Section 4205(d)(2)(B) of OBRA–1990 is amended by striking "amendments" and inserting "amendment".

(4) Section 1160(d) of the Social Security Act (as added by section 4205(e)(1) of OBRA–1990) is amended by striking "subpena" and inserting "subpoena".

(5) Section 4205(e)(2) of OBRA–1990 is amended by striking "amendments" and inserting "amendment" and by striking "all".

(f) Other Miscellaneous and Technical Provisions.—

(1) The section following section 4206 of OBRA–1990 is amended by striking "SEC. 4027." and inserting "SEC. 4207.", and in this paragraph is referred to as section 4207 of OBRA–1990.

(2) Section 4207(a)(1) of OBRA–1990 is amended by adding closing quotation marks and a period after "such review.".

(3) Section 4207(a)(4) of OBRA–1990 is amended by striking "this subsection" and inserting "paragraphs (2) and (3)".

(4) Section 4207(b)(1) of OBRA–1990 is amended by striking "section 3(7)" and inserting "section 601(a)(1)".

(5) Section 2355(b)(1)(B) of the Deficit Reduction Act of 1984, as amended by section 4207(b)(4)(B)(ii) of OBRA–1990, is amended—

(A) by striking "12907(c)(4)(A)" and inserting "4207(b)(4)(B)(i)", and

(B) by striking "feasibilitiy" and inserting "feasibility".

(6) Section 4207(b)(4)(B)(iii)(III) of OBRA–1990 is amended by striking the period at the end and inserting a semicolon.

(7) Subsections (c)(3) and (e) of section 2355 of the Deficit Reduction Act of 1984, as amended by section 4207(b)(4)(B) of OBRA–1990, are each amended by striking "12907(c)(4)(A)" each place it appears and inserting "4207(b)(4)(B)".

(8) Section 4207(c)(2) of OBRA–1990 is amended by striking "the Committee on Ways and Means" each place it appears and inserting "the Committees on Ways and Means and Energy and Commerce".

(9) Section 4207(d) of OBRA–1990 is amended by redesignating the second paragraph (3) (relating to effective date) as paragraph (4).

(10) Section 4207(i)(2) of OBRA–1990 is amended—

(A) by striking the period at the end of clause (iii) and inserting a semicolon, and

(B) in clause (v), by striking "residents" and inserting "patients".

(11) Section 4207(j) of OBRA–1990 is amended by striking "title" each place it appears and inserting "subtitle".

Subtitle D—Medicare Supplemental Insurance Policies

SEC. 231. CORRECTIONS RELATING TO MEDICARE SUPPLEMENTAL INSURANCE POLICIES (SECTIONS 4351 THROUGH 4361 OF OBRA-1990).

(a) Simplification of Medicare Supplemental Policies (Section 4351 of OBRA-1990).—

(1) Section 4351 of OBRA-1990 is amended by striking "(a) In General.—".

(2) Section 1882(p) of the Social Security Act, as added by section 4351 of OBRA-1990, is amended—

(A) in paragraph (1)(A)—

(i) by striking "promulgates" and inserting "changes the revised NAIC Model Regulation (described in subsection (m)) to incorporate",

(ii) by striking "(such limitations, language, definitions, format, and standards referred to collectively in this subsection as 'NAIC standards')" and inserting "and to delete from section 12C the matter beginning with 'unless' ", and

(iii) by striking "included a reference to the NAIC standards" and inserting "were a reference to the revised NAIC Model Regulation as changed under this subparagraph (such changed regulation referred to in this section as the '1991 NAIC Model Regulation')";

(B) in paragraph (1)(B)—

(i) by striking "promulgate NAIC standards" and inserting "make the changes in the revised NAIC Model Regulation",

(ii) by striking "limitations, language, definitions, format, and standards described in clauses (i) through (iv) of such subparagraph (in this subsection referred to collectively as 'Federal standards')" and inserting "a regulation", and

(iii) by striking "included a reference to the Federal standards" and inserting "were a reference to the revised NAIC Model Regulation as changed by the Secretary under this subparagraph (such changed regulation referred to in this section as the '1991 Federal Regulation')";

(C) in paragraph (1)(C)(i), by striking "NAIC standards or the Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation";

(D) in paragraphs (1)(C)(ii)(I), (1)(E), (2), and (9)(B), by striking "NAIC or Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation";

(E) in paragraph (2)(C), by striking "(5)(B)" and inserting "(4)(B)";

(F) in paragraph (4)(A)(i), by inserting "or paragraph (6)" after "(B)";

(G) in paragraph (4), by striking "applicable standards" each place it appears and inserting "applicable 1991 NAIC Model Regulation or 1991 Federal Regulation";

(H) in paragraph (6), by striking "in regard to the limitation of benefits described in paragraph (4)" and inserting "described in clauses (i) through (iii) of paragraph (1)(A)";

(I) in paragraph (7), by striking "policyholder" and inserting "policyholders;

(J) in paragraph (8), by striking "after the effective date of the NAIC or Federal standards with respect to the policy, in violation of the previous requirements of this subsection" and inserting "on and after the effective date specified in paragraph (1)(C) (but subject to paragraph (10)), in violation of the applicable 1991 NAIC Model Regulation or 1991 Federal Regulation insofar as such regulation relates to the requirements of subsection (o) or (q) or clause (i), (ii), or (iii) of paragraph (1)(A)";

(K) in paragraph (9), by adding at the end the following new subparagraph:

"(D) Subject to paragraph (10), this paragraph shall apply to sales of policies occurring on or after the effective date specified in paragraph (1)(C)."; and

(L) in paragraph (10), by striking "this subsection" and inserting "paragraph (1)(A)(i)" and by adding at the end the following: "The Secretary shall publish in the Federal Register such list by not later than 90 days after the date the Association promulgates the 1991 NAIC Model Regulation or the Secretary promulgates the 1991 Federal Regulation.".

(b) Guaranteed Renewability (Section 4352 of OBRA-1990).—Section 1882(q) of the Social Security Act, as added by section 4352 of OBRA-1990, is amended—

(1) in paragraph (2), by striking "paragraph (2)" and inserting "paragraph (4)", and

(2) in paragraph (4), by striking "the succeeding issuer" and inserting "issuer of the replacement policy".

(c) Enforcement of Standards (Section 4353 of OBRA-1990).—

(1) Section 1882(a)(2) of the Social Security Act, as added by section 4353(a)(2)(B) of OBRA-1990, is amended—

(A) in subparagraph (A), by striking "NAIC standards or the Federal standards" and inserting "1991 NAIC Model Regulation or 1991 Federal Regulation", and

(B) by striking "after the effective date of the NAIC or Federal standards with respect to the policy" and inserting "on and after the effective date specified in subsection (p)(1)(C)".

(2) The sentence in section 1882(b)(1) of the Social Security Act added by section 4353(c)(4) of OBRA-1990 is amended—

(A) by striking "The report" and inserting "Each report",

(B) by inserting "and requirements" after "standards",

(C) by striking "and" after "compliance,", and

(D) by striking the comma after "Commissioners".

(3) Section 4353(d)(2) of OBRA-1990 is amended by striking "July 1, 1991" and inserting "the date specified in section 1882(p)(1)(C) of the Social Security Act".

(4) Section 1882(g)(2)(B) of the Social Security Act is amended by striking "Panel" and inserting "Secretary".

(d) Preventing Duplication (Section 4354 of OBRA-1990).—

(1) Section 1882(d)(3)(A) of the Social Security Act, as amended by section 4354(a)(1) of OBRA-1990, is amended—

(A) by inserting, in the next to last sentence, "with respect to the sale of a medicare supplemental policy" after "violate the previous sentence, and

(B) by striking the last sentence.

(2) Section 1882(d)(3)(B) of the Social Security Act, as amended by section 4354(a)(2) of OBRA-1990, is amended—

(A) in clause (i)(I), by striking "subclause (II)" and inserting "clause (ii)",

(B) in clause (iii)(I), by striking "another medicare" and inserting "a medicare",

(C) in clause (iii)(I), by striking "such a policy" and inserting "a medicare supplemental policy",

(D) in clause (iii)(II), by striking "another policy" and inserting "a medicare supplemental policy", and

(E) by amending subclause (III) of clause (iii) to read as follows:

"(III) If the statement required by clause (i) is obtained and indicates that the individual is entitled to any medical assistance under title XIX, the sale of the policy is not in violation of clause (i) (insofar as such clause relates to such medical assistance), if a State medicaid plan under such title pays the premiums for the policy, or, in the case of a qualified medicare beneficiary described in section 1905(p)(1), if the State pays less than the individual's full liability for medicare cost-sharing (as defined in section 1905(p)(3)).".

(3) Subparagraphs (A) and (B) of section 1882(q)(5)(A) of the Social Security Act, as added by section 4354(b) of OBRA-1990, is amended by striking "of the Social Security Act".

(4) The second subsection (b) of section 4354 of OBRA-1990 (relating to effective date) is amended—

(A) by redesignating such subsection as subsection (c),

(B) by striking "Date" and inserting "Dates",

(C) by striking "by this section" and inserting "by subparagraphs (A) through (E) of subsection (a)(1)", and

(D) by inserting before the period at the end the following: "and the amendments made by the other provisions of this section shall take effect on the effective date specified in section 1882(p)(1)(C) of the Social Security Act".

(e) Loss Ratios and Refunds of Premiums (Section 4355 of OBRA-1990).—

(1) Section 1882(r) of the Social Security Act, as added by section 4355(a)(3) of OBRA-1990, is amended—

(A) in paragraph (1), by striking "or sold" and inserting "or renewed",

(B) in paragraph (1)(A), by striking "Commissioners," and inserting "Commissioners)",

(C) in the first sentence of paragraph (2)(A), by striking "(1)(B)" and inserting "(1)",

(D) in paragraph (4), by striking "disllowance", "loss-ratios", and "loss-ratio" and inserting "disallowance", "loss ratios", and "loss ratio", respectively, and

(E) in paragraph (6)(A), by inserting "or renews" after "issues".

(2) Section 1882(b)(1) of the Social Security Act is amended by transferring and inserting the subparagraph (G) added by section 4355(c)(3) of OBRA-1990 immediately after the subparagraph (F) added by section 4353(c)(3) of that Act.

(3) Section 4355(d) of OBRA-1990 is amended by striking "sold or issued" and all that follows and inserting "issued or renewed on or after the date specified in section 1882(p)(1)(C) of the Social Security Act.".

(f) Treatment of HMO's (Section 4356 of OBRA-1990).—

(1) Section 1882(g)(1) of the Social Security Act, as amended by section 4356(a) of OBRA-1990, is amended by striking "a health maintenance organization or other direct service organization" and all that follows through "1833" and inserting "an eligible organization (as defined in section 1876(b)) if the policy or plan provides benefits pursuant to a contract under section 1876 or, during the 1-year period beginning on the date specified in subsection (p)(1)(C), a policy or plan of an organization if the policy or plan provides benefits pursuant to an agreement under section 1833(a)(1)(A)".

(2) Section 4356(b) of OBRA-1990 is amended by striking "on the date of the enactment of this Act" and inserting "on the date specified in section 1882(p)(1)(C) of the Social Security Act".

(g) Pre-existing Condition Limitations (Section 4357 of OBRA-1990).—

(1) Section 1882(s) of the Social Security Act, as added by section 4357(a)(2) of OBRA-1990, is amended—

(A) in paragraph (2)(A), by striking "for which an application is submitted" and inserting "in the case of an individual if an application was submitted", and

(B) in paragraph (2)(B), by striking "before it" and inserting "before the policy".

(2) Section 4357(b) of OBRA–1990 is amended by striking "1 year after the date of the enactment of this Act" and inserting "on the date specified in section 1882(p)(1)(C) of the Social Security Act, except that section 1882(s)(1) of such Act shall take effect on December 13, 1990".

(h) MEDICARE SELECT POLICIES (SECTION 4358 OF OBRA–1990).—

(1) Section 1882(t) of the Social Security Act, as added by section 4358(a) of OBRA-1990, is amended—

(A) in paragraph (1), by inserting "medicare supplemental" after "If a",

(B) in paragraph (1), by striking "NAIC Model Standards" and inserting "1991 NAIC Model Regulation or 1991 Federal regulation",

(C) in paragraph (1)(A), by inserting "or agreements" after "contracts",

(D) in subparagraphs (E)(i) and (F) of paragraph (1), by striking "NAIC standards" and inserting "standards in the 1991 NAIC Model Regulation or 1991 Federal Regulation",

(E) in paragraph (2), by inserting "the issuer" before "is subject to a civil money penalty", and

(F) in paragraph (3), by striking "certified" and inserting "approved".

(2) Section 1154(a)(4)(B) of the Social Security Act, as amended by section 4358(b)(3) of OBRA–1990, is amended—

(A) by inserting "that is" after "(or", and

(B) by striking "1882(t)" and inserting "1882(t)(3)".

(i) HEALTH INSURANCE COUNSELING (SECTION 4360 OF OBRA–1990).—Section 4360 of OBRA-1990 is amended—

(1) in subsection (b)(2)(A)(ii), by striking "Act" and inserting "Act)";

(2) in subsection (b)(2)(D), by striking "services" and inserting "counseling";

(3) in subsection (b)(2)(I), by striking "assistance" and inserting "referrals";

(4) in subsection (c)(1), by striking "and that such activities will continue to be maintained at such level";

(5) in subsection (d)(3), by striking "to the rural areas" and inserting "eligible individuals residing in rural areas";

(6) in subsection (e)—

(A) by striking "subsection (c) or (d)" and inserting "this section",

(B) by striking "and annually thereafter, issue an annual report" and inserting "and annually thereafter during the period of the grant, issue a report",

(C) in paragraph (1), by striking "Statewide",

(D) in subsection (f), by striking paragraph (2) and by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(7) by redesignating the second subsection (f) (relating to authorization of appropriations for grants) as subsection (g).

(j) TELEPHONE INFORMATION SYSTEM (SECTION 4361 OF OBRA–1990).—

(1) Section 1804 of the Social Security Act is amended—

(A) by adding at the end of the heading the following: "; MEDICARE AND MEDIGAP INFORMATION",

(B) by inserting "(a)" after "1804.", and

(C) by adding at the end the following new subsection:

"(b) The Secretary shall provide information via a toll-free telephone number on the programs under this title.".

(2) Section 1882(f) of the Social Security Act is amended by adding at the end the following new paragraph:

"(3) The Secretary shall provide information via a toll-free telephone number on medicare supplemental policies (including the relationship of State programs under title XIX to such policies).".

(3) Section 1889 of the Social Security Act, as inserted by section 4361(a) of OBRA–1990, is repealed.

TITLE III—CORRECTIONS RELATING TO SOCIAL SECURITY, INCOME SECURITY AND HUMAN RESOURCES, AND TARIFF AND CUSTOMS

Subtitle A—Social Security

SEC. 301. TECHNICAL CORRECTIONS RELATED TO OASDI IN THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.

(a) AMENDMENTS RELATED TO PROVISIONS IN SECTION 5103(b) RELATING TO DISABLED WIDOWS.—Section 223(f)(2) of the Social Security Act (42 U.S.C. 423(f)(2)) is amended—

(1) in subparagraph (A), by striking "(in a case to which clause (ii)(II) does not apply)"; and

(2) by striking subparagraph (B)(ii) and inserting the following:

"(ii) the individual is now able to engage in substantial gainful activity; or".

(b) AMENDMENTS RELATED TO PROVISIONS IN SECTION 5105(d) RELATING TO REPRESENTATIVE PAYEES.—Section 5105(d)(1)(A) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) is amended—

(1) by striking "Section 205(j)(5)" and inserting "Section 205(j)(6)"; and

(2) by redesignating the paragraph (5) as amended thereby as paragraph (6).

(c) AMENDMENT RELATED TO PROVISIONS IN SECTION 5115 RELATING TO ADVANCE TAX TRANSFERS.—Section 201(a) of the Social Security Act (42 U.S.C. 401(a)) is amended in the last sentence by striking "and" the second place it appears.

(d) EFFECTIVE DATE.—Each amendment made by this section shall take effect as if included in the provisions of the Omnibus Budget Reconciliation Act of 1990 to which such amendment relates.

Subtitle B—Income Security and Human Resources

SEC. 311. REPEAL OF PROVISION INADVERTENTLY INCLUDED IN THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.

Section 5057 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), and the amendment made by such section, are hereby repealed, and section 1139(d) of the Social Security Act shall be applied and administered as if such section 5057 had never been enacted.

SEC. 312. CORRECTIONS RELATED TO THE INCOME SECURITY AND HUMAN RESOURCES PROVISIONS OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.

(a) AMENDMENT RELATED TO SECTION 5035(a)(2).—Section 5035(a)(2) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) is amended by striking "a semicolon" and inserting " '; and' ".

(b) AMENDMENTS RELATED TO SECTION 5105(d)(1)(B).—Section 5105(d)(1)(B) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) is amended—

(1) by striking "Section 1631(a)(2)(E)" and inserting "Section 1631(a)(2)(F)"; and

(2) by redesignating the subparagraph (E) as amended thereby as subparagraph (F).

(c) AMENDMENT RELATED TO SECTION 5105(a)(1)(B).—The second paragraph of section 1631(a) of the Social Security Act (42 U.S.C. 1383(a)) is amended by striking "(A)(i) Payments" and inserting "(2)(A)(i) Payments".

(d) AMENDMENTS RELATED TO SECTION 5105(b).—Section 1631(a)(2)(C) of the Social Security Act (42 U.S.C. 1383(a)(2)(C)) is amended—

(1) by striking clause (ii);

(2) by redesignating clauses (iii), (iv), and (v) as clauses (ii), (iii), and (iv), respectively; and

(3) in clause (iv) (as so redesignated), by striking "(iii), and (iv)" and inserting "and (iii)".

(e) AMENDMENTS RELATED TO SECTION 5107(a)(2)(B).—Section 1631(c)(1)(B) of the Social Security Act (42 U.S.C. 1383(c)(1)(B)) is amended by striking "paragraph (1)" each place such term appears and inserting "subparagraph (A)".

(f) AMENDMENT RELATED TO SECTION 5109(a)(2).—Section 1631 of the Social Security Act (42 U.S.C. 1383) is amended by redesignating the subsection (n) added by section 5109(a)(2) of the Omnibus Budget Reconciliation Act of 1990, as subsection (o).

(g) AMENDMENTS RELATED TO SECTION 11115(b)(2).—Section 11115(b)(2) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) is amended—

(1) in subparagraph (A), by striking "paragraph (8)" and inserting "paragraph (9)";

(2) in subparagraph (B), by striking "paragraph (9)" and inserting "paragraph (10)"; and

(3) in subparagraph (C), by redesignating the new paragraph added thereby as paragraph (11).

(h) EFFECTIVE DATE.—Each amendment made by this section shall take effect as if included in the provision of the Omnibus Budget Reconciliation Act of 1990 to which the amendment relates at the time such provision became law.

SEC. 313. CORRECTION RELATED TO SECTION 8006 OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1989.

(a) CORRECTION.—Section 473(a)(6)(B) of the Social Security Act (42 U.S.C. 673(a)(6)(B)) is amended by striking "474(a)(3)(B)" and inserting "474(a)(3)(C)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall take effect as if included in section 8006 of the Omnibus Budget Reconciliation Act of 1989 at the time such section 8006 became law.

SEC. 314. AMENDMENT RELATED TO SECTION 13101(d)(2) OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1990.

(a) IN GENERAL.—Section 256(k)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) by striking "—" the second place it appears and all that follows through "(I)"; and

(2) by striking "; or" and all that follows through "(II)" and inserting ", except that a State may not be allotted an amount under this subparagraph that exceeds".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) of this section shall take effect as if included in section 13101(d)(2) of the Omnibus Budget Reconciliation Act of 1990 at the time such section 13101(d)(2) became law.

Subtitle C—Tariff and Customs

SEC. 321. TECHNICAL AMENDMENTS TO THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES.

(a) IN GENERAL.—The Harmonized Tariff Schedule of the United States is amended as follows:

(1) REMOVAL OF GDR FROM COLUMN 2 RATE LIST.—General Note 3(b) is amended by striking "German Democratic Republic".

(2) TAPESTRY AND UPHOLSTERY FABRICS.—The article description for subheading 5112.19.20 is amended by striking "of a weight exceeding 300 g/m^{2}".

(3) GLOVES.—

(A) Chapter 61 is amended by redesignating subheading 6116.10.45 as subheading 6116.10.48.

(B) Chapter 62 is amended by striking the superior text "Other:" that appears between subheadings 6216.00.46 and 6216.00.52.

(4) AGGLOMERATE STONE FLOOR AND WALL TILES.—The article description for subheading 6810.19.12 is amended to read as follows: "Of stone agglomerated with binders other than cement".

(5) 2,4-DIAMINOBENZENESULFONIC ACID.—The article description for heading 9902.30.43 is amended by striking "2921.51.50" and inserting "2921.59.50".

(6) MACHINES USED IN THE MANUFACTURE OF BICYCLE PARTS.—The article description for heading 9902.84.79 is amended by striking "8479.89.90" and inserting "8462.49.00, 8479.89.90 or 9031.80.00".

(7) COPYING MACHINES AND PARTS.—The article description for heading 9902.90.90 is amended by inserting "or 8473.40.40" after "8472.90.80".

(b) STAGED RATE REDUCTIONS FOR GLOVES.—Any staged reduction of a special rate of duty set forth in subheading 6116.10.45 of such Schedule that takes effect on or after October 1, 1990, by reason of section 10011(a)(2) of Omnibus Budget Reconciliation Act of 1990 shall apply to the corresponding rate of duty in subheading 6116.10.48 (as redesignated by subsection (a)(3)(A)).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

(2) RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.—

(A) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer on or before the 90th day after the date of the enactment of this Act, any entry—

(i) that was made after the applicable date and before the 15th day after such date of enactment; and

(ii) with respect to which there would have been a lesser or no duty if any amendment made by subsection (a) applied to such entry;

shall be liquidated or reliquidated as though such amendment applied to such entry.

(B) For purposes of this subsection, the term "applicable date" means—

(i) if such amendment is made by subsection (a)(4) or (a)(7), December 31, 1988; and

(ii) if such amendment is made by subsection (a)(2), (a)(3), (a)(5), (a)(6), September 30, 1990.

SEC. 322. CLARIFICATION REGARDING THE APPLICATION OF CUSTOMS USER FEES.

(a) IN GENERAL.—Subparagraph (D) of section 13031(b)(8) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(8)(D)) is amended—

(1) by striking out "and" at the end of clause (iv);

(2) by striking out the period at the end of clause (v) and inserting "; and"; and

(3) by inserting after clause (v) the following new clause:

"(vi) in the case of merchandise entered from a foreign trade zone (other than merchandise to which clause (v) applies), be applied only to the value of the merchandise subject to duty under section 3 of the Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act, 19 U.S.C. 81c)."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to—

(1) any entry made from a foreign trade zone on or after the 15th day after the date of the enactment of this Act; and

(2) any entry made from a foreign trade zone after November 30, 1986, and before such 15th day if the entry was not liquidated before such 15th day.

SEC. 323. TECHNICAL AMENDMENTS TO THE OMNIBUS TRADE AND COMPETITIVENESS ACT OF 1988.

(a) IN GENERAL.—Paragraph (2) of section 1102(a) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2902(a)(2)) is amended—

(1) in subparagraph (A)—

(A) by striking "the date of enactment of this Act" and inserting "January 1, 1989"; and

(B) by striking "such date of enactment" and inserting "January 1, 1989"; and

(2) in subparagraph (B), by striking "such date of enactment" and inserting "January 1, 1989".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect January 1, 1989.

(c) CONSTRUCTION.—For purposes of applying the amendments made by subsection (a), the column 1-general rate of duty established by any amendment to the Harmonized Tariff Schedule of the United States that was enacted after January 1, 1989, shall, if—

(1) such amendment has, or is statutorily treated as having, an effective date of January 1, 1989; or

(2) application for liquidation or reliquidation at such rate with respect to entries made after December 31, 1988, and before the effective date of the amendment, is provided for;

be treated as the rate in effect on January 1, 1989.

SEC. 324. TECHNICAL AMENDMENT TO THE CUSTOMS AND TRADE ACT OF 1990.

Subsection (b) of section 484H of the Customs and Trade Act of 1990 (19 U.S.C. 1553 note) is amended by striking ", or withdrawn from warehouse for consumption," and inserting "for transportation in bond".

TITLE I. TAX TECHNICAL CORRECTIONS

I. TECHNICAL CORRECTIONS TO THE REVENUE RECONCILIATION ACTION OF 1990

A. Individual Income Tax Provisions

1. Minimum tax rate on certain nonresident aliens (sec. 102(a)(2) of the bill, sec. 11102 of the 1990 Act, and sec. 897 of the Code)

Present Law

The Revenue Reconciliation Act of 1990 (the "1990 Act") increased the alternative minimum tax rate on individuals from 21 percent to 24 percent.

Explanation of Provision

The bill conforms the rate of the minimum tax on the U.S. real property gains of nonresident aliens to the 24 percent minimum tax rate enacted in the 1990 Act.

2. Tax rate of personal holding companies (sec. 102(a)(4) of the bill, sec. 11101 of the 1990 Act, and sec. 541 of the Code)

Present Law

A corporation that is treated as a personal holding company is subject, in addition to the regular corporate tax, to a 28-percent tax on its undistributed personal holding company income for the taxable year. The present-law rate of 28 percent was set by the Tax Reform Act of 1986.[1] This rate reflected the maximum rate of tax on individuals in that Act.

The 1990 Act increased the maximum rate of tax on individuals from 28 percent to 31 percent effective for taxable years beginning after December 31, 1990.

Explanation of Provision

The bill provides that the increase in the individual maximum tax rate to 31 percent also applies to the personal holding company tax rate, effective for taxable years beginning after December 31, 1990.

3. Definition of AGI for the earned income credit and the supplemental earned income tax credit for health insurance premiums (sec. 102(a)(5) of the bill, sec. 11111 of the 1990 Act, and sec. 32 of the Code)

Present Law

Under present law, a supplemental earned income tax credit (EITC) is available to certain taxpayers for qualified health insurance expenses. Qualified health insurance expenses for which the credit is available are amounts paid during the taxable year for health insurance coverage that includes one or more qualifying children. These expenses include only those expenses relating to the cost of coverage (i.e., premium cost) paid with after-tax dollars. The maximum credit is $428 in 1991. The credit is phased out as adjusted gross income (AGI) (or earned income, if greater) exceeds $11,250 in 1991. Earned income amounts taken into account in computing the maximum credit and the beginning point of the phase-out range are indexed for inflation.

The calculation of this supplemental child health insurance credit is generally the same as the calculation of the basic EITC. Thus, the same eligibility criteria and income phase-in and phase-out requirements apply. There is no family size adjustment with respect to the health insurance credit.

Present law provides that the amount of expenses taken into account in determining the deduction for health insurance costs of self-employed individuals (sec. 162(l)) is reduced by the amount (if any) of the supplemental child health insurance credit allowable to the taxpayer (sec. 162(l)(3)(B)). This so-called "double-dip" provision creates a calculation problem because the amount of the EITC, the supplemental young child credit, and the child health insurance credit cannot be determined until AGI is determined; however, AGI is determined with reference to the deduction for health insurance costs of self-employed individuals. Thus, the operation of the double-dip provision creates a circularity that increases the complexity of the child health credit.

Explanation of Provision

Under the bill, for purposes of the EITC, the supplemental young child credit, and the supplemental child health insurance credit, AGI is calculated assuming that the taxpayer is entitled to the full deduction for health insurance costs under section 162(l). Then after the maximum child health credit is determined, the double-dip rule (sec. 162(l)(3)(B)) operates as it does under present law.

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[1] See P.L. 99-514, sec. 104(b)(8).

B. Excise Tax Provisions

1. Application of the 2.5-cents-per-gallon tax on fuel used in rail transportation to the States and local governments (sec. 102(b)(3) of the bill, sec. 11211(b)(4) of the 1990 Act, and sec. 4093 of the Code)

Present Law

The 1990 Act increased the highway and motorboat fuels taxes by 5 cents per gallon, effective on December 1, 1990. The 1990 Act continued to the exemption from these taxes for fuels used by States and local governments.

The 1990 Act also imposed a 2.5-cents-per-gallon tax on fuel used in tail transportation, also effective on December 1, 1990. Because of a drafting error in the 1990 Act, the 2.5-cents-per-gallon tax on fuel used in rail transportation incorrectly applies to States and local governments.

Explanation of Provision

The bill clarifies that the 2.5-cents-per-gallon tax on fuel used in rail transportation will not apply to such uses by States and local governments.

2. Deposit of certain aviation tax revenues in Airport and Airway Trust Fund (sec. 102(b)(5) of the bill, sec. 11213 of the 1990 Act, and sec. 9502(e)(1) of the Code)

Present Law

The 1990 Act increased the aviation excise tax rates (except for the international air departure tax rate) by 25 percent, and extended those taxes for five years, effective December 1, 1990, through December 31, 1995. From December 1, 1990 through 1992, the statement of managers on the 1990 Act indicated that the revenues attributable to the increased portion of the aviation taxes were to be retained in the General Fund; these revenues will be deposited in the Airport and Airway Trust Fund for 1993 through 1995. The statute as enacted in the 1990 Act omitted this agreement with respect to the taxes other than those imposed on aviation fuels (i.e., the revenues attributable to the increase in the air passenger ticket tax and the air cargo tax).

Explanation of Provision

The bill clarifies that revenues from all aviation excise taxes attributable to the increased rates imposed by the 1990 Act on taxable events during periods before January 1, 1993, will be retained in the General Fund. The amendment does not affect revenues attributable to the tax rates imposed before enactment of the 1990 Act and extended by that Act.

C. Other Revenue-Increase Provisions of the 1990 Act

1. Deposits of Railroad Retirement Tax Act taxes (sec. 102(c)(3) of the bill, sec. 11334 of the 1990 Act, and sec. 6302(g) of the Code)

Present Law

Employers must deposit income taxes withheld from employees' wages and FICA taxes that are equal to or greater than $100,000 by the close of the next banking day. Under the Railroad Retirement Solvency Act of 1983, the deposit rules for withheld income taxes and FICA taxes automatically apply to Railroad Retirement Tax Act taxes (sec 226 of P.L. 98–76).

Explanation of Provision

The bill conforms the Internal Revenue Code to the Railroad Retirement Solvency Act of 1983 by stating in the Code that these deposit rules for withheld income taxes and FICA taxes apply to Railroad Retirement Tax Act taxes.

2. Treatment of salvage and subrogation of property and casualty insurance companies (sec. 102(c)(4) of the bill and sec. 11305 of the 1990 Act)

Present Law

For taxable years beginning after December 31, 1989, property and casualty insurance companies are required to reduce the deduction allowed for losses incurred (both paid and unpaid) by estimated recoveries of salvage and subrogation attributable to such losses. In the case of any property and casualty insurance company that took into account estimated salvage and subrogation recoverable in determining losses incurred for its last taxable year beginning before January 1, 1990, 87 percent of the discounted amount of the estimated salvage and subrogation recoverable as of the close of the last taxable year beginning before January 1, 1990, is allowed as a deduction ratably over the first 4 taxable years beginning after December 31, 1989. This special deduction was enacted in order to provide such property and casualty insurance companies with substantially the same Federal income tax treatment as that provided to those property and casualty insurance companies that prior to the Revenue Reconciliation Act of 1990 did not take into account estimated salvage and subrogation recoverable in determining losses incurred.

Explanation of Provision

The bill provides that the earnings and profits of any property and casualty insurance company that took into account estimated salvage and subrogation recoverable in determining losses incurred for its last taxable year beginning before January 1, 1990, is to be determined without regard to the special deduction that is allowed over the first 4 taxable years beginning after December 31, 1989. The special deduction is to be taken into account, however, in determining earnings and profits for purposes of applying sections 56, 902, 952(c)(1) and 960 of the Internal Revenue Code of 1986. This provision is considered necessary in order to provide those property and casualty insureace companies that took into account estimated salvage and subrogation recoverable in determining losses incurred with substantially the same Federal income tax treatment as that provided to those property and casualty insurance companies that prior to the 1990 Act did not take into account estimated salvage and subrogation recoverable in determining losses incurred.

3. Information with respect to certain foreign-owned or foreign corporations: Suspension of the statute of limitations during certain judicial proceedings (sec. 102(c)(5) of the bill, secs. 11314 and 11315 of the 1990 Act, and secs. 6038A and 6038C of the Code)

Present Law

Any domestic corporation that is 25-percent owned by one foreign person is subject to certain information reporting and recordkeeping requirements with respect to transactions carried out directly or indirectly with certain foreign persons treated as related to the domestic corporation ("reportable transactions") (sec. 6038A(a)). In addition, the Code provides procedures whereby an IRS examination request or summons with respect to reportable transactions can be served on foreign related persons through the domestic corporation (sec. 6038A(e)). Similar provisions apply to any foreign corporation engaged in a trade or business within the United States, with respect to information, records, examination requests, and summonses pertaining to the computation of its liability for tax in the United States (sec. 6038C). Certain noncompliance rules may be applied by the Internal Revenue Service in the case of the failure by a domestic corporation to comply with a summons pertaining to a reportable transaction (a "6038A summons") (sec. 6038A(e)), or the failure by a foreign corporation engaged in a U.S. trade or business to comply with a summons issued for purposes of determining the foreign corporation's liability for tax in the United States (a "6038C summons") (sec. 6038C(d)).

Any corporation that is subject to the provisions of section 6038A or 6038C has the right to petition a Federal district court to quash a 6038A or 6038C summons, or to review a determination by the IRS that the corporation did not substantially comply in a timely manner with the 6038A or 6038C summons (sec. 6038A(3)(4) (A) and (B); sec. 6038C(d)(4)). During the period that either such judicial proceeding is pending (including appeals), and for up to 90 days thereafter, the statute of limitations is suspended with respect to any transaction (or item, in the case of a foreign corporation) to which the summons relates (secs. 6038A(e)(4)(D), 6038C(d)(4)).

The legislative history of the 1989 Act amendments to section 6038A states that the suspension of the statute of limitations applies to "the taxable year(s) at issue."[2] The legislative history of the 1990 Act, which added section 6038C to the Code, uses the same language.[3]

Explanation of Provision

The bill modifies the provisions in sections 6038A and 6038C that suspend the statute of limitations to clarify that the suspension applies to any taxable year the determination of the amount of tax imposed for which is affected by the transaction or item to which the summons relates.

4. Rates of interest for large corporate underpayments (secs. 102(c)(6) and (7) of the bill, sec. 1341 of the 1990 Act, and sec. 6621(c) of the Code)

Present Law

The rate of interest otherwise applicable to underpayments of tax is increased by two percent in the case of large corporate underpayments (generally defined to exceed $100,000), applicable to periods after the 30th day following the earlier of a notice of proposed deficiency, the furnishing of a statutory notice of deficiency, or an assessment notice issued in connection with a nondeficiency procedure.

Explanation of Provision

The bill provides that an IRS notice that is later withdrawn because it was issued in error does not trigger the higher rate of interest. The bill also corrects an incorrect reference to "this subtitle".

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[2] H.R. Rep. No. 247, 101st Cong., 1st Sess. 1301 (1989); "Explanation of Provisions Approved by the Committee on October 3, 1989," Senate Finance Committee Print (WMCP: 101–37), 101st Cong., 1st Sess. 118 (October 12, 1989).

[3] "Legislative History of Ways and Means Democratic Alternative," House Ways and Means Committee Print (WCMP: 101–37), 101st Cong., 2d Sess. 58 (October 15, 1990); Report language submitted by the Senate Finance Committee to the Senate Budget Committee on S. 3299, 136 *Cong. Rec.* S 15629, S 15700 (1990).

D. Expiring Tax Provisions

1. Exclusion for employer-provided educational assistance (sec. 102(d)(1) of the bill, sec. 11403 of the 1990 Act, and secs. 127 and 132 of the Code)

Present Law

Employer-provided educational assistance is excludable from gross income if the value of the assistance does not exceed $5,250 and certain other requirements are satisfied (sec. 127). Prior to the 1990 Act, the exclusion did not apply to graduate level courses. The 1990 Act eliminated this restriction. The Omnibus Budget Reconciliation Act of 1989 provided that educational assistance that is not excludable under section 127 due to the dollar limitation on the exclusion and the restriction on graduate level courses is excludable from gross income if and only if it qualifies as a working condition fringe benefit (sec. 132(h)).

Explanation of Provision

The bill amends the fringe benefit rules to reflect the fact that the graduate level course restriction has been repealed.

2. Research credit provision: Effective date for repeal of special proration rule (sec. 102(d)(2) of the bill and sec. 11402 of the 1990 Act)

Present Law

The Omnibus Budget Reconciliation Act of 1989 effectively extended the research credit for nine months by prorating certain qualified research expenses incurred before January 1, 1991. The special rule to prorate qualified research expenses applied in the case of any taxable year which began before October 1, 1990, and ended after September 30, 1990. Under this special proration rule, the amount of qualified research expenses incurred by a taxpayer prior to January 1, 1991, was multiplied by the ratio that the number of days in that taxable year before October 1, 1990, bears to the total number of days in such taxable year before January 1, 1991. The amendments made by the 1989 Act to the research credit (including the new method for calculating a taxpayer's base amount) generally were effective for taxable years beginning after December 31, 1989. However, this effective date did not apply to the special proration rule (which applied to any taxable year which began prior to October 1, 1990—including some years which began before December 31, 1989—if such taxable year ended after September 30, 1990).

Section 11402 of the Omnibus Budget Reconciliation Act of 1990 extended the research credit through December 31, 1991, and repealed the special proration rule provided for by the 1989 Act. Section 11402 of the 1990 Act was effective for taxable years beginning after December 31, 1989. Thus, in the case of taxable years beginning before December 31, 1989, and ending after September 30, 1990 (e.g., a taxable year of November 1, 1989 through October 31, 1990), the special proration rule provided by the 1989 Act would continue to apply.

Explanation of Provision

The bill repeals for all taxable years ending after December 31, 1989, the special proration rule provided for by the 1989 Act.

E. Energy Tax Provisions: Alternative Minimum Tax Adjustment Based on Energy Preferences (secs. 102(e)(2) and (6) of the bill, sec. 11531(a) of the 1990 Act, and sec. 56(h) of the Code)

Present Law

In computing alternative minimum taxable income (and the adjusted current earnings (ACE) adjustment of the alternative minimum tax), certain adjustments are made to the taxpayer's regular tax treatment for intangible drilling costs (IDCs) and depletion. A special energy deduction is also allowed. The special energy deduction is initially determined by determining the taxpayer's (1) intangible drilling cost preference and (2) the marginal production depletion preference. The intangible drilling cost preference is the amount by which the taxpayer's alternative minimum taxable income would be reduced if it were computed without regard to the adjustments for IDCs. The marginal production depletion preference is the amount by which the taxpayer's alternative minimum taxable income would be reduced if it were computed without regard to depletion adjustments attributable to marginal production. The intangible drilling cost preference is then apportioned between (1) the portion of the preference related to qualified exploratory costs and (2) the remaining portion of the preference. The portion of the preference related to qualified exploratory costs is multiplied by 75 percent and the remaining portion is multiplied by 15 percent. The marginal production depletion preference is multiplied by 50 percent. The three products described above are added together to arrive at the taxpayer's special energy deduction (subject to certain limitations).

The special energy deduction is not allowed to the extent that it exceeds 40 percent of alternative minimum taxable income determined without regard to either this special energy deduction or the alternative tax net operating loss deduction. Any special energy deduction amount limited by the 40-percent threshold may not be carried to another taxable year. In addition, the combination of the special energy deduction, the alternative minimum tax net operating loss and the alternative minimum tax foreign tax credit cannot generally offset, in the aggregate, more than 90 percent of a taxpayer's alternative minimum tax determined without such attributes.

Explanation of Provisions

Interaction of special energy deduction with net operating loss and investment tax credit

The bill clarifies that the amount of alternative tax net operating loss that is utilized in any taxable year is to be appropriately adjusted to take into account the amount of special energy deduction claimed for that year. This operates to preserve a portion of the alternative tax net operating loss carryover by reducing the amount of net operating loss utilized to the extent of the special energy deduction claimed, which if unused, could not be carried forward.

In addition, the bill contains a similar provision which clarifies that the limitation on the utilization of the investment tax credit for purposes of the alternative minimum tax is to be determined without regard to the special energy deduction.

Interaction of special energy deduction with adjustment based on adjusted current earnings.

The bill provides that the ACE adjustment is to be computed without regard to the special energy deduction. Thus, the bill specifies that the ACE adjustment is equal to 75 percent of the excess of a corporation's adjusted current earnings over its alternative minimum taxable income computed without regard to either the ACE adjustment, the alternative tax net operating loss deduction, or the special energy deduction.

F. Estate Freezes (sec. 102(f) of the bill, sec. 11602 of the 1990 Act, and secs. 2701–04 of the Code)

Present Law

Generally

The value of property transferred by gift or includible in the decedent's gross estate is its fair market value. Fair market value is generally the price at which the property would change hands between a willing buyer and willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts (Treas. Reg. sec. 20.2031). Chapter 14 contains rules that supersede the willing buyer, willing seller standard (Code secs. 2701–04).

Preferred interests in corporation and partnerships

Valuation of retained interests

Scope.—Section 2701 provides special rules for valuing certain rights retained in conjunction with the transfer to a family member of an interest in a corporation or partnership. These rules apply to any applicable retained interest held by the transferor or an applicable family member immediately after the transfer of an interest in such entity. An "applicable family member" is, with respect to any transferor, the transferor's spouse, ancestors of the transferor and the spouse, and spouses of such ancestors.

An applicable retained interest is an interest with respect to which there is one of two types of rights ("affected rights"). The first type of affected right is a liquidation, put, call, or conversion right, generally defined as any liquidation, put, call, or conversion right, or similar right, the exercise or nonexercise of which affects the value of the transferred interest. The second type of affected right is a distribution right[4] in an entity in which the transferor and applicable family members hold control immediately before the transfer. In determining control, an individual is treated as holding any interest held by the individual's brothers, sisters and lineal descendents. A distribution right does not include any right with respect to a junior equity interest.

Valuation.—Section 2701 contains two rules for valuing applicable retained interests. Under the first rule, an affected right other than a right to qualified payments is valued at zero. Under the second rule any retained interest that confers (1) a liquidation, put, call or conversion right and (2) a distribution right that consists of the right to receive a qualified payment is valued on the assumption that each right is exercised in a mmaner resulting in the lowest value for all such rights (the "lowest value rule"). There is no statutory rule governing the treatment of an applicable retained interest that confers a right to receive a qualified payment, but with respect to which there is no liquidation, put, call or conversion right.

A qualified payment is a dividend payable on a periodic basis and at a fixed rate under cumulative preferred stock (or a comparable payment under a partnership agreement). A transferor or applicable family member may elect not to treat such a dividend (or comparable payment) as a qualified payment. A transferor or applicable family member also may elect to treat any other distribution right as a qualified payment to be paid in the amounts and at the times specified in the election.

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[4] A distribution right generally is a right to a distribution from a corporation with respect to its stock, or from a partnership with respect to a partner's interest in the partnership.

Inclusion in transfer tax base.—Failure to make a qualified payment valued under the lowest value rule within four years of its due date generally results in an inclusion in the transfer tax base equal to the difference between the compounded value of the scheduled payments over the compounded value of the payments actually made. The Treasury Department has regulatory authority to make subsequent transfer tax adjustments in the transfer of an applicable retained interest to reflect the increase in a prior taxable gift by reason of section 2701.

Generally, this inclusion occurs if the holder transfers by sale or gift the applicable retained interest during life or at death. In addition, the taxpayer may, by election, treat the payment of the qualified payment as giving rise to an inclusion with respect to prior periods.

The inclusion continues to apply if the applicable retained interest is transferred to an applicable family member. There is no inclusion on a transfer of an applicable retained interest to a spouse for consideration or in a transaction qualifying for the marital deduction but subsequent transfers by the spouse are subject to the inclusion. Other transfers to applicable family members result in an immediate inclusion as well as subjecting the transferee to subsequent inclusions.

Minimum value of residual interest

Section 2701 also establishes a minimum value for a junior equity interest in a corporation or partnership. For partnerships, a junior equity interest is an interest under which the rights to income and capital are junior to the rights of all other classes of equity interests.

Trusts and term interests in property

The value of a transfer in trust is the value of the entire property less the value of rights in the property retained by the grantor. Section 2702 provides that in determining the extent to which a transfer of an interest in trust to a member of the transferor's family is a gift, the value of an interest retained by the transferor or an applicable family member is zero unless such interest takes certain prescribed forms.

For a transfer with respect to a specified portion of property, section 2702 applies only to such portion. The section does not apply to the extent that the transfer is incomplete.

Options and buy-sell agreements

A restriction upon the sale or transfer of property may reduce its fair market value. Treasury regulations provide that a restriction is to be disregarded unless the agreement represents a bona fide business arrangement and not a device to pass the decedent's shares to the natural objects of his bounty for less than full and adequate consideration (Treas. Reg. sec. 20.2031-2(h)).

Section 2703 provides that for transfer tax purposes the value of property is determined without regard to any option, agreement or other right to acquire or use the property at less than fair market value or any restriction on the right to sell or use such property. Certain options are excepted from this rule. To fall within the exception, the option, agreement, right or restriction must (1) be a bona fide business arrangement, (2) not be a device to transfer such property to members of the decedent's family for less than full and adequate consideration in money or money's worth, and (3) have terms comparable to similar arrangements entered into by persons in an arm's length transaction.

Explanation of Provisions

Preferred interests in corporations and partnerships

Valuation

The bill provides that an applicable retained interest conferring a distribution right to qualified payments with respect to which there is no liquidation, put, call, or conversion right is valued without regard to section 2701. The bill also provides that the retention of such right gives rise to potential inclusion in the transfer tax base. In making these changes, it is understood that Treasury regulations could provide, in appropriate circumstances, that a right to receive amounts on liquidation of the corporation or partnership constitutes a liquidation right within the meaning of section 2701 if the transferor, alone or with others, holds the right to cause liquidation.

The bill modifies the definition of junior equity interest by granting regulatory authority to treat a partnership interest with rights that are junior with respect to either income or capital as a junior equity interest. The bill also modifies the definition of distribution right by replacing the junior equity interest exception with an exception for a right under an interest that is junior to the rights of the transferred interest. As a result, section 2701 does not affect the valuation of a transferred interest that is senior to the retained interest, even if the retained interest is not a junior equity interest.

The bill modifies the rules for electing into or out of qualified payment treatment. A dividend payable on a periodic basis and at a fixed rate under a cumulative preferred stock held by the transferor is treated as a qualified payment unless the transferor elects otherwise. If held by an applicable family member, such stock is not treated as a qualified payment unless the holder so elects.[5] In addition, a transferor or applicable family member holding any other distribution right may treat such right as a qualified payment to be paid in the amounts and at the times specified in the election.

Inclusion in transfer tax base

The bill grants the Treasury Department regulatory authority to make subsequent transfer tax adjustments to reflect the inclusion of unpaid amounts with respect to a qualified payment. This authority, for example, would permit the Treasury Department to eliminate the double taxation that might occur if, with respect to a transfer, both the inclusion and the value of qualified payment arrearages were included in the transfer tax base. It would also permit elimination of the double taxation that might result from a transfer to a spouse, who, under the statute, is both an applicable family member and a member of the transferor's family.

The bill treats a transfer to a spouse falling under the annual exclusion the same as a transfer qualifying for the marital deduction. Thus, no inclusion would occur upon the transfer of an applicable retained interest to a spouse, but subsequent transfers by the spouse would be subject to inclusion. The bill also clarifies that the inclusion continues to apply if an applicable family member transfers a right to qualified payments to the transferor.

The provision clarifies the consequences of electing to treat a distribution as giving rise to an inclusion. Under the bill, the election gives rise to an inclusion only with respect to the payment for which the election is made. The inclusion with respect to other payments is unaffected.

Trust and term interest in property

The bill conforms section 2702 to existing regulatory terminology by substituting the term "incomplete gift" for "incomplete transfer." In addition, the bill limits the exception for incomplete gifts to instances in which the entire gift is incomplete. The Treasury Department is granted regulatory authority, however, to create additional exceptions not inconsistent with the purposes of the section. This authority, for example, could be used to except a charitable trust that meets the requirements of section 664 and that does not otherwise create an opportunity for transferring property to a family member free of transfer tax.

Options and buy-sell agreements

The bill modifies the exception to the rule disregarding an option for transfer tax valuation. The requirement that the option, agreement, right or restriction not be a device to transfer the property to members of the decedent's family is revised to require that the option not be a device to transfer the property to persons who are natural objects of the bounty of the transferor. This revision conforms section 2703 to the Treasury regulations and recognizes that the section applies with respect to all transfer taxes.

G. Miscellaneous Provisions

1. Conforming amendments to the repeal of the General Utilities doctrine (sec. 102(g) (1) and (2) of the bill, sec 11702(e)(2) of the 1990 Act, and secs. 897(f) and 1248 of the Code)

Present Law

As a result of changes made by recent tax legislation, gain is generally recognized on the distribution of appreciated property by a corporation to its shareholders. The Technical Corrections subtitle of the 1990 Act and technical correction provisions in prior acts made various conforming amendments arising out of these changes. For example, the 1990 Act made a conforming change to section 355(c) to state the treatment of distributions in section 355 transactions in the affirmative rather than by reference to the provisions of section 311. In addition, the Technical and Miscellaneous Revenue Act of 1988 (the "1988 Act") made a conforming change to section 1248(f) to update the references to the nonrecognition provisions contained in that subsection. One of the changes was to change the reference to "section 311(a)" from "section 311".

Explanation of Provisions

The bill makes three conforming changes to the Code.

First, section 897(f), relating to the basis in a United States real property interest distributed to a foreign person, is repealed as deadwood. The basis of the distributed property is its fair market value in accordance with section 301(d).

Second, section 1248(f) is amended to add a reference to section 355(c)(1), which provides generally for the nonrecognition of gain or loss on the distribution of stock or securities in certain subsidiary corporations. This retains the substance of the law as it existed before the conforming change to section 355(c) made by the 1990 Act.

Third, section 1248 is amended to clarify that, notwithstanding the conforming changes made by the 1988 Act, with respect to any transaction in which a U.S. person is treated as realizing gain from the sale or exchange of stock of a controlled foreign corporation, the U.S. person shall be treated as having sold or exchanged the stock for purposes of applying section 1248. Thus if a U.S. person distributes appreciated stock of a controlled foreign corporation to its shareholders in a transaction in which gain is recognized under section 311(b), section 1248 shall be applied as if the stock had been sold or exchanged at its fair market value. Under section 1248(a), part or all of the gain may be treated as a dividend. Under the bill, the rule treating the distribution for purposes of section 1248 as a sale or exchange also applies where the U.S. person is deemed to distribute the stock under the provisions of section 1248(i). Under section 1248(i), gain will be recognized only to the extent of the amount treated as a dividend under section 1248.

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[5] With respect to gifts made in 1990, the bill provides that this election may be made by the due date (including extensions) of the transferor's 1991 gift tax return.

These amendments are not intended to affect the authority of the Secretary to issue regulations under section 1248(f) providing exceptions to the rule recognizing gain in certain distributions (cf. Notice 87-64, 1987-2 C.B. 375).

2. Prohibited transaction rules (sec. 102(g)(3) of the bill, sec. 11701(m) of the 1990 Act, and sec. 4975 of the Code)

Present Law

The Code and title I of the Employee Retirement Income Security Act of 1974 (ERISA) prohibit certain transactions between an employee benefit plan and certain persons related to such plan. An exemption to the prohibited transaction rules of title I of ERISA is provided in the case of sales of employer securities the plan is required to dispose of under the Pension Protection Act of 1987 (ERISA sec. 408(b)(12)). The 1990 Act amended the Code to provide that certain transactions that are exempt from the prohibited transaction rules of ERISA are automatically exempt from the prohibited transaction rules of the Code. The 1990 Act change was intended to be limited to transactions exempt under section 408(b)(12) of ERISA.

Explanation of Provision

The bill conforms the statutory language to legislative intent by providing that transactions that are exempt from the prohibited transaction rules of ERISA by reason of ERISA section 408(b)(12) are also exempt from the prohibited transaction rules of the Code.

3. Effective date of LIFO adjustment for purposes of computing adjusted current earnings (sec. 102(g)(4) of the bill, sec. 11701 of the 1990 Act, sec. 7611(b) of the 1989 Act, and sec. 56(g) of the Code)

Present Law

For purposes of computing the adjusted current earnings (ACE) component of the corporate alternative minimum tax, taxpayers are required to make the LIFO inventory adjustments provided in section 312(n)(4) of the Code. Section 312(n)(4) generally is applicable for purposes of computing earnings and profits in taxable years beginning after September 30, 1984. The ACE adjustment generally is applicable to taxable years beginning after December 31, 1989.

Explanation of Provision

The bill clarifies that the LIFO inventory adjustment required for ACE purposes shall be computed by applying the rules of section 312(n)(4) only with respect to taxable years beginning after December 31, 1989. The effective date applicable to the determination of earnings and profits (September 30, 1984) is inapplicable for purposes of the ACE LIFO inventory adjustment. Thus, the ACE LIFO adjustment shall be computed with reference to increases (and decreases, to the extent provided in regulations) in the ACE LIFO reserve in taxable years beginning after December 31, 1989.

4. Low-income housing credit (sec. 102(g)(5) of the bill, sec. 11701(a)(11) of the 1990 Act, and sec. 42 of the Code)

Present Law

The amendments to the low-income housing tax credit contained in the Omnibus Budget Reconciliation Act of 1989 generally were effective for a building placed in service after December 31, 1989, to the extent the building was financed by tax-exempt bonds ("a bond-financed building"). This rule applied regardless of when the bonds were issued.

A technical correction enacted in the Omnibus Budget Reconciliation Act of 1990 limited this effective date to buildings financed with bonds issued after December 31, 1989. Thus, the technical correction applied pre-1989 Act law to a bond-financed building placed in service after December 31, 1989, if the bonds were issued before January 1, 1990.

Explanation of Provision

The bill repeals the 1990 technical correction. The bill provides, however, the pre-1989 Act law will apply to a bond-financed building if the owner of the building establishes to the satisfaction of the Secretary of the Treasury reasonable reliance upon the 1990 technical correction.

H. Expired or Obsolete Provisions ("Deadwood Provisions") (sec. 102(h) of the bill and secs. 11801–11816 of the 1990 Act)

Present Law

The 1990 Act repealed and amended numerous sections of the Code by deleting obsolete provisions ("deadwood"). These amendments were not intended to make substantive changes to the tax law.

Explanation of Provisions

The bill makes several amendments to restore the substance of prior law which was inadvertently changed by the deadwood provisions of the 1990 Act. These amendments include (1) a provision restoring the prior-law depreciation treatment of certain energy property (sec. 168(e)(3)(B)(vi)); (2) a provision restoring the prior-law definition of property eligible for expensing (sec. 179(d)); (3) a provision restoring the prior-law rule providing that if any member of an affiliated group of corporations elects the credit under section 901 for foreign taxes paid or accrued, then all members of the group paying or accruing such taxes must elect the credit in order for any dividend paid by a member of the group to qualify for the 100-percent dividends received deduction (sec. 243(b)); and (4) the provisions relating to the collection of State individual income taxes (secs. 6361–6365).

The bill also makes several nonsubstantive clerical amendments to conform the Code to the amendments made by the deadwood provisions. None of these amendments is intended to change the substance of pre-1990 law.

II. OTHER TAX TECHNICAL CORRECTIONS

A. Hedge Bonds (sec. 103(b) of the bill, sec. 11701 of the 1990 Act, and sec. 149(g) of the Code)

Present Law

The 1989 Act provided generally that interest on hedge bonds is not tax-exempt unless prescribed minimum percentages of the proceeds are reasonably expected to be spent at set intervals during the five-year period after issuance of the bonds (sec. 149(g)). A hedge bond is defined generally as a bond (1) at least 85 percent of the proceeds of which are not reasonably expected to be spent within three years following issuance and (2) more than 50 percent of the proceeds of which are invested at substantially guaranteed yields for four years or more.

This restriction does not apply to hedge bonds, however, if at least 95 percent of the proceeds are invested in other tax-exempt bonds (not subject to the alternative minimum tax). The 95-percent investment requirement is not violated if investment earnings exceeding five percent of the proceeds are temporarily invested for up to 30 days pending reinvestment in taxable (including alternative minimum taxable) investments.

Explanation of Provision

The bill clarifies that the 30-day exception for temporary investments of investment earnings applies to amounts (i.e., principal and earnings thereon) temporarily invested during the 30-day period immediately preceding redemption of the bonds as well as such periods preceding reinvestment of the proceeds.

B. Withholding on Distributions from U.S. Real Property Holding Companies (sec. 103(c) of the bill, sec. 129 of the Deficit Reduction Act of 1984, and sec. 1445 of the Code)

Present Law

Under the Foreign Investment in Real Property Tax Act of 1980 (FIRPTA), a foreign investor that disposes of a U.S. real property interest generally is required to pay tax on any gain on the disposition. For this purpose a U.S. real property interest generally includes stock in a domestic corporation that is a U.S. real property holding corporation ("USRPHC"), or was a USRPHC at any time during the previous five years.

A sale or exchange of stock in a USRPHC is an example of a disposition of a U.S. real property interest. In addition, provisions of subchapter C of the Code treat amounts received in certain corporate distributions as amounts received in sales or exchanges, giving rise to tax liability under the FIRPTA rules when a foreign person receives such a distribution from a present or former USRPHC. Thus, amounts received by a foreign shareholder in a USRPHC in a distribution in complete liquidation of the USRPHC are treated as in full payment in exchange for the USRPHC stock, and are therefore subject to tax under FIRPTA (sec. 331; Treas. Reg. sec. 1.897-5T(a)(2)(iii)). Similarly, amounts received by a foreign shareholder in a USRPHC upon redemption of the USRPHC stock are treated as a distribution in part or full payment in exchange for the stock, and are therefore subject to tax under FIRPTA (sec. 302(a); Treas. Reg. sec. 1.897-5T(a)(2)(ii)). Third, amounts received by a foreign shareholder in a USRPHC, in a section 301 distribution from the USRPHC that exceeds the available earnings and profits of the USRPHC, are treated as gain from the sale or exchange of the shareholder's USRPHC stock to the extent that they exceed the shareholder's adjusted basis in the stock; such amounts are therefore also subject to tax under FIRPTA (sec. 301(c)(3); Treas. Reg. sec. 1.897-5T(a)(2)(i)).

FIRPTA withholding

The Tax Reform Act of 1984 established a withholding system to enforce the FIRPTA tax. Unless an exception applies, a transferee of a U.S. real property interest from a foreign person generally is required to withhold the lesser of ten percent of the amount realized (purchase price), or the maximum tax liability on disposition (as determined by the IRS) (sec. 1445).

Although the FIRPTA withholding requirement by its terms generally applies to all dispositions of U.S. real property interests, and subchapter C treats amounts received in certain distributions as amounts received in sales or exchanges, the FIRPTA withholding provisions also provide express rules for withholding on certain distributions treated as sales or exchanges. Generally, distributions in a transaction to which section 302 (redemptions) or part II of subchapter C (liquidations) applies are subject to 10 percent withholding.[6] Although a section 301 distribution in excess of earnings and profits is also treated as a disposition for purposes of computing the FIRPTA liability of a foreign recipient of the distribution, there is no corresponding withholding provision expressly addressed to the payor of such a distribution.

Explanation of Provision

The bill clarifies that FIRPTA withholding requirements apply to any section 301 distribution to a foreign person by a domestic corporation that is or was a USRPHC, which distribution is not made out of the corporation's earnings and profits and is therefore treated as an amount received in a sale or exchange of a U.S. real property interest. (The bill does not alter the withholding treatment of section 301 distributions by such a corporation that are out of earnings and profits.) Under the bill, the FIRPTA withholding requirements that apply to a section 301 distribution not out of earnings and profits are similar to the requirements applicable to redemption or liquidation distributions to a foreign person by such a corporation. The provision is effective for distributions made after the date of enactment of the bill. No inference is intended as to the FIRPTA withholding requirements applicable to such a distribution under present law.

C. Treatment of Credits Attributable to Working Interests in Oil and Gas Properties (sec. 103(d) of the bill, sec. 501 of the Tax Reform Act of 1986, and sec. 469 of the Code)

Present Law

Under present law, a working interest in an oil and gas property which does not limit the liability of the taxpayer is not a "passive activity" for purposes of the passive loss rules (sec. 469). However, if any loss from an activity is treated as not being a passive loss by reason of being from a working interest, any net income from the activity in subsequent years is not treated as income from a passive activity, notwithstanding that the activity may otherwise have become passive with respect to the taxpayer.

Explanation of Provision

The bill provides that any credit attributable to a working interest in an oil and gas property, in a taxable year in which the activity is no longer treated as not being a passive activity, will not be treated as attributable to a passive activity to the extent of any tax allocable to the net income from the activity for the taxable year. Any credits from the activity in excess of this amount of tax will continue to be treated as arising from a passive activity and will be treated under the rules generally applicable to the passive activity credit. The provision will apply to taxable years beginning after December 31, 1986.

D. Exclusion From Income For Combat Zone Compensation (sec. 103(e)(4) of the bill and sec. 112 of the Code)

Present Law

The Code provides that gross income does not include compensation received by a taxpayer for active service in the Armed Forces of the United States for any month during any part of which the taxpayer served in a combat zone (or was hospitalized as a result of such service) (limited to $500 per month for officers). The heading refers to "combat pay," although that term is no longer used to refer to special pay provisions for members of the Armed Forces, nor is the exclusion limited to those special pay provisions (hazardous duty pay (37 U.S.C. sec. 301) and hostile fire or imminent danger pay (37 U.S.C. sec. 310)).

Explanation of Provision

The bill modifies the heading of Code section 112 to refer to "combat zone compensation" instead of "combat pay". The bill also makes conforming changes to cross-references elsewhere in the Code.

TITLE II. MEDICARE MISCELLANEOUS AND TECHNICAL AMENDMENTS

SUBTITLE A. PART A

1. Payments for PPS-exempt Hospital Services (sec. 201 of the bill, sec. 4005 of the 1990 Act)

Present Law

Certain hospitals and units of hospitals are exempt from Medicare's prospective payment system (PPS), including psychiatric hospitals, rehabilitation hospitals, children's hospitals, long-term hospitals, cancer hospitals, and units of general-purpose hospitals providing similar services to the exempted hospitals. These hospitals and units are reimbursed on the basis of reasonable costs, subject to limits known as target amounts.

OBRA '90 included a provision which increases payments to PPS-exempt hospitals whose costs are in excess of the target amounts. Hospitals will receive fifty percent of the amount by which costs exceed the target amount up to 110 percent of the target amount. The provision was not intended to apply to units of general purpose hospitals which are exempt from PPS.

Explanation of Provision

The OBRA '90 provision would be corrected to clarify that only exempt hospitals, and not exempt hospital units, will qualify for additional payments above the target amounts.

2. Clarification of DRG Payment Window (sec. 202 of this bill, sec. 4003 of the 1990 Act)

Present Law

Services provided to an inpatient of a hospital or an entity wholly owned or operated by a hospital during the three-day period prior to admission are not separately reimbursable under Part B of Medicare.

Explanation of Provision

The provision would be clarified to include two other ownership arrangements so that services provided by: (i) a hospital; (ii) an entity wholly owned or operated by the hospital; (iii) an entity which wholly owns the hospital; and, (iv) an entity that is owned by another entity which also owns the hospital, would all not be separately reimbursable under Part B if provided less than three days prior to admission.

3. Miscellaneous and Technical Provisions Pertaining to Part A (sec. 203 of this bill, sec. 4008 of the 1990 Act)

Present Law

OBRA '90 included a clerical error in the nursing home reform provisions.

Explanation of Provision

The OBRA '90 provision pertaining to the period for resident assessment included in the nursing home reform provisions would be corrected.

SUBTITLE B. PART B

1. Payments for Physician Services (sec. 211 of the bill, secs. 4101, 4102, 4103, 4105, 4106, 4107, 4108, 4113, 4114, 4117, and 4118 of the 1990 Act)

Present Law

(a) Overvalued Services.—OBRA '90 provided for reductions in so-called unsurveyed and technical procedures. These procedures were specified by exception. That is, if they were not specified in the statute by both name and procedure code number, they were reduced by 6.5 percent. The lists included in the statute included certain codes that had been surveyed and were not overpriced, and included certain inconsistencies between the list of names and procedure code numbers.

(b) Radiology Services.—OBRA '87 established a fee schedule for radiology services based on a relative value scale and a local conversion factor. OBRA '90 reduced the conversion factor to a geographically adjusted target amount, but not more than 9.5 percent. Conversion factors below the target were not to be changed. As drafted, the statute would allow conversion factors below the target to be increased.

(c) Anesthesiology Services.—OBRA '87 provided for the development and establishment of an anesthesiology fee schedule based on a relative value scale and local conversion factors. OBRA '90 reduced the conversion factor to a geographically adjusted target amount. Conversion factors below the target were not to be changed. As drafted, the statute would allow conversion factors below the target to be increased.

(d) New Physicians and Practitioners.—OBRA '90 provided that the customary charges of new physicians and other practitioners in 1991 would be limited to 80/85/90/95 percent of the customary charges of established physicians and practitioners in the first through fourth years of practice. Beginning on January 1, 1992, these percentage limits would apply to the amounts recognized under the RVS.

OBRA '90 defined the first year of practice as the first calendar year in which the individual billed Medicare for services during the first six calendar months. As drafted, established physicians, who had been in full time medical practice but who had not billed Medicare for services, would be treated as new physicians. These physicians could include physicians who had worked on a salary basis in an HMO or who had practiced within the military health care system.

(e) Assistants at Surgery.—OBRA '90 prohibited payments for an assistant at surgery for procedures where an assistant is used in less than 5 percent of cases. The Secretary was required to determine the procedures for which payment for an assistant could not be made based on the most recent data available.

(f) Technical Components of Diagnostic Services.—OBRA '90 provided that the fees for the technical components of certain diagnostic tests were capped at the national median of fees for each such test. The statutory language included reductions for services under this provision that were also reduced under other overpriced provisions in OBRA '90.

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[6] Under other rules, dividend distributions (i.e., distributions to which sec. 301(c)(1) applies) to foreign persons by U.S. corporations, including USRPHCs, are subject to 30-percent withholding under the Code. Under treaties, the withholding on a dividend may be reduced to as little as 5 or 15 percent.

(g) Statewide Fee Schedules.—OBRA '90 provided that under certain circumstances, the Secretary would be required to provide that physician fees in the States of Oklahoma and Nebraska were to be determined on a State-wide basis. As drafted, this provision could be construed as allowing for a legislative veto. In signing OBRA '90, the President indicated that he believed the provision, as drafted, to be unconstitutional.

(h) Other Technical Amendments.—Sections 4105, 4113, 4114, and 4118 of OBRA '90 provide for the update for physician fees, a study of aggregation of appeals, a study of the release of utilization review screens and other miscellaneous and technical amendments.

Explanation of Provision

(a) Overvalued Services.—The bill would correct the names and procedure code lists of the exceptions to the unsurveyed and technical procedure reductions.

(b) Radiology Services.—The bill would correct the statutory language to provide that local conversion factors below the target would not be increased, and makes other technical and conforming changes to the OBRA '90 radiology provision.

(c) Anesthesiology Services.—The bill would correct the statutory language to provide that local conversion factors below the target would not be increased, and makes other technical and conforming changes to the OBRA '90 anesthesiology provision.

(d) New Physicians and Practitioners.—The bill would clarify that, for the purpose of this reduction in payments, the first year for a new physician or other practitioner would be defined as the first calendar year in which the individual was not in an intern or residency training program during the first six calendar months.

(e) Assistants at Surgery.—The bill clarifies that in categorizing procedures by their percentage of use of an assistant, the Secretary would use the most recent data reflecting separate payments for an assistant under Medicare. The bill also clarifies that the actual charge for an assistant at surgery can not exceed 125 percent of the payment for serving as an assistant.

(f) Technical Components of Diagnostic Services.—The bill clarifies that the OBRA '90 provision capping the technical component of the fees of certain diagnostic services does not apply to any services that had their fees reduced under other OBRA '90 provisions.

(g) Statewide Fee Schedules.—The bill amends the OBRA '90 provision to require the Secretary to treat the States of Oklahoma and Nebraska as single areas for the purpose of determining physician fees for services provided on or after January 1, 1992.

(h) Other Technical Amendments.—The bill would provide for other technical and conforming changes to sections 4105, 4113, 4114, and 4118 of OBRA '90 relating to payments to physicians.

2. Services Furnished in Ambulatory Surgical Centers (sec. 212 of the bill, sec. 4151 of the 1990 Act)

Present Law

(a) Payment Amounts for Services Furnished in Ambulatory Surgical Centers.—Under current law, the Secretary is authorized to update the rates for payments to free-standing ambulatory surgical centers (ASCs) when appropriate.

The conferees to OBRA '90 agreed to a provision providing for an annual update for these rates. Statutory language reflecting this agreement was not included in OBRA '90.

(b) Adjustments to Payment Amounts for New Technology Intraocular Lenses.—OBRA '90 included a provision capping payments for intraocular lenses (IOLs) at $200 in 1991 and 1992. As drafted, the statutory language could be interpreted as limiting payments for cataract surgery to $200.

The conferees to OBRA '90 also agreed to a provision providing for a process through which the fee could be adjusted in the case of certain new technology IOLs. Statutory language reflecting this agreement was not included in OBRA '90.

Explanation of Proposal

(a) Payment Amounts for Services Furnished in Ambulatory Surgical Centers.—The bill provides for a survey of the costs of free-standing ASCs, based on a representative sample of procedures. The initial survey is to be completed not later than July 1, 1992, and is to be conducted at least every 5 years thereafter.

If the Secretary does not update the ASC payment rates, the rates would be updated by the percentage change in the Consumer Price Index (CPI–U) for the 12 month period ending with June of the preceding year.

(b) Adjustments to Payment Amounts for New Technology Intraocular Lenses.—The bill clarifies that the $200 limit applies only to the purchase of the IOL, and not the cataract surgery.

The bill also provides that the Secretary shall develop and implement a process for the review of the costs and benefits of so-called "new technology" IOLs. Such process would be intended to determine whether a payment adjustment is warranted for a particular IOL. The review would include consideration of medical benefits of such lenses. Interested parties may request the review of an IOL to determine whether it qualifies for a payment adjustment.

3. Durable Medical Equipment, and Orthotics and Prosthetics (sec. 213 of the bill, secs. 4152 and 4153 of the 1990 Act)

Present Law

(a) Updates to Payment Amounts.—Current law provides that the fee schedule amounts for durable medical equipment (DME) are updated annually by the CPI–U. The conference agreement to OBRA '90 provided that the update would be reduced by 1 percent for calendar years 1991 and 1992. As drafted, DME fees would be reduced by 1 percent in 1991 and 1992.

(b) Treatment for Potentially Overused Items and Advanced Determinations of Coverage.—The conference agreement to OBRA '90 included two provisions relating to special carrier review of potentially overutilized items and advance determinations of coverage for certain items. These two provisions were combined in drafting such that they do not reflect the conference agreement.

(c) Study of Variations in DME Supplier Costs.—OBRA '90 provided for a system of upper and lower limits on DME fees. The OBRA '90 conference agreement also includes a study of geographic variations in the cost of providing services by suppliers. This provision was not included in the statutory language.

(d) Other Technical and Conforming Amendments.—Sections 4152 and 4153 of OBRA '90, as drafted, includes several minor and technical drafting errors.

Explanation of Provision

(a) Updates to Payment Amounts.—The bill would correct the DME update such that these fees would be updated by the CPI–U minus 1 percent in 1991 and 1992.

(b) Treatment for Potentially Overused Items and Advanced Determinations of Coverage.—The bill would provide that claims for items of DME that are potentially overused would be subject to special carrier scrutiny. The Secretary would publish, and periodically update, a list of such items. The list would include: seatlift mechanism, TENS equipment, power-driven scooters, and such other items of DME as determined appropriate by the Secretary. The Secretary would include items that are either: (1) mass marketed directly to beneficiaries; (2) marketed with offers to waive the coinsurance, or marketed as "free" or "at no cost" to beneficiaries with Medigap coverage or other coverage; (3) subject to a consistent pattern of overutilization; or (4) frequently denied based on a lack of medical necessity.

For customized equipment and equipment designated by the Secretary as requiring a prior written physician's order, suppliers could request prior approval of the item from a carrier in a form determined by the Secretary. The Secretary would establish standards for the timeliness of carrier responses to such requests, and would incorporate such standards into the evaluations of carriers' performance.

(c) Study of Variations in DME Supplier Costs.—The bill would provide that the Health Care Financing Administration (HCFA) would collect and analyze DME cost data to isolate the proportion of suppliers' costs that are related to the "service" and "product" components of providing different types of DME items and services. In conducting this study, HCFA would consult with appropriate organizations.

HCFA would analyze the geographic variations in the cost of the service component. HCFA would develop an index that reflects geographic variations in suppliers' costs of providing the service component.

HCFA would submit a report on its findings, including recommendations regarding the use of area adjustments for DME items and services, to the Ways and Means, Energy and Commerce and Senate Finance Committees. The report, due on March 1, 1992, would include an impact analysis of the use of the index on suppliers.

(d) Other Technical and Conforming Amendments.—The bill would make a certain technical and conforming changes to sections 4152 and 4153 of OBRA '90.

4. Other Part B Items and Services (sec. 214 of the bill, secs. 4154 through 4164 of the 1990 Act)

Present Law

(a) Revise Information on Part B Claim Form.—Each Part B claim for which the entity submitting the claim knows or has reason to believe there has been a referral by a referring physician must include the name and provider number of the referring physician and indicate whether the referring physician is an investor in the entity.

(b) Effective Date of Reporting on Part B Claim Forms.—The requirement to submit the information described in subsection (a) is effective January 1, 1992.

(c) Consultation for Social Workers.—OBRA '89 provided for coverage of the services of psychologists and clinical social workers. The Secretary of Health and Human Services was required to develop criteria with respect to psychologists' services under which the psychologist must agree to consult with the patient's attending physician. This requirement was not included for clinical social workers.

(d) Other Technical and Conforming Amendments.—

(1) Beneficiary Enrollment.—Elderly or disabled employees and their spouses who are covered by employer health plans are not required to enroll in the same enrollment period applicable to others. However, they are unable to enroll while enrolled in an employer group health plan. Coverage for such individuals begins generally on the first day of the month in which the individual is no longer enrolled in an employer group health plan.

A modifying provision was agreed to by the conferees but was not included in the statutory language of OBRA '90.

(2) Other Minor Technical and Conforming Amendments.—Sections 4154 through 4164 of OBRA '90 include a number of minor and technical drafting errors.

Explanation of Provision

(a) Revise Information on Part B Claim Form.—The bill would require that the claim form include the unique physician identification number, and would delete the requirement that the claim indicate whether the referring physician is an investor in the entity submitting the claim.

(b) Effective Date of Reporting on Part B Claim Forms.—The bill would provide that the reporting requirements would be effective October 1, 1991.

(c) Consultation for Social Workers.—The bill would provide that clinical social workers would be required to consult with a patient's attending physician in the same manner as psychologists.

(d) Other Technical and Conforming Amendments.—

(1) Beneficiary Enrollment.—The special enrollment period would be modified to allow individuals who have employer group health coverage to enroll in Part B at any time that they are enrolled in the group health plan, rather than after they leave the plan.

If an individual enrolled in Part B while enrolled in the group health plan or in the first month after leaving the plan, Medicare coverage would begin on the first day of the month in which the individual enrolled (or, at the option of the individual, on the first day of any of the following three months). These provisions would be effective on the first day of the first month beginning more than 120 days after the date of enactment of this Act.

(2) Other Minor Technical and Conforming Amendments.—The bill would make various technical and conforming amendments.

SUBTITLE C. PARTS A AND B

1. Provisions Relating to Parts A and B (sec. 221 of the bill, secs. 4201–4207 of OBRA '90)

Present Law

(a) End Stage Renal Disease.—OBRA '90 requires the Prospective Payment Assessment Commission to conduct a study of the costs and services and profits associated with various modalities of dialysis treatments provided to end stage renal disease patients. The study also requires ProPAC to make annual recommendations on payments for services.

(b) Staff-Assisted Home Dialysis Demonstration Project.—The staff-assisted home dialysis demonstration project included in OBRA '90 contained several minor and technical drafting errors.

(c) Extension of Secondary Payer Provisions.—The extension of the Medicare secondary payer provisions included in OBRA '90 contained a number of minor and technical drafting errors.

(d) Health Maintenance Organizations (HMOs).—OBRA '90 required the Secretary of HHS to submit a proposal to the Congress by January 1, 1992 providing for a more accurate payment method for HMOs paid on a risk basis. The Secretary is required to publish a notice of proposed rule making in the Federal Register by March 1, 1992 and the Comptroller General is required to review and report to the Congress by May 1, 1992 on recommendations to modify the proposed methodology.

A number of minor and technical drafting errors were made in the HMO section of OBRA '90.

(e) Peer Review Organizations.—OBRA '90 provided that Peer Review Organization (PROs) are required to provide notice to State licensing entities when a physician is found to have furnished services in violation of subsection 1154(a) of the Social Security Act. This subsection includes the requirements that PROs review the quality of medical care, and whether certain services are covered under Medicare. As drafted, the provisions in OBRA '90 would require the PROs to notify State boards in the case of a variety of administrative findings, or in the case of a single problem regarding quality of care.

(f) Other Miscellaneous and Technical Provisions.—Sections 4201–4207 include a number of minor and technical drafting errors.

Explanation of Provision

(a) End Stage Renal Disease.—The bill would delay the effective date for ProPAC's initial recommendations to not later than June 1, 1992. The bill would also correct a number of technical and clerical drafting errors.

(b) Staff-Assisted Home Dialysis Demonstration Project.—The bill would correct a number of minor and technical drafting errors.

(c) Extension of Secondary Payer Provisions.—The bill would correct a number of minor and technical drafting errors.

(d) Health Maintenance Organizations—The Secretary would be required to revise the payment methodology for HMOs for contracts for years beginning with 1993. In making revisions, the Secretary would be required to consider: (i) the difference in costs associated with beneficiaries with differing health status and demographic characteristics, (ii) the effects of using alternative geographic classifications; and (iii) the difference in costs associated with beneficiaries for whom Medicare is the secondary payer. The Secretary would be required to publish a proposed rule before March 1, 1992 and the Comptroller General would be required to review and report to the Congress by May 1, 1992 on the appropriateness of the proposed rule. On or after August 1992 the Secretary would be required to publish a final rule effective for contract years beginning on or after January 1, 1993.

A number of minor and technical drafting errors in the HMO section would be corrected.

(e) Peer Review Organizations.—The bill would limit the requirement that PROs give notice to State licensing boards to cases when the PRO submits a report and recommendation to the Secretary regarding a physician who has failed in a substantial number of cases to meet his obligations, or grossly and flagrantly violated such obligations in a single instance.

In addition, the bill would correct various drafting errors in the OBRA '90 provisions relating to PROs.

(f) Other Miscellaneous and Technical Provisions.—The bill would make various technical and conforming amendments.

SUBTITLE D. MEDIGAP STANDARDS

1. Medicare Supplemental Insurance Policies (sec. 231 of the bill, secs. 4351–4361 of the 1990 Act)

Present Law

OBRA '90 provides minimum standards for Medicare Supplemental Insurance policies and establishes penalties for non-compliance. The provisions included a number of minor and technical drafting errors.

Explanation of Provision

The bill would modify the effective dates for varous provisions. In general, effective dates would conform with the earlier of the date the State adopts standards included in OBRA '90 or one year after the National Association of Insurance Commissioners adopts the standards included in OBRA '90. It would also make minor, technical and conforming admendments.

C. TARIFF AND CUSTOMS PROVISIONS

1. Removal of GDR from column 2 rate list (sec. 321(a)(1) of the bill, and General Note 3(b) to the Harmonized Tariff Schedule of the United States)

Present Law

General Note 3(b) to the Harmonized Tariff Schedule of the United States (HTS) lists "German Democratic Republic" among the list of countries subject to column 2 rates of duty.

Explanation of Provision

Upon German reunification last year, most-favored nation (MFN) column 1 treatment already granted to West Germany was extended automatically to the former East Germany on October 31, 1990. The bill recognizes the reunification of Germany and its MFN status by eliminating reference to the German Democratic Republic from the HTS.

2. Tapestry and upholstery fabrics (sec. 321(a)(2) of the bill; sec. 472(b) of the Customs and Trade Act of 1990; Part II, sec. 10011(a) of the Omnibus Budget Reconciliation Act of 1990; and subheading 5112.19.20 to the HTS)

Present Law

The Customs and Trade Act of 1990 (P.L. 101–382, hereafter referred to as "the Trade Act"), added several new HTS subheadings to headings 5111 and 5112 for tapestry fabrics and upholstery fabrics of a weight exceeding 300 grams per square meter. This reduced the tariff rate from 36.1 percent ad valorem to 7 percent ad valorem for these fabrics.

New HTS subheading 5112.19.10 was renumbered as 5112.19.20 in the Omnibus Budget Reconciliation Act of 1990 (P.L. 101–508, hereafter referred to as "the Budget Reconciliation Act").

Explanation of Provision

Adding the words "of a weight exceeding 300 g/m^2" to HTS subheading 5112.19.20 inadvertently raised the column 1 duty rate on certain tapestry and upholstery fabrics. Deleting these words restores prior HTS treatment.

The change applies retroactively to allow importers to apply for reassessment of duties levied since October 1, 1990 using the higher rate.

3. Gloves (sec. 321(a)(3) of the bill; Part II, sec. 10011, (a), (b)(2), and (b)(6) of the Budget Reconciliation Act; and Chapter 61 and 62 to the HTS)

Present Law

In the Budget Reconciliation Act, the HTS subheading 6216.00.47 was deleted; 6216.00.49 was redesignated as 6216.00.52 and it was indented so that it aligned with 6216.00.46 (which had been redesignated from 6216.00.44). Inadvertently the superior text "Other", placed just above deleted 6216.00.47, was not stricken.

The Budget Reconciliation Act redesignated 6116.10.25 as 6116.10.45.

Explanation of Provision

The word "Other", inadvertently kept above the deleted 6216.00.47, is stricken.

New HTS subheading 6116.10.45 is redesignated as 6116.10.48 to avoid reusing a previously used subheading number.

4. Agglomerate stone floor and wall tiles (sec. 321(a)(4) of the bill, sec. 484B and 485(b) of the Trade Act, and subheading 6810.19.12 to the HTS)

Present Law

The Trade Act added a new HTS subheading (6810.19.12) for agglomerate marble floor tiles. This reduced the tariff rate from 21 percent ad valorem to 4.9 percent ad valorem for these types of tiles.

The provision as written only applies to geological marble and not to other types of material which may be commonly referred to as "marble" but are not recognized as such by the Explanatory Notes to the HTS.

Explanation of Provision

The description for HTS subheading 6810.19.12 is changed from "agglomerate marble tiles" to "floor and wall tiles of stone agglomerated with binders other than cement." The rewording covers tiles produced from chips or dust of various natural stones mixed with a plastic resin binding material.

The change applies retroactively to allow importers to apply for reassessment of duties levied since January 1, 1989 using the higher rate.

5. 2,4-Diaminobenzesulfonic acid (sec. 321(a)(5) of the bill, sec. 349 of the Trade Act, and subheading 9902.30.43 to the HTS)

Present Law

Under HTS 9902.30.43, which grants a duty suspension to 2,4-Diaminobenzesulfonic acid, "2921.51.50" is cited as the HTS subheading that imports of this chemical enter under.

Explanation of Provision

The correct HTS subheading that imports of 2,4-Diaminobenzenesulfonic acid enter under, "2921.59.50", is now cited.

6. Machines used in the manufacture of bicycle parts (sec. 321(a)(6) of the bill, sec. 439 of the Trade Act, and subheading 9902.84.79 to the HTS)

Present Law

The Trade Act suspended the duty on machines used to manufacture bicycle wheels by adding a new HTS subheading, 9902.84.79. The machines covered include "wheeltruing" and "rim punching" machines. Subheading 9902.84.79 refers only to HTS subheading 8479.89.90 which covers "machines and mechanical appliances."

Explanation of Provision

Wheeltruing machines are covered by HTS subheading 9031.80.00 and rim punching machines are covered by HTS subheading 8462.49.00. These two additional subheadings are now referenced in subheading 9902.84.79.

The change applies retroactively to allow importers to apply for reassessment of duties levied since October 1, 1990.

7. Copying machines and parts (sec. 321(a)(7) of the bill, sec. 462(d)(2) of the Trade Act, and subheading 9902.90.90 to the HTS)

Present Law

HTS subheading 9902.90.90 provides duty-free treatment for parts and accessories of electrostatic copying machines. The Trade Act amended 9902.90.90 to cover parts and accessories intended for attachment to electrostatic copies. Subheading 9902.90.90 refers to subheading 8472.90.80 as the provision that covers parts and accessories for attachment to electrostatic copiers.

Explanation of Provision

Parts intended for attachment to electronic copiers are covered by HTS subheading 8473.40.40. This additional subheading is now referenced in subheading 9902.90.90.

The change applies retroactively to allow importers to apply for reassessment of duties levied since January 1, 1989 using the higher rate.

8. Clarification regarding the application of customs user fees (sec. 322 of the bill; Title I, Subtitle B, sec. 111(b)(2)(D)(V) of the Trade Act; subparagraph (D) of sec. 13031(b)(8) of the Consolidated Omnibus Budget Reconciliation Act of 1985; and 19 U.S.C. 58c(b)(8)(D))

Present Law

An amendment to the Customs User Fee statute as enacted in the Trade Act exempted the domestic value of agricultural products processed and packed in a foreign trade zone from the application of the ad valorem merchandise processing fee (MPF). The Customs Service has interpreted this provision by ruling that, in the absence of an express provision to the contrary, the MPF would be assessed on the domestic value of all other merchandise (i.e., non-agricultural) processed or packed in a foreign trade zone.

Explanation of Provision

This technical amendment applies the MPF only to the foreign value of imported merchandise entered from a foreign trade zone, thereby clarifying that the user fee cannot be assessed against the value of domestic content of an entry. The amendment applies to all unliquidated entries from foreign trade zones beginning December 1, 1986.

9. Technical amendments to the Omnibus Trade and Competitiveness Act of 1988 (sec. 323 of the bill, sec. 1102(a) of the Omnibus Trade and Competitiveness Act of 1988, and 19 U.S.C. 2902(a))

Present Law

Section 1102(a) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2902) (hereafter referred to as "the 1988 Act") provides the President the authority to proclaim certain tariff reductions pursuant to trade agreements with foreign countries. Paragraph (a)(2) provides the President the authority to reduce tariff rates in existence as of August 23, 1988, at which time the Tariff Schedules of the United States (TSUS) were in effect. Pursuant to Title I, Subtitle B of the 1988 Act, the TSUS were replaced by the HTS effective January 1, 1989. Tariff negotiations in the Uruguay Round of Multilateral Trade Negotiations have been conducted on the basis of U.S. tariff rates under the HTS rather than the TSUS.

Explanation of Provision

The correction amends the 1988 Act to reflect the fact that any tariff reductions that might be proclaimed by the President pursuant to Section 1102(a) of the 1988 Act will be based upon the tariff rates under the HTS as of January 1, 1989.

10. Technical Amendment to the Customs and Trade Act of 1990 (sec. 324 of the bill, sec. 484H(b) of the Trade Act, and 19 U.S.C. 1553 note)

Present Law

The Trade Act provides for transportation in bond of Canadian lottery material.

Explanation of Provision

The phrase "entered or withdrawn from warehouse for consumption" has been replaced in the "Effective Date" section with "entered for transportation in bond". This had been done to clarify that Canadian lottery material is not entered into the U.S. for consumption.

• Mr. PACKWOOD. Mr. President, I am pleased to join the distinguished chairman of the Committee on Finance in the introduction of legislation to make technical corrections to recent tax, health, and Social Security legislation. This bill merely corrects unintentional drafting errors so that the 1990 Budget Reconciliation Act and other recent legislation in the Committee on Finance's jurisdiction can be fully implemented. It is my understanding that the bill has no budget effect; it does not raise or lose revenue nor cut or increase spending. I hope that we can act quickly on this important legislation.•

By Mr. BURNS (for himself and Mr. BAUCUS):

S. 751. A bill to authorize the Secretary of the Interior to provide funds for the repair and enlargement of the Tongue River Dam for the purposes of settlement of water right claims of the Northern Cheyenne Tribe, for fish and wildlife enhancement, and for other purposes; to the Committee on Energy and Natural Resources.

TONGUE RIVER DAM AUTHORIZATION ACT OF 1991

Mr. BURNS. Mr. President. I rise today to introduce legislation, cosponsored by my colleague, Senator BAUCUS, that we introduced last year, to correct a dangerous and diffficult situation that we have in Montana on the Tongue River.

Although we were successful in getting a partial funding of the repair work necessary for the dam, the situation remains largely unchanged. The Tongue River runs through the southeast corner of our State. It enters Montana from Wyoming along our southern border and empties into the Yellowstone River at Miles City, MT. It also flows along the eastern boundry of the Northern Cheyenne Indian Reservation.

An earthen dam was built by the State of Montana on the Tongue River in the 1930's to create a much-needed reservoir. Water from this reservoir is essential to help Indians, as well as non-Indians, irrigators grow crops. Unfortunately, now this earthen dam needs to be raised and strengthened in order to meet safety specifications. It is an unsafe dam.

This project not only eliminates a potential catastrophe if the existing structure fails, but will also mean added economic benefits for all of southeastern Montana. The jobs created by this $57 million project will mean added economic activity to the areas economy.

In addition, the irrigation portion of this project will give local irrigators a more reliable supply of essential water well into the 21st century.

Mr. President, in my State, water is more important than the land that it flows through. We live in a semiarid climate. The water flowing in the Tongue is important to us.

The Tongue River dam rehabilitation project is the No. 1 water project of the State of Montana. This effort is supported by the State, by the Northern Cheyenne Tribe, by the Water Compact Commission, by the State Fish and Wildlife Service, and by the residents who live along the Tongue River in Montana.

The costs of rehabilitation will be borne in part by the State of Montana on a matching basis with the Federal Government.

In addition to strengthening the dam, the bill Senator BAUCUS and I are introducing today, will help to settle water rights claims between the State of Montana and the Northern Cheyenne Indians for water on the Tongue River.

The settlement of water rights in our State is a very delicate matter. This bill meets with the approval of the Northern Cheyenne and the Reserved Water Rights Compact Commission.

Mr. President, this is a much-needed effort in Montana, and I urge its support by Memberrs of the Senate.

I yield the floor.

Mr. BAUCUS. Mr. President, I rise in support of this bill to rehabilitate the Tongue River Dam in Southeastern Montana. This dam must be repaired, and quickly.

Built in the 1930's, as a WPA project, the dam has been in the first stages of failure since 1978. A catastrophic failure of this dam would result in a wall of water sweeping 100 miles North, all the way to Miles City, MT.

Mr. President, if the Tongue River Dam were to fail, the towns of Birney and Ashland, MT, would likely cease to exist. Reliable estimates of damage have been placed at between $100 and $300 million. Significant portions of the Northern Cheyenne Indian Reservation would be under water.

Mr. President, while this dam has not yet been breached, this is only a matter of luck. That luck cannot be expected to hold. Federal and State estimates show that the dams spillway could be subjected to flows of 382,000 cubic feet per second, in times of heavy rains and snow pack melt. State officials believe that flows beyond 16,000 feet-per-second could breach the dam. These rates have been approached twice recently. Time is running out.

Last year, Senator BURNS and I introduced a similar bill to authorize the rehabilitation of this dangerous dam. That was 1 year ago and still the residents of my State—particularly the Northern Cheyenne—face this hazard on a daily basis. This session of Congress we must act.

The bill being introduced today is recognition that this grave danger continues to exist. I will work together with Senator BURNS and any other Senator to see that this dam is stabilized. And quickly.

By Mr. CHAFEE (for himself, Mr. BAUCUS, Mr. DANFORTH, Mr. ROTH, Mr. RIEGLE, Mr. PACKWOOD, Mr. DURENBERGER, Mr. SYMMS, Mr. GORTON, Mr. MCCAIN, Mr. LIEBERMAN, Mr. HATFIELD, Mr. LAUTENBERG, Mr. COCHRAN, Mr. CRANSTON, Mr. BOREN, Mr. GRASSLEY, Mr. HEINZ, and Mr. MOYNIHAN):

S. 752. A bill to amend the Internal Revenue Code of 1986 to make the allocation of research and experimental expenditures permanent; to the Committee on Finance.

R&E PERMANENT RESOLUTION ACT OF 1991

• Mr. CHAFEE. Mr. President, concern about the ability of U.S. businesses to compete with foreign firms has been increasing in recent years. International competitiveness has become one of the top concerns of Congress, and rightly so. The balance of trade has gone from a surplus of $3.4 billion in 1975 to a deficit of $101 billion last year. In between those years was a record deficit of $152 billion in 1987.

Given the importance of this issue, Government policies, especially in the areas of tax and trade, should be carefully scrutinized to ensure they enhance our ability to compete rather than hinder it. Our attention should be focused on helping American businesses succeed in today's global market. Even a small business that does not export its products must compete in a global market inside the United States against the influx of imported products.

One area of tremendous importance in today's competitive environment is research and development [R&D] which leads to technological innovation. Since 1929, more than two-thirds of our economic growth has resulted from technological innovation. The nations winning the competitiveness race are those that recognize the importance of advanced technology—because it results in new, marketable products and more efficient production and manufacturing. These countries work to attract companies that will establish research and development facilities within their borders.

To achieve greater economic competitiveness we must foster, not impede, U.S. investment in research and development. We must expand, not export, our technological base. With these goals in mind, Senator BAUCUS and I are introducing legislation to help U.S. business regain its competitive edge. Our bill will change a tax policy which actually impedes our ability to compete, and may, in fact, encourage the export of R&D activities and important technological advances.

Yet, the United States is falling behind in its development of new technologies. Just yesterday, the Council on Competitiveness released a report entitled "Gaining New Ground: Technology Priorities for America's Future." The Council analyzed 9 major technology-intensive industries to examine the U.S. competitive position in 94 critical technologies. The report highlights 15 areas in which the United States is losing badly or has lost, including ceramics, robotics, and memory chips. In addition, the report identifies 18 areas in which the United States is judged to be weak as compared to our major trading partners.

One of the reasons for this decline is the research allocation rules contained in Treasury Regulation Section 1.861–8, issued in 1977. This is confirmed by a recommendation in the Council's report to "place a permanent moratorium on Treasury Regulation 1.861–8, * * *. This regulation increases the effective rate of U.S. taxation of R&D and creates a disincentive for companies to conduct R&D in the United States."

According to the Council's report, one of the critical priorities must be to "make the cost of capital for the development of priority technologies competitive with that of America's major competitors." This is one step in the process to "create a U.S. economic climate more conducive to manufacturing, innovation and investment in technology."

The 861–8 regulations require U.S. companies with foreign operations to allocate a portion of their domestic R&D to their foreign income. Of course, foreign countries do not allow our companies to use the cost of research performed in the United States as a deduction from the income earned in the foreign country. The net effect is to increase the worldwide tax liability of the companies performing R&D in the United States, encouraging American companies to locate their R&D efforts abroad.

While the regulations may be founded on what some would consider valid technical tax principles, it is difficult to understand why the United States would adopt policies that discourage the pursuit of domestic R&D. Shortly after the regulations were issued, Congress recognized that they represented poor public policy and placed a moratorium on their implementation. Congress has renewed this moratorium seven times. It's time to put an end to the controversy surrounding section 861—over a decade of uncertainty is enough—we have an opportunity to do so with the legislation we are introducing today.

Stable public policies with regard to research and development are extremely important. Without stability, we cannot expect our major investors in R&D to make the long-range plans that are critical to some of our most promising research efforts. With permanent reform of section 861, we have an opportunity to both change a misguided policy and to increase long-term R&D investment.

I would like to address some of the misconceptions about reform of section 861. It has been alleged that reform is some type of tax break. I assure you that is not the case. Section 861 is a penalty on domestic R&D, in that it requires U.S. R&D performers to engage in an accounting fiction that leads to double taxation and increases their worldwide tax liability. Removal of this penalty simply allows American companies to be treated like their counterparts all over the world.

It has been alleged that reform of section 861 will only benefit multinational corporations. In a way, this is true in that a U.S. company must have foreign operations in order to be penalized by section 861. However, small companies that conduct U.S. R&D and sell abroad are also penalized by section 861, just like the larger corporations. There are hundreds of small companies that will be burdened less, and made stronger and more competitive, if the section 861 penalty is removed.

Fortunately, President Bush has led the way toward settling this issue with a proposal to extend the current moratorium for one additional year. I commend President Bush for his leadership and foresight in recognizing the need for procompetitive policies in this area. However, the President's proposal does not go far enough, these procompetitive policies must be made permanent to encourage new technological innovation by our companies.

Senator BAUCUS and I are pleased to be joined in the introduction of this procompetitiveness legislation by nine other members of the Senate Finance Committee and seven more of our fellow Senators, all of whom recognize the importance of encouraging domestic R&D. I urge my other colleagues to join us, by supporting this important legislation, as we attempt to finally and permanently resolve the long-standing controversy surrounding Treasury Regulation section 1.861-8.

In conclusion, I would like to read two quotes into the RECORD from two very well respected gentlemen who were involved in the report released by the Council on Competitiveness. The first comes from Mr. George Fisher, chairman and CEO of Motorola, Inc., who is chairman of the council, and I quote:

> While impressive, America's performance in the Gulf should not be interpreted as a sign of unassailable U.S. technological strength. In the future, both our national security and economic performance will depend increasingly on commercial technologies that have been targeted by our foreign trading partners. What we need is a coherent national response—one that involves government, industry, labor and our universities—to meet this challenge.

The second quote comes from Adm. B.R. Inman, who chaired the Advisory Committee that spearheaded the project, and I quote:

> There is intense international competition for technological leadership today. More and more of America's major competitors are systematically pursuing preeminence in critical technologies. Although the United States has initiated some promising technology programs, we lack clear national priorities and the commitment from the public and private sectors necessary to meet the challenge.

Thank you, Mr. President, I ask unanimous consent that the full text of the bill, a copy of a document entitled "A Primer on 861-R&D," and a copy of the highlights and the Executive Summary of the new report from the Council on Competitiveness appear in the RECORD following my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 752

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "R & E Permanent Resolution Act of 1991".

SEC. 2. PERMANENT ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

(a) IN GENERAL.—Paragraph (5) of section 864(f) of the Internal Revenue Code of 1986 (relating to allocation of research and experimental expenditures) is amended to read as follows:

"(5) YEARS TO WHICH RULE APPLIES.—This subsection shall apply to taxable years beginning after August 1, 1991."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after August 1, 1991.●

A PRIMER ON 861-R&D

BACKGROUND

The 861 regulations as they apply to R&D were adopted in 1977 and phased in to be effective as of 1980. Since then, Congress after Congress has delayed, abated, or otherwise forestalled their application, at various times criticizing their effect on R&D policy and encouraging the Treasury to revise them. Supporters of the regulations have countered that such congressional action has benefitted "large multinationals" or "mostly pharmaceuticals." Resolution of this issue has become harder of late, given the revenue "crunch" and various budget rules. Amidst all this, it may be useful to return to the beginning, to a primer of what 861-R&D is all about.

HOW 861 WORKS

What the 861 regulations do is simple. They treat a portion of U.S. R&D "as if" it were done abroad. The theory is that U.S. R&D is "fungible"—that is, that it easily could be done abroad—and therefore doing all of it in the U.S. "loads up" on U.S. deductions. It is also theorized that the results of U.S. R&D benefit the foreign operations of U.S. companies, and thus a "charge" against those operations is justified.

Mechanically, the 861-R&D regulations exact their "charge" through a complicated foreign tax credit calculation. In practical terms, however, the effect is the same as denying a deduction for that portion of the U.S.-R&D "deemed" by the regulations to have been done abroad. This is actually easier to understand that it sounds. Take, for example, a large U.S. electronics company with plants, warehouses, and other facilities in Asia and Europe, which are necessary to compete against its high-powered Japanese, Korean, and German rivals. As a U.S. corporation, this electronics company does most of its R&D in the U.S. As far as 861 is concerned, however, a portion of that R&D will be treated "as if" done in Asia and Europe. Of course, no Asian or European country will allow the electronics company to deduct any of this phantom R&D. And, frankly, why should they? Why should Germany, for example, allow a deduction for salaries paid to scientists in Silicon Valley or circuit boards tested in Austin? The net, immediate effect is that the deduction is lost. The long-term effect is that U.S. companies competing in the international marketplace are saddled with a "charge" that none of their competitors bear.

EXAMINING THE THEORETICAL JUSTIFICATIONS

The theories underlying the 861-R&D regulations need to be examined. In effect, U.S. companies are penalized for doing their R&D in the U.S.—unfairly "loading up," according to the tax authorities—rather than spreading it "fungibly" across their worldwide operations. Industry, in return, has explained that it should not be U.S. policy to encourage worldwide R&D, because there are immense benefits to the conduct of such activities here in the U.S. In particular, industry has been frustrated that R&D policy is being set through the tax regulations, based on narrow tax theories. Congress has agreed for over ten years, continually delaying and forestalling the 861-R&D regulations.

The other theoretical justification—that the R&D is deducted here, but exploited abroad—has been overtaken by the pace of tax legislation in the '80s. It used to be possible to transfer patents, technology, or the other results of R&D to ones foreign operations on a tax-free basis, but this is no longer possible. Now a royalty—in fact, a super royalty—must be paid.

WHICH TAXPAYERS ARE HURT

Which companies have been hurt by 861—and could be helped by a moratorium—should also be examined. To be hurt by 861 two factors must be present (assuming profitability). First, you must have foreign operations to which your U.S. R&D can be "deemed." This is the source of the criticism that only "multinationals" will benefit from a moratorium. As an observation this is true, but is it really a criticism? All that is being said, really, is that a moratorium will reduce the 861 "charge" now exacted from U.S. companies which operate abroad. In a global economy, these are precisely the companies we should avoid penalizing, so that they may compete unfettered against foreign rivals for world markets.

Second, to be hurt by 861, you must conduct U.S. R&D. You must be a computer company researching superconductivity, an electronics company competing in the high resolution television field, an auto company seeking to reduce emissions and increase fuel efficiency, a chemical company searching for non-polluting plastics, a consumer products company researching biodegradable detergent, or a pharmaceutical company striving for a cure for AIDS. Every year, publications such as *Business Week* and *Inside R&D* publish an "R&D Scoreboard"—a list of the U.S. companies with the largest U.S. R&D budgets. (A copy of such lists published in 1990 is attached.) Alternating first and second place over the years has been IBM and GM. Dupont and Hewlett-Packard are typically near the top of the lists. By and large, most of the companies on these lists are hurt by 861 (the general exception being defense firms, which, for obvious reasons, have traditionally had few overseas facilities). What such lists demonstrate is that 861 is not a "mostly pharmaceutical" issue. It is an R&D issue, penalizing every profitable computer company, pharmaceutical company, auto company, chemical company, electronics company, and consumer product company which spends large sums in the U.S. on R&D and operates abroad in competition with formidable foreign rivals. Understood as such, the 861–R&D problem is one which deserves a permanent resolution.

CONCLUSION

After a decade of temporary solutions, it is time to bring stability to R&D tax policies. The 861–R&D bill does this by treating most (64%) U.S. R&D as truly U.S., while leaving some (36%) subject to being treated "as if" done abroad. This latter feature is a concession to revenue constraints, and to those who believe tax theory requires at least some application of 861 to R&D. Industry, the Administration, and the bill's sponsors agreed to this solution several years ago, and it has been embodied in every temporary enactment since. It is time to adopt this solution permanently.

[From Business Week, June 15, 1990]

THE TOP U.S. COMPANIES IN 1989 R&D

Total Spending

[in millions]

1. General Motors (2a)	$5,247
2. IBM (16c)	5,201
3. Ford Motor (2a)	3,167
4. AT&T (20)	2,652
5. Digital Equipment (16c)	1,525
6. Du Pont (3)	1,387
7. General Electric (4)	1,334
8. Hewlett-Packard (16c)	1,269
9. Eastman Kodak (12)	1,253
10. United Technologies (1)	957

INSIDE R&D—R&D SPENDING BY TOP 100 COMPANIES BY INDUSTRY

[In millions of dollars]

Industry (number of companies included)	1989	1988	Percent increase
Computers (15)	11,510.4	9,840.5	17.0
Motor vehicles (4)	9,491.8	8,664.5	9.5
Pharmaceuticals (13)	5,688.4	5,068.6	12.3
Electronics (15)	5,280.0	4,779.7	10.5
Aerospace (10)	4,729.4	4,656.5	1.6
Chemicals (9)	4,127.7	3,849.7	7.2
Scientific and photographic equipment (6)	3,917.6	3,264.8	20.0
Telecommunications (2)	2,933.0	2,869.0	2.2
Petroleum (2)	2,055.0	1,918.0	7.1
Industrial and farm equipment (4)	694.0	597.9	16.1

INSIDE R&D's 100 BIGGEST R&D SPENDERS IN U.S. INDUSTRY—1989

Rank		Company[1]	R&D expenditure (millions)	Increase (decrease) from previous year (percent)	R&D/sales (percent)	Net income/sales (percent)	R&D/total employment (thousand of dollars per employee)
1989	1988						
1	1	General Motors (1)[2]	$5,247.5	10.4	4.2	3.4	6.8
2	2	IBM (4)	5,201.0	17.7	8.3	6.0	13.6
3	3	Ford (2)	3,167.0	8.1	3.3	4.0	8.6
4	4	AT&T (NL)	2,652.0	3.1	5.2	5.3	9.4
5	6	Digital Equipment (27)	1,525.1	16.7	12.0	8.4	12.1
6	5	Du Pont (9)	1,387.0	5.2	4.0	7.1	9.5
7	7	General Electric (5)	1,334.0	15.5	2.5	7.3	4.6
8	9	Hewlett-Packard (33)	[3]1,269.0	20.2	10.7	7.0	13.4
9	8	Eastman Kodak (18)	1,253.0	9.2	6.8	2.9	9.1
10	10	United Technologies (17)	956.6	2.6	4.9	3.6	4.8
11	11	Chrysler (8)	[3]954.0	11.1	2.7	.9	7.8
12	13	Dow (20)	873.0	13.1	5.0	14.1	14.1
13	12	Xerox (21)	809.0	1.9	4.8	4.2	7.3
14	[4]35	Bristol-Meyers Squibb (50)	[3]789.0	14.7	8.6	8.1	14.6
15	16	3M (32)	[3]784.0	8.7	6.5	10.4	9.0
16	19	Motorola (48)	784.0	17.9	8.2	5.2	7.5
17	15	Unisys (43)	781.5	9.6	7.7	−6.3	9.5
18	14	Boeing (15)	754.0	.4	3.7	3.3	4.6
19	18	Merck (70)	750.5	12.2	11.5	22.8	21.8
20	17	Johnson & Johnson (47)	719.0	6.7	7.4	11.1	8.7
21	20	Procter & Gamble (14)	628.0	2.1	2.9	5.6	8.0
22	21	McDonnel Douglas (25)	[3]617.0	9.8	4.2	−.3	4.8
23	24	Lilly (116)	[3]605.4	18.3	14.5	22.5	21.5
24	22	Monsanto (55)	598.0	4.0	6.9	7.8	14.2
25	23	Exxon (3)	592.0	7.4	.7	3.4	5.7
26	26	ITT (331)	553.0	7.2	2.8	4.6	4.6
27	29	Pfizer (80)	531.2	12.4	9.4	12.0	12.6
28	25	Lockheed (45)	[3]506.0	.6	5.1	.1	6.1
29	28	Texas Instruments (71)	506.0	2.4	7.8	4.5	6.9
30	30	Abbott Laboratories (90)	501.8	10.4	9.3	16.0	12.3
31	31	Rockwell International (29)	475.8	10.5	3.8	5.9	4.4
32	34	General Dynamics (44)	465.1	0.5	4.6	2.9	4.6
33	32	NCR (78)	446.0	7.2	7.5	6.9	8.0
34	46	Apple Computer (96)	420.1	54.2	8.0	8.6	28.9
35	36	Upjohn (156)	[3]407.1	7.2	14.0	10.7	20.3
36	37	American Cyanamid (106)	[3]406.6	8.7	8.4	6.1	11.5
37	33	Allied Signal (31)	381.0	−8.2	3.2	4.4	3.6
38	40	Intel (137)	365.1	14.7	11.7	12.5	16.6
39	50	American Home Products (68)	[3]348.5	6.3	5.2	16.3	6.9
40	42	Schering-Plough (139)	326.5	9.6	10.3	14.9	15.3
41	52	Philip Morris (7)	318.0	29.8	.8	7.6	2.0
42	51	Warner-Lambert (114)	308.8	19.0	7.4	9.8	9.4
43	39	Honeywell (65)	308.4	−4.6	5.1	9.1	4.2
44	41	Goodyear (39)	303.3	−.5	2.8	1.7	2.7
45	49	Wang Laboratories (147)	[3]282.5	10.1	9.8	−11.2	10.5
46	43	GTE (NL)	281.0	−5.4	1.6	8.1	1.8
47	47	Amoco (12)	278.0	2.2	1.2	6.7	5.2
48	59	Amdahl (201)	[3]277.3	24.0	13.2	7.3	33.8
49	48	Raytheon (52)	274.7	1.3	3.1	6.0	3.5
50	45	National Semiconductor (187)	[3]264.8	12.8	16.1	−12.5	8.2
51	58	TRW (62)	256.0	13.8	3.5	3.6	3.4
52	54	AMP (160)	253.0	6.3	9.0	10.0	10.4
53	38	Control Data (153)	249.9	−25.6	8.5	−23.2	13.9
54	60	Syntex	245.2	12.5	18.2	22.5	24.5
55	55	Baxter International (63)	245.0	2.9	3.3	6.0	3.8
56	53	Shell Oil (13)	245.0	1.7	1.1	6.5	7.8
57	56	Mobil (6)	244.0	5.6	.5	3.6	3.6
58	64	Chevron (11)	236.0	13.5	.8	.9	4.3
59	70	Caterpillar (38)	235.0	29.1	2.1	4.5	3.9
60	81	Sun Microsystems (232)	234.1	67.3	13.3	3.4	22.9
61	61	Deere (66)	234.1	8.4	3.3	5.3	6.0
62	57	PPG Industries (83)	[3]232.6	0.3	4.1	8.1	6.6
63	66	Emerson Electric (67)	218.1	6.8	3.1	8.3	3.0
64	72	Texaco (10)	[3]215.0	7.5	.7	7.4	5.8
65	73	Tandem Computers (246)	203.5	20.2	12.5	7.2	21.3

INSIDE R&D's 100 BIGGEST R&D SPENDERS IN U.S. INDUSTRY—1989—Continued

Rank 1989	Rank 1988	Company[1]	R&D expenditure (millions)	Increase (decrease) from previous year (percent)	R&D/sales (percent)	Net income/sales (percent)	R&D/total employment (thousand of dollars per employee)
66	74	Textron (61)	202.0	20.2	2.7	3.6	3.5
67	63	Advanced Micro Devices (325)	201.8	−3.2	18.3	4.2	15.4
68	68	Martin Marietta (84)	191.6	−1.7	3.3	5.3	2.9
69	62	Tektronix (271)	189.2	−12.2	13.2	1.3	12.0
70	75	Aluminum Co. of America (37)	182.4	9.0	1.7	8.7	3.0
71	77	Union Carbide (53)	181.0	13.8	2.1	6.6	3.9
72	69	Westinghouse (28)	[3] 181.0	−4.7	1.4	7.2	1.5
73	65	Northrop (98)	180.3	−12.5	3.4	−1.5	4.4
74	78	Rohm and Haas (167)	175.0	12.2	6.6	6.6	13.4
75	71	Prime Computer (259)	173.2	−1.0	11.4	−18.2	16.1
76	76	Data General (290)	171.4	3.8	13.0	−9.1	12.5
77	80	FMC (133)	149.7	4.2	4.4	4.6	6.2
78	90	Genentech (NL)	145.8	30.6	38.0	11.5	81.5
79	85	Cray Research (391)	143.3	21.7	18.3	11.3	30.4
80	79	Polaroid (218)	137.4	−7.9	7.2	7.6	12.0
81	--	Computer Assc. International (NL)	133.5	63.8	13.0	15.9	21.3
82	94	Phillips Petroleum (30)	133.0	31.7	1.1	1.8	6.1
83	84	Marion Merrell Dow (354)	133.0	12.3	14.3	24.5	38.9
84	--	Compaq Computer (157)	132.5	77.0	4.6	11.6	13.9
85	--	Litton Industries (100)	129.6	62.4	2.6	3.6	2.6
86	88	Sundstrand (243)	128.3	11.4	8.0	7.6	9.4
87	83	W.R. Grace (76)	124.8	4.9	2.0	4.2	10.2
88	82	Eaton (115)	123.3	1.3	3.4	5.7	3.2
89	93	Rorer Group (311)	121.8	17.2	10.3	7.3	14.3
90	--	Raychem (326)	119.7	42.3	11.1	3.4	10.5
91	91	Kimberly-Clark (86)	118.0	6.4	2.1	7.4	3.0
92	92	Ingersoll-Rand (134)	113.0	8.3	3.3	5.9	3.6
93	89	Atlantic Richfield (22)	112.0	−1.8	.7	12.7	4.2
94	97	Cummins Engine (132)	111.9	16.9	3.2	−.2	4.5
95	87	General Signal (219)	111.1	−3.8	5.8	4.1	5.7
96	--	Microsoft (NL)	110.2	58.0	13.7	21.2	27.3
97	98	Corning (181)	109.6	15.1	4.5	10.6	4.0
98	--	Halliburton (NL)	106.8	31.9	1.9	2.4	1.6
99	86	Harris (180)	[3] 104.2	4.0	4.7	5.2	3.0
100	--	Whirlpool (73)	99.3	36.2	1.6	3.0	2.5
		Total	53,094.2	8.7	Averages: 3.67	5.28	10.5

[1] Ranking in Fortune 500 Industrial Survey. AT&T, ITT, and GTE are considered service companies. Syntex is registered in Panama, others are too small.

[2] Does not include $592.3 million (up 7.5 percent) spent on R&D by EDS subsidiary, enough to rank it No. 25 if considered separated.

[3] Using restated data.

[4] Bristol-Myers (35 in 1988) merged with Squibb (44).

Notes.—NL—not listed.

Source: Data provided by Standard & Poor's Compustat Services, Inc.

GAINING NEW GROUND: TECHNOLOGY PRIORITIES FOR AMERICA'S FUTURE

HIGHLIGHTS

"Gaining New Ground" is a major new report from the Council on Competitiveness that identifies critical generic technologies driving the American economy and explains what the nation must do to strengthen its leadership in them. The report represents the first-ever U.S. private-sector consensus on U.S. priorities in technology. The critical technologies cut across nine major sectors of the economy, which together account for over $1 trillion of sales. It describes where the United States is ahead, where it is behind and, more important, what U.S. government, labor, industry and universities can do to improve America's performance. The report reflects the strong conviction of leading American private-sector executives that unless the nation acts immediately to promote its position in critical generic technologies, U.S. technological competitiveness will erode further, with disastrous consequences for American jobs, economic growth and national security.

KEY FINDINGS

There is a broad domestic and international consensus about the critical generic technologies driving economic growth and competitiveness.

The U.S. government, the Japanese Ministry of International Trade and Industry, and the European Community have all identified similar critical technologies. Given this consensus, it is time to move beyond making lists. We must begin implementing programs to strengthen U.S. leadership in critical technologies.

The U.S. position in many critical technologies is slipping and, in some cases, has been lost altogether. Future trends are not encouraging.

America pioneered such technologies as numerically controlled machine tools, robotics, optoelectronics, semiconductors and memories only to lose leadership in them to foreign competitors. Moreover, in many critical technologies, ranging from leading-edge scientific equipment to precision bearings, trends are running against U.S. industry.

Japan, Europe and other foreign governments are systematically pursuing leadership in critical technologies.

The most successful efforts combine funding with extensive public-private collaboration.

U.S. public policy does not adequately support American leadership in critical technologies, and U.S. national priorities do not sufficiently address issues related to the role of technology in U.S. competitiveness.

Government R&D programs need to be reinforced by policies that encourage sharing of the costs and results of precompetitive research and that stimulate private-sector investment in proprietary R&D and commercialization.

Most of the technologies that will drive economic growth over the next decade already exist, and industry needs to improve its ability to convert them into marketable products and services.

Many of America's competitiveness problems stem from industry's failure to commercialize technology. Effective commercialization depends on management systems that promote the development and application of technology, strong education and training programs, and world-class commercialization systems.

America's research universities constitute a great national asset, but their focus on technology and competitiveness is limited.

U.S. universities produce first-rate scientists and engineers and conduct pioneering research, but their focus on preparing graduates for the needs of industry has been inadequate.

The information below list the critical generic technologies driving U.S. industrial competitiveness. The technologies are divided into five major categories. Each technology is ranked according to whether the United States is strong, competitive, weak, or losing badly or lost.

MATERIALS AND ASSOCIATED PROCESSING TECHNOLOGIES

Advanced Structural Materials

Competitive in Metal Matrix Composites, Polymers, Polymer Matrix Composites.

Weak in Advanced Metals.

Losing badly or lost in Structural Ceramics.

Electronic and Photonic Materials

Competitive in Magnetic Materials, Optical Materials, Photoresists, Superconductors.

Losing badly or lost in Display Materials, Electronic Ceramics, Electronic Packaging Materials, Gallium Arsenide, Silicon.

Biotechnologies

Strong in Bioactive/Biocompatible Materials, Bioprocessing. Drug Discovery Techniques, Genetic Engineering.

Materials Processing

Competitive in Catalysts, Chemical Synthesis, Net Shape Forming, Process Controls.

Weak in Membranes, Precision Coating.

Environmental Technologies

Competitive in Emissions Reduction, Recycling/Waste Processing.

ENGINEERING AND PRODUCTION TECHNOLOGIES

Design and Engineering Tools

Strong in Computer-Aided Engineering, Systems Engineering.

Competitive in Human Factors Engineering, Measurement Techniques, Structural Dynamics.

Weak in Leading-Edge Scientific Instruments.

Commercialization and Production Systems

Competitive in Computer-Integrated Manufacturing.

Weak in Design for Manufacturing, Design of Manufacturing Processes, Flexible Manufacturing, Integration of Research, Design and Manufacturing, Total Quality Management.

Process Equipment

Competitive in Advanced Welding, Joining and Fastening Technologies.

Weak in High-Speed Machining, Precision Bearings, Precision Machining and Forming.

Losing badly or lost in Integrated Circuit Fabrication and Test Equipment, Robotics and Automated Equipment.

ELECTRONIC COMPONENTS

Microelectronics

Strong in Microprocessors.

Competitive in Logic Chips, Submicron Technology.

Losing badly or lost in Memory Chips.

Electronic Controls

Competitive in Sensors.

Weak in Actuators.

Optoelectronic Components

Weak in Laser Devices, Photonics.

Electronic Packaging and Interconnections

Losing badly or lost in Multichip Packaging Systems, Printed Circuit Board Technology

Displays

Losing badly or lost in Electroluminescent, Liquid Crystal, Plasma and Vaccum Fluorescent.

Hardcopy Technology

Weak in Electro Photography, Electrostatic.

Information Storage

Strong in Magnetic Information Storage.

Losing badly or lost in Optical Information Storage.

INFORMATION TECHNOLOGIES

Software

Strong in Applications Software, Artificial Intelligence, Computer Modeling and Simulation, Expert Systems, High-Level Software Languages, Software Engineering.

Computers

Strong in Neural Networks, Operating Systems, Processor Architecture.

Competitive in Hardware Integration.

Human Interface and Visualization Technologies

Strong in Animation and Full Motion Video, Graphics Hardware and Software, Handwriting and Speech Recognition, Natural Language, Optical Character Recognition.

Database Systems

Strong in Data Representation, Retrieval and Update, Semantic Modeling and Interpretation.

Networks and Communications

Competitive in Broadband Switching, Digital Infrastructure, Fiber Optic Systems, Multiplexing.

Portable Telecommunications Equipment and Systems

Strong in Transmitters and Receivers.

Competitive in Digital Signal Processing, Spectrum Technologies.

POWERTRAIN AND PROPULSION TECHNOLOGIES

Powertrain

Strong in Low Emission Engines.

Competitive in Alternative Fuel Engines, Electric Motors and Drives, Electrical Storage Technologies.

Weak in High Fuel Economy/Power Density Engines.

Propulsion

Strong in Airbreathing Propulsion, Rocket Propulsion.

KEY RECOMMENDATIONS

1. In order to enhance U.S. competitiveness, the President should act immediately to make technological leadership a national priority.

The President should announce his intention to increase dramatically the share of federal R&D expenditures that support critical generic technologies and present a five-year implementation plan in his FY 1993 budget. He should direct the Office of Science and Technology Policy to work with industry to set priorities in critical generic technologies, to translate these into specific action plans and to implement these programs. In addition, he should further strengthen key technology agencies, such as the National Institute of Standards and Technology, the Defense Advanced Research Projects Agency, the National Institutes of Health and the National Science Foundation.

2. The Federal and state governments should develop policies and implement programs to assure that America has a world-class technology infrastructure.

The federal government should assess the nation's technology infrastructure needs, benchmark what foreign governments are doing and develop strategies, programs and implementation plans to make sure that the United States has world-class research facilities and equipment and an adequate supply of skilled scientists and engineers.

3. U.S. industry should establish more effective technology networks to help it compete in the international marketplace.

U.S. industry associations, professional societies, R&D consortia, universities and research institutes should all make a major commitment to promote technology collaboration and to diffuse technology and information that promote America's technological competitiveness.

4. U.S. firms should set a goal to meet and surpass the best commercialization practices of their competitors.

The U.S. private sector should match the President's goal to increase dramatically the percentage of R&D expenditures that support critical generic technologies. In order to build on successful commercialization practices, U.S. firms should benchmark their competitors; set appropriate goals and allocate the necessary resources; motivate, train and empower their employees to take responsibility for achieving these goals; and develop the external relationships necessary to accelerate the commercialization process.

5. While keeping their basic research programs strong, universities should develop closer ties to industry so that education and research programs contribute more effectively to the real technology needs of the manufacturing and service sectors.

Universities should increase their focus on the manufacture, use and commercialization of technology, but in the process should not jeopardize their basic research programs.

The report is the result of a two-year effort guided by a blue-ribbon group of top technology experts from industry, universities and labor around the country. The analysis differs from previous studies since it focuses on the needs of a broad spectrum of U.S. industry rather than on the individual needs of particular sectors. Because the technologies identified cut across different industries and drive national productivity and economic growth, they reflect the broader national interest, rather than the special interests of individual firms or industries.

The Council on Competitiveness is a private, non-profit, non-partisan organization of chief executives from business, higher education and organized labor who have joined together to improve the ability of American companies and workers to compete in world markets. The price of the full report is $20. Copies can be obtained by contacting the Council.

EXECUTIVE SUMMARY

Throughout America's history, technology has been a major driver of economic growth. It has carried the nation to victory in two world wars, created millions of jobs, spawned entire new industries and opened the prospect of a brighter future. In many respects, technology has been America's ultimate comparative advantage. Because of our great technological strength, U.S. manufacturing and service industries stood head and shoulders above other nations in world markets.

That comforting view is under assault. As a result of intense international competition, America's technology edge has eroded in one industry after another. The U.S.-owned consumer electronics and factory automation industries have been practically eliminated by foreign competition; the U.S. share of the world machine tool market has slipped from about 50 percent to 10 percent; and the U.S. merchant semiconductor industry has shifted from dominance to a distant second in world markets. Even such American success stories as chemicals, computers and aerospace have foreign competitors close on their heels.

Blame for the problems has been laid at many doorsteps: sluggish domestic productivity growth, closed foreign markets, the deteriorating U.S. education and training system, poor management and misguided government policies in areas ranging from capital formation to product liability laws. Some fear the United States is too preoccupied with national prestige technology projects to worry about investing in the generic enabling technologies that are critical to the competitiveness of many industries. Others charge that the United States is increasingly turning over the difficult job of commercialization and manufacturing technology to foreign companies. Unfortunately, in turning over technology to its competitors, America is turning over the keys to economic growth and prosperity.

The American people and its leaders have too readily assumed that preeminence in science automatically confers technological leadership and commercial success as well. It does not. America assumed that government support for science would be adequate to provide for technology. It is not. In too many sectors, America took technology for granted. Today, the nation is paying the price for that complacency.

This report examines the U.S. position in critical technologies and the actions the nation must take to strengthen it.

KEY FINDINGS

1. There is a broad domestic and international consensus about the critical generic technologies driving economic growth and competitiveness.

The U.S. Department of Commerce, the U.S. Department of Defense, Japan's Ministry of International Trade and Industry, the European Community and many individual industry groups have all compiled similar lists of critical technologies. This project examined critical technologies from the point of view of a cross section of U.S. industry and confirmed the overlap of critical technologies that appears in these other studies. Given the broad consensus about critical technologies, it is time to move beyond making lists and begin implementing programs that will strengthen U.S. technological leadership.

2. The U.S. position in many critical technologies is slipping and, in some cases, has been lost altogether. Future trends are not encouraging.

America pioneered such technologies as numerically controlled machine tools, robotics, optoelectronics and integrated circuits only to lose leadership in them to foreign competitors. Moreover, in many critical technologies, ranging from leading-edge scientific equipment to precision bearings, treads are running against U.S. industry. The erosion of the U.S. position in critical technologies has helped to highlight an important lesson about industrial competition in the late 20th century: a lead in science is not sufficient to sustain technological leadership. Scientific excellence also must be supplemented by a strong position in critical technologies and by the ability to convert these technologies into manufactured products, processes and services that can compete successfully in the marketplace. Otherwise, America's jobs, standard of living and national security will be in jeopardy and, because technology is increasingly driving new scientific advances, so will America's future lead in science.

3. Foreign governments are systematically pursuing leadership in critical technologies.

Government in other major industrialized countries have used R&D incentives, public-private technology consortia, infrastructure programs, tax policy, trade policy and regulations to improve the technological competitiveness of their industries. The most successful efforts combine funding with extensive public-private collaboration. Partly as a result of these programs, U.S. industry has lost extensive market share in many technology-intensive products (such as memory chips and machine tools) and, in some cases, entire industries (such as consumer electronics). Problems arising from foreign government actions have been compounded by the lack of a timely, coordinated and effective U.S. industry and government response.

4. U.S. public policy does not adequately support American leadership in critical technologies, and U.S. national priorities do not sufficiently address issues related to the role of technology in U.S. competitiveness.

Other nations already spend more on non-defense R&D as a percent of GDP than the United States, and they are steadily increasing these levels. The United States needs to increase support for R&D and focus more resources on non-defense R&D that is commercially relevant. In 1990, only a relatively small fraction of the $67 billion federal R&D budget was directly relevant to the real technology needs of American industry. The low priority given to technology and competitiveness in the federal R&D budget is reflected in America's tax, trade and regulatory policies. It is also reflected in the decline of public investment in infrastructure, which fell from 5.8 percent of GNP in the mid-1950s to 3.9 percent in the mid-1980s. Unless R&D programs are reinforced by policies in these other areas that encourage private-sector investment in technology, they will have a limited impact on U.S. competitiveness. The most effective programs are those that encourage sharing of the costs and results of precompetitive research and that stimulate private-sector proprietary R&D and commercialization.

5. Most of the technologies that will drive economic growth over the next decade already exist, and industry needs to improve its ability to convert them into marketable products and services.

Many of the competitiveness problems facing U.S. industry stem from industry's failure to commercialize technology effectively. Although it is important to discover breakthrough technologies that create entire new industries, it is equally important to develop existing technologies that improve industry's performance in large, established markets. In addition to research, market success depends on management systems that encourage the development and application of technology, education and training programs that build work force skills, and world-class commercialization systems. Unless companies have strengths in these areas, they will not be able to translate their technical advantages into technological leadership.

6. America's research universities constitute a great national asset, but their focus on technology and competitiveness is limited.

U.S. universities produce first-rate scientists and engineers and conduct pioneering research that lays the foundation for many advances in technology. However, their focus on undergraduate education and on preparing future scientists and engineers for the needs of industry, especially in the manufacturing sector, has been inadequate. A closer relationship with industry would help university faculty broaden their understanding of industry's education requirements, develop appropriate curriculums and motivate students. It would also help university researchers focus on challenging leading-edge technology and manufacturing research that is relevant to the private sector. In reaching out to industry, however, universities should be careful not to jeopardize their basic research programs, which have served the nation well.

KEY RECOMMENDATIONS

The recommendations highlighted below stem from one overriding conclusion:

In order to create quality jobs, generate strong economic growth and safeguard national security, the U.S. government and private sector should work together to develop coherent policies to ensure U.S. leadership in the development, use and commercialization of technology.

The first two recommendations focus on actions that the federal government should undertake; the second two on U.S. industry's responsibilities; and the last on what American universities can do. Taken together, they would make a major contribution to America's technological competitiveness. An in-depth discussion of these recommendations can be found in Chapter IV (pages 44–54).

1. To enhance U.S. competitiveness, the President should act immediately to make technological leadership a national priority.

The United States is already losing badly in many critical technologies. Unless the nation acts today to promote the development of generic industrial technology, its technological position will erode further, with disastrous consequences for American jobs, economic growth and national security. The federal government should view support of generic industrial technologies as a priority mission. It is important to note that this mission would not require major new federal funding. If additional funds for generic technology programs are required, other federal R&D programs, such as national prestige projects, should be redirected or phased in more slowly to allow more resources to be focused on generic technology. The President should move quickly to take the following actions:

Announce his intention to increase dramatically the percentage of federal R&D expenditures allocated to support for critical generic technologies and present a five-year implementation plan as part of his FY1993 budget.

Direct the Office of Science and Technology Policy and the newly created Critical Technologies Institute to work with industry to set priorities in critical generic technologies, translate these priorities into specific action plans and implement these programs.

Direct key technology agencies—such as the National Science Foundation, the National Institutes of Health, the National Institute of Standards and Technology, and the Defense Advanced Research Projects Agency—to work with industry to advance U.S. leadership in critical generic technologies.

Implement decisions to ensure that the federal laboratories' contribution to U.S. technological leadership and competitiveness is commensurate with the national investment in them.

Make the cost of capital for the development of priority technologies competitive with that of America's major competitors by accelerating depreciation schedules for manufacturing equipment, making the R&D tax credit permanent and broadening it to include manufacturing engineering and process R&D, and placing a permanent moratorium on Treasury Regulation 1.861–8.

Promote capital formation, antitrust reforms, regulatory guidelines, export policies and foreign market-opening measures that are conducive to U.S. manufacturing, investment in technology and quality of life.

Make technological leadership a central theme in the Administration's public communications efforts and highlight it in the President's annual State of the Union address, budget submissions and other messages on national priorities.

Ensure that key policymaking bodies, such as the National Security Council and relevant agencies and departments, are more closely involved in issues related to technology and competitiveness.

2. The Federal and State governments should develop policies and implement programs to ensure that America has a world-class technology infrastructure.

The nation's technology infrastructure is critical to its international competitiveness, national defense and world leadership. Technology infrastructure consists of physical assets, such as equipment, facilities and networks, and human capital, such as skilled scientists, engineers and other personnel. Infrastructure programs traditionally have been a responsibility of the federal and state governments. The federal government should assess the nation's technology infrastructure needs, benchmark what foreign governments are doing and develop strategies, programs and implementation plans to make sure that the United States has a world-class technology infrastructure. The Administration's 1989 report on high performance computing and networking, as well as related Congressional legislation, represent an infrastructure program that should be fully implemented. The following are essential aspects of a successful technology infrastructure program:

Board relevance to many sectors of the U.S. economy.

Close links with public- and private-sector efforts to develop relevant critical generic technologies.

Support for education at all levels.

Investment in related university research, education, facilities and equipment.

Measures that make it easy for industry to invest in, deploy and use infrastructure to enhance its competitiveness.

3. U.S. industry should establish more effective technology networks to help it compete in the international marketplace.

U.S. industry associations, professional societies, R&D consortia, universities and research institutes should all play more substantial roles promoting technological collaboration and in diffusing technology and information that promote America's technological competitiveness. Although there is an understandable sensitivity to sharing proprietary technology, the United States can, and must, do a better job of diffusing new ideas throughout industry and of sharing the cost and risk of developing technology. The Council on Competitiveness will take a leading responsibility to work with these organizations to promote technology networks. Industry groups and associations should take the following actions:

Strengthen their competence in technology issues.

Promote antitrust reforms that enable them to establish technology networks and share information about international market developments.

Identify and disseminate information about key generic technologies and world-class commercialization practices throughout the U.S. private sector.

Jointly assess critical generic technologies and develop technology road maps to boost U.S. competitiveness.

Build cooperative supplier networks that help set standards and share information in critical technologies.

4. U.S. firms should set a goal to meet and surpass the best commercialization practices of their competitors.

American management needs to improve its ability to commercialize technology. U.S. companies should understand and build on the successful commercialization practices of their domestic and foreign competitors. To achieve this goal, U.S. firms should benchmark their competitors. They should set appropriate goals and allocate the necessary resources. They should motivate, train and empower their employees to take responsibility for achieving these goals. And they should develop the external relationships necessary to accelerate the commercialization process. The Council on Competitiveness will play a role in encouraging industry to take these steps. Action in the following areas is especially important:

Match the Administration's goal to increase dramatically the R&D allocated to critical generic technologies and develop a five-year implementation plan (see recommendation 1).

Institute total quality management and continuous improvement.

Strengthen process engineering.

Accelerate time-to-market to competitive levels.

Improve the ability to share risks and spread costs for developing technology across a broad base.

Continuously upgrade the skills of the work force.

Encourage corporate executives and general managers to give strategic factors equal weight with financial projections in technology-based businesses.

5. While keeping their basic research programs strong, universities should develop closer ties to industry so that education and research programs contribute more effectively to the real technology needs of the manufacturing and service sectors.

America's research universities are one of its great technological assets and should be strengthened. In pursuit of new knowledge, however, many universities have lost sight of issues related to technology and manufacturing that affect U.S. competitiveness. Universities should strengthen their focus on the manufacture, use and commercialization of technology. In the process, however, it is important not to jeopardize the basic research contributions of universities. Universities should focus on the following actions:

Develop close ties with U.S. industry and make efforts to ensure that important technological advances are communicated to potential U.S. users on a priority, expedited basis.

Make efforts, in cooperation with employers, to ensure that education programs in engineering and management reflect the real needs of industry.

Keep basic science and engineering programs strong and strengthen research capabilities so that they can adequately address fundamental, long-term technology issues that are relevant to industry.

CRITICAL TECHNOLOGIES

The following list of critical generic technologies represents the private sector's assessment of the technologies that will drive U.S. productivity, economic growth and competitiveness during the decade ahead. These technologies span different sectors of the U.S. economy. They are divided into five categories: (1) materials and associated processing technologies, (2) engineering and production technologies, (3) electronic components, (4) information technologies and (5) powertrain and propulsion technologies.

The list also includes an assessment of the U.S. competitive position in each technology. The assessment is based on extensive analysis and reflects the judgment of experts in industry who understand both the critical technologies and the relevant markets. In general, the competitive position shows the status of technologies that are incorporated in products or processes *in the marketplace*, rather than technologies *in the laboratory*. The U.S. position in each of the technologies is categorized in one of four ways:

Strong.—U.S. industry is in a leading world position and is not in danger of losing this position in the next five years.

Competitive.—U.S. industry is roughly even with world-best. This category includes technologies where the United States is leading but the leadership is unlikely to be sustained over the next five years, technologies where the United States is staying even and technologies where different countries lead in different niches.

Weak.—U.S. industry is behind in technology or likely to fall behind in the next five years. Changes are needed if the United States is to remain in the businesses related to this technology.

Losing Badly or Lost.—U.S. industry is no longer a factor or is not likely to have a presence in the next five years. It will take considerable effort or a major change in technology for the United States to become competitive.

Technology	U.S. position			
	Strong	Competitive	Weak	Losing badly or lost
Materials and Associated Processing Technologies				
Advanced structural materials:				
Advanced metals	....	....	X	....
Metal matrix composites	....	X	....	....
Polymers	....	X	....	....
Polymer matrix composites	....	X	....	....
Structural ceramics	....	....	....	X
Electronic and photonic materials:				
Display materials	....	....	....	X
Electronic ceramics	....	....	....	X
Electronic packaging materials	....	....	....	X
Gallium arsenide	....	....	....	X
Magnetic materials	....	X	....	....
Optical materials	....	X	....	....
Photoresists	....	X	....	....
Silicon	....	....	....	X
Superconductors	....	X	....	....
Biotechnologies:				
Bioactive/biocompatible materials	X	....	....	....
Bioprocessing	X	....	....	....
Drug discovery techniques	X	....	....	....
Genetic engineering	X	....	....	....
Materials processing:				
Catalysts	....	X	....	....
Chemical synthesis	....	X	....	....
Membranes	....	....	X	....
Net shape forming	....	X	....	....
Precision coating	....	....	X	....
Process controls	....	X	....	....
Environmental technologies:				
Emissions reduction	X	....	....	....
Recycling/waste processing	X	....	....	....
Design and engineering tools:				
Computer-aided engineering	X	....	....	....
Human factors engineering	....	X	....	....
Leading-edge scientific instruments	....	....	X	....
Measurement techniques	....	X	....	....
Structural dynamics	....	X	....	....
Systems engineering	X	....	....	....
Commercialization and production systems:				
Computer-Integrated manufacturing	....	X	....	....
Design for manufacturing	....	....	X	....
Design of manufacturing processes	....	....	X	....
Flexible manufacturing	....	....	X	....
Integration of research, design and manufacturing	....	....	X	....
Total quality management	....	....	X	....
Process equipment:				
Advanced welding	....	X	....	....
High-speed machining	....	....	X	....
Integrated circuit fabrication and test equipment	....	....	....	X
Joining and fastening technologies	....	X	....	....
Precision bearings	....	....	X	....
Precision machining and forming	....	....	X	....
Robotics and automated equipment	....	....	....	X
Microelectronics:				
Logic chips	....	X	....	....
Memory chips	....	....	....	X
Microprocessors	X	....	....	....
Submicron technology	....	X	....	....
Electronic controls:				
Actuators	....	....	X	....
Sensors	....	X	....	....
Optoelectronic components:				
Laser devices	....	....	X	....
Photonics	....	....	X	....
Electronic packaging and interconnections:				
Multichip packaging systems	....	....	....	X
Printed circuit board technology	....	....	....	X
Displays:				
Electroluminescent	....	....	....	X
Liquid crystal	....	....	....	X
Plasma and vacuum fluorescent	....	....	....	X
Hardcopy technology:				
Electro photography	....	....	X	....
Electrostatic	....	....	X	....
Information storage:				
Magnetic information storage	X	....	....	....
Optical information storage	....	....	....	X
Software:				
Applications software	X	....	....	....
Artificial intelligence	X	....	....	....
Computer modeling and simulation	X	....	....	....
Expert systems	X	....	....	....
High-level software languages	X	....	....	....
Software engineering	X	....	....	....
Computers:				
Hardware integration	....	X	....	....
Neural networks	X	....	....	....
Operating systems	X	....	....	....
Processor architecture	X	....	....	....
Human interface and visualization technologies:				
Animation and full motion video	X	....	....	....
Graphics hardware and software	X	....	....	....
Handwriting and speech recognition	X	....	....	....

Technology	U.S. position			
	Strong	Competitive	Weak	Losing badly or lost
Natural language	X	....	....	....
Optical character recognition	X	....	....	....
Database systems:				
Data representation	X	....	....	....
Retrieval and update	X	....	....	....
Semantic modeling and interpretation	X	....	....	....
Networks and communications:				
Broadband switching	....	X	....	....
Digital infrastructure	....	X	....	....
Fiberoptic systems	....	X	....	....
Multiplexing	....	X	....	....
Portable telecommunications equipment and systems:				
Digital signal processing	....	X	....	....
Spectrum technologies	....	X	....	....
Transmitters and receivers	X			
Powertrain:				
Alternative fuel engines	....	X	....	....
Electric motors and drives	....	X	....	....
Electrical storage technologies	....	X	....	....
High fuel economy/power density engines	....	....	X	....
Low emission engines	X	....	....	....
Propulsion:				
Airbreathing propulsion	X	....	....	....
Rocket propulsion	X	....	....	....

Source: Council on Competitiveness.

KEY LESSONS

Several lessons can be drawn from examining the U.S. position in these technologies. Some of the most important are summarized below.

The strong across-the-board U.S. position of a decade ago has deteriorated significantly. U.S. industry has already lost several technologies that are critical to industrial performance, and it is weak or losing badly in others. Moreover, trends are running against the United States—in most technologies, the U.S. position continues to erode.

Technologies where the United States is "strong" or "competitive" share many of the following characteristics:

They are close to basic research or are the direct result of basic research without the intervening steps of lengthy technology development (biotechnology).

They do not have heavy capital investment needs (software).

They can be initiated largely by individual innovation (computer-aided engineering).

They are strongly supported by U.S. government investment in basis research (genetic engineering), defense procurement (rocket propulsion) and environmental regulations (emissions reduction).

They have been supported by high levels of private-sector R&D (materials and information technologies).

Many of the areas where the United States is "weak" or "losing badly" have the following characteristics:

They have not had sufficient private or public investment in the underlying technology (display materials).

There is inadequate risk-sharing among companies in technology development (electronic packaging).

They have high capital needs and low capital investment (automated equipment).

They need extensive investments in technology for an extended period of time (optical information storage).

They have a significant manufacturing focus (integrated circuit fabrication equipment).

They have been targeted by foreign government and industry (memory chips).●

● Mr. BAUCUS. Mr. President, the legislation my colleagues and I are introducing today is truly significant. Technological innovation is critical to our national economic position and general well-being. The bill we are proposing will help promote the kind of U.S. technological innovation that leads to new, marketable products as well as more efficient production and manufacturing.

This bill will encourage U.S.-based research and development by placing a permanent moratorium on Treasury Regulation 1.861-8 as it applies to R&D. Section 861-8 discourages the pursuit of American R&D because it requires U.S. companies with foreign operations to allocate a portion of their domestic R&D expenses to income earned abroad. The result of this misguided public policy is that it effectively penalizes a significant number of U.S. companies—both large and small—for conducting R&D in the United States. Given the current international challenges facing this country, what kind of sense does this make?

The answer is not much and our previous action on this issue makes that clear. For over a decade, the U.S. Congress and the administration have repeatedly enacted moratoria to prevent these onerous regulations from taking effect. This cycle of temporary fixes, must come to an end. To be most effective, the research and development community in this country needs a stable policy environment. The on-again, off-again public policy history surrounding the 861 issue hinders the ability of U.S. businesses to make long-term investments often necessary for the most promising research to come to fruition.

If we are going to do our part to maintain and enhance the United States' position as a technological world leader, we must encourage vigorous research and development here at home, not discourage it. I urge my colleagues to support America's research and development efforts by joining with us to resolve the 861-8 issue once and for all.●

By Mr. DASCHLE (for himself, Mr. SIMON, and Mr. WELLSTONE):

S. 753. A bill relating to Indian health care; to the Committee on Finance.

MEDICAID COVERAGE FOR TRIBAL HEALTH FACILITIES

Mr. DASCHLE. Mr. President, the bill I am introducing today would extend to tribally owned health facilities a Federal medical assistance percentage of 100 percent for health care services provided to Medicaid-eligible Indian patients. This is the same Federal medical assistance percentage that is applicable to facilities owned by the Indian Health Service.

Under the present interpretation of title IV of the Indian Health Care Improvement Act, only those facilities owned by the Indian Health Service qualify as "Indian Health Service facilities." Accordingly, only Indian Health Service-owned facilities are authorized to receive a Federal medical assistance percentage of 100 percent for health care services provided to Medicaid-eligible Indian patients. Health facilities owned by tribes or tribal organizations receive Medicaid payments from the State in accordance with the Federal medical assistance percentage applicable to the State in which they are located. The Federal medical assistance percentage ranges from 50 percent to as much as 79.65 percent with the balance paid by the respective State.

Many States, however, have restricted the number of new health care providers eligible for participation in the Medicaid Program because of the increased cost to the States that further Medicaid payments would involve. These restrictions tend to have the greatest impact on portions of the Native American population whose tribes and tribal organizations have undertaken the construction and operation of their own health care facilities. Indian Health Service facilities, on the other hand, have been shielded from these restrictions because they are authorized to receive a Federal medical assistance percentage of 100 percent for health care services provided to Medicaid-eligible Indian patients. Accordingly, States have been willing to lift Medicaid restrictions against these facilities because they will impose few additional costs upon State Medicaid programs.

The bill introduced today would enable tribes and tribal organizations operating tribally-owned facilities to avoid the State-imposed restrictions upon participation in the Medicaid Program by extending to them the same Federal medical assistance percentage applicable to facilities owned by the Indian Health Service. Thus, the Federal Government would pay for 100 percent of the reimbursements to tribally-owned health facilities for services provided to Medicaid-eligible Indian patients. This, in turn, would reduce the States' current share of Medicaid expenditures to zero percent for these same facilities. As a result, Native Americans will have better access to health care services and will be able to more fully utilize third party resources to which they are entitled.●

By Mr. DASCHLE (for himself, Mr. INOUYE, Mr. MCCAIN, Mr. BURDICK, Mr. DECONCINI, Mr. SIMON, and Mr. WELLSTONE):

S. 754. A bill to provide that a portion of the income derived from trust or resticted land held by an individual Indian shall not be considered as a resource or income in determining eligibility for assistance under any Federal or federally assisted program; to the Select Committee on Indian Affairs.

EXEMPTION FOR CERTAIN INDIAN PROPERTY

• Mr. DASCHLE. Mr. President, I rise to introduce legislation that will restore a measure of equity to the treatment of Native Americans under Federal entitlement programs. This bill exempts up to $4,000 per year in income from tribal lands that are held in trust for individual Indians for the purpose of the calculation of benefits under Social Security and other federally-assisted programs.

In Indian country, land owned jointly by a number of heirs is often leased to non-Indians by the Bureau of Indian Affairs on behalf of those tribal members. The lease payments are, in turn, allocated to the individual heirs based on their specific interest in the land.

In the majority of cases, income from leased tribal lands is not substantial. Nor is it regular in many cases. It is not uncommon for inherited trust lands to be owned by such a large number of heirs that the lease income from them is less than $50 per year. Also, the availability of leasees often changes from year to year, which leaves heirs without income for a period of months or even years.

Under current law, the Federal Government counts each small lease payment from inherited trust lands as income and then reduces the individual recipient's Federal benefits by a corresponding amount. Also, since these calculations are often based on trust income received in the previous year, benefit reductions can be made in years when income is not even received.

Federal programs treat individual trust moneys with such harshness that the Nation's poorest population repeatedly faces distressing and unnecessary benefit denials or reductions, and loss of medical benefits, due to small amounts of unpredictable income from fractionated trust lands. The practical result of current policy is that tribal members frequently end up with neither trust money nor Federal benefits during one or many months of the year.

For example, the SSI program, upon which many tribal elders depend, bases its monthly payments on increasingly inaccurate estimates of future trust income and counts trust income even if it is unavailable, that is, previously assigned with BIA consent. The VA's improved pension program, the AFDC Program, and even the BIA's own general assistance program are harsher yet, leaving poor Indian families with inadequate income for months on end by averaging the trust money over several or many months to assure that every dollar of trust money that may arguably be received is offset by loss of equivalent Federal benefits. In many cases, this offset trust income is never received and not even available.

The bill I am introducing today would benefit primarily tribal members, and especially tribal elders, who face continuing financial uncertainty as they seek to supplement small trust income with Federal welfare benefits. A study of income received from land lease rentals on the Rosebud Reservation in South Dakota, conducted by Sinte Gleska College in 1988, found that over 70 percent of those receiving trust income received less than $200 per year. The study also showed that 50 percent received less than $50 per year or no income at all.

The counting of trust income against Federal entitlement benefits is a breach of the fiduciary duty that every Federal agency owes to protect trust income for the benefit of Indian people, and this breach invites endless administrative appeals and repeated litigation. Even without appeals and litigation, the cost to the BIA and other Federal agencies of keeping accurate track of multitudinous small lease and grazing payments for purposes of program eligibility is enormous in terms of program time and money, undoubtedly more than the Federal money saved by resulting reduction in entitlements. Additional costs are transferred to tribes which try to mitigate the financial and emotional harm to tribal members caused by these policies.

Congress has specifically protected all types of Indian moneys other than trust income, including tribal per capita payments, 1983; and Alaska Native Claims Settlement Act moneys, 1987; from this offset requirement. The bill I am introducing would provide the tribal elders and families who are current heirs to allotted and restricted trust lands with similar protection for their trust income up to $4,000 per year. I hope the Senate will consider it carefully and move to address this important problem.•

By Mr. HATCH (for himself, Mr. GARN, and Mr. COATS):

S. 755. A bill to amend the amount of grants received under chapter 1 of title 1 of the Elementary and Secondary Education Act of 1965; to the Committee on Labor and Human Resources.

EDUCATIONAL EQUITY ACT

Mr. HATCH. Mr. President, over the past few months, I have grown increasingly concerned about the tendency of Congress to use the chapter 1 formula as the principal means of distributing funds in education. This formula is used to distribute funds to students who are educationally disadvantaged. Since we have never been able to identify nationally which students are educationally disadvantaged, we have agreed that an economically disadvantaged child tends to be an educationally disadvantaged child. Consequently, the formula for this program is based on the number of students who are found to be in poverty based on census data.

I strongly agree with the need to serve children who are educationally disadvantaged. I firmly believe that the strength of our country is based on a quality education for all our children. However, I do have concerns about how frequently we use a formula designed for one purpose to serve other purposes. Our educational programs should have their own formulas geared to the purpose they are intended to fulfill. The chapter 1 formula should be used only for programs which serve children who are educationally disadvantaged. It should not be used for math-science programs, teacher training, drug abuse prevention, or any other programs that are intended to assist students generally.

I am also concerned about two primary factors of the chapter 1 formula. First, it uses census data which is always between 2 and 12 years old, and second it incorporates State per pupil expenditure as a determinant of how much money a State receives. The result is that the formula provides more money to States with high per pupil expenditures. I do not know why a poverty formula gives more funds to poor children in a wealthy State than it gives to poor children in a poor State. This formula provides $1.50 to every poor child in Connecticut—which has the highest per capita income in the country—for every $1.00 we give to a poor child in Mississippi, which has the lowest per capita income.

The change I am proposing today will help solve the problem created by this second formula factor. I have reviewed a variety of methods for handling this problem and have concluded that the fairest and easiest approach is to simply remove the state per pupil expenditure from the formula and substitute the national per pupil expenditure. This means that once we have identified poor children, we will provide the same amount of money per child regardless of where they live.

Therefore, I am introducing legislation, along with my senior Senate colleague, Senator GARN, to make a change in the current chapter 1 formula. I hope that we can take an even closer look at the chapter 1 formula and other education formulas to ensure that they distribute our Federal education dollars appropriately to all 50 States, based on the purpose of the program. All three members of the Utah congressional delegation are sponsoring identical legislation in the House.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 755

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Educational Equity Act of 1991".

SEC. 2. AMOUNT OF GRANTS.

The Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) is amended—

(1) in subparagraph (A) of section 1005(a)(2), by striking the second sentence and inserting "The amount determined under this sentence shall be the average per pupil expenditure in the United States."; and

(2) in each of sections 1201(b), 1221(c), and 1241(b), by striking "in the State (or (A) in the case where the average per pupil expenditure in the State is less than 80 percent of the average per pupil expenditure in the United States, of 80 percent of the average per pupil expenditure in the United States, or (B) in the case where the average per pupil expenditure in the State is more than 120 percent of the average per pupil expenditure in the United States, of 120 percent of the average per pupil expenditure in the United States)" and inserting "in the United States".

By Mr. DECONCINI (for himself and Mr. HATCH):

S. 756. A bill to amend title 17, United States Code, the copyright renewal provisions, and for other purposes; to the Committee on the Judiciary.

COPYRIGHT RENEWAL PROVISIONS

• Mr. DECONCINI. Mr. President, along with Senator HATCH, my colleague and the ranking minority member on the Judiciary Committee's Subcommittee on Patents, Copyrights and Trademarks, and at the request of the Register of Copyrights, I am introducing legislation today to amend two provisions of the copyright law.

Section 1 of the bill will provide a more equitable term of protection to a certain class of authors by modifying a provision remaining from the old copyright law. Section 2 repeals a requirement for the Copyright Office to prepare a report every 5 years on library photocopying of copyrighted materials. The copyright community feels that this report can safely be eliminated, and that Copyright Office resources could then be freed for analyses and reports on more pressing issues.

Section 1 will eliminate the current requirement for certain authors to file a renewal registration with the Copyright Office to obtain a second term of protection. It will create an automatic renewal system for all works copyrighted before January 1, 1978.

Section 1 makes no retroactive changes. The automatic renewal provision would apply only to works that are still in their first, 28-year term of protection on the date the bill becomes law. If the bill is enacted in 1991, the only works affected would be those copyrighted by publication with notice, or unpublished and registered with the Copyright Office, between 1963 and December 31, 1977. These works would automatically receive the same 47-year additional term of protection now available for pre-1978 works, whether or not the person entitled to the additional protection has filed a renewal registration with the Copyright Office. Works that are in the public domain when this bill becomes law will remain in the public domain.

For most works created on or after January 1, 1978, the 1976 Copyright Law Revision—Public Law 94-533—established a term of protection for the life of the author plus 50 years. For anonymous works, pseudonymous works, and works made for hire, the 1976 law established a term of protection of 75 years from the date of publication, or 100 years from the date of creation, whichever expired first. These provisions would remain unchanged by this legislation. The focus of section 1 of the bill is the renewal registration system that was left intact by the 1976 revisions for most works created before 1978.

The renewal registration system is one of the last vestiges of the old copyright law and carries with it the harsh consequences of that law. Failure to renew copyright for a pre-1978 work in the 28th year of protection causes it to fall irretrievably into the public domain in the United States.

The Senate report to the 1976 Copyright Law Revision called the renewal provision "* * * one of the worst features of the present copyright law * * * A substantial burden and expense, this unclear and highly technical requirement results in incalculable amounts of unproductive work. In a number of cases it is the cause of inadvertent and unjust loss of copyright." (S. Rept. No. 94-4573, 94th Cong. 1st Sess. 117-8 (1975).)

The renewal registration provision was consequently eliminated by the 1976 revisions for works created on and after January 1, 1978, but was retained for works still in their first term of protection on December 31, 1977. At the time, Congress felt that eliminating the renewal provision for pre-1978 works could upset existing expectancies and contractual relations.

Section 1 of this bill has been drafted with great care to address the chief concern of the drafters of the 1976 revisions. This bill will not impair existing expectancies or contractual interests in the renewal term. In fact, these expectancies and interests are now more clearly delineated in light of last year's Supreme Court decision in *Stewart* v. *Abend* (110 S. Ct. 750; 109 L. Ed. 2d 184.)

More importantly, this bill will help eliminate the harm that has been borne by authors and their heirs because of the existing renewal requirements. Most of the works affected by this amendment are minor works by less noted authors, but they supply a valuable source, sometimes the sole source, of income for the authors and their families. Many authors and their heirs are unaware of the renewal requirements for works created before 1978 and the need for careful recordkeeping and monitoring in order to file a timely renewal application for each copyrighted work. Frequently, authors or their heirs may rely on agents or publishers who, through inadvertence or neglect fail to file renewal registrations in the 28th year.

On January 1 of the 29th year, these unrenewed works simply fall into the public domain. Once this occurs, copyright protection ends and the works cannot be retrieved from the public domain. In 1976, Congress created a new term of copyright protection for authors of post-1977 works for reasons of fairness and certainty. For these reasons a change to the existing renewal provisions is clearly needed.

During the debate on the 1976 revisions, educators and scholars voiced concerns that keeping works out of the public domain by extending the duration of copyright protection would limit access to valuable material. Congress weighed these concerns against the rights of authors and on balance found in favor of extending the term of protection.

The Senate report on that legislation noted that providing a longer term of copyright protection "would not restrain scholars from using any work as source material of from making 'fair use' of it * * *" (S. Rept. No. 94-473, 94th Cong. 1st Sess. 119 (1975).) Also, Congress found that the most important works—materials that are most valuable to scholars and students—would be renewed anyway. The proposal to permit copyrighted works to be renewed automatically would not change this fact.

In 1976, Congress extended the second term of protection to 47 years for the works covered under this bill. This bill does not further extend the term of protection. It simply allows all authors entitled to copyright protection to receive it fairly by eliminating the complicated recordkeeping involved in renewing the registration for each of their works.

To be sure, affirmative renewal of registrations of copyrighted works can benefit both their creators and the public. Copyright Office records of these renewal registrations allow users of copyrighted materials to locate authors or their successors in interest so they can either license works, or determine when they will fall into the public domain. For these reasons, section would further enhance the public record and offer incentives for authors to voluntarily continue to register renewal claims with the Copyright Office.

First, the bill identifies the parties who are entitled to the renewal term. This provision will make it easier for users to find authors or their successors for licensing purposes. In the absence of the filing of a renewal registration, the bill specifies that copyright owners in the second term of protection are the person or persons entitled under the statute to the renewal on the last day of the original term of copyright.

Except for a very narrow class of claimants in works covered by the Universal Copyright Convention, current Copyright Office practices require an original registration in the first term before a renewal registration can be filed. It is clearly stated in the bill that this practice would continue: Original registrations could only be made in the first term. However, using its existing administrative authority, the Coyright Office could permit a renewal registration in the absence of an original registration under special circumstances.

Second, prima facie evidentiary weight would be accorded only to those renewal registrations filed within 1 year before the expiration of the first term. Third, derivative works created in the first term could continue to be used in the second term without permission from the copyright owner where no renewal registration has been made within 1 year before the expiration of the original term. But no new derivative works could be created in the second term without permission from the copyright owner.

Finally, the bill provides for fines of up to $2,500 for any false representation in the application of copyright renewal registrations.

Mr. President, another key issue in the debate during the 1976 Copyright Law Revisions was the "fair use" limitation on copyright protection. After extensive consideration of the many elements of this judicially created doctrine, the drafters of the 1976 revisions decided to codify it as section 107 of the law. A separate provision relating to photocopying in libraries and archives was included as section 108. This section authorizes libraries and archives to provide single photocopies of copyrighted materials for use by students and scholars.

Library photocopying is carefully circumscribed by the statute. The law clearly states that only one copy of copyrighted material can be made available to users, that the copy is not to be used for commercial advantage and that notice of copyright should be affixed to the materials. The law also requires the Register of Copyrights to prepare a report for Congress every 5 years that examines whether libraries and archives have been using their limited authority to photocopy copyrighted materials within reason.

After submitting two reports, the Register has concluded that libraries have not exploited the limitation and that photocopying in the circumstances prescribed by the law has achieved "the statutory balancing of the rights of creators and the needs of users" (17 U.S.C. §108(i).)

For these reasons, section 2 of this bill repeals the report requirement. Repeal will save a small amount of money and Copyright Office resources, but at Congress' request or on the Copyright Office's initiative, those resources can be used to examine more pressing matters about the fair use limitation.

The Copyright Office has obtained the cooperation and support for the registration renewal provision from the copyright community, including the publishing, motion picture, sound recording, and software industries as well as authors and their representative organizations. I wish to thank the Office for its diligence in examining and reporting on the fair use limitation for library photocopying, and the value of that provision in achieving the appropriate balance between the rights of authors and the needs of users.

Mr. President, I urge my colleagues to support both provisions of this legislation. It will remove inequities in the current copyright renewal system and allow Copyright Office funds and resources to be used to examine emerging issues.

I ask unanimous consent that the entire text of the bill and a section-by-section analysis of its provision be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 756

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COPYRIGHT RENEWAL PROVISIONS.

(a) DURATION OF COPYRIGHT: SUBSISTING COPYRIGHTS.—Section 304(a) of title 17, United States Code, is amended to read as follows:

"(a) COPYRIGHTS IN THEIR FIRST TERM ON JANUARY 1, 1978.—(1)(A) Consistent with the provisions of subparagraphs (B) and (C), any copyright, the first term of which is subsisting on January 1, 1978, shall endure for 28 years from the date it was originally secured.

"(B) In the case of any posthumous work or of any periodical, cyclopedic, or other composite work upon which the copyright was originally secured by the proprietor thereof, or of any work copyrighted by a corporate body (otherwise than as assignee or licensee of the individual author) or by an employer for whom such work is made for hire, the proprietor of such copyright shall be entitled to a renewal and extension of the copyright in such work for the further term of 47 years.

"(C) In the case of any other copyrighted work, including a contribution by an individual author to a periodical or to a cyclopedic or other composite work, the author of such work, if still living, or the widow, widower, or children of the author, if the author be not living, or if such author, widow, widower, or children be not living, then the author's executors, or in the absence of a will, his or her next of kin shall be entitled to a renewal and extension of the copyright in such work for a further term of 47 years.

"(2)(A) At the expiration of the original term of copyright in a work specified in paragraph (1)(A) of this subsection, the copyright shall endure for a renewed and extended further term of 47 years which shall vest upon the beginning of such further term—

"(i) in the proprietor of the copyright if—

"(I) an application to register a claim to such further term shall have been made to the Copyright Office and registered within 1 year prior to the expiration of the original term of copyright; or

"(II) no such application is made and registered; and

"(ii) in the person or entity that was the proprietor of the copyright on the last day of the original term of copyright.

"(B) At the expiration of the original term of copyright in a work specified in paragraph (1)(C) of this subsection, the copyright shall endure for a renewed and extended further term of 47 years which shall vest, upon, the beginning of such further term—

"(i) in any person entitled under paragraph (1)(C) to the renewal and extension of the copyright, if—

"(I) an application to register a claim to such further term shall have been made to the Copyright Office and registered within 1 year prior to the expiration of the original term of copyright; or

"(II) no such application is made and registered; and

"(ii) in any person entitled under paragraph (1)(C), as of the last of the original term of copyright, to such further term of 47 years.

"(3)(A) An application to register a claim to the renewed and extended term of copyright in a work may be made to the Copyright Office—

"(i) within 1 year prior to the expiration of the original term of copyright by any person entitled under paragraph (1)(B) or (C) to such further term of 47 years; and

"(ii) at any time during the renewed and extended term by any person in whom such further term vested, under paragraph (2)(A) or (B), or their successors or assigns, so long as the application is made in the name of the vested statutory claimants.

"(B) Such an application is not a condition of the renewal and extension of the copyright in a work for a further term of 47 years.

"(4)(A) If an application to register to claim to the renewed and extended term of copyright in a work is not made and registered within 1 year before the expiration of the original term of copyright in a work, then a derivative work prepared under authority of a grant made prior to the expiration of the original term of copyright, may continue to be utilized under the terms of the grant during the renewed and extended term of copyright, but this privilege does not extend to the preparation during such renewed and extended term of other derivative works based upon the copyrighted work covered by such grant.

"(B) If an application to register a claim to the renewed and extended term of copyright in a work is made and registered within 1 year before its expiration, the certificate of such registration shall constitute prima facie evidence as to the validity of the copyright during its renewed and extended term and of the facts stated in the certificate. The evidentiary weight to be accorded the certificate of a registration of a renewed and extended term of copyright made thereafter shall be within the discretion of the court.".

(b) LEGAL EFFECT OF RENEWAL OF COPYRIGHT IS UNCHANGED.—The renewal and extension of a copyright for a further term of 47 years as provided under section 304(a) (1) and (2) of title 17, United States Code (as amended by subsection (a) of this section) shall have the same effect with respect to prior grants of a transfer of license of the further term as did the renewal of a copyright prior to the effective date of this Act under the law then in effect.

(c) REGISTRATION PERMISSIVE.—Section 408(a) of title 17, United States Code, is amended to read as follows:

"(a) REGISTRATION PERMISSIVE.—At any time during the subsistence of the first term of copyright in any published or unpublished work in which the copyright was secured before January 1, 1978, and during the subsistence of any copyright secured on or after that date, the owner of copyright or of any exclusive right in the work may obtain registration of the copyright claim by delivering to the Copyright Office the deposit specified by this section, together with the application and fee specified by sections 409 and 708. Such registration is not a condition of copyright protection.".

(d) FALSE REPRESENTATION.—Section 506(e) of title 17, United States Code, is amended to read as follows:

"(e) FALSE REPRESENTATION.—Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409, or in the application for a renewal registration, or in any written statement filed in connection with either application, shall be fined not more than $2,500.".

(e) COPYRIGHT OFFICE FEES.—Section 708(a)(2) of title 17, United States Code, is amended to read as follows:

"(2) on filing each application of registration of a claim to a renewal of a subsisting copyright under section 304(a), including the issuance of a certificate of registration if registration is made, $20.".

(f) EFFECTIVE DATE; COPYRIGHTS AFFECTED BY AMENDMENT.—(1) This section shall take effect upon the date of enactment.

(2) The provisions of this section shall apply only to those copyrights secured between January 1, 1963 and December 31, 1977. Copyrights secured prior to January 1, 1963 shall be governed by the provisions of section 304(a) in effect on the day prior to the effective date of this Act.

SEC. 2. REPEAL OF COPYRIGHT REPORT TO CONGRESS.

Section 108(i) of title 17, United States Code, is repealed.

SECTION-BY-SECTION ANALYSIS OF S. 756

Section 1(a) amends section 304(a) of the Copyright Law to eliminate the renewal registration requirement for works copyrighted before January 1, 1978. These works would automatically receive the same, 47 year additional term of protection now available for pre-1978 works, whether or not the person entitled to the additional protection has filed a renewal registration with the Copyright Office in the 28th year of the first term. Section 1(a) also makes several conforming amendments and offers authors of copyrighted works incentives to voluntarily renew registrations for those works. These incentives will enhance the public record of copyright works.

Section 1(b) explains that the legal effect of an automatic renewal of the copyright term is the same as for renewals under current law.

Section 1(c) is a conforming amendment creating a voluntary renewal registration system for pre-1978 works.

Section 1(d) applies the penalty for false representations made in applications for copyright registrations to applications for renewal registrations.

Section 1(e) increases the fees for voluntary copyright renewal registration to $20.

Section 2 repeals section 108(i) of the copyright law, eliminating the Report to Congress on library photocopying required by that section.●

By Mr. LEAHY (for himself, Mr. HARKIN, Mr. PRYOR, Mr. KERREY, and Mr. SASSER):

S. 757. A bill to amend the Food Stamp Act of 1977 to respond to the hunger emergency afflicting American families and children, to attack the causes of hunger among all Americans, to ensure an adequate diet for low-income people who are homeless or at risk of homelessness because of the shortage of affordable housing, to promote self-efficiency among food stamp recipients, to assist families affected by adverse economic conditions, to simplify food assistance programs administration, and for other purposes; to the committee on Agriculture, Nutrition, and Forestry.

MICKEY LELAND CHILDHOOD HUNGER RELIEF ACT

● Mr. LEAHY. Mr. President, I am pleased to introduce the Mickey Leland Childhood Hunger Relief Act. This bill, in honor of Mickey Leland, one of the greatest champions ever of the hungry, continues the hunger relief effort we fought for last year. Unfortunately, this effort was ultimately defeated during last year's endless budget summit with the administration.

You have heard me say it again and again. Hunger is not a political issue. It is a moral issue. It jeopardizes the future of our entire Nation.

Ask any teacher. A hungry child cannot learn. If our Nation's children are not learning, our Nation's future is seriously at risk.

As Congressman PANETTA said last year, we can help Mickey Leland's spirit live on by feeding millions of American children living in poverty and by preventing those children and their families from entering the ranks of the homeless.

Let's look at the hard facts—almost half of those living in poverty spend 70 percent of their family income on housing. Many of these families must often choose between feeding their children and keeping a roof over their heads.

In the richest country in the world, this is a disgrace.

The Mickey Leland Childhood Hunger Relief Act will adjust shelter cost estimates to more accurately reflect actual costs and provide necessary food stamp benefits. Since 80 percent of food stamp recipients are families with children, this is an important step to reduce childhood hunger.

This bill also encourages absent parents to pay child support by taking into account their support payments when calculating their food stamp benefits. It also provides an incentive for single parents to pursue child support by exempting the first $50 of support payments received each month from calculations used to determine benefits for the custodial parent.

I want to thank Senators HARKIN, PRYOR, KERREY, and SASSER for joining me in support of this bill. Senator HARKIN has provided strong leadership on these issues as chairman of the Nutrition Subcommittee. Senators PRYOR and KERREY are longstanding supporters of nutrition and hunger initiatives and have provided valuable assistance in the development of nutrition legislation. And Senator SASSER, chairman of the Senate Budget Committee, has been an outspoken advocate of funding for important nutrition programs.

The Mickey Leland Childhood Hunger Relief Act helps meet our dream to end hunger. It is time for this country to nurture its most precious resource—children. As chairman of the Senate Committee on Agriculture, Nutrition, and Forestry, I am proud to continue this fight.

Mr. President, I ask unanimous consent that a summary of the bill be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE MICKEY LELAND CHILDHOOD HUNGER RELIEF ACT OF 1991

Sec. 101. Families with high shelter expenses.

This section would allow households with children to deduct high shelter costs in the same way that elderly and disabled households do at present. Under current law, most households may deduct shelter expenses that exceed 50% of their incomes, but only up to $186 a month. The cap does not apply to elderly and disabled households; the bill would remove it for other households as well.

The excess shelter deduction was enacted to avoid forcing households with high housing and utility costs to choose between eating and paying their shelter costs. Without it, many would have to choose between heating and eating. HUD and Census Bureau data show that 45% of all poor renters spend at least 70% of their incomes on shelter costs.

This cap implies that money is available to purchase food when in fact the household must spend it on housing. Because the cap is a fixed limit with no allowance for household size, it most severely burdens families with children.

Congress imposed the cap on excess shelter deductions to keep "high income" households off food stamps at a time when eligibility was based on income after deductions. Gross income limits have since been added to the program to exclude higher income households without regard to their deductible expenses. Phasing out the cap therefore will not allow higher-income households to receive food stamps: it will only provide more realistic benefits to families with children and high shelter costs who are already eligible. Removing the cap on the shelter deduction was the centerpiece of last year's Leland bill that passed the House.

Sec. 102. Basic benefit level.

This section would raise basic food stamp benefits in stages to a level more closely reflecting the actual current cost of purchasing the Thrifty Food Plan, instead of the cost of the Plan in the previous June. Under the Hunger Prevention Act of 1988, basic food stamp benefits are set at 103% of the cost of the previous June's Thrifty Food Plan. Food stamp benefit levels are adjusted every October to reflect food costs the previous June. Under this section, the percentage of the previous June's Thrifty Food Plan that would serve as the basis of each year's food stamp benefits would rise by one-third of a percent each year until it reaches 105% and would then remain at that level permanently.

Even at 103%, the maximum food stamp benefit still lags well behind the current cost of the Thrifty Food Plan through most of the year. For example, by June 1989, USDA figures showed that the Thrifty Food Plan would cost over eight percent more to purchase than the maximum food stamp benefit level provided. Food stamps provide an average of less than $0.70 per person per meal. The maximum food stamp benefit for a family of four provides only $0.96 per person per meal.

The Food and Nutrition Service has reported that fewer than one in ten families spending an amount of money equivalent to the cost of the Thrifty Food Plan received 100 percent of the Recommended Daily Allowances. Less than half received even two thirds of the Recommended Daily Allowances." 45 Fed. Reg. 22876 (April 4, 1980). Almost two-thirds of those getting food stamps are elderly, disabled, or children.

A similar provision passed the House last year.

Sec. 103. Continuing benefits to eligible households.

This section would ensure that recipient households receive full benefits in the month they are recertified if they are otherwise eligible. It would prevent the pro-rating of applicants' benefits if they are reapplying after less than a month off the Program.

The Omnibus Budget Reconciliation Act (OBRA) of 1981 required that applicant households' be prorated by the day of the month they apply. It made an exception for households applying to be recertified after being off of the program for less than 30 days. A year later, this exception for households being recertified was removed. The proposed legislation would return to the prorating rule enacted by the 1981 OBRA.

GAO found that the vast majority of the households suffering short gaps in benefits remain eligible throughout the period. Gaps frequently result from state errors, forms lost or delayed in the mails, or honest misunderstandings by household members. These gaps in benefits can force households to divert some of their rent, mortgage or utility money to pay for food, leaving them in danger of an eviction or a utility shut-off.

The Drought Relief Act of 1988 enacted this provision for migrant farm workers. The Senate's version of the Hunger Prevention Act of 1988 and last year's House-passed Leland bill both would have applied this rule to all households.

Sec. 104. Homeless families in transitional housing.

This section excludes all vendor payments for housing that meets definition of "transitional housing" for the homeless.

Current law, enacted by last year's Farm Bill, excludes vendor payments for transitional housing for the homeless up to an amount equal to half of the ADFC maximum shelter allowance. Longstanding USDA policy excludes the amount of all such vendor payments to the extent that they exceed the AFDC shelter maximum and all such vendor payments in the vast majority of states, which have no separate AFDC "shelter allowance."

None of these vendor payments should be counted against homeless households since they are not in fact available to households and cannot be used for food. It makes no sense to count large parts of these payments in some states to sharply reduce households' food stamp allotments while disregarding completely identical payments made in another state that happens to label its AFDC grants differently.

This provision would have the same effect as the provision of transitional housing that passed the Senate with last year's Farm Bill but that was dropped on conference because of funding limitations.

Sec. 105. Improving the nutritional status of children in Puerto Rico.

This section would increase funding for the Nutrition Assistance Program (NAP) in Puerto Rico over baseline in each of the four remaining years of the Farm Bill. The increments would rise from $11 million in the first year to $25 million in the fourth year.

In 1981, the Food Stamp Program in Puerto Rico was replaced by the NAP, which is funded on a block grant basis. Funding was cut well below the level required to provide nutritional assistance comparable with that of the Food Stamp Program. In subsequent years, funding was frozen or increased by less than baseline. As a result, poor children in Puerto Rico have far less of a nutritional safety net to rely upon than do comparably poor children in the 50 states, Guam or the U.S. Virgin Islands. These modest increments would make a small step towards redressing this imbalance.

The Farm Bill that passed the House last year increased funding for Puerto Rico over baseline by identical increments.

Sec. 106. Households benefiting from general assistance vendor payments.

This section would exclude general assistance (GA) vendor payments provided for expenses other than rent and mortgage from consideration as income in determining food stamp eligibility and benefit levels.

In all but a handful of states, general assistance programs are primarily local, often quite informal efforts. A township supervisor or a county justice may receive a request from a family for help with a particular need—a utility shut-off notice, a medical procedure that is needed, a car that needs to be repaired so that a household member can get to work, etc.—and authorize payment from local governmental funds to meet that need. Because these payments are sought and approved for specific purposes, the supervisors or court clerks will often make their checks out to the vendor or creditor involved. Although these payments are never in the household's hands, and are not available to meet the household's food needs, they are nonetheless counted as available income to reduce the household's food stamps.

The Food Stamp Program's current rules on vendor payments were written primarily to prevent the wholesale diversion of regular AFDC benefits into vendor payments to keep them from being counted as income to food stamp households. Unfortunately, it was written to cover GA vendor payments as well, even though the same problem does not apply with regard to GA. Few GA programs operate on anything like a statewide entitlement basis, and GA vendor payments are made on behalf of the household it will generally be because of the custom of the official making the payment.

Last year's amendment excluded from consideration as income those GA vendor payments made under state laws that prohibit making direct payments to households. In some jurisdictions that routinely provide any GA relief in the form of vendor payments, however, the program is so informal that there may be no explicit state law requiring them to be issued in that form. This amendment will allow these jurisdictions to respond to households' legitimate emergencies (other than those requiring housing assistance) without causing the household to suffer a new emergency with the reduction of their food stamps.

This was part of a larger GA vendor payment amendment that Rep. Jontz attached to the Farm Bill and that Sens. Lugar and Coats introduced last year as a free-standing bill. The Jontz Amendment passed the House, but funding limitations prevented the Farm Bill conferees from accepting the entire amendment.

Sec. 201. Child support disregard.

This section would exclude the first $50 a month paid as child support from consideration as income in determining food stamp allotments. AFDC already allows households to keep the first $50 of child support paid each month.

The $50 exclusion in AFDC recognizes the importance of having parents assume responsibility for their children: it gives custodial parents an incentive to seek out absent parents and absent parents an incentive to pay child support. The Food Stamp Program currently undercuts these incentives by counting the $50 payments as income, which reduces food stamps.

Excluding the first $50 of child support payments for food stamps as well as AFDC will also simplify the administration of the two programs and ease burdens on case workers. This reform passed the House in 1987 as part of the welfare reform bill and again as part of last year's Leland bill.

Sec. 202. Child support payments to non-household members.

This section would exclude from the income of a low-income household any legally binding child support payments a household member makes to support a child outside of the household. This would encourage low-income absent parents to make support payments and ensure that the ability of these parents to feed their current families is not unduly burdened by their performance of their child support obligations.

Under present law, no exclusion from income is provided for child support payments an absent parent makes. This means that if an absent parent remarries and has children in his second family—but still has low income—the payments he makes to support the children in his first family are counted as though they represented income still available to buy food for his current family.

In addition to being an unrealistic reflection of the resources available to the father's current family, the current law also raises serious equity issues. If two absent fathers have the same level of income before child support payments—but one responsibly pays child support while the other fails to—both receive the same amount of food stamps. Yet the father who has made the support payments has less money left for food purchases than the father who makes no payments.

Furthermore, just as a key principle of welfare reform was that poor parents who work should be better off than those who do not, so, too, should the families of absent parents who pay child support be better off than parents who neglect their obligation to support their absent children.

Still another problem with current law is that money paid as child support from one poor household to another is now "double-counted" as income. It is counted first as income to the absent parent making the child support payment (i.e., the parent's gross income is counted without deduction for the amount paid as child support) and then counted again as income to the household that receives the payment. This means the same dollars are simultaneously counted as income to two different households, even though these funds can only be used once to buy food and other necessities.

The change proposed here is important because a substantial number of absent parents themselves have low-incomes. Encouraging these parents to pay support is important to those children's long-term self-sufficiency. Preventing the current double-counting will improve the Program's equity, promote compliance with support obligations, and reduce hunger among both children with absent parents and those living with parents or step-parents who have support obligations to other households. Only those payments actually made would be excluded.

Sec. 203. Vehicles needed to seek and continue employment and for household transportation.

This section would index the current $4,500 limit on the fair market value of vehicles that food stamp recipients may own.

The current $4,500 vehicle limit was written into the Act in 1977 and has not changed since, despite rapid inflation. As inflation passes the $4,500 vehicle resource limit by, more and more working families are made ineligible for food stamps because of cars they depend upon to get to work. Working households may be forced to choose between going hungry for lack of food stamps and selling their cars, which can force them to leave their jobs.

As many working households lose their jobs in the recession, the extremely low limit on the value of vehicles that they may own will become an increasingly important barrier denying them food stamps. Households forced to sell their cars to become eligible for food stamps will have difficulty returning to the workforce when the recovery begins.

The President's Task Force on Food Assistance in January 1984 recommended that this limit be increased to $5,500 immediately. The severity of the problem was brought home to the Task Force by the plight of unemployed workers in the recession of the early 1980's, whose cars rendered them ineligible for food stamps. Indexing will not allow households to qualify for food stamps with any better cars than are permitted now: it will only make the limit follow inflation so that the kind of cars households are allowed to own today do not disqualify households next year. The 1985 farm bill in the House, the 1988 Hunger Prevention Act in the Senate, and last year's Leland bill passed by the House all included similar provisions.

Sec. 204. Vehicles necessary to carry fuel or water.

This section exempts vehicles that are used to transport water or fuel where the household lacks piped-in water or fuel.

In places that still are not served by water mains, households may have to haul drums of water for long distances, and often over difficult terrain. Other rural households may have to haul firewood or coal to their homes for heat. Even the poorest of these households cannot afford to be without a dependable vehicle that can hold up under this kind of use. Yet the trucks that many of these households have for this purpose, though far from luxurious, tend to have fair market values well in excess of the current $4,500 limit.

An identical provision passed the House last year.

Sec. 205. Improving access to employment and training activities.

This section would strengthen food stamp employment and training (E&T) programs by raising the limit on reimbursements to recipients for the costs of E&T activities. Current law limits dependent care reimbursements to $160 per dependent per month and other reimbursements to $25 per month and requires states to exempt from the work requirement those households whose costs would be higher. This provision would raise dependent care reimbursements to the level set in the Family Support Act (actual costs up to a maximum of $200 a month for children under age 2, $175 for older children, or the local market rate for child care, at state option). It would also raise the limit for reimbursements for other work-related costs to $75 a month.

Raising reimbursement limits will allow states to bring more households into E&T programs. In many areas, child care cannot be obtained for $160 per month. In some rural areas, the cost of transportation to training sites or job contacts may well exceed $25 for most recipients. Without this increase, states may be forced to leave whole communities out of the E&T programs. Also, many training programs require tools, uniforms or protective clothing that cost more than these programs can now reimburse.

These changes should significantly improve conformity with AFDC and the JOBS Program. They passed the Senate in 1988 and the House last year.

Sec. 301. Simplifying the household definition for households with children and others.

This section would allow relatives to be separate food stamp households if they buy and cook food separately, except that minor children could not be separate from their parents. People who buy and cook together, regardless of whether or not they are relatives, would still be combined into single households.

State administrators have complained that the complexity of the current definition makes it unduly burdensome and error-prone. Current law forces most people to apply together with their parents, adult children, and siblings even if they do not share resources or buy and cook together. This provision would greatly simplify these rules by basing determinations on whether people purchase and prepare food together.

The current rules pose another problem as well: they may force people into shelters by threatening to cut off a needy household's food stamps if the household takes in other family members. These rules also hurt migrant farm workers, who may live separately in their base states but double-up with relatives in labor camps during their travels to reduce housing costs.

The AFDC, Medicaid, and SSI Programs have no comparable rule requiring adult siblings, or parents and their adult children, to apply for and receive benefits together. This change passed the Senate in 1988 and the House last year.

Sec. 302. Resources of households with disabled members.

This section increases the resource limit for any household containing a disabled member to $3,000.

Under current law, most households have a resource limit of $2,000, while those containing at least one elderly member are subject to a $3,000 limit. This amendment would remove one of the few areas in the Food Stamp Program in which the elderly and the disabled are treated differently.

An identical provision passed the House in last year's Farm Bill.

Sec. 303. Assuring adequate funding for the food stamp program.

This section would eliminate the funding cap provisions of the Food Stamp Act. It would eliminate current procedures requiring USDA to submit monthly reports to Congress concerning the Food Stamp Program's rate of spending and the sections that authorize the reduction or cessation of benefits to households if funding is insufficient.

This approach was proposed last year by the Administration as part of its recommendations for the Farm Bill. The Administration correctly noted that the cap was imposed more than a decade ago, at a time when the Program's growth and utilization were much harder to predict. Allotment reductions have never taken place, but the continued presence of these provisions in the Act leads to unnecessary uncertainties on the part of both state administrators and recipient households.

Last year's legislation removed the formal authorization caps that had been in the law but retained the reporting requirements and could be read to require cessation of benefits to households if a supplemental appropriations bill is delayed. The Administration's provision would put the Food Stamp Program in the same position that AFDC, Medicaid, and other federal programs intended to function as entitlements have long enjoyed.

Sec. 401. Effective dates.

Most provisions are effective October 1, 1991. To allow time for federal and state implementation, some provisions are delayed until July 1, 1992.•

By Mr. DECONCINI (for himself and Mr. HATCH):

S. 758. A bill to clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of patents and plant variety protections, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private entity; to the Committee on the Judiciary.

S. 759. A bill to amend certain trademark laws to clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of trademarks, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private entity; to the Committee on the Judiciary.

PATENT AND PLANT VARIETY PROTECTION REMEDY CLARIFICATION ACT AND TRADEMARK REMEDY CLARIFICATION ACT

• Mr. DECONCINI. Mr. President, I rise today to introduce two bills with my colleague Senator HATCH that will resolve the tension between Federal intellectual property laws and the 11th amendment. The legislation we are proposing will clarify Congress's intent that States not be immune from patent infringement suits under the Patent Code, the Plant Variety Protection Act of 1970, or trademark remedies under the Lanham Act. As you may remember, Senator HATCH and I introduced legislation last year clarifying

Congress's intent that States be subject to suit under the Copyright Act of 1976 for copyright infringement. That bill, the Copyright Remedy Clarification Act, which is now public law, was necessitated by circuit court opinions holding that States are immune from prosecution for infringement of copyright material. States continue to take advantage of the sovereign immunity loophole that remains in the Patent Code, the Plant Variety Protection Act of 1970, and the Lanham Act. The two bills we are introducing today will cure these deficiencies and finally harmonize Federal intellectual property laws.

PATENT REMEDY CLARIFICATION

Last Congress, the Patent Remedy Clarification Act passed the Senate unanimously as an amendment to another bill, but the House failed to act upon it. Section 2 of our bill reintroduces the amendments to the Patent Code contained in last session's bill because circuit courts continue to hold that States are immune for infringement of patents.

I introduced the Patent Remedy Clarification Act last Congress in response to the Federal circuit decision in Chew versus State of California. In Chew an inventor's suit against the State of California for patent infringement was dismissed in Federal district court when California asserted sovereign immunity under the 11th amendment as a defense. In affirming the decision, the Federal circuit ruled that the Patent Code lacked the specificity in language of congressional intent that is necessary to abrogate 11th amendment immunity for a State. The Supreme Court denied certiorari in late 1990.

Unfortunately, the Chew case is no longer an isolated case. Recently a Federal appellate court relied upon the Chew opinion in permitting another State to escape liability for patent infringement. In Jacobs Wind Electric Company, Inc. versus Florida Department of Transportation, the Federal circuit upheld a lower court's decision to dismiss an inventor's patent infringement case brought against the Florida Department of Transportation. The court held that 11th amendment immunity operates to bar suit for patent infringement in Federal court against a State.

With the passage of the Copyright Remedy Clarification Act, Congress closed the loophole in the law which permitted States to escape liability for copyright infringement. Congress needs to act again, for as the Chew and Jacobs cases illustrate, States are still able to take advantage of Congress' failure to clearly state its intent in the Patent Code. These cases predict an ominous future for patent holders of inventions that are beneficial to States. Both the Chew and Jacobs cases provide prime examples of inventions that are beneficial to the States—in Chew, the inventor had obtained a patent on a process to test exhaust fumes from automobiles, and in Jacobs the inventor had obtained a patent on a tidal flow system which improves water quality. As State universities and State regulatory agencies enter the race to commercialize scientific discoveries, the cases in which the sovereign immunity defense is asserted will grow in number.

As I stated when I introduced the Copyright Remedy Clarification Act and this measure last Congress, permitting States to infringe patent rights with impunity leads to the anomalous result of State universities being permitted to infringe private universities' copyrights and patents but not visa versa. Thus, UCLA could sue USC for copyright and patent infringement, but USC could not sue UCLA. Now, after the enactment of the Copyright Remedy Clarification Act, USC and other private citizens can sue UCLA and the State for copyright infringement—but not for patent infringement. There are, of course, other detrimental effects for private universities from the assertion of the sovereign immunity defense. As State and private universities vie for research projects sponsored by industries, the sovereign immunity defense will create an uneven playing field. A private company looking to do research in a competitive area will consider a State university more favorably as a research partner since that institute would be immune from a competitor's infringement suits.

There exists in this country, and rightfully so, tremendous concern about our global competitive position. It is therefore contrary to our best interests to limit protection for our inventors from infringement. Moreover, without the restoration of patent protection which this bill would provide, we also greatly hamper efforts to achieve international harmony of patent laws. Many nations have patent laws that include nonvoluntary licensing and governmental-use provisions. These provisions are merely devices for legal expropriation. How can we achieve international harmony of patent laws and free trade agreements when we allow our State governments to freely infringe patents? We cannot sustain a position in which American inventors will have to continue to venture into international markets unprotected.

The purpose behind the constitutional provision that sets out Congress' patent and copyright authority is to encourage innovation. To fulfill that goal, the patent and copyright laws of this country must allow an inventor to recoup his or her investment. It should not matter whether the defendant in a patent infringement suit is a State or a private entity. In either instance, the Patent Code must effectively protect the constitutionally enshrined incentive to invent.

PLANT VARIETY PROTECTION CLARIFICATION

Section 3 of the Patent and Plant Variety Protection Act abrogates the sovereign immunity doctrine for the Plant Variety Protection Act, an intellectual property statute enacted in 1970 that is administered by the U.S. Department of Agriculture. That act provides protection for breeders of novel varieties of living plants that are produced by using seeds. The legal remedies provided to plant breeders by the Plant Variety Protection Act are similar to remedies provided to inventors by the Patent Code. Protection expires 18 years after the date of issuance of a certificate of plant variety protection by the USDA's Plant Variety Protection Office. The policy reasons for clarifying that States are subject to suit for infringement of plant variety protection are similar to the reasons for clarifying this point for the rest of the Federal intellectual property statutes.

It is my understanding that no litigation has arisen to date under the Plant Variety Protection Act against any State. However, a State could successfully assert sovereign immunity as a defense in a Plant Variety Protection Act suit, as it presently can in a patent infringement suit. We must therefore act to eliminate the sovereign immunity loophole currently available to the States. By amending the Plant Variety Protection Act now, we can avoid any need for Congress to revisit the subject of sovereign immunity for intellectual property cases.

Subsection (a) of section 3 makes clear that the definition of infringement in the Plant Variety Protection Act covers acts of infringement performed without authority by a State government. Subsection (b) adds a new section 130 to the Plant Variety Protection Act, analogous to the sections proposed in this bill for the Patent Code, stating explicitly that a State government shall not be immune from infringement under any doctrine of sovereign immunity, and that remedies are available to the same extent as remedies are available for violations in suits against a private entity.

Mr. President, this bill will do nothing more than what Congress already intended to do when it passed the Patent Code. Furthermore, with the passage of the Copyright Remedy Clarification Act, it is quite clear that Congress did not intend to grant immunity to the States. Congress never intended for the rights of patent owners to be dependent upon the identity of the infringer. With this bill Congress is merely fulfilling the Supreme Court's new requirement for abrogating 11th amendment immunity.

TRADEMARK REMEDY CLARIFICATION

Legislation is also needed to abrogate the States' 11th amendment immunity for trademark actions under the Lanham Trademark Act. Just as with patents and copyrights, the courts have held that absent an explicit exemption from Congress, States are immune from suit for violations of trademark law.

Trademarks differ from patents and copyrights in that actions for misappropriation can be brought under State and common law. Nonetheless, sovereign immunity remains a serious concern. The remedies available under State and common laws are so limited and inconsistent as to be an unsatisfactory substitute for the Federal remedies that would otherwise be available.

Recent court actions brought under the Lanham Act have held that States are not liable for trademark infringement on the grounds of sovereign immunity. In Woelffer versus Happy States of America, the District Court of Illinois dismissed a cause of action under section 43(a) of the Lanham Act against the Illinois Department of Commerce and Community Affairs and its director Woelffer on the ground that the 11th amendment proscribes a cause of action. This legislation will provide in clear and unmistakable language that the States are not protected from infringing on the rights of trademark owners.

Mr. President, I see no reason why both these measures should not move quickly through this Congress. Last Congress the Senate unanimously passed the patent bill and the House Judiciary Committee easily passed it as well. Indeed, the House Judiciary Subcommittee on Courts, Intellectual Property, and the Administration of Justice held a hearing on this bill last Congress and could not find anyone to testify against it. The time for legislation clarifying congressional intent not to allow States to infringe upon the rights of intellectual property owners is now.

I ask unanimous consent that the full text of both bills be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 578

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Patent and Plant Variety Protection Remedy Clarification Act".

SEC. 2. LIABILITY OF STATES, INSTRUMENTALITIES OF STATES, AND STATE OFFICIALS FOR INFRINGEMENT OF PATENTS.

(a) LIABILITY AND REMEDIES.—(1) Section 271 of title 35, United States Code, is amended by adding at the end the following:

"(h) As used in this section, the term 'whoever' includes any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his official capacity. Any State, and any such instrumentality, officer, or employee, shall be subject to the provisions of this title in the same manner and to the same extent as any nongovernmental entity.".

(2) Chapter 29 of title 35, United States Code, is amended by adding at the end the following new section:

"§ 296. Liability of States, instrumentalities of States, and State officials for infringement of patents

"(a) IN GENERAL.—Any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his official capacity, shall not be immune, under the eleventh amendment of the Constitution of the United States or under any other doctrine of sovereign immunity, from suit in Federal court by any person, including any governmental or nongovernmental entity, for infringement of a patent under section 271, or for any other violation under this title.

"(b) REMEDIES.—In a suit described in subsection (a) for a violation described in that subsection, remedies (including remedies both at law and in equity) are available for the violation to the same extent as such remedies are available for such a violation in a suit against any private entity. Such remedies include damages, interest, costs, and treble damages under section 284, attorney fees under section 285, and the additional remedy for infringement of design patents under section 289.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 29 of title 35, United States Code, is amended by adding at the end the following new item:

"Sec. 296. Liability of States, instrumentalities of States, and State officials for infringement of patents".

SEC. 3. LIABILITY OF STATES, INSTRUMENTALITIES OF STATES, AND STATE OFFICIALS FOR INFRINGEMENT OF PLANT VARIETY PROTECTION.

(a) INFRINGEMENT OF PLANT VARIETY PROTECTION.—Section 111 of the Plant Variety Protection Act (7 U.S.C. 2541) is amended—

(1) by inserting "(a)" before "Except as otherwise provided"; and

(2) by adding at the end thereof the following new subsection:

"(b) As used in this section, the term 'perform without authority' includes performance without authority by any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his official capacity. Any State, and any such instrumentality, officer, or employee, shall be subject to the provisions of this Act in the same manner and to the same extent as any nongovernmental entity.".

(b) LIABILITY OF STATES, INSTRUMENTALITIES OF STATES, AND STATE OFFICIALS FOR INFRINGEMENT OF PLANT VARIETY PROTECTION.—Chapter 12 of the Plant Variety Protection Act (7 U.S.C. 2561 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 130. LIABILITY OF STATES, INSTRUMENTALITIES OF STATES, AND STATE OFFICIALS FOR INFRINGEMENT OF PLANT VARIETY PROTECTION.

"(a) Any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his official capacity, shall not be immune, under the eleventh amendment of the Constitution of the United States or under any other doctrine of sovereign immunity, from suit in Federal court by any person, including any governmental or nongovernmental entity, for infringement of plant variety protection under section 111, or for any other violation under this title.

"(b) In a suit described in subsection (a) for a violation described in that subsection, remedies (including remedies both at law and in equity) are available for the violation to the same extent as such remedies are available for such a violation in a suit against any private entity. Such remedies include damages, interest, costs, and treble damages under section 124, and attorney fees under section 125.".

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall take effect with respect to violations that occur on or after the date of the enactment of this Act.

S. 759

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Trademark Remedy Clarification Act".

SEC. 2. REFERENCE TO THE TRADEMARK ACT OF 1946.

Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (15 U.S.C. 1051 et seq.) (commonly referred to as the Trademark Act of 1946).

SEC. 3. LIABILITY OF STATES, INSTRUMENTALITIES OF STATES, AND STATE OFFICIALS.

(a) LIABILITY AND REMEDIES.—Section 32(1) of the Act (15 U.S.C. 1114(1)) is amended by adding at the end thereof the following:

"As used in this subsection, the term 'any person' includes any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his or her official capacity. Any State, and any such instrumentality, officer, or employee, shall be subject to the provisions of this Act in the same manner and to the same extent as any nongovernmental entity.".

(b) LIABILITY OF STATES, INSTRUMENTALITIES OF STATES, AND STATE OFFICIALS.—The Act is amended by inserting after section 39 (15 U.S.C. 1121) the following new section:

"Sec. 40. (a) Any State, instrumentality of a State or any officer or employee of a State or instrumentality of a State acting in his or her official capacity, shall not be immune, under the eleventh amendment of the Constitution of the United States or under any other doctrine of sovereign immunity, from suit in Federal court by any person, including any governmental or nongovernmental entity for any violation under this Act.

"(b) In a suit described in subsection (a) for a violation described in that subsection, remedies (including remedies both at law and in equity) are available for the violation to the same extent as such remedies are available for such a violation in a suit against any person other than a State, instrumentality of a State, or officer or employee of a State or instrumentality of a State acting in his or her official capacity.

Such remedies include injunctive relief under section 34, actual damages, profits, costs and attorney's fees under section 35, destruction of infringing articles under section 36, the remedies provided for under section 32, 37, 38, 42 and 43, and for any other remedies provided under this Act.".

(c) FALSE DESIGNATION OF ORIGIN AND FALSE DESCRIPTIONS FORBIDDEN.—Section 43(a) of the Act (15 U.S.C. 1125(a)) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end thereof:

"(2) As used in this subsection, the term 'any person' includes any State, instrumentality of a State or employee of a State or instrumentality of a State acting in his or her official capacity. Any State, and any such instrumentality, officer, or employee, shall be subject to the provisions of this Act in the same manner and to the same extent as any nongovernmental entity.".

(d) DEFINITION.—Section 45 of the Act (15 U.S.C. 1127) is amended by inserting after the fourth undesignated paragraph the following:

"The term 'person' also includes any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his or her official capacity. Any State, and any such instrumentality, officer, or employee, shall be subject to the provisions of this Act in the same manner and to the same extent as any nongovernmental entity.".

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall take effect with respect to violations that occur on or after the date of the enactment of this Act.●

By Mr. PELL (by request):

S. 760. A bill to amend the Board for International Broadcasting Act of 1973, as amended, to authorize appropriations for Fiscal Years 1992 and 1993 for carrying out that Act and the Inspector General Act of 1978, as amended; to the Committee on Foreign Relations.

BOARD FOR INTERNATIONAL BROADCASTING ACT OF 1992 AND 1993

● Mr. PELL. Mr. President, by request, I introduce for appropriate reference a bill to authorize appropriations for fiscal years 1992 and 1993 for the Board for International Broadcasting.

This proposed legislation has been requested by the Board for International Broadcasting, and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with an analysis and the letter from the executive director of the Board for International Broadcasting, which was received on March 14, 1991.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 760

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, This Act may be cited as the "Board for International Broadcasting Act of 1992 and 1993."

AUTHORIZATION OF APPROPRIATIONS

SEC. 1. Sections 8(a)(1) and 8(a)(1)(A) of the Board for International Broadcasting Act of 1973, as amended, (22 U.S.C. 2877(a)(1) and (a)(1)(A)) are amended to read as follows:

"Sec. 8. (a) (1) There are authorized to be appropriated to carry out the purposes of this Act and the Inspector General Act of 1978, as amended (A) $217,960,000 for fiscal year 1992 and such sums as may be necessary for fiscal year 1993 consistent with the Budget Enforcement Act of 1990 (P.L. 101-508); and"

SEC. 2. Section 2(5) of the Board for International Broadcasting Act of 1973, as amended, (22 U.S.C. 2871(5)) is amended to read as follows:

"(5) that in order to provide an effective instrumentality for the continuation of assistance to RFE/RL, incorporated and to encourage a constructive dialogue with the peoples of the Union of Soviet Socialist Republics and Eastern Europe, it is desirable to establish a Board for International Broadcasting."

SEC. 3. Section 14 of the Board for International Broadcasting Act of 1973, as amended, (22 U.S.C. 2883) is deleted in its entirety.

SECTIONAL ANALYSIS

Section 1—This paragraph authorizes appropriations of funds to BIB for its administrative expenses including the Office of the Inspector General and for grants to fund the continued operations of Radio Free Europe/Radio Liberty (RFE/RL) in fiscal years 1992 and 1993.

Section 2—This amendment to Section 2(5) would eliminate broadcasting to Afghanistan from the declaration of purposes.

Section 3—Consistent with Section 2 above, deletion of Section 14 of the BIB Act of 1973, as amended, would eliminate the authority for RFE/RL to broadcast to Afghanistan. The savings from this action are consistent with the 1992 authorization of appropriations request.

BOARD FOR INTERNATIONAL
BROADCASTING,
Washington, DC, March 7, 1992.

Hon. J. DANFORTH QUAYLE,
President of the Senate,
8212 Capitol Building, Washington, DC.

DEAR MR. PRESIDENT: I am submitting with this letter proposed legislation amending the Board for International Broadcasting Act of 1973 to authorize appropriations for the Board to carry out its responsibilities as specified in that Act.

The bill provides for authorization of appropriations for the Board's operation during fiscal years 1992 and 1993. A Sectional Analysis explaining the proposed legislation is enclosed. This legislative proposal is needed to carry out the President's FY 1992 budget plan.

The Office of Management and Budget advises that there is no objection to the presentation of this proposal to the Congress and that its enactment would be in accord with the program of the President.

Respectfully,

MARK G. POMAR,
Executive Director.●

By Mr. LIEBERMAN (for himself, Mr. DURENBERGER, and Mr. LAUTENBERG):

S. 761. A bill to reduce hazardous pollution; to the Committee on Environment and Public Works.

HAZARDOUS POLLUTION PREVENTION PLANNING ACT

● Mr. LIEBERMAN. Mr. President, I am pleased to introduce today, along with my colleagues Senators DURENBERGER and LAUTENBERG, the Hazardous Pollution Prevention Planning Act of 1991. In brief, this legislation:

First, requires that industries which emit toxic chemicals and are required to submit reports under the Superfund Amendments and Reauthorization Act of 1986 prepare and implement hazardous pollution prevention plans setting forth 2- and 5-year goals for pollution prevention;

Second, provides matching grants to States with programs for technical assistance for pollution prevention, particularly to assist smaller facilities in preparing plans;

Third, establishes a program for basic research into new methods and technologies for pollution prevention;

Fourth, provides for a demonstration program of regulatory incentives, including permit modifications, for those facilities which are doing a good job at hazardous pollution prevention;

Fifth, requires EPA to identify those industry groups which are lagging behind in pollution prevention and requires an independent, nongovernment audit at those facilities which fall within the industry segment;

Sixth, requires a compliance audit at facilities which the Administrator determines has a history of noncompliance with environmental laws.

Mr. President, we have spent the last 20 years trying to clean up the environmental mistakes of our predecessors. In Congress, we have passed comprehensive legislation protecting surface waters, drinking water, air, coastal zones, land pollution, wetlands and oceans. The heart of our environmental legislation is an attempt to regulate a vast array of industrial, agricultural and individual behavior.

We have witnessed some very significant victories. Our rivers are no longer so laden with waste oil and debris and, in fact, now we can swim and fish in many of them again. After an absence of many decades, salmon are returning to breed in the Connecticut River, one of our most valuable natural resources. We have taken most of the lead that contributed to lead poisoning out of the air.

Municipal sewage treatment has improved dramatically; over 176 million Americans were served by sewage treatment systems in 1988 compared to 85 million in 1972. Comprehensive hazardous waste management regulations are in place which, according to EPA, have kept roughly 1.6 billion gallons of hazardous waste per year from being landfilled without prior treatment.

While we have made enormous strides, overall our efforts keep falling behind the pollution curve. In part, this is because we are becoming more aware of the scope of our pollution problems. As EPA has noted in its Pollution Prevention Strategy, emerging environmental problems include increasing human and environmental exposure to toxic chemicals; cross-media problems such as acid rain, nonpoint source pollution and ground water contamination; and decreasing waste disposal capacity and massive waste cleanup costs.

Many of us are bothered by the nagging questions: Is this the best we can do? Where do we go from here? How do we ensure that future generations will not inherit an ever-expanding multibillion environmental deficit comprised of programs to clean up our mistakes? Is there some supplemental to our traditional "command and control" regulatory strategy that will work better?

I believe that the answer to these questions is that rather than only control pollution after it is created, we should direct our efforts to preventing its creation in the first place. This is the conclusion reached in the recent report prepared by the Environmental Protection Agency's Science Advisory Board, "Reducing Risk." The report states: "End-of-the-pipe controls and waste disposal should be the last line of environmental defense, not the front line. Preventing pollution at the source is usually a far cheaper, more effective way to reduce environmental risk, especially over the long run."

The legislation I am introducing today, requiring that industries make planning for pollution prevention an integral part of their business operations, is designed to ensure that pollution prevention truly becomes our first line of environmental defense.

The EPA's Science Advisory Board's report sets forth some of the very significant advantages of pollution prevention.

First, pollution prevention is more effective than pollution control. Pollution prevention approaches, such as eliminating lead from gasoline or the use of DDT, have resulted in some of the greatest environmental successes of the last 20 years.

Second, pollution prevention can result in significant cost savings to industries, most notably in the form of pollution control costs. One study cited at the International Congress on Hazardous Materials Management in 1987 found that the economic payback period of successful waste reduction methods was under one year in 55 percent of the cases and from 1–2 years in 21 percent of the cases studied.

Pollution prevention can also result in increased productivity and efficiency of business operations by savings in purchase of chemicals, energy, water and other input materials, in addition to better management. The Science Advisory Board concluded: "Some pollution prevention techniques, like using energy more efficiently and recycling process materials, can pay for themselves quite apart from environmental considerations. One reason Japan and Western Europe are formidable economic competitors is that they use energy and raw materials so efficiently. To compete in the global marketplace, American businesses must use them more efficiently." A Wall Street Journal article last December on the economic benefits of pollution prevention, noted that experts have concluded that American companies produce five times the waste per dollar of goods compared with Japanese companies and more than twice that of German companies. According to the experts, waste reduction can have a staggering beneficial effect on the bottom lines of American companies and can improve their worldwide competitiveness.

There are numerous examples of successful cost savings from pollution prevention strategies. I learned about several success stories at a hearing on pollution prevention I held in Hartford, CT on April 9, 1990.

Seaboard Metal Finishings in Connecticut is a company of about 40 employees which puts coatings on many different metal products including nuts and bolts, staplers, screw drivers, door hinges, latches and pen and pencil sets. One of the byproducts of Seaboard's coating processes is a sludge contaminated with metals. This sludge is a hazardous waste.

In 1989, with a grant of $5,000 from the Connecticut Hazardous Waste Management Service, matched by $15,000 of Seaboard's own money, Seaboard changed its manufacturing process to reduce the amount of hazardous waste it creates by 16 tons per year. Seaboard's investment started paying for itself in a little more than a year because Seaboard avoided extensive "end of the pipe" clean up costs.

At Quality Rolling and Deburring Co. in Thomaston, CT, atmospheric evaporators were installed on each of their five nickel-plating tanks at a cost of $5,000 per tank. By recycling the nickel, the company saves over $2,500 a week in raw material costs. That resulted in a payback period of 6 months. And the environment benefited because the new system resulted in less hazardous waste and less waste water.

The Wall Street Journal article cited other examples. Carrier Corp., a subsidiary of United Technologies, spent $500,000 in 1988 to eliminate toxic lubricants from its manufacture of air-conditioners and slashed annual production costs by $1.2 million. The company first developed a nontoxic lubricant that evaporated. Next, it fine tuned its cutting presses to cut metal coils more precisely, with less friction and less waste. The company also designed air-conditioners with fewer parts, reducing the need to cut and rejoin metal. As a result, Carrier eliminated the "degreasing" line, and eliminated down time. "We also improved overall quality of our product," says Gerald Baily, Carrier's director of environmental health and safety.

Pollution prevention also avoids the problem of shifting pollutants from one medium to another. Air pollution control devices or industrial wastewater treatment plants prevent wastes from going into air or water, but the toxic ash and sludge that these systems produce can become hazardous waste problems themselves. Pollution prevention eliminates the potential for this cross-media "shell-game".

The legislation I am introducing today builds on the successes some industries have had in demonstrating that preventing pollution offers a low cost alternative to investment in traditional treatment technologies. Section 5 requires that industries prepare hazardous pollution plans with 2- and 5-year goals for pollution prevention; the plan must include a technical evaluation of all possible methods and technologies for achieving reductions, the economic payback period for these technologies and an implementation schedule for achieving the reductions. These requirements are designed to ensure that facilities emitting toxic chemicals become fully aware of the benefits of pollution prevention technologies. While some industries have realized the benefits on their own, many other industries respond to rising environmental costs and liabilities by changing pollution control technologies and sometimes by closing plants. In a recent article, the Economist magazine noted, "Precisely because the pressure within companies for end-of-pipe solutions is so strong, it is essential that government counteracts it." I am confident that the planning provisions of this legislation will assist industries in understanding the benefits of pollution prevention—that it is a "win-win" situation for both a clean environment and a business' bottom line.

Second, section 10 of the legislation authorizes grants for States which have developed a technical assistance program to assist businesses, particularly smaller businesses, in developing these plans. State programs eligible for funding should facilitate on-site assistance to industries for developing plans. This provision is based on the premise that Government can assist industry in pollution prevention without the use of traditional regulations that prescribe precisely what industry must do. Similar programs at the State and local level have demonstrated that Government investments are well worth it. In Ventura County, CA, for example, a pollution prevention assistance program which involved sending Government specialists into facilities saved industry a minimum of $50 in waste management costs for every $1 invested by Ventura County.

Third, section 11 of the legislation establishes a program to conduct research into new pollution prevention technologies and barriers to implementation of pollution prevention at the hazardous substance research centers operated under Superfund. This program should include the testing and development of new processes.

Fourth, section 12 of the legislation requires EPA to establish a regulatory incentives program for those facilities which are doing a good job at pollution prevention. The National Advisory Council for Environmental Policy and Technology, a panel of experts from Government, academia, States and public interest groups, has advised the Administrator of EPA that incentives, particularly in the area of permitting procedures, can be useful in fostering pollution prevention. The Administrator should develop a program which will implement the most effective incentives to encourage industries to implement ambitious pollution prevention plans.

Fifth, while industries are given a large degree of freedom in determining their pollution prevention goals, section 13 of the legislation requires that after 5 years, the Administrator shall identify five industry groups which are lagging behind in pollution prevention. Section 14 requires EPA to issue guidance on how to achieve reductions for those industry groups identified by the Administrator as lagging behind in pollution prevention, based on reasonably available technology.

Under section 15, nongovernmental, independent audits are required to be conducted at those facilities which fall within the problem industry groups identified by EPA. The auditors will provide recommendations for pollution prevention based on EPA's guidance; facilities must implement these recommendations. The purposes of a hazardous pollution prevention audit is to help industries which are having difficulties in pollution prevention. According to EPA, failure to achieve the full benefits from pollution prevention often results from a lack of understanding of the benefits and costs. Audits can help these industries realize the cost benefits of pollution prevention strategy.

Sections 13–15 of the legislation are new approaches to addressing the category of industry groups which are lagging behind in pollution prevention. This is my initial approach and I look forward to comments by industry and other interested groups. I intend to work with these groups on this approach.

Finally, section 15 also requires that independent audits be conducted at facilities where there is a history of noncompliance with the terms of permits or other provisions of environmental laws and the facility may present a threat to human health, welfare or the environment. The auditor will document all noncompliance with the environmental laws and provide recommendations for improving compliance; facilities must implement these recommendations.

EPA's Science Advisory Board recently concluded that there is widespread noncompliance with the environmental laws, such as the Clean Water Act. The EPA inspector general in a series of audits over the last several years also documented widespread noncompliance. I am hopeful that the independent audit provisions of this legislation will help to improve compliance with our laws.

Mr. President, a section-by-section analysis of the legislation follows. I request unanimous consent that the full text of the legislation be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 761

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hazardous Pollution Prevention Planning Act of 1991".

SEC. 2. FINDINGS.

The Congress finds and declares that—

(1) the United States Environmental Protection Agency estimates that billions of pounds of toxic chemicals are released into the environment each year;

(2) the release of these toxic chemicals into the environment can harm public health, welfare, and the environment;

(3) traditional approaches to environmental regulation which have emphasized controlling pollution after it has been created are not sufficient to address all our environmental problems;

(4) hazardous pollution prevention (reductions in byproducts and in the use of toxic chemicals) must become the centerpiece of our long-term strategy for achieving environmental protection;

(5) there are proven and cost-effective technologies and management practices that can achieve hazardous pollution prevention;

(6) hazardous pollution prevention can have a tremendous cost benefit for industry by avoiding costs of control, cleanup, and liability, and by leading to increases in industrial efficiency and productivity through savings in purchases of chemicals, energy, water, and other input materials;

(7) hazardous pollution prevention often prevents the solution to one environmental problem from re-emerging as another type of environmental problem;

(8) an important step in hazardous pollution prevention is the development of plans with numerical goals for reduction;

(9) there is a need to provide technical assistance and training to firms, especially smaller firms, in preparing such plans;

(10) there is a need to conduct research to develop new industrial technologies and practices that will reduce the social, economic, and institutional barriers to preventing hazardous pollution; and

(11) the expanded use of environmental audits, conducted by qualified auditors, has the potential to help facilities which are lagging behind in prevention of hazardous pollution and compliance with the environmental laws.

SEC. 3. GOAL.

The Congress declares it to be the national policy of the United States to achieve by 1996 a 50 percent reduction in toxic chemical byproduct levels, from 1991 levels of such byproducts.

SEC. 4. DEFINITIONS.

As used in this Act, the term—

(1) "Agency" means the Environmental Protection Agency;

(2) "Administrator" means the Administrator of the Environmental Protection Agency;

(3) "byproduct" means all nonproduct outputs of toxic chemicals generated prior to handling, transfer, treatment, or release;

(4) "emission" means a release of a toxic chemical into the environment;

(5) "environment" shall have the same meaning as in section 329(2) of the Superfund Amendments and Reauthorization Act of 1986;

(6) "environmental laws" mean those laws administered by the Administrator or delegated by the Administrator to a State to administer;

(7) "facility" means any building, equipment, structure, or any other stationary item which is located on a single site or on contiguous or adjacent sites and which is owned or operated by the same person, or by any person who controls, is controlled by, or is under common control with, such person;

(8) "hazardous waste" shall have the same meaning as in section 261.3 of title 40 of the Code of Federal Regulations;

(9) "large quantity generator" shall have the same meaning as defined in the Resource Conservation and Recovery Act of 1976;

(10) "large quantity toxic user" means a facility that manufactures or processes 75,000 pounds of a toxic chemical per year or otherwise uses 10,000 pounds of a toxic chemical per year;

(11) "manufacture" shall have the same meaning as in section 313(b)(1)(C)(i) of the Superfund Amendments and Reauthorization Act of 1986;

(12) "product" means a desired result of a production process that is used as a commodity in the same form in which it is produced;

(13) "process" shall have the same meaning as in section 313(b)(1)(C)(ii) of the Superfund Amendments and Reauthorization Act of 1986;

(14) "production unit" means a process, line, method, activity, or technique or combination or series thereof, used to produce a product;

(15) "release" shall have the same meaning as in section 329(8) of the Superfund Amendments and Reauthorization Act of 1986;

(16) "SIC Code" means the identification code assigned to facilities by the Department of Commerce;

(17) "source reduction" shall have the same meaning as in the Pollution Prevention Act of 1990;

(18) "toxic chemical" shall have the same meaning as provided in section 329(10) of the Superfund Amendments and Reauthorization Act of 1986;

(19) "toxic use reduction" shall mean any source reduction method that reduces or eliminates the use of toxic chemicals manu-

factured, processed, or used without creating new risks of concern to public health, welfare or the environment; and

(20) "user segment" means a class of facilities that may be distinguished by at least one of the following: use of a toxic chemical or class of chemicals in its industrial processes, similar industrial processes, members of a generally recognized group (Standard Industrial Classification).

SEC. 5. HAZARDOUS POLLUTION PREVENTION PLANS.

(a) COVERED OWNERS AND OPERATORS.—Each owner or operator of a facility required to submit a toxic chemical release form under section 313 of the Superfund Amendments and Reauthorization Act of 1986 shall prepare a Hazardous Pollution Prevention Plan.

(b) CONTENTS OF PLAN.—(1) Each Plan shall, at a minimum, include the following for each toxic chemical for which the owner or operator is required to submit a toxic chemical release form:

(A) Statement of overall scope and objectives of the Plan.

(B) An evaluation of the amount of the toxic chemical manufactured, processed, or used for the facility as a whole and for each production unit and the quantity of byproduct for each production unit.

(C) An analysis of the economic impacts of the use of each toxic chemical in the production unit, including regulatory and compliance costs, potential liability costs, raw material costs, and byproduct storage, handling, and treatment costs.

(D) Two- and 5-year numerical goals for reductions (i) in the use of the toxic chemical and byproduct for the facility as a whole; (ii) in use of the toxic chemical per unit of product produced for each production unit and in byproduct per unit of product produced for each production unit through toxic use reduction or other source reduction methods. The Plan shall specify the amount of reductions to be achieved through reductions in use of the toxic chemical and in byproduct. The owner or operator may elect not to specify use reduction goals; however, the owner or operator shall provide a detailed explanation as to why such goals were not included.

(E) A comprehensive economic and technical evaluation of all methods for potentially achieving reductions in use per unit of product produced for each production unit and in byproduct per unit of product produced in each production unit and on a facility-wide basis, including a payback period for each method and any obstacles to achieving reductions. The calculations used for determining the payback period shall be set forth in detail.

(F) Identification of technologies, procedures, and training programs to be implemented to achieve reduction goals, including a description of the costs of implementing each and anticipated savings from each. If the Plan does not include any of the measures identified in subparagraph (E) as having a payback period of 2 years or less, the owner or operator shall provide a detailed explanation identifying the reasons for failing to include these measures.

(G) An evaluation, and to the extent practicable, a quantification, of the effects of the chosen hazardous pollution prevention method on emissions to air, water, or land.

(H) A schedule of implementation of each technology, procedure, and training program identified in subparagraph (F).

(I) A certification by the chief executive officer or a senior corporate officer designated by the chief executive officer who shall certify under penalty of perjury as to (i) the accuracy and completeness of the Plan; (ii) that the Plan complies with the requirements of this Act; and (iii) that the measures in the Plan are being implemented.

(2) If the covered facility is also a large quantity generator, the Plan shall include the additional information:

(A) For each hazardous waste stream which results from ongoing processes or operations that has a yearly volume exceeding 5 percent of the total yearly volume of hazardous waste generated at the facility, the Plan shall state:

(i) Two- and 5-year goals for reductions in hazardous waste generated per unit of product produced in a production unit and on a facility-wide basis.

(ii) A comprehensive economic and technical evaluation of all methods for potentially achieving reductions, including a payback period for each method, and any technological obstacles to achieving reductions. The calculations used for determining the payback period shall be set forth in detail.

(iii) Identification of technologies, procedures, and training programs to be implemented to achieve reduction goals, including a description of the costs of implementing and anticipated savings from each technology, procedure and program.

(iv) A schedule of implementation of each technology, procedure, and training program identified in clause (iii) of this subparagraph.

(v) A certification by the chief executive officer or a senior corporate officer designated by the chief executive officer who shall certify under penalty of perjury as to (I) the accuracy and completeness of the Plan; (II) that the Plan complies with the requirements of this Act; and (III) that the measures in the Plan are being implemented.

If the Plan does not include any of the measures identified in clause (iii) of this subparagraph as having a payback period of 2 years or less, the owner or operator shall provide a detailed explanation identifying the reasons for failing to include such measures.

(C) The provisions of this paragraph shall not apply to hazardous wastes which are covered under the provisions of paragraph (1) of this subsection.

(c) SCHEDULE.—(1) The owner or operator of a facility that is a large quantity toxic user shall complete a Plan no later than 24 months after the date of the enactment of this Act, and shall update the Plan every 12 months thereafter. The owner or operator of all other covered facilities shall complete a Plan no later than 36 months after the date of enactment of this Act, and shall update the Plan every 24 months thereafter.

(2) The Administrator may grant any covered facility an extension of up to 12 months to comply with the provisions of this subsection upon a showing of good cause.

(d) IMPLEMENTATION.—(1) The owner or operator of a covered facility shall implement all measures identified in the Plan according to the implementation schedule contained in the Plan.

(2) An owner or operator of a covered facility may determine not to implement a measure identified in the Plan only if the owner or operator demonstrates, based on new information not available at the time the Plan was prepared, or unexpected conditions beyond the control of the owner or operator that the selected measure—

(A) is not technically feasible;

(B) would result in adverse effects on product quality; or

(C) would result in harm or the threat of harm to public health or the environment.

(3) If the owner or operator, based on the factors set forth in paragraph (2), elects not to implement any of the measures in the Plan, the owner or operator shall, within 30 days following such election, amend the Plan to reflect this election and include in the Plan, proper documentation identifying the rationale for the election.

(e) MAINTENANCE OF PLAN.—(1) Each owner or operator shall maintain the Plan, all analyses conducted pursuant to subsection (c), and all data used in the development of the Plan for a minimum of 3 years.

(2) For purposes of administering this Act, the owner or operator shall make the Plan and any other documents, records, files, data, and analyses available to the Administrator or a State authorized to carry out the provisions of this Act and any duly designated representative of the Administrator or the State for inspection and copying upon reasonable notice and at reasonable times. Documents and other information obtained or received under this paragraph shall not be deemed public records or documents.

SEC. 6. REPORTS.

(a) CONTENTS.—The owner or operator of any covered facility shall submit a report and from time to time, an update of such report, to the Administrator or an authorized State. The report shall include the following:

(1) a summary of the Plan's goals and schedules for the facility as a whole and for each production unit as required pursuant to section 5, including a statement of how the baseline data for measuring reductions was derived;

(2) a summary of the economic and technical evaluations of technologies considered for achieving reductions;

(3) a copy of the Plan certification by a senior corporate officer; and

(4) a numerical statement demonstrating progress toward meeting the goals of the Plan or an explanation of the reasons why any goal is not being met or progress is not being made toward meeting the goal.

(b) SCHEDULE.—Commencing no later than 24 months after the date of enactment of this Act, and every 12 months thereafter, the owner or operator of a facility that is a large quantity toxic user shall submit a report with each annual filing of its annual toxic chemical release form. Commencing no later than 36 months after the date of the enactment of this Act, and every 24 months thereafter, the owner or operator of all other covered facilities shall submit a report with each annual filing of its annual toxic chemical release form.

(c) AVAILABILITY.—Subject to the provisions of section 18, all reports and updates shall be available to the public at the covered facility during normal working hours. Any written comments on such a report that are submitted by the Administrator or the State shall also be available to the public at the facility.

SEC. 7. FORMS.

Within 12 months following the date of the enactment of this Act, the Administrator shall publish uniform forms for plans and reports required under this Act.

SEC. 8. REVIEW.

The Administrator or an authorized State shall evaluate the report submitted under section 6 of this Act and may evaluate the Plan to determine if the owner or operator of a covered facility is complying with the terms of this Act. If the Administrator or an authorized State determines that the report or Plan does not comply with the terms of this Act, the Administrator or State shall issue a notice of noncompliance, specifying deficiencies in the report or Plan, or both. The owner or operator shall submit a revised report addressing any deficiencies in the report within 90 days and shall revise any deficiencies in the Plan within 90 days.

SEC. 9. STATE DELEGATION.

Beginning 6 months after the date of the enactment of this Act, any State may submit a hazardous pollution prevention program to exercise the authorities in sections 5, 6, and 8 of this Act for review and approval to the Administrator. A State program may be approved by the Administrator if the State demonstrates that the program includes the following elements, and provisions for adequate enforcement—

(1) requirements for evaluation of plans and reports and identification of covered facilities that fail to comply with the provisions of this Act; and

(2) requirements for assisting the Administrator in identifying priority user segments as set forth in section 13 of this Act.

SEC. 10. TECHNICAL ASSISTANCE.

(a) GENERAL AUTHORITY.—The Administrator shall make matching grants to the States to provide assistance for hazardous pollution prevention planning required pursuant to this Act.

(b) CRITERIA.—In making grants to the States under this section, the Administrator shall consider whether the proposed program will—

(1) facilitate assistance by private or public consultants, including onsite consultation at covered facilities, in developing and implementing the Plan with a particular emphasis on smaller facilities;

(2) conduct programs, seminars, workshops, training programs, and other similar activities to assist in developing and implementing the Plan; and

(3) provide training and assistance for citizens, workers, and local government groups to assist these individuals and groups in understanding reports required to be submitted under this Act.

(c) MATCHING FUNDS.—Federal funds used in any State program under this section shall provide no more than 50 percent of funds made available to a State in each year of that State's participation in the program.

SEC. 11. RESEARCH.

The Administrator shall establish at the Hazardous Substance Research Centers operated pursuant to section 311(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, a research program to assist the Agency's Office of Pollution Prevention in performing its functions. The program shall include—

(1) basic research into technological barriers to reductions in the use of toxic chemicals and byproducts and the development of strategies for overcoming these barriers;

(2) basic research into social, economic and institutional barriers to reducing the reliance of society on toxic chemicals and the development of strategies for overcoming these barriers;

(3) developing, evaluating, and demonstrating methods to assess reductions resulting from toxic use or other source reduction methods; and

(4) research or pilot projects to develop and demonstrate innovative technologies for source reduction and toxic use reduction methods.

SEC. 12. REGULATORY INCENTIVES.

(a) DEMONSTRATION PROJECTS.—Within 12 months after the date of the enactment of this Act, the Administrator shall establish a demonstration program to provide regulatory incentives for achieving reductions in use of toxic chemicals and byproducts. The Administrator may designate up to 50 facilities for inclusion in the demonstration program.

(b) AUTHORITY TO MODIFY.—(1) The Administrator, as part of the demonstration program, is authorized to modify the requirements imposed by terms of all or part of any permit or agreement. Any modification granted under this subsection shall specify the requirements being modified and the length of time the modification is to be in effect.

(2) At least 60 days before approval of any such modification, the Administrator shall—

(A) publish a notice and explanation of the proposed modification, and appropriate documentation supporting the modification; and

(B) provide a reasonable opportunity for submission of written comments and oral comments and an opportunity for a public meeting at or near the facility regarding the proposed modification.

(3) The Administrator may approve a modification if the Administrator determines that—

(A) the facility applying for the modification is in compliance with the terms of existing environmental laws, regulations, permits, orders, or other requirements applicable to the facility and has a history of compliance which the Administrator and the State deems satisfactory;

(B) greater net protection of human health and the environment than that required under existing environmental laws will result, with a special consideration to ensuring that the risks are not shifted from one environmental medium to another;

(C) a significant increase in reductions in use of toxic chemicals and in byproduct will result, as compared to the reductions that would have resulted, under existing environmental laws; and

(D) the modification provided for in this section will contribute to achieving greater reductions in use of toxic chemicals and in byproduct.

(4) The Administrator's approval of a modification shall be accompanied by a response to each of the significant comments and date submitted in written and oral comments.

(5) As part of any modification granted pursuant to this section, the Administrator shall require that the owner or operator granted the modification shall undertake monitoring operations adequate to determine compliance with the modified terms of any permit or agreement. Such monitoring shall be carried out at such time as the Administrator shall provide. Such owner or operator, as the case may be, shall report the results of the monitoring operations in such form and at such times as the Administrator shall require.

(6) The duration of any modification shall not exceed 12 months. Upon expiration of any modification granted pursuant to this section, the Administrator may renew the modified permit or agreement for a period not to exceed the original modification, if he determines that the requirements of paragraph (3) continue to be met.

(7) Within 24 months after the date of enactment of this Act, the Administrator shall submit a report to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives concerning the implementation of this section. The Administrator shall include recommendations on whether or not the scope of the regulatory incentives program should be expanded.

SEC. 13. PRIORITIZING USER SEGMENTS.

Commencing no later than 60 months after the date of the enactment of this Act, and every 12 months thereafter, the Administrator in consultation with the Governor of each State, shall identify by regulation no more than 5 user segments which the Administrator determines need improvements in reducing the amount of byproduct, when compared to the national goal, and in reducing the use of toxic chemicals and designate those user segments as "priority user segments". The Administrator shall designate an additional 5 user segments each 12 months. The Administrator shall also consider the following when identifying priority user segments:

(1) the technical and economic feasibility of achieving reductions in the use of toxic chemicals and byproduct;

(2) the social, health, and economic benefits and costs of designation as a priority user segment;

(3) the extent to which facilities within a user segment are emitting toxic chemicals to more than one environmental medium; and

(4) the amount of toxic chemicals from the facility which are recycled.

SEC. 14. HAZARDOUS POLLUTION PREVENTION GUIDANCE.

No later than 12 months after the Administrator's designation of priority user segments pursuant to section 13, the Administrator shall publish, after notice and opportunity to comment, guidance for obtaining reductions in use of toxic chemicals and byproducts at facilities within each priority user segment. The Administrator shall issue guidance which is based on reasonably available technology for achieving the reductions.

SEC. 15. ENVIRONMENTAL AUDITS.

(a) HAZARDOUS POLLUTION PREVENTION AUDITS.—(1) No later than 24 months after the Administrator's designation under section 13 of a priority user segment, each large quantity toxic user within an identified priority user segment shall conduct a hazardous pollution prevention audit.

(2) A hazardous pollution prevention audit shall contain specific recommendations for reductions in accordance with the guidance issued by the Administrator under section 14 of this Act, and a timetable for implementation of the recommendations.

(3) The owner or operator of the facility shall submit the recommendations contained in the audit to the Administrator.

(4) The owner or operator of each facility required to prepare a hazardous pollution prevention audit shall implement the recommendations contained in the audit according to the schedule contained in the audit.

(5) The Administrator may extend the requirements of this subsection to other covered toxic users within a priority user segment.

(b) AUDITS FOR NONCOMPLIANCE.—(1) The Administrator shall require a compliance audit at any covered facility which the Administrator finds based on the facility noncompliance and history of noncompliance with the terms of permits issued under the environmental laws or other provisions or regulations promulgated under the environmental laws, may present a threat to human health, welfare, or the environment.

(2) The Administrator shall provide notice by certified mail to the owner or operator of each facility required to prepare an audit pursuant to this section.

(3) No later than 6 months after receipt of notice required under paragraph (2), any facility identified by the Administrator pursuant to paragraph (1) of this subsection shall conduct a compliance audit to establish the compliance of the facility with the terms, requirements, and conditions of permits or other requirements of the environmental laws and regulations, and provide recommendations for improving the degree and extent of compliance, including a timetable for implementation of the recommendations. Each such facility shall conduct audits until such time as the Administrator certifies, based on the audits and other available data, that the condition giving rise to the Administrator's determination under paragraph (1) has been corrected.

(4) The owner or operator shall submit the recommendations contained in the audit to the Administrator.

(5) Each facility required to prepare a compliance audit shall implement the recommendations contained in the audit in accordance with the schedule contained in the audit.

(c) CERTIFIED AUDITOR.—Any audit conducted pursuant to this section shall be conducted by a firm, person, or organization who is certified to conduct audits pursuant to section 16 of this Act.

(d) REGULATIONS.—Within 180 days following the date of the enactment of this Act, the Administrator shall, by regulation, establish requirements concerning the form and content of audits required pursuant to this section.

SEC. 16. ENVIRONMENTAL AUDIT TRAINING AND CERTIFICATION.

(a) TRAINING PROGRAMS.—(1) The Administrator shall develop and conduct programs to train individuals to conduct both hazardous pollution prevention and compliance audits (hereinafter referred to as "environmental audits") and shall certify individuals, firms, and organizations as proficient in environmental auditing. The Administrator may contract with institutions of higher learning or other organizations or firms to conduct such training programs.

(2) The Administrator shall publish, within 180 days following the date of enactment of this Act, and periodically thereafter, a general manual of methods, practices, and protocols of environmental auditing.

(b) CERTIFICATION.—(1) The Administrator shall certify an individual, firm, or organization as a "certified environmental auditor" upon the satisfactory completion of a program of testing to determine the knowledge, skills, and abilities of such individual, firm, or organization.

(2) The Administrator, within 180 days following the date of enactment of this Act, shall promulgate regulations governing the testing and certification of auditors pursuant to this section.

(3) A certification pursuant to this section shall apply for a period of not more than 5 years, after which time an individual, firm, or organization must be recertified pursuant to this section in order to act as a certified environmental auditor.

(4) The Administrator is authorized to collect fees for training and certification pursuant to this section equal to the administrative costs of such training and certification programs. Fees collected pursuant to this subsection shall be deposited into an environmental audit fund.

SEC. 17. AUDIT OVERSIGHT AND EVALUATION.

(a) OVERSIGHT.—The Administrator shall provide for oversight and evaluation of environmental audits conducted and required by the Administrator pursuant to this Act.

(b) EVALUATION.—The Administrator shall provide for random tests of the accuracy and reliability of data, measurements, assessments and analyses conducted by firms or organizations certified to conduct environmental audits pursuant to this Act.

(c) BOARD.—(1) There is established an Environmental Audit Oversight Board (hereafter referred to in this subsection as the "Board").

(2) The purpose of the Board is to advise the Administrator in the development and implementation of audits and the certification of auditors pursuant to this Act.

(3) The Board shall be established within 180 days following the date of enactment of this Act and shall be exempt from section 14 of the Federal Advisory Committee Act.

(4) The Board shall be comprised of not more than 15 individuals, appointed by the Administrator to serve terms of not to exceed 3 years.

(5) The Board shall represent the scientific community, regulated parties, and public interest groups and shall represent various regions of the country.

(6) Such clerical and technical assistance as may be necessary to discharge the duties of the Advisory Committee shall be provided by personnel of the Environmental Protection Agency.

(7) Members of the Board shall, while attending meetings or conferences of the Board or otherwise engaged in the business of the Board, be compensated at a rate to be fixed by the Administrator, but not to exceed the daily equivalent of the base rate of pay in effect for grade GS-15 of the General Schedule under section 5332 of title 5, United States Code, for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Board. While away from their homes or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

SEC. 18. TREATMENT OF CERTAIN INFORMATION.

(a) CONFIDENTIALITY AND AVAILABILITY OF CERTAIN RECORDS AND INFORMATION.—(1) Any records, reports, or information obtained from any person under section 15 (relating to audits), section 6 (relating to reports), or the provisions of section 8 (relating to reports), shall be available to the public, except that upon a showing satisfactory to the Administrator (or the State, as the case may be) by any person that records, reports, or information, or particular part thereof (other than health or safety effects data), to which the Administrator (or the State, as the case may be) or any officer, employee, or representative has access under such sections if made public would divulge information entitled to protection under section 1905 of title 18 of the United States Code, such information or particular portion thereof shall be considered confidential in accordance with the purposes of that section, except that such record, report, document or information may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act, or when relevant in any proceeding under this Act.

(2) Any person not subject to the provisions of section 1905 of title 18 of the United States Code who knowingly and willfully divulges or discloses any information entitled to protection under this subsection shall, be subject to a civil penalty under section 19 of this Act.

(3) In submitting data under this Act, a person required to provide such data may—

(A) designate the data which such person believes is entitled to protection under this subsection, and

(B) submit such designated data separately from other data submitted under this Act.

A designation under this paragraph shall be made in writing and in such manner as the Administrator may prescribe by regulation.

(4) Notwithstanding any limitation contained in this section or any other provision of law, all information reported to or otherwise obtained by the Administrator under this Act shall be made available, upon written request of any duly authorized committee of the Congress, to such committee.

(5) No person required to provide information under section 6, the provisions of section 8 (relating to reports), or section 15 may claim that the information is entitled to protection under this paragraph unless such person shows each of the following:

(A) such person has not disclosed the information to any other person, other than a member of a local emergency planning committee established under title III of the Superfund Amendments and Reauthorization Act of 1986, an officer or employee of the United States or a State or local government, an employee of such person, or a person who is bound by a confidentiality agreement, and such person has taken reasonable measures to protect the confidentiality of such information and intends to continue to take such measures;

(B) the information is not required to be disclosed, or otherwise made available, to the public under any other Federal or State law;

(C) disclosure of the information is likely to cause substantial harm to the competitive position of such person; and

(D) the specific chemical identity, if sought to be protected, is not readily discoverable through reverse engineering.

(b) UNPROTECTED INFORMATION.—The following information with respect to any toxic chemicals or hazardous waste at the facility shall not be entitled to protection under this paragraph:

(1) the trade name, common name, or generic class or category of the toxic chemical or hazardous waste;

(2) the physical properties of the substance, including its boiling point, melting point, flash point, specific gravity, vapor density, solubility in water, and vapor pressure at 20 degrees Celsius;

(3) the hazards to public health or the environment posed by the substance, including physical hazards (such as explosion) and potential acute and chronic health hazards;

(4) the potential routes of human exposure to the substance at the facility;

(5) the location of disposal of any waste stream;

(6) any monitoring data or analysis of monitoring data pertaining to disposal activities;

(7) any hydrogeologic or geologic data; and

(8) any ground water monitoring data.

SEC. 19. PENALTIES.

(a) CIVIL PENALTIES.—(1) The owner or operator of a facility which is required to conduct an audit pursuant to section 15 of this Act and the certified auditor shall provide such assurance as the Administrator shall require concerning the accuracy and completeness of any audit document or related report. Any person who submits a false certification shall be subject to a civil penalty not to exceed $200,000.

(2) Any person required to conduct an audit pursuant to section 15 of this Act who fails to submit reports or other information required by the certified auditor or who fails to implement the recommendations in the audit shall be subject to a civil penalty not to exceed $25,000 per day for each violation.

(3) Any person who violates the provisions of section 18(a)(2) shall be subject to a civil penalty not to exceed $200,000 for each violation.

(4) Any person who fails to submit a report, an update of a report to the Administrator as required pursuant to section 6 of this Act, or a revised version of a report as required pursuant to section 8 of this Act, shall be subject to a civil penalty not to exceed $10,000 per day for each violation. Any person who fails to prepare or implement a Plan as required pursuant to section 5 or revise a Plan as required pursuant to section 8 of this Act shall be subject to a civil penalty not to exceed $10,000 per day for each violation.

(b) JURISDICTION.—The Administrator may issue an administrative order assessing a penalty or requiring compliance with the terms of this Act or both, or may bring an action to assess and collect the penalty and to secure a permanent or temporary injunction to require compliance with the provisions of this Act or an administrative order in the United States district court for the district in which the person for whom the penalty is sought resides or in which the person's principal place of business is located.

(c) PROCEDURES FOR ADMINISTRATIVE PENALTIES.—(1) Any person against whom a civil penalty is assessed by administrative order under this section may obtain review thereof in the appropriate United States district court by filing a notice of appeal in such court within 30 days after the date of such order and by simultaneously sending a copy of such notice by certified mail to the Administrator. The Administrator shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed. If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order or after the appropriate court has entered final judgment in favor of the United States, the Administrator may request the Attorney General of the United States to institute a civil action in an appropriate United States district court to collect the penalty, and such court shall have jurisdiction to hear and decide any such action. In hearing such action, the court shall have authority to review the violation and the assessment of the civil penalty on the record.

(2) The Administrator may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, or documents in connection with hearings under this section. In case of contumacy or refusal to obey a subpoena issued pursuant to this paragraph and served upon any person, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the administrative law judge, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

SEC. 20. RELATION TO OTHER ENVIRONMENTAL STATUTES.

(a) STATE LAW.—Nothing in this Act shall preclude or deny the right of any State or political subdivision to adopt or enforce any law, regulation, requirement, or standard that is more stringent than this Act or, a regulation, requirement, or standard of performance in effect under this Act, or to impose any additional liability.

(b) DENIAL OF PERMITS.—The Administrator or a State delegated authority under this Act may deny a permit under any environmental law to the owner or operator of any covered facility, if the owner or operator has not prepared and implemented a Plan or submitted reports and updates, as required under sections 5, 6, and 8 of this Act. The Administrator may also deny a permit to the owner or operator of any facility which is required to submit information pursuant to the requirements of section 15 relating to audits and fails to submit the information or fails to implement the recommendations in the audit.

SEC. 21. AUTHORIZATIONS.

There is authorized to be appropriated to the Administrator $10,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996 for the purposes of carrying out the provisions of section 10 of this Act. There is authorized to be appropriated to the Administrator $10,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out the provisions of this Act other than section 10.

SECTION-BY-SECTION DESCRIPTION OF THE HAZARDOUS POLLUTION PREVENTION PLANNING ACT

1. Section 1—Short Title:

Act may be cited as the "Hazardous Pollution Prevention Planning Act of 1991"

Section 2—Findings:

The Environmental Protection Agency estimates that billions of pounds of toxic chemicals are emitted into the air, land or water each year.

The release of these toxic chemicals into the environment can harm human health, welfare and the environment.

Traditional approaches to environmental regulations which have emphasized controlling pollution after it has been created are not sufficient to address all our environmental problems.

Hazardous pollution prevention must become the centerpiece of our long-term strategy for achieving environmental protection.

There are proven and cost-effective technologies and management practices that can achieve hazardous pollution prevention.

Hazardous pollution prevention can have a tremendous cost benefit for industry by avoiding costs of control, cleanup and liability and by leading to increases in industrial efficiency and productivity through savings in purchases of chemicals, energy, water and other input materials.

Hazardous pollution prevention often prevents the solution to one environmental problem from re-emerging as another kind of environmental problem.

An important step in hazardous pollution prevention is the development of plans with numerical goals for reduction.

There is a need to provide technical assistance and training to firms, especially smaller firms, in preparing such plans.

There is a need to conduct research to develop new industrial technologies and practices that will reduce the social, economic and institutional barriers to preventing hazardous pollution.

The expanded use of environmental audits, conducted by qualified auditors, has the potential to help facilities which are lagging behind in prevention of hazardous pollution and compliance with environmental laws.

Section 3—Goal:

Establishes as the national policy a goal of 50 percent reductions in toxic chemical byproducts by 1996 from 1991 levels.

Section 4—Definitions:

Section 5—Hazardous pollution prevention plans:

Requires each owner or operator of a facility required to submit a toxic chemical release form under section 313(c) of the Superfund Amendments and Reauthorization Act of 1986, to prepare a Hazardous Pollution Prevention Plan. The Plan shall include, for each toxic chemical for which the owner is required to submit the toxic chemical release form, two and five year numerical goals for reductions in the use of the toxic chemicals and in byproduct (nonproduct output) for the facility as a whole and per unit of product produced for each production unit. The owner or operator may elect not to include a use reduction goal; however, the owner or operator shall provide a detailed explanation as to why such a goal was not included. The Plan shall include goals both for the facility as a whole and for each production unit. The Plan shall include a comprehensive economic and technical evaluation of all methods for achieving reductions in use of toxic chemicals and in byproduct. The Plan shall identify all technolgies to be implemented by the facility to achieve the reduction goals. If the Plan fails to include measures for achieving reductions with a payback period of two years or less, the owner or operator shall provide a detailed explanation. The Plan must include a schedule of implementation and a certification under penalty of perjury by the chief executive officer or a senior officer as to the accuracy and completeness of the Plan and that the measures are being implemented.

Requires covered facilities which are also large quantity hazardous waste generators to include goals for reductions in hazardous waste generated.

Requires owners or operators to maintain plans and all data used in the development of the Plan for a minimum of 3 years.

Authorizes the Administrator or a State to inspect and copy the Plans and supporting information for purposes of administering the Act.

Section 6—Reports:

Requires the owner or operator of any covered facility to submit reports and updates which summarize the contents of the Plan to the Administrator or State. Reports and updates and any written comments on such reports shall be available to the public at the facility.

Section 7—Forms:

Requires the Administrator to publish uniform forms for plans and reports.

Section 8—Requires the Administrator or an authorized State to evaluate the report and allows the Administrator or the State to examine the Plan to determine if the owner or operator is complying with the terms of the Act. If the report or Plan does not comply, the Administrator or State shall issue a notice of noncompliance, specifying the deficiencies and the owner or operator shall submit a report addressing such deficiencies within 90 days and shall revise the Plan within 90 days.

Section 9—State delegation:

Authorizes the Administrator to delegate his authority to administer certain provisions of the Act to States which have demonstrated that their program includes sufficient requirements to evaluate plans and reports.

Section 10—Technical assistance and research:

Requires the Administrator to make matching grants to States for programs to provide assistance in preparing plans, with a particular emphasis on the needs of smaller facilities. The Administrator must also consider whether the State program provides training and assistance for citizens, workers and local government groups in understanding the reports submitted by facilities under this Act.

Section 11—Requires the Administrator to establish at the Hazardous Substance Research Centers operated under section 311(d) of the Comprehensive Environmental Response, Compensation and Liability Act, a research program to assist the Agency's Office of Pollution Prevention in conducting basic research into reductions in the use of toxic chemicals and to develop and demonstrate innovative technologies for source reduction methods.

Section 12—Regulatory incentives:

Requires the Administrator to establish a demonstration program to provide regulatory incentives for achieving reductions in use in toxic chemicals and byproduct. The Administrator may designate up to 50 facilities for inclusion in the demonstration program. As part of the demonstration program, the Administrator is authorized after providing for public comment and an opportunity for a public meeting, to modify the requirements of permits or agreements, if certain criteria are met, including: greater net protection of human health and the environment than required under existing environmental laws; a significant increase in reductions in the use of toxic chemicals and byproduct, as compared to reductions that would have resulted under existing environmental laws; and a showing that the modification will contribute to achieving these reductions.

Section 13—Prioritizing user segments:

Requires the Administrator in consultation with the Governor of each State to identify by regulation 5 user segments which the Administrator determines needs improvements in reducing the amount of byproduct and use of toxic chemicals. An additional 5 segments shall be designated by the Administrator every 12 months.

Section 14—Hazardous pollution prevention guidance:

Requires the Administrator to publish guidance for obtaining reductions in use of toxic chemicals and byproduct at facilities within the designated priority user segments.

Section 15—Environmental audits:

Requires large quantity facilities within a priority user segment to conduct a hazardous pollution prevention audit. The audit must be conducted by an individual, firm or organization certified by the Administrator as an environmental auditor upon the satisfactory completion of a program of testing.

The audit shall contain specific recommendations for reductions in accordance with the guidance issued by the Administrator under Section 13. The owner or operator of each facility required to prepare an audit shall implement the recommendations according to the schedule in the audit.

The Administrator is authorized to extend this requirement to other facilities within the user segment.

Requires that the Administrator require a compliance audit at covered facilities where the Administrator finds that, based on a history of noncompliance with the terms of permits issued under the environmental laws, the facility may present a threat to human health, welfare or the environment.

Section 16—Environmental audit training and certification:

Requires the Administrator to develop and conduct programs to train individuals, firms and organizations as proficient in environmental auditing and to certify those entities as proficient.

Requires that the Administrator promulgate regulations governing the testing and certification of auditors.

Authorizes the Administrator to collect fees for training and certification of auditors.

Section 17—Audit oversight and evaluation:

Requires the Administrator to provide for oversight and evaluation of environmental audits.

Establishes the Environmental Audit Oversight Board to advise the Administrator in the development and implementation of audits and certification of auditors. The Board shall be comprised of not more than 15 persons and shall represent the scientific community, regulated parties and public interest groups.

Section 18—Confidentiality:

Provides that reports prepared under section 6, updates of the reports and audits shall be available to the public and sets forth procedures for claiming confidentiality protection for information contained in those documents.

Section 19—Penalties:

Provides for a penalty not to exceed $200,000 for any owner or operator who submits a false certification in connection with an audit and for any person who willfully divulges information which is confidential under this Act.

Provides for penalties up to $25,000 per day for any owner or operator required to conduct an audit who fails to submit reports or other information required as part of an audit or who fails to implement the recommendations in an audit.

Provides for penalties up to $10,000 per day for any owner or operator who fails to submit a report summarizing a Plan or fails to prepare or implement a Plan.

Authorizes the Administrator to bring a civil action seeking penalties or compliance or both or issue an administrative order for penalties or compliance or both.

Section 20—Relationship to other environmental statutes:

Provides that states may adopt and enforce any law that is more stringent than the provisions of the Act or impose any additional liability.

Authorizes the Administrator or a State to deny a permit under any environmental law to the owner or operator of a covered facility if the owner or operator has not prepared or implemented a Plan, submitted a report, submitted information required as part of the auditing provisions or implemented the recommendations in the audit.

Section 21—Authorizations:

Authorizes $10 million in grants for hazardous pollution prevention plans for each of fiscal years 1992, 1993, 1994, 1995, and 1996 and $10 million to carry out the other purposes of this Act for each of fiscal years 1992, 1993, 1994, 1995, and 1996.●

By Mr. REID:

S. 762. A bill to amend title II of the Social Security Act to provide for an increase of up to 5 in number of years disregarded in determining average annual earnings on which benefit amounts are based upon a showing of preclusion from remunerative work during such years occasioned by need to provide child care or care to a chronically dependent relative; to the Committee on Finance.

SOCIAL SECURITY CAREGIVERS ACT

Mr. REID. Mr. President, I rise today to offer the Social Security Caregivers Act.

As we all know, a Social Security beneficiary's monthly check is based on a man or woman's work history. The more years you work, the higher your Social Security check will be.

I have seen many people work, however, year after year, yet their monthly Social Security check does not reflect their hard work. As a result, this special group of people receives much less in benefits than others.

The people I am describing are a group I call caregivers. They are the men and women who stay out of what we traditionally think of as the workplace. They stay at home and care for children, elderly parents, and other dependent relatives. They tend to domestic responsibilities like taking care of their homes. And, as you would expect, when they turn 65, they don't receive much in Social Security benefits.

Although men certainly work in their homes, caregivers are traditionally women. Because of this, women are receiving much less in Social Security benefits than men, when they spent just as many years working—only not as salaried employees.

This inequity accounts for, in part, the fact that nearly three-fourths of older Americans living below the poverty level are women. What is further troubling—this number is growing. Studies show that two out of five elderly women will be living below the poverty level in the year 2020. The average monthly Social Security benefit for men is $628. The average monthly benefit for women is $459.

The Social Security Caregivers Act will allow women and men to drop up to 5 years of either zero or very low earnings from the Security Security benefit calculation providing those years have been dedicated to caregiving. This means a mother or father who stays at home to care for children will not be penalized for those years at home by the Social Security System.

I hope my colleagues agree that Americans should not be penalized for tending to family responsibilities, and will support this act.

By Mr. LUGAR:

S. 763. A bill to suspend temporarily the duty on certain composite diagnostic or laboratory reagents; to the Committee on Finance.

TEMPORARY SUSPENSION OF DUTY

• Mr. LUGAR. Mr. President, I rise today to introduce a bill to suspend temporarily the duty on certain composite diagnostic or laboratory reagents. I ask unamimous consent that the full text be printed in the RECORD, and that the bill be referred to the appropriate committee for review.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 763

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading;

"9902.38.22	Composite diagnostic or laboratory reagents (provided for in subheading 3822.00.50	Free	No change	No change	On or before 12/31/94".

SEC. 2. The amendment made by the first section of this Act applies with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.•

By Mr. PELL (by request):

S. 764. A bill to authorize appropriations for Fiscal Years 1992 and 1993 for the African Development Foundation; to the Committee on Foreign Relations.

AFRICAN DEVELOPMENT FOUNDATION AUTHORIZATION ACT

• Mr. PELL. Mr. President, by request, I introduce for appropriate reference a bill to authorize appropriations for fiscal years 1992 and 1993 for the African Development Foundation.

This proposed legislation has been requested by the African Development Foundation, and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with an analysis and the letter from the President of the African Development Foundation, which was received on March 14, 1991.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 764

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 510 of Title V of the International Security and Development Cooperation Act of 1980 is amended by deleting "$3,872,000 for fiscal year 1986, and $3,872,000 for fiscal year 1987" in the first sentence, and inserting $14,950,000 for fiscal year 1992, and such sums as may be necessary for Fiscal Year 1993, consistent with the Budget Enforcement Act of 1990 (P.L. 101-508)" in lieu thereof.

SECTION-BY-SECTION ANALYSIS

The bill authorizes the appropriation $14,950,000 for the African Development Foundation for Fiscal Year 1992, and such sums as may be necessary for Fiscal Year 1993, consistent with the Budget Enforcement Act of 1990.

AFRICAN DEVELOPMENT FOUNDATION,
March 11, 1991.

Hon. J. DANFORTH QUAYLE,
Vice President of the United States and President of the Senate, U.S. Senate, Washington, DC.

DEAR MR. PRESIDENT: I herewith transmit a bill to amend the International Security and Development Cooperation Act of 1980 to authorize appropriations for the Foundation for Fiscal Years 1992 and 1993. This legislative proposal is needed to carry out the President's FY 1992 budget plan.

The bill authorizes the appropriation of $14,950,000 for the African Development Foundation for Fiscal Year 1992, and for Fiscal Year 1993, such sums as may be necessary, consistent with the Budget Enforcement Act of 1990.

The Office of Management and Budget advises that there is no objection to the presentation of this proposal to the Congress, and that its enactment would be in accord with the program of the President.

Sincerely yours,
GREGORY ROBESON SMITH,
President.•

By Mr. BREAUX (for himself, Mr. DURENBERGER, Mr. JOHNSON, Mr. GORTON, Mr. BRYAN, Mr. KASTEN, Mr. REID, Mr. HARKIN, Mr. SHELBY, Mr. EXON, Mr. HELMS, Mr. GRASSLEY, and Mr. BURNS):

S. 765. A bill to amend the Internal Revenue Code of 1986 to exclude the imposition of employer social security taxes on cash slips; to the Committee on Finance.

REPEAL OF THE FICA TAX ON TIPS

• Mr. BREAUX. Mr. President, each time Congress passes a law it is with the implicit understanding that implementation of that law will be reviewed and evaluated. Sometimes Congress makes a mistake. Sometimes it finds it has passed a law that places an unfair burden on certain members of society.

This is, I believe, to be the case under a law adopted in 1987 requiring employers to pay FICA payroll taxes on tips even though tips are not payroll income provided by an employer. FICA taxes are payroll taxes imposed on an employee's wages, half of the tax is withheld from the employee's wages and half of the tax is paid by the employer. The current combined employer/employee FICA tax rate is 15.02 percent.

Tips are compensation provided to an employee by a third party and not by an employer. Congress has struggled with how to treat this special form of compensation for over 20 years. Since 1965 and prior to 1987, Congress properly treated tips as self employment income and required only the employee to pay FICA taxes on reported tips. Employers were required to pay FICA taxes only on wages he paid and the value of the tip credit. The tip credit allowed employers to pay tipped employees less than the minimum wage, provided these employees reported tips equal to or greater than the tip credit amount. The employers were required to pay FICA taxes on wages paid and any tip income used by the employer as a tip credit to meet the minimum wage. This policy was consistent and fair, with tips treated uniformly for both FICA and minimum wage purposes. I believe this policy, Mr. President, was the correct policy and the only fair way to treat tips.

However, in 1987 Congress reversed this policy when it required employers to pay FICA taxes on all reported tips. As a result, tips are treated inconsistently for purposes of the minimum wage laws, and for purposes of the FICA tax. This policy has also been devastating to the restaurant industry which is made up primarily of small businesses. According to 1987 census figures, nearly 80 percent of eating and drinking establishments has annual sales of less than $500,000. Clearly these taxes increase costs, reduce profits, and act as powerful disincentives for job creation by small businesses.

This requirement also puts restaurant employers in jeopardy of incurring unknown liabilities for taxes, interest, and penalties when employees do not fully report tip income. The 1982 Tax Equity and Fiscal Responsibility Act [TEFRA] requires that certain restaurant employers must annually report information that includes gross receipts, total amount of charge receipts, the total amount of charged tips, and the total amount of tips reported by employees. The TEFRA provision also requires that if the total amount of tip income reported by employees to employers was less than 8 percent of the establishment's totals sales, employers must allocate the difference between 8 percent and the reported amount among the individual employees as tip income. This law puts the restaurant employer at the mercy of his tipped worker. Although an employer has no control over the amounts of tips received or reported, if an employee underreports his tips, the employer could be subject to back taxes, penalties, and interest.

The bill I am introducing today would help alleviate the unfair administrative and tax burden placed on these small businessmen. Quite simply, this bill reinstates the former and longstanding congressional policy, and the only policy that makes sense, that tips in excess of the tip credit are not payroll income. Under the bill, tips would be treated consistently for purposes of the minimum wage laws and for purposes of imposing the FICA tax.

Mr. President, the average restaurant in America is not the palm or the prime rib—it is the local highway truck stop or the local diner. In many rural areas, such as in my State of Louisiana, restaurants are a primary employer. Restaurants have been hard hit by FICA on tips, reducing or eliminating thin profit margins. The industry average pretax profit is 2 to 4 percent of total sales. The unfair tax burden now carried by these small businessmen needs lifting and I look forward to working with my colleagues in the Senate towards that end. •

By Mr. MOYNIHAN:

S. 766. A bill to govern the transfer of spoils of war to foreign governments, groups and persons; to the Committee on Foreign Relations.

TRANSFERS OF SPOILS OF WAR

• Mr. MOYNIHAN. Mr. President, the conflict in the Persian Gulf has left the United States in possession of vast quantities of Iraqi weapons: Sophisticated tanks, caches of light arms, advanced artillery, and much, much more. It is an anomaly of our statutes, however, that while there is a well-established structure of laws governing the transfer of weapons manufactured in the United States, there are no laws on the books which directly and explicitly control the transfer of captured arms, despite the fact that the United States has captured weapons in the past.

Already we have read reports that some of these Iraqi weapons will be provided to Syria. Another report states that

> Weapons experts from all over the world are descending on the Persian Gulf to pick over and ultimately dispose of thousands of Iraqi tanks, cannons and other military equipment abandoned during the six-week war and now strewn all over the battlefield.

Historically the Department of State has taken the position that these weapons belong to the United States by virtue of customary international law and the terms of the Hague Convention of 1907. This is, I am confident, a correct interpretation of the law. And because captured weapons become U.S. property, they should only be disposed of in accordance with law. As I said, I believe that this is the correct interpretation of international law, but interpretations have been known to change. Thus I believe that is is only prudent to place these weapons explicitly under the exisiting laws governing the transfer of U.S. arms, including the prohibition on providing weapons to governments which support terrorism.

The Senate made a good beginning at addressing this problem when it adopted H.R. 1282, the supplemental appropriation bill for Operation Desert Shield and Operation Desert Storm. Section 105(e) of the act forbids the transfer of captured Iraqi weapons to certain governments without congressional approval. However, it is fairly clear that this provision falls short of solving the larger problem. It is limited to Iraqi weapons, and will, therefore, not apply to the next instance of captured weapons. We should close this potential loophole for the future as well. Section 105(e) only forbids the transfer of weapons to government or governmental entities. I believe that it is vitally important that we govern the transfer of weapons to nongovernmental entities, such as the guerrilla movements, as well as individuals. The language of H.R. 1282 applies solely to governments in the Middle East, although the problem is global in scope. Finally, I believe that rather than creating a new hybrid procedure we should instead place captured weapons under the already established arms transfer provisions.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the RECORD and I urge my colleagues to support is adoption.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 766

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as "The Spoils of War Act of 1991".

SEC. 2. TRANSFERS OF SPOILS OF WAR.

(a) ELIGIBILITY FOR TRANSFER.—Spoils of war in the possession, custody or control of the United States may be transferred to any other party, including any government, group or person, by sale, grant, loan or in any other manner, only to the extent and in the same manner that property of the same type, if otherwise owned by the United States, may be so transferred.

(b) TERMS AND CONDITIONS.—Any transfer pursuant to subsection (a) shall be subject to all of the terms, conditions and requirements applicable to the transfer of property of the same type otherwise owned by the United States.

SEC. 3. PROHIBITION ON TRANSFERS TO COUNTRIES WHICH SUPPORT TERRORISM.

Spoils of war in the possession, custody or control of the United States may not be transferred to any country determined by the Secretary of State, for purposes of section 40 of the Arms Export Control Act, to be a nation whose government has repeatedly provided support for acts of international terrorism.

SEC. 4. REPORT ON PREVIOUS TRANSFERS.

Not later than 30 days after the date of enactment of this Act, the President shall submit to the appropriate congressional committees a report describing any spoils of war obtained during Operation Desert Shield or Operation Desert Storm that were transferred to any party, including any government, group or person, before the date of enactment of this Act. Such report may be submitted in classified or unclassified form.

SEC. 5. DEFINITIONS.

As used in this act—

(1) the term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives;

(2) the term "enemy" means any country, government, group, or person that has been engaged in hostilities, whether or not lawfully authorized, with the United States.

(3) the term "person" means (a) any natural person, (b) any corporation, partnership, or other legal entity, and (c) any organization, association, or group; and

(4) the term "spoils of war" means enemy movable property lawfully captured, seized or confiscated, or found.

SEC. 7. CONSTRUCTION.

Nothing in this act shall apply to—

(a) the abandonment of spoils of war by troops in the field by reason of military necessity;

(b) the abandonment or return of any property obtained, borrowed or requisitioned for temporary use during military operations without intent to retain possession of such property;

(c) the destruction of spoils of war by troops in the field.•

By Mr. KOHL (for himself and Mr. KASTEN):

S.J. Res. 100. Joint resolution designating January 5, 1992 through January 11, 1992 as "National Law Enforcement Training Week"; to the Committee on the Judiciary.

NATIONAL LAW ENFORCEMENT TRAINING WEEK

• Mr. KOHL. Mr. President, I rise today to introduce a joint resolution to designate January 5 through January 11, 1992, as "National Law Enforcement Training Week." My colleague, Les Aspin, yesterday introduced a companion measure in the House of Representatives.

It is an understatement to say that law enforcement trainers play a critical role in ensuring the safety of our Nation. The sad truth is that we live today in a world where children are forced to carry bullet-proof backpacks to school, where women in cities fear to go out alone at night, and where our nation's elderly must confront criminals and drug gangs in their own backyards. And each year, hundreds of police officers are assaulted, injured or killed while protecting our neighborhoods. Never has the role of law enforcement been so vital, nor has the training that police officers receive been so crucial to our security. Yet despite the dangers, each day when we read the paper or watch the news on television, we can see law enforcement officials working to protect citizens from crime and drugs. And every day, many of these same officers risk their lives to ensure public safety.

The most effective tool for law enforcement professionals is quality training. Good training protects the lives of police officers while enabling those officers to protect the public. In my own state, the American Society of Law Enforcement Trainers has brought a national membership of law enforcement professionals together for several years to further progressive and innovative law enforcement education.

Mr. President, National Law Enforcement Training Week has helped to heighten public awareness about law enforcement training for 2 years. I believe that we must continue to support efforts that honor the officials who serve our nation by training the people who guarantee our safety. That is why I hope my colleagues will join me in cosponsoring this resolution, and why I believe that it will soon be signed into law.

I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 100

Whereas law enforcement training and sciences related to law enforcement are critical to the immediate and long-term safety and well-being of this Nation because law enforcement professionals provide service and protection to citizens in all sectors of our society;

Whereas law enforcement training is a critical component of national efforts to protect the citizens of this Nation from violent crime, to combat the malignancy of illicit drugs, and to apprehend criminals who commit personal, property and business crimes;

Whereas law enforcement training serves the hard working and law abiding citizens of this Nation;

Whereas it is essential that the citizens of this Nation be able to enjoy an inherent right of freedom from fear and learn of the significant contributions that law enforcement trainers have made to assure such right;

Whereas it is vital to build and maintain a highly trained and motivated law enforcement work force that is educated and trained in the skills of law enforcement and sciences related to law enforcement in order to take advantage of the opportunities that law enforcement provides;

Whereas it is in the national interest to stimulate and encourage the youth of this Nation to understand the significance of law enforcement training to the law enforcement profession and to the safety and security of all citizens;

Whereas it is in the national interest to encourage the youth of this Nation to appreciate the intellectual fascination of law enforcement training; and

Whereas it is in the national interest to make the youth of this Nation aware of career options available in law enforcement and disciplines related to law enforcement: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January 5, 1992 through January 11, 1992, is designated as "National Law Enforcement Training Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate exhibits, ceremonies, and activities, including programs designed to heighten the awareness of all citizens, particularly the youth of this Nation, of the importance of law enforcement training and related disciplines.•

By Mr. GORE:

S.J. Res. 101. Joint resolution noting the finding of the Commission of Inquiry into aspects of the forest industry in Papua New Guinea, and calling for appropriate actions; to the Committee on Foreign Relations.

DEFORESTATION IN PAPUA NEW GUINEA

Mr. GORE. Mr. President, I would like to introduce a resolution today and tell my colleagues about it. Yesterday, I had an opportunity to meet with Justice Thomas Barnett, until recently of Papua New Guinea. The story he told was chilling. I rise today to introduce a resolution calling to the attention of my distinguished colleagues and the executive branch of our Government the trauma Justice Barnett has suffered and to the tragic experience now underway for the people of Papua New Guinea.

I would also like to point out at this time that a resolution virtually identical to this one will be introduced next week in the Japanese Diet and a third version of this resolution will be introduced next week in the European Parliament.

The story Justice Barnett tells is one rife with corruption, fraud, human rights abuse, and environmental devastation. Papua New Guinea, is a small nation jutting into the South Pacific, and the home to some 3 million people. These are, for the most part, indigenous peoples, depending significantly on the forests of New Guinea, which constitute the largest remaining expanse of intact tropical rain forest in Asia. Yet, these forests are being destroyed so quickly that experts now fear they will be completely gone in less than 10 years. In their wake, these timber companies are leaving environmental devastation and human deprivation of the very worst kind.

Mr. President, the destruction of the rain forest is global. Over 40 percent of the world's tropical forests have already been destroyed. It is by now well known, I hope, that an additional football field size tract is being ripped out, ripped down, or burned down, every second. In the process, the very threads of life are being severed.

Every 15 minutes, another species is lost. Some 100 species become extinct each day largely because of what is going on in the rain forests of the Earth.

In 1987, the Government of Papua New Guinea, tried to act to stop the destruction. It was in that year that Justice Barnett began his own involvement and it is there when his story begins. He was given the charge by his Government of investigating forestry practices. He began to uncover severe abuses, illegal activities of the worst kind by the companies that were ravaging the rain forests. They were robbing the government of royalties, of export revenues, and of tax moneys, while cheating the indigenous peoples, robbing them of their homes, their culture, and the basic sustenance of their lives.

Justice Barnett discovered, for example, that the logging companies were making many tens of millions of dollars in profit, and yet, until 1986, not a single company declared any profit to the Government of Papua New Guinea.

Moreover, the companies were promising the indigenous peoples homes, money, and education in exchange for their land. What they delivered, however, was deprivation and destruction, forcing workers to labor in the forests 7 days a week and under the most deplorable conditions. The companies in many cases paid them no royalties and in no case constructed for them the replacement communities that had been promised.

To the contrary, entire villages were bulldozed by companies eager to move logs. People were left in temporary shanty villages, sometimes on bare hillsides. Churches were destroyed, graves desecrated.

The companies would not tolerate resistance to their presence in the rain forest and harassed these indigenous lands into submission.

As Justice Barnett continued his official investigation, he discovered some high-level government officials were deeply involved with the companies in their campaign of fraud and corruption. At that point the enthusiasm for the investigation quickly vanished.

Justice Barnett's final report has been suppressed. Documents demonstrating the rampant corruption have been destroyed in fires, and Justice Barnett's life has been threatened. He was stabbed nearly fatally outside his home and has now been forced to leave Papua New Guinea.

The names of the companies primarily responsible for this destruction are familiar to us—the Nissho Iwai and Sumitomo companies are examples—continuing their pattern of destruction so evident in Indonesia and in Malaysia, especially Sarawak. These large Japanese companies are inflicting incredible harm on the indigenous peoples of the forest and on the living species that are being destroyed as the forests are torn down and burned.

The carnage must be stopped. In this resolution, among other things, I call on the Japanese Government to investigate the activities of these large companies and bring an end to their abuses.

Again, Mr. President, this resolution will also be introduced next week in the Japanese Diet.

But not only the Japanese bear responsibility for this tragedy; we, too, are involved, because while United States companies do not log in Papua New Guinea, we are a huge market for tropical wood torn from similar forests.

I, therefore, urge my colleagues to join with me in calling for arrangements of technical and financial assitance enabling the people of the forest to survive and to stop the wanton destruction of the habitats of the many species that are being lost forever.

Mr. President, I will print the complete text of this resolution in the RECORD.

I might just say as a footnote, the coordinated action in the Japanese Diet and the European Parliament is being facilitated by the Global Legislators Organized for a Balanced Environment which is made up of legislators from countries around the world.

We have seen in several different locations of the tropics particular areas of rain forests that are singled out for intensive logging. Sarawak has been talked about quite a bit. The Amazon, of course, is probably the most famous example. Now Papua New Guinea has been singled out.

The ferocity of this onslaught is just devastating. The harm done, as I have tried to note in these remarks, is so great that the world as a whole must speak out in an effort to stop this.

I hope, as a result, my colleagues will support this resolution.

Mr. President, I ask unanimous consent that the text of this joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 101

Whereas the tropical forests of our planet are being destroyed at the rate of 40 to 50 million acres per year, often causing great damage to the environment, impairing ecological services, reducing biological diversity, impoverishing local communities and societies, and reducing resources for mankind's future;

Whereas this destruction, particularly in various nations of Southeast Asia, is closely connected to the logging and extraction of timber by Japan, the European Community and the United States; and whereas the largest remaining expanse of relatively intact tropical rain forest in Asia is on the island of New Guinea, biologically one of the richest areas on Earth;

Whereas the Government of Papua New Guinea in 1987 commissioned an investigation under its Commission of Inquiry Into Aspects of the Timber Industry in that major timber-exporting nation;

Whereas the Commission of Inquiry produced a 20-volume, 6,000-page report detailing severe abuses and illegal activities by companies operating there, including defrauding the government of timber royalties, export duties and tax revenues through the practice of transfer pricing by virtually all large companies investigated; bribery of high-level government officials; violations of regulations intended to reduce damage caused by the construction of roads and the operation of logging; falsification of the species, quality, volume and value of exported timber; illegal logging; violating land rights and cheating landowners of proper royalties and benefits, and others;

Whereas the Commission of Inquiry concluded that the activities of timber companies in Papua New Guinea impaired the sovereignty of that country, and are major corrupting influences on the development of democracy in that emerging nation, having shattered the hopes and livelihoods of the poorest people in the country.

Whereas the findings of this Commission of Inquiry were not made public, nor have they formed the basis for criminal proceedings and other activities to ensure that illegal corporations are banned from logging and trading, and many corporations found to have broken laws still operate with impunity; and whereas only a few of the recommendations for needed reforms of the timber industry are being pursued, such as with the drafting of a new Forestry Bill, and the Government of Papua New Guinea has called upon the international community to provide necessary support to reform its forestry sector and has requested timber importing nations to restrain their demand for timber so as to not place an onerous and unmanageable burden on the timber resources of that country or exceed that nation's ability to manage its forests well;

Whereas the PNG Commission of Inquiry provides a level of detail about the disturbing operations of timber companies participating in the international timber trade to a degree unlikely to be duplicated in any other country, and yet likely reflecting the nature of problems occurring in other timber exporting regions, and therefore should provide the basis for efforts to reform and control the international tropical timber trade and aid tropical forest nations to conserve their forests;

Whereas the creation of an international system to monitor international timber trade records and to authenticate the origin, species, and conditions of production of timber items would help ensure compliance with regulations, prevent illegal logging and profiteering, and would contribute to the preservation of forests;

Whereas timber companies should not be encouraged to pursue logging operations in primary tropical forests, as they have been found to operate frequently in violation of the most basic laws and regulations relating to income reporting and others, much less the more stringent regulations which would be needed to ensure that logging does not endanger the sustainability of forest ecosystems and their many irreplaceable assets, such as biological diversity, and services to local communities;

Whereas a large proportion of the timber companies operating in Papua New Guinea are closely linked to companies headquartered in Japan, the largest timber importing country in the world, and a nation frequently criticized for the damaging effects of its timber consumption on the forests in various timber-exporting regions, most particularly Sarawak and Sabah states in Malaysia; and that Japan imports over sixty percent of logs exported from Papua New Guinea, and is involved in the trade of the bulk of the remainder;

Whereas the Commission of Inquiry found wrongdoing on the part of companies affiliated with companies based in Japan, and many in Japan are concerned about the use of that nation's Official Development Assistance (ODA) monies to fund roads, bridges and other facilities for use by Japanese-funded corporations involved in the exploitation of Papua New Guinea's forests;

Whereas the fate of Papua New Guinea's forest resources and prospects for the proper administration of the international tropical timber trade depend on the recognition of the foregoing facts, and the urgent adoption of remedial actions. Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States should call upon the government of Papua New Guinea to make available to interested parties the findings of, and take immediate action to implement the recommendations of, the Commission of Inquiry Into Aspects of the Forest Industry, and for the United States, through multilateral and bilateral aid arrangements, to provide technical and financial assistance to achieve these ends, including training and strengthening the institutional capacities within the PNG government, educating landowners and providing funds for less-damaging extractive economies which preserve the environment;

That the United States should call upon the government of Japan to investigate the activities of certain of that country's private corporations and official aid agencies in violating laws and regulations in the conduct of their dealings in Papua New Guinea and in causing the destruction of the tropical forests; and to urgently seek the enactment of tax treaties and other arrangements with the governments of Papua New Guinea and other timber exporting countries to actively prohibit illegal activities and falsification of trade information; and to urgently work to reduce Japan's consumption of timber and to monitor and regulate its trade to ensure that all timber traded comes from sustainable sources;

That it should be the policy of the United States to call upon the International Tropical Timber Organization to create a system whereby all internationally traded timber is authenticated to ensure its true origin, species, volume, value and price, and to formulate and implement an urgent plan of action to ensure that all timber traded by the year 1994 comes only from sources managed without harm to the environment and societies in timber-exporting nations.

By Mr. ROCKEFELLER (for himself, Mr. BURNS and Mr. HOLLINGS):

S.J. Res. 102. Joint resolution designating the second week in May 1991 as "National Tourism Week"; to the Committee on the Judiciary.

NATIONAL TOURISM WEEK

• Mr. ROCKEFELLER. Mr. President, today I am introducing a joint resolution designating the second week of May 1991 as "National Tourism Week." I am pleased to have joining me today as cosponsors, Senator HOLLINGS and Senator BURNS, the co-chairmen of the Senate Tourism Caucus.

This year will mark the eighth annual observance of National Tourism Week. Communities and States all over the country will take part in this celebration. I am sure it will be a great success, as it has in previous years.

This year, however, I feel a stronger need than in past years to recognize and celebrate Tourism Week. As everyone knows, the world situation has created uneasiness in the traveling public. Threats of terrorism caused cancellations of airline flights and postponements of vacations. Americans were afraid to venture far away from home. Tourism declined not only here in the Nation's capital, but all over the United States. The tourism industry lost millions of dollars.

But thankfully, Mr. President, the war is over. Extra security measures will remain at airports and public buildings all across the United States. We need to encourage the American public to travel—for business and for pleasure. That is why I would like to call upon my colleagues to join me in cosponsoring this resolution—to support tourism here in the United States.

Many people do not realize the importance of tourism in our economy. There are those who think that tourism is something that is done in one's spare time. Let me point out that tourism is the third largest retail industry and the second largest employer in the United States. One can see that our economic health is dependent on the development and promotion of such an important industry. Very simply put, dollars spent on tourism are an investment which pays many times over in jobs and tax revenues.

National Tourism Week has several purposes. First, the celebration of this event is intended to emphasize the importance of the industry to our economy. In addition, it provides an opportunity for the many segments that comprise the travel and tourism industry to recognize their common goals and unity of purpose. Finally, National Tourism Week is a forum for our States, our regions, and our local areas to display this unity and to promote the local tourist trade.

Mr. President, a multifaceted partnership between our business community and our various levels of Government has nurtured the development of a strong travel and tourism economy in America. By celebrating National Tourism Week, we week to strengthen that partnership in the interest of sustaining the incredible growth of this industry.

I strongly urge my colleagues to support this joint resolution and join with me as cosponsors.•

• Mr. BURNS. Mr. President, I am proud to be an original sponsor of this resolution to designate the second week of May 1991 as "National Tourism Week."

The travel and tourism industry has become a critical part of our country's economy. In 37 States, tourism is the first, second, or third leading business and generated $377 billion in revenues nationwide last year. In fact, tourism was the leading U.S. export business in 1990.

In my home State, we have miles and miles of open roads. Montana's beauty and splendor can be matched by few States. We welcome out-of-State visitors, and in 1990 our guests spent $750 million dollars. That's a 14 percent increase from the $658 million spent in 1989.

The tourism industry in Montana is growing faster than most States, and it had an estimated $1.7 billion impact on our economy last year. Of the $750 million spent in Montana in 1990 by out-of-State visitors, $687 million went directly to the State's economy. The tourist industry spent $347 million buying products or services from other businesses in Montana, and an additional $637 million was generated in wages paid to those working in the tourism industry and in profits for businesses that sold products to the travel industry.

We recognize the importance of the travel and tourism industry in Montana. In fact, the Governor's conference on tourism and recreation held in Helena just finished up last night. More than 400 people, including business leaders, travel agents, and park authorities, participated in the conference.

Those of us who rely on tourism for our State's well being must work double time to increase the awareness and appreciation for what a large industry tourism is. That is why my good friend Senator ROCKEFELLER and I have introduced the Travel Policy and Export Promotion Act of 1991. If passed, this legislation will do much to boost the travel and tourism industry in our country.

But it is important that we don't stop with this one piece of legislation. I intend to continue my efforts to find ways to encourage the growth and prosperity of our travel and tourism industry. The resolution being introduced here today is one way we can do this, and I encourage my colleagues to support the designation of the second week of May as "National Tourism Week."•

By Mr. THURMOND (for himself and Mr. DECONCINI):

S.J. Res. 103. Joint resolution to authorize the National Committee of American Airmen Rescued by General Mihailovich to erect a monument to Gen. Draza Mihailovich in Washington, DC, or its environs, in recognition of the role he played in saving the lives of more than 500 United States airmen in Yugoslavia during World War II; to the Committee on Rules and Administration.

MONUMENT TO GENERAL DRAZA MIHAILOVICH

Mr. THURMOND. Mr. President, I rise today to introduce a bill which will authorize the National Committee of American Airmen Rescued by General Draza Mihailovich to erect a monument in Washington. I am pleased that Senator DECONCINI joined as cosponsor.

The reason for having such a monument goes back to World War II. During that war the United States and Great Britain initially supported the nationalist resistance movement in Yugoslavia which was led by Gen. Draza Mihailovich. Due to a tragic combination of intelligence errors and mistaken information, the Allies withdrew their support for General Mihailovich at the end of 1943 and began backing the Communist resistance movement of Marshal Tito.

Despite his abandonment by the Allies and despite the merciless war waged against him by both the Communists and the Nazis during 1944, General Draza Mihailovich and his forces, known as the Chetniks, succeeded in rescuing some 500 American airmen who were shot down behind enemy lines over Yugoslavia. Most of these men were safely evacuated from Nazi-occupied Yugoslavia to Italy.

In 1948, President Harry S. Truman awarded posthumously the Legion of Merit to General Mihailovich for his heroics in rescuing American airmen and for his larger services to the Allied cause. Unfortunately, the American public was unaware of this award since the State Department, fearful of offending the sensitivities of the Yugoslavian Communist Government, kept the award secret for almost 20 years.

Since that time, a group of American airmen have organized themselves into a National Committee of American Airmen Rescued by General Mihailovich. This fine organization has launched a movement to build a memorial in Washington, DC, dedicated to the man who saved their lives. This effort has been ongoing since 1974, with the support of many Members of Congress. I can think of no better way to honor this effort than to authorize these airmen to erect the monument they have in mind.

Mr. President, in voicing my support for this project, I want to emphasize that it is to be financed, not by the American taxpayers, but through the fundraising efforts of the airmen's group. All costs for the construction and maintenance of this memorial will be borne by the private sector.

This legislation is virtually identical to previous measures that were approved overwhelmingly in the Senate in 1976 and 1977.

Mr. President, the airmen who seek authority to have this monument erected do not wish to make political statements that would offend the present Government of Yugoslavia. They only seek to acknowledge their deep sense of gratitude to the man who was instrumental in rescuing over 500 downed American flyers during World War II. They merely want the simple recognition that would be imparted by the erection of a General Mihailovich monument.

Mr. President, I ask unanimous consent that the full text of the resolution appear in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 103

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That subject to authorization by the Secretary of the Interior pursuant to section 2 and the provisions of Public Law 99-652, the National Committee of American Airmen Rescued by General Mihailovich is authorized to establish a monument on public grounds in the District of Columbia or its environs, to honor General Draza Mihailovich for the role he played in saving the lives of more than five hundred United States airmen in Yugoslavia during World War II.

SEC. 2. (a) The Secretary of the Interior, in consultation with the National Committee of American Airmen Rescued by General Mihailovich, shall select with the approval of the Commission of Fine Arts and the National Capital Planning Commission a suitable site on grounds owned by the Federal Government in the District of Columbia or its environs for erection of the monument referred to in the first section of this joint resolution.

(b) The National Committee of American Airmen Rescued by General Mihailovich shall be responsible for the development of the design and plans of such monument, which shall be subject to the approval of the Secretary of the Interior, the Commission of Fine Arts, and the National Capital Planning Commission. If the Secretary of the Interior, the Commission of Fine Arts, or the National Capital Planning Commission fails to approve or make specific objection to such design and plans within ninety days after submission, such approval shall be deemed to be given.

(c) Neither the United States nor the District of Columbia shall bear any expenses in the erection of the monument other than expenses incurred in the process of site selection and approval of design and plans.

SEC. 3. The Secretary of the Interior shall permit ground breaking for construction of the monument only after he determines that sufficient funds are available to complete the monument in accordance with the approved design and plans.

SEC. 4. The authority conferred by this joint resolution shall lapse unless the construction of the monument begins within two years after the date of the approval of this joint resolution.

SEC. 5. The maintenance and care of the monument erected under this joint resolution shall be the responsibility of the National Committee of American Airmen Rescued by General Mihailovich.

By Mr. D'AMATO:

S.J. Res. 104. Joint resolution to designate April 7 to 13 as "National Manufacturing Week"; to the Committee on the Judiciary.

NATIONAL MANUFACTURING WEEK

• Mr. D'AMATO. Mr. President, I rise today to introduce a joint resolution designating the week of April 7 to 13, 1991, as "National Manufacturing Week." Congressman FISH has recently introduced a similar resolution in the House.

Too often, Mr. President, this body takes for granted the importance of manufacturing to the U.S. economy. In this time of economic downturn—a time which forces millions to focus on matters fundamental—it is appropriate to ponder the contributions of the manufacturing sector.

Consider the fact that in this otherwise moribund economy exports of manufactured goods continue to surge. Manufacturing exports have grown at an annual rate of 15 percent over the last 5 years. They have contributed 30 to 40 percent of economic growth in the last 3 years, and an impressive 97 percent of U.S. growth last year. Exports to the EC, moreover, have increased dramatically, from a deficit of $20 billion in 1987 to a surplus of $10 billion today.

Consider the fact that in the area of productivity, manufacturing is without equal. Productivity growth in manufacturing has averaged more than 3 percent a year since 1979, in many years exceeding 4 percent, and in the most recent quarter, was running above a 5 percent annual rate. This rigorous productivity growth is the surest, most concrete way to expand the economic pie for all.

Consider the fact that most private sector research and development is undertaken by manufacturing. Ninety percent of all private R&D is underwritten by the manufacturing sector. Three quarters of all engineers and scientists work in manufacturing, moreover.

Consider the fact that manufacturing alone is responsible for producing the means by which America remains strong and free. American manufacturing prowess was vividly demonstrated in the gulf, proving decisive on land, at sea and in the air.

Mr. President, the importance of manufacturing to the health of a nation has long been recognized. In his famous "Report on Manufactures," Alexander Hamilton pointed to the path whereby the United States was to attain wealth and power beyond the dreams of its founders. He opined,

> Not only the wealth but the independence and safety of a country appear to be materially connected with the prosperity of manufactures.

Mr. President, I invite all my colleagues to join me in giving well-deserved recognition to the accomplishments of the manufacturing community.

Thank you, Mr. President. I ask unanimous consent that the resolution be printed following my remarks.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 104

Whereas manufacturing contributes to high standards of living by employing over 18 million Americans with average hourly compensation exceeding 17 dollars, and accounts for 23 percent of the U.S. gross national product;

Whereas manufacturing employs two-thirds of all U.S. engineers, one-third of the nation's scientists, 40 percent of all science and engineering technicians, as well as accounting for over 91 percent of the private U.S. research and development;

Whereas manufacturing has significantly fueled overall U.S. productivity gains; with manufacturing productivity increasing annually during the 1980s by over 3.6 percent, compared to 1.2 percent in non-farming business as a whole;

Whereas manufacturing leads the U.S. in exports with over $300 billion in annual exports and accounts for nearly 40 percent of the 4.5 percent U.S. economic growth rate of recent years; and,

Whereas manufacturing supplies the precision products that help defend American security, and which have proven to be decisive in the Middle East; protecting innocent civilians and giving a technological edge to allied forces: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing April 7, 1991, and ending April 13, 1991, is designated as "National Manufacturing Week" and the President of the United States is authorized and requested to issue a proclamation calling on the people of the United States and interested groups to observe such week with appropriate ceremonies, activities and programs, thereby demonstrating support for U.S. manufacturing.•

By Mr. D'AMATO (for himself and Mr. MOYNIHAN):

S.J. Res. 105. A resolution to designate April 14, 1991, to April 21, 1991, and May 3 to May 10, 1992, as "Jewish Heritage Week"; to the Committee on the Judiciary.

JEWISH HERITAGE WEEK

• Mr. D'AMATO. Mr. President, I rise today to introduce a joint resolution which would declare April 14 to 21, 1991, and May 3 to 10, 1992, as "Jewish Heritage Week."

In our diverse and varied Nation, the contributions of all cultural and ethnic groups are indispensable. More specifically, the significant contributions of the American-Jewish population to our society have proven to be outstanding. Advances in a variety of fields such as industry, medicine, and education are to be credited to the efforts of Jews, and their contribution to the sciences alone has been noteworthy.

The upcoming spring months are ones of special historic and religious interest to the Jewish community, and Jewish Heritage Week seeks to highlight these important occasions. One such occasion is the 43d anniversary of Israel's Independence Day, which is celebrated on April 18, 1991. Needless to say, the alliance between the United States and Israel is an important and cherished one, and one that certainly deserves our recognition.

Another approaching event to be commemorated by Jewish Heritage Week is Holocaust Memorial Day, which will be observed this year on April 11, 1991. In remembrance of the Holocaust, not only Jews but all people mourn the senseless and brutal tragedy inflicted on countless innocent individuals during the Second World War. April 11 also commemorates the Warsaw ghetto uprising, which demonstrated the courage and strength of Jews imprisoned in Warsaw.

Passover, too, will be commemorated by Jewish Heritage Week. This religious occasion, which occurs from March 30 to April 6, 1991, celebrates the historic journey made by the Hebrew people as Moses led them from slavery in Egypt to freedom in the promised land.

Finally, Jerusalem Day, which will be observed on May 12, 1991, signals the anniversary of the unification of Jerusalem after the Six-Day War.

Jewish Heritage Week will designate the week of April 14 through 21, 1991, as a significant celebration to commemorate the Jewish experience. As the United Nations has designated the 1990's, "the Decade of the Child," this year's celebration of Jewish Heritage Week will focus on the Jewish child. The week will be characterized by appropriate activities and celebrations, and I urge all of my colleagues to join me in cosponsoring this joint resolution.

I ask unanimous consent that the text of this resolution be printed in the RECORD immediately following my statement.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 105

Whereas April 18, 1991, and May 7, 1992, mark the 43d and 44th anniversaries of the founding of the State of Israel;

Whereas the months of April, May, and June contain events of major significance in the Jewish calendar, including Passover, the anniversary of the Warsaw ghetto uprising, Holocaust Memorial Day, and Jerusalem Day;

Whereas the Congress recognizes that an understanding of the heritage of all ethnic groups in this Nation contributes to the unity of this Nation;

Whereas understanding among ethnic groups in this Nation may be fostered further through an appreciation of the culture, history, and traditions of the Jewish community and the contributions of Jewish people to this Nation: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the weeks of April 14, 1991, to April 21, 1991, and May 3 to May 10, 1992, are designated as "Jewish Heritage Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States, departments and agencies of State and local governments, and interested organizations to observe such week with appropriate ceremonies, activities, and programs.•

By Mr. MOYNIHAN (for himself and Mrs. KASSEBAUM):

S.J. Res. 107. A resolution to designate October 15, 1991, as "National Law Enforcement Memorial Dedication Day"; to the Committee on the Judiciary.

NATIONAL LAW ENFORCEMENT MEMORIAL DEDICATION DAY

• Mr. MOYNIHAN. Mr. President I rise today, to introduce a joint resolution to designate October 15, 1991 National Law Enforcement Memorial Dedication Day. Seven years ago this body approved a joint resolution, signed into law by President Reagan, creating the law enforcement officers memorial fund to establish such a memorial in the District of Columbia. In October of this year, the memorial is scheduled to be completed, 2 years after ground was broken.

The memorial was designed by Davis Buckley and will sit in Judiciary Square, bordered by Fourth, Fifth, E and F Streets, Northwest. The centerpiece will be two 300-foot marble walls, each lined by trees and benches. Engraved on the walls will be the names of officers killed in the line of duty since January 11, 1794, when U.S. Marshall Robert Forsyth was shot while trying to serve a court summons on two brothers in Augusta, GA. He is believed to be the first law enforcement officer killed in the line of duty; we have since added more than 12,500 to that list.

Each day and night, brave men and women risk their lives for us in what can legitimately be called a war. Crime in our streets and neighborhoods is unabated, largely fueled by drugs and the competition to sell them. Military-style assault weapons have become commonplace among those our police must apprehend.

Half a million law enforcement officers serve and protect us. Each year more than 1 in 10 officers is assaulted, and one third of those are injured. Over the last decade 1,500 officers have lost their lives in the line of duty. At least 136 died last year. Law enforcement officers and their families deserve recognition and thanks for their service and sacrifices.

Section 1 of this resolution would designate Tuesday, October 15, 1991, as National Law Enforcement Memorial Dedication Day. Section 2 would request President Bush to issue and publish in the Federal Register an appropriate proclamation on that day.

I urge Members of the Senate who wish to express their gratitude for law enforcement officers in their States to cosponsor this resolution.

Mr. President, I request unanimous consent that the text of the resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 107

Whereas each day over 500,000 law enforcement officers place their lives at risk in order to maintain law and order in society and apprehend people who violate Federal, State, and local laws;

Whereas over the last 10 years over 1,500 law enforcement officers have been killed in the line of duty;

Whereas in 1989, 148 law enforcement officers were killed in the line of duty and preliminary figures for 1990 indicate that 119 law enforcement officers were killed;

Whereas over 60,000 law enforcement officers are assaulted in the line of duty each year, resulting in over 20,000 injuries; and

Whereas the National Law Enforcement Officers Memorial was established by an Act of Congress in 1984, and the memorial is scheduled for completion at Judiciary Square in Washington, District of Columbia in October 1991: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 15, 1991, is designated as "National Law Enforcement Memorial Dedication Day" and the President is authorized and requested to issue a proclamation designating October 15, 1991, as "National Law Enforcement Memorial Dedication Day".•

By Mr. ADAMS (for himself, Mr. PELL, Mr. DODD, Mr. COCHRAN, and Mr. DURENBERGER):

S.J. Res. 108. Joint resolution to designate the week of May 13, 1991, through May 19, 1991, as "National Senior Nutrition Week"; to the Committee on the Judiciary.

NATIONAL SENIOR NUTRITION WEEK

• Mr. ADAMS. Mr. President, I am pleased to introduce this Joint resolution today which designates May 13, 1991, through May 19, 1991, as "National Senior Nutrition Week." This resolution appropriately recognizes the importance of congregate and home delivered meal programs in promoting and maintaining the well-being of older Americans. It is estimated that in 1991, 260 million meals will be served through title III–C of the Older Americans Act [OAA]. Of these, approximately 145 million will be delivered in congregate settings and 115 million will be home delivered.

This joint resolution commemorates the importance of these services and of the people, including the volunteer corps, dedicated to ensuring that older individuals in our society receive adequate nutrition and have opportunity for social interaction and other community activities so often stimulated through these meal programs. Recognition of these programs is particularly important this year as we work to reauthorize the Older Americans Act.

I would like to take this opportunity to commend the National Association of Nutrition and Aging Services for their work in this area as well as Congressment DOWNEY who is sponsoring this resolution in the House. I am pleased that Senators PELL, DODD, COCHRAN and DURENBERGER are joining me today in introducing this measure.

I welcome and encourage other Members to join us in supporting this measure.•

By Mr. DECONCINI (for himself and Mr. D'AMATO):

S.J. Res. 109. Joint resolution designating August 12 through August 18, 1991, as "National Parents of Murdered Children Week"; to the Committee on the Judiciary.

NATIONAL PARENTS OF MURDERED CHILDREN WEEK

• Mr. DeCONCINI. Mr. President, today I am introducing, along with Senator D'AMATO, a joint resolution to designate August 12 through 18, 1991, as "National Parents of Murdered Children Week."

Criminal homicide is the 15th most frequent cause of death. In 1990 there were 23,200 Americans murdered. For persons between the ages of 15 and 24, murder is second only to accident as a cause of death. In 1989, the last year for which figures are available, there were 5,160 murder victims in this age category. When your parent dies, you have lost your past. When your child dies, you have lost your future.

The parents, spouse, and children of a murder victim become victims as well because murder is, above all, a family affair. It intrudes on normal lives to create lasting torment for those the victim leaves behind. The courts tend to forget that. Like most bureaucracies, the judicial system is wary of "outsiders"; even a victim's relatives can be regarded as interlopers. Sometimes a murder suspect is apprehended; sometimes not. In either case, there is additional pain. Trials and sentencing, preliminary hearings and postponements force grieving families to face what may seem to be a lack of justice.

Parents of Murdered Children is a non-profit self-help group of parents and other survivors that provides ongoing emotional support for many parents and family members. It was founded by Bob and Charlotte Hullinger in Cincinnati, OH in 1978, 3 months after their daughter, Lisa, died from injuries inflicted by her former boyfriend. The group now has over 6,000 members with 65 regional groups and 40 State groups throughout the country.

The murder of a child is almost too heartwrenching to talk about and too painful to accept. But it does happen. One day life is there and the next day, it is gone. In its place are left grief, anger, emptiness, and the haunting questions of why. Friends and relatives offer comfort and compassion, but they cannot offer understanding. No one really can, group members say, unless he or she has experienced that unique hurt.

Parents of Murdered Children understands that when a loved one dies, bereaved families go through intense personal grief. Whan a child or other family member is murdered, this grief process is further complicated by intrusions into the family's grief. Police, lawyers and other members of the criminal justice system need information, evidence and testimony. Television and newspapers focus upon the victim and the grieving family.

This resolution honors the memory of all murdered children and remembers in a special way the victims left behind—the parents. We are grateful for support groups such as Parents of Murdered Children that do what they can to ease the ceaseless heartbreak created by murder.•

ADDITIONAL COSPONSORS

S. 15

At the request of Mr. BIDEN, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 15, a bill to combat violence and crimes against women on the streets and in homes.

S. 21

At the request of Mr. CRANSTON, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 21, a bill to provide for the protection of the public lands in the California desert.

S. 67

At the request of Mr. THURMOND, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 67, a bill to amend the Internal Revenue Code of 1986 to provide that service performed for an elementary or secondary school operated primarily for religious purposes is exempt from the Federal unemployment tax.

S. 83

At the request of Mr. SYMMS, the names of the Senator from Oregon (Mr. PACKWOOD) and the Senator from Minnesota (Mr. DURENBERGER) were added as cosponsors of S. 83, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income payments made by public utilities to customers to subsidize the cost of energy and water conservation services and measures.

S. 167

At the request of Mr. RIEGLE, the names of the Senator from Arizona (Mr. DECONCINI) and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. 167, a bill to amend the Internal Revenue Code of 1986 to permanently extend qualified mortgage bonds.

S. 173

At the request of Mr. HOLLINGS, the name of the Senator from Georgia (Mr. NUNN) was added as a cosponsor of S. 173, a bill to permit the Bell Telephone Companies to conduct research on, design, and manufacture telecommunications equipment, and for other purposes.

S. 264

At the request of Mr. COCHRAN, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 264, a bill to authorize a grant to the National Writing Project.

S. 401

At the request of Mr. DOMENICI, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 401, a bill to amend the Internal Revenue Code of 1986 to exempt from the luxury excise tax parts or accessories installed for the use of passenger vehicles by disabled individuals.

S. 479

At the request of Mr. LEAHY, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 479, a bill to encourage innovation and productivity, stimulate trade, and promote the competitiveness and technological leadership of the United States.

S. 516

At the request of Mr. SIMON, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 516, a bill to prevent potential abuses of electronic monitoring in the workplace.

S. 534

At the request of Mr. LOTT, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 534, a bill to authorize the President to award a gold medal on behalf of the Congress to General H. Norman Schwarzkopf, and to provide for the production of bronze duplicates of such medal for sale to the public.

At the request of Mr. BINGAMAN, his name was added as a cosponsor of S. 534, supra.

S. 565

At the request of Mr. FORD, his name was added as a cosponsor of S. 565, a bill to authorize the President to award a gold medal on behalf of the Congress to Gen. Colin L. Powell, and to provide for the production of bronze duplicates of such medal for sale to the public.

At the request of Mr. WARNER, the names of the Senator from Vermont [Mr. LEAHY] and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of S. 565, supra.

At the request of Mr. HOLLINGS, his name was added as a cosponsor of S. 565, supra.

At the request of Mr. BINGAMAN, his name was added as a cosponsor of S. 565, supra.

S. 574

At the request of Mr. CRANSTON, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 574, a bill to amend the Civil Rights Act of 1964 to prohibit discrimination on the basis of affectional or sexual orientation, and for other purposes.

S. 596

At the request of Mr. MITCHELL, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 596, a bill to provide that Federal facilities meet Federal and State environmental laws and requirements and to clarify that such facilities must comply with such environmental laws and requirements.

S. 644

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 644, a bill to amend the Budget Enforcement Act of 1990 to allow offsetting transfers among discretionary spending categories.

S. 651

At the request of Mr. GARN, the names of the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Montana [Mr. BURNS], and the Senator from Florida [Mr. MACK], were added as cosponsors of S. 651, a bill to improve the administration of the Federal Deposit Insurance Corporation, and to make technical amendments to the Federal Deposit Insurance Act, the Federal Home Loan Bank Act, and the National Bank Act.

S. 676

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 676, a bill to provide testing for the use, in violation of law or Federal regulation, of alcohol or controlled substances by persons who operate aircraft, trains, and commercial motor vehicles, and for other purposes.

S. 693

At the request of Mr. LEVIN, his name was added as a cosponsor of S. 693, a bill to amend the Internal Revenue Code of 1986 to allow individuals who are involuntarily unemployed to withdraw funds from individual retirement accounts and other qualified retirement plans without incurring a tax penalty.

S. 716

At the request of Mr. JEFFORDS, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 716, a bill to establish a replacement fuel and alternative fuels program, and for other purposes.

SENATE JOINT RESOLUTION 15

At the request of Mr. THURMOND, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of Senate Joint Resolution 15, a joint resolution proposing an amendment to the Constitution of the United States relating to voluntary school prayer.

SENATE JOINT RESOLUTION 16

At the request of Mr. THURMOND, the names of the Senator from Michigan [Mr. LEVIN], the Senator from Arkansas [Mr. PRYOR], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of Senate Joint Resolution 16, a joint resolution designating the week of April 21–27, 1991, as "National Crime Victims' Rights Week."

SENATE JOINT RESOLUTION 43

At the request of Mr. THURMOND, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of Senate Joint Resolution 43, a joint resolution to authorize and request the President to designate May 1991 as "National Physical Fitness and Sports Month."

SENATE JOINT RESOLUTION 65

At the request of Mr. D'AMATO, the names of the Senator from Utah [Mr. GARN] and the Senator from Georgia [Mr. NUNN] were added as cosponsors of Senate Joint Resolution 65, a joint resolution designating the week beginning May 12, 1991, as "Emergency Medical Services Week."

SENATE JOINT RESOLUTION 72

At the request of Mr. SPECTER, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of Senate Joint Resolution 72, a joint resolution to designate the week of September 15, 1991, through September 21, 1991, as "National Rehabilitation Week."

SENATE JOINT RESOLUTION 77

At the request of Mr. DOLE, the names of the Senator from Hawaii [Mr. AKAKA] and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of Senate Joint Resolution 77, a joint resolution relative to telephone rates and procedures for Operation Desert Storm personnel.

SENATE JOINT RESOLUTION 86

At the request of Mr. GARN, the names of the Senator from Ohio [Mr. GLENN], the Senator from Connecticut [Mr. DODD], and the Senator from California [Mr. CRANSTON] were added as cosponsors of Senate Joint Resolution 86, a joint resolution designating April 21 through April 27, 1991 and April 19 through April 25, 1992 as "National Organ and Tissue Donor Awareness Week."

SENATE JOINT RESOLUTION 94

At the request of Mr. BROWN, the names of the Senator from Mississippi [Mr. LOTT] and the Senator from New York [Mr. D'AMATO] were added as cosponsors of Senate Joint Resolution 94, a joint resolution relative to Iraq.

SENATE JOINT RESOLUTION 95

At the request of Mr. PELL, the names of the Senator from Maine [Mr. MITCHELL], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of Senate Joint Resolution 95, a joint resolution designating October 1991 as "National Breast Cancer Awareness Month."

At the request of Mr. LEVIN, his name was added as a cosponsor of Senate Joint Resolution 95, supra.

SENATE JOINT RESOLUTION 97

At the request of Mr. DOMENICI, the names of the Senator from Montana [Mr. BURNS], the Senator from Rhode Island [Mr. CHAFEE], the Senator from New York [Mr. D'AMATO], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Utah [Mr. GARN], the Senator from Washington [Mr. GORTON], the Senator from Arizona [Mr. MCCAIN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Delaware [Mr. ROTH], the Senator from South Carolina [Mr. THURMOND], the Senator from Wyoming [Mr. WALLOP], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Joint Resolution 97, a joint resolution to recognize and honor members of the Reserve components of the Armed Forces of the United States for their contribution to victory in the Persian Gulf.

SENATE CONCURRENT RESOLUTION 16

At the request of Mr. LEVIN, his name was added as a cosponsor of Senate Concurrent Resolution 16, a concurrent resolution urging Arab States to recognize, and end the state of belligerency with, Israel.

SENATE RESOLUTION 82

At the request of Mr. SMITH, the names of the Senator from Illinois [Mr. DIXON] and the Senator from Delaware [Mr. ROTH] were added as cosponsors of Senate Resolution 82, a resolution to establish a Select Committee on POW/MIA Affairs.

SENATE CONCURRENT RESOLUTION 24—RELATIVE TO UNITED STATES BASE RIGHTS IN PANAMA

Mr. CRAIG (for himself, Mr. SYMMS, Mr. DOLE, and Mr. SMITH) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 24

Whereas the Panama Canal is a vital strategic asset to the United States and its allies;

Whereas the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal and the Panama Canal Treaty, both signed on September 7, 1977, mandates that (1) no United States troops are to remain in Panama after December 31, 1999; (2) the Canal Zone is to be incorporated into Panama; (3) United States Panama-based communications facilities are to be phased out; (4) all United States training in Panama of Latin American soldiers is to be halted; and (5) management and operational control of the Canal is to be turned over to Panamanian authorities;

Whereas the government of President Guillermo Endara has demonstrated its determination to restore democracy to Panama by quickly moving to implement changes in the nation's political, economic, and judicial systems;

Whereas friendly cooperative relations currently exist between the United States and the Republic of Panama;

Whereas the region has a history of unstable governments which pose a threat to the future operation of the Panama Canal, and the United States must have the discretion and the means to defend the Canal and ensure its continuous operation and availability to the military and commercial shipping of the United States and its allies in times of crisis;

Whereas the Panama Canal is vulnerable to disruption and closure by unforeseen events in Panama, by terrorist attack, and by air strikes or other attack by foreign powers;

Whereas the United States fleet depends upon the Panama Canal for rapid transit ocean to ocean in times of emergency, as demonstrated during World War II, the Korean War, the Vietnam War, the Cuban Missile Crisis, and the Persian Gulf War, thereby saving 13,000 miles and three weeks steaming effort around Cape Horn;

Whereas the Republic of Panama has dissolved its defense forces and has no standing army, or other defense forces, capable of defending the Panama Canal from aggressors and, therefore, remains vulnerable to attack from both inside and outside of Panama and this may impair or interrupt the operation and accessibility of the Panama Canal;

Whereas the presence of the United States Armed Forces offers the best defense against sabotage or other threat to the Panama Canal; and

Whereas the 10,000 United States military personnel now based in the Canal Zone, including the headquarters of the United States Southern Command, cannot remain there beyond December 31, 1999, without a new agreement with Panama: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the President should—

(1) negotiate a new base rights agreement with the Government of Panama—

(A) to allow the permanent stationing of United States military forces in Panama beyond December 31, 1999, and

(B) to ensure that United States will be able to act independently after December 31, 1999, to maintain the security of the Panama Canal and to guarantee its regular operation; and

(2) consult with the Congress throughout the negotiations described in paragraph (1).

• Mr. CRAIG. Mr. President, today I am pleased to be introducing legislation to preserve the United States' interest in the Panama Canal and promote security in a volatile region.

My resolution expresses the sense of the Congress that the President should seek to negotiate a new base rights agreement with Panama to allow United States troops to remain in Panama beyond December 31, 1999. It also states that the troops should retain the ability to act independently to protect U.S. interests and the operation of the Canal.

There has been a great deal of controversy over the Panama Canal treaties. As is well known, they gradually relinquish United States control of the Panama Canal and require the withdrawal of all United States military personnel by the end of 1999.

Serious concerns have been raised about the propriety of the ratification of the treaties. While we may have varying degrees of concern, I think we can agree that the base rights must be addressed. As we draw nearer to December 31, 1991, we draw nearer to putting U.S. interests and regional security at risk.

It would be difficult to overstate the strategic and economic importance of the Panama Canal zone to the United States. Panama is an important center for international maritime commerce. Restriction from using the canal would greatly disrupt U.S. exports, as well as increasing costs for transporting goods. Currently, 15 percent of all U.S. imports and exports pass through the canal annually, and that percentage is on the rise.

The fact that the waterway is a strategic choke point in times of crisis is clearly illustrated by the fact that the number of warships to transit the canal after the beginning of the Persian Gulf crisis actually doubled. Without the canal, ships would have had to make a 13,000-mile trip around Cape Horn which takes approximately 3 weeks. Even in the best of situations, loss of the use of the canal would create a security risk.

The Panama Canal is of vital importance to the United States. Its security cannot be jeopardized. While there is no question that Panamanian President Guillermo Endara has demonstrated his determination to restore democracy to Panama, we cannot ignore the fact that Panama has a history of unstable governments.

I commend President Endara for his commitment to democracy. However, Panama has dissolved its defense forces and has no standing army, or other forces capable of defending the Panama Canal from aggressors. As recently as December 1990, there was a coup attempt in which 100 renegade policemen, led by former police chief Col. Eduardo Herrera seized control of police headquarters in Panama City. At the request of the Panamanian Government, the rebellion was stifled by the assistance of United States troops. Had the uprising not been subdued, it is possible that Panama would now be controlled by another Noriega-style dictator.

Unless we act in time, the canal will be turned over to Panama with no real safeguards against a third party hostile to the United States taking control of the area of restricting use by United States ships. National security and economic interests demand that we give careful consideration to any policy alternatives that will prevent such a mistake from happening. For these reasons, I ask my colleagues to join me in supporting this legislation.•

S. CON. RES. 25—RELATING TO THE PROTECTION OF CIVIL RIGHTS AND CIVIL LIBERTIES OF ALL AMERICANS, INCLUDING ARAB-AMERICANS

Mr. HATCH submitted the following resolution; which was referred to the Committee on the Judiciary.

S. CON. RES. 25

Whereas reports of harassment and violence against Arab-Americans increased after Iraq invaded Kuwait on August 2, 1990, and increased again after the war began on January 17, 1991;

Whereas on September 24, 1990, President Bush declared that death threats, physical attacks, vandalism, religious violence, and discrimination against Arab-Americans must end and that a crisis abroad is no excuse for discrimination at home;

Whereas the Federal Bureau of Investigation is responsible for protecting civil rights and civil liberties of all citizens;

Whereas in January 1991, the Federal Bureau of Investigation contacted over one hundred Arab-Americans to solicit information on possible hate crimes violations and to seek assistance in combatting terrorist threats in the United States and abroad;

Whereas based on reports from the Arab-American community, the Federal Bureau of Investigation has opened over 60 investigations of apparent hate violence since August 2, 1990;

Whereas the violation of an individual's civil rights based on his or her ethnicity is repugnant and clearly violates the Constitution and laws of the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) all Members condemn any acts of violence or discrimination against any American including Arab-Americans;

(2) all government agencies should avoid activities that encroach upon the civil rights and civil liberties of citizens or legal residents of the United States;

(3) the civil rights and civil liberties of all Americans, including Arab-Americans, should be protected at all times, and particularly during times of international conflict;

(4) the Federal Bureau of Investigation should continue to investigate hate crimes against all Americans including Arab-Americans; and

(5) the Federal Bureau of Investigation should continue to work with other Federal, State, and local government agencies and community leaders to prevent, investigate, and report hate crimes and related crimes against Arab-Americans and other minorities.

Mr. HATCH. Mr. President, today I am submitting a concurrent resolution expressing the sense of the Congress that the civil rights and civil liberties of all Americans, including Arab-Americans, should be protected at all times, and particularly during times of international conflict. Since the Iraqi invasion of Kuwait and the American and allied response to that invasion, Arab-Americans have been the targets of increased violence and harassment. This is totally unacceptable and un-American.

I have long been concerned about hate crimes directed at any group in our society. Last year, along with Senator SIMON, I was cofloor manager of the Hate Crimes Statistics Act. That measure requires collection of data on hate crimes based on race, ethnicity, religion, or sexual orientation. It was a step in the right direction. But, when a particular group in America is being subjected to hate crimes as a result of a particular event here or abroad, I believe it is appropriate for the Congress to go on record as expressing its concern.

I also note that after the Persian Gulf crisis was under way, the Federal Bureau of Investigation [FBI] contacted over 100 Arab-Americans to solicit information on possible hate crimes and to seek assistance in combatting terrorist threats in the United States and abroad. The FBI states that these contacts were not part of any investigation. Moreover, the FBI makes the point that it necessarily relies upon the cooperation and assistance of the American public. This FBI contact program, however, generated concern among a number of Arab-Americans and others who believed that Arab-Americans were being singled out unfairly. I believe the FBI has operated in good faith in trying to fulfill its many duties in this crisis, including protecting this country from threatened terrorist acts, trying to prevent hate crimes from occurring, and investigating those which do occur. Nevertheless, I believe it is useful for Congress to restate some general principles, including that all governmental agencies should avoid activities encroaching upon the civil rights and civil liberties of citizens or legal residents, without suggesting that the FBI has transgressed these principles during the Persian Gulf crisis. I believe the concurrent resolution I am submitting is an appropriate way to address concerns that have arisen during this crisis.

SENATE RESOLUTION 90—EXTENDING A WARM WELCOME TO HIS EXCELLENCY LECH WALESA, PRESIDENT OF THE REPUBLIC OF POLAND

Mr. MITCHELL (for himself, Mr. DOLE, Ms. MIKULSKI, Mr. MURKOWSKI, Mr. ADAMS, Mr. AKAKA, Mr. BAUCUS, Mr. BENTSEN, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mr. BOREN, Mr. BRADLEY, Mr. BREAUX, Mr. BROWN, Mr. BRYAN, Mr. BUMPERS, Mr. BURDICK, Mr. BURNS, Mr. BYRD, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. CONRAD, Mr. CRAIG, Mr. CRANSTON, Mr. D'AMATO, Mr. DANFORTH, Mr. DASCHLE, Mr. DECONCINI, Mr. DIXON, Mr. DODD, Mr. DOMENICI, Mr. DURENBERGER, Mr. EXON, Mr. FORD, Mr. FOWLER, Mr. GARN, Mr. GLENN, Mr. GORE, Mr. GORTON, Mr. GRAHAM, Mr. GRAMM, Mr. GRASSLEY, Mr. HARKIN, Mr. HATCH, Mr. HATFIELD, Mr. HEFLIN, Mr. HEINZ, Mr. HELMS, Mr. HOLLINGS Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KASTEN, Mr. KENNEDY, Mr. KERREY, Mr. KERRY, Mr. KOHL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. LOTT, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Mr. METZENBAUM, Mr. MOYNIHAN, Mr. NICKLES, Mr. NUNN, Mr. PACKWOOD, Mr. PELL, Mr. PRESSLER, Mr. PRYOR, Mr. REID, Mr. RIEGLE, Mr. ROBB, Mr. ROCKEFELLER, Mr. ROTH, Mr. RUDMAN, Mr. SANFORD, Mr. SARBANES, Mr. SASSER, Mr. SEYMOUR, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr. SMITH, Mr. SPECTER, Mr. STEVENS, Mr. SYMMS, Mr. THURMOND, Mr. WALLOP, Mr. WARNER, Mr. WELLSTONE, and Mr. WIRTH submitted the following resolution; which was considered and agreed to:

S. RES. 90

Whereas Poland has made an historic transition from communism to democracy;

Whereas Poland has held the first free and direct elections for President in its history;

Whereas Lech Walesa, internationally recognized as a leader of the struggle for democracy and human rights, was elected President of Poland on December 9, 1990;

Whereas, under President Lech Walesa's leadership, Poland is continuing on its courageous course of fundamental economic and political reform; and

Whereas President Lech Walesa is making his first State Visit to the United States since his election: Now, therefore, be it

Resolved, That the Senate hereby—

(1) extends a warm welcome to His Excellency Lech Walesa, President of the Republic of Poland, upon the occasion of his State Visit to the United States;

(2) recalls the special and historic ties between the people of the United States and the people of Poland;

(3) applauds the continued commitment of President Lech Walesa and his government to fundamental economic and political reform;

(4) reaffirms the strong support of the Senate and the people of the United States for the independence and security of Poland;

(5) looks forward to continued close consultation and cooperation with the Government of Poland on issues relating to security and stability in Europe; and

(6) commends the decision of the Bush Administration to reduce substantially the debt owed by Poland to the United States, applauds the decision of the Paris Club to reduce substantially Poland's burden of foreign debt, and urges Poland's private creditors to respond in a similar fashion.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President of the United States with the request that he further transmit such copy to His Excellency Lech Walesa, President of the Republic of Poland.

SENATE RESOLUTION 91—RELATIVE TO HUMAN RIGHTS VIOLATIONS IN KASHMIR

Mr. METZENBAUM submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 91

Whereas the United Nations recognized the Kashmiri People's right to self-determination in 1949;

Whereas the governments of India, Pakistan and the United States were parties to this action;

Whereas the growing grass roots movement for self-determination in Kashmir has led to a violent response by the Indian authorities;

Whereas violence between Kashmiri militants and Indian forces has led to the death and abuse of thousands of innocent Kashmiris;

Whereas the disputed status of Kashmir has led to two wars and escalating tensions between Pakistan and India;

Whereas reports of human rights violations by Indian security forces in Kashmir have drastically increased;

Whereas the Government of India has closed Kashmir to human rights observers, media and relief workers; Now, therefore, be it

Resolved, That it is the Sense of the Senate that—

1. The United States deplores the excessive use of force being employed against civilians in Kashmir, and similarly denounces the violent tactics of Kashmiri militants;

2. The United States urges the Government of India to re-open Kashmir to the media, to human rights organizations, and to the International Red Cross and other relief groups;

3. The United States urges all parties to the Kashmir conflict to enter into negotiations on guaranteeing protection of human rights in Kashmir, and ensuring the ethnic integrity of its people;

4. The United States should provide humanitarian assistance to the civilians of Kashmir during the ongoing crisis, and should encourage other governments to assist in relief efforts.

• Mr. METZENBAUM. Mr. President, the level of human rights abuse in the Indian Province of Kashmir has reached a particularly distressing level. I rise to introduce a simple, straightforward sense of the Senate resolution which calls on the parties to the Kashmir conflict, The international community, and on the U.S. Government, to seek a peaceful resolution without delay.

Kashmir is a northern province of India, a culturally and ethnically distinct region which has struggled to maintain its identity for many years. In 1949, the United Nations promised a plebiscite in which Kashmiris could choose their own future. No plebiscite has been held in the intervening 41 years. Two wars, hundreds of skirmishes, and countless abuses by security forces have occurred during this time, however. The unrest in Moslem Kashmir has become a flashpoint for the simmering disagreements between similarly Moslem Pakistan and Hindu India.

Mr. President, one aspect of the conflict in Kashmir is of special concern to this Senator. In its attempt to restore order, the Government of India has barred most journalists and all international relief and human rights workers from entering Kashmir. Kashmir is, in effect, closed to the outside world, with few exceptions. This is unjustified, and unacceptable.

The State Department's Annual Report on Human Rights goes into considerable detail on the low level to which conditions in Kashmir have sunk during 1990. The report includes the usual litany of abuses by security forces. In goes on to note that, by law, security forces are immune from liability for any human rights violations they may commit.

Mr. President, I recognize that India must maintain order within its borders, and I recognize that Kashmiri militants have themselves resorted to violence. But the free hand that the Indian Government has given to its forces in Kashmir is simply not acceptable.

Mr. President, India should be proud of its status as the most populous democracy in the world. Yet there is something wrong when a democracy, even one with unrest within its borders, must employ brutality and isolation to a small ethnic minority under its control.

Mr. President, I regret that a settlement of the conflict in Kashmir will be a very long time in coming. Clearly there are deeply rooted disputes at the heart of the violence in Kashmir. These rifts are not an excuse for human rights abuse, however, and they do not excuse India's refusal to allow impartial observers into Kashmir on a consistent basis. In my view, the United States needs to look more closely at areas such as Kashmir, and it is my hope that this resolution will help to focus our attention.

Mr. President, I ask unanimous consent that the following articles: a March 11, 1991 OP-ED piece from the Cleveland Plain Dealer; an October 27, 1990 Editorial from the Washington Post; a November 9, 1990 article from the Wall Street Journal, and a November 16, 1990 article from the New York Times be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Cleveland Plain Dealer, Mar. 11, 1991]

KASHMIR IS A VEIL OF TEARS

(By Dr. Ghulam Nabi Fai)

I get calls every day from concerned Kashmiri-Americans who ask me how world opinion can remain silent as hundreds upon thousands of Kashmiris are killed and tortured in India's brutal occupation of their country.

Why, they ask, if the United Nations condemns the brutality of Iraq, China, South Africa and the Soviet Union, do they not speak out against Indian brutality in Kashmir?

While Indian troops fire into unarmed crowds of Kashmiri civilians, while Kashmiri women and young girls are raped by Indian security forces, while innocent boys are tortured, the international community remains silent. Where, they ask, are the declarations of concern from the White House? Where are the resolutions condemning the atrocities in the U.S. Congress?

I share their concern about the silence, but I tell them to have hope. The tide of change is on our side.

With the war in the Persian Gulf, the United States is setting important new standards for international behavior. President Bush told Congress last month in his State of the Union address that the war against Iraq is about more than oil, more than the liberation of Kuwait. It is about establishing a "new world order."

Said the president, "What is at stake here is more than one small country. It is a big idea: a new world order where diverse nations are drawn together in a common cause to achieve the universal aspirations of all mankind; peace, security and rule of law."

We in the Kashmiri community take the president at his word.

In Kashmir there is no peace, security or rule of law. Since 1947, the Kashmiri people have been denied their right of self-determination and, today, live under the brutal occupation of Indian security forces.

This is our reality;

It is estimated by the international press that more than 2,400 civilians, men, women and children, have died at the hands of the Indian Army in the last year.

According to the 1990 State Department Human Rights-Report, the Indian Army has fired into unarmed crowds, and "numerous Indian human rights groups have detailed cases of torture during interrogation by security forces in Kashmir, including beatings, burning with cigarettes, suspension by the feet and electrical shock."

The State Department report says that "there were credible reports of widespread arbitrary arrest and detention . . . Members of the Kashmir Bar Association claimed at midyear that between 11,000 and 15,000 Kashmiris had been detained."

In a recent report on Kashmir, Asia Watch documented an Oct. 1 incident in the Kashmiri city of Handwara in which "border security forces burned down three dozen houses and 200 shops and sprayed bullets throughout the crowded central market."

Asia Watch concluded that "torture is widespread, and Asia Watch has obtained numerous testimonies from torture victims who described being suspended by hooks on the ceiling, beaten with canes, raped and subjected to electric shock."

The current conflict in Kashmir dates back to 1947, with the partition of British India. Shortly after the partition, a war erupted between the newly created nation states of India and Pakistan. The United Nations intervened and brought about a cease-fire. The Kashmiri nation was divided by the cease-fire line in this settlement.

Both governments agreed that the final status of Kashmir should be decided by a plebiscite or referendum under the impartial auspices of the United Nations. This position was supported by the international community in two consecutive U.N. resolutions in 1948 and 1949, both of which were co-authored and co-sponsored by the United States.

Pakistan maintained control of the area of Kashmir on its side of the cease-fire line, awaiting the withdrawal of armies as envisioned by the U.N. plan. India reneged on its commitment and annexed the portion of Kashmir under its control.

Today, the Kashmiri people cry out simply for the right to self-determination—for the implementation of the U.N. resolutions that would allow them to vote on their final status.

India answers their calls for freedom with brutal suppression. Faced with a grass-roots movement for self-determination, the Indian authorities have executed a campaign of terror in Kashmir, which most recently has included burning entire villages to the ground, while preventing the escape of the villages' inhabitants.

The Kashmiri people are by their nature peaceful. The vast majority of Kashmiris would like nothing better than to see a peaceful, negotiated settlement to the crisis. There is, however, a small but growing, militant movement in Kashmir which, given India's historic intransigence, sees no chance of India being peacefully persuaded to agree to a just settlement.

The longer the status quo of death and brutality continues—the longer the international community remains inactive—the stronger the militants will become, as people lose hope for peaceful settlement. By its inaction, the world is pushing Kashmir to the breaking point, sending it into a downward spiral of violence.

The people of Kashmir do not know "peace, security and rule of law." And it is this "universal aspiration of mankind" which President Bush identified in his speech that the people of Kashmir hope to achieve.

And yet, the U.S. government has remained curiously silent about the atrocities in Kashmir. Despite the massive human rights violations, despite the implications for regional stability, there has been no U.S. diplomatic initiative to stop India's brutality and to bring about implementation of the U.N. resolutions.

The United States must be consistent in its policies. As Sen. George Mitchell said in the Democratic response to the president's address, "We seek a world where justice and human rights are respected everywhere . . . We cannot oppose repression in one place and overlook it in another."

It is our duty as Americans, the president told us, "to do the hard work of freedom." There is no freedom, no rule of law, in Kashmir. But the United States does nothing.

With his speech, President Bush set the standard for the new world order. Be it in the Baltics, or the Persian Gulf, or in Kashmir, it is incumbent upon the United States to help enforce that standard.

[From the Washington Post, Aug. 27, 1990]

GUNFIRE IN KASHMIR

With the exchanges of heavy artillery fire in Kashmir during the past week, India and Pakistan have come a little closer to war. This dangerous dispute is getting less attention than it deserves in a world preoccupied by the invasion of Kuwait. But in Kashmir as well a war would threaten immense loss of life, not least because both India and Pakistan have, or are very close to having, nuclear weapons. As the resort to artillery suggests, this intractable quarrel is moving in the wrong direction.

By an unhappy coincidence, both India and Pakistan are under weak governments and are drifting. Pakistan's elected prime minister, Benalir Bhutto, was recently forced out of office with the obvious connivance of the military, and the country is under a caretaker pending the elections promised for October. India's prime minister. V.P. Singh, presides over a minority government greatly hampered by internal dissension. In Kashmir he is confronted with an entrenched and violent Moslem separatist movement vigorously supported by Moslems in Pakistan. Campaigning for office last autumn, Mr. Singh promised a peaceful resolution of the Kashmir insurgency. Having had little success, he is increasingly resorting to force. Casualties are running high. One result, predictably, has been to inflame relations between the two countries. The artillery fire across the border is the beginning of the next election campaign in both of them.

Meanwhile, the rest of the world gives this incipient catastrophe little notice. It's not only the distraction of the Persian Gulf. India has firmly closed Kashmir to the press. That means no pictures and no film. Written reporting, however accurate, has the muted quality of secondhand accounts. As the world now works, that suffices to drop Kashmir far down on the list of international concerns.

Iran and Iraq similarly succeeded in closing from foreign view most of the eight years of war between them. Outsiders knew roughly where the battles were being fought and understood that the casualties were horrifying. But the war never made much of an impression on anyone outside the region other than a few specialists, although toward the end it was being fought with weapons like gas and missiles. That's one of the reasons why outsiders made little effort to choke off the fighting. Now Iraq has turned its weapons in another direction, and the scale of the menace has become more apparent. Not all wars can be prevented. But in view of the nature of modern weapons the world is unwise to ignore quasi-wars like the one in Kashmir.

[From the Wall Street Journal, Nov. 9, 1990]

VALLEY OF DEATH; INDIA'S KASHMIR STANDS AS A VIOLENT REMINDER OF HINDU-MOSLEM RIFT

(By James P. Sterba)

SRINAGAR, INDIA—They pick up the bodies in the morning light, shooting away any dogs that find the corpses before the curfew ends.

Less than a year ago the Vale of Kashmir was still a romantic little valley full of orchards and terraced rice field, goat-herds and wool weavers, ornate wooden houseboats on glistening lakes, and tourists marveling at views of Himalayan peaks in every direction.

Today it is more like a high-altitude Beirut. Gun battles between Kashmiri Moslem secessionists and Indian security forces have claimed nearly 2,000 lives so far this year. The valley floor is an eerie landscape of charred villages and bombed out buildings, sandbagged bunkers and barbed-wire barricades, shuttered shops, abandoned neighborhoods and fresh mounds of dirt from newly dug graves.

Last year, tourists still came. Now the economy is comatose. Last year disgruntled students threw rocks. Now they wield shiny new Kalashnikov rifles and rocket launchers from Pakistan. Last year, the Indian government had some popular support. Now, most Kashmiris appear to back the guerrillas.

A LONG BATTLE

Kashmir has endured as a festering sore in India-Pakistan relations for more than 40 years, nearly sparking a fourth war between the two countries last spring. But it has come to represent something more in recent months. As this country spirals into sectarian and religious violence, Kashmir is emblematic of one of this nation's greatest burdens: Hindu and Moslem still share only a tentative common ground in India.

"The '90s threaten to be the most critical decade in the history of free India," writes Dileep Padgaonkar, editor of the Times of India Review of Books. Acknowledging the chronic problems of poverty, malnutrition, illiteracy, population growth and insurgencies, he notes: "India is also witness to the [rapid] growth of militant religious organizations whose actions are polarizing Indian society along altogether alarming lines." Kashmir is but one of many casualties. This week, the upheaval spreading across this country claimed the administration of Vishwanath Pratap Singh, India's prime minister for the past 11 months.

OLD WOUNDS

The convulsions in India recall, on a much smaller scale, the strife that followed Britain's 1947 partition of the subcontinent into Pakistan, an Islamic state, and India, a secular democracy. Then, hundreds of thousands died as uprooted Moslems and Hindus fought in an explosion of violence.

Today, this same religious hatred, long dormant, is being fanned anew in parts of India. The nation now has a population of 880 million, 82% Hindu and the rest Moslem and other religions. This time, the broader conflict between Hindu and Moslem is over a 16th-century mosque in Uttar Pradesh that Hindus want to replace with a temple—a quiescent issue resurrected by a Hindu fundamentalist political party. At the same time India is again finding itself wracked by caste warfare. Over the last several weeks, some 150 upper-caste Hindu youths have committed suicide, many by dousing themselves with gasoline and setting themselves on fire, to protest a government affirmative-action plan to give Hindus from lower, less-privileged castes more government jobs.

The temple issue particularly reflects a rising strain of Hindu chauvinism within India's vast population. Hindu fanatics have been espousing violence against religious minorities, such as Moslems and Christians, as a way to redress historical domination of Hindus by Moslems and other groups. "For 750 years no Hindu held power in Delhi," writes author M.J. Akbar. "From 1192 to 1857 Moslem kings . . . sat on the throne of Delhi. And in 1857 Bristish Christians replaced them."

It was followers of the most fanatical Hindu fundamentalist group, the Rashtriya Swayamsewak Sangh, or R.S.S., who assassinated India's firmest devotee of religious harmony, Mohandas K. Gandhi, in 1948. This group has been gaining strength since the assassination of Indira Gandhi by Sikhs in 1984, and has been further fueled, some Indians say, by the rise of Islamic fundamentalism in the country. Today, the R.S.S. is just one group under the umbrella of the fundamentalist Bharatiya Janata Party (BJP), which raised the mosque-temple issue.

It was the BJP that also helped patch together a ruling coalition that made V.P. Singh prime minister last November. And it was the BJP that called for and still supports a military crackdown against Moslem guerrillas in Kashmir.

"We are hard-headed realists," says Kedar Nath Sahani, a BJP general secretary. "The only remedy in Kashmir is for the government to assert its authority. We must be stern and strong. People must obey orders."

Kashmir, officially called the state of Jammu and Kashmir, is about the size of Utah and has a population of more than six million. Roughly two-thirds of its people as Moslem, making it India's only Moslem-majority state. The Vale of Kashmir is a valley 85 miles long and 20 miles wide.

The seeds of Kashmir's current troubles were planted during the 1947 partition. At the time, the subcontinent contained, in addition to areas administered by the British, 565 so-called princely states ruled by local maharajas and comprising 40% of India's land and 30% of its people.

Lord Louis Mountbatten, then the British Viceroy of India, strong-armed most of the maharajas into joining either India or Pakistan. Hari Singh, the maharaja of Jammu and Kashmir, however, didn't want to join either nation.

"In his heart my father still did not believe that the British would actually leave," says the maharaja's son, Karan Singh, who lives today in New Delhi.

FATEFUL DECISION

By independence day, Hari Singh still hadn't decided. Two months later, Moslem tribesmen from Pakistan poured into the valley seeking to seize Kashmir. Indian forces couldn't save Kashmir, said Mountbatten, unless Hari Singh agreed to accede to India. He did, and Indian troops were airlifted into Srinagar the next morning. They have been there ever since.

In attempts in 1947 and 1965 to grab Kashmir, Pakistan sent tribesmen, infiltrators and eventually troops into the valley, with the hope that the local population would join a "war of liberation." But the locals didn't. Kashmiris didn't easily revolt. Until this year.

"Not for 25 years have seen such a mass uprising in the valley," says Rajiv Gandhi, leader of the oppostiion Congress(I) party and India's former prime minister. The only thing close, in fact, occurred in 1964. That year, Moslem Kashmiris rioted after a whisker said to be from the beard of the Prophet Mohammad, the so-called Holy Relic, disappeared from a local mosque. It reappeared six days later.

Kashmiris blame Mr. Gandhi and his mother, Indira Gandhi, for creating the frictions in Kashmir during the last decade by allegedly rigging elections and allowing corruption to burgeon unabated. But Mr. Gandhi contends the policies of V.P. Singh actually lit the match in Kashmir.

Last December, Mr. Singh traded five jailed Moslem militants for the kidnapped daughter of India's home minister, and that emboldened militants in the region, contends Mr. Gandhi. "A feeling was instantaneously spread through the valley that the terrorists have the upper hand and the government is not willing to stand up," he says. "The day they released these terrorists, about 200,000 were out on the the street."

Matters only got worse. Trying to restore order, the Indian authorities undertook house-to-house searches, inflaming passions even more, says Mr. Gandhi. "Almost the whole town of Srinagar out in the roads, in winter, until 4 a.m. I told them you're pushing people to the point where you will not be able to hold them." Soon the Indian governor of Kashmir had ousted virtually all Moslems from positions in the local bureaucracy, and the violence was out of control.

The economic impact of the rebellion is apparent everywhere. At the Clermont resort on the edge of Srinagar, Gulam Butt has played host to royalty, starlets and diplomats seeking the relaxation of the Clermont's luxurious houseboats on Dal Lake. Autographed photos of Adlai Stevenson, Nelson Rockefeller and George Harrison, all satisfied customers, adorn his office wall. But his boats are all empty now and he has fled to New Delhi, leaving manager Ramzam in charge. Tourists have evaporated except for a few stragglers, who realize during a gauntlet of airport body searches that they have made a colossal mistake coming to Srinagar. Mr. Ramzam offers instant on-the-spot discounts to anyone who stops in. But no one has stopped in for five days, he says. On a building wall nearby, someone has scrawled the words: "Indian Army Go Back."

So far, some 50,000 Hindu families have fled the region. Most of them now live in tents around Jammu city, 95 miles to the south and outside the valley. They say Moslem militants scared them away. Moslems claim the Indian government moved them so it could more easily kill Moslem Kashmiris. Roughly 60 militant Moslem groups now operate in the region, some seeking an independent state, others seeking Kashmir's annexation by Pakistan.

ACROSS THE BORDER

Pakistan says some 20,000 Kashmiris have also fled into the part of Kashmir it has occupied since its 1965 war with India. India claims many of them are militants who have gone to Pakistan for "terrorist training" and who come back as infiltrators. In the ravines leading to the valley Indian border guards have been ambushing suspected infiltrators and smugglers carrying fresh caches of Kalashnikovs rocket launchers and machine guns—army surplus from the war in Afghanistan.

Meanwhile, along the high mountain peaks west of the Kashmir valley, the regular armies of India and Pakistan pummel each other with artillery fire whenever either side inches toward an advantageous new position. The two armies have been in each other's gun sights in Kashmir and along their mutual border for 43 years.

As the sun sets, the valley's surrounding mountains seem to sparkle. But for the people of Srinagar this is a time to hurry home, not to take in the scenery. Curfew is at dusk, and trigger fingers start to itch soon thereafter. Once the amplified evening prayers from the mosques fall silent, only barking dogs and guns are heard in the night. The crack of a rifle is answered by a canine cacaphony and an eruption of distant gunfire that sounds like exploding popcorn.

"Come," says Salim, rising from tea in a back room of his family's house. "We will meet some of the chaps." The curfew doesn't disturb his friends. They move with ease down a labyrinth of dark lands and alleys. In a lantern-lit warehouse, six of them pose, their dark teen-age eyes peering from cloth-draped faces. AK-47 rifles held as in a movie poster. The "chaps" self-described freedom-fighters, but terrorists to the government—are disappointed when a visiting journalist produces no camera.

Across town, Vijay Kotwal, a Hindu school teacher, sees tragedy in this tableau. "They're just a bunch of kids with guns, a lot of young chaps who thought it a fun game to shoot first and talk later because for a long time no one was shooting back," he says. "They call this a war for freedom. I call it Kashmir's loss of innocence."

[From The New York Times, Nov. 16, 1990]

IN TORN KASHMIR, FRONTIER IS AFLAME ONCE MORE

(By Barbara Crossette)

KEL, KASHMIR—In the treacherous mountain terrain along the disputed border between Pakistani and Indian Kashmir, life would be tough enough without war. On precipitous slopes and pocket-sized meadows, rural families raise their crops and animals in isolation at altitudes that demand a mountain climber's skills.

But war of one kind or another is never far away. Almost every day, groups of exhausted, hungry exiles from Indian Kashmir straggle out ot mountain passes and give themselves up to villagers or Pakistani soldiers. They come to escape from Indian troops trying to put down an independence movement with a heavy show of force—or to be trained to go back and keep the Kashmiri fight alive.

Along this border, Pakistani and Indian armies have been fighting "a kind of war" for more than four decades, a Pakistani Army officer said in Rawalpindi. In 1947, 1965 and 1971 it flared into full-scale conflict.

With the steady spread of insurrection in the Kashmir Valley, for which India officially blames Pakistan, the number of skirmishes are again increasing, sending villagers running from their homes and fields under the muffled booms of artillery.

'WE ARE AT WAR'

"A real inferno has been going on here," Brig. Syed Hassan Abbas Rizvi said as he briefed several reporters who had been flown by helicopter through narrow mountain valleys to the battle area spread over peaks and deep ravines.

"We are at war," he said. "It may be a local one, but that's what it is."

These days, Pakistani military officers like Brigadier Rizvi, commander of the Kel sector, speak with a come-and-get-us confidence about their ability to stop the much larger Indian Army in this border region.

Here on the "line of control," as the disputed border is formally known, morale is heightened because the local population strongly supports the Indian Kashmiris' revolt, and sees Pakistan as the only international friend of that independence movement.

On the other side of the border, Indian soldiers and paramilitary troops are harassed and attacked by a hostile rebel population. Kashmiris bring to Pakistan accounts of Indian military indiscipline, corruption and brutality.

Brig. Zahib Zaman, commander of the Neelum Brigade in Muzafarabad, described India's actions in the valley as a "scorched-earth policy" that relies on "terror and violence."

At the same time, Indian soldiers have been trying to move their bunkers and other defenses "frighteningly close" to Pakistan, Brigadier Rizvi said. Since late July, he added, four major attacks have taken place in this region, during which firing and shelling of "unusual intensity" were followed by infantry assaults.

NEW ROLE FOR TROOPS

He said that Indian forces were trying to establish defenses in internationally recognized neutral territory.

The Pakistan Army is not going to slow that, Brigadier Rizvi said.

The Indian Government makes similar charges, and threats.

The influx of refugess from Indian Kashmir—several thousand in the last few months, officials say—has given border forces a new role in debriefing and sorting arrivals.

"Since the army has been deployed eyeball to eyeball with the Indians since 1948, we are the first to meet people coming across," Brigadier Zahib said. Among the exiles are many young Indian-Kashmiri men who are "hunted like birds" by Indian troops.

"There is one demand from all these youth coming over," Brigadier Zahib said. "They want to be trained and armed and go back to fight alongside the others in the valley."

He and other officers deny that there is formal training provided. But they readily admit that weapons and lessons on how to use them are available from many private sources in Pakistan, including retired military men. Money comes from relatives and supporters abroad.

MADE 'FIT TO FIGHT'

Reporters were taken to a camp for Indian-Kashmiri men near Muzafarabad, the capital of Azad Kshmir, a semi-autonomous Pakistani state. In the camp, several young men among the 2,000 or more Kashmiris 14 to 30 years of age staying there said they represented a host of guerrilla organizations on the Indian side. They said they were being fed well and made "fit to fight," but were not given arms.

Some of the young exiles said they had been "given numbers" on arrival in Pakistan. When their numbers come up, they said, they will go back across the border. This appears to lend credence to Indian accusations that armed insurgents are being infiltrated systematically.

Brigadier Zahib dismissed the Indian charges of Pakistani Army involvement in guerrilla movement across the border or the smuggling of arms. "The Indians have one line of defense at the border and a second line 6,000 meters to 7,000 meters back," he said "Behind that they have what we call choke points. I don't know how they expect us to stop them if they can't."●

AMENDMENTS SUBMITTED

INDEPENDENT NUCLEAR SAFETY BOARD ACT

KERRY (AND BIDEN) AMENDMENT NO. 64

(Ordered referred to the Committee on Environment and Public Works.)

Mr. Kerry (for himself and Mr. BIDEN) submitted an amendment intended to be proposed by them to the bill (S. 732) to amend the Energy Reorganization Act of 1974 to create an independent Nuclear Safety Board, as follows:

On page 5, line 24, change (ii) to (iii), and insert the following:

(ii) The Board shall review safety conditions at any commercial nuclear power plant requesting an extension of its original operating license. The Board shall certify, prior to Commission consideration of the license extension request, that the facility meets the safety standards required by the Commission and that the resolution of all Unresolved Safety Issues has been fully implemented at the facility and that all generic safety issues have been corrected at the facility. The Board may impose additional safety requirements related to aging-equipment issues on any facility requesting an operating license extension. Any finding by the Board regarding Unresolved Safety Issues is sufficient for the Board to refuse to grant an operating license extension.

NOTICES OF HEARINGS

SUBCOMMITTEE ON CONSERVATION AND FORESTRY

Mr. LEAHY. Mr. President, I would like to announce that the Subcommittee on Conservation and Forestry of the Committee on Agriculture, Nutrition and Forestry will hold a hearing on April 11, 1991 at 9:30 a.m. in SR-332. The hearing will address below cost timber sales and national forest management.

For further information, please contact Ben Yarbrough of the subcommittee staff at 224-5207.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON EDUCATION, ARTS, AND HUMANITIES

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Education, Arts, and Humanities of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, March 21, 1991, at 10 a.m., for a hearing on Reauthorization of the Higher Education Act—Financing a College Education.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on March 21, 1991, beginning at 9:30 a.m., in 485 Russell Senate Office Building, on the San Carlos Water Rights Settlement Act of 1990.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. FORD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, March 21, 1991 at 1:30 p.m. to hold an open hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Thursday, March 21, 1991 at 10:00 a.m. and 2 p.m. to conduct a hearing on the bank insurance fund.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on rules and Administration be authorized to meet during the session of the Senate on Thursday, March 21, 1991, at 9:30 a.m., to receive testimony on S. 250, the National Voter Registration Act of 1991. Witnesses include Gov. Barbara Roberts of the State of Oregon; Secretary of State Ralph Munro of Washington State; Mr. Emmett H. Fremaux, Jr., executive director of the D.C. Board of Elections and Ethics; Ms. Anita Tatum, director of voter registration for the State of Alabama; and Dr. Susan S. Lederman, president, the League of Women Voters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON GOVERNMENT INFORMATION AND REGULATION

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Government Information and Regulation be authorized to meet on Thursday, March 21, 1991 at 9:30 a.m., on the subject: Improving access to student loan financial aid information.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL TRADE

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on International Trade of the Committee on Finance be authorized to meet during the session of the Senate on March 22, 1991, at 10 a.m. to hold a hearing on the renewal of the United States-Japan Semiconductor Trade Agreement.

The PRESIDING OFFICER. Without objection, it is so orderd.

COMMITTEE ON FINANCE

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on March 21, 1991, at 10 a.m. to hold a hearing on and to consider the nomination of Renato Beghe to be a judge of the U.S. Tax Court.

The PRESIDING OFFICER. Without objection, it is so orderd.

SUBCOMMITTEE ON WATER RESOURCES, TRANSPORTATION, AND INFRASTRUCTURE

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Water Resources, Transportation, and Infrastructure, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, March 21, beginning at 10 a.m., to conduct a hearing regarding the application of pricing to surface transportation policy.

The PRESIDING OFFICER. Without objection, it is so orderd.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2:30 p.m., March 21, 1991, to receive testimony on the following bills: S. 292, S. 363, S. 545, S. 549.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY REGULATION AND CONSERVATION

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Energy Regulation and Conservation of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m., March 21, 1991, to receive testimony on S. 341, the National Energy Security Act of 1991, subtitle A of title IV concerning the export of renewable energy and energy efficiency technology.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. FORD. Mr. President, I ask unanimous consent that the full Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., March 21, 1991, to receive testimony on the Status of Implementation of the Department of Energy's Civilian Nuclear Waste Program mandated by the Nuclear Waste Policy Act of 1982 and its 1987 Amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TERRORISM, NARCOTICS AND INTERNATIONAL OPERATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Terrorism, Narcotics and International Operations of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, March 21, at 2 p.m. to hold a hearing on foreign relations authorization for the U.S. Arms Control and Disarmament Agency and the National Endowment for Democracy.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONSUMERS

Mr. FORD. Mr. President, I ask unanimous consent that the Consumer Subcommittee of the Committee on Commerce, Science and Transportation, be authorized to meet during the session of the Senate on March 21, 1991, at 10:30 a.m. on S. 591, Highway Fatality and Injury Reduction Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on March 21, 1991, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

IN MEMORY OF JOHN K. EVANS, OIL ENTREPRENEUR AND PHILANTHROPIST

• Mr. AKAKA. Mr. President, I rise today to pay tribute to John K. "Jack" Evans, who passed away at age 84 on Sunday, March 10, 1991, in Houston, TX. My acquaintance with Jack dates back to the mid-1970's, when I first came to Washington as a Member of the House of Representatives and Jack served on the board of directors of Pacific Resources, Inc., of Hawaii.

Jack's relationship with Hawaii began when the late Governor John Burns sought his advice on how to increase competition in the oil refinery business in the State. As a result of their discussions, a foreign trade zone was established and Jack founded Hawaiian Independent Refinery, Inc., a subsidiary of Pacific Resources, Inc. He served on Pacific Resources, Inc.'s board of directors from 1975 to 1979, and remained an advisory director even after the company was acquired by Broken Hill Proprietary Co., Ltd., of Australia in 1989.

Jack was well known to many members and staff of the Energy Committees of both the Senate and House where he was recognized for his detailed knowledge of the petroleum industry.

Orphaned at 10, Jack chose to leave his home in Porthmadog, Wales, as a teenager, to emigrate to Canada as a farmhand, and entered the United States in the mid-1920's by simply walking over the border. He then spent the next 10 years at a variety of jobs—construction worker, porter, busboy, and even a summer stock actor with Bette Davis, according to one biographer, who also recounts that Jack's career in oil began when he was a waiter in a New York City speakeasy. There he met a vice president of Shell Oil Co., who offered him a job as a trainee. He rose to the position of marketing manager in the New England area until World War II, when he enlisted as a private in the U.S. Army, and was sent to Africa.

Jack's knowledge of the oil business came to the attention of his superior officers who arranged for his naturalization as a U.S. citizen so he could attend Officers' Training School. He spent the remainder of the war as an adviser to the Army-Navy Petroleum Board of the Joint Chiefs of Staff, and retired as a full colonel in 1972.

After the war, Jack rejoined Shell Oil. In 1947, he came to Washington, DC, first as a representative of Royal Dutch Shell, and in 1955, as Shell's director of government affairs. Retiring from Shell Oil in 1960, he established his own firm, the Independent Fuel Oil Marketers of America, representing the concerns of small oil companies.

Jack was known as a caring philanthropist, who with his wife, Jean, contributed to the Rotary Foundation of Rotary International to establish merit scholarships and the Shriners Hospital for Crippled Children. He was the donor of the John K. Evans Award for Excellence in Journalism for the International Association of Energy Economics. Most of their donations were made to benefit Hawaii and Florida, two States that they called home.

Jack also retained strong ties to Wales, which he and his family visited annually. He was the founder of the National Welsh American Foundation, which provided gifts to Welsh charities.

At the time of his death, Jack lived in Florida with his wife, Jean. He is survived by his wife, five children and three grandchildren, all of whom have traditional Welsh names.

Mr. President, Jack Evan's life stands as a testimony to the American spirit. He will be missed by all who were privileged to know him and to be touched by his presence. I would also like to have printed in the RECORD a copy of an obituary by Murry Engle of the Honolulu Star-Bulletin.

The obituary follows:

JACK EVANS, A SELF-MADE MAN, TOUCHED MANY LIVES AS A BENEFACTOR AND MENTOR

(By Murry Engle)

John K. "Jack" Evans of Washington, D.C., San Miguel De Allenda, Mexico, and Honolulu, was a daring self-made oil entrepreneur and philanthropist—a bright reflection of the American dream.

Evans died in Houston Sunday at age 84 after suffering a heart attack in San Miguel De Allenda, where he and his wife, Jean, recently renovated a house.

He was orphaned at age 10 and lived in the small town of Portmadog in Northern Wales. When he was 16, he heard of an offer by the Prince of Wales through which he could indenture himself as a farm hand in Canada.

He ran away to London and soon was in Canada. It did not take him long to realize the work was the equivalent of slavery, so he entered the United States illegally and took what work he could find.

One night in a New Jersey restaurant, he waited on Al Capone's table.

Eventually Shell Oil Co. hired Evans as a trainee. He was its marketing manager for New England when World War II began. He enlisted in the army as a private, but the army soon saw more in him and arranged for his U.S. citizenship. He was sent to Officer's Training School. He retired as a U.S. Air Force colonel and returned to work at Shell until his retirement in 1960.

Evans came to Hawaii after retirement, invited by the late Gov. John A. Burns. Burns sought Evans' advice for the state on increasing competition in the oil industry.

The result was the establishment of Hawaii's foreign trade zone and the founding of Hawaii Independent Refinery, Inc., a subsidiary of Pacific Resources Inc. PRI is now merged into the Broken Hill Proprietary Co. Ltd. of Australia. Evans was a director of PRI until 1979, and held a large block of stock. He was an adviser to the company at the time of his death.

In Hawaii, Evans also formed his own oil consulting business.

Evans always had practical advice for friends.

One of those friends is Rhys Morris, a Welshman from Evans' hometown. Morris is in his second year of working toward his master's of business administration degree at the University of Hawaii under an Evans grant. Morris also was a Maurice Sullivan Fellow of the Hawaii Rotary Youth Foundation.

"I used to wear earrings in my left ear, but he (Mr. Evans) didn't know that until he saw my picture, and then he hit the roof," Morris said. Evans told Morris, "We must be careful what we wear. Become a millionaire like me and you can even wear earrings in your nose."

Morris said that Evans didn't only provide money for his students, but took the time to talk to him and see how he was getting on.

"He wanted me to do well and show I was earning it. He became my mentor," Morris said. "He was so young, had so much vibrancy. It was difficult for others to keep up with him. He was always full of so much energy, I think we all thought he was invincible.

Fereidun Fesharaki of the East-West Center and Robert G. Reed III, chairman, president and chief executive of PRI, wrote about Evans in their dedication of the 1989 book, "The Oil Market in the 1990s: Challenges for the New Era."

The book was subtitled: "Essays in Honor of John K. Evans." It said:

"Jack Evans has touched the lives of many people. He is a man who speaks his mind. Although a practical man, he is blessed with high intellect. Jack's toughness and outspoken words sometimes hid his very warm and soft heart—how he gives so generously to worthwhile causes, how he promotes international understanding, and how he tries to help those in need, both with love, moral support and money."

Ed Futa, president of his own international trading company and past district governor of Rotary, said he met Evans, a participant in a Hawaii Rotary seminar for young people.

"I was very impressed," Futa said. "The young people were enthralled with his stories. He explained how important education is and how much he missed having a formal one. He wasn't even a high school graduate, but he tried to educate himself.

"He emphasized how important it is to be able to read and to write in order to express yourself, and how important friendships were in business. He had several mentors along the way that he said were important to his development."

"He was quite a philosopher. Toward the end, he turned more spiritual," Futa said.

Evans was involved in many foundations, including the National Welsh-American Foundation and the Young Entrepreneurs of America Inc.

Together with his wife, Jean, he founded the Golden Rule Foundation.

Through the Golden Rule Foundation, the Evanses donated more than $1 million to the Shriners Crippled Children's Hospital in Honolulu and the Rotary International Scholarship here.

Memorial services will be at 6 p.m. April 3 at the National Press Club in Washington, D.C.•

TRIBUTE TO FORMER U.S. SENATOR EUGENE McCARTHY

• Mr. DURENBERGER. Mr. President, I rise today to salute a man who, during his time in public service, came to personify the grassroots, independent, and thoughtful political activist that has put Minnesota in a national leadership role for decades. I congratulate former Minnesota Senator Eugene McCarthy on his 75th birthday on March 29, 1991.

Eugene McCarthy was born in Watkins, near my own home in central Minnesota. His much admired wit, intelligence, collegiality, and gentle spirit were inherited from his parents and nurtured in his years at St. John's Preparatory School and St. John's University.

He tells the story on himself that he was thrown off the St. John's Prep Football Team by the coach, my father, for being too small. He did go on to play college baseball and hockey, and coach in a high school in North Dakota. In Al Eisele's book, "Almost to the Presidency," it is noted that Eugene McCarthy, however, excelled academically, graduating cum laude from St. John's in 1935. He was 19 years old.

Eisele notes that the yearbook predicted that "McCarthy's 'really breathtaking accomplishment is yet to be recorded.'"

In 1946, McCarthy took a teaching position at the College of St. Thomas in St. Paul. It was at that time that his political and social philosophy began to take shape. The Democratic Farmer Labor Party [DFL] in St. Paul was tightly controlled by labor bosses, and, as did the party in Minneapolis, had extreme leftist leanings. McCarthy, the professor, rallied new activists, fellow professors and students among them, who worked at the grassroots level to reshape the local DFL.

The Fourth District of Minnesota sent McCarthy to Washington, DC in 1948. Eisele says McCarthy accounted for two reasons for running: "* * * the need to make the Minnesota DFL a party for the independent liberal as well as for the workingman, and the conviction that a man backed only by organized labor could not defeat the opponent. He said his major legislative interests would be in the fields of labor and civil rights."

Throughout the early 1950's, McCarthy worked on his agenda. When he announced in 1958 his intention to run for the Senate, the Washington Evening Star wrote: "McCarthy has gained the reputation for serenely cleaving to his principles, no matter what the prevailing political winds."

McCarthy was one of the first to beat against the wind and question the United State's role in Vietnam. He was in the eye of the storm in the 1960's, an articulate shaper of the debate that would change the course of history.

Independence of thought has been the trademark of Eugene McCarthy to this day. He has been a prolific author, poet and philosopher as well as an occasional candidate for the Presidency. His campaigns, most recently in 1988, have been lightning rods for a variety of issues including campaign financing laws and the need for the third party option.

Mr. President, on the diamond anniversary of his birth, Eugene McCarthy continues to be a jewel of independent thought. His many-faceted political legacy is to be considered and valued by all in Minnesota and in this Chamber.•

TEXTILE CUSTOMS FRAUD STRIKES AGAIN

• Mr. HEINZ. Mr. President, two recent articles from Women's Wear Daily provide a sad reminder of what our battered textile and apparel industry is up against. The lead paragraph of the first article says it all:

> Federal prosecutors in May are expected to ask several grand juries to indict numerous U.S. firms for knowingly importing Chinese apparel that was transshipped through third countries, it was learned.

Unfortunately, this is not a new story. I have been taking the floor of the Senate for years to discuss Customs fraud. Some years ago I presented a series of "Frauds of the Day" in an effort to dramatize the extent of this criminal activity.

Let me emphasize the latter term, Mr. President. We are talking about criminal activity. We are not talking about a few extra shirts being snuck into the country in somebody's suitcase. To get indicted for customs fraud you have to knowingly misrepresent the product you are importing, in the current cases, largely by lying about the country of origin. These are not small quantities. As the article indicates, the largest Chinese seizures involved 151,000 dozen women's and girl's pants and shorts, 52,239 dozen women's and girl's shirts and blouses, and 32,731 dozen men's and boy's pants. While China appears to be the largest offender, it is clearly not the only one.

This kind of episode sheds some light on why we hear frequently from the domestic textile and apparel industry seeking legislation. We are supposed to have a textile policy in this country that tracks the multifiber arrangement in limiting imports to approximately 6 percent annual growth. In 1980 then-candidate Ronald Reagan promised, if elected, to limit textile growth to growth in the domestic industry, which has been in the 1 to 2 percent range. Over the years, on average, both limits have been ignored; quotas have been increased for political and military reasons, and fraud has mushroomed. Even now, the Philippines is apparently demanding increased textile and apparel quotas as part of the negotiation on renewing the lease on our military bases there.

It is no wonder that under these circumstances the industry has sought legislation. Promises not kept, jobs sacrificed for political purposes, rampant fraud taken together do not provide a lot of confidence that our Government is on top of this situation.

The fraud situation is particularly serious, Mr. President, because it is not unique to textiles and apparel, and because it threatens the credibility of our trade policy. What is the point of negotiating agreements if we can't enforce them? These are not GATT-illegal unilateral quotas. These are multilaterally sanctioned, negotiated limits that are being circumvented, in some cases with the cooperation, if not connivance, of other governments.

The Customs Service is to be commended in its aggressiveness in going after these criminals. They could be a lot more aggressive if they had additional enforcement tools, particularly the ability to utilize information presented to grand juries in criminal cases as part of civil cases the Service brings. As the article notes, criminal penalties, while not insignificant on paper, are rarely fully imposed. The true enforcement device is Customs' ability to impose financial penalties in civil cases. Their leverage in that respect would be enhanced if they could benefit from the grand jury information relating to exactly the same cases. I have made this proposal from time to time in the past and will continue to do so in the future.

Another proposal that would have a significant impact in matters like these is a private right of action for customs fraud. The Senate has previously passed such a proposal, only to have it dropped in conference, in part at the insistence of a number of importers and multinational companies who simply don't want to be caught and do not want to be liable for their actions. It would be tragic indeed if we had to witness the destruction of an entire industry before the Congress took this problem seriously enough to take action. Perhaps the predicted series of indictments in May will serve as a wake-up call on fraud and stimulate some action here.

Mr. President, I ask that the texts of the two articles be printed at this point in the RECORD.

The articles follow:

IMPORTERS FACE TRANSSHIPPING PROBE

(By Jim Ostroff)

WASHINGTON.—Federal prosecutors in May are expected to ask several grand juries to indict numerous U.S. firms for knowingly importing Chinese apparel that was transshipped through third countries, it was learned.

The grand juries have been convened to hear evidence of importers illegally buying women's and men's apparel from third-party countries to disguise their Chinese origin, said Customs investigator J. Robert Dorsett. He declined to give the actual number of importers being investigated, except to say that many were involved. He would not give the location or number of grand juries.

The charges they could face are many, Dorsett said, and range from smuggling to conspiracy to violating international trade agreements. Conviction on each count could amount to a civil penalty of three times the value of the illegally imported goods. For smuggling alone, the criminal penalty carries a maximum of $10,000 in fines and up to five years in prison.

The anticipated legal action follows an eight-month investigation by the Customs Service of a reported worldwide scheme to circumvent U.S. import quotas for Chinese apparel and textiles.

The Department of Commerce in December charged back about 1 million dozen items against China's quota, mainly for 1991, for alleged violations. The agency said it took these punitive actions based on conclusive evidence that Chinese firms engaged in massive circumvention of U.S. import quotas by shipping apparel through third countries where the goods often were relabeled to disguise their origin.

Chinese government officials vehemently denied these charges, and at least one made vague statements about retaliating against the U.S. Both sides are set to meet in Hawaii next week to discuss the situation.

Regardless of the outcome of these talks, Dorsett, an official with the Customs Commercial Fraud Enforcement Textile Team, said he anticipates indictments of American importing firms.

"A large number of search warrants have been executed seeking information from a large number of companies" about allegedly illegal import activities, Dorsett said.

Customs officials said about 600 investigations of importers have occurred in the U.S. and in foreign cities. Dorsett declined to say through which ports the suspected apparel was routed.

Dorsett explained that once the grand juries hand up their indictments, which he expects will be in May, the cases would be turned over to the Justice Department for prosecution.

Dorsett speculated that any company charged with quota and related violations would not receive the maximum sentence. The aggregate penalties can add up to such a long jail sentence that "generally, if there is a preponderance of evidence, we end up with a plea bargain where a person accepts a fine and/or a jail sentence," rather than going to trial, he said.

Dorsett declined to give any information about apparel import companies now under investigation, save to say "the same people seem to get back into it over and over."

"For instance," he said, "we had one 1978 case of transshipment and the same person came back in 1980 to be charged with similar violations. Now we've reopened the case again.

"Part of the problem, I guess, is that we're not giving them a hard enough slap on the hands. We plea bargain (with repeat offenders.)"

Customs data made available to WWD indicated the magnitude of the alleged transshipment activities.

In reporting various investigations, the data noted, for example, that Customs officials in Milan, in 1988 and 1989, identified about 25,000 dozen shirts and pants that were labeled "Made in Lebanon," but were tracked to China, via Europe and New York.

In another incident, the documents stated: "The Special Agent In Charge, New York, executed a federal search warrant on the premises of a U.S. importer. Records seized during the search revealed that the importer was operating in concert with a Hong Kong firm to transship apparel through Panama and Lesotho. The scheme included diversion of over 135,000 dozen garments from China through these countries to the U.S. from January to May 1990."

The biggest single seizure of China-made product allegedly transshipped through Panama into New York included almost 151,000 dozen of women's and girls' pants and shorts. This was followed by 52,239 dozen of women's an girls' shirts and blouses and 32,711 dozen men's and boys' pants.

Meanwhile, Laura Jones, executive director of the U.S. Association of Importers of Textiles and Apparel, cautioned against drawing the "wrong conclusions" about the pending grand pay action.

"It is important to remember that any allegations must be proved in court. It is very possible that these importers are the victims of transshipment, that they may not have had any idea where these [Chinese] goods came from," she said.

"There are things companies can do to verify these goods' origin, but the bottom line is that in the end it is hard to know for sure.

"The vast majority of people in this industry are honest," Jones said. "They operate in compliance with all government regulations," she said, but adding "if any of these allegations are true they [could] give the industry a bad name."

CUSTOMS, TAIWAN DISCUSS TRANSSHIPPING SUSPICIONS

(By Steve Farnsworth and Jim Ostroff)

WASHINGTON.—U.S. Customs Service officials and representatives of the Taiwan government met Wednesday to discuss cases of suspected transshipment of apparel through the island nation.

"We have got documents that look bad to us," said Bob Dorsett, acting chief of Customs' commercial compliance branch in Washington. "We think we have got transshipment."

Dorsett said U.S. and Taiwan representatives traded information on cases of men's and women's apparel thought to have been made elsewhere, including China, and shipped under Taiwan's import quota. The two governments agreed at the meeting to discuss the matter further.

"We are asking for their help in looking into this," Dorsett said. "They are being more cooperative than we thought they would be."

Dorsett cautioned that Customs' investigation is still in its early stages. He said the U.S. government was at least several months away from deciding whether to deny entry to goods or to assess chargebacks against the quotas of other nations thought to be the actual country of origin.

A U.S. government trade official, who declined to be identified, said: "There is great concern within government and the U.S. industry over a substantial transshipment problem with Taiwan. It could be of the magnitude of the situation with Macau."

Last fall the U.S. detained or refused entry for about $3 million worth of sweaters allegedly made in China, but transshipped through Macau.

The U.S. later demanded and received assurances from trade officials within the colony of tighten trade enforcement and imposed chargebacks against China's U.S. import quotas.

U.S. Customs investigations have also investigated or are continuing to investigate suspected transshipments through Hong Kong, Panama and Mozambique and also suspected transshipments of merchandise made in Victnam.

American companies are banned by law from trading with Vietnam, the official noted.

Seth Bodner, president of the National Knitwear and Sportswear Association, said he has received numerous reports about alleged transshipments through Taiwan, consisting of "cut and sewn sportswear and sweaters."

Bodner speculated that manufacturing costs may have caused Taiwanese producers to go elsewhere, covertly, to continue apparel production.

"It is a curious anomaly that in the [1990] sweater antidumping case the Taiwanese industry testified repeatedly at International Trade Commission hearings that they were going out of the sweater business because of rising costs, but now are challenging the ITC dumping decision in court.

"Obviously," he added, "the Taiwanese want to hold on to their sweater quota. If they can't make goods there . . . they will have these goods manufactured elsewhere."•

TERRORISM

• Mr. LIEBERMAN. Mr. President, I would like to address one of the most serious national security issues of our time, the fight against terrorism. I have had a particular interest in terrorism since coming to the Senate and, thanks to the kind authorization of the Senator from Ohio [Mr. GLENN], I chaired a hearing on this issue in September 1989 before the Committee on Governmental Affairs. The witnesses included: Adm. Stansfield Turner, former Director of the Central Intelligence Agency; Morris Busby, Coordinator for Counterterrorism at the State Department; and Oliver Revell, Associate Deputy Director—Investigations, Federal Bureau of Investigation.

Since then, I have invited various terrorism experts to address aspects of counterterrorism policy with Senators in a series of seminars. I would like to offer particular thanks to: Ambassador Jerold Bremer, who discussed U.S. efforts to improve international cooperation to combat terrorism; Oliver Revell who briefed us on the FBI's efforts to counter domestic terrorism; Steve Emerson and Brian Dufy, who spoke about their book on Pan Am 103; Dr. Martin Kramer of the Woodrow Wilson Institute, who analyzed the hostage situation in Lebanon; and Dr. Raymond Zilinskas of the University of Maryland, who discussed the threat of weapons of mass destruction.

I would also like to thank Noel Koch, former director of special planning, Department of Defense, and Alton Frye, director of the Washington office of the Council on Foreign Relations, for their contributions to these discussions.

Finally, I have appreciated the participation of Senators GLENN, GRASSLEY, DECONCINI, CRANSTON, LAUTENBERG, KASTEN, and ROBB.

Based on these discussions, I believe that the United States has made significant progress in combating terrorism in a number of important areas:

Embassy security: Beginning in the 1970's, terrorist attacks against our embassy personnel escalated dramatically. One only has to look at the two plaques on the State Department wall commemorating members of the Foreign Service who died in the line of duty. The first plaque took 187 years to fill; most of the people on it lost their lives to accidents or disease. The second plaque took only 20 years to fill; most were murdered by terrorists.

Fortunately, we have made progress in this area. During the 1980's, we spent more than $1 billion on embassy security to install shatter-resistant glass and reinforced concrete walls. These measures have foiled a number of attacks, including the most recent one by the German Red Army faction against our embassy in Bonn.

Airline hijackings: During the 1960's and early 1970's, there were 15 to 18 hijackings a year. In 1970, for example, the Popular Front for the Liberation of Palestine highjacked three airliners in one day. Since then, the United States and the international community have developed nearly universal screening procedures of airline passengers for weapons. As a result, hijackings have declined dramatically.

International cooperation: Since the mid-1980's, the United States has provided training to more than 4,000 people from over 40 countries in counterterrorism techniques. This has paid off in improved airline security, bomb squads, and intelligence monitoring. The United States also has successfully renegotiated extradition treaties with Great Britain, Germany, Canada, among others, in order to facilitate the trials of terrorists. Finally, Western and Third World intelligence officials now meet on a regular basis, whereas contacts in the past were sporadic.

Despite this progress, there is still much work that must be done in other areas:

Airline security: Since the Pan Am 103 disaster, the United States has urgently sought to develop devices that can detect the Semtex explosive that brought down the aircraft. The most promising device uses low energy neutrons to activate the nitrogen nuclei that are usually found in explosives—thermal neutron analysis. The nuclei then produce gamma radiation of a characteristic energy, which are detected and identified. Unfortunately, this machine still suffers from a high false alarm rate. Further progress in TNA devices is necessary.

Other devices must also be examined, including the following:

Computerized tomography, based on x-ray and computing technologies, could produce a detailed three-dimensional image of explosives.

Advanced vapor detectors may be able to "sniff out" explosives.

None of these technologies are on the verge of full exploitation, but progress in miniaturization is permitting more accurate devices.

Weapons of mass destruction: There has been much discussion of chemical and biological weapons as a result of the war with Iraq. Based on my discussions, it appears that biological weapons have a potential to kill hundreds of individuals, but probably not thousands. Chemical weapons are bulky, but still could be used by terrorists in such targets as air conditioning systems of skycrapers. We need, therefore, better devices that can ferret out these kinds of materials.

Research and development: Because of the terrorism threat regarding airline security and weapons of mass destruction, we must continue to expend time and money for more research and development [R&D]. We have already created a national counterterrorism R&D program, overseen by the State Department. About two dozen other agencies take part in the program through a coordinating committee called the Technical Support Working Group [TSWG].

Unfortunately, the amount of funds for this program has been cut in recent years. Last year, for example, Congress did authorize and appropriate the Administration's full request of $3 million for R&D as part of the State Department appropriations bill for fiscal year 1991. However, the State Department subsequently cut the program by $1 million. The cuts were ostensibly made because of the unexpected evacuations and other expenses resulting from the Persian Gulf crisis.

Nonetheless, there is always a danger of placing a higher priority on short term requirements, as opposed to longer term ones, such as R&D. Such cuts are regrettable since the amount of money involved—only several million dollars—is paltry in comparison with the potential pay-offs. In short, this program should no longer be slighted.

Executive Order 12333: Executive Order 12333, which was signed in 1974, bars agencies of the U.S. Government from participating in the assassination of any foreign individual. Even if the U.S. Government, for example, knew of a terrorist act being planned by Iraqi terrorists, it could not try to prevent it by targeting those individuals. This conceivably could save many American and foreign lives. No other government in the world has such a prohibition. We should clearly revisit this issue.

Mr. President, no one can promise a world free of terrorists. We still have a long and difficult struggle before us. Intelligence regarding terrorist groups is often difficult to obtain because of the tight-knit nature of these organizations. Captured terrorists willing to talk after an attack are often low-level operatives who don't know much about the inner workings of their organization. Even if we learn about the terrorist leaders, we may not know where they are located at any given time.

Nonetheless, we have already made progress regarding international cooperation, hijacking prevention, and embassy security. Terrorism is ultimately the weapon of the weak, the cowardly, and the marginal. I am confident that we can prevail through a sustained effort of will and ingenuity.•

CRIME IN AMERICA

• Mr. KERREY. Mr. President, this morning's Washington Post carries on its front page the story of the death of Army Spc. Anthony Riggs, a veteran of Operation Desert Storm. He was killed in Detroit where he had arrived home before his own letters. The story reported "witnesses heard five-rapid shots and the sounds of a car screeching down the street. Spc. Tony Riggs was one of the heroes whose operations of Patriot missiles kept the successful military operation on track.

Another young man shot to death on America's streets and I feel terrible. Perhaps I should just let the feeling go, but the incident will not leave me. It does not feel as if it is out there; it is felt in here.

Perhaps I should just let the feeling go, but the needless death of any youth affects me deeply. When I hear about a soldier who manned a Patriot missile battery in Saudi Arabia being cut down in Detroit as he was unloading a moving van, I think again of Dan Hotz, a young man from Omaha, who was shot and killed here in Washington in July 1989, 7 months after I was sworn into office.

Perhaps I should let the feeling go because I wonder if other Nebraskans will feel I shouldn't be spending my time on such things. I wonder with some weariness if anything can be done to reduce the level of violence in this country I love so much. Then I think of Miss Fields, a wonderful second grade teacher at Walnut Hill Elementary School in Omaha, and other teachers, parents, and community leaders who are trying with love and attention to cut this chain of violence, and I press on.

A disproportionate number of today's young murder victims are black, but I do not believe this is primarily a problem of race. It is not a consequence of white racism or isolated black anger. It is a community problem which affects all of us. The glue which should be holding us together simply is not.

This is also not a problem which will be solved with gun control or civil rights legislation. The case for these cannot be made with the belief that violence on our streets will end if they are enacted.

It is a problem which will only be solved if we have a committed willingness to address a short list of economic problems faced by growing number of Americans. For an astonishing number of us, what is taken home in pay will not cover the costs of housing, health care, transportation, and education. The problem we face is that in America, hope is being eroded from within.

Our school system is leaving too many people unprepared for a world changed by new technologies and new demands. And, the most difficult task facing our schools is a rising number of children who are arriving unprepared for the relatively mild rigors of kindergarten. Thus, the problem of street violence will not be solved unless we have a committed willingness to simply take better care of our children.

We have just finished the 1980's, described by many as a decade of personal greed and avarice. It was also a decade of increasing violence much of which has been projected onto our youth through television, videos and most recently the appalling commercial side of Desert Storm.

Buried deep in Sunday's New York Times was a story about a speech given last Friday by a courageous man. Addressing the black family conference at Hampton University in Hampton, VA, the speaker, a middle-aged black man dared to say what many are thinking:

> During every 100 hours on our streets, we lose more young men that were killed in 100 hours of ground war in the Persian Gulf. Where are the yellow ribbons of hope and remembrance for our youth dying in the streets? This is a war against ourselves, and it is devastating our communities.

He had just read the study by the National Center for Health Statistics, a branch of the Center for Disease Control. The study found that 48 percent of black male Americans from 15 to 19 years of age who died in 1988 were killed by guns. In 1984, the percentage was 24 percent; in 1987, it was 35 percent. The number is three times the rate for white youths of the same age.

The speaker personalized the numbers:

> As a black man and a father of three this really shakes me to the core of my being. What we need is a return to the culture of character.
>
> A culture in which parents invest time and attention in their children and the children of their neighborhood, a culture in which children growing up without a father are a small minority, not the majority, and a culture in which neighbors become actively involved in making their neighborhoods a safe haven for children.

The speaker was Dr. Louis Sullivan, Secretary of Health and Human Services. I wish more of us were shaken to the core of their being by these numbers. Then, maybe we would advance toward the culture of character envisioned by Dr. Sullivan.

Perhaps, then we would make the public investments needed if this vision is to become a reality. Our black neighborhoods are too run down, personal income and job skills too low, and families too shattered to expect a reversal without a major investment of capital: housing, health care, and education with a focus on the family unit and an emphasis on personal responsibility. We must invest by fully funding WIC and Head Start. In Nebraska, we must come to the principals of Omaha schools like Marrs, Walnut Hill, Kellum, Fontenelle, and Field Club to say: What can we do to help with your students? What do you need now?

The investment needed in our urban or troubled neighborhoods are the worse but not by any means the only case of neglect. If we continue drawing a boundary line around poverty our response will be inadequate. We will make the problem worse and we will create more, not less, division between Americans.

If we felt the intense anxiety of many working American families about the cost of health care, education, and the decreasing opportunity for their children, we would quit our haggling over the irrelevant and get to work on those things that matter to a child in America today. We would insist on solutions which affect all of us and not just a few.

We, who do not live in the environment where these young people are dying, can talk about the problem in a cold detached manner. We can blame the welfare system or wonder why they just don't work a little harder—For gosh sakes the paper is full of help wanted ads.—or worse we can merely look for ways to keep their violence away from us.

Political leaders propose solutions we would never propose if we were closer to the subject. For example, the crime package which the President wants passed by Congrss in 100 days could not have been presented to the same audience Dr. Sullivan addressed. They would have greeted with skepticism the irrelevance of one of its key points: The death penalty for treason and spying.

We have no difficulty understanding the value of private and public investment when we are struggling to keep our State university well funded, get special highway allocations for our States, or some other project designed to stimulate our economy. We understand the value of equity when we are trying to pay our own mortgages with salaries that are 20 times higher than 25 percent of America's children who today live in poverty.

Sometimes we understand, but do not act, when we face the problems faced by the poor because we fear being accused of making liberal expenditures. The political played field has never been level for liberal and conservative expenditures. We constantly act upon the almost tragic absence of fear felt when we make conservative expenditures. Thus, we are able to give away large amounts of money to wealthy people so they can continue to live unencumbered with excessive obstacles.

The feelings of Dr. Sullivan must guide us to overcome the unlevel nature of the political landscape, because every day we wait we see the earth splitting between those who have and those who have not in America. The chasm which separates them from us widens every day.

And, unlike many things of this life, we are definitely not powerless to stop it. We could if we wanted to.

We will want to if we see this violence as a seamless web from which we cannot escape. On July 30, 1989, Bill Hotz gave us good advice when he talked about this feelings after his son, Dan, had been killed a few blocks from the Capitol in Washington, DC, by another youth who was desperate for money:

> There is something so seriously wrong with our country. How are we going to turn this around? We can't go on like this . . . we're 200 years old and we're going down the drain. I tried to call the President to talk to him about the killing of my son, about violence in America, about guns, drugs, poverty, and homelessness.

The violence in America is growing, not receding. We are feeding the supply by neglecting our children and the demand by ignoring the impact of the technologies of communication. We have the power to do something about both.

To act, we would have to look beyond the crush of corporate and special interest representatives who approach us feverishly looking for their little slice of the budget or tax pie. We would have to look them in the eye and say: We're mad as hell about what is going on in America and we're not going to take it any more. We don't care what you say about us in your next newsletter or at our next election. We are going to pay attention to the children of this country before it is too late.

To act, we cannot allow ourselves to walk away from our feelings when we read about another casualty of our streets. To act, we cannot see the violence as a consequence of liberal or conservative failures; or the simple result of racism, insensitivity, and abuse.

To act, we must see a common agenda for those who are dying from the violence—poor youth, disproportionately black, but all races—and those who fear they will become innocent victims—all the rest of us. That common agenda includes a health care system which does not deny us care simply because we do not earn more than $100,000 a year as do Members of Congress, for example. It also includes a school system which takes responsibility for its failure to educate our children rather than merely blaming us for the failure. It includes a broad-based effort to increase the attention we pay to all our babies. It includes a tax system which is at least as sensitive to the difficulty of saving money if your income is $15,000 a year as it is when your income is $115,000 a year.

To act, we must read the statistics, look out our windows, glance at the world of our streets, and like Dr. Sullivan allow what we see to shake us to the core of our being. If that core gets shaken, we will move. Otherwise, we will not.•

EUROPEANS STUDY LESSONS OF CHIP WAR—GET GRADE OF "C"

• Mr. HEINZ. Mr. President, an interesting article in the March 13, Journal of Commerce caught my eye, and I want to bring it to Senators' attention. The headline reads, "Japanese Chip Makers Agree To Set Minimum Floor Price for Exports to EC."

What this is about, Mr. President, is a problem very familiar to Americans—Japanese dumping. Once again, they have been caught dumping, this time by the Europeans rather than us. In particular, the EC found that EPROMS were being dumped in the Community at margins of between 35 and 106 percent—not small amounts, by the way. The article goes on to note that in response seven key Japanese manufacturers—names we would all recognize—have agreed to sell their product in the community at minimum prices that presumably eliminate the dumping. Parenthetically, the article notes that the Commission has also initiated an investigation against Korean dumping of DRAMS.

I bring this matter up, Mr. President, because it reflects several ironies in the trading system. The most amusing one, I suppose, is that the Europeans, who vigorously attacked our semiconductor agreement's pricing system, are now doing exactly the same thing. It has always amazed me how different one's perspective is when you are the victim rather than the observer. This is without commenting on the merits of a minimum pricing scheme as a solution to dumping; rather I would issue a plea for less hypocrisy in our trading relationships. If such a scheme was bad when we employed it, it is hard to see how it suddenly becomes good when Europe employs it.

The more important irony, of course, is that this episode demonstrates that the Japanese are employing exactly the same tactics in seeking to take over the European high technology market as they employed in virtually taking over ours. That strategy is based largely on massive dumping and other unfair tactics and partly on acquisition of technology. Only a day before this article appeared, Fujitsu announced it had acquired a 74.9-percent share in the products division of Fulcrum Communications, British Telecom's last domestically based manufacturing operation. The implication of that is obvious—it gives Fujitsu critical access to the EC telecommunication equipment market.

I had thought that perhaps the Europeans would have learned from our mistakes, but these two events suggest that the lesson has not been completely digested. They have watched us wrestle with Japanese dumping and have moved more quickly than we did to address it. It remains to be seen whether their strategy will be more effective than ours. It would be hard to be less effective. However, they have not yet learned the investment lesson, although to be fair about it, neither have we. As usual, however, the people who have learned their lessons the best are the Japanese, who have discovered exactly how to conquer a market and are proceeding to open a second front in Europe.

Mr. President, I ask that the text of the article I referred to be printed at this point in the RECORD.

The article follows:

JAPANESE CHIP MAKERS AGREE TO SET MINIMUM FLOOR PRICE FOR EXPORTS TO EC—ACTION ENDS PROBE OF EPROM IMPORTS

(By Bruce Barnard)

BRUSSELS, BELGIUM.—The European Commission said Tuesday that Japanese semiconductor manufacturers had agreed to set a minimum floor price for their exports of memory chips to the European Community.

The agreement followed the commission's finding of extensive dumping of Japanese EPROMs or erasable programmable read-only memories, in the EC in the mid-1980s. EPROMs are widely used in computers, video recorders and other electronic equipment.

Anti-dumping actions normally end with the imposition of duties. However, the companies involved can also choose to increase or maintain prices above normal domestic levels.

By doing so, the Japanese manufacturers have agreed to managed trade in computer chips in order to avoid friction with the EC.

The commission said Japanese manufacturers' dumping margins varied between 35% and 106% from April 1986 to March 1987, the period covered by its dumping investigation, and their sales of EPROMs rose from a capacity of 1.2 million megabits in 1984 to 3 million megabits in 1986.

Rising sales of Japanese EPROMs sold at prices below production costs had harmed the EC EPROM industry, which could not fully use its capacity and benefit from economies of scale. Their sales fell, their stocks increased and the companies ran up considerable financial losses, the commission said.

The complaint was lodged by the European Electronics Component Manufacturers' Association on behalf of EPROM producers, including SGS and Thomson of France.

Seven Japanese manufacturers—Fujitsu, Hitachi, Mitsubishi, NEC, Texas Instruments, Sharp and Toshiba—that account for practically all EPROM exports to the EC have undertaken to sell at minimum prices equivalent to average production costs plus a profit margin off 12.5%.

In a bid to safeguard the effectiveness of the floor price, the commission said it is setting a dumping duty of 94% to cover "gray market" sales to the EC.

Tuesday's announcement ends one of the most sensitive, and unusual, anti-dumping probes ever launched in Brussels.

Last year, in a related action, the commission secured agreement by 11 Japanese companies to set a minimum price for DRAMS, dynamic random access memory chips.

That agreement also applied to new generation computer chips, unprecedented in an anti-dumping accord. It also marked the first use by the EC of anti-dumping action against imported components.

The commission last week opened an anti-dumping inquiry into South Korean exports of DRAMs to the EC, which rose from 300,000 units in 1988 to 4 million in 1989.

The European Electronic Component Manufacturers' Association said Korean manufacturers had boosted their sales rapidly after last year's agreement with Japanese DRAM producers by undercutting their minimum price.

If it finds evidence of dumping, the commission is expected to seek an minimum price agreement with the Korean producers.•

PRIVATE PROPERTY RIGHTS—S. 50

• Mr. WALLOP. Mr. President, I rise today in support of S. 50, Senator SYMMS' legislation to reaffirm the Constitution's protection of private property rights.

Nothing brings in the phone calls and visits from my State of Wyoming more quickly than encroachments on private property by the Federal Government.

Ambitious Government policies intended to protect the environment increasingly, and often ridiculously, interfere with the constitutional rights of private landowners. Regulations tie up the land, reduce values, and create uncertainty and economic hardship. When regulations are imposed without proper compensation or due regard for the constitutional protection provided for in the fifth amendment, they do in fact, create a taking.

The most classic example of taking is found in the case of rancher and conservationist, Dayton Hyde. Hyde took a poor piece of land and turned it into a lake and the area around it into a wetland, creating rich animal habitat. But Hyde's environmental improvements made him a victim of eager regulators who considered it their duty to protect the environment he had created. His lands were zoned for wetlands and his operation was choked by the resulting regulations.

We are at a turning point in environmental policy. Regulators must not be allowed to turn sensitive stewardship into a liability by removing or impinging on landowners' constitutional rights.

As we prepare to celebrate the 200th anniversary of the Bill of Rights, what better time to renew our commitment to the standards and values that have faithfully kept America free. By codifying Executive Order 12630, we reaffirm our obligation to protect the integrity of the fifth amendment, guaranteeing the freedoms that landowners in Wyoming and across the United States hold most dear.•

S. 635—THE COMPREHENSIVE VIOLENT CRIME CONTROL ACT OF 1991

• Mr. MCCAIN. Mr. President, I am pleased to be a cosponsor of S. 635, the Comprehensive Violent Crime Control Act of 1991. I wish to commend Senator THURMOND for his dedication to this issue. I also wish to commend President Bush for his leadership in fighting crime. The President has presented Congress with the challenge to vote within 100 days on a crime bill that would stiffen the penalties for criminals who commit the most heinous crimes against men, women and children. I believe that Congress can meet that challenge. We owe it to the American people to work quickly and effectively on legislation which will step up our efforts to fight violent crime.

Mr. President, the people of America have been robbed. They have been stripped of that which they once had—safe streets where pedestrians can walk without fear. Streets which women can traverse with confidence, not trepidation. Sidewalks where children can play, and parents can be free of constant worry for their safety. Our streets are now riddled with violence, underscored by rising murder rates, increases in sexual assaults against women and children, and a proliferation of firearms which places these highly dangerous weapons in the hands of gangs and drug dealers.

Congress now has an opportunity to provide the American people with a weapon of their own with which they can fight back. S. 635, a comprehensive anticrime package which would stiffen the penalties for the commission of violent crime, is that weapon.

Specifically, this bill addresses both the relevant laws and procedures to provide a real deterrent to would-be criminals. First, it imposes the death penalty for such crimes as mail bombing, the murder of Federal officials, the activity of drug kingpins which result in murder, and murder for hire. It also imposes the death penalty for heinous crimes that are particularly poignant in today's international climate, such as the acts of terrorists who murder American Nationals abroad, and the killing of hostages.

Addressing the issue of the misuse of firearms, the bill strengthens Federal firearms laws by imposing a 10-year mandatory prison term for the use of firearms during the commission of a crime involving drug trafficking, or a violent felony. It also imposes a 5-year mandatory sentence against criminals for the possession of a firearm after that criminal has been convicted of a violent crime or drug offense.

The bill also creates new criminal offenses aimed at terrorist acts against airports, terrorist acts against maritime platforms, and further strengthens laws against maritime terrorism and violence. In addition, it implements procedures for the removal of aliens involved in terrorism in the United States, and authorized the sharing of electronically intercepted communication with foreign law enforcement agencies.

In recent years we have seen a disturbing resurgence in crimes committed by street gangs. S. 635 seeks to deter membership in these gangs by authorizing the prosecution of gang leaders and other juvenile offenders as adults. It also increases the penalties for violent crimes associated with gang activities.

Another grave reality is the increase in crimes of sexual assault and child molestation. This legislation addresses this by establishing a general Federal rule of admissibility for evidence of commission of other similar crimes by a defendant accused of sexual assault or child molestation. The bill also increases penalties for drug distribution to pregnant women, for various sex offenses against victims below the age of 16, and for repeat sex offenders.

S. 635 also incorporates the Equal Justice Act, which assures that the principle of equal justice, regardless of race, is put into practice, particularly in cases where the death penalty is imposed. For example, it prohibits the use of racial quotas and statistical tests for imposing such penalties as the death penalty. Such a prohibition permits justice to play its hand based on the facts of the case, rather than having external statistics determine the outcome of a courtroom proceeding.

The bill also proposes habeas corpus reforms which would set a 1-year limitation for the submission of habeas petitions, and restrict repetitive submissions of such petitions. It also requires that deference be given to full and fair State court adjudications, and the appointment of counsel in State capital cases. These reforms are necessary in order to prevent the abuse of habeas corpus, which leads to long, drawn-out cases without any conclusion. These abuses only serve to hurt the legal system, and undermine the laws intended to deter violent crime.

Mr. President, this measure is long overdue. America has had enough of violent crime. America is tired of being afraid. This legislation gives America the chance to be rid of heinous crimes in our streets. If we can attain peace in the Persian Gulf, even against such a brutal adversary as Saddam Hussein, there is no reason why we cannot attain peace in America. Congress must act and rise to meet President Bush's challenge, and we can meet that challenge through the passage of S. 635.•

REQUEST FOR GAO STUDY OF THE IRS' ADMINISTRATION OF THE COMPETENT AUTHORITY PROCESS UNDER BILATERAL TAX TREATIES

• Mr. HEINZ. Mr. President, today I am making a formal request of the Comptroller General that GAO study the Internal Revenue Service's administration of the competent authority [CA] process.

Competent Authority provides governments a means of resolving differences in tax treaty interpretations and facilitates the exchange of tax information. If working properly, it should provide taxpayer relief from double taxation—that is, paying tax on income earned in another country both there and in the United States.

CA is a feature codified in all U.S. tax treaties, and is integral to cooperation in tax matters between the United States and its major trading partners. International tax cooperation has become essential with the advent of multilateral investment in an electronically linked global economy.

Specifically, the CA mechanism provides treaty partners—governments—a means to: First, remedy incidents of double taxation; second, resolve differences in treaty interpretation between the contracting States; and, third, serve as a point of exchange for tax information on taxpayers operating in both countries.

I am concerned by reports from taxpayers that the CA process may have serious problems. Of special concern is the widely held perception of its inability to provide a most basic taxpayer service—the relatively speedy, certain and fair resolution of double taxation cases.

METHODOLOGY

The methodology of the CA study will include contact with academics in the tax field, international tax practitioners, United States and foreign corporate clients who used or avoided the CA process, and United States and foreign government officials. The objectives will be to: First, determine how effective CA has been since its 1971 codification; second, identify what changes, if any, are needed to improve CA's effectiveness; and third, identify possible changes in the future role of the CA process.

The scope of the study will also include work with foreign tax administrations and CA's to gain an appreciation of their structures, policies and outlook regarding the CA process. Three groups of countries have been identified as important to study: those that work smoothly with the United States, such as Canada and the United Kingdom; those with which the United States has an average rate of success in concluding mutual agreement procedures under CA, such as Belgium and Korea; and, those where the United States CA has experienced persistent and sustained difficulty in achieving agreements satisfactory to the United States, the taxpayer, and the other country, such as Japan and Germany.

CONTRIBUTION TO INTERNATIONAL TAX POLICY/ ADMINISTRATION

The goal of this study is to develop recommendations for making U.S. international tax policy a coherent part of U.S. global economic policy. The nexus between trade and tax policy has been largely ignored; a potentially injurious omission given the opportunity for tax subsidies to subvert the international protections on free trade. I hope that this study can assist in improving the service and protection that U.S. taxpayers are entitled to, improving IRS' adminstration of the international aspects of the Tax Code, simplifying segments of the Tax Code that place unnecessary resource demands on U.S. business, improving the level and means of international cooperation in the international tax area, and possibly refining U.S. tax policies to better reflect the international economic conditions that govern world trade and investment.

Mr. President, I look forward to sharing the results of this study with my colleagues at its completion, and ask that the text of my letter including attachment to Comptroller General Bowsher be printed at this point.

The material follows:

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC, March 19, 1991.

Mr. CHARLES A. BOWSHER,
Comptroller General of the United States, Washington, DC.

DEAR MR. BOWSHER: I am writing to request a study of the Internal Revenue Service's administration of the competent authority process. As codified in various bilateral tax treaties, competent authority provides the United States and its treaty partners with a means of exchanging tax information and resolving cases of double taxation.

I am concerned by reports from taxpayers that the competent authority process may have serious problems. Of special concern is the widely held perception of its inability to provide a most basic taxpayer service—the relatively speedy, certain and fair resolution of double taxation cases. Accordingly, I would appreciate your review of the competent authority issue. Specifically, I would like your study to address, but not be limited to, the subjects outlined in the attachment to this letter.

As your study progresses, I would like your staff to periodically brief my Tax Counsel, Lynn Walker, on this work. Thank you for your interest and cooperation in this matter.

Sincerely,

JOHN HEINZ,
U.S. Senate.

COMPETENT AUTHORITY ISSUES

1. The major taxpayer complaint on the process is the length of time it takes for a case to work its way through Competent Authority. My understanding is that generally the process takes years. Using a sample of cases, please provide me with a detailed analysis of the process, the time involved with each step of the process, and any suggestions that you have as to how the process could be improved.

2. In discussing the results of the process, the Internal Revenue Service (IRS) takes the position that it provides full relief to the taxpayer in almost 80 percent of the cases that go to Competent Authority. How does IRS define full relief, an adjustment to the tax bill and/or allowing of the foreign tax credit? Do taxpayers agree that they received full relief of the double taxation via the resolution of their cases? If possible, test the full relief statement of IRS against the actual tax returns of the taxpayer.

3. In a follow-up to the full relief issue, please address the question of the payment or lack of payment of interest in Competent Authority cases. Is this a problem? If so, what can be done to resolve the interest problem?

4. I understand that the majority of cases involve Canada and that the success rate of these cases is due to circumstances not repeated with any of our other treaty partners. As such, an argument can be made that the inclusion of the Canadian cases in the overall statistics has the effect of providing a false sense of success to the process. What is the success rate of Competent Authority if two or more categories (Canada and Other Countries; Canada, Europe, and the Pacific Rim) is used? What are your views on using this system in the future?

5. In the past, IRS published the results of its Competent Authority process. Taxpayers tell me that for the last several years IRS has not published these statistics, but that IRS officials will occasionally provide some insight on the statistics during various public forums. Is this correct? If it is true, why has IRS made this change? Are there any problems associated with schedule reporting on the results of Competent Authority to allow taxpayers some insights as to what is happening?

6. IRS audits of taxpayers are often not completed until several years after a taxpayer has filed a return. In the meantime, the statute of limitations may have expired in the foreign country where the taxpayer may have a double taxation problem. Thus, the taxpayer cannot seek the service of Competent Authority. What recourse does the taxpayer have in this situation? How serious a problem is this for taxpayers? What, if any, changes would you suggest to correct this situation?

7. Some taxpayers have stated that certain countries have not shown good faith in terms of resolving double taxation cases. How valid are these complaints? What IRS actions have been attempted and/or taken to improve the willingness of other countries to resolve these cases? What have been the results of these actions, or the reason why they were not successful? What options does IRS have to retaliate against a lack of good faith in the Competent Authority process?

8. The new United States-Germany tax treaty contains a provision that provides for binding arbitration of certain issues that cannot be resolved via Competent Authority. How will this procedure work? What impact will this procedure have of the process? Do you think that the United States should adopt this or some other arbitration procedure in its other tax treaties, and why?

9. IRS is instituting various changes that have an impact of the workload of the Competent Authority staff. Some examples are the Advanced Pricing Agreements, an initiative to have more small claims cases use the process and the above mentioned arbitration procedure. Does IRS have sufficient staff in its Competent Authority section to handle this increased workload? Do other countries' Competent Authority sections have sufficient staff to complement the added workload resulting from the increased demands placed on their IRS counterparts?

10. Some taxpayers have expressed concern that some of the problems associated with Competent Authority are the result of the lack of specialists in the Competent Authority section. Specifically, they have stressed the need for economists, lawyers, and internationalists to be assigned to the section and work in specialty teams. Are these concerns valid? What level of specialist-related staffing is needed?

IRS officials have stated that they are making changes to improve the performance of the Competent Authority process. What changes have they made or are in the process of making, and what is the impact of these changes?•

S. 488—PUBLIC HEALTH SERVICE ACT AMENDMENTS

• Mr. GRASSLEY. Mr. President, I introduced S. 488 on February 26, 1991. This bill amends the Public Health Service Act to establish and coordinate research programs for osteoporosis and related bone disorders.

I discovered, through calls to my office from interested parties, that there had been a printing mistake in the CONGRESSIONAL RECORD in this bill. But I was relieved to find that, in the printed bill, there was no mistake. In the CONGRESSIONAL RECORD section 442, part C read:

There are authorized to be appropriated to carry out this section $36,000,000 for the National Institute of Arthritis and Musculosketal and Skin Diseases, $24,000,000 for the National Institute of Diabetes and Digestive and Kidney Diseases for each of the fiscal years 1992 through 1994, and such sums as may be necessary for subsequent fiscal years.

It should have been printed:

There are authorized to be appropriated to carry out this section $36,000,000 for the National Institute of Arthritis and Musculoskeletal and Skin Diseases, $24,000,000 for the National Institute on Aging, and $2,000,000 for the National Institute of Diabetes and Digestive and Kidney Diseases for each of the fiscal years 1992 through 1994, and such sums as may be necessary for subsequent fiscal years.

As I noted above, the printed version of the bill itself is correct.•

TRIBUTE TO JANAE MARTIN, 1990–1991 VOICE OF DEMOCRACY WINNER, STATE OF INDIANA

• Mr. COATS. Mr. President, I rise today to pay tribute to an outstanding high school student from my home State of Indiana, Miss Janae Martin.

Miss Martin is a 10th grade student at Northridge High School in Elkhart, IN, and is the State winner of the 1990–91 Voice of Democracy script writing competition sponsored by the Veterans of Foreign Wars. Over 1,750 competitors in this years contest were required to write and prepare a recording of a 3- to 5-minute script on the theme—"Democracy—The Vanguard of Freedom."

Miss Martin's winning entry shows a keen appreciation of the freedoms which we as Americans enjoy, and it is encouraging to know of her high regard for this great Nation. I congratulate Janae on representing Indiana at the national finals held recently here in Washington, and I wish her continued success with her future academic endeavors. At this time, Mr. President, I ask that Miss Martin's essay be inserted into the CONGRESSIONAL RECORD.

The essay follows:

DEMOCRACY—THE VANGUARD OF FREEDOM

(By Janae Martin)

They fulfilled their pledge. They paid the price. And freedom was won. To be born free is a privilege. To die free is an awesome responsibility. Yet freedom is never free. It is always purchased at great cost.

It was a sultry summer in Philadelphia, July 4, 1776, that 56 men signed their names beneath the Declaration of Independence. Each one knew the full meaning of that magnificent last paragraph—in which his signature pledged his life, his fortune and his sacred honor. 56 men placed their names after than pledge. Each knew when they signed, that they were risking everything. They knew that if they suceeded. The best they could expect would be years of hardship in a struggling new nation. If they lost, they would face a hangman's noose as traitors. Indeed, the leaders of this movement, willing to work with new and unfamiliar ideas—brought to us, our Democracy.

A stirring picture of the true meaning of our liberty is the soaring eagle. Assisted by his powerful wings, the eagle glides effortlessly to great altitudes, and is capable of using his wings to carry other eagles to safety. The eagle displays the sense of responsibility that is a companion of genuine liberty. He mates for life and returns to the same nest each year, making necessary repairs and additions. He takes an active role in providing for his family and in teaching his young to fly.

The eagle pictures many of those character qualities that make America great. This must be reinstilled in our generation if we are to preserve for our children and grandchildren, the freedoms which God has so graciously entrusted to us. What lies behind this abundance of freedoms, which are the envy of the world?

Freedom is a breath of air. Pine-scented or salty like the sea. Freedom is my grandfathers' field newly plowed, furrows of democracy. Some say the land itself has made America great. One of our most moving patriotic hymns cites the beauty of America, a beauty that all who have traveled across the continent surely recognize. From the snow capped Rockies of Colorado. And the heightening Alleghenies of Pennsylvania. God has shed his grace on this land—a vast unexplored wilderness that, in a short period grew into a great nation.

Others have said that America's people have made her great. Lyman Abott once said, "A nation is made great, not by its fruitful acres, but by the men who cultivate them; not by its great forests, but by the men who use them; not by its mines, but by the men who build and run them. America was a great land when Columbus discovered it; Americans have made of it a great nation. And, so they have."

These people subdued the elements that at first worked against them, that molded a society of peoples from all over the world. America's initiative and ingenuity are known across the earth.

Freedom is a printing press—the power of the pen! And because of America's belief in freedom of speech and thought, she has not hidden her scars, but they are there for the world to see. While those who run a controlled press look on amazed.

Freedom is my country church or my neighbors cathedral's stately spire; but freedom is also a spirit that can set any soul on fire. There are many evidences that our nation was founded on this commitment to God and the principles of His word.

America's free enterprise system and the spirit of her people have given us the freedom from want. Through the decades she has opened her heart to the poor of the world. She has given generously to every nation. Even her enemies in time of emergency.

No, America did not just happen by chance, as is obvious to a person who truly understands the unfolding saga of events that shaped this nation.

Whatever impression we had of the men who met that hot summer in Philadelphia, we must remember this about them. They considered liberty, they had learned that liberty is more important than security. They pledged their lives, their fortunes, and their sacred honor. And they fulfilled their pledge. They paid the price. And freedom was born.

Mr. BOND. I would also like to recognize the Veterans of Foreign Wars who, in addition to providing scholarships for students to achieve their academic goals, selflessly assist our country's many veterans. As we welcome home our newest generation of veterans from the Middle East, the VFW's will become increasingly important. They are to be commended for their patriotic efforts on behalf of our veterans and, indeed, all Americans.•

HONORING THE ADRIAN JOURNAL, ADRIAN, MO

• Mr. BOND. Mr. President, I rise today to recognize the important role that the Adrian Journal of Adrian, MO has played in its community for over 100 years.

On January 10, 1989, the Adrian Journal commemorated their 100th anniversary and has continued to provide important information about the community to the people of Adrian and surrounding towns.

The first issue of the Adrian Journal was published on January 10, 1889, and in the years following the newspaper continued to grow in circulation and size. The Adrian Journal was owned and managed by the Dowell family for the first 63 years of its operation. In October 1956, the Adrian Journal was purchased by Bob and Lila Gunn, who have continued the tradition of providing the citizens of Bates County with a reliable source of local news. In 1982, the Adrian Journal was incorporated, and Stephen and Linda Oldfield were taken in as coowners.

Mr. President, I would like to extend my congratulations and best wishes to the Adrian Journal for its over 100 years of service, and hopes for continued success in the future.•

A TRIBUTE TO ALAN F. FLYNN, JR., UPON HIS RETIREMENT AS HEADMASTER OF ROCKY HILL SCHOOL

• Mr. CHAFEE. Mr. President, I would like to take this opportunity to recognize the achievements of Alan F. Flynn, Jr., who is retiring as headmaster of Rocky Hill School.

It is not surprising that Alan Flynn chose a career in education. His father served as principal of all schools in Sudbury, MA. Mr. Flynn followed his father's footsteps by taking up a distinguished career as a teacher, admissions officer, and for the last 16 years, headmaster of Rocky Hill School.

Mr. Flynn earned his bachelor's degree in history from Wesleyan University, and a master's degree in education from Trinity College. He began his career as a teacher of history and mathematics at the Kingswood School. Later, he taught at the Canadian Academy in Kobe, Japan, where he pursued his interest in Japanese culture. While at the Canadian Academy, Mr. Flynn also led the soccer team to an undefeated season.

In 1976, Mr. Flynn became headmaster of Rocky Hill School. At that time, about 100 students were enrolled. Today, almost 300 students attend the school. In addition, the Hale Science Center and the Campbell Center, as well as new playing fields and tennis courts, were built to accommodate Rocky Hill's growing enrollment.

Mr. Flynn's personality and leadership fostered Rocky Hill's growth and continued success. According to Allan Wilkening, a member of the school's board of trustees, Mr. Flynn is devoted to the school. It was not uncommon to find Mr. Flynn mowing the lawns, trimming the bushes, or painting buildings during the summer. He also attended sports events, running up and down the playing fields, wildly cheering Rocky Hill's teams to victory.

Mr. President, at a time when many decry the decline in educational standards throughout the United States, I believe that Mr. Flynn's commitment to excellence in education deserves recognition. On April 12, the faculty, parents, and students of Rocky Hill School will honor Mr. Flynn. I am pleased to join this richly deserved tribute and wish Alan well in all of his future endeavors.•

HONORING RICKY BELL, RECIPIENT OF THE VETERANS AFFAIRS SECRETARY'S HANDS AND HEART AWARD FOR 1990

• Mr. BOND. Mr. President, I rise today to urge my colleagues in the U.S. Senate to join me in paying tribute to a remarkable man who has been named recipient of the Department of Veterans Affairs Secretary's Hands and Heart Award for 1990 at the Harry S. Truman Memorial Veterans Hospital in Columbia, MO. I am speaking of Ricky Bell.

The purpose of the prestigious Hands and Heart Award is to provide recognition to the employee in each VA medical facility whose compassionate direct patient care has been exceptional. Eligibility for this award encompasses the whole spectrum of personnel involved in direct patient care including doctors, nurses, nursing assistants, therapists, and social workers.

Ricky Bell, an employee of Truman Memorial Veterans Hospital for over 3 years, has provided direct social work support to the VA hospital's nursing home care unit residents, and to orthopedic surgery, neurosurgery, and neurology patients. In addition, Ricky has provided backup coverage to social workers involved in the community care program.

Mr. President, I join Ricky's family and his friends in congratulating him as he accepts the Department of Veterans Affairs Secretary's Hands and Heart Award. Both the Truman Veterans Hospital and the State of Missouri have benefited from his hard work, and we look forward to his continued dedication to the service of veterans and their families.•

NATIONAL ENERGY EFFICIENCY AND DEVELOPMENT ACT

• Mr. HATFIELD. Mr. President, today I am pleased to join Senator WIRTH as an original cosponsor of his National Energy Efficiency and Development Act of 1991. As some of my colleagues may recall, I have been a strident supporter of energy conservation, energy efficiency, and renewable energy measures throughout my tenure in the Senate. Senator WIRTH's legislation would further advance the Nation's commitment to conservation and alternative energy sources and I am pleased to be associated with this effort.

My support of this bill is a reaffirmation of my commitment to reducing the United States' dependence on imported oil. The need to diversify our Nation's energy mix and generating capabilities has never been more apparent than in the wake of the Persian Gulf war, which at least in part, was fought over world access to Middle Eastern oil. In effect, this legislation is a comprehensive energy package that focuses on our vital need to enhance efficiency, conservation, and renewable energy measures.

Mr. President, I would like to clarify that my support of this bill in no way will prevent me from supporting other energy strategy bills or amendments that may come before the Senate for consideration. For example, Senators JOHNSTON's and WALLOP's comprehensive energy legislation contains many provisions of which I am very supportive. The administration's National Energy Security Act of 1991 also includes several provisions that would make our Nation much less dependent on imported oil, and I am supportive of many of these.

While I am predominantly interested in advancing conservation and renewable energy resources, I also realize that any comprehensive national energy package must contain a variety of provisions to effectively reduce our dependence on foreign oil—including provisions to increase the production of our own domestic oil resources. If we continue to rely predominantly on imported oil to meet our energy needs, the day will come once again when we will send our military into battle in the sands of the Persian Gulf region.

Clearly, Mr. President, the time has come for us to work toward developing an energy policy that will ensure our Nation's future security, and I believe the legislation I am cosponsoring today will, if passed, contribute significantly to that goal.•

PAGOSA SPRINGS, CO, CENTENNIAL

• Mr. BROWN. Mr. President, the town of Pagosa Springs, CO, will be celebrating its 100th birthday on April 13, 1991.

The Pagosa Springs centennial celebration will make note of the diverse nature of the community and its rich history. For example, the town will recreate its first town board meeting of 1891.

In honor of the Pagosa Springs centennial, it is appropriate to review the rich heritage that has made Pagosa Springs a unique and vibrant center in southwest Colorado.

Pagosa Springs has experienced vast and dramatic changes in the town's 100-year history. The rich heritage of the town reflects the native American culture of the Ute Indians. Ute legends and lifestyles have formed the cultural base upon which Pagosa Springs has been built. The first white settlers arrived in 1876. The town grew, eventualy becoming incorporated in 1891.

Since the first mayor of Pagosa Springs, John L. Dowell, to the present mayor, Ross Aragon, the town has gone through many of the great eras in American history. The arrival of the railroad in 1900, the lumber booms of the 1920's and 1930's, and the ever-present influence of a ranching region, have forever changed the face of Pagosa Springs and the surrounding area of Colorado.

The centennial celebration comes as we near the end of the 20th century. The historical interweaving of Indian, Anglo-Saxon, and Hispanic cultures, combined with a strong sense of community, have given Pagosa Springs a unique character among the communities of Colorado.

Pagosa Springs is situated in beautiful Archuleta County, which is today one of Colorado's most popular tourist locations. The continued development of the community is a testament to the strength of the people, the vision of the leaders, and the wealth of the region's natural resources. It is the combination of these elements that gives Pagosa Springs such a strong and enduring place in southwest Colorado's past and its future.

The Pagosa Springs centennial celebration is a proud occasion that represents the cultural multiplicity and the historical significance of the community. This is an important point in history for the town and the State of Colorado. It is a time to reflect on the town's proud history and a time to look toward the bright future.

I urge my colleagues to join me in congratulating the town of Pagosa Springs and all its residents. In addition to Mayor Ross Aragon, special mention should be made of Karl Isberg, the town's centennial chairman, and all the many hard-working, dedicated individuals who are making this celebration possible.•

FIRST BAPTIST CHURCH OF LEBANON—100 YEARS OF SERVICE

• Mr. BOND. Mr. President, today I would like to take a few moments to recognize the First Baptist Church of Lebanon, MO, for its 100 years of dedicated service in fullfilling the needs of its members.

In 1890 there were 2,218 people living in Lebanon. New oak plank sidewalks lined the streets of Lebanon and Kaffenberger's Bakery was busy making daily deliveries of their bread. The 500 room Gasconade Hotel was just opened that year. The St. Louis Mercantile Co. had plans of making Lebanon a resort town. In November 1890, Dr. A.F. Baker, who was the State Secretary of Missouri Baptists at the time, came to Lebanon in an attempt to start a church, and by March 1891 a revival was scheduled. At the close of the revival 15 conversions were recorded.

With those results, First Baptist Church was organized on April 3, 1891, with Dr. Baker reading the Articles of Faith from Pendleton's manual. There were six charter members; M.F. and Minerva Smart, Nancy Burns, Phillip and Sarah Lawyer, and Mary Spiller. Another revival meeting, led by H.G. and S.B. Youngblood of Springfield, was held on June 6 of the same year with 40 conversions and additions recorded. H.G. Youngblood became church moderator until J.L. Taylor was called as the first pastor of the church. Brother Taylor served for 14 months. The church continued to grow in membership from 50 members in 1891 to 1,479 members in 1955.

The church first met in the Greenleaf Building on Commercial Street until the frame church was constructed at the corner of Harrison and Second Street. The church met there until 1905 when the then pastor, C. Knudson, had the frame church moved to the corner of Third and Madison where the present facilities stand.

On Wednesday, March 8, 1922, tragedy struck the church when it was destroyed by fire. The church met in a garage on Commercial Street which was a movie picture threatre until a portion of the basement was completed in 1922. The church met in the basement for almost 8 years. Although the cornerstone of the sanctuary was laid with the assistance of Rev. C.B. Day, he did not live to see it completed, succumbing to typhoid fever in September 1926.

In 1931, the present sanctuary was completed. Some of the members mortgaged their homes to provide the funds necessary to complete the sanctuary. Mr. and Mrs. L. Gus Smith gave a whole vacant city block to the church and several of the ladies nailed lathe to make the walls ready for plastering. The R.A. boys hand poured the concrete into the molds that formed the pillars on the front of the church. The church continued to grow until in the early 1940's when more space was needed.

The three floors directly behind the 1931 sanctuary were added in 1944 and an educational wing was added and dedicated in the spring of 1956. In 1969 the second floor of the education wing was completed and there were no more additions unitl 1988 when the most recent addition was completed. The interior of the church has been remodeled twice, with the most recent and extensive remodeling being in 1980.

The church has also had three missions which it has actively supported: Hillcrest mission, Calvary mission, and Grace mission.

Mr. President, First Baptist Church will be celebrating 100 years of service in the Lebanon Community in 1991. I would like to extend my sincere congratulations and hope that in the next 100 years, ministry to the community will continue to be the goal of First Baptist Church of Lebanon.•

HELENA MONTANA NATIVE TO RECEIVE HONORARY OSCAR

• Mr. BAUCUS. Mr. President, I am pleased to announce to my Senate colleagues that Myrna Loy, one of America's great film stars who made more than 120 films over the course of a 50-year career, will finally receive this evening the ultimate recognition for her major contributions to the film industry, when she accepts an honorary Oscar at the academy awards ceremony.

Following my comments about this honor being bestowed upon Miss Loy, I ask unanimous consent that there be included in the RECORD a copy of four newspaper articles which describe the award Miss Loy will be receiving and present brief histories of her illustrious career.

I have long been an avid fan of Myrna Loy. After all, she grew up in my home town of Helena, MT. Her movies, including especially The Thin Man series, are a continuing delight for me to watch. Although these films are approaching 50 years in age, they retain a certain timeliness, primarily because of the joy and good humor that Myrna Loy and her costar, William Powell, exuded.

Also, as we reflect on the recent hostilities in the Persian Gulf, and as we celebrate the homecoming of our military combatants in that struggle, I can't help but remember how many of us felt when we saw Miss Loy portraying the patient housewife who received her returning warrior in "Best Years of Our Lives," which, coincidentally, won Oscars for about everyone but Myrna. Finally, she is getting the critical recognition that she deserves.

It should be no surprise that in the 1930's the American movie-going public voted Myrna Loy and Clark Gable to be the most famous movie couple in America. Myrna certainly deserved it then. Yet, it is heartwarming that the Academy would see fit to honor her now, more than 50 years after she was America's movie queen.

For the past several years I have been working with some of my constituents in Helena to erect a living memorial in honor of the extraordinary career of Myrna Loy. This memorial, which includes a 200-seat auditorium and 40-seat cinema, is located in Helena in the historic 100-year-old Lewis and Clark County jail, which stands only a few blocks distant from where Myrna grew up.

I ask that a copy of a New York Times article, describing the Myrna Loy Theater, be printed in the RECORD following these comments.

The article follows:

It is indeed a fitting and timely convergence of events that the theater honoring Myrna Loy would be opened at the time the American Academy of Motion Pictures would see fit to recognize her for her extraordinary contribution to film.

I had the honor of visiting with Miss Loy in her apartment several years ago when I went to her personally to ask whether we could build a theater in her honor in my home town. It was an exciting moment for me, especially when she graciously accepted our offer.

Since that time, I have learned more about Miss Loy's career. Not only was she a great film actress, but she also made numerous civic contributions to our society, including work with the United Nations, Red Cross, and the National Committee Against Discrimination in Housing. Additionally, Miss Loy was a vigilant supporter of free speech, especially in her defense of the film industry and its workers.

I told Miss Loy when we last met how proud her home town of Helena, Montana is of her achievements. I am sure that the pride of Montana will expand even further now with her much deserved Oscar.

I am also pleased that her peers at the American Academy of Motion Pictures have not forgotten the extraordinary contributions that Myrna Loy made to the American film industry and, more importantly, to the movie-going public.

Let me stop at this point and give some credit to one of my former staff members, Sandra Jean Medallis, who sent some of this information to me. Like Miss Loy, Sandy is working in the film industry and is a credit to the industry.

Let me close by saying that Helena now has two Oscar recipients. You may be interested to know that Gary Cooper grew up only a few blocks from Myrna. Mr. Cooper received three Oscars, one an honorary award, and the other two for best actor in "Sergeant York" and "High Noon." My home town has made its contribution to American film history, and it is great to see these contributions recognized.•

THE LAST BASTION OF CARE

• Mr. SIMON. Mr. President, East St. Louis, IL, the city that used to be the second largest rail center in the country, is waging a daily battle against decay and despair.

Ninety-five percent of East St. Louis' 40,000 residents are black. The per capita income is around $4,000. Over 40 percent are on public aid. A black male in East St. Louis is less likely to reach the age of 65 than his counterpart in Bangladesh.

In the midst of this, the city has been left with one hospital—St. Mary's. Two years ago St. Mary's celebrated its 100th birthday—not knowing whether it would survive to its 101st. In 1989, the hospital lost $4 million; last year the losses were more than $6 million. While St. Mary's is still operating, the hospital lives hand to mouth. It is a private hospital filling a public need, but receiving no tax support from either the State or the Federal Government. It meets the health care needs of the community—from providing basic health care to those without health insurance to treating some of the most violent traumatic cases in the country. Dr. Frederick Cason is a trauma surgeon on St. Mary's staff. He says, "I spent 14 years in the military but I never saw the war until I came here—St. Mary's.

Last year my colleague Senator Dixon and I attempted to get some short-term help for St. Mary's. While we were unsuccessful we are again looking for Federal, State and other sources of money to stabilize St. Mary's, allowing it to remain open filling a void that so few are still willing to take on today.

Earlier this month, Business Week ran an article on St. Mary's Hospital. In reading the article, one cannot escape the sense of despair in the East St. Louis community. The reader is also hit, however, with the many people who are bound and determined to make it work and keep St. Mary's alive and well in East St. Louis. I commend Chuck Windsor who joined St. Mary's about 18 months ago as CEO. Mr. Windsor knew the odds were against him, but he has proved to be up to the fight. I also commend Richard Mark, the executive finance officer. Richard has tirelessly sought ways to cut hospital costs and seek new areas of potential funding, just to give the hospital breathing room to develop long-term alternatives. And many of us in Illinois are grateful to the Poor Handmaids of Jesus Christ for their continued support of the hospital. We must find a way to help this hospital and other institutions fighting similar battles.

Mr. President, I urge my colleagues to read the Business Week article; there are hospitals like St. Mary's in other communities across the country. I ask that the article, "The Last Angel of Mercy in a Dying City" be printed in full in the RECORD.

The article follows:

[From Business Week, Mar. 4, 1991]

THE LAST ANGEL OF MERCY IN A DYING CITY

(By Sue Flynn Siler)

Gary Triplett lies on a gurney in the emergency room of St. Mary's Hospital, East St. Louis, Ill. Plastic tubes stick up his nose; others wind their way to a vein in his left arm. Bare-chested except for a white gauze bandage, he still wears his stone-washed jeans, but his sneakers are on the floor. A few hours earlier, a Saturday-night drinking bout had erupted into an argument that left the young man bleeding from a stab wound in his chest.

The delicate tissue of his lung was punctured, but Triplett is alert at 2 a.m. He confides that he lost his job as a city hall clerk two months ago, during a round of layoffs by the bankrupt municipal government. About that same time, his girlfriend gave birth to his first child, a son. When a policeman shows up to take a report, Triplett declines to press charges. Instead, he asks, "Why did the city lay me off?"

"Don't know," answers the officer. "I don't know why the city didn't pay me yesterday, either."

The nurse and the cop leave. Triplett and I are alone. The emergency room is hushed, and the curtains around his bed are drawn. Triplett, who suddenly seems younger than his 22 years, tells me this is his third trip to the emergency room. Once, he was shot. Another time, he was hurt in a car wreck. At this rate, I ask, isn't he afraid he won't live to see his son grow up? "I don't fear death," Triplett tells me. "I fear life. It's harder to live than to die."

BURNT-OUT SHELLS

His words ring true in East St. Louis, a place where men are less likely to reach their 65th birthdays than in famine-plagued Bangladesh. The mortality rate among black infants in this city is more than twice that of New York City's Harlem and five times that of the nation as a whole. In 1990, East St. Louis reported 80 cases of hepatitis, a disease spread by poor sanitation. That represents nearly 10 times the number of cases per capita recorded by Chicago.

Predominantly black, with 40% of its citizens on public aid, East St. Louis has a level of social and economic stress that is hard to imagine. Burnt-out shells of buildings line the streets of this city of some 40,000 across the Mississippi from St. Louis. Hustlers and prostitutes parade down Collinsville Avenue, the main drag. Spray-painted gang symbols split the projects into turfs. Paralyzed by an ongoing fiscal crisis, city government has all but collapsed, no longer providing many basic services. In 1987, the city quit picking up garbage, forcing its citizens to pay up to $120 a year for private contractors to haul away their trash. Because many people here wouldn't or couldn't pay, garbage is strewn on streets, alleys, and lots. The decaying sewer system has repeatedly heaved raw human waste back up through toilets and sinks, forcing schools to close for days at a time because of the health risk and the stench.

But nowhere can the distress of this city be felt more deeply than at St. Mary's. With the closure of Gateway Community Hospital a year ago, this battered doyenne of the city's northwest side became East St. Louis' sole remaining hospital. St. Mary's emergency room is often the first and only provider of health care for the city's poor, most of whom don't have regular doctors. It also is the biggest private employer in a city where the official unemployment rate is nearly twice the national average. It operates the city's only ambulance service and is the only trauma center in the county.

St. Mary's has become a haven of last resort. Rocking back and forth in her chair, a teenage girl waits outside the emergency room. Her hair is pulled into half a dozen puffs on top of her head. A roll of toilet paper peeks out of her purse. On her feet, she wears a pair of dirty white slippers with powder blue ribbons at the toe. She has been in the beige-tiled waiting room for several hours. A blaring television mounted on the wall keeps her company. Dapper talk-show host Arsenio Hall whoops it up with his studio audience. Hollywood couldn't be farther from East St. Louis on this bleak winter night.

Inside the emergency room sits the nurse responsible for the shift, an exhausted woman with an outline of lipstick that has smudged off her lips. She rapidly phones local shelters begging a place for the young woman to stay the night. "The problem is that all the shelters are filled up," says the nurse, explaining that the 19-year-old, who has had ongoing psychiatric problems, came to the emergency room after a fight with her mother. "There's no room at the inn," says the nurse.

And people do show up at St. Mary's looking for little else than a room. Every year, a few mothers try to check their kids in at Christmastime to make sure they get a present and a warm place to sleep. Healthy children aren't admitted, but Santa Claus does visit those who end up spending the holidays in the hospital. Older people try to check into St. Mary's just to find some companionship.

FROZEN CHICKEN

But whether this hospital will be around next Christmas is unclear. Ancilla Systems Inc., a health care company owned by the Poor Handmaids of Jesus Christ, an order of nuns, is weighing whether to shut it down. In 1989, the hospital lost $4.4 million, compared with a $1.36 million loss the previous year. Its 1990 losses have been projected in $7.3 million. In part, St. Mary's is in such difficult straits because it provided $3.7 million in uncompensated care last year. But it's also suffering from dependence on government payments: Fully 78% of its patients are enrolled in the medicaid and medicare programs. For many treatments, these programs pay the hospital less than the cost of the care. St. Mary's is reimbursed just $73 for an emergency-room visit by a medicaid patient. The average cost of caring for a stabbing or gunshot victim, who typically requires the services of surgeons, anesthesiologists, and lab technicans, is $2,300—before room costs.

St. Mary's occupancy rate has dwindled to 48%, as patients with private insurance have shunned it in favor of suburban hospitals, such as Belleville Memorial, that offer more services. Last summer, new management laid off 100 of the hospital's 500 employees and shut a new cancer clinic. To cut costs, the hours for CT scans and ultrasounds are now restricted. The hospital cafeteria, once known for its homemade fresh fried chicken, is currently closed evenings and weekends. And these days, it often serves frozen chicken.

St. Mary's new chief executive, Charles E. Windsor, recently recruited from Harlem Hospital in Manhattan, expects losses to narrow to $2.5 million in 1991. But the belt-tightening is taking its toll. Patients wait longer for important tests if they get hurt on weekends. Doctors complain that because test results take longer, patient diagnoses are often delayed. And to the people in pain, the wait in the emergency room on Saturday night can seem endless.

"I'm hurting," says Ernest Rodriguez, with a bowed and bandaged head. In the fleshy area between his thumb and forefinger is a homemade tattoo, "Rico Robin," and his right wrist is handcuffed to his wheelchair. Next to him stands Shelby Boyce, a policeman from the neighboring town of Washington Park. Rodriguez, says Boyce, was hit over the head with a glass bottle in the afternoon after pulling a straight razor on another man. At 4 p.m., Rodriguez and Boyce came to the emergency room. By 1:30 a.m., they're still waiting for the results of a CT scan that the doctor has ordered to make sure no glass has lodged inside Rodriguez' brain.

WAR ZONE

"They closed down the other hospital in East St. Louis," says Rodriguez, a Texas native. "That was a bad mistake. They'd take care of you if your ass was shot, stabbed, anything. I sat in here for hours, and nobody's taken care of me." With long, dirty fingernails and dark splatters of blood on his shirt, Rodriguez looks more and more miserable as the night wears on. Several times, he asks Officer Boyce to find him a cigarette. That's not an easy task in a no-smoking hospital, but somehow Boyce manages.

This shift is nothing special, though. Every night, East St. Louis's fiscal crisis is played out in St. Mary's emergency room, thick with the smell of blood and frustration and death. "I fight a war here every day," says Dr. Frederick D. Cason, a Navy-trained surgeon who operates on the wounded who pass through St. Mary's doors. "We have injuries here that are every bit as bad as we saw in the Vietnam War." And like the U.S. in Vietnam, St. Mary's is waging a war of attrition that it will eventually lose.•

SMALL COMMUNITY ENVIRONMENTAL ASSISTANCE ACT

• Mr. D'AMATO. Mr. President, I rise today as a cosponsor of legislation designed to assist our small communities, the Small Community Environmental Assistance Act.

There is growing evidence that small communities under 2,500 have a significant need for improved or expanded facilities such as sewage treatment plants, drinking water systems, solid waste facilities, and underground storage tanks. Estimates of the cost of these needed improvements range from $6 to $8 billion.

It has become increasingly evident that small communities face special problems in financing these types of facilities. The Environmental Protection Agency reports that small communities are most likely to experience rate shock as a result of new environmental projects. It is projected that the user fees of 20 percent of municipalities under 2,500 persons may rise over 100 percent above current levels by 1996. The Small Community Environmental Assistance Act will help our Nation's smaller communities finance needed environmental programs.

This legislation establishes an Office of Small Community Environmental Assistance within the EPA to administer this act and provide technical assistance to States. State revolving funds would provide low interest loans and would be a permanent environmental financing resource of the State level. Disadvantaged communities with a median household income of 75 percent of the national average would be eligible for grants at the State level.

All communities, big and small, are faced with the need to either build or upgrade environmental facilities. Larger communities are generally more fortunate in that their budgets can absorb the expenses associated wth these projects. Smaller communities need special help. The Small Community Environmental Assistance Act addresses these special needs. I urge my colleagues to act on this legislation.•

A TRIBUTE TO JOHN R. SCHREITER

• Mr. KOHL. Mr. President, Outagamie County Executive John R. Schreiter is retiring from public service after 36 years. On Thursday, April 11, 1991, Mr. Schreiter will be honored for his extensive government service.

I believe that any member of any elected body in this country would look at Mr. Schreiter's record of public service with envy. He has been the Outagamie County executive for 12 years, county board supervisor of Outagamie from 1955 until 1979, including 3 years as its chairman. His years of service also include a post as president of the Wisconsin County Executives and Administrators Association, chairman of the East Central Wisconsin Regional Planning Commission, and chairman of the Fox Valley Water Quality Planning Agency.

I am proud, Mr. President, that the State of Wisconsin can boast of residents like John R. Schreiter. He has devoted his entire professional career to the service of his community. It is also with a bit of sorrow that I am announcing Mr. Schreiter's retirement, Mr. President, because people with his dedication and record of service are too few and far between.•

SOLVING THE REAL ESTATE CRISIS

• Mr. KERRY. Mr. President, for more than a year now the Nation has been caught in a treacherous downward economic spiral as a result of the credit crunch and the weakened position of the country's financial institutions. The contraction of the thrift industry, the imposition on banks of harsh new lending restrictions by Federal regulators, a massive budget deficit and spending cutbacks by the United States as well as international factors, such as financial instability in Japan, the growing need for capital to rebuild Eastern Europe, and the financial drain of war—and now reconstruction—in the gulf have all contributed to this decline.

The real estate and construction industries, which have long played leading roles in job creation and economic growth in this country have been particularly hard hit by the events of the past year. While construction had outpaced demand in many markets and some correction was overdue, the scale and suddenness of the shift in real estate markets has clearly gone too far, and threaten to turn an already dangerous situation into a crisis for the American economy. Real estate markets are today hit with an almost total absence of liquidity that has caused a free fall in real estate values as banks and insurance companies are downsizing and calling loans to meet new capital standards at the same time that the Resolution Trust Corporation is trying to sell tens of billions of dollars worth of surplus real estate in a market where there are very few qualified buyers.

Many of us in Congress—and particularly in New England—have worked hard during the past year to have the administration acknowledge this problem and address it with new policy measures. Recently, steps have been taken by the Treasury Department to begin to address those aspects of the problem related to bank accounting and regulation. But there is clearly more that needs to be done to open up new sources of long-term capital.

In this regard, I would like to call the attention of my colleagues to a thoughtful suggestion put forward in an article entitled "Solving the Real Estate Crisis" in the March 19 issue of Financial World magazine. The article notes that a growing number of observers in private industry and the Resolution Trust Corporation are beginning to seek ways in which prudent real estate investments can be made more accessible and attractive for America's pension funds, which represent over $2 trillion in long-term financial assets, and which today have invested only about 3 to 5 percent of their portfolios in real estate. For several years, organizations like the National Association of Homebuilders and the National Association of Realtors have been exploring ways that this goal can be accomplished. I believe that now is the time Congress should begin to take note of these efforts, and ask what can be done to further this goal.

Several of my Senate colleagues have already taken steps in this direction. The chairman of the Finance Committee, Senator BENTSEN, made an excellent statement on the credit crunch and real estate last month in which he specifically talked about the role of pension funds and called for the Finance Committee to hold hearings to explore the subject. In addition, last fall, in connection with the housing bill, Senator SIMON of Illinois introduced an amendment, which was incorporated into the bill, calling upon the Department of Housing and Urban Development to prepare a report for Congress suggesting ways in which the vast resources of the Nation's pension funds can be made available for investment in affordable housing for low- and moderate-income people. Finally, I would add that this is an area where Secretary Kemp has been active as well, having written a letter to the Secretary of Labor in December to encourage approval of a program in New York designed to encourage such pension fund investment.

Mr. President, I ask that the Financial World article be reprinted in the RECORD.

The article follows:

[From the Financial World, March 19, 1991]

SOLVING THE REAL ESTATE CRISIS

(By Adrienne Linsenmeyer)

For over a year, scare headlines on the real estate crisis have been hitting the street like Scud missiles. The gravity of the situation is obvious: As real estate values deteriorate in various markets, the liquidity crisis at thrifts, banks and insurance companies has worsened.

The question is: What do we do about it? When does the moaning stop and the thinking begin?

Oh, the disease has to run its course, say some experts. Things are simply going to get worse for a while as banks and insurance companies, in order to stay solvent, are forced to dump real estate on an already depressed market. "Liquidity will be the driving force in changes we'll see in the financial institutions," says Brad Moore of San Francisco-based Pension Realty Advisors. "You'll see banks, corporations and insurance companies forced to consider alternative options to raising capital, and real estate, in many cases, is the asset class that will be used," agrees Lawrence A. Cohen, director of marketing and sales for Paine Webber Properties.

But others are more hopeful. Eugene Heimberg, chairman of the Prudential Realty Group, for example, doesn't think that real estate will be dumped on the market. In fact, the market is already hard at work trying to deal with the glut of "For Sale" signs. "The denial is over, the anger is coming to an end, and people are finally thinking about ways to deal with the problems," says Prudential Realty's president, Claude Zinngrabe, using language more often associated with the recovery process for a substance abuser.

The most frequently proposed solution to the real estate crisis these days is a strategy similar to the one Mellon Bank employed successfully in 1987. When Mellon saw itself being crippled by bad real estate loans that year, Chairman Frank Cahouet bit the bullet and wrote down $1 billion in nonperforming real estate and energy loans to $577 million, little more than half their face value. Then, he created a new entity, a "bad bank," to which Mellon transferred the problem assets for liquidation. The healthy assets remained with Mellon, the "good bank." The "bad bank," Green Street National, was recapitalized with two debt issues and preferred stock. With the junk market in full swing, finding buyers for such paper was hardly a problem. The debt was paid as assets were liquidated out of Green Street. "It worked better than Mellon had envisioned," says Dillion, Read banking analyst Felice Gelman. Mellon was able to repay the debt and even got a return on the preferred, which it had kept itself.

Can the U.S. use the good bank/bad bank concept to stabilize the frightened real estate market? It all depends on whether buyers can be found, of course. After all, Mellon's liquidation drive started when there was still plenty of money available to buy real estate. Today, however, the traditional lenders, the banks and insurance companies, are starved for capital. If this situation persists, the real estate crisis will only get worse, says Zinngrabe, a member of the Urban Land Institute Credit Crunch Task Force advising the Administration.

Ease up on the money supply, he urges. The Fed is like a driver skidding on an icy road, he says. "If they slam on the brakes [further squeeze credit], the economy will go off the road. But if they pump the brakes, the economy will come out of the skid."

Even if that doesn't happen, Salomon Brothers' managing director of research, David Shulman, thinks pension funds might step into the void created by the departure of banks and S&Ls from the real estate market. At present, pension funds as a whole have no more than 3% to 5% of their portfolios invested in real estate. If the discount is steep enough, perhaps this patient money could be persuaded to buy properties in greater volume than usual. "Liquidity will be restored from the long end of the market, with pension funds leading the way at the right price," says Shulman. Even Zinngrabe concedes that pension funds are best positioned to participate in the real estate recovery. A real estate investment banker notes that there are other potential buyers as well: "There are other pools of nondepository financial capital that are likely to be important, like the GMAC."

Add it all up, says Dreyfus Realty Advisors' president, Francis Tansey, and there are billions in latent buying power waiting to come to the table in the real estate market—if the price is right. Tansey sees two types of sellers: mandatory and discretionary. Mandatory sellers, he thinks, are approaching prices where deals will get done. How much of a markdown from appraised value does that entail? Zinngrabe figures that in order to attract buyers in this market, prices will have to fall anywhere from 8% to 25% from 1990 appraised values, depending on region and property type. "Once you see the first trickle, the first few major deals," says Tansey, " the flow will follow."

Trouble is, pension funds that have real estate portfolios have been badly burned. They've watched the value of their real estate holdings erode from 5% to 20%. "They aren't eager to approach their investment committees today with a real estate deal unless it's a home run," says Tansey. And that, of course, means the price has to be right.

The biggest mandatory seller in the market today is the Resolution Trust Corp., the largest holder of troubled real estate in the U.S. Between real estate owned and mortgages of residential and commercial properties held, the RTC has $87 billion on its hands. The RTC is already urging the pension funds to step up their real estate exposure. "We are actively putting together packages designed to fit their requirements," says Lamar Kelly, deputy executive director of the RTC and the man in charge of setting policy for all RTC assets.

One such package is a "junk" deal with an appraised value of $400 million and an estimated discounted cash flow worth $200 million. A pension-fund investor might agree to pay 70% of the $200 million projected cash flow, or $140 million. But he would only have to put 15% down, with the rest to be paid into a pool over time. Once the pension-fund investor has paid the full $140 million into the pool out of cash flow, it gets to earn back its initial 15% deposit. The RTC then gets the rest of the cash flow up to the expected $200 million. If everybody gets lucky and the cash flow tops $200 million, the pension-fund investor gets the lion's share of the good fortune.

Another finance structure the RTC is considering is a "liquidation trust." In this scheme, institutional investors agree to pay a portion of management and maintenance costs for a number of properties in exchange for a share of the proceeds when the properties are sold.

The risk, of course, is that the properties will not be sold soon enough and for enough money to offset the running costs. Because of the higher risk of this strategy, says Kelly, it's unlikely that such liquidation trusts will be sold to the general public. Although Zinngrabe says the general public participates no matter what. "Either they're going to participate as an investor or as a taxpayer or both," he says.

Unfortunately, both selling strategies are currently on hold while the RTC debates internally whether to pool or securitize properties in this manner. The sticking point is that pooling would require the involvement of Wall Street with its pension-fund contracts and financial packaging abilities. Insiders say the RTC doesn't trust Wall Street.

It may have to. Congress is already impatient with the lack of progress at the RTC. Alternatively, the RTC could try to distribute the individual properties itself. The trouble is, institutional buyers simply don't have the time or resources to analyze investments in small and medium-size individual properties.

The outcome of the RTC's debate could well determine the course and pace of real estate recovery, say Wall Street investment bankers. And Prudential's Heimberg agrees: "It could set the example for holders of troubled real estate."

Meanwhile, some banks and insurance companies are expressing interest in forming risk-adjusted pools of assets, says Kevin Haggerty, executive vice president of Cushman & Wakefield, a national commercial real estate firm. "They want to put their distressed properties in a pool at some sort of discount with features for future sharing and appreciation if the world gets better, and sell them to foreign money, the Sam Zells of the world and pension funds," says Haggerty. Paine-Webber's Cohen thinks real estate securitization is inevitable. "There is going to be a marketplace made by the corporations and banks," he asserts. As corporations try to pare down their debt and banks search for capital, they are going to try to sell real estate through real estate investment trusts (REITs) to raise money. The question is, who will buy?

Some experts are skeptical that many pension funds will be willing to purchase such instruments (see box for one pension-fund manager's views on this topic). Says Dreyfus's Tansey: "Pension funds are not eleemosynary institutions, they are not going to step up and do one for the Gipper." Tansey thinks pension funds will go directly to troubled developers and buy at deep discounts. "If you can get a seller to believe that today's problems will continue for 15 years, you've got a home run," he says.

Others, such as Pension Realty Advisors' Moore, see increasing interest among pension-fund clients in securitized real estate vehicles. "It's a slow process," he says. "They have to straddle the real estate market and the securities market, and it requires a tremendous amount of expertise."

While a handful of institutional investors have the ability to place a big bet on one property, most prefer the stability of diversification, says Paine-Webber's Cohen. Prudential uses what it calls the portfolio construction process to diversify its real estate investments by property type and economic location. With $102 billion in assets to invest, just 35% of which is in real estate, Prudential can place its own bets. But institutions with less money and less expertise still need to diversify their investments so they don't fall victim to regional boom-bust cycles. Heimberg cautions that real estate pools would have to represent the diversity an investor was looking for and be flexible enough to be sold in units. "If the securitized pools could be sold off in shares so everybody could participate, they would attract a lot of capital," he predicts.

Even the skeptical Tansey says the bad news is out on real estate, and that's the good news. Institutional holders of real estate need liquidity and the packaging will depend on who the buyers of the 1990s will be. "We're seeing some contrarian buyers in the market now, but so far it doesn't constitute a trend," says Zinngrabe. That will happen once the residential market begins to recover toward the end of this year or early 1992, he goes on. And that in turn, he says, will signify the bottom of the J curve for commercial real estate and trigger a recovery in that market. Says Tansey: "Now is the time to start planning strategies that will make extraordinarily high rates of return."•

THE AMERICAN DREAM REVISITED

• Mr. D'AMATO. Mr. President, many of us in this body can relate stories that we have heard or speak of people that we know, who, with little more than a firm desire to work hard, have succeeded at achieving the American dream of being one's own boss. Some may say that the entrepreneurial spirit that built our Nation has diminished, that Americans no longer have the desire to start things new. Well, I don't believe that. I believe that the American dream is alive, but, for many entrepreneurs it has taken on a different form—business franchises.

In years past, franchising was looked upon as a highly risky venture. One was expected to pay thousands of dollars in franchise fees, up front; pay royalties to the franchisor; and see very little return for an unspecified period of time. Such demands made franchising a nonviable option for many business men and women. However in recent years, the thought of owning a franchise has become as realistic as it is appealing. This appeal has grown due to the increased desire of individuals to be in command of their economic fortunes. Yes, the risks of engaging in franchising are still there, but, I think that they are outweighed by the desire of Americans to succeed at their own enterprise.

This desire to succeed must be tempered with a little caution, though. It is no secret that as an economy suffers, some look to self-employment and enterprise as an alternative career. While franchises are a perfect starting point for such entrepreneurship, the potential franchisee must be diligent to guard against less than scrupulous franchisors. It is incumbent upon the potential franchisee to make sure that they can negotiate their purchase from a position of equality. They must do this based upon information they receive pertaining to a particular franchisor either through the auspices of government agencies, or through self-discovery. It may be the franchisor's name on the door, but it is the businessperson who supplies the capital and the sweat equity which determines the success or failure of that franchise.

While the vast majority of franchise organizations operate on the level, there have been reports that individuals who have been adversely affected by our current economic state have been mistreated by unscrupulous business ventures. While this is certainly a matter of concern, I believe that this kind of abuse is the exception and not the norm. Notwithstanding the relative small number of complaints, we must assure that aspiring business persons are not taken advantage of by fraudulent or oppressive contract requirements and practices.

There are those who feel that stricter Federal regulations governing franchising should be enacted to correct such practices and prevent future infractions. It seems that whenever a cry of wolf is made, some in Congress feel that only Uncle Sam can step in and try to set things right. Unfortunately, Mr. President, most times when Congress attempts to govern the business world, its goals are not entirely fulfilled. The franchise industry should certainly be aware that some problems do exist, and that internal corrective measures to protect potential franchisees are in the best interest of the industry as a whole. Where they apply, State, and local laws and ordinances must be vigorously administered in conjunction with Better Business Bureau oversight to defend against any predatory practices.

Mr. President, there are more than 500,000 franchises employing upward of 8 million men and women in the United States today. The economic stimulation to our Nation runs into the hundreds of millions of dollars per year. Franchising is a field that I feel will only expand in the years to come. Indeed, by the year 2000, franchise stores are expected to make up roughly 50 percent of all retail business in America. There are risks involved in purchasing a franchise, but these risks must be evaluated by the potential franchisee through the existence of regulations which protect but do not frustrate future entrepreneurs from realizing the American dream of finally becoming the boss.

I congratulate my good friend and New York colleague in the House of Representatives, JOHN LAFALCE, for his ongoing interest on this important issue. The hearings that he has convened on the subject of franchising have provided a needed dialog giving perspective and insight to an area of opportunity and enterprise looked to by millions as their piece of the American dream.•

FANNIE MAE

• Mr. RIEGLE. Mr. President, yesterday the Federal National Mortgage Association [Fannie Mae] announced an expansion of its efforts to provide low-cost mortgage financing. The new program will provide an additional $10 billion in low- and moderate-income financing to meet community mortgage credit needs.

I have stated on several occasions that we must ensure that all Americans are given an opportunity for a decent place to live. The program announced by Fannie Mae is an important step in that direction. I commend Fannie Mae for demonstrating this commitment.

I ask unanimous consent that the Chairman of Fannie Mae, James A. Johnson's, remarks on this program be included in the RECORD.

The remarks follow:

OPENING DOORS TO AFFORDABLE HOUSING

(Remarks by James A. Johnson)

We gather today to launch an ambitious program to open doors to affordable housing.

I am announcing a significant expansion of our effort to provide low-cost home mortgage funds for those who need help achieving their dream of a decent home.

Our goal is to produce $10 billion in commitments for low- and moderate-income and other special housing needs by July 1993, and to turn all of those commitments into deliveries by the end of 1994.

Young families and the elderly, the homeless and those who cannot afford to rent, many people in rural areas and cities, and those who cannot afford to live near their work—all of these people will be the focus of our attention and action.

I know we can succeed in this effort because it depends so much upon you, and you have responded so well to challenge after challenge in the past decade.

First, let me say thank you to each and every Fannie Mae employee for what you have achieved.

In 1980, Fannie Mae had no MBS business. This January, we passed the $300 billion milestone in MBS outstanding. It was a big challenge, and you met it. In the process, you proved teamwork pays.

In the last 3 years, our customer survey showed a tremendous leap in customer satisfaction. Today, 78 percent of our customers say they are "fully satisfied" with their Fannie Mae relationship. You met, and continue to meet, the challenge of customer service, proving again that teamwork pays.

Insulating our company from interest rate risk through better matching of our assets and liabilities was a critical challenge. It involved finance, technology, sales and marketing, and a corporate commitment to excellence. Working as a team, you met that challenge, too.

Together we met another challenge in a way that shows the kind of company we are. In 1988, we started the Futures 500 Club at Woodson High School. This program has put $500 a semester toward college in a special account for 211 students getting all A's and B's. When the program began, there were 33 Fannie Mae volunteer mentors. Today there are over 100.

Fannie Mae has a record of thriving on challenges. In 1990, we served over 1.3 million families, more than a third in homes affordable to families with incomes below the median in the area where they lived. The average single-family loan financed by Fannie Mae in 1990 had a balance of $89,700, in a year in which the national median price for an existing home was $95,500 and for a new home, $122,500. On all the single-family loans we own or guarantee, the average balance is less than $60,000.

We earned over $1.1 billion in 1990, after paying the Federal Government over $500 million in income taxes. We reduced risk. Chargeoffs for losses were less than $235 million on over $400 billion of mortgages financed. Foreclosures fell to just over 9,000 properties out of 6.5 million loans on one-to-four-family properties on the books.

In 1987, the company gave fresh emphasis to our public responsibility when it created a separate Office of Low- and Moderate-Income Housing. David Maxwell believed that step re-engraved Fannie Mae's mission on our consciousness. Today, our years of experience put us in a good position to spot new ideas and convert them into practical products quickly. Let me give you some examples.

We have worked with scores of lenders and community groups in States and cities throughout the country to make homeownership affordable to lower income families, and to tailor programs to local needs. In Washington, we are working with the city government, the Local Initiatives Support Corp., nine community groups, and three lenders in the innovative HomeSight Program. Likewise, in New York City, the New York City Housing Partnership has shown us the way.

We lead the Nation in low-income rental housing investments using the Federal low-income housing tax credit. We have invested in 80 projects in 20 States. In partnership with Rural Housing Services, we have reached corners of the country too long overlooked. With the Enterprise Foundation we have established an equity fund to serve the homeless and others with needs that go beyond shelter.

No one surpasses our work with State and local housing agencies to help them raise funds at lower cost and leverage their scarce resources. We have purchased more than $2.6 billion in mortgage revenue bonds in unique transactions that help them stretch their dollars. Just last week, we announced the $250 million Housing Opportunity Program in partnership with the New Jersey Housing and Mortgage Finance Agency. Any doubt about the enthusiasm for that program was erased the first day when the agency received more than 160 telephone calls an hour from interested consumers.

We have done well for those in need of affordable housing, but the need is still great.

Too many young families can't afford a down payment for their first home. Even with a 10-percent down payment, 4 out of 5 families who rent do not have the ability to buy a typical starter home.

Minority families of all income levels appear to have less access to housing finance than white families.

There is a growing shortage of affordable rental units for poor families. From 1974 to 1988, units renting for less than $300 a month shrank by 24 percent while the number of families living in poverty who rent rose by 56 percent.

As many as 2 million Americans experienced homelessness in 1990, when the daily average of homeless people was 700,000, including 100,000 children.

One in seven elderly Americans live in poverty, many in unfit housing. Many others are "house rich and cash poor."

In rural America, working families are twice as likely to live in poverty as those in our cities. In 1985, there were 500,000 more low-income rural families than there were units of affordable housing.

The lack of affordable housing in urban America makes it difficult for working people to live near their place of work, including many who are needed to serve our urban communities, such as police officers, fire fighters, teachers, and nurses.

We will succeed in the commitment we are making today because we will build on our strengths and knowhow. We know how to raise large amounts of relatively low-cost money to finance mortgages. We have active relationships with more than 1,400 customers. We have over 12 million mortgages-worth of experience in underwriting. Most important of all, we have dedicated professionals throughout the country who work with lenders, community groups, and State and local governments every single day.

We have set a $10 billion goal because we are ready to move from the developmental stage of our lower income programs into full production for Americans who need affordable housing. Our objective will stretch us and test us. We know we need to do better matching deliveries to commitments, but I am confident we can do it. We can improve our products, orient our sales force, and serve our customers in ways that will speed deliveries.

Everyone at Fannie Mae will be involved in the effort to reach our objective. All sales people and account executives will have specific targets as part of their annual business plans to help achieve $10 billion in deliveries by the end of 1994.

As we proceed, we will be guided by four business principles:

We are a financial partner, not a solo provider of housing. We work with others: lenders, developers, community groups, and Federal, State, and local governments. Without dedicated partners with a stake in the enterprise, we cannot succeed. We will go out of our way to find partners and develop new partnerships.

We are a wholesale provider of housing finance. We make our greatest contribution when we use our nationwide scope to deliver funds efficiently. Our best efforts are the ones that can be widely replicated across the country, but we will always be sensitive to unique local needs.

We are a private, profitmaking company. We help finance housing, at greater or lesser returns, through investments that must be financially sound.

We care about credit, and believe in prudent underwriting. Borrowers must have a real stake in the housing they are buying. No one benefits when people buy houses they cannot afford. Nevertheless, we encourage lenders to consider nontraditional measures of credit worthiness.

Abraham Lincoln once said: "I like to see a man proud of the place in which he lives. I like to see a man live so that his place will be proud of him." Those sentiments from the frontier are no less valid today than they were in Lincoln's time. Experience tells us that people willing to make a financial sacrifice to own a home are, almost always, sound business risks.

Using these principles, we will forge ahead. Economic forces may impede the effort, or may accelerate it, but there should be no doubt in anyone's mind that Fannie Mae is fully committed to achieving results.

Let me extend an invitation to lenders and other partners to bring us their good ideas for products and approaches consistent with the principles I have outlined. Although Fannie Mae cannot embrace every suggestion, we always are ready to consider thoughtful proposals. Together, lenders and Fannie Mae can renew and deepen the commitment to affordable housing.

We will continue to work with the Congress, which approved the Cranston-Gonzalez National Affordable Housing Act last session—the first major housing act in a decade—to further expand housing opportunities. We will work with Secretary of Housing and Urban Development Jack Kemp to implement the Act and accomplish his goal of empowering the poor to achieve homeownership.

Much of our effort will be directed to helping families unable to accumulate funds for a down payment and closing costs. An initiative I am announcing today—the "3/2 Option"—will help those families cross the threshold to homeownership by reducing the dollars they have to bring to the closing table.

The "3/2 Option" allows borrowers to qualify for 5-percent down payment loans by using 3 percent of their own funds coupled with a gift from a family member; or a grant or loan from a nonprofit organization, or State or local government. While mindful of prudent underwriting, the "3/2 Option" truly makes it possible for a new group of home shoppers to become home buyers.

We will expand and improve the effectiveness of our public finance programs, working with State and local housing finance agencies to reduce the cost of mortgages that are financed with mortgage revenue bonds [MRB's]. Fannie Mae will continue to pioneer innovations in this type of funding. Our goal is to purchase $1.5 billion in new MRB's by the end of 1992, and to provide $700 million in specialized securities to support reduced-rate mortgages.

Fannie Mae will enlarge its tax-credit equity investments by $150 million over the next 2 years to finance a total of more than $400 million of housing for low-income renters. This $150 million is not a ceiling, but an objective we hope to exceed. Our investments will be designed to tackle some of the toughest problems in housing today: permanent housing for the formerly homeless; affordable housing for single men and women working for minimum wages; housing for large families.

Through this decade and beyond, American employers will face a shortage of skilled workers. In many locations, workers face a shortage of affordable housing. Shortly, we will introduce a set of products employers can use to help their employees finance housing, products to deal with the problems of accumulating down payments and other funds for closing, and meeting monthly housing expenses. It is a Fannie Mae formula we believe can make a difference.

We also must work on the preservaton of affordable housing. By 1995, more than 350,000 units of older federally aided rental housing could be lost to low-income families. Fannie Mae will provide financing to keep this housing affordable and will increase the capacity of nonprofit groups to own this housing.

Fannie Mae is determined to help the elderly deal with their special housing problems: an excess of equity and a shortage of money for living expenses; older homes that are difficult to keep up; a need and desire for readily available assistance while maintaining maximum independence. We are working to develop new products, such as conventional reverse annuity mortgages, rehabilitation products for older homes, and financing arrangements for assisted living, to supplement our expanded Home Equity Conversion Mortgage demonstration with HUD.

This month Fannie Mae is cosponsoring with the American Association of Retired Persons the first of five conferences around the Nation to obtain grassroots feedback on the housing needs of senior citizens. We will use the information we gather at these conferences to expand and better target our products for the elderly.

Production of rural housing falls short of need by about 75,000 units a year, and financing is less readily available than in urban areas. We are developing special mortgage products and securities to expand the secondary market for rural home finance. We will seek new partnerships with community banks, housing finance agencies, and rural communities. Our tax credit investments will be extended to them, as well as other financing tools to help reverse the decline of affordable housing in rural America.

None of these initiatives will work without active participation by lenders and other partners. Lenders need assistance in meeting the requirements of the Community Reinvestment Act [CRA] in the form of products and information. We are providing both.

Fannie Mae has hired new employees both in Washington and across the country to help lenders meet the requirements of the Act. We are using census data and Home Mortgage Disclosure Act [HMDA] data to analyze opportunities for delivering more mortgage credit to areas currently underserved. We are committed to eliminating discrimination in the mortgage finance system wherever it may exist and will work with everyone concerned to that end.

We are producing the information lenders need and seeing to it that it is readily available. We have published a detailed guide to meeting the requirements of the Community Reinvestment Act called, "Investing In Your Community." We will be giving training seminars to lenders on the Act in more than a dozen cities this year.

We will be meeting with all State and major local housing agencies over the next 50 days to learn more about how we can better serve them. New consumer information bulletins about our low-income products, in both English and Spanish, will be supplemented later this year by a workbook for potential new homeowners on the opportunities and responsibilities of buying a home.

I have described to you a sweeping set of initiatives for the poor and lower-income families, the elderly, young home buyers, minorities, rural Americans, and city dwellers. The initiatives involve lenders, other partners, and you. Our tools will be the 3/2 Option, tax credits, mortgage revenue bonds, employer-assisted financing, funding for preservation, and a number of new products still in the developmental stage. We will preserve, create, and inform.

There will be more to come.

Just as this expansion builds on our history of involvement, the programs I have described will become the preface for future programs and initiatives still on the drawing board or only now coming into focus.

Is Fannie Mae doing enough for affordable housing? The answer is no. Do we plan to do more? Absolutely. Until the housing problems of those in need are solved, we will not have an answer to what is enough, either in dollars and cents or in people and ideas. With these new programs in place, we will gauge our performance, the performance of our lenders and partners, and the impact on those in need, then we will know how best to do more.

I raise questions about doing enough and doing more because I know there will be skeptics on both sides, those who say we cannot do what we are announcing, and those who say what we are announcing is not enough. I invite those skeptics to lay aside their doubts and join us. We see both the problems and the opportunities. We welcome help on both scores.

The challenge we face—each of us—is large and it is serious, but the goals are not beyond our reach. I know we will meet this challenge, as we have met so many in the past, with intelligence, commitment, a sense of fairness, and hard work.

We are going to push and set higher goals, then push some more and establish a permanent, new dimension of involvement: Beyond the dollars, which are essential; beyond the volume, which remains very important; beyond the returns which will always be central to this company, there will be another index of performance. We will measure it each year by how much progress we make in serving unmet housing needs, and it will become a permanent measure of our success as people who work for Fannie Mae.

You can be sure the work will not be easy. You can be equally sure it is both necessary and the right thing to do.

There can be no bystanders. This is a new age of engagement in addressing housing needs in the United States. Today we make the promise. Today we step up the pace. Tomorrow, we step it up again.

I was asked this week how many Fannie Mae employees will be assigned to this new effort. My answer was 2,512; all of us. So let me finish where I began, by thanking you for all you have done, and asking your help in all there is to do.•

THE DEATH GRATUITY

Mr. KASTEN. Mr. President, I rise today to voice my concern about certain exclusions in the conference report on the Operation Desert Shield/Storm Authorization Act that today was sent to the House of Representatives.

The death gratuity, given to survivors of military personnel to assist in funeral and other expenses, was increased only for those deaths that occurred after January 16, 1991. I am certain that the Senate did not intend to exclude the survivors of Operation Desert Shield personnel whose lives were lost prior to the commencement of the war.

In fact, the definition of the Persian Gulf war in this legislation specifically dates from August 2, 1990. We ought to reflect this date in our death gratuity provision.

It simply makes no sense to exclude the families of those men and women who gave their lives during the most lengthy period of the war. I resolve to correct this inequity and ask my colleagues to join me.

U.S. COMMISSION ON CIVIL RIGHTS REAUTHORIZATION ACT OF 1991

• Mr. D'AMATO. Mr. President, I rise today to cosponsor S. 617, a bill to reauthorize the U.S. Commission on Civil Rights for 10 years. Currently, the Commission's authorization expires at the end of the current fiscal year. As most of us know, the Commission has played an important role in helping to eradicate discrimination from the American way of life since it was originally established in 1957.

Since 1957, the Commission on Civil Rights has collected and analyzed information and developments concerning equal protection as well as discrimination. Studies have also been made dealing with the administration of justice in areas such as voting rights, enforcement of Federal civil rights laws, and equal opportunity. In addition, the Commission serves as an information pool on discrimination, easily accessible by the President and Congress.

The job performed by the Commission is often difficult, and Commission decisions are not always agreeable to everyone's desires, but, I feel they have helped play a vital role in combating discrimination in the United States today. The duties of the Commission should be allowed to continue without constant congressional intervention and interruption.

Mr. President, the Commission on Civil Rights serves a function that exemplifies one of our national ideals—equal opportunity. A 10-year reauthorization would enable the Commission to continue uninterrupted for an extended period of time. I commend Senator HATCH for introducing this bill and I encourage my collegues to join me as a cosponsor.•

THE SPARK M. MATSUNAGA MEMORIAL PEACE EDUCATION ACT

•Mr. AKAKA. Mr. President, I rise in support of the Spark M. Matsunaga Memorial Peace Education Act introduced by Senator INOUYE today.

In light of recent events unfolding in the Persian Gulf and Eastern Europe, this bill is most timely and appropriate. It is also an important piece of legislation because it recognizes Spark Matsunaga's lifelong dedication and commitment to the cause of international cooperation and world peace. Now more than ever, it is vitally important to fulfill our departed colleague's vision of global understanding. The Spark M. Matsunaga Memorial Peace Education Act will continue the efforts of our beloved friend.

Specifically, this legislation establishes the Spark M. Matsunaga Scholars Program within the U.S. Peace Institute. It will enable the Institute to award scholarships to high school students and outstanding undergraduate students to pursue studies in international peace and conflict management.

Mr. President, throughout 40 years of service to his country, Spark Matsunaga was devoted to the cause of peace. His diligent efforts resulted in the foundation of the U.S. Peace Institute, and with our help, his vision of world peace will be realized. Spark was a man of the future. This legislation will serve as a constant reminder of his vision, determination, and achievements on behalf of this noblest of causes.

In conclusion, as we face up to the critical issues of our Nation at home and abroad, let me return to the memory of our departed colleague and the example he set for us. Spark's passion to the cause of justice, his dedication to the pursuit of peace, his commitment to public service, and his evident faith in the common man's approach to problem solving and conflict resolution are a hallmark of history lessons learned well.

Mr. President, I urge my colleagues to join me in support of the Spark M. Matsunaga Memorial Peace Education Act.•

GREEK INDEPENDENCE DAY

• Mr. SIMON. Mr. President, it is with pleasure and pride that I join with all the citizens of Greece and all Greek Americans in celebrating March 25 as Greek Independence Day. Senate Joint Resolution 59, "Greek Independence Day," which I am pleased to cosponsor, is an important statement of friendship toward Greece and a celebration of the many achievements of Greek Americans over the years.

Greece has added immeasurably to Western civilization through the art and literature, architecture, science, politics and philosophy, and in many other areas of human endeavor. We need only look around at the buildings here in Washington, DC, to see the legacy of the great architects of ancient Greece whose genius is still evident in the modern world.

It is also appropriate to remember that the origins of our own Senate lie in the Athenaeum. It is the Greek philosophers, men like Plato and Aristotle, to whom the United States and other democracies owe a debt of gratitude for first articulating the belief that Government should be for the people, of the people and by the people.

Greek-Americans have given our society a diverse heritage. They have consistently remained one of the most highly educated ethnic groups in the United States and their desire and will to be successful in this country has helped form our goals and ideals. In a very real way, Greeks—both ancient and modern—have helped shape the culture of the society in which we live. On March 25, 1991, I am proud to call on all Americans to honor Greek Independence Day.•

STATEMENT ON THE NOMINATION OF E. MONTGOMERY TUCKER, U.S. ATTORNEY FOR THE WESTERN DISTRICT OF VIRGINIA

• Mr. WARNER. Mr. President, I rise today to commend a very able Virginian, Mr. E. Montgomery Tucker, who was confirmed recently by the Senate to serve a 4-year term as U.S. attorney for the Western District of Virginia.

As a U.S. Senator, I have no more important duty than the obligation to recommend to the President, Virginians who are highly qualified to serve in the areas of law enforcement and the Federal judiciary.

As a former assistant U.S. attorney myself, I know that the individuals selected to fill those positions hold the lives, property rights and liberty of all of us in their hands.

Consequently, I devote considerable time and energy, including extensive travel and personal interviews, to my efforts to select the best qualified Virginians I know for recommendation to the Attorney General and the President.

E. Montgomery "Monty" Tucker is such a person.

Mr. Tucker is a graduate of Washington & Lee University, which, as an alumnus, I can attest is a very fine school. He also is a graduate of that university's law school.

From 1970 to 1973, Mr. Tucker was associated with the law firm of Hunton & Williams in Richmond.

Since 1973—for nearly 2 decades—Mr. Tucker has devoted himself to the business of the U.S. Attorney's Office in western Virginia. He served much of that time as first assistant, and for two periods served as court-appointed, interim U.S. attorney.

As a symbol of the quality of Mr. Tucker's work, he was awarded in 1988 the Department of Justice Director's Award for superior performance—recognition accorded to only 1 percent of assistant U.S. attorneys nationwide.

As further evidence of his contributions, Mr. Tucker has been among those few assistants selected to evaluate other U.S. attorneys throughout the country.,

In fact, last year Mr. Tucker visited his 50th State during an evaluation of the U.S. Attorney's Office in Alaska.

It certainly comes as no surprise to me that Mr. Tucker assumes his duties as U.S. attorney with the backing not only of his wonderful family—his wife Judy and his daughter Courtney—but the full support of his office team and law enforcement officials in the Western District.

Mr. President, it gives me great pleasure to commend the nomination and confirmation of Mr. Tucker for this important post.•

LEADERSHIP AMENDMENT TO S. 578

• Mr. MURKOWSKI. Mr. President, I was pleased to support the leadership amendment to S. 578 which was adopted by the Senate last Thursday. This amendment would provide additional benefits for our military personnel, some of whom served in the Persian Gulf war. I applaud those who have diligently worked on this amendment—especially Senators DOLE, MITCHELL, McCAIN, and GLENN.

As former ranking minority member of the Veterans' Affairs Committee and a current member of that committee, I am pleased to have played a role in the development of the veterans portion of this amendment. Our committee will continue to explore the needs of the Persian Gulf war veterans and make necessary adjustments which may be needed in the future.

I am pleased a compromise agreement was reached with respect to the $50,000 death gratuity. Under this package, servicemembers who died after August 2, 1990, and before March 31, 1991, in the performance of military duty will receive a $50,000 death gratuity. The dollar figure is equal to the amount of the proposed increase in the Servicemen's Group Life Insurance Program. I appreciate the leadership's acceptance of the suggestions made by Senator SIMPSON and myself on this provision.

The package does not include a provision to require employers to rehire reservists who had been employed as temporary employees, as had been suggested by Senator KENNEDY. I would note that with respect to seasonal employees—like those who work in some Alaska industries such as fishing—the current practice, as provided for under the courts, is that employers would be required to reemploy the reservist during the next season. That is, if the season is over, the employer would not be required to create a new job but rather hire the reservist during the next season.

Again, I take this opportunity to acknowledge the outstanding performance of our troops in the Persian Gulf. We are proud of them and I hope that this benefits package will help to address some of the challenges they will face upon their return to the States.•

SENATOR MURKOWSKI'S STATEMENT IN SUPPORT OF GENERAL AVIATION ACCIDENT LIABILITY STANDARDS—S. 645

• Mr. MURKOWSKI. Mr. President, I rise today in support of legislation introduced by the Senator from Kansas [Mrs. KASSEBAUM], the General Aviation Accident Liability Standards Act of 1991.

The escalating cost of liability insurance has had a significant impact on the general aviation industry. Not only have manufacturers been subject to astronomical damage awards, which translate into higher liability insurance premiums, but subsequent increases in the cost of small aircraft have priced many consumers out of the market. The bill introduced by the Senator from Kansas injects a sense of realism into the debate over general aviation accident liability standards.

The bill would establish a uniform standard for liability cases in this industry, to address inconsistent State court judgments which have led to instability and unpredictability in the industry. The bill would impose what I believe is a realistic 20-year statute of repose for aircraft and replacement parts. When a manufacturer sells an aircraft, the new owner is responsible for the inspection, maintenance, and upkeep of the aircraft. This legislation would ensure that a manufacturer is not held liable for an accident that results from an owner's failure to perform these responsibilities. This is particularly significant in Alaska, where it is not unusual to come across planes still active in general aviation which are 40 or even 50 years old, which have been repaired with parts that have been cannibalized from other aircraft.

The Senator's bill will provide stability to the general aviation industry, which would be very helpful to my State. Alaskans are uniquely dependent upon general aviation aircraft for our way of life. From communities on the Aleutian chain to the North Slope, Alaskans depend on small aircraft for the basic necessities of life. Mail, foodstuffs, and equipment are all transported by small aircraft throughout rural communities that have no access to a road system. Many communities have minimal or no healthcare facilities and residents must depend on general aviation aircraft to transport them to facilities in Anchorage or Fairbanks for treatment.

The importance and prevalence of general aviation in Alaska cannot be underestimated. Alaska has one of the highest percentages per capita of pilots in the entire United States, with approximately 13,000 pilots. Merrill Field in Anchorage is one of the busiest airfields in the world servicing small aircraft. Hard flying conditions in Alaska place difficult demands on equipment and pilots in Alaska.

Mr. President, I would not support the Senator's bill if I believed it solely protected manufacturers. This bill will also protect general aviation consumers. Many consumers are unable to purchase new aircraft or obtain liability insurance because of escalating costs caused at least in part by product liability concerns. In addition, exorbitant liability insurance rates have forced many manufacturers and suppliers to curtail production or get out of the aviation business altogether. For example, virtually no single engine aircraft are manufactured in the United States. If we do not take steps to assist our general aviation industry, our foreign trading partners are poised to export their planes to fill the void. This bill should help to rein in the costs of aircraft and liability insurance and increase the ability of consumers to purchase new aircraft and aviation products.

The bill ensures that there will be fair compensation for those who are injured as a result of defective aviation products. The bill does not place a cap on damage awards, limit the right of a party to file suit, or relieve a manufacturer of responsibility for its product. It will, however, help to ensure the availability, at a reasonable cost, of general aviation products.

Mr. President, the bill introduced by the Senator from Kansas realistically balances the interests of manufacturers and consumers. I urge my colleagues to give it their full support.•

GREEK INDEPENDENCE DAY

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on Senate Joint Resolution 59.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the resolution from the Senate (S.J. Res. 59) entitled "Joint resolution designating March 25, 1991, as 'Greek Independence Day: A National Day of Celebration of Greek and American Democracy' ", do pass with the following Amendment:

Page 1, insert after the third clause of the preamble the following new clause:

Whereas 1991 marks the 50th anniversary of the historic Battle of Crete of World War II—one of many wars which have found Greece and the United States allied in the defense of democracy;

Mr. LAUTENBERG. Mr. President, I rise to support the resolution designating March 25, 1991 as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy." The resolution also asks the President to issue a proclamation calling upon the people of the United States to observe the designated day with appropriate ceremonies and activities.

This resolution is identical to one that Senator SPECTER and I introduced in the last Congress. That resolution was approved unanimously by the Senate.

March 25, 1991, marks the 170th anniversary of the beginning of the revolution which freed the Greek people from the Ottoman Empire. It is fitting that we celebrate this day together with Greece in order to reaffirm the common democratic heritage of Americans and Greeks.

The ancient Greeks forged the very notion of democracy, placing the ultimate power to govern in the people. As Aristotle said, "If liberty and equality, as is thought by some, are chiefly to be found in democracy, they will best be attained when all persons alike share in the government to the utmost".

Because the concept of democracy was born in the age of the ancient Greeks, all Americans, whether or not of Greek ancestry, are kinsmen of a kind to the ancient Greeks. America's founding fathers drew heavily upon the political and philosophical experience of ancient Greece in forming our government. For that contribution alone, we owe a heavy debt to the Greeks.

The common heritage which we share has forged a close bond between Greece and the United States, and between our peoples. And it is reflected in the numerous contributions made by present day Greek Americans in New Jersey and across the country to our American culture.

I urge my colleagues to support this resolution as a tribute to these contributions, past and present, which have greatly enriched American life.

Mr. FORD. Mr. President I move that the Senate concur in the House amendment to the preamble.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Kentucky.

The motion was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE HIGHER EDUCATION TECHNICAL AMENDMENTS ACT OF 1991

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 1285, the Higher Education Technical Amendments Act of 1991, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1285) to resolve legal and technical issues relating to Federal postsecondary student assistance programs and to prevent undue burdens on participants in Operation Desert Storm, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Kentucky?

There being no objection, the Senate proceeded to consider the bill.

Mrs. KASSEBAUM. Mr. President, I am pleased that the Senate is considering H.R. 1285, the Higher Education Technical Amendments of 1991. This legislation addresses several important issues.

First, it deals with problems which have arisen from provisions in the 1990 budget reconciliation bill requiring that students without a high school diploma or GED pass an independently administered third-party test. It clarifies that the provisions apply only to recipients of Federal student aid, not to all students who want to enroll in an institution of postsecondary education. Congressional intent was that the provisions would apply only to aid recipients. In addition, it postpones the effective date of the provisions to July 1, 1991, allowing a smoother transition to the new requirements.

Second, the legislation assures that the Department of Education will not be limited in its ability to collect defaulted guaranteed student loans through the tax refund offset program. This provision will result in an estimated $40 million in savings over the next 2 years.

Third, the measure includes provisions giving the Secretary of Education the discretion to waive existing requirements in order to address student aid problems experienced by students and other borrowers as a result of their participation in the Desert Storm/Desert Shield operation.

These provisions are important to the smooth and effective operation of student financial aid programs. I hope that the Senate will act quickly in approving it.

Mr. DOMENICI. Mr. President, I would like to make a very brief statement on the Senate's consideration of H.R. 1285, the Higher Education Technical Amendments of 1991.

First, it does not appear to me that these technical amendments are very technical in nature. As reported to the Senate, H.R. 1285 includes provisions to allow the Secretary of Education to take the necessary steps related to students loans to prevent undue financial burdens on participants in Operation Desert Storm. These provisions include deferments and an expansion of the grace period during which loans do not have to be repaid. Identical provisions were included in S. 578, the Desert Storm authorization bill. While these provisions are extremely worthy, I note that they will increase spending by $3 million in 1991.

H.R. 1285 also delays the implementation of certain provisions included in the 1991 Omnibus Budget Reconciliation Act. The delay of these provisions will have a negligible effect on spending in 1991 and will increase spending by $3 million in 1992.

Mr. President, I make these points only because I want my colleagues to be aware of the costs associated with these technical changes to the Higher Education Act.

My colleagues should also be aware that, as scored by the Congressional Budget Office, there is a Budget Act point of order against this bill for 1991. That is because the bill increases spending in 1991, a year for which the Labor and Human Resources Committee has reached its spending allocation.

In relation to the pay-as-you-go procedures established last year in the Budget Summit Agreement, the Office of Management and Budget has indicated that H.R. 1285 has net savings of $3 million in 1991 and $28 million over the 1991-95 period. I am pleased that, over 5 years, this bill saves money. Nonetheless I remain concerned that CBO shows an increase in 1991 spending of $3 million without a corresponding offset.

The PRESIDING OFFICER. Are there amendments? If there are no amendments, the bill is deemed read the third time and passed.

So the bill (H.R. 1285) was passed.

Mr. FORD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REREFERRAL OF S. 652, THE TELEPHONE PRIVACY ACT OF 1991

The PRESIDING OFFICER. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of S. 652, the Telephone Privacy Act of 1991 and that the bill be rereferred to the Judiciary Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE HELD AT DESK—S. 740

Mr. FORD. Mr. President, I ask unanimous consent that S. 740, the Anti-Terrorism Act of 1991 introduced earlier by Senators GRASSLEY and HEFLIN be held at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMENDING THE BALTIC STATES FOR THEIR EFFORTS TO REGAIN INDEPENDENCE

The resolution (S. Res. 81) commending the Baltic States for their efforts to regain independence and urging measures to support such efforts, was considered and agreed to.

The preamble was agreed to.

The resolution, and the preamble, are as follows:

S. RES. 81

Whereas the United States has never recognized the illegal annexation of the Baltic states of Estonia, Latvia, and Lithuania by the Soviet Union as a result of the 1939 Pact between Hitler and Stalin;

Whereas the Baltic states have recently completed plebiscites to determine the extent of public support for their independence, and such plebiscites were conducted freely and fairly according to observers who monitored the voting;

Whereas the owerwhelming majority of people in each Baltic state expressed support for independence;

Whereas support and eventual recognition of legitimate governments would be consistent with the longstanding United States policy of not recognizing the forcible annexation of Estonia, Latvia, and Lithuania in 1940; and

Whereas the United States can take useful steps towards recognition by establishing United States Government offices in the Baltic states to facilitate diplomatic relations, technical assistance, cultural exchanges, and other mutually beneficial programs: Now, therefore, be it

Resolved, That the Senate—

(1) commends the governments and people of the Baltic states on their use of democratic processes to regain their independence; and

(2) urges the President, if so requested by the government of any Baltic state, to establish offices in the state to facilitate diplomatic relations, technical assistance, cultural exchanges, and other mutually beneficial programs.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. BIDEN. Mr. President, I am pleased the Senate approved Senate Resolution 81, the Bradley-Biden-Hatch measure, urging a more activist United States role in assisting the evolution of democracy and self-determination in the Baltic Republics.

Last weekend more than 150 million Soviet citizens voted in a national referendum on unity. Initial results showed mixed support for the continued maintenance of the union. Poll reports did show, however, that Soviet voters want greater local autonomy, want to elect their mayors directly and want, at least in the case of the people of the Russian Republic, to elect their President directly.

These results came as no surprise. For years, Americans have been pressing the Soviet leadership, in every possible way, to take any small step toward democratic reform. For years we were spectacularly unsuccessful.

The United States continued to prod the Soviets because we held to the belief that democracy and self-determination were not only the right of all people, but the desire of all people as well.

This belief has been vindicated. Throughout the Soviet Union and Eastern Europe, when people have finally been given the choice, they have chosen freedom and democracy over tyranny and oppression.

Mr. President, we can applaud each day as a democratic wave moves across the Soviet Union, and as basic human and civil rights are slowly obtained—hungrily grabbed, in fact—by millions of people.

But as we watch this wave roll along, we must do more than congratulate ourselves on the model—and the encouragement—the United States provided.

As loudly as we used to tell the Soviet Union that they were desperately wrong in how they treated their own people, we must as loudly now tell the Baltic States that they are doing it right.

We know, Mr. President, that the words of this body are heard by democratic and conservative forces in the Soviet Union. Let them hear, then, of our admiration for the Baltic reformers' courage and their use of democratic processes to move away from the Kremlin's control.

Senate Resolution 81 makes clear our admiration, and more importantly, our support. It recognizes the courage of the Baltic peoples in choosing democracy, and commends them for their recent plebiscites.

The resolution urges President Bush to take on more of the burden of promoting democracy and self-determination by establishing offices in the Baltic States. Our presence on the ground would provide the emerging Baltic democracies with practical assistance, and would provide the United States with a better understanding of events there.

Mr. President, for decades the United States has argued and agitated for democracy and self-determination. Now it is growing before our eyes on a grand scale. We need, very simply, to stay closely involved, to show our unwavering support, and to let the Soviet leadership know that this support is the dominating motive of American foreign policy.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDERS FOR TOMORROW

Mr. FORD. Mr. President, on behalf of the majority leader I ask unanimous consent that when the Senate completes its business today it stand in recess until 11 a.m., Friday, March 22; that following the prayer the Journal of the proceedings be deemed approved to date; that following the time for the two leaders there be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 11 A.M.

Mr. FORD. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as under the previous order until 11 a.m., Friday, March 22, 1991.

There being no objection, the Senate, at 6:50 p.m. recessed until Friday, March 22, 1991 at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate March 21, 1991:

DEPARTMENT OF JUSTICE

DEXTER W. LEHTINEN, OF FLORIDA, TO BE U.S. ATTORNEY FOR THE SOUTHERN DISTRICT OF FLORIDA FOR THE TERM OF 4 YEARS VICE LEON B. KELLNER, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. JAMES S. CASSITY, JR. [redacted] U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. THOMAS A. BAKER, [redacted] U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. ROBERT L. RUTHERFORD, [redacted] U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. BILLY J. BOLES [redacted] U.S. AIR FORCE.

EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

NICHOLAS F. BRADY, OF NEW JERSEY, TO BE U.S. GOVERNOR OF THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT. (NEW POSITION)

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ALIXE REED GLEN, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES, VICE KAY COLES JAMES.

THE JUDICIARY

WM. FREMING NIELSEN, OF WASHINGTON, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF WASHINGTON VICE ROBERT J. MCNICHOLS, RETIRED.

FREDERICK L. VAN SICKLE, OF WASHINGTON, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF WASHINGTON VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

DEPARTMENT OF JUSTICE

EDWARD G. BRYANT, OF TENNESSEE, TO BE U.S. ATTORNEY FOR THE WESTERN DISTRICT OF TENNESSEE FOR THE TERM OF 4 YEARS VICE WILLIAM H. EWING, JR., TERM EXPIRED.

J. WILLIAM ROBERTS, OF ILLINOIS, TO BE U.S. ATTORNEY FOR THE CENTRAL DISTRICT OF ILLINOIS FOR THE TERM OF 4 YEARS. (REAPPOINTMENT)

CONFIRMATIONS

Executive nominations confirmed by the Senate March 21, 1991:

DEPARTMENT OF STATE

JON DAVID GLASSMAN, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF PARAGUAY.

EXECUTIVE OFFICE OF THE PRESIDENT

WILLIAM A GEOGHEGAN, OF MARYLAND, TO BE A MEMBER OF THE ADVISORY BOARD FOR CUBA BROADCASTING FOR A TERM EXPIRING OCTOBER 27, 1992.

BOARD FOR INTERNATIONAL BROADCASTING

KENNETH Y. TOMLINSON, OF NEW YORK, TO BE A MEMBER OF THE BOARD FOR INTERNATIONAL BROADCASTING FOR A TERM EXPIRING APRIL 28, 1993.

EXECUTIVE OFFICE OF THE PRESIDENT

DONALD A. HENDERSON, OF MARYLAND, TO BE AN ASSOCIATE DIRECTOR OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY.

DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION

THE FOLLOWING NAMED PERSONS TO BE MEMBERS OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION FOR TERMS EXPIRING AT THE END OF THE FIRST SESSION OF THE 102D CONGRESS:

JAMES C. SMITH, II, OF SOUTH CAROLINA.

HOWARD H. CALLAWAY, OF COLORADO.

JAMES A. COURTER, OF NEW JERSEY.

JAMES A. COURTER, OF NEW JERSEY, TO BE CHAIRMAN OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION.

DEPARTMENT OF STATE

CHARLES R. BAQUET III, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF DJIBOUTI.

KATHERINE SHIRLEY, OF ILLINOIS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SENEGAL.

MICHAEL T. F. POSTOR, OF ARIZONA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MALAWI.

JENNIFER C. WARD, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF NIGER.

AFRICAN DEVELOPMENT FOUNDATION

EDWARD JOHNSON, OF MICHIGAN, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR A TERM EXPIRING SEPTEMBER 22, 1995.

UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY

LEWIS W. DOUGLAS, JR., OF CALIFORNIA, TO BE A MEMBER OF THE U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY FOR A TERM EXPIRING JULY 1, 1993.

NATIONAL COUNCIL ON DISABILITY

GEORGE H. OBERLE, JR., OF OKLAHOMA. TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1992.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

MIKISO HANE, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 1996.

DONALD HALL, OF NEW HAMPSHIRE, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 1996.

CATHERINE YI-YU CHO WOO, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 3, 1994.

MARTA ISTOMIN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 1996.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

BERNADINE P. HEALY, OF OHIO, TO BE DIRECTOR OF THE NATIONAL INSTITUTES OF HEALTH.

DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION

DUANE H. CASSIDY, OF VIRGINIA, TO BE A MEMBER OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION FOR A TERM EXPIRING AT THE END OF THE FIRST SESSION OF THE 102D CONGRESS.

WILLIAM L. BALL, III, OF GEORGIA, TO BE A MEMBER OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION FOR A TERM EXPIRING AT THE END OF THE FIRST SESSION OF THE 102D CONGRESS.

SMALL BUSINESS ADMINISTRATION

PATRICIA F. SAIKI, OF HAWAII, TO BE ADMINISTRATOR OF THE SMALL BUSINESS ADMINISTRATION.

U.S. TAX COURT

RENATO BEGHE, OF NEW YORK, TO BE A JUDGE OF THE U.S. TAX COURT FOR A TERM EXPIRING 15 YEARS AFTER HE TAKES OFFICE.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENTS TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EXECUTIVE OFFICE OF THE PRESIDENT

BOB MARTINEZ, OF FLORIDA, TO BE DIRECTOR OF NATIONAL DRUG CONTROL POLICY.

AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. ANTHONY J. BURSHNICK, [redacted] U.S. AIR FORCE.

THE JUDICIARY

ROBIN J. CAUTHRON, OF OKLAHOMA, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF OKLAHOMA.

OLIVER W. WANGER, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF CALIFORNIA.

RICHARD W. GOLDBERG, OF NORTH DAKOTA, TO BE A JUDGE OF THE U.S. COURT OF INTERNATIONAL TRADE.

IN THE FOREIGN SERVICE

FOREIGN SERVICE NOMINATIONS BEGINNING HENRY H. BASSFORD, AND ENDING PAUL B. THORN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 4, 1991.

FOREIGN SERVICE NOMINATIONS BEGINNING WILLIAM A. RUGH, AND ENDING JOHN TREACY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 4, 1991.

FOREIGN SERVICE NOMINATIONS BEGINNING CHAS. W. FREEMAN, JR., AND ENDING ANTHONY J. WALTERS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 4, 1991.

FOREIGN SERVICE NOMINATIONS BEGINNING WILLIAM CHARLES MONTONEY, AND ENDING DALE TASHARSKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 4, 1991.

FOREIGN SERVICE NOMINATIONS BEGINNING JAMES V. PARKER, AND ENDING RICHARD T. MCDONNELL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 23, 1991.

EXTENSIONS OF REMARKS

THE 21ST AFRICAN-AMERICAN CONFERENCE

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. GRAY. Mr. Speaker, in early January I had the privilege of traveling to Cairo, Egypt for the African-American Institute's 21st African-American Conference.

Not every conference is worth such a long trip. This one was. Taking part were delegates from 29 African countries, the United Nations, business, church groups, and 28 Members of Congress. The former head of state of Nigeria chaired the important session on democratization in Africa. The South Africa panel had representatives from both the African National Congress and the National Party of South Africa.

For over two decades the African-American Institute has helped solidify the relationship of the United States and Africa. January's conference showed that it is continuing this important work.

Mr. Speaker, so others might see the range of issues covered during this conference, I insert the message to the conference from President Bush, and those of the institute's president, Vivian Derryck, in the RECORD:

PRESIDENT BUSH'S ADDRESS TO THE 21ST AFRICAN-AMERICAN INSTITUTE CONFERENCE IN CAIRO

(Cairo: The following address to the 21st African-American Institute Conference in Cairo was delivered, on behalf of President George Bush, by Assistant Secretary of State for African Affairs, Herman J. Cohen.)

I am delighted to send my warmest greetings to everyone gathered in Cairo for the 21st African-American Institute Conference.

Momentous developments on the African Continent give us reason to believe that there is hope for peace and democracy in the regions. All parties must seize this opportunity to move ahead in a spirit of compromise and tolerance, flexibility and patience. Let me assure all of you that the United States government is actively engaged in efforts to support the positive changes currently underway in Africa.

In South Africa, we will continue to support the process of negotiation and the nonviolent path to democracy. With regard to political and economic reform throughout the African Continent, the United States will continue programs designed to support transitions from state command-centered systems to decentralized, market-oriented systems. Finally, the United States stands ready to lend its good offices and support to the resolution of conflicts wherever our involvement is considered constructive.

As I said when Nelson Mandela visited the White House, the future belongs not to the dwindling ranks of the world's dictators but to democracy, to millions of friends of freedom around the world. I believe that we can strengthen the ties between the United States and Africa and effectively consolidate democratic change and economic development throughout the continent. You have my best wishes for a productive and enjoyable conference.

OPENING STATEMENT BY VIVIAN LOWERY DERRYCK, PRESIDENT, THE AFRICAN-AMERICAN INSTITUTE

Your excellency, Dr. Boutros Boutros Ghali, excellencies, honorable ministers, distinguished members of parliaments and Members of Congress, conference participants, ladies and gentlemen, on behalf of the African-American Institute, welcome to the Twenty-First African-American Conference. Thank you for hosting us and a gracious welcome.

This particular meeting is convening at a historic time. We are meeting in Egypt, the crossroads of Africa and the Middle East, one week before watershed decisions.

You know, 1990 has changed our vocabulary. Threshold, watershed, sea-changes are words of momentous import that we now routinely use to describe daily events. But the operative word and the operative concept is change—to transform; to make radically different; to replace with another; to alter, vary, modify.

As we meet here in Cairo we are in a conference that deals with the management of sea-changes. We meet to determine balance between continuity and change.

Of course, we meet in a world which is greatly altered. It is a new world, without precedents and without guidelines. For 45 years we have been able to divide the world between East and West, North and South. No longer. Within the past year, we have seen the end of predictability.

Nelson Mandela has been released, the ANC is unbanned, and Oliver Tambo is back in South Africa after 30 years of exile. Namibia is independent.

Multipartyism, for better or worse, now is mandated in approximately 20 nations of Africa. At the historic Arusha Conference on Popular Participation, NGOs asserted their rights to be participants in government.

It was a year in which progress in economic and social development was impeded by regional conflicts and civil wars. From Liberia to Somalia, civil conflict ravaged nations, killing citizens, destroying economies and exacerbating ethnic conflicts.

It was a year in which many African peoples demonstrated incredible hospitality to their neighbors, as Guineans and Sierra Leoneans and Ivorians welcomed Liberians, as Liberia became the country with the highest percentage of refugees and internally displaced persons in the world, with fully 50 percent of its citizens living outside of their homes.

1990 was a year in which hopes were raised and dashed for settlements in Angola and Mozambique, Senegal and Mauritania. It was a year which underscored the importance of regional organizations, testing their mettle in situations as varied as reacting to civil strife in Liberia, to initiating plans to prepare to deal economically with a united Europe of 1992.

It was a year of the Children's Summit when our attention was riveted to the fact that worldwide 40,000 children die every day from preventable illnesses. The majority of them would have lived and grown up in Africa, the continent which has the highest average under-five mortality rate in the world.

It was a year in which interdependence was brought into stark focus by the Iraqi invasion of Kuwait.

It was a year in which ordinary people seized their own futures. From Czechoslovakia to Benin, average citizens demanded that they have a voice in how they were governed.

In this world of unprecedented change, how could AAI and its co-host, the Government of the Arab Republic of Egypt under the auspices of President Mohamed Hosni Mubarak and the Institute of Diplomatic Studies, plan a conference. The challenge before us was to capture the momentum between change and continuity, to discover strategies that have worked and to share them.

AAI has been holding these dialogues since 1968. Three key questions continue to run through our discussions. First, how can African nations develop and sustain workable political systems that integrate diverse groups? Second, how can African nations develop viable economic systems that efficiently use available resources. Third, how can friends in the international arena—in this case, Americans—help.

Three questions that we could have asked in 1971, 1983 and again this year. The same questions, but the context has been radically altered.

In planning the meeting, AAI worked with our Egyptian cohosts to craft an agenda that would address two overall questions: What do the global trends mean for Africa? How does Africa find the right mix between change and continuity?

The conference organizers and the Directing Committee of senior African and American decision-makers worked to identify major issues of importance to Africa and to African-U.S. relations. Four themes were identified as the core agenda for this conference.

The first theme is expanded pluralism. The people have spoken, asserting their rights to be included in governance, in decisions that effect their lives. In that changed political landscape, what are the roles of traditional institutions: the army, the church, universities, the legislature, the media and the judiciary?

Are the trends to multiparty pluralism likely to be integrated solidly into the political fabric of the continent or is multipartyism a fad? Does multipartyism necessarily lead to democracy?

How do leaders find the right mix between the security of continuity and the acknowledged need for change?

The second theme is economic reinvigoration. Lost in the pre-occupation with the Persian Gulf, Eastern Europe, Japanese economic indicators and the decline of the USSR is the fact that economic problems continue to plague a majority of African nations. According to some colleagues, the most common saying in Nigeria is "SAP

(Structural Adjustment Program), is sapping me." African regional organizations are meeting to begin structuring an African economic community. In this conference we can examine those national and international actions that we can begin to spark to ignite growth in Africa in the 1990s.

The third theme is restoring social and human resources development growth indicators. There is a tension between the pessimism felt worldwide over the lost decade in development terms of the 1980s and the optimism of African people. Almost all of the human development indicators for Africa are down for the eighties—from school enrollments, to caloric intake, to infant mortality. On the other hand, there are some trends to celebrate. For instance, crude birth rates are down in Kenya, Botswana and Zimbabwe and universal primary education has been realized in Nigeria.

In addition, there are some new issues in this third theme of rebuilding sectoral development. In addition to the human/social development needs, the issues of agriculture and the environment loom large. The environment, for instance, is a longterm, simmering problem as Africa loses a species of tree every day, 40 percent of topsoil has been eroded in some areas and land limits have been reached in many countries throughout the continent. Traditional practice—continuity—versus change. The question is how can such a longterm, invisible problem claim attention with the pressing problems that many leaders face of feeding and sheltering citizens.

The fourth trend or issue that we must examine is the growing fear that Africa will be further marginalized. The global community still thinks of Africa as the continent of famine and war. As many industrialized countries are turning inward, worried about rebuilding Eastern Europe, deficit reduction and recession in the U.S., the amount of money available for Africa may well face net decline. I remember the story of the British PVO searching for a camera team to cover Namibian independence. None was available because they were all committed to Eastern Europe and the German reunification drive.

But this is an African/American conference, so we should properly examine issues in terms of U.S.-Africa relations. We can note actions at both the executive and congressional levels. Assistant Secretary of State Herman Cohen's discussions on Ethiopia, the efforts in Liberia, Kenya and Mozambique all indicate the US's sustained interest in conflict resolution on the African continent. The Congress demonstrated its continued commitment by raising the authorization for the Development Fund for Africa by $250 million for fiscal year 1991. And all Americans were heartened by what we viewed as movement on South Africa as a result of Congressionally passed sanctions.

But there is a danger that economic assistance will breed paternalism on the part of the donor. The challenge before us is to develop a rationale for mature political relationships that takes into account the sea-changes I have mentioned, even though economic inequality will exist for the foreseeable future.

Pluralism, economic reignition, human/sectoral development revival, and the reversal of African marginalization—four powerful themes.

The goal of this conference is to present these and other issues of managing change to an eminent group of Africans and Americans who care about the future of the continent. We have tried to present a variety of viewpoints on every issue, for it is through honest debate among people of goodwill that new thoughts, new strategies, new solutions occur.

Our deliberations are guided by a Directing Committee comprised of foreign ministers, international organizations heads, businesspersons, journalists and opinion leaders. The committee is ably co-chaired by His Excellency Dr. Boutrous Boutrous Ghali, Minister of State for Foreign Affairs of Egypt and our host, and the Honorable William H. Gray III, Member of Congress and Majority Whip of the U.S. House of Representatives. Congressman Gray holds the third most important position in that deliberative body.

Many people have asked why Cairo? Especially now. We view this conference as providing a unique opportunity. The Persian Gulf has both direct and indirect implications for Africa as well as the Middle East. Egypt is at the crossroads, uniquely positioned to impact on two cultures. We are pleased that over 100 eminent colleagues, representing both governments and the private sector, felt the same way. We are particularly honored that the American delegation has been augmented by 26 Congresspersons representing Republicans and Democrats and a variety of interests, united by caring about Africa. We have assembled a stellar roster of African statespersons.

The U.S. delegation is partnered with many of the leading thinkers, decision-makers and internationalists of Africa. I daresay, with adequate resources, the brainpower in this room could probably solve many of Africa's problems.

Perhaps our deliberations will be made easier with the help of proverbs. I am a student of African proverbs: they provide me with insight and inspiration. In the early months of 1990, I would think daily of the adage, "When elephants fight the grass is trampled, and when elephants sleep the grass is also trampled." To me the proverb embodied the essence of the Cold War, its end, and its impact on Africa.

Now I am seized by another proverb: "Until the lions have their historians, tales of hunting will always glorify the hunter. "Africans are becoming "lion historians," powerful and wise, seizing history and the future.

I have a colleague who asks at the end of any activity, "What will success look like?" For me, success will take the shape of new understanding of the impact of global changes, new strategies for South-South cooperation, renewed commitment to building an African and American constituency for Africa. Success is a common vision of Africa that we can all hold until we meet again next year.

Professor Adedeji described that vision, and therefore success, in another venue. I close with words of the ECA Executive Secretary in describing the coming era of a new Africa that can be ushered in by the Arusha Declaration on Popular Participation: ". . . an Africa in which democracy, accountability and development for transformation become internalized in every country and deeprooted at every level of our society; an Africa where the enabling environment that promotes initiative and enterprise and guarantees the dignity of each human being becomes pervasive; and an Africa where the empowerment of the people and the democratization of the development process is the order of the day.

THE 21ST AFRICAN-AMERICAN CONFERENCE

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. PAYNE of New Jersey. Mr. Speaker, my distinguished colleague, the majority whip has introduced a number of speeches from the African-American Institute's 21st African-American Conference, held in Cairo in January.

I think it's also fitting that the majority whip's address at that conference—thoughtful, incisive and candid—get wider attention and ask unanimous consent that it be printed in the RECORD.

REMARKS BY CONGRESSMAN WILLIAM H. GRAY III

The President of Egypt, his excellency Hosni Mubarek, whose leadership in this critical moment in world history so richly deserves acclaim;

The Honorable Boutros Boutros Ghali, Minister of state for Foreign Affairs and cochair of this Congress; I, a man deeply committed to the full participation of Africans in all areas of policy;

Ambassador Fawzi El-Ebrashi, director of the Diplomatic Institute, who has worked so hard to make this conference a success;

Chairman Maurice Tempelsman, President Vivian Derryck, Senior Vice-President Frank Ferrari, my friends at the Institute with which I have been involved for over a decade;

Honorable members of the diplomatic community, friends and guests:

It is a great honor to speak today before so many distinguished African leaders, and so many friends and champions of Africa.

While we focus on Africa, though, world attention today is focussed on Baghdad and Geneva. As Americans watch Secretary Baker jet from country to country, as they see the footage each night on the news of American troops in the Saudi Desert, they debate American options.

The disagreements are real. The debate has been sharp. How long should sanctions be allowed to continue? How do we ensure that Congress meets its constitutional authority? How do we marshal world support?

But basically, these are debates about tactics. Nobody wants to leave this fox in the henhouse. On one fact both American political parties are united. The unprovoked aggression against Kuwait cannot stand.

For to demand less would undermine the most hopeful series of world events since 1945.

We see these changes every day. Chunks of the Berlin Wall sell for a few dollars in souvenir shops. A dissident playwright named Vaclav Havel becomes the new President of Czechoslovakia, and Mikhail Gorbachev wins the Nobel Peace Prize. People line up to cast ballots in Romania and Poland.

Nelson Mandela walks outside prison gates to crowds of supporters who never thought they would see him alive again.

And in March, Namibia celebrates its first year of independence.

The old order has tumbled. The business of creating a new world has begun.

For Americans, though, this is not just a time of hope. It's also a time of deep concern about their place in the world—particularly when it comes to the world economy.

Americans used to think it was they who furnished the world with sophisticated finished products made from raw materials provided by the Third World. Now, Americans sell the Japanese wheat and timber. They sell Americans VCR's and CD players. The United States invented computer memory devices. Today it gets 19 out of 20 memory chips from Japan.

Americans worry about whether they can compete against the new economic Goliaths of the Pacific Rim countries. They worry about the aggressive manufacturers and marketers in France, Germany, and a newly united Europe.

Then there's the deficit. Americans got used to seeing themselves as the largest creditor nation in the world. Now, the United States is the largest debtor nation in history. One out of six U.S. tax dollars goes just to pay interest on the national debt.

Against this backdrop we must view the future of United States-African relations.

How does all this affect Africa? More to the point, how does this affect American attitudes towards helping Africa?

Because Africa's needs are unmistakable:

Sub-Saharan Africa contains 20 of the 25 poorest countries in the world;

Over 100 million Africans face chronic problems of nutrition;

In some African countries, 25 percent of children die before turning five.

This continent of 500 million people has a rising debt about equal to its gross national product. In 1960 before the tide of freedom which saw country after country on this continent gain its independence, Sub-Saharan Africa could feed itself. Now it can't and it's not likely to soon—not with a population growing at 3 percent a year, the highest in the world.

The richest country in the world has much to offer Africa. America can be a source of investment. It can be a source of technological help. It is a repository of ideas. And it is a country which has seen helping other countries as in its interest, whether in the billions it put into the Marshall Plan or the $150 billion a year it spends today defending Japan and Europe.

We have seen our opportunities and acted in world affairs.

But let us face the plain, unvarnished truth. America has never taken advantage of opportunities in Africa. There is an unintended irony in our response to Saddam Hussein. After all, when South Africa invaded Angola in the 1970's did the United States respond the way it has responded to Kuwait? Of course not.

And we all know that for over half a century South Africa illegally occupied Namibia, raping the country without a move from Western superpowers.

Why? And—a more relevant question—why can't America respond to Africa as generously as it did to Europe after World War II?

Part of it is ignorance. There are 30 million African-Americans—more blacks than in Kenya. But to the remaining 220 million, Africa seems alien. With images formed from Tarzan movies and the nightly news, Americans see Africa as a primitive region, dominated by drought, famine, wars, repressive regimes, and indifference to modernization.

They do not see enough. The African efforts for peace in Liberia, for an end to the conflict in Mozambique, the openings in Angola, and the trend and movement for political and economic development all over Africa.

But they will! They will!

Second, frightened by a stagnant economy, Americans are less generous than they were when it comes to any kind of aid. Under the Marshall Plan the United States spent 2.9 percent of its GNP on economic aid—14 times as much as it does now.

Finally, the breakup of the cold war, so good for the long-term health of the world, makes things more difficult for Africa. Americans are now interested in increasing aid to Eastern Europe and the Soviet Union.

American companies talk in glowing terms of opening plants in Czechoslovakia, or Poland. The Harvard Business School wants to run Soviet students through its MBA program, and MacDonalds talks with pride about opening an outlet in Moscow's Pushkin Square.

It's shortsighted.

After all, in Africa, American corporations have a market almost twice the size of Western Europe. And it's a growing one. By the year 2020, Nigeria alone will have as many people as the United States.

Furthermore, those of us who follow Africa closely can see signs of progress.

In the area of government, Americans believe in democratic and open systems of government and free enterprise. We support and prefer nations with democratic systems.

America must be careful that multiparty government doesn't become its sole criteria for determining aid. But certainly Americans should favor systems that allows dissent and free political expression. That's the kind of system that exists in Egypt, Botswana, and Namibia. And in Nigeria the government of General Babangida is poised to return Nigeria to democratically elected civilian leadership.

In economic development, America believes in free markets and countries that foster such systems will receive greater support from us.

Since 1985, food production for the continent has risen faster than the population. The actual decline in living standards has stopped. And Botswana, Kenya, and Senegal have made real progress with family planning.

In foreign policy, there is still much to do when it comes to South Africa and Southern Africa.

The sanctions worked.

There were so many who doubted. But looking back, its clear that the heavy hammer of tough sanctions drove huge cracks in the wall of apartheid.

There is more work to do.

There is a movement sweeping the world to allow people to control government and Africa must march in the forefront of that movement.

There is an old saying that "money goes where it is treated well." Africa can do more to assure those who control investment capital that Africa is a hospitable place for those seeking profit.

There is more to do in South Africa. I made it clear to Mr. De Klerk when we met last fall that the opponents of apartheid will not change—but he and his government must continue to change. We will not rest and sanctions will not end until a government exists in South Africa that has been put there by the majority of its citizens. And that day will come, ladies and gentlemen, that day will come.

It won't come because of what Americans do. It will come because of what Africans do. But Americans can help. We must not, we will not abandon the continent of Africa.

I have hope! I know the importance of hope because I remember the steps it took to achieve basic civil rights in our own country. It wasn't so far back.

In fact, it was exactly three decades ago yesterday—January 6, 1961—that the State of Georgia was horrified to see a young, black high school graduate win permission to enter classes at the University of Georgia.

How could this be, they asked?

How can we be forced to have our children sit next to this young woman in class, to take tests with her, to eat meals in the same cafeteria? They demonstrated. They wrote bitter editorials. And there were riots on the Georgia campus.

The young woman wasn't scared off. She registered. She attended class.

And tonight, Charlayne Hunter-Gault is helping direct this conference. She is not only a brilliant journalist. She is proof that in the fight for freedom, courage and dignity can win; that in the fight for a place in the Sun, those who have hope—and luck—will not be denied.

I'm confident that her struggle can be writ large, not just in America; that the great continent of Africa can achieve its rightful place in the Sun.

It won't be easy? It will achieve that place as the result of a partnership of public sector and private sector. It will achieve that place with the help of people of goodwill around the world. It will achieve it after a struggle that will take decades. Some of us won't be around to see it happen.

But happen it will. When it does, Africa can put its enormous resources to work. And it will bring sunlight to those around the world whose lives are still etched in shadow.

DON'T STRONG-ARM ISRAEL

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. SMITH of Florida. Mr. Speaker, I urge my colleagues to read the excellent op-ed which appeared in the New York Times regarding the fantasy of "land for peace" in the Middle East.

The article follows:

DON'T STRONG-ARM ISRAEL

(By Eugene V. Rostow)

Many well-meaning people imagine there could be peace in Palestine if only the U.S. could browbeat Israel into giving up its claims to yet another slice of the land promised to the Jewish people in the British Mandate. They are deluding themselves and in effect preparing the way for another war that would threaten Israel's destruction.

Secretary of State James Baker, back from the Middle East, discovered that the Arabs are as relucant as ever to make peace with Israel.

Security Council Resolution 242, approved after the 1967 war, stipulates not only that Israel and its neighboring states should make peace with each other but should establish "a just and lasting peace in the Middle East." Until that condition is met, Israel is entitled to administer the territories it captured—the West Bank, East Jerusalem and Gaza Strip—and then withdraw from some but not necessarily all of the land to "secure and recognized boundaries free of threats or acts of force."

The practical reasons behind both halves of that bargain remain valid today. The first requires no withdrawal without peace—a rule often wrongly described as "trading land for peace." Actually, it is quite different. It prescribes that there should be no withdrawal until peace is made; then there can be a complete withdrawal, a partial one, or none, depending on what the parties decide.

The second reason is that Israel's new boundaries need not be the same as the armistice lines of 1949. This provision specifically addressed the problem of peace with Jordan. No state has title to the land between Israel and Jordan. Jordan's claim to have annexed the West Bank, never generally recognized, has been abandoned. The rulers of the Ottoman Empire were the last recognized sovereigns in the territory.

The Jordan-Israel armistice line, the "green line," merely represents the position of both countries' troops when the fighting stopped in 1949. At Arab insistence, the accords provide that the lines are not political boundaries but can be changed when the parties make peace.

From the viewpoint of security alone, it was obvious in 1967, and still is, that Israel must retain a substantial part of the West Bank for defense, considering the uncertainties about future Syrian, Iraqi and Iranian designs. Beyond security, there is the moral claim established by law.

Israel has a stronger claim to the West Bank than any other nation or would-be nation because, under the League of Nations Mandate, Israel has the same legal right to settle the West Bank, Gaza Strip and East Jerusalem that it has to settle Haifa or West Jerusalem. While this proposition is not seriously disputed, the United States has sought to block or limit such settlements on the grounds that they would discourage the peace process, a dubious proposition, since only Egypt has made peace with Israel since 1967.

This does not mean Israel will or should insist on the entire West Bank. There is room for compromise; Israel has always maintained that it would make sacrifices for peace and wishes to remain a predominantly Jewish state. The West Bank Arabs are mainly Jordanian citizens and should have the right to live in Jordan if they wish; today, Jordan denies this right.

That issue aside, the soundest solution for the territories—the solution widely discussed when Resolution 242 was drafted—involved separate states in Palestine: Jordan and Israel. This would include special arrangements for the holy places in Jerusalem and an economic union embracing the entire area: Israel, Jordan and the disputed territories. Every dispassionate commission that has studied the Palestine problem has recommended this approach. It was the idea behind the General Assembly's ill-fated partition recommendation of 1947, and it was Israel's policy for years after 1967.

This should be the main goal of President Bush's peace offensive and what he presses for when he visits the Middle East. The U.S. should not seek only an interim autonomy plan for some Arab parts of the West Bank, however desirable it may seem for a transition period toward peace. If Mr. Bush's initiative fails, Israel should put such an autonomy plan into effect temporarily. But it should not lead to a separate Palestinian state.

While Israel, Jordan, the West Bank Arabs and Syria struggle with the problems of making peace treaties, the other Arab states should comply with 242. They have no territorial disputes with Israel and can normalize relations by diplomatic recognition. Such action could profoundly alter the atmosphere of Arab politics and make Israeli negotiations with Jordan and Syria much easier.

A peace conference of any kind should be avoided. A large international parley would only be a forum for the stale rhetoric that has poisoned so many General Assembly sessions on the Palestine question. The way to proceed, when the Arabs and Israel are ready to negotiate, is bilaterally, with the help of the U.S. as conciliator if the parties wish.

Perhaps Mr. Baker will come to appreciate that Resolutions 242 of 1967 and 338 of 1973 (which makes 242 legally binding) provide the only possible agenda for negotiations because they constitute the only guidelines the parties and major powers profess to accept. Perhaps he also found in the Middle East that what cannot work is a plan to achieve peace at the expense of Israel's rights.

Roman law has a wise maxim: "Law cannot come of a shameful act"—in this case, betraying Israel's rights. Wars can come, however.

Eugene V. Rostow, a fellow at the U.S. Institute of Peace, as an Under Secretary of State (1966-1969) helped write Security Council Resolution 242.

PRAISING THE PERCEPTION OF HON. DAN ROSTENKOWSKI THAT THERE SHOULD BE DOMESTIC FOCUS ON CHILDREN

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. RANGEL. Mr. Speaker, just the other day the chairman of the Committee on Ways and Means, DAN ROSTENKOWSKI, gave a very important speech. Speaking before delgates to a meeting of the National Association of Children's Hospitals, our colleague made an impassioned plea that the President and Congress turn from the success in the Persian Gulf to our domestic needs and that we set children as our priority. I hope that all my colleagues will read the chairman's speech and give heed to his plea.

CHAIRMAN DAN ROSTENKOWSKI SPEAKING BEFORE THE NATIONAL ASSOCIATION OF CHILDREN'S HOSPITALS

This has been an interesting year. Even exciting. It will take years for historians to sort out all the lessons we've learned from our experience in the Persian Gulf, but one is clear already.

America is hungry for leadership. Americans expect their President to lead. When he does—forcefully and with strong conviction—they will be quick to follow. Americans like to win—and, if the goals are honorable, they are willing to pay the price of victory.

That is a lesson that has been repeated often in our history, but one we haven't been reminded of recently—until this year.

President Bush is riding high—and with good reason. He has an abnormally high public approval rating—and he deserves it. I am happy to be a member of the chorus singing his praises.

But popularity is fickle. The public attention span is short. The President must do more than bask in the applause aimed his way. The logical question is—what can he do for an encore? The obvious answer is—lead us.

The President should set domestic priorities. That's his job. We don't need a thousand points of light. We need a single spotlight that will focus our attention on one important but manageable domestic issue. We don't need to be told we have more will than wallet. We need to know how our limited resources can best be invested.

It won't be easy. Priorities aren't always obvious. Saddam Hussein was a gift from central casting—an obvious villain everyone loved to hate. In the domestic arena, conflicts tend to be more muted. You don't have a clear contest between good and evil. Domestically, the enemy is often indifference.

The President should invest some of his popularity and skills to create the same enthusiasm for domestic progress that he did for victory in Kuwait.

If I were the President, I'd focus on children. They've been in the dark cellar of policy debates for too long. Their problems are stark. They cannot plead their own case. Their inability to create political pressure means they deserve a strong champion in the White House.

And kids are a good investment. If we help them today, they'll strengthen our economy tomorrow.

I began talking about the need to commit more resources to children's programs more than two years ago. So far, I have minimal progress to report.

On the other hand, I preached on the need for deficit reduction for a decade before the message got through. No one ever said that political process moves quickly.

I don't want you to think I'm one of those bleeding heart liberals who never met a social spending program he didn't like. As people who operate children's hospitals, I figure there's a good chance you're in that category in any event.

Instead, I'd like to talk about the long-term impact of neglect, tomorrow's economic cost of today's unaddressed social problems. There's a depressingly logical momentum here—kids who start off on the wrong foot spend a lifetime trying to catch up. And often fail.

Kids who don't have enough to eat tend to get sick. Kids who lack adequate medical care tend to miss a lot of school. Kids who aren't in class don't learn how to read. Teenagers who are illiterate tend to drop out of high schools. High school dropouts can't get good jobs at good wages. Often they can't get any jobs at all.

They contribute litle to the nation's economic growth. Those who become dependent on the government for aid actually divert resources that could be used better in other areas. Teenage pregnancies cost government more than 20 billion dollars a year.

Throughout our nation, one of every five children is born into poverty. Think about that, one in five.

And every teenager who begets a child instead of going to college faces an adulthood with very limited horizons.

Consider the parameters of the problem:

One child in five is poor.

One child in four lives in a single parent family.

One child in four is born to a mother who has never been married. Nearly two-thirds of black births are to unwed mothers. Among whites the ratio is one in six.

That's why about half of all children born in the past decade—and nine out of ten black children—spent at least part of their lives in a one-parent family.

More than 12 million children don't have any health insurance.

Two million cases of child abuse are reported annually.

And if you're bothered as I am by the idea of children having babies, I hope you join me in being both offended and appalled by drug-addicted children having addicted babies.

What we have here is simple and cataclysmic—millions of kids are being denied a normal childhood. They're hungry. They're sick. They're not protected and nurtured as they should be by parents and schools that are overwhelmed. They're being cheated by life.

What will happen to American society when these millions of kids become adults? A few will succeed. Many more will be unable to overcome the impediments of their childhood. And some will go out of their way to repay the society for their mistreatment. Not a happy picture.

We know how to respond to their problems. We're not waiting for a major medical breakthrough. There's no magic bullet we can get on the cheap. It requires a long-term commitment to the type of comprehensive programs that we know can work.

There have been ample experiments. The press—especially the American Agenda series on ABC Television—has shown the American people what works. All we need do is expand these programs to reach a broader population.

What can you do? Your attendance here today suggests you're clearly aware of the problem. Many of you know more about it than I do.

If you care, you can do what people traditionally come to Washington to do, lobby. Send a strong message to your elected representatives—including President Bush—that you will to follow when they lead. Let them know that you are getting impatient.

You won't be alone. There's a growing realization within the corporate community that our neglect of children is becoming a problem with obvious long-term economic consequences for the country. Earlier this year a delegation of top corporate executives told the Ways and Means Committee how adequate funding for the Women, Infants, and Children—or WIC program—is a top priority for them.

But lobbying doesn't yield immediate results. There's a need for growing and constant pressure. The White House must realize that this is more than a fad.

I've known George Bush for more than 20 years and consider him my friend. He's not perfect. After all, he is a Republican. But none of us is perfect. Even Democrats have flaws. But George Bush is a good President and he has the potential to be a great President. Help him achieve greatness. What I'm telling you today is nothing more and nothing less than I've repeatedly told him.

But if George Bush is a good man, one who feels the pain when I describe the plight of children in need, he is also a good politician, who doesn't want to stray too far from the mainstream.

Although our backgrounds are very different, our political attitudes are similar. We are both centrists. We think we know the difference between leadership and ideology. There's a word for politicians who get too far ahead of their constituents. That word is "former."

What you must do is send George Bush a message that you are ready to march. That you elected him to lead. That you might not re-elect him if he fails to lead.

I'd be surprised if you didn't think that larger expenditures on children's *health* issues should be the first priority. But I urge you to hold your fire on that one. Parochial squabbling has been the death of many a big idea in Washington.

What we need first is a commitment to the general goal. The goal is to create a better life for America's children—especially those who are today deprived of the bare necessities, the most basic requirements of a decent life. Unless we win on that point, there will be no need to discuss whether sex education for teenagers ought to be a higher priority than prenatal care.

Government is often—and properly—criticized for being too friendly to powerful elements in our society. It is true that the squeaky wheel is greased first. And there are those who say that the government tilt toward programs for senior citizens is a direct result of their political participation.

Good for them. That's how a responsive political system works—its called democracy.

But those of us in government, those who have the privilege of exercising power, should also feel a special obligation to the powerless in our society. We can't expect effective lobbying from a 15-year old pregnant girl who lives in a one-parent home. She's too preoccupied with her own immediate problems to write letters to her Congressman—or her President.

Nonetheless, we have an obligation to the powerless—in political, in economic, even in moral terms. They deserve political representation even if they don't have the strength to fight for it. Their humanity entitles them to a decent standard of living.

Kids can't vote in this country. Kuwaitis can't either. But that didn't prevent us from helping them out in their hour of need.

I supported the President all the way in the Persian Gulf. I voted to authorize the war. And I'm delighted that we won it so easily.

But I think we owe our kids the same kind of commitment we gave the Kuwaiti people. Both cases involve a combination of economic and humanitarian motivations.

One reason we were in the Persian Gulf was because we were worried about our oil supply in the future. That's nothing to be ashamed of. Call it enlightened self-interest. This same enlightened self-interest should compel us to invest kids today because of our same concern about our nation's future.

If you're concerned about the economic growth in Asia, if you're interested in the economic upheaval that's taking place in Eastern Europe and if you plan on getting regular Social Security payments after you retire, you have ample reason to be concerned about America's place in the new economic order.

Let me close by thanking you for all that you and your institutions have done. If I have painted a bleak picture here in trying to promote emphasis on the problem, it is not because I am ignorant of the public service provided by children's hospitals.

Things could be a lot worse. And they probably would be, had your institutions not stretched to help meet the need. But one of the lessons we've learned in the past decade is that community institutions can't solve this problem, regardless of their resolve. It is simply too big. That is why the government must step in.

Enjoy your visit here, but don't forget the kids. If you agree with me that they deserve help, let your elected representatives know.

They know you send them here. And they try—regardless of party—to represent you. But first they have to get a clear message about your commitment, and your expectations about what theirs should be.

IN HONOR OF COMMUNITY OF CAMBRIA 125TH ANNIVERSARY

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. PANETTA. Mr. Speaker, I rise today to pay tribute to the community of Cambria on the 125th anniversary of its founding. The community of Cambria, CA is an important part of the 16th Congressional District of California, and I am pround to recognize its contributions and achievements.

Founded in 1866, Cambria has evolved into a caring and productive community. The residents of Cambria have withstood the natural disasters that their coastal town has been subjected to with courage and determination. They have survived the mud slides that have prevented access to their community; they are surviving the fifth year of drought that is facing California, and they will continue to find strength from within to overcome any obstacle they are confronted with.

The community's inner strength and dedication is apparent in the recent planning of their anniversary celebration. They have formed a committee to celebrate Cambria's 125th anniversary jubilee in conjunction with the Cambria Historical Society, to eagerly plan for this very special occasion. Plans for Cambria's 125th anniversary jubilee will include yearlong tie-ins with existing Cambria events. The community will emphasize a series of events honoring pioneer families who lived in Cambria at the time of its establishment and throughout its history. A U.S. Post Office first-day cancellation stamp has been designed in honor of this occasion incorporating Cambria's unofficial slogan, "Where the pines meet the sea." Exhibits will be displayed that will reflect upon the American heritage and values that contribute to the strength of the community of Cambria and the strength of this great Nation.

The community of Cambria is surrounded by beautiful grassy hills, towering pine trees, and a pristine coast line. The majestic beauty is one of the most breathtaking scenes in the world and the residents have strived to preserve its tranquil atmosphere. The growing tourist industry contributes to this serene setting by allowing people access from all over the world to share in the beauty of this natural wonder.

Mr. Speaker, I ask my colleagues now to join me in honoring the citizens of the community of Cambria on the occasion of the 125th anniversary of its founding. It is with great pride and respect that I pay tribute to Cambria's achievements and contributions to the 16th Congressional District of California.

RENOWNED FILM PRODUCER AND AMERICAN FILM INSTITUTE FOUNDER GEORGE STEVENS, JR. PRESENTED WITH CONGRESSIONAL ARTS CAUCUS AWARD

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. WEISS. Mr. Speaker, it is a privilege for me to inform my colleagues that the congressional arts caucus today presented the highly esteemed cultural leader, George Stevens, Jr., with the Congressional Arts Caucus Award. George Stevens is a friend of many of us in this body, one who has combined a career in the arts with distinguished public service are connected, how, as he has put it, the two "reinforce and nurture each other."

A commanding presence in Hollywood as a film and television producer, writer and director, he is equally so in Washington as a former member of the planning committee of the John F. Kennedy Center for the Performing Arts and the founding director of the American Film Institute. As director of the AFI from 1967 to 1980 and in his present position as life trustee and cochairman of the AFI's Board, George Stevens has had more to do with the preservation of our film heritage than perhaps any other American.

As the son of the famed director George Stevens, George Stevens, Jr. had an auspicious beginning in the film industry, working with his father on the films "A Place in the Sun," "Giant," "The Diary of Anne Frank" and the "The Greatest Story Ever Told" as an associate producer and director of location sequences. He immediately established his own, independent reputation and, by the time he was 28 years old, had directed episodes of television series such as "Alfred Hitchcock Presents," "Peter Gunn," and "Philip Marlowe."

Immediately thereafter, at the age of 29, he was appointed director of the Motion Picture and Television Service of the U.S. Information Agency from 1962 to 1967. As such, he was responsible for the production and overseas distribution of some 300 documentaries a year. In fact, his documentary entitled "Nine from Little Rock" won the Academy Award in 1965. Another film made in 1964 entitled "John F. Kennedy: Years of Lightening, Day of Drums," a stirring account, received tremendous critical acclaim.

His remarkable artistic accomplishments continued concurrently with his devotion to public service. In 1965, President Johnson appointed him to the planning committee of the Kennedy Center, where he advocated an organization to care for America's treasure trove of old films and to support high quality films in the future. In 1967, President Johnson announced the creation of the AFI and appointed George Stevens as its director.

His brilliance and devotion to the AFI over the next 12 years established it as the preeminent national institution for film preservation and motion picture study in the country. Under his supervision, the AFI helped to locate and preserve more than 24,000 American movies.

Mr. Speaker, I must remind my colleagues that American motion pictures have represented the American heart and character, American dreams and ambitions, more than any other medium over the past century. The preservation of these films is no small matter. It is no less than the maintenance of our cultural identity.

Aside from film preservation, George Stevens initiated other AFI programs such as the Center for Advanced Film Studies, the Directing Workshop for Women, the Independent Filmmaker Program, and the successful magazine "American Film, the Magazine of the Film and Television Arts." Today, the AFI is a thriving institution with activities on the east and west coasts, a cultural center for film training, advocacy, and exhibition.

But, if these accomplishments do not overwhelm already, his simultaneous successes in the arts cannot help but impress. He is the creator, producer, and writer of the American Film Institute Award shows, which won an Emmy Award in 1975 for the salute to James Cagney. In addition, George Stevens is the creator, coproducer and writer of the beloved tradition, the Kennedy Center honor series, which Americans anxiously wait for and greatly enjoy viewing each year. These two series have been recognized with a total of three Emmy Awards and the Peabody Award.

In 1985, he completed what must have been a labor of love, but also an outstanding success: "George Stevens: A Filmmaker's Journey," a motion picture biography of his father. He wrote, directed and narrated this film which, in its only competitive submittal, was awarded the special jury prize in the feature film competition at the Chicago Festival. The film not only enjoyed a successful release in theaters across the United States, but was also honored with showings at international festivals in Cannes, Venice, and Deauville. For his work on this film, George Stevens was also honored with a special award from the National Board of Review of Motion Pictures and the Film Advisory Board's Award of Excellence. It was also televised as a 3-hour special on ABC.

Further artistic accolades have followed. His 5-hour miniseries, "The Murder of Mary Phagan" starring Jack Lemmon, which he produced and coauthored the screenplay, garnered an Emmy Award for Outstanding Miniseries for 1987–88, the Christopher Award for Outstanding Television Special, and the George Foster Peabody Award.

One eagerly awaits his latest endeavor. He recently wrote, directed and coproduced an ABC 4-hour miniseries, to be aired next month, dramatizing the historic Brown versus Board of Education school desegregation cases of the 1950's and starring Sidney Poitier.

Mr. Speaker, George Stevens is a man whose abilities are diverse and whose talents are manifold. He epitomizes what a Congressional Arts Caucus Award seeks to recognize—the interplay of devotion to the arts and to public service. It is with great pride, then, that the congressional arts caucus honors this outstanding man, artist, and guardian of our American cultural legacy.

TRIBUTE TO JUSTICE CORNELIUS J. O'BRIEN

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. MANTON. Mr. Speaker, I am pleased to bring to the attention of my colleagues the "Queens Borough Lodge's Judiciary Honoree for 1991," my very good friend and a great Irishman, Justice Cornelius J. O'Brien. Lodge No. 878 of the Benevolent and Protective Order of Elks annually honors a prominent jurist from my home county of Queens, NY. I am very pleased that they have chosen Neil O'Brien for this year's honor.

Born in Woodside, Queens County, NY, Justice O'Brien has dedicated his life to the study of law and its application in a fair and just manner. Neil has demonstrated an untiring dedication to his community in his able and active participation in the judicial process. I believe Lodge No. 878 has made an excellent choice in their selection this year to be honored at their Judiciary Night celebration on April 9.

Mr. Speaker, Neil attended Fordham University, where he excelled in his studies as demonstrated by his 4 years on the dean's list. He earned his bachelor of science degree in 1954 and graduated in the top 10 percent of his class. After college, Neil served 2 years in the U.S. Army and, in 1956, entered Fordham Law School, where he once again proved his worth. He received his LL.B. in 1959 and, once again, was named to the dean's list in each year.

After graduation, Neil was associated with the law firm of Rudser & Fitzmaurice until 1961, when he opened his own law office in Woodside, Queens. Shortly thereafter, Neil accepted a position with the U.S. Federal Trade Commission, where he worked until 1964, when he left to join the firm of David Walsh, Esquire.

In 1967, Neil joined the Queens County District Attorney's Office and was eventually assigned to the appeals bureau. After 7 successful years in this position, Neil was elevated to bureau chief of the appeals bureau. In 1974, Neil's hard work and dedication were further rewarded when he was selected as executive assistant district attorney.

Three years later Neil was appointed to the bench of the criminal court of the city of New York. In 1982, he was appointed as an acting supreme court justice and he was elected to the New York Supreme Court in 1988. Once again proving himself and his abilities, Neil assumed the position of justice of the supreme court, appellate division, second department, in May 1990.

Justice O'Brien presently lives in Woodside with his lovely wife Alice and their daughter, Alice Marie, who is following in her father's footsteps by currently attending law school. However, Alice Marie has made what I believe is a wise decision by attending St. John's University School of Law, my alma mater.

Mr. Speaker, it is with deep respect and friendship that I offer my congratulations to Neil and his family upon his selection as "Judiciary of the Year." I know Queens County and the State of New York have been and will continue to be well-served by Justice Cornelius J. O'Brien.

MIAMI'S PROMINENT BUSINESSWOMEN

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, several businesswomen of the South Florida area have excelled notably. On March 18, 1991, the Miami Herald recognized these women and their accomplishments. It gives me great pleasure to present this article for its inclusion in the RECORD:

BUSINESSWOMAN PREFERS SOLO PATH TO SUCCESS

(By Derek Reveron)

Sometimes, Pamella Watson wonders if success is worth the lonely battle.

Her business consulting firm is her daytime, evening and weekend companion. But that's the way it has to be, says Watson. She is a black woman fighting to fit in an industry of white men.

"You have to be aggressive and don't let that deter you," Watson says. "You ignore it and approach things from the technical side."

So far, the sacrifices have paid off. At 35, she runs Watson & Co. Consulting Services. It has nine fulltime employees and annual sales of more than $400,000.

She has done so well that last week she was named one of Miami's five outstanding Women Business Owners by the Miami chapter of the National Association of Women Business Owners. Winners met the following criteria: They own at least half of their firms. They have been in business for at least five years. They have showed steady growth in sales, volume or employees.

Watson & Co. was chosen because it showed healthy growth in sales and the number of employees, said award judge Kurt Nystrom, vice president of the Beacon Council. "She moved from being an accountant for a Big Eight firm to competing with them," he said.

Her firm, Watson & Co., is among a burgeoning number of South Florida companies owned by women. According to the U.S. Department of Commerce, there are more than 33,000 women-owned firms in Dade County. Since 1982, their growth rate has been 61 percent, compared with 57 percent for the United States as a whole.

Watson started her company in 1985, along with a partner, Jackie Bailey. They pooled $38,000 in savings and loans from relatives, and opened offices at 20401 NW Second Ave.

Within a year, Bailey got married, made plans to move to Philadelphia, and sold her interest in the company to Watson. At first, Watson struggled to get clients and pay bills. To obtain customers, she tapped relatives, friends and former business associates in South Florida and in Jamaica.

In December 1985, Watson landed her first "big" contract—a $22,000 joint venture with another accounting firm to provide accounting services to Metro-Dade. She went on to land a $50,000 annual contract with the Jamaican government. She became an auditor for the city of Miami through a joint venture with Deloitte & Touche.

Today, Watson & Co. has about 200 business clients. Most of them are small- and medium-sized minority-owned firms. They are retailers, manufacturers, law firms and doctors. "My client base is as diverse as the South Florida economy. Most of the clients I've had from the beginning I still have," Watson says. "I'm a trouble-shooter. I review constantly, and if there's a problem, I fix it right away."

Says Marlene Bernard, vice president of 5-year-old Apricot Office Supplies of Miami, "Pam has been with us from the beginning. We are like her baby. Every problem we have, we take it to her, and she solves it."

Watson grew up in Kingston, Jamaica, where her father and mother owned an import-export business. "Growing up in a family business made me want my own business that much more," Watson says.

As a young woman, she worked as a bookkeeper for the family business. Meanwhile, she took business courses at the College of Science and Technology in Kingston.

In 1978, the family moved to Miami. Watson worked full-time in the loan department of City National Bank while studying for an accounting degree at the University of Miami.

She was graduated in 1982, then went on to work as an accountant for Arthur Andersen & Co. and as a senior auditor for KPMG Peat Marwick & Main. In 1985, Watson decided that she had enough experience to strike out on her own. Now she can't imagine life any other way.

AIDA LEVITAN

When Aida Levitan founded her advertising and public relations firm nine years ago, it had $330,000 in billings. Today, that figure is more than $10 million.

The clients of Sanchez & Levitan include the Florida Lottery, Coors beer and Eckerd drug stores. It has 12 employees.

Levitan and Fausto Sanchez, her husband and partner, each own half of the firm. But it was Levitan who got the firm off the ground. She ran the company for two years as a public relations agency before she met Sanchez in 1984. He persuaded her to add an advertising component, and billings grew.

Levitan, 42, was born in Havana. In 1961, at age 13, she came to the United States with her family. She earned a bachelor's degree in languages from the University of Miami in 1969, followed by a doctorate in Spanish literature from Emory University.

CLAUDIA KITCHENS

In 1978, Claudia Kitchens left her job as a Dade public school teacher.

She borrowed $6,000 from relatives to open Red Road Kids Club, a clothing store for children in South Miami.

Today, the business has sales of $1 million and six employees.

For Kitchens, 40, business ownership "has always been a lifelong ambition," she says.

While teaching, she was constantly trying to come up with a good business idea.

A few months after the birth of her first child, it hit her: More and more women are having babies.

Children need clothes. Everybody sells everyday clothes. But few people sell upscale clothing in a boutique setting.

The idea caught on with customers, and business continues to grow.

JOANN BASS

JoAnn Bass was raised in the family apartment above Joe's Stone Crabs. At age 12, she began working in the restaurant.

Today, the Miami native is the third-generation owner of the 78-year-old Miami Beach landmark.

She assumed complete control of the restaurant in 1985, after her divorce and the retirement of her parents. Since then, the eatery has continued to grow, Bass said. Revenues are more than $10 million annually. There are 206 employees.

At 59, Bass has held only one other job in her life. She worked part time as a sales clerk in a dress shop while her husband attended the University of North Carolina in Chapel Hill.

After coming back to Miami, she returned to working for the family business and has been there ever since.

NANCY FREHLING

Twenty-one years ago, Nancy Frehling and her husband bought a tiny shop from an elderly man.

They groomed it into Gift Enterprises, a successful gift shop and wholesale business. They own Nessa Gaulouis, an upscale gift shop in Bal Harbour.

Nancy Frehling declines to give sales of Gift Enterprises. But she says that sales for 1990 were the best ever. Most of the operation's sales come from the wholesale business.

Started 14 years ago, it sells furniture and decorative accessories. Nessa Gaulois, named after its founder, sells china, crystal and flatware.

Nancy and Robert Frehling divide responsibility. She runs the retail business. Robert runs the wholesale end.

For 10 years, they had a second retail store in Mayfair. It was closed in 1989 because it was unprofitable, Nancy Frehling said.

I would like to take this opportunity to personally congratulate Aida Levitan, JoAnn Bass, Claudia Kitchens, and Nancy Frehling. Women of their caliber are the foundation of the community's growth and diversity.

LATVIAN DEPORTATIONS

HON. BERNARD J. DWYER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. DWYER of New Jersey. Mr. Speaker, on March 25, 1991, we will commemorate the 42d anniversary of the deportation of Latvian citizens to Siberia.

Over 42,000 residents of Latvia were forcibly relocated under Joseph Stalin's collectivization of farmland policy. The small nation's population had already been appreciably reduced because of Stalin's first deportation in 1941, coupled with the ravages of the war.

The trials of the Baltic Nations have not ended. While communism has broken down in the Eastern bloc nations of Europe, the Baltics are still struggling to regain their independence. The United States has always recognized their right to independence and we must continue to do what we can to see that this goal is realized. The commemoration of the 1949 deportations serves as an opportunity to keep the history of Latvia alive in the West and to signal to our friends in Latvia our unwavering support.

THE 39TH ANNUAL NATIONAL PRAYER BREAKFAST

HON. CHARLES W. STENHOLM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. STENHOLM. Mr. Speaker, it was my great privilege to serve as chairman of the 39th Annual National Prayer Breakfast, and I am pleased today to submit for the RECORD the program and transcript of that inspiring event.

In the Gospel According to Matthew, our Lord Jesus Christ reassured us that "Wherever two or more are gathered in my name, there shall I be also." Mr. Speaker I am pleased to report that on the morning of January 31, 1991, there were 3,838 individuals from 140 different countries gathered in His name, and His presence was undeniable.

One of the beauties of this annual event is that it serves as a graphic reminder that God's people come in all colors, shapes and sizes and from all walks of life. People unable to communicate through the same language, people who stand on the opposite sides of the aisle in Congressional Chambers, people who live in mansions and those who live on streets—these folks may have little in common by the world's standards, but were brought together at the National Prayer Breakfast for one simple reason: we are all God's children. Standing at the podium looking out at the sea of brothers and sisters in Christ, it dawned on me that I had never been to a family reunion quite like this one.

From Red Steagall's "Cowboy's Prayer" to Dr. Jordan's New Testament reading in sign language to Joe Gibb's lessons learned by a football coach to President's Bush's request for prayers for peace, the Word of God was spoken and heard that morning.

Naturally, on January 31, when the conflict in the Middle East was barely 2 weeks old, a prayer for peace was on the minds and in the hearts of everyone there. Prior to the breakfast, some folks had called my office to ask if the Middle East crisis was going to cause the cancellation of the breakfast. Our immediate decision was that if ever our country needs a National Prayer Breakfast, certainly it is at times such as these. I believe every person at the breakfast felt reassured knowing that we could bring our cares and offer our collective prayers for peace to God that morning.

Events like the National Prayer Breakfast don't just happen. I want to thank Doug Coe and all of his wonderful staff for the hours and prayers and labor of love they committed to this event. I also want to express my appreciation to the House and Senate weekly prayer groups, not only for their participation in this one event but for the year-round support and fellowship they provide Members of Congress. And I most especially want to thank all of the folks who participated in the program of the 39th annual breakfast.

Mr. Speaker, a great number of people, not only from our country but around the world, are interested in the National Prayer Breakfast. I ask, therefore, that the program and transcript of this marvelous event be printed in the RECORD for today.

NATIONAL PRAYER BREAKFAST

January 31st, 1991, 8 a.m.

Chairman: The Honorable Charles W. Stenholm, *U.S. Representative, Texas.*

Pre-Breakfast Prayer, Antonia C. Novello, M.D., M.P.H., *Surgeon General, U.S. Public Health Service.*

Opening Song, Morehouse College Glee Club, *Atlanta, Georgia.*

Opening Prayer, The Honorable Bill Gray, *U.S. Representative, Pennsylvania.*

BREAKFAST

Welcome, The Honorable Charles W. Stenholm.

Message, Dr. Billy Graham.

Old Testament Reading, The Honorable Buddy Roemer, *Governor of Louisiana.*

Remarks—U.S. House of Representatives, The Honorable Marcy Kaptur, *U.S. Representative, Ohio.*

"The Cowboy's Prayer" Mr. Red Steagall, *Fort Worth, Texas.*

New Testament Reading, Dr. I. King Jordan, *President, Gallaudet University.*

Remarks—U.S. Senate, The Honorable Pete V. Domenici, *U.S. Senator, New Mexico.*

Prayer for Peace, Admiral Huntington Hardisty, *Commander in Chief, U.S. Pacific Command.*

Message, Mr. Joe Gibbs, *Head Coach, The Washington Redskins.*

The President of the United States

Group Song, The Honorable Daniel K. Akaka, *U.S. Senator, Hawaii.*

Closing Prayer, Mr. George Gallup, *Princeton, New Jersey.*

Closing Song, Morehouse College Glee Club.

PROCEEDINGS OF THE NATIONAL PRAYER BREAKFAST

Congressman STENHOLM. May we come to order, please? My name is Congressman Charlie Stenholm of the 17th District of Texas. I have the privilege of being the chairman of the 39th Annual National Prayer Breakfast. And I would like to welcome all 3,838 of you here this morning.

(Applause.)

Congressman STENHOLM. I want you to know that for a farmer from Ericksdahl, Texas, this is mighty tall cotton for me to be standing here looking out over this audience this morning.

You've been listening to the fine piano playing of John Haugen, who has and will continue to be bringing us a number of national anthems of the world this morning. Thank you, John.

(Applause.)

Congressman STENHOLM. And now I'm pleased to introduce to you Dr. Antonia Novello, Surgeon-General of the Public Health Service, who will bring us our first morning prayer. Dr. Novello.

Dr. NOVELLO. Good morning. In my family we have a custom that when we pray, we hold hands. So may I please ask that all of us hold hands?

Let us pray. Dear Heavenly Father, you are the divine physician who heals our bodies and soothes our souls. You are the prince of peace and we your humble servants. Yet we, a peace-loving nation, now turn to you as a nation at war. Father, it is a paradox of our human condition. We have learned through human history a bitter lesson, that peace at any price is no peace at all, and that, therefore, there are times when we must reluctantly take to battle to preserve our ideals.

We are confident that our cause is just, our motives right, our spirit pure, our conduct proper. We pray that you will guide and protect our troops and those of our allies. And that our women in uniform, who are demonstrating through their courage that honor knows no gender, be granted your special blessing.

We pray also that our nation's children will understand that what we do, we do ultimately for them, that they and all the world's children will inherit the peace that so reverently we seek. We fervently ask that those American children whose courageous mothers and fathers now so gallantly wave our banner in the sands of Arabia will soon be reunited.

We pray, too, for our enemy and especially for the innocent civilians who may inadvertently come into harm's way.

Heavenly Father, our joined hands form a chain of love for you and symbolize our unshakable chain of support for our President. We stand proudly with him and share his burden. We pray that as he conducts the war that will surely be won by bravery and perseverance, you guide him to a peace that will be won by wisdom and understanding.

And Lord, as we turn our attention back to a world at peace, we also must ask that you help us and guide us in easing the suffering here at home. We must heal those who are sick and heal those who cry out in pain.

Lord, our President has spoken of a new world order, where the power of justice and liberty will prevail. And so it is that in your name we pledge ourselves to a new human allegiance, the yearning of all your sons and daughters for peace, dignity and freedom. We ask these things in your name.

Dios (Inaudible) a los Estados Unidos de America. Amen.

Congressman STENHOLM. Everyone please be seated now. Due to a specially called National Security Council meeting, our President will be a few minutes late this morning. In the meantime, please enjoy the breakfast and the program will continue shortly.

We will now hear the Morehouse College Glee Club of Atlanta, Georgia. In addition to the young men before us, I want to thank Dr. Leroy Keith, College President; the Honorable James Hudson, chairman of the board; and David Morrow, music director, all who helped make it possible for this group to be present with us this morning. Now let us enjoy the music.

VOICE. Ladies and gentlemen, the President of the United States and Mrs. Bush.

Congressman STENHOLM. Our greetings to the President and First Lady who have just joined us.

(Applause.)

Congressman STENHOLM. Before moving on, I want to express our sincere thanks to the Morehouse Glee Club for their musical number.

(Applause.)

Congressman STENHOLM. My friend and Congressional classmate of the 90th Congress, Majority Whip of the House of Representatives, and probably, more importantly, the minister who stands in the pulpit of Bright Hope Baptist Church in Philadelphia nearly every Sunday morning, the Honorable and Reverend Bill Gray will now lead us in our opening prayer.

Congressman GRAY. Let us pray. We are grateful for the occasion that allows us to come together, O Lord, that calls us to a time of reflection, that reminds us of our oneness with the human family, and our interdependence and mutual reliance on spiritual powers beyond our understanding. We are thankful for the human spirit that reaches out to touch the inner life of others, that lifts us to another dimension of hope and aspiration beyond the materialism and the physical limitations of this life.

We are thankful for the awareness of the strivings of all those who struggle to preserve this spaceship earth for generations yet to come. We are thankful for the spark of the divine within all humanity that prompts us to worship and pray and respond to that spark in the life of others.

We are keenly sensitive and deeply appreciative, O Lord, of the physical blessings that are ours even as we share this food, that sustains our bodies in a world in which many persons never have enough to eat.

We know our need to be forgiven for our insensitivity to pain and suffering, for greed and self-centeredness that destroys the fabric of our life together. Forgive us for the apathy and sloth that permit us to rest in smug self-satisfaction, for the narrow parochialism of a nation and clan, for the shortsightedness that in itself blinds us to the vision of the eternal.

Teach us, O Lord, to pray as we work, as we walk in our daily chores, as we go to our homes, as we live in our families, as we strive to find meaning in our human existence. Teach us, O Lord, to pray in every experience of life. Teach us to pray with meaning and depth, with perception and empathy, with personal involvement and passion. Teach us to pray from our hearts. Teach us to pray with insight, comprehension, with reckless abandon, with openness to whatever may come. Teach us to pray with the frightful knowledge that we may have to be useful in the answering of our own prayers.

We are grateful for the leaders of our homeland and representatives of many nations. We pray for our President and the first lady, who are today present in our midst. Grant to him wisdom and patience, strength and courage and faithfulness to his own best leadings. Grant to all public servants the judicious stewardship of their gifts and talents. Grant to all those locked in mortal combat the inner peace that we all seek. And grant to everyone of us the strength that comes only when we rely upon eternal values.

And finally, O Lord, teach us to pray not our will, but thy will be done. Amen.

Congressman STENHOLM. At this time, Dr. Abdullah Khouj of Saudi Arabia, director of the Islamic Center in Washington, will bring us a reading from the Koran in which we see that many of the universal truths appear in a number of the world's religions. Dr. Khouj.

Dr. KHOUJ. I greet you all with universal salutation of a Moslem by saying may the peace and blessing of God be upon you.

I start with praising God who has guided us to this gathering today. We could not have been guided had it not been for his guidance. Indeed, this is the truth.

Concerning our predicament of war and the solution for that, in the Koran God states, if two parties among the believers fall into a quarrel, make ye peace between them. But if one of them transgresses beyond bounds against the other, then fight ye all against the one that transgresses until he complies with the command of God. But if he complies, then make peace between them with justice and be fair, for God loves those who are fair and just. The believers are but a single brotherhood. So make peace and reconciliation between your two contending brothers. And fear God that ye may receive mercy.

And then God states in the Koran that all mankind are equal. All mankind, he created you from a single pair of a male and a female and made you into nations and tribes that ye may know each other, not that ye may despise each other. Verily, the most honored of you in the sight of God is he who is the most righteous of you. And God has full knowledge and is well acquainted with all things.

We are grateful to almighty God, master of our lives. Through thy benevolent ways and mercy, we have assembled here this morning in the spirit of joy and happiness to express our thankfulness and seek thy blessings on this occasion. We beseech your help in all of our daily endeavors and express our sincere thanks for the guidance you have shown to us.

O God, guide us to your ways, the ways of righteousness and peace. Grant us peace, O Lord, peace. Help us to do your will in our lives, in our relations and in our affairs.

O God, send your mercy on those who die in the good cause of yours, and make heaven their last result.

O God, bless the sincere intentions of those who are gathering here today. Amen.

Congressman STENHOLM. Once again, good morning. I've always loved King Solomon's words, to everything there is a time and a season. As a farmer, which is what I am in real life, I understand the idea of a time to sow and a time to reap. We have some great sowing going on here this morning through the messages we will be receiving through our honored guests, through the fellowship occurring at each table, through the overwhelming sense of belonging to one family in Christ. As we look around at this crowd of brothers and sisters, 140 countries are represented, with 450 international guests here this morning, seeds are being planted everywhere. And it's not just here that the fellowship of believers are gathered. On this very morning, 71 groups involving 2,563 people in 32 states are joining us in prayer. I know that after we leave our various gatherings, God will continue to provide sunshine and rain so that all around the world those seeds will produce beautiful crops for later reaping.

But the Bible also makes clear that while certain things are for a given time or a season, others are for all times and all seasons. Take rejoicing, for example. Sitting in a cold, dark prison, St. Paul told us to rejoice in the Lord always. As a nation, yes, even as a world, we have many serious concerns today. We worry about the lives of those who are separated from us. And we worry what the future might bring. But the word of God tells us that even in dark days, perhaps especially in dark days, our spirit needs the rejuvenation which rejoicing in the Lord brings.

St. Paul tells us of something else which isn't seasonal, but rather is for all times, who instructs us to pray without ceasing. One of this week's messages on the "Day-by-Day with Billy Graham" calendar sitting on my desk says this: "Prayer is the rope that pulls God and man together. But it doesn't pull God down to us, it pulls us up to Him." On behalf of the House and Senate Prayer Breakfast Groups, I welcome you to join in the planning, the reaping, the rejoicing and praying this morning will bring. With hands united with our brothers and sisters, and reaching upward toward our Father, we ask him to pull us up so that we might be blessed by his gracious love and then sent forth into all the world to carry his good word.

Now let me introduce a few of the people sitting at this head table. First, the lady who needs no introduction to anyone in America, especially the children of our country. Let me present to you our dear first lady, Barbara Bush.

(Applause.)

Congressman STENHOLM. Mrs. Bush, you made us all smile a while back when we heard of your antics on the sled——

(Laughter.)

Congressman STENHOLM [continuing].—Antics—I heard you wiped out half a forest, but——

(Laughter.)

Congressman STENHOLM [continuing].—But your grandchildren enjoyed it. But we want you to know that you've warmed our hearts even more by the care you've taken in reminding us of the special needs of all of our children right now. War is a particularly frightening thing for children. And you're the one who has helped us adults remember to take time and plenty of hugs in trying to explain to our youngsters the events of today's world. You may be "Granny" to your own grandchildren, but you're supergrandmother to the whole country. And we love you for it.

(Applause.)

Congressman STENHOLM. Next, I'm honored to introduce several foreign dignitaries who have traveled many miles to be with us today. Three heads of foreign state—first off, President Arpad Goncz of Hungary. Mr. President?

(Applause.)

Congressman STENHOLM. Prime Minister Jeffrey Henry of the Cooke Islands.

(Applause.)

Congressman STENHOLM. Prime Minister Ratu Sir Kamisese Mara of Fiji.

(Applause.)

Congressman STENHOLM. In addition, we have with us the Vice President of Costa Rica, Vice President Serrano.

(Applause.)

Congressman STENHOLM. And Vice President Salgero of Guatemala.

(Applause.)

Congressman STENHOLM. And Vice President Garcia of Peru.

(Applause.)

Congressman STENHOLM. We are especially pleased that each of you are with us today.

Now let me quickly introduce some of the others sitting at our head table. I would ask each individual to stand as you're introduced and to remain standing and to please hold your applause until we can properly greet them all. Beginning at my far left, Mrs. Kingsley Gallup, wife of George Gallup.

(Applause.)

Congressman STENHOLM. Only in the Congress can we disagree with the rules.

(Laughter.)

Congressman STENHOLM. Mrs. Sally Hardisty, wife of Admiral Huntington Hardisty.

Mrs. Nancy Domenici, wife of Senator Pete Domenici.

Mrs. Cindy Stenholm, wife of Charlie Stenholm.

Mrs. Ruth Graham, wife of Dr. Billy Graham.

Mrs. Linda Jordan, wife of Dr. I. King Jordan.

Dr. Joseph Novello, husband of Dr. Antonia Novello.

Now welcome everyone.

(Applause.)

Congressman STENHOLM. And I goofed—Mrs. Millie Akaka, wife of Senator Daniel Akaka.

(Applause.)

Congressman STENHOLM. We're pleased to have all of you here this morning.

Turning now to a man who needs no introduction to this crowd or truly to virtually anyone in the world. The man who has been the president's pastor for many administrations, Dr. Billy Graham will bring us a brief message. Dr. Graham.

(Applause.)

Dr. GRAHAM. Mr. President, Mrs. Bush, Mr. Stenholm and distinguished guests, we're meeting at a time of world crisis, a very critical moment. And I'm delighted that my friend, Joe Gibbs is going to bring the message because he can tell us how to win games. And next year, I hope that there will be a peace and perhaps he can have some of these people like General Schwarzkopf and the people that are running this war sitting by his side so the Redskins will be at the Super Bowl, and win the Super Bowl.

(Applause.)

Dr. GRAHAM: But we've come here primarily as we've already heard for one reason and that's to reflect on God and his concern for us. We've also come to pray that He will give us a spirit of repentance for our failures to live up to His commandments and to ask Him for wisdom at this crucial hour in our history.

And perhaps more than any prayer breakfast that I can remember, the one main subject that everybody is thinking about is peace. None of us knows what the future holds. But almost all of us would agree that the world is passing through an extremely dangerous time. And if ever there was a need to pray and to seek God's help, it is now.

The word peace is on the lips of everyone today. The Bible—and as we've already heard the Koran—tell us that throughout the history of the human race peace has been the constant cry of the human heart. Even today when Arabic speaking people meet, they greet each other with the word salaam or peace. When Jewish people meet, they greet each other with the word sholom, which is the Hebrew word for peace. When the angels announced the birth of Jesus, they declared, "Glory to God in the highest, and on earth peace." And it's interesting that the three great religions of the world, three of the great religions of the world—Islam, Judaism, Christianity—all come from that part of the world in which our eyes are on the television screens today in which the difficulties are occurring.

And yet, almost 2,000 years after we heard so much about peace, peace is elusive and fragile and difficult to obtain. And we ask ourselves what is the basic problem? Jesus said, in this world you will have trouble. He did not teach that the world would ever have complete peace till the Messiah comes and the Kingdom of God reigns. In fact, he said the opposite would be the case. Does that mean we should not work for peace and pray for peace? Certainly not. We should do everything we can to promote peace. Jesus himself said, "Blessed are the peacemakers." But at the same time, Jesus warned us not to be surprised when peace breaks down.

The problem of war and peace is not just a political or an economic problem alone, important as that may be. The problem, the Bible says, is a deeper one. It's the problem of the human heart. There come times in human history when nations have to stand against some monstrous evil like Nazism or as we're standing today.

The writer of the New Testament Book of James says, what causes fights and quarrels and wars among you? Don't they come from your desires that battle within you? You want something and you don't get it. You kill and you covet, but you cannot have what you want. The real problem is with the greed, selfishness, and lust for power that dwells within the human heart that we're seeing an illustration of in the Middle East today.

Why are we this way? The Bible says it's because we're alienated from God. The Koran teaches that. The Bible teaches that. God created us. He loves us. But we've lived our lives neglecting him. And when Mohammed was going to do his meditations, he was searching for the faith of Abraham. And the faith of Abraham was the same faith that the other parts of the world were searching for. And it's the faith we need today, the faith of total submission to God. And that is what the Bible means when it says that we are sinners. It doesn't mean that all are terrible people. It simply means we've left God out of our lives. And we've paid a price because we've substituted something or someone instead of God.

Jesus said, in this world you will have trouble. But he also said, in me you can have peace. And whether it's your personal situation in your family, with your neighbors, in business, or just something in your life that you don't understand but that drives you to seek counsel from psychologists, psychiatrists and even clergy.

(Laughter.)

Dr. GRAHAM. The world only gives us peace when there are peaceful circumstances. But Christ promises the peace of God in our hearts regardless of the circumstances. And I say to you here today that God can help heal our broken relationships. That is why he sent his Son to the cross to die for our sins. He took humanity by one hand and His Father God by the other and brought us together at the cross.

And you can find that same peace and that same joy that he promises to all of those that put his trust in Him. And it's my prayer today that every single person in this place will leave here and we will be praying. We'll be praying for a prayer of repentance, a prayer of belief and a prayer for a new beginning for America. And that I believe we're in the beginning of that new beginning right now, and that our best days, as we heard the other night, our best days are before us. God bless you.

(Applause.)

Congressman STENHOLM. Our Old Testament reading will be given to us by another Member of the 96th Congress, a friend who is now Governor of the State of Louisiana, Buddy Roemer.

(Applause.)

Governor ROEMER. Mr. President, thanks, Charlie. I dedicate my remarks this morning to the memory of Laverne Demler of Bossier City, Louisiana, who died on Tuesday of this week after a long and courageous struggle. The Old Testament reading is from First Kings, Chapter 3, Verses 5, 9 and 10.

Now, as usual, Stenholm has given me 180 seconds. So let's see what I can do. The Old Testament is best described by a single word, passion. The New Testament by a single word, others. Jesus lived and died for others, do unto others, always others. Hard to do. But the Old Testament is about personal, private passion. Everything in the Old Testament is the oldest, the youngest, the wettest, the driest, the hottest, the prettiest, the ugliest, the longest, the shortest, the worst, the best passion. Very few wimps on the pages of the Old Testament.

(Laughter.)

Governor ROEMER. Now, my passion is fly fishing. Hey, Mike, how are you? Mike Sullivan, the Governor of Wyoming, I fish there often. It has little to do with the fish. It's about cold mountain water and pine trees and bear and deer and geese and campfires and poker and hearts and laughter and tears. It's about my three kids and a father and his sons and a father and his daughter and an open spirit. It's about God's vast outdoors and about being humble, and it's about eagles, too.

On August 2 last year—interesting day, August 2—my kids and I and a group of 20 were fly fishing on the Snake River near Jackson Hole, Wyoming. After several unsuccessful hours in a narrow gorge, my guide said, look down river, Buddy. And I did. And 400 yards away, coming up the river at us three foot above the water was a bald eagle. Huge. Four hundred yards, 300 yards, 200 yards, 100 yards. So beautiful it took our breath away. Making not a sound, but drowning out all other noise.

Fifty yards out, the eagle went down into the river and rose out of the river with my trout.

(Laughter.)

Governor ROEMER. It was beautiful, the trout particularly. But I'll never forget the water pouring from the brown, white and black feathers of the bald eagle as he rose to meet the sky, flying right past my open-mouthed face to the nest above the river.

Just when I thought it was over, my guide said, look back again, Buddy, and I did. And there was a baby bald eagle flying the same flight path as his father or mother. Four hundred yards, 300 yards, 200, 100. Fifty yards out he went down into the water and he came up with no fish, but he flew right past us again to the nest.

Learning how to fish, that's the lesson God taught so beautifully to this cowboy that day and the lesson that God teaches to us in the Old Testament. Our job, yours and mine, is to teach our children how to fish. First Kings is such a lesson. It is about Solomon, who was the son of David, King of Israel and Bathsheba. In First Kings, Solomon becomes King of Israel. And God appears to him in Verse 5, and I read the Verse: "The Lord appeared to him in a dream that night and told him to ask for anything he wanted and it would be given to him."

What if you were given that wish this morning? What would you ask for? Health, happiness, wealth, fame, peace, pleasure, purpose, victory? My wish is for our President. May he receive from God what Solomon wished for, Verses 9 and 10. Solomon asked, "Give me an understanding heart so that I can govern your people well and know the difference between what is right and what is wrong. For who, by himself, is able to carry such a heavy responsibility? And the Lord was pleased that Solomon had asked for wisdom."

For you, an understanding heart, Mr. President, wisdom, you are not alone. For the world, peace. Thanks.

(Applause.)

Congressman STENHOLM. Marcy Kaptur, Representative from the 9th District of Ohio, a gracious lady in every way, a faithful attendee of the House Prayer Breakfast each Thursday morning, and someone I'm proud to call my colleague and my friend. Marcy brings us greetings from the House of Representatives. Marcy?

(Applause.)

Congresswoman KAPTUR. President and Mrs. Bush, people of God, the people's House, which I am honored to represent today, reflects in its membership, the deep and abiding faith of the American people. We are inner-faith and ecumenical. Whether our constituents worship in mosques or in synagogues, in great cathedrals or in roadside chapels, each Member of the House knows that the American people are searching to find God's way, pilgrims all.

American history is synonymous with religious freedom, freedom to worship, but no mandate to worship. Our search has been a movement from the covenant ethos of America as the new Jerusalem, the new chosen people to a larger and more inclusive vision that we Americans, like all people of this world, have need for God's mercy.

I bring you greetings from the Thursday morning House Prayer Breakfast Group. We begin our day with the religious reading given by a Member, at least one hymn sung by all and a presentation by a sitting Member of his or her life history and the relationship of faith to life and work. We end with a prayer and loud amen.

Fellowship is good leavening for the House. That camaraderie often transfers to our daily work in which Member can be pitted against Member on matters of national and global concern. The Prayer Group helps us remain a collegial body.

The president of the Prayer Group this year is Charles Stenholm of Ericksdahl, Texas. Bill Emerson of Cape Girardeau, Missouri, is our vice president. Our official chaplain is the Reverened James Ford, Chaplain of the U.S. House and former chaplain at West Point. Our assistant to the chaplain is Congressman Sonny Montgomery of Meridian, Mississippi, assisted by the able Bob Stump of Arizona.

At each prayer meeting, Congressman Montgomery presents a report to us on sick and wounded Members of Congress and events of importance. We learn of weddings, new babies or the loss of loved ones, illnesses and recoveries. We pray for both Republicans and Democrats.

Now, the assistant to the assistant chaplain is Congressman Tom Bevill of Jasper, Alabama. Because of their seniority, Congressmen Bevill and Montgomery have chairs of honor in the assembly always reserved just for them.

Good memories abound. We've hosted visiting members from foreign parliaments, always members of the House, of course.

Of late, we've reviewed together the religious tenets underlying just causes for war. We've spoken to emerging faith communities from societies that are not free. We've prayed for Congressman Floyd Spence of South Carolina's miraculous recovery, and to congratulate John Myers of Indiana, one proud grandpa on the birth of his first grandchild, Justin Augustus.

We learn from each other. Congressman John Lewis of Atlanta, Georgia, embodies the full meaning of Dr. Martin Luther King, Jr.'s beloved community. Of course, what you may not know about John Lewis is that a childhood dream was to own a Sears and Roebuck $19.95 chicken egg incubator.

Not one of us can forget our yuletide prayer sessions. Congressman Jake Pickle of Texas often wields his 100-year old wheezing foot pedal, bright red organ down for the occassion. And Congressman Leon Panetta of California, the very serious chairman of the Budget Committee, has been known to pound "Away in a Manger" and "Jingle Bells" as Members chime in full tones. The organ is autographed with hundreds of names of those famous in House history, including Speaker Sam Rayburn.

Really, the House Prayer Group presents a most human and compassionate face of the House. It is largely hidden from public view, as it should be. Like all Americans being buffeted daily by the winds of war, we will draw solace and hope, praying together in the days ahead. We know that war is the ultimate abandonment of reason and of love. But we have as we recall the words of Pope John Paul VI, "If you want peace, work for justice."

At this time, I'd like to ask all the Members of the House of Representatives, former Members as well, to stand up and join me in greeting those of you in attendance in saying to you, may the love and peace of God go with you, the United States of America and the world. Thank you. Please stand up, Members of the House. Thank you.

(Applause.)

Congressman STENHOLM. Thank you, Marcy.

One of the things which has made our nation great from its beginning is the freedom granted to worship God in whatever way an individual finds appropriate. While he may not be comfortable in a high vaulted cathedral, the American cowboy has always had a special relationship with the Creator. Wandering across the vast lands of the West, working with God's creatures, the cowboy often has a very personal but very real relationship with the almighty God. Here to bring us the cowboy's prayer is Red Steagall, a constituent, a cowboy and a poet from West Texas. Red?

(Applause.)

Mr. STEAGALL. Thank you, Charlie, Mr. President and Mrs. Bush. Ladies and gentlemen, I'm deeply honored to be here. And I just wish the boys in the bunkhouse could see me right now.

(Laughter and applause.)

Mr. STEAGALL. The only room they've every seen this big was full of hay.

(Laughter.)

Mr. STEAGALL. They've never seen this many people together at one time except at a George Strait dance.

(Laughter.)

Mr. STEAGALL. I am thrilled to death to be here. And Mr. President, they wanted me to tell you that we all have our best horse staked next to the wagon and we're ready to roll our beds and go anywhere you need us.

(Applause.)

Mr. STEAGALL. Cowboy poetry is a uniquely American art form. It talks about the lives, the beliefs, the philosophies of a group of people whose spirit and dedication of their way of life still has a drastic influence on Americans all over the world. This particular poem was written by Badger Clark somewhere around the turn of the century:

"Oh, Lord, I've never lived where churches grow.
I love creation better as it stood
That day You finished it so long ago
And looked upon Your work and called it good.
I know that others see you in the light
That's sifted down through tinted window panes,
And yet, I seem to feel you near tonight
In this dim, quiet starlight in the plains.

I thank You, Lord, that I am placed so well,
That You have made my freedom so complete;
That I'm no slave of whistle, clock or bell,
No weak-eyed prisoner of wall and street.
Just let me live my life as I have begun
And give me work that's open to the sky;
Make me a pardner of the wind and sun
And I won't ask a life that's soft or high.

Let me be easy on the man that's down;
Let me be square and generous with all.
I'm careless sometimes, Lord, when I'm in town,
But never let 'em say I'm weak or small!
Make me as big and open as the plains
As honest as the hawse between my knees
Clean as the wind that blows behind the rains,
Free as the hawk that circles down the breeze!

Forgive me, Lord, if sometimes I forget.
You know about the reasons that are hid.
You understand the things that gall and fret;
You know me better than my mother did.
Just keep an eye on all that's done and said
And right me sometimes, when I turn aside.
And guide me on the long, dim trail ahead
That stretches upward toward the Great Divide.
Amen."

(Applause.)

(End of Side 1, Tape 1.)

Congressman STENHOLM. Well done, Red. If you haven't noticed, there's a copy of that in your program this morning.

Dr. I. King Jordan became deaf at an early age, but recently broke the sound barrier by becoming president of Gallaudet College. Welcome Dr. I. King Jordan.

(Applause.)

Dr. JORDAN. Thank you, Congressman Stenholm. President and Mrs. Bush, ladies and gentlemen, I will read from the New Testament. First from 1st Thessalonians, Chapter 5, Verses 13 and 14:

"Hold one another in highest regard and love because of their work. Live in peace with each other. And we urge you brothers, warn those who are idle, encourage the timid, help the weak, be patient with everyone. Make sure that nobody pays back wrong for wrong. But always try to be kind to each other and to everyone else.

Be joyful always. Pray continually. Give thanks in all circumstances. For this is God's will for you and Christ Jesus."

My second reading is from 1st Peter, Chapter 3, Verses 8 to 18:

"Finally, all of you live in harmony with one another. Be sympathetic. Love as brothers. Be compassionate and humble. Do not repay evil with evil, but with blessing, because to this you were called so that you may inherit a blessing. For whoever would love life and see good days must keep his tongue from evil and his lips from deceitful speech. He must turn from evil and do good. He must seek peace and pursue it.

For the eyes of the Lord are on the righteous. And His ears are attentive to their prayers. But the face of the Lord is against those who do evil.

Who is going to harm you if you do good? But even if you should suffer for what is right, you are blessed. Do not fear what they fear. Do not be frightened. But in your hearts set apart Christ as Lord.

Always be prepared to give the reason for the hope that you have. But do this with gentleness and respect, keeping a clear conscience so that those who speak maliciously against your good behavior may be ashamed of their slander. It is better if it is God's will to suffer for doing good than for doing evil, for Christ died for sins once for all, for the righteous, for the unrighteous to bring you to God."

(Applause.)

Congressman STENHOLM. Senator Pete Dominici from New Mexico has a reputation for being hard working, intense, frank, one of the major leaders in the Senate, and the father of eight children. I guess that last accomplishment is the most demanding and the one of which he is the most proud. Pete will now bring us greetings from the United States Senate.

(Applause.)

Senator DOMENICI. Thank you very much, Charlie. Mr. President and Mrs. Bush, distinguished guests and friends all, first might I say we are not yet finished and I think we have already had one of the finest National Prayer Breakfasts ever. And I think maybe we ought to in advance thank Charlie. Could you join me in saying thanks?

(Applause.)

Senator DOMENICI. You heard from our distinguished House Member something about how the House Prayer Group conducts themselves. It falls on me of my own choice to talk about the Senate Prayer Group in a slightly different way. In my own way, I'm going to try to tell you very briefly for I, too, have been allotted little time. The only one that did not have any time allotted was the Reverend Billy Graham. I think it was fine that we did it that way, however.

(Laughter.)

Senator DOMENICI. But it falls to me to tell you in my own way briefly why I think the Senate Prayer Group meets, and maybe that might tell us all a little bit about why we're here. But first, let me say that I bring you greetings from them. This is a group made up of many Senators from both parties, and they meet every Wednesday. It is clear to many of us that this meeting fulfills some special need. And it is obvious that it's a need beyond the processes of being a Senator or the Senate, beyond personal power and personal achievement that frequently typifies our lives.

It is a need some of us think is prompted by the demands of our conscience and the conflicts that we sometimes feel between our conscience and that which we are expected to do. In short, I think we meet because we worry about decisions we have to make. And we turn to our God, our Christ, our dear friends in that time of worry. Recent decisions that my colleagues and I have had to make serve as an example of difficult choices. All of us know that there are many famous admonitions by Jesus, but one that he gave to us on the Mount said, "But I say to you who here love your enemies. Be good to those who curse you. Pray for those who mistreat you."

We don't really care for war. And some of us recall the scripture that Paul the Apostle writes in Romans, "Never pay back evil to anyone. Respect what is right in the sight of all men. Be at peace with all men. Never take your own revenge." And so on.

When we considered the events of the Persian Gulf—and obviously our dear President had even more and it was more personal and more focused—but many of us, whether we knew it or not, were recalling some of these passages and they were in our consciences and we worried. We were troubled. Our very consciousness, specific or just there, of the words of Christ compelled us to approach decisions of this type with great care and in all humility. And I believe that for many, because of this, decisions such as the ones we have made don't come easily. And without deep inner struggle, when someone asks me what is the practical difference Jesus Christ has made, especially in the world of Washington, I think of the kinds of decisions that my colleagues and I made earlier. And I think of the struggle within us. I think of the reverence we have for life. I think how good it is that we worry. And knowingly or otherwise recall Christ's words as we make these difficult decisions. I think that it is good that we only reluctantly are willing to commit to any course other than peace, even when the course of conflict seems right. That's why we're here this morning. In a real way, week by week, not in such dramatic issues as this one, that is what compels us to get together in fellowship and prayer, the awesome consequences of our decisions.

So if I can bring just one thought to you this morning from the Senate Prayer Group, it is this: we worry and we thank God that we do.

And Mr. President, we know you worry. And we know you have a right conscience. And we love you for both.

Thank you very much.

(Applause.)

Congressman STENHOLM. Thank you, Pete. Whether in the United States Congress, the small towns of America or overseas, no thought is more prominent right now than the wish for quickly achieved peace. Our thoughts and prayers have been continuing with the young men and women involved in today's turmoil in Desert Storm and the leaders who make decisions affecting all of us. Commander-in-Chief of the U.S. Pacific Command, Admiral Huntington Hardisty, will now lead us in a prayer for peace. Admiral Hardisty.

(Applause.)

Admiral HARDISTY. Let us pray. O God, our hope in ages past, our hope in years to come, our shelter from the stormy bliss, and our eternal home. In the midst of turmoil and strife, we come before You today with praise, with thanksgiving and with the sure knowledge that You have brought us safely through many trying times in the past. We praise You, Almighty God as the Creator of the universe, the author of freedom and justice and the Father of all mankind.

We thank You for all that has been given us, the bounty of this nation and this planet, the company of our friends and our fellow man, the freedom to choose our own destiny and the heritage and the spirit and the indomitable will to do what is right.

We ask for Your guidance, O God, and Your help, especially in these difficult days as we strive to bring freedom to those who are oppressed and peace where now there is war.

God grant strength to those who serve. Still their hearts and steady their hands that they might accomplish their duties without fear for themselves and with the sure knowledge that the welfare of their loved ones at home is foremost in the hearts of all Americans.

God grant solace to those who wait. Calm their thoughts and restore their souls as they meet each day confident in Your help.

God grant peace to those who suffer. Soothe their hurts and ease their pain with the knowledge that our cause is just.

God grant wisdom to those who lead, both here and in the field. Renew their tremendous courage and strengthen their resolve that they may bring the war in the Mideast to a quick and just conclusion.

And finally, God, be our guide and strongest force as we work for the time when the peoples of the earth will foreswear aggression, a day when nation shall not lift up sword against nation anymore; a time in which a truly peaceful and prosperous world can be achieved, and one in which unfortunate and more fortunate nations and peoples work together to foster religious freedom, human rights, economic development, self-sufficiency, representative government and support the democratic principles.

We ask all these things in Your Holy Name, amen.

Congressman STENHOLM. Last Sunday, many of us watched the faces of our military men and women overseas, huddled in their blankets in the middle of the night, cheering wildly for their favorite New York football team. If you felt like I did, that picture alone was reason enough to make me glad the Super Bowl carried on this year. But we have a man here today who knows a little bit about going to the Super Bowl. And I'm sure he would have rather been there than wherever he was. And I'm not sure how a lifelong Dallas Cowboy fan like me got talked into inviting the coach of the Redskins to be our main speaker today.

(Laughter.)

Congressman STENHOLM. But it happened. In truth, I have respected Joe Gibbs for as long as I have known of him. And I'm very proud to have the chance to introduce him today. He's a man always named as one of the top football coaches in America. And he takes his job as seriously as any man could. And yet he manages to keep his priorities straight. I'm reminded of a Vince Lombardi quote in which that great coach was reported to tell all of his players, if you want to play for me, your priorities are in this order: Your God, your country, your family, the Green Bay Packers and everything else. And I've suspected that that is Joe Gibbs' philosophy by what we see.

Whether it's the way he leads his team, or his commitment to youth for tomorrow—a residential facility for teenage boys he built several years ago—this is a man of God who puts his faith into action. Join me in welcoming Joe Gibbs, head coach of the Washington Redskins.

(Applause.)

Coach GIBBS. Thank you, Charlie. Getting invited by a Dallas Cowboy man, you'll notice that I did not eat my breakfast this morning.

(Laughter.)

Coach GIBBS. I was a little suspicious of that.

Mr. President and Barbara, it is our desire to surround you with prayer, particularly at these times, and to all the other members of the other countries out there and the leaders of the 140 countries or so that are represented here this morning, that is our prayer, to surround you with prayer for wisdom.

To Billy and Ruth Graham, I want to thank you for traipsing all over the world, spreading the name of Jesus Christ. At age 5 my mother and grandmother took me to one of your crusades in Asheville, North Carolina, and I'll tell you what, they made sure I was there. Thanks for all the years of commitment.

(Applause.)

Coach GIBBS. I'm going to speak to you this morning about the only thing I am qualified to speak about and that's my life. Because for some reason, being a football coach and being up here, it seems a lot easier, Mr. President, to decide who to give the ball to on 4th and 1 than made some of the decisions you have to make.

(Laughter.)

Coach GIBBS. I'm going to share a little bit about my life. And it has been as a football coach and it's been working with people. Basically, my whole life has been involved with recruiting and trying to put together a team. Buddy, as you mentioned, I guess you could say my life has been one of trying to decide who the wimps are and not getting them.

(Laughter.)

Coach GIBBS. Because they just don't seem to do well out there, you know?

(Laughter.)

Coach GIBBS. I'm going to share some things about my personal life. And my hope is that by me opening up my life and Pat's life, that we can share some things that would maybe help some of you this morning.

In 1963, I graduated from San Diego State, the Harvard of the West——

(Laughter.)

Coach GIBBS. I stepped out like many of you and I think that my desire was this, it was simply this: I wanted to be successful, and I wanted to be happy. And as I embarked on that at 23 years old, I jumped out in the world and I really started looking at what does the world say that would make me happy and successful? And basically the world was telling me this: It said that I needed to make money, I needed to gain position, or obtain a position of power. And, of course, in my case, it was to win football games.

The second thing that the world was telling me was that it was my friend, that it would be with me, and it was going to be kind of right there by my side.

The third thing the world was really kind of telling me at that point of my life was that I only had one life to live, and once I had lived that life on this earth, that it was over. And so I needed to do my own thing.

And so I embarked, I spent about nine years of my life trying to accomplish those things that the world told me would make me happy. Nine years later in 1972, I found myself at the University of Arkansas, and you know what happened to me? Every time I accomplished something I thought was really important, winning football games or any other thing, I found an emptiness in my life. In 1972 I think God surrounded me with some Christian people, and I started looking at their lives and I started adding up the things that I had tried for in the last nine years. There was a young man who was recruiting in Pasadena, Texas, as a matter of fact, who made a big impression upon me, because Pat and I had just had our first son, and I was trying to make up my mind as to what kind of a father I was going to be. As I looked at this young man and the life that he and his parents had, I thought, that's the kind of relationship that I want to have. It was six months into that recruiting process before I found out that he was an adopted son.

I was around another assistant coach, a friend of mine, Don Breaux. I was with Don two years before that, and I had seen a miraculous change in his life. In two years, his outlook toward his wife had changed, his language had changed, and the moral direction of his life had changed. I was looking at this guy thinking, what has caused this, what has caused this change in his life?

I was also around a Sunday school teacher, George Tharel, who really became my spiritual father. He was teaching that little Sunday school class there in Fayetteville, Arkansas and being faithful to God. And I took a look at all those guys and I started to discover something. I discovered that, really, the world had been telling me a lie.

Let me illustrate that by saying this. In 1983 we had just won a big football game here in Washington, and I was all cranked up on myself. We had just won a big game and we were going to play in Dallas the next week for the division championship. I came home that night and was all excited about myself. I got up the next morning and—you know, God puts those women there for us, doesn't he, guys—and I remember charging around that house and thinking to myself, boy, this is something this week, I've really got something important here and what an important guy I am. And I remember Pat telling me, "Joe, pick up your socks and your bathrobe and put them back. I'm telling you for the last time."

(Laughter.)

Coach GIBBS. Pat started to share something with me about one of our boys, and I can remember thinking, why would she spend time this morning bothering me with something about one of my sons? This important guy is getting ready to go out and coach this football game and my wife is bothering about these things. So, I kind of slammed the door and kind of huffed off like I do sometimes in the morning.

I had a little prayer time in the car on the way to work and I don't think I'll ever forget the reality that struck me. When I got to work, I called Pat on the phone and this is what I said, "Pat, I want to tell you something. What you're taking care of at home is more important than what I'm taking care of at work."

And, you know, that's what the world tells us, isn't it? It tells us that being a football coach and winning these games or being president of a company is the most important thing in the world. And really, how many times have we heard our mothers say, I'm just a housewife?

The bottom line is this. The world was telling me that my job was the most important thing in my life, and that wasn't the case at all. My wife is taking care of something at home which was far more important than all those football games I was coaching, and that was my children. The most important thing I am going to leave here on earth is going to be my children and the influence I have had on others.

Do you know, when I stop and think about that, it really does grab me and it puts some reality back in my life. The second point, of course, is that the world was telling me at that point that it was my friend and it was really caring for me, and I illustrate this a couple of different ways. When the world tells a football coach it's your friend, you really get those cheers. I'm always reminded, because I know how you fans think every time it's 4th and 1. When I came here and got this job in Washington, the first couple of times it was 4th and 1, I heard all you fans yelling, go for it! I said to myself, these fans want to go for it. And I thought, well, obviously, if these fans want to go for it, I'm going for it. And about the third time we didn't make it, all you fans went, boo——

(Laughter.)

Coach GIBBS. I stopped and thought about that and I thought, from now on I'm not going off of what the fans say, I'm going off of what I say.

I think as a football coach I have been given a unique opportunity to see how the world reacts week to week. With that in mind, I have another illustration. In 1983 we had one of our best teams. We went 14 and 2 and had lost two games by one point. We had an excellent quarterback in Joe Theismann, a big running back in John Riggins, and a great defense. And you know in this town, I came here in '81 and we struggled through 8 and 8. We won the Super Bowl the next year, and the next year we had this fantastic season going. People here were starting to say that I was pretty bright, actually saying things like a genius. And, the worst part of that was that I was beginning to believe it.

(Laughter.)

Coach GIBBS. I come here and I start coaching this football team. And here we are having this great football season. We go to Tampa that year and we are to play the Raiders in the Super Bowl. I'm afraid some of you probably remember that game! But really, the world at that point was saying, hey, Joe Gibbs is a pretty sharp guy. We start this football game, and as some of you probably remember, the first half was one of the worst I've ever experienced. Everything seemed to go wrong. We got a punt blocked and everything seemed to be falling apart on us. We were going nowhere and the Raiders are going up and down the field, and we're behind. And it came down to a decision in the first half of that game for which I'll probably be remembered forever.

Mr. President, there were 12 seconds to go and I had a choice to make on the sideline. I had to make a decision similar to what you have to make every day, although this wasn't quite that important. Twelve seconds to go. What am I going to do, fall on the football? I thought, hey, what would the fans want to do? Should we fall on this football, run this clock out, or should we take a chance? I know how you fans are, you'd say, take a chance, man, and that's exactly what I thought.

I was standing there and Joe Theismann was yakking on one side and people were yelling and screaming, and bloods flying, and I said, "Hey, shut up!" I thought to myself, the first thing we're going to do here is we're going to take a chance. We're backed up on our own 20, so we're going to throw a safe pass and hopefully pick up here about 25 or 30 yards, (you couldn't reach the end zone with a "Hail Mary" from where we were at 80 yards away). And it makes logic, doesn't it? And I said, "We're going to throw this safe pass, hopefully get about 25, 30 yards, call time out because we have two time outs left, and take a shot at the end zone." That to me sounded very smart.

I'm here to tell you that in football when you're 80 yards away from the goal line with 12 seconds to go, nobody plays man to man——

(Laughter.)

Coach GIBBS. So I called the safe screen pass. Joe Theismann dropped back and turned to his left to dump the ball off to Joe Washington. One linebacker from the Raiders went man to man, picked off the ball and went in the end zone with it.

And I can truthfully tell you this, and this really happened to me, the next day in the "Washington Post" I was called a buffoon.

(Laughter.)

Coach GIBBS. Now you're laughing, but that hurt.

(Laughter.)

Coach GIBBS. But what I'm here to tell you, though, really this morning is this: If you're going to live by the world's standards, then that's the yo-yo that you're going to be on. You're going to have to make the right decision every time. As a football coach, you're going to have to win the game every time. And every time you slip, then the world is going to turn and you're going to get the boos.

Now on the other side of that, though, I discovered that there is something totally different here. There is God's love, and His love is unconditional.

And I want to share a couple of things about that—in my life, Pat and I, in those Super Bowl years of '82 and '83. I had made a decision to get in some investments, and it was over the top of Pat's best advice. You know, you should always listen to your wife. So I got into these investments because I really had not put my security in the Lord. I was putting it in the fact that I had this short-term contract. And I was worried about that and I wanted to make sure that I had enough money to put off to one side. I got into those investments and I thought it was a good idea. Believe me, for the next three years, Pat and I went through one of the toughest times in our lives.

As those investments started to fail, I sat down with attorneys to try and figure out what had happened. I had gotten into a partnership and every time others signed their names, in essence, they were also signing mine. When things began to fail, everybody else left town and I was the only guy left that the creditors could find. After all, I was the head coach of the Washington Redskins.

During the next three years of our lives, I remember Pat saying to me several times that life wasn't a lot of fun. When the investments turned sour, I found myself on my knees in Oklahoma and I prayed this prayer:

"Lord, for all intents and purposes, I am bankrupt and I am going to have to depend on you. You are the only one that can conceivably get me out of this, but I am ready to go through whatever you have in store for me."

During those times, I learned so many things about my wife, so many things about myself, and so many things about my children, because we went through that period of three years of being tested. You know, when I look back on that, I wouldn't trade that time for anything.

My point is this: When you live for the world, you have to win every time, but when you live for God, and He loves you, His love, as opposed to the world's, is unconditional. He will love you forever. He loves you more in the bad times and the tough times than He does in the good. He's actually working in your life during that process. And certainly, He worked in my life during that time and I wouldn't trade that for anything. Yet the world, looking at that, probably would have said, Joe's a fool, which I was, and would have been booing.

In 1980, I came home from work one night and found Pat crying. I found out that for several weeks at the last part of that season she had hidden from me that she needed surgery for a brain tumor. We went in for surgery on the first day of that year. The tumor was located real close to all the facial nerves, and when my wife came out of that surgery several hours later, she had nerve damage on one side of her face. And, to see your wife, somebody who is absolutely beautiful, with a face that's so symmetrical and beautiful, and to see what happened to her and for us to have to live through that, I can truly tell you this in sharing this with you, that was the toughest time in my life.

But, knowing how she belonged to God and that He loved her no matter what, and that He had promised that everything in our lives was going to wind up for the best in the end, that gave us a great peace. And it doesn't matter whether it is a financial disaster or a physical disaster in our family, I feel that we have a confidence in knowing that we belong to God, and what a great peace that is. In the middle of everything that's happening around us, we can rise above those circumstances, as long as God is leading our lives.

I'm sharing three things with you here—a financial disaster, a physical disaster in our family, and an occupational disaster. As many of you remember, when I came to Washington, we started out 0–5, and to start out 0–5 in Washington, I tell you, you're just looking for a different way home at night.

(Laughter.)

Coach GIBBS. When I think back to that awful start, I know that God was just as real at 0 and 5 as He was in the Super Bowls. You see, whether it's vocationally or whether it's through a sickness or sometimes whether it is a financial disaster or many other ways that God always walks with us, He does what? He loves us more in the adversity than He does when the rest of the world is cheering us and we're winning. He actually is more evident during those times of adversity.

The third thing that the world was telling me was that I only had one life and I needed to do my own thing, and that is what the world is thinking today. I found out that wasn't the case at all, but that God made us special and He loves us and He put a soul in us. He made us for a personal relationship with Him. And actually we are going to live forever.

Boy, did that gripe me when I discovered that. I wasn't just going to live to a certain point and then die and disappear, but my soul was going to live forever. The point is, we are either going to live with Him or separated from Him, and by me not making a decision to follow Him as my personal savior, I was going to live for the rest of my life separated from Him.

All those things came together in my life in 1972, and I went forward in church that night. Here is what I said:

"God, I know that You have been there, but I haven't been living for You, and I want to invite You into my life tonight. I want to make a personal commitment to You and to invite Jesus to live in my heart for the rest of my life.

I made that commitment to Him and I'm here to tell you that if I had time this morning, I would share with you about the many times that He has led Pat and me over these last 15 years or so that we've been living for Him. I can tell you about a job that I took in San Diego when I was backing up in my own direction and my career. I had a tremendous uneasiness about it. I wound up sitting in an airport picking up a Bible. How many of you have ever seen a Bible in an airport? I thumbed to the first chapter of James. A young guy sitting next to me said, "I've shared that same chapter in my life about six months ago." He relayed a conversation there that really put my whole life and the head coach position in perspective, and the right perspective for me.

Many people will say that that person sitting next to me at that moment was there just by accident. But, I'm here to tell you that time and time again, God has led me in my life. He gave me a peace about my occupation at that point. I went on to San Diego, and the coach whose job I would liked to have had in San Diego got another job one week later, and I became the offensive coordinator there. Two years later, I was the head coach of the Washington Redskins.

It is great knowing that God has a purpose for our life, and I have felt Him lead me through different decisions in my life. I'm here really to say this to you: That you were invited to this breakfast this morning in the spirit and name of Jesus Christ. I don't believe it's an accident that you are here this morning, and I stand before you as a testimony that I can do nothing without Christ, and yet, I can do all things with Christ.

I can truthfully stand before you and say this: My life would be nothing if it wasn't for my personal relationship with Jesus Christ. And it is my desire this morning that if you could get anything from what I've said, that everybody out there would have that personal commitment and that relaxing feeling of knowing that you have made a commitment to Christ.

I share that with you and stand before you this morning seeking prayer and guidance for our President and all you others that have those important jobs leading us toward peace. And I do stand before you this morning saying thanks to you, God, for loving us so much to give us Your Son, Jesus Christ, and thank You for letting me have this personal relationship with You.

Pat and I have shared this personal testimony with you, and it is our hope that each of you will have a personal relationship with our Savior.

(Applause.)

Congressman STENHOLM. Well done, Coach.

We are taught to respect and revere the office of the President of the United States. That's a good thing. But sometimes in the process we lose sight of the fact that the President is also a human being. This is one President who reminds us of that in many positive ways. Having come from the House of Representatives, President Bush maintains a special relationship with we House Members through personal phone calls, handwritten notes and sometimes a game of racquetball with at least one Member. He is a human being who never has risen to a place where he felt he was too important for the personal touch.

President Bush, we respect you for your office, but we appreciate you for your humility and your caring. And right now, we're riding you awfully hard. But we're not going to put you up wet. Ladies and gentlemen, the President of the United States.

(Applause.)

President BUSH. Thank you all very much. Please be seated. Thank you, Charlie. Thank you very much for that warm welcome.

Thank you very much for that warm welcome and let me just greet our Prime Minister Henry here and Prime Minister Ratu Mara and President Goncz over here and all the other visitors from overseas. And I want to pay my special respects to the Members of the Senate and House prayer group. I'd also like to single out Doug Coe, who's been such a guiding light in all of this——

(Applause.)

President BUSH. And, of course, our special thanks to Joe Gibbs and to Governor Buddy Roemer for sharing in such a personal way their faith.

My heartfelt thanks goes out to everyone involved in this marvelous event. Dr. Graham was reminding Barbara and me when we came over here of its genesis and how President Eisenhower, he felt, seemed very nervous about whether this would be the right thing to do and whether it would be a fulfilling experience for the people that attended. And I expect Ike would, if he could have attended this one, would have had no doubts whatsoever.

I want to thank everyone for their concern and prayers about Barbara's recent accident. In these days of environmental terrorism, I can——

(Laughter.)

President BUSH [continuing]. I can happily report that the tree is bearing well and so is Barbara Bush doing very well, I might say. And I say that with considerable pride.

(Laughter and applause.)

President BUSH. This is a diverse group. I've never seen anything quite like it, politically or anything else. But we do have one thing in common. We stand together in prayer.

Let me just share a letter, a true letter I received here from a mother who told me a story about her five-year-old son's evening prayers. As he knelt by his bed, this kid was kneeling in prayer and his parents explained that they were going to pray together for President Bush so that he would have the wisdom to get the hostages out of Iraq. And after a minute of deep thinking, the little boy said, "Mom, how is a bush going to get the people out of the rock and how'd they get there in the first place?"

(Laughter.)

President BUSH. Well, the mother in the wrap-up of the letter said that it was a good thing the Lord knew what the boy was praying for because he sure didn't.

(Laughter.)

President BUSH. But you know the hostages came out of Iraq.

So I believe the Lord does hear our prayers. Joe put it very beautifully here. I know our country is praying for peace. And across this nation, the churches, the synagogues, the mosques are packed, record attendance at services. In fact, the night the war began, Dr. Graham was at the White House and he spoke to us then of the importance of turning to God as a people of faith turning to him in hope. And then the next morning, Dr. Graham went over to Ft. Myer, where we had a lovely service, leading our nation in a beautiful prayer service there, with special emphasis on the troops overseas. So I expect when Barbara and I were there at that prayer service, we were only doing what everyone in America was doing, praying for peace.

You know, America is a nation founded under God. And from our very beginnings we've relied upon His strength and guidance in war and peace. And this is something we must never forget. Just yesterday—you're going to think I do nothing but read the mail—but just yesterday——

(Laughter.)

President BUSH [continuing]. I got a letter from a man who pointed out to me that during the State of the Union, a message that I had neglected to make any mention of God. And I was somewhat defensive about that. So I quickly went back and I did see at the very end, "May God bless America". But then I got to realizing that this man was correct. I have learned what I suppose every President has learned, and that is that one cannot be President of our country without faith in God and without knowing with certainty that we are one nation under God. So I think I should have made that clear, more clear, that God is our rock and salvation and we must trust Him and keep faith in Him.

And so we ask His blessings upon us and upon every member, not just of our armed forces, but of our coalition armed forces (end of side 2, tape 1) that is represented as these 28 countries stand up against aggression.

Today I am asking and designating that Sunday, February 3 be a national day of prayer. And I encourage all people of faith to say a special prayer on that day, a prayer for peace, a prayer for the safety of our troops, a prayer for their families, a prayer for the innocents caught up in this war, and a prayer that God will continue to bless the United States of America.

(Applause.)

Congressman STENHOLM. Well done, Mr. President.

The House Prayer Breakfast Group, unfortunately, has lost its song leader, who now calls the U.S. Senate his home. But this morning we are fortunate to have Senator Danny Akaka of Hawaii to lead us in the hymn, "In Christ There is no East or West". The Senator will sing the first verse, the choir will join in for the second and then we ask the entire audience to rise and to sing along on the final two verses. Please stand now as we sing our final hymn.

(Hymn.)

Congressman STENHOLM. Please be seated. We entered this hall this morning expecting to hear the voice of God and we have not been disappointed. Now that we have been blessed by this sowing, let us remember our mission now to tend the crops, going into all nations, teaching the word of the Lord.

Our closing prayer will be led by George Gallup, a name which is a household word across America. Following the prayer, the Morehouse Glee Club will dismiss us with a song, "I Can't Tarry". We ask each of you to remain seated until the President and Mrs. Bush have left, and also, briefly give the other heads of state opportunity to leave before you get up and depart.

George Gallup.

Mr. GALLUP. Let us pray. O mighty and merciful God, who is present with us at this moment, and who hears the prayers and supplications of all faithful people, we close today with renewed hope and assurance of Your continuing love, love made known to us through Your Son, Jesus Christ.

We hold up to You our President and all other leaders of government who are so heavily burdened at this time. Grant them, we pray, wisdom and guidance as they seek to balance the need for peace and justice.

Heavenly Father, may this time of deep searching for Your will, a time when growing numbers of people are coming to You in intense and urgent prayer and at a time when people are attending our houses of worship in record numbers. May this be a time when we gain a new sense of Your purpose for our lives, secure in the knowledge that the closer we come to You, the closer we come to each other.

O God, may the light of Your Son continue to shine in the hearts and minds of those present and sustain each one of us in the days to come. Amen.

(Hymn.)

(Applause.)

LEGISLATION INTRODUCED TO ALLOW TAXPAYERS MORE EQUITABLE SYSTEM FOR CHARITABLE CONTRIBUTIONS

HON. ROD CHANDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. CHANDLER. Mr. Speaker, today, Mr. DORGAN and I are introducing legislation to reestablish a fair and equitable system for taxpayers to deduct contributions made to charitable organizations. The current system offers only taxpayers who itemize their deductions an incentive to make donations to charities. This does not properly serve the interests of low-to-middle-income taxpayers who typically do not itemize nor does it properly promote such worthwhile policy as encouraging contributions to charitable organizations. Our bill would allow taxpayers who do not itemize the ability to deduct contributions in excess of $100.

Congress recognized in 1981 that taxpayers who did not itemize were not receiving a full tax benefit for their contributions to charity. It was also noted that allowing nonitemizers to deduct their contributions would stimulate broader based charitable giving to nonprofit organizations, many of which provide human services that otherwise might have to be provided by the Federal Government. After enactment of this change, gifts to nonprofit organizations surged.

In 1986, however, this policy was abruptly repealed—mainly for revenue reasons. Since that time, charitable deductions have sharply declined. So, too, has Federal Government spending on human service programs. This combination will only hurt one population—those who are served by charitable organizations. I do not think this is the intent of Congress. Therefore, I strongly encourage my colleages to support this measure.

CHARLES R. HADLEY ELEMENTARY CELEBRATES UNITY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, tonight the Charles R. Hadley Elementary School, in Miami, with the support of its Parent Teacher Association, presents their "Unity Ceremony." This event is held to highlight the powerful need for unity beyond racial, religious and national barriers to face our world's problems. Two years ago, the Hadley school's art teacher, Mrs. Maria Guerrero, designed an official school seal which shows hands reaching across the continents of our globe so that together they may support it. The principal, Julio T. Carrera, has developed a theme from this seal emphasizing the role of the parent, teacher, child relationship in promoting tolerance and understanding worldwide.

Mrs. Francis Valdez, the president of the Charles R. Hadley Elementary School PTA, Mr. Carrera, and Carolyn L. McCalla, the assistant principal, have together worked to integrate this theme of global unity into the curriculum and student activities. Mr. Speaker, I commend these educational leaders and the faculty of Charles R. Hadley Elementary School in their effort to pursue teaching excellence and the promotion understanding.

A TRIBUTE TO CLARK BURNETT

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention the outstanding contributions and fine public service of Clark Burnett, the outgoing president of the Chino Valley Chamber of Commerce. Clark will be honored for his fine work at a dinner in California in April.

A native Californian, Clark attended Chaffey High School, Chaffey College, and Cal State San Bernardino. For the last 24 years, he has held a number of management positions with the Southern California Edison Co. Clark is presently area manager serving as public relations liaison between the Edison Co. and the communities of Ontario, Montclair, Chino, and the San Bernardino County Dairy Preserve.

Needless to say, Clark is very active with the chambers of commerce in each of these cities. For the last year, he has served as president of the Chino Valley Chamber of

Commerce and as a board member of the Montclair Chamber of Commerce. He has also served on several committees of the Ontario, Montclair, and Chino chambers. In addition, he is a board member of the Ontario-Montclair YMCA and is a member of the Blady View Public/Private Coalition of Governments.

Clark has had tremendous success during his tenure as chamber president and is largely responsible for its positive growth. He is credited with initiating a new division system creating an executive board of president, president-elect, and three vice presidents. This new division, which assigned specific responsibilities to each position, eased the flow of information and improved chamber communications.

Clark was also very supportive of new publication formats during his term and was responsible for the completion of the new city directory. Publications providing up-to-date information to the membership regarding chamber activities reduced production costs. In addition, Clark's commitment to maintaining the chamber's mission statement—namely stimulating a positive quality of life and job development—encouraged greater development of the chamber's economic and legislative action committees. Clark's leadership is also credited with guiding the chamber to an all-time high membership development and communication.

Mr. Speaker, I ask that you join me and our colleagues as we honor the fine achievements of Clark Burnett. He is a fine model of professional and community service and activism. I would like to wish Clark and his family many more years of success as he is recognized by the House today.

PANAMA CANAL IS OF VITAL IMPORTANCE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. CRANE. Mr. Speaker, today I am introducing a resolution expressing the sense of the Congress that the President should seek to negotiate a new base rights agreement with Panama to allow United States troops to remain in Panama beyond December 31, 1999. The resolution also states that under the new agreement, our troops retain the ability to act independently to protect U.S. interests and the operation of the canal.

Under the terms of the 1977 Panama Canal Treaty, the United States is responsible for the operation and defense of the Panama Canal until December 31, 1999, after which the United States relinquishes control of the canal and all United States military personnel must withdraw from Panama.

One cannot overstate the importance of the canal both strategically and economically. The fact that the waterway is still considered a vital choke point in times of crisis is clearly illustrated by the fact that the number of warships to transit the canal since the beginning of the Persian Gulf crisis actually tripled. Without the canal, ships would have to make a 13,000-mile trip around Cape Horn, which takes approximately 3 weeks. The United States also depends a great deal on the Panama Canal for its international trade. Currently, 15 percent of all U.S. imports and exports pass through the canal annually, and that percentage is on the rise.

Clearly, the Panama Canal is of vital importance to the United States. Its security cannot be jeopardized. While there is no question that Panamanian President Guillermo Endara has demonstrated his determination to restore democracy to Panama, we cannot ignore the fact that Panama has a history of unstable governments. As recently as December 1990, there was a coup attempt in which 100 members of the new police force seized control of police headquarters in Panama City. Had our troops not subdued the uprising, it is possible that Panama would now be controlled by another Noriega-style dictator.

We must take advantage of the friendly relationship which currently exists between the United States and Panama to secure our interests in the Panama Canal Zone. The political situation in Panama has changed dramatically since the signing of the treaty, and as a result many experts believe that Panamanian attitudes toward continued presence of United States troops in Panama have changed as well. No longer does one witness the fear of Yankee imperialism to the degree that existed many years ago. In fact, many Panamanian Government officials have openly stated that they would be receptive to the idea of negotiating a base rights agreement with the United States to allow our troops to remain in Panama after the 1999 deadline. This resolution simply seeks to move the process ahead.

TRIBUTE TO THE CITY OF BETHLEHEM ON ITS 250TH ANNIVERSARY

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. RITTER. Mr. Speaker, this July, we will celebrate the 215th year of our union, the United States of America. But I have the privilege of representing a group of hard working, decent, honorable people who live in a community older than America herself—the city of Bethlehem, Pennsylvania, which celebrates its 250th anniversary this year.

Here at this scenic crossroads of American history, culture and industry meet. Diversity and tradition coexist harmoniously. Beginning on June 1 of this year and ending July 4, 1992, the people of Bethlehem will celebrate 2½ centuries of this kind of pride and progress.

Many other communities across the country hold civic anniversaries each year, but Bethlehem, Pennsylvania, is different. It's special. In its history we find examples of the finest ideals of peace-loving, community-minded people. We find a respect for the natural beauty of the Lehigh River and the valley that surrounds it. We find daring entrepreneurs with brilliant foresight and the courage to make their dreams reality. And we find a resiliency and character in the many thousands of laborers who built mighty industries that powered America to world prominence.

The people of Bethlehem have much to celebrate. The 250th anniversary has been designed to serve three distinct but interrelated purposes—to foster a better understanding of the city's past, to assess the vibrancy and diversity of the city today, and to plan an even brighter future by bringing the many elements of the city together in a united effort.

Of course, an undertaking of this magnitude cannot happen overnight. And recognizing that fact has led to yet another very visible sign of the character of Bethlehem's people.

President Bush has a favorite phrase to describe the spirit of volunteerism in America today—he calls it his "Thousand Points of Light." I know that Bethlehem routinely enjoys the brilliance of those points of light, but never more so than in the planning of the city's 250th birthday.

Consider the numbers and be amazed: More than 700 volunteers working on more than 80 committees; more than 80 separate events to take place; more than a year-long celebration; and more than 2 years of planning and preparation.

It all adds up to more than the typical community celebration. Much more. From parades to interfaith services, from celebrations of Hispanic culture to citywide softball tournaments, from campus tours of local universities to a festival observing the role of labor—Bethlehem's 250th Anniversary has something for everyone.

In other words, Bethlehem is planning a community awakening. A community bonding. A community communion to last at least another 250 years.

To understand the spirit of community that exists in the Bethlehem of 1991, one must first understand how Bethlehem evolved from its dramatic birth in 1741.

In the mid 18th Century, a group of Moravians—a German religious sect—escaped the religious intolerance of their homeland to begin missionary work with the Indians in the New World. After some failed attempts at establishing a permanent settlement, they eventually set up a community at the confluence of the Lehigh River and the Monocacy Creek. Their leader and benefactor, the dynamic nobleman Count Nicholaus Ludwig Zinzendorf, came from Europe to visit the new, and as yet unnamed, Moravian settlement in December 1741, arriving on the 24th.

At the close of the group's worship service that cold Christmas Eve, Count Zinzendorf led his followers from their Community House to an adjoining stable and began to sing the hymn that named the village so aptly:

"Not Jerusalem, lowly Bethlehem/'Twas that gave us Christ to save us/Not Jerusalem, favored Bethlehem/Honored is that name/Thence came Jesus to release us/Favored Bethlehem. . ."

The simple-living Moravians led their beloved Bethlehem for the next century—roughly from the Revolutionary War to the eve of the Civil War—as a communal society, until ultimately the rush of the Industrial Revolution swept Bethlehem into the mainstream of American life.

The age of the entrepreneur greatly benefited Bethlehem and her people, spawning Lehigh University—one of the nation's great centers for the study of engineering and the sciences—and the Bethlehem Steel Corporation—the "Arsenal of Democracy" that helped build the victorious armies of World Wars I and II and the structural giant that built such enduring American landmarks as the Golden Gate Bridge, the Brooklyn Bridge and the Empire State Building.

Today Bethlehem enjoys the advantages of a truly modern American city. Industries survive and thrive as the business community learns to adapt to shifting markets. Bethlehem's citizens, the people who give the city its heart, keep their sense of pride and shared community in focus.

As the city looks ahead to its future greatness, it sees as its ongoing foundation those things that have enabled it to succeed for the past 250 years:

A bedrock of faith, born in the spirit of religious freedom under the Moravians and now realized in a multitude of faith communities.

A belief in education, nurtured in the closed Moravian society and blossoming with establishment of four colleges and universities that continue today.

A strong work ethic, begun in the agrarian culture of the 18th Century, proven in the Industrial Revolution and still very much alive in the modern, multi-faceted business community.

A strength in diversity, at first shunned by Bethlehem's founders but now the pillar of Bethlehem's civic pride and record of achievement.

So as the gentle sound of church bells begins on the morning of June 1, signaling the start of the 250th anniversary celebration, Americans everywhere can take a lesson from the gentle yet strong, diverse yet united people of Bethlehem, Pennsylvania.

By building on a solid historic foundation, by demonstrating a remarkable spirit of voluntarism, and by joining hands and hearts to create a better tomorrow, my constituents in Bethlehem celebrate themselves—a proud group of Americans that make America proud.

I have personally savored the quiet graciousness of Bethlehem, its history, its architecture, its quality of life, its people. Whether it's the Bach Choir at Packer Chapel on a warm spring day; or the best community-wide musical extravaganza in America, Musikfest; or the only trout stream in America to flow through an urban area; or the mills, factories, and industrial parks employing men and women with true grit and a work ethic, Bethlehem is a very special and friendly place.

I encourage my colleagues in the Congress and people all over the country, to come see what makes Bethlehem such a unique and commendable collection of people and cultures. It's been that way for 250 years, even longer than our Nation has existed and it gets better all the time.

Mr. Speaker, join with us in celebration. I am proud to represent the people of Bethlehem, and I congratulate them on their city's anniversary.

HOW WEAPONS TRADE EMBOLDENED IRAQ

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. SMITH of Florida. Mr. Speaker, I would like to submit for the RECORD a recent article written by Micheal T. Klare, the director of the Five College Program in Peace and World Security Studies. Mr. Klare is an expert on the Middle East, and recently had the pleasure of engaging in a discussion with him when he testified before the Foreign Operations Subcommittee of the House Appropriations Committee, of which I am a member.

As I have stated time and again, a tremendous problem in the Middle East is the plethora of weapons being dealt to volatile regimes in that region. I would hope that the United States will take the lead in preventing arms sales to these hostile Middle East nations.

The text of Mr. Klare's article follows:

[From the Boston Globe, Aug. 12, 1990]

HOW WEAPONS TRADE EMBOLDENED IRAQ

(By Michael T. Klare)

Iraq fought its way into Kuwait with imported weapons—tanks and artillery from the Soviet Union, armored troop carriers from Brazil, missiles and helicopters from France. With all of Iraq's considerable oil wealth at his disposal, Saddam Hussein has been able to shop on the international market for virtually any weapon he has sought. Until now, nothing has stood in the way of Hussein's arms-buying mania. Hence, if we are to derive any benefit from the present crisis, it would be to recognize the importance of imposing multilateral restraints on the global traffic in conventional weapons.

Only once before, in 1977–78, have US leaders attempted to negotiate multilateral curbs on the international arms traffic. Warning that "the virtually unrestrained spread of conventional weaponry threatens stability in every region of the world," then President Carter invited Soviet leaders to join him in negotiating mutual constraints on superpower arms exports.

Unfortunately, these negotiations—the so-called Conventional Arms Transfer Talks, known as CATT—made only minor headway before a renewal of Cold War tensions led to a breakdown in US-Soviet relations. Since then, there have been no international talks on controlling the arms trade, and avid buyers like Saddam Hussein have encountered little difficulty in obtaining any nonnuclear weapon that they've hungered for. Between 1982–1989 alone, Third World countries spent an estimated $303 billion on imported arms, ammunition and related equipment. Included in this largesse, according to the Congressional Research Service of the Library of Congress, were some 10,800 tanks and mobile cannon, 20,000 armored troop carriers, 2,800 supersonic fighter planes, 530 combat vessels and 33,900 surface-to-air missiles.

More important than these numbers, however, is the sophistication of the weapons involved: unhindered by any restrictions on what they could purchase, cash- or credit-rich buyers have been able to acquire the most capable systems in the American, Soviet and European inventories, including modern fighter aircraft, heavy battle tanks, missile-armed warships and advanced communications gear. By 1990, the arsenals of many Third World nations were virtually indistinguishable from those of the front-line states in NATO and the Warsaw Pact.

While many emerging Third World leaders have participated in this orgy of arms buying, not one has come close to the heights scaled by Saddam Hussein. Between 1983 and 1987, Iraq was the world's leading consumer of imported weapons, accounting for some $29.9 billion in military purchases, or 16 percent of total Third World arms spending. Major suppliers to the Iraqi military included the Soviet Union (with $13.9 billion in sales), France (with $4.8 billion), China (with $3.3 billion), Brazil, Egypt and Czechoslovakia.

The exact details of the mammoth military purchases made by Hussein during this period are not fully known, but independent agencies such as the Stockholm International Peace Research Institute provide a rough tally of Iraqi acquisitions. Thus, according to the SIPRI Yearbook for 1990, recent Iraqi purchases from Moscow include 1,700 T–62 and T–72 tanks, 350 Scud–B surface-to-surface missiles, and 360 BM–21 multiple rocket launchers. From France, Iraq has acquired some 64 Mirage-1 fighter planes, 734 Exocet antiship missiles (one of which was used to strike the USS Stark in 1987), and 4,800 Milan antitank missiles. Sales by China include 1,300 T–59 and T–69 tanks plus 650 troop carriers, while sales by Brazil include 66 Astros-II multiple rocket launchers and 200 EE–9 Cascavel armored cars.

It goes without saying that these, and other such deliveries, have provided Baghdad with a formidable combat capability, whether for use in further attacks against Arab oil producers or for defense against the US-led multinational strike force. We are not talking here of a shabby, ill-equipped rabble like the Panamanian Defense Force but a powerful army endowed with large quantities of the world's most capable weapons systems—weapons as good as those fielded by the United States, the Soviet Union and their closest allies. It would be terribly ironic, indeed, if the United States and NATO forces now in the Persian Gulf area were forced to defend themselves against these weapons.

One might ask, of course, why the countries named above went on selling arms to Iraq when it became obvious, as early as 1980 (when Iraq invaded Iran), that Saddam Hussein was bent on regional domination. The answers we would receive are predictably varied: fear of an Iranian victory in the Persian Gulf conflict; a desire to establish close ties with an up-and-coming regional superpower; and a craving for Iraqi petrodollars. What it all adds up to, however, was a cynical disregard for the consequences of selling modern weapons to an aspiring regional power and the lack of any international restraints on the traffic in arms.

Would an international ban on military sales to Iraq have prevented the present crisis in the Middle East? No one, of course, can answer this with any degree of certainty. There is no doubt, however, that Hussein's recent arms purchases have greatly enhanced the offensive striking power of the Iraqi army, and given Iraq a significant advantage over other regional powers. More than this, the lurid abandon with which the major arms suppliers satisfied Hussein's military appetite could only have been interpreted by him as quasi-endorsement of his regional ambitions. And while the United States was not one of the nations that sold arms to Iraq, Washington's failure to put any pressure on our allies to stop doing so can only be viewed as a form of implied consent.

Clearly, it is too late to stop Hussein through an arms embargo—he already has all the weapons he needs for a major military crusade. But in coming to terms with all that has occurred over the last few weeks, we should surely recognize the vital importance of international cooperation in controlling the arms traffic. New multilateral constraints are clearly needed to prevent other potential aggressors from following Iraq's example by building up their own military arsenals. Such constraints will take time and effort to negotiate, but, fortunately, unlike the situation in 1978 when the CATT talks were suspended, there are no outstanding political obstacles to such initiatives: The Soviet Union has already agreed to participate in an arms embargo of Iraq and has indicated its willingness to cooperate in broader international moves aimed at curbing the arms trade. Indeed, at no other moment in recent history have conditions been more ripe for such initiatives.

What form would such an arrangement take? The details would naturally have to be left up to the negotiators involved, but what we should be looking for would be something along the lines of the controls discussed at the original CATT talks: a US-Soviet agreement to restrict the numbers and types of high-technology weapons exported to areas of conflict, such as the Middle East. To be truly effective, of course, such an arrangement would eventually have to involve other major suppliers, such as France and China. This will require intense lobbying on the part of the superpowers (and possibly some tradeoffs in terms of compensatory trade agreements), but both Paris and Beijing have joined the embargo of Iraq and thus appear agreeable to international controls of this sort.

The Iraqi invasion of Kuwait has caught most of the world off guard and posed very serious threats to US and global security. We obviously cannot undo all of the damage caused by this assault, but we can respond constructively by taking steps to prevent such catastrophes in the future. An international system for controlling the trade in sophisticated weapons would be one very important step in this direction.

THE BUSINESS ASSISTANCE CENTER: ON THE RISE

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, on March 18, 1991, the Miami Herald recognized a man who should prove to have a great influence on the business community in my district. The Business Assistance Center [BAC] in Miami has a mission to spur the growth of black businesses by lending the funds which these entrepreneurs need. Ron Frazier, the new chairman of BAC, knows our community and the lives of the people residing in it. It gives me great pleasure to present this article for the RECORD which pays tribute to Mr. Frazier and his mission.

BLACK-ORIENTED LENDER NAMES CHAIRMAN—ASSISTANCE CENTER MUST FIX IMAGE, NEW LEADER SAYS

By Derek-Reveron

The Business Assistance Center's mission is to spur growth of black businesses by lending them money. But the center has strict loan requirements, and there are few black firms that have been able to meet them.

What's more, the center has developed a negative image among blacks. So how does it expect to fulfill its mission? Enter Ron Frazier, its new chairman and chief executive.

Frazier, who owns an architectural firm in Liberty City, was elected last month. He is the first owner of a small business to head the center. But Frazier is no stranger to the center's inner workings. He has been on the organization's board since it was founded in 1982.

IMAGE A PRIORITY

Frazier, 48, says he want to dust off the center's "negative image" and make it a "business financing machine." That's a tough assignment, according to other board members and its president, Newall Daughtrey. However, they say, Frazier's drive and single-mindedness are up to the task.

"You always know where you stand with Ron because he's to the point," Daughtrey says, "His attitude is that he wants everybody to help. But if you don't want to help, get out of the way."

Says board member Joseph Alfano, director of the Private Industry Council of South Florida, "Ron is an aggressive and dynamic person."

Frazier on Frazier: "I'm a very focused individual. I extract commitment from people who work with me."

He takes the reins of a private organization that was created in the wake of the 1980 riots and has been financed with private funds from corporate contributors like Ryder System and Knight-Ridder.

KNOWS THE ROUGH ROAD

Frazier knows first-hand the bumpy road to success traveled by small businesses.

He grew up in Houston, and attended segregated public schools.

He enrolled at Howard University in Washington, D.C., and studied architecture. He graduated in 1966 and enrolled at Catholic University, also in Washington, to study for a master's degree in architecture.

After graduating, he moved to Miami. He came to the area because his wife, Regina, who is from South Florida, wanted to return to the area. He was reluctant.

"I didn't see any opportunities for blacks in Miami, especially for architects," he says.

Nevertheless, he landed a job as a planner for the Miami office of Kendree & Shepard, a Philadelphia planning consultant firm. Eventually, he was named director of the firm's Miami office.

In 1972, he left Kendree & Shepard and taught at the University of Miami for a year, while laying plans to start his own business. At first, he was the only employee. Today, the firm has 10 employees. In 1989, it received the first Black Business of the Year award given by the Greater Miami Chamber of Commerce.

While Frazier sympathizes with the problems of small businesses, he has no plans to ease the assistance center's lending requirements. They aren't unusually tight, he says. For many loans approved by the agency, the borrower has put up as little as 5 percent to 15 percent of the loan value in equity, compared with a minimum of 25 percent to 30 percent required by most banks, he says.

FIRST MISSION IN SURVIVAL

The assistance center is perceived to have stringent requirements because the overwhelming majority of loan applicants are turned down, Frazier says. The center tries to run itself like a profitable business, he says. Its first mission is to survive. And it can't do that if it lends funds to businesses simply because they are black-owned, he says.

"When people don't get loans, they say, 'BAC isn't here to help the black community,'" Daughtrey says. That's the primary cause of the center's poor image among blacks, he says.

"The BAC's image is something that we have discussed at many board meetings," says board member Jonathan Mariner, vice president of finance for the Greater Miami Convention and Visitors Bureau. "Clearly, people view the BAC."

Says board member Bill Cullom, president of the Greater Miami Chamber of Commerce, "Ron needs to make sure that all blacks in Dade know that the BAC is working for them."

Frazier's plan:

Meet with black organizations, such as the Miami-Dade Chamber of Commerce, to explain what the assistance center does.

Have himself, board members and staffers speak at community gatherings.

Shorten the loan approval process.

Streamline the center's internal operations.

His other goals:

Lend funds to black businesses all over Dade. Many have perceived—falsely, Frazier says—that the primary mission of the assistance center is to aid firms in Liberty City.

"There are black businesses all over Dade, and they need help," Frazier says.

Encourage local firms to do business with center clients.

Secure additional funding by encourageing banks to lend money to black businesses.

Told by others it will take longer than a one-year term to complete those goals, he responds: "I plan to be chairman for more than one year—unless they vote me out."

I would like to take this opportunity to personally congratulate Ron Frazier. The black business community in South Florida should be well served by a man of his character.

PHILIPPINE SCOUT RETIREMENT PAY EQUITY

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. PANETTA. Mr. Speaker, I rise today to introduce legislation to redress a longstanding inequity in our treatment of a very important group of veterans whose vital service to our Nation has passed virtually unacknowledged. This bill would equalize retirement pay for former World War II-era Philippine scouts, who fought so bravely as part of the United States Army, and their survivors.

As you may know, the Philippine scouts were not foreign soldiers; they were an integral part of the United States Army. Created in 1901, the scouts were an elite organization with a high esprit de corps. Selection standards were extremely strict and Filipinos considered it an honor to be a member. Never numbering more than 12,000 men, the scouts were to serve a pivotal role in the valiant defense of the Bataan Peninsula.

General MacArthur described the scouts as "excellent troops, completely professional, loyal, and devoted." When recruiting them, General MacArthur pledged, and I quote:

> War is the great equalizer of men. Every member of my command shall receive equal pay and allowances based on the United States Army pay scale, regardless of nationality.

At the onset of war in the Pacific, when the Japanese attacked Pearl Harbor and invaded the Philippine Islands, these soldiers became the key to our entire South Pacific strategy. Against overwhelming odds, faced with superiority in numbers and equipment, devoid of air cover against constant bombings by the Japanese, ravaged by malaria and beri-beri brought on by a diet of only polished rice and a few canned goods per day, these men helped hold the Bataan Peninsula for 98 days. Over 1,000 of them went on to fight another 5 weeks in Corregidor. This determined resistance denied the Japanese an essential base for the projected thrust into the South Pacific. Indeed, by forcing the enemy to retain a large presence in the Philippines, the scouts prevented them from using their resources to attack Allied shipments of men and materials to Australia and New Caledonia.

Despite the valiant services of the Philippinescouts who fought and sacrificed side by side with American soldiers and despite the fact that the scouts were a fully incorporated unit of the United States Army, the scouts received only a fraction of the regular pay received by their American counterparts. In fact, while an American private was earning $30 per month during the war, a Philippine scout with comparable rank who had been serving for the same amount of time was earning only $9 for his exposure to the same hardships and dangers.

Mr. Speaker, I believe that the time has come for Congress to redress this longstanding inequity in our Nation's treatment of this very special group of World War II veterans. The legislation which I am introducing today would equate the retirement benefits paid to former scouts or their survivors equal with those which are paid to their American counterparts of the same grade and length of service. Several years ago, the Department of the Army estimated that the cost of adjusting retirement benefits for the remaining living Philippine scouts would be only $724,000 per year—a small price to pay for a commitment which has been ignored for over 40 years.

While the budgetary impact of this pay equalization is small, the symbolic value is immense. Congressional authorization of adjusted retirement benefits would be a meaningful demonstration of our gratitude for the faithful and gallant service of the scourts during World War II. I again urge my colleagues to support this worthwhile measure.

For the convenience of my colleagues, the text of the bill follows:

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Philippine Scout Retirement Pay Equity Act".

SEC. 2. PHILIPPINE SCOUT RETIRED PAY EQUALIZATION.

The Secretary of the Army shall redetermine the retired pay of each person entitled to retired pay from the Department of Defense for service as a Philippine Scout during the period beginning on December 7, 1941, and ending on December 31, 1946, as if the rate of basic pay payable to such person at the time of retirement had been the rate of basic pay payable to any other member of the United States Army in the same grade and with the same length of service as such person. The redetermination of retired pay shall apply only for retired pay payable for months beginning on or after the effective date of this Act.

SEC. 3. PHILIPPINE SCOUT SURVIVOR BENEFIT ADJUSTMENT.

The Secretary of the Army shall adjust the base amount used to calculate survivor benefits under subchapter II of chapter 73 of title 10, United States Code, for each person entitled to survivor benefits as the survivor of a Philippine Scout who served during the period beginning on December 7, 1941, and ending on December 31, 1946, to reflect the redetermination of retired pay made for such Philippine Scout under section 2. The adjustment of survivor benefits shall apply only for survivor benefits payable for months beginning on or after the effective date of this Act.

SEC. 4. EFFECTIVE DATE.

This Act shall take effect 60 days after the date of the enactment of this Act.

A LEGACY OF NEGLECT

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. MANTON. Mr. Speaker, I want to commend to my colleagues' attention an excellent but very disturbing report on our Nation's transportation needs written by Mr. Jake West, general president of the International Association of Bridge, Structural, and Ornamental Iron Workers, AFL–CIO. This report, which is entitled a "Legacy of Neglect: America's Decaying Roads and Bridges," very clearly and forcefully discusses the transportation infrastructure crisis facing our Nation and what we in Congress must do to avert catastrophe.

Mr. Speaker, this report calls for a major investment in rebuilding and expanding our Nation's transportation infrastructure. The amount of Federal dollars needed to address this problem is large. However, the Congress must not retreat from its responsibilities. Each year deteriorating and unsafe roads and bridges cause thousands of needless deaths and costs the United States billions of dollars in decreased productivity, higher prices, and lost jobs. And every year we fail to address our infrastructure needs means the cost of solving the problem will increase greatly, as well as the scope of the Nation's infrastructure problem.

This report outlines six recommendations for a comprehensive plan designed to solve our Nation's infrastructure crisis which I believe Congress should give serious consideration: development of a two-tiered Federal funding system; promotion of private initiatives; creation of a National Infrastructure Corporation; amendments to the Federal and State Tax Codes; an increase in user fees; and, an increase in public awareness of our infrastructure needs.

Mr. Speaker, I believe working together we will be able to solve our infrastructure problems and lead this Nation into a new era of economic productivity and growth. I am confident that under the able leadership of our good friends and colleagues, BOB ROE, the new chariman of the Committee on Public Works and Transportation, and Norm Mineta, the chairman of the Subcommittee on Surface Transportation, we will succeed in this monumental task of rebuilding our Nation's transportation infrastructure. I look forward to working with them and the rest of my colleagues in developing a new national surface transportation program.

Mr. Speaker, I have enjoyed knowing Jake West since I came to the Congress 6 years ago. This report will serve as an important starting point in the upcoming infrastructure debate in Congress. I know our colleagues join me in commending him for producing this report. I ask unanimous consent a summary of this report be placed in the RECORD at this point.

LEGACY OF NEGLECT—AMERICA'S DECAYING ROADS AND BRIDGES

(By Jake West)

SUMMARY

The transportation infrastructure crisis will not disappear. By waiting to solve our infrastructure problems, our elected officials are jeopardizing the safety and economic future of all Americans. We must start developing new policies to fund these infrastructure projects now, while there is still time.

I. The Problem

The state of America's roads and bridges is deplorable. The transportation infrastructure system that took three decades to construct, has been crumbling at an accelerating rate. The lack of government commitment to properly maintain America's infrastructure system, combined with budget deficits at all levels of government and the absence of the political will to raise taxes has resulted in the rapid deterioration of our roads and bridges.

Massive underinvestment at a time of increased use has left our nation's transportation infrastructure in a state of appalling disrepair. In June 1989, Secretary of Transportation Samuel Skinner reported to Congress that:

> Half of all highways not receiving federal aid, and one-third receiving federal aid are classified as "poor" or "fair" by the U.S. Department of Transportation [DOT].

Of the 577,700 bridges in the United States, 41 percent are either deficient or obsolete!

Included in the 41 percent are 5,186 closed bridges and 102,531 classified as functionally obsolete.

The situation promises to worsen as Americans continue to increase their use of roads and bridges. In 1988, the U.S. Department of Transportation [DOT] recorded that 2.02 trillion vehicle miles were traveled over America's highways and bridges. This is a 14 percent increase over 1985, and a 23 percent increase over 1983. The U.S. Department of Commerce estimates industry alone will increase traffic on the nation's transportation system by an average of 2.6 percent annually over the next five years.

II. Costs of deficient roads and bridges

Without calculating increased use, the cost of rebuilding our transportation infrastructure is phenomenal. The Federal Highway Authority estimates the total cost of fully repairing our roads and bridges is $750 billion, $34 billion annually through 2005. This is more than the estimated $500 billion cost of the savings and loan bailout!

Given the enormous price we will pay for the greed and corruption of wealthy businessmen and politicians, and the swollen state of the deficit, many will ask how the nation can afford to rebuild our transportation infrastructure. The more relevant question is how can we afford not to.

Poor roads and bridges have a devastating impact on the U.S. economy. America's economic boom of the 50's and 60's resulted, in part, from construction of the world's most advanced network of highways and bridges. Their deterioration greatly adds to the cost of moving goods and people, placing our nation at a competitive disadvantage.

Indeed, DOT's Transportation Systems Center estimates that at their present state of decay, by 1995 deficient roads and bridges will cost the U.S. economy a:

3.2 percent loss in Gross National Product;

8 percent increase in the Consumer Price Index;

5.9 percent decrease in disposable income;

2.2 percent reduction in employment;

2.7 percent reduction in labor productivity in the manufacturing sector; and

3.6 percent decrease in labor productivity in non-manufacturing industries.

The human impact of poor roads and bridges is also frightening. Accidents are twice as likely to occur on bad roads than on roads that are well maintained. In 1988 alone, over 47,000 Americans died and over 3.5 million people were injured in traffic accidents, some undoubtedly caused by improperly maintained roads.

In recent years, bridge collapses in Greenwich, Connecticut; Covington, Tennessee; Amsterdam, New York; and Mobile, Alabama have claimed the lives of many innocent victims. These deaths and injuries could have been avoided if the U.S. had adequately funded road and bridge repair projects.

III. Benefits of road and bridge improvements

Reports and studies provide conclusive evidence that investing in infrastructure will benefit the U.S. economy. The DOT has reported that fully repairing our roads and bridges will create over 1.3 million jobs each year due not only to new construction, but also to business expansion spurred by a more efficient transportation system.

A study released by Dr. David Aschauer, senior economist with the Federal Reserve Bank in Chicago, estimates an annual increase of $25 billion in federal highway spending will:

Increase productivity for each American worker $250 annually in the first five years and $3,200 annually within 20 years;

Result in a labor productivity growth of 2.75 percent a year early next century, as opposed to the 2.2 percent annual growth rate expected without the investment increases—a 23 percent higher rate of growth;

Increase profit margins up to 10 percent within 20 years; and

Within 20 years, create a $35 billion annual increase in private investment above current projections.

IV. Infrastructure policies for the future

Solutions to our infrastructure crisis necessitate a financial commitment on behalf of our elected officials. Creative leadership from labor, business, and academia is also essential to finding real solutions. Some of the best recommendations developed by various groups have been outlined in this study. They include:

The development of a two-tiered federal funding system;

Promotion of private initiatives;

Creation of a National Infrastructure Corporation;

Amending federal and state tax codes;

Increasing user fees; and

Increasing public awareness regarding critical infrastructure issues.

Americans have worked too hard to let government negligence, incompetence and political paralysis diminish their standard of living and quality of life. Every voter who believes in safe roads and a strong American economy must push his or her elected officials to support policies that will solve our infrastructure crisis. We must act now, before it is too late.

BRING PRO BASEBALL TO SOUTH FLORIDA

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. SMITH of Florida. Mr. Speaker, as a resident of south Florida for over 20 years, I have had the pleasure of watching the Miami region grow into one of the Nation's largest metropolitan areas.

Miami, according to the newest census, is the 11th largest city in America. The south Florida region is thriving, and it's still growing. We've all heard about the wonderful weather, the fabulous restaurants, and the incredible quality of life that south Florida provides. Every time this Brooklyn-born Floridian gets off the plane in south Florida, I know why I moved down there all those years ago. I know why so many people are making the move to Florida, and I urge all of you to come down and find out.

But today, I did not come to talk about the virtues of south Florida, although sometimes I just cannot help it. I came to talk sports. As you know, the Miami Dolphins football team has long been a mainstay in the National Football League. Consistent sellouts, consistent great management, and consistent great teams; the Dolphins have been incredibly successful, and have served as a model for other NFL franchises to emulate. A few years ago, South Florida joined the National Basketball Association, with the Miami Heat becoming a member of the preeminent basketball league in the world. Although the Heat have yet to develop into the winner we all know they will be, signs of success are evident. First, everyone acknowledges that the patience and smart moves made by management have given the Heat the nucleus to be a winner for years to come; second, the Heat have the most incredible arena in the NBA; third, the fans have come out and consistently supported the team, which is having its most successful season ever. We have the NFL and the NBA in south Florida, and we're doing great with both of them.

Now, baseball is ready to expand, and I am proud to say that Miami is ready to move from the grapefruit league into the big leagues. South Florida has long been a supporter of spring training for major league teams. We've shown the ability to support two professional sports franchises, and make no mistake, we want to support three.

I, as well as the members of the major league baseball expansion committee, have been extremely impressed by the hard work, dedication, and planning by Wayne Huzienga and the Miami expansion group. I am confident that if south Florida were to receive a franchise, it would follow the excellent examples set by both the NFL's Dolphins and the NBA's Heat.

TRIBUTE TO U.S. ELECTRICAL ENGINEERS AND IEEE

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. RITTER. Mr. Speaker, as we prepare to welcome home the brave men and women who served in our Armed Forces in the Persian Gulf, I urge my colleagues to join me in recognizing the contributions of another group of valiant men and women: The electrical, electronics, computer, and communications engineers who helped develop the technologies that saved lives and brought the war to a rapid conclusion.

The 250,000 U.S. members of the Institute of Electrical and Electronics Engineers [IEEE] are especially proud of their role in ensuring the performance of electronic systems dramatically demonstrated in Operation Desert Storm.

Through these accomplishments, we have shown to ourselves, as well as to the rest of the world, that our technology excels and our young people can be technologically literate. These successes have reaffirmed America's can-do attitude.

But Americans will not be complacent nor lulled into future wars by these achievements. Indeed, the electrical and electronics engineers, who helped put us on the Moon, are typically modest individuals accustomed to looking beyond past successes—and looking forward to new accomplishments. IEEE U.S. members are challenged and inspired to apply their expertise to developing more competitive products for civilian and nonmilitary applications.

In full-page advertisements appearing in the March 7 Wall Street Journal and Washington Post, IEEE U.S. Activities sought the cooperation of the President, the Congress, and the business community to achieve comparable successes in high-technology commercial products and services.

We owe the electrical and electronics engineers a debt of gratitude: Congratulations to IEEE–USA and the entire profession.

A CALL TO CONSCIENCE VIGIL

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, last year, a record number of Soviet Jews received official permission to emigrate from the Soviet Union. Today, I wish to express my support for the hundreds of thousands of Soviet Jews who continue to be denied the freedom to emigrate for a variety of unfounded reasons.

Every one of the Soviet refuseniks looks to the United States Congress for strong, unequivocal advocacy and representation. Each one desperately needs the support of the Congress to understand that the high numbers we are witnessing today are a result of our determination to continue the Soviet Jewry movement.

In these uncertain times, it is very important for Congress to stand together and promote principled support for human rights and human freedom. I encourage my colleagues to participate in the call to conscience vigil and enter a statement in the Congressional Record in support of the Soviet Jewry movement. Your support could be the difference between freedom or restraint for an individual.

BORIS ZOLOTAREVSKI—A PRISONER IN HIS OWN LAND

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. SWETT. Mr. Speaker, I am pleased to join my colleagues in the Congressional Call to Conscience Vigil. I commend distinguished colleagues Larry Smith, Chris Smith and Gerry Sikorski, for continuing this fifteen year tradition—a tradition which is invaluable in furthering the cause of Soviet Jews. The Vigil, a weekly series of speeches that brings the plight of refuseniks to the forefront, confronts the problem one person at a time. This effort has poignantly applied pressure on the Soviet Union to allow the free movement of Jews.

At this time I would like to bring to my colleagues' attention the plight of Boris Zolotarevski, a man denied the right to emigrate from the Soviet Union. Separated from his daughter, unable to see his newly born grandchild, Boris remains trapped in his own country.

Boris' history in the Soviet Union is not one of shame or disloyalty. Boris fought valiantly in World War II, earning several medals of honor including the Red Star Medal for the Defense of Stalingrad. He graduated from the Moscow Aviation Institute and applied his skills while working at the Scientific Research Institute of Computer Systems in Moscow.

Mr. Speaker, as people do the world over, Boris yearned to practice his religion; his unofficial religious activities began in the early 1980's. However, celebrating Jewish holidays and studying Hebrew put Boris at risk with the authorities. On May 24, 1988, Boris applied for an exit visa, knowing he could only have complete religious freedom upon leaving his homeland. Eight months later he was refused permission to emigrate based on the fact that 6 years earlier he had been privy to secret information.

Mr. Speaker, it is disheartening for me to have to come before you again on behalf of yet another human being who is being held prisoner in his own land. As a signatory to the Universal Declaration of Human Rights, the Soviet Union has the responsibility to live up to its agreements. Although the number of emigres has increased, thousands still await their freedom." I urge my colleagues to join me in calling upon the leaders of the Soviet Union to free Boris Zolotarevsky and the countless others whom they hold hostage.

THE CORPORATE RAIDER TAX ACT OF 1991

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. DORGAN of North Dakota. Mr. Speaker, today I'm introducing the Corporate Raider Tax Act of 1991, legislation to curtail the use of junk bonds that help to drive hostile takeovers. This legislation denies the tax incentives that support these speculative transactions, which have done real damage to the productivity and long-term economic growth in our country.

By now, we've all heard about the virtual collapse of the junk bond market, which has investors scrambling to dump their entire junk bond portfolios. The number of companies being forced into bankruptcy because they played the junk bond game continues to grow because they can't afford to make interest payments on junk bonds.

As the administration and the regulators sat idly by in the 1980's, the number of risky and speculative junk bond transactions skyrocketed to totals over $200 billion. Repeatedly, Treasury testified before Congress that they didn't think junk bonds and hostile takeovers were a problem. A few of us in Congress saw things much differently.

Since then, we've all now witnessed the detrimental impact that the merger mania had on the Nation's economy. And it's evident that the hostile takeover engine was being fueled by risky junk bonds. Regrettably, many once-strong companies have been completely raped of value and many good folks have been pushed out of their jobs.

We've learned some tough lessons from the hostile takeover boom of the eighties. And it's time for us in public policy to say that we will never again provide tax subsidies for such misguided purposes.

I've introduced this legislation to end the junk bond/hostile takeover connection by denying the interest deduction for junk bond indebtedness that's used to finance hostile takeovers, and by requiring the hostile acquirer to recognize all-corporate level gain of the targeted company where a significant portion of the target's stock was purchased pursuant to a hostile offer.

The legislation would also tighten a provision in the 1989 reconciliation bill which restricts the tax deduction for interest on certain OID junk bonds. The provision was written in an attempt to dampen the speculation in the type of junk bonds that were issued that were called PIK's—payment-in-kind—and Zeros—zero coupons.

These bonds don't actually pay interest when interest is due—they pay more bonds. And yet the issuer gets to deduct the interest as a business expense.

The 1989 act generally defers, under certain conditions, the interest deduction for junk bonds until the interest is actually paid. Congress did that to discourage the use of these junk bonds that derive LBO's and hostile takeovers. We wanted to limit the deductibility on the junk bond debt service until cash payments were actually made. Unfortunately, this provision applies only to junk bonds that have a term of more than 5 years.

When the Ways and Means Committee enacted this provision, I felt that we had been too generous in drawing the line at 5 years. Frankly, I was afraid that some people would come forward and float these risky securities for 4½ years, just under the 5-year limit, and continue to deduct interest payments that they don't actually make. It appears that's what is now happening.

My legislation would limit the interest deduction for these junk bonds with a term of more than 2 years, rather than the current 5 years. Requiring actual cash payments for interest on junk bonds with terms of more than 2 years make sense to me. Why should people get deductions for interest they didn't pay, use those deductions to generate cash refunds and then use that to go out and engage in more hostile takeovers?

We need to take this opportunity to tell the Wall Street crowd that we'll no longer continue to be a party to the junk bond charade by providing tax benefits to these funny-money pushers who float junk bond issues for hostile takeovers, and that's what my legislation is intended to do.

Let me be clear about junk bonds. I don't believe that all bond issues that are below investment grade are bad. Some can be very productive and very important and useful to small- to medium-sized firms that need capital with which to grow. I do, however, think that junk bonds used for hostile takeovers is a terrible practice for this country's economy.

I urge my colleagues to cosponsor this legislation to curb the use of junk bonds that drive hostile takeovers. Those who have rushed to paper America's financial hallways with junk bonds are now in plenty of trouble. But there is an army of recruits ready to take their place, and we've got to take steps to discourage more hostile takeovers that are clearly unhealthy for the country.

The highlights of the bill are as follows:

Section 2 of the bill denies the interest deduction on junk bond financing—or all acquisition indebtedness—used to purchase 20 percent or more of a company's stock if the acquisition is made pursuant to a "hostile takeover". The term "hostile" is defined as any offer to acquire stock of a corporation if a majority of the independent members of the board of directors of such corporation disapprove of such offer. For purposes of this bill, junk bond is defined as a bond that has a below-investment-grade rating from a nationally recognized rating agency.

Section 3 of the bill provides that the deemed sale rules shall apply and require the recognition of all corporate-level gain through a mandatory section 338 election in the case of an acquisition in which a significant portion of the stock was purchased pursuant to a hostile tender offer.

Section 4 of the bill tightens a provision in the 1989 reconciliation bill which restricts the tax deduction for interest on certain OID junk bonds. The 1989 act generally defers, under certain conditions, the interest deduction for junk bonds until the interest is actually paid. However, the provision applies only to junk bonds that have a term of more than 5 years. Section 4 of the bill limits the interest deduction for these junk bonds with a term of more than 2 years, rather than the 5 years that currently exists.

AUDIT OF THE FEDERAL RESERVE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. CRANE. Mr. Speaker, in 1789 our forefathers created a government "of the People, by the People, and for the People." Now, two centuries later, Americans continue to enjoy the freedoms of democracy and strive to maintain a government beholden to its citizens. One way lawmakers have ensured Government accountability is through GAO audits. While almost every Federal agency undergoes an annual audit, there is one that remains conspicuously immune—the Federal Reserve. Since 1913, the Federal Reserve Board has been "empowered to carry out functions crucial to our system of government and to our nation's economy." It also has been exempt from a full GAO audit. This exemption has been abused, and often it has proved injurious.

In order to protect our economy against dangerous fluctuations in aggregate bank reserves, Congress granted the Federal Reserve complete control over the money supply. Yet rarely in its 78-year history has the Fed fulfilled this mission. In 1929, for example, an inexperienced Fed stood idle while the Nation suffered from a devastating reserve drain. Had the Fed exercised open market operations or activated the discount window, banks would have been forced to increase their capital holdings, and the United States might have avoided what is now known as the Great Depression.

Then in late 1980 and early 1981, the Fed staged a repeat performance. There was an almost universal consensus at the time that little could be done to get inflation quickly under control. So the Reagan administration cut Federal spending and pursued a tax policy dependent upon moderate and predictable monetary growth. This agenda guaranteed long-term economic expansion as long as the Fed continued increasing the money supply at a moderate and predictable rate. The Fed decided instead to reduce the supply of money. The Fed's decision brought down inflation, but it did so at a high price. Millions of Americans lost their jobs as a result, and the economy tumbled into its worst recession since 1933.

Today the Nation can only wonder how the Fed will respond to an impending recession. And wonder we will, for without a comprehensive audit, Fed operations remain a secret. This secrecy has bred an unhealthy suspicion among American investors. Some years ago, in fact, there were reports of people using voice stress analyzers on a speech given by Chairman Greenspan. The anxious financiers hoped that upcoming Fed decisions might be revealed through the Chairman's vocal patterns. Unfortunately, the only thing their efforts did uncover was the mystery surrounding Fed operations.

One of those operations involves selling Treasury bills to other nations. For three-quarters of a century, the Fed has brokered $286 billion in U.S. debt to foreign governments, but not one penny of these sales is reported to the American people. Safeguarded from an audit, Chairman Greenspan and his colleagues can issue our debt to whomever they please and then call the transaction classified. Clearly, this privilege elicits legitimate concerns for our national security.

Americans should not depend on mysticism to monitor the Federal Reserve, nor should they be suspicious of its policies. They should benefit instead from a fully accountable central bank. Therefore, I am reintroducing legislation that requires the General Accounting Office to conduct a complete and thorough audit of the Federal Reserve system and banks. The bill would not inhibit the Fed's ability to conduct the Nation's monetary policy. Rather, it would reinstate the agency's accountability and give us a better understanding of the Fed's decisionmaking process.

IN HONOR OF MONTEREY COUNTY PARKS DEPARTMENT 25TH ANNIVERSARY

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. PANETTA. Mr. Speaker, I rise today to pay tribute to the Monterey County Parks Department on its 25th anniversary as an agency on April 1, 1991.

The Monterey County Parks Department is a diverse parks system that has provided millions of outdoor recreation opportunities to residents of Monterey County, national visitors and international visitors throughout the years. The Monterey County parks system has come to represent the quality life-style that the residents of the 16th Congressional District of California value.

The Parks Department has stood throughout the years to protect the environment, preserve the historical heritage, and promote the outdoor recreational values of the Salinas Valley, Monterey County, and Americans alike. The Monterey County Parks Department system exemplifies the quality environment and the world renown beauty for which Monterey County is famous.

I would like to personally commend the Monterey County Board of Supervisors, the Monterey County Parks Commission, and the professional staff of the Monterey County Parks Department for their development and operation of an outstanding system of regional parks, recreation areas and historical sites for the use and enjoyment of the general public.

On this special occasion, I encourage the Monterey County Parks Department to continue in the coming years to play an active role in preserving the quality life-style, the quality environment, the historical heritage, and the outdoor recreation values of the 16th Congressional District of California and the Nation.

Mr. Speaker, I ask my colleagues to join me now in congratulating the Monterey County Parks Department on the occasion of the celebration of its 25th anniversary. It is with great pride and respect that I pay tribute to its contribution and achievements to the 16th Congressional District of California.

RESOLUTION CALLING FOR A TIME OF REPENTANCE, SACRIFICE, PRAYER AND THANKSGIVING

HON. CHARLES W. STENHOLM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. STENHOLM. Mr. Speaker, I rise today to introduce a resolution calling on the President of the United States to declare a time of repentance, sacrifice, prayer and thanksgiving for the salvation and continued blessing of our Nation and for peace in our hearts, in our communities, and in the world.

I do so with excellent precedent before me, because President Abraham Lincoln, in the midst of the Civil War, declared just such a time for our Nation. President Lincoln's proclamation, which is quoted in this resolution I am introducing today, urged the Nation to refrain from arrogance and an illusion of self-sufficiency based on recent successes. His fear was that our country, intoxicated with unbroken success was becoming too self-sufficient to feel the necessity of redeeming and preserving grace, too proud to pray to the God that made us.

As are so many of this great President's words, his warning rings just as true today as it did more than 100 years ago. Indeed, as Lincoln argued back then, we have grown in numbers, wealth and power as no other nation has ever grown. These successes should not make us feel that God's guidance and protection are no longer necessary. To the contrary, they should make us more humble and more grateful to the God who has guided and protected us for all of these years.

Back during the early stages of the Middle East conflict, when the future still held many uncertainties and as a nation we worried what toll would be taken on young American lives, I dare say our churches were full and the number of prayers being offered to our good Lord were many, as well they should have been. Through His grace, God has offered to bear the burden of our cares and worries in times when they seem all too great for us to bear alone. But now that our troops have gained unparalleled success and many young men and women already are returning home, I wonder how many Americans are remembering to return to church to offer prayers of thanksgiving.

No one could be prouder of our troops and our military leadership than I. They risked and sacrificed much, and they deserve our heartfelt gratitude. The point of my resolution today is simply to say that while we are celebrating and congratulating and sensing our power as a nation, let us not forget to heed Abe Lincoln's words. Let us, as a nation, acknowledge our dependence on that greater power and express our gratitude to Him.

A TRIBUTE TO HERR WOLF-DIETER SCHMIDT

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention the fine and selfless contributions of Herr Wolf-Dieter Schmidt, an extraordinary citizen of Germany and one-time American prisoner of war. This remarkable man has risen as an educator in his own country and, over the years, become a valued friend of the United States. I recently became aware of Herr Schmidt through my acceptance of membership on the Congressional Advisory Board of the American Host Foundation, an honor which I share with a number of my colleagues.

In 1970, Herr Schmidt participated as a guest educator in the American Host Foundation's program of homestays for overseas educators. American Host members are volunteers, ordinary American families in virtually every State of the Union, who offer their hospitality to guest teachers free of charge. Since 1962, this program has made it possible for some 16,000 teachers from overseas to visit America. The program's objective is simply to foster international friendship and understanding. Teachers return to their classrooms with a better understanding of the American way of life, and many form lasting friendships with their hosts.

Since that first visit, Herr Schmidt has widely promoted participation by German educators. In 1978, he was honored for his volunteer work by the U.S. Department of State and by former Vice President Walter Mondale.

I especially want to pay tribute to Herr Schmidt for his effort during 1990 when he played an instrumental role in gaining support from the German Government to help bring a group of 12 East German teachers to the United States to participate in the American Host program shortly after their participation in the bloodless revolution that resulted in the fall of the Berlin Wall. His efforts have inspired the American Host Foundation to extend its program to teachers from these burgeoning democracies in Eastern Europe.

We are all aware of the value of exchange programs such as those offered by the American Host Foundation and its many generous volunteer hosts. Such programs have been in no small way responsible for the spread of democracy around the globe.

Mr. Speaker, I ask that you join me and our colleagues as we honor the fine and selfless contributions of Herr Wolf-Dieter Schmidt to the ideals of international understanding and friendship. His dedicated work is truly worthy of recognition by the House today.

SOUTH FLORIDA JROTC PAYS TRIBUTE TO THE U.S. ARMED FORCES

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, unfortunately, we sometimes take our military forces for granted. Today, though, we should be recognizing all the selfless acts of bravery our troops display in protecting our country.

On April 4, 1991, the cadets, parents, faculty, and staff at Miami Sunset Senior High School, U.S. Army Junior Reserve Officers' Training Corps [JROTC] will be hosting their seventh annual Dade County, FL JROTC Military Ball.

This year's military ball will be dedicated to the men and women who are serving all over the world in the U.S. Armed Forces, especially those directly involved in the Persian Gulf war and its aftermath. This occasion will be a very personal one for the community, as they have approximately 100 persons currently serving in the gulf.

South Florida area Junior ROTC high school programs to be represented at the ball include: Miami Killian Senior High, Miami Northwestern, Miami Coral Park, Miami Sunset Senior High, Miami Southridge Senior High, and Homestead Senior High. In total, over 600 students and their parents are expected to attend the event, which will include a ceremonial military observance.

Special recognition must go to Modesto Colon-Escobar, major, U.S. Army (retired), senior Army instructor for the Sunset Knight JROTC Battalion of Miami Sunset Senior High. He and his staff are credited with preparing what will surely be a splendid occasion, dedicated to a worthwhile cause.

Our men and women who serve in the Reserves are usually the unsung heroes of the military. They are constantly training during wartime and peacetime, dedicating the long hours needed to be ready for any threat that may come our way. Many times, their efforts go unnoticed until it is time to perform, and perform well they do, as was seen in the gulf crisis.

I congratulate Maj. Colon-Escobar for doing an excellent job in highlighting the importance of the Nation's military to our young people.

GOV. THOMAS LEROY COLLINS

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. SMITH of Florida. Mr. Speaker, last week Florida lost one of its greatest Governors. Thomas LeRoy Collins left us a legacy of dedication and justice and set a model of public service for generations to come.

Governor Collins began his public career in 1934 in the Florida State House. He was elected to the State senate in 1940 and the Florida Governorship in 1953 where he served for 6 years.

Those years were tumultuous ones—they were the years of race riots and lunch-counter sit-ins. Governor Collins acted with courage and honor, often contrary to the wishes of his supporters, family and certainly the community at large. Yet in the end we look proudly at the legacy he left and the moral foundation he built.

He was devoted to educational reform and helped guide the State of Florida into the latter half of this century. He sponsored a program to help poor children get a good education, instituted public health reform to combat malarial fever spread by mosquitoes, and helped make community colleges accessible.

Placing moral courage above political expedience is believed to have cost Collins his race for the Senate. During his tenure as Governor, Collins took often unpopular positions on race relations. He was the first southern Governor to call segregation immoral and to point out that protestors were on the side of the Constitution.

Of the participants in lunch-counter sit-ins Collins said: "We can never stop Americans from struggling to be free. We can never stop Americans from hoping and praying that someday, in some way, this ideal that is embedded in our Declaration of Independence, that all men are created equal, that will somehow be a reality."

In 1965 President Lyndon Johnson asked Collins to go to Selma, AL and stop what could have become a bloody racial riot. Collins negotiated a compromise between the police and Dr. Martin Luther King who agreed to stop the march, which was scheduled to end well into Montgomery, AL, just across the Pettus Bridge. LeRoy Collins' sympathetic ear and cooperative style probably averted what could have been a tragic riot, no one was hurt. Although Collins' mission for the President was confidential, a picture was taken while he was explaining the terms of the police demands to Dr. King.

Later, during Governor Collins' ill-fated Senate race the picture was attributed with some of the responsibility for his loss. When asked if he regretted it Collins said, "Do I regret having been there with Dr. King? No, sir, no regrets in my life. I'm glad I did everything I did."

The State of Florida, in fact the entire country, has benefited enormously from the leadership of Governor LeRoy Collins. He was a champion of civil rights in the South at a time when that was certainly exceptional. LeRoy Collins did far more than his part to prepare the State of Florida and the United States for a new age. He set standards that most of us only dream about. We will miss him, but his legacy will live on.

NEW HAMPSHIRE SALUTES ITS VOICE OF DEMOCRACY CONTEST WINNER

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. SWETT. Mr. Speaker, I invite my colleagues to join me in paying tribute to Duane Hayes Kibbee, a senior at Keene High School who won the New Hampshire Veterans of Foreign War's Voice of Democracy broadcast scriptwriting contest.

In addition, Duane distinguished himself in the Voice of Democracy national competition, finishing 12th overall in a field of 138,000 entrants. Duane received the $1,000 Walter and Doris Marshall Scholarship Award for his efforts.

Duane is the son of Mr. and Mrs. Donald Kibbee, and he was sponsored by VFW Post 799 and its Ladies Auxiliary in Keene, NH.

I was very impressed by the quality of Duane's script. It is encouraging to see high school students like Duane not only demonstrating a great talent for writing, but also showing an interest in the workings of government. I can only hope that other students follow in his footsteps.

Mr. Speaker, I would like to share with my colleagues Duane's award winning script on his visit to the Lincoln Memorial.

DEMOCRACY—THE VANGUARD OF FREEDOM

(By Duane Kibbee, New Hampshire winner, 1990-91 VFW Voice of Democracy Scholarship Program)

Step 1 . . . Step 2 . . . Step 3 . . . My great-grandfather told me about this place, but I never thought I'd get to see it. Step 9 . . . Step 10 . . . Step 11 . . . Look at the incredible architecture: the marble, granite and limestone, all formed and carved to make one of America's most patriotic memorials. Step 21 . . . Step 22 . . . Step 23 . . . Look at the columns, 36 in all, each of which represents a state in the Union when America's real inventor of freedom died. Step 53 . . . Step 54 . . . Step 55 . . . Whewwww . . . I finally made it to the top, and there he is, immortalized in a white marble statue whose eyes seem to follow me wherever I move up here. The inscription above him reads: "In this temple, as in the hearts of the people for whom he saved the Union, the memory of Abraham Lincoln is enshrined forever." There is a piece of Abraham Lincoln in every man, woman, and child in the United States today, and across that piece is written the word . . . Freedom. The freedom of speech, the freedom of the press, the freedom of religion, the freedom to go out and help choose who you want to rule you. Not to call democracy "the vanguard of freedom" is like saying Budweiser is not beer. Democracy is the vanguard of freedom. America at first was nothing more than a melting pot, a place where almost everyone was given an equal opportunity to rise to the top: the catch was, we all started with nothing. At least that's what it seemed like, but in all actuality we had an advantage over everyone in China, Russia, even England, and indeed, everywhere else in the world, we had the one thing that helped us rise above the rest. We had a new-found freedom under the world's only true democracy. Where else could you start out being born the son of an uneducated frontiersman and still be able to become the leader of a rising nation? Just think about that statue: he started with nothing and now he is immortalized as the man who guaranteed the young democracy would remain free. "Democracy" is defined as being a government by the people. Many societies have called themselves democracies, from the ancient Athenian Greeks to the Icelandic Vikings. However, they all had one thing in common; not everyone could participate. For example in the Golden Age of Athens in 450 BC, only 40,000 people out of 260,000 could vote, while 120,000 were slaves . . . yet it was called a democracy. By contrast, in America Abraham Lincoln made it so it was truly governed by the people, not just some of the people, but almost all of the people. In the Emancipation Proclamation, he states, "slaves, within any state or designated part of a state . . . then, in rebellion . . . shall be taken, henceforward, and forever free."

True freedom was now a reality, and with that reality the democracy of the United States of America began to flourish, capping with woman's suffrage, which gave the vote to everyone. Under the guidance of democracy and our new-found freedom, we did more in a little over 100 years than most civilizations had ever done for their total existence. We started with nothing more than a democracy and our freedom and turned ourselves into one of the world's biggest superpowers. It is obvious that we, today, are free because of our democratic society. And other countries in the world are finally starting to see that. Walls are coming down, communist parties are starting to diminish, and democracy is shedding a whole new light on many countries who at first laughed at us. It has been shown that history repeats itself, and I believe that these countries want a piece of what we've got, and if history truly does repeat itself, these countries will soon have what they want, and that is freedom. I believe that every family should own a part of the Lincoln Memorial because we all, once in awhile, deserve to be reminded that democracy is indeed the vanguard of freedom.

PROLIFERATION PROFITEERS: PART 6

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. STARK. Mr. Speaker, foreign companies are helping Third World countries develop nuclear weapons. These firms are making huge profits selling nuclear equipment, materials, technology, and dual use items—without the proper safeguards—to countries like Iraq and Pakistan. If we leave this issue unaddressed, it's only a matter of time before Syria, Iran, Libya, North Korea, and others have the bomb.

I've recently introduced the Nuclear Non-Proliferation Enforcement Act (H.R. 830). Under this legislation, any foreign firm found furthering the spread of nuclear weapons through these questionable sales would have its goods barred from entering the United States. Twenty-one Members of Congress have cosponsored this bill.

Today, I am placing into the CONGRESSIONAL RECORD the sixth in a series of 12 case studies on specific foreign companies that have assisted Iraq in its nuclear weapons programs. We must put an end to this proliferation profiteering or face grave threats to our national security in the future.

TWELVE FOREIGN FIRMS REPORTEDLY ENGAGED IN NUCLEAR WEAPONS-RELATED TRADE WITH IRAQ

FIRM 6: INDUSTRIAS CARDOEN LTDA (CHILE)

Industrias Cardoen Ltda (Cardoen Industries) is a private armaments manufacturing firm specialized in the production of armored vehicles, aircraft bombs, and small explosive infantry weapons. Cardoen has been implicated in the transshipment from Europe to Iraq of sophisticated measuring devices for testing detonators known as oscilloscopes, although the firm has denied this allegation. High speed oscilloscopes are needed for both nuclear weapons and missile-related manufacturing. In October 1990, the Chilean government ordered an "in-depth" investigation into the possible transfer of fuel-air explosives to Iraq through Libya. The company apparently conducted tests of such a device, which is equivalent in explosive impact to a small nuclear weapon, at its desert test range in August 1990. Cardoen has denied this allegation as well.

Cardoen's export peak reached $120 million in 1987, stimulating its bid into the U.S. arms market.

INTRODUCTION OF THE MINIMUM PAYMENT ADJUSTMENT FOR MEDICAID DISPROPORTIONATE SHARE HOSPITALS BILL

HON. TERRY L. BRUCE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. BRUCE. Mr. Speaker, today I am introducing legislation to improve the reimbursement level for Medicaid disproportionate share hospitals, those hospitals which serve a high percentage of America's most vulnerable citizens. These include children's hospitals, many of which provide more than 80 percent of their care and treatment to Medicaid-eligible children. Today, millions of American people are uninsured and more than 12 million children have no access to health care. While most Americans over age 65 are covered by Medicare, Children's Health Care Programs are being cut and fewer employers are providing health insurance.

Health care costs are rising at an annual rate of between 18 and 30 percent, and since 1980, more than 700 hospitals have closed. In my own State of Illinois, 24 hospitals have closed, and nearly 1,000 more nationwide are in trouble.

The American Hospital Association reports serious problems particularly for those hospitals which provide charity care, and care to patients receiving Medicaid funding. Medicaid payments for patient care fall short of costs, and this shortfall is growing quickly. Nine out of 10 hospitals are losing money serving Medicaid patients and Medicaid shortfalls are directly responsible for hospital losses in caring for the poor.

The AHA survey also showed that Medicaid payments were consistently lower than actual costs, and that this gap has been widening since 1985. Between 1980 and 1985, Medicaid paid 90 percent of costs for its beneficiaries. By 1989, payments covered 78 percent of costs. This translates to a loss in 1980 of $700 million and a loss in 1989 of $4.3 billion.

Most of these hospitals providing services for Medicaid beneficiaries also provide uncompensated care for millions of Americans who have no access to health care services. These hospitals are struggling to stay afloat, but are finding it difficult to provide good, quality care for people who cannot afford to pay. Uncompensated care cost hospitals $11.1 billion in 1989, an increase from $3.9 billion in 1980. This cost is usually absorbed by the hospital or shifted to private payers. For hospitals which provide charity care or treat a disproportionate share of Medicaid patients, no relief is in sight.

The bill I am introducing today is part of a larger package I will be introducing in the coming months. It will provide a partial solution to this growing problem. The bill will improve minimum payments to hospitals which provide care to a disproportionate number of Medicaid patients. This legislation will ensure welcome relief for many hospitals.

The time to act is now. Our health care system is suffering and our children are not getting the care they need. The U.S. ranks 23rd in infant mortality rates. In 1955 it ranked 6th. Hospitals are closing their doors because they can no longer swallow the costs. I hope that all of you will think of the hospitals in your district which have told you they can no longer accept Medicaid beneficiaries, or are closing their doors, eliminating access to health care for millions of Americans. Please join me in supporting this legislation.

H.R. 1544

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MINIMUM PAYMENT ADJUSTMENT FOR DISPROPORTIONATE SHARE HOSPITALS UNDER THE MEDICAID PROGRAM.

(a) IN GENERAL.—Section 1923(c) of the Social Security Act (42 U.S.C. 1396r-4(c)) is amended by inserting after the first sentence the following: "Regardless of the formula a State uses to calculate the payment adjustment for a disproportionate share hospital, the amount of such payment adjustment shall equal at least the amount of the payment adjustment that would result if the adjustment were calculated using the formula specified in paragraph (1) of this subsection (as modified, in the case of a children's hospital, by the next sentence).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1991.

THE CHARITABLE GIVING TAX EQUITY ACT OF 1991

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. DORGAN of North Dakota. Mr. Speaker, today Mr. CHANDLER and I are introducing the Charitable Giving Tax Equity Act of 1991 to provide a Federal income tax deduction to taxpayers who make charitable contributions, but who are now prevented from deducting those contributions because they file a short-form tax return. Identical to legislation that we introduced in the 101st Congress, this bill gives nonitemizers the same tax treatment for supporting charitable organizations as already exists for itemizers.

Under current law, only those taxpayers who itemize deductions receive tax incentives for charitable giving. Consequently, only upper income taxpayers, who generally itemize, are encouraged by the tax laws to make charitable contributions. It makes no sense to me that those with low to moderate incomes, who generally are unable to itemize, do not receive the same encouragement to make charitable contributions.

Modest income Americans are among the Nation's most generous contributors giving an estimated 30 percent more of their incomes to charity than average taxpayers. But most modest income contributions are nonitemizers, and therefore, cannot deduct their charitable gifts.

In fact, more than 78 million taxpayers who do not itemize their returns are not told by our Tax Code that their charitable giving is going to be treated less generously than the charitable giving by upper income folks. That doesn't make sense to me.

It's time that Congress reexamined the rationale behind current policy which, in my view, is not in step with our efforts toward establishing a more equitable Tax Code.

I believe a nonitemizer who contributes $500 to charity should receive the same tax benefit as the itemizer who contributes $500 to charity. The rationale underlying the deduction applies to all taxpayers, that is—all individuals should be encouraged to make donations by excluding from taxation the income they contribute for a public purpose.

Allowing a deduction for nonitemizers will stimulate more charitable giving which will provide more funding for worthwhile nonprofit organizations, many of which provide services that otherwise might have to be provided by the Federal Government. Studies demonstrate that lower income households—nonitemizers—have historically contributed a higher percentage of household income to charity than higher income households. Further, nonitemizers tend to give to causes that serve low- and middle-income individuals. These important social obligations require and deserve the same encouragement from tax policy as causes supported by upper income individuals.

Some argue that the standard deduction which is allowed nonitemizers already takes into account charitable contributions. But it is not clear how much, if any, attribution for charitable deductions is assumed in the standard deduction. And even if one would accept the proposition that a portion of the standard deduction includes charitable giving, a lower bracket taxpayer's charitable deduction represents significantly less value than the same deduction afforded upper bracket taxpayers. This legislation addresses any concern about double benefits by limiting a nonitemizers deduction to that amount exceeding $100 of their charitable contributions. The $100 floor will also help reduce IRS compliance concerns by reducing the number of potential returns for filing.

The point is, lower income Americans should be afforded the same opportunity under our tax laws to give to charities of their choice by allowing them the same charitable deduction available to upper income bracket taxpayers, and we should change our tax laws to provide for that.

A copy of the bill follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Charitable Giving Tax Equity Act of 1991".

SEC. 2. DIRECT CHARITABLE DEDUCTION.

(a) IN GENERAL.—Section 170 of the Internal Revenue Code of 1986 (relating to charitable, etc., contributions and gifts) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) RULE FOR NONITEMIZATION OF DEDUCTIONS.—In the case of an individual who does not itemize his deductions for the taxable year, the excess of the amount allowable under subsection (a) for the taxable year over $100 shall be taken into account as a direct charitable deduction under section 63."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 63 of such Code is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and ", and by adding at the end thereof the following new paragraph:

"(3) the direct charitable deduction."

(2) Subsection (d) of section 63 of such Code is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and ", and by adding at the end thereof the following new paragraph:

"(3) the direct charitable deduction."

(3) Subsection (h) of section 63 of such Code is amended to read as follows:

"(h) DIRECT CHARITABLE DEDUCTION.—For purposes of this section, the term 'direct charitable deduction' means that portion of the amount allowable under section 170(a) which is taken as a direct charitable deduction for the taxable year under section 170(m)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

COLIN LUTHER POWELL; HIS EARLY DAYS AS AN OFFICER

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. RANGEL. Mr. Speaker, I would like to take this opportunity to share with my colleagues an article about the chairman of the Joint Chiefs of Staff, Colin Luther Powell. His career in the U.S. Armed Forces exemplifies that of a dedicated individual who succeeded against all odds to become America's highest-ranking military officer.

The article, which appeared in The Washington Post on February 25th, 1991, follows:

[From the Washington Post, Feb. 25, 1991]

COLIN POWELL, BEFORE HISTORY TAPPED—IN HIS EARLY DAYS AS AN OFFICER, LUGGING RIFLES AND FORGING FRIENDSHIPS

(By Jacqueline Trescott)

It was a bitterly cold November in 1958 and the young soldiers had just finished eight weeks of a grueling Ranger course. They had climbed rocks, established a perimeter defense, chased chickens for dinner, and showed their superiors they had the grit for the Army. A camera caught them as they were boarding their H-4 helicopter back to Fort Benning, Ga., in a moment of youthful exhaustion and relieved accomplishment.

They looked very young with their proud smiles and their filthy fatigues and the rifles slung casually at their sides. They were just another group of second lieutenants going through a rite of military manhood, untested in real battle. But in their ranks were two future three-star generals and two future four-star generals. And standing in the rear row was Colin Luther Powell, now chairman of the Joint Chiefs of Staff and the country's highest-ranking military officer. Then he was lugging around a .30-caliber machine gun because he was one of the biggest guys in the patrol.

Gen. Powell is part of our collective psyche now, a looming figure in medals or fatigues, a constant and authoritative voice in the Persian Gulf War. The men he served with in 1958—and later, in an infantry course in 1964—are scattered around the country in retirement or posted around the world on active duty. They watch their old colleague on television and recall when they huddled in their ponchos with only a candle for warmth in the Chattahoochee National Forest.

These men remember those years with fondness. They speak of the Powell they knew then as an outstanding leader who still was a regular guy, yet with a healthy quotient of intelligence, charisma and spunk. He was further set apart, remember some, by his bearing, his candor and his friendliness. Maj. Gen. William A. Roosma, now deputy commanding general at Fort Bragg, N.C., recalls arriving at Fort Benning a day before class started, newly minted from West Point, and sitting alone on his bed. "It seems like yesterday. Colin looked in the door, introduced himself and we have been friends ever since," says Roosma.

Many of these men knew the Army would be their lives. Not so Powell. A native of New York City, he was 21 years old in August 1958 when he reported to Fort Benning. He had a bachelor's degree in geology from the City University of New York and joined the Reserve Officer Training Corps (ROTC) when the Pershing Rifles Club caught his attention. "At that time I never even thought seriously about staying in the Army. My parents expected that, like most young men going in the Army, I would serve for two years . . . and then come home and get a real job," he has said.

In these years before the buildup for the Vietnam War, Fort Benning was a massive, hectic place. And there was a universal outlook and look among the 186 soldiers reporting for basic. "We had a white name tag, black and yellow 'U.S. Army' over your heart, the golden cross rifles and second lieutenant bars, all starched and spiffy," says Harold Van Meter, one of the flattops in the Ranger photo and now a management consultant in Buena Vista, Ga.

Yet there were some differences for Powell. He was one of the few blacks, and the Deep South provided many contrasts to the South Bronx. He had spent his teen years in an industrious neighborhood that was a polyglot of racial groups; he had even learned Yiddish, which he can still reel off today. "I was stationed at Fort Benning before I ever saw what is referred to as a White Anglo-Saxon Protestant," Powell has written.

Also, Georgia held fast to the practices of segregation. When Powell returned to Fort Benning in 1964, he and his wife, Alma, were refused service at Buck's Barbeque, a restaurant on a main road of Columbus, Ga. Now the avenue is named for Martin Luther King Jr. and Powell is a man who advises the president.

William J. McCaffrey, a member of that basic and Ranger course, remembers how bartenders wouldn't serve Powell in Columbus. "We would intimidate the bartender . . . we threatened him—'this is our Ranger partner, you have to serve him.' And they would," recalls McCaffrey, a retired lieutenant colonel and chairman of an insurance brokerage firm in Detroit.

In the infantry group, people stood out for a number of reasons. One was reputation—Peter Dawkins, who was there with Powell but in another section, had been president of the West Point class of 1959, co-captain of the football team, an All-American, winner of the 1958 Heisman Trophy and a Rhodes Scholar. Everyone thought that one day Dawkins would be the Army chief of staff. He did go on to become a decorated paratrooper in Vietnam, a brigadier general and a Pentagon strategist.

Another reason was experience. There was an aura attached to the men who had already been to Vietnam. Powell had been assigned to Europe for two years, Fort Devens, Mass., for two years and then Vietnam from December 1962 to November 1963. "It was like 'they have already been, gosh,'" says retired Lt. Col. Robert A. Smith a stockbroker with Merrill Lynch in Kingwood, Tex.

The infantry career course required long classroom hours and tough preparation. Powell belonged to a study group with three other men and finished the course in the honors section. He is remembered, not as a star, but as someone who didn't show off. "He wasn't a spring-bud, the one who always wanted to jump up and answer the question. Or, when the rest of us wanted to get out of class, would ask a question," remembers retired Col. Kenneth Montgomery, a defense industry analyst in Huntsville, Ala.

This time at Benning also provided a break from the pressures of the front lines. There were sports teams; Powell played soccer. Families were reunited. Many were started. "It was the kind of place that caused young men to form pretty good friendships," recalls Lt. Gen. Thomas N. Griffin Jr., chief of staff, Allied Forces/Southern Europe.

On the ground floor of Building 4, where they spent most of their time, was a coffee shop, and here Powell and two friends debated the changing world around them. "That fall was the Goldwater-Johnson election. Colin talked about how he and his wife were not able to find a place to stay. And he had particularly strong feelings about Johnson getting elected because he felt that was the best route . . . for civil rights," recalls retired Col. James G. Garvey, now an instructor for Rice Aviation in Phoenix. Garvey laughs, pointing out that he and Powell always paid for the coffee because Tom Griffin always won the coin toss. "And we constantly talked about the war and read the teletype," says Garvey.

Powell has told a story about those days and how out of sync he was with the mindset of the South. Going back to Fort Benning one day, he was driving 70 miles an hour and was stopped by an Alabama patrolman who was handing out "Goldwater for President" stickers. Powell was driving a Volkswagen beetle, equipped with an "All the Way With LBJ" bumper sticker and New York license plates. He told Ebony magazine in 1988 that the patrolman "looked at me, the German car, the New York license plate and the LBJ slogan. There was a moment of suspense. He finally said, 'Boy, get out of here. You are not smart enough to hang around.'"

After the infantry course was completed in 1965, retired Lt. Col. Earl Adams of Everett, Wash., chairman of the base's operations committee, asked Powell and another officer to help him revamp a package of instructions. "He has great organizational ability," says Adams. "I have to smile now, the title was 'Unit Readiness.' It embodied tactics, logistics, maintenance. And he had to coordinate with colonels all over the place."

As Powell moved from assignment to assignment, he frequently reunited with the officers of Benning.

His friends say he continued to display a blunt seriousness about soldiering but also had a healthy irreverence for authority. When Joseph Schwar, a retired colonel, now an account executive for IBM in Gaithersburg, was assigned 20 miles from Powell in Vietnam in 1968 and 1969, Schwar heard a report that Robert McNamara had said the war was over. He called Powell and told him the news, and recalls that "Colin said, 'You tell Mr. McNamara to come and see where I am, because someone is shooting at me.'" In his career, Powell was awarded five combat medals, including a Bronze Star and a Soldier's Medal for pulling soldiers out of a burning helicopter, and a Purple Heart after he fell into a trap near the Laotian border and his foot was pierced by a sharpened stick.

In the early '80s, Dawkins and Powell caught up with one another in the Pentagon. Powell was military assistant to the secretary of defense; Dawkins was deputy director of the Army's strategy, plans and policy unit. "As is the reality in a big organization like that, Colin could and did speak for the secretary in some areas. I would meet him in his office and I would feel I had just been to the schoolmaster," says Dawkins. "He displayed the kind of virtuoso mastery of the political complexities of the Pentagon that is rare."

In other ways, as he has risen to the top, Powell has demonstrated that Benning ties are still important. Just a couple of years ago William McCaffrey attended a speech Powell gave to the Detroit Economic Club. "There were all these security people, a mob of folks; 1,000 people were at the lunch. He hugged me and said, 'Mac, how are you?' It made me feel good. Then we started talking about Ranger Patrol and how the two of us always had to carry the machine gun because we were 6-2 and 6-3."

As Powell's career switched from commanding troops to shaping policy, some of the old friends have wondered if he's happy with that side of the Army. Retired Lt. Gen. Gerald T. Bartlett says that "he has always been in a pressure cooker. The fun of the Army is the tactical units. When he was finally sent over to the V Corps . . . they drug him out again. They couldn't live without him."

Thirty years later Powell is intruding on their lives in a unique way. When the men from his early Army days watch their colleague on television, they are filtering his words through the spectrum of friendship and an intimacy with the military's words and inventory. For example, Bartlett is watching the use of sight units on the Bradley Fighting Vehicle and the goggles worn by the soldiers, all developed when he was at Fort Ord, Calif. The Bradley itself is one of his projects as a program manager for FMC Corp. in Campbell, Calif.

At home in Conyers, Ga., retired Col. Terry Gordy watches for the news of equipment he worked on as an officer and as a civilian. He now works at Rockwell International. And he monitors his friend, thinking, "Go, Go, Go, we are all proud of you, Colin."

Four weeks ago when Powell was urging a skeptical group of reporters, "Trust me. Trust me," Joseph Schwar was walking through Dulles International Airport. He stopped to watch the broadcast. "When he said 'trust me' I said, 'Damn right. I know I can trust you. And as I looked around people were nodding and saying, 'If he says it, I can believe it.' That impressed me."

THE "FUEL EFFICIENT VEHICLE PURCHASE INCENTIVE ACT"

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. SCHEUER. Mr. Speaker, today I am proud to introduce the "Fuel Efficient Vehicle Purchase Incentive Act".

This bill will provide consumers with incentives to purchase cleaner, more efficient vehicles by imposing a fee on cars with higher average carbon dioxide emissions and giving consumers who purchase vehicles with lower than average CO_2 emissions a rebate. This bill will not require auto manufacturers to make any changes in their fleet designs nor will it require them to make technological changes. It will simply make cleaner running vehicles more attractive and polluting ones less so. Consumers will purchase more "clean burning, gas sipping" vehicles and fewer "dirty, gas guzzling" vehicles.

The bill sets emission standards for each vehicle category. Cars that fall below the standard for their category will be penalized and those that exceed it will be rewarded. Because the standards are set by categories, this bill will not affect what size vehicle consumers will buy. If a consumer wants a mid-size vehicle he/she can have a mid-size vehicle without having to pay any fee. If a consumer wants a luxury car, he/she can have that luxury car without having to pay a fee. The bill will only affect choice within size class. A buyer who purchases an efficient, clean running luxury car will receive a rebate. Likewise, a buyer who purchases an inefficient, polluting subcompact will have to pay a fee. That's the beauty of this bill. Consumers will purchase more efficient, cleaner running cars and still be able to get the type of car they want, and they can do so without paying any fee, and maybe even receiving a rebate.

Carbon dioxide, the leading contributor of the global warming phenomena, accounts for 55 percent of greenhouse gas emissions. The United States is responsible for 21 percent of worldwide carbon dioxide emissions. The transportation sector provides us a great opportunity to reduce CO_2 and increase fuel efficiency. Vehicles and light trucks alone are responsible for approximately 20 percent of all carbon dioxide emissions. These vehicles burn nearly 40 percent of the 17 million barrels of oil that we consume daily, nearly half of which is imported. Clearly something must be done to cut down on vehicle emissions and increase efficiency. Fortunately, the two are related. Increasing efficiency will reduce CO_2 emissions and vice versa.

This bill is not a tax; it is revenue neutral and specifically designed to operate that way. The money collected from the inefficient, high polluting vehicles will be returned to those buyers of efficient and more environmentally sound cars. It will provide consumers with incentives to buy cleaner running, more efficient cars. Our air will be cleaner and we will use less fuel. I urge all my colleagues to cosponsor this bill.

REGULATORY RELIEF FOR AGRIBUSINESSES

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. DORGAN of North Dakota. Mr. Speaker, I am pleased today to join Representative JIM LIGHTFOOT in introducing legislation that would give State governments the authority to waive Federal commercial drivers license [CDL] requirements for vehicles used to transport farm supplies from the retailer to the farm, for vehicles used in custom harvesting, and for vehicles used to transport livestock feed. The measure would extend waiver authority already granted to farm vehicles by the Department of Transportation.

When the Department of Transportation issued regulations in 1988 to implement the Commercial Motor Vehicle Safety Act, the agency recognized the unique nature of rural transportation and granted States the authority to waive farm vehicles that were controlled and operated by a farmer from the CDL requirements. However, this waiver did not extend to agricultural businesses, who have the same transportation needs as farmers.

In rural farming communities, agribusinesses routinely deliver supplies and equipment to farms, and feedlot operators transport livestock feed. This type of short-haul transportation service is very different from over-the-road trucking or transport services in urban areas. These deliveries are generally made over rural roads that are less frequently traveled. Rural areas also have such a small pool of available workers, agribusinesses often utilize students and seasonal workers as drivers. The stringent CDL requirements will pose a significant problem for these small businesses.

This legislation also provides regulatory relief for custom harvesters, who harvest grain for farmers and transport it from the field to market. Most of the driving for these harvesting specialists is done off-pavement by seasonal workers. Custom harvesters have been seeking relief from the CDL regulations. This measure would provide that relief.

A waiver from the CDL program will give States the leeway to exclude agribusinesses, custom harvesters, and feedlot operators from State implementation of the Federal regulations. It will not automatically exempt them. States which have rural agricultural businesses, custom harvest operations, and feedlots, and farmers who depend on them, need the ability to regulate these industries in the best interests of their people and economies.

I urge my colleagues to give careful consideration to this CDL waiver for farm suppliers, custom harvesters, and feedlot operators, and support this legislation.

INTRODUCTION OF LEGISLATION TO ALLOW A DEDUCTION FOR FEES FOR SEWER SERVICES

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. DONNELLY. Mr. Speaker, I am introducing legislation today which will be of enormous benefit to middle-class homeowners across the country. My legislation will allow property owners to deduct, in the same manner as local property taxes, fees for sewer and water services.

Mr. Speaker, across the country, many cities and towns are moving away from property taxes as a method of funding essential governmental services and imposing user fees.

The itemized deduction for property taxes is the most basic of Federal deductions, because it is imposed on the value of a person's home. In my view, sewer and water fees are essentially the same as a tax; typically, they are separately stated from property tax bills principally as a method of dealing with property tax limitations. We must respond to this issue.

My bill does so by allowing homeowners—most especially low- and middle-class homeowners—to deduct fees for sewer and water services to the extent that those fees exceed 1 percent of the taxpayer's adjusted gross income. It is wrong that these fees are not deductible in the same manner as property taxes. In the coming decade, as America meets the challenges of cleaning up our water supply, fees will increase across the Nation. This legislation does something about it, by providing some measure of relief to the middle-class homeowner.

This legislation has been estimated by the Joint Committee on Taxation to result in a loss to the Treasury of less than $100 million per year. The legislation contains a revenue raiser which I believe will raise more than $100 million per year, and which is based on sound principles of income tax policy. Moreover, the revenue raiser will further the goal of tax simplification by limiting the need for IRS litigation in one complex area of the law. I urge prompt action on both provisions.

Mr. Speaker, a technical description of my legislation follows:

TECHNICAL DESCRIPTION

SECTION ONE: DEDUCTION FOR SEWER AND WATER FEES

Present law

In computing taxable income, taxpayers may claim itemized deductions. Allowable itemized deductions include a portion of medical expenses, personal residence interest, moving expenses, certain casualty and theft losses, miscellaneous business expenses, and State and local income real property taxes.

For purposes of the deduction for real property taxes, the Internal Revenue Service has defined the term "tax" as "an enforced contribution, enacted pursuant to legislative authority in the exercise of the taxing power, and imposed and collected for the purpose of raising revenue to be used for governmental purposes." (Rev. Rul. 77-29, 1977-1 CB 44).

The Internal Revenue Service has consistently taken the position that fees imposed for sewer and water services are not deductible as local or State real property taxes (see, e.g., Rev. Rul. 79-201, 1979-1 CB 97, Situations 2 and 3; Rev. Rul. 75-346, 1975-2 CB 66; Rev. Rul. 75-455, 1975-2 CB 68).

Explanation of proposal

Under the bill, fees imposed by a State or local government, or the District of Columbia, for sewer and water services would be deductible in the same manner as local real property taxes. The deduction would only be allowed to the extent that the fees exceeded 1% of the taxpayer's adjusted gross income.

Effective date

The proposal would be effective for taxable years beginning after December 31, 1991.

SECTION TWO: PRO-RATA LIMITATION ON CORPORATE INTEREST EXPENSE DEDUCTION AND ITEMIZED DEDUCTIONS OF TAXPAYERS BASED ON TAX-EXEMPT INCOME HELD BY TAXPAYERS

Present law

Tax-Exempt Interest

Interest on obligations of State and local governments used to finance direct governmental activities of those entities is generally exempt from tax under authority of section 103 of the Code. Interest on these obligations, the proceeds of which are used to finance private activities, is taxable unless a specific Code provision excludes the interest from taxation.

Because money is fungible, taxpayers may use income which they received from tax-exempt investments to pay for expenses deductible for income tax purposes. Although the so-called "tax benefit" doctrine requires the inclusion in income of items previously deducted producing a tax benefit to the taxpayer (such as State income tax refunds on tax payments previously deducted), no requirement exists in the Code reducing deductions to the extent of, or on account of, a taxpayer's tax-exempt interest except with borrowing as described below.

Itemized Deductions

As discussed above, taxpayers may claim itemized deductions (subject to certain limitations) for certain nonbusiness expenses incurred during the taxable year. In the case of taxpayers with adjusted gross income generally in excess of $100,000 ($50,000, in the case of a married couple filing a separate return), a portion of the taxpayer's itemized deductions are disallowed. Under present law, the amount of the taxpayer's itemized deductions disallowed is equal to 3% of the excess of adjusted gross income over the threshold amounts. In no event can more than 80% of the taxpayer's itemized deductions be disallowed.

Section 265

Code section 265 disallows a deduction for interest on indebtedness incurred to purchase or carry tax-exempt obligations. The intent of section 265 has been described as an attempt to prevent taxpayers "from requiring the United States to finance [their] investments." *Wisconsin Cheeseman* v. *U.S.*, 388 F.2d 420, 422. (See, also, Rev. Rul. 83-3, 1983-1 CB 72, modified by Rev. Rul. 87-32, 1987-1 CB 131: the purpose of section 265 is to prevent taxpayers from deriving a double tax benefit from an exclusion from income).

Section 265 usually requires an inquiry into the motives of the taxpayer in incurring indebtedness when the taxpayer owns tax-exempt obligations (see, e.g., Rev. Proc. 72-18, 1972-1 CB 740). Rev. Proc. 72-18 provides an administrative safe harbor in the form of a "de minimis" rule which generally provides that absent direct evidence of an intent to incur indebtedness to "purchase of carry" tax-exempt obligations, a non-financial corporation's tax-exempt obligations may consist of less than 2% of its assets, without the corporation's motives in incurring indebtedness being questioned. This de minimis rule does not apply to installment notes of a vendor in the vendor's hands.

Section 265(b) provides a mechanical rule for financial institutions automatically disallowing a portion of the entity's interest deduction in an amount allocable to the tax-exempt obligations held by the institution. For purposes of the rule, tax-exempt obligations do not include tax-exempt 501(c)(3) bonds and bonds issued by small issuers. The 2% "de minimis" rule, discussed above, does not apply to the pro-rata disallowance.

Explanation of proposals

Under the proposal, total itemized deductions would be subject to a tax-exempt interest proportionate disallowance rule. Under the rule, total itemized deductions would be reduced by the percentage of the taxpayer's modified adjusted gross income attributable to tax-exempt interest. In general, modified adjusted gross income is adjusted gross income plus tax-exempt interest income.

The disallowance rule would apply before the limitation on itemized deductions for taxpayers with adjusted gross income in excess of $100,000 ($50,000 in the case of married couples filing separate returns).

The operation of the tax-exempt interest proportionate disallowance rule can be demonstrated by the following exemple. Assume that a married couple has tax-exempt interest of $10,000, modified adjusted gross income of $170,000, and itemized deductions of $25,000. Under the proposal, $1,470 of the taxpayer's total itemized deductions are disallowed under the tax-exempt interest proportionate disallowance rule ($10,000/$170,000) ($25,000). The taxpayer's itemized deductions would be further reduced by $1,800 (i.e., 3% of the excess of $160,000 over $100,000).

In addition, the financial institution rule of subsection (b) of section 265 would generally be applied to all corporations (including property and casualty insurance companies). Under the bill, as under present law, the 2% de minimis rule of Rev. Proc. 72-18 would not apply to the pro rata disallowance. For purposes of calculating the disallowance amount, tax-exempt obligations would not include (1) short-term governmental debt (i.e., debt with a stated maturity of less than one year) and (2) governmental debt of small governmental units with general taxing powers, both provided that these tax-exempt obligations are less than 0.5 percent of total U.S. assets of the corporation.

Effective date

The legislation is effective for taxable years beginning after the date of the enactment of the Act, with respect to bonds issued after the date of enactment.

LEYTE LANDING DAY

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. PANETTA. Mr. Speaker, I rise today to introduce a joint resolution to designate October 20, 1991, as "Leyte Landing Day". This will mark the 47th anniversary of the allied forces' return to Leyte in the Philippines to fulfill a national promise and liberate the Philippine people from Japan. Gen. Douglas MacArthur led the 420 transports, carrying 165,000 men of the U.S. 6th Army, and 157 warships, manned by 50,000 sailors, who fought at Red Beach and represented the largest operation which had been conducted in the Pacific theater up to that point. Through the combined efforts of the Philippine scouts and the Allies, the Japanese were defeated and the direction of World War II was changed.

The events which occurred at Leyte between 1944 and 1945 have not received much deserved recognition. The Leyte landing was as important in the course of World War II as the landing at Normandy on D-Day, and yet, the recognition of the two events has been far from comparable. The Phillippine scouts fought bravely alongside the United States Army to defend the vital American military bases in the Pacific and should be recognized for their efforts.

Traditionally, the Leyte landing has been commemorated with ceremonies in various parts of the country, including California. However, I believe it is time for national recognition of this important event in U.S. history. The dedication and sacrifice endured by these men during World War II should not be forgotten. I therefore urge my colleagues to support this legislation to designate a day for national observance of the return to Leyte.

For the convenience of my colleagues, a copy of the resolution is included here:

H.J. RES. —

Whereas October 20, 1991, marks the 47th anniversary of the landing of allied forces on Leyte Island in the Philippines;

Whereas the allies' courageous return to the Philippines fulfilled a solemn national promise to liberate the Philippine people from the Japanese empire;

Whereas the 420 transports, carrying 165,000 men of the United States Sixth Army, and the 157 warships, manned by 50,000 sailors, which fought at Red Beach represented the largest operation yet conducted in the Pacific War; and

Whereas the combined efforts of Philippine Scouts and allied forces resulted in the eventual defeat of the Japanese forces and changed the direction of the war in the Pacific: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 20, 1991, is designated as "Leyte Landing Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

THE EDUCATIONAL EQUITY ACT OF 1991

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. OWENS of Utah. Mr. Speaker, as many of my colleagues know, I have been studying the distribution of Federal funds for education. During the 100th Congress, the House approved my amendment to the Primary and Secondary Education Re-authorization Act requiring a study into how Federal education funding is distributed. Last September, the Department of Education released an interim report which showed Utah dead last in 6 out of 11 formulas designed to distribute Federal education dollars to the States. Utah is not alone in this predicament.

Overall, chapter I grants are far above average in the Northeast and well below average in the West. Because chapter I formulas have been proposed to fund new education initiatives in the United States, I believe it is time to start anew the debate over Federal education formulas and fund distribution.

Mr. Speaker, I am today, along with my colleagues from Utah, introducing the Educational Equity Act of 1991 that is intended to spark the debate by proposing modification of the chapter I formula under title I. This bill would alter per-pupil expenditures to more evenly distribute funds.

This bill requires the per-pupil expenditure of chapter I funding be based on the average per-pupil expenditure in the United States instead of the current 80 percent and 120 percent parameters in the formula.

This bill will modify several grants under chapter I funding. These are the basic grant, the concentration grant, the handicapped grant, the migrant program, and the programs for neglected and delinquent students. Under this formula modification, 24 States would receive increased allocations, 21 States would see a decrease, and 5 States would remain the same.

Currently, there are no good measures for determining who is educationally disadvantaged, so instead we measure those who are economically disadvantaged as defined by the poverty formula within the census. However, since the amount spent per pupil under chapter I is the basis for how much money is given to each State, those States with a higher per-pupil expenditure tend to receive more funding.

Under the current formula, those States with the lowest per-pupil expenditure receive up to 80 percent of the national average and those States with the highest per-pupil expenditure receive 120 percent. However, a State may have a higher per-pupil expenditure based on a declining student population.

The poverty formula, as applied to education, counts the number of children ages 5 to 17, and utilizes this information until the next census. The data from the 1980 census will continue to be used until the official 1990 census figures are released. This allows those States with a declining student population to increase the per-pupil expenditure by spending the same amount of funds among fewer students. Conversely, those States with growing student populations must make do with the same funding levels for growing numbers of students, thereby reducing their per-pupil expenditure over time. Although our bill does not specifically address the need to regularly update the poverty census data to reflect growing or declining student populations, the education formula debate should weigh this issue carefully. This issue does, however, directly influence each State's per-pupil expenditure figures.

Further debate should also analyze each State's effort to pay for education versus the capacity to pay. Many States similar to Utah have little further capacity to raise State taxes for education, yet show a high effort towards funding education. They simply have little flexibility to generate more State funds to increase their per-pupil expenditure.

I ask: "Is it fair that a child of poverty in a wealthy State receive more than a child of poverty in a poor State?" It is time to turn our attention toward our domestic agenda. It is time to debate the Nation's education policies to determine our future within the new world order. Every child deserves a quality education. We must strive to establish an equitable education policy.

The final report analyzing education funding formula distribution will be out this June. I urge my colleagues to carefully scrutinize this information. Educate yourselves so we can effectively determine an education policy course our children deserve.

CONGRESSIONAL ARTS CAUCUS HONORS ACTOR SIDNEY POITIER

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. WEISS. Mr. Speaker, as chairman of the Congressional Arts Caucus, I have the singular honor of recognizing one of the true legends of American film. Sidney Poitier—actor, director, and producer—has made an indelible mark on American cinema and culture. Over a career that has spanned four decades, this gentleman of the stage and screen has had a singular effect on American culture. Distinguished, dignified, and universally admired for his work, he is equally admired for his humanitarian efforts and for being a voice for America's disadvantaged youth. Through dedication, perseverance, and sheer talent, Sidney has shown that barriers can be broken, that art can many times lead society to a better place and a truer path.

Sidney Poitier began life without a great deal of material comfort. Born in Miami, FL, he moved to the Bahamas where his father owned and worked a tomato farm. Helping with this work until the age of 15, he then returned to the United States, found his way to New York, and enlisted in the Army at 17. Returning to New York after World War II, he worked at a variety of unglamorous jobs and auditioned for the American Negro Theatre. After polishing his language skills with the help of a radio and newspapers and magazines, he worked backstage at this theatre in exchange for acting lessons.

His first professional role was in "Lysistrata" followed by "Freight" and "Anna Lucasta." His performance in "Lysistrata" led to a film test for the film "No Way Out" in which he debuted in 1950. In this film, he starred as a doctor whose sense of justice leads him to painful moral choices. He then went to England for his second film, "Cry the Beloved Country."

What followed has been one of the most brilliant and lasting film and stage careers this country has known. The more than 40 pictures that he either starred in or directed have demonstrated a remarkable diversity and range of character and talent. The New York Times aptly described this gamut of roles as such:

> His film characters have run from the streetwise student of "The Blackboard Jungle" to the proper, collected schoolteacher of "To Sir with Love"; from the restless, frustrated Walter Lee Young of "A Raisin in the Sun" to the methodically exact but outspoken detective, Virgil Tibbs, of "In the Heat of the Night."

Many of these roles, particularly the role he created in "A Raisin in the Sun" on Broadway in 1959, will forever remain in the American consciousness.

Sidney Poitier often portrayed the outsider. And, it must be noted, that he was acting at a time in our history when a black actor was treated as an outsider. Despite this, his talent prevailed. He received his first Academy Award nomination in 1958 for "The Defiant Ones." In 1963, he received the Oscar Award for Best Actor for his performance in "Lilies of the Field," becoming the first black male actor to receive this award. I cannot help but note that competition that year was formidable—Paul Newman, Rex Harrison, Albert Finney, and Richard Harris.

But Sidney Poitier overcame more than competition from peers. Because of his talent, he forged a path for generations of young actors. An articulate spokesman, he did not overstate but focused attention on the importance of talent, on the need for roles which would allow every actor to demonstrate his or her talent.

This is exactly what Sidney Poitier has and continues to accomplish. Aside from acting roles in such movies as "Porgy and Bess" and "Guess Who's Coming to Dinner" with Katherine Hepburn and Spencer Tracy, he directed and starred in "Buck and the Preacher" and "Uptown Saturday Night," among others. He also directed "Stir Crazy" with Richard Pryor and Gene Wilder and "Ghost Dad" with Bill Cosby.

His most recent and impressive undertaking is playing Thurgood Marshall, the first black U.S. Supreme Court Justice, in a 4-hour television miniseries entitled "Separate but Equal." In this ABC production to be aired in April, Mr. Poitier will portray Mr. Marshall when he was chief counsel for the NAACP, arguing desegregation cases.

But what cannot be shown in any simple listing of Mr. Poitier's remarkable artistic achievements is the remarkable humanity which each of these roles convey, or the inspiration and desire for excellence which he has instilled in generations of young people.

Moreover, Sidney Poitier has done more than portray humanity. He is a true humanitarian in action. He has utilized his unique position in American cinema and American society to better this Nation. In addition to leading the fight against race bias in the entertainment industry, he has been the voice—since the beginning of his career—for disadvantaged young people, for, in his words, "youth without a sense of direction, youth with a feeling of worthlessness." An active supporter of civil rights, he has also supported the Children's Defense Fund and has been an effective activist on behalf of blacks in South Africa.

Sidney Poitier continues to inspire, not just because of enormous talent and success, but because of the manner in which he has put his talent to use for a better society. He has been deservedly admired by generations of Americans, and is admired by each of us. The Arts Caucus is proud to honor this artist and gentleman with the Congressional Arts Caucus Award.

EDA SUES LASSEN COUNTY FOR REPAYMENT OF GRANT

HON. JOHN T. DOOLITTLE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. DOOLITTLE. Mr. Speaker, today I am introducing legislation which if enacted would relieve a great financial burden from the already economically stressed Lassen County, CA.

In 1975, Lassen County received an Economic Development Administration [EDA] grant of $286,768 to add an emergency room wing onto the 28-bed Lassen Memorial Hospital.

Mr. Speaker, the grant agreement with EDA contained a provision that prohibited the county from transferring the hospital during its useful life of 30 years to any transferee which was not "satisfactory to the Federal Government." The regulations which Lassen County received from EDA stated that no approval was required if the property was to be used for its intended purpose under the grant. The property in this case consisted of an emergency room wing of a 28-bed hospital. Lassen County could not conceive of any other possible use for the emergency examining and operating rooms other than for hospital purposes, the intended purpose for the grant.

Lassen County sold the hospital in 1986 to Eskaton Corp., a private nonprofit corporation engaged in the operation of numerous California hospitals. In order to protect the Federal Government's interest in the property, Lassen County had Eskaton execute a service agreement binding it and any of its successors to provide hospital service until the year 2022. Thus Lassen County had a legally enforceable insurance that the property would be used for hospital purposes and qualify for exemption from EDA approval of its transfer.

On June 30, 1986, Eskaton resold the hospital complex to St. Mary's Health Care Corp., a nonprofit hospital management corporation.

In January 1987 Lassen County received a letter from the regional director of EDA stating that he had learned that the hospital had been sold and that he was therefore demanding that the county of Lassen repay the Federal Government $286,768.

Mr. Speaker, there are three important reasons, I do not believe EDA's position to be fair or equitable toward Lassen County.

First, Lassen County has at all times acted properly and in good faith with the EDA.

Second, Lassen County has not changed the original intent of the grant. What was built to be a hospital wing remains a functioning hospital wing.

Finally, Mr. Speaker, EDA's action places greater economic strain on a county already in a fiscal crisis.

Mr. Speaker, in recent months this issue has taken on new urgency. EDA is now suing Lassen County for repayment of the grant. I urge all of my colleagues to support quick adoption of this legislation.

FLEXIBLE WORK SCHEDULE FOR HEALTH CARE PROFESSIONALS

HON. TIMOTHY J. PENNY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. PENNY. Mr. Speaker, today I am reintroducing legislation that was suggested by nurses at St. Mary's Hospital in Rochester, MN, but should assist many other health care professionals. The legislation, which would amend section 7(j) of the Fair Labor Standards Act, allows workers more flexibility in work schedules that are more amenable to the needs of family and child care arrangements.

Health care workers employed by hospitals, nursing homes, and other in-patient facilities are required, by nature of the work, to provide 24-hour, 7-day-a-week staffing of these facilities. The demands of shift work and weekend work, which do not often accommodate personal schedules, have contributed to the current difficulties in recruiting and retaining nurses and other health care professionals. Health care facilities have begun to lengthen work periods—such as expanding an 8-hour shift to 10 or 12 hours of duty—with workers being given compensatory days off. For example, rather than being assigned to work every other weekend, a nurse can be assigned every third weekend and receive additional days off during the week. This type of scheduling is particularly attractive to two-income families who are attempting to balance work and child care responsibilities.

The problem that has occurred is that under current law, employers are required to adhere strictly to a 40-hour work week, designed around a traditional 8-hour work day and including 5 working days per week. To protect the worker, the law requires that health care facilities pay overtime for work in excess of 8 hours in any work day and in excess of 80 hours in a 14-day period. This precludes the type of scheduling which many health care workers would prefer.

My legislation expands the number of shift hours allowed and the cycle over which the work may be completed while still protecting the rights of the worker. This expansion would be allowed only if the workers and the employer agreed to the change in writing. I believe this bill allows flexibility while still protecting workers' rights.

I am hopeful that this legislation will receive the active consideration of my colleagues, especially those on the Education and Labor Committee, taking into account the needs of health care professionals.

I ask that the text of the bill be printed following this statement.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7(j) of the Fair Labor Standards Act of 1938 (29 U.S.C. 207(j)) is amended by striking out "and if, for his employment" and inserting in lieu thereof "and if (1) for the employee's employment" and by inserting before the period at the end the following: ", and (2) for the employee's employment—

"(A) in excess of twelve hours in not more than seven days of such fourteen-day period,

"(B) in excess of eight hours in the remaining days of such fourteen-day period, and

"(C) in excess of two hundred and forty hours in three successive fourteen-day periods,

the employee receives compensation at a rate of not less than one and one-half times the regular rate at which the employee is employed. An agreement which calls for a work period described in clause (2) shall be in writing".

TAX INCENTIVES TO PREVENT OIL SPILLS

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. GUARINI. Mr. Speaker, on January 9 of this year, I announced that I planned to introduce legislation to limit tax deductions for oil-spill cleanup costs. I said at that time that the taxpayer shouldn't be subsidizing oilspills.

Now, on the eve of the second anniversary of the *Exxon Valdez* spill, I rise to introduce such legislation that will establish tax incentives to promote greater care in the transportation and handling of oil on our waterways and to encourage the cleanup of hazardous waste. This legislation does so by denying an automatic business deduction for the costs of cleaning up an oilspill and for the value of the product lost as a result. It also denies an automatic business deduction for the costs and damages associated with cleaning up a hazardous waste site.

OILSPILLS

The 101st Congress enacted the Oil Pollution Liability and Compensation Act, largely in response to the *Exxon Valdez* spill. This law establishes prevention and cleanup requirements, liability standards, and a fund for compensation. The intention was to prompt quick cleanup and mitigation in order to minimize the environmental damage resulting from the spill.

Although this legislation was a good first step, more needs to be done. For example, the new law delays the requirements for double hulls on all oil tankers and barges and fails to establish strict liability for oilspills. Consequently, we can expect this problem to continue to grow.

Everyone knows about the magnitude of the *Exxon Valdez* spill, which could end up costing as much as $3 billion, and the recent record settlement for $1.1 billion. But the problem is much deeper than just one spectacular spill. In 1986, the Department of Transportation reported 2,819 spills involving 3.4 million gallons of oil in U.S. coastal waters. In 1985, there were fewer spills, but 15 million gallons of oil were lost.

In my home State of New Jersey, over 1 million gallons of oil were emptied in 10 different spills into the Arthur Kill and Kill Van Kull last year. At Bayonne City Park, in the worst example, an oilspill over 1 year ago dumped as many as 500,000 gallons of fuel oil from a pipeline leak into the Arthur Kill Waterway. After many months of negotiation, Exxon has agreed to settle this case for $15 million. But the bulk of the oil in New Jersey waters is carried in barges, which will not be required to have double hulls until 2015. If we cannot mandate such safe carriage, we have to put in place economic incentives sufficient to ensure the most prudent and careful behavior on the part of those who carry oil on our waterways.

While both the *Exxon Valdez* and the Arthur Kill Waterway spills have been settled for substantial sums of money, under current law, our strapped Treasury will still end up subsidizing the polluter for its wrongdoing. Those substantial sums of money are fully deductible as a business expense so long as they are not called criminal fines.

According to analyses by House Budget Committee staff and the Congressional Research Service, the Government's $1.1 billion settlement of the *Exxon Valdez* case is worth far less to the Government. The $900 million in civil damages are fully deductible from Exxon's Federal and State taxes. The deductions currently allowed will net the Government only about $500 million under the terms of the settlement. Taking account of the present values of the money, the 10-year payout in the agreement further erodes the real cost of the settlement to Exxon to approximately $440 million. While our Government is scrambling for ways to pay for such programs as health care and education, this generous taxpayer subsidy will go to a company with over $100 billion in annual revenue.

Worse, according to a report in yesterday's Washington Post, confidential economic studies done for the State of Alaska and the Federal Government valued the true economic cost of the spill at $3 billion. Consequently, although at first blush the settlement appears generous, in real terms, adjusted for inflation, the out-of-pocket cost to Exxon is on the order of 15 percent of the damages that it did to the environment. Put another way, as the New York Times today pointed out, the cost to Exxon on an annual basis of its gross negligence is equivalent to drilling two difficult offshore wells.

HAZARDOUS WASTE

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 established the Superfund hazardous waste cleanup program. Under Superfund, the Federal Government may order responsible parties to cleanup contaminated sites, may take short-term actions to cleanup emergency situations, and may take long-term actions to cleanup sites, which may be placed on the National Priority List [NPL]. CERCLA also authorizes the Government to recover its cleanup expenses from responsible parties, thereby keeping as much of the Superfund available as possible for future cleanups.

CERCLA's mandate is truly awesome. According to the General Accounting Office, there may be as many as 425,000 hazardous waste sites in the United States. Only about 1,200 of these sites have been placed on the NPL. As of September 1990, onsite construction work had begun at just 254 sites. Cleanup work had been completed at only 54 sites, of which 29 have been removed from the NPL.

It is abundantly clear that the magnitude of the task is overwhelming; that progress has been exceedingly slow; and that if we are ever to get these sites cleaned up, new approaches must be devised.

Some critics have claimed that EPA's enforcement approach has discouraged polluters from agreeing to settlements to pay for cleanups. However, if a responsible party refuses to comply with an EPA order and the site is cleaned up under Superfund authority, the EPA may choose to seek treble damages. This threat of treble damages is designed to encourage polluters to cooperate with EPA and reach a settlement regarding cleanup. Unfortunately, the possibility of treble damages, while helpful, is not always sufficient to promote quick settlement of these cases.

Clearly, an early resolution of such actions is in everyone's best interest. Cleanup may then begin without the delays and expense of protracted litigation and funds that would have been spent on court battles may instead go towards cleaning up hazardous wastes. The responsible party is also better able to contain its costs through settlement. How, then, to provide further incentives to encourage polluters to settle such cases and begin the cleanup process?

USING THE TAX CODE TO ENCOURAGE PROMPT CLEANUPS

My legislation would encourage prompt cleanups of both oilspills and hazardous waste sites by building on the statutory scheme established by the Oil Pollution Liability and Compensation Act and CERCLA. This legislation does not automatically deny a deduction for cleanup costs in the event of an oilspill or hazardous waste emergency. In fact, as long as the Oil Pollution Liability and Compensation Act or CERCLA is complied with, a deduction is fully available to those responsible for the oilspill or cleanup of the hazardous substance.

If, however, the responsible party is considered negligent or otherwise subject to unlimited liability under either the Oil Pollution Liability and Compensation Act or CERCLA, not only does the party have unlimited liability for damages, but it will not be able to deduct costs related to the cleanup. To be more specific, removal or cleanup costs would no longer be deductible; nor would any damages, payments, civil fines, or penalties; nor would any legal fees incurred in determining the amount of the taxpayer's liability or any amount lost on account of the oil or hazardous substance released or discharged. In other words, when Exxon pays $1.1 billion in damages as in the case of the *Exxon Valdez*, it will really be $1.1 billion, not $524 million, with taxpayers subsidizing the balance.

This tax policy should provide a powerful incentive both for more careful behavior and prompt settlement of any legal disputes regarding cleanups. However, not everyone shares this view. In testimony last year before the Senate Committee on Finance on the Oil Spill Act, Assistant Secretary of Treasury for Tax Policy Kenneth Gideon argued that denying a deduction for cleanup costs would have a disincentive effect for those who do the most and benefit those who do the least to clean up the oilspill or hazardous substance.

It seems to me that Mr. Gideon's point is debatable. Certainly, a deduction can encourage cleanup efforts. But nondeductibility would presumably create some incentive to prevent the spill entirely. Otherwise, the company will have to bear the entire cost, without benefit of a subsidy from the Treasury.

Nonetheless, I recognize that in some instances a blanket denial of a deduction would send the wrong signal. My legislation avoids this by tying in the allowability of the deduction to the framework established under the Oil Pollution Liability and Compensation Act and CERCLA.

Under these statutes, a responsible party has a complete defense to liability if he proves that the oilspill or release of a hazardous substance was caused by an act of God, an act of war, hostilities, civil war, or insurrection. It is also a complete defense if the responsible party proves that the spill or release was caused by an act or omission of another party other than an employee or agent under his control.

Under my legislation, a responsible party who establishes a complete defense under the Oil Pollution Liability and Compensation Act or CERCLA will still be able to deduct its expenses incurred from a release.

These laws also place limits on liability unless the responsible party fails to meet certain conditions. Unlimited liability results if the spill was caused by (1) gross negligence or willful misconduct; (2) the violation of an applicable Federal safety, construction, or operating regulation by the responsible party; (3) the responsible party fails to report the incident promptly as required by law; (4) fails to provide all reasonable cooperation and assistance requested by officials in charge of cleanup activities; or, (5) without sufficient cause fails to comply with an order issued under the Federal Water Pollution Control Act.

If the responsible party fails to meet any of these conditions, the party has unlimited liability for damages caused by an oilspill under the Oil Pollution Liability and Compensation Act or damages resulting from the hazardous waste under CERCLA. Under CERCLA, as with certain violations of antitrust laws, the party may also be subject to treble damages. Much as treble damages under the antitrust laws are not deductible as a business expense, under my legislation, a party who has unlimited liability under these environmental laws would also be precluded from deducting the costs of the cleanup or response and any related damages.

In other words, if the responsible party complies with the provisions of the Oil Pollution Liability and Compensation Act or CERCLA, it will be able to deduct all expenses relating to the cleanup. If the responsible party under either statute has a complete defense, or is entitled to limited liability, and is not liable for damages in addition to the costs of cleanup, the party may take a deduction.

To permit a deduction for those who do not comply with these statutes would create just the wrong type of incentive that Secretary Gideon warned against. Conversely, the possible denial of a deduction will encourage responsible parties to comply with the Oil Pollution Liability and Compensation Act and/or CERCLA, including promptly reporting a spill and cooperating fully in the cleanup efforts.

Indeed, I suspect that the possible loss of a tax deduction for cleanup costs and resulting damages would encourage polluters to settle promptly their cases with the Government and begin cleaning up either the oilspill or the hazardous waste site. Such a tax policy thus complements our efforts to promote careful behavior, prevent the occurrence of oilspills, or accidents involving hazardous substances, and encourage the settlement of litigation designed to make responsible parties pay for the cleanup of our environment.

THE GENEROSITY OF AMBASSADOR KIMELMAN

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. DE LUGO. I am proud to make a statement today in praise of an outstanding member of the Virgin Islands community, Henry Kimelman.

A successful businessman, Henry Kimelman is no stranger to community service. He has served as the Virgin Islands Commissioner of Commerce and as the U.S. Ambassador to Haiti. Through the years he has donated generously to countless public service organizations, government institutions, and non-profit agencies, including schools and hospitals.

Now, Ambassador Kimelman has made two remarkable achievements for the islands he loves: he has created a Virgin Islands foundation to develop a financial resource pool to provide continuing contributions to the community. Secondly, he has donated a half a million dollars seed money to begin the foundation.

These are examples of his generosity, and his vision. Community foundations are among the leading methods of philanthropy today. They encourage additional investment as well as combine and focus resources. The Ambassador hopes the foundation will grow as high as $10 million in the next few years. The interest alone on these funds will help support countless numbers of deserving community activities.

I also salute Ambassador Kimelman's wife, Charlotte, a member of the board of the Community Foundation of the Virgin Islands, Inc., for her generosity and commitment to the people of the islands.

There is no end to the good works that this new community foundation can achieve. And I am sure there will be no end to the appreciation the people of the Virgin Islands have, as I have, for the generosity, the vision, and the commitment of Ambassador Henry Kimelman.

DEMOCRACY—THE VANGUARD OF FREEDOM

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. RINALDO. Mr. Speaker, I am proud to announce that one of my young constituents, Jason Buczek, of North Plainfield, NJ, has won ninth place honors in this year's Voice of Democracy Contest sponsored by the Veterans of Foreign Wars of the United States. Jason is a senior at North Plainfield High School. His participation in the scholarship contest was sponsored by VFW Post 10122 and its ladies auxiliary in Scotch Plains, NJ. I am pleased to share Jason's award-winning essay with my colleagues.

DEMOCRACY—THE VANGUARD OF FREEDOM

(By Jason E. Buczek, New Jersey winner, 1990-91 VFW Voice of Democracy Scholarship Program)

America: the land of the free and the home of the brave! Freedom is flowing through the veins of America—pulsating in her heart! Throughout America, people are making choices such as what schools to attend, what career to pursue, who to marry, and where to live. Isn't freedom wonderful? Are we not fortunate to be residents of the land of the free? That we are! However, the scenario is quite different in other nations of the world where our brothers and sisters do not enjoy these same freedoms. There are countries where the lives are controlled by a small number of people in power. This insignificant number of self-appointed rulers who govern by fear actually decides the fate of the majority—who will attend school and where, what job each individual is suited for, where and how each person will live, and in some cases, even what people will be allowed to think.

Consider for a moment what life would be like without the freedom to make choices and decisions for yourself. Image what would happen if, one morning, you turned on your radio and heard this: "Attention . . . Attention . . . America is now under marshal law! All constitutional rights have been suspended! Stay in your homes! Do not attempt to contact friends, relatives, or loved ones! Do not attempt to think or depression may occur! Curfew is at 7:00 p.m. sharp after work! Anyone caught outside of their homes after curfew will be executed on the spot! No more than two people can gather anywhere without permission! Obey all orders without question! Anyone who disobeys orders will be executed at once!" Now, although this may sound a bit far-fetched, this nightmare could become a reality without that one enduring strength that keeps us free. We have been blessed by something so powerful that it has held our nation together for 200 plus years. It is the foundation upon which our nation was built and it is the valiant spirit which has proudly protected and defended our Constitution throughout these past two centuries. It is Democracy—the Vanguard of Our Freedom.

Democracy is defined as a government ruled by the people. That includes all of the people, even you, even me. Think to yourself for a moment, how can you be a part of democracy? Ask yourself, how can you strive to protect our freedom? We, as citizens of the United States are guaranteed the right to vote, the right to elect the officials who will govern our nation. Failure to exercise this right is a deliberate abdication of democracy, and consequently, freedom. And yet, sadly enough, we see such complacency around us at election time.

Democracy demands that we strive to enrich our nation, where differences among cultures and peoples are respected, appreciated, and celebrated. Democracy not only protects our freedom but is the cement that bonds our people together as one. The strength of that cement lies in the quality of its collective ingredients. What you get out of democracy depends upon what you put into it. Our unified commitment and our willing embrace of responsibility has the power to move our nation and the world to a brighter, better future.

Perhaps, one way to move ahead is to reflect upon the past. Think back upon those days when the flag was a sacred symbol; when college kids swallowed goldfish, not drugs; when people knew what the Fourth of July stood for; when politicians proclaimed their patriotism and meant it; when government stood up for Americans anywhere in the world. Things surely were not perfect, but you never expected them to be. America was a land resplendant with brave, proud, confident, hard-working people who were quick to say, "This IS the best country in the world!"

Although sometimes the strength and commitment of yesterday seems to be lacking in the attitudes of today, I believe these strengths are simply lying dormant and waiting to be reawakened in a new generation of Americans. It is essential that this rebirth occur immediately, as Democracy is struggling to survive and fulfill her true destiny. Democracy begs to be redefined in the decade of the nineties. In essence, Democracy is the traveler's map, the pilot's compass, the soldier's sword, and the strength of character inherent in the youth of America. Its might fills our memory, rules our hearts, and guides our feet. Democracy demands the ultimate commitment from all of us. It will reward the greatest labor and will condemn all who trifle with our God-given rights. For Democracy is truly the Vanguard of Our Freedom!

THE ANCIENT FOREST ACT OF 1991

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. VENTO. Mr. Speaker, today I am introducing the Ancient Forest Act of 1991. The purpose of this bill is to provide a comprehensive long-term solution to the old growth forest—northern spotted owl crisis in the Pacific Northwest. For approximately 4 years, the people of the Northwest have been embroiled in a bitter conflict over how much of the remaining old growth forests with all their dependent species and the bio diversity should be preserved and how much should be harvested. The Forest Service, the Bureau of Land Management and the U.S. Fish and Wildlife Service have tried to resolve the dispute on their own and have failed. Because they have focused on only a single species, the northern spotted owl, they have not taken an ecosystem approach which would provide protection for all the species dependent on such old growth forest ecosystems. Other species such as the pine marten, the marbled murrelet and Pacific salmon may soon be added to the threatened and endangered list intensifying the crisis already caused by the listing of the owl. As long as the agencies continue to focus only on single species and not on the entire old growth forest ecosystem, the conflict in the Northwest will continue to rage on with no end in sight for legal appeals, lawsuits, and injunctions.

The administration also has failed to solve the crisis. In fact, it has abdicated its authority by ducking the issue leaving the agencies to flounder on their own. Neither the White House, the Secretary of Agriculture nor the Secretary of the Interior to date have come forward with any programs or any legislative proposals to solve the problem. Their indifference has created a leadership vacuum that is hurting the people of the Northwest. As the national policy remains uncertain without resolution it allows the crisis to continue year after year, the timber industry is weakened by such uncertainty, workers are losing their jobs, rural economies are deteriorating and the last remaining stands of ancient forests with their unique biological diversity continue to be decimated acre by acre. Although workers, communities, and forest ecosystems are suffering right now, the administration has not proposed a single new program to alleviate that suffering. By inaction, both people and forests are hurt.

The Ancient Forest Act of 1991 provides a long-term comprehensive solution to the crisis in the Northwest. It has three key elements.

First, it focuses on the entire old growth forest ecosystem instead of a single species. It would establish a 6.3 million acre ancient forest reserve system in Oregon, Washington, and Northern California where timber harvesting would be prohibited. To ensure that the reserves are based on the best science available on old growth forest ecosystems and the species dependent on them, a scientific committee, instead of Congress, would draw the boundaries. Working through the Scientific Committee, the Forest Service and the Bureau of Land Management would have 3 years to establish the reserve system for congressional action. During this interim period, approximately 8 million acres of land would receive interim protection to ensure that old growth forest stands of vital importance to the reserve system would not be lost. Importantly part of this area already receive varied forms of protection as wilderness and conservation units of our Nation land use programs. The measure would establish an Ancient Forest Research Program to advance the level of scientific knowledge on the importance of old growth forest ecosystems and would add the protection of these ecosystems to the national multiple use mandates of the Forest Service and Bureau of Land Management.

Second, the bill would provide certainty and stability for the timber industry enabling it to plan for the future. During the 3-year interim period while the reserve system is being established, the bill would provide the timber industry with at least 2.6 billion board feet of timber per year from region 6 of the Forest Service and 450 million board feet per year from the Bureau of Land Management's O and C lands in Oregon and California. After the reserve system is in place, approximately 50 percent of the remaining old growth forest stands would remain available for commodity uses.

Third, the bill would help workers and communities impacted by declining timber supplies. Approximately one-third of the bill focuses on economic relief programs for rural communities and displaced timberworkers. These programs include:

First, a special fund in the U.S. Treasury to provide assistance for displaced timberworkers anywhere in the Nation to cover expenses for retraining, job searching and relocating. Financed from the Federal share of timber receipts, the fund would make available approximately $30 million per year for 5 years.

Second, a larger share of timber receipts for counties. For 5 years, the percentage of national forest receipts returned to affected counties would rise from 25 percent to 50 percent; the percentage of BLM receipts returned would rise from 50 percent to 75 percent.

Third, the creation of new timber jobs by directing the Forest Service to develop a special initiative to improve forest productivity on non-Federal lands in the Pacific Northwest. The Forest Service estimates that this initiative would add over 2 billion board feet to the timber supply within 5 years creating over 5,000 direct timber jobs. Over the long term, many more jobs and billions of additional board feet would result from improving the timber stands on these lands.

Fourth, the creation of new forestry related jobs by putting people to work improving the condition of Federal forest lands in the area affected. Within 5 years, over 2,500 jobs could result from projects on our national forests and BLM public lands to rebuild deteriorating recreation facilities, to reconstruct eroding trails, to improve wildlife and fish habitat and to implement new forestry techniques.

Fifth, the establishment of community assistance task forces to help rural communities diversify their economies and to assist workers in retraining and finding new jobs.

Sixth, the designation of a forest assistance community coordinator appointed by the President to coordinate all relief programs designed to help workers and rural communities.

I intend to work with the Northwest delegation and other interested Members of Congress, as well as, the timber industry and environmental organizations and will carefully weigh their suggestions on this legislation. The time for polarization, acrimony, and handwringing is over. It is time now for all parties concerned to come together, get to work and move forward with a solution.

OUTLINE—THE ANCIENT FOREST ACT OF 1991

(Introduced by Congressman Bruce F. Vento, Chairman, Subcommittee on National Parks and Public Lands)

Section 1. Short Title.

"The Ancient Forest Act of 1991".

Sec. 2. Findings.

Includes the importance of old growth forest ecosystems, the threats to these ecosystems and the species associated with them and the importance of maintaining a stable timber supply for the Northwest economy and of helping rural communities to diversify their economies.

Sec. 3. Purposes.

Includes protecting ecologically significant old growth, ensuring the viability and recovery of northern spotted owl populations, providing a stable supply of federal timber and providing economic assistance to rural communities and displaced workers.

Sec. 4. Definitions.

Defines the terms used in the bill.

Sec. 5. Pacific Northwest Ancient Forest Reserve System.

Directs the Forest and BLM to establish an ancient forest reserve system in the west side national forests and BLM Districts in Oregon, Washington and Northern California. The agencies have 3 years to establish the system. The bill gives the agencies a hard acreage target for the system—5.6 million acres for the Forest Service and 660,000 acres for the BLM and lists criteria for what lands must be included. The bill provides for a scientific committee to make recommendations to the agencies on how and where to draw the boundaries.

Sec. 6. Management of the Pacific Northwest Ancient Reserve System.

Prohibits mining and commercial timber harvesting, but allows hunting and fishing and roads, structures and motorized and nonmotorized recreation and access as long as these activities do not prevent the protection of old growth forest ecosystems. Some system lands will be managed to regenerate old growth forests where they once were.

Sec. 7. Old Growth Forest Ecosystems Outside Ancient Forests.

Directs the agencies to use "new forestry" methods in old growth forests that are not included in the reserve system.

Sec. 8. Ancient Forest Research Program.

Directs the Forest Service and BLM to establish an ancient forest research program.

Sec. 9. The Ancient Forest Scientific Committee.

Establishes a permanent 11 person scientific committee to advise the Secretaries on establishing and administering the reserve system, the research program and the new forestry practices.

Sec. 10. Interim Management.

For the 3 year interim period needed to establish the reserve system, interim protection from timber sales is given to Habitat Conservation Areas, old growth areas protected by current BLM and Forest Service plans and by BLM's agreement with the Oregon Department of Fish and Wildlife, and a specific list of ecologically significant old growth areas.

The section also establishes a timber sales program of at least 2.6 billion board feet annually for Region Six of the Forest Service and 450 million board feet for the BLM for the three year interim. The agencies, however, must follow the Interagency Scientific Committee's "50-11-40" rule for canopy closure and tree diameters and must sell first those timber sales that would have the least ecological impact. After 3 years, the planning process will set the sale level.

Sec. 11. Economic Assistance to Rural Communities.

(a) & (b) Raises the receipt formula percentages for counties.

(c) Establishes a Forest Service initiative on nonfederal lands in the Northwest which would increase the timber supply and create new timber related jobs.

(d) Provides jobs through work projects that enhance the management of national forests and BLM lands in the Northwest.

(e) Directs the Secretaries of Agriculture and Interior to establish community assistance task forces at the national and local levels.

(f) Directs the President to appoint a Forest Community Assistance Coordinator to coordinate all federal programs that help communities and displaced workers.

(g) Directs that unless otherwise specified the programs in this section will terminate in 10 years after enactment.

Sec. 12. Job Training Partnership Funds.

Establishes a special fund in the U.S. Treasury from the federal share of timber receipts to be expended by the Secretary of Labor to help displaced timber workers. The fund will provide workers with allowances for retraining, job searches, relocation and other expenses related to finding new jobs.

Sec. 13. Bureau of Land Management Oregon and California Lands.

Directs the BLM to conduct a study on consolidation of its O&C holdings to reduce the current checkerboard ownership.

Sec. 14. Planning.

Incorporates the provisions of the bill into the normal BLM and Forest Service planning process.

Sec. 15. National Mandate.

Incorporates the protection of old growth forest ecosystems into the national mandates of the Forest Service and BLM and directs the agencies to conduct a nationwide inventory of old growth forests.

Sec. 16. Appropriation Authorization

Authorizes such sums as may be necessary to implement the provisions of the Act.

IN RECOGNITION OF MS. BETHANY ANN CARLISLE'S WINNING SCRIPT IN THE VOICE OF DEMOCRACY SCRIPTWRITING CONTEST

HON. MIKE ESPY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. ESPY. Mr. Speaker, each year the Veterans of Foreign Wars of the United States and its ladies auxiliary conducts the Voice of Democracy broadcast scriptwriting contest. This year more than 138,000 secondary school students participated in the contest competing for 14 national scholarships totaling $62,500, which was distributed among the top 14 winners. I am proud that one of my constituents, Ms. Bethany Ann Carlisle of Grenada, MS, represented Mississippi in this contest.

In recognition of Bethany Ann's accomplishment, and so that others may share and find inspiration from her words, I am submitting her winning script for publication in the CONGRESSIONAL RECORD.

DEMOCRACY—THE VANGUARD OF FREEDOM

(By Bethany Carlisle, Mississippi Winner, 1990-91 VFW Voice of Democracy Scholarship Program)

Conceived in the spirit of love and friendship, I was born in 1875, in a dingy, old workshop in Paris. It took ten long years to mold and shape me into what I am today. Wrapped and bound, I was placed in a wooden crate that was dragged to the harbor. People boarded me onto a large sailing vessel bound for the land called Opportunity, America. Soon after my arrival in America, I was greeted by President Grover Cleveland and crowds of cheering Americans. I stood tall for my country then, and as the vanguard of democracy, I still stand now.

I hold in my hand a date so very important to our freedom. This date is special in the hearts of many Americans. The freedom that we enjoy now would not be possible without this date, July 4, 1776. I hold it in my hand, clutched close to my heart, so as to never forget it or take it for granted. My other hand I have stretched up in triumph, holding a light. Although this light shines through the night and lights up the harbor and the dark sky, that is not its main purpose. This light shines for democracy—the vanguard of freedom. This light shines in the eyes of Americans when they think of their country. This light shines world-wide as a beacon to all oppressed people.

At my feet lies a chain of tyranny. It is a broken chain—broken when American people refused to accept government without representation—broken when Americans died to secure a government for the people and by the people.

On my head I wear a crown. No, I am not a queen, nor am I a god. My crown stands for freedom and for democracy. This crown has seven spikes for the seven seas and for the seven continents, symbolizing freedom that results from the democracy established by my country.

I serve as a reminder to all Americans of the wonderful gift of freedom. Freedom to vote, freedom to have a trial by jury, and freedom of religion. Freedom, yes, that is the key to our beloved country. Freedom that was won by our people so that we could have a government for our people, a democracy.

Would this great country of ours be so great without our freedom? I think not. Though I would not know how America would be without freedom, for I would not be here. I would not have the pleasure of seeing the near two million pride-filled faces look up at me each year. I would not have had the pleasure of seeing millions of immigrants that have huddled at my feet wrapped in their dreams. As their weary eyes searched the coastline, my face—the face of freedom—was their first glimpse of America. They never forgot the hope that soared in their hearts as they reached the land of democracy. Just as all Americans look up at me and remember what I symbolize, they have not forgotten the sacrifices made by bloody soldiers on the battlefield. I represent Americans who prize their freedom so highly that they are willing to die to give others freedom also. These Americans were on the first waves of Normandy. These Americans ensured freedom in West Germany and Korea and Panama. These Americans have been at the front of every battle fought in the name of freedom, and this vanguard is the reason I stand here today.

I stand here as a result of friendship that stretches across the Atlantic Ocean, and I am here because of a kinship of democratic ideals uniting the American and French people. I stand here as the physical proof that America was the vanguard of democracy inspiring the French. I stand here offering opportunity, opportunity to make your own choice. I stand here offering freedom, freedom of expression, free election, and private organizations. I am a symbol of the vanguard of freedom. I am the Statue of Liberty.

I am merely standing here as a representative of you. You, the people of America, are the keepers of the flame of freedom. I light the way to freedom, not just for America, but for the world. Now, once again, Americans are being asked to stand up—to stand up against aggression—to stand firm in adversity. Across the ocean I send my beam of light, a glimmer of hope to hostages and to oppressed people everywhere. The American people I represent are there, on the hot desert sands of Saudi Arabia. Once again, as in the past, these people, who embody the principles of democracy, are the vanguard of freedom.

DRUG-FREE TRUCK STOPS AMENDMENT

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. CLEMENT. Mr. Speaker, today I am introducing the Drug Free Truck Stop Act of 1991, a bill designed to put the brakes on drug trafficking at truck stops and highway rest areas along our Nation's highways.

Drug use is an epidemic in virtually every sector of our society. The trucking industry is no exception. A survey conducted by the regulatory common carrier conference indicated that over one-third of all truck driver, have on occasion, operated their vehicles under the influence of illegal narcotics. According to the Department of Transportation, 10 percent of all truckers, or approximately 800,000 truck drivers, use drugs.

The locations where it is easiest to distribute drugs to truck drivers are truck stop facilities and highway rest areas. These areas are locations where drivers frequently stop for fuel, vehicle service, relaxation, and rest. The National Association of Truck Stop Operators estimates that drug use or distribution occurs at approximately 50 percent of truck stops.

The Drug Free Truck Stop Act establishes minimum penalties and increases maximum penalties for distribution or possession with intent to distribute illegal drugs at, or within 1,000 feet of, a truck stop or highway rest area.

The Drug Free Truck Stop Act designates truck stops and highway rest areas along our Nation's highways as "drug free zones." Under the legislation, a first-time drug offense would, for the first time, establish a minimum jail sentence of 1 year. The legislation doubles the maximum sentence for first-time offenses and triples the penalties for second offense sales occurring in the drug-free zone.

For example, no minimun penalty currently exists for conviction of selling less than 50 kilograms of marijuana. The current maximum penalty is 5 years. Under the bill, a first-time drug offense could bring a minimum jail sentence of 1 year and a maximum of 10 years. For a first-time conviction selling under 500 grams of cocaine, the legislation would set a minimum of 1-year jail term and a maximum of 40 years.

The legislation is supported by the National Association of Truck Stop Operators.

Mr. Speaker, I urge my colleagues to support this legislation as it winds its way through the legislative process.

MOTOR VOTER PROBLEMS

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. DICKINSON. Mr. Speaker, motor voter legislation has been introduced that would place problematic administrative and financial burdens upon the States. The Alabama Department of Public Safety has expressed concerns about this legislation, which I submit for the RECORD:

ALABAMA DEPARTMENT OF
PUBLIC SAFETY,
Montgomery, AL, March 15, 1991.

Hon. WILLIAM L. DICKERSON,
U.S. House of Representatives,
Rayburn House Office Building, Washington, DC.

DEAR MR. DICKINSON. As the agency charged with statewide driver licensing, the Alabama Department of Public Safety continues to be concerned about the impact of proposed federal legislation that would link voter registration with driver licensing, such as the currently proposed Senate Bill 250.

I echo my predecessor's, Colonel Tom Wells, acceptance of the legislation's intent of increasing participation in the democratic process by increasing voter registration. I reiterate, however, that Public Safety faces grave administrative and fiscal problems if so-called "motor-voter" legislation is enacted. Implementation would require major procedural revisions, retraining, additional personnel, and office space, at an estimated cost of $2 million initially. Furthermore, we would anticipate longer waiting periods, increased processing time and decreased efficiency in licensing Alabama's drivers. Of primary concern, however, is dilution of the driver licensing function and focus on safe and legal operation of motor vehicles.

I urge you to address less problematic and more economical means of voter registration, and to consider the negative impact on the Alabama Department of Public Safety of currently proposed "motor-voter" legislation.

Sincerely,

NED W. MCHENRY,
Director.

THE COMMUNITY REVITALIZATION TAX ACT OF 1991

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mrs. KENNELLY. Mr. Speaker, today I am introducing legislation with Mr. SCHULZE and eight of our colleagues to revitalize and reinvigorate the rehabilitation and low-income housing tax credit programs. Our bill, the Community Revitalization Tax Act of 1991, would increase access to the investment capital required by both the low income housing and rehabilitation credit programs, thus allowing the programs more effectively to meet the needs that prompted Congress to create them.

This bill encourages the preservation of the Nation's historic buildings and the production of low-income housing credits. These credits were created by Congress in an effort to revitalize the aging downtowns and neighborhoods and provide increased access to affordable housing for Americans nationwide. The programs were established to encourage investment in areas and projects that Congress considered desirable, but unlikely to attract capital on their own because of their high risk, high cost, and low projected rate of return. Unfortunately, because of their interaction with the Tax Reform Act of 1986, neither program is currently functioning as intended.

The passive activity rules marked a dramatic change in Federal tax policy. The rules were designed to prevent individual taxpayers from using losses from certain passive activities to shelter income from wages, salaries, and other types of investment income. The rules addressed a significant increase in the use of losses from certain investments stemming from transactions involving heavily leveraged investments in real estate to offset active income. These transactions, often structured as limited partnerships, would allow investors to take advantage of generous depreciation deductions available for real estate as well as deductions for interest expense to create extensive tax losses in the early years of an investment.

The passive activity rules also restrict the use of certain credits, primarily the rehabilitation tax credit and low-income housing credit, as well as passive losses. Under the rules, a taxpayer generally may now use the credits to offset tax liability generated by income from passive activities. Recognizing that the passive activity rules could have a significant negative impact on the rehabilitation and low-income housing credit programs, Congress provided a special exception for both in the 1986 act, permitting taxpayers with adjusted gross incomes of less than $250,000 to use up to $7,000 of either credit annually to offset tax on nonpassive income. This limited exception phases out as an individual's income exceeds $200,000, creating two major problems in the financing of low-income housing and rehabilitation projects.

Such projects have traditionally been structured as private placements under the regulation D exception to public offering registration requirements of the Securities and Exchange Commission. Generally, regulation D requires that all but 35 investors in a project be accredited investors—individuals with annual income of over $200,000 or net worth over $1,000,000. Since virtually all such accredited investors do not qualify for the credit exception to the passive activity rules because of the income cap, project sponsors are increasingly hard pressed to find accredited investors who can utilize these incentives in a private placement. The main investment alternative, a registered public offering, requires extensive Federal submission and individual submissions in every State in which the investment is to be marketed. These requirements make such an approach prohibitively expensive for all but the largest rehabilitation projects.

Recently available data demonstrates that the current credit exception to the passive activity provisions has not achieved its purpose. A National Park Service study reveals that historic rehabilitation activity in 1988 declined to the lowest level since the first year of the rehabilitation tax credit program. In fact, the number of approved projects is now running at one-third the pre-Tax Reform Act level—down from 3,117 in fiscal year 1985 to 1,092 in fiscal year 1988. Invested dollars is also down about the same, from $2.4 billion in fiscal year 1985 to $866 million in fiscal year 1988. In Connecticut, the number of part 2 historic applications received by the National Park Service declined a whopping 76 percent between fiscal year 1985 and fiscal year 1988. But the decline was even steeper in other States, such as Pennsylvania, 83 percent; Montana, 91 percent; and Louisiana, 94 percent.

Fortunately, Congress took a limited step in 1989 by repealing the income cap for low-income housing credits, but that is not enough. Vitality and viability must be restored to both the rehabilitation and the low-income housing credit programs. Under the Community Revitalization Tax Act of 1991, this would be accomplished by removing the income cap for rehabilitation tax credits, and by increasing the amount of the credit that can be used to offset tax on nonpassive income from $7,000 to $20,000.

This would thereby increase the pool of investors eligible to use the rehabilitation credit and expand the number of practical financing mechanisms available to project sponsors. This bill would have the additional benefit of simplifying the tax law since two sets of credit limitations would no longer apply with the two credits are used in the same project.

Mr. Speaker, Congress reaffirmed its commitment to affordable housing and community revitalization by creating the low-income housing credit and preserving the rehabilitation credits in the 1986 Tax Reform Act. These credit programs have been carefully monitored since that time and clearly a steady decline in the effectiveness of the historic rehabilitation tax credit and a disappointing start for the low-income housing credit has occurred. Simply put, if Congress is to make good on its commitment to create housing opportunities for our most needy citizens and revitalize our neighborhoods, we must ensure the vitality of the low-income housing and rehabilitation credits. I am convinced that the Community Revitalization Tax Act of 1991 can meet those goals. I urge my colleagues to join me in sponsoring and supporting this legislation.

PROTECT THE WHALES

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. YATRON. Mr. Speaker, I am introducing a resolution today to enhance the protection and conservation of whales and cetaceans.

As chairman of the House Subcommittee on Human Rights and International Organizations, which has jurisdiction over global environmental issues, I have conducted extensive hearings on marine mammal issues. The status of whale populations remains highly uncertain, with evidence indicating that many species continue to decline. Their slow reproductive rate, and the unpredictability of their recovery, even when fully protected, compound the difficulty of studying them. The consequences of removing whales from the marine ecosystem is not well understood.

In 1982 the International Whaling Commission [IWC] adopted a moratorium on all commercial whaling, establishing zero catch limits for 11 species of whales. The moratorium took effect in 1986. Unfortunately, approximately 14,000 whales have been killed since the ban in defiance of the IWC's decisions. Adding to the whale's struggle for survival is the increasingly grave environmental threats from nonhunting sources, including pollution, loss of habitat, increased shipping, oil and gas exploration, oil spills, and use of driftnets. Small cetaceans, known as dolphins and porpoises, are also being increasingly subjected to similar global threats as whales. Their long-term status is jeopardized by these dangers.

Whales and cetaceans are truly unique. They are highly intelligent with distinct emotional features. Powerful moral and ethical questions have been raised over killing them for profit. There is widespread support in the United States and the international community for the position that for aesthetic, scientific, and ecological reasons, whales, dolphins, and porpoises should no longer be commercially hunted.

At the annual meeting of the IWC last year very serious efforts by the few remaining whaling countries were made to overturn the moratorium. They were defeated. However, similar attempts are expected again at the 1991 IWC meeting. That is why this resolution is important. It will reaffirm our country's strong opposition to the resumption of commercial whale killing, and strengthen our stand at the IWC session to defeat such proposals. A similar resolution I introduced last year, which was approved without dissent, augmented the U.S. delegation's position. The resolution reads as follows:

H. CON. RES. —

Whereas whales, dolphins, and porpoises (cetaceans) are unique marine resources of great aesthetic and scientific interest and are a vital part of the marine ecosystem;

Whereas the International Whaling Commission adopted in 1982 an indefinite moratorium on commercial whaling, which was scheduled to go into effect in 1986, establishing zero global catch limits for eleven species of whales;

Whereas despite the moratorium on commercial whaling, thousands of whales have been killed since its inception by the commercial whaling nations;

Whereas there remain great uncertainties as to the true status of whale populations due to the difficulty of studying them, their slow reproductive rate, and the unpredictability of their recovery even when fully protected;

Whereas the consequences of removing whale populations from the marine ecosystem are not understood and cannot be predicted;

Whereas whales are subject to increasingly grave environmental threats for nonhunting causes, such as pollution, loss of habitat, increased shipping, oil and gas exploration, oil spills, and the use of driftnets and other nonselective fishing techniques, which underscore the need for special safeguards for whale protection;

Whereas, in addition, many of the more than 60 species of small cetaceans known as dolphins and porpoises are subject to a variety of increasing global threats, which include escalating direct hunts, incidental takes in purse-seine nets, high seas driftnets, and gear used in local fisheries, and also wide-spread pollution and habitat destruction;

Whereas powerful moral and ethical questions have been raised regarding the killing of whales, dolphins, and porpoises for profit;

Whereas there is significant widespread support in the international community for the view that, for scientific, ecological, and aesthetic reasons, whales, dolphins and porposes should no longer be commercially hunted;

Whereas efforts made at the 1990 meeting of the International Whaling Commission to overturn the moratorium on commercial whaling were defeated; and

Whereas there is concern that some countries will again press at the 1991 International Whaling Commission meeting for an immediate resumption of commercial whaling on some stocks; Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) United States policy should promote the maximum conservation and protection of whale, dolphin, and porpoise populations;

(2) toward that goal, the United States should work to strengthen and maintain indefinitely the current International Whaling Commission moratorium on the commercial killing of whales;

(3) the United States should work to strengthen the International Whaling Commission by reaffirming its competence to regulate whaling on all species of cetaceans, large and small, and should encourage the Commission to utilize the expertise of its Scientific Committee in relation to small cetaceans, to urgently consider the Committee's recommendations, and, on the basis thereof, to take appropriate action through resolutions and schedule provisions, where needed, to assure global protection for small cetaceans; and

(4) in so promoting the conservation and protection of the world's whale, dolphin, and porpoise populations, the United States should make the fullest use of diplomatic channels, appropriate domestic and international law, and all other available means.

INTRODUCTION OF THE PANAMA CANAL ACT AMENDMENTS OF 1991

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. FIELDS. Mr. Speaker, as the ranking Republican on the subcommittee with oversight responsibility of the Panama Canal Commission, I am pleased to introduce today the Panama Canal Act Amendments of 1991.

This bill, which is the product of several years of careful deliberations, will make needed improvements in the operation of the Panama Canal and will help ensure that this waterway remains an efficient transportation system during the remaining years of American stewardship.

Mr. Speaker, let me briefly describe the three major provisions of this proposed legislation. First, the bill will require that the President appoint a new Chairman of the Board of Directors not later than 6 months after the date of enactment of this measure. Under current law, the Panama Canal Commission's Board of Directors, which oversees the operation of the canal, is comprised of five Americans and four Panamanian representatives. While the Chairman of the Board is formally elected, since its creation in 1979 that position has been filled by the Secretary of the Army or his designated representative. The Chairman, like all board members, is appointed and serves at the pleasure of the President.

Under the Panama Canal Act Amendments of 1991, the Chairman of the Board would continue to be appointed and approved by the U.S. Senate. However, the position would no longer be filled by the Secretary of the Army or his designee. In fact, the position of Chairman would be held by an American who holds no other office or post in the U.S. Government.

In addition, unlike the other Board members, the new Chairman would hold office for 7 years—a term consistent with other Federal Transportation Agencies such as the St. Lawrence Seaway Corporation.

This change will send a positive message to the Panamanian Government that we believe there should be civilian, rather than military, leadership of the canal enterprise and that the canal must operate more like a commercial transportation business.

At the same time, it is my hope that this "demilitarization" of the Panama Canal Commission will act as a powerful incentive for Panama to begin its own planning on how it will assume operational control of the canal in the year 2000. While there are only 9 years left in our stewardship of the canal, Panama has yet to begin to lay the groundwork for the canal's transfer. For instance, Panama has not created an agency to succeed the Panama Canal Commission and it has not addressed the issue of how to retain its highly skilled work force.

Mr. Speaker, this proposed legislation will also slightly modify the composition of the Board of Directors, so that the American members, except for the Chairman, will now represent labor, port operations or U.S. shipping, the Department of State, and the Department of Defense. Each of these four individuals will continue to serve at the pleasure of the President.

Second, the Panama Canal Act Amendments will further streamline the financial operation of the Panama Canal Commission to allow that Agency to respond more efficiently to such things as changing shipping conditions, landslides, or future international conflicts.

It is essential that the Commission have this type of flexibility so that it can continue to provide quality service to its customers. In fact, we have all learned from Operation Desert Storm that shipping patterns can quickly and dramatically change. While the Commission was forecasting a slight increase in traffic this year, the crisis in the Middle East has caused a massive shift in the movement of cargo in international commerce.

During the past 3 months, the number of transits through the canal has significantly increased; as a result, the Commission could earn as much as $60 million in unanticipated revenues.

While this would not cause any problems for most businesses, regrettably, the Panama Canal Commission is prohibited by law from accumulating a profit. In fact, any profits that it generates must be paid to the Republic of Panama.

In addition, this year Congress has placed additional constraints on the Commission in the form of spending limitations and prohibitions on the amount of money it can obligate in fiscal year 1991.

Mr. Speaker, since the Commission operates at no cost to the U.S. taxpayer, with its funds derived solely from the users of the canal, I think that it is time we allow the Commission to operate the canal without placing them in a financial strait jacket.

During the past 11 years, the Commission has conclusively demonstrated that it can operate the canal in a financially responsible manner. In fact, during that period, it earned $4,614,800,000 in revenues and it spent $4,608,600,000. This represents a surplus of only $6.2 million which is a remarkable level of achievement

Mr. Speaker, there are few, if any, other Federal agencies which can match this impressive performance. While this legislation will not allow the Commission to generate profits in the future, it will allow it to operate in a more business-like manner and to respond to changing shipping patterns created by events such as Operation Desert Storm. This change is essential.

Finally, this legislation will create a new fund in the U.S. Treasury entitled the Panama Canal Commission Dissolution Fund. This fund, which will be available after October 1, 1998, would pay for the cost of dissolving the Panama Canal Commission and to complete the payment of those bills charged to that Agency prior to December 31, 1999. Since the Commission will continue to operate the canal up to the moment of transfer, there is no way it can fully pay its bills prior to that date. In addition, it is conceivable that a major ship accident could occur in the canal shortly before the transfer date. Since a report and an investigation could not be completed prior to the transfer, there must be some funds available to compensate the owners of a vessel involved in an accident in the canal. This is the purpose of the Panama Canal Commission Dissolution Fund.

Mr. Speaker, to reiterate, this fund would only be used to pay legitimate bills incurred prior to the transfer of the canal, and it would be financed entirely from tolls and other revenues raised from the users of this waterway.

In summary, this bill will make several important improvements in the operation of the Panama Canal. It will not, however, have any impact whatsoever on American taxpayers, on the Federal budget, or on the Panama Canal Treaties of 1977.

Mr. Speaker, I urge my colleagues to join with me in support of the Panama Canal Act Amendments of 1991.

Let us send a strong and powerful message to the Government of Panama that we fully expect the canal to operate efficiently after the year 2000. This legislation will help us accomplish this goal.

HONORING PHIL MATSUMURA

HON. NORMAN Y. MINETA

OF CALIFORNIA

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. MINETA. Mr. Speaker, it is our great pleasure to add our voices to the numerous friends, family and civic leaders who, on Friday evening March 29, will be honoring Phil Matsumura for his many years of devotion to his San Jose, CA community.

Phil has been an active and dedicated member of the Japanese American Citizens League since 1935. Upon his return from forced relocation by the U.S. Government during the Second World War, Phil served as JACL Executive Secretary. It was his job to assist returnees with housing and employment. Phil served four terms as president of the local JACL chapter.

Phil has been a committed member of the Buddhist Church-San Jose Betsuin and the San Jose Buddhist Association. He was a church board member from 1950 through 1980, and a board chairman for 3 years. He has been a member of the association since 1953, and served as cabinet chairman and in other cabinet positions.

The senior citizens of our community are indebted to Phil Matsumura for his dedication to and involvement with providing housing for seniors. He served on the charter board of directors for the Fuji Towers Retirement Community from 1976 to 1990. He also served on the board of directors form 1976 to 1990.

The young people of our congressional districts have benefitted by Phil's dedication to family values and sporting programs. He was a member of the original steering committee that organized the Japanese American Youth Organization, he has been a member since 1932 of the Japanese American Youth Club Basketball, the San Jose Zebras. He acted as youth advisor and chairman of the Zebra's 50th anniversary reunion. Phil helped to organize the Young Japanese Adults in 1970.

Mr. Speaker, Phil Matsumura and his wife, Sue, are a vital and contributing part of our community. They raised their three children—Philip, Gary, and Shirley—and at the same time reached out to others with concern and dedication. They take great pride and joy in their three grandchildren.

Congratulations Phil. You are to be commended on your years of unselfish service to your community. We are delighted to join your family and friends in paying honor to you as an outstanding citizen and a good friend, and we ask our colleagues in the House to join our good wish to you.

UNITED STATES-MEXICO TRADE

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. FORD of Michigan. Mr. Speaker, the President's proposal for a free trade agreement is a dagger aimed at the heart of our Nation's industrial base. As conceived by the United States Trade Representative, the agreement will encourage United States manufacturers to invest in Mexico and will lower tariff barriers to Mexican goods. That will open the U.S. market to a new flood of imports in direct competition with goods produced in the United States.

Mexico's pathetically low wage levels will prove to be an irresistible invitation for United States employers to relocate their operations in search of lower labor costs. Our experience with the more limited Maquiladora Program shows us what we can expect from a United States-Mexico FTA. Any such agreement will doom many of our manufacturing industries, including textiles and apparel, auto parts, and glass.

I oppose the President's proposal and the fast track procedure that will allow him to railroad the free trade agreement through Congress, without amendment. I cannot understand why we would give the President the power to write our trade laws and deny to ourselves the right to amend and improve a package of statutory changes that could have far-reaching, negative impacts.

As Members review these issues, I recommend to them a very clear analysis of the United States-Mexico free trade agreement written by Tom Donahue, the secretary-treasurer of the AFL-CIO. The analysis appeared in the Washington Post, and I ask that it be made a part of the RECORD.

CONSPIRACY FOR THE RICH

(By Thomas R. Donahue)

There are always a good many schemes floating around to help the rich get richer and the poor get poorer, but the one currently being considered here—the proposed North American free trade agreement—is in a class by itself.

Its scale is vast—Yukon to Yucatan. It would profoundly disrupt the $6 trillion North American economy and throw 90 million Mexicans into cutthroat competition with 270 million Canadians and U.S. citizens. In fact, the list of FTA victims in all three nations would be colossal. In this country and Canada it would include hundreds of thousands of workers whose jobs would be exported to Mexico.

We have a preview of an FTA in the maquiladoras, the U.S.-owned plants that operate south of the border and exploit about 500,000 Mexican workers. Plenty of U.S. employees of Electrolux, Zenith, GE, Ford, AT&T, Chrysler and other companies have seen their jobs vanish, then suddenly reappear among the maquiladoras. Under an FTA, their numbers would mushroom.

How many people in the United States would be hurt by the upheavals? An International Trade Commission report admits that "unskilled workers" would suffer a "slight decline" in real income, but it happily reports that "skilled workers and owners of capital services" would benefit. For millions, the decline would actually be more than "slight"—but the important point here is that people on the bottom economic rungs would lose and those on the top rungs would win.

The commission mysteriously refuses to say whom it counts as "unskilled workers," but it reportedly includes all workers with four years of high school or less. This would mean that a majority of the working population—52.5 percent—would be hurt by an FTA.

Farther up the ladder, large corporations would hit the jackpot. Mexican plants are already a bonanza for them. They can take advantage of the terrible poverty in Mexico and pay workers a small fraction of average U.S. wages, and they don't have to pay for workmen's compensation, unemployment insurance, health insurance or other essentials of civilized life.

Would Mexican workers benefit from an FTA? Again, the maquiladoras are a gruesome preview. They pay employees about 60 to 80 cents an hour, hardly enough for subsistence. Workers in many maquiladoras live in shacks made of packing materials. Their drinking water is sometimes in large 50-gallon drums that previously contained toxic materials. The Wall Street Journal noted that the maquiladoras' "very success is helping turn much of the border region into a sinkhole of abysmal living conditions and environmental degradation."

When the maquiladoras started, they were supposed to help Mexico join Hong Kong, Singapore, South Korea and Taiwan. But years later, northern Mexico remains an environmental, economic and social inferno. Small wonder. The original purpose of maquiladoras—their "comparative advantage" in international trade—was providing multinational corporations with a poor, frightened work force. That's never changed.

An FTA would turn much of Mexico into a huge maquiladoras. Mexico's wealthiest classes would cash in, but most workers would suffer the fate their sisters and brothers along the border have endured for years.

So what keeps the FTA idea going? A glitzy brand name has something to do with it. The "free trade" label has political clout these days, especially with the European Community's 1992 Single Market on the horizon. But using "free trade" to justify an FTA is like using "the sanctity of the family" to justify beating the children.

If the administration wants a continental arrangement to compete with the EC Single Market, it's doing it all wrong. The Single Market includes a Social Charter. It sets out rights to a minimum wage, social assistance, collective bargaining, vocational training and health and safety protection in all of their member countries, partly to discourage runaway plants. Besides, workers have recource to such institutions as the European Parliament and Court of Justice.

The FTA's worker protections can be summarized in two words: "Tough luck."

The Europeans have a $68 billion Regional Development Fund to narrow the gap between rich areas such as western Germany and poor areas such as Portugal. Here, the per-capita income ratio of the United States and Mexico is a staggering 10 to 1—far larger than anything in Western Europe. In a free-trade area, that would be an economic time bomb, but the FTA wouldn't provide a nickel to defuse it.

No matter. The administration has its FTA scenario all worked out. First, Congress will hand it "fast-track authority." In other words, the House and the Senate will forfeit their right to change anything in the final agreement. The administration will be firmly in control of negotiations. In the end, members of Congress will vote only on the full package. They can take it or leave it—but the administration is confident that they will take it.

All this could happen. If it does, a good many of the working people of North America will find themselves on the "fast track" to being either laid off or exploited.

LET'S NOT FORGET

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. VANDER JAGT. Mr. Speaker, in recent days I had the privilege and pleasure of attending a special dinner meeting at which former President Gerald R. Ford was the guest speaker. The President delivered an excellent address and presented very unique and special insights as to a Presidential role during a national crisis. As is customary for President Ford, he could not have been more lavish in his praise of all of those, President George Bush, our military men and women and a host of others, who played major roles in Operation Desert Storm.

What President Ford did not mention was his role and his direct involvement in the Persian Gulf crisis. Fortunately, Hugh Sidney, in Time magazine's March 25 issue, did outline that Ford involvement in an article entitled "Ford's Forgotten Legacy."

It is truly amazing that President Ford's great "knack of picking good people" paid off so handsomely for us. I am certain that the Time article will be of special interest and I commend it to my colleagues' review. It follows:

THE PRESIDENCY: FORD'S FORGOTTEN LEGACY

(by Hugh Sidney)

If the gulf war spectacular had been a movie, the credits could have listed Jimmy Carter as a progenitor of the Tomahawk cruise missile and Ronald Reagan as merchant prince of the huge weapons inventory that crushed the evil foe. But the fellow who may actually have had more to do with authorizing the success story is never mentioned: Jerry Ford.

Jerry Ford? Correct. As might be expected, given his postpresidential flight paths, the former Commander in Chief hauled his golf clubs to the salubrious environs of Rancho Mirage, Calif., during the crisis. But Ford, like other Americans, lingered in front of the TV screen as the war unfolded. He was also watching his boys perform back in Washington. "They did a terrific job," boasted Ford.

Of the eight men in George Bush's war council, four were brought in directly or shoved along in their journey by Ford. Two others arrived at the fringes of power during Ford's brief tenure, and their talents were allowed full play in the meritocracy that Ford helped nurture.

"I think I had a knack of picking good people," said Ford last week. To start at the apex of what some are calling a "presidential culture": Ford first spotted George Bush in 1966. Ford, then House minority leader, recalls that Bush was a "bright star" running for Congress in Texas. He hurried down to campaign for him, then helped put Bush on the powerful Ways and Means Committee. As President, Ford made Bush U.S. representative to China and later named him to head the CIA.

When he was Vice President, Ford had got to know Lieut. General Brent Scowcroft, deputy head of the National Security Council. In those days Henry Kissinger was not only Secretary of State but also National Security Adviser. Ford did not like the double duty for Kissinger. He did like Scowcroft. As President, Ford in 1975 gave Scowcroft the NSC title and turned the self-effacing general into a recognized player in vital deliberations. And when Bush moved into the Oval Office, he put Scowcroft back in the job Ford had given him 13 years earlier.

When Ford shuffled his Cabinet, he named a promising but largely unknown 34-year-old as the new White House chief of staff: Dick Cheney. After Ford lost the 1976 election, Cheney decided to run for Congress in his home state of Wyoming. Ford's political instincts stirred again. "I went right out to campaign for him," he says. Cheney won and became a respected and powerful Congressman—until Bush made him Secretary of Defense.

Ford's White House antennas had picked up good signals in 1976 about the Commerce Department's No. 2 man, James Baker. Ford tapped him to hunt delegates at the 1976 Republican Convention, then elevated him to national prominence as his campaign manager. Despite the Republican loss that year, Baker continued to rise, serving first in Reagan's Cabinet and then as Secretary of State for his friend Bush.

Colin Powell, current Chairman of the Joint Chiefs of Staff, and Bob Gates, now Scowcroft's deputy, were not directly touched by Ford, but his special brotherhood took them in as they moved through the Reagan years. Of the six men named above, one is President, and three others—Baker, Cheney and Powell—are possible successors to Bush. If that does not quite constitute a presidential culture, it stands as an impressive legacy from a man we sometimes forget, Jerry Ford.

A CHANGING WORLD ORDER WILL BIND US: PRESIDENT GAVIRIA'S ADDRESS AT GEORGETOWN UNIVERSITY

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. TORRICELLI. Mr. Speaker, a few weeks ago, when Colombia's President Cesar Gaviria was in town, he gave an eloquent speech at Georgetown University. President Gaviria's remarks focused on the fact, although the fight against narcotics trafficking is the major priority of his administration, other issues—such as economic reform, social and economic development, and democratic institution building—are also major priorities.

In his remarks, President Gaviria characterized the 1980's as a decade of political reform and predicted that the 1990's will be an era of economic reform. To remind us of the consequences of economic neglect, he quoted President John F. Kennedy: "No amount of arms and armies can help stabilize those governments which are unable or unwilling to achieve social and economic reform and development. Military pacts cannot help nations whose social injustice and economic chaos invite insurgency and subversion." President Gaviria then went on to say that, "In our new world order, military might will not be the driving force; tomorrow belongs to those who foster economic innovation."

President Gaviria also reminded us of the fact that Colombia is a country of vast resources with a democratic tradition almost as old as our own—yet nearly all it is known for is cocaine.

President Gaviria said that the Colombians realize that the greatest threat to their democratic institutions "is the demand for cocaine and the insidious violence created by the drug trade." That is why they have, at great personal sacrifice, been willing to carry on the struggle. But he also made the point that the Colombians cannot do it alone.

Colombia's successful campaign against the traffickers has not eliminated the problem but pushed it to Ecuador, Bolivia, and Brazil. And until we eliminate the demand for cocaine in the United States and Europe, supply-side efforts will make little difference. The drug war is an international problem that demands an international solution.

I hope my colleagues will gain a deeper appreciation for Colombia's struggle, as have I, through reading the eloquent words of President Gaviria.

ADDRESS OF CESAR GAVIRIA TRUJILLO, PRESIDENT OF COLOMBIA

I appreciate you all coming here tonight. I know it is difficult in times like these to concentrate on issues other than the war in the Gulf, a conflict that deserves all your attention and prayers. May I extend to all of you, and to the families of those serving in the Gulf, the sincerest wishes of my countrymen for a quick resolution of the war and the safe return of your loved ones.

It is fitting that I should be here, on this historic campus, to explore with all of you the critical choices faced by our two nations. In 1797, on the steps of Old North, George Washington greeted the students of Georgetown. He spoke of the cause of freedom, and knew all too well the sacrifice his Nation endured in its revolt from colonial rule. At that same moment in history, a young man and the liberator of our Nation, Simon Bolivar, began his quest for freedom. The vision and imagination of these great leaders charted the course of our nations—it is that same vision that must guide us today. Washington and Bolivar gave testament to the fact that our New World is bound together by much more than geography. We are bound by a common history, by common struggles and by common values.

At a moment when the cause of liberty looked bleak, Bolivar wrote: "The veil has been torn asunder. We have already seen the light and it is not our desire to be thrust back into the darkness." Throughout the decade of the 1980s, across the continent of South America, the veil of oppression was torn asunder and dictatorships were thrown off in country after country. Now comes the critical moment of building on these fragile foundations of democracy. Although we are the oldest democracy in Latin America, we have not been separated from those winds of change. We too have seen the light, and will not be thrust back into darkness.

Here then is our challenge. In a rapidly changing world, and in the midst of this information revolution where we are drawn together by the instant communication of events, how will we manage what President Bush calls the new world order? What is Latin America's role in this new order, and what will it mean for my country and for yours?

In Latin America, the 1980s are often referred to as the "lost decade." Although this was a period of profound political change, the new democracies of our region received little note here, as America turned its attention to democratic reform in Eastern Europe. This is, of course, because your foreign policy has for decades been viewed through an East-West prism. Today's new world order, an order that no longer rests on superpower conflict and the clash of ideologies, allows America now to open its vision to a broader view of our collective interests. That view can now be North-South as well as East-West—today we can focus on what binds us and not what divides us.

My view of the new world order rests on a simple premise. The 1980s was a decade of political reform. The 1990s will be an era of economic reform. Although our democracy is nearly as old as yours, we live among these infant democracies and recognize all too well that the political reform of the last decade will not survive without economic reform. We know that the bedrock of democracy is economic progress.

Although your policy toward Latin America may have wavered, your leaders have also recognized this simple reality. Thirty years ago, John F. Kennedy spoke of the "frontiers of freedom." He said, "No amount of arms and armies can help stabilize those governments which are unable or unwilling to achieve social and economic reform and development. Military pacts cannot help nations whose social injustice and economic chaos invite insurgency and subversion."

Those words are just as true today. In our new world order, military might will not be the driving force; tomorrow belongs to those who foster economic innovation. But this new order should not be taken for granted. Random events alone will not shape it; rather, we must work to build it. That order now demands that we turn our full attention to economic and social justice.

Although we have not suffered the debt problems of our neighbors, and have achieved two decades of extraordinary growth, Colombia has now embarked on the most important economic reform of this century. Even in the wake of the most recent setbacks of the Uruguay Round of GATT, we are committed to opening our economy and are looking to the developed world to do the same. We are in the process of negotiating free trade agreements with Chile, Venezuela and Mexico, and two weeks ago, we offered to unilaterally eliminate import fees on Central American products—from those countries badly injured by the breakdown of the International Coffee Agreement and the lack of energy resources. Only through a real opening of our economies will we bring about true and lasting economic progress.

Now let me turn to our struggle for judicial reform. As you know all too well, the greatest threat to our democratic institutions is the demand for cocaine and the insidious violence created by the drug trade. Sadly, this is, perhaps, all that most of you know about Colombia. For you, Colombia and cocaine have become synonymous.

That is our tragedy—a tragedy indeed for a country the size of France, Spain and Portugal combined, a country with a population greater than Canada, a young and vibrant country where half our population is less than 20 years old. I can imagine your surprise upon arriving in our capital, Bogota—a modern city of nearly 7 million people—or flying over our vast Amazon basin and rainforests now legally protected from development—an area the size of Great Britain. Yes, it is a tragedy that with all our vast resources, with our longstanding democratic heritage, nearly all we are known for is cocaine.

Yet, we have a responsibility—a deep, moral obligation—to confront this menace. It has touched me in a very personal way. I was elected President following the assassination of a good friend and one of our finest young leaders, Luis Carlos Galan. My campaign was waged on the principle that as a Nation we could not afford to retreat in the face of the most powerful, most violent criminal organization the world has ever known. I was elected by a people who share these values, and who, at great personal sacrifice, are willing to carry on this struggle. Let me be clear. Colombia will not rest until the cartels are put out of business.

We are now in a new phase of this struggle, and one that I understand can be easily misinterpreted by those not familiar with the complex situation we face. For over a year, the cartels have been facing an all-out assault by government forces which continues to have great effect. Thousands have been arrested, the property of the narco barons was seized, their laboratories and airstrips destroyed, their supplies and means of transportation intercepted. We are making real advances, progress evidenced by the skyrocketing price of cocaine on America's streets, and by the plummeting price of coca leaf in Andean countries.

Of course, the cartels fought back—and with a vengeance. Bombings became a daily occurrence. Thousands of innocent civilians and policemen and judges and journalists and politicians lost their lives.

In September, we moved to a new phase, one that recognized that more sophisticated tools were needed to combat both narco terrorism and narco trafficking. We have not slowed the pace of law enforcement. In fact, we are seizing more cocaine now than ever before. In the first 45 days of this year, we have seized cocaine at a rate twice as high as last year. What is new is that we have now embarked on a major effort to bring about judicial reform in Colombia. In the end, we know that unless our own judicial system is effective, we can never truly end this struggle.

I want to talk about one specific element of this judicial reform which has received the most attention here in the United States.

This is the issue of extradition. Unfortunately, too many people here see extradition as a litmus test of our will to continue the war against drugs. This is not only shortsighted, it is plainly wrong. Your own Attorney General and others in the US Government most familiar with our efforts against drug trafficking clearly understand that extradition is but one tool against the cartels—a tool Drug Czar Bennett called "an imperfect second choice." I have continued to support extradition as one of the tools to fight the cartels. I have also used something very common in your judicial system—what you call "plea bargaining."

Now that the cartel leaders are literally on the run, I have offered to try them in Colombian courts if they surrender unconditionally. At the same time, I have made it clear that those who do not surrender and are caught will be extradited. Some of the top leaders have already surrendered. This is rather extraordinary and is testimony to how effective our law enforcement efforts have been. Can you imagine how shocked America would have been in the 1920s if Al Capone had walked into a Chicago police station and turned himself in? And these men have far more power and money than Capone ever had.

This process of plea bargaining has often been mistaken in the press for negotiation with the narcos. It is not. I have said repeatedly that I will not negotiate with common criminals. Application of a judicial process should not be mistaken for a political negotiation. In fact, the cartels have been waging a campaign in Colombia trying to equate their situation to guerrilla groups which have been engaged in a political battle. The cartels have even asked for political treatment, a request I have and will continue to deny.

Let me take a moment to explain judicial reform in a broader context. What happened to our judicial system? For years, it was strong enough to confront our problems. Colombia has a long legal tradition, and has been respected throughout Latin America for its Constitution and respect for the law. But when the drug trade was born, and as consumption exploded in the United States, the criminal organizations that ran the business grew stronger, richer and far more sophisticated. Colombia became a middle point between the producing countries of the Andean region and the consuming nations in the developed world. Nearly two decades of running a nearly four billion dollar annual business in Colombia and a one hundred fifty billion dollar in the U.S. alone created a monster—a monster our legal system could not contain.

When I took office in August of last year, my first priority was to address the fundamental flaws in our judicial system. Mechanisms needed to be established to withstand the bribery and intimidation by the cartels. We established special courts to try narco criminals, and the judges are being protected in military facilities. We call these "invisible judges" because their decisions are identified not by name but by their fingerprints. We are also changing from a Napoleonic system in which the judiciary investigates and prosecutes to a system like you have here where the Executive is responsible for prosecution. And we are building special prisons for these criminals in order to improve security.

As we move to bring the cartels to justice, we have the same fears you have and we have the same objectives you have. In the end, we must do everything possible to stop their trade in illegal narcotics. Even now, we see them moving laboratories to other neighboring countries. We cannot take solace in this, as it is only further proof that this is a worldwide problem.

You may be asking yourself right now, how can this man, with such an accent, stand before this audience and claim that Colombia will be successful against the cartels? Let me give you a straight answer. Three of the most powerful narcos, members of the Ochoa family, have turned themselves in.

We know from our own intelligence that all of the leaders are on the run—they are haunted every day by the thought that they will spend the rest of their lives in fear. So, while we know well the strength of our ememy and that the key is halting demand, we still have faith.

When I attend the funerals of my countrymen, or visit the families of policemen who lost their lives, or see crack babies in Harlem Hospital as I did a few days ago, I cannot help but think that we must keep faith. And while I know that this struggle will never end until demand for drugs ends, and while I recognize the strength of the enemy we face, in the end we have no choice but to muster all our resources so that all this suffering will not have been in vain.

Finally, let me make another point that is crucial to understanding Colombia's role in the drug crisis. It is a point that is perhaps better understood here now because of the war in the Persian Gulf. In time of war, the leadership of any democratic country must balance its conviction to respond to threats with its need to maintain a national consensus. Its leadership also has an obligation to seek international consensus and a global commitment to face common threats. In this regard, President Bush must be commended for his leadership here and abroad in forging a consensus on how to respond to the threat posed by Saddam Hussein.

Although your war is being fought far from home, our war against drugs is not different. In fact, I have an even greater responsibility to build consensus, to maintain the political will in Colombia to continue the struggle within our borders. The costs of fighting narcoterrorism in my country have been enormous, and without demonstrated international support, the political will that now exists will be undermined. The world can hardly expect that in the war on drugs, it will fight until the last Colombian is left standing. Narcoterrorism is a unique threat we face in Colombia. Its root cause, narcotrafficking, is a threat we all face together. There must be a concerted global reponse. And each of you must acknowledge that those who consume cocaine on the streets of Washington, D.C. are as guilty as those terrorists who pull the trigger on the streets of Medillin.

And so I end with this urgent plea. Your generation can bring about an end to this scourge. On this campus, and throughout this nation, send a clear message that drug use is neither fashionable nor harmless.

Help us stop this madness.

Together, we face great opportunities. This is a unique moment in history. We can break down old barriers and promote economic progress for all our people or we can retreat to protectionism and isolationism and set back the cause of social justice. With vision and creativity, we can create a new world order or we can refuse to recognize new realites and fail to move forward. With shared hopes and shared values, let history look back at this time and say we did the right thing.

TRIBUTE TO THE NEW YORK NATIONAL GUARD

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. HOCHBRUECKNER. Mr. Speaker, we are all familiar with the courage and sacrifices made in the Persian Gulf war by members of the US military. We are perhaps less familiar with the vital role which has been played by the National Guard here at home.

The New York National Guard deserves special commendation for the vital services they have provided to our service men and women. I would like to give you examples of how they played an important role in Desert Shield and Desert Storm.

The painful tasks that needed to be done before a mobilized soldier left for active duty were made easier by the New York National Guard. They not only organized military lawyers, but arranged for the New York Bar Associations of Queens, Nassau, Monroe, Onondaga, and Erie Counties to donate pro bono services. The lawyers made themselves available to lecture and provide one-on-one counseling to service personnel and their families.

Some personnel used this service to write their wills. Lawyers helped soldiers with the difficult task of facing their own mortality, often for the first time, while navigating the intricacies of health care proxies, powers of attorney, the right to die, and living wills. One serviceman needed to know if his fiance's rights would be better protected if they married before he left for active duty.

Lawyers also helped personnel tackle seemingly small, but nonetheless perplexing problems. Due to his mobilization, one man faced missing his Federal test for an interstate vehicle license. The Guard's efforts, however, helped him realize that military law protected his right to take the exam on another day. Another serviceman's spouse needed a lawyer, but she could not speak English. The New York National Guard arranged for a Spanish-speaking attorney to handle the matter on a pro bono basis.

These examples show that lawyers gave very personal service to our service men and women. The New York National Guard was instrumental in organizing those lawyers who had donated their time.

The New York National Guard also assisted with the financial complications encountered by newly activated service personnel. They arranged for special telephone numbers for soldiers and their dependents to call with Internal Revenue Service problems. The National Guard also provided help to make sure reluctant corporations acted in accordance with the 1949 Soldiers and Sailors Relief Act, which provides some fiscal relief by reducing the interest rate in installment contracts to 6 percent for activated military personnel. In several cases it took legal action to make corporations comply with the act's provisions.

The examples I have given here all have a somber tone—financial considerations, wills, even death. The New York National Guard, however, was also able to facilitate happy events. Brig. Gen. Edwin Kassoff had the pleasure of performing the marriage ceremony of several servicemen before they left for active duty.

The services provided by the New York National Guard have been essential to the morale of our sevice men and women. I think it is important we acknowledge the role the National Guard has played on the home front. As Brigadier General Kassoff wrote, "we have already received word that some of the tensions and apprehensions of the mobilized soldiers regarding the care of their families and financial affairs, have been alleviated as a result of our operations." Mr. Speaker, we owe the New York National Guard a heartfelt well done.

A NATIONAL ENERGY STRATEGY

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. ANDERSON. Mr. Speaker, this Nation has just emerged victorious from a war which was as just as it was necessary. A brutal madman's aggression was turned and overwhelmingly defeated in rapid time with unexpectedly little loss of American life. While this conflict was not a war primarily about oil, we must recognize that our sensitivity to the Middle East is in large part due to the massive oil reserves which underlie that desert land. Once again, America's energy vulnerability has been exposed. Twice in the past, we ignored the call to reduce our dependence on imported oil. But now, the Iraqi invasion of Kuwait, and the resulting necessity of Operation Desert Shield/Storm, has firmly entrenched into the American psyche the need for a comprehensive, long-range, and coherent energy policy. This Nation's spectacular economic growth has been built on a foundation of cheap, plentiful energy, especially in the form of oil. We face a challenge to that foundation because of our overdependency on imported oil. The President has issued his National Energy Strategy [NES]. Now it is the Congress' turn to substantially improve his draft.

America has a contradictory outlook on our energy use, an outlook which has defied our previous attempts to shape an effective solution to our dependency problem. On one hand, we bemoan our massive energy use. On the other hand, we herald our high standard of living made possible by the use of cheap, plentiful energy. Contrary to popular belief, the U.S. has had an energy policy. It was simply to maintain a steady stream of cheap, available oil. And that strategy has worked, if measured by economic growth. While it is clear that this strategy has withered on the vine, how do we now go about reducing our dependency on imported oil, without raising our overall energy costs so as to slow economic growth and pinch our standard of living?

Complicating these questions is the nature of imported oil. The Middle East holds approximately 65 percent of the world's proven oil reserves, of which most can be pumped from the ground for as little as $2 per barrel. The average wellhead in Saudi Arabia produces 8,400 barrels a day, versus only 12 in the United States. This supply and price advantage means that the large Persian Gulf oil producers can undercut any other energy source at will. These oil producing nations have been careful to retain this ability through the price-setting mechanism of OPEC, with the Saudis enforcing any agreement through their tremendous reserves and pumping capacity. As a nation, we have been as vulnerable to oil price slides as we have been to price shocks. As soon as the price of a gallon of gas falls, we tend to forget our dependency problem. Because OPEC is expected to keep oil relatively cheap, and domestic production is predicted to fall dramatically, our use of imported oil is expected to sharply increase from 45 percent of total fuel use to 60 percent unless dramatic steps are taken to reduce our dependency.

In a free market, cheap energy is an almost irresistible temptation, to both producer and consumer alike. Inexpensive oil means cheap commodities, cheap transportation, and cheap products. Cutting our use of imported oil will necessarily mean higher prices of gasoline. Unless we are willing to accept a higher price for our energy, with the accompanying hardship placed on our lifestyles, we will not reduce our energy dependency. There is an inherent tradeoff between energy self-sufficiency and low oil prices. An effective energy policy will require sacrifices which it seems the American public may not be ready to accept. There are those who, in the name of the environment, decry the search for domestic oil, but only raise the false panacea of conservation and alternative energy sources as complete substitutes. We must be realistic. A decent energy policy will not arbitrarily exclude any energy source.

The President's energy plan asks for very few sacrifices. His NES is based on the assumption of the unrestrained free market, whereby the intervention of the government into any energy decisions is assumed to cause more distortionary, harmful effects than long-run "good." Therefore, it is only natural that, except for providing for some research and development money for alternative energy sources, the President's plan relies primarily on incentives to produce more energy rather than conserving energy or shifting America away from a focus on oil. Yet an unrestrained focus on the free market to solve our energy problem neglects the fact that the free market does not take into account the strategic value of oil and the price we pay to defend its continued availability. An effective energy strategy must not only look to expanding energy supplies, but to reducing consumption. The debate should not be production vs. conservation, but a combination of both. The latter is not something easily done in the presence of low-cost oil.

Conservation is often triumphed as the way to solve our dilemma. There are even energy experts who insist that, if we just start conserving, we would not have to import a barrel of oil. But here again the price problem is paramount. More often than not, conservation can be more expensive than not conserving. The costs of installing more insulation, an efficient heating system, thermal windows, and space heaters can engulf any proposed saving. The heating system alone can cost more than the proposed savings. The same is true when we look at the idea of increasing Government-mandated mileages standards dramatically on all cars, known as Corporate Average Fuel Economy [CAFE] standards. If every car did get better gas mileage, we would import less oil, but we would also pay more for our cars—gas guzzling engines are cheaper to manufacture—and they would probably be less safe—because the total weight of the car would have to be reduced. Furthermore, why should Government decide for the average consumer what kind of car he or she will drive? Would the imposition of CAFE standards simply give an incentive for people to keep their gas guzzlers longer, thereby keeping average gas mileage down while at the same time increasing air pollution from that level expected if people bought new cars as they ordinarily might do? To date, CAFE has done nothing to decrease our total fuel use, which remains our goal. These questions and possible costs do not mean we should ignore conservation as a cornerstone to any effective energy strategy. With a few sacrifices, we can all curtail our energy use. Government can insist on building standards for local and Federal buildings. Government can give inducements to utilities and their customers to promote energy conservation. These are steps we must take. The collective result of these sacrifices will mean large savings in our energy use. But conservation alone will not solve our energy dependency problem.

Next to conservation, many people point to the expanded use of solar, wind, geothermal, and hydropower as the best way to cut our oil use. But increases in the use of these sources are certainly more expensive than a continued reliance on oil. With today's technology, the cost of a kilowatt/hour of electricity generated by solar, wind, or geothermal power cannot match the lower cost achieved by nuclear, coal, or oil-fired power plants. Hydropower is as cheap as any other power generation means, but there simply are not many more rivers that we can construct dams on. These considerations should not deter us from continuing research into these power sources. The kilowatt/hour costs of these sources has fallen and will continue to fall with further research and development. Government must be active in providing monies and/or extending tax credits for this evolution. The potential is great. For geothermal power generation alone, the United States possesses an estimated 95,000 to 150,000 megawatt potential, yet only produces 2,600 megawatts of geothermal power. This potential must be exploited if we are to reduce our dependence on oil.

The three cheap and proven sources of energy, which the U.S. potentially has plenty of, are nuclear power, coal, and natural gas. The use of nuclear power has stagnated because of safety and waste concerns and environmentalists who fight its very nature. Coal, meanwhile, has the substantial drawback of creating many of the greenhouse gases and acid rain problems which we are desperately trying to move away from. These concerns must not halt these activities. America has an estimated 300 year supply of recoverable coal. The President's plan includes more money for research into clean coal technologies. Ironically, the move to oil as our primary fuel came about at the expense of King Coal which was considered too environmentally dirty. Funds for clean coal will be well spent. Nuclear power can be made more safe also, with increased reactor design standardization, better licensing procedures, and a comprehensive waste strategy. To reject this power source out of hand dismisses an important contributor to our energy self-sufficiency. Power generated from nuclear fusion is the energy source of the future. Continued research and development funds are vital to keep this technology moving toward a goal of commercial viability. In the meantime, we can increase the use of natural gas, a resource the United States has large reserves of and which emits far fewer greenhouse gases than does oil.

Finally, I come to the subject of oil use itself. Whether we like it or not, the use of oil will continue to dominate the energy picture for the foreseeable future. Therefore, it is incumbent upon this Nation to exploit our domestic reserves. In the last 5 years, we have lost 2 million barrels per day of domestic production and will continue to lose more as the Prudhoe Bay field in Alaska declines. Substantial gains can be made through enhanced recovery methods, but these will not be enough. We cannot arbitrarily put all geographic areas off limits to exploration if we are truly serious about reducing our energy dependency. Unfortunately, the increased potential for the domestic production of oil comes from areas which have also raised environmental fears, primarily the Arctic National Wildlife Refuge and the Outer Continental Shelf. I believe many of these areas can be exploited in a manner that is safe and responsible, while preserving the long-term environmental integrity of air, sea, and land.

The transportation sector of our economy is, by far, the largest user of imported oil. Therefore, an effective energy strategy will focus on how to cut oil consumption in our cars and trucks, largely by the increased use of alternative fuels and the aforementioned imposition of CAFE standards. These alternative fuels primarily include methanol and ethanol additives to gasoline, as well as the use of natural gas, hydrogen, and electricity to power cars. The promise of these fuels is great, but mainly because of their long-term potential rather than any short-term gains. Here, too, the costs are higher than that of gasoline while net emissions reductions of carbon dioxide and other greenhouse gases are likely to be only slightly smaller than the emissions generated by gasoline. Other drawbacks of these fuels include range and power limitations. The power needed to generate electricity or refine these fuels will have to come from power plants which most often use fossil fuels. Unless these are nuclear or alternative, greenhouse gases will be produced. Again, these concerns should not dissuade us from fully pursuing these options. Government support with capital costs and providing markets for these fuels is imperative. But we should not be thinking solely in terms of alternative fuels, but instead devote our energies to getting people out of their cars and onto mass transit systems. I have long been a strong supporter of these systems, and will continue to be an advocate in the future.

America has made great improvements in our energy efficiency since the oil shock of 1973. Between 1973 and 1985, U.S. manufacturers increased production by 30 percent, while cutting energy use by 15 percent. Since 1973, the U.S. economy has grown by 51 percent while energy use has only grown by 9 percent. Our economy is 30 percent more energy efficient today than in 1973. These gains have come despite a real price decline in the price of oil since the end or World War II. Nor should the reports that we are running out of oil be believed. Since 1973, proven world reserves have increased from 667 billion barrels to 1002 billion barrels, enough to last another 100 years.

Even with the above statistics in mind, it is incumbent upon us to search and find a more secure energy future. Logically, the only way to reduce oil use would be to raise its price, thereby forcing consumption down and making other energy sources price competitive. The best way to raise this price is through a gas tax. But there has been scant political support for any new taxes of this type. In the absence of that support, I believe we will only meet our goals if we continue to explore all energy options while we make government an active player in energy research, development, conservation, and production efforts. This Nation has enjoyed a standard of living the rest of the world has long envied. If we are to preserve the American way of Life without the need for foreign intervention we must produce a comprehensive energy plan for which the American people will be willing to make sacrifices in the best interests of this Nation. I will work diligently to ensure that the plan which does emerge from this Congress is balanced, fair, and effective.

JAPANESE FAIR TRADE?

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. KLECZKA. Mr. Speaker, the Japanese refuse to engage in fair trade practices with the United States and continue to keep their markets closed to American exports. The latest example of Japan's violation of trade agreements and accepted international standards of fair trade occurred last Saturday.

At an international food fair in Tokyo, an American rice exhibit was removed by Japanese authorities for violating their ban on foreign rice. I shudder at the thought of a democratic, free-market oriented society intimidated by a single exhibit. Yet, Japanese officials contend the presence of American rice violated their import laws, and would have eventually resulted in Japanese dependence upon foreign sources of rice. I contend that this is another example of Japanese protectionism and hypocrisy.

Mr. Speaker, this act is symbolic of Japan's contempt for the notion of free trade and proof of our unbalanced trade relationship with Japan. In my view, the Japanese want to have their rice and eat it too. There is no nation in the world which benefits more from access to American markets than Japan and, yet, few nations remain as closed to our exports. Japan's unfair trade practices not only hurt our trade deficit and the Japanese consumer, they also cost us jobs. We can no longer accept unfair Japanese trade practices. I urge my colleagues to consider countermeasures in response to Japan's closed markets.

THE CHURCH BENEFITS SIMPLIFICATION ACT OF 1990

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. MATSUI. Mr. Speaker, I am pleased to introduce today the Church Benefits Simplification Act of 1991—legislation which I also introduced in the 101st Congress. The act provides much needed simplification and clarification of, as well as consistency in, the rules that apply to church retirement plans. In addition, the act resolves significant problems churches face in administering their retirement and welfare benefit programs under current law.

My staff and I have worked closely in developing this important legislation with leaders of the pension boards of 28 Protestant and Jewish denominations whose employee benefit programs are among the oldest in our country. These programs provide retirement and welfare benefits for several hundred thousand ministers, lay workers employed by thousands of churches, and church ministry organizations serving the spiritual needs of over 66 million members. The programs provide benefits for ministers and lay workers employed in all forms of pastoral, healing, teaching, and preaching ministries and missions, including, among others, local churches, seminaries, old-age homes, orphanages, mission societies, hospitals, universities, church camps, and day care centers.

The goal of the act I am introducing is to simplify and clarify the rules that apply to church employee benefit plans. Under current law, these rules are generally lengthy and complex and are, for the most part, designed for for-profit, commercial employers. Unlike for-profit, commercial employers, most denominations are composed of thousands of work units, each having only a few employees, and the budgets of these work units are marginal at best. These organizations rely almost completely on contributions from the offering plate to support their missions, including the salaries and retirement and welfare pensions of their ministers and lay workers. Unlike for-profit business entities, churches cannot pass operating costs on to customers by raising prices.

Churches are also much more loosely structured than most for-profit business organizations, and many denominations cannot impose requirements on their constituent parts. For example, hierarchically organized denominations may be able to control the provision of employee benefits to ministers and lay workers, while in congregational denominations, such control is typically more difficult.

In addition, churches have no need for tax deductions. Churches and church ministry organizations therefore lack the incentive of for-profit employers to maximize either the amount of the employer's tax deduction or the amount of income which the highly compensated employees who control a for-profit business can shelter from current taxation through plan contributions and tax-free fringe or welfare benefits.

Retirement amd employee benefit tax laws do not always take the difference between churches and for-profit employers into account, with the result that churches have had to divert a significant amount of time and resources from their religious missions and ministries in attempting to identify and comply with rules that in many instances are unworkable or simply not needed for church employee benefit plans. This legislation will significantly reduce administrative burdens and related costs now imposed on churches ministry organizations. Unlike the for-profit sector, where cost savings can result in a better bottom line for shareholders, saving in the church sector will find their way into missions and ministries that help people who need assistance.

A study of Independent Sector, a nation membership organization composed of over 600 tax-exempt organizations and corporate philanthropy departments, indicated that approximately half the funds contributed to churches is used in service to others. Religious congregations are the primary voluntary service providers for neighborhoods. Ninety-three percent of religious congregations have one or more programs in human services. Four-fifths of all religious congregations offer family counseling, and one-third give meals or shelter to the poor. Some 78 percent donate for international relief or missionary activity, and two-thirds sponsor hospices, health programs, hospitals, or provide for disabled, retarded, or people in crisis. The Independent Sector study indicated that religious congregations made $8.5 billion in direct grants to other groups and paid $10.7 billion for education, human services, and health programs. These figures are double the giving of all U.S. foundations and corporations combined.

It is my view that the Congress should do everything possible to ensure that churches can continue to maximize their contributions toward these important missions and ministries, rather than paying for costs of complying with rules that are unworkable, or not needed, for church employee benefits plans.

The cornerstone of the act is a recodification of the rules applicable to church retirement plans so that all of such rules in the Internal Revenue Code are identified, simplified, and separated from the rules that apply to for-profit employers. Retirement plan issues unique to churches will thus not be inadvertently impacted when Congress is considering future Code changes which are applicable to for-profit employers but not appropriate for churches.

The act would also ensure that church retirement plans, whether described in the new section 401A (applicable only to those church section 401(a) plans) or section 403(b), are subject to the same coverage and related rules. In 1986, Congress determined that the section 403(b) plans of churches and so-called qualified church controlled organizations should not be subjected to the expense of complying with coverage and related rules. The act would extend this same relief to church section 401A plans and would also eliminate the troublesome qualified church controlled organization approach in favor of a provision that only subjects church-related hospitals and universities to applicable coverage and related rules. The act, consistent with the law that now applies to church section 401(a) plans, would also clarify that the coverage rules that will apply to the section 403(b) programs of church-related hospitals and universities are those that were applicable prior to the enactment of the Employee Retirement and Income Security Act of 1974.

The act also would resolve a number of other problems many church pension boards face under current law. For example, under present law there is a question as to whether self-employed ministers or chaplains who work for nonchurch employers are able to participate in their denomination's retirement and welfare benefits programs. The act would make it clear that such ministers may participate in such programs.

In addition, the act would: Restore QVEC's for church plans; solve several church employee aggregation problems; eliminate an administrative problem faced by multiple employer church plans that provide permitted postretirement medical benefits; provide relief that will result in better retirement income for foreign missionaries; simplify the required distribution rules that apply to church retirement plans; eliminate an unworkable requirement under the so-called section 403(b) catch-up contribution rules; and make relief granted under section 457 consistent with coverage relief proposed for church retirement plans.

I urge my colleagues to join me in cosponsoring this vitally important church employee benefits legislation.

THE ALTERNATIVE FUELS INCENTIVE ACT

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. ANDREWS of Texas. Mr. Speaker, two of the greatest problems we must address in the very near future are energy self-sufficiency and protection of the environment. For many years I have advocated the need for increased use of alternative fuels in this country. They are clearly the best way to address these plaguing problems. It is time that the Federal Government acknowledge their value and encourage their use.

To this end, I am introducing today the Alternative Fuels Incentive Act of 1991. This bill will provide the initial support needed to start a large-scale alternative vehicle fuel movement in the United States. Last year, I was glad to be joined by 74 of my colleagues among whom were members of both parties from many different regions of the country.

The Alternative Fuels Incentive Act of 1991 will provide tax incentives to encourage the use of clean-burning alternative fuels in vehicles. The switch to such fuels is absolutely essential to improve our national energy security and clean up our air.

Our country has gone without a comprehensive energy policy for too long. The recent war in the Persian Gulf has made the need for such a policy clearly evident to everyone. Not only is our reliance on foreign oil a threat to our national security, but our domestic oil and gas industry is in shambles and consumers are continually subjected to wild fluctuations in prices.

We simply must encourage further development of our domestic energy resources for the long term. Domestic supplies of clean-burning alternative fuels such as natural gas, ethanol, and methanol are plentiful and have no negative impact on the Nation's trade balance. The Department of Energy estimates that our potential domestic supply of natural gas is 1,188 trillion cubic feet. At present rates of consumption that is a 68-year supply of gas. Methanol is derived from natural gas and coal. Ethanol is derived from corn which is produced in surplus by our farmers every year. I believe it is imperative that we capitalize on these important domestic resources.

In addition to being good energy policy, this legislation has numerous environmental benefits. While much of the environmental debate has focused on ways to reduce stationary source industrial pollution, it has somewhat ignored the fact that nearly half of the ozone pollution problem in many areas like the city of Houston can be attributed to vehicle emissions from the transportation sector. As the number of vehicles on the road increases, so does our air quality problem. This is the problem I have targeted in my bill.

Switching to clean-burning vehicle fuels can greatly reduce smog-forming emissions of reactive hydrocarbons and nitrogen oxides. For example, using natural gas instead of gasoline can reduce reactive hydrocarbon emissions by up to 85 percent and nitrogen oxide emissions by up to 65 percent. Alternative fuels are also an effective tool against acid rain and global warming because they reduce carbon dioxide emissions.

The Alternative Fuels Incentive Act of 1991 provides the needed push to start a large-scale clean-burning alternative fuels movement in this country. Clean burning is defined as natural gas, liquefied petroleum gas, liquefied natural gas, electricity, or a fuel which is at least 85-percent methanol, ethanol, other alcohol, or ether.

Specifically it would provide:

A 20-percent tax credit for equipment to convert a vehicle so that it may run on a clean-burning fuel.

A 20-percent credit for refueling station equipment directly related to delivering a clean-burning fuel into the fuel tank of a vehicle, including tanks for liquid fuels and compressor stations for natural gas.

A 20-percent credit for the fuel system of a new vehicle produced to run only on a clean-burning fuel.

Credit equivalent payments to State and local agencies so that they may take advantage of the credit.

The initial effect of this legislation will be to encourage private and public fleet owners to convert their vehicles to run on an alternative fuel, and it would also encourage the development of a badly needed alternative fuels infrastructure in this country.

We have the technology to make alternative fuels a reality today. Only the initial cost of converting to a system of alternative fuels and natural inertia is holding us back. For example, the cost of converting a vehicle to run on natural gas can be over $1,000. The cost of installing a compressor station for the refueling of natural gas vehicles can run into the hundreds of thousands of dollars. These costs are significant hurdles to the development of an alternative fuels system.

Mr. Speaker, this proposal is an important component of a sound national energy strategy for America. Although people across the country are beginning to recognize the enormous benefits inherent in conversion to alternative fuels, the risks to our national security and our precious environment continue to mount. As Congress works in the coming months to develop a comprehensive energy program, I hope my colleagues will join me in making a serious commitment to the use of alternative fuels.

NATIONAL DOCTORS DAY

HON. MIKE PARKER

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. PARKER. Mr. Speaker, during the 101st Congress, the Congress by Senate Joint Resolution 366 (Public Law 101–473), designated March 30, 1991 a National Doctors Day. On February 21, 1991, the President issued a proclamation calling on the people of the United States to observe the day with appropriate programs, ceremonies, and activities.

This proclamation shows our appreciation for the role of the physician in caring for the sick, advancing medical knowledge, and promoting improved public health. The local physician plays a vital role in the fabric of life in our communities. From the rural doctor to the most highly trained specialist, physicians touch the lives of our constituents daily.

I ask you to join me in celebrating this day and extending this honor to every doctor throughout this great country.

THE 100TH ANNIVERSARY OF PARKER, BERG, SOLDWEDEL & PALERMO

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. MOORHEAD. Mr. Speaker, it is my pleasure to bring to the attention of my colleagues in the House of Representatives the 100th anniversary of the law firm of Parker, Berg, Soldwedel & Palermo in Pasadena, CA.

From its modest beginnings in 1891 to this present date, this fine firm has stressed general civil law and has grown to include probate, trust, estate planning, elder law, taxation, family law, real property law, corporate law, personal injury and civil litigation.

The firm saw its beginning on April 15, 1891, when Judge J.H. Merriam, one of Pasadena's first justices of the peace, opened his law offices at 42 E. Colorado St. In 1917, the firm's name became Merriam, Rinehart & Merriam, when Judge Merriam's son, Ralph T. Merriam, and an outstanding trial lawyer named Jay D. Rinehart, joined the firm.

The firm's partners have contributed much to Pasadena during the past century. Harvey M. Parker joined the firm in 1927 and is currently the oldest living past president of the Pasadena Bar Association. He became "Of Counsel" to the firm in 1987. J. Harold Berg joined the firm in 1940. He is a past president of the Pasadena Bar Association, the Pasadena YMCA and the Y's Men's Club. Fred W. Soldwedel came next, joining the firm in 1964. He is the president-elect of the Pasadena Rotary Club and a past president of the Pasadena Bar Association and the Tournament of Roses Association. Peter R. Palermo followed, joining the firm in 1965. He is a past president of the Pasadena YMCA and the Y's Men's Club. Fred D. Soldwedel became associated with the firm in 1990, completing the firm's second father-son association.

Mr. Speaker, let me once more voice my pleasure in congratulating the oldest law firm in Pasadena, Parker, Berg, Soldwedel & Palermo, on 100 years of faithful legal services to the Pasadena community.

TO OUR CHILDREN

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. ORTIZ. Mr. Speaker, the President and the Congress have challenged Americans to welcome home our soldiers coming home from the Gulf. I would like to pay tribute today to one of those citizens who has taken this instruction to heart.

Dan Alfaro, an attorney in Corpus Christi, TX, is a generous man and a former Vietnam veteran who will be hosting a rally for the troops in Corpus Christi on April 7, 1991. He is not asking for personal recognition—rather he is allowing, through his generous efforts, a special tribute for those young men lost by our community and an unique welcome for our troops who are coming back to our homes and our open arms.

Dan Alfaro is a true patriot and he is a poet as well. The following is a poem he wrote for our troops:

TO OUR CHILDREN

Our country's leader had no choice
For tyranny raised its deadly voice.

So he called for gallant Knights
To help out with the Points-of-Light.

To risk their lives for freedom's cause
And not complain about their loss.

Away they marched—our nation's best
Not knowing who'd be laid to rest.

Cold swords attached most human form
Our soldiers fought in Desert Storm.

There was darkness everywhere;
The breath of war is never fair.

But God's light removed the dark
And our Knights could feel his spark.

Evil saw its pillars torn
As world's freedom was reborn.

Our heros now are being feted
For a mission well completed.

Even those who're with the Light
Smile with us and share delight.

They gave their lives for you and me
So all our Brothers could be free.

Thank you, Comrades, now departed;
You have left us broken hearted.

Having fought your last great fight
Now you're with the King of Light.

TRIBUTE TO THE LATE DR. JOHN M. "JACK" HODGES

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. DARDEN. Mr. Speaker, one of Marietta, GA's most prominent physicians, Dr. John M. "Jack" Hodges, passed away at age 75 on January 23, 1991. I rise today to honor his memory, and share with my colleagues the story of this honorable citizen and his family.

As a young man, Hodges worked alongside his father as a pharmacist at the family's business, Hodges Drug Store, on the Marietta Square, an historic landmark in our community and then the hub of the Marietta business community. Due to its popular location and reputation for hospitable service, the Hodges' store developed a tremendous clientele of northwest Georgia residents. Accordingly, it was assumed that one day the young Hodges would succeed his father as store manager and carry on the family business. However, Jack Hodges wanted to take his ability to heal, serve, and care for people one step further—he wanted to be a physician.

Dr. Hodges received his undergraduate degree from Emory University, where he was a member of the Kappa Alpha fraternity. He attended the Philadelphia College of Science and graduated with bachelor's and master's degrees in pharmacy. In 1943, he enrolled at the Medical College of Georgia in Augusta, GA. Dr. Hodges served a year's residency at Charity Hospital in Augusta, and a 4-year residency at Piedmont Hospital, where he established the residency program and helped to get it accredited.

He left Piedmont Hospital to return to Marietta and begin his surgical practice. In 1953, he was called to active duty during the Korean war, and served 2 years at Surdea Air Force Base Hospital in Albuquerque, NM. Dr. Hodges returned to Marietta after the war and practiced for 27 years.

Dr. Hodges was a former member of Marietta Rotary Club, a fellow in the Surgeons of America, and served on the Marietta First United Methodist Church board of trustees and board of stewards. He also was associated with the Highlands United Methodist Church of North Carolina.

After retiring in 1980, Dr. Hodges took time to develop unique hobbies—gourmet cooking and collecting rare Oriental rugs. He was a thoughtful, quiet man who gave freely of himself through his work and civic interests in efforts to better Northwest Georgia communities.

Mr. Speaker, Dr. Hodges will long be remembered, and truly missed. Our sympathies are with his wife, Madeline Traylor Hodges; daughter, Madeline Hodges Knox; son, John M. "Mac" Hodges; and other relatives and friends.

THE SIXTH ANNUAL SALUTE TO PASSAIC SEMI-PRO BASEBALL REUNION DINNER

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. ROE. Mr. Speaker, I rise today to pay tribute to six great Americans, who will be honored on Friday, April 12, 1991, for their outstanding athletic contributions to the city of Passaic. On that special day, the sixth annual salute to Passaic semi-pro baseball reunion dinner will be held at the Athenia Veterans Hall in the great city of Clifton, in the heart of my Eighth Congressional District of New Jersey.

The weather is getting warmer and spring is in the air. As a nation, we prepare to once again celebrate the annual rite of spring which uniquely binds us together as a society. Of course, I am referring to the great game of baseball, our national pastime.

Mr. Speaker, as I stand here in the well of the House of Representatives, I think back to those halcyon days of yesteryear, when my brother Jim and I would head off to the sandlot, with our bats, balls, and gloves in tow. To be bathed in sunlight, with the smell of freshly cut grass hanging in the air, what a delightful way to spend a Saturday afternoon.

I reminisce about these fond memories as I think about the truly outstanding abilities and achievements of the men who put Passiac semi-pro baseball on the map. Their outstanding talents, which they displayed between the white lines truly made the diamond shine.

Of course, I refer to the following greats of Passaic semi-pro baseball: Edward Dandy, Joe Popek, Frank Kelly Russnak, Henry "Lefty" Zecker, Ralph "Corp" Dilullo, and the late great, John Plavchan. Each and every one of these individuals have made vital contributions to the game that gave them so much pleasure.

Edward Dandy was the long-time player manager for the Passaic Maple Leafs. Joe Popek starred for the Clifton Mystic Rams, the Paterson Uncle Sams, and the Clifton Dodgers. He recently completed his 50th year in baseball. Frank Kelly Russnak is recognized as one of the outstanding pitchers of his time, starring for many years with the Passaic Cubs.

Henry "Lefty" Zecker was an outstanding outfielder who had a long association with clubs from Garfield. Ralph "Corp" Dilullo has had a long and distinguished career in baseball. He has worked as a professional scout for over 38 years, and signed many athletes who played in the major leagues. John Plavchan was a noted first baseman during his playing days in the twenties and thirties.

When these titans of amateur ball played, the quality of semi-professional baseball was of an extremely high caliber. Major league baseball had only eight teams in each league, and had not yet expanded to the west coast. Semi-professional teams were the pride of their communities, with keen competition between local towns.

RESTORATION OF TSUS TARIFF SOUGHT FOR ARTHRITIC DRUG

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. ARCHER. Mr. Speaker, today I have introduced H.R. 1501, which will restore the duty assessed on Flurbiprofen to the 6.8 percent originally paid under the TSUS. After the conversion to the Harmonized System of Tariffs [HTSUS] in January 1989, U.S. importers found themselves faced with a 100 percent duty increase on Flurbiprofen to 13.5 percent even though the stated intent of the conversion to HTSUS was to maintain duty neutrality. While that has not always been possible, a 100 percent increase on any product is a stiff penalty.

Flurbiprofen and Ibuprofen were both classified in the same basket item in the TSUS at 6.8 percent—TSUS item 412.22. The two drugs are both nonsteroidal, anti-inflammatory agents. During the conversion to the HTSUS's more complex classification of imported chemicals, Ibuprofen was specifically provided for in the HTSUS—what is now 2916.39.15 of the HTSUS—at the TSUS rate of 6.8 percent. Flurbiprofen was not included in this specific provision, although no one in the administration can give a reason why, other than inadvertence. Since no specific provision was made for Flurbiprofen, Customs, under the new HTSUS, now believes the drug should be classified under 2916.39.30, which is under the same superior heading, but in a basket category carrying a 13.5 percent tariff.

Since there is a chemical relationship between Ibuprofen and Flurbiprofen and since they are used for the same purposes, the HTSUS should clearly indicate that both are assessed the same column 1 rate of duty, as was the case under the TSUS. My bill would add a new subheading for "Flurbiprofen" after "Ibuprofen" in the HTSUS to correct the inadvertence in tariff conversion and to avoid what could be a very lengthy and costly Customs protest and/or court action seeking an alternative classification, which would still not provide specifically for Flurbiprofen. Since this proposed change in HTSUS language takes place at the eight digit—or national—item level, it will not affect the international nature of the Harmonized System, which applies only to the six-digit heading level.

Flurbiprofen is used by the Upjohn Co. to produce ANSAID, which is a nonsteroidal, anti-inflammatory drug that is highly effective in treating arthritis. Most of the company's production occurs in the United States and Puerto Rico, but a small percent comes from its plant in England—less than 5 percent—and is needed to fulfill the increasing United States demand for the product.

I believe that this legislation is warranted in order to resolve the significant inequity that resulted in this instance during the conversion from TSUS to HTSUS.

A LOCAL BARRIO SUCCESS STORY

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. BROWN. Mr. Speaker, I ask my colleagues to join me today in saluting the Gents, a community-based service group in my congressional district composed of former gang members with deep roots in the San Bernardino area. On Saturday, March 30, the Gents will celebrate its 11th annual installation of officers.

The Gents were considered a gang from 1952 to 1963. Its members grew up and went their separate ways. A reunion in 1973 led to the formation of a chartered, nonprofit community service organization in 1975. Its first president was Pete Ramos. Frank Rodriguez is the current president.

The Gents are well known in the Latino community and throughout the Inland Empire for their fundraising activities. Golf tournaments, menudo cook-offs, and holiday dances have been organized to provide benefits to the community. The Gents have a scholarship program benefiting two high schools with total fund contributions exceeding $51,000. Approximately $75,000 has been donated to indivudials in need, nonprofit organizations, and community projects since Gents organized in 1975.

But the Gents are also known and respected for the willingness of their members to give personal support to each other and to their community. Besides helping one another with personal counsel and encouragement, the Gents help young gang members to change their lifestyles in a positive direction. The Gents regularly invite young gang members from the barrio to attend meetings, and Gents members speak at local schools against gang violence and drug abuse.

In 1986, CBS Channel 2 recognized the Gents as "Home Town Heroes." I concur in that assessment, and I ask my colleagues to join me in recognizing this outstanding service organization.

MAINE TOWNSHIP HIGH SCHOOL SOUTH STUDENTS WIN ILLINOIS STATE CHAMPIONSHIP IN THE BICENTENNIAL CONSTITUTION COMPETITION

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. HYDE. Mr. Speaker, it is my great honor to recognize 18 high school students from Maine South High School in Park Ridge, IL. On the last weekend in February, these members of Patton Feichter's advanced placement government class won the Illinois State Championship in the Bicentennial Constitution Competition. I am extremely proud of Karen Bott, Katie Carlson, David Hartwig, Jill Howard, Jason Ichen, Brian James, Katherine Kougias, Natalie Kuehn, Tom Lin, Margaret Metzinger, Mary Michal, Nathan Myers, Lauren Ofenloch, Kristi Sigg, Michael Szwed, Albert Tseng, Susan Wiatr and Kim Wiederer, as I know are their peers, parents and teachers. These accomplished students will represent all of Illinois in the national competition here in Washington on April 26–30.

The Bicentennial Constitution Competition is run by the National Bicentennial Commission. Successful competitors must display an in-depth knowledge of U.S. history, the Federalist Papers, Supreme Court decisions and a wide variety of current political and constitutional issues. Since the entire competition is verbal, they must also be able to think on their feet and express themselves in an intelligent and articulate manner.

The success of my young constituents—and Ms. Michal of Representative ANNUNZIO's district—is indeed well-deserved—they worked very hard to advance this far. I will be rooting for them when they come to Washington.

A BILL TO PROHIBIT IMPORTS OF SEMIAUTOMATIC WEAPONS

HON. SAM GIBBONS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. GIBBONS. Mr. Speaker, Today I am introducing legislation which would ban the importation of semiautomatic assault weapons, ammunition feeding devices, and certain semiautomatic weapon accessories into the United States.

As you well know, my overriding goal as chairman of the Way and Means Subcommittee on Trade has been to expand international trade and investment by keeping markets open and competitive. I usually oppose trade restrictive actions, but Congress can no longer afford to remain silent on this issue.

Although the Administration has imposed an importation ban on certain semiautomatic rifles, Congress must enact a permanent, statutory ban on imports of these and other semiautomatic weapons.

Specifically, the legislation I am proposing will prohibit importation of designated semiautomatic assault rifles and pistols, large capacity ammunition feeding devices, and certain semiautomatic weapon accessories. [The United States and any State or political subdivision will, of course, be excluded from this import restriction.]

These weapons are not designed for the sporting purposes of hunting game or for recreation. They are instead intended to kill human beings and are being used more and more frequently by Drug Gangs and for other criminal activity throughout this country.

Mr. Speaker, I urge all members of the House of Representatives to assist me in passage of this important bill.

FORMER ASSISTANT POLICE CHIEF JESSE A. BREWER CONGRATULATED

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. DIXON. Mr. Speaker, I rise today to express my warmest congratulations to former Assistant Chief of Police Jesse A. Brewer who retired February 28 from the Los Angeles Police Department [LAPD], after 39 years of dedicated and distinguished service to the force.

Jess Brewer retired as the LAPD's second highest ranking officer and the highest ranking black officer in the history of the department. His ascension to that post might have seemed an unlikely prospect when Brewer left the Chicago Police Department, discouraged by its discriminatory hiring and promotion practices, in 1952. Indeed, Brewer's LAPD career began only after the department rejected his initial application on a technicality—an event Brewer attributes to racism. With the help of future Los Angeles Mayor Tom Bradley, then an LAPD sergeant, Brewer successfully reapplied to the force. Needless to say, we are all glad that he did.

A native of Dallas, TX, Jess Brewer was born October 21, 1921. Brewer attended Alabama's Tuskegee Institute where he met his wife, the former Odessa Amond, who was also studying at Tuskegee. However, he was obliged to leave Tuskegee in June 1943, when he was called to military service. He would later complete his undergraduate education at Shaw University. Brewer underwent military training at the Officer Candidate School at Fort Benning, GA, and was commissioned as a 2d lieutenant upon his graduation. Serving a total of 33 years of Active and Reserve military service, Brewer retired in January 1976 with the rank of colonel. His decorations include the Legion of Merit, Bronze Star, Purple Heart, Combat Infantry Badge and two campaign ribbons. In 1977, he earned a masters degree in public administration from the University of Southern California.

Brewer's many LAPD assignments reflect his broad experience in the department. These assignments have included patrol, vice, traffic, homicide and burglary investigation, and community relations. As a captain, Chief Brewer commanded the Van Nuys, metropolitan, and training divisions. At the rank of commander, Brewer held several other command assignments.

In 1981, Brewer was promoted to deputy chief and served as commanding officer for the area encompassing south-central Los Angeles from 1981 to 1987. In this capacity, he garnered praise for pioneering several law enforcement innovations. Significantly, Brewer implemented new officer deployments, placing more officers in minority neighborhoods, as the gang crisis intensified. Through these efforts, Brewer helped to forge a more positive and constructive relationship between the department and the primarily African-American residents of a south central Los Angeles community plagued by drug- and gang-related violence.

Chief Brewer was promoted to the rank of assistant chief on November 19, 1987. As assistant chief, he directed the activities of the Office of Administrative Services where he was responsible for all support functions of the department. He was widely regarded as an ideal candidate to succeed Chief Darryl Gates as the LAPD's top officer.

Jess Brewer's vast knowledge and expertise with respect to law enforcement were such that he was selected as a technical adviser to the Emmy Award winning television series, "Hill Street Blues"—a series widely praised for its realism and technical accuracy. Over the course of his career, Chief Brewer also served on the board of numerous prestigious public and private organizations, including the President's Commission on Organized Crime and the National Advisory Committee Task Force on Disorder and Terrorism. Most recently, he served as a Governor-appointed member of the board of directors of the California Museum of Science and Industry and as a commissioner of the Los Angeles Memorial Coliseum Commission.

Assistant Chief Brewer has received many honors throughout his law enforcement career. He was the 1988 recipient of the NAACP's Judge Thomas L. Griffith Legal Award and the Ricky Bell Humanitarian Award. Chief Brewer was an honoree at the 1990 National Association of the Black Military Officers' Dinner and is a lifetime member of the NAACP.

Uniformly described as a gentleman and an articulate spokesperson for the department, and dubbed "the Prince" by his colleagues, Jess Brewer has performed his duties with tremendous dignity and distinction, and has served as an inspirational role model for hundreds of minority and other officers in the Los Angeles Police Department. Moreover, by his fine example and by his firm insistence, Brewer has been instrumental in making the Los Angeles Police Department a fairer and more hospitable place for minority police officers.

I ask you to join me, Mr. Speaker, in paying tribute to a fine officer, a true gentleman, and a good friend on the occasion of his well-deserved retirement, and in wishing for Jess and his wife Odessa, their three sons, Jess II, Jonathan, and Kenneth, and their grandchildren, good health and good times in the years to come.

BEAVER FALLS MUNICIPAL AUTHORITY CELEBRATES 50 YEARS OF SERVICE

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. KOLTER. Mr. Speaker, I rise today before the U.S. House of Representatives to publically extend congratulations to the Beaver Falls Municipal Authority as it celebrates 50 years of service.

It was more than 120 years ago that the residents of Beaver Falls first received water service from a local spring. The city's water was delivered through lines that were installed by the members of the Economy Society in 1868 and 1870. As Beaver Falls grew, so did the town's need for adequate water service. Thus, the Beaver Valley Water Co. was born in 1883, which utilized various other springs and wells.

Soon after, the Beaver Falls area became home to thousands of families and hundreds of industrialized businesses, and water service became expansively vital. It was on June 12, 1940 that the city council passed an ordinance authorizing the formation of the Beaver Falls Municipal Authority. The authority purchased the Beaver Valley Water Co. for $5½ million.

Today, the Beaver Falls Municipal Authority provides 21 communities in my congressional district with excellent water service. Since its inception half a century ago, the authority has nearly doubled its customers, daily consumption, pipe lines and fire hydrants.

So it is with special pride that I praise the commitment of the Beaver Falls Water Authority members and workers as they celebrate 50 years of service.

INFANT MORTALITY AWARENESS DAY

HON. J. ROY ROWLAND

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. ROWLAND. Mr. Speaker, as the most powerful and scientifically advanced country in the world, the United States has no excuse for not reducing the country's chronically high rate of infant mortality.

It's not that we haven't been trying. The Sunbelt Caucus, and the National Commission To Prevent Infant Mortality have been fighting to reduce infant mortality for a number of years. And some progress has been made. For one thing, Federal funding for prenatal care has gradually increased. But we have recognized from the beginning that money alone could not win this fight.

What we need more than anything else is education, public awareness, and community involvement. Many thousands of infants could be saved or spared lifetime physical and mental disabilities if more expectant mothers were told about the care they need and about how to obtain it. Although many positive things are happening, we still have not done all we could to marshal community resources behind this effort.

This is why we, the members of the Sunbelt Caucus Task Force on Infant Mortality, invite our colleagues to join with us in supporting Infant Mortality Awareness Day on Mother's Day, May 12, 1991. It is another effort, Mr. Speaker, to get our churches, businesses, educational systems, health professionals and volunteers, and all citizens to work together to promote healthy births and a lower infant mortality rate.

This is something we can all do for our country.

A CONGRESSIONAL SALUTE TO PASTOR EDWIN E. CASHMAN

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. ANDERSON. Mr. Speaker, today I rise to pay tribute to a man who has served his community with great distinction. I would like to take this opportunity to acknowledge the outstanding achievements of Pastor Edwin E. Cashman.

Born the son of Reverend Arthur and Iva Cashman, young Edwin had an early exposure to the rich life of religious devotion and leadership. Upon graduating from Bob Jones University in South Carolina, Edwin enrolled in the Grace College and Theological Seminary, where he received a bachelor of arts degree in Divinity. He completed his postgraduate work at the Fuller Seminary in 1955. Mr. Cashman spent the next 6 years as an associate pastor of Grace Brethren Church in Ashland, OH. He then moved west to become the senior pastor of the Grace Brethren Church in Compton, CA. In 1966, Edwin took over as senior pastor of Bellflower Brethren Church, where he has honored this position ever since.

Under Pastor Cashman's leadership, the Bellflower Church boasts an active and spiritually sound congregation. The pastor takes an extremely active role in the instruction and guidance of his flock, typified by his "hands-on" training of 18 young pastors and missionaries. As a legacy to his tutorage, 12 of these are currently involved in full-time Christian ministries throughout the United States and foreign missionary fields. During the course of his ministry at Bellflower, Pastor Cashman has had a direct and positive influence on the lives of many hundreds of members, associates, and friends.

The weekend of April 6 and 7 has been set aside by the Bellflower Brethren Church to honor Pastor Cashman for his 25 years of devoted service to his church and community. These 2 days will be filled with activities designed to entertain the assembled well-wishers, but also to recognize the contributions and achievements of the pastor's long ministry.

Through this congressional salute, my wife Lee and I would like to add our voices to those of Pastor Cashman's six children, and the members, former members, and friends of the Bellflower Brethren Church in paying tribute to Edwin for his leadership, guidance, and most importantly, his cherished friendship. We wish him all the best in the years to come.

ALFRED G. ZANETTI: OUTSTANDING A.I.C. VARSITY CLUB MEMBER

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. NEAL of Massachusetts. Mr. Speaker, on Saturday, March 23, 1991, the American International College Varsity Club will honor one of its most distinguished and loyal members, Alfred G. Zanetti. For more than 40 years Fred Zanetti has held every office, chaired every committee, and served the Varsity Club with a commitment and dedication which has allowed this organization to grow and develop into one of the most successful alumni organizations in New England.

Fred Zanetti deserves the honors which his friends and associates will bestow on him this evening, but their recognition reflects only part of the Fred Zanetti story. His loyalty to American International College is well known but his service to the greater Springfield community is even more significant.

Mr. Speaker, every great city needs great leaders and throughout his entire professional career Fred Zanetti has been a leader. His service to the South End Community Center, the Greater Springfield Community Center Agency, the South End Little League, the Hampden County Retarded Children's Association, and the American Junior Red Cross is too extensive to detail in these remarks.

As a teacher, principal, and guest lecturer he has been a pioneer in the field of urban education. Programs which he initiated to provide nutritional and medical programs have now been emulated across this Nation.

Fred Zanetti's service to the greater Springfield community has not gone unnoticed. He has been granted the Boys Club of America Gold Medallion for outstanding devotion to youth. He has been saluted by the Springfield Chamber of Commerce for outstanding service to the city of Springfield and he has been awarded the Beth-El Brotherhood Award for service and devotion to the youth of Springfield.

Fred Zanetti has also been the recipient of Springfield's most prestigious community service award, the William Pyncheon Medal, and in June of 1990 he received his most significant honor when the school to which he had dedicated so much of his life was named the Alfred G. Zanetti School.

Mr. Speaker, I join with the entire American International College community in honoring Fred Zanetti and I am pleased through these remarks to make his record of community service a part of the history of the United States of America.

TRIBUTE TO UKRAINIAN-AMERICAN VETERANS

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to the Ukrainian-American Veterans of the United States as its members from my 17th Congressional District of Ohio meet in Cleveland for their 44th annual convention.

The members from my district come from all branches of the service. They represent Americans of Ukrainian descent who have defended our country not only through World War II, the Korean war, and the war in Vietnam, but also through times of peace. These members have a longstanding record of veteran fellowship as they keep alive the memory and appreciation of those who gave their lives for America. They offer aid and comraderie to families of these heroes and recognize the need for continuing community support for all veterans.

The Ukrainian-American Veterans dedicate themselves to the promotion of democratic ideals both for Americans and for Ukrainians. They strive to defend justice, liberty, and goodwill in America while offering encouragement and assistance to the people of the Ukraine. These members hope that the land of their heritage, the Ukraine, will someday achieve sovereignty and enjoy the privileges of democracy its descendants have so valiantly defended in Amerca.

Mr. Speaker, it is with great pride that I congratulate the members of the Ukrainian-American Veterans of the United States as they convene in Cleveland to celebrate the 44th year of their fine organization. As strong, caring defenders of the values and freedom Americans hold so dear, the Ukrainian-American Veterans stand as an inspiration to us all. It is truly an honor to represent the members of this distinguished organization.

PHILLIP ANASTOS AND CHRIS FRENCH: AN APPRECIATION

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mrs. LOWEY of New York. Mr. Speaker, I would like to call attention today to the extraordinary achievement of two high school students from my congressional district. Phillip Anastos and Chris French, who are now seniors at the Rye Country Day School, are the authors of a moving new book, "Illegal: Seeking the American Dream."

Anastos and French spent part of last summer traveling through the border towns along the Rio Grande River. They met with illegal aliens, border patrol officers, and relief workers whose lives intertwine along the Texas-Mexico border. These meetings led to a better understanding of the lives of these individuals, their problems, and their aspirations. Phillip and Chris also captured what they saw on film, and these poignant photographs form the heart of their work.

I want to congratulate these two young men, who have exhibited a degree of talent, dedication, and professionalism which is exceptional at any age. The product reflects their sensitivity and their remarkable perceptive abilities. They are to be commended for their creativity and for the manner in which they presented this complex problem.

A TRIBUTE TO JOHN V. GIOVENCO

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. BILBRAY. Mr. Speaker, I rise today to pay tribute to an outstanding member of the Las Vegas Community. It is a great honor to serve as vice chair of the committee which will honor John V. Giovenco with the American Jewish Committee's Institute of Human Relations Award. This award will honor John for his outstanding civic and community endeavors and his contribution to fostering intergroup relations.

As a member of the Hilton Corp. executive team, John has been an integral part of the success fo the Hilton properties in Nevada. Since coming to Las Vegas in 1972, he has served as treasurer of the Las Vegas Hilton and Flamingo Hilton hotels and presently oversees the Hilton Nevada properties. In addition, he serves on the board of directors of Great Western Financial Corp.

Yet, it has been his civic involvement which has served as a showcase of his love for the community. He is currently a member of the executive board of the Boulder Dam Area Council of the Boy Scouts of America, the board of trustees of the UNLV Foundation, and honorary trustee of the Las Vegas Symphony Orchestra. In these capacities, he has been a patron of the arts, preserved the integrity of our educational system, and fostered the development of our most vital legacy, our children.

John V. Giovenco is not only an outstanding example of the Las Vegas community, but an outstanding example for all citizens. I congratulate him on this well deserved honor, and encourage others to follow his proud example.

CLIFFSIDE HEALTH CARE CENTER GRADUATION

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. PALLONE. Mr. Speaker, on Friday, March 29, 1991, the Cliffside Health Care Center in Cliffwood Beach, NJ, will graduate its first class of certified nurse's aides. It is a great honor for me to pay tribute to these dedicated and caring health care workers in the pages of the CONGRESSIONAL RECORD.

The Cliffside Health Care Center has been in operation since 1973. Last March, the facility was acquired by Common Health Care Systems, Inc., which has extensively improved and upgraded the center. In accordance with New Jersey guidelines, the center has administered to its employees the rigorous State test. Their passage of the test enables them to work as a nurse's aides in any health care facility in the State.

The graduates, all residents of the Monmouth County, NJ, area are: Bernadine Robin, Kathleen Rawlinson, Swarn Thakaral, Rama Thakar, Linda Milian, Evelyn Burns, Ann Alexander, Mary Cheatum and Annette McCormick. Next Friday's ceremony will also be a source of tremendous pride for Geraldine Crockett, who has long served as the facility's administrator.

FREEDOMS FOUNDATION'S BILL OF RESPONSIBILITIES

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. SCHULZE. Mr. Speaker, I rise today to introduce a joint resolution which acknowledges and extolls the Freedoms Foundation's bill of responsibilities.

Freedoms Foundation is a national patriotic institution devoted exclusively to fostering among the American people an understanding of, and commitment to, the freedoms enjoyed by our citizenry. Freedoms Foundation has, since its inception in 1949, worked to prevent the erosion of the ideals and principles upon which our country was founded. Through programs, seminars, and workshops, Freedoms Foundation seeks to encourage a thorough knowledge of American history, including the creation and adoption of the documents which forged our Nation; to develop, particularly among young Americans, an understanding and appreciation of the nature and benefits of freedom and the institutions of a free society; to promote an understanding of our free enterprise system; and, to teach and motivate responsible citizenship. To this end, Freedoms Foundation has authored a corollary to the bill of rights, a bill of responsibilities.

The Founders of our Nation understood the inseparable union between rights and freedoms and affirmed those beliefs in the creation of the Constitution and the Bill of Rights. Throughout the history of the American democratic experience there has existed the notion that rights and freedoms must be balanced by a strong sense of individual responsibility. The bill of responsibilities reaffirms the beliefs of our forefathers and proposes practical guidelines for the actions of all American citizens. The preamble to Freedoms Foundation bill of responsibilities aptly describes the inherent relationship that allows our democracy to function most efficiently:

> Freedom and responsibility are mutual and inseparable; we can ensure the enjoyment of the one only by exercising the other. Freedom for all of us depends on responsibility by each of us. To secure and expand our liberties, therefore, we accept these responsibilities as individual members of a free society.

The bill of responsibilities is the culmination of nearly 2 years of hard work by scholars, members of Freedoms Foundation Board of Directors, and the National Council of Trustees. The result of their diligence is a paradigm for both the future of the American democratic system and the individuals who comprise it.

I urge my colleagues to join with me in acknowledging and extolling Freedoms Foundation and its bill of responsibilities.

SALUTE TO RABBI JOHN M. SHERWOOD

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. GALLEGLY. Mr. Speaker, I rise today to honor an outstanding religious leader in the San Fernando Valley, Rabbi John M. Sherwood, who is marking his 20th anniversary at Temple Emet of Woodland Hills, CA.

Rabbi Sherwood is truly a renaissance man—scholar, teacher, community leader, and photographer—who has given much to his faith and his community.

Born in New York, Rabbi Sherwood attended the University of Chicago and City College of New York before earning his bachelor's degree from California State University, Northridge, with combined majors in psychology, sociology, anthropology, and philosophy.

He began his service as spiritual leader of Temple Sholom in Vancouver, British Columbia, where he was the founding father of Reform Judaism in western Canada. Since assuming his duties at Temple Emet, where he is the senior reform rabbi in the San Fernando Valley, he has served the community in a variety of capacities. Among them are serving as president of the San Fernando Valley Interfaith Council, chaplain for the Los Angeles Police Department, and professor at St. John's Catholic Seminary in Camarillo, CA. He also has been a member of the Northridge Hospital Foundation Human Use and Research Committee, the liaison committee of the West Valley Mental Health Service and the community advisory councils of a number of public schools, and also was an advisor on Jewish affairs to two of my predecessors, Representatives Barry Goldwater, Jr. and Bobbi Fiedler.

Rabbi Sherwood is the primary author of Temple Emet's High Holy Day Prayer Book and several other liturgical works. His passion for photography has enabled him to create a gallery of Judaica from around the world, and his accomplishments have earned him placement in "Who's Who in American Jewry," "Who's Who in World Jewry," and "Who's Who in California," where he is one of only three rabbis listed.

He and his wife, Dolores, a leading realtor for 19 years, have been married for 8 years and have five children between them.

Mr. Speaker, on April 12, Temple Emet will celebrate Rabbi Sherwood's 20th anniversary. I ask my colleagues to join me in saluting him for his accomplishments and his service.

INTRODUCTION OF HEART—THE HEALTH EQUITY AND ACCESS REFORM TODAY ACT OF 1991

HON. ROD CHANDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. CHANDLER. Mr. Speaker, we have a health care crisis in this country. And that crisis is painfully reflected in statistics that we are all too familiar with—33 million Americans have no health insurance and the skyrocketing cost of health care now exceeds 11 percent of this country's gross national product [GNP].

The great irony to this crisis is that despite its high cost and obvious shortfalls, the American health system provides a higher quality of health care than virtually any other system in the world—and we do it for the vast majority of citizens.

The great challenge confronting Congress and, in fact, the American public, is how to improve and build upon our current health system; to expand on those things we do well and to correct the problems we all know exist within the current system.

Mr. Speaker, it is with this challenge in mind that I am pleased to join my colleague, Representative NANCY JOHNSON, as an original cosponsor of her legislation to promote access to quality, affordable health care for all Americans.

Our bill, the Health Equity and Access Reform Today Act of 1991 [HEART], represents an important first step toward removing the obstacles that prevent many Americans from obtaining health insurance; and it does so by building upon the private/public partnership that already exists within our current health care system.

The private side of that partnership, Mr. Speaker, is nearly 152 million Americans who currently receive their health insurance through their place of employment. Clearly, such coverage should be encouraged. Economies of scale, however, often deny small employers access to the same group health products that larger employers enjoy. Unfortunately, this has left nearly 20 million individuals who work in small business without any health insurance. Our HEART bill will help ensure that an affordable, basic health plan is available to these individuals:

By providing States with strong incentives to reform the small group health insurance market;

By exempting low-cost, basic health plans from the expensive burdens of State-mandated benefits and;

By requiring all small employers to simply offer health insurance once States implement small group health insurance reforms.

The public side of our current partnership, Mr. Speaker, is also in need of reform. In recent years, that reform has focused primarily on Medicaid expansions for the poor and elderly. Unfortunately, current fiscal realities dictate that we look elsewhere.

Our Heart bill offers an alternative to Medicaid expansions by providing additional funding for the growth and development of community health centers. In doing so, HEART utilizes a proven means of health care delivery that will expand access, on a cost effective basis, for millions of poor Americans.

Mr. Speaker, our HEART bill will do more than simply expand coverage for the millions of Americans who currently have no health insurance. It also will help to contain the cost of providing such coverage. By providing employers with incentives to include managed care and cost sharing in their health plans, HEART will induce individuals to make more responsible decisions in the selection of their health care. In short, Mr. Speaker, HEART will force all of us to become better consumers of health care.

Finally, Mr. Speaker, our HEART bill provides for the collection of information and data that is critical to the efficient management of our health care system. Lacking for too long, the development of common medical information will help purchasers of health care make more informed decisions. The result of such decisions will ultimately help drive the quality of our health care up, while driving its cost down.

Mr. Speaker, I do not wish to portray the Health Equity and Access Reform Today Act as the panacea to all of the problems that plague our current health care system. Clearly, much more needs to be done, including critical reforms to this country's medical liability laws. But it is an important first step toward addressing those problems in a meaningful way. They key is that the HEART bill seeks to provide those solutions within the context of our current health care system.

I urge my colleagues to join Representative JOHNSON and I in taking this important first step toward assuring access to quality and affordable health care for all Americans.

AMERICAN EDUCATIONAL RESEARCH ASSOCIATION CELEBRATES ITS 75TH ANNIVERSARY

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mr. OWENS of New York. Mr. Speaker, 75 years ago, eight directors of educational research for urban school systems, got together at the meeting of the Department of Superintendents in Cincinnati, OH, and formed The National Association of Directors of Educational Research. From that inauspicious beginning evolved the American Educational Research Association which is celebrating its 75th anniversary this year. Now with a membership of over 17,000 professionals in universities, school systems, governments, and research institutions, AERA continues to be dedicated to improving education by encouraging scholarly inquiry related to education and by promoting the dissemination and practical application of research results.

AERA has become the most prestigious and prominent international professional organization with the primary goal of advancing educational research and its application. Its publications, training programs, and annual meetings have become major sources of professional development opportunities to the field, improving the capacities of all those whom we policymakers rely on for sound research studies, comprehensive statistical knowledge, evaluation skills, and an understanding of assessment, as they relate to resolution of education challenges and opportunities.

The early years of the organization were dedicated to gatherings to discuss research findings, education policies, statistics, and research methodologies. Early concerns of members included fear for accelerated growth of the organization and the proliferation of interests. Members decried the fact that the

1937 meeting included 20 sessions and that it was necessary to schedule some of them at the same time. The expectation of growth and diversity was well founded: the 1991 annual meeting in Chicago will bring together over 8,000 researchers to address these important topics, and over 1,000 seminars, workshops, and presentations will be provided over a 5-day period.

In 1916, the first association publication was established, The Education Research Bulletin. In order to expand its publications in the 1930's, the Association, then a branch of the National Education Association, found it necessary to actively solicit new members to supplement the increased costs of its expanded periodicals. Today, the publications of the American Educational Research Association constitute the primary source of scholarly articles, as well as evaluation and critical reviews, on educational research. Current publications on the Association include: Educational Research, Educational Evaluation and Policy Analysis, American Educational Research Journal, Journal of Educational Statistics, and Review of Educational Research, and numerous occasional reference works like the Encyclopedia of Educational Research and the Handbooks on Research on Teaching and Curriculum.

The American Educational Research Association has long seen the connection between education problems confronting the Nation and the responsibility of the research community to address them. In taking stock of the organization's first 50 years, Benjamin Bloom, then president of AERA, declared:

> The new tasks thrust on education require new approaches, new understandings, and a closer relation between theory, research, and practice than has ever existed before. It is not likely that education will be able to provide all the solutions that are expected of it. However, if solutions are found, they are likely to be based on research and development. Compensatory education for the disadvantaged is a case in point. Educational solutions must be found for these children—solutions which depend on more than the dedicated teacher working by himself. The educational researcher cannot ignore such problems, and he must contribute to the creation of solutions.

The American Educational Research Association and its members have provided a 75-year history of applying the best scientific inquiry to resolution of education problems. As we have no shortage of education problems in American today, I can only applaud and commend the efforts of the Association to date, and to wish AERA continued success and vitality.

HEALTH EQUITY AND ACCESS REFORM TODAY ACT OF 1991

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 21, 1991

Mrs. JOHNSON of Connecticut. Mr. Speaker, this Nation has the most advanced system for medical care in the world. Our citizens have access to the highest quality care anywhere. We have the most advanced diagnostic and therapeutic technology and medications, and not only the technology, but the specialized personnel essential to sophisticated care. These specialized personnel are spread more broadly throughout our cities and towns than in any other nation.

Despite these facts, while our health care system works so well for most of us, it fails almost completely to work for others of us.

Mr. Speaker, there are affordable, immediate actions that can and must be taken to address the twin problems in America's health care system: the lack of access to care for 31 million uninsured and spiralling costs which threaten even the insured. Today I am introducing the Health Equity and Access Reform Today Act of 1991—the HEART bill—with my colleague from the House Ways and Means Committee, Representative ROD CHANDLER, to create access for all Americans to affordable, quality health care and to control health care costs.

It is simply unconscionable that millions of women receive no prenatal care, that so many of America's children go uninoculated, that young families are having to drop out of their health care plans because premiums are beyond their reach, and that for many, having Medicaid coverage really means having no access to care outside of hospital emergency rooms.

It is a tragedy that for so many, health care is beyond their reach. It is a tragedy that the Congress must address this session.

The high cost of health care is another issue which cries out for the attention of this Chamber. If we cannot break the health care cost spiral, individuals will be forced out from under today's umbrella of care, small employers will drop current coverage, large employers will become increasingly less competitive internationally, and government will be unable to bear the staggering burden of health care for our poor and our seniors.

We devote 12 percent of gross national product to health care. And frankly we have too many demands on our economy to let any one demand consume that large a percentage of our national resources. Especially in these days, too many of the dollars we are devoting to health care should instead be invested in our future.

And, Mr. Speaker, to make matters worse, we know that without action the cost inflation we are experiencing in health care will continue unabated. Not only are we caught in this inflationary spiral, but, research indicates that much of this annual increase comes with no clear benefit.

There is now sobering, clear evidence that we are not getting appropriate value for our health care dollars.

It is time that this Nation learns to purchase value in its health, to "buy right." A "buy right" strategy will not only save money, but more importantly, it will assure all of us that we receive only appropriate, quality services.

The HEART bill lays the foundation for a health care system that truly provides access to all regardless of income and that guarantees control over costs.

The HEART bill includes provisions which will encourage cost conscious purchasing of health insurance and health care by employers and their employees.

The HEART bill establishes the guidelines necessary to enable hospitals and physicians to collect the common, computerized information so critical to assuring us value for our health care dollar.

And, our legislation accomplishes its purposes by addressing the problems within the context of the current health care system and preserving its strengths, which have made America the envy of the world.

Currently, Mr. Speaker, 151 million Americans receive their health insurance through the workplace. Employer-based health insurance has served this Nation and its citizens very well.

However, we also know 85 percent of the uninsured are employed or the dependents of those workers. And further, most of these Americans work in small businesses of less than 25 employees.

So, to improve access to health care we need a plan which will enable more small businesses to provide insurance. The plan must directly address the main obstacles which now stand in the way of small business' access to affordable health insurance.

The HEART bill will clear away these obstacles. Through small group market reform, the bill provides incentives for insurers to cut administrative and marketing costs, and sell the insurance that people truly need without the expensive burdens of Government mandated benefits.

The bill also protects the consumers of health insurance by assuring them that affordable insurance, called MEDACCESS, will be available, and by prohibiting such harsh practices as denying coverage for preexisting conditions.

Yet MEDACCESS is not the solution for everyone. Some small employers do not have the wherewithal to afford it and some employees will not be able to purchase it—no matter how affordable it is. Of those without health insurance, 61 percent live at 200 percent of the poverty level or below. These Americans may be the most in need and they should have health care available.

To assist such people, the Congress in the past few years has expanded Medicaid coverage for many at or near the poverty line. These expansions have been made with the best of intentions, but, they have often offered false hope. The fiscal realties of Medicaid make it such a poor payer for care that many recipients have a hard time finding care. Medicaid simply pays too little to hospitals and physicians, and so, many providers find it unaffordable to treat Medicaid recipients. This process of expanding the Medicaid entitlement without ensuring fair reimbursements has made a mockery of the promise medicaid holds out and has left the poor uncared for.

In the current fiscal environment it is not likely that Medicaid will become a better payer. Resolution of the access problem for the needy must focus on new approaches to delivery, rather than expanding entitlements that in practice do not deliver.

The HEART bill offers a delivery system alternative to the further expansion of entitlements.

The bill would expand the number of community health centers to assure neighborhood access for America's poor and uninsured. These centers would bring quality physician and outpatient care directly to those most in need.

Community health centers work, and through expansion will create a needed neighborhood network that eventually can offer family support services, drug treatment services and access to such important health programs as WIC.

To assure the availability of insurance and community care we must attack the cost problem head on. To accomplish this, we need to "buy right" in the health-care marketplace. This can be accomplished by employer purchase of cost conscious health plans.

The old first dollar employer-purchased coverage promoted overuse of medical services. The HEART bill would have employers, through managed care and cost sharing, purchase plans which send consumers in the direction of more efficient, quality services.

We know managed care can cut cost. Allied Signal saw managed care help it reduce increases in health care costs from 23 to 8 percent. Procter and Gamble's experience saw a reduction in its annual increases from 15 to 6 percent.

The track record is the same for other employers. We must develop such a track record for all consumers.

Finally, Mr. Speaker, the HEART bill would call for patient data to be collected in a uniform manner by the year 2000 for all Americans who go to the hospital. Only through better knowledge of what we are doing and its effect, can we guarantee high quality, effective health care and reduce overutilization of services.

For Medicare specifically, the proposal would move quality assurance from focusing on the few "bad actors" among physicians and hospitals, to helping all providers improve care to their patients.

Common medical information is key to health care decisionmaking and purchasing—this bill would help purchasers determine the best buy, based on greater understanding of the outcomes of care.

Mr. Speaker, the HEART bill provides important steps to improve and reform health care coverage in this Nation. I can assure the Congress, this bill accentuates the best in our system without threatening it. It mobilizes forces that interact dynamically to reduce costs, increase access, and improve quality.

The time to act on health reform is now. We ask you, our colleagues, to join us in taking this responsible, rational approach to assuring access to the quality medical services that all Americans deserve.